I. CALL TO ORDER: Chairman Bill Dickson

➢ Pledge of Allegiance: Commissioner Bill Escandel

➢ Roll Call: Matthew Bassi, Interim Community Development Director

Chairman Bill Dickson, Commissioner Harold Barsh, Commissioner Bill Escandel, 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 30, 2008 (Joint PC & CC Meeting) Page 1

➢ July 1, 2008 Page 6
IV. PUBLIC HEARING ITEMS:

1. General Plan Amendment No. 08-2501 & Zone Change No. 08-3501:
   A request by Mr. Darwin Manuel (applicant) to amend the General Plan Land Use Element and Zoning Map from Industrial (I) to General Commercial (GC) for the properties generally located at the southwest corner of San Gorgonio Avenue and Lincoln Street (APN No. 540-250-008 & 061).

   **Recommendation**

   The Planning Division recommends that the Planning Commission adopt PC Resolution No. 2008-16, recommending City Council approval of General Plan Amendment No. 08-2501 & Zone Change No. 08-3501.

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2. General Plan Amendment #08-2502 & Zone Change #08-3503:
   A request by Gene Taylor (applicant) to amend the General Plan Land Use Element and Zoning Map from General Commercial (GC) to Business Park (BP) for the property located at 2909 W. Lincoln Street (APN No. 538-190-015).

   **Recommendation**

   The Planning Division recommends that the Planning Commission adopt PC Resolution No. 2008-17, recommending to the City Council approval of General Plan Amendment No. 08-2502 and Zone Change No. 08-3503.

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V. PLANNING COMMISSIONER COMMENTS

VI. DIRECTORS REPORT FOR THE MONTH OF JULY, 2008

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

VII. ADJOURNMENT

The City of Banning Planning Commission is hereby adjourned to the special Planning Commission meeting of August 19, 2008, starting at 6:30 p.m. in the City Council Chambers.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Planning 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

JOINT MEETING / WORKSHOP (HOUSING ELEMENT)
CITY COUNCIL AND PLANNING COMMISSION MINUTES

May 30, 2008

A scheduled meeting of the City of Banning City Council and Planning Commission was held on Friday, May 30, 2008, at 5:30 p.m., in the Council Chambers, City Hall, 99 East Ramsey Street, Banning, CA, 92220.

Council Members Present: Mayor Salas
Mayor Pro-Tem Franklin
Councilmember Botts
Councilmember Hanna
Councilmember Machisic

Commissioners Present: Chairman Dickson
Commissioner Barsh
Commissioner Escandel
Commissioner Hawkins
Commissioner Siva

Staff Present: Interim Community Development Director Bassi
City Attorney Biggs
City Manager Nakamura
Senior Planner Clinton
City Clerk Marie A. Calderon
Recording Secretary Sorenson

I. CALL TO ORDER

The meeting was called to order at 5:30 p.m. by Mayor Salas.

II. DISCUSSION ITEMS:


Interim Community Development Director Bassi stated that this workshop was being conducted to receive public input and for the Council and Commission to provide direction to staff on our Housing Element update. Several months ago the City Council awarded a contract to Laurin Associates to prepare the Housing Element and they are here tonight to help with the presentation,
to answer questions and provide feedback for the Council and Commission. He then introduced Eric Vreekamp, from Laurin Associates.

Eric Vreekamp came forward to give his presentation. He said he wanted to present an overview of the Housing Element process, the reasons why the City is updating its Housing Element and to point out some of the legislative requirements that are new since the last Housing Element was done. Also, he was here to answer questions and solicit feedback.

Mr. Vreekamp stated the Housing Element is one of seven mandated elements that are part of the General Plan. It states what the overall goals are for the City with respect to providing housing, housing for all levels of the community. The Housing Element also embodies the Regional Housing Needs Assessment that is a projection of housing needs for the region and City. The RHNA is produced by SCAG (Southern California Association of Governments) with some input from (WRCOG) Western Riverside Council of Governments as well. Cities in the State are legally required to update their Housing Element every five years. There is also a requirement that the Housing Element be consistent with the other elements of the General Plan. The most important aspect of the Housing Element is that it enables a City to be able to take advantage of funding for housing programs, including CBGD funding and home funding. Mr. Vreekamp provided slides on the new legislation. And most of these were passed by the legislature since 2001. The RHNA requirement for the City of Banning for the period of 2006 – 2014 is 3,841 units. This RHNA number is a goal and the State recognizes that and in fact there is no authority and no penalty for not providing these units. It is merely a goal, but without a goal, you cannot build any units if you do not identify a goal. The purpose behind this is to identify the land, facilitate the development, remove any constraints, burdensome constraints particularly, that would prevent building that housing.

The Council Members and Planning Commissioners had questions about the RHNA numbers. Mr. Vreekamp stated that we establish a baseline, based on primarily Census data. This is a difficult task because that data is almost 10 years old now. The Housing Update process is taking the RHNA numbers, looking at the current Housing Element, because a lot of what goes into the new Housing Element is going to flow from the City's previous Housing Element. We look at the existing housing conditions, painting a picture or developing a picture of the state of the City, we look at the constraints, we look at the land inventory and we take the community input and then we produce a document – a Housing Element document – that provides the best way for the City to reach those goals.

Laurin Associates has provided a draft background section. The Housing Element is divided into sections and the background section contains all of the demographics for the City to develop that baseline. They will also develop a section on constraints, both governmental and non-governmental and there is also a section that identifies the RHNA numbers and the goals that have been achieved, the land inventory, everything that will close that gap between what was done and what needs to be done to demonstrate the City is satisfying the need to reach our RHNA goal. And finally, there is a section of policies. That is how we implement everything that we say we are going to do.

The background section has been provided; all the other sections are in the process.
Council Member Hanna inquired as to how they would approximate the incidence of overcrowding. Mr. Vreekamp responded that the Census Bureau develops data that speaks directly to that issue.

Mayor Pro-Tem Franklin inquired how the condition of the housing stock is determined. Mr. Vreekamp responded that in many communities they will do an on the ground survey or a windshield survey. They also can look at recent data (3 – 4 years old) and then apply the new building permit data to it and then establish conditions. They use the Census data to also determine the owner / occupied versus renters.

The State’s statutory deadline is June 30, 2008. Mr. Vreekamp stated he believes that we can obtain a letter of substantial compliance from the State which enables the City to apply for any funding that would be available. The City does have to wait for the State review period to run. At this point, even though we are making efforts to have a document in to the State by June 30th, if we don’t, as long as we have that letter of substantial compliance, the City will be in a position to be able to obtain funds.

Council Member Machisic asked that since our goal was to provide 1500 housing units (out of the 3800 required) for the low income categories, what the actual incomes are in the various low income categories. Mr. Vreekamp responded to keep in mind that this is a goal and the City should try to make a good faith effort to achieve it, but if those units are not built, there is no penalty that the State imposes. He said he does have the percentages of the area median income, but not the specific data. Council Member Franklin brought up the point that this number of units would also include rentals and people could receive some kind of governmental assistance.

Council Member Hanna stated that she recalled in previous time periods, we easily met our RHNA goals and that this is a big change for us. She felt that everyone agreed during the General Plan process that we wanted affordable housing distributed through-out the community. We did not want it in just one part of the community. She wonders if our existing zoning will have to change to permit this quantity of affordable housing through-out the entire City. Mr. Vreekamp responded that he did not think we would have any difficulty meeting the requirement for the “Above Moderate” and “Moderate” categories. He felt it would be some of the lower income households that we need to look at some type of a rezoning program or an inclusionary housing or possibly density bonus program to provide options to provide those units.

Mayor Pro-tem Franklin asked where and how existing churches and non-profits are meeting the needs in terms of housing. Mr. Vreekamp stated that would go primarily to serving the homeless population and possibly some type of emergency or transitional shelter.

There were no public comments this evening. Council Member Hanna stated that she did not consider this a public workshop or community input opportunity. She said she was certain we met the legal requirements, but she did not consider this a valid approach and that we should make a more strenuous effort. In the past, we have inserted flyers in utility bills to invite people to a workshop, as an example. She felt we should make more of an effort than just the legally required effort. Mr. Bassi responded that we did put the announcement on our Channel 10 cable program.
and in the newspaper. He also added that in reviewing the contract and scope of work, the scope of work was pretty limited in what we could do. A special mailing would be quite expensive. However, since we do already send out utility bills, we could insert a flyer / questionnaire.

Council Member Machisic and Council Member Botts inquired as to when the Planning Commission would receive this document. Mr. Bassi responded that we will release the draft Housing Element for public review in July and probably go to the Planning Commission in August and to the City Council in September. All of the Council Members were concerned about the timing and being certified. Mr. Vreekamp stated this process is a function of time and due to the fact that their contract was signed when it was and then trying to meet the June 30th deadline, might not occur. Mr. Bassi stated that we would work with HCD and they are usually pretty gracious. He stated the contract with Laurin did get started late, but we are here now, moving forward and as long as we are showing progress he was certain that HCD would work with us.

Council Member Botts stated he was confused about our current Housing Element being certified, self-certified, or what and what difference did it make. Senior Planner Clinton responded that our Housing Element is not certified at this point. She also stated that it is not actually required that it be certified, but this new Housing Element update will be sent in for certification. Laurin Associates have assured us that they will process this until certification. City Attorney Biggs responded that the effect of not being certified is that you lose a presumption in court if you are sued by a developer for not approving a plan or whatever. If you are certified you have the presumption that your plan is valid, if you are not, there is no presumption, so you may or may not be valid. If HCD does not approve it, it comes back to you and at that point you decide either to amend it to meet their requirements or to certify it yourself. Council Member Franklin asked for clarification regarding receiving funding if you are not certified. City Attorney Biggs responded that there are some limitations.

Council Member Hanna stated that as a follow up to the suggestion that there be a survey in utility bills, she would like to add that the draft Housing Element will be available for public review by a certain date, to mention the Planning Commission and City Council dates so that people will know that they will have opportunities to come and speak to the issue.

Council Member Botts stated that Mr. Vreekamp alluded to policy questions, policy decisions and policy strategies and he asked if that is where we make a good faith effort to say we will try to do something with these numbers and where do those policies and strategies come from. Mr. Vreekamp responded by saying in conjunction with City staff we will develop the policies for you and insert those into the policy document and that would come before you for your review. Mr. Botts asked if the policies were generic or specific to Banning and our circumstances. Mr. Vreekamp answered that the policies are crafted according to some basic standards that HCD uses. So they do provide some assistance to the cities and to us as to how to craft the policies that are going to be acceptable. However, there has to be an agreement between the City and the State and that is why it is critical to work with staff to come up with policies that will satisfy both concerns.

Council Member Machisic stated that in his packet there was a graph that deals with housing units by year built. He thought this would play an integral part in what our future plans might be.
mentioned that a third of our housing is over forty years old and fifty-six percent of the housing in our City has been built in the last twenty years. We have a lot of houses that are very old, five percent built before 1939 and we have to take those into consideration. Mr. Vreekamp stated that was an excellent point and it can help us identify need areas in the community. We may be able to identify a large percentage of units that are ripe for some type of rehab and that is another way you can provide units to satisfy the RHNA numbers bought through rehabilitation programs that you could carry out through your Redevelopment Agency and other means.

