

**Huerfano County Land Use  
401 Main Street, Suite 304  
Walsenburg, Colorado 81089  
719-738-1220, Ext. 117**



# **Staff Report Public Hearing for CUP 15-010 Walsenburg Cannabis Board of County Commissioners**

**Meeting Date: 07/25/2023**

**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. There was a Public Hearing Held on May 23, 2023 Where the Board of County Commissioners decided on a two to one vote to give David Lesser with Walsenburg Cannabis until July 7, 2023 to show his progress towards getting CUP 15-010 Walsenburg Cannabis into compliance and operational.

## **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 26<sup>th</sup> 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 28<sup>th</sup>, 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 15<sup>th</sup>, 2022. Mr. Lesser was contacted again on November 17<sup>th</sup>, 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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18.04.01.02 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.

### **Decision of the Board of County Commissioners:**

On March 28, 2023 The Board of County Commissioners voted unanimously to schedule a public hearing on Tuesday May 23, 2023 at 10:00am, upon closing the public hearing, the Board shall act to revoke, not to revoke or to impose additional or amended conditions or sanctions on the conditional use approval holder.

On May 23, 2023 The Board of County Commissioners held a Public Hearing after which they voted two to one to give David Lesser Owner/representative of Walsenburg Cannabis CUP 15-010 until July 7, 2023 to submit what direction the future of Walsenburg Cannabis will be.

### **Staff Comments from May 23, 2023**

On Wednesday May 10, 2023 an email was sent to David Lesser reminding him of the Public Hearing on May 23, 2023, sent him a copy of the Staff Report that was done up to that point, to let him know when the Public Hearing Notices and letters were done. As of today May 22, 2023 no correspondence has taken place between Mr. David Lesser and the Huerfano County Land Use Office.

A letter from one of the adjacent property owners Robert Maldonado was brought in on May 15, 2023 by Mr. Maldonado, who stated he couldn't be at the Public Hearing on May 23, 2023.

**Staff Comments for July 25, 2023**

An email was received from David Lesser on July 9, 2023 with a letter of interest dated July 6, 2023. The letter is from a prospective operator, purchaser/tenant of Walsenburg Cannabis CUP 15-010. Mr. Lesser has been in touch with the Huerfano County Land Use Office with his progress with the potential future of Walsenburg Cannabis CUP 15-010. A follow up email was sent on July 18, 2023 from David Lesser with a second potential interested party. A more detailed explanation will be needed from Mr. Lesser at the Board of County Commissioners Meeting on July 25, 2023 on his progress and future plans to keep CUP 15-010 Walsenburg Cannabis active. Please see attached emails received on July 9, 2023 and July 18, 2023 from Mr. Lesser.



Cheri Chamberlain <cchamberlain@huerfano.us>

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## CUP

1 message

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**David H. Lesser** <david@dlesser.com>  
To: Cheri Chamberlain <cchamberlain@huerfano.us>

Tue, Jul 18, 2023 at 3:00 PM

Per our discussion, we have two groups currently interested in putting the property into productive operation which I believe is in everyone's best interest.

I had previously forwarded a letter of interest from one of the two groups.

I just ended a call with the second group and we have a verbal agreement on the terms of a lease and I intend to get a draft lease out to them shortly.

Based on this, I have reason to believe we will have something firmed up over the next 30 days and respectfully request additional time to keep the CUP in place in order to allow me to try to finalize things with one of the two groups.

Please let me know if you need anything further.

Best regards,

David Lesser

July 6, 2023

Re: 23054 Highway 160 HW Walsenburg, CO 81089

County: Huerfano

Zoning: Mixed Use

Parties: Seller/Landlord – PW CanRE Walsenburg LLC

Prospective Operator/Purchaser/Tenant: Cullen Hirsch (or an affiliate)

The purpose of this letter is to describe the current due-diligence being pursued by a prospective operator in relation to the above referenced 35.030-acre property.

We are currently in active negotiated for a sale and/or lease of this property for the purpose of putting the property into productive use producing cannabis and possibly adding residential improvements. The initial interest in the property started in June 2023 and has quickly progressed and we are working to finalize an agreement. The goal of this letter is to identify to the County that the property is being actively marketed and that we are making progress securing a qualified operator. We believe that we have identified Cullen Hirsch as a potential operator and to put the property back into productive use which should benefit the County by creating employment and taxes/fees.

If you have questions or need additional information, please reach out anytime to discuss.

J.P. Speers Partner Owner – Managing Broker Berkshire Hathaway RMR,



719-761-1910 Text or Call

Email: [jpberkshirehathaway@gmail.com](mailto:jpberkshirehathaway@gmail.com)

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