

AGENDA

REGULAR MEETING OF THE PLANNING COMMISSION

TUESDAY, SEPTEMBER 3, 2019
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, David Mendez, Brett Saunders,
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 20, 2019 Planning Commission Meeting
Recommendation: Approve and file.

7. PUBLIC HEARINGS

- A. Project: Architectural Review for Kentucky Fried Chicken
Applicant: Frederick Baker & William Robinson
Location: 1300 Broadway Circle, King City, CA. 93930
Consideration: Architectural Review (Case No. AR2019-002)

Recommendations: Staff recommends the Planning Commission review and make a determination on the proposed color scheme and architectural renderings for the proposed Kentucky Fried Chicken ("KFC") located at 1300 Broadway Circle, King City.

Environmental Determination: Staff has performed a preliminary environmental assessment of this project and has determined that it falls within the Categorical Exemption set forth in Class 1 Section 15301 as it relates only to continuing the operations of existing facilities with no expansion to the existing uses.

B. Project: Amendment to the Municipal Code to Establish and Regulate Hemp within the City Limits

Applicant: City of King

Location: Regulations prohibiting hemp cultivation citywide and allowing industrial hemp manufacturing in the M-1, M-2, M-3 Zoning Designations and the East Ranch Business Park Specific Plan.

Consideration: Hemp Regulations.

Recommendations: Staff recommends the Planning Commission adopt Resolution No. 2019-263.

Environmental Determination: In accordance with the California Environmental Quality Act ("CEQA"), and pursuant to CEQA Guideline Sections 15378 and 15061 (b) (3), this activity is not a "project" subject to CEQA as it can be seen with certainty that there is no possibility that an activity may have a significant effect on the environment.

8. NON-PUBLIC HEARINGS

None

9. PLANNING COMMISSIONER REPORTS

10. DIRECTOR'S REPORT

A. None

11. WRITTEN CORRESPONDENCE

12. ADJOURN

UPCOMING REGULAR MEETINGS

SEPTEMBER

September 3rd	6:00 p.m.	Planning Commission
September 9th	6:00 p.m.	Airport Advisory Committee
September 10th	6:00 p.m.	City Council
September 16th	6:00 p.m.	Recreation Commission
September 17th	6:00 p.m.	Planning Commission
September 24th	6:00 p.m.	City Council

OCTOBER

October 1 st	6:00 p.m.	Planning Commission
October 8 th	6:00 p.m.	City Council
October 14 th	6:00 p.m.	Airport Advisory Committee
October 15 th	6:00 p.m.	Planning Commission
October 21 st	6:00 p.m.	Recreation Commission
October 22 nd	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

AR: Architectural Review

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

EIS: Environmental Impact Statement

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

FEMA: Federal Emergency Management Agency

GHG: Greenhouse gas

HCD: State Department of Housing & Community Development

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

LAFCO: Local Agency Formation Commission

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

LLA: Landscaping and Lighting District

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

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

MOU: Memorandum of Understanding

MIND: 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

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

HCP: Habitat Conservation Plan

type of buildings allowed on other properties within the same zone and in the same neighborhood

VMT: Vehicle Miles Traveled

Planning Commission Minutes

August 20, 2019

1. Call to Order

Executive Admin. Asst./Deputy City Clerk Erica Sonne called Commissioner Uribe on the phone at 1052 DiMaggio Way, Galt CA.

Chair Nuck called the regular meeting of the Planning Commission of the City of King to order at 6:00 p.m.

2. Pledge of Allegiance

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

3. Roll Call

Chairperson David Nuck X Oscar Avalos X
David Mendez X Brett Saunders X Domingo Uribe X

Staff present: Community Development Director, Doreen Liberto; Assistant Planner Maricruz Aguilar-Navarro, Executive Admin. Asst./Deputy City Clerk/ Planning Secretary, Erica Sonne.

4. Public Comments

None

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: August 6, 2019

Action: Motion made by Commissioner Mendez to approve minutes of August 6, 2019. Seconded by Commissioner Saunders. Motion carried 5-0.

Due to a conflict of proximity to the location of the item Commissioners Nuck and Saunders recused themselves from the meeting before 7(A) was heard leaving the room.

7. PUBLIC HEARINGS

- | | | |
|----|------------------|--|
| A. | Project: | Outdoor Storage of Agricultural Trailers |
| | Applicant: | Rod Wadsworth, on behalf of Michel Orradre, Property Owner |
| | Location: | 277 E. San Antonio Drive (APN:026-521-033-000), King City, CA. 93930 |
| | Consideration: | Conditional Use Permit Case No. CUP2019-001 |
| | Recommendations: | Staff recommends the Planning Commission approve the attached Resolution which approves CUP2019-001. |

Environmental
Determination:

Staff has performed a preliminary environmental assessment of this project and has determined that it falls within the Categorical Exemption set forth in Class 1 Section 15301 as it relates only to continuing the operations of existing uses with no expansions.

Assistant Planner Maricruz Aguilar-Navarro introduced this item.
Rod Wadsworth project manager was available for questions.

Vice Chair Mendez opened the public hearing,

Commissioner Uribe questioned if there was a one-time fee for the CUP and the slats on the fencing if they would be all the way around or just the front facing E. San Antonio Dr. Mr. Wadsworth stated that they would put slats on the fence facing E. San Antonio Dr.

Vice Chair Mendez closed the public hearing.

Commissioner Uribe made a motion to approve the attached Resolution 2019-260 which approves CUP2019-001. Commissioner Avalos seconded. Motion carried 3-0.

Chair Nuck returned to the meeting. Commissioner Saunders had gone home.

8. NON- PUBLIC HEARINGS –

None

9. Regular Business- None

10. Planning Commission Report – None

11. Director Reports- Community Development Director Liberto stated that Planning would be coming forward with 3 ordinances shortly. One will be for hemp, another for amendments to sign ordinance and last the amendments to the fence ordinance.

Ms. Liberto stated that the City was awarded \$160,000 grant to work on the Land Use Element amendment.

12. Written Correspondence– None

13. Adjournment

There being no further business, the Planning Commission meeting was adjourned by Chair Nuck at 6:15p.m.

David Nuck
Planning Commission Chairperson
City of King

Erica Sonne
Planning Commission Secretary
City of King



Item No. 7(A)

REPORT TO THE PLANNING COMMISSION

DATE: SEPTEMBER 3, 2019

TO: HONORABLE CHAIR AND MEMBERS OF THE PLANNING COMMISSION

FROM: DOREEN LIBERTO, AICP, COMMUNITY DEVELOPMENT DIRECTOR

BY: MARICRUZ AGUILAR, ASSISTANT PLANNER

RE: CONSIDERATION OF ARCHITECTURAL REVIEW FOR KENTUCKY FRIED CHICKEN LOCATED AT 1300 BROADWAY CIRCLE, KING CITY, CA 93930

RECOMMENDATION:

It is recommended that the Planning Commission review and make a determination on the proposed color scheme and architectural renderings for the proposed Kentucky Fried Chicken ("**KFC**") located at 1300 Broadway Circle, King City, CA 93930. (*Reference Exhibit 1.*)

BACKGROUND:

On **March 14, 2019**, Frederick Baker & William Robinson ("**Applicant**") submitted an application for the following permits:

- Architectural Review (Case No. AR2019-002)
- Building Permit (Case No. KCB-190-102)

The request includes an interior remodel and exterior upgrade to the existing KFC restaurant (**Figure 1**) located at 1300 Broadway Circle, King City, CA. The property is located within the Highway Service ("**H-S**") Zoning District and within the Highway Service Commercial ("**HSC**") General Plan Land Use Designation.

