



City of Galena, Illinois

AGENDA

ZONING BOARD OF APPEALS

**WEDNESDAY, DECEMBER 11, 2019
6:30 P.M. – CITY HALL 101 GREEN STREET**

ITEM	DESCRIPTION
19Z-2001	Call to Order by Presiding Officer
19Z-2002	Roll Call
19Z-2003	Establishment of Quorum

APPROVAL OF MINUTES

ITEM	DESCRIPTION	PAGE
19Z-2004	Approval of the Minutes of the Regular Meeting of November 13, 2019.	3-10

UNFINISHED BUSINESS

ITEM	DESCRIPTION	PAGE
19S-13 & 19S-14	ILWAB Farms, LLC – Request for Special Use Permits to allow Adult-Use Cannabis Craft Grower and Adult-Use Cannabis Dispensing Organization uses.	11-15

NEW BUSINESS

ITEM	DESCRIPTION	PAGE
19S-15	Fotis Investments, LLC – Request for Special Use Permits to allow Adult-Use Cannabis Dispensing Organization in the Downtown Commercial District at 115 Perry Street.	16-25
19V-05	pb2 architecture + engineering – Request for Variance to allow a second internally-illuminated wall sign on the building for new Pick-up business at Walmart, 10000 Bartell Blvd.	26-29

OTHER BUSINESS

ITEM	DESCRIPTION	PAGE
19Z-2005	Public Comments Not to exceed 15 minutes as an agenda item Not more than 3 minutes per speaker	
19Z-2006	Adjournment	

CALENDAR INFORMATION

BOARD/COMMITTEE	DATE	TIME	PLACE
Zoning Board of Appeals	Wednesday, January 8, 2020	6:30 P.M.	City Hall, 101 Green Street

Posted: December 6, 2019 at 4:00 p.m. Posted By: Matt Oldenburg

**MINUTES
ZONING BOARD OF APPEALS
NOVEMBER 13, 2019**

CALL TO ORDER:

Chairperson Rosenthal called the regular meeting of the Zoning Board of Appeals to order at 6:30 PM on Wednesday, November 13, 2019 at City Hall, 101 Green Street, Galena, IL.

ROLL CALL AND DECLARATION OF QUORUM:

As Roll Call was:

Baranski	Present
Bochniak	Present
Calvert	Present
Cook	Present
Jansen	Present
Nybo	Present
Rosenthal	Present

A quorum was declared.

Zoning Administrator Matt Oldenburg, City Attorney Joe Nack and Zoning Secretary Deb Price were present.

APPROVAL OF MINUTES

MOTION: Baranski moved, seconded by Cook to approve the September 11, 2019 minutes.

Motion carried.

UNFINISHED BUSINESS

None

NEW BUSINESS

Cal. No. 19A-05, 19S-13 & 19S-14, Applicant and Owner: ILWAB Farms, LLC, 13275 Chetlain Lane, Galena, IL 61036. Parcel 1: 13-001-106-13, Lots 1 through 6 in Block 2 of Galena Scenic Meadows Unit 2; and Lot 7 in Block 1 of Galena Scenic Meadows Unit 2 in the City of Galena, Jo Daviess County, Illinois. Parcel 2: 13-000-105-15, Lot 5, Block 7 of the Cobblestone Crossing Plat 2, Section 12, T28N, R1W, Galena, Illinois. Request for Map Amendment to rezone Parcel 1, and a portion of right-of-way described in a concurrent Street Vacation request, from Limited Agriculture (former PUD) to Planned Industrial district. Request to rezone Parcel 2 from Medium Density Residential to Limited Agriculture district. Request for Special Use Permits to allow Adult-Use Cannabis Craft Grower and Adult-Use Cannabis Dispensing Organization land uses in Parcel 1.

MOTION: Bochniak moved, seconded by Cook to open the Public Hearing for Cal. No. 19A-05.

Motion carried on voice vote.

Nack swore all those who wished to testify at this public hearing.

Brad Heying of Kane, Norby & Reddick, 2100 Asbury Road, Dubuque is representing the applicant IL WAB. Parcel 1 was a PUD zoning – this has been in effect for twenty years but was unable to be developed. They are proposing this be rezoned to Planned Industrial. Parcel 2 is Medium Density Residential, and they propose it be rezoned to Limited Ag. These parcels have been used as crop ground. Rezoning is being requested for a craft grow and dispensary. Planned Industrial is allowed in the zoning ordinance and this type of use would be appropriate for the property as all activities would be wholly indoors and would not negatively impact the area. The location behind Wal Mart is a perfect spot for this type of development which is part manufacturing and part retail.

Baranski asked if all the growing would be done inside.

Heying said yes.

Baranski asked what their intentions were for about Parcel 2.

Heying said they were asking for limited ag zoning which would provide the necessary buffer to the residential areas. There will be no outdoor growing activities.

Pat Ready 2067 Wedgewood Drive, Dubuque is with IIW and as a representative of the applicant. The northwest corner of the parking lot is about 117 feet off the property line – the building is a little more than that making it closer than the required 250 feet. They wanted to create an adequate bufferyard and for the foreseeable future this property will remain crop ground. In looking at the site plan the square footage of the building is 38,000 square feet. The parcel is 11.02 acres and there is 2.8 acres of impervious area. This leaves a tremendous amount of green space for necessary landscaping and drainage. The maximum building height would be 36 feet. The indoor space would be comprised of 14,000 square feet for craft growing, 8,000 square feet for dispensing and 16,000 square feet for miscellaneous uses – offices, bathrooms, traffic flow, etc. Parking requirements show that 19 stalls would be needed. They are planning 40 stalls to handle 30 employees and 10 customers. All lighting

requirements and standards will be complied with including the fixtures and illumination. The projected operation hours for the grow facility would be seven days a week with 2 - 12-hour shifts, and the dispensary would be open seven days a week from 9AM-10PM. The impact on the Highway 20 traffic would be negligible. All landscaping requirements will be met, but a design plan has not yet been created. This is a new use and the presented renderings give you an idea what will be built. The exterior of the buildings will comply with the design requirements and will be very tasteful. The use works nicely with the other businesses in the area.

Wayne Briggs, 13275 Chetlain Lane, Galena said he will be the building owner. He will lease this to Holistic Industries. Liberty will run the craft grow and dispensary – they are a subsidiary of Holistic Industries.

Baranski asked about the topography and location of the building.

Ready said the left side of the property includes a detention pond. The roadway will be a continuation of Bartell Boulevard. Final details on the cul-de-sac have not been determined. The plain will be lowered to create a flat spot and there will be some fill work at the front of the building. It will be an earthwork balance to make the grades work. The site plan is not perfected, but they wanted to show that they are complying with the setbacks.

Rosenthal asked those in favor of the request to come forward and testify.

No one did.

Rosenthal asked those opposed to the request to come forward and testify.

No one did.

MOTION: Bochniak moved, seconded by Calvert to close the Public Hearing for Cal. No. 19A-05.

Motion carried on voice vote.

MOTION: Baranski moved, seconded by Jansen to send a positive recommendation to the City Council to allow Parcel 1 to be rezoned from Limited Ag to Planned Industrial subject to the applicant obtaining their state license for Cal. No. 19A-05 – Parcel 1.

Nack said the owners would not be the one obtaining the license. Those who lease will be responsible for obtaining the license. There is a time lapse requirement in our ordinance.

MOTION: Baranski moved, seconded by Jansen to withdraw the motion.

MOTION: Baranski moved, seconded by Jansen to send a positive recommendation to the City Council to allow rezoning of Parcel 1 from Limited Ag to Planned Industrial to be used as an Adult-Use Cannabis Craft Grower and Adult-Use Cannabis Dispensing Organization, Cal. No. 19A-05 – Parcel 1.

Baranski reviewed the approval criteria:

Approval Criteria & Recommendation for Map Amendment:

In order to maintain internal consistency within this code and on the zoning map, proposed amendments to the text and zoning map must be consistent with the purposes stated herein.

In determining whether the proposed amendment shall be approved, the following factors shall be considered:

- (1) Whether the existing text or zoning designation was in error at the time of adoption; **N/A**
- (2) Whether there has been a change of character in the area or throughout the city due to installation of public facilities, other zone changes, new growth trends, deterioration, development transitions, etc.; **It does apply.**
- (3) Whether the proposed rezoning is compatible with the surrounding area and defining characteristics of the proposed zoning district or whether there may be adverse impacts on the capacity or safety of the portion of street network influenced by the rezoning, parking problems, or environmental impacts that the new zone may generate such as excessive storm water runoff, water, air or noise pollution, excessive nighttime lighting, or other nuisances; **It does apply.**
- (4) Whether the proposal is in conformance with and in furtherance of the implementation of the goals and policies of the Comprehensive Plan, other adopted plans, and the policies, intents and requirements of this code, and other city regulations and guidelines; **It is.**
- (5) Whether adequate public facilities and services are available or will be made available concurrent with the projected impacts of development in the proposed zone; **They are.**
- (6) Whether there is an adequate supply of land available in the subject area and the surrounding community to accommodate the zoning and community needs; **It is.**
- (7) Whether there is a need in the community for the proposal and whether there will be benefits derived by the community or area by the proposed rezoning. **This is self-evident.**

The Zoning Administrator and Zoning Board of Appeals shall make recommendations and the City Council shall take final action.

