I. CALL TO ORDER: Chairman Siva

➢ Pledge of Allegiance: Commissioner Price

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

II. 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.

III. 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 April 1, 2015 meeting.................................................................Page 1
IV. PUBLIC HEARINGS:

1. DESIGN REVIEW NO. 15-7001 FOR THE PROPOSED IMPROVEMENTS TO AN EXISTING SERVICE STATION AND CONVENIENCE STORE LOCATED AT 780 E. RAMSEY STREET (APN: 541-193-012) WITHIN THE GENERAL COMMERCIAL (GC) ZONE.

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 Resolution No. 2015-08:
   a. Adopting a Categorical Exemption, pursuant to Section 15322 (In-Fill Development Projects), for Design Review No. 15-7001; and
   b. Approving Design Review No. 15-7001

2. ZONE TEXT AMENDMENT NO. 15-97502 TO AMEND TABLE 17.12.020 (PERMITTED, CONDITIONAL AND PROHIBITED COMMERCIAL AND INDUSTRIAL USES) AND ZONE TEXT CORRECTIONS WITHIN SECTION 17.08.050 (ACCESSORY STRUCTURES) AND SECTION 17.64.060 (COUNCIL ACTION ON AMENDMENTS) OF TITLE 17 (ZONING ORDINANCE) OF THE BANNING MUNICIPAL CODE.

Staff Report……………………………………………………………………………………….Page 34

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 Resolution No. 2015-03:
   a. Recommending to the City Council the adoption of a Categorical Exemption for Zone Text Amendment No. 15-97502; and
   b. Recommending to the City Council the adoption of Ordinance No. 1488 approving Zone Text Amendment No. 15-97502.

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 May 6, 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].
City of Banning

PLANNING COMMISSION MINUTES

April 1, 2015

A regular meeting of the City of Banning Planning Commission was held on Wednesday, April 1, 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
Chairman Siva

Commissioners Absent: None

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:

Michale Cashe resident of 981 E. Charles Street, who has live there for twenty two (22) years expressed gratitude for helping re-zone her land back to Low Density Residential (LDR) recently. Her Parcel of land had been re-zoned industrial (I) since the year of 2006. Ms. Cashe brought forward a complaint against Art Chacon, Code Enforcement Officer. She explained about a dispute with her next door neighbor regarding a pool fence that was taken down without her permission. Ms. Cashe explained that Officer Chacon inspected the entire property for code violations due to complaints he had received about a non-compliant structure in the property and as a result has received a letter with a list of numerous code violations. She’s asked the Planning Department for help because she fees that Officer Chacon is not being reasonable and a result, she does not want to personally deal with him anymore but would like resolve the issue.

Commissioner Ellis thanked Ms. Cashe for participating at the present meeting and stated that her complaint will be shared with City staff.
Assistant City Attorney Lona Laymon stated that complaint received falls outside the subject matter jurisdiction of the Planning Commission, and agrees that Ms. Cashe should be working with the Chief of Police and stated that staff now has a record of the complaint.

III. CONSENT CALENDAR

1. Minutes of March 4, 2015

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

IV. PUBLIC HEARINGS

1. ORINANCE NO. 1486 AMENDING CHAPTER 5.52 (SHOPPING CARTS) OF TITLE 5 (BUSINESS LICENSES AND REGULATION0 OF THE BANNING MUNICIPAL CODE.

Acting Community Development Director Brian Guillot explained that in Ordinance No. 1486 an amendment is being done and not a repealing to the Chapter. There is an existing chapter for shopping carts, and the substance of the ordinance is the same.

Contract Planner Mujica presented the staff report and stated that a committee meeting was conducted to consider complaints from the community and dialogue was exchanged as to what we should do with our existing ordinance and through that, direction was received from the Planning Commission.

Ordinance No. 1486 addresses language as it relates to the prevention plan, requirements and procedures. There are special physical requirements (e.g. carts have certain equipment, or identifying equipment that says who owns the car and to and how it should be returned).

Business owners are also given a choice that if they don’t want to do those measures to prevent the carts being removed from the property, must provide evidence that they have contracted with a company to retrieve their carts within a forty-eight (48) hour period.

Commissioner Briant asked: Has there been any feedback from any stores or businesses that are affected by this ordinance?

Contract Planner Mujica stated that he did not receive any comments, or feedback from any stores.

Acting Community Development Director Guillot mentioned that in some telephone conversations with the Grocer’s Association that represents the retailers found out that they are basically opposed to placing further regulations on the retailers.

A copy of the proposed changes were sent to the Grocer’s Association and were asked to send us comments they might have, and they did not.

Other comments that we received when we met with the retailers is, that they make it part of the business to allow their customers a limited use of the shopping carts, and a provision was made
for that in the ordinance that if they do get permission, will be allowed to keep it for seventy-two (72) hours, and the majority of the businesses do contract with cart retrieval companies.

Commissioner Siva asked: what does the disabling device entail?

Contract Planner Mujica gave an example of a Target store where if you take the car out of a particular exit an electronic system will lock-up the wheels.

Commissioner Price stated that he drives by 8th Street at least once a day, and has noticed a vast decrease in the number of carts in that area.

Contract Planner Mujica stated that all complaints are handled through the Code Enforcement Department. Any complaints can be reported through the general line. Mujica also added that it takes a three (3) day waiting period to allow a retailer to retrieve a cart on their own.

Commission Ellis stated that he was informed that people can also call the non-emergency number, talk to a non-emergency dispatcher about a complaint, and they can reach Code Enforcement, or pass the request as to where the carts need to be picked-up.

Contract Planner Mujica mentioned that the City has taken a proactive role, staff were asked to report any abandoned shopping carts, homeless or vagrants along Ramsey Street and are being discourage to stay in these areas.

Vice-Chairman Shaw 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. 2015-06; and
2. RECOMMENDING TO THE CITY COUNCIL THE ADOPTION OF ORDINANCE NO. 1486.

*(Motion Carried 5-0)*

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

Contract Planner Mujica presented the staff report and stated that in October of 2014 the La Quinta Developer brought forward a concept to improve the lot with a hotel, fast food restaurant and a deli Café.

A hand-out was provided to the Planning Commission presenting the previously approved “Mediterranean” architectural style, and the new proposed “contemporary” architectural style. Mujica added that there will be no additional square footage to the proposed project and no changes to the environmental review or analysis.
The conditions of approval from the previous action of the Planning Commission will remain intact.

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

Vice Chairman Shaw opened the floor for discussion

Commissioner Ellis thanked the Developer for his innovative thoughts and design. He feels the new look is perfect for the City of Banning, and feels it’s much nicer than the original design.

Commissioner Siva questioned if this design is in existence at the City of La Quinta.

Contract Planner Mujica stated that this design is a new concept, and felt it was appropriated to bring it back for a review because there was a previous approval by the Planning Commission.

Commissioner Briant stated that he likes the new design, and questioned if they are changing the number of rooms.

Contract Planner explained that there will not be any additional changes to the proposed 81 rooms, square footage to the restaurant, deli Café or parking area.

Vice-Chairman Shaw opened the floor for a motion.

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

1. ADOPT RESOLUTION No. 2015-07.
2. APPROVAL OF DESIGN REVIEW No. 13-7002, Amendment No.1.

(Motion Carried 5-0)

**V. PLANNING COMMISSIONER COMMENTS:**

Commissioner Siva apologized for being late, and stated that he’s moving forward with some health issues.

Commissioner Ellis mentioned the upcoming fire season and emphasized the importance of fire prevention and why it’s important to clear-out the perimeter of the home (e.g. bushes, wood piles, etc.) He also mentioned the California Governor’s announcement mandating a 25% reduction in water.
VI. COMMUNITY DEVELOPMENT DIRECTOR’S COMMENTS:

Acting Community Development Guillot reported to the Planning Commission that the City of Banning Housing Element was certified by the State of California. Much input was done by the Citizens’, Planning Commission, and City Council through- out the fourth and fifth cycle reviews.

Guillot stated that the City of Banning has not had a certified Housing Element since the year of 1993. This certification protects the City from lawsuits related to housing, and development. It will allow us to obtain grants, and we are now complying with Housing Element Law when dealing with the State of California.

