I. CALL TO ORDER OF REGULAR MEETING: Chairman Shaw
   - Pledge of Allegiance: Commissioner Sanchez
   - Roll Call: Commissioners Brosious, Krick, Schuler, Sanchez, 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.

   1. Adopt the 2020 Planning Commission Calendar…………………………………1

IV. PUBLIC HEARINGS:

   1. CONDITIONAL USE PERMIT 19-8004 DESIGN REVIEW 19-7005, AND ENVIRONMENTAL ASSESSMENT 19-1502 TO ALLOW FOR THE CONSTRUCTION AND OPERATION OF A WIRELESS TELECOMMUNICATIONS FACILITY LOCATED NORTH OF EAST RAMSEY STREET AND EAST OF NORTH PHILLIPS, AT 1165 EAST RAMSEY STREET IN THE BUSINESS PARK (BP) ZONING DISTRICT.
## Order of Procedure:
1. Staff report presentation  
2. Planning Commission questions for staff and applicant  
3. Open public comments  
4. Close public comments  
5. Planning Commission discussion  
6. Motion and Second  
7. Planning commission discussion on motion  
8. Call the question (Roll call vote)  

## Recommendation:
That the Planning Commission adopt Resolution 2019-19:

I. Making a determination under CEQA Guidelines that the project is Categorically Except from the California Environmental Quality Act (CEQA) pursuant to Section 150303 (New Construction of Small Structures) and Section 15332 (Infill Development Projects).

II. Approving Conditional Use Permit 19-8004 and Design Review 19-7005 to allow the construction and operation of a Wireless Telecommunications Facility in the Business Park (BP) General Plan Designation and Zoning District subject to the recommended conditions of Approval.

2. **CONDITIONAL USE PERMIT 19-8010, AUTHORIZING A CANNABIS RETAILER AND AT AN EXISTING DEVELOPED PROPERTY LOCATED AT 1474 W. RAMSEY STREET (APN: 540-180-001) IN THE HIGHWAY SERVING COMMERCIAL (HSC) ZONING DISTRICT.**
Recommendation:

That the Planning Commission adopt Resolution 2019-26:

I. Recommending the City Council make a determination that the Project is exempt under the California Environmental Quality Act (CEQA) pursuant to Guidelines Section 15301 (Existing Facilities); and
II. Approve Conditional Use Permit 19-8010, authorizing a Cannabis Retailer at an existing property located at 1474 W. Ramsey Street (APN: 540-180-001) in the Highway Serving Commercial (HSC) Zoning District.

3. CONDITIONAL USE PERMIT 19-8006, AUTHORIZING A CANNABIS RETAILER AT AN EXISTING DEVELOPED PROPERTY LOCATED AT 2372 W. RAMSEY STREET (APN: 538-200-025) IN THE HIGHWAY SERVING COMMERCIAL (HSC) ZONING DISTRICT.

Staff Report – Mark de Manincor

Order of Procedure:

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

Recommendation:

That the Planning Commission adopt Resolution 2019-23:

I. Recommending the City Council make a determination that the Project is exempt under the California Environmental Quality Act (CEQA) pursuant to Guidelines Section 15301 (Existing Facilities); and
II. Approve Conditional Use Permit 19-8006 authorizing a Cannabis Retailer at an existing developed property located at 2372 W. Ramsey Street (APN: 538-200-025) in the Highway Serving Commercial (HSC) Zoning District.

4. ZONING TEXT AMENDMENT (ZTA) NO. 19-97505 AMENDINGCHAPTER 17.32 “LANDSCAPING STANDARDS” AND TO ADD PROVISIONS TO EXISTING ARTICLE II. “WATER CONSERVATION,” CHAPTER 17.32.090 “LANDSCAPE DOCUMENT PACKAGE” TO TITLE 17 “ZONING” OF THE BANNING MUNICIPAL CODE (BMC) TO ESTABLISH WATER EFFICIENCY STANDARDS IN COMPLIANCE WITH STATE LAW.
Order of Procedure:
1. Staff report presentation
2. Planning Commission questions for staff
3. Open public comments
4. Close public comments
5. Planning Commission discussion
6. Motion and Second
7. Planning commission discussion on motion
8. Call the question (Roll call vote)

Recommendation:

That the Planning Commission adopt Resolution 2019-27:

I. Recommending the City Council make a determination that the Project is exempt under the California Environmental Quality Act (CEQA) pursuant to Guidelines Section 15060(c)(3) because it is not a project as defined by CEQA.

II. Recommending that the City Council, approve Zoning Text Amendment (ZTA) No. 19-97505 amending Chapter 17.32 “Landscaping Standards” and to add provisions to existing Article II. “Water Conservation,” Chapter 17.32.090 “Landscape Document Package” to Title 17 “Zoning” of the Banning Municipal Code (BMC) to Establish Water Efficiency Standards in compliance with state law.

5. ZONING TEXT AMENDMENT 19-97504, PROPOSED AMENDMENTS TO TITLE 17 “ZONING” OF THE BANNING MUNICIPAL CODE (BMC), AMENDING CHAPTER 17.12 “COMMERCIAL AND INDUSTRIAL DISTRICTS” TABLE 17.12.020 “PERMITTED, CONDITIONAL AND PROHIBITED USES,” CHAPTER 17.108 “TEMPORARY USE PERMIT” SECTIONS 17.108.020 “PERMITTED USES” AND 17.108.070 “REQUIREMENTS AND PROHIBITIONS FOR MOBILE VENDING,” TO BE CONSISTENT WITH CALIFORNIA SENATE BILL 946 RELATED TO LOCAL REGULATION OF STREET VENDORS.
Recommendation:

That the Planning Commission adopt Resolution 2019-21:

I. Making a determination pursuant to Section 15060(c)(3) of the California Environmental Quality Act (CEQA) that the Zoning Text Amendments are not subject to CEQA because the amendments are not a project as defined by the CEQA Guidelines Section 15378.

II. Recommending the City Council approve Zoning Text Amendment 19-97504 amending chapters 17.04, 17.12 and 17.108 of the Banning Municipal Code and making findings in support thereof.

V. PLANNING COMMISSIONER COMMENTS:

VI. COMMUNITY DEVELOPMENT DIRECTOR COMMENTS:

VII. ADJOURNMENT:

The City of Banning Planning Commission is hereby adjourned to the regular Planning Commission meeting of January 8, 2019 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].
## USA Holidays and Observances

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<thead>
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<th>Date</th>
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<tr>
<td>Jan 01</td>
<td>New Year’s Day</td>
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<td>Feb 17</td>
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<td>May 10</td>
<td>Mother’s Day</td>
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<td>Jul 03</td>
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<tr>
<td>Sep 07</td>
<td>Labor Day</td>
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<tr>
<td>Nov 11</td>
<td>Veterans Day</td>
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</tbody>
</table>

(Other holidays not listed, typical for this calendar format.)
TO: PLANNING COMMISSION

FROM: Adam B. Rush, Community Development Director

PREPARED BY: Mark de Manincor, Contract Planner

MEETING DATE: December 4, 2019

SUBJECT: Resolution 2019-19, recommending approval of Conditional Use Permit 19-8004, Design Review (DR) 19-7005, and Environmental Assessment 19-1502 to the City Council. The Project will authorize the construction and operation of a wireless telecommunications facility which is located north of East Ramsey Street and east of North Phillips Street, at 1165 East Ramsey Street in the Business Park (BP) Zoning District.

RECOMMENDED ACTION:

Staff recommends that the Planning Commission adopt Resolution 2019-19:

1. Making a determination under CEQA Guidelines that the project is Categorically Exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15303 (New Construction of Small Structures) and Section 15332 (Infill Development Projects).


APPLICANT INFORMATION:

Project Location: 1165 East Ramsey Street
APN Information: 541-162-010
Project Applicant: Smart Link, LLC (AT&T)
3300 Irvine Avenue Suite 300
Newport Beach, CA 92660
Property Owner: Krystal Perez Cruz  
1300 East Ramsey Street  
Banning, CA 92220

BACKGROUND:

At the Planning Commission meeting of August 14, 2019, the Planning Commission considered the proposed project. At that meeting, the Planning Commission directed the applicant to determine the feasibility of moving the location of the telecommunications facility back to the center of the lot away from the street frontage. The Planning Commission found and determined that the originally proposed location near the property frontage would inhibit future commercial development. The applicant agreed to look into the matter by discussing it with his telecommunications engineers and the property owner.

The project was presented at the, September 4, 2019, Planning Commission meeting where the Commission granted a request for a continuance to allow time for the applicant to undergo additional consistency review from the Riverside County Airport Land Use Commission (ALUC) and the Federal Aviation Administration (FAA).

At the meeting of, October 2, 2019, the applicant had gained the owner’s approval of the relocation and subsequently revised and resubmit the plans. The applicant requested additional time to process the amended plans through the ALUC and the FAA. The County Airport Commission hearing was scheduled with ALUC on November 14, 2019. The Planning Commission continued the public hearing for the project to the December 4, 2019 meeting.

As of the date of this meeting, the applicant has achieved a revised consistency finding from the FAA and the ALUC and is requesting Planning Commission consideration.

REQUEST:

The applicant, Smart Link, LLC, is requesting approval of the Conditional Use Permit and Design Review (DR) to construct and operate a 70-foot-tall telecommunications antennae with related equipment. The proposed project is located in a vacant lot in the Business Park (BP) Zoning District on property identified as 1165 East Ramsey Street, APN 541-162-010.

DESCRIPTION:

The project site is a 2.18-acre vacant lot. The project consists of a 70-foot-tall monopine telecommunications antennae, 6-foot-tall decorative block wall with tubular steel gate, 30kV diesel generator on a concrete pad, utility cabinet and related equipment in a 960-square foot area. The address is 1165 East Ramsey Street and is next door to Cruz Tires.
Land Use Summary Table

<table>
<thead>
<tr>
<th>Subject Site</th>
<th>Existing Land Use</th>
<th>Zoning Designation</th>
<th>General Plan Designation</th>
</tr>
</thead>
<tbody>
<tr>
<td>North</td>
<td>Vacant Lot</td>
<td>Business Park (BP)</td>
<td>BP</td>
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<tr>
<td>South</td>
<td>Residential</td>
<td>Low Density Residential (LDR)</td>
<td>LDR</td>
</tr>
<tr>
<td>East</td>
<td>Auto Repair</td>
<td>BP</td>
<td>BP</td>
</tr>
<tr>
<td>West</td>
<td>Residential</td>
<td>BP</td>
<td>BP</td>
</tr>
</tbody>
</table>

**ANALYSIS:**

**Zoning**

The site is located within the Business Park (BP) Zoning District; wherein wireless telecommunications facilities are permitted with approval of a Conditional Use Permit by the Planning Commission. In the Business Park (BP) Zoning District, Light Industrial and office/warehouse buildings are appropriate. Restaurants and retail uses ancillary to a primary use, and professional offices are also appropriate. Commercial development, such as large-scale retail (club stores, home improvement, etc.) and mixed-use project may also be permitted, subject to a conditional use permit.

**Design Review**

The purpose of a Design Review according to Banning Municipal Code Section 17.56.010 is:

A. Establish design review procedures for development proposals;
B. Assure that proposed project conform to development standards and design guidelines;
C. Focus on community design principles which result in creative, imaginative solutions which establish quality design for the City;
D. Promote the orderly and harmonious appearance of structures, landscaping, parking areas, etc; and
E. Maintain the public health, safety and general welfare and property throughout the City.

Prior to making a determination, the Planning Commission shall determine that the project adequately meets adopted City performance standards and design guidelines, based upon the following findings:
A. The proposed project is consistent with the General Plan.
B. The proposed project is consistent with the Zoning Ordinance, including the development standards and guidelines for the district in which it is located.
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.
D. The design of the proposed project is compatible with the character of the surrounding neighborhood.

Findings for the project are made and can be found in the attached Resolution.

**Conditional Use Permit**

The purpose of a Conditional Use Permit according to Banning Municipal Code Section 17.52.010 is: Conditional uses are unique and their effect on the surrounding environment cannot be determined in advance of the use being proposed for a particular location. At the time of application, a review of the location, design, configuration, and potential impact of the proposed use shall be conducted by comparing the use to established development standards and design guidelines.

This review shall determine whether the proposed use should be permitted by weighing the public need for the benefit to be derived from the use, against any negative or undesirable impacts which it may cause. Limits which the Planning Commission might want to impose, could include restrictions on the hours of business operation; restrictions on the number of clients or patients which the business may service at any one time; increased visual and sound barriers; improved technologies or equipment which lessen any noise, light or odor emitted by the business or other use; as well as any other conditions which could help make the use more compatible with the neighborhood in which it is proposed to be located.

Additionally, the Commission may approve and/or modify a Conditional Use Permit application in whole of in part, with or without conditions, only if all of the following findings are made:

A. The proposed use is consistent with the General Plan;
B. The proposed use is conditionally permitted within the subject land use district and complies with all of the applicable provisions of this Ordinance;
C. The proposed use would not impair the integrity and character of the land use district in which it is to be located;
D. The subject site is physically suitable for the type and intensity of land use being proposed;
E. There are adequate provisions for water, sanitation, and public utilities and services to ensure that the proposed use would not be detrimental to public health and safety;
F. There will not be significant harmful effects upon environmental quality; natural resources; or neighborhood characteristics;
G. The proposed location, size, design, and operating characteristics of the proposed use will not be detrimental to the public interests, health, safety, convenience, or welfare of the City.

Findings for the project are made and can be found in the attached Resolution.

Parking Requirements

Although there is no parking requirement for wireless telecommunication facilities, the paved access and at least one paved parking space and turn around shall be required for maintenance vehicles.

ENVIRONMENTAL DETERMINATION:

California Environmental Quality Act (CEQA)

In accordance with §15303 (New Construction of Small Facilities) a Class 3 Categorical Exemption and §15332 (Infill Developments) a Class 32 Categorical Exemption of the California Environmental Quality Act (CEQA), the project is being exempt from further environmental review. A Class 3 Categorical Exemption consists of construction and location of limited numbers of new, small facilities or structures and a Class 32 Categorical Exemption consists of projects characterized as in-fill development meeting conditions described below:

(a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.

(b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.

(c) The project site has no value as habitat for endangered, rare or threatened species.

(d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.

(e) The site can be adequately served by all required utilities and public services.

Findings for the project are made and can be found in the attached Resolution.

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

Proposed Conditional Use Permit 19-8004 and Design Review 19-7005 and was advertised in the Record Gazette newspaper on August 2, 2019 (Attachment 3). Notice was also mailed to all property owners within 300 feet of the project site and posted in two public places. As of the date of this report, staff has not received any written comments for or against the project.

Prepared by: 

______________________________
Mark de Manincor
Contract Planner

Reviewed by:

______________________________
Adam B. Rush, M.A., AICP
Community Development Director

Attachments:

1. Site Plans
2. Resolution 2019-19
3. Conditions of Approval
4. Notice of Exemption
5. Public Hearing Notice
ATTACHMENT 1
Site Plans
SITE NUMBER: CSL04820 - NSB
FA#: 11553757
USID#: 259139
SITE NAME: CRUZ TIRE SHOP
1233 E. RAMSEY STREET,
BANNING, CA 92220
RIVERSIDE COUNTY
RESOLUTION NO. 2019-19

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BANNING, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT 19-8004 AND DESIGN REVIEW 19-7005 AUTHORIZING THE CONSTRUCTION AND OPERATION OF A WIRELESS TELECOMMUNICATIONS FACILITY IN THE BUSINESS PARK (BP) GENERAL PLAN DESIGNATION AND ZONING DISTRICT ON REAL PROPERTY LOCATED AT 1165 EAST RAMSEY STREET (APN 541-162-010), AND MAKING A FINDING OF EXEMPTION FROM CEQA

WHEREAS, an application for a Conditional Use Permit (CUP) and Design Review (DR) and Conditional Use Permit has been duly filed by:

Project Applicant: Smart Link, LLC (AT&T)
3300 Irvine Avenue, Suite 300
Newport Beach, CA 92660

Project Location: 1165 East Ramsey

APN Information: 541-162-010

Property Owner: Krystal Perez Cruz
1300 East Ramsey Street
Banning, CA 92220

WHEREAS, the Planning Commission has the authority per Chapter 17 of the Banning Municipal Code to take action on Conditional Use Permit (CUP) 19-8004 and Design Review 19-7005 for a Wireless Telecommunications Facility in the Business Park (BP) General Plan Designation and Zoning District; and

WHEREAS, on August 2, 2019, 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 August 14, 2019, the Planning Commission held the noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to Conditional Use Permit 19-8004 and Design Review 19-7005 and the project was continued to September 4, 2019, at which the project was continued to October 2, 2019, at which the project was continued to December 4, 2019; and

WHEREAS, in accordance with the requirements of the California Environmental Quality Act (CEQA), staff analyzed Conditional Use Permit 19-8004 and Design Review 19-7005 and determined that, pursuant to CEQA Section 15303 (New Construction of
Small Structures) and Section 15332 (Infill Developments) the project is categorically exempt from review under CEQA.

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

SECTION 1: California Environmental Quality Act and Multiple Species Habitat Conservation Plan Findings. The Planning Commission of the City of Banning does hereby make the following environmental findings and determinations in connection with the approval of the project:

A. In accordance with CEQA Guidelines Section 15303 (New Construction of Small Structures), a Class 3 categorical exemption from the requirements of CEQA, the project is being exempt from further environmental review. A Class 3 categorically exempt project consists of construction and location of limited numbers of new small facilities or structures.

B. In accordance with CEQA Guidelines Section 15332 (Infill Developments), a Class 32 categorical exemption from the requirements of CEQA, the project is being exempt from further environmental review. A Class 32 categorically exempt project consists of projects characterized as infill development meeting the conditions described below:

   a. The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.
      i. The project is consistent with the general plan designation of Business Park and zoning regulations as required in the conditions of approval.
   b. The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.
      i. The proposed development occurs within city limits on a project site of 2.18-acres substantially surrounded by urban uses.
   c. The project site has no value as habitat for endangered, rare or threatened species.
      i. The project site is an infill lot that has sparse vegetation, signs of continued extensive human activity, and has no known value as habitat for endangered, rare or threatened species.
   d. Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.
      i. The operation of the project will result in a few maintenance trips per year, emits little noise, will not affect air quality or water quality.
   e. The site can be adequately served by all required utilities and public services.
      i. All utilities are located adjacent to the site and public services, such as, Police and Fire, are provided by the City of Banning.
C. The Planning Commission has analyzed proposed Conditional Use Permit 19-8004 and Design Review 19-7005 and has determined, based on its own independent judgment, that the project is categorically exempt from CEQA pursuant to Section's 15303 and 15332 of the CEQA Guidelines.

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

**SECTION 2: Required Findings for Design Review 19-7005:** The Planning Commission of the City of Banning does hereby find and determine that Design Review 19-7005 should be approved because:

**REQUIRED FINDINGS FOR DESIGN REVIEW 19-7005:**

Section 17.56 of the City of Banning Zoning Ordinance requires each Design Review application shall be analyzed to assure that the application is consistent with the intent and purpose of this chapter, the policies and programs of the General Plan, and the Development Standards and Guidelines of the district in which it is located. The following findings are provided in support of the approval of Design Review 19-7005.

**Finding A:** The proposed use is consistent with the General Plan.

**Finding of Fact:** Design Review 19-7005 is consistent with the General Plan Land Use Element Policy which states: The land-use map shall provide for sufficient lands to provide a large range of products and services to the City and the region while carefully considering compatibility with adjacent residential lands. The land-use designation of Business Park (BP) allows for Wireless Telecommunication Facilities with the approval of a Design Review. The proposed project under Design Review 19-7005 is adjacent to residential uses to the south, west and north. There is an Automotive Repair Shop to the east. The site is currently undeveloped which establishes the need for a Design Review. Further, Design Review 19-7005 is consistent with the General Plan Economic Development Policy that 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 construction of a telecommunications antennae will assist in providing income for the property owner and will generate entitlement fees, plan check fees and building permit fees 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 Business Park (BP) Land Use District is consistent with the Zoning Ordinance and the applicable development standards set forth in Chapter 17.12 of the Banning Municipal Code, as the development meets or exceeds the Zoning Ordinance development standards. The setbacks and antennae height, along with the public improvements, meets City development standards. Additionally, all other applicable design guidelines set forth in 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 commercial businesses and residential uses on Ramsey Street, a major highway. The proposed project has provided design, site and circulation layout in such a way that the project will not interfere with the use and enjoyment of existing and future development. The project has been reviewed by the City Engineer and Fire Department with regard to site circulation for pedestrian and motor vehicles and emergency access, which will not result in vehicular and/or pedestrian hazards.

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

Finding of Fact: The proposed use will not impair the integrity and character of the Business Park Land Use District in which it is to be located because it is surrounded by existing commercial and residential developments on Ramsey Street, a major highway which is a long-established commercial corridor. The antennae design, site layout and antennae concealment has been designed in a way that the project is compatible with the character of the surrounding neighborhood. This includes disguising the antennae as a pine tree.

SECTION 3: Required Findings for Conditional Use Permit 19-8004: The Planning Commission of the City of Banning does hereby find and determine that Conditional Use Permit 19-8004 should be approved because:

REQUIRED FINDINGS FOR CONDITIONAL USE PERMIT 19-8004:

Section 17.52 of the City of Banning Zoning Ordinance requires each Conditional Use Permit application shall be analyzed to assure that the application is consistent with the intent and purpose of this chapter, the policies and programs of the General Plan, and the Development Standards and Guidelines of the district in which it is located. The following findings are provided in support of the approval of Conditional Use Permit 19-8004:

Finding A: The proposed use is consistent with the General Plan;

Finding of Fact: Conditional Use Permit 19-8004 is consistent with the General Plan Land Use Element Policy which states: The land-use map shall provide for sufficient lands to provide a large range of products and services to the City and the region while carefully considering compatibility with adjacent residential lands. The Land-Use Designation of Business Park (BP) allows for Telecommunications Antennae with the approval of a Conditional Use Permit. The proposed project under Conditional Use Permit 19-8004 is adjacent to residential uses to the south, west and north. There is an Automotive Repair Shop to the east. The site is currently undeveloped which establishes the need for a Design Review. Further, Conditional Use Permit 19-8004 is consistent with General Plan Economic Development Policy which states: The City shall take a proactive role in the retention of existing businesses and the recruitment of new businesses, particularly those
that generate and broaden employment opportunities, increase discretionary incomes, and contribute to City General Fund revenues. The proposed construction of a Wireless Telecommunication Facilities will assist in providing income for the property owner and will generate entitlement fees, plan check fees and building permit fees for the City.

