AGENDA

REGULAR MEETING OF THE
PLANNING COMMISSION

TUESDAY, AUGUST 21, 2018
6:00 P.M.

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

1.CALL TO ORDER

2.FLAG SALUTE

3.ROLL CALL:

Planning Commission Members: Oscar Avalos, Ralph Lee, David Mendez, Domingo Uribe and Chairperson David Nuck

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 August 7, 2018 Planning Commission Meeting
Recommendation: Approve and file.

7.PUBLIC HEARINGS

A.

Project:	CUP 2017-003
Applicant:	Frank Gallagher
Location:	100 Don Bates Way
Consideration:	CUP Amendment 2017-003: Commercial Cannabis – Cultivation (Type 2A Including Processing), Nursery (Type 4), Manufacturing (Type 7), Non-Storefront Delivery (Type 9), Distribution (Type 11); Micro Business (Type 12). 100 Don Bates Way, City of King. APN 026-521- 010

Recommendation: Planning Commission 1) review Conditional Use Permit Application, 2) receive public comment; and 3) adopt the attached Resolution 2018-236 approving Conditional Use Permit 2017-003

Environmental Determination: The project qualifies as a Class 1 Exemption per CEQA Guidelines §15301 (Existing Facilities), with all renovation occurring within the existing structure and, being surrounded by urban uses and not having significant impacts to traffic, noise, air quality or water quality.

B. Project: CUP 2016-010(a)18

Applicant: The Tribe (Corey Barnette, Malik Burnett)

Location: 150 Don Bates Way

Consideration: Cup 2016-010(A)18, Medical Cannabis Manufacturing (Ca Type 7), Distribution (Ca Type 11). Change in Height of Structures and Wall Design Revisions. 150 Don Bates Way. APN 026-521-011

Recommendation: Planning Commission 1) review Conditional Use Permit Application, 2) receive public comment; and 3) adopt the attached Resolution 2018-237 approving Conditional Use Permit 2016-010(a)18.

Environmental Determination: King City previously prepared and certified (September 2016) a Mitigated Negative Declaration (MND) for the amendment of the City's Zoning Ordinance and the amendment of the East Ranch Business Park Specific Plan (ERBPSP)s (Ordinances 2016-728, 2016-729 and 2016-730) to allow new land uses in the Manufacturing Districts (M-1, M-2, M-3) and in the ERBP Specific Plan.

In September of 2017 King City conducted an initial study of the project and has determined the project is fully within the scope of the prior analysis by the MND. In October 2017 the Planning Commission adopted of a Finding of Consistency with the previous MND.

The current request creates no additional impact, falling within the previously adopted Findings.

8. NON-PUBLIC HEARINGS

A. Project: Mills Ranch Master Landscape & Irrigation Plan

Applicant: Nino Home

Location: Mills Ranch Specific Plan Development

Consideration: Landscape and Irrigation Plans for the street parkway landscaping lot front yard and rear yard landscaping and irrigation systems.

Recommendation:	The Planning Commission adopt Resolution No. 2018-238 approving the landscaping and Irrigation Plans
Environmental Determination:	The City Council certified the Mills Ranch Specific Plan Final EIR and EIR Addendum on March 28, 2005. The landscaping and Irrigation Plans are consistent with the plans reviewed under the EIR and will not have a significant impact on the environment.

9. PLANNING COMMISSIONER REPORTS

10. DIRECTOR'S REPORT

11. WRITTEN CORRESPONDENCE

12. ADJOURNMENT

UPCOMING REGULAR MEETINGS

AUGUST

August 13th	6:00 p.m.	Airport Advisory Committee
August 14th	6:00 p.m.	City Council
August 20th	6:00 p.m.	Recreation Commission
August 21st	6:00 p.m.	Planning Commission
August 28th	6:00 p.m.	City Council

SEPTEMBER

September 4th	6:00 p.m.	Planning Commission
September 10th	6:00p.m.	Airport Advisory Committee
September 11th	6:00p.m.	City Council
September 17th	6:00 p.m.	Recreation Commission
September 18th	6:00p.m.	Planning Commission
September 25th	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)

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

MOU: Memorandum of Understanding

MND: Mitigated Negative Declaration

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

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

NEPA: National Environmental Policy Act

SOI: Sphere of Influence.

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

TOT: Transient Occupancy Tax

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

VMT: Vehicle Miles Traveled

Planning Commission Minutes

August 7, 2018

1. Call to Order

Chair Nuck called the regular meeting of the Planning Commission of the City of King to order at 6:05 p.m.

2. Pledge of Allegiance

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

3. Roll Call

Chairperson David Nuck _X_ Oscar Avalos _A_

Ralph Lee _X_ David Mendez _X_ Domingo Uribe _X_

Commissioner Mendez made a motion to excuse Commission Avalos, seconded by Commissioner Uribe, motion carried 4-0.

Staff present: Community Development, Director Doreen Liberto; Admin. Asst./Deputy City Clerk, Erica Sonne.

4. Public Comments

City Attorney Chaffin stopped by and introduced himself to the Planning Commission.

5. Presentations

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: July 17, 2018

Action: Motion made by Commissioner Uribe to approve minutes of July 17, 2018. Seconded by Commissioner Mendez. Motion carried 4-0.

7. PUBLIC HEARINGS

A. Project: Establish and Regulate Temporary Use Permits and Special Event Permits by Repealing Chapter 5.32 of title 5, amending Subsection (B) of Section 5.34.010 and Section 5.34.115 of Chapter 5.34, of Title 5, Adopting Section 7.29.015 to Chapter 7.29 of Title 7, Adopting Chapter 7.60 to title 7; Amending Section 13.06.020 of Chapter 13.06, of title 13 and Amending Subsection (3) of Section 17.48.030 of Chapter 17.48, of the City of King Municipal Code

Applicant: City of King

Location: The regulatory ordinance and resolution would be applicable city wide.

Consideration: The project involves amendments to the City of King Municipal Code sections as noted below in order to establish and regulate

temporary use permits and special event permits within the city limits.

- Repeals Chapter 5.32 of Title 5;
- Amends subsection (b) of Section 5.34.010 and Section 5.34.115 of Chapter 5.34, of Title 5;
- Adopts Section 7.29.015 of Chapter 7.29, of Title 7;
- Adopts Chapter 7.60, of Title 7;
- Amends Section 13.06.020 of Chapter 13.06, of Title 13; and Amends Subsection (3) of Section 17.48.030 of Chapter 17.48

Recommendation: Planning Commission recommend that the City Council adopt the Ordinance to Establish and Regulate Temporary Use Permits and Special Event Permits.

Environmental Determination: Environmental determination the Ordinance is exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines §15307 there is no possibility that it will have a significant effect on the environment, as well as it is also exempt because it consists of establishing standards for special event and temporary use permits. The project is exempt pursuant to CEQA Guidelines §15307.

Community Development Director Liberto introduced this item.

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

Chair Nuck closed the public hearing.

Commissioner Mendez asked ask how long they can use the use permit.
Community Development Director stated it depends on the activity. Some are 120 days, some are 90 days.

Commissioner Lee ask if they come very often. Community Development Director state some come several times a year.

Community Development Director stated that the City needed something with clear cut direction.
Commissioner Uribe asked how long it would take to go through the process. Community Development Director stated that it generally would take a couple of weeks.

Commissioner Uribe made a motion approving Resolution 2018-235 recommending that the City Council adopt the Ordinance to Establish and Regulate Temporary Use Permits and Special Event Permits. seconded by Commissioner Mendez. Approved 4-0.

8. NON- PUBLIC HEARINGS –

A. None

9. Regular Business- None

10. Planning Commission Report –

11. Director Reports-

12. Written Correspondence– None

13. Adjournment

There being no further business, the Planning Commission meeting was adjourned at 6:12 p.m.

David Nuck
Planning Commission Chairperson
City of King

Erica Sonne
Planning Commission Secretary
City of King

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Item No. 7 (A)

REPORT TO THE PLANNING COMMISSION

DATE: **AUGUST 21, 2018**

TO: **HONORABLE CHAIR AND MEMBERS OF THE PLANNING COMMISSION**

FROM: **DOREEN LIBERTO-BLANCK, AICP, COMMUNITY DEVELOPMENT DIRECTOR;**

BY: **SCOTT BRUCE, PRINCIPAL PLANNER**

RE: **CUP 2017-003: COMMERCIAL CANNABIS – CULTIVATION (TYPE 2A INCLUDING PROCESSING), NURSERY (TYPE 4), MANUFACTURING (TYPE 7), NON-STOREFRONT DELIVERY (TYPE 10, DISTRIBUTION (TYPE 11); 100 DON BATES WAY, CITY OF KING, APN 026-521- 010**

RECOMMENDATION:

Staff recommends the Planning Commission:

1) review the Conditional Use Permit application,
2) receive public comment, and
3) adopt the attached Resolution approving Conditional Use Permit Case No. 2017-003.

BACKGROUND:

In September 2016 the City Council approved amendment to the City's Zoning Code and to the East Ranch Business Park Specific Plan (ERBP-SP), authorizing expansion of land uses related to Medical Cannabis. As a result of that action Indoor Cultivation under artificial or mixed light, Medical Cannabis Nurseries, Manufacturing and Testing are allowed in the M-1, M-2 and M-3 Districts and in the ERBP-SP. Since that time, the Code has been amended twice (June and September 2017) and over 40 Permits have been approved through the CUP and Operations Permits processes. This current application is to renovate approximately 159,000sf of an existing 400,320 sf structure at 100 Don Bates Way.

DISCUSSION:

Overview
As noted above, the proposed uses are to be located in an existing 400,320 square feet structure, on a 19.72-acre lot, located at the northern end of Don Bates Way. Approximately 159,000 sf will be renovated in Phase 1, and the remainder of the structure will be renovated during Phase 2. No expansion of the structure is proposed.

- The parcels to the north contain an existing structure being renovated for cannabis with proposed expansion (CUP 2017-010) and a structure being used for industrial use.
- The parcel on the south (east of Don Bates) will used for cannabis cultivation and manufacturing (CUP 2016-010). The parcel on the south (west of Don Bates) is part of the Cal Pine Operation.
- A utility/access easement bounds the property to the west with Industrial Uses and the East Ranch Business Park beyond.
- The parcel to the east is a part of the Bassetti Trucking Operation.

As noted above, the proposed uses include four (5) Cannabis Use types Cultivation (and processing) (CA Type 3A), Nursery (CA Type 4) Manufacturing Level 2 (CA Type 7), Distribution (Type 11). Note that one Operations Permit will be issued for each use.

CUP and Architectural Review Information
Architecture
The proposed project will include repainting the building during Phase 2. The Applicant has not yet submitted a color scheme – to be provide and reviewed during the architectural review process. No expansion of the building is proposed.

Floor Plan and Interior Uses
The proposed plan will reconfigure approximately 159,000 of the existing structure. Phase 1 clusters the full range of uses in the central portion of the building – the remainder of the building will be used for cultivation and nursery in Phase 2. **See exhibit 3**

Landscape
The proposed project will revitalize the existing landscape (irrigation water has been shut off for several months.) A landscape concept has been provided – no specific quantities or types have been included. Additional concept information will be provided and reviewed/decided on by the Commission during the architectural review process.

The City has recently amended Chapter 15.50, Water Efficient Landscape which responds to the State requirements for water efficient landscaping. (The City Council amended Chapter 15.50 to meet State mandated requirements and meet City Permit requirements of the Central Coast Regional Water Quality Control Board (CCRWQB). Therefore, it is important that all projects comply with Chapter 15.50)

The Applicant is required to submit a landscaping plan complete with irrigation and water budget prior to issuance of a Building Permit which meets State mandated requirements, consistent with Municipal Code Chapter 15.50.

Fencing:
The site is currently fenced. However, the applicant is requesting Planning Commission approval to increase fence height to 12' at the sides and rear of the property. The ERBPSP allows fences to 12' in height with a CUP. The applicant will provide 10' non-climbing chain link with screening slats and 2' of barbed wire above. Wrought iron with outward curve at the top will be placed along the Don Bates frontage.

Parking, Paving, Employee Traffic
The Phase 1 site plan currently shows twenty (20) spaces. 38 employees (including 3-4 security personnel are anticipated on the largest shift. 7 additional administrative staff will be included for a total of 45 persons. There is sufficient room for required parking – the site plan will be revised accordingly. It is anticipated the business will operate twenty-four (24) hours per day with three (3) shifts per day.

Standard employee generation rates for an Industrial Use are approximately sixty-one (61) employees per acre with Business Park rates higher.

Grading and Drainage
Grading (if any) will be minimal given that this is a previously developed site. Drainage plans consistent with current CCRWQCB requirements must be provided and approved, **prior to issuance of building permits.**

Signage
A signage plan has not been submitted. It will be reviewed and acted on by the Commission during the architectural review process and will conform to the requirements of Municipal Code Chapter 17.03.17 (13 , 17.03.210 (g)) and the ERBP-SP.

Security
The security program for the site is subject to HdL review/approval. Cameras, locks, security personnel, fencing, badges, product tracking and transfer points and similar are required.

Fertilizer and Storage
Type and quantity of fertilizers has not yet been established. The Applicant is requesting 5 Cultivation Permits (CA Type 2) and 2 Nursery Permits (CA Type 4). Additional Cultivation Permits will be requested in the next Phase. Type, quantity and storage procedures must be provided prior to Permit issuance

Volatile Use and Storage
The Applicant has indicated that volatiles and non-volatiles may be used in the manufacturing process. A storage / use / disposal plan for volatiles and non-volatiles has

not yet been provided. The storage / use plan for volatiles will be reviewed and approved by the Fire Marshall during the Building Permit process.

Solid Waste

The dumpster enclosure will two bins. One locked dumpster location is located in the central portion of the property near the parking area. Plant waste during Phase 1 cultivation is estimated to be 400 lbs. or 2,800 lbs. per week. This equates to approximately 5 cubic yards per week and / or approximately 1 six-yard dumpster. (approximately 6'8"W, 6'6"L, 5'4" H.)

The process uses ninety-nine percent (99%) of the cannabinoids so that there is only a trace amount (if any) left in the waste. The remaining material is combined with non-cannabis material to a ration of no more than fifty percent (50%). When mixed with a compostable material it will be sent to a composting facility, when mixed with a non-compostable material it will be picked up by Waste Management.

Solid Waste disposal will comply with Monterey County Health Department Requirements.

Water

The Applicant indicates that water use will not exceed the estimate used during preparation of the Mitigated Negative Declaration (MND) -- approximately 8,400 gallons per week per 10,000sf cultivation space.

Power

Power requirements for Phase 1 uses is estimated at 3 Megawatts. The Applicant indicates that PG&E can provide 1 MW by late August 2018. As such, the Applicant is proposing to install two Combined Heat and Power Turbines that can produce up to 3 MW and are fueled with gas. The applicant is currently coordinating with PG&E. A PG&E approved plan to provide the required power must be presented prior to issuance of building permits.

Operations Permit Related Information

As noted above, proposed Phase 1 use will occur in approximately 158,902sf of the 400,320sf structure. Phase 1 uses include CA Type 2 Cultivation (5 Permits, 72,173sf) including processing; CA Type 4 Nursery (2 Permits, 20,320sf); CA Type 6 and Type 7 Manufacturing (1 Permit each, 11,900sf); CA Type 11 Distribution (1 Permit, 9,884 sf).

Shipping and Transport:

All cannabis and cannabis product in/product out will occur indoors (van to be loaded/unloaded inside the building) in the central portion of the structure – east of the existing loading dock. Product will be transported from the facility in unmarked vehicles. Transactions will be recorded on a manifest with details regarding the driver, vehicle, weight and / or count of all products.

Product shipping is estimated at 3 trips per day averaging approximately 100 lbs. per day. Product delivery (non-store-front Type 10) is anticipated at 10 to 15 trips per day.

Odor Control

The Applicant has indicated that they will be using industrial grade carbon filtration technology to minimize cannabis odor. Filters will be changed every ninety (90) days. A complete description of the system will be required prior to issuance of Operations Permit. If an odor issue arises, all odor will comply with the requirements of most current Municipal Code Section 17.03.210(i). An air purification system will be included to address bacteria, molds and other airborne contaminants.

Mechanical details for the Odor Control System will be included with Building Plans submittal package.

Inventory Control

The facility and its inventory will be monitored via Bio-Track THC that provides seed to sale tracking. Cameras, security personnel, limited access zones and internal points of product transfer are part of the larger program.

A final, detailed program will be provided to the City and reviewed/approved by HdL prior to issuance of any Operations Permit.

Security

The Applicant has contracted with Abila Security to provide a complete security program for both the on-site operations and for security personnel. A final detailed program will be provided to the City and reviewed / approved by HdL, **prior to issuance of any Operations Permit.**

The site is accessed via one rolling, security-controlled gate off of Don Bats Way. The site is fenced with twelve feet (12') high wrought iron along the Don Bates frontage and with ten feet (10') high non-climb chain link around the perimeter with a maximum of two feet (2') of barbed wire at the top.

The interior and exterior of the building will be camera surveilled – per the camera plan to be provided to and approved by HdL. All roll up doors are securely locked at all times except for deliveries and do not provide entrance or egress. All entries will be coded and non-employees will have to correspond via intercom, **prior to admittance.** Any non-employee must be escorted at all times while onsite.

Employee Vetting

No persons under the age of twenty-one (21) will be allowed to work at this site. All Work Permits will be obtained through the City's standardized process in conformance with Municipal Code Sections 17.03.070 and 17.03.170(b)

Employee Training
A preliminary Employee Training Plan for security measures has been provided. Training for Cultivation and Manufacturing have not been addressed. Training procedures must be provided, **prior to issuance of Operations Permits.**

Quality Control
A Quality Control plan / process has not yet been provided. The plan / process will be required, **prior to issuance of Operations Permits**.

Compliance with Evolving State and Local Regulations
The Applicant's operating procedures will comply with state and local regulations. The Applicant engages a team of lawyers, community relations staff and industry advisors to assist with governance, compliance, legal adherence and updates to laws and regulations. In addition, the City requires that an Indemnification Agreement be executed.

ENVIRONMENTAL COMPLIANCE:

On September 27, 2016, the City Council approved Ordinances 2016-728, 729 and 730, amending Municipal Code Chapter 17.03 to allow Medical Cannabis cultivation, nursery, manufacturing and testing uses (Types 2A,2B, 3A,3B, 4, 6 and 8.) The M-1, M-2 and M-3 Districts and the ERBP-SP were amended at that time to allow the uses in those specific zoning districts.

The MND also evaluated potential and cumulative impacts of the proposed use types. It was approved on September 27, 2016 at the time that the change to the Zoning Code was approved

Ordinances 2017-743, 744, 745 and 746 further amended the Municipal Code. Manufacturing Level Two and Distribution uses are uses allowed per those revisions. Non-Store front delivery was added to the City's list of approved uses on August 14, 2018.

Staff review of the proposed use and its impacts indicates that the use as proposed is consistent with the evaluation and findings of the previously approved MND with no potentially significant impacts. It is therefore exempt from additional CEQA review per CEQA Guidelines §15332 (infill development projects).

ALTERNATIVES:

1. Approve the item as presented.
2. Deny the item. If the Planning Commission wishes to deny the CUP, the item needs to be continued, directing Staff to return with a Resolution of Denial.
3. Provide alternative direction to Staff.

EXHIBITS:

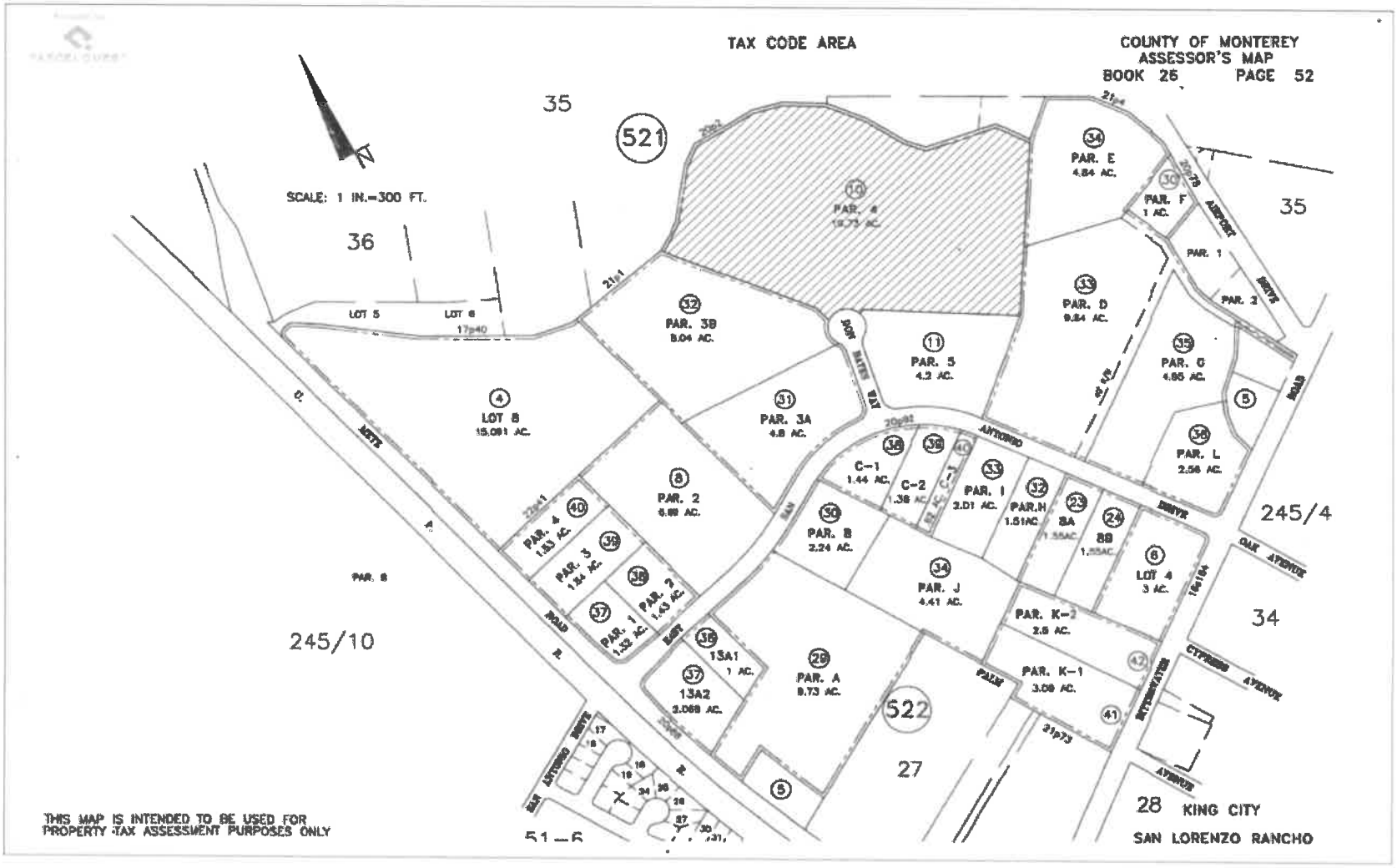
1. Location Map
2. Site Plan / Landscape Plan
3. Floor Plan
4. Conditions of Approval
5. Resolution 2018-236

