



**TRINITY COUNTY COMMUNITY DEVELOPMENT DEPARTMENT  
PLANNING DIVISION**

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

**Edward Prestley, Deputy Director**

**MEMORANDUM**

DATE: February 6, 2024  
TO: Members of the Trinity County Planning Commission  
FROM: Deborah Rogge, Administrative Coordinator  
SUBJECT: Agenda Item: Item 4, DEV-24-02 Zoning Text Amendment to 17.43

---

Comments received as of February 6, 2024.

February 5, 2024

Re: Section 17.43 Zoning Text Amendment, Project Number DEV-24-02

Trinity County Planning Commissioners,

Please accept and consider the following comments pertaining to the proposed TCC Section 17.43 language and process changes.

- A) Regarding the Discussion section of the staff report wherein it states, *"Staff believes that the intent of the residential setback was to reduce the exposure of adjacent or nearby receptors (e.g., residences, school etc.) to odors associated with mature cannabis..."*
- 1) This is staff's opinion, not a statement backed by supporting documentation nor facts. Others believe the intent of the original setback was to reduce the exposure to potential impacts associated with **commercial cannabis activities**, not just mature cannabis, thus supporting the Board of Supervisors Resolution 2016-077 statement **"WHEREAS, cannabis cultivation in Trinity County will take place without environmental damage and without detriment to neighbors or communities"**.
  - 2) The statement also misrepresents the definition of nearby receptors as written in the PEIR. Impact 3.3-3 Exposure of People to Objectionable Odors (pg ES-9) defines sensitive receptors as **residents, youth-oriented facilities, schools, churches, and residential treatment centers** while the staff report merely denotes *"nearby receptors (e.g. residences, school etc)"*, thus presenting the Commission a misguided vision of the PEIR intent.
- B) The staff report claims PEIR Impact 3.3-3 addresses odor impacts as a whole by requiring all fully enclosed cannabis structures containing cannabis plants and products employ mechanical ventilation controls, carbon filtration, etc. As stated, *"Effectively this means that odors generated during the **post-harvest phases** will be eliminated or significantly reduced..."* (emphasis added).
- 1) The report is silent to the fact that **not all** mature cannabis plants and their odors are within fully enclosed structures. There is no licensing requirement to cultivate indoors, thus mature plants emitting odors are NOT always fully enclosed and mitigated in the fashion noted.
  - 2) The report eludes the reader by insinuating nuisance odors only occur during the *post-harvest phases* and fails to inform the reader that the strongest odors are emitted during the flowering phase (pre-harvest) which lasts anywhere from 4 to 12 weeks *before harvest*.
  - 3) Furthermore, and as was brought to the Planning Commission's attention during the 8/3/2023 appeal of the director's decision to approve CCL-132, the County requires applicants submit an Odor Control Plan but DOES NOT require implementation of the plan prior to license approval and the commencement of operations. The Odor Control Plan is implemented one factor at a time, once the County becomes aware by means of code violation complaint filings that an odor nuisance exists. The process of satisfactorily completing odor mitigation could take years (complaints submitted, cannabis division investigates, licensee granted XXX amount of time to implement odor control measure 1, repeat process for measure 2, repeat process for measure 3, repeat process for measure 4, repeat process for measure 5). It is unrealistic to portray PEIR 3.3-3 miraculously prevents and satisfactorily mitigates odor impacts within any reasonable time period.

- C) The staff report proposes to exchange the term “cultivation” with the term “canopy” in determining the 350 foot setback from a residential structure for cultivation operations up to 10,000 square feet (small), while proposing the use of the term “cultivation” be used when determining the 500 foot setback from the property line for medium license types.
- 1) The definition implies adjacent property owners only have rights if their residence is within 350 feet, suggesting all other uses of the property can be impacted without any consideration whatsoever, such as play areas, gardens, recreational areas, pools, and so on.
  - 2) The definition fails to consider businesses catering to the public therefore subjecting the business and their customers to non-mitigated cannabis cultivation impacts.

Attachment A illustrates these noted imperfections. Scenario A depicts a proposed commercial cannabis site requiring an approved land use buffer reduction, where Scenarios B and C do NOT.

What is the difference between the scenarios?

Scenario A: The residence within 350 feet of the cultivation area is **protected** by the language thus requiring the applicant to obtain an approved buffer reduction;

Scenario B: The play area and vegetable garden within 350 feet of the cultivation area does not require an approved buffer reduction – nearby sensitive receptors are **not protected** in the proposed language.

