



CITY OF EUREKA
DEVELOPMENT SERVICES DEPARTMENT
Rob Dumouchel, Interim Director
531 K Street • Eureka, California 95501-1146
Ph (707) 441-4160
planning@ci.eureka.ca.gov • www.ci.eureka.ca.gov

NOTICE OF PENDING ACTION INTERIM DIRECTOR OF DEVELOPMENT SERVICES

NOTICE IS HEREBY GIVEN that the Interim Director of Development Services will take action to administratively approve a Minor Use Permit (MUP) and a Coastal Development Permit (CDP) for the proposed development described below on Friday, June 5, 2020, unless a request to hold a public hearing is received before 5:00 p.m. on Thursday, June 4, 2020. The proposed use is conditionally permitted and requires a minor use permit (MUP), and the site of the proposed use is within the coastal zone and, as provided by the Eureka Local Coastal Program, a Coastal Development Permit (CDP) is required. Pursuant to Eureka Municipal Code Sec. 10-5-29308, no public hearing is required for a CDP that is not appealable to the Coastal Commission and does not otherwise require a public hearing under a local ordinance. The MUP can be administratively approved by the Interim Director, and the CDP is not appealable to the Coastal Commission.

However, a public hearing may be requested for the MUP. Both the CDP and MUP require a 14-working day period for submission of comments, or to request a public hearing be held on the MUP, prior to the Interim Director's decision. Unless a specific written request to hold a public hearing on the MUP is received, the Interim Director will act on both the CDP and MUP on Friday June 5, 2020. If a member of the public requests a public hearing, a hearing date will be determined and a notice of the public hearing will be mailed at least 10 days prior to the hearing date. If a public hearing is requested for the MUP, action by the Interim Director on the CDP will also be taken during the public hearing.

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

Project Applicant: Green Ox, Inc.

Case No: MUP-20-007/CDP-20-0003

Project Location: 1711 2nd Street; APN 002-054-011

Zoning: Service Commercial (CS) & General Service Commercial (GSC)

Project Summary: The applicant seeks a Minor Use Permit (MUP) for non-volatile cannabis manufacturing, 5,000 square feet or less, pursuant to Eureka Municipal Code (EMC) §10-5.3007 and subject to EMC Article 30; and, a Coastal Development Permit (CDP) for the proposed use, pursuant to EMC Article 29. If these permits are granted, the cannabis use would apply to the entire parcel. The Commercial Cannabis License (CCL-20-0006) for non-volatile manufacturing will be processed separately. No changes to the existing building footprint are proposed and no ground disturbing activities are anticipated.

Date of Project Application: March 18, 2020

Environmental: The project qualifies for a Class 1 exemption (Section 15301) from CEQA which exempts the operation, permitting, leasing [or] licensing of existing private structures involving negligible or no expansion of the existing or former use.

All interested persons are invited to provide written comment on the project, or to request a public hearing for the MUP in writing, before 5:00 p.m. on Thursday, June 4, 2020. Written comments, or a request for a public hearing for the MUP which includes written concerns about specific aspects of the project, may be mailed or delivered to the Development Services Department, 531 K Street, Eureka, CA 95501 or e-mailed to planning@ci.eureka.ca.gov. If no request for a public hearing is received, the Interim Director will act on the MUP and CDP application on Friday, June 5, 2020.

The project file is available for review at the Development Services Department, Third Floor, City Hall, 531 K Street. If you have questions regarding the project or this notice, please contact Caitlin Castellano, Senior Planner, phone: (707) 268-5265; e-mail: ccastellano@ci.eureka.ca.gov



INTERIM DIRECTOR OF DEVELOPMENT SERVICES

ADMINISTRATIVE STAFF REPORT

June 5, 2020

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

Project Applicant: Green Ox, Inc.

Case No.: MUP-20-0007, CDP-20-0003

Project Location: 1711 2nd Street

APN: 002-054-011

Zoning and General Plan Designations: Service Commercial (CS) & General Service Commercial (GSC)

Proposed Uses: Non-volatile cannabis manufacturing facility under 5,000 square feet of manufacturing floor area.

Project Description: The applicant seeks a Minor Use Permit (MUP) for non-volatile cannabis manufacturing, 5,000 square feet or less, pursuant to Eureka Municipal Code (EMC) § 10-5.3007 and subject to EMC Article 30; and, a Coastal Development Permit (CDP) for the proposed use, pursuant to EMC Article 29. If these permits are granted, the cannabis use would apply to the entire parcel. The Commercial Cannabis License (CCL-20-0006) for non-volatile manufacturing will be processed separately. No changes to the existing building footprint are proposed and no ground disturbing activities are anticipated.

Staff Recommendation:

1. Adopt a Resolution of the Interim Director of Development Services approving, with conditions, a Minor Use Permit (MUP-20-0007) allowing non-volatile manufacturing under 5,000 square feet of manufacturing floor area at 1711 2nd Street (APN 002-054-011); and
2. Adopt a Resolution of the Interim Director of Development Services approving, with conditions, a Coastal Development Permit (MCDP-20-0003) allowing non-volatile manufacturing under 5,000 square feet of manufacturing floor area at 1711 2nd Street (APN 002-054-011)

Staff Contact Person: Caitlin Castellano, Senior Planner; City of Eureka, Development Services Department; 531 K Street, Eureka, CA 95501; (707) 268-5265, Email: ccastellano@ci.eureka.ca.gov.

Environmental: 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 (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 project qualifies for this exemption because the proposed use is within an existing structure and no external modifications are proposed.

Background: Per the applicant, they intend to only trim cannabis flower for wholesale at this time in the existing 3,960 square foot structure (see Site Plans in Attachment 2). They previously indicated they may process dried cannabis flower into products, including but not limited to: trimming bulk cannabis for wholesale, jarring and packaging of flower, and manufacturing and packaging of pre-rolled cannabis joints and cannabis infused (live resin, distillate, or other concentrate) pre-rolls. No on-site extraction activities are proposed at this time; and if additional processing activities are added as described above, cannabis concentrates will be sourced from a separate licensed manufacturer. However, approval of this project will allow any future non-volatile manufacturing use to operate in at the project site, subject to the conditions of approval for this project, and in accordance with EMC Article 30 through the Commercial Cannabis Licensing process.

