

TRINITY COUNTY PLANNING COMMISSION STAFF REPORT Initial Commercial Cannabis Variance

PLANNER: Bella Hedtke

APPLICANT: 18TrinityPartners LLC

PROPERTY OWNER: 18TrinityPartners LLC

CONSULTANT: Cal Cannabis Consultant (Trey Sherrell)

REQUEST: Reduction of Commercial Cannabis Cultivation Variance residential setback (Trinity County Code 17.43.050.A.8)

LOCATION: 2890 Wildwood Rd., Wildwood CA 96076 (APN: 019-680-17-00)

GENERAL PLAN DESIGNATION: Rural Residential (RR)

ZONING DISTRICT: Unclassified (UNC)

RECOMMENDATION: Approve with Conditions

ADJACENT LAND USE AND ZONING INFORMATION:

Direction	Land Use	Zoning	General Plan Designation
North	Vacant	UNC	RR
South	Mixed-Use Commercial (Wildwood Bar & Inn)	UNC	RR
East	Residential	UNC	RR
West	Undeveloped forest	UNC	RR

ATTACHMENTS:

- 1 – Project Location Map
- 2 – Detailed Site Map (Provided by Consultant)
- 3 – 350' Setback with Comment Status Map
- 4 – Comment Letter from Adjacent Neighbor
- 5 – Site Visit Photos

DISCUSSION

PROJECT DESCRIPTION: The applicant has a pending Small Mixed-Light Commercial Cannabis Cultivation license application in Trinity County’s Commercial Cannabis Program. As part of this process the applicant has applied for a variance for Trinity County Code 17.43.050.A.8. to reduce the required 350’ residential setback to allow their cultivation site to be located less than 350’ from one (1) neighboring residence.

APN	APPROX. DISTANCE FROM CULTIVATION SITE	COMMENT STATUS
019-680-28-00	260’	Supportive Comment

Although it appears on Attachment 3 as if the residence is located on the subject parcel, the residential structure that triggered this variance request is being assessed on APN 019-680-28-00 and has a permit record associated with said property owner.

REFERRAL AGENCY COMMENTS: Project referrals were sent to the following agencies.

REFERRAL AGENCIES	COMMENT STATUS
County Assessor’s Office	No Comment
County Building Department	Comment
County Environmental Health	No Comment
County Transportation Department	No Comment
Code Enforcement	No Comment

Building Inspector Comment: “Has BP19-533 for 4 35’x126’ greenhouses.”

STAFF RECOMMENDATION

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

To approve Commercial Cannabis Variance CCV-2019-54 to reduce the cultivation site setback in Trinity County Code 17.43.050.A.8. from 350 feet to 260’ from the residence located on APN 019-680-28-00, subject to the findings of fact and conditions as stated in this staff report.

FINDINGS OF FACT

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 parcels that, with strict application of the Trinity County Zoning Code, deprives the property owner of privileges available to other property owners with similar zoning in the vicinity that plan to establish or have established a Small Mixed-Light Commercial Cannabis Cultivation operation, up to 10,000 sq. ft of canopy.

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 from the 350 ft setback requirement provision in Trinity County Code 17.43.050.A.8, not to allow a specific use in the Rural Residential 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 ft setback requirement provision in Trinity County Code 17.43.050.A.8. is to mitigate odor to nearby neighbors. It should be acknowledged that odor being injurious to adjacent properties is subjective. No comments were received for this project, although, the commercial Cannabis variance process is annual and will allow any future neighbors the opportunity to express their concerns about odor.

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.

