



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

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## NOTICE OF PUBLIC HEARING

### EUREKA CITY PLANNING COMMISSION

**NOTICE IS HEREBY GIVEN** that the Eureka City Planning Commission will hold a public hearing on Monday, September 10, 2018, at 5:30 p.m., or as soon thereafter as the matter can be heard, in the Council Chamber, Eureka City Hall, 531 “K” Street, Eureka, California, to consider the following application:

**Project Title:** *Eco Green Grow Volatile Manufacturing Cannabis Facility Conditional Use Permit*

**Project Applicant:** Eco Green Grow, LLC

**Case No:** C-18-0003

**Project Location:** 47, 55 & 69 W. 3<sup>rd</sup> Street; APNS 001-023-014, 016, 019 & 021

**Zoning and General Plan Designations:** Light Industrial (ML)/Light Industrial (LI)

**Project Description:** The applicant is seeking a Conditional Use Permit (CUP) for a cannabis volatile manufacturing facility, which is listed as a *conditional use* in the subject zoning district. If this CUP is granted, the use of cannabis volatile manufacturing would apply to the entire parcels. Eureka Zoning Code Section 155.099 lists cannabis retail facilities subject to the provisions of Chapter 158 in the ML Zone. Commercial Cannabis Licenses (MCL-18-0017, 18, 19, 20, 21 & 22) are being processed separately.

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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**EUREKA CITY PLANNING COMMISSION**

**STAFF REPORT**

*September 10, 2018*

**Project Title:** *Eco Green Grow Cannabis Volatile Manufacturing Conditional Use Permit*

**Project Applicant:** Eco Green Grow, LLC

**Case No.:** C-18-0003

**Project Location:** 47, 55 & 69 W. 3<sup>rd</sup> Street

**APNS:** 001-023-014, 016, 019 & 021

**Zoning and General Plan Designations:** Light Industrial (ML)/Light Industrial (LI)

**Overview of Use Permits in the Context of this Application:** This Conditional Use Permit is not for any specific business. Instead, this CUP is to permit volatile manufacturing on these parcels as a “use.” The property owner intends to lease portions of the existing buildings to more than one business, each of which would utilize the use permit granted by the Planning Commission. This is a common approach with Use Permits. For instance, “office” is a conditional use in Old Town (“Waterfront Commercial” (CW) zone district). There are several multi-story buildings in Old Town that contain offices on the upper floors. Instead of permitting each individual business as a single “office use” the entire building (or parcel) can receive a use permit allowing the “office” use throughout the entire building. Accordingly, if an accountant moved out of a leasable space in the building and an engineer moved in, the engineer would not have to get a new Use Permit to occupy the same space that had been occupied by the accountant. Likewise, with a Use Permit that applies to the entire building, an architect could operate under the same Use Permit as the data analyst firm that works across the hall. Conditions can be applied to the “office use” for the entire building, such as restricting the “office use” from occurring on the first floor but allowing the “office use” to occur on all of the upper floors.

**Project Description:** In the current case before the Planning Commission, the property owner and applicant are seeking a Use Permit for “Volatile Manufacturing” of cannabis, which is listed as an approved *conditional use* in the subject zone district. The site consists of two legal parcels with four separate but adjoining buildings. If granted, the approved use of “Manufacturing, volatile, small” would apply to both of the parcels, the current existing buildings on the parcels, and all future buildings on the parcels. In addition, the approved use could be used for more than one volatile manufacturing business. Any volatile manufacturing businesses at the site would be required to adhere to California building and fire codes through the Commercial Cannabis Licensing process, which occurs separately from the Use Permit process.

Volatile Manufacturing facilities do not produce or sell consumer products. Instead, Volatile Manufacturing facilities manufacture cannabis oils. One of two things can be done with the oils that

are produced on site. One option is that cannabis oils can be sold wholesale to other businesses. A second option is that cannabis oils can be utilized in additional on-site manufacturing processes to create value-added products such as vape pens, tinctures, or food products. These value-added products can then be sold wholesale to other businesses. In either case, there is no retail component of Volatile Manufacturing; everything produced on site must be sold wholesale to another business.

