TRINITY COUNTY PLANNING COMMISSION
STAFF REPORT

DATE: April 17, 2020

PLANNER: Kim Hunter, Director of Building and Planning

APPLICANT/APPELLANT: Dina Obrenovic

AGENT: Mitch Ivanoff

REQUEST: An appeal of Planning Director’s Decision to deny a Commercial Cannabis Cultivation License (CCL) 2019-618.

LOCATION: 3120 Bear Creek Rd., Weaverville (APN: 010-690-02-00)

APPROX. ACREAGE: 4.21

ZONING DISTRICT: Unclassified (UNC)

ZONING DISTRICT OVERLAYS: Critical Water Resource (CWR)

GENERAL PLAN DESIGNATION: Rural Residential (RR)

STAFF RECOMMENDATION: Deny Appeal

ADJACENT LAND USE AND ZONING INFORMATION:

<table>
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<tr>
<th>Direction</th>
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(Shasta-Trinity)

SUMMARY: CCL-2019-690-02-00 was denied by the Planning Director on February 18, 2020 after Trinity County Code Enforcement issued a civil citation at the premises for illegal cannabis cultivation without a commercial cannabis permit for over 200 plants.

ATTACHMENTS:

A. Cultivation License Denial Letter
B. Project Location Map
C. Correspondence from Sally Barrow (received 4/15/2020)
COUNTY OF TRINITY
COMMERCIAL CANNABIS
CULTIVATION LICENSE DENIAL

APPLICATION NUMBER:       CCL-2019-618
PARCEL NUMBER:             010-690-02-00
APPLICANT:                 Dina Obenovic

February 18, 2020
Dina Obenovic
PO Box 3186
Weaverville, CA 96093

Re: Premises located at 3120 Bear Creek Road, Weaverville

The Trinity County Planning Department has determined that there is a violation of Trinity County Code associated with Trinity County Commercial Cannabis License application CCL-2019-618. The violation(s) are listed below:

17.43.070 - Denial/revocation of license.

A. Applicant shall be denied a license or the approval of a license shall be revoked if the county becomes aware that:

1. The applicant has provided materially false documents or testimony;
2. The applicant has not complied fully with the provisions of this chapter, including any of the requirements of NCRWQCB Order #2015-0023, SWRCB, or CDFW; or
3. The operation as proposed by the applicant, if permitted, would not have complied with all applicable county and state laws, including, but not limited to; the building, planning, housing, fire and health codes of the county, including the provisions of this chapter and with all applicable laws including zoning and county ordinances.

B. Applicant shall be given up to seven business days after date of written notification to correct deficiencies prior to denying or revoking the license; if the deficiencies are deemed an immediate threat to environmental and/or public health and safety, they shall be corrected immediately.

C. Applicant shall have the right to appeal any denial of the Planning Director. Any person dissatisfied with a decision 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 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 the hearing.

D. Registrant shall have the right to appeal any rescissions as prescribed in Section 8.90.130 of the Trinity County Code.

Specifically, the County finds that you are in violation of the following:

- **17.43.060 (A) - Performance standards for commercial cultivation of cannabis.**

  A. It is declared to be unlawful for any person owning, leasing, occupying or having charge or possession of any parcel of land within any unincorporated area of the county to cause or allow such parcel of land to be used for the outdoor or indoor cultivation of cannabis plants in excess of the limitations imposed by this section or personal grow section (Zoning Ordinance No. 315-797) and/or AUMA.

  The County has determined that your application for a license will be denied due to violations of 17.43.070 (1), (2) and (3). The owner of the parcel included in the application for CCL 618 (010-690-02-00) was landowner of a nearby parcel on which illegal cultivation existed (010-690-04-00). Cannabis plants were located on your site located at 3120 Bear Creek Road in excess of an amount allowed for medical or personal use before a license was issued to the site. Therefore, the application does not comply fully with the provisions of County Code.

  You have the right to appeal this decision, any time within ten (10) working days from the date of this notice as prescribed in Chapter 8.90-130 of Trinity County Code.