Submitted by: _____
SCOTT BRUCE, PRINCIPAL PLANNER

Approved by: Erica L. Lenne for _____
DOREEN LIBERTO-BLANCK, AICP, COMMUNITY DEVELOPMENT DIRECTOR

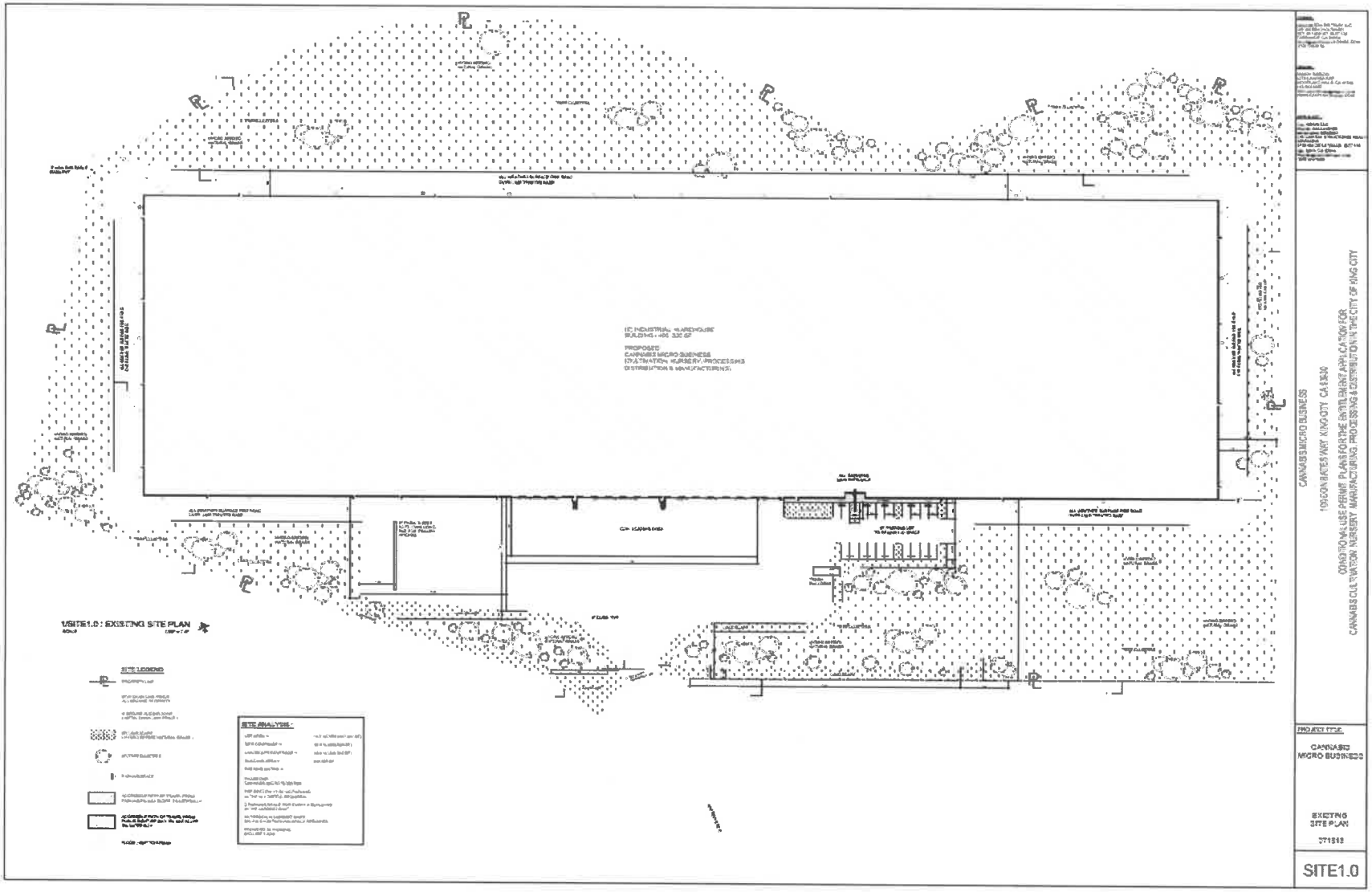
CUP 2017-003

EXHIBIT 1: LOCATION



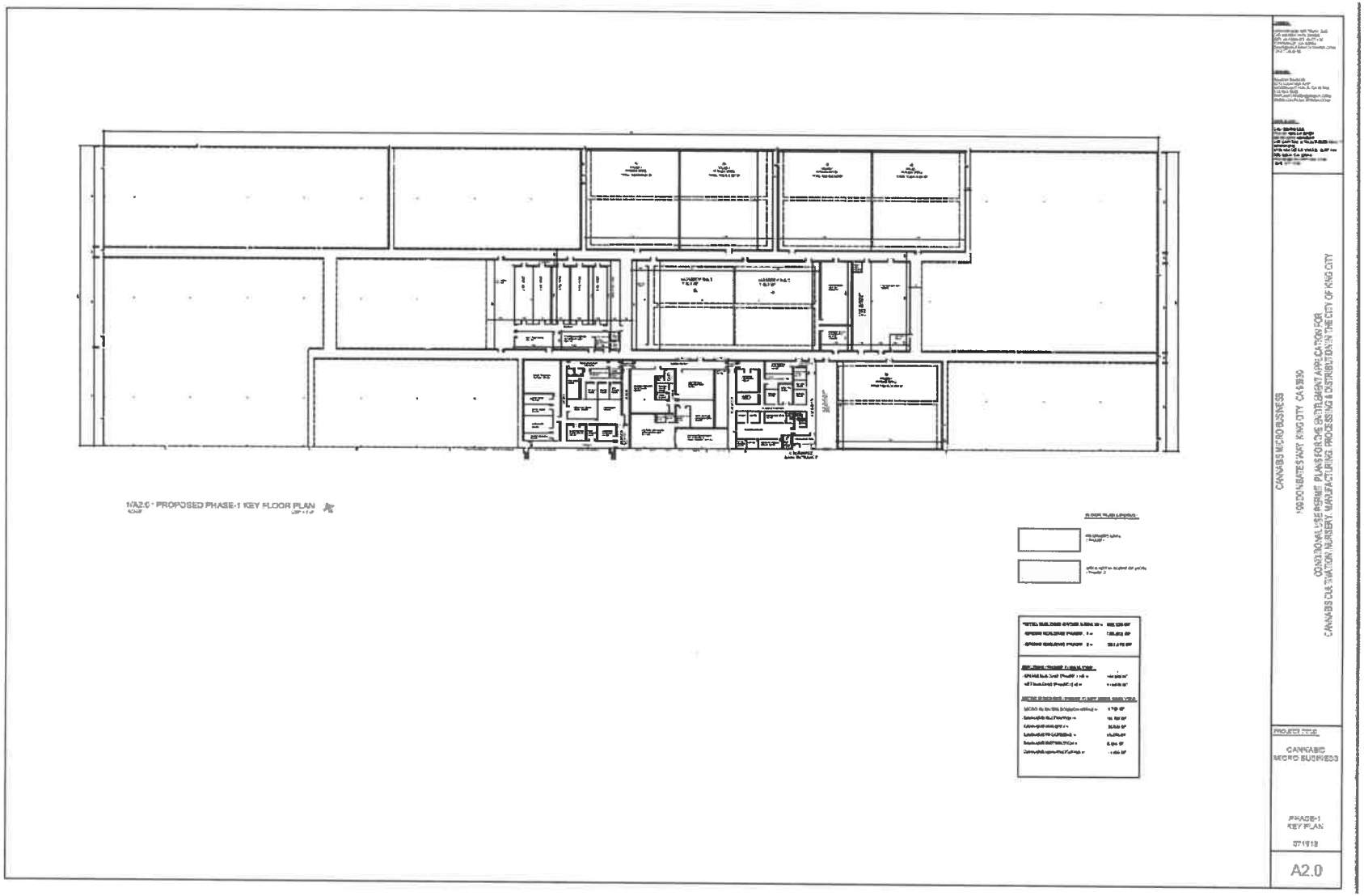
CUP 2017-003

EXHIBIT 2: SITE PLAN



CUP 2017-003

EXHIBIT 3: FLOOR PLAN



CUP 2017-003

EXHIBIT 3: FLOOR PLAN PHASE 1

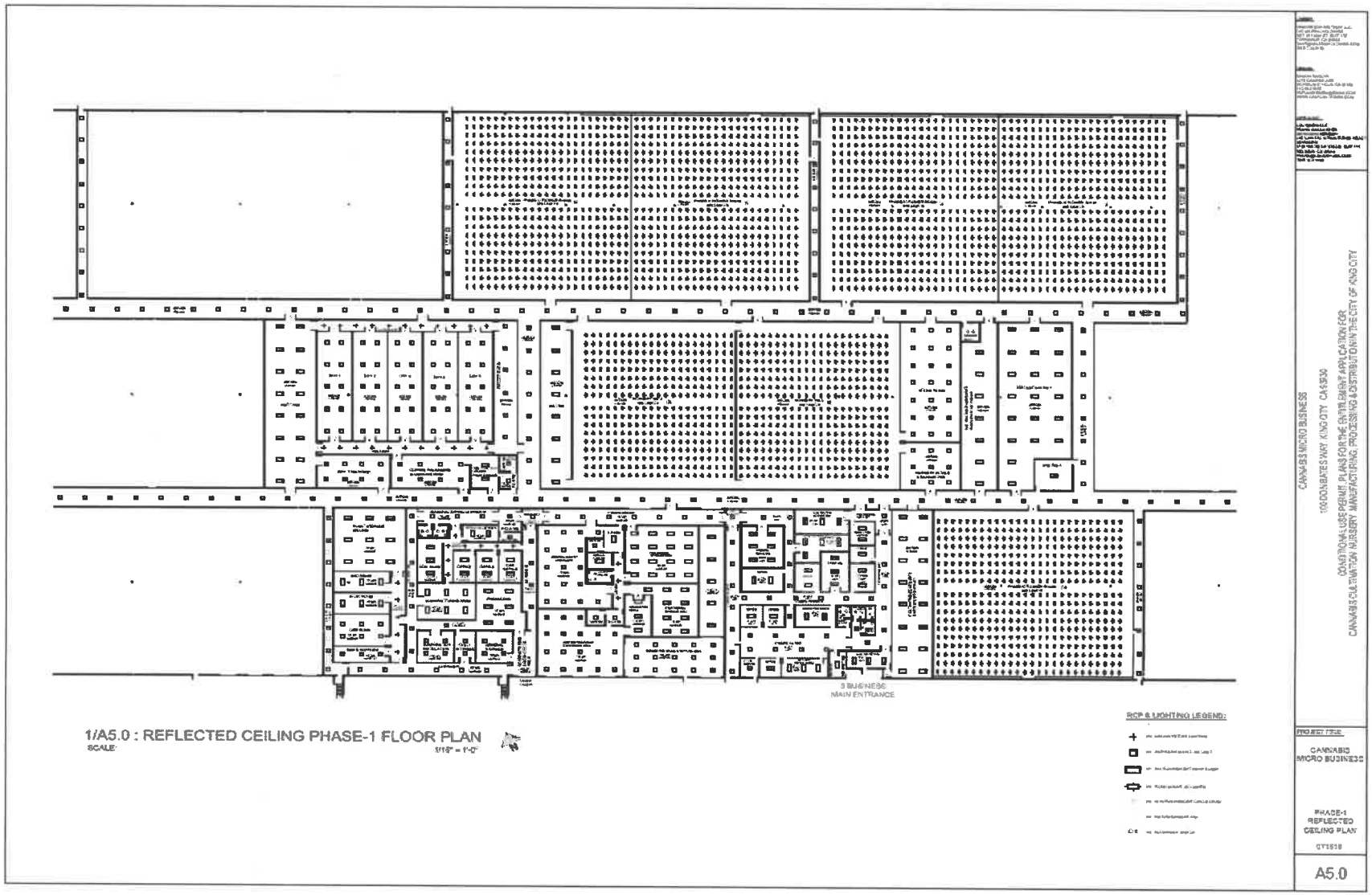


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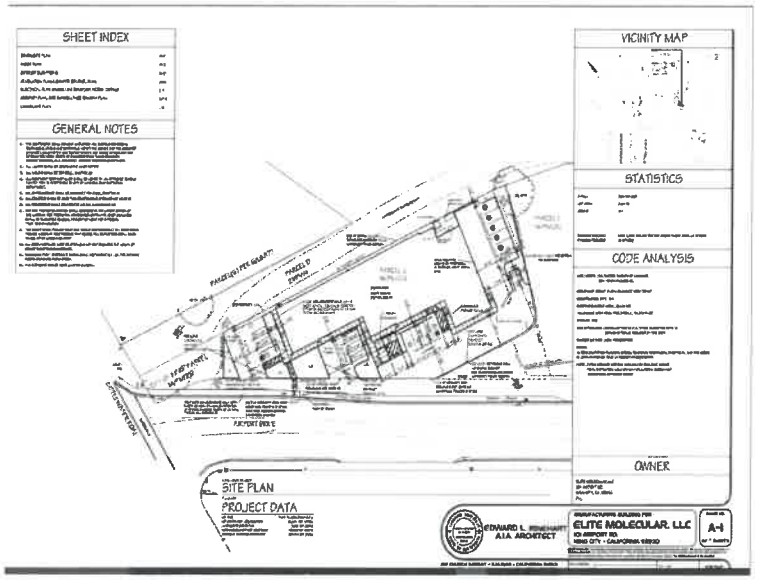
EXHIBIT No. 4

Case Number: COA 2017 – 003
CONDITIONS OF APPROVAL

NOTICE TO PROJECT APPLICANT



In accordance with the provisions of Government Code Section 66020(d)(1), the imposition of fees, dedication, reservations or exactions for this project are subject to protest by the project applicant at the time of approval or conditional approval of the development or within 90 days after the date of imposition of fees, dedications, reservation, or exactions imposed on the development project.

This notice does not apply to those fees, dedications, reservations, or exactions which were previously imposed and duly noticed; or, where no notice was previously required under the provisions of Government Code Section 66020(d)(1) in effect before January 1, 1997.

PART A - PROJECT INFORMATION: ELITE MOLECULAR LLC.

1.	Assessor's Parcel No(s):	026-521-010)
2.	Job Address:	100 Don Bates Way
3.	Street Location:	100 Don Bates Way
4.	Existing Zoning:	M-1, East Ranch Business Park Specific Plan (ERBP SP)
5.	Planned Land Use:	General Plan: LI (Light Industrial);
6.	Plan Area:	ERBP SP
7.	Project Description:	Request for Phase 1 Development (159,000sf of an existing 400,320sf structure) The subject parcel is 19.7 acres in size. No expansion of the existing structure will occur. Proposed uses include Cultivation (Type 2), Nursery (Type 4), Manufacturing (Type 7) Distribution (Type 11) Non-Store Front Delivery (Type 10).

PART B – GENERAL CONDITIONS AND REQUIREMENTS

On September 27, 2016 the City Council approved Ordinances 2016- 728, 729 and 730, amending Municipal Section 17.03 of the Zoning Code to allow Medical Cannabis cultivation, nursery, manufacturing and testing uses (Types 2A,2B, 3A,3B, 4, 6 and 8.) The M-1, M-2 and M-3 Districts and the East Ranch Business Park Specific Plan (ERBPSP) were amended at that time to allow the uses in those specific zoning districts.

CITY OF KING
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A Mitigated Negative declaration (MND) was also prepared to evaluate potential and cumulative impacts of the proposed use types. It was approved on September 27, 2016 at the time that the change to the Zoning Code was approved.

In September 2017, the Code was revised to allow Manufacturing (Type 7) and Distribution (Type 11) uses.

Staff review of the proposed use and its impacts indicates that the use as proposed is consistent with the evaluation and findings of the previously approved MND with no potentially significant impacts. Being contained within an existing structure it is therefore exempt from additional CEQA review per CEQA Guidelines §15332 (infill development projects).

IMPORTANT: PLEASE READ CAREFULLY

Please note that this project may be subject to a variety of discretionary conditions of approval. These include conditions based on adopted City plans and policies, those determined through site plan review and environmental assessment essential to mitigate adverse effects on the environment including the health, safety, and welfare of the community, and recommended conditions for development that are not essential to health, safety, and welfare, but would on the whole enhance the project and its relationship to the neighborhood and environment.

In the event you wish to appeal the Planning Commission's decision or discretionary conditions of approval, you may do so by filing a written appeal with the Clerk. The appeal shall include a statement of your interest in or relationship to the subject property, the decision or action appealed and specific reasons why you believe the decision or action appealed should not be upheld. Your appeal must be filed within 15 days of the Planning Commission's decision.[SLC1] Please refer to City of King Municipal Code Chapter 2.12.050

Approval of this use permit shall be considered null and void in the event of failure by the applicant and/or the authorized representative, architect, engineer, or designer to disclose and delineate all facts and information relating to the subject property and the proposed development including, but not limited to, the following:

1. All existing and proposed improvements including but not limited to buildings and structures, signs and their uses, trees, walls, driveways, outdoor storage, and open land use areas on the subject property and all of the preceding which are located on adjoining property and may encroach on the subject property;

2. All public and private easements, rights-of-way and any actual or potential prescriptive easements or uses of the subject property; and,

3. Existing and proposed grade differentials between the subject property and adjoining property zoned or planned for residential use.

Approval of this use permit may become null and void in the event that development is not completed in accordance with all the conditions and requirements imposed on this use permit and the Zoning Ordinance. This use permit is granted, and the conditions imposed, based upon the Applicant Package provided by the applicant. The Applicant Package is material to the issuance of this use permit. Unless the conditions of approval specifically require operation inconsistent with the Applicant Package, a new or revised use permit is required if the operation of this establishment changes or becomes inconsistent with the Applicant Package. Failure to operate in accordance with the conditions and requirements imposed may result in revocation of the use permit or any other enforcement remedy available under the law. The City shall not assume responsibility for any deletions or omissions resulting from the use permit review process or for additions or alterations to construction plans not specifically submitted and reviewed and approved pursuant to this use permit or subsequent amendments or revisions. (Include this note on the site plan.)

No uses of land, buildings, or structures other than those specifically approved pursuant to the approved

CITY OF KING
CALIFORNIA

site plan shall be permitted. (Include this note on the site plan.)

Please contact Scott Bruce via email at scottbruce11@gmail.com if you have any questions regarding the conditions of approval (COA).

COMMUNITY DEVELOPMENT DEPARTMENT:

1. **Allowed Use:** Cannabis Cultivation (CA Type 2B), Nursery (CA Type 4), Manufacturing Level 2 (CA Type 7), Transportation / Distribution (Type 11) and Non-Storefront Delivery uses are allowed.

2. **Interior Renovation and Exterior:**: The existing structure is a concrete structure, accessed from Don Bates Way at one location. The existing materials / colors will not change during Phase 1. Re-painting is proposed for Phase 2. The existing color (white) is consistent with the surrounding area. Minor variations from the concept floor plan, which are determined by the Community Development Director to be substantially in conformity with the plans and Application Package as presented may be granted by the Community Development Director.

   Construction / Development shall conform to Application Package as presented, to the satisfaction of the Community Development Director or designee

3. **Parking:** Parking will conform to the Plan and Application Package as Submitted. However, additional parking may be added. Parking will be to satisfaction of Community Development Director / Designee. Parking shall drain to landscaped areas – post development runoff shall not exceed the existing condition.

4. **Landscaping:** Landscaping will conform to plans and Application Package as submitted. Irrigation Plans shall be presented to and approved by Building Official prior to Landscape Installation. The landscaping shall be maintained in a healthy condition in perpetuity.

5. **Lighting:** Security Lighting is proposed to be mounted on the structure and on two poles in the parking area not to exceed 30 feet in height. A lighting plan must be approved before installation. All new outdoor lighting associated with the use shall be hooded and directed so as not to shine on public roads, onto surrounding properties or into the night sky.

6. **Signage:** No signage has been requested at this time with the exception of property address. Any additional signage shall conform to the requirements of Section 17.03 of the City of King Zoning Code. Additional signage may be approved by the Community Development Department and may be submitted to the Planning Commission at the Director's discretion.

7. **Fencing:** New fencing along Airport Road and facing Bitterwater Road shall be wrought iron and eight (8) feet in height. All other perimeter fences shall be "no climb" chain link, six (6') foot in height with barbed wire, to a maximum of eight (8) feet with vertical slats woven into the chain link. Screening material will be reviewed by Staff with a determination of condition / requirement for replacement of damaged areas to be presented to Planning Commission every three (3) years.

BUILDING AND SAFETY DEPARTMENT: (No application for Building Permit has been submitted. An application must be submitted after CUP approval and prior to any interior renovations).

Building Plans: All Planning Commission COA shall be imprinted on plans submitted for building permits.

1 **Scope of Work Description:** Scope of work shall conform with that found in the CUP / Regulatory Permit Package

2 **Sprinklers:** Building will be sprinkled.

3 **Generators:** The Applicant has indicated that generators may be used as a power supplement. Schematics shall be submitted, reviewed and approved with Building Plans package. Monterey Bay Air Resources District approval is required. PG&E approval of a plan to provide the required power

is required prior to Building Permit approval. Operational power is required prior to Operations.

PUBLIC WORKS DEPARTMENT: (The Applicant should contact Octavio Hurtado, Hanna & Brunetti 408-842-2173, ohurtado@hannabrunetti.com,) to discuss the following COA as needed).

1 **Scope of Work Description:** Scope of work shall conform with that found in the CUP / Regulatory Permit Package.

2 **Sidewalk:** Sidewalk (to match existing) will be extended along the entire Airport Road frontage.

3 **Driveway Approach Revisions:** Sidewalk to be at 2% maximum cross fall per ADA requirements.

4 **Parking:** Parking will conform to the Plan and Application Package as Submitted. However, additional parking may be added. Parking will be to satisfaction of City Engineer. Parking shall drain to landscaped areas – post development runoff shall not exceed the existing condition.

5 **Drainage:** Complete construction drawings and drainage calculations will be submitted to City Engineer to accommodate new impervious area. Drainage shall coordinate with the required Landscaping Plans.

6 **Landscaping:** Landscaping will conform to plans and Application Package as submitted. Irrigation Plans shall be presented to and approved by Building Official prior to issuance of permit, in conformance with Municipal Code Chapter 15.50. The landscaping shall be maintained in a healthy condition in perpetuity.

7 **Grading and Drainage:** Drainage plans consistent with CCRWQCB requirements must be provided and approved prior to issuance of building permits.

8 **Generators:** Generators must be included on site plans, to include gas and electrical connections, concrete pads, access and similar to satisfaction of City Engineer.