- (1) **When the Zoning Board of Appeals or City Council deems it necessary or expedient, additional property in the zoning district may be considered for a zoning change provided that this additional property is also addressed in the public hearing notice, in accordance with § [154.919\(F\)](#).**

(2) In the event of a written protest against a proposed amendment signed and acknowledged by the owners of 20% of the frontage proposed to be altered or by the owners of 20% of the frontage immediately adjoining or across the alley or rear line therefrom or by the owners of 20% of the frontage directly opposite the frontage proposed to be altered as to such regulations or zoning district and field with the City Clerk, such amendment shall not be passed except by the favorable vote of two-thirds of all of the selected members of the City Council.

As Roll Call was:

Bochniak	Yes
Calvert	Yes
Cook	Yes
Jansen	Yes
Nybo	Yes
Baranski	Yes
Rosenthal	Yes

Motion carried.

MOTION: Baranski moved, seconded by Calvert to send a positive recommendation to the City Council to allow the rezoning of Parcel 2 from Medium Density Residential to Limited Agriculture, Cal. No. 19A-05 - Parcel 2 based on the approval criteria for Cal. No. 19A-05 – Parcel 1.

As Roll Call was:

Calvert	Yes
Cook	Yes
Jansen	Yes
Nybo	Yes
Baranski	Yes
Bochniak	Yes
Rosenthal	Yes

Motion carried.

MOTION: Bochniak moved, seconded by Cook to open the Public Hearing for Cal. No. 19S-13 and Cal. No. 19S-14.

Motion carried on voice vote.

Nack swore all those who wished to testify at this public hearing.

Brad Heying returned to testify. He asked that the prior testimony given be referenced for the Special Use Permit public hearings.

The Board had no additional questions for the applicant.

MOTION: Bochniak moved, seconded by Jansen to close the Public Hearing for Cal. No. 19S-13 and Cal. No. 19S-14.

Motion carried on voice vote.

MOTION: Baranski moved, seconded by Bochniak to draft a positive Finding of Fact for the Special Use Permit to allow an Adult-Use Cannabis Craft Grower, Cal. No. 19S-13.

Baranski reviewed the approval criteria.

Approval Criteria & Recommendation:

The purpose of a special use review is to provide an opportunity to utilize property for an activity, which under usual circumstances, could be detrimental to other permitted uses and which normally is not permitted within the same district. A special use may be permitted under circumstances particular to the proposed location and subject to conditions that provide protection to adjacent land uses. A special use is not a use by-right and one that is otherwise prohibited without approval of a special use permit.

- The application shall demonstrate that the proposed development will comply with the following:
 - (1) *Site plan review standards.* All applicable site plan review criteria in § 154.914.
 - (2) *District standards.* The underlying zoning district standards established in § 154.201 through § 154.209 including the defining characteristics of the district;
 - (3) *Specific standards.* The land use regulations established in § 154.406;
 - (4) *Availability of complementary uses.* Other uses complementary to, and supportive of, the proposed project shall be available including, but not limited to: schools, parks, hospitals, business and commercial facilities, and transportation facilities.
 - (5) *Compatibility with adjoining properties.* Compatibility with and protection of neighboring properties through measures such as:
 - (a) *Protection of privacy.* The proposed plan shall provide reasonable visual and auditory privacy for all dwelling units located within and adjacent to the site. Fences, walls, barriers and/or vegetation shall be arranged to protect and enhance the property and to enhance the privacy of on-site and neighboring occupants.
 - (b) *Protection of use and enjoyment.* All elements of the proposed plan shall be designed and arranged to have a minimal negative impact on the use and enjoyment of adjoining property.
 - (c) *Compatible design and integration.* All elements of a plan shall coexist in a harmonious manner with nearby existing and anticipated development. Elements to consider include: buildings, outdoor storage areas and equipment, utility structures, building and paving coverage, landscaping, lighting, glare, dust, signage, views, noise, and odors. The plan must ensure that noxious emissions and conditions not

typical of land uses in the same zoning district will be effectively confined so as not to be injurious or detrimental to nearby properties.

The Zoning Board of Appeals can grant, conditionally grant, or deny all applications for a Special Use Permit or an amendment thereof. If the Board would like to grant the request, a motion to draft Findings of Fact should be entertained. The Findings of Fact will then be presented for final consideration at the next Board meeting.

The application meets all the approval criteria.

As Roll Call was:

Cook	Yes
Jansen	Yes
Nybo	Yes
Baranski	Yes
Bochniak	Yes
Calvert	Yes
Rosenthal	Yes

Motion carried.

MOTION: Baranski moved, seconded by Bochniak to draft a positive Finding of Fact for the Special Use Permit to allow an Adult-Use Cannabis Dispensing Organization, Cal. No. 19S-14 based on the approval criteria for Cal. No. 19S-13.

As Roll Call was:

Jansen	Yes
Nybo	Yes
Baranski	Yes
Bochniak	Yes
Calvert	Yes
Cook	Yes
Rosenthal	Yes

Motion carried.

OTHER BUSINESS

None

PUBLIC COMMENTS

None

MOTION: Jansen moved, seconded by Bochniak to adjourn the meeting at 7:15 pm.

Motion carried on voice vote.

Respectfully submitted by

Deb Price
Zoning Board Secretary

DECISION

**ZONING BOARD OF APPEALS
OF THE CITY OF GALENA**

REGARDING

CALENDAR NUMBER: Cal. No. 19S-13 & 19S-14

APPLICATION BY: ILWAB Farms, LLC, 13275 Chetlain Lane,
Galena, IL 61036

FOR: A Special Use Permit to allow Adult-Use Cannabis Craft
Grower and Dispensing Organization.

FINDINGS OF FACT

PROCEDURES

Pursuant to law, a public hearing was held by the Galena Zoning Board of Appeals regarding this matter on November 13, 2019. The hearing was advertised in an edition of the Galena Gazette that was available to the general public between 15 and 30 days prior to the hearing. Letters were sent out to notify property owners within 250 feet of subject property of the request and public hearing date. They were invited to testify if they so desired. A quorum of the Board was present at the hearing in which the subject application and materials were reviewed and all persons were heard who desired to testify.

NATURE OF APPLICATION

The applicant is requesting a map amendment and Special Use Permits to rezone Parcel 1 from Limited Agriculture to Planned Industrial and Parcel 2 from Medium Density Residential to Limited Agriculture to facilitate the uses of Adult-Use Cannabis Craft Grower and Dispensing Organization, contingent upon approval of rezoning.

Currently, the City does not have a Planned Industrial district established on the Zoning Map; this rezoning would establish an area near our commercial zone for indoor industrial uses comparable to Honeywell, which is compatible in that area. The description of Planned Industrial district is as follows:

This district is intended to permit both large- and small-scale industrial, research and development, and office at an intensity which is consistent with the overall desired character of the community. Beyond a relatively high minimum landscape area ratio (LSR), the primary distinguishing feature of this district is that it is geared to indoor activities which are not typically associated with high levels of noise, soot, odors and other potential nuisances for

adjoining properties. In order to ensure a minimum of disruption to adjacent residential development, no development within this district shall take direct access to a local residential street or a residential collector street.

Staff recommends Planned Industrial as an appropriate district for rezoning because the proposed use most closely matches its description. Furthermore, the Scenic Meadows PUD proposed districts did not yield further development under Planned Office, High Density Residential and Medium Density Residential zoning for the last fifteen years. The proposed character of the request is an appropriate intensity, combined with the highest landscaping standards, that will complement the adjacent commercial uses with an appropriate transition back to agriculture districts as we transect outward from the highway corridor. There are existing water and sewer improvements already to the site.

Parcel 2 is requested to rezone to Limited Agriculture in order to increase the buffer between the proposed use and the Cobblestone Crossing Subdivision. It will also allow the facility to move to a better location on Parcel 1 to avoid construction in a drainage-way, providing better advantage for foundation bearing on the spur above while maintaining the 250 LF proximity requirement from residentially zoned districts.

A street vacation request will be concurrently requested at the Council level to vacate Morel Court, which was part of the old Scenic Meadows PUD that defaulted in 2019. If approved by Council, this will be consolidated to form the legal description presented as Parcel 1 on the attached map. The consolidation plat will be approved administratively as it meets an exemption criteria of the Plat Act.

Please refer to the included narrative from the applicant. The detailed land use regulations of the proposed uses are satisfied by the application contents. Further detailed regulations, dictated by the State Act, will be applicable to the site development and subject to State inspection. Detailed building plans are not a requirement of this request; although, the applicant provided concept renderings to provide context. Subsequent submittals for building permits will be administratively reviewed by City Staff to ensure all applicable codes are met.

A site plan review of the proposed request has been conducted per the criteria listed in §154.914. Preliminary massing of the proposed structure with projected traffic analysis, parking requirements, landscaping requirements, lighting standards, natural protection standards and performance standards all meet the zoning code regulations. On-site stormwater detention is also required, which will improve the situation in that vicinity regarding discharge, scour and sedimentation.

Staff recommends approval of this request. Land uses surrounding the property include other agriculture, commercial and campgrounds.

Testimony Presented on Behalf of the Applicant:

- **Brad Heying**, of Kane, Norby & Reddick, 2100 Asbury Road, Dubuque, is representing the applicant ILWAB Farms. Parcel 1 was a PUD zoning – this has been in effect for twenty years but was unable to be developed. They are proposing this be rezoned to Planned Industrial. Parcel 2 is Medium Density Residential, and they propose it be rezoned to Limited Agriculture. These parcels have been used as crop ground. Rezoning is being requested for a craft grow and dispensary. Planned Industrial is allowed in the zoning ordinance and this type of use would be appropriate for the property as all activities would be wholly indoors and would not negatively impact the area. The location behind Wal-Mart is a perfect spot for this type of development which is part manufacturing and part retail.

Baranski asked if all the growing would be done inside.

Heying said yes.

Baranski asked what their intentions were for about Parcel 2.