If any questions, comments or concerns arise please contact the Trinity County Planning Department at (530) 623-1351 ext. 6 or by email at planning.cannabis@trinitycounty.org

Kim Hunter
Trinity County Building & Planning Director
ATTACHMENT B
APN 010-690-02-00
P-20-12 D. Obernovic
Project Location Map
April 15, 2020

Comments regarding the appeal of Planning Director’s decision (P-20-12) to deny commercial cannabis cultivation license 2019-618 for 3120 Bear Creek Road, Weaverville. APN 010.690.02.00 Applicant Dina Obrenovic

I am enclosing my arguments in the appeal I filed on 2.05.2020 against the original issuance of this permit, including my attorney’s statement. I am also asking you to consider my following updated statement regarding my support for the Director’s decision to deny this permit.

Leon Draper has purchased three properties neighboring my home on Bear Creek Road in the last few years: 010.690.02.00, 010.690.06.00, 010.690.04.00. He has had a history of illegal growing here, and was cited civilly last summer. In 2019 applications for commercial cannabis permits were filed under his tenants names for two of these properties, 010.690.02.00, 010.690.06.00. I filed an appeal against both of those applications on 2.05.

On 2.12.2020, after my appeal was filed halting the issuance of the permits and preventing any legal commercial cannabis cultivation, a criminal search warrant was served on Leon Draper’s property next door to me, 010.690.04.00. Enough evidence was found there to obtain additional search warrants for the other Draper properties. As a result of the searches, about 5,000 plants were found on the 3 Draper properties. 400 plants were found on the 010.690.02.00 property whose appeal you are considering, and $7000.00 was seized there.

I am convinced that the tenants and the land owner of this property have proven that they have no intention of honoring your ordinances or their word. I ask you to reject this appeal, agreeing with the Director’s initial decision to deny this permit.

Thank you for your attention.

Sally Barrow
### Payer/Payee: BRIAN BARROW / SALLY BARROW
PO BOX 2017
WEAVERVILLE CA 96093

### Cashier: Mary Lancaster
### Date: 02/05/2020

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### Total Paid: $500.00
COUNTY OF TRINITY

APPEAL OF PLANNING DIRECTOR'S
DECISION TO PLANNING COMMISSION

BRIAN BARROW
Name: SALLY BARROW Phone: 623-4468

Email: bearcreek.family@gmail.com

Physical Address or APN: 2850 BEAR CREEK ROAD 010-690-03-00

Mailing Address: P.O. BOX 9071 WEAVERVILLE, CA 96093

Decision of Planning Director rendered on (date):

Planning Director's Decision was to:  ○ Approve  ○ Deny  ○ Continue

Request for:
APPEAL COMMERCIAL CANNABIS
CULTIVATION PERMIT CCL 2019-618
010-690-02-00

Reason for Appeal:

SEE ATTACHED

Signature: SALLY BARROW Date: February 5, 2020

Clerk's Use Only:

Date Filed: 

Fee Collected: 

Hearing Date: 

Receipt No.: 

Notice Published: 

Notice Mailed: 

Clear
Thursday, February 6, 2020

Kim Hunter, Director
Trinity County building and planning department
61 Airport Road
Weaverville, California 96093

Re: Notice of Appeal – CCL-2019-618 (APN 010-690-02)

Dear Ms. Hunter:

My office represents Sally and Brian Barrow, who reside at 2850 Bear Creek Road, off Highway 3 in the upper Little Browns Creek area. This letter, on their behalf, is intended to augment the grounds on which the Barrows are appealing the County's noticed decision to approve the above-referenced cannabis applicant project on neighboring property, that would permit a "specialty cottage indoor cultivation" operation at 33120 Bear Creek Road.

The subject property on which the proposed project would be located is ostensibly owned by Ameriquest, Inc., the sole shareholder of which is Leon Draper. (See attached project site aerial map.) Mr. Draper, through his various solely owned business entities, such as Spectre, Inc., has a dismal record of compliance with the Trinity County Cannabis Ordinance. Any proposed cannabis project with which he is associated should therefore be highly scrutinized with regard to application representations and potential adverse environmental impacts.

