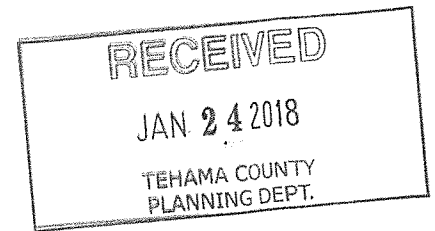


January 24, 2018

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:

**1)** 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;

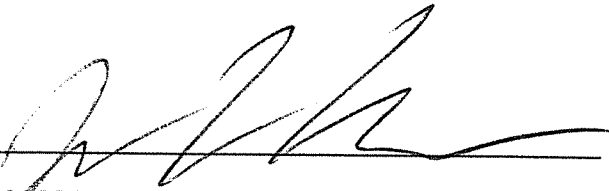
**C)** The County has asked the Applicant to sign an agreement and pay a \$20,000 deposit for C.E.Q.A. consultant services. The Applicant will not sign this agreement, nor pay \$20,000 to the County, because this is not a factor of project incompleteness under the Public Resources Code or the California 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,

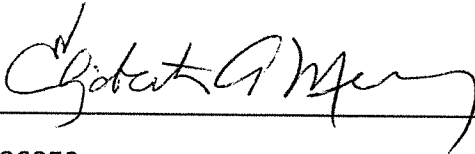
Jason Browne (Applicant)

A handwritten signature in black ink, appearing to read 'Jason Browne', written over a horizontal line.

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

530-736-6801

Liz Merry (Representative)

A handwritten signature in black ink, appearing to read 'Liz Merry', written over a horizontal line.

P.O. Box 474, Manton, California 96059

530-228-7347

530-474-3824