

# TEHAMA COUNTY PLANNING COMMISSION

444 Oak Street, Room "I"

Red Bluff, CA 96080

Phone 530-527-2200 Fax (530) 527-2655



Commissioner Bill Moule - Vice-Chairman

Commissioner Noel Bookout

Commissioner Gary Durden – Chairman

Commissioner Mike Wright

Commissioner Delbert David

Airport Land Use Commissioner Lynn Chamblin

Airport Land Use Commissioner R. J "Tony" Miller

District 1

District 2

District 3

District 4

District 5

## PLANNING COMMISSION AGENDA

**DATE: Thursday, June 7, 2018**

**TIME: 9:00 AM**

**LOCATION: BOARD OF SUPERVISORS CHAMBERS  
ADMINISTRATION BUILDING  
727 OAK STREET  
RED BLUFF, CALIFORNIA 96080**

*Use of Cell Phones During Meetings: The Commission appreciates your cooperation in turning off all cell phones during the meeting.*

*Recording Device used to record the meeting.*

### **I. PLEDGE OF ALLEGIANCE**

### **II. CITIZENS CONCERNS**

This time is set aside for citizens to address the Planning Commission on any item of interest to the public that is within the subject matter jurisdiction of the Commission. No action may be taken on any item not appearing on the agenda unless the action is otherwise authorized by Government Code Section 54954.2(b)(typically, this applies to items meeting criteria as an off agenda emergency). The Chair reserves the right to limit each speaker to three (3) minutes. Disclosure of a speakers identity is purely voluntary during the public comment period.

### **III. INTRODUCTION OF NEW COMMISSIONER – Noel Bookout**

### **IV. MINUTES OF THE MEETING**

A) Approval of Minutes for the May 3, 2018 Planning Commission meeting.

### **V. REGULAR ITEMS**

**1. PUBLIC HEARING PURSUANT TO CEQA STATUTE § 21082 AND THE TEHAMA COUNTY'S CEQA PROCEDURE GUIDELINES TO CONSIDER RECOMMENDING THE DISAPPROVAL OF REZONE NO. 17-06 WITHOUT PREJUDICE TO THE BOARD OF SUPERVISORS**

**RECOMMENDATION:**

Staff recommends the Planning Commission taking the following action(s):

A. Recommend the Board of Supervisors disapprove without prejudice of Rezone No. 17-06 pursuant to CEQA Statute § 21082 and Tehama County's CEQA Procedure Guidelines Section VIII. EIRS (G)(1) based on an EIR required to address the projects significant impacts.

**VI. ADJOURN**

**NOTE:**

Any written materials related to an open session item on this agenda that are submitted to the Planning Department less than 72 hours prior to the Planning Commission Meeting, and that are not exempt from disclosure under the Public Records Act, will promptly be made available for public inspection at the Tehama County Planning Department, 444 Oak Street, Room "I", Red Bluff, California, during normal business hours.

Anyone wishing to appeal a decision of the Planning Commission may do so within 10 calendar days for Use Permits and Tracts (Subdivisions). A \$270.00 filing fee (\$440.00 filing fee if appealing a Public Works condition) must be submitted with the letter of appeal. Requests for a re-hearing must be submitted within 5 calendar days for General Plan Amendments and Rezones. The appeal/request with fees must be submitted to: Tehama County Clerk of the Board of Supervisors, P.O. Box 250, 633 Washington Street, Room 12, Red Bluff, CA 96080.

**Postmarks will not be accepted.**

MINUTES, AGENDAS and AGENDA MATERIAL are available on our website at [www.co.tehama.ca.us](http://www.co.tehama.ca.us)



Planning Commission  
Meeting Date: June 7, 2018  
Prepared By: Kathryn Parish  
Preparer Phone: 530-527-2200  
Preparer Email: kparish@co.tehama.ca.us  
Regular Item

### **May 3, 2018 PC Minutes**

#### **Requested Action(s)**

A) Approval of Minutes for the May 3, 2018 Planning Commission meeting.

#### **Background Information:**

#### **Attachment List:**

May 3, 2018 PC Minutes (DOC)

# TEHAMA COUNTY PLANNING COMMISSION

3.1.a

444 Oak Street, Room "I"

Red Bluff, CA 96080

Phone 530 527-4655 Fax (530) 527-2655



Commissioner Bill Moule – Vice-Chairperson  
Commissioner – Vacant  
Commissioner Gary Durden – Chairperson  
Commissioner Mike Wright  
Commissioner Delbert David

District 1  
District 2  
District 3  
District 4  
District 5

## PLANNING COMMISSION MINUTES

**MINUTES FOR THE MEETING HELD ON:** **May 3, 2018**

**LOCATION:** Board Chambers  
Administration Building  
727 Oak Street  
Red Bluff, CA 96080

**COMMISSIONERS PRESENT:** Durden, Moule, Wright, David

**COUNTY STAFF PRESENT:** Kristen Maze, Planning Director  
Kathryn Parish, Administrative Secretary III  
Andrew Plett, Deputy County Counsel  
Will Pike, County Surveyor  
John Stover, Building Official

### **I. PLEDGE OF ALLEGIANCE**

Chairman Durden opened the meeting and led in the pledge of allegiance.

### **II. CITIZENS CONCERN**

Will Pike, County Surveyor, introduced Tim McSorley as the new Public Works Director.  
Commissioner Moule explained how many Commissioners make a quorum.

### **III. MINUTES OF THE MEETING**

A) Approval of minutes for the March 15, 2018 Planning Commission meeting.

**RESULT:** **APPROVED [3:0:1]**  
**MOVER:** Bill Moule, Vice-Chairman  
**SECONDER:** Dave David, Commissioner  
**AYES:** Durden, Moule, David  
**ABSTAIN:** Wright

B) Approval of minutes for the April 19, 2018 Planning Commission meeting.

Attachment: May 3, 2018 PC Minutes (12527 : May 3, 2018 PC Minutes)



**RESULT:**       **APPROVED [3:0:1]**  
**MOVER:**       Mike Wright, Commissioner  
**SECONDER:**   Dave David, Commissioner  
**AYES:**         Durden, Wright, David  
**ABSTAIN:**     Moule

#### **IV. REGULAR ITEMS**

##### **1. CONTINUED - USE PERMIT #17-07 AT&T; GUTENHOT ROAD**

Katie Younger, Planner I introduced the project to the Commission.

Discussion between the Commission and Staff regarding the road being private and what conditions can be placed on the road and parcel.

Charles Bradley submitted a packet of information/pictures to the Commission and Staff with concerns regarding impacts on the roads, power, and birds. In the seasonal creek on Mr. Bradley's property there are eagle nest and fox's. Mr. Bradley explained that the roads wash out each year and answered Chairman Durden's question that there is not year-round emergency access to his parcel.

Cheryl Crain Taylor, 19705 Executive Dr., submitted a packet of pictures to the Commission and Staff with concerns regarding impacts on the roads, birds, and her concern of fires. Mrs. Taylor explained during previous fires, CAL-Fire was not able to bring in the dozers due to questionable turn outs and was unsure if the roads would be able to hold the weight. There is existing culverts that have been rolled and are rusted on Executive drive and believes this will be impacted by the traffic for the cell tower. Mrs. Taylor was also concerned with failure to contact nearby property owners when starting the project to determine the potential impacts the cell tower would propose. There are eagle nest on Mrs. Taylor's power pole and believes the aesthetics will be majorly impacted.

Commissioner Moule asked Mrs. Taylor if the cell tower will obstruct her view more than a power pole or a tree would. Mrs. Taylor answered that people would not want a cell tower in their background without compensation because they are ugly.

Commissioner David asked Mrs. Taylor about what services she receives out there such as telephone, cell service, internet, and cable. Mrs. Taylor answered that she has very good cell service and dish network.

Mrs. Taylor discussed the Corning Farms subdivision and their CC&R's.

Michael Taylor, 19705 Executive Dr., discussed potential easement across executive drive for the cell tower saying the property owners do not intend to give them access.

Don Crain, 19705 Executive Dr., explained that it is a very rural area with private gravel roads. Over the years the County has allowed development that has created a situation that is not sustainable.

Linda Cloney, 19195 Executive Dr., discussed the impact on honeybees. Ms. Cloney read from an article about cell towers and how it is harming honeybees.

Sara King representing AT&T addressed the environmental concern about birds and explained there is no strong evidence proving that the cell tower will impact the environment. There have been a lot of birds that will nest on the cell site and once the tower is up they typically do not have to do much maintenance on the actual antennas. The trucks that are bringing in the construction are not as big as fire trucks and there will be a pickup truck driving to the cell tower once a month for maintenance. Ms. King stated they would have no objection if the Commission adds a condition that they have to make the road as good if not better than it was before construction. Instead of a solid structure they use a lattice because you can see through it which camouflages better for minimizing visual impacts.