The general purpose of the Zoning Code is to promote and protect the public health by providing a definite plan of development, protecting the character and the social and economic stability of land uses, and assuring orderly and beneficial development. The proposed project is substantially in compliance with the Zoning Code provisions for Commercial Cannabis Cultivation, which the County has found are necessary to reduce the potential impacts associated with unregulated cannabis cultivation. The one exception is the request for a reduction in the residential setback requirement in Section 17.43.050.A.8 of the Trinity County Code. Section 17.43.050.A.8 allows for specific variances from this standard, consistent with the requirements for variances in State law and the County Zoning Code. The subject parcel contains special circumstances which justifies the granting of a variance from the residential setback requirement and would be appropriate for any property owner facing similar circumstances. Given the topography, irregular shape, and size of the project parcel (APN: 019-680-17-00) the applicant would not otherwise be able to utilize the full 10,000 sq. ft. canopy size of a Small Mixed-Light Commercial Cannabis Cultivation license as other program applicants in the nearby region. 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.

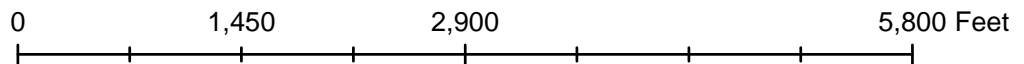
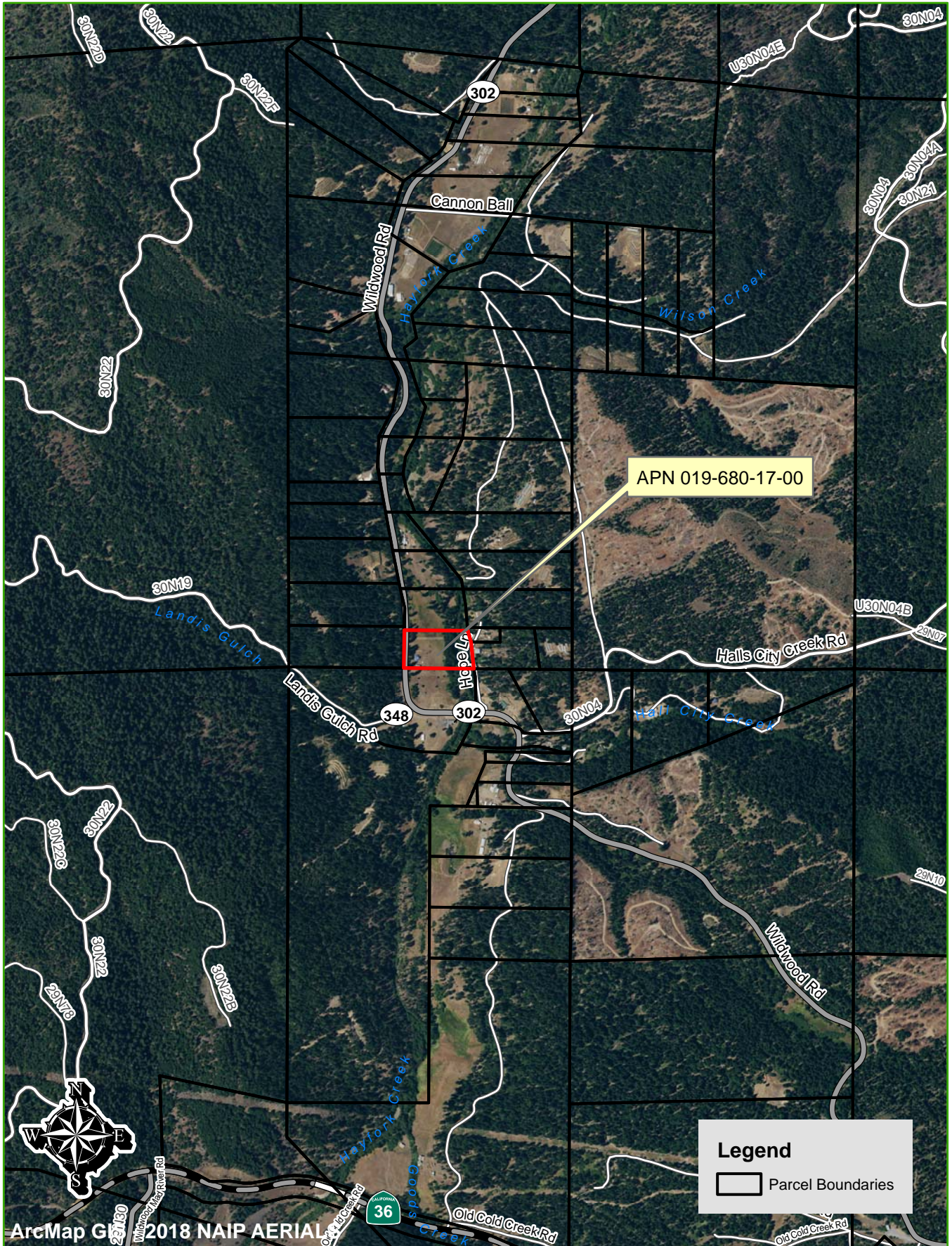
This site is not within an RD-1 Overlay Zone.

