APPEAL REQUEST: Appeal of the Director's decision to deny the cannabis cultivation license application for CCL #787.

APPLICANT/APPELLANT: Yazan Abdul Latif

REPORT BY: Interim Planning Director Lisa Lozier

LOCATION: Unaddressed- In the Weaver Bally SUD (APN 024-670-058-000)

APPROX. ACREAGE: 140 Acres

ZONING DISTRICT: SUD

ZONING DISTRICT OVERLAYS: Split Zoning – Open Space and SUD

GENERAL PLAN DESIGNATION: Community Expansion

STAFF RECOMMENDATION: Deny the appeal.

ADJACENT LAND USE AND ZONING INFORMATION:

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<th>Direction</th>
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<th>Zoning</th>
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<td>North</td>
<td>Government</td>
<td>SUD/Open Space</td>
<td>Community Expansion</td>
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<td>South</td>
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<td>Rural Residential with a 2.5 Acre Minimum</td>
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<tr>
<td>West</td>
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SUMMARY: Yazan Abdul Latif submitted an appeal of the Director’s decision to deny an application for a commercial cannabis cultivation license for CCL #787. The application proposed to cultivate cannabis on APN 024-670-058-000 (140 acres) and use the dwelling located on APN 024-670-029-000 (4.280 acres) to meet the dwelling requirement of the Trinity County Cannabis Program (TCC § 17.43.030(F)). Due to the proposed cannabis cultivation having incompatible zoning and being located in the Weaverville Community Services District (WCSD), the Director denied the application.
DISCUSSION

Reason For Denial #1: Incompatible Zoning District

APN 024-670-058-000 is split zoned – Open Space and SUD. The proposed cultivation would be partially located within Open Space [See Attached Site and Zoning Maps]. In accordance with TCC § 17.25A, the Open Space District “is intended to protect significant or critical wildlife habitat areas or areas which should not be developed due to public health and safety reasons.” Examples of uses permitted in this district include the “management of land and forest for the production and harvest of trees (including tree farming)”, “habitat enhancement or improvement projects as approved by the Department of Fish and Game or other state or federal agency”, and “pasture or grazing lands”. As a commercial cannabis cultivation does not comply with the aforementioned uses or the intent of the district, the proposed activities are not consistent with the Open Space District.

The proposed cultivation is located within the Weaver Bally SUD. Per the Weaverville Community Plan, “[p]rior to further development in this area [the Weaver Bally SUD], a detailed schematic plan and development guidelines will need to be prepared” (See Attached Excerpt from the Weaverville Community Plan). Commercial cannabis cultivation activities on this parcel would be inconsistent with the Weaverville Community Plan as guidelines have yet to be developed for the Weaver Bally SUD.

Reason For Denial #2: Weaverville Community Services District

TCC § 17.43.050(A)(7) outlines that applications for a commercial cannabis cultivation should not be approved if located within the WCSD. That is, unless an application was submitted on or prior to December 31, 2016 for enrollment under NCRWQCB Order #2015-0023. As staff does not have documentation that this is the case for CCL #787, this exception does not apply. The WCSD provided information to staff that 40% of APN 024-670-058-000 and 100% of APN 024-670-029-000 are within the Weaverville Community Services District (See Attached WCSD Boundaries Map).

RECOMMENDATION: Staff recommends that the Planning Commission:

1. Conduct a Public Hearing;
2. Close the Public Hearing; and
3. Vote To Uphold the Director’s Decision to Deny the Application for CCL 787

ATTACHMENTS

1. CCL 787 Denial Letter
2. Location Map
3. CCL 787 Site Maps
4. Page 97 of the Weaverville Community Plan
5. WCSD Boundary Map
6. Zoning Map
7. TCC § 17.43.050
8. TCC § 17.25A
9. TCC § 17.43.030
10. Public Comments Received
Wednesday, December 8, 2021

Yazan Abdul Latif
Farmerboyzz, LLC
P.O. Box 2310
Weaverville, CA 96093

Marie Peterson
Down River Solutions, LLC
P.O. Box 714
Weaverville, CA 96093

RE: Denial of CCL 787 (APN 024-670-058-00 & 024-670-029-00)

Dear Applicant/Authorized Agent,

The Trinity County Cannabis Division received your application for a commercial cannabis cultivation license (CCL787) on November 4, 2021, which proposes to cultivate cannabis on APN 024-670-058-000 and use the dwelling located on APN 024-670-029-000 to meet the dwelling requirement of the Trinity County Cannabis Program (Trinity County Code § 17.43.030(F)).

