

<p>TRINITY COUNTY PLANNING COMMISSION STAFF REPORT</p>

APPLICANT: D'Andre Caldwell-Johnson

REPORT BY: Scott Watkins

OWNER: D'Andre Caldwell-Johnson

APN: 024-680-35

PROJECT DESCRIPTION:

Variance from required 350 foot cannabis cultivation setback from three (3) neighboring residences.

LOCATION: 311 Ward Placer Place, Weaverville, CA (Figure 1)

PROJECT INFORMATION:

- A) Planning Area: Weaverville
- B) Existing General Plan Designation: Rural Residential (RR)
- C) Existing Zoning: Unclassified (UNC)
- D) Existing Land Use: residence, commercial cannabis cultivation
- E) Adjacent Land Use Information:

	<u>Land Use</u>	<u>Zoning</u>	<u>General Plan Des.</u>
North:	Residential	UNC	Rural Residential
South:	Residential	UNC	Rural Residential
East:	Residential	UNC	Rural Residential
West:	Residential	UNC	Rural Residential

BACKGROUND INFORMATION:

The ordinance for “Commercial Marijuana Cultivation Regulation” includes a provision reading in part: “Cultivation will not be allowed within 350 feet of a residential structure on any adjoining parcels. Applications for a variance from this provision will be considered by the Trinity County Planning Commission.” (Ord. 315-823)

The Cannabis Cultivation Ordinance defines the term “variance” as: “Variance” is defined as Trinity County Ordinance 315 section 31.” During its November 17, 2016 meeting the Commission spent time discussing both the state and county requirements for issuing a variance.

Each zoning classification and land use has an associated set of development standards, which are specified in the Trinity County Zoning Ordinance. Both State law and the zoning ordinance provide criteria to use in evaluating a variance application. Section 65906 of the California Government Code reads as follows:

“Variances from the terms of the zoning ordinance shall be granted only when, because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the zoning ordinance deprives such property of privileges enjoyed by other properties in the vicinity and under identical zoning classification.

Any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located.

A variance shall not be granted for a parcel of property which authorizes a use or activity which is not otherwise expressly authorized by the zone regulation governing the parcel of property. The provisions of this section shall not apply to conditional use permits.”

Section 31.A. of the zoning ordinance further elaborates on the State's Government Code standards by establishing the following criteria:

In considering a variance request, the following guidelines shall be observed:

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.
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.
3. Disservice not permitted. A variance must not be injurious to the public welfare, nor to adjacent properties.
4. Not adverse to a 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.

Annual Renewal:

As discussed during previous Commission meetings, variances from the cannabis cultivation setback (350 feet) are issued for a period of one year. (This should be tied to the license effective dates.) The renewal is predicted to be fairly simple and will be performed by the Planning Director or his/her designee. Some factors that would be included in the review would be any complaints received during the previous year, ensuring that the grower is in good standing with the County and State licensing requirements, and that there are no other changes to the property that could affect the continuation of the variance.

PROJECT EVALUATION:

The applicant is beginning the process of obtaining a Commercial Cannabis License under the county licensing program. The parcel is located on Ward Placer Place which connects, by way of Oregon Mountain Rd., to Oregon St. the main thoroughfare connecting to California Highway 299. The site map prepared by staff (Figure 2) identifies on-site development and its relationship to the residence impacted by the variance request.

The subject property, 311 Ward Placer Place, Weaverville, is 6 acres but confined by slopes running North to South. Based on a satellite review, the site could not be relocated to another location on the property to eliminate the need for a variance.

Cody Smith, Code Compliance Specialist, has reviewed this project and provided the following comments: "Property has a large disturbed area and needs to update the plot plan to reflect cultivation area. Any tree removal or grading needs to be compliant with CalFire. Due to parcel size, cannot move cultivation area without needing a variance."

Applicant was assessed an administrative civil penalty, identified as Cal Fire docket number CP-17-43. The Case with Cal Fire has been settled and the applicant is now in compliance with Cal Fire standards.

