City of Banning.

PLANNING COMMISSION
Meeting – Tuesday, October 2, 2007 - 6:30 p.m.
Council Chambers, 99 E. Ramsey Street
Banning, CA 92220

I. CALL TO ORDER

Pledge of Allegiance

Roll Call: Chairperson De Santis, Commissioner Barsh, Commissioner Dickson, Commissioner Escandel, Commissioner Hawkins

II. REVIEW / APPROVAL OF MINUTES (September 4, 2007)

III. PUBLIC COMMENT

IV. DIRECTOR'S REPORT FOR THE MONTH OF SEPTEMBER – CITY COUNCIL ACTIONS ON PLANNING-RELATED ITEMS (No Action Required)

V. PUBLIC HEARING:

A. Continued Items:


VII. OTHER BUSINESS

A. Other Items:

2. Zone Text Amendment #07-97502: Resolution No. 2007-31: A Resolution recommending to the City Council the adoption of code provisions pertaining to murals.

Page 6

Page 7
B. New Item:

1. In accordance with Government Code Section 65401, the Planning Commission will review the proposed Capital Improvement Program (CIP) for the fiscal years 2007-2012 to determine consistency and conformance with the City of Banning General Plan.

Page 38

VI. STAFF REPORT / INFORMATION ITEMS

VII. PLANNING COMMISSIONER COMMENTS

VIII. ADJOURNMENT

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Planning Department (951) 922-3125. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. [28 CFR 35.102-35.104 ADA Title II].
City of Banning

PLANNING COMMISSION MINUTES

September 4, 2007

A regular meeting of the City of Banning Planning Commission was held on Tuesday, September 4, 2007, at 6:30 p.m., in the Council Chambers, City Hall, 99 East Ramsey Street, Banning, CA, 92220.

Commissioners Present: Chairperson DeSantis
Commissioner Barsh
Commissioner Dickson
Commissioner Escandel
Commissioner Hawkins

Staff Present: Community Development Director Orvi
Deputy City Attorney Jex
Captain Yarbrough, Fire Marshall
Recording Secretary Sorenson

I. CALL TO ORDER

The meeting was called to order at 6:30 p.m. by Chairperson DeSantis.

II. REVIEW OF MINUTES

ACTION (DICKSON / BARSH): A motion was moved, seconded and carried that the minutes of August 7, 2007 be approved as presented.

(Motion carried 4 - 1) (Commissioner Escandel abstained as he was not present at the August 7, 2007 meeting)

III. PUBLIC COMMENT

No one came forward.
IV. DIRECTOR'S REPORT FOR THE MONTH OF AUGUST -
CITY COUNCIL ACTIONS ON PLANNING RELATED ITEMS:

Director Orci stated that the City Council approved map 35363, located at the southwest corner of Hoffer and Hathaway.

V. PUBLIC HEARING:

A. New Items:

1. Design Review #07-707 and Condition Use Permit #07-805: A Request to install modular units for the Pentecostal Church of God, in the Low Density Residential Zone on an approximately 2.094 acre site located at 2562 W. Wilson Street. APN 538-040-036.

Community Development Director Orci presented the staff report and stated the sanctuary contained 130 seats, not 140 as was indicated in his report. The parking lot contains 39 spaces and there is a basketball court. The temporary building adjacent to the sanctuary (modular) is not permitted at this time. Staff is working with the applicant to rectify that situation. The property is in the LDR (Low Density Residential) zone. The applicant is proposing to install two modular units, one for classroom use and one for administration use. The project complies with the code as it relates to density, the access is sufficient, the project does comply with the code as to set backs, coverage and height. Director Orci has requested more information from the applicant regarding sanctuary activities, number of classrooms and activities, number of staff and workers, operational characteristics in order to determine parking requirements. Director Orci also requested more design information regarding the modulars and he would like to see compatibility between the church and the modulars. Staff recommended that the applicant provide additional information for further analysis and provide a more compatible design.

Dan Workman, contractor for the church, came forward to discuss the plan for the church and to show proposed elevations of the buildings.

Todd Oldenburg, Pastor for the church, came forward to discuss the project and stated that the church has grown to about 300 members and they provide multiple services. When the church started in 1951 they had 20 - 30 members. Pastor Todd stated that it was his understanding that at the Land Development Task Force meeting, they were told they could place the modular that is on the property there on a temporary basis.

Dan Workman came forward to state that the modular that is there now will be removed and the two new ones are intended to replace it.

Commissioner Escandel brought forward the idea that perhaps they could connect to the sewer line as new pipes are going in on Wilson Street in their area. Director Orci responded that this is something for the Wastewater Department to discuss.
Commissioner Dickson stated he feels at a disadvantage as far as understanding what is planned for
the property and would like to see more design elevations before approving the project.

Commissioner Hawkins thinks that the parapet roof is a good start, but would like to see something
more definitive in the design.

Chairperson DeSantis would like to see more stucco used and wants a good roof design. She would
also like the applicant to check into the sewer access idea.

Commissioner Barsh feels this is a good start, but wants to see more design.

Commissioner Escandel stated that he agrees with all the comments made by the commissioners,
but wants more clarification about the modular units.

**ACTION (DICKSON / BARSH):** A motion was moved, seconded and carried that the
Planning Commission continue this matter and direct the applicant to modify the
units design and provide more information to staff so the commission will be able to
make a more informed decision.

(Motion carried 4 – 0)

2. Request for Continuation - Resolution No. 2007-31: A Resolution
recommending to the City Council the adoption of code provisions
pertaining to murals. (ZTA #07-97502)

Director Orci stated that we are requesting that the item be continued. We have met with the
Chamber Mural Committee and we are working out some issues. Staff plans to present two
ordinances to the commission, one that is essentially the same as was presented before and one that
has a voluntary provision that does not require the Chamber Committee’s review.

**ACTION (BARSH / DICKSON):** A motion was moved, seconded and carried that
the Planning Commission continue this matter to the October 2, 2007 meeting.

(Motion carried 5 – 0)

3. Design Review #07-709: Proposed construction of an industrial park
for multi-tenant use on a 1.88 acre site located on Galleher Way and John
Street. APN 541-220-009 & 019.

Director Orci presented the staff report and stated that the applicant has proposed to construct up
to 36,537 square feet of tilt up buildings (2 buildings) for manufacturing purposes. Access to the
project will be from Galleher Way and there will be no access from John Street. In terms of
analysis, the project meets the density as prescribed by the development standards of the Zoning
Code and the access is suitable. Staff needs to work with the applicant to establish a standard of
uses so we will be able to determine parking requirements. Staff also requested that the applicant provide more articulation of the buildings and a landscape plan. Staff recommended continuation of the project to allow the applicant to provide the above mentioned items.

Chris Robertson from DJS Engineering Services, 350 S. Milliken, Suite A, Ontario CA, came forward on behalf of the applicant, Dexter Tuttle who was unable to attend the meeting tonight. Mr. Robertson discussed the project and stated he believed the industrial park would need about 30 parking spaces. He also discussed an agreement that Mr. Tuttle has with the Redevelopment Agency and it was his understanding that John Street will be abandoned and will not be improved. Mr. Robertson therefore felt that the buildings would not be viewed easily by the public and that breaking up the long sides of the buildings with articulation, etc would not be that important.

Director Orci stated that the John Street issue needs to be resolved with our Public Works Department as it relates to our Circulation system.

Commissioner Dickson stated that he felt the commission had an obligation to improve the overall looks of the City and that although this project has limited exposure, he feels design is very important and that modifications to make the building more attractive should be required.

Commissioner Hawkins stated he had no problem with the architecture, especially considering the location of the project, but would like to see the project continued to allow further analysis of the parking situation and to get the John Street issue resolved.

Commissioner Barsh and Chairperson DeSantis agreed with the commissioner’s point of view.

**ACTION (DICKSON / ESCANDEL):** A motion was moved, seconded and carried that the Planning Commission continue this matter and direct the applicant to modify the façade and the site plan for parking to comply with the current code requirements.

(Motion carried 5 – 0)

Director Orci requested that the Chairperson reopen this public hearing and continue the matter to October 2, 2007.

**ACTION (ESCANDEL / BARSH):** A motion was moved, seconded and carried that the Planning Commission reopen the public hearing and continue this matter to the October 2, 2007 meeting.

(Motion carried 5 – 0)

Director Orci requested that the Commission open the public hearing and continue this matter to the September 12, 2007 meeting.

**ACTION (ESCANDEL / DICKSON):** A motion was moved, seconded and carried that the Planning Commission continue this matter to the September 12, 2007 meeting.

(Motion carried 5 – 0)


Director Orci requested that the Commission open the public hearing and continue this matter to the September 12, 2007 meeting.

**ACTION (DICKSON / ESCANDEL):** A motion was moved, seconded and carried that the Planning Commission continue this matter to the September 12, 2007 meeting.

