

REGULAR MEETING OF THE PLANNING COMMISSION

Tuesday November 17, 2015, 6:00 P.M.

Council Chambers, City Hall

212 S. Vanderhurst Avenue, King City, CA

<http://www.kingcity.com>

PLANNING COMMISSION MEMBERS

David Nuck, Chairperson	David Mendez, Vice Chairperson	Michael Barbree, Commissioner	Margaret Raschella, Commissioner	Ralph Lee Commissioner
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1. Call to Order

2. Pledge of Allegiance

3. Roll Call

4. Oral Communications – Public Comments

*Any person may comment on any item not on the agenda. **PLEASE STATE YOUR NAME AND ADDRESS FOR THE RECORD.** Action may not be taken on the topic, unless deemed an urgency matter by a majority vote of the Planning Commission. Topics not considered an urgency matter might be referred to City staff and placed on a future agenda, by a majority vote of the Planning Commission.*

5. Consent Calendar

All matters listed under the Consent Calendar are considered routine and may be approved by one action of the Planning Commission, unless any member of the Planning Commission wishes to remove an item for separate consideration.

a. **Approval of Minutes:** September 1, 2015

6. Presentations

None

7. Non-Public Hearing Items

a. **Determination to hear Municipal Code Interpretation or Move Item to City Council**

Recommendation: *Staff is asking the Planning Commission to determine whether the City Council rather than the Planning Commission should make an interpretation of the Municipal Code to determine whether or not a flower shop with some cannabis plants (not for retail sale) can locate in C2 zone as a matter of right based on current language of the Code.*

8. Public Hearing Items

None

9. Planning Commissioner Report

10. Director's Report

11. Written Correspondence

12. Adjournment

NOTES

WRITTEN MATERIAL: Any writing or document pertaining to an open session item on this agenda which is distributed to a majority of the Planning Commission after the posting of this agenda will be available for public inspection at the time the subject writing or document is distributed. The writing or document will be available for public review in the Community Development Department, 212 S. Vanderhurst Avenue, King City, Ca, during normal business hours, and may be posted on the City's website identified above.

AGENDA ITEM SPEAKING TIME: The Planning Commission may limit persons speaking on an agenda item to three (3) minutes per item.

AMERICANS WITH DISABILITIES ACT: Any individual, who because of a disability needs special assistance to attend or participate in this meeting, may request assistance by contacting the City Clerk's Office (831) 385.3281. Whenever possible, requests should be made four (4) working days in advance of the meeting

UPCOMING REGULAR MEETINGS

<u>December 2015</u>		
December 1 st	6:00 p.m.	Planning Commission
December 8 th	6:00 p.m.	City Council
December 14 th	6:00 p.m.	Airport Advisory Committee
December 15 th	6:00 p.m.	Planning Commission
December 21 st	5:00 p.m.	Recreation Committee
December 22 nd	6:00 p.m.	City Council

THE CITY OF KING GLOSSARY

ADT: Average daily trips made by vehicles or persons in a 24-hour period

ALUC: Airport Land Use Commission

AMBAG: The Association of Monterey Bay Area Governments. The AMBAG region includes Monterey, San Benito and Santa Cruz Counties, and serves as both a federally designated Metropolitan Planning Organization and Council of Government. AMBAG manages the region's transportation demand model and prepares regional housing, population and employment forecast that are utilized in a variety of regional plans.

APCD: Air Pollution Control District

BMP: Best Management Practice, Bike Master Plan

CAP: Climate Action Plan

CC&Rs: Covenants, Conditions, and Restrictions (private agreements among property owners; the City has no authority to enforce these)

CDBG: Community Development Block Grant (a federal grant program designed to benefit low and moderate income persons)

CEQA: California Environmental Quality Act

CFD: Community Facilities District

COG: A council of government, or regional council, is a public organization encompassing a multi-jurisdictional regional community. It serves the local governments by dealing with issues that cross political boundaries.

CUP: Conditional Use Permit

EIR: Environmental Impact Report

Ex-Parte: Communication between Planning Commissioners and applicants outside of a public meeting

FEMA: Federal Emergency Management Agency

GHG: Greenhouse gas

HOME: Home Investment Partnership Act (a federal program to assist housing for low and moderate income households)

HCP: Habitat Conservation Plan

HCD: State Department of Housing & Community Development

HUD: U.S. Department of Housing and Urban Development

LAFCO: Local Agency Formation Commission

LID: Low Impact Development (measures to reduce rainwater runoff impacts)

LLA: Landscaping and Lighting District

LOS: Level of Service (a measurement of traffic efficiency used by Caltrans)

MMTC: A multimodal transit center includes a combination of alternative modes of transportation so people do not have to only rely on vehicles.

