CITY OF BANNING
PLANNING COMMISSION AGENDA

REGULAR MEETING - Tuesday, June 3, 2008 @ 6:30 PM
City Council Chambers, 99 E. Ramsey Street
Banning, CA 92220

I. CALL TO ORDER: Chairman Bill Dickson

➢ Pledge of Allegiance: Commissioner Buddy Hawkins

➢ Roll Call: Matthew Bassi, Interim Community Development Director

Chairman Bill Dickson, Commissioner Harold Barsh, Commissioner Bill Escandell, Commissioner Buddy Hawkins, Commissioner Kevin Siva.

II. PUBLIC COMMENTS:

➢ At this time, the general public is invited to address the Planning Commission concerning any items that are not listed on the agenda, which are not public hearings or other items under the jurisdiction of the Planning Commission. Comments from the public of any non-agenda items will be limited to three (3) minutes in accordance with City policy.

III. CONSENT CALENDAR ITEMS:

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

1. APPROVAL OF PC MINUTES:

➢ May 6, 2008
IV. PUBLIC HEARING ITEMS:

1. CUP #07-807 and Design Review #07-7011:
   
   Project Address: 5801 Joshua Palmer Way
   Project Applicant: Matthew Akhigbe
   Project Planner: Ms. Kim Clinton, Senior Planner

   **Project Description:**
   Design Review to develop a 32,710 square foot hotel (Microtel), comprised of a three story building with 69 guest rooms on 1.03 acres in the General Commercial Zone and Conditional Use Permit for additional building height over 35 feet. Located at 5801 Joshua Palmer Way, APN 419-130-003.

   **Recommended Action:**
   The Planning Division Recommends:
   
   1. Approve a Categorical Exemption. In compliance with Public Resources Code § 21080 et. seq. and CEQA Guidelines § 15061, and direct the Community Development Director to prepare a Notice of Exemption.
   2. Approve Resolution No. 2008-12, approving the CUP #07-807, based on the findings and conditions of approval.
   3. Approve Resolution No. 2008-13, approving Design Review #07-7011, based on the findings and conditions of approval.

2. Zone Text Amendment #08-97503:
   
   Project Address: N/A
   Project Applicant: City of Banning
   Project Planner: Ms. Julien Kim, Assistant Planner

   **Project Description:**
   An Amendment to Zoning Ordinance Section 17.40 (Table 17.40.030) clarifying the number of animals permitted in certain residential zoning districts.
Recommended Action:

The Planning Commission hereby takes the following actions:

1. Categorical Exemption. In accordance with Public Resources Code Section 21552(b) and CEQA Guidelines Section 15062 the Planning Commission hereby recommends to the City Council approval of a Categorical Exemption for the project under CEQA Guidelines Section 15061(b)(3).

2. The Planning Commission hereby approves Resolution No. 2008-10, recommending to the City Council approval of Zone Text Amendment #08-97503.

3. Zone Text Amendment #08-97504:

   Project Address: N/A
   Project Applicant: City of Banning
   Project Planner: Matthew Bass, Interim Community Development Director

Project Description:

A City Initiated Amendment to the Zoning Ordinance establishing regulations for Boarding Houses and Residential Care Facilities.

Recommended Action:

The Community Development Department recommends that the Planning Commission:

1. Recommend to the City Council approval of a Categorical Exemption for the project under CEQA Guidelines Section 15061(b)(3).

2. Adopt Resolution No. 2008-11 recommending City Council approval of Zone Text Amendment No. 08-97504.
V. PLANNING COMMISSIONER COMMENTS

VI. DIRECTORS REPORT FOR THE MONTH OF MAY, 2008

➢ City Council Actions on Planning-Related Items (No Action Required)

VII. ADJOURNMENT

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

PLANNING COMMISSION MINUTES

May 6, 2008

A regular meeting of the City of Banning Planning Commission was held on Tuesday, May 6, 2008, at 6:30 p.m., in the Council Chambers, City Hall, 99 East Ramsey Street, Banning, CA, 92220.

Commissioners Present:  
Chairman Dickson  
Commissioner Barsh  
Commissioner Escandel  
Commissioner Siva

Commissioners Excused:  
Commissioner Hawkins

Staff Present:  
Interim Community Development Director Bassi  
Deputy City Attorney Jex  
Senior Planner Clinton  
Captain Yarbrough, Fire Marshal  
Recording Secretary Sorenson

I. CALL TO ORDER

The meeting was called to order at 6:30 p.m. by Vice-Chairman Dickson.

II. ELECTION OF OFFICERS

Commissioner Dickson introduced Matthew Bassi, our Interim Community Development Director and our new Commissioner, Kevin Siva.

Commissioner Dickson was elected Chairman and Commissioner Escandel was elected Vice-Chairman.

III. PUBLIC COMMENTS

No one came forward.
IV. CONSENT CALENDAR

1. Review of Minutes

ACTION (ESCANDEL / BARSH): A motion was moved, seconded and carried that the minutes of January 28, 2008 be approved as presented.

(Motion carried 3-2) (Commissioner Hawkins was absent and Commissioner Siva abstained)

ACTION (BARSH / ESCANDEL): A motion was moved, seconded and carried that the minutes of March 4, 2008 be approved as presented.

(Motion carried 3-2) (Commissioner Hawkins was absent and Commissioner Siva abstained)

2. Street Vacation #08-12501: The applicant is proposing to vacate a portion of Juarez Street between Barbour Street and Westward Avenue. Pursuant to the Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project meets the requirements for an Exemption in compliance with Article 5, Section 15061(b)(3).

ACTION (BARSH / ESCANDEL): A motion was moved, seconded and carried that the Planning Commission adopt Resolution No. 2008-07 recommending City Council approval of street vacation.

(Motion carried 4-0) (Commissioner Hawkins was absent)

V. PUBLIC HEARING:

A. New Item:

1. Variance #08-301: The applicant is proposing a Variance from the minimum lot width and minimum lot square footage. Pursuant to the Guidelines for Implementation of the California Environmental Quality Act (CEQA) Section 15061(b)(4), CEQA does not apply to projects which are disapproved. Project location: 2679 W. Williams Street / APN 538-121-014.

Senior Planner Clinton presented the staff report and stated that the parcel is 4.9 acres in size and the applicant would like to subdivide the property into three lots. The property is located in the Low Density Residential (LDR) Zone and is surrounded by LDR lots, there are houses surrounding it on all three sides and a High Density Residential apartment building across the street. The LDR has a minimum lot width of 70 feet and the applicant is proposing to do 52 foot wide lots. The LDR minimum lot area is 7,000 square feet and if the applicant were to subdivide, there would be three lots of 6,864 square feet. Staff is
recommending denial of this variance as we are unable to make the six findings that are required. Ms. Clinton then discussed the six findings.

Constantine Tziatzis, 333 Washington Blvd, #146, Marina Del Rey CA 90292, representative for the applicant, Oscar Amaya, came forward to speak on behalf of the project. Mr. Tziatzis displayed a map of the City showing various lots with different sizes. He did not feel that granting this variance request would change the look of the neighborhood.

The Commissioners discussed the project and felt they wanted to abide by the vision of the GPAC committee and did not want to create any non-conformities.

**ACTION (BARSH / ESCANDEL):** A motion was moved, seconded and carried that the Planning Commission adopt Resolution 2008-09, denying Variance #08-301.

*(Motion carried 4 - 0) (Commissioner Hawkins was absent)*

2. Zone Text Amendment #08-97502: The Planning Division is proposing an amendment to the Zoning Ordinance pertaining to Section 17.08.050 (Accessory Structures) and Section 17.28.030 (General Regulations). Pursuant to the Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project meets the requirements for an Exemption in compliance with Article 5, Section 15061(b)(3).

Interim Community Development Director Bassi presented the staff report and stated that in general what staff was proposing was changes to the Zoning Code that were omitted when the 2006 Zoning Ordinance was adopted. These are clean up changes related to accessory structures and RV parking regulations. Staff's recommendation is to recommend approval of the zone text amendment to the City Council.

Commissioner Escandel discussed GPAC meetings and their point of view regarding these issues. He also mentioned the various properties in town that are on the south side and have horse property with barns, sheds, horse trailers, etc. Mr. Escandel said he would not support this amendment and would like more research on the subject.

Gary Hironimus, 620 N. 12th Street, Banning CA came forward to speak about the RV parking situation. He would like to see gravel as an approved parking surface instead of only asphalt or cement.

Interim Community Development Director Bassi suggested that this item be tabled and researched.
Commissioner Escandel would like to use gravel for drive-ways as long as it's done correctly and neatly. He also thought the previous ordinance eliminated asphalt, concrete and gravel from being necessary to park equipment on in the agricultural areas.

Chairman Dickson agreed that more research should be done and to bring the item back later.

**ACTION (ESCANDEL / BARSH):** A motion was moved, seconded and carried that the Planning Commission table this item and to re-notice when the research is completed.

*Motion carried 4 - 0*

**VI. PLANNING COMMISSIONER'S COMMENTS**

Chairman Dickson mentioned the large number of trucks that travel on the east side of town from the gravel pits, etc and he would like to look into the idea of imposing a tipping charge. He also would like to look into the number of self-storage units we have and possibly suggesting a tax or fee assessed on those units.

Commissioner Escandel welcomed our new commissioner, Kevin Siva. Chairman Dickson welcomed Commissioner Siva, congratulated Commissioner Escandel on his election as Vice-Chairman and said he appreciated the commission’s confidence in him by selecting him as Chairman.

**VII. ADJOURNMENT**

There being no further business to come before the Planning Commission, the meeting was adjourned at 7:20 p.m.

Respectfully submitted,

[Signature]
Gini Sorenson
Recording Secretary
STAFF REPORT
PLANNING COMMISSION

DATE: JUNE 3, 2008

CASE NO’S: DESIGN REVIEW #07-7011, CUP #07-807

REQUESTS: DESIGN REVIEW TO DEVELOP A 32,710 SQUARE FOOT HOTEL (MICROTEL), COMPRISED OF A THREE STORY BUILDING WITH 69 GUEST ROOMS ON 1.03 ACRES IN THE GENERAL COMMERCIAL ZONE AND CONDITIONAL USE PERMIT FOR ADDITIONAL BUILDING HEIGHT OVER 35 FEET.

LOCATION: 5801 JOSHUA PALMER WAY, LOCATED ON THE NORTH SIDE OF JOSHUA PALMER WAY, EAST OF HIGHLAND SPRINGS AVENUE & WEST OF APEX AVENUE APN 419-131-003.

APPLICANT: MATTHEW AKHIGBE

SURROUNDING ZONE/USES:
NORTH: GENERAL COMMERCIAL/ VACANT
WEST: GENERAL COMMERCIAL/ TOWING YARD
SOUTH: GENERAL COMMERCIAL/POMA GAS STATION
INTERSTATE 10
EAST: GENERAL COMMERCIAL/VACANT

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

BACKGROUND:

Project Location: The project site is located on the north side of Joshua Palmer Way, east of Highland Springs Avenue and west of Apex Avenue. The subject site is developed with a single family home, is rectangular in shape, and relatively flat. The property immediately to the east is vacant. To the south across Joshua Palmer Way is a Poma gas station and further to the south is the I-10 freeway. To the north is a vacant lot, and to the west, the M&M Towing Yard.
Joshua Palmer Way, formerly known as Fifth Street, is a relatively short frontage street that runs parallel to Interstate 10. Its freeway visibility and close proximity to the Highland Springs off-ramp makes it an ideal location for a motel. The Hampton Inn, two parcels to the west, opened last year. The La Quinta Inn, to be located a few parcels west of the Hampton Inn, is slated to begin construction later this year. The Farm House Restaurant, Denny’s and a Chevron Station are located near the corner at Highland Springs. A few nonconforming single family homes interspersed with vacant parcels make up the remainder of the street. On the east end is Apex Avenue, also zoned General Commercial, is developed with older residences. The lots located to the north of the subject parcel are predominantly vacant, are zoned General Commercial and front on Ramsey Street.

**Project Description:** Please refer to the attached plans booklet. The applicant is proposing a 32,710 square foot building with an 11,376 square foot footprint on a 45,000 square foot lot. Lot coverage is at 25.3%. There are 69 parking spaces, 16 of which are compact. The Conditional Use Permit is to allow additional building height above 35 feet. Below is a chart showing the minimum development standards for the General Commercial zone, the proposed building dimensions and as a point of comparison, the approved dimensions of the adjacent hotels.

<table>
<thead>
<tr>
<th>DEVELOPMENT STANDARDS</th>
<th>Required</th>
<th>Microtel</th>
<th>Hampton Inn</th>
<th>LaQuinta Inn</th>
</tr>
</thead>
<tbody>
<tr>
<td>Front setback</td>
<td>10’</td>
<td>15’</td>
<td>92’</td>
<td>28’</td>
</tr>
<tr>
<td>Side setback</td>
<td>0’</td>
<td>7’/69’</td>
<td>11’9”</td>
<td>5’</td>
</tr>
<tr>
<td>Rear setback</td>
<td>0’</td>
<td>83’</td>
<td>90’</td>
<td>133’</td>
</tr>
<tr>
<td>Building s.f.</td>
<td>N/A</td>
<td>32,710 s.f.</td>
<td>58,094 s.f.</td>
<td>49,123 s.f.</td>
</tr>
<tr>
<td>Landscape %</td>
<td>15%</td>
<td>23.5%</td>
<td>31%</td>
<td>30%</td>
</tr>
<tr>
<td>Lot coverage %</td>
<td>35%</td>
<td>25%</td>
<td>16%</td>
<td>20%</td>
</tr>
<tr>
<td>Parking spaces</td>
<td>@One per room + 2 71 required</td>
<td>69(16 compact)</td>
<td>111 spaces</td>
<td>92 spaces</td>
</tr>
<tr>
<td>Building height</td>
<td>35/2 stories</td>
<td>39'9&quot;/3 stories</td>
<td>52/4 stories</td>
<td>56.5/3 stories</td>
</tr>
<tr>
<td>Number of rooms</td>
<td>N/A</td>
<td>69 rooms</td>
<td>92 rooms</td>
<td>91 rooms</td>
</tr>
<tr>
<td>Acreage</td>
<td>N/A</td>
<td>1.03 acres</td>
<td>2.06 acres</td>
<td>1.43 acres</td>
</tr>
</tbody>
</table>
ANALYSIS:

Conditional Use Permit: The development standards in the General Commercial zone permits 2 stories and a maximum height of 35 feet without a conditional use permit. A CUP is required for buildings in excess of this standard. The applicant is proposing 3 stories and 39 feet 9 inches in height for the hotel. Staff is recommending approval of the additional height which, as evidenced by the comparison chart, above, is significantly less than the heights approved for the other two hotels on Joshua Palmer Way. The additional height will not interfere with the development of any adjacent sites, nor will it negatively impact the neighborhood.

Design Review: Please refer to the attached plans booklet which contains a color elevation, measured site plan, measured elevations, landscape plan preliminary grading plan and color/materials board. Note that the color elevation does not show the additional dormers that were added by the applicant. These are included on the black and white drawings.

Site Plan: A single driveway provides access to the site from Joshua Palmer Way. The parcel is long and narrow and therefore the hotel is oriented sideways on the lot with the majority of the parking located along the eastern property line. Because the parcel is only a little over an acre in size, the parking area is constrained and a parking adjustment to allow 16 compact spaces (8' by 16”) and 2 less spaces than the required 71 spaces is requested. The Interim Community Development Director is recommending approval of the parking adjustment. Without the adjustment, the floor plan would need to be modified by removing a guest room to lower the required number of stalls. The footprint of the building would need to be made smaller if the compact parking stalls were not permitted in the front of the site.

