CALL TO ORDER: Chairman Siva

- Pledge of Allegiance: Commissioner Price

- Roll Call: Chairman Siva, Commissioner Briant, Commissioner Ellis, Commissioner Price and Commissioner Shaw

PUBLIC COMMENTS:

At this time, the general public is invited to address the Planning Commission concerning any items that are not listed on the agenda, or items which are on the Agenda that are not public hearings or other items under the jurisdiction of the Planning Commission. Comments from the public of any non-agenda items will be limited to Five (5) minutes in accordance with City policy.

CONSENT CALENDAR ITEMS:

Note: All items listed on the Consent Calendar may be enacted by a single motion without separate discussion. If a discussion or a separate vote on any item is desired by a Planning Commissioner, that item may be removed from the Consent Calendar and considered separately. All remaining items not removed from the Consent Calendar by a Planning Commissioner shall be voted on prior to discussion of the item(s) requested to be pulled.

1. Minutes of March 4, 2015 meeting
IV. PUBLIC HEARINGS:

1. ORDINANCE NO. 1486 AMENDING CHAPTER 5.52 (SHOPPING CARTS) OF TITLE 5 (BUSINESS LICENSES AND REGULATIONS) OF THE BANNING MUNICIPAL CODE.

   Staff Report…………………………………………………………………………………………………………………………………………..Page 6

Order of Procedure:
1. Request staff report / Questions of staff
2. Open public hearing
3. Close public hearing
4. Planning Commission discussion
5. Motion and Second
6. Discussion on motion
7. Call the question (Roll call vote)

Recommendation:

That the Planning Commission takes the following action:

1. Adopt Planning Commission Resolution No. 2015-06:
   a. Recommending to the City Council the adoption of Ordinance No. 1486

2. DESIGN REVIEW NO. 13-7002, AMENDMENT NO. 1 FOR A PROPOSED 81 UNIT HOTEL, FAST FOOD RESTAURANT WITH DRIVE-THRU, AND DELI CAFÉ WITHIN THE GENERAL COMMERCIAL (GC) ZONING DISTRICT (APN 541-150-020).

   Staff Report……………………………………………………………………………………………………………………………………………………………………………………..Page 40

Order of Procedure:
1. Request staff report / Questions of staff
2. Open public hearing
3. Close public hearing
4. Planning Commission discussion
5. Motion and Second
6. Discussion on motion
7. Call the question (Roll call vote)

Recommendation:

That the Planning Commission takes the following action:

1. Adopt Planning Commission Resolution No. 2015-07:

V. PLANNING COMMISSIONER COMMENTS:

VI. COMMUNITY DEVELOPMENT DIRECTOR’S COMMENTS:

VII. ADJOURNMENT:

The City of Banning Planning Commission is hereby adjourned to the regular Planning Commission meeting of April 1, 2015 starting at 6:30 p.m. in the City Council Chambers.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Planning Division (951) 922-3125. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting [28 CFR 35.102-35.104 ADA title II].
A regular meeting of the City of Banning Planning Commission was held on Wednesday, March 4, 2015 at 6:30 p.m., in the Council Chambers, City Hall, 99 East Ramsey Street, Banning, CA, 92220.

**Commissioners Present:** Commissioner Briant
Commissioner Ellis
Commissioner Price
Commissioner Shaw

**Commissioners Absent:** Chairman Siva

**Staff Present:** Acting Community Development Director, Brian Guillot
Assistant City Attorney, Lona Laymon
Contract Planner, Oliver Mujica
Recording Secretary, Sandra Calderon

I. CALL TO ORDER

II. PUBLIC COMMENTS:

No public comments.

III. CONSENT CALENDAR

1. Minutes of February 4, 2015

   Commissioner Ellis stated that he wanted to have clarity about the cell tower discussion on the last Planning Commission meeting. He expressed disappointment about the cell towers not having enough greenery, or look like a pine tree.

   **ACTION (PRICE / BRIANT):** A motion was moved as amended, seconded and carried that item 1 be approved.

IV. PUBLIC HEARINGS
1. ZONE TEXT AMENDMENT NO. 15-97503 TO AMEND CHAPTER 17.36 (SIGN REGULATIONS) OF THE ZONING ORDINANCE (TITLE 17) OF THE BANNING MUNICIPAL CODE

Contract Planner Mujica presented the staff report and stated that as a follow-up to the last meeting, recommendations were brought forward from the sign advisory committee and an ordinance was prepared as a result. The recommendations were taken from the memo that was prepared and previously presented to the Planning Commission and correlated it to the actual text within the Zoning Code. Mujica reviewed his power point presentation and talked about the amendments as follows: Window sign not to exceed (2) square foot.

Prohibited Signs amended as follows: All banners, flags, and pennants in the Downtown Commercial zoning district and located within fifty (50) feet of a residential property. Deleted in the section of prohibited signs where no longer includes chalkboards or blackboards, amended a section related to portable signs or A-frame signs, increasing the size from 40% to 33% for solid lettering. Language was added on sign regulation for the permitted sign for wall signs and increasing the total square footage of wall signs from 50% square feet to 20% of the wall area.

Vice-Chairman Shaw opened the public hearing for public comments.
None

Vice Chairman Shaw opened the floor for discussion.

Commission Ellis mentioned that on portable signs, he would like to see verbiage added that a portable sign cannot consist of a motor vehicle (i.e. flatbed bed truck or a trailer with a sign on it and simply state “motor vehicle” that will prohibit somebody from putting signs on a trailer).

Planner Mujica mentioned that there is a section on vehicle sign.

Commissioner Ellis explained that he was referring about preventing someone from displaying an ad on an old plywood sheet placed on a utility trailer.

Assistant City Attorney, Laymon said that we need to be careful; an example was given, that many people are driving through town with a sign on their van and further research may have to be done because of pre-emption. There are state laws that already govern. If you advertise on the side of your vehicle, there are certain licenses that must be obtained from the State, and not sure if that is something that we can regulate.

Commissioner Ellis expressed his concern about the local businesses displaying old trailers with signs on them on different locations, not with the people that are going through town, or businesses that properly have their signs painted on them.

Assistant City Attorney, Laymon mentioned that further research needs to be done before an amendment its done, because there are restrictions in state law that govern vehicles, and the signs you put on them.
Commissioner Briant talked about a small beauty shop on Hays Street, off San Gorgonio that has a sign on a vehicle that advertises what they do, and hours of business. He question if that is allowed, or prohibited. Assistant City Attorney, Laymon mention that this item will be brought forward at a later date.

Acting Community Development Director, Guillot responded and discussed section 17.36.060 – O. Prohibited signs. Guillot mentioned that this section will cover Commissioner Ellis intent.

Commissioner Ellis asked to exclude barber shops from section17.36.060-B, because they have a revolving barber pole.

Acting Community Development Director, Guillot asked to bring this item back at a later date after further discussion with Assistant City Attorney, Laymon.

Commission Ellis stated that he sees many flags and pennants that are “shabby” and are starting to fade. On section 17.36.100-B does mention “flags and pennants” and would like to include those as part of the definition.

Acting Community Development Director, Guillot stated how the paragraph will read: The display surface of all signs, including flags or pennants shall be kept clean, neatly painted, and free from rust and corrosion.

Vice-Chairman Shaw opened the floor for a motion.

**ACTION (SHAW/BRIANT): A motion was moved, seconded and carried that the Planning Commission take the following action:**

1. ADOPT RESOLUTION No. 2015-04 RECOMMENDING TO THE CITY COUNCIL THE ADOPTION OF THE CATEGORICAL EXEMTION FOR ZONE TEXT AMENDMENT No. 15-9703; and
2. RECOMMENDING TO THE CITY COUNCIL THE ADOPTION OF ZONE TEXT AMENDMENT NO. 15-97503.
3. AMEND TO ADD FLAGS AND PENNANTS TO THE DEFINITION OF A SIGN.

(Motion Carried 4-0)

**2. CITY OF BANNING GENERAL PLAN ANNUAL PROGRESS REPORT FOR CALENDAR YEAR 2014.**

Contract Planner Mujica presented the staff report and stated that all Cities in California are required to adopt a General Plan to outline how they are going to govern development programs and policies through their City within the next ten (10) to fifteen (15) years of the cycle of their General Plans. Cities are required to submit an annual progress report for an update of their programs. The General Plan was adopted by our City in 2006 with approximately twenty-one (21) elements. State law requires only seven (7) mandated elements.
Mujica explained that a report was put together, and a meeting is then scheduled with the various departments of the City to obtain input on any changes, and it’s filed with the State of California until it’s reviewed the following year.

Vice-Chairman Shaw opened the hearing for public comments.
   None

Vice Chairman Shaw opened the floor for discussion
   None

Vice-Chairman Shaw closed the public hearing and opened the floor for a motion.

**ACTION (ELLIS/PRICE): A motion was moved, seconded and carried that the Planning Commission take the following action:**

1. **ADOPT RESOLUTION No. 2015-05 RECOMMENDING TO THE CITY COUNCIL THE APPROVAL OF THE GENERAL PLAN ANNUAL PROGRESS REPORT FOR CALENDAR YEAR 2014; and DIRECT STAFF TO FILE IT WITH THE STATE OF CALIFORNIA OFFICE OF PLANNING AND RESEARCH AND STATE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT.**

   *(Motion Carried 4-0)*

**V. COMMUNITY DEVELOPMENT DIRECTOR’S UPDATE**

Acting Community Development, Guillot reported to the Planning Commission that the City Council had the first reading on two ordinances for the General Plan Amendment re-zoned that was considered at the last meeting. The second reading will be on the March 24th meeting.

Guillot reported on the appointment of Commissioner Briant and Commissioner Price.

**VI. PLANNING COMMISSIONER COMMENTS:**

Commissioner Ellis, expressed the interest in possibly contacting some of our service groups to have them contact some of the people that are displaying shabby American flags and help educate on the true meaning of American flag and the correct conditions it should be displayed under.

Commissioner Price expressed gratitude to serve as a Commissioner.

**VII. COMMUNITY DEVELOPMENT DIRECTOR’S COMMENTS:**

None
VIII. ADJOURNMENT:

There being no further business, the meeting was adjourned at 6:58 p.m.

Respectfully submitted,

__________________________
Sandra Calderon
Recording Secretary

THE ACTION MINUTES SUMMARIZE ACTIONS TAKEN BY THE PLANNING COMMISSION. A COPY OF THE MEETING IN ITS ENTIRETY IS AVAILABLE IN DVD FORMAT AND CAN BE REQUESTED IN WRITING TO THE CITY CLERK’S OFFICE.
DATE: April 1, 2015

TO: Planning Commission

FROM: Brian Guillot, Acting Community Development Director

SUBJECT: ORDINANCE NO. 1486 REPEALING THE EXISTING PROVISIONS OF CHAPTER 5.52 (SHOPPING CARTS) OF TITLE 5 (BUSINESS LICENSES AND REGULATIONS) OF THE BANNING MUNICIPAL CODE AND APPROVING NEW PROVISIONS FOR CHAPTER 5.52 (SHOPPING CARTS) OF TITLE 5 (BUSINESS LICENSES AND REGULATIONS) OF THE BANNING MUNICIPAL CODE

RECOMMENDATION:

Staff recommends that the Planning Commission adopt Resolution No. 2015-06 (Attachment 1):

I. Recommending to the City Council the adoption of Ordinance No. 1486 (Attachment 2).

APPLICANT INFORMATION:

Applicant: City of Banning
99 E. Ramsey Street
Banning, CA 92220

BACKGROUND:

On September 26, 1995, the City Council adopted Resolution No. 11995-150 regulating shopping carts used by local retailers in accordance with Business and Professions Code Section 22435-22435.8.

On August 6, 2014, during a regularly scheduled meeting, the Planning Commission conducted a Study Session to consider complaints from the community regarding abandoned shopping carts and upon the conclusion of the Study Session, the Planning Commission provided direction to City staff to meet with the businesses and other stakeholders to solicit their comments and concerns regarding this issue and to discuss possible solutions. Subsequently, on September 24, 2014, City staff held a meeting with local retail businesses and other interested parties, and it was
recognized by the group that there appears to be adequate ordinances in place, but there is a lack of enforcement to address the issues related to abandoned and stolen shopping carts.

