



**COUNTY OF HUMBOLDT**  
PLANNING AND BUILDING DEPARTMENT

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## Memorandum

**To:** Humboldt County Planning Commission

**From:** John H. Ford, Director of Planning and Building

**Date::** August 10, 2018

**Subject:** Discussion of Cannabis Permit Processing

At your meeting of August 2, 2018 you asked to schedule a discussion of Cannabis Permit processing. This memo is intended to present you with some of the facts to be taken into consideration going into that meeting. The desire for this discussion is based on expressed concerns including: *"the process is chaotic, confusing and depending upon who one talks to at the County one may get multiple responses"* and *"that we are making little headway with significantly reducing the 1600 + application overhang. With the re-opening of taking in new applications thru the end of the year are we gaining or losing ground?"*

The processing of applications has not gone as fast as anybody would like. Currently 239 permits have been taken to action. Two have been denied and 237 approved which are broken down as follows:

**Table 1 – Approved Permits**

Permit Type	Number Approved	Hearing Officer
Zoning Clearance Certificates	97	Director
Special Permits	64	Zoning Administrator <sup>1</sup>
Conditional Use Permits	76	Planning Commission
Total	237	

There are currently 1,144 applications in the review process with an additional 580 that have not yet been put into referral and 233 that still have active violations. This results in a total of 1,957 permits remaining to be processed. Of the 580 not yet in referral, 267 have been sent letters requiring additional information. The remaining 313 applications need to be checked to determine if sufficient information is contained in the application package. The result of this

<sup>1</sup> Special Permits are also associated with both CUP's and ZCCs. In cases where they are associated with a CUP, the SP is considered by the Planning Commission.

review will result in either the permit being put into referral, or the applicant being sent a letter requiring additional information is submitted. It is important to note that the original 2,376 applications received, included one or more permits. The actual number of permits was much higher than 2,376. Of the 2,376 applications 488 were deemed withdrawn because the applications were not made complete within 180 days. This reduced the number of applications to 1,888. Approximately 200 of these have been approved. Tables 1 and 2 use “permits” and so the numbers are higher than referring to applications. This is done so that the projects going to the Planning Commission can be differentiated from those going to the Zoning Administrator and ministerial approvals.

**Table 2 – Permits still in process**

Permit Type	Apps in Process	Apps not in Referral	Violations (outstanding)	Total
Conditional Use Permits	555	242	153	950
Special Permits	300	150	45	495
Zoning Clearance Certificates	289	188	35	512
Total	1,144	580	233	1,957

As can be seen in Table 2, there are a significant number of CUP applications. Many of these are for large new cultivation areas where there are a cluster of permits (CUP/SPs) as part of one application. As shown in Table 1 the CUP applications are typically considered by the Planning Commission.

## **Accomplishments**

In considering the process as a whole, it is appropriate to start with what has been accomplished to date, because in spite of the struggles everybody is having, Humboldt County continues to innovate in permitting of commercial cannabis. The following should be celebrated as successful undertakings.

### Number of Applications Received

It should not be forgotten that there were 2,376 applications submitted prior to January 1, 2017. In order to receive these applications by the ordinance deadline of December 31, 2016 (1,500 between December 15 and December 30, 2018), the county accommodated the industry by knowingly accepting incomplete applications; some consisted only of the application form, a rudimentary site plan, and a deposit. That was the starting point of this process. This is an unequalled number of applications in this amount of time.

### Interim Permits and State Licenses

It is also important to consider what Humboldt County has done to prepare the industry for state licensing. Knowing that the permitting was not moving along fast enough to enable the community to be eligible for licensing starting on January 1, 2018, the county modified the ordinance to allow issuance of Interim Permits. At the request of California Department of Fish and Wildlife this included a provision that every Interim Permit have the amount of allowed

cultivation identified. This resulted in completing over 1,400 Cultivation Area Verifications (CAV). The department has offered over 1,100 Interim Permits of which over 850 are valid. This has resulted in the issuance of over 900 temporary licenses by the State of California which provided a 2018 cultivation season that otherwise would not have occurred. Please note in many instances it takes many state licenses to equal one local Interim Permit. Humboldt County is second to Santa Barbara County (1,300) in number of temporary licenses, but Santa Barbara County does not issue any permit related to the state issuance of a temporary license.

The issuance of these Interim Permits has been a significant amount of work, including the CAV for each eligible cultivation site, the processing of the Interim Permit when it is returned to insure that it is signed appropriately and correctly recorded in the data base, and the fact that completing the CAV's identified approximately 400 sites that had illegally expanded and we have devoted staff time to bringing those sites into compliance, many now have Interim Permits.

The preparation of the CAV's and issuance of Interim Permits has continued to generate significant work as many applicants disagree with the CAV prepared by staff. Staff is often confronted by an applicant that feels the CAV is far too low and wants it changed. As a practice staff does not modify the CAV for an Interim Permit unless the applicant demonstrates a mistake has been made. In those cases the CAV will be re-evaluated and a new Interim Permit issued.