Finding B: The proposed use is conditionally permitted within the subject land use district and complies with all the applicable provisions of this Ordinance;

Finding of Fact: The proposed Wireless Telecommunications Facility, a form of an antennae and communications tower, is conditionally permitted in the Business Park (BP) Zoning District pursuant to Section 17.12.020 and Table 17.12.020 of the Zoning Ordinance, and complies with all applicable provisions in the City’s Zoning Ordinance.

Finding C: The proposed use would not impair the integrity and character of the land use district in which it is to be located;

Finding of Fact: The proposed Wireless Telecommunications Facility is conditionally authorized in the Business Park (BP) Zoning District under Section 17.12.020 and Table 17.12.020 of the Zoning Ordinance. The site is an existing vacant lot and the improvement of the site is designed and conditioned to complement the existing character of the neighborhood. The approval of the proposed wireless telecommunications facility will be conditioned to require maintenance of the facility in a manner that will not interfere with the use and enjoyment of future development.

Finding D: The subject site is physically suitable for the type and intensity of land use being proposed;

Finding of Fact: The subject site is suitable for the type and intensity of proposed wireless telecommunications facility in that the proposed facility will be installed on a vacant lot. The subject site is designed in a way that the proposed wireless telecommunications facility will be compatible with the character of the surrounding neighborhood and the design guidelines set forth in the City’s Zoning Ordinance.

Finding E: There are adequate provisions for water, sanitation, and public utilities and services to ensure that the proposed use would not be detrimental to public health and safety;

Finding of Fact: The proposed Wireless Telecommunications Facility is non-residential in character and will place little or no additional demand upon City services or utilities, except during construction. The applicant will be conditioned to contract with the City’s waste hauler for the removal of construction materials. The subject site is serviced by the City’s Electrical Department.

Finding F: There will not be significant harmful effects upon environmental quality; natural resources; or neighborhood characteristics;

Finding of Fact: The proposed wireless telecommunications facility will improve wireless service reception in the area and has been conditioned to ensure that it will not be detrimental to the public interests, health, safety, convenience, or welfare of the City.
Furthermore, the installation of the proposed wireless telecommunications facility has been determined not to have a significant effect on the environment because it is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section’s 15303 (New construction of small structures) and 15332 (Infill development projects).

**Finding G:** The proposed location, size, design, and operating characteristics of the proposed use will not be detrimental to the public interests, health, safety, convenience, or welfare of the City.

**Finding of Fact:** The proposed location, size, design, and operating characteristics of the proposed wireless telecommunications facility will improve wireless service reception in the area and has been conditioned to ensure that it will not be detrimental to the public interests, health, safety, convenience, or welfare of the City. Furthermore, the installation of the proposed wireless telecommunications facility has been determined not to have a significant effect on the environment because it is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section’s 15303 (New construction of small structures) and 15332 (Infill development projects).

**SECTION 4:** PLANNING COMMISSION ACTION - Approval of Conditional Use Permit No. 19-8004 and Design Review 19-7005, with Conditions. Based on the foregoing, the Planning Commission of the City of Banning hereby approves Conditional Use Permit 19-8004 and Design Review 19-7005, subject to the recommended Conditions of Approval attached as Exhibit “A”.
PASSED, APPROVED AND ADOPTED this 4th day of December, 2019.

__________________________
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, 2019-19, was duly adopted by the Planning Commission of the City of Banning, California, at an adjourned regular meeting thereof held on the 4th day of December, 2019, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Sandra Calderon, Recording Secretary
City of Banning, California
ATTACHMENT 3
Conditions of Approval
EXHIBIT A

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

Community Development Department

1. The applicant shall indemnify, protect, defend, and hold harmless, the City, and/or any of
   its officials, officers, employees, agents, departments, agencies, and instrumentalities
   thereof, from any and all claims, demands, lawsuits, writs of mandamus, and other actions
   and proceedings (whether legal, equitable, declaratory, administrative or adjudicatory in
   nature), and alternative dispute resolutions procedures (including, but not limited to
   arbitrations, mediations, and other such procedures), (collectively "Actions"), brought
   against the City, and/or any of its officials, officers, employees, agents, departments,
   agencies, and instrumentalities thereof, that challenge, attack, or seek to modify, set aside,
   void, or annul, the action of, or any permit or approval issued by, the City and/or any of its
   officials, officers, employees, agents, departments, agencies, and instrumentalities thereof
   (including actions approved by the voters of the City), for or concerning the project,
   whether such Actions are brought under the California Environmental Quality Act, state
   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.
2. Approval of this entitlement shall not waive compliance with any sections of the Development Code, or other applicable City Ordinances, in effect at the time of building permit issuance.

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

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

5. The applicant shall comply with all conditions of approval as stipulated in the Airport Land Use Commission (ALUC) Development Review - Commission Determination dated August 8, 2019, and any amendments thereto; including any requirements stipulated by the Federal Aviation Administration (FAA) Aeronautical Study.

6. 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, Banning Municipal Code regulations.

7. Subsequent from the issuance of the Certificate of Occupancy/Final Inspection; the City shall review Conditional Use Permit (CUP) 19-8004 every two years to insure compliance with the Conditions of Approval. If at any time the applicant becomes non-compliant with the Conditions of Approval, the City can reevaluate the project and make recommendations to continue, revoke, or make changes to the project approval. NOTE: The applicant is required, pursuant to the Conditions of Approval (COA) to maintain the foliage, of the Monopine wireless communication facility, in good working order and ensure that all foliage (e.g., pine needles, leaves, etc.) extend beyond the antennas in perpetuity. Failure to comply may result in code enforcement action and/or revocation of the CUP.

8. The applicant shall comply with all Conditions of Approval imposed on the wireless telecommunications facility located at 1165 East Ramsey Street and the approval of DR 19-7005 and CUP 19-8004 prior to the issuance of a Certificate of Occupancy.
9. Prior to final inspection, the site is required to provide a paved driveway approach, paved driveway, paved parking space for one vehicle and a paved turn around to allow maintenance vehicles to enter, park and exit the site in a forward direction.

10. South Coast Air Quality Management District approval is required for the Diesel Generator.

11. The Monopine Antennae shall be maintained throughout the life of the project. All fallen foliage shall be removed immediately and the monopine shall be re-branched with new foliage with the loss of ten percent of its original foliage. NOTE: The applicant is required, pursuant to the Conditions of Approval (COA) to maintain the foliage, of the Monopine wireless communication facility, in good working order and ensure that all foliage (e.g., pine needles, leaves, etc.) extend beyond the antennas in perpetuity. Failure to comply may result in code enforcement action and/or revocation of the CUP.

12. The Monopine Antennae and associated equipment shall be enclosed within a six-foot-tall decorative block wall with tubular steel gate. The decorative block wall shall be installed with anti-graffiti coating during installation and prior to the final inspection of said wall.

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

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

15. The applicant shall keep the entire project site free from trash and debris at all times and in no event shall trash and debris remain for more than 24 hours.

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

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

Public Works Department

18. The telecommunications equipment shall not cause disturbances to the City’s existing SCADA telemetry communications network.
Electric Utility Department

19. Plan page A-1: "power utility route approx. 300'". This point of connection will be corrected and addressed as this project moves forward, more information is provided and also during the plan check process.

20. The City of Banning Electric Utility will complete a service plan for this project. This plan will require an onsite utility power pad mounted transformer and a 20' wide utility easement for service conduits and substructures.

21. Please completed the attached Commercial New Service Questionnaire and return it the utility.

22. Also see and follow the attached Electric Utility General Commercial Service Requirements.

23. See the attached comments from the Electric Utility Department.

Fire Department

24. Provide a sign with emergency contact information.

25. Install a Fire Extinguisher.

26. Order Knox Box, provide key to gate.

27. Schedule a Fire final inspection.

Prior to Issuance of Building Permit

Community Development Department

28. The applicant shall file a copy of a signed lease agreement between the applicant and the property owner with the Community Development Department.

Prior to the Issuance of Certificate of Occupancy.

Community Development Department

29. Prior to any use of the project site, or business activity being commenced thereon, the applicant shall complete all Conditions of Approval to the satisfaction of the Community Development Director.
Building and Safety Department

30. The applicant shall develop the project site in compliance with all current model codes. The applicant shall design all project plans in compliance with the latest editions of the California Building Codes, as adopted by the City of Banning.

31. Separate submittals and building permits are required for all accessory structures such as, but not limited to, ground mounted equipment enclosures.

***END***
ATTACHMENT 4
Notice of Exemption
Notice of Exemption

To: ☐ Office of Planning and Research
    P.O. Box 3044, Room 212
    Sacramento, CA 95812-3044

☐ County Clerk
    County of Riverside
    P.O. Box 751
    Riverside, CA 92502-0751

From:
City of Banning
99E. Ramsey Street
P.O. Box 998
Banning, CA 92220

Project Title:
Design Review 19-7005, Conditional Use Permit 19-8004

Project Applicant: Smart Link, LLC for AT&T Wireless, 3300 Irvine Avenue #300, Newport Beach, CA 92660

Project Location – Specific:
1165 East Ramsey Street, Banning, CA 92220, Assessor’s Parcel Number 541-162-010

Project Location – City: City of Banning
Project Location – County: Riverside County

Description of Nature, Purpose and Beneficiaries of Project:
Wireless Telecommunications Facility

Name of Public Agency Approving Project: City of Banning
Name of Person or Agency Carrying Out Project: City of Banning

Exempt Status: (check one)
☐ Ministerial (Sec. 21080(b)(1); 15268);
☐ Declared Emergency (Sec. 21080(b)(3); 15269(a));
☐ Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
☒ Categorical Exemption. State type and section number:
☒ Statutory Exemptions. State code number:

Section’s 15303 and 15332

Reasons why project is exempt:
The project is a new construction of a small structure (15303) and is substantially surrounded by urban uses, has all utilities, is 2.18-acres, is consistent with the General Plan and no significant effects (15332)

Lead Agency City of Banning
Contact Person: Adam Rush
Area Code/Telephone/Extension: (951) 922-3131

If filed by applicant:
1. Attach certified document or exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project? ☐ Yes ☐ No

Signature: ___________________________ Date: 11/26/19 Title: Community Development Director

☒ Signed by Lead Agency
☐ Signed by Applicant

Authority cited: Sections 21083 and 21110, Public Resources Code.
Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.
ATTACHMENT 5
Public Hearing Notice
I am a citizen of the United States and a resident of the State of California. I am over the age of eighteen years, and not a party to or interested in the above matter. I am the principal clerk of the printer and publisher of Record Gazette, a newspaper published in the English language in the City of Banning, County of Riverside, and adjudicated a newspaper of general circulation as defined by the laws of the state of California by the Superior Court of the County of Riverside, under the date October 14, 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:

August 2, 2019

Executed on: 08/02/2019
At: Banning, CA

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

Signature

Ana Revere
TO: PLANNING COMMISSION

FROM: Adam B. Rush, Community Development Director

PREPARED BY: Mark de Manincor, Contract Planner

MEETING DATE: December 4, 2019

SUBJECT: Resolution 2019-26, recommending that the City Council approve, Conditional Use Permit 19-8010, authorizing a Cannabis Retailer at an existing developed property located at 1474 W. Ramsey Street (APN: 540-180-001) in the Highway Serving Commercial (HSC) Zoning District

RECOMMENDED ACTION:

Staff recommends the Planning Commission adopt Resolution 2019-26, recommending the City Council make a determination that the Project is exempt under the California Environmental Quality Act (CEQA) pursuant to Guidelines Section 15301 (Existing Facilities) and approve Conditional Use Permit 19-8010, authorizing a Cannabis Retailer at an existing property located at 1474 W. Ramsey Street (APN: 540-180-001) in the Highway Serving Commercial (HSC) Zoning District.

PROJECT / APPLICANT INFORMATION:

Project Location: 1474 West Ramsey Street, Banning, CA 92220

APN Information: 540-180-001

Project Applicant: Black Sun Medicinals
1484 West Ramsey Street
Banning, CA 92220

Property Owner: Elaine Gurrola for Greco-Mexica 1978 Trust
1510 West Ramsey Street
Banning, CA 92220
REQUEST:

The applicant, Black Sun Medicals, Inc., is requesting approval of a Conditional Use Permit (CUP) to authorize the retail sale of cannabis, and cannabis-related products, at an existing property located at 1474 West Ramsey Street, Banning, CA 92220.

DESCRIPTION:

The applicant is the first of three successful lottery winners that participated in the City’s Retail Cannabis Lottery held in May of 2019. This CUP application is a request to sell cannabis and cannabis-related products, within an existing commercial property in the Highway Serving Commercial Zoning District. The applicant also intends to sell other retail products such as; t-shirts, pipes, papers and other cannabis related merchandise that are considered ancillary to the primary use.

The applicant, Michelle West, owner of Black Sun Medicals, Inc., submitted an application on February 20, 2109, for a Cannabis Regulatory Permit and was deemed eligible to participate in the Cannabis Lottery. Michelle was the first person to be selected in the Cannabis Lottery on May 23, 2019, and the second to submit an application for a Cannabis Retailer Conditional Use Permit on November 3, 2019.

The applicant proposes to operate within an existing multi-tenant commercial building located at 1474 West Ramsey Street, occupying one of the retail suites. The total space is approximately 3,500 square feet and will be remodeled to accommodate a lobby/reception area, retail sales and display area, office, storage room, security room and break room.

In accordance with Banning Municipal Code (BMC), the applicant submitted a security plan that includes HD cameras, on-site and armed security and surveillance equipment. City Staff has completed a review of the security plan and determined that the applicant is providing adequate security lighting and active and passive security measures that will mitigate potential security threats. Additionally, a two stage air filtration system will be installed to prevent odors from leaving the premises.

The applicant proposes that the business be open to the public between the hours of 9:00 a.m. to 9:00 p.m.; although, staff may be working as early as 7:00 a.m. and as late as 11:00 p.m. in order to prepare and close down from the daily business activities.

Surrounding Land Use

The site is located in an existing multi-tenant commercial building located at 1474 West Ramsey Street. There is an antique store to the east, I-10 Freeway to the south, commercial offices to the north and a furniture store to the west.
The nature of the surrounding uses, zoning classifications, and General Plan land use designations are delineated for Planning Commission consideration in the following table:

<table>
<thead>
<tr>
<th>Subject Site</th>
<th>Existing Land Use</th>
<th>Zoning Classification</th>
<th>General Plan Designation</th>
</tr>
</thead>
<tbody>
<tr>
<td>North</td>
<td>Offices</td>
<td>(HSC)</td>
<td>(HSC)</td>
</tr>
<tr>
<td>South</td>
<td>I-10 Freeway</td>
<td>(PF-Railroad/Interstate)</td>
<td>(PF-Railroad/Interstate)</td>
</tr>
<tr>
<td>East</td>
<td>Antique Store</td>
<td>(HSC)</td>
<td>(HSC)</td>
</tr>
<tr>
<td>West</td>
<td>Furniture Store</td>
<td>(HSC)</td>
<td>(HSC)</td>
</tr>
</tbody>
</table>

**PROJECT ANALYSIS:**

**Zoning**

Table 17.12.020 ("Permitted, Conditional and Prohibited Commercial and Industrial Uses") of Section 17.12.020, of Chapter 17.12 of Title 17 of the Banning Municipal Code provides that Cannabis Retailers are permitted in the Highway Serving Commercial (HSC) Zoning District, subject to approval of a Cannabis CUP by the City Council, and recommendation by the Planning Commission, and subject to the requirements of Chapters 17.52 and 17.54 of the Zoning Code.

Additional requirements identified in the Code state the cannabis retailer must be at least 200-feet from any residential district and 600-feet from any day care center, youth center, public or private school providing instruction in kindergarten or any of grades 1-12, or park. The proposed location of the Cannabis Retailer is compliant with the above mentioned requirements.

**Conditional Use Permit**

In accordance with Section 17.52.010, the purpose of a Conditional Use Permit is:

A. Conditional uses are unique and their effect on the surrounding environment cannot be determined in advance of the use being proposed for a particular location. At the time of application, a review of the location, design, configuration, and potential impact of the proposed use shall be conducted by comparing the use to established development standards and design guidelines.
B. This review shall determine whether the proposed use should be permitted by weighing the public need for the benefit to be derived from the use, against any negative or undesirable impacts which it may cause. Limits which the Planning Commission might want to impose, could include restrictions on the hours of business operation; restrictions on the number of clients or patients which the business may service at any one time; increased visual and sound barriers; improved technologies or equipment which lessen any noise, light or odor emitted by the business or other use; as well as any other conditions which could help make the use more compatible with the neighborhood in which it is proposed to be located.

Section 17.52.050 – Findings states:

After a public hearing, the Planning Commission shall record the decision in writing identifying the findings upon which such decision is based. The Planning Commission may approve or modify a Conditional Use Permit application in whole or in part, with or without conditions, only if all of the following findings are made:

A. The proposed use is consistent with the General Plan;

B. The proposed use is conditionally permitted within the subject land use district and complies with all of the applicable provisions of this Ordinance;

C. The proposed use would not impair the integrity and character of the land use district in which it is to be located;

D. The subject site is physically suitable for the type and intensity of land use being proposed;

E. There are adequate provisions for water, sanitation, and public utilities and services to ensure that the proposed use would not be detrimental to public health and safety;

F. There will not be significant harmful effects upon environmental quality; natural resources; or neighborhood characteristics;

G. The proposed location, size, design, and operating characteristics of the proposed use will not be detrimental to the public interests, health, safety, convenience, or welfare of the City.
Staff has determined that above-referenced findings can be made. The support for the findings can be found in Planning Commission Resolution 2019-26 (attachment 1).

Section 17.54.060, Procedures and findings for approval of cannabis retailer conditional use permit states:

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.

Staff believes that approval of the CUP will serve the community by providing a convenient location for the purchase of cannabis products, providing for jobs and tax revenue, and assisting highway consumers traveling and staying in the surrounding area.

ENVIRONMENTAL DETERMINATION:

California Environmental Quality Act (CEQA)

Planning Department staff has determined that this Project is categorically exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Section 15301 (Existing Facilities - Class 1 Categorical Exemption) because the project consists of the operation, repair, maintenance, permitting, leasing, licensing, and minor alteration of an existing private structure involving negligible or no expansion of a former use, including interior and exterior alterations involving such things as interior partitions, plumbing, and electrical conveyances. The Project will consist of minor remodeling of a former retail outlet business that consistent of an open floor plan consisting of a floor space dedicated to a show room with supporting offices and retail counters to conduct customer sales. The subject tenant suite will also
accommodate a lobby/reception area, retail sales and display area, office, storage room, security room, and break room.

**Multiple Species Habitat Conservation Plan (MSHCP).**

The project is not subject to MSHCP as the project is an existing facility and no new exterior improvements are identified.

**PUBLIC COMMUNICATION:**

Proposed Conditional Use Permit 19-8010 was advertised in the *Record Gazette* newspaper on November 22, 2019 (Attachment 5). As of the date of this report, staff has not received any written comments on the project.

Prepared by: 

Mark de Manincor  
Senior Planner 

Reviewed by: 

Adam B. Rush, M.A., AICP  
Community Development Director 

**ATTACHMENTS:**

1. Planning Commission Resolution 2019-26  
   Exhibit A – Project Plans  
   Exhibit B – Conditions of Approval  
2. Project Plans  
3. Applicant’s Regulatory Permit Application Approval Letter  
4. Applicant’s Lottery Notification Letter  
5. Public Hearing Notice  
6. Notice of Exemption
CITY OF BANNING

PROJECT NUMBER: CUP 19-8010
ADDRESS/APN: 1474 Ramsey St./540-180-001
ZONE: General Commercial (GC)
APPLICANT: Empire Banning
PROJECT DESCRIPTION: Proposed Cannabis Dealer

PROJECT LOCATION
ATTACHMENT 1
Resolution No. 2019-23
RESOLUTION 2019-26

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BANNING, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL MAKE A DETERMINATION OF EXEMPTION UNDER CEQA GUIDELINES SECTION 15301 AND APPROVE CONDITIONAL USE PERMIT 19-8010, TO AUTHORIZE THE RETAIL SALES OF CANNABIS PRODUCTS AT AN EXISTING DEVELOPED SITE LOCATED AT 1474 WEST RAMSEY STREET (APN: 540-180-001) IN THE HIGHWAY SERVING COMMERCIAL (HSC) ZONING DISTRICT

WHEREAS, an application for a Conditional Use Permit (CUP) to allow for the retail sales and delivery of cannabis and cannabis products at an existing developed site has been duly filed by:

Project Location: 1474 West Ramsey Street
APN Information: 540-180-001
Project Applicant: Black Sun Medicinals
1484 West Ramsey Street
Banning, CA 92220

Property Owner: Elaine Gurrola for Greco-Mexica 1978 Trust
1510 West Ramsey Street
Banning, CA 92220;

WHEREAS, the Planning Commission is authorized under Chapter 17.54 of the Banning Municipal Code to make a recommendation to the City Council regarding proposed Conditional Use Permit 19-8010 to allow for the retail sales of cannabis and cannabis products at an existing developed site in the Highway Serving Commercial (HSC) Zoning District (the "Project");

WHEREAS, on November 22, 2019, the City gave public notice by advertising in the Record Gazette, a newspaper of general circulation within the City of Banning, and by mailing notices to property owners within 300-feet of the project, of the holding of a public hearing at which the Project would be considered; and

WHEREAS, on December 4, 2019, the Planning Commission held the noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to, proposed Conditional Use Permit 19-8010.
NOW THEREFORE, the Planning Commission of the City of Banning does hereby find and determine as follows:

SECTION 1: California Environmental Quality Act and Multiple Species Habitat Conservation Plan Findings.