The Trinity County Cannabis Division must deny this application because the application and its contents are not consistent with the two following sections of the Trinity County Code (“TCC”) as explained below:

1. 17.25A (Open Space District or “OS” District)
2. 17.43.050(A)(7) (Limitation on location to cultivate cannabis)

1. The proposed cannabis cultivation site is in an incompatible zoning district pursuant to TCC § 17.25A, which is designated as open space, and is within the Weaver Bally SUD, which is not zoned for commercial cannabis activities.

APN 024-670-058-00 is split zoned — Open Space and Specific Unit Development (SUD) (Weaver Bally SUD). The site map that you provided with the application indicates that the cannabis cultivation being proposed would be on the portion of APN 024-670-058-00 that is zoned Open Space. Pursuant to TCC § 17.25A, zoning districts categorized as open space are “intended to protect significant or critical wildlife habitat areas or areas which should not be developed due to public health or safety reasons.” Because this portion of the proposed site is zoned Open Space, the uses to which it may be put are limited and do not include commercial cannabis cultivation. Therefore, the proposed cannabis cultivation activities are incompatible with the zoning applicable to the site and the application must be denied.

Additionally, the guidelines for the Weaver Bally SUD have not yet been put in place and would require a rezone to establish the appropriate zoning district guidelines before commercial cannabis activities would be allowed on this site. Per the Weaverville Community Plan, “[p]rior to further development in this area, a detailed schematic plan and development guidelines will need to be prepared.” (Weaverville Community Plan, page 97.) Notably, any Weaver Bally SUD guidelines developed must be compatible with the
Weaverville Community Plan’s description of the Weaver Bally SUD, which does not include cannabis cultivation or agricultural activities of any kind as a compatible use. A copy of the description has been attached for reference.

2. The proposed site is within the Weaverville Community Services District, which does not allow for commercial cannabis activities pursuant to TCC 17.43.050(A)(7).

Trinity County Code Section 17.43.050(A)(7) establishes that applications will not be approved for the cultivation of cannabis in any amount or quantity within the legal boundaries of the Weaverville Community Services District. Based on information received from the Weaverville Community Services District, 40% of APN 024-670-058-00 and 100% of APN 024-670-029-00 is within the Weaverville Community Services District. Based on this, the application submitted must be denied. A copy of the District’s boundary map has been attached.

Of note, an exception to this limitation is allowed for applicants who have submitted an application for enrollment under NCRWQCB Order #2015-0023 by December 31, 2016. Given that your application did not include proof that either parcel had been enrolled under NCRWQCB Order #2015-0023 by December 31, 2016, this exception does not appear to apply here.

Sincerely,

Lisa Lozier
Interim Director of Building & Planning
530 Main St | P.O. Box 2819
Weaverville, CA 96093-2819
llozier@trinitycounty.org

Enclosed:

1. ArcGIS Location Map of APN 024-670-058-00 & 024-670-029-00
2. Copy of Trinity County Code Section 17.43.030.F. (dwelling requirement)
3. Copy of Trinity County Code Section 17.25A (Open Space District)
4. Copy of Trinity County Code Section 17.43.050.A.7. (Limitation on location to cultivate cannabis.)
5. ArcGIS Map of Split Zoning District
6. Copy of Site Maps for CCL787
7. Weaverville Community Plan Excerpt Regarding Weaver Bally SUD
8. Weaverville Community Services District Boundary Google Maps Printout
Straight Stretch:

The Straight Stretch area includes retail commercial and general commercial (auto repair) uses. Characteristics and concerns in regard to this commercial strip are further discussed in subsection 7, Visual Impact Areas, Entryways.

In order to address aesthetic concerns within this area, the proposed zoning incorporates a Plan-Review Overlay, which emphasizes landscaping and improved site design.

Trinity Lakes Blvd. Area:

The Trinity Lakes Blvd. area is the commercial strip along Highway 3 between Highway 299 and the airport. The characteristics and concerns along this corridor were further addressed in subsection 7, Visual Impact Areas/Entry Ways. In addition to those concerns and plans outlined in subsection 7, the Plan proposes office zoning along the area approaching Highway 3. This proposed Office District is consistent with existing uses and is generally more compatible with adjacent residential uses.

