

**CITY PLANNING COMMISSION AGENDA**

**STAFF: MICHAEL TURISK**

**FILE NO.:**  
**CPC CU 17-00022 – QUASI-JUDICIAL**

**PROJECT: PLATTE BUSINESS CENTER**

**APPLICANT: JOY FOCHT**

**OWNER: DOUBLE J WOOTEN, LLC**



**PROJECT SUMMARY:**

**Project Description:** This is a request for a Conditional Use Development Plan to establish a hemp cannabidiol (hemp oil) extraction and hemp product manufacturing facility that would encompass a 45,329 square-foot suite addressed as 615 Wooten Drive. The suite is within a 238,836 square-foot mixed-use building on the 16-acre property zoned PIP-1 with AO (Planned Industrial Park with Airport Overlay).

General Industry (*Light*) uses are permitted uses in the PIP zoning districts; however, due to the proposed ethanol-based extraction process, staff has determined that this particular business model (as it regards the context of our Code) is an amalgam, if you will, of a medical marijuana use (perhaps more specifically, a medical marijuana infused products manufacturer) and a General Industry (*Light*) use. A Conditional Use is required given the identified distinctions between hemp and marijuana in addition to the manufacturing component defined as a light industrial use (*see also second paragraph of Analysis of Review Criteria, below*).

1. Applicant's Project Statement: (FIGURE 1)
2. Planning and Development Team's Recommendation: Staff recommends approval of the Conditional Use.

### **BACKGROUND:**

Site/Suite Address: 615 Wooten Drive

1. Existing Zoning/Land Use: PIP-1/AO (Planned Industrial Park-1 with Airport Overlay). The 238,836 square-foot building includes various office and warehouse uses.
2. Surrounding Zoning/Land Uses:
  - North: PIP-1 (Planned Industrial Park);  
warehouse/indoor storage
  - South: PIP-1; C-5 (Planned Industrial Park;  
Intermediate Business); warehouse/indoor storage
  - East: PIP-1 (Planned Industrial Park); Public  
Facilities (Deke Miller Complex)
  - West: PIP-1 (Planned Industrial Park);  
warehouse/indoor storage
3. Comprehensive Plan/Designated 2020 Land Use: Employment Center
4. Annexation: Smartt's Addition No. 9
5. Master Plan/Designated Master Plan Land Use: The property is not located within an approved Master Plan.
6. Subdivision: Platte Business Center; Filing 2A
7. Zoning Enforcement Action(s): None
8. Physical Characteristics: The property is improved with a large commercial/industrial-type building with associated on-site parking. The site has comparatively little slope.

### **STAKEHOLDER PROCESS AND INVOLVEMENT:**

Public notice was provided to 29 property owners within 1,000-feet of the subject property during the internal review as well as prior to the Planning Commission meeting. As of this report, staff has yet to receive any written correspondence nor any verbal comments or inquiries regarding the Conditional Use request.

Agency and staff input is outlined in the following sections of this report. Staff sent plans to the standard internal and external review agencies for comments. Commenting agencies included Colorado Springs Utilities, City Engineering, Public Works, Operations and Maintenance, City Traffic, City Fire, Police, Enumerations, Floodplain, Real Estate Services, Comcast and School District 11. This site is within the Airport Overlay, but an avigation easement was recorded in 2006. The property lies outside of the buffer for review by USAFA.

Most comments received from the review agencies have been addressed. The City's Fire Department has provided Planning staff with comments regarding the design and maintenance of internal apparatus access roads. Said comments may be addressed post-entitlement, and

specifics are detailed in the five suggested Conditions of Approval noted at the end of this memorandum.

### **BACKGROUND:**

Cultivating and processing hemp is permitted under Colorado State law provided that the hemp is cultivated by a person registered with the Colorado Department of Agriculture under the Industrial Hemp Regulatory Program Act. Hemp processing must also comply with local zoning. Therefore, a hemp processing facility may be located in the City without violating State law.

The term *cannabis* has just as much to do with hemp products as it does with the medical or recreational drug better known as marijuana. However, there are distinct differences, including:

- Genetics:

The core differences between medical and recreational cannabis and hemp are largely in their genetic parentage and cultivation environment.

- THC Content:

*Tetrahydrocannabinol* (THC) is the compound that induces psychotropic effect from marijuana. While marijuana plants contain high levels of THC, hemp contains comparatively very little of this psychoactive compound. *This difference is perhaps the single most important distinguishing characteristic of hemp.*

- Growing Conditions:

Hemp and marijuana are grown for different uses, and therefore require different growing conditions. For example, marijuana has been selectively bred over generations and cultivated and optimized to produce female flowering plants. In contrast, hemp plants are “primarily male, without representing flowering buds at any stage in their life cycle” resulting in relatively low concentrations of THC.