During the process of review, Staff has been in ongoing communications with William Robinson during the application review process. The first color scheme consisted of the exotic red, wedding veil, and black horizon color scheme as shown in **Figure 2**. Staff communicated that the color scheme should coordinate with the surrounding properties. On **March 29, 2019**, revised color scheme samples were presented as shown in **Figure**

3. On **April 30, 2019**, the Project Review Committee ("**PRC**") met and reviewed the color samples and recommended the Earth Tone Neutrals as complementary to the surrounding properties and similar to the existing building. Staff notified the applicant of the PRC determination and stated that when in the color scheme is found in substantial conformance, the project can move forward with the building permit process.

On **August 16, 2019**, the applicant submitted a revised color scheme and has chosen to do a version similar to the first submittal color scheme, as shown on **Figure 4**. This version has a red base with the white stripes and black horizon along the bottom of the building. Although this last rendering has modified the red stripes to white stripes, staff feels that Planning Commission should review the proposed architectural renderings and color scheme and provide direction on Architectural Review Case No. AR 2019-002 for KFC.

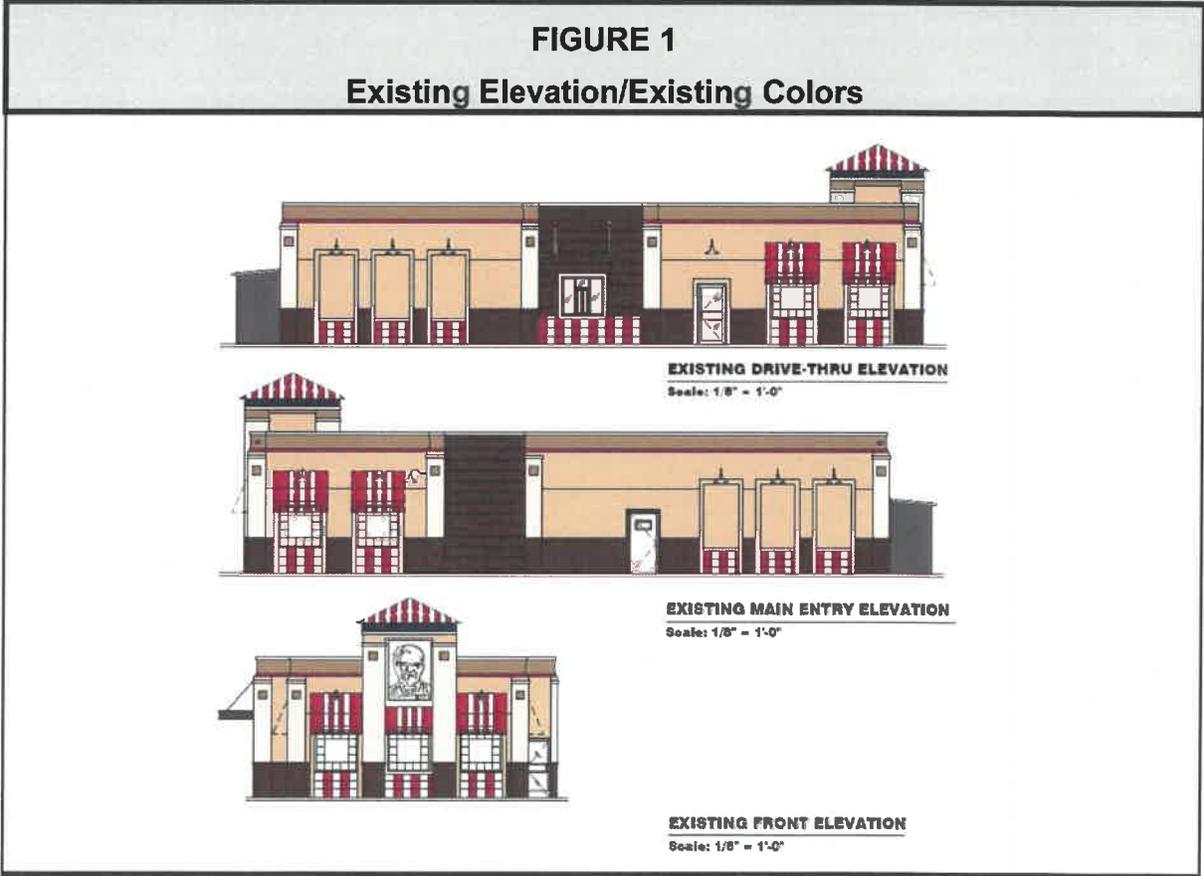


FIGURE 2
1ST SUBMITTAL

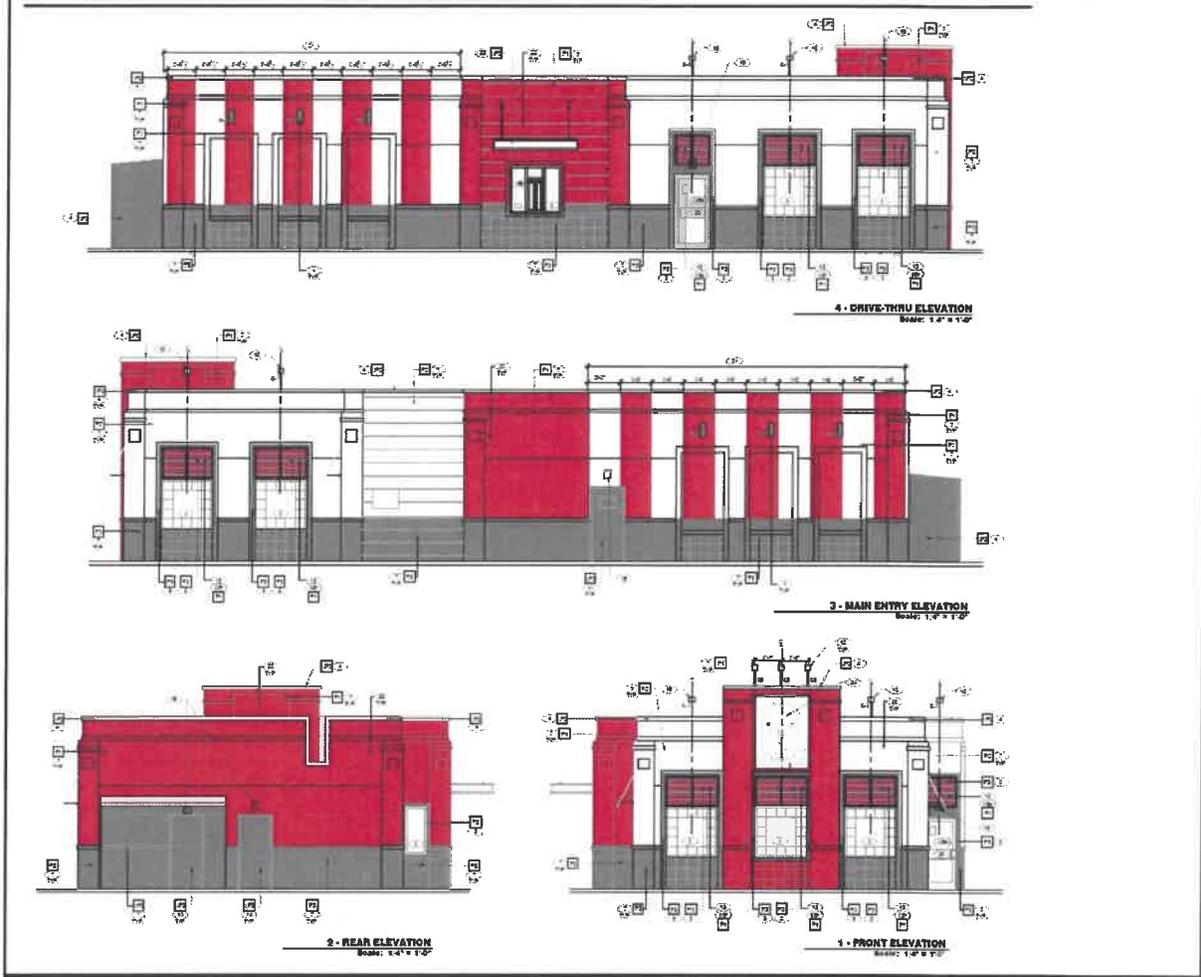


FIGURE 3
 2nd Submittal

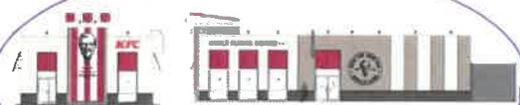
FIGURE 3
2nd Submittal

BRAND STRATEGY
SITE DESIGN
EXTERIOR DESIGN
SITEZING DESIGN
BUILDING SYSTEMS
DESIGN/RECS

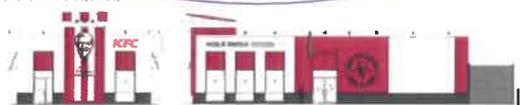
COLOR SPECIFICATIONS
Base & Standard Scope Prototypes (Cont.)



GRAY NEUTRALS
 Gray neutrals to be used where color and materiality are restricted due to code requirements.
 Colors:
 BM Classic Red 2086-10 (Acrylics)
 BM CW SW7069 Iron Ore (Black brick base)
 BM CW SW 7018 Dove Tau (SI)
 BM CW SW7006 # (SI) 2125-70 (Shoney)



EARTH TONE NEUTRALS
 Earth tone neutrals to be used where color and materiality are restricted due to code requirements.
 Colors:
 BM Classic Red 2086-10 (Acrylics)
 BM Brown Hartman 2122-20 (Black brick base)
 BM Redwood 1007 (SI) (SI)
 BM CW SW7032 Creamy (SI) (SI)



NO STRIPE
 No stripe option to be used where color and materiality are restricted due to code requirements.
 Colors:
 BM Classic Red 2086-10 (Acrylics and stucco)
 BM Brown Hartman 2122-20 (Black brick base)
 BM Wooding Vell 2125-70 (SI) (SI)


KFC Payback ■ ■ ■ October 2018 | 15
