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503-588-6173*

DECISION OF THE HEARINGS OFFICER

CONDITIONAL USE CASE NO.: CU-SPR18-03

APPLICATION NO. : 18-103072-ZO

NOTICE OF DECISION DATE: MAY 15, 2018

SUMMARY: Conditional use and site plan review for a facility processing cannabis concentrates and extracts and growing cannabis.

REQUEST: Conditional Use and Class 3 Site Plan Review to change 375 square feet of an existing 14,250-square foot building to a Heavy Manufacturing use for processing cannabis concentrates and extracts, change the remainder of the building to recreational marijuana growing, and modify the parking lot striping, all on a 0.94-acre property located in the IG (General Industrial) zone at 2979-2999 19th Street SE 97302 (Marion County Assessor Map and Tax Lot 083W02BA00300).

APPLICANT: Eric Buckner for Medirec DBA Albion Farms

LOCATION: 2979-2999 19th Street SE / 97302

CRITERIA: Conditional Use: SRC Chapter 240.005(d)
Class 3 Site Plan Review: SRC Chapter 220.005(f)(3)

FINDINGS: The findings are in the attached Order dated May 15, 2018.

DECISION: The Hearings Officer **APPROVED** Conditional Use CU18-01 subject to the following conditions of approval:

Condition 1: The extraction process shall be performed as described in the applicant's written statement included as Attachment C in the staff report.

Condition 2: The applicant shall install a fence or wall at least 6 feet tall along the rear property line but outside of the abutting railroad-owned property (Tax Lot 073W35CD01400) and similar fences or walls at least 6 feet tall enclosing the north and south side yards.

Condition 3: The proposed development shall be in substantial conformance with the approved site plan included as Attachment B in the staff report, as modified by the conditions of approval.

Condition 4: If the cost of tenant improvements compared to the value of the original building constitutes a substantial improvement, as defined in SRC 601.005, the building must be brought into compliance with the requirements of SRC Chapter 601.

NOTICE OF DECISION

PLANNING DIVISION
555 LIBERTY ST. SE, RM 305
SALEM, OREGON 97301
PHONE: 503-588-6173
FAX: 503-588-6005

CITY OF Salem
AT YOUR SERVICE

Condition 5: The applicant shall either (1) shift the ADA space and the striped area on the passenger side to the north so that a drive aisle at least 24 feet wide is maintained between the striped area and the nearest landscape area or (2) provide pavement markings and signage to indicate that the southern driveway is a one-way exit.

Condition 6: Provide 4 bicycle parking spaces meeting the standards of SRC 806.060.

The rights granted by the attached decision must be exercised, or an extension granted, by **May 30, 2020**, or this approval shall be null and void.

Application Deemed Complete: April 2, 2018
Public Hearing Date: April 25, 2018
Notice of Decision Mailing Date: May 15, 2018
Decision Effective Date: May 31, 2018
State Mandate Date: July 31, 2018

Case Manager: Pamela Cole, pcole@cityofsalem.net; 503-540-23

This decision is final unless written appeal from an aggrieved party is filed with the City of Salem Planning Division, Room 305, 555 Liberty Street SE, Salem OR 97301, no later than **5:00 p.m., Wednesday, May 30, 2018**.

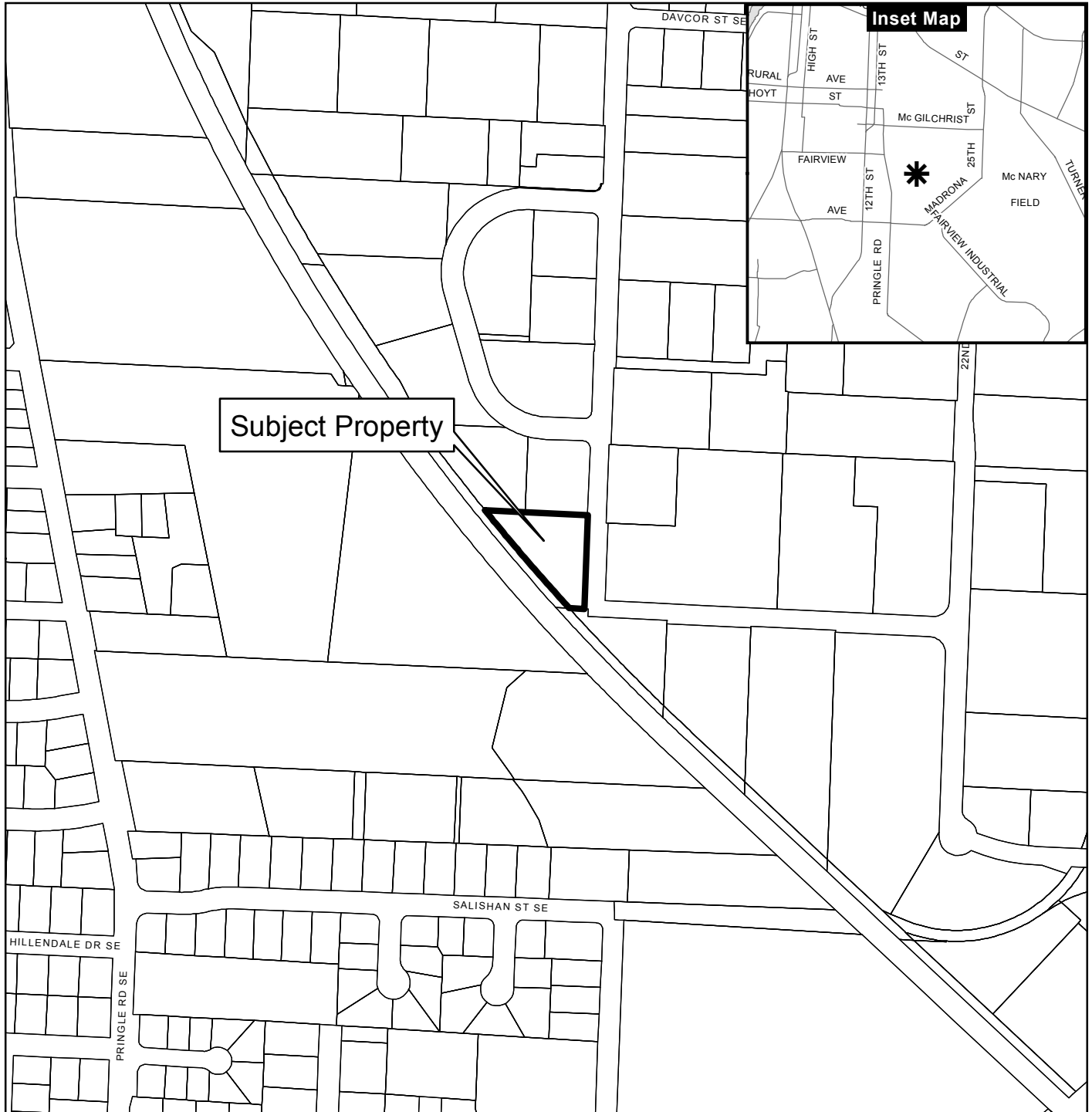
Any person who presented evidence or testimony at the hearing may appeal the decision. The notice of appeal must contain the information required by SRC 300.1020 and must state where the decision failed to conform to the provisions of the applicable code section, SRC Chapters 220 and 240. The appeal must be filed in duplicate with the City of Salem Planning Division. The appeal fee must be paid at the time of filing. If the appeal is untimely and/or lacks the proper fee, the appeal will be rejected. The Planning Commission will review the appeal at a public hearing. After the hearing, the Planning Commission may amend, rescind, or affirm the action, or refer the matter to staff for additional information.