VII. ADJOURNMENT:

There being no further business, the meeting was adjourned at 6:56 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: May 6, 2015

TO: Planning Commission

FROM: Brian Guillot, Acting Community Development Director

SUBJECT: DESIGN REVIEW NO. 15-7001 FOR THE PROPOSED IMPROVEMENTS TO AN EXISTING SERVICE STATION AND CONVENIENCE STORE LOCATED AT 780 E. RAMSEY STREET (APN: 541-193-012) WITHIN THE GENERAL COMMERCIAL (GC) ZONING DISTRICT

RECOMMENDATION:

Staff recommends that the Planning Commission adopt Resolution No. 2015-08 (Attachment 1):

I. Adopting a Categorical Exemption, pursuant to Section 15332 (In-Fill Development Projects), for Design Review No. 15-7001; and

II. Approving Design Review No. 15-7001.

APPLICANT INFORMATION:

Project Location: 780 E. Ramsey Street
APN Information: 541-193-012

Project Applicant: Pipeline Petroleum Banning, LLC
780 E. Ramsey Street
Banning, CA 92220

Property Owner: Emil Ayad
24100 Benfield Place
Diamond Bar, CA 91765
**PROJECT BACKGROUND AND DESCRIPTION:**

The applicant is requesting approval for the proposed improvements to the existing service station that also has an existing convenience store and drive-thru carwash with an overall building area of approximately 2,038 square feet. Under this application, the applicant is proposing to convert the existing carwash, which currently contains approximately 392 square feet, into additional building area for the convenience store. Combine with a minor addition of 175 square feet, the renovated service station and convenience store will contain a total of approximately 2,213 square feet. The existing canopy of approximately 1,870 square feet covering the fuel pumps will remain.

Design review is required for the proposed project to ensure compliance with the City’s development standards and design guidelines for general commercial uses.

**Site Description**

The subject site contains approximately 38,760 square feet and is currently development with an existing service station with convenience store and drive-thru carwash containing a total of approximately 2,038 square feet.

**Surrounding Land Use**

The proposed project is located on the southwest corner of E. Ramsey Street and Hargrave Street within an urban environment in the General Commercial (GC) zoning district that has been developed since the early part of the 20th century.

The nature of the surrounding uses, Zoning and General Plan land use designations are indicated in the following table.

<table>
<thead>
<tr>
<th>Subject Site</th>
<th>Existing Land Use</th>
<th>Zoning Designation</th>
<th>General Plan Designation</th>
</tr>
</thead>
<tbody>
<tr>
<td>North</td>
<td>Vacant Approved La Quinta Hotel, Fast Food Restaurant and Café (Design Review 13-7002)</td>
<td>General Commercial</td>
<td>General Commercial</td>
</tr>
<tr>
<td>South</td>
<td>Interstate (I-10) Freeway</td>
<td>Interstate (I-10) Freeway</td>
<td>Interstate (I-10) Freeway</td>
</tr>
<tr>
<td>East</td>
<td>Existing Towing Company</td>
<td>Business Park</td>
<td>Business Park</td>
</tr>
<tr>
<td>West</td>
<td>Existing Service Station and Fast Food Restaurant</td>
<td>General Commercial</td>
<td>General Commercial</td>
</tr>
</tbody>
</table>
Compliance with General Commercial Development Standards

Below is a chart showing the minimum development standards for the General Commercial (GC) zone as stated in Table 17.12.030; and, how the proposed project meets those standards.

### General Commercial Development Standards

<table>
<thead>
<tr>
<th>Development Standards</th>
<th>Required</th>
<th>Provided</th>
<th>Complies With Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum Lot Size</td>
<td>6,000 Square Feet</td>
<td>38,760 Square Feet</td>
<td>Yes</td>
</tr>
<tr>
<td>Minimum Lot Width</td>
<td>60 Feet</td>
<td>196 Feet</td>
<td>Yes</td>
</tr>
<tr>
<td>Minimum Lot Depth</td>
<td>100 Feet</td>
<td>196 Feet</td>
<td>Yes</td>
</tr>
<tr>
<td>Minimum Front Setback</td>
<td>10 Feet</td>
<td>37.5 Feet</td>
<td>Yes</td>
</tr>
<tr>
<td>Minimum Rear Setback</td>
<td>0 Feet</td>
<td>83 Feet</td>
<td>Yes</td>
</tr>
<tr>
<td>Minimum Side Yard Setback</td>
<td>0 Feet</td>
<td>70 Feet</td>
<td>Yes</td>
</tr>
<tr>
<td>Minimum Street Side Yard Setback</td>
<td>5 Feet</td>
<td>68 Feet</td>
<td>Yes</td>
</tr>
<tr>
<td>Maximum Building Coverage</td>
<td>35%</td>
<td>10.5%</td>
<td>Yes</td>
</tr>
<tr>
<td>Maximum Building Height (stories/feet)</td>
<td>2/35 Feet</td>
<td>1 story/16.5 Feet</td>
<td>Yes</td>
</tr>
<tr>
<td>Maximum Fence/Wall Height</td>
<td>6 Feet</td>
<td>6 Feet</td>
<td>Yes</td>
</tr>
<tr>
<td>Off-Street Parking</td>
<td>18 Parking Spaces</td>
<td>16 Parking Spaces</td>
<td>No</td>
</tr>
<tr>
<td>Landscaping</td>
<td>2,800 Square Feet</td>
<td>17,880 Square Feet</td>
<td>Yes</td>
</tr>
</tbody>
</table>

**Site Design**

The existing service station is accessed by two (2) driveway approaches along E. Ramsey Street and two (2) driveway approaches along Hargrave Street. The City’s Public Works Department has requested a Condition of Approval that the two (2) existing driveway approaches closest to the curb return at the corner of E. Ramsey Street and Hargrave Street be eliminated due to the fact that these two (2) driveway approaches are within the functional area of the intersection and can be susceptible to traffic conflicts. Additionally, the remaining driveway approach on E. Ramsey Street and Hargrave Street shall be reconstructed to the City’s current commercial driveway standard of at least thirty (30) feet wide.
Parking Requirements

Pursuant to Section 17.28.040 (Number of Required Parking Spaces), the renovated service station and convenience store is required to provide a total of eighteen (18) off-street parking spaces. However, only sixteen (16) off-street parking spaces have been provided by the application’s proposal. Therefore, a Condition of Approval has been included requiring the applicant to provide the required eighteen (18) off-street parking spaces.

Architectural Design

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 basic building architectural style consists of a simple mission theme. The textures used for the building finish include stucco enhanced with stone veneers. The paint color of the walls will be a white-tone. Architectural detail is provided with decorative cornice along the parapet roof line with a painted medium-brown tone. Wall articulation is accomplished at the tower element at the entrance of the convenience store and the pediments along the building elevations, which provides significant desirable shadow effect, with a painted navy-blue tone.

Please refer to the drawings submitted with the application (see Attachment 2) as they provide greater detail on the architectural design of the building

Landscaping

The Parking Lot Design Standards of the Zoning Code require that at least 15% of the parking area be landscaped. The parking area of the service station is approximately 18,667 square feet. Therefore, the minimum landscape area required is 2,800 square feet. The applicant is proposing a total landscaping of approximate 17,880 square feet for the entire site. However, the applicant will be required to submit a landscaping plan which shall include that landscaping that will be provided along the vacant western and southern portions of the site in order to enhance the aesthetics of the property due to its location at a prominent entry point of the City from the freeway.
ENVIRONMENTAL DETERMINATION:

California Environmental Quality Act (CEQA)
In accordance with §15332 (In-Fill Development Projects) of the California Environmental Quality Act (CEQA), a Class 32 Categorical Exemption consists of projects characterized as in-fill development meeting the conditions described, as follows: (a) the project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations; (b) the proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses; (c) the project site has no value as habitat for endangered, rare or threatened species; (d) approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and, (e) the site can be adequately served by all required utilities and public services. Staff has analyzed proposed Design Review No. 15-7001 and has determined that it is Categorically Exempt from CEQA pursuant to §15332 of the CEQA Guidelines due to the fact that the proposed meets the required criteria to qualify as an “in-fill development project” as defined by §15332 of the CEQA Guidelines. Therefore, Design Review No. 15-7001 is Categorically Exempt from CEQA pursuant to §15332 of the CEQA Guidelines.

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.

REQUIRED FINDINGS:

Section 17.56.050 of the City of Banning Zoning Ordinance requires that Design Review applications 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. 15-7001:

Finding No. 1: Proposed Design Review No. 15-7001 is consistent with the General Plan.

