



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

Project Applicant: Matt Engel **Case No.:** MUP-17-0004

Project Location: 204 4th Street **APN:** 001-103-001

Zoning and General Plan Designations: CS (Service Commercial); HSC (Highway Service 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; (707) 441-4160, Email: sasbury@ci.eureka.ca.gov

Staff Recommendation:

1. Hold a Public Hearing; and
2. Adopt Director Resolution 2017-10 approving, with conditions, a minor use permit allowing a Cannabis Manufacturing Facility of 5,000 sq. ft. or less of manufacturing area at 001-103-001.

Site Description and Project Description: The proposed use is a *cannabis manufacturing, non-volatile, 5,000 sq. ft. or less* at APN 001-103-001. The subject property consists of a legal parcel with one existing structure (6,600 sq. ft.) located in the CS Zoning District in a neighborhood that generally provides automotive repair and service-related businesses including a car smog shop, auto repair business, motel, and pawn shop.

The site is a corner lot fronting onto C and 4th Streets. Fourth St. is a one-way street that generates an average of approximately 20,000 vehicles per day. A parking lot and the front entry are accessed from 4th Street. The site was most recently an Ethiopian restaurant. All adjoining parcels and all parcels within a block radius are zoned CS. The building is separated from the only other building (currently housing a pawn shop) on the north half of the block by two parking lots. The site is separated by an alley from buildings fronting onto 5th Street including the Lloyd Building and Northcoast Audio.

Access to the building for delivery trucks is via a rollup door facing C Street. This eliminates potential traffic congestion on 4th Street from the use. The parking lot has ten parking spaces, two of which are in the process of being converted to a single van-accessible ADA space.

For informational purposes only, the Eureka Planning Commission approved conditional use permit C-17-0005 to cultivate, indoors, up to 5,000 sq. ft. of cannabis on the site. In the future, when the City

requests proposals, the applicant will seek an additional license and conditional use permit as a cannabis dispensary for its own products. No physical expansion of the building is proposed.

The property owner and applicant are seeking a Minor Use Permit for “non-volatile cannabis manufacturing” to complement the approved on-site cultivation. 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 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 which 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;
	<p>The proposed use implements the adopted land use map and is consistent with the goals and policies of the General Plan. The proposed use is also consistent with the City’s Zoning regulations. Per EMC § 155.076, the purposes of the CS Zone District include “...to permit additional development in mixed commercial areas containing both retail stores and commercial services...” and “...to allow a wider choice of location for certain industrial uses that do not have an adverse impact on commercial services.”</p> <p>The proposed site is in a mixed commercial area that contains both retail and commercial services. The proposed use is light industrial in nature and, as outlined below, will not have an adverse impact on commercial services. The proposed use will be contained within an existing structure and does not involve new development. While the nature of the proposed use is different from the previous use of the site, manufacturing is consistent with other businesses in the immediate area. In fact, the proposed use is likely to be far less noisy, visible, and conspicuous than the neighboring automotive repair business directly to the west. 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.</p>
Objective 2	To foster a harmonious, convenient, workable relationship among land uses;
	<p>The proposed cannabis manufacturing facility will be located in an existing commercial structure on 4th Street. The proposed manufacturing facility will involve less traffic than the previous use (restaurant). There will be little interaction with nearby businesses but the use will be quiet and will not provide a disturbance.</p>

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;
	The proposed use is considered appropriate for the area; it is listed as a conditional use in this zoning district. The CS zone is consistent with the HSC (Highway Service Commercial) land use. The applicant does plan to apply for a dispensary permit if offered the opportunity. This would add a retail component to the building.
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;
	The development of a cannabis facility in the existing commercial structure could be a benefit to the City as a whole assuming that these businesses are successful and foster development of complementary operations. The previous use of the site was a restaurant. Other businesses have occupied the site in the past. The location is convenient for many uses. The proposed use is consistent with purposes of the CS district and will generate skilled jobs.
Objective 5	To prevent excessive population densities and overcrowding of the land with structures;
	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.
Objective 6	To promote a safe, effective traffic circulation system;
	The manufacturing facility is proposed in an existing structure that previously housed a restaurant. The off-street parking requirement for restaurants is 1 space for every 300 square feet of floor area, and the site was grandfathered for having a substandard number of parking spaces. The proposed cannabis facility requires 1 off-street parking space for every 500 square feet of floor area. Since the off-street parking requirement for the proposed use is less than the previous requirement for the restaurant, the project is not required to provide any new parking spaces. There is no retail traffic expected for the proposed manufacturing use; parking demand will be lower than for the previous use. In the future, if a dispensary permit is allowed, the existing parking lot will be sufficient, particularly in conjunction with street parking on corner.
Objective 7	To foster the provision of adequate off-street parking and off-street truck loading facilities;
	See discussion above regarding parking. Delivery trucks that served the restaurant used roll up doors that will be employed for this business with access from the side street.
Objective 8	To facilitate the appropriate location of community facilities and institutions;
	Not Applicable.