A. CEQA. Planning Division staff has determined that the Project is categorically exempt from the requirements of the California Environmental Quality Act ("CEQA") (Cal. Pub. Res. Code § 21000, et seq.) and the State Guidelines (the "Guidelines") (14 Cal. Code Regs. §15000 et seq.). The Project qualifies under the Class 1 categorical exemption because the Project consists of the operation, repair, permitting, leasing, licensing, and minor alteration of an existing private structure involving negligible or no expansion of a former use, including interior and exterior alterations involving such things as interior partitions, plumbing, and electrical conveyances. The Project will consist of remodeling the subject tenant suite to accommodate a lobby/reception area, retail sales and display area, office, storage room, security room, and break room. The Planning Commission has reviewed staff’s determination of exemption and recommends that the City Council, based on its own independent judgment, concur in the staff’s determination of exemption.

B. Multiple Species Habitat Conservation Plan (MSHCP). The Project is not subject to MSHCP as the Project is located in an existing building.

SECTION 2: Required Findings for Conditional Use Permit 19-8010: The Planning Commission of the City of Banning does hereby find and determine that CUP 19-8010 should be approved because:

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

Finding of Fact: Conditional Use Permit 19-8010 is consistent with the General Plan Land Use Element Policy, which states: "The land-use map shall provide for sufficient lands to provide a large range of products and services to the City and the region while carefully considering compatibility with adjacent residential lands." The land-use designation of Highway Serving Commercial (HSC) allows restaurants (fast food and sit down), hotels and motels, auto related retail, repair and services, including gas stations, convenience stores and similar uses serving the Interstate-10 traveler as the primary uses in this designation. Further, Conditional Use Permit 19-8010 is consistent with General Plan Economic Development Policy which states: "The City shall take a proactive role in the retention of existing businesses and the recruitment of new businesses, particularly those that generate and broaden employment opportunities, increase discretionary incomes, and contribute to City General Fund revenues." Approval of the permit would allow for a new retail business to open in the City that will broaden employment of opportunities and will contribute to the City's General Fund through the local sales tax on the retail sales. In addition, the new retail
business would promote business diversity while providing an economic benefit to the City.

Finding No. 2: The proposed use is conditionally permitted within the subject land use district and complies with all the applicable provisions of Title 17 of the Banning Municipal Code;

Finding of Fact: Table 17.12.020 ("Permitted, Conditional and Prohibited Commercial and Industrial Uses") of Section 17.12.020 of Chapter 17.12 of Title 17 of the Banning Municipal Code (BMC) provides that "Cannabis Retailer", is a conditionally permitted use in the HSC Zoning District. Further, the proposed Cannabis Retailer complies with all other applicable provisions of Title 17 of the Banning Municipal Code, including the standards set forth in Table 17.12.050 ("Use Specific Development Standards") and Section 17.12.050.Y. In addition, the project has been conditioned to comply with all of the operating requirements set forth in Chapter 17.54.

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

Finding of Fact: The proposed use is located adjacent to West Ramsey Street; which is a primary commercial corridor, within the Highway Serving Commercial Zoning District within the City. The establishment of the City of Banning’s Cannabis Retailer program, and successful ballot measure passed by the Banning voters on November 6, 2018 (Measure N), it is anticipated that the area would contain the three allowed Cannabis Retailers within the City. The Highway Serving Commercial Land Use District allows land uses geared toward the Interstate 10 traveler, including restaurants (fast food and sit down), hotels and motels, auto related retail, repair and services, including gas stations, convenience stores and similar use. The proposed use is a retail use and will be located in an area where there are several smoke shops, retailers of beer, wine, and spirits for off-site sales, coffee shops, and several "fast food" drive-thru restaurants. Therefore, the proposed use will not impair the integrity and character of the Highway Serving Commercial District as the proposed use will be complementary to the existing businesses.

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

Finding of Fact: The subject site is a multi-tenant commercial building and the applicant is not proposing any significant exterior changes to the building. The applicant is proposing to remodel and occupy one the existing retail suites. The site has adequate parking and lighting and the retail sales and services are the primary uses in the HSC Zoning District.
Finding No. 5: There are adequate provisions for water, sanitation, and public utilities and services to ensure that the proposed use would not be detrimental to public health and safety;

Finding of Fact: The subject site is served by the public and private utilities, including the City’s water and electrical utilities. The subject site has access and is served from West Ramsey Street, which is an existing developed roadway with existing utilities.

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

Finding of Fact: The project design, and the applicant’s proposed security plan, provides that the proposed project will not create significant harmful effects upon environmental quality; natural resources; or neighborhood characteristics. A retail business is consistent with the surrounding land uses and adjacent highway serving commercial businesses proposed CUP is exempt from the requirements of CEQA, as discussed in Section 1 of this Resolution.

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

Finding of Fact: The proposed location, design, and operating characteristics of the proposed cannabis retailer will not be detrimental to the public interests, health, safety, convenience, or welfare of the City. Cannabis related activities are regulated by the State of California, Bureau of Cannabis Control (BCC). In accordance with Banning Municipal Code (BMC), the applicant submitted a security plan that includes HD cameras, on-site and armed 24-hour security, and surveillance equipment. City Staff has completed a review of the security plan and determined that the applicant is providing adequate security lighting and active and passive security measures that will mitigate potential security threats. Additionally, a two stage air filtration system will be installed to prevent odors from leaving the premises. The project has also been conditioned to comply with the operational standards set forth in Chapter 17.52 including security, signage, premises requirements, and cannabis waste management, all of which are intended to ensure that the use is not detrimental to the health, safety, convenience or welfare of the City.

Moreover, staff has confirmed that the cannabis business is not located within a 200-foot radius of any residential zoning district, or 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, or a park.
SECTION 3:  PLANNING COMMISSION ACTION - Approval of Conditional Use Permit 19-8010: Based on the foregoing, the Planning Commission of the City of Banning hereby recommends the City Council approve Conditional Use Permit 19-8010, consistent with the site plans attached hereto as Exhibit "A," and subject to the recommended Conditions of Approval attached hereto as Exhibit "B".

PASSED, APPROVED, AND ADOPTED this 4th day of December, 2019.

____________________________________

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 2019-26, was duly adopted by the Planning Commission of the City of Banning, California, at a regular meeting thereof held on the 4th day of December, 2019, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____________________________________________
Sandra Calderon, Recording Secretary
City of Banning, California
PROJECT #: Conditional Use Permit No. 19-8010
SUBJECT: Conditions of Approval (Planning Commission Resolution 2019-26)
APPLICANT: Michelle West, Black Sun Medicals, Inc.
LOCATION: 1474 W. Ramsey Street, Banning, CA 92220 APN: 540-180-001

EXHIBIT B
to Planning Commission Resolution 2019-26

*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. To the fullest extent permitted by law, the City shall not assume any liability whatsoever, with respect to approving this Conditional Use Permit 19-8010 pursuant to Chapter 17.54 of the Banning Municipal Code (BMC) or the operation of the subject cannabis retail business approved by Conditional Use Permit 19-8010 pursuant to BMC Chapter 17.54. 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, damages, demands, lawsuits, writs of mandamus, legal or enforcement actions, 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), including, but not limited to, any actions or claims associated with violation of federal law associated with the operation of the subject cannabis retail business (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 (CEQA), State Planning and Zoning Law, the Subdivisions Map Act, Code of Civil Procedure Section 1085 or 1094.5, or any other state, federal, or local statute, law, ordinance, rule, regulation, or any decision of a competent jurisdiction. The applicant expressly agrees to (1) defend, at its sole expense, any action against the City, its agents, officers, and employees related to the approval of Conditional Use Permit 19-8010 or the operation of the subject cannabis retail business, including any and all claims associated with violation of federal law associated with the operation of the subject cannabis retail business, and (2) 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 Conditional Use Permit 19-8010. 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. It is expressly agreed that for all other actions 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. The applicant shall 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. The applicant shall name the City as an additionally insured on all City required insurance policies.

4. The applicant shall provide 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 subject cannabis retail business or refer members of the public who may have complaints or concerns regarding the subject cannabis retail business. The permittee shall mail this information to neighboring businesses and residences located within one hundred feet (100') of the cannabis business, as measured in a straight line without regard to intervening structures.

5. The approval of Conditional Use Permit 19-8010 shall not waive compliance with any sections of the BMC, other applicable City ordinances, in effect at the time of building permit issuance.
6. The Cannabis Retailer permitted under Conditional Use Permit 19-8010 shall commence business within two (2) years from the date of this approval, or Conditional Use Permit 19-8010 shall become null and void. Additionally, if after commencement of operations, cannabis sales are discontinued for a period of one year, Conditional Use Permit 19-8010 shall become null and void. The Community Development Director may, upon a written application being filed thirty (30) days prior to expiration and for good cause, grant a onetime extension not to exceed twelve (12) months. Upon granting of an extension, the Community Development Director shall ensure that Conditional Use Permit 19-8010 complies with all current provisions of BMC Title 17.

7. A copy of the signed Resolution of approval, all Conditions of Approval imposed on the Conditional Use Permit shall be reproduced in legible form on the tenant improvement plans submitted for review and approval as required by the reviewing department.

8. The subject tenant suite shall be developed and maintained in accordance with the tenant improvement plans stamped approved by the City and on file in the Planning Division, the Conditions of Approval contained herein, and the applicable regulations within the BMC.

9. The applicant shall comply with regulations of the California Bureau of Cannabis Control (BCC) applicable to Cannabis Retailers, including maintaining a valid BCC State license for cannabis retailers at all times.

10. The applicant shall operate in compliance with the operational standards set forth in BMC Chapter 17.54, including requirements related to the premises (Section 17.54.090), personnel and visitors (Section 17.54.100), security (Section 17.54.110), track and trace (Section 17.54.120), signage (Section 17.54.130), general sanitary requirements (Section 17.54.150), operating regulations (Section 17.54.170), and other provisions (Section 17.54.180).

11. There shall be no consumption of cannabis or cannabis products or alcoholic beverages on the subject site. The applicant shall prominently post signs stating this prohibition in the subject building and throughout the subject site.

12. All cannabis business, including sales, display, storage, shall be conducted only in the interior of the facility. Notwithstanding this condition, cannabis deliveries can be made from the subject site.

13. 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.
14. The applicant shall hire or contract for 24-hour security personnel to provide security services for the subject premises. All security personnel hired or contracted for the subject cannabis retail business shall comply with Chapters 11.4 and 11.5 of Division 3 of the Business and Professions Code.

15. The applicant shall provide video surveillance of all sensitive outside and inside areas of the facility with a system camera resolution of 1280 x 720 pixels; shall be transmission control protocol capable of being accessed through the internet; shall provide sound; shall record 24 hours per day at 15 frames per second; and shall have a storage capacity of 90 days.

16. The applicant shall operate the business in compliance with the security plan and lighting plan submitted on November 26, 2019.

17. The applicant shall at all times maintain an alarm system that complies with BMC Section 17.54.110.

18. Prior to building occupancy, the applicant shall install, and at all times maintain, a ventilation and filtration system that prevents cannabis odors from existing the interior of the structure and shall comply with all related California Building Standards Code (CBC) requirements, as adopted and amended by the City.

19. The business shall only be open to the public between the hours of 9:00 a.m. to 9:00 p.m.

**Building Department**

20. The applicant shall provide and submit complete plans to the Building Department for tenant improvements.

21. The project site has undergone previous improvements; more specifically, where a demising wall was added between the proposed tenant improvement and the adjacent suite. Any electrical may need to be exposed, and on the proper circuits pertaining to the proposed tenant improvement.

22. The applicant shall detail occupant load calculations within the plans for building permit based on CBC Table 1004.1.2.

23. The applicant shall detail separate toilet facilities for each sex within the plans for the building permit if the plumbing occupant load per CPC Chapter 4, Table A is 50 or more.

24. The applicant shall detail a dimensioned, detailed restroom floor plan with fixture details within the plans for building permit to demonstrate compliance with
accessibility standards. The applicant shall provide elevation views. The applicant shall provide the dimensions and locations of all accessible plumbing fixtures such as: water closets, urinals, lavatories, grab bars, towel dispenser, soap dispenser, mirror, etc. (CBC 11B-213).

25. In the applicant shall cause plans for building permits that compliance with all current adopted model codes. Drawing plans and structural calculations shall be in accordance with the current CBC. Plans submitted after the 1st of the year will be subjected to the 2019 CBC, as adopted and amended by the City.

26. When alterations, structural repairs, improvements or additions are made to existing building or facility, the applicant shall comply with the provisions of Division 20 of the CBC. In addition, 20% of the construction valuation shall be applied to building and/or building site for disabled access improvements (CBC Section 11B-202.4) addressed in the following order of importance (see Exceptions):

27.  
A. Accessible route from the public sidewalk to the accessible building entrance. (When public sidewalks exist).
B. Accessible parking.
C. Accessible route from the accessible parking space(s) to the accessible building entrance.
D. Accessible route from the accessible building entrance to the area(s) of improvement.
E. Accessible restrooms (one each) for each sex when required.
F. Accessible drinking fountain.

28. The existing grades within the existing accessible parking and loading/unloading area exceed 2%. The applicant shall revise the existing grades to the proper ADA slopes.

29. The provided accessible route from the accessible parking to the front door shall not exceed 2% cross slope.

30. The applicant shall restrpke the existing accessible parking spaces, and locate a proper 36” x 36” symbol of accessibility at the entrance to the space. The 12” high no parking shall be perpendicular and located within the loading/unloading area. (CBC Section 11B-502.3.3)

31. The applicant shall mark the ADA parking space with an international Symbol of Accessibility complying with CBC Section 11B-703.7.2.1 in white on a blue background a minimum of 36 inches wide by 36 inches high.
32. The provided sign at the west entrance is outdated. The applicant shall post an additional sign (17" x 22" minimum) either 1) in a conspicuous place at each entrance to an off street parking facility, or 2) immediately adjacent to on-site accessible parking and visible from each parking space, which sign shall state: "Unauthorized vehicles parked in designated accessible spaces not displaying distinguishing placards or special license plates issued for persons with disabilities will be towed away at owner's expense. Towed vehicles may be reclaimed at ___________ or by telephoning ____________.” The applicant shall fill in the blank spaces with appropriate information as a permanent part of the sign. (CBC Section 11B-502.8.2).

33. Signs identifying van parking spaces shall contain additional language or an additional sign with the designation “Van Accessible.”

34. City Building Inspection staff shall verify condition in the field and detail within drawing plans. Thresholds that are provided at a doorway should be a maximum of ½ - inch high. (CBC Section 11B-404.2.5)

35. The applicant shall provide a sign on or adjacent to the exit door as follows: “This door to remain unlocked when building is occupied.” The sign shall be in letters 1-inch high on a contrasting background.

36. The applicant shall identify all applicable door sizes and types on the plans submitted for building permit (new and existing). Specify 3'-0" x 6'-8" minimum for all existing doors. Such doors shall be capable of providing a net clear exit width of 32" minimum. (CBC Sections 11B-206.4, 11B-404)

37. The opening force required for hinged interior and exterior doors other than fire doors shall be 5lbs. maximum. (CBC 11B-404.2.9)

38. Door handles, pulls, latches, locks and other operating devices on doors required to be accessible by CBC Chapter 11B shall not require tight grasping, tight pinching or twisting of the wrist to operate. Where sliding doors are in the fully open position, operating hardware shall be exposed and usable from both sides.

39. Service counters, reception counters, transaction counters, transaction windows, and ticket booths shall be accessible and provided for persons with disabilities. The countertop shall be 28" minimum and 34" high maximum above finished floor, with a minimum length of 36" on the customer/public side. A 36" clear isle width shall also be provided on the customer side of the transaction counter. The applicant shall provide details on the plans. (CBC Section 11B-904.3, 11B-403)

40. Windows located within 24” from vertical edge of a door in the closed position shall be tempered.
Electric Department

41. Based upon review by the Banning Electric Utility (BEU), the property includes two separate units (1474 & 1484 W. Ramsey Street); which have a merged utility account under 1474 W. Ramsey Street. The merged account shall be separated prior to the issuance of the building permit. Cross connection between the two units is prohibited and the units and electrical work shall be designed by a licensed electrical contractor and inspected by the Banning Electric Utility.

Public Works Department

42. Disposal of any cannabis or cannabis products through the city owned and maintained sewer facilities shall be strictly prohibited. The applicant shall comply with the cannabis waste management procedures set forth in BMC Section 17.54.140.

Fire Department

43. Construction Permits Fire Department Review: The applicant is shall submit construction plans to the Office of the Fire Marshal for development, construction, installation and operational use permitting. Detailed compliance with the BMC (which includes the CBC) and the National Fire Protection Act (NFPA) will be addressed upon the Fire Marshal's review of the plans for building permit. The applicant shall cause building plans to comply with, and shall be based on occupancy type, the commercial use, and the CBC, including the California Fire Code and related codes, which are in effect at the time of building plan submittal.

44. Addressing: All commercial buildings shall display street numbers in a prominent location, and that are appropriate illuminated and/or "backlit" on the address side and additional locations as required. (California Fire Code Section 505.1 and County of Riverside Office of the Fire Marshal Standard #07-0)

45. General Condition: Additional requirements may be required based upon the adopted codes in effect at the time of submittal.

***END***
ATTACHMENT 3

Applicant’s Regulatory Permit Application Approval Letter
March 4, 2019

Black Sun Medicinals, Inc.
Attn: Michelle West
2334 El Prado Avenue
Lemon Grove, CA 91945

Subject: Cannabis Application Review and Eligibility/Ineligibility Determination
Application Number 19-9507

Dear Michelle:

Thank you for submitting your Cannabis Retail Regulatory Permit Application. A review of your application pursuant to Banning Municipal Code (BMC), Chapter 5.33, Section 5.33.050 has been completed. The results of this review have determined your application to be, eligible to proceed to the Lottery stage of the application process.

Notice of eligibility has been sent to all applicants. Those found to be, not eligible have a right to appeal. The appeal process will be conducted, March 4, 2019 through March 15, 2019.

If no appeals are received, the Lottery is tentatively scheduled for, March 13, 2019. Log on to the City of Banning website for detailed information in regards to the time, date and location of the lottery.

Should you have any questions regarding the decision, or if we can be of further assistance, please feel free to contact me at the Planning Division telephone number listed above.

Sincerely,

Mark de Manincor
Contract Planner
951-922-3123
ATTACHMENT 4
Applicant’s Lottery Notification Letter
March 11, 2019

Black Sun Medicinals, Inc.
Attn: Michelle West
2334 El Prado Avenue
Lemon Grove, CA 91945

Subject: Lottery for eligible cannabis regulatory permit applicants

Dear Michelle:

Congratulations on your eligibility to participate in the Cannabis Retail Regulatory Permit Lottery. The Lottery will be held here at City Hall, 99 East Ramsey Street, Banning CA, 92220, at 5:00 p.m., Wednesday, March 20, 2019, in the City Council Chambers. You are encouraged to attend, although, you do not need to be in attendance to participate in the Lottery. Lottery results will be sent to all eligible applicants. The first three numbers selected will be the first permitted to move forward to the Conditional Use Permit process in accordance with City Council Resolution 2018-153. The remaining applicants will be put on a waiting list in the order their number was pulled.

Should you have any questions regarding this information, or if we can be of further assistance, please feel free to contact me at the Planning Division telephone number listed above.

Sincerely,

Mark de Manincor
Contract Planner
951-922-3123
ATTACHMENT 5
Public Hearing Notice
NOTICE OF INTENT TO ADOPT A CATEGORICAL EXEMPTION AND NOTICE OF PUBLIC HEARING FOR CONDITIONAL USE PERMIT 19-8010 TO CONSIDER A PROPOSAL TO ALLOW FOR A CANNABIS RETAILER LOCATED IN THE HIGHWAY SERVING COMMERCIAL (HSC) ZONE ON REAL PROPERTY IDENTIFIED AS 1474 WEST RAMSEY ST (APN 540-180-001)

NOTICE IS HEREBY GIVEN of a public hearing before the City of Banning Planning Commission, to be held on Wednesday, December 4, 2019, at 6:30 p.m. in the Council Chambers, City Hall, 99 East Ramsey Street, Banning, California, to consider a Notice of Exemption and Conditional Use Permit (CUP 19-8010) to allow for a Cannabis Retailer located in the Highway Serving Commercial (HSC) zone on real property identified as 1474 West Ramsey St, APN 540-180-001.

Information regarding the Notice of Exemption can be obtained by contacting the City's Community Development Department at (951) 922-3125, or by visiting the City Hall located at 99 East Ramsey Street, Banning. You may also go to the City of Banning website at https://banningca.gov.

All parties interested in speaking either in support of or in opposition of this item are invited to attend said hearing, or to send their written comments to the Community Development Department, City of Banning at P.O. Box 998, Banning, California, 92220.

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

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

Adam Rush, M.A., AICP
Community Development Director

Dated: November 19, 2019
Publish: November 22, 2019
ATTACHMENT 6
Notice of Exemption
Notice of Exemption

To: Office of Planning and Research
   P.O. Box 3044, Room 212
   Sacramento, CA 95812-3044
   County Clerk
   County of Riverside
   P.O. Box 751
   Riverside, CA 92502-0751

From: City of Banning
       99E. Ramsey Street
       P.O. Box 998
       Banning, CA 92220

Project Title: Conditional Use Permit 19-8010

Project Applicant: Empire Banning for Black Sun Medicals, Inc., 1484 West Ramsey Street, Banning, CA 92220

Project Location – Specific:
1474 West Ramsey Street, Banning, CA 92220, Assessor’s Parcel Number 540-180-001

Project Location – City: City of Banning
Project Location – County: Riverside County

Description of Nature, Purpose and Beneficiaries of Project:
Cannabis Retailer

Name of Public Agency Approving Project: City of Banning
Name of Person or Agency Carrying Out Project: City of Banning

Exempt Status: (check one)
☐ Ministerial (Sec. 21080(b)(1); 15268); ☑ Declared Emergency (Sec. 21080(b)(3); 15269(a));
☐ Emergency Project (Sec. 21080(b)(4); 15269(b)(c)); ☑ Categorical Exemption. State type and section number:
☐ Statutory Exemptions. State code number:

Section’s 15301, Existing Facilities

Reasons why project is exempt:
The project is located in an existing structure and only minor modifications will be made to the interior of the unit.