The specific grounds for this appeal are as follows:

1. Proposed Class 3 CEQA Exemption Not Permitted.

   (a) Lack of Substantial Evidence Supporting Key Factual Assertions. As stated on the Categorical Exemption Evaluation Forms for this project, copies of which are appended, the environmental documentation in support of the County's proposed CEQA determinations state that the project site is "not in an environmentally sensitive area;" no "expansion" of total canopy square footage is proposed; there was "previously permitted cultivation" on the site; and modifications to a building on the site will be consistent with "preexisting operations." These assertions are not supported by substantial record evidence, as required.
In fact, the proposed project site is in the headwaters of Little Browns Creek, which directly and as a tributary to the Trinity River, serves as and supports endangered/threatened salmon and steelhead spawning grounds, that are therefore sensitive to even de minimus commercial cannabis chemical run-off form projects such as that proposed. Additionally, the subject project site had no documented pre-existing, legal or illegal, commercial cannabis cultivation operation. As a result, project approval would necessarily "expand" the total canopy of cannabis cultivation operations on the proposed site, as measured by square footage.

Similarly, because there was no previous permitted cultivation, any ground disturbance associated with building improvements or ancillary facility improvements, would similarly "expand" the disturbed area on the site. In any event, any modifications to the dilapidated pre-existing building, for lack of any prior cannabis operation, cannot be found to be consistent with pre-existing operations.

(b) Incomplete Categorical Exemption Evaluation. As can be seen by viewing the attached Categorical Exemption Evaluation Form for the proposed Class 3 exemption (new construction or conversion of small structures), this foundational evaluation form is incomplete on its face, in material ways. For example, the inquiries concerning the existence of all necessary public services and facilities to serve the project (paragraph 7), and whether or not the project site or surrounding lands contain a sensitive environmental area (paragraph 8), are not even completed in a conclusory way.

The ostensibly supporting Categorical Exemption Evaluation Form also makes several conclusions without explanation as to supporting facts. This is evident where the proposed Class 3 evaluation addresses if the project involves the use of significant amounts of hazardous substances (paragraph 10); whether the project requires a water right permit or another environmental permit that could result in physical damages to the environment (paragraph 11); and in concluding that there is no evidence of the potential for the project to contribute to a significant cumulative impact (paragraph 15). As a result, where the County's Class 3 Exemption Evaluation Form for the proposed project states an "eligibility conclusion," even where the form makes clear the need to cite evidence in that document that supports the conclusions, there is no such evidence cited to support the conclusion that a Class 3 Categorical Exemption applies to this project.

(c) Notice of Exemption Factual & Legal Deficiencies. The deficiencies in the Class 3 Categorical Exemption Evaluation Form, as above described, are also reflected on the County's resulting Notice of Exemption for the proposed project, as published on January 22, 2020. For example, the stated reasons for why the project is exempt includes a statement that "the conversion of existing small structures from one use to another or only minor modifications are made in the exterior of the structure" apply in this case. However, it cannot be disputed that the proposed project would result in the conversion of a dilapidated residential occupancy building that was seldom used to a different, more intensively used commercial cannabis use, with much more than minor exterior structure modifications to support that new proposed use.
Like the Class 3 Categorical Exemption Evaluation Form, the Notice of Exemption also states that the area in which the project is located "is not considered environmentally sensitive," while also acknowledging that a Class 3 Categorical Exemption cannot be used where there would be an expansion of total canopy square footage. Again, the proposed project is located in the vicinity of an environmentally sensitive steelhead and salmon spawning tributary stream. Also, given that there was no pre-existing cannabis canopy, the total canopy square footage for the proposed project must necessarily be viewed as an impermissible expansion. Similarly, the notice of exemption, both expressly and impliedly, relies on an assumption that there was "previous permitted cultivation" in the building, on the proposed project site, which is simply unsupported by fact.

