

## TRINITY COUNTY PLANNING COMMISSION STAFF REPORT

**DATE:** April 17, 2020

**PLANNER:** Kim Hunter, Director of Building and Planning

**APPLICANT/APPELLANT/PROPERTY OWNER:** American Cannabis Partners (ACP) LLC

**AGENT:** Dickinson Wright PLLC

**LOCATION:** 241 Drink Water Gulch Rd., Hayfork (APN: 016-220-02-00)

**APPROX. ACREAGE:** 23.86

**ZONING DISTRICT:** Agricultural 10-Acre Minimum (A10)

**ZONING DISTRICT OVERLAYS:** Critical Water Resource (CWR) and Flood Hazard (FH)

**GENERAL PLAN DESIGNATION:** Agricultural

**STAFF RECOMMENDATION:** Deny Appeal

Direction	Land Use	Zoning	General Plan Designation
North	Residential	AF40	RE
South	Residential	A10/ AF40	A/ RE
East	Vacant/ Residential	A10	A
West	Vacant/ Residential	AF40	RE

**PROJECT BACKGROUND:** This request is an appeal of the Planning Director's decision to reject an application requesting variances from the requirements established by the Trinity County Zoning Code section 17.43.040, Type 3 Commercial Cannabis Cultivation Licenses (CCLs).

The applicant is requesting three medium Type 3 (one acre) CCLs on a 23.86-acre parcel and reduction of the required 500-foot property line setback for cultivation.

The request does not qualify for a variance for numerous reasons as outlined in the attached letter of denial dated February 27, 2020, and based on the provisions of Trinity County Zoning Code Section 17.31.010 and California Government Code section 65906.

Other factors considered in the denial of the variance include the following:

- The applicant does not qualify based on the criteria to qualify for a Type 3 CCL based on the established criteria that priority will be given to those that hold a valid 2016/2017 license.
- The proposed parcel (APN 016-220-02-00) does not meet the 50-acre size criteria
- The request for a variance was submitted without a project application. Specifically, the variance request was not accompanied by CCL applications or a Conditional Use Permit application, both of which would be required for a medium Type 3 license in accordance with Trinity County Zoning Code section 17.43.04(b)(1).
- The applicant is requesting a variance from criteria established by the Zone Code rather than a development standard, with the exception of the requested 500' cultivation setback variance.

**PUBLIC COMMENTS:** One letter was received from a neighbor, who wished to remain anonymous, in support of the Planning Director's denial of the proposed variance.

**ATTACHMENTS:**

- A. Planning Director's denial (letter dated 2/27/2020)
- B. Site Location Map
- C. Copy of appeal application
- D. Copy of variance application
- E. Trinity County Zoning Code section 17.31
- F. Government Code Section 65906
- G. Trinity County Zoning Code section 17.43.040 Type III Cultivation
- H. Trinity County Zoning Code section 17.43.050 Limitations of location to cultivate cannabis
- I. Correspondence from neighbor (letter received 3/18/2020)



**TRINITY COUNTY**  
**COMMUNITY DEVELOPMENT SERVICES**  
**PLANNING DEPARTMENT**  
P.O. BOX 2819, WEAVERVILLE, CALIFORNIA 96093  
PHONE (530) 623-1351 ♦ FAX (530) 623-1353

**Kim Hunter, Director**

February 27, 2020

American Cannabis Partners  
Stephen Jordan, Chief Executive Officer  
241 Drinkwater Gulch Rd.  
Hayfork, CA 96041

Re: Type III CCL Variance Request (Assessor's Parcel Number 016-220-02-00)

Dear Stephen,

The Planning Department has reviewed the variance application which you submitted to our office on Friday, February 7, 2020. You have requested three Type 3 (one-acre) commercial cannabis cultivation licenses to be able to cultivate three acres on a 23.86-acre property. You have also requested a variance for the 500-foot cultivation setback requirement.

**Variations**

As contained by State Planning and Zoning Law (Government Code Section 65906), variations shall be granted only when, because of special circumstances applicable to a property, the strict application of the zoning ordinance will deprive such property of privileges enjoyed by other properties in the vicinity and under identical zoning classifications. A variance cannot constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated.

Trinity County Zoning Code section 17.31.010 further establishes that "variations may be granted only to authorize a change in development standards which is not otherwise authorized by the zoning regulations." Four guidelines are provided in this code section to observe when a variance request is being considered. The first of those guidelines is that no special privileges should be granted:

"No Special Privilege. A variance cannot be a special privilege extended to one property individual property owner. The circumstances must be such that the same variance would be appropriate for any property owner facing similar circumstances." (TCC section 17.31.010(A))

**Type 3 Cultivation License Requirements**

Trinity County Ordinance 315-843, Zoning Code Section 17.43.04(b) provides for the County to allow fifteen Type 3 licenses. These licenses shall be made available to those who have already obtained a Commercial Cultivation License (CCL). To be eligible, the applicant must be applying for a property that is 50 acres or more in size. Also, priority is given to those who hold a valid 16/17 Trinity County CCL.