Preston Discenson independent contractor for AT&T explained that this is part of the Connect America fund from the government to expand broadband network in rural areas. The government provides census areas where they want service to be improved and add wireless internet to those who are underserved.

Cheryl Crain Taylor is concerned and would like to know how much money the company and property owner is receiving for building the cell tower.

Katie Younger, Planner I answered the Commission that Fish and Wildlife was notified and had no comments.

The Commission discussed conditioning for road improvement and notifying Fish and Wildlife about possible nesting eagles.

B. Move to adopt the Negative Declaration for the proposed Use Permit #17-07 and approve the CEQA findings within Attachment B; and

<b>RESULT:</b>	<b>APPROVED [3:0:1]</b>
<b>MOVER:</b>	Bill Moule, Vice-Chairmen
<b>SECONDER:</b>	Mike Wright, Commissioner
<b>AYES:</b>	Moule, Wright, David
<b>ABSTAIN:</b>	Dudren

C. Move to approve Use Permit #17-07 subject to the Findings and Conditions attached hereto with the additional condition that the roadway must be left in the same condition that they found it or better and provide sufficient base to make the road more passable for the construction and that Fish and Game be notified again that there is perhaps nesting eagles.

**RESULT:**       **APPROVED [3:0:1]**  
**MOVER:**       Bill Moule, Vice-Chairmen  
**SECONDER:**   Mike Wright, Commissioner  
**AYES:**        Moule, Wright, David  
**ABSTAIN:**     Dudren

## **2. CONSIDERATION OF USE PERMIT #18-01, Iler (PROPERTY OWNER)**

Katie Younger, Planner I introduced the project to the Commission.

John Stover, Building Official stated the Building Department has no comments as this is a very routine project. The building code requires separation from residence and hanger with sprinklers in the residence.

Elden Iler, property owner, discussed the reasons why he wants to do an aviation hanger with a residence.

B. Move that Use Permit #18-01 is exempt from CEQA pursuant to CEQA Guidelines Section 15303(a), a Class 3 Exemption that allows the new construction or conversion of small structures, and approve the Findings within Attachment C; and

**RESULT:**       **APPROVED [4:0]**  
**MOVER:**       Dave David, Commissioner  
**SECONDER:**   Bill Moule, Vice-Chairmen  
**AYES:**        Durden, Moule, Wright, David

C. Move that the Planning Commission approve Use Permit #18-01 subject to the Conditions in Attachment D.

**RESULT:**       **APPROVED [4:0]**  
**MOVER:**       Dave David, Commissioner  
**SECONDER:**   Bill Moule, Vice-Chairmen  
**AYES:**        Durden, Moule, Wright, David

## **V. ADJOURN**



Planning Commission  
 Meeting Date: June 7, 2018  
 Prepared By: Kathryn Parish  
 Preparer Phone: 530-527-2200  
 Preparer Email: kparish@co.tehama.ca.us  
 Regular Item

**PUBLIC HEARING PURSUANT TO CEQA STATUTE § 21082 AND THE TEHAMA COUNTY'S CEQA PROCEDURE GUIDELINES TO CONSIDER RECOMMENDING THE DISAPPROVAL OF REZONE NO. 17-06 WITHOUT PREJUDICE TO THE BOARD OF SUPERVISORS**

**Requested Action(s)**

**RECOMMENDATION:**

Staff recommends the Planning Commission taking the following action(s):

- A. Recommend the Board of Supervisors disapprove without prejudice of Rezone No. 17-06 pursuant to CEQA Statute § 21082 and Tehama County's CEQA Procedure Guidelines Section VIII. EIRS (G)(1) based on an EIR required to address the projects significant impacts.**

**Background Information:** \_\_\_\_\_

This is a CEQA procedural public hearing pursuant to CEQA Statute § 21082 and the Tehama County's CEQA Procedure Guidelines Section VIII. EIRS (G)(1), which is why staff is recommending that the project is disapproved without prejudice instead of approve or deny.

The Director of Planning determined that an EIR was required based on the information in the proposed Ordinance, and that an outside third party CEQA consultant would need to be hired to review and analyze the impacts of the proposal. Staff requested a reimbursement agreement and deposit(s) prior to the project moving forward in the process. The initial deposit of \$20,000 was requested, and consistent with other projects that have required EIR's. Since the applicant has protested the EIR requirement and refuses to enter into such an agreement, the County has schedule the project for a hearing with a recommendation of disapproval without prejudice.

At this time, and after a number of correspondence that are included within the public record, the County and applicant have reach an impasse. Staff notified the applicant of this public hearing on April 26, 2018. A list of the correspondence and their dates are included below, under the Attachments.

**Attachment List:**

Rezone 17-06 Cannabis Ordinance CEQA Procedure Hearing PC SR June 7, 2018  
 (PDF)

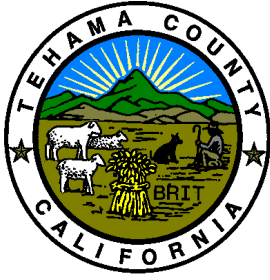
Rezone 17-06 Cannabis Ordinance CEQA Procedure Hearing December 11, 2017  
Planning Dept. Letter Attachment A (PDF)

Rezone 17-06 Cannabis Ordinance CEQA Procedure Hearing January 24, 2018  
Applicant Letter Attachment B (PDF)

Rezone 17-06 Cannabis Ordinance CEQA Procedure Hearing February 13, 2018  
Planning Dept. Letter Attachment C (PDF)

Rezone 17-06 Cannabis Ordinance CEQA Procedure Hearing April 26, 2018 Applicant  
Email Attachment D (PDF)

Rezone 17-06 Cannabis Ordinance CEQA Procedure Hearing April 26, 2018 Planning  
Dept. Letter Attachment E (PDF)



# PLANNING DEPARTMENT COUNTY OF TEHAMA

## STAFF REPORT

**DATE:** June 7, 2018

**TO:** Tehama County Planning Commission

**FROM:** Kristen Maze, Director of Planning

**SUBJECT: PUBLIC HEARING PURSUANT TO CEQA STATUTE § 21082 AND THE TEHAMA COUNTY'S CEQA PROCEDURE GUIDELINES TO CONSIDER RECOMMENDING THE DISAPPROVAL OF REZONE NO. 17-06 WITHOUT PREJUDICE TO THE BOARD OF SUPERVISORS**

### BACKGROUND:

On December 1, 2017 the applicant Jason Browne, submitted a request for a countywide ordinance to establish cannabis cultivation, distribution, sales, manufacturing and testing limitations for personal and commercial purposes. This Rezone No. 17-06 would affect approximately 1.4 million acres of variously zoned land within Tehama County.

### SUMMARY:

This is a CEQA procedural public hearing pursuant to CEQA Statute § 21082 and the Tehama County's CEQA Procedure Guidelines Section VIII. EIRS (G)(1), which is why staff is recommending that the project is disapproved without prejudice instead of approve or deny.

The Director of Planning determined that an EIR was required based on the information in the proposed Ordinance, and that an outside third party CEQA consultant would need to be hired to review and analyze the impacts of the proposal. Staff requested a reimbursement agreement and deposit(s) prior to the project moving forward in the process. The initial deposit of \$20,000 was requested, and consistent with other projects that have required EIR's. Since the applicant has protested the EIR requirement and refuses to enter into such an agreement, the County has scheduled the project for a hearing with a recommendation of disapproval without prejudice.

At this time, and after a number of correspondence that are included within the public record, the County and applicant have reached an impasse. Staff notified the applicant of this public hearing on April 26, 2018. A list of the correspondence and their dates are included below, under the Attachments.

**PUBLIC NOTICE:**

A public hearing notice to address the proposed ordinance at this public hearing was published in the Daily News on May 26, 2018.

