



TRINITY COUNTY COMMUNITY DEVELOPMENT DEPARTMENT

CANNABIS DIVISION

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Edward Prestley, Deputy Director

MEMORANDUM

DATE: February 7, 2024

TO: Members of the Trinity County Planning Commission

FROM: Drew Plebani, Cannabis Division Director,

SUBJECT: Agenda Item: Item 4, DEV-24-02 Zoning Text Amendment to 17.43

Staff directs the reader to the following sections and excerpts from Volume 1 & 2 of the Certified Final Programmatic Environmental Impact Report (PEIR). Furthermore, the FEIR addresses Odor in various sections, including the following:

Trinity County Cannabis Program FEIR Vol.2.- ES.3.2 Significant and Unavoidable Impacts and Cumulative Impacts.

“Mitigation measures have been identified in Sections 3.1 through 3.16 of this EIR that are intended to mitigate project effects to the extent feasible. For the following environmental issue areas, one or more impacts are considered significant and unavoidable; that is, no feasible mitigation is available to reduce the project’s impacts or the project’s contribution to cumulative impacts to a less-than-significant level.” (Excerpt refers specifically to Air Quality -Odor)

Trinity County Cannabis Program FEIR Vol.2.- Impact 3.3-3: Exposure of People to Objectionable Odors: “Setbacks are required under the Cannabis Program, however, they do not preclude the generation of odorous emissions in such quantities as to cause detriment, nuisance, or annoyance to a substantial number of people. This impact would be **significant.**”

“Although exposure to offensive odors generally does not result in physical harm, the odors can be perceived as objectionable leading to considerable distress among the public and can result in citizen complaints to local governments and regulatory agencies.”

“All cultivation operations would be required to be setback a minimum of 350 feet from adjacent residences such that attendant odors would less likely be detectable by people off-site.”

“While the Cannabis Program requires a minimum setback for cultivation sites of 350 feet from

adjacent residences” ... “it does not preclude the potential for off-site residential receptors to be exposed to odors emitted by mature cannabis plants that they find objectionable. As a result, this impact would be **significant.**”

Trinity County Cannabis Program FEIR Vol.2- Mitigation Measure 3.3-3: Implement Odor Control Plan for the Growing, Cultivating, Processing, Handling of Cannabis

Significance after Mitigation

Implementation of Mitigation Measure 3.3-3 would reduce the potential of odor nuisance impacts and would include corrective actions for cultivation sites that routinely generate nuisance odor impacts off-site. However, it is possible that nuisance odor impacts would occur occasionally before abatement for outdoor cultivation sites, especially in areas where outdoor cultivation sites are concentrated. There are no feasible mitigation measures for completely avoiding the potential for occasional odor nuisance impacts because there is no reliable method.

Trinity County Cannabis Program FEIR Vol.1.- 3.2.4 Master Response: Odors associated with Cannabis Cultivation.

“Odors with distinct odor characteristics emanating from proximate sources are generally not additive or amplified. However, odors with the same or similar odor characteristics emanating from proximate sources may be additive. Therefore, multiple odor sources in a given geographic area would not necessarily increase the strength of an odor, although a higher frequency of odor detection would be expected.” This evidences that without active cultivation the cumulative effects vs additive effects cannot be discerned, and statements related to past odor concerns without quantified data cannot be used to evaluate the subjective concerns stated by the appellant.

For reference, also included as attachments to this memo are the following documents:

- Highlighted sections of Trinity County Cannabis Program FEIR Vol.2.
- Background and Discussion to Resolution 2023-071,
- Board of Supervisors Agenda Item 4.1, Meeting Date 12/19/2023,
- Current residential setback mapping from “Cultivation”,
- Three example maps depicting: ‘Cultivation’ vs. ‘Canopy’ as they relate to the Residential Setback requirement. Example maps are also intended to more clearly define potential future mapping standards related to Setback maps vs. Buffer maps, as it relates to the residential setback requirement.

Implementation of Mitigation Measures 3.3-2a and 3.3-2b would reduce operational emissions of ROG, NO_x, PM₁₀, and PM_{2.5} at new and existing licensed cultivation and noncultivation sites. As shown in Table 3.3-7, implementation of these mitigation measures would reduce NO_x below the threshold; however, operational emissions of ROG, PM₁₀, and PM_{2.5} would not be reduced to less than the mass emission thresholds recommended by NCUAQMD. In addition, Tier 4 and electric equipment may not be available for all activities.