MOU: Memorandum of Understanding

MND: Mitigated Negative Declaration

MPO: A metropolitan planning organization is a federally mandated and federally funded transportation policy-making organization, such as AMBAG, that is made up of representatives from local government to help implement transportation projects and projects.

Neg Dec: Negative Declaration (a CEQA statement that a project will not have a significant effect on the environment)

NEPA: National Environmental Policy Act

SOI: Sphere of Influence.

TAMC: The Transportation Agency for Monterey County develops and maintains a multimodal transportation system for Monterey County. TAMC consists of local officials from each Monterey city (12 cities) and five (5) county supervisorial districts, and ex-officio members from six (6) public agencies.

TOT: Transient Occupancy Tax

Variance: A form of relief from zoning development regulations based on physical constraints of a property that prevents development of the same type of buildings allowed on other properties within the same zone and in the same neighborhood

VMT: Vehicle Miles Traveled

Planning Commission Minutes

September 1, 2015

1. Call to Order

Chairperson Nuck called the regular meeting of the Planning Commission of the City of King to order at 6:03 p.m.

2. Pledge of Allegiance

Chairperson Nuck led the Commission and audience in the Pledge of Allegiance.

3. Roll Call

Chairperson David Nuck X Vice Chair David Mendez X

Michael Barbree X Margaret Raschella X Ralph Lee X

Staff present: Don Funk, Principal Planner and Maricruz Aguilar-Navarro, Assistant Planner

4. Oral Communications

None

5. Consent Calendar

All matters listed on the Consent Calendar are considered routine and may be approved by one action of the Planning Commission, unless any member of the Planning Commission wishes to remove an item for separate consideration.

a. Minutes, Regular Meeting of August 4, 2015

***Action:** Motion to approve the minutes was made by Commissioner Mendez and seconded by Commissioner Raschella. The motion carried 5-0.*

6. Presentation – None

7. Non-Public Hearing Items – None

8. Public Hearing Items

8 a. PROJECT: A variance requests to 1. Reduce lot size, and 2. Reduce parking for a single vehicle carport.

FILE NO.: VAR Case No. VAR2015-001

APPLICANT: Paul Layous

PROPOSAL: The request by Paul Layous ("**Applicant**") is for a variance permit to create two (2) 4,375 square foot substandard size parcels and a variance to allow one single 12'x22' carport at 324 N. Third Street, King City. The variance would reduce lot size for the required minimum six thousand building site for residential uses per Municipal Code Section 17.12.060 and 17.18.060. The variance request would construct one (1) carport for the required two-car garage or carport per Municipal Code Section 17.52.010. This meeting will allow for public testimony and preliminary review of the variances request. The property is located at 324 N. Third Street and 325 Copley Avenue (APN: 026-183-009) and is located within the Multiple Family Residential ("**R-4**") and Single Family Residential ("**R-1**") Zone District and within the High Density Residential ("**HDR**") General Plan Land Use designation.

LOCATION: 324 N. Third Street, King City, CA 93930

ENVIRONMENTAL DETERMINATION: An Initial Study and Negative Declaration

Don Funk, Principal Planner, made the staff presentation and discussed the overview of the variance request. The request includes a proposed subdivision of two undersized parcels and create a single vehicle carport. The request is for a variance to create two (2) 4,375 square foot substandard size parcels. Mr. Funk, discussed the General Plan Designation and the existing split zoning districts for this situs 324 Third Street. The City is a Charter City which allows the ability to not require consistency in zoning and land use designations versus a General Law city would need to show consistency. Planning Commission would need to make the necessary findings to grant the variance. A variance is only permitted if the applicant can show special circumstances applicable to the subject property. In this case, the neighboring property has two existing 4,375 square foot parcels, identical to that of the proposal. The proposed variance requires preparation of a Negative Declaration based on the California Environmental Quality Act because the variance, if approved, would result in the creation of two parcels. Staff recommends tandem carport as the code requires two (2) cover spaces. The Applicant is proposing one (1) covered carport.

At 6:15p.m. the Chairperson Nuck opened the public hearing.

Paul Layous, Applicant and Wesley Beebe, Architect were present in the audience. Mr. Layous said he would like to keep a one (1) car carport. There are neighboring properties that have a one (1) car carport.

Chairperson Nuck asked about the side by side parking versus tandem parking. Don Funk, Principal Planner discussed tandem parking. Commissioner Ralph Lee, asked about the size of the house. Applicant responded. Commissioner Barbree asked the Applicant to clarify if tandem parking was part of their proposal. Applicant clarified that they would only be proposing a one (1) car carport.

There being no further comments Chairperson Nuck closed the public hearing at 6:26 p.m.

Planning Commission discussed making corrections to Exhibit 3 and Condition of Approval No. 11 to eliminate the word "tandem".