9 **Fencing:** The Applicant has indicated that fencing will be 12' in height. Along the Don Bates Right of Way fencing material will be wrought iron (with rolling gate). The remainder of the perimeter will be 10' of non-climb chain link with 2' of barbed wire at the top. Screening slats shall be used for the entire length of the chain link fence.

10 **Right of Way Improvements:** Curb, gutter and sidewalks must be installed along the Don Bates Way and San Antonio Road frontages with 2% maximum cross-fall per ADA requirements (including areas of Driveway Approaches.), to satisfaction of City Engineer.

11 **Recycled Water Connection:** At such time as the irrigation for the landscaped area is improved or installed, a connection shall be available at the sidewalk, sufficient to access and utilize the City's recycled "Purple Pipe" system at such time as it made available. "Purple Pipe" will be located in the Industrial Way Right-of-Way. A lateral line to the subject property will be installed by the City.

12 **Recycled Water, Water Quality Assessment:** The City may require a future water quality assessment to evaluate mass loading / nutrient balance, based upon the results of regular, ongoing analysis.

13 **Sanitary Sewer:** All interior runoff from irrigation and cleaning shall be directed to city sanitary sewer system.

REGULATORY PERMIT:

Renovations shall comply with and Operations be subject to full compliance with Section 17.03 of the City of King Zoning Code as amended and the Regulatory Application Package.

A. Regulatory Permit: The Regulatory shall be approved by the City Manager and is in force for the

period of one year. It shall be renewed annually. No operations shall occur without a current permit.

B. **Security Cameras:** Security cameras shall be installed in quantity and location per the Regulatory Application. City of King Police personnel shall have access to the system for real time review. One camera that is part of the City's City wide system shall be installed at the driveway access to the street.

C. **Security Systems:** Security systems shall be in conformance with those presented in the Application Package, to the satisfaction of the Chief of Police and City's Consultant. A final detailed program must be reviewed and approved by HdL prior to issuance of any Operations Permit. All entries will be coded and non-employees will communicate via intercom prior to admittance.

D. **Solvents:** Although the request is for Level Two Manufacturing (CA Type 7) approval, the Applicant has indicated that Phase 1 Manufacturing processes will be limited to CO2 and Ethanol in the extraction process. Volume, storage techniques, deliveries and safety pre-cautions must be to the satisfaction of the Fire Marshall in compliance with Section 17.03.270 (a) and (b). No volatile manufacturing is allowed with Phase 1 without CUP amendment and approval of Fire Marshall.

E. **Solid Waste:** Solid waste disposal shall be in compliance with County of Monterey Health Department and Waste Management, Inc. requirements.

F. **Odor Control:** Odor shall be controlled per the Regulatory Application Section I and Section 17.03.210 (i) of the City of King Zoning Code. At the beginning of operations City Staff shall inspect for odor not less than once monthly for a period of no less than three months. In the event that compliance has not been achieved, mechanical equipment and the City Code will be reviewed. In the event that compliance is not achieved, Staff shall make a recommendation to City Council per Section 17.03.240 of the City Zoning Code. Odor caused by outdoor dumpsters will be addressed in a similar manner. Revisions to the code shall be incorporated into building operations.

G. **Quality Control and Training:** A Quality Control plan / process and Employee Training plan must be completed prior to issuance of Operations Permits.

H. **Air Quality:** Venting of Solvents, CO2 and / or Ethanol / Alcohol shall be in compliance with Monterey County Air Resources Board Standards.

I. **Pesticides and Fertilizers:** Shall comply with requirements of the Monterey County Agricultural Commissioner and in substantial conformance with the materials and quantities presented in the Application Package.

J. **Employee Background Checks:** Employees shall be vetted (background checks) to the satisfaction of the City of King Chief of Police and in compliance with the Regulatory Application Package and Section 17.03.210 (k) of the City's Zoning Code and standard City practice. A third party will perform the check (HdL), with a report and checklist to be provided to the City of King.

K. **Hours of Operation and Employees:** The Applicant has indicated that the facility will be in operation in 3 shifts 24 hours a day 7 days a weeks. Deliveries will be accepted and shipping may occur between 6am and 10pm. Visitors, if any, are allowed between 8:00 AM and 7:00 PM. A maximum of 45 employees will be present per shift. No persons under the age of 21 will be allowed on site.

L. **Work Permits and Fees:** Work Permits shall be issued in conformance with Section 17.03.070 (a).

M. **Indemnification Agreement:** A signed Indemnification Agreement shall be in place prior to Issuance of the Regulatory Permit. Such agreement shall be approved by the City Attorney and conform to the requirements of Section 17.03.160. Said agreement shall prevail over Hold Harmless and Indemnification Clause attached hereto.

N. **Record Keeping:** Financial and Product Record shall comply with the Regulatory Application Package and the requirements of Section 17.03.180.

CITY OF KING
CALIFORNIA

HOLD HARMLESS AND INDEMNIFICATION CLAUSE:

The applicant agrees, as part of and in connection with each and all the applications and approvals, to defend, indemnify, and hold harmless the City of King ***("City")*** and its elected officials, officers, contractors, consultants (including Earth Design International., Aleshire & Wynder, LLP attorneys; Hanna & Brunetti, Aleshire & Wynder, LLP attorneys), employees and agents (including Earth Design, Inc., and Hanna & Brunetti) from any and all claim(s), action(s), or proceeding(s) (collectively referred to as *"proceeding")* brought against City or its officers, contractors, consultants, attorneys, employees, or agents (including Earth Design, Inc, Aleshire & Wynder, LLP, and Hanna & Brunetti) to challenge, attack, set aside, void, or annul:

a. *Any approvals issued in connection with all approvals, actions and applications by City covered by the conditions of approval and/or mitigation measures; and/or*

b. *Any action and approvals taken to provide related environmental clearance under the California Environmental Quality Act of 1970, as amended* ***("CEQA")*** *by City's advisory agencies, boards or commissions; appeals boards or commissions; Planning Commission, or City Council. The applicant's indemnification is intended to include, but not be limited to, damages, fees and/or costs awarded against or incurred by City, if any, and costs of suit, claim or litigation, including without limitation attorneys' fees and other costs, liabilities and expenses incurred in connection with such proceeding whether incurred by the applicant, City, and/or parties initiating or involved in such proceeding.*

The applicant agrees to indemnify City and its elected officials, officers, contractors, consultants, attorneys, employees and agents (including Earth Design, Inc., Aleshire & Wynder, LLP, Hanna & Brunetti,) for all of City's costs, fees, and damages incurred in enforcing the **indemnification** provisions of this Agreement.

The applicant agrees to defend, indemnify and **hold harmless** City, its elected officials, officers, contractors, consultants (including Earth Design, Inc., Hanna & Brunetti, Aleshire & Wynder, LLP attorneys), attorneys, employees and agents (including Earth Design, Inc., and Hanna & Brunetti) from and for all costs and fees incurred in additional investigation or study of, or for supplementing, redrafting, revising, or amending, any document (including, but not limited to, an environmental impact report, sphere of influence amendment, annexation, pre-zoning, general plan amendment, specific plan, vesting tentative tracts, sign applications, variances, conditional use permits, architectural review, etc.), if made necessary by said proceeding, and if the applicant desires to pursue such City approvals and/or clearances, after initiation of the proceeding and that are conditioned on the approval of these documents.

In the event that the applicant is required to defend City in connection with such proceeding, City shall have and retain the right to approve <u>which approval shall not be unreasonably withheld, conditioned or delayed</u>:

a. *The counsel <u>selected by applicant</u> to so defend City, which approval shall not be unreasonably withheld, delayed or conditioned;*

b. *All significant decisions concerning the manner in which the defense is conducted, which approval shall not be unreasonably withheld, delayed or conditioned; and*

c. *Any and all settlements.*

d. *Any motions or court documents filèd on behalf of the city.*

City shall have and retain the right to have the City attorney defend the City and its staff in connection with such proceeding. City shall also have and retain the right to not participate in the defense, except that City agrees to reasonably cooperate with the applicant in the defense of the proceeding. If City chooses to have counsel of its own defend any proceeding where the applicant has already retained counsel to defend City in such matters, the fees and expenses of the additional counsel selected by City shall be paid by City. Notwithstanding the immediately preceding sentence, if City's Attorney's Office participates in the defense, any and all City Attorney, Staff and consultants' actual and reasonable fees and costs arising from their support of the defense shall be paid by the applicant.

The applicant's defense and indemnification of City set forth herein shall remain in full force and effect throughout all stages of litigation including any and all appeals of any lower court judgments rendered in the proceeding. Notwithstanding the preceding, this obligation to indemnify shall not apply to any claim to the extent arising from the gross negligence or willful misconduct of the indemnified party or of any agent, employee or licensee of the indemnified party.

Conditional Use Condition Agreement:
The conditional use permit is **not** valid until all Conditions of Approval ***("COA")*** and mitigated measures imposed by the Planning Commission are signed for and agreed to by the applicant.

I have received a copy of the conditional use permit conditions of approval and mitigated measures and agree with them. I understand that if I do not abide by them the Planning Commission has the authority to revoke my conditional use permit, pursuant to the Municipal Code. ***(Reference Municipal Code §17.64.040.).***

Applicant Signature: _____ Date: _____

Exhibit 5

RESOLUTION NO. 2017-236

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF KING, APPROVING CONDITIONAL USE PERMIT CASE NO. CUP 2017-003

WHEREAS, on **July 24, 2018, Cal Grow** renewed an application to allow Commercial Cannabis Uses: Cultivation (CA Type 2B); Nursery (CA Type 4) Manufacturing Level 2, (CA Type 7); Distribution and Transportation (CA Type 11) in an existing structure located at 100 Don Bates Way (Project), and pursuant to the site plan shown; and

WHEREAS, on **August 17, 2018** a formal Letter of Completeness was provided; and

WHEREAS, the proposed uses are consistent with the General Plan and are allowed in the East Ranch Business Park Specific Plan (ERBP-SP) with the approval of a Conditional Use Permit (CUP) **(Ordinance 2016-745, August 22, 2017);** and

WHEREAS, the proposed project conforms to the requirements of Chapter 17.03 of the City of King Municipal Code; and

WHEREAS, an Initial Study and the resulting Mitigated Negative Declaration (MND) were prepared in accordance with the California Environmental Quality Act (CEQA) to address potential cumulative impacts of the **September 27, 2016** changes to the Zoning Code; and

WHEREAS, the Project has been evaluated in relation to the previously prepared MND. No potentially significant impacts have been identified; no endangered, rare or threatened species are present; approval of the proposed use will not result in significant impacts to traffic, noise, air quality or water; the site can be adequately served by all required utilities and services; none of the exceptions to the exemption under CEQA Guidelines §15300.2 are applicable; and, the Project is Categorically Exempt under CEQA §15332 (Infill Development); and

WHEREAS, on **August 21, 2018,** the Planning Commission (Commission) has reviewed the staff report, accepted public testimony, and considered all other relevant information during the duly noticed public hearing; and

WHEREAS, the establishment, operation and maintenance of the use as presented will not be detrimental to the property, improvements, health, safety, morals and general welfare of persons in the surrounding area (East Ranch Business Park) and / or the City; and

WHEREAS, the Commission makes the followings Findings of Facts:

1. This approval is limited to Phase 1 uses.
2. The purpose of the proposed Commercial Cannabis Uses (Cultivate, Nursery, Manufacture and Distribution / Transportation) are in accordance with the description, process and standards provided in the Application Package as reviewed by Staff and presented at the Public Hearing.
3. Multiple Permits will be issued – one (1) for each separate Operation.
4. The proposed use is consistent with the General Plan Land Use Designation (LI) Light Industrial and the Uses and Standards of the Light Manufacturing (M-1) Zoning District and the East ranch Business Park Specific Plan
5. The proposed use will be fully contained within an existing structure that includes. Phase 1 includes 159,000 sf of floor area.
6. The entire lot will be fenced – existing fencing will be improved and / or replaced, new screening will be installed and a wrought iron fenced will be placed along Don bates Way.
7. The existing lot will be accessed through one gates. New pavement and parking area may occur per the Application Package and to the satisfaction of the City Engineer.

8. New landscaping will be installed per the landscaping concept and complete plans as identified in the Conditions of Approval. All landscaping will comply with the requirements of Municipal Code Chapter 15.50 and will be reviewed in a subsequent architectural review process.
9. Signage and exterior building improvements/painting (If any) will be reviewed in separate Architectural Review.
10. All processes and interior construction building improvements, and security/operating procedures will be in conformance with the CUP/Regulatory Permit Application Package, as submitted and / or as conditioned, pursuant to **Exhibit 1** and with City of King Municipal Code Chapter 17.03.
11. The building will be sprinkled.
12. PG&E approval of the proposed power procurement plan is in process and must be approved prior to Building Permit approval. Power must be available prior to issuance of Operations Permit(s).

NOW, THEREFORE, BE IT HEREBY RESOLVED that the Planning Commission of the City of King finds the Project is a Class 32 Categorical Exemption per CEQA Guidelines Section 15332 and approves Conditional Use Permit Case No. CUP 2017-003, pursuant to **Exhibit 1**.

This resolution was passed and adopted this **21st day of August, 2018** by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

_____

DAVID NUCK, CHAIRPERSON

ATTEST:_____

ERICA SONNE DEPUTY CITY CLERK / PLANNING COMMISSION SECRETARY

Item No. 7(B)

REPORT TO THE PLANNING COMMISSION

DATE: **AUGUST 21, 2018**

TO: **HONORABLE CHAIR AND MEMBERS OF THE PLANNING COMMISSION**

FROM: **DOREEN LIBERTO BLANCK, AICP, COMMUNITY DEVELOPMENT DIRECTOR**

BY: **SCOTT BRUCE, PRINCIPAL PLANNER**

RE: **CUP 2016-010(a)18, MEDICAL CANNABIS MANUFACTURING (CA TYPE 7), DISTRIBUTION (CA TYPE 11). CHANGE IN HEIGHT OF STRUCTURES AND WALL DESIGN REVISIONS. 150 DON BATES WAY. APN 026-521-011**

RECOMMENDATION:

Staff recommends the Planning Commission:

1) review the Conditional Use Permit application,
2) receive public comment, and
3) adopt the attached Resolution approving Conditional Use Permit Case No. 2016-010(a)18.

BACKGROUND:

In September 2016, the City Council approved an amendment to the City's Zoning Code and to the East Ranch Business Park Specific Plan (ERBP-SP), authorizing expansion of land uses related to Medical Cannabis. As a result of that action, Indoor Cultivation under artificial or mixed light, Medical Cannabis Nurseries, Manufacturing and Testing are allowed in the M-1, M-2 and M-3 Districts and in the ERBP-SP. Since that time, the Municipal Code has been amended twice (June and August 2017) and thirty-six (36) permits have been approved through the conditional use permit (CUP) and Operations Permits processes. This current application is to amend a previously approved CUP that approved four greenhouses (manufactured translucent structures) with one headhouse each, to be used for Cannabis Cultivation on a vacant site at the corner of Don Bates Way and San Antonio Drive (150 Don Bates Way).

The Planning Commission's (Commission) primary role in the process is to make a determination regarding the CUP. Community Development Staff will work with City

Manager to prepare Operations Permits. The Building Department and Engineering Staff will approve the appropriate construction permits.

While not required for the CUP, the Permit Application process provides additional information during the CUP process and potentially makes the Commission's determination easier and more complete.

As noted above, the site is located at 150 Don Bates Way and is approximately 4.2 acres in size. CUP Case No. 2016-010(a)18 is a request to:

- add Manufacturing and Distribution Uses to the previously approved Cultivation Use;
- add a second floor to the Headhouses; and,
- change the wall design.

The original CUP Hearing was held on October 17, 2017.

DISCUSSION:

Overview

The proposed structures are located on a 4.2-acre site. The site and the surrounding area are located in the ERBP-SP which has underlying zoning of Light Industrial.

- The parcel to the north is the site of is a large structure with 9 acres under roof to be used for multiple cannabis operations
- The parcel to the east is vacant.
- The area to the south is San Antonio Drive.
- The area to the west is Don Bates Way with a vacant parcel beyond the site.

Site

No footprints will change in size. A second floor to allow "vegetation rooms" will be added to each Headhouse. Type 7 (Volatile) Manufacturing and Type 11 Distribution will be added to each Headhouse. No changes to the "translucent manufactured structures" (greenhouses) will occur

As presented during CUP review, Operations will utilize natural light, LED lights, hydroponics/aeroponics and organic fertilizers/pesticides.

The site is vacant and generally flat. Site access will be from Don Bates Way. Four (4) single story buildings have been previously approved to allow Cannabis Cultivation, compliant with future State License 3B (indoor, mixed light). While total allowed plant canopy space under a future 3B license is limited to 22,000 square feet, additional allowed activities include: harvesting, drying, curing and trimming of cannabis. Separate structures of approximately 2,160 square feet in size were previously approved, adjacent to each Cultivation area where the harvesting, drying, curing and trimming will occur.

Administrative offices will also be located there. ***Those structures are now to be approximately 5,100 square feet in size.***

The CUP Plan Set Package indicates that three (3) Cultivation structures will have a footprint of 21,600 square feet in size, with one (1) being 18,000 sf in size. Total footprint area will be approximately 91,550 square feet. Total impervious area will be approximately sixty-six percent (66%). ***This does not change.***

Building Setbacks:
Buildings will be set back from Don Bates Way a minimum of twenty feet (20') (front yard) and from San Antonio Drive a minimum of ten feet (10'). Note that the minimum setback condition occurs in a limited number of places street due to configuration of the street and the angle of the structures. A landscaped strip and a cut face block wall will be located along both street frontages. All perimeter setbacks will be taken from property line. ***This does not change.***

Note: This setback is based on a structure no more than twenty feet (20') in height. Although the Headhouses will be adding a second floor and increasing to 24' 4" at the ridgeline, they are located to the interior of the site, and not impacting the setbacks.

CUP and Architectural Information
There is no change to the architecture. ***Headhouses are stick built with board and batten siding and asphalt shingles, as per previous.***

The proposed structures can be described as "Greenhouses", which are now described as manufactured translucent of rigid construction using steel frame and heavy duty acrylic panels to allow light transmission. Walls with fans will be composed of metallic panels. Roofs will be acrylic panels. Warehouse/Administrative buildings will be tan in color. Buildings will be a maximum twenty feet (20') in height. **See Exhibit 5.**

Floor Plan and Interior Uses
As noted above, the maximum canopy space (plant tip to plant tip) per structure is 22,000 square feet. The floor area of the proposed structures varies, as noted above. These structures are currently proposed with gravel floors. Per the City's Building Official, this type of construction is allowed if footings are provided for the steel frame.

As you will remember, all interior runoff must go into the City's Sanitary Sewer System. In this case, the Applicant indicates that there will be no runoff based on their hydroponic grow type. A stormwater pollution prevention plan (SWPPP) has been prepared and submitted to with the Central Coast Regional Water Quality Control Board (CCRWQCB). Ultimate implementation of the CUP and of the Operating Permit will require CCRWQCB Approval. ***This does not change.***

Floor plans for Headhouses have changed, adding a second floor with new Manufacturing and Distribution space being located on the first floor. (Indoor product transfer will be accommodated.) **See Exhibit 3.**

Landscape

The site will be landscaped, per submitted plans. The primary landscaped areas will be adjacent to the entry off of Don Bates Way, in the center of the site near San Antonio Drive and in the eastern portion of the site. Bio-basins will be located between buildings in the central portion of the site and to the east. Planter areas in the drive/parking area and building fronts will be present. Landscaped area is approximately thirty-four percent (34%) of the site. ***No substantial changes – construction plans are in plan check.***

Note: In May 2018, the City Council adopted a Water Efficient Landscape Ordinance (Chapter 15.50 of the Municipal Code) which complies with the State's Model Water Efficient Landscape Ordinance. Landscaping plans, including irrigation plans, consistent with Municipal Code Chapter 15.50 must be submitted and approved, prior to issuance of Building Permits.

Proposed landscaping vegetation includes: Karl Foerster Reed Grass, Deer Grass, Warriner Lytle Buckwheat, Heavenly Bamboo, Lyle Grass, Manzanita, Spreading Lantana, Sugar Bush, Dwarf Coyote Bush, Lowfast Cottoneaster, Acacia Redolens "Low Boy", Incense Cedar, Weeping Bottle Brush, Purple Robe Locust and Coast Live or Island Oak. **See Exhibit 4.** ***This does not change***

Grading

The site is generally flat, draining from north to south. Grading will be minimal – resulting in the movement of approximately 5,000 cubic yards of material. Over excavation and re-compaction will occur in the area of the access drive and administrative buildings. No pads will be built for the greenhouses given the type of construction proposed. ***No change.***

Access, Parking, Paving

The gate guarded access to the site is from Don Bates Way. A manned guard shack is present. The configuration includes a turn-around area for those not granted access. A paved travel way (28' in width) with sidewalk on each side will extend to the east to the project core around which the four greenhouse locations are situated. Paved parking is constructed to adjacent to each of the four (4) facilities. **See Exhibit 2.**

Seven (7) parking spaces are provided for the smaller Cultivation structure/administrative facility and eight (8) for each of the larger facilities. Parking equals minimum requirements (1 per 3 employees on largest shift but not less than 1 per 3,000 sf of floor area, and 1 per 2,000 for manufacturing). There will be a maximum of ten (10) employees per shift for any building.

Parking is sufficient.

Signage
A single-faced monument sign is proposed for the entry at Don Bates Way. Text will be limited to company names/occupants of each building. The logo will be for the project in general and not Cannabis related. The base of the sign will be 9'8" in length, the height will be 5'11" from the bottom of the base to the top of the sign.

Building signage will be limited to addresses, on-site signage will be limited to directional signage for deliveries and emergency response personnel. **See Exhibit 6.** ***No change***

Security
Fencing: The facility will be surrounded on the north and east sides by a non-climbing chain link fence with small square visibility with privacy screening and barbed wire tops, of a height to be determined by the City. As noted above, the entry from Don Bates Way has a manned guard shack and entry gate. Upon review, HdL indicates that the path of plant transport between headhouse and cultivation area must be fenced.

Previously*:* Fencing along the public streets rights of way will be split faced block six (6') feet in height with two (2') feet of wrought iron at the top, curved to the outside. The block wall will have a strip of landscaping four feet (4') in width at its base.

Amendment: Municipal Code Section 17.03.210(n) states that, ***".... Cultivation and nursery activities shall not be visible from public right of way or adjacent private property."***

The approved solution to fencing along the right of way was to provide a six foot (6') high block wall (with wrought iron pickets at the top). The Applicant will be proposing alternative wall solutions. If not available for the CUP Amendment discussions they will be presented during additional Architectural Review.

