I. CALL TO ORDER: Chairman Shaw
   - Pledge of Allegiance: Commissioner Price
   - Roll Call: Commissioners Krick, Price, Schuler, Chairman Shaw

II. PUBLIC COMMENTS - On Items Not on the Agenda

A five-minute limitation shall apply to each member of the public who wishes to address the Chairman and Commissioners for items not on the agenda. No member of the public shall be permitted to "share" his/her five minutes with any other member of the public. (Items received under this heading may be referred to staff or future study, research, completion and/or future Commissioner Action.) PLEASE STATE YOUR NAME AND ADDRESS FOR THE RECORD.

III. CONSENT CALENDAR ITEMS:

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

Minutes of August 1, 2018 Regular Planning Commission meeting

Minutes of September 5, 2018 Regular Planning Commission meeting

IV. PUBLIC HEARING:

I. DESIGN REVIEW 18-7004 PROPOSED CONSTRUCTION OF A 9,320 SQUARE FOOT, TWO-STORY CONTRACTOR’S CORPORATE OFFICE BUILDING AND STORAGE YARD, WITH A 600 SQUARE FOOT FUEL STORAGE AND TRASH
ENCLOSURE STRUCTURE AND ASSOCIATED IMPROVEMENTS ON TWO VACANT PARCELS TOTALING 1.95 GROSS ACRES LOCATED AT THE TERMINUS OF GALLEHER WAY, EAST OF THE INTERSECTION OF SAN GORGONIO AVENUE AND LINCOLN STREET IN THE INDUSTRIAL (I) LAND USE DISTRICT (APNS 541-220-009 AND 541-220-019)

Staff Report – Sonia Pierce

Recommendation:

That the Planning Commission adopt Resolution No. 2018-15:

1. Finding that, in accordance with the California Environmental Quality Act (CEQA) Guidelines Section §15332 (In-Fill Development Projects), the development is exempt from review under CEQA; and

2. Approving Design Review No. 18-7004 for the construction of a contractor’s corporate office building and storage yard, with a fuel storage and trash enclosure structure and associated improvements.

Order of Procedure:

1. Staff report presentation
2. Applicant Presentation
3. Planning Commission questions for staff and applicant
4. Open public comments
5. Close public comments
6. Planning Commission discussion
7. Motion and Second
8. Planning Commission discussion on motion
9. Call the question (Roll call vote)

II. ZONING TEXT AMENDMENT 18-97503 TO AMEND VARIOUS SECTIONS OF THE ZONING ORDINANCE TO ALLOW, REGULATE AND ZONE FOR RETAIL CANNABIS USES.

Staff Report – Patty Nevins

Recommendation:

That the Planning Commission adopt Resolution 2018-18:

1. Making a determination under CEQA Guidelines Section 15060(c)(3) that the Zoning Text Amendments are not subject to CEQA and further that under CEQA Guidelines Section 15061(b)(1) the project is exempt from CEQA as it is exempt by statute (Business and Professions Code section 26055(h)).
2. Recommending that the City Council approve Zoning Text Amendment 18-97503 to amend various sections of the Zoning Ordinance to allow, regulate and zone for retail cannabis uses.

<table>
<thead>
<tr>
<th>Order of Procedure:</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Staff report presentation</td>
</tr>
<tr>
<td>2. Planning Commission questions for staff</td>
</tr>
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<td>3. Open public comments</td>
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<td>6. Motion and Second</td>
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<tr>
<td>7. Planning Commission discussion on motion</td>
</tr>
<tr>
<td>8. Call the question (Roll call vote)</td>
</tr>
</tbody>
</table>

V. PLANNING COMMISSIONER COMMENTS:

VI. COMMUNITY DEVELOPMENT DIRECTOR’S COMMENTS:

VII. ADJOURNMENT:

The City of Banning Planning Commission is hereby adjourned to the Regular Planning Commission meeting of November 7, 2018 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

REGULAR PLANNING COMMISSION MEETING MINUTES

August 1, 2018

A regular meeting of the City of Banning Planning Commission was held on Wednesday, August 1, 2018 at 6:30 p.m., in the Council Chambers, City Hall, 99 East Ramsey Street, Banning, CA, 92220.

Commissioners Present:  Chairman Shaw  
Vice-Chairman Krick  
Commissioner Aldredge  
Commissioner Price  
Commissioner Schuler

Staff Present:  Community Development Director Patty Nevins  
Assistant City Attorney Serita R. Young  
Senior Planner Sonia Pierce  
Recording Secretary Sandra Calderon

I. CALL TO ORDER:

The meeting was called to order at 6:30 p.m. by Chairman Shaw.

II. PUBLIC COMMENTS:

No Comments

III. CONSENT CALENDAR ITEMS:


ACTION: Motion/Second (SCHULER/PRICE)

(Motion Carried 5-0)

The Planning Commission received and filed correspondence related to TTM 37298 and from Ed Quental and Mark Quental. (attachment 1)

IV. PUBLIC HEARINGS:

1. DESIGN REVIEW 18-7009 PROPOSED EXTERIOR IMPROVEMENTS FOR AN OFFICE BUILDING 1374 W. RAMSEY STREET (APN 540-180-180-003)

Senior Planner Sonia Pierce said the applicant has proposed to repaint and incorporate aluminum plank siding to an existing 9,140 s.f. structure that was formerly used as a bank office building. The
new color scheme is contemporary in nature, breaks up the front elevation, and provides a rust brick colored focal point. The applicant is proposing to upgrade the landscaping with additional trees and shrubs throughout the parking lot.

A modified condition #11 was presented to the Planning Commission to read:

All trash enclosures shall be required with three, decorative walls with enhanced wall cap, pedestrian entrance, structural steel cover 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; per City Standards.

Greg Kar, Director of Construction for BH Properties, said the building will be repainted and the landscaping will be updated.

Commissioner Shaw asked about the drive-in. Mr. Kar said that very minimum façade improvements will be done at this time because they don’t have a tenant yet.

Commissioner Krick asked if other modifications will be done to the building besides the façade and the vault area. Mr. Kar said all wood sidings will be repaired.

Commissioner Krick said a power pole is next to the trash enclosure shown on the plans. Mr. Kar said they will probably have to move it to another location.

Commissioner Krick asked if screening is required for the A/C units located on the roof. He also mentioned the disrepair of the drive-thru pole. Director Nevins said normally those items are looked at when a building permit application is submitted.

Mr. Kar also said they will look at the removal of the drive-thru if the tenant would not like to have it. He added that the drive-thru pole will be repaired. In response to a question on the trash enclosure, Mr. Kar said that he wouldn’t be opposed to an added condition of approval for a roof cover on the trash enclosure.

Commissioner Shaw opened public comments.
No public comments

Commissioner Shaw closed public comments

ACTION: Motion/Second (SCHULER/PRICE)

That the Planning Commission adopt Resolution No. 2018-12:

1. Finding the project exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301 (Existing Facilities); and

2. Approving Design Review 18-7009, subject to conditions of approval.

(motion tabled)

ACTION: Motion/Second (KRICK/PRICE)
That the Planning Commission approve an amendment to Commissioner Schuler’s motion to adopt Resolution No. 2018-12 and also impose the following modified and additional conditions of approval:

Modified Condition of Approval No. 11:

11. Existing trash enclosure shall remain. The gate shall be maintained in working order and shall remain closed except when in use; per City Standards.

11. All trash enclosures shall be required with three decorative walls with enhanced wall cap, pedestrian entrance, structural steel cover 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 per City Standards.

Added Condition of Approval by the Planning Commission:

33. Prior to painting the building, the Applicant shall repair and/or replace any disfigured or damaged exterior wood siding.

(Motion Carried 5-0)

ACTION: Motion/Second (SCHULER/PRICE)

(motion taken up from table)

That the Planning Commission adopt Resolution 2018-12:

1. Finding the project exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301 (Existing Facilities); and

2. Approving Design Review 18-7009, subject to conditions of approval, with the following modification to Condition of Approval No. 11 and the addition of the following condition of approval by the Planning Commission:

Modified Condition of Approval No. 11:

11. Existing trash enclosure shall remain. The gate shall be maintained in working order and shall remain closed except when in use; per City Standards.

11. All trash enclosures shall be required with three decorative walls with enhanced wall cap, pedestrian entrance, structural steel cover 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 per City Standards.

Added Condition of Approval by the Planning Commission:

33. Prior to painting the building, the Applicant shall repair and/or replace any disfigured or damaged exterior wood siding.
(Motion Carried 5-0)

3. DESIGN REVIEW 18-7005 DESIGN REVIEW, AND PHASING OF THE LA QUINTA HOTEL PROJECT, A PROPOSED HOTEL, FAST FOOD RESTAURANT WITH DRIVE-THRU AND DELI CAFÉ ON A 2.66 ACRE PARCEL LOCATED AT 775 E. RAMSEY STREET WITHIN THE GENERAL COMMERCIAL (GC) ZONING DISTRICT (APN 541-150-020)

Senior Planner, Pierce presented the staff report. She said the La Quinta Hotel project was originally considered by the Planning Department in October of 2014 and the project was subsequently before the Commission for time extensions. This application is for project approval with phasing. The construction of the hotel consists of approximately 57,209 square feet, three stories and 81 rooms for the La Quinta Hotel and approximately 2,800 square foot fast food restaurant with a drive-thru and a deli-café. The hotel project has received a conditional use permit to exceed the height limit for an overall 48’ high building.

Ms. Pierce stated that modified condition #140 was added to clarify that a sign permit will be reviewed separately. The signs or sign locations will not be approved at this time.

Commissioner Aldredge asked the applicant Mr. Karaki the estimated time it will take to build the hotel and deli café. Mr. Joseph Karaki said they need a couple of years to build the fast food to generate income, then will come back and build the hotel.

Director Nevins said the Design Review will expire in two years, with a possible administrative extension after that. Mr. Karaki said they have submitted plans to the City for review and hope to break ground within six months to a year.

Commissioner Shaw asked if the overhead power lines will cause any problems when building phase I. Mr. Karaki said no, they are high-voltage power lines and Edison will not be moving them. He also said the concrete slabs will be removed when the grading is done before starting construction.

Commissioner Krick expressed concern with existing site conditions and its appearance. Mr. Karaki agreed with Commissioner Krick but asked for phasing approval and assured that they are serious about starting the phasing project.

Commissioner Shaw opened public comments.

No public comments

Commissioner Shaw closed public comments

Commissioner Krick asked to add two conditions of approval.

ACTION: Motion/Second (KRICK/SCHULER)

That the Planning Commission adopt Resolution 2018-10:
1. Find that in accordance with CEQA Guidelines Section 15162, *Subsequent EIRs and Negative Declarations*, a subsequent environmental document is not required.

2. Approving Design Review 18-7005 and phasing plan for proposed hotel, fast food restaurant with drive-thru, and deli café, subject to conditions of approval with the following modifications:

140. All proposed signs shall be reviewed under a Sign Review application submittal and a separate permit is required prior to installation.

141. All trash enclosures shall be required with three, decorative walls with enhanced wall cap, pedestrian entrance, structural steel cover 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; per City Standards.

142. The block walls shall be painted with a graffiti resistant material

(Motion Carried 4-0)

ABSENT: Aldredge

4. **ZONING TEXT AMENDMENT 18-97502 TO AMEND VARIOUS SECTIONS OF THE ZONING ORDINANCE (TITLE 17 OF THE BANNING MUNICIPAL CODE)**

Director Nevins presented the staff report and said certain sections of zoning texts are proposed to be amended to address inconsistencies within the text.

A letter was received from Mr. Omari stating objections to the amendment (attachment 1).

Ms. Nevins reviewed a summary of each of the proposed amendments, pertaining to:

1. **Alcoholic Beverage Control (ABC) Licenses, Separation From Churches**

2. **Alcoholic Beverage Control (ABC) Licenses, DC Zoning Conflict**

3. **Retail Auto Parts Sales in the Downtown Commercial Zone**

4. **Tattoo Establishments**

5. **Chain Link Fencing**

6. **Parking Studies:**

7. **Public Utility Facilities**

8. **Freeway-Oriented City Identification Sign**
9. **Mobile Home Park Conditional Use Permit Requirement for Home Occupation Permits:**

10. **Design Review Approval Authority**

Discussion was made regarding the Chain link fencing. Commissioner Krick asked if every project will require a wall.

Director Nevins said wrought iron can be used for fencing, but not as a screening material. She said the reason chain link will be allowed in the Airport Industrial (AI) district for projects that are at least five acres is for cost reasons. Consensus was made by the commission to keep the proposed zone text amendment as recommended by staff without any changes.

Commissioner Shaw opened public comments.

No public comments

Commissioner Shaw closed public comments

**ACTION:** Motion/Second (KRICK/SCHULER)  
(Motion Carried 5-0)

That the Planning Commission adopt Resolution 2018-11:

1. Recommending to the City Council the adoption of a Categorical Exemption for Zone Text Amendment 18-97502.

2. Recommending to the City Council the adoption of Ordinance 1530 approving Zone Text Amendment 18-97502.

VI. **PLANNING COMMISSIONER COMMENTS:**

Commissioner Shaw welcomed commissioner Aldredge.

Commissioner Krick asked for an update on the General Plan update.

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

Director Nevins said workshops will likely follow for updates to the General Plan. She also reminded the Commissioners that a 48 hour advance notice is required which it was received from Commissioner Aldredge at the last meeting and that is considered an excused absence. Also, if a member is unable to attend due to an illness or a family event, it will be considered excused by announcing it at the meeting.

She suggested that excused absences should be considered for Chairman Shaw and Price for the last meeting.

VIII. **ADJOURNMENT:**

There being no further business, the meeting was adjourned at 7:48 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 FROM THE CITY CLERK'S OFFICE.
Attachment 1

7/27/2018

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

Subject: Re- Proposed Zone Text Amendment (ZTA) No. 18-97502.
Pursuant to chapter 17.116 Zoning Ordinance Amendments.

Dear Sir/ Madam,

My name is Ed Omari, 61 years old married family man with three teenage children; the oldest will be in college next year. I have invested in your city for income and to secure my children’s future college education. I bought a building located at 263 W. Ramsey Street, Banning (City of Banning downtown area) in January 2017 Ramsey (APN: 540-166-004) the building is currently leased to an auto parts company which has been in this particular location since 1990, the lease is now in a final year and it’s up for renewal.

My broker & I visited the City of Banning prior of making the decision to purchase the building and to find out the current status of this property (zoning, type of businesses allowed and requirements) etc. There we met personally with Ms. Pattie Nevins (Community Development Director). She was a great help and she provided us with lots of information, zoning, amendments, city ordinances and all type of businesses allowed in this location. She assured us that no other Parts Store could come in to the Downtown Commercial zone and we have the exclusive rights for this auto parts store location because it has been operating as an auto parts store since 1990 and it falls under the legal nonconforming use (“Grandfathered In”) in Downtown Commercial (DC) Land Use Zoning District and under the current Table 17.12.020 of the Banning Municipal Code.

Based on all the above information given to us and assurances by your Community Development Department, we decided to purchase this building because of its exclusive location rights and zoning privileges. If this property didn’t have those exclusive location rights & privileges no person in the right mind would jeopardize his family future by putting up all of his saving (every penny) plus borrowing the rest of the money from bank in order to buy this one single tenant building for $600,000 with only two years term left on the existing lease.

There are two major brands of auto parts companies that already exist in City of Banning for a total population of 31,638 people per U.S Census Bureau, it’s nonsense to add more auto parts for such a small community and in particular in
downtown area. Pep Boys Auto Parts requirements in their site criteria selection model that they will not open up any new store in any community with a population less than 30,000 people, minimum traffic count 22,000 cars per day and must not have any other competitors nearby, that’s why we don’t see Pep Boys Store in the City of Banning.

I am very surprised and extremely shocked, why this sudden change now? If the very well known national auto parts stores are not interested in opening up new stores in such small communities as City of Banning, then who is the one behind this zoning change? And why is he pushing the city to change the existing zoning specifically in downtown area at this time and in particular auto parts sales business?

Just a hunch, maybe my neighbor with a vacant building across the street, is he the one has been “approaching your staff”? as stating in your Planning Commission Report dated August 1, 2018 (please see attached), as I was told by a manager of my existing tenant recently that he knows next door property owner very well and he would love to move to his building, because it’s been vacant for such a long time and the owner is desperate to lease it for low lease rates. I replied; he can’t do that because of the zoning prohibits auto parts sales in downtown area then the manager said I don’t think this owner will have any problems at the city he’s a very well known person to them and highly respected, if the City of Banning approves his building for occupancy I will be more than happy to relocate my store next door. I would hope that this is not the reason for this sudden appearance of this Amendment.