Commissioner Escandel brought up the same chart and mentioned that in previous Housing Element updates they were given percentages of housing to meet. We were able to meet some of the previous requirements because we already had a certain percentage of low income homes, for example. We have not discussed that in this update. It appears that a number of units are required without criteria. Mr. Vreekamp stated that the requirements are more stringent than they have been in the past. Commissioner Escandel asked if we could look into percentage of housing in each one of the income ranges that they require and say we don’t need the 436 units or the 1645, we already meet this because of the percentages of homes within our community meets your percentages as we bend the data to meet our needs. Mr. Vreekamp said this is something he could look into. Mayor Salas asked if Mr. Vreekamp could please get the information and then get back to the Commission and Council.

IV. ADJOURNMENT

The meeting was adjourned at 6:20 p.m.

Respectfully submitted,

Gini Sorenson
Recording Secretary
City of Banning

PLANNING COMMISSION MINUTES

July 1, 2008

A regular meeting of the City of Banning Planning Commission was held on Tuesday, July 1, 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 Hawkins
Commissioner Siva

Staff Present: Interim Community Development Director Bassi
Deputy City Attorney Erica Ball
Recording Secretary Sorenson

I. CALL TO ORDER

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

II. PUBLIC COMMENTS

No one came forward.

III. CONSENT CALENDAR

1. Review of Minutes

ACTION (HAWKINS / BARSH): A motion was moved, seconded and carried that the minutes of June 3, 2008 be approved as presented.

(Motion carried 5-0)
IV. PUBLIC HEARING:

None at this time

V. PLANNING COMMISSIONER'S COMMENTS

Chairman Dickson inquired about the status of the matter with Cynthia Barrington, the homeowner who came to the June 3rd meeting and discussed the Animal Keeping Standards. Interim Director Bassi responded that he had called Mrs. Barrington a couple of times since the meeting and has not received a return call as of this date.

Chairman Dickson also inquired about the status of the Design Review Board. Interim Director Bassi responded that the process is going forward, although slowly. We have not yet sent out letters or created a list of people to be on the board.

VI. DIRECTOR'S REPORT

1. Local CEQA Guidelines Update

Interim Director Bassi presented the staff report and stated that the purpose of the local CEQA Guidelines is to provide the City and anyone intending to carry out a project within the City, the framework from which CEQA applies. The State regulates the California Environmental Quality Act, the State law requires every city in the State to adopt local guidelines, we have not adopted an update to the CEQA Guidelines since 1989. The guidelines that we have are consistent with State Guidelines, there is really nothing different.

Deputy City Attorney Erica Ball stated that the City needed to adopt local CEQA Guidelines because it is required by law. Mr. Bassi stated for the record that the Commission has received a letter from Brownstein, Hyatt, Farber and Schreck, attorneys for Pardee Homes. They have itemized several things in their letter, concerns that they have with the CEQA Guidelines, none of which are really substantive or would change the content or context of our guidelines, they are more clarifications. Deputy City Attorney Tom Jex and Mr. Bassi will be meeting with them next week to speak with them in more detail and if need be amend some of the CEQA Guideline information when we go to Council on July 22nd. The letter will be made part of the record.

ACTION (ESCANDEL / SIVA): A motion was moved, seconded and carried that the Planning Commission adopt Resolution No. 2008-14 recommending approval to the City Council of the Local CEQA Guidelines.

(Motion carried 5-0)
2. City Council actions on Planning related items.

Interim Director Bassi reported that the Black Bench Ranch (SunCal) Specific Plan and EIR and land use entitlements were rescinded by the City Council at the last meeting.

The Council also granted a one year time extension for the Nordquist tract map, TTM 32370. That site is under construction in terms of street improvements, lighting, block walls, etc.

The Gilman / Wyte Way (St. Boniface) tract map, TTM 33540, was also granted a one year time extension at the first Council meeting in June.

VII. ADJOURNMENT

There being no further business to come before the Planning Commission, the meeting was adjourned at 6:37 p.m.

Respectfully submitted,

Gini Sorensen
Recording Secretary
DATE: August 5, 2008

TO: Mr. Chairman and Members of the Planning Commission

FROM: City of Banning Planning Division

SUBJECT: General Plan Amendment No. 08-2501 & Zone Change No. 08-3501:
A request by Mr. Darwin Manuel (applicant) to amend the General Plan Land Use Element and Zoning Map from Industrial (I) to General Commercial (GC) for the properties generally located at the southwest corner of San Gorgonio Avenue and Lincoln Street (APN No. 540-250-008 & 061).

PROJECT DESCRIPTION AND ANALYSIS

General Plan Amendment No. 08-2501 & Zone Change No. 08-3501 is a request by Mr. Darwin Manuel (applicant) to amend the General Plan Land Use Element and Zoning Map from Industrial (I) to General Commercial (GC) for the properties generally located at the southwest corner of San Gorgonio Avenue and Lincoln Street (Attachment 2, Vicinity Map). The proposal was submitted to establish commercial/retail opportunities on the project site (including a future restaurant to be submitted at a later date). The proposed land use and zone change sites are currently vacant and are 3.75 acres and .75 acres in size.

Surrounding Neighborhood

The project site is surrounded by a variety of land uses. To the north and west is industrial zoned property which includes a non-conforming residence and a convenience store. To the east is the City yard and to the south is vacant residential property with an approved tentative residential subdivision map (Barbour Villas).

Project Analysis

Mr. Manuel currently has a buyer for a portion of the larger parcel on the project site who is very interested in building a "John's Restaurant" (similar in style to Farmer Boys). This is the primary reason staff is supporting the proposed general plan amendment and zone change. Staff has met with the owner of John's Restaurant and he will be submitting a Design Review application in the near future for Commission consideration. The applicant has also stated that the owner of John's Restaurant feels that the project site is an excellent location given its proximity to residential and industrial neighborhoods. They anticipate that the new restaurant
will be very successful in attracting both industrial and office employees from the surrounding businesses. John's restaurant is a successful restaurant which has locations in the cities of Palm Springs, Artesia, Chino and in several other locations in the inland empire.

In evaluating the general plan amendment and zone change, the Commission has certain findings that need to be made to recommend approval of the project to City Council. First, staff believes that the proposed amendment is internally consistent with the General Plan in that the proposed land use designation will not cause any inconsistencies with the other elements of the General Plan. Second, the proposed amendment will not be detrimental to the public interest, health, safety, convenience or welfare of the City in that the proposed land use designation from Industrial (I) to General Commercial (GC) will create new commercial/retail opportunities for the industrial and residential neighborhoods south of the I-10 freeway that do not currently exist. These new commercial and retail opportunities will certainly result in increased sales tax revenues to the City’s general fund (an important factor given the economic status of the region).

Third, the proposed amendment will maintain the appropriate balance of land uses within the City because there is a limited number of commercially zoned parcels in the southern section of the City that have land use designations that will encourage and promote commercial/retail development for Banning residents. Lastly, the subject parcels are physically suitable (including, but not limited to, access, provision of utilities, compatibility with adjoining land uses, and absence of physical constraints) for the requested land use designation and the anticipated land use developments.

As the Commission is aware, the Kosmont Study recently reviewed by the City Council identified a lack of commercial/retail opportunities in the southern portion of the City, as well as infrastructure improvements. Approval of the general plan amendment and zone change will certainly address these issues and could very well be a stimulus to additional commercial and industrial development in the area.

Summary Statement

Both the City Council and the Planning Commission have expressed an interest in attracting more sit-down restaurants to Banning. The location of these parcels at the corner of Lincoln Street and San Gorgonio Avenue near existing residences and industrial businesses makes the proposed general commercial zoning a more compatible zoning designation than the current industrial zoning. Given the size of the project site, commercial/retail projects would be much easier to develop than industrial uses. Also, as the Paseo San Gorgonio Overlay District is approved and implemented to help revitalize and stimulate the downtown area, the proposed zoning on the project site would be an appropriate transition to the more intense industrial uses further down Lincoln Street.
ENVIRONMENTAL ANALYSIS/DETERMINATION

Upon submittal of the applications, staff reviewed the proposed project in accordance with the California Environmental Quality Act (CEQA) guidelines. After examining the proposed project, staff determined that the project is Categorically Exempt under Section 15332 (Class 32, (In-fill Development) of CEQA. The proposed project as approved will be consistent with the General Plan and Zoning Ordinance, the parcel is smaller than five acres, the project site has no value as habitat for endangered, rare or threatened species, the project will not have a significant effect upon the environment and the site can adequately be served by utilities and public services.

PUBLIC COMMUNICATION

A copy of the public hearing notice was published in the Record Gazette and was sent to all property owners and occupants of surrounding properties within a 300-foot radius of the subject site on July 24, 2008. As of the date of this staff report, staff has not received any correspondence either for or against the proposed project.

RECOMMENDATION

The Planning Division recommends that the Planning Commission adopt PC Resolution No. 2008-16 (Attachment 1) recommending City Council approval of General Plan Amendment No. 08-2501 & Zone Change No. 08-3501.

Respectfully Submitted:

[Signature]
Matthew C. Bassi
Interim Community Development Director

Prepared by:

[Signature]
Kim Clinton, AICP
Senior Planner

City of Banning Planning Division
Planning Commission Meeting of August 5, 2008
PC ATTACHMENTS:

1) PC Resolution No. 2008-16 for GPA No. 08-2501 & ZC No. 08-3501
   A) GPA Map
   B) ZC Legal Description
2) Vicinity Map

G:\540-250-008 & 061 San G Konsolidated\PC Report 08-05-08 San G.doc
RESOLUTION NO. 2008-16

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BANNING, CALIFORNIA RECOMMENDING THAT THE CITY COUNCIL APPROVE GENERAL PLAN AMENDMENT NO. 08-2501 AND ZONE CHANGE NO. 08-3501 TO AMEND THE GENERAL PLAN LAND USE MAP AND ZONING MAP FROM INDUSTRIAL (I) TO GENERAL COMMERCIAL (GC) FOR THE PROPERTIES GENERALLY LOCATED AT THE SOUTHWEST CORNER OF SAN GORONIO AVENUE AND LINCOLN STREET (APN NO. 540-250-008 & 061)

WHEREAS, an application for a General Plan Amendment and Zone Change to change the land use and zoning from Industrial (I) to General Commercial (GC) has been duly filed by:

Applicant / Owner: San G Konsolidated and Robert W. Crawley
Authorized Agent: Darwin Manuel
Project Location: SWC of Lincoln Street and San Gorgonio Avenue
APN Number: 540-250-008 & 061
Lot Area: 3.75 acres and .74 acres; and

WHEREAS, the Planning Commission has the authority per Section 17.64 of the Banning Municipal Code to review and make recommendations to the City Council on General Plan Amendment No. 08-2501 and Zone Change No. 08-3501 for a land use and zoning change from Industrial (I) to General Commercial (GC) for the properties generally located at the southwest corner of Lincoln Street and San Gorgonio Avenue; and

WHEREAS, in accordance with Government Code Section 65353, 65355, 65090 and 65854, on July 24, 2008, the City of Banning gave public notice by advertisement in the Record Gazette Newspaper and by mailing the public notice to all property owners within a 300-foot radius regarding the holding of a public hearing at which time the proposed general plan amendment and zone change would be considered by the Planning Commission; and

WHEREAS, in accordance with Government Code Section 65353, on August 5, 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, General Plan Amendment No. 08-2501 and Zone Change No. 08-3501 for a land use and zoning change from Industrial (I) to General Commercial (GC), and at which time the Planning Commission considered General Plan Amendment No. 08-2501 and Zone Change No. 08-3501 and recommended City Council approval of General Plan Amendment No. 08-2501 and Zone Change No. 08-3501; and

PC Resolution No. 2008-16
San G Konsolidated
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WHEREAS, the Community Development Director has reviewed the project's potential effects on the environment and has recommended that the project is exempt from the California Environmental Quality Act ("CEQA") under CEQA Guidelines Section 15332 (In-fill Projects).