The complete case file, including findings, conclusions and conditions of approval, if any, is available for review at the Planning Division office, Room 305, City Hall, 555 Liberty Street SE, during regular business hours.

<http://www.cityofsalem.net/planning>

Vicinity Map

2999 19th Street SE



Legend

- Taxlots
- Urban Growth Boundary
- City Limits
- Outside Salem City Limits
- Historic District
- Schools

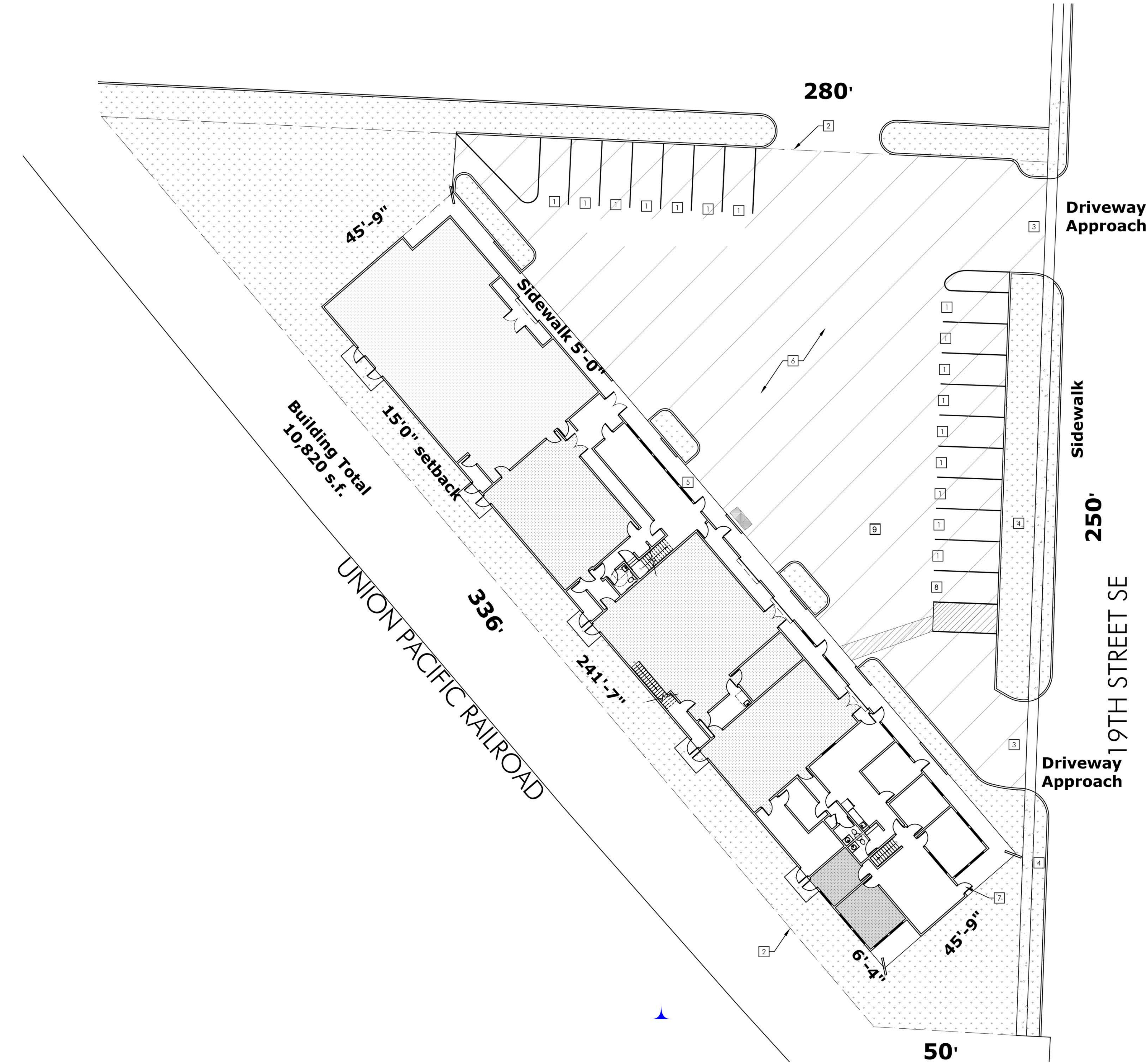
- Parks

CITY OF Salem
 AT YOUR SERVICE
 Community Development Dept.

0 100 200 400 Feet



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SITE PLAN NOTES:

- 1 EXISTING PARKING
- 2 PROPERTY LINE, ASSUMED LOCATION.
- 3 EXISTING DRIVEWAY.
- 4 EXISTING STREET LANDSCAPING.
- 5 EXISTING WALKWAY BETWEEN PARKING AND BUILDING.
- 6 EXISTING PAVED AREA.
- 7 EXISTING FRONT ENTRY.
- 8 ADA PARKING SPACE
- 9 DRAIN

SITE PLAN LEGEND:

- EXISTING SIDEWALK
- EXISTING LANDSCAPING
- EXISTING PARKING PAVING
- ADA UNLOADING AREA
ADA RAMP
- EXTRACTION:
375 s.f.
- PRODUCER/GROW:
7332 s. f.
- BICYCLE PARKING

