



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

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**NOTICE OF PUBLIC HEARING**  
**DIRECTOR OF DEVELOPMENT SERVICES**

**NOTICE IS HEREBY GIVEN** that the proposed development described below is within the coastal zone and, pursuant to the Eureka Local Coastal Program, the Director of Development Services will decide whether to approve, conditionally approve, or disapprove the minor use permit and coastal development permit application on **November 6, 2018**. The Director's decision will occur after considering all written comments received during the public comment period. A public hearing will be held at 2:00pm on Tuesday November 6, 2018 in Room 207 of Eureka City Hall (531 K Street).

**Project Title:** *Space Gem Minor Use and Coastal Development Permit*

**Project Applicant:** TTF, Inc., DBA Space Gem

**Case No:** MUP-18-0005/CDP-18-0011

**Project Location:** 2228 4<sup>th</sup> Street; APN 002-133-002

**Zoning:** CS-AR (Service Commercial)

**Project Summary:** The applicant is seeking a Minor Use Permit and Coastal Development Permit for cannabis "manufacturing, non-volatile, less than 5,000 sq. ft.", which is listed as a minor conditional use in the subject zoning district (filed 9/17/18). The parcel is located in the Coastal Zone, and a Coastal Development Permit is required. If this MUP is granted, the use of "non-volatile" cannabis manufacturing would only apply to portions of the parcel within the City of Eureka's permitting jurisdiction. Eureka Zoning Code Section 10-5.903 lists Cannabis manufacturing facilities, non-volatile, 5,000 square feet or less of manufacturing area, subject to the provisions Article 30 (Cannabis). A Commercial Cannabis License (MCL-18-0045) is being processed separately. For more information, see this website:

[http://www.ci.eureka.ca.gov/depts/development\\_services/public\\_hearing\\_notices.asp](http://www.ci.eureka.ca.gov/depts/development_services/public_hearing_notices.asp)

or contact Rob Dumouchel (Development Services Department) at 707-441-4164.

**How to Comment:** 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, Third Floor, 531 K Street, Eureka, CA. Accommodations for handicapped access to City meetings must be requested of the City Clerk, 441-4175, five working days

in advance of the meeting. Appeals to the City Council of the action of the Director on the project may be made within 10 calendar days of the action by filing a written Notice of Appeal, along with filing fees as set by the City Council, with the City Clerk. The City's final action is appealable to the California Coastal Commission. 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 Development Services Department, Third Floor, City Hall. If you have questions regarding the project or this notice, please contact Rob Dumouchel, Associate Planner, phone: (707) 441-4164; fax: (707) 441-4202; e-mail: [rdumouchel@ci.eureka.ca.gov](mailto:rdumouchel@ci.eureka.ca.gov)



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**DIRECTOR OF DEVELOPMENT SERVICES**

**STAFF REPORT**

*November 6, 2018*

**Project Title:** *TTF Inc. Non-Volatile Manufacturing Minor Use Permit and Coastal Development Permit*

**Project Applicant:** TTF, Inc. DBA Space Gem

**Case No.:** MUP-18-0005/CDP-18-0011 **Project Location:** 2228 4<sup>th</sup> Street **APN:** 002-133-002

**Zoning and General Plan Designations:** CS (Service Commercial) and HSC (Highway Service Commercial)

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

**Staff Contact Person:** Rob Dumouchel, Associate Planner; City of Eureka, Development Services Department; 531 “K” Street, Eureka, CA 95501; (707) 441-4164, Email: [rdumouchel@ci.eureka.ca.gov](mailto:rdumouchel@ci.eureka.ca.gov)

**Staff Recommendation:**

1. Hold a Public Hearing; and
2. Adopt a resolution of the Director of Development Services of the City of Eureka approving the Minor Use Permit (MUP-18-0005) and Coastal Development Permit (CDP-18-0011) to allow a non-volatile cannabis manufacturing facility at 2228 4<sup>th</sup> Street; APN 002-133-002.

