

AGENDA

REGULAR MEETING OF THE PLANNING COMMISSION

TUESDAY, AUGUST 1, 2017
6:00 P.M.

Council Chambers, City Hall
212 S. Vanderhurst Avenue, King City, CA

1. CALL TO ORDER

2. ROLL CALL:

Planning Commission Members: Michael Barbree, Margaret Raschella, Ralph Lee, Vice Chairperson David Mendez, and Chairperson David Nuck

3. FLAG SALUTE

4. 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. PRESENTATIONS

None

6. CONSENT AGENDA

All matters listed under the Consent Agenda 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. Meeting Minutes of July 18, 2017 Planning Commission Meeting
Recommendation: approve and file.

7. NON-PUBLIC HEARINGS

- A. Project: General Plan Consistency Determination for the Broadway & Vanderhurst Properties
- Case No.: GPC2017-002
- Applicant: City of King
- Location: Corner of Broadway Street and Vanderhurst Avenue (APNs: 026-195-010, 026-195-018, and 026-195-012)
- Consideration: General Plan Consistency Determination Regarding Purchase of Real Parcels Located on the Corner of Broadway Street and Vanderhurst Avenue (Parcel A: APN#026-195-010, Portion of Parcel B: APN#026-195-018, and Parcel C: APN#026-195-012).

Recommendation: Adopt the attached Resolution No.: 2017-185 which finds a General Plan Consistency Determination for the purchase of Real Parcels: Assessor Parcel No(s). 026-195-010, 026-195-012, and 026-195-018.

Environmental Determination: This project is categorically exempt pursuant to California Environmental Quality Act §15061 (3). The proposed project will not have an adverse impact on the environment.

B. Project: General Plan Consistency Determination for the San Lorenzo Property

Case No.: GPC2017-003

Applicant: City of King

Location: Along the Future San Antonio Drive Extension and San Lorenzo Creek

Consideration: General Plan Consistency Determination Regarding an Irrevocable Offer of Dedication Public Street Right of Way (In Fee), Temporary Construction Easements and Sediment Placement Easement of Parcel 026-381-001-000 (San Lorenzo Creek Property).

Recommendation: Adopt the attached Resolution No. 2017-186 which finds a General Plan Consistency Determination for the sale of Assessor Parcel No. 026-381-001-000 with a public street right-of-way, temporary construction easements, and sediment placement easement.

Environmental Determination: This project is categorically exempt pursuant to California Environmental Quality Act §15061 (3). The proposed project will not have an adverse impact on the environment.

8. PUBLIC HEARINGS

A. Project: Ordinances Amending Title 17.03 and Amending the East Ranch Business Park Specific Plan

Case No.: N/A

Applicant: City of King

Location: N/A

Consideration: Recommendation to the City Council to Amend the King City Municipal Code - Section 17.03; Amending Sections 17.30.020 and 17.31.020; And Amending the East Ranch Business Park Specific Plan

Recommendation: Staff recommends that Planning Commission 1) review proposed amendments to the Ordinances and Environmental Document 2) receive public comment 3) provide recommendation to the City Council regarding the amendments to the Ordinances that would amend the scope of allowed Cannabis activity in the City.

Environmental Determination: This project is categorically exempt pursuant to California Environmental Quality Act §15061 (3). The proposed project will not have an adverse impact on the environment.

9. PLANNING COMMISSIONER REPORTS

10. DIRECTOR'S REPORT

11. WRITTEN CORRESPONDENCE

12. ADJOURNMENT

UPCOMING REGULAR MEETINGS

<u>August 2017</u>		
August 8 th	6:00p.m.	City Council
August 14 th	6:00p.m.	Airport Advisory Committee
August 15 th	6:00 p.m.	Planning Commission
August 21 st	6:00p.m.	Recreation Commission
August 22 nd	6:00 p.m.	City Council
<u>September 2017</u>		
September 5 th	6:00 p.m.	Planning Commission
September 11 th	6:00 p.m.	Airport Advisory Committee
September 12 th	6:00 p.m.	City Council
September 18 th	6:00 p.m.	Recreation Commission
September 19 th	6:00 p.m.	Planning Commission
September 26 th	6:00 p.m.	City Council

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)

MIMTC: 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
July 18, 2017

1. Call to Order

Chairperson Nuck called the regular meeting of the Planning Commission of the City of King to order at 6:00 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: Community Development Director, Doreen Liberto; Don Funk, Principal Planner; Maricruz Aguilar, Asst. Planner;

4. Public Comments

None

5. Presentations

None

6. 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. Approval of Minutes: June 20, 2017

Action: Motion made by Commissioner Barbree to approve minutes of June 20, 2017. Seconded by Commissioner Mendez. Motion carried 5-0.

7. Non-Public Hearing Items -None

Commissioner Raschella recused herself for Item A.

8. Public Hearing Items

- A. Consideration: Conditional Use Permit Case No. CUP2016-003 for construction of a new small cell site within the existing public right-of-way along N. Vanderhurst Avenue.

Asst. Planner Aguilar introduced this item using her power point presentation.

Chair Nuck opened the public hearing.

The applicant spoke in agreement with the conditions of approval. He explained the purpose for the site.

Commissioner Barbree was questioned locations and the applicant stated that they are strategically placed for best service.

Chair Nuck asked the applicant if they will be paying rent to the City. He said that he was going to get an encroachment permit however no lease has been discussed.

The maintenance of the equipment on the poll will be the applicant's responsibility, except for the maintenance of the camera which would be the City's responsibility.

Bill Lipe, president here in King City, exciting for this kind of technology coming to King City.

Commissioner Barbree would like to see more where we need more lights down the street.

Roy Morris, 414 Ellis St apartment owner, he feels that it is good place for some kid to get hurt between the space from the sidewalk to the curb. He feels that the electrical box is a good place for graffiti and the kids will be climbing the poles. He doesn't object to the pole but the electrical box he does have a problem with.

The applicant stated that language can be added to the COA for the graffiti and that it needs to be removed immediately. Ground equipment could be moved to the pole however the ascetics are not preferred by the City staff.

Condition of Approval # 13 for graffiti five days from notification from the City.
Addition of Condition of Approval #17 Indemnification prior to the encroachment permit to address all potential concerns related to damage and injury to private property owner(s) to be approved by the City Attorney.

Chair Nuck closed the Public Hearing.

Motion made by Commissioner Barbree approving Conditions of Approval #13 graffiti and adding #17 to the Conditions of Approval for indemnification. Seconded by Commissioner Mendez. Motion carried 4-0. (Raschella recused so absent)

Action: Motion made by Commissioner Mendez adopting Resolution No. 2017-182, which finds the project Categorical Exempt from CEQA and approves Conditional Use Permit Case No. CUP2016-003, with amended Conditions of Approval. Seconded by Commissioner Lee. Motion carried 4-0. (Raschella recused so absent)

- B. Consideration: Conditional Use Permit Case No. CUP2016-004 for construction of a new small cell site within the existing public right-of-way along Ellis Street.

Asst. Planner Aguilar introduced this item.

Chair Nuck opened the public hearing, seeing no one come forward Chair Nuck closed the public hearing.

Motion made by Commissioner Barbree approving Conditions of Approval #13 graffiti and adding #17 to the Conditions of Approval for indemnification. Seconded by Commissioner Mendez. Motion carried 5-0

Action: Motion made by Commissioner Mendez adopting Resolution No. 2017-183, which finds the project Categorical Exempt from CEQA and approves Conditional Use Permit Case No. CUP2016-004, with amended Conditions of Approval #13 to include graffiti and add #17 to include indemnification. Seconded by Commissioner Barbree. Motion carried 5-0.

- C. Consideration: Conditional Use Permit Case No. CUP2017-004 for construction of a new small cell site within the existing public right-of-way along Franciscan Way.

Asst. Planner Aguilar introduced this item.

Chair Nuck opened the public hearing, seeing no one come forward Chair Nuck closed the public hearing.

Motion made by Commissioner Barbree approving Conditions of Approval #13 graffiti and adding #17 to the Conditions of Approval for indemnification. Seconded by Commissioner Raschella. Motion carried 5-0

Action: Motion made by Commissioner Barbree adopting Resolution No. 2017-181, which finds the project Categorical Exempt from CEQA and approves Conditional Use Permit Case No. CUP2017-004, amended Conditions of Approval #13 to include graffiti and add #17 to include indemnification. Seconded by Commissioner Raschella. Motion carried 5-0.

- D. Consideration: Amendment to Conditional Use Permit Case No. CUP2016-007 to Replace the Public Information Kiosk Located on the Near Corner of Broadway Street and Canal Street with a Wind Sculpture and Directional Sign.

Principal Planner Funk introduced this item.

Commissioner Mendez would like O'Reilly's to resubmit a landscaping plan and not do sculptures. Commissioner Barbree would like to see local artists have an opportunity to create the wind sculptures.

Chair Nuck opened the public hearing, seeing no one come forward Chair Nuck closed the public hearing.

Action: Motion made by Commissioner Barbree approving findings as presented. Seconded by Commissioner Lee. Motion carried 5-0.

Action: Motion made by Commissioner Barbree approving amendments to CUP2016-007 conditions of approval, (conditions #29 and #30). Seconded by Raschella. Motion carried 5-0.

Action: Motion made by Commissioner Lee to look for a wind structure of a minimum height at the bottom of 12 feet and to be structurally designed to withstand a 25-year King City wind storm. Seconded by Commissioner Barbree. Motion carried 5-0.

9. Regular Business- None

10. Planning Commission Report –

11. Director Reports-

- a. Relocation of Greyhound Bus Stop

They are not consistent with the Historic Downtown. The two locations are Full Stop Market on South San Lorenzo and the existing MST stop on Canal St. using the 7-11 as the ticket office. McDonald's is a third option with online sales.

Planning Commission suggested Ozzy's Mini-mart and Garden House.

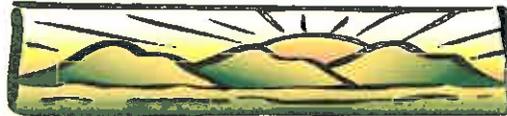
12. Written Correspondence– None

13. Adjournment

There being no further business, the Planning Commission meeting was adjourned at 7:59 p.m.

David Nuck
Planning Commission Chairperson
City of King

Erica Sonne
Planning Commission Secretary
City of King



KING CITY
C A L I F O R N I A

Item No. 7(A)

REPORT TO THE PLANNING COMMISSION

DATE: AUGUST 1, 2017

TO: HONORABLE CHAIR AND MEMBERS OF THE PLANNING COMMISSION

FROM: DOREEN LIBERTO, AICP, COMMUNITY DEVELOPMENT DIRECTOR

RE: CONSIDERATION OF A GENERAL PLAN CONSISTENCY DETERMINATION REGARDING PURCHASE OF REAL PARCELS LOCATED ON THE CORNER OF BROADWAY STREET AND VANDERHURST AVENUE (PARCEL A: APN#026-195-010, PORTION OF PARCEL B: APN#026-195-018, AND PARCEL C: APN#026-195-012).

RECOMMENDATION:

The Planning Commission adopt the attached Resolution No. 2017-185 which finds General Plan consistency for purchase of real Parcels: Assessor Parcel No(s). 026-195-010, 026-195-012, and 026-195-018.

BACKGROUND:

As part of the Downtown Streetscape Plan as approved by City Council on January 10, 2016, the City is moving forward with a Purchase and Sale Agreement for the following parcels:

- Parcel A (APN#026-195-010)
- Portions of Parcel B (APN#026-195-018)
- Parcel C (APN#026-195-012)

The parcels are located on the corner of Broadway Street and Vanderhurst Avenue as referenced in **Figure 1 ("Project")**. The purchase of these parcels are for the community benefit of a Downtown Plaza as shown on preliminary designs prepared by RRM Design Group as shown on **Figure 2**.

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 GENERAL PLAN CONSISTENCY DETERMINATION
 AUGUST 1, 2017
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Cal. Gov. Code 65402 (c) requires a General Plan consistency determination by the planning agency before government property can be sold or purchase.

DISCUSSION:

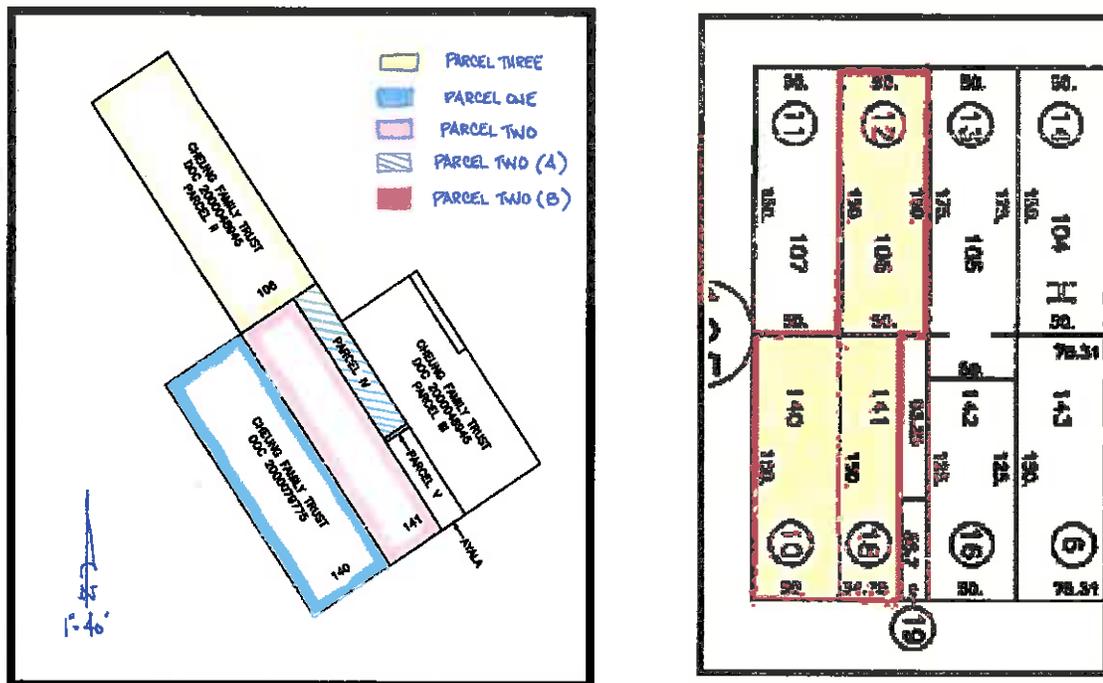
Section 65402 (c) of the California Government Code reads, in part, as follows:

“A local agency shall not acquire real property for any of the purposes specified in paragraph (a) nor dispose of any real property, nor construct or authorize a public building or structure, in any county or city, if such county or city has adopted a general plan or part thereof and such general plan or part thereof is applicable thereto, until the location, purpose and extent of such acquisition, disposition, or such public building or structure have been submitted to and reported upon by the planning agency having jurisdiction, as to conformity with said adopted general plan or part thereof.”

Analysis

The City is in the process of a Purchase and Sell Agreement for the APNs: 026-195-010, portion of 026-195-018, and 026-195-012.

FIGURE 1 – Preliminary Title Exhibit & APN Map



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GENERAL PLAN CONSISTENCY DETERMINATION
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The parcels intended for purchased are zoned as followed:

APN#026-195-010

Zoned: Village Core (VC) General Plan: Retail Commercial (RC)
Existing Use: Argueta's Clothing Store 332 Broadway Street

APN#026-195-018 (Portions of)

Zoned: Village Core (VC) General Plan: Retail Commercial (RC)
Existing Use: Driveway & Parking Lot

APN#026-195-012

Zoned: Village Business (VB) General Plan: Retail Commercial (RC)
Existing Use: Driveway & Parking Lot

The proposed improvements involve utilizing APN026-195-010 and portion of APN026-195-018 for the plaza, APN026-195-012 would be used for parking and access to the plaza. A portion of ANP026-195-018 will allow for pedestrian access to the existing business located on APN026-195-018.

The General Plan provides the following goals for Commercial Land Use Designation, Open Space, and for Public Service and Facilities:

3. Commercial Land Use Goals & Policies

Commercial Land Use Goal: To provide adequate area for commercial land uses to meet the service needs of residents, businesses and visitors and to encourage development of retail commercial, service commercial, and highway-related uses that are compatible with surrounding land uses.

The City conducted workshops in 2016 as part of the Downtown Streetscapes Plan, in which the community was able to provide input on community needs for the downtown area. The proposed plaza would encourage new development of retail commercial, help with economic development, and improve the quality of life for the community. The proposed purchase of properties for the development of the downtown plaza will meet this goal.

3.3 Objective/Commercial Character: Ensure that commercial development maintain or enhance the environmental quality of the area, and the city's existing character.

The downtown plaza will enhance the quality of area and follow the design standards of the Historic Downtown Revitalization Plan.

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GENERAL PLAN CONSISTENCY DETERMINATION
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Policy 3.3.1 Commercial development shall be designed and screened in an attractive manner and thereafter maintained so as to visually integrate the entire development with the surrounding environment and land uses.

The development of the plaza will be design to enhance the Historic Downtown Area.

Environmental Review

Pursuant to Public Resources Code §15061 (3), and in accordance with the California Environmental Quality Act (CEQA), the project is covered by the general CEQA rule which states if it can be seen with certainty that there is no possibility that an activity may have a significant effect on the environment, the activity is not subject to CEQA. Staff believes that purchasing of property which will be an open downtown plaza will not have a significant effect on the environment, and therefore the project is not subject to CEQA.

COST ANALYSIS:

The City is in the process of a purchase and sale agreement. The item is scheduled to go before the City Council for consideration in end of August 2017.

ALTERNATIVES:

The following alternatives are provided for Council consideration:

1. Adopt the attached Resolution;
2. Do not adopt the attached Resolution and request staff return with a Resolution not recommending the amendments; or
3. Provide other direction to staff.