Lead Agency: City of Banning
Contact Person: Adam B. Rush, M.A., AICP
Area Code/Telephone/Extension: (951) 922-3123

If filed by applicant:
1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project? ☑ Yes ☐ No

Signature: [Signature] Date: Nov. 21, 2019 Title: Community Development Director

Signed by Lead Agency: ☑ Yes ☐ No
Signed by Applicant: ☑ Yes ☐ No
Date received for filing at OPR: ________________________

Authority cited: Sections 21083 and 21110, Public Resources Code.
Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.
TO: PLANNING COMMISSION

FROM: Adam B. Rush, Community Development Director

PREPARED BY: Mark de Manincor, Contract Planner

MEETING DATE: December 4, 2019

SUBJECT: Resolution 2019-23, recommending the City Council approve, Conditional Use Permit 19-8006, that authorizing a Cannabis Retailer at an existing developed property located at 2372 W. Ramsey Street (APN: 538-200-025) in the Highway Serving Commercial (HSC) Zoning District

RECOMMENDED ACTION:

Staff recommends the Planning Commission adopt Resolution 2019-23, recommending the City Council make a determination that the Project is exempt under the California Environmental Quality Act (CEQA) pursuant to Guidelines Section 15301 (Existing Facilities) and approve Conditional Use Permit 19-8006 authorizing a Cannabis Retailer at an existing developed property located at 2372 W. Ramsey Street (APN: 538-200-025) in the Highway Serving Commercial (HSC) Zoning District.

PROJECT / APPLICANT INFORMATION:

Project Location 2372 West Ramsey Street, Banning, CA 92220

APN Information: 538-200-025

Project Applicant: Macy Newall
3385 Michelson Drive, Suite 146
Irvine, CA 92612

Property Owner: Jessica B. Flores
2372 West Ramsey Street
Banning, CA 92220
REQUEST:

The applicant, Macy Newell, is requesting approval of a Conditional Use Permit (CUP) to allow for the retail sales and delivery of cannabis products, at an existing developed property located at 2372 West Ramsey Street, Banning, CA 92220.

DESCRIPTION:

The applicant is requesting approval to allow for the retail sales and delivery of cannabis products. The applicant also intends to sell other ancillary retail products such as; t-shirts, pipes, papers and other cannabis related merchandise.

The applicant, Macy Newell submitted an application on February 12, 2109, for a Cannabis Regulatory Permit and was deemed eligible to participate in the Cannabis Lottery. Macy was the second person to be selected in the cannabis lottery on May 23, 2019, and the first to submit an application for a Cannabis Retailer Conditional Use Permit, October 9, 2019.

The applicant proposes to operate out of an existing developed commercial center located at 2372 West Ramsey Street. The approximately 2,500 square foot unit is to be remodeled to accommodate a lobby/reception area, retail sales area, office, storage room, security room and break room.

In accordance with Banning Municipal Code, the applicant proposes a security plan with cameras, guards and surveillance equipment. There will be adequate security lighting and protocols to minimize potential security threats. Additionally, a two stage air filtration system will be installed to prevent odors from leaving the premises.

The applicant proposes that the business be open to the public between the hours of 9:00 a.m. to 9:00 p.m.; although, staff may be working as early as 7:00 a.m., and as late as 11:00pm, to prepare for the days' business.

Surrounding Land Use

The site is located on an existing commercial lot between a Days Inn and a RV Sales lot.

The nature of the surrounding uses, zoning classifications, and General Plan land use designations are delineated for Planning Commission consideration in the following table.
Land Use Summary Table

<table>
<thead>
<tr>
<th>Subject Site</th>
<th>Existing Land Use</th>
<th>Zoning Classification</th>
<th>General Plan Designation</th>
</tr>
</thead>
<tbody>
<tr>
<td>North</td>
<td>Coyne Power Sports</td>
<td>(HSC)</td>
<td>(HSC)</td>
</tr>
<tr>
<td>South</td>
<td>I-10 Freeway</td>
<td>(PF-Railroad/Interstate)</td>
<td>(PF-Railroad/Interstate)</td>
</tr>
<tr>
<td>East</td>
<td>Motel</td>
<td>(HSC)</td>
<td>(HSC)</td>
</tr>
<tr>
<td>West</td>
<td>Vacant Developed Commercial</td>
<td>(HSC)</td>
<td>(HSC)</td>
</tr>
</tbody>
</table>

PROJECT ANALYSIS:

Zoning

Table 17.12.020 ("Permitted, Conditional and Prohibited Commercial and Industrial Uses") of Section 17.12.020, of Chapter 17.12 of Title 17 of the Banning Municipal Code provides that Cannabis Retailers are permitted in the Highway Serving Commercial (HSC) Zoning District, subject to approval of a Cannabis CUP by the City Council, and recommendation by the Planning Commission, and subject to the requirements of Chapters 17.52 and 17.54 of the Zoning Code.

Additional requirements identified in the Code state the cannabis retailer must be at least 200 feet from any residential district and 600-feet from any day care center, youth center, public or private school providing instruction in kindergarten or any of grades 1-12, or park. The proposed location of the Cannabis Retailer is compliant with the above mentioned requirements.

Conditional Use Permit

In accordance with Section 17.52.010, the purpose of a Conditional Use Permit is:

A. Conditional uses are unique and their effect on the surrounding environment cannot be determined in advance of the use being proposed for a particular location. At the time of application, a review of the location, design, configuration, and potential impact of the proposed use shall be conducted by comparing the use to established development standards and design guidelines.

B. This review shall determine whether the proposed use should be permitted by weighing the public need for the benefit to be derived from the use, against any
negative or undesirable impacts which it may cause. Limits which the Planning Commission might want to impose, could include restrictions on the hours of business operation; restrictions on the number of clients which the business may service at any one time; increased visual and sound barriers; improved technologies or equipment which lessen any noise, light or odor emitted by the business or other use; as well as any other conditions which could help make the use more compatible with the neighborhood in which it is proposed to be located.

Section 17.52.050 – Findings states:

After a public hearing, the Commission shall record the decision in writing the findings upon which such decision is based. The Commission may approve and/or modify a Conditional Use Permit application in whole or in part, with or without conditions, only if all of the following findings are made:

A. The proposed use is consistent with the General Plan;

B. The proposed use is conditionally permitted within the subject land use district and complies with all of the applicable provisions of this Ordinance;

C. The proposed use would not impair the integrity and character of the land use district in which it is to be located;

D. The subject site is physically suitable for the type and intensity of land use being proposed;

E. There are adequate provisions for water, sanitation, and public utilities and services to ensure that the proposed use would not be detrimental to public health and safety;

F. There will not be significant harmful effects upon environmental quality; natural resources; or neighborhood characteristics;

G. The proposed location, size, design, and operating characteristics of the proposed use will not be detrimental to the public interests, health, safety, convenience, or welfare of the City.

Staff has determined that above-referenced findings can be made. The support for the findings can be found in Planning Commission Resolution 2019-23 (attachment 1).

Section 17.54.060, Procedures and findings for approval of cannabis retailer conditional use permit states:
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.

Staff believes that approval of the CUP will serve the community by providing a convenient location for the purchase of cannabis products, providing for jobs and tax revenue, and assisting highway consumers traveling and staying in the surrounding area.

ENVIRONMENTAL DETERMINATION:

California Environmental Quality Act (CEQA)

Planning Department staff has determined that this Project is categorically exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Section 15301 (Existing Facilities - Class 1 Categorical Exemption) because the project consists of the operation, repair, maintenance, permitting, leasing, licensing, and minor alteration of an existing private structure involving negligible or no expansion of a former use, including interior and exterior alterations involving such things as interior partitions, plumbing, and electrical conveyances. The Project will consist of remodeling the subject tenant suite to accommodate a lobby/reception area, retail sales and display area, office, storage room, security room, and break room.

Multiple Species Habitat Conservation Plan (MSHCP).

The project is not subject to MSHCP as the project is an existing facility and no new exterior improvements are identified.
PUBLIC COMMUNICATION:

Proposed Conditional Use Permit 19-8006 was advertised in the Record Gazette newspaper on November 22, 2019 (Attachment 5). As of the date of this report, staff has not received any written comments on the project.

Prepared by:

Reviewed by:

Mark de Manincor  Adam B. Rush, M.A., AICP
Senior Planner  Community Development Director

ATTACHMENTS:

1. Planning Commission Resolution 2019-23
   Exhibit A – Project Plans
   Exhibit B – Conditions of Approval
2. Project Plans
3. Applicant’s Regulatory Permit Application Approval Letter
4. Applicant’s Lottery Notification Letter
5. Public Hearing Notice
6. Notice of Exemption
ATTACHMENT 1
Resolution No. 2019-23
RESOLUTION 2019-23

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BANNING, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL MAKE A DETERMINATION OF EXEMPTION UNDER CEQA GUIDELINES SECTION 15301 AND APPROVE CONDITIONAL USE PERMIT 19-8006, TO AUTHORIZE THE RETAIL SALES AND DELIVERY OF CANNABIS PRODUCTS AT AN EXISTING DEVELOPED SITE LOCATED AT 2372 WEST RAMSEY STREET (APN: 538-200-025) IN THE HIGHWAY SERVING COMMERCIAL (HSC) ZONING DISTRICT.

WHEREAS, an application for a Conditional Use Permit to authorize the retail sales and delivery of cannabis, and cannabis products at an existing developed site has been duly filed by:

Project Location: 3080 West Ramsey Street

APN Information: 538-340-007

Project Applicant: Macy Newall
3385 Michelson Drive, Suite 146
Irvine, CA 92612

Property Owner: Jessica Flores
3080 West Ramsey Street
Banning, CA 92220;

WHEREAS, the Planning Commission is authorized under Chapter 17.54 of the Banning Municipal Code to make a recommendation to the City Council regarding proposed Conditional Use Permit 19-8006 to allow for the retail sales of cannabis and cannabis products at an existing developed site in the Highway Serving Commercial (HSC) Zoning District (the "Project");

WHEREAS, on November 22, 2019, the City gave public notice by advertising in the Record Gazette, a newspaper of general circulation within the City of Banning, and by mailing notices to property owners within 300-feet of the project, of the holding of a public hearing at which the Project would be considered; and

WHEREAS, on December 4, 2019, the Planning Commission held the noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to, proposed Conditional Use Permit 19-8006.

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

SECTION 1: California Environmental Quality Act and Multiple Species Habitat Conservation Plan Findings.
A. **CEQA.** Planning Division staff has determined that the Project is categorically exempt from the requirements of the California Environmental Quality Act ("CEQA") (Cal. Pub. Res. Code § 21000, et seq.) and the State Guidelines (the "Guidelines") (14 Cal. Code Regs. §15000 et seq.). The Project qualifies under the Class 1 categorical exemption because the Project consists of the operation, repair, permitting, leasing, licensing, and minor alteration of an existing private structure involving negligible or no expansion of a former use, including interior and exterior alterations involving such things as interior partitions, plumbing, and electrical conveyances. The Project will consist of remodeling the subject tenant suite to accommodate a lobby/reception area, retail sales and display area, office, storage room, security room, and break room. The Planning Commission has reviewed staff's determination of exemption and recommends that the City Council, based on its own independent judgment, concur in the staff's determination of exemption.

B. **Multiple Species Habitat Conservation Plan (MSHCP).** The Project is not subject to MSHCP as the Project is located in an existing building.

**SECTION 2: Required Findings for Conditional Use Permit 19-8006:** The Planning Commission of the City of Banning does hereby find and determine that CUP 19-8006 should be approved because:

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

**Finding of Fact:** Conditional Use Permit 19-8006 is consistent with the General Plan Land Use Element Policy, which states: "The land-use map shall provide for sufficient lands to provide a large range of products and services to the City and the region while carefully considering compatibility with adjacent residential lands." The land-use designation of Highway Serving Commercial allows restaurants (fast food and sit down), hotels and motels, auto related retail, repair and services, including gas stations, convenience stores and similar uses serving the I-10 traveler as the primary uses in this designation. Further, Conditional Use Permit 19-8006 is consistent with General Plan Economic Development Policy which states: "The City shall take a proactive role in the retention of existing businesses and the recruitment of new businesses, particularly those that generate and broaden employment opportunities, increase discretionary incomes, and contribute to City General Fund revenues." Approval of the permit would allow for a new retail business to open in the City that will broaden employment of opportunities and will contribute to the City's General Fund through the local sales tax on the retail sales. In addition, the new retail business would promote business diversity while providing an economic benefit to the City.

**Finding No. 2:** The proposed use is conditionally permitted within the Highway Serving Commercial (HSC Zoning District and complies with all the applicable provisions of Title 17 of the Banning Municipal Code;
Finding of Fact: Table 17.12.020 ("Permitted, Conditional and Prohibited Commercial and Industrial Uses") of Section 17.12.020 of Chapter 17.12 of Title 17 of the Banning Municipal Code (BMC) provides that "Cannabis Retailer" is a conditionally permitted use in the HSC Zoning District. Further, the proposed Cannabis Retailer complies with all other applicable provisions of Title 17 of the Banning Municipal Code, including the standards set forth in Table 17.12.050 ("Use Specific Development Standards") and Section 17.12.050.Y. In addition, the project has been conditioned to comply with all of the operating requirements set forth in Chapter 17.54.

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

Finding of Fact: The proposed use is located adjacent to West Ramsey Street; which is a primary commercial corridor, within the Highway Serving Commercial Zoning District within the City. Based upon the City Council findings, the establishment of the City of Banning's Cannabis Retailer program, and successful ballot measure passed by the Banning voters on November 6, 2018 (Measure N), it is anticipated that the area would contain the three allowed Cannabis Retailers within the City. The Highway Serving Commercial Land Use District allows land uses geared toward the Interstate 10 traveler, including restaurants (fast food and sit down), hotels and motels, auto related retail, repair and services, including gas stations, convenience stores and similar use. The proposed use is a retail use and will be located in an area where there are several smoke shops, retailers of beer, wine, and spirits for off-site sales, coffee shops, and several "fast food" drive-thru restaurants. Therefore, the proposed use will not impair the integrity and character of the Highway Serving Commercial District as the proposed use will be complementary to the existing businesses.

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

Finding of Fact: The subject site currently consists of an existing building previously used as a dog grooming, board and care, business and the applicant is not proposing any significant exterior changes to the building. Furthermore, the site has adequate parking and lighting and the retail sales and services are the primary uses in the HSC zoning district.

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

Finding of Fact: The subject site is served by the public and private utilities, including the City's water and electrical utilities. The subject site has access
and is served from West Ramsey Street, which is an existing developed roadway with existing utilities.

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

**Finding of Fact:** The project design, and the applicant’s proposed security plan, provides that the proposed project will not create significant harmful effects upon environmental quality; natural resources; or neighborhood characteristics. In addition, the proposed CUP is exempt from the requirements of CEQA, as discussed in Section 1 of this Resolution.

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

**Finding of Fact:** The proposed location, design, and operating characteristics of the proposed cannabis retailer will not be detrimental to the public interests, health, safety, convenience, or welfare of the City. Cannabis related activities are regulated by the State of California, Bureau of Cannabis Control (BCC). In accordance with Banning Municipal Code (BMC), the applicant submitted a security plan that includes HD cameras, on-site and armed 24-hour security, and surveillance equipment. City Staff has completed a review of the security plan and determined that the applicant is providing adequate security lighting and active and passive security measures that will mitigate potential security threats. Additionally, a two stage air filtration system will be installed to prevent odors from leaving the premises. The project has also been conditioned to comply with the operational standards set forth in Chapter 17.52 including security, signage, premises requirements, and cannabis waste management, all of which are intended to ensure that the use is not detrimental to the health, safety, convenience or welfare of the City.

Moreover, staff has confirmed that the cannabis business is not located within a 200-foot radius of any residential zoning district, or 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, or a park.
SECTION 3:  PLANNING COMMISSION ACTION - Approval of Conditional Use Permit 19-8006: Based on the foregoing, the Planning Commission of the City of Banning hereby recommends the City Council approve Conditional Use Permit 19-8006, consistent with the site plans attached hereto as Exhibit "A," and subject to the recommended Conditions of Approval attached hereto as Exhibit "B."

PASSED, APPROVED, AND ADOPTED this 4th day of December, 2019.

__________________________________
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 2019-23, was duly adopted by the Planning Commission of the City of Banning, California, at a regular meeting thereof held on the 4th day of December, 2019, by the following vote, to wit:

AYES: 

NOES: 

ABSENT: 

ABSTAIN: 

__________________________________________

Sandra Calderon, Recording Secretary
City of Banning, California
EXHIBIT A – PROJECT PLANS

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PROJECT #: Conditional Use Permit No. 19-8006
SUBJECT: Conditions of Approval (Planning Commission Resolution 2019-23)
APPLICANT: Macy Newell, Nourish, Inc.
LOCATION: 2372 W. Ramsey Street, Banning, CA 92220 APN: 540-180-001

EXHIBIT B
to Planning Commission Resolution 2019-26

*All fair share agreements, covenant agreements and agreements subject to recodarion 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. To the fullest extent permitted by law, the City shall not assume any liability whatsoever, with respect to approving this Conditional Use Permit 19-8006 pursuant to Chapter 17.54 of the Banning Municipal Code (BMC) or the operation of the subject cannabis retail business approved by Conditional Use Permit 19-8006 pursuant to BMC Chapter 17.54. 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, damages, demands, lawsuits, writs of mandamus, legal or enforcement actions, 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), including, but not limited to, any actions or claims associated with violation of federal law associated with the operation of the subject cannabis retail business (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 (CEQA), State Planning and Zoning Law, the Subdivisions Map Act, Code of Civil Procedure Section 1085 or 1094.5, or any other state, federal, or local statute, law, ordinance, rule, regulation, or any decision of a competent jurisdiction. The applicant expressly agrees to (1) defend, at its sole expense, any action against the City, its agents, officers, and employees related to the approval of Conditional Use Permit 19-8006 or the operation of the subject cannabis retail business, including any and all claims associated with violation of federal law associated with the operation of the subject cannabis retail business, and (2) 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 Conditional Use Permit 19-8006. 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. It is expressly agreed that for all other actions 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. The applicant shall 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. The applicant shall name the City as an additionally insured on all City required insurance policies.

4. The applicant shall provide 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 subject cannabis retail business or refer members of the public who may have complaints or concerns regarding the subject cannabis retail business. The permittee shall mail this information to neighboring businesses and residences located within one hundred feet (100') of the cannabis business, as measured in a straight line without regard to intervening structures.

5. The approval of Conditional Use Permit 19-8006 shall not waive compliance with any sections of the BMC, other applicable City ordinances, in effect at the time of building permit issuance.
6. The Cannabis Retailer permitted under Conditional Use Permit 19-8006 shall commence business within two (2) years from the date of this approval, or Conditional Use Permit 19-8006 shall become null and void. Additionally, if after commencement of operations, cannabis sales are discontinued for a period of one year, Conditional Use Permit 19-8006 shall become null and void. The Community Development Director may, upon a written application being filed thirty (30) days prior to expiration and for good cause, grant a onetime extension not to exceed twelve (12) months. Upon granting of an extension, the Community Development Director shall ensure that Conditional Use Permit 19-8006 complies with all current provisions of BMC Title 17.

7. A copy of the signed Resolution of approval, all Conditions of Approval imposed on the Conditional Use Permit shall be reproduced in legible form on the tenant improvement plans submitted for review and approval as required by the reviewing department.

8. The subject tenant suite shall be developed and maintained in accordance with the tenant improvement plans stamped approved by the City and on file in the Planning Division, the Conditions of Approval contained herein, and the applicable regulations within the BMC.

9. The applicant shall comply with regulations of the California Bureau of Cannabis Control (BCC) applicable to Cannabis Retailers, including maintaining a valid BCC State license for cannabis retailers at all times.

10. The applicant shall operate in compliance with the operational standards set forth in BMC Chapter 17.54, including requirements related to the premises (Section 17.54.090), personnel and visitors (Section 17.54.100), security (Section 17.54.110), track and trace (Section 17.54.120), signage (Section 17.54.130), general sanitary requirements (Section 17.54.150), operating regulations (Section 17.54.170), and other provisions (Section 17.54.180).

11. There shall be no consumption of cannabis or cannabis products or alcoholic beverages on the subject site. The applicant shall prominently post signs stating this prohibition in the subject building and throughout the subject site.

12. All cannabis business, including sales, display, storage, shall be conducted only in the interior of the facility. Notwithstanding this condition, cannabis deliveries can be made from the subject site.

13. 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.
14. The applicant shall hire or contract for 24-hour security personnel to provide security services for the subject premises. All security personnel hired or contracted for the subject cannabis retail business shall comply with Chapters 11.4 and 11.5 of Division 3 of the Business and Professions Code.

15. The applicant shall provide video surveillance of all sensitive outside and inside areas of the facility with a system camera resolution of 1280 x 720 pixels; shall be transmission control protocol capable of being accessed through the internet; shall provide sound; shall record 24 hours per day at 15 frames per second; and shall have a storage capacity of 90 days.

16. The applicant shall operate the business in compliance with the security plan and lighting plan submitted on November 26, 2019.

17. The applicant shall at all times maintain an alarm system that complies with BMC Section 17.54.110.

18. Prior to building occupancy, the applicant shall install, and at all times maintain, a ventilation and filtration system that prevents cannabis odors from existing the interior of the structure and shall comply with all related California Building Standards Code (CBC) requirements, as adopted and amended by the City.

19. The business shall only be open to the public between the hours of 9:00 a.m. to 9:00 p.m.

**Building Department**

20. The applicant shall provide and submit complete plans to the Building Department for tenant improvements.

21. The project site has undergone previous improvements; more specifically, where a demising wall was added between the proposed tenant improvement and the adjacent suite. Any electrical may need to be exposed, and on the proper circuits pertaining to the proposed tenant improvement.

22. The applicant shall detail occupant load calculations within the plans for building permit based on CBC Table 1004.1.2.

23. The applicant shall detail separate toilet facilities for each sex within the plans for the building permit if the plumbing occupant load per CPC Chapter 4, Table A is 50 or more.