The variance request conflicts with several of the regulations for obtaining a Type 3 license, which are not development standards but eligibility requirements:

1. The 23.86-acre parcel is less than half of the required 50-acre parcel size;
2. ACP does not hold a valid 16/17 Trinity County CCL;
3. Only 15 Type 3 Licenses are available with all 15 slots being filled by 16/17 CCL holders. No Type 3 Licenses are currently available. Should a Type 3 CCL become available then the Zoning Code clearly established that priority will be given based on the Trinity County CCL number; and
4. The variance request to allow a three-acre cultivation site exceeds the cultivation area currently permitted on any single parcel.

### **Conclusion**

With the exception of the 500-foot cultivation setback component, the proposed variance would grant a special privilege extended to one property owner and requests several exceptions to the zoning regulations relating to Type 3 CCL eligibility and process rather than development standards. As a result, I am rejecting this variance application on the grounds that these requests are not appropriate for a variance application, with the exception of the 500-foot cultivation setback.

You may appeal his decision on the variance application to the Planning Commission within 10 working days from the date of this letter. The appeal form can be found at: <https://www.trinitycounty.org/Planning-Documents-Forms> (under "Forms") and must be accompanied by the \$500 appeal fee.

Another option would be to submit an application for a Zoning Code amendment, which may be initiated by a member of the public. This may be a more appropriate and equitable path for ACP to consider. An application for this type of action would involve a proposal to change the code provisions associated with minimum parcel size, number of licenses, eligibility criteria and process for obtaining a Type 3 CCL. The application for this purpose would include proposed language revisions for Type 3 CCLs, specifically Zoning Code section 17.43.04(b).

Please contact me with any questions or for further assistance.

Best Regards,

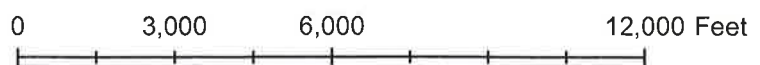


Kim Hunter  
Building & Planning Director

cc: Margaret Long, County Counsel  
Richard Kuhns, Trinity County CAO  
Jacob S. Frenkel, Dickinson Wright PLLC



**ATTACHMENT B**  
**APN 016-220-02-00**  
**P-20-11 ACP LLC**  
**Project Location Map**



P-20-11



COUNTY OF TRINITY

APPEAL OF PLANNING DIRECTOR'S  
DECISION TO PLANNING COMMISSION

RECEIVED

FEB 27 2020

TRINITY COUNTY  
PLANNING DEPARTMENT

Received Stamp

Name: Americom Cannabis Partners Phone: 912-659-3833

Email: stephen@acpforms.com

Physical Address or APN: 016-220-02

Mailing Address: PO Box 716 Hayfork, CA 96011

Decision of Planning Director rendered on (date): Rejected 2/27/2020

Planning Director's Decision was to:  Approve  Deny  Continue

Request for: 3 1 acre Type 3 mixed lighting licenses

Reason for Appeal: Rightful use to land by State code.

Signature: [Signature] Date: 2/27/2020

Clerk's Use Only

Date Filed: 2-27-20

Fee Collected: 500

Hearing Date: \_\_\_\_\_

Receipt No.: 21 2020 - 000 22

Notice Published: \_\_\_\_\_

Notice Mailed: \_\_\_\_\_

P-20-11

Clear





Application Number: \_\_\_\_\_

**TRINITY COUNTY  
PLANNING DEPARTMENT**

61 AIRPORT ROAD  
P.O. BOX 2819  
WEAVERVILLE, CA 96093  
(530) 623-1351 FAX (530) 623-1353

Application Form For:  
**COMMERCIAL CANNABIS  
USE PERMIT and/or VARIANCE**

Conditional Use Permit     Variance

**APPLICANT**

Email: stephen@acpfarms.com

Name: American Cannabis Partners LLC (Stephen Jordan)

Day Phone: (912) 659-3833

Address: PO Box 716

City: Hayfork

State: CA

Zip: 96041

**PROPERTY OWNER**     Check if same as Applicant (If more than one property owner is involved, attach list.)

Name: ACP, LLC

Day Phone: (912) 659-3833

Address: 2800 Scenic Dr. Ste 4201

City: Blue Ridge

State: GA

Zip: 30513

**REQUEST INFORMATION**

Property Location / Address: 241 Drinkwater Gulch Rd

Assessor's Parcel Number: 016-220-02-00

Present Zoning: Agricultural 10 Acre Min (A10)

Present General Plan: Agricultural (A)

Proposed Zoning if Rezone is required: \_\_\_\_\_

Conditional Use Permit Indicate Proposed Use: \_\_\_\_\_

Project Information/ Development Plans: \_\_\_\_\_

See attached project description.