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GENERAL PLAN CONSISTENCY DETERMINATION
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Exhibits:

1. Resolution

Exhibits to Resolution:

- a. Legal Description & Preliminary Map titled "Exhibit A" and "Exhibit A-1"

Prepared by: Maricruz Aguilar
Maricruz Aguilar, Assistant Planner

Approved by: MCA FOR Doreen Liberto
Doreen Liberto, AICP, Community Development Director

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GENERAL PLAN CONSISTENCY DETERMINATION
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EXHIBIT 1

RESOLUTION NO. PC 2017-2017-185

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF KING,
CALIFORNIA FINDING GENERAL PLAN CONSISTENCY FOR PARCELS NO.
026-195-010, PORTIONS OF 026-195-018 AND 026-195-012 FOR THE
PURPOSE OF PURCHASING LAND.**

WHEREAS, Section 65402 (c) of the California Government Code reads, in part, as follows: *“With few exceptions, “a local agency shall not acquire real property for any of the purposes specified in paragraph (a) nor dispose of any real property, nor construct or authorize a public building or structure, in any county or city, if such county or city has adopted a general plan or part thereof and such general plan or part thereof is applicable thereto, until the location, purpose and extent of such acquisition, disposition, or such public building or structure have been submitted to and reported upon by the planning agency having jurisdiction, as to conformity with said adopted general plan or part thereof”*; and

WHEREAS, the Community Development Department (*“Department”*) of the City of King reviewed a request for a General Plan Consistency determination by the City of King to purchase Parcel A (APN#026-195-010), Portions of Parcel B (APN#026-195-018), and Parcel C (APN#026-195-012), as shown on Exhibit A and Exhibit A-1; and

WHEREAS, pursuant to Public Resources Code §15061 (3), and in accordance with the California Environmental Quality Act (*“CEQA”*), the project is covered by the general CEQA rule which states if it can be seen with certainty that there are no possibility that an activity may have a significant effect on the environment, the activity is not subject to CEQA; and

WHEREAS, on August 1, 2017, the City of King Planning Commission (*“Commission”*) considered the General Plan consistency, after considering the staff report and all submitted evidence, and determined that there are no conflicts with the City’s General Plan and therefore, made a General Plan consistency determination in the affirmative.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of King does hereby make a consistency determination for the parcels shown in Exhibit A-1 based on the following findings of fact:

1. The properties are designated for commercial uses and the zoning allows for parks subject to a conditional use permit per the Historic

**PLANNING COMMISSION
GENERAL PLAN CONSISTENCY DETERMINATION
AUGUST 1, 2017
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Corridor Revitalization Plan. The commercial land use designation is consistent with the character of the area, which is commercial.

2. The projects are statutorily exempt from environmental review pursuant to the State CEQA Guideline §15061(b)(3) because the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

PASSED, APPROVED AND ADOPTED this 1st day of August, 2017.

David Nuck, Planning Commission Chair

ATTEST:

Erica Sonne, Planning Commission Clerk

EXHIBIT "A"

LEGAL DESCRIPTION OF THE PARCELS

That certain real Parcels in the King City, County of Monterey, State of California legally described as follows:

PARCEL A (APN #026-195-010)

Lot 140, Block "H", as shown on that certain map entitled "Map of Kings City" filed July 9, 1886 in Book 1 of Maps, "Cities and Towns", at Page 31, Records of Monterey County.

PARCEL B (APN #026-195-018):

Lot 141, Block "H", as shown on that certain map entitled "Map of Kings City" filed July 9, 1886 in Book 1 of Maps, "Cities and Towns", at Page 31, Records of Monterey County.

Excepting therefrom the Northeast 15.25 feet, front and rear measurements, as granted in that certain Deed recorded July 30, 1953 in Book 1470, at Page 367 of Official Records.

Together with those portions of said Lot 141, Block "H", described as follows:

A) Beginning at a point in the Northeasterly line of said Lot 141, distant thereon N. 33°50' W. 59 feet from the most Easterly corner thereof, thence N. 33°50' West, along the Northeasterly line of said lot, 91 feet to the most Northerly corner thereof; thence S. 56°10' West, along the Northwesterly line of said lot, 15.25 feet; thence S. 33°50' E. 91 feet; thence N. 56°10' E. 15.25 feet to the place of beginning; and

B) Beginning in the Northeasterly line of said Lot 141, at the most Easterly corner of that certain parcel of land described in the Deed from Robert G. Winslow, et ux, to Gerald C. Keefer, et ux, dated November 8, 1956 and recorded in Book 1751, at Page 147 of Official Records, and running thence, from said place of beginning, along said Northeasterly line of said Lot 141

1) S. 33°50' E. 2.25 feet to the most Northerly corner of a building; thence leave said lot line and running along the Northwesterly wall of said building;

2) S. 56°10' W. 15.25 feet to a point in the Southwesterly boundary of that certain parcel of land described in the Deed from Pettitt Lands, Inc. to Robert G. Winslow, et ux, dated July 23, 1953 and recorded in Book 1470, at Page 367 of Official Records; thence along said Southwesterly boundary

3) N. 33°50' W. 2.25 feet to the most Southerly corner of the first mentioned parcel of land, from Winslow to Keefer; thence along the Southeasterly boundary of said Winslow to Keefer parcel of land

4) N. 56°10' E. 15.25 feet to the place of beginning.

NOTE: For purposes of this PSA, Parcel B will exclude Parcel Two (A) and Parcel Two (B) as depicted on Exhibit A-1 attached to this PSA.

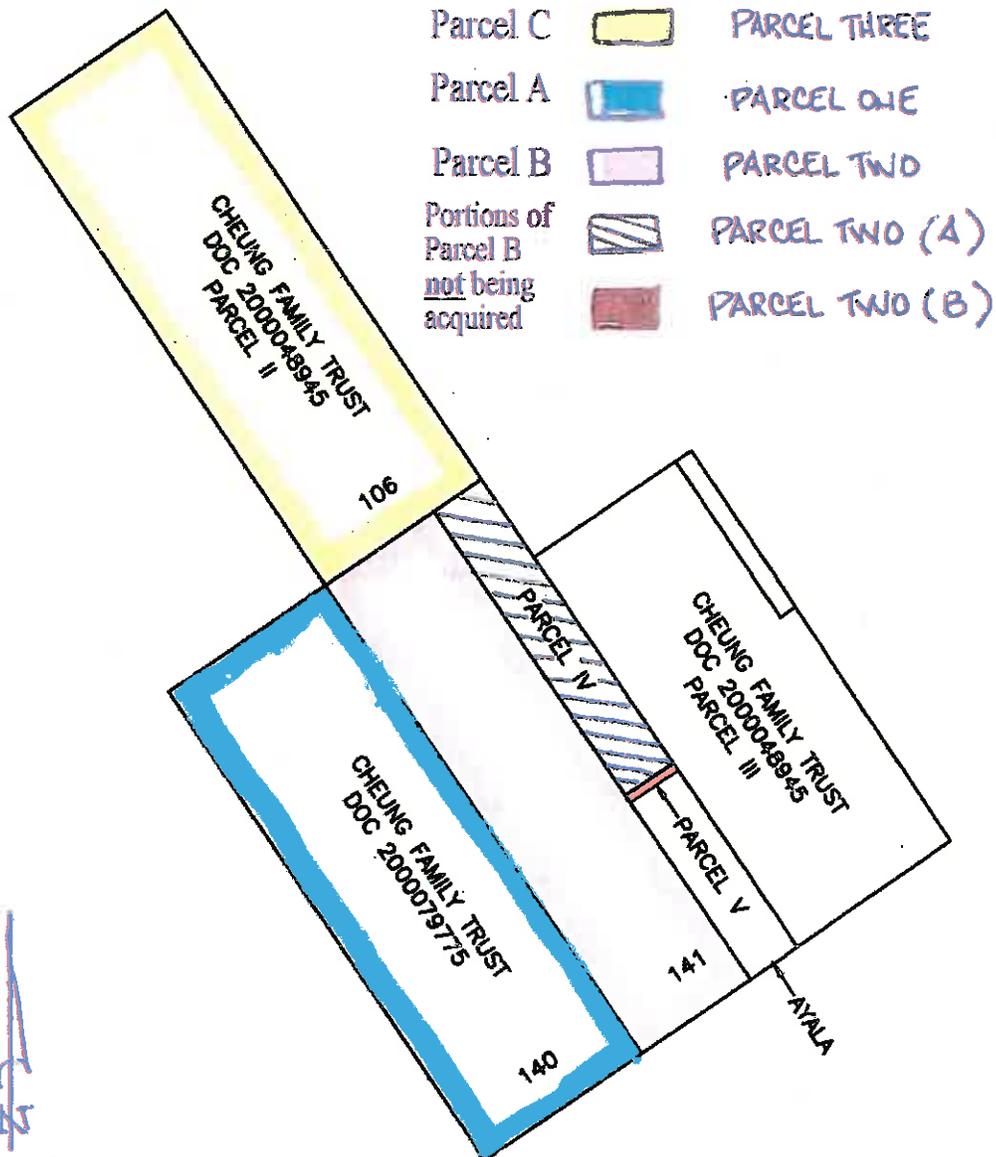
PARCEL C (APN #026-195-012):

Lot 106, Block "H", as shown on that certain map entitled "Map of Kings City" filed July 9, 1886 in Book 1 of Maps, "Cities and Towns", at Page 31, Records of Monterey County.

EXHIBIT "A-1"

DEPICTION OF PARCELS

CHICAGO TITLE COMPANY
PRELIM - FWMN-5211700681-RS



NS
1" = 40'



Item No. 7(B)

REPORT TO THE PLANNING COMMISSION

DATE: AUGUST 1, 2017

TO: HONORABLE CHAIR AND MEMBERS OF THE PLANNING COMMISSION

FROM: DOREEN LIBERTO, AICP, COMMUNITY DEVELOPMENT DIRECTOR

RE: CONSIDERATION OF A GENERAL PLAN CONSISTENCY DETERMINATION REGARDING AN IRREVOCABLE OFFER OF DEDICATION PUBLIC STREET RIGHT OF WAY (IN FEE), TEMPORARY CONSTRUCTION EASEMENTS AND SEDIMENT PLACEMENT EASEMENT OF PARCEL 026-381-001-000 (SAN LORENZO CREEK PROPERTY).

RECOMMENDATION:

The Planning Commission adopt the attached Resolution No. 2017-186 which finds General Plan consistency for sale of Assessor Parcel No. 026-381-001-000 with a public street right-of-way, temporary construction easements, and sediment placement easement.

BACKGROUND:

The City has been reviewing the possibility of selling 24.62-acres of land located on the northeasterly part of the city (APN 026-381-001-000). Situs identification of the site per the Monterey County Assessor's Office is referenced as Pearl Street. Historically, the property was used as a spray field for the industrial area of the city; that use was abandoned when the current Waste Water Treatment Plant that was constructed in 1970. Since then the land has remained vacant, and overtime the adjacent landowners have used the land for dry farming of alfalfa and weed abatement. This property abuts the Downtown Addition Specific Plan boundary to the southwestern side of the parcel and is surrounded by agriculture on the outward northeastern side as shown in **Figure 1**.

The property is zoned Agriculture ("A") and Primary Flood Plain ("P-F") and General Land Use Designation is Open Space ("OS").

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GENERAL PLAN CONSISTENCY DETERMINATION
SAN LORENZO CREEK PROPERTY
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State law requires a General Plan consistency determination by the planning agency before government property can be sold or purchase.

DISCUSSION:

Section 65402 (a) of the California Government Code reads, in part, as follows:

“With few exceptions, “no real property shall be disposed of, no street shall be vacated or abandoned, an no public building or structure shall be constructed or authorized, if the adopted general plan or part thereof applies thereto, until the location, purpose and extent of such acquisition or disposition, such as street vacation or abandonment, or such public building or structure have been submitted to and reported upon by the planning agency as to conformity with said adopted general plan or part thereof”

Analysis

The property is zoned Agriculture (“**A**”) and Primary Flood Plain (“**P-F**”) as shown on **Figure 1**. The property has a General Plan Land Use Designation of Open Space (“**O**”). The purpose of the Agriculture Zone is to protect and maintain agricultural land for agricultural purposes. The Primary Flood Plain’s purpose is to efficiently carry the flood of the stream which allows for crop and other agricultural uses. The Goal of the General Plan Land Use Designation of Open Space is to protect and provide open space lands to satisfy the needs of the community; to conserve natural resources for future generations; and to preserve viable, prime agricultural lands within the Planning Area which are not designated for future urban growth. Below are Policies and Objectives from the Open Space and Agricultural Land Goals that protect agricultural lands within the city limits. The prospective buyers plan to continue the use of land for agricultural purposes as a result of the sale of property. In light of the existing zoning district and general plan designation the property shall remain for open space purposes. The City has designated viable land as agriculture and has included policies that will protect them of future development.

Policy 5.1.1. The City shall designate viable agricultural and open space lands as either “**O**” Open Space or “**A**” Agricultural, as appropriate.

Objective 5.2. Protect Prime Agricultural Lands: To protect prime agricultural lands, outside of those areas designated for future development by the city, from version and encroachment of non-agricultural uses.

Policy 5.2.1. The City shall protect prime agricultural lands, outside of those areas designated for future development by the City, from premature conversion

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GENERAL PLAN CONSISTENCY DETERMINATION
SAN LORENZO CREEK PROPERTY
AUGUST 1, 2017
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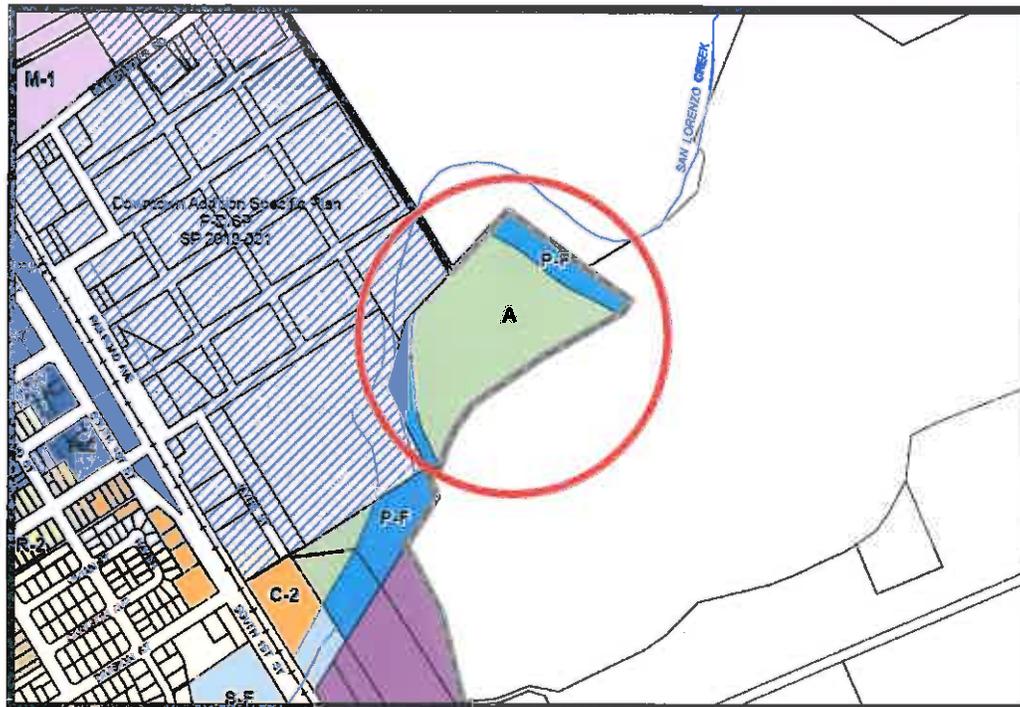
and encroachment on non-agricultural uses. The City shall designate such viable agricultural resource lands as "A" Agricultural, and shall regulate uses therein to assure that agriculture and agricultural related uses are permitted.

The irrevocable offer of dedication consists but not limited to the following. See **Exhibit A** and **Exhibit B** for a complete legal description and plat.

1. **Public Street Right-of-Way (In Fee):** Containing 4.02-acres of land, more or less a portion of that 24.62-acre parcel as shown on **Figure 2** will be a public street right-of-way dedication for the future San Antonio Drive bypass.
2. **Temporary Construction Easement:** For temporary construction purposes and any appurtenances adjoining the westerly and easterly boundaries of the 24.62-acre parcel. The temporary construction easement will terminate once the City has accepted the improvements of the public street.
3. **Sediment Placement Easement:** Within the 4.02-acres of the parcel as shown on **Figure 2** an easement for the placement of sediment removal from the San Lorenzo Creek under the Salinas River Stream Maintenance Program to last the duration of all permits for the Salinas River Stream Maintenance Program including any future extensions.