Weaver Bally Specific Unit Development Area:

The Weaver Bally Specific Unity Development (SUD) area consists of lands designated for tradeout purposes by the Forest Service. The Plan proposes residential development within the central portion of Sections 1 and 36 while reserving habitat areas for open space purposes. Parcel sizes should consist of one-acre minimums near the high school, with 2 ½ and 5 acre minimums along the existing road system for a total build out of 86 residential lots.

Due to restrictive soils, this area will need sewer mains prior to development. At area buildout, it is envisioned that this area will have community water and county maintained asphalt roads as well.

Prior to further development in this area, a detailed schematic plan and development guidelines will need to be prepared.

Ten Cent Gulch Specific Unit Development

The Ten Cent Gulch Specific Unity Development (SUD) has similar opportunities and constraints, as does the Weaver Bally SUD. Prior to further division or development of this area, a detailed SUD schematic plan and development guidelines will need to be prepared. A maximum density of 25 dwelling units should be planned for this area. In addition, existing trails should be retained.

Opitz Specific Unity Development Area:

The Opitz Specific Unity Development (SUD) area consists of private holdings around the Timber Ridge Subdivision. This area requires special consideration because it has steep slopes, productive forest lands, and geologically unstable areas. By utilization of the SUD process it is anticipated that a limited amount of residential development can be accommodated despite these constraints.
Legend:
- Parcel Boundaries
- Rural Residential (RR)
- Single Family Res. - Low Density (R1L)
- Single Family Res. - Med. Density (R1M)
- Multi Family Res. - Med. Density (R2)
- Multi Family Res. - High Density (R3)
- Mobile Home Park (MHP)
- Residential Office (RO)
- Highway Commercial (HC)
- Retail Commercial (C1)
- General Commercial (C2)
- Heavy Industrial/Manufacturing (I)
- Specific Unit Development (SUD)
- Light Industrial/Manufacturing (C3)
- Heavy Industrial/Manufacturing (M1)
- Heavy Industrial/Manufacturing (M2)
- Agricultural (A)
- Agricultural Preserve (AP)
- Agricultural Forest (AF)
- Timber Production Zone (TPZ)
- Mining (MN)
- Flood Hazard (FH)
- Unclassified (UNC)
17.43.050 Limitation on location to cultivate cannabis.

A. Applications will not be approved for cultivation of cannabis in any amount or quantity, in the following areas:

1. Within one thousand feet of a youth-oriented facility, a school, any church, or residential treatment facility as defined herein.

2. Within five hundred feet of an authorized school bus stop.

3. A legal parcel without a legal dwelling, or without an active building permit.

4. Timber production zones (TPZ) with the exception made for qualified Phase I applicants (persons or entities who completed enrollment in the NCRWQCB Order #2015-0023 in reference to a Trinity County-based operation by August 1, 2016).

5. Residential 1 (R1), residential 2 (R2), or residential 3 (R3) zones.

6. Within the Trinity County jurisdiction of the Whiskeytown-Shasta-Trinity National Recreation Area and within the lease lots within the Ruth Lake Community Services District.

7. Within the legal boundaries of the Weaverville Community Services District, Coffee Creek Volunteer Fire District and Trinity Center Community Services District, Bucktail Subdivision and within the following area of the Lewiston Community Services District: Mt. Diablo Meridian, Township 33N, Range 8W, Sections 17, 18, 19, 20, and Mt. Diablo Meridian, Township 33N, Range 9W, Section 24, 13, which are in proximity to high density areas, and therefore, create a substantial risk of a public nuisance. An exception to this limitation is allowed for applicants who have submitted an application for enrollment under NCRWQCB Order #2015-0023 by the following dates:

   - Weaverville Community Services District by December 31, 2016;
   - Lewiston Community Services District by January 15, 2017;
   - Coffee Creek Volunteer Fire District and Trinity Center Community Services District by November 30, 2017.

8. For specialty cottage, specialty and small licenses cultivation shall not be allowed within three hundred fifty feet of a residential structure on any adjoining parcels. For medium licenses, cultivation shall not be allowed within five hundred feet of an adjacent property line. Applications for a variance from this provision will be considered by the Trinity County Planning Commission. After obtaining an initial variance, the planning director can issue a director's use permit for subsequent years after an inspection.

