

# AGENDA

## REGULAR MEETING OF THE PLANNING COMMISSION

TUESDAY, SEPTEMBER 15, 2020  
6:00 P.M.

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

*\*Teleconference and Conference call services will be available for the meeting.*

*To join the meeting, select ONE of the options below:*

1) Click on the following link: [Join Microsoft Teams Meeting](#)

2) Copy and paste the full link highlighted below into your internet browser:

[https://teams.microsoft.com/l/meetup-join/19%3ameeting\\_NWY3N2I3MjctMjIwMS00OWRkLWFINGMtZjMyMzIzZWQ2ZjUz%40thread.v2/0?context=%7b%22Tid%22%3a%22446c5f0b-67e0-4a70-9b14-a5510f9d6ff4%22%2c%22Oid%22%3a%227bd9b36f-8dd8-4f7e-9cd1-c285882c4058%22%7d](https://teams.microsoft.com/l/meetup-join/19%3ameeting_NWY3N2I3MjctMjIwMS00OWRkLWFINGMtZjMyMzIzZWQ2ZjUz%40thread.v2/0?context=%7b%22Tid%22%3a%22446c5f0b-67e0-4a70-9b14-a5510f9d6ff4%22%2c%22Oid%22%3a%227bd9b36f-8dd8-4f7e-9cd1-c285882c4058%22%7d)

3) Call the following number +1 619-327-9987 (toll) and enter in  
Conference ID: 890 471 897#

### 1. CALL TO ORDER

### 2. FLAG SALUTE

### 3. ROLL CALL:

Planning Commission Members: Oscar Avalos, Paulette Bumbalough, David Mendez, Brett Saunders, 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 4, 2020 Planning Commission Meeting  
Recommendation: Approve and file.

## 7. NON-PUBLIC HEARINGS

A. None

## 8. PUBLIC HEARINGS

A. Project: Amendment No. 1 of Mills Ranch Specific Plan Amendment & Mills Ranch Design Manual

Applicant: City of King

Location: Mills Ranch Specific Plan area

Consideration: The proposed project includes but not limited to the following:

1. Amend Introduction pages (e.g., names of staff, commissioners, council members).
2. Amend the Mills Ranch Specific Plan project description, including:
  - Reduce Central Community Park from 3.34 acres to ½ acres.
  - Reduce total project park/open space from 17.61 acres to 14.76 acres.
  - Remaining 2.84 acres to be developed into 40 affordable housing units and one live-in manager's unit for a total of 41 units (@14 dwelling units/acre).
  - Increase total dwelling units from 400 to 441 units.
  - Adopt the Site Plan for an affordable housing project.
3. Change all graphics, including tables, to reflect above including the proposed CHISPA footprint for 41 units.
4. Add a new theme and architectural type for the CHISPA proposal.
5. Update General Plan Goals and Policies for amendment and keep General Plan Goals and Policies for originally approved Specific Plan.
6. Add language regarding Consistency Determination.
7. Incorporate graphics and language from Planning Commission Interpretation on the Mills Ranch Specific Plan Amendment related to fences.
8. Add language regarding allowing the community development director to make findings of substantial conformance.
9. Add language regarding construction of sheds.

Recommendations: Staff recommends the Planning Commission: 1) receive staff's and presentation; 2) open the public hearing; 3) allow the public to provide comments; and 4) continue the public hearing to October 6, 2020 for consideration.

Environmental Determination: The project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15332 of the CEQA Guidelines, In-Fill Development Projects, as the project is consistent with the General Plan and zoning as modified by specific plan, is less than five acres in size, has no value as habitat for endangered, rare or threatened species, can be served by existing utilities and public services, and will have no significant traffic, noise, air or water quality effects.

B. Project: An Ordinance Amending Chapter 17.03 of Title 17 of the King City Municipal Code Pertaining to Commercial Cannabis Activity

Applicant: City of King

Location: The regulatory ordinance would apply to all zones within the City limits.

Consideration: An Ordinance Amending Chapter 17.03 of Title 17 of the King City Municipal Code Pertaining to Commercial Cannabis Activity

Recommendations: Planning Commission adopt a Resolution recommending the City Council adopt an Ordinance amending Chapter 17.03 or Title 17 of the King City Municipal Code pertaining to commercial cannabis activity in order to modify the restrictions on locating cannabis retail storefront dispensaries adjacent to residential properties.

Environmental Determination: The project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15332 of the CEQA Guidelines, In-Fill Development Projects, as the project is consistent with the General Plan and zoning as modified by specific plan, is less than five acres in size, has no value as habitat for endangered, rare or threatened species, can be served by existing utilities and public services, and will have no significant traffic, noise, air or water quality effects.

## **9. PLANNING COMMISSIONER REPORTS**

### **10. DIRECTOR'S REPORT –**

**A. Update on the virtual Salinas Valley Planning Commission Academy (Saturday, October 3, 2020 from 9.a.m. to 3:30 p.m.)**

### **11. WRITTEN CORRESPONDENCE**

### **12. ADJOURN**

## UPCOMING REGULAR MEETINGS

### SEPTEMBER 2020

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

### OCTOBER 2020

|              |           |                            |
|--------------|-----------|----------------------------|
| October 6th  | 6:00 p.m. | Planning Commission        |
| October 12th | 6:00 p.m. | Airport Advisory Committee |
| October 13th | 6:00 p.m. | City Council               |
| October 19th | 6:00 p.m. | Recreation Commission      |
| October 20th | 6:00 p.m. | Planning Commission        |
| October 27th | 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

**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)

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

**MVTC:** Multi-modal Transit Center

**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

**SLOCOG:** San Luis Obispo Council of Government

**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 04, 2020**

**1. Call to Order**

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Chair Nuck called the regular meeting of the Planning Commission of the City of King to order at 6:01 p.m.

