



Legislation Details (With Text)

File #: 21-520 **Version:** 1 **Name:**

Type: Action Item **Status:** Agenda Ready

File created: 6/4/2021 **In control:** Planning Commission

On agenda: 6/10/2021 **Final action:**

Title: 9:20 a.m. a Public Hearing to consider an appeal of the closure of two Use Permit files; file no. UP 18-36 and file no. MUP 18-37 for commercial cannabis cultivation on two adjacent properties. Owner: David Boies. Applicant: Jonathan Boies; proposed new applicant is Mitch Hawkins. Proposed Projects: UP 18-36: One (1) M-Type 3 small outdoor and one (1) M-Type A-1C 'small specialty cottage' cannabis cultivation license on tax lot 012-056-49; and one (1) M-Type 3 medium outdoor and one (1) A-Type 1C 'small specialty cottage' license on tax lot 012-056-48. Location: 13046 and 13048 S. Highway 29, Lower Lake, CA; APN: 012-056-48 and 012-056-49.

Sponsors: Community Development

Indexes:

Code sections:

Attachments: 1. AA 21-02 SR V1, 2. Attachment 1 vicinity map, 3. Attachment 2 inc letter 2.25.2020, 4. Attachment 3 closed file ltr 5.7.2021, 5. Attachment 4 appeal application, 6. Attachment 5 notarized ltr from Mr. Boies

Date	Ver.	Action By	Action	Result
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Memorandum

STAFF REPORT

TO: Planning Commission

FROM: Scott DeLeon, Interim Community Development Director
Prepared by: Eric Porter, Associate Planner

DATE: June 10, 2021

RE: Appeal AA-21-02 of two File Closures from the same applicant for Two Commercial Cannabis Cultivation Use Permits.

Applicant: Jonathan Boies / Diamond B Ranch
Files No.: Use Permits (UP 18-36 and MUP 18-37) and Initial Studies for each application
Location: 13046 and 13048 S. Highway 29, Lower Lake
APNs: 012-056-48 and 49

Supervisor District 1

ATTACHMENTS:

1. Vicinity Maps
2. Incomplete letter from County dated 2-22-2020
3. Letter of File Closure from Lake County to David Boies and Mitch Hawkins dated May 7, 2021.

4. Appeal Application and Support Materials submitted by the Appellant
5. Notarized Letter from David Boies authorizing Mitch Hawkins to Act in His Behalf as Applicant, dated January 20, 2021.

I. SUMMARY

The applicant had submitted two applications on July 24, 2018. Both applications were determined to be incomplete, and sat idle since the day of submittal. The County sent a letter to the property owner and an apparent new contact for the project, Mitch Hawkins, on May 7, 2021 indicating that the files were closed due to inactivity, and that the file closure could be appealed. This appeal followed.

The Planning Commission is being asked to determine whether these two applications should be closed and new applications submitted, or whether these two applications can be revived (restarted) with a new applicant.

II. BACKGROUND

On July 24, 2018, the applicant applied for two use permits on adjacent lots. Permits UP 18-36 and MUP 18-37 were taken in as a major and a minor use permit, even though what they were requesting on each lot was identical; one (1) **M-Type 3 (medium outdoor) cultivation area and one (1) M-Type 1C 'specialty cottage' use permit for each of the two properties.** The applicant also applied for a **California Environmental Quality Act review (CEQA)** for each lot.

On September 6, 2018, the County staff sent an 'incomplete application' letter to the Applicant referencing missing items in both submitted applications. The missing items were a list of employees and a Water Availability Analysis. Staff received no reply.

On February 25, 2020, staff sent a 2nd 'incomplete letter' to the applicant reiterating the same missing information that was required with the first letter. Staff again received no reply.

On January 20, 2021, staff received a notarized letter from David Boies, father of the original applicant, indicating that his son, applicant Jonathan Boies, had passed away on February 19, 2019, and requesting County permission to continue processing the two cannabis permits referenced in this action. The letter indicated that Mitch Hawkins was authorized to act in behalf of Mr. Boies.

On February 19, 2021, staff received an email from Vanessa Bergmark, realtor, indicating that Mitch Hawkins was the local contact for the two cannabis files.

On March 31, 2021, staff received an email from Mitch Hawkins that contained the Incomplete application letter dated February 25, 2020.

On May 7, 2021, the County sent a 'file closure' letter to the applicant David Boies and Mitch Hawkins, indicating that they could appeal the decision to close the file if an appeal was filed within seven (7) days of the May 7, 2021 letter. Attachment 4.

On May 10, 2021, this appeal was filed with the County within the seven day appeal period. Attachment 5.

Staff is recommending **denial of appeal no. AA 21-01 and closure of file no. UP 19-12 and IS 19-24.**

RECOMMENDATION

Staff recommends the Planning Commission::

A. Deny mitigated negative declaration (IS 19-24) for Use Permit (UP 19-08) with the following findings:

1. Actual and potential environmental impacts related to biological resources, hydrology and water quality have occurred on the site between January 2020 and February 2021.
2. No CEQA (environmental) evaluation has occurred due to ongoing code violations on this site.

B. Deny Use Permit UP 19-12 with the following findings:

1. That the establishment, maintenance, or operation of the use applied for *has been detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use.*
2. The site *is not adequate in* size, shape, *locations, and physical characteristics* to accommodate the type of use and level of development proposed.
3. *The streets, highways and pedestrian facilities are inadequate to safely accommodate the proposed use.*
4. *That there are not adequate fire protection services to serve the project.*
5. *That the project is not in conformance with the applicable provisions and policies of this Code, the General Plan and any approved zoning or land use plan.*
6. *That violations of Chapters 5 and 21 of the Lake County Code have been documented on the site between January 2020 and February 2021.*
7. *The proposed use does not comply with all development standards described in Section 1.i*
8. *The applicant may not be qualified to make the application described in Section 1.ii.(g). The County requested a current letter from the property owner authorizing the applicant to continue to represent the property and has not yet received this authorization.*
9. *The application does not comply with the qualifications for a permit described in Section 1.ii.(i). There are documented violations on the site, and it is unclear whether these violations have been resolved. Ownership consent for the applicant / appellant to use the property is not established and is in doubt.*

Sample Motions:

Mitigated Negative Declaration

I move that the Planning Commission find that the **Initial Study (IS 19-24)** applied for by **Pura Vida** on property located at **18086 Dam Road, Clearlake**, and further described as **APN: 010-013-29** has not mitigated actual or potential environmental impacts for the reasons listed in the staff report dated **June 10, 2021**.

Use Permit (UP 19-12)

I move that the Planning Commission find that the **Use Permit (UP 19-12)** applied for by **Pura Vida** on property located at **18086 Dam Road, Clearlake**, and further described as **APN: 010-013-29** does not meet the requirements of Section 50.4 and 51.4 of the Lake County Zoning Ordinance and the Major Use Permit be denied subject to the findings listed in the staff report dated **June 10, 2021**.

***NOTE:** The applicant or any interested person is reminded that the Zoning Ordinance provides for a seven (7) calendar day appeal period. If there is a disagreement with the Planning Commission's decision, an appeal to the Board of Supervisors may be filed. The appropriate forms and applicable fee must be submitted prior to 5:00 p.m. on or before the seventh calendar day following the Planning Commission's final determination.*