

**Recommended Zoning Administrator Action:**

1. Describe the application as part of the Consent Agenda.
2. Survey the audience for any person who would like to discuss the application.
3. If no one requests discussion, make the following motion to approve the application as a part of the consent agenda:

*Find that the Zoning Administrator has considered the Addendum to the adopted Mitigated Negative Declaration for the Commercial Medical Land Use Ordinance (CCMLUO) as described by Section §15164 of the State CEQA Guidelines, make all of the required findings for approval of the Special Permit and adopt the Resolution approving the Eagle Rock, LLC, project as recommended by staff subject to the recommended conditions.*

**Executive Summary:** Eagle Rock, LLC, seeks a Special Permit to allow the continued cultivation of 8,241 square feet (SF) of existing cannabis cultivation, including 4,325 SF of full-sun outdoor cultivation and 3,916 SF of mixed light cultivation, in addition to 780 SF of ancillary propagation, 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 with Special Building Site Combining Zone (FR-B-5(10)). Outdoor cultivation takes place in two (2) areas within the central and southern portions of the property, with mixed light cultivation taking place within five (5) existing hoop houses within the central portion of the property. Ancillary propagation occurs within a separate 780 SF greenhouse. Two (2) harvests are anticipated annually for the mixed light cultivation and one (1) annual harvest for the outdoor cultivation, for a growing season that extends from March through October.

Processing, including drying, bucking, curing, trimming, and packaging, occurs onsite within an existing 750 SF building. The operation is conducted by the two (2) property owners; no additional employees are required. Power is provided by Pacific Gas and Electric Company (PG&E). The operation is secured behind a gated access, privacy fencing along the roadways, and "private property" and "no trespassing" signage is utilized. Additionally, all items related to cultivation are secured in locked outbuildings.

**Recent Lot Line Adjustment**

A Lot Line Adjustment (LLA) was recently completed between three properties, including the subject site, APN 216-381-052 (located east of the subject site), and APN 216-381-053 (located to the east of APN 216-381-052), through the County of Humboldt under Record No. PLN-2021-17401 (administratively approved on 10/5/2021). Under the LLA, the subject property increased in size by 3.64 acres, from 10 acres to 13.64 acres, gaining additional land to the southeast. The Site Plan is consistent with the new parcel configuration, as per the approved Tentative Map (included with Project Maps).

**Former and Proposed Onsite Relocation and Remediation**

Timberland Resource Consultants prepared a letter in October 2021 with their assessment of a proposed onsite relocation (Attachment 3), in which existing mixed-light cultivation is proposed for relocation onto the portion of the property recently added to the site under a lot line adjustment. The proposed relocation is depicted on the Site Plan and Cultivation Relocation Map (both included with Project Maps). It is noted in the letter that the proposed relocation area presently consists of a storage structure that is surrounded by non-native fruit trees and other ornamental vegetation, and removal of these trees and vegetation would not constitute timberland conversion under the Forest Practice Rules. It is further noted in the letter that the proposed relocation area is environmentally superior as it comprises relatively flat slopes (0-2%) with no cuts or fills, while the current mixed light cultivation area is located on slopes greater than 30%. Furthermore, the existing mixed light cultivation area is located approximately 60 feet from a Class III riparian buffer, whereas the proposed relocation area is greater than 200 feet from any

watercourses. No remediation for the existing site will be required, as it was developed under a CAL FIRE conversion exemption (1-14EX-160-HUM, discussed further below). The landowner proposes to utilize this area for the processing and storage of firewood. Based on the October 2021 letter, Planning staff is supportive of the proposed relocation.

A historic cultivation site, formerly located within the riparian buffer of a spring-fed pond on the subject property, was remediated in 2017, and the effectiveness of the remediation efforts was evaluated. It is noted in the letter that the area has been revegetated with native vegetation and “there is no current potential for waste discharge associated with past cannabis activities, and there appears to be no current threat to water quality from residential use.” No recommendations were included in the letter, and, as a result, no conditions of approval are recommended for the former and proposed onsite relocation.