Location

The subject property, located at 1711 2nd Street, is situated at the northeast corner of 2nd and R Streets near the Samoa Bridge (just east of Highway 255 and south of Waterfront Drive, and south and upslope of the Northwestern Pacific Railroad right-of-way) (Exhibit 1). 4th and 5th Streets (Highway 101) are two (2) and three (3) blocks south. The site is approximately 14,700 square feet in size with an existing 3,960 square foot building which is comprised of a 3,200 square foot commercial structure (built in the 1970's and originally used as an automotive paint shop for McCrea's Motors), and a 760 square foot office addition (completed in the 1990's to accommodate a medical supply storage and offices). More recently, the commercial building was used for metal fabrication/welding services (Fabcast Inc.) from 2004 to 2019.

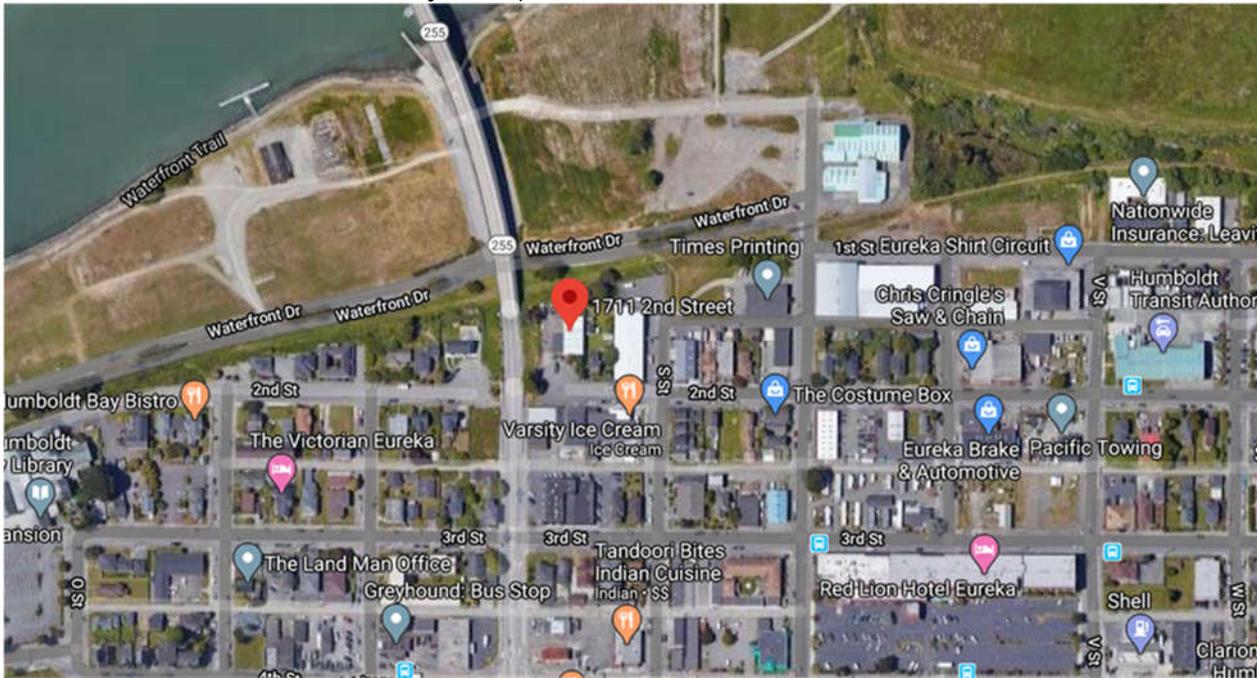
Exhibit 1: Project Location



In April 2020, staff observed ground slumping in the northwestern corner of the paved parking area. The area was evaluated by Lindberg Geologic Consulting who indicated the pavement cracking was likely ground settlement (not slumping) created over time from inadequately prepared fill used to develop the parcel (in the 1970's). They concluded the site was stable and adequate for the intended use, and recommended avoiding heavy point load on the sloping parking space in the corner. Additionally, David Lindberg shared with staff (after initial investigation and completion of the opinion letter in Attachment 4), a steel shipping container with stored metal was parked at that location for 22 years (aerial imagery confirmed), and on the south end of the parking space the asphalt is depressed 1/2" with an existing 12" wooden beam on the north end which acts as a parking stop decreasing the potential for a vehicle to roll downslope toward Waterfront Drive if a parking brake failed. The project is conditioned to prohibit heavy point loads in the northwestern parking lot as referenced in Lindberg Geologic Consulting's Engineering-Geologic Opinion of Arcuate Pavement Cracks letter dated, April 14, 2020 (Attachment 4).

Existing surrounding land uses include an ice cream and frozen dessert distributor (Varsity Ice Cream Co.), commercial print shop (Times Printing), residential and commercial painting company (Hamanaka Painting Co.), an auto repair shop (Bill's Volkswagon Repair) and single-family homes (Exhibit 2). Dinsmore Paint was previously located across the street (just south, at 211 R Street) (current use unknown), and a large vacant commercial warehouse (formerly Apria Healthcare) is located one property east (1735 2nd Street) and is available for lease. The Blue Ox Mill and Historic Park is also located approximately 0.3 miles east.

Exhibit 2: Location and Nearby Uses/Businesses



The subject property is zoned Service Commercial (CS) with a General Services Commercial (GSC) land use designation. Additionally, the 2040 General Plan identifies the surrounding area as the Bridge District, which has a mix of medium-density residential uses as well as a business-serving commercial uses, offices and light manufacturing. Green Ox, Inc. has applied for one commercial cannabis licenses at this location that is being processed separately: Non-Volatile Manufacturing.

Non-Volatile Manufacturing

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 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.

Required Findings for Approval of the MUP and CDP

To approve this project, the Interim Director must determine the applicant has submitted evidence in support of all of the following required findings:

1. Criteria for Approval of Use Permit (EMC §§ 10-5.2407.1 and 10-5.2407.3)

Pursuant to EMC Chapter 5, Article 24, Section 10-2407, the Interim Director must make the following findings in order to grant a use permit:

- (a) The proposed location of the conditional use is in accord with the objectives of this chapter and the purposes and intent of the district in which the site is located.
- (b) The proposed location of the use and the conditions under which it will 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.
- (c) The proposed conditional use will comply with each of the applicable provisions of this chapter.
- (d) The proposed conditional use, if located in the coastal zone, is consistent with the certified Local Coastal Program.