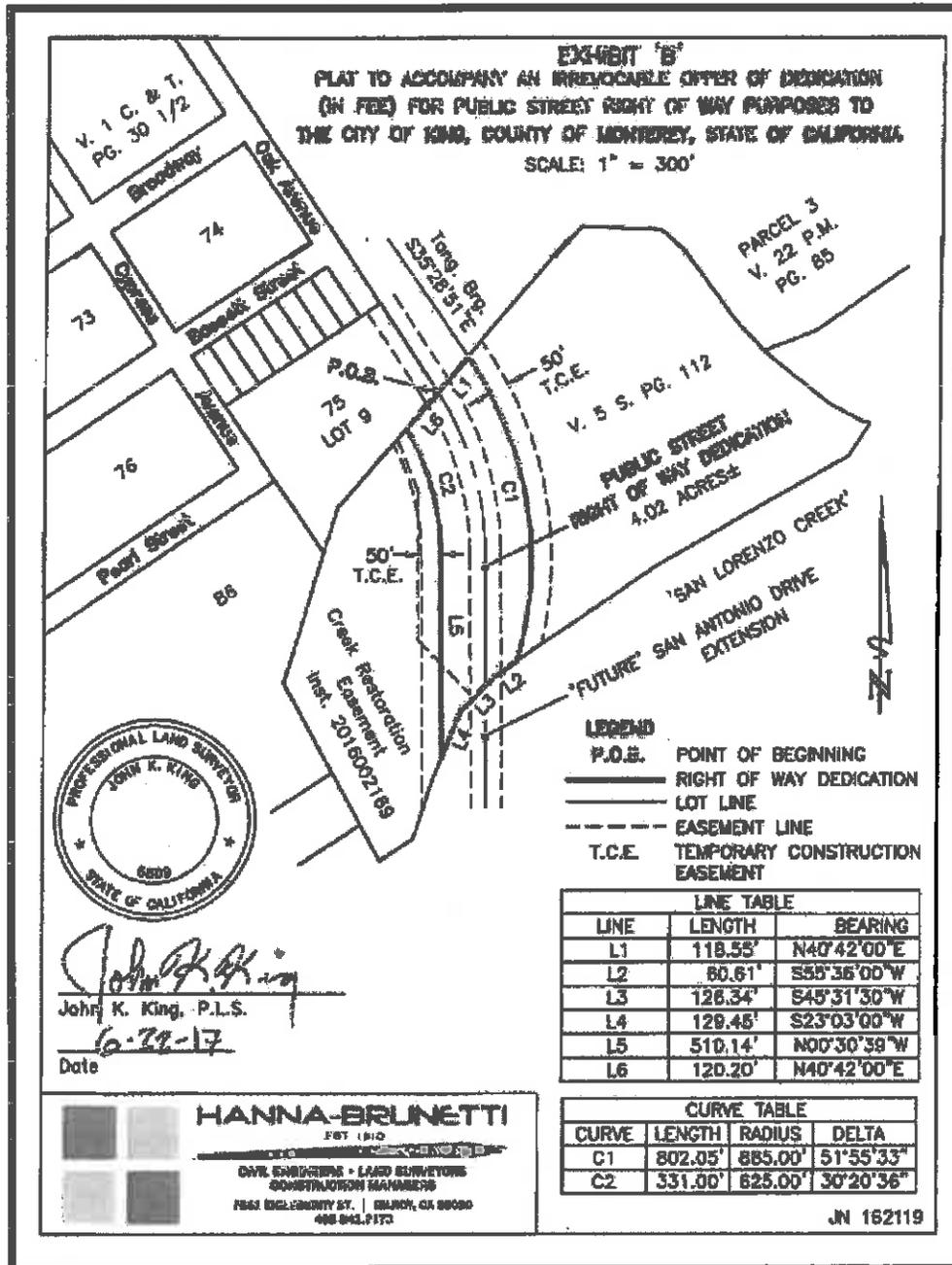
**PLANNING COMMISSION
GENERAL PLAN CONSISTENCY DETERMINATION
SAN LORENZO CREEK PROPERTY
AUGUST 1, 2017
PAGE 4 OF 12**

FIGURE 1 – ZONING MAP



PLANNING COMMISSION
 GENERAL PLAN CONSISTENCY DETERMINATION
 SAN LORENZO CREEK PROPERTY
 AUGUST 1, 2017
 PAGE 5 OF 12

FIGURE 2 – PLAT MAP



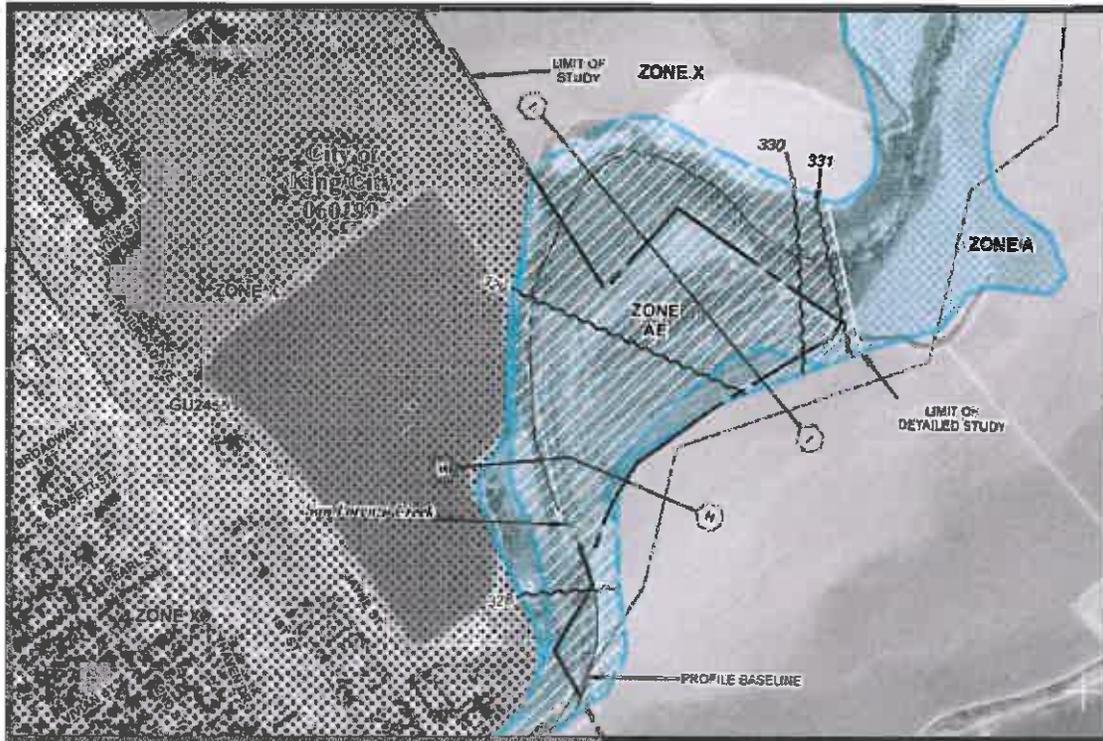
**PLANNING COMMISSION
GENERAL PLAN CONSISTENCY DETERMINATION
SAN LORENZO CREEK PROPERTY
AUGUST 1, 2017
PAGE 6 OF 12**

FIGURE 3 - AERIAL



PLANNING COMMISSION
GENERAL PLAN CONSISTENCY DETERMINATION
SAN LORENZO CREEK PROPERTY
AUGUST 1, 2017
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FIGURE 4 – FEMA FLOOD ZONE MAP*



*Zone AE of the Federal Emergency Management Agency ("**FEMA**") map: The floodway is the channel of a stream plus any adjacent floodplain areas that must be kept free of encroachment so that the 1% annual change flood can be carried without substantial increases in flood heights.

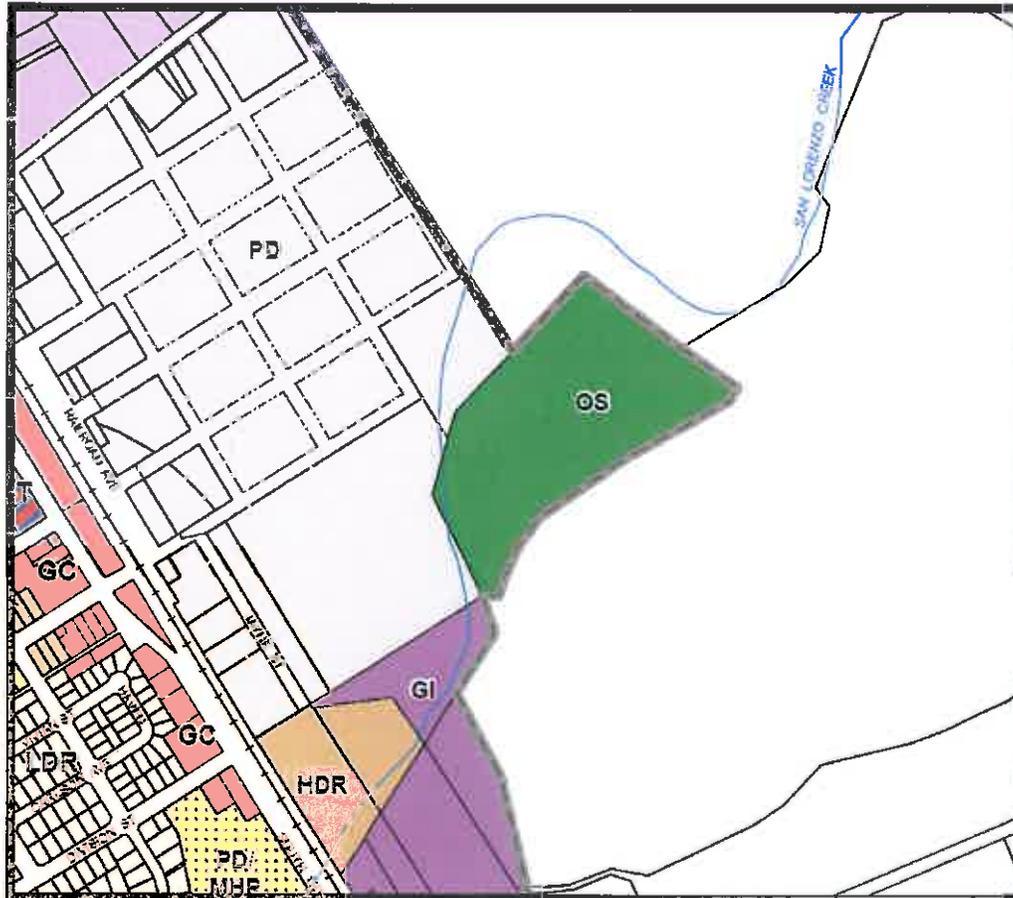
The property has a Base Flood Elevation lines that goes through the center of the property and northern corner of the property.

FIGURE 5 – WATERSHED MANAGEMENT ZONE MAP



**Project Site located on Zone 1
Flood Control Zone**

FIGURE 6 – GENERAL PLAN MAP



Environmental Review

Pursuant to Cal. Public Resources Code §15061 (3), and in accordance with the California Environmental Quality Act (“CEQA”), the project is covered by the general CEQA rule which states if it can be seen with certainty that there is no possibility that an activity may have a significant effect on the environment, the activity is not subject to CEQA. Staff believes that selling of the property which will remain open space for agriculture will not have a significant effect on the environment, and therefore the project is not subject to CEQA.

COST ANALYSIS:

The City is in the process of a purchase and sale agreement. The item is scheduled to go before the City Council for consideration in end of August 2017.

**PLANNING COMMISSION
GENERAL PLAN CONSISTENCY DETERMINATION
SAN LORENZO CREEK PROPERTY
AUGUST 1, 2017
PAGE 10 OF 12**

ALTERNATIVES:

The following alternatives are provided for Council consideration:

1. Adopt the attached Resolution;
2. Do not adopt the attached Resolution and request staff return with a Resolution not recommending the amendments; or
3. Provide other direction to staff.

Exhibits:

1. Resolution
 - a. Legal Description & Preliminary Map titled "Exhibit A" and "Exhibit B"

Prepared by: Maricruz Aguilar
Maricruz Aguilar, Assistant Planner

Approved by: MCA For Doreen Liberto
Doreen Liberto, AICP, Community Development Director

**PLANNING COMMISSION
GENERAL PLAN CONSISTENCY DETERMINATION
SAN LORENZO CREEK PROPERTY
AUGUST 1, 2017
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EXHIBIT 1

RESOLUTION NO. PC 2017-186

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF KING, CALIFORNIA FINDING GENERAL PLAN CONSISTENCY FOR PARCEL NO. 026-381-001-000 FOR THE PURPOSE SELLING THE PARCEL AND OF IRREVOCABLE OFFERS OF DEDICATION TO THE CITY OF KING FOR PUBLIC STREET RIGHT-OF-WAY, TEMPORARY CONSTRUCTION EASEMENTS, AND SEDIMENT PLACEMENT EASEMENT.

WHEREAS, Section 65402 (a) of the California Government Code reads, in part, as follows: *"With few exceptions, no real property shall be disposed of, no street shall be vacated or abandoned, and no public building or structure shall be constructed or authorized, if the adopted general plan or part thereof applies thereto, until the location, purpose and extent of such acquisition or disposition, such as street vacation or abandonment, or such public building or structure have been submitted to and reported upon by the planning agency as to conformity with said adopted general plan or part thereof";* and

WHEREAS, the Community Development Department ("**Department**") of the City of King reviewed a request for a General Plan Consistency determination by the City of King to sell Parcel 026-381-001-000 with irrevocable offers of dedication to the City of King, as described and shown on **Exhibit A** and **Exhibit B**; and

WHEREAS, pursuant to Public Resources Code §15061 (3), and in accordance with the California Environmental Quality Act ("**CEQA**"), the project is covered by the general CEQA rule which states if it can be seen with certainty that there are no possibility that an activity may have a significant effect on the environment, the activity is not subject to CEQA; and

WHEREAS, on August 1, 2017, the City of King Planning Commission ("**Commission**") considered the General Plan consistency, after considering the staff report and all submitted evidence, and determined that there are no conflicts with the City's General Plan and therefore, made a General Plan consistency determination in the affirmative.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of King does hereby make a consistency determination for the parcel shown in Exhibit B based on the following findings of fact:

**PLANNING COMMISSION
GENERAL PLAN CONSISTENCY DETERMINATION
SAN LORENZO CREEK PROPERTY
AUGUST 1, 2017
PAGE 12 OF 12**

1. The property is currently used as an open space area and designated for open and agricultural land use. The land will remain consistent with the character of the area which is agriculture and primary flood plain. The General Plan contains goals and policies to protect open spaces and agricultural areas of future development.
2. The project is statutorily exempt from environmental review pursuant to the State CEQA Guideline §15061(b)(3) because the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

PASSED, APPROVED AND ADOPTED this 1st day of August, 2017.

David Nuck, Planning Commission Chair

ATTEST:

Erica Sonne, Planning Commission Clerk

EXHIBIT 'A'

**IRREVOCABLE OFFERS OF DEDICATION TO THE CITY OF KING,
COUNTY OF MONTEREY, STATE OF CALIFORNIA**

PUBLIC STREET RIGHT OF WAY (IN FEE)

A PARCEL OF LAND SITUATED IN THE CITY OF KING, COUNTY OF MONTEREY, STATE OF CALIFORNIA, BEING A PORTION OF THAT 24.62 ACRE PARCEL OF LAND SHOWN ON THAT RECORD OF SURVEY MAP FILED MAY 28, 1957 IN VOLUME 5 OF SURVEYS, AT PAGE 112, RECORDS OF SAID COUNTY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHWESTERLY BOUNDARY OF SAID 24.62 ACRE PARCEL, SAID POINT BEING THE MOST EASTERLY CORNER OF LOT 9 OF BLOCK 75 AS SHOWN ON THAT CERTAIN 'MAP OF THE SPRECKELS SUGAR COMPANY'S VILLA LOT ADDITION TO KINGS CITY' FILED DECEMBER 20, 1910 IN VOLUME 1 OF CITIES AND TOWNS, AT PAGE 30 ½, RECORDS OF SAID COUNTY; THENCE ALONG SAID NORTHWESTERLY BOUNDARY NORTH 40°42'00" EAST 118.55 FEET TO A POINT; THENCE LEAVING SAID BOUNDARY ALONG A NON-TANGENT CURVE TO THE RIGHT, FROM A TANGENT BEARING SOUTH 35°28'51" EAST, WITH A RADIUS OF 885.00 FEET, THROUGH A CENTRAL ANGLE OF 51°55'33", AN ARC DISTANCE OF 802.05 FEET TO A POINT ON THE SOUTHEASTERLY BOUNDARY OF SAID 24.62 ACRE PARCEL; THENCE ALONG SAID SOUTHEASTERLY BOUNDARY SOUTH 55°38'00" WEST 60.61 FEET TO AN ANGLE POINT THEREOF; THENCE SOUTH 45°31'30" WEST 126.34 FEET TO AN ANGLE POINT THEREOF; THENCE SOUTH 23°03'00" WEST 129.45 FEET TO A POINT; THENCE LEAVING SAID BOUNDARY NORTH 0°30'39" WEST 510.14 FEET TO A POINT OF CURVATURE; THENCE ALONG A CURVE TO THE LEFT, WITH A RADIUS OF 625.00 FEET, THROUGH A CENTRAL ANGLE OF 30°20'36", AN ARC DISTANCE OF 331.00 FEET TO A POINT ON SAID NORTHWESTERLY BOUNDARY; THENCE ALONG SAID NORTHWESTERLY BOUNDARY NORTH 40°42'00" EAST 120.20 FEET TO THE POINT OF BEGINNING.

CONTAINING 4.02 ACRES OF LAND, MORE OR LESS.

TEMPORARY CONSTRUCTION EASEMENTS

BEING 2 (TWO) EASEMENTS, 50 FEET IN WIDTH, FOR TEMPORARY CONSTRUCTION PURPOSES AND ANY APPURTENANCES THERETO, ADJOINING THE WESTERLY AND EASTERLY BOUNDARIES OF SAID PUBLIC STREET PARCEL AND LYING OVER, ON AND ACROSS PORTIONS OF SAID 24.62 ACRE PARCEL.

SAID TEMPORARY CONSTRUCTION EASEMENTS WILL AUTOMATICALLY TERMINATE WHEN THE CITY OF KING FORMALLY ACCEPTS THE IMPROVEMENTS CONSTRUCTED WITHIN SAID PUBLIC STREET PARCEL TO CITY STANDARDS.

SEDIMENT PLACEMENT EASEMENT

BEING AN EASEMENT FOR THE PLACEMENT OF SEDIMENT REMOVED FROM THE 'SAN LORENZO CREEK' UNDER THE 'SALINAS RIVER STREAM MAINTENANCE PROGRAM', ADMINISTERED BY PERMITTEE, MONTEREY COUNTY WATER RESOURCES AGENCY (MCWRA).

DURATION OF THE EASEMENT SHALL COINCIDE WITH THE DURATION OF ALL PERMITS FOR THE 'SALINAS RIVER STREAM MAINTENANCE PROGRAM' INCLUDING FUTURE PERMIT TIME EXTENSIONS.

PLACEMENT OF SEDIMENT SHALL BE WITHIN THE 4.02 ACRE PARCEL DESCRIBED ABOVE AND/OR AT A LOCATION MUTUALLY AGREED UPON BY THE CITY OF KING AND THE ADJOINING LAND OWNERS AND BEING OUTSIDE THE FLOOD CHANNEL OF SAID SAN LORENZO CREEK.

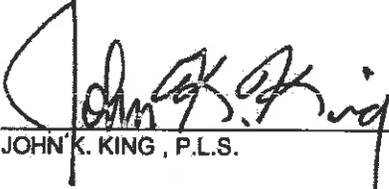
SEE EXHIBIT 'B' ATTACHED HERETO AND MADE A PART HEREOF.

EXHIBIT 'A' (CONTINUED)

OFFERS OF DEDICATION TO THE CITY OF KING, COUNTY OF MONTEREY, STATE OF CALIFORNIA

END OF DESCRIPTIONS

THESE LEGAL DESCRIPTIONS WERE PREPARED BY ME IN CONFORMANCE WITH THE REQUIREMENTS OF THE LAND SURVEYORS ACT.