Findings of Fact: Design Review No. 15-7001 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 service stations with convenience stores as commercial uses. The existing service station that also has an existing convenience store and drive-thru carwash with an overall building area of approximately 2,038 square feet will be completely renovated by converting the existing carwash, which currently contains approximately 392 square feet, into additional building area for the convenience store. Combine with a minor addition of approximately 175 square feet, the renovated service station and convenience store will contain a total of approximately 2,213 square feet, and the existing canopy of approximately 1,870 square feet covering the fuel pumps will remain. This service station provides a commercial convenience for the City and region. Further,
Design Review No. 15-7001 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 project, as a service station and convenience store, will continue to generate sales tax revenues for the City.

**Finding No. 2:** Design Review No. 15-7001 is consistent with the Zoning Ordinance, including the development standards and guidelines for the district in which it is located.

**Findings of Fact:** Design Review No. 15-7001 is consistent with Section 17.12.150 (Architectural Design Guidelines) of the Zoning Ordinance and the development standards of the General Commercial (GC) zone, with regards to architecture, off-street parking and vehicular circulation and landscaping.

**Finding No. 3:** The design and layout of Design Review No. 15-7001 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:** Design Review No. 15-7001 provides a 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, Design Review No. 15-7001 is consistent with Section 17.12.150 (Architectural Design Guidelines) of the Zoning Ordinance and the development standards of the General Commercial (GC) zone. The project will provide two (2) separate vehicle access driveways, one fronting Ramsey Street and one fronting Hargrave Street and one (1) fronting Ramsey Street, with a driveway that circulates around the building. Design Review No. 15-7001 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 included Conditions of Approval in order to eliminate any deficiencies that may result in vehicular and/or pedestrian hazards.

**Finding No. 4:** Design Review No. 15-7001 is compatible with the character of the surrounding neighborhood.

**Findings of Fact:** Design Review No. 15-7001 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, Design Review No. 15-7001 is consistent with Section 17.12.150 (Architectural Design Guidelines) of the Zoning Ordinance and
the development standards of the General Commercial (GC) zone. 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 is designed in a way that the project is compatible with the character of the surrounding neighborhood and Zoning Ordinance design guidelines.

PUBLIC COMMUNICATION

Proposed Design Review No. 15-7001 was advertised in the Record Gazette newspaper on April 24, 2015 (Attachment 3). 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. 2015-08:

1. Adopting Categorical Exemption, pursuant to Section 15332 (In-Fill Development Projects), for Design Review No. 15-7001; and


Prepared By: 

Reviewed By:

[Signatures]

Oliver Mujica
Contract Planner

Brian Guillot
Acting Community Development Director

Attachments:

1. Resolution No. 2015-08
2. Proposed Architectural Design
3. Public Hearing Notice
ATTACHMENT 1
PC Resolution No. 2015-08
A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BANNING, CALIFORNIA ADOPTING A CATEGORICAL EXEMPTION (CLASS 32: IN-FILL DEVELOPMENT PROJECTS) AND DESIGN REVIEW NO. 15-7001 FOR THE PROPOSED IMPROVEMENTS TO AN EXISTING SERVICE STATION AND CONVENIENCE STORE LOCATED AT 780 E. RAMSEY STREET (APN: 541-193-012) WITHIN THE GENERAL COMMERCIAL (GC) ZONING DISTRICT

WHEREAS, the applicant has submitted an application for Design Review approval so that the Planning Commission may consider the proposed improvements to an existing service station and convenience store, which has been duly filed by:

Project Applicant:  Pipeline Petroleum Banning, LLA
780 E. Ramsey Street
Banning, CA 92220

Parcel Address:  780 E. Ramsey Street
APN:  541-193-012
Lot Area:  38,760 Square Feet

WHEREAS, the Planning Commission has the authority pursuant to Chapter 17.56 of the Banning Municipal Code to take action on Design Review No. 15-7001 to construct proposed improvements to an existing service station and convenience store on a 38,760 square foot parcel within the General Commercial (GC) zoning district located on the southwest corner of E. Ramsey Street and Hargrave Street; and

WHEREAS, in accordance with the requirements of the California Environmental Quality Act (CEQA), staff analyzed Design Review No. 15-7001 and determined that, pursuant to CEQA Section 15332 (In-Fill Development Projects), Design Review No. 15-7001 is Categorically Exempt; and

WHEREAS, on April 24, 2015, the City gave public notice by advertisement in the Record Gazette newspaper of a public hearing concerning The Categorical Exemption and Design Review No. 15-7001. The City also mailed public hearing notices to the owners of properties that are directly affected by the Design Review and to the property owners that are located within a 300’ radius of the project boundaries; and

WHEREAS, on May 6, 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 the Categorical Exemption and Design Review No. 15-7001.

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)

In accordance with §15332 (In-Fill Development Projects) of the California Environmental Quality Act (CEQA), a Class 32 Categorical Exemption consists of projects characterized as in-fill development meeting the conditions described, as follows: (a) the project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations; (b) the proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses; (c) the project site has no value as habitat for endangered, rare or threatened species; (d) approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and, (e) the site can be adequately served by all required utilities and public services. The Planning Commission has analyzed proposed Design Review No. 15-7001 and has determined that it is Categorically Exempt from CEQA pursuant to §15332 of the CEQA Guidelines due to the fact that the proposed meets the required criteria to qualify as an “in-fill development project” as defined by §15332 of the CEQA Guidelines. Therefore, Design Review No. 15-7001 is Categorically Exempt from CEQA pursuant to §15332 of the CEQA Guidelines.

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.

REQUIRED FINDINGS:

Section 17.56.050 of the City of Banning Zoning Ordinance requires that Design Review applications 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. 15-7001:

Finding No. 1: Proposed Design Review No. 15-7001 is consistent with the General Plan.

Findings of Fact: Design Review No. 15-7001 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 service stations with convenience stores as commercial uses. The existing service station that also has an existing convenience store and drive-thru carwash with an overall building area of approximately 2,038 square feet will be completely renovated by converting the existing carwash, which currently contains approximately 392 square feet, into additional building area for the convenience store. Combine with a minor addition of approximately 175 square feet, the renovated service station and convenience store will contain a total of approximately 2,213 square feet, and the existing canopy of approximately 1,870 square feet covering the fuel pumps will remain. This service station
provides a commercial convenience for the City and region. Further, Design Review No. 15-7001 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 project, as a service station and convenience store, will continue to generate sales tax revenues for the City.

Finding No. 2: Design Review No. 15-7001 is consistent with the Zoning Ordinance, including the development standards and guidelines for the district in which it is located.

Findings of Fact: Design Review No. 15-7001 is consistent with Section 17.12.150 (Architectural Design Guidelines) of the Zoning Ordinance and the development standards of the General Commercial (GC) zone, with regards to architecture, off-street parking and vehicular circulation and landscaping.

Finding No. 3: The design and layout of Design Review No. 15-7001 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: Design Review No. 15-7001 provides a 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, Design Review No. 15-7001 is consistent with Section 17.12.150 (Architectural Design Guidelines) of the Zoning Ordinance and the development standards of the General Commercial (GC) zone. The project will provide two (2) separate vehicle access driveways, one fronting Ramsey Street and one fronting Hargrave Street and one (1) fronting Ramsey Street, with a driveway that circulates around the building. Design Review No. 15-7001 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 included Conditions of Approval in order to eliminate any deficiencies that may result in vehicular and/or pedestrian hazards.

Finding No. 4: Design Review No. 15-7001 is compatible with the character of the surrounding neighborhood.

Findings of Fact: Design Review No. 15-7001 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, Design Review No. 15-7001 is consistent with Section 17.12.150 (Architectural Design Guidelines) of the Zoning Ordinance and the development standards of the General Commercial (GC) zone. 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 is designed in a way that the project is compatible with the character of the surrounding neighborhood and Zoning Ordinance design guidelines.

SECTION 3. PLANNING COMMISSION ACTION:

The Planning Commission hereby takes the following action:

1. Adoption of Planning Commission Resolution No. 2015-08:

   a. In accordance with CEQA Guidelines Section 15332, the Planning Commission hereby adopts the Categorical Exemption (Class 32: In-Fill Development Projects) and directs the Acting Community Development Director to prepare and file with the Clerk for the County of Riverside a Notice of Exemption as provided under Public Resources Code Section 21152(b) and CEQA Guidelines Section 15094; and

   b. Approving Design Review No. 15-7001, subject to Conditions of Approval attached hereto and incorporated herein by reference as Exhibit A.

PASSED, APPROVED AND ADOPTED this 6th day of May, 2015.