My family & I very strongly (100%) oppose this proposed Zone Text Amendment (ZTA) No. 18-97502, if approved, it will devastate our family’s main source of income and it will add extreme financial difficulties to my children future college education. If my tenant moves out and relocates due to this proposed change I won’t be able to make monthly payments on this property loan, then the bank will foreclose on me for nonpayment and I will end up losing this property. This will inflict a total financial disaster on my entire family forever; no one wishes this to happen to anyone.

Our family lives are hanging on your important decision and we would hope to find compassion in your hearts for our children’s future. We all pray to God that the City planning Commission and the director will find fairness and justification of making the right decision and would not change the existing zoning and leave it as is.
If it is approved, I will have no other choice except to turn this matter over to my attorney for further legal assistance: Dennis Delahanty Esq. New Port Beach, CA. (949)660-6300

Thank you very much for your time and for your great considerations in this matter.

Sincerely,
Ed and Evit Omari/ husband & wife property owner (818)968-0050
20657 Tulsa Street, Chatsworth, CA. 91311
Email: triple99@sbcglobal.net

Property Address: 263 W. Ramsey Street
Banning, CA. 92220

Property APN: 540-166-004

[Signature]

CC:
Ms. Pattie Nevins (Community Development Director)
City Clerk/ City of Banning
City of Banning Planning Commission
conditionally permitted use in all other zones. This is in conflict with the zoning ordinance provisions that allow consideration of bars and drinking establishments (which by definition have on-site alcoholic beverage sales) as a conditionally permitted use in the Downtown Commercial zoning district. Staff has interpreted the alcoholic beverage sales exclusion to apply to liquor stores, which are not permitted in the Downtown Commercial zoning district. This amendment codifies that interpretation.

3. Retail Auto Parts Sales in the Downtown Commercial Zone

Proposed Amendment: Amend Table 12.12.020, Permitted, Conditional and Prohibited Commercial and Industrial Uses, as follows:

Table 17.12.020
Permitted, Conditional and Prohibited Commercial and Industrial Uses

<table>
<thead>
<tr>
<th>Zone</th>
<th>DC</th>
<th>GC</th>
<th>HSC</th>
<th>PO</th>
<th>I</th>
<th>Al</th>
<th>BP</th>
<th>IMR</th>
</tr>
</thead>
<tbody>
<tr>
<td>Retail Uses</td>
<td></td>
<td></td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Auto, mobile home, and motor vehicle sales, and with or without part sales, new and/or used</td>
<td>X</td>
<td>P</td>
<td>P</td>
<td>X</td>
<td>P</td>
<td>P</td>
<td>C</td>
<td>X</td>
</tr>
<tr>
<td>Auto, mobile home, and motor vehicle sales, and part sales, new and used</td>
<td>X</td>
<td>C</td>
<td>P</td>
<td>P</td>
<td>X</td>
<td>P</td>
<td>P</td>
<td>C</td>
</tr>
</tbody>
</table>

Rationale:
Staff has been approached regarding the inability of an existing auto-parts related business to expand operations within the Downtown Commercial (DC) zone, where such a use is nonconforming and expansion is thus limited by the City’s zoning code. Currently, automobile-related uses are prohibited in the DC zone, which the Zoning Ordinance describes, in part, as follows:

b. New auto related uses proposed after adoption of the 2005 General Plan will be prohibited. All existing auto uses in existence as of the adoption of the 2005 General Plan will be permitted until such time as the use in a particular location ceases operation for a period of six months.

An intent to disallow auto related uses is thus evidenced in the existing code language; this language may be seen as consistent with a vision of creating a traditional, historic downtown in the DC zone where one might expect small, pedestrian-oriented specialty
retail and service businesses. If the City’s vision is to create a retail district not limited in this manner, retail automobile-related uses may be considered consistent with what the City hopes to achieve in the DC zone. However, staff has noted that similarly, the City’s General Plan states that “Auto related uses proposed after adoption of this General Plan will be prohibited”. Thus, unless both the statements in the General Plan and the Zoning Ordinance are interpreted as pertaining only to auto sales and auto repair, and not to auto parts sales, a General Plan Amendment would be required in addition to a Zoning Ordinance Amendment. **One distinction between the two sets of uses could be made in that parts sales are interior, retail storefront type uses that may be seen as consistent with other sales uses allowed in the DC zone such as furniture and general merchandise sales. Auto sales and repairs however are visually different in terms of their display and work areas being outside and automobile-oriented rather than internal walk-in sales facilities.**

Staff has prepared a potential amendment that makes retail auto parts a conditionally permitted use, which would give the Planning Commission the ability to make decisions regarding this type of use on a site-specific basis. Findings specific to the auto-related uses have been included, should the Planning Commission (and ultimately the City Council) agree with the findings.

4. **Tattoo Establishments**

Proposed Amendment:

Amend 17.040.070 – Definitions – as follows:

**Body Piercing Studio** means any business or premises dedicated to the piercing, puncture or perforation of human skin or tissue, or the insertion of jewelry or other objects into or under the skin or tissue, for decorative, nonmedical purposes; the term "body piercing studio" does not include businesses that offer ear-only piercing as a service that is secondary to other business services, or acupuncture clinics.

**Tattoo Parlor Studio** means any business or premises dedicated to the act or process of marking or coloring the skin of any person by the insertion of pigment under or in the skin or by the production of scars. The term "tattoo parlor studio" does not include businesses that offer permanent make-up as a service that is secondary to other business services.

Amend Table 17.12.020 as follows:

<table>
<thead>
<tr>
<th>Table 17.12.020</th>
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<tbody>
<tr>
<td>Permitted, Conditional and Prohibited Commercial and Industrial Uses</td>
</tr>
<tr>
<td>Zone</td>
</tr>
<tr>
<td>-------</td>
</tr>
<tr>
<td>Services</td>
</tr>
</tbody>
</table>

12
City of Banning

REGULAR PLANNING COMMISSION MEETING MINUTES

September 5, 2018

A regular meeting of the City of Banning Planning Commission was held on Wednesday, September 5, 2018 at 6:30 p.m., in the Council Chambers, City Hall, 99 East Ramsey Street, Banning, CA, 92220.

Commissioners Present:

Chairman Shaw
Vice-Chairman Krick
Commissioner Price
Commissioner Schuler

Chairman Shaw stated that the City had received a letter of resignation had been received from Commissioner Aldredge.

Staff Present:

Community Development Director Patty Nevins
Assistant City Attorney Serita R. Young
Senior Planner Sonia Pierce
Recording Secretary Sandra Calderon

I. CALL TO ORDER:

The meeting was called to order at 6:30 p.m. by Chairman Shaw. He also announced Commissioner Aldredge’s resignation from Planning Commission.

II. PUBLIC COMMENTS:

No Comments

III. CONSENT CALENDAR ITEMS:

None

IV. PUBLIC HEARING:

1. DESIGN REVIEW 18-7006 PROPOSED CONSTRUCTION OF 13 SINGLE FAMILY DETACHED RESIDENTIAL DWELLING UNITS LOCATED AT THE NORTH EAST CORNER OF SAN GORGONIO AVENUE AND WESLEY STREET (APN’S 543-150-007 THROUGH 019)

Senior Planner Pierce presented the staff report. She said the proposed project is a Design Review project for detached single family residences. A Tract Map was approved and recorded in 2004. The property is located in the Very Low Density Residential zoning (VLDR). The minimum lot size is 20,000 s.f. and the single story homes range from 2,400 s.f. to 2,700 s.f.
The property is deemed consistent by the Airport Land Use Commission (ALUC). Recommended conditions have been incorporated into the conditions of approval.

A change was made to the Agenda to state that the findings are in accordance with the California Environmental Quality Act (CEQA) and an additional change added the words “or wall” to Condition of Approval #14.

Tony Jara, Owner thanked staff. He said that he plans to build two model homes and will be working with future home buyers who will get a chance to choose the colors or look of their future home.

Commissioner Price asked the price range for the proposed homes and whether solar will be included. Mr. Jara said the current market is good and thinks pricing will be in the high 300’s, but will not include solar.

Commissioner Schuler asked if there would be enough room at the side of each house to access the back yard.
Mr. Jara stated that the back yard is accessible. There will be 20’ on one side and 15’ on the other. All lots are 100’ wide by 200’ in depth.

Commissioner Krick asked if he plans to pre-sale or build the model homes first. Mr. Jara said The Ranch and The Hacienda models will be built first then the pre-sale will start and he hopes to start building as soon as possible.

Commissioner Shaw said he understands the streets and gutter belong to the City but have been there for quite a while; he asked if repairs will be done to reseal or correct issues after the houses are built. Mr. Jara said is in their best interest to improve the curve appeal and there are plans to slurry seal the streets.

Commissioner Krick asked for the kind of fencing material that will be used for the side and rear yards. Mr. Jara said they will be using vinyl fencing or masonry block. He said masonry block will be used for rear fencing at the houses facing Wesley Street and Caroline Court.

Commissioner Shaw opened public comments; there were no public comments.

Commissioner Shaw closed public comments.

Commissioner Krick said he would like to see that the walls that face San Gorgonio Avenue are graffiti sealed. He asked staff if fire sprinklers are going to be required in each residence and garage and whether yearly inspections will be required for the City’s water system valve to the fire sprinklers and the backflow device.

Senior Planner Pierce said installation of fire sprinklers is required for each residence and garage.

Director Nevins said that the Public Works Department will handle the required inspections for the City’s water system valve to the fire sprinklers and the backflow device during and after construction.
ACTION: Motion/Second (KRIC/ SCHULER)

That the Planning Commission adopt Resolution 2018-13:

1. Approve Design Review 18-7006 for the construction of 13 single family residential dwelling units and associated improvements.

2. Find that in accordance with the California Environmental Quality Act (CEQA) pursuant to section 15162, Subsequent EIRs and Negative Declarations, a subsequent environmental document is not required and that the project is exempt from CEQA.

With the following amendment:

CONDITION ADDED BY THE PLANNING COMMISSION

36. The perimeter block wall on San Gorgonio Avenue shall incorporate an anti-graffiti protection coat.

(Motion Carried 4-0)

V. PLANNING COMMISSIONER COMMENTS:

Commissioner Price said this is an excellent project the City of Banning needed.

VI. COMMUNITY DEVELOPMENT DIRECTOR’S COMMENTS:

Director Nevins expressed thanks for Commissioner Aldredge’s service to the Planning Commission.

VII. ADJOURNMENT:

There being no further business, the meeting was adjourned at 6:49 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 FROM THE CITY CLERK’S OFFICE.

Planning Commission Meeting Minutes
September 5, 2018
CITY OF BANNING
Planning Commission Report

MEETING DATE: October 3, 2018

TO: Planning Commission

FROM: Patty Nevins, Community Development Director

PREPARED BY: Sonia Pierce, Senior Planner

SUBJECT: DESIGN REVIEW 18-7004: PROPOSED CONSTRUCTION OF A 9,320 SQUARE FOOT, TWO-STORY CONTRACTOR’S CORPORATE OFFICE BUILDING AND STORAGE YARD, WITH A 600 SQUARE FOOT FUEL STORAGE AND TRASH ENCLOSURE STRUCTURE AND ASSOCIATED IMPROVEMENTS ON TWO VACANT PARCELS TOTALING 1.95 GROSS ACRES LOCATED AT THE TERMINUS OF GALLEHER WAY, EAST OF THE INTERSECTION OF SAN GORGONIO AVENUE AND LINCOLN STREET IN THE INDUSTRIAL (I) LAND USE DISTRICT (APNS 541-220-009 AND 541-220-019)

RECOMMENDATION:

That the Planning Commission adopt Resolution No. 2018-15:

I. Finding that, in accordance with the California Environmental Quality Act (CEQA) Guidelines Section §15332 (In-Fill Development Projects), the development is exempt from review under CEQA; and

II. Approving Design Review No. 18-7004 for the construction of a contractor’s corporate office and storage yard, with a fuel storage and trash enclosure structure, and associated improvements.

APPLICANT INFORMATION:

Project Applicant: Kevin Ellis
Downey Construction, Inc.
32194 Outer Highway 10 S.
Redlands, CA 92373
Property Owner: Downey Construction, Inc.
32194 Outer Highway 10 S.
Redlands, CA 92373

Project Location: At The Terminus of Galleher Way, East of the Intersection of San Gorgonio Avenue and Lincoln Street

APN Information: APN 541-220-009 AND 541-220-019

REQUEST:

The applicant, Downey Construction, Inc., is requesting Design Review approval for the construction of a two-story, 9,320 square foot contractor's corporate office building and storage yard, with a 600 square foot fuel storage and trash enclosure structure and associated improvements on the parcels identified as APNs 541-220-009 and 541-220-019, located at the terminus of Galleher Way, east of the intersection of San Gorgonio Avenue and Lincoln Street, in the Industrial (I) Zoning District.

BACKGROUND:

The project site consists of two vacant parcels totaling 1.95-acres located east of the intersection of San Gorgonio Avenue and Lincoln Street at the terminus of Galleher Way and south of unimproved John Street. The site is proposed for the relocation of the corporate office of Downing Construction, a general engineering contractor, from their existing location to the City of Banning. The proposal includes a corporate office, shop, and contractor storage yard for proposed public works projects for water, sewer, and storm drains. The site is located in the Industrial (I) Zoning District, which permits contractor's storage yards and mixed use-office / industrial developments. The site is mostly surrounded by other industrial uses to the south and west and a utility sub-station to the east. The project site consists of two lots between John Street (unimproved) and the partially developed cul-de-sac Galleher Way. The project will be conditioned to merge the two lots to avoid building over a property line. Access to all services is available and can be provided by the City, such as: sewer, water, electricity, and paved roadways.

ANALYSIS:

Per Article III. (Commercial and Industrial Development Design Guidelines) of Chapter 17.12 of the City's Zoning Code, the design and architecture of the new building in the Industrial Zoning District shall be consistent with the General Design Guidelines of the City's Zoning Ordinance. New construction should be developed to coordinate and complement existing development on adjacent sites. The desired design elements include; significant texture for building surfaces, wall articulation (insets, canopies), multi-planed pitched roofs with varied roof overhangs, and covered walkways. In addition to regular window distribution and articulated mass and bulk.

The proposed project design should include significant landscape and hardscape elements with clearly identifiable access driveways, convenient and accessible parking, landscaped and screened parking.
The proposed project meets or exceeds the Zoning Ordinance development standards for the Industrial Zoning District as demonstrated in the tables below.

LAND USE SUMMARY TABLE

<table>
<thead>
<tr>
<th>Subject Site</th>
<th>Existing Land Use</th>
<th>General Plan / Zoning Designations</th>
</tr>
</thead>
<tbody>
<tr>
<td>North</td>
<td>Railroad and Interstate 10 beyond</td>
<td>Public Facility Railroad/ Interstate (PF-RI)</td>
</tr>
<tr>
<td>South</td>
<td>residential/vacant parcel</td>
<td>Industrial (I)</td>
</tr>
<tr>
<td>East</td>
<td>residential/vacant parcel</td>
<td>Industrial (I)</td>
</tr>
<tr>
<td>West</td>
<td>Banning High School</td>
<td>Industrial (I)</td>
</tr>
</tbody>
</table>

DEVELOPMENT STANDARDS

<table>
<thead>
<tr>
<th>Development Standard</th>
<th>Zoning Ordinance Industrial</th>
<th>Proposed Site Plan</th>
</tr>
</thead>
<tbody>
<tr>
<td>Min. Lot Size (acreage or s.f.)</td>
<td>10,000</td>
<td>79,583 s.f.</td>
</tr>
<tr>
<td>Minimum Lot Width</td>
<td>70’</td>
<td>100’-112’</td>
</tr>
<tr>
<td>Minimum Lot Depth</td>
<td>100’</td>
<td>178’-234’</td>
</tr>
<tr>
<td>Front Yard Setback</td>
<td>10’</td>
<td>95’/ 21’</td>
</tr>
<tr>
<td>Side Yard Setback</td>
<td>0’</td>
<td>20/125’</td>
</tr>
<tr>
<td>Street Side Setback</td>
<td>10’</td>
<td>95’/21’</td>
</tr>
<tr>
<td>Rear Yard</td>
<td>0’</td>
<td>N/A</td>
</tr>
<tr>
<td>Max Bldg. Coverage (%)</td>
<td>60%</td>
<td>9.3%</td>
</tr>
<tr>
<td>Maximum Height (stories/feet)</td>
<td>2/50</td>
<td>2/28.8’-</td>
</tr>
<tr>
<td>Max Fence/ Wall Height (ft)</td>
<td>8’</td>
<td>8’</td>
</tr>
</tbody>
</table>

Design Review

Building Design

The design and architecture of the two-story corporate facility is consistent with the Design Guidelines set forth in Section 17.12.090 of the Zoning Code. Although the City’s design principles discourage metal siding, the proposed building has been designed with both vertical and horizontal metal siding as well as with multi-planed, pitched roofs to provide building articulation. In the past, metal buildings and buildings with metal siding
have not been able to achieve the desired visual effects; however, in recent years, technology has improved and the ability to create an aesthetically pleasing building design has become more achievable. A variety of elements and textures have been incorporated to include wall articulations with insets, canopies and trellises to provide desirable elements. There are wood and stone accents providing additional texture. The design includes a broad distribution of windows across the front of the main elevation and wraps around to the side of the building. The main building color is proposed as Ash Gray with Rustic Red accents. The aluminum storefront will be a dark bronze with dual glazing tinted solar bronze. The overall appearance is rustic in nature and the facility will blend well with the existing industrial neighborhood for these reasons, staff finds that the overall building design meets the intent of the City’s design guidelines.