There are several different techniques for creating cannabis oils and concentrates. The Volatile Manufacturing process uses solvents (e.g. butane, benzene, etc) to extract specific compounds from cannabis plant material. These solvents are stored in metal cylinders and then filtered through cannabis plant material utilizing specific manufacturing machinery designed to create plant extracts. The machinery injects the volatile solvents into the cannabis plant material, creates a thick cannabis-infused oil, removes the volatile solvents from the extracted oil, and then recycles the solvents back through the machinery in a “closed-loop” system, where it is reused in another cycle. The solvents used in this process are flammable (volatile) and can be very dangerous if they leak from the system. This is what makes the process “volatile” and why facilities using solvents are heavily regulated by the City, with extensive involvement from the Police, Fire, and Building Departments.

Note that applications for volatile cannabis 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, which specify requirements for fire suppression, ventilation, air purification, wall construction, and emergency exit plans. Likewise, the Eureka Police Department has review and approval authority for Safety and Security Standards. The application’s plans for the site will be reviewed by the Fire Department, Police Department and Building Department prior to operation.

**Discussion:** For economies of scale and to improve safety, allowing multiple Volatile Manufacturing facilities at one location allows for an efficient use of distribution facilities as well as the ability to implement redundant safety and fire protection systems in a single building. It is also more efficient to provide a unified security system at one facility as opposed to securing multiple locations.

For safety and fire protection, as with any similar process, each Volatile Manufacturing facility is self-contained with air purification and fire suppression equipment and safety equipment. Construction of fire resistant walls and ceilings minimize the spread of fire in the event of an accident in any one Volatile Manufacturing facility.

Conditional uses are considered suitable for the area, subject to conditions that regulate the time, manner and place of operation. Conditions of approval, appropriate to the proposed use in this specific location are included.

**Special Note:** These parcels are located in a part of Eureka that has severe transient issues. The Eureka Police Department has received over fifty calls for service for this location since the beginning of 2018. Staff has received multiple positive comments from the Eureka Police Department regarding the anticipated improvements with having this site occupied.

**Staff Contact Person:** Swan Asbury, Assistant Planner; Development Services Department; 531 K Street, Eureka, CA 95501; Phone: (707) 268-1830, Email: [sasbury@ci.eureka.ca.gov](mailto:sasbury@ci.eureka.ca.gov).

**Staff Recommendation:**

1. Hold a Public Hearing; and
2. Adopt a Planning Commission Resolution 2018-13 approving, with conditions, a use permit allowing Cannabis Volatile Manufacturing at parcels 001-023-014, 016, 019 & 021.

**Environmental:** The conditional 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 Consistency Findings:** §155.285 of the Eureka Municipal Code requires that consistency findings must be made between the proposed conditional use with conditions and the following prior to Planning Commission approving a conditional use permit:

1. **Overall objectives of the Zoning Code (EMC §155.002)**
2. **Purposes of the ML District (EMC §155.095)**
3. **Special Purposes of the ML District (EMC §155.096)**
4. **No detrimental effect to public health, safety, welfare, or to properties in the vicinity (EMC §155.285)**
5. **Development Standards of the Zoning Code (EMC §155.285)**
6. **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 Volatile Manufacturing facility would be located in an existing structure on W. 3rd Street in the Limited Industrial Zone District. The site is convenient to a supermarket and restaurants in Old Town for convenience of employees. The building has operable loading bays (roll-up doors) accessed via 3<sup>rd</sup> Street and the alley and therefore should provide minimal disruption during periods of loading and unloading. The use is consistent with the other uses in the Limited Industrial zone district.</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 ML zone on the west end of 2<sup>nd</sup>, 3<sup>rd</sup>, and 4<sup>th</sup> Streets was developed as an industrial area with warehouses, factories, and distribution hubs. 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 Limited Industrial zone district. Given that City regulations will not allow a cannabis odor to be detectable outside of the facility and will not allow cannabis plants to be seen from outside the facility, the neighboring properties will likely never be able to tell that cannabis manufacturing 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 existing building lends itself well to a number of uses. The proposed light industrial use is consistent with purposes of the ML district and will generate skilled jobs.</b>
Objective 5	To prevent excessive population densities and overcrowding of the land with structures;
	<b>The proposed use will have no influence over population densities. The manufacturing facility will be located in an existing commercial structure. Accordingly, the granting of this conditional 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 building has operable loading bays (roll-up doors) accessed via 3<sup>rd</sup> Street and the alley and therefore should provide minimal disruption during periods of loading and unloading. Thus, the local circulation patterns will not be impacted by the proposed use.</b>
Objective 7	To foster the provision of adequate off-street parking and off-street truck loading facilities;
	<b>The site contains nine loading bays with roll-up doors along 3<sup>rd</sup> Street and the alley in the rear.</b>
Objective 8	To facilitate the appropriate location of community facilities and institutions;
	<b>Not Applicable.</b>
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 significantly 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 volatile manufacturing facility will be in an existing structure and will be similar in nature to other nearby businesses. Property values should be enhanced by the existence of the proposed manufacturing and planned tenant improvements to the building, 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.</b>
Objective 11	To safeguard and enhance the appearance of the City.
	<b>The EMC currently does not allow signs to be installed for any cannabis-related businesses. Given that City regulations will not allow a cannabis odor to be detectable outside of the facility and will not allow cannabis plants to be seen from outside the facility, the neighboring properties will likely never be able to tell that cannabis manufacturing is occurring on the parcel.</b>