Architecture: The applicant originally submitted one of the basic Microtel corporate building designs, which is a contemporary interpretation of a Tudor style. The features include an s-tile terra cotta colored roof, foam cornices and banding, white multi-pane windows and trim, yellow stucco siding and incised brown stucco (to simulate stone) banding on the first floor. Staff has worked with the developer to improve on the basic corporate architecture by adding more dormers on the front and simulated fieldstone to the entry area. The applicant will be required to provide a detail of the entry portico for approval by the Community Development Director.

Floor plan/amenities: Sixty nine rooms are proposed. Amenities include a swimming pool, exercise room and a small breakfast area off the lobby. No meeting rooms or restaurant are proposed so there is no additional parking required for those services.
_Landscaping/grading_: The applicant is conditioned to provide enhanced paving along the proposed access drive and although there isn’t one indicated on the plan, the project is conditioned to provide a wall around the entire site. Additional trees will need to be added to help to shade the parking lot and plans for the trash enclosure to include a trellis will be required. The plant palette is drought tolerant. The site is relatively flat and there are no grading issues. The applicant will be required to comply with best practices for storm water quality.

The proposed project design, as conditioned, is consistent with the goals and objectives of the General Plan, and also conforms to the development standards of the Zoning Code.

**CEQA REVIEW:**

The project has been determined to be exempt from California Environmental Quality Act (CEQA) pursuant Section 15332 which consists of projects characterized as In-fill development and meeting the findings as listed in Resolution 2008-12.

**PUBLIC NOTICE:**

This proposal was advertised in the Record Gazette newspaper May 23, 2008. All property owners within 300 feet of the site were mailed a public hearing notice. To date, no written comments have been received. Any comments received prior to the meeting will be incorporated into the appropriate documents.

**RECOMMENDATION:**

The Planning Division Recommends:

1. Approve a Notice of Exemption. In compliance with Public Resources Code § 21080 et. seq. and CEQA Guidelines § 15061, and direct the Community Development Director to prepare a Notice of Exemption, and within five (5) working days of project approval, file the Notice with the Riverside County Clerk for posting.

2. Approve Resolution No. 2008-12 approving the CUP #07-807, based on the findings and conditions of approval; (attached hereto as Attachment “1” and incorporated by reference).

3. Approve Resolution No. 2008-13, approving Design Review #07-7011, based on the findings and conditions of approval (Attachment “1” from CUP #07-807 and incorporated by reference).
Respectfully submitted,

Kim Clinton, AICP
Senior Planner

Reviewed by

Matthew Bassi
Interim Community Development Director

Exhibits:
1. Resolution No. 2008-12 for CUP 07-807, with (Conditions of Approval)
2. Resolution No. 2008-13 for DR#07-7011 (with Conditions of Approval)
3. Design Plans Booklet for Design Review # 07-7011 (Separate Cover)
CUP #07-807
MICROTTEL

RESOLUTION
NO. 2008-12

EXHIBIT “1”
RESOLUTION NO. 2008-12

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BANNING, CALIFORNIA APPROVING CONDITIONAL USE PERMIT NO. 07-807 TO APPROVE A BUILDING IN EXCESS OF 35 FEET IN HEIGHT AND THREE STORIES IN THE GENERAL COMMERCIAL ZONE. APN 419-131-003.

WHEREAS, an application for a Microtel Hotel, has been duly filed by:

Applicant/Owner: Matthew Akhigbe
Project Location: 5801 Joshua Palmer Way.
APN Number: 419-131-003
Lot Area: 1.03 acre

WHEREAS, the Planning Commission has the authority per section 9113.00 of the Banning Municipal Code to take action on Conditional Use Permit No. 07-807 to develop a hotel, comprised of a 3 story (39'9'') building; and

WHEREAS, on May 23, 2008 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 June 3, 2008 the Planning Commission held the noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to, the Conditional Use Permit and at which the Planning Commission considered the Conditional Use Permit; and

WHEREAS, the Community Development Director has reviewed the project's potential effects on the environment and has recommended that the project is categorically exempt from the California Environmental Quality Act ("CEQA") under CEQA Guidelines Section 15332 "In-fill Development" and the exceptions to the categorical exemptions contained in CEQA Guidelines Section 15300.2 are not applicable to the project.

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

SECTION 1. ENVIRONMENTAL FINDINGS.
The Planning Commission, in light of the whole record before it, including but not limited to, the City’s Local CEQA Guidelines and Thresholds of Significance, the recommendation of the Planning Director as provided in the Staff Report dated June 3, 2008 and documents incorporated therein by reference, and any other evidence (within the meaning of Public Resources Code § 21060(e) and § 21062.2) within the record or provided at the public hearing of this matter, hereby finds and determines as follows:

1. **CEQA:**

   (a) The project is exempt from CEQA under CEQA Guidelines Section 15332 in that the staff report submitted by the Planning Department and other findings made in this Resolution demonstrate that: the Conditional Use Permit #07-807 is consistent with the General Commercial General Plan designation and all applicable General Plan policies as well as with applicable zoning designations; Conditional Use Permit #07-807 is located within the boundaries of the City of Banning; the area within Conditional Use Permit #07-807 comprises less than five acres and has no value as habitat for endangered, rare or threatened species; there is no substantial evidence in the record that Conditional Use Permit #07-807 will result in significant effects related to traffic, noise, air quality, or water quality; and the site is or can be adequately served by all required utilities and public services. As such, the project meets the criteria for application of a Class 32 Categorical Exemption under the CEQA Guidelines.

   (b) None of the exceptions to the categorical exemptions contained in CEQA Guidelines Section 15300.2 prevent CEQA Guidelines Section 15322 from exempting the project for the following reasons:

   (i) The project is not a Class 3, 4, 5, 6, or 11 project, and therefore is not subject to the exception pertaining to projects located in particularly sensitive environments.

   (ii) The nature of the project is such that significant cumulative impacts will not occur from successive projects of this type occurring in the same location over time. The General Commercial zoning standards regulate the land use around the public site. A towing yard exists to the west; and a gas station to the south. Commercial development is required in the north and east.

   (iii) There is no reasonable possibility that unusual circumstances will cause the project to have a significant effect on the environment. The hotel’s height is less than other hotels approved on the same street. The architecture is compatible with the newer projects being developed in the immediate area.

   (iv) The project will not result in damage to scenic resources within a designated state scenic highway because there is no designated state scenic highway in the project area.

   (v) The project site has not been listed as a hazardous waste and substance facility or site by the Department of Toxic Substances Control pursuant to California Government Code Section 659625.
(vi) The project will not cause a substantial adverse change to the significance of a historical resource. An historical resource or its immediate surroundings will not be demolished, destroyed, relocated, or altered such that the significance of the historical resource would be materially impaired as there are no known historic resources on the site.

2. **Multiple Species Habitat Conservation Plan (MSHCP).** The project is found to be consistent with 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.**

Pursuant to Banning Municipal Code Section 9113.00 and in light of the record before it including the staff report dated June 3, 2008 all evidence and testimony heard at the public hearing of this item, the Planning Commission hereby finds as follows:

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

Findings of Fact: The General Plan Land Use Element designation of General Commercial (GC) allows Hotels and Motels. This development proposes a hotel, which is consistent with the land use designation.

Finding No. 2: The proposed use, a hotel of a height of over 2 stories and 35 feet (in this case a height of three stories and 39 feet 9 inches) is conditionally permitted within the subject land use district.

Findings of Fact: The proposed project use (Hotel) is allowed in the General Commercial (GC) zoning district. The project meets the standards, including:

- Minimum front yard setback (15' provided versus 10' required);
- Minimum rear yard setback (83' provided versus 0' required);
- Minimum side yard setback (7' provided versus 0' required);
- Maximum lot coverage (25% proposed versus 35% maximum allowed); and

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.

Facts of Fact: The proposed use will not impair the integrity and character of the land use district in which it is to be located because it is surrounded by other General Commercial properties (existing commercial uses, vacant general commercial land) including a Hampton Inn, Poma gas station, M&M towing yard, Denny's Restaurant and Farmhouse Restaurant. All of these uses are situated on this frontage street which is adjacent to the Interstate 10 Freeway.

Finding No. 4: The subject site is physically suitable for the type and intensity of land use being proposed.
Findings of Fact: The subject site is 1.03 acres and is vacant, rectangular in shape, and relatively flat. There is enough land area for the hotel, parking and related improvements. There is adequate access from Joshua Palmer Way, a collector street which is adjacent to the I-10 freeway.

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

Finding of Fact: The site will be served by the public and private utilities, including the City's water and electrical utilities and sewer system. The site will be accessed and served from Joshua Palmer Way, an existing developed roadway with existing utilities. The project proponent will connect to these utilities.

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

Finding of Fact: There is no evidence that the proposed project will have the potential for any adverse effect on wildlife resources or the habitat upon which wildlife depends. The site was found to contain no suitable habitat for threatened or endangered species. There is no evidence that vernal pool complex, similar bodies of water, or conditions suitable for forming such bodies of water exist on the site. The site is currently developed with a single family house and is currently devoid of vegetation. The parcel is flat (unable to support bodies of water).

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 hotel will not be detrimental to the City's health, safety, and welfare in that it complies with the Zoning Code development standards. A hotel is a permitted use in the zone. The project is consistent with the general plan land use community design and circulation elements. The project will not generate excessive noise or traffic. There is adequate parking and screening from adjacent uses. Access will be from Joshua Palmer Way, a collector street with frontage on the I-10 freeway. The hotel is surrounded by other General Commercial properties.

PLANNING COMMISSION ACTIONS.

The Planning Commission hereby takes the following actions:

1. Notice of Exemption. In accordance with Public Resources Code Section 21152(b) and CEQA Guidelines Section 15062 the Planning Commission hereby approves a categorical exemption under CEQA Guidelines Section 154332 and directs the Planning Director to prepare and file with the Clerk for the County of Riverside a notice of exemption as provided under Public Resources Code Section 21152(b) and CEQA Guidelines Section 15062.
2. Approve Conditional Use Permit. Conditional Use Permit #07-807 is hereby approved subject to the Conditions of Approval attached hereto and incorporated herein by reference as Attachment “1”.

PASSED, APPROVED AND ADOPTED this 3rd day of June, 2008.

William Dickson, Chairman
Banning Planning Commission

APPROVED AS TO FORM AND LEGAL CONTENT:

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

CERTIFICATION:

I, Virginia Sorenson, Recording Secretary of the Planning Commission of the City of Banning, California, do hereby certify that the foregoing Resolution, No. 2007-12, was duly adopted by the Planning Commission of the City of Banning, California, at a regular meeting thereof held on the 3rd day of June, 2008 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Virginia Sorenson, Recording Secretary
City of Banning, California
CONDITIONS OF APPROVAL

PROJECT #: Design Review #07-7011 and Conditional Use Permit #07-807

SUBJECT: Microtel

APPLICANT: Matthew Akhigbe

LOCATION: 5801 Joshua Palmer Way

APPLICANT SHALL CONTACT THE PLANNING DIVISION, (951) 922-3125, FOR COMPLIANCE WITH THE FOLLOWING CONDITIONS:

A. General Requirements

1. The applicant shall indemnify, protect, defend, and hold harmless, the City, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, from any and all claims, demands, lawsuits, writs of mandamus, and other actions and proceedings (whether legal, equitable, declaratory, administrative or adjudicatory in nature), and alternative dispute resolutions procedures (including, but not limited to arbitrations, mediations, and other such procedures), (collectively “Actions”), brought against the City, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, that challenge, attack, or seek to modify, set aside, void, or annul, the action of, or any permit or approval issued by, the City and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof (including actions approved by the voters of the City), for or concerning the project, whether such Actions are brought under the California Environmental Quality Act, the Planning and Zoning Law, the Subdivisions Map Act, Code of Civil Procedure Section 1085 or 1094.5, or any other state, federal, or local statute, law, ordinance, rule, regulation, or any decision of a competent jurisdiction. It is expressly agreed that the City shall have the right to approve, which approval will not be unreasonably withheld, the legal counsel providing the City’s defense, and that applicant shall reimburse City for any costs and expenses directly and necessarily incurred by the City in the course of the defense. City shall promptly notify the applicant of any Action brought and City shall cooperate with applicant in the defense of the Action.

2. The issuance of these Conditions of Approval do not negate the requirements of the Engineering/Public Works Department or submittal, review, and approval of: Street improvement plans, signing and striping plans, grading plans, storm drain improvement plans,
street lighting plans, water, sewer, and electrical improvement plans, or other plans as deemed necessary by the City Engineer.

3. A copy of the signed Resolution of Approval or Community Development Director's letter of approval, and all Standard Conditions, shall be included in legible form on the grading plans, building and construction plans, and landscape and irrigation plans submitted for plan check.

B. Site Development

1. The site shall be developed and maintained in accordance with the approved plans which include site plans, architectural elevations, exterior materials and colors, landscaping, sign program, and grading on file in the Planning Division, the conditions contained herein, Development Code regulations.

2. Prior to any use of the project site or business activity being commenced thereon, all Conditions of Approval shall be completed to the satisfaction of the Community Development Director.

3. Occupancy of the facilities shall not commence until such time as all Uniform Building Code and State Fire Marshal regulations have been complied with. Prior to occupancy, plans shall be submitted to the City of Banning Fire Marshal and the Building and Safety Division to show compliance. The buildings shall be inspected for compliance prior to occupancy.

4. Revised site plans and building elevations incorporating all Conditions of Approval shall be submitted for Community Development Director review and approval prior to the issuance of building permits.

5. All site, grading, landscape, irrigation, and street improvement plans shall be coordinated for consistency prior to issuance of any permits (such as grading, tree removal, encroachment, building, etc.) or prior to final map approval in the case of a custom lot subdivision, or approved use has commenced, whichever comes first.

6. Approval of this request shall not waive compliance with all sections of the Development Code, all other applicable City Ordinances, and applicable Community or Specific Plans in effect at the time of building permit issuance.

7. A detailed on-site lighting plan, including a photometric diagram, shall be reviewed and approved by the Community Development Director and Police Department (922-3125) prior to the issuance of building permits. Such plan shall indicate style, illumination, location, height, and method of shielding so as not to adversely affect adjacent properties.

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

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

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

12. Six-foot decorative block walls shall be constructed along the project perimeter. If a double wall condition would result, the developer shall make a good faith effort to work with the adjoining property owners to provide a single wall. Developer shall notify, by mail, all contiguous property owner at least 30 days prior to the removal of any existing walls/fences along the project's perimeter.

13. Provide for the following design features in each trash enclosure, to the satisfaction of the Community Development Director:

   a. Architecturally integrated into the design of the project.

   b. Separate pedestrian access that does not require the opening of the main doors and to include self-closing pedestrian doors.

   c. Large enough to accommodate two trash bins.

   d. Roll-up doors.

   e. Trash bins with counter-weighted lids.

   f. Architecturally treated overhead shade trellis.

   g. Chain link screen on top to prevent trash from blowing out of the enclosure and designed to be hidden from view.

14. Trash collection shall occur between the hours of 8:00 and 6:00 only.

15. Graffiti shall be removed within 72 hours.

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

17. Detailed plans shall be included in the landscape and irrigation plans to be submitted for Planning Division approval prior to the issuance of building permits.

18. A detailed on-site lighting plan, including a photometric diagram, that illustrates "0" lumens at the property line, shall be reviewed and approved by the Community Development Director and Police Department (922-3125) prior to the issuance of building permits. Such plan shall indicate style, illumination, location, height, and method of shielding so as not to adversely affect adjacent properties.