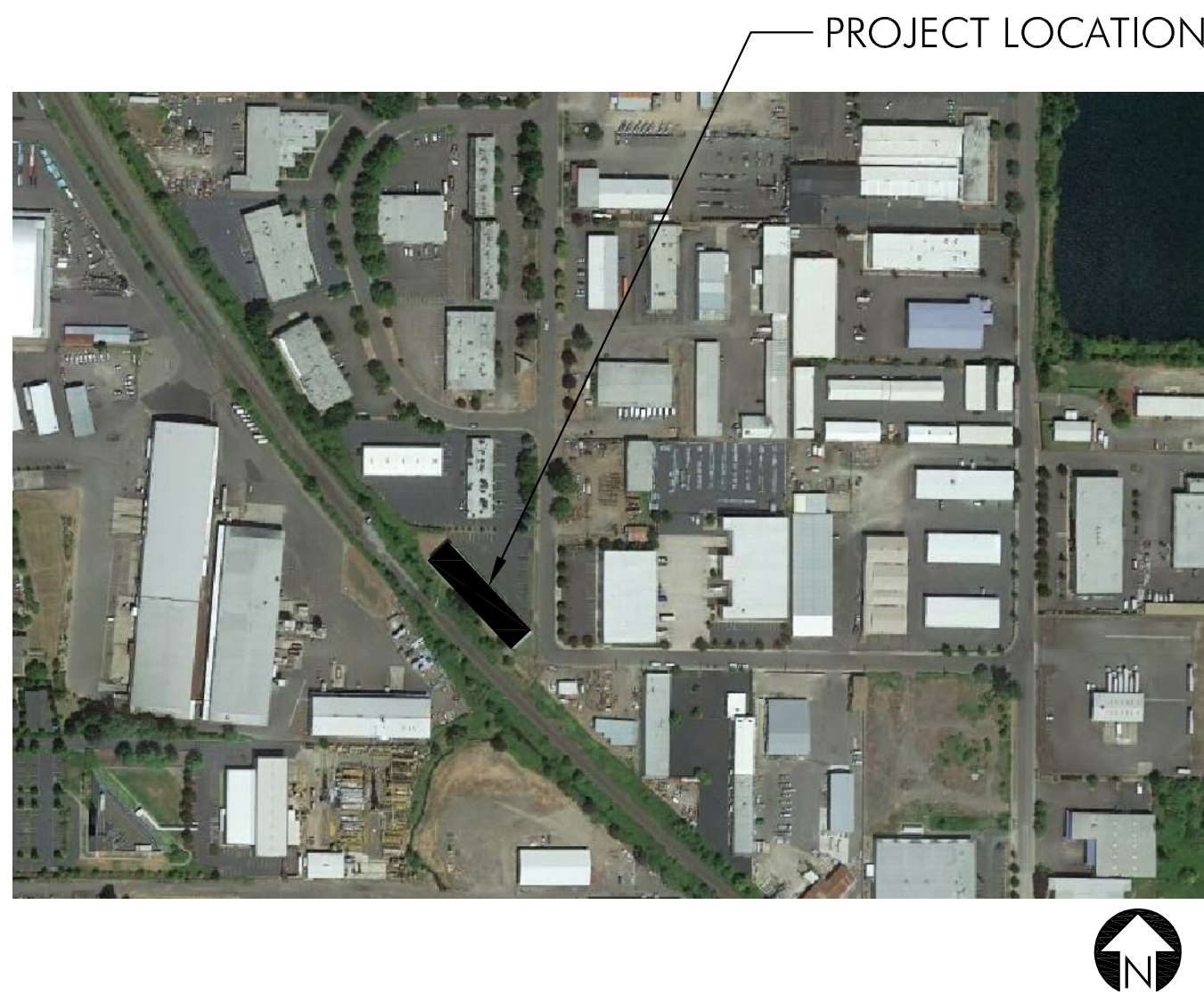
ADDITIONAL INFORMATION:

TOTAL NUMBER OF EMPLOYEES FOR GROW: 4
TOTAL NUMBER OF EMPLOYEES FOR EXTRACTION: 2
NO LOADING DOORS OR SPACES
NO FENCE

EXISTING CONDITIONS FOR ALBION FARMS

2999 19TH ST SE
SALEM , OREGON

AERIAL



SYMBOL LEGEND:

ELEVATION INDICATION	WINDOW TYPE
100.00' F.F.E.	REFER TO WINDOW ELEVATIONS SHOWN ON DRAWING AB.1
SECTION REFERENCE	DOOR TYPE
1 A3.2 DETAIL NUMBER SHEET NUMBER	100A DOOR SIZE OR NOTE
ELEVATION REFERENCE	PLAN NOTE DESIGNATION
2 A5.1 REFERENCE NUMBER ELEVATION DESIGNATION SHEET NUMBER	12 SIDE NOTE NUMBER
DETAIL REFERENCE	ROOM TITLE AND NUMBER
X A.X DETAIL NUMBER SHEET NUMBER SIDE NOTE IF REQUIRED	ROOM 000 ROOM NAME ROOM NUMBER

CODE REVIEW:

2014 STATE OF OREGON SPECIALTY STRUCTURAL CODE	
USE: CANNABIS GROW FACILITY.	
OCCUPANCY:	F1 - FACTORY B - BUSINESS
REQUIRED SEPARATION OF OCCUPANCIES B, F1: NOT REQUIRED	
PREVIOUS OCCUPANCY: B - BUSINESS	
CONSTRUCTION TYPE: VB - FULLY SPRINKLERED	
ALLOWABLE AREA:	F1 - 8,500 SF B - 9,000 SF
ALLOWABLE STORIES:	F1 - 1 B - 2
ACTUAL AREA:	EXISTING BUILDING TOTAL (12,739 SF +/-)
OCCUPANCY LOAD:	
F-1: 8,950/300 =	30 OCCUPANTS
B L1: 2,060/100 =	21 OCCUPANTS
B L2 1,730/100 =	18 OCCUPANTS
CHAPTER 29:	
GROUP F-1:	30 OCCUPANTS; REQUIRED FIXTURES = $\frac{1}{100}$ ONE TOILET AND ONE LAVATORY REQUIRED. ONE RESTROOM IS CURRENTLY PROVIDED. MEETING THE MINIMUM REQUIREMENTS.
GROUP B:	39 OCCUPANTS; REQUIRED FIXTURES W.C. = $\frac{1}{25}$, LAV. = $\frac{1}{10}$, ONE RESTROOM PER GENDER IS CURRENTLY PROVIDED IN B AREA. MEETING THE MINIMUM REQUIREMENTS.

EXIT PATH OF TRAVEL: COMMON PATH OF TRAVEL MAXIMUM WITH FIRE SPRINKLERS IS:
F1, B - 100'

EXIT ACCESS TRAVEL DISTANCE:
F1 - 250'
B - 300'

ALLOWABLE AREA CALCULATIONS F-1:

Aa	=	At + [At x If] + [At x Is]	= Allowable area per story in square feet.
At	=	Tabular Area per story in accordance with Table 503.	
Is	=	Area increase due to sprinkler protection per Section 506.3.	
Aa	=	8500 + [8500 x 0] + [8500 x 2]	= 25,500 SF

Construction Type: V-B
At = 8,500
If = 0
Is = 2

Therefore: Allowable Area per Floor = 25,500 s.f.