**FOR OFFICE USE ONLY**

Application Received by: \_\_\_\_\_

Date: \_\_\_\_\_

First Hearing: \_\_\_\_\_

Application Fee: \_\_\_\_\_

Receipt No.: \_\_\_\_\_

I hereby certify that I am the owner of record of the property described above or have authorization to act in behalf of the owner of the owner (note attached), and that this application and all other documents submitted are true and correct to the best of my knowledge and belief.

2/6/2010

Applicant's Signature

Date

Friday, February 7, 2020



ACP, LLC.  
241 Drinkwater Gulch Rd.  
Hayfork, CA 96041  
[www.acpfarms.com](http://www.acpfarms.com)

Dear Trinity County Planning Department,

Thank you for allowing American Cannabis Partners to be a major part in the legal, progressive growth in Trinity County's commercial cannabis industry. It is our goal to operate at maximum capacity within State and County compliance. Our willingness and cooperation will be a top priority moving forward. A projection description is listed below.

Project proposed is a 3 acre commercial cannabis cultivation operation conducted on 3 Trinity County Type 3 cultivation licenses. Variances requested from the 50 acre parcel threshold, and the 500 foot property line setback.

First variance request is from the 50 acre minimum parcel threshold for Type 3 licenses in Trinity County Code, Title 17 (Zoning) Chap. 17.43.040(B)(1)(a). Second variance request is from the 500 foot property line setback in Trinity County Code, Title 17 (Zoning) Chap. 17.43.050(A)(8).

The parcel in question, located on Agricultural zoned land, is zoned correctly for this size of an agricultural operation. The parcel consists of an old orchard where proposed cultivation activities would be contained in already disturbed agricultural lands. Non-disturbed parts of this parcel would also qualify for proper zoning for the proposed project due to its Agricultural land designation in both the Trinity County Zoning Ordinance and the Trinity County General Plan. As stated in Trinity County's Zoning Ordinance codified in the Trinity County Code, Title 17 (Zoning) Chap. 17.10.010, the definition of agricultural use is "the use of land for the purpose of producing an agricultural commodity for commercial purposes." The proposed project and variances being applied for thus adhere to proper land use.





**TRINITY COUNTY**  
**PLANNING DEPARTMENT**  
 51 Airport Road  
 P.O. BOX 2819  
 WEAVERVILLE, CA 96093  
 (530) 623-1351 FAX (530) 623-1353

## ENVIRONMENTAL QUESTIONNAIRE

This questionnaire is part of an Initial Study that will assist in determining the potential environmental impacts of your proposed project. Additional information may be required to complete an Initial Study.

**\*\*\* For Office Use Only \*\*\***

Project No: ----- Received by: ----- On: -----

Proposed Project: -----

General Plan Designation: ----- Zoning: -----

Planning Commission Date (anticipated): -----

Subdivision Review Committee Date (anticipated): -----

Board of Supervisors Date (anticipated): -----

**PLEASE PRINT OR TYPE**  
**(Use addition sheets if necessary)**

Proposed Project: Variances from Trinity County Ordinances 315-829(c)iii, 315-823(3)(b), & 315-823(5)(a)viii

Location: 241 Drinkwater Gulch Rd, Hayfork, CA 96041

Access Road: Hyampom Rd

Assessor's Parcel No.: 016-220-02-00

Project Acreage: 23.86

Owner: ACP, LLC

Telephone: (912) 659 - 3833

Mailing Address: 2800 Scenic Dr, Ste 4210, Blue Ridge, GA 30513

Applicant/Agent: Stephen Jordan Telephone: (912) 659-3833  
Chief Executive Officer for American Cannabis Partners, LLC

Mailing Address: PO Box 716, Hayfork, CA 96041

# Environmental Checklist

Please describe the existing conditions of the project location (extent of structures and type of use):

Existing land conditions includes previously disturbed agricultural operations, to which the project proposed would utilize those already-disturbed agricultural areas creating minimal environmental disturbance. Structures currently on the property include a dwelling, septic, well, and other agricultural-related buildings.

