CITY OF BANNING
PLANNING COMMISSION AGENDA

REGULAR MEETING: Wednesday, December 2, 2015 @ 6:30 PM
City Council Chambers, 99 E. Ramsey Street
Banning, CA 92220

I. CALL TO ORDER: Commissioner Shaw

➢ Pledge of Allegiance: Commissioner Price

➢ Roll Call: Commissioner Briant, Commissioner Ellis, Commissioner Price, Commissioner Krick and Commissioner Shaw

II. CONFIRMATION OF AGENDA

III. 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.

IV. 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 November 4, 2015 meeting..............................................................Page 1

V. PUBLIC HEARINGS:

Staff Report........................................................................................................Page 17

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:

Staff recommends that the Planning Commission adopt Resolution No. 2015-14.

I. Adopting a Categorical Exemption, pursuant to Section 15301 (Existing Facilities) and 32 (In-fill Development Projects) for Design Review No. 15-7003 and Conditional Use Permit 15-8004; and

II. Approving Design Review (DR) No. 15-7003 and Conditional Use Permit (CUP) 15-8004 subject to the Conditions of Approval.

2. TENTATIVE TRACT MAP (TTM) 36939, No. 15-1001 PROPOSAL TO SUBDIVIDE A VACANT 34.6 ACRE LOT FOR PURPOSES OF CREATING 98 NUMBERED LOTS FOR SINGLE-FAMILY RESIDENTIAL DEVELOPMENT AND THREE (3) LETTERED LOTS AND REZONING TO ELIMINATE THE RL-10,000 OVERLAY AFFECTING THE WESTERN PORTION OF THE SITE TO LOW DENSITY RESIDENTIAL (LDR, 0 TO 5 UNITS PER ACRE), APN NO’S 535-430-001 THRU 021-535-431-001 THRU 015,535 432-001 THRU 017,535-070-004 AND 006.

Staff Report........................................................................................................Page 58

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:

**Staff recommends that the Planning Commission adopt Resolution No. 2015-11.**

I. Adopt the Project’s Mitigated Negative Declaration and Mitigation Monitoring Program in compliance with the California Environmental Quality Act Section 15000 et seq.

II. Adopt Ordinance No. 1495, amending the Zoning Map to rezone the site by eliminating the RL-10,000 Overlay and maintain the Low Density Residential (LDR 0 to 5 Units Per Acre) as the Zoning District, and Approve Tentative Tract Map 36939 to create 98 numbered residential lots and three (3) lettered lots subject to the conditions of approval.

3. **CONDITIONAL USE PERMIT NO. 15-7002 FOR A PROPOSED FREeway ORIENTED SIGN LOCATED AT 220 E. RAMSEY STREET (APN: 541-181-032, 033, 034, 035) FOR THE VILLAGE AT PASEO SAN GORGONIO PROJECT WITHIN THE DOWNTOWN COMMERCIAL (DC) ZONING DISTRICT.**

**THIS ITEM IS CONTINUED FROM THE MEETING OF JUNE 3, 2015**

**THIS ITEM IS CONTINUED FROM THE MEETING OF JULY 1, 2015**

**THIS ITEM IS CONTINUED FROM THE MEETING OF OCTOBER 7, 2015**

Staff Report.................................................................Page 117

Order of Procedure:
8. Request staff report / Questions of staff
9. Open public hearing
10. Close public hearing
11. Planning Commission discussion
12. Motion and Second
13. Discussion on motion
14. Call the question (Roll call vote)

Recommendation:

**Staff recommends that the Planning Commission adopt Resolution No. 2015-09.**
I. Adopting a Categorical Exemption (Class 11: Accessory Structures) for Conditional Use Permit No. 15-7002 in compliance with the California Environmental Quality Act (CEQA); and

II. Approving Conditional Use Permit No. 15-7002 allowing the Freeway Oriented Sign for the Village at Paseo San Gorgonio project subject to the conditions of approval.

VI. REPORT FROM ASSISTANT CITY ATTORNEY:

1. BROWN ACT REPORT

[NO ACTION ITEM]

VII. PLANNING COMMISSIONER COMMENTS:

VIII. COMMUNITY DEVELOPMENT DIRECTOR'S COMMENTS:

IX. ADJOURMENT:

The City of Banning Planning Commission is hereby adjourned to the regular Planning Commission meeting of January 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

November 4, 2015

A regular meeting of the City of Banning Planning Commission was held on Wednesday, November 4, 2015 at 6:30 p.m., in the Council Chambers, City Hall, 99 East Ramsey Street, Banning, CA, 92220.

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

Staff Present:
Acting Community Development Director, Brian Guillot
Assistant City Attorney, Robert Khuu
Contract Planner, Yvonne Franco
Recording Secretary, Sandra Calderon

I. CALL TO ORDER

II. SELECTION OF CHAIRMAN:

Motion was made from Commissioner Ellis nominating Shaw for Chairman and Commissioner Price Second the motion.

A second motion was made from Commissioner Briant nominating Commissioner Ellis for Chairman and Commissioner Shaw Second the motion.

A substitute motion was made to select Commissioner Ellis for Chairman.

(Motion Carried 5-0)

Assistant City Attorney, Khuu said that there had been a correction to the October 7th minutes. The Commission will pull the item for consideration with the modification during the consent item; therefore, giving the public an opportunity to comment on them at that time.

Chairman Ellis asked about a correspondence that was received from Bob Botts to the Planning Commission
Acting Community Development Director, Guillot said that a copy of the correspondence was an item that was asked to be delivered to the Commissioners in their mail box not an item for discussion.

III. PUBLIC COMMENTS

A letter from Bob Botts addressed to City Council Members and copy to City Planning Commission was read by the Recording Secretary for the record attached hereto and incorporated here in as Exhibit “A”.

Mr. Burgess a Banning resident mentioned that he didn’t see the approval of the last meeting in the Agenda Calendar. He also said that the letter read is addressed to the City Council and it’s not a Planning Commission Agenda item, and it’s should have been sent to the City Council.

Chairman Ellis said that he wanted to make a note that Guillot was asked to provide a copy of this email to each Planning Commissioner at the next meeting, and that’s the reason why he wanted it entered as a record in the meeting.

Inge Shuler a Banning resident said that she holds a copy of the letter and it’s aware that it was noted in the bottom of the letter that states “Copy to: City of Planning Commission”.

IV. CONSENT CALENDAR

1. Minutes of October 7, 2015 with the modification.

ACTION (SHAW/KRICK):

(Motion Carried 5 -0)

V. PUBLIC HEARINGS:

1. ZONE TEXT AMENDMENT (ZTA) #15-97505 ECONOMIC DEVELOPMENT-BILLBOARDS OR OUTDOOR ADVERTISING SIGNS.

Acting Community Development Director Guillot presented the staff report and stated that recently there had been a joint study session with City Council to consider an amendment to the City’s sign regulations intended to allow relocation agreements, presently the sign code prohibits any new billboards, and if relocations are not permitted, it impedes development. He gave an example of a billboard located on West Ramsey Street where there is a desire to have that property developed as a retail center; however, that billboard is on the way.

In order to accommodate the relocation we are recommending the sign code be amended simply to allow relocation agreements. The State of California has an outdoor advertising act, and it

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recommends, and encourages cities that have the control to allow relocation agreements as it encourages continued business activity and development.

Comments were received from the Planning Commission and the City Council and those recommendations were used to develop a draft ordinance.

Paragraph (D) of Section 17.36.060 Prohibited signs to allow relocation agreements, and design guidelines that accompany it. The draft ordinance sets forth the focused changes, a total of seventeen (17) items, and included are those recommendations from the City Council and Planning Commission.

Guillot listed some of the suggested guide lines and mentioned that these are only parts of what will be considered in a relocation agreement. A relocation agreement will be negotiated between the City Council and the billboard owner.

Guillot mentioned that he communicated with some of the outdoor advertising and billboard owners and some comments were received, in particular from Lamar Outdoor Advertising.

Guillot directed everyone’s attention to a memorandum that was submitted, dated November 4, 2015, Lamar brought forward a number of items that they’re concerned with, many of those were discussed with them and explanation was provided. Lamar understands that City Council will negotiate with them.

Guillot talked about the first page of the memorandum from Lamar attached hereto and incorporated herein as Exhibit “B”. Item number 9 refers to the illumination, basically the numbers listed will not be bright enough in the desert sun and they are recommending during the day light to be able to go to 7,500 nits, and at night time should be 500 nits.

Guillot said that he recommends to the Planning Commission to amend the seventeen (17) design guide lines to include what was simply discussed for item number 9.

Chairman Ellis opened public hearing.

Betsy Hays with Lamar Outdoor advertising, talked about the Memorandum dated November 4th with their concerns; she said that they were able to discuss them with Guillot and he was able clear up many of the items.

Hays said that they believe that their concerns can be worked out as they work with the Council.

Hays wanted to make the Commissioner aware that they have an Emergency Alert System (EAS) program in place, and that there’s always a slot available for emergency purposes.

Hays also mentioned that they currently have six (6) advertisers on digital.

Chairman Ellis closed public hearing.

Chairman Ellis opened the floor for discussion.

Commissioner Shaw said that he understands that any electronic billboard relocation will still be subject to negotiations with the City in regards to time, location, verbiage etc.

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November 4, 2015
Guillot said that all agreements will have in common would be the design guidelines that are being recommended to be adopted in the resolution by City Council, but they might be other things besides the seventeen (17) items listed.

Commissioner Krick asked how much business license does the billboard owner have to pay? And, in the future, will an electronic billboard sign is going to pay more in the City tax or it’s going to be the same as a regular billboard?

Guillot said that Business license tax is about $117/ billboard up to eight (8), then another $15/billboard. The City is reviewing all its fees at this time, and fees related to billboards could be reviewed if the Planning Commission desires.

Guillot also said that the Code does not address the difference in fees based on an electronic billboard and a regular one, but that can certainly be addressed during the review.

Commissioner Krick asked how far apart are they going to be from other billboard signs or freeway oriented signs, and if there’s going to be any provision? how close can they go?

Guillot said that the area available to locate billboards it’s a very limited space, guidelines have not been adopted, and has decided to bring this forward as a negotiating item with City Council because each property is shaped differently and each offer would be different.

In one of the provisions in the guidelines, it’s asking for what’s is called “photo simulations” The billboard advertiser could show the new location in that context to determine some of the items that are of concern.

Commissioner Price asked about item number three (3) on P35 that reads “the City shall have the right to place public service announcements on any such electronic messaging center” and asked Guillot for some examples.

Guillot said that public announcements will be City events, like Stage Coach Days, Disaster Expo that happens once a year, and limits on public service announcements will be stipulated in the relocation agreement.

Chairman Ellis said that as discussed, service announcements could be Amber Alerts.

Chairman Ellis asked Lamar if a 14’x18’ is a standard size for a sign or if they be any larger.

A representative from Lamar said they can be larger, but usually not.

Chairman Ellis asked the Commissioners to consider item number two (2) on P35 that reads “The scenic view south of Interstate 10 from Sunset to Hargrave should be preserved as there are no existing billboards at this location” to add the word north as well as south.
Commissioner Krick said that his concern is that if we’re going to try to accommodate sign companies in their relocation, and that doesn’t necessarily mean on site; maybe, the north side of the freeway is a better location to a sign.

Commissioner Ellis said that he’s referring from 8th Street to Hargrave Street.

Commissioner Krick said the area is zoned Down Town Commercial (DC) and it’s prohibited.

Guillot said that on item thirteen (13) of P35 that reads “Relocated billboards shall not be allowed in the Downtown Commercial (DC) zoning district. This is north of the freeway from 8th Street almost to Hargrave Street, and will be prohibited if adopted.

Commissioner Shaw said that he agrees with Commissioner Krick that the guide lines listed are general, but restrictive in a way and don’t think that more should be added. Each sign would have to bring in their visual and its impacts, negotiate by case by case basis.

Chairman Ellis opened the floor for a motion.

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

Adoption of Resolution No. 2015-12

I. Recommending to the City Council the adoption a Categorical Exemption for the subject project; and

II. Recommending to the City Council the approval of Zone Text Amendment #15-97505 and adoption of Ordinance No.1493 and Resolution 2015-96 Establishing Design Guidelines with the addition from the Lamar memorandum for item number nine (9).

9. Each electronic message center shall contain automatic dimmers that maintain a maximum luminance of 7,500 nits during the daylight hours, and 500 nits from dusk (official sunset) to sunrise and during times of fog (One nit is equivalent to one candela per square meter) Each electronic message center shall be equipped with a mechanism to monitor brightness.

(Motion Carried 5-0)

2. DESIGN REVIEW NO. 15-7005 FOR THE REMODEL AND EXPANSION OF AN EXISTING COMMERCIAL BUILDING AND THE CONSTRUCTION OF A 6,950 SQUARE FOOT BUILDING PAD AT 300 S. HIGHLAND SPRINGS AVENUE (APN: 419-140-040) WITHIN THE SUN LAKES VILLAGE SPECIFIC PLAN.
Yvonne Franco Contract Planner presented the staff report and mentioned that this item proposes to remodel, and to expand an existing building, construct a 6,950 s.f. within the Sun Lakes Village Commercial Center. The remodel and expansion is for the larger building on the south end of the Commercial Center, it is currently at 95,679 s.f. and it was the location of the former K-Mart.

The greater part of the expansion will occur on the east of the project that will enclose the Garden Center area, plus 1,300 for tenant Major D. The new proposed building of 6,950 s.f. in the area between the south side of the fuel station, north of the Carl’s Jr. Restaurant, one of the proposed tenants will have a Drive-Thru isle. Both buildings will be similar in design and architectural element.

Chairman Ellis opened the floor for public hearing.

Dave Garrison, Chief Architectural Project Manager for Marinita Development Co. said that they spent considerable amount of time with staff getting the conditions together.

Commissioner Krick said he noticed that the trash areas in Major’s A and D have great loading docks, but lack trash receptacles.

Garrison said that they are in the west side of the building and are currently connected to the building so one of the tenants will have direct access to the trash for compacting cardboard and a roll-off for the trash. A recyclable and trash bins will be located in the east side of the building and will be enclosed.

Guillot said that the requirements for trash enclosure is part of the Code and the applicant has agreed to put the trash enclosure on the Major east side, there is one on the west side that’s missing the gates, but that is something that can be addressed.

Commissioner Krick said that this is a wonderful project and he’s looking forward to it. He took the opportunity to compliment Mr. Garrison for the vision of converting and making something really nice for this town.

Garrison said that plans were submitted for plan check and they’re anticipating the closing of escrow by the end of the year, and as soon as the financing and permits are obtained then will be under construction. It will be about three to four month process for the Major, the addition of the Big 5 will probably take another month or two to finish, and the Pad will take a little longer.

Garrison complimented Guillot and City Staff for being accommodating.

Garrison pointed out that he will work with staff to get something architecturally pleasing for the top of the trash enclosures.

Commissioner Krick asked about the trees that are going to be removed. Garrison said that the trees that will be removed will be primarily in the parking lot area and are currently trying to get control as the management for the property. He added that if you drive by the

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property, it’s difficult to see into the Center. Work will be done, such as tree trimming along the street frontage.

Garrison said that extensive ADA updates will be done to become compliant, which he estimates it will cost about One Hundred Thousand Dollars ($100,000).

Commissioner Ellis complimented Mr. Garrison on the choice of retailers and design of the buildings and that it will be a welcomed addition to the community, but would not like to see the project delayed because of not having tenants.

Garrison said that is difficult to build a building without having the tenants there, and to try to meet their specific needs. If it’s built before, it might not beneficial to lease it properly. It’s going to be a short delay, possibly a few months.

Commissioner Price said that Hobby Lobby and Big 5 stores will be a great addition, and he plans to shop there.

Chairman Ellis opened public hearing for oppositions.

None

Chairman Ellis closed the public hearing.

Chairman Ellis opened the floor for a motion.

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

Adoption of Resolution No. 2015-13

I. Adapting a Categorical Exemption, pursuant to Section 15301 (Existing Facilities) and Section 15303 (New Construction or Conversion of Small Structures) for Design Review No. 15-7005; and

II. Approving Design Review (DR) No. 15-7005 subject to the Conditions of Approval.

(Motion Carried 5 -0)

**VI. REPORTS FROM ASSISTANT CITY ATTORNEY:**

1. REVIEW OF ORDINANCES CONCERNING DEAD TREES AND SHRUBS.

Assistant City Attorney, Khuu said that on the last Planning Commission meeting, the Commission asked staff to bring back an item on the enforcement related to dead trees and
shrubs throughout the City. There are two places in which there could be dead vegetation, public or private property. Within the City’s jurisdiction, the Public Works Director is able to abate the dead trees.

On private properties there are several mechanisms that the City has to enforce that. Any violation of the code can be cited, either by administrative citation, or as a misdemeanor.

With the recent drought conditions, State Law has been passed stating that cities cannot fine property owners for having a brown lawn. The fact that State Law references lawns implies that they want to leave dead trees alone, but the City can still continue with enforcement or abatement.

The nuisance abatement process is very lengthy. Code Enforcement can give notice of violations to owners allowing sufficient time to come into compliance with the code. A warrant is available as an alternative to the City to abate a violation.

Chairman Ellis asked if ornamental shrubs are inclusive.

Khuu said yes, and added that a summary abatement can be used for example if there’s an immediate hazard such as overgrown, dry grass in a field followed by proper legal notice to the property owner.

Chairman Ellis asked how does weed abatement fit into that?

Khuu said that the weeds are overgrown, and it posing a potential hazard, the City can abate them, then, charge the property owner. On the other hand the City can notify the owner of the violation and they can voluntarily comply.

The Code Enforcement for the City is reactive in nature in a sense that when someone complaints, Code Officers investigate and if an issue is found, they will cite, or close the case.

Commissioner Price said that he’s the President of his H.O.A. at Serrano Del Vista, at the beginning of the grade separation there was a culvert along Sunset Blvd. to Westward Ave. this was filled in with dirt and now weeds have grown there. He receives calls from homeowners regarding this issue because it’s difficult for many to sell their homes when potential buyers see this come into our community. He’s not sure if this is a County or City issue, and asked if that’s something that can be addressed.

Khuu said if that is located within the City, Code Enforcement can go out and take a look.

Guillot said that he made the Public Works Department aware of the concern regarding the weeds and they may get a contractor to do a clean-up because that area is in the public right-of-way.

Chairman Ellis asked Khuu where does the Fire Marshal fall into all of this?
Guillot said that at one time there was an in house Fire Marshall who was responsible for the weed abatement program, but the City has been reorganized since. A contract is now with Cal Fire. A Fire Specialist is now with the City who performs some of the duties of the former Fire Marshall; however, weed abatement is not one of those duties. The weed abatement duties have been transferred to the Code Enforcement Department.

Chairman Ellis asked if there is a possibility to send out flyers along with the utility bills regarding the necessity to abate dead trees and shrubs in lieu of drought conditions.

Guillot said that this is a possibility and can take the recommendation to the Police Chief.

Chairman Ellis said that the reason for his expressed concern regarding this issue is because a fire occurred near his home recently, and there're many dead trees in the City.

2. REVIEW OF ORDINANCES CONCERNING PARKING AND LOT CONSTRUCTION STANDARDS.

Assistant City Attorney, Khuu said that on the last Planning Commission meeting the commission asked staff to bring back a discussion about the code provisions governing the parking lot areas for commercial and residential properties.

The City’s code has parking design standards for both, residential and commercial. There is an exception regarding parts of the driveway or parking lot area that’s near a tree or vegetation area that would require a porous surface, essentially gravel to allow water to reach the roots of those plants.

Some properties are legal non-conforming, a change in the law shouldn’t necessarily remove their right to have it in that way and this might count some inconsistencies that the Commission noted throughout the City particularly the commercial parking areas.

Any expansion to a structure requires that they must bring everything into compliance.

The Code Enforcement would have to make a determination as to who is, or isn’t legal non-conforming. The current rule say that parking should only occur on paved areas or legal non-conforming parking areas which will include gravel type areas.

People that are currently parking in the front lawn are parking in violation of the code.

Some of the consequences of violation initially begin with an administrative citation or a misdemeanor violation.
Chairman Ellis asked if are most Code Enforcement Officer’s in other cities are reactive, and not proactive?

Khuu said yes, in his experience most Code Enforcement Departments are reactive, mostly because of the lack of personnel. Anonymous complaints that are received are investigate first.
Chairman Ellis asked if it's the discretion of the Code Enforcement Officer to be proactive or not.

Khuu said that the Code Enforcement Officers have independent prosecutorial discretion and have the ability to pursue within their own judgment.

Commissioner Krick said that the Code Enforcement Officers do a good job, have a case load and back log that is very great, and don't need to find more problems because they have more than what they know what to deal with.

Commissioner Krick said that he thought the Code Officers mailed out letters first before citing.

Khuu agreed, he said that Code Enforcement initially will send out a notice of violation and if the owner does not comply, then an administration citation will be issued.

Chairman Ellis said that we have a lot of residential homes that are legal non-conforming that don't have driveways, but parking in any other areas is prohibited. Should they park in the area where the dive way would be?

Khuu said yes, most designs requires a driveway type area, gravel or otherwise.

Chairman Ellis said that the City has many residential properties that don't have driveways, only dirt approaches.

Commissioner Krick said that regarding legal non-conforming that may have to come into compliance if the used is discontinued for six (6) calendar months. If Code Enforcement is being reactive, how does the City know when the six (6) months are starting at a place that's not conforming, and its use has discontinued.

Guillot said that in the legal non-conforming structures and legal non-conforming uses portion of the zoning ordinance refers to utility billing, particularly the electric bill. Research will be done to find out if the electricity has not been used for six (6) months.

Commissioner Krick said that the City might still have utilities on.

Khuu said that he understands that Code Enforcement is doing the best that they can, but many are still going to fall through the cracks.

Chairman Ellis said that we now have a new head of the Code Enforcement Department and feels that we will see an improvement in town.

VII. COMMUNITY DEVELOPMENT DIRECTOR'S REPORT

None

VII. ADJOURNMENT

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There being no further business, the meeting was adjourned at 7:53 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.
EXHIBIT “A”
From: Bob Botts  
Sent: Tuesday, October 27, 2015 10:07 PM  
To: Brian Guillot  
Subject: Building A Better Banning

Brian: Would you provide a copy of this email to each Planning Commissioner at the next meeting. Thanks.

City Council Members  
City of Banning

Dear Sirs and Lady:

Historically for me in public life, and under normal circumstances, it has been my approach not to respond to attacks and accusations, either verbally or through written letters, recognizing that it is part of public life that people feel they have a right to attack current and previous elected Council Members and say practically anything they want.

When I resigned from the Council I wished you well, said good luck, and moved into private life where I have made it a point to not answer pointed questions from the Press, when they write stories about the City, the Council Members and/or the Planning Commission, knowing that many times they simply want to create controversy and sell more newspapers. I have adhered to this approach of not talking with the media or writing letters ever since I left the Council.

Ann and I moved here sixteen (16) years ago to retire, which I have done, but I continue to care about the City of Banning and work with people, non-profits and for profit organizations, who are trying to make Banning a better place in which to live, work and play and trying to improve the City economically as well as qualitatively.

Thus I regret having to make this comment but for the record, Fred Sakurai does not represent or speak for me now, in any fashion, nor has he ever represented or spoken for me in any fashion, on any subject, and I find that he is not only an embarrassment to me but frankly an embarrassment to himself also.

I continue to pray for good things for the City in the coming years, and will continue my efforts and time working on behalf of the City for its betterment.

Bob Botts

Copy to: City Planning Commission
EXHIBIT "B"
MEMORANDUM

DATE: November 4, 2015

TO: Commissioners, Planning Commission
    Brian Guillot, Acting Community Development Director

FROM: Lamar Outdoor

RE: Proposed Zone Text Amendment (ZXT) #15-97505

We have a few questions and concerns for clarification purposes as follows:

Page 13
1. ...removal of at least one existing billboard...  Clarification please.

3. As long as the company...  Clarification please?
   Are all billboard owners a "company"?
   Perhaps this should be - ...company or landowner... or billboard owner?

...the right... we are ok with this language if the following is added at the end of that sentence, i.e.,
...center on a space available basis and pre-emptable for revenue generating advertiser.

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6. We cannot do this on an electronic message center face. The image IS the light.

9. Not sure where these measurement came from, but the daytime is too low. In order for the LED to be able to compete against daylight / sun, the system must be able to be adjust up to 7,500 nits.

(The technology automatically adjust up and down.)

The nighttime nits measurement is too high and should be ...500 nits dusk...
This measurement would prevent the night face from being too bright.

-over-
11. ...the right to place emergency service announcements...

Lamar has an Emergency Alert System (EAS) program with slots available for 'emergency' information for earthquake, road hazards, Amber Alerts, Crime Stoppers, FBI Most Wanted...

We would appreciate clarification as to what Banning may consider an emergency outside of criteria as listed above.

13. What are the street boundaries of Downtown Commercial (DC) zoning district?

14. Clarification please. *Whenever practicable*...architectural enhancements...

Page 15.

16. Do not understand this section. Is the height requirement 55 feet?

We very much appreciate your clarification and consideration of these items.
CITY OF BANNING
Planning Commission Report

DATE: December 2, 2015
TO: Planning Commission
FROM: Brian Guillot, Acting Community Development Director


RECOMMENDATION:

Staff recommends that the Planning Commission adopt Resolution No. 2015-14 (Attachment 1):

I. Adopting a Categorical Exemption, pursuant to Section 15301 (Existing Facilities) and 32 (In-fill Development Projects) for Design Review No. 15-7003 and Conditional Use Permit 15-8004; and

II. Approving Design Review (DR) No. 15-7003 and Conditional Use Permit (CUP) 15-8004 subject to the Findings and Conditions of Approval; and

III. Approving the Public Convenience or Necessity Findings for a Type 20 License for the Sale of Beer and Wine.

APPLICANT INFORMATION:

Project Location: 2192 W. Ramsey Street
APN Information: 538-200-004

Project Applicant: Mr. Bahman (Ben) Nikkar
2192 W. Ramsey Street
Banning, CA 92220

Design Review No. 15-7003 & Conditional Use Permit No. 15-8004
Property Owner: Dara Enterprises, LLC
2192 W Ramsey Street
Banning, CA 92220

PROJECT BACKGROUND AND DESCRIPTION:

Design Review

The applicant is requested approval of a Design Review application and a Conditional Use Permit for the Shell Gas station located at 2192 W. Ramsey Street, on the southeast corner of Ramsey Street and 22nd Street.

The existing site includes an 861 square foot building, six double-sided fuel pumps with a canopy, one ADA parking space, and a trash enclosure.

Approval of the Design Review would allow the existing building area to increase by 796 square feet to a total of 1,657 square feet, the construction of a new carwash facility at 864 square feet, a total of twelve parking spaces, and landscaping. Additionally, one of the two existing driveways on 22nd Street would be closed (Attachment 2).

The Highway Serving Commercial (HSC) district allows land uses geared toward the Interstate 10 traveler, including restaurants, hotels, and motels, auto related retail, repair and services, including gas station, convenience stores, and similar uses.

