

**TRINITY COUNTY PLANNING COMMISSION  
STAFF REPORT**

**APPLICANT:** Trinity County Planning Department

**REPORT BY:** County Consultant SHN

**LOCATION:** Countywide

**PROJECT DESCRIPTION:**

The Trinity County Planning Department is requesting the Planning Commission to make a Determination of Similar Use for Craft Brewing activities in the General Commercial (C-2) zoning district, with or without a Conditional Use Permit, pursuant to Sections 17.21.020 (Uses permitted) and 17.30.010 (Ambiguity) of the Trinity County Zoning Code.

The Planning Department is also requesting the Planning Commission to provide direction on how Trinity County Zoning Code Section 17.30.020 (Use) should be interpreted. This relates to the interpretation of what constitutes a residential district and the applicability of this section to a restaurant with a bar.

**PROJECT INFORMATION:**

The request for a Determination of Similar Use was prompted by a member of the public proposing the establishment of a craft brewery with a restaurant and bar in the General Commercial (C-2) zoning district. While reviewing the proposal, Planning Department Staff also found some ambiguity in the intent of Section 17.30.020 (Use) of the Trinity County Zoning Code.

**PROJECT EVALUATION/DISCUSSION:**

**Craft Brewery Use Type in the C-2 Zoning District:** The C-2 zoning district (Chapter 17.21 of the Trinity County Zoning Code) contains a list of uses that are principally permitted (allowed by right) and conditionally permitted (allowed with a Conditional Use Permit or CUP). A "Restaurant without drive-thru service" and a "Bar" are principally permitted uses in the C-2 district. A craft brewery is not listed as either a principally or conditionally permitted use in the district. However, the section of the C-2 district that lists principally permitted uses (Section 17.21.020) contains a use type that states the following: "Other uses found to be similar as determined by the planning commission."

As such, this section allows the Planning Commission to determine whether other uses not specifically listed as principally permitted, should be allowed in the district without a CUP.

A craft brewery is a manufacturing type use and has the potential to result in off-site impacts related to noise from the use of equipment outdoors (e.g., fork-lifts) and odors from the brewing process. The list of principally permitted uses in the C-2 district are use types that generally do not include manufacturing type uses, such as offices, retail sales and services, bed and breakfast inns, auto service stations and repair shops, laundromats, car wash, theaters, small hotels/motels, etc. The list of conditionally permitted uses in the C-2 district does include manufacturing type uses, or uses with a greater potential for off-site impacts, such as a "Welding or machine shop", "Lumber yard", "Contractors yard", or "Recycling with outdoor storage." As such, based on the types of uses allowed by right (principally permitted) or with a CUP (conditionally permitted) in the C-2 district, a craft brewery is more similar to the conditionally permitted uses. However, the section of the C-2 district that lists conditionally permitted uses (Section 17.21.030) does not contain the following language: "Other uses found to be similar as determined by the planning commission." As such, there is not a clear process in the C-2 zoning district for a Determination of Similar Use for conditionally permitted uses.

Section 17.30.010 (Ambiguity) of the Trinity County Zoning Code provides a process by which this type of ambiguity in the Zoning Code may be resolved. This section states the following:

"17.30.010 - Ambiguity.

If any ambiguity arises concerning the appropriate classification of a particular use within the meaning and the intent of this title, or with respect to matter of height, area requirements or zone requirements as set forth herein, the planning commission shall ascertain all pertinent facts, and by resolution set forth its findings and interpretations and thereafter such interpretation shall govern. Similar use, as used in this title, means the same character of use and no less restricted in nature, i.e., generates no more traffic, parking, dust, noise, etc., and if retail uses are specified, "similar" means retail."

This section provides a process for the Planning Commission to consider whether a craft brewery should be allowed as a conditionally permitted use in the C-2 zoning district.

Due to the nature of craft brewery type uses, and the fact that a craft brewery is not specifically similar to the principally permitted uses in the C-2 zoning district, it is recommended that the Planning Commission find the craft brewery use type to be similar to the conditionally permitted uses in the C-2 district. This would require all craft brewery uses proposed in the C-2 district throughout the County to obtain a Conditional Use Permit. This would also allow for notification to the public, a public hearing before the Planning Commission, review under the California Environmental Quality Act, and

for conditions and mitigations to be required of a craft brewery project to address any potential impacts.

**Definition of Residential District in Section 17.30.020(A):** As noted above, Planning Department Staff is also requesting the Planning Commission to provide direction on how Trinity County Code Section 17.30.020 (Use) should be interpreted. This section contains a list of uses that possess unique characteristics and are allowed with a Use Permit, in accordance with Chapter 17.32 (Use Permits), subject to specified criteria. The particular section of interest is subsection A, which states the following:

“When any of the following uses are to be established closer than two hundred feet to the boundary of any residential district: Dance hall, road house, night club, commercial club, or any establishment where liquor is served, or any commercial place of amusement or recreation, or any place where entertainers are provided.”