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 August 5, 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. California Environmental Quality Act (CEQA):

(a) General Plan Amendment No. 08-2501 and Zone Change No. 08-3501 for a land use and zoning change from Industrial (I) to General Commercial (GC) is Categorically Exempt from CEQA as outlined in Section 15332 (In-fill Projects) in that the proposed project as approved will be consistent with the General Plan and Zoning Ordinance, the parcel is smaller than five acres, the project site has no value as habitat for endangered, rare or threatened species, the project will not have a significant effect upon the environment and the site can adequately be served by utilities and public services.

(b) General Plan Amendment No. 08-2501 and Zone Change No. 08-3501 for a land use and zoning change from Industrial (I) to General Commercial (GC) is in compliance with the requirements of CEQA in that on August 5, 2008, at a duly noticed public hearing, the Planning Commission recommended approval to the City Council of a Categorical Exemption reflecting its independent judgment and analysis and documenting that there was not substantial evidence, in light of the whole record, from which it could be fairly argued that the project may have a significant effect on the environment. The documents comprising the City's environmental review for the project are on file and available for public review at Banning City Hall, 99 East Ramsey Street, Banning, California 92220.
2. **Multiple Species Habitat Conservation Plan (MSHCP):**

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

**SECTION 2. GENERAL PLAN AMENDMENT FINDINGS**

Pursuant to the Banning Municipal Code, the Planning Commission recommends City Council approval of General Plan Amendment No. 08-2501 for a land use change from Industrial (I) to General Commercial (GC) based on the following findings:

1. The proposed amendment is internally consistent with the General Plan in that the proposed land use designation will not cause any inconsistencies with the other elements of the General Plan.

2. The proposed amendment will not be detrimental to the public interest, health, safety, convenience or welfare of the City in that the proposed land use designation from Industrial (I) to General Commercial (GC) will create new commercial/retail opportunities for the industrial and residential neighborhoods south of the I-10 freeway that do not currently exist. These new commercial and retail opportunities will certainly result in increased sales tax revenues to the City’s general fund (an important factor given the economic status of the region).

3. The proposed amendment will maintain the appropriate balance of land uses within the City in that this project proposes to change the general plan land use designation from Industrial (I) to General Commercial (GC). This amendment will maintain appropriate balance of land uses within the City because there is a limited number of parcels in the southern section of the City that have land use designations that will encourage and promote commercial/retail development for Banning residents.

4. The subject parcels are physically suitable (including, but not limited to, access, provision of utilities, compatibility with adjoining land uses, and absence of physical constraints), for the requested land use designation and the anticipated land use developments. The project proposes to change the land use element of the general plan from Industrial (I) to General Commercial (GC) and the area where the site is located will be adequately served by utilities, will have proper access per City code, and will be compatible with the surrounding uses.
SECTION 3. ZONE CHANGE FINDINGS

Pursuant to Banning Municipal Code, the Planning Commission recommends City Council approval of Zone Change No. 08-3501 a zoning change from Industrial (I) to General Commercial (GC) based on the following findings:

1. The proposed zone change is consistent with the goals and policies of the General Plan.

The property is located in the Industrial Zone on the southwest corner of Lincoln Street and San Gorgonio Avenue. This area is made up of a variety of land uses including single family neighborhoods to the south, industrial uses to the east and west and commercial uses to the north. The proposed zone change supports the General Plan Vision Statement that includes: "Well balanced commercial development where revenue generating commercial neighborhoods provides a diversified economy and a wide range of jobs, where people can work without needing their cars and where revitalization and beautification provide a safe and enjoyable shopping experience for visitors and residents alike."

Furthermore, Policy 1 of the Commercial and Industrial Goals, Policies and Programs states that: "The land use map shall include sufficient commercial lands to provide a broad range of products and services to the City and region while carefully considering compatibility with adjacent residential lands". The proposed zone change is on parcels that are on the boundary of a residential neighborhood and on a street that straddles the transition area between industrial and residential uses. A commercial/retail development at this corner would be a compatible transitional use, as well as, would serve as both a buffer and a gateway between commercial uses to the north on San Gorgonio Avenue, industrial uses along Lincoln Street east and west of the site and residential uses to the south.

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

Changing the zone from Industrial to General Commercial will not cause any internal inconsistencies with the Zoning Ordinance. Because the uses allowed in commercial zones are generally compatible with the surrounding industrial and residential uses and provides a transition between the less intense residential zone and the industrial properties. Furthermore, the land is located in an urbanized environment and City water, sewer and other services are existing and available to serve the site. Lincoln Street is a major highway and is adequately designed to carry the traffic generated by the zoning type. Thus, the proposed project is not anticipated to result in exceeding, either cumulatively or individually, any applicable level of service standards.
SECTION 4. PLANNING COMMISSION RECOMMENDATIONS.

The Planning Commission hereby recommends that the City Council take 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 recommends that General Plan Amendment No. 08-2501 and Zone Change No. 08-3501 for a land use and zoning change from Industrial (I) to General Commercial (GC) is Categorically Exempt from CEQA as outlined in Section 15332 (In-fill Projects).

2. **Approve General Plan Amendment No. 08-2501.** Approve General Plan Amendment No. 08-2501 changing the land use from Industrial (I) to General Commercial (GC) as shown in Exhibit A of this Resolution which is attached hereto and incorporated herein by reference.

3. **Approve Zone Change No. 08-3501.** Approve Zone Change No. 08-3501 changing the zoning from Industrial (I) to General Commercial (GC) as described and shown in Exhibit B of this Resolution which is attached hereto and incorporated herein by reference.

PASSED, APPROVED AND ADOPTED this 5\textsuperscript{th} day of August 2008.

William Dickson, Chairman
Banning Planning Commission

APPROVED AS TO FORM AND LEGAL CONTENT:

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

PC Resolution No. 2008-16
San G Konsolidated
CERTIFICATION:

I, Virginia Sorenson, Recording Secretary of the Planning Commission of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2008-16, was duly adopted by the Planning Commission of the City of Banning, California, at a regular meeting thereof held on the 5th day of August, 2008 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Virginia Sorenson, Recording Secretary
City of Banning, California
Exhibit 'B'

Legal Description

General Plan Amendment No. 08-2501 & Zone Change No. 08-3501

BLOCKS 296 AND 297 OF SUBDIVISION OF LANDS ADJOINING BANNING ON THE SOUTHWEST, BEING PARTS OF SECTION 9 AND 16, TOWNSHIP 3 SOUTH, RANGE 1 EAST, SAN BERNARDINO BASE AND MERIDIAN, ON FILE IN BOOK 14, PAGE 662 OF MAPS, RECORDS OF SAN DIEGO COUNTY, CALIFORNIA.

EXCEPTING FROM SAID BLOCK 296 THE SOUTH 377.00 FEET; AND

ALSO, EXCEPTING FROM SAID BLOCK 297 THE WEST 60 FEET OF THE SOUTH 377.00 FEET; AND

ALSO, EXCEPTING FROM SAID BLOCK 297 THE EAST 125 FEET OF THE NORTH 290 FEET; AND

ALSO, EXCEPTING FROM BLOCK 297 THE SOUTH 242 FEET OF THE EASTERLY 270 FEET.
ATTACHMENT 2

VICINITY MAP
Vicinity Map

Not to Scale

General Plan Amendment No. 08-2501 & Zone Change No. 08-3501
DATE: August 5, 2008

TO: Mr. Chairman and Members of the Planning Commission

FROM: City of Banning Planning Division

SUBJECT: General Plan Amendment #08-2502 & Zone Change #08-3503:
A request by Gene Taylor (applicant) to amend the General Plan Land Use
Element and Zoning Map from General Commercial (GC) to Business Park (BP)
for the property located at 2909 W. Lincoln Street (APN No. 538-190-015).

PROJECT BACKGROUND

On May 2, 2007, a Planning Commission and City Council joint meeting/workshop discussion
took place regarding non-conforming uses and structures and, more specifically, the
reintroduction of the Commercial Manufacturing (CM) land use/zone along Lincoln Street. The
application to rezone Sunset Storage from General Commercial to Business Park was one of the
catalysts to this discussion. As a result of not only the issue of non-conformities along Lincoln
Street, but broader concerns regarding market conditions in the City, the City Council and
Planning Commission approved a moratorium on new warehousing/storage uses until a City-
wide market study and strategy could be developed. This effectively tabled the application for
the Sunset Storage zone change until the moratorium was over. The moratorium expired on June
25, 2008.

PROJECT DESCRIPTION AND ANALYSIS

General Plan Amendment No. 08-2502 and Zone Change No. 08-3503 is a request by Mr. Gene
Taylor to amend the General Plan Land Use Element and Zoning Map from General Commercial
(GC) to Business park (BP) for the property located at 2909 W. Lincoln Street. This request will
affect an 8.28 acre parcel located on the north side of Lincoln Street approximately 600 feet east
of Sunset Avenue (Attachment 2, Vicinity Map). Currently there is a mix of leased uses located
in the development. The site includes a 97,800 square-foot self storage facility located on the
eastern and northern portions of the property. The remainder of the site includes several
buildings that include a mix of commercial and industrial/business park type uses totaling 53,880
square feet. Staff has provided a copy of a matrix for Commission consideration that illustrates
the uses on the property (Attachment 3).
Zoning History and Current Conditions

The complex was originally built in 1985 when the zoning was Manufacturing (M). In 1991 the zoning was changed to General Commercial (C-2). In 1998 and 1999, the self storage portion of the project was expanded. Although self-storage was not listed as a permitted use in the zoning code (see permitted uses from the 1993 code attached), self-storage was interpreted to be a conditionally permitted use in the General Commercial zone and two CUP’s were processed to add 15,600 and 23,400 square feet, respectively to the self storage facility.

Please see attached letter from applicant Gene Taylor (Attachment 4), wherein he states that he is having trouble finding tenants. Additionally, he has stated that he cannot get a loan to upgrade his property because it contains non-conforming uses. The property is in need of renovation which the applicant is planning to do upon approval of the general plan amendment and zone change. The storefronts are “dated” and the landscaping and screening on the site is in disrepair. With or without the zone change, the project site needs physical improvements. Mr. Taylor is not alone in his dilemma in regards to nonconforming issues. The City has many obsolete and nonconforming properties that are not generating enough business for the owners to upgrade their buildings and properties. Business loans are difficult to obtain in the current market (especially when a site has nonconforming uses) and even the owners of viable new commercial projects are having difficulty securing construction loans.