Exterior Lighting: The parking area and building exterior will be illuminated with LED powered lighting placed to eliminate shadows and / or dark areas. Lights will include building mounted and poles. Lighting will be designed to present spread beyond the property boundaries and / or into the night sky. Poles will not exceed thirty (30) feet in height. ***No Change.***

Cameras: Security cameras with motion sensors and night vision will be mounted on all exterior doors, perimeter fencing and entry gates. Interior motion / night vision cameras will be placed per the Application Package concept. The 24/7 surveillance will be accessible by the City of King Police Department through real time live access feed. A City of King camera will be placed by applicant at the Don Bates Way gate. The document also proposes internal security camera locations. ***No Change.***

Solid Waste
One locked dumpster location is located near each facility, to be used by that facility. For Cultivation site, daily plant waste will be approximately 2.5 cubic yards per structure per week (approximately 1,300 lbs per week or 185 per day). Dimensions of a six yard dumpster are approximately 6'8"W, 6'6"L, 5'4". Manufacturing operations do not appear to add additional waste disposal truck trips.

The Company does not use manure or compost material in its operations so it will not be part of its waste disposal. he entire plant is used and approximately 99% of cannabinoids are removed. Typically, the only portions of the plant included in the waste material are those non-usable portions such as the roots, trimmings during vegetation, post extraction pulp or decayed non-beneficial material. Conversation with Waste Management indicates that, there are currently no State of California regulations for solid waste.

Water
The Mitigated Negative Declaration (MND) that resulted from the Initial Study prepared during evaluation of the Zone Change estimated water use for Cultivation at 2,640 gallons per day (gpd). Water use for Nurseries was estimated at 6,314 gpd. Water use as indicated by the Applicant for this total project will be approximately 400 gallons per day (gpd) per structure, equaling approximately 1600 gallons per day per site. This low use can rate be achieved because of the hydroponic and aeroponic growing techniques use by the Tribe. ***No Change.***

Landscaped Area (Water): The Applicant has prepared a detailed landscaping plan with irrigation and detailed water analysis in conformance with the State of California's Department of Water Resources. **See Exhibit 5 Final *plans are being prepared, to conform with Municipal Code Chapter 15.50.***

A number of water conservation measures are employed including drip irrigation, weather or moisture-based controllers, non-invasive/ climate appropriate species and similar. The estimated yearly water use for this site is 344,324 gallons (1.06 ac/ft). This number is not included in the analysis of water use under the previous MND – outdoor/landscaping water is common for all sites in the ERBP, regardless of land use.

On-site plumbing to access future recycled water (purple pipe) in San Antonio Drive will be required for landscape as well as Cannabis irrigation, to the maximum amount feasible.

Power
The Applicant estimates 1,920 Amps for each structure as the 80% power allocation for lighting and air conditioning (2,400 Amps as the 100% power allocation). Note that because of the greenhouse configuration (natural light and lower heat gain) the maximum power use will be limited in duration. LED lights will be used in place of 1,000-watt High Pressure Sodium lights. Power use is anticipated to be less than twenty percent (20%) of that of an all artificial light (3A) facility with High Pressure Sodium lights. ***The***

manufacturing use is not anticipated to add significant additional power requirement. The vegetation use on the second floor of each greenhouse is not anticipated to add significant power use to the site. Lighting fixtures will draw 42 amps each.

Noise
Given the nature of greenhouse operations no noise related issues have been identified.

Regulatory Permit Related Information
The item before the Commission is the consideration of a CUP to allow construction of four (4) Indoor Cultivation/Greenhouse facilities (primary and ancillary structures). (Future CA License Type 3B (mixed light). A site plan has been provided and infrastructure plans are being reviewed by the City Engineer. A separate Operations Permit will be required for each structure.

Each of the Cultivators on site propose to grow, dry, trim and package Cannabis grown for shipment to Manufacturers – most of them outside the City of King. Those manufacturers will prepare oils, topicals and may prepare food products.

Employee Traffic
The Applicant has indicated that maximum employee count will run between six (6) and ten (10) per structure (cultivation + warehouse/admin) shift with a maximum of forty (40) employees on site at any one time. Not all buildings will have the same numbers of employees as cultivation / warehouse employee counts will differ. Daily maximum count would be one-hundred and twenty (120) given three (3) shifts. ***New employee counts have not been provided, However, parking requirements are approximately .66 spaces per employee. The site plan shows thirty-seven (37) spaces. Therefore, fifty-seven (57) employees can be accommodated at any one time.***

Standard employee generation rates for an Industrial Use are approximately sixty-one (61) employees per acre with Business Park rates higher. This site is 4.2 acres in size. Therefore, under Industrial Use it could be expected to generate up to two-hundred and fifty-six (256) employees.

Shipping and Transport
Cannabis buds will be transported from the facility in unmarked vehicles. Transactions will be recorded on a manifest with details regarding the driver, vehicle, weight and/or count of all products. Delivery vehicles will be loaded inside the structure with cars traps and security personnel present. Cameras will be placed to record shipping from the facility. A maximum of two (2) semi-truck and trailers are anticipated (site wide) per week – providing fertilizers and materials.

Odor Control
The Odor Control Program will operate in conformance with the requirements of Municipal Code Section 17.03.210 (i). It Includes a high-pressure fog atomizing system with an

essential oil mixture. Nozzle rings are attached to external vents or ducts allowing the fog to mix with the exhausting air.

In the time since the CUP was approved, there has been significant discussion regarding odor generation – from these sorts of translucent manufactured structures in particular. As a result, the Municipal Code is being revised. It is anticipated that the Municipal Code revision will be in place prior to this project going to construction. This project will comply with the Municipal Code as it evolves and detailed construction level drawings for the odor control system will be required and will be used by the City Inspector during building inspections.

Site Security
A manned (24 /7) guard station will be located at the entrance. Visitors will be stopped at the gate and verified prior to being allowed site access. Once accepted they will be escorted to the appropriate parking or delivery area. Once parked, visitors are escorted to the appropriate facility. Once a visitor's business is completed they will be escorted off the property by a security guard.

Entries to facilities is protected via biometric sensor control. Credentials are verified by Administrative personnel. Employees will have employee badges and are allowed into specific areas within the facility, depending on their responsibilities. Visitors will be accompanied by authorized personnel at all times during their visit. Persons under the age of twenty-one (21) will not be allowed on site. Cameras will be located in warehouse and greenhouse, acceptable to King City Police Department at all times. ***No Change.***

Employee Vetting
No person under twenty-one (21) years of age will be employed on this site. It is anticipated that a third party will receive fingerprints and provide the City of King Police Department with background review. The Police Department will verify and the employee will sign, under oath, an agreement that verifies the accuracy of the background check and that delineates the responsibilities of and expectations for the employee. ***This procedure has been formalized. All potential employees will proceed through the City's standardized Background Check procedure.***

Employee Training
Initial and on-going training in preventing contamination, grow techniques (including approved pesticide application in conformance with the requirements of the Monterey County Ag Commissioner) and inventory security/control. OSHA and personal protective equipment requirements, documentation, testing, hazard response, chemical handling, labeling documentation and emergency procedures. The training will provide information to employees enabling them to maintain compliance with the State's evolving Cannabis regulations and the Tribe's hydroponic / aeroponic growing process, systems and methods. ***No Change.***

Quality Control
All cultivated and processed material will be sent to a Type 11 licensee for batch testing for pesticides, fungus, pests, molds and contaminants. and to a Type 8 Testing Laboratory before distribution to a Dispensary. If a product were to be called into question the remaining inventory will be quarantined and all customers notified. All material will be returned. ***No Change.***

Compliance with Evolving State and Local Regulations
The Applicant's operating procedures will comply with State and local regulations. The applicant engages a team of lawyers, community relations staff and industry advisors to assist with governance, compliance, legal adherence and updates to laws and regulations. In addition, the Applicant has executed the City's required Indemnification Agreement. ***No Change.***

ENVIRONMENTAL COMPLIANCE

In September 2016, the City prepared and certified a Mitigated Negative Declaration (MND) for the amendment of the City's Zoning Ordinance and the amendment of the ERBP-SP (Ordinances 2016-728, 2016-729 and 2016-730) to allow new land uses in the Manufacturing Districts (M-1, M-2, M-3) and in the ERBP-SP.

Staff conducted an Initial Study related to CUP Case No. 2016-010 and determined the project to be fully within the scope of the prior analysis by the MND. The Planning Commission Adopted of a Finding of Consistency as part of that approval. ***The Finding of Consistency was adopted by the Commission on October 17, 2017. The current request adds uses in the Headhouses, on the first and second (new) floors. Given those uses and their location, no additional impact is anticipated. This project is exempt in accordance with Title 14, Article 19, Section 15332 (Infill Development) of California Code of Regulations.***

ALTERNATIVES:

1. Approve the item as presented.
2. Deny the item. If the Planning Commission wishes to deny the CUP, the item needs to be continued, directing Staff to return with a Resolution of Denial.
3. Provide alternative direction to Staff.

EXHIBITS

1. Site Location
2. Site Plan
3. Floor Plan – Admin / "Headhouse"
4. Landscape Plan
5. Translucent Manufactured Structures
6. Signage

7. Conditions of Approval
8. Staff Report CUP 2016-010 October 17, 2017
9. Resolution 2018 – 237

Exhibits may be made available for public review at front counter, City of King City Hall, 212, South Vanderhurst, King City, CA

Submitted by: _____
SCOTT BRUCE, PRINCIPAL PLANNER

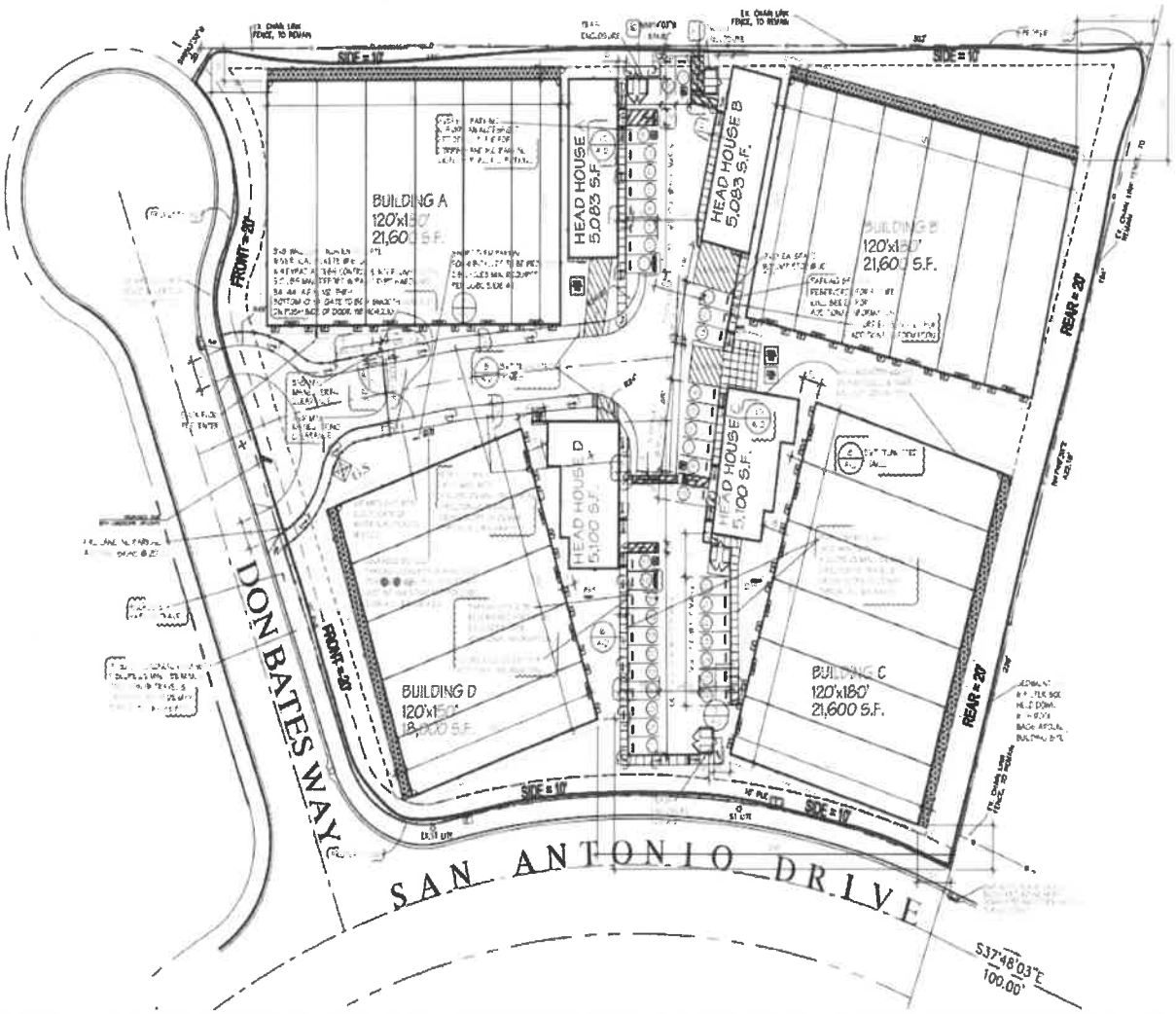
Approved by: Erica L. Senne for _____
DOREEN LIBERTO-BLANCK, AICP, COMMUNITY DEVELOPMENT DIRECTOR

CUP 2016-010(a)18

EXHIBIT 1

CUP 2017-010(a)18

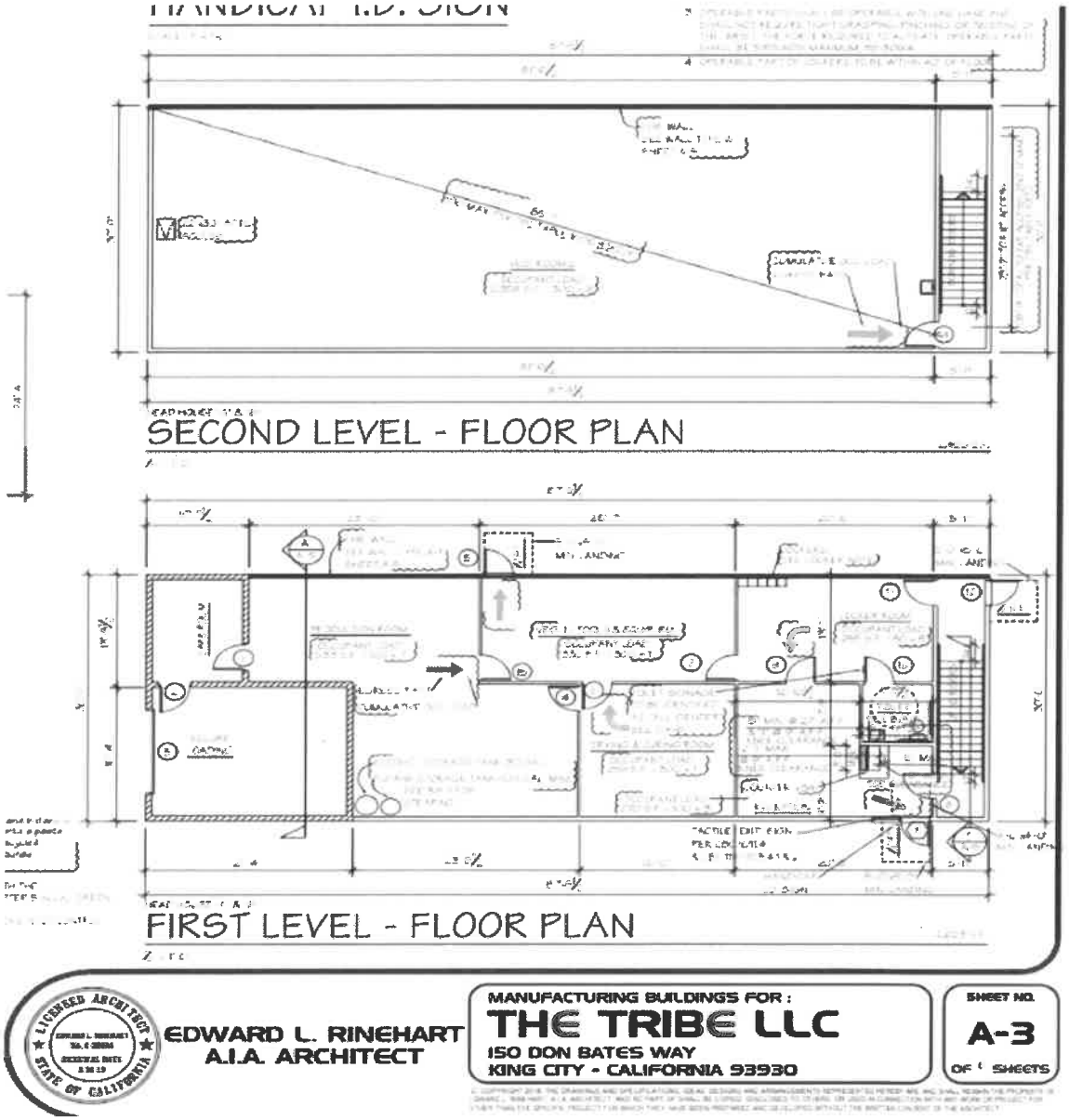
EXHIBIT 2: SITE PLAN



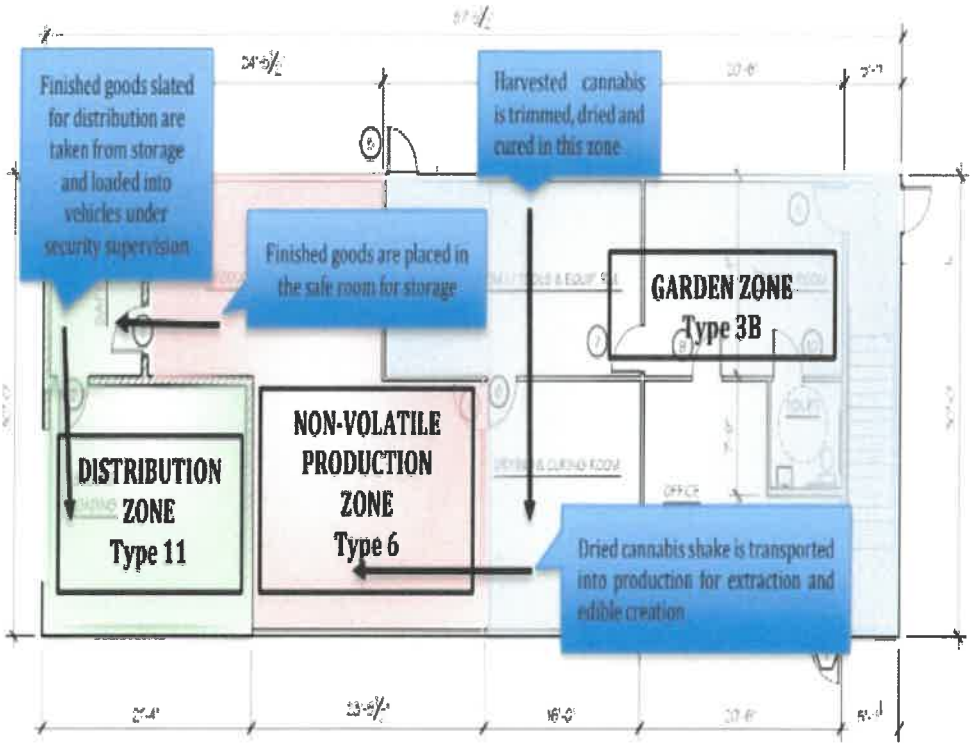
CUP 2017-010(a)18

EXHIBIT 3: HEADHOUSE (type)

Download ▾ ...

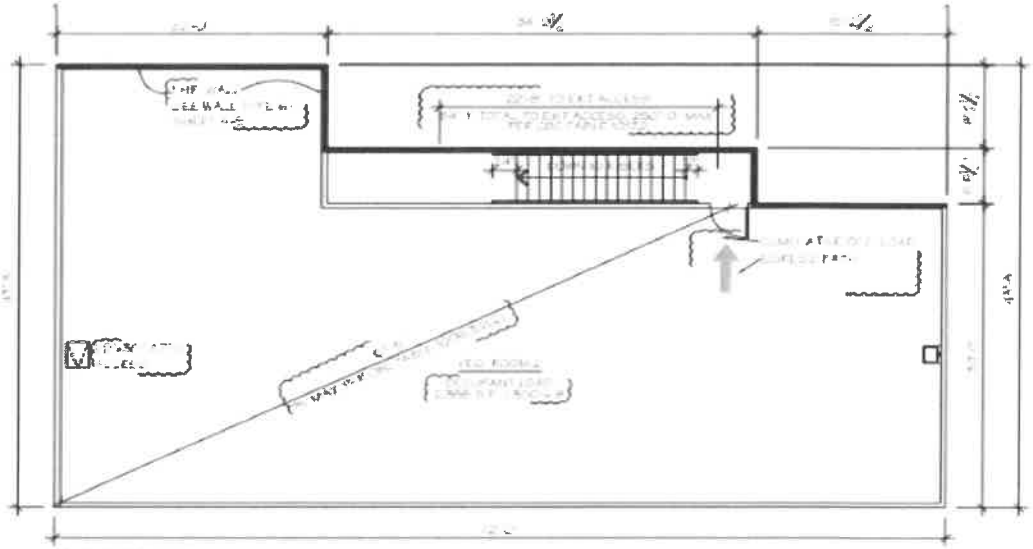


Movement of Cannabis Through Each Warehouse Facility Zone

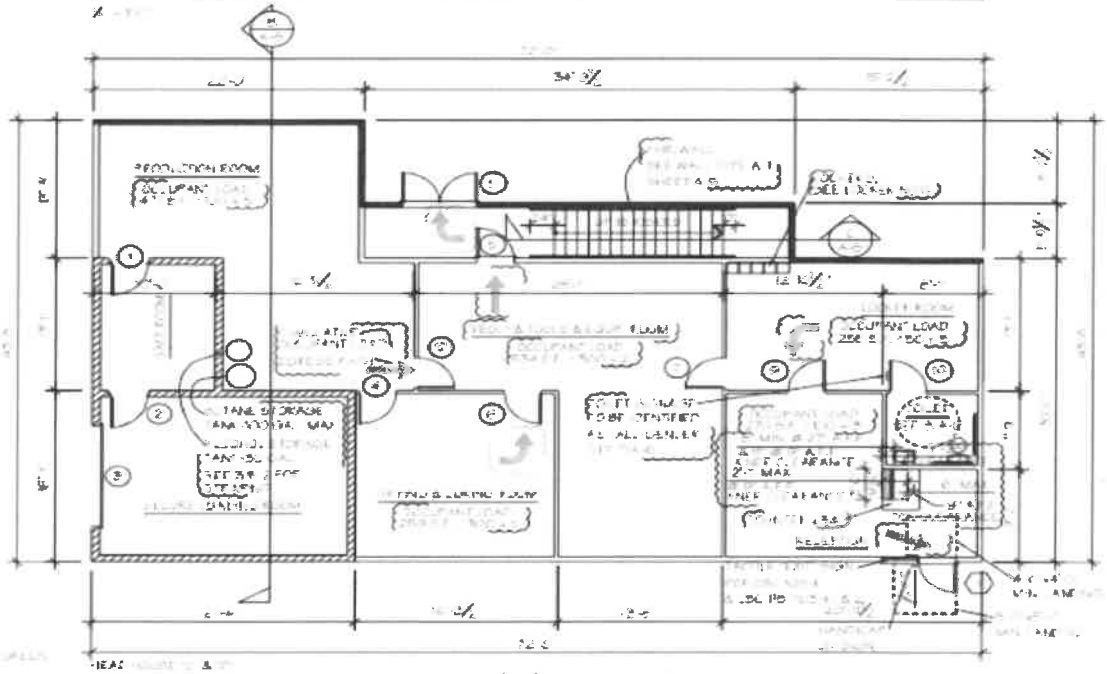


The following chart describes the storage methods associated with various stages within the cannabis production life cycle.

