I. CALL TO ORDER: Chairman Hawkins

➢ Pledge of Allegiance: Commissioner Siva

➢ Roll Call: Chairman Hawkins, Commissioner Arterberry; Commissioner Barsh; Commissioner Escandel; Commissioner Siva

II. PUBLIC COMMENTS:

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

III. CONSENT CALENDAR ITEMS:

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

1. Approval of the May 4, 2010 Planning Commission Minutes
IV. PUBLIC HEARINGS

A. CONTINUED ITEMS:

1. Resolution No. 2010-03: A Resolution of the Planning Commission of the City of Banning, California approving Conditional Use Permit No. 10-801, a request by Walgreens to approve the offsite sale of beer and wine from the existing store located at 60 N. Highland Springs Avenue (APN 419-111-001, -002); and a determination of public convenience and necessity.

2. Request for Continuation: Tentative Parcel Map #36056 / Initial Study & Draft Mitigated Negative Declaration: Tentative Parcel Map #36056 is a request to subdivide an approximately 64 acre site into 9 lots for the development of a business park and five lettered lots for street purposes, which includes office, manufacturing and warehouse uses.

Design Review #07-708 /: Design Review # 07-708 is a request to review the design of the project and site development to ensure conformity with the City’s development standards and design guidelines. The Banning Business Park proposal will consist of 12 office/warehouse buildings and associated parking on approximately 63.98 acres. The proposed project is located approximately 1,090 feet north of the northeast corner of Hathaway Street and Ramsey Street / APN 532-110-003, 532-110-008, 532-110-009 and 532-110-010.

B. NEW ITEMS:

1. Conditional Use Permit Amendment No. 09-806: A Request by Royal Street Communications CA, LLC to locate a wireless telecommunications facility at the existing Holiday Inn Express located at 3020 W. Ramsey Street in the Highway Serving Commercial (HSC) zone. APN 538-340-022.

2. Zone Text Amendment No. 10-97501: Amendment to Chapter 17.36 of the Banning Municipal Code regarding political sign regulations.

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

1. City Council Actions from previous meetings on Planning-Related Items (Oral Report)

VII. TENTATIVE PROJECTS SCHEDULED FOR JULY 6, 2010

1. San Gorgonio Inn - DEIR

VIII. ADJOURNMENT

The City of Banning Planning Commission is hereby adjourned to the regular Planning Commission meeting of July 6, 2010 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

May 4, 2010

A regular meeting of the City of Banning Planning Commission was held on Tuesday, May 4, 2010 at 6:30 p.m., in the Council Chambers, City Hall, 99 East Ramsey Street, Banning, CA, 92220.

Commissioners Present: Chairman Hawkins
Commissioner Arterberry
Commissioner Barsh
Commissioner Escandels

Commissioners Excused: Commissioner Siva

Staff Present: Community Development Director Abu Bakar
Recording Secretary Sorenson

I. CALL TO ORDER

II. PUBLIC COMMENT

No one came forward.

III. CONSENT CALENDAR

1. Review of Minutes (January 5, 2010)

   ACTION (ESCANDEL / BARSH): A motion was moved, seconded and carried that item 1 be approved as presented.

   (Motion carried 3 - 0) (Chairman Hawkins abstained and Commissioner Siva was excused)
IV. ELECTION OF OFFICERS

Chairman Hawkins explained that the Code required a full commission to be present before the election of officers could take place. Therefore, since only four members were present this evening, the election would be continued to the next meeting that we have a full commission.

V. PUBLIC HEARINGS

1. Resolution No. 2010-03: A Resolution of the Planning Commission of the City of Banning, California approving Conditional Use Permit No. 10-801, a request by Walgreens to approve the offsite sale of beer and wine from the existing store located at 60 N. Highland Springs Avenue (APN 419-111-001, -002); and a determination of public convenience and necessity.

Community Development Director Abu Bakar requested that the Commissioners open the public hearing and move to continue the project.

ACTION (BARCH / ESCANDEL): A motion was moved, seconded and carried that the Planning Commission continue this project to the June 1, 2010 meeting.

(Motion carried 4 – 0) (Commissioner Siva was excused)

2. Request for Continuation: Tentative Parcel Map #36056 / Initial Study & Draft Mitigated Negative Declaration: Tentative Parcel Map #36056 is a request to subdivide an approximately 64 acre site into 9 lots for the development of a business park and five lettered lots for street purposes, which includes office, manufacturing and warehouse uses.

Design Review #07-708 /: Design Review # 07-708 is a request to review the design of the project and site development to ensure conformity with the City’s development standards and design guidelines. The Banning Business Park proposal will consist of 12 office/warehouse buildings and associated parking on approximately 63.98 acres. The proposed project is located approximately 1,090 feet north of the northeast corner of Hathaway Street and Ramsey Street / APN 532-110-003, 532-110-008, 532-110-009 and 532-110-010.

Chairman Hawkins opened the public hearing. Community Development Director Abu Bakar stated that we are requesting a continuance in order to respond to AQMD comments; however, there were people in the audience who may wish to speak regarding this project. Maggie Scott, 1516 E. Nicolet Street, Banning CA, came forward and stated that she had some questions. Commissioner Escandel mentioned to
Mrs. Scott that the project proponent was not at the meeting tonight and we would pass on her questions to him. Mrs. Scott wanted to know how this project will affect her property value. She also wanted to know how many feet the radius circle for property owner notification was around the subject property as some of her neighbors did not receive a notice. Staff responded that property owners within 300 feet of the exterior project boundaries were sent notices. Mrs. Scott responded that the neighbors on both sides of her did not receive a notice. The Commissioners tried to explain the different situations that might account for the neighbors not receiving a notice, such as being renters, etc. Mrs. Scott also brought up the description of buildings 11 and 12 and the term “high cube warehouse”. Director Abu Bakar responded that high cube means a lot of machinery is used in the building instead of a lot of people. So it is more mechanized and uses computer technology to keep track of merchandise and machines to actually retrieve the merchandise instead of people. Mrs. Scott asked if the applicant has any tenants for the industrial park yet. She also inquired about what uses would be permitted in the buildings. Commissioner Escandel responded that the uses for that zone are listed in our Zoning Code. Mrs. Scott mentioned that she read there were going to be two entrances to the property, one on Hathaway and she wanted to know where the second entrance would be. Commissioner Escandel responded that the last time he saw a lay-out of the project, Ramsey Street was going to be extended out into that area and improved, but nothing is solid at this time. Director Bakar stated she would like to meet with Mrs. Scott and go over the plans and follow up on her questions.

Mike Santa Cruz, 1471 E. Nicolet Street, Banning CA, came forward to speak. Mr. Santa Cruz stated he did not have a problem with the project, but hoped that the Commissioners would not approve a project that was not going to be finished, like the Banning Business Center on Lincoln.

ACTION (BARSH / ARTERBERRY): A motion was moved, seconded and carried that the Planning Commission continue this project to the June 1, 2010 meeting.

(Motion carried 4 – 0) (Commissioner Siva was excused)

VI. COMMUNITY DEVELOPMENT DIRECTOR’S REPORT

1. City Council Actions from previous meetings on Planning-Related Items

Director Abu Bakar stated that we put a copy of the moratorium that was adopted by the City Council on April 13th at the Commissioners places this evening for your information. That moratorium is only good for 45 days and we will go back and ask for an extension so that we can do the study on those special uses: tattoo parlors, fortune telling, push carts and hookah lounges.
VII. TENTATIVE PROJECTS SCHEDULED FOR JUNE 1, 2010

1. CUP # 09-806 – Royal Street Communications: Cell tower in Holiday Inn Express

VIII. PLANNING COMMISSIONER COMMENTS

IX. ADJOURNMENT

There being no further business to come before the Planning Commission, the meeting was adjourned at 6:50 p.m. to the Planning Commission meeting on June 1, 2010 at 6:30 p.m.

Respectfully submitted,

Gini Sorenson
Recording Secretary
DATE: June 1, 2010

TO: Mr. Chairman and Members of the Planning Commission

FROM: Zai Abu Bakar, Community Development Director

SUBJECT: CONDITIONAL USE PERMIT NO. 10-801/DETERMINATION OF PUBLIC CONVENIENCE OR NECESSITY:
A REQUEST BY WALGREENS TO APPROVE THE OFFSITE SALE OF BEER AND WINE FROM THE EXISTING RETAIL STORE LOCATED AT 60 N. HIGHLAND SPRINGS AVENUE (APN 419-111-001, -002); AND, A DETERMINATION OF PUBLIC CONVENIENCE OR NECESSITY.

STAFF RECOMMENDATION:

The Planning Division recommends the Planning Commission take the following actions:

1. Adopt a Class I Categorical Exemption in compliance with CEQA Guidelines Section 15301 (Existing Facilities); and,

2. Adopt PC Resolution No. 2010-03 (Attachment 1) approving Conditional Use Permit No. 10-801 subject to conditions that includes a determination of public convenience or necessity.

PROJECT/APPLICANT INFORMATION:

Project Location: 60 N. Highland Springs Avenue
APN Information: 419-111-001,-002
Project Applicant: Walgreens through its agent Luce, Forward, Hamilton & Scripps, LLP
APN 419-111-002 Keith W. Volk, Trustee of the Keith W. Volk Living Trust dated July 18, 2008.
Redevelopment Area: Yes
Specific Plan: No
Item continued from the May 4, 2010 Planning Commission Meeting

At the request of the applicant, this item was continued from May 4, 2010 to the June 1, 2010 Planning Commission meeting (Attachment 9).

PROJECT BACKGROUND AND DESCRIPTION:

Project Description

Walgreens opened their store at the northeast corner of Highland Springs Avenue and Ramsey Street in the year 2000 (see Exhibit 2 Location Map). At that time it was permitted for a 24-hour, seven days a week, 15,120 square foot, single story retail prescription pharmacy with dual drive through lanes. On March 1, 2010 the City received an application for a Conditional Use Permit in order for the applicant to sell beer and wine for off-site consumption. In addition to the State of California Department of Alcoholic Beverage Control (ABC) license requirement, Section 17.12.020 of the Zoning Code requires approval of a Conditional Use Permit by the Planning Commission. Please note that this request involves no new construction, only the reorganization of the existing shelf space to accommodate alcohol sales.

The project area actually consists of two parcels under separate ownership; the northerly half owned by Walgreens and the southerly half owned by the Volk Living Trust. The subject parcels are described as portions of the west half of the northwest quarter of Section 12, Township 3 South, Range 1 West, San Bernardino Base and Meridian. The project area is approximately 288 feet wide by 296 feet deep (85,248 square total project area) with the land sloping to the southeast. Both the frontages along Highland Springs Avenue and Ramsey Street are fully improved. The parking area is paved with landscaping improvements.

Surrounding Land Use Information

The project area is located in the General Commercial (GC) Zone. North of the site is the San Gorgonio Pass Memorial Hospital campus with frontage on Highland Springs Avenue, Wilson Street and extending easterly at Ramsey Street. West of the site across Highland Springs Avenue are a gas station with a mini market and an auto parts store both located in the City of Beaumont. Immediately east of the site is a vacant lot. South of the site and across Ramsey Street is a strip mall containing several retail stores including a fast food restaurant. Interstate 10 is located approximately 800 feet to the south along Highland Springs Avenue. The nature of the surrounding uses, Zoning and General Plan land use designations are delineated in the following table.
**Land Use Summary Table**

<table>
<thead>
<tr>
<th>Subject Site</th>
<th>Existing Land Use</th>
<th>Zoning Designation</th>
<th>General Plan Designation</th>
</tr>
</thead>
<tbody>
<tr>
<td>North</td>
<td>Existing Walgreens Store</td>
<td>General Commercial</td>
<td>General Commercial</td>
</tr>
<tr>
<td>South</td>
<td>San Gorgonio Memorial Hospital</td>
<td>Specific Plan</td>
<td>Professional Office</td>
</tr>
<tr>
<td>East</td>
<td>Strip Mall</td>
<td>General Commercial</td>
<td>General Commercial</td>
</tr>
<tr>
<td>West</td>
<td>Gas Station/Auto Parts</td>
<td>City of Beaumont</td>
<td>City of Beaumont</td>
</tr>
</tbody>
</table>

**PROJECT ANALYSIS:**

**Zoning Analysis**

The project area is located in the General Commercial (GC) Zone. This district is the broadest of the City’s commercial districts, and allows food and drug stores; home improvement; auto sales, leasing, service and repair; department and general retail outlets; merchandise leasing; neighborhood serving retail and services; restaurants; entertainment uses; gas stations; general offices (secondary to retail); mixed uses; and financial institutions.

The City issued a building permit for the subject property on January 6, 2000 and, upon occupancy, the use has existed continuously as a retail store with a pharmacy since that time.

Below is a chart showing the minimum development standards for the **General Commercial (GC) zone** (Table 17.12.030); and, how the proposed project meets the standards.
Commercial Development Standards

<table>
<thead>
<tr>
<th>Development Standards</th>
<th>Required</th>
<th>Provided</th>
<th>Complies With Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>Front Setback</td>
<td>10 feet</td>
<td>88 feet</td>
<td>Yes*</td>
</tr>
<tr>
<td>Side Setback (street)</td>
<td>5 feet</td>
<td>94 feet</td>
<td>Yes*</td>
</tr>
<tr>
<td>Side Setback</td>
<td>0 feet</td>
<td>0 feet</td>
<td>Yes*</td>
</tr>
<tr>
<td>Rear Setback</td>
<td>0 feet</td>
<td>79 feet</td>
<td>Yes*</td>
</tr>
<tr>
<td>Max. Bldg. Coverage (%)</td>
<td>35%</td>
<td>18%</td>
<td>Yes*</td>
</tr>
<tr>
<td>Required Parking</td>
<td>One space each 250 square feet of floor area (61 spaces required)</td>
<td>83 spaces</td>
<td>Yes*</td>
</tr>
<tr>
<td>Minimum Lot Size</td>
<td>6,000 square feet</td>
<td>42,032/43,216 square feet*</td>
<td>Yes*</td>
</tr>
</tbody>
</table>

*The project area consists of two separate parcels under separate ownership. It appears that the existing building crosses over onto both parcels. For this reason, compliance with development standards is different than what would be typical on a given single parcel.

Conditional Use Permit

Table 17.12.020 "Permitted, Conditional and Prohibited Commercial and Industrial Uses" of the Zoning Code requires that a Conditional Use Permit be approved by the Planning Commission for alcoholic beverage sales, on or off-site. Additionally, Section 17.12.050(B)(2) of the Zoning Code requires the following:

1. Establishments shall not be located within 500 feet of any religious institution, school, or public park within the City.
2. The license application shall be reviewed by the Police Department prior to Planning Commission approval.

A review of properties within 500 feet of the site reveals that there are no existing religious institutions, schools, or public parks. Additionally, a copy of the application materials was sent to the Police Department on March 3, 2010 with a request for comments. The Police Department submitted the crime statistics that are included in the analysis for the ABC licensing discussed further below.

A conditional use permit review shall determine whether the proposed use should be permitted by weighing the public need for the benefit to be derived from the use against any negative or undesirable impacts which it may cause. Limits which staff is recommending include conditions that help make the use compatible with the existing and nearby land uses. These conditions include restrictions on the container type, quantity, and size of alcohol offered for sale. Requirements for employee training, limits on the hours that alcohol is offered for sale, and other conditions designed to address the over concentration of ABC licenses in that area discussed in further detail below. Staff recommends the adoption of the conditions of approval as listed in Planning Commission Resolution No. 2010-03 (see Exhibit 1).
Additionally, the applicant has indicated that the following corporate policies and procedures are in place to counter negative impacts:

1. Employees at each store must undergo training prior to beer and wine being made available for sale at the store.
2. Each cash register clerk must submit a policy acknowledgement as part of daily log-in, log-out process.
3. Each cash register clerk must request identification and proof of age for any customer attempting to purchase beer and wine who appears to be under the age of 40. Pre-programmed cash register prompts will remind the clerks to request this proof.
4. Any under-aged employees will be required to involve the manager or assistant manager for the sale of beer or wine. However, staff is recommending in Condition of Approval # that only employees over the age of 21 sell alcoholic beverages.

The applicant has stated that the training of Walgreens employees is accomplished through an internal alcohol training sales program. The program focuses on recognizing and preventing sales of alcohol that may be detrimental to the public welfare (i.e. the sale of alcohol to minors and intoxicated persons).

**Alcoholic Beverage Control (ABC) Licensing**

ABC licenses are required for any business wishing to sell alcoholic beverages. These licenses are issued by the State of California, Department of Alcoholic Beverage Control. The ABC office that regulates the City of Banning is located at 34-160 Gateway Drive, Suite 120, Palm Desert, California.

On January 1, 1998 Section 23817.5 of the Business and Professions Code was amended to permanently establish a moratorium on the issuance of offsite sale of beer and wine licenses (Type 20) in cities where the ratio of Type 20 licenses exceeds one for each 2,500 inhabitants. The Department of Alcoholic Beverage Control (ABC) listed the City of Banning as a moratorium city (see Exhibit 6). Listed below is a table identifying all ABC permits located in census tract 0441.03, the census tract where Walgreens is located. Census tract 0441.03 is bounded by Highland Springs Avenue to the west, Sunset Avenue to the east, Interstate 10 to the south and 14th Street (Oak Valley Parkway, City of Beaumont) to the north (see Exhibit 7).

However, the applicant is seeking to transfer an existing Type 20 license, not the approval of a new license where an exemption to the moratorium would be necessary.
Existing ABC Licenses-Census Tract 0441.03

<table>
<thead>
<tr>
<th>ABC License #</th>
<th>Type</th>
<th>Business Name</th>
<th>Business Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>299182</td>
<td>41</td>
<td>The Farmhouse Restaurant</td>
<td>6261 Joshua Palmer Way</td>
</tr>
<tr>
<td>468356</td>
<td>41</td>
<td>Tortillas Restaurant</td>
<td>3505 W. Ramsey Street</td>
</tr>
<tr>
<td>384550</td>
<td>20</td>
<td>G &amp; M Oil (Chevron)</td>
<td>3230 W. Ramsey Street</td>
</tr>
<tr>
<td>485410</td>
<td>20</td>
<td>Rio Ranch Market</td>
<td>3317 W. Ramsey Street</td>
</tr>
<tr>
<td>456765</td>
<td>42</td>
<td>Smith Creek Saloon</td>
<td>4296 W. Ramsey Street</td>
</tr>
<tr>
<td>411528</td>
<td>20</td>
<td>Ramsey Mini Mart</td>
<td>5140 W. Ramsey Street</td>
</tr>
<tr>
<td>313066</td>
<td>51</td>
<td>Eagles Lodge</td>
<td>5200 W. Ramsey Street</td>
</tr>
<tr>
<td>443872</td>
<td>41</td>
<td>Guys Italian Restaurant</td>
<td>5970 W. Ramsey Street</td>
</tr>
</tbody>
</table>

License type:  
41=On-Sale Beer and Wine for Bona Fide Public Eating Place  
20=Off-Sale Beer and Wine  
42=On-Sale Beer and Wine for Public Premises  
51=Club

The closest Business with a Type 20 off-sale ABC licenses outside Census Tract 0441.03 is the Beaumont Gas Mart (Arco) across Highland Springs Avenue (City of Beaumont). Additionally, Stater Bros Market located at 1661 E. 6th Street (City of Beaumont) and Food 4 Less located at 1691 E. 6th Street (City of Beaumont) has Type 21 (off-site general) licenses.

Section 23817.7 of the Alcoholic Beverage Control Act allows exceptions to the moratorium if certain findings can be made with regard to the crime rates in the census tract where the permit will be located, the ratio of permits in the census tract compared to the average for the county, and a determination that public convenience or necessity would be served. The applicant is requesting that exemption.

Section 23958.4 of the Alcoholic Beverage Control Act allows transfers of a Type 20 off-sale licenses upon application to, and approval by, ABC; and, a determination that the public convenience or necessity would be served. The applicant is requesting said determination by the Planning Commission. The local crime statistics and license concentration levels as listed below are provided for your information.

Local Crime Statistics

Because of the moratorium, the applicant's premises must be located in a low crime reporting district. A report from the Police Department reveals that the crime rates in District 94 (the reporting district where the site is located) are well below the average for the City. For the whole City there were a total of 3,561 Part 1 crimes in the year 2009. Part 1 crimes include homicide, sexual assault, robbery, aggravated assault, larceny, and auto theft; and, includes all felony and misdemeanor arrests. A total of 7 Part 1 crimes occurred in District 94 for the year 2009 and there were only two public intoxication arrests. Therefore, the Police Department does not have any objection to the issuance of the offsite license to sell beer and wine at this location.
ABC License Concentration Levels

Because of the moratorium, the applicant's premises must be located in an area that falls below the concentration levels for the county in which it is located. City Staff contacted the Palm Desert ABC Office and they stated that there are three existing Type 20 licensee; and, that any additional licenses will not be approved by ABC in the census tract where Walgreens is located. Therefore, at this time the only option available for the applicant is to purchase one of the existing Type 20 licenses and transfer that license to the Walgreens store. The concentration of Type 20 permits is illustrated in the table below.

<table>
<thead>
<tr>
<th>Location</th>
<th>Number of off-sale retail license</th>
<th>Population</th>
<th>Ratio</th>
</tr>
</thead>
<tbody>
<tr>
<td>Census Tract 0441.03</td>
<td>3</td>
<td>3,999</td>
<td>.00075</td>
</tr>
<tr>
<td>Riverside County</td>
<td>672</td>
<td>1,545,387</td>
<td>.00043</td>
</tr>
</tbody>
</table>

1 Source State of California, Department of Alcoholic Beverage Control, Website http://www.abc.ca.gov/dataport/LQSMenu.html.
3 Source State of California, Department of Alcoholic Beverage Control, Alcoholic Beverage Licenses as of June 30, 2009.
4 Source YR 2000 Benchmark, State of California, Department of Finance, Population Research Unit.

Determination of Public Convenience or Necessity

Because of the moratorium, ABC may only approve the transfer of a Type 20 license (offsite beer and wine sales) if the Planning Commission (or City Council) determines that the public convenience or necessity would be served at this location. This determination is a tool for the local agency (City) to directly have a part in the ABC licensing process. A determination of public convenience and necessity is demonstrated when the applicant proves that the business operation will provide some kind of benefit to the surrounding community. A summary of the justifications for such a determination as provided by the applicant is listed as follows:

1. The Addition of Beer and Wine Sales at the Existing Walgreens Store Will Not Be Detrimental To the Character or Development in the Immediate Neighborhood and Will Be in Harmony With the Overall Objectives of the General Plan.

Walgreens is a national chain of retail drugstores selling prescription and over-the-counter medicines as well as a variety of general merchandise, sundries and grocery items to the public. From its store at the 60 N. Highland Springs Avenue, Walgreens has been successfully meeting the needs of residents of and visitors to the City of Banning since 2000. By adding beer and wine to the general merchandise already offered in the store, Walgreens can even better serve the surrounding community by providing customers with the convenience of “one-stop” shopping.

Because it is part of a larger retail operation and Walgreens’ standard business practices, the sale of beer and wine also will not be harmful to the health, safety and general welfare of the public or otherwise detrimental to the environment or the character of development in the immediate area. Walgreens endeavors to sell alcoholic beverage in a highly responsible and
conscientious manner. Detailed, corporate policies and procedures are already in place and will be strictly enforced.

Training will be accomplished through a Walgreens internal alcohol sales training program, which is required for all cashiers and managers. The training program focuses on recognizing and preventing sales of alcohol that may be detrimental to the public welfare (i.e., the sale of alcohol to minors and intoxicated persons). Implementation of this program will help ensure that the sale of alcohol at the store will not be detrimental to residents, shoppers, or other business in the vicinity of this store. To prevent abuses, Walgreens will also only sell beer in 6 packs, 12 packs, 18 packs and cases. Walgreens will not sell beer by the individual can or bottle.

In addition to the various steps that Walgreens has and will take to avoid detrimental impacts to the character of development in the immediate neighborhood, a determination of public convenience or necessity is appropriate because the Walgreens store is not located in close proximity to any schools, churches, residences or other sensitive land uses. The store is surrounded by similarly scaled commercial retail uses to the south and west. The property immediately to the east is vacant. Medical offices are located immediately north of the store. San Gorgonio hospital and Loma Linda University Medical Center are also in the vicinity. The nearest sensitive land use for ABC purposes is the Church of Jesus Christ of LDS on West Wilson Street. That church is separated from Walgreens by nearly 900 feet, far outside the 600-foot radius the ABC considers in making licensing determinations.

With respect to the City General Plan, the Vision Statement promotes “well-balanced commercial development, where revenue generating commercial neighborhoods provide a diversified economy and a wide range of jobs.” Similarly, the General Plan’s Land Use Element identifies a goal of creating a “balanced, well planned community including businesses which provide a functional pattern of land uses” and a policy of promoting the “highest quality” of development. The existing Walgreens operations already serve those goals and policies by providing access to a pharmacy and other general merchandise in a modern facility located in close proximity to a number of the City’s medical facilities. The addition of beer and wine sales would facilitate even greater harmony with the General Plan by providing more convenient, “one-stop” shopping for Walgreens’ many customers in the City of Banning and further diversifying the area’s economic base.

2. Beer and Wine Sales at Walgreens Will Generate Economic Benefits and They Are Not Likely to Result in Negative Impacts to the Community as a Whole.

As described above, the sale of beer and wine by Walgreens would be conducted in a manner that maximizes public safety and minimizes public nuisance at a location that is very well suited for alcohol sales. Therefore, the project is not likely to generate negative community impacts. Economically, an average Walgreens store generates approximately $9,000,000 in annual sales and Walgreens estimates that beer and wine sales will not exceed 5% of total sales. Given the stores proximity to the City of Beaumont, and the fact that beer and wine sales will make Walgreens a more attractive “one stop” option for shoppers, it is likely that
Walgreens will generate additional sales tax revenue for the City of Banning that was previously lost to its neighboring city.

Further, Walgreens currently employs approximately 40 people at the Banning store. While beer and wine sales are not likely to be significant enough to necessitate the hiring of additional staff, especially during these difficult economic times, any additional revenue from beer and wine sales is important to Walgreens. The beer and wine sales will make it that much more likely that the Banning store will continue to succeed so that the City can continue to receive sales tax revenue from Walgreens and Walgreens can maintain its existing employment levels.

3. Sale of Beer and Wine by Walgreens at 60 N. Highland Avenue Will Provide Needed Service to the Area That Are Not Clearly Met By Other Existing Alcohol Sales Establishments.

The Walgreens store at 60 N. Highland Avenue is an attractive, well lit and modern facility at a very visible corner. With good frontage along both Highland Springs Road and Ramsey Street, and given its proximity to Interstate 10, the Walgreens store is easily accessible for the City’s residents as well as others visiting the area. The concentration of medical uses in the immediate vicinity, including the San Gorgonio hospital and the Loma Linda University Medical Center, also make this location unique. Having a full service pharmacy in this location is important and the addition of beer and wine sales will make the Walgreens store an even more attractive destination. These complimentary uses will help reduce vehicle miles traveled because customers will now be able to meet even more of their shopping needs without having to travel to multiple locations.

Also, Walgreens brings a well trained staff, security features such as video cameras and the placement of beer and wine at locations away from store entrances and a reputation and policies that make Walgreens a good corporate citizen, Walgreens will be unique in the way it handles the sale of beer and wine. Further, Walgreens will dedicate no more than 1.65% (250 square feet) of its floor area to the sale and storage of beer and wine thereby minimizing the risk of potential adverse impacts. Therefore, the addition of beer and wine sales at the existing Walgreens store will provide services to the area in a way not clearly met by others.

The statements made by the applicant in connection with the determination of public convenience and necessity are further reinforced by the conditions of approval listed in Planning Commission Resolution No. 2010-03. Thus, the City along with the ABC licensing program (State of California) serve together to regulate alcohol sales at this location. Additional information regarding the determination of public convenience or necessity as prepared by the California Council on Alcohol Policy is included in Exhibit 8.

Based on the foregoing and with implementation of the conditions of approval, staff is of the opinion that a Planning Commission determination that the public convenience or necessity would be served is appropriate. Staff believes the proposed increase to the business operation will provide a benefit to the surrounding community by providing one stop shopping for residences, thereby having the potential to reduced vehicular trips; and promoting and
maintaining a successful business in the City, thereby having the potential to protect existing jobs in the City.

Conclusion

Staff recommends approval of the subject conditional use permit as the proposed project is consistent with the requirements of the Zoning Code, while not significantly effecting the environment. If approved, the project has the potential to produce additional sales tax revenue for the City. Any negative impacts that may occur due to project approval will likely be mitigated or eliminated by the conditions of approval listed in Planning Commission Resolution No. 2010-03 and the regulation of alcohol sales by the Department of Alcoholic Sales (ABC) licensing program. Additionally, staff recommends the determination of public convenience or necessity because the project involves the transfer of an existing Type 20 permit within census tract 0441.03 and no increase in Type 20 licensing will occur.

ENVIRONMENTAL DETERMINATION:

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 Planning Division as provided in this Staff Report dated June 1, 2010 and documents incorporated herein by reference, and any other evidence (within the meaning of Public Resources Code § 21080(e) and § 21082.2) within the record or provided at the public hearing of this matter, hereby finds and determines as follows:

1. California Environmental Quality Act (CEQA)

(a) The project is Categorically Exempt from CEQA in accordance with Section 15301 (Existing Facilities-Class 1) in that the staff report submitted by the Planning Division and other findings made in this Resolution demonstrate that Conditional Use Permit #10-801 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the City of Banning building permit issued January 6, 2000. Examples include the exterior alterations involving such things as electrical conveyances; existing facilities of both investor and publicly-owned utilities used to provide public utility services; and, additions to existing structures provided that the addition will not result in an increase of more than 50 percent of the floor area of the structures before the addition, or 2,500 square feet, whichever is less.

(b) None of the exceptions to the Categorical Exclusions contained in CEQA Guidelines Section 15300.2 prevent CEQA Guidelines Section 15301 from exempting the project for the following reasons:

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

(ii) The nature of the project is such that significant cumulative impacts will not occur from successive projects of this type occurring in the same location over time.
Most notably, this will not increase the number of off-sale beer and wine licenses in the City rather will simply involve the transfer of an existing license to the applicant. The General Commercial (GC) zoning standards regulates the land use around the site. North of the site is the San Gorgonio Memorial Healthcare District campus consisting of the hospital and related health care facilities. West of the site across Highland Springs Avenue are a gas station with a convenience market and an auto parts store. East of the site is a vacant lot. South of the site and across Ramsey Street is a strip mall containing several retail stores and a fast food restaurant. Interstate 10 is located approximately 800 feet to the south along Highland Springs Avenue. This is a long-established, freeway-adjacent, commercial area along Highland Springs Avenue, one of the City’s major commercial corridors.

(iii) There is no reasonable possibility that unusual circumstances will cause the project to have a significant effect on the environment because the existing retail store/pharmacy is not in itself a hazardous use; the City’s utilities and roads are adequate to serve the project and the surrounding properties are not environmentally sensitive properties.

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

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

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

2. Multiple Species Habitat Conservation Plan (MSHCP).

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

REQUIRED FINDINGS FOR CONDITIONAL USE PERMIT NO. 10-801:

The Zoning Ordinance requires that each Conditional Use Permit application meet certain findings in Section 17.52.050 in order to be approved by the Planning Commission. The following findings are provided for Commission consideration:

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

Findings of Fact: The project is consistent with General Plan Economic Development Element Policy #2 which states: “The City shall take a proactive role in the retention of existing businesses, particularly those that generate and broaden employment opportunities,
increase discretionary incomes and contribute to City General Fund revenues”. In a tough economic climate, the existing businesses that are successful enough to expand their business may do so, rather than having to relocate in order to expand. The sale of beer and wine for offsite consumption will contribute to increased income for the Walgreens store, which will contribute to City General Fund Revenues. Additionally, the location of the existing store at the intersection of Highland Springs Avenue and Ramsey Street is one of the most highly traveled areas in the City; and, therefore may be more convenient than other locations being accessible to a larger customer base (Highland Springs Avenue is estimated at 31,930 average daily traffic; and, Ramsey Street is estimated at 22,082 average daily traffic (2006 General Plan, Table III-16)).

Finding No. 2: The proposed use (alcohol sales) is conditionally permitted within the subject land use district.

Findings of Fact: The land-use designation of General Commercial (GC) allows the sale of alcohol for offsite consumption requiring review and approval of a conditional use permit by Planning Commission (see Table 17.12.020 Permitted, Conditional and Prohibited Commercial and Industrial Uses of the Zoning Code). The Walgreens store is located within the GC land use district and Resolution No. 2010-03 includes conditions specific to this permit.

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

Facts of Fact: The proposed use will not impair the integrity and character of the General Commercial (GC) land use district in which it is to be located because it is surrounded by improved commercial land; north of the site is the San Gorgonio Memorial Healthcare District campus consisting of the hospital and related health care facilities; west of the site across Highland Springs Avenue are a gas station with a convenience market and an auto parts store; south of the site and across Ramsey Street is a strip mall containing several retail stores and a fast food restaurant.

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

Findings of Fact: The subject site is currently developed as a retail store/pharmacy. The 1.96 acre land area is of adequate size to accommodate the existing retail store/pharmacy with additional alcohol sales, if approved. The site has adequate areas for parking and includes landscaping. There is adequate access from Ramsey Street and Highland Springs Avenue.

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

Finding of Fact: The site is served by the public and private utilities, including the City’s water and electrical utilities. The site is accessed and served from Ramsey Street and Highland Springs Avenue, existing developed roadways with existing utilities. Additionally,
conditions of approval include the requirement to maintain adequate lighting in the parking area that serves the retail store/pharmacy.

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

Finding of Fact: The site is fully improved. There is no evidence that the offsite sale of beer and wine will have the potential for any adverse effect on wildlife resources or the habitat upon which wildlife depends. The site was found to contain no suitable habitat for threatened or endangered species. There is no evidence that vernal pool complex, similar bodies of water, or conditions suitable for forming such bodies of water exist on the site. The surrounding neighborhood is developed. The parcels are flat (unable to support bodies of water).

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

Finding of Fact: The structure is existing and involves no new construction, only the reorganization of the interior existing shelf space to accommodate alcohol sales. The existing site complies with the Zoning Code development standards.

Furthermore, limits on project approval include conditions that help make the use compatible with the existing neighborhood. These conditions include restrictions on the container type, quantity, and size of alcohol offered for sale. Requirements for employee training, limits on the hours that alcohol is offered for sale, and other conditions designed to address the over concentration of ABC licenses in that area. Also, alcohol sales are regulated by the State of California, Department of Alcoholic Sales (ABC) licensing program.

REQUIRED FINDINGS FOR A DETERMINATION OF PUBLIC CONVENIENCE OR NECESSITY:

In accordance with Section 23817.7(3) of the Business and Professions Code the following findings are made regarding the determination of public convenience or necessity:

Finding No. 1: The Addition of Beer and Wine Sales at the Existing Walgreens Store Will Not Be Detrimental To the Character or Development in the Immediate Neighborhood and Will Be in Harmony With the Overall Objectives of the General Plan.

Finding of Fact: Walgreens is a national chain of retail drugstores selling prescription and over-the-counter medicines as well as a variety of general merchandise, sundries and grocery items to the public. From its store at the 60 N. Highland Springs Avenue, Walgreens has been successfully meeting the needs of residents of and visitors to the City of Banning since 2000. By adding beer and wine to the general merchandise already offered in the store, Walgreens can even better serve the surrounding community by providing customers with the convenience of “one-stop” shopping.
Because it is part of a larger retail operation and Walgreens’ standard business practices, the sale of beer and wine also will not be harmful to the health, safety and general welfare of the public or otherwise detrimental to the environment or the character of development in the immediate area. Walgreens endeavors to sell alcoholic beverage in a highly responsible and conscientious manner. Detailed, corporate policies and procedures are already in place and will be strictly enforced. The policies and procedures may include requirements such as:

- Employees at each store must undergo training prior to beer and wine being made available for sale at the store;
- Each cash register clerk must submit a policy acknowledgement as part of the daily log-in and log-out process;
- Each cash register clerk must request identification and proof of age for any customer attempting to purchase beer or wine who appears to be under the age of 40. Pre-programmed cash register “prompts” will remind the clerks to request this proof;

Training will be accomplished through a Walgreens internal alcohol sales training program, which is required for all cashiers and managers. The training program focuses on recognizing and preventing sales of alcohol that may be detrimental to the public welfare (i.e., the sale of alcohol to minors and intoxicated persons). Implementation of this program will help ensure that the sale of alcohol at the store will not be detrimental to residents, shoppers, or other business in the vicinity of this store. To prevent abuses, Walgreens will also only sell beer in 6 packs, 12 packs, 18 packs and cases. Walgreens will not sell beer by the individual can or bottle.

In addition to the various steps that Walgreens has and will take to avoid detrimental impacts to the character of development in the immediate neighborhood, a determination of public convenience or necessity is appropriate because the Walgreens store is not located in close proximity to any schools, churches, residences or other sensitive land uses. The store is surrounded by similarly scaled commercial retail uses to the south and west. The property immediately to the east is vacant. Medical offices are located immediately north of the store. San Gorgonio hospital and Loma Linda University Medical Center are also in the vicinity. The nearest sensitive land use for ABC purposes is the Church of Jesus Christ of LDS on West Wilson Street. That church is separated from Walgreens by nearly 900 feet, far outside the 600-foot radius the ABC considers in making licensing determinations.

With respect to the City General Plan, the Vision Statement promotes “well-balanced commercial development, where revenue generating commercial neighborhoods provide a diversified economy and a wide range of jobs.” Similarly, the General Plan’s Land Use Element identifies a goal of creating a “balanced, well planned community including businesses which provide a functional pattern of land uses” and a policy of promoting the “highest quality” of development. The existing Walgreens operations already serve those goals and policies by providing access to a pharmacy and other general merchandise in a modern facility located in close proximity to a number of the City’s medical facilities. The addition of beer and wine sales would facilitate even greater harmony with the General Plan by providing more convenient, “one-stop” shopping for Walgreens’ many customers in the City of Banning and further diversifying the area’s economic base.
Finally, Walgreen’s sale of beer and wine at the location would not result in an increase in the number of locations selling beer and wine instead it would involve the transfer of an existing permit within census tract 0441.03.

Finding No. 2: Beer and Wine Sales at Walgreens Will Generate Economic Benefits and They Are Not Likely to Result in Negative Impacts to the Community as a Whole.

Finding of Fact: As described above, the sale of beer and wine by Walgreens would be conducted in a manner that maximizes public safety and minimizes public nuisance at a location that is very well suited for alcohol sales. Therefore, the project is not likely to generate negative community impacts. Economically, an average Walgreens store generates approximately $9,000,000 in annual sales and Walgreens estimates that beer and wine sales will not exceed 5% of total sales. Given the stores proximity to the City of Beaumont, and the fact that beer and wine sales will make Walgreens a more attractive “one stop” option for shoppers, it is likely that Walgreens will generate additional sales tax revenue for the City of Banning that was previously lost to its neighboring city.

Further, Walgreens currently employs approximately 40 people at the Banning store. While beer and wine sales are not likely to be significant enough to necessitate the hiring of additional staff, especially during these difficult economic times, any additional revenue from beer and wine sales is important to Walgreens. The beer and wine sales will make it that much more likely that the Banning store will continue to succeed so that the City can continue to receive sales tax revenue from Walgreens and Walgreens can maintain its existing employment levels.

Finding No. 3: Sale of Beer and Wine by Walgreens at 60 N. Highland Avenue Will Provide Needed Service to the Area That Are Not Clearly Met By Other Existing Alcohol Sales Establishments.

Finding of Fact: The Walgreens store at 60 N. Highland Avenue is an attractive, well lit and modern facility at a very visible corner. With good frontage along both Highland Springs Road and Ramsey Street, and given its proximity to Interstate 10, the Walgreens store is easily accessible for the City’s residents as well as others visiting the area. The concentration of medical uses in the immediate vicinity, including the San Gorgonio hospital and the Loma Linda University Medical Center, also make this location unique. Having a full service pharmacy in this location is important and the addition of beer and wine sales will make the Walgreens store an even more attractive destination. These complimentary uses will help reduce vehicle miles traveled because customers will now be able to meet even more of their shopping needs without having to travel to multiple locations.

Also, Walgreens brings a well trained staff, security features such as video cameras and the placement of beer and wine at locations away from store entrances and a reputation and policies that make Walgreens a good corporate citizen, Walgreens will be unique in the way it handles the sale of beer and wine. Further, Walgreens will dedicate no more than 1.65% (250 square feet) of its floor area to the sale and storage of beer and wine thereby minimizing
the risk of potential adverse impacts. Therefore, the addition of beer and wine sales at the existing Walgreens store will provide services to the area in a way not clearly met by others.

PUBLIC COMMUNICATION:

The proposed project was advertised in the Record Gazette newspaper, and notices were mailed to all property owners within a 300-foot radius of the site on April 23, 2010. As of the date of this report, staff has not received any verbal or written comments for or against the proposed project.
PC Attachments:

1. Resolution No. 2010-03 (with Conditions of Approval)
2. Location Map
3. Aerial Photograph
4. Site Photographs
5. Project plans; existing Site Plan; Floor Plan
6. ABC 2005 Moratorium Cities
7. Map Census Tract 0441.03
9. Letter dated May 4, 2010 from Walgreens requesting a continuance to June 1, 2010
Attachment 1

(Resolution No. 2010-03 with Conditions of Approval)
RESOLUTION NO. 2010-03

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BANNING, CALIFORNIA APPROVING CONDITIONAL USE PERMIT NO. 10-801 A REQUEST BY WALGREENS TO APPROVE THE OFFSITE SALE OF BEER AND WINE FROM THE EXISTING RETAIL STORE LOCATED AT 60 N. HIGHLAND SPRINGS AVENUE (APN 419-111-001, -002); AND, A DETERMINATION OF PUBLIC CONVENIENCE OR NECESSITY

WHEREAS, State of California, Department of Alcoholic Beverage Control licenses are required for any business wishing to sell such beverages on-site, or off-site. As indicated in Table 17.12.020 of the Zoning Code, a Conditional Use Permit is required by the City in addition to the State license; and

WHEREAS, an application for a Conditional Use Permit including a request for a determination of public convenience or necessity has been duly filed by:

Project Applicant: Walgreens through its agent Luce, Forward, Hamilton & Scripps, LLP
APN 419-111-002 Keith W. Volk, Trustee of the Keith W. Volk Living Trust dated July 18, 2008.
Project Location: 60 N. Highland Springs Avenue
APN Information: 419-111-001,-002
Redevelopment Area: Yes
Specific Plan: No
Lot Size 1.96 acres (85,248 square feet)

WHEREAS, the Planning Commission has the authority per Chapter 17.52 of the Banning Municipal Code to take action on Conditional Use Permit No. 10-801 for off-site alcohol sales in the General Commercial (GC) Zone; and

WHEREAS, on April 23, 2010 the City gave public notice by advertising in the Record Gazette, a newspaper of general circulation within the City of Banning, and by mailing notices to property owners within 300 feet of the project of the holding of a public hearing at which the project would be considered; and

WHEREAS, on June 1, 2010 the Planning Commission held the noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to, Conditional
Use Permit #10-801 and the determination of public convenience or necessity, and at which meeting the Planning Commission considered the Conditional Use Permit and determination of public convenience or necessity; and

WHEREAS, the Community Development Director has reviewed the project's potential effects on the environment and has recommended that the project is categorically exempt from the California Environmental Quality Act ("CEQA") under CEQA Guidelines Section 15301 “Existing Facilities” and the exceptions to the categorical exemptions contained in CEQA Guidelines Section 15300.2 are not applicable to the project.