The Highway Serving Commercial zoning district permits the sale of alcohol for off-site consumption with approval of a Conditional Use Permit by the Planning Commission; the applicant is therefore applying for a CUP for the sale of beer and wine at the site (Attachment 3).

Land Use Summary 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>Existing Shell Gas station</td>
<td>Highway Serving Commercial</td>
<td>Highway Serving Commercial</td>
</tr>
<tr>
<td>South</td>
<td>Liquor Store, mobile phone</td>
<td>Highway Serving Commercial</td>
<td>Highway Serving Commercial</td>
</tr>
<tr>
<td></td>
<td>retail space, and psychic</td>
<td></td>
<td></td>
</tr>
<tr>
<td>East</td>
<td>Interstate 10</td>
<td>Public Facilities</td>
<td>Public Facilities</td>
</tr>
<tr>
<td>West</td>
<td>McDonald’s Restaurant</td>
<td>Highway Serving Commercial</td>
<td>Highway Serving Commercial</td>
</tr>
<tr>
<td></td>
<td>Arco Gas Station</td>
<td>Highway Serving Commercial</td>
<td>Highway Serving Commercial</td>
</tr>
</tbody>
</table>

Design Review No. 15-7003 & Conditional Use Permit No. 15-8004

P18
Parking Requirements

Chapter 17.28 Parking and Loading Standards, of Title 17, includes provisions for self-service carwash, service stations, and retail commercial uses.

Service stations are required to provide one space for each service bay, plus one for each employee, plus a requirement for related uses commercial uses. The applicant is not proposing any service bays for vehicle maintenance; however, the retail area will be expanded to 1,656 square feet and will require additional parking spaces. The self-service carwash will require two spaces.

The existing and required parking spaces are included in the table below:

<table>
<thead>
<tr>
<th>Uses</th>
<th>Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>Retail commercial</td>
<td>7</td>
</tr>
<tr>
<td>Service station bays</td>
<td>0</td>
</tr>
<tr>
<td>Self-service carwash</td>
<td>2</td>
</tr>
</tbody>
</table>

Total Required 9
Total Proposed 12
Surplus parking spaces 3

Architectural Design

Much of the expansion to the existing building will take place under the 17’6” canopy, and will maintain the same roofline design. The maximum height of the building will not exceed 12 feet, and be painted to match the existing.

The self-service carwash facility will be located on the east end of the site. The shed roof designed structure will include a concrete tile roof, and stone veneer wainscoting on the north, south and west facing elevations. The east elevation will include three recessed areas for trellis and climbing vines measuring ten feet in height and eight feet wide.

Landscaping

Landscaping improvements will include the replacement of much of the existing landscaping and will be required to meet the City’s water efficiency standards. Trees are proposed along the southern perimeter of the site and the existing planter areas and will include Australian willow, Crape Myrtle and Blue Palo Verde.

Conditional Use Permit

Table 17.12.020 “Permitted, Conditional and Prohibited Commercial and Industrial Uses” of Title 17 of the Zoning Code requires that a Conditional Use Permit be approved by the Planning Commission for alcoholic beverage sales, on- or off-site. Additionally, section 17.12.050(B)(2) of the Zoning Code requires the following:

1. Establishments shall not be located within 500 feet of any religious institution, school, or public park within the City.
2. The license application shall be reviewed by the Police Department prior to Planning Commission approval.

A review of properties within 500 feet of the site reveals that there are no existing religious institutions, schools, or public parks. Additionally, the City of Banning Police Department provided a letter stating that this is not a high crime area (Attachment 4).

A conditional use permit review requires determination 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 impact which it may cause. The limits which staff is recommending include conditions that help make the use compatible with the existing and nearby land uses.

Alcoholic Beverage Control (ABC) Licensing:

ABC licenses are required for any business wishing to sell alcoholic beverages. These licenses are issued by the State of California, Department of Alcoholic Beverage Control. The Shell Gas station is within census tract 0441.01; is bounded by Sunset Avenue to the west, San Gorgonio Avenue to the east, Interstate 10 to the south and W. Nicolet Street to the north.

Within census tract 0441.01, there are seven different types of licenses for different businesses; they are as the following:

<table>
<thead>
<tr>
<th>License Type</th>
<th>Description</th>
<th>Business Name/Location</th>
<th>License Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>20</td>
<td>OFF SALE BEER &amp; WINE – (Package Store) Authorizes the sale of beer and wine for consumption off the premises where sold. Minors are allowed on the premises.</td>
<td>Shopping Basket 2217 W. Ramsey Street</td>
<td>477053</td>
</tr>
<tr>
<td></td>
<td></td>
<td>ARCO AM/PM 2228 W. Ramsey Street</td>
<td>446979</td>
</tr>
<tr>
<td></td>
<td></td>
<td>G&amp;M Oil 827 W. Ramsey Street</td>
<td>384526</td>
</tr>
<tr>
<td>21</td>
<td>OFF SALE GENERAL – (Package Store) Authorizes the sale of beer, wine and distilled spirits for consumption off the premises where sold. Minors are allowed on the premises.</td>
<td>Smart &amp; Final 2971 W. Ramsey Street</td>
<td>456367</td>
</tr>
<tr>
<td></td>
<td></td>
<td>22nd St. Liquor Store 2185 W. Ramsey Street</td>
<td>452827</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Eddie’s Liquor Store 1433 W. Ramsey Street</td>
<td>258925</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Rite Aid 806 W. Ramsey Street</td>
<td>473729</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Cheers Market 527 W. Ramsey Street</td>
<td>514096</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Sunset Market &amp; Deli 3181 W. Ramsey Street</td>
<td>555716</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Jack’s Market 62 N. 8th Street</td>
<td>392368</td>
</tr>
<tr>
<td>ON SALE BEER &amp; WINE – EATING PLACE – (Restaurant)</td>
<td>Gramma’s County Kitchen 2868 W. Ramsey Street</td>
<td>463860</td>
<td></td>
</tr>
<tr>
<td>Fisherman’s Market 2271 W. Ramsey Street</td>
<td>463353</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pizza Hut 1360 W. Ramsey Street</td>
<td>531367</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sizzler 1750 W. Ramsey Street</td>
<td>401849</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Senor Mexican Food 1675 W. Ramsey Street</td>
<td>516713</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Johnny Russo’s Italian Kitchen 1335 W. Ramsey Street</td>
<td>350222</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Zen Japanese Cuisine 1231 W. Ramsey Street</td>
<td>510546</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wings Garden Café 116 W. Ramsey Street</td>
<td>278740</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

| ON SALE GENERAL – EATING PLACE – (Restaurant) | Paddy Oreilly’s Grill 41 W. Ramsey Street | 554702 |
| Casa Cruz 2579 W. Ramsey Street | 523746 |

| VETERAN’S CLUB – Authorizes the sale of beer, wine and distilled spirits, to members and guests only, for consumption on the premises where sold. Authorizes the sale of beer and wine, to members and guest only, for consumption off the licensed premises. Food service is not required. Minors are allowed on the premises. | Veteran’s Club 70 S. 1st Street | 353980 |

| ON SALE LICENSE – Caterer’s Permit | Johnny Russo’s Italian Kitchen 1335 W. Ramsey Street | 350222 |
Three Type 20 off-sale ABC licenses are currently active to separate businesses within Census Tract 0441.01; one is located on the northwest corner of 8th Street and Ramsey, approximately a mile east of the Shell Gas Station; the other two are located at the intersection of 22nd Street and Ramsey Street, the northwest corner (Shopping Basket) and southwest corner (Arco AM/PM).

**ABC License Concentration Levels**

<table>
<thead>
<tr>
<th>Location</th>
<th>Number of off-sale retail license</th>
<th>Population</th>
<th>Ratio</th>
</tr>
</thead>
<tbody>
<tr>
<td>Census Tract 0441.01</td>
<td>3†</td>
<td>2,973²</td>
<td>.001</td>
</tr>
<tr>
<td>Riverside County</td>
<td>1,719¹</td>
<td>2,308,441¹</td>
<td>.0007</td>
</tr>
</tbody>
</table>

¹ Source: State of California, Department of Alcoholic Beverage Control, website: http://www.abc.ca.gov/permis/Census%20Tract%20Authorizations.pdf
² Source: State of California, Department of Alcoholic Beverage Control, website: http://www.abc.ca.gov/permis/Census%20Tract%20Authorizations.pdf
³ Source: State of California, Department of Alcoholic Beverage Control, website: http://www.abc.ca.gov/permis/Census%20Tract%20Authorizations.pdf

**Determination of Public Convenience or Necessity**

The Determination of Public Convenience or Necessity is a tool for local agencies to directly have a part in the ABC licensing process. A determination of public convenience or necessity is demonstrated when the applicant proves that the business operation will provide some kind of benefit to the surrounding community.

1. The Addition of Beer and Wine Sales at Shell Gas Station will not be Detrimental to the Character or Development in the Immediate Neighborhood and will be in Harmony with the Overall Objectives of the General Plan.

According to the General Plan the Highway Serving Commercial land use designation allows restaurants (fast food and sit down), hotels and motels, auto related retail, repair and services, including gas station, convenience stores and similar uses serving the I-10 traveler. The Shell Gas Station is surrounded by Highway Serving commercial uses and does not abut a residential neighborhood.

Two of the three existing Type 20 Licenses are located at the Ramsey Street and 22nd Street; since the two of the surrounding uses are compatible to the sale of beer and wine, approval of the CUP will not be harmful to the health, safety and general welfare of the public or otherwise detrimental to the environment or the character of development in the immediate area.

With respect to the City General Plan, the Vision Statement promotes "well-balanced
commercial development, where revenue generating commercial neighborhoods provide a diversified economy...” Similarly, the General Plan’s Land use element identifies a goal of creating a “balanced, well planned community including businesses which provide a functional pattern of land uses” and a policy of promoting the “highest quality” of development. The addition of beer and wine sales would facilitate even greater harmony with the General Plan by providing more convenient, “one-stop” shopping for Shell Gas customers in the City of Banning and further diversifying the area’s economic base.

2. **Beer and wine Sales at Shell Gas Will Generate Economic Benefits and They Are Not Likely to Result in negative Impacts to the Community as a Whole.**

As described above, the sale of beer and wine by Shell Gas would be conducted in an area that does not abut residential uses and is surrounding by that in retail in nature. Therefore, the project is not likely to generate negative community impacts. Economically, given that Shell Gas is located on the only location at the 22nd Street and Ramsey Street intersection, a Type 20 Beer and Wine license would make Shell Gas a more convenient “one stop” option for shoppers, it is likely Shell Gas will generate additional sales tax revenue for the city of Banning. Furthermore, the City of Banning Chief of Police has provided in writing that this is not a high crime area.

**ENVIRONMENTAL DETERMINATION:**

**California Environmental Quality Act (CEQA)**

In accordance with §15301 (Existing Facilities) a Class 1 Categorical Exemption and §15332 (In-Fill Development Projects) a Class 32 Categorical Exemption of the California Environmental Quality Act (CEQA), the project is being exempt from further environmental review. A Class 1 Categorical Exemption consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features involving negligible or no expansion of use beyond that existing at the time of the lead agency’s determination. A Class 32 Categorical Exemption of the California Environmental Quality Act (CEQA) consists of project characterized as in-fill development meeting 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 project 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; d) the site can be adequately served by all required utilities and public services. The Planning Commission has analyzed proposed Design Review No. 15-7003 and Conditional Use Permit 15-8004 and has determined that it is Categorically Exempt from CEQA pursuant to §15301 and §15332 of the CEQA Guidelines due to the fact that the proposal meets the required criteria to qualify as a “existing facilities” as defined by §15301 and “in-fill development projects” §15332 of the CEQA Guidelines.

Staff has analyzed proposed Design Review No. 15-7003 and Conditional Use Permit 15-8004 and has determined that it is Categorically Exempt from CEQA pursuant to §15301 and §15332 of the CEQA Guidelines due to the fact that the proposed meets the required criteria to qualify as an “existing facilities” as defined by §15301 and “in-fill development projects” of the CEQA.
Guidelines. Therefore, Design Review No. 15-7003 and Conditional Use Permit 15-8004 is Categorically Exempt from CEQA pursuant to §15301 and §15332 and 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 FOR DESIGN REVIEW NO. 15-7002:

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. 15-7003:

Finding No. 1: Proposed Design Review No. 15-7003 is consistent with the General Plan.

Findings of Fact: Design Review No. 15-7003 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 Highway Serving Commercial (HSC) allows restaurants, hotels motels, auto related retail repair and services, including gas stations, convenience stores and similar uses serving the I-10 traveler. The existing 861 retail space will be increased by 796 square feet to a total of 1,657 square feet, the construction of a new car wash facility at 864 square feet, a total of twelve parking spaces, and landscaping. Further, Design Review No. 15-7003 and 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, the remodel and expansion of a commercial building and the construction of a self-service carwash, will continue to generate sales tax revenues for the City.

Finding No. 2: Design Review No. 15-7003 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. 15-7003 is consistent with Section 17.12.150 (Architectural Design Guidelines) of the Zoning Ordinance and the development standards of the Highway Serving Commercial (HSC) zone, with regards to architecture, off-street parking and vehicular circulation and landscaping.

Finding No. 3: The design and layout of Design Review No. 15-7003 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. 15-7003 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. 15-7003 is consistent with Section 17.12.150 (Architectural Design Guidelines) of the Zoning Ordinance and the development standards of the Highway Serving Commercial zone.

Finding No. 4: Design Review No. 15-7003 is compatible with the character of the surrounding neighborhood.

Findings of Fact: Design Review No. 15-7003 will not impair the integrity and character of the Highway Serving Commercial (HSC) land use district. Design Review No. 15-7003 is consistent with Section 17.12.150 (Architectural Design Guidelines) of the Zoning Ordinance and the development standards of the Highway Serving Commercial (HSC) 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.

REQUIRED FINDINGS FOR CONDITIONAL USE PERMIT 15-8004:

Section 17.52.050 of the City of Banning Zoning Ordinance requires that Conditional Use Permit applications meet certain findings prior to the approval by the Planning Commission. The following findings are provided in support of the approval of Conditional Use Permit No. 15-8004:

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

Finding of Fact: Conditional Use Permit 15-8004 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 Highway Serving Commercial (HSC) allows restaurants, hotels motels, auto related retail repair and services, including gas stations, convenience stores and similar uses serving the I-10 traveler. Further, Conditional Use Permit 15-8004 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." Approval of the permit
would allow the applicant to diversify and provide an economic benefit to the City.

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

Finding of Fact: Table 17.12.020 Permitted, Conditional and Prohibited Commercial and Industrial Uses, of Title 17 of the Municipal Code, lists Alcoholic Beverage Sale on-or off site, as a conditionally permitted use in the Highway Serving Commercial Zoning District. Furthermore, Section 17.12.050 Use Specific Standards, provides specific provisions for the Alcohol Beverage Control "ABC" Licenses.

Finding No. 3 The proposed use would not impair the integrity and character of the land use district in which it is to be located.

Finding of Fact: The proposed use will not impair the integrity and character of the Highway Serving Commercial (HSC) land use district in which it is to be located because it is surrounded by improved commercial land.

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

Finding of Fact: The subject site is currently developed as a gas station and the retail area will be expanded the additional alcohol related merchandise. However, the improvements are consistent with the development standards in the zoning ordinance in that it meets the development standards for height, setback, and maximum lot coverage standards.

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

Finding of Fact: The site is served by the public and private utilities, including the City’s water and electrical utilities. The site is accessed and served from Ramsey Street and 22nd Avenue, which are existing developed roadways with existing utilities.

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

Finding of Fact: The expansion of the building to accommodate the sale for alcohol related beverages, was reviewed pursuant to the California Environmental Quality Act (CEQA). The expansion to accommodate alcohol related inventory qualifies for a Class 32 In-fill Development Project categorical exemption; furthermore, the ABC license issuance qualifies for a Class 1 Existing Facilities categorical exemptions.
Finding No. 7: The proposed location, size, design and operating characteristics of the proposed use will not be detrimental to the public interests, health, safety, convenience, or welfare of the City.

Finding of Fact: The sales of alcohol are regulated by the State of California, Department of Alcoholic Sales Licensing program. It is the policy of the Department to impose administrative and non-punitive penalties to encourage and reinforcing compliance with the law. The California Constitution authorizes the Department of Alcoholic to suspend or revoke any license to sell alcoholic beverage if it determined for good cause that the continuance of such license would be contrary to the public welfare or morals. Furthermore, the City of Banning Police Department has provided in writing that this is not a high crime area.

REQUIRED FINDINGS FOR A DETERMINATION OF PUBLIC CONVENIENCE OR NECESSITY:

In accordance with Section 23817.7(3) of the business and professions Code the following findings are made regarding the determination of public convenience or necessity:

Finding No. 1: The addition of Beer and Wine Sales at the Shell Gas Station Will not Be Detrimental to the Character or Development in the Immediate neighborhood and will be in Harmony with the Overall Objectives of the General Plan.

Finding of Fact: According to the General Plan the Highway Serving Commercial land use designation allows restaurants (fast food and sit down), hotels and motels, auto related retail, repair and services, including gas station, convenience stores and similar uses serving the I-10 traveler. The Shell Gas Station is surrounding by Highway Serving commercial uses and does not abut a residential neighborhood.

Because the two of the surrounding are compatible to the sale of beer and wine, approval of the CUP will not be harmful to the health, safety and general welfare of the public or otherwise detrimental to the environment or the character of development in the immediate area.

With respect to the City General Plan, the Vision Statement promotes “well-balanced commercial development, where revenue generating commercial neighborhoods provide a diversified economy…” Similarly, the General Plan’s Land use element identifies a goal of creating a “balanced, well planned community including businesses which provide a functional pattern of land uses” and a policy of promoting the “highest quality” of development. The addition of beer and wine sales would facilitate even greater harmony with the General Plan by providing more convenient, “one-stop” shopping for Shell Gas customers in the City of
Banning and further diversifying the area’s economic base.

Finding No. 2  Beer and Wine Sales at Shell Gas Will Generate Economic Benefits and they are not Likely to Result in Negative Impacts to the Community as a Whole.

Finding of Fact:  As described above, the sale of beer and wine by Shell Gas would be conducted in an area that does not abut residential uses and is surrounding by uses that are retail in nature. Therefore, the project is not likely to generate negative community impacts. Economically, given that Shell Gas is located on the only location at the 22nd Street and Ramsey Street intersection, a Type 20 Beer and Wine license would make Shell Gas a more convenient “one stop” option for shoppers, it is likely Shell Gas will generate additional sales tax revenue for the city of Banning. Furthermore, the City of Banning Police Department has provided in writing that this is not a high crime area.

PUBLIC COMMUNICATION

Proposed Design Review No. 15-7003 and Conditional Use Permit No. 15-8004 was advertised in the Record Gazette newspaper on November 20, 2015 (Attachment 5). As of the date of this report, staff has not received any verbal or written comments for or against the proposal.
Prepared By:

Yvonne Franco
Contract Planner

Reviewed By:

Brian Guillot
Acting Community Development Director

Attachments:

1. Resolution No. 2015-14
2. Proposed Architectural Design & Site Plan
3. Applicant’s letter requesting ABC License
4. City of Banning Chief of Police letter
5. Public Hearing Notice
ATTACHMENT 1
PC Resolution No. 2015-14
RESOLUTION NO. 2015-14


WHEREAS, the applicant has submitted an application for a Design Review approval so that the Planning Commission may consider the proposed improvements to an existing service station; and

WHEREAS, State of California, Department of Alcoholic Beverage control licenses are required for any business wishing to sell such beverages on-site, or off-site. As indicated in Table 17.12.020 of the Zoning code, a conditional use Permit is required by the city in addition to the State license; and

WHEREAS, an application for a Conditional Use Permit including a request for a determination of public convenience or necessity has been duly filed by:

Project Applicant: Mr. Bahman (Ben) Nikkar
2192 W. Ramsey Street
Banning, CA 92220

Parcel Address: 2192 W. Ramsey Street
APN: 538-200-004
Lot Area: 0.569 acres

WHEREAS, the Planning Commission has the authority pursuant to Chapter 17.56 of the Banning Municipal Code to take action on Design Review No. 15-7005 to increase the square footage of the existing building by 796 square feet to a total of 1,657 square feet, construction a 864 square foot self-service carwash facility, and landscaping; and

WHEREAS, the Planning Commission has the authority per Chapter 17.52 of the Banning Municipal Code to take action on Conditional Use Permit 15-8004 for off-site alcohol sales in the Highway Serving Commercial Zone; and

WHEREAS, on November 20, 2015 the City gave public notice by advertising in the Record Gazette, a newspaper of general circulation within the City of Banning, and
by mailing notices to property owners within 300 feet of the project of the holding of a public hearing at which the project would be considered; and

WHEREAS, on December 2, 2015 the Planning Commission held the noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to Design Review No. 15-7003 and Conditional Use Permit No. 15-8004 and the determination of public convenience or necessity, and at which meeting the Planning commission considered the Conditional Use Permit and determination of public convenience or necessity; and

WHEREAS, in accordance with the requirements of the California Environmental Quality Act (CEQA), staff analyzed Design Review No. 15-7003 and Conditional Use Permit No. 15-8004 determined that, pursuant to CEQA Section 15301 (Existing Facilities) and 15332 (In-fill Development Projects), Design Review No. 15-7003 and Conditional Use Permit 15-8004 is Categorically Exempt; and

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 §15301 (Existing Facilities) a Class I Categorical Exemption and §15332 (In-Fill Development Projects) a Class 32 Categorical Exemption of the California Environmental Quality Act (CEQA), the project is being exempt from further environmental review. A Class I Categorical Exemption consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features involving negligible or no expansion of use beyond that existing at the time of the lead agency’s determination. A Class 32 Categorical Exemption of the California Environmental Quality Act (CEQA) consists of project characterized as in-fill development meeting 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 project 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; d) the site can be adequately served by all required utilities and public services. The Planning Commission has analyzed proposed Design Review No. 15-7003 and Conditional Use Permit 15-8004 and has determined that it is Categorically Exempt from CEQA pursuant to §15301 and §15332 of the CEQA Guidelines due to the fact that the proposal meets the required criteria to qualify as a “existing facilities” as defined by §15301 and “in-fill development projects” §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 FOR DESIGN REVIEW NO. 15-7002:

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. 15-7003:

Finding No. 1: Proposed Design Review No. 15-7003 is consistent with the General Plan.

Findings of Fact: Design Review No. 15-7003 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 Highway Serving Commercial (HSC) allows restaurants, hotels motels, auto related retail repair and services, including gas stations, convenience stores and similar uses serving the I-10 traveler. The existing 861 retail space will be increased by 796 square feet to a total of 1,657 square feet, the construction of a new car wash facility at 864 square feet, a total of twelve parking spaces, and landscaping. Further, Design Review No. 15-7003 and 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, the remodel and expansion of a commercial building and the construction of a self-service carwash, will continue to generate sales tax revenues for the City.

Finding No. 2: Design Review No. 15-7003 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. 15-7003 is consistent with Section 17.12.150 (Architectural Design Guidelines) of the Zoning Ordinance and the development standards of the Highway Serving Commercial
(HSC) zone, with regards to architecture, off-street parking and vehicular circulation and landscaping.

Finding No. 3: The design and layout of Design Review No. 15-7003 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. 15-7003 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. 15-7003 is consistent with Section 17.12.150 (Architectural Design Guidelines) of the Zoning Ordinance and the development standards of the Highway Serving Commercial zone.

Finding No. 4: Design Review No. 15-7003 is compatible with the character of the surrounding neighborhood.

Findings of Fact: Design Review No. 15-7003 will not impair the integrity and character of the Highway Serving Commercial (HSC) land use district. Design Review No. 15-7003 is consistent with Section 17.12.150 (Architectural Design Guidelines) of the Zoning Ordinance and the development standards of the Highway Serving Commercial (HSC) 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.

REQUIRED FINDINGS FOR CONDITIONAL USE PERMIT 15-8004:

Section 17.52.050 of the City of Banning Zoning Ordinance requires that Conditional Use Permit applications meet certain findings prior to the approval by the Planning Commission. The following findings are provided in support of the approval of Conditional Use Permit No. 15-8004:

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

Finding of Fact: Conditional Use Permit 15-8004 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 Highway Serving Commercial (HSC) allows restaurants, hotels motels, auto related retail repair and
services, including gas stations, convenience stores and similar uses serving the I-10 traveler. Further, Conditional Use Permit 15-8004 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.” Approval of the permit would allow the applicant to diversify and provide an economic benefit to the City.

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

Finding of Fact:
Table 17.12.020 Permitted, Conditional and Prohibited Commercial and Industrial Uses, of Title 17 of the Municipal Code, lists Alcoholic Beverage Sale on-or off site, as a conditionally permitted use in the Highway Serving Commercial Zoning District. Furthermore, Section 17.12.050 Use Specific Standards, provides specific provisions for the Alcohol Beverage Control “ABC” Licenses.

Finding No. 3
The proposed use would not impair the integrity and character of the land use district in which it is to be located.

Finding of Fact:
The proposed use will not impair the integrity and character of the Highway Serving Commercial (HSC) land use district in which it is to be located because it is surrounded by improved commercial land.

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

Finding of Fact:
The subject site is currently developed as a gas station and the retail area will be expanded the additional alcohol related merchandise. However, the improvements are consistent with the development standards in the zoning ordinance in that it meets the development standards for height, setback, and maximum lot coverage standards.

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

Finding of Fact:
The site is served by the public and private utilities, including the City’s water and electrical utilities. The site is accessed and served
from Ramsey Street and 22nd Avenue, which are existing developed roadways with existing utilities.

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

Finding of Fact: The expansion of the building to accommodate the sale for alcohol related beverages, was reviewed pursuant to the California Environmental Quality Act (CEQA). The expansion to accommodate alcohol related inventory qualifies for a Class 32 In-fill Development Project categorical exemption; furthermore, the ABC license issuance qualifies for a Class 1 Existing Facilities categorical exemptions.

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

Finding of Fact: The sales of alcohol are regulated by the State of California, Department of Alcoholic Sales Licensing program. It is the policy of the Department to impose administrative and non-punitive penalties to encourage and reinforcing compliance with the law. The California Constitution authorizes the Department of Alcoholic to suspend or revoke any license to sell alcoholic beverage if it determined for good cause that the continuance of such license would be contrary to the public welfare or morals. Furthermore, the City of Banning Police Department has provided in writing that this is not a high crime area.

REQUIRED FINDINGS FOR A DETERMINATION OF PUBLIC CONVENIENCE OR NECESSITY:

In accordance with Section 23817.7(3) of the business and professions Code the following findings are made regarding the determination of public convenience or necessity:

Finding No. 1: The addition of Beer and Wine Sales at the Shell Gas Station Will not Be Detrimental to the Character or Development in the Immediate neighborhood and will be in Harmony with the Overall Objectives of the General Plan.

Finding of Fact: According to the General Plan the Highway Serving Commercial land use designation allows restaurants (fast food and sit down), hotels and motels, auto related retail, repair and services, including gas station, convenience stores and similar uses serving the I-10 traveler. The Shell Gas Station is surrounding by Highway

6
Serving commercial uses and does not abut a residential neighborhood.

Because the two of the surrounding are compatible to the sale of beer and wine, approval of the CUP will not be harmful to the health, safety and general welfare of the public or otherwise detrimental to the environment or the character of development in the immediate area.