The following changes were recommended by the Planning Commission:

- Exhibit 1 Findings of Facts 17.62.010 Findings for Approval of the Parking Variance:
 - (1) Delete the following: ~~"Further, the Commission finds that extending the depth of the carport to forty (40') feet will provide adequate covered parking for the existing residence and substantially result in no reduction in existing covered off street parking. Tandem parking is only justifiable in this case due to the small size of the property."~~
 - (2) Delete and modify as follows; ~~"In doing so, the Planning Commission specifically finds that the removal of the existing two car garage and construction of a two car tandem carport will effectively retain the number of off street spaces at two with no reduction of off street parking. Further, the Planning Commission finds that it is likely that the two tandem spaces will be just as functional as would the two existing garage parking spaces."~~
- Exhibit 2 Resolution No. 2015-139 - Findings of Approval of the Parking Variance:
 - a. Delete the following: ~~"Further, the Commission finds that extending the depth of the carport to forty (40') feet will provide adequate parking for the existing residence and substantially result in no reduction in existing covered off street parking."~~
 - b. Delete the following: ~~"In doing so, the Planning Commission specifically finds that the removal of the existing two car garage and construction of a two car tandem carport will effectively retain the number of off street spaces at two with no reduction of off street parking. Further, the Planning Commission finds that it is likely that the two tandem spaces will be just as functional as would the two existing garage parking spaces."~~
- Exhibit 3 Conditions of Approval No. 1 Project Description and 11. Parking:
 - 1. Delete and Modify as follows: "Variance Application, Case No. VAR2015-001 would allow future creation of two (2) 4,375 square foot substandard size parcels

and a variance to allow a ~~two~~ one car tandem ~~12'40'~~ 12'x22' carport at 324 N. Third Street and 325 Copley Ave., King City.

- b. Delete: ~~“except as modified in condition 1.c. below”.~~
- c. Delete: ~~“Prior to review of the tentative parcel map, the plans shall be amended to increase the size of the tandem carport to twelve (12”) x forty two (40’22’) feet. As part of that design, the driveway may require minor changes to properly access the new carport.~~
- 11. Modify as follows: **“The existing two (2) car garage located behind the existing residence at 324 North Third Street will be moved from the property after approval of the tentative parcel map and prior to recordation of the parcel map. The new tandem carport will be constructed prior to recordation of the parcel map.**

Action: Commissioner Barbree made a motion to approve the Negative Declaration, Resolution No. 2015-139 for VAR2015-001 as amended. Seconded by Commissioner Mendez. Motion carried 5-0.

Staff reminded the Applicant of the 15 day appeal period.

9. Planning Commission Report - None

10. Director Reports

a. **Wayfinding Signs – update.** Mr. Funk provided the Commission with an update on a Wayfinding Sign program for the city. Mr. Funk summarized his meeting at the Pinnacles National Park today and talked briefly about the Yosemite Gateway Partnership a non-profit organization. Discussed that the wayfinding signs will be going to City Council for direction. Examples of the wayfinding signs were shown to the Planning Commission. Commissioner Ralph Lee added that nice welcoming signs need to be placed in the entrances of the city gateways. Commissioner Lee noted that he was impressed by the welcome signs that City of Soledad have. The Commission discussed that the wayfinding signs and welcoming signs. Discussion of changing the wording to “Southern Gateway to Pinnacles” versus “A Great Way to the Pinnacles”. Commissioner Lee would like to see what the goal of the city is and expressed how important entrance signs are and how they should be dealt with prior to wayfinding signs.

11. Written Correspondence– None

12. Adjournment

There being no more business, the Planning Commission meeting was adjourned at 7:02 p.m.

David Nuck
Planning Commission Chairperson
City of King

Maricruz Aguilar
Acting Planning Commission Secretary
City of King



Item No. 7 (a.)

REPORT TO THE PLANNING COMMISSION

DATE: NOVEMBER 17, 2015
TO: MEMBERS OF THE PLANNING COMMISSION
FROM: DOREEN LIBERTO-BLANCK, AICP, COMMUNITY DEVELOPMENT DIRECTOR
SCOTT BRUCE, PRINCIPAL PLANNER
RE: DETERMINATION TO HEAR MUNICIPAL CODE INTERPRETATION AT THE NEXT MEETING OR TO MOVE THE ITEM TO THE CITY COUNCIL FOR THEIR DELIBERATION

I. RECOMMENDATION

Staff is asking the Planning Commission to determine whether the City Council rather than the Planning Commission should make an interpretation of the Municipal Code to determine whether or not a flower shop with some cannabis plants (not for retail sale) can locate in C2 zone as a matter of right based on current language of the Code.

II. SUMMARY

Staff wishes to underline the fact that the decision that is being requested from the Planning Commission at this meeting is whether or not to take on the Code interpretation hearing or pass it on to the City Council. This item is not before the Planning Commission to be discussed in substance. If the Planning Commission decides to retain the item, it will come to you in a public hearing setting at the next meeting.