**RECOMMENDATION:**

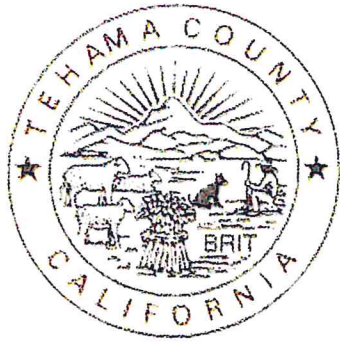
Staff recommends the Planning Commission taking the following action(s):

- A. Recommend the Board of Supervisors disapprove without prejudice of Rezone No. 17-06 pursuant to CEQA Statute § 21082 and Tehama County's CEQA Procedure Guidelines Section VIII. EIRS (G)(1) based on an EIR required to address the projects significant impacts.**

**ATTACHMENTS**

- Attachment A** Tehama County Planning Department Letter dated December 11, 2017 (Incomplete Application and CEQA EIR Determination)
- Attachment B** Applicant Response Letter dated January 24, 2018 (CEQA EIR Determination rebuttal and CEQA Exemption assertion)
- Attachment C** Tehama County Planning Department Letter dated February 13, 2018 (Incomplete Application and CEQA EIR Determination with substantial supporting evidence)
- Attachment D** Applicant Response Email dated April 26, 2018 (CEQA Determination Impasse between the County and Applicant, requesting public hearing to consider Rezone No. 17-06)
- Attachment E** Tehama County Planning Department Letter dated April 26, 2018 (CEQA EIR Determination Impasse and Planning Commission Public Hearing Date for Rezone No. 17-06)





# ATTACHMENT A

## PLANNING DEPARTMENT

### COUNTY OF TEHAMA

Courthouse Annex, Room "I"  
444 Oak Street  
Red Bluff, California 96080  
530-527-2200 Telephone  
530-527-2655 Facsimile  
Email: Planning @co.tehama.ca.us

Kristen Maze  
Planning Director

December 11, 2017

Liz Merry  
Representative  
P.O. Box 474  
Manton, CA 96059

**RE: Application Completeness for the Proposed Ordinance (Rezone #17-06);  
Establishment of Cannabis Cultivation, Distribution, Sales, Manufacturing and  
Testing Limitations for Personal and Commercial Purposes Countywide**

Dear Mrs. Merry,

Thank you for submitting your application on December 1, 2017, for the proposed Countywide Ordinance that would effect approximately 1.4 Million Acres (Excluding Federal/State Government and City Jurisdictional Land). The Planning Department Application for your project consists of two parts- Part 1) The land use, project description and applicant/property owner information and acknowledgements, Part 2) Environmental Information Form that includes project information required to support, process and proceed with the discretionary request (Ordinance; Rezone #17-06). Based on staff review of the information and documents submitted in the application packet, the Planning Department has deemed your application incomplete and will require an Environmental Impact Report.

The criteria for a complete application begins with the general information provided by the applicant needs to be adequate and dependable in order for the County to be able to process the project in a legal and legitimate manner. Otherwise the information conveyed by the applicant and relied upon through the discretionary project review process is compromised and indefensible. For these reasons it is essential that the proposed Ordinance (Rezone #17-06) areas for cultivation and state licensing descriptions align and match. Therefore, it is essential the proposed County regulation is consistent with state law licensing terms in the following section of the proposed Ordinance:

Proposed Ordinance Section 17.08.090(A) Pg.12-Personal and Collective outdoor or mixed light cannabis cultivation for recreational and medicinal purposes.

It appears that 17.08.090(A)(2)&(3) limits the cultivation area to less than 1,000 s.f. and not to exceed 3% of the premises. However, according the cannabis cultivation licenses types: Small Mixed-Light allows a cultivation area of 5,001 s.f. to 10,000 s.f., Medium Mixed-Light allows a cultivation area of 10,001 s.f. to 22,000 s.f., and Large Mixed-Light allows a cultivation area of more than 22,000 s.f.



Your Supplemental information indicates in paragraph one, line two, that the "Proposal is a Countywide Ordinance applicable to all Zoning Districts" including Williamson Act Lands. There are about 70 Zoning District combinations that can be affected by this Ordinance including Public Agency and Timber Production Zone that would total approximately 1.4 Million acres within Tehama County. The proposed Ord. Section 17.08.090(H) that allows cultivation inside dwelling units would affect approximately 18,218 dwelling units (2014-209 Housing Element). This estimate does not include City and Government (State/Federal) Jurisdictional lands, due to the lack of Tehama County's legal authority.

The Environmental Information Form is the second portion of the application, which needs to be signed by the applicant and must contain enough information to determine an initial environmental determination pursuant to CEQA and Tehama County's Procedures for Preparation and Processing of Environmental Documents (Guidelines).

Your application proposes to repeal several previously adopted County Ordinances related to marijuana/cannabis cultivation and dispensaries. Some of which, have been repealed and replaced by the County due to the risks or significant social and environmental impacts imposed on life, health, safety and welfare (ord. 1957 and ord. 2040). While outdoor cultivation and dispensaries were allowed and/or studied in a public process at one time, they have since been prohibited as a result of Tehama County's good faith effort to balance the legal rights of Tehama County's residence with the significant environmental and social impacts associated with the risks of marijuana/cannabis use, cultivation, distribution and sales. The County has specifically made the following findings regarding the adverse, risks to the public's life, health, safety and welfare of the county or otherwise considered to be significant impacts to public services and/or the environment:

Ordinance 2040 adopted 5-2-17

*Section 4 (9.06.020 (D) of Ordinance 2040 Findings and Purpose: The unregulated cultivation of medical or non-medical marijuana in the unincorporated area of Tehama County can adversely affect the health, safety, and well-being of the County and its residents. Comprehensive regulation of premises used for marijuana cultivation is proper and necessary to avoid the risks of criminal activity, degradation of the natural environment, malodorous smells, and indoor electrical fire hazards that may result from unregulated marijuana cultivation, and that are especially significant if the cultivation occurs outdoors or if the amount of marijuana cultivated on a single premises is not regulated and substantial amounts of marijuana are thereby allowed to be concentrated in one place.*

*Section 4 (9.06.020 (E) of Ordinance 2040 Findings and Purpose: The cultivation of marijuana outdoors, where it is often readily observable by neighbors and the general public, increases the risk of trespassing and burglary and acts of violence in connection with the commission of such crimes or the occupants attempts to prevent such crimes. Outdoor cultivation further makes the premises more prone to acts as an attractive nuisance for children, and increases the likelihood of offensive odors traveling off the premises. Additionally, experience in Tehama County and elsewhere demonstrates that outdoor cultivation of marijuana is often associated with violations of local, state, and federal environmental laws and pesticide regulations, threatening harm to local waterways and groundwater quality, and endangering the public health, safety and welfare. To adequately protect the public health, safety and welfare, it is proper and necessary to prohibit*



*the outdoor cultivation of marijuana within the unincorporated area of Tehama County.*

*Section 4 (9.06.020 (F) of Ordinance 2040 Findings and Purpose: the indoor cultivation of marijuana within a residence or other structure used or intended for human occupancy presents potential health and safety risks to those living in the residence or otherwise occupying the structure, especially to children, including, but not limited to, increased risk of fire from grow light systems, exposure to fertilizers, pesticides, anti-fungus/mold agents, and exposure to potential property crimes. To adequately address these risks, it is proper and necessary that requests to cultivate marijuana within a residence or other structure used or intended for human occupancy be considered on a case-by-case basis through a Waiver process administered by the Tehama County Department of Environmental Health.*

As you are aware, at this time, the possession, cultivation and sales of marijuana/cannabis is considered a federal felony as the drug is still classified as a schedule 1 drug. However, several states including California have passed state laws allowing state and local governments to decriminalize the possession, cultivation and sale of medicinal and now the recreational use of cannabis. Federal resources and the DEA still apprehend, process and convict persons and people for the possession, cultivation and sales of marijuana/cannabis throughout the United States including California where the drug is decriminalized at a local level. This has led to multiple significant environmental and social related problems that impact public services such as the Police/Sheriff/CHP, Environmental Health Dept., Fire and other adult or adolescent State and County support service. Based on this information and the findings related to marijuana/cannabis that are contained in the public record and included in this correspondence, the Planning Department is requiring that an Environmental Impact Report (EIR) be completed for the proposed project


The EIR is required before the project can move forward through the public review process. The EIR will be developed by a third party consultant, paid for by the applicant and contracted with the County. This requirement will take the form of a written agreement between the applicant and Tehama County Board of Supervisors, of which a \$20,000 deposit for the consultant services will be required at the time of approval and signing by the Board of Supervisors or within 10 business days of the date of Boards approval. Once the agreement has been signed by both parties and the deposit amount of \$20,000 dollars is received, the Planning Department will start the Request for Proposal (RFP) process that will ultimately result in the selection of a consultant for this project. At that time the applicant will be notified of the CEQA consultants full cost estimate and another deposit will be required before hiring the project consultant in the amount of \$60,000. Once the CEQA consultant is hired an additional amount of \$20,000 is required upon receiving the consultant's first invoice. The applicant will be responsible to pay the full amount of the Consultants costs of the project as it moves through the public review process.

In summary the information need for a complete application includes:

- 1) Modify or explain how the proposed County regulation would be consistent with state law licensing terms regarding proposed Ordinance Section 17.08.090(A)Pg.12.
- 2) Signature by the applicant on the Environment Information Form.
- 3) Signed agreement and \$20,000 deposit for CEQA consultant services.

The project application will remain incomplete until such time as the information and CEQA Environmental Document related service fees as requested are submitted to the Tehama County Planning Department for further review, consideration and determination. We look forward to working with you on this proposed project. Please don't hesitate to contact me or Kristen Maze if you have any questions.

