CALL TO ORDER: Chairman Bill Dickson

- Pledge of Allegiance: Commissioner Kevin Siva
- Roll Call: Matthew Bassi, Interim Community Development Director

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

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.

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.

APPROVAL OF PC MINUTES:

- October 7, 2008
IV. PUBLIC HEARING ITEMS:

1. **Request for Continuation, Design Review #07-7014**: A request to remodel and expand Green Thumb Produce, a retail/wholesale market located at 2648 W. Ramsey Street (APN 538-190-011 & 040).

   **Recommendation**

   Staff recommends that the Planning Commission continue Design Review #07-7014 to the December 2, 2008 meeting.

   Page 4

2. **ZTA No. 08-97509**: A City initiated Zone Text Amendment to adopt development regulations and operational standards for wireless communication facilities in the City of Banning.

   **Recommendation:**

   The Community Development Department recommends the Planning Commission adopt PC Resolution No. 2008-20, recommending City Council approval of Zone Text Amendment No. 08-97509 and adoption of Ordinance 1396 establishing development regulations and operational standards for Wireless Communication Facilities.

   Page 7

3. **ZTA No. 08-97511**: A City initiated Zone Text Amendment revising Section 17.36.170 (Murals) to change the review and approval authority for Murals proposed in the City of Banning.

   **Recommendation:**

   The Community Development Department recommends the Planning Commission adopt PC Resolution No. 2008-23, recommending City Council approval of Zone Text Amendment No. 08-97511 and adoption of Ordinance 1401 to amend section 17.36.170 of the Banning Zoning Ordinance related to murals.

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V. PLANNING COMMISSIONER COMMENTS
VI. DIRECTORS REPORT

1. Receive and file: Draft Housing Element

2. City Council Actions on Planning-Related Items (Oral Report)

VII. FUTURE PROJECTS

- Design Review Application #07-708 - O'Donnell Industrial Park – North of I-10 and east of Hathaway Street
- Design Review Application # 08-703 – CR & R Truck Repair Facility – Juarez Street – between Westward and Barbour
- ZTA #08-97508 – Churches in HSC & Revising Lot Coverage in certain residential zones
- ZTA #08-97502 – Storage Containers and RV Parking

VIII. ADJOURNMENT

The City of Banning Planning Commission is hereby adjourned to the regular Planning Commission meeting of December 2, 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

PLANNING COMMISSION MINUTES

October 7, 2008

A regular meeting of the City of Banning Planning Commission was held on Tuesday, October 7, 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:  
Community Development Director Hansen  
Deputy City Attorney Tom Jex  
Senior Planner Clinton  
Fire Marshal Yarbrough  
Recording Secretary Sorenson

I. CALL TO ORDER

The meeting was called to order at 6:30 p.m. by Chairman Dickson. Mr. Dickson mentioned the passing of Otis Clever. He said Mr. Clever was a previous Planning Commissioner and was considered “Mr. Volunteer”. His passing will leave a void in this City.

II. PUBLIC COMMENTS

Don Robinson, 1474 N. San Gorgonio Avenue, Banning CA came forward to talk about the Green Thumb Produce project. He inquired if there would be an opportunity to talk about this project later in the evening. Chairman Dickson explained the there would be a public comment time when the project was opened and the continuation was requested.

Chairman Dickson commented that we just had our 51st Annual Stagecoach Days and that it was quite a success. He thanked all of the volunteers and said the event could not have been possible without the volunteers.
III. CONSENT CALENDAR

1. Review of Minutes (August 5, 2008 and August 19, 2008)

ACTION (ESCANDEL / HAWKINS): A motion was moved, seconded and carried that the minutes of August 5, 2008 and August 19, 2008 be approved as presented.

(Motion carried 4-0; Commissioner Siva abstained as he was excused from those meetings)

IV. PUBLIC HEARING:

1. Design Review #07-7014: A request to remodel and expand Green Thumb Produce; a retail / wholesale market located at 2648 W. Ramsey Street (APN 538-190-011 & 040).

Chairman Dickson stated that the applicant has requested a continuation of the project. He then opened the meeting for public comment.

Don Robinson, 1474 N. San Gorgonio Avenue, Banning CA, came forward to speak in favor of the Green Thumb project. Mr. Robinson stated that he has leased the property at 2372 W. Ramsey starting in 2001 until the present. It was the beginning home of Renaissance Pet Resort and then became the current home of Hollywoofs, which he moved from Beaumont to Banning. He stated he has enjoyed having the Green Thumb as neighbors. He feels this project is very exciting and stated they are the second largest employer in Banning and deserve every acknowledgement from the City possible. Mr. Robinson stated that since the Green Thumb is a relatively new business and has paid all the fees for the construction of their facility, he hoped the City of Banning would consider lowering some fees or eliminating some fees to demonstrate the City's appreciation of businesses like Green Thumb.

ACTION (ESCANDEL / BARSH): A motion was moved, seconded and carried that the Planning Commission continue this project to the November 5, 2008 meeting.

(Motion carried 5 – 0)

V. PLANNING COMMISSIONER'S COMMENTS
VI. DIRECTOR'S REPORT

1. Status update for ZTA #08-97502 (Storage & RV Parking)
   and ZTA #08-97508 (Churches in HSC Zone & Lot Coverage)

   Director Hansen stated that staff is working with the City Attorney's office to
   put together the appropriate amendments to the zoning text and then bring them
   back to the Planning Commission.

2. November 4th Planning Commission meeting reschedule discussion

   The Planning Commission voted unanimously to change the next meeting
   to November 5th as Tuesday, November 4th was Election Day.

3. City Council Actions on Planning-Related Items

   Director Hansen reported that the City Council accepted the General Plan
   Progress Report and that is to be moved on to the Office of Planning and
   Research. The CEQA Guidelines that were approved by the Planning
   Commission were also approved by the City Council.

4. Presentation by City Attorney: “The Importance of Findings in Land Use
   Decisions”.

   City Attorney Tom Jex gave his presentation and explained the importance
   of findings.

5. Director Hansen read “Noah & the Ark” to the Commissioners. It was a
   tongue in cheek spoof about trying to build an ark with today's regulations,
   building codes and CEQA requirements.

VII. ADJOURNMENT

There being no further business to come before the Planning Commission, the meeting
was adjourned at 7:28 p.m. to the November 5, 2008 meeting.

Respectfully submitted,

[Signature]
Gini Sorensen
Recording Secretary
DATE: November 5, 2008

TO: Mr. Chairman and Members of the Planning Commission

FROM: City of Banning Planning Division

SUBJECT: Request for Continuation, Design Review No. 07-7014:
A request by Mr. Lonnie Saverino (applicant) to remodel and expand Green Thumb Produce; a retail/wholesale market located at 2648 W. Ramsey Street (APN No. 538-190-011 & 040).

The applicant has requested a continuation to the December 2, 2008 meeting (Exhibit “1”).

RECOMMENDATION:

Staff recommends the Planning Commission take the following action:


Respectfully submitted,

Kim Clinton, AICP
Senior Planner

Exhibits:
1. Correspondence (e-mail) from applicant.
DESIGN REVIEW #07-7014
GREEN THUMB PRODUCE

CORRESPONDENCE FROM APPLICANT

EXHIBIT "1"
Kim Clinton

From: Allen DeMo [allen.qtp@verizon.net]
Sent: Wednesday, October 22, 2008 10:21 AM
To: Kim Clinton
Cc: wacyesq@earthlink.net
Subject: RE: Green Thumb

Kim, could you please continue our public hearing to the December Meeting.

Thank you,
Allen DeMo
Green Thumb Produce
CITY OF BANNING
PLANNING COMMISSION REPORT

DATE: November 5, 2008
TO: Chairman and Members of the Planning Commission
FROM: City of Banning Planning Division
SUBJECT: Zone Text Amendment #08-97509:
Planning Commission adoption of PC Resolution No. 2008-20 (Attachment 1)
recommending City Council adoption of Ordinance No. 1396 establishing
development regulations and operational standards for Wireless Communication
Facilities in the City of Banning.

BACKGROUND:

In December 1996, the Planning Commission adopted “Policy Guidelines for the Establishment of
Wireless Antennas” in the City of Banning. These guidelines basically established development
and design regulations for wireless communication facilities and formed the foundation for
identification of suitable zoning districts within the City to accommodate these facilities. A major
focus of the guidelines was to allow wireless communication facilities the option of locating in
either commercial and industrial zones only.

In November 2000, the Planning Commission amended the 1996 policy guidelines to allow,
through the Conditional Use Permit process, wireless facilities to be located on city-owned
properties having water storage tanks located in the R-1 (Single Family) one. A copy of the current
“Policy Guidelines for Wireless Antennas” is provided for Commission review (Attachment 2).

Since the November 7, 2000 Commission action, many technological advances in the wireless
communication field have been made. During the same period, many cities have adopted
ordinances to regulate these types of facilities in an effort to streamline the application process. It is
staff’s intent with this proposal to “codify” the current wireless guidelines into zoning law and to
create a more streamlined review process for wireless facilities that are “stealth” design.

ANALYSIS:

Draft Ordinance No. 1396 (Exhibit 1 of Attachment 1) establishes a new chapter in the Banning
Zoning Ordinance specifically for Wireless Communication Facilities (Chapter 17.41). Chapter
17.41 contains 10 sections ranging from “Purpose and Intent” to “Health and Safety”. This
Chapter will also contain definitions and a review process section that are not contained in the
City's current wireless guidelines. It is important to point out that 98% of the information contained in the City's wireless guidelines have been placed into Ordinance No. 1396. At the request of the City Attorney's office, some items are not included (e.g., special notes and redundant information deemed non-essential).

Two (2) major additions proposed that are not addressed in the City's current wireless guidelines are the establishment of processing procedures and revised application types for all wireless communication facilities. First, staff is proposing to create two (2) new application types and review processes. Wireless Communication Facilities (WCF) will now be referred to as Minor or Major WCF permits. These application types have been placed into an easy reference table (Table 17.41.040.A - Page 7 of the draft Ordinance). Staff believes that these new application types better reflect the type of wireless communication facilities being proposed by telecommunication carriers and is consistent with what other local agencies are implementing.

Second, staff is proposing a new review process. Currently, all wireless facilities are processed as a Conditional Use Permit (CUP) and are reviewed by the Planning Commission at a public hearing. Staff is proposing to create a two (2)-tiered approach that will result in an expedited review process. This review process is reflected in Table 17.41.070.A (Page 13 of the draft Ordinance). For example, Minor WCF permits are proposed to be reviewed and approved by the Director of Community Development at an "administrative hearing" that will include public notices being sent out to property owners & occupants within a 300-foot radius (no legal notice/advertisement is needed for this administrative hearing). Major WCF permits are proposed to be reviewed and approved by the Planning Commission at a public hearing (public notices will be sent out to property owners & occupants within a 300-foot radius, as well as a legal notice/advertisement). The determination for what is a Minor or Major WCF permit depends on the location and design of the wireless communication facility (refer to Table 17.41.040.A).