ACTUAL AREAS CONTRIBUTING TO BUILDING AREAS:

F-1	Level 01:	= 8,950 s.f.	<	25,500 s.f. Permitted
	Level 01 Mezzanine:	= 1,425 s.f.	(not included in Building Area Calculation)	
B	Level 01 + Level 02:	= 3,790	<	9,000 s.f. Permitted

ALLOWABLE HEIGHT CALCULATIONS: for "F1" in Type V-B Construction:

• Allowable Height per Table 503:	=	1 Story
• Allowable Height increase due to sprinklers:	=	1 Story
Allowable Height due to sprinklers total:	=	2 Stories

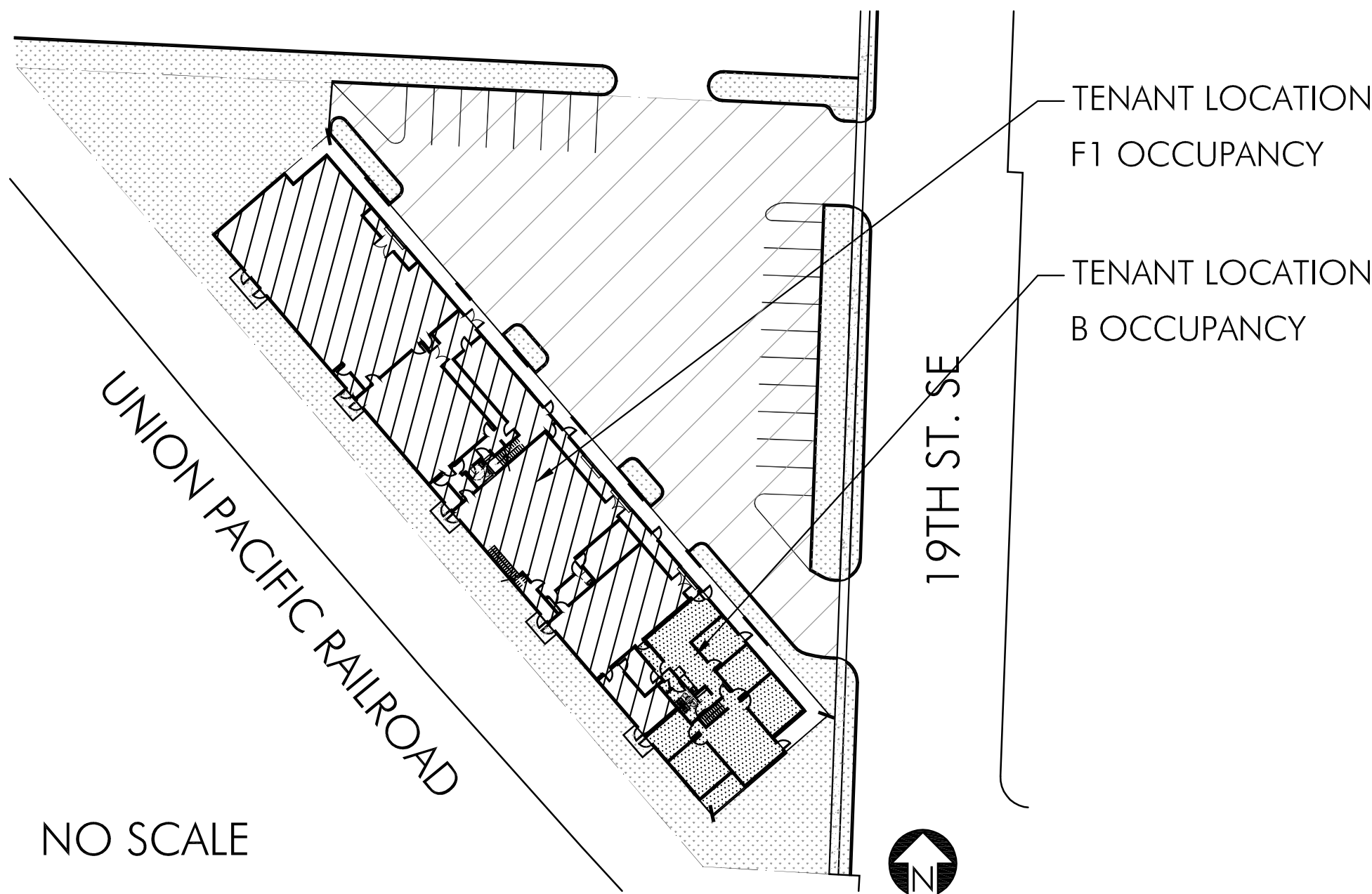
DRAWINGS LIST:

G0 COVER SHEET
A1 SITE PLAN
A2 FLOOR PLAN

SCOPE OF WORK:

EXISTING BUILDING USED FOR MARIJUANA GROW FACILITY. PROVIDE DOCUMENTS FOR EXISTING CONDITIONS.

OVER ALL BUILDING:



PROJECT TEAM:

TENANT
JASON DEITCH
ALBION FARMS
2999 19th ST SE
SALEM, OR 97302
jason.deitch@albionfarms.com

ARCHITECT
STUDIO **3** ARCHITECTURE
LEONARD LODDER
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SALEM, OR. 97301
503-390-6500
gene@studio3architecture.com

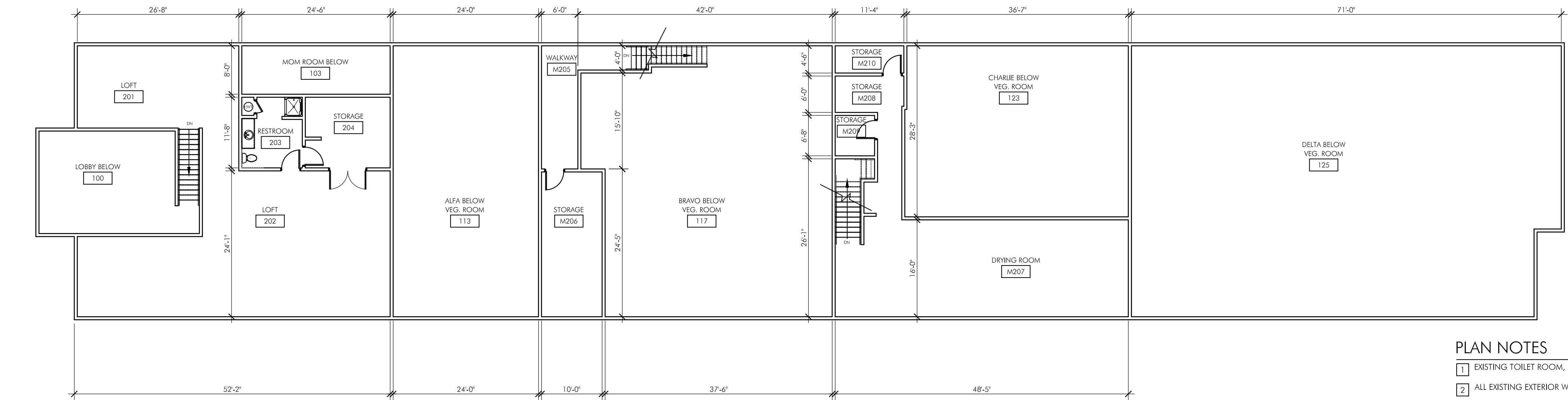
EXISTING CONDITIONS FOR:

ALBION FARMS

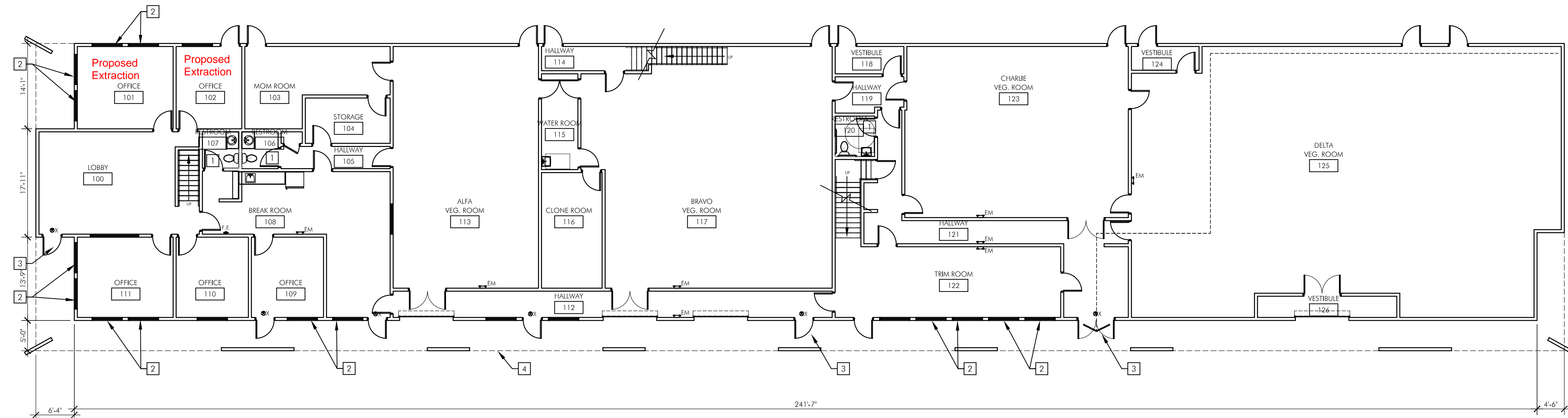
2999 19TH ST SE, SALEM, OREGON

SHEET

G0



1 FLOOR PLAN: MEZZANINE



2 FLOOR PLAN: GROUND FLOOR

PLAN NOTES

- EXISTING TOILET ROOM, FIXTURES TO REMAIN.
- ALL EXISTING EXTERIOR WINDOWS NO WORK
- DOORS TO SWING OUT FOR EGRESS.
- OVERHANG ABOVE.

PLAN LEGEND:

- EXISTING WALL
- EXISTING ILLUMINATED EXIT SIGN
- EM EMERGENCY EGRESS LIGHTING, WALL MOUNT BUG EYES
- EGRESS TRAVEL, GEATEST TRAVEL DISTANCE DOES NOT EXCEED 250'.

**CITY OF SALEM
BEFORE THE HEARINGS OFFICER**

A REQUEST FOR A CONDITIONAL USE AND CLASS 3 SITE PLAN REVIEW TO CHANGE 375 SQUARE FEET OF AN EXISTING 14,250- SQUARE FOOT BUILDING TO A HEAVY MANUFACTURING USE FOR PROCESSING CANNABIS CONCENTRATES AND EXTRACTS, CHANGE THE REMAINDER OF THE BUILDING TO A RECREATIONAL MARIJUANA GROWING, AND MODIFY THE PARKING LOT STRIPING, ALL ON A 0.94- ACRE PROPERTY LOCATED IN THE IG (GENERAL INDUSTRIAL) ZONE AT 2979- 2999 19 TH STREET SE 97302.	} CU-SPR18-03 } FINDINGS OF FACT, CONCLUSIONS, AND } DECISION
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DATE AND PLACE OF HEARING:

April 25, 2018, Salem Community Development Department, Room 305, Civic Center, 555 Liberty Street SE, Salem, Oregon.

APPEARANCES:

<u>Staff:</u>	Pamela Cole, Planner II
<u>Neighborhood Association:</u>	None
<u>Proponents:</u>	Eric Buckner, Medirec DBA Albion Farms, Applicant
<u>Opponents:</u>	None

SUMMARY OF THE APPLICATION AND HEARING

BACKGROUND

The City of Salem held a duly authorized and noticed public hearing on April 25, 2018, regarding a proposal to change 375 square feet of an existing 14,250-square foot building to a Heavy Manufacturing use for processing cannabis concentrates and extracts, to change the remainder of the building to recreational marijuana growing, and to modify the parking lot striping, all on a 0.94-acre property located in the IG (General Industrial) zone at 2979-2999 19th Street SE. No

written or oral testimony was provided by any party other than the applicant. Prior to the close of the public hearing, the applicant waived the additional 7-day period for additional testimony.

FINDINGS OF FACT AND CONCLUSIONS

1. Salem Area Comprehensive Plan (SACP) designation

The Salem Area Comprehensive Plan (SACP) map designation for the subject property is "Industrial." The subject property is within the Urban Growth Boundary and the Urban Service Area.

2. Zoning

The subject property is zoned IG (General Industrial). The proposed marijuana extraction use is classified as a heavy manufacturing use.

The zoning of surrounding properties includes:

North: IG (General Industrial)
South: IG (General Industrial)
East: Across 19th Street SE, IG (General Industrial)
West: IG (General Industrial)

3. Site Analysis

The subject property is approximately 0.94 acres in size and is developed with an existing 14,250 square foot building. The proposed heavy manufacturing use will occupy a space of approximately 375 square feet within the building.

The subject property is located on a lot west of 19th Street SE. Surrounding properties are zoned IG (General Industrial).

4. Neighborhood and Citizen Comments

The subject property is located within the Southeast Salem Neighborhood Association (SESNA). Notice was provided to SESNA and surrounding property owners within 250 feet of the subject property. As of the time of writing the staff report, no written comments were received from the neighborhood association.

Staff received a comment from a nearby property owner and summarized the following concerns:

- Tenants in an industrial building complex downwind of the proposed cannabis business are potentially subject to the noxious odors of the processing and

growing operations. The potentially strong odors could impact business operations through lost customers and revenues. Past experience in other cities at similar properties shows that noxious odors still emanate despite a filtration system. Employees and customers from nearby businesses often complain of headaches and nausea amongst other adverse effects.

The Hearings Officer notes that the proposed extraction process will be located indoors and will operate with a carbon dioxide system that will mitigate odors. The proposed grow facility is subject to special use standards that require all production to be conducted indoors and use an air filtration system to ensure that odor impacts upon neighboring properties are minimized. If the proposal is approved and odors affect other properties, the odors may be reported to the city's Compliance Services division as a zoning violation. The City will investigate and take appropriate enforcement action as necessary.