(d) CEQA Guidelines Prohibit the Proposed Class 3 Categorical Exemption. As noted on the Notice of Exemption for this project, CEQA Guidelines section 15300.2 prohibits reliance on a Class 3 Categorical Exemption if any one of six circumstances may exist. The conclusion in the Notice of Exemption that none of the exceptions stated in section 15300.2 prohibit reliance on a Class 3 Categorical Exemption is incorrect for the following reasons:

(I) The Project May be Located in a Particularly Sensitive Environment. While the Notice of Exemption indicates that there are no "mapped" environmentally sensitive habitats or sensitive plant or animal species "at the project location," both the project location and the contiguous and vicinity areas must be considered in making this determination. And as above stated, the proposed project site is located in the Little Browns Creek headwaters, which stream is an important tributary to the Trinity River fishery that is the home of threatened/endangered salmonoids. The project's location, even if the proposed commercial cannabis operation could otherwise be viewed to be insignificant concerning its impact on the environment, should therefore be viewed as being located in a particularly sensitive environment, thereby triggering more detailed environmental review under CEQA than the proposed Notice of Exemption provides.

(II) There are Cumulative Impacts Associated with the Proposed Project that Prohibit Reliance on the Proposed Class 3 Exemption. First, the Notice of Exemption, in addressing the issue of cumulative impacts, incorrectly states that the project would "continue the operation of a historically existing cultivation operation." But even if there were to have been a prior cannabis cultivation project at the project site, there is no doubt but that the incremental impacts associated with the proposed new project would contribute to similar impacts in the neighborhood, watershed, and/or general vicinity, that simply cannot be disregarded in order to rely on a Class 3 Categorical Exemption.

As the Planning Department is fully aware, this is largely the reason for the ongoing preparation of a draft environmental impact report (DEIR) by the County concerning the now adopted commercial cannabis ordinances, which DEIR is incorporated herein by reference. Completion of that DEIER is intended, at least in part, to enable future CEQA tiering to address off-site watershed, neighborhood, vicinity and county-wide cumulative impacts that otherwise prevent reliance on CEQA exemptions, such as that proposed here. Additionally, the Notice of Exemption clearly
misstates the geographic area in which cumulative impacts must be evaluated under CEQA, suggesting that such an analysis is limited to impacts only at the site of the proposed operation.

"Cumulative impacts," as defined in CEQA statutes and Guidelines, "refers to two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts. (a) The individual effects may be changes resulting from a single project or a number of separate projects. (b) The cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to the other closely related, past, present, and reasonably foreseeable future projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time." (CEQA Guidelines Section 15355.) This definition is not limited to impacts on the immediate proposed project site, or a sub-set of that project site, but instead to all related impacts, which must be collectively considered. See, e.g., Whitman v. Board of Supervisors (1979) 88 Cal.App. 397.

(III) Significant Project Effects on the Environment are Reasonably Possible. As stated on the Notice of Exemption, a categorical exemption cannot be used for an activity where there is a "reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances." In this case, the fact the proposed project is located adjacent to the headwaters of Little Browns Creek, which serves as a tributary to the Trinity River and is therefore part of a critical fishery habitat, makes this project proposed in unusual circumstances. As such, section 15300.2 of the CEQA Guidelines prohibits reliance on the proposed Class 3 Categorical Exemption.

Here, again, the Notice of Exemption indicates that proposed project would constitute a "continued operation" of commercial cannabis activities, but there is no factual evidence in support of that conclusion. Moreover, the analysis supporting the proposed Class 3 Exemption does not consider increased use of an on-site well water, with no apparently functioning water well even now existing, and therefore there being threatened increased use of groundwater and/or Little Brown's Creek water, and related potential impacts that should be further identified and analyzed. Water for the proposed project, in the minimum quantities required, simply has not been confirmed.

Based on the foregoing, the Barrows are simply expecting that the applicant, and the County in its lead agency capacity, follow the process mandated by CEQA such that all expected adverse environmental impacts are identified and properly mitigated, before such a license can be approved and issued.

