

TRINITY COUNTY PLANNING COMMISSION STAFF REPORT
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PUBLISHED DATE: 09/03/2021

PLANNER: Kim Hunter, Building & Planning Director

APPLICANT/APPELLANT: Chris Hristov

AGENT: N/A

REQUEST: A request for a variance from the required 350' Cannabis cultivation setback from a neighboring residential dwelling (TCC 17.43.050.A.8).

LOCATION: 281 N Meadow Ln., Hayfork (APN 015-420-31)

APPROX. ACREAGE: 11

ZONING DISTRICT: Agricultural 20 Acre min (A20)

ZONING DISTRICT OVERLAYS: Critical Water Resource (CWR)

GENERAL PLAN DESIGNATION: Agricultural (A)

STAFF RECOMMENDATION: Approve with Conditions

ADJACENT LAND USE AND ZONING INFORMATION:

Direction	Land Use	Zoning	General Plan Designation
North	Residential/Agricultural	A20	A
South	Residential/Agricultural	A20	A
East	Agricultural	A20	A
West	Ag Forest	AF160	RE

ATTACHMENTS:

- 1 – Project Location
- 2 – Site Plan
- 3 – 350ft Setback Map
- 4 – Site Visit Photos

LICENSE TYPE: The applicant has a pending commercial cannabis cultivation license (CCL 363 – Small Outdoor Cultivation License Type).

The applicant is requesting a variance to reduce the required 350’ residential setback from the following residences:

APN	APPROX. DISTANCE FROM CULTIVATION SITE	COMMENT STATUS
015-420-32-00	285ft	No Comment

PUBLIC COMMENTS: As of the date of the staff report, staff has not received any public comments regarding this item.

FINDINGS: The following findings shall apply to the C. Hristov Commercial Cannabis Setback Variance (CCV-21-02) for APN 015-420-31:

1. **No Special Privilege.** A variance cannot be a special privilege extended to one individual property owner. The circumstances must be such that the same variance would be appropriate for any property owner facing similar circumstances

There are special circumstances (topography, irregular shape of parcels, and size of parcels) applicable to the project parcel that, with strict application of the Trinity County Zoning Code, deprive the property owner of privileges available to other property owners with similar zoning in the vicinity that plan to establish or have established a commercial Cannabis cultivation operation with the Trinity County Commercial Cannabis licensing program.

2. **Use Variance Prohibited.** The consideration of "use variance" is specifically prohibited. These are variances, which request approval to locate a use in a zone from which it is prohibited by ordinance.

This variance is to reduce the 350’ setback requirement in Trinity County Code 17.43.050.A.8, not to allow a specific use in the Agricultural zoning district that is not currently allowed by ordinance.

3. **Disservice Not Permitted.** A variance must not be injurious to the public welfare, nor to adjacent properties.

The purpose of the 350’ setback requirement in Trinity County Code 17.43.050.A.8. is to mitigate odor and other commercial Cannabis cultivation related activities to nearby neighbors, with emphasis given to neighbors that have a legal residence less than 350’ from the proposed cultivation site. As previously mentioned, staff has not received any public comments regarding this item. Therefore, it can be assumed that the neighbor located less than 350’ from the proposed cultivation site does not consider this cultivation site to be injurious to them.

4. **Not Adverse to General or Specific Plan.** A variance must be in harmony with the general purpose and intent of the Zoning Ordinance and cannot adversely affect the general plan or specific plans of the county.

Trinity County Code Section 17.43.050.A.8. allows for variance requests to reduce the residential setback that are consistent with the requirements for variances in State law and the County Zoning Code. The subject parcel contains special circumstances, such as narrow lot shape and unusual topography, which justifies the granting of a variance from the residential setback requirement and would be appropriate for any property owner facing similar circumstances. As such, the proposed variance is consistent with the general purpose and intent of the Zoning Code and would not adversely affect the general plan or specific plans of the County.

5. **RD-1 Overlay Zone.** Prior to approval of a variance for property within the RD-1 overlay zone, permission must be granted or deemed not necessary by the Secretary of Agriculture.

This site is not within an RD-1 Overlay Zone.

STAFF RECOMMENDATION: Given the site conditions and above discussion, staff recommends the Planning Commission make the following motion:

To approve Commercial Cannabis Variance CCV-21-02 to reduce the cultivation site setback in Trinity County Code 17.43.050.A.8. from 350 feet to 285 feet from the residence located on APN 015-420-32-00, subject to the findings of fact and conditions as stated in this staff report.