The County also considered the following measures to reduce fugitive PM₁₀, and PM_{2.5} dust from vehicle travel on unpaved surfaces, including watering unpaved roadways at regular intervals (e.g., two times per day), application of dust suppressants, and paving.

- ▶ **Routine Watering of Roadways:** The routine watering of the unpaved roads (two times a day) can reduce particulate matter emissions by as much as 55 percent based on modeling data provided in CalEEMod. It is anticipated that commercial cannabis uses could be located on unpaved private roads that range from one mile to over 15 miles in length. This extent of unpaved roadways would be infeasible to routinely water twice a day to provide effective reduction of PM₁₀ emissions. Supplying the amount of water that would be required during a period of low flows, the emissions from water trucks, and the additional wear and tear from heavy trucks traversing unpaved roads would each have impacts to the environment that would be significant and unavoidable. A single 4,000-gallon water truck used twice a day for 4 weeks would generate a water demand of 224,000 gallons for coverage of a limited road length. Additional trips would be required to refill and cover additional road lengths necessary to provide dust suppression for the entire length of the road. This additional water demand is considered excessive as just two refills of a single truck during the period in question would be the equivalent of annual irrigation of approximately 12,800 sq. ft. of cannabis (based on water demand factors used in Section 3.10, "Hydrology and Water Quality") or over 2 years of water demand of a single-family residential unit (assuming a water demand of 100 gallons per day per resident for three residents). The cost of a 4,000-gallon water truck ranges from \$53,500 (used) to \$113,563 (new) (PavementGroup.com 2018; Commercial Truck Trader 2018).
- ▶ **Use of Dust Suppressants:** Dust suppressants work by binding the particles together that form a protective layer that resists wind movement. As noted above, several of the current applications for new commercial cannabis operation sites are located on unpaved roads that range from 1 mile to over 15 miles in length. The cost of applying dust suppressant is approximately \$2,202 per mile per year (www.dustoutus.com/dust-control-costs/ accessed 3/12/18), with attendant emissions from applicator trucks, and the additional wear and tear from heavy trucks traversing unpaved roads. Dust suppressants can result in water quality impacts due to leaching into streams and rivers and the nature of the chemicals used for dust suppression. The use of dust suppressants would have significant and unavoidable impacts to the environment at least as significant as the air quality impact that it attempts to mitigate, and thus is rejected as infeasible.
- ▶ **Paving of Roadways:** Paving of roadways utilized by commercial cannabis cultivation sites would reduce PM₁₀ emissions from roadway dust. The extent of roadways that would be required to be paved (1 to over 15 miles per site) would be substantial and would likely be cost prohibitive to construct and maintain. Using cost units for the Library Street improvement (two-lane roadway) in the City of Sacramento it is estimated that paving of existing roadways could cost approximately \$1,212 a linear foot for a two-lane roadway (City of Sacramento 2008). Thus, paving just one mile of roadway could cost \$6,399,360.

For these reasons, this impact would be **significant and unavoidable**.

Impact 3.3-3: Exposure of People to Objectionable Odors

Implementation of the Cannabis Program would license the operation of new commercial cultivation and noncultivation sites, as well as existing cultivation. The cultivation and processing of cannabis generates odors associated with the plant itself, which during maturation can produce substantial odors. Setbacks are required under the Cannabis Program, however, they do not preclude the generation of odorous emissions in such quantities as to cause detriment, nuisance, or annoyance to a substantial number of people. This impact would be **significant**.

The occurrence and severity of odor impacts from cultivation sites licensed under the Cannabis Program would depend on numerous factors, including the nature, frequency, and intensity of the odor sources; wind speed and direction; topographic conditions; the proximity to off-site receptors; and the sensitivity of exposed receptors. Although exposure to offensive odors generally does not result in physical harm, the odors can be perceived as objectionable leading to considerable distress among the public and can result in citizen complaints to local governments and regulatory agencies.

Existing Licensed Commercial Cannabis Operations

Odors are emitted at existing licensed commercial cannabis cultivation operations. Odors can be perceived and considered objectionable depending on the size and type (i.e., outdoor, mixed-light, or indoor) of cultivation operations, nearby receptors, the strain of cannabis being cultivated, the presence of nearby vegetation, and topographic and atmospheric conditions. Existing licensed cultivation operations are part of the existing environmental setting conditions of the county.