Heying said they were asking for limited ag zoning which would provide the necessary buffer to the residential areas. There will be no outdoor growing activities.

- **Pat Ready**, 2067 Wedgewood Drive, Dubuque, is with IIW and as a representative of the applicant. The northwest corner of the parking lot is about 117 feet off the property line – the building is a little more than that making it closer than the required 250 feet. They wanted to create an adequate buffer and for the foreseeable future this property will remain crop ground. In looking at the site plan the square footage of the building is 38,000 square feet. The parcel is 11.02 acres and there is 2.8 acres of impervious area. This leaves a tremendous amount of green space for necessary landscaping and drainage. The maximum building height would be 36 feet. The indoor space would be comprised of 14,000 square feet for craft growing, 8,000 square feet for dispensing and 16,000 square feet for miscellaneous uses – offices, bathrooms, traffic flow, etc. Parking requirements show that 19 stalls would be needed. They are planning 40 stalls to handle 30 employees and 10 customers. All lighting requirements and standards will be complied with including the fixtures and illumination. The projected operation hours for the grow facility would be seven days a week with 2 - 12-hour shifts, and the dispensary would be open seven days a week from 9AM-10PM. The impact on the Highway 20 traffic would be negligible. All landscaping requirements will be met, but a design plan has not yet been created. This is a new use and the presented renderings give you an idea what will be built. The exterior of the buildings will comply with the design requirements and will be very tasteful. The use works nicely with the other businesses in the area.
- **Wayne Briggs**, 13275 Chetlain Lane, Galena, said he will be the building owner. He will lease this to Holistic Industries. Liberty will run the craft grow and dispensary – they are a subsidiary of Holistic Industries.

Baranski asked about the topography and location of the building.

Ready said the left side of the property includes a detention pond. The roadway will be a continuation of Bartell Boulevard. Final details on the cul-de-sac have not been determined. The plain will be lowered to create a flat spot and there will be some fill work at the front of the building. It will be an earthwork balance to make the grades work. The site plan is not perfected, but they wanted to show that they are complying with the setbacks.

Testimony Presented in Opposition to the Request:

No one spoke in opposition to the request.

APPLICABLE SECTIONS OF THE ZONING ORDINANCE

- Section 154.005 sets forth the Intent and Purpose of the Zoning Ordinance.
- Section 154.015 defines Accommodations, Vacation Rental.
- Section 154.201 (C) (3) provides a definition and description of the Neighborhood Commercial District.
- Table 154.403.1 lists the Permitted Land Uses permitted by right or by Special Use Permit for all Zoning Districts.
- Section 154.406 (D) (18) defines and outlines the regulations for Accommodations, Vacation Rental as a principal commercial land use.
- Section 154.406 (K) (8) defines and outlines the regulations for Outdoor Display, Removable as an accessory commercial land use.
- Section 154.914 lists the criteria for Site Plan Review.
- Section 154.924 sets forth the Purpose, Applicability, Review Criteria, Decision-Maker, Application and Review Procedures and Validity for Special Use Permits.

CONCLUSIONS

In applying the regulations and pertinent performance standards of the Zoning Ordinance to this particular case, the following conclusions are reached:

1. The subject property is located in the Limited Agriculture District and concurrently requesting rezoning to Planned Industrial District; part of the property is requested to rezone from Medium Density Residential to Limited Agriculture District.
2. The Zoning Ordinance provides for Adult-Use Cannabis Craft Grower as follows:
 - a. Adult-Use Cannabis Craft Grower is permitted only by Special Use Permit as a principal agricultural land use in a Planned Industrial District.
3. The Zoning Ordinance provides for Adult-Use Cannabis Dispensing Organization as follows:
 - a. Adult-Use Cannabis Dispensing Organization is permitted only by Special Use Permit as a principal commercial land use in a Planned Industrial District.
4. Planned Industrial (PI) District is intended to permit both large- and small-scale industrial, research and development, and office at an intensity which is consistent with the overall desired character of the community. Beyond a relatively high minimum landscape area ratio (LSR), the primary distinguishing feature of this district is that it is geared to indoor activities

which are not typically associated with high levels of noise, soot, odors and other potential nuisances for adjoining properties. In order to ensure a minimum of disruption to adjacent residential development, no development within this district shall take direct access to a local residential street or a residential collector street.

5. The applicant seeks a Special Use Permit to allow Adult-Use Cannabis Craft Grower and Dispensing Organization with on-site consumption.

DETERMINATION

Based upon the facts in this case, the Zoning Board of Appeals does find and conclude that the request by ILWAB Farms, LLC for a Special Use Permit to allow Adult-Use Cannabis Craft Grower and Dispensing Organization should be approved for the following reasons:

1. The site plan review met the applicable criteria for this request.
2. The request meets the district standards for the Planned Industrial District and is appropriate to the defining characteristics of the district.
3. The request meets the detailed land use regulations established for Adult-Use Cannabis Craft Grower and Dispensing Organization land uses.
4. Complimentary uses are available.
5. The request is compatible with adjoining properties through:
 - a. The protection of privacy will be maintained;
 - b. The elements of the plan are designed and arranged to have a minimal negative impact on the use and enjoyment of adjoining property;
 - c. The elements of the plan will coexist in a harmonious manner with nearby existing properties.

DECISION

NOW, THEREFORE BE IT RESOLVED, that this Zoning Board of Appeals does recommend to the City Council of the City of Galena that this request by ILWAB Farms, LLC for a Special Use Permit to allow Adult-Use Cannabis Craft Grower and Dispensing Organization should be approved.

SPECIAL USE PERMIT: PASSED AND APPROVED this 13th day of November, A.D. 2019, by the Galena Zoning Board of Appeals by a vote of 7 ayes, 0 nays, 0 absent, 0 abstain, 0 recused.

SPECIAL USE PERMIT: PASSED AND APPROVED this 13th day of November, A.D. 2019, by the Galena Zoning Board of Appeals by a vote of 7 ayes, 0 nays, 0 absent, 0 abstain, 0 recused.

John Rosenthal, Chairperson

CITY OF GALENA, ILLINOIS

101 Green Street • P.O. Box 310 • Galena, Illinois 61036



MEMORANDUM

TO: The Zoning Board of Appeals

FROM: Matt Oldenburg, Zoning Administrator *MATT*

DATE: December 6, 2019

RE: Cal. No. 19S-15, Applicant and Owner: Fotis Investments, LLC, 201 N Main, Galena, IL 61036. Parcel: 22-100-485-00, Lots 2 of the Subdivision of 1st National Bank between Commerce and Water Streets in the City of Galena, Jo Daviess County, Illinois. Common address is 115 Perry Street, Galena, IL 61036. Request for Special Use Permit to allow Adult-Use Cannabis Dispensing Organization in the Downtown Commercial district.

Summary:

The applicant is requesting a Special Use Permit to allow the use of Adult-Use Cannabis Dispensing Organization at their property at 115 Perry Street. The applicant proposes to initially utilize the entire first-floor level for the dispensing organization operations, storage and administration, with possible expansion to a portion of, or all of, the second-floor level in the future. The applicant also wishes to request on-site consumption as part of the dispensing organization use, which is provided-for in our ordinance.

The detailed land use regulations of the proposed uses are satisfied by the application contents. Further detailed regulations, dictated by the State Act, will be applicable to the site development and building improvements and are subject to State inspection. The applicant provided floor plans, elevations with conceptual signage and a site plan. Subsequent submittals for building permits will be administratively reviewed by City Staff to ensure all applicable codes are met.

A site plan review of the proposed request has been conducted per the criteria listed in §154.914. Projected traffic analysis, hours of operation, staffing levels, parking requirements, landscaping requirements, lighting standards, natural protection standards and performance standards all meet the zoning code regulations.

Staff recommends approval of this request. Land uses surrounding the property include other Downtown Commercial uses.

Approval Criteria & Recommendation:

The purpose of a special use review is to provide an opportunity to utilize property for an activity, which under usual circumstances, could be detrimental to other permitted uses and which normally is not permitted within the same district. A special use may be permitted under circumstances particular to the proposed location and subject to conditions that provide protection to adjacent land uses. A special use is not a use by-right and one that is otherwise prohibited without approval of a special use permit.

The application shall demonstrate that the proposed development will comply with the following:

- (1) *Site plan review standards*. All applicable site plan review criteria in § 154.914.

(2) *District standards.* The underlying zoning district standards established in § 154.201 through § 154.209 including the defining characteristics of the district;

(3) *Specific standards.* The land use regulations established in § 154.406;

(4) *Availability of complementary uses.* Other uses complementary to, and supportive of, the proposed project shall be available including, but not limited to: schools, parks, hospitals, business and commercial facilities, and transportation facilities.