A third major addition is the creation of a table that outlines in detail the specific development standards applicable to all wireless communication facility types. All of the current development standards in the City's wireless guidelines have been included in the draft Ordinance. Staff has proposed several other development standards to more comprehensively address current design and development trends. Table 17.41.050.A (Page 7 of the draft Ordinance) provides a listing of all the development standards that will be applied to wireless communication facilities. In addition to the development standards, staff are including operational standards. All the operational standards outlined in Section 17.41.060 have been taken from the City's current wireless guidelines. Since the current guidelines adequately address the operational standards, staff did not propose any new operational standards.

A final component of the draft Ordinance is that wireless communication facilities will only be allowed in the Commercial, Professional Office, Industrial and Open Space zones. Wireless communication facilities will be prohibited in all residential zones consistent with the current wireless guidelines, with the exception that Utility Mounted and Micro WCF's will be allowed with a Minor WCF permit, including wireless facilities locating on water storage tanks. Table
Zone Text Amendment #08-97509
Wireless Facilities Code Amendment
Page 3 of 4

17.41.040.A (page 7 of the draft Ordinance) shows the different zones in which wireless communication facilities will be allowed.

Public Outreach Efforts

In an effort to involve the various wireless carriers in the preparation of the draft Ordinance, staff held a meeting on October 14, 2008. Approximately 12 people representing the major carriers and their subconsultants were invited to the meeting. A copy of the draft Ordinance was provided to everyone a couple of weeks before the meeting. While staff was hopeful to get input from all the wireless carriers, only two persons made it to the meeting - representatives from Verizon and T-Mobile. A copy of the sign-in sheet is provided for Commission consideration (Attachment 3). The meeting was very productive as each representative had positive feedback on the draft Ordinance and only minor changes were needed as a result of their input. One letter from Verizon was officially provided to staff at the meeting and is included in the report packet as Attachment 4.

CONCLUSION:

Staff believes that the proposed Ordinance accomplishes three (3) major things. First, there will be an expedited review process for wireless communication facilities that are consistent with the provisions of the Ordinance, are located in zones where there is a minimal impact to surrounding uses and that are designed so they are not visible. Second, most of the current wireless guidelines have been placed into the draft Ordinance, thereby, preserving what the Commission has already approved and established for wireless communication facilities. Third, since wireless communication facilities will be regulated as part of the Zoning Ordinance, the development and operational standards will have more legal standing as it will be applied as zoning law rather than general guidelines which can tend to be less enforceable.

RECOMMENDATION:

The Community Development Department recommends the Planning Commission adopt PC Resolution No. 2008-20, recommending City Council approval of Zone Text Amendment No. 08-97509 and adoption of Ordinance 1396 establishing development regulations and operational standards for Wireless Communication Facilities.

Respectfully submitted,

Matthew C. Bassi
Interim Community Development Director

City of Banning Planning Division
Planning Commission Meeting of November 5, 2008
PC Attachments:

1. PC Resolution No. 2008-20 for ZTA No. 08-97509
   Exhibit 1: Draft City Council Ordinance No. 1396
3. Attendance Sheet for Wireless Carrier Meeting (October 14, 2008)
ATTACHMENT 1

RESOLUTION NO. 2008-20 FOR
ZONE TEXT AMENDMENT NO. 08-97509
RESOLUTION NO. 2008-20

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BANNING, CALIFORNIA RECOMMENDING CITY COUNCIL ADOPTION OF ORDINANCE NO. 1396 FOR ZONE TEXT AMENDMENT NO. 08-97509 ADOPTING DEVELOPMENT REGULATIONS AND OPERATIONAL STANDARDS FOR WIRELESS COMMUNICATION FACILITIES IN THE CITY OF BANNING

WHEREAS, the proposed Zone Text Amendment 08-97509 has been duly initiated by the City of Banning; and

WHEREAS, it is recognized that the Federal Communications Act of 1996 limits the regulatory authority of local governments prohibiting them from considering radio frequency emissions or environmental health risks in their decision making process; and

WHEREAS, on December 2, 1996, and as amended on November 7, 2000, the Planning Commission adopted “Policy Guidelines for the Establishment of Wireless Antennas” pertaining to aesthetics, and location; and

WHEREAS, the City’s current policy guidelines for the establishment of wireless antennas does not comprehensively address wireless communication facilities to consider the rapid changes in technology over the past eight (8) years, and which does not effectively encourage camouflaged facilities (i.e., “stealth”) or co-location on existing structures; and

WHEREAS, on October 24, 2008, the City published a public hearing notice for Zone Text Amendment No. 08-97509 in the Record Gazette newspaper in compliance with state law and Section 17.68 of the Banning Zoning Ordinance; and

WHEREAS, on November 5, 2008, the Planning Commission held a noticed public hearing at which time interested persons had an opportunity to testify in support of, or opposition to Zone Text Amendment No. 08-97509 and at which time the Planning Commission considered the proposed Zone Text Amendment and recommended City Council approval; and

WHEREAS, the Planning Commission has analyzed Zone Text Amendment No. 08-97509, which is considered a project under the California Environmental Quality Act (CEQA) guidelines, has determined that Zone Text Amendment No. 08-97509 is Exempt from CEQA under Section 15061(b)(3) of the CEQA Guidelines, and is recommending that the City Council adopt the aforementioned Exemption; and

WHEREAS, at said public hearing on November 5, 2008, the Planning Commission considered and heard public testimony and comments regarding Zone Text Amendment No. 08-97509; and
WHEREAS, the Planning Commission has carefully considered all pertinent documents and the staff report offered in this case as presented at the public hearing held on November 5, 2008.

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

SECTION 1. ENVIRONMENTAL FINDINGS

The Planning Commission, in light of the whole record before it, including but not limited to, the City's Local CEQA Guidelines, the recommendation of the Community Development Director as provided in the Staff Report dated November 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:

CEQA: The Planning Commission has analyzed Zone Text Amendment No. 08-97509 and has determined that it is exempt from the California Environmental Quality Act ("CEQA") under Section 15061(b)(3) of the CEQA Guidelines which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment. It is the Planning Commission's independent judgment that in approving the proposed zone text amendment that there is no possibility that the activity in question will have a significant effect on the environment; thus, the activity is not subject to CEQA. The proposed amendment to the Zoning Ordinance does not relate to any one physical project and will not result in any physical change to the environment. Therefore, the Planning Commission hereby recommends City Council adoption of this Exemption from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines.

SECTION 2  ZONE TEXT AMENDMENT NO. 08-97509 REQUIRED FINDINGS

Finding No. 1: The proposed amendment is consistent with the goals and policies of the General Plan.

Facts: Zone Text Amendment No. 08-97509 is consistent with the goals and policies of the General Plan. First, the proposed ordinance regulating wireless communications facilities will not result in any changes to the General Plan text or land use map which will maintain internal consistency. Second, the regulations and development standards proposed in Zone Text Amendment No. 08-97509 will help to: 1) preserve and enhance the City's residential neighborhoods by minimizing potential impacts (Goal 1 – Residential); 2) provide complimentary commercial opportunities to meet the needs of the City's residents and increase revenues (Goal 1 – Commercial); and 3) provide for and appropriately locate public facilities to serve the needs of the City's residents (Goal 1 – Public Facilities).
Finding No. 2:
The proposed Amendment is internally consistent with the Zoning Ordinance.

Facts:
Zone Text Amendment No. 08-97509 is consistent the provisions of the Zoning Ordinance in that the proposed amendment will establish specific development and operational standards, and land use regulations for reviewing and processing wireless communication facilities in the City. It is the intent of the Zoning Ordinance to provide specific development standards for a variety of land use types in the City of Banning, and wireless communication facilities fall into this category.

Finding 3:
That the Planning Commission has independently reviewed and considered the requirements of the California Environmental Quality Act.

Facts:
The Planning Commission has analyzed Zone Text Amendment No. 08-97509 and determined that the project is exempt from the California Environmental Quality Act ("CEQA") under Section 15061(b)(3) of the CEQA Guidelines which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment. It is the Planning Commission’s independent judgment that in approving Zone Text Amendment No. 08-97509 that there is no possibility that the activity in question will have a significant effect on the environment; thus, the activity is not subject to CEQA, and recommends that the City Council adopt a CEQA exemption for this project.

SECTION 3. PLANNING COMMISSION ACTIONS

The Planning Commission hereby takes the following actions:

1. Recommend City Council adoption of an Exemption from the California Environmental Quality Act ("CEQA") under Section 15061(b)(3) of the CEQA Guidelines; and

2. Adopt Resolution No. 2008-20 recommending City Council adoption of Ordinance No. 1396 approving Zone Text Amendment No. 08-97509 to read as provided for in Exhibit 1 attached hereto.
PASSED, APPROVED AND ADOPTED this 5th day of November, 2008.

William Dickson, Chairman
Banning Planning Commission

APPROVED AS TO FORM AND LEGAL CONTENT:

David J. Aleshire, City Attorney
Aleshire & Wynder, 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. 2008-20, was duly adopted by the Planning Commission of the City of Banning, California, at a special meeting thereof held on the 5th day of November, 2008, by the following vote, to wit:

AYES:
NOES:
ABSENT:
ABSTAIN:

Virginia Sorenson, Recording Secretary
City of Banning, California
EXHIBIT 1

DRAFT ORDINANCE NO. 1396

FOR ZONE TEXT AMENDMENT NO. 08-97509
DRAFT ORDINANCE NO. 1396

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA APPROVING ZONE TEXT AMENDMENT NO. 08-97509 TO ADOPT DEVELOPMENT REGULATIONS AND OPERATIONAL STANDARDS FOR WIRELESS COMMUNICATION FACILITIES IN THE CITY OF BANNING

WHEREAS, the proposed Zone Text Amendment 08-97509 has been duly initiated by the City of Banning; and

WHEREAS, it is recognized that the Federal Telecommunications Act of 1996 limits the regulatory authority of local governments prohibiting them from considering radio frequency emissions or environmental health risks in their decision making process; and

WHEREAS, on December 2, 1996, and as amended on November 7, 2000, the Planning Commission adopted “Policy Guidelines for the Establishment of Wireless Antennas” pertaining to aesthetics, and location; and

WHEREAS, the City’s current policy guidelines for the establishment of wireless antennas does not comprehensively address wireless communication facilities to consider the rapid changes in technology over the past eight (8) years, and which does not effectively encourage camouflaged facilities (i.e., “stealth”); and

WHEREAS, the wireless communications technology is changing rapidly and the most advanced technology today may become obsolete in a few years; and

WHEREAS, after due consideration, the Council of the City of Banning has determined that these regulations and standards contained in this in Ordinance No. 1396 meet the City’s needs in terms of the type of development envisioned and consistency with the General Plan for Wireless Communication Facilities; and

WHEREAS, on November 5, 2008, the Planning Commission held a noticed public hearing at which time interested persons had an opportunity to testify in support of, or opposition to Zone Text Amendment No. 08-97509 and at which time the Planning Commission considered the proposed Zone Text Amendment and recommended City Council approval; and

WHEREAS, the Planning Commission analyzed Zone Text Amendment No. 08-97509, which is considered a project under the California Environmental Quality Act (CEQA) guidelines, has determined that Zone Text Amendment No. 08-97509 is Exempt from CEQA under Section 15061(b)(3) of the CEQA Guidelines, and recommended City Council adoption of the aforementioned Exemption; and
WHEREAS, on November 28, 2008, the City published a public hearing notice for Zone Text Amendment No. 08-97509 in the Record Gazette newspaper in compliance with state law and Section 17.68 of the Banning Zoning Ordinance; and

WHEREAS, on December 10, 2008, the City Council held a noticed public hearing at which time interested persons had an opportunity to testify in support of, or opposition to Zone Text Amendment No. 08-97509; and

WHEREAS, at said public hearing on December 10, 2008, the City Council considered and heard public testimony and comments regarding Zone Text Amendment No. 08-97509; and

WHEREAS, the City Council has carefully considered all pertinent documents and the staff report offered in this case as presented at the public hearing held on December 10, 2008.

