



TRINITY COUNTY
PLANNING – CANNABIS
530 MAIN ST., PO BOX 2819
PHONE – 530-623-1351
WEAVERVILLE, CALIFORNIA 96093

MEMORANDUM

DATE: April 27, 2023

TO: Trinity County Planning Commission and Public

FROM: Bella Hedtke, Associate Planner – Cannabis Division

SUBJECT: Item 2, Public Comment Received

Public comment received as of April 27, 2023 at 4:30pm.

Bella Hedtke

From: info.planning
Sent: Thursday, April 27, 2023 4:29 PM
To: Drew Plebani; Bella Hedtke; Edward O. Prestley
Subject: FW: Project Number: DEV-23-01
Attachments: Planning Commission Letter re Project Number DEV-23-01.pdf; ATT00001.htm

Importance: High

Debbie Rogge
Admin. Coordinator
530-623-1351 ext. 2824

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From: Kristel Bell [mailto:████████████████████]
Sent: Wednesday, April 26, 2023 10:31 PM
To: Carol Fall <CFall@trinitycounty.org>; William Sharp <wsharp@trinitycounty.org>; Rory Barrett <rbarrett@trinitycounty.org>; Todd Heaton <theaton@trinitycounty.org>; Don Ellis <DEllis@trinitycounty.org>
Cc: info.planning <info.planning@trinitycounty.org>
Subject: Project Number: DEV-23-01
Importance: High

Trinity County Planning Commissioners, please accept the attached letter as public input pertaining to the 4/27/2023 Planning Commission Special Meeting Agenda Item 2: Zoning Text Amendment-Amend Trinity County Code Sect. 17-.43.050(A)(8).

April 26, 2023

I submit this letter in opposition to Staff's proposal to modify the zoning code definition determining the conditions for which a commercial cannabis cultivation variance is required. The modification seems so eloquently simple, just changing one word. However, changing the term "cultivation" to read as "canopy" has major known impacts that for reasons unknown, Staff is silent on within their report.

In general, Staff claims:

- Previous Planning Staff interpreted the meaning of the term "cultivation" to mean "canopy" as it pertains to setbacks;
- With the change of management and staff within the department (the report specifies with the implementation of Ordinance 315-849 in December 2020), Staff modified their practice by applying the language as written – using the definition of cultivation when determining a variance is needed. The report quotes the definition "*Cultivation*" means *the planting, growing, harvesting, drying or processing of cannabis plants or any part thereof*;
- And that treating the language as written is a "misinterpretation" of the intent. As quoted from the report "*Staff believes that the intent of the residential setback was to reduce the exposure of sensitive receptors (e.g., residences, schools etc.) to odors associated with mature cannabis, or canopy, and not from accessory structures that contain processing or harvesting activities, as included in the definition of 'cultivation'.*"; and
- That the code's definition of "canopy" is intended to mirror the definition of "canopy" as defined by the State of California.

Staff is silent as to the main reason for and the true impact of the recommendation:

- ***The main reason for the change is to allow the 70+ previously approved operations to start cultivating without missing a season which would occur if they are required to go through the variance process.***

Points of contention:

- 1) The reasoning and associated impacts are not specified and therefore perceived as an attempt to avoid transparency. Being silent on this issue is misleading not only to the Commission as they review the recommendation, but also to the public, who in general would be oblivious as to the ramifications of this simple word change.
- 2) The proposed language modification fails to mirror the State of California's definition of "canopy", which defines "*Canopy*" as *the designated area(s) at a licensed premises that will contain mature plants at any point in time* (emphasis added).

In the process of harvest, do they or do they not move mature plants or parts thereof from one point to another within the licensed premises? The mature portion of the plant is theoretically moved from the canopy area to the processing area.

- 3) The staff report states, *“All fully enclosed and secure structures that contain cannabis plants or products that generate odors will employ mechanical ventilation controls, carbon filtration, or other equivalent or superior method(s) to eliminate the detection of cannabis off the parcel. This will include all drying and processing of cannabis plant material recently harvested.”* Effectively this means that odors generated during the post-harvest phases will be eliminated via the use of mechanical ventilation and odor controls, rendering the concerns, of odor generated at less than 350ft from a neighboring residence, moot.