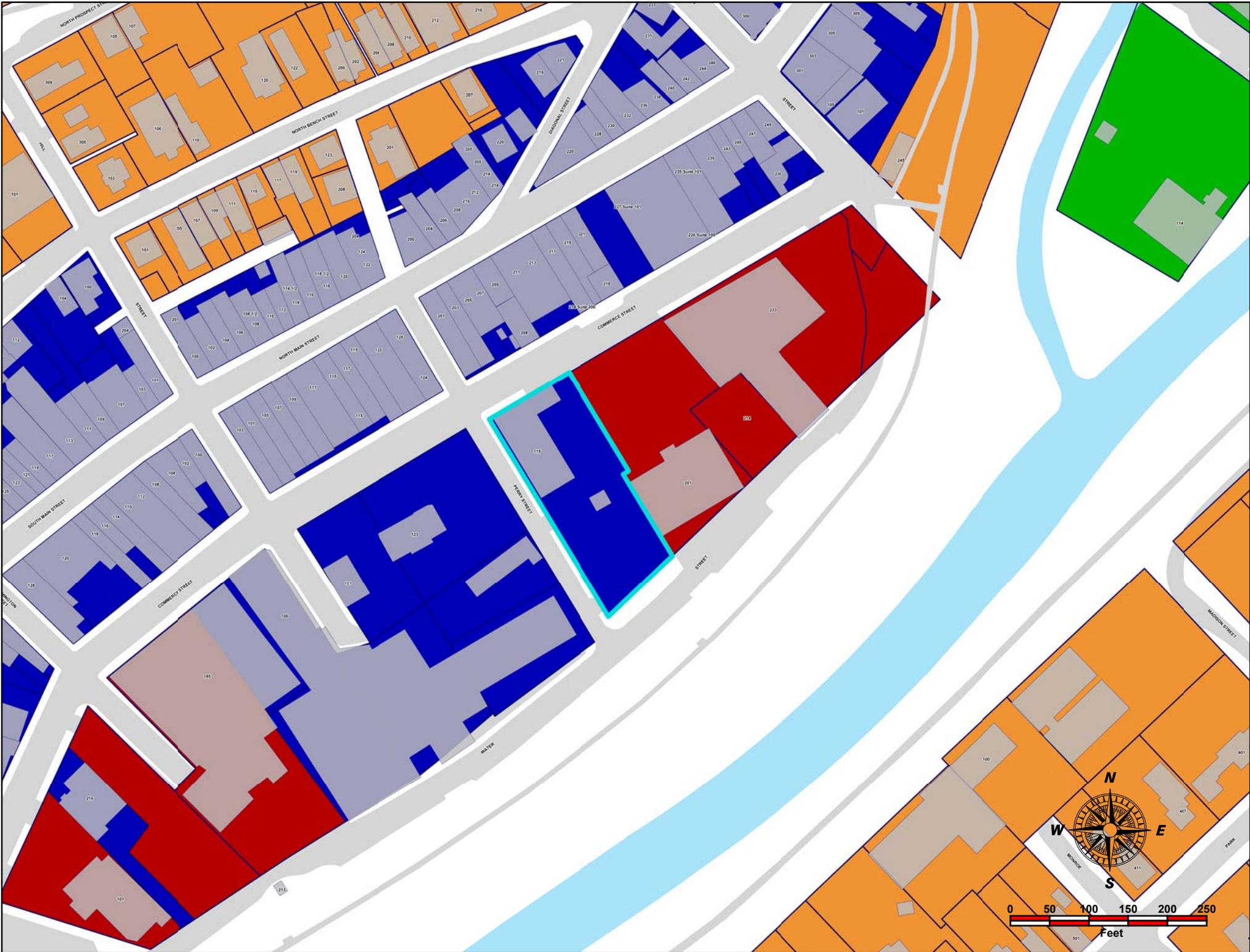
(5) *Compatibility with adjoining properties.* Compatibility with and protection of neighboring properties through measures such as:

(a) *Protection of privacy.* The proposed plan shall provide reasonable visual and auditory privacy for all dwelling units located within and adjacent to the site. Fences, walls, barriers and/or vegetation shall be arranged to protect and enhance the property and to enhance the privacy of on-site and neighboring occupants.

(b) *Protection of use and enjoyment.* All elements of the proposed plan shall be designed and arranged to have a minimal negative impact on the use and enjoyment of adjoining property.

(c) *Compatible design and integration.* All elements of a plan shall coexist in a harmonious manner with nearby existing and anticipated development. Elements to consider include: buildings, outdoor storage areas and equipment, utility structures, building and paving coverage, landscaping, lighting, glare, dust, signage, views, noise, and odors. The plan must ensure that noxious emissions and conditions not typical of land uses in the same zoning district will be effectively confined so as not to be injurious or detrimental to nearby properties.

The Zoning Board of Appeals can grant, conditionally grant, or deny all applications for a Special Use Permit or an amendment thereof. If the Board would like to grant the request, a motion to draft Findings of Fact should be entertained. The Findings of Fact will then be presented for final consideration at the next Board meeting.





usbank
Part of Sun Life Group

usbank

PERRY ST
COMMERCE ST

NO
PARKING
10:00 AM TO 5:00 PM
NO PARKING
10:00 AM TO 5:00 PM
NO PARKING

usbar



NOTES:

1. LIGHTING FIXTURES/STANDARDS: ALL FIXTURES SHALL BE FULL CUT-OFF OR A SHIELDED TYPE, NOT ALLOWING ANY UPWARD DISTRIBUTION OF LIGHT. FULL CUT-OFF FIXTURES MUST BE INSTALLED IN A HORIZONTAL POSITION AS DESIGNED. UP-LIGHTING SHALL BE PROHIBITED.

2. LIGHTING INTENSITY: IN NO INSTANCE SHALL THE AMOUNT OF ILLUMINATION ATTRIBUTABLE TO EXTERIOR LIGHTING, AS MEASURED AT THE PROPERTY LINE, EXCEED 0.5 FOOT CANDLES ABOVE AMBIENT LIGHTING CONDITIONS ON A CLOUDLESS NIGHT.

3. HOURS OF OPERATION: MONDAY - SATURDAY 11:00 A.M. TO 7:00 P.M. SUNDAY 12:00 P.M. TO 5:00 P.M.

4. TRAFFIC IMPACTS: (10 EMPLOYEES X 2 TRIPS/EMPLOYEE) + (120 CUSTOMERS X 2 TRIPS/CUSTOMER) = 260 TRIPS/DAY MAXIMUM

5. BUILDING MASSING: FIRST FLOOR = 4,715 SQ. FT. DISPENSING, 1,347 SQ. FT. CONSUMPTION

SECOND FLOOR = 6,064 SQ. FT.

6. REQUIRED PARKING: EXISTING SITE

7. LANDSCAPING: UTILIZE EXISTING LANDSCAPING

8. SIGNAGE: SEE BUILDING ELEVATIONS

PLAT OF SURVEY OF PROPERTY DESCRIBED AS

LOTS 51,52,53,54,93 AND 94 BETWEEN COMMERCE AND WATER STREETS IN THE CITY OF GALENA, ILLINOIS, LOT 95 BETWEEN COMMERCE AND WATER STREETS IN THE CITY OF GALENA, ILLINOIS, EXCEPT; A TRACT OF LAND SITUATED IN THE CITY OF GALENA, COUNTY OF JO DAVESS, STATE OF ILLINOIS, BEING PART OF LOT 95 IN THE BLOCK BOUNDED ON THE SOUTHWEST BY PERRY STREET, ON THE NORTHWEST BY COMMERCE STREET, ON THE NORTHEAST BY FRANKLIN STREET, AND ON THE SOUTHEAST BY WATER STREET, AND BEING MORE PARTICULARLY DESCRIBED AS: BEGINNING ON THE NORTHEASTERNLY LINE OF SAID LOT 95 AT A POINT WHICH IS 10.0 FEET NORTHWESTERLY OF THE EAST CORNER OF SAID LOT 95; THENCE SOUTHEASTERLY 10.0 FEET ALONG SAID NORTHEASTERNLY LINE OF SAID LOT 95 TO SAID EAST CORNER OF LOT 95; THENCE SOUTHWESTERLY 20.0 FEET ALONG THE SOUTHEASTERNLY LINE OF SAID LOT 95 TO A POINT; THENCE NORTHERLY TO THE POINT OF BEGINNING, LOT 96 BETWEEN COMMERCE AND WATER STREETS IN THE CITY OF GALENA, ILLINOIS, EXCEPT; A TRACT OF LAND SITUATED IN THE CITY OF GALENA, COUNTY OF JO DAVESS, STATE OF ILLINOIS, BEING PART OF LOT 96 IN THE BLOCK BOUNDED ON THE SOUTHWEST BY PERRY STREET, ON THE NORTHEAST BY FRANKLIN STREET, AND ON THE SOUTHEAST BY WATER STREET, AND BEING MORE PARTICULARLY DESCRIBED AS: BEGINNING ON THE NORTHEASTERNLY LINE OF SAID LOT 96 AT A POINT WHICH IS 30.0 FEET NORTHWESTERLY OF THE EAST CORNER OF SAID LOT 96; THENCE SOUTHEASTERLY 30.0 FEET ALONG SAID NORTHEASTERNLY LINE OF LOT 96 TO SAID EAST CORNER OF LOT 96; THENCE SOUTHWESTERLY ALONG THE SOUTHEASTERNLY LINE OF SAID LOT 96 TO THE SOUTH CORNER OF SAID LOT 96; THENCE NORTHWESTERLY 10.0 FEET ALONG THE SOUTHWESTERNLY LINE OF SAID LOT 96 TO A POINT; THENCE NORTHERLY TO THE POINT OF BEGINNING, ALL OF THE FOREGOING SUBJECT TO EASEMENTS OF RECORD LOTS 49 AND 50 BETWEEN COMMERCE AND WATER STREETS IN THE CITY OF GALENA, ON THE WEST SIDE OF GALENA RIVER, JO DAVESS COUNTY, ILLINOIS, SITUATED IN THE COUNTY OF JO DAVESS, STATE OF ILLINOIS.