Attached for the Commission’s consideration, are copies of the permitted uses matrixes from the Zoning Ordinance prior to and after the 2006 Zoning Ordinance update (Attachments 5 & 6). Many of the commercial businesses that are leased on the subject site are currently permitted by right since they are considered retail uses or have a retail warehouse component. The self-storage units are the only buildings on the site that have received approval via a conditional use permit. Since there are permitted uses in the General Commercial zone that would be suitable tenants for the complex, to state that the center is not rentable and completely non-conforming due to the zoning is not entirely accurate. For example, warehousing with point of sale, auto and auto body repair, hardware, coin laundries and garden stores, light assembly and/or repair of household goods, dry cleaning plants and other several other uses are permitted and presumably could rent space in the high bay portion of the center located behind the retail strip. The industrial uses, however, are nonconforming as they are not allowed in a commercial zone.

It is important to note that the permitted uses listed in the code for General Commercial are substantially unchanged from the 1990’s to the 2006 update except for very minor changes. County records show the site was last sold in 2003 and prior to that in 1993. As evidenced by the use matrices, warehousing, storage, trucking and manufacturing have not been permitted at this location since 1993.
Surrounding Neighborhood

Directly west of the site is a 7.91 acre vacant parcel at the NEC corner of Sunset Avenue and Lincoln Street. It is also zoned General Commercial. To the east are nonconforming residences in the same zone. To the north is the Union Pacific Railroad right-of-way and tracks.

Because there is an existing residential neighborhood directly south of this parcel, truck traffic, noise and screening are important considerations. The addition of trucking, contractor yards, warehousing, sheet metal and other manufacturing uses have the potential to conflict with the residential uses to the south. A change in zone would permit these uses and conceivably the present mix of low-intensity uses could be converted to warehousing or manufacturing uses exclusively and that could greatly change the character of this site.

Kosmont Study

The Kosmont study recommended that zoning be adjusted to be compatible with existing uses, and that current codes should be strictly enforced. The study also concluded that the areas adjacent to the I-10 and Highland Springs/Sunset Avenues are the most viable commercial retail sites in the City. Although single family development is currently at a standstill, if the development of the Loma Linda, Lariat and Five Bridges Specific Plans move forward in the future, Sunset Avenue will be the primary I-10 off-ramp and access road for those developments. Furthermore, construction of the Sunset Avenue grade separation will remove one of the major infrastructure hurdles to development south of the railroad tracks, increasing the business park and commercial viability of this site.

Summary Statement

A business park use can coexist with adjacent residential uses if the impacts are mitigated through well-thought-out design and by ensuring that the tenant mix is compatible with the adjacent properties. As it currently exists, the Sunset Storage complex has low impact retail uses along Lincoln Street and its more industrial uses in the interior.

With a facelift (applicant has committed to doing this in the near future), the complex has the potential to be an asset to the neighborhood and will provide of a mix of tax-generating small businesses and neighborhood services, as well as, small, low-impact warehouse/light assembly uses. If the Planning Commission wishes to support the applicant in his desire to eliminate the nonconforming status of the project site, approval of the general plan amendment and zone change will be a significant step forward in revitalizing the site. As staff has shown in the lease matrix, the Business Park zoning would be the best zoning of this existing and old development.
ENVIRONMENTAL ANALYSIS/DETERMINATION

Upon submittal of the applications, staff reviewed the proposed project in accordance with the California Environmental Quality Act (CEQA) guidelines. After examining the proposed project, staff determined that the project is Categorically Exempt under Section 15061(b)(3) of CEQA. The proposed general plan amendment and zone change are consistent with all applicable General Plan polices and there is no potential that the GPA/ZC will result in any significant effects on the environment. As such, the project meets the criteria for exemption under the CEQA Guidelines.

PUBLIC COMMUNICATION

A copy of the public hearing notice was published in the Record Gazette and was sent to all property owners and occupants of surrounding properties within a 300-foot radius of the subject site on July 24, 2008. As of the date of this staff report, staff has not received any correspondence either for or against the proposed project.

STAFF RECOMMENDATION

The Planning Division recommends that the Planning Commission adopt PC Resolution No. 2008-17 (Attachment 1) recommending to the City Council approval of General Plan Amendment No. 08-2502 and Zone Change No. 08-3503.

Respectfully Submitted:

[Signature]
Matthew C. Bassi
Interim Community Development Director

Prepared by:

[Signature]
Kim Clinton, AICP
Senior Planner
PC ATTACHMENTS:

1) PC Resolution No. 2008-17 for GPA 08-2502 & ZC 08-3503
   a) GPA/ZC Map and Legal Description
2) Vicinity Map
3) Lease Matrix of Sunset Storage facility
4) Letter From Gene Taylor dated 2/2/07
5) Permitted Uses Matrix from the 1990's Zoning Ordinance
6) Permitted Uses Matrix from 2006 Zoning Ordinance
ATTACHMENT 1

PC RESOLUTION NO. 2008-17
RESOLUTION NO. 2008-17

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BANNING, CALIFORNIA RECOMMENDING THAT THE CITY COUNCIL APPROVE GENERAL PLAN AMENDMENT NO. 08-2502 AND ZONE CHANGE NO. 08-3503 TO AMEND THE GENERAL PLAN LAND USE MAP AND ZONING MAP FROM GENERAL COMMERCIAL (GC) TO BUSINESS PARK (BP) FOR THE PROPERTY LOCATED 2909 W. LINCOLN STREET (APN NO. 538-190-015)

WHEREAS, an application for a General Plan Amendment and Zone Change to change the land use and zoning from General Commercial (GC) to Business Park has been duly filed by:

Applicant / Owner: Banning Storage LLC
Authorized Agent: Gene Taylor
Project Location: 2909 W. Lincoln Street
APN Number: 538-190-015
Lot Area: 8.21 acres.

WHEREAS, the Planning Commission has the authority per Section 17.64 of the Banning Municipal Code to review and make recommendations to the City Council on General Plan Amendment No. 08-2502 and Zone Change No. 08-3503 for a land use and zoning change from General Commercial (GC) Business Park (BP) for the property located at 2909 W. Lincoln Street; and

WHEREAS, in accordance with Government Code Section 65353,65355 65090 and 65854, on July 24, 2008, the City of Banning gave public notice by advertisement in the Record Gazette Newspaper and by mailing the public notice to all property owners within a 300-foot radius regarding the holding of a public hearing at which time the proposed general plan amendment and zone change would be considered by the Planning Commission; and

WHEREAS, in accordance with Government Code Section 65353, on August 5, 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, General Plan Amendment No. 08-2502 and Zone Change No. 08-3503 for a land use and zoning change from General Commercial (GC) Business Park (BP) for the property located at 2909 W. Lincoln Street; and at which time the Planning Commission considered General Plan Amendment No. 08-2502 and Zone Change No. 08-3503 and recommended City Council approval of General Plan Amendment No. 08-2502 and Zone Change No. 08-3503; and

WHEREAS, the Community Development Director has reviewed the project’s potential effects on the environment and has recommended that the project is 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 August 5, 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. California Environmental Quality Act (CEQA):

   (a) General Plan Amendment No. 08-2502 and Zone Change No. 08-3503 for a land use and zoning change from General Commercial (GC) to Business Park (BP) is Categorically Exempt from CEQA as outlined in Section 15061(b)(3) in that it is consistent with all applicable General Plan polices and that there is no potential that the GPA/ZC will result any significant effects on the environment until development is proposed for the site, at which time an initial study will be required. As such, the project meets the criteria for exemption under the CEQA Guidelines.

   (b) General Plan Amendment No. 08-2502 and Zone Change No. 08-3503 for a land use and zoning change from General Commercial (GC) to Business Park (BP) is in compliance with the requirements of CEQA in that on August 5, 2008, at a duly noticed public hearing, the Planning Commission recommended approval to the City Council of a Categorical Exemption reflecting its independent judgment and analysis and documenting that there was not substantial evidence, in light of the whole record, from which it could be fairly argued that the project may have a significant effect on the environment. The documents comprising the City's environmental review for the project are on file and available for public review at Banning City Hall, 99 East Ramsey Street, Banning, California 92220.

2. Multiple Species Habitat Conservation Plan (MSHCP):

The project is found to be consistent with the MSHCP. The project is located outside of any MSHCP criteria area and mitigation is provided through payment of the MSHCP Mitigation Fee.
SECTION 2. GENERAL PLAN AMENDMENT FINDINGS

Pursuant to the Banning Municipal Code, the Planning Commission recommends City Council approval of General Plan Amendment No. 08-2502 for a land use change from General Commercial (GC) to Business Park (BP) based on the following findings:

1. The proposed amendment is internally consistent with the General Plan in that the proposed land use designation will not cause any inconsistencies with the other elements of the General Plan.

2. The proposed amendment will not be detrimental to the public interest, health, safety, convenience or welfare of the City in that the proposed general plan land use designation from General Commercial (GC) to Business Park (BP) will not be detrimental to the public interest, health, safety, convenience or welfare because the existing uses within the business park complex are very light industrial uses that have existed for 20 years. Further, with the non-conforming status being resolved through approval of the land use designation change, the property owner will be able to secure new financing to physically and architecturally upgrade and improve the site.

3. The proposed amendment will maintain the appropriate balance of land uses within the City in that this project proposes to change the general plan land use designation from General Commercial (GC) to Business Park (BP). This amendment will maintain appropriate balance of land uses within the City because the site is only 8.2 acres in size and there are adequate sites available in the City for additional General Commercial zoning opportunities. This will still enable the City to promote and encourage commercial/retail development for Banning residents that will bring in sales tax revenues.

4. The subject parcels are physically suitable (including, but not limited to, access, provision of utilities, compatibility with adjoining land uses, and absence of physical constraints), for the requested land use designation and the anticipated land use developments. The project proposes to change the land use element of the general plan from General Commercial (GC) to Business Park (BP) and the area where the site is located will be adequately served by utilities, will have proper access per City code, and will be compatible with the surrounding uses.

SECTION 3. ZONE CHANGE FINDINGS

Pursuant to Banning Municipal Code, the Planning Commission recommends City Council approval of Zone Change No. 08-3503 a zoning change from General Commercial (GC) to Business Park (BP) based on the following findings:
1. The proposed zone change is consistent with the goals and policies of the General Plan.

The proposed Amendment is consistent with the goals and policies of the general plan because the property is located in the General Commercial Zone of the General Plan at 2909 W. Lincoln Street. This area is made up of a variety of land uses including single family development on the south, General Commercial zoned land to the west General Commercial to the east and the Union Pacific Rail Road tracks to the north. Policy 1 of the Commercial and Industrial Goals, Policies and Programs is: “The land use map shall include sufficient commercial lands to provide a broad range of products and services to the City and region while carefully considering compatibility with adjacent residential lands”. The Business Park designation allows for a broad range of products and services.