The property owner of APN 024-680-29, the impacted residence to the West of the subject property, has submitted a letter of support for the granting of this variance.

No additional comments have been provided to staff.

ENVIRONMENTAL EVALUATION:

This variance request is exempt from CEQA review under Section 15305(a) [minor alteration of land use limitations].

STAFF RECOMMENDATION:

Staff recommends the following:

Approval of the variance to allow reduction of the Cannabis cultivation setback from 350 feet to 320 feet from the residence on APN 024-380-29, from 350 feet to 326 feet from the residence on APN 024-680-30, from 350 feet to 152 feet from the residence on APN 024-380-32, subject to the following conditions of approval and based on the following findings of fact:

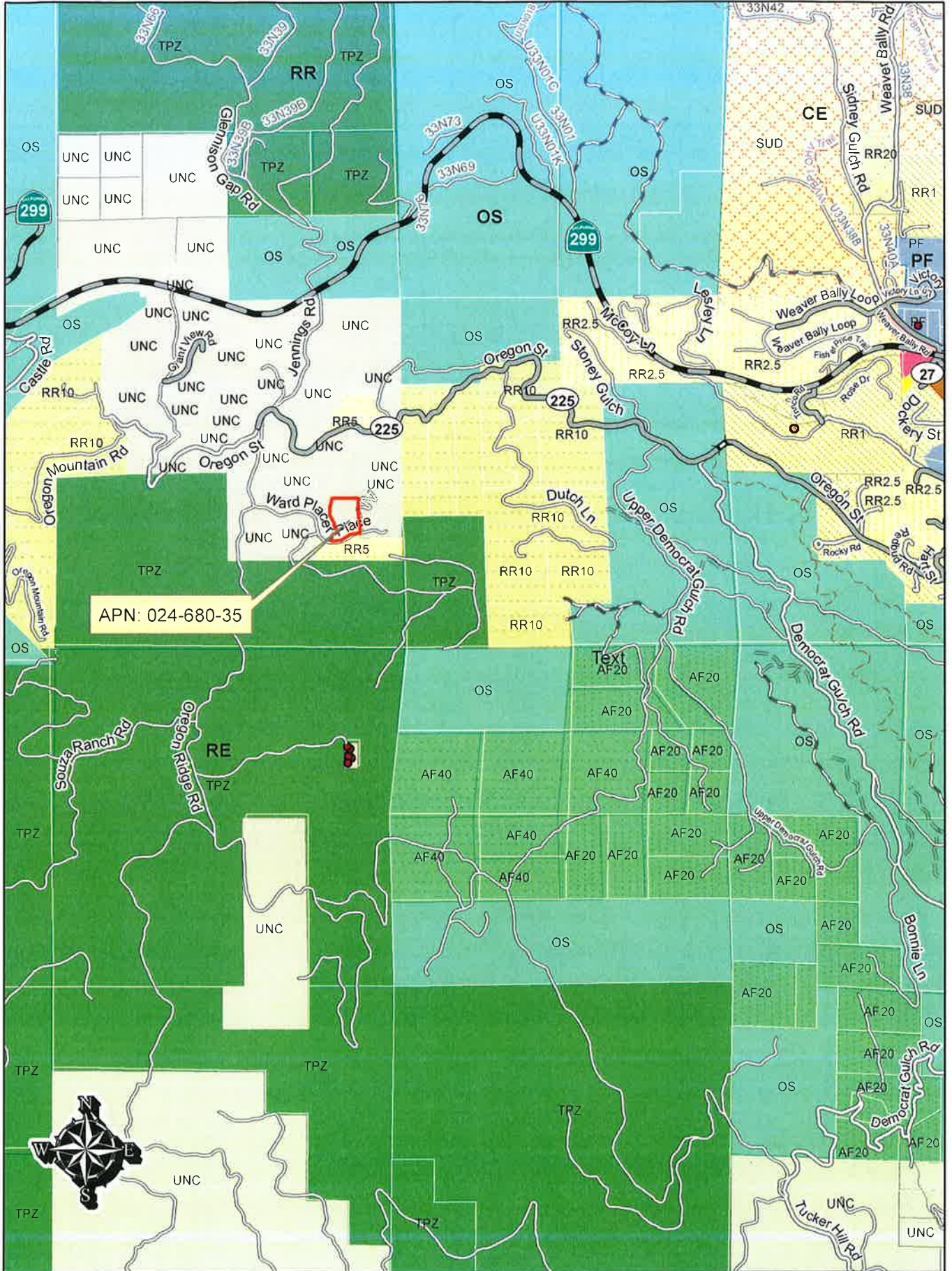
Findings of Fact for the Variance

1. There are special circumstances applicable to the property that, with strict application of the zoning ordinance, deprives it of privileges available to other properties with similar zoning in the vicinity that plan to establish Type II, Cannabis cultivation, up to 10,000 square feet of canopy.
2. The variance is not a grant of special privilege to the applicant because relocation would result in unnecessary grading and environmental damage due to site topography.
3. The granting of the variance is in harmony with the general purpose and intent of the Zoning Ordinance provisions for commercial cannabis cultivation.
4. No opposition from surrounding property owners or review agencies was submitted that would adversely affect approval of the variance.

**CONDITIONS OF APPROVAL
DODSON CANNABIS SETBACK VARIANCE (CCV-18-015)**

1. The variance is approved for a period of one year from **May 10, 2018** through **March 31, 2019**; provided, however, that the variance may be renewed annually.
 - a. Application for renewal shall be made by the applicant prior to expiration of the variance, preferably at least 30 days in advance;
 - b. 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; and
 - c. Shall be subject to a filing fee as specified by resolution of the Board of Supervisors.
 - d. The Planning Director, at his/her 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, including the required appeal fee.
2. The variance shall be subject to the securing of all necessary permits, licenses, and approvals for the proposed cannabis cultivation operation from all County and State agencies having jurisdiction over any aspect the operation.
3. Structures on the property shall be in compliance with the California Building Code and the Trinity County Code.
4. The variance shall become effective after all applicable appeal periods have been expired or appeal processes have been exhausted. 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.