A PUBLIC RIGHT-OF-WAY FOR THE PURPOSE OF CONSTRUCTING AND MAINTAINING ROADWAYS, SIDEWALKS AND UTILITIES, LOCATED IN THE CITY OF GALENA, JO DAVESS COUNTY, ILLINOIS AS PER QUIT CLAIM DEED TO THE CITY OF GALENA, ILLINOIS, RECORDED APRIL 30, 2002 AS DOCUMENT NUMBER 290113 MORE PARTICULARLY DESCRIBED AS FOLLOWS: A PART OF LOT 96 COMMENCING AT THE SOUTHEAST CORNER OF LOT 96 ON THE WEST SIDE OF WATER STREET BETWEEN FRANKLIN AND PERRY STREETS, IN THE CITY OF GALENA, ON THE WEST SIDE OF THE GALENA RIVER, JO DAVESS COUNTY, ILLINOIS; THENCE N 41 DEGREES 55'59" W ALONG THE EAST PROPERTY LINE OF SAID LOT 96, 30 FEET, MORE OR LESS, TO THE NORTHEAST CORNER OF THE LAND CONVEYED TO THE CITY OF GALENA, AS RECORDED IN BOOK 130 OF DEEDS, PAGES 431 AND 432, IN THE JO DAVESS COUNTY RECORDER'S OFFICE, ALSO BEING THE POINT OF BEGINNING; THENCE CONTINUING N 41 DEGREES 55'59" W, 6.68 FEET; THENCE S 17 DEGREES 44'04" W, 21.42 FEET, MORE OR LESS, TO A POINT ON THE NORTH LINE OF SAID CONVEYED LAND; THENCE N 35 DEGREES 27'34" E ALONG SAID WEST LINE, 18.93 FEET, MORE OR LESS, TO THE POINT OF BEGINNING, THE ABOVE DESCRIBED RIGHT-OF-WAY ACQUISITION CONTAINS 62.2 SQUARE FEET MORE OR LESS, SITUATED IN JO DAVESS COUNTY, ILLINOIS.

A PUBLIC RIGHT-OF-WAY FOR THE PURPOSE OF CONSTRUCTING AND MAINTAINING ROADWAYS, SIDEWALKS AND UTILITIES, LOCATED IN THE CITY OF GALENA, JO DAVESS COUNTY, ILLINOIS AS PER QUIT CLAIM DEED TO THE CITY OF GALENA, ILLINOIS, RECORDED APRIL 30, 2002 AS DOCUMENT NUMBER 290114 MORE PARTICULARLY DESCRIBED AS FOLLOWS: A PART OF LOT 95 COMMENCING AT THE SOUTHEAST CORNER OF LOT 95 ON THE WEST SIDE OF WATER STREET BETWEEN FRANKLIN AND PERRY STREETS, IN THE CITY OF GALENA, ON THE WEST SIDE OF THE GALENA RIVER, JO DAVESS COUNTY, ILLINOIS; THENCE N 42 DEGREES 48'22" E IN THE NORTH LINE OF SAID LOT, A DISTANCE OF 23.03 FEET; THENCE S 42 DEGREES 31'28" E A DISTANCE OF 12.85 FEET; THENCE S 08 DEGREES 50'42" W, 27.83; MORE OR LESS, TO A POINT ON THE EAST PROPERTY LINE OF LOT 95; THENCE S 41 DEGREES 55'59" E ALONG SAID EAST LINE, 6.68 FEET, MORE OR LESS, TO THE NORTHEAST CORNER OF SAID CONVEYED LAND; THENCE N 20 DEGREES 24'29" E ALONG THE NORTH LINE OF SAID CONVEYED LAND, 45.22 FEET, MORE OR LESS, TO THE POINT OF BEGINNING, THE ABOVE DESCRIBED RIGHT-OF-WAY ACQUISITION CONTAINS 557.5 SQUARE FEET, MORE OR LESS, SITUATED IN JO DAVESS COUNTY, ILLINOIS.

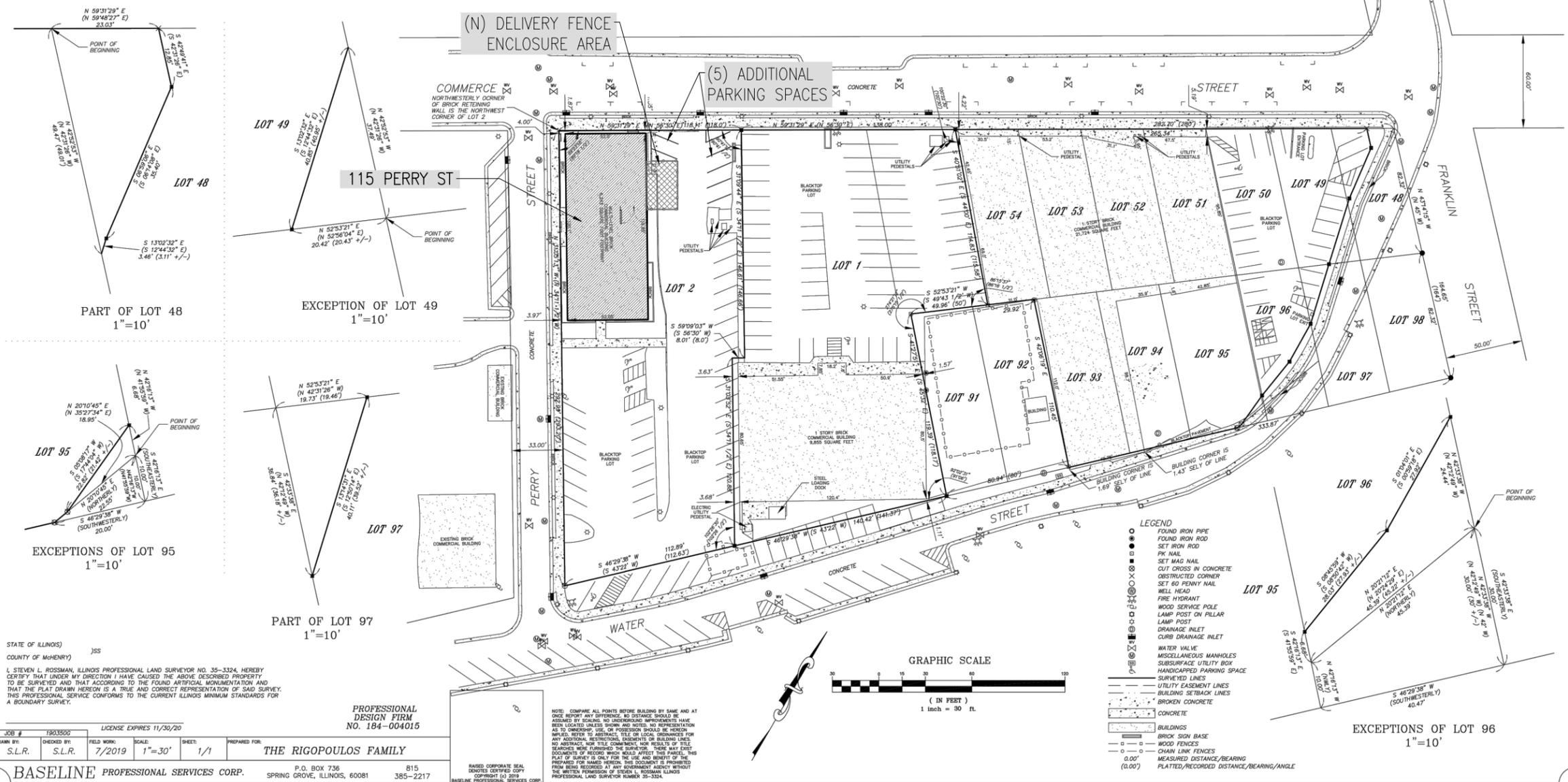
A PUBLIC RIGHT-OF-WAY FOR THE PURPOSE OF CONSTRUCTING AND MAINTAINING ROADWAYS, SIDEWALKS AND UTILITIES, LOCATED IN THE CITY OF GALENA, JO DAVESS COUNTY, ILLINOIS AS PER QUIT CLAIM DEED TO THE CITY OF GALENA, ILLINOIS, RECORDED APRIL 30, 2002 AS DOCUMENT NUMBER 290115 MORE PARTICULARLY DESCRIBED AS FOLLOWS: A PART OF LOT 49 BEGINNING AT THE SOUTHEAST CORNER OF LOT 49 ON THE EAST SIDE OF COMMERCE STREET BETWEEN FRANKLIN AND PERRY STREETS, IN THE CITY OF GALENA, ON THE WEST SIDE OF THE GALENA RIVER, JO DAVESS COUNTY, ILLINOIS; THENCE N 42 DEGREES 31'28" E A DISTANCE OF 12.85 FEET; THENCE S 08 DEGREES 50'42" W, 27.83; MORE OR LESS, TO A POINT ON THE SOUTH PROPERTY LINE OF SAID LOT 49; THENCE N 52 DEGREES 56'04" E ALONG SAID SOUTH LINE, 20.43 FEET, MORE OR LESS, TO THE POINT OF BEGINNING, THE ABOVE DESCRIBED RIGHT-OF-WAY ACQUISITION CONTAINS 381.2 SQUARE FEET MORE OR LESS, SITUATED IN JO DAVESS COUNTY, ILLINOIS.