#### Determination of Status

In order to approve a permit on any parcel, the county must first determine that the parcel is legal. One of the truly successful endeavors of this permitting process is establishing a team of several people who have devoted themselves to determining parcel legality. We have completed review of approximately 1,200 parcels with 3 FTE working on this endeavor. This team will continue to review parcel status until a determination is made for all cannabis applications received under ordinance 1.0.

### **Constraints**

There are actions and circumstances which compromise the permitting process; those actions done by the applicant, actions by the county and circumstances completely beyond the control of the applicant and the county. Each is identified below.

#### Applicant

##### 1. Missing Information

The most significant difficulty in moving applications forward is related to submittal of adequate information. This can range from simple submittal requirements such as the lack of a Road Evaluation and lack of adequate water source to more complicated issues such as addressing biological concerns.

Many applicants have complained that the additional information requested has already been submitted. There are cases when this is true, but many times the information being requested is because the information on file does not adequately address the concerns. Applicants often

appeal to me, indicating that their application is “ready to go, I guarantee it” only to find when I look into it that three to five critical pieces of information are still not adequately addressed.

The consistent complaint from the county consultants is that applicants do not respond to requests for information. It has gotten to the point when a consultant is assigned a project, and an applicant has been unresponsive for 60 days, the consultants draft a letter explaining what is missing and return the file to the county. The letter requesting additional information goes out under County letterhead and this project will not be worked on until all the required information is presented.

2. Changing Project Descriptions

Many applicants get right to the point of approval on their permit and change the project description. This results in permits needing to be rescheduled or even put into a holding pattern until the applicant decides what they actually want. Other applicants inquire about changing their project the day their permit becomes effective. When doing so this becomes a permit modification. We have processed many permit modifications and those are not included in the numbers included in Table 1 above.

3. Cultivation Area Verifications. In addition to the discussion above relative to Interim Permits for existing cultivation, the CAV may still be at issue when it comes time to take the permanent permit to action. In many situations staff is confronted by an applicant who thinks the cultivation area is too low and simultaneously by the California Department of Fish and Wildlife which feels the CAV is far too generous. It often takes several meetings with both the applicant and CDFW to resolve these disputes. Some of this has to do with the fact that the cultivation area and locations change from year to year and the applicant, the county and CDFW may all be looking at different images, and/or interpreting the images differently.

4. Violations

Over 450 cultivation applications have been identified as having either starting cultivation without permits, or expanding beyond the existing cultivation area. Not only does this delay processing of these applications, but it also absorbs a significant amount of staff time to resolve these issues. As shown in Table 2, the number of applications with violations is down to 233, which means that staff has been able to settle approximately half of the violations.

Related to unauthorized expansions, is relocation of cultivation areas without appropriate permits. These also take time to resolve. Sometimes these are the result of direction from the Regional Water Quality Control Board and at other times it has been at the direction of the California Department of Fish and Game. Sometimes the expansions are justified, but at others they are not and also include illegal expansions. There are two planners assigned to working on violations.

5. Applicant/Owner/Agent Changes

There are a significant number of applications and properties that continue to change hands requiring update of the applicant, agent and owner information. A significant amount of time

is spent at the counter by staff updating this information. The owner/applicant information is required by ordinance and is used for confirming the state licensing. If this information is wrong we will not respond appropriately to the state. Additionally applicants hire, or change agents without notifying County staff which results in significant miscommunication, lost time, and frustrates information exchanges. This activity alone consumes more than one half an FTE.

## County

### 1. Accepting Incomplete Applications

It was necessary to receive incomplete applications in order to allow as many as possible enter into the review process, but this created a situation where there were an unimaginable number of inadequate applications all demanding attention at the same time. This set the stage for everything that has happened after that. The department has attempted many different approaches to find ways to keep permits moving through the process including putting applications into the review process knowing that they were not quite complete, and attempting to find ways to condition a permit to compensate for missing information. Inadequate information continues to be the biggest problem in the process.

### 2. Planner Availability

The workload is such that a traditional approach did not work. We were trying to finish projects, move projects into the review process, and address permit violations all at the same time. We purposely did not assign permits to planners, and assigned planners to certain tasks within the process. The concept was similar to an assembly line. We also limited the public interface with planners through the Cannabis Planner on Duty (CPOD). The intent was to allow the CPOD to absorb the public questions so the rest of the planners could work uninterrupted. In doing so, a day on CPOD resulted in one to two days of follow up which did not allow the planners to have the productive time necessary to complete their work. It was not uncommon for a CPOD to touch 40-50 projects in a single day which then required continued follow up.

### 3. Staffing

Staffing involves two factors, to have a sufficient number of staff and being able to train that staff to perform well. We have attempted to grow within our ability to train staff. The department has been fortunate to attract and retain staff who are dedicated and like what they do. In addition we have brought on 6 consulting firms to assist in this effort. Training is an investment in the process for both the County staff and the consultants. We are at a place where additional staff is desperately needed to address the post permit review and to write staff reports. It also has not helped that we have had three cannabis planners out on prolonged leave. With this being said, each planner currently has a workload of in excess of 100 applications per planner.