CONDITIONS OF APPROVAL: Upon approval by the Planning Commission, the following Conditions of Approval shall apply to the C. Hristov Commercial Cannabis Setback Variance (CCV-21-02) for APN 015-420-31:

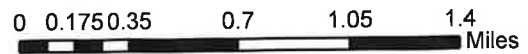
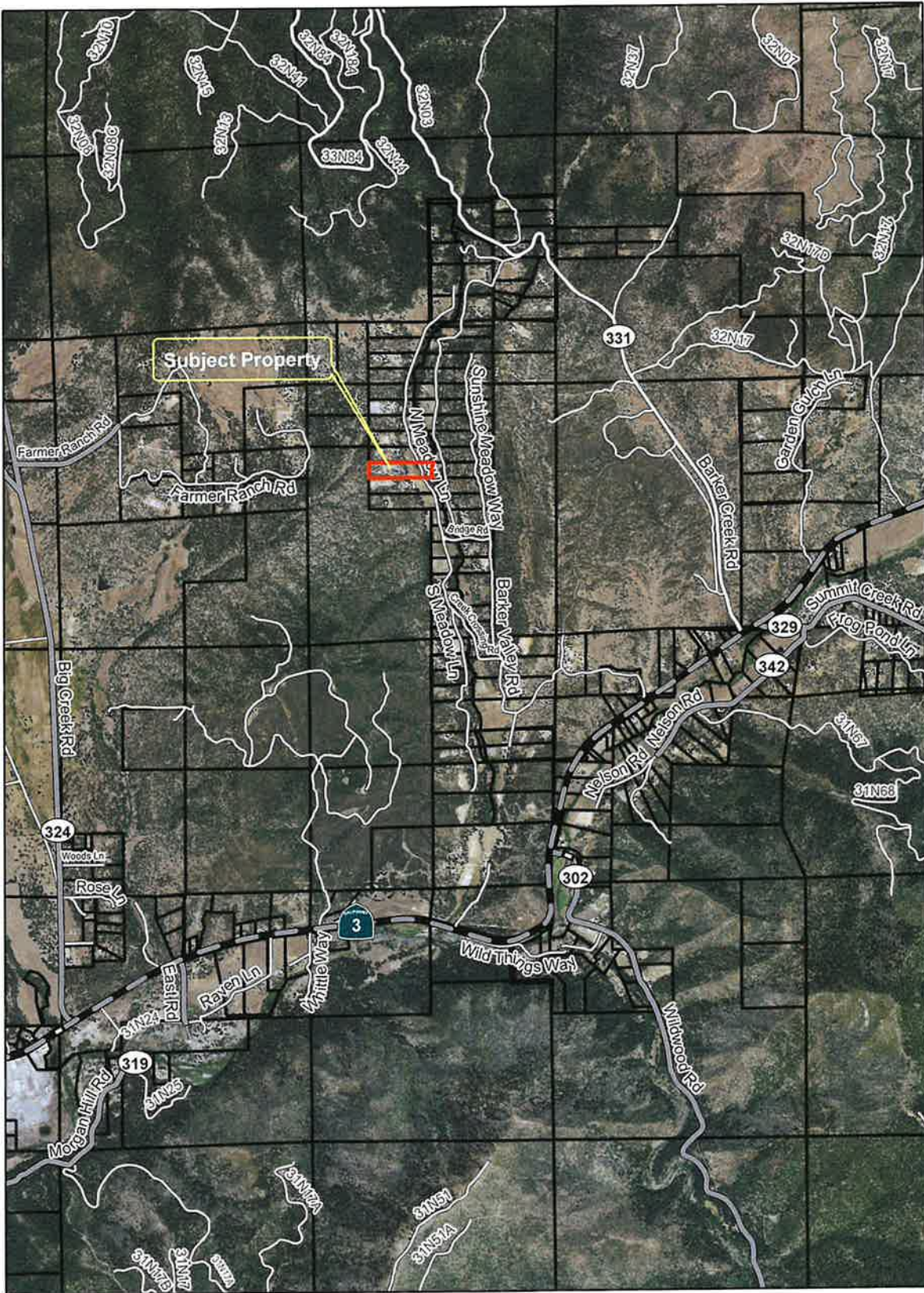
1. The variance is approved for a period of one year and shall expire on the same date as the Commercial Cannabis License that this variance and parcel is associated with; provided, however, that the variance shall be renewed annually through the Director's Use Permit application process.
 - a. Application for renewal shall be submitted by the applicant or designated agent/consultant prior to expiration of the variance and preferably no later than 60 days in advance.
 - b. The renewal shall not require a formal public hearing, unless specified by the Planning Director or referred to the Planning Commission; however, written notice shall be provided by the County to surrounding property owners at least ten (10) days prior to the Planning Director's decision to approve or deny the annual renewal.
 - c. Shall be subject to a filing fee as specified by resolution of the Board of Supervisors.
 - d. The Planning Director, at their discretion, may approve, deny or refer the annual renewal request to the Planning Commission. The director shall not add or modify conditions of approval applied by the Planning Commission. If submitted to the Planning Commission by the Planning Director for action, no additional fees will be required.