Do the cultivation regulations require all post-harvest phases such as drying and processing be conducted **solely** within a fully enclosed structure with all the ventilation controls, filtration and other superior method(s) to control odors? Does the code specify there must be a fully enclosed pathway from the canopy area to the processing area configured with “superior method(s) to eliminate odor”?

- 4) What regulations exist for "Specialty Outdoor", "Small Outdoor" and "Medium Outdoor" canopy areas?

Are these license types limited to a specific, unchangeable mature canopy area? Can their canopy area shift any distance as long as they stay within the approved designated cultivation area? Or are they required to apply for some type of site plan change? Their mature canopy area doesn't require any type of building or other permit which is then approved, correct?

- 5) Requirement 37 of the State Quality Control Board Cannabis Cultivation Policy stipulates *“Cannabis cultivators shall comply with the minimum riparian setbacks described below for all land disturbance, cannabis cultivation activities, and facilities...”*, further listing the minimum setback for perennial watercourses, waterbodies (e.g. lakes, ponds), or springs as 150’.

The County policy aligning with this requirement measures the 150’ cultivation area setback from the identified bodies of water as the fence line perimeter of the approved cultivation area, not the mature canopy area.

- 6) Why is this ordinance modification handled differently than the other ordinance revisions currently in revision. From the last Cannabis update, it is estimated public workshops on the changes would be conducted mid-May (in two weeks?) with anticipated implementation in June. Seems quite odd that this one is being isolated and rushed through the revision process – and without the privilege of inclusion in the public workshops.
- 7) The practice of incorrectly determining the variance cultivation boundaries is not a new issue. Members of the Friends of the Grass Valley Creek brought this to the attention of the original Cannabis Ad Hoc hosts, County Counsel (Prentice Long), the past three CEOs, as well as the past and present Cannabis Directors numerous times by means of meetings and correspondence over the past 1.5 years. Why all of a sudden is this an issue?

- 8) Just because the 70+ Licenses were previously “approved” without a variance in error doesn’t give them the right to a variance without public input or adjacent property owner consideration. Why are we retreating back to this negligent practice?
- 9) Of great importance is the timing of this Special Meeting. An appeal was filed 3/9/2023 wherein the non-requirement of a variance is challenged, specifically as to the manner in which the County measured for a residential setback. On 3/12/2023 the Special Meeting for this issue was noticed, then on 3/13/2023 the appeal was placed on hold stating other priorities as to the reason. How can the language modification even be considered while there is a pending appeal pertaining to the language?

In summary,

- It appears misleading to merely indicate the proposed change does nothing but modify the way in which Staff interprets the language. The general public most likely hasn’t a clue as to the ramifications of the modification.
- The proposal substantially modifies the manner in which the County measures impacts. The staff report includes a simple diagram depicting a site’s 350ft Canopy Buffer and 350ft Processing Harvest buffer. However, the graph misses a major key comparison – the 350ft Cultivation Buffer. Attached is a diagram depicting these factors from a more complex site and project vicinity. As shown, modifying to measure from the canopy area greatly undermines the potential impacts to surrounding sensitive receptors, subsequently silencing those property owners – stripping them of all rights to voice their concerns in the decision-making process.
- Odor-producing mature plants will most likely be outside the canopy area **at any point in time** during harvest and post-harvest phases of the cultivation process therefore attempting to align to the State definition does not preclude the canopy area to be the sole location of mature canopy.
- It appears the canopy areas of outdoor license types can shift without staff approval as long the canopy remains within the designated cultivation area and does not exceed size limitations or infringe on other required setbacks.
- The County’s PEIR Impact 3.3-3 applies to the activities within the enclosed area but does not allude to what functions may be occurring outside the enclosed area within the approved cultivation area.
- The existing language utilizing “cultivation” as the basis for the setback is consistent with the CA State Water Control Board setback policies.

