

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 amending Trinity County Code (TCC) Title 17, Section (§) 17.43.050(A)(8) to revise the following code section to replace the term “cultivation” to “canopy”. Staff believes that ‘canopy’ was the intended term to use when verifying site compliance with the residential setback code section.

LOCATION: County Wide

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.

"Designated area" means the hoop-house, greenhouse, and/or outdoor area(s), identified for the planting, growing and harvesting of cannabis, excluding drying, processing and other post-harvest cultivation activities. Designated area shall not exceed two hundred percent of the area for the license type unless otherwise approved by the planning director; canopy (mature plants) will not exceed the square footage allowed per license type and the

additional square footage shall include immature plants (in a vegetative state prior to flowering) and access areas. Licensees propagating immature plants for distribution or seed for distribution to another licensee shall obtain a nursery license.

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 sensitive 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 via the use of mechanical ventilation and odor controls, rendering the concerns, of odor generated at less than 350ft from a neighboring residence, moot.

Staff and Cannabis Ad Hoc Committee have determined that the change of interpretation is inconsistent with the original intent and agreed that a zoning amendment be initiated by resolution in accordance with Trinity County Zoning Code Section 17.35.030 (Amendments) to revise the wording to reflect the intent that the commercial cannabis cultivation residential setback requirement is verified by measuring the distance from “canopy”.

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. Adopt a resolution recommending the Board of Supervisors:
 - a. find that the amendment to Chapter 17.43.050(A)(8) 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. the Board of Supervisors approve an ordinance to amend the Zoning Code of the County of Trinity as identified in Resolution No. 2023-05 Zone Amendment (DEV-23-01)

ALTERNATIVES:

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

ATTACHMENTS:

1. Zoning Code Section 17.43.050
2. Zoning Code Section 17.35.030
3. Example Site Map
4. Resolution No. 2023-05

17.35.030 - Initiation by board of supervisors or planning commission.

By resolution, the board of supervisors or the planning commission may initiate the procedure for amendment. Upon receipt of such a resolution, the planning director shall file the necessary application.

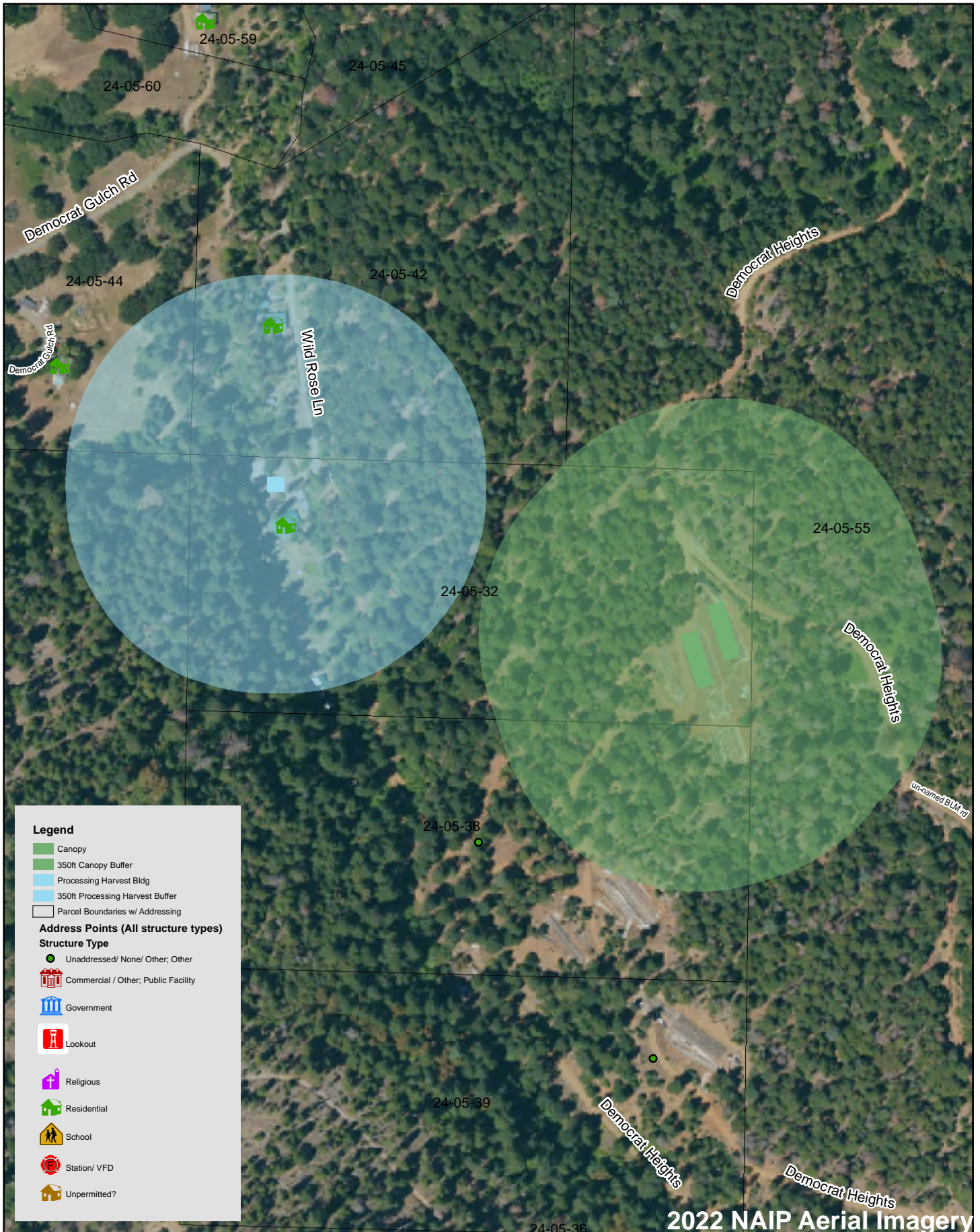
17.43.050 - Limitation on location to cultivate cannabis.