Scenario C: The business depicted within 350 feet of the cultivation area also does not require an approved reduction – nearby sensitive receptors are **not protected** in the proposed language.

In summary, a building with walls and windows has more rights than residents, businesses, customers, children, individuals with respiratory issues and all others within 350 feet of the cultivation area. Children could literally be playing along the fence line of their own property and be within feet of mature cannabis plants and commercial cannabis operations such as harvesting, drying, composting, and so on. The proposed language ensures the adjacent property owner has no say in the matter.

- D) If interpreted correctly, the proposed 17.43.051 Cannabis Land Use Buffer Reductions language grants the Planning Director full authority to approve a proposed buffer reduction. The exceptions specified are understandable - the adjacent property is under the same ownership or is attached to a cultivation license. However, the following issues are concerning.
- 1) There is literally NO consideration as to whether or not the adjacent property owners will be subjected to commercial cannabis impacts. NOT just odor, but noise, traffic and other impacts from the cultivation site's day-to-day operations. The only relative proposed consideration is for the planning director to subjectively determine whether *“the buffer reduction would not result in harm to the public health, safety, or welfare and land uses”*. Considering these operations are conducted within chain link fences, locked gates, and most likely protected by guard dogs, why is it not automatically deemed potentially harmful (or a “public health, safety, or welfare risk) for children, people with immune/respiratory health issues, or anyone for that matter, to be within 350 feet of these cultivation operations?

- 2) The Planning Director uses his/her own judgment to determine whether or not a buffer reduction should be granted. The adjacent property owners are noticed of the time period and have the option to submit their concerns to the planning director (the SAME person making the original decision). The planning director then decides whether the property owners concerns are valid. If the planning director disagrees with the submitted concerns, a hearing before the Planning Commission is or is not scheduled? The proposed language states the *“planning director may, at their direction”* schedule the hearing.

As written, the assumption is that the planning director makes the original decision, the property owners submit their concerns to the planning director (aka, appeals to the planning director), the planning director denies the concerns/appeal of his/her OWN decision. The property owners then must file an appeal and pay the required \$500 appeal fee to have the Commission review their concerns.

The proposal eliminates the adjacent property owners rights to a quasi-judicial hearing by the Planning Commission as is conducted now, thus requiring they file an appeal and pay \$500. The decision to approve or deny the proposed buffer reduction is subjective - not based on regulatory language. Therefore, the subjective decision should NOT under the jurisdiction of the planning director/staff - all points and perspectives should be submitted for the Planning Commission’s consideration and decision.

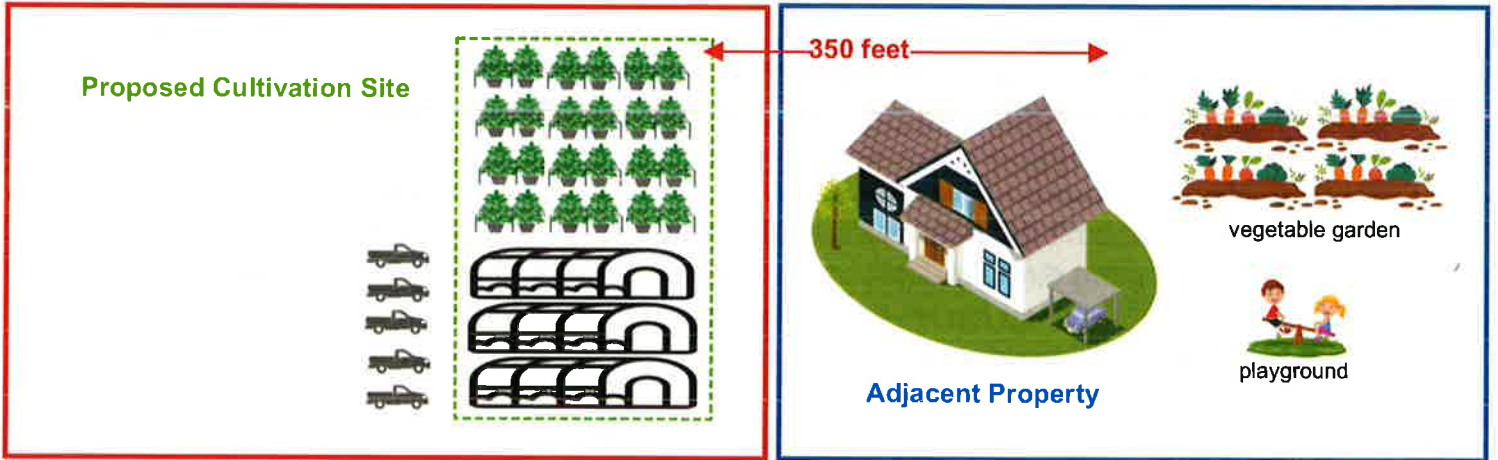
In closing, I encourage the Planning Commission take this opportunity to improve Chapter 17.43 *for all Trinity County citizens* and incorporate the following within your recommendation to the Board of Supervisors:

- 1) Deny the exchange of the term “cultivation” for the term “canopy”. Recognize and acknowledge all commercial cannabis cultivation operational impacts are not contained to the “mature canopy” or within a supposed odor controlled building. Require a “cultivation” area be defined and approved, allowing the cultivator freedom of mature canopy placement, processing and handling anywhere within the approved cultivation area.
- 2) Modify 17.43.050(A)(8) language for small license types to be consistent with medium licenses by requiring the approved cultivation area boundaries be 350 feet from any adjacent **property line**, eliminating the controversial use of the residential setback terminology as a whole. The adjacent property owners and sensitive receptors within the area benefit from this modification. The measurement factors are manageable for cannabis division staff - always the approved cultivation area boundary to adjacent property line.
- 3) Require all proposed cannabis land use buffer reductions be presented to and decided by the Planning Commission, with the only exceptions limited to the cannabis director's verification of adjacent property being of the same ownership or in possession of an approved commercial cannabis cultivation license.

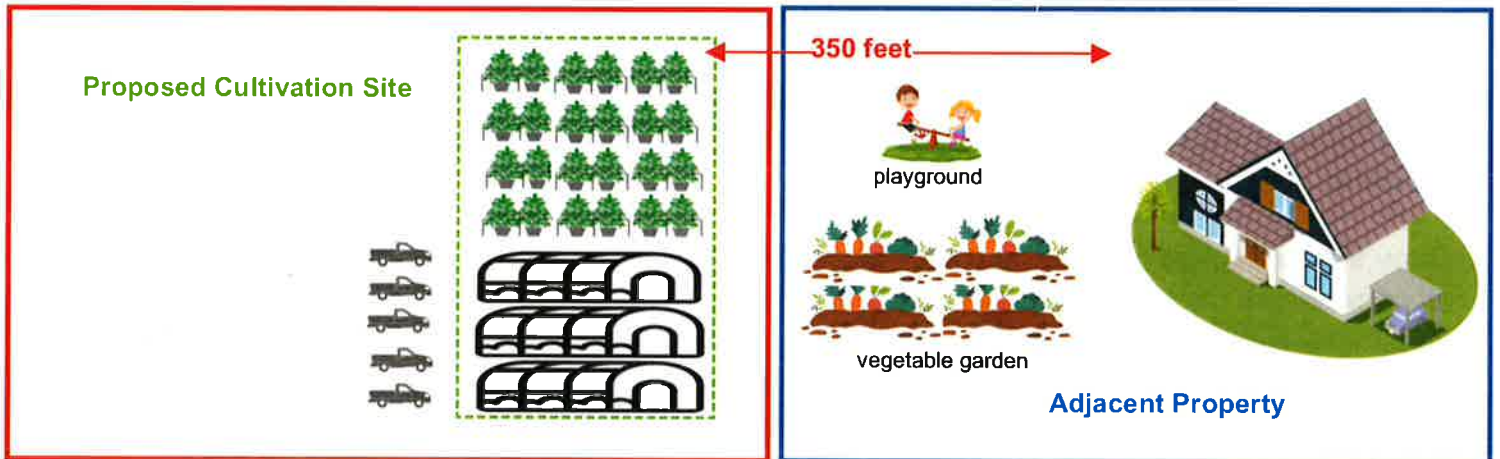
Thank you for your consideration,  
Kristel Bell

# ATTACHMENT A

## Scenario A: Buffer Reduction Approval Required



## Scenario B: NO Buffer Reduction Approval Required



## Scenario C: NO Buffer Reduction Approval Required