With respect to the City General Plan, the Vision Statement promotes “well-balanced commercial development, where revenue generating commercial neighborhoods provide a diversified economy...” Similarly, the General Plan’s Land use element identifies a goal of creating a “balanced, well planned community including businesses which provide a functional pattern of land uses” and a policy of promoting the “highest quality” of development. The addition of beer and wine sales would facilitate even greater harmony with the General Plan by providing more convenient, “one-stop” shopping for Shell Gas customers in the City of Banning and further diversifying the area’s economic base.

**Finding No. 2**

**Beer and Wine Sales at Shell Gas Will Generate Economic Benefits and they are not Likely to Result in Negative Impacts to the Community as a Whole.**

**Finding of Fact:** As described above, the sale of beer and wine by Shell Gas would be conducted in an area that does not abut residential uses and is surrounding by uses that are retail in nature. Therefore, the project is not likely to generate negative community impacts. Economically, given that Shell Gas is located on the only location at the 22nd Street and Ramsey Street intersection, a Type 20 Beer and Wine license would make Shell Gas a more convenient “one stop” option for shoppers, it is likely Shell Gas will generate additional sales tax revenue for the city of Banning. Furthermore, the City of Banning Police Department has provided in writing that this is not a high crime area.
SECTION 3. PLANNING COMMISSION ACTION:

The Planning Commission hereby takes the following action:

1. Adoption of Planning Commission Resolution No. 2015-14:
   
a. In accordance with CEQA Guidelines Section 15301 and 15332 the Planning Commission hereby adopts the Categorical Exemption (Class 1: Existing Facilities and 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 15062; and

b. Approves Design Review No. 15-7003 and Conditional Use Permit No. 15-8004, subject to Conditions of Approval attached hereto and incorporated herein by reference as Exhibit A.

c. Approves the Public Convenience or Necessity Finding and directs the Community Development Director to file said finding with the California Department of Alcoholic Beverage Control.
PASSED, APPROVED AND ADOPTED this 2nd day of December 2015.

David Ellis, Chairman
Banning Planning Commission

APPROVED AS TO FORM
AND LEGAL CONTENT:

Robert Khuu
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. 2015-14, was duly adopted by the Planning Commission of the City of Banning, California, at a regular meeting thereof held on the 2nd day of December 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. 15-7003 and Conditional Use Permit No. 15-8004

SUBJECT: Conditions of Approval (Planning Commission Resolution No. 2015-14)

APPLICANT: Mr. Bahman (Ben) Nikkar

LOCATION: APN: 538-200-004

* 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, that challenge, attack, or seek to modify, set aside, void, or annul, the action of, or any permit or approval issued by, 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 Design Review and Conditional Use Permit approval shall become null and void. Additionally, if after commencement of construction work is discontinued for a period of one year the Design Review and Conditional Use Permit 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 Design Review and Conditional Use Permit complies 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 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. 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.

7. The east elevation of the building shall have crawling vines as shown in the building elevation approved at the public hearing.

8. There shall be no storage of vehicles, equipment, or any other materials in the parking or landscaping areas of the project.
9. 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.

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

11. 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.

12. The property owner shall permanently maintain all parking lot signs and markings in a clear and visible manner.

13. There shall be no light spill over 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. All trash enclosures 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. 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.

17. Building and Safety plans shall be submitted for plan check and approval. All plans shall be marked with the project number (DR #15-7003 and CUP #15-8004). 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.

18. 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.

19. 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, berms, and/or landscaping to the satisfaction of the Community Development Director.

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

21. 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.

22. The Site shall be developed in compliance with all current model codes. All plans shall be designed in compliance with the latest editions of the California Building Codes as adopted by the City of Banning.

23. Site development and grading shall be designed to provide access to all entrances and exterior ground floor exits and access to normal paths of travel, and where necessary to provide access. Paths of travel shall incorporate (but not limited to) exterior stairs, landings, walks and sidewalks, pedestrian ramps, curb ramps, warning curbs, detectable warnings, signage, gates, lifts and walking surface material. The accessible route(s) of travel shall be the most practical direct route between accessible building entrances, site facilities, accessible parking, public sidewalks, and the accessible entrance(s) to the site. California Building Code (CBC) 11A and 11B.

   a. City of Banning enforces the State of California provisions of the California Building code disabled access requirements. The Federal ADA standards differ in some cases from the California State requirements. It is the building owner’s responsibility to be aware of those differences and comply accordingly.

24. Commercial buildings on the site shall be accessible per California Building Code (CBC) 11B.

25. Disabled access parking shall be located on the shortest accessible route.

26. Separate to California Business and Professions Code Section 6737, this project is required to be designed by a California licensed architect or engineer. Based on change or use and potential existing and fire life safety improvements.

27. Separate submittals and permits are required for all accessory structures such as but not limited to, trash enclosures, patios, block walls and storage buildings.

28. A landscape planter shall be installed adjacent to the parking spaces on the westerly side of the property.
Public Works Department

Trash / Recycling

29. 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 for disposal of construction debris.

30. Used oil bins shall be placed inside or outside under a covered storage area.

Sewer and Water Services

31. A Backflow device must be installed on all commercial buildings and at each irrigation water connection. The backflow device must be in compliance with the State Department of health Regulations.

32. Fire Services will require a Double Detector Check or RPP Device.

33. A properly sized grease interceptor shall be required.

34. Submittal of plumbing plans that show items 33-35 above shall be required.

35. Pay all applicable water and sewer connection and frontage fees per Chapter 13.08 “Water, Sewer and Electricity Rates” of the Banning Municipal Code prior to the issuance of a building permit.

36. The proposed carwash shall have a water recirculating system as well as an oil/sand separator prior to discharge into the sewer system.

Street Improvements

37. The applicant shall eliminate the northerly driveway along the west side of the property and construct full height curb and gutter and sidewalk per the City of Banning Standards.

Fees

38. 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.

39. Public Works Inspection fees shall be paid prior to the issuance of a permit.
Electric Utility Department

40. The east property line will be required to be surveyed to identify the property line before the transformer enclosure and transformer pad are installed.

41. The property owner will be responsible to confirm that the proposed area of the new transformer pad is free of existing underground utilities such as Communications, Southern California Gas, etc.

42. The Electric utility will work with the property owner to plan the most cost efficient path for primary conduits from the transformer pad to off-site point of connection with the utility.

Police Department

43. At the request of the Police Department, the applicant shall post and maintain a professional quality signs(s) facing the premises parking lot that read as follows:

NO LOITERING, NO LITTERING, NO DRINKING OF ALCOHOLIC BEVERAGES, VIOLATORS ARE SUBJECT TO ARREST

Fire Department

All questions regarding the meaning of these conditions should be referred to the Fire Department Planning & Engineering staff at (951) 922-3167.

44. For commercial areas, the required fire flow shall be available from 1 Super hydrant(s) (6" x 4" x 2\" x 2\") spaced not more than 350 apart and shall be capable of delivering a fire flow 1500 GPM per minute for two hours duration at 20 psi residual operating pressure, which must be available before any combustible material is placed on the construction site.

45. Prior to building plan approval and construction, applicant/developer shall furnish two copies of the water system fire hydrant plans to Fire Department for review and approval. Plans shall be signed by a registered civil engineer, and shall confirm hydrant type, location, spacing, and minimum fire flow. Once plans are signed and approved by the local water authority, the originals shall be presented to the Fire Department for review and approval.
46. Applicant/Developer shall mount blue dot retro-reflectors pavement markers on private streets, public streets and driveways to indicated location of the fire hydrant. It should be 8 inches from centerline to the side that the fire hydrant is on, to identify fire hydrant locations.

47. Fire Apparatus access road and driveways shall be in compliance with the Riverside County Fire Department Standard number 06-05 (located at www.rvcfire.org). Access lanes will not have an up, or downgrade of more than 15%. Access roads shall have an unobstructed vertical clearance not less than 13 feet and 6 inches. Access lanes will be designed to withstand the weight of 80 thousand pounds over 2 axles. Access will have a turning radius capable of accommodating fire apparatus. Access lane shall be constructed with a surface so as to provide all weather driving capabilities.

48. Prior to building plan approval and construction, applicant/developer shall supply a detail indicating the LP Gas container size and that the location of the LP Gas container is in compliance with CFC 6104 and NFPA 58.

49. Prior to building plan approval and construction, applicant/developer shall supply a detail indicating the Chicken Fryer and Hood will be installed in compliance with CFC 609, 610 and 904.11. The Hood suppression system shall require a separate permit application and plan review by the Fire Marshal.

***END***
ATTACHMENT 2
Proposed Architectural Design & Site Plan
ATTACHMENT 3

Applicant’s Letter
City of Banning
Community Development Dept.

Bahman (Ben) Nikkar
Banning Fuel Inc.

DBA 22nd Shell
2192 W. Ramsey St.
Banning, CA, 92220

RE: ABC license

To whom it may concern:

Banning fuel Inc. acquired property and business interest of the Shell service station & convenient store located at 2192 W. Ramsey Street, Banning about 6 months ago. As new owners, we intend to expand the business by offering additional products and services such as Lotto, Propane gas, Beer and Wine sale as well as expansion of the convenient store.

This property is located on the North side of Interstate 10. As shown on the attached location map, "22nd street" exit of the FWY leads to this property. One of the motivating factors in this acquisition was easy access from the FWY and visibility of the station both from West and East bound of Interstate 10.

Following are locations that sell beer and wine in the census tract where Banning Fuel Inc. is located:

**Restaurants, eat in locations (license code 41 & 47):**

<table>
<thead>
<tr>
<th>Address</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>2868 W. Ramsey</td>
<td>Gramma's country kitchen</td>
</tr>
<tr>
<td>2579 W. Ramsey</td>
<td>Pepe's Mexican food</td>
</tr>
<tr>
<td>2271 W. Ramsey</td>
<td>Fisherman's market</td>
</tr>
<tr>
<td>2034 W. Ramsey</td>
<td>Carrows restaurant</td>
</tr>
<tr>
<td>1860 W. Ramsey</td>
<td>Pizza Hut</td>
</tr>
<tr>
<td>1750 W. Ramsey</td>
<td>Sizzler</td>
</tr>
<tr>
<td>1675 W. Ramsey</td>
<td>Senior Mexican food</td>
</tr>
<tr>
<td>1335 W. Ramsey</td>
<td>Johnny Russos Italian kitchen</td>
</tr>
<tr>
<td>1231 W. Ramsey</td>
<td>Zen Japanese cuisine</td>
</tr>
<tr>
<td>70 S. 1st St.</td>
<td>Veteran club</td>
</tr>
<tr>
<td>41 W. Ramsey</td>
<td>Paddy Oreilly's Grill</td>
</tr>
</tbody>
</table>

**General stores with Beer & Wine sale license (license code 21):**

<table>
<thead>
<tr>
<th>Address</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>2971 W. Ramsey</td>
<td>Smart and Final</td>
</tr>
<tr>
<td>2185 W. Ramsey</td>
<td>22nd st liquor store</td>
</tr>
<tr>
<td>1433 W. Ramsey</td>
<td>Eddie's liquor store</td>
</tr>
<tr>
<td>806 W. Ramsey</td>
<td>Rite Aid</td>
</tr>
<tr>
<td>572 W. Ramsey</td>
<td>Cheers Market</td>
</tr>
</tbody>
</table>

**Beer & Wine sale (license code 20):**

<table>
<thead>
<tr>
<th>Address</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>2217 W. Ramsey</td>
<td>Shopping basket</td>
</tr>
<tr>
<td>2228 W. Ramsey</td>
<td>ARCO AM/PM</td>
</tr>
<tr>
<td>62 N. 8th st</td>
<td>Jack's market</td>
</tr>
</tbody>
</table>
Our focus is on capturing the business daily commuters on interstate 10 can bring to the city. As such, we are focused on providing services and products that travelers can quickly access.

Statistics show the number of cars that travel on FWY 10, passing through Riverside County has been increasing annually. This increase in traffic has direct impact on businesses along the FWY. In addition, incentives offered by Morongo casino and expansion of Cabazon mall have positively impacted the traffic through city of Banning. Our intention is to capture the opportunity which ultimately brings more revenue to the city.

The liquor stores and general merchandise stores on Ramsey St. are located on the North side of the street. Considering there is a center divider on Ramsey, accessibility to these locations may be difficult for travelers on FWY 10.

Taking 22nd Street off ramp of FWY 10, if one chooses to shop at The ARCO AM/PM (2228 W. Ramsey), they will have to make a left turn which is unsafe at times and often inconvenient.

There are no schools, religious institutions or public parks within 500 feet of subject property.

Attached please find:
- Parcel map
- 500 feet radius map
- List of properties within 500 feet of subject property showing use for each parcel.
- Letter from Banning police department stating that this is not a high crime area.

Thank you for your consideration.
ATTACHMENT 4
City of Banning Chief of Police Letter
November 10, 2015

Community Development Department
City of Banning
99 E. Ramsey Street
Banning, CA 92220

To whom it concerns:

In response to the ABC License request for beer and wine at the Shell Gas Station located at 2192 W. Ramsey Street in the City of Banning, the Banning Police Department has reviewed crime statistics for the affected area and has determined the area is not a “high crime” area.

Sincerely,

Chief Alex Diaz
ATTACHMENT 5
Public Hearing Notice
I am a citizen of the United States and a resident of the State of California; I am over the age of eighteen years, and not a party to or interested in the above matter. I am the principal clerk of the printer and publisher of Record Gazette, a newspaper published in the English language in the City of Banning, County of Riverside, and adjudicated a newspaper of general circulation as defined by the laws of the state of California by the Superior Court of the County of Riverside, under the date October 14, 1986, 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:

November 20, 2015

Executed on: 11/20/2015
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: December 2, 2015

TO: Planning Commission

FROM: Brian Guillot, Acting Community Development Director

SUBJECT: TENTATIVE TRACT MAP (TTM) 36939, NO. 15-1001 PROPOSAL TO SUBDIVIDE A VACANT 34.6 ACRE LOT FOR PURPOSES OF CREATING 98 NUMBERED LOTS FOR SINGLE-FAMILY RESIDENTIAL DEVELOPMENT AND THREE (3) LETTERED LOTS AND REZONING TO ELIMINATE THE RL-10,000 OVERLAY AFFECTING THE WESTERN PORTION OF THE SITE TO LOW DENSITY RESIDENTIAL (LDR, 0 TO 5 UNITS PER ACRE), APN NO’S 535-430-001 THRU 021, 535-431-001 THRU 015, 535-432-001 THRU 017, 535-070-004 AND 006

RECOMMENDATION:

The Planning Commission adopt Resolution No. 2015-11, recommending that the City Council take the following actions;

I. Adopt the Project’s Mitigated Negative Declaration and Mitigation Monitoring Program in in compliance with the California Environmental Quality Act Section 15000 et seq.

II. Adopt Ordinance No. 1495, amending the Zoning Map to rezone the site by eliminating the RL-10,000 Overlay and maintain the Low Density Residential (LDR 0 to 5 Units Per Acre) as the Zoning District, and Approve Tentative Tract Map 36939 to create 98 numbered residential lots and three (3) lettered lots subject to the conditions of approval.

APPLICANT INFORMATION:

Project Location: North of Wilson Street between Sunset and Sunrise Avenue

Project Applicant: Peter J. Pitassi
10621 Civic Center Drive
Diversified Pacific
Rancho Cucamonga, CA 91730

Tentative Tract Map and Rezoning. 15-1001
Property Owner: Banning Wilson 97, LLC
10621 civic Center Drive
Rancho Cucamonga, CA 91730

BACKGROUND:

TTM 36939 intends to subdivide a 34.6 acre vacant site into 98 single-family residential lots for development purposes. The Project site is located north of Wilson Street between Sunrise and Sunset Avenue. The Montgomery Creek Channel constitutes a portion of the tract’s southern boundary as noted in Figure 1. The 34.6 acre vacant site is characterized by relatively flat and hilly undulations as shown in the Figure 3 photos, with general elevations of the property ranging from approximately 2,550 to 2,650 feet above mean sea level. The property is currently zoned RL-10,000, which establishes a minimum single-family residential lot size of 10,000 square feet. If the Project site were built out in accordance with its existing General Plan land use designation, a total of 150 units could be constructed.

Table 1 below denotes the surrounding zoning districts within the Project area.

<table>
<thead>
<tr>
<th>Location</th>
<th>General Plan Designation</th>
<th>Zoning Designation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Site</td>
<td>Low-Density-Residential (0-5 DU/Acre)</td>
<td>RL-10,000</td>
</tr>
<tr>
<td>North</td>
<td>Open Space/Specific Plan Area</td>
<td>Open Space (Resources)</td>
</tr>
<tr>
<td>South</td>
<td>Ranch/Agriculture (10 Acre Min.)/LDR (0-5 DU/Acre)</td>
<td>RL-10,000</td>
</tr>
<tr>
<td>East</td>
<td>Low-Density-Residential (0-5 DU/Acre)</td>
<td>Low-Density-Residential (0-5 DU/Acre)</td>
</tr>
<tr>
<td>West</td>
<td>Low-Density-Residential (0-5 DU/Acre)</td>
<td>RL-10,000</td>
</tr>
</tbody>
</table>

Source: City of Banning General Plan Land Use Map, City of Banning Existing Zoning Map

Prior to the Project, two previous tentative tract maps had been considered by the city to subdivide the property. In 2003, the City Council approved TTM 30642 in April 2003. TTM 30642, which has since expired proposed to subdivide 19.3 acres of the site to create 53 single family lots ranging in size from 7,468 square feet to 25,403 square feet with an average lot size of 11,492 square feet. Approximately the eastern third of the site was previously graded in preparation for residential development. However, lots were never finished graded nor homes or streets constructed. A natural gas transmission pipeline bisects Tract 30642 crossing the tract in a northwest to the southeast direction. TTM 32429, approved by the Planning Commission in 2005 intended to subdivide 16.86 acres to create 44 single-family lots. Although the map was recorded, housing construction never occurred. TTM 32429 will expire in August of 2016. The proposed TTM 36939 will supersede TTM 32429 if approved.
PROJECT ANALYSIS

A. Tentative Tract Map 36939

TTM 36939 proposes a minimum lot size of 7,000 square feet, with three (3) lettered lots dedicated for open spaces purposes. Residential lots range in size from 7,000 square feet to 19,239 square feet. The majority of lot sizes however range between 7,000 to 8,200 square feet, totaling a density of 2.8 dwelling units per acre.

Concerning the three lettered lots, Lot ‘A’, will function as a fault setback zone as a portion of the San Gorgonio pass fault zone traverses along the northern portion of the property line as shown in Figure 2. In accordance with the recommendation by the RMA Group Study dated April 8, 2014 and June 2015, and pursuant to the Alquist-Priolo Act, no human habitable structures can be built within the fault setback zone, which ranges in width from 40 feet to 180 feet in various locations. Lots B’ (29,028 sq.ft.) and C’ (23,195 sq.ft.) shall operate as water quality basins. The basins will serve to retain runoff and mitigate developed condition flows as required by City Ordinance. City of Banning Ordinance #1415 requires that “all development will make provisions to store runoff from rainfall events up to and including the 100 years, three-hour duration event on site via storage or infiltration basins for new development and redevelopment. The basins will both be located adjacent to Wilson Street. The basin is for water quality purposes only and does not provide for dual use such as recreation.

Access to the Project site is from Sunset Avenue and Sunrise Avenue and Wilson Street. The corridors are improved two (2) lane roadways within the Public right-of-way. Curb, gutter, and sidewalk have been partially installed. Pursuant to the LSA Associates Focused Traffic Impact Study dated July 28, 2015, the Study concluded that under existing and opening year conditions, the proposed intersection of Sunset Avenue/Dawn lane and roadway segment on Sunset Avenue between Wilson Street and the proposed Dawn Lane would operate at satisfactory Levels of Service (LOS) or better. The City of Banning defines “satisfactory” as LOS D. LOS D is the minimum LOS to be maintained on all roadway segments and intersections. The Project is estimated to generate 933 daily trips, with 73 trips occurring during the a.m. peak hour and 98 trips occurring in the p.m. peak hour.

Internal neighborhood streets servicing the tract with curb and gutter within 60 foot two lane travel lanes include Eclipse Drive, and Dawn Lane. Eclipse and Dawn Streets will connect to Sunset and Sunrise Avenues. Water, sewer and electrical service will be provided by the City of Banning Public Works Department and Electrical Division. The Project is required to connect to the existing 8-inch water mains on Sunrise and extend an 8-inch diameter water main in Dawn Lane, within the tract boundary to the existing 18-inch diameter water main on Sunset Avenue. All street improvements along Wilson Street, Sunset and Sunrise Avenue will be subject to the City of Banning Engineering and Public Works requirements.
B. Zone Change

The Applicant is proposing to rezone the site to eliminate the RL-10,000 Overlay affecting the western portion of the site to Low Density Residential (LDR, 0 to 5 units per acre). If the Project site were built out in accordance with its existing General Plan land use designation, a maximum of 150 single-family units could be constructed. The Project proposes 98 residential dwelling units. This number is below the maximum number the Low Density Residential Zoning district permits. At the maximum five units per acre, a total of 173 (5 x 34.6) single-family units could be constructed.

ENVIRONMENTAL DETERMINATION:

1. California Environmental Quality Act (CEQA)
The approval of the Tentative Tract Map 36939 is in compliance with the requirements of CEQA, in that on December 2, 2015, at a duly noticed public hearing, the Planning Commission approved and adopted a Mitigated Negative Declaration (Attachment 4) and Mitigation Monitoring Program, reflecting its independent judgment and analysis and documenting that there was no substantial evidence, in light of the whole record, from which it could be fairly argued that the Project may have a significant effect on the environment. The documents comprising the City’s environmental review for the Project are on file and available for public review at Banning City Hall, 99 E. Ramsey Street, Banning, California 92220.

2. Multiple Species Habitat Conservation Plan (MSHCP): The Project is not anticipated to have any affects to MSHCP. The Project incorporates mitigation measures to avoid potential effects to certain animal species the MSHCP report, prepared by LSA Associates on May 2015 identified.

MAP ACT FINDINGS

An application for a Tentative Tract Map requires that it meet specific findings in accordance with Title 16 of the Banning Subdivision Municipal Code and Government Code Section 66473.1, 66473.5 and Section 66474. A tentative map must adequately meet the adopted provisions of the Title 16 Subdivision chapter based upon the following findings:

1. Tentative Tract Map 36939 is consistent and compatible with the objectives, policies, general land uses, and programs specified in the City’s General Plan.

Findings of Fact: The General Plan land use designation for the site is classified as Low Density Residential which allows housing densities from 0 to 5 dwelling units per acre. The proposed Map will result in the development of 98 single family residential dwelling units at a density of 2.8 units per acre. With the elimination of the RL-10,000 overlay zone currently overlying a portion of the property, this density level is within the range permitted under the General Plan land use designation for this site. One of the primary policies of the Land Use Element of the General Plan is that projects adjacent to existing neighborhoods shall be carefully reviewed to assure that neighborhood character is protected. The proposed Tentative Tract Map serves to achieve this objective in that the rezoning and subdivision design is consistent with existing neighborhood housing stock. Considering all of these
aspects, the proposed Map furthers the objectives and policies of the General Plan and is compatible with the general land uses districts within the general vicinity of the Project.

2. The design and improvement of the subdivision proposed under Tentative Tract Map 36939 is consistent with the City’s General Plan.

**Findings of Fact:** The proposed subdivision has been designed to meet City standards which provide satisfactory pedestrian and vehicular circulation, including emergency vehicle access and on site improvements, such as streets, utilities, and drainage facilities have been designed and are conditioned to be constructed in conformance with City standards.

3. The site is physically suitable for the type of development proposed under Tentative Tract Map 36939.

**Findings of Fact:** The 34.6 acre site is relatively flat with slight, hilly undulations ranging in elevation from 2,550 to 2,650 feet above mean sea level. Two previous tentative tract entitlements reflect the historic interest to develop the property for residential development purposes in that the site is adjacent to single-family residential zoned districts supported and supplied with the necessary infrastructure required for residential development. In that the Project intends to connect to with existing infrastructure, the Project will be consistent with the goals and objectives of the General Plan.

4. The site is physically suitable for the density of development under Tentative Tract Map.

**Findings of Fact:** The site is located within an Earthquake Fault Zone and the Project’s northern boundary line runs parallel with the San Gorgonio Pass Fault. The subdivision incorporates a fault setback zone, referenced as Lot “A” ranging in width from 40 feet to 160 feet. Pursuant to the Alquist-Priolo Act, no human habitation can be built within the fault setback zone. The Project shall prohibit the construction of structures within the fault setback zone. With the incorporation of the fault setback zone, the site is physically suitable for the intended density and consistent with the City’s General Plan.

5. The design of the subdivision and improvements proposed under Tentative Tract Map 36939 is not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

**Findings of Fact:** The site is currently vacant and does not contain any significant vegetation or habitat for wildlife. Per the Multiple Habitat Conservation Plan (MSHCP), there is no evidence that any endangered, threatened or listed species of plant or animal, or its habitat, is located on the site. There is no evidence that vernal pool complex, similar bodies of water, or conditions suitable for forming such bodies of water exist on the site. This determination is based on MSHCP report prepared by LSA Associates, dated May 2015. The Project incorporates conditions intended to comply with the recommendations of the MSHCP. In addition, this Project has been conditioned to comply with the environmental policies and regulations of the City of Banning and those of all local and regional governmental agencies having jurisdiction over the site.

6. The design of the subdivision and improvements proposed under Tentative Tract map
376939 is not likely to cause health problems.

Findings of Fact: The design of the subdivision is in conformance with the City’s General Plan, Zoning Ordinance, and Subdivision Ordinance, the construction of all units on the site has been conditioned to comply with all applicable City of Banning ordinances, codes, and standards including, but not limited to, the California Uniform Building Code, the City’s Ordinances relating to Stormwater runoff management and controls. In addition, the design and construction of all improvements for the subdivision has been conditioned to be in conformance with adopted City street and public works standards. The City’s ordinances, codes, and standards have been created based on currently accepted standards and practices for the preservation of the public health, safety and welfare. Finally, the proposed street system throughout the subdivision will improve emergency vehicular access and in the immediate neighborhood.

7. The design of the subdivision and improvements proposed under Tentative Tract Map 36939, will not conflict with easement, acquired by the public at large, for access through or use of, property within the proposed subdivision.

Findings of Fact: No easements of record or easements established by judgement of a court of competent jurisdiction for public access across the site have been disclosed in a search of the title records for the site and the City does not otherwise have any constructive or actual knowledge of any such easements.

8. The design of the subdivision proposed, Tentative Tract Map 36939 adequately provides for future passive or natural heating and cooling opportunities.

Findings of Fact: Taking into consideration local climate and the existing contour and configuration of the site and its surroundings, the size and configuration of lots within the proposed subdivision have been arranged, to the greatest extent feasible, to permit orientation of structures in an east-west alignment for southern exposure, or to take advantage of natural shade, or to take advantage of prevailing breezes.