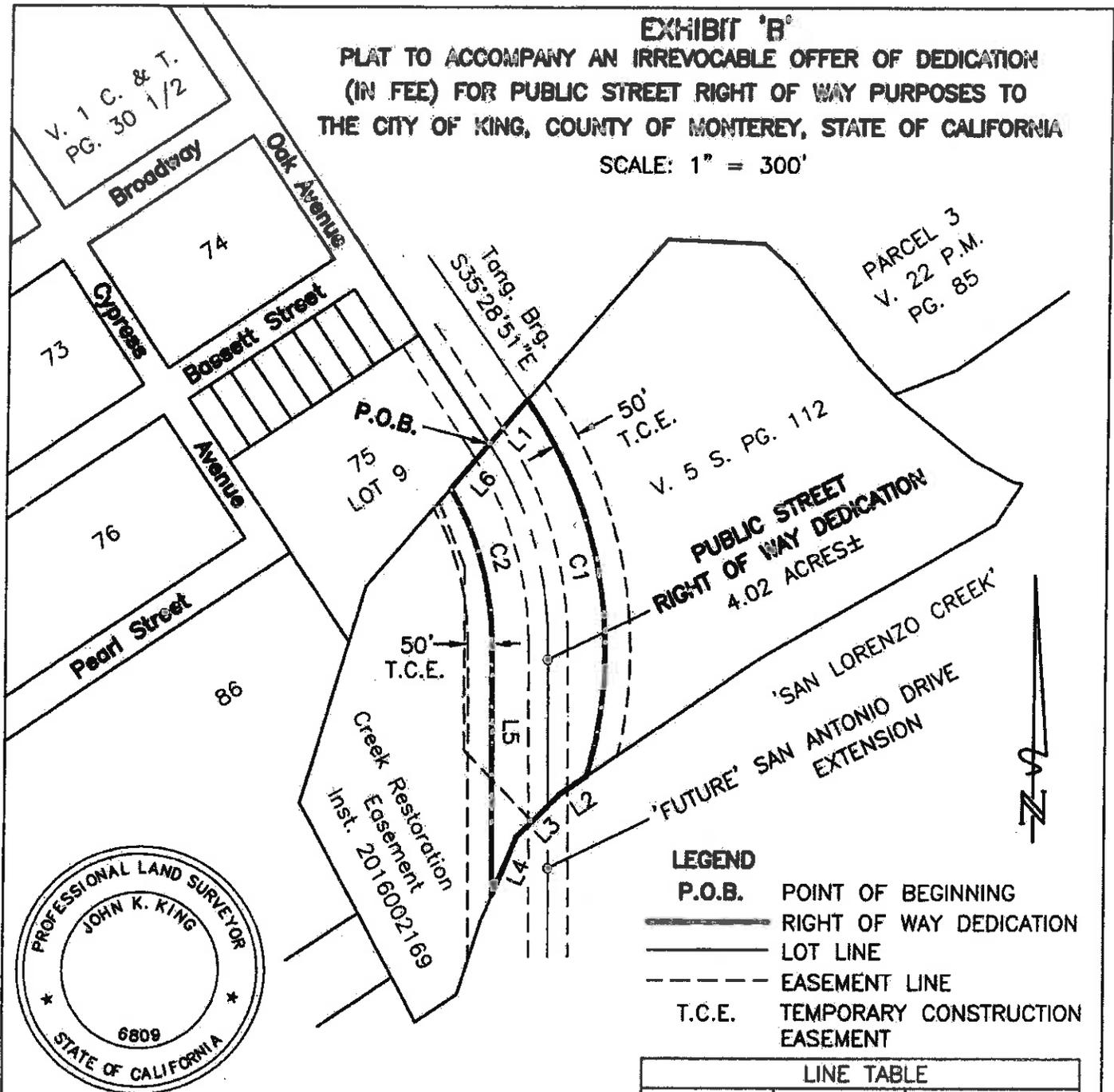

JOHN K. KING, P.L.S.



6-22-17
DATE

EXHIBIT 'B'
PLAT TO ACCOMPANY AN IRREVOCABLE OFFER OF DEDICATION
(IN FEE) FOR PUBLIC STREET RIGHT OF WAY PURPOSES TO
THE CITY OF KING, COUNTY OF MONTEREY, STATE OF CALIFORNIA

SCALE: 1" = 300'



John K. King
 John K. King, P.L.S.
 Date 6-22-17

- LEGEND**
- P.O.B. POINT OF BEGINNING
 - RIGHT OF WAY DEDICATION
 - LOT LINE
 - EASEMENT LINE
 - T.C.E. TEMPORARY CONSTRUCTION EASEMENT

LINE TABLE		
LINE	LENGTH	BEARING
L1	118.55'	N40°42'00"E
L2	60.61'	S55°36'00"W
L3	126.34'	S45°31'30"W
L4	129.45'	S23°03'00"W
L5	510.14'	N00°30'39"W
L6	120.20'	N40°42'00"E

CURVE TABLE			
CURVE	LENGTH	RADIUS	DELTA
C1	802.05'	885.00'	51°55'33"
C2	331.00'	625.00'	30°20'36"

HANNA-BRUNETTI
 EST. 1910
 CIVIL ENGINEERS • LAND SURVEYORS
 CONSTRUCTION MANAGERS
 7651 EIGLEBERRY ST. | GILROY, CA 95020
 408.842.2173



Item No. 8(A)

REPORT TO THE PLANNING COMMISSION

DATE: AUGUST 01, 2017
TO: HONORABLE CHAIR AND MEMBERS OF THE PLANNING COMMISSION
**FROM: DOREEN LIBERTO-BLANCK COMMUNITY DEVELOPMENT DIRECTOR;
ROY SANTOS, ASSISTANT CITY ATTORNEY**
BY: SCOTT BRUCE, PRINCIPAL PLANNER
**RE: RECOMMENDATION TO THE CITY COUNCIL RE: AMENDING THE KING
CITY MUNICIPAL CODE - SECTION 17.03; AMENDING SECTIONS
17.30.020 AND 17.31.020; AND AMENDING THE EAST RANCH
BUSINESS PARK SPECIFIC PLAN**

RECOMMENDATION:

Staff recommends that Planning Commission 1) review proposed amendments to the Ordinances and Environmental Document, 2) receive public comment 3) provide recommendation to the City Council regarding the amendments to the Ordinances that would amend the scope of allowed Cannabis activity in the City.

BACKGROUND:

In January 2016, the City Council approved amendment to the Municipal Code which allowed Commercial Cannabis Cultivation in the City. In September 2016, the Code was amended to allow Mixed Light Cultivation, Nurseries, Manufacturing and Testing.

In June 2017 the Code was amended to address items such as: Definitions; Insurance; Work Permit Approval Process; Inspection / Enforcement and Violations, Storage of Alcohol and CO₂; Distributor (CA Type 11) and Transporter (CA Type 12) uses.

The currently proposed amendments to the King City Municipal Code will: revise the definition of Cannabis to include recreational uses; address the ability to hold multiple permit types; address permit renewal; clarify restrictions for Testing (CA Type 8) Permits; revise age limits from 18 years to 21 years; and, allow CA Type 7 Manufacturing (type 2, volatiles).

With the adoption of Proposition 215, the California voters approved the Compassionate Use Act (Health and Safety Code § 11362.5) to ensure that seriously ill Californians have the right to obtain and use cannabis for medical purposes where that medical use is deemed appropriate and has been recommended by a physician, without fear of criminal prosecution under limited, specified circumstances. In 2004, the State Legislature enacted SB 420 to clarify the scope of the Compassionate Use Act and provide additional

statutory guidance regarding medical cannabis use. These statutes are codified at Health and Safety Code section 11362.7 et seq. and allow cities and counties to adopt supplemental rules and regulations.

In October of 2015, the Governor signed the Medical Marijuana Regulation and Safety Act ("Act"). The Act created a comprehensive state licensing system for the commercial cultivation, manufacture, retail sale, transport, distribution, delivery, and testing of medical cannabis, all subject to local control. One of the purposes of the Act is to ensure uniformity among jurisdictions that wished to allow commercial cannabis operations.

The Adult Use of Marijuana Act ("AUMA") was approved by a majority of California voters in the November 2016 election. The purpose of AUMA is to establish a comprehensive system to legalize, control and regulate the cultivation, processing, manufacture, distribution, testing, and sale of nonmedical cannabis, including cannabis products. Adults, age 21 and older, will be allowed to possess cannabis and grow certain amounts at home for personal use.

Unregulated cannabis cultivation can be harmful to the health, safety and welfare of the surrounding community and constitute a public nuisance. Cannabis plants, as they begin to flower and for a period of two months or more, produce a strong odor, offensive to many people, and detectable far beyond property boundaries without proper ventilation, odor control, and other regulations. In addition, due to the value of cannabis plants and their strong smell (which alerts others to their locations), cannabis cultivation has been linked to break-ins, robbery, armed robbery, theft and attendant violence and injury, creating an increased risk to public safety.

In addition, cannabis cultivation has been shown to involve avoidance of environmental laws and regulations, and has resulted in the pollution of waters and navigable waterways in the State of California. The indoor cultivation of cannabis has potential adverse effects to the structural integrity of the buildings in which cannabis is cultivated, and the use of high wattage grow lights and excessive use of electricity increases the risk of fire, which presents a clear and present danger to the buildings, its occupants, and neighboring buildings. In fact, there are numerous well publicized studies and reports, as well as numerous documented incident in Monterey County and throughout the State, which show that unregulated cannabis activities have a significant adverse effect on the community.

Health and Safety Code section 11362.2(b) explicitly allows a city to "enact and enforce reasonable regulations to reasonably regulate" the cultivation of cannabis. Countless California cities have reported negative impacts of cannabis cultivation and related activities, including but not limited to offensive odors, criminal activity, (such as trespassing, theft, violent robberies and robbery attempts, and the illegal sale and distribution of cannabis), and public health and safety concerns (such as fire hazards and problems associated with mold, fungus, and pests). Given the continuing lack of formal regulation from the state, the City is considering amendment of the regulations governing commercial cultivation of cannabis. Without a formal regulatory framework, the adverse

impacts frequently associated with commercial cannabis activities will occur, and would result in an unregulated and potentially significant negative impact upon the environment and upon public health, safety, and welfare of the community.

On **January 26, 2016**, the City adopted Title 17, Chapter 17.03 of the King City Municipal Code pertaining to commercial cannabis activity. The commercial medical cannabis ordinance places complete bans and regulations on medical cannabis activity in the City based upon various health, safety and welfare and land use findings relating to cannabis cultivation, distribution, and consumption, which findings are incorporated herein by reference. The City also considered and adopted the Mitigated Negative Declaration ("**MND**") related to the project.

In **September of 2016** the City further amended the King City Municipal Code to facilitate and regulate the allowance of additional types of indoor commercial cannabis activity as well as the manufacturing and testing of commercial medical cannabis products. The commercial medical cannabis related ordinances added regulatory language and amend the land uses / license types that are allowed in the EBRP SP and the M-1 and M-2 Districts. The City also considered and adopted the Mitigated Negative Declaration ("**MND**") related to the project.

DISCUSSION:

Three Cannabis related CUP's have been approved. Those three CUP's have resulted in the issuance of twelve Operations Permits. Through the review and approval process Staff has had the opportunity to evaluate the functionality and clarity of the regulations as well as receive comment and suggestions from the applicants. In addition, the City Attorney's Office has conducted a thorough analysis of the evolving state regulations and provided suggested amendments related to SB94.

During the discussions related to the June 27, 2017 code revisions there was also discussion related to additional revisions. Three significant elements of those discussions include:

- The definition of Commercial Cannabis in the City – moving from specifically medically to cannabis in general (Medical and Recreational) in accordance with state law
- The inclusion of CA Type 7 manufacturing as an allowed license / permit type. This type of process is classified as "level 2" and includes the use of volatiles such as propane or hexane.
- The inclusion of a CA Type 10A license as an allowed license / permit type. The issue here was the ability of one entity to hold multiple licenses, particular nursery, cultivation, manufacturing, distribution and transportation.

The currently proposed Ordinance revisions address these issues as follows:

- Cannabis definition: Section 17.03.020 (a) now states that “Cannabis” means all parts of the medical or recreational plant or seeds.
- Type 7 Manufacturing: Sections 17.03.270(a) provides for the inclusion of Type 7 manufacturing and directs that the Fire / Police chiefs determine the amount of volatile chemical, solvent or substance that can be stored on site. Section 17.03.270 (b) provides for the City Manager to establish additional regulations and / or guidelines.

In practice, Staff will require that each Applicant provide detailed information as to type(s) use, amount and storage of these materials, included in textual description and graphically on the floorplans. When the information is provided the proposed plans will be reviewed by the Fire Chief and also by the Police Chief as he deems appropriate. Staff will also provide the information to our Cannabis Consultant. This review will occur prior to presentation to Planning Commission during CUP review. It is anticipated that the projects will be reviewed with an eye to safety similar to other projects in the Industrial Districts. If there are concerns by Staff and / or the Commission they will be addressed to the City’s satisfaction prior to issuance of an Operations Permit.

- Multiple Permits: Previously the City Council gave staff direction to prepare an update to the existing Commercial Cannabis Activity ordinances authorizing the issuing of multiple City permit types consistent with a State of California Type 10A license, excluding dispensaries. While preparing the updates, the California Legislature passed and the Governor signed into law SB-94 which removed the Type 10A license and replaced it with a Type 12 “Microbusiness” license. Section 17.03. 040 subdivisions (f)(8) and (i) address the multiple licenses issue. The update authorizes an applicant to hold multiple City issued commercial cannabis permit types, consistent with the requirements of Business and Professions Code section 26053 and a Type 12 Microbusiness license. Also, it prohibits an individual or corporation which holds a Testing permit or CA Type 8 Testing license from holding any other permit or license type.

Ordinance 2017-745: Amendments to Title 17, Section 17.03 defines and regulates the Commercial Cannabis Activity related uses that are to be allowed in the City; it does not specifically delineate those additional uses and/or the areas of the City where those uses can be located. Currently, the ERBP and the M-1, M-2 Districts allow indoor cultivation, nurseries, Type 6 (non-volatile) manufacturing and testing.

Ordinance 2017-745: Also amends Sections 17.30.020 and 17.31.020 adding CA Type 7 Manufacturing (volatiles, level 2) and removing and replacing (CA Type 12) Transportation activities with CA Type 12 "Microbusiness". Testing licenses are being clarified – a CA Type 8 Testing License holder / City Permittee cannot hold a license of another type.

Ordinance 2017-746: Amendments to the ERBP Specific Plan will allow the CA Type 7 Manufacturing (volatiles, type 2) and remove and replace (CA Type 12) Transporter activities with (CA Type 12) Microbusiness activities in the M-1 and M-2 Districts. Testing licenses are being clarified – a CA Type 8 -Testing License holder / City Permittee cannot hold a license of another type.

The Ordinances are exempt from the California Environmental Quality Act ("CEQA") because it can be seen with certainty that there is no possibility that it will have a significant effect on the environment. (CEQA Guidelines §15061(b)(3).) It is also exempt because it consists of regulations and restrictions on activities to assure the maintenance, restoration, or enhancement of natural resources and the environment by prohibiting environmentally destructive components of unregulated cannabis cultivation. (CEQA Guidelines §§15307, 15308.)

The State of California, as part of AB 243, AB 266 and SB 643, has defined certain Types of "Licenses".

The City's Municipal Code currently allows:

- Type 2A: Indoor cultivation with all artificial light from 0 to 10,000 square feet of plant canopy
- Type 3A: Indoor cultivation with all artificial light from 10,001 to 22,000 square feet of plant canopy
- Type 2B: Indoor cultivation with all artificial light from 0 to 10,000 square feet of plant canopy
- Type 3B: Indoor cultivation with all artificial light from 10,001 to 22,000 square feet of plant canopy
- Type 4: Nurseries (the City anticipates limiting this use to a maximum 25,000 sf of plant growth area).
- Type 6: Manufacturing (Level 1)
- Type 8: Testing
- Type 11: Distribution
- Type 12 Transportation

The Amendments Include (but are not limited to):

Refinements to:

- Cannabis and Transporter Definitions
- Clarified prohibition of retail deliveries and dispensing
- Permit renewal requirements
- Edibles
- Minimum age for employees and site access now 21
- Limitations regarding Testing Permits and Employees

Also:

- "Greenhouses"
- Add CA Manufacturing Type 7 (level 2) (with approval by Fire Chief and / or Chief of Police
- Transporter Uses now "microbusiness"

ALTERNATIVES:

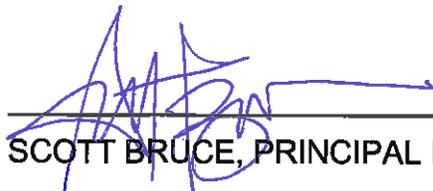
The following alternatives are provided for Commission consideration:

1. Provide recommendations to City Council regarding Ordinances 2016-745, 2016-746
2. Provide other direction to staff.

ATTACHMENTS:

1. Ordinance No. 2017- 745 (Section 17.03, Regulatory Ordinance and (Sections 17.30 and 17.31 (M-1 and M-2 Districts)
2. Ordinance No. 2017-746 (East Ranch Business Park Specific Plan Amendment).
3. Resolution 2017-184

Submitted by:


SCOTT BRUCE, PRINCIPAL PLANNER

Approved by:


DOREEN LIBERTO-BLANCK, AICP, COMMUNITY DEVELOPMENT
DIRECTOR

ORDINANCE NO. 2017-745

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KING AMENDING CHAPTER 17.03 OF TITLE 17 OF THE KING CITY MUNICIPAL CODE PERTAINING TO COMMERCIAL CANNABIS ACTIVITY; AMENDING CHAPTER 17.30 OF TITLE 17 OF THE KING CITY MUNICIPAL CODE PERTAINING TO M-1 INDUSTRIAL DISTRICT; AND AMENDING CHAPTER 17.31 OF TITLE 17 OF THE KING CITY MUNICIPAL CODE PERTAINING TO M-2 INDUSTRIAL DISTRICT

WHEREAS, the City of King (“the City”) has the authority, under its police power, to enact regulations for the public peace, morals, and welfare of the City, California Constitution Article XI, section 7; and

WHEREAS, in 1996, with the adoption of Proposition 215, the California voters approved the Compassionate Use Act (Health and Safety Code § 11362.5) to ensure that seriously ill Californians have the right to obtain and use cannabis for medical purposes where that medical use is deemed appropriate and has been recommended by a physician, without fear of criminal prosecution under limited, specified circumstances; and

WHEREAS, in 2004, the State Legislature enacted SB 420 to clarify the scope of the Compassionate Use Act and provide additional statutory guidance regarding medical cannabis use. These statutes are codified at Health and Safety Code § 11362.7 et seq. and allow cities and counties to adopt supplemental rules and regulations; and

WHEREAS, on October 9, 2015, almost 20 years after passage of the Compassionate Use Act, the Governor signed the Medical Marijuana Regulation and Safety Act (“Act”), comprised of California legislative bills AB 243, AB 266, and SB 643. The Act creates a comprehensive state licensing system for the commercial cultivation, manufacture, retail sale, transport, distribution, delivery, and testing of medical cannabis, all subject to local control. One of the purposes of the Act is to ensure uniformity among jurisdictions that wished to allow commercial cannabis operations; and