- Property values may be adversely affected, as has already happened with neighboring properties to marijuana growing operations in other cities, along with possible difficulty to lease to future tenants when vacancy occurs.

The Hearings Officer finds that the criteria for approval of the conditional use application do not require a demonstration that property values will not be adversely affected. The zoning code allows the proposed uses, provided that they are conducted consistent with the conditions of approval and special use standards that reduce and mitigate the negative impacts of the proposed uses.

5. City Department and Public Agency Comments

The Building and Safety Division commented that they have no zoning authority over the conditional use and that there are no apparent site plan issues.

The Fire Department commented that they have no concerns with the zoning issue or site plan at this time and will address any issues related to the extraction process at the time of the building permit review.

PGE provided the following comments: "Development cost per current tariff and service requirements."

The Public Works Department has reviewed the proposal and provided a memorandum that's included in the staff report as Attachment D. They also commented that they have no conditions for the conditional use application, but they notified the applicant by email that there are floodplain development implications that may impact the proposed development at the time of building permit application:

- There is an existing floodway and floodplain located on the property as designated on the Federal Emergency Management Agency floodplain maps.

Development within the floodplain requires a floodplain development permit and is subject to the requirements of Salem Revised Code (SRC) Chapter 601. If the proposed improvements to the existing building meet the definition of a substantial improvement, as defined in SRC 601.005, the building must be brought into compliance with the current floodplain overlay zone regulations in SRC Chapter 601. The existing building was built prior to adoption of the City of Salem floodplain ordinance, so staff is concerned that the building may not be in current compliance.

- At the time of building permit application, the proposed improvement valuation will need to be provided. If the applicant has a rough estimate of the improvement valuation now, staff can determine if the proposal meets the definition of a substantial improvement and will require additional mitigation.

David R Smith of the Oregon Department of Transportation (ODOT) Rail & Public Transit Crossing Safety Unit reviewed the proposal and commented:

- It is strongly recommended that the development install a physical barrier between the property and the railroad right-of-way (off of railroad property) to assist in the prevention of trespassing. An example of the typical class I railroad in Oregon (UPRR/BNSF) barrier fencing detail is attached (Attachment E).

The Hearing Officer notes that the criteria for the conditional use require a finding that any reasonably likely adverse impacts of the use on the neighborhood can be minimized through the imposition of conditions. Because an increase in trespassing is a possible adverse impact of a cannabis extraction facility, security measures such as additional fencing are a reasonable condition. In this case, the subject property abuts a tax lot owned by the Union Pacific Railroad Company, and the railroad right-of-way is approximately 25 feet from the subject property. Staff is recommending that the Hearings Officer impose a barrier fence as a condition of approval in the analysis of the criteria in Section 6.

6. Analysis of Conditional Use Criteria

SRC Chapter 240.005(a)(1) requires that:

No building, structure, or land shall be used or developed for any use which is designated as a conditional use in the UDC unless a conditional use permit has been granted pursuant to this Chapter.

SRC Chapter 240.005(d) establishes the following approval criteria for a conditional use permit:

Criterion 1:

The proposed use is allowed as a conditional use in the zone.

The Hearings Officer notes that extraction of oil and concentrates from marijuana is classified as a heavy manufacturing use. SRC Chapter 554, Table 554-1 provides that Heavy Manufacturing uses are allowed in the IG (General Industrial) zone with a conditional use permit. The Hearings Officer finds that the proposal satisfies this criterion.

Criterion 2:

The reasonably likely adverse impacts of the use on the immediate neighborhood can be minimized through the imposition of conditions.

The Hearings Officer notes that heavy manufacturing uses require a conditional use permit in order to evaluate the impact of a use on surrounding uses in the immediate area. Potential impacts from heavy manufacturing uses include noise, vibration, dust, smoke, fumes or noxious odors.

The Hearings Officer notes that the applicant's statement describes the carbon dioxide extraction processes involved in extraction for this facility, which will be located indoors and does not employ the use of flammable or combustible materials. As described, the manufacturing process does not involve significant impacts on adjacent properties due to noise, vibration, dust, smoke, fumes or noxious odors, and is not dangerous or polluting. The Hearings Officer notes the concerns expressed in written comments by a neighboring property owner about the odor of marijuana. The Hearings Officer notes that the neighbors comments were general and related to other locations, and did not seem to be concerned with the applicant's current operations. The Hearings Officer notes that the odor from the extraction operation will be limited because the extraction rooms will be equipped with industrial air scrubbers and a filtration system. To ensure that impacts of the manufacturing process are limited, staff recommends and the Hearings Officer imposes the following condition:

Condition 1: The extraction process shall be performed as described in the applicant's written statement included as Attachment C in the staff report.

The Hearings Officer notes that for cannabis extraction facilities, other potential impacts include a possible increase in criminal activities and trespassing. The applicant's statement describes the security measures at the site, which include 24-hour video surveillance, alarmed sensors and glass break detectors for all exterior doors, motion sensors in all rooms with cannabis items, and PIN-pads for secured access. No security fence is described in the statement or shown on the site plan. The comments from ODOT strongly recommend a security barrier

between the building and the abutting railroad-owned property to assist in the prevention of trespassing, which in turn can help to prevent criminal activity. The Hearings Officer notes that the applicant testified regarding concerns that fencing or other security barriers along the rear yard of the site would be more likely to prevent trespassing onto the site, rather than onto the railroad right of way from the site. The Hearings Officer notes that there is no testimony or evidence that the proposed conditional use is more likely to result in trespassing or other criminal activity than any other allowed use. The Hearings Officer agrees with the applicant that the security barrier recommended by ODOT seems out of scale for the likely impacts of the development. Without any supporting evidence that the proposed security barrier would prevent some specific adverse impact, the Hearings Officer sees no reason that a more usual fence or wall would not provide a sufficiently effective barrier, in line with the additional segments of fencing staff suggests should be required to enclose the rear as well as the north and south side yards. Accordingly, the Hearings Officer imposes the following condition:

Condition 2: The applicant shall install a fence or wall at least 6 feet tall along the rear property line but outside of the abutting railroad-owned property (Tax Lot 073W35CD01400) and similar fences or walls at least 6 feet tall enclosing the north and south side yards.

The Hearings Officer finds that the development, as proposed and with these two conditions of approval, minimizes reasonably likely adverse impacts of the use on the adjacent tenants and neighboring uses.

Criterion 3:

The proposed use will be reasonably compatible with and have minimal impact on the livability or appropriate development of surrounding property.

The Hearings Officer finds that the proposed extraction and processing facilities would be located in an existing building within an industrial zone, and the surrounding businesses are similar in impacts. No alterations to the exterior of the building are proposed.

The Hearings Officer finds that as proposed, the use will be reasonably compatible with the surrounding uses and will have minimal impact on the livability or development of surrounding property. To ensure the proposal is in substantial conformance with the use and development presented in the application materials, the Hearings Officer imposes the following condition of approval:

Condition 3: The proposed development shall be in substantial conformance with the approved site plan included as Attachment B in the staff report, as modified by the conditions of approval.