(Motion carried 5 – 0)

VI. STAFF REPORT / INFORMATION ITEMS

VII. COMMISSIONER'S COMMENTS

VIII. ADJOURNMENT

There being no further business to come before the Planning Commission, the meeting was adjourned at 7:55 p.m.

Respectfully submitted,

[Signature]
Gini Sorenson
Recording Secretary
STAFF REPORT
PLANNING COMMISSION

DATE: October 2, 2007

CASE NO'S: DESIGN REVIEW #07-709

REQUESTS: DESIGN REVIEW FOR A 36,537 SQUARE FOOT INDUSTRIAL PARK.


APPLICANT: DEXTER TUTTLE.

ENVIRONMENTAL CONSIDERATION: THE COMMUNITY DEVELOPMENT DEPARTMENT DETERMINED THAT THE PROJECT IS EXEMPT FROM CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PURSUANT TO SECTION 15332 WHICH CONSISTS OF PROJECTS CHARACTERIZED AS IN-FILL DEVELOPMENT.

BACKGROUND/RECOMMENDATION:

At the September 4, 2007, meeting the Planning Commission reviewed this item and continued it to allow the applicant the opportunity to modify the project's facade as well as address parking requirements. As of this writing, Staff continues to work with the applicant to resolve these issues. Therefore, staff is requesting:

1. Close the Public Hearing; and
2. Table this item.

Respectfully submitted,

Oscar W. Orci
Community Development Director
STAFF REPORT
PLANNING COMMISSION

DATE: OCTOBER 2, 2007

CASE NO'S: ZONE TEXT AMENDMENT #07-97502

REQUESTS: AMENDMENT TO MUNICIPAL CODE PROVISIONS
ESTABLISHING PROVISIONS FOR MURALS

LOCATION: CITYWIDE, NON-RESIDENTIAL USES ONLY

APPLICANT: CITY OF BANNING

ENVIRONMENTAL CONSIDERATION: THE COMMUNITY DEVELOPMENT DEPARTMENT HAS DETERMINED THAT THIS ACTIVITY IS NOT A PROJECT AS DEFINED BY THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) AS STIPULATED UNDER SECTION 15061(b)(3) OF THE GUIDELINES FOR THE IMPLEMENTATION OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

BACKGROUND/ANALYSIS:

At the August 7, 2007 meeting, the Commission: (1) reviewed the staff report, including the previously existing code that governed murals (Section 9125.C) and the proposed regulations; and (2) received public testimony, including testimony from the Chamber Mural Committee. At this meeting, the Commission directed Staff to revise the Resolution establishing a voluntary review process with the Chamber of Commerce. The previous staff report and minutes of the meeting are attached to this report for your information.

As indicated previously, the Council directed staff to prepare a resolution that would reinstate mural regulations. Specifically, the Council directed staff to establish limited provisions that would include some or all of the following:

1. Require an application and process to establish basic standards (height, location, number and area); and/or
2. Eliminate the need for the City to review the mural content and minimize 1st Amendment issues; and/or
3. Involve the Chamber of Commerce Mural Committee in reviewing and approving murals (mural content).

At the previous meeting, Staff indicated that it is not possible to meet all of the Council’s objectives, specifically items 2 and 3, because involving the Chamber of Commerce would require the City to establish an appeal process. This appeal process would then
involve the City in mural content review. A voluntary process would not mandate the involvement of the Chamber, but it would eliminate the need for the City to review mural content and thus eliminate Constitutional (1st Amendment) concerns.

At the August 7th meeting, the Chamber indicated a willingness to establish mural regulations that would not require/mandate their involvement in the review process. The Commission directed staff to revise the regulations and establish a voluntary program. However since the last meeting, the Chamber Mural Committee has changed their minds and is requesting their involvement in the process. The Chamber Mural Committee has expressed concerns regarding the lack of oversight (mural content as well as maintenance) with a voluntary process.

Please note that regardless of the process the provisions do not guarantee “appropriate” mural content. Let me explain this thought further, a review process that mandates the approval by the Chamber essentially transfers the City’s authority to the Chamber. The Chamber would then be an agent of the City and be subject to the same Constitutional provisions as the City. In other words, the Chamber would not be able to regulate mural content. Similarly, the Chamber would not able to regulate content with legislation that encourages, not mandates, the Chamber’s involvement.

Another option available to the City involves the development of basic mural regulations, similar to the City’s previously existing requirements. These basic mural regulations would establish a ministerial process; meaning, that the Code would not allow much discretion in terms of the City’s (or the Chamber) ability to review the mural content. A permit would be granted when the following conditions were met:

- Completed application;
- Sign permit fee paid;
- No pedestrian or vehicular safety hazard;
- Applied to the wall of the building;
- Proper maintenance; and
- Proper removal.

Staff has developed three resolution options to address the issues discussed above, including the Commission’s direction, Chamber of Commerce’s request and the City Council’s direction:

**Option No. 1. Chamber Involvement**

1. Option No. 1 provides mural regulations that would essentially establish a ministerial process that would require the Community Development Director’s approval and require muralists to enter into agreements with the Chamber of Commerce to design and paint murals. An appeal process is included in the regulations that would establish the City Council as the appeal body that would be charged with reviewing mural content.
Option No. 2. Voluntary Process

Option No. 2 provides mural regulations that would establish a ministerial process that would require the Community Development Director’s approval but would not require a muralist to enter into an agreement with the Chamber of Commerce to design and paint the mural. The muralist would be encouraged to participate in the process, but it would not be required.

Option No. 3. Basic provisions

Option No. 3 establishes a permit process that would require the Community Development Director’s approval. This option is the most legally defensible option.

Table 1, below, summarizes the options based upon the Council’s direction to staff.

<table>
<thead>
<tr>
<th>Table 1 Summary of Options</th>
<th>Option 1</th>
<th>Option 2</th>
<th>Option 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Basic standards</td>
<td>YES</td>
<td>YES</td>
<td>NO</td>
</tr>
<tr>
<td>Discretionary review</td>
<td>YES</td>
<td>NO</td>
<td>NO</td>
</tr>
<tr>
<td>Chamber involvement</td>
<td>YES</td>
<td>NO</td>
<td>NO</td>
</tr>
</tbody>
</table>

In order for the City to avoid mural content, the City may wish to establish mural guidelines rather than legislation. Guidelines can establish development criteria as well as identify the Chamber as the review authority. As with all guidelines, enforcement is difficult.

RECOMMENDATION:

That the Planning Commission approve Resolution No. 2007-31 (Options 2 or 3), recommending to the City Council approval of Zone Text Amendment #07-97502.

Respectfully submitted,

Oscar W. Orci
Community Development Director

Exhibits:
1) August 7, 2007 staff report and minutes
2) Resolution No. 2007-31 (options 1, 2 and 3)
ZTA #07-97502
MURALS

AUGUST 7, 2007
STAFF REPORT AND MINUTES

EXHIBIT “1”
STAFF REPORT
PLANNING COMMISSION

DATE: AUGUST 7, 2007

CASE NO'S: ZONE TEXT AMENDMENT #07-97502

REQUESTS: AMENDMENT TO MUNICIPAL CODE PROVISIONS
ESTABLISHING PROVISIONS FOR MURALS

LOCATION: CITYWIDE, NON-RESIDENTIAL USES ONLY

APPLICANT: CITY OF BANNING

ENVIRONMENTAL CONSIDERATION: THE COMMUNITY DEVELOPMENT DEPARTMENT HAS DETERMINED THAT THIS ACTIVITY IS NOT A PROJECT AS DEFINED BY THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) AS STIPULATED UNDER SECTION 15061(b)(3) OF THE GUIDELINES FOR THE IMPLEMENTATION OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

BACKGROUND/ANALYSIS:

The City approved Ordinance 1272 on October, 2001, which created Section 9125.C, in Article 25 (Regulation of Signs), for the review and approval of murals by the Planning Department and the City’s Sign Ad Hoc Committee. The Committee consisted of Council Members, Planning Commissioners, Chamber of Commerce, a business person at large and Economic Development Committee representative. Since the City did not have or disbanded the Sign Ad Hoc Committee; the Planning Department reviewed and approved murals.

The requirements of Section 9125.C were ministerial; meaning, that the Code did not allow much discretion in terms of the City's ability to review the mural content. According to the Code, a permit would be granted when the following conditions were met:

1. Completed application;
2. Sign permit fee paid;
3. Mural did not create a pedestrian or vehicular safety hazard;
4. Mural would be applied to the wall of the building; and
5. Agreement that the mural would be well maintained.
In July 2005, the City Council reviewed a report of officer's regarding the provisions of Section 9125.C. During that meeting, discussions ensued regarding the City's ability to regulate mural content. At the conclusion of that discussion it was determined that the City could not and would not regulate content and therefore directed Staff and the City Attorney to prepare an Ordinance repealing the code provision. On August 9, 2005, the City Council adopted Ordinance No. 1325 repealing Section 9125.C of the Municipal Code regarding murals.