On February 4, 2014, during a regularly scheduled meeting, the Planning Commission conducted a Study Session to discuss options for revising the shopping cart regulations that meets the needs of both the community and the economic interests of those involved and to seek direction from the Planning Commission as to how to proceed with in this issue and, upon the conclusion of the Study Session, the Planning Commission provided direction to City staff to prepare an Ordinance to address the issue of abandoned shopping carts within the City.

The following is a summary of the proposed amendment to the City’s shopping cart regulations (a complete copy of Chapter 5.52 [Shopping Carts] is contained in Attachment 3) based upon the direction given by the Planning Commission:

Section 5.52.010 (Identification of Shopping Carts) will include new provisions, as follows:

“A. Findings and Purpose.

Abandoned shopping carts constitute a nuisance, create potential hazards to the health and safety of the public, and interfere with pedestrian and vehicular traffic within the City of Banning. The accumulation of wrecked, dismantled and abandoned shopping carts on public or private property also tends to create conditions that reduce property values, promoting blight and deterioration in the City. The intent of this Chapter is to insure that measures are taken by store owners to prevent the removal of shopping carts from store premises and parking lots, to make the removal of shopping carts a violation of this Code, and to facilitate the retrieval of abandoned carts as permitted by State law. Further, this Chapter is intended to supplement existing State law regarding shopping carts as set forth in California Business & Professions Code, section 22435, et seq.”

“B. Enforcement of Chapter.

(a) Every cart owned or provided by any business establishment in the City of Banning must have a sign permanently affixed to it that contains the following information:

1) Identifies the owner of the cart or the name of the business establishment, or both;

2) Notifies the public of the procedure to be utilized for authorized removal of the cart from the business premises;

3) Notifies the public that the unauthorized removal of the cart from the premises or parking area of the business establishment is a violation of
State and City of Banning law;

4) Lists a telephone number to contact to report the location of the abandoned cart; and

5) Lists an address for returning the cart to the owner or business establishment.

(b) Failure to comply may subject the violator to any civil, criminal, or administrative remedies as provided by law.”

“C. Prohibiting Removal or Possession of Abandoned Cart.

(a) It shall be unlawful to either temporarily or permanently remove a cart from the premises or parking area of a business establishment without the express prior written approval of the owner or on-duty manager of the business establishment. Written permission shall be valid for a period not to exceed 72 hours.

(b) It shall be unlawful to be in possession of a cart that has been removed from the premises or parking area of a business establishment unless it is in the process of being immediately returned to the owner or business establishment.

(c) This section shall not apply to carts that are removed for the purposes of repair or maintenance.

(d) Failure to comply may subject the violator of the cart to any civil, criminal, or administrative remedies as provided by law.”


Every owner shall develop and implement a specific plan to prevent customers from removing carts from the business premises ("prevention plan"). The prevention plan must include the following elements and a detailed description of how they will be implemented:

(a) Notice to Customers. Written notification shall be provided to customers that removal of carts from the premises and parking lots are prohibited and a violation of state and local law. This notice may be provided in the form of flyers, warnings on shopping bags, or any other form of written notification that will effectively notify customers of the prohibition.

(b) Signs shall be placed in pertinent places near door exits and near parking lot exits that warn customers that cart removal is prohibited and constitute a violation of state and local law.
(c) Specific physical measures shall be implemented to prevent cart removal from the business premises. These measures may include, but are not limited to, disabling devices on all carts, posting of a security guard to deter and stop customers who attempt to remove carts from the business premises, bollards and chains around business premises to prevent cart removal, security deposits required for use of all carts, or the rental or sale of carts that can be temporarily or permanently used for transport of purchases. As an alternative to implementing specific physical measures, a business shall contract with a cart retrieval service to retrieve carts removed from its business premises within a forty eight (48) hour period.

(d) If a prevention plan was in place the previous year, a report shall be submitted to the City evaluating the measures that were used and approved in the prior calendar year. The report shall include, but not be limited to, the inventory of carts owned/used by the business establishment and the number of carts that had to be replaced due to loss, theft or abandonment.”


(a) Existing Owners. The proposed prevention plan for preventing cart removal shall be submitted for approval to the City Manager or his/her designee within thirty (30) days of receiving notice from the City that such a plan is required pursuant to this Chapter. An evaluation report shall be submitted by January 1 of each year thereafter.

(b) New Businesses and Change in Ownership. If a new business begins conducting business in the City and provides carts to its customers, the new owner shall notify the City Manager or his/her designee within thirty (30) days of opening the business to the public and submit a new prevention plan or contract with a cart retrieval service. If an existing business changes ownership, the new owner shall notify the City Manager or his/her designee within thirty (30) days of the change and submit a new prevention plan, agree to adopt the existing prevention plan on file with the City for that business or contract with a cart retrieval service. An evaluation report shall be submitted by January 1 of each year thereafter.

(c) Approval. Within thirty (30) days of receipt of the prevention plan, the owner shall be notified whether the prevention plan is approved. If the plan is not approved, the notice shall state its reasons and provide recommendations to the owner to ensure plan approval. The owner shall submit a new prevention plan within fifteen (15) days of receiving this notice. Once a prevention plan is approved, the proposed measures shall be implemented by no later than thirty (30) days after City approval is given. If an evaluation report is submitted, the
prevention measures shall be continued until and unless the City indicates that a
measure(s) needs to be modified. Unless otherwise agreed, any modifications to
the plan imposed by the City shall be implemented within thirty (30) days after the
City notifies the owner of the needed modifications.

(d) Revocation. If more than sixty (60) carts are retrieved by the City within a
six (6) month period, the owner’s prevention plan will be revoked upon
notification by the City and the owner will be required to submit a new prevention
plan to the City Manager. Any owner failing to implement the new prevention
plan within thirty (30) days of approval shall be subject to penalties under this
Chapter.”

Section 5.52.020 (Recovery of Shopping Carts by City Forces) will be amended, as follows:

“A. On and after the effective date hereof, any shopping cart, as defined herein, may
be removed from the public right of way or public property of the city by any
employee of the City of Banning upon actual or constructive notice to the owner
that the shopping cart has been in such right of way for a period of twenty four
hours. Any shopping cart so removed shall be taken by the employee to the city
yard. Such shopping cart shall remain there until claimed by the owner or the
owner’s authorized agent. Any cart remaining in the city yard for ninety one days
or more shall be disposed of as lost property. The provisions of this Chapter shall
be enforced by any enforcement personnel. To the extent otherwise permitted by
law, said enforcement personnel may enter onto any public or private property in
the City to retrieve, remove, store, and dispose of any lost, stolen, or abandoned
shopping cart, or any part thereof. Any act authorized to be performed by the City
of Banning pursuant to any provision of this Chapter may be performed by any
enforcement personnel. Any enforcement personnel are authorized to issue an
administrative citation upon any owner whom they have reasonable cause to
believe has violated any provision of this Chapter.”

Section 5.52.040 (Administrative Costs and Fines) will include a new provision, as follows:

“Pursuant to Business and Professions Code Section 22435.7, any owner that fails to
retrieve its abandoned cart(s) within three (3) days of receiving actual notice from the
City, shall pay the City's administrative costs for retrieving the cart(s) and providing the
notification to the owner as may be established by resolution of the City Council. Any
owner who fails to retrieve abandoned carts in accordance with this Chapter in excess of
three times during a specified six month period, shall be subject to a $50.00 fine for each
occurrence. An occurrence includes all carts owned by the owner that are impounded by
the City in a one-day period.”

Section 5.52.050 (Penalties for Failing to Submit a Prevention or Evaluation Report or to
Implement Prevention Measures) will include a new provision, as follows:

“Any owner that fails to submit a prevention plan, implement the proposed plan
measures, or implement any required modifications to the plan by the City within the time
frames specified in this Chapter shall be required to place disabling devices on all carts owned/leased/used by the business to prevent removal of carts from the business premises and parking lots. Any owner that fails to submit an evaluation report or prevention plan by January 1 of each year or fails to place a disabling device on all carts, if applicable, shall be subject to a $1,000.00 civil penalty, plus an additional penalty of $50.00 for each day of non-compliance.”

Section 5.52.060 (Notification for Retrieval of Abandoned Shopping Carts) will include a new provision, as follows:

“Pursuant to Business and Professions Code Section 22435.7, the City shall notify the owner of any abandoned carts owned or used by the business establishment that have been located within the City of Banning, if the City intends to impound the cart(s) pursuant to Section 22435.7. The owner shall have three (3) days from the date the notification is given, to retrieve the carts from the City.”

Section 5.52.070 (Disposition of Shopping Carts After Thirty Days) will include a new provision, as follows:

“According to State Law, any cart not reclaimed from the City within thirty (30) days after notification to the owner shall be sold or otherwise disposed of by the City. Any cart that fails to have the identification required by State Law or this Chapter may be sold or otherwise immediately disposed of at the discretion of the City.”

Section 5.52.080 (Businesses Without Shopping Carts) will include a new provision, as follows:

“A business which does not own, rent, lease, or otherwise possess its own carts, but which receives a benefit by the use of carts owned by other businesses, merchants, grocers, or other similar establishments, shall provide a location upon its premises for the storage of carts and shall immediately contact a cart retrieval service to retrieve any carts that are left on the premises. This section specifically applies to recycling centers.”

PUBLIC COMMUNICATION

The proposed Ordinance was advertised in the Record Gazette newspaper on March 20, 2015. As of the date of this report, staff has not received any verbal or written comments for or against the proposal.
RECOMMENDATION

Staff recommends that the Planning Commission take the following action:

Adoption of Planning Commission Resolution No. 2015-06:

1. Recommending to the City Council the adoption of Ordinance No. 1486.

Prepared By:  
Reviewed By:

[Signatures]

Oliver Mujica  
Contract Planner

Brian Guillot  
Acting Community Development Director

Attachments:

1. Resolution No. 2015-06  
2. Draft Ordinance No. 1486  
3. Chapter 5.52 (Shopping Carts)  
4. Public Hearing Notice
ATTACHMENT 1
PC Resolution No. 2015-06
RESOLUTION NO. 2015-06

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BANNING, CALIFORNIA RECOMMENDING APPROVAL TO THE CITY COUNCIL OF ORDINANCE NO. 1486 TO REPEAL THE EXISTING PROVISIONS OF CHAPTER 5.52 (SHOPPING CARTS) OF TITLE 5 (BUSINESS LICENSES AND REGULATIONS) OF THE BANNING MUNICIPAL CODE AND APPROVING NEW PROVISIONS FOR CHAPTER 5.52 (SHOPPING CARTS) OF TITLE 5 (BUSINESS LICENSES AND REGULATIONS) OF THE BANNING MUNICIPAL CODE

WHEREAS, on September 26, 1995, the City Council adopted Resolution No. 11995-150 regulating shopping carts used by local retailers in accordance with Business and Professions Code Section 22435-22435.8; and

WHEREAS, on August 6, 2014, during a regularly scheduled meeting, the Planning Commission conducted a Study Session to consider complaints from the community regarding abandoned shopping carts and upon the conclusion of the Study Session, the Planning Commission provided direction to City staff to meet with the businesses and other stakeholders to solicit their comments and concerns regarding this issue and to discuss possible solutions; and

WHEREAS, on September 24, 2014, City staff held a meeting with local retail businesses and other interested parties, and it was recognized by the group that there appears to be adequate ordinances in place, but there is a lack of enforcement to address the issues related to abandoned and stolen shopping carts; and

WHEREAS, on February 4, 2014, during a regularly scheduled meeting, the Planning Commission conducted a Study Session to discuss options for revising the shopping cart regulations that meets the needs of both the community and the economic interests of those involved and to seek direction from the Planning Commission as to how to proceed with in this issue and, upon the conclusion of the Study Session, the Planning Commission provided direction to City staff to prepare an Ordinance to address the issue of abandoned shopping carts within the City; and

WHEREAS, on March 20, 2015, the City gave public notice by advertisement in the Record Gazette newspaper of a public hearing concerning proposed Ordinance No. 1486; and

WHEREAS, Ordinance No. 1486 proposes to amend Section 5.52.010 (Identification of Shopping Carts) to include new provisions, as follows:

“A. Findings and Purpose.