2. Criteria for Approval of Coastal Development Permit (EMC § 10-5.29310.1)

Pursuant to EMC Chapter 5, Article 29, Section 10-29310, a Coastal Development Permit may 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:

- (a) Land Use Plan (LUP) which contains the goals, policies and programs that guide the conservation and development decisions within the coastal zone, and
- (b) Implementation Plan (IP) which consists of the zoning regulations required to implement the LUP.

Project Analysis: The following discussion analyzes the proposed non-volatile cannabis manufacturing project for each of the required findings listed above. The analysis and recommendations included herein are based upon adopted regulations, current law, sound planning principals, and including site investigations, agency comments, and information submitted with the permit application.

1. Objectives and Purpose.

Pursuant to Eureka Municipal Code (EMC) Sec. 10-5.102, the zoning regulations are adopted by the City Council in accordance with the City Charter to protect the public health, safety, peace, comfort, convenience, prosperity, and general welfare. More specifically, the chapter is adopted in order to achieve the following objectives:

- a) **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.** The project site is zoned Service

Commercial (CS) with a land use plan designation of General Service Commercial (GSC). The purpose of the GSC land use designation is to provide appropriately located areas for retail and wholesale commercial establishments that offer commodities and services required by the residents of the City and its surrounding market area. The GSC land use is implemented by the purposes and standards of the CS zone district, which are listed and discussed in the table below:

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;
	The proposed use would allow for the manufacturing of value-added cannabis products created with non-volatile manufacturing methods in a zone district which allows the use. Many cannabis-related uses are allowed in the CS zone district, and several existing cannabis businesses are located in the CS zone district as well.
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;
	The proposed use would occupy a vacant commercial structure in an area with several vacant buildings, and create new jobs. A concentration of occupied business facilities helps reduce blight, minimizes vandalism, and can reduce crime.
Purpose c	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 community facility or community institution.
Purpose d	To provide adequate space to meet the needs of modern commercial development, including off- street parking and truck loading areas;
	The existing structure has an area for off-street parking behind a security gate and fence. The applicant proposes to stripe the parking lot to accommodate eleven (11) off-street parking spaces, which exceeds the eight (8) off-street spaces required for this facility and proposed use. In April 2020, Lindberg Geologic Consulting evaluated pavement cracks in the northwestern parking area and concluded the site is stable and recommended avoiding heavy point loads on the sloping parking space in the corner, which is included in the conditions of approval. The loading space is adjacent to the building and is not affected by the sloping parking space. Therefore, there is adequate space to meet off-street parking and loading needs of the proposed use.
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;

	No expansion in the size of the existing 3,960 square foot building is proposed at this time.
Purpose f	To protect commercial properties from fire, explosion, noxious fumes, and other hazards;
	The proposed use will not generate an unusual risk of fire, explosion, noxious fumes, or other hazards. As discussed above, Lindberg Geologic Consulting evaluated pavement cracks in the northwestern parking area, concluded the site is stable and recommended avoiding heavy point loads on the sloping parking space in the corner, which is included in the conditions of approval. The applicant will need to obtain a City license as well as a State license, and adhere to regular site inspections by the City and State, to evaluate compliance with regulations and ensure safety. Additionally, the project is conditioned to ensure any odors created by manufacturing processes are confined to the parcel and not detectable from public rights-of-way or neighboring parcels. Furthermore, if a non-volatile manufacturing use handles hazardous materials at any one time, in a quantity equal to, or greater than: a total weight of 500 pounds, a total volume of 55 gallons, or 200 cubic feet of gas at standard temperature and pressure, the business must report these activities to the Humboldt County Environmental Health Division (DEH) that administers the Hazardous Materials Program as the County's Certified Unified Program Agencies (CUPA), which is also included in the conditions of approval.
Purpose g	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 not appropriate for some commercial districts (such as Henderson Center or Old Town), but the subject property is in an area of existing service commercial and light industrial uses, and is appropriate for the proposed use. Other nearby uses include an ice cream and frozen dessert distributor (Varsity Ice Cream Co.), commercial print shop (Times Printing), residential and commercial painting (Hamanaka Painting Co.), and an auto repair shop (Bill's Volkswagon Repair). City records indicate Dinsmore Paint was previously located across the street (just south, at 211 R Street), although the current use and occupancy of the existing structure is unknown. The proposed non-volatile cannabis manufacturing use is compatible with historic uses of the 3,960 square foot structure, and compatible with the existing mix of commercial and light-industrial uses within the immediate area.
Purpose h	To permit additional development in mixed commercial areas containing both retail stores and commercial services; and,
	The proposed use will not constrain additional development of retail stores or commercial services as there are vacant structures nearby seeking tenants, such as a large vacant commercial structure

	(previously Apria Healthcare) located two properties to the east at 1735 2nd Street.
Purpose i	To allow a wider choice of location for certain industrial uses that do not have an adverse impact on commercial services.
	Non-volatile manufacturing is a light industrial use that is compatible with the surrounding commercial and light manufacturing uses. The proposed use, with conditions, will not produce excessive noise, light or noxious odors, and will be fully contained within an existing 3,960 square foot structure.

Because the zone district and the land use plan designation are consistent with each other, and because the proposed non-volatile cannabis manufacturing use has previously been found consistent with the purposes of the zoning code during the text amendment process to add the non-volatile cannabis manufacturing use to the zoning code, granting the minor use permit will facilitate and achieve the arrangement of land uses depicted in the Land Use (General) Plan.