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

SECTION 1: ENVIRONMENTAL DETERMINATION.

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 Planning Division as provided in this Staff Report dated May 4, 2010 and documents incorporated herein by reference, and any other evidence (within the meaning of Public Resources Code § 21080(e) and § 21082.2) within the record or provided at the public hearing of this matter, hereby finds and determines as follows:

1. California Environmental Quality Act (CEQA)

(a) The project is Categorically Exempt from CEQA in accordance with Section 15301 (Existing Facilities-Class 1) in that the staff report submitted by the Planning Division and other findings made in this Resolution demonstrate that Conditional Use Permit #10-801 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the City of Banning building permit issued January 6, 2000. Examples include the exterior alterations involving such things as electrical conveyances; existing facilities of both investor and publicly-owned utilities used to provide public utility services; and, additions to existing structures provided that the addition will not result in an increase of more than 50 percent of the floor area of the structures before the addition, or 2,500 square feet, whichever is less.

(b) None of the exceptions to the Categorical Exemptions contained in CEQA Guidelines Section 15300.2 prevent CEQA Guidelines Section 15301 from exempting the project for the following reasons:

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

(ii) The nature of the project is such that significant cumulative impacts will not occur from successive projects of this type occurring in the same location over time. Most notably, this will not increase the number of off-sale beer and wine licenses in the City rather will simply involve the transfer of an existing license to the
applicant. The General Commercial (GC) zoning standards regulates the land use around the site. North of the site is the San Gorgonio Memorial Healthcare District campus consisting of the hospital and related health care facilities. West of the site across Highland Springs Avenue are a gas station with a convenience market and an auto parts store. East of the site is a vacant lot. South of the site and across Ramsey Street is a strip mall containing several retail stores and a fast food restaurant. Interstate 10 is located approximately 800 feet to the south along Highland Springs Avenue. This is a long-established, freeway-adjacent, commercial area along Highland Springs Avenue, one of the City's major commercial corridors.

(iii) There is no reasonable possibility that unusual circumstances will cause the project to have a significant effect on the environment because the existing retail store/pharmacy is not in itself a hazardous use; the City's utilities and roads are adequate to serve the project and the surrounding properties are not environmentally sensitive properties.

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

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

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

2. Multiple Species Habitat Conservation Plan (MSHCP).

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

SECTION 2: REQUIRED FINDINGS FOR CONDITIONAL USE PERMIT NO. 10-801.

Pursuant to Banning Municipal Code Chapter 17.52 and in light of the record before it including the staff report dated June 1, 2010, all evidence and testimony heard at the public hearing of this item, the Planning Commission hereby finds as follows:

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

Findings of Fact: The project is consistent with General Plan Economic Development Element Policy #2 which states: "The City shall take a proactive role in the retention of existing businesses, particularly those that generate and broaden employment opportunities, increase discretionary incomes and contribute to City General Fund revenues". In a tough economic climate, the existing businesses that are successful enough to expand their business
may do so, rather than having to relocate in order to expand. The sale of beer and wine for offsite consumption will contribute to increased income for the Walgreens store, which will contribute to City General Fund Revenues. Additionally, the location of the existing store at the intersection of Highland Springs Avenue and Ramsey Street is one of the most highly traveled areas in the City; and, therefore may be more convenient than other locations being accessible to a larger customer base (Highland Springs Avenue is estimated at 31,930 average daily traffic; and, Ramsey Street is estimated at 22,082 average daily traffic (2006 General Plan, Table III-16)).

Finding No. 2: The proposed use (alcohol sales) is conditionally permitted within the subject land use district.

Findings of Fact: The land-use designation of General Commercial (GC) allows the sale of alcohol for offsite consumption requiring review and approval of a conditional use permit by Planning Commission (see Table 17.12.020 Permitted, Conditional and Prohibited Commercial and Industrial Uses of the Zoning Code). The Walgreens store is located within the GC land use district and Resolution No. 2010-03 includes conditions specific to this permit.

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

Facts of Fact: The proposed use will not impair the integrity and character of the General Commercial (GC) land use district in which it is to be located because it is surrounded by improved commercial land; north of the site is the San Gorgonio Memorial Healthcare District campus consisting of the hospital and related health care facilities; west of the site across Highland Springs Avenue are a gas station with a convenience market and an auto parts store; south of the site and across Ramsey Street is a strip mall containing several retail stores and a fast food restaurant.

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

Findings of Fact: The subject site is currently developed as a retail store/pharmacy. The 1.96 acre land area is of adequate size to accommodate the existing retail store/pharmacy with additional alcohol sales, if approved. The site has adequate areas for parking and includes landscaping. There is adequate access from Ramsey Street and Highland Springs Avenue.

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

Finding of Fact: The site is served by the public and private utilities, including the City's water and electrical utilities. The site is accessed and served from Ramsey Street and Highland Springs Avenue, existing developed roadways with existing utilities. Additionally, conditions of approval include the requirement to maintain adequate lighting in the parking area that serves the retail store/pharmacy.
Finding No. 6: There will not be significant harmful effects upon environmental quality, natural resources or neighborhood characteristics.

Finding of Fact: The site is fully improved. There is no evidence that the offsite sale of beer and wine will have the potential for any adverse effect on wildlife resources or the habitat upon which wildlife depends. The site was found to contain no suitable habitat for threatened or endangered species. There is no evidence that vernal pool complex, similar bodies of water, or conditions suitable for forming such bodies of water exist on the site. The surrounding neighborhood is developed. The parcels are flat (unable to support bodies of water).

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

Finding of Fact: The structure is existing and involves no new construction, only the reorganization of the interior existing shelf space to accommodate alcohol sales. The existing site complies with the Zoning Code development standards.

Furthermore, limits on project approval include conditions that help make the use compatible with the existing neighborhood. These conditions include restrictions on the container type, quantity, and size of alcohol offered for sale. Requirements for employee training, limits on the hours that alcohol is offered for sale, and other conditions designed to address the over concentration of ABC licenses in that area. Also, alcohol sales are regulated by the State of California, Department of Alcoholic Sales (ABC) licensing program.

SECTION 3: REQUIRED FINDINGS FOR A DETERMINATION OF PUBLIC CONVENIENCE OR NECESSITY:

Pursuant to Section 23817.7(3) of the Business and Professions Code, and in light of the record before it including the staff report dated June 1, 2010, all evidence and testimony heard at the public hearing of this item, the Planning Commission hereby finds as follows:

Finding No. 1: The Addition of Beer and Wine Sales at the Existing Walgreens Store Will Not Be Detrimental To the Character of Development in the Immediate Neighborhood and Will Be in Harmony With the Overall Objectives of the General Plan.

Finding of Fact: Walgreens is a national chain of retail drugstores selling prescription and over-the-counter medicines as well as a variety of general merchandise, sundries and grocery items to the public. From its store at the 60 N. Highland Springs Avenue, Walgreens has been successfully meeting the needs of residents of and visitors to the City of Banning since 2000. By adding beer and wine to the general merchandise already offered in the store, Walgreens can even better serve the surrounding community by providing customers with the convenience of "one-stop" shopping.
Because it is part of a larger retail operation and Walgreens' standard business practices, the sale of beer and wine also will not be harmful to the health, safety and general welfare of the public or otherwise detrimental to the environment or the character of development in the immediate area. Walgreens endeavors to sell alcoholic beverage in a highly responsible and conscientious manner. Detailed, corporate policies and procedures are already in place and will be strictly enforced. The policies and procedures may include requirements such as:

- Employees at each store must undergo training prior to beer and wine being made available for sale at the store;
- Each cash register clerk must submit a policy acknowledgement as part of the daily log-in and log-out process;
- Each cash register clerk must request identification and proof of age for any customer attempting to purchase beer or wine who appears to be under the age of 40. Pre-programmed cash register "prompts" will remind the clerks to request this proof;

Training will be accomplished through a Walgreens internal alcohol sales training program, which is required for all cashiers and managers. The training program focuses on recognizing and preventing sales of alcohol that may be detrimental to the public welfare (i.e., the sale of alcohol to minors and intoxicated persons). Implementation of this program will help ensure that the sale of alcohol at the store will not be detrimental to residents, shoppers, or other business in the vicinity of this store. To prevent abuses, Walgreens will also only sell beer in 6 packs, 12 packs, 18 packs and cases. Walgreens will not sell beer by the individual can or bottle.

In addition to the various steps that Walgreens has and will take to avoid detrimental impacts to the character of development in the immediate neighborhood, a determination of public convenience or necessity is appropriate because the Walgreens store is not located in close proximity to any schools, churches, residences or other sensitive land uses. The store is surrounded by similarly scaled commercial retail uses to the south and west. The property immediately to the east is vacant. Medical offices are located immediately north of the store. San Gorgonio hospital and Loma Linda University Medical Center are also in the vicinity. The nearest sensitive land use for ABC purposes is the Church of Jesus Christ of LDS on West Wilson Street. That church is separated from Walgreens by nearly 900 feet, far outside the 600-foot radius the ABC considers in making licensing determinations.

With respect to the City General Plan, the Vision Statement promotes "well-balanced commercial development, where revenue generating commercial neighborhoods provide a diversified economy and a wide range of jobs." Similarly, the General Plan's Land Use Element identifies a goal of creating a "balanced, well planned community including businesses which provide a functional pattern of land uses" and a policy of promoting the "highest quality" of development. The existing Walgreens operations already serve those goals and policies by providing access to a pharmacy and other general merchandise in a modern facility located in close proximity to a number of the City's medical facilities. The addition of beer and wine sales would facilitate even greater harmony with the General Plan by providing more convenient, "one-stop" shopping for Walgreens' many customers in the City of Banning and further diversifying the area's economic base.
Finally, Walgreen's sale of beer and wine at the location would not result in an increase in the number of locations selling beer and wine instead it would involve the transfer of an existing permit within census tract 0441.03.

Finding No. 2: Beer and Wine Sales at Walgreens Will Generate Economic Benefits and They Are Not Likely to Result in Negative Impacts to the Community as a Whole.

Finding of Fact: As described above, the sale of beer and wine by Walgreens would be conducted in a manner that maximizes public safety and minimizes public nuisance at a location that is very well suited for alcohol sales. Therefore, the project is not likely to generate negative community impacts. Economically, an average Walgreens store generates approximately $9,000,000 in annual sales and Walgreens estimates that beer and wine sales will not exceed 5% of total sales. Given the store's proximity to the City of Beaumont, and the fact that beer and wine sales will make Walgreens a more attractive “one stop” option for shoppers, it is likely that Walgreens will generate additional sales tax revenue for the City of Banning that was previously lost to its neighboring city.

Further, Walgreens currently employs approximately 40 people at the Banning store. While beer and wine sales are not likely to be significant enough to necessitate the hiring of additional staff, especially during these difficult economic times, any additional revenue from beer and wine sales is important to Walgreens. The beer and wine sales will make it that much more likely that the Banning store will continue to succeed so that the City can continue to receive sales tax revenue from Walgreens and Walgreens can maintain its existing employment levels.

Finding No. 3: Sale of Beer and Wine by Walgreens at 60 N. Highland Avenue Will Provide Needed Service to the Area That Are Not Clearly Met By Other Existing Alcohol Sales Establishments.

Finding of Fact: The Walgreens store at 60 N. Highland Avenue is an attractive, well lit and modern facility at a very visible corner. With good frontage along both Highland Springs Road and Ramsey Street, and given its proximity to Interstate 10, the Walgreens store is easily accessible for the City’s residents as well as others visiting the area. The concentration of medical uses in the immediate vicinity, including the San Gorgonio hospital and the Loma Linda University Medical Center, also make this location unique. Having a full service pharmacy in this location is important and the addition of beer and wine sales will make the Walgreens store an even more attractive destination. These complimentary uses will help reduce vehicle miles traveled because customers will now be able to meet even more of their shopping needs without having to travel to multiple locations.

Also, Walgreens brings a well trained staff, security features such as video cameras and the placement of beer and wine at locations away from store entrances and a reputation and policies that make Walgreens a good corporate citizen, Walgreens will be unique in the way it handles the sale of beer and wine. Further, Walgreens will dedicate no more than 1.65% (250 square feet) of its floor area to the sale and storage of beer and wine thereby minimizing
the risk of potential adverse impacts. Therefore, the addition of beer and wine sales at the existing Walgreens store will provide services to the area in a way not clearly met by others.

SECTION 4: PLANNING COMMISSION ACTIONS.

The Planning Commission hereby takes the following actions:

1. Notice of Exemption. In accordance with Public Resources Code Section 21152(b) and CEQA Guidelines Section 15062 the Planning Commission hereby approves a categorical exemption under CEQA Guidelines Section 15301 and directs the Planning Director to prepare and file with the Clerk for the County of Riverside a notice of exemption as provided under Public Resources Code Section 21152(b) and CEQA Guidelines Section 15062.

2. Conditional Use Permit. (CUP) #10-801 is hereby approved subject to the Conditions of Approval attached hereto and incorporated herein by reference as Attachment “A”.

3. A determination of public convenience or necessity is hereby approved subject to the transfer of one of the three existing a Type 20 ABC license within census tract 0441 03; and, the Community Development Director is hereby ordered to deliver a copy of this resolution to the State of California, Department of Alcoholic Beverage Control in its entirety.
PASSED, APPROVED AND ADOPTED this 1st day of June, 2010.

Buddy Hawkins, Chairman
Banning Planning Commission

APPROVED AS TO FORM AND LEGAL CONTENT:

Lona Laymon
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. 2010-03 was duly adopted by the Planning Commission of the City of Banning, California, at a regular meeting thereof held on the 1st day of June, 2010 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Virginia Sorenson, Recording Secretary
City of Banning, California
PROJECT #: Conditional Use Permit #10-801
SUBJECT: Alcoholic Beverage Sales (Type 20-Beer and Wine) for offsite consumption
APPLICANT: Walgreens
LOCATION: 60 N. Highland Springs Avenue

CONDITIONS OF APPROVAL

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

A. General Requirements

1. The applicant shall indemnify, protect, defend, and hold harmless, the City, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, from any and all claims, demands, lawsuits, writs of mandamus, and other actions and proceedings (whether legal, equitable, declaratory, administrative or adjudicatory in nature), and alternative dispute resolutions procedures (including, but not limited to arbitrations, mediations, and other such procedures), (collectively “Actions”), brought against the City, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, that challenge, attack, or seek to modify, set aside, void, or annul, the action of, or any permit or approval issued by, the City and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof (including actions approved by the voters of the City), for or concerning the project, whether such Actions are brought under the California Environmental Quality Act, the Planning and Zoning Law, the Subdivisions Map Act, Code of Civil Procedure Section 1085 or 1094.5, or any other state, federal, or local statute, law, ordinance, rule, regulation, or any decision of a competent jurisdiction. It is expressly agreed that the City shall have the right to approve, which approval will not be unreasonably withheld, the legal counsel providing the City’s defense, and that applicant shall reimburse City for any costs and expenses directly and necessarily incurred by the City in the course of the defense. City shall promptly notify the applicant of any Action brought and City shall cooperate with applicant in the defense of the Action.
2. This Conditional Use Permit shall be exercised by the Applicant upon the Department of Alcoholic Beverage Control (ABC) approval of a transfer of an existing off-site beer and wine license (Type 20) within two (2) years from the date of approval, or the Conditional Use Permit shall become null and void. Extension: The Community Development Director may, upon an application being filed 30 days prior to expiration and for good cause, grant one time extension not to exceed 12 months. Upon granting of an extension, the Community Development Director shall ensure that the Conditional Use Permit complies with all current Ordinance provisions.

3. The issuance of these Conditions of Approval does not negate the requirements of State of California, Department of Alcoholic Beverage Control requirements or regulations.

4. A copy of the signed Resolution of Approval and/or Community Development Director's letter of approval, and all Standard Conditions, shall be maintained for review at the location 60 N. Highland Springs Avenue.

5. The applicant is responsible for paying all charges related to the processing of this discretionary case application within 30 days of the issuance of the final invoice or prior to the issuance of building permits for this project, whichever occurs first. Failure to pay all charges shall result in delays in the issuance of required permits or the revocation of the approval of this application.

6. If there are any future issues that arise with the use that is the subject of this discretionary approval (e.g., complaints from neighboring residents or businesses) the Community Development Director or other appropriate City designee has the authority to require that the Conditional Use Permit be brought back before the Planning Commission for immediate remedy which may include, but not necessarily be limited to, the imposition of additional conditions of approval.

B. Site Development

7. The site shall be developed and maintained in accordance with the approved plans which include site plans, and floor plans on file in the Planning Division, the conditions contained herein, and zoning code regulations.

8. All site landscaping and irrigation, area lighting, and parking lot improvements shall be maintained in a reasonable manner and in accordance with Zoning Code provisions or this Conditional Use Permit may be subject to revocation.

9. Graffiti shall be removed within 72 hours or within 24 hours of notice from the City.

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

11. The applicant shall obtain a Type 20 (beer and wine-offsite) license from the Department of Alcoholic Beverage Control (ABC) and keep said license in full force and effect; otherwise, this Conditional Use Permit is null and void.

12. Sales and service of alcoholic beverages shall not be permitted between the hours of 1:00 a.m. and 7:00 a.m. each day of the week.

13. The sale of distilled spirits is prohibited.

14. The amount of floor area dedicated to alcohol sales and storage shall not exceed 250 square feet.

15. A video surveillance system shall be used to monitor/record all alcohol sales. The video data shall be maintained for at least 30 days and shall be provided to law enforcement upon request.

16. Sales and service of alcoholic beverages shall be restricted to, and within, the confines of the building portion of the premises. The sales and service of alcoholic beverages through any pass-out or drive-up window is prohibited.

17. There shall be no amusement machines or video game devices in the premises except those offered for sale and in original manufacture's packaging.

18. The consumption of alcoholic beverages on-site shall be strictly prohibited.

19. Said alcoholic beverage license shall not be transferred to another location within the City of Banning without the approval of the City.

20. The parking lot area shall be equipped with lighting of sufficient power to illuminate and make easily discernible the appearance and conduct of all persons on or about the parking area. Additionally, the position of such lighting shall not spill onto nor disturb the normal privacy and use of neighboring residences. The lighting system shall be fully operational at all times the store is open for business.

21. There shall be no exterior advertising or sign of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages or signs which are clearly visible to the exterior shall constitute a violation of this condition.

22. No person under 21 years of age shall sell or deliver alcoholic beverages.

23. Employees shall undergo training prior to selling, or offering the sale of beer and wine.

24. No pay phone shall be maintained on the interior or exterior of the premises.
25. At the request of the Police Department, the applicant shall post and maintain a professional quality sign(s) facing the premises parking lot that reads as follows:

   NO LOITERING, NO LITTERING, NO DRINKING OF ALCOHOLIC BEVERAGES,
   VIOLATORS ARE SUBJECT TO ARREST

26. Peace officers as well as the Community Development Director or his/her designee and other persons employed by the Department of Alcoholic Beverage Control are hereby permitted by to inspect the premises at any time for compliance with these conditions of approval.

END
Attachment 2

(Location Map)
Attachment 3

(Aerial Photo)
Looking northeasterly from the corner (main entrance).

Looking northwesterly from Ramsey Street (drive-up window).
Looking southeasterly from Highland Springs Avenue  
(trash enclosure & loading zone).
Attachment 5

(Project Plans; existing Site Plan; Floor Plan)
Attachment 6

(ABC 2005 Moratorium Cities)
2005 Moratorium Counties/Cities

2005 Moratorium Figures - Section 23817.5 B & P Code

On January 1, 1998, Section 23817.5 was amended to permanently establish a moratorium on the issuance of off-sale beer and wine licenses (Type 20) in cities and counties where the ratio of Type 20 licenses exceeds one for each 2,500 inhabitants.

In the city and county of San Francisco, the ratio has been established as one for each 1,250 inhabitants. The San Francisco computation combines off-sale beer and wine license with off-sale general licenses for the purpose of establishing the ratio.

Enclosed are the following lists and a map showing the new Type 20 license limitation data:

- List of Counties with their moratorium status.
- List of Cities in Counties with partial moratorium status.
- Summary of Changes to Moratorium Counties/Cities.

Please note the changes in moratorium counties compared to the 2000 list. San Bernardino has been added to the list of non-moratorium counties and Marin has been changed to a moratorium county. In addition, there have been changes in some of the cities within the current 11 non-moratorium counties.

The new moratorium lists are effective as of January 1, 2005 and will be in effect for five years. The moratorium lists will be recalculated every five years in accordance with Section 23817.9.

The enclosed lists and map may be distributed to all interested parties.

If you have any question or need additional information, please contact Judy Gabrielli:

Email: Judy.Gabrielli@abc.ca.gov
Phone: (916) 419-2530
### Orange County

<table>
<thead>
<tr>
<th>City</th>
<th>Moratorium</th>
<th>City</th>
<th>Moratorium</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aliso Viejo</td>
<td>NO</td>
<td>Lake Forest</td>
<td>NO</td>
</tr>
<tr>
<td>Anaheim</td>
<td>NO</td>
<td>La Palma</td>
<td>NO</td>
</tr>
<tr>
<td>Brea</td>
<td>NO</td>
<td>Los Alamitos</td>
<td>NO</td>
</tr>
<tr>
<td>Buena Park</td>
<td>NO</td>
<td>Mission Viejo</td>
<td>NO</td>
</tr>
<tr>
<td>Costa Mesa</td>
<td>YES</td>
<td>Newport Beach</td>
<td>NO</td>
</tr>
<tr>
<td>Cypress</td>
<td>NO</td>
<td>Orange</td>
<td>NO</td>
</tr>
<tr>
<td>Dana Point</td>
<td>NO</td>
<td>Placentia</td>
<td>NO</td>
</tr>
<tr>
<td>Fountain Valley</td>
<td>NO</td>
<td>Rancho Santa Margarita</td>
<td>NO</td>
</tr>
<tr>
<td>Fullerton</td>
<td>YES</td>
<td>San Clemente</td>
<td>NO</td>
</tr>
<tr>
<td>Garden Grove</td>
<td>NO</td>
<td>San Juan Capistrano</td>
<td>NO</td>
</tr>
<tr>
<td>Huntington Beach</td>
<td>NO</td>
<td>Santa Ana</td>
<td>NO</td>
</tr>
<tr>
<td>Irvine</td>
<td>NO</td>
<td>Seal Beach</td>
<td>NO</td>
</tr>
<tr>
<td>Laguna Beach</td>
<td>NO</td>
<td>Stanton</td>
<td>YES</td>
</tr>
<tr>
<td>Laguna Hills</td>
<td>NO</td>
<td>Tustin</td>
<td>NO</td>
</tr>
<tr>
<td>Laguna Niguel</td>
<td>NO</td>
<td>Villa Park</td>
<td>NO</td>
</tr>
<tr>
<td>Laguna Woods</td>
<td>NO</td>
<td>Westminster</td>
<td>NO</td>
</tr>
<tr>
<td>La Habra</td>
<td>NO</td>
<td>Yorba Linda</td>
<td>NO</td>
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</tbody>
</table>

### Riverside County

<table>
<thead>
<tr>
<th>City</th>
<th>Moratorium</th>
<th>City</th>
<th>Moratorium</th>
</tr>
</thead>
<tbody>
<tr>
<td>Banning</td>
<td>YES</td>
<td>Lake Elsinore</td>
<td>YES</td>
</tr>
<tr>
<td>Beaumont</td>
<td>YES</td>
<td>La Quinta</td>
<td>NO</td>
</tr>
<tr>
<td>Blythe</td>
<td>YES</td>
<td>Moreno Valley</td>
<td>NO</td>
</tr>
<tr>
<td>Calimesa</td>
<td>YES</td>
<td>Murrieta</td>
<td>NO</td>
</tr>
<tr>
<td>Canyon Lake</td>
<td>NO</td>
<td>Norco</td>
<td>YES</td>
</tr>
<tr>
<td>Cathedral City</td>
<td>YES</td>
<td>Palm Desert</td>
<td>YES</td>
</tr>
<tr>
<td>Coachella</td>
<td>YES</td>
<td>Palm Springs</td>
<td>NO</td>
</tr>
<tr>
<td>Corona</td>
<td>NO</td>
<td>Perris</td>
<td>NO</td>
</tr>
<tr>
<td>Desert Hot Springs</td>
<td>YES</td>
<td>Rancho Mirage</td>
<td>NO</td>
</tr>
<tr>
<td>Hemet</td>
<td>YES</td>
<td>Riverside</td>
<td>NO</td>
</tr>
<tr>
<td>Indian Wells</td>
<td>NO</td>
<td>San Jacinto</td>
<td>YES</td>
</tr>
<tr>
<td>Indio</td>
<td>YES</td>
<td>Temecula</td>
<td>NO</td>
</tr>
</tbody>
</table>
Attachment 7

(Map Census Tract 0441.03)
Census Tract 441.03, Riverside County, California

Boundaries:
- Road
- Park
- Census Tract
- Street
- Place
- Urban Area
- Green Area

Features:
- Major Road
- Street
- River/Waterbody

Riverside-San Bernardino I A

Banning

2.8 miles across
Attachment 8

(Guide prepared by California Council on Alcohol Policy)
"PUBLIC CONVENIENCE OR NECESSITY"

A GUIDE FOR LOCAL GOVERNMENT AND INTERESTED CITIZENS

COMMUNITY PREVENTION INSTITUTE

CARS

CALIFORNIA COUNCIL ON ALCOHOL POLICY • REVISED MARCH 2006
AUTHORS' BIOGRAPHIES

VICTOR COLMAN, B.A., J.D.
In his twenty-two plus years in the public health field, Victor Colman has been a policy analyst, project director, trainer, curricula developer, lobbyist, researcher, manager, and bureaucrat. Victor has worked for academic and non-profit corporations as well as local and state government. Currently, Victor is the senior policy advisor with the Washington State Department of Health in the Division of Community and Family Health.

MICHAEL SPARKS, M.A.
Michael Sparks serves as the Policy Director at the Center for Community Action and Training (CCAT). Michael has expertise in the alcohol policy field as well as in the areas of community building, using local control strategies to manage problematic alcohol and drug environments, the legislative process, neighborhood revitalization, and management of non-profit corporations. He has provided training in the areas of community organizing, alcohol policy, using the legislative process to reduce alcohol and other drug problems, and leadership development. He was the first Executive Director of the Marin Institute for the Prevention of Alcohol and Other Drug Problems and one of four founders of that organization in 1987.

BACKGROUND:
WHY WRITE THIS GUIDE?
As the title suggests, this guide is written for those who work in local government and for those community members seeking to engage in licensing and land use regulation of retail alcohol outlets in California. Limiting alcohol problems in our communities through environmental strategies can be highly effective, but understanding how to accomplish this can be daunting. We are committed to helping you be an effective participant in these strategies, particularly as they relate to public convenience or necessity, a relatively new tool that can directly engage communities and local government into state liquor licensing processes. This is our effort to deconstruct these processes and offer some experience-based input and advice.
REGULATING RETAIL ALCOHOL OUTLETS IN CALIFORNIA: CHALLENGES AND OPPORTUNITIES

While the licensing and land use regulation of retail alcohol outlets in California is complex, local communities and their governments can exert some influence in newly proposed liquor license applications. However, perhaps the greatest challenge is curtailing the sheer number of retail alcohol licenses across the state. While many states place ceilings on the number of liquor licenses in a given community, California is still a state where on-sale beer and wine licenses enjoy no restrictions — see table below.

<table>
<thead>
<tr>
<th>LICENSES</th>
<th>ON-SALE</th>
<th>OFF-SALE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Beer, Wine and Distilled Spirits (“General License”)</td>
<td>1 license for every 2,000 residents</td>
<td>1 license for every 2,500 residents</td>
</tr>
<tr>
<td>Beer and Wine Only</td>
<td>No state limit</td>
<td>1 license for every 2,500 residents or 1 license for every 1,250 residents when combined with off-sale general licenses</td>
</tr>
</tbody>
</table>

“Public convenience or necessity” is an additional tool for local government and communities that directly tie them into the state liquor licensing process. Current state law limits the issuance of new licenses in geographical regions defined as high crime areas or in areas of “undue concentration” of retail alcohol outlets. However, the law also states...

And because there is no state limit placed upon on-sale beer and wine licenses, communities will continue to see new applications filed with the Department of Alcoholic Beverage Control on a regular basis. Some localities have filled this vacuum by utilizing their local land use powers. Under state law, the ABC may not issue a liquor license if it violates an existing local zoning ordinance (CA Business & Professions Code 23790). Thus, to obtain a state liquor license, the applicant must first have all necessary local zoning permits in order. This statutory scheme gives real power to localities with strong zoning ordinances specific to retail alcohol outlets. When properly constructed and deployed, local zoning laws can be a very powerful tool. It is generally easier to be successful at policy change at the local level than at the state level. Check to see if your city or county has a strong zoning ordinance that directly regulates retail alcohol outlets (bars, restaurants, liquor stores, convenience stores). If your locality does not have such an ordinance, your alcohol problems prevention efforts can be greatly aided by enacting such an ordinance. Additional resources include: http://health.org/govpubs/PHD822/sar.aspx and http://resources.prev.org/documents/AlcoholViolenceGruenewald.pdf.

Although this phrase “public convenience or necessity” had been embedded in the “undue concentration” statute well before the adoption of the PC or N law in 1994, neither the ABC Department nor local governing bodies has established definitive and uniform guidelines for defining and applying any version of the “public convenience or necessity” doctrine.
In addition, state judicial and administrative decisions have shed little light on the development of definitions or guidelines. Further, there remains some confusion regarding the exact roles and responsibilities of local governing bodies designated to make the PC or N determination.

RETAIL ALCOHOL AVAILABILITY: PAINTING A REGULATORY PICTURE

In order to understand the implications of the concepts of PC or N, a general understanding of how California governs the commercial sale and service of alcoholic beverages is necessary.

A BRIEF OVERVIEW

The regulation of the sale and service of alcohol involves two separate levels of authority: state and local. The common-sense notion that retail alcohol businesses must be regulated (and be in proportion to the general population) in order to protect the public health and safety is an underlying assumption for each regulatory level. In California, license regulation is handled by a state agency, the Department of Alcoholic Beverage Control (ABC).

State ABC systems can be divided into two basic groups: control and license. In control systems, the state actually owns and operates alcohol retail outlets themselves. In license states (like California), all alcohol businesses must obtain a liquor license from the state as a condition of doing business.

Each state has also shaped its own relationship around local (city and county) power and authority over liquor licensing. States vary widely in defining local powers. Some states place most licensing power with local government; others give all of the power to the state agency. California's liquor licensing system relies primarily on state authority. There is, however, a major exception to the strong state ABC powers in California, one that has resulted in a great deal of regulatory and community activity at the municipal level. Under California State law, the ABC Department may not issue a liquor license if it violates an existing, valid, local zoning ordinance (CA Business & Professions Code 23790). In locales that have enacted such zoning laws, known as conditional use permits or CUP's, state liquor licenses may only be issued after all zoning permits are in order.

The CUP is a land use ordinance that provides communities and local governments control over where alcohol outlets may be located, how late they may operate, how they train their sellers/servers, and how citizens may participate in determining if new outlets should open in their neighborhoods. Through the CUP, operating conditions may be placed on new outlets that minimize potential risks to health and safety. The ordinance also provides a simple mechanism for localities to revoke the use permits of outlets operating out of compliance with the conditions set forth in the CUP.

Localities with robust CUP's enjoy real and sustained benefits -- zoning applicants are thoroughly screened, public input is heightened, and the potentially risky element of retail alcohol sales is found explicitly debated. Such local processes allow communities to better shape their retail alcohol availability through active use of existing zoning powers -- both in intervening with problem outlets today and preventing undue concentration problems in the future.

PC OR N: A HISTORY LESSON

ORIGINAL UNDUE CONCENTRATION STATUTE (Before AB 2897 - - CALDERA)

State law attempted to curtail the intensity of too many retail outlets and the associated community problems through its definition of "undue concentration". The ABC-developed formula stated that undue concentration was proved when crime was 20% higher in the specific crime reporting district where the applicant outlet would be located when compared to all crime reporting districts across either the city or county. However, the statute (and its regulatory analogue -- Rule 61.3) was very challenging for potential ABC license applicants and protesters to understand.

The process was triggered by a single liquor license application. Simply put, interested protesters (i.e., individual community members or local government bodies) needed to prove mathematically that having too many liquor licenses in the vicinity had a nexus or relationship to higher crime statistics as described above.

Applying this formula was not impossible but took extensive legwork, and much cooperation from the police department. Some police departments were able to provide the necessary statistics, while others had record systems that make this data impossible to retrieve. However, even if the protestor(s) clearly proved undue concentration using the crime statistic formula described above, complete discretion over liquor license issuance resides with the ABC if they found "public convenience or necessity".

Both public entities and communities grew frustrated with the state's broad administrative discretion. These frustrations led to various legislative proposals to change the definition of undue concentration and provide a formal role for local input in the determination of PC or N.
PUBLIC CONVENIENCE OR NECESSITY LEGISLATION:

In 1994, the California legislature enacted AB 2897 (Caldera). Business and Professions Code § 23958.4 (http://www.leginfo.ca.gov/cgi-bin/displaycode?section=bpc&group=23001-24000&file=23950-23962) now prohibits the issuance of new alcohol retail licenses in any area that has an undue concentration of alcohol outlets unless a determination is made that the license would serve public convenience or necessity. The determination of "public convenience or necessity" is either made by the ABC or by a local governing body, depending on the license type.

Undue concentration was redefined in this legislation. Subsection (a) of the code defines "undue concentration" in two specific ways:

• Excess Crime
  Excess Uniform Crime Reporting (UCR) Part 1 crimes (> 20%) reported within the crime reporting district (similar to the prior definition in law) OR

• Ratios (X number of licenses per X number of residents)
  A higher alcohol license/population ratio within the census tract/division than the county alcohol license/population ratio.

Subsection (b) apportions the roles of the state ABC and local governing bodies based upon type of license. See table below for breakdown.

PUBLIC CONVENIENCE OR NECESSITY: A JURISDICTIONAL BREAKDOWN

<table>
<thead>
<tr>
<th>JURISDICTIONS</th>
<th>LICENSE TYPES</th>
</tr>
</thead>
</table>
| State Department of Alcoholic Beverage Control | On-Sale
  • Restaurants (bona fide eating places)
  • Lodging-based licenses
  • Non-retail licenses |
| Local Governing Body | Off-Sale
  • Liquor stores
  • Convenience stores
  • Bars |

So, since 1995 local entities have been given an additional and direct role in the state ABC licensing process for a substantial portion of license types. How communities and their local government bodies can best flex this new muscle is described in detail below.

SUBSEQUENT LEGISLATION:

1995: The Thompson "Wrinkle" (SB 408) - Moratorium Areas

SB 408 (Thompson) amended Business and Professions Code § 23817.5 in 1995. This provision imposes a moratorium on new off-sale retail beer and wine licenses in cities and counties where the number of such licenses exceeds one license for each 2,500 residents. Contact your local ABC office for a current listing of moratorium jurisdictions.

This amendment allows the ABC Department to potentially override the off-sale beer/wine moratorium if the applicant can demonstrate to the local governing body that public convenience or necessity would be served.

1996: The Hoge Amendment (AB 2841) - The 90 Day Limit

After enactment of the new public convenience and necessity provisions in 1994, various pieces of legislation were introduced in the 95-96 session to amend the statutory scheme. AB 2841 was the successfully enacted bill and essentially created a time limit for local governments to make their determination of public convenience and necessity. Local governing bodies now have 90 days in which to make such a determination. Failure to do so in that time frame will then give the ABC the right to make the determination.

Thus, localities and communities must be mindful of the time limits when designing and implementing PC or N processes; otherwise, they will lose the powers gained through the original Caldera bill.

IMPLEMENTATION STRATEGIES

The essence of this portion of the guide is to give the reader some tangible examples of how to implement the PC or N legislation at the local level. Substantive advice is provided that can assist localities and their communities to derive the most benefit from this important (but under-utilized) power.

DETERMINING A LOCAL GOVERNING BODY

Since the Caldera bill was enacted, local government has utilized a number of different options as the official "governing body." We talked to many folks at the local level to determine if there were any preferred approaches. In short, there is no definitive answer at this juncture. Instead, we offer a guiding principle that applies across the
board, to choose a governing body that has functional linkages with other local agencies and, perhaps most importantly, the communities that make up that city or the unincorporated county.

See Appendix D for examples of locally designated entities.

**DETERMINING PC OR N: MANDATORY & DISCRETIONARY MODELS**

This discussion includes two main sections: (1) highlights of PC or N guidelines (both mandatory and discretionary), and (2) highlighting current procedural models which list both the pros and cons of each. It is important to remember that these are only guidelines or suggestions; control still resides at the local level as to how a community may choose to implement this local component of the state PC or N legislation.

However, the original PC or N legislation explicitly stated that the burden of proof is on the applicant, meaning that the applicant is obliged to demonstrate to the ABC or, if applicable, the local entity, how public convenience OR necessity will be served by the existence of this new retail outlet. Note the “OR” in the public convenience or necessity. The applicant does not need to prove both elements—just demonstrating one of the elements is enough to meet the burden of proof.¹

A number of potential applicant burdens or obligations have been gleaned from localities using the process around the state. These include:

- Demonstrate how the proposed use will not be detrimental to the character of development in the immediate neighborhood and will be in harmony with the overall objectives of the General Plan.
- Prove/demonstrate the economic benefit outweighs the negative impacts to the community as whole
- Demonstrate how issuance of license will provide a needed service not currently being met in the community
- Identify the special and unusual circumstances present here to justify a new retail alcohol outlet when there are already similar alcohol uses existing nearby
- Prove they cannot operate profitably without a liquor license
- Demonstrate reasonable efforts to seek community input
- Get the approval of redevelopment agency/committee when appropriate

After a local governing body has been identified and a procedural model selected (see SECTION 2, below) then the designated public entity moves on to the question of determining what constitutes public convenience or necessity for their community.

**SECTION 1: PC OR N – RECOMMENDED GUIDELINES**

There are two basic types of analyses for determining PC or N:

- MANDATORY (or absolute), and
- DISCRETIONARY.

These should not be seen as mutually exclusive; but rather are complementary. Note, however, that if both are to be used it would certainly make sense for the municipality to first assess the PC or N question under the MANDATORY analysis.

**SUGGESTED MANDATORY GUIDELINES**

Under this type of analysis the city or county should explicitly lay out in writing the criteria for which NO finding of PC or N will be made. Clearly this scenario requires special qualifying factors. Such circumstances can and have occurred. The following examples provide a beginning list of such factors used by some public entities as the basis for immediate rejection of the applicant’s bid to prove PC or N. Any one of these factors should be enough to warrant a no PC or N finding, but the presence of additional factors makes for a stronger finding and will provide less likelihood of a successful appeal.

- Proposed use to be located in an existing targeted law enforcement area
  -- as documented by specific and abnormally high general health and safety indicators that have some nexus with alcohol use
  -- see Appendix B for links to research findings linking alcohol availability with a variety of alcohol-related problems
- Elevated rates of alcohol-related crime in a defined area or reporting district that encompasses the proposed use
  -- significantly higher than average, i.e., 20% greater
  -- i.e., disturbing the peace, public intoxication, assault and battery, prostitution, vandalism, graffiti, loitering, pan-handling, all CA Business & Professions code violations, drug violations, driving under the influence (DUI) tracking

¹Note that some localities mistakenly substitute “and” instead of “or” in their PC or N policies and procedure documents. This can result in that locality creating a greater burden to the applicant than originally intended.
• Consistent history of undue concentration  
  -- i.e., 20% higher outlet density ratio than the state average  
  for that particular license type

• Proximity to sensitive land uses  
  -- examples: schools, churches, residences, parks,  
  senior housing, youth activity centers, hospitals,  
  treatment centers, homeless shelters, child care facilities

NOTE: DISTANCE REQUIREMENTS  
SHOULD BE AT LEAST EQUIVALENT  
OR CLOSER TO STATE REQUIREMENTS  
-- see Business and Professions Code § 23789

http://www.leginfo.ca.gov/cgi-bin/displaycode? 
section=bpc&group=23001-24000&file=23770- 
23793

SUGGESTED DISCRETIONARY GUIDELINES
It is strongly recommended that all local designated bodies  
should include at least this level of analysis. Here the  
designated public entity engages in a type of risk-benefit  
analysis. Note that license-specific factors are included  
as well.

It is suggested that the benefits side of the equation be  
examined first. If no tangible benefits can be discerned,  
the decision-making body should determine that public  
convenience or necessity would not be served. So, the  
applicant retains the burden of proof to make an initial  
case that there are discernible benefits to the particular use  
in question. If there are benefits, then the analysis should  
weigh the risks and focus on whether the business is  
designed to minimize those risks to the community.

To aid this important decision-making process the following  
variables should be considered when determining the relative  
merits and demerits of a proposed liquor license. The usual  
caveat to any promulgated state-wide guidelines must be  
applied here -- these are simply guidelines that require  
adaptation to local circumstances.

RISK VARIABLES
In addition to those circumstances cited in the  
MANDATORY section, the following variables also  
may be considered in making the PC or N evaluation:

• law enforcement calls for service and Uniform Crime  
  Reporting (UCR) part 1 & 2 crimes higher than average

• ratio (all police service calls for service/alcohol-related  
  service calls)

• possible increase in level of law enforcement capacity

• health indicators (alcoholism rates, homelessness, other)

• youth demographics in immediate area  
  -- i.e., “x” percentage of the population in the immediate  
  vicinity of the proposed business is under the age of 21

• business operation variables  
  -- i.e., high percentage (more than 50%) of alcohol to  
  non-alcohol sales, late night (after midnight) operations,  
  high percentage (over 50%) of untrained staff, high  
  percentage (over 50%) of underage staff, availability  
  of single servings, sale of inexpensive fortified wines,  
  size of facility, lack of adequate security, lighting.