### **ANALYSIS OF REVIEW CRITERIA/MAJOR ISSUES/COMPREHENSIVE PLAN & MASTER PLAN CONFORMANCE:**

1. Review Criteria/Design & Development Issues:

- a. Background

This Conditional Use Development Plan regards a hemp *cannabidiol* (CBD) extraction and hemp oil product manufacturing facility within a 45,329 square-foot portion of a 238,838 square-foot commercial/industrial building with seven attached suites. Per *Folium Biosciences* (see *attached Project Statement – FIGURE 1*), the proposed use does not involve the cultivation, harvesting and/or processing of *medical or recreational marijuana*; rather, the facility is intended to extract CBD from industrial hemp to include as the active therapeutic component of various health and wellness products to be manufactured on-site.

The proposed use does not fit cleanly into our Land Use Definitions, as hemp-related uses are not formally identified or acknowledged (unlike various medical marijuana uses). When a specific use is not listed and it is unclear whether the use is permitted, a *similar use determination* allows for consideration of whether or not a proposed use is analogous to a listed use in our Code and whether it may be permitted in a particular zoning district. General Industry (*Light*) uses are permitted uses in the PIP zoning districts; however, due to the proposed ethanol-based extraction process, staff has determined that this particular business model (as it regards the context of our Code) is an amalgam, if you will, of a medical marijuana use (perhaps more specifically, a medical marijuana infused products manufacturer) and a General Industry (*Light*) use.

This rationale is based in part on the identified distinctions between hemp and marijuana in addition to the proposed hemp oil product manufacturing component being largely consistent with the broad definition of a general light industrial use. Therefore, staff determined that the best approach to entitling the proposed project is to review within the scheme of a Conditional Use.

Both hemp and marijuana plants contain *cannabidiol* (CBD). CBD is the compound identified by medical professionals and researchers as having a wide scope of potential medical applications. However, hemp plants produce more CBD than THC (the compound that induces psychotropic effect), while marijuana produces more THC than CBD. CBD, perhaps most notably, *is not* psychoactive, as consuming it or any whole, raw natural product from industrial hemp does not generate the intoxicating or psychoactive effect of THC.

In order to derive any medical benefits from hemp CBD must be extracted. There are various methods used to extract *cannabidiol*, including solvent-based and carbon dioxide methods. The proposed Conditional Use would employ a solvent-based extraction method using ethanol in which the hemp is submerged and the resulting concentrate strained from plant and extraction materials.

b. Conditional Use:

A. *Surrounding Neighborhood: That the value and qualities of the neighborhood surrounding the conditional use are not substantially injured.*

No letters or emails were received expressing opposition to the proposed Conditional Use. Staff finds that the values and qualities of the immediate area will not be substantially injured by the proposed use.

B. *Intent of Zoning Code: That the Conditional Use is consistent with the intent and purpose of this Zoning Code to promote public health, safety and general welfare:*

The subject property is generally located in an area of largely PIP zoning and commercial and light-industrial-type uses in south-central Colorado Springs, approximately one-mile northwest of Peterson Air Force Base. More specifically, the property lies just east of Wooten Avenue (from which the subject property takes access), between Geiger Avenue and Edison Avenue at the north and south, respectively. No physical expansion or exterior alterations to the existing structure are proposed with this request. The subject property is not within an identified 100- or 500-year floodplain, but the property is subject to the aforementioned recorded Avigation Easement.

Per City Code, Planned Industrial Park zoning may accommodate various commercial and limited research, manufacturing and industrial uses. A Concept Plan amendment was approved in 2006 (CPC CP 05-00816-A-1(06)) for 29-acres that includes office, retail, light industrial and warehouse uses. Although Planned Industrial Park zone districts are identified as suitable for industrial development, said development shall be “quiet and clean” in order to ensure an environment that will serve the mutual interests of the broader community, any adjacent residential areas, as well as those of commercial and industrial occupants. Some PIP districts are located near residential neighborhoods; therefore, it is necessary that all industrial-type activities be performed in a manner that is not injurious or offensive to adjacent residential properties. Note, however, that the subject property is surrounded by PIP zoning (and to a lesser degree, commercial (C-5; Intermediate Business) and PF (Public Facilities) zoning.

The existing structure intended to be used for the extraction activities complies with the specific development standards applicable to the PIP zoning districts, including maximum building height, minimum setbacks and minimum on-site parking requirements.

In addition, the proposed Conditional Use would not generate an inordinate increase in traffic, as the facility would not be open to the general public nor would offer retail sales of any products on site. Folium Biosciences proposes to employ up to 50 skilled and non-skilled persons.

The property, however, provides for ample on-site parking and maneuvering, particularly given that the minimum parking standard identified in City Code for the use (one standard-sized parking stall per 750 square-feet of floor area). Given this ratio, a minimum of 60 on-site standard-sized parking spaces would be required for the proposed change of use. Per the submitted development plan, the available on-site parking meets the minimum on-site parking standard for the proposed use (**FIGURE 2**).

In reviewing the request for a Conditional Use, the following points serve as factors for recommending approval, including, but not limited to:

- The proposed use would occupy an existing vacant space, with no physical expansion proposed;
- The project is considered infill as it is characterized as a reuse of an existing structure and will not require additional infrastructure;
- Traffic generated is anticipated to be comparatively minimal;
- The proposed site is adequately served by streets to carry the level of service needed; and
- The proposed use would be entirely enclosed; this, coupled with the property's size, would help mitigate any degree of generated adverse impact; additional mitigation is determined to be unnecessary in order to integrate the proposed use into the surrounding commercial and industrial character of the immediate area.

