



CITY OF EUREKA  
DEVELOPMENT SERVICES DEPARTMENT  
Rob Holmlund, AICP, Director

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## NOTICE OF PUBLIC HEARING

### CITY OF EUREKA DIRECTOR OF DEVELOPMENT SERVICES

NOTICE IS HEREBY GIVEN that City of Eureka will hold a public hearing on Friday, December 22, 2017 at 10:00 AM in Room 207, Eureka City Hall, 531 “K” Street, Eureka, California. At the hearing, the Director of Development Services will consider three “Minor Use Permit” applications, outlined below. The Director will receive public comment at the meeting for each permit.

#### **PROJECT 1**

**Project Title:** *Pacific Coast Concentrates Minor Use Permit*

**Project Applicant:** Aaron Sweat

**Case No:** MUP-17-0002

**Project Location:** 627 Summer Street; APN 001-042-010

**Zoning:** CS

**Project Description:** The proposed use is “non-volatile manufacture of cannabis,” which requires a minor use permit. Eureka Zoning Code Section 155.078 lists Cannabis manufacturing facilities, non-volatile, 5,000 square feet or less of floor area, subject to the provisions of Chapter 158 in the CS Zone.

#### **PROJECT 2**

**Project Title:** *Essence of Humboldt Minor Use Permit*

**Project Applicant:** Richard and Edward Houghton

**Project Location:** 206 W. 6th Street; APN 001-035-010

**Zoning:** CS (Service Commercial)

**Case No:** MUP-17-0003

**Project Description:** The proposed use is “non-volatile manufacture of cannabis,” which requires a minor use permit. Eureka Zoning Code Section 155.078 lists Cannabis manufacturing facilities, non-volatile, 5,000 square feet or less of floor area, subject to the provisions of Chapter 158 in the CS Zone.

#### **PROJECT 3**

**Project Title:** *Modern Cannabis (MOCA) Humboldt Minor Use Permit*

**Project Applicant:** Matt Engel

**Case No:** MUP-17-0004

**Project Location:** 210 4th Street; APN 001-103-001

**Zoning:** CS (Service Commercial)

**Project Description:** The proposed use is “non-volatile manufacture of cannabis,” which requires a minor use permit. Eureka Zoning Code Section 155.078 lists Cannabis manufacturing facilities, non-volatile, 5,000 square feet or less of floor area, subject to the provisions of Chapter 158 in the CS Zone.

All interested persons are invited to comment on the project either in person at the scheduled public hearing, or in writing. Written comments on the project may be submitted at the hearing, or prior to the hearing by mailing or delivering them to the Development Services Department, 531 K Street, Eureka, CA 95501. Accommodations for handicapped access to City meetings must be requested of the City Clerk, 441-4175, five working days in advance of the meeting. If you challenge the nature of the proposed action in court, you may be limited to raising only those issues that you or someone else raised at the public hearing described in this notice or written correspondence delivered to the public entity conducting the hearing at or prior to the public hearing. The project file is available for review at the Community Development Division of the Development Services Department, Third Floor, City Hall. If you have questions regarding the project or this notice, please contact Swan Asbury, Assistant Planner, phone: (707) 268-1830; fax: (707) 441-4202; e-mail: sasbury@ci.eureka.ca.gov



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**DIRECTOR OF DEVELOPMENT SERVICES**

**STAFF REPORT**

*December 29, 2017*

**Project Title:** *Pacific Coast Concentrates Minor Use Permit*

**Project Applicant:** Aaron Sweat      **Case No.:** MUP-17-0002

**Project Location:** 627 Summer Street – **APN:** 001-042-010

**Zoning and General Plan Designations:** CS (Service Commercial) and ACS (Automotive Commercial)

**Proposed Use:** Cannabis manufacturing, non-volatile, 5,000 square feet or less

**Staff Contact Person:** Swan Asbury, Assistant Planner; City of Eureka Community Development Department; 531 K Street, Eureka, CA 95501; Phone: (707) 441-4160, Email: [sasbury@ci.eureka.ca.gov](mailto:sasbury@ci.eureka.ca.gov).