19. The lighting fixture design shall compliment the architectural program.
C. Building Design

1. The project shall have the front, side and rear elevations upgraded with architectural treatment, detailing and increased delineation of surface treatment subject to Community Development Director review and approval prior to issuance of building permits.

2. A Design Review and Conditional Use Permit shall be exercised by the commencement of construction within 2 years from the date of approval or the Design Review and Conditional Use Permit shall become null and void. In addition, 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. Extension: The Community Development Director may, upon an application being filed 30 days prior to expiration and for good cause, grant one time extension not to exceed 12 months. Upon granting of an extension, the Community Development Director shall ensure that the Design Review complies with all current Ordinance provisions.

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

D. Parking and Vehicular Access (indicate details on building plans)

1. All parking spaces shall be 9 feet wide by 19 feet long, except for the 16 compact spaces approved by the Community Development Director per the parking adjustment. When a side of any parking space abuts a building, wall, support column, or other obstruction, the space shall be a minimum of 11 feet wide.

2. All parking lot landscape islands shall have a minimum outside dimension of 6 feet and shall contain a 12-inch walk adjacent to the parking stall (including curb).

3. Textured pedestrian pathways and textured pavement across circulation aisles shall be provided throughout the development to connect dwellings/units/buildings with open spaces/plazas/recreational uses.

4. All parking spaces shall be striped per City standards and all driveway aisles, entrances, and exits shall be striped per City standards.

5. Plans for any security gates shall be submitted for the Community Development Director, City Engineer, and City of Banning Fire Marshal review and approval prior to issuance of building permits.

6. Handicap accessible stalls shall be provided for commercial and office facilities. One in every 8 parking stalls (no less than 1) shall be served by an access aisles 96” wide min. placed opposite the driver’s side and shall be designated Van-Accessible.

7. Carpool and vanpool designated off-street parking close to the building shall be provided for commercial, office, and industrial facilities at the rate of 10 percent of the total parking area. If covered, the vertical clearance shall be no less than 9 feet.
E. Landscaping

1. A detailed landscape and irrigation plan, including slope planting, shall be prepared by a licensed landscape architect and submitted for Community Development Director review and approval prior to the issuance of building permits.

2. A minimum of 20% of trees planted within industrial projects, and a minimum of 30% within commercial and office projects, shall be specimen size trees - 24-inch box or larger.

3. Within parking lots, trees shall be planted at a rate of one 15-gallon tree for every three parking stalls, sufficient to shade 50% of the parking area at solar noon on August 21.

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

5. All private slopes of 5 feet or more in vertical height and of 5:1 or greater slope, but less than 2:1 slope, shall be, at minimum, irrigated and landscaped with appropriate ground cover for erosion control. Slope planting required by this section shall include a permanent irrigation system to be installed by the developer prior to occupancy.

6. All private slopes in excess of 5 feet, but less than 8 feet in vertical height and of 2:1 or greater slope shall be landscaped and irrigated for erosion control and to soften their appearance as follows: one 15-gallon or larger size tree per each 150 sq. ft. of slope area, 1-gallon or larger size shrub per each 100 sq. ft. of slope area, and appropriate ground cover. In addition, slope banks in excess of 8 feet in vertical height and 2:1 or greater slope shall also include one 5-gallon or larger size tree per each 250 sq. ft. of slope area. Trees and shrubs shall be planted in staggered clusters to soften and vary slope plane. Slope planting required by this section shall include a permanent irrigation system to be installed by the developer prior to occupancy.

7. For the project property owners are responsible for the continual maintenance of all landscaped areas on-site, as well as contiguous planted areas within the public right-of-way. All landscaped areas shall be kept free from weeds and debris and maintained in healthy and thriving condition, and shall receive regular pruning, fertilizing, mowing, and trimming. Any damaged, dead, diseased, or decaying plant material shall be replaced within 30 days from the date of damage.

8. The final design of the perimeter parkways, walls, landscaping, and sidewalks shall be included in the required landscape plans and shall be subject to Community Development Director review and approval and coordinated for consistency with any parkway landscaping plan which may be required by the Engineering Division.

9. All walls shall be provided with decorative treatment. If located in public maintenance areas, the design shall be coordinated with the Engineering Division.

10. Tree maintenance criteria shall be developed and submitted for Community Development Director review and approval prior to issuance of building permits. These criteria shall encourage the natural growth characteristics of the selected tree species.
11. Landscaping and irrigation shall be designed to conserve water through the principles of Xeriscape.

F. Environmental

1. A final acoustical report shall be submitted for Community Development Director review and approval prior to the issuance of building permits. The final report shall discuss the level of interior noise attenuation to below 45 CNEL, the building materials and construction techniques provided, and if appropriate, verify the adequacy of the mitigation measures. The building plans will be checked for conformance with the mitigation measures contained in the final report.

G. Other Agencies

1. The applicant shall contact the U.S. Postal Service to determine the appropriate type and location of mail boxes. Multi-family residential developments shall provide a solid overhead structure for mail boxes with adequate lighting. The final location of the mail boxes and the design of the overhead structure shall be subject to Community Development Director review and approval prior to the issuance of building permits.

BUILDING AND SAFETY CONDITIONS:

APPLICANT SHALL CONTACT THE BUILDING AND SAFETY DIVISION, (951) 922-3120, FOR COMPLIANCE WITH THE FOLLOWING CONDITIONS:

H. General Requirements

1. Submit four complete sets of plans including the following:
   a. Site/Plot Plan;
   b. Foundation Plan;
   c. Floor Plan;
   d. Ceiling and Roof Framing Plan;
   e. Electrical Plans (2 sets, detached) including the size of the main switch, number and size of service entrance conductors, panel schedules, and single line diagrams;
   f. Plumbing and Sewer Plans, including isometrics, underground diagrams, water and waste diagram, sewer or septic system location, fixture units, gas piping, and heating and air conditioning; and

2. Submit two sets of structural calculations, energy conservation calculations, and a soils report. Architect's/Engineer's stamp and "wet" signature are required prior to plan check submittal.

3. Separate permits are required for fencing and/or walls.

4. Contractors must show proof of State and City licenses and Workers’ Compensation coverage to the City prior to permit issuance.
5. Business shall not open for operation prior to posting the Certificate of Occupancy issued by the Building and Safety Division.

1. Site Development

1. Plans shall be submitted for plan check and approved prior to construction. All plans shall be marked with the project file number (i.e., DR 07-7011). The applicant shall comply with the latest adopted Uniform Building Code, Uniform Mechanical Code, Uniform Plumbing Code, National Electric Code, Title 24 Accessibility requirements, and all other applicable codes, ordinances, and regulations in effect at the time of permit application. Please contact the Building and Safety Division for availability of the Code Adoption Ordinance and applicable handouts.

2. Prior to issuance of building permits for a new commercial or industrial development or addition to an existing development, the applicant shall pay development fees at the established rate. Such fees may include, but are not limited to: Transportation Development Fee, Drainage Fee, School Fees, Permit and Plan Checking Fees. Applicant shall provide a copy of the school fees receipt to the Building and Safety Division prior to permit issuance.

3. Street addresses shall be provided by the Building Official, after tract/parcel map recordation and prior to issuance of building permits.

4. For projects using septic tank facilities, written certification of acceptability, including all supportive information, shall be obtained from the Riverside County Department of Environmental Health and submitted to the Building Official prior to the issuance of Septic Tank Permits, and prior to issuance of building permits.

5. Construction activity shall not occur between the hours of 8:00 p.m. and 6:30 a.m. Monday through Saturday, with no construction on Sunday or holidays.

6. Construct trash enclosure(s) per City Standard (available at the Planning Division's public counter).

7. Submit pool plans to the County of Riverside's Environmental Health Services Department for approval.

8. The following is required for side yard use for increase in allowable area:
   a. Provide a reduced site plan (8 ½" x 11") which indicates the non-buildable easement.
   b. Recorded "Covenant and Agreement for the Maintenance of a Non-Buildable Easement," which is signed by the appropriate property owner(s).
   c. Sample document is available from the Building and Safety Division.

J. New Structures

1. Provide compliance with the Uniform Building Code for the property line clearances considering use, area, and fire-resistance.

2. Provide compliance with the Uniform Building Code for required occupancy separation(s).
3. Roofing material shall be installed per the manufacturer's "high wind" instructions.

4. Plans for food preparation areas shall be approved by County of Riverside Environmental Health Services prior to issuance of building permits.

5. Provide draft stops in attic areas, not to exceed 3,000 square feet, in accordance with UBC Table 5-A.

6. Provide draft stops in attics in line with common walls.

7. Roofing materials shall be Class "A."

8. Exterior walls shall be constructed of the required fire rating in accordance with UBC Table 5-A.

9. Openings in exterior walls shall be protected in accordance with UBC Table 5-A.

10. If the area of habitable space above the first floor exceeds 3,000 square feet, then the construction type shall be V-1 Hour.

11. Walls and floors separating dwelling units in the same building shall be not less than 1-hour fire-resistive construction.

12. Provide smoke and heat venting in accordance with UBC Section 906.

13. Provide method of airborne and impact sound transmission control between dwelling units.

14. Upon tenant improvement plan check submittal, additional requirements may be needed.

**K. Grading**

1. Grading of the subject property shall be in accordance with the Uniform Building Code, City Grading Standards, and accepted grading practices. The final grading plan shall be in substantial conformance with the approved grading plan.

2. A soils report shall be prepared by a qualified engineer licensed by the State of California to perform such work.

3. A geological report shall be prepared by a qualified engineer or geologist and submitted at the time of application for grading plan check.

4. The final grading plans shall be completed and approved prior to issuance of building permits.

5. As a custom-lot subdivision, the following requirements shall be met:

   a. Surety shall be posted and an agreement executed guaranteeing completion of all on-site drainage facilities necessary for dewatering all parcels to the satisfaction of the Building and Safety Division prior to final map approval and prior to the issuance of grading permits.

   b. Appropriate easements for safe disposal of drainage water that are conducted onto or over adjacent parcels, are to be delineated and recorded to the satisfaction of the Building and Safety Division prior to issuance of grading and building permits.
c. On-site drainage improvements, necessary for dewatering and protecting the subdivided properties, are to be installed prior to issuance of building permits for construction upon any parcel that may be subject to drainage flows entering, leaving, or within a parcel relative to which a building permit is requested.

d. Final grading plans for each parcel are to be submitted to the Building and Safety Division for approval prior to issuance of building and grading permits. (This may be on an incremental or composite basis).

e. All slope banks in excess of 5 feet in vertical height shall be seeded with native grasses or planted with ground cover for erosion control upon completion of grading or some other alternative method of erosion control shall be completed to the satisfaction of the Building Official. In addition a permanent irrigation system shall be provided.

6. A separate grading plan check submittal is required for all new construction projects and for existing buildings where improvements being proposed will generate 50 cubic yards or more of combined cut and fill. The Grading Plan shall be prepared, stamped, and signed by a California Registered Civil Engineer.

ENGINEERING CONDITIONS:

APPLICANT SHALL CONTACT THE ENGINEERING DIVISION, (951) 922-3130, FOR COMPLIANCE WITH THE FOLLOWING CONDITIONS:

L. General Requirements

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

   • The lot may not be a legal lot of record. Submit a chain of title dating back to May 27, 1954, to determine the status of the lot. If the lot is not a legal lot of record, a certificate of compliance shall be required in accordance with Sections 66499.34 and 66499.35 of the Subdivision Map Act and may contain conditions of approval. At the minimum, a land surveyor licensed by the State of California shall be required to place property monuments in compliance with state and local regulations.

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

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

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

A. Grading Plan
   (all conditions of approval shall be reproduced on last sheet of set)
   1" = 40' Horizontal

B. Clearing Plan
   Include construction fencing plan
   1" = 50' Horizontal

C. SWPPP
   (Note: A, B, & C shall be processed concurrently.)
   1" = 40' Horizontal

D. Street Improvement Plan
   1" = 40' Horizontal
   1" = 4' Vertical

E. Offsite Signing & Striping Plan
   1" = 40' Horizontal

Other engineered improvement plans prepared for City approval that are not listed herein shall be prepared in formats approved by the City Engineer prior to commencing plan preparation.

All off-site plan and profile street improvement plans and signing & striping plans shall show all existing improvements for a distance of at least 200-feet beyond the project limits, or at a distance sufficient to show any required design transitions.

All on-site signing and striping plans shall show the following at a minimum: stop signs, limit lines and legends, no parking signs, raised pavement markers (including blue raised pavement markers at fire hydrants) and street name signs per Public Works standard plans and/or as approved by the City Engineer.

A small index map shall be included on the title sheet of each set of plans, showing the overall view of the entire work area.
4. Upon completion of construction, the Developer shall furnish the City with reproducible record drawings on Mylar of all improvement plans that were approved by the City Engineer. Each sheet shall be clearly marked "As-Built" or "As-Constructed" and shall be stamped and signed by the engineer or surveyor certifying the accuracy and completeness of the drawings. The applicant shall have all AutoCAD or raster-image files submitted to the City, revised to reflect the “As-Built” conditions.

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

M. Rights of Way

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

7. The existing right-of-way appears to meet the required General Plan width of 30 feet minimum for a half street. After completion of the alignment study by the developers’ engineer, if additional right-of-way is required along Joshua Palmer Way, the applicant shall offer to dedicate for public purposes the required right-of-way.

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

9. Direct vehicular access to Joshua Palmer Way from any portion of the site frontage shall be restricted, except for those access points identified on the approved site plan, or as otherwise conditioned in these conditions of approval. The vehicular access restriction shall be recorded on a separate instrument prior to occupancy.

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

11. Construct full half street improvements in accordance with City standards fronting Joshua Palmer Way including street lighting, curb and gutter, commercial drive approach, access ramps, sidewalk, and asphalt concrete paving, traffic signs and striping, and any transitions. Street lights on Joshua Palmer Way shall be installed offset of the existing street lights. Where the transverse slope of the existing pavement exceeds 3% or the pavement surface is distressed, the applicant shall remove pavement
3. Provide pavement striping and signing from easterly prolongation of site frontage to Highlands Springs Avenue. Joshua Palmer Way shall be centerline striped double yellow.

13. All street improvement design shall provide pavement transitions per Caltrans standards for transition to existing street sections.

4. Unless otherwise noted all required public improvements for the development shall be completed, tested, and approved by the Engineering Division prior to issuance of any Certificate of Occupancy.

5. **Grading and Drainage**

15. Submit a Drainage Study with hydrologic and hydraulic analysis for developed and undeveloped (existing) conditions to the Engineering Division for review and approval. The study and analysis shall be prepared by a civil engineer licensed by the State of California. Drainage design shall be in accordance with Banning Master Drainage Plan adopted by Riverside County Flood Control and Water Conservation District (RCFC), RCFC Hydrology Manual, and standard plans and specifications. The 10-year storm flow shall be contained within the street curbs, and the 100-year storm shall be contained within the street right-of-way; when this criteria is exceeded, additional drainage facilities shall be designed and constructed.

16. The design of the development shall not cause any increase in flood boundaries, levels or frequencies in any area outside the development.

17. The project grading shall be designed in a manner that perpetuates the existing natural drainage patterns with respect to tributary drainage areas, outlet points and outlet conditions. Otherwise, a drainage easement shall be obtained for the release of concentrated or diverted storm flows. **The project shall accept and convey storm flows from the adjacent property to the north and west.**

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18. The applicant shall comply with Chapter 34 "Stormwater Management and Discharge Controls" of the Banning Municipal Code (BMC); California Building Code Appendix Chapter 33 "Excavation and Grading"; and the State Water Resources Control Board's Order No. 99-08-DWQ.