ZONE CHANGE FINDINGS

1. The proposed Amendment is consistent with the goals and policies of the general plan.

Findings of Fact: The property’s land use designation is Low Density Residential with a portion of the site designated as RL-10,000. The minimum lot size per the RL-10,000 standard is intended for single family residential development with 10,000 square foot lots. The lots TTM 36939 proposes range from 7,468 square feet to 25,403 square feet which are large enough to accommodate families with children and daily home based activities. The zone change request eliminates the RL-10000 overlay and would allow 0 to 5 dwelling units per acre. The proposed 98 unit subdivision is below the maximum number that the Low Density Residential District permits. At the maximum permitted per the LDR District, 173 single family units could be provide. In keeping with the subdivision design, the rezoning proposed for the Project is consistent with the General Plan.
2. The proposed Amendment is internally consistent with the Zoning Ordinance.

Findings of Fact: The proposed Project is not anticipated to result in exceeding, either cumulatively or individually, any applicable level of service standards. As discussed in the Staff Report and pursuant to the Project’s conditions of approval, the proposed streets and subdivision design will be constructed in conformance with City standards and specifications. The Mitigation Monitoring and Report Program is intended to ensure that the developer adheres to best management practices in the development of the site.

3. The Planning Commission has independently reviewed and considered the requirements of the California Environmental Quality Act.

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

1. Review Period: That the City has provided the public review period for the Mitigated Negative Declaration for the duration required under CEQA Guidelines Sections 15073 and 15105.

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

3. Independent Judgment: That the Mitigated Negative Declaration reflects the independent judgment and analysis of the City.

4. Mitigation Monitoring Program: That the Mitigation Monitoring Program is designed to ensure compliance during project implementation in that changes to the Project and/or mitigation measures have been incorporated into the Project and are fully enforceable through permit conditions, agreements or other measures as required by Public Resources Code Section 21081.6.

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

Proposed Mitigated Negative Declaration, Tentative Tract Map 36939 and Zone Change, referenced as Project No. 15-1001 was advertised in the Record Gazette newspaper on November 20, 2015 (Attachment 3). Additionally, the notice was mailed to all property owners within 300 feet of the Project. As of the date of this report, staff has not received any verbal or written comments for or against the proposal.

The Mitigated Negative Declaration’s Notice of Intent/Notice of Availability regarding Tentative Tract Map 36939 and Zone Change, was advertised in the Record Gazette newspaper on October 16, 2015. Additionally, the notice was mailed to all property owners within 300 feet of the Project.

Prepared By:  
Reuben J. Arceo  
Contract Planner

Reviewed By:  
Brian Guillot  
Acting Community Development Director

Attachments:

1. Vicinity Map  
2. Tentative Tract Map  
3. Public Notice  
4. Initial Study (Under Separate Cover)  
5. Ordinance No. 1495  
6. Mitigation, Monitoring and Reporting Program  
7. Resolution No. 2015-11

Figures:

1. Project Boundary  
2. Earthquake Fault Zone  
3. Photos
ATTACHMENT 2
Tentative Tract Map 36939

Tentative Tract Map and Rezoning. 15-1001
ATTACHMENT 3

Public Notice

NOTICE-OF-PUBLIC-HEARING-AND-NOTICE-OF-INTENT-TO-
ADOPT-A-CATEGORICAL-EXEMPTION-AND-APPROVE-
CONDITIONAL-USE-PERMIT-No.-15-7002-FOR-A-PROPOSED-
FREEWAY-ORIENTED-SIGN-LOCATED-AT-220-E.-RAMSEY-
STREET-(APN:-541-181-032,-933,-934,-035)-FOR-THE-VILLAGE-AT-
PASEO-SAN-GORGONIO-PROJECT-WITHIN-THE-DOWNTOWN-
COMMERCIAL-(DC)-ZONING-DISTRICTs

PRIVATE NOTICE IS HEREBY GIVEN that a public hearing before the City of Banning Planning Commission, to be held on Wednesday, December 2, 2015, at 6:30 p.m. in the Council Chambers, City Hall, 99 East Ramsey Street, Banning, California, to consider the proposed Freeway-Oriented Sign (by proposed Conditional Use Permit No. 15-7002) pursuant to Chapter 17.36 (Sign Regulations) and Chapter 17.52 (Conditional Use Permits) of the City of Banning Municipal Code.

Information regarding the Categorical Exemption for Conditional Use Permit No. 15-7002 and Conditional Use Permit 15-7002 can be obtained by contacting the City's Community Development Department at (951) 922-3125 or by visiting the City Hall located at 99 East Ramsey Street, Banning. You may also go to the City of Banning website at http://www.ci.banning.ca.us. All parties interested in speaking in support of or in opposition of this item are invited to attend said hearing, or to send their written comments to the Community Development Department, City of Banning at P.O. Box 998, Banning, California, 92220.

If you challenge any decision regarding the above proposal in court, you may be limited to raising only those issues you or someone else raised in written correspondence delivered to the City Clerk, or prior to, the time the City Council makes its decision on the proposal, or you or someone else raised at the public hearing or in written correspondence delivered to the hearing body at, or prior to, the hearing (California Government Code, Section 65009).

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

Brian Guillot
Acting Community Development Director

Dated: November 17, 2015

Publish: November 20, 2015

Tentative Tract Map and Rezoning. 15-1001
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, Cause 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:

November 20, 2015

Executed on: 11/20/2015
At Banning, CA

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

[Signature]
FIGURE 1
TTM 36939
Project Boundary
FIGURE 3
TTM 36939
Photos

PHOTOGRAPH 1: View facing northeast, along the eastern edge of the project site.

PHOTOGRAPH 2: View facing north where drainage feature D-2 lies on the right.

PHOTOGRAPH 3: View facing northeast of two culvert pipes. Channelized Montgomery Creek is in the foreground.

PHOTOGRAPH 4: View facing south along an access road.
FIGURE 3
TTM 36939
Photos

PHOTOGRAPH 3: View facing south where the access road crosses drainage feature B-3.

PHOTOGRAPH 6: View facing southwest of two corrugated plastic culvert pipes in drainage feature B-1.

PHOTOGRAPH 7: View facing northward from the southeastern part of the project site.

PHOTOGRAPH 8: View facing west from the central part of the project site.
ATTACHMENT 5
Ordinance No. 1495
ORDINANCE NO. 1495

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA ADOPTING AN ORDINANCE APPROVING THE REZONING TO ELIMINATE THE RL-10,000 OVERLAY PERTAINING TO THE PROPERTY NORTH OF WILSON BETWEEN SUNSET AND SUNRISE AVENUE AND TENTATIVE TRACT MAP 36939 TO SUBDIVIDE A 34.6 ACRE LOT TO CREATE 98 NUMBERED LOTS FOR SINGLE-FAMILY RESIDENTIAL DEVELOPMENT AND THREE (3) LETTERED LOTS

WHEREAS, the applicant has submitted an application for a Zone Change and Tentative Tract Map No. 36939 so that the Planning Commission may consider the proposed rezoning to eliminate the RL-10,000 Overlay and maintain the site’s LDR District and Tentative Tract Map to subdivide a 34.6 acre lot for purposes of creating 98 single-family lots and 3 lettered lots, which was duly filed by:

Project Applicant: Peter J. Pitassi
10621 Civic Center Drive
Diversified Pacific
Rancho Cucamonga, CA 91730

Project Owner: Banning Wilson 97, LLC
10621 Civic Center Drive
Rancho Cucamonga, CA 91730

Project Developer: Banning Wilson 97, LLC
10621 Civic Center Drive
Rancho Cucamonga, CA 91730

Parcel Address: North of Wilson Street between Sunset and Sunrise Avenue


Lot Area: 34.6 Acres

WHEREAS, the Municipal Code allows the subdivision of approximately 34.6 acres within the Low Density Residential Zone into 98 parcels subject to the approval of the Rezoning to remove the exiting RL-10,000 Overlay; and
WHEREAS, the Community Development Department has evaluated the project’s potential effects on the environment as required under the California Environmental Quality Act (“CEQA”) and prepared a Mitigated Negative Declaration (MND) in compliance with CEQA Statue Section 21064.5 which incorporates conditions and mitigation measures that reduce the potential impacts of the project below significance; and

WHEREAS, on November 20, 2015 the City gave public notice as required under Government Code Section 66451.3 by advertising in the Record Gazette Newspaper, and mailing notices to all property owners within 300 feet of the project site of the holding of a public hearing for the Planning Commission’s review, at which time the project would be considered; and

WHEREAS, the Mitigated Negative Declaration’s Notice of Intent/Notice of Availability regarding Tentative Tract Map 36939 and Zone Change, was advertised in the Record Gazette newspaper on October 16, 2015. Additionally, the notice was mailed to all property owners within 300 feet of the Project; and

WHEREAS, on December 2, 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 Mitigated Negative Declaration, Rezoning and Tentative Tract Map 36939; and

WHEREAS, at these public hearings, the City Council considered, heard public comments on and adopted a Mitigated Negative Declaration for the Project by Ordinance No. 1495; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BANNING DOES ORDAIN AS FOLLOWS:

SECTION 1. ENVIRONMENTAL FINDINGS

The City Council, in light of the whole record before it, including but not limited to, the City’s Local CEQA Guidelines, the recommendation of the Community Development Department as provided in the Staff Report dated ___________________, and documents incorporated therein by reference, and any other evidence (within the meaning of Public Resources Code § 21080(e) and §21082.2) within the record or provided at the public hearing of this matter, hereby finds and determines as follows:

1. California Environmental Quality Act (CEQA)

The approval of the Tentative Tract Map 36939 is in compliance with the requirements of CEQA, in that on December 2, 2015, at a duly noticed public hearing, the Planning Commission approved and adopted a Mitigated Negative Declaration and Mitigation Monitoring Program reflecting its independent judgment and analysis and documenting that there was no substantial evidence, in light of the whole record, from which it could be fairly argued that the Project may have a significant effect on the environment. The documents comprising the City’s environmental review for the Project are on file and available for public review at Banning City Hall, 99 E. Ramsey Street, Banning, California 92220.
2. **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.

**SECTION 2. MAP ACT FINDINGS**

In accordance with Banning Municipal Code § 22-27 and Government Code § 66473.1, § 66473.5 and § 66474, the City Council, in light of the whole record before it, including but not limited to the Planning Department’s staff report and all documents incorporated by reference therein, the City’s General Plan, Subdivision Ordinance, Zoning Ordinance, standards for public streets and facilities and any other evidence within the record or provided at the public hearing of this matter, hereby finds and determines as follows:

1. Tentative Tract Map 36939 is consistent and compatible with the objectives, policies, general land uses, and programs specified in the City’s General Plan.

   **Findings of Fact:** The General Plan land use designation for the site is classified as Low Density Residential which allows housing densities from 0 to 5 dwelling units per acre. The proposed Map will result in the development of 98 single family residential dwelling units at a density of 2.8 units per acre. With the elimination of the RL-10,000 overlay zone currently overlying a portion of the property, this density level is within the range permitted under the General Plan land use designation for this site. One of the primary policies of the Land Use Element of the General Plan is that projects adjacent to existing neighborhoods shall be carefully reviewed to assure that neighborhood character is protected. The proposed Tentative Tract Map serves to achieve this objective in that the rezoning and subdivision design is consistent with existing neighborhood housing stock. Considering all of these aspects, the proposed Map furthers the objectives and policies of the General Plan and is compatible with the general land uses districts within the general vicinity of the Project.

2. The design and improvement of the subdivision proposed under Tentative Tract Map 36939 is consistent with the City’s General Plan.

   **Findings of Fact:** The proposed subdivision has been designed to meet City standards which provide satisfactory pedestrian and vehicular circulation, including emergency vehicle access and on site improvements, such as streets, utilities, and drainage facilities have been designed and are conditioned to be constructed in conformance with City standards.

3. The site is physically suitable for the type of development proposed under Tentative Tract Map 36939.

   **Findings of Fact:** The 34.6 acre site is relatively flat with slight, hilly undulations ranging in elevation from 2,550 to 2,650 feet above mean sea level. Two previous tentative tract entitlements reflect the historic interest to develop the property for residential development purposes in that the site lies adjacent to single-family residential zoned districts supported and supplied with the necessary infrastructure required for residential development. In that the Project intends to connect to with existing infrastructure, the Project will be consistent with the goals and objectives of the General Plan.
4. The site is physically suitable for the density of development under Tentative Tract Map.

**Findings of Fact:** The site is located within an Earthquake Fault Zone and the Project’s northern boundary line runs parallel with the San Gorgonio Pass Fault. The subdivision incorporates a fault setback zone, referenced as Lot “A” ranging in width from 40 feet to 160 feet. Pursuant to the Alquist-Priolo Act, no human habitation can be built within the fault setback zone. The Project shall prohibit the construction of structures within the fault setback zone. With the incorporation of the fault setback zone, the site is physically suitable for the intended density and consistent with the City’s General Plan.

5. The design of the subdivision and improvements proposed under Tentative Tract Map 36939 is not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

**Findings of Fact:** The site is currently vacant and does not contain any significant vegetation or habitat for wildlife. Per the Multiple Habitat Conservation Plan (MSHCP), there is no evidence that any endangered, threatened or listed species of plant or animal, or its habitat, is located on the site. There is no evidence that vernal pool complex, similar bodies of water, or conditions suitable for forming such bodies of water exist on the site. This determination is based on MSHCP report prepared by LSA Associates, dated May 2015. The Project incorporates conditions intended to comply with the recommendations of the MSHCP. In addition, this Project has been conditioned to comply with the environmental policies and regulations of the City of Banning and those of all local and regional governmental agencies having jurisdiction over the site.

6. The design of the subdivision and improvements proposed under Tentative Tract map 376939 is not likely to cause health problems.

**Findings of Fact:** The design of the subdivision is in conformance with the City’s General Plan, Zoning Ordinance, and Subdivision Ordinance, the construction of all units on the site has been conditioned to comply with all applicable City of Banning ordinances, codes, and standards including, but not limited to, the California Uniform Building Code, the City’s Ordinances relating to Stormwater runoff management and controls. In addition, the design and construction of all improvements for the subdivision has been conditioned to be in conformance with adopted City street and public works standards. The City’s ordinances, codes, and standards have been created based on currently accepted standards and practices for the preservation of the public health, safety and welfare. Finally, the proposed street system throughout the subdivision will improve emergency vehicular access and in the immediate neighborhood.

7. The design of the subdivision and improvements proposed under Tentative Tract Map 36939, will not conflict with easement, acquired by the public at large, for access through or use of, property within the proposed subdivision.

**Findings of Fact:** No easements of record or easements established by judgement of a court of competent jurisdiction for public access across the site have been disclosed in a search of
the title records for the site and the City does not otherwise have any constructive or actual knowledge of any such easements.

8. The design of the subdivision proposed, Tentative Tract Map 36939 adequately provides for future passive or natural heating and cooling opportunities.

Findings of Fact: Taking into consideration local climate and the existing contour and configuration of the site and its surroundings, the size and configuration of lots within the proposed subdivision have been arranged, to the greatest extent feasible, to permit orientation of structures in an east-west alignment for southern exposure, or to take advantage of natural shade, or to take advantage of prevailing breezes.

SECTION 3. ZONE CHANGE FINDINGS

1. The proposed Amendment is consistent with the goals and policies of the general plan.

Findings of Fact: The property’s land use designation is Low Density Residential with a portion of the site designated as RL-10,000. The minimum lot size per the RL-10,000 standard is intended for single family residential development with 10,000 square foot lots. The lots TTM 36939 proposes range from 7,468 square feet to 25,403 square feet which are large enough to accommodate families with children and daily home based activities. The zone change request eliminates the RL-10000 overlay and would allow 0 to 5 dwelling units per acre. The proposed 98 unit subdivision is below the maximum number that the Low Density Residential District permits. At the maximum permitted per the LDR District, 173 single family units could be provide. In keeping with the subdivision design, the rezoning proposed for the Project is consistent with the General Plan.

2. The proposed Amendment is internally consistent with the Zoning Ordinance.

Findings of Fact: The proposed Project is not anticipated to result in exceeding, either cumulatively or individually, any applicable level of service standards. As discussed in the Staff Report and pursuant to the Project’s conditions of approval, the proposed streets and subdivision design will be constructed in conformance with City standards and specifications. The Mitigation Monitoring and Report Program is intended to ensure that the developer adheres to best management practices in the development of the site.

3. The Planning Commission has independently reviewed and considered the requirements of the California Environmental Quality Act.

Findings of Fact: The City, in light of the whole record before it including but not limited to the City’s local CEQA Guidelines and Thresholds of Significance, the proposed Mitigated Negative Declaration and documents incorporated therein by reference, any written comments received and responses provided, the proposed Mitigation Monitoring Program and other substantial evidence (within the meaning of Public Resources Code § 21080(e) and § 21082.2) within the record and/or provided at the public hearing, hereby finds and determines as follows:
1. Review Period: That the City has provided the public review period for the Mitigated Negative Declaration for the duration required under CEQA Guidelines Sections 15073 and 15105.

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

3. Independent Judgment: That the Mitigated Negative Declaration reflects the independent judgment and analysis of the City.

4. Mitigation Monitoring Program: That the Mitigation Monitoring Program is designed to ensure compliance during project implementation in that changes to the Project and/or mitigation measures have been incorporated into the Project and are fully enforceable through permit conditions, agreements or other measures as required by Public Resources Code Section 21081.6.

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

SECTION 4. CITY COUNCIL ACTION

The City Council hereby takes the following actions:

1. In accordance with CEQA Statue Section 21064.5, the City Council hereby adopts the Mitigated Negative Declaration and Mitigation Monitoring Program and directs the Acting Community Development Director to prepare and file with the Clerk for the County of Riverside a Notice of Determination as provided under Public Resources Code Section 21108, and CEQA Guidelines Section 15075; and

2. Approves Zone Change to eliminate the RL-10,000 Zoning Overlay and Tentative Tract Map 36939, subject to Conditions of Approval and Mitigation Monitoring Report attached hereto and incorporated herein by reference as Exhibit A.

SECTION 5. 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 6. 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) calendar days after its final passage, the City Clerk shall cause a summary of this Ordinance to be published in a newspaper of general circulation and shall post the same at City Hall, 99 E. Ramsey Street, Banning, California. The City Clerk shall cause the Ordinance to be printed, published, and circulated in the City and a copy of this Ordinance and its certification, together with proof of publication, to be entered in the Book of Ordinances of the City.
PASSED, APPROVED, AND ADOPTED this ___ day of ___, 2015.

________________________
Deborah Franklin, Mayor
City of Banning

ATTEST:

________________________
Marie A. Calderon, City Clerk
City of Banning, California

APPROVED AS TO FORM AND
LEGAL CONTENT:

________________________
Lona Laymon, City Attorney
Aleshire & Wynder, LLP

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that Ordinance No. 1494 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 6
Mitigation, Monitoring and Reporting Program
<table>
<thead>
<tr>
<th>Biological Resources</th>
<th>Timing</th>
<th>Verification</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>BIO-1: Pre-Construction Burrowing Owl Survey.</strong> Per the Multiple Species Habitat Conservation Plan, and additional pre-construction Burrowing Owl survey will be required within 30 days prior to beginning of site grading.</td>
<td>Prior to building permit issuance</td>
<td>Community Development Department</td>
</tr>
</tbody>
</table>

a. In the event that the pre-construction survey identifies the presence of at least one individual but less than three (3) mating pairs of burrowing owl, then prior to the issuance of a grading permit and prior to the commencement of ground-disturbing activities on the property, the qualified biologist shall passively or actively relocate any burrowing owls. Passive relocation, including the required use of one-way doors to exclude owls from the site and the collapsing of burrows, will occur if the biologist determines that the proximity and availability of alternate habitat is suitable for successful passive relocation. Passive relocation shall follow California Department of Fish and Wildlife relocation protocol. If proximate alternate habitat is not present as determined by the biologist, active relocation shall follow California Department of Fish and Wildlife relocation protocol. The biologist shall confirm in writing to the Planning Department that the species has fledged or been relocated prior to the issuance of a grading permit.

<p>| <strong>BIO-2: Native Plant Recovery:</strong> Developer shall recover native and drought tolerant plant materials, and incorporate them into project landscaping, to provide or enhance habitat for | Prior to building permit issuance | Community Development Department |</p>
<table>
<thead>
<tr>
<th>Mitigation Measure</th>
<th>Timing</th>
<th>Verification</th>
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<td>local species to the extent possible.</td>
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<tr>
<td><strong>Cultural Resources</strong></td>
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<tr>
<td><strong>CR-1: Archaeological Monitoring.</strong> Prior to the issuance of a grading permit, the Project Proponent shall implement the following program:</td>
<td></td>
<td>Community Development Department &amp; Public Works Department</td>
</tr>
<tr>
<td>a) A qualified archaeological monitor shall be retained by the Project Proponent to conduct monitoring of all grading and trenching activities and has the authority to halt and redirect earthmoving activities in the event that suspected archaeological resources are unearthed during Project construction.</td>
<td>Prior to grading permit issuance</td>
<td></td>
</tr>
<tr>
<td>b) During grading operations, a professional archaeological monitor shall observe the grading operation until such time as monitor determines that there is no longer any potential to uncover buried cultural deposits. If the monitor suspects that an archaeological resource may have been unearthed, the monitor shall immediately halt and redirect grading operations in a 100-foot radius around the find to allow identification and evaluation of the suspected resource. If the monitor determines that the suspected resource is potentially significant, the archaeologist shall notify the appropriate Native American Tribe(s) and invite a tribal representative to consult on the resource evaluation. In consultation with the appropriate</td>
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<tr>
<td>Mitigation Measure</td>
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<tr>
<td>Native American Tribe(s), the archaeological monitor shall evaluate the suspected resource and make a determination of significance pursuant to California Public Resources Code Section 21083.2. If the resource is significant, Mitigation Measure CR-2 shall apply.</td>
<td>During any earth movement activity</td>
<td>Community Development Department</td>
</tr>
<tr>
<td>Mitigation Measure</td>
<td>Timing</td>
<td>Verification</td>
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<tr>
<td>completion of the laboratory analysis, any recovered archaeological resources shall be processed and curated according to current professional repository standards. The collections and associated records shall be donated to an appropriate curation facility, or, the artifacts may be delivered to the appropriate Native American Tribe(s) if that is recommended by the City of Banning. A final report containing the significance and treatment findings shall be prepared by the archaeologist and submitted to the City of Banning Community Development Department.</td>
<td>Prior to grading permit issuance</td>
<td>Community Development Department</td>
</tr>
</tbody>
</table>

**CR-3: Paleontological Monitoring**. Prior to the issuance of grading permits, the Project Proponent shall implement the following program:

a) A qualified paleontologist shall be on-site at the pre-construction meeting to discuss monitoring protocols.

b) The qualified paleontologist shall be empowered to temporarily halt or redirect grading activities paleontological resources are discovered.

c) In the event of a paleontological discovery the monitor shall flag the area and notify the construction crew immediately. No further disturbance in the flagged area shall occur until the qualified paleontologist has cleared the area.

d) The qualified paleontologist shall quickly assess the nature and significance of the find. If the specimen
<table>
<thead>
<tr>
<th>Mitigation Measure</th>
<th>Timing</th>
<th>Verification</th>
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<tr>
<td>is not significant it shall be quickly removed and the area cleared.</td>
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<tr>
<td>e) If the discovery is significant the qualified paleontologist shall notify the Project proponent and the City immediately.</td>
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<tr>
<td>f) In consultation with the Project proponent and the City, the qualified paleontologist shall develop a plan of mitigation which shall include salvage excavation and removal of the find, removal of sediment from around the specimen (in the laboratory), research to identify and categorize the find, curation in the find a local qualified repository, and preparation of a report summarizing the find.</td>
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</tbody>
</table>

**Geology and Soils**

<p>| GEO-1 Fault Setback Zone. Fault Setback Zone. No human structures for human habitation can be built within this zone, however other land uses are permitted. | During Plan Check process | Community Development Department |
| GEO-2 Recommended Fault Setback Zone Boundaries. The Project shall adhere to the recommendations and requirements cited in the RMA Group Report dated April 8, 2014 with regard to Fault Setback Zone Boundaries. | During Plan Check process and during construction activity | Community Development Department and Public Works Department |
| GEO-3. Debris and Catch basins. The Project shall adhere to the recommendations and requirements cited in the RMA Group Report dated April 8, 2014 with regard to the design of catch and debris basins for Lot “B” and “C” and design requirements of the City of Banning Engineering and Public Works Department and WQMP report. | During Plan Check process and during construction activity | Community Development Department and Public Works Department |</p>
<table>
<thead>
<tr>
<th>Mitigation Measure</th>
<th>Timing</th>
<th>Verification</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>GEO-4. Fill in Graded Eastern Portion of Site.</strong> The existing undocumented fill is not adequate for purposes intended and will need to be removed and recompacted.</td>
<td>During permitted grading activity</td>
<td>Public Works Department</td>
</tr>
<tr>
<td><strong>GEO-5 General Earthwork and Grading.</strong> All Earthwork and grading to be performed in accordance with the 2013 California Building Code and all applicable governmental agency requirements.</td>
<td>During permitted grading activity</td>
<td>Public Works Department and Community Development Department</td>
</tr>
<tr>
<td><strong>Hazards and Hazardous Materials</strong></td>
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<tr>
<td><strong>HAZ-1 Fuel Modification Zone:</strong> Parcels adjacent to Lot “A” shall maintain a Fuel Modification Zone of 70 feet.</td>
<td>Prior to Final Map recordation</td>
<td>Fire Department</td>
</tr>
<tr>
<td><strong>HAZ -2 Hazard Plan:</strong> The Applicant shall submit a Hazard Analysis Prior to issuance of Building Permits</td>
<td>Prior to issuance of building permits.</td>
<td>Community Development Department</td>
</tr>
</tbody>
</table>
ATTACHMENT 7
Resolution No. 2015-11
RESOLUTION NO. 2015-11


WHEREAS, the applicant has submitted an application for a Zone Change and Tentative Tract Map No. 36939 so that the Planning Commission may consider the proposed rezoning to eliminate the RL-10,000 Overlay and maintain the site’s LDR District and Tentative Tract Map to subdivide a 34.6 acre lot for purposes of creating 98 single-family lots and 3 lettered lots, which was duly filed by:

Project Applicant:  
Peter J. Pitassi  
10621 Civic Center Drive  
Diversified Pacific  
Rancho Cucamonga, CA 91730

Project Owner:  
Banning Wilson 97, LLC  
10621 Civic Center Drive  
Rancho Cucamonga, CA 91730

Project Developer:  
Banning Wilson 97, LLC  
10621 Civic Center Drive  
Rancho Cucamonga, CA 91730

Parcel Address:  
North of Wilson Street between Sunset and Sunrise Avenue

APN’s:  

Lot Area:  
34.6 Acres

WHEREAS, the Municipal Code allows the subdivision of approximately 34.6 acres within the Low Density Residential Zone into 98 parcels subject to the approval of the Rezoning to remove the exiting RL-10,000 Overlay; and
WHEREAS, the Community Development Department has evaluated the project’s potential effects on the environment as required under the California Environmental Quality Act (‘CEQA’) and prepared a Mitigated Negative Declaration (MND) in compliance with CEQA Statue Section 21064.5 which incorporates conditions and mitigation measures that reduce the potential impacts of the project below significance; and

WHEREAS, on November 20, 2015 the City gave public notice as required under Government Code Section 66451.3 by advertising in the Record Gazette Newspaper, and mailing notices to all property owners within 300 feet of the project site of the holding of a public hearing for the Planning Commission’s review, at which time the project would be considered; and

WHEREAS, the Mitigated Negative Declaration’s Notice of Intent/Notice of Availability regarding Tentative Tract Map 36939 and Zone Change, was advertised in the Record Gazette newspaper on October 16, 2015. Additionally, the notice was mailed to all property owners within 300 feet of the Project; and

WHEREAS, on December 2, 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 Mitigated Negative Declaration, Rezoning and Tentative Tract Map 36939.