3.5 Color Specifications | 04/2018

3.5 COLOR SPECIFICATIONS
Base & Standard Scope Prototypes



PROTOTYPICAL SOLUTION
 The Prototypical solution is to be used in all locations unless there are color and material restrictions due to code requirements.
 Colors:
 BM Classic Red 2086-10 (Acrylics and stucco)
 BM Black Hartman 2122-20 (Black brick base)
 BM Wooding Vell 2125-70 (SI) (SI)



RED NEUTRALS
 Red neutrals to be used where color and materiality are restricted due to code requirements.
 Colors:
 BM Classic Red 2086-10 (Acrylics)
 BM CW SW7069 Iron Ore (Black brick base)
 BM CW SW0033 Hamtrampt Ruby (Stucco)
 BM CW SW7038 Pure White 2125-70 (SI) (SI)


KFC Payback ■ ■ ■ October 2018 | 16
3.5 Color Specifications | 04/2018

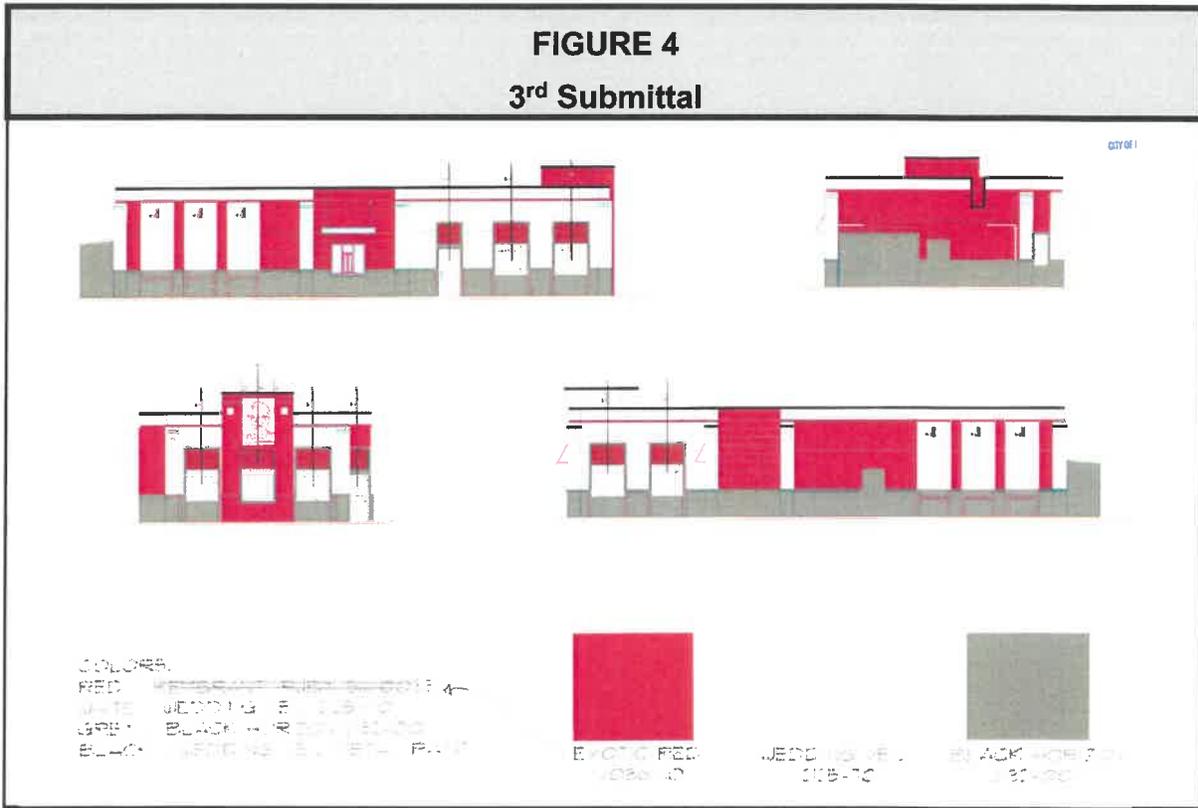


Table 1 provides an overview of the adjacent zoning and land use.

Table 1 Adjacent Zoning/Land Use			
North:	H-S (zoning) HSC (land use)	East:	H-S (zoning) HSC (land use)
West:	H-S (zoning) HSC (land use)	South:	H-S (zoning) HSC (land use)

MUNICIPAL CODE REQUIREMENTS:

17.26.020 Uses permitted without CUP.

If the community development director, or designee, determines that all the following circumstances exist regarding a development proposal, a conditional use permit may

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KENTUCKY FRIED CHICKEN
AR 2019-002
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not be required; for the uses listed under Chapter 17.26.30 of this chapter; however, the project shall be subject to either architectural review or business license clearance:

- (1) The project will be occupying an existing building or will require an addition to an existing structure that will not result in an increase of more than twenty-five percent of the floor area of the structure before the addition, or five hundred square feet, whichever is less;
- (2) The proposed use is the same or similar in character to the existing use, as determined by the community development director, or designee. Exceptions may be allowed if the community development director determines that the new use is less intensive than the existing use; and
- (3) The project is exempt from CEQA review and there is no possibility of a significant impact on the environment.

ENVIRONMENTAL DETERMINATION:

Staff has performed a preliminary environmental assessment of this project and has determined that it falls within the Categorical Exemption set forth in Class 1 Section 15301 as it relates only to continuing the operations of existing facilities with no expansion to the existing uses.