24. The applicant shall detail a dimensioned, detailed restroom floor plan with fixture details within the plans for building permit to demonstrate compliance with
accessibility standards. The applicant shall provide elevation views. The applicant shall provide the dimensions and locations of all accessible plumbing fixtures such as: water closets, urinals, lavatories, grab bars, towel dispenser, soap dispenser, mirror, etc. (CBC 11B-213).

25. In the applicant shall cause plans for building permits that compliance with all current adopted model codes. Drawing plans and structural calculations shall be in accordance with the current CBC. Plans submitted after the 1st of the year will be subjected to the 2019 CBC, as adopted and amended by the City.

26. When alterations, structural repairs, improvements or additions are made to existing building or facility, the applicant shall comply with the provisions of Division 2 of the CBC. In addition, 20% of the construction valuation shall be applied to building and/or building site for disabled access improvements (CBC Section 11B-202.4) addressed in the following order of importance (see Exceptions):

27.

A. Accessible route from the public sidewalk to the accessible building entrance. (When public sidewalks exist).
B. Accessible parking.
C. Accessible route from the accessible parking space(s) to the accessible building entrance.
D. Accessible route from the accessible building entrance to the area(s) of improvement.
E. Accessible restrooms (one each) for each sex when required.
F. Accessible drinking fountain.

28. The existing grades within the existing accessible parking and loading/unloading area exceed 2%. The applicant shall revise the existing grades to the proper ADA slopes.

29. The provided accessible route from the accessible parking to the front door shall not exceed 2% cross slope.

30. The applicant shall restripe the existing accessible parking spaces, and locate a proper 36” x 36” symbol of accessibility at the entrance to the space. The 12” high no parking shall be perpendicular and located within the loading/unloading area. (CBC Section 11B-502.3.3)

31. The applicant shall mark the ADA parking space with an international Symbol of Accessibility complying with CBC Section 11B-703.7.2.1 in white on a blue background a minimum of 36 inches wide by 36 inches high.
32. The provided sign at the west entrance is outdated. The applicant shall post an additional sign (17" x 22" minimum) either 1) in a conspicuous place at each entrance to an off street parking facility, or 2) immediately adjacent to on-site accessible parking and visible from each parking space, which sign shall state: "Unauthorized vehicles parked in designated accessible spaces not displaying distinguishing placards or special license plates issued for persons with disabilities will be towed away at owner’s expense. Towed vehicles may be reclaimed at __________ or by telephoning __________." The applicant shall fill in the blank spaces with appropriate information as a permanent part of the sign. (CBC Section 11B-502.8.2).

33. Signs identifying van parking spaces shall contain additional language or an additional sign with the designation “Van Accessible.”

34. City Building Inspection staff shall verify condition in the field and detail within drawing plans. Thresholds that are provided at a doorway should be a maximum of ½ - inch high. (CBC Section11B-404.2.5)

35. The applicant shall provide a sign on or adjacent to the exit door as follows: “This door to remain unlocked when building is occupied.” The sign shall be in letters 1-inch high on a contrasting background.

36. The applicant shall identify all applicable door sizes and types on the plans submitted for building permit (new and existing). Specify 3'-0" x 6'-8" minimum for all existing doors. Such doors shall be capable of providing a net clear exit width of 32" minimum. (CBC Sections 11B-206.4, 11B-404)

37. The opening force required for hinged interior and exterior doors other than fire doors shall be 5lbs. maximum. (CBC 11B-404.2.9)

38. Door handles, pulls, latches, locks and other operating devices on doors required to be accessible by CBC Chapter 11B shall not require tight grasping, tight pinching or twisting of the wrist to operate. Where sliding doors are in the fully open position, operating hardware shall be exposed and usable from both sides.

39. Service counters, reception counters, transaction counters, transaction windows, and ticket booths shall be accessible and provided for persons with disabilities. The countertop shall be 28” minimum and 34” high maximum above finished floor, with a minimum length of 36” on the customer/public side. A 36” clear isle width shall also be provided on the customer side of the transaction counter. The applicant shall provide details on the plans. (CBC Section 11B-904.3, 11B-403)

40. Windows located within 24" from vertical edge of a door in the closed position shall be tempered.
Electric Department

41. Plans shall be submitted for plan check review and approval by the Banning Electric Utility Department prior to the issuance of any Building Permit(s).

Public Works Department

42. Disposal of any cannabis or cannabis products through the city owned and maintained sewer facilities shall be strictly prohibited. The applicant shall comply with the cannabis waste management procedures set forth in BMC Section 17.54.140.

Fire Department

43. Construction Permits Fire Department Review: The applicant is shall submit construction plans to the Office of the Fire Marshal for development, construction, installation and operational use permitting. Detailed compliance with the BMC (which includes the CBC) and the National Fire Protection Act (NFPA) will be addressed upon the Fire Marshal's review of the plans for building permit. The applicant shall cause building plans to comply with, and shall be based on occupancy type, the commercial use, and the CBC, including the California Fire Code and related codes, which are in effect at the time of building plan submittal.

44. Addressing: All commercial buildings shall display street numbers in a prominent location, and that are appropriate illuminated and/or "backlit" on the address side and additional locations as required. (California Fire Code Section 505.1 and County of Riverside Office of the Fire Marshal Standard #07-0)

45. General Condition: Additional requirements may be required based upon the adopted codes in effect at the time of submittal.

***END***
ATTACHMENT 2
Project Plans
EXHIBIT A – PROJECT PLANS

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ATTACHMENT 3

Applicant’s Regulatory Permit Application Approval Letter
March 4, 2019

Nourish Earth Inc.
Attn: Macy Newell
45 Palatine #145
Irvine, CA 92612

Subject: Cannabis Application Review and Eligibility/Ineligibility Determination
Application Number 19-9502

Dear Macy Newell:

Thank you for submitting your Cannabis Retail Regulatory Permit Application. A review of your application pursuant to Banning Municipal Code (BMC), Chapter 5.33, Section 5.33.050 has been completed. The results of this review have determined your application to be, eligible to proceed to the Lottery stage of the application process.

Notice of eligibility has been sent to all applicants. Those found to be, not eligible have a right to appeal. The appeal process will be conducted, March 4, 2019 through March 15, 2019.

If no appeals are received, the Lottery is tentatively scheduled for, March 13, 2019. Log on to the City of Banning website for detailed information in regards to the time, date and location of the lottery.

Should you have any questions regarding the decision, or if we can be of further assistance, please feel free to contact me at the Planning Division telephone number listed above.

Sincerely,

Mark de Manincor
Contract Planner
951-922-3123
ATTACHMENT 4
Applicant’s Lottery Notification Letter
March 11, 2019

Nourish Earth Inc.
Attn: Macy Newell
45 Palatine #145
Irvine, CA 92612

Subject: Lottery for eligible cannabis regulatory permit applicants

Dear Macy:

Congratulations on your eligibility to participate in the Cannabis Retail Regulatory Permit Lottery. The Lottery will be held here at City Hall, 99 East Ramsey Street, Banning CA, 92220, at 5:00 p.m., Wednesday, March 20, 2019, in the City Council Chambers. You are encouraged to attend, although, you do not need to be in attendance to participate in the Lottery. Lottery results will be sent to all eligible applicants. The first three numbers selected will be the first permitted to move forward to the Conditional Use Permit process in accordance with City Council Resolution 2018-153. The remaining applicants will be put on a waiting list in the order their number was pulled.

Should you have any questions regarding this information, or if we can be of further assistance, please feel free to contact me at the Planning Division telephone number listed above.

Sincerely,

Mark de Manincor
Contract Planner
951-922-3123
ATTACHMENT 5
Public Hearing Notice
NOTICE OF INTENT TO ADOPT A CATEGORICAL EXEMPTION AND NOTICE OF PUBLIC HEARING FOR CONDITIONAL USE PERMIT 19-8006 TO CONSIDER A PROPOSAL TO ALLOW FOR A CANNABIS RETAILER LOCATED IN THE HIGHWAY SERVING COMMERCIAL (HSC) ZONE ON REAL PROPERTY IDENTIFIED AS 3080 WEST RAMSEY ST (APN 538-340-007)

NOTICE IS HEREBY GIVEN of a public hearing before the City of Banning Planning Commission, to be held on Wednesday, December 4, 2019, at 6:30 p.m. in the Council Chambers, City Hall, 99 East Ramsey Street, Banning, California, to consider a Notice of Exemption and Conditional Use Permit (CUP 19-8006) to allow for a Cannabis Retailer located in the Highway Serving Commercial (HSC) zone on real property identified as 3080 West Ramsey St, APN 538-340-007.

Information regarding the Notice of Exemption can be obtained by contacting the City's Community Development Department at (951) 922-3125, or by visiting the City Hall located at 99 East Ramsey Street, Banning. You may also go to the City of Banning website at https://banningca.gov.

All parties interested in speaking either in support of or in opposition of this item are invited to attend said hearing, or to send their written comments to the Community Development Department, City of Banning at P.O. Box 998, Banning, California, 92220.

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

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

Adam Rush, M.A., AICP
Community Development Director

Dated: November 20, 2019
Publish: November 22, 2019
ATTACHMENT 6
Notice of Exemption
Notice of Exemption

To: ☐ Office of Planning and Research
   P.O. Box 3044, Room 212
   Sacramento, CA 95812-3044
   ☑ County Clerk
   County of Riverside
   P.O. Box 751
   Riverside, CA 92502-0751

From:
   City of Banning
   99E. Ramsey Street
   P.O. Box 998
   Banning, CA 92220

Project Title:

Conditional Use Permit 19-8006

Project Applicant: Macy Newell for Nourish Banning, 3385 Michelson Drive #146, Irvine, CA 92612

Project Location – Specific:

3080 West Ramsey Street, Banning, CA 92220, Assessor’s Parcel Number 538-340-007

Project Location – City: City of Banning
Project Location – County: Riverside County

Description of Nature, Purpose and Beneficiaries of Project:

Cannabis Retailer

Name of Public Agency Approving Project: City of Banning

Name of Person or Agency Carrying Out Project: City of Banning

Exempt Status: (check one)

☐ Ministerial (Sec. 21080(b)(1); 15268);
☐ Declared Emergency (Sec. 21080(b)(3); 15269(a));
☐ Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
☒ Categorical Exemption. State type and section number:
  Section’s 15301, Existing Facilities
☐ Statutory Exemptions. State code number:

Reasons why project is exempt:

The project is located in an existing structure and only minor modifications will be made to the interior of the unit.

Lead Agency: City of Banning
Contact Person: Mark de Manincor
Area Code/Telephone/Extension: (951) 922-3123

If filed by applicant:
1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project? ☐ Yes ☐ No

Signature: [Signature] Date: [Date] Title: Contract Planner
☒ Signed by Lead Agency
☐ Signed by Applicant

Date received for filing at OPR:

Authority cited: Sections 21083 and 21110, Public Resources Code.
Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.
TO: PLANNING COMMISSION  
FROM: Adam Rush, Community Development Director  
PREPARED BY: Mark de Manincor, Contract Planner  
MEETING DATE: December 4, 2019  
SUBJECT: Resolution 2019-27 recommending the City Council adopt a Categorical Exemption and approve Zoning Text Amendment (ZTA) No. 19-97505 adopting by reference the California State Model Water Efficient Landscape Ordinance, Codified at Chapter 2.7 of Title 23 of the California Code of Regulations, and making certain clarifying revisions to the landscape provisions within Title 17 of the Banning Municipal Code  

RECOMMENDED ACTION: 

That the Planning Commission take the following actions:  

1. Make a determination pursuant to Section 15060(c)(3) of the California Environmental Quality Act (CEQA) that the Zoning Text Amendment is not subject to CEQA because the amendment is not a project as defined by the CEQA Guidelines Section 15378; and  


APPLICANT INFORMATION: 

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

BACKGROUND: 

Since enacting the requirement for the Model Water Efficient Landscape Ordinance (MWELO) in 2006, the California State Legislature has sought to promote the conservation of water through local regulation of landscaping. On April 1, 2015, the Governor issued Executive Order B-29-15, which ordered substantial water reductions and actions to support such reductions across a variety of agencies. In Directive #11 of
this Executive Order, the Governor required the update of the MWELO by the Department of Water Resources, and reporting on the implementation of the updated ordinance by local agencies by December 31, 2015.

The proposed ordinance amendment will incorporate the state-mandated MWELO requirements which require increased water efficiency within private and publically maintained irrigation systems, incentives for graywater usage, improvements for onsite stormwater capture, and limiting the portion of landscapes that can be planted with high water use plants. A discussion of these changes is found in the accompanying flyer from the California Department of Water Resources.

Enforcement of the water efficiency standards will be jointly undertaken by both the City of Banning – Building & Safety and Code Enforcement staff. Since the state’s adoption of these standards, the City’s plan check process has acted in compliance with these requirements notwithstanding their absence from the Banning Municipal Code. This ordinance amendment will formalize the City’s enforcement authority. Furthermore, our current processing requirements largely consist of plan checks of projects that meet the reduced thresholds in the ordinance. Landscaping plan checks are conducted by a Registered Landscape Architect (RLA) provided under contract to the City through our Building & Safety staffing services contract.

ANALYSIS:

The proposed Ordinance Amendment intends to satisfy the state requirement for adoption of an ordinance to implement the updated Model Water Efficient Landscaping Ordinance; which was approved by the California Water Commission in 2015. The requirement for the City to adopt the updated ordinance is found in Governor’s Executive Order B-29-15.

ENVIRONMENTAL DETERMINATION:

A. California Environmental Quality Act (CEQA)

City staff has determined that the proposed Zoning Text Amendment exempt from the California Environmental Quality Act ("CEQA") pursuant to the State CEQA Guidelines Section 15307 and 15308, as an action taken to assure the maintenance, restoration, or enhancement of a natural resource or the environment where the regulatory process involves procedures for protection of the environment.

B. Multiple Species Habitat Conservation Plan (MSHCP)

The proposed Zoning Text Amendment does not relate to any one physical project and are not subject to the MSHCP. In addition, proposed landscaping improvements occur either on private property where they are considered minor alterations to land or within City Rights-of-Way which are covered facilities under the MSHCP.

PUBLIC COMMUNICATIONS:

This public hearing was advertised in the Record Gazette newspaper November 22, 2019. As of this writing no comments, questions, or inquires have been received.
ATTACHMENTS:

2. Draft Ordinance approving Zoning Text Amendment 19-97505
3. California Code of Regulations, Title 23
4. Notice of Exemption
5. Public Hearing Notice
6. Model Water Efficiency Landscape Ordinance: 2015 Revision Flyer

Prepared by: Mark de Manincor, Contract Planner

Approved by: Adam Rush, M.A., AICP
Community Development Director
ATTACHMENT 1
Planning Commission Resolution 2019-27
RESOLUTION 2019-27


WHEREAS, the City of Banning has initiated a Zoning Text Amendment to amend Section 17.32 (“Landscape Standards”) of Chapter 17.32.090 (“Landscape Document Package”), to incorporate the California State Model Water Efficient Landscape Ordinance by reference in the Banning Municipal Code.

WHEREAS, the City of Banning is located at the following address:

Project Location: 99 Ramsey Street
APN Information: 541-143-010
Project Applicant: City of Banning
99 Ramsey Street
Banning, CA, 92220
Property Owner: City of Banning
99 Ramsey Street
Banning, CA, 92220

WHEREAS, the Planning Commission has the authority per Chapter 17.116 of the Banning Municipal Code to take action on the proposed Zoning Text Amendment (ZTA) 19-97505 amending various sections of the Banning Municipal Code; and

WHEREAS, on November 22, 2019 the City gave public notice by advertising in the Record Gazette, a newspaper of general circulation within the City of Banning, of the holding of a public hearing at which proposed Zoning Text Amendment 19-97505 would be considered; and

WHEREAS, on December 4 2019, the Planning Commission held a duly noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to proposed Zoning Text Amendment 19-97505; and

WHEREAS, in accordance with the requirements of the California Environmental Quality Act (CEQA), staff analyzed proposed Zoning Text Amendment 19-97505 and determined this Ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Sections 15307 and 15308, as an action taken to assure the maintenance, restoration, or enhancement of a natural resource or the environment where the regulatory process involves procedures for protection of the environment. This Ordinance is limited to ensuring water efficient landscaping options to preserve water. There is no evidence to suggest
that this Ordinance will result in a significant impact on the environment, including impacts due to unusual circumstances.

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 Commission hereby recommends that the City Council find and determine that there is no possibility that the adoption of the proposed Zoning Text Amendment 19-97505 will have a significant effect on the environment and, accordingly, is not subject to the requirements of CEQA pursuant to the State CEQA Guidelines Sections 15307 and 15308, as an action taken to assure the maintenance, restoration, or enhancement of a natural resource or the environment where the regulatory process involves procedures for protection of the environment. This Ordinance is limited to ensuring water efficient landscaping options to preserve water. There is no evidence to suggest that this Ordinance will result in a significant impact on the environment, including impacts due to unusual circumstances.

Multiple Species Habitat Conservation Plan (MSHCP).

The proposed Zoning Text Amendment does not relate to any one physical project and are not subject to the MSHCP. In addition, proposed landscaping improvements occur either on private property where they are considered minor alterations to land within City Rights-of-Way (R/W) which are covered facilities under the MSHCP.

SECTION 2: REQUIRED FINDINGS FOR ZONING TEXT AMENDMENT 19-97505:

Section 17.116.030 of the Banning Municipal Code provides that the Planning Commission shall make a written recommendation on a proposed amendment to the Zoning Ordinance whether to approve, approve in modified form, or disapprove based upon their findings.

Planning Commission action recommending that the proposed Zoning Ordinance Amendment be approved, approved in modified form, or disapproved, based upon their findings, shall be considered by the City Council following the Planning Commission action. A copy of the Planning Commission’s written recommendation shall be forwarded to the City Council and set for a public hearing at a duly noticed meeting. Upon receipt of the Planning Commission’s recommendation, the City Council may approve, approve with modifications, or disapprove the proposed amendment based upon its findings. Amendments to Title 17 of the Banning Municipal Code shall be adopted by ordinance with an executed copy held with the City Clerk.

Finding A: The proposed Amendment is consistent with the goals and policies of the General Plan.

Findings of Fact: Proposed Zone Text Amendment 19-97505 is consistent with the goals and policies of the General Plan.

The Commercial Goal of the Land Use Element speaks of Complementary uses which meet the needs of the City’s residents, increase the City’s revenues, and provide a range of employment opportunities. The Zoning Amendment allows for and implements water efficiency standards which enhances commercial activity, promoting pedestrian-friendly and orientated communities; while taking place on or near City
sidewalks and parks which provides for a range of employment opportunities and increases City revenues.

Finding B: The proposed Amendment is internally consistent with the Zoning Ordinance.

Findings of Fact: Proposed Zone Text Amendment 19-97505 is internally consistent with the Zoning Ordinance.

Proposed Zone Text Amendment is consistent with the purpose and objective of the Zoning Ordinance (Title 17) to ensure orderly development of uses and lands within the City to protect the public health, safety, and welfare. With the approval of Zoning Text Amendment 19-97505 the amendment will be internally consistent with the Zoning Ordinance and California State Law regarding water efficient landscape standards.

Finding C: That the Planning Commission has independently reviewed and considered the requirements of the California Environmental Quality Act.

Findings of Fact: With the Planning Commission's recommendation to the City Council of Zoning Text Amendment 19-97505, the Council will review and consider the requirements of the California Environmental Quality Act.

In accordance with the requirements of the California Environmental Quality Act ("CEQA"), Staff recommends to the Planning Commission and City Council that this Ordinance is exempt from the California Environmental Quality Act ("CEQA") pursuant to the State CEQA Guidelines Section 15307 and 15308, as an action taken to assure the maintenance, restoration, or enhancement of a natural resource or the environment where the regulatory process involves procedures for protection of the environment.

SECTION 3. PLANNING COMMISSION ACTION:

Based on the findings specified above, and all other evidence in the record, the Planning Commission hereby recommends that the City Council make a finding of exemption from CEQA as set forth in Exhibit A; and, adopt the proposed Zoning Text Amendment 19-97505, as set forth in Exhibit B, amending Section 17.32 ("Landscape Standards") of Chapter 17.32.090 ("Landscape Document Package"), to incorporate the California State Model Water Efficient Landscape Ordinance by reference in the Banning Municipal Code.

PASSED, APPROVED, AND ADOPTED this 4th day of December, 2019.
Eric Shaw, Chairman  
City of Banning Planning Commission

ATTEST:

______________________________  
Sandra Calderon, Recording Secretary  
City of Banning, California

APPROVED AS TO FORM  
AND LEGAL CONTENT:

______________________________  
Serita R. Young, Assistant City Attorney  
Richards, Watson & Gershon
CERTIFICATION:

I, Sandra Calderon, Recording Secretary of the Planning Commission of the City of Banning, California, do hereby certify that the foregoing Resolution 2019-27, was duly adopted by the Planning Commission of the City of Banning, California, at a regular meeting thereof held on the 4th of December, 2019, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

______________________________
Sandra Calderon, Recording Secretary
City of Banning, California
EXHIBIT “A”
Notice of Exemption (NOE)
Notice of Exemption

To: ☑ County Clerk
   County of Riverside
   P.O. Box 751
   Riverside, CA 92502-0751

□ Office of Planning and Research
   P.O. Box 3044, Room 212
   Sacramento, CA 95812-3044

From:
City of Banning
99E. Ramsey Street
P.O. Box 998
Banning, CA 92220

Project Title:
Zoning Text Amendment (ZTA) No. 19-9750 – Amending Chapter’s 17.32 and 17.32.090

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

Project Location – Specific:
All parcels; all properties; in the City of Banning

Project Location – City: City of Banning
Project Location – County: Riverside County

Description of Nature, Purpose and Beneficiaries of Project:
Amending BMC to adopt by reference the California State Model Water Efficient Landscape Ordinance.