__________________________
Kevin Siva, Chairman
Banning Planning Commission

APPROVED AS TO FORM
AND LEGAL CONTENT:

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

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. 2015-08, was duly adopted by the Planning Commission of the City of Banning, California, at a regular meeting thereof held on the 6th day of May, 2015, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

_________________________________
Sandra Calderon, Recording Secretary
City of Banning, California
EXHIBIT A

PROJECT #: Design Review No. 15-7001
SUBJECT: Conditions of Approval (Planning Commission Resolution No. 2015-08)
APPLICANT: Pipeline Petroleum Banning, LLC
LOCATION: APN: 541-193-012

* All fair share agreements, covenant agreements and agreements subject to recordation will be subject to review and approval by the City Attorney and will include appropriate enforcement provisions by the City and be properly securitized.

Community Development Department

1. The applicant shall indemnify, protect, defend, and hold harmless, the City, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, from any and all claims, demands, lawsuits, writs of mandamus, and other actions and proceedings (whether legal, equitable, declaratory, administrative or adjudicatory in nature), and alternative dispute resolutions procedures (including, but not limited to arbitrations, mediations, and other such procedures), (collectively “Actions”), brought against the City, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof (including actions approved by the voters of the City), for or concerning the project, whether such Actions are brought under the California Environmental Quality Act, the Planning and Zoning Law, the Subdivisions Map Act, Code of Civil Procedure Section 1085 or 1094.5, or any other state, federal, or local statute, law, ordinance, rule, regulation, or any decision of a competent jurisdiction. It is expressly agreed that the City shall have the right to approve, which approval will not be unreasonably withheld, the legal counsel providing the City’s defense, and that applicant shall reimburse City for any costs and expenses directly and necessarily incurred by the City in the course of the defense. City shall promptly notify the applicant of any Action brought and City shall cooperate with applicant in the defense of the Action.
2. The issuance of these Conditions of Approval do not negate the requirements of the Engineering/Public Works Department or submittal, review, and approval of: Street improvement plans, signing and striping plans, grading plans, storm drain improvement plans, street lighting plans, water, sewer, and electrical improvement plans, or other plans as deemed necessary by the City Engineer.

3. Construction shall commence within two (2) years from the date of project approval, or the Conditional Use Permit and Design Review approval shall become null and void. Additionally, if after commencement of construction work is discontinued for a period of one year the Conditional Use Permit and Design Review shall become null and void. Projects may be built in phases if pre-approved by the review authority. The Community Development Director may, upon a written application being filed 30 days prior to expiration and for good cause, grant a onetime extension not to exceed 12 months. Upon granting of an extension, the Community Development Director shall ensure that the Conditional Use Permit and Design Review comply with all current Ordinance provisions.

4. A copy of the signed resolution of approval or Community Development Director’s letter of approval and all conditions of approval and any applicable mitigation measures shall be reproduced in legible form on the grading plans, building and construction plans, and landscape and irrigation plans submitted for review and approval as required by the reviewing department.

5. The site shall be developed and maintained in accordance with the plans stamped May 6, 2015 approved by the City, which include site plans, architectural elevations, exterior materials and colors, landscaping, and grading on file in the Planning Division; the conditions contained herein; and, municipal code regulations.

6. There shall be no storage of vehicles, equipment, or any other materials in the parking or landscaping areas of the project.

7. Approval of this entitlement shall not waive compliance with any sections of the Development Code, other applicable City Ordinances, in effect at the time of building permit issuance.

8. Trash collection shall occur between the hours of 8:00 a.m. and 6:00 p.m. only.

9. All graffiti shall be removed immediately or within 24 hours of notice from the City.

10. The entire site shall be kept free from trash and debris at all times and in no event shall trash and debris remain for more than 24 hours.

11. The property owner shall permanently maintain all parking lot signs and markings in a clear and visible manner.
12. Exterior wall mounted lighting shall be decorative fixtures in a prefinished color to match the building. Wall fixtures shall be consistent with any pole mounted fixtures required to maintain minimum lighting levels.

13. There shall be no light spillover onto the adjacent properties from the parking lot lighting and/or exterior building lighting, including outdoor security lighting. All lighting fixtures shall not have a visible light source, must be shielded and directed downward and away from adjoining properties and public rights-of-way.

14. Trash enclosure shall be provided with three, decorative walls with enhanced wall cap and a gate, in a style compatible with the structure’s architecture. The gate shall be maintained in working order and shall remain closed except when in use.

15. All roof-mounted equipment or utility equipment on the side of the structure, or on the ground, shall not be visible from adjacent properties, the public rights-of-way or the parking lot. Any architectural screening that is proposed to shield the roof-mounted equipment shall be compatible in terms of colors and materials of the building. Landscape screening for ground mounted equipment shall be of sufficient size and quantity to fully screen the equipment.

16. There shall be no visible storage of any items including garbage, building, or manufacturing materials or junk, in any portion of the project.

17. The project shall at all times comply with all Federal, State, County and City laws, codes, regulations and standards including those that relate to hazardous materials.

18. A complete landscape/irrigation package prepared by a landscape architect licensed by the State of California shall be reviewed and approved by the Planning Division prior to issuance of building permit. The plans shall include the following elements:
   a. Water conservation concept statement.
   b. Calculation of maximum applied water allowance.
   c. Calculation of estimated total water use.
   d. Landscape design plan.
   e. Irrigation design plan.
   f. Certificate of substantial completion.

19. Building and Safety plans shall be submitted for plan check and approval. All plans shall be marked with the project number (DR #15-7001). The applicant shall comply with 2013 California Building Codes, and all other applicable codes, ordinances, and regulations in effect at the time of permit application including but not limited to those regulations that relate to ground movement.
20. Prior to any use of the project site, or business activity being commenced thereon, all Conditions of Approval shall be completed to the satisfaction of the Community Development Director.

21. All ground-mounted utility appurtenances such as transformers and AC condensers shall be located out of public view and adequately screened through the use of a combination of concrete or masonry walls, berming, and/or landscaping to the satisfaction of the Community Development Director.

22. All building numbers shall be identified in a clear and concise manner, including proper illumination.

23. Provide for the following design features in each trash enclosure, to the satisfaction of the Community Development Director:
   a. Architecturally integrated into the design of the project.
   b. Separate pedestrian access that does not require the opening of the main doors and to include self-closing pedestrian doors.
   c. Large enough to accommodate two trash bins (see Public Works Dept for details).
   d. Trash bins with counter-weighted lids.
   e. Architecturally treated overhead shade trellis, or cover.
   f. Chain link screen on top to prevent trash from blowing out of the enclosure and designed to be hidden from view.

24. The buildings shall be constructed in substantial compliance with the design elements as depicted in the staff report approved by the Planning Commission at their regularly scheduled meeting held on May 6, 2015; and, in accordance with Zoning Code regulations.

25. All roof appurtenances, including air conditioners and other roof mounted equipment and/or projections shall be shielded from view and the sound buffered from adjacent properties and streets as required by the Planning Division. Such screening shall be architecturally integrated with the building design and constructed to the satisfaction of the Community Development Director. Details shall be included in building construction plans.

26. All parking spaces shall be 9 feet wide by 19 feet long minimum. When a side of any parking space abuts a building, wall, support column, or other obstruction, the space shall be a minimum of 11 feet wide.

27. All parking lot landscape islands shall have a minimum interior dimension of 6 feet in width and shall contain a 12-inch walk adjacent to any parking stall (including curb width).
28. Decorative paving shall be required at all driveway entrances in accordance with the requirements of the Zoning Code and City Engineer and Community Development Director.

29. All parking spaces shall be striped per City standards and all loading zones, driveway aisles, entrances, and exits shall be striped per City standards. Each exit from a parking area shall be clearly marked with a “Stop” sign.

30. All parking areas shall provide at least 30% permanent landscape shading for parked vehicles within two years of occupancy.

31. Trees shall be planted in areas of public view adjacent to and along structures at a rate of at least one tree per 30 linear feet of building.

**Public Works Department**

32. A Public Works Permit shall be required prior to commencement of any work within the public right-of-way. The contractor working within the public right-of-way shall submit proof of a Class “A” State Contractor’s License, City of Banning Business License, and Liability Insurance. Any existing public improvements, or public improvements not accepted by the City that are damaged during construction shall be removed and replaced as determined by the City Engineer or his/her representative.