Site Design and Access

The main site access will be provided through a security gate at the main driveway on partially improved Galleher Way. Secondary access is proposed through two gates located on unimproved John Street at the north boundary. The Public Works Department has conditioned the project to provide the street improvements for both Galleher Way and John Street. All public parking has been provided on site and near the Galleher Way driveway.

The corporate office building will be located along Galleher Way and the remainder of the corporate yard and storage is to the north and east of the site. There are existing chain link fences at the property lines. However, with the development of a corporate storage yard for construction materials the yard is required to meet the paving requirements set forth in Chapter 17.28 and screening requirements set forth in Chapter 17.12.140

PARKING SUMMARY TABLE

<table>
<thead>
<tr>
<th>USE</th>
<th>REQUIRED</th>
<th>PROPOSED</th>
<th>TYPE</th>
</tr>
</thead>
<tbody>
<tr>
<td>&lt;2,000 S.F.</td>
<td>10</td>
<td>29</td>
<td></td>
</tr>
<tr>
<td>&gt;2,000 S.F.</td>
<td>15</td>
<td>15</td>
<td></td>
</tr>
<tr>
<td>Employee</td>
<td>4</td>
<td>4</td>
<td></td>
</tr>
<tr>
<td>Additional Spaces</td>
<td>0</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td></td>
<td>29</td>
<td>31</td>
<td></td>
</tr>
</tbody>
</table>
Table 17.28.040B Commercial and Industrial Parking Requirements, requires the following:

- General Offices and Industrial Warehousing
  - First 2000 square feet, 1 space for each 200 s.f. of gross floor area (10 spaces);
  - For 2001 – 7500 square feet, 1 space for each 250 s.f. (15 spaces);
  - Service / Shop Employee: 1 space for each employee 1 (4 spaces);
- Although there is no requirement for private service bays, since there are 4 employees there will be a requirement for parking of 4 employees.

Landscaping

A conceptual landscape plan has been submitted and the site will be landscaped with a mixture of 15-gallon and 24" box trees along Galleher Way and throughout the public parking areas adjacent to the west property line. The groundcover includes variety of multi-colored species to compliment the building architecture. Currently, the right-of-way along John Street is unimproved and the landscape will be reviewed and approved by the Public Works Department as conditioned. Planning will work with the applicant to provide a consistent design with the streetscape at the time of the landscape plan submittal.

Refuse Storage

The site plan includes a combination trash enclosure and fuel storage area constructed of block walls and metal, with a metal roof top cover painted ash grey and rustic red. The structure is designed to complement the building elevations.

Projects Near Airports

The project is located within Airport Compatibility Zone C of the Riverside County Airport Land Use Compatibility Plan as adopted by the Riverside County Airport Land Use Commission (ALUC) for Banning Municipal Airport. On June 21, 2018, the Riverside County Airport Land Use Director determined the project is consistent with the Banning Municipal Airport Land Use Compatibility Plan, as amended in 2016, provided the attached recommended conditions are applied (Attachment 3). The conditions imposed through the ALUC review are incorporated into the Conditions of Approval.

Conclusion

Staff recommends approval of the subject Design Review as the proposed project is consistent with the requirements of the City of Banning General Plan and the City’s Zoning Code. The project adequately meets the standards and design guidelines as discussed in the staff report; or, will meet those requirements as stated in the Conditions of Approval and upon review and approval of the construction plans and specifications.

ENVIRONMENTAL DETERMINATION:

California Environmental Quality Act (CEQA)
The Planning Department Staff has determined that the project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) and the City's CEQA Guidelines. The project qualifies under the Class 32 exemption (CEQA Guidelines Section § 15332 - In-fill Development Projects) because the proposed project is: (a) consistent with the Industrial (I) General Plan land use designation, all applicable General Plan policies, the Industrial (I) Zoning District, and all applicable zoning regulations; (b) the proposed development occurs within City limits on a project site of no more than five acres (1.95 gross acres) substantially surrounded by urban uses; (c) the subject project site has no value as habitat for endangered, rare, or threatened species; (d) the approval of the proposed project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and (e) the subject site can be adequately served by all required utilities and public services.

**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.

**PUBLIC COMMUNICATION**

The proposed Design Review for construction of a two-story, 9,320 square foot contractor’s corporate office building and storage yard, with a 600 square foot fuel storage and trash enclosure structure and associated improvements was advertised in the Record Gazette newspaper on September 21, 2018 (Attachment 4). Additionally, notices were mailed to all property owners within 300 feet of the proposed development site.

**ATTACHMENTS:**

1. Planning Resolution No. 2018-15
   Exhibit A - Project Plans
   Exhibit B - Conditions of Approval
2. Project Plans
3. Airport Land Use Commission Determination
4. Public Hearing Notice
Prepared By:

Sonia Pierce
Senior Planner

Reviewed and Recommended By:

Patty Nevins
Community Development Director
ATTACHMENT 1
PC Resolution No. 2018-15
RESOLUTION 2018-15

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BANNING, CALIFORNIA APPROVING DESIGN REVIEW 18-7004 FOR CONSTRUCTION OF A 9,320 SQUARE FOOT, TWO-STORY CONTRACTOR’S CORPORA-TIVE OFFICE BUILDING AND STORAGE YARD, WITH A 600 SQUARE FOOT FUEL STORAGE AND TRASH ENCLOSURE STRUCTURE AND ASSOCIATED IMPROVEMENTS ON TWO VACANT PARCELS TOTALING 1.95 GROSS ACRES LOCATED AT THE TERMINUS OF GALLEHER WAY, EAST OF THE INTERSECTION OF SAN GORGONIO AVENUE AND LINCOLN STREET IN THE INDUSTRIAL (I) LAND USE DISTRICT (APNS 541-220-009 AND 541-220-019)

WHEREAS, an application for Design Review approval for the construction of a 9,320 square foot contractor’s corporate office building, a storage yard, and associated improvements has been duly filed by:

   Project Applicant: Kevin Ellis  
   Downey Construction, Inc.  
   32194 Outer Highway 10 S.  
   Redlands, CA 92373

   APNs: 541-220-009 and 541-220-019

   Lot Area: 1.95 Gross Acres

WHEREAS, the Planning Commission has the authority per Chapter 17.56 of the Banning Municipal Code to take action on Design Review No. 18-7004 for the construction of a contractor’s corporate office building, storage yard and associated improvements in the Industrial (I) Land Use District; and

WHEREAS, on September 21, 2018 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 October 3, 2018 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. 18-7004; and

WHEREAS, in accordance with the requirements of the California Environmental Quality Act (CEQA), staff analyzed Design Review 18-7004 and determined that, pursuant to CEQA Guidelines Section 15332, (In-Fill
Development Projects), the project is categorically exempt from review under CEQA;

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 Planning Division staff has determined that the project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) and the State CEQA Guidelines. The project qualifies under CEQA Guidelines § 15332 (In-Fill Development Projects) Class 32 categorical exemption because: (a) the project is consistent with the Industrial (I) General Plan land use designation and all applicable City of Banning General Plan policies as well as with the Industrial (I) zoning classification and regulations; (b) the proposed development occurs within the City of Banning 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 will not result in any significant effects relating to traffic, noise, air quality, or water quality; and, the project site can and will be adequately served by all required utilities and public services. The Planning Commission has analyzed proposed Design Review 18-7004 and reviewed the Planning Division’s determination of exemption, and based on its own independent judgement, concurs in staff’s determination of exemption under CEQA pursuant to CEQA Guidelines § 15332.

Multiple Species Habitat Conservation Plan (MSHCP):

The project is found to be consistent with the MSHCP. The project is located outside of any MSHCP criteria area and mitigation is provided through payment of the MSHCP Mitigation Fee.

SECTION 2. REQUIRED FINDINGS:

REQUIRED FINDINGS FOR DESIGN REVIEW No.18-7004:

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 Design Review No.18-7004:

Finding A: The proposed use is consistent with the General Plan;
Finding of Fact: Design Review No.18-7004 is consistent with the following General Plan Land Use Element Policy 7 under Commercial and Industrial Goals, which states: "The land use map shall include sufficient industrial lands for manufacturing, warehousing and distribution, while carefully considering compatibility with adjacent residential lands." The land-use designation of Industrial includes industrial parks and freestanding industrial users. Examples include light and medium intensity manufacturing operations, warehousing and distribution, mini-storage and associated offices. Retail uses ancillary to the industrial use are also appropriate. The proposed project under Design Review 18-7004 is surrounded by, and consistent with, industrial uses, with the railroad to the north across unimproved John Street. There is a utility substation to the east, and a contractor storage yard to the south. The adjacent uses have existed for many years. Further, Design Review 18-7004 is consistent with General Plan Economic Development Policy 2, which states: "The City shall take a proactive role in the retention of existing businesses and the recruitment of new businesses, particularly those that generate and broaden employment opportunities, increase discretionary incomes, and contribute to City General Fund revenues." The proposed development of a contractor's corporate office and storage yard will assist in recruitment of new businesses and create employment opportunities for the City.

Finding B: The proposed project is consistent with the Zoning Ordinance, including the development standards and guidelines for the district in which it is located.

Finding of Fact: With the imposed conditions of approval, the proposed project in the Industrial (I) Land Use District is consistent with the Zoning Ordinance and the applicable development standards set forth in Article II of Chapter 17.12 of the Banning Municipal Code, as the development meets or exceeds the Zoning Ordinance development standards. With the conditioned parcel merger, the project is consistent with the maximum 60% lot coverage, meets the maximum height of 2-story and does not exceed 35-feet. The setbacks and building height, along with the public improvements, meets City development standards. Additionally, all other applicable design guidelines set forth in Article III of Chapter 17.12 of the Banning Municipal Code have been satisfied.
Finding C: The design and layout of the proposed project will not unreasonably interfere with the use and enjoyment of neighboring existing or future development, and will not result in vehicular and/or pedestrian hazards.

Finding of Fact: The proposed project is located in an area that is developed with industrial businesses, adjacent to the Union Pacific Railroad (UPRR), a Southern California Edison utility substation and located within Zone C of the Banning Airport Land Use Compatibility Plan. The project design and layout is located at the terminus of a cul-de-sac and is an in-fill project. There is minimal vehicular or pedestrian within the cul-de-sac area. All activities will take place behind a security fence or block wall. The Riverside County Airport Land Use Commission (ALUC) has reviewed the project and has determined it is consistent with the land use compatibility plan. With the recommended conditions of approval, the proposed project will not interfere with the use and enjoyment or future development of the neighborhood.

Finding D: The design of the proposed project is compatible with the character of the surrounding neighborhood.

Finding of Fact: The project is adjacent to industrial development, a utility substation, and railroad tracks to the north. The proposed site and circulation design is compatible with the existing vehicle circulation pattern in the surrounding neighborhood. The proposed rustic materials and building colors are of benefit to and compatible with the architecture of surrounding neighborhood.

SECTION 3. PLANNING COMMISSION ACTION:

The Planning Commission hereby takes the following actions:

1. Adoption of Planning Commission Resolution 2018-15:
   a. Determining, based on its own independent judgment and in accordance with CEQA Guidelines Section 15332, that the project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) and the State CEQA Guidelines under the Class 32 Categorical Exemption (In-fill Development Project) as described in Section 1 of this Resolution; and
b. Approving Design Review No. 18-7004, in accordance with plans attached hereto as Exhibit “A” and subject to the Conditions of Approval attached hereto and incorporated herein by this reference as Exhibit “B”.

2. Direction to Community Development Director to prepare and file with the Clerk of the County of Riverside a Notice of Exemption as provided under Public Resources Code Section 21152(b) and CEQA Guidelines Section 15062.

PASSED, APPROVED AND ADOPTED this 3rd day of October, 2018.

________________________________________
Eric Shaw, Chairman
Banning Planning Commission

APPROVED AS TO FORM
AND LEGAL CONTENT:

________________________________________
Serita R. Young, Assistant City Attorney
Richards, Watson & Gershon

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 2018-15 was duly adopted by the Planning Commission of the City of Banning, California, at a regular meeting thereof held on the 3rd day of October, 2018, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

_________________________________________
Sandra Calderon, Recording Secretary
City of Banning, California
City of Banning

PROJECT #: Design Review No. 18-7004
SUBJECT: Conditions of Approval (Planning Commission Resolution No. 2018-15)
APPLICANT: Kevin Ellis / Downing Construction, Inc.
LOCATION: APNs: 541-220-009 and 541-220-019

EXHIBIT B

* 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 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.

2. 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 Laws, 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.

3. 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.

4. Construction shall commence within two (2) years from the date of project approval, or the Design Review approval shall become null and void. Additionally, if after commencement of construction work is discontinued for a period of one year the Design Review shall become null and void. Projects may be built in phases if pre-approved by the reviewing 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 comply with all current Ordinance provisions.

5. A copy of the signed resolution 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.

6. The applicant shall comply with all conditions of approval as stipulated by the Airport Land Use Commission (ALUC) Development Review Determination dated June 21, 2018, and any amendments; including any requirements stipulated by the Federal Aviation Administration (FAA) Aeronautical Study.

7. 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.

8. **PRIOR TO ISSUANCE OF BUILDING PERMITS:** The applicant shall complete and record a parcel merger for the two parcels identified as Assessor's Parcel Numbers 541-220-009 and 541-220-019.

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

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

11. Separate submittals and permits are required for all walls and fences.

12. A detailed on-site lighting plan, including a photometric diagram, shall be reviewed and approved by the Community Development Director. Such plan shall indicate style, illumination, location, height, and method of shielding so as not to adversely affect adjacent properties in accordance with the Zoning Code. Lighting fixtures shall be shielded or recessed to prevent spillage to the adjacent properties. Additionally, all lighting plans and installations shall conform to the requirements of the conditions stipulated by the Airport Land Use Commission (ALUC) and Federal Aviation Administration (FAA) review.

13. In accordance with the Banning Municipal Code 17.12.140, outdoor storage areas shall be screened by walls a minimum 6-foot high and maximum of 8-foot in height.

14. The exterior of all perimeter block walls shall incorporate an anti-graffiti coat of protection.

15. The parking lot and storage yard areas shall be in accordance with Chapter 17.28 of the Banning Municipal Code

16. 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.

17. Trash enclosure gates shall be maintained in working order and shall remain closed except when in use.

18. The applicant shall remove all graffiti immediately or within 24 hours of notice from the City.

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

20. All building address numbers shall be identified in a clear and concise manner, including proper illumination.
21. The developer shall submit a construction access plan and schedule for the development of the project for Community Development Director and City Engineer approval; including, but not limited to, public notice requirements, special street posting, phone listing for community concerns, hours of construction activity, dust control measures, and security fencing.

22. Applicant shall pay all development fees adopted by the City in effect at the time of issuance of any building permits. Applicant 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.

23. Prior to any use of the project site, all Conditions of Approval shall be completed, as required, to the satisfaction of the Community Development Director. Contact the Planning Department at (951) 922-3125 to request a FINAL INSPECTION prior to issuance of the Certificate of Occupancy a minimum of 48 hours in advance of requested inspection.