BENEFIT (CONVENIENCE) VARIABLES
As discussed above, the initial inquiry involves determining  
(with some specificity) what potential benefits the proposed  
establishment will bring to the community. Again, the  
burden is on the applicant to provide this information.  
Some benefit variables include:

• net employment gain (especially of local residents)

• various business taxes

• unique business addition

• enhances and/or increases the public utilization of space

• contribution to the long-term economic development  
  goals of the community

• positive (cultural) entertainment

SECTION 2: PC OR N PROCEDURAL ISSUES
The issue of determining PC or N is complicated by  
questions of procedure and timing.

TIMING
As many as three distinct processes may be in play with  
regard to retail alcohol outlets:

1. a local conditional use permit (if required);

2. a PC or N determination (required within 90 days of a  
   completed PC or N application); and/or

3. the state ABC liquor license process (protests need to be  
   filed within 30 days of the initial posting date).

Unfortunately, these processes overlap, without any real  
standardization across localities. This lack of uniformity  
presents challenges to communities, localities, the state ABC  
and even the license applicant. Thus, the authors are unable  
to recommend any specific model. However, a key principle  
should be applied in all cases; namely, promote transpar-  

cency in the process in order to ensure maximum citizen  
input and participation.

Another complexity is the situation where some localities are  
making "conditional PC or N" determinations – meaning  
that the determination is wholly contingent upon the ABC
placing specific conditions upon the liquor license. Consult your local ABC administrator to assess the possibility of using this particular strategy.

Models:
For those with existing conditional use permits (CUP's) regulating retail alcohol outlets, there were at least three variations. For those without an existing CUP, at least two variations were delineated. All five variations are described here:

**Existing CUP Jurisdictions — Models:**
- Administrative determination of PC or N
- Determination coordinated with CUP hearing process
- Determination subsequent to CUP hearing process

**Non-CUP Jurisdictions — Models:**
- Administrative determination of PC or N
- PC or N determination based on public hearing

**PC OR N: PROCEDURAL OPTIONS**
To reiterate, public entities must determine who shall serve as the designated local governing body. Appendix D provides current examples of various designated bodies.

A quick review of those local governing bodies that have begun to develop their own definitions of public convenience or necessity revealed no clear procedural model. Each local governing body should determine which model best fits their circumstances.

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### EXISTING VARIATIONS WITH CUP’S

**A) ADMINISTRATIVE DETERMINATION OF PC OR N**
Here, staff of the designated department or agency makes a determination without any public hearing process.

<table>
<thead>
<tr>
<th>PRO:</th>
<th>CON:</th>
</tr>
</thead>
<tbody>
<tr>
<td>fast, simple, less expensive</td>
<td>no input from community at front end of procedure</td>
</tr>
<tr>
<td>individual agency representative can be utilized as “designated” department</td>
<td>lack of public process may give business applicant unfair advantage</td>
</tr>
<tr>
<td></td>
<td>more difficult for community to appeal</td>
</tr>
</tbody>
</table>

**B) DETERMINATION COORDINATED WITH CUP HEARING PROCESS**
Public notification and hearing are needed for both matters at hand (PC or N and zoning). Staff input can be directed to both questions.

<table>
<thead>
<tr>
<th>PRO:</th>
<th>CON:</th>
</tr>
</thead>
<tbody>
<tr>
<td>most efficient process when faced with mandatory public hearing processes</td>
<td>may confuse CUP issue (for staff, community, and members of relevant decision-making board)</td>
</tr>
<tr>
<td>other interested departments able to provide formal input</td>
<td>difficult to untangle the two processes, possibly creating sense of not having a fair hearing on the part of the applicant</td>
</tr>
<tr>
<td>allows formal input from community on both CUP and PC or N findings.</td>
<td></td>
</tr>
</tbody>
</table>

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2 **NOTE:** If this variation is to be used, it is suggested that the issue of public convenience or necessity be taken up first. If PC or N is determined not to exist, the local zoning issue becomes moot.
PUTTING THIS HANDBOOK TO USE

DISSEMINATION
As with the original handbook, it is anticipated that this document will be broadly disseminated across a number of key sectors, including but not limited to:

- Chiefs of Police
- Planners
- City Managers
- City Attorneys
- City Councils
- County Supervisors Association & all related organizations including sheriffs, planners, boards of supervisors, city administrators
- American Planning Association
- California Peace Officers Association
- Interested businesses and business trade associations
- Alcohol prevention groups and organizations
- Interested citizens and community activists

GETTING STARTED IN YOUR COMMUNITY
If you are interested in getting your local government to pay more attention to the issues of retail alcohol availability, we suggest contacting the Community Prevention Institute for possible support for technical assistance and training. They can be found at http://www.ca-cpi.org or by calling 916.983.8929.

IMPROVING THE STATE ABC LICENSING PROCESS: POSSIBLE ADMINISTRATIVE AND POLICY REMEDIES
A recent statewide meeting of ABC constituents and interested individuals representing neighborhoods and organizations using the PC or N process was held in order to shape the revision of this document. Emerging from the discussion was a number of key policy issues of concern to the participants. Of course, in any policy development process, one must first define the problem or issue area. In this arena, there are two overarching themes: 1) strengthening the information flow from state ABC to communities; and, 2) better demarcation of the state liquor licensing process and the local PC or N process.

The ideas listed below are not necessarily endorsed by any particular organizations but do point out areas of debate and concern. These ideas could take the shape of bills, rules changes, or simply shifts in operational policy. Sketches of several ideas include:

- ABC should require applicants to mail notice of license applications to a broader spectrum of community members. Participants expressed the notices often fail to get into the hands of the residents that live nearby and also frequently leave insufficient time for community members to act should they wish to protest the license.
- Specific ideas include: expand the area that applicants are required to disseminate the notices; provide a more timely process for distribution; and develop multiple communication avenues to ensure actual resident notification.
- Communities are confused about the interface between licensing and local land use powers. Examples of ABC District Offices initiating the processing of license applications before local government bodies have had time to determine if a Conditional Use Permit will be awarded were raised and discussed.
- One solution offered was for the ABC not to begin processing (or even accepting) liquor license applications until local land use decisions are made.
- Participants agreed that the posting of ABC transmittals (updated information on pending license applications, transfers, etc.) and master list of conditions on the ABC Website would be a very useful tool.
- Also discussed was the possibility of using a different baseline for the calculation of population ratios for the determination of “undue concentration.”
- Suggestions included using population ratios derived from multiple sources (e.g., census tracts, zip codes, planning districts, crime reporting districts, etc.) rather than solely the County population at large.
- Participants felt the ABC should have the statutory authority to place conditions on license, even when an applicant disagrees with the conditions.
- ABC licenses are allowed to make annual requests to have current conditions removed from their license. Similarly, localities and communities would like a similar process established to request additional conditions on a license, when justified.
- Given the interface between licensing and exercising of local land use prerogatives, participants would like the ABC to take a supportive or, at worst, a neutral position in reference to the land use conditions that a local jurisdiction may choose to place on a use permit.
APPENDICES

APPENDIX A ........................................... GLOSSARY

APPENDIX B ........................................... SAMPLE OF WEB LINKS TO CITIES WITH ACTIVE PCORN PROCESSES

APPENDIX C ........................................... KEY RESEARCH FINDINGS RELATED TO RETAIL ALCOHOL AVAILABILITY

APPENDIX D ........................................... EXAMPLES OF DESIGNATED AGENCIES AND DEPARTMENTS

APPENDIX E ........................................... LIST OF ABC-APPROVED CONDITIONS
APPENDIX A

GLOSSARY

ABC:
The Department of Alcoholic Beverage Control, the state agency responsible for licensing and regulation of alcoholic beverages. [http://www.abc.ca.gov]

Alcohol:
Includes alcohol (distilled spirits, liqueur, wine, wine coolers, or beer) in any liquid or solid containing at least one-half of 1 percent (0.05%) or more of alcohol by volume.

Alcohol Availability:
A public health term referring to how alcohol is made available or accessible in a defined area or community. Availability may be based on location, price, advertising, and promotion.

Alcohol Outlet:
A retail business that sells alcoholic beverages to the public or to a select membership. Under the 21st Amendment, each state has the power to control the means by which alcohol is made available to the public. (See also Off-sale & On-sale Outlets)

Applicant:
One who is applying for a state liquor license.

Bona Fide Public Eating Place:
A technical name for "restaurant." The business must have full kitchen facilities and serve meals on a regular basis.

California Department of Alcoholic Beverage Control:
The state agency that has the constitutional authority to regulate the manufacturing, wholesaling, and retailing of alcohol. See also “ABC” [http://www.abc.ca.gov]

Conditions:
Those agreed upon conditions of doing business that are attached to either a liquor license or a zoning permit.

Fortified Wines:
Products made from both wine and spirits. Can include very inexpensive products generally found only in economically depressed communities or more expensive products (i.e., ports and brandies) found in most liquor stores.

General License:
A license to sell or serve beer, wine, and distilled spirits.

ID:
Identification used to verify a person's age.

Incident Log:
A daily record of any events occurring in an establishment that could result in legal action.

Intoxication:
The condition of physical and mental impairment resulting from consumption of alcohol and/or other drugs.

Licensee:
An individual who has applied for and received a liquor license from the State of California.

License Exchange:
When a retail alcohol outlet changes its liquor license type from one kind to another (for example, from a beer and wine license to a general license).

License Transfer:
When a retail alcohol outlet transfers from one location to another and takes the liquor license with them.

License Types:
A specific kind or class of license. For instance, Type 20 refers to an off-sale beer and wine license and Type 21 refers to an off-sale general license.

Local Control:
Local city or county governments have many powers to establish laws and policies regarding retail alcohol establishments and sales. Local control refers to this particular arena of local policymaking.

Malt Liquor:
A beer product with higher alcohol content (e.g., Olde English, St. Ides, Schlitz Malt Liquor).

Minor:
Any person less than 21 years of age.

Off-Sale Outlets:
Those establishments licensed by the state to sell alcohol for consumption away from the premises (e.g., liquor stores, convenience stores, grocery stores).
On-Sale Outlets:
Those establishments licensed by the state to sell alcohol for consumption on the premises (e.g., bars, restaurants, nightclubs).

Premises:
Any business establishment that has a license to sell alcohol.

Protestants:
Individuals who are formally protesting either a zoning permit at the local level or a liquor license application at the state level.

Responsible Beverage Service (RBS) Training:
A professional training program for managers, sellers, and servers of alcohol. Some cities and states require training as a precondition for employment or even as a condition preceding the issuance of a local zoning ordinance. As of March 2006, there are no state laws that require training in California.

Sale or Service:
Any transaction where alcohol is exchanged for something of value from one person to another.

Undue Concentration:
Subsection (a) of the code defines “undue concentration” in two specific ways:

- Excess Crime
  Excess Uniform Crime Reporting (UCR) Part 1 crimes (> 20%) reported within the crime reporting district (similar to the prior definition in law) OR

- Ratios (X number of licenses per X number of residents)
  A higher alcohol license/population ratio within the census tract/division than the county alcohol license/population ratio.

Zoning:
The means by which cities and counties regulate the different types of land uses (residential or commercial) within their boundaries.
APPENDIX B

SAMPLE OF WEB LINKS TO CITIES WITH ACTIVE PCORN PROCESSES:

Citrus Heights:
http://www.ci.citrus-heights.ca.us/docs/item_12_east_meets_west_asian_imports.pdf?search=public%20convenience%20or%20necessity%20alcohol

Concord:

Davis:
http://www.city.davis.ca.us/cmo/citycode/detail.cfm?p=40&q=2073

Diamond Bar:
http://www.ci.diamond-bar.ca.us/docs/15331913120068.1.pdf

Encinitas:
http://www.ci.encinitas.ca.us/NR/rdonlyres/EBEE7F0B-4BA8-4FC4-85B3-DA319305A440/0/WEBPUBCONVABCFORM.pdf

Manhattan Beach:
http://www.ci.manhattan-beach.ca.us/agenda/1999/Ag-Min19990601/19990601-13.html

Salinas:
http://www.ci.salinas.ca.us/Admin/MuniCodes/CodeFiles/_DATA/CHAP33/Sec_33_21_1_Requirements_for.html

San Mateo:
http://www.ci.sanmateo.ca.us/dept/codes/ch10-38.html

San Diego City:
http://clerkdoc.sandiego.gov/RightSite/getcontent/local.pdf?DMW_OBJECTID=090014518007d1f4

San Diego County:

Temecula:
http://www.cityoftemecula.org/cityhall/CommDevDivision/Planning/Permits/pdfs/Public%20Convenience%20and%20Necessity-Revised%2009-05.pdf

Yucca Valley:

APPENDIX C

KEY RESEARCH FINDINGS RELATED TO RETAIL ALCOHOL AVAILABILITY - WEB LINKS:

- http://www.publicstrategies.org/pdfs/fact_sheet_outlet_density_2_03.pdf
### EXAMPLES OF DESIGNATED AGENCIES AND DEPARTMENTS

<table>
<thead>
<tr>
<th>DESIGNATED AGENCY OR DEPARTMENT</th>
<th>CITY OR COUNTY</th>
</tr>
</thead>
<tbody>
<tr>
<td>AGENCY</td>
<td></td>
</tr>
<tr>
<td>Law Enforcement</td>
<td>Alameda (city); Hemet; Mendocino County (Sheriff); Oceanside; Sacramento (city); San Diego (city); Santa Rosa; Ventura (city)</td>
</tr>
<tr>
<td>City Manager</td>
<td>Bakersfield; Berkeley</td>
</tr>
<tr>
<td>City Attorney</td>
<td>Simi Valley</td>
</tr>
<tr>
<td>Director of Public Works/City Engineer</td>
<td>La Palma</td>
</tr>
<tr>
<td>Community Development/Neighborhood Services</td>
<td>Union City; San Francisco</td>
</tr>
<tr>
<td>Planning</td>
<td>Colusa County; Larkspur; Los Angeles County; Oakland; San Ramon; Vallejo</td>
</tr>
<tr>
<td>ELECTED:</td>
<td></td>
</tr>
<tr>
<td>City Council</td>
<td>Long Beach; Los Angeles City; Reedley; Vista</td>
</tr>
<tr>
<td>Board of Supervisors</td>
<td>Fresno County; Kern County; Ventura County</td>
</tr>
<tr>
<td>OTHER:</td>
<td></td>
</tr>
<tr>
<td>Shared</td>
<td>San Leandro (Community Services Director/Chief of Police)</td>
</tr>
</tbody>
</table>
APPENDIX E

List of ABC-approved conditions. This list is not exhaustive. Local officials may request the ABC place additional conditions on a new or transferred license; these conditions would not be ABC approved, but would be used at the local level as part of a conditional use permit process.

ON SALE PREMISES:

TO BE USED FOR LOCATIONS WHICH HAVE DIFFERENT HOURS ON DIFFERENT DAYS OF THE WEEK

Sales, service and consumption of alcoholic beverages shall be permitted only between the hours of ___ and ___.

TO BE USED FOR ON SALE LOCATIONS WITH THE SAME HOURS EACH DAY OF THE WEEK.

Sales, service and consumption of alcoholic beverages shall be permitted only between the hours of ___ and ___ each day of the week.

Sales, service and consumption of alcoholic beverages shall be permitted in the patio area only between the hours of ___ and ___ each day of the week.

OFF SALE PREMISES:

TO BE USED FOR LOCATIONS WHICH HAVE DIFFERENT HOURS ON DIFFERENT DAYS OF THE WEEK

Sales and service of alcoholic beverages shall be permitted only between the hours of ___ and ___.

TO BE USED FOR OFF SALE LOCATIONS WITH THE SAME HOURS EACH DAY OF THE WEEK.

Sales and service of alcoholic beverages shall be permitted only between the hours of ___ and ___ each day of the week.

The sale of distilled spirits by the bottle for same day or future consumption is prohibited.

There shall be no bar or lounge area upon the licensed premises maintained for the purpose of sales, service or consumption of alcoholic beverages directly to patrons for consumption.

If the premises do not open until 9:00 p.m., full and complete meals must be served whenever the privileges of the license are being exercised.

The premises shall be maintained as a bona fide food restaurant and shall provide a menu containing an assortment of foods normally offered in such restaurants.

The petitioner(s) shall stock and offer for sale a substantial assortment of food and/or merchandise commonly associated with and sold to persons in the community of extraction.

Any graffiti painted or marked upon the premises or on any adjacent area under the control of the licensee(s) shall be removed or painted over within hours of being applied.

No “happy hour” type of reduced price alcoholic beverage promotion shall be allowed.

No refrigerated or otherwise chilled alcoholic beverages shall be sold or maintained on the licensed premises.

The use of any amplifying system or device is prohibited on ___ and the use of any such system or device inside the premises shall not be audible outside the premises.

During normal meal hours, at least the premises seating shall be designed and used for and must possess the necessary utensils, table service, and condiment dispensers with which to serve meals to the public.

At all times when the premises are open for business the sale of alcoholic beverages shall be made only in conjunction with the sale of food to the person ordering the beverage.

There shall be no amplified music on the premises at any time.

Sales, delivery and consumption of alcoholic beverages will be restricted to and within the confines of the building portion of the premises and sales or delivery of alcoholic beverages through any pass-out window is prohibited.

The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period.

The licensee shall at all times maintain records which reflect separately the gross sale of food and the gross sales of alcoholic beverages of the licensed business. Said records shall be kept no less frequently than on a quarterly basis and shall be made available to the Department on demand.

There will be no dancing allowed on the premises.

The door(s) shall be kept closed at all times during the operation of the premises except in cases of emergency. Said door(s) not to consist solely of a screen or ventilated security door.

The door(s) shall be kept closed at all times during the operation of the premises except in cases of emergency and to permit deliveries. Said door(s) not to consist solely of a screen or ventilated security door.
The rear doors of the premises shall be equipped on the inside with an automatic locking device and shall be closed at all times, and shall not be used as a means of access by patrons to and from the licensed premises. Temporary use of these doors for delivery of supplies does not constitute a violation.

There shall be no amusement machines or video game devices in the premises at any time.

There shall be no more than ___ amusement machine or video game devices in the premises at any time.

No pool or billiard tables may be maintained on the premises.

A single jukebox or stereo may be maintained upon the premises; however, the music shall not be audible outside the premises.

Entertainment provided shall not be audible beyond the area under the control of the licensee(s) as defined on the ABC-257 dated and ABC-253 dated _____.

Live entertainment provided shall be limited to ____. No noise from said entertainment shall be heard beyond feet from the exterior of the premises in any direction.

There shall be no live entertainment of any type, including but not limited to live music, disc jockey, karaoke, topless entertainment, male or female performers or fashion shows.

There shall be no ___ permitted on the premises at any time.

Between the hours of ___ and ___ or at any time the premises are providing ___, the petitioner(s) shall provide ___ licensed uniformed security guard(s)\(^3\) in the parking lot and shall maintain order therein and prevent any activity which would interfere with the quiet enjoyment of their property by nearby residents.

Petitioner(s) shall provide uniformed security guard(s) between the hours of ___ to ___.

Petitioner(s) shall provide uniformed security guard(s) from ___ to ___ after closing.

Between the hours of ___ and ___ or at any time the premises are providing ___, the petitioner(s) shall provide security personnel in the parking lot and shall maintain order therein and prevent any activity which would interfere with the quiet enjoyment of their property by nearby residents. Said personnel shall be clothed in such a manner as to be readily identifiable as security.

The sale of alcoholic beverages for consumption off the premises is strictly prohibited.

The subject alcoholic beverage license shall not be exchanged for a public premises type license nor operated as a public premise.

The petitioner(s) shall be responsible for maintaining free of litter the area adjacent to the premises over which they have control, as depicted on the ABC-257 dated and ABC-253 dated _____.

The petitioner(s) shall provide off-street parking spaces for vehicles for use by patrons of the premises.

The parking lot of the premises shall be equipped with lighting of sufficient power to illuminate and make easily discernible the appearance and conduct of all persons on or about the parking lot. Additionally, the position of such lighting shall not disturb the normal privacy and use of any neighboring residences.

Trash shall not be emptied between the hours of ____ nor later than ____.

Trash pickup at the premises will be made no earlier than ____ nor later than ____.

Trash shall not be emptied into outside trash containers between the hours of ____ nor later than ____.

The petitioner(s) shall construct and maintain a solid block or brick fence not less than ____ feet along the boundary of the premises parking lot.

No wine shall be sold with an alcoholic content of greater than 15% by volume except for “Dinner Wines” which have been aged two years or more and maintained in corked bottles.

No beer or malt beverage products shall be sold, regardless of container size, in quantities of less than six per sale.

\(^3\) If you want guards in full uniform, use the phrase “licensed uniform guard(s)”. If full uniforms are not required, use the phrase “security personnel”.
The sales of beer or malt beverages in quantities of quarts, 22 oz., 32 oz., 40 oz., or similar size containers is prohibited. No beer or malt beverages shall be sold in quantities of less than six per sale.

Beer, malt beverages, and wine coolers in containers of 16 oz. or less cannot be sold by single containers, but must be sold in manufacturer pre-packaged multi-unit package.

There shall be no cups, glasses, or similar receptacles commonly used for the drinking of beverages, sold, furnished, or given away at the petitioner's premises in quantities of less than twenty-four in their original multi-container package.

No alcoholic beverages shall be sold in bottles or containers smaller than ___.

Wine shall not be sold in bottles or containers smaller than 750 ml and wine-coolers, beer coolers, or pre-mixed distilled spirit cocktails (if allowed by the license) must be sold in manufacturer pre-packaged multi-unit quantities.

No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the licensee(s) as depicted on the ABC-257 dated and ABC-253 dated ___.

There shall be no exterior advertising or sign of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages or signs which are clearly visible to the exterior shall constitute a violation of this condition.

No person under the age of 21 shall sell or deliver alcoholic beverages.

No pay phone will be maintained on the interior or exterior of the premises.

All ice shall be sold at or about prevailing prices in the area and in quantities of not less than ___ pounds per sale and shall not be given away free.

Sales and delivery of alcoholic beverages to customers shall be made from behind a counter where a clerk will obtain the product; no self-service of alcoholic beverages will be permitted.

Not more than ___% of the square footage of the premises will be used for the display of alcoholic beverages.

The licensee(s) or an employee of the licensee(s) will be present in the patio at all times that alcoholic beverages are being served or consumed.

No person shall be excluded from membership in the club on the basis of race, color, sex, religion, ancestry, disability, marital status or national origin.

Petitioner(s) shall furnish four additional keys and/or passes to the Department of Alcoholic Beverage Control. Such keys or passes shall not be marked or prepared in any manner so as to distinguish the bearer's official capacity. In addition, said keys or passes shall contain random, non-consecutive numbers, various dates of issuance and shall not be identified on any membership lists so as to distinguish the listed member's official capacity.

Petitioner(s) shall police the area under their control in an effort to prevent the loitering of persons about the premises as depicted on ABC-253, dated ___.

Loitering is prohibited on or around these premises or this area under the control of the licensee(s) as depicted on the ABC-257 dated and ABC-253 dated ___.

The possession of alcoholic beverages in open containers and the consumption of alcoholic beverages is prohibited on or around these premises as depicted on ABC-253, dated ___.

The licensee shall keep the property, adjacent to the licensed premises and under the control of the licensee(s) as depicted on ABC-253, dated ___ clear of newspaper racks, benches, pay telephones, bicycle racks, and any other objects which may encourage loitering.

There shall be no sales of alcoholic beverages while the boat is at any dock, except sales to passengers one-half hour prior to departing on scheduled trips or charters, and one-half hour after returning to designated commercial docks pursuant to (A) or (B).

(A) In addition to its primary home port dock, a licensee may designate up to ten (10) commercial docks each year at which it intends to embark or disembark passengers.

(B) A licensee may designate any public commercial dock within the state. Such designation shall be in writing.

The applicant corporation shall report to the Department in writing any changes in directors, managing officers, and/or the issuance or transfer of shares of stock which results in a person or entity not previously approved owning 10% or more of its stock. This report shall be made within 30 days of issuance, transfer, or change.

The Department of Alcoholic Beverage Control will be notified in writing of any change in the trustees under Trust dated ___.
That __ shall have no interest directly or indirectly in the ownership nor act as a manager or consultant in the operation or control of the licensed premises or business activities conducted in said premises.

That __ shall not be employed in any capacity in the operation or control of the licensed premises.

That __ shall not violate any laws or have any determination by law, by plea of guilty, bail forfeiture, conviction, or nolo contendere of any crime or commit any act involving the intemperate use of alcohol for a period of ___ years from the signing of this petition.

The sale of products, other than beer & wine, measured by gross receipts on an annual basis, shall exceed the annual sales of beer & wine products, measured by gross receipts.

Off-sale privileges under this license are restricted to sale of malt and vinous beverages containing not more than 3.2 percent of alcohol by weight, and to the sale of beer.

Peace officers, as listed in Section 830.1 of the California Penal Code, and the Director and other persons employed by the Department of Alcoholic Beverage Control for the administration and enforcement of the Alcoholic Beverage Control Act are hereby authorized to visit and inspect the proposed premises as outlined in red on form ABC-257 dated ___, at any time the undersigned is exercising the privileges authorized by the license on such premises.

Subject premises will be solely a business office and no alcoholic beverages will be possessed, stored, or delivered from this location, nor will there be any direct sales to consumers or retailers from this location.

Sales of alcoholic beverages from a mobile cart are permitted provided there are a substantial assortment of non-alcoholic beverages and snacks offered for sale on the same cart.

Sales of alcoholic beverages from the mobile cart are only permitted at no more than two designated and approved sites on the golf course.

The mobile cart must remain at each designated site for a minimum of four hours.

There is maintained upon the drive-in premises a building or other suitable enclosed structure to be licensed as provided in Section 24040 of the Act, and all sales of alcoholic beverages shall be made from within the licensed enclosure.

No alcoholic beverages shall be sold to any person while such person is in a motor vehicle.

No alcoholic beverages shall be consumed on any portion of the licensed premises or any portion adjacent thereto which is under the control of the licensee.

The sale and delivery of alcoholic beverages shall be made to persons who are within the licensed premises only and not through a pass-out window, or a slide-out tray to the exterior of the premises.

Alcoholic beverages offered for sale at the licensed premises shall be displayed and available for convenient inspection and purchase within the premises by the general public.

No wine tasting is to be permitted at this location.

No retail sales of alcoholic beverages to consumers shall be permitted at this location.

There shall be no importation of beer or malt beverages.

No retail sales of alcoholic beverages to consumers shall be permitted at this location.
**CLUB:**
Membership in the club shall be non-discriminatory and will not exclude persons because of race, creed, color, sex, religion or national origin.

The sale, service and consumption of alcoholic beverage shall be made only to or by members of the club and bona fide guests.

The sale of alcoholic beverages for consumption off the premises is prohibited.

Keys and/or passes, and/or membership cards shall be furnished to the Department. Such keys, passes and/or membership cards shall not be marked or coded in any way such as to distinguish a bearer’s official capacity.

**DRIVE IN:**
There is maintained upon the drive-in premises a building or other suitable enclosed structure to be licensed as provided in Section 24040 of the Act, and all sales of alcoholic beverages shall be made from within the licensed enclosure.

No alcoholic beverages shall be sold to any person while such person is in a motor vehicle.

No alcoholic beverages shall be consumed on any portion of the licensed premises or any portion adjacent thereto which is under the control of the licensee.

The sale and delivery of alcoholic beverages shall be made to persons who are within the licensed premises only and not through a pass-out window, or a slide-out tray to the exterior of the premises.

**OTHER:**
Petitioner shall not share any profits, or pay any percentage or commission to a promoter or any other person, based upon monies collected as a door charge, cover charge, or any other form of admission charge, including minimum drink orders, or the sale of drinks.

Petitioner(s) shall not require an admission charge or a cover charge, nor shall there be a requirement to purchase a minimum number of drinks.

The licensee shall not sell and/or offer for sale or display any magazine, video or other printed material which contains pictures depicting:
- Acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law.
- Any person being touched, caressed or fondled on the breast, buttocks, anus or genitals.
- Scenes wherein a person displays the vulva or the anus or the genitals.
- Scenes wherein artificial devices or inanimate objects are employed to depict, or drawings are employed to portray, any other prohibited activities described above.

No obstructions shall be attached, fastened or connected to the partitions or ceiling to separate the booths/dining areas within the interior space of the licensed premises.

Partitions separating the booths/dining areas shall not exceed 52” in height.

VIP/Hospitality alcoves constructed on the premises and depicted on diagram dated ______ shall have the following characteristics:

(a) No physical obstruction shall be attached, fastened, or connected in any manner to any section of the wall or ceiling at the alcove openings.

(b) No physical obstruction, including but not limited to planters, partitions or items of decor, shall be placed or attached to any section of the floor at the alcove openings.

The licensee(s) shall not maintain or construct any type of enclosed room intended for use by patrons or customers for any purpose.

The licensee shall not permit “Taxi Dancing” to occur on the licensed premises wherein partners are provided for dancing or social purposes. Social purposes include but are not limited to the soliciting or accepting of any alcoholic beverages from any customers while in the premises.
No employee or agent shall be permitted to accept money or any other thing of value from a customer for the purpose of sitting or otherwise spending time with customers while in the premises, nor shall the licensee(s) provide or permit, or make available either gratuitous or for compensation, male or female persons who act as escorts, companions, or guests of and for the customers.

No employee or agent shall solicit or accept any alcoholic or non-alcoholic beverage from any customer while in the premises.

Petitioner(s) shall make no changes in the premises interior without prior written approval from the Department.

The Petitioner(s) shall post and maintain a professional quality sign facing the premises parking lot(s) that reads as follows:

**NO LOITERING, NO LITTERING**

**NO DRINKING OF ALCOHOLIC BEVERAGES**

**VIOLATORS ARE SUBJECT TO ARREST**

The sign shall be at least two feet square with two inch block lettering. The sign shall be in English and Spanish.

No distilled spirits shall be sold by the bottle.

There shall be no selling of alcoholic beverages for future consumption.

No open bottles of distilled spirits shall be stored on the premises for specific customers.
PRODUCTION NOTES

The initial and revised version of this guide was produced by two members of the California Council on Alcohol Policy, Vic Colman and Michael Sparks. In addition, a third member, Brenda Simmons, assisted with the research and writing of this revised version. We would also like to thank Everest Robillard and Sharon O’Hara for their careful editorial review.

The drafters of this document would also like to thank the many people who either came to a focus group meeting in early September 2005 (graciously hosted by the state ABC) as well as those that reviewed drafts of this document.

This document is a product of the Community Prevention Institute (CPI), a project of the Center for Applied Research Solutions, to provide no-cost technical assistance and training to communities throughout California. CPI is funded and directed by the California Department of Alcohol and Drug Programs. If you have any technical assistance or training needs regarding this handbook, please contact CPI.

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tnolfo@cars-rp.org

CPI Project Manager -- Gary Neumann
gneumann@cars-rp.org

Community
PREVENTION INSTITUTE
www.ca-cpi.org

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(916) 983-8929
(916) 983-5738 fax
www.cars-rp.org
Attachment 9

(Letter dated May 4, 2010 from Walgreens requesting a continuance to June 1, 2010)
May 4, 2010

VIA E-MAIL

Mr. Brian Guillot
City of Banning
Community Development Department
99 E. Ramsey Street
P.O. Box 998
Banning CA 92220-0998

Re: CUP #10-801/Continuance Request

Dear Brian:

In the attached e-mail dated May 3, 2010, Walgreens requested that the City continue the hearing for CUP No. 10-801 scheduled for May 4, 2010 to a date certain of June 1, 2010. You subsequently asked me to also follow up with this letter as confirmation of the above request. As you will note from the attached letter, Walgreens has delegated to Luce Forward the authority to sign a letter such as this on its behalf.

If you need any additional information, or if you have any questions, please do not hesitate to contact me. Otherwise, we will look forward to working with you over the next few days regarding the scope of the ABC licensing requirements.

Sincerely,

[Signature]

Brian C. Fish
of
LUCE, FORWARD, HAMILTON & SCRIPPS LLP

BCF/
Enclosures

cc: Michael Redstone, Esq. (via e-mail)
CITY OF BANNING
PLANNING COMMISSION REPORT

DATE: June 1, 2010
TO: Planning Commission
FROM: Zai Abu Bakar, Community Development Director
SUBJECT: TENTATIVE PARCEL MAP #36056 AND DESIGN REVIEW #07-708 (BANNING BUSINESS PARK, ASSESSORS PARCEL NUMBERS 532-110-003, 008, 009, AND 010)

This is a continued public hearing from May 4, 2010.

STAFF RECOMMENDATION:

The Planning Division recommends the Planning Commission take the following actions:

1. Adopt Mitigated Negative Declaration and Mitigation Monitoring Plan; and

2. Adopt PC Resolution No. 2010-04 approving Tentative Parcel Map #36056 and Design Review #07-708 subject to Conditions of Approval.

PROJECT/APPLICANT INFORMATION:

Project Location: Northeast corner of Hathaway Street and Nicolet Street (Attachment 5)
APN Information: 532-110-003, 532-110-008, 532-110-009; and 532-110-010
Project Applicant: The O'Donnell Group, Inc. (Representative: Stantec Consulting Services/ Patrick Osborne)
Property Owner: OSI Partnership I, LLC
Redevelopment Area: Yes
Specific Plan: No
**PROJECT DESCRIPTION, SITE INFORMATION AND SURROUNDING LAND USES:**

**Project Description**
The Banning Business Park will consist of 12 buildings, associated parking, and site improvements on approximately 63.98 acres. The Project proposes office, manufacturing, and warehouse buildings that will vary from 11,719 to 786,984 square feet with total build out area of approximately 1,194,045 square feet. The square footages and uses within each of the buildings are as follows:

<table>
<thead>
<tr>
<th>Building No. (Square footage)</th>
<th>Uses within each building</th>
<th>Square footage of each use</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 (35,397)</td>
<td>Mezzanine</td>
<td>2,000</td>
</tr>
<tr>
<td></td>
<td>Office</td>
<td>2,000</td>
</tr>
<tr>
<td></td>
<td>Manufacturing</td>
<td>31,397</td>
</tr>
<tr>
<td>2 (42,218)</td>
<td>Mezzanine</td>
<td>2,000</td>
</tr>
<tr>
<td></td>
<td>Office</td>
<td>2,000</td>
</tr>
<tr>
<td></td>
<td>Manufacturing</td>
<td>38,218</td>
</tr>
<tr>
<td>3 (44,938)</td>
<td>Mezzanine</td>
<td>2,000</td>
</tr>
<tr>
<td></td>
<td>Office</td>
<td>2,000</td>
</tr>
<tr>
<td></td>
<td>Manufacturing</td>
<td>40,938</td>
</tr>
<tr>
<td>4 (40,031)</td>
<td>Mezzanine</td>
<td>2,000</td>
</tr>
<tr>
<td></td>
<td>Office</td>
<td>2,000</td>
</tr>
<tr>
<td></td>
<td>Manufacturing</td>
<td>36,031</td>
</tr>
<tr>
<td>5 (11,719)</td>
<td>Office</td>
<td>4,000</td>
</tr>
<tr>
<td></td>
<td>Warehouse</td>
<td>7,719</td>
</tr>
<tr>
<td>6 (15,890)</td>
<td>Office</td>
<td>1,500</td>
</tr>
<tr>
<td></td>
<td>Warehouse</td>
<td>14,390</td>
</tr>
<tr>
<td>7 (17,727)</td>
<td>Office</td>
<td>1,500</td>
</tr>
<tr>
<td></td>
<td>Warehouse</td>
<td>16,227</td>
</tr>
<tr>
<td>8 (16,496)</td>
<td>Office</td>
<td>1,500</td>
</tr>
<tr>
<td></td>
<td>Warehouse</td>
<td>14,996</td>
</tr>
<tr>
<td>9 (15,448)</td>
<td>Office</td>
<td>1,500</td>
</tr>
<tr>
<td></td>
<td>Warehouse</td>
<td>13,946</td>
</tr>
<tr>
<td>10 (16,667)</td>
<td>Office</td>
<td>1,500</td>
</tr>
<tr>
<td></td>
<td>Manufacturing</td>
<td>13,177</td>
</tr>
<tr>
<td>11 (786,984)</td>
<td>Mezzanine</td>
<td>5,000</td>
</tr>
<tr>
<td></td>
<td>Office</td>
<td>10,000</td>
</tr>
<tr>
<td></td>
<td>Manufacturing</td>
<td>126,667</td>
</tr>
<tr>
<td></td>
<td>Warehouse</td>
<td>645,227</td>
</tr>
<tr>
<td>12 (152,520)</td>
<td>Mezzanine</td>
<td>3,000</td>
</tr>
<tr>
<td></td>
<td>Office</td>
<td>6,000</td>
</tr>
<tr>
<td></td>
<td>Manufacturing</td>
<td>39,806</td>
</tr>
<tr>
<td></td>
<td>Warehouse</td>
<td>103,714</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>1,194,045</strong></td>
</tr>
</tbody>
</table>
Buildings 1 and 5 are designated for manufacturing/business park uses, buildings 2, 3, 4, 6, 7, 8, 9, are designated for Warehouse uses, and buildings 11 and 12 are designated for High Cube\(^1\) Warehouse uses. The Project will be built in three phases (build out of Project will be completed in year 2015). Phase 1 includes Building 11. Phase 2 includes Building 12. Phase 3 includes buildings 1 through 10. A total of 1,282 parking spaces, including parking spaces for the trailers are provided for the project.

The developer is requesting approval of two entitlements for the project.

1. Tentative Parcel Map # 36056
2. Design Review #07-708

Detailed descriptions of these entitlements are provided on pages 4 through 12 of this report.

**Site Description**

The project site consists of four parcels: Assessor's Parcel Nos. 532-110-003; 532-110-008; 532-110-009; and 532-110-010 totaling approximately 64 acres. (See Exhibit 1 - Location Map.) The site is located at the eastern terminus of Nicolet Street and Hathaway Street adjacent to Orco Block (on the east side of Hathaway Street). The site is currently vacant and undeveloped. Ramsey Street is located to the south of the project site. Regional access to the project site will be provided by I-10. Ramsey Street and Hathaway Street are the primary local accesses that connect the I-10 to the project site. The I-10, Ramsey Street, and Hathaway Street are approved roadways in the Circulation Element of the City of Banning General Plan with approved street alignment and widths. (See Exhibit 2 - Aerial Photo.)

The Project site contains small to medium boulders generally scattered all over the site. Two washes which generally trend northwest-southeast traverse the subject site. Ground surface cover consists of exposed soil. Vegetation over most of the site consists of sparse to moderate native grass and weed growth, as well as brush and small shrubs.\(^2\)

**Land Use Information**

The project is located in the Business Park (BP) zone. West of the site and across Hathaway Street are existing single-family homes. Northwest corner of the site is the existing Orco Block. Directly north of the project site (Building 11) is the Morongo Tribal land and south of the project site is vacant land and Caltrans Yard.

The table on the following page shows the nature of the surrounding uses, Zoning and General Plan land use designations.

---

\(^1\) Institute of Transportation Engineers characterized high cube warehouses as warehouses with a high level of mechanization.

\(^2\) Southern California Geotechnical, October 25, 2006.
### Site and Surrounding Land Use Summary Table

<table>
<thead>
<tr>
<th>Subject Site</th>
<th>Existing Land Use</th>
<th>Zoning Designation</th>
<th>General Plan Designation</th>
</tr>
</thead>
<tbody>
<tr>
<td>North</td>
<td>Vacant Land</td>
<td>Business Park</td>
<td>Business Park</td>
</tr>
<tr>
<td>South</td>
<td>Orco Block and Morongo Tribal Land</td>
<td>Business Park/Morongo Indian Reservation—outside of the City’s corporate boundaries</td>
<td>Business Park/Morongo Indian Reservation—outside of the City’s corporate boundaries</td>
</tr>
<tr>
<td>South</td>
<td>Undeveloped land fronting Ramsey Street and Caltrans Yard</td>
<td>Business Park</td>
<td>Business Park</td>
</tr>
<tr>
<td>East</td>
<td>Undeveloped Land</td>
<td>Business Park</td>
<td>Business Park</td>
</tr>
<tr>
<td>West</td>
<td>Residential properties across Hathaway Street</td>
<td>Low Density Residential</td>
<td>Low Density Residential</td>
</tr>
</tbody>
</table>

### PROJECT ANALYSIS:

**Zoning**
The proposed project is located in the Business Park (BP) zone. Per Section 17.12.010.B.7 of the Banning Zoning Ordinance, light industrial and office/warehouse buildings are appropriate in this district. Table 17.12.020 of the Zoning Code stipulates that light manufacturing and warehousing are permitted uses in the Business Park zone.

**Entitlement Required**
The project requires two entitlement approvals:

1. Tentative Parcel Map
2. Design Review

Each entitlement approval requires that it be evaluated against the development standards in the Zoning Ordinance. In addition, the Tentative Parcel Map must comply with the Subdivision Map Act and the City’s Subdivision regulations. The following provides information and analysis with regard to compliance with these regulations.

1. **TENTATIVE PARCEL MAP #36056**

Tentative Parcel Map #36056 is a request to consolidate the four (4) existing parcels totaling approximately 64 acres and subdivide it into nine (9) parcels and five (5) lettered lots for the development of 12 office/warehouse buildings with associated parking and site improvements. Parcels 1, 2, 3, 4, 8, and 9 will be developed with a free-standing building on each parcel. Parcels 5, 6, and 7 will be developed with two buildings on each parcel. The Tentative Parcel
Map review includes consideration of whether the proposed subdivision complies with the State Subdivision Map Act and the City's subdivision regulations, including design and improvements of the subdivision. In order to approve the Tentative Parcel Map, the Planning Commission is required to make findings, which are detailed on pages 21 through 24 of this staff report.