7. Analysis of Class 3 Site Plan Review Approval Criteria

SRC 220.005(f)(3) establishes the following criteria for a Class 3 Site Plan Review:

Criterion 1:

The application meets all applicable standards of the UDC.

The Hearings Officer notes that the project includes a proposed change of use of 375 square feet of an existing building for a cannabis extraction facility and a change of use to a recreational marijuana production facility within the remainder of the 14,250-square foot building.

For the reasons that follow, the Hearings Officer finds that the development, as proposed and conditioned, meets all standards of the UDC.

Development Standards – IG (General Industrial) Zone:

SRC 554.005(a) - Uses:

Except as otherwise provided in Chapter 554, the permitted, special, conditional and prohibited uses in the IG zone are set forth in Table 554-1.

The Hearings Officer note that the proposed use involves the extraction of products from marijuana. The extraction process is classified as a heavy manufacturing use in SRC Chapter 400.

Within the IG zone, heavy manufacturing is listed as a Conditional Use. Findings addressing the Conditional Use Permit criteria are included in Section 6 of this report.

The remainder of the building is proposed to be changed to a recreational marijuana production facility, which is classified as a special use within the IG zone, subject to SRC 700.035. Where designated as a special use, marijuana production shall comply with the additional standards set forth in this section.

(a) Marijuana production shall be conducted indoors.

(b) The marijuana production facility must utilize an air filtration system to ensure that odor impacts upon neighboring properties are minimized.

The proposed facility would comply with the special use standards.

SRC 554.010(a) – IG Zone Lot Standards:

There are no minimum lot area or dimension requirements in the IG zone. All uses are required to have a minimum of 16 feet of street frontage.

The Hearings Officer finds that the subject property is located on a property with approximately 250 feet of street frontage.

SRC 554.010(b) – IG Zone Setbacks:

- North: Adjacent to the north is an IG (General Industrial) zone. There is no building setback required adjacent to an IG zone; vehicle use areas require a minimum 5 foot setback.
- South: Adjacent to the south is an IG (General Industrial) zone. There is no building setback required adjacent to an IG zone; vehicle use areas require a minimum 5 foot setback.
- East: Adjacent to the east is the right-of-way of 19th Street SE. There is a 5-foot building setback and a 6- to 10-foot vehicle use area setback.
- West: Adjacent to the west is an IG (General Industrial) zone. There is no building setback required adjacent to an IG zone; vehicle use areas require a minimum 5 foot setback.

The Hearings Officer finds that the proposed development includes an interior tenant improvement and change of use within an existing building and restriping of several spaces in the existing, paved parking lot. There is no change to the building footprint or pavement area in the existing parking lot.

SRC 554.010(c) - Lot Coverage, Height:

There is no maximum lot coverage standard. The maximum height in the IG zone is 70 feet.

The Hearings Officer finds the proposed development does not modify the lot coverage or height of the existing building. The proposed development complies with the lot coverage and maximum height standards of the IG zone.

SRC 554.010(d) - Landscaping:

- (1) Setbacks. Required setbacks shall be landscaped. Landscaping shall conform to the standards set forth in SRC Chapter 807.
- (2) Vehicle Use Areas. Vehicle use areas shall be landscaped as provided under SRC Chapter 806 and SRC Chapter 807.

The Hearings Officer finds that the proposed development includes an interior tenant improvement and change of use within an existing building. Landscaping is not required for the proposed development.

Floodplain Overlay Zone

SRC Chapter 601 regulates development in floodplains.

The Hearings Officer notes that the subject property is designated on the Federal Emergency Management Agency floodplain maps as a Zone "AE" floodplain. Development within the floodplain requires a floodplain development permit and is subject to the requirements of SRC Chapter 601. If the cost of tenant improvements compared to the value of the original building constitutes a substantial improvement, as defined in SRC 601.005, the building must be brought into compliance with the requirements of SRC Chapter 601. The Hearings Officer finds that this requirement is contingent upon the cost to value ratio and imposes the following condition to satisfy this requirement:

Condition 4: If the cost of tenant improvements compared to the value of the original building constitutes a substantial improvement, as defined in SRC 601.005, the building must be brought into compliance with the requirements of SRC Chapter 601.

Off-Street Parking, Loading, and Driveways

SRC 806.005 - Off-Street Parking; When Required.

Off-street parking shall be provided and maintained for any change of use or activity, when such change of use or activity results in a parking ratio requiring a greater number of spaces than the previous use or activity.

SRC 806.010 - Proximity of Off-Street Parking to Use or Activity Served.

Required off-street parking shall be located on the same development site as the use or activity it serves.

SRC 806.015 - Amount of Off-Street Parking.

- a) *Minimum Required Off-Street Parking.* The minimum number of off-street parking spaces required for a heavy manufacturing use is the greater of 0.75 spaces per employee or 1 space per 5,000 square feet of floor area. The minimum number of off-street parking spaces required for an agriculture use, including recreational marijuana production, is 5 spaces when retail sales are involved.
- b) *Compact Parking.* Up to 75 percent of the minimum off-street parking spaces required under this Chapter may be compact parking spaces.

- c) *Carpool and Vanpool Parking.* New developments with 60 or more required off-street parking spaces shall designate a minimum of 5 percent of their total off-street parking spaces for carpool or vanpool parking.
- d) *Maximum Off-Street Parking.* Unless otherwise provided in the SRC, off-street parking shall not exceed the amounts set forth in Table 806-2.

The Hearings Officer notes that according to the site plan, the proposed heavy manufacturing use will have two employees, requiring a minimum of two off-street parking spaces ($2 \times 0.75 = 1.5$, rounding up to 2). The grow facility will have four employees. No spaces are required for the marijuana production (grow) facility because no retail sales are proposed on the site. Therefore, a total of two spaces is required, and a maximum of 2.5 parking spaces would be allowed ($2 \times 2.5 = 5$). The existing off-street parking area has 17 spaces, and the proposed modification of the parking area would result in 17 spaces. The excess parking spaces are legally nonconforming. None of the parking spaces are depicted on the site plan as compact spaces. Carpool/vanpool spaces are not required for the proposed uses.

SRC 806.035 - Off-Street Parking and Vehicle Use Area Development Standards.

Unless otherwise provided under the UDC, off-street parking and vehicle use areas, other than driveways and loading areas, for uses or activities other than Single Family and Two Family shall be developed and maintained as provided in this section.

- a) *General Applicability.* The off-street parking and vehicle use area development standards set forth in this section apply to:
 - 1. The development of new off-street parking and vehicle use areas.
 - 2. The expansion of existing off-street parking and vehicle use areas, where additional paved surface is added.
 - 3. The alteration of existing off-street parking and vehicle use areas, where the existing paved surface is replaced with a new paved surface; and
 - 4. The paving of an un-paved area.