Regards,

  
Scot Timboe  
Planner III

Cc: Jason Browne P.O. Box 9152 Red Bluff, CA 96080  
Tehama County Board of Supervisors  
Tehama County Councils Office



# ATTACHMENT B

4.1.c

January 24, 2018

Attention: Scot Timboe (Planner III)  
Cc: Kristen Maze (Tehama County Planning Director)  
Tehama County Board of Supervisors  
Tehama County Counsel's Office  
From: Jason Browne (Applicant)  
Liz Merry (Representative)



**RE: Notice of Offer of Proof that Application is Complete for the Proposed Ordinance (Rezone #17-06); Establishment of Cannabis Cultivation, Distribution, Sales, Manufacturing and Testing Limitations for Personal and Commercial Purposes Countywide, and; Request to Process Application.**

Dear Mr. Timboe,

After careful consideration of the initial finding that the Rezone Application is incomplete, the Applicant has compiled the following offer of proof that the Application is complete, and requests that the Planning Department process the Application, as a matter of public record.

1) In the County's response letter, the County failed to explain which sections or areas of the Application were incomplete other than a missing signature. As is detailed in this response, the Application is complete, in accordance with State and County regulations. However, even if this were not the case, any incompleteness does not, by law, automatically trigger the requirement for an Environmental Impact Report.

2) In the County's response letter, the statement that the proposed Countywide Ordinance "would effect (sic) approximately 1.4 million Acres" is incorrect on two counts. Firstly, the operative word here should be "affect", and not "effect". Secondly, the amount of acreage affected by the proposed Countywide Ordinance is much lower than 1.4 million acres, based on an accurate reading of the Ordinance, in full. Has the County researched the number of acres that would be affected by the changes that the ordinance brings about? The Applicant requests that the Planning Department perform its due diligence and research the facts and information referenced in the application before suggesting that the application is incomplete, or that the application might affect any specific amount of acreage within the County. Additionally, the acreage of land affected by the proposed Ordinance has nothing to do with the completeness of the Application.

**3)** In the County's response letter, the claim that "it is essential that the proposed County regulation is consistent with State law and licensing terms in the following Section of the Proposed Ordinance: Section 17.08.090(A) – Personal and Collective outdoor or mixed light cannabis cultivation for recreational and medical purposes", appears to the Applicant to be a misstatement of the law:

**A)** According to M.A.U.C.R.S.A., and in accordance with S.B. 94, Cities and Counties may regulate personal and commercial cannabis activities through local guidelines, and those guidelines may be more restrictive than the State guidelines regulating the same behavior. The very fact that Tehama County has opted to "ban" such activities for the past eight years is demonstrative evidence that Counties may offer more restrictive guidelines than the State, and this very argument is at the heart of the court ruling in *Browne v. Tehama County*;

**B)** Section 17.08.090(A)(2) & (3) of the Proposed Countywide Ordinance limits the personal cultivation area that legal residents may farm at their residences and has nothing whatsoever to do with the commercial license categories that are referenced in the response letter. In fact, those license categories apply only to the Commercial cultivation of cannabis, and not to the Personal, Non-commercial cultivation of cannabis. Therefore, this section of the proposed Countywide Ordinance is not in conflict with the State laws and regulations that are referenced in the letter.

**4)** In the response letter, the County implies that the statement "Proposal is a Countywide Ordinance applicable to all Zoning Districts" is somehow deficient and then goes on to list "Williamson Act Lands", "70 different Zoning District combinations that can be affected by this ordinance", "Public Agency Zone" and "Timber Production Zone" as potential reasons for this deficiency, without describing exactly what about each of these phrases would constitute a deficiency. The Applicant shall attempt to answer these claims, as follows:

**A)** The proposed Countywide Ordinance would have no significant negative environmental impacts on Williamson Act lands, as it contains no language that would contravene or override those protections. Additionally, it is the applicant's contention that smaller commercial farms allowed under the proposed Ordinance will benefit the county significantly, through increased property assessments and taxes, including all properties that fall outside the requirements for Williamson Act protections. The County has provided no research or data that would suggest any negative impacts to Tehama County caused by the enactment of the proposed Ordinance, regarding any Williamson Act protections;

**B)** While it is true that there are numerous Zoning District combinations, including "combined zoning districts" in Tehama County, these zones are not all affected by the proposed Ordinance, and those that are affected are clearly designated as such within the proposed Ordinance. The proposed Countywide ordinance only affects those Zoning Districts that it specifically mentions, and any Zoning Districts or "combined zoning districts" that are not mentioned in the ordinance are not affected. However, if you feel that a correction is in order



here, Applicant is prepared to change the language of this section to “Proposal is a Countywide Ordinance applicable to most (or many) Zoning Districts”;

**C)** Regarding Public Agency zoning, the proposed Ordinance neither prohibits, nor allows, any commercial or personal cannabis related activities in any Public Agency Zoning District. Therefore, the proposed Ordinance has no impact on any Public Agency (PA) Districts. The proposed Ordinance does nothing to affect any properties designated as PA. The only way for such properties to be affected by any cannabis related regulations, would be for the County to designate zones as such, one way or another. If the County would like to suggest adding this designation within the proposed Ordinance, as a remedy, the Applicant would be happy to indulge the County;

**D)** The proposed Ordinance specifically covers all lands designated as “Timber Production Zone”. According to Section 17.08.090(G), the proposed Ordinance prohibits all outdoor cannabis cultivation, distribution and sales in the R-2, R-3, R-4, G-R, AV, PF, NR, FS and TPZ Zoning Districts;

**E)** Please take note of “Section H” in the proposed Ordinance’s Findings and Purposes. Section H clearly addresses the need to prohibit the cultivation, commercial distribution and processing of cannabis in various zoning districts, to reduce or eliminate any significant environmental impacts to the County.

**5)** In the County’s response letter, the claim is made that Section 17.08.090(H) of the proposed Ordinance would affect up to 18,218 dwelling units. Even if this statement is true, the response letter fails to identify how or why this would trigger the need for an Environmental Impact Report. Tehama County’s existing cannabis bans, and indoor cultivation requirements, arguably affect the same 18,218 dwelling units, and Tehama County exempted the County from C.E.Q.A. requirements when the County proposed these policies as an “Urgency Ordinance”. However, the statement is also completely inaccurate. The number of dwelling units affected by the proposed Ordinance would only include the following dwellings:

**A)** Units which house the legal residents of the dwelling. This precludes all vacation homes, all homes that house illegal residents (i.e., residents that are not legal tenants and/or residents that are not legal citizens or guests of the United States), and all homes that are being used only for cultivation or manufacturing purposes, without any legal residents (i.e., “grow houses”);

**B)** Only applies to legal residents who are qualified under California’s medical or recreational cannabis laws to grow their own cannabis. This precludes all minors (under 21), and all non-patients / primary caregivers (of any age);

**C)** The proposed Ordinance would not affect any legal residents who do not consume cannabis or cultivate cannabis. This precludes many residents, which represent “a majority of the population of Tehama County,” according to multiple public claims made by the Tehama



County Board of Supervisors. Is the County seriously suggesting that upwards of 18,000+ legal residents of Tehama County would opt to cultivate cannabis at their legal residence, if the proposed Ordinance were to become law? The Applicant does not believe this to be the case and finds these assertions to be completely unfounded.

**6)** In the response letter, there is reference that the Application “needs to be signed by the Applicant,” and that it “must contain enough information to determine an initial environmental determination pursuant to C.E.Q.A. and Tehama County’s Procedures for Preparation and Processing of Environmental Documents.” Please consider the following response:

**A)** The Applicant believe that the Application was signed completely, on all the applicable documents that required a signature in this instance. If the Application was not, the Applicant is fully prepared to correct this error, and is available to come in and sign any remaining documents, at the County’s convenience. However, if the County is referencing the form which allows for property inspections by agents of the California Department of Fish and Wildlife, and the Tehama County Planning Department, the Applicant correctly identified this form as “Not Applicable” to the Countywide Rezone Application, because the Applicant is not authorized to grant entry onto someone else’s property, much less to every privately-owned parcel in Tehama County;

**B)** In order to conduct an initial environmental determination pursuant to C.E.Q.A., the responsibility of the Tehama County Planning Department is to circulate the Application, under the pre-consultation process, to all Agencies which may have jurisdiction regarding the project, including but not limited to, California’s Department of Fish and Wildlife, the Regional Water Quality Control Board, and the Tehama County Agricultural Commissioner. This process is in accordance with Tehama County’s Procedures for the Preparation and Processing of Environmental Documents. The County has a responsibility to submit the Application to the affected Agencies for pre-consultation, and then to share their responses with the Applicant;