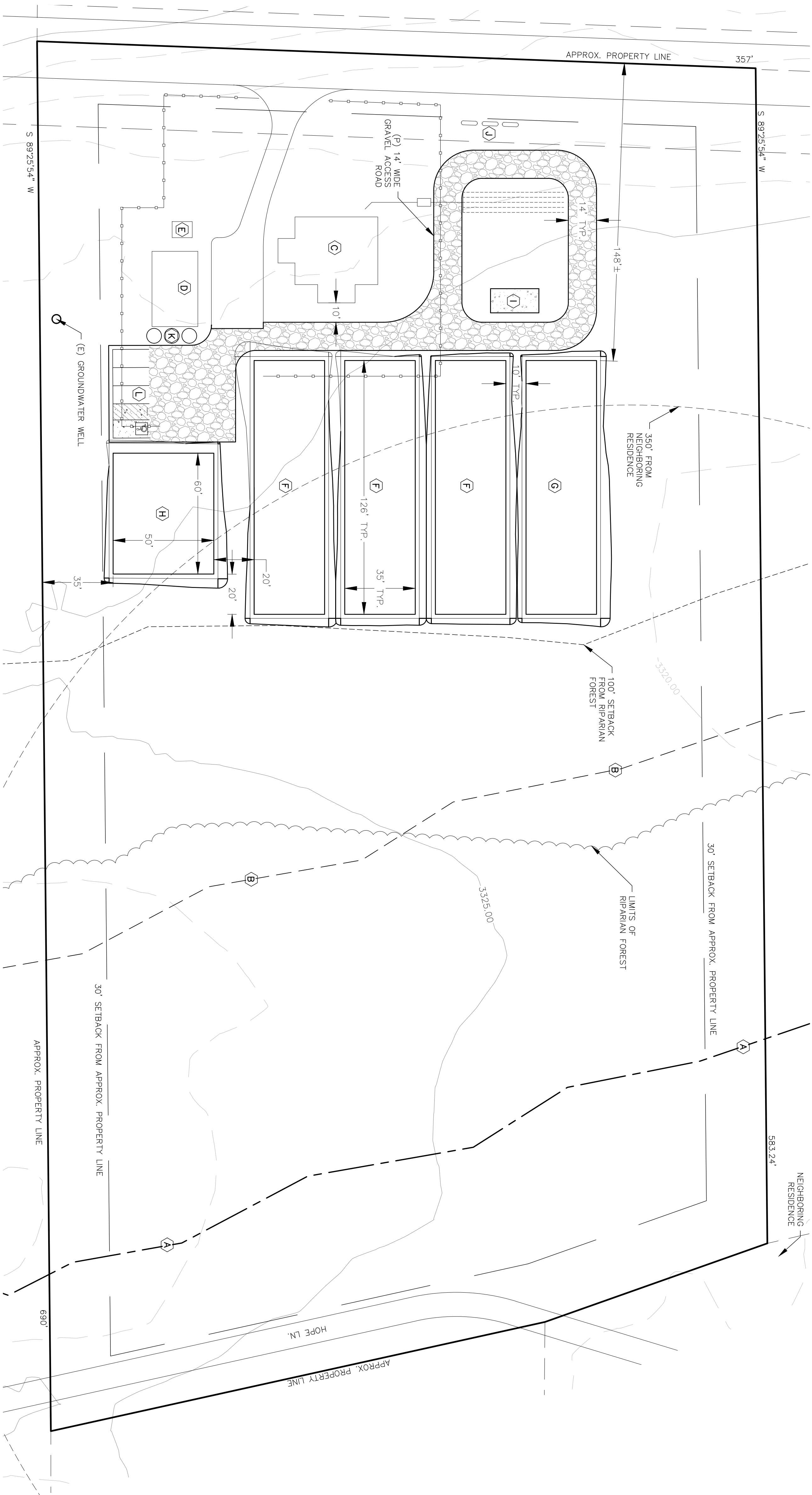
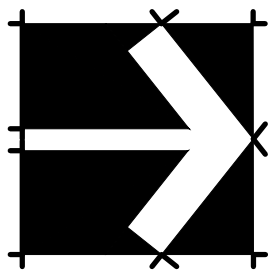
CONDITIONS OF APPROVAL

