



**CITY OF EUREKA**  
**DEVELOPMENT SERVICES DEPARTMENT**  
Brian Gerving, Director

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**NOTICE OF PUBLIC HEARING**

**EUREKA PLANNING COMMISSION**

**NOTICE IS HEREBY GIVEN** that the proposed development described below is within the coastal zone and, pursuant to the Eureka Local Coastal Program, the Use Permits and Coastal Development Permit are scheduled for a public hearing before the Planning Commission on Monday, January 13, January, 2020, at 5:30 p.m., in the Council Chamber, Eureka City Hall, 531 “K” Street, Eureka, California.

**Project Title:** Supreme Green Cultivation and Non-Volatile Manufacturing Facility Use Permits and Coastal Development Permit

**Project Applicant:** Supreme Green Distribution LLC (Agent: Steven Luu)

**Case No:** CUP-19-0008, MUP-19-0006, CDP-19-0015

**Project Location:** 1515 4th Street

**APN:** 002-031-006

**Project Zoning and Land Use:** Service Commercial (CS) and Highway Service Commercial (HSC)

**Project Description:** The applicant is seeking a Conditional Use Permit (CUP) for indoor cannabis cultivation under 5,000 square feet of cultivation area, a Minor Use Permit (MUP) for non-volatile cannabis manufacturing under 5,000 square feet of manufacturing floor area, and Coastal Development Permit (CDP) for both uses. The parcel is located in the Coastal Zone, and a Coastal Development Permit is required (filed 10/23/2019). If these permits are granted, the uses of cannabis cultivation and non-volatile manufacturing would apply to the entire parcel. Eureka Municipal Code Section 10-5.3007 lists cannabis cultivation and non-volatile cannabis manufacturing as conditional uses in the CS (Service Commercial) zone district. Commercial Cannabis Licenses for distribution are already issued at this location, and commercial cannabis cultivation and non-volatile manufacturing licenses are being processed separately.

**Date of Project Application:** October 23, 2019

**Staff contact person:** Rob Dumouchel, Acting Planning & Building Manager, City of Eureka, Development Services Department; 531 “K” Street, Eureka, CA 95501-1165; phone: (707) 441-4160, email: [rdumouchel@ci.eureka.ca.gov](mailto:rdumouchel@ci.eureka.ca.gov)

All interested persons are invited to comment either in person at the scheduled public hearing, or in writing. Written comments may be submitted prior to or during the hearing

by mailing or delivering them to the Development Services Department, Third Floor, 531 K Street, Eureka.

Appeals to the City Council of the Planning Commission's action may be made within 10 calendar days of the action by filing a written Notice of Appeal with the City Clerk, along with the filing fees as set by the City Council. The City's final action is not 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 or written correspondence received during or prior to the public hearing. Accommodations for handicapped access to City meetings must be requested of the City Clerk, 441-4175, five working days in advance of the meeting. The project file is available for review at the Development Services Department.



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**EUREKA CITY PLANNING COMMISSION**

**STAFF REPORT**

*January 13, 2019*

**Project Title:** *Supreme Green Cultivation and Non-Volatile Manufacturing Use Permits and Coastal Development Permit*

**Project Applicant:** Supreme Green Distribution LLC (Agent: Steven Luu)

**Case No.:** CUP-19-0008, MUP-19-0006, CDP-19-0015

**Project Location:** 1515 4<sup>th</sup> Street                      **APN:** 002-031-006

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

**Proposed Uses:** Cannabis cultivation facility under 5,000 square feet of cultivation area and cannabis non-volatile manufacturing facility under 5,000 square feet of manufacturing floor area

**Project Description:** The applicant is seeking a Conditional Use Permit (CUP) for indoor cannabis cultivation under 5,000 square feet of cultivation area, a Minor Use Permit (MUP) for non-volatile cannabis manufacturing under 5,000 square feet of manufacturing floor area, and Coastal Development Permit (CDP) for both uses. The parcel is located in the Coastal Zone, and a Coastal Development Permit is required (filed 10/23/2019). If these permits are granted, the uses of cannabis cultivation and non-volatile manufacturing would apply to the entire parcel. Eureka Municipal Code Section 10-5.3007 lists cannabis cultivation and non-volatile cannabis manufacturing as conditional uses in the CS (Service Commercial) zone district. Commercial Cannabis Licenses for distribution are already issued at this location, and commercial cannabis cultivation and non-volatile manufacturing licenses are being processed separately.