WHEREAS, on June 27, 2016, the Governor signed SB 837, effective immediately, changing the terms in the Act from “medical marijuana” or “marijuana” to “medical cannabis” or “cannabis”, and making other technical changes to the Act. SB 83 7 also adopted regulations relating to the use and diversion of water in connection with the cultivation of cannabis; and

WHEREAS, in 2016, the City adopted Title 17, Chapter 17.03 et seq., of the King City Municipal Code pertaining to Medical Cannabis Activity. The Medical Cannabis Ordinance places complete bans and regulations on medical cannabis activity in the City based upon various health, safety and welfare and land use findings relating to cannabis cultivation, dispensing, and consumption, which findings are incorporated herein by reference; and

WHEREAS, in November of 2016 the Adult Use of Marijuana Act (“AUMA”) was approved by a majority of California voters. The purpose of AUMA is to establish a comprehensive system to legalize, control and regulate the cultivation, processing, manufacture, distribution,

testing, and sale of nonmedical cannabis, including cannabis products. Adults, age 21 and older, will be allowed to possess cannabis and grow certain amounts at home for personal use; and

WHEREAS, the AUMA did not provide for a specific effective date, thus the provisions of the AUMA regarding personal use, possession, and cultivation of cannabis became effective the day after the November 8, 2016; and

WHEREAS, the AUMA's proposed Health & Safety Code section 11362.1(a)(3), will make it lawful under state and local law for any person twenty-one (21) years of age or older to "Possess, plant, cultivate, harvest, dry, or process not more than six living cannabis plants and possess the cannabis produced by the plants"; and

WHEREAS, the City wishes to enact regulations governing commercial cultivation of cannabis at this time; and

WHEREAS, the AUMA's proposed Health & Safety Code section 11362.2(b) explicitly allows a city to "enact and enforce reasonable regulations to reasonably regulate" the cultivation of cannabis so long as the City does not prohibit the cultivation of up to six plants "inside a private residence, or inside an accessory structure to a private residence located upon the grounds of a private residence that is fully enclosed and secure"; and

WHEREAS, several California cities have reported negative impacts of cannabis cultivation and related activities, including but not limited to offensive odors, criminal activity, (such as trespassing, theft, violent robberies and robbery attempts, and the illegal sale and distribution of cannabis), and public health and safety concerns (such as fire hazards and problems associated with mold, fungus, and pests); and

WHEREAS, cannabis plants, as they begin to flower and for a period of two months or more, produce a strong odor, offensive to many people, and detectable far beyond property boundaries if grown outdoors or if grown indoors without proper ventilation, odor control, and other regulations; and

WHEREAS, due to the value of cannabis plants and their strong smell (which alerts others to their locations), cannabis cultivation has been linked to break-ins, robbery, armed robbery, theft and attendant violence and injury, creating an increased risk to public safety; and

WHEREAS, unregulated cannabis cultivation can be harmful to the welfare of the surrounding community and its residents and constitute a public nuisance, in that cannabis cultivation has been shown to involve avoidance of environmental laws and regulations, and has resulted in the pollution of waters and navigable waterways in the State of California; and

WHEREAS, the indoor cultivation of cannabis has potential adverse effects to the structural integrity of the buildings in which cannabis is cultivated, and the use of high wattage grow lights and excessive use of electricity increases the risk of fire, which presents a clear and present danger to the buildings, its occupants, and neighboring buildings and residents; and

WHEREAS, unregulated indoor cultivation of cannabis can be harmful to the public health, safety and welfare, given electrical modifications risk fires, poor irrigation can cause mold, overloaded circuits can leave entire neighborhoods in the dark, plant chemicals can cause illness,

improper carbon dioxide mixed with insufficient ventilation can cause injury or death, and structural changes put first responders in danger if they rush into the unknown; and

WHEREAS, the Attorney General's August 2008 Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use recognize that the cultivation or other concentration of cannabis in any location or premises without adequate security increases the risk that nearby homes or businesses may be negatively impacted by nuisance activity such as loitering and/or crime; and

WHEREAS, MMRSA and AUMA mandated comprehensive state licensing and regulatory framework for cultivation, manufacturing, distribution, transporting, testing and dispensing cannabis and cannabis products; however, implementing regulations have yet to be written and state licenses may not be available until 2018; and

WHEREAS, there are numerous well publicized studies and reports, as well as numerous documented incident in Monterey County and throughout the State, which show that unregulated cannabis activities have a significant adverse effect on the community; and

WHEREAS, the City finds that the absence of a formal regulatory framework the adverse impacts frequently associated with commercial cannabis activities will occur, resulting in an unregulated and potentially significant negative impact upon the environment and upon public health, safety, and welfare of the community; and

WHEREAS, outdoor cannabis cultivation and unregulated indoor cannabis cultivation are likely to generate these negative effects on the public health, safety, and welfare in the City, based on the experiences of other cities; and

WHEREAS, pursuant to the above-described express statutory authority and its police power, the City desires to explicitly prohibit the outdoor cultivation of commercial cannabis for both recreational and medical use; and

WHEREAS, pursuant to the above-described express statutory authority and its police power, the City also desires to enact reasonable regulations for the indoor cultivation, manufacturing, testing, distribution, or consumption of commercial recreational and medical cannabis; and

WHEREAS, absent clear regulation, cannabis cultivation in the City poses a potential threat to the public peace, health, and safety, and, unless the City takes action to regulate it, the secondary impacts described above are likely to occur very soon after the passage of the AUMA; and

WHEREAS, the City has a compelling interest in protecting the public health, safety, and welfare of its citizens, residents, visitors and businesses, and in preserving the peace and quiet of the neighborhoods within the City by regulating the commercial cultivation of recreational and medical cannabis; and

WHEREAS, nothing in this Ordinance shall be construed to: (1) allow any person to engage in conduct that endangers others or causes a public nuisance; or (2) allow any activity

relating to the cultivation, manufacturing, testing, distribution, or consumption of cannabis which is illegal under state or federal law; and

WHEREAS, it is the intent of the City to regulation commercial cannabis activities, both recreational and medical, within the boundaries of the City.

NOW THEREFORE, the City Council of the City of King does hereby ordain as follows:

SECTION 1. The above recitals are incorporated are hereby by reference.

SECTION 2. The Ordinance is exempt from the California Environmental Quality Act (“CEQA”) because it can be seen with certainty that there is no possibility that it will have a significant effect on the environment. (CEQA Guidelines §15061(b)(3).) It is also exempt because it consists of regulations and restrictions on activities to assure the maintenance, restoration, or enhancement of natural resources and the environment by prohibiting environmentally destructive components of unregulated cannabis cultivation. (CEQA Guidelines §§15307, 15308.)

SECTION 3. Chapter 17.03, of Title 17, of the King City Municipal Code and the Chapters specifically identified below are amended to read as follows:

Chapter 17.03

COMMERCIAL CANNABIS ACTIVITY

Section 17.03.020 Definitions.

When used in this Chapter, the following terms shall have the meanings ascribed to them in this Section. Any reference to California statutes includes any regulations promulgated thereunder and is deemed to include any successor or amended version of the referenced statute or regulatory provision.

- (a) “*Cannabis*” means all parts of the medical or recreational Cannabis sativa Linnaeus, medical or recreational Cannabis indica, and/or medical or recreational Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. “*Cannabis*” also means the separated resin, whether crude or purified, obtained from marijuana. “*Cannabis*” also means marijuana as defined by Section 11018 of the California Health and Safety Code as enacted by Chapter 14017 of the Statutes of 1972. “*Cannabis*” does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this Chapter, “*Cannabis*” does not mean recreational marijuana, cannabis or industrial hemp as that term is defined by Section 81000 of the

California Food and Agricultural Code or Section 11018.5 of the California Health and Safety Code.

- (b) “*Cannabis concentrate*” means manufactured cannabis that has undergone a process to concentrate the cannabinoid active ingredient, thereby increasing the product’s potency. An edible cannabis product is not considered food, as defined by Section 109935 of the California Health and Safety Code, or a drug, as defined by Section 109925 of the California Health and Safety Code.
- (c) “*Cannabis product*” means live unharvested cannabis, dried cultivated cannabis, live plants and/or a product containing cannabis, including, but not limited to, concentrates and extractions. For purposes of this Chapter, “*cannabis product*” does not include industrial hemp as defined by Section 81000 of the California Food and Agricultural Code or Section 11018.5 of the California Health and Safety Code.
- (d) “*Chief of Police*” means the Chief of Police for the King City Police Department or his/her designee.
- (e) “*City Manager*” means the City Manager for the City of King or his/her designee.
- (f) “*Commercial cannabis activity*” or “*commercial cannabis business*” includes any business or operation which engages in cultivation, nursery, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, or sale of cannabis or a cannabis product, except as set forth in California Business and Professions Code Section 19319, related to qualifying patients and primary caregivers.
- (g) “*Commercial cannabis permit*” means a permit issued by the City of King pursuant to this Chapter to a commercial cannabis business.
- (h) “*Cultivation*” means any activity involving the propagation, planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.
- (i) “*Cultivation site*” means a facility where cannabis is propagated, planted, grown, harvested, dried, cured, graded, or trimmed, or that does all or any combination of those activities, which holds both a valid state license and a permit issued by the City of King.
- (j) “*Delivery*” means the commercial transfer of cannabis or cannabis products from a cultivation site, up to an amount determined by the State of California, or any of its departments or divisions, to a manufacturer or a testing laboratory.

- (k) “*Dispensary*” means a facility where cannabis, cannabis products, or devices for the use of cannabis or cannabis products are offered, either individually or in any combination, for retail sale, including an establishment (whether fixed or mobile) that delivers, pursuant to express authorization, cannabis and cannabis products as part of a retail sale.
- (l) “*Dispensing*” means making cannabis or cannabis products available to, delivering to, or distributing to two (2) or more persons and/or any activity involving the wholesale of cannabis or cannabis products.
- (m) “*Distribution*” means the sale or transportation of cannabis or cannabis products between entities licensed pursuant to the MMRSA, AUMA and/or any subsequent State of California legislation regarding cannabis and/or cannabis products.
- (n) “*Distributor*” means a person licensed under the MMRSA, AUMA and any subsequent State of California legislation to engage in the business of selling wholesale cannabis or cannabis products for sale to a licensed dispensary.
- (o) “*Dried flower*” means all cannabis that has been harvested, dried, cured, or otherwise processed, excluding leaves and stems.
- (p) “*Edible cannabis product*” means manufactured cannabis that is intended to be used, in whole or in part, for human consumption. An edible cannabis product is not considered food as defined by Section 109935 of the California Health and Safety Code or a drug as defined by Section 109925 of the California Health and Safety Code.
- (q) “*License*” means a license issued by the State of California, or one of its departments or divisions, under the MMRSA and/or AUMA to engage in commercial cannabis activity.
- (r) “*Live plants*” means living cannabis flowers and plants, including seeds, sprouts, immature plants (including unrooted clones), and vegetative stage plants.
- (s) “*Manufacturer*” means a person that conducts the production, preparation, propagation, or compounding of manufactured cannabis, as defined in this Section, or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or relabels its container, that holds a valid state license and holds a permit issued by the City of King.

- (t) *“Manufactured cannabis”* means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate or manufactured product, including but not limited to products intended for internal consumption or topical application.
- (u) *“Manufacturing site”* means a location that produces, prepares, propagates, or compounds cannabis or cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and is owned and operated by a person issued a license by the State of California, or one of its departments or divisions, for these activities.
- (v) *“Nursery”* means a licensed facility which produces only cannabis clones, immature cannabis plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis.
- (w) *“Person”* means an individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit and includes the plural as well as the singular number.
- (x) *“Topical cannabis”* means a product intended for external application. A topical cannabis product is not considered a drug as defined by Section 109925 of the California Health and Safety Code.
- (y) *“Transport”* means the transfer of cannabis or cannabis products from a licensed and permitted commercial cannabis business location to another licensed and permitted commercial cannabis business location, for the purposes of the wholesale delivery of cannabis and/or cannabis products and/or the transfer of cannabis to a manufacturing site or testing site as authorized pursuant to state law and/or the King City Municipal Code.
- (z) *“Transporter”* means a person ~~issued a license by the State of California, or one of its departments or divisions, to~~ who transports commercial cannabis or cannabis products ~~in an amount above a threshold determined by the State of California, or one of its departments or divisions for personal use~~ to and from a commercial cannabis business licensed by the State of California or one of its departments or divisions and permitted by the City of King.

Section 17.03.040 Licenses and Permits.

- (a) Commercial cannabis activity shall be authorized in the City of King only as expressly provided in this Chapter and if not expressly authorized by this Chapter shall be prohibited.
- (b) Cannabis dispensaries, cooperatives and/or collectives shall be prohibited in all zoning districts within the City. Further, no retail deliveries or dispensing of any cannabis or cannabis product shall be allowed within the jurisdictional boundaries of the City. The establishment, development, construction, maintenance, or operation of a cannabis dispensary, cooperative and/or collective are hereby prohibited, and is not an authorized or conditionally permitted use in any zoning district, even if located within an otherwise permitted use. No person shall establish, develop, construct, maintain, or operate a cannabis dispensary, cooperative and/or collective, and no application for a building permit, use permit, variance, or any other entitlement authorizing the establishment, development, construction, maintenance, or operation of any cannabis dispensary, cooperative and/or collective shall be approved by any officer or employee of the City. A violation of this Section is declared to be a public nuisance and punishable pursuant to the provisions of the King City Municipal Code.
- (c) The retail sale, gift, trade, barter or making available of cannabis or cannabis products by two or more persons shall be prohibited in all zoning districts of the City.
- (d) In addition to those other requirements which may be imposed pursuant to this Chapter, no person shall establish, develop, construct, maintain, or operate a commercial cannabis activity and/or open a commercial cannabis business without possessing both a commercial cannabis permit issued by the City and within one (1) year of the ability to obtain a license, a license issued by the State of California or one of its departments or divisions.
- (e) The City Manager is hereby authorized to issue commercial cannabis permits on behalf of the City. The City Manager, in their sole discretion, may issue a commercial cannabis permit pursuant to the mandatory requirements of this Chapter and the King City Municipal Code as may be repealed or amended by the City Council from time to time.
- (f) A commercial cannabis permit shall be governed by the following requirements and/or limitations:
 - (1) There shall be no retail sales of cannabis and/or cannabis products.
 - (2) Excluding repair, maintenance and delivery services, there shall be no public access to the commercial cannabis business.
 - (3) It shall be unlawful to employ or grant access to any individual under eighteen (18) twenty-one (21) years of age, or older-another age as set by state law.

- (4) Each commercial cannabis permit issued pursuant to this Chapter shall expire twelve (12) months after the date of its issuance.
- (5) An application for renewal of a commercial cannabis permit shall be filed with the City Manager at least sixty (60) calendar days prior to the expiration date of the permit.
- (6) An application for renewal of a commercial cannabis permit shall be denied if any of the following exists:
 - (A) The application for renewal of the commercial cannabis permit is filed less than sixty (60) calendar days before its expiration.
 - (B) The commercial cannabis permit is suspended or revoked at the time the application for renewal is submitted or suspended or revoked while the application for renewal is pending.
 - (C) The commercial cannabis business or activity has not been in regular and continuous operation during the four (4) months prior to the submission of the application for renewal.
 - (D) The commercial cannabis business or activity fails to conform to the requirements of this Chapter, any provision of the King City Municipal Code, any condition(s) imposed as part of a conditional use permit, and/or zoning requirement.
 - (E) The applicant for renewal of the commercial cannabis permit fails to renew its State of California license.
 - (F) The applicant for renewal has failed to pay in full any fees, administrative citation fines, penalties and/or costs issued by the City relating to the commercial cannabis business and/or activity, unless assessment of the fees, administrative citation fines, penalties and/or costs are being appealed.
- (7) If a renewal application is denied, the applicant may file an appeal. The appeal must be in writing, identify the grounds for reversing the denial and be submitted to the City Clerk within ten (10) days from the date of the denial. The appeal shall be conducted as established within this Chapter and/or the King City Municipal Code. In the alternative, the applicant may file a wholly new application for a commercial cannabis permit as established within this Chapter. Upon expiration of the commercial cannabis permit and regardless of a pending appeal or new application for a commercial cannabis permit, all applicant's commercial cannabis activity shall

immediately cease. Violations of this Section shall be subject to denial of the appeal or new application for a commercial cannabis permit and/or the enforcement, penalties and cost recovery proscribed within this Chapter and/or the King City Municipal Code.

- (8) An applicant seeking multiple licenses for different types of commercial cannabis activity shall be required to comply with the multiple licensing restrictions contained within Business and Professions Code Section 19328. An applicant may hold multiple City issued commercial cannabis permit types, consistent with the requirements of Business and Professions Code section 26053. An applicant who holds a City issued testing permit and/or State of California issued testing license shall not hold any other City issued commercial cannabis permits. An applicant also shall not receive a commercial cannabis permit authorizing the establishment, development, construction, maintenance, or operation of a cannabis dispensary, cooperative and/or collective within the City. Further, the applicant shall apply and receive a City issued permit for each type of commercial cannabis activity prior to engaging in the commercial cannabis activity.
- (9) Any unpaid fees, administrative citation fines, penalties and/or costs issued by the City relating to the commercial cannabis business and/or activity shall be added to the fee for renewal of the commercial cannabis permit, unless assessment of the fees, administrative citation fines, penalties and/or costs are being appealed.
- (10) A commercial cannabis permit shall not be renewed until the City receives payment in full of the renewal fee.
- (g) Prior to commencing operation, a commercial cannabis business shall obtain a City of King business license and comply with all applicable provisions and requirements of that license.
- (h) Prior to commencing operation, a commercial cannabis business shall be subject to a mandatory building inspection and must obtain all required permits or approvals which would otherwise be required including, but not limited to, building permit(s), King City Fire Department permit(s), and planning-level permit(s) required by Title 17 Zoning of the King City Municipal Code.
- (i) Prior to commencing operation, a commercial cannabis business conducting multiple commercial cannabis activities shall obtain a permit from the City authorizing the holding of multiple City permit types consistent with the requirements of Business and Professions Code section 26053. A commercial cannabis business which holds a City issued testing permit shall

not hold any other City issued commercial cannabis permits. In addition, a commercial cannabis business issued a permit authorizing it to hold multiple City permit types, consistent with the requirements of Business and Professions Code section 26053, shall not receive a City issued permit authorizing the establishment, development, construction, maintenance, or operation of a cannabis dispensary, cooperative and/or collective within the City. Further, a commercial cannabis business conducting multiple commercial cannabis activities shall obtain a City issued permit for each type of commercial cannabis activity prior to engaging in that commercial cannabis activity.