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

5. The applicant’s SWPPP shall be reviewed and approved by the City Engineer prior to any on-site or off-site grading being done in relation to this project.

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

7. The applicant’s SWPPP shall include provisions for all of the following Best Management Practices ("BMPs"):
   a. Temporary Soil Stabilization (erosion control).
   b. Temporary Sediment Control.
   c. Wind Erosion Control.
   d. Tracking Control.
   e. Non-Storm Water Management.
   f. Waste Management and Materials Pollution Control.

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

9. The approved SWPPP and BMPs shall remain in effect for the entire duration of project construction until all improvements are completed and accepted by the City.

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

20. A precise grading plan shall be submitted to the City Engineer for review and approval. A grading permit shall be obtained prior to commencement of any clearing or grading activity. Grading plans shall include perimeter walls with top of wall and top of footing elevations shown. All footings shall have a minimum of 1-foot of cover, and/or sufficient cover to clear any obstructions.
21. Prior to issuance of building permits, the permit applicant shall include in its development plans for approval by City water quality management controls by specifically identifying BMPs that will be used onsite to control predictable pollutant runoff.

22. The permit applicant shall identify the structural and non-structural measures specified in Supplement ‘A’ or other equally effective standard detailing implementation of BMPs whenever they are applicable to the project (when the project has a loading dock, for example), the assignment of long-term maintenance responsibilities (specifying the developer, parcel owner, maintenance association, lessee, etc.); and shall reference the location(s) of structural BMPs.

23. Prior to the issuance of a Certificate of Occupancy the applicant shall execute a Stormwater Management Facilities Agreement guaranteeing the maintenance of stormwater pollution controls. Said agreement shall be recorded with the Riverside County Recorder and thereafter run with the land.

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

O. Traffic

25. Provide and maintain stop sign and pavement legend for main drive access.

26. Site distance at the access drives shall be reviewed and implemented in accordance with California Department of Transportation standards.

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

28. Prior to the issuance of any certificate of occupancy, all fire hydrants shall have a blue reflective pavement marker indicating the hydrant location on the street as approved by the Fire Marshall, and must be maintained in good condition by the property owner until the street is accepted for maintenance.

P. Trash/Recycling

29. The developer shall participate in the City's recycling program by providing two trash receptacles, one for regular trash and one for recycling, within the trash enclosure. The trash enclosure shall be designed and constructed in such a manner to accommodate a recycling bin as well as the necessary solid waste containers.
30. Construction debris shall be disposed of at a certified recycling site. It is recommended that the developer contact the City's franchised solid waste hauler for disposal of construction debris.

Q. Fees

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

32. Public Works Inspection fees shall be paid prior to grading permit issuance in accordance with the Fee Schedule in effect at time of scheduling.

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

34. A plan storage fee shall be paid prior to approval of the final map and improvement plans in accordance with the Fee Schedule in effect at the time the fee is paid.

35. A Traffic Control mitigation fee shall be paid on a per lot basis prior to issuance of building permits for each lot.

36. A fee shall be paid to Riverside County Flood Control and Water Conservation District in the amount specified by them to perform plan checking for drainage purposes for the proposed subdivision.

R. Landscaping

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

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

FIRE CONDITIONS:

APPLICANT SHALL CONTACT THE FIRE MARSHAL AT, (951) 922-3210, FOR COMPLIANCE WITH THE FOLLOWING CONDITIONS:
1. An on-site fire hydrant, positioned near the N.E. corner of the building, will be required.

2. The building will be required to be equipped with an automatic fire sprinkler and fire alarm system. Those systems will be required to meet NFPA, State, County and City requirements.

3. The area shown as a “turning space” on the site plan must meet the specifications for a “hammer-head turn-around” as shown in Figure “A” on the attached document.

4. If the building permits are acquired after January 1, 2008, then the requirement in the 2007 California Fire Code (with County and City Amendments) and the 2007 California Building Code will apply.

More specific requirements may be presented when detailed plans are submitted.

WATER/WASTEWATER CONDITIONS

APPLICANT SHALL CONTACT THE WATER & WASTEWATER UTILITY COMPLIANCE WITHIN THE FOLLOWING CONDITIONS:

Submit Water Improvement Plans to the Water Division for review and approval. Design and construct a fire protection water line east and north sides of building within the driveway access at Joshua Palmer Way to the north west end of building in a 20’ wide easement connecting to the existing 12” water line on Joshua Palmer Way.

All water lines and fittings shall be a minimum of 8” diameter and shall be DIP or 10-gauge steel pipes, cement mortar lined & wrapped.

Fire hydrants shall be installed within and on the project boundaries as per the approval plans, at a 300’ maximum spacing.

A backflow device must be installed on commercial developments and for each irrigation water connection; and in compliance with the State of California Department of Health Regulations. Contact the City of Banning, Water Operations Division, prior to the installation.

SEWER

Submit Sewer Improvement Plans to the Sewer Division for review and approval. Design and construct a 6” VCP sewer lateral connecting to the existing 8” sewer line on Joshua Palmer Way.

Restaurants and Food Services require grease interceptors before connecting to the City Sewerage System.

FEES

Water Connection Fees shall be paid per EDU (EDU is based upon 0.5 EDU per hotel unit without kitchen plus accessory facilities and irrigation uses), Sewer Connection Fees shall be paid per EDU (EDU is based upon 0.5 EDU per Hotel Unit without kitchen plus accessory facilities), and Water Meter Installation charges shall all be paid at the time of issuance of building permits, within this project in accordance with the fee schedule in effect at the time the
fees are paid. Also, pay all water and sewer frontage fees, if applicable, and in accordance with the fee schedule in effect at the time the fees are submitted, prior to plan checking proceedings.

**ELECTRICAL CONDITIONS:**

APPLICANT SHALL CONTACT ELECTRICAL OPERATIONS DEPARTMENT IN COMPLIANCE WITH THE FOLLOWING CONDITION:

The 12.47kv 4 wire primary electric system will be extended underground from the S/E corner of the Hampton Inn east to the east property line of this development. The existing 12Kv line from the Hampton Inn east will be required to be placed underground (NOTE) Ordering of material for this project and payment for should be completed at the time that building permits are issued. Transformer lead time for delivery is approximately 44 weeks out.

The underground line extension is described in the City of Banning Electric Department Rule # 14. The Department reserves the right to provide and install all or part of an underground extension, at the expense of the applicant. The estimated cost will be advanced to the Department prior to start of construction.

An electric utility design will be provided upon completion of step one of the customer’s responsibilities listed below.

The customer shall be responsible for:
1. Submitting detailed plans indicating lot lines, streets, easements, building layout, anticipated loading information, etc. These plans are required in electronic format. We currently use AutoCad2000.
2. Paying required fees - electrical permit, plan check fee, inspection fees, in aid of construction fee, etc. Current fee schedule available from the City Department of Building and Safety.
3. Granting easement for electric facilities installation/maintenance, etc.
4. All trenching, backfill, and compaction.
5. All conduits, vaults, and other materials associated with their installation (except cables and their terminations).
6. Installation of Streetlight poles lights and conductors per City Standard.

The City Electric Department shall be responsible for:
1. Reviewing plans submitted by customer.
2. Providing a cost estimate for City to installed underground cable and apparatus to supply 12kv power.
3. Inspecting all trenches prior to backfilling. 24 hour prior notice is required before inspection.
4. Installing conductors, terminations and apparatus for primary underground line extension. Secondary service entrance conductors to be provided and installed by the developer (at customer’s expense).
DESIGN REVIEW #07-7011
MICROTTEL

RESOLUTION
NO. 2008-13

EXHIBIT "2"
RESOLUTION NO. 2008-13

A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF BANNING, CALIFORNIA
APPROVING DESIGN REVIEW #07-7011 TO DEVELOP
A 32,710 SQUARE FOOT HOTEL (MICROTEL),
COMPRISED OF A THREE-STORY BUILDING WITH
69 UNITS ON 1.03 ACRES IN THE GENERAL
COMMERCIAL ZONE. APN 419-131-003.

WHEREAS, an application for a hotel, Microtel, has been duly filed by:

<table>
<thead>
<tr>
<th>Applicant/Owner:</th>
<th>Matthew Akhigbe</th>
</tr>
</thead>
<tbody>
<tr>
<td>Project Location:</td>
<td>5081 Joshua Palmer Way</td>
</tr>
<tr>
<td>APN Number:</td>
<td>419-131-003</td>
</tr>
<tr>
<td>Lot Area:</td>
<td>1.03 acre</td>
</tr>
</tbody>
</table>

WHEREAS, the Planning Commission has the authority per section 17.44.010 of the
Banning Municipal Code to take action on Design Review #07-7011 to develop a 32,710 sq. ft.
Hotel, (Microtel); and

WHEREAS, the applicant is requesting approval of Design Review #07-7011 for the site
development plans for a 32,710 square foot building comprised of 69 units on 1.03 acres in the
General Commercial zone, in compliance with Banning Municipal Code Section 17.12.010; and,

WHEREAS, on May 23, 2008 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 June 3, 2008 the Planning Commission held the noticed public hearing
at which interested persons had an opportunity to testify in support of, or opposition to, the
Design Review at which the Planning Commission considered the Design Review; and

WHEREAS, the Planning Director has reviewed the project's potential effects on the
environment and has recommended that the project is categorically exempt from the California
Environmental Quality Act ("CEQA") under CEQA Guidelines Section 15332 "In-fill
Development and that the exceptions to the categorical exemptions contained in CEQA
Guidelines Section 15300.2 are not applicable to the project.
NOW THEREFORE, the Planning Commission of the City of Banning does Resolve, Determine, Find and Order as follows:

SECTION 1. ENVIRONMENTAL FINDINGS.

The Planning Commission, in light of the whole record before it, including but not limited to, the City's Local CEQA Guidelines and Thresholds of Significance, the recommendation of the Planning Director as provided in the Staff Report dated June 3, 2008 and documents incorporated therein by reference, and any other evidence (within the meaning of Public Resources Code § 21080(e) and § 21082.2) within the record or provided at the public hearing of this matter, hereby finds and determines as follows:

1. CEQA:

(a) The project is exempt from CEQA under CEQA Guidelines Section 15332 in that the staff report submitted by the Planning Department and other findings made in this Resolution demonstrate that: the Design Review #07-7011 is consistent with the General Commercial General Plan designation and all applicable General Plan policies as well as with applicable zoning designations; Design Review #07-7011 is located within the boundaries of the City of Banning; the area within Design Review #07-7011 comprises less than five acres and has no value as habitat for endangered, rare or threatened species; there is no substantial evidence in the record that Design Review #07-7011 will result in significant effects related to traffic, noise, air quality, or water quality; and the site is or can be adequately served by all required utilities and public services. As such, the project meets the criteria for application of a Class 32 Categorical Exemption under the CEQA Guidelines.

(b) None of the exceptions to the categorical exemptions contained in CEQA Guidelines Section 15300.2 prevent CEQA Guidelines Section 15322 from exempting the project for the following reasons:

(i) The project is not a Class 3, 4, 5, 6, or 11 project, and therefore is not subject to the exception pertaining to projects located in particularly sensitive environments.

(ii) The nature of the project is such that significant cumulative impacts will not occur from successive projects of this type occurring in the same location over time. The General Commercial zoning standards regulates the land use around the site. A towing yard exists to the west; a gas station and interstate freeway exists to the south; and commercial development is required in the north and east.

(iii) There is no reasonable possibility that unusual circumstances will cause the project to have a significant effect on the environment because the hotel use is not in itself a hazardous use, the City's utilities and roads are adequate to serve the project and the surrounding properties are not environmentally sensitive properties.
(iv) The project will not result in damage to scenic resources within a designated state scenic highway because there is no designated state scenic highway in the project area and the subject and surrounding properties are vacant and/or blighted or developed with commercial enterprises.

(v) The project site has not been listed as a hazardous waste and substance facility or site by the Department of Toxic Substances Control pursuant to California Government Code Section 659625.

(vi) The project will not cause a substantial adverse change to the significance of a historical resource. The site is vacant, a historical resource or its immediate surroundings will not be demolished, destroyed, relocated, or altered such that the significance of the historical resource would be materially impaired.

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

**SECTION 2. REQUIRED FINDINGS.**

Pursuant to Banning Municipal Code Section 17.56.040 and in light of the record before it including the staff report dated June 3, 2008 all evidence and testimony heard at the public hearing of this item, the Planning Commission hereby finds as follows:

A. Section 17.56.050 requires that the Design Review satisfy each of the findings under the Banning Municipal Code Section 17.56.040. The Planning Commission hereby finds and determines that each of these requirements is satisfied as follows:

1. The proposed use is consistent with the General Plan.

Findings of Fact: The General Plan Land Use Element as well as a Zoning District designation of General Commercial (GC) allows for the development of Hotels and Motels. This development proposes a hotel, which is consistent with the land use designation.

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

The Zoning District designation General Commercial (GC) allows for the development of Hotels and Motels. The project meets or exceeds most of the standards, including:

- **Minimum front yard setback (15’ provided versus 10’ required);**
- **Minimum rear yard setback (83’ provided versus 0’ required);**
- **Minimum side yard setback (7’ provided versus 0’ required);**
- **Maximum lot coverage (25% proposed versus 35% maximum allowed).**
Please note that the Zoning Code allows 2 stories or 35 feet in height; a Conditional Use Permit is required, in this case, to increase the height of the building to 3 stories and 39 feet, 9 inches.

3. The design and layout of the proposed project will not unreasonably interfere with the use or enjoyment of neighboring existing or future development and will not result in vehicular and/or pedestrian hazards.

The design and layout of the proposed project will not unreasonably interfere with the future development, and will not result in vehicular and or pedestrian hazards. The building is perpendicular to the I-10, is surrounded by a parking lot (to the rear and east) and has a swimming pool along the western property line. Access will be taken from Joshua Palmer Way, a frontage road and that services commercial properties located adjacent to the freeway. The project is surrounded by other General Commercial properties and is zoned General Commercial and will be developed with a use that is compatible with this zone.

4. The design of the project is compatible with the character of the surrounding neighborhood.

The architectural elevations for the project include a contemporary Tudor style hotel with multi-pane windows, smooth stucco, and stone accents. The site will be fully landscaped and will include decorative paving at the driveway entrance. Although this style is not found immediately adjacent to this site, the project will greatly enhance the immediate area surrounding the site which currently consists of vacant lots, a vacant house, a towing yard and an older gas station.

SECTION 3. PLANNING COMMISSION ACTIONS.

The Planning Commission hereby takes the following actions:

5. Notice of Exemption. In accordance with Public Resources Code Section 21152(b) and CEQA Guidelines. Section 15062 the Planning Commission hereby approves a categorical exemption for the project under CEQA Guidelines Section 15332 and directs the Planning Director to prepare and file with the Clerk for the County of Riverside a notice of exemption as provided under Public Resources Code Section 21152(b) and CEQA Guidelines Section 15062.

6. Approve Design Review #07-7011 is hereby approved subject to the Conditions of Approval attached hereto and incorporated herein by reference as Attachment "1" (from CUP #07-807) for the review of the site development and architecture for the hotel. Any modification to the project shall be in compliance with the City of Banning Zoning Ordinance, and other applicable state and local ordinances.
PASSED, APPROVED AND ADOPTED this 3rd day of June, 2008.