**Staff Recommendation:**

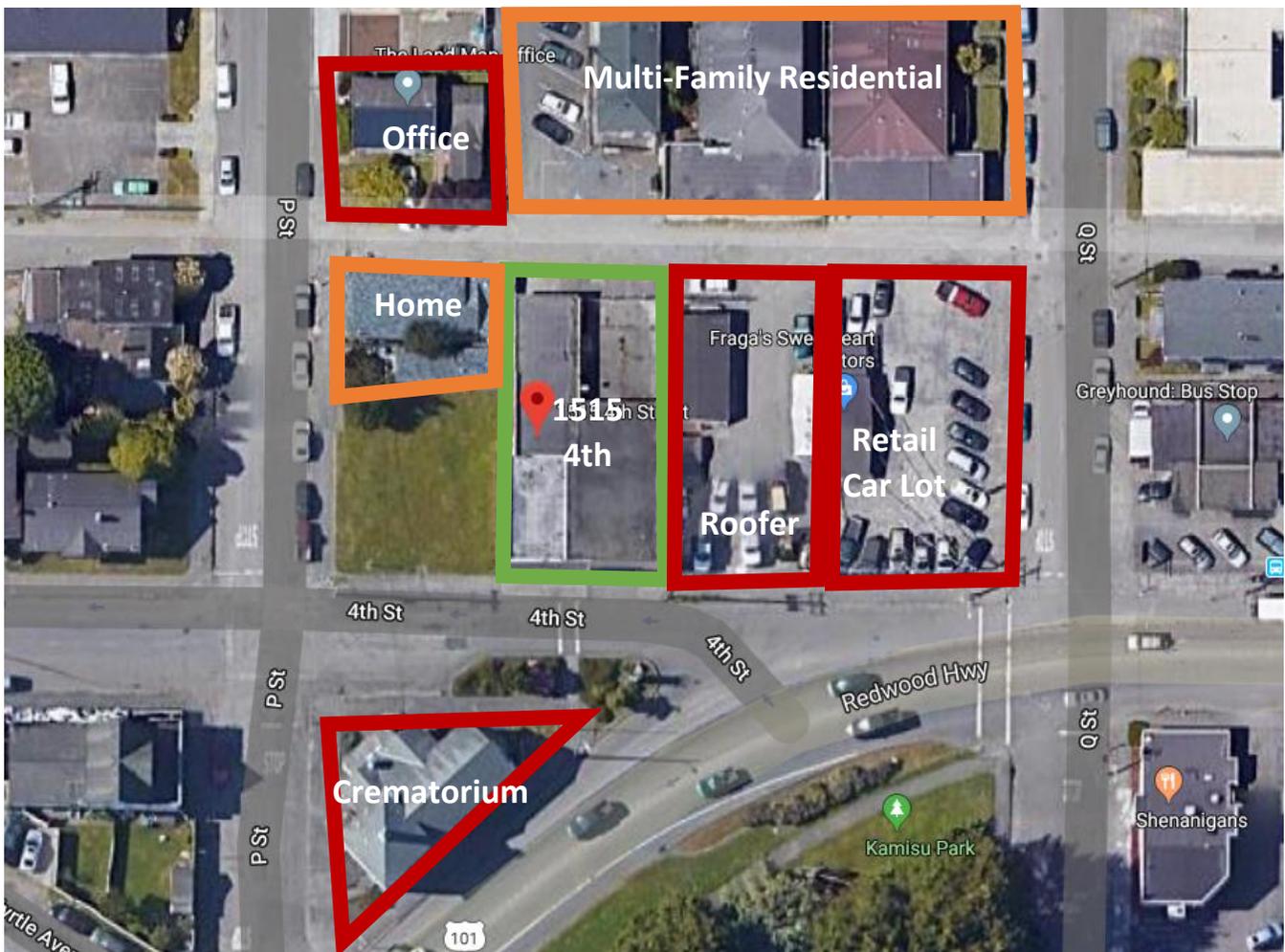
1. Hold a Public Hearing; and
2. Adopt a Planning Commission Resolution approving, with conditions, a use permit and coastal development permit allowing cannabis cultivation and non-volatile manufacturing at 1515 4<sup>th</sup> Street (APN 002-031-006).