Name of Public Agency Approving Project:
City of Banning

Name of Person or Agency Carrying Out Project:
City of Banning c/o Community Development Department

Exempt Status: (check one)
☐ Ministerial (Sec. 21080(b)(1); 15268);
☐ Declared Emergency (Sec. 21080(b)(3); 15269(a));
☐ Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
☒ Categorical Exemption. State type and section number:
☐ Statutory Exemptions. State code number:

Section's 15307 & 15308

Reasons why project is exempt:
Project is an action taken to assure the maintenance, restoration, or enhancement of a natural resource where the regulatory process involves procedures for protection of the environment.

Lead Agency: City of Banning
Contact Person: Adam Rush
Area Code/Telephone/Extension: (951) 922-3131

If filed by applicant:
1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project? ☒Yes ☐No

Signature: _________________________________ Date: 11-22-2019 Title: Community Development Director

☒ Signed by Lead Agency
☐ Signed by Applicant

Date received for filing at OPR: ____________________________

Authority cited: Sections 21083 and 21110, Public Resources Code.
Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.

Revised 2011
EXHIBIT “B”
ZTA 19-97505 Ordinance Amendment Text
AN ORDINANCE OF THE CITY OF BANNING, CALIFORNIA
AMENDING CHAPTER 17.32 OF THE BANNING MUNICIPAL
CODE BY ADOPTING BY REFERENCE THE CALIFORNIA STATE
MODEL WATER EFFICIENT LANDSCAPE ORDINANCE,
CODIFIED AT CHAPTER 2.7 OF TITLE 23 OF THE CALIFORNIA
CODE OF REGULATIONS, AND MAKING CERTAIN CLARIFYING
REVISIONS TO THE LANDSCAPING STANDARDS WITHIN TITLE
17 OF THE BANNING MUNICIPAL CODE

WHEREAS, On April 1, 2015, Governor Jerry Brown issued Executive Order B-29-15 that,
among other things, directed the Department of Water Resources (DWR) to update the State Model Water
Efficient Landscape Ordinance ("Model Ordinance") through expedited regulation.

WHEREAS, The purpose of the updated Model Ordinance is to increase water efficiency standards
for new and existing landscapes through, among other things, more efficient irrigation systems, greywater
usage, onsite storm water capture, and by limiting the portion of landscapes that can be covered in turf.

WHEREAS, On July 15, 2015, the California Water Commission, acting on behalf of the DWR,
approved the 2015 update to the Model Ordinance.

WHEREAS, The City Council is adopting by reference the Model Ordinance in the form approved
by the California Water Commission in order to promote the efficient use of water within the City and to
comply with the Governor’s Executive Order and Government Code Section 65595.

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

Section 1. Amend Chapter 17.32 to incorporate the California State Model Water Efficient
Landscaping Ordinance, codified at Chapter 2.7 of Title 23 of the California Code of Regulations, and any
amendments thereto is hereby incorporated by reference in the Banning Municipal Code to read as follows:

"Chapter 17.32.090 – LANDSCAPE DOCUMENT PACKAGE

1. The California State Model Water Efficient Landscape Ordinance, codified at Chapter 2.7 of Title
23 of the California Code of Regulations, and any amendments thereto, is hereby adopted and incorporated
herein by reference as if fully set forth below, and shall be known and may be cited as the Water Efficient
Landscaping Ordinance of the City of Westlake Village. One copy of the California State Model Water
Efficient Landscape Ordinance shall be filed in the office of the Planning Department.

2. The requirements of Chapter 17.32 shall apply in addition to the applicable requirements of the
California Model Water Efficient Landscape Ordinance. In the event of any conflict between provisions of
the California State Model Water Efficient Landscape Ordinance and Chapter 17.32, the provision that
contains the more stringent landscaping water efficiency requirement(s) shall control."
Section 4. CEQA. The City Council finds that this Ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Sections 15307 and 15308, as an action taken to assure the maintenance, restoration, or enhancement of a natural resource or the environment where the regulatory process involves procedures for protection of the environment. This Ordinance is limited to ensuring water efficient landscaping options to preserve water. There is no evidence to suggest that this Ordinance will result in a significant impact on the environment, including impacts due to unusual circumstances.

Section 5. Severability. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the Ordinance would be subsequently declared invalid or unconstitutional.

Section 6. Effective Date. This Ordinance shall take affect thirty (30) days after its adoption. The City Clerk is directed to certify to the enactment of this Ordinance and to cause this ordinance to be published and/or posted as required by law.

PASSED, APPROVED, AND ADOPTED at a regular meeting of the City Council of the City of Banning, California, this — day of ______, 2019.

________________________________________
Art Welch, Mayor
City of Banning

ATTEST:

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

APPROVED AS TO FORM AND LEGAL CONTENT:

________________________________________
Kevin G. Ennis, City Attorney
CERTIFICATION:

I, Sonja De La Fuente, City Clerk of the City of Banning, California, do hereby certify that Ordinance No. _____ was duly introduced at a regular meeting of the City Council of the City of Banning, held on the _____ day of __________, 2019, and was duly adopted at a regular meeting of said City Council on the _____ day of __________, 2019, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

__________________________
Sonja De La Fuente,
Deputy City Clerk City of Banning
ATTACHMENT 2
ZTA 19-97505 Ordinance Amendment Text
AN ORDINANCE OF THE CITY OF BANNING, CALIFORNIA
AMENDING CHAPTER 17.32 OF THE BANNING MUNICIPAL
CODE BY ADOPTING BY REFERENCE THE CALIFORNIA STATE
MODEL WATER EFFICIENT LANDSCAPE ORDINANCE,
CODIFIED AT CHAPTER 2.7 OF TITLE 23 OF THE CALIFORNIA
CODE OF REGULATIONS, AND MAKING CERTAIN CLARIFYING
REVISIONS TO THE LANDSCAPING STANDARDS WITHIN TITLE
17 OF THE BANNING MUNICIPAL CODE

WHEREAS, On April 1, 2015, Governor Jerry Brown issued Executive Order B-29-15 that,
among other things, directed the Department of Water Resources (DWR) to update the State Model Water
Efficient Landscape Ordinance ("Model Ordinance") through expedited regulation.

WHEREAS, The purpose of the updated Model Ordinance is to increase water efficiency standards
for new and existing landscapes through, among other things, more efficient irrigation systems, greywater
usage, onsite storm water capture, and by limiting the portion of landscapes that can be covered in turf.

WHEREAS, On July 15, 2015, the California Water Commission, acting on behalf of the DWR,
approved the 2015 update to the Model Ordinance.

WHEREAS, The City Council is adopting by reference the Model Ordinance in the form approved
by the California Water Commission in order to promote the efficient use of water within the City and to
comply with the Governor’s Executive Order and Government Code Section 65595.

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

Section 1. Amend Chapter 17.32 to incorporate the California State Model Water Efficient
Landscape Ordinance, codified at Chapter 2.7 of Title 23 of the California Code of Regulations, and any
amendments thereto is hereby incorporated by reference in the Banning Municipal Code to read as follows:

“Chapter 17.32.090 – LANDSCAPE DOCUMENT PACKAGE

1. The California State Model Water Efficient Landscape Ordinance, codified at Chapter 2.7 of Title
23 of the California Code of Regulations, and any amendments thereto, is hereby adopted and incorporated
herein by reference as if fully set forth below, and shall be known and may be cited as the Water Efficient
Landscape Ordinance of the City of Westlake Village. One copy of the California State Model Water
Efficient Landscape Ordinance shall be filed in the office of the Planning Department.

2. The requirements of Chapter 17.32 shall apply in addition to the applicable requirements of the
California Model Water Efficient Landscape Ordinance. In the event of any conflict between provisions of
the California State Model Water Efficient Landscape Ordinance and Chapter 17.32, the provision that
contains the more stringent landscaping water efficiency requirement(s) shall control.”
Section 4. CEQA. The City Council finds that this Ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Sections 15307 and 15308, as an action taken to assure the maintenance, restoration, or enhancement of a natural resource or the environment where the regulatory process involves procedures for protection of the environment. This Ordinance is limited to ensuring water efficient landscaping options to preserve water. There is no evidence to suggest that this Ordinance will result in a significant impact on the environment, including impacts due to unusual circumstances.

Section 5. Severability. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the Ordinance would be subsequently declared invalid or unconstitutional.

Section 6. Effective Date. This Ordinance shall take effect thirty (30) days after its adoption. The City Clerk is directed to certify to the enactment of this Ordinance and to cause this ordinance to be published and/or posted as required by law.

PASSED, APPROVED, AND ADOPTED at a regular meeting of the City Council of the City of Banning, California, this — day of ______, 2019.

Art Welch, Mayor
City of Banning

ATTEST:

Sonja De La Fuente, Deputy City Clerk
City of Banning

APPROVED AS TO FORM AND LEGAL CONTENT:

Kevin G. Ennis, City Attorney
CERTIFICATION:

I, Sonja De La Fuente, City Clerk of the City of Banning, California, do hereby certify that Ordinance No. ___ was duly introduced at a regular meeting of the City Council of the City of Banning, held on the ___ day of __________, 2019, and was duly adopted at a regular meeting of said City Council on the ___ ___ day of __________, 2019, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

________________________________________
Sonja De La Fuente,
Deputy City Clerk City of Banning
ATACHMENT 3
California Code of Regulations, Title 23
Excerpts of Divisions 3-5 Applicable to the Administration of Water Rights
(Current as of January 1, 2019)

https://www.waterboards.ca.gov/laws_regulations/docs/wrregs.pdf
ATTACHMENT 4
Notice of Exemption
Notice of Exemption

To: □ Office of Planning and Research
   P.O. Box 3044, Room 212
   Sacramento, CA 95812-3044

☑ County Clerk
   County of Riverside
   P.O. Box 751
   Riverside, CA 92502-0751

From:
   City of Banning
   99 E. Ramsey Street
   P.O. Box 998
   Banning, CA 92220

Project Title:
Zoning Text Amendment (ZTA) No. 19-9750 – Amending Chapter’s 17.32 and 17.32.090

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

Project Location – Specific:
All parcels; all properties; in the City of Banning

Project Location – City: City of Banning
Project Location – County: Riverside County

Description of Nature, Purpose and Beneficiaries of Project:
Amending BMC to adopt by reference the California State Model Water Efficient Landscape Ordinance.

Name of Public Agency Approving Project: City of Banning

Name of Person or Agency Carrying Out Project: City of Banning c/o Community Development Department

Exempt Status: (check one)
☐ Ministerial (Sec. 21080(b)(1): 15268);
☐ Declared Emergency (Sec. 21080(b)(3): 15269(a));
☐ Emergency Project (Sec. 21080(b)(4): 15269(b)(c));
☑ Categorical Exemption. State type and section number: Section’s 15307 & 15308
☐ Statutory Exemptions. State code number:

Reasons why project is exempt:
Project is an action taken to assure the maintenance, restoration, or enhancement of a natural resource where the regulatory process involves procedures for protection of the environment.

Lead Agency: City of Banning
Contact Person: Adam Rush
Area Code/Telephone/Extension: (951) 922-3131

If filed by applicant:
1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project? ☑ Yes ☐ No

Signature: ___________________________ Date: 11-22-2019 Title: Community Development Director
□ Signed by Lead Agency
☐ Signed by Applicant

Authority cited: Sections 21083 and 21110, Public Resources Code.
Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.
NOTICE OF INTENT TO ADOPT A CATEGORICAL EXEMPTION AND NOTICE OF PUBLIC HEARING FOR ZONING TEXT AMENDMENT (ZTA) NO. 19-97505 AMENDING CHAPTER 17.32 “LANDSCAPING STANDARDS” AND TO ADD PROVISIONS TO EXISTING ARTICLE II. “WATER CONSERVATION”, CHAPTER, 17.32.090 “LANDSCAPE DOCUMENT PACKAGE” TO TITLE 17 “ZONING” OF THE BANNING MUNICIPAL CODE (BMC) TO ESTABLISH WATER EFFICIENCY STANDARDS IN COMPLIANCE WITH STATE LAW.

NOTICE IS HEREBY GIVEN of a public hearing before the City of Banning Planning Commission to be held on Wednesday, December 14, 2019, at 6:30 p.m. in the Council Chambers, City Hall, 99 East Ramsey Street, Banning, California, to consider proposed Zoning Text Amendment (ZTA) No. 19-97505 to amend Chapter 17.32, “Landscaping Standards” and to add provision to existing Article II. “Water Conservation”, Chapter 17.32.090, “Landscape Document Package” to Title 17, “Zoning” of the Banning Municipal Code (BMC) to establish water efficiency standards in compliance with State Law.

City staff has determined that the proposed Zoning Text Amendment 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. Approval of the proposed Zoning Text Amendment 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 proposed Zoning Text Amendments will require a discretionary permit and CEQA review, and will be analyzed at the appropriate time in accordance with CEQA.

Information regarding the Notice of Exemption (NOE), Zoning Text Amendment, and all relevant materials can be obtained by contacting the City’s Community Development Department at (951) 922-3125, or by visiting the City Hall located at 99 East Ramsey Street, Banning during regular business hours. You may also go to the City of Banning website at http://www.banningca.gov.

All parties interested in speaking either in support of or in opposition of this item are invited to attend the hearing, or to send their written comments to the Community Development Department, City of Banning at P.O. Box 998, Banning, California, 92220.

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

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

Adam B. Rush, M.A., AICP
Community Development Director

Dated: 11/19/2019
Publish: 11/22/2019
ATTACHMENT 6
Model Water Efficiency Landscape
Ordinance: 2015 Revision Flyer
Governor Brown’s Drought Executive Order of April 1, 2015 (EO B-29-15) directed DWR to update the State’s Model Water Efficient Landscape Ordinance (Ordinance) through expedited regulation. The California Water Commission approved the revised Ordinance on July 15, 2015.

**Which Projects are Subject to the Ordinance?**
New development projects that include landscape areas of 500 sq. ft. or more are subject to the Ordinance. This applies to residential, commercial, industrial and institutional projects that require a permit, plan check or design review. The previous landscape size threshold for new development projects ranged from 2500 sq. ft. to 5000 sq. ft.

The size threshold for existing landscapes that are being rehabilitated has not changed, remaining at 2500 sq. ft. Only rehabilitated landscapes that are associated with a building or landscape permit, plan check, or design review are subject to the Ordinance.

**When Does the Ordinance Go into Effect?**
Local agencies (cities and counties) have until December 1, 2015 to adopt the Ordinance or adopt their own ordinance, which must be at least as effective in conserving water as the State’s Ordinance. Local agencies working together to develop a regional ordinance have until February 1, 2016 to adopt, but they are still subject to the December 2015 reporting requirements (see Reporting Requirements below). If a local agency does not take action on a water efficient landscape ordinance by the specified dates, the State’s Ordinance becomes effective by default.

**What are the Significant Revisions?**

**More Efficient Irrigation Systems**

- Dedicated landscape water meters or submeters are required for residential landscapes over 5000 sq. ft. and non-residential landscapes over 1000 sq. ft.

- Irrigation systems are required to have pressure regulators and master shut-off valves.

- All irrigation emission devices must meet the national standard stated in the Ordinance to ensure that only high efficiency sprinklers are installed.

- Flow sensors that detect and report high flow conditions due to broken pipes and/or popped sprinkler heads are required for landscape areas greater than 5000 sq. ft.

- The minimum width of areas that can be overhead irrigated was changed from 8 feet to 10 feet; areas less than 10 feet wide must be irrigated with subsurface drip or other technology that produces no over spray or runoff.

**Incentives for Graywater Usage**
Landscapes under 2500 sq. ft. that are irrigated entirely with graywater or captured rainwater are subject only to the irrigation system requirements of Appendix D, Prescriptive Compliance Option.
Improvements in Onsite Stormwater Capture
Friable soil is required in planted areas to maximize water retention and infiltration. Four yards of compost per 1000 sq. ft. of area must be incorporated. Other recommended measures for increasing onsite stormwater retention are listed in the Ordinance.

Limiting the Portion of Landscapes that can be Planted with High Water Use Plants
The maximum amount of water that can be applied to a landscape is reduced from 70% of the reference evapotranspiration (ET0) to 55% for residential landscape projects, and to 45% of ET0 for non-residential projects. This water allowance reduces the landscape area that can be planted with high water use plants such as cool season turf. For residential projects, the coverage of high water use plants is reduced from 33% to 25% of the landscaped area. In non-residential landscapes, planting with high water use plants is not feasible. However, unchanged in the Ordinance is the extra water allowance made for non-residential areas when used for specific functional areas, such as recreation and edible gardens. Extra water allowance is also made for landscapes irrigated with recycled water, as was the case in the previous ordinance.

The irrigation efficiency of devices used to irrigate landscapes is one of the factors that goes into determining the maximum amount of water allowed. Rather than having one default irrigation efficiency for the entire site, the revised Ordinance allows the irrigation efficiency to be entered for each area of the landscape. The site-wide irrigation efficiency of the previous ordinance was 0.71; the revised Ordinance defines the irrigation efficiency of drip as 0.81 and that of overhead spray as 0.75.

Median strips cannot be landscaped with high water use plants, precluding the use of cool season turf. Also because of the requirement to irrigate areas less than ten feet wide with subsurface irrigation or other means that produces no runoff or overspray, the use of cool season turf in parkways is limited.

Reporting Requirements
All local agencies will report on the implementation and enforcement of their ordinances to DWR by December 31, 2015. Local agencies developing a regional ordinance will report on their adopted regional ordinance by March 1, 2016. Reporting for all agencies will be due by January 31st of each year thereafter.

Prescriptive Checklist Option for Landscapes under 2500 sq. ft.
Projects with landscape areas under 2500 sq. feet may comply with the performance requirements of the Ordinance or conform to the prescriptive measures contained in Appendix D. Many will find that the Appendix D checklist simplifies compliance.

How Much Water Will Be Saved?
DWR estimates that a typical California landscape will use 12,000 gallons less a year, or 20 percent less than allowed by the 2009 ordinance. Commercial landscapes will cut water use by 35%. Over the next three years, it is predicted that 472,000 new homes associated with 20,000 acres of landscape will be built in California. With proper implementation and enforcement by local agencies, the Ordinance will lead to substantial water savings.

How Can I Get Additional Assistance?
In Fall 2015, DWR will release a guidance document to accompany the Ordinance. Training workshops for local agency staff and landscape professionals will be held throughout the State.

Contact Information:
Julie Saare-Edmonds, DWR Senior Environmental Scientist at Julie.Saare-Edmonds@water.ca.gov or (916) 651-9676
CITY OF BANNING
PLANNING COMMISSION REPORT

TO: PLANNING COMMISSION
FROM: Adam Rush, Community Development Director
PREPARED BY: Mark de Manincor, Contract Planner
MEETING DATE: December 4, 2019
SUBJECT: Resolution 2019-21 recommending the City Council approve a Municipal Code and Zoning Text Amendment to add a new chapter 5.88 to, and deleting sections 17.108.020(K) and 17.108.070, of Chapter 17.108 of Title 17 of the Banning Municipal Code to create a Sidewalk Vending Program consistent with California State Senate Bill 946 related to local regulation of sidewalk and stationary sidewalk vendors.

RECOMMENDED ACTION:
That the Planning Commission take the following actions:

1. Make a determination pursuant to Section 15060(c)(3) of the California Environmental Quality Act (CEQA) that the Zoning Text Amendment is not subject to CEQA because the amendment is not a project as defined by the CEQA Guidelines Section 15378.

2. Adopt Resolution 2019-21 recommending the City Council approve Zoning Text Amendment 19-97504 adding 5.88 to, and deleting section 17.108.020(K) and 17.108.070, of Chapter 17.108 of Title 17 of the Banning Municipal Code (BMC) to create a Sidewalk Vending Program to be consistent with California Senate Bill 946 related to local regulation of sidewalk and stationary sidewalk vendors.

APPLICANT INFORMATION:

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

BACKGROUND:

On September 17, 2018, Governor Brown signed Senate Bill 946 which limits the City’s ability to regulate sidewalk vending. The legislation defines “sidewalk vendor” as a person who sells food or merchandise on a public sidewalk or other pedestrian path. Effective January 1, 2019, the City is prohibited from assessing criminal penalties for violations of the City’s sidewalk and stationary sidewalk vending regulations and our ability to prohibit
sidewalk vendors on public sidewalks is limited. Without an ordinance amendment that sets forth the regulations on sidewalk vending, the City will not be able to adequately address mitigate the anticipate impacts to the health, safety and welfare of the general public; which includes but is not limited to the following:

1. Limiting hours of operation in a manner consistent with other businesses or uses;
2. Requiring sanitary conditions for food related vending, including proper permits from the Riverside County Department of Environmental Health; and
3. Ensuring no sidewalk vendor may place any cart or display in a manner that obstructs vehicular or pedestrian traffic.

The City is proceeding with an amendment to the Banning Municipal Code; which includes the Business Licenses and Regulations (Title 5) and the Zoning Regulations (Title 17), in order to implement a permitting system to regulate sidewalk and stationary vendors consistent with the provisions set forth in SB 946. The Ordinance Amendment outlines the necessary regulations to ensure public safety and pedestrian mobility within the City Rights-of-Way (R/W) including pedestrian paths. In addition, this Ordinance Amendment will include requirements that the vendors obtain a Seller’s Permit and Food Handler’s Permit (from the Riverside County Department of Environmental Health) if food is being sold. The proposed regulations also set forth controls on the location in which stationary vendors are positioned within the R/W. The proposed amendment also requires all sidewalk and stationary sidewalk vendors to obtain a “Temporary Special Permit;” in addition to their business license (which is required now) from the City, prior to the commencement of business. The Temporary Special Permit and Business License will have a 12-month term and must be renewed annually (subject to all applicable fees) in order to continue operating within and upon City R/W. The Ordinance Amendment authorizes the City to deny, suspended or revoked the Permit, the License, or both based on a history of repeated, and documented, violations of the ordinance and/or nonpayment of administrative fines.

ANALYSIS:

The City’s process for Ordinance Amendment to the Development Code allows proposals to be initiated by the Director, by the City Attorney, by any member of the Planning Commission or City Council, or by any land owner or his/her agent.

Upon receipt of a complete Zoning Ordinance Amendment application, or direction of the City Council, and following Community Development Department review, a hearing shall be set before the Planning Commission. Notice of the hearings shall be given pursuant to the requirements of Chapter 17.68, Hearing and Appeals.