PROJECT REVIEW COMMITTEE COMMENTS AND REVIEW AND REVIEW BY AGENCIES:

A representative from each City Department meets to discuss most community development projects. This group operates as the City's staff advisory team, which is referred to as the Project Review Committee ("**PRC**"). PRC provides comments to the Applicants and conditions of approval ("**COA**") before a project goes to the Planning Commission. Comments in this Staff Report reflect comments made by City Staff.

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:

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1. Accept PRC's direction to have the color scheme modified to earth tones as shown on **Exhibit 1 - April 29, 2019 colored renderings**. If Planning Commission takes this approach, make a motion to insert **Exhibit 1** into the attached Resolution and adopt the attached Resolution.
2. Accept the applicants request, as shown on **Exhibit 2 - August 16, 2019 renderings**. If the Planning Commission takes this approach, make a motion to insert **Exhibit 2** in the attached resolution and adopt the attached Resolution.
3. Provide other direction to staff.

Exhibits:

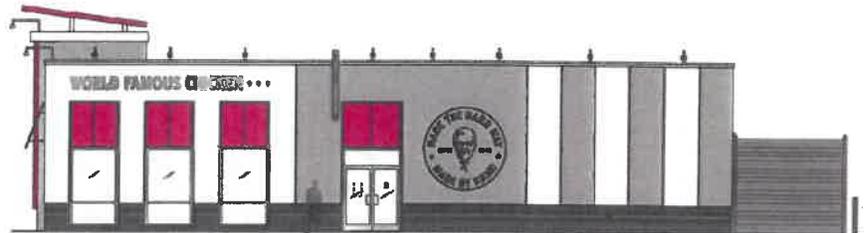
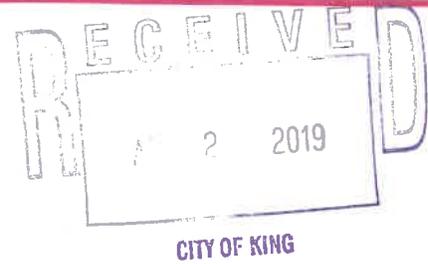
- Exhibit 1: April 29, 2019 colored renderings
- Exhibit 2: August 16, 2019 colored renderings
- Exhibit 3: Resolution

Submitted by: Maricruz Aguilar
Maricruz Aguilar, Assistant Planner

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

COLOR SPECIFICATIONS

Base & Standard Scope Prototypes (Cont.)

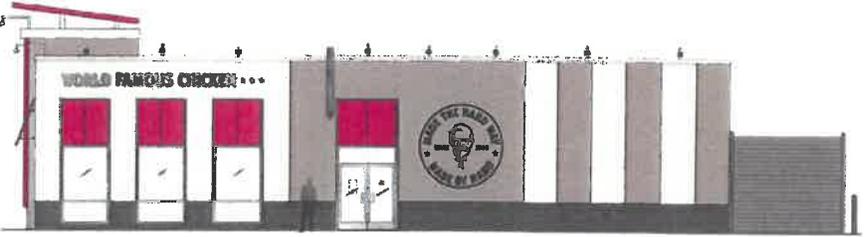


GRAY NEUTRALS

Gray neutrals to be used where color and materiality are restricted due to code requirements.

Colors:

- BM Exotic Red 2086-10 (Awnings)
- BM CM SW7069 Iron Ore (Black brick base)
- BM CM SW7018 Dove Tail (Stucco)
- BM CM SW7005 Pure White 2125-70 (Stucco)



EARTH TONE NEUTRALS

Earth tone neutrals to be used where color and materiality are restricted due to code requirements.

Colors:

- BM Exotic Red 2086-10 (Awnings)
- BM Night Horizon 2134-10 (Black brick base)
- BM Beigewood 1007 (Stucco)
- BM CM SW7012 Creamy (Stucco)



NO STRIPE

No stripe option to be used where color and materiality are restricted due to code requirements.

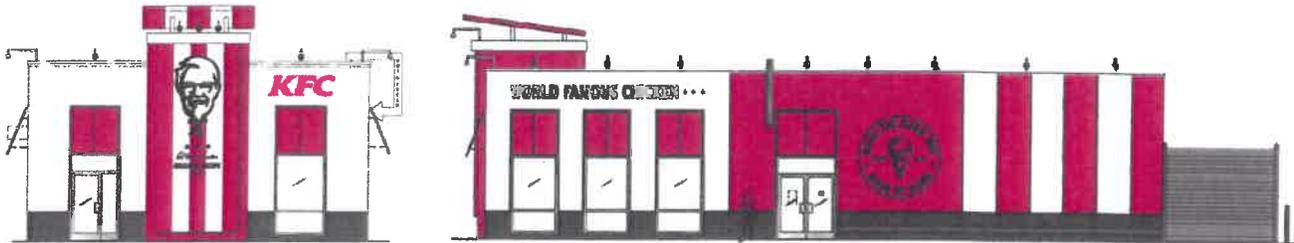
Colors:

- BM Exotic Red 2086-10 (Awnings and stucco)
- BM Black Horizon 2132-30 (Black brick base)
- BM Wedding Veil 2125-70 (Stucco)



3.5 COLOR SPECIFICATIONS

Base & Standard Scope Prototypes

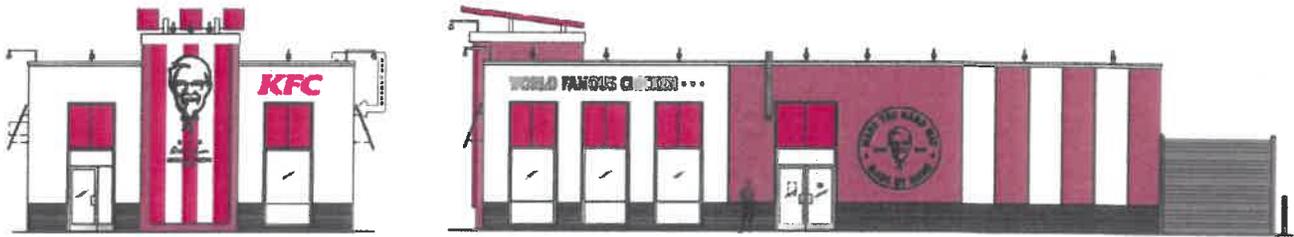


PROTOTYPICAL SOLUTION

The Prototypical solution is to be used in all locations unless there are color and material restrictions due to code requirements.

Colors:

- BM Exotic Red 2086-10 (Awnings and stucco)
- BM Black Horizon 2132-30 (Black brick base)
- BM Wedding Veil 2125-70 (Stucco)



