

Council Bill/General Ordinance No. 3028-2022

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AN ORDINANCE

APPROVING a Special Use Permit for a Cannabis Dispensary
(Deeprootz, LLC – 2727 Avenue of the Cities)

WHEREAS, the City of Moline is a home rule municipality under the Illinois Constitution of 1970; and

WHEREAS, Deeprootz LLC (“Applicant”), with permission of owner Dan Dolan, has applied for a Special Use Permit for the establishment and operation of a cannabis dispensary (“Dispensary”) on the property commonly known as 2727 Avenue of the Cities, Moline, Illinois which is legally described in Exhibit A which is attached hereto (“Property”), located in the Cannabis Dispensary Overlay District (“CDOD”), Avenue of the Cities Corridor, and in the underlying “NC” Neighborhood Center District; and

WHEREAS, a public hearing was held on August 24, 2022, before the City of Moline Plan Commission, due notice of the meeting having been published and mailed to those required to receive notice and all those members of the public desiring to testify were given the opportunity; and

WHEREAS, pursuant to the findings of fact attached as Exhibit B and by this reference made a part of this Ordinance, the Plan Commission recommended that Applicant’s application for a Special Use Permit be approved subject to certain conditions; and

WHEREAS, the City Council finds that the establishment, maintenance, or operation of the special use, subject to conditions, will satisfy the review criteria set forth in Moline Code of Ordinances Section 35-2206(c), by:

meeting all applicable site plan review criteria in Sec. 35-2105(c);

meeting the underlying zoning district standards established in Article III for the CDOD Avenue of the Cities Corridor and the “NC” Neighborhood Center District, including the defining characteristics of the district;

meeting the specific standards and land use regulations established in Division 4 and Division 8 of Article III;

having other uses complementary to, and supportive of, the proposed project available including, but not limited to business and commercial facilities, and transportation facilities; and

being compatible with and protecting neighboring properties through measures that protect privacy, protect use and enjoyment, and provide compatible design and integration.

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NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Moline, Illinois, in the exercise of its home rule powers as follows, with the foregoing recitals incorporated herein by reference:

Section 1. Approvals.

A. Subject to the conditions set forth in Section 2 of this Ordinance and in accordance with the testimony and exhibits presented to the Plan Commission and the City Council, the Property shall be zoned and classified with a Special Use Permit for the operation of a Dispensary upon the Property.

Section 2. Conditions.

The approvals for the Property set forth in Section 1 of this Ordinance will be and are hereby expressly subject to and contingent upon each of the following terms, conditions, and restrictions:

A. Compliance with Laws. The development, use, operation, and maintenance of the Property will be in strict compliance with all applicable City, county, and state statutes, ordinances, rules, and regulations, including the Cannabis Regulation and Tax Act, as amended, and applicable administrative rules.

B. Compliance with Plans. The development, use, operation, and maintenance of the Property will be in substantial compliance with all of Applicant's application documents and plans for its state cannabis dispensary license and City special use permit, except for minor changes and site work approved by the zoning administrator in accordance with all applicable City rules, regulations, and ordinances, including:

1. "Site Plan", prepared by Arch 7, consisting of 1 sheet with a latest revision date of Sep. 2, 2022, attached as *Exhibit C*, and by this reference, made a part of this Ordinance; and

2. "Floor Plan", prepared by Arch 7, consisting of 1 sheet with a latest revision date of Sep. 2, 2022, attached as *Exhibit D*, and by this reference, made a part of this Ordinance.

C. No Authorization of Work. This Ordinance does not authorize commencement of any work on the Property. Except as otherwise specifically provided in writing in advance by the City, no work of any kind shall be commenced on the Property pursuant to the approvals granted unless and until all conditions precedent to such work have been fulfilled and after all permits, approvals, and other authorizations for such work have been properly applied for, paid for, and granted in accordance with applicable law.

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D. Security.