**C)** Upon receiving responses to the Application from each of these pre-consultation Agencies, the responsibility then lies with the Tehama County Planning Department to conduct an initial Study, in which the County is responsible for identifying any specific environmental impacts likely to result from the adoption of the proposed Countywide Ordinance. At that time, the County will have the option of consulting with the Applicant and pointing out any specific areas of concern that the County would like the Applicant to address;

**D)** After completing these tasks, if the County makes the determination that there are no mitigations that can be applied to the project which would reduce the environmental impacts to “less than significant levels,” only then may the County declare that the Project might pose specific and significant environmental impacts that would require the Applicant to conduct an Environmental Impact Report;

**E)** Furthermore, before citing the costs for providing an E.I.R., the County is required to first circulate a “request for proposals” to qualified / authorized environmental consultants, to



determine the scope of work and associated costs involved in producing said E.I.R. This includes conducting a bidding process, selecting an appropriate vendor, and then informing the Applicant of the estimated costs to conduct the E.I.R.;

**F)** The County's request for upwards of \$80,000+ for an Environmental Impact Report is completely premature and unfounded, as the need for such an E.I.R. has not been established, and no bidding process has been undertaken. This request is clearly an attempt to "shake-down" the Applicant, and according to the rules of civil proceedings borders on obstructionism and malfeasance or misfeasance in office, on the part of the Tehama County Planning Department and Board of Supervisors;

**G)** The County's assertion that the Applicant is responsible under the California Environmental Quality Act to conduct an Environmental Impact Report, is completely baseless and a misrepresentation of the law. According to C.E.Q.A. (Sections 15004(b)(3), 15060.5(a)&(b), 15064(c)&(d), and 15074.1(c)&(d)), the Planning Department is required to assist Applicant, and to conduct the preliminary studies and evaluations necessary to determine any problems with the Application. When, or if, any significant impacts are then identified, the County is additionally required to assist the Applicant with identifying feasible mitigations that would reduce those impacts, and to suggest alterations to the Application, accordingly. This is the law, and the Applicant expects the County to follow laws, regardless of any political pressure or informal instructions that the Planning Department has received from the Tehama County Board of Supervisors, Department of Environmental Health, and/or the Sheriff's Department.

**7)** The response letter quotes three "Findings and Purposes" contained within previous Tehama County Cannabis Ordinances, and the County specifically mentions Ordinance #1957 and Ordinance #2040. Those "Findings and Purposes" provide no relevance to the completeness of this application. Those "Findings and Purposes" purport to have identified "adverse risks to the public's health, safety and welfare." The Applicant believes that the County has made a determination of significance without following the proper environmental review process under C.E.Q.A.:

**A)** Such findings are not relevant to any review process required under C.E.Q.A. The California Environmental Quality Act does not apply to social or economic impacts. It only applies to environmental impacts, and as such, the Findings that the County identified in the response letter are not relevant to any possible determinations under C.E.Q.A.;

**B)** Regarding the three Findings that you reference in the response letter, the proposed Countywide Ordinance was designed to specifically reduce any perceived risks to public health, safety and welfare, in the following ways:

**I)** The proposed Ordinance is consistent with the Findings and Purposes contained within Ordinance 2040, Section 4, 9.06.020(D), which specifically references the "unregulated cultivation of (cannabis)," and calls for "the comprehensive regulation of premises



used for (cannabis) cultivation.” The proposed Countywide Ordinance regulates all such premises, completely. Ordinance #2040 fails to do so, because it drives 100% of Tehama County’s cannabis production back underground, into the “black market,” and this only serves to increase any threats, real or imagined, to public health, safety and welfare;

II) The proposed Ordinance is consistent with the Findings and Purposes contained within Ordinance 2040, Section 4, 9.06.020(E), which lists the following areas of concern (observation by neighbors, observation by children, increase of offensive odors, and an increase in violations of local, state and federal environmental laws and pesticide regulations). Those Findings then go on to state, that the only adequate way for the County to protect the public health, safety and welfare, is to prohibit all outdoor cultivation of (cannabis) within the unincorporated area of Tehama County. The proposed Countywide Ordinance directly addresses the issues of observation by neighbors and children, and mitigates them both by requiring that all outdoor cultivation areas must install adequate security features and visual barriers, as preconditions for obtaining the necessary local permits to cultivate. Additionally, the proposed Countywide Ordinance specifically addresses the matter of reducing violations of local, state and federal environmental laws and pesticide regulations, by requiring all permitted cultivation sites to adhere to these regulations, as a precondition to receiving cultivation permits from the County. To claim that driving the entire cannabis industry underground would reduce these negative impacts more than regulating the cannabis industry, is absurd. The truth is demonstrably that 100% of black market cannabis operations do not adhere to any local, state or federal regulations, whereas 100% of permitted or licensed cannabis operations must adhere to local, state and federal regulations, to continue operating. Regarding the matter of any “increase of offensive odors,” the Applicant must remind the County that all commercial agricultural operations in Tehama County are exempt from public nuisance complaints that stem from the odors, sounds, pesticides, dust and other public nuisances that are produced by those operations. Cannabis is now officially recognized as “agriculture” by the State of California, and any commercial cannabis licenses issued within Tehama County would become immune from any nuisance complaints of “offensive odors,” just as all other agricultural operations enjoy in Tehama County. Additionally, the Medical Marijuana Program Act already exempts qualified individuals from any criminal or civil sanctions stemming from nuisance complaints that are based on their lawful cultivation of cannabis, for medical uses (*California Health and Safety Code, Section 11362.765*);

III) The proposed Ordinance is consistent with the Findings and Purposes contained within Ordinance 2040, Section 4, 9.06.020(F), which lists the following areas of concern (potential health and safety risks from the indoor cultivation of (cannabis) to those living in the residence...including increased risk of fire, exposure to fertilizers, pesticides, anti-fungus/mold agents, and exposure to property crimes). The proposed Countywide Ordinance requires that indoor commercial cultivation of cannabis be permitted and must be in accordance with all State laws and regulations regarding the cultivation of cannabis. These factors both serve to mitigate any potential risks from fire or exposure to fertilizers, pesticides,



and anti-fungus/mold agents. Additionally, the proposed Ordinance contains security requirements that serve to mitigate any potential risks from exposure to property crimes. According to Ordinance # 2040, there is nothing to mitigate any of these concerns through a Waiver process, and no data has been provided by the Tehama County Department of Environmental Health to support these claims. There is no transparency whether any qualified individuals have applied for, or received such Waivers, since the adoption of Ordinance #2040. Driving the entire cannabis industry underground can only serve to increase every one of these risks, and does nothing to reduce the risks. Logic dictates that any assertions to the contrary should be viewed as baseless and without merit, absent any real evidence. The Findings and Purposes of Ordinance # 2040 provide no such evidence.

**C)** The Findings and Purposes of all previous Tehama County Cannabis Ordinances have nothing to do with any environmental analysis of this proposed Countywide Ordinance, nor with the processing of the Rezone Application. Therefore, they are irrelevant to this discussion;

**D)** In all previous Tehama County Cannabis Ordinances, no published scientific data or peer reviewed studies were ever cited in support of the Findings and Purposes of those Ordinances. Rather, information was pieced together from various opinion pieces and marketing materials produced by individuals, businesses and agencies who profit directly from the prohibition of cannabis ("the prohibition industry"). These amount to nothing more than anti-cannabis propaganda, and hold no weight when observed through the lens of evidence based research. In contrast, the Findings and Purposes contained within the proposed Countywide Ordinance include links to published, reliable sources of information that can be confirmed through independent research. As such, the Applicant submits that the Findings and Purposes contained within the proposed Countywide Ordinance are superior to those produced by Tehama County on this subject, and requests that the Planning Department research all the Application links already provided, as it continues to process this Application;

**E)** The fact that the proposed Countywide Ordinance would repeal all previous Tehama County ordinances relating to the lawful uses of cannabis, does not constitute an environmental impact. Tehama County has repeatedly exempted itself from all environmental impacts associated with the adoption and enforcement of these ordinances. Repealing all these Ordinances will likewise pose no significant environmental impacts.

**8)** In the response letter, the County claims that Applicant is required to provide an Environmental Impact Report, based on the following three factors: That cannabis is still a Schedule I Drug under the federal Controlled Substances Act; that the State of California has passed state laws that allow for licensed and regulated cannabis operations; and that this has somehow led to "multiple, significant environmental and social related problems that impact public services in Tehama County, such as Police/Sheriff/CHP, the Department of Environmental Health, Fire, and other adult or adolescent State and County support services". The Applicant contests each of these claims, as follows:



**A)** The County's response fails to explain how either of these first two factors...the federal scheduling of cannabis, and California's regulation of the cannabis industry...have contributed to any environmental or social problems within Tehama County, or how they have negatively impacted any of the public agencies that the County mentioned. The County has provided no data to support these claims. Additionally, even if any of the local and state agencies that the County mentioned have suffered negative impacts because of these federal or state policies, this has nothing whatsoever to do with the proposed Countywide Ordinance, or the incompleteness status of the rezone Application;

**B)** Such findings are not subject to review under C.E.Q.A. According to Section 15131(a), the economic and social impacts of a project shall not be treated as significant effects to the environment. The only items that fall under C.E.Q.A. review are significant impacts to the environment, and in the response letter, the County fails to state how either federal or state laws regarding cannabis have caused any negative environmental impacts to Tehama County, or to any of the Agencies that the County listed. Even if the County did, this would be a matter between Tehama County and the federal or state governments, and has no bearing on the incompleteness status of the Rezone Application.