RED NEUTRALS

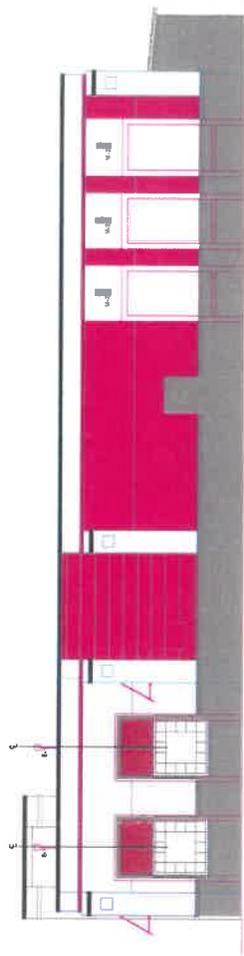
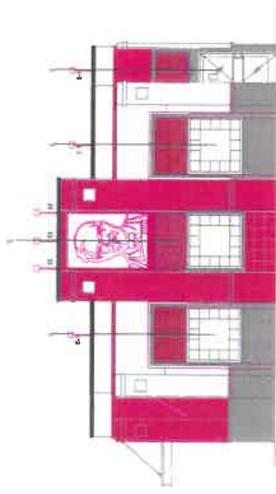
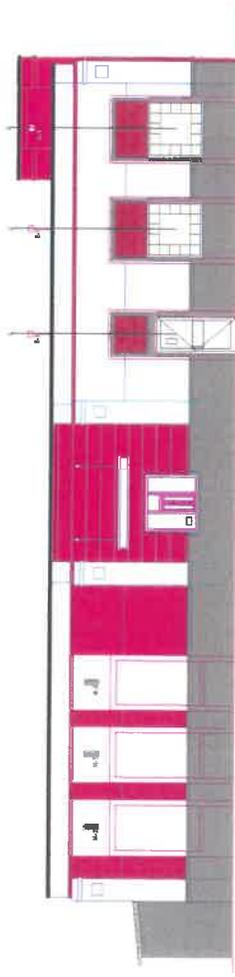
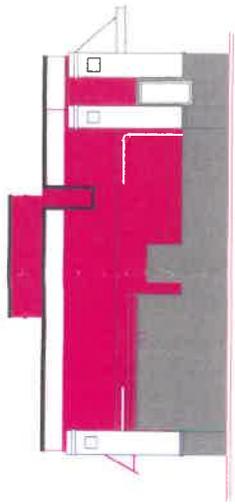
Red neutrals to be used where color and materiality are restricted due to code requirements.

Colors:

- BM Exotic Red 2086-10 (Awnings)
- BM CM SW7069 Iron Ore (Black brick base)
- BM CM SW0033 Rembrandt Ruby (Stucco)
- BM CM SW7005 Pure White 2125-70 (Stucco)



EXHIBIT 2



- COLORS:
- RED - ~~REMBRANT RUBY SW 0033~~
 - WHITE - WEDDING VEIL 2125-70
 - GREY - BLACK HORIZON 2132-00
 - BLACK - WEDDING VEIL METAL PAINT



EXOTIC RED
2086-10



BLACK HORIZON
2132-00

WEDDING VEIL
2125-70

EXHIBIT 3

RESOLUTION NO. 2019-262

**RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF KING,
CONSIDERATION ON ARCHITECTURAL REVIEW CASE NO. AR 2019-002 FOR
KENTUCKY FRIED CHICKEN (KFC)
LOCATED AT 1300 BROADWAY CIRCLE, KING CITY, CALIFORNIA.**

WHEREAS, on September 3, 2019, the Planning Commission ("**Commission**") met to discuss the Architectural Review Case No. AR 2019-002 for Kentucky Fried Chicken ("**KFC**");

WHEREAS, Frederick Baker & William Robinson ("**Applicant**") are undergoing an exterior and interior renovation of the existing KFC Restaurant located at 1300 Broadway Circle ("**Project**");

WHEREAS, the Commission has reviewed the Project as proposed and finds it Categorically Exempt, pursuant to the California Environmental Quality Act ("**CEQA**");
and

WHEREAS, the Commission has reviewed the information provided in the staff report, and presented during the public hearing and determines that:

1. As shown on **Exhibit ____**, the general appearance and color scheme is in keeping with the character of the Highway Service ("**""**") Zoning District; the proposed renovation project complies with architectural features of the H-S District.
2. The proposed project will not be detrimental to the harmonious and orderly growth of the City; because the project is compatible with surrounding uses.
3. The proposed project will not impair the desirability of investment or occupation in the H-S District because the design is similar to the surrounding area and consistent with the H-S standards.

NOW, THEREFORE, BE IT HEREBY RESOLVED that the Planning Commission of the City of King City approves Architectural Review ("**AR**") Case No. AR 2019-002, as reviewed by the Planning Commission.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of King City hereby approves Architectural Review based on the staff report and hereby approves **Exhibit ____**.

This resolution was passed and adopted this **3rd** day of **September 2019**, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

David Nuck, Chair

Erica Sonne, Deputy City Clerk



7(B)

DATE: SEPTEMBER 3, 2019

TO: HONORABLE CHAIRPERSON NUNK AND MEMBERS OF THE PLANNING COMMISSION

FROM: DOREEN LIBERTO, AICP, COMMUNITY DEVELOPMENT DIRECTOR

RE: CONSIDERATION OF HEMP REGULATIONS

RECOMMENDATION:

It is recommended that the Planning Commission adopt Resolution No. 2019-263.

BACKGROUND:

Cannabis, which includes hemp and marijuana, is legal in California for both medical and recreational use. California has been at the forefront of reform efforts of the legality of cannabis in the United States, beginning in 1972 with the State's first ballot initiative attempting to legalize cannabis. Although Proposition 19 was unsuccessful, California would later become the first state to legalize medical cannabis with the passage of the Compassionate Use Act of 1996 (Proposition 215). In November 2016, California voters approved the Adult Use of Marijuana Act (Proposition 64) to legalize the recreational use of cannabis. The use, sale, and possession of cannabis over 0.3% THC (marijuana) remains illegal under Federal law.

Hemp and marijuana are both members of the genus cannabis. There are three distinct species of cannabis: *sativa*, *indica*, and *ruderalis*. Marijuana is the dried flower of the female cannabis plant and it can come from either *cannabis indica* or *cannabis sativa* species. Hemp is only a member of the *cannabis sativa* family. Hemp has a low THC makeup (<0.3%) and not psychoactive. Marijuana has a high THC makeup (5%-35%) and psychoactive.

The California Industrial Hemp Farming Act (Senate Bill 566, Chapter 398, Statutes of 2013) was signed into law to authorize the commercial production of industrial hemp in California. The Act became effective on January 1, 2017. In 2018, hemp was removed as a Schedule 1 drug under the Federal Controlled Substances Act. It is now legal under Federal and State laws to manufacture

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ORDINANCE REGARDING INDUSTRIAL HEMP
PAGE 2 OF 4

products from hemp and cultivate hemp. However, neither Federal or State regulations have been fully adopted. All industrial hemp growers and seed breeders remain subject to the requirements of State law, including the State registration requirement contained in the California Industrial Hemp law, Food and Agricultural Code, Division 24. There are minimum Federal and State research and regulations on hemp cultivation. The California Department of Food and Agriculture (CDFA) is in the process of developing a program to administer this new law, including developing the registration process, fee structure, regulations, and other administrative details necessary to provide for the commercial production of industrial hemp.

DISCUSSION:

The attached Ordinance addresses two aspects of hemp: 1) Cultivation; and 2) Industrial Manufacturing of Hemp Products. Due to potential cross pollination, odor, potential to grow marijuana plants with hemp plants, and pest control issues, staff is recommending that hemp cultivation not be allowed. Industrial manufacturing of hemp products would be allowed in the M-1, M-2, M-3 and East Ranch Business Park Specific Plan areas. Because of the unknown impacts of **cultivating hemp**, more than a dozen counties have adopted interim moratoriums on cultivating hemp.

Hemp is a cannabis plant that is harvested commercially for its seeds, stalks, and flowers, and typically cultivated outdoors. Different parts of the plant are used for different uses. Seeds are often used in food and cosmetics, and stalks are the source of fiber used in building materials and clothing.

The cannabinoid (CBD) content of hemp is where it differs the most from marijuana. Namely, hemp comes with high concentrations of CBD the non-psychoactive CBD, but it carries almost no THC (below 0.3%). It's the THC content that gives marijuana its psychoactive effects. Unlike marijuana, hemp has been excluded from the Controlled Substances Act with the introduction of the **2018 Farm Bill**. According to the new act, hemp can be commercially grown and manufactured into CBD products for sale to the public. On the molecular level, CBD is the same compound regardless of whether it's found in high-THC or low-THC cannabis plants.