## AESTHETICS

1. Is your project located in or near :

- |                                    |                              |  |
|------------------------------------|------------------------------|--|
| Historic District                  | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| State Scenic Highway               | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Scenic, Wild or Recreational River | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

2. Type of exterior lighting proposed : N/A

3. Will the project obstruct scenic views from existing residential areas, public lands, public bodies of water or roads?  Yes  No

Explain:-----

## AGRIGULTURAL & TIMBER RESOURCES

1. Is your project currently in a, Williamson Act Contract, Timberland Preserve Contract, Prime Farm Land, Unique Farm Land or Farm Land of Statewide importance?  Yes  No

Explain:-----

2. Will your project convert agricultural land to a non-agricultural use?  Yes  No

3. Will your project convert timberland to a non-timberland use?  Yes  No

## AIR QUALITY

1. Would any noticeable amounts of air pollution, such as smoke, dust or odors be produced by this project?  Yes  No If yes, explain: -----

2. Is your project subject to a North Coast Unified Air Quality Management permit?  Yes  No

3. Will project development require clearing and disposal of vegetation?  Yes  No

Environmental Checklist

4. Will your project involve the operation of industrial equipment?  Yes  No  
 (rock crushers, smoke stacks, milling equipment, etc.)

If yes, explain: \_\_\_\_\_

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**BIOLOGICAL RESOURCES**

- I. What is the predominant vegetative cover on the site? (trees, brush, grass, etc.) Estimate % of each:

50% grass, 25% brush, 25% trees

2. How many trees of 6 inch diameter or larger will be removed when this project is implemented:

N/A

3. Has a Timber Harvest Plan been filed in conjunction with the project?  Yes  No  
 (If yes, indicate plan number)

4. Are there any known candidate, sensitive, or special status species located on or near the project site?  Yes  No (Local, State or Federal) \_\_\_\_\_

5. Will the project affect any wetland, riparian habitat or other sensitive natural community through removal, filling, hydrological interruption or other means?  Yes  No

Please explain: \_\_\_\_\_

6. Is your project located within a Deer Winter Range area?  Yes  No

7. Has a biological assessment been performed on the property?  Yes  No  
 If yes please attach a copy.

**CULTURAL RESOURCES**

1. Are there any known:
- |                     |                              |  |
|---------------------|------------------------------|--|
| Archeological Sites | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Indian Sites        | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Historical Sites    | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Burial Sites        | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

If yes, please indicate on the site map.

Environmental Checklist

**GEOLOGY AND SOILS**

- 1. Slope of property: \_\_\_ 0 to 10% X 10 to 15% \_\_\_ 15 to 30% \_\_\_ Over 30%  
(Please indicate amount of property in each category)
- 2. Are there any soil settlement, rock falls or landslides on or adjacent to the property?  Yes  No  
*If yes, please indicate on site map.*
- 3. Describe changes in grade or contours resulting from project development: No changes in grade or contours will result from the proposed project.
- 4. Please estimate the amount of soil disturbance that will occur during the project. N/A  
(Building site, grading, road development, etc.)
- 5. Is there any existing sewage disposal system?  Yes  No

*If Septic:*

Tank Size: N/A Leach Field Length: N/A Permit or Installation date: N/A

What does the system consist of: N/A

What structures if any are currently connected: N/A

If house, how many bedrooms? N/A

Original System Owner: N/A

*If Sewer:*

System Name: \_\_\_\_\_

- 5. If a new septic system is proposed, please indicate the following:

Tank Size: \_\_\_ Leach Field Length: \_\_\_ If house, number of rooms: \_\_\_

**HYDOLOGY AND WATER SUPPLY**

- 1. Are there any streams, lakes, ponds, wetlands, vernal pools, wet meadows, or perennially wet areas located on or near the project site?  
 Yes  No *If yes, please indicate on the site map.* Water body name? Pond on parcel located 150 feet from the proposed project. Drinkwater Gulch located 150 feet from proposed project.
- 2. What is the distance from the proposed sewage disposal area to the nearest body of water, river, stream, or drainage: N/A



Environmental Checklist

3. Is the project located within the floodplain of y stream or river?  Yes  No  
Please indicate any portion of the project that is located within the floodplain on the site map.

