



COUNTY OF HUMBOLDT

Legislation Details (With Text)

File #: 24-741 **Version:** 1 **Name:**
Type: Resolution **Status:** Passed
File created: 4/8/2024 **In control:** Planning and Building
On agenda: 4/23/2024 **Final action:** 4/23/2024
Title: Revocation of a Conditional Use Permit for 5,000 Square Feet of Outdoor and 7,600 Square Feet of Mixed Light Cultivation

Sponsors:

Indexes: 1000 - SAFE AND HEALTHY COMMUNITIES

Code sections:

Attachments: 1. Staff Report, 2. Attachment 1 - DRAFT Resolution 4.pdf, 3. Attachment 2 - PC Resolution 19-95 and COA, 4. Attachment 3A - 11697 Inspection report 4.19.2022, 5. Attachment 3B - 11697 Inspection report 5.23.2023, 6. Attachment 4 - Inspection Photos, 7. Attachment 5 - Correspondence, 8. Attachment 6 - Posting, 9. Attachment 7 - Return Receipt, 10. Attachment 8 - Notice of permit revocation hearing 4.23.24, 11. Attachment 9 - 11697 Post continued hearing letter 3.27.24, 12. Public Comment H2 - Received by publishing.pdf, 13. Resolution No. 24-53.pdf

Date	Ver.	Action By	Action	Result
4/23/2024	1	Board of Supervisors	approved	Pass

To: Board of Supervisors

From: Planning and Building Department

Agenda Section: Public Hearing

Vote Requirement: Majority

SUBJECT:

Revocation of a Conditional Use Permit for 5,000 Square Feet of Outdoor and 7,600 Square Feet of Mixed Light Cultivation

RECOMMENDATION(S):

That the Board of Supervisors:

1. Open the public hearing, receive the staff report, testimony by the permit holder and testimony from the public; and
2. Close the public hearing; and
3. Adopt the resolution (Attachment 1) which does the following:
 - a. Finds the permit has been exercised contrary to the terms or conditions of approval, and that the use for which the permit has been granted has been conducted as to be a public nuisance; and
 - b. Revokes the Conditional Use Permit pursuant to Section 312-14 of the Humboldt County Code.
4. Direct the Clerk of the Board to give notice of the decision to the permit holder, the Planning and Building Department, and any other interested party

SOURCE OF FUNDING:

General Fund (1100277)

DISCUSSION:

Executive Summary

This item requests the Board of Supervisors revoke an approved Conditional Use Permit because the terms and conditions of the permit have not been complied with, and the use for which the permit was granted has been conducted as to be a nuisance. The site has not been in compliance since an April 2022 inspection, and the permit holder has been unresponsive to the Planning Department's phone calls, emails, and letters. In addition, the project has a current balance of \$4,893.65 owed to the Planning and Building Department. The hearing was continued from the Board meeting of March 26, 2024 as the permit holder made contact with the Planning and Building Department in response to a notice posted on the site. The permit holder has not taken action to correct any of the deficiencies or violations.

Project History

The permit was approved by the Planning Commission on Aug. 1, 2019, with an effective date of issuance of Aug. 16, 2019. On April 12, 2022, the Planning and Building Department conducted an annual inspection of the cannabis operation and found several issues, including:

1. Failure to execute compliance agreement and to complete required conditions of approval,
2. Development/structures not in the approved locations, cultivation not in approved locations,
3. Unconfirmed water source and use,
4. Lack of water meter installation and no records of water use,
5. Gasoline containers left out with no containment,
6. Monofilament netting and solid waste left out.

The permit holder was notified of these findings on April 19, 2022, and given a deadline of May 19, 2022, to address these violations. As of May 19, 2022, the department received no substantive response. Multiple attempts to contact the permit holder occurred throughout 2022 and early 2023 and the department received no response.

On May 23, 2023, an annual post-approval inspection occurred at which point the department found all the non-compliance findings from 2022 remaining. Multiple attempts to reach the permit holder occurred in 2023 after this inspection and the department received no response. While cultivation does not appear to have occurred in 2022 and 2023, the site has been maintained in a manner that is a public nuisance and is contributing to potentially adverse impacts to water quality and wildlife.

On Feb. 29, 2024, the department sent the permit holder/property owner a notice of public hearing to consider revocation of the Conditional Use Permit via USPS Certified, return receipt requested to the owner address on file. On March 1, 2024, the department physically posted two notices at the entrance to the subject site.

On March 25, 2024, the permit holder contacted the department in response to the notices posted at

the entrance to the subject site and stated that the department may have the incorrect mailing address on file.

On March 26, 2024, the Board of Supervisors continued this item to the meeting of April 23, 2024, to allow the permit holder the opportunity to bring the site into compliance.