**2. Pledge of Allegiance**

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

**3. Roll Call**

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Chairperson David Nuck   X   Oscar Avalos   A   (video conference)

Paulette Bumbalough (video conference)

David Mendez   X   Brett Saunders   X   (video conference)

**Staff present:** Community Development Director, Doreen Liberto; Asst. Planner, Maricruz Aguilar (video conference; Executive Admin. Asst./Deputy City Clerk/ Planning Secretary, Erica Sonne.

**4. Public Comments**

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None

**5. Presentations**

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- A. Oath of Office for new member Paulette Bumbalough  
Deputy Clerk will forward original oath for signature.

**6. Consent Calendar**

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

- A. Approval of Minutes:** June 02, 2020

**Action:** Motion made by Commissioner Saunders to approve minutes of June 02, 2020. Seconded by Commissioner Avalos. Motion carried 4-0. Commissioner Bumbalough abstained.

**7. NON- PUBLIC HEARINGS –**

- |                              |   |
|------------------------------|---|
| A. Project:                  | CHISPA Garden Apartments  |
| Applicant:                   | CHISPA  |
| Location:                    | Mills Ranch Subdivision   |
| Consideration:               | Architectural Review and Landscape Design Review for the Garden Apartments Located within the Mills Ranch Specific Plan.                                    |
| Recommendation:              | Planning Commission: 1) review and make a determination on the proposed architectural renderings and landscape plans, and 2) adopt Resolution No. 2020-282. |
| Environmental Determination: | This project has been already environmentally assessed by the City. A Subsequent Focused Environmental Impact Report ("SF-EIR") was                         |

Certified by City Council on March 28, 2005, with subsequent environmental review, in accordance with the California Environmental Quality Act ("CEQA"). This project comprises a portion of the project that was originally assessed, or no substantial new information that was not previously known when the project was originally assessed. No further action under CEQA is required.

Community Development Doreen Liberto introduced Asst. Planner Aguilar

Asst. Planner Maricruz Aguilar introduced this item with a PowerPoint.

Motion by Commissioner Mendez to adopt Resolution No.2020-282, making a determination on proposed architectural renderings and landscape plans. Commissioner Saunders seconded. Motion carried 5-0.

- B. Project: General Plan Land Use Element Community Survey
- Applicant: City of King
- Location: Citywide
- Consideration: Review Community Survey Conducted as Part of the General Plan Land Use Element Update (SB 2 Grant)
- Recommendation: Review and Provide Comments
- Environmental Determination: An environmental determination has been made that the Community Survey is considered a Class 6 Categorical Exemption. Class 6 Categorical Exemptions consists of basic data collection, research, experimental management, and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource. These may be strictly for information gathering purposes, or as part of a study leading to an action which a public agency has not yet approved, adopted, or funded.

Community Development Doreen Liberto introduced this item introducing planner Erik Berg-Johansen

Planner Erik Berg-Johansen further introduced this item.

Planning Commission was impressed with the survey.

Commissioner Bumbalough wanted to know what other resources were used to make a decision on land use. Community Development Director Liberto stated there are certain State guidelines that have to be adhered to. She further stated that this is the beginning and the City wants to get the community input. They will look at where the region is going, looking at transportation issues, what are some of the new state laws what are they saying about additional affordable housing, the Circulation Element, the Housing Element. Making sure that everything is consistent with the General Plan. They will talk to the school district. Commissioner Bumbalough feels that anytime the community can be involved it is better.

## 8. PUBLIC HEARINGS

- B. Project: Accessory Dwelling Units ("ADU")
- Applicant: City of King
- Location: Citywide

Consideration: An Ordinance of the City Council of City of King amending the King City Municipal Code Sections related to Accessory Dwelling Units ("ADU") with some of the following changes:

- §17.12.020 (b) and replace Second Residential Units with Accessory Dwelling Units.
- §17.14.020 (2) and replace Second Residential Units with Accessory Dwelling Units.
- §17.16.020 (3) and replace Second Residential Units with Accessory Dwelling Units.
- §17.18.020 (1) and replace second residential units with Accessory Dwelling Units.
- Repeal Chapter 17.47 Second Residential Units and replace with Chapter 17.47 Accessory Dwelling Units.

Recommendations: Adopt of Resolution No. 2020-283 Recommending the City Council Adopt an Accessory Dwelling Unit ("ADU") Ordinance

Environmental Determination:

An environmental determination is made that the Ordinance is exempt from the California Environmental Quality Act ("CEQA") as it can be seen with certainty that there is no possibility that it will have a significant effect on the environment pursuant to CEQA Guidelines section 15061(b)(3), as well as it is also exempt because it consists of regulations and restrictions that promote infill development, pursuant to CEQA Guidelines.

Community Development Doreen Liberto introduced this item.

Planner Erik Berg-Johansen further introduced this item.

Chair Nuck opened the public hearing,

Seeing and hearing no one come forward,

Chair Nuck closed the public hearing.

Chair Nuck is concerned with substandard sewer mains and he is wondering if that could be taken into consideration with these ADU's. City Engineer stated that the sewer mains are the City's responsibility and the City has identified the hotspot areas of concern throughout the City and the cleaning happens on a regular basis. The sewer lateral is what needs to have the inspection. Chair Nuck suggested proposing a moratorium for sewer. City Attorney stated that the moratorium for all new construction in certain areas, it can not be limited to ADU's. Chair Nuck would like this in the City Council staff report for discussion.

Motion by Commissioner Avalos to approve Adopt of Resolution No. 2020-283 Recommending the City Council Adopt an Accessory Dwelling Unit ("ADU") Ordinance considering doing a sewer line moratorium. Commissioner Mendez seconded. Motion carried 5-0.

#### **9. Regular Business- None**

**10. Planning Commission Report** – Chair Nuck wanted to know about MST and building out. Commissioner Avalos wanted to know about Rava's project.

#### **11. Director Reports-**

##### **A. Update on Projects**

There is a plan to have Planning Commission Academy with Salinas Valley cities on October 3<sup>rd</sup> or 10<sup>th</sup>. All day presentation on being a Planning Commissioner.