At a recent meeting the Council directed staff to prepare a resolution that would reinstate mural regulations. Specifically, the Council directed staff to establish limited provisions that would include some or all of the following:

- Require an application and process to establish basic standards; and/or
- Eliminate the need for the City to review the mural content and minimize 1st Amendment issues; and/or
- Involve the Chamber of Commerce Mural Committee in reviewing and approving murals (mural content); and/or
- Establish basic development standards for such things as height, location, number and area.

In addition to the Council's directions and in preparation for this report, staff reviewed the policies and regulations of other municipalities, conferred with the City Attorney's office and discussed the proposed regulations with the Banning Mural Council (Banning Chamber of Commerce) representatives. Attached to this report is Resolution No. 2007-31, which provides the mural regulations. These regulations would essentially establish a ministerial process that would require the Community Development Director's approval and require that the muralist enter into an agreement with the Chamber of Commerce to design and paint the mural. The muralist will have to comply with the following criteria:

1. Maximum Number or Murals Per Site. Murals may be located on the sides of buildings or walls within any zone district except residential zoning districts.
2. Sign Area. Mural signs shall not be calculated as business advertising signs and are not subject to the maximum wall sign area ratio. Murals can occupy an entire single wall on which the mural is applied.
3. Color Scheme. Vibrant mural colors are encouraged, but should be complimentary and harmonious with the exterior colors of the building and consistent with the surrounding properties.
4. The proposed mural, by its design, construction, and location shall not obscure or detract from the significant architectural features of the selected structure nor should the building's architecture be altered to accommodate a mural.
5. If the mural should require special lighting or other related construction, all applicable city building permits will be required as part of the installation process.
6. Advertisement Value. Words and/or images may not generally be incorporated within the proposed mural which specifically identifies or reflects the business, products and/or services provided by the business occupying the structure.
7. Construction. Paints and other materials used for murals shall be appropriate for outdoor use and artistic rendition, and shall be permanent and long-lasting. Super-bright or fluorescent colors shall be discouraged.
8. To the extent feasible, murals shall be vandal and graffiti resistant.
9. The City Council may, from time to time, by resolution, adopt additional mural design criteria and guidelines.
10. The City Council may set, by resolution, a fee for the application and/or mural permit issuance.

CONCERNS/OPTIONS:

The City Attorney has expressed concerns with the proposed resolution. As prepared, the resolution attempts to eliminate any City regulation of mural content by transferring the authority to review and approve murals to the Chamber. Because the legislation “authorizes” the Chamber to act on the City’s behalf, the Chamber would be an agent of the City and as such be subject to the same content regulation as the City. Because the Chamber is now “part” of the City’s process the resolution has established an appeal process to either: (A) go through the Chamber, or (B) go to a public hearing before the City Council (in the event the applicant is not successful with the Chamber). Therefore, the proposed resolution is divergent from the Council’s desires to avoid content review.

In order for the City to avoid mural content the City may wish to establish mural guidelines rather than legislation. Guidelines can establish development criteria as well as identify the Chamber as the review authority. As with all guidelines, enforcement is difficult. The Chamber’s Mural Committee as well as the Council have expressed a desire to establish a permit process.

RECOMMENDATION:

That the Planning Commission approve Resolution No. 2007-31, recommending to the City Council approval of Zone Text Amendment #07-97502.

Respectfully submitted,

Oscar W. Orri
Community Development Director

Exhibit
1) Resolution No. 2007-31
City of Banning

PLANNING COMMISSION MINUTES

August 7, 2007

A regular meeting of the City of Banning Planning Commission was held on Tuesday, August 7, 2007, at 6:30 p.m., in the Council Chambers, City Hall, 99 East Ramsey Street, Banning, CA, 92220.

Commissioners Present: Chairperson DeSantis
Commissioner Barsh
Commissioner Dickson
Commissioner Hawkins

Commissioners Excused: Commissioner Escandel

Staff Present: Community Development Director Orsi
Deputy City Attorney Murphy
Captain Yarbrough, Fire Marshall
Recording Secretary Sorensen

I. CALL TO ORDER

The meeting was called to order at 6:30 p.m. by Chairperson DeSantis.

II. REVIEW OF MINUTES

ACTION (BARSH / HAWKINS): A motion was moved, seconded and carried that
the minutes of May 1, 2007 be approved as presented.

(Motion carried 4 – 0) (Commissioner Escandel was absent)

ACTION (DICKSON / BARSH): A motion was moved, seconded and carried that
the minutes of June 19, 2007 be approved as presented.

(Motion carried 4 – 0) (Commissioner Escandel was absent)
The commissioners discussed the project and in general were in favor of the subdivision. Chairperson DeSantis stated she would like staff to discuss the HOA issue with the applicant as to how this could be done. Commissioner Dickson stated that he would like to see the HOA costs kept down to what is absolutely necessary.

**ACTION (HAWKINS / BARSH):** A motion was moved, seconded and carried that the Planning Commission recommend approval to the City Council of Resolution No. 2007-32, approving a Mitigated Negative Declaration and Mitigated Monitoring Program based on the findings and mitigation measures.

(Motion carried 4 – 0) (Commissioner Escandel was absent)

**ACTION (HAWKINS / BARSH):** A motion was moved, seconded and carried that the Planning Commission recommend approval to the City Council of Resolution No. 2007-33, approving Tentative Tract Map 33603, based on the findings and conditions of approval (Attachment “I”) and incorporated by reference, as amended to include the modifications to conditions on page 63, #F; page 73, #Z; page 70, #H - “that if the applicant desires expanded access then the applicant shall work with the City’s Engineer to establish an expanded access movement” and page 71, #M to read “the applicant shall work with the City Engineer to establish a plan for the eventual construction of the median on Wilson Street”.

(Motion carried 4 – 0) (Commissioner Escandel was absent)

2. Resolution No. 2007-31: A Resolution recommending to the City Council the adoption of code provisions pertaining to murals. (ZTA #07-97502)

Director Ori presented the staff report and stated that the City adopted Ordinance No. 1272 initially which created Section 9125.C. This was the section that adopted the mural procedures and requirements. The process was ministerial in that it was approved by a committee with staff review and a permit was issued. However, the mural committee was either disbanded or never established and for a time staff was approving or reviewing murals. The City Council directed staff to repeal this ordinance, so in August of 2005 the Council approved Ordinance No. 1325 which repealed this section. The City Council has directed staff to bring this matter back and prepare a new mural ordinance that would require an application process and a fee and the Council asked for basic development standards. Also, the Council requested that staff eliminate the need for any content review and it requested the involvement of the Chamber of Commerce Mural Committee. The issue of an appeals process was discussed.

Deputy City Attorney Murphy stated that he felt the mural programs in the City of Lompoc and the City of Indio were successful ones. He felt that the simpler the ordinance, the better – because the more complex the ordinance gets, the greater the chance that there will be First Amendment problems or other kinds of legal entanglements.
Commissioner Barsh would like there to be a process for people who might be adversely affected by a mural.

Chairperson DeSantis inquired about the fee for a mural. Director Orci stated it would probably be less than our sign permit fee. She also mentioned that she would like to modify the language regarding a professional mural artist to state the artist could supervise and therefore allow citizens and young people to participate in the painting also.

Claudia Keeling, representative of the Banning Mural Council, came forward to state that there are 27 cities in California that have mural projects. Mrs. Keeling discussed the other cities mural ordinances and stated that she felt we should look at the City of 29 Palms as a model. She also stated that she was concerned about the term “professional mural artist” used in our ordinance, she said we have many qualified artists who have already done some of our murals, but they are not professional mural artists. She also would like the maintenance of the murals to be under the control of the Banning Mural Council and not the building owner.

Director Orci stated he has spoken to the City of 29 Palms, he also discussed the conditions on page 89 and that the professional muralist language could be modified.

Commissioner Dickson stated that he felt the Banning Mural Council has done a very good job and the City should have minimal amount of involvement. Commissioner Hawkins agreed and stated that he is on the Banning Mural Council. Commissioner Barsh also commended the Mural Council and wants them to be able to continue with as few roadblocks as possible.

Commissioner Dickson said he wanted to make the ordinance simpler and inquired how that could be done. Director Orci responded “to direct staff to look at this resolution again, specifically page 89, Section 3 #E that does require the agreements with the Chamber and perhaps consider rewriting that to not mandate, but encourage those provisions. And then talk to the Banning Mural Council and see if they are amenable that”. Deputy City Attorney Murphy said that also pages 91, 92, Sections 6, 7 and 8 sort of flow from Section 3 #E – felt those items could be worked out in policy and contract rather than being in the ordinance themselves.

John Klimkiewicz, 4678 W. Gilman Street, Banning CA, a member of the Banning Mural Council, came forward to state the Mural Council would be willing to sit down with staff and work towards making a simpler ordinance.

ACTION (BARSH / DICKSON): A motion was moved, seconded and carried that the Planning Commission table this matter for the moment to allow staff to enter into discussions with the Banning Mural Council.