Abandoned shopping carts constitute a nuisance, create potential hazards to the health and safety of the public, and interfere with pedestrian and vehicular traffic within the City of Banning. The accumulation of wrecked, dismantled and
abandoned shopping carts on public or private property also tends to create conditions that reduce property values, promoting blight and deterioration in the City. The intent of this Chapter is to insure that measures are taken by store owners to prevent the removal of shopping carts from store premises and parking lots, to make the removal of shopping carts a violation of this Code, and to facilitate the retrieval of abandoned carts as permitted by State law. Further, this Chapter is intended to supplement existing State law regarding shopping carts as set forth in California Business & Professions Code, section 22435, et seq.”

“B. Enforcement of Chapter.

(a) Every cart owned or provided by any business establishment in the City of Banning must have a sign permanently affixed to it that contains the following information:

1) Identifies the owner of the cart or the name of the business establishment, or both;

2) Notifies the public of the procedure to be utilized for authorized removal of the cart from the business premises;

3) Notifies the public that the unauthorized removal of the cart from the premises or parking area of the business establishment is a violation of State and City of Banning law;

4) Lists a telephone number to contact to report the location of the abandoned cart; and

5) Lists an address for returning the cart to the owner or business establishment.

(b) Failure to comply may subject the violator to any civil, criminal, or administrative remedies as provided by law.”

“C. Prohibiting Removal or Possession of Abandoned Cart.

(a) It shall be unlawful to either temporarily or permanently remove a cart from the premises or parking area of a business establishment without the express prior written approval of the owner or on-duty manager of the business establishment. Written permission shall be valid for a period not to exceed 72 hours.

(b) It shall be unlawful to be in possession of a cart that has been removed from the premises or parking area of a business establishment unless it is in the process of being immediately returned to the owner or business establishment.
(c) This section shall not apply to carts that are removed for the purposes of repair or maintenance.

(d) Failure to comply may subject the violator of the cart to any civil, criminal, or administrative remedies as provided by law.”


Every owner shall develop and implement a specific plan to prevent customers from removing carts from the business premises ("prevention plan"). The prevention plan must include the following elements and a detailed description of how they will be implemented:

(a) Notice to Customers. Written notification shall be provided to customers that removal of carts from the premises and parking lots are prohibited and a violation of state and local law. This notice may be provided in the form of flyers, warnings on shopping bags, or any other form of written notification that will effectively notify customers of the prohibition.

(b) Signs shall be placed in pertinent places near door exits and near parking lot exits that warn customers that cart removal is prohibited and constitute a violation of state and local law.

(c) Specific physical measures shall be implemented to prevent cart removal from the business premises. These measures may include, but are not limited to, disabling devices on all carts, posting of a security guard to deter and stop customers who attempt to remove carts from the business premises, bollards and chains around business premises to prevent cart removal, security deposits required for use of all carts, or the rental or sale of carts that can be temporarily or permanently used for transport of purchases. As an alternative to implementing specific physical measures, a business shall contract with a cart retrieval service to retrieve carts removed from its business premises within a forty eight (48) hour period.

(d) If a prevention plan was in place the previous year, a report shall be submitted to the City evaluating the measures that were used and approved in the prior calendar year. The report shall include, but not be limited to, the inventory of carts owned/used by the business establishment and the number of carts that had to be replaced due to loss, theft or abandonment.”


(a) Existing Owners. The proposed prevention plan for preventing cart removal shall be submitted for approval to the City Manager or his/her designee
within thirty (30) days of receiving notice from the City that such a plan is required pursuant to this Chapter. An evaluation report shall be submitted by January 1 of each year thereafter.

(b) New Businesses and Change in Ownership. If a new business begins conducting business in the City and provides carts to its customers, the new owner shall notify the City Manager or his/her designee within thirty (30) days of opening the business to the public and submit a new prevention plan or contract with a cart retrieval service. If an existing business changes ownership, the new owner shall notify the City Manager or his/her designee within thirty (30) days of the change and submit a new prevention plan, agree to adopt the existing prevention plan on file with the City for that business or contract with a cart retrieval service. An evaluation report shall be submitted by January 1 of each year thereafter.

(c) Approval. Within thirty (30) days of receipt of the prevention plan, the owner shall be notified whether the prevention plan is approved. If the plan is not approved, the notice shall state its reasons and provide recommendations to the owner to ensure plan approval. The owner shall submit a new prevention plan within fifteen (15) days of receiving this notice. Once a prevention plan is approved, the proposed measures shall be implemented by no later than thirty (30) days after City approval is given. If an evaluation report is submitted, the prevention measures shall be continued until and unless the City indicates that a measure(s) needs to be modified. Unless otherwise agreed, any modifications to the plan imposed by the City shall be implemented within thirty (30) days after the City notifies the owner of the needed modifications.

(d) Revocation. If more than sixty (60) carts are retrieved by the City within a six (6) month period, the owner’s prevention plan will be revoked upon notification by the City and the owner will be required to submit a new prevention plan to the City Manager. Any owner failing to implement the new prevention plan within thirty (30) days of approval shall be subject to penalties under this Chapter.”

WHEREAS, Ordinance No. 1486 proposes to amend Section 5.52.020 (Recovery of Shopping Carts by City Forces), as follows:

“A. On and after the effective date hereof, any shopping cart, as defined herein, may be removed from the public right-of-way or public property of the city by any employee of the City of Banning upon actual or constructive notice to the owner that the shopping cart has been in such right-of-way for a period of twenty-four hours. Any shopping cart so removed shall be taken by the employee to the city yard. Such shopping cart shall remain there until claimed by the owner or the owner’s authorized agent. Any cart remaining in the city yard for ninety-one days
or more shall be disposed of as lost property. The provisions of this Chapter shall be enforced by any enforcement personnel. To the extent otherwise permitted by law, said enforcement personnel may enter onto any public or private property in the City to retrieve, remove, store, and dispose of any lost, stolen, or abandoned shopping cart, or any part thereof. Any act authorized to be performed by the City of Banning pursuant to any provision of this Chapter may be performed by any enforcement personnel. Any enforcement personnel are authorized to issue an administrative citation upon any owner whom they have reasonable cause to believe has violated any provision of this Chapter.”

WHEREAS, Ordinance No. 1486 proposes to include a new Section 5.52.040 (Administrative Costs and Fines), as follows:

“Pursuant to Business and Professions Code Section 22435.7, any owner that fails to retrieve its abandoned cart(s) within three (3) days of receiving actual notice from the City, shall pay the City’s administrative costs for retrieving the cart(s) and providing the notification to the owner as may be established by resolution of the City Council. Any owner who fails to retrieve abandoned carts in accordance with this Chapter in excess of three times during a specified six month period, shall be subject to a $50.00 fine for each occurrence. An occurrence includes all carts owned by the owner that are impounded by the City in a one-day period.”

WHEREAS, Ordinance No. 1486 proposes to include a new Section 5.52.050 (Penalties for Failing to Submit a Prevention or Evaluation Report or to Implement Prevention Measures), as follows:

“Any owner that fails to submit a prevention plan, implement the proposed plan measures, or implement any required modifications to the plan by the City within the time frames specified in this Chapter shall be required to place disabling devices on all carts owned/leased/used by the business to prevent removal of carts from the business premises and parking lots. Any owner that fails to submit an evaluation report or prevention plan by January 1 of each year or fails to place a disabling device on all carts, if applicable, shall be subject to a $1,000.00 civil penalty, plus an additional penalty of $50.00 for each day of non-compliance.”

WHEREAS, Ordinance No. 1486 proposes to include a new Section 5.52.060 (Notification for Retrieval of Abandoned Shopping Carts), as follows:

“Pursuant to Business and Professions Code Section 22435.7, the City shall notify the owner of any abandoned carts owned or used by the business establishment that have been located within the City of Banning, if the City intends to impound the cart(s) pursuant to Section 22435.7. The owner shall have three (3) days from the date the notification is given, to retrieve the carts from the City.”

WHEREAS, Ordinance No. 1486 proposes to include a new Section 5.52.070 (Disposition of Shopping Carts After Thirty Days), as follows:
“According to State Law, any cart not reclaimed from the City within thirty (30) days after notification to the owner shall be sold or otherwise disposed of by the City. Any cart that fails to have the identification required by State Law or this Chapter may be sold or otherwise immediately disposed of at the discretion of the City.”

WHEREAS, Ordinance No. 1486 proposes to include a new Section 5.52.080 (Businesses Without Shopping Carts), as follows:

“A business which does not own, rent, lease, or otherwise possess its own carts, but which receives a benefit by the use of carts owned by other businesses, merchants, grocers, or other similar establishments, shall provide a location upon its premises for the storage of carts and shall immediately contact a cart retrieval service to retrieve any carts that are left on the premises. This section specifically applies to recycling centers.”

WHEREAS, on April 1, 2015, the Planning Commission held the noticed public hearing at which time interested persons had an opportunity to testify in support of, or opposition to, the proposed ordinance and at which the Planning Commission considered Ordinance No. 1486.

NOW THEREFORE, the Planning Commission of the City of Banning does hereby resolve, determine, find, and order as follows:

SECTION 1. PLANNING COMMISSION ACTION.

The Planning Commission hereby takes the following action:

Adoption of Planning Commission Resolution No. 2015-06:

1. Recommending to the City Council the adoption of Ordinance No. 1486.
PASSED, APPROVED AND ADOPTED this 1\textsuperscript{st} day of April 2015.

Kevin Siva, Chairman
Banning Planning Commission

APPROVED AS TO FORM
AND LEGAL CONTENT:

__________________________
Lona N. Laymon
Aleshire & Wynder, LLP
Assistant City Attorney
City of Banning, California

ATTEST:

__________________________
Sandra Calderon, Recording Secretary
City of Banning, California
CERTIFICATION:

I, Sandra Calderon, Recording Secretary of the Planning Commission of the City of Banning, California, do hereby certify that the foregoing Resolution, No. 2015-06, was duly adopted by the Planning Commission of the City of Banning, California, at a regular meeting thereof held on the 1st day of April 2015, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

_________________________________
Sandra Calderon, Recording Secretary
City of Banning, California
ATTACHMENT 2
Draft Ordinance No. 1486
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA REPEALING THE EXISTING PROVISIONS OF CHAPTER 5.52 (SHOPPING CARTS) OF TITLE 5 (BUSINESS LICENSES AND REGULATIONS) OF THE BANNING MUNICIPAL CODE AND APPROVING NEW PROVISIONS FOR CHAPTER 5.52 (SHOPPING CARTS) OF TITLE 5 (BUSINESS LICENSES AND REGULATIONS) OF THE BANNING MUNICIPAL CODE

WHEREAS, on September 26, 1995, the City Council adopted Resolution No. 11995-150 regulating shopping carts used by local retailers in accordance with Business and Professions Code Section 22435-22435.8; and

WHEREAS, on August 6, 2014, during a regularly scheduled meeting, the Planning Commission conducted a Study Session to consider complaints from the community regarding abandoned shopping carts and upon the conclusion of the Study Session, the Planning Commission provided direction to City staff to meet with the businesses and other stakeholders to solicit their comments and concerns regarding this issue and to discuss possible solutions; and

WHEREAS, on September 24, 2014, City staff held a meeting with local retail businesses and other interested parties, and it was recognized by the group that there appears to be adequate ordinances in place, but there is a lack of enforcement to address the issues related to abandoned and stolen shopping carts; and

WHEREAS, on February 4, 2014, during a regularly scheduled meeting, the Planning Commission conducted a Study Session to discuss options for revising the shopping cart regulations that meets the needs of both the community and the economic interests of those involved and to seek direction from the Planning Commission as to how to proceed with this issue and, upon the conclusion of the Study Session, the Planning Commission provided direction to City staff to prepare an Ordinance to address the issue of abandoned shopping carts within the City; and

WHEREAS, the City Council has authority pursuant to Section 1.04.040 (Amendatory Ordinances) of the City of Banning Municipal Code and California Government Code §50020 to approve, approve with modifications, or disapprove amendments to the Municipal Code; and

WHEREAS, on __________, 2015, during a duly advertised public hearing, the Planning Commission adopted Resolution No. 2015-06 recommending to the City Council the adoption of Ordinance No. 1486; and

WHEREAS, on the _____ day of __________, 2015, the City gave public notice by advertising in the Record Gazette newspaper of the holding of a public hearing at which Ordinance No. 1486 would be considered; and
WHEREAS, on the _____ day of ___________, 2015, the City Council held the noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to the proposed ordinance, and at which time the City Council considered Ordinance No. 1486; and

WHEREAS, at this public hearing on the _____ day of ___________, 2015, the City Council considered and heard public comments on the proposed ordinance; and

WHEREAS, the City Council has carefully considered all pertinent documents and the staff report offered in this case as presented at the public hearing held on the _____ day of ___________, 2015.