**2. Purposes of the Industrial (M) District (EMC §155.095): (Findings in bold)**

Purpose 1	To reserve appropriately located areas for industrial plants and related activities;
	<b>The site is zoned for light industrial, manufacturing, and related activities.</b>
Purpose 2	To protect areas appropriate for industrial uses from intrusion by dwellings and other inharmonious uses;
	<b>The proposed use does not include residential dwellings or sensitive receptors that could be affected by adjacent industrial uses.</b>
Purpose 3	To protect residential and commercial properties and to protect nuisance-free, nonhazardous industrial uses from noise, odor, insect nuisance, dust, dirt, smoke, vibration, heat and cold, glare, truck and rail traffic, and other objectionable influences, and from fire, explosion, noxious fumes, radiation, and other hazards incidental to certain industrial uses;
	<b>The proposed business will employ an air filtration system to minimize odors and any dust products generated through the movement of dried leaves. The process of oil extraction does not generate excessive noise or heat. Proposed tenant improvements are designed to isolate and minimize noxious fumes, fire or explosion. Fire and Building Codes require fire suppression equipment. Given that City regulations will not allow cannabis odor to be detectable outside of the facility and will not allow cannabis plants to be seen from outside the facility, the neighboring properties will likely never be able to tell that cannabis manufacturing is occurring on the parcel.</b>
Purpose 4	To provide opportunities for certain types of industrial plants to concentrate in mutually beneficial relationship to each other;
	<b>Three separate uses, manufacturing, distribution, and cultivation, each requiring licenses from the City will operate from this location. This concentration of related uses represents vertical integration and reduces the amount of traffic needed to move product from a manufacturing site to</b>

	<b>a warehouse and distribution location before shipping to producers. An integrated work force provides opportunities for a larger on-site staff and associated benefits to employees derived from shared common areas for breaks and lunchtime activities.</b>
Purpose 5	To provide adequate space to meet the needs of modern industrial developments, including off- street parking and truck loading areas and landscaping;
	<b>The site contains nine loading bays with roll up doors along 3<sup>rd</sup> Street and the alley in the rear. No expansion of the building’s footprint is proposed.</b>
Purpose 6	To provide sufficient open space around industrial structures to protect them from the hazard of fire and to minimize the impact of industrial plants on nearby residential and agricultural districts; and,
	<b>No expansion of the building’s footprint is proposed as a part of this conditional use permit. California Building Codes and Fire Codes will minimize the risks posed by noxious fumes, fire, or explosion. Fire and Building Codes also require fire suppression equipment. There are no residential structures or agricultural districts nearby.</b>
Purpose 7	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>The parcel contains utilities appropriate to the size of the parcel. In addition, the building has operable loading bays (roll-up doors) accessed via 3<sup>rd</sup> Street and the alley and therefore should provide minimal disruption during periods of loading and unloading.</b>

**3. Special Purposes of the Limited Industrial (ML) District (EMC §155.096):** (Findings in bold)

Purpose 1	To provide locations for industries that can operate in close proximity to commercial and residential uses with minimum mutual adverse impact;
	<b>Granting the conditional use permit will allow development of the volatile manufacturing facility in a location near, but not adjacent to, dining and retail areas for employees and without causing any disruption to residences. Given that City regulations will not allow a cannabis odor to be detectable outside of the facility and will not allow cannabis plants to be seen from outside the facility, the neighboring properties will likely never be able to tell that cannabis manufacturing is occurring on the parcel.</b>
Purpose 2	To protect light industrial and related uses from nuisances associated with heavy industrial uses.
	<b>The proposed use is listed as an allowable conditional use in the subject zone district. Given that City regulations will not allow a cannabis odor to be detectable outside of the facility and will not allow cannabis plants to be seen from outside the facility, the neighboring properties will likely never be able to tell that cannabis manufacturing is occurring on the parcel. The</b>

