

**TRINITY COUNTY PLANNING COMMISSION STAFF REPORT**  
**Initial Commercial Cannabis Variance**

**PLANNER:** Bella Hedtke, Associate Planner

**APPLICANT:** Long Tran

**PROPERTY OWNERS:** Timothy and Tram Gustin

**CONSULTANT/AGENT:** Trinity River Consulting

**REQUEST:** A request for a variance from the required 350' Cannabis cultivation setback from one (1) neighboring residential structure (TCC 17.43.050.A.8).

**LOCATION:** 1730 Lake Road, Junction City (APN: 009-490-22)

**APPROX. ACREAGE:** 2.34

**GENERAL PLAN DESIGNATION:** Rural Residential (RR)

**ZONING DISTRICT:** Rural Residential 2.5 (RR2.5)

**OVERLAY ZONE:** Mobile Home Standards (MHS)

**STAFF RECOMMENDATION:** Approve with Conditions

**ADJACENT LAND USE AND ZONING INFORMATION:**

Direction	Land Use	Zoning	General Plan Designation
North	Residential	RR2.5	RR
South	Residential	RR10	RR
East	Undeveloped	RR2.5	RR
West	Vacant	RR2.5	RR

**ATTACHMENTS:**

- 1) Project Location Map
- 2) Site Plan
- 3) 350ft Setback Map
- 4) Site Visit Photos
- 5) Supportive Comment from Neighbor

**BACKGROUND INFORMATION:** Commercial Cannabis License (CCL) 84 (Small Mixed Light Cultivation) was transferred to the current applicant in November 2020. The prior licensee held a commercial cannabis license at this location since December 2017. The Helena Fire destroyed numerous homes in this neighborhood in 2017, including the prior licensee's dwelling and the neighbor's dwelling that this variance is from. The neighbor's dwelling was reconstructed and finalled in October 2018 and the licensee's dwelling was reconstructed and finalled in May 2020.

With approval by former Cannabis Division staff, the prior licensee for this site had avoided the variance requirement since October 2018 by renting a room in the neighboring dwelling. Current staff does not accept this situation as an alternative to the variance process. Therefore, the new licensee now requires an approved variance in order to proceed with the 2021 licensing process.

**VARIANCE REQUEST:** The applicant is requesting a variance to reduce the required 350ft residential setback to 300ft from the residence on APN 009-490-21-00. Staff received a comment in support of this variance request (Attachment 5).

**STAFF RECOMMENDATION:**

Staff recommends the Planning Commission make the following motion to approve this commercial cannabis variance request:

To approve Commercial Cannabis Variance CCV-20-42 to reduce the cultivation site setback in Trinity County Code 17.43.050.A.8. from 350 feet to 300 feet from the residence located on APN 009-490-21-00, subject to the findings of fact and conditions as stated in this staff report.

**FINDINGS:** The following findings shall apply to the L. Tran Commercial Cannabis Setback Variance (CCV-20-42) for APN 009-490-22-00:

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 commercial Cannabis cultivation operation within 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 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' 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 on adjoining parcels. As previously mentioned, staff received one supportive comment letter from the owner of the residence located on APN 009-490-21. Therefore, it can be assumed that the one neighbor located less than 350' from the proposed cultivation site, on an adjoining parcel, does not consider this cultivation site to be injurious.

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.

**CONDITIONS OF APPROVAL:** Upon approval by the Planning Commission, the following Conditions of Approval shall apply to the L. Tran Commercial Cannabis Setback Variance (CCV-20-42) for APN 009-490-22-00:

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.