2. The Project Property Owner should not be Rewarded Following a History of Cannabis Ordinance Violations. As previously noted, for all intents and purposes, Leon Draper is the property owner for the proposed project. Mr. Draper, and his associated businesses and surrogates which have been intermittently used to disassociate himself personally from specific cannabis cultivation properties on which violations have occurred in recent years, have a history
of being disrespectful neighbors and continuing to significantly flout applicable commercial cannabis ordinances and other laws.

Such violations include misrepresenting the adequacy of a required water source on affected properties, including that ostensibly serving the proposed project site. While Mr. Draper and his associates have represented in their application that they have a permitted water well, the fact of the matter is that there is no water that can be supplied from a well on the subject property at the 3-gallon per minute minimum required quantity. The Planning Departments records, which are also incorporated here by reference, also reflect a broad history of illegal grows and other misrepresentations associated with licensed cultivation, associated with Mr. Draper and his business associates. This site-specific water source misrepresentation and the property owner's historic culture of cannabis code violations should not be condoned or further enabled.

3. As a Matter of Proper Land-Use Planning & Neighborhood Safety the Proposed Project Should be Denied. The appealing party, in addition to the foregoing grounds for this appeal, have concern that the proposed license in not in keeping with the neighborhood's rural residential history. Related land-use reasons for the Barrows' appeal include:

- Water Concerns – There is a history of inadequate water availability that this proposed land-use would exacerbate.
- Road Concerns – Bear Creek Road is a three-mile, often single land road, and commercial traffic will create increased and less safe vehicle travel conditions.
- Neighborhood Safety Concerns – It is abundantly evident that commercial cannabis operations invite home invasions and similar crimes, that could make our affected neighborhood unsafe.

Based on the foregoing, as agreed to and supported by an overwhelming number of affected area property owners, it is respectfully requested that the proposed above-referenced license application be denied on appeal.

Sincerely,

James W. Underwood

Attachments

cc: Leslie Hubbard
    Sally and Brian Barrow
February 5, 2020

Appeal of Commercial Cannabis application for APN 010.690.02.00

Our reasons to request you deny this commercial cannabis cultivation permit include:

*Water concerns:

Our neighborhood has a history of inadequate water availability.

Previous illegal grows in this area severely compromised the water availability for our neighbors.

A family of 6, on the adjoining property, is very concerned that their water source, that has been adequate for decades, will be compromised.

We are the headwaters of Little Browns Creek, a tributary of the Trinity River. We are concerned with potential runoff of pollutants from the grow. Any contamination would affect our neighbors and the folks all the way to the Trinity River in Douglas City, not to mention the salmon, steelhead, brown trout and other river wildlife living downstream.

If the water used by the proposed cultivation site significantly lowers the water table, all the properties will be impacted.

*Road concerns:

Bear Creek Road is a 3 mile, private, poorly maintained, unpaved road. The road often narrows to 1 lane, with many blind turns. It is gnarly under the best of conditions, and
sometimes, during the snowy season, difficult to negotiate even with chains and 4 wheel drive. Since Leon Draper has purchased this property at the very end of the road, traffic has increased. The non-resident traffic includes contract workers and large trucks and trailers bringing in the infrastructure and supplies for this cultivation. These drivers tend to be inconsiderate of other drivers and residents who suffer with the dust and road degradation resulting from their unsafe driving speed.

Our Bear Creek Road Association has spent thousands of dollars fighting the difficult battle to maintain our residential Road. We are concerned that investment will be wasted by the increased commercial traffic.

During an emergency, Bear Creek Road has only one way in and out for passenger vehicles. We believe that increased activity increases fire danger and the limited access puts all of the residents here in danger.

*Objections to Leon Draper as property owner on the application:

Mr. Draper, under the guise of Ameriquest Inc. and Spectre Inc, obtained a permit to grow cannabis on 211 Goa Way. The permit was finally revoked because of his intentionally misrepresenting his compliance to the ordinances. I'm enclosing documents that name Leon Draper as all officers in Ameriquest Inc, and Spectre Inc.