**Public Works Department**

**A. General Requirements**

24. 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.

25. 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:

- **A. Fire Marshal (access)**
- **B. Public Works Department (grading permits, street improvement permits)**
- **C. Riverside County Flood Control & Water Conservation District (storm drain)**
- **D. California Regional Water Quality Control Board Colorado River Basin (RWQCB)**
- **E. South Coast Air Quality Management District (SCAQMD)**
The applicant is responsible for meeting all requirements of permits and/or clearances from the above listed agencies. When the requirements include approval of improvement plans, the applicant shall furnish proof of such approvals when submitting improvements plans to the City.

26. 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 Grading Plans  
   (All Conditions of Approval shall be reproduced on last sheet of set)  
   1" = 40' horizontal

B. Haul Route Plans  
   1" = 40' horizontal

C. Clearing Plans  
   (Include construction fencing plan)  
   1" = 50' horizontal

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

E. Precise Grading Plans  
   1" = 40' Horizontal

F. Landscaping Plans  
   1" = 20 Horizontal

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.

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.

27. 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
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have all AutoCAD files submitted to the City, revised to reflect the “As-Built” conditions.

B. Street Improvements/ Right-of-Way

28. Applicant shall construct all public improvements on Galleher Way and John Street including curb and gutter and driveway approaches.

29. All commercial driveway approaches shall comply with the City of Banning Standard Drawing No. C-209.

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

31. The applicant shall plant and perpetually maintain trees, shrubs, and ground cover placed in the parkway, slopes adjacent to public right-of-ways constructed in connection with the project. This includes providing irrigation and the clearing of debris and weed removal.

32. 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.

C. Grading and Drainage

33. 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. 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 criterion is exceeded, additional drainage facilities shall be designed and constructed.

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

35. If the site is located in a Flood Area as identified in Flood Insurance Rate Map dated August 28, 2008, the applicant 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.

36. 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 and west.

37. The applicant shall comply with Chapter 13.24 “Stormwater Management System” 
of the Banning Municipal Code 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.

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 applicant shall ensure that the required SWPPP is available for inspection at 
the project site at all times through and including acceptance of all improvements 
by the City.

The applicant’s SWPPP shall include provisions for all of the following Best 
Management Practices (“BMPs”):

Temporary Soil Stabilization (erosion control);
Temporary Sediment Control;
Wind Erosion Control;
Tracking Control;
Non-Storm Water Management; and
Waste Management and Materials Pollution Control.

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.
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.

38. 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.

39. 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.

40. The following notation shall be placed on the grading plan: “No more than three days prior to removing trees, shrubs or tall herbaceous vegetation during the breeding season for migratory birds (February 15 to August 31) a qualified biologist shall conduct a nesting bird survey.”

D. Trash/Recycling

41. 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.

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

E. Fees

43. Plan check fees for professional report review (drainage, WQMP, etc.), and all improvement plans review, shall be paid at the time of submittal of said documents for review and approval in accordance with the fee schedule in effect at the time of submittal.

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

45. Water and sewer connection fees and water meter installation charges shall be paid at the time of building permit issuance in accordance with the fee schedule in effect at that time.
46. 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.

**Water and Sewer**

47. A combined water and sewer plan shall be submitted for review and approval of the proposed services.

48. All fees to be paid prior to issuance of building permits. Water Mains shall be flushed, chlorinated, pressure tested, and BacT tested before allowed to connect to the City's water distribution system. Water for flushing shall be obtained through a hydrant meter with approved backflow protection. All valves and fire hydrants shall be exercised and replaced or repaired as needed to be in working condition.

**Electric Utility Department**

The following will need to be completed in order to receive electric service. As a reminder obtaining the described information outlined below in a timely matter is critical for design, planning, and ordering of materials for this project. The developer shall be responsible for the following:

49. Submitting detailed plans indicating lot lines, streets, easements, building layout, anticipated loading information, etc. These plans are required in electronic format. We currently use AutoCad2016. Plans should consist of a plot plan, site plan, one line diagram of proposed electrical main service panel and a sheet showing load calculations by an electrical engineer. Additional sheets may be required upon request.

50. Paying required fees - electrical permit, plan check fee, inspection fees, meter fee, and cost of electrical apparatus for completing service upgrade.

51. Granting easement for electric facilities installation / maintenance, etc.

The C.O.B. Electric Utility shall be responsible for:

52. Reviewing plans submitted by customer.

53. Design an electrical utility plan for the installation of substructures and conduit by developer.

54. Providing a cost estimate for installing an underground electrical system for this project.
55. Inspecting all trenches prior to backfilling. 24-hour prior notice is required before inspection.

56. Install electrical apparatus including primary conductors, terminations, metering, and transformer to provide electrical service for this project.

Building Department

The following comments are required at time of plan check submittal

57. 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.

58. 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.

B. Disabled access parking shall be located on the shortest accessible route. Relocate parking spaces accordingly.

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

60. Pursuant 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 of use and potential exiting and fire life safety improvements.

Fire Department

61. For commercial areas, the required fire flow shall be available from Super hydrant(s) (6" x 4" x 21/2" x 21/2") spaced not more than 350 apart and shall be capable of delivering a fire flow 2750 GPM for two hours duration at 20 psi residual
operating pressure, which must be available before any combustible material is placed on the construction site.

62. 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.

63. Install a complete commercial fire sprinkler system. Fire sprinkler system(s) with pipe sizes in excess of 4" in diameter will require the project Structural Engineer to certify with a “wet signature”, that the structural system is designed to support the seismic and gravity loads to support the additional weight of the sprinkler system. All fire sprinkler risers shall be protected from any physical damage.

64. The PIV and FDC shall be located to the front of building within 50 feet of approved roadway and within 200 feet of an approved hydrant. Sprinkler riser room must have indicating exterior and/or interior door signs. A C-16 licensed contractor must submit plans, along with current permit fees, to the Fire Department for review and approval prior to installation.

65. Install an alarm monitoring system for fire sprinkler system(s) with 20 or more heads, along with current permit fees, to the Fire Department for review and approval prior to installation.

66. Gate(s) shall be automatic and on a loop system to allow exiting from the property. Install Knox key operated switches, with dust cover, mounted per recommended standard of the Knox Company.

67. Fire Apparatus access road and driveways shall be in compliance with the Riverside County Fire Department Standard number 06-05 (located at www.rvccfire.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.

68. Commercial address must be a minimum 12" tall in contrasting color visible from the street address side of the building. Illuminated internally or externally.

69. 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.

70. An approved Fire Department access key lock box (Minimum Knox Box 3200 series model) shall be installed next to the approved Fire Department access door to the building. If the buildings are protected with an alarm system, the lock box shall be required to have tampered monitoring. Required order forms and installation standards may be obtained at the Fire Department.

***END***
ATTACHMENT 2

Proposed Designs
ATTACHMENT 3
Airport Land Use Commission Determination
June 21, 2018

Ms. Marie Gilliam, Project Planner  
City of Banning Planning Department  
99 E. Ramsey Street  
Banning CA 92220

RE: AIRPORT LAND USE COMMISSION (ALUC) DEVELOPMENT REVIEW

File No.: ZAP1028BA18  
Related File No.: DR18-7004 (Design Review)  
APNs: 541-220-009 and -019

Dear Ms. Gilliam:

On June 14, 2018, the Riverside County Airport Land Use Commission (ALUC) found City of Banning Case No. DR18-7004 (Design Review), a proposal to construct a two-story 9,320 square foot contractor’s building and storage yard with a 400 square foot fueling area on 1.95 acres located at the terminus of Galleher Way, northerly of Lincoln Street, easterly of San Gorgonio Avenue, and southerly of John Street, the rail line, and Interstate 10, CONSISTENT with the 2004 Banning Municipal Airport Land Use Compatibility Plan, as amended in 2016, subject to updated conditions provided at the meeting that incorporate requirements included in the Federal Aviation Administration (FAA) Determination of No Hazard to Air Navigation letter issued on June 13, 2018 (new FAA conditions added at the hearing shown in bold type).

CONDITIONS:

1. Any outdoor lighting installed shall be hooded or shielded to prevent either the spillage of lumens or reflection into the sky. Outdoor lighting shall be downward facing.

2. The following uses shall be prohibited:

(a) Any use which would direct a steady light or flashing light of red, white, green, or amber colors associated with airport operations toward an aircraft engaged in an initial straight climb following takeoff or toward an aircraft engaged in a straight final approach toward a landing at an airport, other than an FAA-approved navigational signal light or visual approach slope indicator.

(b) Any use which would cause sunlight to be reflected towards an aircraft engaged in an initial straight climb following takeoff or towards an aircraft engaged in a straight final approach towards a landing at an airport.

(c) Any use which would generate smoke or water vapor or which would attract large concentrations of birds, or which may otherwise affect safe air navigation within the area. (Such uses include landscaping utilizing water features, aquaculture, production of cereal grains, sunflower, and row crops, artificial marshes, wastewater management facilities, composting operations, trash transfer stations that are open on one or more sides, recycling centers containing putrescible wastes, construction and demolition debris facilities, fly ash disposal, and incinerators.)
AIRPORT LAND USE COMMISSION

(d) Any use which would generate electrical interference that may be detrimental to the operation of aircraft and/or aircraft instrumentation.

(e) Children's schools, day care centers, libraries, hospitals, nursing homes, highly noise-sensitive outdoor nonresidential uses, and hazards to flight.

3. The attached notice shall be given to all prospective purchasers and/or tenants of the property, and shall be recorded as a deed notice.

4. Any new detention basins on the site shall be designed so as to provide for a maximum 48-hour detention period following the conclusion of the storm event for the design storm (may be less, but not more), and to remain totally dry between rainfalls. Vegetation in and around the detention basins that would provide food or cover for bird species that would be incompatible with airport operations shall not be utilized in project landscaping.

5. The evaluated project consists of a 9,320 square foot building, including 5,847 square feet of office area, 2,411 square feet of shop area, and 1,062 square feet of storage area. Any proposal to use the building for retail or assembly occupancies will require an amended review by the Airport Land Use Commission.

6. Noise attenuation measures shall be incorporated into the design of the office portion of the building, to the extent such measures are necessary to ensure that interior noise levels from aircraft operations are at or below 45 CNEL.

The following conditions were added at the ALUC hearing pursuant to the terms of the FAA Obstruction Evaluation Service letter issued on June 13, 2018 for Aeronautical Study No. 2018-AWP-8510-OE.

7. The Federal Aviation Administration has conducted an aeronautical study of the proposed project (Aeronautical Study Nos. 2018-AWP-8510-OE) and has determined that neither marking nor lighting of the structure(s) is necessary for aviation safety. However, if marking and/or lighting for aviation safety are accomplished on a voluntary basis, such marking and/or lighting (if any) shall be installed in accordance with FAA Advisory Circular 70/7460-1 L Change 1 and shall be maintained in accordance therewith for the life of the project.

8. The proposed structure shall not exceed a height of 30 feet above ground level and a maximum elevation at top point of 2,338 feet above mean sea level.

9. The maximum height and top point elevation specified above shall not be amended without further review by the Airport Land Use Commission and the Federal Aviation Administration; provided, however, that reduction in structure height or elevation shall not require further review by the Airport Land Use Commission.

10. Temporary construction equipment used during actual construction of the structure(s) shall not exceed 30 feet in height and a maximum elevation of 2,338 feet above mean sea level, unless separate notice is provided to the Federal Aviation Administration through the Form 7460-1 process.
AIRPORT LAND USE COMMISSION

11. Within five (5) days after construction of any individual building reaches its greatest height, FAA Form 7460-2 (Part II), Notice of Actual Construction or Alteration, shall be completed by the project proponent or his/her designee and e-filed with the Federal Aviation Administration. (Go to https://oeaaa.faa.gov for instructions.) This requirement is also applicable in the event the project is abandoned or a decision is made not to construct the applicable structures(s).

If you have any questions, please contact Paul Rull, ALUC Urban Regional Planner IV, at (951) 955-6893.

Sincerely,

RIVERSIDE COUNTY AIRPORT LAND USE COMMISSION

[Signature]

Simon A. Housman, ALUC Director

Attachment: Notice of Airport in Vicinity
Aeronautical Study No. 2018-AWP-8510-OE

cc: Downing Construction, Inc., Kevin Ellis (applicant/property owner)
Marcell & Associates, Harvey Marcell (representative)
Carl Szyoka, Airport Manager, City of Banning
ALUC Case File

Y:\AIRPORT CASE FILES\Banning\ZAP1028BA18\ZAP1028BA18.LTR.doc
NOTICE OF AIRPORT IN VICINITY

This property is presently located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the property may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances [can vary from person to person. You may wish to consider what airport annoyances], if any, are associated with the property before you complete your purchase and determine whether they are acceptable to you. Business & Professions Code Section 11010 (b) (13)(A)
**DETERMINATION OF NO HAZARD TO AIR NAVIGATION**

The Federal Aviation Administration has conducted an aeronautical study under the provisions of 49 U.S.C., Section 44718 and if applicable Title 14 of the Code of Federal Regulations, part 77, concerning:

<table>
<thead>
<tr>
<th>Structure:</th>
<th>Building corporate office/shop</th>
</tr>
</thead>
<tbody>
<tr>
<td>Location:</td>
<td>Banning, CA</td>
</tr>
<tr>
<td>Latitude:</td>
<td>33°55.21.88N NAD 83</td>
</tr>
<tr>
<td>Longitude:</td>
<td>116°52.25.19W</td>
</tr>
<tr>
<td>Heights:</td>
<td>2308 feet site elevation (SE)</td>
</tr>
<tr>
<td></td>
<td>30 feet above ground level (AGL)</td>
</tr>
<tr>
<td></td>
<td>2338 feet above mean sea level (AMSL)</td>
</tr>
</tbody>
</table>

This aeronautical study revealed that the structure does not exceed obstruction standards and would not be a hazard to air navigation provided the following condition(s), if any, is(are) met:

Based on this evaluation, marking and lighting are not necessary for aviation safety. However, if marking/lighting are accomplished on a voluntary basis, we recommend it be installed in accordance with FAA Advisory circular 70/7460-1 L Change 1.

This determination expires on 12/13/2019 unless:

(a) the construction is started (not necessarily completed) and FAA Form 7460-2, Notice of Actual Construction or Alteration, is received by this office.

(b) extended, revised, or terminated by the issuing office.

(c) the construction is subject to the licensing authority of the Federal Communications Commission (FCC) and an application for a construction permit has been filed, as required by the FCC, within 6 months of the date of this determination. In such case, the determination expires on the date prescribed by the FCC for completion of construction, or the date the FCC denies the application.

NOTE: REQUEST FOR EXTENSION OF THE EFFECTIVE PERIOD OF THIS DETERMINATION MUST BE E-FILED AT LEAST 15 DAYS PRIOR TO THE EXPIRATION DATE. AFTER RE-EVALUATION OF CURRENT OPERATIONS IN THE AREA OF THE STRUCTURE TO DETERMINE THAT NO SIGNIFICANT AERONAUTICAL CHANGES HAVE OCCURRED, YOUR DETERMINATION MAY BE ELIGIBLE FOR ONE EXTENSION OF THE EFFECTIVE PERIOD.
This determination is based, in part, on the foregoing description which includes specific coordinates, heights, frequency(ies) and power. Any changes in coordinates, heights, and frequencies or use of greater power, except those frequencies specified in the Colo Void Clause Coalition; Antenna System Co-Location; Voluntary Best Practices, effective 21 Nov 2007, will void this determination. Any future construction or alteration, including increase to heights, power, or the addition of other transmitters, requires separate notice to the FAA. This determination includes all previously filed frequencies and power for this structure.

If construction or alteration is dismantled or destroyed, you must submit notice to the FAA within 5 days after the construction or alteration is dismantled or destroyed.

This determination does include temporary construction equipment such as cranes, derricks, etc., which may be used during actual construction of the structure. However, this equipment shall not exceed the overall heights as indicated above. Equipment which has a height greater than the studied structure requires separate notice to the FAA.

This determination concerns the effect of this structure on the safe and efficient use of navigable airspace by aircraft and does not relieve the sponsor of compliance responsibilities relating to any law, ordinance, or regulation of any Federal, State, or local government body.

If we can be of further assistance, please contact our office at (310) 725-6558, or ladonna.james@faa.gov. On any future correspondence concerning this matter, please refer to Aeronautical Study Number 2018-AWP-8510-OE.