1. In addition to all state-imposed security requirements, the Dispensary must install and maintain in good working order security, video surveillance, and inventory protection and control systems in conformance with a security plan approved by the City's Chief of Police prior to opening to the public and annually thereafter. The Dispensary must comply with such additional safeguards the City Chief of Police may require in response to any special security concerns relative to the Dispensary and the Property.

2. The Applicant must install antennae for public safety communications compatible with the P25 radio system approved by the City's Chief of Police.

E. Air Treatment. In addition to all state-imposed air treatment requirements, the zoning administrator may impose additional air treatment requirements on the Dispensary to control odor and promote compliance with city nuisance ordinances and other applicable ordinances as may be amended.

F. Operational Compliance, Traffic, and Parking Review. The zoning administrator may periodically review the issuance of the special use permit to the Applicant for compliance with the special permit standards and conditions and to assess vehicle parking and site access. The Applicant shall submit, at its own expense, such documents or evidence the zoning administrator may request for review, including an updated traffic study to review the impact that traffic caused by the Dispensary has imposed on surrounding properties. Based on the review and upon notice to the Applicant, the zoning administrator may file a staff-initiated application with the Plan Commission to recommend additional or different special use permit conditions the City Council may approve to bring the Dispensary in to compliance with City ordinances and special permit standards.

G. Property Lighting Review. Prior to the issuance of a building permit for the Dispensary, the Applicant shall file a lighting and photometric plan for approval by the zoning administrator upon compliance with the special use permit ordinance and all other applicable City ordinances. The Applicant must at all times comply with the approved lighting plan, and install and maintain interior, exterior, and site lighting for the Dispensary in good working order and with sufficient light for security cameras and the safety of customers and employees.

H. Cannabis Waste. The Applicant must comply with all state, county, and City regulations governing cannabis waste.

I. Hours of Operation. Notwithstanding the hours of operation that may be allowed by state law, the Applicant agrees the hours of operation for the Dispensary will be limited to the following:

<u>Day</u>	<u>Hours</u>
Monday	7 am - 9 pm
Tuesday	7 am - 9 pm

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Wednesday	7 am - 9 pm
Thursday	7 am - 9 pm
Friday	7 am - 9 pm
Saturday	7 am - 9 pm
Sunday	9 am - 6 pm

J. Drive-Thru. Drive-thru windows and “curbside” delivery are prohibited on the Property.

K. On-Premises Cannabis Consumption Prohibition. On-premises cannabis consumption is prohibited. The Applicant may not allow the smoking, inhalation, or consumption of cannabis on the premises in any form on the premises, including within the Dispensary, in the Dispensary’s parking lot, or anywhere on the Property. A sign, at least 8.5 by 11 inches, shall be posted inside the Dispensary in a conspicuous place and visible to patrons and shall include the following language: “Smoking, eating, drinking or other forms of consumption of cannabis products is prohibited on the premises of this establishment.”

L. Signage Required by Law. The Dispensary shall maintain all mandatory signage required by state or federal law.

M. Temporary Signs. Notwithstanding any provision of the City ordinances to the contrary, temporary signs are not permitted on the Property.

N. Signs. The signs shown in the elevations on the site plan in Exhibit B are not final renderings, and the Applicant may have other signs on the Property to the extent permitted by the City’s sign ordinances (Code ch. 3, art. II), except for temporary signs. Prior to the issuance of a building permit for the Dispensary, the Applicant must apply for and obtain all required approvals under the City’s sign ordinances for all signs for the development, use, operation, and maintenance of the Dispensary on the Property.

O. Loitering Prohibited. Loitering is prohibited on the Property, including in the Dispensary’s parking lot.

P. Minimum Age. No person under the age of 21 may be permitted to enter the Dispensary, except as authorized by state law.