On March 27, 2024, the department sent an updated letter via USPS Certified, return receipt requested to what it understood was the correct mailing address, which also reflects the address listed on the tax records for the current property owner, and the department again posted notices to the site with the April 23, 2024, hearing notice. The updated letter listed the actions needed to bring the site into compliance, and stated the permit has been scheduled for a hearing in front of Humboldt County Board of Supervisors to consider revocation of the issued permit.

As of April 8, 2024, the department has not received any additional response or correspondence from the permit holder/property owner and the issues have not been resolved.

Grounds for Revocation

Section 312-14 of the Humboldt County Code includes findings required for the Board of Supervisors to revoke a development permit. A permit may be revoked upon making any one of the four findings specified in this section of the ordinance. Two of the four findings can be made, as follows:

1. The permit has been exercised contrary to the terms and conditions of such approval (312-14.1.2).
 - a. The Conditional Use Permit was approved Aug. 1, 2019, under the condition that a compliance agreement would be executed within 60 days of approval, and all items completed within 2 years of approval. As of March 2024, the compliance agreement has not been signed and none of the conditions have been completed.
 - b. The project conditions of Approval #4 (under “ongoing conditions”) prohibits the use of synthetic netting. Monofilament netting and other refuse was found littered throughout the project during the 2022 and 2023 inspections. The reason for the prohibition on monofilament netting is if not disposed of properly poses a danger to fish and wildlife.
 - c. Project approval was predicated on relocating historic cultivation and remediating the former cultivation sites in accordance with a restoration plan. On-site relocation has not occurred and a restoration plan has not been submitted as required by Condition of Approval #7.
 - d. Project Conditions of Approval numbers 2, 12, 17, and 12 (under “ongoing conditions”) prohibit the improper storage of any fuels, fertilizer, pesticide, fungicide, rodenticide, or herbicide on site. Jugs of fertilizer, gasoline, and other potentially hazardous materials were

seen littered throughout the property during both the 2022 and 2023 inspections. Corrective action was required by both subsequent reports to provide time-certain photo evidence that the gasoline had been stored appropriately within 10 days and the department received no response.

- e. Condition of Approval # 6 requires all discarded soil and trash on site be removed and properly disposed of at a waste management facility. The 2022 and 2023 inspections found improperly stored solid waste, including monofilament netting, with evidence of animal activity. Cannabis waste was not properly disposed of onsite.
 - f. Condition of Approval #5 requires the well to be inspected annually by a professional. This has not occurred.
 - g. Condition of Approval #15 requires the project to pay all applicable application and annual inspection fees. The project has a current balance of \$4,893.65.
 - h. Condition of Approval #25 states the project has 10 days after an inspection report has been sent to follow the corrective actions described in the report to resolve any non-compliance items, and failure to do so shall terminate the permit. The 2022 and 2023 reports have several non-compliance items, all deadlines have passed, and the department has received no response to numerous emails and letters.
2. The use for which the permit was granted is so conducted as to be a public nuisance (314-14.1.3).
- a. The 2022 and 2023 inspections found solid waste including monofilament netting littered throughout the site, with evidence of animal activity.
 - b. The 2022 and 2023 inspections found potentially hazardous materials left uncontained throughout the parcel.
 - c. The property is currently unmaintained with substantial refuse and improperly stored fuel. This is an ongoing fire safety concern since April 2022.

FINANCIAL IMPACT:

The project has a current balance of \$4,893.65 due to the Planning & Building Department. Revocations where there is no money on deposit for permit processing are born completely from the General Fund allocation in Budget Unit 1100-277.

STRATEGIC FRAMEWORK:

This action supports your Board's Strategic Framework through its core role to enforce laws and regulations to protect residents and wildlife. Revocation of this Conditional Use Permit will help facilitate the necessary code enforcement actions to remove public nuisance.

Core Roles: Enforce laws and regulations to protect residents

New Initiatives: N/A

Strategic Plan: 2.4 - Foster healthy forests, wildlife, and watersheds, thereby creating healthy fish population, through responsible management of our forest lands and watersheds

OTHER AGENCY INVOLVEMENT:

None

ALTERNATIVES TO STAFF RECOMMENDATIONS:

The Board could choose not to revoke the Conditional Use Permit. The Planning and Building Department does not recommend this due to the aforementioned grounds for revocation. The project has been unresponsive and has made no attempt to resolve any issues identified in the 2022 and 2023 reports.

ATTACHMENTS:

1. Draft Resolution
2. Planning Commission Resolution and Conditions of Approval
3. 2022 and 2023 inspection reports
4. Inspection photos
5. Follow-up communication attempts after missed remedy deadlines, notice of revocation hearing.
6. Picture of posted site
7. Return Receipt
8. Additional notice of revocation posted at site dated March 27, 2024
9. Additional letter continued public hearing, dated March 27, 2024

PREVIOUS ACTION/REFERRAL:

Meeting of: 8/1/2019 Planning Commission, 3/26/24 Board of Supervisors

File No.: 19-1151, 24-360