18TRINITYPARTNERS COMMERCIAL CANNABIS SETBACK VARIANCE (CCV-2019-54)

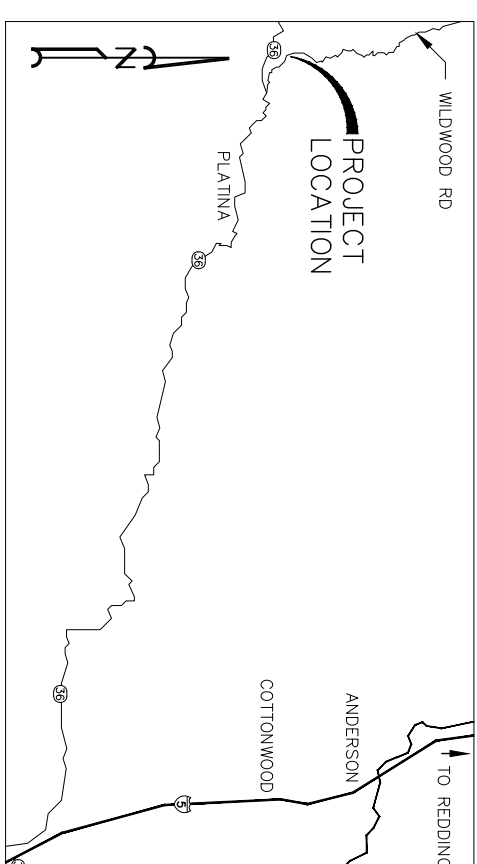
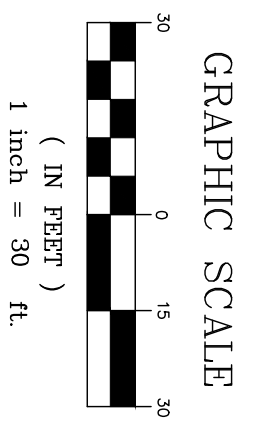
1. The variance is approved for a period of one year and shall expire on the same date as the Commercial Cannabis License that this variance and parcel is associated with; provided, however, that the variance shall be renewed annually through the Director's Use Permit application process.
 - a. Application 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.
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General Information Regarding Annual Renewal Process: Commercial Cannabis Variances are subject to an annual renewal process through the Director's Use Permit process (Trinity County Code 17.43.050.A.8.). The renewal date of the variance is the license issuance date of the applicant's commercial Cannabis cultivation license. Some factors that would be included in the review would be any complaints received during the previous year and new noticing period, ensuring that the cultivator 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.





