

**TRINITY COUNTY PLANNING COMMISSION**  
**STAFF REPORT**

**PLANNER:** Drew Plebani, Cannabis Division Director

**PROJECT DESCRIPTION:**

The purpose of this agenda item is for the Planning Commission to make a recommendation to the Board of Supervisors to adopt an ordinance amendment of Trinity County Code (TCC) Title 17. Section (§) 17.43.050 (A)(8) to exchange the term 'cultivation' to 'canopy'. Section (§) 17.43.050(A)(9) was added to clarify the property line setback requirement for medium licenses. Section (§) 17.43.051 was added to convert the existing Commercial Cultivation Variance (CCV) process to an Administrative Buffer Reduction – Director’s Use Permit.

**BACKGROUND DISCUSSION:**

December 28, 2020, Ordinance number 315-849 was adopted to incorporate mitigations of the Certified Programmatic Environmental Impact Report (PEIR) in addition to specific regulations for the cultivation of cannabis in Trinity County, including Section 17.43.050 — Limitation on location to cultivate cannabis.

Planning Staff had previously interpreted the word "cultivation" contained in 7.43.050(A)(8) to mean "canopy". In early 2022, staff changed the interpretation to reflect setback measurements from sensitive receptors be performed based on the elements identified in the definition of "cultivation". Related definitions of referenced terms per TCC (§) Section 17.43.010:

*"Canopy" means the designated area(s) at a licensed premise that will contain mature plants at any point in time. This definition is intended to mirror the definition of "canopy" as defined by the State of California, or as may be amended.*

*"Cultivation" means the planting, growing, harvesting, drying or processing of cannabis plants or any part thereof.*

**DISCUSSION:**

Trinity County Zoning Code Section 17.43.050 (A)(8) states:

*"For specialty cottage, specialty and small licenses **cultivation** shall not be allowed within three hundred fifty feet of a residential structure on any adjoining*

*parcels. For medium licenses, cultivation shall not be allowed within five hundred feet of an adjacent property line. Applications for a variance from this provision will be considered by the Trinity County Planning Commission. After obtaining an initial variance, the planning director can issue a director's use permit for subsequent years after an inspection."*

The above-referenced code section established the 350ft residential setback that requires cultivation sites to be at least 350ft from a legal residential structure, or apply for a commercial cannabis variance.

Staff believes that the intent of the residential setback was to reduce the exposure of adjacent or nearby receptors (e.g., residences, schools etc.) to odors associated with mature cannabis, or canopy, and not from accessory structures that contain processing or harvesting activities, as included in the definition of 'cultivation'. Based on significant review of the PEIR, specifically Impact 3.3-3 which states:

*"All fully enclosed and secure structures that contain cannabis plants or products that generate odors will employ mechanical ventilation controls, carbon filtration, or other equivalent or superior method(s) to eliminate the detection of cannabis off the parcel. This will include all drying and processing of cannabis plant material recently harvested."* Effectively this means that odors generated during the post-harvest phases will be eliminated or significantly reduced via the use of mechanical ventilation and odor controls.

On January 11, 2024 at a regular meeting of the Planning Commission a discussion/ study session of CCV process and Board of Supervisors Resolution 2023-071 (Project# DEV-24-01) was presented, public comment was received, and discussion was had by the Commissioners. The following recommendations were made by the Planning Commission:

- Update TCC chapter 17.43.050(A)(8) to replace the term "cultivation" with "canopy" and,
- Propose that the existing Commercial Cultivation Variance (CCV) process be converted to an Administrative Buffer Reduction - Director's Use Permit.

As a result of the Planning Commission's recommendations, updates to TCC 17.43.050 were discussed with the Cannabis Ordinance Ad Hoc committee and the proposed changes are as follows:

Definition of referenced terms per TCC (§) Section 17.43.010:

"Canopy" means the designated area(s) at a licensed premise that will contain mature plants at any point in time. This definition is intended to mirror the definition of "canopy" as defined by the State of California, or as may be amended.

"Cultivation" means the planting, growing, harvesting, drying or processing of cannabis plants or any part thereof.

Code sections to be amended/ added with reflected track changes:

TCC (§) Section 17.43.050(A)(8): For specialty cottage, specialty and small licenses cultivation canopy shall not be allowed within three hundred fifty feet of a residential structure on any adjoining parcels. For medium licenses, cultivation shall not be allowed within five hundred feet of an adjacent property line. Applications for a variance from this provision will be considered by the Trinity County Planning Commission. After obtaining an initial variance, the planning director can issue a director's use permit for subsequent years after an inspection. Applications for an Administrative Buffer Reduction – Director's Use Permit will be considered by the Trinity County Planning Director.

TCC (§) Section 17.43.050(A)(9): For medium licenses, cultivation shall not be allowed within five hundred feet of an adjacent property line. Applications for a variance from this provision will be considered by the Trinity County Planning Commission.