(Ord. No. 315-849, § 1, 12-28-2020)
Chapter 17.25A OPEN SPACE DISTRICT OR "OS" DISTRICT

Sections:

17.25A.010 General description.

The open space zoning district is intended to protect significant or critical wildlife habitat areas or areas which should not be developed due to public health and safety reasons.

17.25A.020 Uses permitted not requiring a use permit.

The following list is representative of open space uses, which are permitted on a parcel in the open space zoning district:

A. Management of land and forest for the production and harvest of trees (including tree farming).
B. Habitat enhancement or improvement projects as approved by the Department of Fish and Game or other state or federal agency.
C. Pasture or grazing lands.
D. Other uses found to be similar in nature as determined by the planning commission.

17.25A.030 Uses requiring a use permit.

A. Low intensity recreation uses, which require only minor improvements.
B. Mining activities.
C. Developing of public or private roads.
17.43.030 Application requirements.

A. All applicants will be required to comply and provide the following:

1. Proof of intent to comply with all county setback requirement.
   a. Specialty Cottage.
      i. "Specialty cottage outdoor" is an outdoor cultivation site with up to twenty-five mature plants. If cultivation area is under two thousand square feet with a slope less than five percent a water board permit is not required. Or if cultivation area is between two thousand and two thousand five hundred square feet or if under two thousand square feet with a slope greater than five percent a water board permit is required.
      ii. "Specialty cottage indoor" is an indoor cultivation site with five hundred square feet or less of total canopy.
      iii. "Specialty cottage mixed-light Tier 1 and 2" is a mixed-light cultivation site with two thousand five hundred square feet or less of total canopy.
   b. Specialty.
      i. "Specialty outdoor" is an outdoor cultivation site with less than or equal to five thousand square feet of total canopy, or up to fifty mature plants on noncontiguous plots.
      ii. "Specialty mixed-light Tier 1 and 2" is a mixed-light cultivation site between two thousand five hundred one and five thousand square feet of total canopy.
   c. Small.
      i. "Small outdoor" is an outdoor cultivation site between five thousand one and ten thousand square feet of total canopy.
      ii. "Small mixed-light Tier 1 and 2" is a mixed-light cultivation site between five thousand one and ten thousand square feet of total canopy.
   d. Medium.
      i. "Medium outdoor" is an outdoor cultivation site between ten thousand one square feet and one acre of total canopy.
   e. All other license types are not allowed at this time by the County of Trinity, unless adopted by the county in subsequent ordinance or ordinances.

2. Proof of enrollment in good standing with NCRWQCB Order #2015-0023 or the SWRCB.

3. Apply for and obtain a board of equalization seller's permit.

4. Employ only persons who are at least twenty-one years of age and comply with all applicable state and federal requirements relating to the payment of payroll taxes including federal and state income taxes and/or contributions for unemployment insurance and state worker's compensation and liability laws.

5. Applicant cannot have been convicted of a serious felony or Schedule I, II or III Felony, excluding a non-serious felony conviction for sale, transportation or cultivation of cannabis, except if the conviction is on public lands. Applicants will have to declare this under penalty of perjury on one of the application forms.

6. As a condition of registering any cannabis cultivation site pursuant to this chapter, the applicant and, if different, the property owner shall execute an agreement to defend, indemnify and hold harmless the County of Trinity and its agents, officers, and employees from any claim, action, or proceeding brought
against the county, its agencies, boards, planning commission or board of supervisors arising from the county's registration of the site. The indemnification shall apply to any damages, costs of suit, attorney fees or other expenses incurred by the county, its agents, officers and employees in connection with such action.

7. If using a permitted well, a copy of the Trinity County well permit shall be provided.

8. At the time of renewal or application for the 2018/19 license cycle and after, the applicant shall designate on their application or renewal application whether they intend to cultivate for adult or medicinal use.

9., 10. Reserved.

11. Provide all documentation, reports, and other information required by Section 17.43G.030 of this code.

12. Annual relicensing of cannabis operations licensed before 2019 shall require a one-time historic building evaluation, and the results of the evaluation shall be submitted to the county if buildings on-site are over 45 years old and are expected to be used in future operations. If the buildings are determined to be a significant historic resource, then the applicant shall be required to comply with historic resource protection standards set forth in subsection 5 of Section 17.43G.030 of this code. This requirement does not apply to buildings that are currently being used as part of the cannabis operation. (MM 3.5-1a.)