**Project Description:** TTF, Inc. (DBA Space Gem) is seeking a Minor Use Permit for cannabis “manufacturing, non-volatile, less than 5,000 sq. ft.”, which, pursuant to Eureka Zoning Code Section 10-5.903, is listed as a *minor conditional use* in the CS zoning district. This parcel is located in the Coastal Zone, and a Coastal Development Permit is also required. If this Minor Use Permit and Coastal Development Permit are granted, the use of “non-volatile” cannabis manufacturing would apply only to portions of the parcel within the City of Eureka’s coastal permitting jurisdiction. A Commercial Cannabis License (MCL-18-0045) is being processed separately.

**Environmental:** The Minor Use Permit and Coastal Development Permit are a discretionary action subject to environmental review in accordance with the California Environmental Quality Act (CEQA); however, this 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. The approval of a non-volatile

cannabis manufacturing facility permits an allowed conditional use to operate within an existing structure. No expansion of the existing building footprint is proposed, and no new structures will be constructed.

**Background:**

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, or 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 products 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 including breweries, distilleries, niche-food manufacturers, and other businesses that take raw products and create new value-added products.

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. All of these approvals occur outside of the Minor Use Permit and Coastal Development Permit process. The applicant’s plans for this site are currently in review by the Fire Department, Police Department, and Building Department.

The parcel upon which the applicant is proposing a non-volatile cannabis manufacturing facility is in both the City of Eureka’s and the California Coastal Commission’s coastal permitting jurisdiction (see attachment 2). The non-volatile cannabis manufacturing use is limited to the portion of the parcel within the City’s jurisdiction. If the applicant ever wishes to expand that use beyond the City’s jurisdiction, they are required to obtain a Coastal Development Permit from the California Coastal Commission.

**Project Analysis:** Eureka Municipal Code §10-5.29310.1 requires that a Coastal Development Permit be approved only upon making the finding that the proposed development, within the City’s jurisdiction, conforms to the policies of the Local Coastal Program.

**1. Overall objectives of the Coastal Zone (EMC §10-5.2902):**

|             |   |
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| Objective 1 | Protect, maintain, and where feasible, enhance and restore the overall quality of the coastal zone environment and its natural and human-created resources; |
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|             | <b>The proposed use will be contained within an existing structure and does not involve new development. Previously, the site was a coffee shop and a restaurant; this new use will be similar in that it will be focused on cooking and preparing products for human consumption. The approval of the proposed use is anticipated to have no negative effects on the quality of the coastal zone environment.</b>                 |
| Objective 2 | Assure orderly, balanced utilization and conservation of coastal zone resources, taking into account the social and economic needs of the people of this region, state, and nation;  |
|             | <b>The proposed use will be contained within an existing structure in a developed commercial area. The proposed development will not have a direct affect upon coastal resources. The project supports the social and economic needs of the region by filling a vacant commercial space and creating jobs. The approval of the proposed use will have no impact on the utilization and conservation of coastal zone resources.</b> |
| Objective 3 | Maximize public access to and along the Humboldt Bay shoreline, and maximize public recreational opportunities in the coastal zone, consistent with sound resource conservation principles and constitutionally protected rights of private property owners;   |
|             | <b>The site is not directly located along the Humboldt Bay shoreline. A tidally influenced area is located approximately 60 feet to the south of the parking lot but is not currently accessed from the site, or used for recreation by the public. The introduction of non-volatile manufacturing is not anticipated to change the character of the access for recreation at this site.</b>                                       |
| Objective 4 | Assure priority for coastal dependent and coastal-related development over other development on the shoreline;   |
|             | <b>Not applicable. The property is not located along the shoreline or a waterway capable of handling coastal-dependent uses. The proposed use is not coastal-dependent, and the zone district (CS) does not call for coastal-dependent or coastal-related priority uses. The site is located in a longstanding service commercial area and is surrounded by other non-coastal-dependent uses.</b>                                  |
| Objective 5 | Provide a definite plan for development so as to guide the future growth of the City within the Coastal Zone;  |
|             | <b>The Local Coastal Program provides for the development and growth of the City within the coastal zone; the proposed use is consistent with the purposes of the Coastal Land Use Plan and the Coastal Implementation Plan (zoning) and land use designations.</b>  |
| Objective 6 | Protect the social and economic character and stability of residential, commercial, agricultural, and industrial areas within the City.  |
|             | <b>The proposed use will be contained within an existing commercial structure. The proposed use will not negatively affect the stability of the existing surrounding retail, industrial, office, or residential uses. Due to the fact the proposed use is compatible with and similar to existing uses, the proposed use will not be inharmonious with the existing commercial character of the</b>                                |

