



Legislation Details (With Text)

File #: 21-603 **Version:** 1 **Name:**

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

File created: 6/18/2021 **In control:** Planning Commission

On agenda: 6/24/2021 **Final action:**

Title: 9:15 a.m. Continuation from Planning Commission Meeting June 10, 2021. 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. . Location: 13046 and 13048 S. Highway 29, Lower Lake, CA; APN: 012-056-48 and 012-056-49. (Eric Porter)

Sponsors: Community Development

Indexes:

Code sections:

Attachments: 1. AA 21-02 SR V2 FINAL, 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 - **ADDENDUM**

TO: Planning Commission

FROM: Prepared by: Eric Porter, Associate Planner

DATE: June 24, 2021 (original hearing 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 2-25-2020
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 and without having to pay the fee for a new application.

II. BACKGROUND

On July 24, 2018, the applicant applied for two use permits on two adjacent lots. Permits UP 18-36 and MUP 18-37 were taken in as a major and a minor use permit,; 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.

The property can accommodate many more licenses than what was submitted. This appeal is limited to what was submitted to the County.

Staff is recommending **denial of appeal no. AA 21-01 without prejudice** to allow the new applicant to re-apply for both applications.

RECOMMENDATION

Staff recommends the Planning Commission::

A. Deny categorical exemption (CE 18-66) for Use Permit (UP 18-36 and MUP 18-39) without prejudice and with the following findings:

1. Actual and potential environmental impacts related to this project have not been confirmed or denied. These must be verified prior to consideration for approval.
2. No CEQA (environmental) evaluation has occurred due to inactivity of the two applications.

B. Deny the Appeal AA 21-02 affecting Use Permits UPs UP 18-36 and MUP 18-39 with the following finding:

1. That the applications UP 18-36 and MUP 18-39 have remained inactive for a period of over two (2) years.
2. Denying this appeal without prejudice will allow the new applicant to apply for new use permits without any waiting period.

Sample Motions:

Categorical Exemption

I move that the Planning Commission find that the Categorical Exemption (CE 18-66) applied for by Diamond One and Diamond Two LLC on property located at 13046 and 13048 S. Highway 29, Lower Lake, and further described as **APN: 012-056-48 and 49** has not mitigated actual or potential environmental impacts for the reasons listed in the staff report dated **June 24, 2021**.

Appeal AA 21-02

I move that the Planning Commission find that the **administrative appeal AA 21-02** filed by Mitch Hawkins in behalf of the property listed below, and in order to restart **Use Permits (UP 18-36 and MUP 18-39)** applied for by Diamond One and Diamond Two LLC on property located at 13046 and 13048 S. Highway 29, Lower Lake, and further described as **APN: 012-056-48 and 49** be denied without prejudice subject to the findings listed in the staff report dated **June 24, 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.*