NOW THEREFORE, BE IT HEREBY ORDAINED by the City Council of the City of Banning as follows:

SECTION 1. CITY COUNCIL ACTION.

The City Council hereby takes the following actions:

1. Approve Ordinance No. 1486. Approve Ordinance No. 1486 repealing the existing provisions of Chapter 5.52 (Shopping Carts) of Title 5 (Business Licenses and Regulations) of the Banning Municipal Code and adopting new provisions for Chapter 5.52 (Shopping Carts) of the Banning Municipal Code, as follows:

5.52.010 - Identification of Shopping Carts.

A. Findings and Purpose.

Abandoned shopping carts constitute a nuisance, create potential hazards to the health and safety of the public, and interfere with pedestrian and vehicular traffic within the City of Banning. The accumulation of wrecked, dismantled and abandoned shopping carts on public or private property also tends to create conditions that reduce property values, promoting blight and deterioration in the City. The intent of this Chapter is to insure that measures are taken by store owners to prevent the removal of shopping carts from store premises and parking lots, to make the removal of shopping carts a violation of this Code, and to facilitate the retrieval of abandoned carts as permitted by State law. Further, this Chapter is intended to supplement existing State law regarding shopping carts as set forth in California Business & Professions Code, section 22435, et seq.

B. On and after the effective date of this section each owner of a retail establishment providing three or more shopping carts for use by the patrons of the retail establishment, and the manager or person in charge of any retail establishment which provides three or more shopping carts for use by the patrons of the retail establishment, shall permanently affix to all shopping carts under the ownership and control of such owner, manager or person in charge the notification required
under California Business and Professions Code Section 22435.1 to facilitate the enforcement of the provisions of California Business and Professions Code Section 22435 et seq.

C. The applicable provisions of California Business and Professions Code Section 22435 et seq. are as follows:

§ Sec. 22435 Definitions (as used in this Chapter):

   (a) "Shopping cart" means a basket which is mounted on wheels or a similar device generally used in a retail establishment by a customer for the purpose of transporting goods of any kind.

   (b) "Parking area" means a parking lot or other property provided by a retailer for use by a customer for parking an automobile or other vehicle.

§ 22435.1 Application; permanently affixed sign required; contents

The provisions of Section 22435.2 shall apply when a shopping cart has a sign permanently affixed to it that identifies the owner of the cart or the retailer, or both; notifies the public of the procedure to be utilized for authorized removal of the cart from the premises; notifies the public that the unauthorized removal of the cart from the premises or parking area of the retail establishment, or the unauthorized possession of the cart, is a violation of state law; and lists a telephone number or address for returning the cart removed from the premises or parking area to the owner or retailer.

§ 22435.2 Unlawful acts

It is unlawful to do any of the following acts if a shopping cart has a permanently affixed sign as provided in Section 22435.1:

   (a) To remove a shopping cart from the premises or parking area of a retail establishment with the intent to temporarily or permanently deprive the owner or retailer of possession of the cart.

   (b) To be in possession of any shopping cart that has been removed from the premises or the parking area of a retail establishment, with the intent to temporarily or permanently deprive the owner or retailer of possession of the cart.

   (c) To be in possession of any shopping cart with serial numbers removed, obliterated, or altered, with the intent to temporarily or permanently deprive the owner or retailer of possession of the cart.
(d) To leave or abandon a shopping cart at a location other than the premises or parking area of the retail establishment with the intent to temporarily or permanently deprive the owner or retailer of possession of the cart.

(e) To alter, convert, or tamper with a shopping cart, or to remove any part or portion thereof or to remove, obliterate or alter serial numbers on a cart, with the intent to temporarily or permanently deprive the owner or retailer of possession of the cart.

(f) To be in possession of any shopping cart while that cart is not located on the premises or parking lot of a retail establishment, with the intent to temporarily or permanently deprive the owner or retailer of possession of the cart.

§ 22435.3 Violations; misdemeanor; application of other laws

Any person who violates any of the provisions of this chapter is guilty of a misdemeanor. The provisions of this section are not intended to preclude the application of any other laws relating to prosecution for theft.

§ 22435.4 Consent from owner

This chapter shall not apply to the owner of a shopping cart, or to a retailer, or to their agents or employees, or to a customer of a retail establishment who has written consent from the owner of a shopping cart or laundry cart or a retailer to be in possession of the shopping cart or laundry cart or to remove the shopping cart or laundry cart from the premises or the parking area of the retail establishment, or to do any of the acts specified in Section 22435.2.

§ 22435.5 Presumption and interference; ownership of carts

(a) In any criminal proceeding, it may be inferred that any shopping cart which has a sign affixed to it pursuant to Section 22435.1 is the property of the person or business named in the sign and has not been abandoned by the person or business named in the sign.

D. Enforcement of Chapter.

(a) Every cart owned or provided by any business establishment in the City of Banning must have a sign permanently affixed to it that contains the following information:

1) Identifies the owner of the cart or the name of the business establishment, or both;
2) Notifies the public of the procedure to be utilized for authorized removal of the cart from the business premises;

3) Notifies the public that the unauthorized removal of the cart from the premises or parking area of the business establishment is a violation of State and City of Banning law;

4) Lists a telephone number to contact to report the location of the abandoned cart; and

5) Lists an address for returning the cart to the owner or business establishment.

(b) Failure to comply may subject the violator to any civil, criminal, or administrative remedies as provided by law.

E. Prohibiting Removal or Possession of Abandoned Shopping Carts.

(a) It shall be unlawful to either temporarily or permanently remove a cart from the premises or parking area of a business establishment without the express prior written approval of the owner or on-duty manager of the business establishment. Written permission shall be valid for a period not to exceed 72 hours.

(b) It shall be unlawful to be in possession of a cart that has been removed from the premises or parking area of a business establishment unless it is in the process of being immediately returned to the owner or business establishment.

(c) This section shall not apply to carts that are removed for the purposes of repair or maintenance.

(d) Failure to comply may subject the violator of the cart to any civil, criminal, or administrative remedies as provided by law.


Every owner shall develop and implement a specific plan to prevent customers from removing carts from the business premises ("prevention plan"). The prevention plan must include the following elements and a detailed description of how they will be implemented:

(a) Notice to Customers. Written notification shall be provided to customers that removal of carts from the premises and parking lots are prohibited and a violation of state and local law. This notice may be provided in the form of
flyers, warnings on shopping bags, or any other form of written notification that will effectively notify customers of the prohibition.

(b) Signs shall be placed in pertinent places near door exits and near parking lot exits that warn customers that cart removal is prohibited and constitute a violation of state and local law.

(c) Specific physical measures shall be implemented to prevent cart removal from the business premises. These measures may include, but are not limited to, disabling devices on all carts, posting of a security guard to deter and stop customers who attempt to remove carts from the business premises, bollards and chains around business premises to prevent cart removal, security deposits required for use of all carts, or the rental or sale of carts that can be temporarily or permanently used for transport of purchases. As an alternative to implementing specific physical measures, a business shall contract with a cart retrieval service to retrieve carts removed from its premises within a forty eight (48) hour period.

(d) If a prevention plan was in place the previous year, a report shall be submitted to the City evaluating the measures that were used and approved in the prior calendar year. The report shall include, but not be limited to, the inventory of carts owned/used by the business establishment and the number of carts that had to be replaced due to loss, theft or abandonment.


(a) Existing Owners. The proposed prevention plan for preventing cart removal shall be submitted for approval to the City Manager or his/her designee within thirty (30) days of receiving notice from the City that such a plan is required pursuant to this Chapter. An evaluation report shall be submitted by January 1 of each year thereafter.

(b) New Businesses and Change in Ownership. If a new business begins conducting business in the City and provides carts to its customers, the new owner shall notify the City Manager or his/her designee within thirty (30) days of opening the business to the public and submit a new prevention plan or contract with a cart retrieval service. If an existing business changes ownership, the new owner shall notify the City Manager or his/her designee within thirty (30) days of the change and submit a new prevention plan, agree to adopt the existing prevention plan on file with the City for that business or contract with a cart retrieval service. An evaluation report shall be submitted by January 1 of each year thereafter.
(c) Approval. Within thirty (30) days of receipt of the prevention plan, the owner shall be notified whether the prevention plan is approved. If the plan is not approved, the notice shall state its reasons and provide recommendations to the owner to ensure plan approval. The owner shall submit a new prevention plan within fifteen (15) days of receiving this notice. Once a prevention plan is approved, the proposed measures shall be implemented by no later than thirty (30) days after City approval is given. If an evaluation report is submitted, the prevention measures shall be continued until and unless the City indicates that a measure(s) needs to be modified. Unless otherwise agreed, any modifications to the plan imposed by the City shall be implemented within thirty (30) days after the City notifies the owner of the needed modifications.

(d) Revocation. If more than sixty (60) carts are retrieved by the City within a six (6) month period, the owner’s prevention plan will be revoked upon notification by the City and the owner will be required to submit a new prevention plan to the City Manager. Any owner failing to implement the new prevention plan within thirty (30) days of approval shall be subject to penalties under this Chapter.

5.52.020 - Recovery of Shopping Carts by City Forces.

A. To the extent otherwise permitted by law, said enforcement personnel may enter onto any public or private property in the City to retrieve, remove, store, and dispose of any lost, stolen, or abandoned shopping cart, or any part thereof. Any act authorized to be performed by the City of Banning pursuant to any provision of this Chapter may be performed by any enforcement personnel. Any enforcement personnel are authorized to issue an administrative citation upon any owner whom they have reasonable cause to believe has violated any provision of this Chapter.

B. Before return of the shopping cart to the owner or the owner's agent, such person shall pay to the City of Banning a fee for the recovery and storage of each such shopping cart. The fee shall be in an amount set by resolution of the city council.

5.52.030 - Penalty.

Any owner of a retail establishment providing three or more shopping carts for use by the patrons of the retail establishment, and each manager or person in charge of any retail establishment which provides three or more shopping carts for use by the patrons of the retail establishment, who does not affix and maintain on each shopping cart under their ownership and control the notification specified in California Business and Professions Code Section 22435.1 as set forth herein or as it may be subsequently amended, shall be guilty of a violation hereof. The punishment for such violation shall be as follows:
A. A first violation shall constitute an infraction punishable by a fine not to exceed fifty dollars.

B. A second violation shall constitute an infraction punishable by a fine not to exceed one hundred dollars.

C. A third violation shall constitute an infraction punishable by a fine not to exceed two hundred fifty dollars.

D. A fourth violation shall constitute a misdemeanor punishable by a fine, not to exceed one thousand dollars or six months in jail or both.

E. Each day that each shopping cart shall remain without the notice described in Section 5.52.010 shall constitute a separate violation.

5.52.040 - Administrative Costs and Fines.

Pursuant to Business and Professions Code Section 22435.7, any owner that fails to retrieve its abandoned cart(s) within three (3) days of receiving actual notice from the City, shall pay the City's administrative costs for retrieving the cart(s) and providing the notification to the owner as may be established by resolution of the City Council. Any owner who fails to retrieve abandoned carts in accordance with this Chapter in excess of three times during a specified six month period, shall be subject to a $50.00 fine for each occurrence. An occurrence includes all carts owned by the owner that are impounded by the City in a one-day period.

5.52.050 - Penalties for Failing to Submit a Prevention Plan or Evaluation Report or to Implement Prevention Measures.

Any owner that fails to submit a prevention plan, implement the proposed plan measures, or implement any required modifications to the plan by the City within the time frames specified in this Chapter shall be required to place disabling devices on all carts owned/leased/used by the business to prevent removal of carts from the business premises and parking lots. Any owner that fails to submit an evaluation report or prevention plan by January 1 of each year or fails to place a disabling device on all carts, if applicable, shall be subject to a $1,000.00 civil penalty, plus an additional penalty of $50.00 for each day of non-compliance.

5.52.060 - Notification for Retrieval of Abandoned Shopping Carts.

Pursuant to Business and Professions Code Section 22435.7, the City shall notify the owner of any abandoned carts owned or used by the business establishment that have been located within the City of Banning, if the City intends to impound the cart(s)
pursuant to Section 22435.7. The owner shall have three (3) days from the date the notification is given, to retrieve the carts from the City.