TCC (§) Section 17.43.051 Cannabis Land Use Buffer Reductions

A. Buffer Reductions. When deliberating a Cannabis License application, a reduction from the required three hundred fifty foot distance from an adjacent legal residential structure on any adjoining parcels may be considered by the Planning Director, when the following criteria is met:

1. That the applicant has submitted an application for and has provided documented justification for the requested buffer reduction.
2. That there are special circumstances unique to the properties in question that would reasonably allow a buffer reduction.
3. That the buffer reduction would not result in harm to the public health, safety, or welfare and nearby land uses.
4. During the review of the documentation submitted, a Notice of Application will be sent to affected property owners providing information about the application(s) and identifying the following: 1) the date/time that the Planning Director will take action on the application; and 2) the date/time when comments must be submitted to the County to be considered by the Planning Director prior to taking action. County Code Section 17.32.080 (Authority – Planning Director) states that the planning director may, at their direction, schedule for hearing by the commission any application for a planning director's use permit. If affected property owners disagree with a decision of the director, they may appeal it to the PC per County Code Section 17.34.110(A).
5. The following situations are considered exceptions from the required three hundred fifty foot distance from an adjacent legal residential structure:

- a. Canopy that is less than the required three hundred fifty foot distance from an adjacent residential structure that is under identical ownership of that of the licensee.
- b. Canopy that is less than the required three hundred fifty foot distance from an adjacent parcel, with a legal residential structure, that has a cultivation license.
- c. Canopy that is found to be less than the three hundred fifty foot distance from an adjacent legal residential structure due to new construction on an adjacent property, since issuance of the original cannabis license and not under ownership of the licensee.

The criteria for amending Title 17 (Trinity County Zoning Code) is provided by Section 17.35.030. This Section provides the opportunity for the Board of Supervisors or Planning Commission to direct staff, via resolution, to bring updates and proposed revisions for review by the Planning Commission. The Planning Commission may then make recommendations to the Board of Supervisors.

#### **ENVIRONMENTAL DETERMINATION:**

California Environmental Quality Act (CEQA) under the General Rule exemption 15061(b)(3) which exempts activities where it can be seen with certainty that there is no possibility of causing a significant effect on the environment.

#### **RECOMMENDATION:**

Staff recommends that the Planning Commission:

1. Conduct a public hearing.
2. Close the public hearing.
3. Make a recommendation that the Board of Supervisors:
  - a. find that the amendments to Chapter 17.43.050 of the Trinity County Code is not subject to California Environmental Quality Act (CEQA) under the General Rule exemption 15061(b)(3) which exempts activities where it can be seen with certainty that there is no possibility of causing a significant effect on the environment; and
  - b. approve an ordinance to amend TCC (§) Section 17.43 of the Zoning Code of the County of Trinity as described in this staff report.

#### **ALTERNATIVES:**

1. The Planning Commission may request continuance for additional information.
2. The Planning Commission may recommend amending the request with modifications.
3. The Planning Commission may deny the requested modifications.

**ATTACHMENTS:**

1. Zoning Code Section 17.43.050

## 17.43.050 - Limitation on location to cultivate cannabis.

- A. Applications will not be approved for cultivation of cannabis in any amount or quantity, in the following areas:
1. Within one thousand feet of a youth-oriented facility, a school, any church, or residential treatment facility as defined herein.
  2. Within five hundred feet of an authorized school bus stop.
  3. A legal parcel without a legal dwelling, or without an active building permit.
  4. Timber production zones (TPZ) with the exception made for qualified Phase I applicants (persons or entities who completed enrollment in the NCRWQCB Order #2015-0023 in reference to a Trinity County-based operation by August 1, 2016).
  5. Residential 1 (R1), residential 2 (R2), or residential 3 (R3) zones.
  6. Within the Trinity County jurisdiction of the Whiskeytown-Shasta-Trinity National Recreation Area and within the lease lots within the Ruth Lake Community Services District.
  7. Within the legal boundaries of the Weaverville Community Services District, Coffee Creek Volunteer Fire District and Trinity Center Community Services District, Bucktail Subdivision and within the following area of the Lewiston Community Services District: Mt. Diablo Meridian, Township 33N, Range 8W, Sections 17, 18, 19, 20, and Mt. Diablo Meridian, Township 33N, Range 9W, Section 24, 13, which are in proximity to high density areas, and therefore, create a substantial risk of a public nuisance. An exception to this limitation is allowed for applicants who have submitted an application for enrollment under NCRWQCB Order #2015-0023 by the following dates:
    - Weaverville Community Services District by December 31, 2016;
    - Lewiston Community Services District by January 15, 2017;
    - Coffee Creek Volunteer Fire District and Trinity Center Community Services District by November 30, 2017.
  8. For specialty cottage, specialty and small licenses cultivation shall not be allowed within three hundred fifty feet of a residential structure on any adjoining parcels. For medium licenses, cultivation shall not be allowed within five hundred feet of an adjacent property line. Applications for a variance from this provision will be considered by the Trinity County Planning Commission. After obtaining an initial variance, the planning director can issue a director's use permit for subsequent years after an inspection.

( Ord. No. 315-849, § 1, 12-28-2020)