New Licensed Commercial Cannabis Operations

Cannabis plants are known to emit odors, especially during the final stages of the growing cycle (i.e., typically beginning in August and continuing through harvest season in September and October). Dispersion modeling indicate that specific cannabis compounds may be detectable at a distance of two miles or more depending on weather conditions (Kern County 2017:4.3-66 and 4.3-67). The potential for detected odors to be considered objectionable and an adverse effect would depend on the size of the cannabis-related operation, the receptor, the strain of cannabis being cultivated/processed, the presence of nearby vegetation, and topographic and atmospheric conditions. As a result, an appropriate buffer distance at which odors could not be perceived is not considered feasible and would depend on site-specific conditions. Generally, the larger the size of the canopy area, the greater the potential for odor to be evident to off-site receptors. Many of the potential applicants seeking coverage under the Cannabis Program are seeking to operate outdoor cultivation sites or mixed-light cultivation facilities. Mixed-light cultivation sites could include structures that contain odors associated with cultivation. All cultivation operations would be required to be setback a minimum of 350 feet from adjacent residences such that attendant odors would less likely be detectable by people off-site.

Odors emitted by indoor cultivation and processing activities can be controlled through the use of active carbon filters, biofilters, plasma ion technology, air filters, and other manufactured odor control/masking substances (e.g., gels and sprays designed to mask odors). However, under the Cannabis Program, these types of controls are not required. While the Cannabis Program requires a minimum setback for cultivation sites of 350 feet from adjacent residences; a minimum setback for Type 3 cultivation operations (i.e., greater than 50 acres) of 500 feet from an adjacent property line; 500 feet of an authorized school bus stop; and 1,000 feet from a youth-oriented facility, a school, any church, residential treatment facility; it does not preclude the potential for off-site residential receptors to be exposed to odors emitted by mature cannabis plants that they find objectionable. As a result, this impact would be significant.

Mitigation Measures

Mitigation Measure 3.3-3: Implement Odor Control Plan for the Growing, Cultivating, Processing, Handling of Cannabis

The following shall be included as new performance standards for Section 315-843(6) (Performance Standards for Commercial Cultivation of Cannabis), Section 315-824(5) (Required Conditions), Section 315-826(3) (Regulation of Nurseries), Section 315-828(5) (Required Conditions), Section 315-835(2) (Regulations), Section 315-837(3) (Required Conditions), and Section 315-842(6) (Required Conditions):

- ▶ Cannabis sites shall develop and implement an odor control plan that contains the following requirements as appropriate for each cannabis use:
 - Identify and describe odor-emitting activities and the nature and characteristics of the emissions.

- Location and distance of sensitive receptors (e.g., residents, youth-oriented facilities, schools, churches, residential treatment centers) from the site.
- Demonstrate that the cannabis site's distance to receptors, wind direction, and local topographic conditions would not result in detection of cannabis odors by off-site sensitive receptors that would create a nuisance.
- If off-site odor nuisance impacts cannot be avoided without odor controls, identify Describe procedures and controls for reducing/controlling odors on-site, including the following as applicable to the cannabis use and license type (outdoor, mixed-light, and indoor):. The operator may propose a numeric odor detection threshold for on-site operations (such as dilution-to-threshold standard that is verified by persons of normal odor sensitivity as defined by European Standard EN 13725) subject to County review and approval.¹
 - 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.
 - Outdoor operations may include different plant strains and smaller grow areas or relocation of outdoor activities indoors or, in a mixed-light facility contained within an enclosed structure, use of site design or other technology and/or use of odor easements to address odor impacts.
 - Corrective actions to address County-verified off-site odor complaints will be identified. This may include immediate and complete harvest of the cannabis plants or identification of other methods to be applied as part of the current harvest or the next harvest to minimize off-site odor impacts so that they do not conflict with other applicable standards of the County's Cannabis Program or State license requirements. relocation of outdoor cannabis plants to an enclosed structure if the plants are currently grown in moveable pots or planter boxes.

Significance after Mitigation

Implementation of Mitigation Measure 3.3-3 would reduce the potential of odor nuisance impacts and would include corrective actions for cultivation sites that routinely generate nuisance odor impacts off-site. However, it is possible that nuisance odor impacts would occur occasionally before abatement for outdoor cultivation sites, especially in areas where outdoor cultivation sites are concentrated. There are no feasible mitigation measures for completely avoiding the potential for occasional odor nuisance impacts because there is no reliable method to contain odors on-site under all atmospheric conditions during harvest season. There are no effective mitigation measures to ensure to elimination of cannabis odors at harvest for outdoor cultivation operations. This impact would be significant and unavoidable.