5.52.070 - Disposition of Shopping Carts After Thirty Days.

According to State Law, any cart not reclaimed from the City within thirty (30) days after notification to the owner shall be sold or otherwise disposed of by the City. Any cart that fails to have the identification required by State Law or this Chapter may be sold or otherwise immediately disposed of at the discretion of the City.

5.52.080 - Businesses Without Shopping Carts.

A business which does not own, rent, lease, or otherwise possess its own carts, but which receives a benefit by the use of carts owned by other businesses, merchants, grocers, or other similar establishments, shall provide a location upon its premises for the storage of carts and shall immediately contact a cart retrieval service to retrieve any carts that are left on the premises. This section specifically applies to recycling centers.

SECTION 2. SEVERABILITY.

If any section, subsection, sentence, clause, or portion of this ordinance is, for any reason, held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this ordinance. The City Council of the City of Banning hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections sentences, clauses, phrases, or portions thereof may be declared invalid or unconstitutional.

SECTION 3. PUBLICATION; EFFECTIVE DATE.

The City Clerk shall certify to the passage and adoption of this ordinance, and shall make a minute of the passage and adoption thereof in the records of and the proceedings of the City Council at which the same is passed and adopted. This ordinance shall be in full force and effect thirty (30) days after its final passage and adoption, and within fifteen (15) days after its final passage, the City Clerk shall cause it to be published in a newspaper of general circulation and shall post the same at City Hall, 99 E. Ramsey Street, Banning, California.
PASSED, APPROVED, AND ADOPTED this ___ day of __________, 2015.

Deborah Franklin, Mayor
City of Banning

APPROVED AS TO FORM AND LEGAL CONTENT:

David J. Aleshire, City Attorney
Aleshire & Wynder, LLP

ATTEST:

Marie A. Calderon, City Clerk
City of Banning, California
CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that Ordinance No. 1486 was duly introduced at a regular meeting of the City Council of the City of Banning, held on the ______ day of ____________________ 2015, and was duly adopted at a regular meeting of said City Council on the ______ day of ____________________, 2015, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

______________________________
Marie A. Calderon, City Clerk
City of Banning, California
ATTACHMENT 3
Chapter 5.52 (Shopping Carts)
Chapter 5.52 - SHOPPING CARTS

Sections:

5.52.010 - Identification of shopping carts.
A. On and after the effective date of this section each owner of a retail establishment providing three or more shopping carts for use by the patrons of the retail establishment, and the manager or person in charge of any retail establishment which provides three or more shopping carts for use by the patrons of the retail establishment, shall permanently affix to all shopping carts under the ownership and control of such owner, manager or person in charge the notification required under California Business and Professions Code Section 22435.1 to facilitate the enforcement of the provisions of California Business and Professions Code Section 22435 et seq.
B. The applicable provisions of California Business and Professions Code Section 22435 et seq. are as follows:

§ Sec. 22435 Definitions

As used in this chapter:

(a) "Shopping cart" means a basket which is mounted on wheels or a similar device generally used in a retail establishment by a customer for the purpose of transporting goods of any kind.

(b) (Omitted)

(c) "Parking area" means a parking lot or other property provided by a retailer for use by a customer for parking an automobile or other vehicle.

§ 22435.1 Application; permanently affixed sign required; contents

The provisions of Section 22435.2 shall apply when a shopping cart... has a sign permanently affixed to it that identifies the owner of the cart or the retailer, or both; notifies the public of the procedure to be utilized for authorized removal of the cart from the premises; notifies the public that the unauthorized removal of the cart from the premises or parking area of the retail establishment, or the unauthorized possession of the cart, is a violation of state law; and lists a telephone number or address for returning the cart removed from the premises or parking area to the owner or retailer.

§ 22435.2 Unlawful acts

It is unlawful to do any of the following acts if a shopping cart... has a permanently affixed sign as provided in Section 22435.1:

(a) To remove a shopping cart from the premises or parking area of a retail establishment with the intent to temporarily or permanently deprive the owner or retailer of possession of the cart.

(b) To be in possession of any shopping cart that has been removed from the premises or the parking area of a retail establishment, with the intent to temporarily or permanently deprive the owner or retailer of possession of the cart.
(c) To be in possession of any shopping cart with serial numbers removed, obliterated, or altered, with the intent to temporarily or permanently deprive the owner or retailer of possession of the cart.

(d) To leave or abandon a shopping cart at a location other than the premises or parking area of the retail establishment with the intent to temporarily or permanently deprive the owner or retailer of possession of the cart.

(e) To alter, convert, or tamper with a shopping cart, or to remove any part or portion thereof or to remove, obliterate or alter serial numbers on a cart, with the intent to temporarily or permanently deprive the owner or retailer of possession of the cart.

(f) To be in possession of any shopping cart while that cart is not located on the premises or parking lot of a retail establishment, with the intent to temporarily or permanently deprive the owner or retailer of possession of the cart.

§ 22435.3 Violations; misdemeanor; application of other laws

Any person who violates any of the provisions of this chapter is guilty of a misdemeanor. The provisions of this section are not intended to preclude the application of any other laws relating to prosecution for theft.

§ 22435.4 Consent from owner

This chapter shall not apply to the owner of a shopping cart, or to a retailer, or to their agents or employees, or to a customer of a retail establishment who has written consent from the owner of a shopping cart or laundry cart or a retailer to be in possession of the shopping cart or laundry cart or to remove the shopping cart or laundry cart from the premises or the parking area of the retail establishment, or to do any of the acts specified in Section 22435.2.

§ 22435.5 Presumption and interference; ownership of carts

(a) (Omitted)

(b) In any criminal proceeding, it may be inferred that any shopping cart which has a sign affixed to it pursuant to Section 22435.1 is the property of the person or business named in the sign and has not been abandoned by the person or business named in the sign.

(Code 1965, § 11C-60.)

5.52.020 - Recovery of shopping carts by city forces.
A. On and after the effective date hereof, any shopping cart, as defined herein, may be removed from the public right-of-way or public property of the city by any employee of the City of Banning upon actual or constructive notice to the owner that the shopping cart has been in such right-of-way for a period of twenty-four hours. Any shopping cart so removed shall be taken by the employee to the city yard. Such shopping cart shall remain there until claimed by the owner or the owner's authorized agent. Any cart remaining in the city yard for ninety-one days or more shall be disposed of as lost property.

B. Before return of the shopping cart to the owner or the owner's agent, such person shall pay to the City of Banning a fee for the recovery and storage of each such shopping cart. The fee shall be in an amount set by resolution of the city council.
(Code 1965, § 11C-62.)

5.52.030 - Penalty.

Any owner of a retail establishment providing three or more shopping carts for use by the patrons of the retail establishment, and each manager or person in charge of any retail establishment which provides three or more shopping carts for use by the patrons of the retail establishment, who does not affix and maintain on each shopping cart under their ownership and control the notification specified In California Business and Professions Code Section 22435.1 as set forth herein or as it may be subsequently amended, shall be guilty of a violation hereof. The punishment for such violation shall be as follows:

A. A first violation shall constitute an infraction punishable by a fine not to exceed fifty dollars.
B. A second violation shall constitute an infraction punishable by a fine not to exceed one hundred dollars.
C. A third violation shall constitute an infraction punishable by a fine not to exceed two hundred fifty dollars.
D. A fourth violation shall constitute a misdemeanor punishable by a fine, not to exceed one thousand dollars or six months in jail or both.
E. Each day that each shopping cart shall remain without the notice described in Section 5.52.010 shall constitute a separate violation.

(Code 1965, § 11C-61.)
ATTACHMENT 4
Public Hearing Notice
I am a citizen of the United States and a resident of the State of California; I am over the age of eighteen years, and not a party to or interested in the above matter. I am the principal clerk of the printer and publisher of Record Gazette, a newspaper published in the English language in the City of Banning, County of Riverside, and adjudicated a newspaper of general circulation as defined by the laws of the state of California by the Superior Court of the County of Riverside, under the date October 14, 1966, Case No. 54737. That the notice, of which the annexed is a copy, has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to-wit:

March 20, 2015

NOTICE OF PUBLIC HEARING FOR
ORDINANCE NO. 1486 REGARDING CHAPTER 5.52 (SHOPPING CARTS) OF TITLE 5
(BUSINESS LICENSE)
AND REGULATIONS) OF THE CITY OF BANNING MUNICIPAL CODE
NOTICE IS HEREBY GIVEN of a public hearing before the City of Banning Planning Commission, to be held on Wednesday, April 1, 2015, at 8:30 p.m. In the Council Chambers, City Hall, 99 East Ramona Street, Banning, California, to consider a proposal by the City of Banning to amend Chapter 5.52 of the City of Banning Municipal Code regarding the regulations for shopping carts. Information regarding Ordinance No. 1486 can be obtained by contacting the City’s Community Development Department at (951) 322-3125, or by visiting the City Hall located at 99 East Ramona Street, Banning. You may also go to the City of Banning website at http://www.ci.banning.ca.us/. All parties interested in speaking either in support of or in opposition of this item are invited to attend said hearing, or to send their written comments to the Community Development Department, City of Banning, P.O. Box 988, Banning, California, 92220. If you challenge any hearing regarding the above proposal in court, you may be limited to raising only those issues you or someone else raised in written correspondence delivered to the City Clerk at, or prior to, the time the City Council makes its decision on the proposal; or, you or someone else raised at the public hearing or in written correspondence delivered to the hearing body at, or prior to, the hearing (California Government Code, Section 65038).

BY ORDER OF THE ACTING COMMUNITY DEVELOPMENT DIRECTOR OF THE CITY OF
BANNING, CALIFORNIA

Brian Gillott
Acting Community Development Director
Dated: March 18, 2015
Published: March 20, 2015
Published in
The Record Gazette
No. 115932
03/20, 2015

Executed on: 03/20/2015
At Banning, CA

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

[Signature]
DATE: April 1, 2015
TO: Planning Commission
FROM: Brian Guillot, Acting Community Development Director

SUBJECT: DESIGN REVIEW NO. 13-7002, AMENDMENT NO. 1 FOR A PROPOSED 81 UNIT HOTEL, FAST FOOD RESTAURANT WITH DRIVE-THRU, AND DELI CAFÉ WITHIN THE GENERAL COMMERCIAL (GC) ZONING DISTRICT (APN 541-150-020)

RECOMMENDATION:

Staff recommends that the Planning Commission adopt Resolution No. 2015-07 (Attachment 1):

I. Adopting a Previous Environmental Determination (Initial Study/Negative Declaration) for Design Review No. 13-7002, Amendment No. 1; and

II. Approving Design Review No. 13-7002, Amendment No. 1.

APPLICANT INFORMATION:

Project Location: 775 E. Ramsey Street
APN Information: 541-150-020

Project Applicant: Joseph Karaki – Western States Engineering, Inc.
4887 E La Palma Street, Suite 707
Anaheim, CA 92807

Property Owner: Pacific Banning Inc., a California corporation
Yin Feng Wei, Agent
2438 San Gabriel Blvd., Suite C
Rosemead, CA 91770
**BACKGROUND:**

On October 1, 2014, the Planning Commission adopted Resolution No. 2014-12 (Attachment 3) adopting an Initial Study/Negative Declaration and approving Conditional Use Permit No. 13-8004 and Design Review No. 13-7002 to allow the development of a 2.66 acre parcel with an 81-unit hotel containing approximately 57,209 square feet; a fast food restaurant with a drive thru containing approximately 2,800 square feet; and, a deli café containing approximately 1,200 square feet.

As previously approved by the Planning Commission, the basic building architectural types consisted of simple mission themes (Attachment 4). The textures used for the building finishes included stucco enhanced with stone veneers. The finish/paint colors were described as brown and tan earth tones. Additional architectural detail was provided with decorative corbels, a cornice with a metal cap along the roof line, and mosaic tiles around the pool area walls and planters. Wall articulation was accomplished at the tower elements along the building elevations, which provided a significant desirable shadow effect. Second and third floor false patio decks were decorated with wrought iron handrails. The roof plane changed at intervals and provided articulation for the building mass. The roofing material was clay tile.