NOW THEREFORE, BE IT HEREBY ORDAINED by the City Council of the City of Banning as follows:

SECTION 1. ENVIRONMENTAL FINDINGS

The City Council, in light of the whole record before it, including but not limited to, the City's Local CEQA Guidelines, the recommendation of the Community Development Director as provided in the Staff Report dated December 10, 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:

CEQA: Zone Text Amendment No. 08-97509 is exempt from the California Environmental Quality Act ("CEQA") under Section 15061(b)(3) of the CEQA Guidelines which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment. It is the City Council's independent judgment that in approving this Ordinance there is no possibility that this action will result in any physical changes to the environment, and thus, will not have a significant effect. Further, the proposed text amendment is a legislative change to the Zoning Ordinance text and does not relate to a specific wireless facility project proposal. Therefore, adoption of this Ordinance is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines.

SECTION 2 ZONE TEXT AMENDMENT NO. 08-97509 REQUIRED FINDINGS

Finding No. 1:
The proposed amendment is consistent with the goals and policies of the General Plan.

Facts:
Zone Text Amendment No. 08-97509 is consistent with the goals and policies of the General Plan. First, the proposed ordinance regulating wireless communications facilities
will not result in any changes to the General Plan text or land use map which will maintain internal consistency. Second, the regulations and development standards proposed in Zone Text Amendment No. 08-97509 will help to: 1) preserve and enhance the City’s residential neighborhoods by minimizing potential impacts (Goal 1 – Residential); 2) provide complimentary commercial opportunities to meet the needs of the City’s residents and increase revenues (Goal 1 – Commercial); and 3) provide for and appropriately locate public facilities to serve the needs of the City’s residents (Goal 1 – Public Facilities)

**Finding No. 2:**
The proposed Amendment is internally consistent with the Zoning Ordinance.

**Facts:**
Zone Text Amendment No. 08-97509 is consistent the provisions of the Zoning Ordinance in that the proposed amendment will establish specific development and operational standards, and land use regulations for reviewing and processing wireless communication facilities in the City. It is the intent of the Zoning Ordinance to provide specific development standards for a variety of land use types in the City of Banning, and wireless communication facilities fall into this category.

**Finding 3:**
That the Planning Commission and City Council has independently reviewed and considered the requirements of the California Environmental Quality Act.

**Facts:**
The City Council, upon recommendation from the Planning Commission, has analyzed Zone Text Amendment No. 08-97509 and determined that the project is exempt from the California Environmental Quality Act (“CEQA”) under Section 15061(b)(3) of the CEQA Guidelines which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment. It is the City Council’s independent judgment that in approving Zone Text Amendment No. 08-97509 that there is no possibility that the activity in question will have a significant effect on the environment; thus, the activity is not subject to CEQA.

**SECTION 3.** The “Policy Guidelines For The Establishment Of Wireless Antennas” approved by the Planning Commission on December 2, 1996, and amended on November 7, 2000 is hereby repealed and replaced by Chapter 17.41 (Wireless Communication Facilities).
SECTION 4. Title 17 of the Banning Municipal Code (Zoning Ordinance) is hereby amended by adding a new Chapter "Chapter 17.41 – Wireless Communication Facilities" to read as follows:

Sections:
17.41.010 Purpose and Intent
17.41.020 Definitions
17.41.030 Wireless Communication Facility Permit Required
17.41.040 Applicability
17.41.050 Development Standards
17.41.060 Operational Standards
17.41.070 Wireless Communication Facility Review Process
17.41.080 Environmental Review Process
17.41.090 Removal of Abandoned Wireless Communication Facilities
17.41.100 Health and Safety

17.41.010 Purpose and Intent
The purpose of these requirements is to regulate the location, design and operation of Wireless Communication Facilities (WCF's) in a manner that promotes the public health, safety, and community aesthetics and that is consistent with the goals and objectives of the City of Banning General Plan. These regulations are intended to protect property values and enhance the aesthetics of the community by minimizing the visibility and the number of wireless communication facilities in the City, and providing expedited processing for well-designed proposals in appropriate locations, as well as, providing guidelines for the timely removal of abandoned wireless communication facilities.

17.41.020 Definitions
The following definitions shall apply to all Wireless Communications Facilities as outlined in Chapter 17.41 of the Banning Zoning Ordinance.

Abandonment - Wireless Communication Facility (WCF) shall be considered abandoned if the WCF is discontinued for 90 days or more, or that written notification to the City of Banning from the Permittee of abandonment of the WCF is being made.

Administrative Wireless Communication Facility Permit - A Wireless Communication Facility permit that can be approved by the Planning Division staff and which requires no public hearing or noticing.

Antenna - Equipment used to transmit and receive radio waves carrying conversation, signals, and/or data.
Co-location - The location of one or more wireless communication facility antennas on a single WCF as allowed in this Chapter.

Co-location, Approved Facility – A WCF that is designed to accommodate more than one wireless antenna on an approved facility that is constructed by a single provider. A second antenna on a WCF will be considered a multiple user facility when a second antenna is installed by a permittee on the same facility.

Co-location, Non-Conforming Facility - Location of a new Wireless Communication Facility on a WCF that was legally constructed prior to the adoption and effective date of this Ordinance. The new facility proposed to be co-located shall comply with all the development and design standards and of this Ordinance.

Concealed Antenna - A wireless communication facility antenna that is not visible and which is architecturally designed to resemble part of a building structure or landscape feature.

Concealed Antenna, Building Mounted – A wireless communication facility antenna attached to a building or is roof-mounted and is architecturally screened from so it is not visible. Bell towers, clock towers, steeples, parapets, false windows, and other types of architectural features that are designed to camouflage the wireless communication facility meet this definition.

Concealed Antenna, Existing Freestanding Structure – A wireless communication facility antenna that is to be located on an existing freestanding wireless communication facility structure such as a light poles, freestanding sign, clock tower or other types of existing structures that are not buildings.

Concealed Antenna, New Freestanding Structure – A new wireless communication facility antenna that is architecturally design to be camouflage (not visible). Examples of this type of facility include wireless facilities design as a "mono-palm" and "mono-pine" (or other new technological design), bell tower, clock tower, freestanding signage, flagpoles, light poles and other types of concealed freestanding structures.

Equipment Shelter - A room, cabinet(s), or building used to house operating support equipment for an approved wireless communication facility provider.

Major Wireless Communication Facility Permit - Any wireless communication facility that requires public noticing and a public hearing before the Banning Planning Commission (refer to Table 17.41.040.A of this Chapter).
Micro Wireless Communication Facility – A wireless communication facility antenna and support equipment, such as "microcells" and "micropanels," that are not greater than 16" x 22" x 8".

Minor Wireless Communication Facility Permit – Any wireless communication facility permit that requires public noticing and approval by the Director of Community Development, but does not require a public hearing by the Banning Planning Commission (refer to Table 17.41.040.A of this Chapter).

Monopole - A freestanding structure composed of a single spire, pole or tower used to support antennas and/or related equipment.

Property Owner - Means the individual or institution who owns the real property on which a Wireless Communication Facility is located or proposed to be located.

Slim line, Unipole - A freestanding structure composed of a pole where one or more antenna is mounted on or inside the pole and concealed by a circular metal ring that is no greater than 24 inches in diameter.

Support Equipment – Telecommunications equipment that supports a wireless communication facility that is installed inside an enclosed equipment shelter/structure installed on the ground or in a building or other structure.

Utility Mounted – A Wireless Communication Facility attached to a public utility structure, such as an SCE tower or City light standard/electric pole.

Wireless Communication Facility (WCF) - A telecommunications facility that is defined as equipment and network components such as towers, utility poles, transmitters, base stations, and emergency power systems that are integral to providing wireless telecommunications services.

Wireless Communication Facility Permittee – An individual company/business or entity that is licensed by the federal government to own and operate a wireless communication facility that provides wireless services to the community.

17.41.030 Wireless Communication Facility Permit Required
A Wireless Communication Facility (WCF) permit is required for all WCF’s in the City of Banning and must be obtained prior to operation of the facility.

17.41.040 Applicability
Wireless Communication Facilities shall be permitted in various land use districts throughout the City of Banning. Table 17.41.040.A below specifies the zones in which Wireless Communication Facilities are allowed, and the applicable permit required to be processed for each type.
Table 17.41.040.A
WCF as a Permitted Use & Required Processing

<table>
<thead>
<tr>
<th>Zoning Districts</th>
<th>Mono-pole, Slim Line, Unipole, Not Concealed</th>
<th>Wireless Communication Facility Type</th>
<th>Co-Location</th>
<th>Utility Mounted</th>
<th>Micro WCF Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Building/Structure Mounted</td>
<td>Existing Freestanding</td>
<td>New Freestanding</td>
<td>Approved-Existing Facility</td>
<td>Non-Conforming Facility</td>
</tr>
<tr>
<td>Residential Zones</td>
<td>Prohibited</td>
<td>Prohibited</td>
<td>Prohibited</td>
<td>Prohibited</td>
<td>Minor WCF Permit</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Commercial Zones</td>
<td>Prohibited</td>
<td>Minor WCF Permit</td>
<td>Major WCF Permit</td>
<td>Minor WCF Permit</td>
<td>Prohibited</td>
</tr>
<tr>
<td></td>
<td></td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Professional Office Zones</td>
<td>Prohibited</td>
<td>Minor WCF Permit (non-residential site)</td>
<td>Minor WCF Permit</td>
<td>Minor WCF Permit</td>
<td>Prohibited</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Industrial Zones</td>
<td>Prohibited</td>
<td>Minor WCF Permit</td>
<td>Minor WCF Permit</td>
<td>Minor WCF Permit</td>
<td>Prohibited</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Open Space Zones</td>
<td>Prohibited</td>
<td>Major WCF Permit</td>
<td>Major WCF Permit</td>
<td>Minor WCF Permit</td>
<td>Prohibited</td>
</tr>
</tbody>
</table>

Special Notes:
1. Residential Zones Include: Approved specific plan residential zones and the LDR zone district (on water storage tanks only).
2. Commercial Zones Include: Approved specific plan commercial zones and the DC; GC; & HSC zone districts.
3. Professional Office Zones Include: Approved specific plan office zones and the PO zone district.
4. Industrial Zones Include: Approved specific plan industrial zones and the Al; BP; IMR & 1 zone districts.
5. Open Space Zones Include: Approved specific plan open space zones and the OS-P & OS-R zone districts.
6. Concealed wireless antenna facilities mounted on utility structures within the city-owned public right-of-way shall be permitted with an Encroachment Permit subject to the development standards of Section 17.41.050.