**Staff Contact Person:** Rob Dumouchel, Acting Planning & Building Manager; City of Eureka, Development Services Department; 531 "K" Street, Eureka, CA 95501; (707) 441-4160, Email: [rdumouchel@ci.eureka.ca.gov](mailto:rdumouchel@ci.eureka.ca.gov)

**Environmental:** The consideration of a conditional use permit and coastal development permit is a discretionary action subject to environmental review in accordance with the California Environmental Quality Act (CEQA). This project qualifies for a Class 1 exemption (Section 15301) from CEQA because the proposed use will result in the conversion of a portion of an existing structure into a cannabis retail facility with no expansion of the structure, or the existing uses. The Class 1 exemption consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use.

**Background:**

The project is located at 1515 4<sup>th</sup> Street which has an existing structure on the parcel which is in the process of being remodeled into a multi-tenant cannabis facility. Two cannabis distribution licenses have already been approved for this location. The applicant and property owner are seeking cultivation and non-volatile manufacturing use permits in order to expand the allowable uses on the parcel which would a more diverse set of tenants or opportunities for existing tenants to be more vertically integrated in their operations.



The project site is located on “little” 4<sup>th</sup> Street. The site is surrounded by both commercial and residential uses. To the east of the site are two commercial businesses including a roofing company and a retail car lot. To the west of the site is a single-family home and open space. South of the site is a crematorium and north of the site there are multi-family residential units and a real estate office.

Cannabis manufacturing facilities process and produce cannabis-related products that are either sold wholesale to other licensed cannabis businesses or sold to individuals via licensed retail facilities. 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, grinders that pulverize raw cannabis, 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, or 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 another manufacturing facility and then use those concentrates to create cannabis-infused hand lotion. A non-volatile manufacturing facility may also take part in other value-added processes which do not use volatile chemicals such as trimming and processing of raw cannabis. Unless the applicant successfully acquires a commercial cannabis retail license, all products leaving the building will be shipped in bulk as wholesale to other licensed locations. The non-volatile cannabis manufacturing use is similar to other uses, including breweries, distilleries, niche-food manufacturers, and other businesses that use raw products to create new, value-added products.

**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.

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.

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

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;
	<b>The parcel is not near the Bay or any tidally influenced waterways, additionally the proposed cannabis activities are to be conducted exclusively indoors; approval of the proposed uses 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 developable areas within an already developed 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 supporting a business which has already repurposed a vacant commercial space into a cannabis distribution facility and is expected to create jobs.</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 adjacent to Humboldt Bay or any other shorelines or coastal recreational amenities. The use will be contained within an existing commercial structure. The introduction of indoor cannabis cultivation and non-volatile manufacturing is not anticipated to impact coastal access or conservation.</b>
Objective 4	Assure priority for coastal dependent and coastal-related development over other development on the shoreline;
	<b>The property is not located along a 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 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 not negatively affect the stability of the existing surrounding retail, 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 area.</b>

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

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 would create wholesale cannabis and value-added cannabis products created with non-volatile manufacturing methods in a</b>

	<b>zone which allows for these uses. Many other cannabis-related businesses are located throughout the CS zone district.</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 support the transformation of the existing structure from a blighted and vacant building into a productive space which houses multiple employers and jobs. A concentration of occupied business facilities helps reduce blight, minimizes vandalism, and can reduce crime.</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 community facility or community institution.</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 existing structure at this location has a fenced parking area and large roll-up doors which could be used to drive vehicles into the facility for secure loading and unloading.</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 will not generate an unusual risk of fire, explosion, noxious fumes, or other hazards. Any odors created by cultivation or manufacturing processes must be contained to the parcel and not detectable from public rights-of-way or neighboring parcels.</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 uses are not appropriate for some commercial districts (such as Downtown, Henderson Center, or Old Town), but the subject site is in an area of existing service commercial uses and is appropriate for the proposed uses. Other nearby businesses include a car lot, crematorium, and roofing company. The proposed 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 uses will not constrain additional development of retail stores or commercial services.</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 site is already holds licenses for cannabis distribution. The manufacturing and cultivation uses are compatible with each other and the surrounding commercial uses. The proposed use, with conditioned, will not produce excessive noise, light or noxious odors.</b>
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Based on the discussion herein, Staff has determined a finding can be made that the project, with conditions, is in accord with the objectives and purposes of the coastal zone and the CS zone district.