Both hemp and marijuana have similar smells and look similar to the untrained eye. Industrial hemp strains grown for its cannabidiol oil properties (CBD oil) are indistinguishable from the high THC cannabis strains used for medicinal and recreational purposes. Since hemp needs to be cultivated in outdoors, it is much more difficult to control the impact of odor on residential areas.

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Cannabis is a dioecious plant, meaning that male and female features occur on different plants instead of the same one. Female marijuana plants produce flowers which are grown for their cannabinoid content and psychedelic. If male hemp plants are planted too close, the hemp can pollinate the cannabis females. Therefore, there is a concern about cross-pollination. Cross-pollination can cause marijuana plants to seed out, lessening yields and cannabinoid content, and reducing potency.

Industrial hemp can serve as a host to mites and other insects. At this time, there are no pesticides registered for hemp that specifically address such mites or other insects. The pesticides that have been approved for hemp are not always effective, which allows for such insects to move into other nearby crops. Additionally, the physical appearance of industrial hemp and marijuana are virtually indistinguishable and difficult to tell them apart. This could allow concealing of illegal cannabis in industrial hemp fields.

While there are many benefits to hemp production, cultivation is best suited for the County unincorporated areas away from concentrations of population. The County has adopted a buffer of 3 miles from any municipal jurisdiction borders. Therefore, cultivation of industrial hemp prior to the adoption of reasonable City regulations may be harmful to the welfare of residents, creates a nuisance, and threatens the safety and crops of any nearby cannabis cultivators.

At this time, California doesn't have many requirements for obtaining a hemp cultivation license. The state requires:

- A \$900 fee.
- The location of the farm.
- The name of an approved hemp seed variety or cultivar a farmer plans to grow.

Cultivation of industrial hemp requires registration with the County Agricultural Commissioner. California law does not currently provide any requirements for the **manufacturing, processing,** or selling of non-food **industrial hemp** or **hemp products.** Assembly Bill 228 proposes to establish a regulatory framework for industrial hemp products to be used as a food, beverage, or cosmetic.

More than a dozen counties in California have enacted temporary moratoriums on hemp cultivation due to concerns regarding cross pollination, THC testing protocols, lack of research on the impact from insects, lack of regulations by the state, odor issues, and potential concealment of marijuana plants with hemp plants. In July 2019, Monterey County adopted an ordinance on hemp cultivation.

**PLANNING COMMISSION
SEPTEMBER 3, 2019
ORDINANCE REGARDING INDUSTRIAL HEMP
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ENVIRONMENTAL REVIEW:

Staff has performed a preliminary environmental assessment of this project and, pursuant to CEQA Guidelines, Section 15061(b)(3), has determined with certainty that there is no possibility that adopting hemp regulations may have a significant effect on the environment. Therefore, this project is not subject to CEQA.

COST ANALYSIS:

There are no costs associated with this action. However, any impact from hemp production on the City's cannabis industry could result in a reduction to future cannabis tax revenues.

ALTERNATIVES:

The following recommendations are provided for Council consideration:

1. Adopt the Resolution recommending the City Council adopt an Ordinance which regulates industrial hemp;
2. Direct staff to modify the Ordinance;
3. Do not recommend the City Council adopt the Ordinance;
4. Request additional information; or
5. Provide staff other direction.

Exhibits:

Exhibit 1: Planning Commission Resolution No. 2019-261

Exhibit 2: City Council Ordinance

Submitted by: MA For Doreen Liberto
Doreen Liberto, AICP, Community Development Director

Approved by: 
Steven Adams, City Manager

EXHIBIT 1

RESOLUTION NO. _____

RESOLUTION OF THE CITY OF KING PLANNING COMMISSION, STATE OF CALIFORNIA RECOMMENDING. THE CITY COUNCIL REPEALING CHAPTER 17.04, OF TITLE 17, DEFINITIONS, OF THE KING CITY MUNICIPAL CODE; ADDING CHAPTER 17.01, OF TITLE 17, DEFINITIONS, TO THE KING CITY MUNICIPAL CODE; AND ADDING CHAPTER 17.04, OF TITLE 17, HEMP, TO THE KING CITY MUNICIPAL CODE.

WHEREAS, pursuant to Article XI, Section 7, of the California Constitution, the City of King ("City") may adopt and enforce ordinances and regulations not in conflict with general laws to protect and promote the public health, safety, and welfare of its citizens; and

WHEREAS, in December of 2018, the President of the United States signed into law the 2018 Federal Farm Bill, H.R. 2, P.L. 115-334, which removed industrial hemp from the federal list of controlled substances and authorizes the U.S. Department of Agriculture to create quality control standards for hemp production, further giving states that desire to have primary regulatory authority over the production of hemp the ability to adopt their own state plans. The state plan may include a reference to a law of the state regulating the production of hemp, to the extent consistent with federal law; and

WHEREAS, under California Food and Agriculture Code, section 81006, subdivisions (d)(3) and (5) the CDFA is required to establish regulations for sampling procedures and approved laboratories for sample testing of all hemp crops no more than thirty (30) days before harvest; and

WHEREAS, in late May of 2019, the CDFA proposed emergency regulations to establish timeframes, procedures, methods, and confirmation for industrial hemp sampling, laboratory testing, and destruction for industrial hemp cultivation. In its submission, the CDFA declared that the absence of hemp regulations constituted an emergency and immediate action was necessary to prevent serious harm to the general welfare of the citizens of California; and

WHEREAS, the CDFA found a pressing need for the swift establishment of regulations to prevent delay of the first industrial hemp harvest. Based on its calculations, the absence of regulation could result in a potential direct loss of over \$43,000,000 to California farmers; and

WHEREAS, the CDFA proposed regulations are not currently operative. Until they are approved, the required sampling, testing, and destruction cannot take place absent the promulgation of local regulation; and

WHEREAS, industrial hemp strains grown for its cannabidiol oil properties (CBD oil) are indistinguishable from the high THC cannabis strains used for medicinal and recreational purposes. Permitting industrial hemp cultivation without a limitation on the acreage and location of industrial hemp plants may lead to the same type of odor and public safety issues facing cannabis operations in the City; and

WHEREAS, industrial hemp can serve as a host to mites and other insects. At this time, there are no pesticides registered for hemp that specifically address such mites or other insects. The pesticides that have been approved for hemp are not always effective, which allows for such insects to move into other nearby crops. The cultivation of industrial hemp prior to the adoption of reasonable regulations is harmful to the welfare of residents, creates a nuisance, and threatens the safety and crops of any nearby cannabis cultivators; and

WHEREAS, in September 2018, SB 1409 was enacted, in which the definition of industrial hemp in Health and Safety Code, section 11018.5(a) was amended, deleting the reference to its being a crop for fiber or oilseed production. The Industrial Hemp Farming Act was also amended to its current form, including amendment of section 81006 to remove requirement for dense planting and restrictions against pruning, tending, or culling. SB 1409 includes the finding, "By removing limitations on the manner in which industrial hemp may be grown and the uses for which it may be grown, this act removes barriers to the growth of industrial hemp as an agricultural product, and for agricultural or academic research," however the bill does not address the product safety or testing requirements of other law regarding cannabis products; and

WHEREAS, the proposed ordinance is consistent with the General Plan and any applicable Specific Plan(s); and

WHEREAS, the City of King Planning Commission ("Commission") finds this ordinance is reasonable and necessary for the preservation of the public peace, health and safety; and

WHEREAS, in accordance with the California Environmental Quality Act ("CEQA"), and pursuant to CEQA Guideline, sections 15378 and 15061(b)(3), this activity is not a "project" subject to CEQA as it can be seen with certainty that there is no possibility that an activity may have a significant effect on the environment; and

WHEREAS, on September 3, 2019, the Commission conducted a public hearing to consider the proposed ordinance, and after considering public testimony, the staff report and all submitted evidence to the support the ordinance, the Commission recommended the City Council ("Council") [approve/deny] the proposed ordinance; and

NOW, THEREFORE, BE IT RESOLVED, FOUND AND DETERMINED by the Planning Commission of the City of King to recommend that the City Council adopt the Ordinance repealing Chapter 17.04, of Title 17, definitions, of the King City Municipal Code; adding Chapter 17.01, of Title 17, definitions, to the King City Municipal Code; and adding Chapter 17.04, of Title 17, Hemp, to the King City Municipal Code, attached as **Exhibit 1**.

