

Item 8

Trinity Co. Planning Dept.

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JUN 28 2018

TRINITY COUNTY
PLANNING DEPARTMENT

In regards to the annual variance cannabis cultivation setback at 470 Henrietta Rd. Lewiston. We just recieved this notice Tues. June 26, 2018.

I Kim Christensen and My husband Wes Christensen are very much against any and all Cannabis Cultivation.

We live at 591 Henrietta Rd. Lewiston and are within the opt-out area of Lewiston and want it to remain that way. We believe we have already lost property value do to what Danny Kuehl was allowed to do to the property next to ours and do not want anything like that again.

Thank you
Kim & Wes Christensen
591 Henrietta Rd.
PO Box 482
Lewiston, CA 96052
530-778-3522

Kim Christensen 6.27.18
Wesley Christensen 6.27.18

Introduction:

In Spring 2017, my contractor assured me that the flat we are building is 350 feet away from all neighbors' houses. Believing him, I assumed the subject property does not need variance. Also, a site compliance visit by the Planning Department was conducted some time in the beginning of December last year. Based on the compliance site visit and my contractor's claims, in the last several months, I have had the wrong impression that my property does not need variance. Just recently, while planning the cultivation site, I discovered that my flat is only 260 feet away from one of my neighbors' houses. Therefore, I'm here before you today seeking variance for my project.

Topics of Discussion:

1. **Complaints and letter of support.** To the best of my knowledge, no letters of objection have been filed with the Planning Department. The subject property has never had complaints from surrounding property owners in regards to cannabis cultivation. As a matter of fact, most of the neighbors around me, either have a license for cultivation issued/pending and/or they grow for personal/medical reasons.

Furthermore, the owner of the property adjacent to the cultivation site has provided the Commission with a letter of support indicating no objection to the proposed project and cultivation activities. Indeed, he is here today to answer any questions you may have. To conclude this point, this variance will not affect any other surrounding property owners, as all other surrounding residences are more than 400 feet away from the proposed cultivation site.

2. **Compliance with local or state laws.** Next, I would like to inform the commission of what steps I have taken to be in compliance since legalization started. The property currently has all of the following (Copies are in the folder provided to you):
 - State cultivation license issued May 22, 2018
 - County cultivation license issued March 28, 2018
 - Water Board Enrollment submitted on August 26, 2016
 - Water Board inspection report dated December 6, 2017 showing full compliance with the State Water Board order
 - F & G Executed LSA per Sec. 1600 dated January 2, 2018
 - Water Resource Protection Plan established in Spring, 2017
 - Less-than-3-acre conversion approved by CalFire on May 9, 2017

and as part of my extensive compliance efforts, I have hired:

- a top cannabis and business compliance attorney on retainer
- Registered Professional Forester on retainer
- and I'm considering hiring a professional engineer to help with compliance and protection of the natural environment

3. **Existing county ordinance.** Now, let's go over the 5 items of the ordinance guidelines that govern the approval of any variance.

Currently, no text in any cannabis or non-cannabis ordinance suggests that variances, sought by property owners located in the curve-out areas, are prohibited. As a matter of fact, the ordinance provides specific guidelines that the Commission needs to follow when considering approving variances; more exactly Section 31 of Ordinance No. 315 titled Variances with which I'm sure the Commission is more than familiar with. The guidelines are as follows:

1. No special privilege. Approving this ordinance would not be an extension of special privilege to the subject property as all license holders in Trinity County, regardless of whether or not they are in the curve-out areas, are entitled to the same rights under the county ordinance and have the same responsibility to abide by the county laws. Furthermore, the circumstances are such that the same variance would be appropriate for any property owner facing similar circumstances. This is because any property owner located in the curve-out area who secures support from the impacted property owners and complies with all applicable laws shall be entitled to such variance.
2. Use variance prohibited. This variance is not intended to locate a use in a zone from which it is prohibited by the Ordinance, since the property has been enrolled with the State Water Board since August, 2016. Therefore, the ban and any subsequent limitations imposed on the curve-out areas do not apply to this case and do not constitute use variance. The subject property has been in compliance with the Water Board order long before any curve-out areas were established.
3. Disservice not permitted. Approving this ordinance will not be injurious to the public welfare, nor to the adjacent properties or natural environment. As a matter of fact, approving the variance will be beneficial to the local community and natural

environment. For example, it will bring investment to the local economy, boost revenues of local business owners, generate county fees, increase in real property values, help with unemployment, create larger buffer zones from any water courses, reduce grading, and minimize any odor from cultivation activities.

4. Not adverse to the General or Specific Plan. Approval of this variance would not materially change or impact the purpose or intent of the Zoning Ordinance, General Plan, or Specific Plans of the county. Actually, not approving the variance would constitute material alteration and deviation from the Zoning Ordinance and/or General Plan. This is because the current law does **not explicitly or implicitly** prohibit the approval of variances in the curve-out areas for people registered with the Water Board in a timely manner.
5. RD-1 Overlay Zone. This item from the variance guidelines does not apply to this case.

The next very important point that should be considered is that, from the very beginning, the intent of the county has been to prevent or lessen any adverse effects from cannabis cultivation on the local community by establishing the curve-out zones. However, if all variance impacted neighbors have no objections to a variance sought by their neighbor, it only makes sense to approve such variance, since these same activities that require variance would not adversely impact any neighboring properties, the environment, and the community as whole. That is why the public hearing process was established. It was established to consider comments from all parties impacted. If no objections are presented by any impacted parties (impacted parties are ones that are within 350 feet of a cultivation site) and all applicable laws are followed by the party seeking variance, it would be prohibitive to deny this variance.

Next important point, I would like to make is that approving this variance would not create precedent allowing cultivation in the curve-out zones, since every applicant needs to go through the public hearing and vetting process, which will allow any impacted parties to be heard by the Commission. The power to approve or deny a variance still remains with the community and the Commission.

4. **Miscellaneous.** Relocating the cultivation area outside of the 350 feet distance will cause unnecessary environmental disturbance and damage. Without the variance, major grading needs to be completed to accommodate the project. Moreover, the unique size, shape, topography of the property, and the existence of two Class-3 water courses currently create unique hardship to

this project; thus, I'm here today trying to do everything by law and with as little impact on the local community and the natural environment as possible.

Conclusion:

Based on the fact that 1) there are no objections from any impacted property owners, 2) proven track record of compliance, 3) the verbiage of the existing county ordinance, 4) unique hardship that may be created by the topography, size, and shape of the property, and 5) the county variance guidelines, I respectfully request the approval of this variance by Trinity County Planning Commission.

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CCV-18-038 Mitch Ivanoff Figure 5 Lewiston Opt-out Zone