- 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)



APN 014-180-019-000 Zoning Map



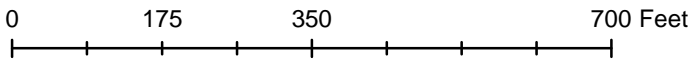
Legend

- Canopy
- 350ft Canopy Buffer
- Processing Harvest Bldg
- 350ft Processing Harvest Buffer
- Parcel Boundaries w/ Addressing

Address Points (All structure types)

Structure Type

- Unaddressed/ None/ Other; Other
- Commercial / Other; Public Facility
- Government
- Lookout
- Religious
- Residential
- School
- Station/ VFD
- Unpermitted?



2022 NAIP Aerial Imagery

Staff Author: BH
Date: 4/21/2023

RESOLUTION NO. 2023-05

**A RESOLUTION OF THE PLANNING COMMISSION
OF THE COUNTY OF TRINITY
INITIATING A MINOR TEXT AMENDMENT OF
TITLE 17 ZONING CODE SECTION 17.43.050(A)(8)**

WHEREAS, on December 28, 2020, Ordinance number 315-849 was adopted to incorporate the mitigations of the Certified Programmatic Environmental Impact Report (PEIR); and

WHEREAS, Planning Staff has since made a change in the interpretation of the definition of "cultivation", as contained in Chapter 17.43.050(A)(8), as it relates to the 350ft residential setback requirement, would be measured from planting, growing, harvesting, drying or processing of cannabis plants or any part thereof, which staff and the Cannabis Ad Hoc has determined is inconsistent with the original intent of Chapter 17.43.050(A)(8); and

WHEREAS, Trinity County Zoning Code section 17.43.050(A)(8) will be amended to: “For specialty cottage, specialty and small licenses ~~canopy cultivation~~ shall not be allowed within three hundred fifty feet of a residential structure on any adjoining parcels. For medium licenses, ~~canopy 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.”

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the County here by initiates the procedure to amend Chapter 17.43 Section (§) 17.43.050(A)(8) and makes the following environmental finding:

1. Pursuant to the State California Environmental Quality Act (CEQA) Guidelines, the Planning Commission of the County of Trinity makes the following environmental findings that this action exempt from CEQA as provided by the Common Sense exemption (CCR 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.

DULY PASSED AND ADOPTED this 27th day of April, 2023, by the Planning Commission of the County of Trinity by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

RECUSE:

Carol Fall
Planning Commission Chair
County of Trinity, State of California

ATTEST:

By:

Edward Prestley
Secretary of the Planning Commission
County of Trinity, State of California