- b) **To foster a harmonious, convenient, workable relationship among land uses.** The proposed use will be contained within an existing commercial structure on an established commercial parcel within an area of existing service commercial and light industrial uses. The proposed use is compatible with and similar to the site’s former uses (paint and autobody shop, medical supplies storage and offices, and metal fabricator/welding services), and the proposed use will not be inharmonious with the existing commercial character, nor the long-standing residences, of the area. Other nearby uses include an ice cream and frozen dessert distributor (Varsity Ice Cream Co.), commercial print shop (Times Printing), residential and commercial painting (Hamanaka Painting Co.), and an auto repair shop (Bill’s Volkswagon Repair). Multi-family housing is located just east of the subject site, but is physically separated by R Street/Highway 255, and there is no direct access between the two uses. Additionally, the project is conditioned to ensure cannabis odors are not detectable outside of the facility, and cannabis plants are not visible outside of the facility as well. Therefore, granting the minor use permit for a non-volatile manufacturing use will foster a harmonious, convenient, workable relationship among land uses.
- c) **To promote the stability of existing land uses that conform with the General Plan and to protect them from inharmonious influences and harmful intrusions.** Because the project proposes to continue utilizing the site for commercial/light industrial purposes, and the site is already developed and has previously been used for similar uses, the project will facilitate and promote stability of land uses consistent with the Land Use (General) Plan.
- d) **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 proposed use would occupy a vacant commercial structure in an area with similar commercial and light industrial uses, and several vacant buildings,

- which would create new jobs. A concentration of occupied business facilities helps reduce blight, minimizes vandalism, and can reduce crime which will benefit the City as a whole.
- e) **To prevent excessive population densities and overcrowding of the land with structures.** The granting of the minor use permit will not result in increased population densities, and will not cause an overcrowding of land with structures since no new structures are proposed.
 - f) **To promote a safe, effective traffic circulation system.** The site has adequate vehicular access due to 4th and 5th Streets (Highway 101) being located two and three blocks south. Because the proposed use is similar to historic uses at the site, and the proposed use is consistent with existing uses immediate area, no adverse impacts to the traffic circulation system are anticipated.
 - g) **To foster the provision of adequate off-street parking and off-street truck loading facilities.** The existing structure has an area for off-street parking behind a security gate and fence. The applicant proposes eleven (11) off-street parking spaces when eight (8) are required. In April 2020, Lindberg Geologic Consulting evaluated pavement cracks in the northwestern parking area and concluded the site is stable and recommended avoiding heavy point loads on the sloping parking space in the corner, which is included in the conditions of approval. Although not required, an informal loading space is adjacent to the building and is not affected by the sloping parking space. Therefore, there is adequate space to meet off-street parking and loading needs of the proposed use.
 - h) **To facilitate the appropriate location of community facilities and institutions.** The proposed location is a commercial area and has never been occupied as a community facility or community institution.
 - i) **To promote commercial and industrial activities in order to strengthen the city's tax base.** Granting the minor use permit will facilitate the development of a non-volatile cannabis manufacturing business, and the products they manufacture can eventually be sold at local retailers within the City, which will result in sales tax that will strengthen the city's tax base.
 - j) **To protect and enhance real property values.** The proposed use would occupy a vacant commercial structure in an area with several vacant buildings, and create new jobs. A concentration of occupied business facilities helps reduce blight, minimizes vandalism, and can reduce crime which can increase property values. Therefore, granting the minor use permit for a non-volatile cannabis manufacturing use will protect and enhance real property values.
 - k) **To safeguard and enhance the appearance of the city.** The project is subject to Design Review, however, there is no new construction being proposed that would trigger Architectural Review or Site Plan Review (Design Review). The proposed project does not include any proposed signage. If signs or exterior remodels are proposed in the future, Design Review and a Sign Permit may be required. Additionally, the proposed use will occupy a vacant building in an area with other building vacancies, which can reduce blight and vandalism, and safeguard and enhance the appearance of the City.

Because the purposes of the CS zone district implement and support the purposes of the zoning code, if a project conforms with the zoning code's purposes, the project must, by extension

conform to the purposes of the zone district in which it is located. Therefore, based on the discussion herein, staff has determined the required finding can be made that the project is in accord with the objectives and purposes of the Zoning Regulations and the CS zone district.

2. Public health, safety, or welfare:

Referrals were sent to agencies and City departments with interest or jurisdiction over the property or the intended use of the property. No comments were received that indicated the proposed non-volatile cannabis manufacturing use would be detrimental to the public health, safety, or welfare, or materially injurious to the properties or improvements in the vicinity. Therefore, because no potential impacts were identified by any agency, by City Staff, or through analysis; and, through the application of the conditions of approval and enforcement of other existing City regulations; and based on the discussion herein, the finding can be made that the project would not impact the public health, safety or welfare.

3. Use complies with applicable provisions:

The applicable provisions include the development standards specified in the Eureka Municipal Code for yards, building height, size, and bulk, off-street parking and loading, landscaping, etc. The proposed non-volatile cannabis manufacturing use would be located in an existing building, and no additions to the building or ground disturbance are proposed. Therefore, there is no change to yards, building height, size and bulk, etc. No new off-street parking or loading facilities are required by the municipal code, and the site plan shows eleven parking spaces where eight off-street spaces are required.

4. Local Coastal Program:

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 to be approved by the Interim Director of the Development Services Department, which is appealable to the Planning Commission. The City of Eureka has permit jurisdiction for issuing the Coastal Development Permit, and 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 use meets the intention of the zoning designation, as it is a cannabis non-volatile manufacturing use which can process bulk cannabis cultivated by legal cultivation operations within the City of Eureka, and by legal farms surrounding the City in the County. The legal cannabis cultivation community has expressed a lack of adequate manufacturing facilities to produce value-added products which can then be sold in local retail shops to keep money local. The proposed use can provide that need.

The subject property has a Land Use designation of General Service Commercial (GSC) which is intended to provide appropriately located areas for retail and wholesale commercial uses that offer commodities and services required by residents of the City and its surrounding market area. The non-volatile manufacturing use is consistent with this land use designation.

Additionally, the project does not impact coastal resources and has no direct access to the Humboldt Bay shoreline as discussed in the LCP analysis below.

Based on the discussion above and below in the LCP analysis, the proposed uses are consistent with the Local Coastal Program’s Land Use Plan and Implementation Plan.