Specific Plan Amendment – Reducing park size at Mills Ranch for 41 Affordable Units will be coming before the commission on September 15<sup>th</sup>.  
A rezone for 105 Division St. is being worked on for come before the Commission.

Looking at grant funding for tiny homes for the homeless and long-term living is being worked on.

Ethics Training is Aug. 18<sup>th</sup> 10a.m.-12p.m or 6-8p.m.

**12. Written Correspondence– None**

**13. Adjournment**

There being no further business, the Planning Commission meeting was adjourned by Chair Nuck at 7:45p.m.

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David Nuck  
Planning Commission Chairperson  
City of King

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Erica Sonne  
Planning Commission Secretary  
City of King



Item No. 8(A)

**REPORT TO THE PLANNING COMMISSION**

**DATE: SEPTEMBER 15, 2020**

**TO: HONORABLE PLANNING COMMISSION**

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

**RE: AMENDMENT NO. 1 TO THE MILLS RANCH SPECIFIC PLAN AND MILLS RANCH DESIGN MANUAL AMENDMENT**

**RECOMMENDATION:**

Staff recommends the Planning Commission: 1) receive staff's report and presentation; 2) open the public hearing; 3) allow the public to provide comments; and 4) continue the public hearing to October 6, 2020 for consideration.

**BACKGROUND:**

In 2005, the City Council adopted the Mills Ranch Specific Plan and Mills Ranch Design Manual to construct 400 dwelling units and a small commercial area. (Reference **Figure 1**.)<sup>1</sup> The City Council also certified an Environmental Impact Report ("**EIR**").

There have been many changes in the City and State since the Mills Ranch Specific Plan approval 15 years ago. In 2005, a City priority was to provide more active and passive parks. Since that time, a number of parks have been built and are being planned to be built to accommodate the current and future populations. At the same time, the City's financial capability to maintain parks has become constrained, and there has been a growing need to provide more affordable housing.

In order to respond to these changing conditions, staff is processing proposed amendments to the Mills Ranch Specific Plan and Mills Ranch Design Manual,

<sup>1</sup> A specific plan is a comprehensive planning and zoning document for a particular area and govern the land use and development of the specific plan area.

which include a proposal to modify the Central Community Park from a 3.34 acre sports and multi-use park to a ½ acre neighborhood park. The remaining 2.84 acres is proposed to be dedicated for a 41-unit affordable housing project. (Reference **Figure 2, Figure 3 and Table 1.**)

In exchange for the park size reduction, the City will enter in an Agreement with Nino Homes to design and construct the new ½ acre park, pay an in-lieu fee for the reduction in the size of the park, and deed the remaining 2.84 acres to the City. The City will also enter into an Agreement with CHISPA to provide an option for purchase of the property for the development of 41 affordable housing units.<sup>2</sup>

Miscellaneous other non-park related changes are also proposed, such as clarifying decisions that can be made by the community development director and incorporating revised fencing figures. Staff believes the proposed changes will better serve and address the needs of the neighborhood, community and City agency.

This is the first public hearing on the proposed amendments. Staff proposes introducing the changes for discussion purposes and then return on October 6<sup>th</sup> for further discussion and action. In particular, staff would like the Planning Commission to focus on the change to the Central Community Park and proposed affordable housing project.

## **DISCUSSION:**

### Proposed Mills Ranch Specific Plan and Mills Ranch Design Manual Amendments

In general, the proposed changes to the Mills Ranch Specific Plan and Mills Ranch Design Manual include:

1. Amend Introduction pages (e.g., names of staff, commissioners, council members).
2. Amend the Mills Ranch Specific Plan project description, including:
  - Reduce Central Community Park from 3.34 acres to ½ acres.
  - Reduce total project park/open space from 17.61 acres to 14.76 acres.

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<sup>2</sup> CHISPA (Community Housing Improvement Systems and Planning Association, Inc.) is the largest private, nonprofit housing developer based in Monterey County. Since its incorporation in 1980, CHISPA has built and renovated 2,268 single-family homes and apartments for low and moderate-income people in Monterey, San Benito, and Santa Cruz Counties.

- Remaining 2.85 acres to be developed into 40 affordable housing units and one live-in manager's unit for a total of 41 units (@14 dwelling units/acre).
  - Increase total dwelling units from 400 to 441 units.
  - Adopt the Site Plan for an affordable housing project.
3. Change all graphics, including tables, to reflect above including the proposed CHISPA footprint for 41 units.
  4. Add a new theme and architectural type for the CHISPA proposal.
  5. Update General Plan Goals and Policies for amendment and keep General Plan Goals and Policies for originally approved Specific Plan.
  6. Add language regarding Consistency Determination.
  7. Incorporate graphics and language from Planning Commission Interpretation on the Mills Ranch Specific Plan Amendment related to fences.
  8. Add language regarding allowing the community development director to make findings of substantial conformance.
  9. Add language regarding construction of sheds.

#### Mills Ranch Specific Plan Parks

The Mills Ranch Specific Plan includes a total of 17.61 acres of park land, greenway and open space, as shown on **Figure 1** and in **Table 1**. It is proposed the total parks and open space areas would be reduced from 17.61 acres to 14.76 acres. **Figure 2** shows the proposed amended Central Community Park. There is nothing in the General Plan that establishes park acre per thousand people. However, the City's Development Impact Fee Study charges a park fee based on three (3) acres per thousand people. Based on the three (3) acres per thousand people, and a King City household size of 4.5 persons, 5.4 acres of park land would be needed to accommodate 400 homes. If an additional 41 units are added for a total of 441 units, 5.94 acres of park land would be needed. Even with the reduction in size of the Central Community Park, the project provides more than enough park and open space land.