**DISCUSSION:**

Pursuant to Section 17.12.150 (Architectural Design Guidelines) of the City’s Zoning Ordinance, the design and architecture of new development in the General Commercial zoning district shall be consistent with the Design Guidelines of the zoning ordinance. Desirable elements of the design include significant texture for building surfaces, wall articulation, insets, canopies, wing walls, trellises, multi-planed, pitched roofs, roof overhangs, arcades and covered walkways, regular window distribution, articulated mass and bulk, significant landscape and hardscape elements, clearly identifiable access driveways, convenient and accessible parking, landscaped and screened parking, unified and complementary signage.

The project was previously designed with a “Mediterranean” architectural design. However, the La Quinta Hotel chain recently completed a comprehensive analysis of the local area, and concluded that a “contemporary” architectural design will appeal to a broader clientele versus the older traditional design that they have been utilizing over the course of the past several years. Therefore, the applicant has submitted an application for an amendment to the Design Review approval so that the Planning Commission may consider the new architectural design for the proposed project.

The “contemporary” architectural design is highlighted by the prominent tower at the entrance of the hotel building which utilizes a European “neolith” material of fiberglass reinforced panels with an “iron corten” (reddish brown) finish. This “neolith” material will also be utilized to accent the architectural elements of the hotel building, fast food restaurant and deli café. The remaining portions of the buildings will be colored stucco with a variety of gray and white toned finishes. Wall articulation will be accomplished with the corner tower elements and arches along the building elevations that provide a significant desirable shadow effect. The varying building heights provide an articulation for the building mass.
ENVIRONMENTAL DETERMINATION:

California Environmental Quality Act (CEQA)
The California Environmental Quality Act (CEQA) Guidelines Sections 15162 and 15164 set forth the criteria for determining the appropriate additional environmental documentation, if any, to be completed when there is a previously adopted Negative Declaration for the project. CEQA Guidelines, Section 15162(a) and 15164(b) state that when a Negative Declaration has been adopted for a project, no subsequent Negative Declaration shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in light of the whole public record, one or more of the following:

1. Substantial changes are proposed in the project which will require major revisions of the previous Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.

2. Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.

3. New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous Negative Declaration was adopted, shows any of the following:
   a. The project will have one or more significant effects not discussed in the previous Negative Declaration; or
   b. Significant effects previously examined will be substantially more severe than shown in the previously adopted Negative Declaration; or
   c. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
   d. Mitigation measures or alternatives which are considerably different from those analyzed in the previous Negative Declaration would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

CEQA Guidelines, Section 15164(b) states that an Addendum to a previously adopted Negative Declaration may be prepared if only minor technical changes or additions are necessary. If the factors listed in CEQA Guidelines Sections 15162 or 15164 have not occurred or are not met, no changes to the previously adopted Negative Declaration are necessary.
On October 1, 2014, the Planning Commission adopted Resolution No. 2014-14 adopted an Initial Study/Negative Declaration, in accordance with Public Resources Code Section 21152(a) and CEQA Guidelines Section 15063(b)(2), for Design Review No. 13-7002.

In accordance with the requirements of CEQA, staff has analyzed proposed Design Review No. 13-7002, Amendment No. 1 and has determined that, on the basis of substantial evidence in light of the whole public record and the criteria pursuant to CEQA Section 15062(a) and 15164(b), no factors listed in CEQA Guidelines Sections 15162(a) or 15164(b) have occurred. The basis of this determination is based on the fact Design Review No. 13-7002, Amendment No. 1 only involves a change in the architectural design theme of the proposed development from a “Mediterranean” architectural design to a “contemporary” architectural design which does not result in any potential environmental impacts. Thus, no changes to the previously adopted Initial Study/Negative Declaration are necessary. Therefore, the adoption of the Previous Environmental Determination (Initial Study/Negative Declaration) for Design Review No. 13-7002, Amendment No. 1 is recommended.

REQUIRED FINDINGS:

Section 17.56.050 of the City of Banning Zoning Ordinance requires that Design Review Amendments meet certain findings prior to the approval by the Planning Commission. The following findings are provided in support of the approval of the Design Review No. 13-7002, Amendment No. 1:

Finding No. 1: The proposed project is consistent with the General Plan.

Findings of Fact: The Design Review Amendment remains consistent with the General Plan Land Use Element Policy which states: “The land-use map shall provide for sufficient lands to provide a large range of products and services to the City and the region while carefully considering compatibility with adjacent residential lands.” The land-use designation of General Commercial (GC) allows hotel and restaurant uses. The proposed project will remain to be developed, as previously approved by Resolution No. 2014-12 for Conditional Use Permit No. 13-8004 and Design Review No. 13-7002, with an 81-unit hotel containing approximately 57,209 square feet; a fast food restaurant with a drive thru containing approximately 2,800 square feet; and, a deli café containing approximately 1,200 square feet, in order to provide temporary (transient) lodging and food services for the City and region. Further, the Design Review Amendment remains consistent with General Plan Economic Development Policy which states: “The City shall take a proactive role in the retention of existing businesses and the recruitment of new businesses, particularly those that generate and broaden employment opportunities, increase discretionary incomes, and contribute to City General Fund revenues.” The project will generate the need for hotel management and service worker positions, and food service management and worker positions. Transient occupancy tax revenues will also be created by the hotel operation.
Finding No. 2: The proposed project is consistent with the Zoning Ordinance, including the development standards and guidelines for the district in which it is located.


Finding No. 3: The design and layout of the proposed project will not unreasonably interfere with the use and enjoyment of neighboring existing or future development, and will not result in vehicular and/or pedestrian hazards.

Findings of Fact: The Design Review Amendment, as previously approved by Resolution No. 2014-12 for Conditional Use Permit No. 13-8004 and Design Review No. 13-7002, continues to provide site and circulation layout design in such a way that the project will not interfere with the use and enjoyment of existing and future development. Additionally, the Design Review Amendment remains consistent with Section 17.12.150 (Architectural Design Guidelines) of the Zoning Ordinance and the development standards of the General Commercial (GC) zone. The Design Review Amendment continues to provide two (2) separate vehicle access driveways, one fronting Hargrave Street and one (1) fronting Ramsey Street and Williams Street respectively, with a driveway that circulates around the buildings. The Design Review Amendment continues to provide pedestrian walks around the building. Additionally, the Design Review Amendment has been reviewed by the City Engineer and Fire Department with regard to site circulation for pedestrian and motor vehicles, and emergency access, and they have not identified any deficiencies that will result in vehicular and/or pedestrian hazards.

Finding No. 4: The design of the proposed project is compatible with the character of the surrounding neighborhood.

Findings of Fact: The Design Review Amendment, as previously approved by Resolution No. 2014-12 for Conditional Use Permit No. 13-8004 and Design Review No. 13-7002, will not impair the integrity and character of the General Commercial (GC) land use district in which it is to be located because it is surrounded by existing developments and on the Ramsey Street corridor which is a long-established commercial corridor of the City. Additionally, the Design Review Amendment remains consistent with Section 17.12.150 (Architectural Design Guidelines) of the Zoning Ordinance and the development standards of the General Commercial (GC) zone. The Design Review Amendment will continue connect to the existing roadway system and will not create any barriers that will divide the neighborhood. The building architecture and site circulation and landscaping continues to be
designed in a way that the project is compatible with the character of the surrounding neighborhood and Zoning Ordinance design guidelines as demonstrated in the staff report dated October 1, 2014. Additionally, a six (6) foot tall solid wall along with landscaping will separate the site from the legal non-conforming residential properties nearby.

PUBLIC COMMUNICATION

The proposed Design Review Amendment was advertised in the Record Gazette newspaper on March 20, 2015 (Attachment 5). As of the date of this report, staff has not received any verbal or written comments for or against the proposal.

RECOMMENDATION

Staff recommends that the Planning Commission take the following action:

Adoption of Planning Commission Resolution No. 2015-07:

1. Adopting a Previous Environmental Determination (Initial Study/Negative Declaration) for Design Review No. 13-7002, Amendment No. 1; and


Prepared By:  

[Signature]

Oliver Mujica  
Contract Planner

Reviewed By:  

[Signature]

Brian Guillot  
Acting Community Development Director

Attachments:

1. Resolution No. 2015-07
2. Proposed Architectural Design
3. Resolution No. 2014-12 (Previous Approval)
4. Previously Approved Architectural Design
5. Public Hearing Notice
ATTACHMENT 1
PC Resolution No. 2015-07
RESOLUTION NO. 2015-07

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BANNING, CALIFORNIA ADOPTING PREVIOUS ENVIRONMENTAL DETERMINATION (INITIAL STUDY/NEGATIVE DECLARATION) AND DESIGN REVIEW NO. 13-7002, AMENDMENT NO. 1 FOR AN 81 UNIT HOTEL, FAST FOOD RESTAURANT WITH DRIVE-THRU AND DELI CAFÉ ON A 2.66 ACRE PARCEL LOCATED AT 775 E. RAMSEY STREET WITHIN THE GENERAL COMMERCIAL (GC) ZONE

WHEREAS, on October 1, 2014, the Planning Commission adopted Resolution No. 2014-12 adopting an Initial Study/Negative Declaration and approving Conditional Use Permit No. 13-8004 and Design Review No. 13-7002 to allow the development of a 2.66 acre parcel with an 81-unit hotel containing approximately 57,209 square feet; a fast food restaurant with a drive-thru containing approximately 2,800 square feet; and, a deli café containing approximately 1,200 square feet; and

WHEREAS, the project was previously designed with a “Mediterranean” architectural design. However, the La Quinta Hotel chain recently completed a comprehensive analysis of the local area, and concluded that a “contemporary” architectural design will appeal to a broader clientele versus the older traditional design that they have been utilizing over the course of the past several years; and

WHEREAS, the applicant has submitted an application for an amendment to the Design Review approval so that the Planning Commission may consider the new architectural design for the proposed project, which has been duly filed by:

Project Applicant: Joseph Karaki – Western States Engineering, Inc.
4887 E La Palma Street, Suite 707
Anaheim, CA 92807
Parcel Address: 775 E. Ramsey Street
APN: 541-150-020
Lot Area: 2.66 Acres

WHEREAS, the Planning Commission has the authority to take action on Design Review No. 13-7002, Amendment No. 1, pursuant to Chapter 17.56.070 (Modifications) of the Banning Municipal Code; and

WHEREAS, in accordance with the requirements of the California Environmental Quality Act (CEQA), staff analyzed Design Review No. 13-7002, Amendment No. 1 and determined that, pursuant to CEQA Section 15062(a) and 15164(b), no factors listed in CEQA Guidelines Sections 15162(a) or 15164(b) have occurred; and, therefore, no changes to the previously adopted Initial Study/Negative Declaration are necessary; and
WHEREAS, on March 20, 2015, the City gave public notice by advertisement in the Record Gazette newspaper of a public hearing concerning Design Review No. 13-7002, Amendment No. 1. The City also mailed public hearing notices to the owners of properties that are directly affected by the Design Review Amendment and to the property owners that are located within a 300’ radius of the project boundaries; and

WHEREAS, on April 1, 2015, the Planning Commission held the noticed public hearing at which time interested persons had an opportunity to testify in support of, or opposition to, the project and at which the Planning Commission considered Design Review No. 13-7002, Amendment No. 1.

NOW THEREFORE, the Planning Commission of the City of Banning does hereby resolve, determine, find, and order as follows:

SECTION 1. ENVIRONMENTAL DETERMINATION:

California Environmental Quality Act (CEQA)
The California Environmental Quality Act (CEQA) Guidelines Sections 15162(a) and 15164(b) set forth the criteria for determining the appropriate additional environmental documentation, if any, to be completed when there is a previously adopted Negative Declaration for the project. CEQA Guidelines, Section 15162(a) and 15164(b) state that when a Negative Declaration has been adopted for a project, no subsequent Negative Declaration shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in light of the whole public record, one or more of the following:

1. Substantial changes are proposed in the project which will require major revisions of the previous Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.

2. Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.

3. New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous Negative Declaration was adopted, shows any of the following:
   a. The project will have one or more significant effects not discussed in the previous Negative Declaration; or
   b. Significant effects previously examined will be substantially more severe than shown in the previously adopted Negative Declaration; or
   c. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of

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the project, but the project proponents decline to adopt the mitigation measure or alternative; or

d. Mitigation measures or alternatives which are considerably different from those analyzed in the previous Negative Declaration would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

CEQA Guidelines, Section 15164(b) states that an Addendum to a previously adopted Negative Declaration may be prepared if only minor technical changes or additions are necessary. If the factors listed in CEQA Guidelines Sections 15162(a) or 15164(b) have not occurred or are not met, no changes to the previously adopted Negative Declaration are necessary.