A PARCEL OF LAND DESCRIBED AS PART OF LOT NUMBER FORTY-EIGHT (48) IN THE BLOCK BOUNDED ON THE SOUTHWEST BY PERRY STREET, ON THE NORTHWEST BY COMMERCE STREET, ON THE NORTHEAST BY FRANKLIN STREET AND THE SOUTHEAST BY WATER STREET, IN THE CITY OF GALENA, ON THE WEST SIDE OF THE GALENA RIVER, JO DAVESS COUNTY, ILLINOIS, EXCEPTING PREMISES CONVEYED TO THE CITY OF GALENA, IN BOOK 130 OF DEEDS, PAGE 433, SAID PARCEL IS MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWESTERLY CORNER OF SAID LOT 48; THENCE N 59 DEGREES 48'22" E IN THE NORTH LINE OF SAID LOT, A DISTANCE OF 23.03 FEET; THENCE S 42 DEGREES 31'28" E A DISTANCE OF 12.85 FEET; THENCE S 12 DEGREES 44'52" E A DISTANCE OF 35.40 FEET; THENCE S 12 DEGREES 44'52" E A DISTANCE OF 3.11 FEET MORE OR LESS, TO A POINT ON THE WEST PROPERTY LINE OF SAID LOT 48; THENCE N 42 DEGREES 31'28" W IN SAID WEST LINE A DISTANCE OF 49.01 FEET TO THE POINT OF BEGINNING, THE ABOVE DESCRIBED RIGHT-OF-WAY CONTAINS 689.54 SQUARE FEET, MORE OR LESS, SITUATED IN JO DAVESS COUNTY, ILLINOIS.

A PART OF LOT 97 BEGINNING AT THE NORTHWEST CORNER OF LOT 97 ON THE EAST SIDE OF COMMERCE STREET BETWEEN FRANKLIN AND PERRY STREETS, IN THE CITY OF GALENA, ON THE WEST SIDE OF THE GALENA RIVER, JO DAVESS COUNTY, ILLINOIS; THENCE N 42 DEGREES 31'28" W ALONG THE NORTH PROPERTY LINE OF SAID LOT 97, 19.46 FEET; THENCE S 12 DEGREES 50'14" E, 39.52 FEET, MORE OR LESS, TO A POINT ON THE WEST PROPERTY LINE OF SAID LOT 97; THENCE N 42 DEGREES 12'49" W ALONG SAID WEST LINE, 36.18 FEET, MORE OR LESS, TO THE POINT OF BEGINNING, THE ABOVE DESCRIBED RIGHT-OF-WAY CONTAINS 350.67 SQUARE FEET, MORE OR LESS, SITUATED IN JO DAVESS COUNTY, ILLINOIS.

ALSO

LOTS 1 AND 2 OF THE SUBDIVISION OF "FIRST NATIONAL BANK PLACE", ON THE WEST SIDE OF THE GALENA RIVER, JO DAVESS COUNTY, ILLINOIS, ACCORDING TO 1978 AS DOCUMENT NO. 146409 AND LOCATED IN PLAN HOLD 2 OF PLATS, NO. 86-B IN THE RECORDER'S OFFICE OF JO DAVESS COUNTY, ILLINOIS.



SUBMITTAL IS FOR CONCEPTUAL SITE PLANNING PURPOSES ONLY. THIS IS NOT AN OFFICIAL ENGINEERING OR SURVEY DOCUMENT. ORIGINAL DOCUMENT PREPARED BY BASELINE PROFESSIONAL SERVICES CORPORATION, INCORPORATED FOR REFERENCE ONLY.

APPLICANT:
HOLISTIC ILLINOIS LLC
300 MASSACHUSETTS
AVE NE
WASHINGTON, DC 20002

DESIGN CONSULTANT:
AD + ASSOCIATES
930 CARLETON STREET
BERKELEY CA, 94710

LIBERTY
115 PERRY ST
GALENA, ILLINOIS 61036

PROJECT TITLE
RETAIL CANNABIS

SITE PLAN
12.4.2019
A1.0

APPLICANT:
 HOLISTIC ILLINOIS LLC
 300 MASSACHUSETTS
 AVE NE
 WASHINGTON, DC 20002

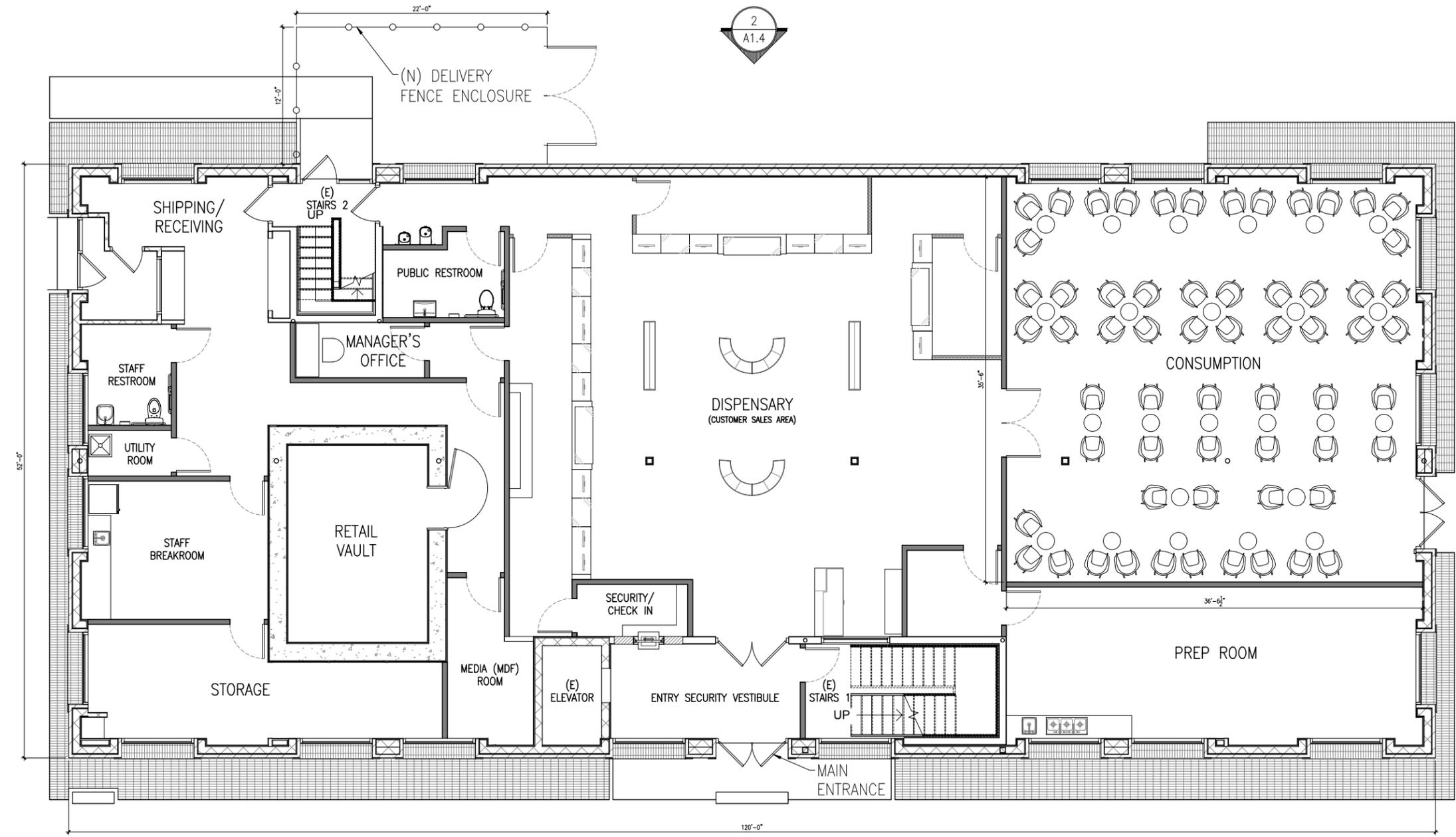
DESIGN CONSULTANT:
 AD + ASSOCIATES
 930 CARLETON STREET
 BERKELEY CA, 94710

LIBERTY
 115 PERRY ST
 GALENA, ILLINOIS 61036

PROJECT TITLE
 RETAIL CANNABIS

(N) PROPOSED
 FIRST LEVEL
 FLOOR PLAN
 12.4.2019

A1.1



1 (N) PROPOSED FIRST LEVEL FLOOR PLAN
 3/32" = 1'-0"