17.41.050 Development Standards

Wireless Communication Facilities Permittees are required to design and develop wireless facilities that are aesthetically sensitive to the project site property and the surrounding neighborhood(s). Therefore, all wireless communication facilities shall comply with the general development standards outlined in Table 17.41.050.A below:

Table 17.41.050.A
General Development Standards

<table>
<thead>
<tr>
<th>Feature</th>
<th>Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Access</td>
<td>Access to the Wireless Communications Facility lease areas shall have a minimum width of 10 feet.</td>
</tr>
<tr>
<td>Aesthetics</td>
<td>The WCF shall not interfere with significant visual features, visual amenities, view corridors and other aesthetic values. The wireless facility, and equipment shelters, shall be designed to be un-obtrusive. This may include locating the wireless facility within an existing building, mounted on the rooftop or be stealth design (i.e., mono-pine, etc.). In all cases, the wireless facility needs to be in context with the immediate surrounding area and be architecturally compatible with the existing structures on the site with respect to design, color and materials.</td>
</tr>
<tr>
<td>Area</td>
<td>The subject site shall be of a size and shape sufficient to provide adequate setback from the base of the wireless communication facility, including equipment shelters, to any property line abutting a residential use.</td>
</tr>
<tr>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>Co-Location</td>
<td>The applicant shall cooperate with others in co-locating additional antennae on existing facilities and/or on the tops of buildings and/or clustering of facilities. An applicant for a wireless facility permit shall demonstrate a good faith effort in co-locating with others and sharing the permitted site, provided such shared use does not give rise to a substantial technical level or quality of service impairment of the permitted use (as opposed to a competitive conflict or financial burden). In the event a dispute arises as to whether the applicant has exercised good faith in accommodating other users, the City may require a third party technical study at the expense of either or both the applicant and complaining existing users. This condition in no way obligates the City to approve any co-location proposal if it is determined by the City not to be desirable in a specific case. To the extent possible, the City will provide incentives to the owners of existing wireless communication facilities to encourage the co-location of transmission devices on their structures. Existing and new towers shall allow the placement of governmental transmitters for emergency services or other uses as a public service.</td>
</tr>
<tr>
<td>Colors</td>
<td>Colors shall be matte and chosen to minimize visibility.</td>
</tr>
<tr>
<td>Complementary Design</td>
<td>All types of Wireless Facilities – Must be designed so that the wireless facility antennas are not distinguishable from rest of structure or disguised to be consistent with the intent of the structure. They shall also be designed to be compatible with surrounding environment (additional landscaping may be required).</td>
</tr>
<tr>
<td>Concealment</td>
<td>Building mounted antennas shall be concealed to the greatest extent possible if the antennas are visible to adjacent properties and adjacent to public rights-of-way-way. The concealment may include parapets, walls, or similar architectural elements provided that it is painted and textured to integrate with the architecture of the building. As an alternative method, landscaping positioned on the premises to screen antennas from adjacent properties may be proposed in lieu of architectural concealment. Concealment shall include consideration of the following: a) Incorporation with other structures such as lighting poles, signage, artificial trees, clock towers, steeples, flagpoles, silos, water towers, etc. b) Facade disguises such as parapets, decorative walls, etc.</td>
</tr>
<tr>
<td>Easement</td>
<td>The property owner shall file an easement granting the City access to the property for inspection and removal purposes after a Wireless Communication Facility is abandoned. Proof of recordation shall be filed with the Building Division prior to the issuance of building permits.</td>
</tr>
<tr>
<td>Fencing Material</td>
<td>Fencing associated with a wireless communication facility shall be decorative block material when the location of the wireless facility is visible from a street. The use of chain link is prohibited at all times.</td>
</tr>
<tr>
<td>General Criteria</td>
<td>1) The proposed wireless communication facility shall not create any non-conformities to the subject site such as, a reduction of required parking, landscaping, trash enclosure, loading zones, etc. 2) Comply with any property-specific restrictions.</td>
</tr>
</tbody>
</table>
3) Meet any applicable specific plan or development guidelines.
4) Meet UBC, electrical code, fire code, etc.
5) Meet General Plan and Ordinance Code Noise Element standards.
6) Comply with any applicable ALUC regulations and/or FAA requirements.
7) Meet all regulations of any applicable district or plan.
8) Each permit shall specify the maximum allowable gross cross-sectional area, or silhouette, of the permitted facility.

### General Specifications

| 1) Wireless communication facilities shall meet all manufacturer's specifications, and all antennas and screens shall be fire-resistant and of corrosive resistant material, and shall be erected in a secure, wind resistant manner. They shall also be maintained in good condition. |
| 2) The installation of wireless facilities shall be located in such a way as to prevent obstruction of the antenna's 360 degree reception area from potential permitted development on adjoining parcels. |
| 3) Accessory equipment shelters shall be generally limited to the housing of radio, electronic and related power plant equipment. |
| 4) The wireless facility antenna shall be designed to withstand a wind force of 75 miles per hours if ground-mounted and 85 miles per hour if roof-mounted. |
| 5) Any metallic support structure for a wireless facility antenna must be bonded to a bonding rod to adequately protect against a direct strike of lightning. |

### Landscaping

A landscape planter shall be provided for screening around the base of the wireless facility and equipment enclosure to minimize the visual and aesthetic impacts on surrounding uses. Plant material shall include vines, groundcover, and trees with a minimum twenty-four inch (24") box size at the time of planting. In addition, the following shall apply:

- **a)** Local native vegetation shall be used which is drought-tolerant and fire resistant or fire retardant.
- **b)** A landscape and rehabilitation plan shall be submitted for review and approval by the Community Development Director prior to the issuance of a building permit.
- **c)** The landscape plan shall include only suitable plants indigenous to the immediate area, and a qualified botanist should be consulted.
- **d)** The area around all structures, poles, and guy supports shall be free of combustible materials. Clearing of the site shall only be allowed to the degree necessary to prevent fire hazard.

### Lighting

1. Outside lighting shall be hooded and directed so as not to shine directly upon adjoining property or public right-of-ways.
2. Lights should be terminated on tower structures that no longer are the highest in the immediate vicinity due to the construction of newer, taller adjacent facilities.
3. Antenna structures shall conform to Federal Aviation Administration (FAA) regulation AC70/7460 latest edition (Obstruction Marking and Lighting). This may include beacons, sidelights, and or strobes.

### Location

All proposed Wireless Communication Facilities shall be located so as to minimize their visual impact to the maximum extent feasible, considering technological requirements, by means of placement, screening and
<table>
<thead>
<tr>
<th>Maximum Height of Roof-Mounted Antenna</th>
<th>Maximum height may exceed the height of the existing roofline by no more than 10 feet if the facility is properly screened from view.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum Height of Equipment Support</td>
<td>Ground Mounted - No higher than 6 feet above grade with proper screening as required above.</td>
</tr>
<tr>
<td></td>
<td>Roof Mounted - No higher than 10 feet above the existing roof line provided the facility is properly screened from view.</td>
</tr>
<tr>
<td>Maximum Height of Wireless Communication Facility</td>
<td>Micro WCF - 35 feet maximum height (stand alone only). If attached to an existing utility structure, the maximum height may extend five (5) above the height of the existing utility structure.</td>
</tr>
<tr>
<td></td>
<td>All other Types - Maximum height allowed shall be limited to the structural height allowed by the underlying zone district. An additional height of up to 20 feet may be allowed with the approval of a Major Wireless Facility Permit by the Planning Commission subject to the following findings:</td>
</tr>
<tr>
<td></td>
<td>a) No feasible alternative location or design exists.</td>
</tr>
<tr>
<td></td>
<td>b) The increase in height is for public safety or community benefit, and</td>
</tr>
<tr>
<td></td>
<td>c) There are exceptional circumstances (which would be listed for the record) that do not allow the wireless facility to meet the height standards for the zone within where it is located.</td>
</tr>
<tr>
<td>Multiple Use</td>
<td>All new freestanding Wireless communication Facilities shall be designed to accommodate more than one service provider.</td>
</tr>
<tr>
<td>Screening</td>
<td>General Guidelines:</td>
</tr>
<tr>
<td></td>
<td>In determining the acceptability of screening, the following elements shall be taken into account:</td>
</tr>
<tr>
<td></td>
<td>a) All existing or proposed improvements on and adjacent to the site, including fences, walls, parapets, hedges, berms, or other architectural or landscape elements.</td>
</tr>
<tr>
<td></td>
<td>b) The grade of the site on which the antenna is proposed as related to grades of abutting properties and public street rights-of-way.</td>
</tr>
<tr>
<td></td>
<td>c) The height of the building(s) on and adjacent to the site above or on which an antenna is proposed to be mounted.</td>
</tr>
<tr>
<td></td>
<td>d) The configuration of roofline(s) of the building(s) on, and adjacent to, the site.</td>
</tr>
<tr>
<td></td>
<td>e) The existing aesthetics and character of the surrounding neighborhood.</td>
</tr>
<tr>
<td></td>
<td>f) Any additional facts or circumstances which the City deems relevant.</td>
</tr>
<tr>
<td>Free-standing Antenna Structure</td>
<td>Such devices shall be located and designed to reduce visual impact from surrounding properties and from public streets and shall be screened in a manner compatible with existing architecture and/or landscaping. However, no screening shall be required which blocks the ability of any such device to receive signals. Based on a determination by the Community Development Director or his/her designee; screening of a type and construction compatible with the architecture of the building in question may be required.</td>
</tr>
</tbody>
</table>
| Roof-mounted Antenna Structure        | Antenna and transmitter equipment on rooftops and projecting from walls
| Separation Distance from a residentially zone property zoned or a residentially used structure/home | Micro WCF, building-mounted/utility-mounted antenna - 0 feet.  
All other Types - 150 feet minimum (exception - if completely concealed and not visible, then 100 feet minimum is allowed). |
| Setback Requirements | Utility-Mounted and Micro WCF - No setback required.  
All other wireless facility types and equipment cabinets - Same as underlying zone district setback requirement. |
| Spacing of Facilities | (1) Maximum number of wireless communication facilities and spacing between facilities shall be determined by the Planning Division as part of the development review process.  
(2) Wireless communication facilities shall be grouped (clustered) and located to minimize visual impacts wherever possible. |
| Surface Treatment of Facilities | 1. Surface Materials:  
a) Antenna Structure - The antenna structure shall be comprised of wood, metal or concrete as most appropriate to the antenna size and site requirements. Decorative surface materials shall be applied as necessary to blend in with the immediate surroundings.  
2. Finishes:  
a) The proposed antenna shall be finished in a neutral color to blend in with the immediate surroundings.  
b) Highly reflective surfaces conducive to glare shall not be permitted.  
c) No form of advertising or identification shall be permitted on the antenna structure other than a manufacturer's identification tag. |
| Support Structures | All equipment buildings, cabinets, cables, air conditioning units, shall be painted and textured to match the surrounding physical area in order to minimize visual impacts. |

17.41.060 Operational Standards

A. Maintenance Requirements

1. Property Maintenance - All Wireless Communication Facilities including landscaping and surface areas shall be continuously maintained free of weeds, debris, litter or temporary signage.