33. Prior to the issuance of any grading, construction, or public works permit by the City, the applicant shall obtain any necessary clearances and/or permits from the following agencies:
   - Fire Marshal
   - Public Works Department (Grading Permit, Improvement Permit)
   - Community Development Department
   - Riverside County Environmental Health Department
   - Banning Unified School District
   - California Regional Water Quality Control Board Colorado River Basin (RWQCB)
   - South Coast Air Quality Management District (SCAQMD)

   The applicant is responsible for meeting all requirements of permits and/or clearances from the above listed agencies. When the requirements include approval of improvement plans, the applicant shall furnish proof of such approvals when submitting improvements plans to the City.

34. Submit a copy of the Title Report to the City Engineer.

35. Offer to dedicate to the City of Banning an additional 20 feet of right-of-way in order to meet the City of Banning master planned half street width of 50 feet fronting Hargrave Street.
36. Eliminate the two existing driveways nearest the curb return. These access points are within the functional area of the intersection and can be susceptible to traffic conflicts.

37. Construct commercial style driveway approaches at all vehicular access points. The driveway shall be minimum 30’ wide.

38. Construct full half street improvements in accordance with City standards fronting Hargrave Street including street lighting, curb and gutter, sidewalk, handicap ramps, asphalt concrete paving, and any transitions. Street lights on Hargrave Street shall be installed offset of the existing street lights. Where the transverse slope of the existing pavement exceeds 3% the applicant shall remove pavement and join the existing pavement surface. Applicants’ geotechnical engineer shall provide the design of the pavement section based upon the Caltrans method.

39. Any public improvements damaged during the course of construction shall be replaced to the satisfaction of the City Engineer, or his/her designee, prior to the issuance of a certificate of occupancy.

40. All required public improvements shall be completed, tested, and approved by the Engineering Division prior to issuance of any Certificate of Occupancy.

41. In lieu of the construction of public improvements, the property owner shall agree to participate in a future assessment district to construct the public improvements along Hargrave Street.
   a. In the event that the City initiates the construction involved with the widening of Hargrave Street to meet the ultimate right of way as per the City’s General Plan, the owner shall participate up to $100,000.00 to cover the cost of said public improvements, within public right of way, fronting 780 E. Ramsey Street.
      i. The amount to be paid by the owner for said improvements shall be determined at the time of the award of the project by the City. The payment shall be in the form of a cash deposit or an assessment.

42. Construction debris shall be disposed of at a certified recycling site. It is recommended that the developer contact the City’s franchised solid waste hauler, Waste Management (1-800-858-8884) for disposal of construction debris.

43. The developer shall participate in the City’s recycling program by providing two trash receptacles, one for regular trash and one for recycling, within a trash enclosure. The trash enclosure shall be designed and constructed in such a manner to accommodate a recycling bin as well as the necessary solid waste containers.

44. Plan check fees for professional report review (geotechnical, drainage, etc.), and all improvement plans review, shall be paid prior to submittal of said documents for review and approval in accordance with the Fee Schedule in effect at the time of submittal.
**Electric Utility Department**

45. Currently the existing switch gear is 400amp, if the existing switch gear is inadequate to service the new addition and improvements the developer may be required to install new service entrance conduits from the existing transformer pad location to the new switch gear location. The developer would also be required to pay the necessary fee to increase the transformer size to accommodate the increase in switch gear size.

46. The developer shall be responsible the following:
   a. Submitting detailed plans indicating lot lines, streets, easements, building layout, anticipated loading information, etc. These plans are required in electronic format. We currently use AutoCad2015. Plans should consist of a plot plan, site plan, one line diagram of proposed electrical main service panel and a sheet showing load calculations by an electrical engineer. Additional sheets may be required upon request.
   b. Paying required fees - electrical permit, plan check fee, inspection fees, meter fee and cost of electrical apparatus for completing service upgrade.
   c. Granting easement for electric facilities installation / maintenance, etc.

47. Electric Utility shall be responsible for:
   a. Reviewing plans submitted by customer.
   b. Design an electrical utility plan for the installation of structures and conduit by developer.
   c. Providing a cost estimate for installing an underground electrical system for this project.
   d. Inspecting all trenches prior to backfilling. 24-hour prior notice is required before inspection.
   e. Install electrical apparatus including primary conductors, terminations, metering, and transformer to provide electrical service for your project.

**Police Department**

48. The developer shall install a video surveillance system to view the public areas of the development that may be viewed by police dispatchers. The developer shall submit specifications for review and approval of the Police Department prior to installation.

**Fire Department**

49. Final inspection shall be completed when all work is completed and prior to the issuance of a Certificate of Occupancy.

50. All fire extinguishers service dates are correct, before work begins.
ATTACHMENT 2
Proposed Architectural Design
ATTACHMENT 3
Public Hearing Notice
Record Gazette
218 N. Murray St.

Proof of Publication
(2015.5 C.C.P.)

117363-DESIGN REVIEW #15-7001

State of California )
County of Riverside ) ss.

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:

April 24, 2015

Executed on: 04/24/2015
At Banning, CA

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

Signature
CITY OF BANNING
Planning Commission Report

DATE: May 6, 2015

TO: Planning Commission

FROM: Brian Guillot, Acting Community Development Director

SUBJECT: ZONE TEXT AMENDMENT NO. 15-97502 TO AMEND TABLE 17.12.020 (PERMITTED, CONDITIONAL AND PROHIBITED COMMERCIAL AND INDUSTRIAL USES) AND ZONE TEXT CORRECTIONS WITHIN SECTION 17.08.050 (ACCESSORY STRUCTURES) AND SECTION 17.64.060 (COUNCIL ACTION ON AMENDMENTS) OF TITLE 17 (ZONING ORDINANCE) OF THE BANNING MUNICIPAL CODE

RECOMMENDATION:

Staff recommends that the Planning Commission adopt Resolution No. 2015-03 (Attachment 1):

I. Recommending to the City Council the adoption a Categorical Exemption for Zone Text Amendment No. 15-97502; and

II. Recommending to the City Council the adoption of Ordinance No. 1488 approving Zone Text Amendment No. 15-97502.

APPLICANT INFORMATION:

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

BACKGROUND:

Over the course of the year, staff has reviewed the City’s Zoning Ordinance to identify existing inconsistencies and to present recommendations with respect to amendments to reflect policy directions in order to address regulated land uses.
As stated in the City’s Zoning Ordinance, conditional uses are unique and their effect on the surrounding environment cannot be determined in advance of the use being proposed for a particular location. At the time of an application, a review of the location, design, configuration, and potential impact of the proposed use is conducted by comparing the use to established development standards and design guidelines. This review also determines whether the proposed use should be permitted by weighing the public need for the benefit to be derived from the use, against any negative or undesirable impacts which it may cause. Additionally, limitations which the Planning Commission might want to impose, could include restrictions on the hours of business operation; restrictions on the number of clients or patients which the business may service at any one time; increased visual and sound barriers; improved technologies or equipment which lessen any noise, light or odor emitted by the business or other use; as well as any other conditions which could help make the use more compatible with the neighborhood in which it is proposed to be located.

Uses such as churches, assembly uses and meeting halls are examples of land uses which should be further evaluated due to potential impacts relating to occupancy, hours of operation, on-site activities, traffic and vehicular circulation, and off-street parking. Additionally, in some instances, churches, assembly uses and meeting halls typically propose to occupy an existing building or facility, which may or may not have been originally designed for such land uses.

By requiring a Conditional Use Permit for churches, assembly uses and meeting halls, a consistency can be maintained on how these uses can be adequately regulated within the City.

17.12.020 – Permitted, Conditional and Prohibited Commercial and Industrial Uses. Table 17.12.020, as it relates to churches, assembly uses and meeting halls is hereby amended, as follows:

<table>
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<tr>
<th>Zone</th>
<th>DC</th>
<th>GC</th>
<th>HSC</th>
<th>PO</th>
<th>I</th>
<th>AI</th>
<th>BP</th>
<th>IMR</th>
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<tr>
<td>Churches</td>
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<td>Theaters and Meeting Halls</td>
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<td>X</td>
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Restaurants, whether serving or not serving alcohol, are another example of land uses which should be further evaluated, particularly in the industrial districts where commercial uses are not typically common. By requiring a Conditional Use Permit for restaurants within the Industrial (I), Airport Industrial (AI) and Industrial- Mineral Resources (I-MR) zoning districts, the compatibility with the surrounding land uses can be examined and, if necessary, appropriately regulated.