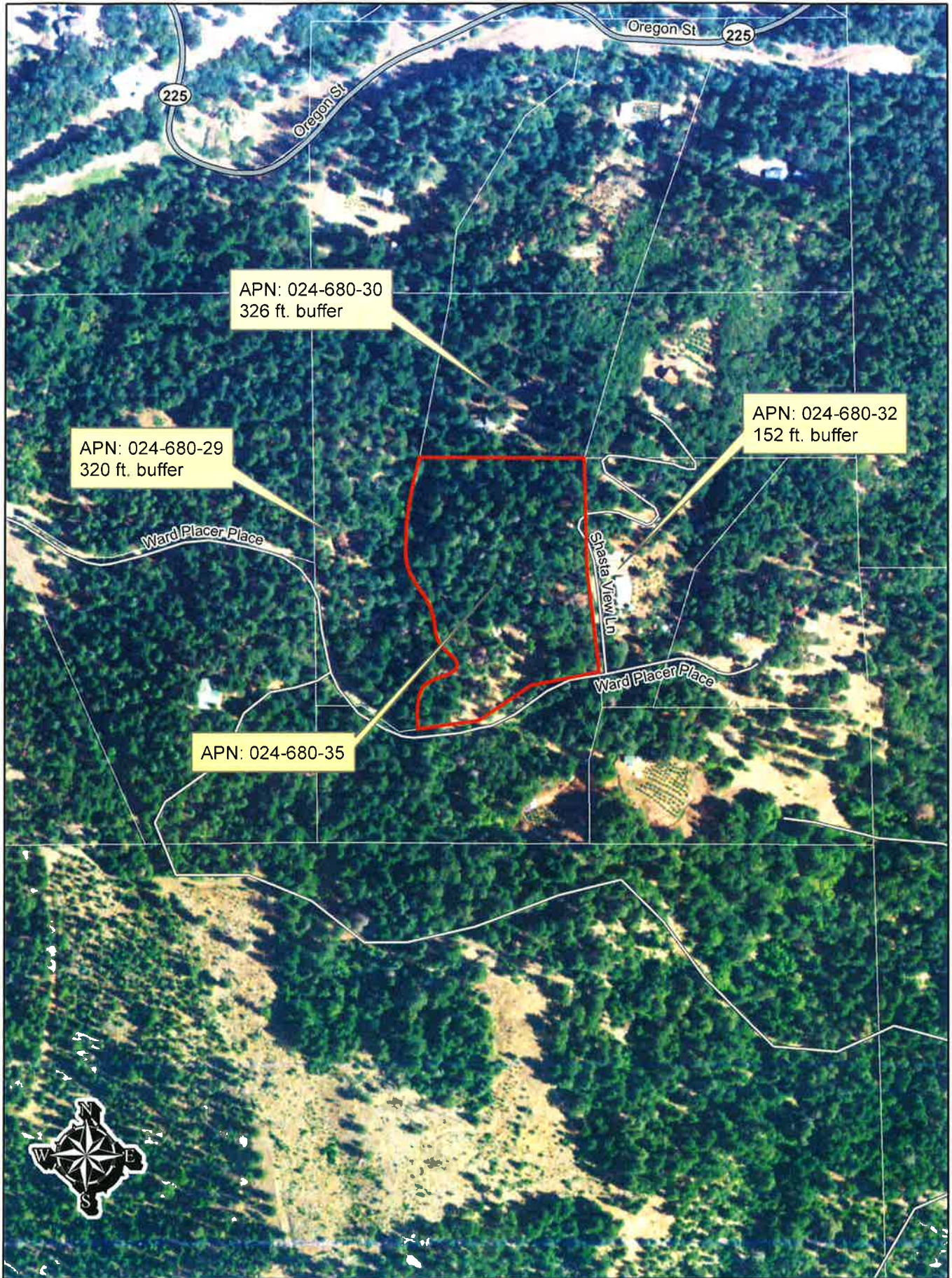
CCV-18-015 D'Andre Caldwell-Johnson Figure 1 - Project Location and Zoning