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

SECTION 1. ENVIRONMENTAL DETERMINATION:

California Environmental Quality Act (CEQA)
The approval of the Tentative Tract Map 36939 is in compliance with the requirements of CEQA, in that on December 2, 2015, at a duly noticed public hearing, the Planning Commission approved and adopted a Mitigated Negative Declaration and Mitigation Monitoring Program reflecting its independent judgment and analysis and documenting that there was no substantial evidence, in light of the whole record, from which it could be fairly argued that the Project may have a significant effect on the environment. The documents comprising the City’s environmental review for the Project are on file and available for public review at Banning City Hall, 99 E. Ramsey Street, Banning, California 92220.

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.

SECTION 2. FINDINGS TENTATIVE TRACT MAP

An application for a Tentative Tract Map requires that it meet specific findings in accordance with Title 16 of the Banning Subdivision Municipal Code and Government Code Section
66473.1, 66473.5 and Section 66474. A tentative map must adequately meet the adopted provisions of the Title 16 Subdivision chapter based upon the following findings:

1. Tentative Tract Map 36939 is consistent and compatible with the objectives, policies, general land uses, and programs specified in the City’s General Plan.

**Findings of Fact:** The General Plan land use designation for the site is classified as Low Density Residential which allows housing densities from 0 to 5 dwelling units per acre. The proposed Map will result in the development of 98 single family residential dwelling units at a density of 2.8 units per acre. With the elimination of the RL-10,000 overlay zone currently overlying a portion of the property, this density level is within the range permitted under the General Plan land use designation for this site. One of the primary policies of the Land Use Element of the General Plan is that projects adjacent to existing neighborhoods shall be carefully reviewed to assure that neighborhood character is protected. The proposed Tentative Tract Map serves to achieve this objective in that the rezoning and subdivision design is consistent with existing neighborhood housing stock. Considering all of these aspects, the proposed Map furthers the objectives and policies of the General Plan and is compatible with the general land uses districts within the general vicinity of the Project.

2. The design and improvement of the subdivision proposed under Tentative Tract Map 36939 is consistent with the City’s General Plan.

**Findings of Fact:** The proposed subdivision has been designed to meet City standards which provide satisfactory pedestrian and vehicular circulation, including emergency vehicle access and on site improvements, such as streets, utilities, and drainage facilities have been designed and are conditioned to be constructed in conformance with City standards.

3. The site is physically suitable for the type of development proposed under Tentative Tract Map 36939.

**Findings of Fact:** The 34.6 acre site is relatively flat with slight, hilly undulations ranging in elevation from 2,550 to 2,650 feet above mean sea level. Two previous tentative tract entitlements reflect the historic interest to develop the property for residential development purposes in that the site lies adjacent to single-family residential zoned districts supported and supplied with the necessary infrastructure required for residential development. In that the Project intends to connect to with existing infrastructure, the Project will be consistent with the goals and objectives of the General Plan.

4. The site is physically suitable for the density of development under Tentative Tract Map.

**Findings of Fact:** The site is located within an Earthquake Fault Zone and the Project’s northern boundary line runs parallel with the San Gorgonio Pass Fault. The subdivision incorporates a fault setback zone, referenced as Lot “A” ranging in width from 40 feet to 160 feet. Pursuant to the Alquist-Priolo Act, no human habitation can be built within the fault setback zone. The Project shall prohibit the construction of structures within the fault
setback zone. With the incorporation of the fault setback zone, the site is physically suitable for the intended density and consistent with the City’s General Plan.

5. The design of the subdivision and improvements proposed under Tentative Tract Map 36939 is not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

**Findings of Fact:** The site is currently vacant and does not contain any significant vegetation or habitat for wildlife. Per the Multiple Habitat Conservation Plan (MSHCP), there is no evidence that any endangered, threatened or listed species of plant or animal, or its habitat, is located on the site. There is no evidence that vernal pool complex, similar bodies of water, or conditions suitable for forming such bodies of water exist on the site. This determination is based on MSHCP report prepared by LSA Associates, dated May 2015. The Project incorporates conditions intended to comply with the recommendations of the MSHCP. In addition, this Project has been conditioned to comply with the environmental policies and regulations of the City of Banning and those of all local and regional governmental agencies having jurisdiction over the site.

6. The design of the subdivision and improvements proposed under Tentative Tract map 376939 is not likely to cause health problems.

**Findings of Fact:** The design of the subdivision is in conformance with the City’s General Plan, Zoning Ordinance, and Subdivision Ordinance, the construction of all units on the site has been conditioned to comply with all applicable City of Banning ordinances, codes, and standards including, but not limited to, the California Uniform Building Code, the City’s Ordinances relating to Stormwater runoff management and controls. In addition, the design and construction of all improvements for the subdivision has been conditioned to be in conformance with adopted City street and public works standards. The City’s ordinances, codes, and standards have been created based on currently accepted standards and practices for the preservation of the public health, safety and welfare. Finally, the proposed street system throughout the subdivision will improve emergency vehicular access and in the immediate neighborhood.

7. The design of the subdivision and improvements proposed under Tentative Tract Map 36939, will not conflict with easement, acquired by the public at large, for access through or use of, property within the proposed subdivision.

**Findings of Fact:** No easements of record or easements established by judgement of a court of competent jurisdiction for public access across the site have been disclosed in a search of the title records for the site and the City does not otherwise have any constructive or actual knowledge of any such easements.

8. The design of the subdivision proposed, Tentative Tract Map 36939 adequately provides for future passive or natural heating and cooling opportunities.
Findings of Fact: Taking into consideration local climate and the existing contour and configuration of the site and its surroundings, the size and configuration of lots within the proposed subdivision have been arranged, to the greatest extent feasible, to permit orientation of structures in an east-west alignment for southern exposure, or to take advantage of natural shade, or to take advantage of prevailing breezes.

**FINDINGS: ZONE CHANGE**

1. The proposed Amendment is consistent with the goals and policies of the general plan.

   **Findings of Fact:** The property’s land use designation is Low Density Residential with a portion of the site designated as RL-10,000. The minimum lot size per the RL-10,000 standard is intended for single family residential development with 10,000 square foot lots. The lots TTM 36939 proposes range from 7,468 square feet to 25,403 square feet which are large enough to accommodate families with children and daily home based activities. The zone change request eliminates the RL-10000 overlay and would allow 0 to 5 dwelling units per acre. The proposed 98 unit subdivision is below the maximum number that the Low Density Residential District permits. At the maximum permitted per the LDR District, 173 single family units could be provide. In keeping with the subdivision design, the rezoning proposed for the Project is consistent with the General Plan.

2. The proposed Amendment is internally consistent with the Zoning Ordinance.

   **Findings of Fact:** The proposed Project is not anticipated to result in exceeding, either cumulatively or individually, any applicable level of service standards. As discussed in the Staff Report and pursuant to the Project’s conditions of approval, the proposed streets and subdivision design will be constructed in conformance with City standards and specifications. The Mitigation Monitoring and Report Program is intended to ensure that the developer adheres to best management practices in the development of the site.

3. The Planning Commission has independently reviewed and considered the requirements of the California Environmental Quality Act.

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

   1. **Review Period:** That the City has provided the public review period for the Mitigated Negative Declaration for the duration required under CEQA Guidelines Sections 15073 and 15105.

P95
2. Compliance with Law: That the Mitigated Negative Declaration and Mitigation Monitoring Program were prepared, processed, and noticed in accordance with the California Environmental Quality Act (Public Resources Code Section 21000 et seq.), the CEQA Guidelines (14 California Code of Regulations Section 15000 et seq.) and the local CEQA Guidelines and Thresholds of Significance adopted by the City of Banning.

3. Independent Judgment: That the Mitigated Negative Declaration reflects the independent judgment and analysis of the City.

4. Mitigation Monitoring Program: That the Mitigation Monitoring Program is designed to ensure compliance during project implementation in that changes to the Project and/or mitigation measures have been incorporated into the Project and are fully enforceable through permit conditions, agreements or other measures as required by Public Resources Code Section 21081.6.

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

SECTION 3. PLANNING COMMISSION ACTION:

The Planning Commission hereby adopts Resolution No. 2015-11 as follows:

1. In accordance with CEQA Statue Section 21064.5, the Planning Commission hereby adopts the Mitigated Negative Declaration and Mitigation Monitoring Program and directs the Acting Community Development Director to prepare and file with the Clerk for the County of Riverside a Notice of Determination as provided under Public Resources Code Section 21108, and CEQA Guidelines Section 15075; and

2. Approves Zone Change to eliminate the RL-10,000 Zoning Overlay and Tentative Tract Map 36939, subject to Conditions of Approval and Mitigation Monitoring Report attached hereto and incorporated herein by reference as Exhibit A.
PASSED, APPROVED AND ADOPTED this 2nd day of December, 2015.

David Ellis, Chairman
Banning Planning Commission

APPROVED AS TO FORM
AND LEGAL CONTENT:

Robert Khuu, 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. 2015-11, was duly adopted by the Planning Commission of the City of Banning, California, at a regular meeting thereof held on the 2nd day of December, 2015, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

PROJECT #: Technical Review No. 15-1001
SUBJECT: Conditions of Approval (Planning Commission Resolution No. 2015-11)
APPLICANT: Peter J. Pitassi

* 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: General Requirements

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, that challenge, attack, or seek to modify, set aside, void, or annul, the action of, or any permit or approval issued by, 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. Approval of Tentative Tract 36939 shall be for a period of two (2) years from the date of City Council approval. All Conditions of Approval must be met on or before the expiration date, or the applicant must request an extension of time at least thirty (30) days prior to the expiration date; otherwise, the approval shall expire and become null and void.

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 design of all lots shall meet the minimum property development requirements contained in the City's Zoning Ordinance for the Low Density Residential Zoning District.

6. The placement of the subdivision's CMU walls shall be in accordance with the following plan:

**Perimeter Wall** – a 6' high tan split face CMU (on the public side) with a 2” smooth cap located:
- Along the west side of Lot 47, adjacent to Sunset Avenue
- Along the north side of the Montgomery Creek Channel Right-of Way
- Along the northerly side of Lot “B”
- Along the southeasterly side of Lot 69
- Along the south sides of Lots 78 and 81, and the east side of Lot 81
- Along the North side of Lot “C”
- Along the North side of Lots 5, 6, 9, and 10, and along the west side of Lot 10
- Along the Northeast and Northwest sides of Lot 11

**Interior Fencing**
- 6' high tan or white vinyl at rear and side yard fencing.
- 3’ wide vinyl gate at the return fence at the garage side of each home.
- 6’ high tan or white vinyl return fencing from the side fence to the home on each side
7. Prior to the issuance of any building permits, typical building elevations shall be submitted to the Planning Department for design review and approval, in accordance with the provisions and requirements of Article 16E of the Banning Ordinance Code.

8. Applicant shall pay all development fees adopted by the City in effect at the time of issuance of any building permits, which shall include but not be limited to: TUMF, MSHCP, police and fire safety developer fees, water and sewer fees, park land dedication fees, and electric meter installation fees etc. Project proponent shall provide written evidence to the City that school mitigation fees have been paid or other arrangements acceptable to the Banning Unified School District have been met.

9. A copy of the final grading plan, approved by Engineering, shall be submitted to the Office of Planning for review and approval of the landscaping and erosion control plans when graded cut slopes exceed five (5) feet in height and fill slopes exceed three (3) feet in height.

10. The following building setback lines shall be delineated on the composite development plan submitted for building permits:

   a. Front yard - Minimum 20 feet.

   b. Side yard (interior lot) - Minimum 10 feet (single-story: measured between the furthest projection of the wall to the property line).

      Side yard setbacks for two-story dwellings shall be staggered per Section 17.08.240(E) of the zoning ordinance.

   c. Side yard (corner lot - street side) – Minimum 15 feet.

   d. Side yard (corner lot - abutting interior lot) - Minimum 10 feet (measured between the furthest projection of the wall to the property line)

   e. Rear yard – minimum 15 feet.

11. The developer shall contact the U.S. postal Service to determine the appropriate type and location of mailboxes.

12. The applicant shall install slate, concrete, tile, clay tile, or equal roofing material approved by the Planning Department on all units within the subject property.

13. A trailer, used as an office by the property owner or his designee, may be permitted on the site during construction for a period not to exceed six (6) months. Prior to issuance of a building permit for any residential unit, said trailer shall be subject to a Land Use Permit reviewed and approved by the Planning Department.
14. Prior to the issuance of any Building Permits, the project proponent shall submit to the City’s Planning Department for review and approval: (1) three (3) copies of a drought-tolerant landscape plan and irrigation plans prepared by a licensed landscape architect. Said plan shall also depict the proposed placement and materials for a 6-foot high decorative block wall with decorative stone cap to be established along the perimeter of The drought-tolerant landscape plan shall include the following:

A. The location, type, size and quantity of vegetation to be installed, and a date by which the landscaping shall be completed.

B. Required drought-tolerant slope planting: Slope planting shall be required for the surface of all cut slopes of three (3) feet or greater in height and fill slopes more than two (2) feet in height. Said slopes shall be protected against damage from erosion by providing jute netting and planting with, ground cover plants or grass, except that grass will not exceed 25% of the total planting area on the slope face.

(1) All slopes exceeding three (3) feet in vertical height shall also be planted with shrubs, spaced at distances not to exceed five (5) feet on center; or, trees spaced at distances not to exceed ten (10) feet on center; or a combination of shrubs and trees.

(2) Slopes exceeding five (5) feet in vertical height shall be planted with a combination of drought-tolerant trees, shrubs and groundcover.

(3) Drought-tolerant slope planting as required by B(1) and (2), above, shall consist of the following sizes and quantities:

   a. Trees: 30% — 24-inch box; 35% — 15-gallon; 25% - five gallon; 10% - one gallon.

   b. Shrubs: 60% — five gallon; 40%—one gallon.

   c. Groundcover: 100% coverage from flats planted 18-inch on-center.

(4) The approved landscape plan shall be installed prior to the issuance of a Certificate of Occupancy for any single-family residence to be constructed within the subdivision.

C. The fuel modification zone shall be landscaped in accordance with the City’s General Plan policies and an analysis of the landscaping means the thinning of native combustible vegetation and the placement of fire resistant plant species as approved by the Fire Marshal.
The Plan shall be forwarded to a Landscape Architect for review and the applicant shall pay all fees associated with the review process. The approved landscape plan shall be implemented / installed prior to the issuance of a Certificate of Occupancy for each single-family residence constructed within TTM 36939. (Submit landscape and irrigation plans as soon as possible to allow sufficient time for a Landscape Architect to review same).

15. Prior to the issuance of a Certificate of Occupancy for each single-family residence constructed within TTM 36939, the applicant shall submit to the City for review and approval three (3) copies of a detailed landscape and irrigation plan (comprised of xeriscape plant material) indicating type, species and location of the following minimum number of drought tolerant, multi-branched trees on each lot adjacent to the street right—of—way (all trees shall be planted with root barriers):

- Cul-de-sac lots — 1 tree; minimum 24” box
- Interior lot — 2 trees; one 24” box, one 15—gallon
- Corner lot — 3 trees; two 24” box and one 15—gallon.

The Plan shall be forwarded to a Landscape Architect for review and the applicant shall pay all fees associated with the review process. The approved landscape plan shall be implemented / installed prior to the issuance of a Certificate of Occupancy for each single-family residence constructed within TTM 36939. (Submit landscape and irrigation plans as soon as possible to allow sufficient time for a Landscape Architect to review same).

- The landscaping for the street parkways, public lots, and other public areas shall be installed prior to occupancy of the first unit.

16. A six-(6) foot high chain link fence must be maintained around the perimeter of the site during all phases of construction.

17. Developer shall meet all requirements of responsible agencies, including but not limited to: Southern California Gas Company, and Southern California Edison Company.

Standard Conditions

18. The Project is required to comply with the provisions of South Coast Air Quality Management District Rule 402. A person shall not discharge from any source whatsoever such quantities of air contaminants or other material which cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public, or which endanger the comfort, repose, health or safety of any such persons or the public, or which cause, or have a natural tendency to cause, injury or damage to business or property.

19. The Project is required to comply with regional rules that assist in reducing short-term air pollutant emissions. SCAQMD Rule 403 requires that fugitive dust be controlled with best-available control measures so that the presence of such dust does not remain visible in the atmosphere beyond the property line of the emission source. SCAQMD Rule 403
requires implementation of dust suppression techniques to prevent fugitive dust from creating a nuisance of site. Applicable dust suppression techniques from Rule 403 are summarized below:

- Apply nontoxic chemical soil stabilizers according to manufacturers’ specifications to all inactive construction areas (previously graded areas inactive for 10 days or more).
- Water active sites at least twice daily. (Locations where grading is to occur will be thoroughly watered prior to earthmoving.)
- Cover all trucks hauling dirt, sand, soil, or other loose materials, or maintain at least 0.6 m (2 ft.) of freeboard (vertical space between the top of the load and top of the trailer) in accordance with the requirements of California Vehicle Code (CVC) Section 23114.
- Pave construction access roads at least 30 m (100 ft.) onto the site from the main road.
- Reduce traffic speeds on all unpaved roads to 15 mph or less.

The applicable Cal/Recycle Sustainable (Green) Building Program Measures are:

- Recycle/reuse at least 50 percent of the construction material that are rapidly renewable or resource-efficient, and recycled and manufactured in an environmentally friendly way for at least 10 percent of the project, as defined on the California Department of Resources Recycling and Recovery (CalRecycle) website: www.calrecycle.ca.gov

20. In the event that previously undocumented archaeological resources are identified during earthmoving activities, further construction work in the area should be diverted or halted until the nature and significance of the find can be assessed.

21. If human remains are encountered, State Health and Safety Code Section 7050.5 states that no further disturbance shall occur until the County Coroner has made a determination of origin and disposition pursuant to Public Resources Code Section 5097.98. The County Coroner must be notified of the find immediately. If the remains are determined to be prehistoric, the County Coroner will notify the Native American Heritage Commission (NAHC), which will determine and notify a Most Likely Descendant (MLD). With the permission of the landowner or his/her authorized representative, the MLD may inspect the site of the discovery. The MLD shall complete the inspection within 48 hours of notification by the NAHC. The MLD may recommend scientific removal and nondestructive analysis of human remains and items associated with Native American burials.
Mitigation

22. Burrowing Owls. The project fall within the Multiple Species Habitat Conservation Plan (MSHCP). Per the MSHCP 30-day Pre-construction Burrowing Owl Survey Guidelines, an additional pre-construction survey will be required within 30 days prior to beginning of site grading. If burrowing owls are found to be present, for compliance with the MSHCP, project-specific mitigation would be developed and authorized through consultation with the City of Banning and California Department of Fish and Wildlife.

23. Any project-related effects to potentially jurisdictional streambeds will require the preparation of a Determination of Biologically Equivalent or Superior Preservation (DBESP) report for compliance with the MSHCP. In addition, permits would be required from the U.S. Army Corp. of Engineers (USACE), RWQCB, and CDFW. Any necessary mitigation would be determined through the DBESP and permitting process with the USACE and CDFW.

24. To avoid any potential effects to nesting birds protected by the Migratory Bird Treaty Act (MBTA), and the California Fish and Game Code, vegetation-clearing and preliminary ground-disturbing work should be completed outside of bird breeding season (typically February through August 31). In the event that initial groundwork cannot be conducted outside the bird breeding season, pre-construction surveys would be required within 30 days prior to construction. Should nesting birds be found, an exclusionary buffer will be established by the biologist. The buffer may be up to 500 feet in diameter, depending on the species of nesting bird found. The buffer will be clearly marked in the field by construction personnel under guidance of the biologist, and construction or clearing will not be conducted within this zone until the biologist determines that the young have fledged or the nest is no longer active.

25. Fault Setback Zone. The subdivision shall be designed with the fault setback zone as shown in the Tentative Tract Map 36939 and in accordance with the recommendations cited in the RMA Group Geologic Fault Investigation of Alquist-Priolo Zone Report dated April 8, 2014. Any deviation from the Fault Setback zone shall require Planning and City Engineer approval. Based on the requirements of the Alquist-Priolo Act, no human habitation structures can be built within this zone, however other land uses may be permitted subject to Planning Approval.

26. Native Plant Recovery: Developer shall recover native and drought tolerant plant materials, and incorporate them into project landscaping, to provide or enhance habitat for local species to the extent possible.

27. Archaeological Monitoring. Prior to the issuance of a grading permit, the Project Proponent shall implement the following program:
a) A qualified archaeological monitor shall be retained by the Project Proponent to conduct monitoring of all grading and trenching activities and has the authority to halt and redirect earthmoving activities in the event that suspected archaeological resources are unearthed during Project construction.

b) During grading operations, a professional archaeological monitor shall observe the grading operation until such time as monitor determines that there is no longer any potential to uncover buried cultural deposits. If the monitor suspects that an archaeological resource may have been unearthed, the monitor shall immediately halt and redirect grading operations in a 100-foot radius around the find to allow identification and evaluation of the suspected resource. If the monitor determines that the suspected resource is potentially significant, the archaeologist shall notify the appropriate Native American Tribe(s) and invite a tribal representative to consult on the resource evaluation. In consultation with the appropriate Native American Tribe(s), the archaeological monitor shall evaluate the suspected resource and make a determination of significance pursuant to California Public Resources Code Section 21083.2. If the resource is significant, Mitigation Measure CR-2 shall apply.

28. Treatment Plan. If a significant archaeological resource(s) is discovered on the property, ground disturbing activities shall be suspended 100 feet around the resource(s). The archaeological monitor and a representative of the appropriate Native American Tribe(s), the Project Proponent, and the City of Banning Community Development Department shall confer regarding mitigation of the discovered resource(s). A treatment plan shall be prepared and implemented by the archaeologist to protect the identified archaeological resource(s) from damage and destruction. The treatment plan shall contain a research design and data recovery program necessary document the size and content of the discovery such that the resource(s) can be evaluated for significance under CEQA criteria. The research design shall list the sampling procedures appropriate to exhaust the research potential of the archaeological resource(s) in accordance with current professional archaeology standards (typically this sampling level is two (2) to five (5) percent of the volume of the cultural deposit). The treatment plan shall require monitoring by the appropriate Native American Tribe(s) during data recovery excavations of archaeological resource(s) of prehistoric origin, and shall require that all recovered artifacts undergo laboratory analysis. At the completion of the laboratory analysis, any recovered archaeological resources shall be processed and curated according to current professional repository standards. The collections and associated records shall be donated to an appropriate curation facility, or, the artifacts may be delivered to the appropriate Native American Tribe(s) if that is recommended by the City of Banning. A final report containing the significance and treatment findings shall be prepared by the archaeologist and submitted to the City of Banning Community Development Department.
29. Paleontological Monitoring. Prior to the issuance of grading permits, the Project Proponent shall implement the following program:

a) A qualified paleontologist shall be on-site at the pre-construction meeting to discuss monitoring protocols.

b) The qualified paleontologist shall be empowered to temporarily halt or redirect grading activities paleontological resources are discovered.

c) In the event of a paleontological discovery the monitor shall flag the area and notify the construction crew immediately. No further disturbance in the flagged area shall occur until the qualified paleontologist has cleared the area.

d) The qualified paleontologist shall quickly assess the nature and significance of the find. If the specimen is not significant it shall be quickly removed and the area cleared.

e) If the discovery is significant the qualified paleontologist shall notify the Project proponent and the City immediately.

f) In consultation with the Project proponent and the City, the qualified paleontologist shall develop a plan of mitigation which shall include salvage excavation and removal of the find, removal of sediment from around the specimen (in the laboratory), research to identify and categorize the find, curation in the find a local qualified repository, and preparation of a report summarizing the find.

Public Works:

A. General Requirements

30. 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.

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 (access)
- Army Corps of Engineers
- CA Fish and Game
31. The following improvement plans shall be prepared by a Civil Engineer licensed by the State of California and submitted to the Engineering Division for review and approval. A separate set of plans shall be prepared for each line item listed below. Unless otherwise authorized in writing by the City Engineer, the plans shall utilize the minimum scale specified and shall be drawn on 24” x 36” Mylar film. Plans may be prepared at a larger scale if additional detail or plan clarity is desired (Note: the applicant may be required to prepare other improvement plans not listed here pursuant to improvements required by other agencies and utility purveyors):

a. Rough/Precise Grading Plans
   (All Conditions of Approval shall be reproduced on last sheet of set)
   1” = 40' horizontal

b. Clearing Plans
   (Include fuel modifications zones)
   (Include construction fencing plan)
   1” = 50' horizontal

c. Erosion Control Plan, SWPPP and WQMP
   (Note: a, b & c shall be reviewed and approved concurrently)
   1” = 40' Horizontal

d. Storm Drain Plans
   1” = 40' Horizontal

e. Street Improvement Plans
   1” = 40' Horizontal
   1” = 4' Vertical

f. Signing & Striping Plans
   1” = 40' Horizontal

g. Construction Traffic Control Plan
   (Major or Arterial Highways only)
   1” = 40' Horizontal

h. Landscaping Plans-Streets
   1” = 20' Horizontal

i. Water & Sewer Improvement Plans
   1” = 40' Horizontal
   1” = 4' Vertical

Other engineered improvement plans prepared for City approval that are not listed herein shall be prepared in formats approved by the City Engineer prior to commencing plan preparation.
All off-site plan and profile street improvement plans and signing & striping plans shall show all existing improvements for a distance of at least 200-feet beyond the project limits, or at a distance sufficient to show any required design transitions.

All on-site signing and striping plans shall show the following at a minimum: stop signs, limit lines and legends, no parking signs, raised pavement markers (including blue raised pavement markers at fire hydrants) and street name signs per Public Works standard plans and/or as approved by the City Engineer. A small index map shall be included on the title sheet of each set of plans, showing the overall view of the entire work area.

32. Upon completion of construction, the Developer shall furnish the City with reproducible record drawings on Mylar film of all improvement plans that were approved by the City Engineer. Each sheet shall be clearly marked "As-Built" or "As-Constructed" and shall be stamped and signed by the engineer or surveyor certifying the accuracy and completeness of the drawings. The applicant shall have all AutoCAD files submitted to the City, revised to reflect the “As-Built” conditions.