**Timber Conversion**

Based on review of historic aerial imagery, timber conversion has occurred onsite. The clearing in the southwestern portion of the site dates back to at least 2005, and the central portion of the site appears to have been converted between 2005 and 2009. Additional clearing appears to have occurred between 2009 and 2010 within the southeastern portion of the site (original portion of property). Further, within the new southeastern portion of the property (originally part of APN 216-381-052), there is an existing clearing dating back to at least 2004. A Less Than Three Acre Conversion Exemption (1-14EX-160-HUM) was issued by the California Department of Forestry and Fire Protection (CAL FIRE) in June 2014 (Attachment 3) for the conversion of 1.2 acres. Per review of the timber conversion map included with the Less Than Three Acre Conversion Exemption, the two conversion areas, as depicted within the northern and central portions of the property, correspond with what is shown on the Site Plan and aerial imagery. Aerial imagery indicates the two areas were converted between 2014 and 2016, and does not appear to indicate any additional timber conversion occurred onsite after the CMMLUO environmental baseline date of January 1, 2016. In March 2020, CAL FIRE indicated they did not have any comments on the project. As a result, no mitigation, such as restocking, is recommended for the project.

**Water Resources**

Estimated annual water usage is 57,199 gallons (4.71 gal/SF), per the tables below. Existing available water storage for irrigation is 42,500 gallons in twelve (12) hard sided tanks ranging in size from 1,000 to 5,000 gallons. Water storage covers 73% of the projected annual water use. Water for irrigation is provided by a permitted groundwater well (Permit #04/05-1004) and rainwater catchment. The well is also registered with the California Department of Water Resources (WCR No. 0916605; Attachment 3). Onsite cannabis is irrigated at agronomic rates by hand to reduce overwatering and irrigation runoff. Additionally, time of day watering and ground cover, weed barrier, and natural soil amendments are utilized for water conservation and minimize weed growth, which reduces water loss during water.

Table 1. Monthly Water Use (in Gallons) – Mixed Light Cannabis

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
1st run	0	0	500	1,625	3,167	3,167	941	0	0	0	0	0	
2nd run	0	0	0	0	0	1000	2,557	3,176	3,176	1,500	0	0	
Total	0	0	500	1,625	3,167	4,167	3,498	3,176	3,176	1,500	0	0	20,827

Table 2. Monthly Water Use (in Gallons) – Outdoor Cannabis

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
1st run	0	0	0	0	1,500	7,274	9,092	9,092	7,247	3,659	0	0	
2nd run	0	0	0	0							0	0	
Total	0	0	0	0	1,500	7,274	9,092	9,092	7,247	3,659	0	0	36,372

TOTAL: 57,199 gallons

The well is located in the southeasternmost portion of the newly configured parcel, south of the mixed light cultivation. According to the Well Completion Report (see Attachment 3), the completed well is 90 feet deep and drilled through clay and conglomerate rock. A blank is installed from 2 feet to the depth of the well, with screening from 40 feet to the bottom of the well.

*A Hydrological Isolation of Existing Well from Surface Waters* (Hydrological Evaluation) was prepared by Lindberg Geologic Consulting in July 2022 (Attachment 3) to assess the existing well's potential for hydrological connectivity with any adjacent wetlands and surface waters, and if pumping the well could affect surface waters in nearby watercourses. As noted in the Hydrological Evaluation, the well is located more than 900 feet east of an unnamed ephemeral tributary to Powers Creek, the nearest mapped surface waters. Additionally, it is noted the well is sealed with cement and bentonite through the upper 21 feet, effectively isolating any potential unconfined near-surface aquifers which this well might communicate hydraulically. The bentonite seal isolates the topsoil, and the tan clay materials from the deeper conglomeratic aquifer. When considered with the stratigraphy and geologic structure, the distances (both horizontal and vertical) from the nearest surface waters (more than 900 feet), the depth of the producing zone of this well (40-80 feet), and its position relative to watercourses, it is concluded in the Hydrological Evaluation that the depth of the surface seal is sufficient to preclude the potential for hydrologic connectivity of surface waters. Additionally, the water source from which the well draws appears to be a confined subsurface fractured bedrock aquifer not directly connected to nearby, unconfined near-surface aquifer(s). As a result, it is concluded the well has a low likelihood of being hydrologically connected to nearby surface waters or wells and would significantly impacts or affect adjacent wetlands, wells, or other surface waters in the vicinity.