LCP Analysis: EMC § 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. Implementation Plan Analysis

The Coastal Development Permit must be found to conform with the purposes and objectives of the zoning code, the CS zone district, and the overall objectives of the Coastal Zone (EMC §10-5.2902). Discussion of the project’s conformance with the zoning code and CS zone district are provided under the Use Permit analysis. Analysis of conformance to the overall objectives of the Coastal Zone is in the table below:

Objective a	Protect, maintain, and where feasible, enhance and restore the overall quality of the coastal zone environment and its natural and human-created resources;
	The proposed use will be conducted exclusively within an existing 3,960 square foot structure. The site was originally developed as a paint and auto shop, then used as medical supply storage and offices and more recently as a welding services shop. In April 2020, Lindberg Geologic Consulting evaluated arcuate pavement cracks in the northwestern parking area and concluded the site is stable and adequate for the intended use, and recommended avoiding heavy point load on the sloping parking space in the corner, which is included in the conditions of approval. Approval of the proposed uses is anticipated to have no negative effects on the quality of the coastal zone environment.
Objective b	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;
	The proposed use will be contained within an existing structure within an already developed commercial area. The proposed development does not have a direct affect upon coastal resources as there is no direct access to the Humboldt Bay shoreline. The project supports the social and economic needs of the region by occupying a vacant commercial space, creating jobs, and processing product grown by licensed cultivators in the region. The approval of the proposed use will have no impact on the utilization and conservation of coastal zone resources.
Objective c	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;

	<p>The use will be contained within an existing commercial structure and there is no direct access to the Humboldt Bay shoreline. The site is separated from Humboldt Bay by Waterfront Drive and the Northwestern Pacific Railroad right-of-way, which is north and down slope from the subject property. The introduction of cannabis non-volatile manufacturing in an established mixed commercial and light industrial area is not anticipated to impact coastal access or conservation.</p>
Objective d	<p>Assure priority for coastal dependent and coastal-related development over other development on the shoreline;</p>
	<p>The property is located up slope and south of Waterfront Drive and the Northwestern Pacific Railroad right-of-way. The site does not have an interface which would allow for commercial access to the water for coastal dependent use. The proposed use is not coastal-dependent, and the Service Commercial (CS) zone district 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 such as a frozen dessert distributor, auto repair shop, commercial printing shop, commercial and residential painting company and other commercial and light-industrial uses, as well as residential uses.</p>
Objective e	<p>Provide a definite plan for development so as to guide the future growth of the City within the Coastal Zone;</p>
	<p>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) because non-volatile manufacturing is specifically allowed in the CS zone with a minor use permit and it will not impact coastal resources. Also, the site is appropriately located for commercial establishments that offer services desired by residents of the city and its surrounding market area; such as, cannabis processing of bulk product to value added product.</p>
Objective f	<p>Protect the social and economic character and stability of residential, commercial, agricultural, and industrial areas within the City.</p>
	<p>The proposed use will be contained within an existing commercial structure and will not negatively affect the stability of the existing surrounding uses. Due to the fact the proposed use is compatible with and similar to the former uses (paint and autobody shop, medical supplies storage and offices, and metal fabricator/welding services), the proposed use will not be inharmonious with the existing commercial character, nor the long-standing residences, of the area. Additionally, the project is conditioned to ensure cannabis odors are not detectable outside of the facility, and cannabis plants are not visible outside of the facility as well.</p>

Based on the discussion above, the finding can be made that the proposed non-volatile cannabis manufacturing use conforms with the objectives of the Coastal Zone.

2. Land Use Plan Analysis

Staff reviewed the goals and policies in the adopted and certified Land Use Plan to determine whether the project conforms to the LUP. The review found the project does not conflict with any of the adopted goals and policies; therefore, this finding can be made.

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: A Tribal Historic Preservation Officer (THPO) representing the Blue Lake Tribe indicated they had no project concerns because no ground disturbing activities were proposed; no responses were received from the Wiyot or Bear River Band Tribes. As a result, the project is conditioned with appropriate protocols for inadvertent archeological discovery of cultural or historical artifacts in the event of any future ground disturbing activities occur that were previously unanticipated.
2. PG&E: A standard form letter indicating that, if any existing gas and electric facilities are within current or proposed development areas, PG&E must be contacted prior to commencing any work.

No other comments were received which indicate the proposed use to allow non-volatile cannabis manufacturing will be detrimental to the public health, safety, and welfare, or materially injurious to the properties or improvements in the area.

Summary: The applicant intends to trim bulk cannabis product in the existing 3,960 square foot structure at this time. However, approval of this project will allow the applicant, or any future non-volatile manufacturing operator, to perform eligible non-volatile manufacturing activities at the project site, subject to the conditions of approval, and in accordance with EMC Article 30 which requires a City of Eureka Commercial Cannabis License. Based on the discussion in the staff report, the findings can be made to approve the MUP and CDP, subject to the conditions of approval included in the attached resolution.

Support Material:

Attachment 1	Interim Director MUP Resolution.....	page 14
Attachment 2	Interim Director CDP Resolution	page 18
Attachment 3	Site Plans	page 21
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INTEIRM DIRECTOR OF DEVELOPMENT SERVICES RESOLUTION NO. 2020-__

A RESOLUTION OF THE INTEIRM DIRECTOR OF DEVELOPMENT SERVICES OF THE CITY OF EUREKA APPROVING A MINOR USE PERMIT (MUP-20-0007) ALLOWING NON-VOLATILE CANNABIS MANUFACTURING (5,000 SQUARE FEET OR LESS OF MANUFACTURING FLOOR AREA) AT 1711 2ND STREET; APN 002-054-011

WHEREAS, the applicant is planning to operate a non-volatile cannabis manufacturing facility of 5,000 square feet of manufacturing floor area or less in an existing 6,300 square foot commercial structure; and

WHEREAS, the proposed site is located at 1711 2nd Street, zoned Service Commercial (CS) with a land use designation of General Service Commercial(GSC), and is located in the Coastal Zone; 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, the Eureka Municipal Code §10-5.2407.1 prescribes the findings required to be made by the Interim Director of Development Services prior to granting a Minor Use Permit; and

WHEREAS, a Coastal Development Permit is being processed separately (CDP-20-0003); and

WHEREAS, on May 15, 2020, a notice of pending action was mailed to property owners within 300 feet of the subject parcel because the MUP requires a 14-working day period to allow for submission of comments, or to request a public hearing be held on the MUP, prior to the Interim Director's decision; and

WHEREAS, the Interim Director of Development Services of the City of Eureka has reviewed the subject application in accordance with the Eureka Municipal Code, and after due consideration of all testimony, evidence and reports, does hereby find and determine the following facts:

1. The proposed use meets all applicable development standards contained in the Zoning Code, all requirements and conditions set by the Eureka Cannabis Review Panel, and required findings contained in Sec.10-5.2407.1 for the Minor Use Permit; and
2. Action on the Use Permit is discretionary 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 existing facilities. It qualifies for this exemption because the project involves only internal modifications to the existing building to accommodate the proposed use.