**Staff Recommendation:**

1. Hold a Public Hearing; and
2. Adopt Director Resolution 2017-08 approving, with conditions, a minor use permit allowing a Cannabis Manufacturing Facility of 5,000 sq. ft. or less at APN 001-042-010.

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**Site Description and Project Description:** The proposed use is *cannabis manufacturing, non-volatile, 5,000 square feet or less* at APN 001-042-010. The site consists of one legal parcel (6,300 square feet) with one existing structure (approximately 3,500 square feet). The site is in the CS Zone district in a neighborhood that generally consists of light industrial and service commercial uses. All of the neighboring parcels within a 300 foot radius are also within the CS Zone district.

The west side of the property has approximately 55 feet of frontage on Summer Street, which is the only means of accessing the property; the property cannot be accessed by an alley or by the neighboring parcels. The parcel adjoins similarly-sized parcels to the north, east, and south, each of which contain similarly-sized buildings. The parcel and immediately-neighboring parcels have been used for light manufacturing type uses for the past several decades. Until recently, the site was occupied by *Full On*, an outboard boat motor repair business. The parcel to the north currently contains an auto glass repair business and the parcel to the south currently contains an appliance repair business. The loading bays and rear side of a grocery store are located directly across the street.

The parcel to the east contains a residential structure and a small vacant retail storefront. The segment of Summer Street directly to the west of the property receives an average of less than 1,000 vehicle trips per day. This segment of Summer Street is between Sixth Street and Seventh Street, each of which receive approximately 6,000 vehicle trips. Just 500 feet to the west, Broadway receives nearly 40,000 vehicle trips per day. Accordingly, while there is a relatively low amount of traffic traveling directly in front of the subject property on an average day, the property is located in a relatively heavily-trafficked neighborhood. As a consequence of the high vehicle volume of nearby roadways, very little foot traffic passes in front of the subject property.

The subject property and the existing building on site are visually isolated from the surrounding neighborhood. Because of the angle of Summer Street and the one-way direction of travel on 6<sup>th</sup> and 7<sup>th</sup> Streets, the property cannot be seen from 6<sup>th</sup> Street or 7<sup>th</sup> Street. The only portion of the grocery store across the street that can see the subject property is the overflow parking lot and the loading bays. The subject property is well served by water, wastewater, gas, power, and other utilities. The existing building contains three loading bays and several off-street parking spaces.

The property currently contains a business that conducts cannabis transporting and cannabis distribution (both of which are principally permitted uses in the zone district). The property owner and applicant are seeking a Minor Use Permit for “non-volatile cannabis manufacturing” to supplement the existing uses. Non-volatile cannabis manufacturing is listed as an approved *conditional use* in the subject zoning district. If this MUP is granted, the approved use of “non-volatile cannabis manufacturing” would apply to the entire parcel.

Non-Volatile Manufacturing facilities produce cannabis-related products that are sold wholesale to other businesses. The non-volatile manufacturing process **may not** use volatile solvents (e.g. butane, propane). One form of non-volatile manufacturing is the conversion of raw cannabis plant matter into oils or concentrates via mechanical processes such as: presses that crush cannabis plant matter, centrifuges and other similar machinery that spin raw cannabis plant matter, grinders that pulverize raw cannabis plant matter, and other similar mechanical processes. Non-volatile manufacturing can also include some chemical processes (such as ethanol) to create plant extracts. Such chemical processes may not include butane, propane, and other similar volatile solvents. Non-volatile manufacturing may also include the production of edible and topical products utilizing concentrated cannabis oils obtained from other facilities. For example, a non-volatile manufacturing facility could purchase cannabis concentrates from other manufacturing facilities and then use those concentrates to create cannabis-infused hand lotion. Whatever the processes used and whatever the product produced, non-volatile manufacturing businesses may not conduct retail sales on site. All products leaving the building must be shipped in bulk as wholesale to other locations. The non-volatile cannabis manufacturing use is similar to other uses permitted in the ML zone including breweries, distilleries, niche-food manufacturers, and other businesses that take raw products and create a new value-added product.