- (j) Revocation, termination, denial, non-issuance or suspension of a license issued by the State of California, or any of its departments or divisions, shall immediately terminate the commercial cannabis permit and all commercial cannabis activity shall immediately cease. Upon reinstatement or receipt of a new license from the State of California, or any of its departments or divisions, the commercial cannabis activity may file for a new permit from the City. While a new application for a commercial cannabis permit is pending, applicant shall not engage in any commercial cannabis activity. Violations of this Section shall be subject to denial of the application for a commercial cannabis permit and/or the enforcement, penalties and cost recovery proscribed within this Chapter and/or the King City Municipal Code.

Section 17.03.060 Security Measures.

- (a) The City Manager is authorized to promulgate additional regulations necessary to implement the requirements and fulfill the policies of this Chapter related to commercial cannabis activities.
- (b) A permitted commercial cannabis business, regardless of building type utilized, shall implement sufficient security measures to both deter and prevent unauthorized entrance into areas containing cannabis or cannabis products and theft of cannabis or cannabis products at the commercial cannabis business. Except as may otherwise be determined by the City Manager, these security measures shall include, but shall not be limited to, all of the following:
 - (1) Preventing both non-employees and employees from remaining on the premises of the commercial cannabis business if they are not engaging in the activity expressly related to the operations of the commercial cannabis business.
 - (2) Establishing limited access areas accessible only to authorized commercial cannabis business personnel.
 - (3) Except for live growing plants which are being cultivated at a cultivation facility, all cannabis and cannabis products shall be

stored in a secured and locked room, safe, or vault. All cannabis and cannabis products, including live plants which are being cultivated, shall be kept in a manner as to prevent diversion, theft, and loss.

- (4) Installing twenty-four (24) hour security surveillance cameras with night vision capability and of at least HD-quality to monitor all entrances and exits to and from the premises and to monitor all interior spaces, excluding all restroom and changing room facilities, within the commercial cannabis business. The security surveillance system shall be compatible with software and hardware utilized by the King City Police Department. The security surveillance system shall be capable of providing the King City Police Department with remote real-time/live access to the video footage during emergency situations, including but not limited to armed robbery, active shooter, hostage, and exposure to hazardous or volatile substances. Video recordings shall be maintained for a minimum of forty-five (45) days. Upon request by the Chief of Police, video recordings will provided to the King City Police Department within twenty-four (24) hours. If the commercial cannabis business refuses to provide the Chief of Police access to the real-time/live video feed or the requested video recordings, the City Attorney shall be authorized to seek reimbursement of all costs, including but not limited to court costs, attorney's fees, filing fees, administrative time and fees and employee time, incurred by the City while seeking a warrant and/or judicial intervention granting the requested access. The requirements of this Section shall be in addition to any other provision provided for within the King City Municipal Code.

areas.

- (5) Sensors shall be installed to detect entry and exit from all secure

businesses.

- (6) Panic buttons shall be installed in all commercial cannabis

- (7) A professionally installed, maintained, and monitored alarm system.

- (8) Any bars installed on the windows or the doors of the commercial cannabis business shall be installed only on the interior of the building and installed in compliance with all applicable requirements of the King City Municipal Code, California Building Code and California Fire Code.

- (9) Security personnel hired by the commercial cannabis business shall be certified by the State of California and submit to and pass a background check conducted by the King City Police Department, including but not limited to finger print analysis utilizing the California Department of Justice Live Scan system. In the alternative, the security personnel or commercial cannabis permit

holder may provide the City Manager with a completed background check performed by a third party vendor approved by the City.

- (10) Each commercial cannabis business shall have the capability to remain secure and operational during a power outage and shall ensure that all access doors are not solely controlled by an electronic access panel to ensure that locks are not released during a power outage.
- (c) Each commercial cannabis business shall provide the Chief of Police with the identity and contact information for a liaison who shall be reasonably available to meet and discuss compliance with the requirements of the King City Municipal Code, state law and/or any other regulations relating to the commercial cannabis activity.
- (d) As part of the application and permitting process, each commercial cannabis business shall provide the Chief of Police with a detailed transportation plan describing the procedures for safely and securely transporting cannabis, cannabis products and/or currency.
- (e) A commercial cannabis business shall notify the Chief of Police within twenty-four (24) hours after discovering any of the following:
 - (1) Significant discrepancies identified during inventory. The level of significance shall be determined by the regulations promulgated by the City Manager.
 - (2) Diversion, theft, loss or any criminal activity involving the commercial cannabis business, an employee or any agent of the commercial cannabis business.
 - (3) The loss or unauthorized alteration of records referring or related to cannabis, cannabis products, employees or agents of the commercial cannabis business.
 - (4) Any other breach of security.

Section 17.03.070 Employee Work Permits.

- (a) Every employee or independent contractor working at the commercial cannabis business or involved in the transportation related services for the commercial cannabis business shall obtain an Employee Work Permit. It shall be the responsibility of the commercial cannabis permit holder to ensure that Employee Work Permits are obtained from the City Manager prior to the employee or independent contractor commencing work. Persons who are listed as the commercial cannabis permit holder shall not be required to obtain an Employee Work Permit if such person also serves as an employee or contractor.

- (b) Each prospective employee or independent contractor shall be required to submit an application to the City Manager so that a background check can be performed by the Chief of Police. The application shall contain the following:
- (1) Name, current resident address, and telephone number.
 - (2) Date of birth.
 - (3) Social security number, tax identification number or State of California identification card.
 - (4) Height, weight, eye color and hair color.
 - (5) Photographs for identification purposes (photographs shall be taken by the King City Police Department).
 - (6) Be fingerprinted by the King City Police Department and agree to a criminal history records check conducted by the King City Police Department based upon their fingerprints.
 - (7) Such other identification and information as deemed necessary by the Chief of Police and pertinent to the Employee Work Permit.
 - (8) Authorization for the City Manager to seek verification of the information contained within the application.
 - (9) The name of the commercial cannabis permit holder for which the applicant is seeking to work.
- (c) Every applicant for an Employee Work Permit shall provide the City with a non-refundable fee, as established by resolution of the City Council, to process their application. The fee shall include an amount to cover the costs of fingerprinting, photographing, background checks as well as general review and processing of the application. In the alternative, the applicant may provide the City Manager with a completed background check performed by a third party vendor approved by the City.
- (d) The Chief of Police, upon receiving a properly completed application and payment of the application fee or a completed third party background check, shall conduct an investigation into the information provided by the applicant. The background check and investigation or review shall be complete within thirty (30) days of receiving the properly completed application and completed background check. The City Manager shall provide the applicant with notice either approving or denying the requested Employee Work Permit within fifteen (15) days of completing the background check and investigation. The City Manager, in their sole discretion, may conditionally approve the issuance of an Employee Work Permit pending completion of the background check and investigation.

Notice of the decision shall be personally served or mailed to the applicant via U.S. mail. Notice of the decision is presumed served upon the applicant at the time it is deposited within the U.S. mail. The decision of the City Manager on an Employee Permit shall be final, subject to judicial review.

(e) An Employee Work Permit shall be denied based upon any of the following grounds:

- (1) The applicant has been issued a local or state permit or license to conduct commercial cannabis activities at any other location within the State of California or another state and the permit or license was suspended or revoked, or the applicant has had disciplinary action relating to the permit or license.
- (2) The applicant has been convicted of a serious or violent offense as listed within California Penal Code sections 667.5 and 1192.7(c).
- (3) The applicant has been convicted of any offense listed within Business and Professions Code section 19323.
- (4) The applicant has been convicted of a misdemeanor involving theft, dishonesty, fraud, narcotics sales or narcotic trafficking within the five (5) years preceding the date of the application.
- (5) The applicant has been convicted of a felony involving the illegal use, possession, transportation, distribution or similar activities related to controlled substances, as defined within the Federal Controlled Substance Act, unless the applicant received a Certificate of Rehabilitation as defined in the Act.
- (6) The applicant has engage in misconduct related to the qualifications, functions or duties of their position with the commercial cannabis business.
- (7) The applicant has engaged in unlawful, fraudulent, unfair, or deceptive business practices as defined by the King City Municipal Code and/or state or federal law.
- (8) The applicant is under the age of ~~eighteen (18)~~twenty-one (21), or any ~~older~~ age as may be set by state law.
- (9) The applicant meets any of the conditions identified within Business and Professions Code section 26057(b).

(f) The City Manager may suspend or revoke an Employee Work Permit when the employee or independent contractor has committed any of the following acts:

- (1) Any action which would be grounds for denial of an Employee Work Permit.

(2) Any violation of this Chapter, the King City Municipal Code, or any other applicable state or federal law governing the commercial cannabis business or activity.

(3) An employee or independent contractor working for a commercial cannabis testing facility is employed or volunteers at any commercial cannabis business engaging in non-testing commercial cannabis activities.

(g) Prior to suspending or revoking an Employee Work Permit, the City Manager shall conduct a hearing. Written notice of the hearing shall be provided to the employee or independent contractor at least five (5) calendar days prior to the hearing. The notice shall contain the basis for suspending or revoking the Employee Work Permit. Notice may be provided by either personal service or U.S. mail. After the hearing, the City Manager shall provide notice of the decision whether to suspend or revoke the Employee Work Permit. The decision of the City Manager shall be final, subject to judicial review. The employee or independent contractor has no right to appeal the decision to the City Council.

(h) The City Manager may immediately suspend an Employee Work Permit without notice or hearing, subject to appeal rights as set forth in this Chapter, under the following circumstances:

(1) The employee or independent contractor is convicted of a public offense in any court for the violation of any law which would be grounds for denial of an Employee Work Permit.

(2) The Chief of Police determines immediate suspension is necessary to protect the health, safety and welfare of the community. The City Manager shall provide notice of the grounds for immediate suspension of the Employee Work Permit and the suspension shall only be for as long as reasonably necessary to address the grounds which led to the suspension.

Section 17.03.100 Restriction on Alcohol Sales.

No person shall cause or ~~permit~~allow the sale, dispensing, or consumption of alcoholic beverages on or about the premises of any commercial cannabis business. No commercial cannabis business may operate at the same location as an alcohol-related use as that term is defined in the King City Municipal Code.

Section 17.03.170 Application Procedures and Application Requirements.

Permittee Selection Process; Criteria for Review; Renewal, Suspension or Revocation of a Permit; Appeals. In addition to those requirements set forth in this ~~S~~section and elsewhere in this ~~C~~ehapter, the City Council may by resolution or ordinance adopt such forms, fees, and procedures as are necessary to implement this Chapter with respect to the initial selection, future selection, investigation

process, renewal, revocation, and suspension of commercial cannabis business permits and appeals for the revocation or suspension of a commercial cannabis permit.

- (a) At a minimum, the application shall contain the following requirements:
 - (1) The printed full name, signature, date of birth, social security number, and present address and telephone number of all persons and entities responsible for the operation of the commercial cannabis business including managers, corporate officers, investors, any individual with an ownership interest, any member of a board of directors, any general or limited partner, and/or any member of a decision-making body for the commercial cannabis business.
 - (2) The address to which correspondence from the City of King is to be sent.
 - (3) The names and addresses of all businesses operated by and the employment of the applicant(s) for the five (5) years immediately preceding the date of the application.
 - (4) Any litigation in which the applicant(s) has been involved within the five (5) years immediately preceding the date of the application and a statement of whether any business currently operated by the applicant(s) or operated by the applicant(s) within the five (5) years immediately preceding the date of the application has been investigated or the permit or license authorizing the operation of such business has been revoked or suspended within the five (5) years immediately preceding the date of the application.
 - (5) The address of any commercial cannabis business currently being operated by the applicant(s), or any of them, or which have been previously operated by them.
 - (6) The supply sources for all cannabis and cannabis products sold at the commercial cannabis business. Product supply chain including the site(s) where cultivation occurs, the product is processed or manufactured, any required testing of cannabis or cannabis products, transportation, and packaging and labelling criteria.
 - (7) The names and telephone numbers of the person(s) to be regularly engaged in the operation of the proposed commercial cannabis business, whether an employee, volunteer or contractor. The application shall also have the names and telephone numbers of those persons having

management and supervisory responsibilities for the proposed commercial cannabis business.

- (8) Odor control devices and techniques to prevent odors from marijuana from being detectable off-site.
- (9) Procedures for identifying, managing, and disposing of contaminated, adulterated, deteriorated or excess medical cannabis product.
- (10) Procedures for inventory control to prevent diversion of cannabis and cannabis product, employee screening, storage of cannabis and cannabis product, personnel policies, and record-keeping procedures.
- (11) A detail of the procedures to be utilized at the facility including a description of how chemicals and fertilizers will be stored, handled, used and disposed of; manufacturing methods, the transportation process, inventory procedures, and quality control procedures.
- (12) A site plan and floor plan of the commercial cannabis business denoting the property lines and the layout of all areas of the commercial cannabis business including storage, cultivation, manufacturing, testing, distributing, reception/waiting, and all ancillary support spaces, and the relationship of the facility to adjacent properties and land uses.
- (13) Size, height, colors, and design of any proposed signage at the site. A City of King sign permit issued pursuant to the King City Municipal Code shall be required.
- (14) An operations and security plan.
- (15) Standard operating procedures detailing how operations will comply with state and local regulations, how safety and quality of products will be ensured, record-keeping procedures for financing, testing, and adverse event recording, and product recall procedures.
- (16) Proposed hours of operation.
- (17) Recycling and Waste disposal information.
- (18) Youth access restriction procedures.
- (19) A statement in writing by the applicant that he or she certifies under penalty of perjury that all the information contained in the application is true and correct.

(20) Detailed description of energy and water usage plan enumerating best practices and leading industry practices in efficient utilization of both resources.

(b) An application shall be denied based upon any of the following grounds:

(1) The applicant has been issued a local or state permit or license to conduct commercial cannabis activities at any other location within the State of California or another state and the permit or license was suspended or revoked, or the applicant has had disciplinary action relating to the permit or license.

(2) The applicant has been convicted of a serious or violent offense as listed within California Penal Code sections 667.5 and 1192.7(c).

(3) The applicant has been convicted of any offense listed within Business and Professions Code section 19323.

(4) The applicant has been convicted of a misdemeanor involving theft, dishonesty, fraud, narcotics sales or narcotic trafficking within the five (5) years preceding the date of the application.

(5) The applicant has been convicted of a felony involving the illegal use, possession, transportation, distribution or similar activities related to controlled substances, as defined within the Federal Controlled Substance Act, unless the applicant received a Certificate of Rehabilitation as defined in the Act, within the ten (10) years preceding the date of the application.

(6) The applicant has engaged in misconduct related to the ownership, qualifications, functions or duties of their position with the commercial cannabis business.

(7) The applicant has engaged in unlawful, fraudulent, unfair, or deceptive business practices as defined by the King City Municipal Code and/or state or federal law.

(8) The applicant is under the age of ~~eighteen (18)~~twenty-one (21), or any ~~elder~~ age as may be set by state law.

A conviction within the meaning of this Section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.

This Section shall not constitute an exhaustive list of grounds for denying an application. The City Manager and/or the Planning Commission may identify any additional grounds for denying an application or conditional use permit.

- (c) The City Manager shall review each application to determine whether it contains all of the required information. If the application does not contain all of the required information, it shall be returned to the applicant for completion. The City Manager shall endeavor to conclude their review within ninety (90) days of the filing of the application. If additional time is necessary, the City Manager will advise the applicant of an estimated review time.
- (d) In reviewing an application for a permit pursuant to this Chapter or in reviewing the proposed commercial cannabis business, the City Manager or designee may request whatever additional information is deemed necessary to carry out the purposes of this Chapter.
- (e) The City Manager shall have the authority to either grant or deny the application for a commercial cannabis permit. Notwithstanding what is otherwise provided in this Chapter, the City Manager, when approving a commercial cannabis permit, may place any additional limitations and conditions on the operation of a commercial cannabis business as he or she deems necessary, consistent with the public interest and with this Chapter.
- (f) When an application is denied, the City Manager shall provide a statement of decision giving the reasons for the denial and the findings upon which the decision is based. Notice of the denial may be provided by either personal service or U.S. mail. Notice is presumed to be served upon the applicant once deposit into the U.S. mail. Any person denied a commercial cannabis permit shall have the right to appeal such denial in accordance with this Section.
- (h) Any appeal of a denial of an application shall be filed and conducted as prescribed in this subsection.
 - (1) Within ten (10) calendar days from the date of the denial of an application, an aggrieved party may appeal such action by filing with the City Clerk a written appeal setting forth the grounds for reversing the denial.. The time requirement for filing an appeal shall be deemed jurisdictional and may not be waived. Appeals not timely filed or not setting forth the basis for the appeal are defective and shall be dismissed.
 - (2) Upon receipt of such written appeal, the City Clerk shall set the matter for a hearing before the City Manager. The hearing shall be conducted pursuant to the procedures set

forth ~~pursuant to~~within King City Municipal Code section 7.51.604 and shall be set for hearing within a reasonable time after the date of filing the appeal with the City Clerk, but in no event later than ninety (90) days from the date of such filing. At least ten (10) days prior to the date of the hearing on the appeal, the City shall notify the appellant of the time and the place of the hearing. Notice may be provided by either personal service or U.S. mail. Notice is presumed to be served upon deposit into the U.S. mail. At such hearing, the City Manager and the appellant may present any information they deem relevant to the decision appealed, provided the information complies with the requirements of section 7.51.604 of the King City Municipal Code. The formal rules of evidence and procedure applicable in a court of law shall not apply to such hearing.

- (3) At the conclusion of the hearing, the City Manager shall deliberate and reach a decision within fifteen (15) calendar days. The decision and the reason(s) for the decision shall be reduced to writing. The City Manager may affirm, reverse, or modify the denial issued pursuant to this Code as the facts and law warrant, subject to the following limitations:
 - (i) The City Manager shall not have authority to waive any requirements of the Code or law.
 - (ii) Nothing in these procedures shall be deemed to authorize the City Manager to deviate from unambiguous provisions of the governing code or statute, or well established interpretations of the same, based upon expert opinions or other reliable evidence.

A copy of the decision shall be sent by mail or otherwise to the appellant. Where known, a copy may also be provided by email.

- (4) The decision of the City Manager shall be final with no further administrative appeals. Unless the governing ordinance or statute provides otherwise, if the appellant seeks further relief, the appellant shall file a petition for writ of mandate in superior court pursuant to Code of Civil Procedure Sections 1094.5 and 1094.6 within ninety (90) calendar days of the date of the decision.