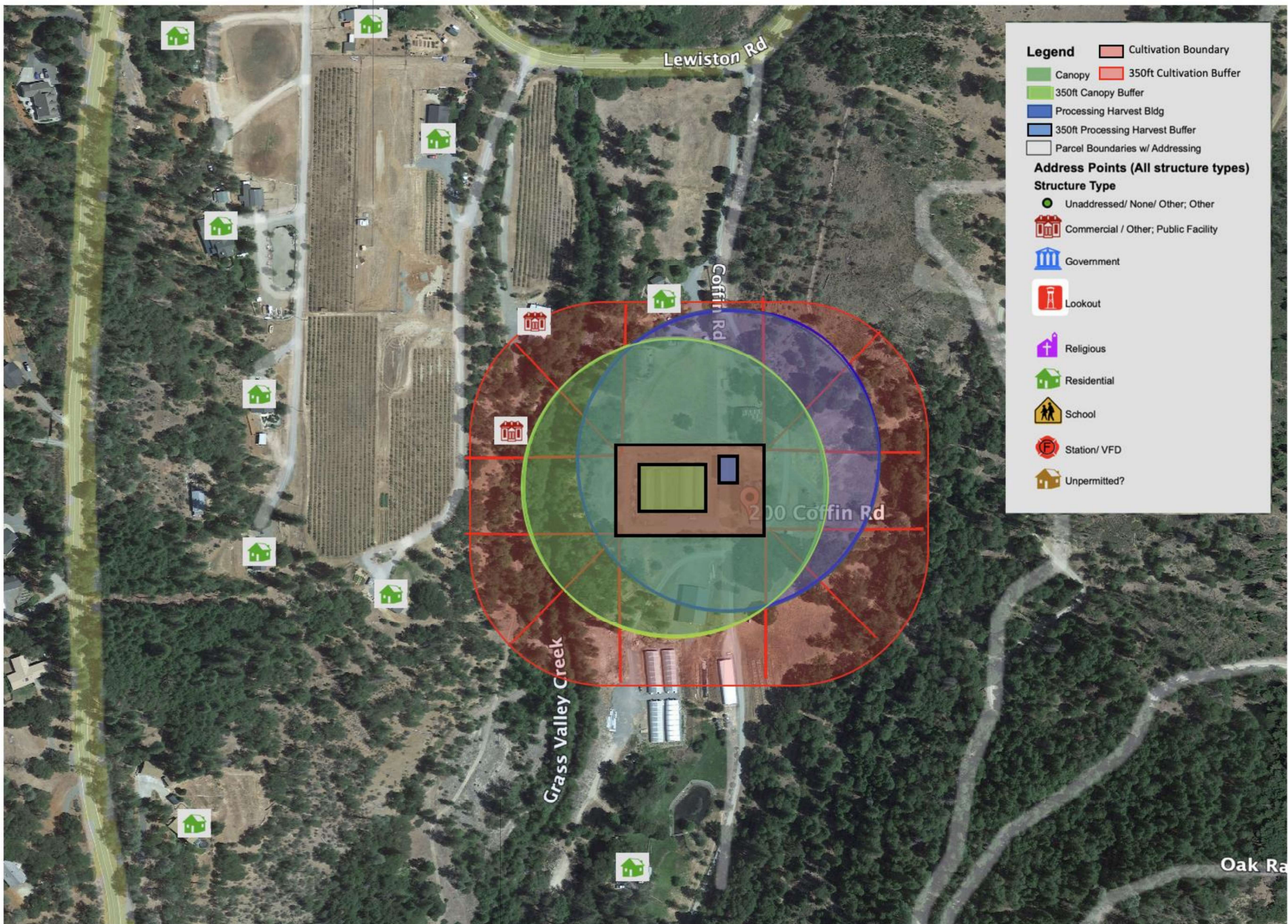
It is unfortunate that Staff have used the “canopy” criteria previously when approving applications, but many factors suggest the intent was indeed to use the “cultivation” criteria as written thus attempting to reduce impacts to the surrounding sensitive receptors during all phases of processing.

We should not change our code to accommodate for Staff’s misunderstanding of the intent, nor for the purpose of streamlining 70+ approvals through the process without input from those within the project vicinity.

In situations such as these where interpretation is an issue, we should follow the guidance of the DCC to recognize protection of the public as the County's highest priority (B&P Code 26011.5) - see [Disciplinary Guidelines for All Commercial Cannabis Licenses](#) and further refer back to the County's initial cannabis declaration - [Resolution No. 2016-077](#), ***"WHEREAS, cannabis cultivation in Trinity County will take place without environmental damage and without detriment to neighbors and community"***, thus making a sound decision to uphold the intent of this resolution requiring a 350ft setback from the "cultivation" area.