The Planning Commission shall make a written recommendation of the proposed amendment wherein the Commission can approve, approve in modified form, or disapprove based upon their findings. Planning Commission action recommending that the proposed Zoning Ordinance Amendment be approved, approved in modified form, or disapprove based upon their findings shall be considered by the City Council following the Planning Commission action. A copy of the Planning Commission’s written recommendation shall be forwarded to the City Council and set for a public hearing at a duly noticed meeting. Upon receipt of the Planning Commission’s recommendation, the City Council may also approve, approve with modifications, or disapprove the proposed amendment based upon its findings. Amendments to Title 17 of the BMC shall be adopted by ordinance, with an executed copy held with the City Clerk.
An amendment to Title 17 may only be adopted if the following findings are made:

A. The proposed Amendment is consistent with the goals and policies of the General Plan.
B. The proposed Amendment is internally consistent with the Zoning Ordinance.
C. That the City Council has independently reviewed and considered the requirements of the California Environmental Quality Act.

Finding have been made and can be found in the attached Planning Commission Resolution 2019-21.

ENVIRONMENTAL DETERMINATION:

A. California Environmental Quality Act (CEQA)

City staff has determined that the proposed Zoning Text Amendment 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. The Zoning Text Amendment will establish regulations for sidewalk vendors or stationary sidewalk vendors. In addition, adoption of the Zoning Text Amendment 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.

B. Multiple Species Habitat Conservation Plan (MSHCP)

The proposed Zoning Text Amendment does not relate to any one physical project and are not subject to the MSHCP. In addition, sidewalk and stationary sidewalk vendors will operate their businesses within City Rights-of-Way which are covered facilities under the MSHCP.

PUBLIC COMMUNICATIONS:

This public hearing was advertised in the Record Gazette newspaper October 25, 2019 and continued to the December 4, 2019 Planning Commission during the November 6, 2019 Planning Commission Hearing.

ATTACHMENTS:

1. Planning Commission Resolution 2019-21
2. Draft Ordinance approving Zoning Text Amendment 19-97504
3. Notice of Exemption
4. Public Hearing Notice

Prepared by: Mark de Manincor, Contract Planner

Approved by: Adam Rush, M.A., AICP

Community Development Director
ATTACHMENT 1
Planning Commission Resolution 2019-21
RESOLUTION 2019-21

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BANNING, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL MAKE A DETERMINATION OF EXEMPTION UNDER CEQA GUIDELINES SECTIONS 15061(B)(3) AND 15373 AND ADOPT AN AMENDMENT TO THE BANNING MUNICIPAL CODE TO ADD A NEW CHAPTER 5.88 TO TITLE 5 AND DELETE SECTIONS 17.108.020(K) AND 17.108.070 OF CHAPTER 17.108 OF TITLE 17 OF THE BANNING MUNICIPAL CODE TO CREATE A SIDEWALK VENDOR PROGRAM CONSISTENT WITH CALIFORNIA STATE SENATE BILL 946 RELATED TO LOCAL REGULATION OF SIDEWALK AND STATIONARY SIDEWALK VENDORS

WHEREAS, the City of Banning has initiated a Municipal Code and Zoning Text Amendment to amend Title 5 ("Business Licenses and Regulations") of the Banning Municipal Code to add a new Chapter 5.88, and delete Section 17.108.070(K) ("Requirements and Prohibitions for Mobile Vending") and 17.108.070 of Chapter 17.108 ("Temporary Use Permits") of Title 17 ("Zoning") of the Banning Municipal Code to create a Sidewalk Vending Program consistent with California State Senate Bill 946 related to local regulation of sidewalk and stationary sidewalk vendors

WHEREAS, the City of Banning is located at the following address:

Project Location: 99 Ramsey Street
APN Information: 541-143-010
Project Applicant: City of Banning
99 Ramsey Street
Banning, CA, 92220

Property Owner: City of Banning
99 Ramsey Street
Banning, CA, 92220;

WHEREAS, the Planning Commission has the authority per Chapter 17.116 of the Banning Municipal Code to take make a written recommendation to the City Council on whether to approve, approve in modified form, or disapprove, based upon certain findings being made, the proposed Municipal Code and Zoning Text Amendment (ZTA) 19-97504, amending various sections of the Banning Municipal Code;

WHEREAS, on October 25, 2019, the City gave public notice by advertising in the Record Gazette, a newspaper of general circulation within the City of Banning, of the holding of a public hearing at which proposed Municipal Code and Zoning Text Amendment 19-97504 would be considered;

WHEREAS, on November 6, 2019, the Planning Commission held a duly noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to proposed Municipal Code and Zoning Text Amendment 19-97504;
WHEREAS, on November 6, 2019, the Planning Commission opened the public hearing, solicited public testimony, and continued the public hearing and the Municipal Code and Zoning Text Amendment to December 4, 2019, upon the recommendation of the Community Development Director;

WHEREAS, also on November 6, 2019, the Planning Commission provided recommendations and suggestions to the Community Development Director concerning some proposed provisions for the sidewalk vending program, such as clarifying the definition of a pedestrian path, the type and length of permit required, and the provisions that regulate sidewalk vending within City owned and operated public parks;

WHEREAS, in accordance with the requirements of the California Environmental Quality Act (CEQA), staff analyzed proposed Municipal Code and Zoning Text Amendment 19-97504 and determined that pursuant to CEQA Guidelines Sections 15061(b)(3) and 15378, that the proposed Municipal Code and Zoning Text Amendment is not subject to CEQA because there is no possibility that the adoption of proposed Municipal Code and Municipal Code and Zoning Text Amendment 19-97504 will have a significant effect on the environment; and

WHEREAS, the sidewalk and stationary sidewalk vendors will operate their businesses within existing City Rights-of-Way (R/W) and pedestrian pathways which are considered existing and covered public facilities in the City's General Plan and the Multi-Species Habitat Conservation Plan (MSHCP). In addition, the operation of such businesses would produce a negligible impact to the physical deterioration of the City's sidewalks and pathways that the proposed amendment is considered a minor alteration to the physical environment that constitutes the City's Public R/W.

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 Commission hereby recommends that the City Council find and determine that there is no possibility that the adoption of the proposed Municipal Code and Zoning Text Amendment 19-97504 will have a significant effect on the environment and, accordingly, is not subject to the requirements of 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.

The Municipal Code and Zoning Text Amendment will establish regulations for sidewalk vendors or stationary sidewalk vendors. In addition, adoption of the Municipal Code and Zoning Text Amendment 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.

Multiple Species Habitat Conservation Plan (MSHCP).

The proposed Municipal Code and Zoning Text Amendment does not relate to any one physical project and are not subject to the MSHCP. In addition, sidewalk and stationary sidewalk vendors will operate their businesses within City Rights-of-Way which are covered facilities under the MSHCP.

SECTION 2: REQUIRED FINDINGS FOR ZONING TEXT AMENDMENT 19-97504:
Section 17.116.030 of the Banning Municipal Code provides that the Planning Commission shall make a written recommendation on a proposed amendment to the Zoning Ordinance whether to approve, approve in modified form, or disapprove based upon their findings.

Planning Commission action recommending that the proposed Zoning Ordinance Amendment be approved, approved in modified form, or disapproved, based upon their findings, shall be considered by the City Council following the Planning Commission action. A copy of the Planning Commission’s written recommendation shall be forwarded to the City Council and set for a public hearing at a duly noticed meeting. Upon receipt of the Planning Commission’s recommendation, the City Council may approve, approve with modifications, or disapprove the proposed amendment based upon its findings. Amendments to Title 17 of the Banning Municipal Code shall be adopted by ordinance with an executed copy held with the City Clerk.

Finding A:  
The proposed Amendment is consistent with the goals and policies of the General Plan.

Findings of Fact:  
The proposed Zoning Text Amendment 19-97504 is consistent with the goals and policies of the General Plan.

The Commercial Goal of the Land Use Element speaks of complementary commercial uses which meet the needs of the City’s residents, increase the City’s revenues, and provide a range of employment opportunities.

The proposed Zoning Text Amendment allows for and regulates sidewalk and stationary sidewalk vending which is a complementary commercial activity and takes place on or near City public R/W and parks which provides for a range of employment opportunities and increases City revenues.

Finding B:  
The proposed Amendment is internally consistent with the Zoning Ordinance.

Findings of Fact:  
The proposed Zoning Text Amendment 19-97504 is internally consistent with the Zoning Ordinance.

The proposed Zoning Text Amendment is consistent with the purpose and objective of the Zoning Ordinance (Title 17) to ensure orderly development of uses and lands within the City to protect the public health, safety, and welfare. With the approval of proposed Zoning Text Amendment 19-97504, the amendment will be internally consistent with the Zoning Ordinance and California State Law regarding sidewalk vending.

Finding C:  
That the City Council has independently reviewed and considered the requirements of the California Environmental Quality Act.

Findings of Fact:  
With the Planning Commission’s recommendation to the City Council of the proposed Zoning Text Amendment 19-97504, the Council will review and consider the requirements of CEQA.

In accordance with the requirements of CEQA, the Planning Commission
recommends to the City Council that the proposed Zoning Text Amendment 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. The Zoning Text Amendment will establish regulations for sidewalk vendors or stationary sidewalk vendors. In addition, adoption of the Zoning Text Amendment 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.
SECTION 3. PLANNING COMMISSION ACTION:

Based on the findings specified above, and all other evidence in the record, the Planning Commission hereby recommends that the City Council make a finding of exemption from CEQA as set forth in Exhibit A; and, adopt the proposed Municipal Code and Zoning Text Amendment 19-97504, as set forth in Exhibit B, to create a Sidewalk Vending Program to be consistent with California Senate Bill 946 related to local regulation of sidewalk and stationary sidewalk street vendors.

PASSED, APPROVED, AND ADOPTED this 4th day of December, 2019.

________________________________________
Eric Shaw, Chairman
City of Banning Planning Commission

ATTEST:

________________________________________
Sandra Calderon, Recording Secretary
City of Banning, California

APPROVED AS TO FORM
AND LEGAL CONTENT:

________________________________________
Serita R. Young, Assistant City Attorney
Richards, Watson & Gershon
EXHIBIT “A”
Notice of Exemption (NOE)
Notice of Exemption

To: ☐ Office of Planning and Research  
   P.O. Box 3044, Room 212  
   Sacramento, CA 95812-3044
   ☑ County Clerk  
   County of Riverside  
   P.O. Box 751  
   Riverside, CA 92502-0751

From:  
   City of Banning  
   99E. Ramsey Street  
   P.O. Box 998  
   Banning, CA 92220

Project Title:  
   Zoning Text Amendment (ZTA) No. 19-97504 – Amending Chapter’s 17.04, 17.12 and 17.108

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

Project Location – Specific:  
   All parcels; all properties; in the City of Banning

Project Location – City: City of Banning  
Project Location – County: Riverside County

Description of Nature, Purpose and Beneficiaries of Project:  
   Amending Zoning Code to regulate sidewalk vendors in accordance with SB 946

Name of Public Agency Approving Project:  
   City of Banning

Name of Person or Agency Carrying Out Project:  
   City of Banning c/o Community Development Department

Exempt Status: (check one)
   ☑ Section’s 15060(c)(3) and 15378
   ☐ Ministerial (Sec. 21080(b)(1); 15268);
   ☐ Declared Emergency (Sec. 21080(b)(3); 15269(a));
   ☐ Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
   ☑ Categorical Exemption. State type and section number;
   ☐ Statutory Exemptions. State code number:

Reasons why project is exempt:
   The project does not have the potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect change in the environment.

Lead Agency  
   City of Banning

Contact Person: Adam Rush  
Area Code/Telephone/Extension: (951) 922-3131

If filed by applicant:
   1. Attach certified document of exemption finding.
   2. Has a Notice of Exemption been filed by the public agency approving the project? ☑ Yes ☐ No

Signature:  
   Date: 11-22-19
   Title: Community Development Director

x Signed by Lead Agency  
☐ Signed by Applicant

Date received for filing at OPR: ____________________________

Authority cited: Sections 21083 and 21110, Public Resources Code.
Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.

Revised 2011

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CERTIFICATION:

I, Sandra Calderon, Recording Secretary of the Planning Commission of the City of Banning, California, do hereby certify that the foregoing Resolution 2019-21, was duly adopted by the Planning Commission of the City of Banning, California, at a regular meeting thereof held on the 4th of December, 2019, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Sandra Calderon, Recording Secretary
City of Banning, California
AN ORDINANCE OF THE CITY OF BANNING ADDING A
NEW CHAPTER 5.88 TO, AND DELETE SECTIONS
17.108.020(K) AND 17.108.070 OF CHAPTER 17.108 OF TITLE
17 OF, THE BANNING MUNICIPAL CODE TO CREATE A
SIDEWALK VENDING PROGRAM

WHEREAS, Senate Bill ("SB") 946 was signed into law on September 17, 2018, and becomes effective January 1, 2019;

WHEREAS, SB 946 limits the authority of cities and counties to regulate sidewalk vendors, except in accordance with California Government Code Sections 51038 and 51039;

WHEREAS, the City of Banning Municipal Code currently regulates mobile vending partly in conflict with SB 946;

WHEREAS, the City Council finds that the establishment of a sidewalk vending program will benefit the City as a whole by facilitating entrepreneurship and providing economic opportunity for people to support themselves and their families, and by contributing to a diversity of food options and lively streets;

WHEREAS, the City Council finds that the act of vending on sidewalks and other areas of the public right-of-way also creates the potential for increased safety hazards, such as, but not limited to, inhibiting the ability of disabled individuals and other pedestrians to follow a safe path of travel; interfering with the performance of police, firefighter, and emergency medical personnel services; encouraging pedestrians to cross mid-block or stand in roadways to purchase food; and creating obstacles and contributing to congestion for pedestrian, vehicle, and bicycle traffic;

WHEREAS, the City Council finds that restrictions on sidewalk vending are needed to accommodate vendors and their equipment, while also safe-guarding the flow of pedestrian movement on sidewalks and in the public right-of-way, and ensuring no interference with the performance of police, firefighter, and emergency medical personnel services;

WHEREAS, the City Council finds that the regulation of vendors engaged in the sale of food and food products will help to ensure that sidewalk vendors obtain all necessary permits and comply with applicable sanitation, food preparation, and food handling laws, and thereby will protect the public health and safety against health problems such as food contamination, poor hygienic practices, and the threat of food poisoning;

WHEREAS, the City Council finds that regulations related to the collection and disposal of trash or other debris generated by sidewalk vending are necessary to ensure that such trash or debris is not left, thrown, discarded, or deposited on City streets, sidewalks, pathways, gutters, or storm drains, or upon public or private lots, so that the same might be or become a pollutant;

WHEREAS, the City Council finds that restrictions on sidewalk vending in public parks is necessary to ensure the public’s use and enjoyment of natural resources and recreational opportunities, and to prevent an undue concentration of commercial activity that would unreasonably interfere with the scenic and natural character of these parks;
WHEREAS, the City Council adopts this Ordinance under the authority provided in SB 946, and finds that the time, place, and manner regulations and requirements provided herein are directly related to the City’s purpose of protecting the health, safety, and welfare of its residents, businesses and visitors.

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

Section 1. A new Chapter 5.88 is hereby added to Title 5 (“Business Licenses and Regulations”) of the Banning Municipal Code to read as follows:

“Chapter 5.88 - SIDEWALK VENDING

5.88.010 - Definitions.

The following words and phrases, whenever used in this chapter, shall mean as follows:

“Certified farmers’ market” shall mean a location operated in accordance with Chapter 10.5 of Division 17 of the Food and Agricultural Code and any regulations adopted pursuant to that chapter.

“Director” shall mean the Community Development Director of the city.

“Person” shall mean one or more natural persons, groups, businesses, business trusts, companies, corporations, joint ventures, joint stock companies, partnership, entities, associations, clubs, or organizations composed of two or more individuals (or the manager, lessee, agent, servant, officer, or employee of any of them), whether engaged in business, nonprofit, or any other activity.

“Roaming sidewalk vendor” shall mean a sidewalk vendor who moves from place to place and stops only to complete a transaction.

“Sidewalk vendor” shall mean a person who vends from a vending cart or from one’s person, upon a public sidewalk, parkway, pedestrian path, or other public right-of-way available to pedestrians, and shall not include vendors associated with special events that have received permits pursuant to chapter 5.68 of this code and vendors associated with temporary uses that have received permits pursuant to chapter 17.108 of this code.

“Stationary sidewalk vendor” shall mean a sidewalk vendor who vends from a fixed location.

“Swap meet” shall mean a location operated in accordance with Article 6 of Chapter 9 of Division 8 of the Business and Professions Code, and any regulations adopted pursuant to that article.

“Temporary special permit” shall mean a permit issued by the city for the temporary use of, or encroachment on, the sidewalk or any other public area, including, but not limited to, an encroachment permit, special event permit, or temporary event permit, for purposes including,
but not limited to, filming, parades, or outdoor concerns, and issued pursuant to, but not limited to, chapters 5.68 and 17.108 of this code.

"Vend" or "vending" shall mean to sell, offer for sale, display for sale, or solicit offers to purchase, food, food products, beverages, goods, or merchandise.

"Vending cart" shall mean a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other nonmotorized conveyance used for vending, that is not a vehicle as defined in the California Vehicle Code.

5.88.020 - Sidewalk vending temporary use permit required.

No person, either for themselves or any other person, shall conduct or engage in sidewalk vending within the city without first obtaining a sidewalk vending temporary use permit pursuant to this chapter. The requirements set forth in chapter 17.108 of this code shall not apply to sidewalk vending temporary use permits.

5.88.030 - Sidewalk vending temporary use permit application.

To apply for a sidewalk vending temporary use permit, a person must file an application with the Director, accompanied by a nonrefundable processing fee in an amount established by resolution of the City Council. The application shall be in a form prescribed by the Director and shall contain, at a minimum, the following:

A. The legal name and current address and telephone number of the applicant;

B. If the applicant is an agent of an individual, company, partnership, corporation, or other entity, the name and business address of the principal;

C. A description of the food or merchandise offered for sale;

D. Whether the applicant intends to operate as a stationary sidewalk vendor or a roaming sidewalk vendor;

E. A copy of a valid business license issued pursuant to Chapter 5.04 of this Code;

F. A California seller’s permit number pursuant to Section 6067 of the Revenue and Taxation Code;

G. Certification by the applicant that the information contained in the application is true to his or her knowledge and belief;

H. If a vendor of food or food products, certification to completion of a food handler course and proof of all required approvals from the Riverside County Department of Environmental Health; and

I. Any other reasonable information regarding the time, place, and manner of the proposed vending.
5.88.040 - Criteria for approval or denial of sidewalk vending temporary use permit.

The Director, or his or her designee, shall approve the issuance of a sidewalk vending temporary use permit unless he or she determines that:

A. Information contained in the application, or supplemental information requested from the applicant, is false in any material detail;

B. The applicant has failed to provide a complete application, after having been notified of the requirement to produce additional information or documents; or

C. The applicant has failed to demonstrate an ability to conform to the operating standards set forth in Section 5.88.090.

If the sidewalk vending temporary use permit is denied, written notice of such denial and the reasons therefor shall be provided to the applicant.

5.88.050 - Sidewalk vending temporary use permit expiration and renewal.

A sidewalk vending temporary use permit shall be valid for twelve (12) months from the date of issuance, and shall expire and become null and void on the anniversary of its issuance. A person may apply for a sidewalk vending temporary use permit renewal on a form provided by the city prior to the expiration of his or her active sidewalk vending temporary use permit.

5.88.060 - Sidewalk vending temporary use permit rescission.

The Director may rescind a sidewalk vending temporary use permit issued to a sidewalk vendor for a fourth violation or subsequent violation of this chapter. A sidewalk vendor whose permit is rescinded may apply for a new sidewalk vending temporary use permit upon the expiration of the term of the rescinded permit.

5.88.070 - Appeals.

Any person aggrieved by the decision of the Director to issue, deny issuance, or rescind a sidewalk vending temporary use permit may appeal the decision to the City Council. The appeal shall be filed with the City Clerk within fifteen (15) days following the date of the Director’s decision.

5.88.080 - Sidewalk vending temporary use permits nontransferable.

No sidewalk vending temporary use permit granted pursuant to this chapter shall be transferable.

5.88.090 Operating Requirements.

Sidewalk vendors shall comply with the following:

A. No sidewalk vendor shall vend in the following locations:
1. Within thirty (30) feet of any street intersection;

2. Within twenty (20) feet of any fire hydrant, fire call box, electric transformer, or other facility dedicated to the emergency and public infrastructure functions of the city;

3. Within twenty (20) feet of any driveway or driveway apron;

4. Upon or within any roadway, median strip, or dividing section;

5. Within two hundred (200) feet of a permitted certified farmers’ market, a swap meet, or an area designated for a temporary special permit. This prohibition shall be limited to the operating hours of the farmers’ market or swap meet, or the limited duration of the temporary special permit.

B. No sidewalk vendor shall vend in a manner that blocks or obstructs the free movement of pedestrians or vehicles. No sidewalk vendor shall vend in a manner that blocks or obstructs the required Americans with Disabilities Act of 1990 access standards for free movement of persons with disabilities. Sidewalk vendors must at all times provide a clearance of not less than three (3) feet on all sidewalks or pedestrian areas so as to enable persons to freely pass while walking, running, or using mobility assistance devices;

C. Sidewalk vending is permitted one half hour after sunrise to one half hour before sunset daily, daily, except as follows:

1. In residential areas, sidewalk vending shall be permitted one hour after sunrise to one hour before sunset.

2. In nonresidential areas, the limit on hours of operation shall not be more restrictive than the hours of operation of other businesses or uses on the same street.

D. Stationary sidewalk vendors shall not vend in areas that are zoned exclusively residential.

E. Stationary sidewalk vendors shall not vend at any park where the city has signed an agreement for concessions that exclusively permits the sale of food or merchandise by a concessionaire.

F. Sidewalk vendors shall provide trash and waste receptacles for customers and ensure proper disposal of customer trash recyclables. Prior to leaving any vending location, the sidewalk vendor shall pick up, remove, and dispose of all trash generated by the vending operations or the vendor’s customers within a fifteen (15) foot radius of the vending location.
G. Vendors of food or food products shall possess and display in plain view on the vending cart a valid health permit from Riverside County Department of Environmental Health.