2. Graffiti - All graffiti shall be removed from the premises by the permittee within 24 hours of discovery.

B. Business License Required

1. Wireless Communication Facility Permit applicants shall demonstrate to the Planning Division that they have a Business License for operating a Wireless Communication Facility site prior to the approval of a Wireless Communication Facility permit.
2. All property owners shall demonstrate to the Planning Division that they have a Business License for property prior to the approval of a Wireless Communication Facility permit.

C. Business License Renewal and Certification

1. Each Wireless Facility Operator is required to submit to the Planning Division on an annual basis a "Certification Letter of Continued Use" prior to renewal of a City Business License. The Certification Letter shall indicate that the wireless facility is still operating in compliance with the approved conditions of approval and that the wireless facility complies with the current Federal Communication Commission (FCC) safety standards. Wireless Facilities which are no longer in operation shall be removed within 90 days after the date of discontinuation.

17.41.070 Wireless Communication Facility Review Process

A. Required Findings for Approval - Approval of Wireless Communication Facilities permitted in this Chapter shall be based on the following findings:

1. The Wireless Communication Facility Permittee has located on an approved co-location facility or has demonstrated to the City a good faith effort to locate on an approved facility or has demonstrated that co-location is not technically feasible due to coverage needs, potential interference, or other technical issues.

2. That there is adequate space on the subject property site for the Wireless Communication Facility and support equipment without conflicting with existing buildings or other structures on the subject property site, or reducing required parking, landscaping setbacks or other applicable development standards.

3. The design and placement of all Wireless Communication Facilities and support equipment will not adversely impact the use of the property, other buildings and structures located on the subject property site, the surrounding neighborhood or general vicinity.

4. The Wireless Communication Facility and support equipment as proposed is consistent with the intent of this Chapter and comply with the operational standards and any applicable special standards as noted in this Chapter.

5. The applicant has demonstrated that the Wireless Communication Facility will have the least possible visual impact on the environment taking into account technical, engineering, economic and other relevant factors.
B. Types of Permits and Review Process - Table 17.41.070.A below outlines the types of Wireless Communication Facility permits and the application review process for each type of permit:

Table 17.41.070.A  
Wireless Communication Facility Permits & Review Process

<table>
<thead>
<tr>
<th></th>
<th>Minor WCF Permit</th>
<th>Major WCF Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Noticing Requirements</td>
<td>(1) Property Owner &amp; Occupants w/in a 300-foot radius of the site; (2) Planning Commission; and (3) City Council</td>
<td>(1) Property Owner &amp; Occupants w/in a 300-foot radius of the site.</td>
</tr>
<tr>
<td>Type of Hearing</td>
<td>Administrative Hearing before the Community Development Director</td>
<td>Public Hearing before the Planning Commission</td>
</tr>
<tr>
<td>Approval Authority</td>
<td>Community Development Director</td>
<td>Planning Commission</td>
</tr>
<tr>
<td>Appeal</td>
<td>(1) Planning Commission (2) City Council</td>
<td>City Council</td>
</tr>
</tbody>
</table>

C. Conditions of Approval - Conditions of approval shall be imposed on any Wireless Communication Facility permit approved pursuant to this Chapter to ensure compliance with the intent of this chapter, the required development standards, operational standards and findings of this chapter and the protection of the public health, safety, general welfare, and visual aesthetics. The Wireless Communication Facility permit shall not become effective until all applicable conditions of approval have been satisfied. All conditions of approval shall be observed throughout the duration of the permit.

D. Appeal Process - The appeal of an approved Wireless Communication Facility permit shall follow the requirements in Table 17.41.070.A and be subject to the procedures and requirements set forth in Chapter 17.68 of the City of Banning Zoning Ordinance.

17.41.080 Environmental Review Process

All Wireless Communication Facility permits issued under this Chapter are subject to the requirements of the California Environmental Quality Act (CEQA), as applicable.

17.41.090 Removal of Abandoned Wireless Communication Facilities

A. Abandonment Prohibited - WCF's shall not be abandoned. A Permittee who discontinues use of its WCF shall promptly remove the WCF from the property. Failure to remove an abandoned WCF shall be a violation of this Code, and the City may take steps to remedy this violation, including, but not limited to, the
commencement of nuisance abatement proceedings pursuant to Chapter 8.48 of the Banning Municipal Code.

B. **Removal by City** - If the City removes an abandoned WCF, the City shall use the performance bond posted by the Permittee to cover the costs of removal.

17.41.100 **Health and Safety**

A. **Non-ionizing Electromagnetic Radiation (NIER)** - Any new wireless facilities and/or antennas, when combined with existing sources of NIER emissions on or adjacent to the site and when operating as designed and licensed, should not expose the general public to ambient radiation emissions which exceed American National Standards Institute (ANSI) C95.1-1992 standard. If the Federal Communications Commission (FCC) rulemaking committee adopts a revised standard, said standard shall apply. Within six (6) months after the issuance of its occupancy permit, the applicant shall submit a project implementation report which provides cumulative field measurements of radio frequency (EMF) power densities of all antennas installed at subject site. The report should quantify the EMF emissions and compare the results with currently accepted ANSI standards. If on review, the City finds that the Project does not meet ANSI standards, the City may revoke or modify the Wireless Facility Permit.

B. **Interference** - The operation of the vertical antenna shall not cause interference with any electrical equipment in the surrounding neighborhoods (e.g., television, radio, telephone, computer, etc.). The antenna shall not also create harmful interference between any other telecommunications facilities.

C. **Aircraft Safety** - The communications facility shall comply with Federal Aviation Administration (FAA) Regulation AC70/7460, latest edition "Obstruction Marking and Lighting". The FAA requires flashing warning lights to be mounted on towers over 200 feet tall. Unless within FAA jurisdiction, i.e. airport flight paths, monopoles are uncharted and could pose hazards to low-altitude aircraft. The provision of a continuous red light on the top of the structure may be a solution to towers in areas where medivac helicopter services, crop-dusting, and other low-altitude aerial activities occur.

D. **Radio Frequency Emissions**¹ - Applicants for Wireless Communication Facility permits shall provide evidence showing the proposed Wireless Telecommunications Facility complies with Federal Communications Commission

¹ Section 704 of Title 7 of the Federal Telecommunications Act of 1996 (effective February 8, 1996), contains the following language: "(iv) No State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emission to the extent that such facilities comply with the Commission's regulations concerning such emissions."
(FCC) rules, regulations and standards governing environmental effects of radio frequency emissions.

SECTION 4. Severability. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 5. Effective Date. This Ordinance shall take effect thirty (30) days after its 2nd reading in accordance with California law.

PASSED, APPROVED, AND ADOPTED this 10th day of December, 2008.

Brenda Salas, Mayor
City of Banning

APPROVED AS TO FORM AND LEGAL CONTENT:

David J. Aleshire, City Attorney
Aleshire & Wynder, LLP
City of Banning, California

ATTEST:

Marie A. Calderon, City Clerk
CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that Ordinance No. 1396 was duly introduced at a regular meeting of the City Council of the City of Banning, held on the 10th day of December, 2008, and was duly adopted at a regular meeting of said City Council on the 13th day of January, 2009, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

________________________________________
Marie A. Calderon, City Clerk
City of Banning
Banning, California
ATTACHMENT 2

“POLICY GUIDELINES FOR THE ESTABLISHMENT OF WIRELESS ANTENNAS”
(for information purposes only)
PURPOSE

The Planning Commission finds that wireless antennas and antenna structures, related to wireless telephone communications, may be aesthetically unsightly and/or visually obtrusive. The Planning Commission finds that the policies/guidelines set forth allows wireless antennas, to be established in appropriate areas of the City, and are necessary to protect the public health, safety, welfare, and aesthetic interests. Further, the Planning Commission finds that these policies/guidelines promote, and are not in conflict with, the State interest in having a reliable and widespread telecommunications service.

I. DEVELOPMENT STANDARDS

A. OBJECTIVES

1. To require demonstrable proof that new sites and/or facilities are necessary.

2. To encourage maximum utilization and efficient use of the limited communication sites.

3. To employ disguising techniques of design so as to diminish the negative impacts of such uses.

4. To support developments that maximize energy conservation measures.

5. To preserve to the greatest extent the existing natural, scientific and cultural resources.

B. STANDARDS:

SPACING

1. The maximum number of towers and the spacing between them shall be determined after review by the Planning Department.

2. Facilities shall be grouped (clustered) and located at each site to minimize visual impact.

Adopted by the P.C. 12/96
Amended by the P.C. 11/7/00
C. ALLOWABLE ZONE DISTRICTS

The placement of wireless transmitter/antenna facilities shall be restricted to the City's commercial and manufacturing zone districts and shall be prohibited from being established in any of the City's residential zone districts excepting in instances where such facilities are to be located on City owned properties having water storage tanks that are located in the R-1 (Single-Family Residential Zone District); in such instances it is possible to establish such facilities subject to the processing of an Unclassified Use Permit (amended by the PC on November 7, 2000).

D. AREA

The site shall be of a size and shape sufficient to provide an adequate setback from the base of the antenna support structure to any property line abutting a residential use.

E. SETBACKS

1. Commercial/Industrial Setback

   Antennas or towers located in commercial or industrial districts shall not be located in any front street yard.

2. Residential Separation

   Wireless telephone antennas shall be located a minimum of one hundred fifty feet (150') from any property zoned or used for residential purposes.