Mr. Draper has also purchased the property next door to us, 010.690.04.00. Before we knew the property had changed hands, we noticed all the lights were on day and night in what we thought was a vacant house. We walked through the open gate to reassure ourselves that our neighbor's property was secure. There had been instances of break-ins and squatters on the road in the past. We saw many large marijuana plants in the garage, and over a hundred seedlings were visible through the unobstructed window of the house.

Safety concerns:
There are many examples countywide that illustrate how dangerous the legal and illegal cannabis industry is, especially in residential areas. The large amounts of cash and valuable product have acted as a magnet to thieves.

During the last Douglas City home invasion, we received a ‘shelter in place’ alert on our phone. Knowing the growing that was occurring next door, and the cannabis activity planned on the next two parcels, we had good reason to believe we were in danger.

In the past, other growers on our Road have made threats of violence, and have chosen to deal with their neighbors with methods of intimidation – including gunfire. The Sheriff was contacted many times. The excellent efforts of Code Enforcement have reduced the number of illegal grows on our Road significantly. One of those growers who has moved away recently posted on Social Media. He mentioned our names and address, complaining that he suspected we had reported his illegal activities. The comments on that post suggested violence as a reasonable response.

When our next door neighbor’s house burned down last summer it took the emergency response at least 30 minutes to arrive. We are literally steps away from the potential trouble next door, and half an hour from any help.

Neighbors concerns:

I am enclosing the names of the property owners that have signed a petition requesting that all parcels on Bear Creek Road be included in an opt-out area that doesn’t allow commercial cannabis cultivation.

The decision for our opt-out petition for the areas that include Bear Creek Road, Rush Creek Estates, and Trinity Dam Blvd. has been delayed pending the adoption of the EIR. We request that decisions regarding the commercial cannabis cultivation applications in the disputed areas also be delayed.
With the issuance of this permit, you are essentially rezoning our beautiful, peaceful, historically residential neighborhood on the edge of the wilderness, into a commercial business area.

In closing, we are asking you to consider our objections. Please do not sacrifice the peace and safety and quality of life (the first two principles on local regulation of cannabis adopted by the Board of Supervisors) of every person on our Road for the benefit of one man who has already taken advantage of his neighbors and your ordinance loopholes.
Bear Creek Road
Door to Door and Mail-in Opt-Out
Petition Roster

The following lists names, addresses and Assessor’s Parcel Numbers for property owners who have signed a petition requesting Trinity County to designate all parcels on Bear Creek Drive as an “opt-out” area that does not allow commercial cannabis cultivation licensing. 19 of 36 Parcels (53%) and 29 signatures in favor of Opt-out. 15 no-responses and 2 opposed.

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<td>Carrie Watkins</td>
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Officers for SPECTRE, INC (District of Columbia (US))

- C T CORPORATION SYSTEM, agent
- Draper, Leon Samuel, director
- Draper, Leon Samuel, incorporator
- Draper, Leon, ceo
- Draper, Leon, governor

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Using our data

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https://opencorporates.com/companies/us_dc/EXTUID_4221481/officers
Now available: over 400m key company lifecycle events, from officer changes to gazette notices.
Read more on our blog.

Draper, Leon Samuel

Company
AMERIQUEST, INC.
Name
Draper, Leon Samuel
Address
Sorry, you need to be logged in to see this address
Position
executingofficer

Other resources
- Search Google for 'Draper, Leon Samuel'
- Search LittleSis for 'Draper, Leon Samuel'

Other officers in AMERIQUEST, INC. Showing first 30 (see all)
- Draper, Leon Samuel, governor
- DRAPER, LEON SAMUEL, director
- Draper, Leon Samuel, incorporator
- NONE, agent

See all

Last updated June 26 2019, 6.48PM (3 months ago)

Similarly named officers
- DRAPER, LEON SAMUEL, director, nonprofit AMERIQUEST, INC. (District of Columbia (US), 1 Dec 2016- )
- Draper, Leon Samuel, incorporator, nonprofit AMERIQUEST, INC. (District of Columbia (US), 1 Dec 2016- )