0 500 1,000 2,000 3,000 4,000 Feet

6

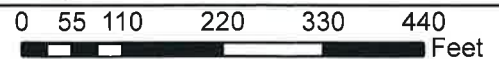
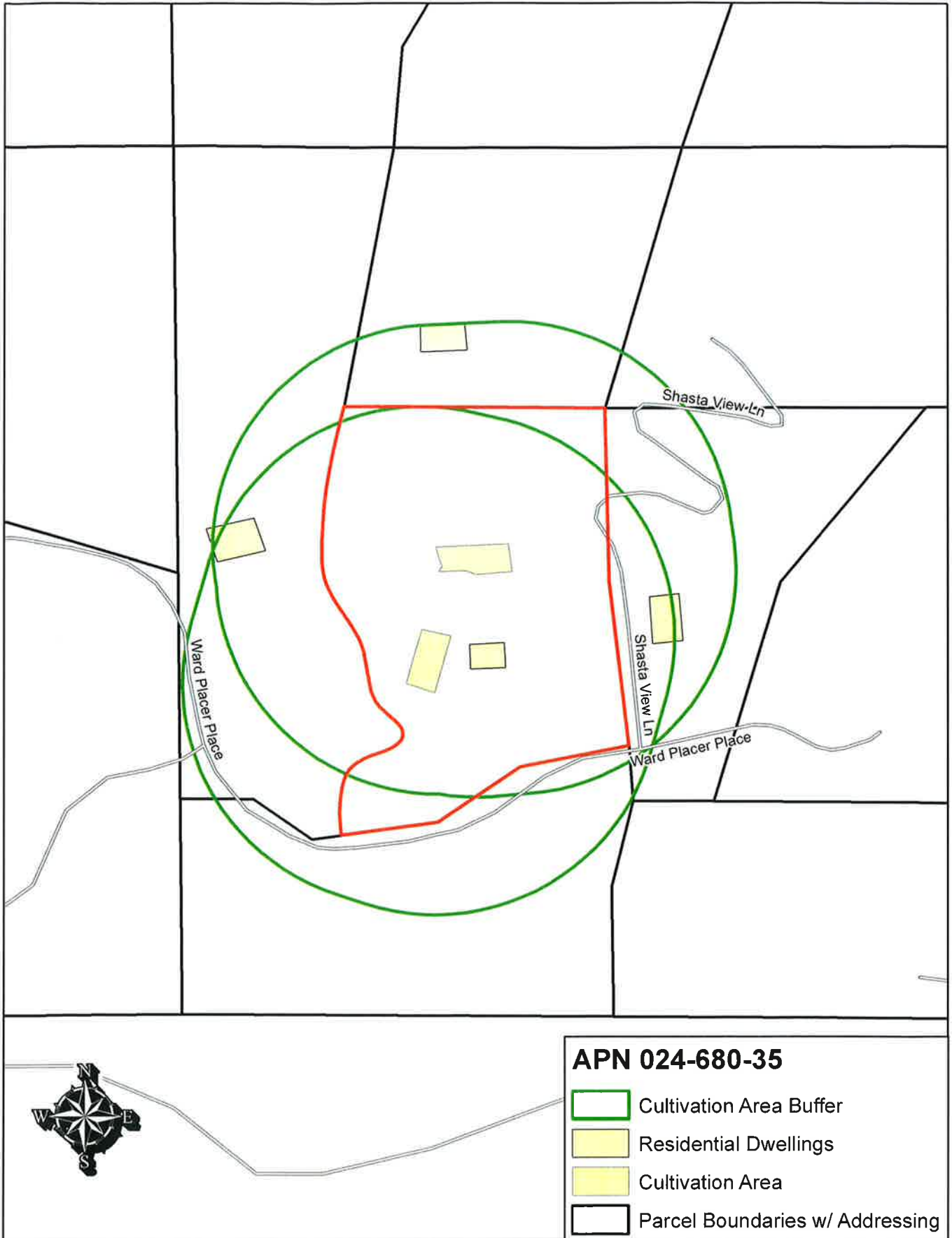
CCV-18-015 D'Andre Caldwell-Johnson
Figure 2 - Site Map and Affected Neighbors



0 80 160 320 480 640 Feet

7

CCV-18-015 D'Andre Caldwell-Johnson
Figure 3 - Site Map and Affected Dwellings





CCV-18-015 Caldwell-Johnson CCL Variance Request
Figure 4 – Site Pictures



Picture 1: facing South overlooking the upper Greenhouse Light Deprivation cultivation area



Picture 2: facing East overlooking the upper Greenhouse Light Deprivation cultivation area



CCV-18-015- Caldwell-Johnson CCL Variance Request
Figure 4 – Site Pictures



Picture 3: facing North East towards the upper Greenhouse Light Deprivation cultivation area



Picture 4: facing East towards the lower outdoor cultivation area



CCV-18-015 Caldwell-Johnson CCL Variance Request
Figure 4 – Site Pictures



Picture 5: facing South West looking at the surrounding natural Forest



Picture 6: facing North East overlooking the lower outdoor cultivation area

M & MB

Michael Snyder & Mary Beth Hollenbach
201 Ward Placer Place
Weaverville CA 96093-1950

RECEIVED

APR 30 2018

TRINITY COUNTY
PLANNING DEPARTMENT

Trinity County Planning Department
PO Box 2819
Weaverville CA 96093

April 27, 2018

To whom it may concern,

My wife and I live next door to the subject property at 311 Ward Placer Place and we couldn't be more delighted with our luck at finding excellent neighbors. D'Andre expressed his desire to be a good neighbor when we met and he's backed those words with actions at every opportunity.