H. Sidewalk vendors shall possess at all times while vending a valid sidewalk vending temporary use permit issued pursuant to this chapter, as well as any other permit or license required by the city and any other appropriate governmental agency.

I. Sidewalk vendors shall comply with all applicable state and local laws, including without limitation state food preparation, handling, and labeling requirements; fire codes and regulations; noise standards; and the Americans with Disabilities Act of 1990 and other disability access standards (both state and federal).

J. No vending cart shall become a permanent fixture on the vending site or be considered an improvement to real property.

5.88.100 - Administrative citations.

A. A violation of this chapter by a sidewalk vendor who has a valid sidewalk vending temporary use permit from the city is punishable only by an administrative citation pursuant to chapter 1.2 of this code, in amounts not to exceed the following:

1. One hundred dollars ($100) for a first violation.

2. Two hundred dollars ($200) for a second violation within one year of the first violation.

3. Five hundred dollars ($500) for each additional violation within one year of the first violation.

B. A person engaged in sidewalk vending without a valid city sidewalk vending temporary use permit is punishable by an administrative citation pursuant to chapter 1.20 of this code in amounts not to exceed the following, in lieu of the amounts set forth in paragraph A:

1. Two hundred fifty dollars ($250) for a first violation.

2. Five hundred dollars ($500) for a second violation within one year of the first violation.

3. One thousand dollars ($1,000) for each additional violation within one year of the first violation.

4. Upon proof of a valid sidewalk vending temporary use permit issued by the city, the administrative citations set forth in this paragraph shall be reduced to amounts set forth in subsection A of this section.
C. A violation of this chapter shall not be punishable as an infraction or misdemeanor. No person alleged to have violated the provisions herein shall be subject to arrest except when otherwise permitted by law.

D. Failure to pay an administrative citation issued pursuant to this section shall not be punishable as an infraction or misdemeanor. Additional fines, fees, assessments, or any other financial conditions beyond those authorized herein shall not be assessed.

E. When assessing administrative citations pursuant to this section, the hearing officer shall take into consideration the person’s ability to pay the fine. The city shall provide the person with notice of his or her right to request an ability-to-pay determination and shall make available instructions or other materials for requesting an ability-to-pay determination. The person may request an ability-to-pay determination at adjudication or while the judgment remains unpaid, including when a case is delinquent or has been referred to a comprehensive collection program.

F. If the person meets the criteria described in subdivision (a) or (b) of Government Code Section 68632, the city shall accept, in full satisfaction, twenty (20) percent of an administrative citation imposed pursuant to this chapter.

G. The hearing officer may allow a person to complete community service in lieu of paying the total administrative citation, may waive the administrative citation, or may offer an alternative disposition.”


Section 5. CEQA. The City Council finds and determines that there is no possibility that the adoption of this Ordinance will have a significant effect on the environment. Accordingly, this Ordinance is not subject to the requirements of the California Environmental Quality Act (CEQA) pursuant to Sections 15061(b)(3) and 15378 of Division 6 of Title 14 of the California Code of Regulations.

Section 6. Severability. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the Ordinance would be subsequently declared invalid or unconstitutional.
Section 7. Effective Date. This Ordinance shall take affect thirty (30) days after its adoption. The City Clerk is directed to certify to the enactment of this Ordinance and to cause this ordinance to be published and/or posted as required by law.

PASSED, APPROVED, AND ADOPTED at a regular meeting of the City Council of the City of Banning, California, this —— day of ________, 2019.

________________________________
Art Welch, Mayor
City of Banning

ATTEST:

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

APPROVED AS TO FORM AND LEGAL CONTENT:

________________________________
Kevin G. Ennis, City Attorney
CERTIFICATION:

I, Sonja De La Fuente, City Clerk of the City of Banning, California, do hereby certify that Ordinance No. _____ was duly introduced at a regular meeting of the City Council of the City of Banning, held on the ____ day of __________, 2019, and was duly adopted at a regular meeting of said City Council on the _______ day of ____________, 2019, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

______________________________
Sonja De La Fuente,
Deputy City Clerk City of Banning
ATTACHMENT 2
ZTA 19-97504 Ordinance Amendment Text
AN ORDINANCE OF THE CITY OF BANNING ADDING A 
NEW CHAPTER 5.88 TO, AND DELETING SECTIONS 
17.108.020(K) AND 17.108.070 OF CHAPTER 17.108 OF TITLE 
17 OF, THE BANNING MUNICIPAL CODE TO CREATE A 
SIDEWALK VENDING PROGRAM

WHEREAS, Senate Bill ("SB") 946 was signed into law on September 17, 2018, and 
becomes effective January 1, 2019;

WHEREAS, SB 946 limits the authority of cities and counties to regulate sidewalk 
vendors, except in accordance with California Government Code Sections 51038 and 51039;

WHEREAS, the City of Banning Municipal Code currently regulates mobile vending 
partly in conflict with SB 946;

WHEREAS, the City Council finds that the establishment of a sidewalk vending 
program will benefit the City as a whole by facilitating entrepreneurship and providing economic 
opportunity for people to support themselves and their families, and by contributing to a 
diversity of food options and lively streets;

WHEREAS, the City Council finds that the act of vending on sidewalks and other areas 
of the public right-of-way also creates the potential for increased safety hazards, such as, but not 
limited to, inhibiting the ability of disabled individuals and other pedestrians to follow a safe 
path of travel; interfering with the performance of police, firefighter, and emergency medical 
personnel services; encouraging pedestrians to cross mid-block or stand in roadways to purchase 
food; and creating obstacles and contributing to congestion for pedestrian, vehicle, and bicycle 
traffic;

WHEREAS, the City Council finds that restrictions on sidewalk vending are needed to 
accommodate vendors and their equipment, while also safe-guarding the flow of pedestrian 
movement on sidewalks and in the public right-of-way, and ensuring no interference with the 
performance of police, firefighter, and emergency medical personnel services;

WHEREAS, the City Council finds that the regulation of vendors engaged in the sale of 
food and food products will help to ensure that sidewalk vendors obtain all necessary permits 
and comply with applicable sanitation, food preparation, and food handling laws, and thereby 
will protect the public health and safety against health problems such as food contamination, 
poor hygienic practices, and the threat of food poisoning;

WHEREAS, the City Council finds that regulations related to the collection and disposal 
of trash or other debris generated by sidewalk vending are necessary to ensure that such trash or 
debris is not left, thrown, discarded, or deposited on City streets, sidewalks, pathways, gutters, or 
storm drains, or upon public or private lots, so that the same might be or become a pollutant;

WHEREAS, the City Council finds that restrictions on sidewalk vending in public parks 
is necessary to ensure the public's use and enjoyment of natural resources and recreational 
opportunities, and to prevent an undue concentration of commercial activity that would 
unreasonably interfere with the scenic and natural character of these parks;
WHEREAS, the City Council adopts this Ordinance under the authority provided in SB 946, and finds that the time, place, and manner regulations and requirements provided herein are directly related to the City’s purpose of protecting the health, safety, and welfare of its residents, businesses and visitors.

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

Section 1. A new Chapter 5.88 is hereby added to Title 5 ("Business Licenses and Regulations") of the Banning Municipal Code to read as follows:

"Chapter 5.88 - SIDEWALK VENDING"

5.88.010 - Definitions.

The following words and phrases, whenever used in this chapter, shall mean as follows:

“Certified farmers’ market” shall mean a location operated in accordance with Chapter 10.5 of Division 17 of the Food and Agricultural Code and any regulations adopted pursuant to that chapter.

“Director” shall mean the Community Development Director of the city.

“Person” shall mean one or more natural persons, groups, businesses, business trusts, companies, corporations, joint ventures, joint stock companies, partnership, entities, associations, clubs, or organizations composed of two or more individuals (or the manager, lessee, agent, servant, officer, or employee of any of them), whether engaged in business, nonprofit, or any other activity.

“Roaming sidewalk vendor” shall mean a sidewalk vendor who moves from place to place and stops only to complete a transaction.

“Sidewalk vendor” shall mean a person who vends from a vending cart or from one’s person, upon a public sidewalk, parkway, pedestrian path, or other public right-of-way available to pedestrians, and shall not include vendors associated with special events that have received permits pursuant to chapter 5.68 of this code and vendors associated with temporary uses that have received permits pursuant to chapter 17.108 of this code.

“Stationary sidewalk vendor” shall mean a sidewalk vendor who vends from a fixed location.

“Swap meet” shall mean a location operated in accordance with Article 6 of Chapter 9 of Division 8 of the Business and Professions Code, and any regulations adopted pursuant to that article.

“Temporary special permit” shall mean a permit issued by the city for the temporary use of, or encroachment on, the sidewalk or any other public area, including, but not limited to, an encroachment permit, special event permit, or temporary event permit, for purposes including,
but not limited to, filming, parades, or outdoor concerns, and issued pursuant to, but not limited to, chapters 5.68 and 17.108 of this code.

“Vend” or “vending” shall mean to sell, offer for sale, display for sale, or solicit offers to purchase, food, food products, beverages, goods, or merchandise.

“Vending cart” shall mean a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other nonmotorized conveyance used for vending, that is not a vehicle as defined in the California Vehicle Code.

5.88.020 - Sidewalk vending temporary use permit required.

No person, either for themselves or any other person, shall conduct or engage in sidewalk vending within the city without first obtaining a sidewalk vending temporary use permit pursuant to this chapter. The requirements set forth in chapter 17.108 of this code shall not apply to sidewalk vending temporary use permits.

5.88.030 - Sidewalk vending temporary use permit application.

To apply for a sidewalk vending temporary use permit, a person must file an application with the Director, accompanied by a nonrefundable processing fee in an amount established by resolution of the City Council. The application shall be in a form prescribed by the Director and shall contain, at a minimum, the following:

A. The legal name and current address and telephone number of the applicant;

B. If the applicant is an agent of an individual, company, partnership, corporation, or other entity, the name and business address of the principal;

C. A description of the food or merchandise offered for sale;

D. Whether the applicant intends to operate as a stationary sidewalk vendor or a roaming sidewalk vendor;

E. A copy of a valid business license issued pursuant to Chapter 5.04 of this Code;

F. A California seller’s permit number pursuant to Section 6067 of the Revenue and Taxation Code;

G. Certification by the applicant that the information contained in the application is true to his or her knowledge and belief;

H. If a vendor of food or food products, certification to completion of a food handler course and proof of all required approvals from the Riverside County Department of Environmental Health; and

I. Any other reasonable information regarding the time, place, and manner of the proposed vending.
5.88.040 - Criteria for approval or denial of sidewalk vending temporary use permit.

The Director, or his or her designee, shall approve the issuance of a sidewalk vending temporary use permit unless he or she determines that:

A. Information contained in the application, or supplemental information requested from the applicant, is false in any material detail;

B. The applicant has failed to provide a complete application, after having been notified of the requirement to produce additional information or documents; or

C. The applicant has failed to demonstrate an ability to conform to the operating standards set forth in Section 5.88.090.

If the sidewalk vending temporary use permit is denied, written notice of such denial and the reasons therefor shall be provided to the applicant.

5.88.050 - Sidewalk vending temporary use permit expiration and renewal.

A sidewalk vending temporary use permit shall be valid for twelve (12) months from the date of issuance, and shall expire and become null and void on the anniversary of its issuance. A person may apply for a sidewalk vending temporary use permit renewal on a form provided by the city prior to the expiration of his or her active sidewalk vending temporary use permit.

5.88.060 - Sidewalk vending temporary use permit rescission.

The Director may rescind a sidewalk vending temporary use permit issued to a sidewalk vendor for a fourth violation or subsequent violation of this chapter. A sidewalk vendor whose permit is rescinded may apply for a new sidewalk vending temporary use permit upon the expiration of the term of the rescinded permit.

5.88.070 - Appeals.

Any person aggrieved by the decision of the Director to issue, deny issuance, or rescind a sidewalk vending temporary use permit may appeal the decision to the City Council. The appeal shall be filed with the City Clerk within fifteen (15) days following the date of the Director’s decision.

5.88.080 - Sidewalk vending temporary use permits nontransferable.

No sidewalk vending temporary use permit granted pursuant to this chapter shall be transferable.

5.88.090 Operating Requirements.

Sidewalk vendors shall comply with the following:

A. No sidewalk vendor shall vend in the following locations:
1. Within thirty (30) feet of any street intersection;

2. Within twenty (20) feet of any fire hydrant, fire call box, electric transformer, or other facility dedicated to the emergency and public infrastructure functions of the city;

3. Within twenty (20) feet of any driveway or driveway apron;

4. Upon or within any roadway, median strip, or dividing section;

5. Within two hundred (200) feet of a permitted certified farmers’ market, a swap meet, or an area designated for a temporary special permit. This prohibition shall be limited to the operating hours of the farmers’ market or swap meet, or the limited duration of the temporary special permit.

B. No sidewalk vendor shall vend in a manner that blocks or obstructs the free movement of pedestrians or vehicles. No sidewalk vendor shall vend in a manner that blocks or obstructs the required Americans with Disabilities Act of 1990 access standards for free movement of persons with disabilities. Sidewalk vendors must at all times provide a clearance of not less than three (3) feet on all sidewalks or pedestrian areas so as to enable persons to freely pass while walking, running, or using mobility assistance devices;

C. Sidewalk vending is permitted one half hour after sunrise to one half hour before sunset daily, daily, except as follows:

   1. In residential areas, sidewalk vending shall be permitted one hour after sunrise to one hour before sunset.

   2. In nonresidential areas, the limit on hours of operation shall not be more restrictive than the hours of operation of other businesses or uses on the same street.

D. Stationary sidewalk vendors shall not vend in areas that are zoned exclusively residential.

E. Stationary sidewalk vendors shall not vend at any park where the city has signed an agreement for concessions that exclusively permits the sale of food or merchandise by a concessionaire.

F. Sidewalk vendors shall provide trash and waste receptacles for customers and ensure proper disposal of customer trash recyclables. Prior to leaving any vending location, the sidewalk vendor shall pick up, remove, and dispose of all trash generated by the vending operations or the vendor’s customers within a fifteen (15) foot radius of the vending location.
G. Vendors of food or food products shall possess and display in plain view on the
vending cart a valid health permit from Riverside County Department of
Environmental Health.

H. Sidewalk vendors shall possess at all times while vending a valid sidewalk
vending temporary use permit issued pursuant to this chapter, as well as any other
permit or license required by the city and any other appropriate governmental
agency.

I. Sidewalk vendors shall comply with all applicable state and local laws, including
without limitation state food preparation, handling, and labeling requirements; fire
codes and regulations; noise standards; and the Americans with Disabilities Act of
1990 and other disability access standards (both state and federal).

J. No vending cart shall become a permanent fixture on the vending site or be
considered an improvement to real property.

5.88.100 - Administrative citations.

A. A violation of this chapter by a sidewalk vendor who has a valid sidewalk
vending temporary use permit from the city is punishable only by an
administrative citation pursuant to chapter 1.2 of this code, in amounts not to
exceed the following:

1. One hundred dollars ($100) for a first violation.

2. Two hundred dollars ($200) for a second violation within one year of the
first violation.

3. Five hundred dollars ($500) for each additional violation within one year of
the first violation.

B. A person engaged in sidewalk vending without a valid city sidewalk vending
temporary use permit is punishable by an administrative citation pursuant to
chapter 1.20 of this code in amounts not to exceed the following, in lieu of the
amounts set forth in paragraph A:

1. Two hundred fifty dollars ($250) for a first violation.

2. Five hundred dollars ($500) for a second violation within one year of the
first violation.

3. One thousand dollars ($1,000) for each additional violation within one year
of the first violation.

4. Upon proof of a valid sidewalk vending temporary use permit issued by the
city, the administrative citations set forth in this paragraph shall be reduced
to amounts set forth in subsection A of this section.
C. A violation of this chapter shall not be punishable as an infraction or misdemeanor. No person alleged to have violated the provisions herein shall be subject to arrest except when otherwise permitted by law.

D. Failure to pay an administrative citation issued pursuant to this section shall not be punishable as an infraction or misdemeanor. Additional fines, fees, assessments, or any other financial conditions beyond those authorized herein shall not be assessed.

E. When assessing administrative citations pursuant to this section, the hearing officer shall take into consideration the person’s ability to pay the fine. The city shall provide the person with notice of his or her right to request an ability-to-pay determination and shall make available instructions or other materials for requesting an ability-to-pay determination. The person may request an ability-to-pay determination at adjudication or while the judgment remains unpaid, including when a case is delinquent or has been referred to a comprehensive collection program.

F. If the person meets the criteria described in subdivision (a) or (b) of Government Code Section 68632, the city shall accept, in full satisfaction, twenty (20) percent of an administrative citation imposed pursuant to this chapter.

G. The hearing officer may allow a person to complete community service in lieu of paying the total administrative citation, may waive the administrative citation, or may offer an alternative disposition.”


Section 5. CEQA. The City Council finds and determines that there is no possibility that the adoption of this Ordinance will have a significant effect on the environment. Accordingly, this Ordinance is not subject to the requirements of the California Environmental Quality Act (CEQA) pursuant to Sections 15061(b)(3) and 15378 of Division 6 of Title 14 of the California Code of Regulations.

Section 6. Severability. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the Ordinance would be subsequently declared invalid or unconstitutional.
Section 7. Effective Date. This Ordinance shall take affect thirty (30) days after its adoption. The City Clerk is directed to certify to the enactment of this Ordinance and to cause this ordinance to be published and/or posted as required by law.

PASSED, APPROVED, AND ADOPTED at a regular meeting of the City Council of the City of Banning, California, this — day of ______, 2019.

________________________________________
Art Welch, Mayor
City of Banning

ATTEST:

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

APPROVED AS TO FORM AND LEGAL CONTENT:

_______________________________________
Kevin G. Ennis, City Attorney
CERTIFICATION:

I, Sonja De La Fuente, City Clerk of the City of Banning, California, do hereby certify that Ordinance No. ____ was duly introduced at a regular meeting of the City Council of the City of Banning, held on the ____ day of __________, 2019, and was duly adopted at a regular meeting of said City Council on the _______day of __________, 2019, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

________________________________________
Sonja De La Fuente,
Deputy City Clerk City of Banning
ATTACHMENT 3
Notice of Exemption
Notice of Exemption

To:  □ Office of Planning and Research  From:
     P.O. Box 3044, Room 212  City of Banning
     Sacramento, CA 95812-3044  99E. Ramsey Street
     □ County Clerk  P.O. Box 998
     County of Riverside  Banning, CA 92220
     P.O. Box 751
     Riverside, CA 92502-0751

Project Title:
Zoning Text Amendment (ZTA) No. 19-97504 – Amending Chapter’s 17.04, 17.12 and 17.108

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

Project Location – Specific:
All parcels; all properties; in the City of Banning

Project Location – City: City of Banning  Project Location – County: Riverside County

Description of Nature, Purpose and Beneficiaries of Project:
Amending Zoning Code to regulate sidewalk vendors in accordance with SB 946

Name of Public Zoning Agency Approving Project: City of Banning

Name of Person or Agency Carrying Out Project: City of Banning c/o Community Development Department

Exempt Status: (check one)
□ Ministerial (Sec. 21080(b)(1); 15268);
□ Declared Emergency (Sec. 21080(b)(3); 15269(a));
□ Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
☒ Categorical Exemption. State type and section number:
□ Statutory Exemptions. State code number:

Section’s 15060(c)(3) and 15378

Reasons why project is exempt:
The project does not have the potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect change in the environment.

Lead Agency  City of Banning
Contact Person: Adam Rush  Area Code/Telephone/Extension: (951) 922-3131

If filed by applicant:
1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project?  Yes  No

Signature  Date: 11-22-19  Title: Community Development Director

☒ Signed by Lead Agency
□ Signed by Applicant

Date received for filing at OPR:

Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.
ATTACHMENT 4
Public Hearing Notice
NOTICE OF INTENT TO ADOPT A CATEGORICAL EXEMPTION AND
NOTICE OF PUBLIC HEARING FOR ZONING TEXT AMENDMENT
(ZTA) 19-97504 AMENDING SECTION 17.04.070 ("DEFINITIONS") OF
CHAPTER 17.04 ("BASIC PROVISIONS"), AMENDING TABLE
17.12.020 ("PERMITTED, CONDITIONAL AND PROHIBITED USES") OF
CHAPTER 17.12 ("COMMERCIAL AND INDUSTRIAL DISTRICTS"),
AMENDING SECTION 17.108.020 ("PERMITTED USES") AND SECTION
17.108.070 ("REQUIREMENTS AND PROHIBITIONS FOR MOBILE
VENDING") OF CHAPTER 17.108 ("TEMPORARY USE PERMITS"), OF
TITLE 17 ("ZONING") OF THE BANNING MUNICIPAL CODE TO
ESTABLISH REGULATIONS FOR SIDEWALK VENDORS.

NOTICE IS HEREBY GIVEN of a public hearing before the City of Banning Planning
Commission to be held on Wednesday, November 6, 2019, at 6:30 p.m. in the Council
Chambers, City Hall, 99 East Ramsey Street, Banning, California, to consider proposed
Zoning Text Amendment (ZTA) 19-97504 to amend Chapters 17.04 "Basic Provisions,"
Chapter 17.12 "Commercial and Industrial Districts," and 17.108 "Temporary Use
Permits," of the Banning Municipal Code (BMC) to establish regulations for sidewalk
vendors.

City staff has determined that the proposed Zoning Text Amendment 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. Approval of the proposed Zoning Text Amendment 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.

Information regarding the Notice of Exemption (NOE), Zoning Text Amendment, and all
relevant materials can be obtained by contacting the City's Community Development
Department at (951) 922-3125, or by visiting the City Hall located at 99 East Ramsey
Street, Banning during regular business hours. You may also go to the City of Banning

All parties interested in speaking either in support of or in opposition of this item are invited
to attend the hearing, or to send their written comments to the Community Development
Department, City of Banning at P.O. Box 998, Banning, California, 92220.

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

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

Adam B. Rush, M.A., AICP
Community Development Director

Dated: 10/22/2019
Publish: 10/25/2019