Table 17.12.030 of the Zoning Ordinance requires that a land division within a Business Park Zoning district comply with the following development standards for lot size, lot width, and lot depth:

<table>
<thead>
<tr>
<th>Parcel</th>
<th>Development Standards</th>
<th>Required</th>
<th>Provided</th>
<th>Complies With Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Minimum Lot Size</td>
<td>1 acre</td>
<td>1.9 acres</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Minimum Lot Width</td>
<td>100 feet</td>
<td>295 feet</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Minimum Lot Depth</td>
<td>150 feet</td>
<td>277 feet</td>
<td>Yes</td>
</tr>
<tr>
<td>2</td>
<td>Minimum Lot Size</td>
<td>1 acre</td>
<td>1.98 acres</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Minimum Lot Width</td>
<td>100 feet</td>
<td>314 feet</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Minimum Lot Depth</td>
<td>150 feet</td>
<td>274 feet</td>
<td>Yes</td>
</tr>
<tr>
<td>3</td>
<td>Minimum Lot Size</td>
<td>1 acre</td>
<td>2.10 acres</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Minimum Lot Width</td>
<td>100 feet</td>
<td>341 feet</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Minimum Lot Depth</td>
<td>150 feet</td>
<td>269 feet</td>
<td>Yes</td>
</tr>
<tr>
<td>4</td>
<td>Minimum Lot Size</td>
<td>1 acre</td>
<td>1.91 acres</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Minimum Lot Width</td>
<td>100 feet</td>
<td>316 feet</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Minimum Lot Depth</td>
<td>150 feet</td>
<td>263 feet</td>
<td>Yes</td>
</tr>
<tr>
<td>5</td>
<td>Minimum Lot Size</td>
<td>1 acre</td>
<td>1.43 acres</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Minimum Lot Width</td>
<td>100 feet</td>
<td>394 feet</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Minimum Lot Depth</td>
<td>150 feet</td>
<td>158 feet</td>
<td>Yes</td>
</tr>
<tr>
<td>6</td>
<td>Minimum Lot Size</td>
<td>1 acre</td>
<td>1.72 acres</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Minimum Lot Width</td>
<td>100 feet</td>
<td>454 feet</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Minimum Lot Depth</td>
<td>150 feet</td>
<td>165 feet</td>
<td>Yes</td>
</tr>
<tr>
<td>7</td>
<td>Minimum Lot Size</td>
<td>1 acre</td>
<td>1.65 acres</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Minimum Lot Width</td>
<td>100 feet</td>
<td>416 feet</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Minimum Lot Depth</td>
<td>150 feet</td>
<td>169 feet</td>
<td>Yes</td>
</tr>
<tr>
<td>8</td>
<td>Minimum Lot Size</td>
<td>1 acre</td>
<td>7.72 acres</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Minimum Lot Width</td>
<td>100 feet</td>
<td>1261 feet</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Minimum Lot Depth</td>
<td>150 feet</td>
<td>1225 feet</td>
<td>Yes</td>
</tr>
<tr>
<td>9</td>
<td>Minimum Lot Size</td>
<td>1 acre</td>
<td>35.89 acres</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Minimum Lot Width</td>
<td>100 feet</td>
<td>764 feet</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Minimum Lot Depth</td>
<td>150 feet</td>
<td>438 feet</td>
<td>Yes</td>
</tr>
</tbody>
</table>

The Subdivision Map Act and the City's Subdivision Ordinance require that the proposed subdivision provide the necessary private and public improvements to serve the project. Such improvements include grading, streets, sidewalks, curbs, gutters, storm drains, sanitary sewers, and other improvements required to serve the subdivision.

**Grading**

The project is required to comply with the City's Grading Ordinance No. 1388 that was adopted by the City Council on July 14, 2009. A conceptual grading plan was submitted by the developer as part of the entitlement review. The developer is required to submit rough and precise grading plans to the City for review and approval prior to the issuance of the grading permits (Conditions #38 and #55) for the project.
Streets
The developer is required to construct street improvements or pay the fair share for the improvements in accordance with the Traffic Impact Analysis that was prepared for the project for compliance with the California Environmental Quality Act (CEQA). A summary of the Traffic Impact Analysis is provided on pages 19 through of this report.

Information below provides details regarding street improvements that the developer is required to construct, improvements that the developer is required to pay only their fair share, and/or improvements where the developer is required to provide design (or plans only) because the project does not trigger the need for the improvement.

1. Developer Constructs Street Improvements

   a. Nicolet Street – Construct the easterly extension of Nicolet Street; 44 feet curb to curb full width in accordance with City standards including street lighting, curb and gutter, sidewalk, parkway landscaping, asphalt concrete paving, traffic signs and striping; in its present alignment from Hathaway Street to the North-South Collector (“B” Street) at the easterly project boundary.

   b. “B” Street – Construct a portion of a full width north-south collector street at right angles with the Nicolet Street extension, at the easterly project boundary. The constructed portion shall be the westerly half street including street lighting, curb and gutter, sidewalk, parkway landscaping, traffic signs and striping. The pavement width shall be 22 feet on the west side and an additional 12 feet east of the centerline, for a total width of 34 feet curb to edge of easterly pavement.

   c. Wilson Street – Wilson Street is required to provide emergency access road for the project. The width of the Wilson Street will vary because the developer does not own the land in front of Orco Block (from Hathaway Street to the westerly project boundary). The developer is in the process of obtaining a 40’ wide easement in front of Orco Block and will construct a 26’ wide all weather access road to satisfy the City fire services requirement. Since the developer owns the land within the project site where future Wilson Street is proposed, the developer has agreed to dedicate land and construct a 55’ half section of Wilson Street as an arterial highway fronting the project site, including street lighting, curb and gutter, sidewalk, parkway landscaping, traffic signs and striping. Please refer to Conditions #75 and #76.

The following provides an in-depth explanation regarding Wilson Street.

Wilson Street is included in the current General Plan as a Major Highway, which includes a 110-foot right-of-way, with a 76-foot street section from curb-to-curb. This right-of-way width represents four travel lanes, with parking lanes on each side, a center median, and a parkway on each side. It is desirable that the ultimate right-of-way be constructed per the General Plan; however, the land for the right-of-way is controlled by private property owners, including Muth Holdings, LLC. (Orco Block), the developer, and the Morongo Band of Mission Indians. The traffic study for the project does not
require that a secondary access road be constructed; however, to ensure that there is emergency access for fire prevention for the project, the California Department of Forestry (operating as the City’s Fire Services) is requiring that an emergency access road be provided. The developer has agreed to construct the improvement for Wilson Street. Currently, the developer is in negotiations with Muth Holdings, LLC to acquire an easement for Wilson Street and an easement for a water line (See letter dated April 12, 2010 from the O’Donnell Group, Inc to Mr. Rick Muth and Muth Holdings, LLC). According to the developer, Muth Holdings is agreeable to provide a 40’ wide easement for the construction of Wilson Street for fire prevention and an easement for construction and maintenance of the water line in front of Muth Holdings, LLC property. The law provides that cities may impose conditions of development so long as the conditions are reasonable, and there exists a sufficient nexus between the conditions imposed and the projected burden of the proposed development. Therefore, the City is requiring that the developer provide a 40-foot easement and construct a 26’ wide all weather surface access roadway, which is a lesser width than required by the General Plan since the traffic study findings conclude that the project does not trigger the need for the right-of-way except that a 26-foot wide all weather access road is required for emergency access for fire prevention.

d. Hathaway Street – Construct the widening of Hathaway Street fronting the project site as a 50’ half street arterial highway; 43 feet of pavement and an easterly parkway width of 7 feet, including traffic signalization, street lighting, curb and gutter, sidewalk, parkway landscaping, traffic signs and striping. Street width transitions to existing pavement shall be in accordance with Caltrans standards.

2. Developer Pays their Fair Share of Costs for the Improvements

Fair share payment for the following improvements is required as part of the project. The fair share amount of each item shall be determined based on engineering estimates prepared by the developer’s consultant; subject to the review and approval of the City Engineer:

a. Intersection improvements including traffic signals at Interstate 10 Westbound Ramp and Hargrave Street and Interstate 10 Eastbound Ramp and Hargrave Street; including a traffic signal interconnection system for coordinated operation.

b. Intersection improvements including traffic signals at Hathaway Street and Ramsey Street.

c. The widening of Hathaway Street, as an Arterial Highway; 50 feet one-half width (an easterly half street pavement width of 43 feet and an easterly parkway width of 7 feet), from Ramsey Street to the southerly project limits.

d. Improvements along Ramsey Street from Hathaway Street to a point easterly of Hathaway Street in order to provide a dedicated right turn only lane onto Hathaway Street.
3. Developer to Prepare Improvement Plans Only

Additional engineering plans and specifications are required to be prepared by the developer as follows. The developer is not required to construct these improvements, but will be required to pay a fair share of the estimated cost of each as provided in paragraph 2 above:

a. Prepare improvement plans for the widening of Hathaway Street, as an Arterial Highway; 50 feet one-half width (an easterly half street pavement width of 43 feet and an easterly parkway width of 7 feet), from Ramsey Street to the southerly project limits. Plans shall include street lighting, curb and gutter, commercial style drive approaches, sidewalk, asphalt concrete paving, traffic signage, striping and any transitions. There shall be a dedicated southbound right turn only lane onto Ramsey Street.

b. Prepare plans for intersection improvements including traffic signals at Hathaway Street and Ramsey Street. The design shall include a dedicated left turn pocket on Ramsey Street for northbound Hathaway Street.

c. Prepare plans for full half street improvements in accordance with City standards along Ramsey Street from Hathaway Street to a point easterly of Hathaway Street in order to provide a dedicated right-turn only lane onto Hathaway Street. The improvement plans shall also include street lighting, curb and gutter, sidewalk, asphalt concrete paving, traffic signs and striping, and any transitions.

Water Improvements
The project is required to provide water connection for on-site uses and for firefighting purposes. The California Department of Forestry (operating as the City’s Fire Services) requires a loop water system to be in place for firefighting purposes prior to construction of the buildings. There is an existing 8” domestic water line in Hathaway Street, which connects to an existing 14” domestic water line in Ramsey Street.

The developer will construct the water lines to serve the site as follows:

1. A 16” Ductile Iron Pipe (DIP) water line in Hathaway Street from Ramsey Street to Nicolet Street and on Nicolet Street from Hathaway Street to the westerly boundary of Caltrans parcel.

2. An 8” DIP water line on the proposed Nicolet Street from Hathaway Street, which loops the project and ties into the new 16” waterline per item #1 above. The developer is responsible for obtaining a 20’ wide easement for said line from the related properties or utilizing the existing utility easement located on the west side of APN 532-110-011.

3. A new 16” water line in Hathaway Street up to the terminus of Nicolet Street, which connects to the existing water line in Ramsey Street. A new 8” domestic water line that connects to this 16” line will be constructed in the proposed Nicolet Street to the east and north and in future Wilson Street, where it would join the existing 8” water line in Hathaway at Wilson Street.
See attached aerial, Attachment 9, showing existing and required water improvement for the project.

**Other Utilities**
Other utilities that will be required include sewer (Attachment 10), power/electric or cable to serve the project site. The proposed sewer improvement alignment that is required for the project is shown in the attached aerial. Additionally, a sewer lift station is required to be constructed and the project is required to provide land dedication to the City for the lift station and its appurtenances.

2. **DESIGN REVIEW No. 07-708**

This is a request to review the design of the project and site development to ensure conformity with the City’s development standards and design guidelines.

**Compliance with Development Standards for the Business Park Zone**
Below is a chart showing the minimum development standards for the Business Park (BP) zone per Table 17.12.030 of the Zoning Ordinance; and how the proposed project meets those standards, including setbacks, building heights, maximum building coverage, and parking.

<table>
<thead>
<tr>
<th>Building</th>
<th>Development Standards</th>
<th>Required</th>
<th>Provided</th>
<th>Complies With Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Minimum Front Setback (feet)</td>
<td>10</td>
<td>10</td>
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<tr>
<td></td>
<td>Minimum Rear Setback (feet)</td>
<td>0</td>
<td>78</td>
<td>Yes</td>
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<td>Minimum Side Yard Setback (feet)</td>
<td>0</td>
<td>67</td>
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<td></td>
<td>Minimum Street Side (feet)</td>
<td>10</td>
<td>26</td>
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<tr>
<td></td>
<td>Max. Building Coverage (%)</td>
<td>60</td>
<td>43</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Maximum Height (stories/feet)</td>
<td>2/50</td>
<td>2/38</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Parking (number of auto and trailer spaces)³</td>
<td>69 auto &amp; 1 trailer spaces</td>
<td>75 auto &amp; 1 trailer spaces</td>
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</tr>
<tr>
<td>2</td>
<td>Minimum Front Setback (feet)</td>
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<td></td>
<td>Max. Building Coverage (%)</td>
<td>60</td>
<td>49</td>
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<td>Maximum Height (stories/feet)</td>
<td>2/50</td>
<td>2/38</td>
<td>Yes</td>
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<tr>
<td></td>
<td>Parking (number of spaces)</td>
<td>80 auto &amp; 1 trailer spaces</td>
<td>80 auto &amp; 1 trailer spaces</td>
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</tr>
</tbody>
</table>

³ Table 17.28.040.B “Commercial and Industrial Parking Requirements” of the Zoning Code stipulates the following requirements for Industrial warehousing and Manufacturing uses:

<table>
<thead>
<tr>
<th>Industrial Warehousing</th>
<th>For each structure:</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-20,000 sq. ft.</td>
<td>Minimum of two spaces plus one space per 1,000 sq. ft. of gross floor area</td>
</tr>
<tr>
<td>Over 20,000 sq. ft.</td>
<td>22 spaces plus one space per 2,000 sq ft for portion over 20,000 sq ft</td>
</tr>
<tr>
<td>Trucks</td>
<td>One Tractor trailer space per 4 high dock doors</td>
</tr>
<tr>
<td>Manufacturing uses</td>
<td>Minimum of two spaces plus one space per 690 sq. ft. of gross floor area</td>
</tr>
<tr>
<td>Trucks</td>
<td>One Tractor trailer space per 4 high dock doors</td>
</tr>
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<td>Building</td>
<td>Development Standards</td>
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<tr>
<td>3</td>
<td>Minimum Front Setback (feet)</td>
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<td>Minimum Rear Setback (feet)</td>
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<td>Minimum Side Yard Setback (feet)</td>
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<td>Max. Building Coverage (%)</td>
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<td>Maximum Height (stories/feet)</td>
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<td>Parking (number of spaces)</td>
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<td>4</td>
<td>Minimum Front Setback (feet)</td>
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<td>Maximum Height (stories/feet)</td>
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<td>Parking (number of spaces)</td>
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<td>Maximum Height (stories/feet)</td>
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<td>Parking (number of spaces)</td>
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<td>6</td>
<td>Minimum Front Setback (feet)</td>
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<td>Minimum Rear Setback (feet)</td>
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<td>Maximum Height (stories/feet)</td>
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<td>Parking (number of spaces)</td>
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<td>7</td>
<td>Minimum Front Setback (feet)</td>
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<td>Minimum Rear Setback (feet)</td>
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<td>Parking (number of spaces)</td>
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<td>Max. Building Coverage (%)</td>
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<td></td>
<td>Maximum Height (stories/feet)</td>
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<tr>
<td></td>
<td>Parking (number of spaces)</td>
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</tbody>
</table>

Note: The total number of parking spaces required is 1,218. The project provides 1,244 parking spaces.

As indicated in the above table, the project meets the development standards of the Business Park zone.
Compliance with Design Guidelines
The following sections of the Zoning Ordinance provide general design principals for the development of industrial buildings.

- Sections 17.12.090 and 17.12.150 of the Zoning Ordinance provide general architectural design principals for industrial buildings to ensure quality design and their compatibility with adjacent and existing development.

- Section 17.12.100 of the Zoning Ordinance provides general design guidelines with regard to site planning and how the building is to be located within the lot.

- Section 17.12.110 provides general design guidelines with regard to parking and on-site circulation to ensure that these elements are coordinated.

- Section 17.12.120 provides general guidelines with regard to landscaping for the project.

Architectural Design
The proposed buildings are concrete tilt-up buildings. Varying sizes of glazing, horizontal reveals, varying roof height, use of varying paint colors within the same tone and contrasting paint colors will help break down the scale of each of the wall panels. The office at each corner of the building creates a unique and distinct identity for each building.

Site Planning, Circulation, and Landscaping
The buildings will be constructed facing Nicolet Street extension. Access to each of the buildings will be via driveways on Nicolet Street. There are no parking lot or drive aisles along Hathaway Street. These areas will be landscaped to complement the architecture of the buildings.

Parking spaces for each building are provided either in between the buildings, on the side and/or at the rear of the buildings. For specific locations of parking areas, please see Site Plan for the project. The final landscaping design and construction will be required to emphasize drought tolerant features as required by State and Zoning Code regulations to conserve water. Trees and walled gardens will also be part of the overall architectural image of the business park. Accent trees will provide color and interest to each building.

Walls and Fences
Due to the topography of the project site, retaining walls will be required in some areas of the project. The precise locations of where the retaining walls are required will be determined once the developer prepares the rough grading plans. For site security, the developer may have to install fences such as wrought iron or block walls. Condition of Approval #18 requires that the developer submit the wall/fencing plan for review and approval by the Community Development Director to ensure that walls and fencing complement the project architecture.

Exterior Lighting
Exterior lighting for the buildings is required to be decorative box type fixtures in a pre-finish color to complement/match the building. Exterior lighting is also required to be consistent with
any pole mounted fixtures for the parking lot (Condition of Approval #19). Additionally, any
exterior lighting, including security lighting shall have no spillover onto adjacent properties
(Condition of Approval #20). Any lighting that would interfere with the nearby airport
operations shall be prohibited in accordance with Federal Aviation Administration (FAA)
regulations and the conditions imposed by the Riverside County Airport Land Use Commission
(Attachment 11).

**Screening**
Sections 17.12.140 and 17.12.160 require screening of outdoor storage and roof-mounted
equipment. Roof-mounted equipment on the buildings will be screened using the parapet wall.
Condition of Approval #22 requires that all roof-mounted equipment or utility equipment on the
side of the structure or on the ground shall not be visible from public right-of-way or the parking
lot.

**Sign Program**
The developer is required to submit a sign program for review and approval by the Community
Development Director to ensure that there is a coordinated and comprehensive sign program for
the project (Condition of Approval #17).

**PROJECTS NEAR AIRPORTS AND AIRPORT LAND USE COMPATIBILITY**

The Airport Land Use Commission Law (commencing with Section 21675 of the Public Utilities
Code) requires that any projects that are located within an airport influence area be reviewed by a
local Airport Land Use Commission. The proposed project is located within Compatibility Zone
D of the Banning Municipal Airport. This zone is described as the primary traffic patterns zone
where aircrafts fly below 1,000 feet altitude and is subject to 55 db-CNEL (Community Noise
Equivalent Level) noise contour. The object or building height limit within this zone is restricted
to 100 feet above ground elevation.

The Riverside County Airport Land Use Commission conducted a public hearing and reviewed
the project on March 11, 2010. A copy of the approval letter from the Commission dated April
28, 2010, making findings that the proposed project is conditionally consistent with the Banning
Airport Land Use Compatibility Plan. The letter also incorporates Federal Aviation
Administration Conditions of Approval (Attachment 11).

**ENVIRONMENTAL ANALYSIS FOR COMPLIANCE WITH THE CALIFORNIA
ENVIRONMENTAL QUALITY ACT (CEQA)**

**Background**
Section 21065 of the California Environmental Quality Act Guidelines requires that all projects
that have the potential to affect the environment must be evaluated to determine the extent of the
project impacts and mitigation measures that must be incorporated into the projects to lessen or
alleviate the impacts. The developer was required to provide technical reports, which were
reviewed and approved by City staff and its environmental consultant, as part of the
environmental review process. To comply with CEQA, each project is evaluated against 16
environmental issue areas. These issue areas include:
- Aesthetics
- Agriculture resources
- Air quality
- Biological resources
- Cultural resources
- Geology/soils
- Hazard & hazardous materials
- Hydrology/water quality
- Land use/planning
- Mineral resources
- Noise
- Population and housing
- Public services
- Recreation
- Transportation and traffic
- Utility/services system.

There was an Initial Study previously completed for this project (previously Banning Gateway Project) that was submitted in 2008 and was circulated for public review in March 2009. In response to the earlier initial study, the City received significant comments from the South Coast Air Quality Management District (SCAQMD). The project site plan and scope also changed subsequent to the circulation of that environmental document. An updated Initial Study/Mitigated Negative Declaration was prepared and re-circulated for a 30-day public review. The comment period started on March 26, 2010 and ended on April 26, 2010. The City received a letter dated April 27, 2010, which is that date after the close of the comment period, from the Governor’s Office of Planning and Research (OPR) that no state agencies submitted comments by the due date. However, subsequent to close of the public review period and prior to receipt of the OPR letter, the City received two responses on the environmental document from the SCAQMD and Caltrans District 8 (see Attachments 13 and 14). Per Government Code Section 21091(d)(1) and Section 15088 of CEQA, the City is not required to respond to these comments. However, Staff believes that it is in the best interest of the City to respond to other agencies’ comments in the spirit of cooperation as these agencies are also responsible for approving permits that would be required for the project. The Air Quality Report was updated by the developer and reviewed by the City’s environmental consultant and staff and was submitted to the SCAQMD.

On May 26, 2010 the South Coast Air Quality Management District’s representative, Mr. Ian McMillan indicated that the SCAQMD has no further comments on the air quality report provided that the City include, as Conditions of Approval the Western Riverside Council of Governments “Good Neighbor Guidelines for Siting New and/or Modified Warehouse/Distribution facilities”, which includes the following:

1. Minimize exposure to diesel emission to neighbors that are situated in close proximity to the warehouse/distribution center.
2. Eliminate diesel trucks from unnecessarily traversing through residential neighborhoods.
3. Eliminate trucks from using residential areas and repairing vehicles on the streets.
4. Reduce and/or eliminate diesel idling within the warehouse/distribution center.
5. Establish a diesel minimization plan for on- and off-road diesel mobile sources to be implemented with new projects.
6. Establish an education program to inform truck drivers of the health effects of diesel particulate and importance of reducing their idling time.
7. Establish a public outreach program and conduct periodic community meetings to address issue from neighbors.

The developer agreed to all these conditions. Items 5, 6, and 7 will be included as required policies in all tenant agreement documents. All of these items are included as Conditions of Approval #s 24 through 32.

As part of the 30-day public review on the Initial Study/Mitigated Negative Declaration, the City Engineer has requested minor corrections to the document for technical correctness (See errata sheet (Attachment 2)). These corrections did not impact or require additional mitigation measures.

Caltrans requested additional technical data as part of the traffic study. The technical data was provided to Caltrans. On May 27, 2010, Caltrans representative indicated that Caltrans has no further comments on the project.

The Morongo Band of Mission Indians also sent a comment letter dated April 14, 2010 requesting that standard conditions be placed on the project regarding cultural and/or archeological resources and buried cultural materials and consultation with the tribe should there be a discovery of human remains during grading and excavation (Condition of Approval #10).

**Comments from Property Owners**

Two property owners within the 300’ radius of the project called and inquired about the project. One property owner inquired about the availability of the environmental document and staff indicated that the environmental document is posted on the City’s website.

The other property owner was Ms. Maggie Scott who called in response to the public hearing notice that was mailed by the Riverside County Airport Land Use Commission (ALUC). Staff spoke to Ms. Scott and referred her to the ALUC staff and the developer’s representative, Patrick Osborne. Mr. Osborne verbally indicated that he spoke to Ms. Scott about the project and invited her to attend the Planning Commission meeting. Staff also invited Ms. Scott to view the project plans in advance of the Planning Commission meeting. Prior to May 4, 2010 Planning Commission meeting, Ms. Scott did not call or visit the counter to view the plans. Ms. Scott attended the Planning Commission meeting on May 4, 2010 and addressed the Planning Commission on the following matter:

1. Property Value - Mrs. Scott wanted to know how this project will affect her property value. There is no fiscal impact analysis done to confirm or refute if the project affects Mrs. Scott property values positively or negatively. However, the project is estimated to create 430 jobs.
2. Radius for Public Hearing Notification - Mrs. Scott wanted to know how many feet the radius circle for property owner notification was around the subject property as some of her neighbors did not receive a notice. Staff responded that property owners within 300 feet of the exterior project boundaries were sent notices. Staff also reviewed the property owner mailing labels for the project public hearing notices and determined that one of her neighbors is a renter and the other neighbor is located outside of the 300’ radius of notification; therefore, they did not receive the public hearing notice. The City’s Zoning Ordinance requires that the property owners received the public hearing notice and not the renters.

3. Definition of a High Cube Warehouse – Mrs. Scott wanted to know the definition of a “high cube warehouse”. The high cube warehouse is a warehouse that uses machinery and computer technology to keep track of merchandise or inventory, which uses less manpower to actually retrieve or stock the merchandise.

4. Prospective Tenants - Mrs. Scott asked if the applicant has any tenants for the industrial park yet. Currently, the developer is negotiating with prospective tenants. The developer will announce who the tenants are once they sign the lease.

5. Uses Permitted Within the Building - Mrs. Scott inquired about what uses would be permitted in the buildings. The Zoning for the project site is Business Park. The City’s Zoning Code allows light manufacturing, warehousing, and office (as an ancillary use) in the Business Park Zoning district.

6. Entrances to the Project Site - Mrs. Scott ask about the entrances to the property. The main access is off of Hathaway Street via the new Nicolet Street extension. The secondary access, which is an emergency access only, is located off of Hathaway at Wilson Street.

Subsequent to the Planning Commission hearing on May 4, 2010, staff called Mrs. Scott in an effort to follow-up on the questions that she raised at the Planning Commission hearing; however, staff did not receive any return calls.

**Conclusion of the Initial Study**

Based on the Initial Study, there are six environmental issue areas that require that the project provides mitigation measures to reduce the project impacts to less than significant. These issue areas are:

1. **Biological Resources**

   Biological resources represent the plants and wildlife species and ecosystems and habitats that contribute to an area’s natural setting. Results of a database review and survey of the site indicate that the site has the potential for the occurrence of the Los Angeles pocket mouse and Northwestern San Diego pocket mouse. Additionally, the project site is within the Multi-Species Habitat Conservation Plan (MHSCP) habitat assessment area for the Western Burrowing Owl. The project site contains a suitable foraging habitat and burrows for Western Burrowing Owl and different bird species. Mitigation measures are recommended to be implemented to reduce the
potential significant impact to these wildlife species and their habitat in addition to paying the established MHSCP impact fees as follows:

MM BR-1a A live-trapping study shall be conducted by a qualified biologist to determine presence/absence of Los Angeles pocket mouse and Northwestern San Diego pocket mouse. The surveys shall be conducted between April and September and shall follow California Department of Fish and Game (CDFG) protocol. If individuals are found during the survey, the biologist shall determine if the population represents a significant impact to the total population. If the impact is determined to be less than significant, no further action is required. If the impact is determined to be potentially significant, the onsite population shall be preserved in accordance with CDFG protocol until it can be relocated to an appropriate offsite location.

MM BR-1b A 30-day preconstruction survey for burrowing owl shall be done prior to any ground disturbance activities according to CDFG protocol. Any individuals found during that survey shall be relocated to an appropriate offsite location according to CDFG protocol and in consultation with CDFG.

MM BR-1c All grubbing or other vegetation removal associated with the Project site preparation shall avoid nesting season of February 15, through July 30. If such avoidance is not feasible, a qualified biologist shall conduct a focused nesting bird survey. Any active nests identified shall have highly visible construction fencing installed within a 100-feet radius of any active nest. The fencing shall remain in place until the biologist determines that the young have fledged, or that the nest is otherwise no longer active.

2. Cultural Resources
Cultural resources provide residents with a meaningful sense of history and heritage. Review of Table IV-11 “Recorded Historic Era Buildings and Other Features in the Planning Area” of the City’s General Plan reveals that the site is not listed as a resource. However, the Phase I Cultural Resource Assessments indicates that there are two areas that have general scatter and some clusters of historic artifacts in the area immediately south of the Orco Block Company boundary. In addition, three previously unrecorded historic-period structural foundations were found adjacent to the south-west corner of the Orco Block Company. LSA Associates conducted a Phase II archaeological testing to determine whether the resources on this site meet the eligibility criteria for the California Register of Historic Places. LSA confirmed that the resources did not meet the eligibility criteria for the California Register of Historic Places. Although no evidence of significant or unique archeological resources were identified, the site is an indication of historic activity. Therefore, archeological monitoring shall be present during all ground-disturbing activities within 200' of the two locations of where the historic artifacts were found on site. The following are mitigation measures that are required to be implemented for cultural resources:

4 LSA Associates, Inc. Phase II, March 2009
MCR4a The California State Health and Safety Code § 7050.5 states that no further construction or disturbance within 100 feet of human remains shall occur until the County Coroner has made the necessary findings as to the origin and disposition according to CEQA regulations and Public Resources Code (PRC) § 5097.98. If the Coroner determines the remains are Native American in origin, the Native American Heritage Commission (NAHC) will be notified and, in turn, the person determined to be the Most Likely Descendant (MLD). The MLD will provide recommendations for treatment of the remains in accordance with the following: CEQA Guidelines § 15064.5; Health and Safety Code § 7050.5; Public Resources Code §§ 5097.94 and 5097.98.

3. Soils and Geology
The project site is not located within an Alquist-Priolo Earthquake Fault Zone, although it is located in a region that is subject to active ground shaking. The two closest major faults to the proposed project site are the San Andreas Fault and San Jacinto Fault, which are 5.59 and 11.2 miles away, respectively. To mitigate the effects of the ground movement, the project is required to implement the design standards that are established in the latest adopted Building Code, and all other applicable codes, ordinances, and regulations in effect at the time of permit application.

The project site contains soils that are alluvial in nature, consisting mainly of sand and gravels, with some cobbles and/or boulders. To mitigate this impact the project must abide by the recommendations in the geotechnical report and compliance with standards in the California Building Code. Mitigation measures are recommended to be implemented to reduce the impact as follows:

MCGEO-3a The Proposed Project shall submit a Storm Water Pollution Prevention Plan (SWPPP) for construction-related activities, and will mitigate any potentially significant erosion impacts.

MCGEO-3b The initial site clearing and grubbing shall include removal of any surficial vegetation, including the grass and weed growth, shrubs, and brush, as well as the surficial layer of topsoil and root mat material. The surficial topsoil and mat material may be blended with the underlying native soils within the over excavation areas based on the extent of remedial grading required onsite. The final soil mixture shall not contain more than two percent of organic materials by weight; the organic content of the mixture should be determined in the field by the geotechnical engineer, paid by the developer. Based on the organic content and stability of the soil observed, the actual extent of the site stripping should be determined in the field by the geotechnical engineer.

MCGEO-3c Loose or softened soils shall be removed from the two washes that transverse the site in northwest to southeast directions. These washes are expected to be underlain by 3 to 5-feet plus of loose or softened soils; however, the amount of soil removed from these areas shall be determined by the geotechnical engineer at the time of site grading.
MM GEO-3d Low strength soils shall be removed from the proposed building pad areas. Based on conditions observed during trenching, the existing soils shall be excavated to a depth of at least 4 feet below the proposed building pad subgrade elevation and to a depth of 4 feet below existing grade, whichever is greater. Soils not directly underlying the general building pad but within the influence zones of the new foundations shall be over excavated to a depth of 3 feet below the proposed bearing grade. Other over excavation guidelines, which are found within the Project’s geotechnical report, must be complied with to mitigate potential impacts.

MM GEO-3e After all over excavation of the site has been completed per the proposed project’s geotechnical study, the project soil shall be scarified to depth specified within the study, and the over excavated soil flooded. The soils shall be processed according to the conditions presented within the project’s geotechnical report. As soon as the processed over excavated soils abide to the report’s guidelines, they may then be replaced as compacted structural fill.

4. Greenhouse Gas
The greenhouse gas emission associated with the project includes sources from vehicle exhausts/tail pipes, building heating and air conditioning systems, building materials, appliances, and lighting. LSA and Associates, Inc. ran a greenhouse gas emissions model to determine the project contribution to greenhouse gas emission. The model shows that emissions from vehicles contribute to 23 percent of the project greenhouse gas emissions. AB 32 and other State and Federal regulations have not provided localized thresholds in which the various sources of emissions (mobile or stationary) must meet. Currently, the Governor’s Executive Order and AB 32 are requesting voluntary actions of businesses, local governments, and community groups, including State incentive and regulatory process. In order for the proposed project to comply and not conflict or impede the implementation of the greenhouse gas reduction goals, mitigation measures are proposed for the project.

To the extent feasible and to the satisfaction of the City, the following measures shall be incorporated into the design and construction of the project (including specific building projects):

MM GCC-1 Construction and Building Materials.

- Use locally produced and/or manufactured building materials for at least 10 percent of the construction materials used for the project;
- Recycle/reuse at least 50 percent of the demolished construction material (including, but not limited to, soil, vegetation, concrete, lumber, metal, and cardboard); and
- Use “Green Building Materials,” such as those materials that are resource efficient, and recycled and manufactured in an environmentally friendly way, for at least 10 percent of the project.

Energy Efficiency Measures.

- Design all project buildings to exceed California Building Code’s Title 24 energy standard, including, but not limited to any combination of the following:

4
- Increase insulation such that heat transfer and thermal bridging is minimized; Limit air leakage through the structure or within the heating and cooling distribution system to minimize energy consumption;
- Incorporate ENERGY STAR or better rated windows, space heating and cooling equipment, light fixtures, appliances or other applicable electrical equipment;
- Provide a landscape and development plan for the project that takes advantage of shade, prevailing winds, and landscaping;
- Install efficient lighting and lighting control systems. Use daylight as an integral part of lighting systems in buildings;
- Install light colored “cool” roofs and cool pavements;
- Install energy efficient heating and cooling systems, appliances and equipment, and control systems; and
- Install solar or light-emitting diodes (LEDs) for outdoor lighting.

Water Conservation and Efficiency Measures.

- Devise a comprehensive water conservation strategy appropriate for the project and location. The strategy may include the following, plus other innovative measures that might be appropriate:
  - Create water-efficient landscapes within the development;
  - Install water-efficient irrigation systems and devices, such as soil moisture-based irrigation controls;
  - Use reclaimed water for landscape irrigation within the project. Install the infrastructure to deliver and use reclaimed water;
  - Design buildings to be water-efficient. Install water-efficient fixtures and appliances, including low-flow faucets, dual-flush toilets and waterless urinals; and
  - Restrict watering methods (e.g., prohibit systems that apply water to non-vegetated surfaces) and control runoff.

Solid Waste Measures.
- Provide interior and exterior storage areas for recyclables and green waste and adequate recycling containers located in public areas; and
- Provide employee education about reducing waste and available recycling services.

5. Hazard and Hazardous Materials
The project site is not listed within the databases that were used as part of the research for Phase I environmental assessment. Premier Environmental Services conducted and prepared a Phase I
environmental site assessment report for the project. It was determined that no evidence of recognized environmental conditions (RECs) was found in connection with the project site. As part of the construction and operation project, there will be routine use and transport of hazardous materials that is not expected to be beyond the normal use. There are a variety of Federal, State, County, and City regulations regarding use of hazardous materials. The project is expected to comply with these regulations. Furthermore, since the project is located within the airport land use compatibility zone, the project is required to comply with the Riverside Airport Land Use Commissions regulations and the Federal Aviation Administration. Mitigation measures are recommended to be implemented to reduce the impact as follows:

MM HAZ-1 The following shall be prohibited from the project site:

- Any use which would direct a steady light of red, white, green, or amber colors associated with airport operations toward an aircraft engaged in an initial straight climb following takeoff or toward an aircraft engaged in a straight final approach toward a landing at the Banning Airport, other than an FAA-approved navigational signal light or visual approach slope indicator;
- Any use which would cause sunlight to be reflected toward an aircraft engaged in initial straight climb following takeoff or toward an aircraft engaged in a straight final approach toward a landing at the Banning Airport;
- Any use which would generate a significant source of smoke or vapor or which could attract large concentrations of birds, or which may otherwise affect safe air navigation within the area shall be prohibited; and
- Any use which would generate electrical interference that may be detrimental to the operation of aircraft and/or aircraft instrumentation.

MM HAZ-2 Refuse and recycling containers at the project site shall be covered to prohibit attracting any wildlife to the project site.

MM HAZ-3 Federal Aviation Administration Form 7460, Notice of Proposed Construction or Alteration, shall be completed prior to final approval of the project's final improvement plans. Refer to http://forms.faa.gov/forms/faa7460-1.pdf for more information.

MM HAZ-4 Review by the Riverside County Airport Land Use Commission shall be conducted prior to final approval of the Project’s facility improvement plans.

6. Transportation/Traffic

A Traffic Impact Study was prepared for the project and was reviewed by staff.

The Traffic study analyzed 11 intersections including the project entrances as follows:

- Morongo Road/Wilson Street at Hathaway Street
- George Street at Hathaway Street
- Williams Street at Hathaway Street

November 7, 2006
Traffic Study for the Proposed Banning Gateway Project in the City of Banning, December 2, 2009, KOA Corporation
- Ramsey Street at Hathaway Street
- Nicolet Street at Hathaway Street
- Williams Street at Hargrave Street
- Nicolet Street at Hargrave Street
- Ramsey Street at Hargrave Street
- Hargrave Street at I-10 Eastbound Ramps
- Hargrave Street at I-10 Westbound Ramps
- Ramsey Street at 8th Street

The traffic report provides the traffic data of the existing condition as well as the potential traffic impacts of the proposed Banning Gateway project on the near term and at the build-out year of the project following the guide line of the City's general plan circulation element.

While the traffic report indicates some traffic impacts of the proposed project, said impacts are able to be mitigated and staff supports the mitigation measures listed on the traffic report and the mitigated negative declaration documents as follows:

**MM T-1a**  
Near-term (Year 2011) – Phase 1 Improvements. Prior to the issuance of building permits, the developer shall construct/pay fair share of the following improvements.

- **Hargrave Street at I-10 Westbound Ramp**
  - Install a signal

- **Hargrave Street at I-10 Eastbound Ramp**
  - Install a signal

**MM T-1b**  
Buildout (Year 2015) Improvements. Prior to the issuance of building permits, the developer shall construct/provide fair share of the following improvements.

- **Ramsey Street at Hathaway Street**
  - Southbound Approach: Widen to provide one left-turn lane, one all way lane, and one right-turn lane.
  - Eastbound Approach: Widen to provide two left-turn lanes and two through lanes.

- **Hargrave Street at I-10 Westbound Ramp**
  - Southbound Approach: Widen to provide two through lanes and one free right-turn lane.
  - Westbound Approach: Widen to provide one left-turn lane, one shared left/through lane, and one free right-turn lane.

- **Hargrave Street at I-10 Eastbound Ramp**
  - Eastbound Approach: Widen to provide one left-turn lane, one shared left/through lane, and one right-turn lane with a signal overlap.
This intersection would require capacity enhancements greater than those specified in the General Plan to provide acceptable levels of service during peak hours with the addition of forecast traffic growth, including the project. Northbound and westbound dual left-turn lanes would be required as well an additional through capacity on the northbound and southbound intersection approaches. These types of improvements do not seem feasible at this time due to the extensive right-of-way acquisition that would be required and the spacing between Ramsey Street and the westbound freeway ramps.

It is recommended that this intersection be improved according to the General Plan and that traffic improvements be implemented above and beyond those improvements to be determined by extensive future traffic monitoring and engineering studies. The proposed project proponent as well as future cumulative projects would have a fair share responsibility toward future improvements as they will contribute traffic volumes to this location. Accordingly, the conditions of approval #83 require that the developer pay the fair share of estimated cost of the improvement as stated above.

At present, Hathaway Street is used as a traffic route and is a designated traffic route in the City’s General Plan. However, prior to occupancy, Hathaway Street shall be signed as “Truck Route” by the applicant. Accordingly, proper signage is required by the Mitigation Monitoring and Reporting Plan MM T-1b (see Exhibit “A”)

Attached in Exhibit “A” is the Mitigation Monitoring Program that is required to be prepared and adopted as part of the project for compliance with CEQA.

REQUIRED FINDINGS FOR TENTATIVE PARCEL MAP AND DESIGN REVIEW:

The Subdivision Map Act requires that each Tentative Parcel Map and Design Review (BMC §17.56.050) application meet certain findings in order to be approved by the Planning Commission. The following findings for each of the entitlement approvals are provided for Commission consideration:

Findings for Tentative Parcel Map No. 36056

Finding No. 1: That the proposed Tentative Map is consistent with the applicable general and specific plans.

Findings of Fact: The General Plan land use and zoning designations for the site is Business Park (BP), which allows manufacturing and warehousing and accessory office uses as proposed by the project. The site planning, architecture, and on- and off-site circulation has considered the adjacent land uses. The parking lot and locations of the loading docks were designed in such a way that there is no exposure towards the single-family homes that are located on the west side of Hathaway Street.
The project is consistent with the General Plan Land Use Element policy which states, “The land use map shall provide for sufficient lands to provide a large range of products and services to the City and the region while carefully considering compatibility with adjacent residential lands.”

In addition to the project consistency with the General Plan Land Use, the project is also consistent with the General Plan Economic Development Policy which states, “The City shall take a proactive role in the retention of existing businesses and the recruitment of new businesses, particularly those that generate and broaden employment opportunities, increase discretionary incomes, and contribute to City General Fund revenues”. The proposed project will generate additional employment opportunity of approximately 430 jobs, including sales tax and property tax, which contribute to the overall well-being of the City’s fiscal health.

**Finding No. 2: That the design of the improvement of the proposed subdivision is consistent with the applicable general plan and specific plans.**

**Findings of Fact:** The design of the improvements, including lot size, lot width, and lot depth for the subdivision complies with the development standards of the Business Park (BP) zone. Each of the proposed parcels provides more than the minimum requirements for lot size of 1 acre, lot width of 100’ and lot depth of 100’. Additionally, the subdivision is required to provide public improvements for street, sewer, water, and drainage to serve the development which are consistent with Policy 9 of the General Plan, which states that, “All development interests, including residential, commercial, and industrial project proponents, shall be responsible for their fair share of on-site and off-site improvements required to support their development proposals. Such improvements may include, but are not limited to, street construction and signalization, grade separation, utility extension, drainage facilities, and parks.”

**Finding No. 3: That the site is physically suitable for the type of development.**

**Findings of Fact:** The 64-acre site, which is zoned Business Park (BP), has adequate land area to accommodate the subdivision and the development of 12 buildings for manufacturing and warehousing, including on-site circulation, parking, and landscaping for the development.

**Finding No. 4: That the site is suitable for the proposed density of development.**

**Findings of Fact:** The 64-acre site, which is zoned Business Park (BP), has adequate land area to accommodate the density of the development of 12 buildings for manufacturing and warehousing, including on-site circulation, parking, and landscaping for the development. The building coverage for each of the parcels is less than the maximum permissible building coverage of less than 60%.