We applaud his enterprise and hard work as well as the contribution his success and that of his fellow growers will make to our local economy and we wish him every success in his endeavors.

Respectfully,


Michael Snyder

&


Mary Beth Hollenbach



**DEPARTMENT OF FORESTRY AND FIRE PROTECTION
RESOURCE MANAGEMENT**

P.O. Box 944246
SACRAMENTO, CA 94244-2460
(530) 524-8151
Website: www.fire.ca.gov



April 5, 2018

**D'Andre Caldwell-Johnson
P.O. Box 967
Weaverville, CA 96093**

**Subject: CP-17-43 D'Andre Caldwell-Johnson
Settlement Agreement**

Dear Mr. Caldwell-Johnson,

This letter is regarding the settlement in principle that was reached on March 23, 2018, between you and the Department of Forestry and Fire Protection (the Department) in the administrative civil penalty case identified as CAL FIRE docket number CP-17-43. Please review the agreement, and it is recommended that you have an attorney review it as well before you sign. If, after you review the agreement, you have any questions or concerns, please contact me at 530-224-1577. If the agreement is acceptable, please sign the agreement and follow the instructions in the agreement for returning the agreement with the settlement payment. Chief Huff will countersign, and a copy will be mailed back to you. If the Department does not receive the signed settlement agreement back by April 30, 2018 we will assume you have reconsidered settling and we will move forward with hearing. If the case moves forward to hearing, I will need dates that you are not available in the next six (6) months. I will then schedule the hearing with the Office of Administrative Hearings. I appreciate your courtesy and cooperation in this matter.

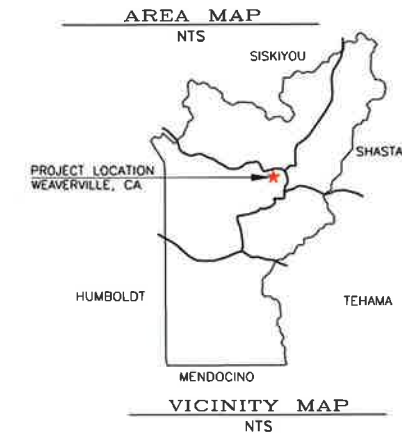
Sincerely,

Cary Japp
Forest Practice Enforcement
Program Manager

PLOT PLAN

APN: 024-680-35

TRUE NORTH FAMILY FARM
311 WARD PLACER PLACE
WEAVERVILLE, CA. 96093



GENERAL NOTES

WATER: WELL & SURFACE WATER (POD)
WASTEWATER: ONSITE
POWER: PG&E
PHONE: FRONTIER
CREEKS/STREAMS: UNNAMED CLASS III TRIBUTARY TO WEST WEAVER CREEK

IMPROVEMENT NOTES

REFUSE SHALL BE STORED ON A CONCRETE SLAB AND UNDER ROOF COVER OR IN A PORTABLE/LOCKABLE DUMPSTER. REFUSE MUST BE HAULED TO AN APPROVED WASTE FACILITY WEEKLY.
COMPOST SHALL BE STORED AND COMPOSTED ONSITE. CANNABIS WASTE CANNOT EXCEED 50% OF THE GENERATED ORGANIC MATERIAL.

CONTRACTOR ALERT!

CONTRACTOR MUST CONTACT USA DIG AT 800-227-2600 AT LEAST 72 HOURS BEFORE ANY EARTHWORK OR ACTIVITIES THAT MAY IMPACT EXISTING UNDERGROUND UTILITIES.
EXISTING UTILITY ALIGNMENTS BOTH HORIZONTALLY AND VERTICALLY MUST BE VERIFIED BY THE CONTRACTOR PRIOR TO ANY CONSTRUCTION ACTIVITIES.

