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| <b>TRINITY COUNTY PLANNING COMMISSION<br/>STAFF REPORT</b> |
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**PUBLISHED DATE:** 09/03/2021

**PLANNER:** Kim Hunter, Building & Planning Director

**APPLICANT/APPELLANT:** Filip Pejovic

**AGENT:** The Flowra Platform

**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:** 1950 Brady Rd., Hayfork (APN 011-410-15-00)

**APPROX. ACREAGE:** 7.5

**ZONING DISTRICT:** Rural Residential 10 Acre min (RR10)

**ZONING DISTRICT OVERLAYS:** Critical Water Resource (CWR)

**GENERAL PLAN DESIGNATION:** Rural Residential - Low Density (RR-L)

**STAFF RECOMMENDATION:** Deny Request

**ADJACENT LAND USE AND ZONING INFORMATION:**

| Direction | Land Use                 | Zoning | General Plan Designation |
|-----------|--------------------------|--------|--------------------------|
| North     | Residential              | RR10   | RR-L                     |
| South     | Residential/Agricultural | RR10   | RR-L                     |
| East      | Residential              | RR10   | RR-L                     |
| West      | Residential              | RR20   | RR-L                     |

**ATTACHMENTS:**

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

**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 residence:

| APN            | APPROX. DISTANCE FROM CULTIVATION SITE | COMMENT STATUS   |
|----------------|--|------------------|
| APN 011-410-13 | 70ft                                   | Comment Received |

**PUBLIC COMMENTS:** As of the date of the staff report, staff has received two public comments regarding this item, seen in Attachment 5 and Attachment 6.

**DISCUSSION:**

Trinity County Code Section 17.31.010. provides the Planning Commission with five guiding principles when deciding whether to approve or deny a variance request. These five guiding principles have been used as findings to support approval of previous variances. The five guiding principles are listed below:

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 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.
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.

**STAFF RECOMMENDATION:** Given the comments received by nearby neighbors, staff recommends the Planning Commission do the following:

1. Make a motion to deny the Commercial Cannabis Variance CCV-20-59 to reduce the cultivation site setback in Trinity County Code 17.43.050.A.8. from 350' to 70' from the residence located on APN 011-410-13.

**FINDINGS:** Staff finds the proposed variance does not meet one of the guiding principles, which is:

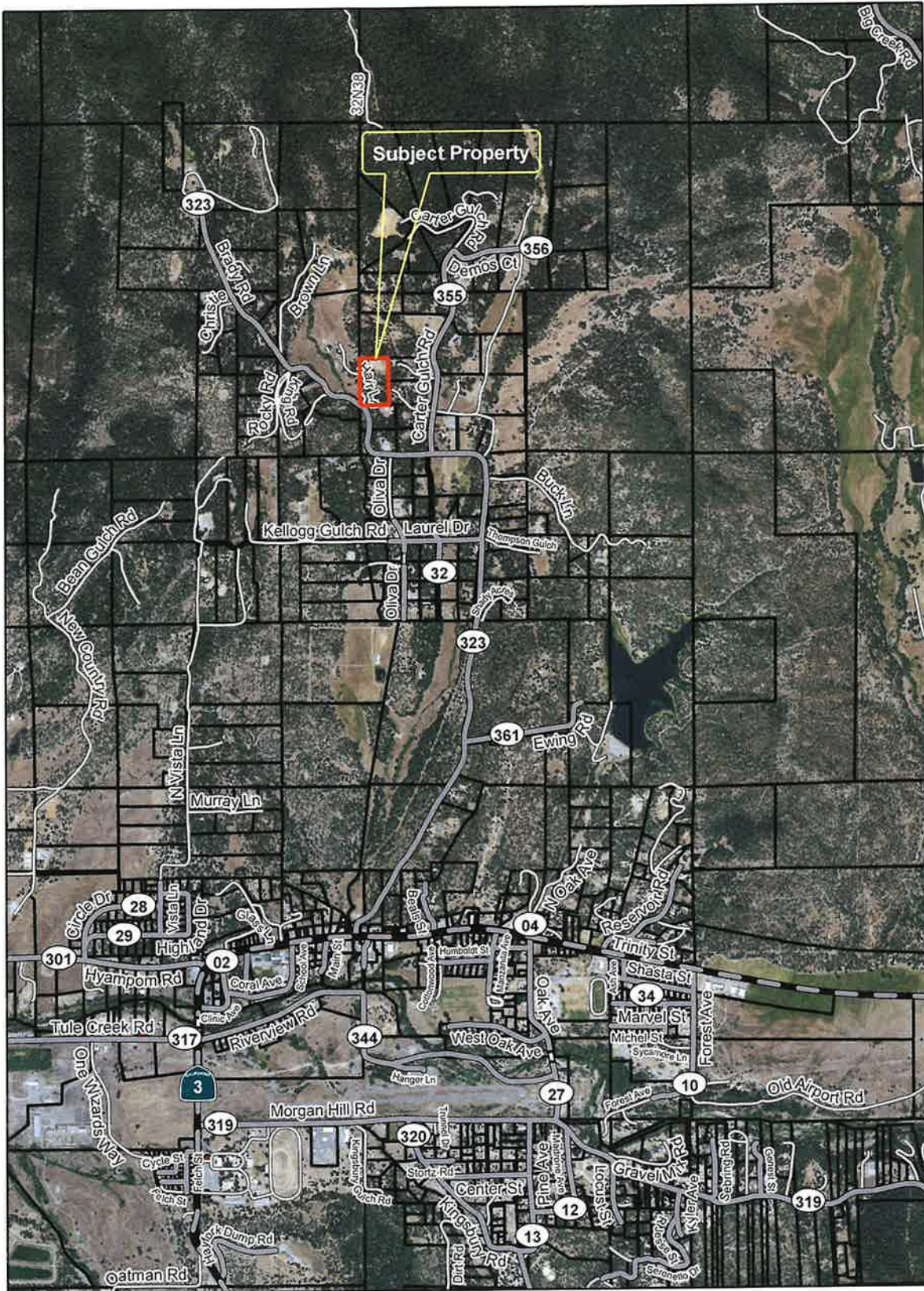
**Disservice Not Permitted.** The purpose of the 350 ft setback requirement provision in Trinity County Code 17.43.050.A.8. being to mitigate odor and other commercial Cannabis cultivation related activities to nearby neighbors, with emphasis given to neighbors that are less than 350 feet from the proposed cultivation site. The property owners of APN 011-410-13 and APN 011-410-18 have expressed their concerns that the proposed cultivation site would be injurious to them.