**Finding No. 5: That the design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.**

**Findings of Fact:** The site is currently vacant and undeveloped. An environmental document, Initial Study/Mitigated Negative Declaration, has been prepared for the project. The findings of the environmental document concluded that there are six environmental issue areas where the
project is required to incorporate mitigation measures, which included biological resources, cultural resources, geology and soils, greenhouse gas, hazards and hazardous materials, and transportation and circulation. These mitigation measures are made a part of the Mitigation Monitoring program for the project. With regard to injury to fish or wildlife or their habitat, a professional biologist conducted a biological-database review and surveyed the project site to evaluate the potential presence of listed or proposed threatened or endangered species or designated critical habitat on or in proximity to the site. Results of the database review and survey of the site indicate that the site has the potential for the occurrence of the Los Angeles pocket mouse and Northwestern San Diego pocket mouse. Additionally, the project site is within the Multi-Species Habitat Conservation Plan (MHSCP) habitat assessment area for the Western Burrowing Owl. The project site contains a suitable foraging habitat and burrows for Western Burrowing Owl and different bird species. Mitigation measures are recommended to be implemented to reduce the potential significant impact to these wildlife species and their habitat in addition to paying the established MHSCP impact fees as follows. With these mitigation measures the project impacts are reduced to less than significant.

MM BR-1a  A live-trapping study shall be conducted by a qualified biologist to determine presence/absence of Los Angeles pocket mouse and Northwestern San Diego pocket mouse. The surveys shall be conducted between April and September and shall follow CDFG protocol. If individuals are found during the survey, the biologist shall determine if the population represents a significant impact to the total population. If the impact is determined to be less than significant, no further action is required. If the impact is determined to be potentially significant, the onsite population shall be preserved until it can be relocated to an appropriate offsite location in consultation with CDFG.

MM BR-1b  A 30-day preconstruction survey for BUOW shall be done prior to any ground disturbance activities according to CDFG protocol. Any individuals found during that survey shall be relocated to an appropriate offsite location according to CDFG protocol and in consultation with CDFG.

MM BR-1c  All grubbing or other vegetation removal associated with the Project site preparation shall avoid nesting season of February 15, through July 30. If such avoidance is not feasible, a qualified biologist shall conduct a focused nesting bird survey. Any active nests identified shall have highly visible construction fencing installed within a 100-foot radius of any active nest. The fencing shall remain in place until the biologist determines that the young have fledged, or that the nest is otherwise no longer active.

Finding No. 6: That the design of the subdivision or type of improvements is not likely to cause serious public health problems.

Findings of Fact: The design of the subdivision is in conformance with the City’s General Plan, the Zoning Ordinance, and Subdivision Ordinance. The construction of the buildings on the site is required to comply with the California Building Code, the City’s Grading Ordinance, Water Quality Management Plan with regard to storm water and runoff management and controls.
addition, the design and construction of all improvements for the subdivision is required to comply with the City Street and Public Works standards. The City’s ordinances, codes, and standards have been created based on currently accepted standards and practices for the preservation of the public health, safety, and welfare. Finally, the street system and improvements proposed for the project, including on- and off-sites will improve the circulation system and emergency vehicular access for the project.

In addition, there was a Mitigated Negative Declaration (MND) completed in conjunction with the proposed project. The MND addresses the potential impacts that may result in serious public health problems. The MND concludes that there will be a less than a significant impact on air quality, less then significant impact as a result of hazardous materials, less than significant impact on hydrology and water quality. Further, there are mitigation measures to address the impacts that result from greenhouse gas emissions, as will be implemented in accordance with the Mitigation Monitoring and Reporting Plan (MMRP). Accordingly, the project is not likely to cause serious public health problems. To the extent there will be any impact to public health, the MMRP will protect the health and safety of the residents.

Finding No. 7: That the design of the subdivision or type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision.

Finding of Fact: The subdivision has been designed in such a manner to provide reasonable access to the public across the site, which include streets and utility easements.

Finding No. 8: The design of the subdivision adequately provides for future passive or natural heating and cooling opportunities in the subdivision.

Finding of Fact: Taking into consideration the local climate and existing contour and configuration of the site and its surroundings, the size and configuration of parcels within the proposed subdivision have been arranged, to the greatest extent feasible, to permit orientation of buildings in a manner that take advantage of the natural shade or take advantage of the prevailing breezes.

While it is recognized that greenhouse gas emission will be associated with the project, to meet the City’s greenhouse gas reduction goals, the project incorporates several mitigation measures as further referenced herein including requirements for recycling or reusing construction material, use of “green building materials,” as well as energy efficiency measures and water conservation and efficiency measures.

Findings for Design Review #07-708
Prior to making a determination on Design Review 07-708, the following findings must be made:

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

Findings of Fact: The General Plan land use and zoning designations for the site is Business Park (BP), which allows manufacturing and warehousing and accessory office uses as permitted
uses. The project is consistent with the General Plan Land Use Element policy which states, "The land use map shall provide for sufficient lands to provide a large range of products and services to the City and the region while carefully considering compatibility with adjacent residential lands.

In addition to the project consistency with the General Plan Land Use, the project is also consistent with General Plan Economic Development Policy which states, "The City shall take a proactive role in the retention of existing businesses and the recruitment of new businesses, particularly those that generate and broaden employment opportunities, increase discretionary incomes, and contribute to City General Fund revenues". The proposed project will generate additional employment opportunity of approximately 430 jobs, including sales tax and property tax, which contribute to the overall well-being of the City’s fiscal health.

Finding No. 2: The proposed project is consistent with the Zoning Ordinance, including the development standards and guidelines for the district in which it is located.

Findings of Fact: The project is proposed on site that is zoned Business Park (BP), which allows manufacturing and warehousing and accessory office uses as permitted uses. The project as proposed meets all the development standards and guidelines of the Business Park district, which includes building setbacks, building heights, lot coverage, parking, and design guidelines. Additionally, the project is conditioned to ensure that future on-going operations of the project do not impact the surrounding land uses.

Finding No. 3: The design and layout of the proposed project will not unreasonably interfere with the use and enjoyment of neighboring existing or future development, and will not result in vehicular and/or pedestrian hazards.

Facts of Fact: The proposed project includes the development if 12 buildings for manufacturing and warehousing, including office areas as an accessory use. The site design and on-site improvements to provide parking and circulation and landscaping have been designed to address the adjacent land uses. Parking spaces for each building are provided either in between the buildings, on the side and/or at the rear of the buildings so that there is no direct exposure of parking lot activities to adjacent properties thereby minimizing noise impacts to the single-family homes that are located on the west side of Hathaway Street. The conditions prohibit any lighting that may spill over onto adjacent properties or interfere with the airport operations. In addition, on-site and off-site circulation has been considered to ensure that there is no conflict between vehicles/pedestrians. As part of the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Plan, the project is required construct intersection improvements, including traffic signals, or pay their fair share of cost toward the improvement as referenced herein. Further said Plan requires that proper signage be installed to designate Hathaway Street was a "Truck Route."

Finding No. 4: The design of the proposed project is compatible with the character of the surrounding neighborhood.

Finding of Fact: The proposed project is in the Business Park zone and is surrounded by undeveloped land and the Orco block and is adjacent to the low-density residential zone with residential homes. The architectural design for the development is attractive, consistent with the
architecture that is found for a quality business park development and meets the City’s current standards. Varying sizes of glazing, horizontal reveals, varying roof height, use of varying paint colors within the same tone and contrasting paint colors will help break down the scale of each of the wall panels. The office at each corner of the building creates a unique and distinct identity for each building. Trees and walled gardens will also be part of the overall architectural image of the business park. Accent trees will provide color and interest to each building. The building setback area along Hathaway Street will be landscaped to complement the architecture of the buildings and to provide a buffer to the nearby residential uses. Additionally, landscaping is proposed along the project perimeter to break-up the building mass and provide natural cooling and shade.

PUBLIC COMMUNICATION:

The availability of the Initial Study/Mitigated Negative Declaration and the proposed project were advertised in the Record Gazette newspaper on March 26, 2010, and notices were mailed to all property owners within a 300-foot radius of the site on March 29, 2010. The Initial Study/Mitigated Negative Declaration was made available for public review at the City of Banning Community Development counter at 99 E. Ramsey Street, Banning, CA, the Banning Public Library at 21 W. Nicolet Street, Banning, CA, and on the City of Banning website at www.banning.ca.us.

An additional public hearing notice was published in Record Gazette on April 23, 2010, and notices were mailed to all property owners within a 300-foot radius of the site on April 22, 2010 as a reminder to the residents and interested members of the public.

Prepared by:

[Signature]

Zai Abu Bakar
Community Development Director

PC Attachments:

1. Planning Commission Resolution No. 2010-04
2. Initial Study/Mitigated Negative Declaration and Errata Sheet (Under Separate Cover)
3. Exhibit “A” – Mitigation Monitoring and Reporting Plan
4. Exhibit “B” Conditions of Approval for TPM #36056 and Design Review #07-708
5. Location Map
6. Aerial Photograph
7. Site Photographs
8. Project Plans
9. Aerial Photo showing existing and proposed water line improvement
10. Aerial Photo showing sewer line alignments
11. Riverside County Airport Land Use Commission Letter dated April 28, 2010 (Under Separate Cover)
12. Governor's Office of Planning and Research Letter dated April 27, 2010
13. South Coast Air Quality Management District Letter dated April 27, 2010
14. Caltrans District 8 Letter dated April 28, 2010
16. Public Hearing Notices
17. Mailing Labels
RESOLUTION NO. 2010-04

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BANNING, CALIFORNIA APPROVING TENTATIVE PARCEL MAP #36056 AND DESIGN REVIEW #07-708 TO DEVELOP A BUSINESS PARK FOR MANUFACTURING AND WAREHOUSING RELATED USES ON A 64-ACRE SITE IN THE BUSINESS PARK (BP) ZONE LOCATED AT THE EASTERLY TERMINUS OF HATHAWAY STREET AND NICOLET STREET.

WHEREAS, an application for a Tentative Parcel Map #36056 and Design Review #07-708 to construct a business park for manufacturing and warehousing related uses has been duly filed by:

Property Owner: OSI Partnership I, LLC
Applicant/Authorized Agent: The O'Donnell Group, Inc. (Representative: Stantec Consulting Services/Patrick Osborne)
Project Location: The easterly terminus of Hathaway Street and Nicolet
APN Number: 532-110-003, 008, 009; and 010
Lot Area: Approximately 64 acres

WHEREAS, the Planning Commission has the authority per Chapter 16.12 of the Banning Municipal Code to take action on Tentative Parcel Map No. 36056 and authority per Chapter 17.56 to take action on Design Review #07-708 for the proposed construction of a business park for manufacturing and warehousing related uses on a 64-acre parcel in the Business Park Zone located at the easterly terminus of Hathaway Street and Nicolet Street; and,

WHEREAS, an Initial Study/Mitigated Negative Declaration was prepared in accordance with the California Environmental Quality Act )"CEQA"), the State CEQA Guidelines, and the City of Banning Environmental Review Guidelines. The Initial Study/Mitigated Negative Declaration was made available for a 30-day public review from March 26, 2010, through April 26, 2010.

WHEREAS, on March 26, 2010, the City gave public notice by advertisement in the Record Gazette newspaper and on March 29, 2010 mailed notice to property owners' within 300 feet of the site of the availability of the Initial Study/Mitigated Negative Declaration for a 30-day public review and the holding of a public hearing at which the project would be considered on May 4, 2010; and,

WHEREAS, on April 23, 2010, the City gave another public notice by advertisement in the Record Gazette newspaper and on April 22, 2010 mailed notice to property owners' within 300 feet of the site regarding the holding of a public hearing at which the project would be considered on May 4, 2010; and,
WHEREAS, on May 4, 2010, the Planning Commission held the noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to, the Tentative Parcel Map #36056 and Design Review #07-708 and at which the Planning Commission considered said Tentative Parcel Map and Design Review. The Planning Commission continued the public hearing to June 1, 2010 to address the comments received from the South Coast Air Quality Management District and Caltrans District 8; and,

WHEREAS, on June 1, 2010, the Planning Commission held the public hearing at which interested persons had an opportunity to testify in support of, or opposition to, the Tentative Parcel Map #36056 and Design Review #07-708 and at which the Planning Commission considered said Tentative Parcel Map and Design Review; and,

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

SECTION 1. ENVIRONMENTAL FINDINGS.

Based upon oral and written testimony and other evidence received at the public hearing held for the project, and upon studies and investigations made by the Planning Commission and on its behalf, the Planning Commission does hereby determine that the Initial Study and Mitigated NegativeDeclaration has been prepared in compliance with the California Environmental Quality Act of 1970, as amended, and the Guidelines promulgated thereunder. The Commission exercises its independent judgment find and determine as follows:

Finding No. 1: That Sections 15063 and 15064(f)(2) of the CEQA Guidelines relating to Initial Studies and significance of environmental impacts, respectively, permits a lead agency to prepare an Initial Study/Mitigated Negative Declaration on any proposed project to analyze whether the Project may cause any significant effect on the environment. CEQA Guidelines Section 15070 further permits the adoption of Mitigated Negative Declarations when the Project has been revised, so that potential significant adverse impacts can be avoided or mitigated to a less than significant level. The Initial Study/Mitigated Negative Declaration and the Mitigation Monitoring and Reporting Plan (MMRP) attached hereto as Attachments 2 and 3, respectively, has been completed in accordance with the requirements of such CEQA statutes and the CEQA Guidelines.

Finding No. 2: That the attached Mitigated Negative Declaration was prepared, published, circulated and reviewed in accordance with the requirements of CEQA and the City’s CEQA Guidelines, and constitutes an adequate, accurate, objective and complete analysis addressing all issues relevant to the approval of the Project. A 30-day public review period for the proposed Project began on March 26, 2010 and ended on April 26, 2010. The City did not receive any public comments on the draft Initial Study/Mitigated Negative Declaration during the comment period. However, subsequent to close of the public review period and prior to receipt of the OPR letter the City received two responses on the environmental document from the SCAQMD and Caltrans District 8 (see Attachments 13 and 14). Per Government Code Section 21091(d)(1) and Section 15088 of CEQA, the City is not required to respond to these comments. However, Staff believes that it is in the best interest of the City to respond to other agencies’ comments in
the spirit of cooperation as these agencies are also responsible for approving permits that would be required for the project. The Air Quality Report was updated by the developer and reviewed by the City’s environmental consultant and staff and was submitted to the SCAQMD.

Technical revisions to be made to the air quality study to address truck traffic and diesel emissions; however, the result of the revision did not exceed the threshold estimated by SCAQMD. Standard conditions of approval were recommended by the SCAQMD and were incorporated into the conditions of approval which are hereby incorporated by reference.

Finding No. 3: That it has reviewed and considered the information contained within the Mitigated Negative Declaration prior to acting on the proposed Project, and that the Mitigated Negative Declaration reflects the independent judgment and analysis of the City.

Finding No. 4: That the Mitigated Negative Declaration identifies all potentially significant adverse environmental impacts and feasible mitigation measures or standard conditions of approval that would reduce these impacts to a less-than-significant level. All of the mitigation measures identified in the Mitigated Negative Declaration, including those in the Mitigation Monitoring and Reporting Plan, will be adopted and implemented as Conditions of Approval for the Project. The Commission finds that on the basis of the whole record before it, there is no substantial evidence that the Project, as mitigated in the Mitigated Negative Declaration, will have a significant impact on the environment.

Finding No. 5: That the monitoring and reporting of CEQA mitigation measures in connection with the Project will be conducted in accordance with the attached Mitigation Monitoring and Reporting Plan (Attachment 3), incorporated into the Conditions of Approval for the Project. Adoption of the Mitigation Monitoring and Reporting Plan will constitute fulfillment of the CEQA monitoring and/or reporting requirement set forth in Section 21081.6 of CEQA. All proposed mitigation measures are capable of being fully implemented by the efforts of the City of Banning, the Project applicant, or other identified public agencies of responsibility, and will reduce the environmental impacts to a less-than significant level.

Finding No. 6: That during the preparation of the Initial Study Checklist, it was determined that the Project would have no impact or have less-than-significant impact on the following environment factors: Aesthetics, Agricultural Resources, Hazards and Hazardous Materials, Hydrology and Water Quality, Land Use and Planning, Mineral Resources, Noise, Population and Housing, Public Services, Recreation, and Utilities/Services System. It was determined that the Project would have a potentially significant impact on one or more of the following environmental factors: Air Quality, Biological Resources, Cultural Resources, Geology and Soils, and Transportation/Traffic. However, mitigation measures will be implemented as part of the project which reduced the impacts to less than significant levels. Consistent with CEQA Statutes and CEQA Guidelines, the Mitigated Negative Declaration contains a full and complete explanation as to how the potentially significant impact on these environmental factors are reduced to less-than-significant impact level by the incorporation of the required mitigation measures set forth in the Mitigation Monitoring and Reporting Program attached hereto as Exhibit A and incorporated herein.
Finding No. 7: That based on the foregoing, there is no substantial evidence in light of the whole record before the Commission that the proposed Project, as revised, may have a significant effect on the environment. (CEQA Section 21064.5 (2).) Based on the Initial Study/Mitigated Negative Declaration and the fact that feasible mitigation measures were incorporated to revise the proposed Project in order to avoid the effects or mitigate the effects to the point where clearly no significant effect on the environment will occur, the Initial Study/Mitigated Negative Declaration should be adopted for the proposed Project. The Initial Study/Mitigated Negative Declaration provides the substantial evidence to support findings 1 through 6, above.

Finding No. 8: The Commission finds that the Project is consistent with the City of Banning General Plan, its goals and policies, and all applicable provisions of the Zoning Ordinance.

Finding No. 9: A notice of determination ("NOD") shall be filed with the County Clerk immediately upon approval of the Project.

SECTION 2. REQUIRED FINDINGS.

Pursuant to Banning Municipal Code Chapter 16.12 and Chapter 17.56, and in light of the record before it including the staff report dated June 1, 2010, and all evidence and testimony heard at the public hearing for this item, the Planning Commission hereby finds as follows:

Findings for Tentative Parcel Map #36056

Finding No. 1: That the proposed Tentative Map is consistent with the applicable general and specific plans.

Findings of Fact: The General Plan land use and zoning designations for the site is Business Park (BP), which allows manufacturing and warehousing and accessory office uses as proposed by the project. The site planning, architecture, and on- and off-site circulation has considered the adjacent land uses. The parking lot and locations of the loading docks were designed in such a way that there is no exposure towards the single-family homes that are located on the west side of Hathaway Street.

The project is consistent with the General Plan Land Use Element policy which states, "The land use map shall provide for sufficient lands to provide a large range of products and services to the City and the region while carefully considering compatibility with adjacent residential lands." In addition to the project consistency with the General Plan Land Use, the project is also consistent with the General Plan Economic Development Policy which states, "The City shall take a proactive role in the retention of existing businesses and the recruitment of new businesses, particularly those that generate and broaden employment opportunities, increase discretionary incomes, and contribute to City General Fund revenues". The proposed project will generate additional employment opportunity of approximately 430 jobs, including sales tax and property tax, which contribute to the overall well-being of the City’s fiscal health.
Finding No. 2: That the design of the improvement of the proposed subdivision is consistent with the applicable general plan and specific plans.

Findings of Fact: The design of the improvements, including lot size, lot width, and lot depth for the subdivision complies with the development standards of the Business Park (BP) zone. Each of the proposed parcels provides more than the minimum requirements for lot size of 1 acre, lot width or 100' and lot depth of 100'. Additionally, the subdivision is required to provide public improvements for street, sewer, water, and drainage to serve the development which are consistent with Policy 9 of the General Plan, which states that, “All development interests, including residential, commercial, and industrial project proponents, shall be responsible for their fair share of on-site and off-site improvements required to support their development proposals. Such improvements may include, but are not limited to, street construction and signalization, grade separation, utility extension, drainage facilities, and parks.”

Finding No. 3: That the site is physically suitable for the type of development.

Findings of Fact: The 64-acre site, which is zoned Business Park (BP), has adequate land area to accommodate the subdivision and the development of 12 buildings for manufacturing and warehousing, including on-site circulation, parking, and landscaping for the development.

Finding No. 4: That the site is suitable for the proposed density of development.

Findings of Fact: The 64-acre site, which is zoned Business Park (BP), has adequate land area to accommodate the density of the development of 12 buildings for manufacturing and warehousing, including on-site circulation, parking, and landscaping for the development. The building coverage for each of the parcels is less than the maximum permissible building coverage of less than 60%.

Finding No. 5: That the design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

Findings of Fact: The site is currently vacant and undeveloped. An environmental document, Initial Study/Mitigated Negative Declaration, has been prepared for the project. The findings of the environmental document concluded that there are six environmental issue areas where the project is required to incorporate mitigation measures, which included biological resources, cultural resources, geology and soils, greenhouse gas, hazards and hazardous materials, and transportation and circulation. These mitigation measures are made a part of the Mitigation Monitoring Plan for the project. With regard to injury to fish or wildlife or their habitat, a professional biologist conducted a biological-database review and surveyed the project site to evaluate the potential presence of listed or proposed threatened or endangered species or designated critical habitat on or in proximity to the site. Results of the database review and survey of the site indicate that the site has the potential for the occurrence of the Los Angeles pocket mouse and Northwestern San Diego pocket mouse. Additionally, the project site is within the Multi-Species Habitat Conservation Plan (MHSCP) habitat assessment area for the Western Burrowing Owl. The project site contains a suitable foraging habitat and burrows for Western
Burrowing Owl and different bird species. Mitigation measures are recommended to be implemented to reduce the potential significant impact to these wild life species and their habitat in addition to paying the established MHSCP impact fees as follows. With these mitigation measures the project impacts are reduced to less than significant.

MM BR-1a A live-trapping study shall be conducted by a qualified biologist to determine presence/absence of Los Angeles pocket mouse and Northwestern San Diego pocket mouse. The surveys shall be conducted between April and September and shall follow CDFG protocol. If individuals are found during the survey, the biologist shall determine if the population represents a significant impact to the total population. If the impact is determined to be less than significant, no further action is required. If the impact is determined to be potentially significant, the onsite population shall be preserved until it can be relocated to an appropriate offsite location in consultation with CDFG.

MM BR-1b A 30-day preconstruction survey for BUOW shall be done prior to any ground disturbance activities according to CDFG protocol. Any individuals found during that survey shall be relocated to an appropriate offsite location according to CDFG protocol and in consultation with CDFG.

MM BR-1c All grubbing or other vegetation removal associated with the Project site preparation shall avoid nesting season of February 15, through July 30. If such avoidance is not feasible, a qualified biologist shall conduct a focused nesting bird survey. Any active nests identified shall have highly visible construction fencing installed within a 100-foot radius of any active nest. The fencing shall remain in place until the biologist determines that the young have fledged, or that the nest is otherwise no longer active.

Finding No. 6: That the design of the subdivision or type of improvements is not likely to cause serious public health problems.

Findings of Fact: The design of the subdivision is in conformance with the City’s General Plan, the Zoning Ordinance, and Subdivision Ordinance. The construction of the buildings on the site is required to comply with the California Building Code, the City’s Grading Ordinance, Water Quality Management Plan with regard to storm water and runoff management and controls. In addition, the design and construction of all improvements for the subdivision is required to comply with the City Street and Public Works standards. The City’s ordinances, codes, and standards have been created based on currently accepted standards and practices for the preservation of the public health, safety, and welfare. Finally, the street system and improvements proposed for the project, including on- and off-sites will improve the circulation system and emergency vehicular access for the project.

In addition, there was a Mitigated Negative Declaration (MND) completed in conjunction with the proposed project. The MND addresses the potential impacts that may result in serious public health problems. The MND concludes that there will be a less than a significant impact on air quality, less then significant impact as a result of hazardous materials, less than significant
impact on hydrology and water quality. Further, there are mitigation measures to address the impacts that result from greenhouse gas emissions, as will be implemented in accordance with the Mitigation Monitoring and Reporting Plan (MMRP). Accordingly, the project is not likely to cause serious public health problems. To the extent there will be any impact to public health, the MMRP will protect the health and safety of the residents.

Finding No. 7: That the design of the subdivision or type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision.

Finding of Fact: The subdivision has been designed in such a manner to provide reasonable access to the public across the site, which include streets and utility easements.

Finding No. 8: The design of the subdivision adequately provides for future passive or natural heating and cooling opportunities in the subdivision.

Finding of Fact: Taking into consideration the local climate and existing contour and configuration of the site and its surroundings, the size and configuration of parcels within the proposed subdivision have been arranged, to the greatest extent feasible, to permit orientation of buildings in a manner that take advantage of the natural shade or take advantage of the prevailing breezes.

While it is recognized that greenhouse gas emission will be associated with the project, to meet the City’s greenhouse gas reduction goals, the project incorporates several mitigation measures as further referenced herein including requirements for recycling or reusing construction material, use of “green building materials,” as well as energy efficiency measures and water conservation and efficiency measures.

Findings for Design Review #07-708

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

Findings of Fact: The General Plan land use and zoning designations for the site is Business Park (BP), which allows manufacturing and warehousing and accessory office uses as permitted uses. The project is consistent with the General Plan Land Use Element policy which states, “The land use map shall provide for sufficient lands to provide a large range of products and services to the City and the region while carefully considering compatibility with adjacent residential lands.

In addition to the project consistency with the General Plan Land Use, the project is also consistent with General Plan Economic Development Policy which states, “The City shall take a proactive role in the retention of existing businesses and the recruitment of new businesses, particularly those that generate and broaden employment opportunities, increase discretionary incomes, and contribute to City General Fund revenues”. The proposed project will generate
additional employment opportunity of approximately 430 jobs, including sales tax and property tax, which contribute to the overall well-being of the City's fiscal health.

Finding No. 2: The proposed project is consistent with the Zoning Ordinance, including the development standards and guidelines for the district in which it is located.

Findings of Fact: The project is proposed on site that is zoned Business Park (BP), which allows manufacturing and warehousing and accessory office uses as permitted uses. The project as proposed meets all the development standards and guidelines of the Business Park district, which includes building setbacks, building heights, lot coverage, parking, and design guidelines. Additionally, the project is conditioned to ensure that future on-going operations of the project do not impact the surrounding land uses.

Finding No. 3: The design and layout of the proposed project will not unreasonably interfere with the use and enjoyment of neighboring existing or future development, and will not result in vehicular and/or pedestrian hazards.

Facts of Fact: The proposed project includes the development if 12 buildings for manufacturing and warehousing, including office areas as an accessory use. The site design and on-site improvements to provide parking and circulation and landscaping have been designed to address the adjacent land uses. Parking spaces for each building are provided either in between the buildings, on the side and/or at the rear of the buildings so that there is no direct exposure of parking lot activities to adjacent properties thereby minimizing noise impacts to the single-family homes that are located on the west side of Hathaway Street. The conditions prohibit any lighting that may spill over onto adjacent properties or interfere with the airport operations. In addition, on-site and off-site circulation has been considered to ensure that there is no conflict between vehicles/pedestrians. As part of the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Plan, the project is required construct intersection improvements, including traffic signals, or pay their fair share of cost toward the improvement as referenced herein. Further said Plan requires that proper signage be installed to designate Hathaway Street was a "Truck Route."

Finding No. 4: The design of the proposed project is compatible with the character of the surrounding neighborhood.

Finding of Fact: The proposed project is in the Business Park zone and is surrounded by undeveloped land and the Orico block and is adjacent to the low-density residential zone with residential homes. The architectural design for the development is attractive, consistent with the architecture that is found for a quality business park development and meets the City's current standards. Varying sizes of glazing, horizontal reveals, varying roof height, use of varying paint colors within the same tone and contrasting paint colors will help break down the scale of each of the wall panels. The office at each corner of the building creates a unique and distinct identity for each building. Trees and walled gardens will also be part of the overall architectural image of the business park. Accent trees will provide color and interest to each building. The building setback area along Hathaway Street will be landscaped to complement the architecture of the buildings and to provide a buffer to the nearby residential uses. Additionally, landscaping is proposed along the project perimeter to break-up the building mass and provide natural cooling and shade.
SECTION 3. PLANNING COMMISSION ACTIONS.

The Planning Commission hereby takes the following actions:

1. Adopt Initial Study/Mitigated Negative Declaration and Mitigation Monitoring Program (Exhibit “A”). In accordance with Public Resources Code Section 21152(a) and CEQA Guidelines Section 15063(b) (2) the Planning Commission hereby adopt Initial Study/Mitigated Negative Declaration and Mitigation Monitoring Plan and directs the Community Development Director to prepare and file with the Clerk for the County of Riverside a notice of determination as provided under Public Resources Code Section 21152(a) and CEQA Guidelines Section 15094.

2. Approval of Tentative Parcel Map #36056 and Design Review #07-708. Tentative Parcel Map #36505 and Design Review #07-708 are hereby approved subject to the Conditions of Approval attached hereto and incorporated herein by reference as Exhibit “B”.

PASSED, APPROVED AND ADOPTED this 1st day of June, 2010, by the following vote:

William Escandel, Vice-Chairman
Banning Planning Commission

APPROVED AS TO FORM
AND LEGAL CONTENT:

Lona Laymon
Aleshire & Wynder, LLP
City of Banning, California

ATTEST:

Virginia Sorenson
Recording Secretary
CERTIFICATION:

I, Virginia Sorenson, Recording Secretary of the Planning Commission of the City of Banning, California, do hereby certify that the foregoing Resolution, No. 2010-04, was duly adopted by the Planning Commission of the City of Banning, California, at a regular meeting thereof held on the 1st day of June 2010, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Virginia Sorenson, Recording Secretary
City of Banning, California
ATTACHMENT 3

Exhibit “A” – Mitigation Monitoring And Reporting Program
### Mitigation Monitoring and Reporting Plan

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<th>Mitigation Measure</th>
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<th>Responsible for Verification</th>
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<td><strong>BIOLOGICAL RESOURCES</strong></td>
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<td>MM BR-1a</td>
<td>A live-trapping study shall be conducted by a qualified biologist to determine presence/absence of Los Angeles pocket mouse and Northwestern San Diego pocket mouse. The surveys shall be conducted between April and September and shall follow CDFG protocol. If individuals are found during the survey, the biologist shall determine if the population represents a significant impact to the total population. If the impact is determined to be less than significant, no further action is required. If the impact is determined to be potentially significant, the onsite population shall be preserved until it can be relocated to an appropriate offsite location in consultation with CDFG.</td>
<td>Direct observations, live-trapping by a qualified wildlife biologist</td>
<td>Between April and September and shall follow CDFG protocol</td>
<td>Community Development Director or Designee</td>
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<td>MM BR-1b</td>
<td>A 30-day preconstruction survey for BUOW shall be done prior to any ground disturbance activities according to CDFG protocol. Any individuals found during that survey shall be relocated to an appropriate offsite location according to CDFG protocol and in consultation with CDFG.</td>
<td>Direct observations, site inspections by a qualified biologist</td>
<td>30 days prior to ground breaking disturbances</td>
<td>Community Development Director or Designee</td>
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<tr>
<td>MM BR-1c</td>
<td>All grubbing or other vegetation removal associated with the Project site preparation shall avoid nesting season of February 15, through July 30. If such avoidance is not feasible, a qualified biologist shall conduct a focused nesting bird survey. Any active nests identified shall have highly visible construction fencing installed within a 100-feet radius of any active nest. The fencing shall remain in place until the biologist determines that the young have fledged, or that the nest is otherwise no longer active.</td>
<td>Direct observations, site inspections by a qualified biologist</td>
<td>During the nesting season (February 15 through July 30)</td>
<td>Community Development Director or Designee</td>
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### Mitigation Monitoring and Reporting Plan (Cont.)

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<td>MM CR-4a</td>
<td>The California State Health and Safety Code § 7050.5 states that no further construction or disturbance within 100 feet shall occur until the County Coroner has made the necessary findings as to the origin and disposition according to CEQA regulations and Public Resources Code (PRC) § 5097.98. If the Coroner determines the remains are Native American in origin, the Native American Heritage Commission (NAHC) will be notified and, in turn, the person determined to be the Most Likely Descendant (MLD). The MLD will provide recommendations for treatment of the remains in accordance with the following: CEQA Guidelines § 15064.5; Health and Safety Code § 7050.5; Public Resources Code §§ 5097.94 and 5097.98.</td>
<td>Direct observations, site inspections by a qualified palaeontologist</td>
<td>During grading and excavation</td>
<td>Community Development Director or Designee</td>
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<td><strong>GEOLOGY AND SOILS</strong></td>
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<td>MM GEO-2a</td>
<td>The Proposed Project shall submit a Storm Water Pollution Prevention Plan (SWPPP) for construction-related activities, and will mitigate any potentially significant erosion impacts.</td>
<td>construction-related activities, review and approval of SWPPP</td>
<td>Prior to issuance of building permits</td>
<td>Public Works Director/City Engineer</td>
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<td>MM GEO-3a</td>
<td>The initial site clearing and grubbing shall include removal of any surficial vegetation, including the grass and weed growth, shrubs, and brush, as well as the surficial layer of topsoil and root mat material. The surficial topsoil and root material may be blended with the underlying native soils within the over excavation areas based on the extent of remedial grading required onsite. The final soil mixture shall not contain more than two percent of organic materials by weight; the organic content of the mixture should be determined in the field by the geotechnical engineer, paid by the developer. Based on the organic content and stability of the soil observed, the actual extent of the site stripping should be determined in the field by the geotechnical engineer.</td>
<td>Direct observation and site inspection</td>
<td>Prior to the issuance of a building permit</td>
<td>Public Works Director/City Engineer.</td>
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<td>MM GEO-3b</td>
<td>Loose or softened soils shall be removed from the two washes that transverse the site in northwest to southeast directions. These washes are expected to be underlain by 3 to 5-feet plus of loose or softened soils; however, the amount of soil removed from these areas shall be determined by the geotechnical engineer at the time of site grading.</td>
<td>Direct observation and site inspection by geotechnical engineer</td>
<td>Prior to the issuance of a building permit</td>
<td>Public Works Director/City Engineer.</td>
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<td>MM GEO-3c</td>
<td>Low strength soils shall be removed from the proposed building pad areas. Based on conditions observed at the trench conditions, the existing soils shall be excavated to a depth of at least 4 feet below the proposed building pad subgrade elevation and to a depth of 4 feet below existing grade, whichever is greater. Soils not directly underlying the general building pad but within the influence zones of the new foundations shall be removed.</td>
<td>Direct observation and site inspection</td>
<td>Prior to the issuance of a building permit</td>
<td>Public Works Director/City Engineer.</td>
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<td>overexcavated to a depth of 3 feet below the proposed bearing grade. Other overexcavation guidelines, which are found within the Project’s geotechnical report, must be complied with to mitigate potential impacts.</td>
<td>Direct observation and site inspection</td>
<td>Prior to the issuance of a building permit</td>
<td>Public Works Director/City Engineer.</td>
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<td>MM GEO-3d</td>
<td>After all overexcavation of the site has been completed per the Proposed Project’s geotechnical study, the Project soil shall be scarified to depth specified within the study, and the overexcavated soil flooded. The soils shall be processed according to the conditions presented within the Project’s geotechnical report. As soon as the processed overexcavated soils abide to the report’s guidelines, they may then be replaced as compacted structural fill.</td>
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<td>MM GCC-1</td>
<td>To the extent feasible and to the satisfaction of the City, the following measures shall be incorporated into the design and construction of the project (including specific building projects): Construction and Building Materials. Use locally produced and/or manufactured building materials for at least 10 percent of the construction materials used for the project; Recycle/reuse at least 50 percent of the demolished construction material (including, but not limited to, soil, vegetation, concrete, lumber, metal, and cardboard); and Use “Green Building Materials,” such as those materials that are resource efficient, and recycled and manufactured in an environmentally friendly way for at least 10 percent of the project.</td>
<td>Building and improvement plan, direct observation and onsite inspection</td>
<td>Prior to the issuance of a building permit</td>
<td>Community Development Director or designee</td>
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| MM GCC-1 Cont. | **Energy Efficiency Measures**,  
  • Design all project buildings to exceed California Building Code's Title 24 energy standard, including, but not limited to any combination of the following:  
  • Increase insulation such that heat transfer and thermal bridging is minimized;  
  • Limit air leakage through the structure or within the heating and cooling distribution system to minimize energy consumption; and  
  • Incorporate ENERGY STAR or better rated windows, space heating and cooling equipment, light fixtures, appliances or other applicable electrical equipment.  
  • Provide a landscape and development plan for the project that takes advantage of shade, prevailing winds, and landscaping;  
  • Install efficient lighting and lighting control systems. Use daylight as an integral part of lighting systems in buildings;  
  • Install light colored "cool" roofs and cool pavements;  
  • Install energy efficient heating and cooling systems, appliances and equipment, and control systems; and  
  • Install solar or light-emitting diodes (LEDs) for outdoor lighting. | Building and improvement plan, direct observation and onsite inspection | Prior to the issuance of a building permit | Community Development Director or designee |      |                               |          |
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<td><strong>Water Conservation and Efficiency Measures.</strong></td>
<td>Building and improvement plan, direct observation and onsite inspection</td>
<td>Prior to the issuance of a building permit</td>
<td>Community Development Director or designee</td>
<td>Date</td>
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|     | • Devise a comprehensive water conservation strategy appropriate for the project and location. The strategy may include the following, plus other innovative measures that might be appropriate: Create water-efficient landscapes within the development;  
  • Install water-efficient irrigation systems and devices, such as soil moisture-based irrigation controls;  
  • Use reclaimed water for landscape irrigation within the project. Install the infrastructure to deliver and use reclaimed water;  
  • Design buildings to be water-efficient. Install water-efficient fixtures and appliances, including low-flow faucets, dual-flush toilets and waterless urinals; and  
  • Restrict watering methods (e.g., prohibit systems that apply water to nonvegetated surfaces) and control runoff. |                                                                                     |                                               |                                               | Comments            |
| MM GCC-1 Cont. | **Solid Waste Measures.**                                                         | Building and improvement plan, direct observation and onsite inspection               | Prior to the issuance of a building permit    | Community Development Director or designee    |                    |
|     | • Provide interior and exterior storage areas for recyclables and green waste and adequate recycling containers located in public areas; and  
  • Provide employee education about reducing waste and available recycling services. |                                                                                     |                                               |                                               |                    |

EXHIBIT “A”
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<td><strong>HAZARDS AND HAZARDOUS MATERIAL</strong></td>
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|    | **MM HAZ-1** The following shall be prohibited from the project site:  
* Any use which would direct a steady light of red, white, green, or amber colors associated with airport operations toward an aircraft engaged in an initial straight climb following takeoff or toward an aircraft engaged in a straight final approach toward a landing at the Banning Airport, other than an FAA-approved navigational signal light or visual approach slope indicator;  
* Any use which would cause sunlight to be reflected toward an aircraft engaged in initial straight climb following takeoff or toward an aircraft engaged in a straight final approach toward a landing at the Banning Airport;  
* Any use which would generate a significant sources of smoke or vapor or which could attract large concentrations of birds, or which may otherwise affect safe air navigation within the area shall be prohibited; and  
* Any use which would generate electrical interference that may be detrimental to the operation of aircraft and/or aircraft instrumentation. | Direct observation and onsite inspection | Prior to the issuance of a building permit                                               | Public Works Director                           |                     |
|    | **MM HAZ-2** Refuse and recycling containers at the project site shall be covered to prohibit attracting any wildlife to the project site.                                                                                                                                                                                                                 | Direct observation and onsite inspection | Prior to the issuance of a building permit                                               | Public Works Director                           |                     |
## Mitigation Monitoring and Reporting Plan (Cont.)

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<tr>
<td>MM HAZ-3</td>
<td>Federal Aviation Administration Form 7460, Notice of Proposed Construction or Alteration, shall be completed prior to final approval of the project's final improvement plans. Refer to <a href="http://forms.faa.gov/forms/FAA7460-1.pdf">http://forms.faa.gov/forms/FAA7460-1.pdf</a> for more information.</td>
<td>Federal Aviation Administration Form 7460, Notice of Proposed Construction or Alteration Direct observation and onsite inspection</td>
<td>Prior to final approval of the project's final improvement plan</td>
<td>Public Works Director</td>
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<tr>
<td>MM HAZ-4</td>
<td>Review by the Riverside County Airport Land Use Commission shall be conducted prior to final approval of the Project's facility improvement plans.</td>
<td>Review by the Riverside County Airport Land Use Commission</td>
<td>Prior to final approval of the Project's facility improvement plans</td>
<td>Public Works Director</td>
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### TRANSPORTATION AND CIRCULATION

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<tr>
<td>MM T-1a</td>
<td>Near-term (Year 2011) – Phase 1 Improvements. Prior to the issuance of building permits, the developer shall construct/provide fair share the following improvements. Hargrave Street at I-10 Westbound Ramp • Install a signal Hargrave Street at I-10 Eastbound Ramp • Install a signal</td>
<td>Direct observation and inspection of improvements</td>
<td>Prior to the issuance of occupancy permit</td>
<td>Public Works Director/City Engineer</td>
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<tr>
<td>MM T-1b</td>
<td>Buildout (Year 2020) Improvements. Prior to the issuance of building permits, the developer shall construct/provide fair share the following improvements. Ramsay Street at Hathaway Street • Southbound Approach: Widen to provide one left-turn lane, one all way lane, and one right-turn lane. • Eastbound Approach: Widen to provide two left-</td>
<td>Direct observation and inspection of improvements</td>
<td>Prior to the issuance of occupancy permit</td>
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<td>MM T-1b Cont.</td>
<td>Turn lanes and two through lanes. Hargrave Street at I-10 Westbound Ramp  - Southbound Approach: Widen to provide two through lanes and one free right-turn lane.  - Westbound Approach: Widen to provide one left-turn lane, one shared left/through lane, and one free right-turn lane. Hargrave Street at I-10 Eastbound Ramp  - Eastbound Approach: Widen to provide one left-turn lane, one shared left/through lane, and one right-turn lane with a signal overlap.</td>
<td>Direct observation and inspection of improvements</td>
<td>Prior to the issuance of occupancy permit</td>
<td>Public Works Director/City Engineer</td>
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<td>MM T-1b Cont.</td>
<td>This intersection would require capacity enhancements greater than those specified in the General Plan to provide acceptable levels of service during peak hours with the addition of forecast traffic growth, including the project. Northbound and westbound dual left-turn lanes would be required as well as an additional through capacity on the northbound and southbound intersection approaches. These types of improvements do not seem feasible due to the extensive right-of-way acquisition that would be required and the spacing between Ramsey Street and the westbound freeway ramps.</td>
<td>Direct observation and inspection of improvements</td>
<td>Prior to the issuance of occupancy permit</td>
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**EXHIBIT “A”**
### Mitigation Monitoring and Reporting Plan (Cont.)