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

Through the application of the conditions of approval and enforcement of other existing City regulations, and 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.

**4. Local Coastal Program (EMC §§ 10-5.2407.1 and 10-5.29300)**

The site of the proposed use is located in the Coastal Zone and the Eureka Municipal Code requires a Conditional Use Permit, Minor Use Permit, and Coastal Development Permit to be approved by the Planning Commission. The City of Eureka has permit jurisdiction for issuing the Coastal Development Permit; the project is not appealable to the state Coastal Commission.

The property is zoned Service Commercial (CS), which is intended to permit development of commercial services in commercial areas, and to allow a wider choice of location for certain light industrial uses that do not have an adverse impact on commercial services. The proposed uses meet the intention of the zoning designation, as they are wholesale cultivation and non-volatile manufacturing uses.

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 is adjacent to Highway 101 which makes it easy to ship products produced at this location.

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

**Design Review:** Pursuant to EMC §10-5.29137 and 10-5.2421, conditional uses in the CS zone district require Design (Architectural) Review. No exterior modifications of the existing structure are proposed to allow the cannabis cultivation and non-volatile manufacturing facilities. If signs or exterior remodels are proposed in the future, Design Review and a Sign Permit may be required. Therefore, based on the fact no exterior changes are proposed for the use, no Design Review is required to approve the use permit at this time.

**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: Tribal Historic Preservation Officers (THPOs) representing two local tribes agreed that appropriate protocols that include inadvertent archeological discovery of cultural or historical artifacts should be followed in the event of any future ground disturbing activities.

**Support Material:**

Attachment 1 Planning Commission Resolution..... page 8

**PLANNING COMMISSION RESOLUTION NO. 2020-\_\_**

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF EUREKA APPROVING A CONDITIONAL USE PERMIT (CUP-19-0008) ALLOWING CANNABIS CULTIVATION (5,000 SQUARE FEET OF CULTIVATION AREA OR LESS), A MINOR USE PERMIT (MUP-19-0006) ALLOWING NON-VOLATILE CANNABIS MANUFACTURING (5,000 SQUARE FEET OR LESS OF MANUFACTURING FLOOR AREA), AND COASTAL DEVELOPMENT PERMIT (CDP-19-0015) AT 1515 4<sup>TH</sup> STREET; APN 002-031-006

**WHEREAS**, the applicant is planning to operate a cannabis cultivation facility under 5,000 square feet of cultivation area; and

**WHEREAS**, the applicant is planning to operate a non-volatile cannabis manufacturing facility of 5,000 square feet of manufacturing floor area or less; and

**WHEREAS**, the proposed site is located at 1515 4<sup>th</sup> Street, zoned Service Commercial (CS) with a land use designation of HSC (Highway Service Commercial), and is located in the Coastal Zone; and

**WHEREAS**, indoor cannabis cultivation facilities under 5,000 square feet of cultivation area are conditionally permitted in the CS district and require a Conditional Use Permit; and

**WHEREAS**, non-volatile cannabis manufacturing facilities under 5,000 square feet of manufacturing floor area are conditionally permitted in the CS 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 §10-5.29310.1 prescribes the findings required to be made by the Planning Commission prior to granting a Coastal Development Permit; and

**WHEREAS**, the Eureka Municipal Code §10-5.2407.1 prescribes the findings required to be made by the Planning Commission prior to granting a Conditional Use Permit.

**NOW THEREFORE, BE IT RESOLVED** by the Planning Commission of the City of Eureka that the project, as conditioned below and described in the Staff Report, is approved and the decision 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 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 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 from CEQA which exempts the conversion and minor alteration of existing structures.