The City has received several requests regarding locating and cultivating cannabis plants. The Municipal Code does not specifically identify cultivation of cannabis as a permitted use. The Planning Commission has the authority to interpret the Municipal Code terms when there is a question of applicability of terms or whether certain uses are permitted within zoning districts, if similar to other uses allowed in the same zoning districts.

The State laws regarding cultivation, retail sale and use of cannabis are continuously evolving. City Council will be asked in the near future to consider adoption of Code amendments to reflect the current status of the State law and to make a decision on where the City will be positioned on these issues. This matter will be fully vetted in public hearing before the Council in the first quarter of 2016 with decisions having to be made before March. Therefore, staff is asking the Planning Commission whether the Planning Commission desires to have the item related to the Code interpretation brought before it or to have the City Council make the interpretation in view of the fact that the Council will be making some global decisions on these issues in a couple of months. At that time the Planning Commission will have the opportunity to provide recommendations to the Council with regard to those decisions.

III. DISCUSSION

Several request have been made to commercially cultivate cannabis in the City of King. The Municipal Code does not specifically address the cultivation of cannabis as a permitted use but it does deal with cultivation of various plants in nursery and interior settings.

A recent request was received to locate and cultivate cannabis in the General Commercial Zoning District ("**C-2**") where indoor growth of plans is permitted as a matter of right. Below is a brief summary of current Federal, State and local regulations pertaining to medical marijuana.

Laws Regarding Cannabis

Federal Law

At the federal level, marijuana remains classified as a Schedule I substance under the Controlled Substances Act, where Schedule I substances are considered to have a high potential for dependency and no accepted medical use, making distribution of marijuana a federal offense. In **October of 2009**, the Obama Administration sent a memo to federal prosecutors encouraging them not to prosecute people who distribute marijuana for medical purposes in accordance with state law.

State Law

Medical marijuana is legal pursuant to Proposition 215 (1996) and Senate Bill 420 (2003). California was the first state to establish a medical marijuana program, enacted by Proposition 215, also known as the Compassionate Use Act. It was approved by initiative with a 55% majority, allowing people with cancer, AIDS and other chronic illnesses the right to grow or obtain marijuana for medical purposes when recommended by a doctor.

On **October 9, 2015** Gov. Jerry Brown signed into law three pieces of legislation (AB 266, AB 243 and SB 643) that will together regulate businesses serving medical marijuana patients in the largest program in the nation. The Medical Marijuana Regulation and Safety Act creates a new state agency within the Department of Consumer Affairs to develop rules and licensing procedures for authorized medical cannabis dispensaries. Dispensaries must be compliant with local guidelines prior to receiving a state license. State-licensed dispensaries will be permitted to operate on a 'for profit' basis. Three cannabis related business types are identified and required to obtain State licenses. The three business types are: *cultivation, distribution/transporter and manufacturing.*

However, the new regulations will not override municipal moratoriums, nor will they prohibit the collection of local sales taxes on marijuana purchases in communities that presently impose them. The Department of Consumer Affairs and other regulatory agencies have until **January 2017** to adopt rules overseeing the industry, and those rules are expected to go into effect in 2018.

California's new medical marijuana laws will take effect on **January 1, 2016**. ***Cities and counties that do not have ordinances on the books by March 1, 2016 will be subject to state law only.*** That law will allow 100 square feet of medical cannabis for a patient, and allow caregivers to grow 500 square feet for up to five patients. State licensing for commercial-sized medical marijuana farms is allowable under the new law, provided locals approve. It limits the maximum size of each farm. Existing entities can operate with local approval until **January 1, 2018**.

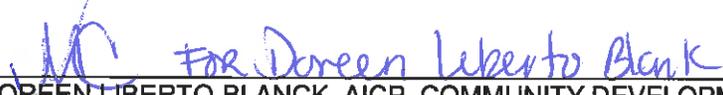
It is our understanding that in **2018**, the State will start licensing approved medical marijuana facilities. If a medical marijuana business is operating prior to **Dec. 31, 2015**, they get "in front of the line" to receive a license. Therefore, making a determination on this issue before the end of the year is important for medical marijuana operators so they are one of the first businesses to receive a State license.

City Law

In **2011**, the City Council adopted Ord. 699 which prohibits medical marijuana dispensary within the City. (***Reference Exhibit 2.***) The definition of "medical marijuana dispensary" is a facility where marijuana is made available for medical purposes in accordance with Health and Safety Code §11362.5.

The City Council has until **March 1, 2016** to adopt medical marijuana standards; otherwise, as mentioned above, California's new medical marijuana laws apply.

Prepared by:


DOREEN LIBERTO-BLANCK, AICP, COMMUNITY DEVELOPMENT DIRECTOR