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<td>MM T-1b Cont.</td>
<td>At present, Hathaway Street is used as traffic route and is a designated traffic route in the City’s General Plan. However, prior to occupancy, Hathaway Street shall be signed as “Truck Route” by the applicant.</td>
<td>Direct observation and inspection of improvements</td>
<td>Prior to the issuance of occupancy permit</td>
<td>Public Works Director/City Engineer</td>
<td>Date Comments Initials</td>
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ATTACHMENT 4

Exhibit "B" Conditions of Approval
For TPM #36056 & DR #07-708
EXHIBIT "B"
June 1, 2010

PROJECT #: Design Review (DR) #07-708/Tentative Parcel Map #36056
SUBJECT: Conditions of Approval
APPLICANT: The O’Donnell Group, Inc.
LOCATION: Nicolet Street east of Hathaway Street (APN 532-110-003, -008, -009, -010)

I. General/On-Going.

Community Development Department

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

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

4. The use of Parcel 11 and Parcel 12 for Tentative Parcel Map (TPM) 36056 shall be restricted to High Cube Warehousing; otherwise, a revised traffic impact analysis and parking study shall be required using the appropriate trip generation rate. Any additional mitigation measures identified by the study shall be implemented in accordance with the City standards at the time of change of use. If the use is so intensified, the developer shall be responsible for placing and constructing the necessary improvements to the onsite development and public facilities.

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

6. The applicant shall comply with all conditions of approval stipulated by the Airport Land Use Commission (ALUC) project review including any requirements stipulated by the Federal Aviation Administration (FAA) Aeronautical Study.

7. The site shall be developed and maintained in accordance with the stamped approved plans dated June 1, 2010, which include site plans, architectural elevations, exterior materials and colors, landscaping, and grading on file in the Planning Division; the conditions contained herein; and, municipal code regulations.

8. Approval of this entitlement shall not waive compliance with any sections of the Development Code, other applicable City Ordinances, in effect at the time of building permit issuance.
9. If human remains are encountered during grading and other construction excavation, the developer/owner shall stop/cease work in the immediate vicinity and the County Coroner shall be contacted pursuant to State Health and Safety Code Section 7050.5.

10. In the event that Native American cultural resources are discovered during project development/construction, all work in the immediate vicinity of the find shall cease and a qualified archeologist meeting the Secretary of Interior Standards shall be hired to access the find. Work on the overall project may continue during this assessment period. If significant Native American cultural resources are discovered, for which a Treatment Plan must be prepared, the developer or his archeologist shall contact the Morongo Band of Mission Indians ("Tribe"). If requested by the Tribe, the developer of the project archeologist shall, in good faith, consult on the discovery and its disposition.

11. Trash collection shall occur between the hours of 8:00 a.m. and 6:00 p.m. only.

12. All graffiti shall be removed immediately or within 72 hours of notice from the City.

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

14. The property owner shall permanently maintain all parking lot signs and markings in a clear and visible manner.

15. Maintenance/Cleaning of the parking lot shall not occur between 10 p.m. and 6 a.m. daily.

16. The property owner shall continually maintain all landscaped areas on-site, as well as contiguous planted areas within the parkway in accordance with the approved landscape and irrigation plan. All landscaped areas shall be kept free from weeds and debris and maintained in healthy and thriving condition, and shall receive regular pruning, fertilizing, mowing, and trimming. Any damaged, dead, diseased, or decaying plant material shall be replaced within 30 days of notice from the City.

17. Sign program for the project shall be submitted to the Community Development Director for review and approval.

18. Any future walls (block, wrought iron, or retaining) to be constructed for the project shall be subject to review and approval by the Community Development Director through Design Review.
19. Exterior wall mounted lighting shall be decorative box type fixtures in a prefinished color to match the building. Wall fixtures shall be consistent with any pole mounted fixtures required to maintain minimum lighting levels.

20. There shall be no light spillover onto the adjacent properties from the parking lot lighting and/or exterior building lighting, including outdoor security lighting. All lighting fixtures shall not have a visible light source, must be shielded and directed downward and away from adjoining properties and public rights-of-way.

21. Trash enclosure shall be provided with three, decorative walls with enhanced wall cap and a gate, in a style compatible with the structure's architecture. The gate shall be maintained in working order and shall remain closed except when in use.

22. All roof-mounted equipment or utility equipment on the side of the structure, or on the ground, shall not be visible from adjacent properties, the public rights-of-way or the parking lot. Any architectural screening that is proposed to shield the roof-mounted equipment shall be compatible in terms of colors and materials of the building. Landscape screening for ground mounted equipment shall be of sufficient size and quantity to fully screen the equipment.

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

24. There shall be no truck parking on Hathaway Street, of any trucks that serves the project site, to minimize exposure to diesel emission to neighbors that are situated on the west side of Hathaway Street.

25. There shall be no trucks serving the project site from unnecessarily traversing through residential neighborhoods.

26. There shall be no trucks serving the project site from using residential areas and repairing vehicles on any streets.

27. The developer/owner of the project shall reduce truck idling time to a maximum of five (5) minutes within the warehouse/distribution center.

28. Buildings 1 through 10 shall be limited to a maximum of 42, five (5)-axle trucks per day. The developer shall enforce this condition by keeping a daily log in accordance with Conditions #29 and 30 below.

29. The developer/owner of the project shall establish a diesel minimization plan for on- and off-road diesel mobile sources to 2010 model year or newer and shall established a daily log of the trucks that enter the site, which include license plate, model year, and certification number and which shall be kept on the premises for inspection by the City during business hours. The developer/owner shall submit a certified copy of the quarterly report of the inspection logs for diesel mobile sources to the City.
30. The developer/owner of the project shall be responsible for having site enforcement staff trained/certified in accordance with the California Air Resources Board guidelines on how diesel technology works in order to implement the diesel minimization plan for the project.

31. The developer/owner shall include in the tenant lease an education program to inform truck drivers of the health effects of diesel particulate and importance of reducing their idling time. A copy of the tenant lease shall be provided to the City prior to issuance of a business license and occupancy of the lease space.

32. The developer/owner shall establish a public outreach program and conduct periodic community meetings to address issue from neighbors. This is information shall be included in the tenant lease and shall be provided to the City prior to issuance of a business license and occupancy of the lease space.

33. Comply with all environmental mitigation measures, as detailed in the Mitigated Negative Declaration or the Mitigation Monitoring and Reporting Plan, as approved by the Planning Commission at their regularly scheduled meeting held on June 1, 2010 and attached in Exhibit “A” to this Conditions of Approval.

34. The developer shall comply with the Fire Department Conditions of Approval dated March 11, 2010.

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

Public Works Department

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

37. The extension of Wilson Street shall be protected from debris flow from drainage areas to the north and west. This protection may require the construction of debris basins in combination with storm drain pipes in accordance with Riverside County Flood Control and Water Conservation District design standards.

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

Rough Grading Plans 1” = 40’ horizontal
(All conditions of approval shall be reproduced on last sheet of set)
Haul Route Plans 1” = 40’ horizontal
Clearing Plans 1” = 50’ horizontal
(Include fuel modifications zones)
(Include construction fencing plan)
Erosion Control & Storm Water Pollution Prevention Plan (SWPPP) 1” = 40’ horizontal
(Note: a, b, c & d shall be reviewed and approved concurrently)
Storm Drain Plans 1” = 40’ horizontal
Street Improvement Plans 1” = 40’ horizontal
1” = 4’ vertical
Traffic Signal Plans (Caltrans Standard) 1” = 20’ horizontal
Signing & Striping Plans 1” = 40’ Horizontal
Construction Traffic Control Plan 1” = 40’ Horizontal
(Major or arterial highways only)
Precise Grading Plans 1” = 40’ Horizontal
Landscaping Plans-Streets 1” = 20’ Horizontal

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

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

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

42. A small index map shall be included on the title sheet of each set of plans, showing the overall view of the entire work area.

43. The applicant shall not grant any easements over any property subject to a requirement of dedication or irrevocable offer of dedication to the City of Banning or the Riverside County Flood Control (RCFCD) and Water Conservation District unless such easements are expressly made subordinate to the easements to be offered for dedication to the City or RCFCD. Prior to
granting any of said easements, the applicant shall furnish a copy of the proposed easements to the City Engineer for review and approval.

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

45. In accordance with the approved landscape and irrigation plan, the applicant shall plant and perpetually maintain trees, shrubs, and ground cover placed in the parkway, slopes adjacent to public right-of-ways, and median islands constructed in connection with the project. This includes providing irrigation and the clearing of debris and weed removal.

46. Driveway grades shall not exceed eight percent unless approved by the City Engineer.

47. Parking areas shall be designed and improved with grades not to exceed five percent slope.

48. Construction debris shall be disposed of at a certified recycling site. It is recommended that the developer contact the City’s franchised solid waste hauler for disposal of construction debris.

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

50. In addition, the developer will be assessed a maintenance fee in order for the City to maintain the proposed sewer lift station. The fee will be established at the time of the issuance of permits to construct the lift station and will be listed in the project’s Conditions, Covenants & Restrictions (CC & R’s) as approved by the City Engineer.

**Electric Utility Department**

51. The developer shall be responsible for all trenching, backfill, and compaction of electric installations.

**II. Prior to Issuance of Grading Permits.**

**Community Development Department**

52. All site, grading, landscape, irrigation, and street improvement plans shall be coordinated for consistency such as grading, tree removal, encroachments, building location, etc. or prior to final map approval in the case of a subdivision, or approved use has commenced, whichever comes first.
53. The developer shall submit a construction access plan and schedule for the development of the project for Community Development Director and City Engineer approval; including, but not limited to, public notice requirements, special street posting, phone listing for community concerns, hours of construction activity, dust control measures, and security fencing.

54. The following notation shall be placed on the grading plan: "No more than three days prior to removing trees, shrubs or tall herbaceous vegetation during the breeding season for migratory birds (February 15 to August 31) a qualified biologist shall conduct a nesting bird survey."

**Public Works Department**

55. Grading of the subject property shall be in accordance with the City of Banning grading standards, and accepted grading practices as reviewed and approved by the City Engineer. The final grading plan shall be in substantial conformance with the approved conceptual grading plan.

56. A preconstruction meeting shall be held for all participating field personnel, including all appropriate City staff, prior to the commencement of construction activities.

57. A soils report and geological report shall be prepared by a qualified engineer and geologist, respectively, licensed by the State of California to perform such work. Said report shall be reviewed and approved by the City Engineer. The applicant or developer shall be required to comply with all recommendations of said report.

58. The applicant shall obtain any necessary clearances and/or permits from the following agencies:

- Fire Marshal
- Public Works Department (Grading Permit, Improvement Permit)
- Community Development Department
- Riverside County Environmental Health Department
- California Regional Water Quality Control Board Colorado River Basin (RWQCB)
- South Coast Air Quality Management District (SCAQMD)
- Riverside County Flood Control District (RCFCD)

59. The applicant is responsible for meeting all requirements of permits and/or clearances from the above listed agencies. When the requirements include approval of improvement plans, the applicant shall furnish proof of such approvals when submitting improvements plans to the City.
60. All utility systems including gas, electric, telephone, water, sewer, storm drain, and cable TV shall be provided underground, with easements provided as required, designed and submitted for review and approval. Said items shall be constructed in accordance with City codes and the utility provider. Telephone, cable TV, and/or security systems shall be pre-wired.

61. In accordance with the approved plans, the applicant shall acquire or confer property rights necessary for the construction or proper functioning of the proposed project/development. Conferred rights shall include right-of-way dedications, irrevocable offers to dedicate or grant of easements to the City for emergency services, maintenance, utilities, storm drain facilities, or temporary construction purposes including the reconstruction of essential improvements.

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

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

64. If the site is located in a Flood Area as identified in the current Flood Insurance Rate Map the developer is responsible for providing a certification by a registered professional engineer or architect demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

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

66. The applicant shall comply with Chapter 13.24 “Stormwater Management and Discharge Controls” of the Banning Municipal Code (BMC); California Building Code related to excavation and grading; and, the State Water Resources Control Board’s orders, rules and regulations.
67. For construction activities including clearing, grading or excavation of land that disturbs one (1) acre or more of land, or that disturbs less than one (1) acre of land, but which is a part of a construction project that encompasses more than one (1) acre of land, the applicant shall be required to submit a Storm Water Pollution Protection Plan (SWPPP) and file a Notice of Intent (NOI) with the Regional Water Quality Control Board.

68. The applicant’s SWPPP shall include provisions for all of the following Best Management Practices (“BMPs”):

- Temporary Soil Stabilization (erosion control).
- Temporary Sediment Control.
- Wind Erosion Control.
- Tracking Control.
- Non-Storm Water Management.
- Waste Management and Materials Pollution Control.

69. All erosion and sediment control BMPs proposed by the applicant shall be approved by the City Engineer prior to any onsite or offsite grading, pursuant to this project. The approved SWPPP and BMPs shall remain in effect for the entire duration of project construction until all improvements are completed and accepted by the City. The applicant shall ensure that the required SWPPP is available for inspection at the project site at all times through and including acceptance of all improvements by the City.

70. Grading and excavations in the public right-of-way shall be supplemented with a soils and geology report prepared by a professional engineer or geologist licensed by the State of California. A grading permit shall be obtained prior to commencement of any grading activity. Prior to issuance of any grading or building permit, a Project-Specific Water Quality Management Plan (WQMP) shall be reviewed and approved in accordance with California Regional Water Quality Control Board Colorado River Basin Region Order No. R7-2008-0001.

71. The applicant shall submit and obtain approval in writing from the Fire Marshall for the plans for all public or private access roads, drives, streets, and alleys. The plans shall include plan and sectional views and indicate the grade and width of the access road measured flow-line to flow-line. When a dead-end access exceeds 150 feet or when otherwise required, a clearly marked fire apparatus access turnaround must be provided and approved by the Fire Marshall. Applicable covenant, conditions or restrictions or other approved documents shall contain provisions which prohibit obstructions such as speed bumps/humps, control gates or other modifications within said easement or access road unless prior approval of the Fire Marshall is granted.

Electric Utility Department
72. Submit detailed plans indicating lot lines, streets, easements, building layout, anticipated loading information, etc. These plans are required in electronic format. We currently use AutoCad2009. Plans should consist of a plot plan, site plan, one line diagram of proposed electrical main service panel and a sheet showing load calculations by an Electrical Engineer. Additional sheets may be required upon request.

III. Prior to Filing of Final Map.

Public Works Department

73. All public improvement plans shall be reviewed and approved by the City Engineer.

74. Dedicate a well site consisting of 180 feet by 100 feet at the northeasterly corner of the project.

75. Applicant shall obtain a 40' wide easement for access purposes from the adjacent owner (Orco Block) for the construction and maintenance of the emergency access road. Construct a 26' wide all weather surface for Wilson Street as an emergency access road from Hathaway Street to the westerly project boundary, using the alignment of the existing access road within the future alignment of Wilson Street on the adjacent property. All-weather surface treatment shall comply with the City and the California Department of Forestry (operating as the City’s Fire Services) requirements.

76. Offer to dedicate to the City of Banning for public purposes the right-of-way for Wilson Street fronting the project site as an Arterial Highway; 55 feet one-half width. Offers of dedication shall include the corner cut-off at intersections. Construct full half street improvements in accordance with City standards fronting the project site along Wilson Street, including street lighting, curb and gutter, sidewalk, parkway landscaping, asphalt concrete paving, traffic signs and striping, and any transitions. Applicants’ geotechnical engineer shall provide the design of the pavement section based upon the Caltrans method.

77. Offer to dedicate to the City of Banning for public purposes the right-of-way for the Nicolet Street easterly extension; 66 feet full width. The Nicolet Street extension shall align with the prolongation of existing Nicolet Street. Offers of dedication shall include the corner cut-off at intersections. Construct the easterly Nicolet Street extension; 44 feet curb to curb full width in accordance with City standards including street lighting, curb and gutter, sidewalk, parkway landscaping, asphalt concrete paving, traffic signs and striping, and any transitions.

78. Offer to dedicate to the City of Banning for public purposes the right-of-way for the North-South Collector Street; 33 feet one-half width (45 feet will be required
if the additional 12 feet cannot be obtained from the adjoining property owner). The North-South Collector Street shall intersect at right angles with the Nicolet Street extension at the easterly limits of the extension of Nicolet Street and connecting to Wilson Street dedication. Offers of dedication shall include the corner cut-off at intersections. Construct the North-South Collector Street; 34 feet curb to edge of pavement one-half width in accordance with City standards. The west side half street shall include street lighting, curb and gutter, sidewalk, parkway landscaping, asphalt concrete paving, traffic signs and striping, and any transitions.

79. Offer to dedicate to the City of Banning for public purposes the additional right-of-way for Hathaway Street fronting the site as an Arterial Highway; 50 feet one-half (an easterly half street pavement width of 43 feet and an easterly parkway width of 7 feet). Offers of dedication shall include the corner cut-off at intersections. Construct full half street improvements for the widening of Hathaway Street fronting the project site in accordance with City standards including street lighting, curb and gutter, commercial style drive approaches, sidewalk, asphalt concrete paving, traffic signs and striping. Street width transitions to existing pavement shall be in accordance with Caltrans standards. Where the transverse slope of the existing pavement exceeds 3% the applicant shall remove pavement and join the existing pavement surface. Applicants' geotechnical engineer shall provide the design of the pavement section based upon the Caltrans method.

80. Offer to dedicate to the City of Banning easements to maintain any slopes supporting public right-of-ways. Maintenance easements shall extend 10 feet beyond the toe of slope.

81. Prepare plans for full half street improvements in accordance with City standards along Ramsey Street from Hathaway Street to a point easterly of Hathaway Street in order to provide a dedicated right turn only lane onto Hathaway Street. The improvements plans shall also include street lighting, curb and gutter, sidewalk, asphalt concrete paving, traffic signs and striping, and any transitions. Applicants' geotechnical engineer shall provide the design of the pavement section based upon the Caltrans method. Applicant shall pay fair share of said improvements based on the approved plans.

82. Construct median islands in accordance with City standards along Wilson Street frontage and Hathaway Street frontage. In lieu of construction, the property owner shall agree to participate in a future assessment district to construct median islands, or other surety may be offered in accordance with Banning Municipal Code.

83. Pay fair share of estimated cost to construct intersection improvements including traffic signals at Interstate 10 Westbound Ramp and Hargrave Street and Interstate 10 Eastbound Ramp and Hargrave Street. The fair share amount shall
be determined based on engineering estimates prepared by the applicant subject to the review and approval of the City Engineer.

84. Pay fair share of estimated cost to remove and replace pavement markings and traffic signs along Hathaway Street from Wilson Street to Ramsey Street to establish a collector roadway in connection with existing conditions at the time of construction. The fair share amount shall be determined based on engineering estimates prepared by the applicant subject to the review and approval of the City Engineer.

85. Pay fair share of estimated cost to remove and replace pavement markings and traffic signs along Hargrave Street from Ramsey Street to Lincoln Street in connection with the construction of the traffic signals at the freeway ramps. The fair share amount shall be determined based on engineering estimates prepared by the applicant subject to review and approval by the City Engineer.

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

87. Pay fair share of estimated cost to remove and replace pavement markings and traffic signs along Ramsey Street from 500 feet east of Hathaway Street to Hargrave Street in connection with existing conditions at the time of construction. Pay fair share of estimated cost to construct a dedicated right turn pocket shall be provided for the turning movement to northbound Hathaway Street. The fair share amount shall be determined based on engineering estimates prepared by the applicant subject to review and approval by the City Engineer.

88. Design and construct the following water lines;

   i. 16” DIP water line on Hathaway Street from Ramsey Street to Nicolet Street and on Nicolet Street from Hathaway Street to the westerly boundary of the Caltrans parcel.

   ii. 8” DIP water line on the proposed Nicolet Street from Hathaway Street, which loops the project and ties into the new 16” waterline per item i. The developer is responsible for obtaining a 20’ wide easement for said line from the related property owner.

   iii. 8” DIP on proposed Street “B” from Nicolet Street to the north, then west on Wilson Street to its terminus on Hathaway Street.

   iv. 16” DIP water line from the proposed well site at the northeasterly corner of the project to Hathaway Street via Street “B” and Nicolet Street (Design only, except as noted per item i).

   v. Install necessary blowoff and airvac assemblies at the low and high points, respectfully.
Design and construct the following sewer lines and facilities:

i. Lift station with minimum 6” force main to connect to sewer main located at Nicolet Street and Hathaway Street. Developer is to dedicate necessary land for lift station including appurtenances (emergency generator, SCADA system, etc.) to the City of Banning.

All gravity sewer lines shall be a minimum of 8” extra strength Vitrified Clay Pipe and the sewer laterals shall be a minimum of 6” diameter.

A sewer check valve shall be provided for each lot with a finished-pad elevation lower than the rim elevation of the immediate up-stream sewer manhole.

A property owners' association shall be established promptly following grading permit issuance and the applicable Conditions, Covenants & Restrictions (CC & R's), shall be prepared for review and approval of the City Engineer providing for maintenance of the parkway, slopes adjacent to public right-of-ways, any debris basins and median island landscaping. The developer shall appoint the members of the Board of Directors of the property owners' association, or take such other steps as may be reasonably necessary to assure that members have been appointed or elected to such Board of Directors, until under the terms of the applicable CC & R's individual lot owners have the power to elect the members of the Board of Directors in accordance with the CC & R's.

The, CC & R's shall contain provisions which prohibit dissolution of the property owners' association unless another entity has agreed to assume the operation and maintenance responsibilities of the property owners' association. The CC & R's shall contain provisions that prohibit the developer and his/her successors-in-interest from amending said covenants, conditions and restrictions to conflict with these conditions of approval, City codes and/or standards.

The CC & R’s shall be subject to prior review and approval of the City Attorney. The applicant or developer shall bear the cost of the review.

Access drives to the public right-of-way shall be restricted to those approved by the City Engineer as shown on the approved plans.

Public Works Inspection fees shall be paid in accordance with the fee schedule in effect at time of time of scheduling; water and sewer connection fees including frontage fees and water meter installation charges shall be paid on a per lot basis at the time of building permit issuance in accordance with the fee schedule in effect at that time; a plan storage fee shall be paid for any engineering plans that may be required in accordance with the fee schedule in effect at the time the fee is paid; a Traffic Control mitigation fee shall be paid; a fee shall be paid to Riverside County Flood Control and Water Conservation District in the amount
specified by them to perform plan checking for drainage purposes if necessary for the proposed project.

96. Security for the construction of public improvements including grading may be submitted in accordance with Government Code Section 66499 and shall be as follows:

   Faithful Performance Bond - 100% of estimated cost
   Labor and Material Bond - 100% of estimated cost
   Monumentation Bond - $7,500.00

*Securities for the public improvements shall be on file with the City Clerk prior to scheduling the final map for approval by City Council. Unit prices for bonding estimates shall be those specified or approved by the City Engineer.*

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

98. A map of the proposed subdivision drawn at 1"=200' scale showing the outline of the streets including street names shall be submitted to the City to update the city atlas map.

99. An original Mylar of the final map (after recordation) shall be provided to the City for the record files.

100. A record of all street centerline monument ties shall be submitted to the Engineering Division upon completion of improvements or prior to release of Monumentation Bond.

101. Right of way or easement acquisitions necessary to implement any portion of this map, including public improvements, shall be obtained by the developer at its sole expense prior to the City's consideration of the final map which encompasses the particular improvement. The developer shall notify the City in writing no more than 120 days and no less than 60 days in advance of filing the final map related to the acquisition if City assistance is needed to complete the acquisition pursuant to Government Code Section 66462.5. Funds in an amount of 100% of the estimated acquisition costs shall be deposited with the City to cover appraisal, right of way agent, and legal fees and costs incurred to secure the necessary property.

**IV. Prior to the Issuance of Building Permit.**

**Community Development Department**

102. The applicant shall cause the final map to be recorded.
103. Obtain clearance and/or permits from the Banning Unified School District

104. A detailed on-site lighting plan, including a photometric diagram, shall be reviewed and approved by the Community Development Director and Police Department. Such plan shall indicate style, illumination, location, height, and method of shielding so as not to adversely affect adjacent properties in accordance with the Zoning Code. Lighting fixtures shall be shielded or recessed to prevent spillage to the adjacent properties. The lighting fixture design shall compliment the architecture of the site. Additionally, all lighting plans and installations shall conform to the requirements of the conditions stipulated by the Airport Land Use Commission (ALUC) and Federal Aviation Administration (FAA) review.

105. Plans for any security gates to secure the building premises shall be submitted for the Community Development Director, City Engineer, and City of Banning Fire Marshal review and approval. Security gates will not be allowed to block any public street.

106. A complete landscape/irrigation package prepared by a landscape architect licensed by the State of California shall be reviewed and approved by the Planning Division prior to issuance of building permit. The plans shall include the following elements:

   i. Water conservation concept statement.
   ii. Calculation of maximum applied water allowance.
   iii. Calculation of estimated total water use.
   iv. Landscape design plan.
   v. Irrigation design plan.
   vi. Grading design plan.
   vii. Soil analysis.
   viii. Certificate of substantial completion.

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

108. All landscaping and irrigation shall be designed to conserve water through the principles of Xeriscape in accordance with Zoning Code requirements.

109. Building and Safety plans shall be submitted for plan check and approval. All plans shall be marked with the project number (i.e., DR #07-708). The applicant shall comply with 2007 California Building Codes, and all other applicable codes.
ordinances, and regulations in effect at the time of permit application including but not limited to those regulations that relate to ground movement.

110. The applicant shall pay development impact fees at the established rate. In accordance with City Council Resolution No. 2008-58, payment of development impact fees may be deferred to certificate of occupancy. Such fees may include, but are not limited to: Transportation Development Fee, Drainage Fee, School Fees, Permit and Plan Checking Fees. Applicant shall provide a copy of the school fees receipt to the Building and Safety Division prior to permit issuance.

111. Projects subject to flood hazards shall implement standards for flood hazard reduction in accordance with Banning Municipal Code Section 15.64 including, but not limited to, anchoring, construction materials and methods, elevation and floodproofing, and utilities.

Public Works Department

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

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

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

115. The developer shall prepare a water conservation plan to reduce water consumption in the landscape environment using xeriscape principles. "Xeriscape" shall mean a combination of landscape features and techniques that in the aggregate reduce the demand for and consumption of water, including appropriate low water using plants, non-living ground-cover, a low percentage of turf coverage (limited to 25% of the planted area), permeable paving and water conserving irrigation techniques and systems. A low water-using drought tolerant plant includes species suited to our climate, requiring less water in order to grow well.

116. Fire hydrants shall be installed within and on the project boundaries as per the approval plans, at a 250’ maximum spacing.
117. Provide fire flow calculations for the project and construct the necessary facilities to meet those flows for the project.

118. Water Connection Fees shall be paid per EDU (EDU is based upon meter size). Sewer Connection Fees shall be paid per EDU (EDU is based upon the estimated quality and quantity of discharge), and payment of Water Meter Installation Charges for each building in accordance with the fee schedule in effect at the time the fees are paid. Also, pay all water and sewer frontage fees and recycled/irrigation water fees, if applicable, and in accordance with the fee schedule in effect at the time the fees are submitted, prior to plan checking proceedings.

119. The developer shall participate in the City’s recycling program by providing two trash receptacles, one for regular trash and one for recycling, within the trash enclosure. The trash enclosure shall be designed and constructed in such a manner to accommodate a recycling bin as well as the necessary solid waste containers.

Electric Utility Department

120. Pay required fees - electrical permit, plan check fee, inspection fees, meter fee and cost of electrical apparatus for completing the underground line extension.

121. Grant easement for electric facilities installation/maintenance, etc.

V. Prior to the Issuance of Certificate of Occupancy.

Community Development Department

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

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

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

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

   i. Architecturally integrated into the design of the project.
ii. Separate pedestrian access that does not require the opening of the main doors and to include self-closing pedestrian doors.

iii. Large enough to accommodate two trash bins (see Public Works Dept for details).

iv. Trash bins with counter-weighted lids.

v. Architecturally treated overhead shade trellis, or cover.

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

126. The buildings shall be constructed in substantial compliance with the design elements as depicted in Attachment 8 approved by the Planning Commission at their regularly scheduled meeting held on June 1, 2010; and, in accordance with Zoning Code regulations.

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

128. All parking spaces shall be 9 feet wide by 19 feet long minimum. When a side of any parking space abuts a building, wall, support column, or other obstruction, the space shall be a minimum of 11 feet wide.

129. A 25 foot parking setback from the curb face shall be maintained at the driveway fronting all public streets.

130. All parking lot landscape islands shall have a minimum interior dimension of 6 feet in width and shall contain a 12-inch walk adjacent to any parking stall (including curb width).

131. Decorative paving shall be required at all driveway entrances in accordance with the requirements of the Zoning Code and City Engineer and Community Development Director.

132. All parking spaces shall be striped per City standards and all loading zones, driveway aisles, entrances, and exits shall be striped per City standards. Each exit from a parking area shall be clearly marked with a ‘Stop’ sign.

133. A minimum of 20% of trees planted shall be 36 inch box or larger specimens; and, a minimum of 50% trees planted shall be 24 inch box or larger specimens.

134. Within parking lots, trees shall be planted at a rate of at least one 24 inch box tree for every four parking spaces. The maximum spacing between trees in parking areas shall be 30 feet.
135. All parking areas shall provide at least 30% permanent shading for parked vehicles within two years of occupancy.

136. Trees shall be planted in areas of public view adjacent to and along structures, including all 12 buildings, at a rate of at least one tree per 30 linear feet of building.

137. The slopes within any detention basin shall be irrigated and landscaped with appropriate ground cover for erosion control. Slope planting shall include a permanent irrigation system.

Public Works Department

138. The applicant shall furnish the City with reproducible record drawings on Mylar of all improvement plans that were approved by the City Engineer. Each sheet shall be clearly marked "As-Built" or "As-Constructed" and shall be stamped and signed by the engineer or surveyor certifying the accuracy and completeness of the drawings. The applicant shall have all AutoCAD or raster-image files submitted to the City, revised to reflect the “As-Built” conditions.

139. Offer to dedicate to the City of Banning an aviation easement for the airspace related to the operation of Banning Municipal Airport.

140. Traffic Signals along Hargrave Street at I-10 ramps and Ramsey Street shall operate interconnected (coordinated operation). Pay fair share for interconnection improvements based on engineering estimates prepared by the applicant subject to review and approval of the City Engineer.

141. Any public improvements damaged during the course of construction shall be replaced to the satisfaction of the City Engineer, or his/her designee.

142. All required public improvements for the project shall be completed, tested, and approved by the Engineering Division. A labor and materials, and faithful performance bond will be executed for the traffic signal construction (required herein), agreeing to complete the same within one year of approval.

143. The applicant shall execute a Stormwater Management Facilities Agreement guaranteeing the maintenance of stormwater pollution controls. Said agreement shall be subject to prior review and approval by the City Attorney. The applicant of developer shall bear the cost of the review. Said approved agreement shall be recorded with the Riverside County Recorder and run with the land.

144. An automatic sprinkler system and landscaping shall be installed within the parkway fronting Hathaway Street and Wilson Street and the interior collector streets. The system shall include a landscape controller, a separate water meter.
and electric meter, and plantings as approved by the Community Development Director. Landscaping plans and specifications shall be reviewed and approved by the City Engineer and shall be incorporated in the plans required at conditions # 106 and 107.

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

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

147. Construct intersection improvements including traffic signals at Hathaway Street and Nicolet Street. The developer may request a Reimbursement Agreement for the design and construction of the improvements in this condition. The Reimbursement Agreement is subject to prior review and approval by the City Attorney. The applicant or developer shall bear the cost of the review.

148. Prepare plans for intersection improvements including traffic signals at Hathaway Street and Ramsey Street. The design shall include a dedicated left turn pocket on Ramsey Street for northbound Hathaway Street. Pay fair share amount of construction cost based on engineering estimates prepared by the applicant subject to review and approval of the City Engineer.

149. Prepare improvement plans for the widening of Hathaway Street, as an Arterial Highway; 50 feet one-half (an easterly half street pavement width of 43 feet and an easterly parkway width of 7 feet), from Ramsey Street to the southerly project limits. Plans shall include street lighting, curb and gutter, commercial style drive approaches, sidewalk, asphalt concrete paving, traffic signage, striping and any transitions. Where the traverse slope of the existing pavement exceeds 3% the plans shall show removal and replacement of pavement. Applicant's geotechnical engineer shall provide the design of the pavement section based upon the Caltrans method. There shall be a dedicated southbound right turn only lane onto Ramsey Street. Pay fair share amount of construction costs based on engineering estimates prepared by the applicant subject to review and approval of the City Engineer.

150. Monuments and center line ties shall be certified and submitted to the City Engineer for review and approval.

**Electric Utility Department**

151. The developer shall provide all conduits, vaults, and other materials associated with electric facility installations (except cables and their terminations).
152. The developer shall install Streetlight poles and conduits.

153. Secondary service entrance conductors to be provided and installed by the developer.

FIRE DEPARTMENT CONDITIONS:

The following codes and standards quoted in this review response are selected from the various regulations that apply to this development. Other regulations that are not included on this review response may also apply after additional information is provided.

General Conditions  FIRE DEPARTMENT

With respect to the conditions of approval for the referenced project, the Fire Department recommends the following fire protection measures be provided accordance with Riverside County Ordinances and/or recognize fire protection standards:

1. SHELL BUILDINGS

THESE CONDITIONS ARE FOR A SHELL BUILDING ONLY.
Shell building will receive a shell final only. No certificate of Occupancy (human occupant and/or materials) will be issued until the building occupants has been identified with their occupancy classification and have been conditioned by Riverside County Fire Department. Occupant or tenant identification is imperative for orderly and prompt processing.

Upon identification of the occupant or tenant a Fire Protection Analysis report maybe required prior to establishing the requirements for the occupancy permit. Failure to provide comprehensive data analysis and/or technical information acceptable to the Fire Department may result in project delays. A complete commodity listing disclosing type, quantity, level of hazard and potential for “Reactivity” must be provided within 15 days. The foregoing is necessary to properly occupancy classify the building(s). Failure to provide comprehensive data and/or highly technical information will result in project delay and Requirement for a complete Fire Protection Study for review.

2. RESPONSIBILITY

It is the responsibility of the recipient of these Fire Department conditions to forward them to all interested parties. The building permit number is required on all correspondence: (i.e. general contractor, superintendent, owner, subcontractors, etc).
3. APPROVED SYSTEM

All of the following conditions titled "Prior to Final Inspection", and/or any type of fire suppression systems, must be approved, inspected and finalized by the Riverside County Fire Department, prior to Building and Safety's Final inspection. The Fire Department letter of conditions, job card and approved plans must be at the job site for all inspections.

4. HIGH PILE/RACK STORAGE

A separate permit may be required for high-pile storage and/or racks. Sprinkler Plans and/or sprinkler review must be submitted by a licensed sprinkler contractor with storage and/or rack plans to Riverside County Fire Department for review and approval of the 2007 CFC Chapters 24 and 34 compliance. Complete Chapters 24 and 34 information re: all commodities stored, rack dimensions, placement in building, sprinkler densities, etc. must be provided with suppression system for racks and/or high-pile storage review. A complete listing of commodities, Classified using CFC Article 81, 2007 Edition and NFPA 13, 2007 Edition guidelines by a licensed Fire Protection Engineer (or other consultant approved by this jurisdiction).

5. ROOFING MATERIAL

All buildings shall be constructed with Class B roofing materials as per the California Building Code.

6. BLUE DOT REFLECTOR

Blue retro reflective pavement markers shall be mounted on private street, public streets and driveways to indicate location of fire hydrants. Prior to installation, placement of markers must be approved by Riverside County Fire Department.

7. SUPER FIRE HYDRANT

Super fire hydrant (s) (6" x 4" x 2 ½") shall be located not less than 25 feet or More than 165 feet from any portion of the building as measured along approved vehicular travel ways.

8. ABOVE/UNDERGROUND TANK PERMITS

Applicant/developer shall be responsible for obtaining under/aboveground fuel, Propane, chemical and mixing liquid storage tank permits from the Riverside County Fire Department. Underground and chemical tank plans must be approved by the Environmental Health Department prior to submitting plans to the Fire
Department. (Fire Department needs to review the Environmental Health Approved Set) Plans must be in triplicate and submitted with the current fee for review and Approval prior to installation. Aboveground fuel/mixed liquid tank(s) shall meet the following standard:
Tank must be tested and labeled to UL 2085 Protection Tank Standard or SwRI 93-01. The test must include the Projectile Penetration Test and the Heavy Vehicle Impact Test. A sample copy of the tank's label from and independent test laboratory must be included with your Plans. (TANK PLANS CANNOT BE SUBMITTED TO THE FIRE DEPARTMENT UNTIL A BUILDING PERMIT HAS BEEN ISSUED, CONTACT FIRE DEPARTMENT FOR GUIDELINE HANDOUT)

9. RAPID HAZMAT BOX

Rapid entry Hazardous Material data and key storage cabinet shall be installed on outside of the building. Plans shall be submitted to the Riverside County Fire Department for approval prior to installation

10. HIGH PILE/RACK STORAGE

A separate permit is required for high pile storage and/or racks. Sprinkler Plans and/or sprinkler review must be submitted by a licensed sprinkler Contractor with storage and/or rack plans to Riverside County Fire Department for review and approval of the 2007 CFC Chapters 24 and 34 compliance. Complete Chapters 24 and 34 information re: all commodities stored, rack dimensions, placement in building, etc. must be provided with suppression system for racks and/or high-pile storage review. A complete listing of commodities classified using UFC Chapters 24 and 34, 2007 Edition, and NFPA 13, 2007 Edition guidelines by a licensed Fire protection Engineer (or other consultant to approve by this jurisdiction.)

11. GATE ENTRANCES

Gate entrances shall be at least two feet wider than the width of the traffic lane(s) serving that gate. Any gate providing access from a road to a driveway shall be located at least 35 feet from the roadway and shall open to allow vehicle to stop with out obstructing traffic on the road. Where a one-way road with a single traffic lane provides access to a gate entrance, 40 foot turning radius shall be used.

12. ADDRESS AT CONSTRUCT

During the construction of this project, the site address shall be clearly posted at the job site entrance. This will enable incoming emergency equipment and the inspectors to locate the job-site from the assigned street location. Number shall be a minimum of 24 inches in height.
13. PROHIBITED H MATERIALS

It is prohibited to use/process or store any material in this occupancy that
Would classify it as “H” occupancy per the 2007 Uniform Building Code.

PRIOR TO GRADING PERMIT ISSUANCE:

14. WATER PLANS

The applicant or developer shall separately submit two copies of the water system
plans to the Fire Department for review. Plans shall conform to the fire hydrant
types, location and spacing, and the system shall meet the fire flow requirements.
Plans shall be signed/approved by a registered civil engineer and the local water
company with the following certification: “I certify that the design of the water
system is in accordance with the requirements prescribed by the Riverside County
Fire Department.”

PRIOR TO BUILDING PERMIT ISSUANCE:

15. ACCESS ROADS

All fire department access roads shall be as Banning Engineering standards, items
#75, 76, and 77 of the Public Works Department street conditions.

Fire apparatus access roads and water supplies for fire protection are required to
be in service prior to and during the time of construction. (C.F.C., sec. 501.4)

Fire hydrant required on Hathaway Street with a spacing not exceeding 250’.

Fire vehicle access shall be provided by either temporary or permanent roads,
capable of supporting vehicle loading under all weather conditions. Temporary
vehicle access shall be maintained until permanent fire apparatus access roads are
available. (C.F.C., sec. 1410.1)

CFC D102.1, shall be able to support at least 75,000 pounds.

All fire department access roads shall have a 28’ radius minimum, larger
radiuses may exist when detailed building drawings are submitted. [CFC
Appendix D]

16. WATER CERTIFICATION

The applicant or developer shall be responsible to submit written certification
from the water company noting the location of the existing fire hydrant and that
the existing water system is capable of delivering 2,750 GPM fire flow for a 2
hours duration at 20 PSI residual operating pressure. If a water system currently
does not exist, the applicant or developer shall be responsible to provide written
certification that financial arrangements have been made to provide them.

17. WATER PLANS

The applicants or developer shall separately submit two copies of the water
system plans to the Fire Department for review and approval. Calculated
velocities
shall not exceed 100 feet per second. Plans shall conform to the fire hydrant
types, location and spacing, and the system shall meet the fire flow requirements.
Plans shall be signed and approved by a registered civil engineer and the local
Water Company with the following certification: “I certify that the design of the
water system is in accordance with the requirements prescribed by the Riverside
County Fire Department.”

18. DESIGNATED AREAS

Existing fire lanes shall be maintained, additional fire lanes may be required.
Contact Fire Department for guideline handout.

19. EXTINGUISHERS

Install portable fire extinguishers with a minimum rating of 2A-10BC one per
3000 sq. ft. or 75 feet of travel distance. Fire extinguishers located in the public
Areas shall be in recess cabinets mounted 48 inches to the center above floor
level with maximum 4 inch projection from the wall. (extinguishers must have
current CSFM service tag affixed)

20. SUPER FH/FLOW

Approved super fire hydrants (6” x 4” x 2½”) with a fire flow of 2,750 GPM,
shall be installed within 165 feet of all public use type buildings and any
recreational vehicle type storage area.

21. SPRINKLER SYSTEM

Install a complete fire sprinkler system per NFPA 13 2007 edition (13D and 13R
system are not allowed) in all buildings requiring a fire flow of 1500 GPM or
greater sprinkler system (s) with pipe size in excess of 4” inch diameter will
require the project structural engineer to certify (wet signature) the stability of the
building system for seismic and gravity loads to support the sprinkler system. All
fire sprinkler risers shall be protected from any physical damage. The post
indicator valve and fire department connection shall be located to the front, within
50 feet of a hydrant, and the minimum of 25 feet from the building (s). A
statement that the building (s) will be automatically fire sprinkled must be
included on the title page of the building plans.
Applicant or developer shall be responsible to install a Central Station Monitored Fire Alarm System. Monitoring System shall monitor the fire Sprinkler system(s) water flow, P.I.V.'s and all control valves. Plans must be submitted to the Fire Department for approval prior to installation. Contact Fire Department for guideline handout.

21. AUTO/MAN FIRE ALARM

Applicant or developer shall be responsible to install a manual and automatic Fire Alarm System. Plans must be submitted to the Fire Department for approval prior to installation.

22. TITLE 19

Comply with Title 19 of the California Administrative Code.

Doug Clarke
Asst. Fire Marshal
Banning Fire Services
(951) 922-3211
dclarke@ci.banning.ca.us
ATTACHMENT 5

Location Map
ATTACHMENT 6

Aerial Map
ATTACHMENT 7

Site Photographs
Looking north along Hathaway Street from the intersection with Morongo

Looking northeasterly along Hathaway Street at the Morongo Road gate.
Looking east along Hathaway Street at the intersection with Morongo Road towards the future Wilson Street right-of-way.

Looking southwesterly along Hathaway Street at the Summit Ridge Apartments.
Looking southeasterly along Hathaway Street at the Orco Block yard.