**Figure 1**  
**Mills Ranch Specific Plan Land Use Layout**



**Figure 2**  
**Proposed Mills Ranch Specific Plan Amendment**



**Table 1**  
**Mills Ranch Specific Plan Parks and Acreage**

| Type of Park                               | Acreage            |
|--|--------------------|
| <b>Community Parks:</b>                    |                    |
| • Central Community Park                   | 3.34               |
| • Southwest Community Park                 | 4.17               |
| <b>Subtotal:</b>                           | <b>7.51</b>        |
| <b>Greenways</b>                           |                    |
| • Linear Park & Green Strip Along Railroad | 9                  |
| <b>Subtotal:</b>                           | <b>9</b>           |
| <b>Open Space</b>                          | 1.1                |
| <b>Subtotal:</b>                           | <b>1.1</b>         |
| <b>TOTAL:</b>                              | <b>17.61 acres</b> |

### Objectives

The City has a large number of parks and City facilities for its size. It has struggled to maintain them in a sufficient condition. It does not appear plans for ongoing maintenance were adequately addressed when the Mills Ranch subdivision was initially approved, and the City's financial conditions were substantially different at that time. The City rarely receives complaints about the need for more parks, but it does receive frequent requests for the parks and facilities to be better maintained. The City has developed and begun implementation of a plan to upgrade its parks, which is challenging given ongoing revenue constraints. Therefore, it has relied largely on contributions, volunteers, sponsorships, grants and other funding alternatives.

Given that the Mills Ranch project adds two large parks to the City's park inventory, staff is concerned regarding the ability to maintain them properly on a long-term basis. The estimated initial cost to maintain each park is roughly \$50,000 per year, which will increase significantly in the future when items need to be replaced. This would consume over 40% of the total projected property tax revenue from the development, leaving very little revenue for costs associated with maintaining streets, lighting, and City services.

Therefore, it is recommended to reduce the size of one of the two parks, which will retain the park but reduce maintenance costs. This will better prevent the park from deteriorating over time and becoming an eyesore. The overall goal is to help ensure the City will maintain an outstanding system of parks for the community in both number and quality.

Second, staff does not believe the original design of the park is compatible with the adjacent neighborhood. The original Mills Ranch Specific Plan calls for a large soccer park on a block surrounded by all four sides with relatively high-density single-family homes. Placing what will serve as a citywide park in the middle of a single-family residential neighborhood will create frequent noise, traffic, and parking issues for the adjacent residences. It is recommended that a neighborhood park would be more appropriate and compatible with the proposed location. It would instead provide a play area, picnic spaces, basketball court and open space designed to serve the residents in the immediate area instead of drawing people from all areas of the City and beyond. Needs for larger sports fields for soccer, baseball, football, etc. would still be served by the second park in Mills Ranch. This park is more ideally located to be accessible to both residents from Mills Ranch, as well as other areas of the community.

Staff believes it is important to make any changes now before buyers purchase lots in the area of the park. Currently, no existing residents live within two blocks of the proposed changes.

Third, there is a tremendous need for housing, and particularly multi-family affordable housing, in King City. The lack of housing results in overcrowding, poor living conditions, social problems and crime, parking problems and difficulty for local businesses to attract needed workers. CHISPA builds and maintains quality affordable housing projects. They are already constructing other units in the Mills Ranch Specific Plan subdivision. Therefore, this project would provide a unique opportunity to make available additional land at a reasonable cost to be used for affordable housing, which would also provide amenities that could serve the other affordable housing units in Mills Ranch. These include important items, such as an on-site property manager, play area, meeting rooms, services, etc.

Fourth, within ½ mile of the Mills Ranch Specific Plan area, there are and will be soccer fields, baseball fields, linear parks/open space, basketball courts, picnic areas, children's playgrounds and other amenities. Additionally, there are school parks and amenities. (Reference **Exhibit 1.**) This is far more than other areas of the City. The Mills Ranch subdivision falls within Council District 1. Below is a summary of the distribution of City parks once the Mills Ranch parks are constructed:

- District 1 5
- District 2 0
- District 3 0
- District 4 1
- District 5 2

#### Amended Central Community Park Design

Nino Homes is responsible for submitting an amended park plan and constructing the ½ acre park. It is proposed that the park include a tot lot, basketball court, picnic area and play area. Nino Homes will submit a park concept plan before the October 6<sup>th</sup> Planning Commission hearing. The park concept plan will be taken to the Parks and Recreation Commission for their input.

#### Parks and Recreation Commission Comments

On August 17<sup>th</sup>, the proposal to reduce the Central Community Park and add affordable housing was taken to the Parks and Recreation Commission. They provided the following comments and concerns:

- The current parks need to be properly maintained.

- The proposed CHISPA project may create additional traffic and parking problems.
- Increased density and units could increase overcrowding problems.
- They are concerned about reducing space planned for parks and open space.
- The City needs affordable housing

### Neighborhood Concerns

Staff has received some concerns from residents within the Mills Ranch Specific Plan subdivision regarding the proposal. They generally include a desire to prevent a loss of park and open space area, overcrowding, and parking and traffic problems. These are all important concerns to be considered. Staff recommends the following information be taken into account:

First, as stated above, staff believes the modified park will continue to provide the primary amenities that will be utilized by the Mills Ranch neighborhoods. Any unmet needs will be addressed by the second park. This change will better help the City to ensure these parks can be appropriately maintained to remain an asset for the Mills Ranch subdivision in the long-term future.

Second, affordable housing is designed to help reduce overcrowding that currently exists throughout the community. Overcrowding is actually less of a problem in projects that are operated by a non-profit agency like CHISPA because they are able to restrict one family to each unit. Residents go through an extensive qualification and application process and there will be a manager on-site. Overcrowding is a more significant problem in independent single-family units where rooms are frequently rented to multiple families.