Signature Control No: 363270245-367663844  
LaDonna James  
Technician

Attachment(s)  
Map(s)
"IMPORTANT" Maps and data are to be used for reference purposes only. Map features are approximate, and are not necessarily accurate to surveying or engineering standards. The County of Riverside makes no warranty or guarantee as to the content (the source is often third party), accuracy, timeliness, or completeness of any of the data provided, and assumes no legal responsibility for the information contained on this map. Any use of this product with respect to accuracy and precision shall be the sole responsibility of the user.
Downing Construction, Inc.
Galleher Way
Banning, CA

Building Area Summary  (updated 5-1-2018)

Building Footprint Area

  Main two-story building  50'x100'  5,000 S.F.
  Single story office wing  50'x35'  1,750 S.F.
  Covered front entry feature (open)  193 S.F.
  Covered porch off office wing (open)  470 S.F.

TOTAL BUILDING FOOTPRINT  7,413 S.F.

Building use areas

  1. Office
     1st Floor  4,097 S.F.  (Architectural)
     2nd Floor  1,750 S.F.
     Total Office areas  5,847 S.F.  (5,597 S.F.)

  2. Shop
     1st floor  2,411 S.F.  (2,272 S.F.)

  3. Storage
     1st Floor  242 S.F.
     2nd story  820 S.F.
     Total Storage areas  1,062 S.F.  (1,001 S.F.)

Total building floor area  9,320 S.F.  (9,320 S.F.)

See Sketch for area locations
2nd Story Floor areas

MAIN 2 STORY BUILDING 50'x100'

1st Story Floor areas
ATTACHMENT 4

Public Hearing Notice
Record Gazette  
218 N. Murray St.  
Proof of Publication  
(2015.5 C.C.P)  
158540 PHN_ DR 18-7004  

State of California  
County of Riverside

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

September 21, 2018 

Executed on: 09/21/2018  
At Banning, CA 

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

[Signature]  
Ana Rivera
TO: PLANNING COMMISSION

FROM: Patty Nevins, Community Development Director

MEETING DATE: October 3, 2018

SUBJECT: ZONING TEXT AMENDMENT 18-97503 TO AMEND VARIOUS SECTIONS OF THE ZONING ORDINANCE TO ALLOW, REGULATE AND ZONE FOR RETAIL CANNABIS USES.

RECOMMENDED ACTION:

Staff recommends that the Planning Commission adopt Resolution 2018-18:

1. Making a determination under CEQA Guidelines Section 15060(c)(3) that the Zoning Text Amendments are not subject to CEQA and further that under CEQA Guidelines Section 15061(b)(1) the project is exempt from CEQA as it is exempt by statute (Business and Professions Code section 26055(h)).

2. Recommending that the City Council approve Zoning Text Amendment 18-97503 to amend various sections of the Zoning Ordinance to allow, regulate and zone for retail cannabis uses.

PROJECT/APPLICANT INFORMATION:

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

PROJECT BACKGROUND AND DESCRIPTION:

Currently, no commercial cannabis activities are permitted within the City. At its June 27, 2017 meeting, the City Council appointed a two member City Council Cannabis Ad Hoc Committee to consider potential changes to the City's current ordinances related to cannabis and at the December 12, 2017 City Council meeting, the Cannabis Ad Hoc Committee recommended that certain commercial cannabis activities be considered as conditionally permitted uses within the City. After further Cannabis Ad Hoc Committee discussions to refine the recommended approach and after holding a City Council
workshop on the topic, the City Council provided direction to staff at its May 8, 2018 meeting to proceed with the drafting of ordinances to allow indoor commercial cannabis cultivation, limited manufacturing, and laboratory testing uses in the City’s Industrial zoning district, subject to the Banning voters approving a cannabis tax measure at the November 2018 election (Measure N).

At its June 6, 2018 meeting, the Planning Commission recommended approval of a commercial cannabis ordinance and at the June 26, 2018 meeting, the City Council approved the commercial cannabis ordinance allowing indoor cultivation, limited manufacturing, and laboratory testing uses in the City’s Industrial zoning district, subject to certain requirements and limitations, and subject to the Banning voters approving a cannabis tax measure at the November election.

In response to a citizen petition that was circulating for signature to qualify for the November 2018 ballot that would allow for the operation of retail cannabis stores in the City, at the June 12, 2018 City Council meeting, the City Council directed staff to research and prepare potential regulations for the operation of retail cannabis uses within the City and to place an associated tax measure on the November ballot for voter consideration. Regulations were drafted in consultation with the Cannabis Ad Hoc Committee and were presented to the City Council for feedback and direction at a workshop on September 10, 2018.

PROPOSAL / ANALYSIS:

The overall approach for retail cannabis regulation will include:

- Adopting amendments to the City’s Municipal Code to create a regulatory permit requirement for the purpose of investigating and regulating the operators of retail cannabis businesses. This regulatory permit would fall under Chapter 5 (Business Licenses and Regulations) of the Banning Municipal Code. This amendment is not subject to Planning Commission approval.
- Adopting amendments to the City’s Zoning Code to create a Cannabis Retailer Conditional Use Permit to allow and regulate retail cannabis uses in the Highway Servicing Commercial zoning district, subject to certain limitations and requirements and subject to a recommendation by the Planning Commission and approval by the City Council.
- Adopting fees (to be determined at a future date) for the processing of applications and to pay the reasonable cost of the City’s regulatory program.
- Adopting a tax on retail cannabis activities so as to generate revenue for the City’s General Fund. Pursuant to Propositions 62, 26 and 218, if the City would like to generate revenue for the City’s General Fund that would exceed the City’s regulatory program costs, then the Banning voters would need to approve a tax measure imposing a tax on the activity. As written, the proposed ordinance requires voter approval of a retail cannabis tax; this tax measure (Measure O) has been placed on the November ballot and must pass in order for the retail cannabis ordinance to take effect.

As Zoning Code Amendments fall within the purview of the Planning Commission, a recommendation from the Planning Commission is sought regarding the proposed
cannabis retail zoning code text amendments. After receiving the recommendation, the City Council will make a final determination on the Banning Municipal Code requirements related to the retail cannabis regulatory permit (Chapter 5, Business Licenses), and the Cannabis Retailer Conditional Use Permit (Chapter 17, Zoning).

Cannabis Retail Uses Considered

As recommended by the Cannabis Ad Hoc Committee, the proposed regulations will establish a Cannabis Retailer Conditional Use Permit process that will allow the operation of cannabis retail uses in the City. A Cannabis Retailer Conditional Use Permit could be issued upon the recommendation of the Planning Commission and final approval by the City Council. The proposed allowable uses are described as follows:

Retail cannabis uses include the retail sale and delivery of cannabis or cannabis products to customers. This may include two license categories as defined by the state:

1. Retailer (storefront): Sells cannabis goods to customers at its premises or by delivery. A retailer must have a licensed physical location (premises) where commercial cannabis activities are conducted.

2. Retailer (nonstorefront): Sells and delivers cannabis goods to customers. A retailer (nonstorefront) must have a licensed premises, but it is not open to the public.

Retail Cannabis Locations

Retail cannabis uses as proposed would only be permitted within the Highway Serving Commercial zoning district. Retail cannabis uses are prohibited in all other land use districts within the City.

The Highway Serving Commercial zoning district is shown on the map below and is generally on the north and south sides of Ramsey Street between Eighth Street and Sunset Avenue:

![Map of Highway Serving Commercial (HSC) Zone]
Separation Requirements

State law provides that cannabis businesses shall not be located within a 600-foot radius of a school providing instruction in kindergarten, or any grades 1 through 12, day care center, or youth center that is in existence at the time that the business is issued a license by the State, unless a local jurisdiction specifies a different radius. The draft ordinance contains a provisions that cannabis businesses must comply with this 600-foot separation requirement, and also extends the separation requirement to apply to parks and other cannabis businesses. The draft ordinance further requires a 200 foot separation between retail cannabis uses and residential land use districts.

Additionally, the Cannabis Ad Hoc Committee expressed concerns about cannabis retailers being located in close proximity to each other. The Cannabis Ad Hoc Committee was concerned about the secondary impacts associated with cannabis retail businesses including concerns of loitering, crime, and possible public cannabis consumption. A recommendation was made that there should be a separation between these uses. Staff is recommending a 600 foot separation requirement as this is the same separation requirement imposed by State law from other sensitive uses. Rather than cause a further decrease in the potential number and concentration of retail cannabis uses through greater separation requirements, an overall cap is recommended as discussed below.

Limits on Number of Cannabis Retailers

The Cannabis Ad Hoc Committee expressed concerns about the possible concentration and proliferation of cannabis retailers in the Highway Serving Commercial Zone if the City were to allow these types of uses to operate in that Zone. The City currently has limited public safety resources at its disposal. Due to this limited capacity, there is a concern that having too many cannabis retailers operating in the City will place an unnecessary strain on already overtaxed law enforcement resources. Since this is a relatively new industry, there are still a lot of unknowns particularly because the Bureau of Cannabis Control has not yet adopted the final regulations for cannabis retailers. Therefore, in order to err on the side of not taking on more than it can handle, the Cannabis Ad Hoc Committee recommended limiting the number of cannabis retailers that can operate in the City. Staff was tasked with determining the best approach to limit the number of cannabis retailers in the City.

There are a couple of options available to the City if it wants to limit the number of cannabis retailers. The City could impose greater separation requirements between cannabis retailers which would necessarily decrease the number of retailers that are permitted to operate in the City. The Highway Serving Commercial Zoning District is approximately 8000 linear feet in length. If the City imposes a 1,000 foot separation requirement between cannabis retailers, this would result in approximately 8 cannabis retailers being eligible to operate in the City. If the City increased that separation requirement to half a mile, this would result in approximately 3 cannabis retailers being eligible to operate in the City.

The recommended approach is that the City only allow one cannabis retailer for every 10,000 residents. The City has approximately 31,230 residents. This means that based
on current population figures, there would only be three cannabis retailers that would be permitted to operate in the City. The rationale for this type of limit is that it will allow the City to closely monitor these businesses to help ensure that they do not create public health and safety concerns for residents and visitors. In the past, the City has experienced problems at the illegal cannabis dispensaries that operate in the City. Most recently, on June 23, 2018, there was an armed robbery at an illegal cannabis dispensary in the City that resulted in the perpetrators shooting and stabbing five people who were at the dispensary. The City is concerned is that given the limited police resources, having more than three cannabis retailers would pose a public health and safety risk. Once those three cannabis retailers have operated for some time, and have a track record of not posing a risk to the community, the City can consider allowing additional cannabis retailers to operate in the City.

Moreover, according to a Gallup poll conducted in 2016, 13% of adults in the United States report that they smoke cannabis. According, to Weed Maps which tracks the locations of cannabis dispensaries/retailers, there are currently four storefront dispensaries that are operating in the City. If the City allows one cannabis retailer for every 10,000 residents, this will likely be sufficient to serve the demand for cannabis consumption in the City. As noted above, the City can revisit increasing the number of retailers after there has been an opportunity to observe the impact that these businesses have on the community.

Regulations

Proposed regulations applicable to retail cannabis uses include but are not limited to the following:

- Application requirements. In addition to business descriptions and site and floor plans, applications will be required to include:
  - a business plan;
  - a list of all owners, employees, contractors, and volunteers;
  - a security plan and lighting plan, and;
  - a designated community relations representative
- Personnel requirements. Personnel must be at least 21 years of age or older, and must have required identification on them at all times.
- Security requirements. Security measures including a requirement that the cannabis business maintain a 24-hour security guard, video surveillance system, alarm system, and that cannabis and cannabis products be securely stored.
- Signage requirements. Cannabis retailers must post signs advising the public that public consumption and consumption on the cannabis retailers premises is prohibited.
- Waste management and odor regulations. Regulations to prevent cannabis odors from traveling outdoors and to ensure that any cannabis waste is securely disposed.
- Hours of operation. Cannabis retailers may only be open to the public between 8 a.m. to 10 p.m.
- Track and trace. Cannabis retailers must comply with the track and trace system.
- Indemnification. Cannabis retailers must indemnify the City against any lawsuit resulting from the approval of the conditional use permit.
ENVIRONMENTAL DETERMINATION:

California Environmental Quality Act.

Staff finds that this Ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to the State CEQA Guidelines Section 15060(c)(3), because it is not a Project as defined by the CEQA Guidelines Section 15378. Adoption of the Ordinance does not have the potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. Further projects subject to the Ordinance will require a discretionary permit and CEQA review, and will be analyzed at the appropriate time in accordance with CEQA.

Staff further finds and determines that this Ordinance is exempt from review under the CEQA and the State CEQA Guidelines Section 15061(b)(1) which exempts a project from CEQA if the project is exempt by statute. Business and Professions Code section 26055(h) provides that Division 13 (commencing with Section 21000) of the Public Resources Code does not apply to the adoption of an ordinance, rule, or regulation by a local jurisdiction that requires discretionary review and approval of permits, licenses, or other authorizations to engage in commercial cannabis activity. Pursuant to that exemption, the City is providing that discretionary review for applications for cannabis conditional use permits will be required to include any applicable environmental review pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code.

Multiple Species Habitat Conservation Plan (MSHCP).

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

REQUIRED FINDINGS FOR ZONING TEXT AMENDMENT:

Finding No. 1: Proposed Zone Text Amendment No. 18-97503 is consistent with the goals and policies of the General Plan.

Findings of Fact: Proposed Zone Text Amendment No. 18-97503 is consistent with the goals and policies of the General Plan. Unregulated retail cannabis activities can adversely affect the health, safety and well-being of City residents. The unregulated retail sales of cannabis can lead to an increase in the frequency of robberies and similar crimes. Retail cannabis uses or other concentration of cannabis uses in any location or premises without adequate regulations increases the risk that surrounding homes or businesses may be negatively impacted. The Banning Municipal Code currently bans all cannabis uses within the City. It is in the public interest to regulate cannabis, to allow for responsible and lawful retail cannabis uses in the City. With adequate regulation and oversight, limited retail cannabis activity is consistent with the following General Plan goals and policies:
Land Use Element:

Commercial Goal

Complementary commercial uses which meet the needs of the City’s residents, increase the City’s revenues, and provide a range of employment opportunities.

Economic Development Element:

Goal

A balanced, broadly-based economy that provides a full range of economic and employment opportunities, while maintaining high standards of development and environmental protection.

Policy 1

General Plan land use designations and allocations will facilitate a broad range of residential, commercial, industrial and institutional development opportunities.

Policy 2

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.

Finding No. 2: Proposed Zone Text Amendment No. 18-97503 is internally consistent with the Zoning Ordinance.

Findings of Fact: Proposed Zone Text Amendment No. 18-97503 is consistent with the purpose and objective of the Zoning Ordinance to ensure orderly development of uses and lands within the City to protect the public health, safety, and welfare. The proposed amendments will protect the public health, safety, and welfare of the residents of the City by reasonably regulating retail cannabis businesses so as to avoid the risks of criminal activity, malodorous smells, and other impacts to nearby commercial and/or residential uses.

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

Findings of Fact: In accordance with the requirements of the California Environmental Quality Act ("CEQA"), the Planning Commission finds and determines that this Ordinance is not subject to CEQA pursuant to the State CEQA Guidelines Section 15060(c)(3), because it is not a Project as defined by the CEQA Guidelines Section 15378. Adoption
of the Ordinance does not have the potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. Further projects subject to this Ordinance will require a discretionary permit and CEQA review, and will be analyzed at the appropriate time in accordance with CEQA.

The Planning Commission has analyzed proposed Zone Text Amendment No. 18-97503 and has determined that, pursuant to California Business and Professions Code Section 26055(h), CEQA "does not apply to the adoption of an ordinance, rule, or regulation by a local jurisdiction that requires discretionary review and approval of permits, licenses, or other authorizations to engage in commercial cannabis activity", provided that said law, ordinance, rule, or regulations shall include any applicable environmental review pursuant to Division 13 of the Public Resources Code. As this Ordinance includes required CEQA compliance for individual conditional use permit applications for commercial cannabis businesses, the CEQA exemption applies to the adoption of this Ordinance.

PUBLIC COMMUNICATION:

This hearing was advertised in the Record Gazette newspaper on September 21, 2018, and notices were mailed to all property owners within the Highway Servicing Commercial zone of the City and within a 300-foot radius of the Highway Serving Commercial zone in compliance with the City’s notifying requirements for public hearings.