17.12.020 – Permitted, Conditional and Prohibited Commercial and Industrial Uses. Table 17.12.020, as it relates to restaurants, is hereby amended, as follows:

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<tr>
<th>Zone</th>
<th>DC</th>
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<th>HSC</th>
<th>PO</th>
<th>I</th>
<th>AI</th>
<th>BP</th>
<th>IMR</th>
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</thead>
<tbody>
<tr>
<td>Restaurants, no beer, wine or liquor sales</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>C</td>
<td></td>
<td>X</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Restaurants, serving beer, wine or liquor</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
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<td>X</td>
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</table>
Pursuant to Section 17.24.120 (Projections into Setbacks), “Accessory structures may be built to within 5 feet of the side property lines.” However, Section 17.08.050 (Accessory Structures) states, “Accessory structures may be built to the interior side and rear property lines.” Therefore, this proposed amendment will establish a consistency between Sections 17.08.050 and 17.24.120.

17.08.050 – Accessory Structures. Section 17.08.050 is amended as follows:

“Accessory structures in residential zoning districts shall be compatible with the materials and architecture of the primary dwelling of the property. Accessory structures may only be constructed on a lot containing a main dwelling unit. Accessory structures may be built to within 5 feet of the interior side and rear property lines as long as these structures are not closer than 10 feet to any other structure.”

In accordance with California Government Code §65853, “A zoning ordinance or an amendment to a zoning ordinance, which amendment changes any property from one zone to another or imposes any regulation listed in Section 65850 not theretofore imposed or removes or modifies any such regulation theretofore imposed shall be adopted in the manner set forth in Sections 65854 to 65857, inclusive. Any other amendment to a zoning ordinance may be adopted as other ordinances are adopted.” This is interpreted to mean that amendments to the City’s Zoning Ordinance shall be adopted by an ordinance by the City Council. However, Section 17.64.060 (Council Action on Amendments) states, “Amendments to the General Plan Land Use/Zoning District map shall be adopted by resolution.” Therefore, this proposed amendment will establish compliance with the California Government Code.

17.64.060 – Council Action on Amendments. Section 17.64.060 is amended as follows:

“Upon receipt of the Commission's recommendation, the Council may approve, approve with modifications, or disapprove the proposed amendment based upon the findings. Amendments to the General Plan Land Use/Zoning District map shall be adopted by resolution. Amendments to the text of the General Plan shall be adopted by resolution.”

ENVIRONMENTAL DETERMINATION:

California Environmental Quality Act (CEQA)
In accordance with the requirements of the California Environmental Quality Act (CEQA), the Planning Commission has analyzed proposed Zone Text Amendment No. 15-97502 and has determined that it is Categorically Exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment. Where, it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment; the activity is not subject to CEQA. The amendments to the Zoning Ordinance do not relate to any one physical project and will not result in any physical change to the environment. Therefore, it can be seen with certainty that there is no possibility that Zone Text Amendment No. 15-97502 may have a significant adverse effect on the environment, and thus the adoption of this Ordinance is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines.
Multiple Species Habitat Conservation Plan (MSHCP)

The amendments to the Zoning Ordinance do not relate to any one physical project and are not subject to the MSHCP. Further, projects that may be subject to this Ordinance will trigger individual project analysis and documentation related to the requirements of MSHCP including mitigation through payment of the MSHCP Mitigation Fee.

REQUIRED FINDINGS OF APPROVAL FOR ZONE TEXT AMENDMENT NO. 15-97502:

The California Government Code and Section 17.116.050 (Findings) of the City of Banning Municipal Code require that Zone Text Amendments meet certain findings prior to recommendation of approval by the Planning Commission and approval by the City Council. The Planning Commission hereby makes the following findings, as supported by substantial evidence on the record including and incorporating all facts and evidence in the staff report and its attendant attachments, in support of the recommendation for approval of the Zone Text Amendment No. 15-97502:

Finding No. 1: Proposed Zone Text Amendment No. 15-97502 is consistent with the goals and policies of the General Plan.

Findings of Fact: Proposed Zone Text Amendment No. 15-97502 is consistent with the goals and policies of the General Plan, insofar as the General Plan designations and Zoning designations within the City will not change, and the text amendments will result in clarifying the implementation of the goals, policies and programs of the General Plan. The primary General Plan Land Use Goals state “A balanced, well planned community including businesses which provides a functional pattern of land uses and enhances the quality of life for all Banning residents” and “Preserve and enhance the City’s Neighborhoods.” The proposed amendments to Table 17.12.020 (Permitted, Conditional and Prohibited Commercial and Industrial Use) are intended to establish a consistency whereby churches and other similar assembly uses are regulated within the City. The proposed amendment to Table 17.12.020 (Permitted, Conditional and Prohibited Commercial and Industrial Use) is also intended to permit or conditionally permit restaurants not serving beer, wine or liquor and restaurants, serving beer, wine or liquor as a permitted within the Industrial (I) zoning district of the City. The proposed amendment to Section 17.08.050 (Accessory Structures) is to establish a consistency with 17.24.120 (Projections into Setbacks) of the setback requirement for accessory structures. The proposed amendment to Section 17.64.060 (Council Action on Amendments) is to correct the action by which General Plan Amendments may be taken by the City Council. Therefore, the proposed zone text amendments will foster methods to provide functional land use patterns and preserving the City’s neighborhoods, thereby enhancing the quality of life within the City.
Finding No. 2: Proposed Zone Text Amendment No. 15-97502 is internally consistent with the Zoning Ordinance.

Findings of Fact: Proposed Zone Text Amendment No. 15-97502 is consistent with the existing provisions of the Zoning Ordinance. The proposed amendments to Table 17.12.020 (Permitted, Conditional and Prohibited Commercial and Industrial Use) are intended to establish a consistency whereby churches and other similar assembly uses are regulated within the City. The proposed amendment to Table 17.12.020 (Permitted, Conditional and Prohibited Commercial and Industrial Use) is also intended to permit or conditionally permit restaurants not serving beer, wine or liquor and restaurants, serving beer, wine or liquor as a permitted within the Industrial (I) zoning district of the City. The proposed amendment to Section 17.08.050 (Accessory Structures) is to establish a consistency with 17.24.120 (Projections into Setbacks) of the setback requirement for accessory structures. The proposed amendment to Section 17.64.060 (Council Action on Amendments) is to correct the action by which General Plan Amendments may be taken by the City Council. Therefore, the proposed zone text amendments will eliminate inconsistencies within the Zoning Ordinance.

Finding No. 3: The Planning Commission has independently reviewed and considered the requirements of the California Environmental Quality Act.

Findings of Fact: In accordance with the requirements of the California Environmental Quality Act (CEQA), the Planning Commission has analyzed proposed Zone Text Amendment No. 15-97502 and has determined that it is Categorically Exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment. Where, it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment; the activity is not subject to CEQA. The amendments to the Zoning Ordinance do not relate to any one physical project and will not result in any physical change to the environment. Therefore, it can be seen with certainty that there is no possibility that Zone Text Amendment No. 15-97502 may have a significant adverse effect on the environment, and thus the adoption of this Ordinance is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines.

PUBLIC COMMUNICATION

The proposed Categorical Exemption and Zone Text Amendment was advertised in the Record Gazette newspaper on April 24, 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. 2015-03:

1. Recommending to the City Council the adoption of the Categorical Exemption for Zone Text Amendment No. 15-97502; and

2. Recommending to the City Council the adoption of Ordinance No. 1488 approving Zone Text Amendment No. 15-97502.

Prepared By: 

Reviewed By:

Oliver Mujica  
Contract Planner

Brian Guillot  
Acting Community Development Director

Attachments:

1. Resolution No. 2015-03
2. Draft Ordinance No. 1488
3. Public Hearing Notice
RESOLUTION NO. 2015-03

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BANNING, CALIFORNIA RECOMMENDING APPROVAL TO THE CITY COUNCIL OF CATEGORICAL EXEMPTION AND ZONE TEXT AMENDMENT NO. 15-97502 RELATING TO THE AMENDMENTS TO TABLE 17.12.020 (PERMITTED, CONDITIONAL AND PROHIBITED COMMERCIAL AND INDUSTRIAL USES) AND ZONE TEXT CORRECTIONS WITHIN SECTION 17.08.050 (ACCESSORY STRUCTURES) AND SECTION 17.64.060 (COUNCIL ACTION ON AMENDMENTS) OF TITLE 17 (ZONING ORDINANCE) OF THE BANNING MUNICIPAL CODE

WHEREAS, staff has conducted a review of the City’s Zoning Ordinance to identify existing inconsistencies and presented recommendations with respect to amendments to reflect policy directions in order to address regulated land use; and

WHEREAS, staff has identified the need to clarify the zoning districts in which churches and other assembly uses are conditionally permitted within Chapter 17.12 (Commercial and Industrial Districts) of the City of Banning Municipal Code; and