Third, as a result of concerns expressed about parking, proposed parking on the site plan has been increased to 111 spaces, which exceeds the City's parking requirements. When considering on-street parking spaces, there should be enough parking to accommodate well over 3 spaces per unit. Meanwhile, the City can place a condition on the project requiring CHISPA to restrict residents to 2 vehicles per unit. As a result, there should be more than ample parking for overall neighborhood needs. While the CHISPA project will add 41 additional units, the trip traffic is not expected to significantly increase, especially when compared to the traffic that could be generated by a 3.34-acre park that serves the entire community.

### Affordable Housing

It is proposed that CHISPA develop 41 affordable units (including one manager unit) on the 2.84 acres. **Figure 3** illustrates the proposed housing footprint. If

adopted as part of the Mills Ranch Specific Plan Amendment, only architectural review will be needed prior to issuance of building permits.

Since the proposed housing theme does not match the housing types in the Mills Ranch Specific Plan and Mills Ranch Design Manual, an additional housing theme is included as part of the Amendment. This theme is called "Apartment Unit Type." Proposed housing elevations are shown on **Figure 4**. Staff believes the additional theme will be compatible and the affordable housing project will blend in with the market rate housing.

**Figure 3**  
**Proposed CHISPA Affordable Housing Footprint**

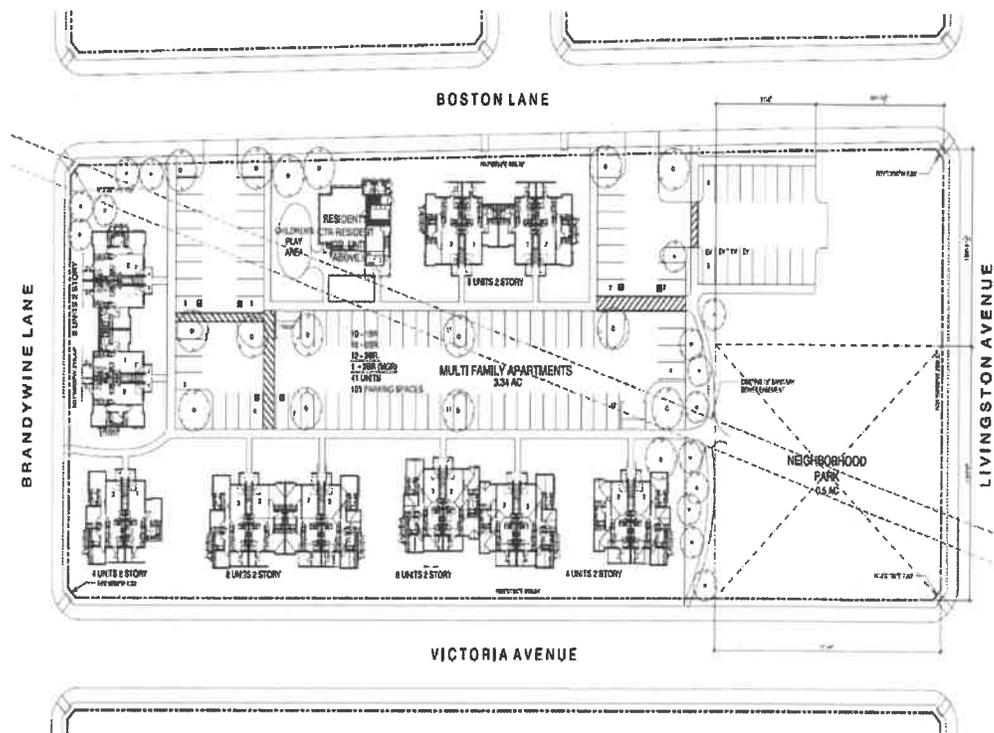
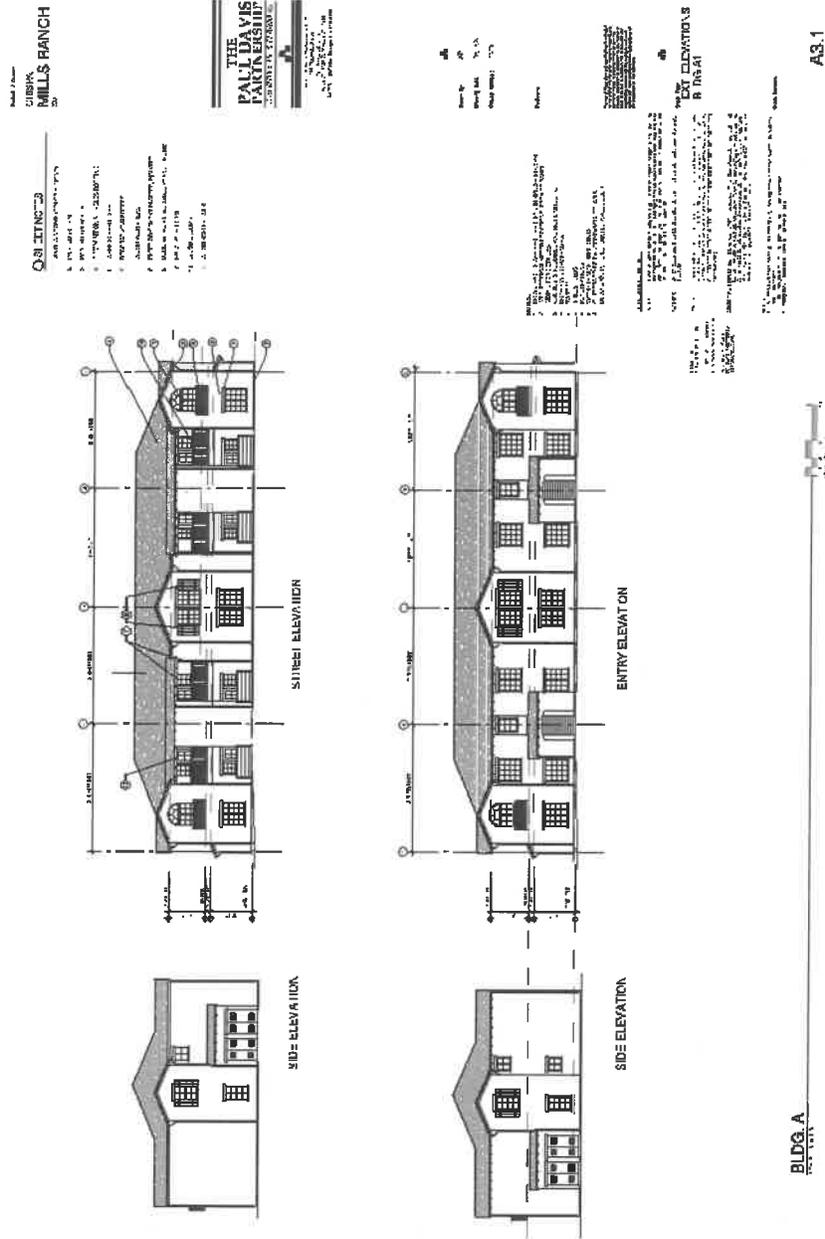