(Motion carried 4 – 0) (Commissioner Escandel was absent)
RESOLUTION NO. 2007-31

AN RESOLUTION OF THE PLANNING COMMISSION OF
THE CITY OF BANNING, CALIFORNIA
RECOMMENDING TO THE CITY COUNCIL APPROVAL
OF ZONE TEXT AMENDMENT #07-97502, AN
AMENDMENT TO THE ZONING CODE TO ESTABLISH
PROVISIONS FOR MURALS

WHEREAS, the City undertook a comprehensive General Plan and Zoning Ordinance update in 2003; and

WHEREAS, the Municipal Code allows for Zone Text Amendments consistent with the goals and policies of the General Plan; and

WHEREAS, on the 27th day of July 2007, the City gave public notice as required under Zoning Code Section 9117 by advertising in the Press Enterprise newspaper of the holding of a public hearing at which the project would be considered; and

WHEREAS, on the 7th of August and the 2nd of October 2007, the Planning Commission held the noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to, the Zone Text Amendment; and

WHEREAS, on the 7th day of August 2007, the Planning Commission continued the public hearing to the 4th day of September 2007, at which time interested persons had an opportunity to testify in support of, or opposition to, the Zone Text Amendment; and

WHEREAS, on the 4th day of September 2007, the Planning Commission continued the public hearing to the 2nd day of October 2007, at which time interested persons had an opportunity to testify in support of, or opposition to, the Zone Text Amendment; and

WHEREAS, at this public hearing on the 2nd day of October 2007, the Planning Commission considered and heard public comments on the Zone Text Amendment; and

WHEREAS, the Planning Commission has analyzed this proposed project and has determined that it is exempt from the California Environmental Quality Act ("CEQA") under Section 15061(b)(3) of the CEQA Guidelines which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment.

NOW THEREFORE, the Planning Commission does resolve, determine, find, and order, and recommend as follows:
Section 1: Environmental Findings.

The Planning Commission, in light of the whole record before it, including but not limited to, the City’s Local CEQA Guidelines, the recommendation of the Community Development Director as provided in the Staff Reports dated August 7, September 4, and October 2, 2007 and documents incorporated therein by reference, and any other evidence (within the meaning of Public Resources Code § 21080(e) and §21082.2) within the record or provided at the public hearing of this matter, hereby finds and determines as follows:

1.  CEQA: The City has analyzed this proposed project and has determined that it is exempt from the California Environmental Quality Act (“CEQA”) under Section 15061(b)(3) of the CEQA Guidelines which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment. Where, as here, it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment; the activity is not subject to CEQA. The amendment to the municipal code does not relate to any one physical project and will not result in any physical change to the environment. Further, projects subject to this ordinance will trigger individual analysis and documentation related to CEQA. Therefore, it can be seen with certainty that there is no possibility that this ordinance may have a significant adverse effect on the environment, and therefore the adoption of this ordinance is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines.

Section 2: Zoning Ordinance Amendment Findings.

The Planning Commission makes the following findings regarding the Zoning Ordinance Amendment:

1. The proposed Zone Text Amendment is consistent with the goals and policies of the General Plan.

Fact: The Zone Text Amendment is consistent with the goals and policies of the General Plan, insofar as the General Plan designations and Zoning designations will not change, and the text amendment will result in clarifying the goals, policies and programs of the General Plan. Program 11.A of the Banning General Plan Economic Development Element indicates that the City should encourage and promote special events and activities which strengthen the City’s image and attractiveness to residents, visitors, and businesses. Murals will enhance the City’s appearance and image and make it more attractive to the residents and visitors alike.

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

Fact: The Zone Text Amendment is consistent with the existing provisions of the Zoning Ordinance. The amendments will cause murals to be subject to the general standards of Section 9109 [Sign Regulations] and will establish standards for murals, but will not regulate the content of the murals. The Zoning Ordinance currently contains, in Section
9109 [Sign Regulations] an integrated program for the regulation of signage within the City. These Zone Text Amendments would allow for the placement of murals, under the auspices of the Chamber of Commerce, within commercial and industrial zones in the City. The City would have the same authority that it does to regulate all other types of signs; all content and maintenance issues would be addressed by the Chamber of Commerce.

Section 3: Recommended Zone Text Amendments.

The Planning Commission hereby recommends to the City Council approval of the following amendments to the text of the Zoning Code:

A) Section 9109.03 DEFINITIONS, is hereby amended to add the following:

“Murals. Painted wall signs which have a majority of the sign area comprised of non-commercial content, which generally have artistic, historic or cultural themes, and which are designed and painted (or overseen) by professional mural artists who possess demonstrated knowledge and expertise in the design, materials, and execution of murals or other outdoor art. Commercial content of murals shall be subject to all applicable sign limitations of the underlying zone district.”

B) Section 9109.12 (D), SIGN DESIGN GUIDELINES, is hereby amended to read:

D. Sign colors and materials should be selected to contribute to the legibility and design integrity. Paints and other materials used shall be appropriate for outdoor use and artistic rendition, and shall be permanent and long-lasting. Super-bright or fluorescent colors shall be discouraged.

C) Section 9109.12, SIGN DESIGN GUIDELINES, is hereby amended to add the following:

M. Vibrant colors are encouraged, but should be complimentary and harmonious with the exterior colors of the building and consistent with the surrounding properties.

N. The proposed sign, including murals, by its design, construction, and location shall not obscure or detract from the significant architectural features of the selected structure nor should the building's architecture be altered to accommodate a mural.

O. To the extent feasible, signs, including murals shall be vandal and graffiti resistant.

D) Section 9109.17 MURALS, is hereby added as follows:

9109.17 MURALS

1. Purpose:
Encourage the painting of murals depicting the rich history of Banning and the San Gorgonio Pass area; the contributions of individuals and groups to the Banning environment; scenes demonstrating the diverse elements contributing to the overall beauty of this area and other subjects of artistic or community interest; require murals to be placed in consistency with the provisions of the Sign Code; and allow for murals to be placed under the auspices of and with funding provided by the City's Chamber of Commerce.

2. Permitted location of murals.

Murals, as defined in this Chapter, are permitted in any non-residential zone within the City.

3. Mural permit application process.

A. An application for a mural permit must be made in writing on the form provided by the Planning Department and accompanied by any required materials, plans and exhibits and the required fee established by City Council resolution.

B. The Community Development Director shall initially determine whether the application contains all the information and items required by the provisions of this section and may be deemed complete.

C. No mural permit application will be accepted if:

1. The applicant has installed any sign or mural on the site of the proposed mural in violation of the provisions of the Banning Municipal Code, and at the time of submission of the application, each illegal mural or sign has not been legalized or removed or the mural included in the application.

2. There is any other existing code violation located on the site of the proposed mural(s) (other than an illegal sign that is not owned or controlled by the applicant and is located at a different business location on the site from that for which the approval is sought) that has not been resolved at the time of the application.

3. The mural permit application is substantially the same as an application previously denied, unless: (i) 12 months have elapsed since the date of the last application, or (ii) new evidence or proof of changed conditions is furnished in the new application.

D. Any notice required by this section or this Chapter shall be deemed given upon the date any such notice is either deposited in the United States mail or the date upon which personal service of such notice is provided.
E. Additional application requirements. The applicant for a mural permit must provide the following:

(1) An agreement between the property owner and the Chamber of Commerce in a form reasonably acceptable to the City Attorney whereby the property owner gives the Chamber of Commerce permission to place the mural on the building. No mural will be permitted if the owner and the Chamber of Commerce are not able to reach an agreement to place such mural on his or her property.

(2) An agreement between the muralist and the Chamber of Commerce in a form reasonably acceptable to the City Attorney whereby the parties agree to retain the muralist's services for the fabrication and installation of a mural.

Should the muralist and the Chamber of Commerce not be able reach an agreement to place such mural, the muralist or Chamber of Commerce may request assistance from the City Council.

4. Mural permit review process.

A. After receiving a complete mural permit application and determining it to be complete, the Community Development director shall cause the application to be reviewed under Sections 9109.00 et seq.

B. Determinations on mural permit applications are to be guided by the standards and criteria set forth in this section. An application shall be approved whenever the proposed mural conforms to the standards for murals that are subject to a permit requirement; as such requirements are set forth in this section and in this Chapter, generally.

C. An application may be granted either in whole or in part when more than one mural or location is proposed by an applicant. When an application is denied in whole or in part, the determination must be in writing and must specify the grounds for such denial. Notice of grant or denial shall be given within thirty (30) days of the submission of an application.

5. Placement of murals on buildings.

A. Number. A mural is permitted on each building frontage. All existing murals on the frontage proposed for a mural must be removed prior to the commencement of a mural. Mural signs shall not be calculated as business advertising signs and are not subject to the maximum wall sign area ratio. Murals can occupy an entire single wall on which the mural is applied.
B. Area and height. The mural may not extend beyond or project above the vertical or horizontal line of any wall or structure upon which the mural is painted or affixed.