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|  | <p><b>area. Through the application of conditions of approval (included in the Resolution) and through the enforcement of other existing City regulations, cannabis odors that are detectable outside of the facility and visible cannabis plants will not be allowed.</b></p> |
|--|--|

The zoning regulations are adopted to protect the public health, safety, peace, comfort, convenience, prosperity, and general welfare. The purpose and objectives of the zone district are discussed below.

**2. Purposes of the Coastal CS District (EMC §10-5.29130):** (Findings in bold)

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|-----------|--|
| Purpose a | 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 wholesale cannabis manufacturing in a zone district that allows for this use. Other cannabis-related businesses are also located in the same zone district, including one on an adjoining parcel.</b>   |
| Purpose b | To provide opportunities for retail stores, offices, service establishments, amusement establishments, and wholesale businesses to concentrate for the convenience of the public and in mutually beneficial relationship to each other;  |
|           | <b>If approved, the proposed use would transform a currently vacant commercial structure and site into a viable, job-generating business location. A concentration of occupied business facilities helps reduce blight, minimizes vandalism, and can reduce crime. Other cannabis-related businesses are also located in the same zone district, including one on an adjoining parcel.</b> |
| Purpose c | To provide space for community facilities and institutions that appropriately may be located in commercial areas;  |
|           | <b>The proposed location is a commercial area and has never been occupied as a public community facility or community institution. Since the space has been vacant, any such facility that wanted to utilize the space has had ample opportunity to purchase or lease the space.</b>   |
| Purpose d | To provide adequate space to meet the needs of modern commercial development, including off- street parking and truck loading areas;   |
|           | <b>The location was formerly a drive through coffee shop and restaurant. Three marked and designated parking spaces exist on the site and over six unmarked spaces exist. The existing parking is sufficient to serve a manufacturing use at this facility.</b>  |
| Purpose e | 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 existing building is proposed at this time.</b>   |
| Purpose f | To protect commercial properties from fire, explosion, noxious fumes, and other hazards;   |

|           |  |
|-----------|--|
|           | <b>The proposed use is non-volatile in nature and should not generate an unusual risk of fire, explosion, noxious fumes, or other hazards.</b>   |
| Purpose g | 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 commercial and light industrial uses and is appropriate for the proposed use. The business is neighbored by another parcel going through the permitting process for non-volatile manufacturing and a restaurant. Other nearby businesses include a gas station, an automotive repair shop, hotel, and car dealership. The proposed light industrial use is a compatible mix with existing commercial uses within the immediate area.</b> |
| Purpose h | To permit additional development in mixed commercial areas containing both retail stores and commercial services; and,   |
|           | <b>The proposed non-volatile manufacturing of products that will be wholesaled from the site provides a compatible mix with existing commercial uses within the immediate area. Through the application of the conditions of approval and through the enforcement of other existing City regulations, cannabis odors that are detectable outside of the facility and visible cannabis plants will not be allowed.</b>  |
| Purpose i | 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 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.</b>  |

**3. No detrimental effect to public health, safety, welfare, or materially injurious to properties or improvements in the vicinity (EMC §10-5.2407.1):**

Based on the discussion above 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 conditions of approval and through the enforcement of other existing City regulations the neighboring properties will likely never be able to tell that the proposed use is occurring on the parcel.

**4. Local Coastal Program (EMC §10-5.29300)**

The site of the proposed use is located in the Coastal Zone and the Eureka Municipal Code requires a Minor Use Permit and Coastal Development Permit be approved by the Director of Development Services. The City of Eureka has permit jurisdiction for issuing the Coastal Development Permit, with the project being appealable to the state Coastal Commission.

The property is zoned Service Commercial (CS), which is intended 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.

The proposed use meets the intention of the zoning designation, as it is a proposed light manufacturing use.

The subject property has a Land Use designation of Highway Service Commercial (HSC) which is intended to provide appropriately located areas for uses oriented primarily to traffic on Highway 101. The business requires access to the highway for distribution of products, a location along the highway will also benefit a future retail license if approved.