33. All utility systems including gas, electric, telephone, water, sewer, and cable TV shall be provided for underground, with easements provided as required, and designed and constructed in accordance with City codes and the utility provider. Telephone, cable TV, and/or security systems shall be pre-wired.

34. The Developer shall cause all public improvements to be constructed and accepted by the City prior to occupancy of the first unit; or, the Developer shall enter into an agreement to guarantee the construction of the public improvements as listed in the Conditions of Approval and as shown on the approved plans.

B. Rights of Way/Easements

35. Prior to issuance of any permit(s), the applicant shall acquire or confer property rights necessary for the construction or proper functioning of the proposed project/development. Conferred rights shall include right-of-way dedications, irrevocable offers to dedicate or grant of easements to the City for emergency services, maintenance, utilities, storm drain facilities, or temporary construction purposes including the reconstruction of essential improvements.

36. Offer to dedicate to the City of Banning for public purposes the right-of-way for Wilson Street fronting the site as an Arterial Highway; 55 feet one-half width (centerline to right-of-way). Offers of dedication shall include corner cut-off at intersections.

37. Related to COA No.36, the developer shall request the right-of-way dedication along Wilson Street fronting the Montgomery Creek Channel from the Riverside County Flood Control and Water Conservation District.
38. Offer to dedicate to the City of Banning for public purposes the right-of-way for Sunset Avenue fronting the site as an Collector Highway; 33 feet one-half width (centerline to right-of-way).

39. Offer to dedicate to the City of Banning for public purposes the right-of-way for Local Streets, including Sunrise Avenue fronting the site; 30 feet one-half width (centerline to right-of-way). Offers of dedication shall include corner cut-off at intersections.

40. Offer to dedicate to the City of Banning easements to maintain any slopes supporting public right-of-ways. Maintenance easements shall extend 10 feet beyond the toe of slope.

41. Submit a copy of the title report, closure calculations, and any separate instruments or necessary right-of-way documents to the Engineering Division for review and approval of the City Engineer prior to all improvement plans.

42. All street centerline monument ties shall be submitted to the Engineering Division.

43. Prior to the issuance of any certificates of occupancy, the applicant shall not grant any easements over any property subject to a requirement of dedication or irrevocable offer of dedication to the City of Banning or the Riverside County Flood Control and Water Conservation District unless such easements are expressly made subordinate to the easements to be offered for dedication to the City or RCFCID. Prior to granting any of said easements, the applicant shall furnish a copy of the proposed easement to the City Engineer for review and approval. Further, a copy of the approved easement shall be furnished to the City Engineer prior to the issuance of any certificate of use and/or occupancy.

C. Traffic

44. Street name signs and traffic control devices including traffic legends and traffic striping shall be installed, or relocated in accordance with Caltrans Standards and as shown on the approved plans, and/or as directed by the City Engineer.

Prior to the issuance of a grading permit or building permit, the applicant shall submit and obtain approval in writing from the Fire Marshall for the plans for all public or private access roads, drives, streets, and alleys. The plans shall include plan and sectional views and indicate the grade and width of the access road measured flow-line to flow-line. When a dead-end access exceeds 150 feet or when otherwise required, a clearly marked fire apparatus access turnaround must be provided and approved by the Fire Marshall.

45. The intersection of Sunset Avenue and Dawn Lane shall be design in manner to mitigate sight distance issues.
D. Street Improvements

46. All street improvement designs shall provide pavement and lane transitions per City of Banning and Caltrans standards for transition to existing street sections.

47. Construct half-width street improvements in accordance with City standards fronting Wilson Street, Sunset Avenue and Sunrise Avenue including street lighting, curb and gutter, drive approaches, sidewalk, and asphalt concrete paving, traffic signs and striping, and any transitions. Street lights shall be installed offset of the existing street lights. Applicant’s geotechnical engineer shall provide the design of the pavement section based upon the Caltrans method.

48. Construct full-width street improvements in accordance with City standards along local streets within the project boundaries including street lighting, curb and gutter, drive approaches, sidewalk, handicap ramps, and asphalt concrete paving, traffic signs and striping, and any transitions. Applicant’s geotechnical engineer shall provide the design of the pavement section based upon the Caltrans method.

49. Any public improvements damaged during the course of construction shall be replaced to the satisfaction of the City Engineer, or his/her designee.

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

51. The channel crossing of Wilson Street over the Montgomery Creek Channel shall be designed and constructed to the ultimate width of Wilson Street as approved by the City and Riverside County Flood Control and Water Conservation District. Access and safety devices such as guard rail, chain link fence, etc., shall be provided on the north side of Wilson Street for the maintenance of “Montgomery Creek Channel” as approved by the City and Riverside County Flood Control and Water Conservation District.

E. Grading/Drainage Improvements

52. In accordance with the June 19, 2015 RMA GeoScience Report, the Developer shall adhere to the comments, recommendations and conditions cited in the report as to the following:
   - Existing Fill in Graded Eastern Portion of the Site.
   - General Earthwork and Grading
   - Removals and Over excavation
   - Earthwork Shrinkage and Subsidence
   - Earthwork Recommendations
   - Excavation Characteristics and Rock Disposal
   - Fill and Cut Slopes
53. Submit a Drainage Study with hydrologic and hydraulic analysis for developed and undeveloped (existing) conditions to the Engineering Division for review and approval. The study and analysis shall be prepared by a civil engineer licensed by the State of California and shall incorporate the drainage area north of the proposed tract. Drainage design shall be in accordance with Banning Master Drainage Plan adopted by Riverside County Flood Control and Water Conservation District (RCFCD), RCFCD Hydrology Manual, and standard plans and specifications. The 10-year storm flow shall be contained within the street curbs, and the 100-year storm shall be contained within the street right-of-way; when this criteria is exceeded, additional drainage facilities shall be designed and constructed.

54. The project shall comply with all RCFCD requirements including, but not limited to: drainage/debris basins, drainage easements, storm drain infrastructure and design criteria. A debris basin shall be included with this project to capture debris flows as recommended by the RCFCD.

55. Concrete lined interceptor channels shall be designed and constructed along the north boundary of the proposed development as required by Grading Ordinance.

56. Submit confirmation that the project meets the requirements of the Alquist-Priolo Earthquake Fault Zoning Act.

57. If the site is located in a Flood Area as identified in Flood Insurance Rate Map dated August 28, 2008 the developer is responsible for providing a certification by a registered professional engineer or architect demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

58. The project grading shall be designed in a manner that perpetuates the existing natural drainage patterns with respect to tributary drainage areas, outlet points and outlet conditions. Otherwise, a drainage easement shall be obtained for the release of concentrated or diverted storm flows. The project shall accept and convey storm flows from the adjacent property to the north.
59. The applicant shall comply with Chapter 13.24 “Stormwater Management Systems” of the Banning Municipal Code (BMC) and Title 18 “Grading, Erosion and Sediment Control” of the California Building Code related to excavation and grading; and the State Water Resources Control Board’s orders, rules and regulations.

60. For construction activities including clearing, grading or excavation of land that disturbs one (1) acre or more of land, or that disturbs less than one (1) acre of land, but which is a part of a construction project that encompasses more than one (1) acre of land, the applicant shall be required to submit a Storm Water Pollution Protection Plan (SWPPP) and file a Notice of Intent (NOI) with the Regional Water Quality Control Board.

The applicant’s SWPPP shall be reviewed and approved by the City Engineer prior to any permit issuance. The approved SWPPP and BMPs shall remain in effect for the entire duration of project construction until all improvements are completed and accepted by the City.

Note: The SWPPP may be supplemented with an Erosivity Waiver, if approved by the State Water Resource Control Board.

All erosion and sediment control BMPs proposed by the applicant shall be designed using the CASQA BMP handbook and approved by the City Engineer prior to any onsite or offsite grading, pursuant to this project.

61. Grading and excavations in the public right-of-way shall be supplemented with a soils and geology report prepared by a professional engineer or geologist licensed by the State of California.

62. Prior to the issuance of any building permit(s), a precise grading plan shall be submitted to the City Engineer for review and approval. A grading permit shall be obtained prior to commencement of any grading activity.

63. Prior to issuance of any grading or building permit, a Project-Specific Water Quality Management Plan (WQMP) shall be reviewed and approved in accordance with California Regional Water Quality Control Board Colorado River Basin Region Order No. R7-2013-0011.

I. At a minimum, all development will make provisions to store runoff from rainfall events up and including the one-hundred year, three hour duration. Post development peak urban runoff discharge rates shall not exceed pre-development peak urban runoff discharge rates.

64. Prior to the issuance of a building permit for any building lot, the applicant shall provide a lot pad certification stamped and signed by a qualified civil engineer or land surveyor. Each pad certification shall list the pad elevation as shown on the approved grading plan,
the actual pad elevation and the difference between the two, if any. Such pad certification shall also list the relative compaction of the pad soil.

65. Obtain Letter of Map Revision (LOMR) from FEMA.

F. Landscaping Public Right of Way

66. The Developer shall prepare a water conservation plan to reduce water consumption in the landscape environment using xeriscape principles. “Xeriscape” shall mean a combination of landscape features and techniques that in the aggregate reduce the demand for and consumption of water, including appropriate low water using plants, non-living ground-cover, a low percentage of turf coverage (limited to 25% of the planted area), permeable paving and water conserving irrigation techniques and systems. A low water-using drought tolerant plant includes species suited to our climate, requiring less water in order to grow well.

67. An automatic sprinkler system and landscaping shall be installed, prior to occupancy of the first unit of the development, within the parkway fronting Sunrise Avenue, Wilson Street and the interior streets. The system shall include a landscape controller, a separate water meter and electric meter, and plantings as approved by the Community Development Director. Landscaping plans and specifications shall be reviewed and approved by the City Engineer.

68. The Developer shall participate in a Landscape Maintenance District to be established by the City of Banning for the maintenance of landscape within the public right-of-way and the open space area within the development’s boundary along Wilson Street and Lots A, B, and C. The Developer shall landscape and maintain said area until the City accepts it into the Landscape Maintenance District No. 1. The lieu of this requirement the developer may establish a HOA to maintain said landscaped areas.

69. Landscape improvements shall be certified by a licensed landscape architect or licensed landscape contractor as having been installed in accordance with the approved detailed plans and specifications. The applicant shall furnish said certification, including an irrigation management report, for each landscape irrigation system and any other required implementation report determined applicable, to the City Engineer for review and approval.

G. Trash/Recycling

70. 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 of the Inland Valley at 1-800-423-9986, for disposal of construction debris.

H. Fees
71. 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.

72. A fee shall be paid to the Riverside County Flood Control and Water Conservation District to perform plan checking for the proposed project.

73. Public Works Inspection fees shall be paid prior to issuance of any permits in accordance with the fee schedule in effect at time of time of scheduling.

74. Water and sewer connection fees including frontage fees and water meter installation charges shall be paid on a per lot basis at the time of building permit issuance in accordance with the fee schedule in effect at that time.

75. A plan storage fee shall be paid for any engineering plans that may be required prior to issuance of certificate of occupancy in accordance with the fee schedule in effect at the time the fee is paid.

76. A Traffic Control mitigation fee shall be paid prior to issuance of building permits.

77. Payment of all associated development impact fees in effect at the time of building permit issuance.

1. Final Parcel Map

78. Security for the construction of public improvements in accordance with Government Code Section 66499 shall be as follows:
   - Faithful Performance Bond - 100% of estimated cost
   - Labor and Material Bond - 100% of estimated cost
   - Monumentation Bond - $20,000.00

   Securities for the public improvements shall be on file with the City Clerk prior to scheduling the final map for approval by City Council. Unit prices for bonding estimates shall be those specified or approved by the City Engineer.

79. Submit a copy of the title report, closure calculations, and any separate instruments or necessary easement or right-of-way documents to the Engineering Division for review and approval of the City Engineer prior to final map approval.

80. A map of the proposed subdivision drawn at 1”=200’ scale showing the outline of the streets including street names shall be submitted to the City to update the city atlas map.
81. An original Mylar of the final map (after recordation) shall be provided to the City for the record files.

82. A record of all street centerline monument ties shall be submitted to the Engineering Division upon completion of improvements or prior to release of Monumentation Bond.

J. Water

83. Design and construct the water system (mains, laterals, hydrants, valves, blowoffs, airvacs, etc.) according to the City of Banning standards. The water mains shall be a minimum of eight inches in diameter ductile iron pipe and shall be designed to be a "looped" system. The applicant is directed to review the water plans previously approved with Tract Map No. 30642.

84. Pay all applicable water connection and frontage fees per Chapter 13.08 "Water, Sewer and Electricity Rates" of the Banning Municipal Code prior to the issuance of a building permit.

K. Sewer

85. Design and construct the sewer system (mains, laterals, manholes, etc.) according to the City of Banning standards. The applicant is directed to review the sewer plans previously approved with Tract Map No. 30642.

86. All sewer lines to be constructed within the Public right-of-way shall be extra strength Vitrified Clay Pipe. All sewer laterals shall be a minimum of 4 inches in diameter and all sewer mains shall be a minimum of 8 inches. Final sizes shall be approved by the City Engineer.

87. A sewer check valve shall be provided for each building with a finish pad elevation lower than the rim elevation of the immediate up-stream sewer manhole.

County Fire Department

88. For residential areas, approved standard fire hydrants, located at each intersection, with no portion of any lot frontage more than a maximum of 500 feet from a hydrant. Minimum fire flow for all residential structures shall be 1000 GPM for a 2-hr duration at 20 psi residual operating pressure, which must be available before any combustible material is placed on the construction site.

89. The required water system, including fire hydrants shall be installed and accepted by the appropriate water agency prior to any combustible building material being placed on an individual lot. Two sets of water plans are to be submitted to the Fire Department for approval.
90. Applicant/Developer shall mount blue dot retro-reflectors pavement markers on private streets, public streets and driveways to indicate location of the fire hydrant. It should be eight (8) inches from centerline to the side that the fire hydrant is on, to identify fire hydrant locations.

91. Residential fire sprinklers are required in all one and two family dwellings per the California Residential Code. Contact the Riverside County Fire Department for the Residential Fire Sprinkler Standard.

92. Fire Apparatus access road and driveways shall be in compliance with the Riverside County Fire Department Standard number 06-05 (located at www.rvcfire.org). Access lanes will not have an up, or downgrade of more than 15%. Access roads shall have an unobstructed vertical clearance not less than 13 feet and 6 inches. Access lanes will be designed to withstand the weight of 70 thousand pounds over 2 axles. Access will have a turning radius capable of accommodating fire apparatus. Access lane shall be constructed with a surface so as to provide all weather driving capabilities.

93. Roadways may not exceed 1320 feet without secondary access. This access may be restricted to emergency vehicles only however, public egress must be unrestricted.

94. Dead-end fire apparatus access roads in excess of 150 feet in length shall be provided with approved provision for the turn-around capabilities of fire apparatus.

95. Any turn-around requires a minimum of 42-foot turning radius.

96. The minimum dimension for gates is 20 feet clear and unobstructed width and a minimum vertical clearance of 13 feet 6 inches in height. Any gate providing access from a road shall be located at least 35 feet setback from the roadway and shall open to allow a vehicle to stop without obstructing traffic on the road. Where a one-way road with a single traffic lane provides access to a gate entrance, a 38-foot turning radius shall be used.

97. Gates may be automatic or manual and shall be equipped with a rapid entry system (KNOX). Plans shall be submitted to the Fire Department for approval prior to installation. Automatic gate pins shall be rated with a shear pin force, not to exceed 30 pounds. Gates activated by the rapid entry system shall remain open until closed by the rapid entry system. Automatic gates shall be provided with backup power.
CITY OF BANNING  
Planning Commission Report  

DATE: December 2, 2015  
TO: Planning Commission  
FROM: Brian Guillot, Acting Community Development Director  
SUBJECT: CONDITIONAL USE PERMIT NO. 15-7002 FOR A PROPOSED FREEWAY ORIENTED SIGN LOCATED AT 220 E. RAMSEY STREET (APN: 541-181-032, 033, 034, 035) FOR THE VILLAGE AT PASEO SAN GORGONIO PROJECT WITHIN THE DOWNTOWN COMMERCIAL (DC) ZONING DISTRICT  

THIS ITEM IS CONTINUED FROM THE MEETING OF JUNE 3, 2015  
THIS ITEM IS CONTINUED FROM THE MEETING OF JULY 1, 2015  
THIS ITEM IS CONTINUED FROM THE MEETING OF OCTOBER 7, 2015  

RECOMMENDATION:  
That the Planning Commission adopts Resolution No. 2015-09 (Attachment 1):  

I. Adopting a Categorical Exemption (Class 11: Accessory Structures) for Conditional Use Permit No. 15-7002 in compliance with the California Environmental Quality Act (CEQA); and  

II. Approving Conditional Use Permit No. 15-7002 allowing the Freeway Oriented Sign for the Village at Paseo San Gorgonio project subject to the conditions of approval.  

APPLICANT INFORMATION:  
Project Applicant: Architectural Design & Signs, Inc.  
1160 Railroad Street  
Corona, CA 92882  

Conditional Use Permit No. 15-7002
Project Owner: JMA Village, LLC

Transferred
Project Developer: Vanir Group of Companies, Inc.
4540 Duckhorn Drive, Suite 100
Sacramento, CA 95834

Parcel Address: 220 E. Ramsey Street

Former APN’s: 541-181-009, 010, 011, 012, 024, 025, 026, 027, and 028; and, 541-183-001, 002, 003, and 004

New APN’s: 541-181-032, 033, 034, 035

Lot Area: 5.25 Acres

BACKGROUND:

On May 24, 2011, the City Council adopted Resolution No. 2011-44 adopting an Initial Study/Mitigated Negative Declaration and Mitigation Monitoring Reporting Program and approving Design Review No. 10-702 and Tentative Parcel Map No. 36285 to construct a mixed-use commercial development known as the “Village at Paseo San Gorgonio” project. The subject application for a Conditional Use Permit (CUP) to approve a freeway-oriented sign (Attachment 2) is intended to be part of this project.

The subject CUP was first presented to the Planning Commission on June 3, 2015. The validity of approving CUP No. 15-7002 was questioned by the commission due to the impending expiration of the Design Review entitlement for the Village at Paseo San Gorgonio Project. Accordingly, staff revised the proposed Planning Commission Resolution No. 2015-09 to include the following Condition of Approval and then presented it at the July 1, 2015 meeting:

- The approval of Conditional Use Permit No. 15-7002 shall be subject to the validity of Design Review No. 10-7002, pursuant to City Council Resolution No. 2015-47.

At the July 1, 2015, meeting, in a 3-0 vote, the Planning Commission continued the subject CUP to allow staff additional time to address discrepancies between the exhibits and the stated location of the freeway-oriented sign as listed in the Planning Commission staff report.

At the meeting held October 7, 2015, Planning Commission again voted to table this item until a later date when more information is available, such as information concerning the type of associated project, any associated timeframes, and other related matters.

On October 13, 2015, the City Council approved the transfer agreement assigning all rights and obligations for the Village at Paseo San Gorgonio project to Vanir Companies (see Attachment 4 meeting minutes for details). The action by City Council included the extension of Design

Conditional Use Permit No. 15-7002
Review No. 10-7002 expiration to January 31, 2016. Therefore, the information concerning the type of associated project, timeframes and other related matters is now known and the Planning Commission may take action on the subject CUP application.

PROJECT DESCRIPTION:

Under this application, the applicant is proposing to construct a “freeway oriented sign” as the identification marker for the Village at Paseo San Gorgonio project. The proposed double-sided sign has an overall height of fifty (50) feet and a width of twenty (20) feet. The proposed sign has been designed to complement the Mission style architectural theme of the Village at Paseo San Gorgonio project. In addition to the project name at the top of the proposed sign, there will be five (5) 72 square foot (4’ x 18’) tenant panels.

The proposed freeway oriented sign will be located on the southern edge of the property adjacent to the Interstate (10) Freeway. The grade elevation between the subject property and the freeway is approximately thirty (30) feet. The height and location of the proposed sign, combined with its proximity to the freeway, will allow east and west bound travelers on the freeway to identify the Village at Paseo San Gorgonio project in advance so that they may exit at Hargrave Street or Eighth Street.

ENVIRONMENTAL DETERMINATION:

California Environmental Quality Act (CEQA)
In accordance with §15311(a) (Accessory Structures, On-Premise Signs) of the California Environmental Quality Act (CEQA), a Class 11 Categorical Exemption applies to on-premise signs such as the proposed Freeway Oriented Sign for the Village at Paseo San Gorgonio project. Staff has analyzed proposed Conditional Use Permit No. 15-7002 and has determined that it is Categorically Exempt from CEQA pursuant to §15311 of the CEQA Guidelines due to the fact that the proposed Freeway Oriented Sign meets the required criteria to qualify as an “on-premise sign” as defined by §15311 of the CEQA Guidelines. Therefore, Conditional Use Permit No. 15-7002 is Categorically Exempt from CEQA pursuant to §15311 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 17.36.110(B)(6) (Sign Regulations) of the City of Banning Zoning Ordinance requires that freeway-oriented signs shall be allowed subject to the following requirements:

1. Said sign shall be located and designed in such a manner as to be viewed primarily in a direct line of sight from a main traveled roadway of a freeway or a freeway on-ramp/off-ramp. The phrase "viewed primarily in direct line of sight from" shall mean that the message may be seen with reasonable clarity for a greater distance by a person traveling
on the main traveled roadway of a freeway or on-ramp/off-ramp than by a person traveling on the street adjacent to the sign.

2. Said sign shall be limited to on-site retail or services businesses.

3. Said sign shall not block another freeway-oriented freestanding sign. The applicant shall be responsible for providing the Planning Commission with evidence to assure satisfactory compliance with this requirement.

4. Said sign shall not be detrimental to the appearance of the area.

5. Said sign shall not exceed an overall height of fifty-five feet.

6. Said sign shall not exceed one hundred seventy-five square feet per display face.

7. Said sign shall require approval of a Conditional Use Permit. In addition to satisfying the requirements set forth in Section 17.36.110(B)(6) of the City of Banning Zoning Ordinance, the following findings must be made prior to the approval by the Planning Commission of Conditional Use Permit No. 15-7002 for the proposed Freeway Oriented Sign, without consideration of message content of the proposed sign:

   a. The elevation of the freeway in relation to the elevation of the abutting properties justifies the height requested, and is the minimum necessary.

      **Findings of Fact:** The height of the proposed freeway oriented sign is fifty (50) feet. The elevation of the Interstate (10) Freeway in relation to the elevation of the subject property is approximately a thirty (30) foot difference. Additionally, the height and location of the proposed freeway oriented sign, combined with its proximity to the freeway, will allow east and west bound travelers on the freeway to identify the Village at Paseo San Gorgonio project in advance so that they may exit at Hargrave Street or Eighth Street. Although the maximum height permitted by the City’s signage regulations freeway oriented freestanding signs is fifty five (55) feet, the height of the proposed freeway oriented sign is only fifty (50) feet.

   b. The number and spacing of freeway signs will not cause unnecessary confusion, clutter or other unsightliness in the general location.

      **Findings of Fact:** The placement of the proposed freeway oriented sign, combined with its proximity to the freeway, will allow east and west bound travelers on the freeway to identify the Village at Paseo San Gorgonio project in advance so that they may exit at Hargrave Street or Eighth Street; thus, is intended reduce undo confusion for motorists. Additionally, there are no other freeway oriented signs of billboards in close proximity to the proposed that would create clutter or unsightliness within the general location of the Village at Paseo San Gorgonio project.

   c. The use identified, as well as its type, size and intensity, justifies the size, design and location of the sign requested.

      **Findings of Fact:** The Village at Paseo San Gorgonio project is planned as a 68,955 square foot mixed-use commercial development on a 5.25 acre parcel within the Downtown Commercial district of the City. This development is intended to serve as a catalyst for redevelopment along Ramsey Street to enhance the economic vitality of the community. The proposed freeway oriented sign, combined with its proximity to the freeway, will allow east and west bound travelers on the freeway to identify the
Village at Pasco San Gorgonio project in advance so that they may exit at Hargrave Street or Eighth Street; thus, bringing visitors into Banning’s Downtown Commercial district.

d. The needs of the traveling public for identification and directional information justifies the sign requested.

Findings of Fact: The placement of the proposed freeway oriented sign, combined with its proximity to the Interstate (I0) Freeway, will allow east and west bound travelers on the freeway to identify the Village at Pasco San Gorgonio project in advance so that they may exit at Hargrave Street or Eighth Street. Motorists will thereby be more easily directed to the Village at Pasco San Gorgonio project and the Downtown Commercial district of the City.

PUBLIC COMMUNICATION

Proposed Categorical Exemption and Conditional Use Permit No. 15-7002 was re-advertised in the Record Gazette newspaper on November 20, 2015 (Attachment 3). Additionally, a mailed notice was sent to property owners within 300 feet of the project. As of the date of this report, staff has not received any verbal or written comments for or against the proposal.