Q. State License. Before issuance of a certificate of occupancy or otherwise opening to the public, the Applicant must file a copy of all required state licenses to operate a cannabis dispensary on the Property with the zoning administrator. The Dispensary must obtain and, at all times, maintain a valid license issued by the Illinois Department of Financial and Professional Regulation to operate a cannabis dispensary. Copies of all state licenses as well as all renewals shall be provided to the zoning administrator no later than 30 days of issuance as well as copies of corresponding application materials, including all required certifications, declarations, and affidavits, for state licenses and corresponding license renewals.

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R. Inspections. In addition to those inspections authorized by state law, the Dispensary is subject to random and unannounced inspections by local law enforcement and, when reasonable cause of a violation exists, the Dispensary is subject to inspections by the zoning administrator with the assistance of corporation counsel, the police department, or other City agents and employees.

S. Text Amendment. Before the issuance of a building permit for the Dispensary, the City Council must approve a text amendment to allow cannabis dispensaries as a special use in the NC Zoning District.

Section 3. Failure to Comply with Conditions. Upon failure or refusal of the Applicant to comply with any or all of the conditions, restrictions, or provisions of this Ordinance, the Special Use Permit granted by this Ordinance will, at the sole discretion of the City Council, by ordinance duly adopted, be revoked and become null and void; provided, however, that the City Council may not revoke the Special Use Permit unless it first provides the Applicant with two months advance written notice of the reasons for revocation and an opportunity to be heard at a regular meeting of the City Council. In the event of a revocation of the Special Use Permit, the City Administrator and corporation counsel are hereby authorized and directed to bring any zoning enforcement action appropriate under the circumstances. The Applicant acknowledges that public hearings have been held with respect to the adoption of this Ordinance, and it has considered the possibility of the revocation provided for in this Section 3 and agrees not to challenge any such revocation on the grounds of any procedural infirmity or any denial of any procedural right, provided that the notice to the Applicant required by this Section is given.

Section 4. Amendment. Any amendment to the special use permit granted in this Ordinance that may be requested by the Applicant after the effective date of this Ordinance may be granted only pursuant to the procedures, and subject to the standards and limitations, provided in the Zoning Ordinance.

Section 5. Binding Effect; Non-Transferability. The privileges, obligations, and provisions of each and every Section of this Ordinance, are for the sole benefit of, and will be binding on, the Applicant. Nothing in this Ordinance will be deemed to allow this Special Use Permit to be transferred to any person or entity without a new application for approval for any person or entity other than the Applicant. The Special Use Permit applies only to Applicant and this specific business and any sale or other transfer of the business or the Subject Property shall render the Special Use Permit null and void.

Section 6. Limitation of Approval. Subject to an extension of time granted by resolution approved by the City Council, the Special Use Permit approved by this Ordinance will automatically expire if the Applicant does not: a) obtain a building permit, begin construction within one year of the Effective Date of this Ordinance, and thereafter diligently pursue construction to completion; and b) obtain a certificate of occupancy and open the Dispensary to the public within two years of the Effective Date of this Ordinance. After the Dispensary is issued a building permit, certificate of occupancy, and is open to the public, the Special Use Permit will

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automatically expire and cease to be of any force or effect if such use will, for any reason, be discontinued for a period of six consecutive months or more.

Section 7. Effective Date.

A. This Ordinance will be effective only upon occurrence of all of the following events:

1. passage by the City Council by a majority vote in the manner required by law;
2. publication in pamphlet form in the manner required by law;
3. the filing by the Applicant with the City Clerk an unconditional agreement and consent to accept and abide by each and all of the terms, conditions, and limitations set forth in this Ordinance. The unconditional agreement and consent must be in the form of Exhibit E attached to and, by this reference, made part of this Ordinance; and
4. the recording of this Ordinance together with any exhibits as the City Clerk deems appropriate for recording in the Office of the Rock Island County Recorder. The Applicant will bear the full cost of recording.

B. In the event the Applicant does not file with the City Clerk a fully executed copy of the unconditional agreement and consent referenced in Subsection (A)(3) of Section 7 of this Ordinance within 90 days of the date of passage of this Ordinance by the City Council, the City Council will have the right, in its sole discretion, to declare this Ordinance null and void and of no force or effect.