WHEREAS, staff has also identified the need to clarify the zoning districts in which restaurants not serving beer, wine or liquor and restaurants, serving beer, wine or liquor are permitted or conditionally permitted within Chapter 17.12 (Commercial and Industrial Districts) of the City of Banning Municipal Code; and

WHEREAS, staff has also identified the need to correct the inconsistency between Section 17.08.050 (Accessory Structures) and Section 17.24.120 (Projections into Setbacks), regarding setback requirements for accessory structures, of the City of Banning Municipal Code; and

WHEREAS, staff has also identified the need to correct the action by which General Plan Amendments under Section 17.64.060 (Council Action on Amendments) of the City of Banning Municipal Code is taken; and

WHEREAS, the Planning Commission has authority pursuant to Section 17.116.030 (Planning Commission Action on Amendments) of the City of Banning Municipal Code to make a written recommendation to the City Council to approve, approve with modifications, or disapprove amendments to the Zoning Ordinance; and

WHEREAS, the City has reviewed the proposed Zone Text Amendment for compliance with the California Environmental Quality Act (CEQA) and it is determined that Zone Text Amendment No. 15-97502 is not a ‘project’ under CEQA Guidelines 15061(b)(3); and
WHEREAS, on April 24, 2015, the City gave public notice by advertisement in the Record Gazette newspaper of a public hearing concerning the project, which included the Categorical Exemption and Zone Text Amendment No. 15-97502; and

WHEREAS, on May 6, 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 the Categorical Exemption and Zone Text Amendment No. 15-97502.

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

SECTION 1. ENVIRONMENTAL FINDINGS.

The following environmental findings are made and supported by substantial evidence on the record before the Planning Commission, including and incorporating all evidence in the staff report and attendant attachments thereto:

California Environmental Quality Act (CEQA)
In accordance with the requirements of the California Environmental Quality Act (CEQA), the Planning Commission has analyzed proposed Zone Text Amendment No. 15-97502 and has determined that it is Categorically Exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment. Where, it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment; the activity is not subject to CEQA. The amendments to the Zoning Ordinance do not relate to any one physical project and will not result in any physical change to the environment. Therefore, it can be seen with certainty that there is no possibility that Zone Text Amendment No. 15-97502 may have a significant adverse effect on the environment, and thus the adoption of this Ordinance is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines.

Multiple Species Habitat Conservation Plan (MSHCP)
The amendments to the Zoning Ordinance do not relate to any one physical project and are not subject to the MSHCP. Further, projects that may be subject to this Ordinance will trigger individual project analysis and documentation related to the requirements of MSHCP including mitigation through payment of the MSHCP Mitigation Fee.

SECTION 2. REQUIRED FINDINGS FOR ZONE TEXT AMENDMENT NO. 15-97502.

The California Government Code and Section 17.116.050 (Findings) of the City of Banning Municipal Code require that Zone Text Amendments meet certain findings prior to recommendation of approval by the Planning Commission and approval by the City Council. The Planning Commission hereby makes the following findings, as supported by substantial evidence on the record including and incorporating all facts and evidence in the staff report and its attendant attachments, in support of the recommendation for approval of the Zone Text Amendment No. 15-97502:
Finding No. 1: Proposed Zone Text Amendment No. 15-97502 is consistent with the goals and policies of the General Plan.

Findings of Fact: Proposed Zone Text Amendment No. 15-97502 is consistent with the goals and policies of the General Plan, insofar as the General Plan designations and Zoning designations within the City will not change, and the text amendments will result in clarifying the implementation of the goals, policies and programs of the General Plan. The primary General Plan Land Use Goals state “A balanced, well planned community including businesses which provides a functional pattern of land uses and enhances the quality of life for all Banning residents” and “Preserve and enhance the City’s Neighborhoods.” The proposed amendments to Table 17.12.020 (Permitted, Conditional and Prohibited Commercial and Industrial Use) are intended to establish a consistency whereby churches and other similar assembly uses are regulated within the City. The proposed amendment to Table 17.12.020 (Permitted, Conditional and Prohibited Commercial and Industrial Use) is also intended to permit or conditionally permit restaurants not serving beer, wine or liquor and restaurants, serving beer, wine or liquor as a permitted within the Industrial (I) zoning district of the City. The proposed amendment to Section 17.08.050 (Accessory Structures) is to establish a consistency with 17.24.120 (Projections into Setbacks) of the setback requirement for accessory structures. The proposed amendment to Section 17.64.060 (Council Action on Amendments) is to correct the action by which General Plan Amendments may be taken by the City Council. Therefore, the proposed zone text amendments will foster methods to provide functional land use patterns and preserving the City’s neighborhoods, thereby enhancing the quality of life within the City.

Finding No. 2: Proposed Zone Text Amendment No. 15-97502 is internally consistent with the Zoning Ordinance.

Findings of Fact: Proposed Zone Text Amendment No. 15-97502 is consistent with the existing provisions of the Zoning Ordinance. The proposed amendments to Table 17.12.020 (Permitted, Conditional and Prohibited Commercial and Industrial Use) are intended to establish a consistency whereby churches and other similar assembly uses are regulated within the City. The proposed amendment to Table 17.12.020 (Permitted, Conditional and Prohibited Commercial and Industrial Use) is also intended to permit or conditionally permit restaurants not serving beer, wine or liquor and restaurants, serving beer, wine or liquor as a permitted within the Industrial (I) zoning district of the City. The proposed amendment to Section 17.08.050 (Accessory Structures) is to establish a consistency with 17.24.120 (Projections into Setbacks) of the setback requirement for accessory structures. The proposed amendment to Section 17.64.060 (Council Action on Amendments) is to correct the action by which
General Plan Amendments may be taken by the City Council. Therefore, the proposed zone text amendments will eliminate inconsistencies within the Zoning Ordinance.

**Finding No. 3:** The Planning Commission has independently reviewed and considered the requirements of the California Environmental Quality Act.

**Findings of Fact:** In accordance with the requirements of the California Environmental Quality Act (CEQA), the Planning Commission has analyzed proposed Zone Text Amendment No. 15-97502 and has determined that it is Categorically Exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment. Where, it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment; the activity is not subject to CEQA. The amendments to the Zoning Ordinance do not relate to any one physical project and will not result in any physical change to the environment. Therefore, it can be seen with certainty that there is no possibility that Zone Text Amendment No. 15-97502 may have a significant adverse effect on the environment, and thus the adoption of this Ordinance is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines.

**SECTION 3. PLANNING COMMISSION ACTION.**

The Planning Commission hereby takes the following action:

Adoption of Planning Commission Resolution No. 2015-03:

1. Recommending to the City Council the adoption of a Categorical Exemption for Zone Text Amendment No. 15-97502; and

2. Recommending to the City Council the adoption of Ordinance No. 1488 approving Zone Text Amendment No. 15-97502.
PASSED, APPROVED AND ADOPTED this 6\textsuperscript{th} day of May 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. 2015-03, was duly adopted by the Planning Commission of the City of Banning, California, at a regular meeting thereof held on the 6th day of May, 2015, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

_________________________________
Sandra Calderon, Recording Secretary
City of Banning, California
ATTACHMENT 2
Draft Ordinance No. 1488
ORDINANCE NO. 1488

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA APPROVING A CATEGORICAL EXEMPTION AND ZONING TEXT AMENDMENT NO. 15-97502 TO AMEND TABLE 17.12.020 (PERMITTED, CONDITIONAL AND PROHIBITED COMMERCIAL AND INDUSTRIAL USES) AND ZONE TEXT CORRECTIONS WITHIN SECTION 17.08.050 (ACCESSORY STRUCTURES) AND SECTION 17.64.060 (COUNCIL ACTION ON AMENDMENTS) OF TITLE 17 (ZONING ORDINANCE) OF THE CITY OF BANNING MUNICIPAL CODE

WHEREAS, a review of the City’s Zoning Ordinance has been conducted to identify existing inconsistencies and recommendations have been presented with respect to amendments to reflect policy directions in order to address regulated land use; and

WHEREAS, the need has been identified to clarify the zoning districts in which churches and other assembly uses are conditionally permitted within Chapter 17.12 (Commercial and Industrial Districts) of the City of Banning Municipal Code; and

WHEREAS, the need has also been identified to clarify the zoning districts in which restaurants not serving beer, wine or liquor and restaurants, serving beer, wine or liquor are permitted or conditionally permitted within Chapter 17.12 (Commercial and Industrial Districts) of the City of Banning Municipal Code; and