C. Public Safety. A mural shall not be permitted if the content, design or location causes a pedestrian or vehicular safety or traffic hazard. Murals are also not permitted if the proposed building upon which the mural is to appear fails to comply with structural or fire safety standards.

D. Lighting. If the mural should require special lighting or other related construction, all applicable City building permits will be required as part of the installation process.

6. Maintenance:

The Chamber of Commerce shall be responsible for the care and maintenance of murals, and any costs associated with maintenance, repair, and/or removal of the mural(s). Once the mural(s) has been applied to a building surface, it will be the responsibility of the owner to monitor the mural(s) to ensure maintenance, as in the original state of the mural(s). If, for whatever reason, any mural is found by the City to be in a state of poor condition, the Chamber of Commerce will be notified, in writing, and required to make the necessary repairs within 60 days. If the repairs are not made within the specified time period, the City reserves the right to repair or remove the mural at the owner’s expense.

PASSED, APPROVED AND ADOPTED this 2\textsuperscript{nd} day of October, 2007.

\begin{flushright}
Betty DeSantis, Chairperson  
Banning Planning Commission
\end{flushright}

\textbf{APPROVED AS TO FORM AND LEGAL CONTENT:}

\begin{flushright}
Burke, Williams & Sorensen LLP  
City Attorney  
City of Banning, California
\end{flushright}
CERTIFICATION:

I, Virginia Sorenson, Recording Secretary of the Planning Commission of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2007-31, was duly adopted by the Planning Commission of the City of Banning, California, at a regular meeting thereof held on the 2nd day of October, 2007 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Virginia Sorenson, Recording Secretary
City of Banning, California
ZTA #07-97502
MURALS

RESOLUTION
NO. 2007-31

OPTION #2

EXHIBIT “2”
RESOLUTION NO. 2007-31

AN RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BANNING, CALIFORNIA RECOMMENDING TO THE CITY COUNCIL APPROVAL OF ZONE TEXT AMENDMENT #07-97502, AMENDMENT TO THE ZONING CODE TO ESTABLISH PROVISIONS FOR MURALS.

WHEREAS, the City undertook a comprehensive General Plan and Zoning Ordinance update in 2003; and

WHEREAS, the Municipal Code allows for Zone Text Amendments consistent with the goals and policies of the General Plan; and

WHEREAS, on the 27th day of July 2007, the City gave public notice as required under Zoning Code Section 9117 by advertising in the Press Enterprise newspaper of the holding of a public hearing at which the project would be considered; and

WHEREAS, on the 7th of August 2007, the Planning Commission held the noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to, the Zone Text Amendment; and

WHEREAS, on the 7th day of August 2007, the Planning Commission continued the public hearing to the 4th day of September 2007, at which time interested persons had an opportunity to testify in support of, or opposition to, the Zone Text Amendment; and

WHEREAS, on the 4th day of September 2007, the Planning Commission continued the public hearing to the 2nd day of October 2007, at which time interested persons had an opportunity to testify in support of, or opposition to, the Zone Text Amendment; and

WHEREAS, at this public hearing on the 2nd day of October 2007, the Planning Commission considered and heard public comments on the Zone Text Amendment; and

WHEREAS, the Planning Commission has analyzed this proposed project and has determined that it is exempt from the California Environmental Quality Act ("CEQA") under Section 15061(b)(3) of the CEQA Guidelines which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment.

NOW THEREFORE, the Planning Commission does resolve, determine, find, and order, and recommend as follows:

Resolution 07-31
Section 1: Environmental Findings.

The Planning Commission, in light of the whole record before it, including but not limited to, the City's Local CEQA Guidelines, the recommendation of the Community Development Director as provided in the Staff Report dated August 7, September 4 and October 2, 2007 and documents incorporated therein by reference, and any other evidence (within the meaning of Public Resources Code § 21080(e) and §21082.2) within the record or provided at the public hearing of this matter, hereby finds and determines as follows:

1. CEQA: The City has analyzed this proposed project and has determined that it is exempt from the California Environmental Quality Act ("CEQA") under Section 15061(b)(3) of the CEQA Guidelines which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment. Where, as here, it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment; the activity is not subject to CEQA. The amendment to the municipal code does not relate to any one physical project and will not result in any physical change to the environment. Further, projects subject to this ordinance will trigger individual analysis and documentation related to CEQA. Therefore, it can be seen with certainty that there is no possibility that this ordinance may have a significant adverse effect on the environment, and therefore the adoption of this ordinance is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines.

Section 2: Zoning Ordinance Amendment Findings.

The Planning Commission makes the following findings regarding the Zoning Ordinance Amendment:

1. The proposed Zone Text Amendment is consistent with the goals and policies of the General Plan.

Fact: The Zone Text Amendment is consistent with the goals and policies of the General Plan, insofar as the General Plan designations and Zoning designations will not change, and the text amendment will result in clarifying the goals, policies and programs of the General Plan. Program 2C of the Banning General Plan Economic Development Element indicates that the role of the Chamber of Commerce should be maximized. The City believes that the provisions of this amendment and the City policies to be enacted to implement this amendment will encourage applicants to enter into contracts with the Chamber of Commerce for mural design and painting as well as mural maintenance. Program 11.A of the Banning General Plan Economic Development Element indicates that the City should encourage and promote special events and activities which strengthen the City's image and attractiveness to residents, visitors, and businesses. Murals will
enhance the City’s appearance and image and make it more attractive to the residents and visitors alike.

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

Fact: The Zone Text Amendment is consistent with the existing provisions of the Zoning Ordinance. The amendments will cause murals to be subject to the general standards of Section 9109 [Sign Regulations] and will establish standards for murals, but will not regulate the content of the murals. The Zoning Ordinance currently contains, in Section 9109 [Sign Regulations] an integrated program for the regulation of signage within the City. These Zone Text Amendments would allow for the placement of murals, preferably but not necessarily with the guidance of and under contract with the Chamber of Commerce, within commercial and industrial zones in the City. The City would have the same authority to regulate murals that it does to regulate all other types of signs. All content and maintenance issues would be addressed by the building owner or mural owner.

Section 3: Recommended Zone Text Amendments.

The Planning Commission hereby recommends to the City Council approval of the following amendments to the text of the Zoning Code:

A) Section 9109.03 DEFINITIONS, is hereby amended to add the following:

"Murals. Painted wall signs which have a majority of the sign area comprised of non-commercial content, which generally have artistic, historic or cultural themes, and which are designed and painted (or overseen) by professional mural artists who possess demonstrated knowledge and expertise in the design, materials, and execution of murals or other outdoor art. Commercial content of murals shall be subject to all applicable sign limitations of the underlying zone district."

B) Section 9109.12 (D), SIGN DESIGN GUIDELINES, is hereby amended to read:

D. Sign colors and materials should be selected to contribute to the legibility and design integrity. Paints and other materials used shall be appropriate for outdoor use and artistic rendition, and shall be permanent and long-lasting. Super-bright or fluorescent colors shall be discouraged.

C) Section 9109.12, SIGN DESIGN GUIDELINES, is hereby amended to add the following:

M. Vibrant colors are encouraged, but should be complimentary and harmonious with the exterior colors of the building and consistent with the surrounding properties.
N. The proposed sign, including murals, by its design, construction, and location shall not obscure or detract from the significant architectural features of the selected structure nor should the building's architecture be altered to accommodate a mural.

O. To the extent feasible signs, including murals, shall be vandal and graffiti resistant.

D) Section 9109.17 MURALS, is hereby added as follows:

9109.17 MURALS

1. Purpose:

Encourage the painting of murals depicting the rich history of Banning and the San Gorgonio Pass area, the contributions of individuals and groups to the Banning environment, scenes demonstrating the diverse elements contributing to the overall beauty of this area, and other subjects of artistic or community interest. Require murals to be placed in consistency with the provisions of the Sign Code. Acknowledge the mural maintenance and care program directed by and funded by the Banning Chamber of Commerce and, as possible, encourage murals to be placed on buildings in concert with that program.

2. Permitted location of murals.

Murals, as defined in this Chapter, are permitted in any non-residential zone within the City.

3. Placement of murals on buildings.

A. Number. A mural is permitted on each building wall. All existing murals on the wall proposed for a mural must be removed prior to the commencement of a mural. Mural signs shall not be calculated as business advertising signs and are not subject to the maximum wall sign area ratio. Murals can occupy an entire single wall on which the mural is applied.

B. Area and height. The mural may not extend beyond or project above the vertical or horizontal line of any wall or structure upon which the mural is painted or affixed.

C. Public Safety. A mural shall not be permitted if the content, design or location causes a pedestrian or vehicular safety or traffic hazard. Murals are also not permitted if the proposed building upon which the mural is to appear fails to comply with structural or fire safety standards.