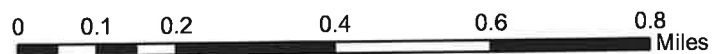
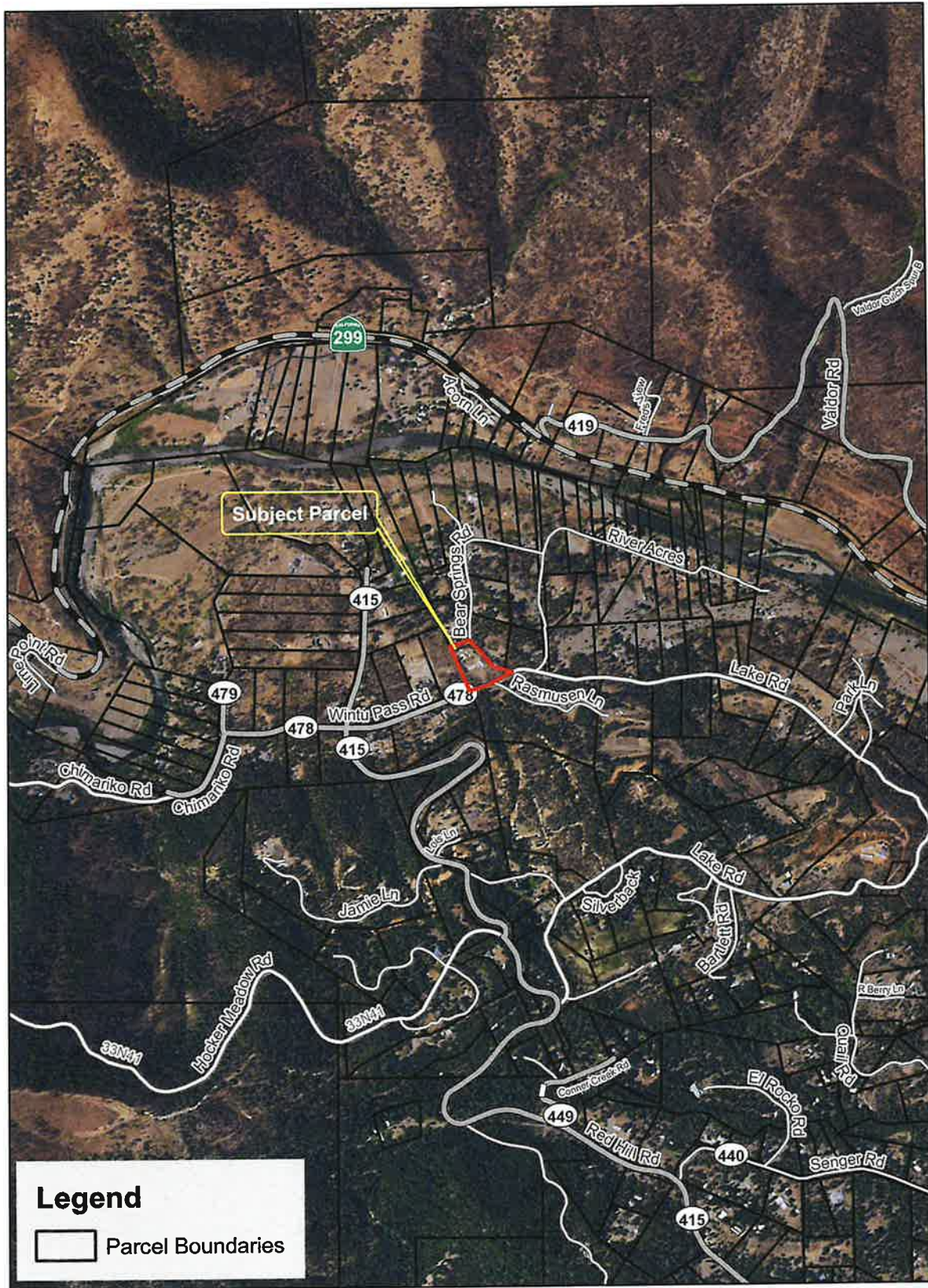
- c. Shall be subject to a filing fee as specified by resolution of the Board of Supervisors.
  - d. The Planning Director, at their discretion, may approve, deny or refer the annual renewal request to the Planning Commission. The director shall not add or modify conditions of approval applied by the 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**





Attachment 1  
APN 009-490-22  
CCV-20-42







Premises Diagram



Legend

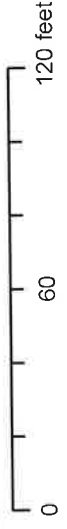
- Premises Boundary
- Structure Boundary
- Greenhouse
- Hoop Tunnel
- Immature Plant Area
- Compost Area
- Gates
- Roads
- Rocked Surface
- Native Surface
- Access Road

**Mature Canopy Areas:**  
 A, Greenhouse 35' x 60' = 2,100 ft<sup>2</sup>  
 B, Hoop Tunnels 5(6' x 92') = 2,760 ft<sup>2</sup>  
 C, Hoop Tunnels 2(6' x 74') = 888 ft<sup>2</sup>  
 D, Hoop Tunnel 6' x 76' = 456 ft<sup>2</sup>  
 E, Hoop Tunnel 6' x 78' = 468 ft<sup>2</sup>  
 F, Hoop Tunnel 6' x 80' = 480 ft<sup>2</sup>  
 G, Hoop Tunnel 6' x 82' = 492 ft<sup>2</sup>  
 H, Hoop Tunnel 6' x 84' = 504 ft<sup>2</sup>  
 I, Hoop Tunnel 6' x 86' = 516 ft<sup>2</sup>  
**Total Mature Canopy Area = 8,664 ft<sup>2</sup>**

2020 NAIP Aerial Imagery



While we strive to have the most accurate data possible, GIS data has limitations. The approximate scale, distances, positions, and site conditions may vary.



Off-Site Activities:  
 \*Packaging

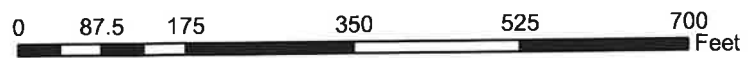


Scale: 1:600 | 1" = 75'  
 Date: 12/28/2020





**ATTACHMENT 3**  
**APN 009-490-22**  
**CCV-20-42**





**ATTACHMENT 4  
SITE VISIT PHOTOS**



Example of site conditions:





## ATTACHMENT 5

Date: 4-13-21

Trinity County Planning Department  
PO Box 2819  
Weaverville, CA 96093

Re: Long Tran Cannabis Cultivation Variance APN 009-490-22; 1730 Lake Road, Junction City

Dear Sir or Madam:

I live adjacent to Long Tran and my home is within 350 feet of his cultivation premises. I recently re-built my house and it is 250 feet from Mr. Tran's cultivation area. Long is a respectful neighbor and I support his project.

Sincerely,

A handwritten signature in cursive script, appearing to read "Gary Lynn", with a long horizontal flourish extending to the right.

Gary Lynn