On October 1, 2014, the Planning Commission adopted Resolution No. 2014-14 adopted an Initial Study/Negative Declaration, in accordance with Public Resources Code Section 21152(a) and CEQA Guidelines Section 15063(b)(2), for Design Review No. 13-7002.

In accordance with the requirements of CEQA, the Planning Commission considered Design Review No. 13-7002, Amendment No. 1 and has determined that, on the basis of substantial evidence in light of the whole public record and the criteria pursuant to CEQA Section 15062(a) and 15164(b), no factors listed in CEQA Guidelines Sections 15162(a) or 15164(b) have occurred. The basis of this determination is based on the fact Design Review No. 13-7002, Amendment No. 1 only involves a change in the architectural design theme of the proposed development from a “Mediterranean” architectural design to a “contemporary” architectural design which does not result in any potential environmental impacts. Therefore, no changes to the previously adopted Initial Study/Negative Declaration are necessary.

SECTION 2. REQUIRED FINDINGS:

Section 17.56.050 of the City of Banning Zoning Ordinance requires that Design Review Amendments meet certain findings prior to the approval by the Planning Commission. The following findings are provided in support of the approval of the Design Review No. 13-7002, Amendment No. 1:

Finding No. 1: The proposed project is consistent with the General Plan.

Findings of Fact: The Design Review Amendment remains consistent with the General Plan Land Use Element Policy which states: “The land-use map shall provide for sufficient lands to provide a large range of products and services to the City and the region while carefully considering compatibility with adjacent residential lands.” The land-use designation of General Commercial (GC) allows hotel and restaurant uses. The proposed project will remain to be developed, as previously approved by Resolution No. 2014-12 for Conditional Use Permit No. 13-8004 and Design Review No. 13-7002, with an 81-unit hotel containing approximately 57,209 square feet; a fast food restaurant with a drive thru containing approximately
2,800 square feet; and, a deli café containing approximately 1,200 square feet, in order to provide temporary (transient) lodging and food services for the City and region. Further, the Design Review Amendment remains consistent with General Plan Economic Development Policy which states: “The City shall take a proactive role in the retention of existing businesses and the recruitment of new businesses, particularly those that generate and broaden employment opportunities, increase discretionary incomes, and contribute to City General Fund revenues.” The project will generate the need for hotel management and service worker positions, and food service management and worker positions. Transient occupancy tax revenues will also be created by the hotel operation.

**Finding No. 2:** The proposed project is consistent with the Zoning Ordinance, including the development standards and guidelines for the district in which it is located.

**Findings of Fact:** The Design Review Amendment remains consistent with Section 17.12.150 (Architectural Design Guidelines) of the Zoning Ordinance and the development standards of the General Commercial (GC) zone, as previously approved by Resolution No. 2014-12 for Conditional Use Permit No. 13-8004 and Design Review No. 13-7002.

**Finding No. 3:** The design and layout of the proposed project will not unreasonably interfere with the use and enjoyment of neighboring existing or future development, and will not result in vehicular and/or pedestrian hazards.

**Findings of Fact:** The Design Review Amendment, as previously approved by Resolution No. 2014-12 for Conditional Use Permit No. 13-8004 and Design Review No. 13-7002, continues to provide site and circulation layout design in such a way that the project will not interfere with the use and enjoyment of existing and future development. Additionally, the Design Review Amendment remains consistent with Section 17.12.150 (Architectural Design Guidelines) of the Zoning Ordinance and the development standards of the General Commercial (GC) zone. The Design Review Amendment continues to provide two (2) separate vehicle access driveways, one fronting Hargrave Street and one (1) fronting Ramsey Street and Williams Street respectively, with a driveway that circulates around the buildings. The Design Review Amendment continues to provide pedestrian walks around the building. Additionally, the Design Review Amendment has been reviewed by the City Engineer and Fire Department with regard to site circulation for pedestrian and motor vehicles, and emergency access, and they have not identified any deficiencies that will result in vehicular and/or pedestrian hazards.
Finding No. 4: The design of the proposed project is compatible with the character of the surrounding neighborhood.

Findings of Fact: The Design Review Amendment, as previously approved by Resolution No. 2014-12 for Conditional Use Permit No. 13-8004 and Design Review No. 13-7002, will not impair the integrity and character of the General Commercial (GC) land use district in which it is to be located because it is surrounded by existing developments and on the Ramsey Street corridor which is a long-established commercial corridor of the City. Additionally, the Design Review Amendment remains consistent with Section 17.12.150 (Architectural Design Guidelines) of the Zoning Ordinance and the development standards of the General Commercial (GC) zone. The Design Review Amendment will continue connect to the existing roadway system and will not create any barriers that will divide the neighborhood. The building architecture and site circulation and landscaping continues to be designed in a way that the project is compatible with the character of the surrounding neighborhood and Zoning Ordinance design guidelines as demonstrated in the staff report dated October 1, 2014. Additionally, a six (6) foot tall solid wall along with landscaping will separate the site from the legal non-conforming residential properties nearby.

SECTION 3. PLANNING COMMISSION ACTION:

The Planning Commission hereby takes the following action:

1. Adoption of Planning Commission Resolution No. 2015-02:
   
   a. In accordance with Public Resources Code Section 21152(b) and CEQA Guidelines Sections 15162(a) and 15164(b) the Planning Commission hereby adopts the Previous Environmental Determination (Initial Study/Negative Declaration) and directs the Community Development Director to prepare and file with the Clerk for the County of Riverside a notice of determination as provided under Public Resources Code Section 21152(b) and CEQA Guidelines Section 15094; and
   
   b. Adopt Planning Commission Resolution No. 2015-07 approving Design Review No. 13-7002, Amendment No. 1, subject to the following Conditions of Approval:
      
      i. Compliance with the Conditions of Approval contained in Planning Commission Resolution No. 2014-12.
      
      ii. The site shall be developed and maintained in accordance with the plans stamped dated, April 1, 2015, approved by the City, which include site plan, architectural elevations, exterior materials and colors, landscaping, and grading on file in the Planning Division.
PASSED, APPROVED AND ADOPTED this 1st day of April 2015.

_________________________________
Kevin Siva, Chairman
Banning Planning Commission

APPROVED AS TO FORM
AND LEGAL CONTENT:

__________________________
Lona N. Laymon
Aleshire & Wynder, LLP
Assistant City Attorney
City of Banning, California

ATTEST:

_________________________________
Sandra Calderon, Recording Secretary
City of Banning, California
CERTIFICATION:

I, Sandra Calderon, Recording Secretary of the Planning Commission of the City of Banning, California, do hereby certify that the foregoing Resolution, No. 2015-07, was duly adopted by the Planning Commission of the City of Banning, California, at a regular meeting thereof held on the 1st day of April 2015, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

__________________________
Sandra Calderon, Recording Secretary
City of Banning, California
ATTACHMENT 2
Proposed Architectural Design
ATTACHMENT 3
Resolution No. 2014-12 (Previous Approval)
RESOLUTION NO. 2014-12

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BANNING, CALIFORNIA ADOPTING AN INITIAL STUDY/NEGATIVE DECLARATION, AND APPROVING CONDITIONAL USE PERMIT (CUP) #13-8004/DESIGN REVIEW (DR) #13-7002 FOR AN 81 UNIT HOTEL AND RESTAURANTS DEVELOPMENT PROJECT ON A 2.66 ACRE PARCEL IN THE GENERAL COMMERCIAL (GC) ZONE

WHEREAS, an application for a Conditional Use Permit and Design Review to construct a hotel and restaurants has been duly filed by:

Project Applicant:  Joseph Karaki – Western States Engineering, Inc.
4887 E La Palma Street, Suite 707
Anaheim, CA  92807

APN Number:  541-150-020 (775 E. Ramsey Street)
Lot Area:  2.66 Acres

WHEREAS, the Planning Commission has the authority per Chapter 17.52 and 17.56 of the Banning Municipal Code to take action on Conditional Use Permit #13-8004 and Design Review #13-7002 to construct the development on a 2.66 acre parcel in the General Commercial (GC) zone located north of Ramsey Street west of Hargrave Street; and

WHEREAS, an Initial Study/Negative Declaration was prepared in accordance with the California Environmental Quality Act ("CEQA"), the State CEQA Guidelines, and the City of Banning Environmental Review Guidelines. The Initial Study/Negative Declaration was made available for a 20-day public review from August 14, 2014, through September 2, 2014; and

WHEREAS, on August 8, 2014, the City gave public notice by advertisement in the Record Gazette newspaper and mailed notice to property owners within 300 feet of the site of the holding of a public hearing at which the project would be considered; and

WHEREAS, on September 3, 2014, the Planning Commission held the noticed public hearing and then continued the item at the applicants request to the October 1, 2014, Planning Commission meeting, at which time interested persons had an opportunity to testify in support of, or opposition to, Conditional Use Permit #13-8004 and Design Review #13-7002; and

WHEREAS, at this public hearing on October 1, 2014, the Planning Commission considered and heard public comments on the project and the proposed approval of Conditional Use Permit #13-8004 and Design Review #13-7002;

NOW THEREFORE, the Planning Commission of the City of Banning does hereby resolve, determine, find, and order as follows:
SECTION 1 ENVIRONMENTAL FINDINGS.

The Planning Commission, in light of the whole record before it including but not limited to the City’s local CEQA Guidelines and Thresholds of Significance, the proposed Negative Declaration and documents incorporated therein by reference, any written comments received and responses provided, and other substantial evidence (within the meaning of Public Resources Code § 21080(e) and § 21082.2) within the record and/or provided at the public hearing, hereby finds and determines as follows:

1. California Environmental Quality Act (CEQA):

   e) Review Period: That the City has provided the public review period for the Negative Declaration for the duration required under CEQA Guidelines Sections 15073 and 15105. The public review period was from August 14, 2014 to September 2, 2014.

   f) Compliance with Law: That the Negative Declaration was prepared, processed, and noticed in accordance with the California Environmental Quality Act (Public Resources Code Section 21000 et seq.), the CEQA Guidelines (14 California Code of Regulations Section 15000 et seq.) and the local CEQA Guidelines and Thresholds of Significance adopted by the City of Banning.

   g) Independent Judgment: That the Negative Declaration reflects the independent judgment and analysis of the City.

   h) No Significant Effect: That revision made to the project plans agreed to by the applicant avoid or mitigate any potential significant effects on the environment identified in the Initial Study to a point below the threshold of significance. Furthermore, after taking into consideration the revisions to the project, the Planning Commission finds that there is no substantial evidence, in light of the whole record, from which it could be fairly argued that the project may have a significant effect on the environment. Therefore, the Planning Commission concludes that the project will not have a significant effect on the environment.

2. Wildlife Resources.

Pursuant to Title 14, California Code of Regulations § 753.5(c), the Planning Commission has determined, based on consideration of the whole record before it, that there is no evidence that the proposed project will have the potential for any adverse effect on wildlife resources or the habitat upon which wildlife depends. The project site is vacant and void of vegetation and wildlife habitat. Furthermore, on the basis of substantial evidence, the Planning Commission hereby finds that any presumption of adverse impact has adequately been rebutted. Therefore, pursuant to Fish and Game Code § 711.4(c)(2)(B) and Title 14, California Code of Regulations, § 753.5(a)(3), the project is not required to pay Fish and Game Department filing fees.

3. Multiple Species Habitat Conservation Plan (MSHCP).
The project is found to be consistent with the MSHCP. The project is located outside of any MSHCP criteria area and mitigation is provided through payment of the MSHCP Mitigation Fee.

SECTION 2. REQUIRED FINDINGS FOR CONDITIONAL USE PERMIT #13-8004.

Section 17.52.050 requires that each Conditional Use Permit application meet certain findings in order to be approved by the Planning Commission. The following findings are provided for Conditional Use Permits:

Finding No. 1: The proposed project is consistent with the General Plan.

Findings of Fact: The project is consistent with the General Plan Land Use Element Policy which states: “The land-use map shall provide for sufficient lands to provide a large range of products and services to the City and the region while carefully considering compatibility with adjacent residential lands”. The land-use designation of General Commercial (GC) allows hotel and restaurant uses with the provision for additional building height subject to approval of a Conditional Use Permit by Planning Commission. The proposed project will provide a hotel building consisting of approximately 57,209 square feet; an approximately 2,800 square feet fast food restaurant with a drive through; and, a 1,200 square feet deli café all provided temporary (transient) lodging and food services for the City and region.