**9)** In the County's response letter, the County requests that the Applicant submit a \$20,000 deposit to produce an Environmental Impact Report, before processing of the Rezone Application for a Countywide Ordinance can move forward. The Applicant believes that the request is premature and that the Rezone Application is exempt from C.E.Q.A., for the following reasons:

**A)** This requirement would pre-load the request for a proposal process. The County's actions here are not consistent with the Public Resources Code, as the response has identified no findings of significance that would identify the need for an Environmental Impact report;

**B)** The Application's project description includes (on page 4) a reference to the California Department of Food and Agriculture's "Final Program Environmental Impact Report", which has determined that licensed commercial cannabis cultivation poses no significant environmental impacts. Since the State of California has already undertaken the task of assessing the environmental impacts of licensed cannabis cultivation throughout the state, the Applicant believe that this statewide Environmental Impact Report is sufficient evidence that the proposed Countywide Ordinance likewise poses no significant environmental impacts to Tehama County;

**C)** Additionally, this same "Final Program Environmental Impact Report" determined that the least environmentally impactful method of cannabis cultivation is outdoor cultivation, with mixed light cultivation being slightly more environmentally impactful, and indoor cultivation being the most environmentally impactful. The existing Cannabis Ordinances on the books in Tehama County ban the outdoor cultivation of cannabis, while requiring that even the personal, non-commercial cultivation of cannabis must be conducted indoors. The proposed

Countywide Ordinance, on the other hand, regulates all manner of cannabis cultivation, and allows for the outdoor cultivation of cannabis. This means that the proposed Ordinance is demonstrably less environmentally impactful to Tehama County, than all the cannabis ordinances currently in place;

**D)** Local ordinances are currently exempt from C.E.Q.A. In accordance with “SB 94” and “M.A.U.C.R.S.A.”, California law exempts the adoption of any ordinance or regulation by a local jurisdiction from the California Environmental Quality Act, through July 1 of 2019, if the ordinance or regulation requires discretionary review and the approval of local permits or licenses for commercial cannabis activities. This means that the proposed Countywide Ordinance is likewise exempt from C.E.Q.A.

**10) Conclusions.** In the summary of the County’s response letter, there is a request for three specific items of information from the Applicant before the Planning Department office will continue to process the proposal. The following is response to each of those requests:

**A)** The County has asked the Applicant to modify or explain how the proposed County regulation would be consistent with state law licensing terms regarding proposed Ordinance, Section 17.08.090(A). The Applicant has answered this request completely (see # 3), and believes that the request was made in error;

**B)** The County has asked the Applicant to sign the Environmental Information Form. The Applicant is prepared to do this, at the County’s convenience, so long as this form is something that the Applicant is legally able to sign, and that is applicable to a Countywide Rezone Application;

**C)** The County has asked the Applicant to sign an agreement and pay a \$20,000 deposit for C.E.Q.A. consultant services. The Applicant will not sign this agreement, nor pay \$20,000 to the County, because this is not a factor of project incompleteness under the Public Resources Code or the California Administrative Code guidelines. The Applicant has provided the County with the necessary information to determine that the Project is exempt from C.E.Q.A. requirements or the need to conduct an Environmental Impact report, at this time.

Thank you, Mr. Timboe, for your time and consideration of this very important matter. The Applicant asks the Planning Department to review this letter in full, and to review the Application and Attachments in their entirety. The Applicant contends that enough references have been provided within the public record, for the County to continue to process the Rezone Application, and asks that the Planning Department do so, accordingly. The Applicant believes that his obligations under California and Tehama County laws and regulations have been met and asks the Planning Department to fulfill its duties under those same laws and regulations, at this time.



Please feel free to contact the Applicant, regarding any questions that may arise, and to schedule a convenient time for the Applicant to come in and sign any incomplete documents.

Sincerely,

Jason Browne (Applicant)



P.O. Box 9152, Red Bluff, California 96080

530-736-6801

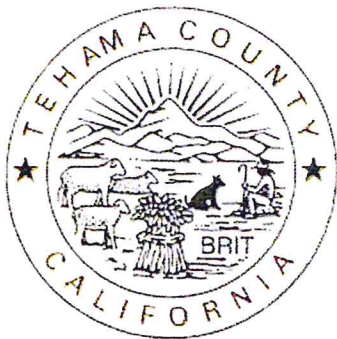
Liz Merry (Representative)



P.O. Box 474, Manton, California 96059

530-228-7347

530-474-3824



# ATTACHMENT C

## PLANNING DEPARTMENT

### COUNTY OF TEHAMA

4.1.d

Courthouse Annex, Room "I"  
444 Oak Street  
Red Bluff, California 96080  
530-527-2200 Telephone  
530-527-2655 Facsimile  
Email: Planning @co.tehama.ca.us

Kristen Maze  
Planning Director

February 13, 2018

Liz Merry  
Representative  
P.O. Box 474  
Manton, CA 96059

**RE: Application Completeness and Process for the Proposed Ordinance (Rezone #17-06); Establishment of Cannabis Cultivation, Distribution, Sales, Manufacturing and Testing Limitations for Personal and Commercial Purposes Countywide**

Dear Ms. Merry,

Thank you for your response to the Tehama County Planning Department's December 11, 2017 incomplete letter. The Planning Department received your letter on January 24, 2018. The letter appears to dispute the Lead Agency's (Tehama County Planning Department) authority and determination that an Environmental Impact Report (EIR) is required without an Initial Study, pursuant to CEQA Guidelines § 15060(d), § 15063(a) and the Tehama County CEQA Procedure Guidelines, Section VIII Environmental Impact Reports.

The Director of Planning, as the lead agency authority, has determined that an EIR is required for this proposed rezone Initiative (quasi-legislative act) based on several factors that were identified during the preliminary review done December 1- December 11, 2017. During the review with the different Tehama County departments and other responsible agencies, the factors identified included the 1.4 million acres of land within the affected zone districts. This could significantly impact public services and cause land use conflicts as stated in the Board of Supervisors latest findings (Ordinance No. 2040 adopted 5-2-17). Based on these findings, the impacts on crime, fire hazards, life, health, safety, and welfare are evidence of social or economic significant impacts on the County.

The proposed physical introduction of cannabis on approximately 1.4 million acres of land is considered substantial evidence pursuant to CEQA Guidelines §15064(e), which states "If the physical change (introduction of cannabis in one form or another) causes adverse economic or social effects on people, those adverse effects may be used as a factor in determining whether the physical change is significant." In addition, the proposed project could have significant physical effects on the environment pursuant to CEQA Guidelines §15064(d). The countywide rezone initiative would cause a physical change by introducing cannabis through the planting, cultivation, presence, distribution, sales, manufacturing and testing limitations for personal and commercial purposes on up to 1.4 million acres of land

Attachment: Rezone 17-06 Cannabis Ordinance CEQA Procedure Hearing February 13, 2018 Planning Dept. Letter Attachment C (12526 :



within the proposed zone districts. This could cause adverse economic or social impacts on people, as well as significant effects on public services and land use. This 1.4 million acres includes all of the lands affected by the zone districts that are specifically identified within the proposed ordinance (See Attachment A, Project Description Chart). This table does not include city and government (State/Federal) jurisdictional lands. The Breakdown of those zones and their acreage are as follows;

- Airport (AV-Dwellings 17.08.090(H) only ;44 acres),
- Agricultural (AG-1 through 4; 1,038,232 acres),
- Commercial (C-1 through 4 with various combining districts; 3,817 acres),
- Industrial (M-1 and M-2 with various combining districts; 2,947 acres),
- Natural Resource and Primary Flood (NR and PF-Dwellings 17.08.090(H) only; 55,780 acres),
- Public Agency (PA-Non-City/State/Federal Lands-Dwellings 17.08.090(H) only; 1,630 acres),
- Planned Development (PD; 2,302 acres),
- Residential One-Family (R-1 with various combining districts; 46,144 acres),
- Multi-Family Residential; includes R-2, R-2-MH, R-3 and R-4 Districts; 162 acres),
- Residential Estates (RE with various combining districts; 18,181 acres),
- Sun City Special Plan; Master Planned Community (SCSP-Dwellings 17.08.090(H) only; 3,408 acres),
- Timber Production Zone (TPZ-Dwellings 17.08.090(H) only; 239,477 acres).