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

Changing the zone from General Commercial to Business Park is internally consistent with the Zoning Ordinance because the uses allowed in Business Park zones are generally compatible with the existing and surrounding industrial/business park and residential uses. Furthermore, the land is located in an urbanized environment and City water, sewer and other services are existing and available to serve the site. Lincoln Street is a major highway and is adequately designed to carry the traffic generated by the zoning type. Thus, the proposed project is not anticipated to result in exceeding, either cumulatively or individually, any applicable level of service standards.

SECTION 4. PLANNING COMMISSION RECOMMENDATIONS.

The Planning Commission hereby recommends that the City Council take 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 recommends that General Plan Amendment No. 08-2502 and Zone Change No. 08-3503 for a land use and zoning change from General Commercial (GC) to Business Park (BP) is Categorically Exempt from CEQA in that there is no potential that the GPA/ZC will result any significant effects on the environment until development is proposed for the sites, at which time an initial study will be required.

2. **Approve General Plan Amendment No. 08-2502.** Approve General Plan Amendment No. 08-2502 changing the land use from General Commercial (GC) to Business Park (BP) as shown in Exhibit A of this Resolution which is attached hereto and incorporated herein by reference.
3. **Approve Zone Change No. 08-3503.** Approve Zone Change No. 08-3503 changing the zoning from General Commercial (GC) to Business Park (BP) as described and shown in Exhibit B of this Resolution which is attached hereto and incorporated herein by reference.

**PASSED, APPROVED AND ADOPTED** this 5th day of August 2008.

William Dickson, Chairman
Banning Planning Commission

**APPROVED AS TO FORM AND LEGAL CONTENT:**

Burke, Williams & Sorensen, LLP.
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. 2008-17, was duly adopted by the Planning Commission of the City of Banning, California, at a regular meeting thereof held on the 5th day of August, 2008 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Virginia Sorenson, Recording Secretary
City of Banning, California

G:\538-190-015 Sunset Self Storage\PC Resolution No 2008-17.DOC
Exhibit 'B'

Legal Description

General Plan Amendment No. 08-2502 & Zone Change No. 08-3503

LOT 7 OF C.D. BARKER'S SUBDIVISION AS SHOWN BY MAP ON FILE IN BOOK 7, PAGE 21 OF MAPS, RECORDS OF RIVERSIDE COUNTY
ATTACHMENT 2
VICINITY MAP
Vicinity Map

Not to Scale

General Plan Amendment No. 08-2502 & Zone Change No. 08-3503
ATTACHMENT 3

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ATTACHMENT 4

GENE TAYLOR LETTER (dated 2/2/07)
February 2, 2007

Mr. Oscar Orci
Economic Development Director
City of Banning
99 E Ramsey Street
Banning, CA 92220

Dear Oscar:

Per our recent conversations, attached please find our Application for Zoning Change for our existing multi-use property located at 2909 - 2985 W Lincoln Street in the City of Banning. As you are aware, this property is comprised of 97,800 sq. ft. of self-storage, 32,800 sq. ft. of commercial or storefront retail and 21,000 sq. ft. of high-bay industrial buildings with three-phase electrical service. As you are aware, it was originally developed under M-1 (manufacturing / industrial) zoning in the mid-1980s and the self-storage element was expanded under a conditional use permit in the late-1990s, after the property was rezoned to C-2 in 1991.

Our present problem focuses upon the industrial element of the property, which has become virtually unmarketable following the rezoning last January to GC (General Commercial). This zoning classification specifically excludes the warehousing, R & D, industrial and light manufacturing uses for which the buildings were originally intended (see the leasing brochure located in the CUP file for the self-storage expansion in the mid-1990s).

As discussed, our facility is poised to provide a valuable service to the City of Banning, its residents and business owners, in that there is a real need for skilled jobs in the community, if we are allowed to provide them. We are also anxious to upgrade the facility as Lennar's development further enhances the marketability of our property. In order to accomplish this, we ask for the City's support in approving this Zoning Change, to help us protect the value of our property and continue to contribute to the local economy.

If you have any questions or wish to further discuss this matter, please do not hesitate to call.

Sincerely,

Banning Storage, LLC

[Signature]

The Atherton Group, LLC, Manager
by Eugene W Taylor, managing member
SITUATION

The subject property is a multi-use commercial facility, located on the north side of Lincoln Street, adjacent to the railroad right of way. The property is located 650 feet to the east of Sunset Road encompassing street addresses from 2909 to 2985 W Lincoln. The current owners, Banning Storage, LLC, acquired the property in December, 2001.

The facility is comprised of:

- 660 units of self storage, totaling 97,800 net rentable square feet, and ranging in size from 25 sq ft (5’x5’) to 600 sq ft (20’x30’).
- Two retail store front buildings. Each building provides a total of 10 rentable units. One building is 232’x70’ (16,240 sq ft) while the other is 237’x70’ (16,590 sq ft). Combined, the buildings yield a total of 32,830 net rentable square feet of retail.
- Two industrial tilt-up buildings. Each building totals 10,500 sq ft (150’x70’), with small offices and large open workspaces. These buildings provide high-bay roll-up door access in the rear and 3 phase (industrial-grade) electrical service. One building is demised into three units: two 37.5’x70’ (2,625 sq ft) units and one 75’x70’ (5,250 sq ft) units. The other building is set up as a single user building with a secured vehicle storage yard in the rear.

At the time we acquired it, the self-storage facility enjoyed good occupancy, but the commercial and industrial buildings were only sparsely occupied, with several questionable tenants. In fact, we faced serious problems in finding a lender who would finance the property, because of its location. Yet, we believed in the City of Banning and made a significant financial commitment to this community.

After acquisition, we immediately began to upgrade the tenant base. During the acquisition process, we also met with local officials, including the Economic Development Director, Chief of Police and the Executive Director of the Chamber of Commerce. At their suggestion, we:

- Offered a vacant retail suite to the Police Department as a Local Policing Station. When that was found to be impossible, we offered the use of a vacant suite for conducting community meetings.
- Dismantled the non-functional do-it-yourself car wash that was located on the south-eastern corner of the property.
- Removed the pay telephone from the corner of one of the commercial buildings, which was found by the Police to be a gathering point for juveniles and drug peddlers.

All this was done to be a good corporate citizen. Since we had committed several million dollars to the investment, our goal was to make a positive contribution to the City of Banning.

BACKGROUND

When the facility was originally constructed (in the mid-1980s), the property was zoned M (manufacturing). During due diligence, we met with people in City Planning, and were told (incorrectly, as we later learned) that the property was still zoned M. In fact, the property was rezoned from M to C-2 during the revision General Plan revision that was adopted in 1991. In the most recent revision to the General Plan (January, 2006), the property was further downzoned: from C-2 to GC (General Commercial).
IMPACT

The problem we face as property owners under the current zoning focuses specifically upon the two industrial tilt-up buildings. These buildings were developed for industrial use, including such industrial characteristics as high-bay interiors, high-bay (14') roll-up doors and three-phase electrical power. Marketing materials provided to us by the City (from the previous owner’s zoning variance application which preceded the expansion of the self-storage facility) confirm that these two buildings were built and ALWAYS intended for industrial use.

Under the current zoning, virtually all of the real potential uses for these buildings are prohibited, including: construction and contractor storage, research & development, distribution, mixed use office/industrial, warehousing, wholesaling, auto mechanical, body repair, auto painting and storage of any type.

In a recent meeting with one of the property owners, the City's Community Development Director asserted that these two buildings were originally designed for storage, yet the current zoning specifically excludes storage or warehousing of any type.

The net impact of the recent rezoning is to render these two buildings (totaling 21,000 sq ft) VIRTUALLY UNUSABLE. We are told that we can use them for retailing, but a 10,500 sq ft retail facility requires more than the 20 or so parking spaces that are available to the tenants and their customers of each building. Retail use requires five parking spaces per 1,000 sq ft, or 105 spaces PER BUILDING. According to the current the parking regulations and requirements which are now incorporated into the Master Plan, the buildings are virtually useless, given the amount of parking space available on the site.

The City says that a multi-use facility of this type should never have been built — and that may well be true. But the fact is, it was built — and approved by the city BEFORE construction. Unfortunately, none of the people involved in the development, construction or approval of this facility are still around to explain their rationales. The original owner/developer lost the property to foreclosure (evidence that it was a bad plan — or at least bad timing), and none of the folks with the City who approved the plans are still on the City payroll.

The current owner is simply holders in due course, who has made a significant commitment to the City of Banning and is simply seeking to find a way to attract tenants to the property. By keeping the property occupied we will create jobs and generate tax revenue in and for the City of Banning. If we are forced to let the buildings set empty seeking a tenant who would never consider this type of facility, they will eventually go into disrepair and become an eyesore and attract the kind of attention none of us want. At this point in time, all we are asking the City to do is recognize exactly what we have, and help us find zoning that will be in the best interest of the City, it’s citizens and the property owners.

PROPOSED SOLUTION

The owners of the property are seeking regulatory relief in the form of a Zoning Change. In a meeting with the City, the Community Development Director suggested that we consider a rezoning from GC to BP (Business Park). A Business Park is defined by the City Code as a multi-use development, combining retail stores, office/warehouses, light industrial and office uses within a single property. That mixed-use designation describes this property perfectly: 98,000 sq ft of self-storage, 33,000 sq ft of storefront retail and 21,000 sq ft of high bay industrial — all on a single parcel of land.
Without zoning relief, we will continue to be unable to find tenants which are suitable to the City for the two industrial buildings. As a result, the owners are being deprived of our legitimate use for of these buildings intended uses at the time they were approved and constructed (the kinds of uses businesses would consider renting a tilt-up industrial building for). If the City had not intended the buildings to be occupied and used by industrial users, they would surely have denied the building permits. And, we have received no objection, neither written nor verbal, to the tenants which have occupied these buildings at any time since we acquired the property in 2001 (including a moving and storage company).

Not permitting these buildings to be used for their intended use devalues the entire property. We understand that the City needs to plan for the future, but “plans” and future prognostications should not be at the expense of the City’s current residents and business owners who have made significant investments in the City, only to have their properties devalued via a “plan” that doesn’t adequately protect them, or take into account the current use of the property IN ITS PRESENT FORM. When a home is rezoned from residential to commercial, they can continue to live in it or rent it out. But, when a commercial or industrial property is rezoned, the City can prevent the owners from using the property for its intended use.

In summary, a zoning change to BP (Business Park) would allow this existing property to continue to operate for its intended use, returning us to full occupancy, maximizing its contribution to the current and future growth of the City – both in sales tax revenue and its employment base. Thank you for your prompt attention to this important matter.
ATTACHMENT 5

PERMITTED USES MATRIX (1990’s Zoning)
c. Minor repairs conducted outdoors shall be rendered within ten feet of an occupied automotive service bay, and not within any portion of a required parking stall. The service area shall be demarcated by reflective cones, rope, chain or other method approved by the city's planning department.

d. All permitted repairs shall be conducted during normal hours of the business operation.

e. Vehicles scheduled for repair shall not be stored in required off-street parking spaces overnight, and shall not be stored on-site for a period greater than seven days.

f. Such repairs shall not impede vehicular or pedestrian traffic or block access required by emergency vehicles on the property.

g. Such repairs including vehicles, parts, and tools shall not encroach onto any portion of a public right-of-way. (Ord. No. 886, § 1 (part); Ord. No. 1210, § 1 (part); Ord. No. 1211, § 1 (part).)