William Dickson, Chairman
Banning Planning Commission

APPROVED AS TO FORM AND LEGAL CONTENT:

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

CERTIFICATION:

I, Virginia Sorenson, Recording Secretary of the Planning Commission of the City of Banning, California, do hereby certify that the foregoing Resolution, No. 2008-13, was duly adopted by the Planning Commission of the City of Banning, California, at a regular meeting thereof held on the 3rd day of June, 2008 by the following vote, to wit:

AYES:
NOES:
ABSENT:
ABSTAIN:

Virginia Sorenson, Recording Secretary
City of Banning, California
CONDITIONS OF APPROVAL

PROJECT #: Design Review #07-7011 and Conditional Use Permit #07-807
SUBJECT: Microtel
APPLICANT: Matthew Akhigbe
LOCATION: 5801 Joshua Palmer Way

APPLICANT SHALL CONTACT THE PLANNING DIVISION, (951) 922-3125,
FOR COMPLIANCE WITH THE FOLLOWING CONDITIONS:

A. General Requirements

1. The applicant shall indemnify, protect, defend, and hold harmless, the City, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, from any and all claims, demands, lawsuits, writs of mandamus, and other actions and proceedings (whether legal, equitable, declaratory, administrative or adjudicatory in nature), and alternative dispute resolutions procedures (including, but not limited to arbitrations, mediations, and other such procedures), (collectively “Actions”), brought against the City, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, that challenge, attack, or seek to modify, set aside, void, or annul, the action of, or any permit or approval issued by, the City and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof (including actions approved by the voters of the City), for or concerning the project, whether such Actions are brought under the California Environmental Quality Act, the Planning and Zoning Law, the Subdivisions Map Act, Code of Civil Procedure Section 1085 or 1094.5, or any other state, federal, or local statute, law, ordinance, rule, regulation, or any decision of a competent jurisdiction. It is expressly agreed that the City shall have the right to approve, which approval will not be unreasonably withheld, the legal counsel providing the City’s defense, and that applicant shall reimburse City for any costs and expenses directly and necessarily incurred by the City in the course of the defense. City shall promptly notify the applicant of any Action brought and City shall cooperate with applicant in the defense of the Action.

2. The issuance of these Conditions of Approval do not negate the requirements of the Engineering/Public Works Department or submittal, review, and approval of: Street improvement plans, signing and striping plans, grading plans, storm drain improvement plans,
street lighting plans, water, sewer, and electrical improvement plans, or other plans as deemed necessary by the City Engineer.

3. A copy of the signed Resolution of Approval or Community Development Director's letter of approval, and all Standard Conditions, shall be included in legible form on the grading plans, building and construction plans, and landscape and irrigation plans submitted for plan check.

B. Site Development

1. The site shall be developed and maintained in accordance with the approved plans which include site plans, architectural elevations, exterior materials and colors, landscaping, sign program, and grading on file in the Planning Division, the conditions contained herein, Development Code regulations.

2. Prior to any use of the project site or business activity being commenced thereon, all Conditions of Approval shall be completed to the satisfaction of the Community Development Director.

3. Occupancy of the facilities shall not commence until such time as all Uniform Building Code and State Fire Marshal regulations have been complied with. Prior to occupancy, plans shall be submitted to the City of Banning Fire Marshal and the Building and Safety Division to show compliance. The buildings shall be inspected for compliance prior to occupancy.

4. Revised site plans and building elevations incorporating all Conditions of Approval shall be submitted for Community Development Director review and approval prior to the issuance of building permits.

5. All site, grading, landscape, irrigation, and street improvement plans shall be coordinated for consistency prior to issuance of any permits (such as grading, tree removal, encroachment, building, etc.) or prior to final map approval in the case of a custom lot subdivision, or approved use has commenced, whichever comes first.

6. Approval of this request shall not waive compliance with all sections of the Development Code, all other applicable City Ordinances, and applicable Community or Specific Plans in effect at the time of building permit issuance.

7. A detailed on-site lighting plan, including a photometric diagram, shall be reviewed and approved by the Community Development Director and Police Department (922-3125) prior to the issuance of building permits. Such plan shall indicate style, illumination, location, height, and method of shielding so as not to adversely affect adjacent properties.

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

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

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

12. Six-foot decorative block walls shall be constructed along the project perimeter. If a double wall condition would result, the developer shall make a good faith effort to work with the adjoining property owners to provide a single wall. Developer shall notify, by mail, all contiguous property owner at least 30 days prior to the removal of any existing walls/fences along the project’s perimeter.

13. Provide for the following design features in each trash enclosure, to the satisfaction of the Community Development Director:

   a. Architecturally integrated into the design of the project.

   b. Separate pedestrian access that does not require the opening of the main doors and to include self-closing pedestrian doors.

   c. Large enough to accommodate two trash bins.

   d. Roll-up doors.

   e. Trash bins with counter-weighted lids.

   f. Architecturally treated overhead shade trellis.

   g. Chain link screen on top to prevent trash from blowing out of the enclosure and designed to be hidden from view.

14. Trash collection shall occur between the hours of 8:00 and 6:00 only.

15. Graffiti shall be removed within 72 hours.

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

17. Detailed plans shall be included in the landscape and irrigation plans to be submitted for Planning Division approval prior to the issuance of building permits.

18. A detailed on-site lighting plan, including a photometric diagram, that illustrates “0” lumens at the property line, shall be reviewed and approved by the Community Development Director and Police Department (922-3125) prior to the issuance of building permits. Such plan shall indicate style, illumination, location, height, and method of shielding so as not to adversely affect adjacent properties.

19. The lighting fixture design shall compliment the architectural program.
C. Building Design

1. The project shall have the front, side and rear elevations upgraded with architectural treatment, detailing and increased delineation of surface treatment subject to Community Development Director review and approval prior to issuance of building permits.

2. A Design Review and Conditional Use Permit shall be exercised by the commencement of construction within 2 years from the date of approval or the Design Review and Conditional Use Permit shall become null and void. In addition, 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. Extension: The Community Development Director may, upon an application being filed 30 days prior to expiration and for good cause, grant one time extension not to exceed 12 months. Upon granting of an extension, the Community Development Director shall ensure that the Design Review complies with all current Ordinance provisions.

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

D. Parking and Vehicular Access (indicate details on building plans)

1. All parking spaces shall be 9 feet wide by 19 feet long, except for the 16 compact spaces approved by the Community Development Director per the parking adjustment. When a side of any parking space abuts a building, wall, support column, or other obstruction, the space shall be a minimum of 11 feet wide.

2. All parking lot landscape islands shall have a minimum outside dimension of 6 feet and shall contain a 12-inch walk adjacent to the parking stall (including curb).

3. Textured pedestrian pathways and textured pavement across circulation aisles shall be provided throughout the development to connect dwellings/units/buildings with open spaces/plazas/recreational uses.

4. All parking spaces shall be striped per City standards and all driveway aisles, entrances, and exits shall be striped per City standards.

5. Plans for any security gates shall be submitted for the Community Development Director, City Engineer, and City of Banning Fire Marshal review and approval prior to issuance of building permits.

6. Handicap accessible stalls shall be provided for commercial and office facilities. One in every 8 parking stalls (no less than 1) shall be served by an access aisle 96" wide min. placed opposite the driver's side and shall be designated Van-Accessible.

7. Carpool and vanpool designated off-street parking close to the building shall be provided for commercial, office, and industrial facilities at the rate of 10 percent of the total parking area. If covered, the vertical clearance shall be no less than 9 feet.
E. Landscaping

1. A detailed landscape and irrigation plan, including slope planting, shall be prepared by a licensed landscape architect and submitted for Community Development Director review and approval prior to the issuance of building permits.

2. A minimum of 20\% of trees planted within industrial projects, and a minimum of 30\% within commercial and office projects, shall be specimen size trees - 24-inch box or larger.

3. Within parking lots, trees shall be planted at a rate of one 15-gallon tree for every three parking stalls, sufficient to shade 50\% of the parking area at solar noon on August 21.

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

5. All private slopes of 5 feet or more in vertical height and of 5:1 or greater slope, but less than 2:1 slope, shall be, at minimum, irrigated and landscaped with appropriate ground cover for erosion control. Slope planting required by this section shall include a permanent irrigation system to be installed by the developer prior to occupancy.

6. All private slopes in excess of 5 feet, but less than 8 feet in vertical height and of 2:1 or greater slope shall be landscaped and irrigated for erosion control and to soften their appearance as follows: one 15-gallon or larger size tree per each 150 sq. ft. of slope area, 1-gallon or larger size shrub per each 100 sq. ft. of slope area, and appropriate ground cover. In addition, slope banks in excess of 8 feet in vertical height and 2:1 or greater slope shall also include one 5-gallon or larger size tree per each 250 sq. ft. of slope area. Trees and shrubs shall be planted in staggered clusters to soften and vary slope plane. Slope planting required by this section shall include a permanent irrigation system to be installed by the developer prior to occupancy.

7. For the project property owners are responsible for the continual maintenance of all landscaped areas on-site, as well as contiguous planted areas within the public right-of-way. All landscaped areas shall be kept free from weeds and debris and maintained in healthy and thriving condition, and shall receive regular pruning, fertilizing, mowing, and trimming. Any damaged, dead, diseased, or decaying plant material shall be replaced within 30 days from the date of damage.

8. The final design of the perimeter parkways, walls, landscaping, and sidewalks shall be included in the required landscape plans and shall be subject to Community Development Director review and approval and coordinated for consistency with any parkway landscaping plan which may be required by the Engineering Division.

9. All walls shall be provided with decorative treatment. If located in public maintenance areas, the design shall be coordinated with the Engineering Division.

10. Tree maintenance criteria shall be developed and submitted for Community Development Director review and approval prior to issuance of building permits. These criteria shall encourage the natural growth characteristics of the selected tree species.
11. Landscaping and irrigation shall be designed to conserve water through the principles of Xeriscape.

**F. Environmental**

1. A final acoustical report shall be submitted for Community Development Director review and approval prior to the issuance of building permits. The final report shall discuss the level of interior noise attenuation to below 45 CNEL, the building materials and construction techniques provided, and if appropriate, verify the adequacy of the mitigation measures. The building plans will be checked for conformance with the mitigation measures contained in the final report.

**G. Other Agencies**

1. The applicant shall contact the U.S. Postal Service to determine the appropriate type and location of mail boxes. Multi-family residential developments shall provide a solid overhead structure for mail boxes with adequate lighting. The final location of the mail boxes and the design of the overhead structure shall be subject to Community Development Director review and approval prior to the issuance of building permits.

**BUILDING AND SAFETY CONDITIONS:**

**APPLICANT SHALL CONTACT THE BUILDING AND SAFETY DIVISION, (951) 922-3120, FOR COMPLIANCE WITH THE FOLLOWING CONDITIONS:**

**H. General Requirements**

1. Submit four complete sets of plans including the following:
   a. Site/Plot Plan;
   b. Foundation Plan;
   c. Floor Plan;
   d. Ceiling and Roof Framing Plan;
   e. Electrical Plans (2 sets, detached) including the size of the main switch, number and size of service entrance conductors, panel schedules, and single line diagrams;
   f. Plumbing and Sewer Plans, including isometrics, underground diagrams, water and waste diagram, sewer or septic system location, fixture units, gas piping, and heating and air conditioning; and

2. Submit two sets of structural calculations, energy conservation calculations, and a soils report. Architect's/Engineer's stamp and "wet" signature are required prior to plan check submittal.

3. Separate permits are required for fencing and/or walls.

4. Contractors must show proof of State and City licenses and Workers' Compensation coverage to the City prior to permit issuance.
5. Business shall not open for operation prior to posting the Certificate of Occupancy issued by the Building and Safety Division.

1. **Site Development**

   1. Plans shall be submitted for plan check and approved prior to construction. All plans shall be marked with the project file number (i.e., DR 07-7011). The applicant shall comply with the latest adopted Uniform Building Code, Uniform Mechanical Code, Uniform Plumbing Code, National Electric Code, Title 24 Accessibility requirements, and all other applicable codes, ordinances, and regulations in effect at the time of permit application. Please contact the Building and Safety Division for availability of the Code Adoption Ordinance and applicable handouts.

   2. Prior to issuance of building permits for a new commercial or industrial development or addition to an existing development, the applicant shall pay development fees at the established rate. Such fees may include, but are not limited to: Transportation Development Fee, Drainage Fee, School Fees, Permit and Plan Checking Fees. Applicant shall provide a copy of the school fees receipt to the Building and Safety Division prior to permit issuance.

   3. Street addresses shall be provided by the Building Official, after tract/parcel map recordation and prior to issuance of building permits.

   4. For projects using septic tank facilities, written certification of acceptability, including all supportive information, shall be obtained from the Riverside County Department of Environmental Health and submitted to the Building Official prior to the issuance of Septic Tank Permits, and prior to issuance of building permits.

   5. Construction activity shall not occur between the hours of 8:00 p.m. and 6:30 a.m. Monday through Saturday, with no construction on Sunday or holidays.

   6. Construct trash enclosure(s) per City Standard (available at the Planning Division's public counter).

   7. Submit pool plans to the County of Riverside's Environmental Health Services Department for approval.

   8. The following is required for side yard use for increase in allowable area:

      a. Provide a reduced site plan (8 ½" x 11") which indicates the non-buildable easement.

      b. Recorded "Covenant and Agreement for the Maintenance of a Non-Buildable Easement," which is signed by the appropriate property owner(s).

      c. Sample document is available from the Building and Safety Division.

J. **New Structures**

   1. Provide compliance with the Uniform Building Code for the property line clearances considering use, area, and fire-resistance.

   2. Provide compliance with the Uniform Building Code for required occupancy separation(s).
3. Roofing material shall be installed per the manufacturer's "high wind" instructions.

4. Plans for food preparation areas shall be approved by County of Riverside Environmental Health Services prior to issuance of building permits.

5. Provide draft stops in attic areas, not to exceed 3,000 square feet, in accordance with UBC Table 5-A.

6. Provide draft stops in attics in line with common walls.

7. Roofing materials shall be Class "A."

8. Exterior walls shall be constructed of the required fire rating in accordance with UBC Table 5-A.

9. Openings in exterior walls shall be protected in accordance with UBC Table 5-A.

10. If the area of habitable space above the first floor exceeds 3,000 square feet, then the construction type shall be V-1 Hour.

11. Walls and floors separating dwelling units in the same building shall be not less than 1-hour fire-resistive construction.

12. Provide smoke and heat venting in accordance with UBC Section 906.

13. Provide method of airborne and impact sound transmission control between dwelling units.

14. Upon tenant improvement plan check submittal, additional requirements may be needed.

K. Grading

1. Grading of the subject property shall be in accordance with the Uniform Building Code, City Grading Standards, and accepted grading practices. The final grading plan shall be in substantial conformance with the approved grading plan.

2. A soils report shall be prepared by a qualified engineer licensed by the State of California to perform such work.

3. A geological report shall be prepared by a qualified engineer or geologist and submitted at the time of application for grading plan check.

4. The final grading plans shall be completed and approved prior to issuance of building permits.

5. As a custom-lot subdivision, the following requirements shall be met:

   a. Surety shall be posted and an agreement executed guaranteeing completion of all on-site drainage facilities necessary for dewatering all parcels to the satisfaction of the Building and Safety Division prior to final map approval and prior to the issuance of grading permits.

   b. Appropriate easements for safe disposal of drainage water that are conducted onto or over adjacent parcels, are to be delineated and recorded to the satisfaction of the Building and Safety Division prior to issuance of grading and building permits.
c. On-site drainage improvements, necessary for dewatering and protecting the subdivided properties, are to be installed prior to issuance of building permits for construction upon any parcel that may be subject to drainage flows entering, leaving, or within a parcel relative to which a building permit is requested.

d. Final grading plans for each parcel are to be submitted to the Building and Safety Division for approval prior to issuance of building and grading permits. (This may be on an incremental or composite basis).

e. All slope banks in excess of 5 feet in vertical height shall be seeded with native grasses or planted with ground cover for erosion control upon completion of grading or some other alternative method of erosion control shall be completed to the satisfaction of the Building Official. In addition, a permanent irrigation system shall be provided.