Section 17.03.180 Records and Reporting.

- (a) Subject to the Health Insurance Portability and Accountability Act (HIPAA) regulations, each commercial cannabis business shall allow City of King officials to have access to the commercial cannabis business's books, records, accounts, and any and all data relevant to its permitted activities for the purpose of conducting an audit or examination. Books, records, accounts, and any and all relevant data shall be produced within later than twenty-four (24) hours after receipt of the City's request. Failure to timely provide the requested records may result in immediate suspension of the commercial cannabis permit.
- (b) Each commercial cannabis business shall file with the City Manager an audit of its financial operations for the previous fiscal year, complete and certified by an independent certified public accountant in accordance with generally accepted auditing and accounting principles. The audit shall include, but not be limited to, a discussion, analysis, and verification of each of the records required to be maintained pursuant to this Chapter. The information contained in the audit shall be made available in standard electronic format which shall be compatible with Microsoft Office programs and software and which can easily be imported into either Excel, Access or any other contemporary software designated by the City Manager.
- (c) All commercial cannabis businesses shall maintain an inventory control and reporting system that accurately documents the present location, amounts, and descriptions of all cannabis and cannabis products for all stages of the growing and production or manufacturing, laboratory testing and distribution processes until sold or delivered.
- (d) Each owner and/or operator of a commercial cannabis business shall maintain a current register of all employees currently employed by the commercial cannabis business and shall disclose such register to any City official upon request.

All records required by this Chapter shall be maintained by the commercial cannabis business for a period of not less than ~~three (3)~~ seven (7) years and shall otherwise keep accurate records of all commercial cannabis business activity and provide such records for inspection consistent with California Business and Professions Code Section ~~19327-26160~~ and any additional rules promulgated by the licensing authority pursuant to that section or the City Council by resolution or ordinance.

Section 17.03.210 Operating Requirements.

In addition to those operating requirements specifically set forth elsewhere in this Chapter and except as may otherwise be expressly set forth in this Chapter, the

following operating requirements shall apply to all commercial cannabis businesses operating in the City of King.

- (a) Hours of Operation. Commercial cannabis businesses may be open for access to the public only between the hours of eight (8:00) a.m. and seven (7:00) p.m. Monday through Sunday.
- (b) Restriction on Consumption. Cannabis shall not be consumed on the premises of any commercial cannabis businesses or elsewhere in the City other than within private residences.
- (c) No cannabis or cannabis products or graphics depicting cannabis or cannabis products shall be visible from the exterior of the property. No outdoor storage of cannabis or cannabis products is permitted at any time.
- (d) Reporting and Tracking of Product and of Gross Sales. Each commercial cannabis business shall have in place a point-of-sale tracking system to track and to report on all aspects of the commercial cannabis business including, but not limited to, such matters as cannabis tracking, inventory data, and gross sales (by weight and by sale) and shall ensure that such information is compatible with the city's recordkeeping systems. The system must have the capability to produce historical transactional data for review by the City. All information provided to the city pursuant to this subsection shall be confidential and shall not be disclosed, except as may otherwise be required under law.
- (e) All cannabis and cannabis products sold, distributed or manufactured shall be cultivated, manufactured, and transported by licensed facilities that maintain operations in full conformance with the state and local regulations.
- (f) Emergency Contact. Each commercial cannabis business shall provide the City Manager with the name, telephone number (mobile preferred, if available) of an on-site employee or owner to whom emergency notice can be provided.
- (g) Signage and Notices.
 - (1) In addition to the requirements otherwise set forth in this Ssection, business identification signage for a commercial cannabis business shall conform to the requirements of the King City Municipal Code, including, but not limited to, ~~a~~-issuance of a City of King sign permit.
 - (2) Business identification signage shall be limited to that needed for identification only and shall not contain any logos or information that identifies, advertises, or lists the services or the products offered. No commercial cannabis business shall advertise by having a person holding a sign and advertising the business to passersby, whether such person is on the premises of the commercial cannabis

business or elsewhere including, but not limited to, the public right-of-way.

- (3) No signs placed on the premises of a commercial cannabis business shall obstruct any entrance or exit to the building or any window.
 - (4) Each entrance to a commercial cannabis business shall be visibly posted with a clear and legible notice indicating that smoking, ingesting, or otherwise consuming cannabis on the premises or in the areas adjacent to the commercial cannabis business is prohibited.
 - (5) Signage shall not be directly illuminated, internally or externally. No banners, flags or other prohibited signs may be used at any time.
- (h) Minors. Persons under the age of ~~eighteen (18)~~ twenty-one (21) years shall not be allowed on the premises of a commercial cannabis business.

It is unlawful and a violation of this Chapter for any person to employ any other person at a commercial cannabis business who is not at least ~~eighteen (18)~~ twenty-one (21) years of age.

The entrance to the commercial cannabis business shall be clearly and legibly posted with a notice that no person under the age of ~~eighteen (18)~~ twenty-one (21) years of age is permitted to enter upon the premises of the commercial cannabis business.

- (i) Odor Control. Odor control devices and techniques shall be incorporated in all commercial cannabis businesses to ensure that odors from marijuana are not detectable off-site. Commercial cannabis businesses shall provide a sufficient odor absorbing ventilation and exhaust system so that odor generated inside the medical marijuana facility that is distinctive to its operation is not detected outside of the facility, anywhere on adjacent property or public rights-of-way, on or about the exterior or interior common area walkways, hallways, breezeways, foyers, lobby areas, or any other areas available for use by common tenants or the visiting public, or within any other unit located inside the same building as the commercial cannabis business. As such, commercial cannabis businesses must install and maintain the following equipment or any other equipment which the City Manager determines has the same or better effectiveness:
- (1) An exhaust air filtration system with odor control that prevents internal odors from being emitted externally;
 - (2) An air system that creates negative air pressure between the commercial cannabis business's interior and exterior so that the odors generated inside the commercial cannabis business are not detectable on the outside of the commercial cannabis business.

- (j) **Display of Permit and City Business License.** The original copy of the permit issued by the City pursuant to this Chapter and the business license issued by the City pursuant to the King City Municipal Code shall be posted inside the commercial cannabis business in a location readily visible to the public.
- (k) **Background Check.** Every person listed as an owner, manager, supervisor or employee of the commercial cannabis business must submit fingerprints and other information deemed necessary by the Chief of Police for a background check by the King City Police Department. In the alternative, the applicant can submit a completed background check from a City approved vendor which shall be reviewed by the Chief of Police. No person shall be issued a permit to operate a commercial cannabis business unless they have first cleared the background check, as determined by the Chief of Police, as required by this Section. A fee for the cost of the background investigation, which shall be the actual cost to the City to conduct the background investigation as it deems necessary and appropriate, shall be paid at the time the application for a commercial cannabis permit is submitted. The applicant(s) shall provide an initial deposit in an amount the Chief of Police estimates will cover the cost of the background investigation, which shall be used and drawn upon as a retainer to cover the actual costs of such investigation. If this amount is not sufficient, the applicant shall provide additional amounts that are necessary and if the applicant is unable to provide the additional amounts necessary to complete the investigation, the investigation shall cease and shall not continue until such additional amounts are paid. Upon completion of the investigation or in the event the applicant withdraws their application, any unused amount will be refunded to the applicant within thirty (30) days.
- (l) **Loitering.** The owner and/or operator of a commercial cannabis business shall prohibit loitering by persons outside the facility both on the premises and within fifty (50) feet of the premises.
- (m) **Permits and other Approvals.** Prior to the establishment of any commercial cannabis business or the operation of any such business, the person intending to establish a commercial cannabis business must first obtain all applicable planning, zoning, building, and other applicable permits from the relevant governmental agency which may be applicable to the zoning district in which such commercial cannabis business intends to establish and to operate.
- (n) Greenhouses. Greenhouses shall only be utilized for commercial cannabis cultivation and/or nurseries. A greenhouse shall be a fully enclosed permanent structure with solid walls that are clad in an opaque material with climate control, such as heating and ventilation capabilities and supplemental artificial lighting, and that uses a combination of natural and supplemental artificial lighting. The cultivation and nursery activities conducted within a greenhouse shall not be visible from any public right of

way or adjacent private property. All greenhouses shall comply with the requirements of this Chapter and the King City Municipal Code, including the adopted requirements of the California Building Code and/or the California Fire Code. The City Manager shall have authority, upon consultation with the City Attorney, to establish additional regulations and/or guidelines for construction and operation of greenhouse commercial cannabis cultivation facility within the City.

Section 17.03.260 Cannabis Manufacturing - Edibles and other Cannabis Products - Sale or Distribution of Edible and other Cannabis Products.

The manufacturing of food or other products infused with or which otherwise contain cannabis may be manufactured within the appropriate zoning districts as defined in Title 17, Zoning, of the King City Municipal Code, subject to the regulations set forth in this Section and subject to whatever additional regulations may be promulgated hereunder by an ordinance or resolution of the City Council or otherwise pursuant to this Chapter.

- (a) No edible cannabis products shall be sold or distributed on a retail basis at a commercial cannabis business operating under a permit issued pursuant to this Chapter. Edible cannabis products may be sold wholesale for retail sale outside of the City boundaries.
- (b) All items to be sold or distributed wholesale shall be individually wrapped at the original point of preparation. Labeling must include a warning if nuts or other known allergens are used, and must include the total weight (in ounces or grams) of cannabis in the package. A warning that the item is a medication and not a food must be clearly legible on the front of the package. The package must have a label warning that the product is to be kept away from children. The label must also state that the product contains cannabis and must specify the date of manufacture.
- (c) Any edible cannabis product that is made to resemble a typical food product must be in a properly labeled opaque (non-see-through) package before it leaves the commercial cannabis business. Deliveries must be in a properly labeled opaque package when delivered.
- (d) Preparation of commercial edible cannabis products and non-edible cannabis products shall comply with all applicable federal, state and local laws, regulations and/or guidelines governing manufacturing procedures and safety measures. The City Manager shall have authority, upon consultation with the City Attorney, to establish additional regulations and/or guidelines for preparing commercial edible cannabis products and non-edible cannabis products within the City.

Section 17.03.270 Cannabis Manufacturing Extraction and Testing, etc.

- (a) Cannabis manufacturing facilities requiring a Type-6 state license (non-volatile manufacturing) as defined in Business and Professions Code Section 19341, may be permitted to operate within the appropriate industrial districts as defined in Title 17 of the King City Municipal Code. Cannabis manufacturing facilities requiring a Type-7 state license (volatile manufacturing), Manufacturing Level 2, as defined in Business and Professions Code Section 19341, may be permitted to operate within the appropriate industrial districts as defined in Title 17 of the King City Municipal Code. ~~is prohibited in all zone districts in the City.~~ No volatile fluid or material, shall be used in Type-6 licensed manufacturing facilities unless otherwise authorized and approved by the State of California. For purposes of this Section, within a Type-6 licensed manufacturing facility or a permitted commercial cannabis testing facility food grade alcohol may be utilized solely to clean machinery and dissolve wax, unless otherwise prohibited by the State of California. ~~Food grade alcohol may be stored at any Type-6 or testing facility; however, no~~ No facility commercial cannabis business or facility shall store food grade alcohol or any other volatile chemical, solvent or substance in an amount which exceeds the maximum authorized amount determined by the Fire Chief and/or Chief of Police for the City of King.
- (b) Commercial cannabis manufacturing facilities shall comply with all applicable federal, state and local laws, regulations and/or guidelines governing manufacturing procedures and safety measures. The City Manager shall have authority, upon consultation with the City Attorney, to establish additional regulations and/or guidelines for operating a commercial cannabis manufacturing facility within the City.
- (cb) Any compressed gases used in the manufacturing process shall not be stored on any property within the City in containers which exceeds the maximum authorized amount determined by the Fire Chief and/or Chief of Police for the City of King.
- (de) No more than six (6) commercial cannabis manufacturing businesses may operate within the City at any one time and no more than six (6) commercial cannabis manufacturing permits shall be issued by the City for commercial cannabis manufacturing businesses to operate within the City.
- (e) Testing Facilities. Commercial cannabis testing facilities requiring a Type-8 state license may be permitted to operate within the appropriate industrial districts as defined in Title 17 of the King City Municipal Code. Commercial cannabis testing facilities shall comply with all applicable federal, state and local laws, regulations and/or guidelines governing testing procedures and safety measures. The City Manager shall have authority, upon consultation with the City Attorney, to establish additional regulations and/or guidelines for operating a commercial cannabis testing facility within the City.

SECTION 4: Chapter 17.30, of Title 17, of the King City Municipal Code is amended in its entirety to read as follows:

Chapter 17.30

M-1 Industrial District

Section 17.30.020 Uses Permitted Subject to Obtaining a Use Permit.

- (14) Commercial cannabis cultivation and nurseries consistent with those activities authorized under the State of California cultivator and nursery license types issued by the Department of Food and Agriculture under Business and Professions Code section 19332(g)(5) Type 2A “small indoor,” 19332(g)(6) Type 2B “small mixed-light,” 19332(g)(8) Type 3A “indoor,” 19332(g)(9) Type 3B “mixed-light” and 19332(g)(10) Type 4 “nursery.” Commercial cannabis manufacturing and testing consistent with those activities authorized under the State of California Type 6 and Type 7 Manufacturing, (m) and Type 8 Testing (subject to the limitation established by the State of California). Cultivation for purposes of this provision shall be limited to those activities defined within California Business and Professions Code section 19300.5(l) and the delivery or transport of the harvested cannabis or cannabis product outside of the City. No retail deliveries or dispensing of any cannabis or cannabis product shall be allowed within the jurisdictional boundaries of the City. Commercial cannabis manufacturing facilities requiring a Type-6 state license (non-volatile manufacturing) as defined in Business and Professions Code Section 19341, may be permitted to operate within the M-1 industrial districts as defined in Title 17 of the King City Municipal Code. Commercial cannabis manufacturing facilities requiring a Type-7 state license (volatile manufacturing), as defined in Business and Professions Code Section 19341, may be permitted to operate within the M-1 industrial districts as defined in Title 17 of the King City Municipal Code. Commercial cannabis testing facilities requiring a Type-8 state license may be permitted to operate within the M-1 industrial districts as defined in Title 17 of the King City Municipal Code;
- (16) Commercial cannabis distribution and transportation consistent with those activities authorized under State of California distribution and transportation license types issued by the Department of Food and Agriculture under Business and Professions Code 19334 (2) “Distributor” Type 11 and (4) “Microbusiness” Type 12 (excluding the establishment of dispensaries, cooperatives, collectives and/or the retail sale of cannabis and/or cannabis products directly to qualified patients, primary caregivers, and recreational adult-use consumers)“Transporter” Type 12;

SECTION 5: Chapter 17.31, of Title 17, of the King City Municipal Code is added and adopted in its entirety to read as follows:

Chapter 17.31

M-2 Industrial District

Section 17.31.020 Uses Permitted Subject to Obtaining a Use Permit.

- (18) Commercial cannabis cultivation and nurseries consistent with those activities authorized under the State of California cultivator and nursery license types issued by the Department of Food and Agriculture under Business and Professions Code Section 19332(g)(5) Type 2A “small indoor,” 19332(g)(6) Type 2B “small mixed-light,” 19332(g)(8) Type 3A “indoor,” 19332(g)(9) Type 3B “mixed light” and 19332(g)(10) Type 4 “nursery.” Commercial cannabis manufacturing and testing consistent with those activities authorized under the State of California Type 6 and Type 7 Manufacturing, (m) and Type 8 Testing (subject to the limitation established by the State of California). Commercial cannabis distribution and transportation consistent with those activities authorized under State of California distribution and transportation license types issued by the Department of Food and Agriculture under Business and Professions Code 19334 (2) “Distributor” Type 11 and (4) ~~“Transporter”~~ “Microbusiness” Type 12 (excluding the establishment of dispensaries, cooperatives, collectives and/or the retail sale of cannabis and/or cannabis products directly to qualified patients, primary caregivers, and recreational adult-use consumers). Cultivation for purposes of this provision shall be limited to those activities defined within California Business and Professions Code section 19300.5(l) and the delivery or transport of the harvested cannabis or cannabis product outside of the City. No retail deliveries or dispensing of any cannabis or cannabis product shall be allowed within the jurisdictional boundaries of the City. All cultivation shall be conducted indoors. Commercial cannabis manufacturing facilities requiring a Type-6 state license (non-volatile manufacturing) as defined in Business and Professions Code Section 19341, may be permitted to operate within the M-2 industrial districts as defined in Title 17 of the King City Municipal Code. Commercial cannabis manufacturing facilities requiring a Type-7 state license (volatile manufacturing), as defined in Business and Professions Code Section 19341, may be permitted to operate within the M-2 industrial districts as defined in Title 17 of the King City Municipal Code. Commercial cannabis testing facilities requiring a Type-8 state license may be permitted to operate within the M-2 industrial districts as defined in Title 17 of the King City Municipal Code.

SECTION 6: EFFECTIVE DATE.

This Ordinance shall take effect and be in full force and effect from and after thirty (30) calendar days after its final passage and adoption. Within fifteen (15) calendar days after its adoption, the Ordinance, or a summary of the Ordinance, shall be published once in a newspaper of general circulation.

I HEREBY CERTIFY that the foregoing Ordinance was introduced by the City Council after waiving reading, except by Title, at a regular meeting thereof held on the ____ day of _____ 2017, and adopted the Ordinance after the second reading at a regular meeting held on the ____ day of _____ 2017, by the following roll call vote:

AYES: _____

NOES: _____

ABSTAIN: _____

ABSENT: _____

ATTEST

STEVEN ADAMS, City Clerk

CITY OF KING

By: _____

MIKE LEBARRE, Mayor

I, _____, City Clerk of the City of King, California, DO HEREBY CERTIFY that the foregoing is a true and accurate copy of the Ordinance passed and adopted by the City Council of the City of King on the date and by the vote indicated herein.