PROPOSED CONDITIONS SITE PLAN



2890 WILDWOOD RD.
 HAYFORK, CA - TRINITY COUNTY 96076
 APN: 019-680-17

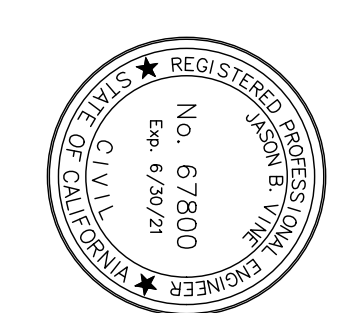
- LEGEND:**
- 1530 --- CONTOUR ELEVATION
 - FENCE
 - ASPHALT
 - GRAVEL
 - EARTH
 - WATERCOURSE / SWALE
 - EXISTING POWER POLE
 - ASSESSOR'S PARCEL NUMBER
 - APPROX APPROXIMATELY
 - DRIVEWAY
 - (E) EXISTING
 - (P) PROPOSED
 - RD ROAD
 - SF SQUARE FEET
 - OH OVER HEAD POWER LINES
- NOTES:**
- 1. CONTOUR INTERVAL IS 5'
- (A) HAYFORK CREEK
 - (B) 150' SETBACK FROM HAYFORK CREEK
 - (C) (E) RESIDENCE
 - (D) (E) BARN
 - (E) (P) PESTICIDE AND AGRICULTURAL CHEMICALS STORAGE
 - (F) (P) 35'x126' GREENHOUSE - MIXED LIGHT CULTIVATION
 - (G) (P) 35'x126' GREENHOUSE - IMMATURE PLANTS
 - (H) (P) 50'x60' PROCESSING BUILDING
 - (I) (P) 12'x24' CONCRETE PAD FOR GENERATORS
 - (J) (P) (3) 1,250 GAL. PROPANE TANKS
 - (K) (P) (3) 2,500 GAL. WATER STORAGE TANKS
 - (L) (P) PARKING/A.D.A.

PROPOSED CONDITIONS SITE PLAN

2890 WILDWOOD RD.
 Hayfork, CA
 TRINITY COUNTY APN# 019-680-17

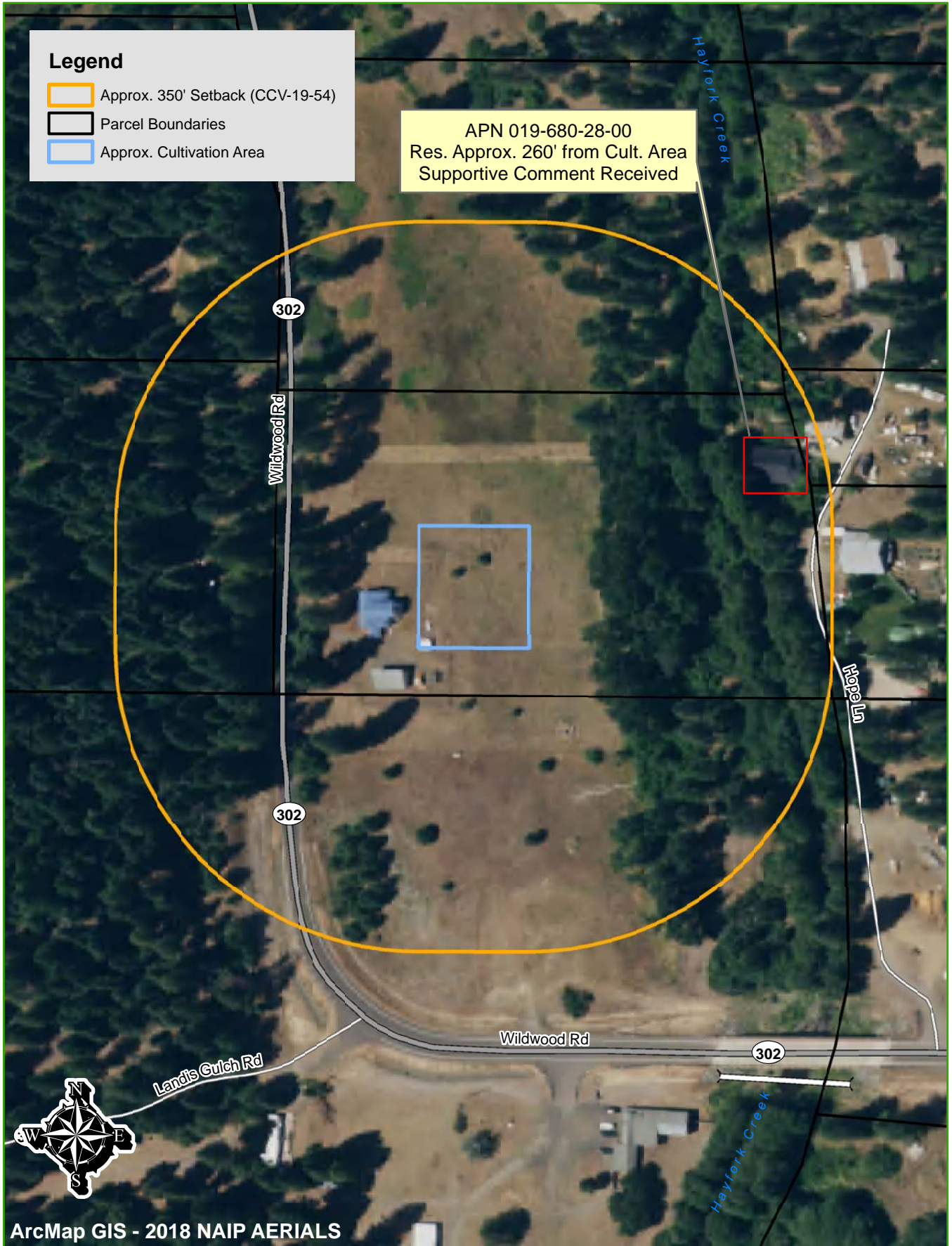
DATE RATED: 7/14/19
 SCALE OF DRAWING: SEE PLAN
 JOB NUMBER: 0400 FEE