¹ The use of a dilution-to-threshold (D/T) standard is based on scientific publications on odor pollution control that have identified that odors above 7 D/T will often result in complaints (i.e., objectionable), with 15 D/T often described as a nuisance, and odors above 30 D/T described as a serious nuisance (i.e., nauseating) (McGinley 2000; Huey et al. 1960).

**A RESOLUTION OF THE BOARD OF SUPERVISORS
OF THE COUNTY OF TRINITY
ALLOWING STREAMLINED APPROVAL OF
CANNABIS LICENSES THAT REQUIRE CCVs
FOR THE CALENDAR YEAR 2023**

Background:

December 28, 2020, Ordinance number 315-849 was adopted to incorporate mitigations of the Certified Programmatic Environmental Impact Report (PEIR) in addition to specific regulations for the cultivation of cannabis in Trinity County, including Trinity County Code (TCC) Section (§) Section 17.43.050 — Limitation on location to cultivate cannabis. This code section requires all sites in the Trinity County Commercial Cannabis Program to “cultivation” to be located at least 350ft from a legal residential structure on any adjoining parcel or obtain a commercial cannabis variance (CCV). This setback will be referred to as the “residential setback” for this discussion.

From 2016 to early 2022, Planning staff had previously interpreted the word "cultivation" contained in TCC Section (§) 17.43.050 (A)(8) to mean “canopy” when verifying site compliance during desktop and field inspections. "Canopy" means the designated area(s) at a licensed premise that will contain mature plants at any point in time. This definition is intended to mirror the definition of "canopy" as defined by the State of California, or as may be amended.

In early 2022, staff broadened their interpretation from “canopy” to “cultivation” when verifying site compliance during desktop and field inspections. "Cultivation" means the planting, growing, harvesting, drying or processing of cannabis plants or any part thereof. A byproduct of this interpretation change made it so sites that had been previously approved would now need a variance in order to be approved for a license renewal.

Furthermore, TCC Section (§) 17.43.050 (A)(3) requires licensed sites to have a legal dwelling. Therefore, cultivation sites that are located next to each other would be required to receive variances from the legal dwelling on the neighboring cultivation site. Given that licensees do not have authority over the location of their neighbor’s dwelling in relation to their cultivation activities, as nearby residences or other permitted structures are “finalized”, previously approved licensed sites would then require a variance in order to be approved for license renewal.

Discussion:

Historically, the Cannabis Division was never properly allocated sufficient Planning positions to handle new and annual renewals of variances, along with the additional extensive administrative workload required to evaluate and process license applications. CCVs were created to minimize the potential impacts to nearby sensitive receptors and adjacent residences from cultivation related activities, and to allow for preexisting cultivation sites to meet the 350ft setback requirement. Prior to CEQA determinations being noticed, CCVs created the ability for neighbors within the 350ft setback to oppose the issuance of the license. Appeals of the Planning Directors Decision are authorized under TCC Section (§) 17.34.110 (A) – Appeals.

The annual nature of the variances creates a burdensome administrative task that seems to hold no unique merit that the appeal processes wouldn’t be able to consider. The use of the term

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‘Variance’ as it relates to setback requirements from adjacent residences is outside of the traditional planning use of the term and its application and, given the annual nature and large number of variances already approved by the Planning Commission means that these are not “unique” situations. The use of contracted external planning services would still require in office Planning staff support to coordinate and supervise external consultants to ensure project compliance.

Given many of the sites that are waiting for a variance to be processed, have already foregone a cultivation season due to the program shutdown caused by the TAA Settlement Agreement, staff was directed by the Board of Supervisors to develop a resolution that could allow for the temporary approval of licenses that require a variance while staff works through ordinance amendments that would create a more appropriate administrative process, converting variances to buffer reductions and strengthen the Denial/Revocation and Enforcement sections.

All cultivation projects are subject to environmental review under the California Environmental Quality Act (CEQA). The Trinity County Cannabis Program Environmental Impact Report (SCH:2018122049) created the framework for environmental review of cannabis operations in Trinity County. Cultivation operations are tiered off of the analysis and evaluation conducted in the creation and approval of the PEIR through the Appendix C Checklist. Environmental impact assumptions in the PEIR mirror the 350ft residential setback requirements outlined in TCC Section (§) 17.43.050 (A)(8).