Further, the project is consistent with General Plan Economic Development Policy which states: “The City shall take a proactive role in the retention of existing businesses and the recruitment of new businesses, particularly those that generate and broaden employment opportunities, increase discretionary incomes, and contribute to City General Fund revenues”. The proposed project will generate the need for hotel management and service worker positions; and, food service management and worker positions. Additionally, transient occupancy tax revenues will be created by the hotel operation especially as it relates to approving the additional building height as it provides a significant portion of the available hotel rooms needed by the traveling public.

Finding No. 2: The proposed use is conditionally permitted within the subject land use district and complies with the applicable provisions of the Zoning Code.

Findings of Fact: The additional building height for the hotel building is allowed in accordance with Section 17.12.020 Permitted, conditional and prohibited uses of the Zoning Ordinance subject to approval of a Conditional Use Permit by Planning Commission. The additional building height provides a significant portion of the available hotel rooms needed by the traveling public while not adversely impacting the physical environment because the developer has agreed to set the building back at least 30 feet from the property lines. The proposed project meets the development standards as required in Table 17.12.030 of the zoning ordinance and other design guidelines as shown in this staff report dated October 1, 2014.
Finding No. 3: The proposed use would not impair the integrity and character of the land use district in which it is to be located.

Findings of Fact: The proposed use will not impair the integrity and character of the GC land use district in which it is to be located because it is surrounded by existing developments and the Project is located in an urban environment that has been developed since the early part of the 20th century. Banning Municipal Airport is located across Interstate 10 and to the southeast of the project site. Located to the west are a few legal non-conforming single-family/multi-family dwellings. Located to the east and across Hargrave Street is a parking lot serving an office facility, and vacant parcels of land. Located to the south and across Ramsey Street is gas station within the General Commercial zoning district.

All surrounding land uses are located within the General Commercial or Business Park district. This urban area of the City is connected by Ramsey Street to the south, Williams Street to the North and Hargrave Street to the east. The project will connect to the existing roadway system and will not create any barriers that will divide the neighborhood. The building architecture and site circulation and landscaping have been designed in a way that the project is compatible with the character of the surrounding neighborhood. Additionally, a 6 foot tall solid wall along with landscaping will separate the site from the legal non-conforming residential properties nearby.

Finding No. 4: The subject site is physically suitable for the type and intensity of land use being proposed.

Findings of Fact: The subject site is basically flat with a gentle slope to the southeast, and is surrounded by developed roadways providing suitable access (Ramsey Street, Hargrave Street, and Williams Street). The 2.66 acre land area is of adequate size to accommodate the proposed use including building area, parking area, site circulation, and landscaping with conditions as shown in the staff report dated October 1, 2014.

Furthermore, the review of the project by the Riverside County Airport Land Use Commission found the proposed project consistent with the 2004 Banning Municipal Airport Land Use Compatibility Plan subject to certain conditions as related in the attachment to the staff report dated October 1, 2014.

Finding No. 5: There are adequate provisions for water, sanitation, and public utilities and services to ensure that the proposed use would not be detrimental to public health and safety.

Findings of Fact: The site is served by the public and private utilities, including the City’s water, sewer, and electrical utilities. There is an existing 14 inch steel waterline in Hargrave Street and an existing 12 inch steel waterline in Ramsey Street. An existing 8 inch clay gravity sewer main is located in Ramsey Street, which is downstream of the project site.

The City is required to adhere to the requirements of their discharge permit with the Regional Water Quality Control Board for the wastewater treatment facility and all wastewater discharges are expected to be treated by the City’s system. Additionally, the City requires
industrial facilities to comply with the Industrial Wastewater Collection and Treatment Ordinance. Provisions of the Ordinance will require connection permits, monitoring and inspection of the project, and restrictions on certain wastewater discharges.

Finding No. 6: There will not be significant harmful effects upon environmental quality, natural resources or neighborhood characteristics

Findings of Fact: There is no evidence that the proposed project will have the potential for any adverse effect on environmental quality, wildlife resources, or the habitat upon which wildlife depends as demonstrated in the facts listed in the Initial Study for the project dated August 13, 2014.

Based on the review of the General Plan for the City of Banning, there are several sensitive plant and animal species as having a potential to occur in the vicinity of the project. However, the potential to find such species on the project site or in the area immediately surrounding the project site is very low due to a lack of natural vegetation, the heavy disturbance of the natural environment (active weed control) and the lack of undisturbed habitat. There are no streams, drainage courses, or lakes on the site. There are no depressions on the site that may allow water to collect and provide suitable habitat to support natural communities and wetlands. The site contains no trees or vegetation; and, therefore there is nothing to consider preserving.

The proposed use will not impair the integrity and character of the GC land use district in which it is to be located because it is surrounded by existing developments and on the Ramsey Street corridor which is a long-established commercial corridor of the city. The building architecture and site circulation and landscaping have been designed in a way that the project is compatible with the character of the surrounding neighborhood and zoning ordinance design guidelines. Additionally, a 6 foot tall solid wall along with landscaping will separate the site from the legal non-conforming residential properties nearby.

Finding No. 7: The proposed location, size, design and operating characteristics of the proposed use will not be detrimental to the public interests, health, safety, convenience, or welfare of the City.

Findings of Fact: A hotel and restaurant use is a permitted use in the General Commercial (GC) zone. The proposed project will not be detrimental to the City's health, safety, and welfare in that it complies with the development standards of the Zoning Ordinance with the conditions of approval as listed within this staff report dated October 1, 2014. The project will not generate excessive noise or traffic. Furthermore, there is no evidence that the proposed project will have the potential for any adverse effect or detriment to the public interests, health, safety, convenience or welfare of the City as demonstrated in the facts listed in the Initial Study for the project dated August 13, 2014.

SECTION 3 REQUIRED FINDINGS FOR DESIGN REVIEW #13-7002.
The Zoning Code requires that each Design Review (BMC §17.56.050) application meet certain findings in order to be approved by the Planning Commission. The following findings are provided for Design Review:

Finding No. 1: The proposed project is consistent with the General Plan.

Findings of Fact: The project is consistent with the General Plan Land Use Element Policy which states: "The land–use map shall provide for sufficient lands to provide a large range of products and services to the City and the region while carefully considering compatibility with adjacent residential lands". The land-use designation of General Commercial (GC) allows hotel and restaurant uses. The proposed project will provide a hotel building consisting of approximately 57,209 square feet; an approximately 2,800 square foot fast food restaurant with a drive through; and, a 1,200 square foot deli café all provided temporary (transient) lodging and food services for the City and region.

Further, the project is consistent with General Plan Economic Development Policy which states: "The City shall take a proactive role in the retention of existing businesses and the recruitment of new businesses, particularly those that generate and broaden employment opportunities, increase discretionary incomes, and contribute to City General Fund revenues". The proposed project will generate the need for hotel management and service worker positions; and, food service management and worker positions. Additionally, transient occupancy tax revenues will be created by the hotel operation.

Finding No. 2: The proposed project is consistent with the Zoning Ordinance, including the development standards and guidelines for the district in which it is located.

Findings of Fact: The proposed project is consistent with the Zoning Ordinance and the development standards of the GC zone, including setbacks, building height as provided for in the CUP application, and building coverage on the lot. The Zoning Ordinance requires a peak demand for 104 parking spaces which occurs during the week at 6 p.m.; and, the project provides 107 parking spaces. The project is proposing 7,723 square feet of landscaping in the parking area (approximately 46,955 square feet) which is greater than the 15% minimum landscaping requirement of the Zoning Ordinance.

Finding No. 3: The design and layout of the proposed project will not unreasonably interfere with the use and enjoyment of neighboring existing or future development, and will not result in vehicular and/or pedestrian hazards.

Findings of Fact: The proposed project has provided site and circulation layout design in such a way that the project will not interfere with the use and enjoyment of existing and future development. The proposed project provides two separate vehicle access driveways, one fronting Hargrave Street, and one fronting Ramsey Street and Williams Street respectively, with a driveway that circulates around the buildings. The proposed project provides pedestrian walks around the building. Additionally, the project has been reviewed by the City Engineer and Fire Department with regard to site circulation for pedestrian and
motor vehicles, and emergency access, and they have not identified any deficiencies that will result in vehicular and/or pedestrian hazards.

**Finding No. 4: The design of the proposed project is compatible with the character of the surrounding neighborhood.**

Findings of Fact: The proposed use will not impair the integrity and character of the GC land use district in which it is to be located because it is surrounded by existing developments and on the Ramsey Street corridor which is a long-established commercial corridor of the city. The project will connect to the existing roadway system and will not create any barriers that will divide the neighborhood. The building architecture and site circulation and landscaping have been designed in a way that the project is compatible with the character of the surrounding neighborhood and zoning ordinance design guidelines as demonstrated in the staff report dated October 1, 2014. Additionally, a 6 foot tall solid wall along with landscaping will separate the site from the legal non-conforming residential properties nearby.

**SECTION 4. PLANNING COMMISSION ACTIONS.**

The Planning Commission hereby takes the following actions:

1. In accordance with Public Resources Code Section 21152(a) and CEQA Guidelines Section 15063(b) (2) the Planning Commission hereby adopts the Initial Study/Negative Declaration and directs the Community Development Director to prepare and file with the Clerk for the County of Riverside a notice of determination as provided under Public Resources Code Section 21152(a) and CEQA Guidelines Section 15094; and

PASSED, APPROVED AND ADOPTED this 1st day of October, 2014.

Kevin Siva, Chairman
Banning Planning Commission

ATTEST:

Holly Stuart, Recording Secretary
City of Banning, California

APPROVED AS TO FORM AND LEGAL CONTENT:

Lora N. Laymon, Assistant City Attorney

CERTIFICATION:

I, Holly Stuart, Recording Secretary of the Planning Commission of the City of Banning, California, do hereby certify that the foregoing Resolution, No. 2014-12, was duly adopted by the Planning Commission of the City of Banning, California, at a regular meeting thereof held on the 1st day of October, 2014, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Holly Stuart, Recording Secretary
City of Banning, California
ATTACHMENT 4
Previously Approved Architectural Design
ATTACHMENT 5
Public Hearing Notice
NOTICE OF PUBLIC HEARING DESIGN REVIEW NO. 13-7002, AMENDMENT NO. 1 FOR A PROPOSED 81-UNIT HOTEL, FAST FOOD RESTAURANT WITH DRIVE-THRU, AND DELI CAF located at 775 E. RAMSEY STREET (APR: 541-150 020) WITHIN THE GENERAL COMMERCIAL (GC) ZONE.

NOTICE IS HEREBY GIVEN of a public hearing before the City of Banning Planning Commission, to be held on Wednesday, April 1, 2015, at 6:00 p.m. in the Council Chambers, City Hall, 99 East Ramsey Street, Banning, California, to consider a proposed revision to the architectural design of a previously approved 81-unit hotel, fast food restaurant with drive-thru, and deli (as proposed Design Review No. 13-7002, Amendment No. 1) pursuant to Section 17.66.070 (Modifications) of the City of Banning Municipal Code. Information regarding Design Review No. 13-7002, Amendment No. 1 can be obtained by contacting the City’s Community Development Department at (909) 522-3125, or by visiting the City Hall located at 99 East Ramsey Street, Banning. You may also go to the City of Banning website at http://www.city.banning.ca.us. All parties interested in speaking either in support of or in opposition of this item are invited to attend said hearing, or to send their written comments to the Community Development Department, City of Banning at P.O. Box 958, Banning, California, 92220. If you challenge any decision regarding the above proposal in court, you may be limited to raising only those issues you or someone else raised in written correspondence delivered to the City Clerk at, or prior to, the time the City Council makes its decision on the proposal; or, you or someone else raised at the public hearing or in written correspondence delivered to the hearing body at, or prior to, the hearing (California Government Code, Section 65022).

BY ORDER OF THE ACTING COMMUNITY DEVELOPMENT DIRECTOR OF THE CITY OF BANNING, CALIFORNIA
Bryan Gollan
Acting Community Development Director
Dated: March 16, 2015
Published: March 20, 2015
Published in:
The Record Gazette
No. 115934
0320, 2015

Executed on: 03/20/2015
At Banning, CA

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

[Signature]