4. Will the project result in the direct or indirect discharge of silt or any other particles in noticeable amounts into any lakes, rivers or streams?  Yes  No

If yes, in what way? \_\_\_\_\_

5. Will the project result in the physical alteration of a natural body of water or drainage way?  
 Yes  No If yes, in what way? \_\_\_\_\_

6. What is the proposed water source:

Spring  Deep Well  Stream/River  Community System

Name of Stream/River or Community Water System: \_\_\_\_\_

**HAZARDS OR HAZARDOUS "MATERIAL**

1. Will the project involve the application, use or disposal of potentially hazardous materials, including pesticides, herbicides, other toxic substances or radioactive material?  Yes  No

If yes, please explain: \_\_\_\_\_

2. Is the project located on a site which is included on a list of hazardous material sites?  Yes  No

3. Is the project located within 2 miles of an existing airport?  Yes  No

4. Is the project located within 2 miles of a school?  Yes  No

5. Could the project create new or aggravate existing health problems (including, but not limited to flies, mosquitoes, rodents and other disease vectors)?  Yes  No

If yes, please explain: \_\_\_\_\_

**MINERAL RESOURCES**

1. Will the proposed project result in the removal of a natural resource for commercial purposes (including rock, sand, gravel, trees, minerals or top soil)?  Yes  No

If yes, please explain: \_\_\_\_\_

**COMMERCIAL, INDUSTRIAL, INSTITUTIONAL ONLY**  
(Including land divisions for such uses)

1. Type of use: N/A
2. Hours of Operation: N/A
3. Total Number of Anticipated Employees: N/A
4. Number of Employees per Shift: N/A
5. Gross Square Footage: N/A
6. Proposed Construction Starting Date: N/A
7. Number of Parking Spaces provided: N/A

**NOISE**

1. What types of noise would be created by the establishment of this land use, both during and after construction? N/A

**POPULATION AND HOUSING**

Residential

1. Total lots to be created: N/A Total Dwelling Units to be created: N/A
2. What school district will the project be located in? Hayfor School District
3. Please indicate:  
Approximate unit/house size? N/A Sq. Ft.  
Approximate sale price or rent? N/A  
Type of household size expected? N/A

**UTILITIES**

1. What communication system supports the project area? N/A  
(Verizon, Pac Bell, etc.)
2. Is the project area be served by Cable?  Yes  No System: \_\_\_\_\_

Environmental Checklist

3. Is there power available at the project site?  Yes  No

If so, what company? Trinity Public Utilities District

4. Will the project require the extension of existing utility lines or systems?  Yes  No

If yes, please identify system and give distance: \_\_\_\_\_

**FIRE PROTECTION**

1. In what fire district is the project located? Hayfork

2. How far is the nearest emergency source of water for fire protection and what is it? (pond, hydrant, etc.)

Pond on-parcel

3. What is the distance to the nearest fire station?

Seasonal: 3.5 miles

Year Round: 3.5 miles

4. Will the project create any dead-end roads greater than 600 feet in length?  Yes  No  
(If yes, please indicate on site plan.)

5. What is the proposed grade and width of access roads? N/A

**TRANSPORTATION**

1. Will the project use existing roads?  Yes  No

If yes, please indicate the primary access road: Drinkwater Gulch Rd

Please list all roads that may be affected by your project: Drinkwater Gulch Rd

2. If your project encroaches onto a state highway, please indicate highway, post mile, and nearest cross street: N/A

3. If the project encroaches onto a public road, do you have an encroachment permit?  Yes  No  
If yes, please attach a copy.

4. Please indicate amount and type of traffic, which will be created by the project: N/A

5. If commercial or industrial, please indicate expected vehicle size N/A axles.

6. Please indicate daily trip generation rate: N/A
7. Will the project increase hazards due to a design feature (e.g. sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment)?  Yes  No  
If yes, please explain: \_\_\_\_\_
- 

**GROWTH INDUCING IMPACTS**

1. Will the project result in the introduction of activities not currently found within the community?  Yes  No

If yes, please explain: \_\_\_\_\_

---

2. Could the project serve to encourage development of presently undeveloped areas, or increases in development intensity of already developed areas (examples include the introduction of new or expanded public utilities, new industry, commercial facilities or recreation activities?)

Yes  No If yes, explain: \_\_\_\_\_, \_\_\_\_\_

---

**PROPOSED PROJECT SCHEDULING**

1. Please indicate proposed project schedule (proposed construction start date, etc.) N/A
2. If the project is subject to any grant deadlines please indicate: N/A  
Grant Source: \_\_\_\_\_  
Contact Person: \_\_\_\_\_  
Grant Deadline(s): \_\_\_\_\_
3. If the project has federal grant funding, which agency will be responsible for N.E.P.A. processes?  
N/A
- 

Contact Person: \_\_\_\_\_





Light-Blue-Dashed Line Indicate Water Transport from Well to Water Tank to Cultivation