ARTICLE 9
C-1-LIMITED COMMERCIAL ZONE (C-1 ZONE)

§ 9109: Permitted uses.
§ 9109.A: Permitted uses subject to a conditional use permit.
§ 9109.05: Permitted uses subject to an approved land use.
§ 9109.1: Height.
§ 9109.2: Front yard.
§ 9109.3: Side yards.
§ 9109.4: Rear yard.
§ 9109.5: Limitations on permitted uses in C-1 Zone.

Sec. 9109: Permitted uses.

In a C-1 Zone no building shall be erected, reconstructed or structurally altered, nor shall any building or land be used for any purpose except as hereinafter provided and allowed by this article. The following uses are permitted, subject to the provisions of Article 13, governing off-street parking requirements.

(1) Any residential use when located above a ground floor.

(2) Bakeries, retail.

(3) Banks.

(4) Barbershops or beauty shops.
(5) Cafes and restaurants. No dancing, entertainment or on-site sale of alcoholic beverages permitted except as otherwise expressly provided in this code.

(6) Cleaning and dyeing agencies (including sponging, pressing and spotting only).

(7) Drugstores.

(8) Food markets.

(9) Furniture and appliance stores.

(10) Gasoline service stations (automotive service stations), subject to review and issuance of a conditional use permit as set forth in article 16 and 16B.

(11) Grocery stores.

(12) Hardware stores.

(13) Jewelry stores.

(14) Laundry agencies, hand laundries and self-service laundries (self-operated and automatically equipped).

(15) Deleted.

(16) Locksmiths.

(17) Meats, retail sale of.

(18) Notions stores.

(19) Nurseries, stores or greenhouses for production or sales of plants and flowers.

(20) Poultry, retail sale of (dressed only, and no live poultry on premises).

(21) Real estate offices.

(22) Recycling facilities as defined in article 28.

(23) Signs, as permitted in article 25 hereof.

(24) Stationery and book stores.

(25) Studios, record recording studios, interior decorating studios, stores or shops.
§ 9109A

Banning City Code

§ 9109.2

(26) Similar establishments catering directly to consumers.

(27) Animal feed stores. (Ord. No. 614, § 2; Ord. No. 621, § 8; Ord. No. 935 (part); Ord. No. 1095, § 2(part); Ord. No. 1114, § 3; Ord. No. 1123, § 1.)

Sec. 9109A: Permitted uses subject to a conditional use permit.

In the C-1 Zone, permitted uses subject to a conditional use permit include:

1. All off-site sale of alcoholic beverages from any business occupying less than five thousand square feet in area. Subsequent to the adoption of this section, there shall follow a period of eighteen months before the provision requiring the conditional use permit shall become applicable to any "pre-existing" business. A "pre-existing" business is defined as a business for which a business license has been issued on or before the effective date of the adoption of this section. No pre-existing business shall be required to pay fees for the initial issuance of the conditional use permit. Additionally, no pre-existing business shall be required to make expenditures in excess of one thousand dollars as a condition of the initial issuance of the conditional use permit.

2. Churches. (No fee for processing same.) (Ord. No. 1112, § 2; Ord. No. 1114, § 4.)

Sec. 9109.05: Permitted uses subject to an approved land use permit.

In the C-1 Zone, permitted uses subject to an approved land use permit include:

(1) On-site sale (on-sale license) of alcoholic beverages for consumption within a cafe or restaurant. (Ord. No. 1123, § 2.)

Sec. 9109.1: Height.

No building or structure, or any part thereof in a C-1 Zone shall be erected to a height exceeding two and one-half stories or thirty-five feet, whichever is the lesser.

Sec. 9109.2: Front yard.

Every lot and every parcel of land in a C-1 Zone shall have a front yard only when any one or more of the following conditions apply:

(1) When property classified as C-1 comprises part of the frontage in a block on one side of a street between intersecting streets and the remainder of the frontage in the same block is classified for "R" purposes, the front yard in such C-1 Zone shall conform to the front yard required in the "R-3" Zone.

(2) A front yard shall be provided as may be required by an official plan, variance or conditional use permit.

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Sec. 9109.3: Side yards.

Every lot and every parcel of land in a C-1 Zone, when devoted to a use permitted initially in a C-1 Zone, but not permitted in an R-3 Zone, need provide no side yards except as may be required by an official plan, variance or conditional use permit.

Sec. 9109.4: Rear yard.

Every lot and every parcel of land in the C-1 Zone, when used for C-1 purposes and the rear of the lot abuts upon property classified for R-1, R-2 and R-3 purposes, and does not abut upon an alley, it shall provide a rear yard fifteen feet in depth. In all other cases, when such lot or parcel of land is devoted to a use permitted initially in a C-1 Zone, no rear yard need be provided except such as may be required by an official plan, variance or conditional use permit.

Sec. 9109.5: Limitations on permitted uses in C-1 Zone.

Every use permitted in a C-1 Zone shall be subject to the following conditions and limitations:

(1) Except as otherwise specifically set forth herein, every purpose for which land may be used within this zone shall be conducted wholly within a building. This limitation shall not apply to landscape nurseries and similar enterprises which routinely store and display merchandise which has an external use. This limitation shall not apply to the outdoor display of merchandise which does not have an external use when such merchandise is displayed in the following manner:

(a) All merchandise being displayed shall occupy the same parcel of land as the business making the display. The above notwithstanding, merchandise may be displayed within the city’s right-of-way upon the approval of an encroachment permit for such use by the city engineer. Any such encroachment permit shall specifically set forth the following:

Permittee shall hold harmless, indemnify and defend the city and its officers, employees, and agents from any and all losses, claims or judgments for damages to any person or property arising from the installation, maintenance or presence of the facilities or out of the acts or omissions of permittee’s lessees. Permittee shall obtain and maintain comprehensive general liability insurance covering any liability of permittee, permittee’s lessees, the city of Banning, and their officers, employees and agents arising out of the use or occupation of the premises in an amount not less than one million dollars. This insurance limit does not constitute the limit of permittee’s obligation hereunder. Permittee shall furnish the city with proof of such insurance coverage in a form and manner that is satisfactory in all respects to city attorney.

(b) All merchandise shall be displayed in a manner that will not endanger customers or onlookers.
(c) No merchandise shall be allowed to be placed/established within off-street parking areas without first obtaining approval from the city's planning department.

(d) All merchandise shall be freestanding and shall not be allowed to be attached to roofs, walls, windows, or doors of buildings.

(e) Merchandise shall only be allowed to be displayed during the normal business hours of the business at which the item is displayed. The presence of a security guard shall be considered an extension of normal business hours.

(f) No "sexually oriented" items shall be displayed outside.

(2) Products made incident to a permitted use shall be sold only at retail on the premises.

(3) Deleted.

(4) Not more than five persons may be employed in the processing and treatment of products made incident to a permitted use.

(5) Storage shall be limited to accessory storage on commodities sold at retail on the premises.

(6) Any garage having an entrance fronting on an alley shall be located not closer than twenty feet from the centerline of such alley.

(7) Minor automotive repairs may be conducted outside of a building subject to the following:

(a) Minor automotive repairs shall be limited to: tire repair and rotation, brake jobs, minor engine tune-ups not involving removal of engine parts/fluids, excepting: points, spark plugs, distributor wires and caps, rotors, air filters, etc. The changing or discharge of engine oil, antifreeze, transmission fluids, axle fluids, or any other automotive fluids is prohibited.

(b) The minor repairs listed in subsection (a) may be conducted outdoors providing: (1) all automotive service bays within the building are occupied with vehicles undergoing repairs, or (2) the vehicle to be repaired does not fit into a service bay.

(c) Minor repairs conducted outdoors shall be rendered within ten feet of an occupied automotive service bay, and not within any portion of a required parking stall. The service area shall be demarcated by reflective cones, rope, chain or other method approved by the city's planning department.

(d) All permitted repairs shall be conducted during normal hours of the business operation.
(e) Vehicles scheduled for repair shall not be stored in required off-street parking spaces overnight, and shall not be stored on-site for a period greater than seven days.

(f) Such repairs shall not impede vehicular or pedestrian traffic or block access required by emergency vehicles on the property.

(g) Such repairs including vehicles, parts, and tools shall not encroach onto any portion of a public right-of-way. (Ord. No. 621, § 9; Ord. No. 1095, § 2 (part); Ord. No. 1210, § 1 (part); Ord. No. 1211, § 1 (part).)

ARTICLE 10

C-2--GENERAL COMMERCIAL ZONE (C-2 ZONE)

§ 9110: Permitted uses.
§ 9110.1: Uses permitted, subject to an approved land use permit.
§ 9110.2: Uses permitted, subject to an approved conditional use permit.
§ 9110.3: Similar uses, ambiguity, or omission.
§ 9110.4: Property development standards.
§ 9110.5: Limitations on permitted uses in the C-2 zone.
§ 9110  Zoning  § 9110

Sec. 9110: Permitted uses.

In a C-2 zone, no building shall be erected, reconstructed or structurally altered, nor shall any building or land be used for any purpose except as herein provided. The following uses are permitted:

(1) All permitted uses in the C-1 zone district.

(2) The assembly of manufactured and premanufactured materials, provided;

   (a) The products produced are sold at retail on the premises;

   (b) 25% of floor space is maintained as a retail sales area;

   (c) In addition to the on-site improved parking space for customers, one space for each two employees, including owners, shall be provided;

   (d) No more than 50% of floor area is devoted to manufacturing uses.

(3) Deleted.

(4) Bakeries, provided that a minimum of 25% of floor area is devoted to retail sales.

(5) Bowling alleys.

(6) Carpet and rug cleaning plants.

(7) Cleaning and dyeing plants using cleaning fluids with flash point of not less than 140 degrees Fahrenheit.

(8) Coin operated laundries and retail services laundries only.

(9) Commercial swimming pools.

(10) Health Spa/Gymnasium.

(11) Manufacturing of ceramics, a maximum of one (1) kiln not exceeding eight (8) cubic feet in size and any product produced shall be sold at retail on the premises.

(12) Parking lot for automobiles (see Section 9113.8(E)(14) and 9113.8(E) for improvements required).

(13) Pawn shops.
§ 9110.1 Banning City Code § 9110.2

(14) Pet stores and/or grooming services.

(15) Public parking facilities.

(16) Radiator repair and sales, provided that all repair work is conducted wholly within a building.

(17) Deleted.

(19) Sales of new or used licensed motor vehicles.

(20) Service and repair, including mechanical and body work, of all motor vehicles provided all such activities shall be conducted wholly within a building.