WHEREAS, the need has also been identified to correct the inconsistency between Section 17.08.050 (Accessory Structures) and Section 17.24.120 (Projections into Setbacks), regarding setback requirements for accessory structures, of the City of Banning Municipal Code; and

WHEREAS, the need has also been identified to correct the action by which General Plan Amendments under Section 17.64.060 (Council Action on Amendments) of the City of Banning Municipal Code is taken; and

WHEREAS, the City Council has authority per Chapter 17.116 (Zoning Ordinance Amendments) of the City of Banning Municipal Code to approve, approve with modifications, or disapprove amendments to the Zoning Ordinance; and

WHEREAS, on May 6, 2015, during a duly advertised public hearing, the Planning Commission adopted Resolution No. 2015-03 recommending to the City Council the adoption of Ordinance No. 1488 approving the Categorical Exemption and Zone Text Amendment No. 15-97502; and
WHEREAS, on the _____ day of __________, 2015, the City gave public notice as required under Chapter 17.68 (Hearings and Appeals) of the City of Banning Municipal Code by advertising in the Record Gazette newspaper of the holding of a public hearing at which the Categorical Exemption and Zone Text Amendment 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 amendments, and at which time the City Council considered the Categorical Exemption and Zone Text Amendment No. 15-97502; and

WHEREAS, at this public hearing on the _____ day of __________, 2015, the City Council considered and heard public comments on the proposed Categorical Exemption and Zone Text Amendment; 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. ENVIRONMENTAL.

California Environmental Quality Act (CEQA)
In accordance with the requirements of the California Environmental Quality Act (CEQA), the City Council has analyzed proposed Zone Text Amendment No. 15-97502 and has determined that it is Categorically Exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment. Where, it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment; the activity is not subject to CEQA. The amendments to the Zoning Ordinance do not relate to any one physical project and will not result in any physical change to the environment. Therefore, it can be seen with certainty that there is no possibility that Zone Text Amendment No. 15-97502 may have a significant adverse effect on the environment, and thus the adoption of this Ordinance is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines.

Multiple Species Habitat Conservation Plan (MSHCP)
The amendments to the Zoning Ordinance do not relate to any one physical project and are not subject to the MSHCP. Further, projects that may be subject to this Ordinance will trigger individual project analysis and documentation related to the requirements of MSHCP including mitigation through payment of the MSHCP Mitigation Fee.
SECTION 2. REQUIRED FINDINGS.

The California Government Code and Section 17.116.050 (Findings) of the City of Banning Municipal Code require that Zone Text Amendments meet certain findings prior to the approval by the City Council. The following findings are provided in support of the approval of the Zone Text Amendment No. 15-97502.

Finding No. 1: Proposed Zone Text Amendment No. 15-97502 is consistent with the goals and policies of the General Plan.

Findings of Fact: Proposed Zone Text Amendment No. 15-97502 is consistent with the goals and policies of the General Plan, insofar as the General Plan designations and Zoning designations within the City will not change, and the text amendments will result in clarifying the implementation of the goals, policies and programs of the General Plan. The primary General Plan Land Use Goals state “A balanced, well planned community including businesses which provides a functional pattern of land uses and enhances the quality of life for all Banning residents” and “Preserve and enhance the City’s Neighborhoods.” The proposed amendments to Table 17.12.020 (Permitted, Conditional and Prohibited Commercial and Industrial Use) are intended to establish a consistency whereby churches and other similar assembly uses are regulated within the City. The proposed amendment to Table 17.12.020 (Permitted, Conditional and Prohibited Commercial and Industrial Use) is also intended to permit or conditionally permit restaurants not serving beer, wine or liquor and restaurants, serving beer, wine or liquor as a permitted within the Industrial (I) zoning district of the City. The proposed amendment to Section 17.08.050 (Accessory Structures) is to establish a consistency with 17.24.120 (Projections into Setbacks) of the setback requirement for accessory structures. The proposed amendment to Section 17.64.060 (Council Action on Amendments) is to correct the action by which General Plan Amendments may be taken by the City Council. Therefore, the proposed zone text amendments will foster methods to provide functional land use patterns and preserving the City’s neighborhoods, thereby enhancing the quality of life within the City.

Finding No. 2: Proposed Zone Text Amendment No. 15-97502 is internally consistent with the Zoning Ordinance.

Findings of Fact: Proposed Zone Text Amendment No. 15-97502 is consistent with the existing provisions of the Zoning Ordinance. The proposed amendments to Table 17.12.020 (Permitted, Conditional and Prohibited Commercial and Industrial Use) are intended to establish a consistency whereby churches and other similar assembly uses are regulated within the City. The proposed amendment to Table 17.12.020 (Permitted, Conditional and Prohibited Commercial and Industrial Use) is also intended to permit or
conditionally permit restaurants not serving beer, wine or liquor and restaurants, serving beer, wine or liquor as permitted within the Industrial (I) zoning district of the City. The proposed amendment to Section 17.08.050 (Accessory Structures) is to establish a consistency with 17.24.120 (Projections into Setbacks) of the setback requirement for accessory structures. The proposed amendment to Section 17.64.060 (Council Action on Amendments) is to correct the action by which General Plan Amendments may be taken by the City Council. Therefore, the proposed zone text amendments will eliminate inconsistencies within the Zoning Ordinance.

Finding No. 3: The City Council has independently reviewed and considered the requirements of the California Environmental Quality Act.

Findings of Fact: In accordance with the requirements of the California Environmental Quality Act (CEQA), the City Council has analyzed proposed Zone Text Amendment No. 15-97502 and has determined that it is Categorically Exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment. Where, it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment; the activity is not subject to CEQA. The amendments to the Zoning Ordinance do not relate to any one physical project and will not result in any physical change to the environment. Therefore, it can be seen with certainty that there is no possibility that Zone Text Amendment No. 15-97502 may have a significant adverse effect on the environment, and thus the adoption of this Ordinance is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines.

SECTION 3. CITY COUNCIL ACTION.

The City Council hereby takes the following actions:

1. Adoption of Categorical Exemption. In accordance with Public Resources Code Section 21006 and CEQA Guidelines Section 15061 the City Council hereby adopts the Categorical Exemption prepared pursuant to CEQA Guidelines Section 15061(b)(3) for Zone Text Amendment No. 15-97502.
2. **Approve Zone Text Amendment No. 15-97502.**

a. Banning Municipal Code Table 17.12.020 is hereby amended, as follows:

<table>
<thead>
<tr>
<th>Zone</th>
<th>DC</th>
<th>GC</th>
<th>HSC</th>
<th>PO</th>
<th>I</th>
<th>AI</th>
<th>BP</th>
<th>IMR</th>
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</thead>
<tbody>
<tr>
<td>Churches</td>
<td>X</td>
<td>X</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>Theaters and Meeting Halls</td>
<td>P</td>
<td>P</td>
<td>X</td>
<td>C</td>
<td>X</td>
<td>C</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Restaurants, not beer, wine or liquor sales</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>C</td>
<td>X</td>
<td>P</td>
<td>C</td>
<td>X</td>
</tr>
<tr>
<td>Restaurants, serving beer, wine or liquor</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>X</td>
<td>P</td>
<td>C</td>
<td>X</td>
</tr>
</tbody>
</table>

b. Banning Municipal Code §17.08.050 is hereby amended, as follows:

“Accessory structures in residential zoning districts shall be compatible with the materials and architecture of the primary dwelling of the property. Accessory structures may only be constructed on a lot containing a main dwelling unit. Accessory structures may be built to within 5 feet of the interior side and rear property lines as long as these structures are not closer than 10 feet to any other structure.”

c. Banning Municipal Code §17.64.060 is hereby amended, as follows:

“Upon receipt of the Commission's recommendation, the Council may approve, approve with modifications, or disapprove the proposed amendment based upon the findings. Amendments to the General Plan Land Use/Zoning District map shall be adopted by resolution ordinance. Amendments to the text of the General Plan shall be adopted by resolution ordinance.”

**SECTION 4. 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 5.  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:

________________________________________________________
Lona Laymon, Asst. 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. 1488 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
Public Hearing Notice
Record Gazette
218 N. Murray St.
Proof of Publication
(2015.5 C.C.P.)

117362-AMENDMENT #15-97502

State of California    )
County of Riverside    ) ss.

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, 1968, 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:

April 24, 2015

Executed on: 04/24/2015

At Banning , CA

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

Signature