Figure 4  
 Proposed CHISPA Housing Theme and Elevation



### Agreements

The City Council will consider separate Agreements with Nino Homes and CHISPA. The Agreement with Nino Homes will require the developer:

- Design and construct a ½ acre neighborhood park instead of a sports park for citywide use.
- Pay the City an in-lieu fee for the reduced park size in the range of \$300,000, which will be used for parks and open space use.
- Deed the remaining 2.84-acres to the City.

The second Agreement will require CHISPA to enter into an option agreement for the development of a maximum of 41 affordable housing units. The option will provide time for CHISPA to pursue grant funding. Once they are ready to proceed, CHISPA will pay the City \$400,000 up front and an additional \$400,000 through a long-term loan. The funding from the sale is also recommended to be restricted for expenditures related to parks and open space.

Potential uses of the funds identified include construction of the Downtown Plaza, upgrades and renovation of other existing parks, expenses to create joint use of school fields, and a reserve fund for future park needs and repairs.

### **ENVIRONMENTAL DETERMINATION**

The project is exempt from the California Environmental Quality Act ("**CEQA**") pursuant to Section 15332 of the CEQA Guidelines, In-Fill Development Projects, as the project is consistent with the General Plan and zoning as modified by specific plan, is less than five acres in size, has no value as habitat for endangered, rare or threatened species, can be served by existing utilities and public services, and will have no significant traffic, noise, air or water quality effects."

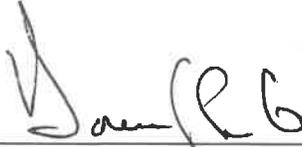
### **PUBLIC HEARING NOTIFICATION**

On September 2, 2020, an 1/8 page public hearing notice was printed in The Rustler and public hearing notices were mailed to property owners within the Mills Ranch subdivision.

c: Mike Nino, Nino Homes  
Dana Cleary, CHISP  
Parks and Recreation Commission

**PLANNING COMMISSION  
AMENDED MILLS RANCH SPECIFIC PLAN AND DESIGN MANUAL  
SEPTEMBER 15, 2020  
PAGE 12 OF 12**

Submitted by:



Doreen Liberto, AICP, Community Development Director

36.5 Acres of Existing and Future Parks within  
1/2 Mile of Mills Ranch Specific Plan Area

17.5 Acres of School Grounds

 City Limits

 Mills Ranch Boundary

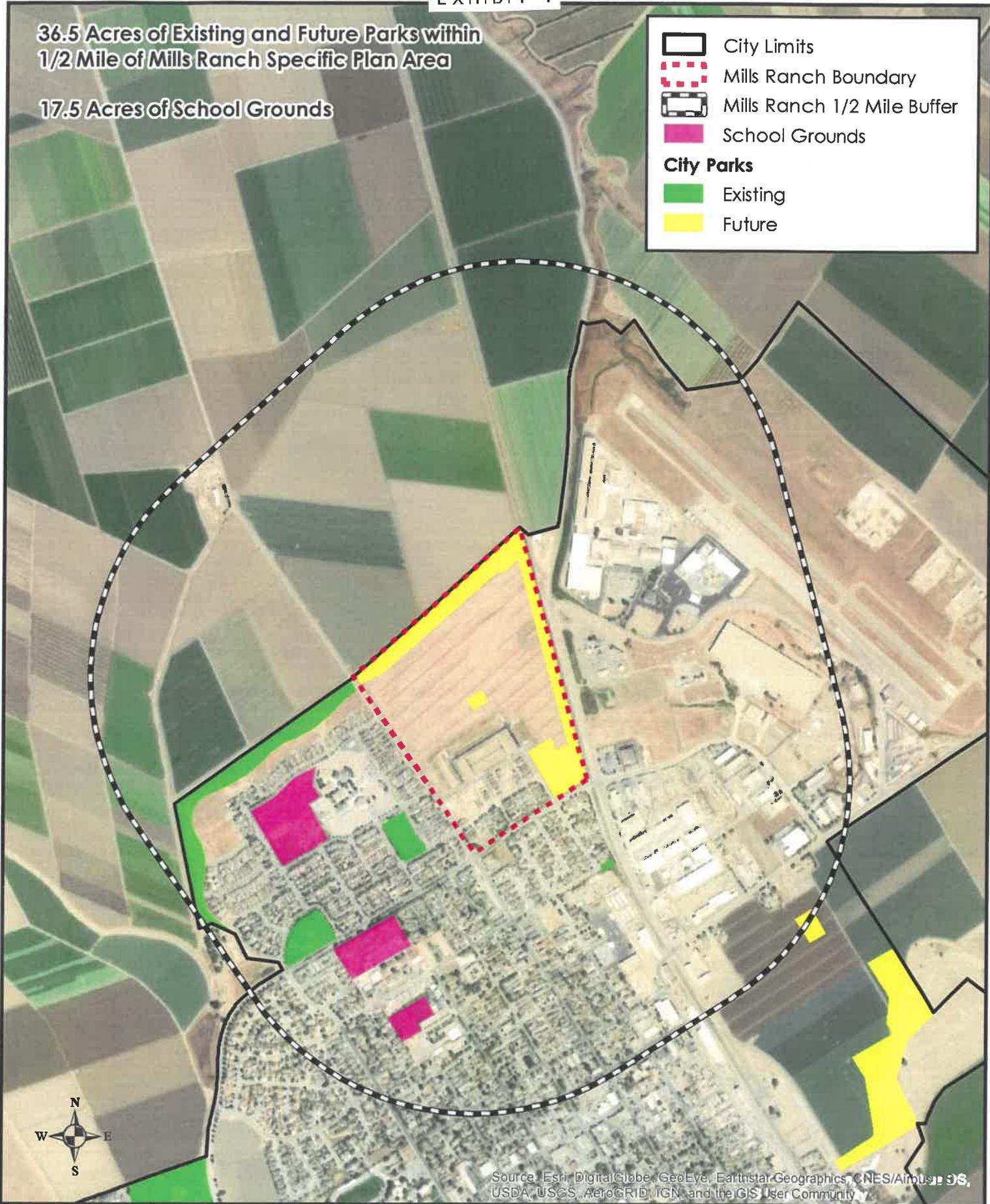
 Mills Ranch 1/2 Mile Buffer

 School Grounds

**City Parks**

 Existing

 Future



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community



**Mills Ranch - City Parks**

King City, CA



Item No. 8(B)

**REPORT TO THE PLANNING COMMISSION**

**DATE: SEPTEMBER 15, 2020**

**TO: HONORABLE PLANNING COMMISSION**

**FROM: STEVEN ADAMS, CITY MANAGER**

**RE: ORDINANCE AMENDING CHAPTER 17.03 OF TITLE 17 OF THE KING CITY MUNICIPAL CODE PERTAINING TO COMMERCIAL CANNABIS ACTIVITY**

**RECOMMENDATION:**

It is recommended the Planning Commission adopt a Resolution recommending the City Council adopt an Ordinance amending Chapter 17.03 of Title 17 of the King City Municipal Code pertaining to commercial cannabis activity in order to modify the restrictions on locating cannabis retail storefront dispensaries adjacent to residential properties.

**BACKGROUND:**

At the February 25, 2020 meeting, the City Council adopted an ordinance allowing cannabis retail storefront dispensaries ("storefront dispensaries"). The ordinance included a number of restrictions to prevent potential problems. One of the provisions was a restriction on dispensaries adjacent to residential properties in order to avoid neighborhood concerns from property owners that may not want a dispensary located next to their home.

Specifically, the restriction is worded as follows:

*Further, storefront dispensaries shall be prohibited from being located directly adjacent to any single-family or multi-family residential property. The terms "directly adjacent" mean sharing a property line border with the proposed storefront dispensary property.*

At the time the ordinance was considered by City Council, staff recommended that the restriction be included initially, with the acknowledgement that it could be reconsidered if the City did not receive an adequate number of applications due to a lack of eligible sites. Only one eligible application was received. Therefore, at the August 25<sup>th</sup> meeting, staff requested direction from the Council regarding

**PLANNING COMMISSION  
ORDINANCE AMENDING CHAPTER 17.03 OF TITLE 17 OF THE KING CITY  
MUNICIPAL CODE PERTAINING TO COMMERCIAL CANNABIS ACTIVITY  
SEPTEMBER 15, 2020  
PAGE 2 OF 3**

on whether to prepare any amendments to the ordinance. In response, staff was directed to draft the amended ordinance, which is being presented at this time for Planning Commission recommendation.

**DISCUSSION:**

Per the terms of the ordinance and City Council direction, a notice, applications and instructions were distributed to solicit parties interested in applying for approval to open a storefront dispensary business in King City. Applications were due on July 9<sup>th</sup>. Two applications were received.

One of the applications was determined to be ineligible because it will be adjacent to a residential property. It was believed it would be compliant because there was a parcel between the proposed business location and the adjacent residential property even though a portion of the building extended over the property line. Clarification was received from City Council at the June 23<sup>rd</sup> meeting that a storefront dispensary may be located within a building partially on a parcel sharing a property line with a residential property as long as the storefront dispensary is located entirely on the parcel removed from the residential property. However, in this case, it was later determined that the parcels are required to be merged as a condition of the building approval in order to eliminate a substandard sized lot. This will eliminate the parcel separating the business from the residential property. Therefore, it will no longer be eligible under the existing restrictions.

If a change is desired, staff recommended an option that would increase opportunities for storefront dispensaries in areas that appear appropriate like the example above while at the same time maintaining the intent of protecting residential areas from potential impacts. The June 23<sup>rd</sup> City Council clarification defined a residential property as one containing a structure used for housing during the 12 months prior to the time the storefront dispensary application is submitted. The proposed ordinance would simply modify the restriction to instead prohibit storefront dispensary businesses on parcels adjacent to properties in single-family or multi-family housing zones rather than a "residential property" as currently defined.

The objective of the current definition was to minimize neighborhood concerns by eliminating the potential for a cannabis business being opened adjacent to any existing residence. However, an argument can be made that limiting it only to residentially zoned properties would be more appropriate because residential structures in other zones should anticipate the potential of being located adjacent to a variety of commercial uses. Meanwhile, someone living in a residential zone

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has a reasonable expectation that they will only be adjacent to traditionally compatible uses.

The Council voted unanimously to direct staff to prepare an amendment to the ordinance using this approach. The ordinance was prepared by the City Attorney, which is attached.

**ENVIRONMENTAL REVIEW:**

This action is not considered a project for the purposes of CEQA and has no potential for resulting in either a direct or indirect impact to the environment. Therefore, no additional action is necessary.