WHEREAS, in the opinion of the Interim Director of Development Services of the City of Eureka, the proposed Minor Use permit application should be approved subject to the following conditions:

CONDITION 1: Heavy point loads are prohibited near the northwest corner of the property as referenced in the Engineering-Geologic Opinion of Arcuate Pavement Cracks letter prepared by David N. Lindberg, CEG 1985, of Lindberg Geologic Consulting, dated April 14, 2020.

CONDITION 2: No cannabis plant materials may 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.

CONDITION 3: Any non-volatile manufacturing facility operator 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.

CONDITION 4: Prior to operation of the non-volatile cannabis manufacturing facilities, the applicable City of Eureka Commercial Cannabis License and State of California Cannabis License(s) must be acquired and the facility must pass a pre-operational inspection with the City's Cannabis Licensing Program Manager or equivalent. If cannabis operations commence before licensure and inspection, this use permit may be suspended by the Interim Director of Development Services and forwarded to the Planning Commission for revocation at a public hearing.

CONDITION 5: Any non-volatile manufacturing facility operator, through the commercial cannabis licensing process, shall submit license and/or permit application materials to the Humboldt Bay Fire Department, and City of Eureka Public Works Building and Police Departments and shall implement safety, security, and other related requirements imposed by those Departments.

CONDITION 6: The property owner, or any 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. Any proposed exterior lighting will be shielded, directed downward, and will not create glare or extend past the boundary of the site.

CONDITION 7: 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.

CONDITION 8: If the business handles hazardous materials at any one time, in a quantity equal to, or greater than: a total weight of 500 pounds, a total volume of 55 gallons, or 200 cubic feet of gas at standard temperature and pressure, the business must report these activities to the Humboldt County Environmental Health Division (DEH) that administers the Hazardous Materials Program as the County's Certified Unified Program Agencies

(CUPA) via the California Environmental Reporting System (CERS) and a Hazardous Materials Business Plan (HMBP) must be completed and submitted via CERS. HMBP information must be updated in CERS within 30 days of beginning storage of chemicals, or operation. Business must maintain compliance with all HMBP requirements and inspections.

CONDITION 9: In the event a building permit involving any ground disturbing activity is issued, the City's standard protocol for inadvertent 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.

NOW THEREFORE, BE IT RESOLVED that the Interim Director of Development Services of the City of Eureka does hereby approve the Minor Use Permit application for non-volatile

cannabis manufacturing with a manufacturing area less than 5,000 square feet, subject to the conditions listed above. The violation of any term or requirement of this conditional approval may result in the revocation of the permit.

PASSED, APPROVED AND ADOPTED by the Interim Director of Development Services of the City of Eureka in the County of Humboldt, State of California, on the 5th of June, 2020:

Rob Dumouchel
Interim Director of Development Services

INTEIRM DIRECTOR OF DEVELOPMENT SERVICES RESOLUTION NO. 2020-__

A RESOLUTION OF THE INTEIRM DIRECTOR OF DEVELOPMENT SERVICES OF THE CITY OF EUREKA APPROVING A COASTAL DEVELOPMENT PERMIT (CDP-20-0003) ALLOWING NON-VOLATILE CANNABIS MANUFACTURING (5,000 SQUARE FEET OR LESS OF MANUFACTURING FLOOR AREA) AT 1711 2ND STREET; APN 002-054-011

WHEREAS, the applicant is planning to operate a non-volatile cannabis manufacturing facility of 5,000 square feet of manufacturing floor area or less in an existing 6,300 square foot commercial structure; and

WHEREAS, the proposed site is located at 1711 2nd Street, zoned Service Commercial (CS) with a land use designation of General Service Commercial(GSC); 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, a Minor Use Permit is being processed separately (MUP-20-0007); and

WHEREAS, the site is located in the California Coastal Zone and conditionally permitted uses also require a Coastal Development Permit; and

WHEREAS, the City of Eureka has permit jurisdiction for issuing the Coastal Development Permit, and the project is not appealable to the State Coastal Commission; and

WHEREAS, the Eureka Municipal Code §10-5.29310.1 prescribes the findings required to be made by the Interim Director of Development Services prior to granting a Coastal Development Permit; and

WHEREAS, on May 15, 2020, a notice of pending action was mailed to property owners within 300 feet of the subject parcel as the CDP requires a 14-working day period for submission of comments on the CDP, prior to the Interim Director's decision; and

WHEREAS, the Interim Director of Development Services of the City of Eureka has reviewed the subject application in accordance with the LCP, and after due consideration of all testimony, evidence and reports offered at the public hearing, does hereby find and determine the following facts:

1. The proposed use meets all applicable development standards contained in the Zoning Code, all requirements and conditions set by the Eureka Cannabis Review Panel, and required findings contained in Sec. 10-5.29310.1 for the Coastal Development Permit; and
2. Action on the Coastal Development Permit is discretionary 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 existing facilities. It qualifies for this exemption because the project involves only internal modifications to the existing building to accommodate the proposed use.

WHEREAS, in the opinion of the Interim Director of Development Services of the City of Eureka, the proposed application should be approved subject to the following conditions:

CONDITION 1: Any 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.

CONDITION 2: Prior to operation of the non-volatile cannabis manufacturing facilities, the applicable City of Eureka Commercial Cannabis License and State of California Cannabis License(s) must be acquired and the facility must pass a pre-operational inspection with the City's Cannabis Licensing Program Manager or equivalent. If cannabis operations commence before licensure and inspection, this use permit may be suspended by the Interim Director of Development Services and forwarded to the Planning Commission for revocation at a public hearing.

CONDITION 3: The property owner, or any 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. Any proposed exterior lighting will be shielded, directed downward, and will not create glare or extend past the boundary of the site.

CONDITION 4: 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.

CONDITION 5: In the event a building permit involving any ground disturbing activity is issued, the City's standard protocol for inadvertent 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.