CITY OF MOLINE, ILLINOIS

DocuSigned by:


Mayor 1A0D2384B98B164...

September 27, 2022

Date

Passed: September 27, 2022

Approved: October 4, 2022


Attest: 
City Clerk 1A0D2384B98B164...

EXHIBIT A
LEGAL DESCRIPTION

LOT 3 PLAZA ON THE AVENUE 2ND ADD SHT 16

Property Commonly Known as: 2727 AVENUE OF THE CITIES, MOLINE, ILLINOIS

PINs: 17-04-415-001, 17-04-415-002, 17-04-415-003, 17-04-415-004

EXHIBIT B

FINDINGS OF FACT

(see attached)

FINDINGS OF FACT

The Plan Commission finds the following:

(1) Site Plan Review Standards.

The proposed dispensary use is to be located in an existing commercial building with no external construction proposed. This project will not require a site plan review.

(2) District Standards.

The subject property is located in the "NC" Neighborhood Center District. The "NC" district is intended to provide areas for small-scale commercial uses generally serving the needs of the surrounding residential areas. These uses are generally located in small buildings (10,000 square feet or less) with low building heights (35 feet or less). This proposed use will be located in an existing multi-tenant commercial building, consisting of small commercial spaces, including the proposed cannabis dispensary, which totals 7,572 square feet. On August 10, 2022, the Plan Commission recommended approval of an amendment to the Adult Use Cannabis regulations that would permit the establishment of an adult use cannabis dispensary with a Special Use Permit in the NC zoning district within the Cannabis Dispensary Overlay Districts.

(3) Specific Standards.

Sections 35-3802 and 35-3803 of the Moline Code of Ordinances outline the application requirements and conditions for adult use cannabis business establishments. City staff has reviewed all of the required plans and the traffic study and have determined the application meets the requirements of the ordinance. The traffic study determined that the additional traffic volumes and parking demands for the proposed cannabis dispensary can be accommodated by the existing access, roadway network, and parking supply with no modifications necessary. However, the Commission noted that for traffic circulation efficiency and safety, the primary access shall be via the 27th Street point, and the existing access to the Avenue of the Cities (in front of the store) be modified to right-in/right-out only and that appropriate signage be provided. The Commission also stipulated that a pedestrian access way be provided between the building and 27th Street, and a bus shelter be provided for the bus stop on 27th Street.

(4) Availability of Complementary Uses.

The proposed location of the cannabis dispensary is at the intersection of Avenue of the Cities and 27th Street. This intersection is traffic controlled with dedicated left turn lanes and left traffic signals on all four legs of the intersection. This location is adjacent to other commercial businesses and is on the No. 30 route for MetroLINK. Under state law, any products sold at the dispensary must be sealed to prevent the customer from opening the product prior to their final destination.

