



COUNTY OF HUMBOLDT
PLANNING AND BUILDING DEPARTMENT

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DEPARTMENT POLICY STATEMENT NO. 22-02

ISSUE/SUBJECT: Site restoration upon termination or abandonment of commercial cannabis cultivation permit applications and approved permits

HUMBOLDT COUNTY CODE SECTIONS: Sections 314-55.4.6.6 and 313-55.4.6.6, Site Restoration upon Termination or Abandonment of Commercial Cannabis Cultivation Sites

Title III, Division I, Section 314-55.4.6.6. of the Humboldt County Code (HCC) reads as follows: "Upon termination or abandonment of a permitted Commercial Cannabis Cultivation Site, the operator and/or property owner shall remove all materials, equipment and improvements on the site that were devoted to cannabis activities, including but not limited to bags, pots or other containers, tools, fertilizers, pesticides, fuels, hoop house frames and coverings, irrigation pipes, water bladders or tanks, pond liners, electrical lighting fixtures, wiring and related equipment, fencing, cannabis and cannabis waste products, imported soil and soil amendments not incorporated into native soil, generators, pumps, and structures not associated with non-cannabis permitted use of the site. If any of the above described or related material or equipment is to remain, the operator and/or property owner shall prepare a plan and description of the non-cannabis continued use of such material or equipment on the site.

"For cultivation sites located in forested resource lands where trees were removed in order to facilitate cannabis cultivation, and no 3-acre conversion exemption or timberland conversion permit was obtained, the property owner shall cause a restoration plan to be prepared by a Registered Professional Forester, or other qualified professional approved by the County, for the reforestation of the site. All restoration planning and implementation shall be conducted in conformance with the Performance Standard for Remediation Activities. The property owner shall be responsible for execution of the restoration plan, subject to monitoring and periodic inspection by the County. Failure to adequately execute the plan shall be subject to the enforcement provisions set forth in Section 314-55.4.5.3 and Title III, Division 5, Chapter 1 of the Humboldt County Code."

BACKGROUND:

There are cannabis cultivators permitted under version 1.0 of the Commercial Medical Marijuana Land Use Ordinance (CMMLUO) and under version 2.0 Commercial Cannabis Land Use Ordinance (CCLUO). The CMMLUO was the first ordinance approved and does not address the responsibilities of the applicant if the cultivation site is abandoned or the permit is terminated. The CCLUO was approved after the CMMLUO and includes sections 314-55.4.6.6 and 313-55.4.6.6, Site Restoration upon Termination or Abandonment of Commercial Cannabis Cultivation Sites, which outline required actions when a cultivation site is abandoned, or the permit is terminated.

STAFF ANALYSIS:

HCC Section 314-55.4.5.3 includes a requirement upon termination or abandonment of a permitted Commercial Cannabis Cultivation site to "remove all materials, equipment, and improvements on the site that were devoted to cannabis activities...not associated with non-cannabis permitted use of the site." While removal of ALL materials is the baseline requirement, it does allow some materials to remain under some circumstances: "If any of the above described or related material or equipment is to remain, the operator and/or property owner shall prepare a plan and description of the non-cannabis continued use of such material or equipment on the site."

When a withdrawal request for a Commercial Cannabis Cultivation site is received by the Department, AND the applicant and property owner wish to retain materials, equipment, and/or improvements on the site, the applicant and property owner must submit a plan for the non-cannabis *permitted* use of such material, equipment, or improvements, including structures. This means that the improvements must be utilized for a use that is permitted in the specific zone district of the subject property. If the utilization of the improvements is intended for a use that requires a Special Permit or Conditional Use Permit in that zone district, the applicant will be required to obtain such permit prior to utilizing the improvements for that use. If the use is one that is not allowed in the specific zone district and the owner has not applied for a Zone Reclassification, the improvements cannot be retained on-site and must be removed as specified in HCC Section 314-55.4.6.6. A site inspection or review and approval of evidence of removal of cannabis related infrastructure by County staff shall occur prior to finalization of the withdrawal process.

STAFF RECOMMENDATION: It is recommended that the Director:

- A) Make a finding that Sections 314-55.4.6.6 and 313-55.4.6.6, Site Restoration upon Termination or Abandonment of Commercial Cannabis Cultivation Sites apply to applicants and owners whether the project is permitted under the CMMLUO or CCLUO; and
- B) Determine that when a Commercial Cannabis Cultivation site is terminated or abandoned and a withdrawal request is submitted, all cannabis related infrastructure shall be removed from the site. A complete application for all required grading and/or demolition permits must be submitted within 30 days of the withdrawal request and all work must be completed within six months; or
- C) Allow cannabis related structures and/or infrastructure that have received building permits or are eligible to receive building permits to be retained on the site with a "Notice and Acknowledgment of Land Use Limitations" signed by the property owner(s) only under one of the following circumstances:
 - 1) The applicant and property owner must submit a plan within 30 days of the withdrawal request that outlines the principally permitted use of any proposed cannabis related material, equipment, or improvements to remain; and that plan must be reviewed and approved by the Department prior to formal withdrawal of the project. If the total square footage of the proposed remaining greenhouses exceeds 2,500 square-feet, the plan must include evidence of a bona fide commercial use; or

- 2) If the proposed use of the improvements requires a Special Permit (SP) or Conditional Use Permit (CUP), such permit must be applied for and approved prior to staff approval of the plan to retain cannabis related infrastructure and official withdrawal of the project. The complete application must be submitted within 30 days of the withdrawal request. The proposed use cannot commence until the SP or CUP has been approved and conditions have been met; or
- 3) If the proposed use is not allowed in the zone, the owner can apply for a Zone Reclassification and/or General Plan Amendment (ZR/GPA) to propose a zoning designation that will allow the proposed use. The complete application must be submitted within 30 days of the withdrawal request. The proposed use cannot commence until the ZR/GPA is approved and effective. The cannabis related structures are allowed to remain while the rezoning process is proceeding; however, they may only be used for permitted uses during that time.
- D) Determine that when a Commercial Cannabis Cultivation site is terminated or abandoned and a withdrawal request is submitted, a final inspection or approval of evidence must be completed after the applicant and/or owner has submitted sufficient evidence demonstrating the removal of all cannabis related infrastructure or completed one of the processes listed in C) 1-3, above. Evidence can be submitted in the form of date-specific photographs of the area showing removal of the infrastructure with a supporting site plan indicating where the photographs were taken. The inspection and/or evidence verification must occur prior to formal completion of the withdrawal process. Once these actions are complete a final bill will be sent for the project and the application will be closed. It is noteworthy that for some properties, especially some pre-existing cultivations, these permit withdrawal actions will end cannabis cultivation entitlements and eliminate permit pathways for future cannabis cultivation operations for that site.

Prepared by: Elizabeth Schatz, Supervising Planner

Date: April 1, 2022

POLICY DETERMINATION:

☒ I concur with Staff's recommendation



John H. Ford
Director of Planning and Building Department

Date: APRIL 1, 2022