PREPARED BY:

Patty Nevins
Community Development Director

PC Attachments:

1. PC Resolution No. 2018-18
2. Draft City Council Ordinance
3. Public Hearing Notice (PHN)
RESOLUTION 2018-18

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BANNING, CALIFORNIA RECOMMENDING APPROVAL TO THE CITY COUNCIL OF A CATEGORICAL EXEMPTION FROM CEQA AND APPROVAL OF ZONING TEXT AMENDMENT 18-97503 TO AMEND TITLE 17 “ZONING” OF THE BANNING MUNICIPAL CODE TO ADD CHAPTER 17.54, “CANNABIS RETAIL CONDITIONAL USE PERMITS” TO ALLOW CANNABIS RETAILERS IN THE HIGHWAY SERVING COMMERCIAL ZONING DISTRICT WITH APPROVAL OF A CANNABIS CONDITIONAL USE PERMIT

WHEREAS, on October 9, 2015 Governor Brown signed Assembly Bill 243, Assembly Bill No. 266, and Senate Bill 643 into law, which collectively were known as the Medical Cannabis Regulation and Safety Act (hereinafter “MCRSA”). The MCRSA established a State regulatory and licensing scheme for commercial medical cannabis businesses; and

WHEREAS, on November 8, 2016, California voters approved Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act (“AUMA”). The AUMA made it lawful under State and local law for persons 21 years of age or older to possess and cultivate limited quantities of cannabis for personal use. The AUMA also established a State regulatory and licensing scheme for commercial adult-use cannabis businesses; and

WHEREAS, on June 27, 2017, the Governor signed into law Senate Bill 94 which repealed the MCRSA, included certain provisions of the MCRSA in the licensing provisions of the AUMA, and created a single regulatory scheme for both medicinal and adult-use cannabis known as the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”). The MAUCRSA retains the provisions in the MCRSA and the AUMA that granted local jurisdictions control over whether cannabis businesses could operate in a particular jurisdiction. Specifically, California Business and Professions Code section 26200 provides that the MAUCRSA shall not be interpreted to supersede or limit authority of a local jurisdiction to adopt and enforce local ordinances to regulate businesses licensed under the MAUCRSA including, but not limited to, local zoning and land use requirements, business license requirements, and requirements related to reducing exposure to secondhand smoke, or to completely prohibit the establishment or operation of one or more businesses licensed by the State, within that local jurisdiction; and

WHEREAS, the Planning Commission finds that unregulated retail cannabis activities have the potential to adversely affect the public health and safety of Banning residents and those engaged in retail cannabis activity. The Planning Commission also finds that, if a retail cannabis business tax is adopted by the voters, that retail cannabis
businesses may provide financial benefits to the City as long as these businesses are sufficiently regulated by the City. The establishment of land use regulations for retail cannabis businesses will substantially reduce this threat to the public health and safety; and

WHEREAS, the Planning Commission desires to recommend the establishment of reasonable zoning and land use regulations regarding the operation of retail cannabis businesses that are intended to address the potential negative impacts of unregulated cannabis businesses; and

WHEREAS, the Planning Commission desires to recommend the establishment of zoning and land use regulations through this Ordinance for retail cannabis businesses that are companion elements to the City’s adoption of retail cannabis business permit regulations and the voter’s adoption of retail cannabis business taxes; and

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

WHEREAS, staff has reviewed the proposed Zoning Text Amendment for compliance with the California Environmental Quality Act (CEQA) and has determined that Zone Text Amendment 18-97503 is not a “project” under CEQA Guidelines section 15061(b)(3) and has further determined that the Zoning Text Amendment is further exempt from CEQA pursuant to CEQA Guidelines section 15061(b)(1); and

WHEREAS, on September 21, 2018, the City gave public notice by advertisement in the Record Gazette newspaper of a public hearing concerning Zone Text Amendment 18-97503 and the environmental findings, and also mailed notice of the public hearing to all property owners within the Highway Serving Commercial zone and within a 300-foot radius of the Highway Serving Commercial zone; and

WHEREAS, on October 3, 2018, 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 Zoning Text Amendment and at which the Planning Commission considered the Categorical Exemption and Zone Text Amendment 18-97503.

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

SECTION 1. ENVIRONMENTAL FINDINGS.

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

The Planning Commission finds and determines that this Ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to the State CEQA Guidelines Section 15060(c)(3), because it is not a Project as defined by the CEQA Guidelines Section 15378. Adoption of this Ordinance does not have the potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. Further projects subject to this Ordinance will require a discretionary permit and CEQA review, and will be analyzed at the appropriate time in accordance with CEQA.

The Planning Commission further finds and determines that this Ordinance is exempt from review under the CEQA and the State CEQA Guidelines Section 15061(b)(1) which exempts a project from CEQA if the project is exempt by statute. Business and Professions Code section 26055(h) provides that Division 13 (commencing with Section 21000) of the Public Resources Code does not apply to the adoption of an ordinance, rule, or regulation by a local jurisdiction that requires discretionary review and approval of permits, licenses, or other authorizations to engage in commercial cannabis activity. Pursuant to that exemption, the City is providing that discretionary review for applications for cannabis conditional use permits will be required to include any applicable environmental review pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code.

Multiple Species Habitat Conservation Plan (MSHCP)

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

SECTION 2. ADDITIONAL REQUIRED FINDINGS.

The California Government Code and Section 17.116.050 (Findings) of the City of Banning Municipal Code require that Zoning Text Amendments meet certain findings prior to the approval by the City Council. The following findings are provided in support of the approval of the Zoning Text Amendment No. 18-97503.

Finding No. 1: Proposed Zone Text Amendment No. 18-97503 is consistent with the goals and policies of the General Plan.

Findings of Fact: Proposed Zone Text Amendment No. 18-97503 is consistent with the goals and policies of the General Plan. Unregulated retail cannabis activities can adversely affect the health, safety and well-being of City residents. The unregulated retail sales of cannabis can lead to an increase in the frequency of robberies and similar crimes. Retail cannabis uses or other concentration of cannabis in any location or premises without adequate regulations increases the risk that surrounding homes or businesses may be negatively
impacted. The Banning Municipal Code currently bans all cannabis uses within the City. It is in the public interest to regulate cannabis, to allow for responsible and lawful retail cannabis uses in the City. With adequate regulation and oversight, limited retail cannabis activity is consistent with the following General Plan goals and policies:

**Land Use Element:**

**Commercial Goal**

Complementary commercial uses which meet the needs of the City’s residents, increase the City’s revenues, and provide a range of employment opportunities.

**Economic Development Element:**

**Goal**

A balanced, broadly-based economy that provides a full range of economic and employment opportunities, while maintaining high standards of development and environmental protection.

**Policy 1**

General Plan land use designations and allocations will facilitate a broad range of residential, commercial, industrial and institutional development opportunities.

**Policy 2**

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.

**Finding No. 2:** Proposed Zone Text Amendment No. 18-97503 is internally consistent with the Zoning Ordinance.

**Findings of Fact:** Proposed Zone Text Amendment No. 18-97503 is consistent with the purpose and objective of the Zoning Ordinance to ensure orderly development of uses and lands within the City to protect the public health, safety, and welfare. The proposed amendments will protect the public health, safety, and welfare of the residents of the City by reasonably regulating retail cannabis businesses so as to avoid the risks of criminal activity, malodorous smells, and other impacts to nearby commercial and residential uses.
Finding No. 3: The Planning Commission has independently reviewed and considered the requirements of the California Environmental Quality Act.

Findings of Fact: In accordance with the requirements of the California Environmental Quality Act ("CEQA"), the Planning Commission finds and determines that this Ordinance is not subject to CEQA pursuant to the State CEQA Guidelines Section 15060(c)(3), because it is not a Project as defined by the CEQA Guidelines Section 15378. Adoption of this Ordinance does not have the potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. Further projects subject to this Ordinance will require a discretionary permit and CEQA review, and will be analyzed at the appropriate time in accordance with CEQA.

The Planning Commission has analyzed proposed Zone Text Amendment No. 18-97503 and has determined that, pursuant to California Business and Professions Code Section 26055(h), CEQA “does not apply to the adoption of an ordinance, rule, or regulation by a local jurisdiction that requires discretionary review and approval of permits, licenses, or other authorizations to engage in commercial cannabis activity”, provided that said law, ordinance, rule, or regulations shall include any applicable environmental review pursuant to Division 13 of the Public Resources Code. As this Ordinance includes required CEQA compliance for individual conditional use permit applications for commercial cannabis businesses, the CEQA exemption applies to the adoption of this Ordinance.

SECTION 3. PLANNING COMMISSION ACTION.

The Planning Commission hereby takes the following action:

Adoption of Planning Commission Resolution 2018-18:

1. Recommending to the City Council the adoption of a Categorical Exemption for Zone Text Amendment 18-97503; and

2. Recommending to the City Council the adoption of Ordinance 1531 approving Zone Text Amendment 18-97503.

PASSED, APPROVED AND ADOPTED this 3rd day of October, 2018.
APPROVED AS TO FORM:

Serita Young, Assistant City Attorney
Richards Watson & Gershon

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, 2018-18, was duly adopted by the Planning Commission of the City of Banning, California, at a regular meeting thereof held on the 3rd day of October, 2018, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Sandra Calderon, Recording Secretary
City of Banning, California
ORDINANCE 1531

AN ORDINANCE OF THE CITY OF BANNING, CALIFORNIA, APPROVING A CATEGORICAL EXEMPTION FROM CEQA AND APPROVING ZONING ORDINANCE AMENDMENT 18-97503 TO AMEND TITLE 17 “ZONING” OF THE BANNING MUNICIPAL CODE TO ADD A NEW CHAPTER 17.54, “CANNABIS RETAILER CONDITIONAL USE PERMITS” TO ALLOW CANNABIS RETAILERS IN THE HIGHWAY SERVING COMMERCIAL ZONE WITH APPROVAL OF A CANNABIS CONDITIONAL USE PERMIT, AND MAKING THE ALLOWANCE FOR, AND REGULATION OF, THESE BUSINESSES CONTINGENT UPON THE VOTER’S APPROVAL OF A TAX MEASURE (MEASURE O) ON THE NOVEMBER 6, 2018 GENERAL MUNICIPAL ELECTION BALLOT

WHEREAS, on October 9, 2015 Governor Brown signed Assembly Bill 243, Assembly Bill No. 266, and Senate Bill 643 into law, which collectively were known as the Medical Cannabis Regulation and Safety Act (hereinafter “MCRSA”). The MCRSA established a State regulatory and licensing scheme for commercial medical cannabis businesses; and

WHEREAS, on November 8, 2016, California voters approved Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act (“AUMA”). The AUMA made it lawful under State and local law for persons 21 years of age or older to possess and cultivate limited quantities of cannabis for personal use. The AUMA also established a State regulatory and licensing scheme for commercial adult-use cannabis businesses; and

WHEREAS, on June 27, 2017, the Governor signed into law Senate Bill 94 which repealed the MCRSA, included certain provisions of the MCRSA in the licensing provisions of the AUMA, and created a single regulatory scheme for both medicinal and adult-use cannabis known as the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”). The MAUCRSA retains the provisions in the MCRSA and the AUMA that granted local jurisdictions control over whether cannabis businesses could operate in a particular jurisdiction. Specifically, California Business and Professions Code section 26200 provides that the MAUCRSA shall not be interpreted to supersede or limit authority of a local jurisdiction to adopt and enforce local ordinances to regulate businesses licensed under the MAUCRSA including, but not limited to, local zoning and land use requirements, business license requirements, and requirements related to reducing exposure to secondhand smoke, or to completely prohibit the establishment or operation of one or more businesses licensed by the State, within that local jurisdiction; and

WHEREAS, the City Council finds that unregulated retail cannabis sales activity has the potential to adversely affect the public health and safety of Banning residents and
those engaged in retail cannabis activity. For example, on June 23, 2018, there was an armed robbery at an illegal cannabis dispensary in the City that resulted in the perpetrators shooting and stabbing five people who were at the dispensary. The City is aware that similar incidents have occurred at other cannabis dispensaries/retailers due primarily to the fact that these are often all-cash businesses, thus making them magnets for crime; and

WHEREAS, the City Council also finds that, if a retail cannabis business tax is adopted by the voters, that limited retail commercial cannabis sales activity may provide financial benefits to the City as long as they are sufficiently regulated by the City. The establishment of land use regulations for cannabis retailers will substantially reduce this threat to the public health and safety; and

WHEREAS, the City Council desires to establish reasonable zoning and land use regulations regarding the operation of cannabis retailers that are intended to address the potential negative impacts of unregulated cannabis businesses. These regulations include security measures to protect the employees and patrons of the cannabis retail business, as well as the public as a whole; and

WHEREAS, the regulations also include limiting the number of retailers to one for every 10,000 residents. This limitation will ensure that the City can closely monitor these businesses so that they do not create public health and safety risks to residents and visitors. Additionally, this limitation will ensure that an unnecessary strain is not placed on the City’s already overtaxed law enforcement personnel. The limitation on the number of cannabis retailers is proportional to existing demand as evidenced by the number of illegal cannabis dispensaries that are currently operating in the City; and

WHEREAS, the City Council desires to establish zoning and land use regulations through this Ordinance for cannabis retailers that are companion elements to the City’s adoption of cannabis business permit regulations and the voter’s adoption of cannabis business taxes; and

WHEREAS, on October 3, 2018, the Planning Commission of the City of Banning held a public hearing regarding this Ordinance 1531, at which time all persons interested in the contents of this Ordinance had the opportunity and did address the Planning Commission on these matters specific to the establishment of zoning and land use regulations for retail cannabis sales facilities. Following the receipt of public testimony, the Planning Commission closed the public hearing. At the conclusion of the Planning Commission hearing, and after due consideration of the testimony, the Planning Commission adopted Resolution No. 2018-18 recommending that the City Council adopt this Ordinance to allow cannabis retailers as a conditionally permitted use in the Highway Serving Commercial zone; and

WHEREAS, the City Council of the City of Banning held a public hearing on the proposed Ordinance 1531, at which time all persons interested in this Ordinance had the opportunity and did address the City Council on these matters. Following the receipt of public testimony, the City Council closed the public hearing; and
WHEREAS, this Ordinance, Ordinance 1531, will only go into effect if the Banning voters approve a tax measure (Measure O) imposing taxes on these cannabis retailers at the November 6, 2018 municipal election; and

WHEREAS, all legal prerequisites to the adoption of this Ordinance have occurred.

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

SECTION 1. ENVIRONMENTAL FINDINGS

A. California Environmental Quality Act (CEQA)

The City Council finds and determines that this Ordinance is not subject to the California Environmental Quality Act (“CEQA”) pursuant to the State CEQA Guidelines Section 15060(c)(3), because it is not a project as defined by the CEQA Guidelines Section 15378. Adoption of the Ordinance does not have the potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. Further projects subject to the Ordinance will require a discretionary permit and CEQA review, and will be analyzed at the appropriate time in accordance with CEQA.

The City Council further finds and determines that this Ordinance is exempt from review under the CEQA and the State CEQA Guidelines Section 15061(b)(1) which exempts a project from CEQA if the project is exempt by statute. Business and Professions Code section 26055(h) provides that Division 13 (commencing with Section 21000) of the Public Resources Code does not apply to the adoption of an ordinance, rule, or regulation by a local jurisdiction that requires discretionary review and approval of permits, licenses, or other authorizations to engage in commercial cannabis activity. Pursuant to that exemption, the City is providing that discretionary review for applications for cannabis conditional use permits will be required to include any applicable environmental review pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code.

The City Council hereby adopts a categorical exemption for this Ordinance and directs staff to file a Notice of Exemption.

B. Multiple Species Habitat Conservation Plan (MSHCP)

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

SECTION 2. ADDITIONAL REQUIRED FINDINGS

The California Government Code and Section 17.116.050 (Findings) of the City of Banning Municipal Code require that Zoning Text Amendments meet certain findings prior
to the approval by the City Council. The following findings are provided in support of the approval of the Zoning Text Amendment No. 18-97503.

Finding No. 1: Proposed Zone Text Amendment No. 18-97503 is consistent with the goals and policies of the General Plan.