**ALTERNATIVES:**

The following alternatives are provided for Council consideration:

1. Adopt a Resolution recommending the City Council adopt an ordinance modifying the restriction on storefront dispensaries to now prohibit them from being located adjacent to single-family or multi-family zones;
2. Recommend the City Council instead direct staff to draft an ordinance eliminating the restriction on locating storefront dispensaries adjacent to residential properties;
3. Recommend the City Council instead direct staff to draft an ordinance making other modifications to the storefront dispensary restrictions;
4. Recommend the City Council make no changes to the restrictions on storefront dispensaries; or
5. Provide other direction to staff.

Prepared and Approved by:

  
\_\_\_\_\_  
Steven Adams, City Manager

**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KING AMENDING  
CHAPTER 17.03 OF TITLE 17 OF THE KING CITY MUNICIPAL CODE  
PERTAINING TO COMMERCIAL CANNABIS ACTIVITY**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### **Chapter 17.03**

## **COMMERCIAL CANNABIS ACTIVITY**

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### **Section 17.03.040 Licenses and Permits.**

- (b) Authorized Commercial Cannabis Activities: Commercial cannabis operations within the City, which comprise the activities of indoor cultivation, mixed-light cultivation, nursery cultivation, retailer (storefront and/or non-storefront delivery), manufacturer, testing laboratory, distributor, and microbusiness are allowed subject to issuance and maintenance of the permits and entitlements set forth in this Chapter and all other applicable City and State laws and regulations, and issuance and maintenance of a valid and current State license of a classification listed below, as provided for in Business & Professions Code Section 26050 and applicable State regulations:

(19) Type 13 = Distributor (i.e. transport only, pursuant to 16 CCR § 5315, as may be amended).

The establishment, development, construction, maintenance, or operation of a non-storefront dispensary shall only be authorized in the M-1, M-2 and M-3 zones and/or the East Ranch Business Park Specific Plan area within the City. The establishment, development, construction, maintenance, or operation of a storefront dispensary shall only be authorized in the highway service area west of the freeway (excluding properties located on Canal Street), the C2 zone, and the First Street corridor and highway service zoned areas on First Street from Ellis Street to Highway 101. As such, the establishment, development, construction, maintenance, or operation of a storefront and/or non-storefront dispensary shall be prohibited in all other zones and/or areas within the City. Further, storefront dispensaries shall be

prohibited from being located directly adjacent to any residential zoned single-family or multi-family residential property. The terms “directly adjacent” mean sharing a property line border with the proposed storefront dispensary property. Nothing in this subsection shall be interpreted to authorize the establishment, development, construction, maintenance, or operation of a storefront and/or non-storefront dispensary in violations of the requirements of Health and Safety Code section 11362.768, Code of Regulations section 5026 and any other similar statute, law and/or regulation enacted by the City or State of California or one of its departments charged with regulating cannabis activities.

- (h) Issuance of a commercial cannabis storefront dispensary permit shall be governed by the following requirements and/or limitations:
  - (1) All commercial cannabis storefront dispensaries shall be prohibited except within the following designated area(s): the highway service area west of the freeway (excluding properties located on Canal Street), the C2 zone, and the First Street corridor and highway service zoned areas on First Street from Ellis Street to Highway 101. Further, storefront dispensaries shall be prohibited from being located directly adjacent to any residential zoned single-family or multi-family residential property. The terms “directly adjacent” mean sharing a property line border with the proposed storefront dispensary property. Only pre-applications that can demonstrate the applicant currently owns, leases or has an option to buy or lease the property proposed for the business within an area authorized for a commercial cannabis storefront dispensary shall be considered.

**SECTION 6: EFFECTIVE DATE.**

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

**I HEREBY CERTIFY** that the foregoing Ordinance was introduced by the City Council after waiving reading, except by Title, at a regular meeting thereof held on the \_\_\_\_ day of \_\_\_\_\_ 2020, and adopted the Ordinance after the second reading at a regular meeting held on the \_\_\_\_ day of \_\_\_\_\_ 2020, by the following roll call vote:

AYES: \_\_\_\_\_

NOES: \_\_\_\_\_

ABSTAIN: \_\_\_\_\_

ABSENT: \_\_\_\_\_

**ATTEST**

\_\_\_\_\_  
**STEVEN ADAMS, City Clerk**

**CITY OF KING**

By: \_\_\_\_\_  
**MIKE LEBARRE, Mayor**

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

**RESOLUTION NO. 2020-284**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF KING,  
COUNTY OF MONTEREY, STATE OF CALIFORNIA, RECOMMENDING TO  
THE CITY COUNCIL THE APPROVAL OF AN ORDINANCE AMENDING  
CHAPTER 17.03 OF TITLE 17 OF THE KING CITY MUNICIPAL CODE  
PERTAINING TO COMMERCIAL CANNABIS ACTIVITY INCLUDING  
STOREFRONT AND NON-STOREFRONT DISPENSARIES WITHIN THE CITY  
OF KING**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**WHEREAS**, pursuant to the above-described express statutory authority and its police power, the City also desires to enact reasonable regulations for the location of storefront and non-storefront commercial recreational and medical cannabis dispensaries; and

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

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

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

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

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

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

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

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

**Section 2.** After reviewing the proposed zoning and specific plan amendments and considering all oral and written information regarding the text of the amendments, that the Planning

Commission does recommend the City Council approve the proposed amendments to Chapter 17.03 of Title 17, (*collectively Attachment 1*).

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

PASSED, APPROVED, AND ADOPTED by Planning Commission on this the 15<sup>th</sup> day of September, 2020.

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David Nuck, Chairperson

ATTEST:

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Erica Sonne  
Planning Commission Secretary

I, Erica Sonne, Planning Secretary to the City Planning Commission, do hereby certify that Resolution No. \_\_\_\_\_ was duly and regularly passed and adopted by the Planning Commission on the 15<sup>th</sup> day of September, 2020, by the following roll call vote as the same appears on file and of record in Office of the Community Development Department.

AYES:

NOES:

ABSENT:

ABSTAIN:

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Erica Sonne  
Planning Commission Secretary  
City of King