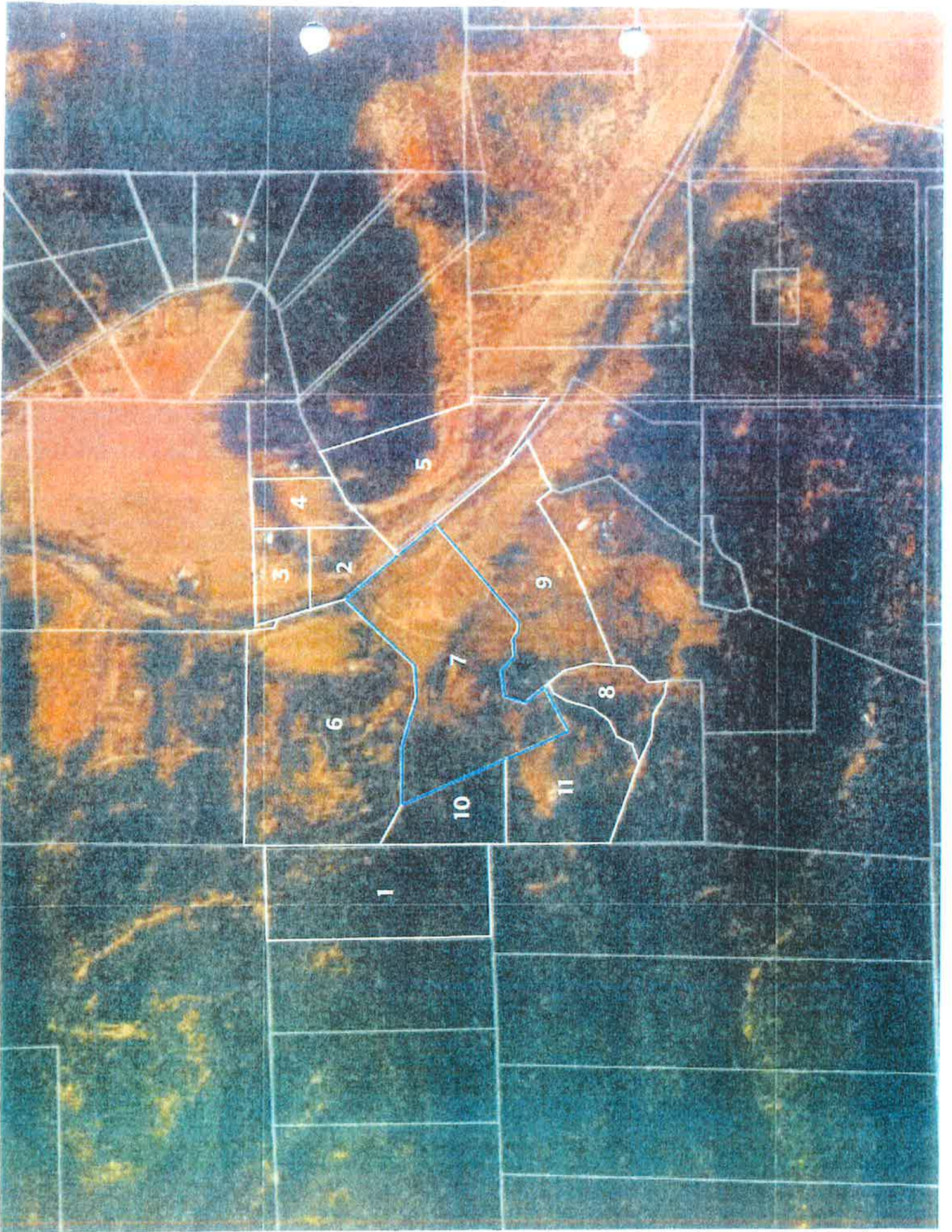
APN:  
016-220-02-00

Remaining Portion of Parcel is Unused

- 1.) Permitted Well (Domestic)
- 2.) 50' x 90' Dwelling
- 3.) Class III Waterway
- 4.) Septic System
- 5.) Parcel Entrance/Exit
- 6.) Parcel Entrance/Exit
- 7.) Parcel Entrance/Exit
- 8.) Permitted Well (Agriculture)
- 9.) 150' from Class I Waterway Parcel Boundary
- 10.) 4" Overflow Outlet
- 11.) 1,00G Water Storage Tank
- 12.) Premises Entrances/Exits
- 13.) Drinkwater Catch Rd.
- 14.) Quail Valley Rd.
- 15.) Homestead Rd.
- 16.) 329' from cultivation to neighboring dwelling











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JACOB S. FRENKEL \* CHAIR, GOVERNMENT  
INVESTIGATIONS AND SECURITY \* E-MAIL: [jfrenkel@dickinsonwright.com](mailto:jfrenkel@dickinsonwright.com)  
DIRECT DIAL (202) 466-5953

\* Admitted to practice in Maryland and Louisiana. \*\* Not  
admitted to practice in the District of Columbia.