Looking south along Hathaway Street at the intersection with George Street.
Looking west along Hathaway Street at the intersection with George Street.

Looking north along Hathaway Street at the intersection with George Street.
Looking south along Hathaway Street at the intersection with George Street.

Looking northwesterly along Hathaway Street at the intersection with Nicolet Street.
Looking south along Hathaway Street at the intersection with Nicolet Street.

Looking north along Hathaway Street at the intersection with Nicolet Street.
Looking southwesterly along Hathaway Street at the intersection with Nicolet Street.

Looking west along Nicolet Street at the future project entry.
Looking southwesterly along Hathaway Street the intersection of Williams Street.

Looking west along Hathaway Street at the intersection of Williams Street.
Looking south along Hathaway Street at the intersection of Williams Street.

Looking east along Hathaway Street at the intersection of Williams Street.
Looking east along Ramsey Street at the intersection of Hathaway Street.

Looking north along Hathaway Street at the intersection of Ramsey Street.
Looking north from the vicinity of Ramsey Street adjacent to the Caltrans yard.

Looking east along I-10 ramps (Ramsey Street) at the Caltrans yard.
ATTACHMENT 8

Project Plans
ATTACHMENT 9

Aerial Photo showing existing and proposed water line improvement
ATTACHMENT 10

Aerial Photo showing sewer Line alignments
ATTACHMENT 12

Governor’s Office of Planning and Research
Letter dated 4/27/10
April 27, 2010

Zai Abu Bakar
City of Banning
99 E. Ramsey Street
Banning, CA 92220-0998

Subject: Banning Business Park
SCH#: 2009031073

Dear Zai Abu Bakar:

The State Clearinghouse submitted the above named Mitigated Negative Declaration to selected state agencies for review. The review period closed on April 26, 2010, and no state agencies submitted comments by that date. This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act.

Please call the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process. If you have a question about the above-named project, please refer to the ten-digit State Clearinghouse number when contacting this office.

Sincerely,

Scott Morgan
Acting Director, State Clearinghouse
SCH# 2009031073
Project Title Banning Business Park
Lead Agency Banning, City of

Type MND Mitigated Negative Declaration
Description NOTE: Review Per Lead / Recirculated

The Banning Gateway Project will consist of 12 office/warehouse buildings and associated parking on ~63.98. The Project proposes office and warehouse buildings that will vary from 1,719 to 786,984 sf with total buildout area of ~1,194,045 sf. Buildings 1, 2, 3, 4 and 10 are designated for Manufacture uses, buildings 5, 6, 7, 8, 9, are designated for Warehouse uses, and buildings 11 and 12 are designed for High Cube Warehouse uses. In addition, the Project will be built in 3 phases (buildout of Project will be year year 2015) and will provide 2 access points to the Project site, located on the east and west portions of Nicolet Street. The Project will provide 1,244 parking space.

Lead Agency Contact
Name Zai Abu Bakar
Agency City of Banning
Phone (951) 922-3125
Fax
email
Address 99 E. Ramsey Street
City Banning
State CA Zip 92220-0998

Project Location
County Riverside
City Banning
Region
Lat / Long 33° 55' 47.7" N / 116° 51' 7.3" W
Cross Streets Northeast corner of Hathaway St and Ramsey St off the I-10 Freeway
Parcel No. 532-110-003-1; 008-6; 009-7; 010-7
Township 1S Range 3W Section 21 Base Radlands

Proximity to:
Highways I-10
Airports Banning Municipal
Railways UPRR
Waterways San Gorgonio River, Hathaway and Potrero Creek
Schools HS and ES
Land Use PLU: Vacant
Z: Business Park (BP)
GP: Business Park (BP)

Project Issues Aesthetic/Visual; Agricultural Land; Air Quality; Archaeologic-Historic; Biological Resources; Cumulative Effects; Drainage/Absorption; Economics/ Jobs; Flood Plain/Flooding; Forest Land/Fire Hazard; Geologic/Seismic; Growth Inducing; Landuse; Minerals; Noise; Population/Housing Balance; Public Services; Recreation/Parks; Schools/Universities; Septic System; Sewer Capacity; Soil Erosion/Compaction/Grading; Solid Waste; Toxic/Hazardous; Traffic/Circulation; Vegetation; Water Quality; Water Supply; Wetland/Riparian; Wildlife

Reviewing Agencies Resources Agency; Department of Fish and Game, Region 8; Department of Parks and Recreation; Department of Water Resources; Caltrans, Division of Aeronautics; California Highway Patrol; Caltrans, District 8; Regional Water Quality Control Board, Region 7; Department of Toxic Substances Control; Native American Heritage Commission

Note: Blanks in data fields result from insufficient information provided by lead agency.
Document Details Report
State Clearinghouse Data Base

Date Received  03/25/2010  Start of Review  03/25/2010  End of Review  04/26/2010

Note: Blanks in data fields result from insufficient information provided by lead agency.
ATTACHMENT 13

South Coast Air Quality Management
District letter dated 4/27/10
Draft Recirculated Mitigated Negative Declaration (Draft RMND) for the Proposed Banning Business Park

AQMD staff appreciates the opportunity to comment on the above-mentioned document. The comments included in this letter are intended as guidance for the lead agency and should be considered prior to certification of the Final CEQA document.

AQMD staff is concerned that operational air quality impacts in the Draft RMND may have been substantially underestimated and may significantly exceed the recommended AQMD daily regional significance thresholds for operations. Contrary to the recommendation of AQMD staff in our April 21, 2009 comment letter on the original Draft RMND (attached), the lead agency continues to rely on a trip rate that does not appear to match the proposed land use. The proposed project includes more than 1,000,000 square feet of warehouse and industrial space with greater than 150 loading docks. In addition, the project design will require large volumes of heavy duty diesel trucks to travel 7 days per week, 24 hours per day in close proximity to residents. The proposed facility entrance is only 65 feet from the closest residence, and the proposed truck route to the Interstate 10 freeway is adjacent to existing housing. Further, based on AQMD staff modeling, regional operational impacts appear to be significant. The AQMD staff therefore recommends that an Environmental Impact Report be prepared and circulated in accordance with CEQA Guidelines §15002(f)(1) and §15064(a)(1) and that the applicable air quality analyses be completed incorporating the attached comments.

AQMD staff strongly suggests that the lead agency consider the recommendations from the Western Riverside Council of Governments (WRCOG) “Good Neighbor Guidelines for Siting New and/or Modified Warehouse/Distribution Facilities”. Additional mitigation measures included in the attached comments are recommended to reduce operational impacts to the residents and other sensitive receptors impacted by project operations.
Ms. Zai Abu Bakar,  
Community Development  

April 27, 2010  

Please provide the AQMD with written responses to all comments contained herein prior to the adoption of the Final CEQA document. The AQMD staff is available to work with the Lead Agency to address these issues and any other questions that may arise. Please contact Ian MacMillan, Program Supervisor -- Inter-Governmental Review, at (909) 396-3244, if you have any questions regarding these comments.

Sincerely,

[Signature]

Ian MacMillan  
Program Supervisor, Inter-Governmental Review  
Planning, Rule Development & Area Sources

Attachments:  
IM:JK:GM  

SBC100325-02  
Control Number
Ms. Zai Abu Bakar,
Community Development

OPERATIONAL AIR QUALITY ANALYSIS

Regional Thresholds
As stated on page 18 of the Draft RMND, regional NOx emissions are anticipated to reach 54 pounds per day for both Phase 2 and Phase 3 operations. This level is just below the threshold utilized in the Draft RMND of 55 pounds per day. Because of this small margin of safety, the following comments are meant to guide the lead agency to carefully reconsider potential impacts, and include more stringent enforceable mitigation measures to ensure that impacts remain as low as possible.

1. URBEMIS Trip Rates
   In Table 15 the Trip Generation Rates on page 74 of the Traffic Impact Study (KOA Corporation, December 2009) and in the URBEMIS computer model output sheets for operational emissions, the lead agency has changed the URBEMIS2007 default trip rate from 4.96 to 1.44 trips per 1,000 square foot under the High Cube Warehouse land use type resulting in substantially fewer operational trips and vehicle miles traveled. This drastic reduction in trip rate may not be appropriate given that in Buildings 11 and 12 alone there are 133 loading docks, and only 1353 total daily trips (URBEMIS output). Of the 1353 trips, no more than 18%, or 244 trips are counted as heavy duty (Lite-Heavy through Heavy-Heavy classification) trucks in the URBEMIS model. This averages to less than 2 truck trips per dock per day. Without further justification, it is difficult to determine if this very low trip rate is appropriate. If the lead agency concludes that this condition is true, then an enforceable mitigation measure that limits the truck throughput at these facilities to less than 244 total truck trips per day should be specified in the Final CEQA document prepared for this project.

2. Discrepancy Between Traffic Study and Air Quality Study
   Table 17 of the Traffic Study indicates that over 12% of the truck trips will be with 4+ axle trucks, generally indicating a Heavy-Heavy classification. However, the URBEMIS fleet mix only includes 1.8% Heavy-Heavy trucks. As all of these vehicles are likely to use diesel fuels with high emissions, further justification of truck trip rates is needed prior to finalization of the CEQA process for this project. In the Final CEQA document, the number of total daily trips used should be consistent throughout the document’s air quality analysis, traffic study, health effects study, etc., performed by the lead agency.

3. Potential for Significant Air Quality Impact
   If the lead agency believes that the 1.44 trips per 1,000 square foot rate is appropriate, detailed documentation should be provided in the Final CEQA document that demonstrates that the trip rate is appropriate for the land use and its inland location. Otherwise, the AQMD recommends that operational impacts should be revised accordingly in the URBEMIS model using the more conservative default 4.96 trip rate in the Final CEQA document. Based on modeling done by AQMD staff using the 4.96 per 1,000 feet default trip rate and the lead agency’s average truck trip one-mile distance of 27 miles as entered in the lead agency’s URBEMIS modeling, the
Ms. Zai Abu Bakar,
Community Development

proposed project may exceed the AQMD recommended daily operational regional significance thresholds. If significant impacts are identified by the lead agency, AQMD staff recommends that an Environmental Impact Report be prepared and circulated in accordance with CEQA Guidelines §15002(f)(1) and §15064(a)(1) and that all feasible mitigation measures be considered to reduce the magnitude of these impacts.

Localized Thresholds

4. Operational Hours

As stated on page 25 of the Draft RMND "Trucks are assumed to operate 24 hours per day and 7 days per week." However, in the Localized Significance Threshold model files sent to AQMD staff, only 8 daytime hours were included. The remaining 16 hours of emissions were not calculated. The lead agency is encouraged to either include a mitigation measure limiting operations to 8 hours per day, or to revise the modeling to include a full 24 hour day of operations. Results from this revised modeling should be compared with localized significance thresholds to determine the potential significance of the project in the Final CEQA document.

5. Annual Thresholds

In Table 7 on page 20 of the Draft RMND, NO\textsubscript{2} (1-hour) and PM\textsubscript{10} (24-hour) thresholds and concentrations are presented for the proposed project. While neither of these short term thresholds is exceeded, annual standards were not considered. The Final CEQA document should include a discussion and modeling of potential annual impacts from NO\textsubscript{2} and PM\textsubscript{10} in comparison with AQMD thresholds available here: http://www.aqmd.gov/ceqa/handbook/signthres.pdf

MITIGATION MEASURES

6. Good Neighbor Guidelines

The Western Riverside Council of Governments (WRCOG) "Good Neighbor Guidelines for Siting New and/or Modified Warehouse/Distribution Facilities" were developed to provide local governments and developers with a menu of options of strategies that can reduce exposure to diesel particulate from new and/or modified warehouse or distribution centers. The Guidelines were developed through the WRCOG's Regional Air Quality Task Force. The Guidelines include 7 goals, and a variety of strategies for each goal that can be implemented in whole or part. There are numerous benefits associated with adopting the guidelines, including reducing the exposure of residents and other sensitive receptors to diesel emissions. The Guidelines can be downloaded from the WRCOG web page at the following URL: http://www.wrcog.cog.ca.us/downloads/Good+Neighbor+Policies+Final-091205.pdf. Any questions pertaining to the Guidelines can be directed to WRCOG at (951) 955-7985.
7. **Additional Mitigation Measures**

Should the lead agency determine (see comments #1 and #2) that operational air quality impacts from the proposed project exceed the AQMD recommended regional daily significance thresholds, the AQMD staff recommends that the lead agency consider adding the following mitigation measures in addition to those listed on page 24 of the Draft RMND to further reduce operational air quality impacts from the project, if applicable and feasible:

**Recommended Additions:**

- Prohibit all diesel trucks from idling in excess of five minutes, both on-site and off-site;
- Restrict operations to “clean trucks,” such as a 2007 or newer model year or 2010 compliant vehicle;
- Create a buffer zone of at least 300 meters (roughly 1,000 feet), which can be office space, employee parking, greenbelt, etc. between the warehouse/distribution center and sensitive receptors;
- Re-route truck traffic by adding direct off-ramps for the truck or by restricting truck traffic on certain sensitive routes;
- Improve traffic flow by signal synchronization;
- Use street sweepers that comply with AQMD Rules 1186 and 1186.1;
- Conduct air quality monitoring at sensitive receptors;
- Use alternative fueled off-road equipment;
- Design the warehouse/distribution center such that entrances and exits are such that trucks are not traversing past neighbors or other sensitive receptors;
- Design the warehouse/distribution center such that any check-in point for trucks is well inside the facility property to ensure that there are no trucks queuing outside of the facility;
- Require the warehouse/distribution center to clearly define the primary entrance and exit of the warehouse/distribution center;
- Restrict overnight parking in residential areas;
- Enforce truck parking restrictions;
- Establish overnight parking within the warehouse/distribution center where trucks can rest overnight;
- Establish area(s) within the facility for repair needs;
- Require all warehouse/distribution centers to operate the cleanest vehicles available;
- Conduct periodic community meetings inviting neighbors, community groups, and other organizations;
AQMD PERMIT REQUIREMENTS

8. In the Draft Recirculated MND, the lead agency describes potential aggregate rock crushing operations that might require AQMD permits. The lead agency should be aware that aggregate rock crushing operations or equipment including emergency diesel-powered generators are subject to the following rules and should note this in the Final CEQA document. In addition, the rock crushing and hauling emissions from this site preparation activity should be included in the Final CEQA document as a worst case scenario estimate for construction. If emergency generators are proposed, those emissions should also be calculated and included in the Final CEQA document. Permit questions can be directed to AQMD engineering and compliance staff at (909) 396-2591.

- Rule 1157 - PM10 Emission Reductions from Aggregate and Related Operations; and
- Regulation XIII – New Source Review.
ATTACHMENT 14

Caltrans District 8 letter dated 4/28/10
April 28, 2010

Zai Abu Bakar
City of Banning
99 East Ramsey
Banning, CA 92220

Mitigated Negative Declaration for the Banning Business Park. SCH# 2009031073. Riv-10-PM 14.508

Dear Ms. Abu Bakar,

We have completed our review of the Mitigated Negative Declaration (MND) for the Banning Business Park (Previously “Banning Gateway Park”). The project is located north of Interstate 10 (I-10) on the Northeast corner of Hathaway Street and Ramsey Street in the City of Banning. The proposed project will consist of 12 office-warehouse buildings and associated parking on approximately 63.98 acres.

As the owner and operator of the State Highway System (SHS), it is our responsibility to coordinate and consult with local jurisdictions when proposed development may impact our facilities. As the responsible agency under the California Environmental Quality Act (CEQA), it is also our responsibility to make recommendations to offset associated impacts with the proposed project. Although the project is under the jurisdiction of the City of Banning, due to the Project’s potential impact to State facilities, it is also subject to the policies and regulations that govern the SHS. The following comments are for your review:

Traffic

- Please revise the turning movement data in Figures 41 and 71 as they seem to be inconsistent with the LOS analysis in Appendix G.
- Please clarify intersection #14; it is depicted in Figure 1 but no analysis has been provided in the document.
- Figure 1 does not show intersections #12 and 13.
- Provide ramps queues for eastbound Ramsey St exit.
- Provide signal warrants study for intersection #5, 6, and 11 for phases 1, 2, and 3.
- Provide merge, diverge, mainline, and queues length for intersections #4, 5, 6.
Hydrology

- During final design, a formal hydrology study will be required to make certain proposed construction does not adversely affect Caltrans drainages facilities.

We appreciate the opportunity to offer comments concerning this project. If you have any questions regarding this letter, please contact me at (909) 383-4557 for assistance.

Sincerely,

[Signature]

DANIEL KOPULSKY
Office Chief
Community Planning/IGR-CEQA
ATTACHMENT 15

Morongo Band of Mission Indians
Letter dated 4/14/10
April 14, 2010

Duane Burk  
City of Banning  
Director of Public Works  
99 E. Ramsey St.  
P.O. Box 998  
Banning, CA 92220-0998

SUBJECT: Re-Circulated Mitigated Negative Declaration for Banning Business Park

Dear Mr. Burke:

Thank you for contacting the Morongo Band of Mission Indians regarding the above referenced project. The Tribe greatly appreciates the opportunity to review the project and, respectfully, offer the following comments.

The project is outside of the Tribe's current reservation boundaries but within an area that may be considered a traditional use area or one in which the Tribe has cultural ties (e.g. Cahuilla/Serrano territory). Because the project involves the construction of 12 office/warehouse buildings and associated parking on approximately 63.98 acres situated at the northeast corner of Ramsey Street and Hathaway Street the Morongo Band of Mission Indians asks that you impose standard conditions regarding cultural and/or archaeological resources and buried cultural materials on any development plans or entitlement applications as follows:

- If human remains are encountered during grading and other construction excavation, work in the immediate vicinity shall cease and the County Coroner shall be contacted pursuant to State Health and Safety Code §7050.5.

- In the event that Native American cultural resources are discovered during project development/construction, all work in the immediate vicinity of the find shall cease and a qualified archaeologist meeting Secretary of Interior standards shall be hired to assess the find. Work on the overall project may continue during this assessment period.

If significant Native American cultural resources are discovered, for which a Treatment Plan must be prepared, the developer or his archaeologist shall contact the Morongo Band of Mission Indians.
("Tribe")¹. If requested by the Tribe, the developer or the project archaeologist shall, in good faith, consult on the discovery and its disposition (e.g. avoidance, preservation, return of artifacts to tribe, etc.).

If I may be of further assistance with regard to this matter, please do not hesitate to contact me at your convenience.

MORONGO BAND OF MISSION INDIANS

Roger Meyer
Chief Executive Officer

c: Michael Milhiser, Chief Administrative Officer
Thomas Linton, Administrator, Planning and Construction Services
Karen Woodard, Administrator, Realty/Housing Department
Franklin A. Dancy, Director of Planning

¹The Morongo Band of Mission Indians realizes that there may be additional tribes claiming cultural affiliation to the area; however, Morongo can only speak for itself. The Tribe has no objection if the archaeologist wishes to consult with other tribes and if the city wishes to revise the condition to recognize other tribes.
NOTICE OF PUBLIC HEARING
AND
NOTICE OF AVAILABILITY OF A DRAFT MITIGATED NEGATIVE DECLARATION

PURSUANT TO LAW, NOTICE IS HEREBY GIVEN of a Public Hearing before the Planning Commission of the City of Banning, to be held on Tuesday, May 4, 2010, at 6:30 p.m. in the Council Chambers, City Hall, 99 East Ramsey Street, Banning, California, to consider the following:

Design Review #07-708 / Tentative Parcel Map #36056 / Initial Study & Draft Mitigated Negative Declaration

Design Review # 07-708 is a request to review the design of the project and site development to ensure conformity with the City’s development standards and design guidelines. The Banning Business Park proposal will consist of 12 office/warehouse buildings and associated parking on approximately 63.98 acres. The Project proposes office and warehouse buildings that will vary from 11,719 to 786,984 square feet with total build-out area of approximately 1,194,045 square feet. Buildings 1, 2, 3, 4 and 10 are designated for Manufacturing uses, buildings 5, 6, 7, 8, 9, are designated for Warehouse uses, and buildings 11 and 12 are designated for High Cube Warehouse uses. In addition, the Project will be built in three phases (build-out of Project will be year 2015) and will provide two (2) access points to the Project site, located on the east and west portions of Nicolet Street. The Project will provide 1,244 parking spaces.

Tentative Parcel Map #36056 is a request to subdivide an approximately 64 acre site into 9 lots for the development of a business park, which includes office, manufacturing and warehouse uses.

The proposed project is located approximately 1,090 feet north of the northeast corner of Hathaway Street and Ramsey Street, off the I-10 Freeway / APN 532-110-003, 532-110-008, 532-110-009 and 532-110-010.

In accordance with the City’s Guidelines implementing the California Environmental Quality Act, this Initial Study was undertaken for the purpose of deciding whether the project may have a significant effect on the environment. On the basis of such Initial Study, the City’s staff has concluded that the project will not have a significant effect on the environment with implementation of mitigation measures, and has therefore recommended the adoption of a Draft Mitigated Negative Declaration. The Initial Study reflects the independent judgment of the City. The project site is not on a list compiled pursuant to Government Code Section 65962.5. Copies of the Initial Study and Draft Mitigated Negative Declaration are on file and available for public review at City Hall, 99 East Ramsey Street, Banning, California, 92220 and at the Banning Public Library, 21 W. Nicolet Street, Banning CA 92220. The public review period for the draft Mitigated Negative Declaration begins on March 26, 2010 and concludes on April 26, 2010.
All parties interested in speaking either in support of or in opposition to any item are invited to attend said hearing and all comments and any questions should be directed to: Zai Abu Bakar, Community Development Director, City of Banning, Planning Department, 99 E. Ramsey Street, Banning CA 92220; Phone # 951-922-3131 or fax # 951-922-3128.

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

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

Zai Abu Bakar
Community Development Director

Dated: March 24, 2010
Publish: March 26, 2010
NOTICE OF PUBLIC HEARING

PURSUANT TO LAW, NOTICE IS HEREBY GIVEN of a Public Hearing before the Planning Commission of the City of Banning, to be held on Tuesday, May 4, 2010, at 6:30 p.m. in the Council Chambers, City Hall, 99 East Ramsey Street, Banning, California, to consider the following:

1) Resolution No. 2010-03: A Resolution of the Planning Commission of the City of Banning, California approving Conditional Use Permit No. 10-801, a request by Walgreens to approve the offsite sale of beer and wine from the existing store located at 60 N. Highland Springs Avenue (APN 419-111-001, -002); and a determination of public convenience and necessity.

2) Design Review #07-708 / Tentative Parcel Map #36056 / Initial Study & Draft Mitigated Negative Declaration: Design Review # 07-708 is a request to review the design of the project and site development to ensure conformity with the City’s development standards and design guidelines. The Banning Business Park proposal will consist of 12 office/warehouse buildings and associated parking on approximately 63.98 acres. The proposed project is located approximately 1,090 feet north of the northeast corner of Hathaway Street and Ramsey Street / APN 532-110-003, 532-110-008, 532-110-009 and 532-110-010.

Tentative Parcel Map #36056 is a request to subdivide an approximately 64 acre site into 9 lots for the development of a business park, which includes office, manufacturing and warehouse uses.

The public review period for the draft Mitigated Negative Declaration began on March 26, 2010 and concludes on April 26, 2010.

Information regarding the foregoing can be obtained by contacting the City's Planning Department at (951) 922-3125, or by visiting the City Hall located at 99 East Ramsey Street, Banning.

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

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

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

Zai Abu Bakar
Community Development Director

Dated: April 19, 2010
Publish: April 23, 2010
ATTACHMENT 17

Mailing Labels
NOTICE OF PUBLIC HEARING

PURSUANT TO LAW, NOTICE IS HEREBY GIVEN to all property owners within 300 feet of the subject property, of a public hearing before the Planning Commission of the City of Banning, to be held at a regular Planning Commission Meeting on Tuesday, May 4, 2010 at 6:30 p.m. in the Council Chambers, City Hall, 99 East Ramsey Street, Banning, California, to consider the following:

1) Resolution No. 2010-03: A Resolution of the Planning Commission of the City of Banning, California approving Conditional Use Permit No. 10-801, a request by Walgreens to approve the offsite sale of beer and wine from the existing store located at 60 N. Highland Springs Avenue (APN 419-111-001, -002); and a determination of public convenience and necessity.

2) Design Review #07-708 / Tentative Parcel Map #36056 / Initial Study & Draft Mitigated Negative Declaration: Design Review # 07-708 is a request to review the design of the project and site development to ensure conformity with the City's development standards and design guidelines. The Banning Business Park proposal will consist of 12 office/warehouse buildings and associated parking on approximately 63.98 acres. The proposed project is located approximately 1,090 feet north of the northeast corner of Hathaway Street and Ramsey Street / APN 532-110-003, 532-110-008, 532-110-009 and 532-110-010.

Tentative Parcel Map #36056 is a request to subdivide an approximately 64 acre site into 9 lots for the development of a business park, which includes office, manufacturing and warehouse uses.

The public review period for the draft Mitigated Negative Declaration began on March 26, 2010 and concludes on April 26, 2010.

Information regarding the foregoing can be obtained by contacting the City’s Planning Department at (951) 922-3125, or by visiting the City Hall located at 99 East Ramsey Street, Banning.

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

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

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

Zai Abu Bakar
Community Development Director

Date: April 22, 2010
532-110-001
Muth Holdings
8042 Katella Ave
Stanton, CA 90680

532-110-003
Osi Partnership 1
3 San Joaquin Plz 160
Newport Beach, CA 92660

532-110-004
Louis S Lopez
421 Fleetwood Pl
Glendora, CA 91740

532-110-005
Vulcan Iron & Steel Co Inc
425 Castle Pl
Beverly Hills, CA 90210

532-110-007
Stf Minerals Corp
1700 Lincoln St
Denver, CO 80203

532-110-008
Osi Partnership 1
3 San Joaquin Plz 160
Newport Beach, CA 92660

532-110-010
Osi Partnership 1
3 San Joaquin Plz 160
Newport Beach, CA 92660

532-110-011
State Of Calif
464 W 4Th St 6Th
San Bernardino, CA 92401

532-110-012
City Of Banning
Unknown
Banning, CA 92220

541-094-017
Fred & Cindy Gifford
1577 E Nicolet St
Banning, CA 92220

541-094-020
Salem Property Holdings Lp
2785 Pacific Coast Hwy
Torrance, CA 90505

541-094-021
Moises Reynaga
781 N Blanchard St
Banning, CA 92220

541-094-023
Vizzcarra Const & Dev Corp
1135 E Route 66 208
Glendora, CA 91740

541-094-024
Antonio & Luis Olivera
1521 E Nicolet St
Banning, CA 92220

541-094-025
Pedro & Carmelita Sanchez
1505 E Nicolet St
Banning, CA 92220

541-094-028
George & Marianna Gomez
443 N Hathaway St
Banning, CA 92220

541-134-001
Hector Calderon
11712 Gary St
Garden Grove, CA 92840

541-134-002
Juan Galvez
3175 Havenpark Ave
El Monte, CA 91733

541-134-003
Federal Home Loan Mtg Corp
5028 Napa Ave
Alta Loma, CA 91701

541-134-004
Osborne & Anderson-Osborne
41 Orquidia Ct
Palm Desert, CA 92260

541-134-005
Aurora Ln Svcs Llc "M"
2617 College Park Dr
Scottsbluff, NE 69361

541-134-006
James L & Maggie Scott
1516 E Nicolet St
Banning, CA 92220

541-134-011
Jonny W Dilba
1643 S Vicentia Ave
Corona, CA 92882

541-134-012
Maria E Garcia
1555 E Jacinto View Rd
Banning, CA 92220

541-134-013
Jose Rojas
1531 E Jacinto View Rd
Banning, CA 92220

541-134-014
Soundview Hm Loan 2007-Opt5
1561 E Jacinto View Rd
Banning, CA 92220

541-134-015
Bernardo A Moncada
1160 N California Ave
Beaumont, CA 92223

541-135-001
Thorne L Pellum
PO Bx 364
Banning, CA 92220
541-135-002
Steve & Julie Granger
520 N Del Sol Ln
Diamond Bar, CA 91765

541-135-003
Joe Rodriguez
1548 E Jacinto View Rd
Banning, CA 92220

541-135-004
Jim Darling
28847 Hagy Ave
Highland, CA 92346

541-135-005
Willie C & John Davis
505 E Nicolet St
Banning, CA 92220

541-135-014
Ann M Ferguson
15239 La Palma Way
Rancho Belago, CA 92555

541-135-015
Joseph Jara
1251 Beaumont Ave
Beaumont, CA 92223

*** 36 Printed ***
CITY OF BANNING
PLANNING COMMISSION REPORT

DATE: June 1, 2010

TO: Mr. Chairman and Members of the Planning Commission

FROM: Zai Abu Bakar, Community Development Director

SUBJECT: CONDITIONAL USE PERMIT AMENDMENT NO. 09-806:
A REQUEST BY ROYAL STREET COMMUNICATIONS CA, LLC TO
LOCATE A WIRELESS TELECOMMUNICATIONS FACILITY AT THE
EXISTING HOLIDAY INN EXPRESS LOCATED AT 3020 W. RAMSEY
STREET IN THE HIGHWAY SERVING COMMERCIAL (HSC) ZONE
(APN 538-340-022).

STAFF RECOMMENDATION

The Planning Division recommends the Planning Commission take the following actions:

1. Adopt a Class I Categorical Exemption in compliance with CEQA Guidelines Section 15301 (Existing Facilities); and,

2. Adopt PC Resolution No. 2010-05 (Attachment 1) approving Conditional Use Permit Amendment No. 09-806 subject to conditions.

PROJECT/APPLICANT INFORMATION

Project Location: 3020 W. Ramsey Street
APN Information: 538-340-022
Project Applicant: Royal Street Communications CA, LLC
Property Owner: CA Kabir, Inc., a California Corporation
Redevelopment Area: Yes
Specific Plan: No
PROJECT BACKGROUND AND DESCRIPTION

Project Description:

The applicant is requesting approval to locate a wireless telecommunications facility at the existing Holiday Inn Express located at 3020 W. Ramsey Street (see Attachment 2 - Vicinity Map). The telecommunications antennae are proposed to be located on the roof concealed behind the parapet of the two towers located at either end of the building (the tower nearest Ramsey Street and the tower nearest Interstate 10). The roofing material (clay tiles) will be replaced with an RF transparent material on the sides where the antennae are located. The heights of the towers are 48 feet above grade while the tops of the antennae are 47 feet, 4 inches thereby concealing the antennae from public view. The telecommunication equipment panels are proposed to be located within the attic space (penthouse) of the south tower. The application includes the request to place a total of six antennae panels on the north and south towers respectively of the existing building.

Land Use Information

The project is located in the Highway Serving Commercial (HSC) Zone. The project site is located on the south side of Ramsey Street, approximately 500 feet east of Sunset Avenue. Morongo Avenue forms a t-intersection on the north side of Ramsey Street. An auto repair shop is located at the northwest corner of Morongo Avenue and Ramsey Street; and, a retail store is located at the northeast corner. An office complex is located west of the site that includes a bank. The parcel east of the site is presently vacant; however, on March 6, 2007 the Planning Commission approved Conditional Use Permit #06-808 and Design Review #07-705 for a medical and professional office project. That approval expires in 2012.

The use of the site for a hotel (Holiday Inn Express) was approved by Planning Commission on February 20, 2007 (see Resolution No. 2007-05 - Attachment 3). The nature of the surrounding uses, Zoning and General Plan land use designations are delineated for Planning Commission consideration in the following table.
# Land Use Summary Table

<table>
<thead>
<tr>
<th>Subject Site</th>
<th>Existing Land Use</th>
<th>Zoning Designation</th>
<th>General Plan Designation</th>
</tr>
</thead>
<tbody>
<tr>
<td>North</td>
<td>Existing hotel (Holiday Inn Express)</td>
<td>Highway Serving Commercial</td>
<td>Highway Serving Commercial</td>
</tr>
<tr>
<td>North</td>
<td>Existing auto repair shop (Mountain Air)</td>
<td>Highway Serving Commercial</td>
<td>Highway Serving Commercial</td>
</tr>
<tr>
<td>South</td>
<td>Existing retail store (Smart &amp; Final)</td>
<td>Highway Serving Commercial</td>
<td>Highway Serving Commercial</td>
</tr>
<tr>
<td>East</td>
<td>Interstate 10</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>East</td>
<td>Vacant Lot</td>
<td>Highway Serving Commercial</td>
<td>Highway Serving Commercial</td>
</tr>
<tr>
<td>West</td>
<td>Existing bank and offices</td>
<td>Highway Serving Commercial</td>
<td>Highway Serving Commercial</td>
</tr>
</tbody>
</table>

## PROJECT ANALYSIS

### Zoning Analysis:

The site is located in the Highway Serving Commercial (HSC) zone. This district allows land uses geared toward the Interstate 10 traveler, including restaurants (fast food and sit down), hotels and motels, auto related retail, repair and services, including gas stations, convenience stores and similar uses. Planning Commission approved the 3-story, 70 guestrooms, Holiday Inn Express Hotel and Suites on February 20, 2007 by adoption of Resolution No. 2007-05. With the approval of a conditional use permit by Planning Commission this zone may permit a telecommunications antennae (see Table 17.12.020 of the Zoning Code).

The lease area for the telecommunications facility are portions of the north and south roof of the respective towers with the equipment located in the south tower penthouse. Section 17.24.060(B) of the Zoning Code allows the Planning Commission to approve the installation of the antennae on existing structures if architecturally screened from view. This type of wireless telecommunications installation is desirable as it integrates the facility with an existing architectural feature (existing hotel building) and is completely concealed from public view. Section 17.24.060(C) of the Zoning Code requires that the maximum height of the antennae be 80 feet. While Section 17.24.060(A) states that the location of a proposed antennae conform to the development standards of the zoning district in which it is proposed. The maximum height of structures located in the HSC zone is 35 feet. This height restriction was amended to 56.6 feet with the approval of CUP #06-807 for the hotel.
Below is a chart showing the minimum development standards for the **Highway Serving Commercial** (HSC) zone (Table 17.12.030) including those standards required at Section 17.24.060 *Antennae, vertical design standards*, and how the proposed project meets the standards.

<table>
<thead>
<tr>
<th>Development Standards</th>
<th>Required</th>
<th>Provided</th>
<th>Complies With Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>Front Setback</td>
<td>10 feet</td>
<td>15 feet</td>
<td>Yes</td>
</tr>
<tr>
<td>Side Setback</td>
<td>0 feet</td>
<td>9 feet</td>
<td>Yes</td>
</tr>
<tr>
<td>Rear Setback</td>
<td>-0 feet</td>
<td>42 feet</td>
<td>Yes</td>
</tr>
<tr>
<td>Lot Coverage (%)</td>
<td>35% (maximum)</td>
<td>25%</td>
<td>Yes</td>
</tr>
<tr>
<td>Required Parking</td>
<td>One space for maintenance truck</td>
<td>70</td>
<td>Yes</td>
</tr>
<tr>
<td>Antenna Height</td>
<td>35 feet maximum. More height permitted subject to a CUP.</td>
<td>47.3 feet</td>
<td>Yes, per the previously approved CUP.</td>
</tr>
<tr>
<td>Minimum Lot Size</td>
<td>6,000 square feet</td>
<td>59,900 square feet</td>
<td>Yes</td>
</tr>
</tbody>
</table>

**Site Plan Analysis:**

The site is accessed by the existing driveway fronting Ramsey Street. The driveway and parking area is paved in accordance with Section 17.28.060 of the Municipal Code. Additionally, approximately 6,770 square feet of the parking area is landscaped. The project will not affect the existing site configuration and improvements.

**Parking Analysis:**

One parking space is required for the telecommunications service truck and one parking space is reserved for an emergency generator in the event of a power failure. Seventy spaces were constructed in connection with the hotel project and will adequately serve the telecommunications facility.

**Architectural Analysis:**

Section 17.24.060(F) of the Zoning Code requires antennae not be visible from a federal highway. The proposed method for installing the antennae and equipment in the towers of the existing hotel building conceals them from public view. Replacement of the concrete/clay tile roofing material on the towers with RF transparent material is required for the antennae installation. A sample of the RF transparent roofing tiles was submitted by the applicant. An examination of the material reveals that it simulates in color, form, and textures the existing concrete/clay roofing material; and, therefore the project, as proposed, will maintain the architectural integrity of the existing hotel building.
Conclusion

Staff recommends approval of the subject conditional use permit amendment as the proposed project is consistent with the requirements of the Zoning Code, while not significantly effecting the environment. In all probability, the public will almost certainly not be aware that a telecommunications facility is installed at this location. This fact is desirable as there are many existing telecommunications facilities along the Interstate 10 corridor of varying quality. Additionally, the location of the project, as proposed, is advantageous as it utilizes the existing site leaving parcels available for other development.

ENVIRONMENTAL DETERMINATION

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 Planning Division as provided in this Staff Report dated June 1, 2010 and documents incorporated herein by reference, and any other evidence (within the meaning of Public Resources Code § 21080(e) and § 21082.2) within the record or provided at the public hearing of this matter, hereby finds and determines as follows:

1. California Environmental Quality Act (CEQA):

   (a) The project is Categorically Exempt from CEQA in accordance with Section 15301 (Existing Facilities) in that the staff report submitted by the Planning Division and findings made in this Resolution demonstrate that Conditional Use Permit Amendment #09-806 consists of the permitting and or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the City of Banning approval of Conditional Use Permit #06-807 (Holiday Inn Express hotel). Examples include the exterior alterations involving such things as electrical conveyances; existing facilities of both investor and publicly-owned utilities used to provide public utility services; and, additions to existing structures provided that the addition will not result in an increase of more than 50 percent of the floor area of the structures before the addition, or 2,500 square feet, whichever is less.

   (b) None of the exceptions to the Categorical Exemptions contained in CEQA Guidelines Section 15300.2 prevent CEQA Guidelines Section 15301 from exempting the project for the following reasons:

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

      (ii) The nature of the project is such that significant cumulative impacts will not occur from successive projects of this type occurring in the same location over time. The Highway Serving Commercial (HSC) zoning standards regulates the land use around the site. North of the site and across Ramsey Street is an existing auto repair shop and existing retail store. West of the site are an
existing office complex and bank. Immediately east of the site is a vacant lot. Immediately to the south of the site is the I-10 freeway. This is a long-established, freeway-adjacent, commercial area along Ramsey Street, the City’s major commercial corridor.

(iii) There is no reasonable possibility that unusual circumstances will cause the project to have a significant effect on the environment because the project is located at a site already fully developed; the City’s utilities and roads are adequate to serve the project; and, the site and the surrounding properties are not environmentally sensitive properties. Minor modifications to the roof material of the towers will maintain the architectural integrity of the existing hotel building and there will not be aesthetic impacts to surrounding businesses.

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

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

(vi) The project will not cause a substantial adverse change to the significance of a historical resource as there is no historical resource in the area. The site is developed as a hotel in 2007 and a historical resource or its immediate surroundings will not be demolished, destroyed, relocated, or altered such that the significance of the historical resource would be materially impaired.

2. Multiple Species Habitat Conservation Plan (MSHCP).

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

REQUIRED FINDINGS FOR CONDITIONAL USE PERMIT AMENDMENT NO. 09-806

The Zoning Ordinance requires that each Conditional Use Permit application meet certain findings in Section 17.52.050 in order to be approved by the Planning Commission. The following findings are provided for Commission consideration:

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

The project is consistent with General Plan Economic Development Element Policy #3 which states: "Encourage and promote infill development in orderly and logical development patterns that decrease the costs, and increase the efficiency of new utilities, infrastructure, and public services." By locating the telecommunications facility at the existing hotel towers and penthouse, there will be a lesser need for a free-standing cell-site thereby leaving parcels available for other commercial development.
Finding No. 2: The proposed use as a telecommunications facility is conditionally permitted within the subject land use district.

Findings of Fact: The project site is zoned Highway Serving Commercial (HSC). Telecommunications facilities are allowed in the HSC zone subject to approval of a conditional use permit (CUP) by Planning Commission. The applicant is requesting approval of CUP which is consistent with the zoning. Further, the project is conditioned to meet all local standards pertaining to development and use, including providing sufficient parking, setbacks, fencing, screening from a state or federal highway, and landscaping.

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

Facts of Fact: The proposed use will not impair the integrity and character of the Highway Serving Commercial (HSC) land use district in which it is to be located because the proposed telecommunications facility will be completely screened from public view by locating the antennae and equipment within the towers and penthouse of the building. Minor modifications to the roof material of the towers will maintain the architectural integrity of the existing hotel building and there will not be aesthetic impacts to surrounding businesses.

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

Findings of Fact: The subject site is currently developed as a hotel. The telecommunications facility is proposed on the towers and penthouse of the existing hotel building. The project has negligible impact to the architecture of the existing building.

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

Finding of Fact: The site is served by public and private utilities, including the City's water and electrical utilities. The site is accessed and served from Ramsey Street, an existing developed roadway with existing utilities located within the roadway right-of-way.

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

Finding of Fact: The project is proposed on the towers and penthouse of an existing hotel. The site and surrounding neighborhood is currently developed. The parcel is flat (unable to support bodies of water) and is already fully improved.

Furthermore, the project is Categorically Exempt from CEQA in accordance with Section 15301 (Existing Facilities) in that the staff report submitted by the Planning Division and other findings made in this Resolution demonstrate that Conditional Use Permit Amendment #09-806 consists of the permitting and or minor alteration of existing public
or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the City of Banning approval of Conditional Use Permit #06-807 (Holiday Inn Express hotel).

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

Finding of Fact: The location of a wireless telecommunication facility will not be detrimental to the City’s health, safety, and welfare in that it complies with the Zoning Code development standards. Furthermore, by locating the telecommunications facility at the existing hotel towers and penthouse, there will be a lesser need for a free-standing cell-site thereby leaving parcels available for other commercial development.

The project will not generate excessive noise or traffic. There is adequate parking and screening from adjacent uses.