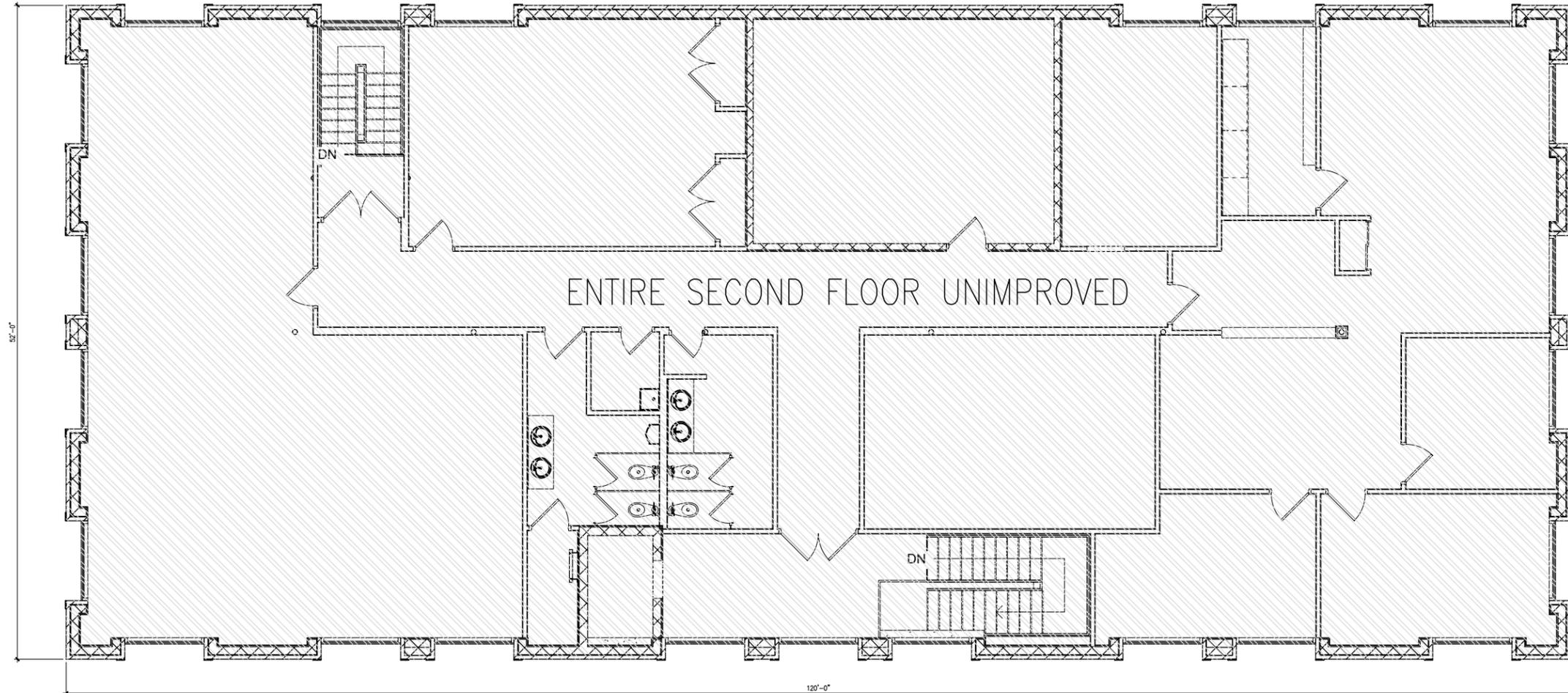
ROOMS	SQ. FT.	ROOMS	SQ. FT.	ROOMS	SQ. FT.	ROOMS	SQ. FT.	TOTAL AREA: 6,062 SQ. FT.
ENTRY SECURITY VESTIBULE	162	PREP ROOM	543	RETAIL VAULT	266	STAFF BREAKROOM	223	
SECURITY/ CHECK IN	52	PUBLIC RESTROOM	80	SHIPPING/ RECEIVING	596	STORAGE	326	
DISPENSARY	1,871	MANAGER'S OFFICE	63	STAFF RESTROOM	80	(E) ELEVATOR	61	
CONSUMPTION	1,347	MEDIA (MDF) ROOM	116	UTILITY ROOM	39	(E) STAIRS 1 & 2	237	

ROOM AREA CALCULATIONS

- WALL LEGEND
- (E) PARTITION
 - NEW PONY WALL
 - FILL IN THE (E) DOOR OR WINDOW
 - NEW FLOOR TO CEILING NON-RATED PARTITION
 - VAULT WALL REINFORCED WITH SECURITY WIRE MESH

APPLICANT:
 HOLISTIC ILLINOIS LLC
 300 MASSACHUSETTS
 AVE NE
 WASHINGTON, DC 20002

DESIGN CONSULTANT:
 AD + ASSOCIATES
 930 CARLETON STREET
 BERKELEY CA, 94710



ENTIRE SECOND FLOOR UNIMPROVED

TOTAL AREA: 6,064 SQ. FT.



LIBERTY
 115 PERRY ST
 GALENA, ILLINOIS 61036

PROJECT TITLE
 RETAIL CANNABIS

1 UNIMPROVED SECOND LEVEL FLOOR PLAN
 3/32" = 1'-0"

- (E) PARTITION
- NEW PONY WALL
- FILL IN THE (E) DOOR OR WINDOW
- NEW FLOOR TO CEILING NON-RATED PARTITION
- VAULT WALL REINFORCED WITH SECURITY WIRE MESH

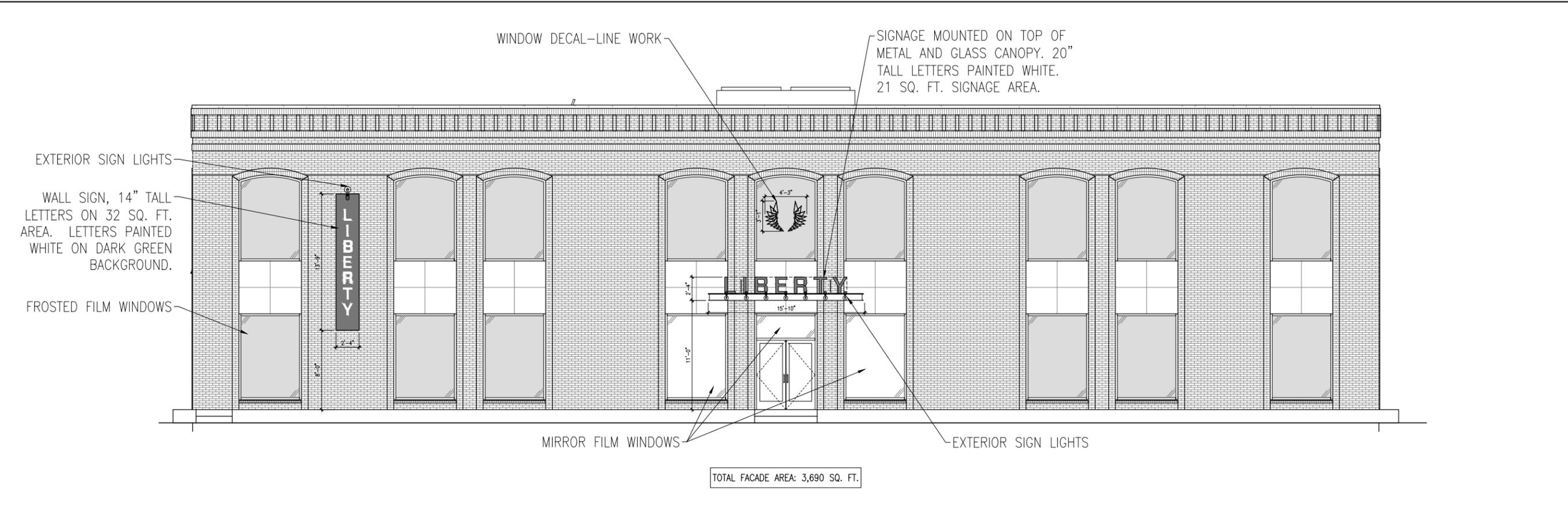
WALL LEGEND

UNIMPROVED
 SECOND LEVEL
 FLOOR PLAN
 12.4.2019

A1.2

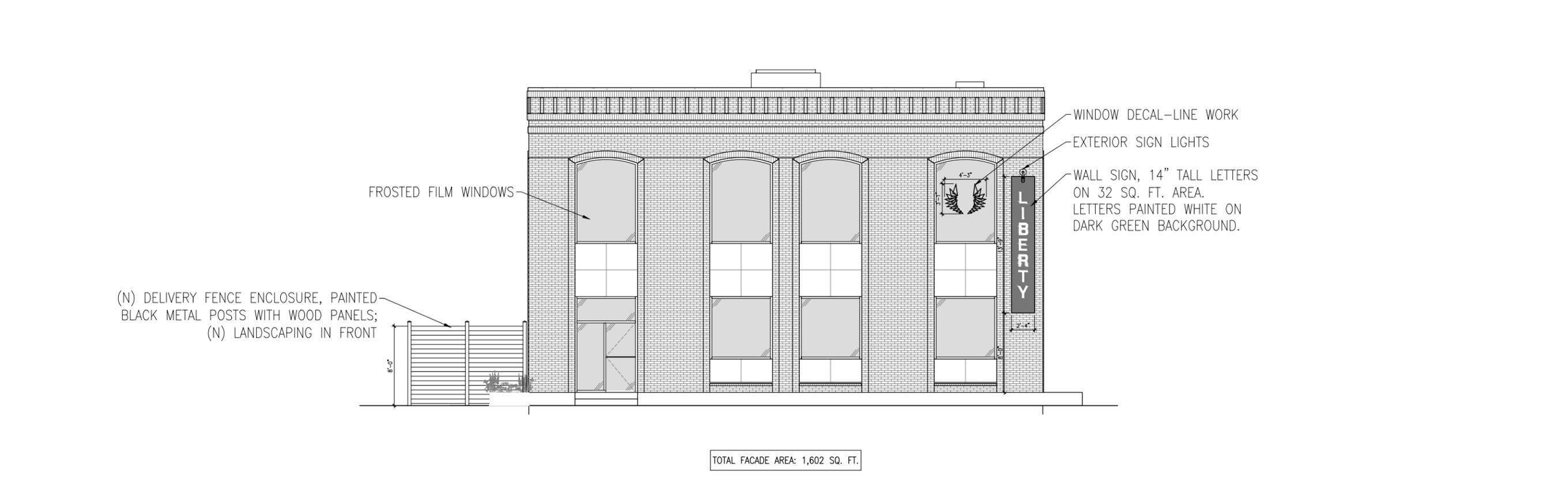
APPLICANT:
 HOLISTIC ILLINOIS LLC
 300 MASSACHUSETTS
 AVE NE
 WASHINGTON, DC 20002

DESIGN CONSULTANT:
 AD + ASSOCIATES
 930 CARLETON STREET
 BERKELEY CA, 94710



TOTAL FACADE AREA: 3,690 SQ. FT.

2 (N) PROPOSED SOUTH ELEVATION SIGNAGE
 3/32" = 1'-0"



TOTAL FACADE AREA: 1,602 SQ. FT.