6. A separate grading plan submittal is required for all new construction projects and for existing buildings where improvements being proposed will generate 50 cubic yards or more of combined cut and fill. The Grading Plan shall be prepared, stamped, and signed by a California Registered Civil Engineer.

ENGINEERING CONDITIONS:

APPLICANT SHALL CONTACT THE ENGINEERING DIVISION, (951) 922-3130, FOR COMPLIANCE WITH THE FOLLOWING CONDITIONS:

L. General Requirements

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

   • The lot may not be a legal lot of record. Submit a chain of title dating back to May 27, 1954, to determine the status of the lot. If the lot is not a legal lot of record, a certificate of compliance shall be required in accordance with Sections 66499.34 and 66499.35 of the Subdivision Map Act and may contain conditions of approval. At the minimum, a land surveyor licensed by the State of California shall be required to place property monuments in compliance with state and local regulations.

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

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

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

A. Grading Plan
   (all conditions of approval shall be reproduced on last sheet of set)
   1” = 40’ Horizontal

B. Clearing Plan
   Include construction fencing plan
   1” = 50’ Horizontal

C. SWPPP
   (Note: A, B, & C shall be processed concurrently.)
   1” = 40’ Horizontal

D. Street Improvement Plan
   1” = 40’ Horizontal
   1” = 4’ Vertical
   1” = 40’ Horizontal

E. Offsite Signing & Striping Plan

Other engineered improvement plans prepared for City approval that are not listed herein shall be prepared in formats approved by the City Engineer prior to commencing plan preparation.

All off-site plan and profile street improvement plans and signing & striping plans shall show all existing improvements for a distance of at least 200-feet beyond the project limits, or at a distance sufficient to show any required design transitions.

All on-site signing and striping plans shall show the following at a minimum: stop signs, limit lines and legends, no parking signs, raised pavement markers (including blue raised pavement markers at fire hydrants) and street name signs per Public Works standard plans and/or as approved by the City Engineer.

A small index map shall be included on the title sheet of each set of plans, showing the overall view of the entire work area.
4. Upon completion of construction, the Developer shall furnish the City with reproducible record drawings on Mylar of all improvement plans that were approved by the City Engineer. Each sheet shall be clearly marked "As-Built" or "As-Constructed" and shall be stamped and signed by the engineer or surveyor certifying the accuracy and completeness of the drawings. The applicant shall have all AutoCAD or raster-image files submitted to the City, revised to reflect the “As-Built” conditions.

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

M. Rights of Way

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

7. The existing right-of-way appears to meet the required General Plan width of 30 feet minimum for a half street. After completion of the alignment study by the developers’ engineer, if additional right-of-way is required along Joshua Palmer Way, the applicant shall offer to dedicate for public purposes the required right-of-way.

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

9. Direct vehicular access to Joshua Palmer Way from any portion of the site frontage shall be restricted, except for those access points identified on the approved site plan, or as otherwise conditioned in these conditions of approval. The vehicular access restriction shall be recorded on a separate instrument prior to occupancy.

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

a. Construct full half street improvements in accordance with City standards fronting Joshua Palmer Way including street lighting, curb and gutter, commercial drive approach, access ramps, sidewalk, and asphalt concrete paving, traffic signs and striping, and any transitions. Street lights on Joshua Palmer Way shall be installed offset of the existing street lights. Where the transverse slope of the existing pavement exceeds 3% or the pavement surface is distressed, the applicant shall remove pavement
and join the existing pavement surface. Applicants' geotechnical engineer shall provide
the design of the pavement section based upon the Caltrans method.

12. Provide pavement striping and signing from easterly prolongation of site frontage to
Highlands Springs Avenue. Joshua Palmer Way shall be centerline striped double
yellow.

13. All street improvement design shall provide pavement transitions per Caltrans standards
for transition to existing street sections.

14. Unless otherwise noted all required public improvements for the development shall be
completed, tested, and approved by the Engineering Division prior to issuance of any
Certificate of Occupancy.

N. Grading and Drainage

15. Submit a Drainage Study with hydrologic and hydraulic analysis for developed and
undeveloped (existing) conditions to the Engineering Division for review and approval.
The study and analysis shall be prepared by a civil engineer licensed by the State of
California. Drainage design shall be in accordance with Banning Master Drainage Plan
adopted by Riverside County Flood Control and Water Conservation District (RCFC),
RCFC Hydrology Manual, and standard plans and specifications. The 10-year storm
flow shall be contained within the street curbs, and the 100-year storm shall be
contained within the street right-of-way; when this criteria is exceeded, additional
drainage facilities shall be designed and constructed.

16. The design of the development shall not cause any increase in flood boundaries, levels
or frequencies in any area outside the development.

17. The project grading shall be designed in a manner that perpetuates the existing natural
drainage patterns with respect to tributary drainage areas, outlet points and outlet
conditions. Otherwise, a drainage easement shall be obtained for the release of
concentrated or diverted storm flows. **The project shall accept and convey storm
flows from the adjacent property to the north and west.**
18. The applicant shall comply with Chapter 34 “Stormwater Management and Discharge Controls” of the Banning Municipal Code (BMC); California Building Code Appendix Chapter 33 “Excavation and Grading”; and the State Water Resources Control Board’s Order No. 99-08-DWQ.

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

5. The applicant’s SWPPP shall be reviewed and approved by the City Engineer prior to any on-site or off-site grading being done in relation to this project.

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

7. The applicant’s SWPPP shall include provisions for all of the following Best Management Practices (“BMPs”):
   a. Temporary Soil Stabilization (erosion control).
   b. Temporary Sediment Control.
   c. Wind Erosion Control.
   d. Tracking Control.
   e. Non-Storm Water Management.
   f. Waste Management and Materials Pollution Control.

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

6. The approved SWPPP and BMPs shall remain in effect for the entire duration of project construction until all improvements are completed and accepted by the City.

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

8. A precise grading plan shall be submitted to the City Engineer for review and approval. A grading permit shall be obtained prior to commencement of any clearing or grading activity. Grading plans shall include perimeter walls with top of wall and top of footing elevations shown. All footings shall have a minimum of 1-foot of cover, and/or sufficient cover to clear any obstructions.

9.
21. Prior to issuance of building permits, the permit applicant shall include in its
development plans for approval by City water quality management controls by
specifically identifying BMPs that will be used onsite to control predictable pollutant
runoff.

22. The permit applicant shall identify the structural and non-structural measures specified
in Supplement ‘A’ or other equally effective standard detailing implementation of BMPs
whenever they are applicable to the project (when the project has a loading dock, for
example); the assignment of long-term maintenance responsibilities (specifying the
developer, parcel owner, maintenance association, lessee, etc.); and shall reference the
location(s) of structural BMPs.

23. Prior to the issuance of a Certificate of Occupancy the applicant shall execute a
Stormwater Management Facilities Agreement guaranteeing the maintenance of
stormwater pollution controls. Said agreement shall be recorded with the Riverside
County Recorder and thereafter run with the land.

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

O. Traffic

25. Provide and maintain stop sign and pavement legend for main drive access.

26. Site distance at the access drives shall be reviewed and implemented in accordance with
California Department of Transportation standards.

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

28. Prior to the issuance of any certificate of occupancy, all fire hydrants shall have a blue
reflective pavement marker indicating the hydrant location on the street as approved by
the Fire Marshall, and must be maintained in good condition by the property owner until
the street is accepted for maintenance.

P. Trash/Recycling

29. The developer shall participate in the City’s recycling program by providing two trash
receptacles, one for regular trash and one for recycling, within the trash enclosure. The
trash enclosure shall be designed and constructed in such a manner to accommodate a
recycling bin as well as the necessary solid waste containers.
30. Construction debris shall be disposed of at a certified recycling site. It is recommended that the developer contact the City's franchised solid waste hauler for disposal of construction debris.

Q. Fees

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

32. Public Works Inspection fees shall be paid prior to grading permit issuance in accordance with the Fee Schedule in effect at time of scheduling.

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

34. A plan storage fee shall be paid prior to approval of the final map and improvement plans in accordance with the Fee Schedule in effect at the time the fee is paid.

35. A Traffic Control mitigation fee shall be paid on a per lot basis prior to issuance of building permits for each lot.

36. A fee shall be paid to Riverside County Flood Control and Water Conservation District in the amount specified by them to perform plan checking for drainage purposes for the proposed subdivision.

R. Landscaping

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

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

FIRE CONDITIONS:

APPLICANT SHALL CONTACT THE FIRE MARSHAL AT, (951) 922-3210, FOR COMPLIANCE WITH THE FOLLOWING CONDITIONS:
1. An on-site fire hydrant, positioned near the N.E. corner of the building, will be required.

2. The building will be required to be equipped with an automatic fire sprinkler and fire alarm system. Those systems will be required to meet NFPA, State, County and City requirements.

3. The area shown as a “turning space” on the site plan must meet the specifications for a “hammer-head turn-around” as shown in Figure “A” on the attached document.

4. If the building permits are acquired after January 1, 2008, then the requirement in the 2007 California Fire Code (with County and City Amendments) and the 2007 California Building Code will apply.

More specific requirements may be presented when detailed plans are submitted.

WATER/WASTEWATER CONDITIONS

APPLICANT SHALL CONTACT THE WATER & WASTEWATER UTILITY COMPLIANCE WITHIN THE FOLLOWING CONDITIONS:

Submit Water Improvement Plans to the Water Division for review and approval. Design and construct a fire protection water line east and north sides of building within the driveway access at Joshua Palmer Way to the north west end of building in a 20’ wide easement connecting to the existing 12” water line on Joshua Palmer Way.

All water lines and fittings shall be a minimum of 8” diameter and shall be DIP or 10-gauge steel pipes, cement mortar lined & wrapped.

Fire hydrants shall be installed within and on the project boundaries as per the approval plans, at a 300’ maximum spacing.

A backflow device must be installed on commercial developments and for each irrigation water connection; and in compliance with the State of California Department of Health Regulations. Contact the City of Banning, Water Operations Division, prior to the installation.

SEWER

Submit Sewer Improvement Plans to the Sewer Division for review and approval. Design and construct a 6” VCP sewer lateral connecting to the existing 8” sewer line on Joshua Palmer Way.

Restaurants and Food Services require grease interceptors before connecting to the City Sewerage System.

FEES

Water Connection Fees shall be paid per EDU (EDU is based upon 0.5 EDU per hotel unit without kitchen plus accessory facilities and irrigation uses), Sewer Connection Fees shall be paid per EDU (EDU is based upon 0.5 EDU per Hotel Unit without kitchen plus accessory facilities), and Water Meter Installation charges shall all be paid at the time of issuance of building permits, within this project in accordance with the fee schedule in effect at the time the
fees are paid. Also, pay all water and sewer frontage fees, if applicable, and in accordance with the fee schedule in effect at the time the fees are submitted, prior to plan checking proceedings.

**ELECTRICAL CONDITIONS:**

**APPLICANT SHALL CONTACT ELECTRICAL OPERATIONS DEPARTMENT IN COMPLIANCE WITH THE FOLLOWING CONDITION:**

The 12.47kv 4 wire primary electric system will be extended underground from the S/E corner of the Hampton Inn east to the east property line of this development. The existing 12Kv line from the Hampton Inn east will be required to be placed underground (NOTE) Ordering of material for this project and payment for should be completed at the time that building permits are issued. Transformer lead time for delivery is approximately 44 weeks out.

The underground line extension is described in the City of Banning Electric Department Rule #14. The Department reserves the right to provide and install all or part of an underground extension, at the expense of the applicant. The estimated cost will be advanced to the Department prior to start of construction.

An electric utility design will be provided upon completion of step one of the customer’s responsibilities listed below.

The customer shall be responsible for:
1. Submitting detailed plans indicating lot lines, streets, easements, building layout, anticipated loading information, etc. These plans are required in electronic format. We currently use AutoCad2000.
2. Paying required fees - electrical permit, plan check fee, inspection fees, in aid of construction fee, etc. Current fee schedule available from the City Department of Building and Safety.
3. Granting easement for electric facilities installation/maintenance, etc.
4. All trenching, backfill, and compaction.
5. All conduits, vaults, and other materials associated with their installation (except cables and their terminations).
6. Installation of Streetlight poles lights and conductors per City Standard.

The City Electric Department shall be responsible for:
1. Reviewing plans submitted by customer.
2. Providing a cost estimate for City to installed underground cable and apparatus to supply 12kv power.
3. Inspecting all trenches prior to backfilling. 24 hour prior notice is required before inspection.
4. Installing conductors, terminations and apparatus for primary underground line extension. Secondary service entrance conductors to be provided and installed by the developer (at customer’s expense).
STAFF REPORT
PLANNING COMMISSION

PC DATE: JUNE 3, 2008

CASE NO.: ZONE TEXT AMENDMENT #08-97503

REQUEST: AMENDMENT TO ZONING ORDINANCE SECTION 17.40 (TABLE 17.40.030) CLARIFYING THE NUMBER OF ANIMALS PERMITTED IN CERTAIN RESIDENTIAL ZONING DISTRICTS

LOCATION: CITYWIDE

APPLICANT: CITY OF BANNING

ENVIRONMENTAL CONSIDERATION: THE PROPOSED CHANGES TO THE ZONING CODE ARE NOT A PROJECT AS DEFINED BY THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) AS STIPULATED UNDER SECTION 15061 (b)(3) OF THE GUIDELINES FOR THE IMPLEMENTATION OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND IS, THEREFORE, EXEMPT.

BACKGROUND/ANALYSIS:

The Planning Commission and City Council reviewed and approved the General Plan and the Zoning Ordinance January 2006. The General Plan and Zoning Ordinance have been in effect since March of 2006. Since then, staff continues to identify code provisions that need to be clarified. Therefore, the purpose of this amendment is to provide clarifications to the Zoning Ordinance.

The proposed revisions will clarify the permitted number of animals in certain residential zoning districts. The current Zoning Ordinance allows the reader to multiply the number of dogs and cats intended to be allowed in the RA, RAH, RR, RRH, VLDR and LDR districts. For example:

- **R/A, R/A/H, RR and RR/H Districts:** The current table shows “8 ea./lot” of dogs and cats, which may cause the reader to interpret as “8 dogs and 8 cats per lot for a total of 16 per lot”. The revision with the inclusion of footnote 8 will clarify the intent of the City to permit a maximum combined total of eight (8) dogs and/or cats per lot.

- **VLDR District:** The current table shows “6 ea./lot” of dogs and cats, which may cause the reader to interpret as “6 dogs and 6 cats per lot for a total of 12 per lot permitted”. The revision with the inclusion of footnotes 5 and 6 will clarify the intent of the City to permit up to three weaned small animals total, including potbellied pigs, for a lot sized less than 20,000 s.f., and up to six weaned small animals total, including potbellied pigs, for a lot sized 20,000 s.f. or greater.
• **LDR District**: The current table shows "3 ea./lot" of dogs and cats, which may cause the reader to interpret as "3 dogs and 3 cats per lot, a total of 6 per lot permitted". The revision with the inclusion of footnote 7 will clarify the intent of the City to permit up to three weaned small animals total per lot, including one pot-bellied pig.