Based on the discussion above, the proposed use is consistent with the Local Coastal Program’s Land Use Plan and Implementation Plan.

**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. No comments were received prior to completion of this staff report with recommended conditions. If comments are received prior to the deadline for submitting them, any recommended conditions will be reviewed at the public hearing. Otherwise, the presumption is that the proposed manufacturing of cannabis will not be detrimental to the public health, safety and welfare.

**Support Material:**

|              |   |        |
|--------------|---|--------|
| Attachment 1 | Director of Development Services Resolution .....   | page 7 |
| Attachment 2 | Coastal Commission Boundary Determination Map ..... | page 9 |

## **DIRECTOR OF DEVELOPMENT SERVICES RESOLUTION NO. 2018-\_\_**

A RESOLUTION OF THE DIRECTOR OF DEVELOPMENT SERVICES OF THE CITY OF EUREKA APPROVING THE MINOR USE PERMIT (MUP-18-0005) AND COASTAL DEVELOPMENT PERMIT (CDP-18-0011) TO ALLOW A CANNABIS MANUFACTURING FACILITY AT 2228 4<sup>TH</sup> STREET; APN 002-133-002.

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

**WHEREAS**, the proposed site is located at 2228 4<sup>th</sup> Street, is zoned Service Commercial (CS) with a land use designation of HSC (Highway Service Commercial), is currently developed with an approximately 930 sf commercial structure, and is located in the Coastal Zone; and

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

**WHEREAS**, conditionally permitted uses in the Coastal Zone also require a Coastal Development Permit; and

**WHEREAS**, the Eureka Municipal Code §10-5.2407.1 prescribes the findings required to be made by the Director of Development Services prior to granting a Minor Use Permit; and

**WHEREAS**, the Eureka Municipal Code §10-5.29310.1 prescribes the findings required to be made by the Director of Development Services prior to granting a Coastal Development 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 and Coastal Development 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 Title 5, Chapter 10 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 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.
4. The site of the proposed use is located in the Coastal Zone and the Eureka Municipal Code requires a Coastal Development Permit to be approved by the Director of Development Services. Within the City of Eureka's jurisdiction, the City has permit jurisdiction for issuing the Coastal Development Permit, with the project being appealable to the state Coastal Commission.

**FURTHER**, approval of the Minor Use Permit and Coastal Development 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. Prior to building permit sign-off, 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 control cannabis odors such that no cannabis odors shall be detectable outside the exterior walls of the facility to the satisfaction of the Development Services Department.
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. The only exception to this condition is during brief periods of loading and unloading.
3. The exterior of the building, parking lot, and all other visible components of the property shall be maintained at a high level of quality worthy of a building along the busiest corridor in the City to the satisfaction of the Development Services Department.
4. All non-volatile manufacturing businesses operating at the subject property shall implement and maintain safety, security, and other related requirements to the satisfaction of the City of Humboldt Bay Fire Department, and the City of Eureka Building Department, Development Services Department, and Police Department.
5. Prior to commencing operations, and to the satisfaction of the Eureka Police Department, the non-volatile cannabis facility shall install and maintain a security system at the subject property inside and outside of the 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. To the satisfaction of the Eureka Police and Development Services Departments, security lighting on the exterior of the building will be designed and shielded to direct illumination downward onto the site, away from the Environmentally Sensitive Habitat Area located on the south side of the property, and will avoid glare and spillage to adjacent properties. Lighting will consist of minimal wattage necessary to provide safety and security at the site.
7. Prior to commencement of any demolition, remodeling or construction, the applicant shall obtain all required Building permits to the satisfaction of the City of Eureka Building and Humboldt Bay Fire Departments.
8. In the event a building permit involving any ground disturbing activity is required, approval of the building permit will include the City's standard protocol for incidental archeological discovery