Prepared By:

Yvonne Franco
Contract Planner

Reviewed By:

Brian Guillot
Acting Community Development Director

Attachments:

1. PC Resolution No. 2015-09
2. Project Plans
3. Public Hearing Notice
4. Minutes City Council October 13, 2015
ATTACHMENT 1
(PC Resolution No. 2015-09)
RESOLUTION NO. 2015-09


WHEREAS, the applicant has submitted an application for Conditional Use Permit approval so that the Planning Commission may consider the proposed freeway oriented sign for the Village at Paseo San Gorgonio project, which has been duly filed by:

Project Applicant: Architectural Design & Signs, Inc.
1160 Railroad Street
Corona, CA 92882

Project Owner: JMA Village, LLC

Transferred Project Developer: Vanir Group of Companies, Inc.
4540 Duckhorn Drive, Suite 100
Sacramento, CA 95834

Parcel Address: 220 E. Ramsey Street

Former APN’s: 541-181-009, 010, 011, 012, 024, 025, 026, 027, and 028; and, 541-183-001, 002, 003, and 004

New APN’s: 541-181-032, 033, 034, 035

Lot Area: 5.25 Acres

WHEREAS, the Planning Commission has the authority pursuant to Chapter 17.52 of the Banning Municipal Code to take action on Conditional Use Permit No. 15-7002 to allow the proposed freeway oriented sign for the Village at Paseo San Gorgonio project on a 5.25 acre parcel within the Downtown Commercial (DC) zoning district; and

WHEREAS, Conditional Use Permit No. 15-7002 proposes to construct a “freeway oriented sign” as the identification marker for the Village at Paseo San Gorgonio project. The proposed double-sided pylon sign has an overall height of fifty (50) feet and a width of twenty...
feet. The proposed pylon sign has been designed to complement the Mission style architectural theme of the Village at Paseo San Gorgonio project. In addition to the project name at the top of the proposed pylon sign, there will be five (5) 72 square foot (4’ x 18’) tenant panels; and

WHEREAS, the proposed freeway oriented sign will be located on the southern edge of the property adjacent to the Interstate 10 Freeway. The grade elevation between the subject property and the freeway is approximately thirty (30) feet. The height and location of the proposed sign, combined with its proximity to the freeway, will allow east and west bound travelers on the freeway to identify the Village at Paseo San Gorgonio project in advance so that they may exit at Hargrave Street or Eight Street; and

WHEREAS, the Planning Division staff has reviewed the project’s potential effects on the environment and has recommended that the project is categorically exempt from the California Environmental Quality Act (“CEQA”) under CEQA Guidelines Section 15311 “Accessory Structures” (Class 11), and that the exceptions to the categorical exemptions contained in CEQA Guidelines Section 15300.2 are not applicable to the project; and

WHEREAS, on June 3, 2015; July 1, 2015; and, October 7, 2015, the Planning Commission continued the public hearings to further consider the proposed approval of a Conditional Use Permit for the Freeway Oriented Sign as it related to Design Review No. 10-702 Village at Paseo San Gorgonio project; and

WHEREAS, on October 13, 2015, the City Council approved the transfer of the project to Vanir Companies that included the extension of Design Review No. 10-702 Village at Paseo San Gorgonio project to January 31, 2016; and

WHEREAS, on November 20, 2015, the City gave public notice by advertisement in the Record Gazette newspaper of a public hearing concerning the Categorical Exemption and Conditional Use Permit No. 15-7002. The City also mailed public hearing notices to the owners of properties that are directly affected by the Conditional Use Permit and to the property owners that are located within a 300’ radius of the project boundaries; and

WHEREAS, on December 2, 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 Conditional Use Permit No. 15-7002; and

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 §15311(a) (Accessory Structures, On-Premise Signs) of the California Environmental Quality Act (CEQA), a Class 11 Categorical Exemption applies to on-premise
signs such as the proposed Freeway Oriented Sign for the Village at Paseo San Gorgonio project. The Planning Commission has analyzed proposed Conditional Use Permit No. 15-7002 and has determined that it is Categorically Exempt from CEQA pursuant to §15311 of the CEQA Guidelines due to the fact that the proposed Freeway Oriented Pylon Sign meets the required criteria to qualify as an “on-premise sign” as defined by §15311 of the CEQA Guidelines. Therefore, Conditional Use Permit No. 15-7002 is Categorically Exempt from CEQA pursuant to §15311 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 17.36.110(B)(6) (Sign Regulations) of the City of Banning Zoning Ordinance requires that freeway-oriented signs shall be allowed subject to the following requirements:

1. Said sign shall be located and designed in such a manner as to be viewed primarily in a direct line of sight from a main traveled roadway of a freeway or a freeway on-ramp/off-ramp. The phrase "viewed primarily in direct line of sight from" shall mean that the message may be seen with reasonable clarity for a greater distance by a person traveling on the main traveled roadway of a freeway or on-ramp/off-ramp than by a person traveling on the street adjacent to the sign.

2. Said sign shall be limited to on-site retail or services businesses.

3. Said sign shall not block another freeway-oriented freestanding sign. The applicant shall be responsible for providing the Planning Commission with evidence to assure satisfactory compliance with this requirement.

4. Said sign shall not be detrimental to the appearance of the area.

5. Said sign shall not exceed an overall height of fifty-five feet.

6. Said sign shall not exceed one hundred seventy-five square feet per display face.

7. Said sign shall require approval of a Conditional Use Permit. In addition to satisfying the requirements set forth in Section 17.36.110(B)(6) of the City of Banning Zoning Ordinance, the following findings must be made prior to the approval by the Planning Commission of Conditional Use Permit No. 15-7002 for the proposed Freeway Oriented Pylon Sign, without consideration of message content of the proposed sign:
   a. The elevation of the freeway in relation to the elevation of the abutting properties justifies the height requested, and is the minimum necessary.

Findings of Fact: The height of the proposed freeway oriented pylon sign is fifty (50) feet. The elevation of the Interstate (10) Freeway in relation to the elevation of the subject property is approximately a thirty (30) foot difference. Additionally, the height and location of the proposed freeway oriented pylon sign, combined with its proximity to the freeway, will allow east and west bound travelers on the freeway to identify the Village at Paseo San Gorgonio project in advance so that they may exit at
Hargrave Street or Eight Street. Although the maximum height permitted by the City’s signage regulations freeway oriented freestanding signs is fifty five (55) feet, the height of the proposed freeway oriented pylon sign is only fifty (50) feet.

b. The number and spacing of freeway signs will not cause unnecessary confusion, clutter or other unsightliness in the general location.

**Findings of Fact:** The placement of the proposed freeway oriented pylon sign, combined with its proximity to the freeway, will allow east and west bound travelers on the freeway to identify the Village at Paseo San Gorgonio project in advance so that they may exit at Hargrave Street or Eight Street; thus, is intended reduce undo confusion for motorists. Additionally, there are no other freeway oriented signs of billboards in close proximity to the proposed that would create clutter or unsightliness within the general location of the Village at Paseo San Gorgonio project.

c. The use identified, as well as its type, size and intensity, justifies the size, design and location of the sign requested.

**Findings of Fact:** The Village at Paseo San Gorgonio project is planned as a 68,955 square foot mixed-use commercial development on a 5.25 acre parcel within the Downtown Commercial zoning district of the City. This development is intended to serve as a catalyst for redevelopment along Ramsey Street to enhance the economic vitality of the community. The proposed freeway oriented pylon sign, combined with its proximity to the freeway, will allow east and west bound travelers on the freeway to identify the Village at Paseo San Gorgonio project in advance so that they may exit at Hargrave Street or Eight Street; thus, bringing visitors into Banning’s Downtown Commercial district.

d. The needs of the traveling public for identification and directional information justifies the sign requested.

**Findings of Fact:** The placement of the proposed freeway oriented pylon sign, combined with its proximity to the Interstate (10) Freeway, will allow east and west bound travelers on the freeway to identify the Village at Paseo San Gorgonio project in advance so that they may exit at Hargrave Street or Eight Street. Motorists will thereby be more easily directed to the Village at Paseo San Gorgonio project and the Downtown Commercial zoning district of the City.

**SECTION 3. PLANNING COMMISSION ACTION:**

The Planning Commission hereby adopts Resolution No. 2015-09 as follows:

1. In accordance with CEQA Guidelines Section 15311, the Planning Commission hereby adopts the Categorical Exemption (Class 11: Accessory Structures) for Conditional Use Permit No. 15-7002, 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
2. Approves Conditional Use Permit No. 15-7002, subject to Conditions of Approval attached hereto and incorporated herein by reference as Exhibit A.
PASSED, APPROVED AND ADOPTED this 2\textsuperscript{nd} day of December, 2015.

David Ellis, Chairman
Banning Planning Commission

APPROVED AS TO FORM
AND LEGAL CONTENT:

Robert Khuu, 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. 2015-09, was duly adopted by the Planning Commission of the City of Banning, California, at a regular meeting thereof held on the 2\textsuperscript{nd} day of December, 2015, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

PROJECT #: Conditional Use Permit #15-7002 (Freeway-Oriented Sign)

SUBJECT: Conditions of Approval

APPLICANT: JMA Village, LLC

LOCATION: 220 E. Ramsey Street (APN’s 541-181-032, 033, 034, 035)

I. General/On-Going.

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, that challenge, attack, or seek to modify, set aside, void, or annul, the action of, or any permit or approval issued by, 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 approval of Conditional Use Permit No. 15-7002 shall be subject to a valid Design Review application for the subject project (commonly known as the Village at Paseo San Gorgonio project).
3. If during the term of the permit the City determines based upon substantial evidence that the permit activity is exercised so as to be detrimental to the public health, safety or welfare, or, so as to be a nuisance to other property owners in the general area which by any means shall interfere with the comfortable peaceful use, possession and enjoyment of property by any person, the Conditional Use Permit No. 15-7002 shall be subject to revocation as outlined in section 17.52.100 “Revocation” of the Banning Zoning Code.

4. For the freeway oriented sign as approved by Conditional Use Permit No. 15-7002, construction shall commence within two (2) years from the date of Planning Commission approval, or the conditional use permit shall become null and void for the freeway oriented pylon sign. Additionally, if after commencement of construction work is discontinued for a period of one (1) year, the conditional use permit shall become null and void. The Community Development Director may upon an application being filed thirty (30) days prior to expiration and for good cause, grant a one-time extension not to exceed twelve (12) months.

5. Approval of this entitlement shall not waive compliance with all sections of the Municipal Code and all other applicable City Ordinances in effect at the time of building permit issuance.

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

7. The freeway oriented sign shall be developed and maintained in accordance with the stamped plans as approved and dated December 2, 2015, which include site plans, architectural elevations, and any plans on file in the Planning Division; the conditions contained herein; and, Municipal Code regulations.

8. Said freeway oriented sign shall be located and designed in such a manner as to be viewed primarily in a direct line of sight from a main traveled roadway of a freeway or a freeway on-ramp/off-ramp. The phrase "viewed primarily in direct line of sight from" shall mean that the message may be seen with reasonable clarity for a greater distance by a person traveling on the main traveled roadway of a freeway or on-ramp/off-ramp than by a person traveling on the street adjacent to the sign.

9. Said freeway oriented sign may be placed along the southern property line adjacent to Interstate 10, with the final location subject to the approval of the Community Development Director and City Engineer.

10. Said freeway oriented sign shall be limited to on-site retail or services businesses.

11. Said freeway oriented sign shall not block another freeway-oriented freestanding sign. The applicant shall be responsible for providing the evidence to assure satisfactory compliance with this requirement.

12. Said freeway oriented sign shall be perpetually maintained and not found detrimental to the appearance of the area through lack of maintenance or neglect.

13. The freeway oriented sign shall not exceed an overall height of fifty (50) feet.
14. The double-sided freeway oriented sign shall be limited to the following: a) "Village at Paseo San Gorgonio" or "City of Banning" identification at the top of the pylon sign; and, b) a total of five (5) tenant name and logo panels each containing a maximum of seventy-two (72) square feet (4' x 18').

15. All sign faces for the Freeway Oriented Sign shall be designed and placed as approved by the Planning Commission on December 2, 2015, and the specific wording shall be approved in accordance with Section 17.36.040 permitting process of the sign regulations.
ATTACHMENT 2
(Project Plans)
Prepared for:

Village at Paseo San Gorgonio

SE Corner of San Gorgonio Ave. & Ramsey St.
Banning, CA 92220

From: MILTON SOLOMON

call: 949.678.2674

mailto:miltsolomon@ads.com
ATTACHMENT 3

(Public Notice)
I am a citizen of the United States and a resident of the State of California; I am over the age of eighteen years, and not a party to or interested in the above matter. I am the principal clerk of the printer and publisher of Record Gazette, a newspaper published in the English language in the City of Banning, County of Riverside, and adjudicated a newspaper of general circulation as defined by the laws of the state of California by the Superior Court of the County of Riverside, under the date October 14, 1986, 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:

November 20, 2015

Executed on: 11/20/2015
At Banning, CA.

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

[Signature]
MINUTE ORDER

A regular meeting of the Banning City Council and a joint meeting of the City Council and the City Council Sitting in Its Capacity of a Successor Agency was called to order by Mayor Franklin on October 13, 2015, at 5:16 p.m. at the Banning Civic Center Council Chambers, 99 E. Ramsey Street, Banning, California.

COUNCIL MEMBERS PRESENT: Councilmember Miller
Councilmember Moyer
Councilmember Peterson
Councilmember Welch
Mayor Franklin

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT: Dean Martin, Interim City Manager, Interim Administrative Services Dir.
Lona N. Laymon, City Attorney
Alex Diaz, Police Chief
Arturo Vela, Acting Public Works Director
Fred Mason, Electric Utility Director
Heidi Meraz, Community Services Director
Brian Guillot, Acting Community Development Director
Tim Chavez, Battalion Chief
Michelle Green, Deputy Finance Director
Rita Chapparosa, Deputy Human Resources Director
Stacy Bavol, Utility Financial Analyst
Sonja De La Fuente, Deputy City Clerk
Marie A. Calderon, City Clerk

REPORTS OF OFFICERS

(Staff Report – Lona N. Laymon, City Attorney)

Councilmember Peterson recused himself from this portion of the meeting because of a conflict of interest.
City Attorney Laymon gave the staff report on this item as contained in the agenda packet. She said at this point in time the proposal before the Council is essentially just a transfer of rights, a transfer of obligations. There are some changes that have been made to the original agreement to make up for the fact that we are now on a delayed timeframe so the project development timeframe has been changed and she went over those dates. She also gave some background information on the Vanir group including financial capacity to perform this project.

Chris McCallum, 757 W. Westward addressed the Council and the public stating that he will be a leader in the near future in Stagecoach Town USA where the Past Meets the Future. He would like to welcome Vanir Corporation and anyone else who would like to help us build our future. By bringing the past together with the future we can create an environment of working together with a common objective which mitigates your risk in our community and increases your opportunities in the Pass Region. Now is the time limited for our community leaders to step up out of the shadows and lead our city; not your problem. By working with you on this historic site we can help you maximize your turn on investment and in return we can give our Pass Regional great opportunities for the future. Thank you for your time and he looks forward to working with you Where the Past Meets the Future in Stagecoach Town USA. He said that we really have a great opportunity in our community right now and it is the time. He has been speaking with people and spoke with Lloyd Fields this morning and he didn’t know him or what he was going to say today but we have a choice, the leaders in this community, to step up; we are in charge of the future. This is his time and he respects everyone sitting on the Council because he will be there soon.

City Attorney Laymon said for the public’s information there has also been provided a development/marketing report that was prepared by Hdl and this was pursuant to a request for such a marketing report by Councilman Miller. Copies of that report are available at the back of the room and it is called “ECONSolSolutions”. In regards to the conclusion of the report it says, “Generally the proposal from Vanir seems fair and appropriate with some adjustments in uses and development concepts. Overall Vanir possess the necessary qualifications and development experience to undertake and successfully complete the Village at Paseo San Gorgonio Project.”

Alex Leon, President of Vanir Development Company addressed the Council stating that with him is Vince McLaughlin and they will be happy to answer any questions regarding the development and are very excited to be here in Banning in helping the city grow. He said that they have been working on this project for a while with their partners and they have taken a stake in making sure that their work has not gone unnoticed with the City and they have had several meetings with the Ad Hoc Committee and basically have agreed and have prepared themselves to take over the entire project and are excited to do just that.

Mr. McLaughlin addressed the Council stating that he is Vanir’s General Counsel and he worked with the City’s city attorney and her colleague Ann Lanphar to develop the definitive transfer agreements that are in the staff report and in the public record now and he is available to answer any question that the Council may have concerning those documents.
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There was dialogue between the Vanir, the Council and staff in regards to the ECONSolutions report and the flexibility of Vanir to meet a couple of the changes that are recommended in the report, the entitlements attached to the contracts already in place, the mixed use retail units, the phasing of the project, the possible need to take this back to the Planning Commission, and CEQA requirements.

Mayor Franklin opened the item for public comments.

Chris McCallum said that he rejects anything looking like Paseo at San Gorgonio at this point. We have sat for seven years trying to have everyone figure it out and we still don’t have crap. In Banning we know what we are, Stagecoach Town, so whatever we do moving forward is about the future. He has been here as long as anybody and he is not willing to just stand back and let other people come into our city because we know what our needs are in our city. We need to make sure whoever comes in gives us those needs. The future of this entire district was incredibly envisioned by Mr. Fields father 50 years ago. We need our historical past brought back in a way that is very productive to the future. The Council all got a copy (which he distributed to the Council) of what can be done to get a grocery store here and he asked a lot of questions in bringing that forward and wrote that with the help of other people but those are his words. When you say that there are not enough roof tops in the city of Banning you are not talking about the city of Banning, you are talking from Whitewater all the way to Highland Springs. He said that you have 4,000 people that work at Casino Morongo, thousands of people who work at the Cabazon Outlets, and employees of this building who work here that if they had a more convenient way to get their groceries they would stop on their way going west or those who live here that wouldn’t have to fight Highland Springs. He has seen Banning sit second-hand to all the other crap around this area and he is done and he is frustrated more than he is angry. He has seen our schools being second-hand and they are dealing with an issue right now that is going to cost the citizens of this community a million dollars if we don’t get on it. We saw a young man die just down the street here because we didn’t as a community get on it. Our job is to look to the future and protect our children and our families. It is not about somebody coming in and telling me what I need. He said, “I’m Chris McCallum and I’m pissed”.

Inge Schuler, resident addressed the Council stating that from what she understands this project is a different animal from what was originally proposed and the big elephant in the room is the probation department. She really thinks that a lot of the people in town are very much against this and she has a problem with the Council making these decisions about this different animal. For one thing this whole thing came to the forefront when our former City Manager agreed to make a contract with Mr. Pearlman that this hotel was going to be the probation department or an office building or whatever it was without notifying the Council so far as she is concerned we are dealing with a basis of an illegal contract. Now Vanir steps in and Vanir has a very, very, very interesting history going from Texas to San Bernardino and not all projects were completed so the history of this company isn’t as glamorous as we have been told. We have done this many times before and particularly the Council who has been here the longest, Mr. Welch and Ms. Franklin, are probably concerned about the legacy they leave behind. Your legacy is going to be
here and you are deciding tonight and supposedly you are dealing with a “consent-of-the-governed”. The people are against it and if you want to have our consent you better do a better job of selling this. It doesn’t bring sales tax and it doesn’t bring property tax to town. How many years are we going to be saddled with the legacy of yours? She is sure the people will find an interesting comment on it and she knows that Councilmember Welch doesn’t like disagreement from the public because he has talked to her in public and wished she would go away together with some of the other people; that is not “consent-of-the-governed” up there. She told the Council to please know what you are talking about and she would like to have input here and so would many others. Let’s hope this turns out alright.

Dorothy Familetti-McLean, resident addressed the Council encouraging them not to transfer the agreement to Vanir (see Exhibit “D”).

Diego Rose addressed the Council stating that he has several concerns some of which have already been touched upon. He likes to think about Norco when he thinks about a horse town and how they developed the city so there is a general theme throughout the city that kind of ties in all together and we haven’t done any of that. We’ve had redevelopment projects that look like strip malls and street lights that don’t match buildings and now we have another design project coming in that has all kinds of issues. The probate department is kind of a given and he thinks the general consensus amongst the community is that it is a bad idea. He thinks it prudent that the Council listens to their community and he thinks now would be the best time. We don’t need to just jump at everything that is on our plate; we can take a minute. If we didn’t have something else that somebody was willing to do or another project someone was willing to bring forward, then he might say okay then let’s baby-step through this but we keep moving forward. We are doing so with a group that despite all of their glorious background on certain projects also has some inglorious issues as well. Also, just looking through the ECONSolutions report by HdL there are several things that stand out immediately to him based on his sales and tax use of his business and there are a lot of issues in here that just don’t add up; no matter how you look at it. He has plenty of issues with the chart as it stands and the information provided by HdL. As a whole, there are a number of issues that are being brought up with the Planning Commission where it should go and dates of the projects now. We keep kind of force-feeding this down the public’s throat and it’s time to take a step back and pull the reins back like they say here in Stagecoach Town. That property has been over there for a long time and it is not going anywhere and in fact, if it sat there for another 20 years it would probably be okay with a lot of people. We are not San Diego, we are not Redlands and we are not any other city anywhere around; we are Banning USA and we can do things our way. Do it in a way that keeps money here and generates excitement here that gets the city behind you. He hopes the Council doesn’t take that step just because it is convenient. He hopes we do it right.

Don Peterson, citizen addressed the Council stating there are many things to be said here and we all know that this project has been controversial since the onset. One of the things that really bothered him today is the ECONSolutions report where it said that Vanir entered into an agreement with JMA in March 2013 to start planning a governmental office building on the
project because in March 2013 that was ten months prior to the County awarding the lease to Banning Office Ventures. So we take a look at the timeline and we figure that March 2013 we have JMA and Vanir colluding together to build an office project, then in October 2013 we have Vanir going to the Secretary of State and filing an LLC for Banning Office Ventures, then in December 2013 we got the City Manager illegally changing the contract to the project, then in January 2014 you have the Board of Supervisors for Riverside County awarding the contract or lease to Banning Office Ventures. There is something wrong with this picture. He is not going to continue to beat that bush because we have already done it but you can certainly see the conspiracy or collusion to include a Vincent Yzaguirre in the real estate division that could have, may have given inside information to Vanir, an ex-Vanir employee. He also wanted to talk about our hodge-podge city. Councilmember Welch has been on the Council several times back to 2003, 2002 and was on the Council when the money was borrowed in the bonds and unfortunately he never got to spend it. Debbie has been on the Council long enough that she spent it for you or if she didn’t spend it, she gave it away. We spent $35 million of redevelopment funds and nothing matches and it is a mess downtown and money went everywhere it shouldn’t have gone to. The point is that you don’t have one place left in town to build a decent development and the one place that you do have in the downtown area you want to contaminate it with a probation office. The chief of probation is here today so he is probably here to defend his department but there is really nothing to defend; it is what it is. AB 109, Prop 47 all of it is what it is. We already know that our crime stats in Banning are out of control, crime stats reported for Riverside are out of control, and in LA County the crime stats are reported out of control. Now we’ve got 6,000 of the first 50,000 that will be released from federal prison between October 30 and Nov. 2, 2015; early releases into the city. He knows that probation is here and is going to be here because we need the probation department but do we need it where it is. There are other places in town where it can be built. We don’t need to draw their clients to that area. Those are not the kind of clients we want. We already have the County sheriff dropping their prisoners off out here three to four times a day with some in front of city hall, some at the bus station, and some all over the place up on Ramsey. We have County buildings from 22nd Street to Hargrave; why aren’t they all confined to one. Why are you going to allow your legacy to be that building? You got angry at this group of people once before but he doesn’t see anybody in here saying the opposite. He doesn’t see anyone cheering this building on; listen to the people. You don’t know that is better; you really don’t.

Linda Pippenger resident addressed the Council stating that according to the recorded documents when this property transferred several years ago there was a Deed of Trust recorded, there was a Promissory Note but she was just wondering if the City ever received any payment on this property. The Deed of Trust was for $1,020,000 and normally when you record a Deed of Trust you have payments.

Jerry Westholder resident echoed what Mr. Peterson’s said and in being in law enforcement for over 20 years he knows exactly what probation is and exactly what it will do to downtown. He presented documents to the Council from the Grand Jury of Riverside County about AB 109 and presented documents from Los Angeles County and Los Angeles Times about AB 109, Prop 47
and this Council has refused to listen. He does not believe that this is a Banning project; he believes it is a County project because of all the County buildings that we have in Banning. Since he has moved here the jail has tripled in size and is planning on growing more. The problem is that this is not the best thing for Banning and he knows how well we listen because when he served on Council almost two years ago they voted to change our motto back to “Stagecoach Town USA” and as long as he has been coming here we still see “Proud History, Prosperous Tomorrow” and it has yet to be changed. The only time he has ever seen anybody speak in favor of this project in the last two years was when a gentleman ushered in several little old ladies who obviously didn’t know what they were doing said yes they were in favor of the project. But none of them could articulate why they were for the project, none of them could articulate the benefit it would give our community, and none of them could articulate how this is going to be a good thing for Banning. He understands that we make decisions and sometimes our decisions are wrong. We just need to back up and just go to square one and start over. This is a County decision and not a Banning decision and it is not what the people want. He encouraged the Council to say no to this project.

Rick Pippenger citizen said he agrees pretty much with what everybody has said; we don’t need any more government buildings. There are no tax dollars, no sales tax; nothing. Originally the project was supposed to generate sales tax but due to Takata doing what he did he thinks he should have been prosecuted, in his opinion. We need buildings that generate tax dollars and we need money in the city. When the Council figures out their budget and tries to figure out where the money is going to come from, it is not going to be coming from these guys. You might want to check their record in Texas also.

Don Smith said he fought many a fight with some of these people when he thought the decisions being made by the Council were not well representative of what the public wanted. He will probably stand here alone because he doesn’t agree with most of what has been said. When a decision was made to build a courthouse with six criminal trial rooms it was a known that probation would have to come here as well and going to have to be near the courthouse. It doesn’t mean it has to be on that site but it is the only site where they need your permission to build. They could pick any other vacant land on Ramsey Street between here and Hargrave and build without your permission because it is just allowed under the code. The only difference about this one is that you own the land. Are more criminals coming; he doesn’t know. Certainly the trend of letting people out could lead to that but that is going to happen regardless of where we build our probation office. The probationers don’t commit their crimes in probation offices. In fact they do their best to stay away from the probation offices because that is where their probation officers are who could put them back in jail. More probation officers will result in less crime in Banning. Criminals move to where they can afford to live so our low income housing that is a problem and to some degree that is why they move here. He believes that since this building is going to be built somewhere and no matter where it is built it is not going to generate any sales tax revenue whether it is in this location or across the street or directly in the empty parcels directly east of the courthouse. It will generate, because it is a rental property, property taxes. It is not that he wants a probation office but the County of Riverside needs a probation

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office and they need one near this courthouse. We need to find a place to put it and we need to
decide whether this developer can give us what is being promised; not this building but the other
buildings. But the argument that we don’t want the probation office there; he doesn’t get the
argument.

David Ellis addressed the Council stating that the Council should be familiar with this document
except for Councilmember Moyer. He gave a copy to the Council and said it is pretty self-
exploratory and read from the document (see Exhibit “E”) in regards to “bias”. He said that he
has reviewed many Council tapes as to where all the Council stands: We know Councilmember
Miller is against it, Councilmember Welch is for it, Councilmember Franklin is for it, and have
heard that Councilmember Moyer is for it. He continued to read the document and strongly
recommended that each and everyone one of the Council seriously consider what this says
because they are prepared to file civil suits if the Council continues.

Mayor Franklin seeing no one else coming forward closed the item for public comments and
asked staff and/or the developer to comment on the questions asked.

City Attorney Laymon said that there was a question raised as to whether the note has been paid
to the City and whether the City has received money under the note and the answer to that is no.
The note is currently delinquent. The current proposal would forbear on any type of foreclosure
process on that note pending construction of the project and basically sets a new payment date.
She wanted to make clear to the Council and the public that the City won’t get paid under the
note. The City does not get to keep any money that comes to under this note because it is not
City property; it is former Redevelopment Agency money.

Councilmember Miller said didn’t he hear the City Manager say that the City does get 17% of
that. City Attorney Laymon said she didn’t know what percentage the City would get.

Councilmember Welch said that Councilmember Miller is correct in that it is 17% and it is split
amongst schools and other entities. City Attorney Laymon said whatever is paid on that note
goes to the taxing entities.