Download ▾



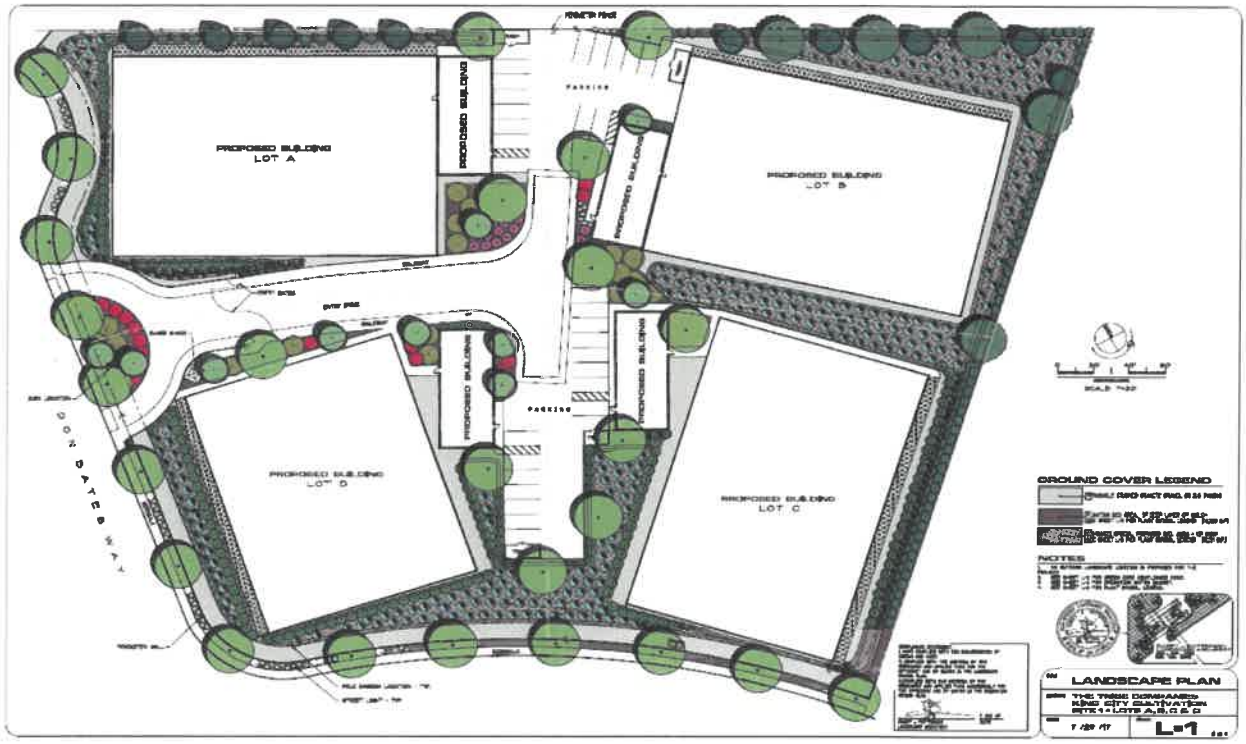
SECOND LEVEL - FLOOR PLAN



FIRST LEVEL - FLOOR PLAN

COA 2016-010(a)18

EXHIBIT 4

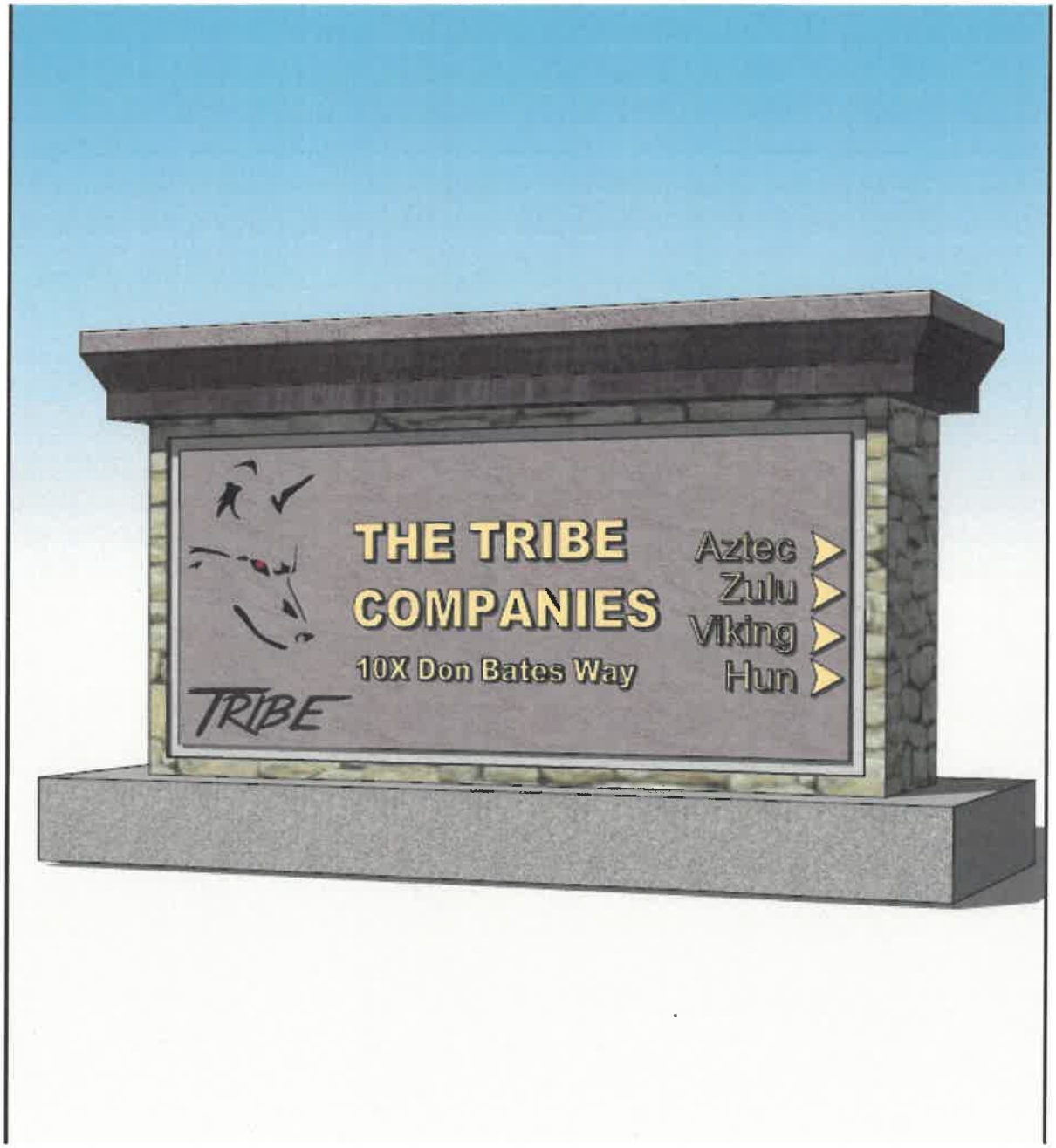


COA 2016-010(a)18

EXHIBIT 5

COA 2016-010(a)18

EXHIBIT 6

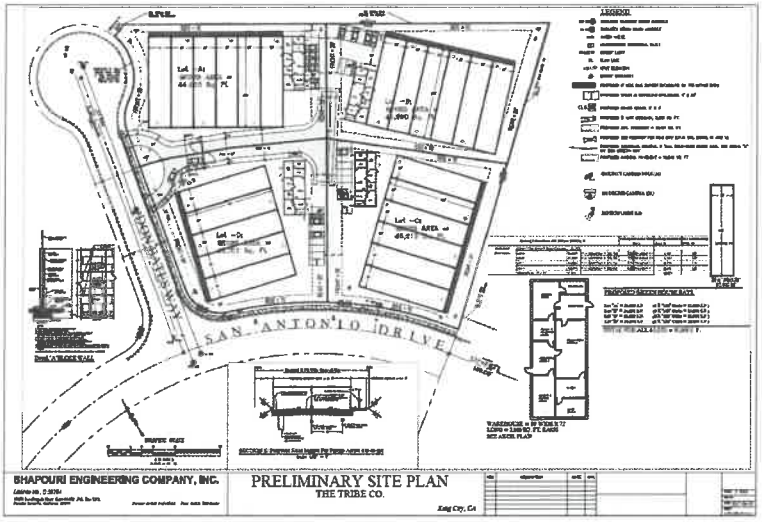


CITY OF KING
CALIFORNIA

EXHIBIT No. 7

Case Number: COA 2016 – 010(a)18
CONDITIONS OF APPROVAL

NOTICE TO PROJECT APPLICANT



In accordance with the provisions of Government Code Section 66020(d)(1), the imposition of fees, dedication, reservations or exactions for this project are subject to protest by the project applicant at the time of approval or conditional approval of the development or within 90 days after the date of imposition of fees, dedications, reservation, or exactions imposed on the development project.

This notice does not apply to those fees, dedications, reservations, or exactions which were previously imposed and duly noticed; or, where no notice was previously required under the provisions of Government Code Section 66020(d)(1) in effect before January 1, 1997.

PART A - PROJECT INFORMATION: THE TRIBE

1.	Assessor's Parcel No(s):	026-521-011)
2.	Job Address:	150 Don Bates Way
3.	Street Location:	NEC Don Bates Way and San Antonio Drive
4.	Existing Zoning:	M-1, East Ranch Business Park Specific Plan
5.	Planned Land Use:	General Plan: LI (Light Industrial);
6.	Plan Area:	East Ranch Business Park Specific Plan (ERBP SP)
7.	Project Description:	CUP 2016-010(a)18 amend the previous approval to develop 4.2 acre parcel located at the northeast corner of Don Bates Way and San Antonio Drive. (APN's 026-521-011). The site was approved for four (4) structures (greenhouse type) for Cannabis Cultivation (Type 3B, mixed light)). One "Headhouse" for administration and production operations was approved to be located adjacent to each greenhouse. This amendment adds manufacturing and distribution to uses in the Headhouse and adds a second story. Wall type revisions are being contemplated

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PART B – GENERAL CONDITIONS AND REQUIREMENTS

An environmental assessment/initial study was conducted and resulted in a Finding of Consistency to the previously prepared Mitigated Negative Declaration for the amendment of the City's Zoning Ordinance and the amendment of East Ranch Business Park Specific Plan (Ordinances 2016-728, 2016-729 and 2016-730) adopted by the City on September 27, 2016. The Notice of Intent to adopt a Finding of Consistency was published in the King City Rustler commencing a 20-day public review and comment period on ending on October 16, 2017. This project is required to comply with all applicable mitigation from the Mitigated Negative Declaration and the City of King Municipal Code (including Chapter 17.03 (Medical Cannabis Activity), Title 17 (Zoning).

IMPORTANT: PLEASE READ CAREFULLY

Please note that this project may be subject to a variety of discretionary conditions of approval. These include conditions based on adopted City plans and policies, those determined through site plan review and environmental assessment essential to mitigate adverse effects on the environment including the health, safety, and welfare of the community, and recommended conditions for development that are not essential to health, safety, and welfare, but would on the whole enhance the project and its relationship to the neighborhood and environment.

In the event you wish to appeal the Planning Commission's decision or discretionary conditions of approval, you may do so by filing a written appeal with the Clerk. The appeal shall include a statement of your interest in or relationship to the subject property, the decision or action appealed and specific reasons why you believe the decision or action appealed should not be upheld. Your appeal must be filed within 15 days of the Planning Commission's decision.[SLC1] Please refer to City of King Municipal Code Chapter 2.12.050

Approval of this use permit shall be considered null and void in the event of failure by the applicant and/or the authorized representative, architect, engineer, or designer to disclose and delineate all facts and information relating to the subject property and the proposed development including, but not limited to, the following:

1. All existing and proposed improvements including but not limited to buildings and structures, signs and their uses, trees, walls, driveways, outdoor storage, and open land use areas on the subject property and all of the preceding which are located on adjoining property and may encroach on the subject property;

2. All public and private easements, rights-of-way and any actual or potential prescriptive easements or uses of the subject property; and,

3. Existing and proposed grade differentials between the subject property and adjoining property zoned or planned for residential use.

4. Conditions for CUP 2016-010(a)18 are in addition to those Conditions previously assigned as part of the CUP 2016-010 approval. Previous conditions remain in effect unless specifically superseded or eliminated by this Amendment.

Approval of this use permit may become null and void in the event that development is not completed in accordance with all the conditions and requirements imposed on this use permit and the Zoning Ordinance. This use permit is granted, and the conditions imposed, based upon the Applicant Package provided by the applicant. The Applicant Package is material to the issuance of this use permit. Unless the conditions of approval specifically require operation inconsistent with the Applicant Package, a new or revised use permit is required if the operation of this

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establishment changes or becomes inconsistent with the Applicant Package. Failure to operate in accordance with the conditions and requirements imposed may result in revocation of the use permit or any other enforcement remedy available under the law. The City shall not assume responsibility for any deletions or omissions resulting from the use permit review process or for additions or alterations to construction plans not specifically submitted and reviewed and approved pursuant to this use permit or subsequent amendments or revisions. (Include this note on the site plan.)

No uses of land, buildings, or structures other than those specifically approved pursuant to the approved site plan shall be permitted. (Include this note on the site plan.)

Please contact Scott Bruce at 805.439.0617 or via email at scottbruce11@gmail.com if you have any questions regarding the conditions of approval (COA).

PART C – SPECIFIC CONDITIONS AND REQUIREMENTS

COMMUNITY DEVELOPMENT DEPARTMENT:

1. **Allowed Use:** Cannabis Cultivation (CA Type 3B), Manufacturing (CA Type 7) and Distribution (CA Type 11) uses are allowed.

2. **Site Development:** The site is vacant and generally flat. Site access will be from Don Bates Way. Four (4) single story buildings are proposed to allow Cannabis Cultivation, compliant with future State License 3B (indoor, mixed light). While total allowed plant canopy space under a future 3B license is limited to 22,000 sf, additional allowed activities include: harvesting, drying, curing and trimming of cannabis. The applicant is also proposing separate structures of approximately 5,100 in size, adjacent to each Cultivation area where the harvesting, drying, curing, trimming, manufacturing and distribution will occur. Administrative offices will also be located there. These structures will be two story in height.

   The CUP Plan Set Package indicates that three (3) Cultivation structures will have a footprint of 21,600sf in size, with one (1) being 18,000 sf in size. Total footprint area of devoted to Cultivation will be approximately 91,550 sf. Total impervious area will be 66% or less.

   Building construction materials and colors will be as presented in the Application Package – to the satisfaction of Community Development Director or designee. Three colors are required. Ancillary structures shall be earth tone in color. Maximum structure height of greenhouses (translucent manufactured structures) shall be 20'. Headhouses (ancillary structures) in location shown may be 24' to ridgeline Minor changes to the approved site plan and / or interior changes, which are determined by the Community Development Director to be substantially in conformity with the plans and Application Package as presented, may be granted by the Community Development Director.

   Setbacks shall be measured from property line.

   Construction / Development shall conform to Application Package as presented, to the satisfaction of the Community Development Director or designee

3. **Parking:** Parking will conform to the Plan and Application Package as submitted.

4. **Landscaping:** Landscaping is required to conform to plans and Application Package as submitted. Irrigation Plans shall conform to Municipal Code Chapter 15.50 and shall be

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presented to and approved by City Engineer Official prior to Building Permit approval. The landscaping and water retention areas shall be maintained in a healthy condition in perpetuity.

5. **Lighting:** Security lighting is required to be mounted on the structures and on poles in the parking area not to exceed 30 feet in height. A lighting plan must be approved by the Director before installation. All new outdoor lighting associated with the use shall be hooded and directed so as not to shine on public roads, onto surrounding properties or into the night sky.

6. **Signage:** One sign at the project entry has been requested. Signage shall conform to plans as submitted. Any additional signage shall conform to the requirements of Section 17.03 of the City of King Municipal Code and the requirements of the ERBP SP. Additional signage may be approved by the Community Development Department and may be submitted to the Planning Commission at the Director's discretion.

7. **Fencing:** Fencing abutting Don Bates Way and San Antonio Drive shall be six (6) feet of split faced block with two (2) feet of wrought iron, curved to the outside. All other perimeter fences) shall be "no climb" chain link, six (6') foot in height with one foot of barbed wire, to a maximum of eight (8) feet with screening "slats" as presented. Screening material will be reviewed by Staff with a determination of condition / requirement for replacement of damaged areas to be presented to Planning Commission every three (3) years. Fencing design / materials along street frontage (Don Bates Way and San Antonio Drive) may be revised with review and approval by Planning Commission / Architectural Review. The Commission may authorize design review and approval by Community Development Director / designee.

   Fence along the northern portion of the parcel shall be located at north property line.

8. **Security:** Cameras, site access and security personnel shall be as presented in the Application Package. One camera compatible with the City of King Surveillance System will be placed at the Industrial Way entrance to the site.

BUILDING AND SAFETY DEPARTMENT: (No application for Building Permit has been submitted). An application must be submitted after CUP approval, prior to construction. All construction methods and materials are subject to the approval of the City of King Building Official

Building Plans: All Planning Commission COA shall be imprinted on plans submitted for building permits.

1 **Scope of Work Description:** Scope of work shall conform with that found in the CUP / Application Package.

2 **Sprinklers:** Buildings shall be sprinkled.

3 **Greenhouse Construction:** Gravel floors will be permitted – steel frame construction must include footings. Wall material must be of same opacity or greater as that presented to the Planning Commission. Moisture barrier of a minimum of 6 mil will be placed below gravel.

4 **Power**: Applicant shall show evidence of specific power source prior to Occupancy / Operations.

PUBLIC WORKS DEPARTMENT: (The Applicant should contact Octavio Hurtado, Hanna & Brunetti 408-842-2173, ohurtado@hannabrunetti.com,) to discuss the following COAs as needed).

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1 **Scope of Work Description:** Grading, utilities, parking and drainage are subject to City Engineer review and approval. Grading, drainage and site improvement shall conform to the Storm Water Pollution Prevention Plan (SWPPP) as approved by Central Coast Regional Water Quality Control Board. Site development shall be to satisfaction of City Engineer, addressing all comments from Building Permit plan packages reviews.

2 **Right of Way Improvements:** Curb, gutter and sidewalks must be installed along the Don Bates Way and San Antonio Road frontages with 2% maximum cross-fall per ADA requirements (including areas of Driveway Approaches.)

3 **Recycled Water Connection:** A connection shall be available at the sidewalk, sufficient to access and utilize the City's recycled "Purple Pipe" system at such time as it made available. "Purple Pipe" will be located in the Industrial Way Right-of-Way. Building(s) shall connect to and utilize recycled water for all landscaping and cannabis irrigation water use at such time that the City and / or local water purveyor makes recycled water available through a dedicated main distribution line adjacent to the property. .

4 **Recycled Water, Water Quality Assessment:** The City may require a future water quality assessment to evaluate mass loading / nutrient balance, based upon the results of regular, ongoing analysis.

5 **Landscaping:** Landscaping is required to conform to plans and Application Package as submitted. Irrigation Plans shall conform to Municipal Code Chapter 15.50 and shall be presented to and approved by City Engineer Official prior to Building Permit approval.

6 **Private Drive Structural Section:** The structural section of the private drive shall conform to the recommendation of a Registered Soils Engineer, licensed in the State of California.

7 **Private Drive Geometry:** Gate locations, queuing space and turning dimensions shall be submitted to the City Engineer and Police and Fire and receive approval from the same.

8 **Grant of Avigation Easement and Release**: Before issuance of a building permit, a Grant of Avigation Easement and Release shall be recorded by the Applicant against the property within the boundary of the project, substantially in the form provided by the Deputy City Clerk, if found needed by City Attorney. Revisions to the Grant of Avigation Easement and Release must be approved by the City Attorney. A reference to the Grant of Avigation Easement and Release shall be placed in on the final construction plans.

COMMERCIAL CANNABIS PERMIT: New Construction shall comply with and Operations be subject to full compliance with Section 17.03 of the City of King Municipal Code as amended and with the Application Package as approved.

A. Regulatory Permit: Each grow site and each distribution and manufacturing use must obtain and maintain a commercial cannabis permit from the City Manager. Each commercial cannabis permit is in force for the period of one year. It shall be renewed annually. No operations shall occur without a current permit.

B. Security Cameras: Security cameras shall be installed in quantity and location per the Application Package City of King Police personnel shall have access to the system for real time review. One camera that is part of the City's City wide system shall be installed at each driveway access from or exit to the street.

C. On-Site Security: A roving security guard will be present on-site at any / all time(s) that employees are not present. Guard house shall be manned by armed guards 24 hours a day, 7 days a week.

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D. **Plant Transport:** Fencing to the satisfaction of HdL will secure the plant transport route between cultivation and headhouse.

E. **Internal Runoff:** All interior runoff from irrigation from the project site (if any) shall drain into the City's Sanitary Sewer system.

F. **Solid Waste:** Solid waste disposal from the project site shall be in compliance with County of Monterey Health Department and Waste Management, Inc. requirements.

G. **Odor Control:** Odor shall be controlled per the Regulatory Application Section I and evaluated per Section 17.03.210 (i) of the City of King Municipal Code. In addition to the requirements of the code, at the beginning of operations, applicant shall obtain an inspection from the City for odor not less than once monthly for a period of no less than three months. In the event that compliance has not been achieved as determined by the City, mechanical equipment will be reviewed. In the event that compliance is still not achieved, City Staff may make a recommendation to City Council per Section 17.03.240 of the City Municipal Code.

   Mechanical details of the Odor Control system will be included as part of the Building Permit package.

   Odor caused by outdoor dumpsters will be addressed in a similar manner. Regardless, the project must comply with the current odor control requirements of the City King Municipal Code and all future amendments.

H. **Pesticides and Fertilizers:** Shall comply with requirements of the Monterey County Agricultural Commissioner and in substantial conformance with the materials and quantities presented in the Application Package.