The Hearings Officer notes that the proposed development includes restriping of the existing parking spaces to create an accessible space and access aisle to the building. The proposed ADA space appears to meet the applicable dimensional standards including a drive aisle width of 24 feet, but the striped area on the passenger side of the ADA space is approximately 17 feet from the nearest curbed landscape area. In order to meet dimensional standards for the drive aisle width, the Hearings Officer imposes the following condition:

Condition 5: The applicant shall either (1) shift the ADA space and the striped area on the passenger side to the north so that a drive aisle at least 24 feet wide is maintained between the striped area and the nearest landscape area or (2) provide pavement markings and signage to indicate that the southern driveway is a one-way exit.

Bicycle Parking

SRC 806.045 - General Applicability.

Bicycle parking shall be provided and maintained for any change of use or activity, when such change of use or activity results in a bicycle parking ratio requiring a greater number of spaces than the previous use or activity.

SRC 806.050 – Proximity of Bicycle Parking to use or Activity Served.

Bicycle parking shall be located on the same development site as the use or activity it serves.

SRC 806.055 - Amount of Bicycle Parking.

Uses in the heavy manufacturing use category require the greater of 4 bicycle parking spaces or one space per 10,000 square feet of floor area. Uses in the agriculture use category require 2 bicycle parking spaces when retail sales are involved.

The Hearings Officer finds that the proposed heavy manufacturing use would occupy approximately 375 square feet within the existing building, and 4 bicycle parking spaces are required for the proposed use. The Hearings Officer notes that the site plan indicates bicycle parking spaces, but staff could not determine if these spaces meet the standards because the primary building entrance is not marked. To ensure compliance with this standard, the Hearings Officer imposes the following condition:

Condition 6: Provide 4 bicycle parking spaces meeting the standards of SRC 806.060.

SRC 806.060 – Bicycle Parking Development Standards

Unless otherwise provided under the UDC, bicycle parking areas shall be developed and maintained as set forth in this section.

- a) Location. Bicycle parking areas shall be located within a convenient distance of, and shall be clearly visible from, the primary building entrance. In no event shall bicycle parking areas be located more than 50 feet from the primary building entrance.

- b) Access. Bicycle parking areas shall have direct and accessible access to the public right-of-way and the primary building entrance.
- c) Dimensions. Bicycle parking spaces shall be a minimum of 6 feet by 2 feet and shall be served by a minimum 4-foot-wide access aisle.
- d) Bicycle Racks. Where bicycle parking is provided in racks, the racks may be floor, wall, or ceiling racks. Bicycle racks shall accommodate the bicyclist's own locking device.

The Hearings Officer finds that with this condition, the proposed bicycle parking spaces for the building will be required to meet the requirements of SRC 806.060.

Off-Street Loading Area

SRC 806.065 - General Applicability.

Off-street loading areas shall be provided and maintained for any change of use or activity, when such change of use or activity results in a greater number of required off-street loading spaces than the previous use or activity.

SRC 806.075 - Amount of Off-Street Loading.

No loading space is required for a heavy manufacturing use under 5,000 square feet or for an agriculture use.

The Hearings Officer finds the proposed change of use does not increase the floor area of the existing building and does not result in a greater number of off-street loading spaces required for the existing building. Accordingly, this standard is satisfied.

Natural Resources

SRC 808 - Preservation of Trees and Vegetation: The City's tree preservation ordinance, under SRC Chapter 808, provides that no person shall remove a significant tree (Oregon White Oak greater than 24 inches in diameter at breast height) (SRC 808.015) or a tree or native vegetation in a riparian corridor (SRC 808.020), unless the removal is excepted under SRC 808.030(a)(2), undertaken pursuant to a permit issued under SRC 808.030(d), undertaken pursuant to a tree conservation plan approved under SRC 808.035, or permitted by a variance granted under SRC 808.045.

No protected trees have been identified on the site plan for removal.

SRC 809 - Wetlands: According to the Salem-Keizer Local Wetland Inventory (LWI), there are no mapped wetlands on the subject property. There are hydric

soils and hydric soil inclusions. No improvements to the exterior of the building are proposed, and no wetland permit is required.

SRC 810 - Landslide Hazards: A geological assessment or report is required when regulated activity is proposed in a mapped landslide hazard area. There are no areas of mapped landslide points on the property. The applicant's proposal does not alter the existing building foundation, and does not include a building addition, therefore no activity points are assigned to the proposed development. No geological assessment is required for the proposed development.

Criterion 2:

The transportation system provides for the safe, orderly, and efficient circulation of traffic into and out of the proposed development, and negative impacts to the transportation system are mitigated adequately.

The Hearings Officer finds that the existing street system is adequate to serve the proposed development and the development is not proposing a building addition subject to SRC 803.040(a); therefore, no right-of-way dedication or street improvements are required.

Criterion 3:

Parking areas and driveways are designed to facilitate safe and efficient movement of vehicles, bicycles, and pedestrians.

The Hearings Officer finds that the driveway access onto 19th Street SE provides for safe turning movements into and out of the property.

Criterion 4:

The proposed development will be adequately served with City water, sewer, stormwater facilities, and other utilities appropriate to the nature of the development.


The Hearings Officer finds that the Public Works Department has reviewed the applicant's preliminary utility plan for this site. The water, sewer, and storm infrastructures are available within surrounding streets/areas and appear to be adequate to serve the proposed development.

DECISION

The Hearings Officer **APPROVES** the request for a consolidated conditional use and site plan review to change 375 square feet of an existing 14,250-square foot building to a Heavy Manufacturing use for processing cannabis concentrates and extracts, to change the remainder of the building to recreational marijuana growing, and to modify the parking lot striping at 2979-2999 19th Street SE, subject to the following conditions of approval:

- Condition 1:** The extraction process shall be performed as described in the applicant's written statement included as Attachment C in the staff report.
- Condition 2:** The applicant shall install a fence or wall at least 6 feet tall along the rear property line but outside of the abutting railroad-owned property (Tax Lot 073W35CD01400) and similar fences or walls at least 6 feet tall enclosing the north and south side yards.
- Condition 3:** The proposed development shall be in substantial conformance with the approved site plan included as Attachment B in the staff report, as modified by the conditions of approval.
- Condition 4:** If the cost of tenant improvements compared to the value of the original building constitutes a substantial improvement, as defined in SRC 601.005, the building must be brought into compliance with the requirements of SRC Chapter 601.
- Condition 5:** The applicant shall either (1) shift the ADA space and the striped area on the passenger side to the north so that a drive aisle at least 24 feet wide is maintained between the striped area and the nearest landscape area or (2) provide pavement markings and signage to indicate that the southern driveway is a one-way exit.
- Condition 6:** Provide 4 bicycle parking spaces meeting the standards of SRC 806.060.

DATED: May 15, 2018.


James K. Brewer, Hearings Officer