February 7, 2020

By Hand

Ms. Kimberly Hunter, Director  
Trinity County Building and Planning Department  
61 Airport Road  
Weaverville, CA 96093-2819

RECEIVED  
FEB 07 2020  
TRINITY COUNTY  
PLANNING DEPARTMENT  
*[Signature]*

Re: American Cannabis Partners, LLC Variance Application

Dear Ms. Hunter:

American Cannabis Partners, LLC ("ACP"), through Stephen Jordan, its Chief Executive Officer, is pleased to submit the accompanying variance application to the Trinity County Building and Planning Department.

On January 22, 2020, I had the privilege of joining the senior executives of ACP who, in response to an invitation from the Trinity County Board of Supervisors, made a presentation to the Board of Supervisors about their vision for ACP, decision to domicile the corporate headquarters of ACP in Trinity County, and plans to contribute to the commercial and civic growth of Trinity County. I personally welcomed the opportunity to be present and introduce myself, given that I am a Northern Californian and take tremendous pride in my client's corporate citizenship and commitment to contribute to Trinity County.

I write not as an advocate for my client but as a champion of ACP's commitment to business integrity, corporate governance and best practices as a business based in Trinity County. Needless to say, I, the attorneys in this firm's California office and our national practice leaders who support businesses in and connected to the law-compliant cannabis industry welcome the opportunity to work with you, your office and County officials to ensure that ACP's success will be a source of pride, constructive civic engagement and meaningful contribution to the tax base of Trinity County.

Very truly yours,

Jacob S. Frenkel

## Chapter 17.31 - VARIANCES

Sections:

## 17.31.010 - General description.

A variance is a waiver or modification of some requirement contained in the zoning ordinance. The statutory justification for a variance is that the owner would otherwise suffer unique hardship under general zoning regulations because his or her particular parcel is different from others to which the regulation applies due to size, shape, or topography. Variances may be granted only to authorize a change in development standards which is not otherwise authorized by the zoning regulations.

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

- A. 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.
- B. Use Variance Prohibited. The consideration of "use variances" is specifically prohibited. These are variances which request approval to locate a use in a zone from which it is prohibited by ordinance.
- C. Disservice Not Permitted. A variance must not be injurious to the public welfare, nor to adjacent properties.
- D. 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.
- E. 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.

## 17.31.020 - Authority—Planning commission.

A variance may be granted at the discretion of the planning commission, with such conditions as may be necessary to carry out the intent and purpose of this title.

## 17.31.030 - Application—Fees—Notice—Hearing

An application for a variance to be considered by the planning commission shall be subject to the following requirements:

- A. Application. The applicant shall submit his or her application on a form provided by the



planning director. The planning director shall accept the application as complete pursuant to procedures indicated in Chapter 17.30E of this title.

- B. Fees. Fees are required for any entitlement required by this title unless the board of supervisors waives the fee prior to submittal of an application. The required fees for any such applications not waived shall be governed by the provisions of Chapter 17.30E of this title.
- C. Notice and Hearing. The procedural requirements for any hearing and the contents of the notice required by the provisions of this section shall be governed by the provisions of Chapter 17.34 of this title. At least one public hearing for a variance shall be conducted before the planning commission.

#### 17.31.040 - Resubmittal of application.

If an application for a variance has been denied by the planning commission, no new application for substantially the same project or use at the same location shall be resubmitted for a period of one year from the effective date of the final denial of such application, unless approval to file, prior to expiration of the one-year period, has been granted by the planning commission by resolution.

#### 17.31.050 - Time limits imposed on variances.

- A. No Time Limit Unless Stated in Variance. Variances, once utilized, are of indefinite duration unless an expiration date has been specified by the Planning Commission as a condition of approval.
- B. Temporary Variances. Where application is made for a structure which is temporary in nature, the planning commission may condition the variance to expire automatically a stated period of time after granting of the variance.
- C. Expiration for Failure to Utilize a Variance. Any variance granted shall expire at the end of one year unless a building permit or other county permit is obtained within the variance term.
- D. Extension of Time. Upon show of good cause by the applicant, the planning commission may grant an extension of time not to exceed one year. A public hearing shall not be required unless specified by the planning commission. A request for extension of time shall be subject to a filing fee as specified by the board of supervisors.

#### 17.31.060 - Permits may not be issued.

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.