2. The proposed cannabis cultivation and non-volatile manufacturing facility 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 CS 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 proposed facility, as conditioned, conforms to all required development standards as contained in the Eureka Municipal Code.
5. The site is located in the Coastal Zone and the Eureka Municipal Code requires a Coastal Development Permit be approved by the Planning Commission. The City of Eureka has permit jurisdiction for issuing the Coastal Development Permit. The project is appealable to the state Coastal Commission.

**FURTHER** approval of both the Use Permits 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 operation of any cultivation or non-volatile cannabis manufacturing facilities, any applicable City of Eureka Commercial Cannabis Licenses and State of California Cannabis Licenses must be acquired and the facility must pass a pre-operational inspection with the City's Cannabis Licensing Program Manager or equivalent. If cannabis cultivation or manufacturing operations commence before licensure and inspection, this use permit may be suspended by the Director of Development Services and forwarded to the Planning Commission for revocation at a public hearing.
2. Any cultivation and non-volatile manufacturing facility operators will install, operate, and maintain odor control measures that will be reviewed and approved by the City Building Department prior to operation. The odor control measures are required to be effective at controlling cannabis odors such that no cannabis odors are detectable beyond the parcel, including the public right-of-way and neighboring parcels.
3. Any cultivation and non-volatile manufacturing facility operators, through the commercial cannabis licensing process, shall submit license and/or permit application materials to 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 property owner, or any cultivation and non-volatile manufacturing facility operators, will install, operate, and maintain a security system at the subject property which covers the interior and exterior of the existing building and any future buildings. 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.
5. Prior to commencement of any demolition, remodeling or construction, the applicant will obtain all required Building and Fire permits to the satisfaction of the City of Eureka Public Works Building and Humboldt Bay Fire Departments.

6. 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:
- a) If archaeological resources are encountered during construction activities, all onsite work shall cease in the immediate area and within a 50 foot buffer of the discovery location. A qualified archaeologist will be retained to evaluate and assess the significance of the discovery, and develop and implement an avoidance or mitigation plan, as appropriate. For discoveries known or likely to be associated with native American heritage (prehistoric sites and select historic period sites), the Tribal Historic Preservation Officers for the Bear River Band of Rohnerville Rancheria, Blue Lake Rancheria, and Wiyot Tribe are to be contacted immediately to evaluate the discovery and, in consultation with the project proponent, City of Eureka, and consulting archaeologist, develop a treatment plan in any instance where significant impacts cannot be avoided. Prehistoric materials may include obsidian or chert flakes, tools, locally darkened midden soils, groundstone artifacts, shellfish or faunal remains, and human burials. Historic archaeological discoveries may include 19th century building foundations; structure remains; or concentrations of artifacts made of glass, ceramic, metal or other materials found in buried pits, old wells or privies.
  - b) If paleontological resources, such as fossilized bone, teeth, shell, tracks, trails, casts, molds, or impressions are discovered during ground-disturbing activities, work shall stop in that area and within 100 feet of the find until a qualified paleontologist can assess the nature and importance of the find and, if necessary, develop appropriate treatment measures in conformance with Society of Vertebrate Paleontology standards, and in consultation with the City of Eureka.
  - c) In the event of discovery or recognition of any human remains during construction activities, the landowner or person responsible for excavation would be required to comply with the State Health and Safety Code Section 7050.5. Construction activities within 100 feet of the find shall cease until the Humboldt County Coroner has been contacted at 707-445-7242 to determine that no investigation of the cause of death is required. If the remains are determined to be, or potentially be, Native American, the landowner or person responsible for excavation would be required to comply with Public Resources Code Section 5097.98. In part, PRC Section 5097.98 requires that the Native American Heritage Commission (NAHC) shall be contacted within 24 hours if it is determined that the remains are Native American. The NAHC would then identify the person or persons it believes to be the most likely descendant from the deceased Native American, who in turn would make recommendations to the landowner or the person responsible for the excavation work for the appropriate means of treating the human remains and any associated grave goods within 48 hours of being granted access to the site. Additional provisions of Public Resources Code Section 5097.98 shall be complied with as may be required.

**PASSED, APPROVED AND ADOPTED** by the Planning Commission of the City of Eureka in the County of Humboldt, State of California, on the 13th day of January 2019 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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Kristen Goetz, Executive Secretary