Note that applications for non-volatile cannabis manufacturing licenses are reviewed and approved/denied by the Humboldt Bay Fire Department and the City of Eureka Building Department in relation to Fire and Building Codes. Likewise, the Eureka Police Department has review and approval

authority for Safety and Security Standards. The applicant’s plans for this site are currently in review by the Fire Department, Police Department, and Building Department.

**Environmental:** The minor use permit is a discretionary action subject to environmental review in accordance with the California Environmental Quality Act (CEQA); however, the project qualifies for a Class 1 exemption (Section 15301) from CEQA that exempts the conversion and minor alteration of existing structures. Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency’s determination.

**Required Findings:** §155.285 of the Eureka Municipal Code requires that the following findings be made prior to approval of a minor use permit:

1. **Consistent with:**
  - a. **Overall objectives of the Zoning Code (EMC §155.002)**
  - b. **Purposes of the CS District (EMC §155.075)**
  - c. **Special Purposes of the CS District (EMC §155.076)**
2. **No detrimental effect to public health, safety, welfare, or to properties in the vicinity (EMC §155.285)**
3. **Development Standards of the Zone (EMC §155.285)**
4. **Local Coastal Program (EMC §155.285)**

**Project Analysis:**

**1. Overall objectives of the Zoning Code (EMC §155.002):** (Findings in bold)

|             |   |
|-------------|---|
| Objective 1 | To provide a precise guide for the physical development of the City in such a manner as to achieve progressively the arrangement of land uses depicted in the general plan adopted by the Council;  |
|             | <b>The proposed development implements the adopted land use map and is consistent with the goals and policies of the General Plan. The proposed development is also consistent with the City’s Zoning regulations.</b>  |
| Objective 2 | To foster a harmonious, convenient, workable relationship among land uses;  |
|             | <b>The proposed non-volatile manufacturing use would be located in an existing structure the CS Zone District. The proposed use is similar in nature to other uses found throughout the zone district. The site and building are accessed via Summer Street through roll-up doors and should provide minimal disruption during periods of loading and unloading. There are only two other businesses on the block, S&amp;H Auto Glass and Mac’s Refrigeration Service. While the three businesses are unrelated, they are not pedestrian-oriented business and all have limited drive-up traffic. Across the street is Grocery Outlet but the rear of that building faces the subject property. The grocery store provides a convenient place for employee shopping. Across 7<sup>th</sup> Street is a pizza parlor that can provide a lunch or dinner destination without driving. Through the application of the suggested conditions and</b> |

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|             | <b>through the enforcement of other existing City regulations, the use will not be permitted to allow cannabis odors to be detectable outside of the facility and will not be able to allow cannabis plants to be seen from outside the facility. Accordingly, the neighboring properties will likely never be able to tell that proposed use is occurring on the parcel.</b>  |
| Objective 3 | To promote the stability of existing land uses that conform with the general plan and to protect them from inharmonious influences and harmful intrusions;   |
|             | <b>The west end of 6<sup>th</sup> and 7<sup>th</sup> Streets in the CS Zone District was developed as an auto-repair and light-industrial area. The general plan, land use map, and zoning continue to reflect this early development pattern. The proposed use conforms to the General Plan and is typical of the uses that occur in the CS zone district. The new use will not produce customer traffic and will be less noisy than the previous automobile and outboard motor repair shop. Through the application of the suggested conditions and through the enforcement of other existing City regulations, the use will not be permitted to allow cannabis odors to be detectable outside of the facility and will not be able to allow cannabis plants to be seen from outside the facility. Accordingly, the neighboring properties will likely never be able to tell that proposed use is occurring on the parcel.</b> |
| Objective 4 | To ensure that public and private lands ultimately are used for the purposes which are most appropriate and most beneficial from the standpoint of the City as a whole;  |
|             | <b>The development of a cannabis facility in the existing commercial structure will be a benefit to the City as a whole. The previous use of the site was <i>Full On</i> an outboard motor repair business. The proposed use is consistent with purposes of the CS district and will generate skilled jobs.</b>  |
| Objective 5 | To prevent excessive population densities and overcrowding of the land with structures;  |
|             | <b>The project does not include new construction nor does the project include a residential component. The manufacturing process will be located in an existing commercial structure. Accordingly, the granting of this minor use permit would not result in increased population densities, and would not cause an overcrowding of land with structures.</b>  |
| Objective 6 | To promote a safe, effective traffic circulation system;   |
|             | <b>The manufacturing facility is proposed in an existing structure that previously housed an automotive and marine repair facility. There is no retail traffic allowed with the proposed use; traffic and parking demand will be lower than for the previous use.</b>  |
| Objective 7 | To foster the provision of adequate off-street parking and off-street truck loading facilities;  |
|             | <b>See discussion above regarding parking. The existing building has roll-up service doors that can be employed for the proposed use.</b>  |
| Objective 8 | To facilitate the appropriate location of community facilities and institutions;   |
|             | <b>Not Applicable.</b>   |