D. Lighting. If the mural should require special lighting or other related construction, all applicable city building permits will be required as part of the installation process.
4. Mural permit application process.

A. An application for a mural permit must be made in writing on the form provided by the Planning Department, accompanied by any required materials, plans and exhibits, and accompanied by a permit fee as established by City Council resolution.

B. The Community Development Director shall initially determine whether the application contains all the information and items required by the provisions of this section and may be deemed complete.

C. No mural permit application will be accepted if:

   (1) The applicant has installed any sign or mural on the site of the proposed mural in violation of the provisions of the Banning Municipal Code, and at the time of submission of the application, each illegal mural or sign has not been legalized or removed or, in the case of an illegal mural, included in the application.

   (2) There is any other existing code violation located on the site of the proposed mural(s) (other than an illegal sign that is not owned or controlled by the applicant and is located at a different business location on the site from that for which the approval is sought) that has not been resolved at the time of the application.

   (3) The mural permit application is substantially the same as an application previously denied, unless: (i) 12 months have elapsed since the date of the last application, or (ii) new evidence or proof of changed conditions is furnished in the new application.

D. Any notice required by this section or this Chapter shall be deemed given upon the date any such notice is either deposited in the United States mail or the date upon which personal service of such notice is provided.

5. Mural permit review process.

A. After receiving a mural permit application and determining it to be complete, the Community Development Director shall cause the application to be reviewed under Sections 9109.00 et seq. and the provisions of this Section.

B. An application shall be approved whenever the proposed mural conforms to the standards for murals that are subject to a permit requirement; as such requirements are set forth in this section and in this Chapter, generally.

C. An application may be granted either in whole or in part when more than one mural or location is proposed by an applicant. When an application is denied in
whole or in part, the determination must be in writing and must specify the
grounds for such denial. Notice of grant or denial shall be given within thirty (30)
days of the submission of an application.


The building owner shall be responsible for the care and maintenance of murals, and any
costs associated with maintenance, repair, and/or removal of the mural(s). Once the
mural(s) has been applied to a building surface, it will be the responsibility of the owner
to monitor the mural(s) to ensure maintenance, as in the original state of the mural(s). If,
for whatever reason, any mural is found by the City to be in a state of poor condition, the
building owner will be notified, in writing, and required to make the necessary repairs
within 60 days. If the repairs are not made within the specified time period, the City
reserves the right to repair or remove the mural at the owner’s expense.

7. Removal.

Should a mural be removed from a building, the owner of the building must, within 30
days of the removal, repair and restore the building to remove any visible damage or
blemish left by the mural or the removal process.


Although not required, the City of Banning encourages applicants requesting mural
permits to obtain the following:

(1) An agreement between the property owner and the Chamber of
Commerce in a form reasonably acceptable to the City Attorney whereby
the property owner gives the Chamber of Commerce permission to place
the mural on the building. This agreement shall also evidence the parties’
agreement to comply with the placement, maintenance, and removal
requirements of this Section.

(2) An agreement between the muralist and the Chamber of Commerce in
a form reasonably acceptable to the City Attorney whereby the parties
agree to retain the muralists services for the fabrication and installation of
a mural.

PASSED, APPROVED AND ADOPTED this 2nd day of October, 2007.

Betty DeSantis, Chairperson
Banning Planning Commission

Resolution No. 07-31

Option 2
APPROVED AS TO FORM AND LEGAL CONTENT:

Burke, Williams & Sorensen I.L.P
City Attorney
City of Banning, California

CERTIFICATION:

I, Virginia Sorenson, Recording Secretary of the Planning Commission of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2007-31, was duly adopted by the Planning Commission of the City of Banning, California, at a regular meeting thereof held on the 2nd day of October, 2007 by the following vote, to wit:

AYES:
NOES:
ABSENT:
ABSTAIN:

Virginia Sorenson, Recording Secretary
City of Banning, California
ZTA #07-97502
MURALS

RESOLUTION
NO. 2007-31

OPTION #3

EXHIBIT “2”
RESOLUTION NO. 2007-31

AN RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BANNING, CALIFORNIA RECOMMENDING TO THE CITY COUNCIL APPROVAL OF ZONE TEXT AMENDMENT #07-97502, AMENDMENT TO THE ZONING CODE TO ESTABLISH PROVISIONS FOR MURALS

WHEREAS, the City undertook a comprehensive General Plan and Zoning Ordinance update in 2003; and

WHEREAS, the Municipal Code allows for Zone Text Amendments consistent with the goals and policies of the General Plan; and

WHEREAS, on the 27th day of July 2007, the City gave public notice as required under Zoning Code Section 9117 by advertising in the Press Enterprise newspaper of the holding of a public hearing at which the project would be considered; and

WHEREAS, on the 7th of August 2007, the Planning Commission held the noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to, the Zone Text Amendment; and

WHEREAS, on the 7th day of August 2007, the Planning Commission continued the public hearing to the 4th day of September 2007, at which time interested persons had an opportunity to testify in support of, or opposition to, the Zone Text Amendment; and

WHEREAS, on the 4th day of September 2007, the Planning Commission continued the public hearing to the 2nd day of October 2007, at which time interested persons had an opportunity to testify in support of, or opposition to, the Zone Text Amendment; and

WHEREAS, at this public hearing on the 2nd day of October 2007, the Planning Commission considered and heard public comments on the Zone Text Amendment; and

WHEREAS, the Planning Commission has analyzed this proposed project and has determined that it is exempt from the California Environmental Quality Act ("CEQA") under Section 15061(b)(3) of the CEQA Guidelines which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment.

NOW THEREFORE, the Planning Commission does resolve, determine, find, and order, and recommend as follows:

Section 1: Environmental Findings.

The Planning Commission, in light of the whole record before it, including but not limited to, the City's Local CEQA Guidelines, the recommendation of the Community
Development Director as provided in the Staff Report dated August 7, September 4 and October 2, 2007 and documents incorporated therein by reference, and any other evidence (within the meaning of Public Resources Code § 21080(e) and §21082.2) within the record or provided at the public hearing of this matter, hereby finds and determines as follows:

1. **CEQA:** The City has analyzed this proposed project and has determined that it is exempt from the California Environmental Quality Act ("CEQA") under Section 15061(b)(3) of the CEQA Guidelines which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment. Where, as here, it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment; the activity is not subject to CEQA. The amendment to the municipal code does not relate to any one physical project and will not result in any physical change to the environment. Further, projects subject to this ordinance will trigger individual analysis and documentation related to CEQA. Therefore, it can be seen with certainty that there is no possibility that this ordinance may have a significant adverse effect on the environment, and therefore the adoption of this ordinance is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines.

**Section 2: Zoning Ordinance Amendment Findings.**

The Planning Commission makes the following findings regarding the Zoning Ordinance Amendment:

1. The proposed Zone Text Amendment is consistent with the goals and policies of the General Plan.

   **Fact:** The Zone Text Amendment is consistent with the goals and policies of the General Plan, insofar as the General Plan designations and Zoning designations will not change, and the text amendment will result in clarifying the goals, policies and programs of the General Plan. Program 2C of the Banning General Plan Economic Development Element indicates that the role of the Chamber of Commerce should be maximized. The City believes that the provisions of this amendment and the City policies to be enacted to implement this amendment will encourage applicants to enter into contracts with the Chamber of Commerce for mural design and painting as well as mural maintenance. Program 11.A of the Banning General Plan Economic Development Element indicates that the City should encourage and promote special events and activities which strengthen the City's image and attractiveness to residents, visitors, and businesses. Murals will enhance the City's appearance and image and make it more attractive to the residents and visitors alike.

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

   **Fact:** The Zone Text Amendment is consistent with the existing provisions of the Zoning Ordinance. The amendments will cause murals to be subject to the general standards of Section 9109 [Sign Regulations] and will establish standards for murals, but will not regulate the content of the murals. The Zoning Ordinance currently contains, in Section 9109 [Sign Regulations].
9109 [Sign Regulations] an integrated program for the regulation of signage within the City. The City would have the same authority to regulate murals that it does to regulate all other types of signs. All content and maintenance issues would be addressed by the building owner or mural owner.

Section 3: Recommended Zone Text Amendments.

The Planning Commission hereby recommends to the City Council approval of the following amendments to the text of the Zoning Code:

A) Section 9109.03 DEFINITIONS, is hereby amended to add the following:

"Murals. Painted wall signs which have a majority of the sign area comprised of non-commercial content, which generally have artistic, historic or cultural themes, and which are designed and painted (or overseen) by professional mural artists who possess demonstrated knowledge and expertise in the design, materials, and execution of murals or other outdoor art. Commercial content of murals shall be subject to all applicable sign limitations of the underlying zone district."