I. **Air Quality:** Venting shall be in compliance with Monterey County Air Resources Board Standards as applicable.

J. **Employee Background Checks:** Employees shall be vetted (background checks) to the satisfaction of the City of King Chief of Police and in compliance with the Regulatory Application Package and Section 17.03.210 (k) of the City's Municipal Code. A third party acceptable to the City shall perform the check. Results will be provided to Applicant, the City's monitoring consultant and City of King Police Chief. The Police Chief for a determination as to satisfaction.

K. **Hours of Operation and Employees:** The Applicant has indicated that the facility will potentially be in operation 24 hours a day 7 days a week. A maximum of 10 persons per cultivation / headhouse site may be employed. On-site parking will be sufficient to cover overlap periods.

L. **Work Permits and Fees:** Work Permits shall be required in conformance with Section 17.03.070 (a) of the Municipal Code as may be amended. Fees shall be as set by the City Council as updated from time to time.

M. **Indemnification Agreement:** A signed Indemnification Agreement shall be in place prior to issuance of each commercial cannabis permit. Such agreement shall be approved by the City Attorney and conform to the requirements of Section 17.03.160. Said agreement shall supersede the Hold Harmless and Indemnification Clause attached hereto.

N. **Record Keeping:** Financial and Product Record for the project shall comply with the

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Regulatory Application Package and the requirements of Section 17.03.180.

HOLD HARMLESS AND INDEMNIFICATION CLAUSE:

The applicant agrees, as part of and in connection with each and all the applications and approvals, to defend, indemnify, and hold harmless the City of King ***("City")*** and its elected officials, officers, contractors, consultants (including Earth Design International Aleshire & Wynder, LLP attorneys; and Hanna & Brunetti,), employees and agents from any and all claim(s), action(s), or proceeding(s) (collectively referred to as *"proceeding")* brought against City or its officers, contractors, consultants, attorneys, employees, or agents to challenge, attack, set aside, void, or annul:

a. *Any approvals issued in connection with all approvals, actions and applications by City covered by the conditions of approval and/or mitigation measures; and/or*

b. *Any action or approvals taken related to the California Environmental Quality Act of 1970, as amended* ***("CEQA")*** *by City's advisory agencies, boards or commissions; appeals boards or commissions; Planning Commission, or City Council. The applicant's indemnification is intended to include, but not be limited to, damages, fees and/or costs awarded against or incurred by City, if any, and costs of suit, claim or litigation, including without limitation attorneys' fees and other costs, liabilities and expenses incurred in connection with such proceeding whether incurred by the applicant, City, and/or parties initiating or involved in such proceeding.*

The applicant agrees to indemnify City and its elected officials, officers, contractors, consultants, attorneys, employees and agents for all of City's costs, fees, and damages incurred in enforcing the **indemnification** provisions of this Agreement.

The applicant agrees to defend, indemnify and **hold harmless** City, its elected officials, officers, contractors, consultants, attorneys, employees and agents from and for all costs and fees incurred in additional investigation or study of, or for supplementing, redrafting, revising, or amending, any document (including, but not limited to, an environmental impact report, sphere of influence amendment, annexation, pre-zoning, general plan amendment, specific plan, vesting tentative tracts, sign applications, variances, conditional use permits, architectural review, etc.), if made necessary by said proceeding, and if the applicant desires to pursue such City approvals and/or clearances, after initiation of the proceeding and that are conditioned on the approval of these documents.

In the event that the applicant is required to defend City in connection with such proceeding, City shall have and retain the right to approve <u>which approval shall not be unreasonably withheld, conditioned or delayed</u>:

a. *The counsel <u>selected by applicant</u> to so defend City, which approval shall not be unreasonably withheld, delayed or conditioned;*

b. *All significant decisions concerning the manner in which the defense is conducted, which approval shall not be unreasonably withheld, delayed or conditioned; and*

c. *Any and all settlements.*

d. *Any motions or court documents filed on behalf of the city.*

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City shall have and retain the right to have the City attorney defend the City and and indemnified parts in connection with such proceeding. City shall also have and retain the right to not participate in the defense, except that City agrees to reasonably cooperate with the applicant in the defense of the proceeding. If City chooses to have counsel of its own defend any proceeding where the applicant has already retained counsel to defend City in such matters, the fees and expenses of the additional counsel selected by City shall be paid by City. Notwithstanding the immediately preceding sentence, if City's Attorney's Office participates in the defense, any and all City Attorney, Staff and consultants' actual and reasonable fees and costs arising from their support of the defense shall be paid by the applicant.

The applicant's defense and indemnification of City set forth herein shall remain in full force and effect throughout all stages of litigation including any and all appeals of any lower court judgments rendered in the proceeding. Notwithstanding the preceding, this obligation to indemnify shall not apply to any claim to the extent arising from the gross negligence or willful misconduct of the indemnified party or of any agent, employee or licensee of the indemnified party.

Conditional Use Condition Agreement:
The conditional use permit is **not** valid until all Conditions of Approval ***("COA")*** and mitigated measures imposed by the Planning Commission are signed for and agreed to by the applicant.

I have received a copy of the conditional use permit conditions of approval and mitigated measures and agree with them. I understand that if I do not abide by them the Planning Commission has the authority to revoke my conditional use permit, pursuant to the Municipal Code. ***(Reference Municipal Code §17.64.040.).***

Applicant Signature: _____ Date: _____

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Item No. 7C

REPORT TO THE PLANNING COMMISSION

DATE: **OCTOBER 17, 2017**

TO: **HONORABLE CHAIR AND MEMBERS OF THE PLANNING COMMISSION**

FROM: **DOREEN LIBERTO BLANCK, COMMUNITY DEVELOPMENT DIRECTOR;**

BY: **SCOTT BRUCE, PRINCIPAL PLANNER**

RE: **CUP 2016-010, MEDICAL CANNABIS CULTIVATION (CA TYPE 3B): DON BATES WAY AND SAN ANTONIO DRIVE, CITY OF KING**

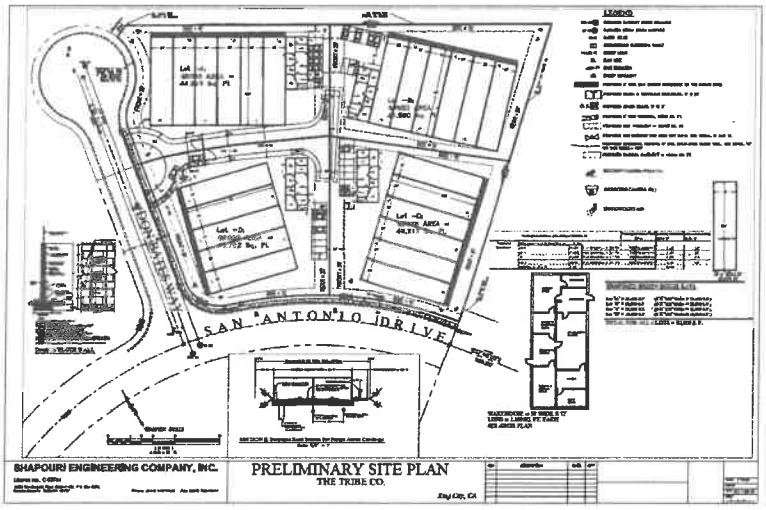
RECOMMENDATION:
Staff recommends the Planning Commission 1) review Conditional Use Permit Application, 2) receive public comment; and 3) adopt the attached Resolution approving Conditional Use Permit 2016-010.

BACKGROUND:
In September 2016 the City Council approved an amendment to the City's Zoning Code and to the East Ranch Business Park (ERBP) Specific Plan, authorizing expansion of land uses related to Medical Cannabis. As a result of that action, Indoor Cultivation under artificial or mixed light, Medical Cannabis Nurseries, Manufacturing and Testing are allowed in the M-1, M-2 and M-3 Districts and in the ERBP. Since that time, the Code has been amended twice (June and August 2017) and 12 Permits have been approved through the CUP and Operations Permits processes. Staff has been in regular discussion with potential Medical Cannabis applicants. This current application is for four primary (with ancillary) structures for Cannabis Cultivation on a vacant site at the corner of Don Bates Way and San Antonio Drive.

The Planning Commission's primary role in the process is to make a determination regarding the Conditional Use Permit. Community Development Staff has been tasked by the City Manager with reviewing and evaluating the Application for Operating Permit and the Building Department will approve the appropriate building permit.

While not required for the CUP, the Permit Application process provides much information that informs the CUP process and potentially makes the Commission's determination easier and more complete.

As noted above, CUP 2016-010 is a Proposal to develop a parcel located at the northeast corner of Don Bates Way and San Antonio Drive. (APN 026-521-011). The site is approximately 4.2 acres in size, four (4) structures (greenhouse type) are proposed for Cannabis Cultivation (Type 3B, mixed light)). One ancillary structure for administration and production operations will be located adjacent to each greenhouse. The City has requested that the project to be designed so that, if necessary, it may be readily subdivided into four (4) parcels without changes to the site plan as proposed in the CUP. The potential for such subdivision has been included in this environmental assessment as part of the project. Using this approach, a site plan approved by the Commission should not have to be amended if the State regulations eventually require one parcel per Permit.

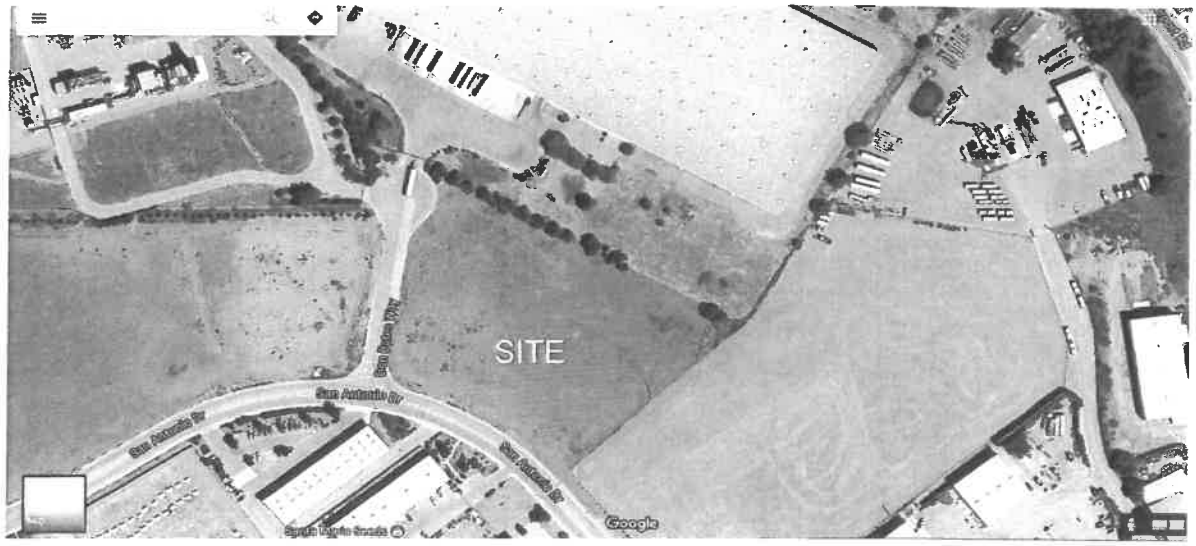


DISCUSSION:

Overview:

The proposed structures are located on a 4.2 acre site. The site and the surrounding area are located in the East Ranch Business Park Specific Plan which has underlying zoning of Light Industrial

- The parcel to the north is the site of the WalMart warehouse.
- The parcel to the east is vacant
- To the south is San Antonio Drive
- To the west is Don Bates Way with a vacant parcel beyond the site.



Proposed operations will utilize natural light, LED lights, hydroponics / aeroponics and organic fertilizers / pesticides.

The site is vacant and generally flat. Site access will be from Don Bates Way. Four (4) single story buildings are proposed to allow Cannabis Cultivation, compliant with future State License 3B (indoor, mixed light). While total allowed plant canopy space under a future 3B license is limited to 22,000 sf, additional allowed activities include: harvesting, drying, curing and trimming of cannabis. The applicant is also proposing separate structures of approximately 2,160sf in size, adjacent to each Cultivation area where the harvesting, drying, curing and trimming will occur. Administrative offices will also be located there.

The CUP Plan Set Package indicates that three (3) Cultivation structures will have a footprint of 21,600sf in size, with one (1) being 18,000 sf in size. Total footprint area will be approximately 91,550 sf. Total impervious area will be approximately 66%.

Building Setbacks: Buildings will be set back from Don Bates Way a minimum of 20' (front yard) and from San Antonio Drive a minimum of (10'). Note that the minimum setback condition occurs in a limited number of places street due to configuration of the street and the angle of the structures. A landscaped strip and a cut face block wall will be located along both street frontages. All perimeter setbacks will be taken from property line.

It appears that the state regulations will ultimately allow more than one permit per lot of record. However, because future state requirements are unclear, a Preliminary Tentative Tract Map has been prepared (not yet submitted) which would create an individual lot for each structure. Reciprocal agreements / easements will allow joint access / utilities should individual parcels be required.

CUP Information:

Architecture:

The proposed structures can be described as "Greenhouses" of rigid construction using steel frame and heavy duty acrylic panels to allow light transmission. Walls with fans will be composed of metallic panels. Roofs will be acrylic panels. Warehouse / Administrative buildings will be tan in color. Buildings will be a maximum 20' in height. **See Exhibits 3 and 7.**

Floor Plan and Interior Uses:

As noted above, maximum canopy space (plant tip to plant tip) per structure is 22,000 sf. Floor area of proposed structures varies as noted above. These structures are currently proposed with gravel floors. Per the City's Building Official, this type of construction is allowed if footings are provided for the steel frame.

As you will remember, all interior runoff must go into the City's Sanitary Sewer System. In this case, the Applicant indicates that there will be no runoff based on their hydroponic grow type. A SWPPP has been prepared and submitted to with the Regional Water Quality Control Board. Ultimate implementation of the CUP and of the Operating Permit will require Water Board Approval .

Landscape:
The site will be landscaped per plans as submitted. The primary landscaped areas will be adjacent to the entry off of Don Bates Way, in the center of the site near San Antonio Drive and in the eastern portion of the site. Bio basins will be located between buildings in the central portion of the site and to the east . Planter areas in the drive / parking area and building fronts will be present.. Landscaped area is approximately 62,260 or 34% of the site.

Proposed landscaping includes Karl Foerster Reed Grass, Deer Grass, Warriner Lytle Buckwheat, Heavenly Bamboo, Lyle Grass, Manzanita, Spreading Lantana, Sugar Bush, Dwarf Coyote Bush, Lowfast Cottoneaster, Acacia Redolens "Low Boy", Incense Cedar, Weeping Bottle Brush, Purple Robe Locust and Coast Live or Island Oak. **See Exhibit 5.**

Grading:
The site is generally flat, draining from north to south. Grading will be minimal – resulting in the movement of approximately 5,000 cubic yards of material. Over excavation and re-compaction will occur in the area of the access drive and administrative buildings. No pads will be built for the greenhouses given the type of construction proposed.

Access, Parking, Paving:
The gate guarded access to the site is from Don Bates Way. A manned guard shack is present. The configuration includes a turn-around area for those not granted access. A paved travel way (28' in width) with sidewalk on each side will extend to the east to the project core around which the four greenhouse locations are situated. Paved parking is constructed to adjacent to each of the four (4) facilities. **See Exhibit 2.**

Seven (7) parking spaces are provided for the smaller Cultivation structure / Administrative facility and eight (8) for each of the larger facilities. Parking equals minimum requirements (1 per 3 employees on largest shift but not less than 1 per 3,000 sf of floor area). The maximum number of employees for any building on any shift is 10.

Signage:
A single faced monument sign is proposed for the entry at Don Bates Way. Text will be limited to company names / occupants of each building. The logo will be for the project in general and not Cannabis related. The base of the sign will be 9'8" in length, the height will be 5'11" from the bottom of the base to the top of the sign.

Building signage will be limited to addresses, on-site signage will be limited to directional signage for deliveries and emergency response personnel. **See Exhibit 6.**

Security:

Fencing: Fencing along the public streets rights of way will be split faced block six (6) feet in height with two (2) feet of wrought iron at the top, curved to the outside. The block wall will have a strip of landscaping 4' in width at its base. The facility will be surrounded on the north and east sides by a non-climbing chain link fence with small square visibility with privacy screening and barbed wire tops, of a height to be determined by the City. As noted above, the entry from Don Bates Way has a manned guard shack and entry gate.

Exterior Lighting: The parking area and building exterior will be illuminated with LED powered lighting placed to eliminate shadows and / or dark areas. Lights will include building mounted and poles. Lighting will be designed to present spread beyond the property boundaries and / or into the night sky. Poles will not exceed thirty (30) feet in height.

Cameras: Security cameras with motion sensors and night vision will be mounted on all exterior doors, perimeter fencing and entry gates. Interior motion / night vision cameras will be placed per the Application Package concept. The 24/7 surveillance will be accessible by the City of King Police Department through real time live access feed. A City of King camera will be placed by applicant at the Don Bates Way gate. The document also proposes internal security camera locations.

Solid Waste: One locked dumpster location is located near each facility, to be used by that facility. For Cultivation site, daily plant waste will be approximately 2.5 cubic yards per structure per week (approximately 480 lbs per week or 70 per day). Dimensions of a six yard dumpster are approximately 6'8"W, 6'6"L, 5'4"

The Company does not use manure or compost material in its operations so it will not be part of its waste disposal. he entire plant is used and approximately 99% of cannabinoids are removed. Typically, the only portions of the plant included in the waste material are those non-usable portions such as the roots, trimmings during vegetation, post extraction pulp or decayed non-beneficial material. Conversation with Waste Management indicates that, there are currently no State of California regulations for solid waste. **See Application, Section J.**

Water: The Mitigated Negative Declaration (MND) that resulted from the Initial Study prepared during evaluation of the Zone Change estimated water use for Cultivation at 2,640 gallons per day (gpd). Water use for Nurseries was estimated at 6,314 gpd. Water use as indicated by the Applicant for this total project will be approximately 400 gallons per day (gpd) per structure, equaling approximately 1600 gallons per day per site. This low use can rate be achieved because of the hydroponic and aeroponic growing techniques use by the Tribe. **See Exhibit 4**

Water (Landscaped Area): The Applicant has prepared a detailed landscaping plan with irrigation and detailed water analysis in conformance with the State of California's Department of Water Resources. **See Exhibit 5**

A number of water conservation measures are employed including drip irrigation, weather or moisture based controllers, non-invasive/ climate appropriate species and similar. The estimated yearly water use for this site is 344,324 gallons (1.06 ac/ft). This number is not included in the analysis of water use under the previous MND – outdoor / landscaping water is common for all sites in the ERBP, regardless of land use.

On-site plumbing to access future recycled water (purple pipe) in San Antonio Drive will be required for landscape as well as Cannabis irrigation, to the maximum amount feasible.

Power: The Applicant estimates 1,920 Amps for each structure as the 80% power allocation for lighting and air conditioning (2,400 Amps as the 100% power allocation). Note that because of the greenhouse configuration (natural light and lower heat gain) the maximum power use will be limited in duration. 900 watt LED lights will be used in place of 1,000 watt High Pressure Sodium lights. Power use is anticipated to be less than 20% of that of an all artificial light (3A) facility with High Pressure Sodium lights.

Noise: Given the nature of greenhouse operations no noise related issues have been identified.

Regulatory Permit Related Information:

The item before the Commission is the consideration of a Conditional Use Permit to allow construction of four (4) Indoor Cultivation / Greenhouse facilities (primary and ancillary structures). (Future CA License Type 3B (mixed light). A site plan has been provided and infrastructure plans are being reviewed by the City Engineer. A separate Operations Permit will be required for each structure.

Each of the Cultivators on site propose to grow, dry, trim and package Cannabis grown for shipment to Manufacturers – most of them outside the City of King. Those manufacturers will prepare oils, topicals and may prepare food products..

Employee Traffic:

The applicant has indicated that maximum employee count will run between 6 and 10 per structure (cultivation + warehouse / admin) shift with a maximum of 40 employees on site at any one time. Not all buildings will have the same numbers of employees as cultivation / warehouse employee counts will differ. Daily maximum count would be 120 given three shifts.

Standard employee generation rates for an Industrial Use are approximately 61 employees per acre with Business Park rates higher. This site is 4.2 acres in size. Therefore, under Industrial Use it could be expected to generate up to 256 employees.

Shipping and Transport: Cannabis bud will be transported from the facility in unmarked vehicles. Transactions will be recorded on a manifest with details regarding the driver, vehicle, weight and / or count of all products. Delivery vehicles will be loaded inside the structure with cars traps and security personnel present. Cameras will be placed to record shipping from the facility. A maximum of two semi-truck and trailers are anticipated per week – providing fertilizers and materials. **See Application Sections E and F .**

Odor Control: The Odor Control Program will operate in conformance with the requirements of Municipal Code Section 17.03.210 (i). It Includes a high pressure fog atomizing system with an essential oil mixture. Nozzle rings are attached to external vents or ducts allowing the fog to mix with the exhausting air. **See Application Section I.**

Site Security: A manned (24 /7) guard station will be located at the entrance. Visitors will be stopped at the gate and verified prior to being allowed site access. Once accepted they will be escorted to the appropriate parking or delivery area. Once parked, visitors are escorted to the appropriate facility. Once a visitor's business is completed they will be escorted off the property by a security guard.

Entries to facilities is protected via biometric sensor control. Credentials are verified by Administrative personnel. Employees will have employee badges and are allowed into specific areas within the facility, depending on their responsibilities. Visitors will be accompanied by authorized personnel at all times during their visit. Persons under the age of 21 will not be allowed on site. Cameras will be located in warehouse and greenhouse, acceptable to King City Police Department at all times. **See Application Section H.**

Employee Vetting: No person under 21 years of age will be employed on this site. It is anticipated that a third party will receive fingerprints and provide the City of King Police Department with background review. The Department will verify and the employee will sign, under oath, an agreement that verifies the accuracy of the background check and that delineates the responsibilities of and expectations for the employee..

Employee Training: Initial and on-going training in preventing contamination, grow techniques (including approved pesticide application in conformance with the requirements of the Monterey County Ag Commissioner) and inventory security / control. OSHA and personal protective equipment requirements, documentation, testing, hazard response, chemical handling, labeling documentation and emergency procedures. The training will provide information to employees enabling them to maintain compliance with the State's evolving Cannabis regulations and the Tribe's hydroponic / aeroponic growing process, systems and methods.

Quality Control: All cultivated and processed material will be sent to a Type 11 licensee for batch testing for pesticides, fungus, pests, molds and contaminants. and to a Type 8 Testing Laboratory before distribution to a Dispensary. If a product were to be called into question the remaining inventory will be quarantined and all customers notified. All material will be returned.

Compliance with Evolving State and Local Regulations: The applicant's operating procedures will comply with State and local regulations. The applicant engages a team of lawyers, community relations staff and industry advisors to assist with governance, compliance, legal adherence and updates to laws and regulations. In addition, the Applicant has executed the City's required Indemnification Agreement.

