

Cannaboldt, Inc.
PLN-11998-CUP
APN: 212-201-013

Recommended Commission Action:

1. Describe the application as a public hearing;
2. Request that staff present the project;
3. Open the public hearing and receive testimony; and
4. Close the hearing and adopt the Resolution to do the following:

Find the project exempt from environmental review pursuant to State CEQA Guidelines Section 15270, make the finding that the project site is in violation of Humboldt County Code and that the applicant has not provided the County the information necessary to make the required findings for approval and deny the Cannaboldt, Inc. project.

Executive Summary: For Planning Commission consideration is an application under the Commercial Medical Marijuana Land Use Ordinance (CMMLUO) for a Conditional Use Permit for 9,790 square feet of existing outdoor and 4,392 square feet of existing mixed light medical cannabis cultivation. The Cannaboldt, Inc. application was submitted on December 19, 2016.

Staff is recommending denial of the project because the applicant has been unresponsive to County requests for information and has repeatedly violated county ordinance. The submitted application does not include evidence to support making the required findings under Section 312-17.1 of the Humboldt County Code (required findings for all permits). This project is not consistent with section 314-55.4.8.1, which states that permittees and operators shall conduct all commercial cannabis activities in compliance with all applicable state laws and County ordinances. By initiating cultivation without the required County permit and State License, the applicant has violated the Humboldt County Code, as well as violated various provisions of state law as described below.

On February 9, 2017, an Incomplete Letter was sent to the applicant, listing required items to continue processing the application. An Application Withdrawal Notice was sent to the applicant six months later on August 16, 2017, explaining that if further information was not submitted within 30 calendar days the application would be considered withdrawn.

In March of 2018, a letter was sent to the applicant stating that the application was eligible for an Interim Permit, and in order to obtain a valid Interim Permit the original copies of the Interim Permit, signed Compliance Agreement, and Notary page would need to be submitted to the Planning Department. These documents were not returned to the county.

On July 5, 2018, the applicant was notified that cultivation was occurring on the subject parcel without the required County Interim Permit and state license. The applicant was directed to obtain an Interim Permit and state license or remove the unauthorized cultivation. The applicant received an Interim Permit from the County of Humboldt on July 31, 2018, which authorized the continued cultivation of 17,600 square feet of outdoor cannabis cultivation and 7,420 square feet of mixed light cannabis cultivation. The *Compliance Agreement* associated with the Interim Permit advised the applicant that any expansion beyond the verified cultivation area would be a violation of the Interim Permit, Humboldt County Code, and State Law.

On December 21, 2018, the applicant was sent notice from the Planning Department that the applicant would not be receiving an Interim Permit for the 2019 cultivation season due to unpaid taxes.

On May 8, 2020, a Violation Letter was issued to the applicant for unauthorized cultivation of 9,925 square feet of cannabis during the 2019 cultivation season. The applicant was required to pay a penalty fee of \$39,700 and was notified that repeated unauthorized cultivation would lead to denial of the permit application.

The information in the record shows that the applicant did not contact CEU or the Planning Department to verify removal of the structures, nor did the applicant pay the fine associated with the unpermitted cannabis cultivation.

A second Violation Letter was issued to the applicant July 13th, 2020, for unauthorized cultivation of 10,949 square feet of cannabis during the 2020 cultivation season. The applicant was required to withdraw their application and remove all cannabis cultivation and related materials, or provide substantial evidence that no cannabis cultivation had taken place. The applicant failed to contact either CEU or the Planning Department.

A Code Enforcement case was opened in November of 2020, with a Notice to Abate Nuisance and Notice of Violation and Civil Penalty sent to the applicant dated November 23, 2020. The applicant submitted a Code Enforcement Appeal Hearing Request Form dated November 27, 2020. A case note was added to the Code Enforcement Case on October 15, 2021. The case note states that CEU received photo evidence that no cannabis cultivation was occurring in February of 2021, seven months after the second violation letter was sent requiring withdrawal of the application or proof that no cultivation had occurred.

The applicant has yet to pay the penalty associated with the 2019 violation, did cultivate without authorization in 2020, and according to aerial imagery the applicant continued to cultivate in the 2021 season, cultivating 11,127 square feet of cannabis as documented in attachment 2. The applicant's last documented contact with the Planning Department was February of 2021.

Summary: The submitted application does not include enough evidence to support making the required findings under Section 312-17.1. Because cultivation was initiated without a permit, the project is not consistent with 314-55.4.8.1, which states that permittees and operators shall conduct all commercial cannabis activities in compliance with all applicable state laws and County ordinances. Finally, the department has attempted to contact the applicant and the applicant has failed to respond.

ALTERNATIVES: The Planning Commission could elect to direct staff to continue to attempt to reach the applicant to resolve the outstanding issues and continue processing the application in accordance with HCC Section 312-4.1 et seq. However, given that staff has made multiple attempts to contact the applicant and they have been unresponsive, staff does not recommend this alternative.