

Brandon Bilandzija
Record Number: PLN-12730-CUP
Assessor Parcel Number: 216-381-034

Recommended Commission Action:

1. Describe the application as a public hearing;
2. Request that staff present the project;
3. Open the public hearing and receive testimony; and
4. Close the hearing and take the following action:

Find the project statutorily exempt from environmental review pursuant to Section 15270 of the State CEQA Guidelines, find that the project is inconsistent with the Humboldt County Code and adopt the resolution denying the Brandon Bilandzija Conditional Use Permit and Special Permit.

Executive Summary: On October 21, 2021, the Planning Commission heard the Brandon Bilandzija project, which was requesting a Conditional Use Permit to allow the continued cultivation of 13,350 square feet (SF) of outdoor cannabis in accordance with Humboldt County Code Section 314-55.4 of Chapter 4 of Division I of Title III, Commercial Medical Marijuana Land Use Ordinance (CMMLUO). The site is designated as Residential Agriculture (RA5-20) in the Humboldt County 2017 General Plan Update and zoned Forestry Recreation (FR-B-5(10)). Cultivation takes place in the western portion of the subject property and consists entirely of light deprivation outdoor cultivation which takes place in four (4) proposed greenhouses. Ancillary propagation does not occur onsite. The outdoor light deprivation greenhouses will produce up to two (2) harvests per year.

Drying, bucking, and processing occurs onsite. Up to six (6) persons may be utilized onsite during peak operations. The applicant is proposing to process in temporary car port structures and there is no Onsite Wastewater Treatment System (OWTS) on the subject parcel. Although drying and bucking can be conducted agricultural accessory structures, processing must be conducted in a structure that complies with the Americans with Disabilities Act (ADA) and has an OWTS to handle wastewater associated with processing activities and employees on-site. Portable bathroom facilities are accepted for cultivation-related staff. This permit does not authorize on-site processing until such time that an ADA-compliant structure and OWTS are developed on the subject parcel. The processing structure must be less than 2,500 SF and be proposed within a previously disturbed area. This permit does not authorize use of temporary tents to be used for processing. Power for cultivation will be sourced from a proposed PG&E agricultural connection. The operation is secured behind a locked entry gate located off Alderpoint Road.

At the October 21, 2021, Planning Commission hearing, the Planning Commission determined that there was insufficient evidence pertaining to the proposed groundwater well and the proposed Pacific Gas and Electric (P. G. & E.) connection to approve the project and there was insufficient progress on remediation of the site as needed to comply with statewide water quality standards. The Planning Commission continued the project to the November 4, 2021 with direction to staff to bring back the findings and resolution for denial of the project. The vote was 4 – 2 with Commissioners Mulder and Newman dissenting; Commission Levy was not present at the hearing. The following paragraphs describe the facets of the project where the Planning Commission determined there was insufficient evidence and what information was incomplete or missing.

Proposed Groundwater Well

Estimated annual water usage is 195,517 gallons (14.5 gal/SF) with peak demand occurring in August at approximately 47,039 gallons. Water for irrigation will be provided by a proposed permitted onsite groundwater well. Historically, water for irrigation was sourced from a spring diversion and an on-stream pond. The applicant is proposing to drill a well to replace the historical

diversionary water sources. Planning staff supports the replacement of the diversionary water sources with a groundwater well to reduce impacts associated with water diversion.

The Planning Commission determined information necessary to determine consistency with the ordinance has not been submitted as there is no information on well production and potential connectivity to adjacent aquifers and surface water bodies. As the production capacity of the well is unknown and it is unknown if the proposed groundwater well will yield sufficient water to support the annual water demand, the Planning Commission does not have sufficient information to consider the project's impacts on the environment. Additionally, the applicant is not proposing any additional water sources (e.g. rain catchment) at this time, therefore, it is unknown if sufficient water exists to meet annual water demand for the proposed project.

Lack of Remediation Completed

A *Water Resource Protection Plan* (WRPP) was prepared by Timberland Resource Consultants, dated April 19, 2018 (Attachment 3), that includes recommended best practices for erosion control, monitoring irrigation volumes to prevent runoff, and utilizing a secure storage facility for all cultivation-related materials consistent with the North Coast Regional Water Quality Control Board Order RI-2015-0023 and the State Water Resources Control Board Cannabis General Order. The site contains several Class II watercourses and the WRPP recommends various improvements to protect water quality and maintain necessary crossings. The site also contains an onstream pond developed without the benefit of County review, which is proposed to be removed and the bed and banks restored to natural conditions. A *Preliminary Grading & Erosion Control Plan* was prepared by A.M. Baird Engineering & Surveying Inc., dated November 26, 2018 (see Attachment 3 of the October 21, 2021, Staff Report), was prepared to document proposed improvements and erosion control measures to minimize the potential of harmful runoff from the cultivation area. Additionally, a *Justification for Relocation* was conducted by Timberland Resource Consultants, dated April 13, 2019, which recommended consolidating all cultivation onsite to the western cultivation area. Previously cultivation near the pond seep which occurred within the Streamside Management Area buffer would be removed, as well as the decommissioning and restoration of the onstream pond.

The CMMLUO requires projects to be compliant with State and local regulations regarding cannabis, including site development. Typically, existing operations start with the provisional permit to provide 2 years for the applicant to come into compliance with CMMLUO requirements and obtain a State license. Remedial actions, such as completing recommendations in the WRPP would be a part of the provisional permit and would provide the applicant sufficient time to obtain permits from State and local agencies to conduct the work described by the WRPP. Although the applicant has obtained a Final Streambed Alteration Agreement to complete the work described by the WRPP, the applicant is unable to obtain the necessary permit from the Humboldt County Building Department (e.g. grading permit) until the cannabis permit is approved. Should the applicant move forward and complete with the work without all necessary permits, the applicant would be in violation of County Code.

The Planning Commission determined there is insufficient evidence in the staff report to show the applicant has completed any or all of the recommended remedial actions described by the WRPP.

Proposed Pacific Gas and Electric (P. G. & E.) Connection

The proposed project states all power required for cultivation activities will be provided by a proposed P. G. & E. agricultural connection. The applicant proposed P. G. & E. to move away from using generators that historically provided power for the project. Additionally, no supplemental lighting is proposed for use to support cultivation activities, therefore, power is limited to fans, dehumidifiers, heaters and processing activities.

The Planning Commission determined that there is insufficient evidence to show that P. G. & E. can provide power to the subject parcel and stated applicant should provide evidence (e.g. letter or similar correspondence from P. G. & E.) showing P. G. & E. can be supplied to the subject parcel.

Summary: The submitted application does not include enough evidence to support making the required findings under Section 312-17.1.

ALTERNATIVES: The Planning Commission could elect to direct staff to continue working with the applicant to request the applicant drill a test well to determine the well production and revised the irrigation plan to include additional water storage using rainwater catchment, outline a timeline for compliance related to remedial measures in the WRPP and provide an energy plan that includes a will serve letter or similar communication from P. G. & E. demonstrating P. G. & E. will serve the subject parcel and/or how renewable energy sources (e.g. solar, wind and/or hydro) will be used to support the project's annual energy demand.