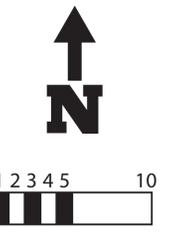
Historic archaeological discoveries may include 19th century building foundations; structure remains; or concentrations of artifacts made of glass, ceramic, metal or other materials found in buried pits, old wells or privies.

- 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.

NOW THEREFORE, BE IT RESOLVED that the Interim Director of Development Services of the City of Eureka does hereby approve the application for the Coastal Development Permit to operate a non-volatile cannabis manufacturing facility with manufacturing area less than 5,000 square feet, subject to the conditions listed above. The violation of any term or requirement of this conditional approval may result in the revocation of the permit.

PASSED, APPROVED AND ADOPTED by the Interim Director of Development Services of the City of Eureka in the County of Humboldt, State of California, on the 5th of June, 2020 by the following vote:

Rob Dumouchel
Interim Director of Development Services



1 2 3 4 5 10

PROPOSED SITE PLAN

1711 2ND STREET EUREKA, CA 95501
 APN: 002-064-011-000

DATE: 10/21/2019

DRAWN BY: M. DAY

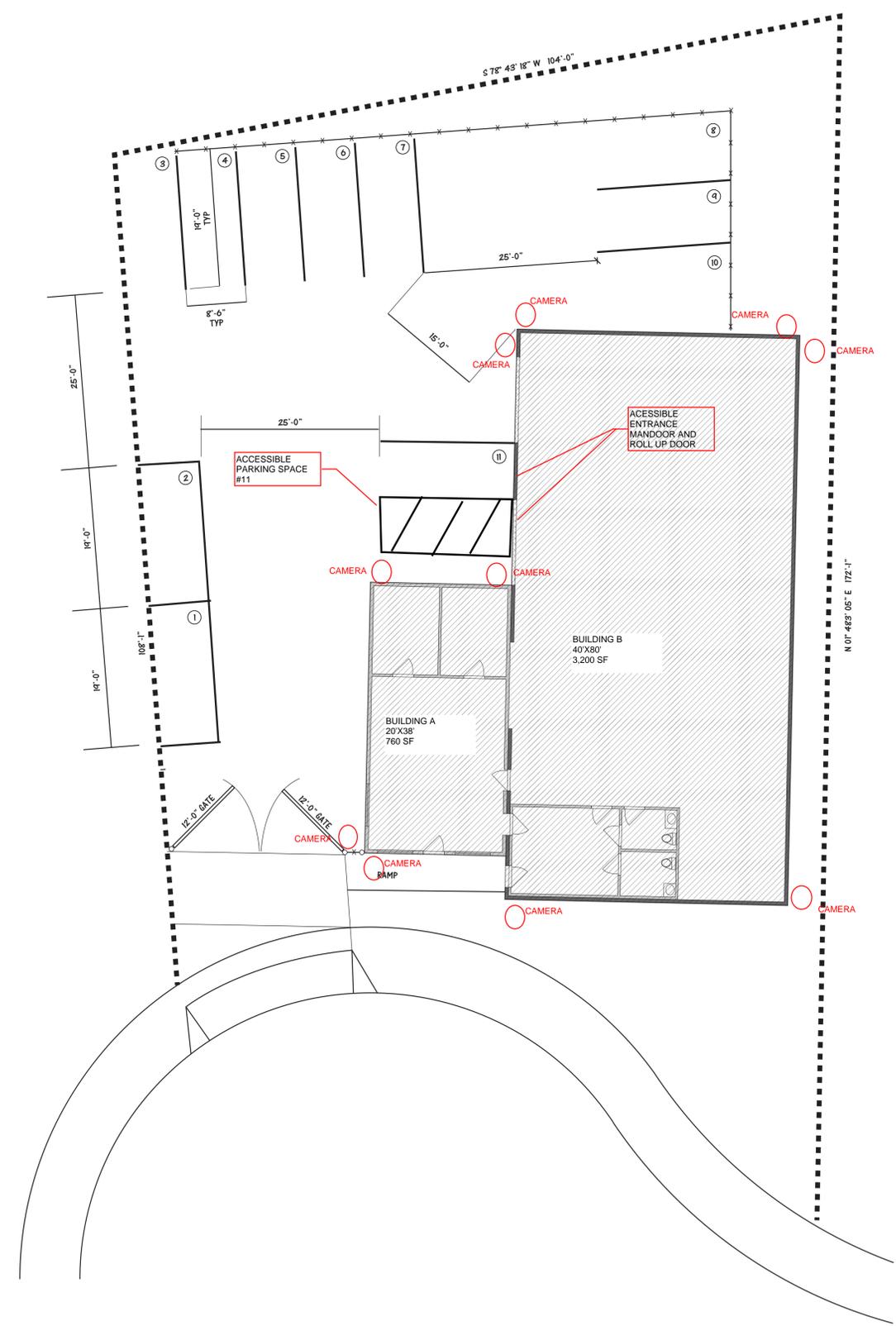
REV: A 10/21/19

SCALE: 1/4" = 1'

SHEET NO.

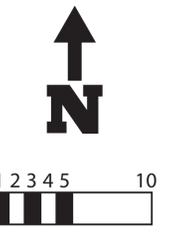
A1.0

1 OF 4



LEGEND:

-  [E] BUILDING OF FRAMED STUD WALL
-  [E] BUILDING OF STEEL AND SIDING
-  [E] ROLL-UP DOORS
-  [E] PROPERTY BOUNDARY
-  [P] SECURITY CAMERA