The requested variance is to reduce the required 350' residential setback to 70' from APN 011-410-13. The owner and resident of this property, Ms. Shieler, has submitted public comment that her welfare will be negatively impacted by the potential cultivation. She refers to existing limited water availability which will be put under further strain if the proposed cultivation goes through. Ms. Shieler also explained in her comment new lights have been put up which shine through the night and limit her ability to sleep. The public comment submitted by Ms. Gehret, resident at APN 011-410-18, expresses concerns over water availability and growing density in the area if the proposed cultivation is allowed. Therefore, staff recommends denial of the variance based upon public comments citing:

- Light Pollution
- Water Quantity Issues
- General Nuisance Issues
- Harm to Public Welfare



**Project Location Map**  
**APN 011-410-15-00**  
**CCV-20-59 | F. Pejovic**



0 0.1250.25 0.5 0.75 1 Miles

- 1.) 26'x37' Dwelling
- 2.) 20'x25' Building - 10'x25' Harvest Storage Area and 10'x25' Processing Area
- 3.) One 30'x100' Greenhouse (immature) and Four 30'x100' Greenhouses (mature)
- 4.) 10'x10' Shed - Administrative Hold Area
- 5.) 10'x15' Cannabis Waste Area - Compost
- 6.) Proposed 20'x22' Building - Ag Chemical/Pesticide Storage Area