**Table 17.40.030 Animal Keeping Standards**

Staff proposes to revise the following Table 17.40.030 (changes are in italics):

<table>
<thead>
<tr>
<th>Animal Type</th>
<th>R/A &amp; R/A/H</th>
<th>RR &amp; RR/H</th>
<th>VLDR</th>
<th>LDR</th>
<th>MDR</th>
<th>HDR &amp; MHP</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dogs &amp; Cats 2</td>
<td>Max. 8 ea./lot 9</td>
<td>Max. 8 ea./lot 8</td>
<td>Max. 3/less than 20,000 s.f. 5</td>
<td>Max. 6 ea./lot 7</td>
<td>3/unit 6</td>
<td>3/unit 6</td>
</tr>
<tr>
<td>Pot-Bellied Pigs</td>
<td>2/acre 2</td>
<td>Max. 8</td>
<td>2 in lieu of 2 dogs</td>
<td>1 in lieu of 1 dog</td>
<td>Prohibited</td>
<td>Prohibited</td>
</tr>
<tr>
<td>Fowl</td>
<td>16/acre 3</td>
<td>16/acre 3</td>
<td>10</td>
<td>Prohibited</td>
<td>Prohibited</td>
<td>Prohibited</td>
</tr>
<tr>
<td>Fowl, Male</td>
<td>1/20,000 s.f. 4</td>
<td>1/20,000 s.f. 4</td>
<td>1/20,000 s.f. 4</td>
<td>Prohibited</td>
<td>Prohibited</td>
<td>Prohibited</td>
</tr>
<tr>
<td>Rabbits</td>
<td>20</td>
<td>20</td>
<td>10</td>
<td>5</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Large Animals 3</td>
<td>5/acre 5</td>
<td>5/acre 5</td>
<td>3/20,000 s.f. 4</td>
<td>Prohibited</td>
<td>Prohibited</td>
<td>Prohibited</td>
</tr>
</tbody>
</table>

1 Any animal not specifically listed shall be classified by the Director.
2 Unweaned offspring shall not be counted in determining the number of dogs or cats.
3 Large animals shall include goats, sheep, horses, cattle, llamas, swine, emus and ostriches. The total number allowed is cumulative.
4 On substandard lots created prior to the adoption of this Zoning Ordinance in the VLDR district (lots of less than 20,000 s.f.), one large animal shall be permitted on lots of 12,000 s.f.-16,000 s.f., and two shall be permitted on lots of 16,001 s.f.-19,999 s.f.
5 For any lot less than 20,000 s.f. a maximum of three (3) dogs and/or cats, or any combination thereof per lot, not to exceed three (3), shall be permitted.
6 For lots 20,000 s.f. and larger a maximum of six (6) dogs and/or cats, or any combination thereof per lot, not to exceed six (6), shall be permitted.
7 A maximum of three (3) dogs and/or cats, or any combination thereof per lot, not to exceed three (3), shall be permitted in the LDR zone district.
8 A maximum combined total of eight (8) dogs and/or cats or any combination thereof per lot shall be permitted in the R/A, R/A/H, RR & RR/H zone districts.

**RECOMMENDATION:**

The Planning Commission hereby takes the following actions:

1. **Notice of Exemption.** In accordance with Public Resources Code Section 21552(b) and CEQA Guidelines Section 15062 the Planning Commission hereby recommends to the City Council approval of a Categorical Exemption for the project under CEQA Guidelines Section 15061(b)(3) and directs the Community Development Director to prepare and file with the Clerk for the County of Riverside a Notice of Exemption as
provided under Public Resources Code Section 21152(b) and CEQA Guidelines Section 15062.

2. The Planning Commission hereby approves Resolution No. 2008-10, recommending to the City Council approval of Zone Text Amendment #08-97503.

PREPARED BY:

Julien Kim
Assistant Planner

RECOMMENDED BY:

Matthew Bassi
Interim Community Development Director

REVIEWED BY:

Kim Clinton
Senior Planner

PC Exhibit:
1. Resolution No. 2008-10
ZTA #08-97503

RESOLUTION
NO. 2008-10

EXHIBIT “1”
RESOLUTION NO. 2008-10

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BANNING, CALIFORNIA RECOMMENDING TO THE CITY COUNCIL APPROVAL OF ZONE TEXT AMENDMENT #08-97503, TO AMEND TABLE 17.40.030 OF THE ZONING ORDINANCE RELATING TO ANIMAL KEEPING.

WHEREAS, the City undertook a comprehensive General Plan and Zoning Ordinance update in 2006; and

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

WHEREAS, on the 23rd day of May 2008, the City gave public notice as required under Zoning Ordinance Chapter 17.68 by advertising in the Record Gazette newspaper of the holding of a public hearing at which the project would be considered; and

WHEREAS, on the 3rd day of June 2008, the Planning Commission held the noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to, the Zone Text Amendment and at which time the Planning Commission considered the Zone Text Amendment; and

WHEREAS, on the 3rd day of June 2008, the Planning Commission considered and heard public comments on Zone Text Amendment #08-97503; and

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

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

SECTION 1: ENVIRONMENTAL FINDINGS.

The Planning Commission, in light of the whole record before it, including but not limited to, the City’s Local CEQA Guidelines and Thresholds of Significance, the recommendation of the Community Development Director as provided in the Staff Report dated June 3, 2008 and documents incorporated therein by reference, and any other evidence (within the meaning of Public Resources Code § 21080(e) and § 21082.2) within the record or provided at the public hearing of this matter, hereby finds and determines as follows:
1. **CEQA:** The City has analyzed these proposed changes and has determined that they are exempt from the California Environmental Quality Act ("CEQA") under Section 15061(b)(3) of the CEQA Guidelines which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment. Where, as here, it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment; the activity is not subject to CEQA. The amendments to the municipal code do not relate to any one physical project and will not result in any physical change to the environment. Further, projects subject to this resolution will trigger individual analysis and documentation related to CEQA. Therefore, it can be seen with certainty that there is no possibility that this resolution may have a significant adverse effect on the environment, and therefore the adoption of this resolution is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines.

**SECTION 2: PLANNING COMMISSION ACTIONS.**

The Planning Commission hereby takes the following actions:

1. **Notice of Exemption.** In accordance with Public Resources Code Section 21552(b) and CEQA Guidelines Section 15062 the Planning Commission hereby recommends to the City Council approval of a Categorical Exemption for the project under CEQA Guidelines Section 15061(b)(3) and directs the Community Development Director to prepare and file with the Clerk for the County of Riverside a Notice of Exemption as provided under Public Resources Code Section 21152(b) and CEQA Guidelines Section 15062.

2. The Planning Commission hereby approves Resolution No. 2008-10, recommending to the City Council approval of Zone Text Amendment #08-97503 to read as follows:
Table 17.40.030
Animal Keeping Standards

<table>
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<tr>
<th>Animal Type</th>
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<th>MDR</th>
<th>HDR &amp; MHP</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dogs &amp; Cats(^2)</td>
<td>Max. 8 ea./lot(^6)</td>
<td>Max. 8 ea./lot(^8)</td>
<td>Max. 3/less than 20,000 s.f(^5)</td>
<td>Max. 3 ea./lot(^7)</td>
<td>3/unit</td>
<td>3/unit</td>
</tr>
<tr>
<td>Pot-Bellied Pigs</td>
<td>2/acre. Max. 8</td>
<td>2/acre. Max. 8</td>
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<td>16/acre</td>
<td>16/acre</td>
<td>10</td>
<td></td>
<td>Prohibited</td>
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</tr>
<tr>
<td>Fowl, Male</td>
<td>1/20,000 s.f.</td>
<td>1/20,000 s.f.</td>
<td>1/20,000 s.f.</td>
<td></td>
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</tr>
<tr>
<td>Rabbits</td>
<td>20</td>
<td>20</td>
<td>10</td>
<td>5</td>
<td>2</td>
<td>2</td>
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<tr>
<td>Large Animals(^3)</td>
<td>5/acre</td>
<td>5/acre</td>
<td>3/20,000 s.f.(^4)</td>
<td></td>
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</tr>
</tbody>
</table>

\(^1\) Any animal not specifically listed shall be classified by the Director.

\(^2\) Unweaned offspring shall not be counted in determining the number of dogs or cats.

\(^3\) Large animals shall include goats, sheep, horses, cattle, llamas, swine, emus and ostriches. The total number allowed is cumulative.

\(^4\) For any lot less than 20,000 s.f., a maximum of three (3) dogs and/or cats, or any combination thereof per lot, not to exceed three (3), shall be permitted.

\(^5\) For lots 20,000 s.f. and larger, a maximum of six (6) dogs and/or cats, or any combination thereof per lot, not to exceed six (6), shall be permitted.

\(^6\) A maximum combined total of eight (8) dogs and/or cats or any combination thereof per lot shall be permitted in the R/A, R/A/H, RR & RR/H zone district.

PASSED, APPROVED AND ADOPTED this 3rd day of June 2008.

William Dickson, Chairman
Banning Planning Commission

APPROVED AS TO FORM AND LEGAL CONTENT:

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

Resolution No. 2008-10
CERTIFICATION:

I, Virginia Sorenson, Recording Secretary of the Planning Commission of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2008-10, was duly adopted by the Planning Commission of the City of Banning, California, at a regular meeting thereof held on the 3rd day of June, 2008 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

Date: June 3, 2008
Case No.: Zone Text Amendment No. 08-97504
Request: City Initiated Amendment To Establish Regulations For Boarding Houses And Residential Care Facilities
Location: Applicable City-Wide
Applicant: City Of Banning

Environmental Determination: The Community Development Department has determined that the proposed zone text amendment is Categorically Exempt from the California Environmental Quality Act (CEQA) guidelines as outlined in Section 15061(b)(3).

BACKGROUND:

At the City Council’s request, the Community Development and City Attorney’s office have been working together to prepare a draft ordinance regulating group homes and residential care facilities. A draft ordinance was presented to the City Council at a study session held on May 13, 2008. The Council provided feedback and directed staff to finalize the ordinance and take it through the public hearing process with the Planning Commission. The proposed text amendment changes are outlined in the attached Planning Commission Resolution No. 2008-11 (Attachment 1).

RECOMMENDATION:

The Community Development Department recommends that the Planning Commission adopt Resolution No. 2008-11 (Attachment 1) recommending City Council approval of Zone Text Amendment No. 08-97504.

ANALYSIS:

For the purposes of local zoning regulations, “group homes” can be divided into two basic categories: 1) those that cater to protected classes of individuals and 2) those that do not. State and federal laws regarding discrimination and licensing impact how the City may regulate group homes that cater to certain protected groups, specifically group homes for the disabled or children. Accordingly, the proposed zone text amendment regulates “Boarding Houses” which do not cater to any specific class of people and “Residential Care Facilities” which cater to individuals with a disability and children. The proposed zone text amendment also cleans up the “Definitions” section of the Zoning Ordinance to eliminate overlapping and inconsistent definitions.
A. **Boarding Houses**

California case law recognizes that boarding houses are a commercial use of property that may be restricted or prohibited in residential zones. *(City of Santa Barbara v. Adamson (1980) 27 Cal.3d 123; 133; Attorney General Opinion No. 01-402 (2003).)* However, there is no universally accepted definition of a boarding house. The Zoning Ordinance currently defines a boarding house as “structure where lodging and meals for 7 or more boarders is provided for compensation” and allows this use in the Highway Serving Commercial (HSC) zone with a Conditional Use Permit (CUP).

The proposed ordinance substantially broadens the definition of a boarding house to “a dwelling unit, or part thereof, wherein a room or rooms, with or without individual or group cooking facilities, are rented, leased or subleased under two or more separate written or oral rental agreements, leases or subleases, whether or not the owner, agent or rental manager resides within the dwelling unit,” and allows boarding houses subject to a CUP in the Medium-Density Residential (MDR) and High-Density Residential (HDR) zones, as well as the HSC zone. For ease of reference, the entries in the land use matrixes that have been changed by the proposed ordinance are in bold and italics.

B. **Residential Care Facilities**

The California Community Care Facilities Act (Health & Safety Code §§ 1500 et seq.) restricts the City’s ability to prohibit or require a use permit for certain residential care facilities. Specifically, residential care facilities that serve six (6) or fewer children or individuals with a disability that are licensed by the State must be treated as a residential use of property, and the facility’s residents must be treated as a family. No CUP, variance, or other zoning clearance can be required of these facilities which is not required of a family dwelling of the same type in the same zone.

The Community Care Facilities Act does not speak to the scope of the City’s power to regulate residential care facilities that serve more than six (6) children or individuals with a disability or residential care facilities that serve six (6) or fewer children or individuals with a disability that are not licensed by the State. However, state and federal law prohibit disability discrimination, and the federal government interprets the federal Fair Housing Act (42 U.S.C. §§ 3601 et seq.) to prohibit zoning regulations that treat group homes for persons with disabilities or children less favorably than group homes for non-disabled adults. In other words, the City must treat residential care facilities the same or better than boarding houses. The proposed or finance treats large and small, unlicensed residential care facilities identically to boarding houses by allowing all of these uses in the same zones subject to a CUP. The proposed ordinance treats small, licensed residential care facilities more favorably than boarding houses by permitting them in all residential zones.

The Fair Housing Act requires that the City make a “reasonable accommodation” in its zoning policies if requested and if the accommodation is necessary to afford the disabled or children equal access to housing. Accordingly, the proposed ordinance includes a section detailing how an individual may request a reasonable accommodation and providing the criteria for determining if a requested accommodation is reasonable.
SUMMARY:

In short, the City is prohibited from regulating licensed group homes that serve six (6) or fewer children or disabled individuals. The City's ability to regulate unlicensed group homes that serve six (6) or fewer children or disabled individuals is unsettled at this time. There is case law in other jurisdictions holding that licensed and unlicensed facilities of the same size must be treated the same, and case law holding the opposite. As for licensed and unlicensed group homes that serve seven (7) or more children or disabled individuals and group homes that serve non-disabled adults, the City is free to regulate these uses. However, group homes for children and the disabled must be treated the same or better than group homes for non-disabled adults.

RECOMMENDATION:

The Community Development Department recommends that the Planning Commission:

1. Recommend to the City Council approval of a Categorical Exemption for the project under CEQA Guidelines Section 15061(b)(3) and directs the Community Development Director to prepare and file with the Clerk for the County of Riverside a Notice of Exemption as provided under Public Resources Code Section 21152(b) and CEQA Guidelines Section 15062; and

2. Adopt Resolution No. 2008-11 recommending City Council approval of Zone Text Amendment No. 08-97504.

Respectfully submitted,

Matthew C. Bassi
Interim Community Development Director

PC Attachments:

1. PC Resolution No. 2008-11 for Zone Text Amendment No. 08-97504
ATTACHMENT 1

PC Resolution No. 2008-11 for Zone Text Amendment No. 08-97504
RESOLUTION NO. 2008-11

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BANNING, CALIFORNIA RECOMMENDING CITY COUNCIL APPROVAL OF ZONE TEXT AMENDMENT NO. 08-97504 ESTABLISHING REGULATIONS FOR BOARDING HOUSES AND RESIDENTIAL CARE FACILITIES IN THE CITY OF BANNING

WHEREAS, the Planning Commission has the authority to review and make recommendations to the City Council on Zone Text Amendment No. 08-97504 to establish regulations for Boarding Houses and Residential Care Facilities; and

WHEREAS, in accordance with Government Code Sections 65353, 65355 and 65090, on May 23, 2008 the City published a public notice in the Record Gazette of the holding of a public hearing at which time the Zone Text Amendment No. 08-97504 would be considered by the Planning Commission; and

WHEREAS, in accordance with Government Code Section 65353, on June 3, 2008 the Planning Commission held the noticed public hearing at which time interested persons had an opportunity to testify in support of, or opposition to Zone Text Amendment No. 08-97504 and at which time the Planning Commission considered Zone Text Amendment No. 08-97504; and

WHEREAS, the Community Development Director has reviewed the project's potential effects on the environment and has recommended that the project is categorically exempt from the California Environmental Quality Act ("CEQA") under CEQA Guidelines Section 15061(b)(3).