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| Objective 9  | To promote commercial and industrial activities in order to strengthen the city's tax base;  |
|              | <b>Manufacturing and wholesaling of products does not directly generate sales tax. However, the proposed use should increase the number of manufacturing jobs in the City, which would add to the City's base economy. Skilled employees will have more disposable income to spend on taxable goods in Eureka.</b>   |
| Objective 10 | To protect and enhance real property values;   |
|              | <b>The proposed manufacturing facility will be in an existing commercial structure and will be similar in nature to other nearby businesses. Property values should be enhanced by the existence of a functioning business, ensuring that the property will not be vacant; it is unlikely that the project would have an adverse impact on property values on adjoining properties. Through the application of the suggested conditions and through the enforcement of other existing City regulations, the use will not be permitted to allow cannabis odors to be detectable outside of the facility and will not be able to allow cannabis plants to be seen from outside the facility. Accordingly, the neighboring properties will likely never be able to tell that proposed use is occurring on the parcel.</b> |
| Objective 11 | To safeguard and enhance the appearance of the City.   |
|              | <b>The project site is in an Architectural Review (AR) combining zone. Exterior changes to the building would require Design Review approval. The Eureka Municipal Code currently does not allow signs to be installed for any cannabis-related businesses. Through the application of the suggested conditions and through the enforcement of other existing City regulations, the use will not be permitted to allow cannabis odors to be detectable outside of the facility and will not be able to allow cannabis plants to be seen from outside the facility. Accordingly, the neighboring properties will likely never be able to tell that proposed use is occurring on the parcel.</b>   |

**2. Purposes of the Commercial District (EMC §155.075): (Findings in bold)**

|           |  |
|-----------|--|
| Purpose 1 | To provide appropriately located areas for retail stores, offices, service establishments, amusement establishments, and wholesale businesses offering commodities and services required by residents of the City and its surrounding market area; |
|           | <b>The proposed use is a wholesale cannabis manufacturing in a zone district that allows for this use.</b>   |
| Purpose 2 | To provide opportunities for retail stores, offices, services establishments, amusement establishments, and wholesale businesses to concentrate for the convenience of the public and in mutually beneficial relationship to each other;           |

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|           | <b>The proposed use is a wholesale cannabis manufacturing in a zone district that allows for this use. Other cannabis-related businesses are also located in the same zone district and in the same neighborhood.</b>   |
| Purpose 3 | To provide space for community facilities and institutions that appropriately may be located in commercial areas;   |
|           | <b>The proposed location is not appropriate for community facilities or community institutions.</b>   |
| Purpose 4 | To provide adequate space to meet the needs of modern commercial development, including off-street parking and truck loading areas;   |
|           | <b>The proposed use will have an equal parking requirement as the former automotive/marine engine repair. Truck delivery will make use of loading facilities.</b>   |
| Purpose 5 | To minimize traffic congestion and to avoid the overloading of utilities by preventing the construction of buildings of excessive size in relation to the amount of land around them;   |
|           | <b>No expansion in the size of the building is proposed.</b>  |
| Purpose 6 | To protect commercial properties from noise, odor, dust, dirt, smoke, vibration, heat, glare, heavy truck traffic, and other objectionable influences incidental to industrial uses; and,   |
|           | <b>The project is a non-volatile cannabis manufacturing facility on a site where, previously, engine repair and the associated noise, exhaust fumes and numerous vehicle trips dominated the site. Noxious odors are not expected. Through the application of the suggested conditions and through the enforcement of other existing City regulations, the use will not be permitted to allow cannabis odors to be detectable outside of the facility and will not be able to allow cannabis plants to be seen from outside the facility. Accordingly, the neighboring properties will likely never be able to tell that proposed use is occurring on the parcel.</b> |
| Purpose 7 | To protect commercial properties from fire, explosion, noxious fumes, and other hazards.  |
|           | <b>The extraction process is non-volatile in nature and should not generate an unusual risk of fire, explosion, noxious fumes, or other hazards. In fact, the proposed uses presents far less of a hazard than the previous use of the site.</b>  |