ENVIRONMENTAL COMPLIANCE:

King City previously prepared and certified (September 2016) a Mitigated Negative Declaration (MND) for the amendment of the City's Zoning Ordinance and the amendment of the East Ranch Business Park Specific Plan (ERBP Specific Plan) (Ordinances 2016-728, 2016-729 and 2016-730) to allow new land uses in the Manufacturing Districts (M-1, M-2, M-3) and in the ERBP Specific Plan.

Staff has conducted an Initial Study related to this proposed project (CUP 2016-010) and has determined the project is fully within the scope of the prior analysis by the MND. The Adoption of a Finding of Consistency has been recommended per CEQA Guidelines Section 15162 and has been noticed for Public Review.

ALTERNATIVES:

1. Hear the item, invite public comment and approve the item as presented.
2. Deny the item. If the Planning Commission wishes to deny the CUP, the item needs to be continued, directing Staff to return with a Resolution of Denial.
3. Provide alternative direction to Staff.

ATTACHMENTS:

1. Site Location
2. Site Plan
3. Floor Plan – Admin / "Headhouse"
4. Hydroponic Process
5. Landscape Plan
6. Signage
7. 3D Site View
8. Greenhouse Examples
9. Conditions of Approval
10. Resolution 2017 – 196
11. Initial Study

Exhibits may be made available for public review at front counter, City of King City Hall, 212, South Vanderhurst, King City, CA

Submitted by: _____
SCOTT BRUCE, PRINCIPAL PLANNER

Approved by: _____
DOREEN LIBERTO-BLANCK, AICP, COMMUNITY DEVELOPMENT DIRECTOR

RESOLUTION NO. 2018- 237

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF KING, APPROVING CONDITIONAL USE PERMIT CASE NO. CUP 2016-010(a)18

WHEREAS, on **July 23, 2018, The Tribe Companies LLC** submitted an application to amend a previously approved Conditional Use Permit (CUP). The amendment adds Manufacturing and Distribution uses and increases the height of the Headhouses to two stories (twenty-four (24) feet. Previously approved uses include Cannabis Cultivation (CA Type 3B) in four (4) greenhouses, with ancillary structures, for a parcel located at the northeast corner of Don Bates Way and East San Antonio Drive (Project); and,

WHEREAS, on **August 17, 2018** a formal Letter of Completeness was provided by the City; and,

WHEREAS, the proposed use is consistent with the General Plan and is allowed in the ERBPSP with the approval of a Conditional Use Permit (CUP) **(Ordinance 2016-745, August 22, 2017);** and,

WHEREAS, the proposed project conforms to the requirements of Chapter 17.03 of the City of King Municipal; and,

WHEREAS, an Initial Study was prepared and a Public Notice filed indicating Intent to Find Consistency with the certified Mitigated Negative Declaration (MND) that was prepared to address potential cumulative impacts of the **September 27, 2016** changes to the Zoning Code; and,

WHEREAS, the Project has been evaluated in relation to the previously prepared MND for the amendment of the City's Zoning Ordinance and the amendment of ERBPSP (Ordinances 2016-728, 2016-729 and 2016-730) to allow new land uses in the Manufacturing Districts (M-1, M-2, M-3) and designation the ERBPSP. During the original CUP review an initial study was prepared for the project, which determined that the project is fully within the scope of the prior analysis of the MND, such that the adoption of a Finding of Consistency was warranted This amendment falls within the scope of that analysis; and,

WHEREAS, on **August 21, 2018** the Planning Commission (Commission) has reviewed the staff report, provided an opportunity for public testimony, and considered all other relevant information during the duly noticed public hearing; and,

WHEREAS, the establishment, operation and maintenance of the use as presented will not be detrimental to the property, improvements, health, safety, morals and general welfare of persons in the surrounding area (East Ranch Business Park) and / or the City; and,

WHEREAS: The Commission makes the following Findings of Facts:

1. The purpose of the proposed uses (manufacture and distribute cannabis) are in accordance with the description, process and standards provided in the Application Package as reviewed by Staff and presented at the public hearing.
2. The establishment, operation and maintenance of the use as presented will not be detrimental to the property, improvements, health, safety, morals and general welfare of persons in the surrounding area and / or the City;
3. The proposed use is consistent with the General Plan Land Use Designation (LI) Light Industrial and the Uses and Standards of the East Ranch Business Park Specific Plan and the underlying (L-I) Zoning District.
4. The proposed uses will be contained within four (4) headhouse structures in previously approved locations, being increased to two stories (24 feet) in height. The floor area of each structure increases to approximately 5,100sf. Cultivation area does not change and includes a total of no more than 44,000 sf of cultivation canopy
5. Fencing along the street frontages will be reviewed. Previously, a split faced block wall with wrought iron on the top was to be located along San Antonio Drive and Don Bates Way. Fencing alternatives will be evaluated under subsequent Architectural Review.
6. The existing lot is accessed (gated) from one point of entry at Don Bates Way.

7. Landscaping will be installed per Municipal Code Chapter 15.50 and the Conditions of Approval. Significant changes from the previous concept, as determined by Community Development Director / Designee, will require subsequent Architectural Review.
8. All processes and interior construction/building improvements, security/operating procedures will be in conformance with the CUP/ Regulatory Application Package, as submitted and/or as conditioned pursuant to **Exhibit 1** and with City of Municipal Code Chapter 17.03 (Commercial Cannabis Activity).
9. Power and Water are available and are required to be provided prior to/concurrent with building construction.
10. Secure, fenced areas will be provided between translucent manufactured structures (cultivation) and the headhouses.
11. Odor control will be per Conditions of Approval and will be evaluated per / comply with the most current Municipal Code (Chapter 17.03.210(i).
12. Power to the site must be provided prior to issuance of Operations Permits.

NOW, THEREFORE, BE IT HEREBY RESOLVED that the Planning Commission of the City of King finds that the amendment as proposed produces no significant impacts and that the Project is a Class 32 Categorical exemption per CEQA Guidelines Section 15332. Further, the Commission approves Conditional Use Permit Case No. CUP 2016-010(a)18.

This resolution was passed and adopted this **21st day of August, 2018** by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

_____

DAVID NUCK, CHAIRPERSON

ATTEST:_____

ERICA SONNE DEPUTY CITY CLERK / PLANNING COMMISSION SECRETARY

KING CITY
CALIFORNIA

Item No. 8(A)

REPORT TO THE PLANNING COMMISSION

DATE: AUGUST 21, 2018

TO: HONORABLE CHAIR AND MEMBERS OF THE PLANNING COMMISSION

FROM: DOREEN LIBERTO, AICP, COMMUNITY DEVELOPMENT DIRECTOR

BY: DONALD J. FUNK, PRINCIPAL PLANNER

RE: APPROVAL OF LANDSCAPING AND IRRIGATION PLANS FOR THE MILLS RANCH DEVELOPMENT (LDR 201-001)

RECOMMENDATION:

The Planning Commission adopt Resolution No. 2018-238, approving the landscaping and irrigation plans. ***(Reference Exhibit 4.)***

BACKGROUND:

On July 2, 2018, the applicant, Mike Nino, submitted landscaping and irrigation plans that were required under the conditions of approval (COA) of the Mills Ranch Specific Plan (Specific Plan and Vesting Tentative Tract Map (VTM)). On July 31, 2018, the applicant submitted revised plans, including revisions that ensure compliance with the City's Master Street Tree List.

The mixed-use Specific Plan was approved by the City Council on August 30, 2005. The project approval included a Final Environmental Impact Report (EIR) and an EIR Addendum, which the Council certified on March 28, 2005. In addition to the Specific Plan, the City Council approved a General Plan Amendment, Vesting Tentative Tract Map and Design Manual.

The 92.37-acre Specific Plan is located north of San Antonio Drive, between Spreckels Road and Metz Road. The Specific Plan consists of 400 residential units, a small commercial site, 7.5-acres of parklands, and 1.1-acres of open space, including a linear park that provides a buffer from adjoining agriculture along the north and setbacks from the railroad along the east side of the development.

The proposed landscape and irrigation plans show street trees, street parkway landscaping and individual lot front yard and rear yard landscaping and irrigation systems. The front yard and rear yard landscaping plan for individual homes is a sample that applies to future phases. Approving this level of detail will expedite building permit

approvals. In addition to plant types, the plans also indicate methods of planting, required mulch, irrigation system design. Future plans for park and open space areas will be required as specified under Specific Plan approved COA No. 53, No. 54 and No. 55.

In addition, the provisions of Municipal Code Section 15.50, Water Efficient Landscape, also apply to the proposed project. The Landscape Architect has included drought resistant plantings and efficient irrigation systems for the new phases of the Mills Ranch Development. In addition, the project will include provisions for storm water detention, one of the objectives of Section 15.50.

In order to show compliance with Section 15.50, it is recommended that the Landscaping and Irrigation Plans Landscape Architect, prior to issuance of building permits, submit a "Water Conservation Concept Statement" to the City and the certificate of substantial completion for approval of the local water purveyor, California Water Service Company (Cal Water).

On September 9, 2008, the City Council adopted a Master Street Tree List for trees planted within the city right-of-way. The proposed landscape and irrigation plans proposed to landscape the streetscape, which will be in the city right-of-way. The revised plans include street trees from the City's Master Street Tree List.

DISCUSSION

The first development phase of approximately thirty-two (32) homes was constructed by Woodman Development Company. Landscaping and irrigation plans were approved for the first development phase. Mr. Nino, the new developer, has submitted landscaping and irrigation plans for the remaining phases of home construction pursuant to the approved COA for the Specific Plan and VTM. ***(Reference attached Exhibit 1.)***

COA No. 15.a states that,

> *"The landscape and irrigation plan for such open spaces shall be prepared by a licenses landscape architect and shall be subject to review and approval by the Planning Commission."*

COA No. 15.d states that,

> *"Before issuance of a building permit for a specific home, a landscaping and irrigation plan for the front yard of the type of residential lot which the home is to be built upon shall be prepared by a licensed Landscape Architect, or licensed Landscape Contractor provided the plans are prepared sing standard landscape architectural procedures. The landscaping design, character and scape shall be consistent with the Specific Plan."*

The primary noticeable differences in the landscaping from the first development phase is the substitution of groundcover such as Asian Jasmine plants and other shrubs and low groundcovers instead of lawns. The lawns, which are described in the Specific Plan, require more irrigation. The new plants will, once established, necessitate less irrigation water. For example, the applicant's Landscape Architect recommends jasmine, a vine plant with fragrant white flowers, along with other low water use shrubs and groundcovers, which will provide landscape buffers separating the houses from the street. The proposed changes to substitute ground covers, shrubs, trees, efficient irrigation systems and mulches for lawn areas is partly the result of State regulations requiring water conservation. Until recently, Cal Water had a rebate program that paid property owners to remove lawns and replace the lawns with drought resistant landscaping. The State discourages high water use plantings, such as turf, and encourages the use of low water use plants. The applicant proposes a water conserving landscape.

Staff concurs with the applicant's proposal to eliminate turf in favor of the low water use landscaping designed by his Landscape Architect. While grass is indicated in the Specific Plan, we recommend that the applicant be permitted to substitute the drought resistant plantings proposed by his Landscape Architect.

The applicant also proposes the following street trees that are on the City's Master Street Tree List: Raywood Ash, Chinese Pistache, Ornamental Pear, and Sawleaf Zelkova.

Figure 1: Aerial of Proposed Project Site

Figure 2: Mills Ranch Specific Plan Land Use Plan

Advantages

The approval of the landscaping and irrigation plans for the Specific Plan will allow the applicant to apply for building permits for the next phases of the Specific Plan and begin planning for future streets, sidewalks, trails, parks and other improvements identified in the Specific Plan and comply with the original COA.

Disadvantages

There are no known disadvantages.

ENVIRONMENTAL REVIEW:

The City Council certified the Final EIR and an EIR Addendum on March 28, 2005. The proposed landscaping and irrigation plans are consistent with the plans reviewed under the EIR and will not have a significant impact on the environment.

PROJECT REVIEW COMMITTEE COMMENTS AND REVIEW AND REVIEW BY AGENCIES:

The landscaping and irrigation plans were routed to members of the Project Review Committee (PRC) for their input. The City Engineer provided conditions of approval which are incorporated into **Exhibit 3**.

PUBLIC NOTICE AND INPUT:

The landscaping and irrigation plans do not require a public hearing.

COST ANALYSIS:

Development review application fees are based on actual time and materials per the City Fee Schedule. The applicant is covering the cost required for review and processing.

ALTERNATIVES:

The following alternatives are provided for Planning Commission consideration. Staff recommends that the Commission approve Alternative 1:

1. Adopt Resolution No. 2018-238 approving the landscaping and irrigation plans with substitution of low shrubs and vines along parkways for turf; or

2. Request modifications in the design and/or proposed use; or

3. Make a tentative motion to deny the project. If the Planning Commission chooses this alternative, the reasons should be specified and the item continued to a future hearing so the appropriate findings of fact and a new Resolution can be prepared by staff; or

4. Provide other direction to staff.

Exhibits:

1. Exhibit 1 – Figures A thru F, Landscape and Irrigation Plans
2. Exhibit 2 – Findings of Fact
3. Exhibit 3 – Landscape and Irrigation Plans Conditions of Approval
4. Exhibit 4 – Planning Commission Resolution