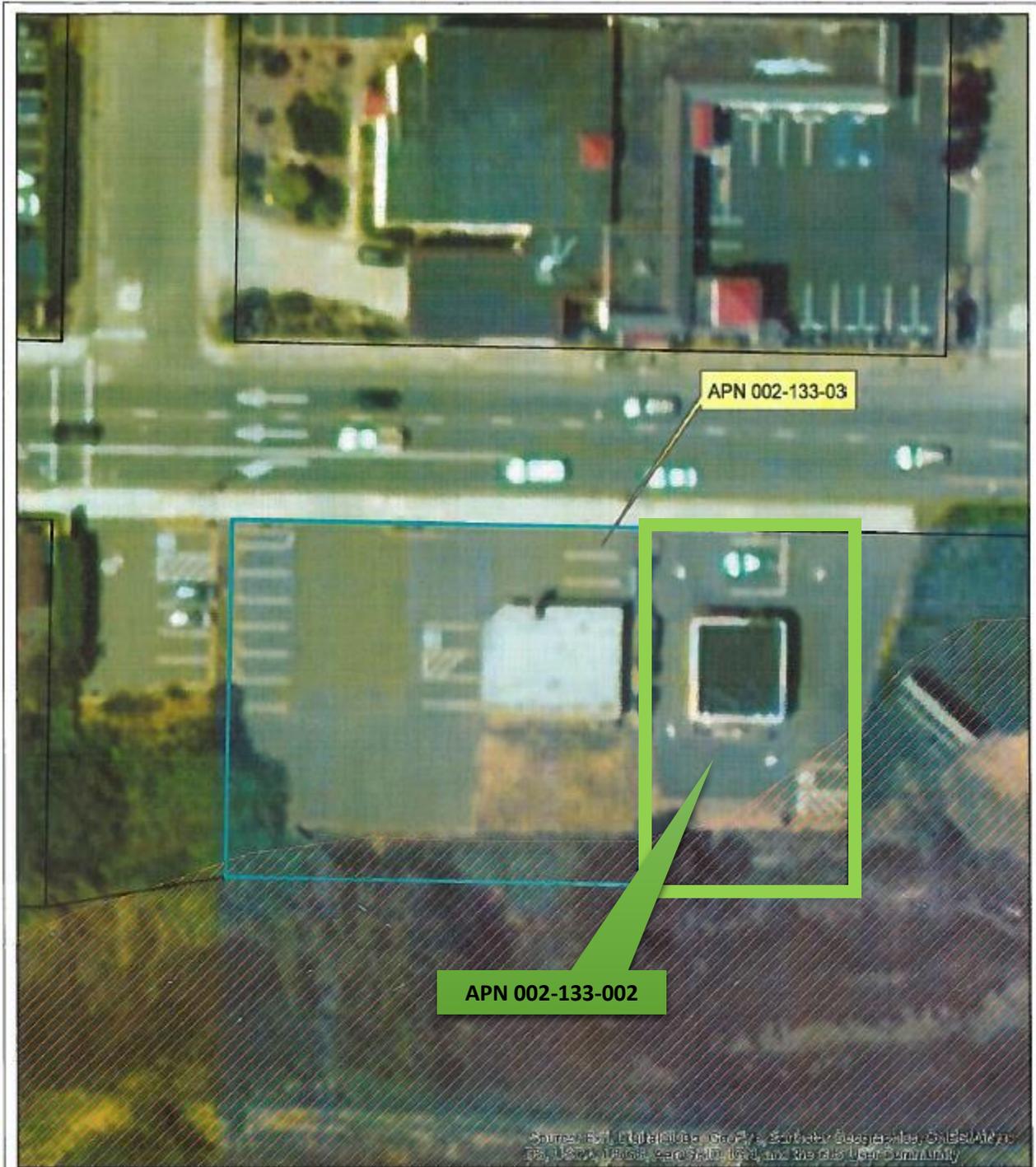
(cultural or historical artifacts) to the satisfaction of the local Native American Tribes and the Development Services Department.

9. The minor use of non-volatile cannabis manufacturing is not and shall not be extended into the Coastal Commission's permit jurisdiction along the southern edge of the property unless modification of the Minor Use Permit is granted, and the applicant applies for and receives a modified Coastal Development Permit.

**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 6th day of November 2018.

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Rob Holmlund, AICP, Director



**BD 04-2018**  
**APN 002-133-03**  
**Humboldt County**



**Coastal Commission Permit Jurisdiction**



**Exhibit 2**

DR 08.2018