- e. Action to renew the variance by the Planning Director may be appealed to the Planning Commission in accordance with Section 34 of the Zoning Ordinance.
- 2. The variance shall be subject to the securing of all necessary permits, licenses, and approvals for the proposed Commercial Cannabis Cultivation operation from all County and State agencies having jurisdiction over any aspect of the operation.
- 3. Structures on the property shall be in compliance with the California Building Code and Trinity County Code.
- 4. The applicant has the sole responsibility for renewing this variance before the expiration date listed above. The County will not provide a notice prior to the expiration date.
- 5. No building permit or other county permit involving a variance shall be issued until the ten-day appeal period has expired. No building permit or other county permit involving a variance shall be issued while a variance hearing or appeal therefrom is pending.

END OF CONDITIONS

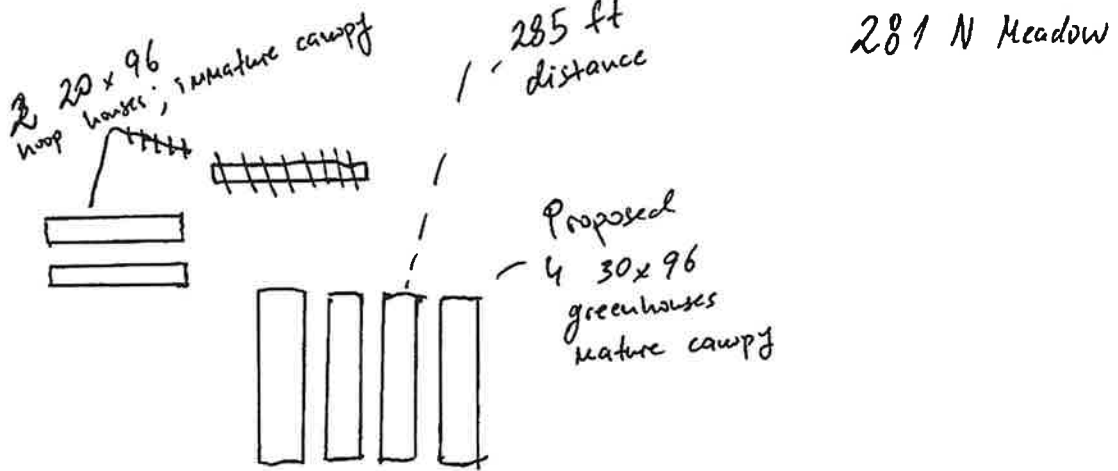
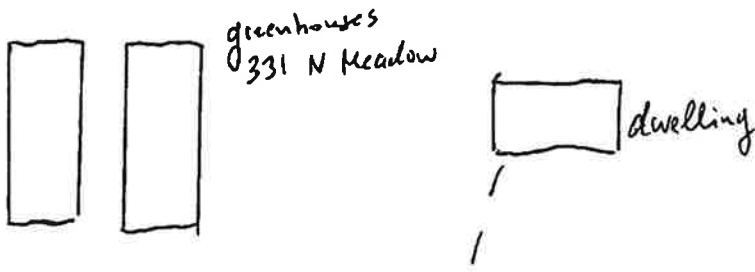


Project Location
APN 015-420-31
CCV-21-02 | C. Hristov



SITE PLAN

331 N Meadow



* permitted septic

* permitted well

access road

* Both 241 and 281 N Meadow are owned by the same family

241 N Meadow

dwelling
TRINITY COUNTY PLANNING DEPARTMENT

APPLICANT PREPARED SITE PLAN

Application No. 363

Drawn By: owner

APN: 015-420-031

Date: 1/31/21

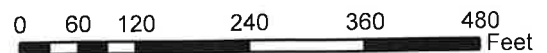
Zoning:

Scale:

Lot Area:



350ft Setback Map 015-420-31 CCV-21-02 | C. Hristov



Site Visit Photos
April 19, 2021



Residence located on
APN 015-420-32

Residence located on
APN 015-420-30



Example of site conditions