Based on the results of the Hydrological Evaluation, Planning staff is supportive of continued use of the well for the irrigation of cannabis on the subject property. Since the well was found to not be likely to be hydrologically connected to surface waters, the well does not require additional water rights from the State Water Resources Control Board and is not subject to forbearance or water storage requirements.

As noted above, a rainwater catchment system is also utilized for cannabis irrigation. Per information provided by the applicant in August 2022 (Attachment 3), rainwater pools within a catchment area (approximately 12'x28', or 336 SF, in size) located on the hillside above the water tanks, and is then funneled into a 1-inch pipe that fills the rainwater catchment tanks (30,000 gallons) during the rainy season. This water lessens the amount of water derived and used from the well for irrigation.

Conditions of approval require the applicant to monitor water use from the well, rainwater catchment system, and storage tanks annually to demonstrate there is sufficient water available to meet operational needs (**General Condition A.19**).

A Right to Divert and Use Water (Registration D032722, Certificate D1033) was issued by the State Water Resources Control Board (SWRCB) in April 2018 for use of a point of diversion from a spring for domestic and fire suppression use; the point of diversion would not be approved for irrigation use as a part of the project. Additionally, a Final Streambed Alteration Agreement (Notification No. 1600-2106-0448-R1) was issued by the California Department of Fish and Wildlife (CDFW) in December 2016 for two points of diversion from a 60,000-gallon spring-fed pond located in the western portion of the subject parcel and Class II watercourse; however, these points of diversion are not utilized for irrigation.

Per review of the Site Plan, a Class III watercourse traverses the northern portion of the subject property (although not shown on the County's GIS), with respective Streamside Management Area (SMA) buffer depicted. Per the Site Plan, the cultivation areas are located outside of the required SMA buffer. A Water Resource Protection Plan (WRPP) was prepared for the site by the applicant in October 2016 (Attachment 3) in compliance with the North Coast Regional Water Quality Control Board Order No. R1-2015-0023, and details measures currently utilized at the subject site to minimize potential impacts associated with the project. In addition, four (4) specific areas were identified in need of improvements, including cultivation areas within 50- and 100-feet of a Class II and Class III watercourse, the need for

additional water storage and addition of a gutter rainwater catchment system, and regular inspection and monitoring of a culvert and potential upgrade. The project is conditioned to implement any remaining corrective measures detailed in the WRPP to minimize any potential impacts associated with the project and minimize runoff into nearby SMAs (**General Condition A.10**). In addition, the applicant is required to submit copies of all documents filed with the State Water Resources Control Board, including, but not limited to, a Site Management Plan (SMP) and implement any recommendations contained within the SMP (**General Condition A.12**).

### **Biological Resources**

Per review of the California Department of Fish and Wildlife's (CDFW) California Natural Diversity Database (CNDDDB) in August 2022, there are no mapped sensitive species onsite and the nearest positive sighting and NSO activity center are located approximately 2.59 and 5.81 miles from the site, respectively. Power to the site is provided by Pacific Gas and Electric Company (PG&E); the use of generators to support this operation are not authorized by this permit. Other noise from operations, such as fans or dehumidifiers must be 50 dB or less from the noise source or edge of habitat, whichever is closer (**General Condition A.15**). Artificial lighting is utilized for the existing mixed light cultivation and propagation. Because the site and surrounding parcels may have the potential for NSO habitat, the conditions of approval require the applicant to utilize light attenuation, including ensuring supplemental lighting and security lighting adheres to Dark Sky Association standards (**General Condition A.16**). In addition, the project is conditioned to refrain from using synthetic netting, ensure refuse is contained in wildlife proof storage and refrain from using anticoagulant rodenticides to further protect wildlife (**General Conditions A.17-A.18 and Ongoing Requirements B.4-B.5 and B.7**). As proposed and conditioned, the project is consistent with CMMLUO performance standards and CDFW guidance and will not negatively impact NSO or other sensitive species.