## GOVERNMENT CODE - GOV

**TITLE 7. PLANNING AND LAND USE [65000 - 66499.58]** ( *Heading of Title 7 amended by Stats. 1974, Ch. 1536.* )

**DIVISION 1. PLANNING AND ZONING [65000 - 66301]** ( *Heading of Division 1 added by Stats. 1974, Ch. 1536.* )

**CHAPTER 4. Zoning Regulations [65800 - 65912]** ( *Chapter 4 repealed and added by Stats. 1965, Ch. 1880.* )

**ARTICLE 3. Administration [65900 - 65909.5]** ( *Article 3 added by Stats. 1965, Ch. 1880.* )

65906. Variances from the terms of the zoning ordinances 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 property 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 situated.

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.

*(Amended by Stats. 1974, Ch. 607.)*

17.43.040 - Type III cultivation licenses.

- A. The county will allow a total of five hundred thirty licenses. Thirty of those licenses shall be issued to property within Trinity County Waterworks District #1. Priority in the program shall be based on the following:
  - 1. Priority will be issued based on the number issued to a Trinity County Commercial Cannabis License number.
- B. The county will allow fifteen Type 3 licenses. These licenses shall be available to those who have already obtained a commercial cultivation license.
  - 1. To be eligible, the applicant must:
    - a. Be applying for property that is fifty acres or more.
    - b. Apply for and obtain a conditional use permit.
  - 2. The director may increase the number of Type 3 Licenses up to thirty if the environmental documents support this increase.
  - 3. Priority will be given to those that hold a valid 2016/2017 Trinity County license and who submit completed applications by a date determined by director. Thereafter, priority will be given based on the Trinity County Commercial Cannabis License number.

( Ord. No. 315-843, § 1, 2-20-19)

## 17.43.050 - Limitation on location to cultivate cannabis.

- A. Applications will not be approved for cultivation of cannabis in any amount or quantity, in the following areas:
1. Within one thousand feet of a youth-oriented facility, a school, any church, or residential treatment facility as defined herein.
  2. Within five hundred feet of an authorized school bus stop.
  3. A legal parcel without a legal dwelling, or without an active building permit.
  4. Timber production zones (TPZ) with the exception made for qualified Phase I applicants (persons or entities who completed enrollment in the NCRWQCB Order #2015-0023 in reference to a Trinity County-based operation by August 1, 2016).
  5. Residential 1 (R1), residential 2 (R2), or residential 3 (R3) zones.
  6. Within the Trinity County jurisdiction of the Whiskeytown-Shasta-Trinity National Recreation Area and within the lease lots within the Ruth Lake Community Services District.
  7. Within the legal boundaries of the Weaverville Community Services District, Coffee Creek Volunteer Fire District and Trinity Center Community Services District, Bucktail Subdivision and within the following area of the Lewiston Community Services District: Mt. Diablo Meridian, Township 33N, Range 8W, Sections 17, 18, 19, 20, and Mt. Diablo Meridian, Township 33N, Range 9W, Section 24, 13, which are in proximity to high density areas, and therefore, create a substantial risk of a public nuisance. An exception to this limitation is allowed for applicants who have submitted an application for enrollment under NCRWQCB Order #2015-0023 by the following dates:
    - Weaverville Community Services District by December 31, 2016;
    - Lewiston Community Services District by January 15, 2017;
    - Coffee Creek Volunteer Fire District and Trinity Center Community Services District by November 30, 2017.
  8. For specialty cottage, specialty and small licenses cultivation shall not be allowed within three hundred fifty feet of a residential structure on any adjoining parcels. For medium licenses, cultivation shall not be allowed within five hundred feet of an adjacent property line. Applications for a variance from this provision will be considered by the Trinity County Planning Commission. After obtaining an initial variance, the planning director can issue a director's use permit for subsequent years after an inspection.

( Ord. No. 315-843, § 1, 2-20-19)

RECEIVED

MAR 18 2020

TO: KIM HUNTER,

TRINITY COUNTY  
PLANNING DEPARTMENT

Dear Kim, my wife + I are writing this letter to you and the planning Department in hoping that you as a department uphold your decision on property, APN: 016-220-02-00. Do not allow them to come here and start changing the laws that your department has worked so hard to put in place, because once you do that, you have to start all over again. This property is able to be seen from Hyampson Rd #301, and every land owner that lives across our bridge, we all would be driving right through the middle of it everyday. The land owner has told some neighbors that once the grow is up and running, they are leaving, and there will be some one else doing all the dirty work for them anyway. (Do not like that rule). Also very concerned about the amount of water being wasted every year on a drug, would be in favor of the Rule/Law go back to when it first got started at 6 mature plants and 6 immature plants and leave it there. If they don't like it then they leave. I really do believe it things

RECEIVED

Keep going the way they are, we are  
as a county, going to deplete our  
water sources, and the locals who  
have lived and grown up here are  
going to have property that is worthless.  
Sorry about getting off track so much,  
we just hope you stick to your guns  
on this decision. Thank you.