ORDINANCE NO. —2017-746**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KING AMENDING SECTION D.3(G) OF CHAPTER 4 (DEVELOPMENT STANDARDS) OF THE EAST RANCH BUSINESS PARK SPECIFIC PLAN FOR THE PURPOSE OF ADDING ADDITIONAL COMMERCIAL CANNABIS USES**

WHEREAS, the City of King (“the City”) has the authority, under its police power, to enact regulations for the public peace, morals, and welfare of the City, California Constitution Article XI, section 7; and

WHEREAS, in 1996, with the adoption of Proposition 215, the California voters approved the Compassionate Use Act (Health and Safety Code § 11362.5) to ensure that seriously ill Californians have the right to obtain and use cannabis for medical purposes where that medical use is deemed appropriate and has been recommended by a physician, without fear of criminal prosecution under limited, specified circumstances; and

WHEREAS, in 2004, the State Legislature enacted SB 420 to clarify the scope of the Compassionate Use Act and provide additional statutory guidance regarding medical cannabis use. These statutes are codified at Health and Safety Code § 11362.7 et seq. and allow cities and counties to adopt supplemental rules and regulations; and

WHEREAS, on October 9, 2015, almost 20 years after passage of the Compassionate Use Act, the Governor signed the Medical Marijuana Regulation and Safety Act (“Act”), comprised of California legislative bills AB 243, AB 266, and SB 643. The Act creates a comprehensive state licensing system for the commercial cultivation, manufacture, retail sale, transport, distribution, delivery, and testing of medical cannabis, all subject to local control. One of the purposes of the Act is to ensure uniformity among jurisdictions that wished to allow commercial cannabis operations; and

WHEREAS, on June 27, 2016, the Governor signed SB 837, effective immediately, changing the terms in the Act from “medical marijuana” or “marijuana” to “medical cannabis” or “cannabis”, and making other technical changes to the Act. SB 837 also adopted regulations relating to the use and diversion of water in connection with the cultivation of cannabis; and

WHEREAS, in 2016, the City adopted Title 17, Chapter 17.03 et seq., of the King Municipal Code pertaining to Medical Cannabis Activity. The Medical Cannabis Ordinance places complete bans and regulations on medical cannabis activity in the City based upon various health, safety and welfare and land use findings relating to cannabis cultivation, dispensing, and consumption, which findings are incorporated herein by reference; and

WHEREAS, in September of 2016, the City amended Section D.3(g) of Chapter 4 (Development Standards) of the East Ranch Business Park Specific Plan for the purpose of including additional commercial cannabis uses, nurseries, manufacturing and testing within the City; and

WHEREAS, in November of 2016 the Adult Use of Marijuana Act (“AUMA”) was approved by a majority of California voters. The purpose of AUMA is to establish a comprehensive system to legalize, control and regulate the cultivation, processing, manufacture, distribution,

testing, and sale of nonmedical cannabis, including cannabis products. Adults, age 21 and older, will be allowed to possess cannabis and grow certain amounts at home for personal use; and

WHEREAS, the AUMA did not provide for a specific effective date, thus the provisions of the AUMA regarding personal use, possession, and cultivation of cannabis became effective the day after the November 8, 2016; and

WHEREAS, the AUMA's proposed Health & Safety Code section 11362.2(b) explicitly allows a city to "enact and enforce reasonable regulations to reasonably regulate" possession and cultivation of cannabis; and

WHEREAS, several California cities have reported negative impacts of cannabis cultivation and related activities, including but not limited to offensive odors, criminal activity, (such as trespassing, theft, violent robberies and robbery attempts, and the illegal sale and distribution of cannabis), and public health and safety concerns (such as fire hazards and problems associated with mold, fungus, and pests); and

WHEREAS, cannabis plants, as they begin to flower and for a period of two months or more, produce a strong odor, offensive to many people, and detectable far beyond property boundaries if grown outdoors or if grown indoors without proper ventilation, odor control, and other regulations; and

WHEREAS, due to the value of cannabis plants and their strong smell (which alerts others to their locations), cannabis cultivation has been linked to break-ins, robbery, armed robbery, theft and attendant violence and injury, creating an increased risk to public safety; and

WHEREAS, unregulated cannabis cultivation can be harmful to the welfare of the surrounding community and its residents and constitute a public nuisance, in that cannabis cultivation has been shown to involve avoidance of environmental laws and regulations, and has resulted in the pollution of waters and navigable waterways in the State of California; and

WHEREAS, the indoor cultivation of cannabis has potential adverse effects to the structural integrity of the buildings in which cannabis is cultivated, and the use of high wattage grow lights and excessive use of electricity increases the risk of fire, which presents a clear and present danger to the buildings, its occupants, and neighboring buildings and residents; and

WHEREAS, unregulated indoor cultivation of cannabis can be harmful to the public health, safety and welfare, given electrical modifications risk fires, poor irrigation can cause mold, overloaded circuits can leave entire neighborhoods in the dark, plant chemicals can cause illness, improper carbon dioxide mixed with insufficient ventilation can cause injury or death, and structural changes put first responders in danger if they rush into the unknown; and

WHEREAS, the Attorney General's August 2008 Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use recognize that the cultivation or other concentration of cannabis in any location or premises without adequate security increases the risk that nearby homes or businesses may be negatively impacted by nuisance activity such as loitering and/or crime; and

WHEREAS, MMRSA and AUMA mandated comprehensive state licensing and regulatory framework for cultivation, manufacturing, distribution, transporting, testing and dispensing cannabis and cannabis products; however, implementing regulations have yet to be written and state licenses may not be available until 2018; and

WHEREAS, there are numerous well publicized studies and reports, as well as numerous documented incident in Monterey County and throughout the State, which show that unregulated cannabis activities have a significant adverse effect on the community; and

WHEREAS, the City finds that the absence of a formal regulatory framework the adverse impacts frequently associated with commercial cannabis activities will occur, resulting in an unregulated and potentially significant negative impact upon the environment and upon public health, safety, and welfare of the community; and

WHEREAS, outdoor cannabis cultivation and unregulated indoor cannabis cultivation are likely to generate these negative effects on the public health, safety, and welfare in the City, based on the experiences of other cities; and

WHEREAS, pursuant to the express statutory authority and its police power, the City desires to enact reasonable regulations for the indoor cultivation, manufacturing, testing, distribution, or consumption of commercial recreational and medical cannabis; and

WHEREAS, absent clear regulation, cannabis cultivation in the City poses a potential threat to the public peace, health, and safety, and, unless the City takes action to regulate it; and

WHEREAS, the City has a compelling interest in protecting the public health, safety, and welfare of its citizens, residents, visitors and businesses, and in preserving the peace and quiet of the neighborhoods within the City by regulating the commercial cultivation of recreational and medical cannabis; and

WHEREAS, nothing in this Ordinance shall be construed to: (1) allow any person to engage in conduct that endangers others or causes a public nuisance; or (2) allow any activity relating to the cultivation, manufacturing, testing, distribution, or consumption of cannabis which is illegal under state or federal law; and

WHEREAS, it is the intent of the City to regulation commercial cannabis activities, both recreational and medical, within the boundaries of the City.

NOW THEREFORE, the City Council of the City of King does hereby ordain as follows:

SECTION 1. The above recitals are incorporated are hereby by reference.

SECTION 2. The Ordinance is exempt from the California Environmental Quality Act (“CEQA”) because it can be seen with certainty that there is no possibility that it will have a significant effect on the environment. (CEQA Guidelines §15061(b)(3).) It is also exempt because it consists of regulations and restrictions on activities to assure the maintenance, restoration, or enhancement of natural resources and the environment by prohibiting environmentally destructive components of unregulated cannabis cultivation. (CEQA Guidelines §§15307, 15308.)

SECTION 3. Section D.3(g) of Chapter 4 (Development Standards) of the East Ranch Business Park Specific Plan is amended to read as follows:

Section D.3.(g). Commercial Cannabis Activity consistent with those activities authorized under Business and Professions Code section 19300.7, (e) Type 2A Cultivation, Indoor; Small, (f) Type 2B Cultivation; Mixed-light; Small, (h) Type 3A Cultivation; Indoor; Medium, (i) Type 3B Cultivation; Mixed-light; Medium, (j) Type 4 Cultivation; Nursery, (k) Type 6 and Type 7 Manufacturing~~1~~, (m) Type 8 Testing (subject to the limitation established by the State of California), (p) Type 11 Distribution, and (q) Type 12 ~~Transporter~~Microbusiness (excluding the establishment of dispensaries, cooperatives, collectives and/or the retail sale of cannabis and/or cannabis products directly to qualified patients, primary caregivers, and recreational adult-use consumers). Commercial Cannabis Activity shall be subject to and comply with all provisions of the King City Municipal Code.

SECTION 4: EFFECTIVE DATE.

This Ordinance shall take effect and be in full force and effect from and after thirty (30) calendar days after its final passage and adoption. Within fifteen (15) calendar days after its adoption, the Ordinance, or a summary of the Ordinance, shall be published once in a newspaper of general circulation.

I HEREBY CERTIFY that the foregoing Ordinance was introduced by the City Council after waiving reading, except by Title, at a regular meeting thereof held on the ____ day of _____ 2017, and adopted the Ordinance after the second reading at a regular meeting held on the ____ day of _____ 2017, by the following roll call vote:

AYES: _____

NOES: _____

ABSTAIN: _____

ABSENT: _____

ATTEST

STEVEN ADAMS, City Clerk

CITY OF KING

By: _____
MIKE LEBARRE, Mayor

I, _____, City Clerk of the City of King, California, DO HEREBY CERTIFY that the foregoing is a true and accurate copy of the Ordinance passed and adopted by the City Council of the City of King on the date and by the vote indicated herein.

RESOLUTION NO. 2017-184

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF KING, COUNTY OF MONTEREY, STATE OF CALIFORNIA, RECOMMENDING TO THE CITY COUNCIL THE APPROVAL OF AN ORDINANCE AMENDING CHAPTER 17.03 OF TITLE 17, CHAPTER 17.30, SUBSECTION 17.30.020, AND CHAPTER 17.31, SUBSECTION 17.31.020 OF THE KING CITY MUNICIPAL CODE; AN ORDINANCE AMENDING THE EAST RANCH BUSINESS PARK SPECIFIC PLAN (“ERBP-SP”) AND RELATED PLANNING AND ZONING DOCUMENTS TO REGULATE COMMERCIAL CANNABIS ACTIVITY; AND RELATED CEQA DETERMINATION

WHEREAS, in 1996, the voters of the State of California approved Proposition 215, which was codified as “The Compassionate Use Act of 1996,” at California Health and Safety Code, section 11362.5 (“CUA”) which had the stated intent to ensure that seriously ill individuals have the right to obtain and use marijuana for medical purposes when recommended by a physician. The Proposition further provides that “nothing in this section shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, or to condone the diversion of marijuana for non-medical purposes, and

WHEREAS, the ballot arguments supporting Proposition 215 expressly acknowledged that “Proposition 215 does not allow unlimited quantities of marijuana to be grown anywhere”, and

WHEREAS, in 2004, the Legislature enacted Senate Bill 420 (codified as California Health & Safety Code § 11362.7 et seq. and referred to as the “Medical Marijuana Program” or “MMP” to clarify the scope of Proposition 215 and to provide qualifying patients and primary caregivers who collectively or cooperatively cultivate marijuana for medical purposes with a limited defense to certain specified State criminal statutes. Assembly Bill 2650 (2010) and Assembly Bill 1300 (2011) amended the MMP to expressly recognize the authority of counties and cities to “adopt local ordinances that regulate the location, operation, or establishment of a medical, and

WHEREAS, in the *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.*, 56 Cal.4th 729 (2013), the California Supreme Court upheld the right of local public agencies to regulate medical marijuana operations through their land use powers, and

WHEREAS, on November 26, 2013, the Third District Court of Appeal issued its opinion in *Maral v. City of Live Oak* 221 Cal.App.4th 975, which held cities have the authority to ban marijuana cultivation within their boundaries consistent with their local regulations; and

WHEREAS, on October 9, 2015, California Governor Brown approved the Medical Marijuana Regulation and Safety Act (“MMRSA”), which goes into effect on January 1, 2016, and establishes a comprehensive State licensing and regulatory framework for the cultivation, manufacture, transportation, storage, distribution, and sale of medical marijuana, also known as cannabis, through Assembly Bills 243 and 266 and Senate Bill 643, and

WHEREAS, on June 27, 2016, the Governor signed SB 837, effective immediately, changing the terms in the Act from “medical marijuana” or “marijuana” to “Commercial Cannabis” or “cannabis”, and making other technical changes to the Act. SB 83 7 also adopted

regulations relating to the use and diversion of water in connection with the cultivation of cannabis; and

WHEREAS, in January 2016, the City adopted Title 17, Chapter 17.03 et seq., of the King Municipal Code pertaining to commercial cannabis activity. The Commercial Cannabis Ordinance places complete bans and regulations on commercial cannabis activity in the City based upon various health, safety and welfare and land use findings relating to cannabis cultivation, dispensing, and consumption, which findings are incorporated herein by reference; and

WHEREAS, on January 26, 2016, the City Council approved Ordinance 2016-718, amending the City's Municipal Code to allow limited Commercial Cannabis Cultivation uses within the M-1 and M-2 Districts and the East Ranch Business Park; and

WHEREAS, in September 2016, the City amended Title 17, Chapter 17.03 et seq., of the King Municipal Code pertaining to commercial cannabis activity. The amendments permitted additional use types in the Manufacturing Districts and the East Ranch Business Park; and

WHEREAS, on September 27, 2016 the City Council approved Ordinances 2016-728, 2016-729 and 2016-730 amending: the Establishment, Operation and Regulation of Commercial Cannabis Activity, Manufacturing and Testing of Commercial Cannabis; the M-1 and M-2 zoning districts and the East Ranch Business Park Specific Plan and underlying the zoning being consistent with the General Plan as described in the Mitigated Negative Declaration certified by the Council on that date.

WHEREAS, in November of 2016 the Adult Use of Marijuana Act ("AUMA") was approved by a majority of California voters. The purpose of AUMA is to establish a comprehensive system to legalize, control and regulate the cultivation, processing, manufacture, distribution, testing, and sale of non-commercial cannabis, including cannabis products. Adults, age 21 and older, will be allowed to possess cannabis and grow certain amounts at home for personal use; and

WHEREAS, the AUMA did not provide for a specific effective date, thus the provisions of the AUMA regarding personal use, possession, and cultivation of cannabis became effective the day after the November 8, 2016; and

WHEREAS, the AUMA's proposed Health & Safety Code section 11362.1(a)(3), will make it lawful under state and local law for any person twenty-one (21) years of age or older to "Possess, plant, cultivate, harvest, dry, or process not more than six living cannabis plants and possess the cannabis produced by the plants"; and

WHEREAS, the City wishes to enact regulations governing commercial cannabis activities at this time; and

WHEREAS, the AUMA's proposed Health & Safety Code section 11362.2(b) explicitly allows a city to "enact and enforce reasonable regulations to reasonably regulate" the cultivation of cannabis so long as the City does not prohibit the cultivation of up to six plants "inside a

private residence, or inside an accessory structure to a private residence located upon the grounds of a private residence that is fully enclosed and secure”; and

WHEREAS, the City intends to regulate and maintain local control over any dispensing, delivery, manufacturing, testing and/or cultivation of commercial cannabis in accordance with this ordinance; and

WHEREAS, mindful of the fact that marijuana possession and use is prohibited under federal law and partially decriminalized under state law, it is the City’s intention that nothing in these ordinances shall be construed, in any way, to expand the rights of anyone to use or possess marijuana under state law; engage in any public nuisance; violate federal law, or engage in any activity in relation to the cultivation, distribution, or consumption of marijuana that is otherwise illegal. It is further the intent of the City of King to maintain local control over these matters to the fullest extent permitted by law.

WHEREAS, on June 27, 2017 the City Council approved Ordinances 2016-743 and 2016-744 amending: the Establishment, Operation and Regulation of Commercial Cannabis Activity and Nurseries, Manufacturing, Testing, and adding Distributing and Transporting of Commercial Cannabis in the M-1 and M-2 zoning districts and the East Ranch Business Park Specific Plan.

WHEREAS, the City is considering adding to the allowed commercial cannabis activities land uses; and,

WHEREAS, on August 01, 2017, the Planning Commission held a public hearing to receive oral and written testimony relative to the proposed amendments; and,

WHEREAS, the proposed ordinances address the following items including: the Establishment, Operation and Regulation of Commercial Cannabis Activity and Nurseries, Manufacturing, Testing; add Level 2 (volatile) Manufacturing (CA Type 7) and remove and replace Transporter (CA Type 12) activities with “Microbusiness” in the M-1 and M-2 zoning districts and the East Ranch Business Park Specific Plan.

WHEREAS, these uses are consistent with underlying zoning and consistent with the General Plan.

WHEREAS, the Planning Commission desires to recommend approval of the ordinances and associated findings under the California Environmental Quality Act to the City Council.

NOW, THEREFORE, BE IT RESOLVED, by the Planning Commission of the City of King as follows:

Section 1: The Planning Commission has reviewed the project and recommends that the City Council adopt a finding that the attached ordinances will not create potentially significant environmental impacts pursuant to the California Environmental Quality Act (“CEQA”) because it can be seen with certainty that there is no possibility that it will have a significant effect on the environment. (CEQA Guidelines § 15061(b)(3).) It is also exempt because it consists of regulations and restrictions on activities to assure the maintenance, restoration, or enhancement of natural resources and the environment by prohibiting environmentally destructive components of unregulated cannabis cultivation. (CEQA Guidelines §§ 15307 and 15308.) Finally, no exceptions to the Categorical Exemptions are applicable under CEQA Guidelines section 15300.2.

Section 2. After reviewing the proposed zoning and specific plan amendments and considering all oral and written information regarding the text amendments, that the Planning Commission does recommend the City Council approve the proposed amendments to Chapter 17.03 of Title 17; Chapter 17.30, Subsection 17.30.020 of Title 17; and Chapter 17.31, Subsection 17.31.020, of Title 17 ; (*collectively Attachment 1*); and the proposed amendments to the ERBP-SP (*Attachment 2*).

Section 3. The Planning Commission Chairman of the City of King is hereby authorized to affix his signature to this Resolution signifying its adoption by the Planning Commission. The Community Development Director is directed to forward this Resolution to the City Council with the recommendations of the Planning Commission.

PASSED, APPROVED, AND ADOPTED by Planning Commission on this the 1st day of August, 2017.

Dave Nuck, Chairperson

ATTEST:

Erica Sonne for
Maricruz Aguilar-Navarro
Planning Commission Secretary

I, Maricruz Aguilar-Navarro, Planning Secretary to the City Planning Commission, do hereby certify that Resolution No. 2017- 184 was duly and regularly passed and adopted by the Planning Commission on the 01st day of August, 2017, by the following roll call vote as the same appears on file and of record in Office of the Community Development Department.

AYES:

NOES:

ABSENT:

ABSTAIN:

Erica Sonne for:
Maricruz Aguilar-Navarro,
Planning Commission Secretary
City of King