

# Watson Initiation of Use

## Land Use File No. 247-23-000125-DR

Issue Area/Approval Criterion	Background	Hearings Officer	Applicant	Staff Comment/Recommendation	Board Decision Options
<p><u>Initiation of Use</u></p> <p>DCC 22.36.020,</p> <p>A. For the purposes of DCC 22.36.020, development action undertaken under a land use approval described in DCC 22.36.010, has been "initiated" if it is determined that:</p> <p>...</p> <p>2. Substantial construction toward completion of the land use approval has taken place; or</p> <p>...</p> <p>B. For the purposes of DCC 22.36.020, "substantial construction" has occurred when the holder of a land use approval has physically altered the land or structure or changed the use thereof and such alteration or change is directed toward the completion and is sufficient in terms of time, labor or money spent to demonstrate a good faith effort to complete the development.</p>	<p>The Applicant initiated conversations with the County in early 2017 regarding the marijuana production facility. Approximately 90-95% of the expenditures were made prior to land use approval. The land use approval became final in April of 2018.</p>	<p>The Hearings Officer found it appropriate to consider the expenditures made prior to the land use approval as "action undertaken under a land use approval" because the property owner initiated discussions with the County on this use in early 2017. The Hearings Officer further found that actions taken by an applicant may be considered directed toward the completion of a development prior to receiving land use approval. To hold otherwise would be counter to the commonplace occurrence of business decisions being made in anticipation of certain events occurring.</p>	<p>The applicant agrees with, and supports, the Hearings Officer's decision.</p>	<p>Staff believes the Hearings Officer's decision could lead to a number of unintended consequences.</p> <ol style="list-style-type: none"> <li>1. Development prior to land use approval would deprive the public and public agencies of the opportunity to participate in the land use process, implicating Statewide Planning Goal 1.</li> <li>2. The County could see an increase in code violation cases.</li> <li>3. Property owners could find themselves in the unwanted situation of having spent significant resources (time, effort, money) to establish structure(s) for an intended use prior to land use approval, only for the project to be denied.</li> <li>4. The Community Development Department could feel pressured to approve a land use application where a property owner has invested significant resources in anticipation of the use being approved.</li> </ol> <p>For these reasons, staff believes it appropriate to interpret the phrase "the holder of a land use approval" to apply to an applicant only during the time period from the land use decision becoming final to the end of the duration approval, as amended</p>	<p>For the purposes of determining whether a developer has initiated a use, in that substantial construction toward "completion of the land use approval," is established, is it appropriate to consider expenditures made prior to land use approval?</p> <ol style="list-style-type: none"> <li>1. Uphold the Hearings Officer's decision. The Board finds the Hearings Officer's findings to be persuasive.</li> <li>2. Modify the Hearings Officer's decision. The Board finds the present circumstance is unique because the proposed use, marijuana production facility, is no longer allowed. Therefore, in this specific circumstance, considering expenditures made prior to the land use approval is appropriate.</li> <li>3. Overturn the Hearings Officer's decision. The Board finds the unintended consequences to be significant. The Board adopts staff's recommendation and denies the initiation of use application.</li> </ol>

				by any extensions or applicable legal proceedings such as an appeal. Staff believes this interpretation would avoid the potentially negative consequences detailed above.	
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