Thank you for your consideration,

Kristel Bell
Lewiston



Legend

- Canopy
- 350ft Canopy Buffer
- Processing Harvest Bldg
- 350ft Processing Harvest Buffer
- Parcel Boundaries w/ Addressing
- Cultivation Boundary
- 350ft Cultivation Buffer

Address Points (All structure types)

Structure Type

- Unaddressed/ None/ Other; Other
- Commercial / Other; Public Facility
- Government
- Lockout
- Religious
- Residential
- School
- Station/ VFD
- Unpermitted?

Bella Hedtke

From: info.planning
Sent: Thursday, April 27, 2023 4:32 PM
To: Bella Hedtke; Drew Plebani; Edward O. Prestley
Subject: FW: Planning Mtg RE: Project No. DEV-23-01

Debbie Rogge
Admin. Coordinator
530-623-1351 ext. 2824

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From: L Wills [mailto:]
Sent: Thursday, April 27, 2023 11:20 AM
To: Carol Fall <CFall@trinitycounty.org>; Don Ellis <DEllis@trinitycounty.org>; Todd Heaton <theaton@trinitycounty.org>; William Sharp <wsharp@trinitycounty.org>; Rory Barrett <rbarrett@trinitycounty.org>; info.planning <info.planning@trinitycounty.org>
Subject: Planning Mtg RE: Project No. DEV-23-01

Dear Chair Fall and Commissioners Heaton, Sharp, Barrett and Ellis,

I am sorry for this last minute submission for tonight's planning commission meeting, but I wanted to comment on Agenda Item No. 2, DEV-23-01. When I first reviewed the agenda and staff report for tonight's meeting, after it was published by staff, I assumed it was just some minor language changes so I closed it without a reaction. However it has since come to my attention that, "there's more to this than meets the eye" ... meaning the situation is not as simple as it seems to be. The manner in which the staff report was prepared and the fact that it is completely silent on the underlying reason for this request is very disheartening. I have since learned the real reason this matter is coming before you tonight is to modify language that will allow staff to issue commercial cannabis licenses to 70+ applicants whose licenses are currently on hold because they need a variance. Applicants are required to go through the variance process, like any other member of the public when such situations arise, and without approval they will miss the 2023 growing season due to the delays the variance process will create. Altering the code to accommodate currently deemed illegitimate businesses is wrong on so many levels, a few of which I have listed below:

1. It is disappointing to see county officials are still treating the cannabis community differently than the general population, in this case, when it comes to the need for a variance. If this passes at this time they are being offered special privileges via a "private underground tunnel" that is not afforded to the rest of the general public.
2. There is an active appeal over this very issue that was supposed to be set on tonight's agenda that has subsequently been deemed a lower priority and therefore is being delayed so this proposal for language changes can be rushed through the approval process, despite the fact that according to county code appeals are to be processed by the Director within 10 working days of the appeal being filed and the \$500 fee paid. The appeal

was filed on March 9, 2023, requiring processing by March 19, 2023, and to date the processing is 39 days past due and counting. Please refer to the code below, I have underlined the language I am referring to:

17.34.110 - Appeals Section A.

Decision of the Planning Director. Any person dissatisfied with any action of the planning director may appeal therefrom to the planning commission at any time within ten working days after notice of the decision is given. Such an appeal is taken by filing a notice of appeal with the planning director and paying the required appeal fee. Upon filing of a notice of appeal, the planning director shall within ten days transmit to the secretary of the planning commission all papers and documents on file with the planning director relating to the appeal and schedule the appeal for commission hearing.

3. The staff is apparently working on proposed language changes to the Cannabis Ordinance/Regulations that are set to be heard via public workshops at some point in the future. Yet, here we go again, the County is trying to rush an item through the process as an URGENT request to benefit some at the detriment of others. The others I am referring to are the property owners impacted by these proposed language changes. In essence, you will be silencing their rights to say "no" to a variance. Some may say yes if they are in the same industry but for the property owners who are not, you will be stripping them of their rights to be noticed and subsequently to voice their opinions at a variance hearing before the Planning Commission as the process is intended. Some may say at this hearing that those property owners could conceivably speak out at this hearing. Let me remind you that the manner in which this item is being presented is not transparent ... at all!

I am asking for your mindful consideration to tap the brakes on this agenda item and to direct staff to include it with all the other proposed language changes that are planned for public workshops and public hearings. Hand picking these language changes that have a "hidden agenda" to bypass the need for variance hearings before the Planning Commission is a slippery way for the county to do business. Please be better than this.

Thank you for your consideration.
Laurie Wills