APN:  
**011-410-15-00**

Remaining Portion of Parcel is  
Unused

**Immature Canopy Area:      Mature Canopy Area:**

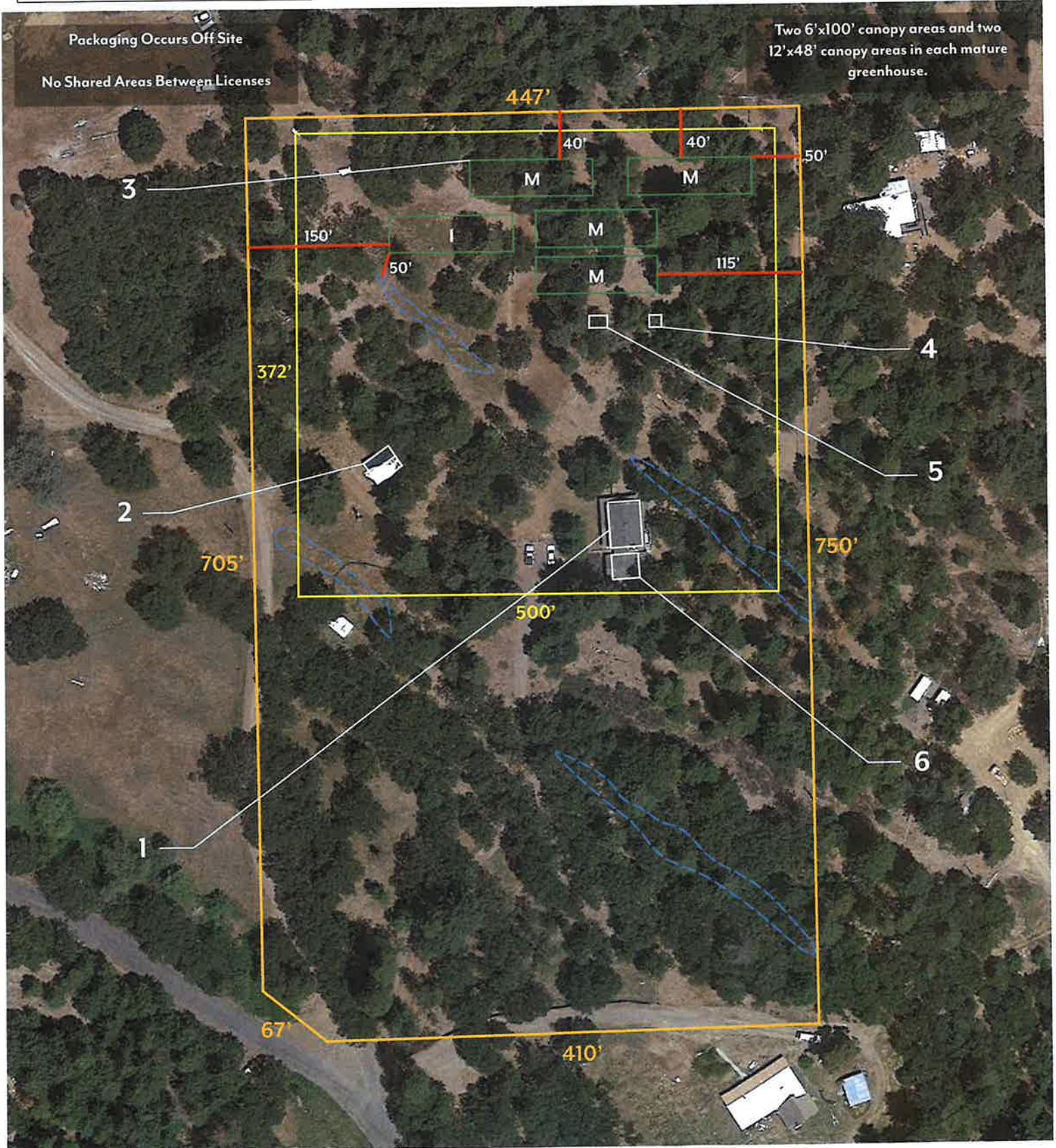
(30'x100')

(6'x100') = 600(8)

(12'x48') = 576(8)

