

**Huerfano County Land Use
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Staff Report

Review of CUP 15-010 Walsenburg Cannabis

Board of County Commissioners

Meeting Date: 12/12/2023

Introduction: With this application The Huerfano Code Enforcement has found this CUP 15-010 to be in violation of Section 18.04.01 and 18.3.1 of the Land Use Code, and have attempted to contact the owner(s) without adequate response. The Facility has been vacant since before August 1, 2022 (See code reference 13.3.1 on page 2). On March 23, 2023, the Huerfano County Planning Commission reviewed this CUP and recommended that the Board of County Commissioners begin the revocation process outlined in Section 1.06.04, which requires Commissioners to schedule a public hearing. Following the conduct of the public hearing, as specified in Section 1.06.02, the Board shall act to revoke, not to revoke or to impose additional or amended conditions or sanctions on the conditional use approval holder.

Background

- The facility is located at 23054 US Hwy 160 near the Spanish Peaks Regional Medical Center and Lathrop State Park.
- The original CUP 15-010 was granted to DDS Ltd. The PW CO CanRE Walsenburg and Walsenburg Cannabis then transferred the CUP into their name.
- On August 26th 2021 the Board of County Commissioners approved the amendment to CUP #15-010, which transferred CUP 15-010 and gave specific facility operator approval to transfer Site 1. Case reference number: 21-15-010 Amendment.
- The applicants at time were Cedric Crockett, Jared Schrader, and David Lesser.
- Building permits for greenhouses #21-185, 21-205 and 21-206, were pulled on 11/9/21 and 12/6/21.
- When the Huerfano County Building Department went to do pier hole inspections they were notified that Cedric Crockett had no further affiliation with Walsenburg Cannabis.

Code Enforcement

- In July, 2022, Huerfano County Code Enforcement was informed that Walsenburg Cannabis was no longer in operation. Huerfano County Code Enforcement was also informed that the doors had closed and all of the plants that were being grown were destroyed through a wood chipper. A phone call was made to Jared Schrader who informed Huerfano County Code Enforcement that the operation had been shut down, but he declined to give an explanation.
- On September 28th, 2022 an email was sent out to David Lesser, the only other known owner, and no response was received. A second email was sent out to David Lesser on November 7, 2022, which he had not responded to by November 15th, 2022. Mr. Lesser was contacted again on November 17th, 2022. Since then, there has been no further communication with Mr. Lesser. The email was to inquire about Mr. Lesser's intention with the future of Walsenburg Cannabis. The emails also explained that CUP 15-010 would go to the Huerfano County Planning

Commission after February 1, 2023 to be considered for revocation. Two phone calls were placed to each of the numbers that were listed and messages left for Mr. Lesser with no return call.

- No building inspections have been conducted in over a year by the Huerfano County Building Department. Section 18.04.01.02 states that final inspections must be performed within one year of the building permit approval. There has been no communication on the building side of things.
- There were conditions put forth by the Huerfano County BOCC to the amendment to CUP 15-010 at their August 21, 2021 meeting. One of those conditions was that the Planning Commission would hold a compliance review after one year from the date of the CUP approval. No compliance review done as the facility was no longer in operation.

Code References

18.3.1 Abandonment.

Any facility that ceases operations for a period of six (6) consecutive months shall be considered abandoned and the Conditional Use Permit issued therefor may be revoked on such grounds following the procedure set forth under Section 1.06.04 of the Huerfano County Zoning Regulations.

18.04.01 Time of application and operation.

- 18.04.01.01 Annual Compliance Reviews shall be performed by the Board of County Commissioners, or its designees, no later than 30 days following the anniversary date of the issuance of a Commercial Building Permit.
- 18.04.01.02 All required construction permits must be in place within forty-five (45) days of CUP approval, construction must begin within 180 days of building permit approval, and all final building inspections must be performed within one year of the building permit approval.
- 18.04.01.03 Failure to meet any of the foregoing thresholds may result in revocation of the CUP.

1.06.04 Review and Revocation of a Conditional Use Approval

At such intervals as it may have specified in its decision granting a conditional use approval or by its own initiative or upon request by the Planning Commission or the Zoning Enforcement Officer, the Board of County Commissioners shall request the Planning Commission to review the terms, conditions or other provisions of conditional use approvals issued by the Board. Upon review of the approval provisions, the Planning Commission may specify time periods in which any violations of the terms or conditions shall be corrected and request the Zoning Enforcement Officer to report upon the action(s) taken to remedy the specified deficiencies. If the Planning Commission recommends revocation of the conditional use approval, such recommendation and the reasons for it shall be forwarded to the Huerfano County Board of County Commissioners. Within ten (10) working days of receiving that recommendation the Board of County Commissioners shall schedule a public hearing by the Board, as specified in Section 1.06.02. Following the conduct of the public hearing, as specified in Section 1.06.02, the Board shall act to revoke, not to revoke or to impose additional or amended conditions or sanctions on the conditional use approval holder. Failure of the approval holder to comply within the stipulated time periods with any of the original conditions under which the permit was issued or to comply with any amended conditional use application provisions shall be adequate reason for revocation of a conditional use permit without additional hearings or administrative remedies.

Staff Comments

Because no compliance review was conducted as per 18.04.01.01 and the permit holders have declined to communicate with Huerfano County Code Enforcement, Walsenburg Cannabis is not in compliance with Section 18 of the Land Use Code and the terms of CUP 15-010.

Planning Commission Recommendations:

On March 23, 2023 the Huerfano County Planning Commission unanimously voted to send CUP 15-010 Walsenburg Cannabis to the Huerfano County Board of County Commissioners with the recommendation to begin the revocation process of CUP-010 due to non-compliance of the following Huerfano County Marijuana Regulations:

- 18.04.01 Time of application and operation.
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- 18.04.01.03 Failure to meet any of the foregoing thresholds may result in revocation of the CUP.

Decision of the Board of County Commissioners:

On March 28th, 2023 The Board of County Commissioners voted unanimously to schedule a public hearing on Tuesday May 23, 2023 at 10:00am.

There was a Public Hearing conducted on May 23, 2023 with no public comment offered. The Commissioners made a motion and voted unanimously to give David Lesser until July 5, 2023 to come up with a plan to be reviewed by County Staff and the BOCC at which time the BOCC will make a decision.

At the Board of County Commissioners meeting on July 25th, 2023 the Commissioners made a motion and voted unanimously to conditionally continue the Conditional Use Permit #15-010 provided that no marijuana growing operations can occur until such time an operational plan is presented to the BOCC for approval. A quarterly update is to be given by David Lesser on buildings and grounds maintenance. This is to be sent to Land Use staff to be put on the agenda.

On November 21, 2023 an email was received from David Lesser for his quarterly check in, please see attached email.

Additional Information:

Walsenburg Cannabis was vandalized over the December 8th-10th 2023 weekend causing an estimated \$150,000-\$200,000 in damages. Five people involved in doing the vandalizing were apprehended. Reports, pictures, and all other information are still in process.