13. All cultivation sites (new and licensed renewals) are required to demonstrate compliance with all applicable requirements of SWRCB Order WQ 2019-0001-DWQ, or any subsequent water quality standards that apply to all new commercial cannabis cultivation operations, and will not limited by a minimum area of disturbance as part of application review and at annual licensed renewal. This will include documentation, site management plan, and grading details prepared by a qualified professional to help ensure that the site will be stable and describing how stabilization will be achieved. The documentation will also identify the location of all water quality control features for the site and associated access roads. Roadway design, water quality control, and drainage features shall be designed and maintained to accommodate peak flow conditions and will be consistent with the Road Handbook per California Code of Regulations, Title 14, Chapter 4. Compliance with water diversion standards and restrictions of SWRCB Order WQ 2019-001-DWQ, or any successor to that order, will also be provided to the county. The county will annually inspect compliance with this measure as part of license issuance or license renewal to confirm compliance.

On-site sewage systems shall be designed to accommodate employees and seasonal employees during harvest consistent with the requirements of County Code of Ordinances Section 16.48.122. (MM 3.10-1a.)

B. Applicants consent to compliance inspections as part of their application process. Inspections will be conducted by county officials during regular business hours Monday through Friday, nine a.m. to five p.m., excluding holidays. Applicants are permitted to participate in the inspection verification or monitoring. If possible, Trinity County will attempt to give twenty-four-hour notice of the inspection by posting the notice and/or telephoning the number listed on the application.

C. All licensed cultivators within Trinity County can self-transport their own product to licensed distributors and/or manufactures as permitted by state law. Cultivators must obtain the appropriate state license permitting self-transport within ninety days of receiving permission from the county. Cultivators must indicate on their Trinity County application that they would like permission to self-transport. If so designated in the application, there will be no additional fees.

D. All documents/plans/monitoring/inspections filed as part of enrollment become part of the county application.

E. Ownership of a license may only be transferred under the following conditions:
1. Licensee may transfer their license as part of the sale of the property for which the license has been issued. The new owner shall reapply, pay applicable fees, and meet all requirements for the property to transfer. All exceptions that apply to the original license shall transfer with the license.

2. Licensee may transfer their license to other property under their ownership or for which they have a valid rental agreement and certification of permission to grow cannabis on the property. The licensee shall reapply, pay the applicable fees, and meet all requirements for the new property and this chapter in order for the license to transfer.

3. Licenses cannot be transferred more than once in a calendar year.

4. The licensee may maintain his/her original license number if they are applying for, or obtaining, an alternative cultivation license.

F. Each premise upon which cultivation will occur must have a legal dwelling unless licensee is cultivating on a contiguous legal parcel with a legal dwelling which is under identical ownership as the parcel upon which cultivation will occur.

G. Only one application countywide may be submitted per legal parcel.

(Ord. No. 315-849, § 1, 12-28-2020)
Mike and Cheryl Mikkola
Weaverville, CA  96093

Trinity County Planning Dept
530 Main Street, PO Box 2819
Weaverville, CA  96093

ATTN:  Planner: L Lozier

RE: AP 024-670-058-000 and 024-670-029-000
Appellant: Yazan Abdul Latif – Farmerboyzz LLC

We purchased our home (AP# 024-670-031-000) in 2000.  This home was purchased with the intent to enjoy a quiet uninterrupted lifestyle for our retirement years without the interference, nuisance of the Cannabis industry in the neighborhood..

For the past 5 years we have had numerous unknown vehicles/uhaul trucks speeding up and down our narrow roads creating potholes and nearly running us off our roads.  We have also had to endure the offensive odors created by the illegal Cannabis grow existing on one of the above parcels.

The blatant disregard for our health and quiet enjoyment for us and our neighbors is unconscionable.

We strongly support the Planners decision to DENY this Commercial Cannabis operation in our area.

Respectfully,

John M Mikkola
Cheryl J Mikkola
We live at and have since 2010. We strongly support the decision to DENY the commercial cannabis license for Yazan Abdul Latif – Farmerboyzz LLC. This is a residential area that does not wish to have the offensive odors, traffic, or noise that is associated with a commercial grow. This area has narrow dirt roads, limited water and is located extremely close to the high school. I encourage the planning commission to deny this appeal and keep commercial grows out of residential areas.

Thank you,

Jim Cloud
Amanda Cloud