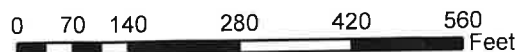
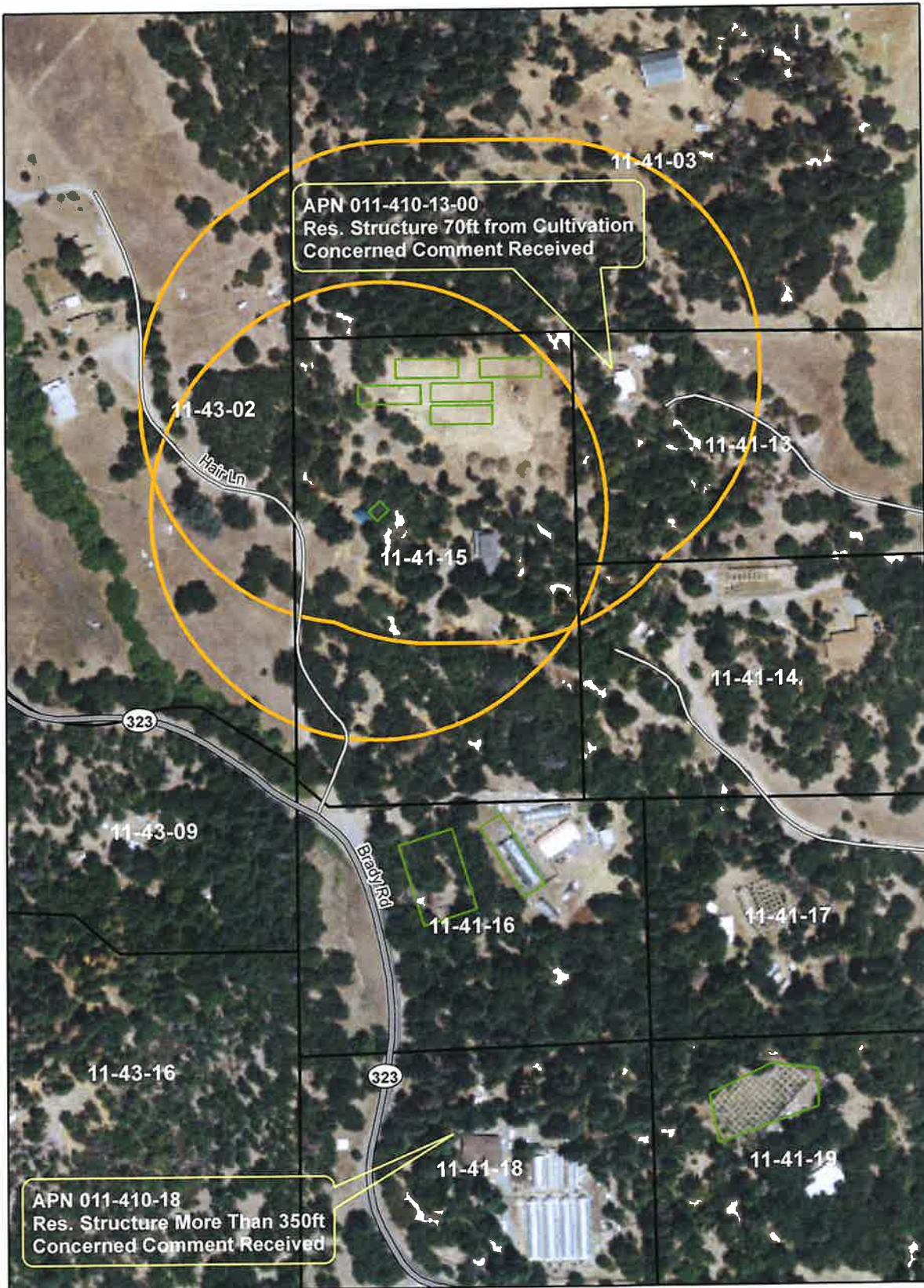
= 3,000sq ft

= 9,408sq ft





**350ft Setback Map**  
**APN 011-410-15-00**  
**CCV-20-59 | F. Pejovic**



**Site Visit Photos  
September 3, 2020**



**Residential Structure on APN 011-410-15-00**



**Proposed Location for Greenhouses**

7/31/2021

Hunter,  
just recieved another letter from you about my neighbors wanting to grow right next to me. Pretty much right in my face! I said "NO!" last year and will say it again "NO!" They have ruined my life already with them cutting down all the Trees. I now have major winds blowing thru my property, lights shining in my room all night long and now "new lights" shining in my room all night long. Might as well be daylight all night. Very hard to sleep. We are limited for water here as well, for we are all on "WELLS". I have a hard time keeping my house cool now during Summer and warm during winter because of all this crap. So "NO!!" "NO!!!!" I do not want anymore POT PLANTS IN MY FACE!!!!!!!!!!!!!! I would like the trees back. Nature back. But not going to happen!!

Just so you  
know I am sending this In an E-Mail, Written letter in Mail, and Calling. I hope it helps you understand I do not want any more pot growing in my face!!.

The property is 1950 Brady Road, Hayfork. Applicant: Salt  
Creek Growers, LLC/ Filip Pejovic Parcel # 011-410-15-00

Signed Mary Shipler

ccf



**Deborah Rogge**

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**From:** Rosanna Gehret  
**Sent:** Tuesday, August 3, 2021 5:14 PM  
**To:** Info.Planning  
**Subject:** Annual Initial Variance - CCV-20-59

Hello,

This email is in regards to the annual initial variance request, CCV-20-59, APN 011-410-15-00.

I live in that area. I am also a cannabis cultivator. I appreciate that the owners of this parcel are looking for legal approval for their project. The concerns I have here are not related to locating a cultivation site fewer than 350' from a residence.

My first concern is density. I have been issued a provisional cultivation license from the county due to density concerns - despite being among the first cultivation sites licensed by the county, and the first to be licensed in the neighborhood (to my knowledge anyhow; CCL-093). It seems to me that it's irresponsible to continue to issue cultivation permits in areas where density is already a concern.

I am also concerned about water use in the area. There are several licensed and many unlicensed cultivation sites in the neighborhood. I know of a few neighbors whose wells are dry already this year. Adding more cultivation sites to an area that is already experiencing negative impacts from the lack of reliable rain/snowpack seems questionable as well.

Lastly, I thought no new licenses were being issued during this time. Has the county resumed issuing new licenses, and license renewals?

Thanks for your time and consideration on this matter.

Best regards,  
Rosanna Betts Gehret