SRA REQUIREMENTS

PROVIDE ADEQUATE WATER STORAGE AND DELIVERY AS OUTLINED BY SRA ORDINANCE AND CALFIRE REQUIREMENTS
PROVIDE ADEQUATE TURN AROUND AND PULLOUTS AS OUTLINED BY SRA ORDINANCE REQUIREMENTS AND CALFIRE REQUIREMENTS

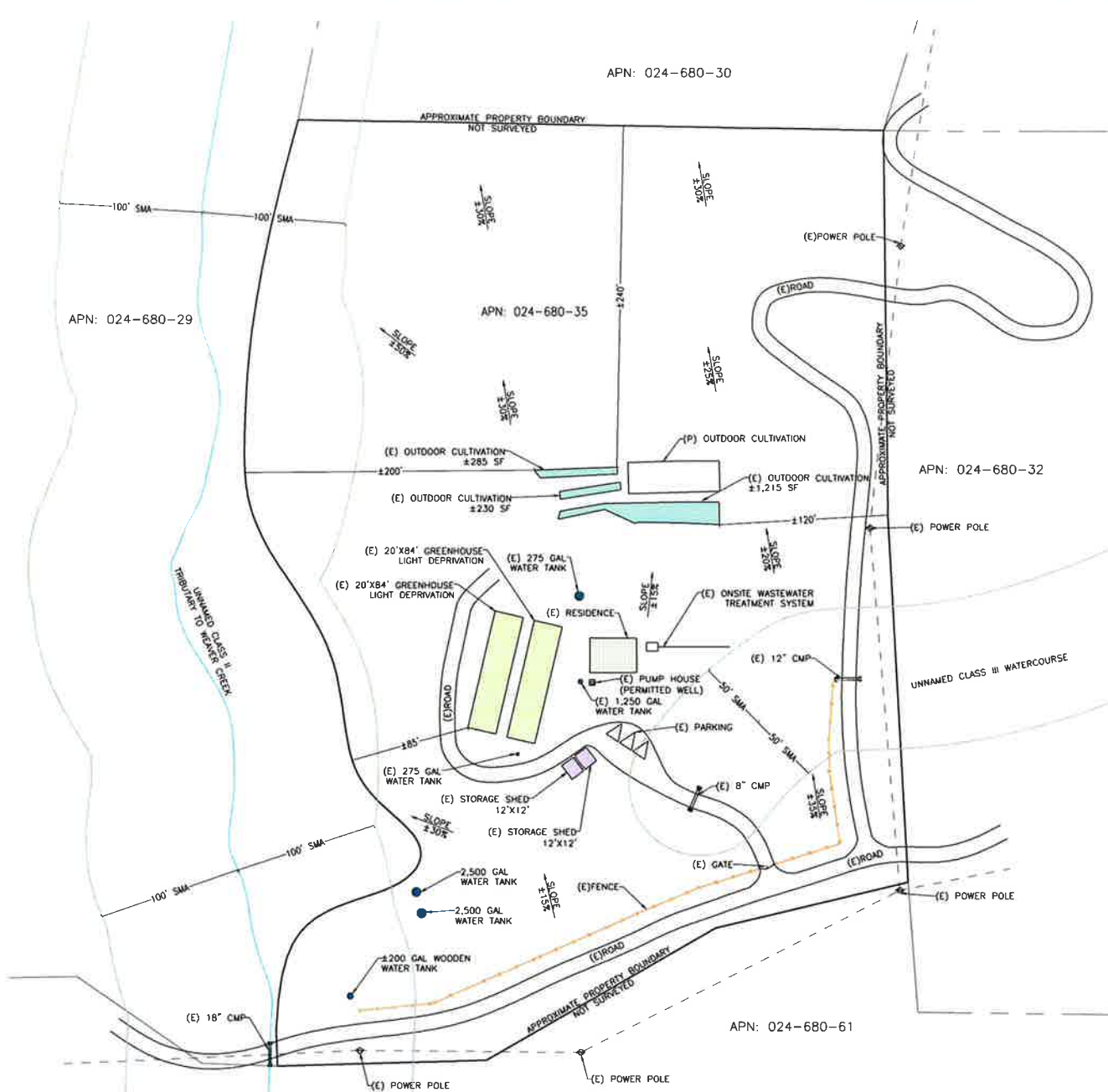
CULTIVATION NOTES

- THERE ARE NO SCHOOLS, SCHOOL BUS STOPS, PLACES OF WORSHIP, PUBLIC PARKS, OR TRIBAL CULTURAL RESOURCES WITHIN 600' OF CULTIVATION AREAS.
- THERE ARE NO OFFSITE RESIDENCES WITHIN 300' OF CULTIVATION AREAS.