**3. Special Purposes of the CS District (EMC §155.076):** (Findings in bold)

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| Purpose 1 | To provide appropriately located areas for commercial uses having features that are incompatible with the purposes of the other commercial districts;  |
|           | <b>The proposed use is not appropriate for other commercial districts (such as Henderson Center or Old Town), but the subject site is in an area of light industrial uses and automobile services and is therefore more appropriate for the proposed use. The immediately surrounding businesses are all</b> |

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|           | <b>automobile repair related and the proposed light industrial use functions in much the same way as automotive repair.</b>  |
| Purpose 2 | To permit additional development in mixed commercial areas containing both retail stores and commercial services; and,   |
|           | <b>The proposed use non-volatile manufacturing of products that will be wholesaled from the site provides a compatible mix with existing commercial uses within the immediate area.</b>  |
| Purpose 3 | To allow a wider choice of location for certain industrial uses that do not have an adverse impact on commercial services.   |
|           | <b>The non-volatile distillation of cannabis oils is an industrial use that is compatible with surrounding commercial uses. The proposed use will not produce excessive noise, light or noxious odors and all work will be conducted within an existing structure.</b> |

**4. No detrimental effect to public health, safety, welfare, or to properties in the vicinity (EMC §155.285):**

Based on the discussion above under #1, #2, and #3, the facility will operate without creating a detrimental effect to public health, safety, and welfare or to the properties in the vicinity. Through the application of the suggested conditions and through the enforcement of other existing City regulations, the use will not be permitted to allow cannabis odors to be detectable outside of the facility and will not be able to allow cannabis plants to be seen from outside the facility. Accordingly, the neighboring properties will likely never be able to tell that proposed use is occurring on the parcel.

**5. Development Standards of the Zoning Code (EMC §155.285)**

The development standards of the Eureka Municipal Code regulate such things as land use, building height, size, location, off-street parking, etc. The project has been reviewed by staff and found to conform to all required development standards as contained in the Eureka Municipal Code. As the project is a conditionally permitted use and is to be located in an existing structure, all development standards are met.

**6. Local Coastal Program (EMC §155.285)**

This property is not located within the Coastal Zone.

**Agency and Departmental Comments:** Referrals were sent to several agencies and City departments with interest or jurisdiction over the property or the intended use of the property. The following Agencies/Departments commented:

- 1. Tribal:** The Blue Lake Tribal Historic Preservation Officer (THPO), Bear River Band THPO, and Wiyot THPO agreed that if there is not any ground disturbance associated with the Minor Use Permit then they do not have any concerns. As a precaution, the project is conditioned with a standard protocol for incidental discovery of tribal artifacts or remains during ground disturbing work.

No other comments were received which indicate that the proposed medical cannabis manufacturing facility use will be detrimental to the public health, safety, and welfare.

**Support Material:**

|              |   |         |
|--------------|---|---------|
| Attachment 1 | Director of Development Services Resolution ..... | page 8  |
| Attachment 2 | Location Map.....                                 | page 10 |

## DIRECTOR OF DEVELOPMENT SERVICES RESOLUTION NO. 2017-08

A RESOLUTION OF THE DIRECTOR OF DEVELOPMENT SERVICES OF THE CITY OF EUREKA APPROVING THE MINOR USE PERMIT (MUP-17-0002) TO ALLOW A CANNABIS MANUFACTURING FACILITY AT 627 Summer Street; APN 001-042-010.