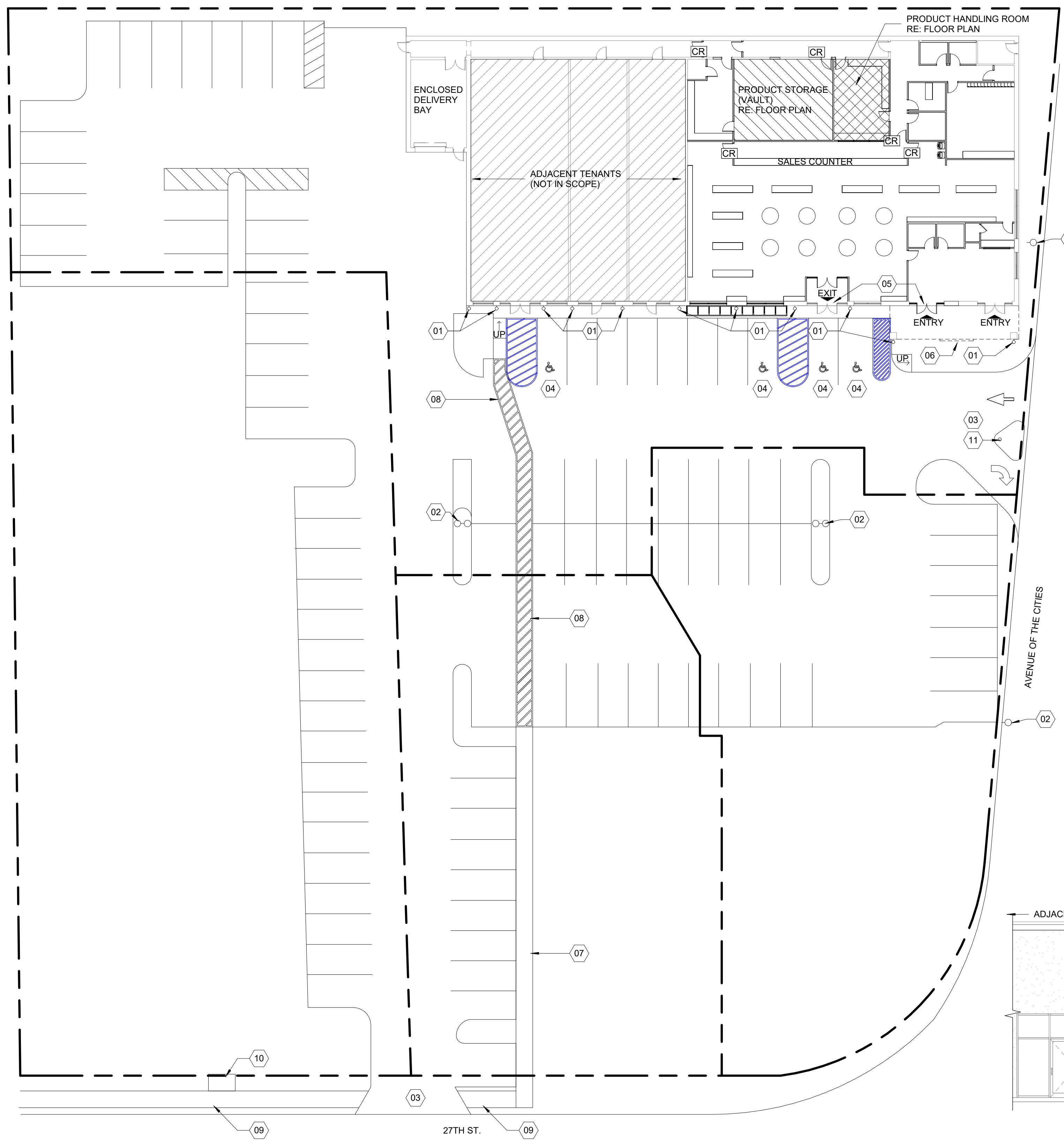
(5) Compatibility with Adjoining Properties.

The proposed use will be located in an existing commercial development that includes an existing fence and landscaping adjacent to the residential uses to the north of the site. Furthermore, the proposed use meets the separation requirements of Illinois state law and Section 35-3804 of the Moline Code of Ordinances.

EXHIBIT C

SITE PLAN

(see attached)



1 SITE PLAN
1" = 20'-0"

NORTH SCALE: 1" = 20' - 0"