C. Comprehensive Plan: That the Conditional Use is consistent with the Comprehensive Plan of the City:

The City of Colorado Springs Comprehensive Plan spells out the objectives, policies and strategies that should be reviewed when making land use decisions. This application is supported by the Comprehensive Plan (see the section below for a more detailed analysis of Comprehensive Plan compliance).

Staff finds that the proposed application adequately addresses all of the issues raised by the internal review agencies and meets the review criteria as set forth in City Code.

Conformance with the City Comprehensive Plan:

The Plan's 2020 Land Use Map designates this area of the City as an *Employment Center*; these are Activity Centers identified as major concentrations of employment supported by a mix of uses.

This request is representative of urban infill, per the Comprehensive Plan's *Infill Supplement*, as it would utilize an existing building located within a largely developed, well-defined area that provides for adequate services and infrastructure. The proposed project is considered compliant with the following relevant infill-specific Plan Objectives and Policy:

Objective LU 2: Develop a Land Use Pattern That Preserves the City's Natural Environment, Livability, and Sense of Community:

Objective LU 4: Encourage Infill and Redevelopment

Policy LU 201: Promote a Focused, Consolidated Land Use Pattern

The proposed project would comply with the aforementioned Plan Objective and Policies by encouraging a more focused pattern of development in a well-defined and contiguous area, resulting in more efficient use of land and other resources.

This is in stark contrast to dispersed patterns of development, often characterized or defined as “leapfrog development,” “greenfield development or “exurban sprawl.” Furthermore, infill and redevelopment projects are encouraged that are in character and context with existing, surrounding development.

Furthermore, the following Plan Objective and Strategy are considered:

Objective LU 8: Integrate Employment Centers into the Wider City Land Use Pattern

In part, this Objective regards focusing on creating quality employment opportunities at various economic strata. To this point, the proposed project would generate a relatively small number of employment opportunities, but with a diverse salary structure, including salaries commensurate with a high degree of technical skill.

The proposed site is one that fits the needs of the prospective small business in terms of land requirements and location. According to this Objective, such business considerations must also be balanced with overall quality of life considerations, and further stresses the importance of community integration of the employment activities in order to avoid increased infrastructure and traffic burdens. The proposed project, however, is identified as being in general harmony and compatibility with surrounding development and zoning, thus avoiding the possibility of incurred additional infrastructure commitments.

Strategy LU 302e: Incorporate Mixed-use Activity Center Principles into the Design of New and Redeveloping Employment and Commercial Centers:

This Strategy speaks to encouraging the design and development of commercial centers (and in this case employment centers) that include a range of integrated uses. Although the proposed project is considered representative of light manufacturing for the purpose of zoning (and in a similar vein to marijuana-related uses), it is comparatively unique and it may be suggested that the use would serve to enhance the diversity of uses in the immediate area.

Conformance with the Area’s Master Plan:

The site does not lie within the bounds of an approved and implemented Master Plan.

Conformance with the City 2016-2020 Strategic Plan:

The proposed project conforms to the identified Platform Goals of the *2016-2020 Strategic Plan* by promoting and stimulating a more robust and diverse economy and attendant employment opportunities. Per the submitted project statement, the proposed use would generate up to approximately 50 jobs, including those requiring advanced, highly technical skillsets. By considering the proposed use within the context of similar uses -- and therefore one that should be considered for approval -- the project loosely conforms to the Strategic Plan Policy of “making it easier to do business with the City” by finding common sense and reasonable approaches to encouraging more “non-traditional” business investment within the City.

**STAFF RECOMMENDATION:**

**CPC CU 17-00022– CONDITIONAL USE DEVELOPMENT PLAN**

Approve the request for a Conditional Use to establish a cannabidiol (hemp oil) extraction and hemp product manufacturing facility based upon the finding that the request complies with the



Conditional Use review criteria in City Code Section 7.5.704, and the Development Plan review criteria in City Code Section 7.5.502.B with the following five Conditions of Approval:

1. Include a note on the plans that indicates that fire apparatus access roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be surfaced so as to provide all-weather driving capabilities.
2. Include a note on the plans that states all fire lanes shown on the plans will be repaired and maintained to include filling of all potholes.
3. Include a note on the plans that states where applicable, fire lane markings along the fire lanes shown on the plans shall be installed or replaced where missing, and/or maintained/repared where signage is faded or striping is flaking or peeling.
4. Include a note on the plans indicating where required by the fire code official, approved signs or other approved notices or markings that include the words "*No Parking – Fire Lane*" shall be provided for fire apparatus access roads to identify such roads or prohibit the obstruction thereof. The means by which fire lanes are designated shall be maintained in a clean and legible condition at all times and replaced or repaired when necessary so as to provide adequate visibility.
5. The property shows concrete curb stops and striped parking stalls across the fire lane at the northern portion of the loop. If said curb stops and striped parking stalls are not intended for removal, then the fire lane locations indicated on the current plans shall be revised.