Submitted by: _____
Donald J. Funk, Principal Planner

Approved by: _____
Doreen Liberto, AICP, Community Development Director

EXHIBIT 1

LANDSCAPE AND IRRIGATION PLANS
FIGURE A: STREET TREE LAYOUT

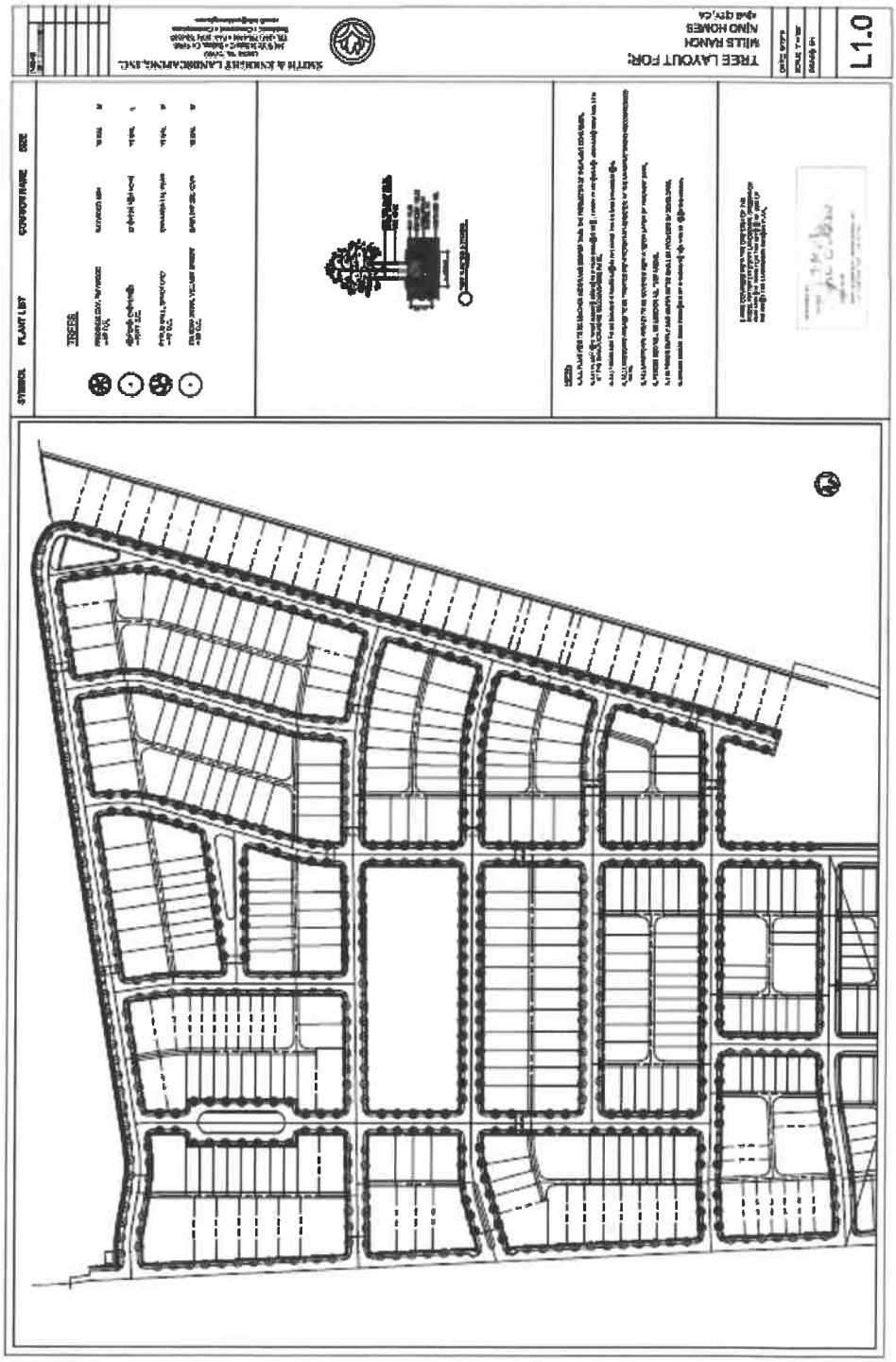


Figure B: Typical Lot Landscape Plan

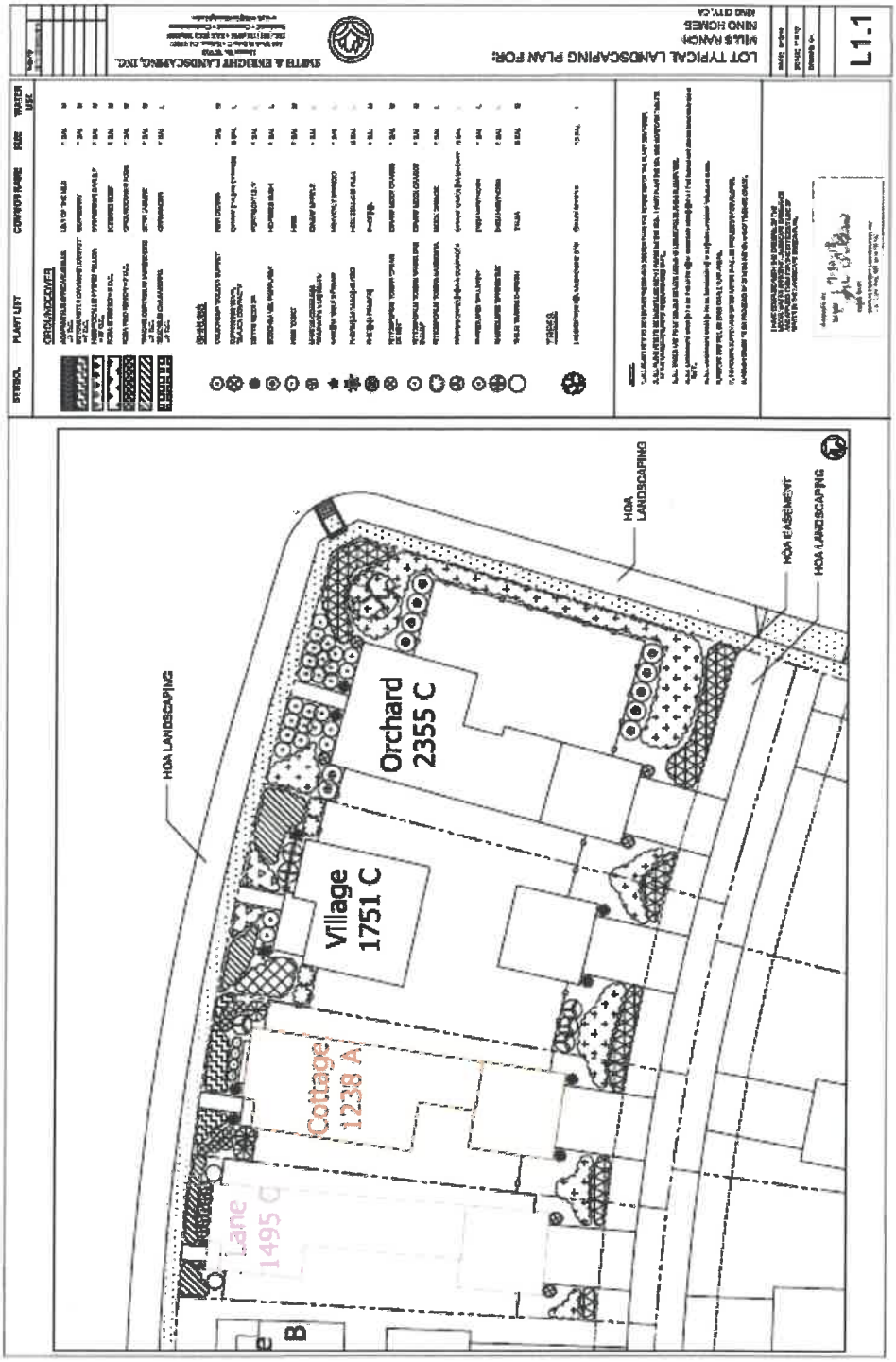


Figure C: Typical Alley and Street Parkway Landscaping Plan

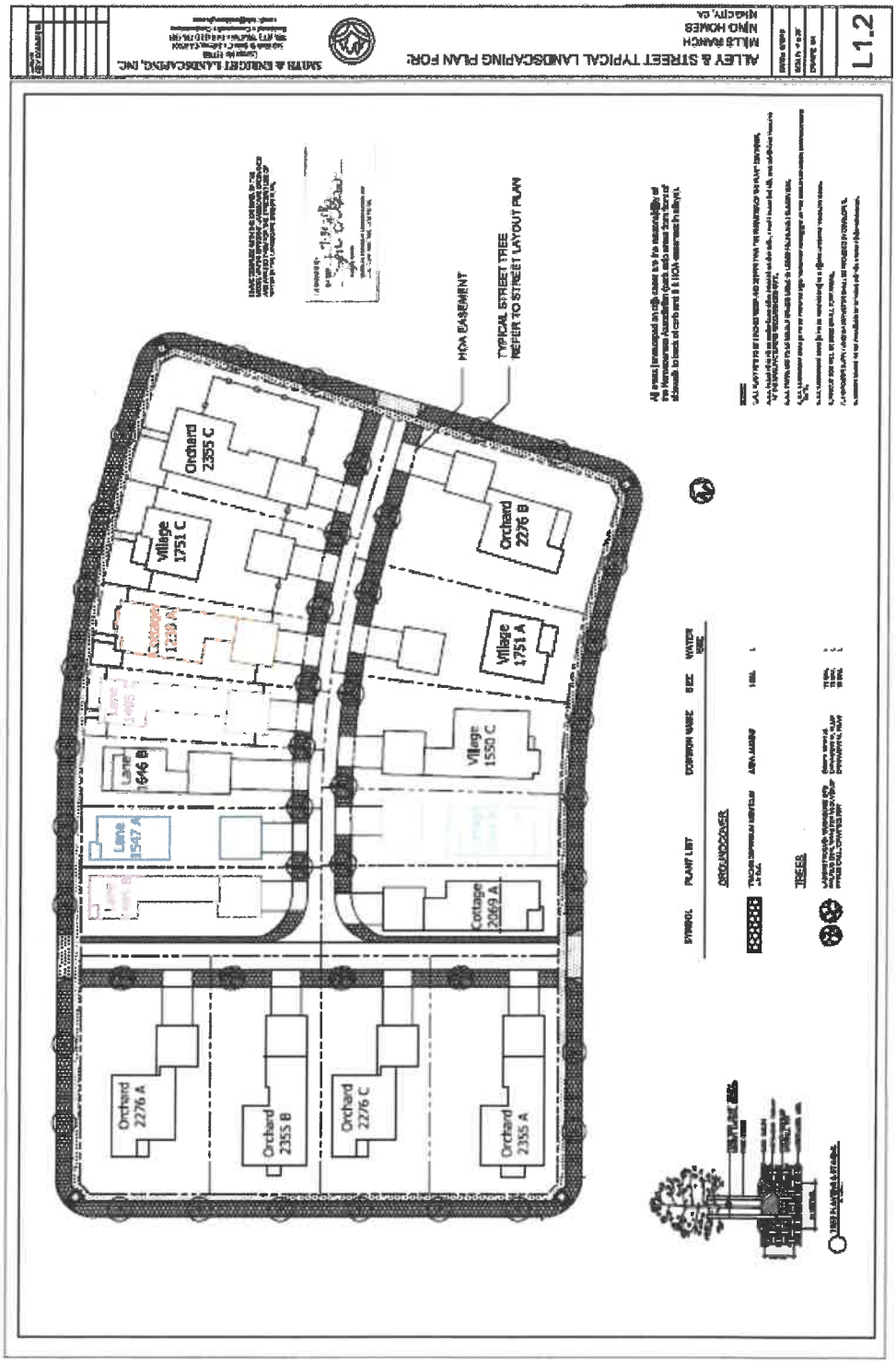


Figure D:Typical Lot Irrigation Plan

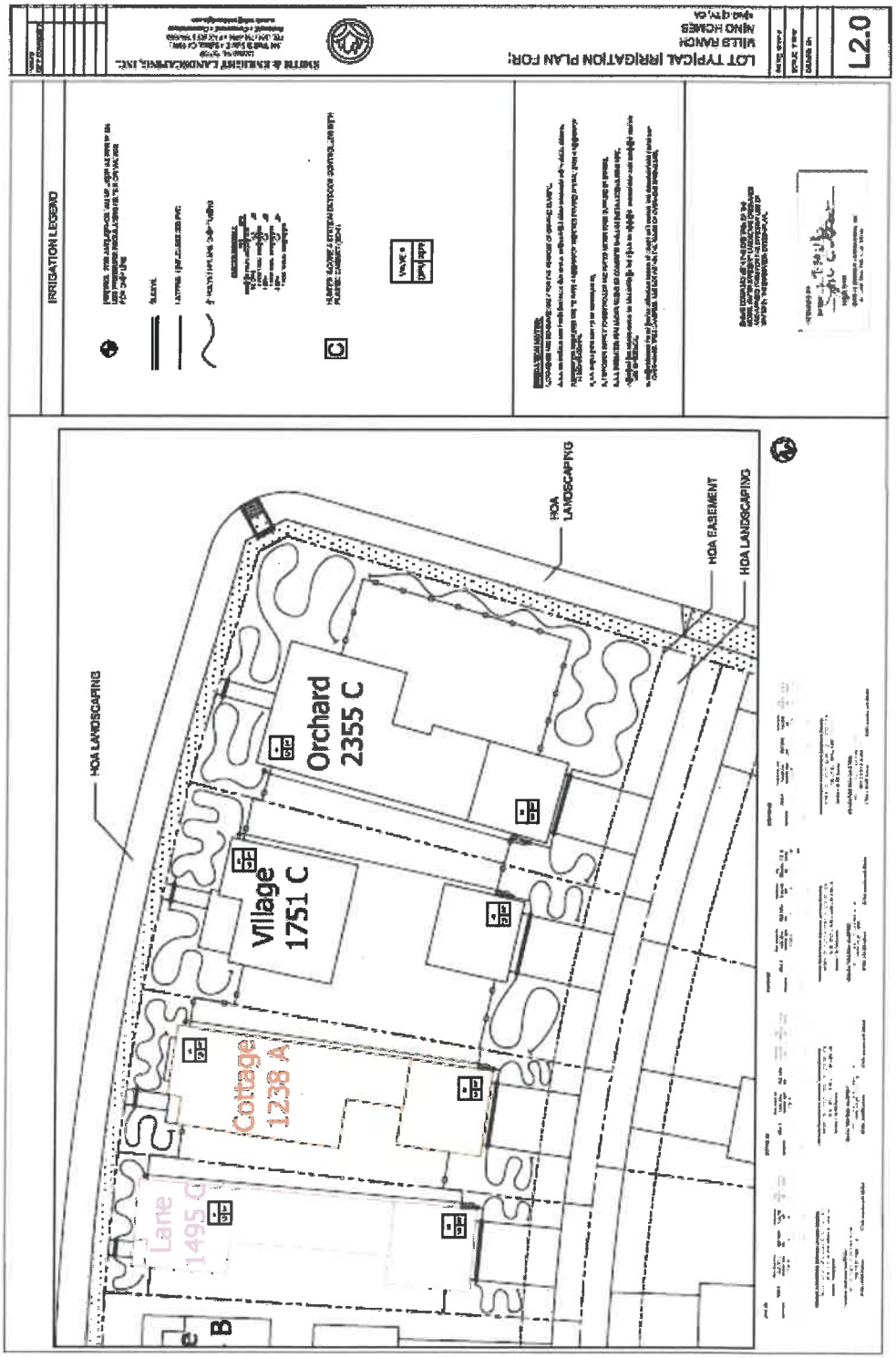


Figure E: Typical Alley and Street Parkway Irrigation Plan

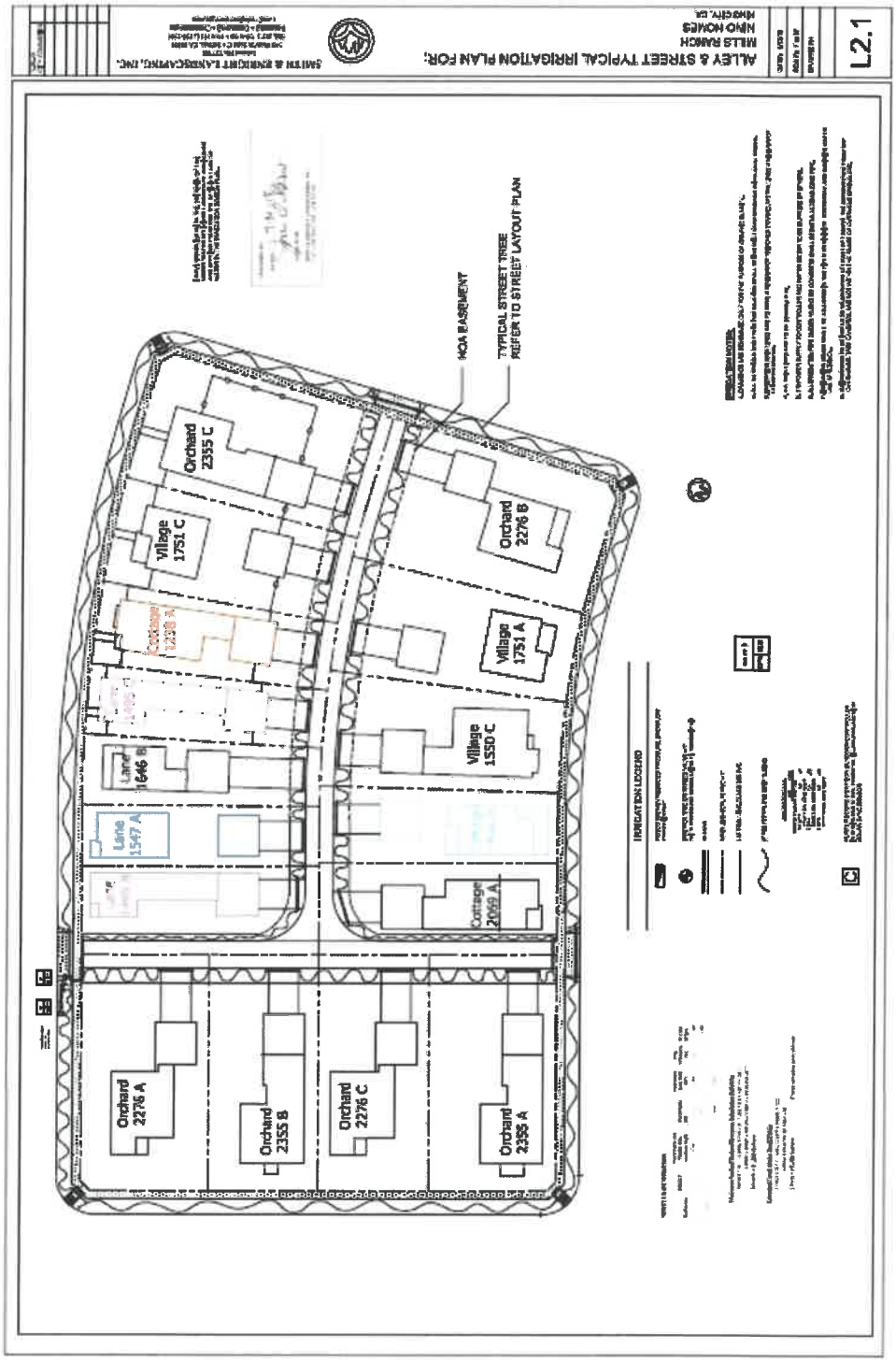


Figure F: Planting and Irrigation Details

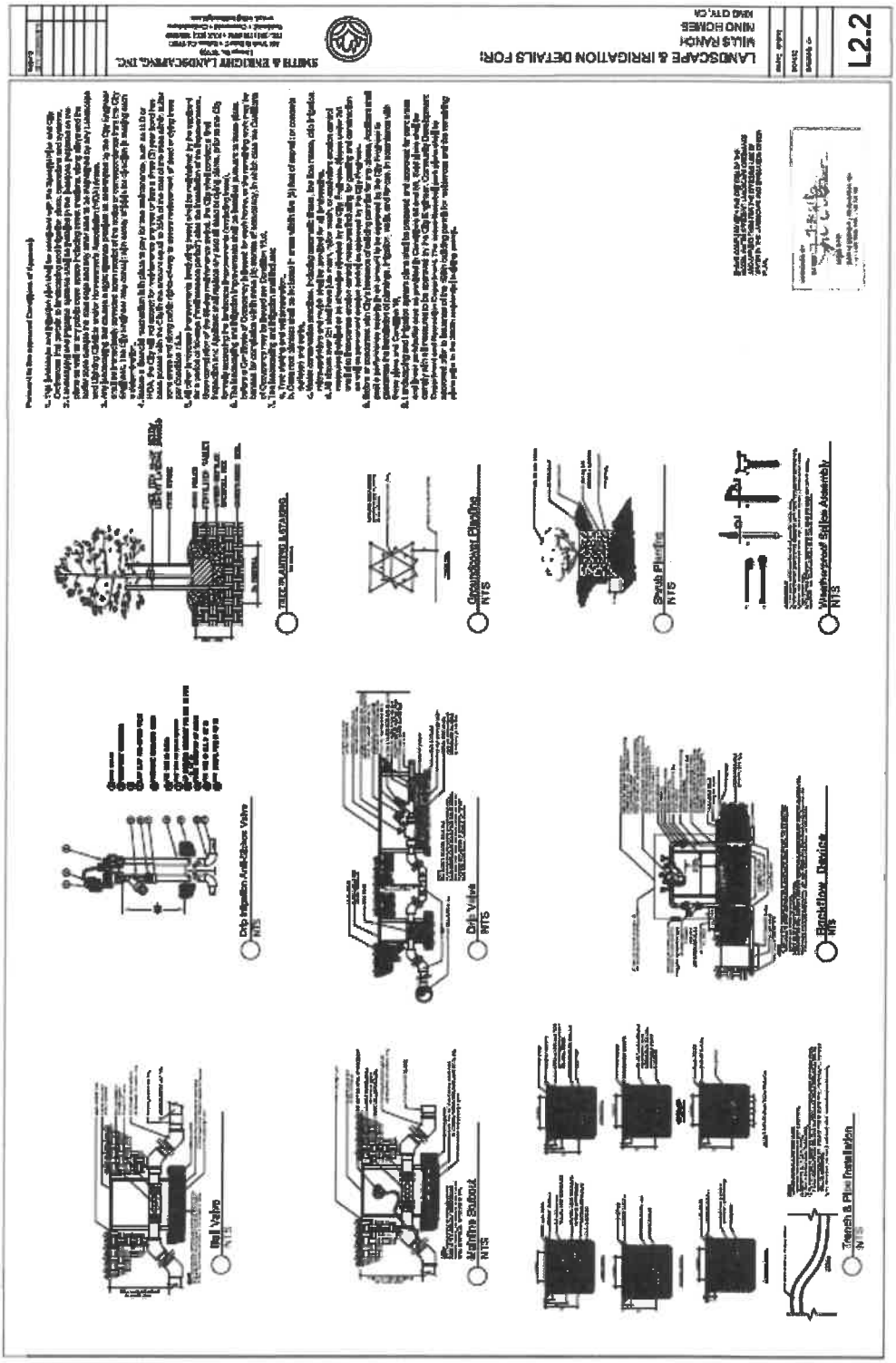


EXHIBIT 2

FINDINGS OF FACTS
LANDSCAPING AND IRRIGATION PLANS

The purpose for making Findings of Facts to *"bridge the analytical gap between the raw evidence and ultimate decision".* The Municipal Code gives the Planning Commission ***("Commission")*** the authority to approve a project so long as the Commission can make certain findings. Written "findings of fact" are required in order to support the decision of the hearing body to approve or deny a project.

California Environmental Quality Act (CEQA) Findings of Fact

The Project is consistent with the Specific Plan Environmental Impact Report ***("EIR")*** and Addendum EIR (State Clearinghouse No._2004081170) certified by the City Council on March 28, 2005 prepared in accordance with the California Environmental Quality Act ***("CEQA")***, and that conditions within the Specific Plan have not changed, and no further environmental review is required under CEQA.

Findings of Fact for Approval of the Landscaping and Irrigation Plans

a. The Commission finds that the landscaping and irrigation plans are consistent with the Mills Ranch Specific Plan, pursuant to the requirements established in COA No. 15.a and No. 15.d and, with the corrections and additions noted in **Exhibit 3**.

b. The trees, shrubs, and groundcovers proposed by the applicant will enhance the appearance of the development and are consistent with the objectives to reduce water use.

c. The substitution of low groundcovers instead of lawns in individual yards will reduce water consumption.

d. The irrigation systems, mulches and other improvements identified in the plan will serve to reduce water consumption.

e. The landscape and irrigation plans are consistent with the City Master Tree List

f. The Commission approves the substitution of drought tolerant low shrubs and groundcover plants for turf along street parkways.

g. Pursuant to Municipal Code Section 15.50, prior to issuance of any building permit, the applicant shall complete the following and submit the Water Conservation Concept Statement to the City Engineer and Community Development Director for approval:

    (1) Each landscape documentation package shall include the following elements, which are described in subsection (b) of this section:
        (A) Water conservation concept statement;
        (B) Calculation of the maximum applied water allowance;
        (C) Calculation of the estimated applied water use;
        (D) Calculation of the estimated total water use;
        (E) Landscape design plan;
        (F) Irrigation design plan;

(G) Irrigation schedules;
(H) Maintenance schedule;
(I) Landscape irrigation audit schedule;
(J) Pesticides, herbicides and fertilizers;
(K) Grading design plan;
(L) Soil preparation, mulch and amendments;
(M) Certificate of substantial completion (to be submitted to City and Cal Water Company after installation of the project).

EXHIBIT 3

RESOLUTION N 2018-238

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF KING APPROVING THE LANDSCAPE AND IRRIGATION PLANS FOR THE MILLS RANCH SPECIFIC PLAN DEVELOPMENT LOCATED NORTH OF SAN ANTONIO DRIVE AND WEST OF METZ ROAD, KING CITY, CALIFORNIA.

WHEREAS, on **August 30, 2005,** the City Council approved a General Plan Amendment, Specific Plan, Vesting Tentative Tract Map and Design Manual ***("Approved Development")*** for the Mills Ranch development located off of San Antonio Drive and between Spreckels Road and Metz Road; and

WHEREAS, conditions of approval on the Approved Development require that Landscape and Irrigation Plans be approved for open spaces and residential lots before issuance of a building permit for specific homes; and

WHEREAS, in 2007, the Phase 1 landscaping and Irrigation improvements were developed by Woodman Development Company for the first thirty-two (32) homes ; and

WHEREAS, on **July 2, 2018**, Mike Nino ***("Applicant")*** submitted Landscaping and Irrigation Plans and on July 31, 2018 Mr. Nino submitted revised Landscaping and Irrigation Plans for the lots and parkway strips on the remaining phases in the Mills Ranch Specific Plan Development, as shown on **Exhibit 1** ***("Project")***; and

WHEREAS, the Community Development Department and the City Engineer reviewed the Project and recommend approval subject to the conditions of approval ***("COA")***, attached as **Exhibit 3**; and

WHEREAS, the Municipal Code Section 15.50 requires the completion of the Water Conservation and Concept Statement prior to the issuance of building permits; and

WHEREAS, the Project is consistent with the Specific Plan Environmental Impact Report ***("EIR")*** and Addendum EIR (State Clearinghouse No. 2004081170) certified by the City Council on March **28 2005** and prepared in accordance with the California Environmental Quality Act ***("CEQA")***, and that the Project conditions have not changed, and no further environmental review is required under CEQA; and

WHEREAS, on **August 21, 2018**, after reviewing and considering the information provided in the staff reports and testimony presented during the public meeting, the Planning Commission ***("Commission")*** approves the Project, as outlined in **Exhibit 1**, with the conditions of approval, as listed in **Exhibit 3**, based on the Findings of Fact, as outlined in **Exhibit 2**; and

NOW, THEREFORE, BE IT HEREBY RESOLVED that the Planning Commission of the City of King approves the Landscaping and Irrigation Plans, attached as **Exhibit 1**, and as identified in the conditions of approval, and attached as **Exhibit 3.**

This resolution was passed and adopted this 21st day of August, 2018, by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

_____
DAVID NUCK, CHAIRPERSON

ATTEST:_____
ERICA SONNE, SECRETARY TO THE PLANNING COMMISSION

EXHIBIT 4

CONDITIONS OF APPROVAL
MILLS RANCH SPECIFIC PLAN LANDSCAPE AND IRRIGATION PLANS (REMAINING PHASES)

The following Conditions of Approval (COAs) shall apply to the Landscaping and Irrigation Plan for Mills Ranch as specified in the Planning Commission's approval on August 21, 2018 and shall be attached to said plans.

1. This landscape and irrigation plans shall be consistent with the Specific Plan and City Ordinances as well as standards contained in Municipal Code Section 15.50.

2. Street trees shall be those listed on the City's Master Street Tree List unless otherwise approved by the City Council.

3. Landscaping and irrigation systems shall be installed in the locations indicated on the landscape and irrigation plans approved by the Planning Commission on August 21, 2018, and attached **as Exhibit 2**, as well as any public open space including street medians, along alleys and the buffer zone outside the road edge and any other area to be maintained by the Homeowner's Association (HOA).

4. The City Engineer shall review installed landscaping to identify sight distance problems. Any landscaping that causes a sight distance problem as determined by the City Engineer shall be immediately corrected upon receipt of the notice or correspondence from the City Engineer. The City Engineer may consult with safety officials for direction in making such a determination.

5. **Before a financial mechanism is in place to pay for tree maintenance**, the City will not accept for maintenance any tree unless a three (3) year bond has been posted with the City in the amount equal to twenty-five percent (25%) of the cost of the trees within buffer zone areas and along public rights-of-way to assure replacement of dead or dying trees per Condition of Approval No. 15.b of the Mills Ranch Specific Plan.

6. All other landscape improvements (excluding trees) shall be maintained by the applicant for a period of ninety (90) days ("maintenance period") after the installation of the improvements. Upon completion of the ninety (90) day maintenance period, the City shall conduct a final inspection and the Applicant shall replace any and all dead or dying plants, prior to the City formally accepting the landscape improvements (excluding trees).

7. The landscaping and irrigation improvements shall be installed pursuant to the Landscape and Irrigation Plans approved by the City Council on August 28, 2018, **before a Certificate of Occupancy is issued for each home, or the remaining work may be bonded for completion within three (3) months of occupancy**, in

which case the Certificate of Occupancy may be issued per Condition of Approval No. 15.d of the Mills Ranch Specific Plan.

8. Installation of the landscaping and irrigation improvements shall include:
   a. Tree staking and soil preparation.
   b. Deep root planters shall be included in areas within five (5) feet of asphalt or concrete surfaces and curbs.
   c. Water conservation practices, including automatic timers, low flow heads, drip irrigation, micro-sprinklers and mulch shall be provided for all landscaping.
   d. If applicable, all slopes over 2:1 shall have jute mesh, nylon mesh or equivalent erosion control measures installed or as otherwise directed by the City Engineer. Slopes under 2:1 shall also incorporate erosion control measures including for grading and construction as well as permanent erosion control as approved by the City Engineer.

9. **Before or concurrent with City's issuance of building permits for any phase**, the Applicant shall post a performance security in an amount to be approved by the City Engineer to guarantee the installation of plantings, irrigation, walls and fences, in accordance with these plans and Condition of Approval No.16 of the Mills Ranch Specific Plan.

10. Prior to issuance of any Building Permits, the applicant shall submit to the City Engineer and Community Development Director the completed form Water Conservation Concept Statement (WCCS) as defined in Municipal Code Section 15.50, including all exhibits required under Section 15.50.030. Said form, including attachments and calculations, shall be reviewed and approved by the City Engineer and Community Development Director. The WCCS to include the following:

    (A) Completed Water Conservation Concept Statement Form;
    (B) Calculation of the maximum applied water allowance;
    (C) Calculation of the estimated applied water use;
    (D) Calculation of the estimated total water use;
    (E) Landscape design plan;
    (F) Irrigation design plan;
    (G) Irrigation schedules;
    (H) Maintenance schedule;
    (I) Landscape irrigation audit schedule;
    (J) Pesticides, herbicides and fertilizers;
    (K) Grading design plan;
    (L) Soil preparation, mulch and amendments;
    (M) Certificate of substantial completion (to be submitted to City and Cal Water Company after installation of the project).

Public Works:

11. For clarification, identify or note the scope of the landscaping that is the responsibility of the HOA.

12. Backflow Preventer shall be approved by Cal Water.