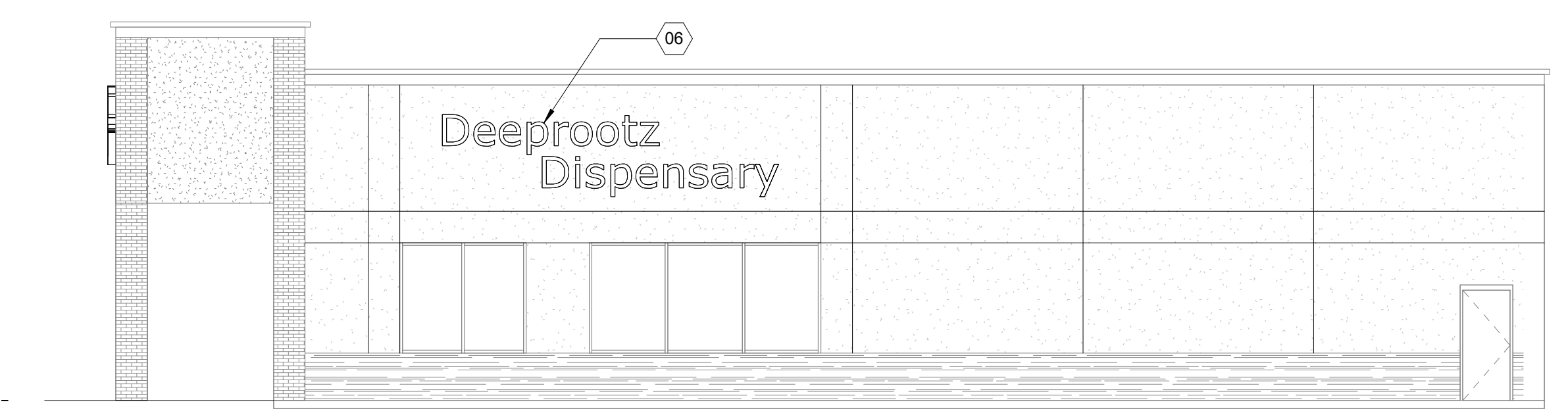
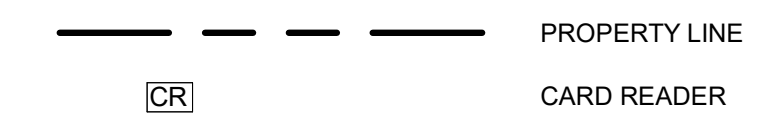
REFERENCE NOTES

- 01) EXISTING WALL MOUNTED LIGHTING.
- 02) EXISTING POLE MOUNTED LIGHTING.
- 03) PUBLIC ACCESS POINT FROM STREET. (RIGHT-IN, RIGHT-OUT ACCESS ONLY).
- 04) EXISTING ACCESSIBLE PARKING SPACES.
- 05) ACCESSIBLE ENTRY & EXIT.
- 06) BUILDING SIGNAGE.
- 07) PEDESTRIAN ACCESS SIDEWALK FROM 27TH STREET.
- 08) STRIPED PEDESTRIAN WALKWAY.
- 09) EXISTING SIDEWALK.
- 10) BUS SHELTER.
- 11) RIGHT TURN ONLY SIGNAGE.

GENERAL NOTES

1. SITE IS LOCATED ON A HIGHLY VISIBLE PUBLIC THOROUGHFARE THAT PROMOTES A SAFE ENVIRONMENT FOR DISPENSING OF CANNABIS. DISPENSING OF CANNABIS OCCURS WITHIN A SECURE LOCATION INSIDE OF THE BUILDING IN A ROOM NOT PUBLICLY ACCESSIBLE. RE: FLOORPLAN.
2. THE TOTAL SQUARE FOOTAGE OF THE DISPENSARY IS 7,572 SQ. FT. WHICH IS ADEQUATE FOR SUCH A FACILITY.
3. THE POWER ALLOCATION FOR THE DISPENSARY IS ADEQUATE FOR A RETAIL ESTABLISHMENT.
4. EXISTING LIGHTING PROVIDED IS SUFFICIENT FOR THE DISPENSARY USE. SECURITY LIGHTS WILL INCLUDE SENSORS.
5. PRODUCT HANDLING AND STORAGE OCCURS IN AREAS NOT ACCESSIBLE TO THE PUBLIC, AND REQUIRING CARD ACCESS. RE: FLOORPLAN.