The environmental evaluation conducted in the PEIR included evaluation of the Aesthetics, Air Quality, and Noise resource categories. These resource categories have been identified by staff as having the highest potential to negatively impact sensitive receptors. Cultivation projects that do not meet the 350ft residential setback are required to include all applicable mitigation measures that address effects to sensitive receptors (Attachment 1: Variance Specific Impacts and Mitigation Measures), an odor control plan, a noise and light attenuation plan (Attachment2: Noise light and Odor Attenuation Plan) a noise monitoring report for ongoing operational equipment (Attachment 3: Template Noise Report), and a CalEMod report to determine site specific quantifiable air quality thresholds. Cultivation projects will receive approval of the necessary environmental documents and subsequent licensure only with the inclusion of the mitigation measures and supplemental plan identified above.

Data:

- **CCV Renewals Annually** – Historically approximately 62 CCV renewals. Many may be triggered to go back to PC once staff is able to process and analyze each since they were measured and analyzed under the previous interpretation.
- **Known (as of 5/12/23) Previously Approved Licensed Sites that need a variance in 2023 year: 53**
 - **triggered by change in interpretation**
 - **triggered by not measuring at correctly or change in interpretation**

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- **triggered by new residential structure being built within 350ft setback**
- **Licenses with CEQA determination, pending CCV language updates and /or on hold for CCV related topics: 105**

Approximately 175 projects are still being reviewed and likely will result in additional CCVs being required.

TRINITY COUNTY
Item Report 4.1

Meeting Date: 12/19/2023

Department:
Cannabis

Contact:
Drew Plebani - Cannabis Division Director

Phone:
(530)628-1351

4.1 Resolution: Commercial Cannabis Variance - extension for calendar year 2024

Requested Action:

Adopt a resolution which allows for streamlined approval of Cannabis Licenses that require a Commercial Cannabis Variance for calendar year 2024.

Fiscal Impact:

Unknown.

Summary:

On May 16, 2023 The Board of Supervisors adopted Resolution NO. 2023-071, A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF TRINITY ALLOWING STREAMLINED APPROVAL OF CANNABIS LICENSES THAT REQUIRE CCVs FOR THE CALENDAR YEAR 2023. Staff is requesting that an updated resolution, extended to calendar year 2024, be adopted by the Board of Supervisors.

Discussion:

As of December 1, 2023 the Cannabis Division is without a Planner to facilitate the CCV process, staff recommends that the Resolution be extended for the 2024 Calendar Year or until Ordinances have been updated, or staff capacity increased to enable processing of CCVs.

When a project receives approval, legal notices are sent to the Trinity Journal and to adjacent property owners. As a result of Ordinance 2023-071, a Consent / Opposition letter has been included in the neighbor notices sent out to adjacent property owners, which was included into the noticing process to ensure input from neighbors. Additionally, all projects that do not meet the 350' setback requirement, have been required to include attenuation plans into their Appendix C document.

In order for a opposition form to be qualified the opposing party must have a legal dwelling on the property that is adjacent to the cultivation site.

Of the 54 consent / opposition forms sent out as a result of resolution, two projects received an opposition letter (1 - qualified opposition, that was later retracted by the opposing party, 1 - opposition which was not qualified due to no legal dwelling).

Consent / opposition forms have also been included into the neighbor noticing process for new licenses / CCVs. 1 qualified opposition form was received.

2023 CCV Resolution related data:

54 - resolution applied (24 CCV renewals + 30 new CCVs based on change in interpretation of cultivation vs canopy, or never previously identified)

27 – previously issued CCVs, not yet licensed, CCV not renewed/ resolution would apply

~15 potential new CCVs from previously licensed sites not currently licensed, CCV not renewed / resolution would apply

An administrative buffer reduction process is being proposed as a part ordinance updates, to replace the existing CCV process.

Alternatives Including Financial Implications:

Provide direction to staff.

Departmental Recommendation:

Update Resolution NO: 2023-071 to extend through calendar year 2024, or until ordinance updates are finalized and implemented, and approve updated Resolution as presented.

ATTACHMENTS:

Description

[5.16.23 agenda Item](#)

[Resolution 2023-071](#)

CCV- Residential Setback Map



Example 1: 350-Foot Buffer From Canopy



Example 2: 350-Foot Buffer From Residential Receptor