SHEET: 1



REALM ENGINEERING
 CIVIL ENGINEERING, SURVEYING & PLANNING
 1767 MARKET STREET SUITE C
 REDDING, CA. 96001
 530-526-7493

Revisions:

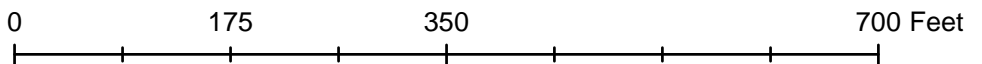


Legend

- Approx. 350' Setback (CCV-19-54)
- Parcel Boundaries
- Approx. Cultivation Area

APN 019-680-28-00
Res. Approx. 260' from Cult. Area
Supportive Comment Received

ArcMap GIS - 2018 NAIP AERIALS



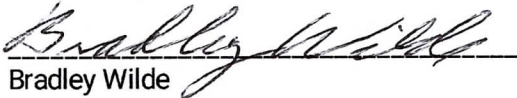
ATTACHMENT 4

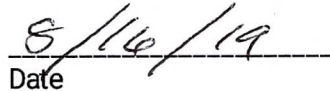
To whom it may concern,

I, Bradley Dean Wilde, am the owner and resident of 141 Hope Lane, Wildwood, CA 96076 (APN 019-680-28). I am aware that 18 Trinity Partners, LLC plans to develop and operate a commercial cannabis cultivation operation at 2890 Wildwood Road, Wildwood, CA, within 350 feet of my residence. I support their proposed project, and do not take issue with it being located near my property and residence.

Furthermore, I encourage the Trinity County Planning Commission to issue a Commercial Cannabis Variance for 18 Trinity Partners, LLC's proposed cultivation operation, so that they may be able to obtain a Trinity County Commercial Cannabis License.

Thank You


Bradley Wilde


Date

**ATTACHMENT 5
SITE VISIT
PHOTOS**



View of neighboring parcel from subject parcel (house is not visible).



View of proposed location of greenhouses on subject parcel.