

Christina Giannelli
PLN-12087-CUP
APN: 223-072-004

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 Christina Giannelli 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 31,500 square feet of existing outdoor commercial cannabis cultivation. The Christina Giannelli application was submitted on December 20, 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 314-55.4.12.1.1, 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 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 October 31, 2018, which authorized the continued cultivation of 13,600 square feet. 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 14, 2019, the applicant received notice from the Planning Department that the applicant would not be receiving an Interim Permit for the 2020 cultivation season due to unpaid taxes from the 2018 cultivation season.

On April 24, 2020, a *Violation Letter* was issued to the applicant for an expansion of 7,960 square feet over the approved cultivation area during the 2019 cultivation season. The applicant was required to pay a penalty fee of \$15,920 and was notified that repeated unauthorized cultivation would lead to denial of the permit application.

On July 13, 2020, the applicant received a *Violation Letter* for the unauthorized cultivation of 21,123 square feet during the 2020 cultivation season. On August 3, 2020, the applicant contacted the Planning Department and was unwilling to remove the unauthorized cultivation. At this time the applicant had not paid the excise tax due for the 2018 and 2019 cultivation seasons. On November 23, 2020, the Code Enforcement Unit (CEU) visited the property and posted a *Notice*

to *Abate Nuisance*. On December 2, 2020, the applicant contacted CEU and provided photographs showing that one greenhouse had been removed. The applicant was notified that all infrastructure needed to be removed by January 4, 2021. The information in the record shows that the applicant did not contact CEU or the Planning Department to verify removal of the structures. No further contact was made to the applicant until September 29, 2021.

On September 29, 2021, the applicant received a *Violation Letter* for the unauthorized cultivation of 22,080 square feet in the 2021 cultivation season. This *Violation Letter* also acknowledged the unauthorized cultivation during the 2020 cultivation season, which remained unresolved. The applicant was notified that the permit application would be brought forward to the Planning Commission on October 21, 2021, with a recommendation of denial.

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 he has been unresponsive, staff does not recommend this alternative.