



Legislation Details (With Text)

File #: 21-519 **Version:** 2 **Name:**

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

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

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

Title: 9:15 a.m. Public Hearing to consider an appeal of the closure of a Major Use Permit file (UP 19-12). . Applicant: Pura Vida International, LLC. Owner: George Mainas. Proposed Project: One (1) A-Type 2 small outdoor cannabis cultivation license requesting 10,000 sq. ft. of cannabis cultivation area and one (1) A-Type 13 self-distribution license to transport cannabis to and from the site. Location: 18086 Dam Road, Clearlake, CA; APN: 010-013-29. Environmental Evaluation: Initial Study IS 19-24.

Sponsors: Community Development

Indexes:

Code sections:

Attachments: 1. AA 21-01 SR V2, 2. Attachment 1 vicinity map, 3. Attachment 2 Mainas ltr 1.5.2021, 4. Attachment 3 30 day ltr 3.29.2021, 5. Attachment 4 close file ltr 5.7.2021, 6. Attachment 5 appeal app, 7. Attachment 6 emails, 8. Attachment 7 IS

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-21-01 of a File Closure of file no. UP 19-12 and Initial Study IS 19-24 for a Commercial Cannabis Cultivation project.

Applicant / Appellant: Pura Vida / Pete Crowley
Files No.: Use Permit (UP 19-12) and Initial Study (IS 19-24)
Location: 18086 Dam Road, Clearlake
APN: 010-013-29.

Supervisor District 2

- ATTACHMENTS:**
1. Vicinity Map
 2. Letter from Property Owner George Mainas dated January 5, 2021.
 3. Letter from Lake County to Applicant Crowley dated March 29, 2021
 4. Letter from Lake County to Applicant Crowley dated May 7, 2021.
 5. Appeal Application and Support Materials submitted by the Appellant
 6. Email correspondence with Applicant; April 27, 28, 29, 2021

7. Initial Study IS 19-24
8. Appellant's Burden of Proof

I. **BACKGROUND**

On May 1, 2019, the applicant applied for a use permit for **(1) A-Type 3 (medium outdoor) cultivation area** consisting of up to 43,056 square feet (sq. ft.) of canopy area, a **California Environmental Quality Act review (CEQA)**. The application was later amended to include an **A-Type 13 Self Distribution license**.

On May 24, 2019, staff sent an 'incomplete application' letter to the Applicant.

On August 2, 2019, Associate Planner Eric Porter and Building Official Jack Smalley attempted to do a site visit but were unable to get through the locked gate. Applicant did not show up to meet staff as he had agreed to.

On January 27, 2020, staff and Code Enforcement Manager Andrew Williams conducted a site visit. The site was completely non-compliant with Public Resource Code (PRC) 4290 and 4291 due to road width, road slope, separation from a public road of more than one mile; crossing unrated culverts (three in total); overhead vegetation.

Between January 27, 2020 and February 26, 2020, the applicant changed the scope of the project by eliminating most of the 'upper level' outdoor cultivation areas originally proposed for greenhouse cultivation due to the inability of the site to comply with PRC 4290 and 4291 standards. This changed the scope of the project and it became eligible for review as a Minor Use Permit, although no file number was re-assigned to the project.

On February 26, 2020, the County issued Early Activation for 8,725 sq. ft. of outdoor cultivation area.

On July 27, 2020, Code Enforcement Manager Andrew Williams emailed CalCannabis Compliance Officer Caitlin Lynch asking whether the applicant had applied for State Provisional licenses and indicated that the site had enforcement issues associated with the subject site.

On August 26, 2020, the County approved an extension for Early Activation of the same cultivation area originally approved by the first Early Activation permit.

On January 5, 2021, the County received a notarized letter from Property Owner George Mainas (Clearlake Development Group) indicating that Consultant Roy (Trey) Sherrill had property owner's consent to discuss any projects that were proposed for APN: 010-013-29. Attachment 2.

In February and March 2021, the County received several phone calls from a realtor representing the buyers for APN: 010-013-29. The dates and names associated with these inquiries were not logged. The realtor indicated that the cultivator would not be allowed to remain on the property once the property changed ownership. The County indicated that this was a civil matter between the cultivator and the owner of record.

On March 29, 2021, the County sent a letter to applicant Peter Crowley that gave Mr. Crowley **30 days to produce written proof** that the property owner Mainas still supported Mr. Crowley's use of the subject property for commercial cannabis cultivation. The letter (Attachment 3) in relevant part stated:

1. Property Owner Consent to Proceed

There is some confusion regarding if this permit can move forward based on Property Owner Approval. The realtor representing the seller has stated that the property is in 10 day escrow and is being sold to persons currently residing in Texas.

Per Article 27 of the Lake County Zoning Ordinance, subsection (at)(i) the applicant must submit written property owner approval. The code section is quoted in full below:

(i) Property Owner's Approval:

If the property where the cannabis activity is to be located is not owned by the applicant, written approval shall be obtained from the property owner(s), containing the property owner(s) notarized signature that authorizes the tenant or lessee to cultivate cannabis at the site. A copy of the written approval shall be maintained by the tenant or lessee and made available for review by enforcement officials upon request.

Written approvals shall be renewed annually.

On May 7, 2021, the County sent a 'file closure' letter to the applicant Peter Crowley, indicating that he 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.**

II. 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.