F. CO-LOCATION

The applicant shall cooperate with other communications companies in co-locating additional antenna on pole structures and/or on the tops of buildings and/or clustering of facilities provided said co-applicants have received an unclassified use permit or modified unclassified use permit for such use at said site from the City. Permittee should exercise good faith in co-locating and/or clustering with other communications companies and sharing the permitted site, provided such shared use does not give rise to a substantial technical level- or quality of service impairment of the permitted use (as opposed to a competitive conflict or financial burden). In the event a dispute arises as to whether permittee has exercised good faith in accommodating other users, the City may require a third party technical study at the expense of either or both the applicant and complaining user. This condition in no way obligates the City to approve any co-location proposal if it is determined by the City not to be desirable in a specific case.

To the extent possible, the City will provide incentives to the owners of existing structures or towers to encourage the co-location of transmission devices on their
structures. Existing and new towers shall allow the placement of governmental transmitters for emergency services or other uses as a public service.

G. HEIGHT

1. The heights and mass of communication facilities shall be the least necessary for the applicant's activity, commensurate with technical, safety, and visual considerations.

2. The heights of towers shall not exceed a height on which Federal Aviation Administration (FAA) regulations on lighting and painting must come into use, unless there is overriding need and necessity.

3. Facilities shall, wherever possible, be located below the skyline.

4. Maximum height shall be limited to the structural height codified in the City's Code for the zone district in which the facility is to be located, excepting that additional height may be authorized with the processing and approval of a Unclassified Use Permit. Additional height may be granted providing the Planning Commission makes the following findings:

   a. No feasible alternative location or design would not require such a waiver, or,

   b. The increase in height is for public safety or community benefit, or

   c. There are exceptional circumstances (which would be listed for the record) that do not allow the Antenna to meet the height standards for the zone within where it is located.

II. AESTHETICS

A. AESTHETICS

Consideration shall be given to the preservation of significant visual features, visual amenities, view corridors and other aesthetic values. The transmitter station or shelter shall, to the extent possible, be designed to be unobtrusive. This may include locating the transmitter station within an existing building or mounted on the rooftop. In all cases, the wireless transmitter station needs to be in context with the immediate surrounding area and be architecturally compatible with the existing structures on the site with respect to design, color and materials.

Adopted by the P.C. 12/96
Amended by the P.C. 11/7/00
B. SURFACE TREATMENT

1. Surface Materials
   a. Antenna Structure
      
      The antenna structure shall be comprised of wood, metal or concrete as most appropriate to the antenna size and site requirements. Decorative surface materials shall be applied as necessary to blend in with the immediate surroundings.

2. Finishes
   a. The proposed antenna shall be finished in a neutral color to blend in with the immediate surroundings.
   b. Highly reflective surfaces conducive to glare shall not be permitted.
   c. No form of advertising or identification shall be permitted on the antenna structure other than a manufacturer's identification tag.

3. Signage
   
   The display of any sign or any other graphics on an antenna is prohibited except for public safety warnings, which warnings must be placed no higher than eight feet (8') above the base of the antenna.

C. SCREENING

1. General Guidelines
   
   In determining the acceptability of screening, the following elements shall be taken into account:
   a. All existing or proposed improvements on and adjacent to the site, including fences, walls, parapets, hedges, berms, or other architectural or landscape elements.
   b. The grade of the site on which the antenna is proposed as related to grades of abutting properties and public street rights-of-way.
   c. The height of the building(s) on and adjacent to the site above or on which an antenna is proposed to be mounted.
d. The configuration of roofline(s) of the building(s) on, and adjacent to, the site.

e. The existing aesthetics and character of the surrounding neighborhood.

f. Any additional facts or circumstances which the City deems relevant.

2. Freestanding Antenna Structure

Such devices shall be located and designed to reduce visual impact from surrounding properties and from public streets and shall be screened in a manner compatible with existing architecture and/or landscaping. However, no screening shall be required which blocks the ability of any such device to receive signals. Based on a determination by the Community Development Director or his/her designee; screening of a type and construction compatible with the architecture of the building in question may be required.

3. Roof-mounted Antenna Structure

Antenna and transmitter equipment on rooftops and projecting from walls shall be screened from view unless made an integral part of the design of the building. All antenna and architectural screening shall, to the extent possible, be compatible and integrated with the existing structure.

4. Fencing

a. Fencing associated with a wireless facility shall be wrought iron or similar decorative material when the location of the wireless facility is visible from a street. The use of chain link is not permitted unless approved by the Planning Director. Such approval shall be possible only in instances where the location of wireless facility is not visible from a street.

D. LANDSCAPING

1. Urban Areas

A landscape planter shall be provided for screening around the base of the transmitter station and ground mounted antenna to minimize the visual and aesthetic impacts on surrounding uses. Plant material shall include vines, groundcover, and trees with a minimum twenty-four inch (24") box size at the time of planting.

2. Non-Urban Areas

a. Local native vegetation shall be used which is drought-tolerant and fire resistant or fire retardant.

Adopted by the P.C. 12/96
Amended by the P.C. 11/7/00
b. A landscape and rehabilitation plan shall be submitted for review and approval by the Planning Director prior to the issuance of a building permit.

c. The landscape plan shall include only suitable plants indigenous to the immediate area, and a qualified botanist should be consulted.

d. The area around all structures, poles, and guy supports shall be free of combustible materials. Clearing of the site shall only be allowed to the degree necessary to prevent fire hazard.

E. CONCEALMENT

Building mounted antennas shall be concealed to the greatest extent possible if the antennas are visible to adjacent properties and adjacent to public rights-of-way-way. Omni directional antennas may not be required to be concealed if this would create a greater visual impact than the unscreened antennas. The concealment may include parapets, walls, or similar architectural elements provided that it is painted and textured to integrate with the architecture of the building. As an alternative method, landscaping positioned on the premises to screen antennas from adjacent properties may be proposed in lieu of architectural concealment.

Concealment shall include consideration of the following:

1. Incorporation with other structures such as lighting poles, signage artificial trees, clock towers, steeples, flagpoles, silos, water towers, etc.

2. Facade disguises such as parapets, decorative walls, etc.

F. LIGHTING

1. Outside lighting shall be hooded and directed so as not to shine directly upon adjoining property or public right-of-ways.

2. Lights should be terminated on tower structures that no longer are the highest in the immediate vicinity due to the construction of newer, taller adjacent facilities.

3. Antenna structures shall conform to Federal Aviation Administration (FAA) regulation AC70/7460 latest edition (Obstruction Marking and Lighting). This may include beacons, sidelights, and or strobes.

Adopted by the P.C. 12/96
Amended by the P.C. 11/7/00
III. HEALTH & SAFETY

A. NON-IONIZNG ELECTROMAGNETIC RADIATION (NIER)

Any new transmitters and/or antennas, when combined with existing sources of NIER emissions on or adjacent to the site and when operating as designed and licensed, should not expose the general public to ambient radiation emissions which exceed American National Standards Institute (ANSI) C95.1-1992 standard. If the Federal Communications Commission (FCC) rulemaking committee adopts a revised standard, said standard shall apply.

Comply with ANSI standards for electromagnetic field (EMF) emissions. Within six (6) months after the issuance of its occupancy permit, Applicant should submit a project implementation report which provides cumulative field measurements of radio frequency (EMF) power densities of all antennas installed at subject site. The report should quantify the EMF emissions and compare the results with currently accepted ANSI standards. If on review, the City finds that the Project does not meet ANSI standards, the City may revoke or modify the unclassified use permit.

Note: Most of the concern about the public health impacts of electromagnetic fields (EMF) has been regarding electric power transmission lines and devices operating at 60 Hz, a frequency which is orders of magnitude below the radio frequencies. From 1992-97, the US Department of Energy has embarked on a S65 million study to examine the health effects of EMF. With regards to the public health effects specifically of radio frequency emissions, little epidemiological study has been completed to date. Based on data available at this time, a public policy of prudent avoidance of chronic exposure to such transmissions is in order.

B. INTERFERENCE

The operation of the vertical antenna shall not cause interference with any electrical equipment in the surrounding neighborhoods (e.g., television, radio, telephone, computer, etc.). The antenna shall not also create harmful interference between any other telecommunications facilities.

C. AIRCRAFT SAFETY

The communications facility shall comply with Federal Aviation Administration (FAA) Regulation AC70/7460, latest edition "Obstruction Marking and Lighting". The FAA requires flashing warning lights to be mounted on towers over 200 feet tall. Unless within FAA jurisdiction, i.e. airport flight paths, monopoles are uncharted and could pose hazards to low-altitude aircraft. The provision of a continuous red light on the top...
of the structure may be a solution to towers in areas where medevac helicopter services, cropdusting, and other low-altitude aerial activities occur.

IV. GUIDELINES

A. GENERAL GUIDELINES

The proposed transmitter and antenna shall not create any additional nonconformances to the site such as a reduction of required parking, landscaping, trash enclosure, loading zones, etc.

Any requirement imposed upon the installation of an antenna area transmitter station shall not impose unreasonable limitations on or prevent reception or operate to impose costs on the user of such antennas that are excessive in light of the purchase and installation of such antennas.

B. CRITERIA

1. Comply with any property-specific restrictions.

2. Meet any applicable specific plan or development guidelines.

3. Meet UBC, electrical code, fire code, etc.


5. Comply with any applicable ALUC regulations and/or FAA requirements.

6. Meet all regulations of any applicable district or plan.

7. Each permit shall specify the maximum allowable gross crossectional area, or silhouette, of the permitted facility.

C. SPECIFICATIONS

Such devices shall meet all manufacturer's specifications, and all antennas and screens shall be fire-resistive and of corrosive resistant material, and shall be erected in a secure, wind resistant manner. They shall also be maintained in good condition.

D. POTENTIAL DEVELOPMENT

The installation shall be located in such a way as to prevent obstruction of the antenna's 360 degree reception area from potential permitted development on adjoining parcels.
E. ACCESSORY EQUIPMENT SHELTERS

Accessory equipment shelters shall be generally limited to the housing of radio, electronic and related power plant equipment. Such housings should be placed off skyline unless there are overriding reasons not to do so.

F. WIND

The antenna shall be designed to withstand a wind force of seventy-five miles per hour (75 mph) [120 km/h] if ground-mounted and eighty-five miles per hour (85 mph) [135 km/h] if roof-mounted.

G. LIGHTNING

Any metallic support structure for an antenna must be bonded to a grounding rod. Every such device shall be adequately grounded for protection against a direct strike of lightning.

H. UNDERGROUNDING

All wires or cables necessary for the operation of the antenna or reception of the signal shall be placed underground, except those wires or cables attached flush with the surface of a building or structure of the antenna. Lines shall follow the corridor of least damage.