(21) Upholstery shops. (Ord. No. 545, § 26; Ord. No. 614, § 2; Ord. No. 621, § 10; Ord. No. 663, § 1; Ord. No. 670, § 1; Ord. No. 681, § 1; Ord. No. 739, § 2; Ord. No. 760, § 1; Ord. No. 792, § 2; Ord. No. 794, § 3; Ord. No. 807, § 3; Ord. No. 809, § 1; Ord. No. 845, § 1; Ord. No. 925 (part); Ord. No. 1123, § 4; Ord. No. 1202, § 1.)

Sec. 9110.1: Uses permitted subject to an approved land use permit.

(1) Commercial car wash.

(2) Funeral homes.

(3) On-site sale (on-sale license) of alcoholic beverages for consumption within a cafe or restaurant. (Ord. No. 809, § 1; Ord. No. 1123, § 5.)

Sec. 9110.2: Uses permitted subject to an approved conditional use permit.

(1) Any use permitted in the R-3 provided that any residential use shall conform to the provisions governing the R-3 zone.

(2) Automotive service stations.

(3) Bars and cocktail lounges.

(4) Deleted.

(5) Motels, Hotels, Recreational Vehicles and Mobile Home Parks, provided that no such Recreational Vehicle or Mobile Home Park may be permitted on any parcel less than five acres in size.

(a) Notwithstanding any other provision of this ordinance code to the contrary, following the effective date hereof, each motel operating within the
City that does not possess a Conditional Use Permit shall be issued such permit by the City. The permit shall be issued pursuant to the procedures set forth at Banning Ordinance Code Section 9116.1 et seq. Every motel operating within the City of Banning shall thereafter operate consistent with the conditions set forth in the conditional use permit for that motel. No motel, after the issuance of the conditional use permit, shall have nonconforming status as to its operation. The permit shall be issued without charge to any motel operating under an active and valid business certificate on the effective date of this section. The owner of the motel shall have one year following date of the issuance of the conditional use permit within which to complete any capital improvements to the facility which may be required as a condition of operation under the conditional use permit. All conditions not related to capital improvements shall otherwise become effective on the date set by the Planning Commission or the City Council after hearing an appeal.

(b) Any motel already issued a Conditional Use Permit prior to the effective date of this Ordinance shall be subject to the City amending said permit and attaching new conditions. The amendments to the permit shall be issued without charge to any motel operating under an active and valid business certificate on the effective date of this section.

(6) Manufacturing, sale or lease of signs.

(7) Pinball and video arcade.

(8) Deleted.

(9) Equipment rental yards.

(10) All off-site sale of alcoholic beverages from any business occupying less than five thousand (5,000) square feet in area. Subsequent to the adoption of this section, there shall follow a period of eighteen (18) months before the provision requiring the conditional use permit shall become applicable to any "pre-existing" business. A "pre-existing" business is defined as a business for which a business license has been issued on or before the effective date of the adoption of this section. No pre-existing business shall be required to pay fees for the initial issuance of the conditional use permit. Additionally, no pre-existing business shall be required to make expenditures in excess of one thousand dollars ($1,000.00) as a condition of the initial issuance of the conditional use permit.

(11) Churches. (No fee for processing same.)

(12) Public facilities and uses.

(13) Billiard Parlors, pool halls.
§ 9110.3 Banning City Code § 9110.4

(14) Auditoriums, theaters (both live and motion pictures) and other places of public assembly.

(15) Recycling facilities as defined in Article 28. Such facilities shall be exempt from processing a Conditional Use Permit in instances where statutes mandate that recycling facilities be established as an ancillary use to the primary land use. (Ord. No. 809, § 1; Ord. No. 845, § 1; Ord. No. 881, § 1; Ord. No. 1112, § 3; Ord. No. 1114, § 5; Ord. No. 1183, § 3(part); Ord. No. 1202, § 2; Ord. No. 1244 § 1; Ord. No. 1312, § 1.)

Sec. 9110.3: Similar uses, ambiguity, or omission.

Should a similar use, ambiguity, or an omission arise concerning the appropriate classification of a particular use within the meaning and intent of this section or when a use is not specifically listed as a permitted use, Land Use Permit or Conditional Use Permit, then the provisions of Section 9113.3 of this Ordinance shall apply. (Ord. No. 790, § 1; Ord. No. 809, § 1.)

Sec. 9110.4: Property development standards.

The following minimum property development standards shall apply to all land and buildings located within this zone district.

(1) **Lot Area** - All lots hereafter created in this district shall contain a minimum of six thousand five hundred (6,500) square feet and no lot in this district shall be reduced below this standard.

(2) **Lot Dimensions** - All lots shall maintain the following minimum standards and no lot shall be created which does not satisfy these standards:

(a) **Width of Lot**: Sixty-five (65) feet.

(b) **Depth of Lot**: One hundred (100) feet.

(3) **Minimum Yard Requirements**.

(a) **Front Yard**: None, except where the frontage is partially in a residentially developed block in which case the front yard shall be the same as established by an average setback of said residential units of that block.

(b) **Side Yard**: None, except where the side of a lot abuts the side of a residentially developed lot, in which case the side yard shall not be less than five (5) feet.

(c) **Rear Yard**: None, except where the rear of a lot abuts residentially developed lot, in which case the rear yard shall not be less than ten (10) feet.
(d) In the case of commercial uses, setback requirements derived from an abutting residential use, may be less than those required by this Section upon securing an approved Land Use Permit.

(e) **Maximum Structural Height**: Thirty-five (35) feet. Additional height may be permitted upon securing an approved Conditional Use Permit.
§ 9110.5  Zoning  § 9110.5

(f) Off-Street Parking and Loading Facilities: Off-street parking and loading facilities shall be required in the C-2 district as specified in Article 13, Section 9113.11 through 9113.15 of this Ordinance code.

(g) Converted Structures: Structures originally designed or intended for residential purposes shall be subject to the following conditions:

(1) The required front yard of the residential structure be either permanently maintained in landscaping or shall be occupied by a structure as approved by procedures as set forth in Article 16-E of Appendix "A" (Design Review Board) of this Ordinance code.

(2) Site and Building Design—Site plans and architectural elevations of all proposed projects shall be submitted to and approved by the Planning Department and Design Review Board. (Ord. No. 809, § 1.)

Sec. 9110.5: Limitations on permitted uses in C-2 zone.

Every use permitted in a C-2 Zone shall be subject to the following conditions and limitations.

(1) Except as otherwise specifically set forth herein, every purpose for which land may be used within this zone shall be conducted wholly within a building. This limitation shall not apply to landscape nurseries and similar enterprises which routinely store and display merchandise which has an external
use. This limitation shall not apply to the outdoor display of merchandise which does not have an external use when such merchandise is displayed in the following manner:

(a) All merchandise being displayed shall occupy the same parcel of land as the business making the display. The above notwithstanding, merchandise may be displayed within the city's right-of-way upon the approval of an encroachment permit for such use by the city engineer. Any such encroachment permit shall specifically set forth the following:

Permittee shall hold harmless, indemnify and defend the city and its officers, employees and agents from any and all losses, claims or judgments for damages to any person or property arising from the installation, maintenance or presence of the facilities or out of the acts or omissions of permittee's lessees. Permittee shall obtain and maintain comprehensive general liability insurance covering any liability of permittee, permittee's lessees, the city of Banning, and their officers, employees and agents arising out of the use or occupation of the premises in an amount not less than one million dollars. This insurance limit does not constitute the limit of permittee's obligation hereunder. Permittee shall furnish the city with proof of such insurance coverage in a form and manner that is satisfactory in all respects to city attorney.

(b) All merchandise shall be displayed in a manner that will not endanger customers or onlookers.

(c) No merchandise shall be allowed to be placed/established within off-street parking areas without first obtaining approval from the city's planning department.

(d) All merchandise shall be freestanding and shall not be allowed to be attached to roofs, walls, windows, or doors of buildings.

(e) Merchandise shall only be allowed to be displayed during the normal business hours of the business at which the item is displayed. The presence of a security guard shall be considered an extension of normal business hours.

(f) No "sexually oriented" items shall be displayed outside.

(2) Any use which may generate noxious odors, noise, nuisance or hazards to life or property shall not be permitted.

(3) Minor automotive repairs may be conducted outside of a building subject to the following:

(a) Minor automotive repairs shall be limited to: tire repair and rotation, brake jobs, minor engine tune-ups not involving removal of engine parts/fluids, excepting: points, spark plugs, distributor wires and caps, rotors, air filters, etc. The changing or discharge of engine oil, antifreeze, transmission fluids, axle fluids, or any other automotive fluids is prohibited.
(b) The minor repairs listed in subsection (a) may be conducted outdoors providing: (1) all automotive service bays within the building are occupied with vehicles undergoing repairs, or (2) the vehicle to be repaired does not fit into a service bay.

(c) Minor repairs conducted outdoors shall be rendered within ten feet of an occupied automotive service bay, and not within any portion of a required parking stall. The service area shall be demarcated by reflective cones, rope, chain or other method approved by the city's planning department.

(d) All permitted repairs shall be conducted during normal hours of the business operation.

(e) Vehicles scheduled for repair shall not be stored in required off-street parking spaces overnight, and shall not be stored on-site for a period greater than seven days.

(f) Such repairs shall not impede vehicular or pedestrian traffic or block access required by emergency vehicles on the property.

(g) Such repairs including vehicles, parts, and tools shall not encroach onto any portion of a public right-of-way. (Ord. No. 670 § 2; Ord. No. 794, § 3; Ord. No. 807, § 3; Ord. No. 809, § 1; Ord. No. 1210, § 1 (part); Ord. No. 1211, § 1 (part).)
ATTACHMENT 6

PERMITTED USES MATRIX (2006 Zoning)
Chapter 17.12
COMMERCIAL AND INDUSTRIAL DISTRICTS

Sections:

Article I.
General Provisions
17.12.010 Purpose—Districts designated.
17.12.020 Permitted, conditional and prohibited uses.

Article II.
Land Use District Development Standards
17.12.030 Table of commercial and industrial development standards.
17.12.040 General standards.
17.12.050 Use specific standards.
17.12.060 Applicable regulations.

Article III.
Commercial and Industrial Development Design Guidelines
17.12.070 General.
17.12.080 Applicability.
17.12.090 General design principles.
17.12.100 Site planning.
17.12.110 Parking and circulation.
17.12.120 Landscaping.
17.12.130 Walls and fences.
17.12.140 Screening.
17.12.150 Architectural design guidelines.
17.12.160 Roofs.
17.12.170 Lighting.

Article I.
General Provisions

17.12.010 Purpose—Districts designated.
A. This chapter is intended to support the development of a broad range of commercial and industrial businesses, by:

1. Preventing uses which are incompatible with commercial and industrial land uses from locating in these districts.
2. Providing for different types of commercial and industrial land uses which can locate in areas where they are assured compatible neighbors.
3. Providing sufficient safeguards for the City’s residents and workers by providing for buffers, clean industry and safe circulation.
4. Minimizing the negative impacts of traffic intensity, such as noise, polluted air, gridlock, and danger to pedestrians.
5. Planning for the provision of public improvements and infrastructure to serve Banning’s commercial and industrial neighborhoods.
6. Improving declining or blighted commercial and industrial areas.