Mark Hake, Chief Probation Officer for Riverside County addressed the Council stating that he
knows that there are concerns about his department occupying space in this project. Those
crimes are certainly understandable and he hopes he can alleviate some of those concerns. He
applauded the Council for welcoming the court facility in Banning and certainly it is a wonderful
addition to the city but with expansion of court services comes the need for other elements of the
criminal justice system to also expand and the probation department is one of those entities.
Typically their officers are in close proximity to the court and they have 12 offices across the
county and a vast majority of those are in close proximity to the court and also have some in
shopping centers, near libraries and in areas with churches and in each one of those instances
they have not had a negative impact on those communities. Essentially their officers provide
supervision services to juveniles and adults who have been granted probation by our superior
courts or who are under supervision due to the recent criminal justice realignment. On any given day across the county they are responsible for supervision somewhere in the neighborhood of 13,000 adults and 2,800 juveniles. Their current Banning office is located on Alessandro in the old court facility and have occupied that space for somewhere between 3 to 4 decades. They have 13 staff in that location and on a daily average they have approximately 20 visitors. Those visitors are made up of their clients who come to visit the office either in route to or following their court appearance. The others who come are juveniles who are under their supervision and their parents and also offenders who are required to report to them. The folks that do come and show up in their offices are in compliance with their terms of probation and like it was said earlier people don’t come to probation to be arrested. Their Banning office supervises 391 adults from this region and approximately 62 juveniles. Over time as the Pass Region of the county grows they anticipate also needing to add staff to address supervision workloads that typically come with growth. Their new office could accommodate up to 30 staff and will also include large meeting and training room space. As for concerns regarding increased crime around probation offices part of their mission is to protect the public and they do that by providing services to offenders in order to assist them from further criminal involvement and also do that through accountability measures and make arrests when necessary. His desire is to partner with the City of Banning in ways that will improve the city and their department is certainly interested in insuring that your project is a safe location in the city. They are committed to making this a relationship where the city is pleased to have their offices and staff in the community.

Alex Leon said that in regards to Texas any development that the Vanir group of companies, its affiliates or subsidiaries have been a part of they have completed their development obligations and have completed their developments. With regard to Texas that was not part of the Vanir group of companies or its affiliates.

Vincent McLaughlin supplemented that the problem in Texas was in 1989 more than 25 years ago and really has no bearing on the future management, current management, current ownership, current financial standing of this company or the current ability of Vanir to complete this project. He said in regards to the issue repayment and getting that 17% back into the City coffers right now without authorizing this transfer there is no plan to get that money back into the City or repay the State. If this transaction is approved today, not only will Banning Office Ventures be obligated to repay that note by August 1 of next year but Vanir Group of Companies which is the parent company of Vanir Construction Management, Vanir Development and all these single asset entity projects will be obligated to repay this debt so there is a major assurance here that it is going to be repaid. Last but not least there was kind of a borderline defamatory allegation made by former Councilman Westholder that something nefarious went on at the County involving Vince Yazguirre, a former Vanir employee. Both he and Mr. Leon were involved in a former joint venture with JMA and that joint venture was not formed in March, in was formed in October of 2013 and they were invited to participate by JMA because of their experience with county leases and their county relationship. They bid in the ordinary course of business to win that project by responding to an RFP and even though Vince Yazguirre is an employee of the County he was a former employee and recused from having any involvement.
and they had no contact or communication with him regarding this project. So people can take bits and pieces of fact and try to spin something that sounds nefarious but the reality situation is that this is a straight forward transaction that they won in a competitive bidding process and won the probation lease and subsequently won a lease for the DA’s office.

Mayor Franklin said for clarification have you heard of retailers saying they won’t go there because the probation will be there. Mr. Leon said no. As a matter of fact they like the audience and they like the buying and purchasing power that goes along with it.

Mayor Franklin said one of the things that had been brought up also had to do with a grocery store and the fact that it was in Hdl’s report also. Is that one of the groups that you are looking at it? Mr. Leon said he has not discussed this project with any grocery stores.

City Attorney Laymon said in respect to bias there is, of course, as the Council knows a doctrine of bias out there. Mr. Ellis was correct when he said that certain statements in favor of or against a particular project may give rise to allegations but whether or not the standard of bias is actually reached are extremely fact specific and the analysis that they would have to do to make that determination. The standard is pretty high and basically a standard in which you would have to demonstrate either through comments or actions that there is no amount of evidence that could possibly be presented to you as an individual that would change your mind with respect as to how you are going to vote on a project so she just wanted it to be clear in the Council’s minds as well.

Mayor Franklin said that there was a comment about an illegal contract. City Attorney Laymon said the illegal contract allegation or comment was made related to Mr. Takata’s change of use of what we called “the hotel parcel” to a commercial or office use that would allow the probation department. She believes in 2014 that action was brought back to the Council and was actually ratified by formal action of the Council.

Mayor Franklin said one thing that did come up was in regards to the historical factor and she believes that there was a group working on the historical piece.

Don Smith said he has no idea what the changes were but the original proposal had both requirements for Art in Public Places in two locations and there was actually a monument to the San Gorgonio Inn with information about the inn on it.

Mayor Franklin asked if staff recalls with the design of the building was it approved by both the Planning Commission and the City Council.

Acting Director Guillot said that the entitlements were approved by the City Council due to the development agreements that went along with it and the Planning Commission made their recommendations.
Dorothy Familetti-McLean said Vanir talked about the probation department as an anchor. We have a giant anchor downtown and it is the courthouse. She doesn’t know of any business in town that is thriving because the courthouse is here.

Mayor Franklin opened public comment briefly.

Diego Rose said he said all the argument over probation or no probation he thinks is kind of missing the point. He gets that we already have kind of a legal and judicial system going here and he really doesn’t have an issue per say with a “probation department”. We already have plenty of vacant strip malls along our avenue here and those buildings have gotten redevelopment money and have already been worked on so we already have a little bit of strip mall going on here unfortunately now we are going to get ready to add some more strip mall design here and it is really quite ugly and doesn’t go with our theme whatsoever and whether or not you want to move the probation department a couple of blocks over or not and increase the size of it slightly he thinks that we are missing the point at least from his perspective. You are creating a government block here. You are not creating an industrial block by any means. You are not promoting business. He wouldn’t move his business next to a probation office to support the staff at the probation department; that would be foolish. We are already not doing well with what we are moving in here. You are not bringing in highly paid professionals who want to spend a lot of money; that is not what is happening. That is not the complaint. You are developing a strip mall and you are putting it in your downtown and you are trying to put a stamp on it like it is going to recreate something down here and revive the area; it’s not. Now if you want the anchor building to be a probation department that is on you and if you are banking on other businesses wanting to just jump right in there because that is your anchor he doesn’t understand where this business concept is coming from but it is kind of a failed one. Everybody is focusing on some of the wrong issues.

Regina Johnson Blanche said she traced her African-American, Native-American ancestry history back to 1892 and she found some information that might kind of be interesting as she was doing her research for the city of Banning. She said she tried to present her information to the Record Gazette for historical records, she has tried to go to the historical document place here on San Gorgonio to bring her information and it was rejected. She thinks it is information that would be important to all this development and will bring information at a later date.

Jerry Westholder said he wanted to make it clear and understands that we need probation but not in the location that we are choosing. That was not what was presented to the public when it was originally given to us. If he remembers correctly when Mr. Takata signed that agreement it was under the threat of lawsuit. We had to unanimously make the decision to go along with it from the change of hotel to offices and that was the reason it was made to protect the City because we didn’t have enough money to engage in a long-term suit in that respect. The reality of this is that this was not what was presented; it is not what the citizens want. Why can we remodel the old courthouse for probation? Why can’t they build on an off-Ramsey site near the courthouse?
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Chris McCallum said that there is a piece of property that is right next door to the property that we are selling and that is up for sale for $1.5 million. If we revisit this in the future, maybe Vanir’s can take a look at it too because we can also expand that zone pretty easily if it is a good deal. This is the future that he has to look at and he doesn’t know if he is actually going to be here when it comes because we have been waiting quite a long time. He doesn’t want it to last one more day to be honest and wants to break ground and move but we really need to look at this and do it right and make the people response. Let’s be responsible to the community and the citizens and the taxpayers.

David Ellis said that there was a situation he thinks where the District Attorney was going to sue Vanir if they didn’t get this project.

Mr. Leon said he is not aware of that conversation ever taking place, ever.

Mr. McLaughlin said that they have a contractual commitment with the County to build the probation and provide that space and they were the winning bidder on the DA lease so they are concerned about their legal exposure to the County and have they been threatened, no.

Councilmember Welch said that he wanted to confirm the comment that Mr. Ellis just made. That was a comment used by a previous person trying to build the project. That comment was made by Mr. Pearlman early on and he is pretty sure that Vanir probably didn’t know the comment was made.

Mayor Franklin asked for comments from the Council.

Councilmember Welch said that there has been an awful lot of comments made and questions asked and discussion and doesn’t know what else he could add to the situation. He knows it is very passionate for residents in the city. He takes a little offense to some of the comments that have been made about their minds being made up. This mine buster with this project has been going on for three years and not just tonight or last week. Are we wanting projects downtown; absolutely. Are they going to fill all the needs of the residents in Banning; absolutely not but somewhere along the line this process must get started. He really has trouble with the comment made earlier of us continuing a strip mall in downtown. In his opinion we have an awful lot of available storefronts still downtown and they are not strip malls but very nice little units that can be used very well for specialty shops. Those have been empty for a long time even with the effort to get people to fill them. Keep in mind that the total future for the development of Banning is never going to hinge on one project. It all has to fit together and we need to work together and we have not done our due diligence with respect to this town and he was one of the people that came back on this Council that wanted us to continue to be called “Stagecoach Town USA” and he still does. That doesn’t mean that Stagecoach Town USA has to be represented by every corner of our community. We are not really selling the treasures we have here now. He extended his congratulations and compliments to the Stagecoach Days Committee this year because they have done an outstanding job and are starting to make a dream come true. That
arena could never continue to exist on one event a year. Stagecoach Days weekend could never continue to exist. He thinks this committee has the right answer. The same thing is true with the progress and growth of our downtown area. Councils in the past have taken a big hit on how redevelopment monies were used. Based on what was available to help invigorate the downtown there was a real effort on past Councils to make that happen and it didn’t happen all the time and it is not going to happen all the time in the future. He is not afraid or concerned about the expansion of one or two government buildings that are supportive of a courthouse that this community let happen 6 to 8 years ago. People really didn’t fight the courthouse coming in. We didn’t have an uprising in the community to say they didn’t want it. That courthouse is a Mid-County Justice Center and the same size as the one in Riverside. The support units must be here and probation is one of them. This one building is going to accommodate what is needed to make our justice system work here but it is not the end all to our downtown area. He really differs on opinion, with all due respect, with several people about the probation office being a deterrent to customers and business downtown. We want a grocery store and we have one and lets move everybody, governmentally wise, east of San Gorgonio in a block or two to get it concentrated and free-up our downtown which has traditional buildings available to us in our downtown area. He has had an awful lot of conversation on probation and he knows that there are some concerns but based upon the history of the probation departments in Riverside County he is hard put to seeing this being such a very large concern or deterrent to our downtown. It is not the end-all and it will bring jobs downtown and they will spend money Monday through Friday. We don’t have that much money spent downtown in our area right now on weekends and the biggest draw we have is the Fox Theater in downtown unless some of our public groups are putting on performances and then we have a nice turnout downtown but it is a one-time event. He has been listening to this for three years and has been accused of some things even read from this podium here that are absolutely not true. He thinks that there were read there because people thought he had already made up his mind on this project which he had not and he was falsely accused of some things which just breaks his heart. When you start picking on individuals instead of expressing your concerns about projects and he compliments a lot of them because you do that but there are a few that don’t and when you go after individuals all you are trying to do is sideline the real issues and he does take offense to that. If he has offended anyone, he apologizes and you will never hear him put down individuals. Do we get tired of hearing the same tune over and over, yes because it is sort of like listening to the bagpipe every day; you get tired of that too. Is there a frustration level on any individual, yes and he does have one but it is way in the backseat. He doesn’t really appreciate personal attacks especially when they are unfounded and the Council gets accused of not thinking things through and making decision without good thought. That has nothing to do with this project but he just wanted to clear the air.

Councilmember Miller said there are so many facts he doesn’t know where to start but let’s start with the fact that this is not an ordinary project. It is not an ordinary project where somebody comes up and says I own this property and I want to build this on this property. This is a redevelopment project which means that the City owns the property, the City invested in that property and the City said I am going to spend the money to purchase that property in order to
get something great for the city. Nobody does redevelopment work without expecting something exceptional as a result. If this project came forward as an ordinary project and the Vanir Company said we own this property and there is nothing you can do about it except to make sure we satisfy the zoning requirements that is one thing but this is not that type of problem. This is a problem that the City said we want to redevelop that area as something exceptional that will bring something exceptional to this city. Was the original project proposed by Pearlman exceptional, yes and the whole Council agreed on that. The new Council agreed on that and that is not the project. That is not the exceptional project that has been brought here today. What has been brought here today is a project that, he doesn’t care what the developer says today, the developer said at the beginning we do not want this project. Whoever heard of a project where the developer does not want it? The developer said we have a contract with the County and we must build a project for the County. We must build a building for the probation office and for the District Attorney’s office. We don’t have the rest of the project and the rest of the project is no good and even worse than that look how ugly the project is. It has all sorts of “gingerbread” on it; that was their word. There is gingerbread on this nonsensical project; we don’t want that. Well the Council said you’ve got to build the rest and they said okay if we have to build the probation office building to satisfy our contract with the County yes we will build the rest. Finally the Council agreed to have somebody take a look at this project and see if it actually makes sense. The Council did that for the first project proposed by Pearlman and they came out with a glowing report and said the amount of sales tax, the amount of property tax everything is going to be great for that project. Here we have a report and it only cost $8,000 and it is obvious what the results are and he points out all sorts of things that are wrong with this project and he says if you want a project that is any good, you’ve got to change the project. This means that this project is not the outstanding project that this City invested all its money and all its effort into. As Councilmember Welch said we have spent years on this. The fact that we spent years on it doesn’t mean that we are desperate. The fact that we spent years on it means that every step has not been successful and for us to say at this stage we have spent so much time on this let’s get this building over with, let’s get the downtown started; that is nonsense. As Mr. McCallum said this city has been here for a long time and it will be here for a long time and whatever is built there will be there for the next 60 years. If we abandon our hope for the future for this city by saying that we have to build something, then we have abandoned the city. What is the policy for this City and what is one of the statements for this City, “I believe in Banning.” He doesn’t believe that anyone believes that this is going to be a great project. If you believe in Banning you would say this project which the analysis says is not good, that is not the future of Banning. We want property tax and again the report says that the project as produced does not produce enough property tax; we want sales tax. But most important in his mind is something called “the quality of life”. There is absolutely nothing in this project that improves the “quality of life” of Banning and why did the City invest $3 million in this area to improve the “quality of life” of our city and when the Council finally votes to approve this project what they are saying is that they do not “believe in Banning”. They do not believe that this City is capable of something really good. He believes that if we wait a few years somebody will come up with a project that will improve the quality of life and make Banning a city that it can be proud of. He said he thinks he said enough about that because he believes that it won’t make any difference what he
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says but he has to try to make the point that this city deserves more than this. While he is on a new subject Mayor Franklin said that she votes always for the majority of people and the majority of the people in this city want this project. He absolutely cannot believe that statement. Scientifically this is a city of 30,000 people and if you want to be able to say, “I know what the majority wants”, you have to ask 797 people what they want otherwise you just get a little sampling that doesn’t mean anything. Now Mayor Franklin talks to a lot of people and she may have talked to 797 people but he doesn’t believe that she really asked 797 people individually what they believe. So honestly he doesn’t believe exactly what the majority wants and he doesn’t believe he knows exactly what the majority wants; we both have a feeling. Mayor Franklin said a small group of people speaking here is not the majority. That is certainly true but most of the people in this city are busy and don’t have the time to look at this and that is why they elect the Council because they said they would take the time to look at all the details so the people count on the Council. Who is it that really besides the Council that has looked at this carefully; it is the people who come to the Council meetings and talk. In order to come here you have to give up your lunch, you have to sit here for hours listening to this boring stuff and you have to prepare what you say so the people that come here to him are much more important than the numbers. That means that they have looked at this thing and have analyzed it so when we get 8 people saying that they disapprove of this project and one person saying they approve of it, to him that indicates that those people that have looked at this carefully do not approve of this project. When it comes to the statement by Mayor Franklin that she talked a majority of people and they approve it whenever you poll people you have to be very, very careful. If he asks somebody, “Isn’t it great that we are going to have a project downtown that is finally going to fill up an empty space and it is going to bring in some property tax”, that will guarantee a yes answer. If he says to those people another question, “Would you like to see downtown a probation office that is going to occupy that area and it is not going to bring in any sales tax because it is all office buildings and it is not going to do anything that is going to bring people downtown as the original project promised us”, the answer is, “of course not”. So when we ask people what they think of this project we have to be very careful to really try to get a question that will give them an answer that is of value to us. He said that he has said to people in passing in Sun Lakes, “Have you heard that the K-Mart building which is empty will be the new probation office” and to him that is a fairly blank statement and the outrage of having a probation office nearby was just overwhelming. Now if he takes that and says the same thing about a probation office downtown the same thing has to be true in his mind that there is something about a probation office whether it is correct or not but the perception of a probation office is a negative one so to him that is an important point; it is a negative one. If this was a separate project that just came to the Council he would say it satisfies the zoning requirements and probably he would have to accept it. He said that this is not a normal project. This is a redevelopment project that is supposed bring something good to our city. Something that makes us proud of our city and this project does not do that and the analysis says the project is not a good one.

Councilmember Moyer said a couple of months ago Mr. Miller said he would like to push this project back and take a good look at it and have an economic developer expert review the
property, review the project and give us an analysis and he agreed with that because he wasn’t on the Council the last time that happened so he made a motion at that time to go ahead and extend to the end of October to give Vanir a chance to get JMA totally out of package and to get some negotiations going and at the same time that motion included asking our EDA experts to analyze the project, analyze the property and give a good rundown on whether they thought the project was worthy or not. Now we got that report and received it late yesterday but he can say in reading it that it is telling us that if this project is done to completion we can expect to have an additional 250 to 358 jobs downtown. We can expect to receive somewhere at $90,000 and $118,000 in sales tax annually and approximately $70,500 worth of property taxes. He knows that Mr. Miller in his discussions back in August was saying that he wanted sales tax revenue and this project according to ECONSolutions by HDL who are recognized experts and deal all over California with many, many communities their final analysis say, “The Village at Paseo San Gorgonio is an important project for the City of Banning. The project is envisioned to help anchor and revitalize downtown Banning. The Village at Paseo San Gorgonio has the potential to produce needed revenues for the city, along with employment opportunities within the community.” So the experts have said that this project with some tweaking, they would prefer to see a mixed use building that was going to be retail downstairs and office buildings upstairs be changed to a one-story retail building only and that is the only major tweak they said was wrong with this project. They also analyzed the finances of Vanir and found them to be extremely capable financially of completing this project. That agrees with our City Attorney’s office who also analyzed Vanir’s financial capabilities and came up with the same conclusion that they were financially well off enough that he could finish this project easily which is something we never had with JMA even though he hardly dealt with him at all. He is looking at a potential of 358 jobs downtown, granted many of those probably will be people who don’t live here but many of those people will maybe move here if we ever get some housing inventory to be closer to their jobs. Mayor Franklin pointed out earlier today, for example, one of the new judges at the courthouse is now trying to buy a house in Banning to be near his work and he can see that happening. He would love to see almost $200,000 of sales tax and property tax money coming into our city and not see that property sit there for another 5 to 6 years while we play around with what are we going to do with it. He said he didn’t totally make up his mind about this project until he read the report today and he thinks we just messed around with it so long that we now have a real viable contractor worthy of it financially, worthy of it experience wise and so forth that we can get this project off the ground. He would admit that maybe we would like to do some tweaking on the outside architectural appearance and so forth but he thinks now we have a basis we can move on.

There was some dialogue between Councilmembers Miller and Moyer regarding the numbers just read in regards to jobs and the recommendation that was made in the report are based on the changes recommended for two of the buildings.

Mayor Franklin said that Councilmember Miller talked about how she goes out in the public and she guesses that is a bad thing because she keeps getting dinged for it both in writing and both in public. But she did go out and talk after the first time around and again after this came up the
last time and she talked to people she has never seen before. She went out to the students that she deals with because they are our future and had a chance to talk to over 50 of them. She talked with over 80 people and these people were made up of seniors that she happens to see and she doesn’t know them, she went out to the football field while they were practicing football and cheerleading and walked and talked to every parent she could find. She also talked to some of our seniors and in particular, senior women because she wanted to know if there were concerns. She said that Councilmember Miller also spoke about how it makes a difference on how you ask the question and she would agree that it does make a difference and she tried to be very objective in the way she asked the question and it does make a difference on how you tailor your question to try to get the kind of answers that you want. The kind of answers she wanted was how to do people really feel about it and how do they feel about the project, how they feel about the probation department. So when she asked them about how they felt about a probation office downtown some didn’t know we even had a probation office here before. When she told them that it was across the street from the post office they said what was the big deal then. Of the 80 people that she was able to actually make a check mark that she talked to there were 6 who were against it, 3 of those said they thought it meant we were talking about more people moving in that needed probation services and when she told them they were talking about moving it and the people that would be coming in through the probation office would be more affiliated with the courts they wanted to know what the issues was. In talking to people it took here a couple of weeks and some of the things that came up really didn’t deal with the probation office. Some of the things she heard was that they were very concerned about the vacant land downtown, they were tired of seeing vacant property and wanted to see economic development come to town. They wanted to see more jobs here; they wanted to see us be able to develop an area that didn’t have just vacant property and vacant buildings on Ramsey Street. When she asked them if they thought about coming to the Council meetings some of them said they were too busy, some said they didn’t like coming out after dark, but what concerned her more than that were the people that said they feel intimidated to come down here. They thought our Council meetings were too negative, and some even said they were scared to come to a Council meeting because they thought if they made a comment that didn’t fall in with what the majority of the audience said that they would be attacked by making their own opinions. We talk about our future and that is why she specifically went to some of the young people and some of the ones that actually walk by this vacant property every day. Some people she talked to were also said they can’t find the kind of homes they want here. They are moving to Beaumont because we don’t have new housing stock. We need to have people who are professionals here willing to say they want to live here so that we can raise our economic base so that we can raise our median income and that will in turn bring more businesses here that we want. When we talk about why with the HdL report that we are not going to get some of the businesses we want because we don’t have the base for it and that was already addressed but we all want more than what we have because we do want a lot more for Banning and do have to take steps to get there. Some of the other things talked about were whether or not businesses would come here. We already have one business that came here specifically because of the courthouse, Zacatecas and he is looking at buying more property to add another business here if possible and wanting to buy the property next door to where he is because he wants to be able to expand so those kinds of things do bring economic
development to our downtown. Are there any guarantees if we were to agree with this project today? There are no guarantees in life. We do not have a crystal ball as to where the City is going to go in the future. Yes, she has talked about wanting to be near her grandchild who lives in Virginia but the reality is that her husband has been here over 50 years so she will probably be here awhile longer. But overall when we look at what we need to do we have to look at what is good for the whole city. She said that she respects everybody who came here to speak. Not only today but every time they come up to speak at the mic and she hopes she gives them the respect that they deserve because they are a resident in our community willing to voice their opinion but she also has respect for those people who are too scared to come here and want to have a voice also. She has talked to people who live on the east side of Banning and asked them what their concerns were and it gets back to economic development. We all have our opinions of what that is going to take. Talking to people who have probation offices and courthouses in their cities, other cities wanted the courthouse knowing what was going to come with it. That is not a reason for 22 cities to be vying for the courthouse because they thought it was going to be a bad thing for their city and everybody knows that courthouses mean certain things are going to be near it. She did ask the question about whether or not it was feasible to have people living upstairs to have more mixed use here like you see in downtown Riverside. That is not a good use based on what we have here and in talking to our Planning Department those things have to be explored to find out what we can do. When you talk about whether or not we are already predisposed to what is going to happen she wanted to see what was going to come out in the report. She has changed her mind many times on different things based on what she has heard from the public as well as the information that is provided to them and it is not easy to be able to make a decision that may not rest well with the people that are sitting in front of you. Sometimes it is harder to be able to say no based on what you think is going to be best for the city. Sometimes she has voted in ways that she would have done differently in hindsight but a lot of times we voted in favor of those things that help our city move forward. Our city needs to grow both economically and with the kind of population that is good for all and we have a population that she thinks we are all proud of being very diverse. We have people that want horses and we celebrate that. We have people that want to live in more urban areas and we celebrate that too. And as a community we try to have a little bit of everything for everybody. No matter what we decide somebody is not going to be happy but overall when we look at how we help our city move forward we have to take a step like Councilmember Welch said. We have to start somewhere and we have been putting it off and putting it off and have nothing here and our kids continue to move away. She wants her kids to be able to come back and wants our kids to be able to have a place to work here and it starts somewhere here.

Councilmember Moyer thanked Chris McCallum on his work on the item that he passed out to the Council and he is not saying that some of this can't fit in with what Vanir is doing and maybe they can talk with Vanir later and go over the plan with them.

Mayor Franklin said maybe there are some things that maybe they can tweak and one of the things is even calling it Pasco San Gorgonio. She doesn't know if that is something we need to keep and something we have to tag for our downtown area. We can go back to talking to people
and find out what can we do because buildings don’t make the name of the city it is really what the people do in the city where we are.

City Attorney Laymon said the motion would be you can either take this as one motion or separate them out. The first part would be to approve the Master Transfer Agreement and Escrow Instructions transferring the project essentially to Vanir. The second motion would be to extend the existing design review expiration to a date of January 31, 2016. In terms of the name she thinks as part of the sign review that can be changed at any point in time.

Mayor Franklin said even bringing back the San Gorgonio Inn sign that was one of the things that she thinks they talked about before how we can tie that in and she knows that it went to the Planning Commission but maybe that is something that could possible come back if it is passed.

City Attorney Laymon said that they could discuss that with the developer.

Motion Moyer/Welch that the City Council approve: 1) Approve the “Master Transfer Agreement and Escrow Instruction” for Project Transfer to Vanir (Exhibit "B") (Master Transfer Agreement”). This action would include approval of the following attendant instruments which are attached to the Master Transfer Agreement: a) “Assignment and Assumption Agreement and Consent” approving Vanir’s assumption of all rights and obligations in re. the Project (attached as Exhibit “B” to Master Transfer Agreement); b) “Second Amendment to Purchase and Sale Agreement of Real Property and Joint Escrow Instructions” clarifying terms of the original Project, including new timeframes for project built-out (Exhibit “D-1 and D-2” to Master Transfer Agreement); c) “Completion and Payment Guaranty” by which Vanir absolutely and unconditionally guarantees both (i) repayment of the Note, and (ii) completion of the Project which shall be constructed, completed, equipped and furnished in a good and workmanlike manner free from mechanic liens (Exhibit “E” to Master Transfer Agreement); and d) “Subordination Agreement” to allow Project construction financing (Exhibit “C” to Master Transfer Agreement). 2) Extend the existing Design Review expiration date to January 31, 2016. Motion carried with Councilmember Miller voting no.

Councilmember Peterson returned to the Council Chambers at this time.
MINUTE ORDER

STATE OF CALIFORNIA
COUNTY OF RIVERSIDE

I, Marie A. Calderon, City Clerk of the City of Banning, California do hereby certify that the foregoing is a full, true and correct excerpt from the Regular City Council Meeting held in Banning, California, on October 13, 2015.

Dated: Jan. 16, 2015

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