I. BANKRUPTCY/FINANCIAL SECURITY

All wireless communication operators shall post with the City a bond in an amount deemed acceptable by the City’s Attorney to remove all equipment from the approved site(s) in the event the Cellular provider fails in being able to sustain the approved activity.
ATTACHMENT 3

ATTENDANCE SHEET FROM WIRELESS FACILITY OPERATORS MEETING
<table>
<thead>
<tr>
<th>Name of Representative</th>
<th>Name &amp; Address of Company</th>
<th>Telephone Number</th>
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<tr>
<td>Leslie Payle</td>
<td>rep: Verizon Wireless</td>
<td>(949) 233 4869</td>
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<tr>
<td>Linda Paul</td>
<td>T-Mobile R&amp;E Zoning Proj.</td>
<td>909 792 5008</td>
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October 14, 2008

The Honorable Brenda Salas  
Mayor  
City of Banning  
99 E. Ramsey  
Banning, California 92220

Subject: Comments on proposed Wireless Telecommunications Ordinance

Dear Mayor Salas:

Thank you for providing the opportunity to comment on anticipated changes to the City's wireless telecommunications ordinance. These comments are submitted on behalf of Verizon Wireless. We would like to work with the city to develop an ordinance that preserves the aesthetic character of Banning while providing reliable wireless telephone coverage that helps keep neighborhoods safe.

In reviewing the General Plan, a principal policy of the Plan is to “preserve and enhance the character of the City’s residential neighborhoods”. By being held to the city’s own expressed aesthetic standard of “in all cases, the wireless facility needs to be in context with the immediate surrounding area and be architecturally compatible with existing structures” we believe that we can achieve both compliance with the aesthetic standard while enhancing safety for residents.

Cell Phone Service in Residential Areas:

Cell phones are a lifeline during natural disasters including incidents of earthquakes and fires. Citizens depend on cell phones for their private emergencies and daily functioning of their lives including household management and maintaining social relationships. Cell phones are a necessity in both the private and public sector. Verizon’s principal issue with the ordinance is the ban on facilities in residential areas.

One of the major trends in cell phone service is that folks are exclusively relying on cell phones as their telephone. Many citizens no longer have a landline telephone. The need and demand for cell phones to work at home is driving innovation in facility design.
Microcells are smaller cell phone facilities designed to be placed in residential areas or in areas where a lower height profile is appropriate. The antenna is attached to an existing vertical element, usually a streetlight, or attached to a new vertical element. These facilities may be located in the public rights of way, private property or public land such as parks, churches or in utility easements.

The placement of utilities in residential areas has been going on for a long time. Basic infrastructure such as wastewater, sewer, gas, and electricity, which may consist of above ground equipment, is present in neighborhoods. These facilities, which can be more visually obtrusive than a microcell facility, are placed with minimal public review.

Verizon Wireless has a state franchise right under California Public Utilities Code (CPUC) section 7901 to place facilities along the public right-of-way within California.

There may be additional opportunities in residential areas beyond the rights of way that would meet the city's aesthetic standard while enhancing public and private safety.

Enclosed for your review are photographs of facilities, which are suited for the build environment of residential areas.

A core function of cities is to provide services to the public including public safety, trash pickup and street sweeping. During the past decade, there's been increasing demand for wireless telephone service. Verizon Wireless appreciates our partnership with the city to provide cell phone service to businesses, residents, and visitors.

Madame Mayor, thank you for consideration of our comments. Verizon Wireless looks forward to continuing to work with the City of Banning in partnership to provide reliable and dependable service that blends with the aesthetic character of your community. I may be reached at (949) 233-4869.

Sincerely,

Leslie Daigle
Verizon Wireless Representative

cc: Leslie Vartanian, Network Manager, Verizon Wireless
Mathew Bassi, Planning Consultant, City of Banning/Civic Solutions

Enclosures: Photographs of stealth facilities
CITY OF BANNING
PLANNING COMMISSION REPORT

DATE: November 5, 2008

TO: Chairman and Members of the Planning Commission

FROM: City of Banning Planning Division

SUBJECT: Zone Text Amendment #08-97511:
Staff recommendation for Planning Commission to adopt PC Resolution No. 2008-23 (Attachment 1) recommending City Council adoption of Ordinance No. 1401 to amend Section 17.36.170 of the Banning Zoning Ordinance related to Murals.

BACKGROUND/ANALYSIS

At the direction of the City Council, staff has prepared a draft Ordinance for Commission review amending Section 17.36.170 of the Zoning Ordinance related to Murals. The Council specifically requested that the review and approval authority for murals be changed from the “Beautification and Mural Council” of the Chamber of Commerce to the “Banning Cultural Alliance”. The process for reviewing murals will not change and a sign permit will still be issued by the Community Development Department. The proposed revised text to Section 17.36.170 is outlined in Section 3 of draft ordinance No. 1401 (refer to Exhibit 1 of Attachment 1) and is scheduled for review by the City Council at their December 10, 2008 meeting.

RECOMMENDATION:

The Community Development Department recommends the Planning Commission adopt PC Resolution No. 2008-23, recommending City Council approval of Zone Text Amendment No. 08-97511 and adoption of Ordinance 1401 to amend section 17.36.170 of the Banning Zoning Ordinance related to murals.

Respectfully submitted,

Matthew C. Bassi
Interim Community Development Director

City of Banning Planning Division
Planning Commission Meeting of November 5, 2008
PC Attachments:

1. PC Resolution No. 2008-23 for ZTA No. 08-97511
   Exhibit 1: Draft City Council Ordinance No. 1401

G:\ZTA #08-97511 Mural Ordinance Amendment\PC Staff Report ZTA 08-97511.doc
ATTACHMENT 1

RESOLUTION 2008-23 FOR ZTA 08-97511
RESOLUTION NO. 2008-23

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BANNING, CALIFORNIA RECOMMENDING CITY COUNCIL ADOPTION OF ORDINANCE NO. 1401 FOR ZONE TEXT AMENDMENT NO. 08-97511 TO AMEND SECTION 17.36.170 OF THE BANNING ZONING ORDINANCE RELATED TO MURALS

WHEREAS, the proposed Zone Text Amendment 08-97511 has been duly initiated by the City of Banning; and

WHEREAS, on October 24, 2008, the City published a public hearing notice for Zone Text Amendment No. 08-97511 in the Record Gazette newspaper in compliance with state law and Section 17.68 of the Banning Zoning Ordinance; and

WHEREAS, on November 5, 2008, the Planning Commission held a noticed public hearing at which time interested persons had an opportunity to testify in support of, or opposition to Zone Text Amendment No. 08-97511 and at which time the Planning Commission considered the proposed Zone Text Amendment and recommended City Council approval; and

WHEREAS, the Planning Commission has analyzed Zone Text Amendment No. 08-97511, which is considered a project under the California Environmental Quality Act (CEQA) guidelines, has determined that Zone Text Amendment No. 08-97511 is Exempt from CEQA under Section 15061(b)(3) of the CEQA Guidelines, and is recommending that the City Council adopt the aforementioned Exemption; and

WHEREAS, at said public hearing on November 5, 2008, the Planning Commission considered and heard public testimony and comments regarding Zone Text Amendment No. 08-97511; and

WHEREAS, the Planning Commission has carefully considered all pertinent documents and the staff report offered in this case as presented at the public hearing held on November 5, 2008.

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

SECTION 1. ENVIRONMENTAL FINDINGS

The Planning Commission, in light of the whole record before it, including but not limited to, the City's Local CEQA Guidelines, the recommendation of the Community Development Director as provided in the Staff Report dated November 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:

**CEQA:** The Planning Commission has analyzed Zone Text Amendment No. 08-97511 and has determined that it is exempt from the California Environmental Quality Act ("CEQA") under Section 15061(b)(3) of the CEQA Guidelines which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment. It is the Planning Commission's independent judgment that in approving the proposed zone text amendment that there is no possibility that the activity in question will have a significant effect on the environment; thus, the activity is not subject to CEQA. The proposed amendment to the Zoning Ordinance does not relate to any one physical project and will not result in any physical change to the environment. Therefore, the Planning Commission hereby recommends City Council adoption of this Exemption from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines.

### SECTION 2  ZONE TEXT AMENDMENT NO. 08-97511 REQUIRED FINDINGS

**Finding No. 1:**
The proposed amendment is consistent with the goals and policies of the General Plan.

**Facts:**
Zone Text Amendment No. 08-97511 is consistent with the goals and policies of the General Plan, in that the General Plan designations and Zoning designations will not change but will clarify the goals, policies and programs of the General Plan. For example, Program 11A of the Banning General Plan Economic Development Element indicates that the City should encourage and promote special events and activities which strengthen the City’s image and attractiveness to residents, visitors, and businesses. The proposed amendment to the mural ordinance will continue to enhance the City’s appearance and image and make it more attractive to the residents and visitors alike. Further, since the review and approval authority is now the responsibility of the Banning Cultural Alliance, additional coordination will be achieved as the technical requirements for reviewing murals will be accomplished by staff knowledgeable in the area of the “Arts”.

**Finding No. 2:**
The proposed Amendment is internally consistent with the Zoning Ordinance.

**Facts:**
Zone Text Amendment No. 08-97511 is consistent with the existing provisions of the Zoning Ordinance. The proposed amendment will not change the technical requirements for murals, but is only intended to change the review and approval authority to a non-profit agency with specific experience in the “Arts”. Murals will still be subject to the standards outlined in Section 17.36.170 (Sign Regulations). Further, the Zoning Ordinance currently contains in the Sign Ordinance an integrated program for the regulation of signage within the City. This Zone Text Amendment not change these
regulations, thus, it will still allow for the placement of murals, under the auspices of the Banning Cultural Alliance (The Alliance) within commercial and industrial zones in the City. Finally, the City would have the same authority that it does now to regulate all other types of signs; all content and maintenance issues would be addressed by the Banning Cultural Alliance.

Finding 3:
That the Planning Commission and City Council has independently reviewed and considered the requirements of the California Environmental Quality Act.

Facts:
The Planning Commission has analyzed Zone Text Amendment No. 08-97511 and determined that the project is exempt from the California Environmental Quality Act ("CEQA") under Section 15061(b)(3) of the CEQA Guidelines which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment. It is the Planning Commission’s independent judgment that in approving Zone Text Amendment No. 08-97511 that there is no possibility that the activity in question will have a significant effect on the environment; thus, the activity is not subject to CEQA, and recommends that the City Council adopt a CEQA exemption for this project.