B. Each of the commercial and industrial districts being created is described below.
1. Downtown Commercial (DC).
   a. This District occurs on Ramsey Street, between 8th Street and Hargrave Street on the west and east, by Interstate 10 on the south, and by Williams and Nicolet on the north. This area is the City’s traditional commercial core, and has special significance to the community because small scale commercial retail and office uses, services, restaurants, and entertainment retail are the primary uses in this district. Large single users in excess of 25,000 square feet are not appropriate in this district. Mixed Use, residential land uses in combination with commercial businesses, are also encouraged. Bed & breakfasts, hotels and motels are also appropriate in this district.
   b. New auto related uses proposed after adoption of the 2005 General Plan will be prohibited. All existing auto uses in existence as of the adoption of the 2005 General Plan will be permitted until such time as the use in a particular location ceases operation for a period of six months.
   c. Special standards and permits are applied to this district, and are included under Development Standards, Article II of this chapter.
2. General Commercial (GC).
   a. This district is the broadest of the City’s commercial districts, and allows food and drug
stores; home improvement; auto sales, leasing, service and repair; department and general retail outlets; merchandise leasing; neighborhood serving retail and services; restaurants; entertainment uses; gas stations; general offices (secondary to retail); mixed uses; and financial institutions.

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

3. Highway Serving Commercial (HSC). This district allows land uses geared toward the Interstate 10 traveller, including restaurants (fast food and sit down), hotels and motels, auto related retail, repair and services, including gas stations, convenience stores and similar uses.

4. Professional Office (PO). This district allows professional offices and social services, and financial institutions, all with only ancillary retail. Mixed use projects may also be permitted, with approval of a conditional use permit.

5. Industrial (I). This district includes industrial parks and freestanding industrial users. Examples of permitted uses include light and medium intensity manufacturing operations, warehousing and distribution, minisorage, and associated offices. Commercial recreation facilities, auto storage and repair is also allowed. Retail uses ancillary to the industrial use are also appropriate.

6. Airport Industrial (AI). Land uses must be focused on airport-related and transportation-related functions, including machining, manufacturing, warehousing, flight schools, restaurants and office uses. Aircraft maintenance, repair and catering services are also appropriate.

7. Business Park (BP). Light industrial and office/warehouse buildings are appropriate in this district. Restaurants and retail uses ancillary to a primary use, and professional offices are also appropriate. Commercial development, such as large-scale retail (club stores, home improvement, etc.) and mixed-use project may also be permitted, subject to a conditional use permit.

8. Industrial—Mineral Resources (IMR). This district allows surface mining operations on lands designated by the City or the state as having significant potential for mineral resources. All the requirements of the State Department of Mining and Geology shall apply. (Zoning Ord. dated 1/31/06, § 9103.01.)

17.12.020 Permitted, conditional and prohibited uses.

The following list represents those in the commercial and industrial districts which are Permitted (P), subject to a Conditional Use Permit (C) or Prohibited (X). All uses proposed in the Commercial and Industrial districts are subject to Design Review.

Table 17.12.020
Permitted, Conditional and Prohibited Commercial and Industrial Uses

<table>
<thead>
<tr>
<th>Resource and Open Space Uses</th>
<th>DC</th>
<th>GC</th>
<th>HSC</th>
<th>PO</th>
<th>I</th>
<th>AI</th>
<th>BP</th>
<th>IMR</th>
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<tbody>
<tr>
<td>Plant nurseries, with on-site sales</td>
<td>X</td>
<td>P</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>Plant nurseries, without on-site sales</td>
<td>X</td>
<td>C</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
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<tr>
<td>Surface Mining¹</td>
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<td>X</td>
<td>X</td>
<td>X</td>
<td>C</td>
<td>X</td>
<td>X</td>
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<td>Cargo/Storage Containers²</td>
<td>X</td>
<td>T</td>
<td>T</td>
<td>X</td>
<td>C</td>
<td>C</td>
<td>C</td>
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<tr>
<td>Recreation, Education and Public Assembly</td>
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<td></td>
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<tr>
<td>Adult entertainment</td>
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<td>X</td>
<td>X</td>
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<td>Adult day care facilities</td>
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<td>C</td>
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<td>C</td>
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<td>Service Type</td>
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<td>HSC</td>
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<td>I</td>
<td>AI</td>
<td>BP</td>
<td>IMR</td>
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<tr>
<td>Automobile race track</td>
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<td>X</td>
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<td>Billiard parlors/pool halls</td>
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<td>X</td>
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<td>C</td>
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<td>Community centers</td>
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<td>P</td>
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<td>X</td>
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<td>Day Care Centers</td>
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<td>C</td>
<td>X</td>
<td>C</td>
<td>X</td>
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<td>Health/fitness facilities</td>
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<td>P</td>
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<td>Indoor recreation centers</td>
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<td>X</td>
<td>X</td>
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<td>P</td>
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<td>C</td>
<td>C</td>
<td>P</td>
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<td>P</td>
<td>X</td>
<td>P</td>
<td>X</td>
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<tr>
<td>Outdoor commercial recreation</td>
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<td>P</td>
<td>P</td>
<td>C</td>
<td>X</td>
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</tr>
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<td>Public parks and playgrounds</td>
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<td>P</td>
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<td>Recreational vehicle (RV) parks</td>
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<td>C</td>
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<td>C</td>
<td>C</td>
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<tr>
<td>Studios for dance, art, music, photography, etc.</td>
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<td>P</td>
<td>P</td>
<td>P</td>
<td>C</td>
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<td>C</td>
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<td>Theatres and meeting halls</td>
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<td>C</td>
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<td>C</td>
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<td>Retail Uses</td>
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<td>P</td>
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<td>P</td>
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<td>Accessory retail uses</td>
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<td>P</td>
<td>P</td>
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<td>Alcoholic Beverage Sales, on- or off-site</td>
<td>X</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>X</td>
<td>X</td>
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<td>Antique stores</td>
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<td>X</td>
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<td>X</td>
<td>P</td>
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<td>Art Galleries</td>
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<td>X</td>
<td>P</td>
<td>P</td>
<td>X</td>
</tr>
<tr>
<td>Auto, mobile home, and motor vehicle sales, and part sales, new</td>
<td>X</td>
<td>P</td>
<td>P</td>
<td>X</td>
<td>C</td>
<td>X</td>
<td>C</td>
<td>X</td>
</tr>
<tr>
<td>Auto, mobile home, and motor vehicle sales, and part sales, new and used</td>
<td>X</td>
<td>P</td>
<td>P</td>
<td>X</td>
<td>C</td>
<td>X</td>
<td>C</td>
<td>X</td>
</tr>
<tr>
<td>Bakeries, retail</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>C</td>
<td>X</td>
<td>X</td>
<td>P</td>
</tr>
<tr>
<td>Bars and drinking establishments</td>
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<td>X</td>
<td>X</td>
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<td>Building material stores</td>
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<td>X</td>
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<td>Certified farmers' markets</td>
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<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Convenience Stores</td>
<td>C</td>
<td>P</td>
<td>P</td>
<td>X</td>
<td>C</td>
<td>X</td>
<td>X</td>
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<tr>
<td>Convenience Stores, no liquor sales</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>P</td>
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</tr>
<tr>
<td>Department stores</td>
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<td>P</td>
<td>P</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>P</td>
<td>X</td>
</tr>
<tr>
<td>Drive-in and drive-through sales</td>
<td>X</td>
<td>P</td>
<td>P</td>
<td>C</td>
<td>X</td>
<td>X</td>
<td>C</td>
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</tr>
<tr>
<td>Drug stores</td>
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<td>P</td>
<td>P</td>
<td>C</td>
<td>X</td>
<td>X</td>
<td>C</td>
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</tr>
<tr>
<td>Factory outlet centers</td>
<td>X</td>
<td>P</td>
<td>P</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>C</td>
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</tr>
<tr>
<td>Farm and ranch supply stores</td>
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<td>P</td>
<td>P</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
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</tr>
<tr>
<td>Service Type</td>
<td>DC</td>
<td>GC</td>
<td>HSC</td>
<td>PO</td>
<td>I</td>
<td>AI</td>
<td>BP</td>
<td>IMR</td>
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</tr>
<tr>
<td>Furniture, furnishings, home equipment stores</td>
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<td>X</td>
<td>X</td>
<td>X</td>
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<tr>
<td>Gift shops</td>
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<td>P</td>
<td>C</td>
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<td>P</td>
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<td>Grocery stores, retail butchers and green grocers</td>
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<td>X</td>
<td>X</td>
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<td>Hardware/lumber stores</td>
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<td>P</td>
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<td>Liquor stores (off-site consumption)</td>
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<td>C</td>
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<td>Outdoor retail merchandise display &amp; activities</td>
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<td>Outdoor retail sales, temporary</td>
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<td>T</td>
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<td>T</td>
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<td>Pawn shops</td>
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<td>X</td>
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<td>X</td>
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<td>Pet stores and grooming</td>
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<td>X</td>
<td>X</td>
<td>X</td>
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<td>Restaurants, no beer, wine or liquor sales</td>
<td>P</td>
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<td>P</td>
<td>C</td>
<td>X</td>
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<tr>
<td>Restaurants, serving beer, wine or liquor</td>
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<td>C</td>
<td>C</td>
<td>C</td>
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<td>Restaurants, drive-in, take-out, fast food</td>
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<td>P</td>
<td>P</td>
<td>C</td>
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<td>Retail stores, general merchandise</td>
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<td>Shopping centers, 15,000 square feet or more</td>
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<td>Video rental stores</td>
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<td>P</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>P</td>
<td>X</td>
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<tr>
<td>Warehouse or club stores (i.e., &quot;Big box stores&quot;)</td>
<td>X</td>
<td>P</td>
<td>P</td>
<td>X</td>
<td>X</td>
<td>X</td>
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<tr>
<td>Services</td>
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<td>P</td>
<td>P</td>
<td>P</td>
<td>X</td>
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<td>Automatic teller machine (ATM), not at a bank</td>
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<td>P</td>
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<td>X</td>
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<tr>
<td>Banks and financial establishments/services</td>
<td>P</td>
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<td>P</td>
<td>P</td>
<td>X</td>
<td>X</td>
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<tr>
<td>Barber Shops and Beauty Shops</td>
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</tr>
<tr>
<td>Bed and breakfast establishments</td>
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<td>C</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
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</tr>
<tr>
<td>Business support/secretarial services</td>
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<td>P</td>
<td>P</td>
<td>X</td>
<td>P</td>
<td>P</td>
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<tr>
<td>Car wash</td>
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<td>X</td>
<td>X</td>
<td>X</td>
<td>C</td>
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<tr>
<td>Columbariums and mortuaries</td>
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<td>C</td>
<td>C</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>C</td>
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</tr>
<tr>
<td>Construction storage (indoor and/or outdoor)</td>
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1 Surface Mining Permit required. See Chapter 17.100.
2 Cargo and storage containers in the commercial zones are only to be used for temporary (seasonal) storage, and require a Temporary Use Permit.
3 Must include a minimum of 50% new product sales.
4 When undertaken in conjunction with on-site retail as a primary use.

(Zoning Ord. dated 1/31/06, § 9103.02; Ord. No. 1355, § 3 (part).)