<b>proposed use will not generate noise or any other nuisances beyond those of standard uses in the zone district.</b>
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**4. No detrimental effect to public health, safety, welfare, or to properties in the vicinity (EMC §155.285):**

Applications for volatile cannabis 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, which specify requirements for fire suppression, ventilation, air purification, wall construction, and emergency exit plans. Likewise, the Eureka Police Department has review and approval authority for Safety and Security Standards. The applicant’s plans for this site will be reviewed by the Fire Department, Police Department, and Building Department. Through the application of the suggested conditions and through the enforcement of other existing City regulation, the use can occur on site without creation a detrimental effect to public health, safety, and welfare to the properties in the vicinity.

**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 an allowed use and is to be located within an existing structure, all development standards are met.

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

Not Applicable: This property is not located within the Coastal Zone.

**Agency and Departmental Comments:** Referrals were sent to several Tribes, agencies and City departments with interest or jurisdiction over the property or the intended use of the property.

1. Tribal: The Blue Lake Tribal Historic Preservation Officer (THPO), Bear River Band THPO, and Wiyot THPO agreed that appropriate protocols for any groundbreaking work that includes inadvertent archeological discovery of cultural or historical artifacts should 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 Planning Commission Resolution No. 2018-13 ..... page 8

**PLANNING COMMISSION RESOLUTION NO. 2018-13**

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF EUREKA APPROVING A CONDITIONAL USE PERMIT (C-18-0003) ALLOWING VOLATILE MANUFACTURING AT 47, 55 & 69 W. 3<sup>rd</sup> STREET; APNS 001-023-014, 016, 019 & 021

**WHEREAS**, the applicant is proposing to conduct volatile manufacturing of cannabis; and

**WHEREAS**, the property is zoned Limited Industrial (ML) and has a land use designation of Light Industrial (LI); and

**WHEREAS**, the proposed use is located in the Limited Industrial (ML) district, in which “Manufacturing, volatile, small” is listed as a conditionally permitted use and the ML (Limited Industrial) zone district is consistent with the underlying LI (Light Industrial) land use designation, and the proposed use is therefore consistent with the General Plan; and

**WHEREAS**, the Eureka Municipal Code §155.285 prescribes the findings required to be made by the Planning Commission prior to granting a use permit; and

**WHEREAS**, the proposed use qualifies for a Class 1 exemption from CEQA which exempts the conversion and minor alteration of existing structures;

**NOW THEREFORE, BE IT RESOLVED** by the Planning Commission of the City of Eureka that the use, as conditioned below and described in the Staff Report, is approved, and 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 be 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 Planning Commission’s decision.

1. The proposed use is a conditionally permitted use in the zone district, is to be located in an existing structure, complies with all objectives and purposes of the zoning code and ML zone district, development standards, and complies with all EMC requirements.
2. The proposed use will be conducted within a fully enclosed existing structure, and the proposed Safety and Security measures will allow the facility to operate without creating a detrimental effect to public health, safety, and welfare or to the properties in the vicinity.
3. The project site is not located in the Coastal Zone.
4. The project qualifies for a Class 1 exemption (Section 15301) from CEQA which exempts the conversion and minor alteration of existing structures.

**FURTHER** approval of the 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 cannabis 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 cannabis 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. The exterior of the building, and all other visible components of the property shall be maintained at a high level or quality.
5. All cannabis businesses operating at the subject property shall conduct loading and unloading of cannabis materials within the building (through the roll up door).
6. The property owner shall install and maintain a security system at the subject property within any buildings (present or future) that are engaged in cannabis retail. 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.
7. 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.
8. All exterior modifications associated with this use shall obtain Design Review approval prior to issuance of a building permit for any exterior improvements to the building.
9. 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 Planning Commission of the City of Eureka in the County of Humboldt, State of California, on the tenth day of September 2018 by the following vote:

AYES: COMMISSIONER

NOES: COMMISSIONER

ABSENT: COMMISSIONER

ABSTAIN: COMMISSIONER

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Jeff Ragan, Chair, Planning Commission

*Attest:*

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Rob Holmlund, Director of Development Services