SECTION 3. PLANNING COMMISSION ACTIONS

The Planning Commission hereby takes the following actions:

1. Recommend City Council adoption of an Exemption from the California Environmental Quality Act ("CEQA") under Section 15061(b)(3) of the CEQA Guidelines; and

2. Adopt Resolution No. 2008-23 recommending City Council adoption of Ordinance No. 1396 approving Zone Text Amendment No. 08-97511 to read as provided for in Exhibit 1 attached hereto:

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

William Dickson, Chairman
Banning Planning Commission

PC RESOLUTION NO. 2008-23
Page 3 of 4
APPROVED AS TO FORM AND LEGAL CONTENT:

David J. Aleshire, City Attorney
Aleshire & Wynder, 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. 2008-20, was duly adopted by the Planning Commission of the City of Banning, California, at a special meeting thereof held on the 5th day of November, 2008, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Virginia Sorenson, Recording Secretary
City of Banning, California

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PC RESOLUTION NO. 2008-23
Page 4 of 4
EXHIBIT 1

DRAFT ORDINANCE NO. 1401
FOR ZTA NO. 08-97511
DRAFT ORDINANCE NO. 1401

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING ZONE TEXT AMENDMENT NO. 08-97511 TO AMEND SECTION 17.36.170 OF THE BANNING ZONING ORDINANCE RELATED TO MURALS

WHEREAS, the proposed Zone Text Amendment 08-97511 has been duly initiated by the City of Banning; and

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

WHEREAS, on November 5, 2008, the Planning Commission held a noticed public hearing at which time interested persons had an opportunity to testify in support of, or opposition to Zone Text Amendment No. 08-97511 and at which time the Planning Commission considered the proposed Zone Text Amendment and recommended City Council approval; and

WHEREAS, the Planning Commission analyzed Zone Text Amendment No. 08-97511, which is considered a project under the California Environmental Quality Act (CEQA) guidelines, has determined that Zone Text Amendment No. 08-97511 is Exempt from CEQA under Section 15061(b)(3) of the CEQA Guidelines, and recommended City Council adoption of the aforementioned Exemption; and

WHEREAS, on November 28, 2008, the City published a public hearing notice for Zone Text Amendment No. 08-97511 in the Record Gazette newspaper in compliance with state law and Section 17.68 of the Banning Zoning Ordinance; and

WHEREAS, on December 10, 2008, the City Council held a noticed public hearing at which time interested persons had an opportunity to testify in support of, or opposition to Zone Text Amendment No. 08-97511; and

WHEREAS, at said public hearing on December 10, 2008, the City Council considered and heard public testimony and comments regarding Zone Text Amendment No. 08-97511; and

WHEREAS, the City Council has carefully considered all pertinent documents and the staff report offered in this case as presented at the public hearing held on December 10, 2008.

NOW THEREFORE, BE IT HEREBY ORDAINED by the City Council of the City of Banning as follows:

SECTION 1. ENVIRONMENTAL FINDINGS

The City Council, in light of the whole record before it, including but not limited to, the City’s Local CEQA Guidelines, the recommendation of the Community Development
Director as provided in the Staff Report dated December 10, 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:

**CEQA:** Zone Text Amendment No. 08-97511 is exempt from the California Environmental Quality Act (“CEQA”) under Section 15061(b)(3) of the CEQA Guidelines which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment. It is the City Council’s independent judgment that in approving this Ordinance there is no possibility that this action will result in any physical changes to the environment, and thus, will not have a significant effect. Further, the proposed text amendment is a legislative change to the Zoning Ordinance text and does not relate to a specific wireless facility project proposal. Therefore, adoption of this Ordinance is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines.

**SECTION 2 ZONE TEXT AMENDMENT NO. 08-97511 REQUIRED FINDINGS**

**Finding No. 1:** The proposed amendment is consistent with the goals and policies of the General Plan.

**Facts:** Zone Text Amendment No. 08-97511 is consistent with the goals and policies of the General Plan, in that the General Plan designations and Zoning designations will not change but will clarify the goals, policies and programs of the General Plan. For example, Program 11.A of the Banning General Plan Economic Development Element indicates that the City should encourage and promote special events and activities which strengthen the City’s image and attractiveness to residents, visitors, and businesses. The proposed amendment to the mural ordinance will continue to enhance the City’s appearance and image and make it more attractive to the residents and visitors alike. Further, since the review and approval authority is now the responsibility of the Banning Cultural Alliance, additional coordination will be achieved as the technical requirements for reviewing murals will be accomplished by staff knowledgeable in the area of the “Arts”.

**Finding No. 2:** The proposed Amendment is internally consistent with the Zoning Ordinance.

**Facts:** Zone Text Amendment No. 08-97511 is consistent with the existing provisions of the Zoning Ordinance. The proposed amendment will not change the technical requirements for murals, but is only intended to change the review and approval authority to a non-profit agency with specific experience in the “Arts”. Murals will still be subject to the standards outlined in Section 17.36.170 (Sign Regulations). Further, the Zoning Ordinance currently contains in the Sign Ordinance an integrated program for the regulation of signage within the City. This Zone Text Amendment not change these
regulations, thus, it will still allow for the placement of murals, under the auspices of the Banning Cultural Alliance (The Alliance) within commercial and industrial zones in the City. Finally, the City would have the same authority that it does now to regulate all other types of signs; all content and maintenance issues would be addressed by the Banning Cultural Alliance.

Finding 3:
That the Planning Commission and City Council has independently reviewed and considered the requirements of the California Environmental Quality Act.

Facts:
The City Council has analyzed Zone Text Amendment No. 08-97511 and determined that the project is exempt from the California Environmental Quality Act ("CEQA") under Section 15061(b)(3) of the CEQA Guidelines which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment. It is the City Council's independent judgment that in approving Zone Text Amendment No. 08-97511 that there is no possibility that the activity in question will have a significant effect on the environment; thus, the activity is not subject to CEQA, and recommends that the City Council adopt a CEQA exemption for this project.

SECTION 3. Chapter 17.36.170 of the Banning Municipal Code is hereby amended to read as follows:

17.36.170 Murals

A. Requests for murals shall be submitted to the Community Development Department with a completed sign permit application form. All mural applications shall be reviewed and approved by the Banning Cultural Alliance (The Alliance). Once the mural is approved by The Alliance, a sign permit shall be issued by the Community Development Department. A sign permit for a mural will be granted when all the following conditions have been satisfied:

1. A completed application;
2. A Sign permit fee paid to the Community Development Department;
3. Approval by the Banning Cultural Alliance;
4. The Mural shall not cause pedestrian or vehicular safety hazards;
5. The Mural shall be applied to the wall of a building; and
6. The Mural shall be maintained at all times by the property owner.

SECTION 4. Severability. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.
SECTION 5. Effective Date. This Ordinance shall take effect thirty (30) days after its
2nd reading in accordance with California law.

PASSED, APPROVED, AND ADOPTED this 10th day of December, 2008.

Brenda Salas, Mayor
City of Banning

APPROVED AS TO FORM AND LEGAL CONTENT:

David J. Aleshire, City Attorney
Aleshire & Wynder, LLP
City of Banning, California

ATTEST:

Marie A. Calderon, City Clerk

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that
Ordinance No. 1396 was duly introduced at a regular meeting of the City Council of the City of
Banning, held on the 10th day of December, 2008, and was duly adopted at a regular meeting of
said City Council on the 13th day of January, 2009, by the following vote, to wit:

AYES:                          

NOES:                          

ABSENT:                        

ABSTAIN:                       

Marie A. Calderon, City Clerk
City of Banning
Banning, California

GAZTA #08-97511 Mural Ordinance Amendment\Ordinance 1401 for ZTA 08-97511.doc
DATE: November 5, 2008
TO: Planning Commission
FROM: Community Development Department
SUBJECT: Status Report and 2008-2014 Draft Housing Element

PROJECT DESCRIPTION AND ANALYSIS

Attached for your review is the Draft General Plan Housing Element, which was received by staff from Laurin Associates, the City's housing consultant, on October 16, 2008. The draft is currently under final review by staff. The draft will be brought back to the Planning Commission at the December 2, 2008 meeting to provide an opportunity for the Commission to comment and to make a recommendation to the City Council.

The Housing Element update was discussed in a public workshop attended by the City Council, Planning Commission and the consultant on May 30, 2008. The consultant explained some of the new legislation passed by the state regarding housing element requirements and facilitated discussion of housing element issues. The comments received from the Council, the Commission and by residents that attended the workshop were recorded and written comments were collected on forms provided at the workshop. In addition, at the direction of the Council, a housing element questionnaire was sent to residents in the utility bills during the months of July and August. The consultant has incorporated the comments generated by the workshop and the questionnaire into the draft Housing Element. They are reflected in the programs listed in the element.

The draft element begins by introducing the element and outlining its purpose in chapter one and by describing the existing housing conditions, constraints, efforts and opportunities in chapter two. The needs, issues and trends are discussed in chapter three. These first three chapters provide the background and support documentation for the programs contained in chapter four, where the action programs are listed in accordance with the needs and requirements identified for the City.

Although there are ongoing action programs that have been carried over and updated from the 2006 Housing Element, in response to new state requirements and also in response to the input received from the workshop and the questionnaires, new programs have been initiated. Three of the major programs are listed below:
Neighborhood Stabilization Grant for Foreclosed Homes-The City will pursue this HUD-sponsored grant which enables cities to purchase foreclosed homes at a discount to make homes available to lower-income families. Abandoned and foreclosed homes are multiplying rapidly within the city as they are in other jurisdictions. The Community Development Department is inventorying abandoned homes in the City and we are contacting the lenders who own these homes in an effort to protect them from vandalism and neglect. It is anticipated that a number of these homes will be purchased by the City through this grant and through other funding sources.

Homeless shelters- Pursuant to state law, it is required that homeless shelter(s) be provided in or in close proximity to the City of Banning. Currently, through our participation in the 211 program, homeless people are referred to shelters located in Riverside. In 2009 the City will pursue a joint agreement with a maximum of two adjacent cities to provide at least one year-round joint use shelter by the year 2010. At the same time we will coordinate with homeless service providers and law enforcement agencies to determine the number of persons in need of shelter and facilitate finding them homes through a public relations campaign that includes flyers and web-site postings.

The Housing Exterior Rehabilitation Assistance Program (ERA)-This program will be expanded to include substantial rehabilitation work including roof and foundation repair, electrical upgrades and major appliances. This effort will help to maintain and upgrade the existing affordable housing stock in the City, prevent displacement of families and help provide housing for low to extremely low income households.

These represent a few of the many action programs proposed in the element. The State of California Housing and Community Development Agency has stated that they recognize that many communities will not be able to meet the projected housing needs (RHNA) due to circumstances beyond their control. They will, however, recognize the efforts made to identify the challenges and to provide solutions and will deem a housing element in compliance with State mandates if it contains sufficient documentation and action programs. Staff is of the opinion that the consultants have made the effort to craft an element that contains the types of documentation and programs that will gain acceptance from HCD.

This month-long review period will be the last opportunity for input from the Planning Commission prior to finalizing the element for submission to HCD.

RECOMMENDATION:

Staff recommends the Planning Commission receive the Draft 2008-2014 Housing Element for review and take no action at this time. The matter will be placed on the December agenda for your consideration.
Respectfully submitted,

Kim Clinton, AICP
Senior Planner

Reviewed by:

Matthew C. Bassi
Interim Community Development Director

Exhibits:

1. Draft 2008-2014 Housing Element (Under Separate Cover)