LEGEND



3 SOUTH ELEVATION
1/8" = 1'-0"



2 WEST ELEVATION
1/8" = 1'-0"



DEEPROUTZ
DISPENSARY
 2727 AVENUE OF THE CITIES
 MOLINE, IL 61265

Project Number
2022-25

REV	DESCRIPTION	DATE

PRELIMINARY
FOR INTERIM REVIEW.
NOT TO BE USED FOR
BIDDING, PERMIT,
PROCUREMENT, OR
CONSTRUCTION.

Date 09/02/22

SITE PLAN

SITE1

EXHIBIT D

FLOOR PLAN

(see attached)

REFERENCE NOTES

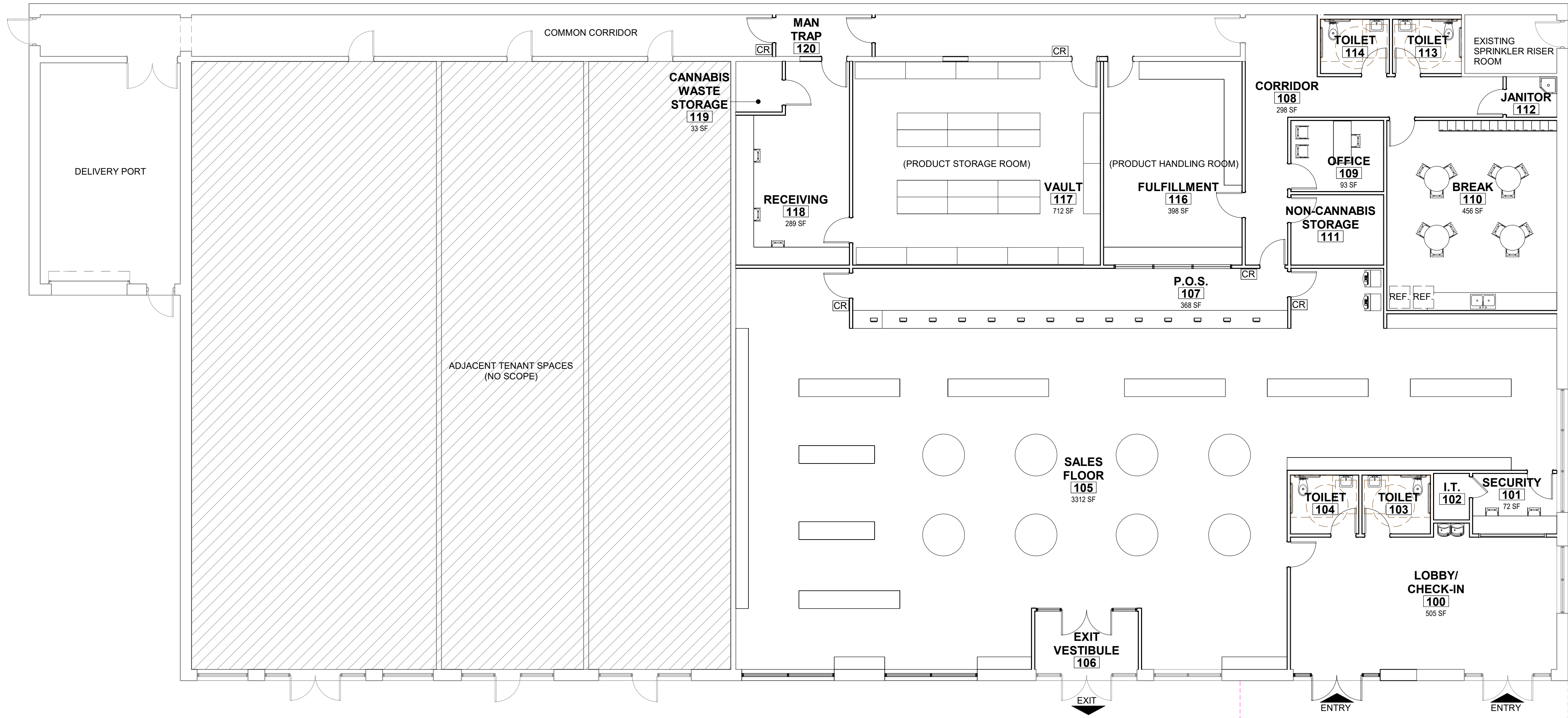
01 REFERENCE NOTES HERE

GENERAL NOTES

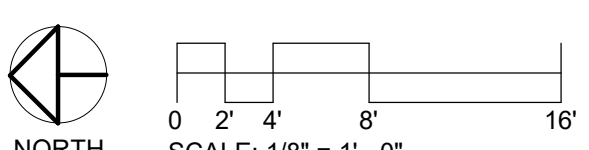
1. GENERAL NOTES HERE.

LEGEND

CR CARD READER



1 FLOOR PLAN
1/8" = 1'-0"



TOTAL DISPENSARY SQUARE FOOTAGE: 7,572 SQ FT. (GROSS)

DEEPROOTZ
DISPENSARY
 2727 AVENUE OF THE CITIES
 MOLINE, IL 61265

Project Number
2022-25

REV	DESCRIPTION	DATE

PRELIMINARY
FOR INTERIM REVIEW.
NOT TO BE USED FOR
BIDDING, PERMIT,
PROCUREMENT, OR
CONSTRUCTION.

Date 07/14/22

FLOOR PLAN

A100

EXHIBIT E
UNCONDITIONAL AGREEMENT AND CONSENT

TO: The City of Moline, Illinois (“*City*”)

WHEREAS, Deeprootz, LLC (“*Applicant*”) filed an application for a special use permit to operate an adult use cannabis dispensary on the property located at 2727 Avenue of the Cities, Moline, Illinois 61265 (“*Zoning Relief*”); and

WHEREAS, the City’s Special Use Permit approval dated _____, 2022, grants the requested Zoning Relief, subject to certain conditions (“*Approval*”); and

WHEREAS, the Applicant desires to evidence to the City its unconditional agreement and consent to accept and abide by each of the terms, conditions, and limitations set forth in the Approval.

NOW THEREFORE, the Applicant does hereby agree and covenant as follows:

1. the Applicant hereby unconditionally agrees to accept, consent to and abide by all terms, conditions, restrictions, and provisions of the Approval;