Findings of Fact: Proposed Zone Text Amendment No. 18-97503 is consistent with the goals and policies of the General Plan. Commercial cannabis activities can adversely affect the health, safety and well-being of City residents. The unregulated retail sales of cannabis can also lead to an increase in the frequency of robberies and similar crimes. The concentration of cannabis in any location or premises without adequate regulations increases the risk that surrounding homes or businesses may be negatively impacted. The Banning Municipal Code currently bans all retail cannabis uses within the City. It is in the public interest to regulate cannabis, to allow for responsible and lawful retail cannabis sales in the City. With adequate regulation and oversight limited commercial cannabis activity are consistent with the following General Plan goals and policies:

Economic Development Element:

Goal

A balanced, broadly-based economy that provides a full range of economic and employment opportunities, while maintaining high standards of development and environmental protection.

Policy 1

General Plan land use designations and allocations will facilitate a broad range of residential, commercial, industrial and institutional development opportunities.

Policy 2

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.

Finding No. 2: Proposed Zone Text Amendment No. 18-97503 is internally consistent with the Zoning Ordinance.

Findings of Fact: Proposed Zone Text Amendment No. 18-97503 is consistent with the purpose and objective of the Zoning Ordinance to ensure orderly development of uses and lands within the City to protect the public
health, safety, and welfare. The proposed amendments will protect the public health, safety, and welfare of the residents of the City by reasonably regulating retail cannabis sales so as to avoid the risks of criminal activity, malodorous smells, and degradation of the natural environment.

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

**Findings of Fact:** In accordance with the requirements of the California Environmental Quality Act ("CEQA"), the City Council finds and determines that this Ordinance is not subject to CEQA pursuant to the State CEQA Guidelines Section 15060(c)(3), because it is not a project as defined by the CEQA Guidelines Section 15378. Adoption of this Ordinance does not have the potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. Further projects subject to this Ordinance will require a discretionary permit and CEQA review, and will be analyzed at the appropriate time in accordance with CEQA.

The City Council has analyzed proposed Zone Text Amendment No. 18-97503 and has determined that, pursuant to California Business and Professions Code Section 26055(h), CEQA "...does not apply to the adoption of an ordinance, rule, or regulation by a local jurisdiction that requires discretionary review and approval of permits, licenses, or other authorizations to engage in commercial cannabis activity", provided that said law, ordinance, rule, or regulations shall include any applicable environmental review pursuant to Division 13 of the Public Resources Code. As this Ordinance includes required CEQA compliance for individual conditional use permit applications for commercial cannabis businesses, the CEQA exemption applies to the adoption of this Ordinance.

**SECTION 3. ZONE TEXT AMENDMENT NO. 18-97503**

Title 17 (Zoning) of the Banning Municipal Code is amended as follows:

A. The alphabetized list of definitions provided for in Section 17.04.070 (Definitions) of Chapter 17.04 (Basic Provisions) of Title 17 (Zoning) of the Banning Municipal Code is hereby amended to add the definition of "Cannabis Retailer" as follows:

**Cannabis Retailer** means a cannabis business that engages in the retail sale and delivery of cannabis or cannabis products to customers.

B. Table 17.08.020 of Section 17.08.020 (Permitted, conditional and prohibited uses.) of Chapter 17.08 (Residential Districts) of Title 17 (Zoning) of the
Banning Municipal Code is hereby amended to add “Cannabis Retailer” to the table, with all other provisions of Table 17.08.020 remaining unchanged:

<table>
<thead>
<tr>
<th>Zone</th>
<th>DC</th>
<th>GC</th>
<th>HSC</th>
<th>PO</th>
<th>I</th>
<th>AI</th>
<th>BP</th>
<th>IMR</th>
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<tr>
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<td>X</td>
<td>X</td>
<td>X</td>
</tr>
</tbody>
</table>

8. Cannabis Retailers shall require approval of a Cannabis Conditional Use Permit by the City Council, after recommendation by the Planning Commission, and shall be subject to the requirements of Chapter 17.54.

D. Table 17.12.050 (Use Specific Development Standards.) of Section 17.12.050 (Use specific standards) of Chapter 17.12 (Commercial and Industrial Districts) of Title 17 (Zoning) of the Banning Municipal Code is hereby amended to add “Cannabis Retailer” to the list of Use-Specific Development Standards:

<table>
<thead>
<tr>
<th>Zone</th>
<th>DC</th>
<th>GC</th>
<th>HSC</th>
<th>PO</th>
<th>I</th>
<th>AI</th>
<th>BP</th>
<th>IMR</th>
</tr>
</thead>
<tbody>
<tr>
<td>Y. Cannabis Retailer</td>
<td>X</td>
<td>*</td>
<td></td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
</tbody>
</table>

Y. Cannabis Retailers shall require approval of a Cannabis Conditional Use Permit by the City Council, after recommendation by the Planning Commission, and shall be subject to the requirements of Chapter 17.54.

E. Table 17.16.020 (Permitted, conditional and prohibited public facilities uses.) of Section 17.16.020 (Permitted, conditional, and prohibited uses) of Chapter 17.16 (Public Facilities Districts) of Title 17 (Zoning) of the Banning Municipal
Code is hereby amended to add "Cannabis Retailer" to the table, with all other provisions of Table 17.16.020 remaining unchanged:

<table>
<thead>
<tr>
<th>Zone</th>
<th>PF-A</th>
<th>PF-G</th>
<th>PF-F</th>
<th>PF-S</th>
<th>PF-H</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cannabis Retailer</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
</tbody>
</table>

F. Table 17.20.020 (Permitted, conditional and prohibited open space uses.) of Section 17.20.020 (Permitted, conditional and prohibited uses) of Chapter 17.20 (Open Space Districts) of Title 17 (Zoning) of the Banning Municipal Code is hereby amended to add "Cannabis Retailer" to the table, with all other provisions of Table 17.20.020 remaining unchanged:

<table>
<thead>
<tr>
<th>Zone</th>
<th>OS-R</th>
<th>OS-PA</th>
<th>OS-PU</th>
<th>OS-H</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cannabis Retailer</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
</tbody>
</table>

G. Chapter 17.54 (Cannabis Conditional Use Permits) is hereby added to Title 17 (Zoning) of the Banning Municipal Code to read as follows:

"Chapter 17.54 Cannabis Retailer Conditional Use Permits"

**Sections**

17.54.010 Definitions.
17.54.020 Cannabis Retailer Conditional Use Permit Required.
17.54.030 Cannabis Retailer Conditional Use Permit - Fees and Terms.
17.54.040 Cannabis Retailer Conditional Use Permit Application Requirements.
17.54.050 Additional Application Requirements.
17.54.060 Procedures and Findings for Approval of Cannabis Retailer Conditional Use Permit.
17.54.070 Approval of Cannabis Retailer Conditional Use Permit With Conditions.
17.54.080 Separation Requirements and Other Limitations.
17.54.090 Premises.
17.54.100 Personnel and Visitors.
17.54.110 Security.
17.54.120 Track and Trace.
17.54.130 Signage.
17.54.140 Cannabis Waste Management.
17.54.150 General Sanitary Requirements.
17.54.160 Odor Control.
17.54.170 Operating Requirements.
17.54.180 Other Provisions.
17.54.190 Indemnification.
17.54.010 Definitions

For the purpose of this Chapter, the following words and phrases shall be defined as follows:

A. “Applicant” means an owner applying for a cannabis retailer conditional use permit pursuant to this Chapter.

B. “Bureau” means the Bureau of Cannabis Control within the California Department of Consumer Affairs.

C. “Cannabis” means all parts of the plant Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. “Cannabis” also means the separated resin, whether crude or purified, obtained from cannabis. “Cannabis” does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this Chapter, “cannabis” does not mean “industrial hemp” as defined by Section 11018.5 of the Health and Safety Code.

D. “Cannabis business” means a cannabis retailer.

E. “Cannabis products” has the same meaning as in Section 11018.1 of the Health and Safety Code.

F. “Cannabis retailer” means a cannabis business that engages in the retail sale and delivery of cannabis or cannabis products to customers.

G. “City” means the City of Banning.

H. “City Manager” means the City Manager or his/her designee.

I. “Convicted” or “Conviction” means a plea or verdict of guilty or a conviction following a plea of nolo contendere was entered, but does not include any plea, verdict, or conviction that is expunged pursuant to California law or a similar federal or state law where the expungement was granted.

J. “Commercial cannabis activity” includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery or sale of cannabis and cannabis products, or engaging in any other cannabis activity that requires a State license issued by a licensing authority.

K. “Financial interest” shall have the meaning set forth in Section 5004 of Title 16 of the California Code of Regulations, as the same may be amended from time to time.
L. “Licensing authority” means the Bureau of Cannabis Control; CalCannabis Cultivation Licensing, a division of the California Department of Food and Agriculture (CDFA); the California Department of Public Health’s Manufactured Cannabis Safety Branch; or any other State cannabis licensing authority.

M. “MAUCRSA” means the Medicinal and Adult-Use Cannabis Regulation and Safety Act.

N. “Owner” means any of the following:

1. A person with any ownership interest, unless the interest is solely a security, lien, or encumbrance.

2. The chief executive officer of a nonprofit or other entity.

3. A member of the board of directors of a nonprofit.

4. An individual who will be participating in the direction, control, or management of the person applying for a permit. An owner who is an individual participating in the direction, control, or management of the commercial cannabis business includes any of the following:

   a) A partner of a cannabis business that is organized as a partnership.

   b) A member of a limited liability company of a cannabis business that is organized as a limited liability company.

   c) An officer or director of a cannabis business that is organized as a corporation.

O. “Permit” means a cannabis retailer conditional use permit issued pursuant to this Chapter.

P. “Permittee” means any person holding a cannabis conditional use permit under this Chapter.

Q. “Person” includes any individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.

R. “Premises” means the designated structure or structures and land specified in the application that is owned, leased, or otherwise held under the control of the applicant where the cannabis business will be conducted.

S. “Significant discrepancy” means a difference in actual inventory compared to records pertaining to inventory of at least one thousand dollars ($1,000).
For purposes of determining a discrepancy, the acquisition price of the cannabis goods shall be used to determine the value of cannabis goods in a permittee’s inventory.

17.54.020 Cannabis Retailer Conditional Use Permit Required.

A. Except as expressly authorized pursuant to this Title (Title 17, Zoning), all commercial cannabis activity is prohibited in the City.

B. Prior to initiating operations and as a continuing requisite to operating a cannabis business, the person(s) wishing to operate a cannabis business shall:

1. Obtain and maintain a validly issued cannabis conditional use permit approved by the City Council after recommendation by the Planning Commission, and comply with all conditions of approval.

2. Obtain and maintain a State license to engage in the specific cannabis business being operated on the premises.

3. Obtain and maintain a cannabis retailer regulatory permit as required by Chapter 5.33 of this Code.

4. Obtain and maintain a business license or any other license or permit required by this Code.

17.54.030 Cannabis Retailer Conditional Use Permit - Application Fees and Terms.

A. No cannabis retailer conditional use permit application shall be processed unless the applicant pays the nonrefundable application fee in the amount to be established by resolution of the City Council. No cannabis retailer conditional use permit shall be issued unless the applicant pays the nonrefundable permit fee in the amounts to be established by resolution of the City Council.

B. No cannabis retailer conditional use permit shall be issued if the applicant has an ownership or other direct financial interest in any other commercial cannabis business operating in the City.

17.54.040 Cannabis Retailer Conditional Use Permit Application Requirements.

An applicant shall file the following information with the City at the time of application for a cannabis retailer conditional use permit:

A. A completed cannabis retailer conditional use permit application, together with the application fee in an amount to be established by resolution of the City Council.
B. Proof of a cannabis regulatory permit jointly approved by the City Manager and Chief of Police. The owner(s) identified on the cannabis retailer conditional use permit application shall be same owner(s) as listed on the cannabis retailer regulatory permit issued pursuant to Chapter 5.33.

C. An operating plan for the proposed cannabis business that includes:

1. A general description of the types of products and/or services to be sold or provided by the cannabis business;

2. A site plan, drawn to scale and professionally prepared by a licensed civil engineer or architect, of the parcel of property on which the proposed cannabis business will be located. The site plan shall include the outline of all structures, driveways, parking and landscape areas, and boundaries of the parcel.

3. A floor plan, drawn to scale and professionally prepared by a licensed civil engineer or architect, designating all interior dimensions of the premises, the proposed use of all spaces, identification of limited access areas, areas of ingress and egress, and all security camera locations.

4. An evaluation of accessibility by the physically disabled to and within the building and identification of any planned accessibility improvements to comply with all state and federal disability access laws, including, but not limited to, Title 24 of the California Code of Regulations and the Americans with Disabilities Act. The evaluation must be professionally prepared by a licensed civil engineer or architect.

5. A business plan describing how the cannabis business will operate in accordance with the Banning Municipal Code, state law, and other applicable regulations. The business plan must include plans for cash handling and transportation of cannabis and cannabis products to and from the premises.

6. A list of all owners, employees, independent contractors, and volunteers.

D. Neighborhood Context Map. An accurate straight-line drawing depicting the boundaries of the premises, the boundaries of all other properties within 600 feet of the premises, and the uses of those properties, specifically including, but not limited to, any use identified in Business and Professions Code section 26054(b), and any park. The map must also identify any residentially zoned parcel that is located within 200 feet of the premises. The map must be professionally prepared by a licensed civil engineer or architect.

E. Security plan. A detailed security plan outlining the measures that will be taken to ensure the safety of persons and property on the premises. The security plan must be prepared by a qualified professional.
F. Lighting Plan. A lighting plan showing existing and proposed exterior and interior lighting levels that would be the minimum necessary to provide adequate security lighting for the use.

G. The name, phone number, and email address of an on-site community relations representative or staff member or other representative to whom the City can provide notice if there are operating problems associated with the cannabis business or refer members of the public who may have complaints or concerns regarding the cannabis business. This information shall be available to neighboring businesses and residences located within one hundred feet of the cannabis business, as measured in a straight line without regard to intervening structures.

17.54.050 Additional Application Requirements.

A. Each cannabis business shall obtain a separate conditional use permit.

B. The applicant shall submit proof that the applicant is, or will be, entitled to possession of the premises for which application is made.

C. The applicant shall submit proof of the nature of the cannabis business’s organizational status, such as articles of incorporation, by-laws, partnership agreements, and other documentation which may be required by the City.

17.54.060 Procedures and Findings for Approval of Cannabis Retailer Conditional Use Permit.

A. A cannabis retailer conditional use permit shall be processed in accordance with the procedures set forth in Chapter 17.52, Conditional Use Permits, with the following exceptions:

1. Any provision that requires the approval by the Planning Commission with appeal to the City Council shall be replaced with the requirement that the Planning Commission make a recommendation on the cannabis retailer conditional use permit and that the approval of such permit shall be made by the City Council.

2. Sections 17.52.020 (Application procedures) and 17.52.080 (Modifications) shall not apply.

3. Any procedures pertaining to noticing and the setting of a public hearing before the Planning Commission shall also apply to the City Council.

B. An applicant for a cannabis retailer conditional use permit shall comply with the California Environmental Quality Act (“CEQA”). No cannabis retailer conditional use permit shall be granted until the requisite CEQA review has been conducted.
17.54.070 Approval of Cannabis Retailer Conditional Use Permit with Conditions

A. Upon approval of a cannabis conditional use permit, the City Council may impose conditions in excess of the requirements set forth in this Chapter including, but not limited to, conditions relating to hours of operation, the operation of any cannabis business, restrictions relating to the deployment or use of the types of equipment used on the premises, and set back requirements.

B. The City may grant a cannabis conditional use permit prior to the applicant having obtained a state license from a licensing authority; however, no approved cannabis business may receive a certificate of occupancy nor operate in the City prior to possessing the requisite state and local licenses and permits.

C. All cannabis businesses must pay all applicable taxes pursuant to all federal, state, and local laws.

D. Cannabis businesses shall comply with all cannabis state laws and regulations.

17.54.080 Separation Requirements and Other Limitations.

A. Only one cannabis retailer for every 10,000 residents may lawfully operate in the City, with any fraction of that ratio being rounded down to the nearest whole number.

B. No cannabis business shall be located within a 200 foot radius of any residential zoning district. No cannabis business shall be located within a 600 foot radius of any day care center, youth center, public or private school providing instruction in kindergarten or any of grades 1-12, park, or any other retail cannabis business that is lawfully operating in the City and that is in existence at the time the cannabis conditional use permit is issued. The 600-foot distance requirement does not include any private school in which education is primarily conducted in a private home or a family day care home. The distances specified in this subsection shall be the horizontal distance measured in a straight line without regard to intervening structures, from the property line of the lot on which the cannabis business is located to the nearest property line of those uses described in this subsection.