### 4. Relationship with Other Agencies

The department has been working at developing a more productive relationship with other state agencies. It is important to understand the concerns of each agency and to insure that county permitting encapsulates these issues. There have been differences at times which has

complicate the review process.

### External Factors

1. Federal Roads The Planning Commission expressed concern about approving projects relying on roads across federal land and staff has been in contact with federal agencies to determine where they stand on this. While we are able to get unofficial feedback, we have not yet been able to obtain anything in writing which will clearly pave a path forward or indicate whether these sites are appropriate for cultivation.
2. Many sites have Resource Challenges Many sites have significant resource challenges. Including biology, but it can also have to do with water, geology, archaeology, and proximity to cities and residential areas. These issues often arise later in the process and are something that requires the process to stop until these issues are resolved. It often takes additional technical information to address these challenges.
3. Consultants Overwhelmed  
The large volume of applications resulted in the local consultant community being overwhelmed by the volume of work. This results in the applicant's inability to provide requested information, and often rushed and inadequate work being prepared. Many times the site plan being submitted does not correlate with a GIS aerial image of the site. This has compounded the inability to obtain appropriate information. It is more common than not that the site plan, operations plan and water resource protection plan will all have different information contained in them.
4. Archaeological Studies  
The single biggest delay has come from the inability to obtain Archeological Surveys. The local archaeologists have been completely overwhelmed with the amount of work needed to touch every site with an application. The department has attempted to help this by offering the services of Sonoma State who is under contract with the County to provide archaeological services. When 10 or more sites are bundled the cost is less and the time frame is shorter for applicants.

### **Moving Forward**

There are some things that we have learned over the past two years that we are putting into motion. In order to better address the workload and be responsive to applicants who are truly ready to move forward the department is refining its practices and reorganizing the staff.

### Complete Set of Materials

The one early mistakes that the department made was to attempt to process applications prior to all information being received. This did not work. We are reviewing applications to make sure that the applications are entirely complete prior to putting them into the referral process. This is why approximately half the applications that have not yet been put into referral have had a letter written to them explaining they need to submit additional information.

## Reorganization

The Cannabis Unit has been reorganized to include the following changes:

1. Review Applications for Completeness. All applications that have not been put into referral or had a letter written asking for more information are being reviewed by a team to determine if they are ready to enter the process. We anticipate review of these applications will be completed by mid-October, at which time these planners will be assigned to projects. Upon completion of this work, the department expects that 2.0 applications can be introduced into the process.
2. All active projects have been assigned to a planner. Once an application has been deemed ready to go into the review process it is assigned to a planner who is responsible for processing the application through to action.
3. Two teams. Planners have been divided into two teams, a north team and a south team. Assignments are within geographic areas so that planners can be more familiar with the particular constraints and issues within an area. Each team is led by a Senior Planner (Currently Michelle Nielsen and Elizabeth Schatz.) Steve Lazar will be assuming leadership of one of these teams as both Ms. Nielsen and Ms. Schatz are taking different assignments in Advance planning and Current Planning. We are determining a new lead for one of the teams.
4. Supervising Planner. Cliff Johnson has accepted the position of Supervising Planner for the Cannabis Unit. He will begin this position on August 27, 2018. This will allow Steve Werner to focus on Current Planning and Cliff to give attention to the Cannabis Unit. Elizabeth Schatz will be taking on Cliff's team leadership role in current planning along with his assignments.

## Permit Assignments

Currently all Zoning Clearance Certificates and Special Permits are being processed completely by staff. Conditional Use Permits are assigned to county staff, but are sent out to the consultant once they finish with the referral process. The initial work by a consultant is a review which determines if all information necessary to proceed to action is present and whether all issues have been addressed. Once this is completed, the consultant is authorized to proceed to staff report preparation. The assigned county staff will then present these items to the Planning Commission at the public hearing.

## Permit Follow Up

We have created a team that strictly deals with permit violations and condition compliance. As we move forward this team will allow us to provide site inspections immediately after approval or implementation of the project, to insure that the conditions of approval are being complied with and also to deal effectively with violations. This team will also be involved in evaluating

and conducting the growing number of annual inspections required for approved regular permits.

### Integration with Version 2.0

The Department will not be accepting applications unless they are complete and ready for processing. There are also applications that were received under 1.0 that will be converted to 2.0 where 2.0 would provide a pathway forward. These applications will not need to go back and start from the beginning, unless there are changes that require review by other departments and agencies.

Part of the workload calculation also relates to the processing of applications associated with ZCCs issued in the Special Areas around cities and community areas. These will be coming in over the course of the next six months.

### Non-Compliant Applications

There is a segment of the applicant population that has significant violations and no steps are being taken to address the violations or provide the necessary information to move the permit forward. In order to address these, staff is contacting the applicants to give them the opportunity to resolve the violations and provide the needed information. If this is not done, the permit will be brought forward for action based on the information in the file, and if denied, referred to Code Enforcement.

### Priorities

The department continues to place a priority on the following application types:

1. Existing cultivation with an Interim Permit
2. Manufacturing, Processing, Distribution facilities