Objective 9	To promote commercial and industrial activities in order to strengthen the city's tax base;
	On site manufacturing provides jobs and product that can have value added for consumer products which may generate sales tax revenue for the city. If a dispensary is permitted in the future, taxable sales may become part of the operation on site.
Objective 10	To protect and enhance real property values;
	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.
Objective 11	To safeguard and enhance the appearance of the City.
	The project site is in an Architectural Review (AR) combining zone. Exterior changes to the building will require Design Review approval. The Eureka Municipal Code currently does not allow signs to be installed for any cannabis-related businesses.

2. Purposes of the CS 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;
	The proposed business is a cannabis manufacturing facility creating cannabis products. The applicant would like to apply for a dispensary permit if granted an opportunity by the City.
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;
	A concentration of occupied business facilities helps reduce blight, minimizes vandalism and can reduce crime. In the event that a dispensary is licensed in the future, additional foot traffic in the area may be seen as beneficial for other businesses.
Purpose 3	To provide space for community facilities and institutions that appropriately may be located in commercial areas;
	The proposed location is a commercial area and has never been occupied as a public community facilities or community institutions. To the City's knowledge, there is no existing demand for community facilities or institutions in the area that would demand a facility of this size or type.
Purpose 4	To provide adequate space to meet the needs of modern commercial development, including off-street parking and truck loading areas;

	The proposed use will have a lower parking requirement than the number of onsite parking spaces required for the former restaurant. Truck delivery will make use of loading facilities.
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;
	No expansion in the size of the building is proposed.
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,
	The project is a non-volatile cannabis manufacturing facility, which is not expected to generate any noise. The application of the conditions suggested below and the enforcement of other City regulations would not permit odors to be detectable beyond the boundaries of the site. The proposed use is not expected to generate any detectable dust, dirt, smoke, vibration, heat, or glare. The use is not expected to generate any truck traffic in excess of the traffic generated by the neighboring uses or in excess of the previous use of restaurant, which required regular deliveries of food products.
Purpose 7	To protect commercial properties from fire, explosion, noxious fumes, and other hazards.
	The proposed use is non-volatile in nature and should not generate an unusual risk of fire, explosion, noxious fumes, or other hazards.

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

Purpose 1	To provide appropriately located areas for commercial uses having features that are incompatible with the purposes of the other commercial districts;
	The proposed use is dissimilar in some respects from other commercial establishments in the area but is not incompatible. As such, they are service related as opposed to retail or office uses. The proposed manufacturing process will be less noisy and introduce less traffic into the area than nearby businesses. 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.
Purpose 2	To permit additional development in mixed commercial areas containing both retail stores and commercial services; and,
	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.
Purpose 3	To allow a wider choice of location for certain industrial uses that do not have an adverse impact on commercial services.

The non-volatile manufacturing is a light industrial use that is not incompatible 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.

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. Regardless, appropriate protocols for any groundbreaking work that includes inadvertent archeological discovery of cultural or historical artifacts shall be followed.

No other comments were received which indicate that the proposed 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

MOCA Humboldt Use Permit
Project Number: MUP-17-0004

DIRECTOR OF DEVELOPMENT SERVICES RESOLUTION NO. 2017-10

A RESOLUTION OF THE DIRECTOR OF DEVELOPMENT SERVICES OF THE CITY OF EUREKA APPROVING THE MINOR USE PERMIT (MUP-17-0003) TO ALLOW A CANNABIS MANUFACTURING FACILITY AT 204 4TH Street; APN 001-103-001.

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

WHEREAS, the property at 204 4th Street is zoned Service Commercial (CS) with an Architectural Review (AR) combining zone district and has a land use designation of Highway Service Commercial (HSC); and

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

WHEREAS, the Eureka Municipal Code §155.285 prescribes the findings required to be made by the Director of Development Services prior to granting a minor 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 facility 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 HCS (Highway 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.

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.

Rob Holmlund, AICP, Director

Attest:

Pamela J. Powell, City Clerk