17.54.090 Premises.

A. All cannabis businesses shall be conducted only in the interior of enclosed structures, facilities and buildings and all operations including the storage or cultivation of cannabis plants at any stage of growth shall not be visible from the exterior of any structure, facility, or building. There shall be no outdoor storage of any kind associated with the cannabis business.

B. Loading areas and loading docks shall be located on the side or rear of the lot, and shall be screened by solid, decorative walls.
C. Hours of operation shall be as approved with the Conditional Use Permit.

D. Cannabis businesses shall only be conducted on properties that are fully compliant with all Banning Municipal Code requirements, including required development standards such as parking, landscaping, etc.

E. All entrances into the premises shall be locked at all times with entry controlled by the permittee’s managers and staff.

F. The main entrance shall be maintained clear of barriers, landscaping, and other obstructions. Inside of the main entrance, there shall be a lobby to receive persons into the site and to verify whether they are allowed on the premises.

G. All commercial cannabis activity in any premises shall be separated from the main entrance and lobby, and cannabis and cannabis products shall be secured by a lock accessible only to managers and staff of the permittee.

H. A permittee shall not, without an approved amendment to the cannabis retailer conditional use permit, make a physical change, alteration, or modification of the premises that alters the premises or the use of the premises from the premises diagram filed with the permit application. Material or substantial changes, alterations or modifications requiring approval include, but are not limited to, the removal, creation, or relocation of a common entryway, doorway, passage, or a means of public entry or exit, when such common entryway, doorway or passage alters or changes limited-access areas within the premises.

I. A permittee shall not sublet the premises.

J. Inspections. The City shall have the right to enter all cannabis businesses from time to time upon 24-hour’s notice for the purpose of making reasonable inspections to observe and enforce compliance with this Chapter. Such inspections shall be limited to observing the licensed premises for purposes of determining whether the cannabis business is being operated or maintained in compliance with this Code, state law, and other applicable laws and regulations. Any cannabis business licensed pursuant to this Chapter may be required to demonstrate, upon demand by the City that the source and quantity of any cannabis or cannabis products found upon the licensed premises is in full compliance with any applicable local or state law or regulation.

17.54.100 Personnel and Visitors.

A. All agents, officers, or other persons acting for or employed by a cannabis business shall display a laminated or plastic-coated identification badge issued by the cannabis business at all times while engaging in commercial cannabis activity. The identification badge shall, at a minimum, include the cannabis business’s “Doing business as” name and city business license number, the employee’s first name, an employee number exclusively assigned to that employee for identification purposes, and
a color photograph of the employee that clearly shows the full front of the employee’s face and that is at least 1 inch in width and 1.5 inches in height.

B. Employees and Volunteers Age Requirement. A cannabis business shall not employ an individual less than twenty-one (21) years of age, nor may a cannabis business permit an individual less than twenty-one (21) years of age to volunteer at the cannabis business.

C. Visitors. Limited access areas of a cannabis business shall not be open to the general public. Any individual permitted to enter a limited access area who is not a person that has undergone a background check in accordance with Chapter 5.33 of this Code and is not listed on the premises’ worker list shall be considered a visitor. Notwithstanding the foregoing, state and local employees, or their official designees, shall not be considered a visitor provided the individual is on the licensed premises for purposes of official government business.

1. Visitors Identification and Record Requirements. Prior to permitting a visitor into a limited access area, a cannabis business must check the individual’s valid government issued identification. The visitor shall be required to sign the cannabis business’s visitor log, which must include the individual’s name, date of entry, and purpose for entry.

2. Visitors Must Be at Least Twenty-One (21) Years of Age. A cannabis business may not permit a visitor who is less than twenty-one (21) years of age to enter a limited access area.

3. Visitors Prohibited Conduct. A visitor shall not be permitted to engage in any commercial cannabis activity while on the premises.

4. A manager shall be on the site at all times that any other person, except a security guard, is on the site.

17.54.110 Security.

The premises of a cannabis business must comply with all of the following security requirements:

A. Main entrance and lobby. The premises shall have a building with a main entrance that is clearly visible from the public street or sidewalk. The main entrance shall be maintained clear of barriers, landscaping, and other obstructions. The premises shall have an area designed for the secure receipt of cannabis and cannabis goods from a licensed distributor.

B. Commercial-Grade Locks. All points of ingress and egress to a premises shall ensure the use of commercial-grade, nonresidential door locks or window locks.
C. A permittee shall hire or contract for 24-hour security personnel to provide security services for the premises. All security personnel hired or contracted for by the cannabis business shall comply with Chapters 11.4 and 11.5 of Division 3 of the Business and Professions Code.

D. Video Surveillance. The premises must be equipped with a video surveillance system that meets all of the requirements set forth in this subsection.

1. Each premises shall have a digital audio/video surveillance system with a minimum camera resolution of 1280 x 720 pixels.

2. The surveillance-system storage device or the cameras shall be transmission control protocol (TCP) capable of being accessed through the internet.

3. The video surveillance system shall at all times be able to effectively and clearly record images of the area under surveillance and shall capture audio such that all sounds are intelligible.

4. Each camera shall be permanently mounted and in a fixed location. Each camera shall be placed in a location that allows the camera to clearly record activity occurring within 20 feet of all points of entry and exit on the premises, and allows for the clear and certain identification of any person and activities in all areas required to be filmed under subsection 5 below.

5. Areas that shall be recorded on the audio/video surveillance system include the following:

a) Areas where cannabis goods are weighed, packed, stored, loaded, and unloaded for transportation, prepared, or moved within the premises;

b) Limited-access areas;

c) Security rooms;

d) Areas storing a surveillance-system storage device with at least one camera recording the access points to the secured surveillance recording area.

e) Entrances and exits to the premises.

f) Waste containers.

6. Cameras shall record continuously 24 hours per day and at a minimum of 15 frames per second (FPS).

7. The physical media or storage device on which surveillance recordings are stored shall be secured in a manner to protect the recording from tampering, fire, or theft.
8. Surveillance recordings shall be kept for a minimum of 90 days.

9. Surveillance recordings shall be monitored by a third party surveillance company.

10. Surveillance recordings are subject to inspection by the City, and shall be kept in a manner that allows the City to view and obtain copies of the recordings at the licensed premises upon not less than 24 hours advance notice. The permittee shall also send or otherwise provide copies of the recordings to the City upon reasonable notice by the City.

11. Recorded images shall clearly and accurately display the time and date. Time is to be measured in accordance with the United States National Institute Standards and Technology standards.

12. The video surveillance system shall be equipped with a failure notification system that provides notification to the permittee of any interruption or failure of the video surveillance system or video surveillance-system storage device.

13. The video surveillance system shall be equipped with a battery backup system capable of sustaining system operations in the case of an energy failure.

E. Alarm System. The premises shall have an audible interior and exterior security alarm system installed on all perimeter entry points and perimeter windows.

1. The alarm system shall be installed, maintained, monitored, and responded to by a security company licensed by the Department of Consumer Affairs, Bureau of Security and Investigative Services.

2. Upon request, a permittee shall make available to the City all information related to the alarm system.

F. Secure Storage of Product. Cannabis and cannabis products possessed by a cannabis business shall be kept and stored in a secured manner at all times.

G. Lighting. The business entrance(s) and all window areas of any cannabis business shall be illuminated during evening hours. The cannabis business shall comply with the City's lighting standards regarding fixture type, wattage, illumination levels, and shielding.

17.54.120 Track and Trace.
All permittees shall comply with the track and trace system established by the State of California and as further described in Sections 5048 through 5052, inclusive, of Title 16 of the California Code of Regulations, as the same may be amended from time to time.

17.54.130 Signage.

The premises must comply with the following signage requirements.

A. Business signage shall be limited to the name of the cannabis business only, shall be in compliance with the City’s sign code, and shall contain no advertising of any companies, brands, products, goods, or services.

B. A sign shall be posted in a conspicuous place near each point of public access which shall be not less than twelve (12) inches wide and twelve (12) inches long, composed of letters not less than one inch in height, stating “All Activities Monitored by Video Camera.”

C. Limited access areas shall be clearly identified by the posting of a sign which shall be not less than twelve inches wide and twelve inches long, composed of letters not less than one-half inch in height, which shall state, “Limited Access Area—Authorized Personnel Only.”

D. A sign shall be posted stating “Smoking, vaporizing, ingesting, or otherwise consuming cannabis or cannabis products on these premises, in their vicinity, or in any public place is prohibited and a violation of the Banning Municipal Code.”

17.54.140 Cannabis Waste Management.

Cannabis waste disposal shall be conducted as follows:

A. Cannabis Waste. Cannabis waste must be made unusable and unrecognizable prior to leaving the licensed premises by grinding it and incorporating it with fifty percent non-medicinal cannabis waste.

B. Cannabis waste must be placed in either a trash enclosure or a trash receptacle for which either is locked with a commercial grade lock that is only accessible by the owner, manager, or employee of the cannabis business and any waste disposal company that provide waste disposal services for the cannabis business.

17.54.150 General Sanitary Requirements.

A. A cannabis business must ensure that its premises is maintained in a sanitary manner and activities on its premises are conducted in a sanitary manner.

B. All facilities of a cannabis business must have adequate and sufficient access to bathrooms and hand-washing facilities with running water at a suitable temperature.
17.54.160  Odor Control.

A. A cannabis business must have a ventilation and filtration system installed that shall prevent cannabis plant odors from exiting the interior of the structure and shall comply with all related Building Code requirements.

The ventilation and filtration system must be approved by the Building Official and installed prior to the commencement of cannabis cultivation activities.

17.54.170  Operating Regulations.

A. Limited Hours of Operation. A cannabis retailer may only be open to the public and engage in sales between the hours of 8:00 (eight) a.m. and 10:00 (ten) p.m.

B. Product Not Visible To Public. The display of cannabis and cannabis products for sale shall not be visible from outside the licensed premises.

C. Age Restricted Entry. A cannabis retailer may not permit an individual less than twenty-one years of age into the licensed premises, except a cannabis retailer with an M-license (allowing for the sale of medicinal cannabis and cannabis products) from the state may permit an individual aged eighteen years or older into the licensed premises if the cannabis retailer verifies the individual is a qualified patient with a physician’s recommendation or a primary caregiver, as those terms are defined under State law.

D. Cannabis Paraphernalia Sales. Cannabis retailers may sell or otherwise provide equipment, supplies, and paraphernalia used to consume cannabis and cannabis products.

E. Electronic Point-of-Sale System Required. Cannabis retailers must have an electronic point of sale system that is either part of their seed to sale software or integrates with their seed to sale software. The electronic point of sale system must be capable of producing an electronic or automatic paper record for all transactions associated with any product sold, rented, or otherwise provided to the customer.

F. No Sales of Expired Product. Cannabis retailers may not sell any expired products, cannabis or cannabis products. Cannabis retailers shall not alter, edit, or adjust in any manner an expiration date on any item or product once affixed by its manufacturer.

G. Handling of Edible Cannabis Products. Cannabis retailers that possesses edible cannabis products shall comply with the provisions of all relevant state and local laws regarding the storage, handling, and sale of food.

H. Sale of Untested Products. Cannabis retailers may sell cannabis or cannabis products that have not been tested by a testing laboratory from January 1, 2018 until such time as determined by the state. Thereafter, all cannabis and cannabis products
sold by a dispensary must be tested by a testing laboratory prior to sale to a purchaser in accordance with MAUCRSA.

I. Consumption of Cannabis and Cannabis Products on Premises. Cannabis and cannabis products shall not be smoked, vaporized, ingested or otherwise consumed on the licensed premises of a cannabis retailer. Premises as used in this subsection includes the actual building, as well as any accessory structures, common areas and parking areas.

J. Tamper-Evident, Child-Resistant Packaging Required. A cannabis retailer shall not deliver or sell cannabis products that are not packaged or labeled in a resealable, tamper-evident, child-resistant package. The cannabis and shall include a unique identifier for the purposes of identifying and tracking cannabis and cannabis products.

K. Cannot Be Attractive to Children. Cannabis packaging and labeling shall not be designed to appeal to children, including, but not limited to, cartoon characters or similar images.

L. State-Mandated Warnings and Information. All cannabis and cannabis product labels and inserts shall include the state-mandated warnings and information contained in Business and Professions Code Section 26120(c). Notwithstanding the foregoing, during the period of time that the state permits untested cannabis and cannabis products to be sold to purchasers, all cannabis and cannabis products must have a label affixed to each package that clearly states “This product has not been tested as required by the Medicinal and Adult-Use Cannabis Regulation and Safety Act” and must comply with any other labeling requirements imposed by the state.

17.54.180 Other Provisions.

A. No person shall give, sell, distribute, or otherwise transfer any cannabis product in any manner not consistent with the approved cannabis conditional use permit or that violates local or state law.

B. Permittees must cooperate with City staff and Police Department personnel who are conducting inspections or investigations relevant to the enforcement of laws and regulations related to this Chapter.

C. Permittees must comply with all state laws and regulations that pertain to cannabis businesses including, but not limited to, the MAUCRSA, and any regulations promulgated by a licensing authority.

17.54.190 Indemnification.

A. Indemnification. To the fullest extent permitted by law, the City shall not assume any liability whatsoever, with respect to approving any permit pursuant to this Chapter or the operation of any cannabis business approved by such permit pursuant to
this Chapter. As a condition of approval of a permit granted under this Chapter, the applicant shall:

1. Indemnify and hold the City harmless from any and all claims, damages, legal or enforcement actions, including, but not limited to, any actions or claims associated with violation of federal law associated with the operation of the cannabis business as provided in this chapter.

2. Maintain insurance in the amounts and of the types that are acceptable to the City pursuant to guidelines and policies set forth by the City.

3. Name the City as an additionally insured on all City required insurance policies.

4. Defend, at its sole expense, any action against the City, its agents, officers, and employees related to the approval of a permit or the operation of the cannabis business.

5. Reimburse the City for any court costs and attorney fees that the City may be required to pay as a result of any legal challenge (or federal enforcement action) related to the City’s approval of a permit. The City may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve the operator of its obligation hereunder.”

**SECTION 4. SEVERABILITY**

If any section, subsection, clause or phase or portion of this code is for any reason to invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of all other provisions of this ordinance.

The City Council hereby declares that it would have passed the ordinance codified in this chapter, and each section, subsection, sentence, clause and phrase or portion thereof, irrespective of the fact that any one or more of the sections, subsections, sentences, clauses, or phrases or portions thereof be declared invalid or unconstitutional.

**SECTION 5. PUBLICATION**

The City Clerk shall certify to the passage and adoption of this Ordinance, and shall make a record of the passage and adoption thereof in the records of and the proceedings of the City Council at which time the same is passed and adopted. 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. The Ordinance shall go into effect thirty (30) days after its adoption, except for Section 3 of this Ordinance which shall have an effective date provided in Section 6 below.
SECTION 6. EFFECTIVE DATE OF SECTION 3 OF THIS ORDINANCE AND CONTINGENCY ON TAX MEASURE APPROVAL BY THE VOTERS

Section 3 of this Ordinance shall not take effect until January 1, 2019, and shall only take effect if Measure O is approved by the voters at the November 6, 2018 election, and such tax becomes operative.

PASSED, APPROVED AND ADOPTED this ___ day of ______________, 2018.

________________________________________
George Moyer, Mayor
City of Banning

ATTEST:

_____________________________________
Sonja De La Fuente, Deputy City Clerk
City of Banning

APPROVED AS TO FORM:

_____________________________________
Kevin G. Ennis, City Attorney
Richards, Watson & Gershon, APC

CERTIFICATION:

I, Sonia De La Fuente, Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Ordinance was duly introduced at a regular meeting of the City Council of the City of Banning, held on the ___ day of ______________, 2018, and was duly adopted at a regular meeting of said City Council on the ___ day of ______________, 2018, by the following vote, to wit:

AYES:

NOES:

ABSENT:
ABSTAIN:

Sonja De La Fuente, Deputy City Clerk
City of Banning
Attachment 3
Public Hearing Notice
I am a citizen of the United States and a resident of the State of California; I am over the age of eighteen years, and not a party to or interested in the above matter. I am the principal clerk of the printer and publisher of Record Gazette, a newspaper published in the English language in the City of Banning, County of Riverside, and adjudicated a newspaper of general circulation as defined by the laws of the state of California by the Superior Court of the County of Riverside, under the date October 14, 1966, Case No. 54737. That the notice, of which the annexed is a copy, has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to-wit:

September 21, 2018

Executed on: 09/21/2018
At Banning, CA

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

[Signature]