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

SECTION 1.    ENVIRONMENTAL FINDINGS.

The Planning Commission, in light of the whole record before it, including but not limited to, the City's Local CEQA Guidelines and Thresholds of Significance, the recommendation of the Community Development Director as provided in the Staff Report dated June 3, 2008 and documents incorporated therein by reference, and any other evidence (within the meaning of Public Resources Code § 21080(e) and § 21082.2) within the record or provided at the public hearing of this matter, hereby finds and determines as follows:

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

SECTION 2. PLANNING COMMISSION ACTIONS.

The Planning Commission hereby takes the following actions:

1. **Notice of Exemption.** In accordance with Public Resources Code Section 21552(b) and CEQA Guidelines Section 15062 the Planning Commission hereby recommends to the City Council approval of a Categorical Exemption for the project under CEQA Guidelines Section 15061(b)(3) and directs the Community Development Director to prepare and file with the Clerk for the County of Riverside a Notice of Exemption as provided under Public Resources Code Section 21152(b) and CEQA Guidelines Section 15062.

2. The Planning Commission hereby recommends approval of Zone Text Amendment No. 08-97504 to the City Council to read as follows:

SECTION 1. **Section 17.04.070 (Definitions) of the Banning Municipal Code is hereby amended as follows:**

1. Amend the definition of “Family” to read as follows:

   “**Family** is a Single Housekeeping Unit.”

2. Add the following definition of “Single Housekeeping Unit.”

   “**Single Housekeeping Unit** is one or more individuals, whether related by blood, marriage, legal adoption or not, jointly occupying a dwelling unit, including the joint use of and responsibility for common areas, and sharing household activities and responsibilities such as meals, chores, household maintenance, and expenses, and where, if the unit is rented, all adult residents have chosen to jointly occupy the entire premises of the dwelling unit, under a single written lease with joint use and responsibility for the premises, and the makeup of the household occupying the unit is determined by the residents of the unit rather than the landlord or property manager.”

3. Amend the definition of “Boarding House” to read as follows:

   “**Boarding House** is a dwelling unit, or part thereof, wherein a room or rooms, with or without individual or group cooking facilities, are rented, leased or subleased under two or more separate written or oral rental agreements, leases or subleases, whether or not the owner, agent or rental manager resides within the dwelling unit.”

PC Resolution No. 2008-11
Residential Care Facilities
4. Amend the definition of “Residential Care Facility” to read as follows:

“Residential Care Facility is a building or group of buildings that provide temporary or permanent housing to children or individuals with a disability, as defined by State or Federal law, where the residents do not live together as a single housekeeping unit, and where every person residing in the facility (excluding the operator of the facility, the operator’s family, and the facility’s staff) is a child or an individual with a disability. A residential care facility shall not be considered a boarding house.

Residential Care Facility, Large, is a residential care facility in which seven (7) or more children or individuals with a disability reside, which is either licensed by the State or unlicensed and not required by law to be licensed by the State.

Residential Care Facility, Small, Licensed, is a State-licensed residential care facility in which six (6) or fewer children or individuals with a disability reside, and which is required by State law to be treated as a residential use of property for zoning purposes. Licensed small residential care facilities that are required by State law to be treated as a residential use of property include, without limitation: Intermediate care facilities for the developmentally disabled (Health & Safety Code § 1267.8(c)); Congregate living health facilities (Health & Safety Code §§ 1267.8(c); 1267.16(a)); Residential community care facilities, including foster family homes, small family homes, social rehabilitation facilities, community treatment facilities, and transitional shelter care facilities (Health & Safety Code §§ 1502, 1566.3); Residential care facilities for persons with chronic life-threatening illness (Health & Safety Code § 1568.0831); Residential care facilities for the elderly (Health & Safety Code § 1569.83); Pediatric day health and respite care facilities (Health & Safety Code § 1761.4).

Residential Care Facility, Small, Unlicensed, is a residential care facility in which six (6) or fewer children or individuals with a disability reside, and which is not licensed by the State and is not required by law to be licensed by the State.”

5. Amend the definition of “Multi-Family” to read as follows:

“Multi-Family Dwelling is a building containing two or more dwelling units.”

6. Add a definition of “Single-Family Dwelling” to read as follows:

“Single-Family Dwelling is a building containing one dwelling unit.”

7. Amend the definition of “Apartment” to read as follows:

“Apartment is a dwelling unit in a multi-family building.”
8. Amend the definition of “Bed and Breakfast” to read as follows:

“Bed and Breakfast is a lodging establishment in which no more than ten (10) rooms are provided to the general public for lodging on a transient basis, and which may provide meals to the extent otherwise permitted by law.”

9. Delete the definition of “Special Needs Housing.”

10. Delete the definition of “Convalescent Center.”

11. Amend the definition of “Day Care Center, Children” to read as follows:

“Day Care Center is a facility which provides non-residential, non-medical care to twelve (12) or more children under eighteen (18) years of age in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a twenty-four (24) hour basis. The definition of day care center includes infant centers, pre-schools, and extended day care facilities, but does not include day care homes.”

12. Amend the definition of “Day Care Home, Children” to read as follows:

“Day Care Home is a single-family dwelling where an occupant of the residence provides non-residential, non-medical care to children that are under eighteen (18) years of age and in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a twenty-four (24) hour basis.

Day Care Home, Large is a day care home where care is provided to up to twelve (12) children, or up to fourteen (14) children if allowed by State law, and which is not a small day care home.

Day Care Home, Small is a day care home where care is provided to up to six (6) children, or up to eight (8) children if allowed by State law.”

13. Amend the definition of “Dormitory” to read as follows:

“Dormitory is a building owned or operated by a public or educational institution which provides private or semi-private sleeping quarters, common cooking facilities and common restrooms for its residents.”

14. Add a definition of “Single Room Occupancy Residential Hotel” to read as follows:

“Single Room Occupancy Facility is a building or group of buildings with one or more guest rooms without kitchen and/or sanitary facilities in individual guest rooms, and which is also the primary residence of the guests.”
SECTION 2. Section 17.08.020 is hereby amended to read as follows:

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<th>R/A/H</th>
<th>RR</th>
<th>RR/H</th>
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<th>LDR</th>
<th>MDR</th>
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<td>Residential Uses</td>
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<td></td>
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<tr>
<td>Condominiums &amp; Townhomes</td>
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<td>Mobile Home Parks or Subdivisions</td>
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<td>X</td>
<td>X</td>
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<td>Multi-Family Dwelling</td>
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<td>Tack &amp; Feed Stores</td>
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<td>Veterinary Offices and Hospitals</td>
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**Agricultural Uses**

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<td>Factory Farms with Genetic Monocultures</td>
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<td>Ranching</td>
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**Recreational Uses**

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<td>Golf Courses and Related Facilities</td>
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<td>Swimming Pool/Sports Club</td>
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**Accessory Uses**

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PC Resolution No. 2008-11
Residential Care Facilities
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</table>

¹ Small family day care homes are permitted by right in single-family residences located in any residential zone. Small family day care homes are not permitted in multiple-family residences.

² Large family day care homes are conditionally permitted in single-family residences located in any residential zone. Large family day care homes are not permitted in multiple-family residences.

³ Neighborhood-oriented retail stores, as defined in the General Plan, consist of “corner store” type development such as convenience stores, grocery or green grocer, video rental, drug stores, sit down restaurants, coffee shops or coffee bars or similar uses, less than 5,000 square feet in total square footage.

⁴ Temporary Uses require Temporary Use Permit. See Chapter 17.108 for provisions.

SECTION 3. Section 17.12.020 is hereby amended to read as follows:

<table>
<thead>
<tr>
<th>ZONE</th>
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PC Resolution No. 2008-11
Residential Care Facilities
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<td>Pawn shops</td>
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<td>Restaurants, drive-in, take-out, fast food</td>
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PC Resolution No. 2008-11
Residential Care Facilities
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Residential Care Facilities

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Residential Care Facilities
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<td>C</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Single family dwellings, existing</td>
<td>C</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Single family dwellings, new</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td><strong>Other Uses</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Commercial or Telecommunications Antennae</td>
<td>X</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>Public utility facilities</td>
<td>X</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
</tbody>
</table>
SECTION 4. Table 17.28.040C ("Institutional Parking Requirements") in Section 17.28.040 is hereby amended to read as follows:

<table>
<thead>
<tr>
<th>USE</th>
<th>NUMBER OF REQUIRED PARKING SPACES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Boarding houses, dormitories, single room occupancies and similar facilities</td>
<td>One (1) space per room, or one (1) space per two (2) beds, whichever is greater.</td>
</tr>
<tr>
<td>Churches, conference/meeting facilities, mortuaries, theaters, auditoriums</td>
<td>One (1) space for each four (4) fixed seats, or one space for each thirty-five (35) square feet of non-fixed seating area in the principal sanctuary, conference space or auditorium, whichever is greater.</td>
</tr>
<tr>
<td>Community college/university</td>
<td>Twelve (12) spaces for each classroom</td>
</tr>
<tr>
<td>Day care centers</td>
<td>One (1) space for each staff member, plus one (1) space for each eight (8) children</td>
</tr>
<tr>
<td>Elementary school/junior high</td>
<td>Three (3) spaces for each classroom</td>
</tr>
<tr>
<td>High school</td>
<td>Eight (8) spaces for each classroom</td>
</tr>
<tr>
<td>Hospitals</td>
<td>Three (3) spaces for each two (2) patient beds, or as determined in the development review process.</td>
</tr>
<tr>
<td>Libraries, Museums, art galleries</td>
<td>One (1) space for each three hundred (300) square feet of gross floor area, or as determined in the development review process.</td>
</tr>
<tr>
<td>Sanitariums/nursing homes</td>
<td>One (1) space for each five (5) beds, plus one (1) space for each employee on the largest shift, plus one (1) space for each staff doctor</td>
</tr>
<tr>
<td>Senior Congregate Care Housing</td>
<td>Two (2) spaces for each three (3) living units.</td>
</tr>
</tbody>
</table>
SECTION 5. Section 17.08.201 is hereby added to the Banning Municipal Code, and shall read as follows:

"17.08.201. Boarding Houses, Single Room Occupancies and Residential Care Facilities.

Any person who seeks to own, manage, or operate a boarding house, single room occupancy, a large residential care facility or a small, unlicensed residential care facility shall obtain a conditional use permit from the City. A boarding house, single room occupancy, large residential care facility or small, unlicensed residential care facility may only be allowed to operate with a conditional use permit in the zones indicated in sections 17.08.020 and 17.12.020 of this Zoning Ordinance. No person shall own, manage, or operate a boarding house, single room occupancy, large residential care facility or small, unlicensed residential care facility without a valid conditional use permit.

A. Application for a Conditional Use Permit

In addition to the findings for a conditional use permit required by section 17.52.050 of this Zoning Ordinance, no conditional use permit for a boarding house, single room occupancy, large residential care facility or small, unlicensed residential care facility shall be granted unless the following findings are made:

1. The Fire Chief and Building Official have determined that the premises complies with all applicable laws, ordinances and regulations.

2. All persons directly or indirectly interested in use as an owner, partner, officer, manager, employee or other person to be in charge of the use have not been convicted of a felony or any crime of moral turpitude.

B. Operational Standards

The following standards shall apply to boarding houses, single room occupancies, large residential care facilities and small, unlicensed residential care facilities:

1. The use shall not result in adverse effects to the health, welfare, peace, or safety of persons in the surrounding area;

2. The use shall not jeopardize or endanger the public health, safety, or welfare of persons in the surrounding area;

3. The use shall not adversely affect the livability of the surrounding neighborhood as a result of inadequate maintenance, prohibited activities, and/or operating characteristics;

4. The use shall not result in nuisance activities, including, without limitation, disturbance of the peace, illegal drug activity, public drunkenness, public consumption of alcohol, harassment of passers-by, gambling, public urination, theft, assault, battery, vandalism, littering, loitering, illegal parking, loud noises, lewd conduct, or police detentions and/or arrests;
5. The use shall not result in violation of any applicable provision of any other city, state, or federal law;

6. The use shall not be located within three hundred (300) feet, measured from the property lines, of any other boarding house, single room occupancy, large residential care facility or small, unlicensed residential care facility, or within three hundred (300) feet of any elementary or secondary school, or any day care center;

7. The use shall comply with the parking requirements in Section 17.28.040(A)-(C);

C. Revocation of Conditional Use Permit

Violations of any of the provisions of this section shall be grounds for revocation of the Conditional Use Permit authorizing the use. Violation of any local, state or federal laws by individual boarder, tenant or occupant while on the premises of the boarding house, single room occupancy or residential care facility shall be grounds for revocation of the permit. The revocation procedures contained in Section 17.52.100 of this Zoning Ordinance shall be followed.

D. Non-conforming uses

All boarding houses, single room occupancies, large residential care facilities and small, unlicensed residential care facilities existing illegally prior to the effective date of the ordinance creating this section shall be required to comply with the requirements of this section within six (6) months of the effective date. All boarding houses, single room occupancies, large residential care facilities and small, unlicensed residential care facilities existing legally prior to the effective date of the ordinance creating this section shall comply with Chapter 17.88 of the Zoning Ordinance.

E. Reasonable Accommodation.

Any person who seeks to operate a residential care facility in a zone where such use is not permitted, either by right or subject to conditional use permit pursuant to sections 17.08.020 and 17.12.020 of this Zoning Ordinance, may request that the City allow the residential care facility to locate in such a zone as a reasonable accommodation under the federal Fair Housing Act by applying for a Conditional Use Permit. The City shall grant the Conditional Use Permit as a reasonable accommodation if it finds:

1. The request for a reasonable accommodation will not impose an undue burden or expense on the City, and

2. The proposed use will not create a fundamental alteration in the City's zoning scheme. The factors that shall be considered in making this determination include, but are not limited to, the following:

(i) Whether the proposed use is in accord with the operational standards identified in subsection B of this section.
(ii) Whether the proposed location of the use is in accord with the requirements of the zone in which the site is located and complies with other relevant City regulations, policies, and guidelines.

(iii) Whether the proposed location of the use and the conditions under which it will be operated and maintained will not be detrimental to the public health, safety or welfare, or to existing land uses, the operation of established sensitive land uses as defined in this chapter, the character of established neighborhood, or planned residential development in the vicinity.

(iv) Whether the proposed use is consistent with the General Plan.

(v) Whether the type, intensity, sensitivity, and operating characteristics of the proposed use, and the manner in which it is located on its site, are compatible with existing land uses, the character of established neighborhoods, or planned residential development in the vicinity.

(vi) Whether the site is physically suitable for the type, sensitivity, and intensity of the use as proposed, including access, utilities and absence of physical constraints.

SECTION 6. Section 17.12.050(Q) is hereby added to the Banning Municipal Code, and shall read as follows:

"Q. Boarding Houses and Single Room Occupancies

1. All requirements outlined in Section 17.08.201 shall be complied with."
PASSED, APPROVED AND ADOPTED this 3rd day of June, 2008.

William Dickson, Chairman
Banning Planning Commission

APPROVED AS TO FORM AND LEGAL CONTENT:

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

CERTIFICATION:

I, Virginia Sorenson, Recording Secretary of the Planning Commission of the City of Banning, California, do hereby certify that the foregoing Resolution, No. 2008-11, was duly adopted by the Planning Commission of the City of Banning, California, at a regular meeting thereof held on the 3rd day of June, 2008, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Virginia Sorenson, Recording Secretary
City of Banning, California