PLOT PLAN NOTES

THIS PLOT PLAN HAS BEEN PREPARED IN ACCORDANCE WITH HUMBOLDT COUNTY COMMERCIAL MEDICAL MARIJUANA LAND USE ORDINANCE (CMMLUO) NO. 2559 AND FOR THE PURPOSE OF ENROLLING AND/OR CERTIFYING THE SITE'S AGRICULTURAL OPERATIONS UNDER THE NORTH COAST REGIONAL WATER QUALITY CONTROL BOARD ORDER NO. R1-2015-0023.

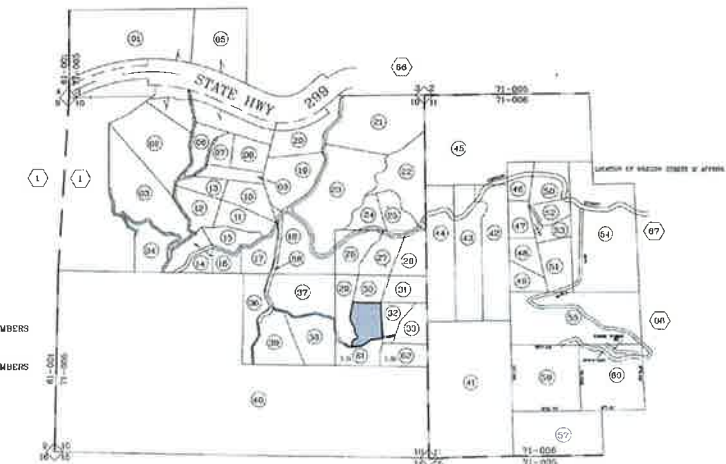
PERCENT SLOPS DETERMINED BY GOOGLE EARTH DIGITAL ELEVATION MODEL.



CULTIVATION		
EXISTING GREENHOUSE LIGHT DEPRIVATION	EXISTING OUTDOOR CULTIVATION	PROPOSED CULTIVATION
20'x84' = ±1,680SF 20'x84' = ±1,680SF	±1,215 SF ±230 SF ±265 SF	±4,910 SF
TOTAL ±3,360 SF	TOTAL ±1,730 SF	TOTAL ±4,910 SF
TOTAL AREA: ±10,000SF		

SECTION 10 and the W 1/2 of SECTION 11, T.33N., R.10W., M.D.M. 24-680
TAC 71-006
71-008

- 12 ADJACENT BOOK
- 03 ADJACENT PAGE
- 00 PARCEL NUMBER
- 00 ASSESSOR'S BLOCK NUMBERS
- 00 TOWNSHIP BLOCK NUMBERS



TVCE
67 WALNUT WAY
PO BOX 1957 CA 95273
HUMBOLDT, CA
PHONE (530) 629-3000
FAX (530) 629-3011



NO.	DATE	DESCRIPTION

D'ANDRE JOHNSON
POST OFFICE BOX 967, WEAVERVILLE, CA 96093

PLOT PLAN

311 WARD PLACER PLACE, WEAVERVILLE, CALIFORNIA
APN: 024-680-35

DRAWN BY: A. DOMINICK
DESIGNED BY: C. FIGUEROA
CHECKED BY: J. MCKNIGHT
APPROVED BY: TVCE

DATE OF ISSUE: APRIL 2018

SCALE: AS SHOWN

PROJECT NO: 1214.01

DRAWING NO: C01