**WHEREAS**, the applicant is planning to operate a non-volatile Cannabis manufacturing facility; and

**WHEREAS**, the property at 627 Summer Street is zoned Service Commercial (CS) with an Architectural Review (AR) combining zone district and has a land use designation of Automotive Service Commercial (ASC); and

**WHEREAS**, non-volatile cannabis manufacturing uses with 5,000 sf or less of manufacturing area are conditionally permitted in the CS district and require a Minor Use Permit; and

**WHEREAS**, the Eureka Municipal Code §155.285 prescribes the findings required to be made by the Director prior to granting a use permit.

**NOW THEREFORE, BE IT RESOLVED** by the Director of Development Services of the City of Eureka that the project, as conditioned below and described in the Staff Report, is approved.

**BE IT FURTHER RESOLVED** by the Director of Development Services of the City of Eureka that the decision to approve with conditions the subject application was made after careful, reasoned and equitable consideration of the evidence in the record, including, but not limited to: written and oral testimony submitted at the public hearing; the staff report; site investigation(s); agency comments; project file; and, the evidence submitted with the permit application. The findings of fact listed below “bridge the analytical gap” between the raw evidence in the record and the Director’s decision:

1. The Minor Use Permit is a discretionary action subject to environmental review in accordance with the California Environmental Quality Act (CEQA); however, the project qualifies for a Class 1 exemption from CEQA which exempts the conversion and minor alteration of existing structures.
2. The proposed non-volatile cannabis manufacturing use with 5,000 sf or less of manufacturing area and its proposed location are in accord with the objectives of Chapter 155 (Zoning) of the Eureka Municipal Code and the purposes of the district in which the site is located as documented in the staff report.
3. The proposed cannabis manufacturing facility is consistent with the underlying ACS (Automotive Service Commercial) land use designation.
4. The project location and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity as documented in the staff report.
5. The project is not located within the Coastal Zone.

**FURTHER**, approval of the Minor Use Permit is conditioned on the following terms and requirements. The violation of any term or requirement of this conditional approval may result in the revocation of the permit.

**CONDITIONS OF APPROVAL:**

1. All non-volatile manufacturing businesses operating at the subject property shall install odor control measures that shall be reviewed and approved by the City Building Department prior to operations. The odor control measures implemented shall be effective at controlling cannabis odors such that no cannabis odors shall be detectable outside the exterior walls of the facility.
2. Cannabis plant materials shall not be visible from the exterior of the property. This includes cannabis plant materials that are present onsite, in any buildings at the site, or in any vehicles at the site.
3. All volatile manufacturing businesses operating at the subject property shall meet with the City of Eureka Fire Department, Building Department, and Police Department and shall implement safety, security, and other related requirements imposed by those Departments.
4. All non-volatile manufacturing businesses operating at the subject property shall conduct loading and unloading of cannabis materials within the building (through a roll up door).
5. The property owner shall install and maintain a security system at the subject property within any buildings (present or future) that are engaged in non-volatile manufacturing of cannabis. The security system(s) shall be designed as a means of deterring and discouraging criminal activity at the property for as long as any business is engaged in the proposed use.
6. Prior to commencement of any demolition, remodeling or construction, the applicant shall obtain all required Building and Fire permits to the satisfaction of the City of Eureka Building and Humboldt Bay Fire Departments.
7. The applicant shall obtain Design Review approval prior to issuance of a building permit for any exterior improvements to the building to the satisfaction of the Development Services Department.
8. In the event a building permit involving any ground disturbing activity is issued, the City's standard protocol for incidental archeological discovery (cultural or historical artifacts) shall be followed.

**PASSED, APPROVED AND ADOPTED** by the Director of Development Services of the City of Eureka in the County of Humboldt, State of California, on the 29th day of December 2017.

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Rob Holmlund, AICP, Director

*Attest:*

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Pamela J. Powell, City Clerk