1 (N) PROPOSED WEST ELEVATION SIGNAGE
 3/32" = 1'-0"

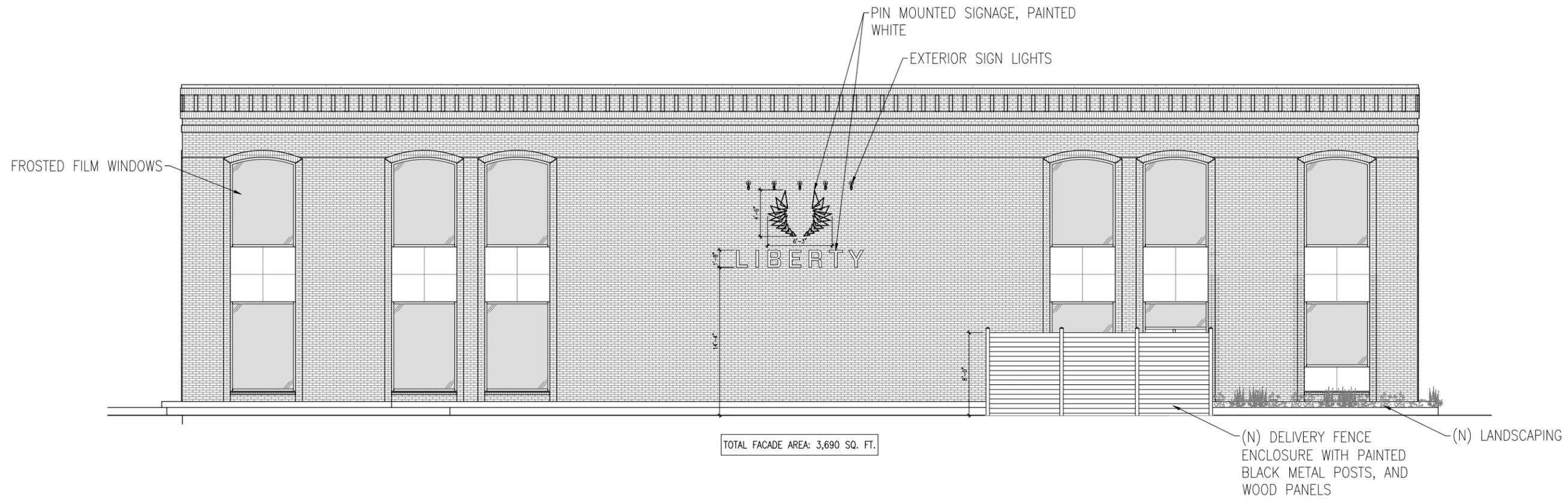
LIBERTY
 115 PERRY ST
 GALENA, ILLINOIS 61036

PROJECT TITLE
 RETAIL CANNABIS

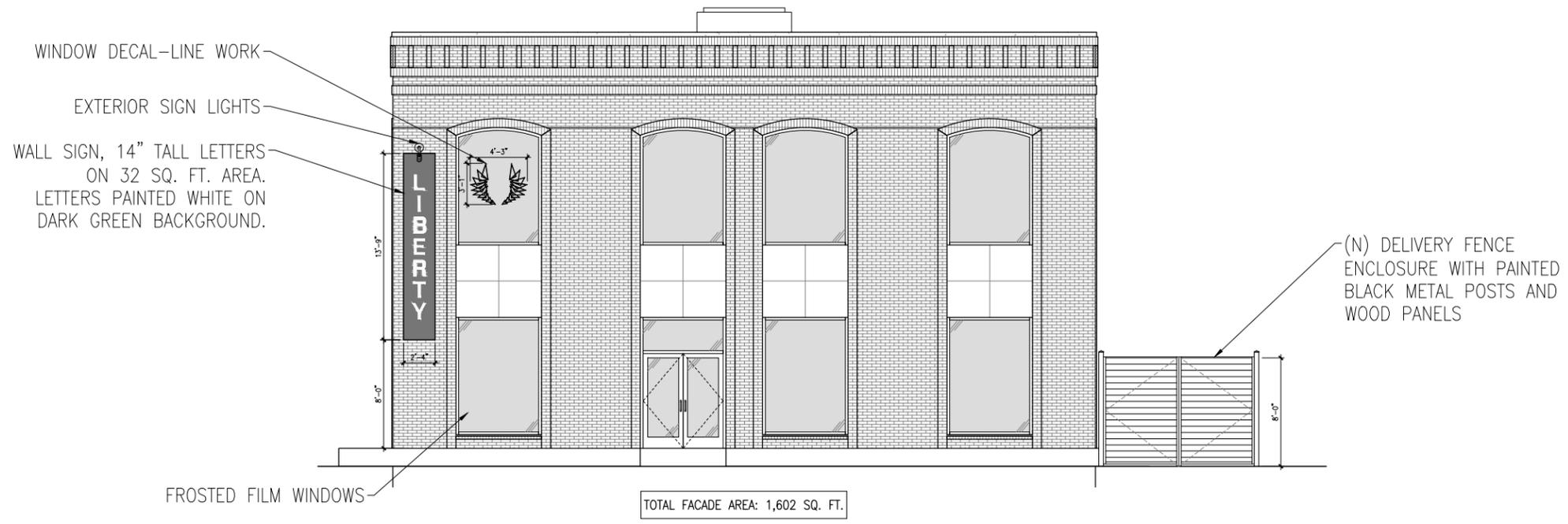
(N) PROPOSED
 SOUTH & WEST
 EXTERIOR ELEVATION
 SIGNAGE
 12.4.2019

APPLICANT:
 HOLISTIC ILLINOIS LLC
 300 MASSACHUSETTS
 AVE NE
 WASHINGTON, DC 20002

DESIGN CONSULTANT:
 AD + ASSOCIATES
 930 CARLETON STREET
 BERKELEY CA, 94710



2 (N) PROPOSED NORTH ELEVATION SIGNAGE
 3/32" = 1'-0"



1 (N) PROPOSED EAST ELEVATION SIGNAGE
 3/32" = 1'-0"

LIBERTY
 115 PERRY ST
 GALENA, ILLINOIS 61036

PROJECT TITLE
 RETAIL CANNABIS

(N) PROPOSED
 NORTH & EAST
 EXTERIOR ELEVATION
 SIGNAGE
 12.4.2019

A1.4

CITY OF GALENA, ILLINOIS

101 Green Street • P.O. Box 310 • Galena, Illinois 61036



MEMORANDUM

TO: The Zoning Board of Appeals

FROM: Matt Oldenburg, Zoning Administrator

DATE: December 6, 2019

MATT

RE: Cal. No. 19V-05, Applicant: pb2 architecture + engineering, 2809 Ajax Avenue, Suite 100, Rogers, AR 72758; and Owner: Walmart Real Estate Business Trust, 10000 Bartell Blvd. – Walmart #5044, Galena, IL 61036. Parcel: 13-001-106-11, Lot 1 of Block 1 of Galena Scenic Meadows Unit 2, Galena, Jo Daviess County, Illinois. Common address is 10000 Bartell Blvd., Galena, IL 61036. Request for Variance to allow a second internally-illuminated wall sign on the building for new Pick-up business.

Summary:

The applicant is requesting a Variance to allow a second internally-illuminated wall sign on the Walmart primary façade to communicate a new Pick-up business. Essentially, Walmart will offer a service where online orders can be made, then items are shopped-for by the Walmart personnel, then they deliver it to you in your car in the parking lot.

The ordinance allows only one internally-illuminated wall sign per building. Given the 800+ feet setback from the highway, the applicant wishes to illuminate the wall sign to help indicate the new business is available at the property and to direct them to that side of the building for pick-up. As you can see on the attached elevation, the sign is relatively small-scale compared to the size of the façade. Additionally, new development in front of Walmart will hinder visibility of the building.

A photograph is included in the packet to help you visualize the night-time appearance of the sign – please disregard the canopy that it is mounted-to as it is not part of this request.

A similar variance was granted to Galena Square in 1994 as well as Hartig's for setback reasons.

Approval Criteria & Recommendation for Variance:

A variance is not a right. It may be granted to an applicant only if the applicant establishes that strict adherence to this code will result in practical difficulties or undue hardships because of site characteristics that are not applicable to most properties in the same zoning district. Such variances shall be granted only when the applicant establishes that all of the following criteria, as applicable, are satisfied:

- (1) *Hardship unique to property, not self-inflicted.* There are exceptional conditions creating an undue hardship, applicable only to the property involved or the intended use thereof, which do not apply generally to the other land areas or uses within the same zone district, and such exceptional conditions or undue hardship was not created by the action or inaction of the applicant or owner of the property;
- (2) *Special privilege.* The variance will not confer on the applicant any special privilege that is denied to other lands or structures in the same zoning district;

- (3) *Literal interpretation.* The literal interpretation of the provisions of the regulations would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district and would work unnecessary and undue hardship on the applicant;
- (4) *Reasonable use.* The applicant and the owner of the property cannot derive a reasonable use of the property without the requested variance;
- (5) *Minimum necessary.* The variance is the minimum necessary to make possible the reasonable use of land or structures;
- (6) *Compatible with adjacent properties.* The variance will not be injurious to, or reduce the value of, the adjacent properties or improvements or be detrimental to the public health, safety or welfare. In granting a variance, the decision-maker may impose conditions deemed necessary to protect affected property owners and to protect the intent of this code;
- (7) *Conformance with the purposes of this code.* The granting of a variance will not conflict with the purposes and intents expressed or implied in this Code; and
- (8) *Conformance with the Comprehensive Plan.* The granting of a variance will not conflict with the goals and principles in the adopted Comprehensive Plan.

The Zoning Board of Appeals can approve, approve with conditions, or deny requests for variances. If the Board would like to approve the request, a motion to draft Finding of Facts should be entertained. The Findings of Facts will then be presented for final consideration at the next Board Meeting.