Dwellings can be or are permitted in all of the zoning districts above.

Some of the zone district lands contain permitted dwelling units, which would be allowed to cultivate cannabis for personal indoor recreational and medicinal purposes as a right (Proposed Ord. Section 17.08.090(H)), without a waiver on a case by case basis as currently required pursuant to Tehama County Ordinance 2040. The 2014-2019 Tehama County Housing Element, adopted by the Board of Supervisors on September 30, 2014, states on pages 1-6 that 18,218 households or dwelling units are constructed in the unincorporated area of Tehama County. Since this information has been adopted by the County, it is considered substantial evidence regarding the accepted number of households or dwelling units within Tehama County that would be affected by the proposed rezone initiative Section 17.08.090(H).

The applicants speculation regarding the number of legal/illegal tenant occupancies, illegal citizen occupied dwellings, etc. needs actual data that is considered substantial evidence pursuant to CEQA Statute § 21082.2(a)&(c). Please provide substantial fact based numbers and specific evidence of your assertions for the County to consider. Regardless, if the rezone initiative is adopted, anyone of the permitted dwellings within the County are eligible for the cultivation of personal indoor recreational and medicinal cannabis as long as they comply with the current established laws.

Although the state of California recognizes cannabis as “agriculture”, it is not considered to be an “agricultural crop”. The use of a pesticide for the cultivation of medical marijuana falls under the broad definition of “agricultural use” in the Food & Agricultural Code (FAC § 11408), the California Department of Food and Agriculture has taken an official position that marijuana/cannabis is not an agricultural crop at this time. As with other outdoor agricultural products that emit noxious and/or offensive odors, such as dairy farms, the County may



regulate these uses through a conditional use permit process and/or prohibit them in some of all zone districts.

The EIR referenced in your response letter is a program level EIR, where the study and analysis only considers the environmental impacts of licensed cannabis cultivation activities conducted in accordance with the Proposed Program. Based on the review of the state level analysis the study for public services, among other sections of the report reveals a lack of detailed analysis or no analysis of Tehama County. The following statements from the document demonstrate the vague manner in which the States program level EIR addressed local level government services and settings for public services:

4.11.3 Environmental Setting/ Fire Protection and Emergency Service/ Local Government Fire Departments "In most areas of the state where cannabis cultivation could occur under the Proposed Program, fire protection would primarily be the responsibility of the local city or county fire department. The resources of these local fire departments vary throughout California." Page 4-11.3 [California Department of Food and Agriculture June 2017 Cal Cannabis Cultivation Licensing Project No. 16.015 Draft PEIR]

4.11.3 Environmental Setting/ Police Protection/ Local Government Fire Departments "In unincorporated areas within California, police protection service is typically provided by the county sheriff's department. These county departments often cover large, sparsely populated areas and, therefore, have longer response times for their service areas than their city counterparts." Page 4-11.4 [California Department of Food and Agriculture June 2017 Cal Cannabis Cultivation Licensing Project No. 16.015 Draft PEIR]

The EIR required for this rezone initiative must provide information specific to Tehama County and the significant effects of the introduction of state/local permitted/licensed, personal indoor/outdoor cultivation, sales, distribution, possession etc. will have on the unincorporated area of Tehama County. The State Program EIR is not legally defensible for the proposed rezone initiative at a local level of analyses, it simply does not provide enough relevant detailed data specific to Tehama County nor does it analyze the impacts of local program related personal and/or recreational cultivation. In fact, even the States Program EIR documents the increase in criminal activity related to the presence of cannabis "On balance, the information contained in the literature and from available news stories suggests that cannabis cultivation is potentially at elevated risk for crime" Page 4-11.7 [California Department of Food and Agriculture June 2017 Cal Cannabis Cultivation Licensing Project No. 16.015 Draft PEIR]. Furthermore, the States Program EIR indicates that local law enforcement could become strained or significantly impacted by entities seeking new cannabis cultivation businesses under the program, which does not even take into account the personal recreation and/or medicinal indoor/outdoor cultivation proposed in this rezone initiative. The Program EIR states "In areas of California that would experience a large number of new cannabis cultivation businesses under the Proposed Program, it is possible that existing police protection services could be strained to provide resources beyond their existing capacities." Page 4-11.9 [California Department of Food and Agriculture June 2017 Cal Cannabis Cultivation Licensing Project No. 16.015 Draft PEIR]. For these reasons and as an example of the information specific to Tehama County that is needed, the County will require the following information for a base line analysis, along with other additional environmental data.



Pursuant to Procedures for Preparation and Processing of Environmental Documents (CEQA) Section I. Introduction C. Project Application subsections 3, In order to proceed with an environmental analyses regarding public services, County staff will need the number of cannabis related code enforcement (Health Dept./Fire Dept.) charges for the past five years, and criminally related cannabis law enforcement cases for the past five years.

Even though the States Program EIR doesn't specifically correlate the increase in criminal activity with the proposed physical change through the planting, cultivation, presence, distribution, sales, manufacturing and testing limitations for personal and commercial purposes on up to 1.4 million acres of land within Tehama County's proposed zoning districts, it may causes adverse economic or social effects on people, as well as significant effects on public services and create land use conflicts. The information above continues to support the County's position and requirement of an EIR pursuant to CEQA Guidelines §15064(e) and (d). Therefore, based on all the proposed application and the size of the area that will be introduced to cannabis in one form or another, the County is confident that an EIR is appropriate at this time.

The Master Planning Department Application for your project consists of two parts:

- Part 1: The land use, project description and applicant/property owner information and acknowledgements,
- Part 2: Environmental Information Form that includes project information required to support, process, and proceed with the discretionary request (Ordinance; Rezone #17-06).

The Environmental Information Form needs to be signed by the applicant in order the project to be considered complete. The CEQA Environmental Agreement for the related consultant and service fees is required prior to moving forward with the proposed project. The County requires a deposit of \$20,000 and a signed agreement to cover the initial cost of the services. As per the Tehama County CEQA Procedure Guidelines Section I. Introduction (C) Project Application (1)(c), The application for filing shall include "the appropriate environmental fee as set forth on the County's fee schedule." All lead agencies preparing EIRs may charge and collect a reasonable fee to recover the estimated costs incurred in preparing the EIR (14 California Code of Regulations §15045).

The EIR will be conducted by a third party and subject to a reimbursement agreement and deposit(s) prior to the project moving forward in the process [Tehama County's CEQA Procedure Guidelines Section VIII. EIRS (G) Consultant Selection Procedure for Private Projects (1) & (2)]. Should the applicant refuse to enter into such an agreement, the County may schedule the project for a hearing with a recommendation of disapproval without prejudice. The applicant may request the Planning Commission to consider the proposed project as is and be recommended for approval to the Board of Supervisors with a CEQA Exemption. The force of these requirements is vested in CEQA Statute § 21082.

A third party consultant will prepare all aspects of the EIR, of which the associated consultant cost will be reimbursed and required before the proposed project can move forward through the public review process. As stated above, this requirement for a consultant to prepare an EIR for the rezone initiative will take the form of a written agreement between the applicant and the Tehama County Board of Supervisors, and a \$20,000 deposit for the consultant services will be required at the time of approval and signing by the Board of Supervisors or within 10 business days of the date of Boards approval. Once the agreement has been signed by both parties and the deposit amount of \$20,000 dollars is received, the Planning Department will start the Request for Proposal (RFP) process that will ultimately result in the selection of a consultant. At that time, the applicant will be notified of the CEQA consultants



full cost estimate and another deposit will be required to submit before hiring the project consultant in the amount of \$60,000. Once the CEQA consultant is hired an additional amount of \$20,000 is required upon receiving the consultant's first invoice. The applicant is responsible for the full cost of the consultant's fees for the project as it moves through the public review process.

This letter acts as further notification that the application is considered incomplete until such time as the Environmental Information Form is signed by the applicant, and that the project will not move forward through the project review process until the Environmental deposit fees associated with the EIR consultants reimbursement agreement are submitted to the County according to the terms of the agreement as noted above. Since the applicants letter dated January 24, 2018 does not appear to support an EIR for this proposed rezone initiative or the agreement deposit terms, the applicant has 15 days from the date this letter is mailed to submit a written appeal of these requirements. The appeal shall be in the form of a letter that outlines the reasons why the EIR should not be required. This appeal shall be heard by the Board of Supervisors pursuant to Tehama County's CEQA Procedure Guidelines Section VIII. EIRS (D) Appeals. We look forward to working with you on this proposed project. Please do not hesitate to contact me or Kristen Maze if you have any questions.