THE FOREGOING RESOLUTION WAS DULY AND REGULARLY ADOPTED by the Planning Commission of the City of King, State of California, at a regular meeting of the Planning Commission held on this 3rd day of September 2019 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

EXHIBIT 2

ORDINANCE NO. 2019-XXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KING REPEALING CHAPTER 17.04, OF TITLE 17, DEFINITIONS, OF THE KING CITY MUNICIPAL CODE; ADDING CHAPTER 17.01, OF TITLE 17, DEFINITIONS, TO THE KING CITY MUNICIPAL CODE; AND ADDING CHAPTER 17.04, OF TITLE 17, HEMP, TO THE KING CITY MUNICIPAL CODE.

WHEREAS, Pursuant to Article XI, Section 7, of the California Constitution, the City of King ("City") may adopt and enforce ordinances and regulations not in conflict with general laws to protect and promote the public health, safety, and welfare of its citizens; and

WHEREAS, in December of 2018, the President of the United States signed into law the 2018 Federal Farm Bill, H.R. 2, P.L. 115-334, which removed industrial hemp from the federal list of controlled substances and authorizes the U.S. Department of Agriculture to create quality control standards for hemp production, further giving states that desire to have primary regulatory authority over the production of hemp the ability to adopt their own state plans. The state plan may include a reference to a law of the state regulating the production of hemp, to the extent consistent with federal law; and

WHEREAS, under California Food and Agriculture Code, section 81006, subdivisions (d)(3) and (5) the CDFA is required to establish regulations for sampling procedures and approved laboratories for sample testing of all hemp crops no more than thirty (30) days before harvest; and

WHEREAS, in late May of 2019, the CDFA proposed emergency regulations to establish timeframes, procedures, methods, and confirmation for industrial hemp sampling, laboratory testing, and destruction for industrial hemp cultivation. In its submission, the CDFA declared that the absence of hemp regulations constituted an emergency and immediate action was necessary to prevent serious harm to the general welfare of the citizens of California; and

WHEREAS, CDFA found a pressing need for the swift establishment of regulations to prevent delay of the first industrial hemp harvest. Based on its calculations, the absence of regulation could result in a potential direct loss of over \$43,000,000 to California farmers; and

WHEREAS, the CDFA proposed regulations are not currently operative. Until they are approved, the required sampling, testing, and destruction cannot take place absent the promulgation of local regulation; and

WHEREAS, industrial hemp strains grown for its cannabidiol oil properties (CBD oil) are indistinguishable from the high THC cannabis strains used for medicinal and recreational purposes. Permitting industrial hemp cultivation without a limitation on the acreage and location of industrial hemp plants may lead to the same type of odor and public safety issues facing cannabis operations in the City; and

WHEREAS, industrial hemp can serve as a host to mites and other insects. At this time, there are no pesticides registered for hemp that specifically address such mites or other insects. The pesticides that have been approved for hemp are not always effective, which allows for such insects to move into other nearby crops. The cultivation of industrial hemp prior to the adoption of reasonable regulations is harmful to the welfare of residents, creates a nuisance, and threatens the safety and crops of any nearby cannabis cultivators; and

WHEREAS, on September 3, 2019, the City of King Planning Commission (“Commission”) conducted a public hearing to consider the proposed ordinance, and after considering public testimony, the staff report and all submitted evidence to the support the ordinance, the Commission recommended the City Council (“Council”) [approve/deny] the proposed ordinance; and

WHEREAS, the City Council finds this ordinance is reasonable and necessary for the preservation of the public peace, health and safety; and

WHEREAS, in September 2018, SB 1409 was enacted, in which the definition of industrial hemp in Health and Safety Code, section 11018.5(a) was amended, deleting the reference to its being a crop for fiber or oilseed production. The Industrial Hemp Farming Act was also amended to its current form, including amendment of section 81006 to remove requirement for dense planting and restrictions against pruning, tending, or culling. SB 1409 includes the finding, “By removing limitations on the manner in which industrial hemp may be grown and the uses for which it may be grown, this act removes barriers to the growth of industrial hemp as an agricultural product, and for agricultural or academic research,” however the bill does not address the product safety or testing requirements of other law regarding cannabis products; and

WHEREAS, the proposed ordinance is consistent with the General Plan and any applicable Specific Plan(s); and

WHEREAS, new Chapter 17.04 establishes hemp regulations; and

WHEREAS, in accordance with the California Environmental Quality Act (“CEQA”), and pursuant to CEQA Guideline, sections 15378 and 15061(b)(3), this activity is not a “project” subject to CEQA as it can be seen with certainty that there is no possibility that an activity may have a significant effect on the environment; and

WHEREAS, on **September 24, 2019**, the Council conducted a public hearing to consider the Commission's recommendation, and after considering public testimony, the staff report and all submitted evidence, the Council now desires to approve the proposed ordinance.

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

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

SECTION 2. The City Council has reviewed the proposed ordinance and hereby finds that it is consistent with the General Plan and all applicable Specific Plan(s).

SECTION 3. The City Council, based upon its own independent judgement, finds that the proposed ordinance promotes and protects the health, safety, welfare and quality of life of the City of King residents, including promoting affordable housing.

SECTION 4. The proposed ordinance was assessed in accordance with the authority and criteria contained in CEQA, the State CEQA Guidelines ("CEQA Guidelines"), and the environment regulations of the City. The City Council finds and determines that the proposed ordinance is not a "project" for the purposes of CEQA and consistent with CEQA Guidelines section 15378, as it merely updates existing administrative processes and will not result in direct or indirect physical changes in the environment as compared to the current baseline. Additionally, the City Council finds and determines for the same reasons that even if the proposed ordinance were a project for the purpose of CEQA, there is no possibility that the project may have a significant adverse effect on the environment pursuant to CEQA Guidelines, section 15061(b)(3). Therefore, the proposed ordinance is not subject to CEQA.

SECTION 5. Chapter 17.04, of Title 17, Definitions, of the King City Municipal Code is hereby repealed and renumber to Chapter 17.01, of Title 17, Definitions.

SECTION 6. Newly repealed Chapter 17.04, of Title 17, of the King City Municipal Code is added to read as follows:

**Chapter 17.04
Hemp**

Section 17.04.010 Policy.

It is the policy of the City to regulate industrial hemp manufacturing in a responsible manner to protect the health, safety, and welfare of the residents of the City of King and to enforce rules and regulations consistent with state law.

Section 17.04.020 Definitions.

When used in this chapter, the following words shall have the meaning ascribed to them as set forth herein. Any reference to California statutes includes any

regulations promulgated thereunder and is deemed to include any successor or amended version of the referenced statute or regular provision.