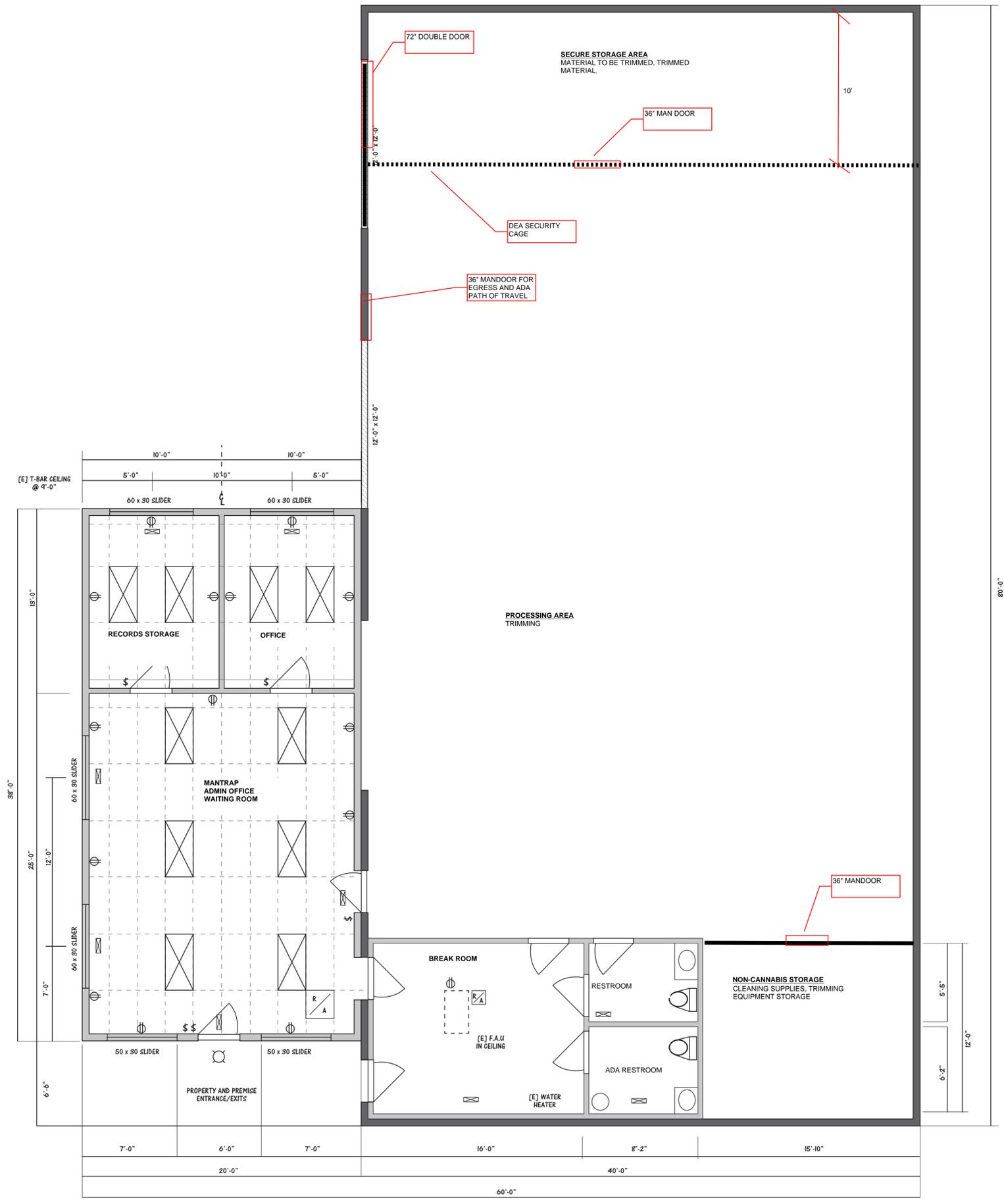


PROPOSED FLOOR PLAN

1711 2ND STREET EUREKA, CA 95501
 APN:002-054-011-000

DATE: 10/18/2019
 DRAWN BY: M. DAY
 REV: E 10/18/19
 SCALE: 1/4" = 1'

SHEET NO.
A1.1
 2 OF 4



LEGEND:

- [E] BUILDING OF FRAMED STUD WALL
- [E] BUILDING OF STEEL AND SIDING
- [E] ROLL-UP DOORS
- [E] PROPERTY BOUNDARY
- [E] 2'-0" x 4'-0" LIGHTING TROFFER
- [E] RETURN AIR GRILL (IN CEILING)
- [E] SUPPLY AIR REGISTER
- [E] HVAC OUTLET @ 18"

LINDBERG GEOLOGIC CONSULTING

David N. Lindberg, CEG

Post Office Box 306

Cutten California 95534

(707) 442-6000

April 14, 2020

0185.01

Mr. Kyle Preciado
THE 9 LLC
89 West Fourth Street
Eureka, CA 95501

Subject: Engineering-Geologic Opinion of Arcuate Pavement Cracks
1711 Second Street, Eureka, APN 002-054-011

Dear Mr. Preciado:

Thank you for your interest in Lindberg Geologic Consulting. This letter is a follow-up to our on-site meeting and conversation on April 13th, 2020, during which we observed and discussed the obvious settlement in the pavement near the northwest corner of the parking lot at your commercial building (1711 Second Street, Eureka). An engineering-geologist from our office examined the settled area of pavement at the northwestern corner of the existing asphalt-paved parking area on April 13, 2020.

The City Planner observed the settlement and has expressed concern that the corner of the parking lot might be slumping toward the railroad tracks. Based on our field observations, and our professional experience, it appears that this slumping is differential settlement resulting from consolidation of inadequately prepared fill. We speculate that during construction grading of this parcel or more recent work on the adjacent State highway; topsoil and woody debris was placed on an inadequately-prepared, native hill slope and buried under site grading spoils. Apparently, fill was not placed appropriately as a controlled, engineered (compacted) fill at the time of construction, or the fill could have been disturbed subsequently; it has since experienced a several inches of settlement.

Examination of readily-observable exterior foundation elements of the existing commercial building less than 30 feet away revealed no foundation settlement damage. We conclude that the building was founded on firm native soils (or suitably prepared engineered fill) and is stable under current static conditions. Soils under the northwestern corner of the parking area appear to have experienced settlement due to fill soil or subgrade consolidation over time. Settlement would have been exacerbated by decomposition of any organic material in the fill in that corner of the property.

In our professional opinion, based on our experience, settlement does not appear to be a threat to the stability or integrity of the building. In our opinion, the settled northwest corner of the parking lot does not slumping onto the tracks. The sloping parking space in the corner remains viable, heavy point loads should be avoided. Under strong ground shaking at a time when soils are saturated (i.e., late winter) there may be a low potential for the fill prism to experience slumping or significant additional settlement.

Please contact me at the number above if you have concerns or questions. Thank you for your business.

Sincerely

David N. Lindberg

David N. Lindberg, CEG 1895
Lindberg Geologic Consulting

DNL:sll

cc: Mr. Steven Luu, PE