2. the Applicant acknowledges and agrees that the City will not be, in any way, liable for any damages or injuries that may be sustained as a result of the City’s approval of the Zoning Relief for the Applicant, and that the City’s approval of any such request does not, and will not, in any way, be deemed to insure the Applicant against any damage or injury of any kind and at any time;
3. the Applicant acknowledges and has considered the possibility of the revocation for violation of the terms, conditions, and limitations in the Approval, and agrees not to challenge any such revocation on the grounds of any procedural infirmity or any denial of any procedural right;
4. the Applicant agrees to and does hereby hold harmless and indemnify the City, the City’s corporate authorities, and all City elected and appointed officials, officers, employees, agents, representatives, and attorneys, from any and all claims that may, at any time, be asserted against any of such parties in connection with (a) the City’s approval of the Zoning Relief, (b) the procedures followed in connection with the Approval, and (c) the performance of the Applicant of its obligations under this Unconditional Agreement and Consent;
5. the Applicant does hereby, agree to pay all expenses incurred by the City in defending itself with regard to any and all claims mentioned in this Unconditional Agreement and Consent. These expenses will include all out-of-pocket expenses, such as attorneys’ and experts’ fees, and will also include the reasonable value of any services rendered by any employee of the City.

EXHIBIT E
UNCONDITIONAL AGREEMENT AND CONSENT

ATTEST:

APPLICANT

By: _____

By: _____

Its: _____

Its: _____

SUBSCRIBED and SWORN to
Before me this _____ day of
_____, 2022

Notary Public

<seal>