- A. "City" means the City of King, a municipal corporation.
- B. "City Council" means the governing body of the City.
- C. "City Manager" means the city manager of the City of King, or the city manager's authorized deputy, agent or representative.
- D. "Established agricultural research institution" has the same meaning as in section 81000 of the California Food and Agricultural Code.
- E. "Hemp cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of hemp, including activities carried out by seed breeders. For the purposes of this chapter, hemp cultivation shall not include cultivation by an established agricultural research institution as defined in section 81000 of the California Food and Agricultural Code.
- F. "Industrial Hemp" have the same meanings as in section 11018.5 of the California Health and Safety Code.
- G. "Person" means any individual, firm, partnership, joint venture, association corporation, limited liability company, estate, trust, activity trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.
- H. "Seed breeder" has the same meaning as in section 81000 of the California Food and Agricultural Code.

Section 17.04.030 Hemp Cultivation.

Hemp cultivation shall be prohibited within all zones of the City of King, whether conducted indoors or outdoors.

Section 17.04.040 Manufacturing of Hemp Products.

The manufacturing of industrial hemp products shall be authorized solely within the M-1, M-2, M-3 zoning districts and the East Ranch Business Park Specific Plan. A conditional use permit shall be required prior to engaging in the manufacturing of industrial hemp products.

Section 17.04.050 Industrial Hemp Regulations.

- A. An industrial hemp manufacturing facility shall not be located within ___ feet of a residential zoning districts.
- B. A conditional use permit for an industrial hemp manufacturing facility shall not be approved by the City until the County of Monterey Agricultural Commissioner issues the applicant a registration under Division 24 of the California Food and Agriculture Code.
- C. Odor Control.
 - (1) Odor control devices and techniques shall be incorporated in all industrial hemp manufacturing facilities to ensure that odors from hemp are not detectable off site. Industrial hemp manufacturing facility shall provide a

sufficient odor absorbing ventilation and exhaust system so that odor generated inside is not detected outside of the facility, anywhere on an adjacent property or public rights-of-way, on or about the exterior or interior common area walkways, hallways, breezeways, foyers, lobby areas, or any other areas available for use by common tenants or the visiting public, or within any other unit located inside the same building as the industrial hemp business.

- (2) In order to determine the existence of a violation of this chapter, the city may measure for hemp odor at the industrial hemp business with an approved field olfactometer device, including, but not limited to, a Nasal Ranger Field Olfactometer® or Scentometer®, according to the manufacturer's specifications and operating instructions. The threshold of detection (Dilutions to Threshold or D/T) will be determined in a sample of the ambient air after it is diluted with three equally sized samples of odor-free air. Two (2) samples or observations will be taken not less than fifteen minutes apart within a one hour period. The two (2) samples will be taken at the building site of the industrial hemp business. If the threshold of detection is four (4) or greater, the industrial hemp business owner and/or the property owner will be issued a notice to abate public nuisance.
- (3) The notice to abate public nuisance shall include the following:
 - (i) The King City Municipal Code violation which constitutes the public nuisance;
 - (ii) The required remedy for abating the public nuisance; and
 - (iii) Provide a reasonable time period to abate the public nuisance, unless the public nuisance constitutes an immediate threat to public health, safety and welfare.

Failure to timely abate the public nuisance may result in the revocation of the conditional use permit, pursuant to Municipal Code section 17.64.050. An appeal of the notice to abate public nuisance shall be filed with the city clerk within ten (10) calendar days from the date upon the notice and shall provide the specific basis for granting the appeal. An untimely filed appeal shall constitute a waiver of the appeal of the notice. Further, the ten (10) day time period for filing an appeal shall be jurisdictional, and as such, an untimely appeal shall not be considered by the city.

- (4) Every person or entity owning, possessing, or having charge or control of real property within the city shall manage that property and control the environment thereon in a manner so as not to violate the provisions of this chapter, and the owner shall be liable for violations of the provisions of this chapter, regardless of any contract or agreement with any third party regarding the property.

- (4) Every occupant, lessee, or holder of any possessory interest in real property shall maintain the property in a manner so as not to violate the provisions of this chapter.
- (5) In addition to any regulations adopted by the City of King, the city manager, or his/her designee, shall be authorized to establish any necessary rules, regulations or standards governing the issuance or denial of an industrial hemp conditional use permit, the ongoing operation of an industrial hemp manufacturing facility, and the City's oversight, if the city manager determines the rule, regulation or standard to be necessary to carry out this chapter.
 - (i) Regulations issued by the city manager shall be published on the city's website. A copy of the regulations established by the city manager shall be filed with the city clerk.
 - (ii) Regulations promulgated by the city manager shall become effective upon the date of publication. Industrial hemp manufacturing shall be in compliance with all state and local laws and regulations, including, but not limited to, any rules, regulations or standards adopted by the city manager.

Section 17.04.060 Limitations on City's Liability.

To the fullest extent permitted by the law, any industrial hemp manufacturing facility shall execute an agreement indemnifying and holding harmless the City of King, its employees, agents and contractors from any liability or claims arising from issuance of a conditional use permit, pursuant to this chapter, the King City Municipal Code or otherwise approving a conditional use permit for an industrial hemp manufacturing facility.

Section 17.04.070 Public Nuisance.

Each and every violation of the provisions of this chapter is hereby deemed unlawful and a public nuisance.

Section 17.04.080 Violation and Enforcement.

- A. Any person that violates any provision of this chapter shall be guilty of a separate offense for each and every day during any portion of which any such person commits, continues, permits, or causes a violation thereof, and shall be penalized pursuant to this chapter and/or the provisions of the King City Municipal Code.
- B. Each and every violation of this chapter shall constitute a separate violation and shall be penalized pursuant to this chapter and/or the provisions of the King City Municipal Code.
- C. Any person who violates, causes, continues or permits another to violate the provisions of this chapter commits a misdemeanor and shall be punishable in accordance with section 1.04.010 of the King City Municipal Code. The city may also pursue all applicable civil and administrative remedies, including, but not

limited to, injunctive relief and administrative citations. Should a court of competent jurisdiction subsequently determine that the misdemeanor criminal penalty provision renders the provisions of this chapter, or the provisions of any chapter adopted by reference within the King City Municipal Code unlawful, the city intends that the misdemeanor provision be severable from the remaining penalty provisions and the city will only pursue criminal infraction penalties and/or non-criminal remedies for violations of this chapter.

- D. Each and every violation of the provisions of this chapter is hereby deemed unlawful and a public nuisance which may be abated by the city pursuant to the King City Municipal Code.
- E. The administrative citation penalty for all violations of this chapter, within a rolling twelve month period shall be as follows: one thousand dollars per violation.
- F. In addition to any other remedy or enforcement mechanism provided within this chapter or any other provision of the King City Municipal Code, the city may commence a civil action seeking any other relief or remedy available at law or in equity.
- G. The provisions of this chapter are complimentary, cumulative, supplementary, and additional to any other legal remedies available, whether found in the King City Municipal Code, state or federal laws, regulations, or case law.

Section 17.04.090 Severability.

The provisions of this chapter are hereby declared to be severable. If any provision, clause, word, sentence or paragraph of this chapter or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this chapter.

Section 7. This ordinance shall take effect and be in full force and effect from and after thirty (30) calendar days after its final passage and adoption. Within fifteen (15) calendar days after its adoption, the ordinance, or a summary of the ordinance, shall be published once in a newspaper of general circulation.

I HEREBY CERTIFY that the foregoing ordinance was introduced by the City Council after waiving the reading, except by Title, at a regular meeting thereof held on the ____ day of ____ 2019, and adopted the ordinance after the second reading at a regular meeting held on the ____ day of ____ 2019, by the following roll call vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST

STEVEN ADAMS, City Clerk

CITY OF KING

By: _____
MIKE LEBARRE, Mayor

APPROVED AS TO FORM:

By: _____
ROY C. SANTOS, City Attorney
Aleshire & Wynder, LLP

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