Regards,



Scot Timboe  
Planner III

Cc: Jason Browne P.O. Box 9152 Red Bluff, CA 96080  
Tehama County Board of Supervisors  
Tehama County Counsel

**ATTACHMENT A**  
**REZONE NO. 17-06-COUNTYWIDE PROJECT DESCRIPTION CHART**  
**EFFECTED TEHAMA COUNTY ZONING DISTRICTS**

ZONING DISTRICT CATEGORY	ACRES	PARCEL ESTIMATE
Proposed Ordinance Section 17.08.090(A)Pg.12 <b>Personal and Collective Outdoor Cultivation</b>		
<b>AG-1,AG-2,AG-3,AG-4, RE AND R-1 DISTRICTS NO CONDITIONAL USE PERMIT</b>	1,102,557	29,857
Proposed Ordinance Section 17.08.090(B)(1)Pg.13 <b>Commercial Outdoor Cultivation; Specialty Cottage exceeding 5 acres in areas classified as Rural Large Lot and Rural Small Lot and Designated R-1</b>		
<b>R-1 DISTRICTS WITH CUP/AREA LESS THAN 2,500 SF</b>	54,409	3,561
Proposed Ordinance Section 17.08.090(B)(2)Pg.13-14 <b>Specialty, Small and Medium Outdoor, Nursery, Processor and Producing Dispensary Meeting Sections 26050 and 26062 of the BPC</b>		
<b>AG-1,AG-2,AG-3,PD,M-1 AND M-2 DISTRICTS WITH CUP/5,000 SF TO 1 AC.</b>	1,030,502	11,853
Proposed Ordinance Section 17.08.090(C)Pg.14 <b>Commercial Outdoor Cannabis Cultivation for Hemp Production Purposes</b>		
<b>AG-4 DISTRICT (COMMUNITY OF CAPAY) WITH CUP NOT LESS THAN 5 AC.</b>	12,979	300
Proposed Ordinance Section 17.08.090(D)Pg.15 <b>Commercial Distribution and Sales of Cannabis for Recreational and Medicinal Purposes (Retail Sales)</b>		
<b>C-1,C-2,C-3,C-4,PD,M-1 AND M-2 DISTRICTS WITH CUP</b>	9,066	1,101
Proposed Ordinance Section 17.08.090(E)Pg.15 <b>Commercial manufacturing on Non-Volatile Cannabis Plant Conversion for Recreational and Medicinal purposes and Testing Laboratories</b>		
<b>C-2,C-3,PD,M-1 AND M-2 DISTRICTS WITH CUP</b>	1,869	960
Proposed Ordinance Section 17.08.090(F)Pg.15 <b>Commercial Manufacturing of Volatile Marijuana Plant Conversions for Recreational and Medicinal purposes</b>		
<b>M-1 AND M-2 DISTRICTS WITH CUP</b>	2,947	298
Proposed Ordinance Section 17.08.090(G)Pg.16 <b>Outdoor Cannabis Cultivation, Distribution and Sales <u>PROHIBITED</u></b>		
<b>R-2,R-3, R-4, G-R,AV,PF, PA,NR, FS, AND TPZ DISTRICTS PROHIBITED</b>	297,610	NA
Proposed Ordinance Section 17.08.090(H)Pg.16 <b>Personal Indoor Cannabis Cultivation for Recreational and Medicinal Purposes (NO CUP)</b>		
<b>Indoor Personal Cultivation allowed in all Permitted Dwellings-18,218* (House Elem. Est. 0.06% Growth)</b>		
Proposed Ordinance Section 17.08.090(I)Pg.16 <b>Commercial Indoor Cannabis cultivation for Recreational and Medicinal Purposes (WITH CUP)</b>		
<b>Indoor Commercial Cultivation allowed in M-1 and M-2 Districts-248 structures (Est. 0.0 to 0.1% Growth)</b>		
* US CENSUS 2013 Dwelling Estimate 18,218 or Planning Dept. GIS (Zoning, Structure and General Plan Layers).		
Acerages above will not add up to the 1.4 million acres referenced in the content of the letter due to the overlapping zoning districts and the applicants specifically located proposed uses.		

Attachment: Rezone 17-06 Cannabis Ordinance CEQA Procedure Hearing February 13, 2018 Planning Dept. Letter Attachment C (12526 :



**Scot Timboe**

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**From:** Christina Nunez  
**Sent:** Thursday, April 26, 2018 1:02 PM  
**To:** Kristen Maze; Scot Timboe  
**Subject:** FW: Planning Commission Request

FYI...

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**From:** Liz Merry [mailto:lizmerry58@gmail.com]  
**Sent:** Thursday, April 26, 2018 12:10 PM  
**To:** Christina Nunez <CNunez@co.tehama.ca.us>  
**Subject:** Planning Commission Request

Dear Planning Commission,

On December 1, 2017, Jason Browne and I filed a Rezone Application with the Tehama County Planning Department. After much back and forth communication, we appear to have come to an impasse. The Department insists we pay tens of thousands of dollars for an EIR, while we are of the opinion that any EIRs would be connected to the related Use Permits that might be filed as a result of this Rezone being adopted. Mr. Timboe at the Department has been very helpful and suggested we bring the matter before the Commission.

We are requesting the Planning Commission consider this Rezone, hold public hearings so we can have input from the community, and come up with an equitable solution.

Thank you for your time and service,  
Elizabeth A. Merry  
530-228-7347



# ATTACHMENT E

## PLANNING DEPARTMENT COUNTY OF TEHAMA

4.1.f

Courthouse Annex, Room "I"  
444 Oak Street  
Red Bluff, California 96080  
530-527-2200 Telephone  
530-527-2655 Facsimile  
Email: Planning @co.tehama.ca.us

Kristen Maze  
Planning Director

April 26, 2018

Liz Merry  
Representative  
P.O. Box 474  
Manton, CA 96059

**RE: Planning Commission Public Hearing for the Proposed Ordinance (Rezone #17-06); Establishment of Cannabis Cultivation, Distribution, Sales, Manufacturing and Testing Limitations for Personal and Commercial Purposes Countywide**

Dear Ms. Merry,

The application Environmental form has been signed and the rezone application is considered complete as February 22, 2018. However, as indicated previously the project is at a standstill until the reimbursement agreement for the Environmental Impact Report (EIR) is signed and a deposit is received. Once these steps have been satisfied an independent environmental consultant can be retained to start collecting information and analyzing the data in a manner that complies with the CEQA review and process.

Based on our last correspondence regarding the reimbursement agreement on February 13, 2018, an option to appeal the EIR agreement terms with the Board of Supervisors is no longer available because the 15 day time period for such a request has lapsed. However, the Director of Planning still retains the option to move forward with the proposed Ordinance as is and without a formalized reimbursement agreement to the Planning Commission for denial. As indicated in the last correspondence dated February 13, 2018, the hearing at the Planning Commission would be based on the lack of qualified CEQA information and documentation to move forward with the EIR review and preparation process. This ultimately would lead to public review and consideration before the Board of Supervisors. Since, the current project lacks the necessary documentation and CEQA review process pursuant to the Tehama County's CEQA Procedure Guidelines Section VIII. EIRS (G)(1), the Planning Department recommendation to the Planning Commission would be disapproval without prejudice pursuant to CEQA Statute § 21082.

Attachment: Rezone 17-06 Cannabis Ordinance CEQA Procedure Hearing April 26, 2018 Planning Dept. Letter Attachment E (12526 : Rezone



**Next Steps:**

The first options appeal period has already expired (15 Days) pursuant to Tehama County's CEQA Procedure Guidelines Section VIII. EIRS (D) Appeals. However, the second option, which includes a date certain with the Planning Commission at a noticed public hearing would be our next step in the projects process now that it appears the County and applicant are at an impasse regarding the terms, and conditions of the required EIR reimbursement agreement.

The CEQA Environmental Agreement for the related consultant and service fees is required prior to moving forward with the proposed project unless the Director proceeds to a public hearing with the Planning Commission and recommends disapproval without prejudice. The County requires a deposit of \$20,000 and a signed agreement to cover the initial cost of the services. As indicated in the Tehama County CEQA Procedure Guidelines Section I. Introduction (C) Project Application (1)(c), The application for filing shall include "the appropriate environmental fee as set forth on the County's fee schedule." All lead agencies preparing EIRs may charge and collect a reasonable fee to recover the estimated costs incurred in preparing the EIR (14 California Code of Regulations §15045).

Since, this project is deemed complete and the application fee for the Rezone has been paid for, staff believes it is in both parties interest to begin the public hearing process regarding the proposed ordinance. Staff is considering a tentative Planning Commission date for the proposed project outlined above on, June 7, 2018. We look forward to working with you, please do not hesitate to contact me or Kristen Maze if you have any questions.

Regards,



Scot Timboe  
Planner III

Cc: Jason Browne P.O. Box 9152 Red Bluff, CA 96080  
Tehama County Board of Supervisors  
Tehama County Counsel