Per subsection A, if any of the listed uses are within 200 feet of a residential district, then a CUP is required. The question that Planning Department Staff has for the Planning Commission is what constitutes a residential district, since it is not specifically defined in the Zoning Code. The clearest interpretation is that a residential district is a residential zoning district such as the Single-Family District, Rural Residential District, or Multiple Family District. By this interpretation, the uses listed in subsection A would only require a CUP if the use was located within 200 feet of a residential zoning district.

However, what about scenarios where a legal residential use is located on a property that is not within a residential zoning district. These residential uses would not be afforded the same protections under the Zoning Code because they are not located within a residential zoning district. This ultimately speaks to the intent of this section of the Zoning Code. Is subsection A only intended to provide additional scrutiny of projects near a residential zoning district, or near legal residential uses in general, regardless of what zoning district they are located in? This is the question in which the Planning Commission is being asked to provide direction. As noted above, Section 17.30.010 (Ambiguity) of the Trinity County Zoning Code provides a process by which this type of ambiguity may be resolved.

To provide an interpretation that would be the most protective of residential uses in the County, it is recommended that the Planning Commission find that the definition of residential district in Section 17.30.020(A) include any property that contains a legal residential use. For the purposes of determining whether a use is within 200 feet of a residential district, it is recommended that the distance be measured from the property line of the property containing the legal residential use to the boundary of the proposed use (structure containing the use or other outdoor activity areas where the use will take place).

**Applicability of Section 17.30.020(A) to a Restaurant with a Bar:** Although not specifically listed, a restaurant with a bar could also be considered to be similar to the

use types listed in subsection A, and therefore would require a CUP if it were within 200 feet of a residential district. As such, the Planning Commission is being asked to determine whether a restaurant with a bar should be subject to the requirements of subsection A. As noted previously, Section 17.30.010 (Ambiguity) of the Trinity County Zoning Code provides a process by which this type of ambiguity may be resolved.

To provide an interpretation that would be the most protective of residential uses in the County, it is recommended that the Planning Commission find that a restaurant with a bar is subject to Section 17.30.020(A).

**STAFF RECOMMENDATION:**

Staff recommends the Planning Commission adopt Resolution PC-2019-01 finding the following:

- A) Craft brewery type uses are similar to the other conditionally permitted uses in the General Commercial (C-2) zoning district, and shall be required to obtain a Conditional Use Permit from the Planning Commission.
- B) The definition of residential district in Section 17.30.020(A) of the Trinity County Zoning Code shall include any property that contains a legal residential use.
- C) Restaurants with a bar are similar to the other uses in Section 17.30.020(A) of the Trinity County Zoning Code, and are therefore subject to the requirements of this section.

**RESOLUTION NO. PC-2019-01**

**A RESOLUTION OF THE PLANNING COMMISSION  
OF THE COUNTY OF TRINITY**

**(PW-18-04: Similar Use Determination for Craft Brewery Use Type in C-2 Zoning District, Determination of Definition of Residential District in Section 17.30.020(A), and Determination of Whether a Restaurant with a Bar is Subject to Section 17.30.020(A))**

**WHEREAS**, the Trinity County Planning Department has received an application that requires determinations by the Trinity County Planning Commission related to the following items:

- A. Determination of Similar Use for Craft Brewing activities in the General Commercial (C-2) zoning district, with or without a Conditional Use Permit, pursuant to Sections 17.21.020 (Uses permitted) and 17.30.010 (Ambiguity) of the Trinity County Zoning Code.
- B. Determination of the definition of a residential district in Section 17.30.020(A) of the Trinity County Zoning Code.
- C. Determination of whether a restaurant with a bar is subject to the requirements of Section 17.30.020(A).

**WHEREAS**, Section 17.30.010 (Ambiguity) of the Trinity County Zoning Code authorizes the Planning Commission to interpret the zoning code when ambiguities arise and to make determinations of similar use concerning the appropriate classification of a particular use, or with respect to matters of height, area requirements, or zone requirements; and

**WHEREAS**, after posting of the meeting agenda, the matter came on regularly for consideration before the Trinity County Planning Commission on April 11, 2019;

**NOW, THEREFORE, BE IT RESOLVED** that the Planning Commission of the County of Trinity finds that:

- 1. Craft brewery type uses are similar to the other conditionally permitted uses in the General Commercial (C-2) zoning district, and shall be required to obtain a Conditional Use Permit from the Planning Commission.
- 2. The definition of residential district in Section 17.30.020(A) of the Trinity County Zoning Code shall include any property that contains a legal residential use.
- 3. Restaurants with a bar are similar to the other uses in Section 17.32.020(A) of the Trinity County Zoning Code, and are therefore subject to the requirements of this section.

Resolution No. PC-2019-01  
April 11, 2019

**DULY PASSED AND ADOPTED** this 11<sup>th</sup> day of April, 2019 by the Planning Commission of the County of Trinity by motion of Commissioner \_\_\_\_\_, second by Commissioner \_\_\_\_\_, and the following vote:

AYES:  
NAYS:  
ABSENT:  
ABSTAIN:  
RECUSE:

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Mike McHugh, CHAIRMAN  
Planning Commission  
County of Trinity  
State of California

ATTEST:

Richard Tippet  
Secretary of the Planning Commission

By: \_\_\_\_\_  
Deputy