D) Section 9109.17 MURALS, is hereby added as follows:

Murals shall be allowed by permit approved by the Community Development Director. Application shall be on the same form as permanent signs. A permit for a mural will be granted when the following conditions have been satisfied:

(A) Completed application.
(B) Sign permit fee paid.
(C) The mural shall not cause a pedestrian or vehicular safety hazard.
(D) The mural shall be applied to the wall of a building.
(E) The mural shall be well maintained, proof of the ability to maintain said mural shall be submitted prior to the issuance of a permit.
(F) The mural shall be removed upon termination of its useful life. Proof of the ability to remove said mural shall be provided upon the issuance of a permit.

PASSED, APPROVED AND ADOPTED this 2nd day of October, 2007.

Betty DeSantis, Chairperson
Banning Planning Commission
APPROVED AS TO FORM AND LEGAL CONTENT:

Burke, Williams & Sorensen LLP
City Attorney
City of Banning, California

CERTIFICATION:

I, Virginia Sorenson, Recording Secretary of the Planning Commission of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2007-31, was duly adopted by the Planning Commission of the City of Banning, California, at a regular meeting thereof held on the 2nd day of October, 2007 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Virginia Sorenson, Recording Secretary
City of Banning, California
STAFF REPORT
PLANNING COMMISSION

DATE: OCTOBER 2, 2007

REQUEST: FIND THAT THE CAPITAL IMPROVEMENT PROGRAM (CIP) FOR FISCAL YEARS 2007-2012 IS CONSISTENT AND CONFORMS WITH THE GENERAL PLAN IN ACCORDANCE WITH GOVERNMENT CODE §65401

LOCATION: CITYWIDE

APPLICANT: CITY OF BANNING


BACKGROUND/ANALYSIS:

The Capital Improvement Program (CIP) is a roadmap that provides direction and guidance for planning, managing, and financing the City’s capital and infrastructure assets. The 5-year CIP is used by the City to review the funding of desired capital improvements that compete for scarce financial resources. This document is dynamic and, consequently, must be revised on a regular basis to address the changing needs, priorities, and financial conditions of the City. The capital improvements presented in this document are the City’s major projects, those that exceed $25,000 in cost, have long-term life spans, and are generally non-recurring. The projects include land and right-of-way acquisition; design, planning, and engineering services for capital projects; construction or rehabilitation of public buildings or facilities; utility and transportation infrastructure construction; park construction; and, economic and redevelopment projects. The project costs and revenue amounts listed are strictly estimates. The actual project costs and revenue amounts available will vary based on the state of the economy and other factors not easily predictable.

Government Code §65401 and §65403 requires the Planning Commission review the Capital Improvement Program for consistency and compliance with the with the City of
Banning General Plan (adopted by City Council on January 31, 2006, by Resolution No. 2006-13), any applicable specific plans, and all elements and parts of the plans. Enclosed with this report is a copy of the draft Capital Improvement Program (CIP) fiscal years 2007-2012 for your consideration.

A draft copy of the CIP was presented to City Council at a workshop held August 22, 2007. At that meeting the proposed CIP was reviewed by City Council and comments were received and addressed by City staff. Additionally, staff reviewed the individual projects listed for conformance with the policies, programs, and requirements of the General Plan as well as those specific plans adopted by the City including any individual master plans or programs.

Upon review by the Planning Commission the CIP will be forwarded to the City Council for formal approval.

Planning Commission Resolution No. 2007-35 lists the Goals, Policies and Programs of the General Plan for each of the respective CIP categories.

RECOMMENDATION:

That the Planning Commission approve Resolution No. 2007-35, finding that the Capital Improvement Program and list of proposed public works projects for fiscal years 2007-2012 is consistent and conforms with the City's General Plan (adopted by City Council on January 31, 2006, by Resolution No. 2006-13) any applicable specific plans, and all elements and parts of the plans.

Prepared By:

Brian Guillot
Associate Engineer-Planning

Submitted By:

Oscar Orci
Community Development Director

Exhibits
1) Resolution No. 2007-35
2) Capital Improvement Program FY 2007-2012 (under separate cover)
RESOLUTION NO. 2007-35

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BANNING, CALIFORNIA FINDING THAT THE CAPITAL IMPROVEMENT PROGRAM (CIP) FOR FISCAL YEARS 2007-2012 IS CONSISTENT AND CONFORMS WITH THE GENERAL PLAN IN ACCORDANCE WITH GOVERNMENT CODE §65401

WHEREAS, the City Council at the workshop held August 22, 2007, reviewed and commented on the draft copy of the Capital Improvement Program and list of proposed public works projects for fiscal years 2007-2012; and,

WHEREAS, the proposed Capital Improvement Program (CIP) fiscal years 2007-2012 has been referred to the Planning Commission for review as to its consistency and conformance with the City of Banning General Plan (adopted by City Council on January 31, 2006, by Resolution No. 2006-13), any applicable specific plans, and all elements and parts of the plans; and,

WHEREAS, on the 21st day of September 2007, the City gave public notice as required under Zoning Code Section 9117 by advertising in the Press Enterprise newspaper of the holding of a public hearing at which the project would be considered; and

WHEREAS, on October 2, 2007, the Planning Commission held the noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to, the proposed Capital Improvement Program (CIP) fiscal years 2007-2012; and,

WHEREAS, the Planning Commission has reviewed the Capital Improvement Program (CIP) and list of proposed public works projects for fiscal years 2007-2012 as outlined in the staff report dated October 2, 2007;

NOW, THEREFORE, the Planning Commission of the City of Banning does Resolve, Determine, Find, and Order as follows:

SECTION 1. ENVIRONMENTAL FINDINGS.

The Planning Commission, in light of the whole record before it including but not limited to the City's local California Environmental Quality Act (CEQA) Guidelines, the recommendation of the Community Development Department as provided in the staff report dated October 2, 2007, and documents incorporated therein by reference, and any other evidence (within the meaning of Public Resources Code § 21080(e) and § 21082.2) within the record, or provided at the public hearing of this matter, hereby finds and determines as follows:
CEQA
That the activity of determining that the proposed Capital Improvement Program is consistent with the General Plan is not a “project” as defined by Public Resources Code §21065 and California Code of Regulations §15378. Therefore, CEQA review is not required.

SECTION 2. REQUIRED FINDINGS.

Pursuant to Government Code §65401 and in light of the record before it including the staff report dated October 2, 2007, and all evidence and testimony heard at the public hearing for this item, the Planning Commission hereby finds that the Capital Improvement Program and list of proposed public works projects for fiscal years 2007-2012 is consistent and conforms with the City’s General Plan (adopted by City Council on January 31, 2006, by Resolution No. 2006-13), any applicable specific plans, and all elements and parts of the plans. In making this finding the Planning Commission has identified the following points of consistency:

1. Circulation Projects. These projects consist of improvements to roadways and large maintenance projects including the construction of facilities such as sidewalks and traffic signals. The identified projects are consistent with the Goals, Policies, and Programs of the Circulation Element of the General Plan. More particularly,

GOALS, POLICIES, AND PROGRAMS (Circulation Element)
Goal
A safe and efficient transportation system.
Policy 1
The City’s Recommended General Plan Street System shall be strictly implemented.
Program 1.A
Street rights of way shall be 134 feet for Urban Arterial Highways, 110 feet for Arterial Highways, 100 feet for Major Highways, 88 feet for Secondary Highways, 78 feet for Divided Collectors, 66 feet for Collectors, and 60 feet for Local Streets.
Policy 3
The City shall establish and maintain a 5-Year Capital Improvement Program for streets.
Program 3.A
The Public Works Department shall establish a Capital Improvement Program for 5 years, and update it annually.

2. Water-Wastewater Projects. These projects consist of improvements to the water distribution system including the construction of new wells and water storage facilities, wastewater collection system, and water and wastewater treatment system including the construction of recycled water systems. The identified projects are consistent with Goals, Policies, and Programs of the Water Resources Element and Water, Wastewater, and Utilities Element of the General Plan. More particularly,

GOALS, POLICIES, AND PROGRAMS (Water Resources Element)
Goal
A balance of development which assures the maintenance of the water supply and its continued high quality.
Policy 1
New development projects proposing 50 units on property whose General Plan Land Use
designation would allow 50 units, and/or 10 acres of commercial/industrial/other development, or more, whether through a tract map, Specific Plan or other planning application, shall be required to fund the provision of its entire water supply, either through SWP, recycled water or other means, as a condition of approval.

Program 1.A
In accordance with the 2003 Determination of Maximum Perennial Yield for the City of Banning, the City shall implement an annual ground water audit. This process involves evaluating ground water level trends, production rates, ground water quality or other aquifer/well/pump considerations from the previous year (the water audit should be performed six months prior to the start of the water accounting year) and using this information to make recommendations for pumping in the following year.

Program 1.B
The City shall develop construction plans and cost estimates for the construction of recycled water facilities for both Phase I and II, and make them available to the development community.

Program 1.C
The City shall coordinate with the San Gorgonio Pass Water Agency and other appropriate agencies to assure that the City’s SWP water can be delivered.

Policy 3
The City shall require the use of recycled wastewater for new development, or where it is unavailable, the infrastructure for recycled water when it becomes available, as a means of reducing demand for groundwater resources.