### **Access**

Access to the site is via a driveway off Rancho Sequoia Drive (a private road) via Alderpoint Road. Alderpoint Road, a County-maintained road, is approved by the Department of Public Works for use by commercial cannabis operations. A Road Evaluation Report for Rancho Sequoia Drive from Alderpoint Road to the subject property was prepared by the property owner and applicant in July 2018 (Attachment 3), which indicates that the roadway meets a Category 4 road equivalent standard and is adequate for the proposed use. The submitted road evaluation included sufficient photographic evidence to verify the roadway condition as described, including roadway width and line of sight. As no additional employees will be required for the project, a significant increase in traffic on the access roads is not anticipated. Per referral comments received from the Department of Public Works, Land Use Division, dated March 2020, the project is conditioned to maintain all driveways and private road intersections onto the County road in accordance with the County's Sight Visibility Ordinance (County Code §341-1) (**General Condition A.9**) and improve the access road that serves the project to current commercial driveway standards.

The Rancho Sequoia Road network has been heavily evaluated, with the inclusion of outside agency comments and review including the SWRCB and the CDFW, including consulting engineers that have compiled detailed descriptions of the current conditions of the road and a three-year and a ten-year remediation and improvement plan with associated cost estimates to complete the proposed work totaling roughly 1.5-million dollars. The improvements include the cleanup of chemical spills along the road, grading, re-sloping, installation of water bars, improvements to drainage, culverts, and the use of fill, and the application of lime and lignin for areas of high clay that have led to sink holes and major rutting. Due to the extensive level of road improvements and associated costs, the road improvement projects will be performed under the Rancho Sequoia Road Association (RSRA) (a Road Maintenance Association) including acquiring a Lake or Streambed Alteration Agreement through the CDFW, permits and approval including sign off of a Restoration and Monitoring Plan (RMP) through the SWRCB, and all required permitting and review through the Public Works Land Use. As conditioned, the applicant is required to provide evidence of inclusion within the RSRA including annual receipts showing the required contributions to the association. The RSRA will be conditioned to adhere to the approved RMP through the SWRCB and conditions to any road improvements that fall under their jurisdiction. In the event the

applicant is unable to maintain membership within Road Maintenance Association, the applicant shall pay fair-share cost for maintenance of the road to any road user engaged in maintaining the road through the life of the project. Additional documentation approved or required by CDFW or SWRCB shall be provided to the Humboldt County Planning Department on an annual basis or upon project updates, whichever occurs first (**General Condition A.8**).

**Consistency with Humboldt County Board of Supervisors Resolution No. 18-43**

Planning staff determined approval of this project is consistent with Humboldt County Board of Supervisors Resolution No. 18-43, which established a limit on the number of permits and acres which may be approved in each of the County's Planning Watersheds. The project site is located in the Middle Main Eel Planning Watershed, which under Resolution 18-43 is limited to 360 permits and 125 acres of cultivation. With the approval of this project the total approved permits in this Planning Watershed would be 99 permits and the total approved acres would be 43.90 acres of cultivation.

Environmental review for this project was conducted and based on the results of that analysis, staff finds that all aspects of the project have been considered in a previously adopted Mitigated Negative Declaration that was adopted for the Commercial Medical Marijuana Land Use Ordinance and has prepared an addendum to this document for consideration by the Zoning Administrator (See Attachment 2 for more information).

Staff recommends that the Zoning Administrator describe the application as a part of the consent agenda, survey the audience to see if any person would like to discuss the application and, if no one requests discussion, make all the required findings based on the evidence in the record and approve the application subject to the recommended conditions.

**Alternatives:** Several alternatives may be considered: 1) The Zoning Administrator could elect not to hear this item and put the decision making in front of the Planning Commission. Any decision to place this matter before the Planning Commission must be done before opening the public hearing on this project; 2) The Zoning Administrator could elect to add or delete conditions of approval; 3) The Zoning Administrator could deny approval of the requested permits if you are unable to make all of the required findings. Planning Division staff is confident that the required findings can be made based on the submitted evidence and subject to the recommended conditions of approval. Consequently, planning staff does not recommend further consideration of these alternatives.