Program 3.A
Coordinate with the Banning Heights Mutual Water Company regarding the future expansion of recycled wastewater treatment facilities to serve existing and new development projects in the City.

Program 3.B
Aggressively pursue all sources of funding to allow for the installation of a comprehensive recycled water distribution system throughout the City.

Program 3.C
The City shall study the potential of providing incentives to developers and property owners for the installation of on-site recycled water reclamation systems. Recycled water systems include the reuse of water from sources such as sink drains, dishwashers and washing machines for irrigation purposes.

GOALS, POLICIES, AND PROGRAMS (Water, Wastewater, and Utilities Element)

Goal
A comprehensive range of water, Wastewater and utility services and facilities that adequately, cost-effectively and safely meet the immediate and long-term needs of the City.

Policy 1
The City shall coordinate between the City Utility Department-Water Division, Banning Heights Mutual Water Company, Beaumont/Cherry Valley Water Agency, San Gorgonio Pass Water Agency, California Regional Water Quality Control Board and Riverside County Environmental Health to protect and preserve local and regional water resources against overexploitation and contamination.

Program 1.A
Support the efforts of the City Utility Department-Water Division, San Gorgonio Pass Water Agency, Banning Heights Mutual Water Company and Beaumont/Cherry Valley Water Agency to develop alternative resources for groundwater recharge, and to expand and construct facilities for the treatment and distribution of reclaimed and/or recycled water.

Program 1.B
The City, its Utility Department-Water Division, San Gorgonio Pass Water Agency, and Banning Heights Mutual Water Company shall continue and extend their efforts to increase domestic water conservation by expanding efforts to promote the use of water efficient landscaping in all development, and the installation of efficient water-using technologies in new and substantially remodeled structures.

Program 1.C

PC Resolution No. 2007-35

-3-
The City, its Utility Department-Water Division and Banning Heights Mutual Water Company shall evaluate and, as appropriate, implement actions and regulations that facilitate residential and business retrofits of landscaping/irrigation and water-using appliances/processes that significantly increase water use efficiencies.

**Policy 4**
The City shall make every effort to assure and assist in facilitating the timely and cost-effective extension and expansion of services that support community development and improved quality of life.

**Program 4.A**
The City shall coordinate its Capital Improvement Program with those of local utility and service providers to assure cost-effective and adequate capacity of services and facilities for future growth and development.

**Program 4.B**
The City shall coordinate with appropriate public and quasi-public agencies and utilities in conducting on-going assessments of infrastructure capacity and evaluating expansion and improvements needed to carry out responsible growth management.

3. **Electric Projects.** These projects consist of improvements to the electric utilities system including substation construction and upgrades, construction of transmission and distribution lines and various system improvements. The identified projects are consistent with the Goals, Policies, and Programs of the Water, Wastewater, and Utilities Element of the General Plan. More particularly,

**GOALS, POLICIES, AND PROGRAMS (Water, Wastewater, and Utilities Element)**

**Goal**
A comprehensive range of water, Wastewater and utility services and facilities that adequately, cost-effectively and safely meet the immediate and long-term needs of the City.

**Policy 4**
The City shall make every effort to assure and assist in facilitating the timely and cost-effective extension and expansion of services that support community development and improved quality of life.

**Program 4.A**
The City shall coordinate its Capital Improvement Program with those of local utility and service providers to assure cost-effective and adequate capacity of services and facilities for future growth and development.

**Program 4.B**
The City shall coordinate with appropriate public and quasi-public agencies and utilities in conducting on-going assessments of infrastructure capacity and evaluating expansion and improvements needed to carry out responsible growth management.

**Policy 5**
To ensure the timely expansion of facilities in a manner that minimizes environmental impacts and disturbance of existing improvements, the City shall confer and coordinate with service and utility providers in planning, designing and siting of supporting and distribution facilities.

**Program 5.A**
The City shall encourage the consolidation of underground utility lines and other subsurface transmission facilities to limit the impacts of these facilities on the disruption of traffic and roadways.

4. **Park Projects.** These projects consist of improvements to existing facilities as well as construction of new facilities such as the Dysart Park Soccer Fields. The identified projects are consistent with the Goals, Policies, and Programs of the Parks and Recreation Element of the General Plan. More particularly,
GOALS, POLICIES, AND PROGRAMS (Parks and Recreation Element)

Goal
A high quality public park system with adequate land and facilities to provide recreational facilities and activities for the City’s residents.

Policy 2
The City will distribute parks and recreation facilities in a manner that is convenient to City neighborhoods and balanced within population concentrations.

Program 2.A
The location and design of neighborhood parks shall consider neighborhood suggestions and input regarding facility needs, vehicular and pedestrian access, noise and lighting impacts, and public safety.

Program 2.B
City staff shall identify and prioritize park development projects based upon need, land availability, neighborhood suggestions and funding, and shall encourage the planting of trees as in parks and open spaces.

Program 2.C
Investigate and identify the broad range of sources of financing and operating revenue, including Development Impact Fees, Mello Roos special districts, public/private ventures, state and federal grant opportunities, developer fees and inter-agency joint use agreements to supplement revenues collected for parks and recreation facilities and programs.

Program 2.D
Investigate and identify sources of development financing and revenue, including charitable organizations, state and federal grant opportunities to supplement revenues collected for development of parks and recreation facilities and programs.

5. Public Facilities Projects. These projects consist of improvements to existing facilities and construction of new facilities such as the proposed new police station. The identified projects are consistent with the Goals, Policies, and Programs of the Public Buildings and Facilities Element of the General Plan. More particularly,

GOALS, POLICIES, AND PROGRAMS (Public Buildings and Facilities Element)

Goal
The provision of a full range of dependable, cost-effective, and conveniently located public buildings, services and facilities that meet the functional, social and economic needs of the entire community.

Policy 2
Continue to identify and evaluate viable, long-term funding mechanisms that provide for the construction, maintenance and operation of existing and future public buildings and facilities, including assuring that new development funds its fair share of these facilities.

Program 2.A
The City shall explore the possibility of establishing a New Construction tax for the purpose of establishing an on-going funding source for adequate provision of public buildings and utilities associated with new development.

Program 2.B
The City shall pursue and encourage joint-use facilities with other local agencies.

Policy 3
Coordinate with public utility providers and other public/quasi-public agencies to assure that utility buildings and facilities are compatible with the surrounding landscape.

Program 3.A
The City shall establish and maintain close working relationships with utility purveyors and other public and quasi-public agencies serving the City to assure the least intrusive integration of related buildings and facilities into the community.

PC Resolution No. 2007-35

-5-
Program 3.B
All new maintenance and utility facilities (and their signage) shall be integrated into the surrounding environment using landscape treatments, architectural elements, and/or other appropriate design mechanisms. Whether as a regulatory or advisory function, design plans shall be reviewed by the Community Development Department.

Policy 4
All public buildings and facilities shall comply with the same development standards as private development.

Policy 5
Encourage the undergrounding of all utility lines and the undergrounding or screening of transformers/facilities.

Policy 6
Critical structures and facilities (including the civic center, hospitals, fire stations, police stations, schools and major communications facilities) shall be restricted from geologically and hydrologically hazardous areas.

Policy 7
The Zoning Ordinance shall be reviewed to facilitate the location of public buildings and offices in a centralized location near the Civic Center.

6. CRA Projects. These projects consist of improvements to existing and new facilities to encourage and promote economic development in the City. The identified projects are consistent with the Goals, Policies, and Programs of the Economic Development Element of the General Plan. More particularly,

GOALS, POLICIES, AND PROGRAMS (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 2
The City shall take a pro-active 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.

Program 2.B
Aggressively pursue retail commercial developments which reduce the current retail sales leakage.

Policy 3
Encourage and promote infill development in orderly and logical development patterns that decrease the costs, and increase the efficiency of new utilities, infrastructure, and public services.

Program 3.A
The City shall maintain a package of economic incentive programs that benefit developers of infill projects.

Program 3.B
The City shall contribute to the financing of tertiary treatment facilities as an economic development tool.

Program 3.C
Use the Downtown Charette as a guideline for the Downtown Commercial area, for the development of high quality, pedestrian oriented retail locations.
PASSED, APPROVED AND ADOPTED this 2nd day of October 2007.

Betty DeSantis, Chairperson
Banning Planning Commission

APPROVED AS TO FORM AND LEGAL CONTENT:

Burke, Williams & Sorensen, LLP
City Attorney
City of Banning, California

CERTIFICATION:

I, Virginia Sorenson, Recording Secretary of the Planning Commission of the City of Banning, California, do hereby certify that the foregoing Resolution, No. 2007-35, was duly adopted by the Planning Commission of the City of Banning, California, at a regular meeting thereof held on the 2nd of October, 2007 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Virginia Sorenson, Recording Secretary
City of Banning, California

PC Resolution No. 2007-35
-7-