**PUBLIC COMMUNICATION**

The proposed project was advertised in the *Record Gazette* newspaper, a newspaper of general circulation within the City of Banning, on May 21, 2010 and notices were mailed to all property owners within a 300-foot radius of the site. As of the date of this report, staff has not received any verbal or written comments for or against the proposed project.
PC Attachments:

1. Resolution No. 2010-05 (with Conditions of Approval)
2. Vicinity Map
3. Copy of PC Resolution No. 2007-05 (for Conditions of Approval for the Holiday Inn Express)
4. Aerial Photograph
5. Site Photographs
6. Project Plans
7. Photo Simulations
Attachment 1

(Resolution No. 2010-05)
RESOLUTION NO. 2010-05


WHEREAS, an application for a telecommunications facility has been duly filed by:

Project Applicant: Royal Street Communications CA, LLC
Property Owner: CA Kabir, Inc., a California Corporation
Project Location: 3020 W. Ramsey Street
APN Information: 538-340-022
Redevelopment Area: Yes
Specific Plan: No
Lot Size: 1.38 acres (59,900 square feet)

WHEREAS, the Planning Commission has the authority per Chapter 17.52 of the Banning Municipal Code to take action on Conditional Use Permit Amendment No. 09-806 to locate a telecommunications facility in the Highway Serving Commercial (HSC) zone; and

WHEREAS, on May 21, 2010 the City gave public notice by advertising in the Record Gazette, a newspaper of general circulation within the City of Banning, and by mailing notices to property owners within 300 feet of the project of the holding of a public hearing at which the project would be considered; and

WHEREAS, on June 1, 2010 the Planning Commission held the noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to, Conditional Use Permit Amendment #09-806, and at which meeting the Planning Commission considered the Conditional Use Permit Amendment; and

WHEREAS, the Community Development Director has reviewed the project’s potential effects on the environment and has recommended that the project is categorically exempt from the California Environmental Quality Act (“CEQA”) under CEQA Guidelines Section 15301 “Existing Facilities” and the exceptions to the categorical exemptions contained in CEQA Guidelines Section 15300.2 are not applicable to the project.

NOW THEREFORE, the Planning Commission of the City of Banning does Resolve, Determine, Find, and Order as follows:
SECTION 1. ENVIRONMENTAL FINDINGS.

The Planning Commission, in light of the whole record before it, including but not limited to, the City's Local CEQA Guidelines and Thresholds of Significance, the recommendation of the Community Development Director as provided in the Staff Report dated June 1, 2010 and documents incorporated therein by reference, and any other evidence (within the meaning of Public Resources Code § 21080(e) and § 21082.2) within the record or provided at the public hearing of this matter, hereby finds and determines as follows:

1. California Environmental Quality Act (CEQA):

(a) The project is Categorically Exempt from CEQA in accordance with Section 15301 (Existing Facilities) in that the staff report submitted by the Planning Division and findings made in this Resolution demonstrate that Conditional Use Permit Amendment #09-806 consists of the permitting and or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the City of Banning approval of Conditional Use Permit #06-807 (Holiday Inn Express hotel). Examples include the exterior alterations involving such things as electrical conveyances; existing facilities of both investor and publicly-owned utilities used to provide public utility services; and, additions to existing structures provided that the addition will not result in an increase of more than 50 percent of the floor area of the structures before the addition, or 2,500 square feet, whichever is less.

(b) None of the exceptions to the Categorical Exemptions contained in CEQA Guidelines Section 15300.2 prevent CEQA Guidelines Section 15301 from exempting the project for the following reasons:

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

(ii) The nature of the project is such that significant cumulative impacts will not occur from successive projects of this type occurring in the same location over time. The Highway Serving Commercial (HSC) zoning standards regulates the land use around the site. North of the site and across Ramsey Street is an existing auto repair shop and existing retail store. West of the site are an existing office complex and bank. Immediately east of the site is a vacant lot. Immediately to the south of the site is the I-10 freeway. This is a long-established, freeway-adjacent, commercial area along Ramsey Street, the City's major commercial corridor.

(iii) There is no reasonable possibility that unusual circumstances will cause the project to have a significant effect on the environment because the project is located at a site already fully developed; the City's utilities and roads are adequate to serve the project; and, the site and the surrounding properties are not environmentally sensitive properties. Minor modifications to the roof...
material of the towers will maintain the architectural integrity of the existing hotel building and there will not be aesthetic impacts to surrounding businesses.

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

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

(vi) The project will not cause a substantial adverse change to the significance of a historical resource as there is no historical resource in the area. The site is developed as a hotel in 2007 and a historical resource or its immediate surroundings will not be demolished, destroyed, relocated, or altered such that the significance of the historical resource would be materially impaired.

2. Multiple Species Habitat Conservation Plan (MSHCP).

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

SECTION 2. REQUIRED FINDINGS.

Pursuant to Banning Municipal Code Chapter 17.52 and in light of the record before it including the staff report dated June 1, 2010, all evidence and testimony heard at the public hearing of this item, the Planning Commission hereby finds as follows:

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

The project is consistent with General Plan Economic Development Element Policy #3 which states: "Encourage and promote infill development in orderly and logical development patterns that decrease the costs, and increase the efficiency of new utilities, infrastructure, and public services." By locating the telecommunications facility at the existing hotel towers and penthouse, there will be a lesser need for a free-standing cell-site thereby leaving parcels available for other commercial development.

Finding No. 2: The proposed use as a telecommunications facility is conditionally permitted within the subject land use district.

Findings of Fact: The project site is zoned Highway Serving Commercial (HSC). Telecommunications facilities are allowed in the HSC zone subject to approval of a conditional use permit (CUP) by Planning Commission. The applicant is requesting approval of CUP which is consistent with the zoning. Further, the project is conditioned to meet all local standards pertaining to development and use, including providing sufficient parking, setbacks, fencing, screening from a state or federal highway, and landscaping.

Finding No. 3: The proposed use would not impair the integrity and character of the land use district in which it is to be located.
Facts of Fact: The proposed use will not impair the integrity and character of the Highway Serving Commercial (HSC) land use district in which it is to be located because the proposed telecommunications facility will be completely screened from public view by locating the antennae and equipment within the towers and penthouse of the building. Minor modifications to the roof material of the towers will maintain the architectural integrity of the existing hotel building and there will not be aesthetic impacts to surrounding businesses.

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

Findings of Fact: The subject site is currently developed as a hotel. The telecommunications facility is proposed on the towers and penthouse of the existing hotel building. The project has negligible impact to the architecture of the existing building.

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

Finding of Fact: The site is served by public and private utilities, including the City’s water and electrical utilities. The site is accessed and served from Ramsey Street, an existing developed roadway with existing utilities located within the roadway right-of-way.

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

Finding of Fact: The project is proposed on the towers and penthouse of an existing hotel. The site and surrounding neighborhood is currently developed. The parcel is flat (unable to support bodies of water) and is already fully improved.

Furthermore, the project is Categorically Exempt from CEQA in accordance with Section 15301 (Existing Facilities) in that the staff report submitted by the Planning Division and other findings made in this Resolution demonstrate that Conditional Use Permit Amendment #09-806 consists of the permitting and or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the City of Banning approval of Conditional Use Permit #06-807 (Holiday Inn Express hotel).

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

Finding of Fact: The location of a wireless telecommunication facility will not be detrimental to the City’s health, safety, and welfare in that it complies with the Zoning Code development standards. Furthermore, by locating the telecommunications facility at the existing hotel towers and penthouse, there will be a lesser need for a free-standing cell-site thereby leaving parcels available for other commercial development.
The project will not generate excessive noise or traffic. There is adequate parking and screening from adjacent uses.

SECTION 3: PLANNING COMMISSION ACTIONS

The Planning Commission hereby takes the following actions:

1. Notice of Exemption. In accordance with Public Resources Code Section 21152(b) and CEQA Guidelines Section 15062 the Planning Commission hereby approves a categorical exemption under CEQA Guidelines Section 15301 and directs the Planning Director to prepare and file with the Clerk for the County of Riverside a notice of exemption as provided under Public Resources Code Section 21152(b) and CEQA Guidelines Section 15062.

2. Conditional Use Permit Amendment. (CUP Amendment) #09-806 is hereby approved subject to the Conditions of Approval attached hereto and incorporated herein by reference as Attachment “A”.

PASSED, APPROVED AND ADOPTED this 1st day of June, 2010.

William Escandel, Vice-Chairman  
Banning Planning Commission

APPROVED AS TO FORM AND LEGAL CONTENT:

Christy Marie Lopez  
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. 2010-05 was duly adopted by the Planning Commission of the City of Banning, California, at a regular meeting thereof held on the 1st day of June, 2010 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Virginia Sorenson, Recording Secretary  
City of Banning, California
PROJECT #: Conditional Use Permit Amendment #09-806
SUBJECT: Locate a Wireless Telecommunications Facility at Existing Hotel
APPLICANT: Royal Street Communications CA, LLC
LOCATION: 3020 W. Ramsey Street (APN 538-320-022)

CONDITIONS OF APPROVAL

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

A. General Requirements

1. The applicant shall indemnify, protect, defend, and hold harmless, the City, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, from any and all claims, demands, lawsuits, writs of mandamus, and other actions and proceedings (whether legal, equitable, declaratory, administrative or adjudicatory in nature), and alternative dispute resolutions procedures (including, but not limited to arbitrations, mediations, and other such procedures), (collectively “Actions”), brought against the City, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, that challenge, attack, or seek to modify, set aside, void, or annul, the action of, or any permit or approval issued by, the City and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof (including actions approved by the voters of the City), for or concerning the project, whether such Actions are brought under the California Environmental Quality Act, the Planning and Zoning Law, the Subdivisions Map Act, Code of Civil Procedure Section 1085 or 1094.5, or any other state, federal, or local statute, law, ordinance, rule, regulation, or any decision of a competent jurisdiction. It is expressly agreed that the City shall have the right to approve, which approval will not be unreasonably withheld, the legal counsel providing the City’s defense, and that applicant shall reimburse City for any costs and expenses directly and necessarily incurred by the City in the course of the defense. City shall promptly notify the applicant of any Action brought and City shall cooperate with applicant in the defense of the Action.
2. A Conditional Use Permit Amendment shall be exercised by the commencement of construction within two (2) years from the date of approval or the Conditional Use Permit shall become null and void. In addition, if after commencement of construction, work is discontinued for a period of one year, the Conditional Use Permit Amendment shall become null and void. Extension: The Community Development Director may, upon an application being filed 30 days prior to expiration and for good cause, grant one time extension not to exceed 12 months. Upon granting of an extension, the Community Development Director shall ensure that the Conditional Use Permit Amendment complies with all current Ordinance provisions.

3. The issuance of these Conditions of Approval does not negate the requirements of Conditional Use Permit #06-807 approved by Planning Commission on February 20, 2007. Should there be a conflict between CUP #06-807 and this amendment, the more restrictive requirement of the two conditions shall apply.

4. This Conditional Use Permit amendment is specifically for the placement of six telecommunications antennae on the roof of the respective north and south tower of the existing building and the placement of related equipment in the south penthouse of existing building. Any modification, or addition to the specific approvals listed herein shall be approved by the City.

5. A copy of the signed Resolution of Approval or Community Development Director's letter of approval, and all Standard Conditions, shall be included in legible form on any plans required by the City and submitted for plan check.

6. Prior to the issuance of building permits a copy of the lease and easement agreement with the property owner shall be filed with the City.

B. Site Development

7. The site shall be developed and maintained in accordance with the approved plans approved by Planning Commission on June 1, 2010, (on file with the Planning Division), the conditions contained herein, and zoning code regulations. Changes to approved plans, incorporating all Conditions of Approval shall be submitted for Community Development Director for review and approval prior to the issuance of building permits.

8. Prior to any use of the project site or business activity being commenced thereon, including any operation of the wireless telecommunications facility, all Conditions of Approval shall be completed to the satisfaction of the Community Development Director.

9. Permanent electric connections for telecommunications location purposes shall not commence until such time as all California Building Code and State Fire Marshal regulations have been complied with. Prior to operation of the telecommunications facility, plans shall be submitted to the City of Banning Fire Marshal and the Building and Safety Division for review and approval. All facilities shall be inspected for compliance prior to the commencement of operations of the telecommunications facility.
10. All site, grading, landscape, irrigation, and street improvement plans shall be coordinated for consistency prior to issuance of any permits (such as grading, tree removal, encroachment, building, etc.).

11. Approval of this request shall not waive compliance with all sections of the Zoning Code and other applicable City Ordinances in effect at the time of building permit issuance.

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

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

14. Graffiti shall be removed within 72 hours or within 24 hours of notice from the City.

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

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

17. The lighting fixture design shall compliment or be consistent with the existing site architectural program.

C. Building Design

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

19. The telecommunications antennae shall be completely concealed from public view and all related structures shall not be visible from Interstate 10 or the surrounding public right-of-way.

20. The quality and appearance of the RF transparent roofing material (simulated concrete/clay tiles) shall be of the same quality and appearance as reflected in the applicant’s statements, representations and/or exhibits presented to the City’s staff or Planning Commission or the Conditional Use Permit Amendment shall be revoked. Should the RF transparent roofing material degrade over time or become damaged, the applicant shall replace the material within 30-days notice from the City.
21. Provide for the following design features to the satisfaction of the Community Development Director:

   a. Architecturally integrate features of the design of the existing facility with the antennae installation and equipment enclosure (penthouse) to match existing.
   b. Provide one on-site parking space for service vehicle.
   c. All parking spaces shall be striped per City standards.

D. Landscaping

22. If landscaping is modified, a detailed landscape and irrigation plan shall be prepared by a licensed landscape architect and submitted for Community Development Director review and approval prior to the issuance of building permits.

23. The applicant is responsible for the continual maintenance of all landscaped areas on-site (as provided for in approved landscaping and irrigation plans), as well as contiguous planted areas within the public right-of-way. All landscaped areas shall be kept free from weeds and debris and maintained in healthy and thriving condition, and shall receive regular pruning, fertilizing, mowing, and trimming. Any damaged, dead, diseased, or decaying plant material shall be replaced within 30 days from the date of damage or within 10 days within date of notice from City.

24. Landscaping and irrigation shall be designed to conserve water through the principles of Xeriscape.

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

E. General Requirements

25. Submit four complete sets of plans including the following:

   Site/Plot Plan;
   Foundation Plan;
   Floor Plan;
   Electrical Plans (2 sets, detached) including the size of the main switch, number and size of service entrance conductors, panel schedules, and single line diagrams;
   Plumbing and Sewer Plans, including isometrics, underground diagrams, water and waste diagram, sewer or septic system location, fixture units, gas piping, and heating and air conditioning.

26. Submit two sets of structural calculations, energy conservation calculations, and a soils report. Architect's/Engineer's stamp and "wet" signature as required prior to plan check submittal.
27. Separate permits are required for fencing and/or walls.

28. Contractors must show proof of State and City licenses and Workers' Compensation coverage to the City prior to permit issuance.

29. The wireless telecommunications company shall not be in operation prior to posting the Certificate of Occupancy issued by the Building and Safety Division.

a) Approval of the Community Development Director shall be required prior to release of all utilities and/or finalization of the building permit and issuance of the Certificate of Occupancy to ensure that project was designed and constructed consistent with all photos or other depictions or representations submitted or made by applicant to the City or Planning Commission.

b) The plans shall not include any sites or plans for future carriers or new antennas. Applicant acknowledges that city approvals are required for any new antenna consistent with city codes and governing law.

c) Applicant shall not use, create, store or allow any hazardous substances on the site in violation of any law or regulation. In no case shall applicant cause or allow the deposit or disposal of any hazardous substances on the site in violation of any law or regulation. City, or its agents or contractors, shall upon at least 48 hours written notice to Applicant, have the right to go upon and inspect the site to assure compliance with the requirements herein stated. Applicant shall be responsible for and bear the entire cost of removal and disposal of hazardous substances introduced to the site from the proposed project or any expansion thereof. Applicant shall also be responsible for any clean-up and decontamination on the site or the property necessitated by the introduction of such hazardous substances on the site. Applicant shall not be responsible for or bear the cost of removal or disposal of hazardous substances introduced to the site during any period prior to construction of the proposed project. Applicant shall indemnify, defend and hold City harmless from and against all liabilities, damages, claims, losses, costs or expenses (including, without limitation, reasonable attorneys' fees) incurred by or brought against City in connection with and to the extent arising out of the use, storage, disposal, release or other presence of hazardous substances on, in, under or about the Site, except to the extent caused by any actions or inactions of City, its agents, contractors or employees. The phrase "hazardous substance", as used herein, has the same meaning as that phrase has under Section 25359.7 of the California Health and Safety Code. Notwithstanding anything to the contrary in this paragraph, City and applicant acknowledge that applicant shall be utilizing and maintaining on the site sealed batteries, propane/diesel/gasoline, HVAC system, and a halon/FM200 fire suppression system and that the use and maintenance of such items shall not constitute a violation or breach of this paragraph; provided, that if that use, retention or maintenance causes or allows the deposit or disposal of any hazardous substances on the site in violation of any law.
or regulation, then applicant's obligations to indemnify, defend and hold harmless as set out in this paragraph shall be fully applicable.

F. Site Development

30. Plans shall be submitted for plan check and approved prior to construction. All plans shall be marked with the project file number (i.e., CUP 09-806). The applicant shall comply with the latest adopted California Building Code, California Mechanical Code, California Plumbing Code, National Electric Code, Title 24 Accessibility requirements, and all other applicable codes, ordinances, and regulations in effect at the time of permit application. Please contact the Building and Safety Division for availability of the Code Adoption Ordinance and applicable handouts.

31. Prior to issuance of building permits the applicant shall pay development fees at the established rate. Such fees may include, but are not limited to: Permit and Plan Checking Fees.

32. Street addresses shall be provided by the Building Official, prior to issuance of building permits.

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

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

The following conditions of approval shall be completed prior to issuance of a building permit:

34. The Department of Public Works recommends the Conditions of Approval listed herein for CUP# 09-806. Unless stated otherwise, all conditions shall be completed by the applicant at no cost to any government agency.

35. Should the project construction effect drainage patterns, submit a site plan to the City Engineer for review and approval showing drainage patterns (existing and proposed contours, flow lines, etc.), elevations and any required cut or fill. The plan shall provide for positive drainage away from, and around existing and proposed structures in accordance with City of Banning standard plans and specifications dated January 1, 1983. All drainage from the property shall drain to the public right-of-way, or applicant shall obtain drainage easement acceptance letter from downstream property owners.

36. Grading and excavations in the public right-of-way shall be supplemented with a soils and geology report prepared by a professional engineer or geologist licensed by the State of California.
37. The applicant shall identify and include in its improvement plans those routine structural and non-structural Best Management Practices (BMP's) as outlined in Supplement “A” to the Riverside County Drainage Area Management Plans and any attachments (see Riverside County Flood Control and Water Conservation District stormwater quality web site at http://floodcontrol.co.riverside.ca.us/districtsite for more information).

38. Submit a copy of the Title Report to the City Engineer prior to site plan review and approval.

39. Submit detailed drawings showing the existing and proposed utility connections (water, sewer, electric, etc.) to the City Engineer for review and approval. Construct all necessary infrastructures to provide utilities to the proposed project. Contact the Public Works Department prior to any utility construction as a Public Works Permit may be required.

The following conditions of approval shall be completed prior to issuance of a certificate of occupancy:

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

41. Place the property address numbering in a conspicuous place.

42. Any public improvements damaged during the course of construction shall be replaced to the satisfaction of the City Engineer, or his/her designee.

43. Ensure that the disposal of construction debris is conducted at a certified recycling site. It is recommended that the developer contact the City's franchised solid waste hauler (Waste Management) for disposal of construction debris.

44. Applicant shall ensure that any and all access easements are paved. In addition, the access easement from the driveway shall be a minimum of 15 feet in width.

45. All required Plans and applicable Fees must be submitted to the Public Works Department prior to the Engineering Division's approval of the Building Permit.
Fire
THE APPLICANT MAY CONTACT FIRE SERVICES, (951) 922-3210, FOR COMPLIANCE WITH THE FOLLOWING CONDITIONS:

46. The following are the minimum Fire Department requirements. There may be additional requirements when the project specifics are defined and the final proposal is submitted for approval.

FIRE DEPARTMENT DEVELOPER FEES:

Fees are increased annually and may be different at the time of construction. The fee schedule at the time of plan submittal shall apply.

Plan Check and Inspection: $ 134.00 per hour

47. CODE COMPLIANCE:

All Plans, Specifications and Construction shall comply with and conform to the current edition of the California Fire Code (CFC), California Building Code (CBC), and other state and local laws as applicable.

Special Requirements for this project:

Fire Department access shall be provided to within 150 feet of all portions of the facility. The road shall be considered "all weather" accessible for a fire truck.

Emergency power supply systems such as generators and batteries may require a Hazardous Materials Management Permit. Secondary containment for the batteries and generator may be required and ventilation may be required for the batteries.

48. Work begun without a permit or without an approved set of plans at the job site will result in a triple fee and/or the work stopped.

NOTE: More specific requirements may be presented when detailed plans are submitted, especially building plans.

Electric Utility
THE APPLICANT MAY CONTACT ELECTRICAL DEPARTMENT FOR COMPLIANCE WITH THE FOLLOWING CONDITIONS:

49. The customer shall be responsible for:

Submitting detailed plans indicating lot lines, streets, easements, building layout, anticipated loading information, etc. These plans are required in electronic format. We currently use AutoCad2006. Plans should consist of a plot plan, site plan, one line diagram of proposed electrical main service panel and a sheet showing load calculations by an electrical engineer. Additional sheets may be required upon request.
Submitting electrical information included service voltage and panel size, load schedule showing the largest motor load, and electrical one line diagram.

Paying required fees - electrical permit, plan check fee, inspection fees, meter fee and cost of electrical apparatus for completing the underground line extension.

Granting easement for electric facilities installation/maintenance, etc.

All trenching, backfill, and compaction.

All conduits, vaults, and other materials associated with their installation (except primary cables and their terminations).

50. The City Electric Department shall be responsible for:

Reviewing plans submitted by customer.

Design an electrical utility plan for the installation of structures and conduit by developer.

END
Attachment 2

(Location Map)
Location Map
3020 W. Ramsey Street
CUP #09-806

Not to Scale
Attachment 3

(Copy of PC Resolution No. 2007-05)
RESOLUTION NO. 2007-05

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BANNING, CALIFORNIA APPROVING CONDITIONAL USE PERMIT NO. 06-807 FOR HEIGHT AND TO DEVELOP A HOLIDAY INN EXPRESS COMPRISED OF A THREE STORY BUILDING ON 1.66 ACRES IN THE HIGHWAY SERVING COMMERCIAL ZONE. APN 538-340-005

WHEREAS, an application for Holiday Inn has been duly filed by:

Applicant/Owner: Huamin Chang
Authorized Agent: CA Kabir
Project Location: The Property is Located on the south side of Ramsey St., east of Sunset Ave., south of Morongo Ave. and North of Interstate 10.
APN Number: 538-340-005
Lot Area: 1.66 acre

WHEREAS, the Planning Commission has the authority per section 9113.00 and 9114.00 of the Banning Municipal Code to take action on Conditional Use Permit No. 06-807 to develop a Holiday Inn Express comprised of a three story building; and

WHEREAS, on February 9, 2007 the City gave public notice by mailing notices to property owners within 300 feet of the project site and advertising in the Record Gazette, a newspaper of general circulation within the City of Banning, of the holding of a public hearing at which the project would be considered; and

WHEREAS, on February 20, 2007 the Planning Commission held the noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to, the Conditional Use Permit and at which the Planning Commission considered the Conditional Use Permit; and

WHEREAS, the Planning Director has evaluated the project’s potential effects on the environment as required under the California Environmental Quality Act (“CEQA”) and has recommended that the project is categorically exempt under CEQA Guidelines Section 15332 “In-Fill Development”.

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

SECTION 1. ENVIRONMENTAL FINDINGS.

The Planning Commission, in light of the whole record before it, including but not limited to, the City’s Local CEQA Guidelines and Thresholds of Significance, the recommendation of the Planning Director as provided in the Staff Report dated February 20, 2007 and documents
incorporated therein by reference, and any other evidence (within the meaning of Public Resources Code § 21080(e) and § 21082.2) within the record or provided at the public hearing of this matter, hereby finds and determines as follows:

CEQA:

1. The project has been determined to be exempt from California Environmental Quality Act (CEQA) pursuant Section 15332 which consists of projects characterized as In-fill development in that the staff report and other findings demonstrate that CUP # 06-087 meets the following conditions: (a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations, (b) The proposed development occurs within the city limits on a project site of no more than five acres substantially surrounded by urban uses, (c) The project site has no value as habitat for endangered, rare or threatened species, (d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality, (e) The site can be adequately served by all required utilities and public services.

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

SECTION 2. REQUIRED FINDINGS.

Pursuant to Banning Municipal Code Section 9113.00 and 9114.00 and in light of the record before it including the staff report dated February 20, 2007 and all evidence and testimony heard at the public hearing of this item, the Planning Commission hereby finds as follows:

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

The General Plan land use designation for the site is “Highway Serving Commercial”. One of the primary objectives stated in the Land Use Element of the General Plan is commercial uses which meet the needs of the City’s residents, increase the City’s revenues, and provide a range of employment opportunities. This project serves to achieve this objective because it will increase city’s revenues and job opportunities. Considering all of these aspects, the project furthers the objectives and policies of the General Plan and is compatible with the general land uses as specified in the General Plan.

2. The proposed use is conditionally permitted within the subject land use district and complies with all of the applicable provisions of the Ordinance. The development of a Holiday Inn Hotel & Suites is allowed in the Highway Serving Commercial Zone subject to the approval of a conditional use permit (for the height of the building). The proposed use is consistent with the intent of the Zoning Ordinance since it meets and/or exceeds the minimum development standards of the HSC zone as illustrated in the Development Standards section of the Staff Report relative to setbacks, lot coverage and parking. Additionally, conditions have been added to the project to ensure that all the minimum requirements of the Banning Municipal
3. The proposed use would not impair the integrity and character of the land use district in which it is to be located.

The surrounding properties are comprised of commercial properties. These properties are similar in character and integrity as the Highway Serving Commercial; therefore, there are no impacts to the surrounding properties. In addition, the project will not impair the character and integrity of this land use district because the project allows hotels to be geared toward the Interstate 10. The subject site is currently located approximately 20 feet below the grade of the adjacent Interstate 10; therefore, the proposed height (and additional 21.6 feet above the 35 feet) will not impair the view from the highway, and will not be an imposing mass from the highway. The project site is of sufficient size and configuration to accommodate the hotel use proposed. The project meets all of the development standards of the Highway Serving Commercial zone as illustrated in the Development Standards section of the Staff Report relative to setbacks, lot coverage, building heights and parking such that it will not be detrimental to the public health, safety or welfare.

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

The site is generally flat and slopes toward the I-10. The property is 1.66 acres. The site is not located within a flood plain and no major geologic hazards have been reported on the site or other limited conditions that would render it unsuitable for commercial development. The project has been designed to accommodate the development of 70 units considering the shape and topography of the site.

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

A condition of approval has been placed on the project which will require the project proponent to construct all necessary on and off-site infrastructure to provide utilities to the proposed project prior to the issuance of Building Permits. Water, sanitation and public utilities and services are available in Ramsey St., a public street.

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

Access to the project site will be gained via Ramsey St. Further, in order to provide a safe means of ingress and egress from the project site, the applicant will be required to construct all improvements within the public right-of-way to the City of Banning Standard. The proposed hotel land use is consistent with the General Plan and Zoning land use designation. As proposed project together with the attached Conditions of Approval is consistent with both the City of Banning General Plan, and Zoning Ordinance no substantial negative impacts to the surrounding environment and the existing land uses will occur. The proposed location of the project is consistent with both the Zoning Ordinance and the underlying General Plan designation of Highway Serving Commercial. The proposed size, design, and operating characteristics of the
hotel use are consistent and compatible with those uses currently located within the Highway Serving Commercial Zone.

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

The Hotel use is allowed within the Highway Serving Commercial, the Conditional Use Permit (for Height) is consistent with the intent of the City's zoning ordinance as described in of the staff report. The site has been described to meet the required development standards related to setbacks, lot coverage, building height and parking such that it will not be detrimental to the public interest, health, safety, coverage or welfare as described in more detail on pages of the Staff report.

SECTION 3. PLANNING COMMISSION ACTIONS.

The Planning Commission hereby takes the following actions:

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

2. Approve Conditional Use Permit. Conditional Use Permit 06-807 is hereby approved subject to the Conditions of Approval attached hereto and incorporated herein by reference as Attachment “1”.

PASSED, APPROVED AND ADOPTED this 20th day of February, 2007.

[Signature]
Betty DeSantis, Vice-Chairperson
Banning Planning Commission

APPROVED AS TO FORM AND LEGAL CONTENT:

[Signature]
Burke, Williams & Sorensen, LLP
City Attorney
City of Banning, California

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CERTIFICATION:

I, Virginia Sorenson, Recording Secretary of the Planning Commission of the City of Banning, California, do hereby certify that the foregoing Resolution, No. 2007-05, was duly adopted by the Planning Commission of the City of Banning, California, at a regular meeting thereof held on the 20th day of February, 2007 by the following vote, to wit:

AYES:  Barsh, De Santis, Jackson, Escandell, Hawkins

NOES:  - 0 -

ABSENT: - 0 -

ABSTAIN: - 0 -

[Signature]
Virginia Sorenson, Recording Secretary
City of Banning, California

-5-
PC Reso No. 2007-05
CONDITIONS OF APPROVAL

PROJECT #: CUP 06-7016, Design Review 06-807

SUBJECT: Holiday Inn Express

APPLICANT: Huirmin Chang
The property is located on south side of Ramsey St., east of Sunset Ave, south of Morongo Ave., and north of Interstate Highway 10.

LOCATION:

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

A. General Requirements

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

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

Attachment “1”
3. A copy of the signed Resolution of Approval or Community Development Director's letter of approval, and all Standard Conditions, shall be included in legible form on the grading plans, building and construction plans, and landscape and irrigation plans submitted for plan check.

B. Time Limits

1. Conditional Use Permit, Variance, or Development/Design Review approval shall expire if building permits are not issued or approved use has not commenced within 5 years from the date of approval. No extensions are allowed.

C. Site Development

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

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

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

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

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

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

7. A detailed on-site lighting plan, including a photometric diagram, shall be reviewed and approved by the Community Development Director and Police Department (922-3125) prior to the issuance of building permits. Such plan shall indicate style, illumination, location, height, and method of shielding so as not to adversely affect adjacent properties.
8. All ground-mounted utility appurtenances such as transformers, AC condensers, etc., shall be located out of public view and adequately screened through the use of a combination of concrete or masonry walls, berming, and/or landscaping to the satisfaction of the Community Development Director. For single family residential developments, transformers shall be placed in underground vaults.

9. The developer shall submit a construction access plan and schedule for the development of all lots for Community Development Director and City Engineer approval; including, but not limited to, public notice requirements, special street posting, phone listing for community concerns, hours of construction activity, dust control measures, and security fencing.

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

D. Hotel Development

1. A uniform hardscape and street furniture design including seating benches, trash receptacles, free-standing potted plants, bike racks, light bollards, etc., shall be utilized and be compatible with the architectural style. Detailed designs shall be submitted for Planning Division review and approval prior to the issuance of building permits.

2. Provide for the following design features in each trash enclosure, to the satisfaction of the Community Development Director:
   a. Architecturally integrated into the design of the project.
   b. Separate pedestrian access that does not require the opening of the main doors and to include self-closing pedestrian doors.
   c. Large enough to accommodate two trash bins.
   d. Trash bins with counter-weighted lids.
   e. Architecturally treated overhead shade trellis.
   f. Chain link screen on top to prevent trash from blowing out of the enclosure and designed to be hidden from view.

3. Graffiti shall be removed within 72 hours.

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

5. All operations and businesses shall be conducted to comply with the following standards which shall be incorporated into the lease agreements for all tenants:
a. Noise Level - All commercial activities shall not create any noise that would exceed an exterior noise level of 60 dB during the hours of 10 p.m. until 7 a.m. and 65 dB during the hours of 7 a.m. until 10 p.m.

b. Loading and Unloading - No person shall cause the loading, unloading, opening, closing, or other handling of boxes, crates, containers, building materials, garbage cans, or other similar objects between the hours of 10 p.m. and 7 a.m. unless otherwise specified herein, in a manner which would cause a noise disturbance to a residential area.

6. Textured pavement shall be provided across circulation aisle, pedestrian walkway, and plaza. They shall be of brick/tile pavers, exposed aggregate, integral color concrete, or any combination thereof. Full samples shall be submitted for Community Development Director review and approval prior to the issuance of building permits.

7. All future building pads shall be seeded and irrigated for erosion control. Detailed plans shall be included in the landscape and irrigation plans to be submitted for Planning Division approval prior to the issuance of building permits.

8. The lighting fixture design shall compliment the architectural program. It shall include the plaza area lighting fixtures, building lighting fixtures (exterior), and parking lot lighting fixtures.

E. Building Design

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

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

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

1. All parking spaces shall be 9 feet wide by 19 feet long. When a side of any parking space abuts a building, wall, support column, or other obstruction, the space shall be a minimum of 11 feet wide.

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

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

4. All parking spaces shall be striped per City standards and all driveway aisles, entrances, and exits shall be striped per City standards.
5. Plans for any security gates shall be submitted for the Community Development Director, City Engineer, and City of Banning Fire Marshal review and approval prior to issuance of building permits.

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

7. Motorcycle parking area shall be provided for commercial and office facilities with 25 or more parking stalls. Developments with over 100 parking stalls shall provide motorcycle parking at the rate of one percent. The area for motorcycle parking shall be a minimum of 56 square feet.

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

G. Trip Reduction

1. Category 5 telephone cable or fiber optic cable shall be provided for office buildings and single-family developments of 500 or more units.

2. Transit improvements such as bus shelters, bus pullouts, and bus pads shall be provided.

H. Landscaping

1. A detailed landscape and irrigation plan, including slope planting and model home landscaping in the case of residential development, shall be prepared by a licensed landscape architect and submitted for Community Development Director review and approval prior to the issuance of building permits or prior final map approval in the case of a custom lot subdivision.

2. Existing trees required to be preserved in place shall be protected with a construction barrier, and so noted on the grading plans. The location of those trees to be preserved in place and new locations for transplanted trees shall be shown on the detailed landscape plans. The applicant shall follow all of the arborist’s recommendations regarding preservation, transplanting, and trimming methods.

3. A minimum of 30% within commercial and office projects, shall be specimen size trees - 24-inch box or larger.

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

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

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

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

9. Front yard and corner side yard landscaping and irrigation shall be required per the Development Code. This requirement shall be in addition to the required street trees and slope planting.

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

11. Landscaping and irrigation systems required to be installed within the public right-of-way on the perimeter of this project area shall be continuously maintained by the developer.

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

13. Tree maintenance criteria shall be developed and submitted for Community Development Director review and approval prior to issuance of building permits. These criteria shall encourage the natural growth characteristics of the selected tree species.

14. Landscaping and irrigation shall be designed to conserve water through the principles of Xeriscape.

I. Signs

1. The signs indicated on the submitted plans are conceptual only and not a part of this approval. Any signs proposed for this development shall comply with the Sign Ordinance and shall require separate application and approval by the Planning Division prior to installation of any signs.

2. A Uniform Sign Program for this development shall be submitted for Community Development Director review and approval prior to issuance of building permits.
J. Environmental

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

2. In those instances requiring long term monitoring (i.e.) beyond final certificate of occupancy, the applicant shall provide a written monitoring and reporting program to the Community Development Director prior to issuance of building permits. Said program shall identify the reporter as an individual qualified to know whether the particular mitigation measure has been implemented.

K. Other Agencies

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

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

L. General Requirements

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

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

4. Contractors must show proof of State and City licenses and Workers' Compensation coverage to the City prior to permit issuance.

5. Business shall not open for operation prior to posting the Certificate of Occupancy issued by the Building and Safety Division.

M. Site Development

1. Plans shall be submitted for plan check and approved prior to construction. All plans shall be marked with the project file number (i.e., CUP 98-01). The applicant shall comply with the latest adopted Uniform Building Code, Uniform Mechanical Code, Uniform Plumbing Code, National Electric Code, Title 24 Accessibility requirements, and all other applicable codes, ordinances, and regulations in effect at the time of permit application. Please contact the Building and Safety Division for availability of the Code Adoption Ordinance and applicable handouts.

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

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

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

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

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

N. New Structures

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

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

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

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

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

7. Roofing materials shall be Class "A."

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

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

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

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

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

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

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

O. Grading

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

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

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

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

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

   a. Surety shall be posted and an agreement executed guaranteeing completion of all on-site drainage facilities necessary for dewatering all parcels to the satisfaction of the Building and Safety Division prior to final map approval and prior to the issuance of grading permits.
b. Appropriate easements for safe disposal of drainage water that are conducted onto or over adjacent parcels, are to be delineated and recorded to the satisfaction of the Building and Safety Division prior to issuance of grading and building permits.

c. On-site drainage improvements, necessary for dewatering and protecting the subdivided properties, are to be installed prior to issuance of building permits for construction upon any parcel that may be subject to drainage flows entering, leaving, or within a parcel relative to which a building permit is requested.

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

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

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

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

P. General Requirements

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

- Fire Marshal
- Public Works Department (Grading Permit, Improvement Permit)
- Community Development Department
- Riverside County Environmental Health Department
- Banning Unified School District
- California Regional Water Quality Control Board Colorado River Basin (RWQCB)
- South Coast Air Quality Management District (SCAQMD)

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

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

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

C. Street Improvement Plans  
   1" = 40' Horizontal  
   1" = 4' Vertical

D. Traffic Signal Plan  
   1"=20' Horizontal

E. Off-Site Landscaping Plans  
   1"=20' Horizontal

F. Off-Site Signing & Striping Plan  
   1" = 40' Horizontal

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

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

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

A small index map shall be included on the title sheet of each set of plans, showing the overall view of the entire work area.

4. Upon completion of construction, the applicant shall furnish the City with reproducible record drawings on Mylar of all improvement plans that were approved by the City Engineer. Each sheet shall be clearly marked "As-Built" or "As-Constructed" and shall be stamped and signed by the engineer or surveyor certifying the accuracy and completeness of the drawings. The applicant shall have all AutoCAD or raster-image files submitted to the City, revised to reflect the "As-Built" conditions.
5. All utility systems including gas, electric, telephone, water, sewer, and cable TV shall be provided for underground, with easements provided as required, and designed and constructed in accordance with City Codes and the utility provider. Telephone, cable TV, and/or security systems shall be pre-wired in the residence.

Q. Rights of Way

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

7. The existing right-of-way appears to meet the required General Plan width of 55 feet for a half street. After completion of the alignment study by the developers’ engineer, if additional right-of-way is required along Ramsey Street, the applicant shall offer to dedicate for public purposes the required right-of-way.

8. Obtain a drainage easement from the downstream property owner adjacent to the project site, if required. A note shall be added to the instrument stating "drainage easements shall be kept free of buildings and obstructions."

a. Direct vehicular access to Ramsey Street from the site frontage shall be restricted, except for the single access point identified on the approved site plan, or as otherwise conditioned in these conditions of approval. The approved access point shall be restricted to right-in and right-out only, unless otherwise approved by the City Engineer. The vehicular access restriction shall be recorded on a separate instrument prior to issuance of any building permits. Additionally, the applicant shall grant reciprocal access rights to the parcel adjoining the easterly property line in order to utilize the joint use driveway and encourage onsite traffic circulation.

10. Prior to the issuance of any certificates of occupancy, the applicant shall grant a public easement for maintenance of traffic signal facilities at the main drive entrance at Ramsey Street, if required.

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

R. Public Improvements

12. All public improvements shall be financed, designed, and constructed at the expense of
the developer. Additionally, the developer may enter into a reimbursement agreement for those improvements constructed that may provide benefit outside the development in accordance with Banning Municipal Code.

13. Remove and construct street improvements as necessary in accordance with City standards fronting Ramsey Street including street lighting, curb and gutter, access ramps, sidewalk, and asphalt concrete paving, median island improvements, traffic signs and striping, and any transitions. Driveway approaches not utilized shall be removed and reconstructed in accordance with city standards. Drive approaches fronting Ramsey Street shall be curb return style (commercial) as approved by the City Engineer. Street lights on Ramsey Street shall be installed offset of the existing street lights. Where the transverse slope of the existing pavement exceeds 3% the applicant shall remove pavement and join the existing pavement surface. Applicants' geotechnical engineer shall provide the design of the pavement section based upon the Caltrans method.

14. In accordance with the traffic impact analysis dated December 20, 2006, construct a traffic signal at Ramsey Street and Morongo Avenue (main project access drive). This will necessitate the reconstruction of the eastbound traffic lanes along Ramsey Street in order eliminate the grade differential at the intersection. The operation of the proposed traffic signal shall be coordinated with the existing traffic signal at Ramsey Street/Sunset Avenue. The private drive shall be a minimum of 42 feet in width to provide a 15 foot wide inbound lane, 12 foot wide left turn lane and 15 foot wide outbound lane.

As an alternative to the construction of a traffic signal at this location, the median island along Ramsey Street may be reconstructed to restrict vehicle access as approved by the City Engineer. Specifically, the dedicated left turn pocket along westbound Ramsey Street shall be reconstructed to serve the project drive and shall be limited to left-in, right-out vehicle access only; and, the dedicated left turn pocket along eastbound Ramsey Street shall be reconstructed to serve Morongo Avenue for left-in, right-out vehicle access only. The design of the turn pockets shall address the grade differential.

15. Construct full median island improvements from the existing Portland Cement Concrete retaining wall approximately 150 feet easterly of the westerly prolongation of the property line along the project frontage on Ramsey Street to the easterly prolongation of the property line along the project frontage.

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

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

18. All required public improvements for the project shall be completed, tested, and approved by the Engineering Division prior to issuance of any Certificate of Occupancy.
S. Grading and Drainage

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

20. The design of the development shall not cause any increase in flood boundaries, levels or frequencies in any area outside the development. Note: An identified floodway exists crossing Ramsey Street onto the existing property as identified in Flood Boundary and Floodway Map dated October 17, 1978.

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

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

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

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

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

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

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

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

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

25. An automatic sprinkler system and landscaping shall be installed, prior to issuance of certificate of occupancy for the development, within the parkway and median island fronting Ramsey Street. The system shall include a landscape controller, a separate water meter and electric meter, and plantings as approved by the Community Development Director. Landscaping plans and specifications shall be reviewed and approved by the City Engineer. Improvements shall be designed in accordance with the Streetscape Landscape Guidelines approved in Resolution No. 2006-52 by City Council on May 30, 2006.

26. The Developer shall record a written offer to participate in, and waive all rights to object to the formation or annexation to the Landscape Maintenance District for the perpetual maintenance of the proposed parkway and median island landscaping along Ramsey Street. The developer shall provide written consent from all property owners within the development waiving the notice, hearing, and right of protest and consenting to the annexation and zone formation, if any (Streets and Highways Code §§ 22608, 22608.2). The form of the offer shall be subject to the approval of the City Engineer and City Attorney. Additionally, the developer shall provide to the City an Assessment Engineer’s Report prepared by an assessment engineer pursuant to California Streets and Highways Code Sections 22500 et seq. and California Constitution Article XIIID. The developer shall agree to maintain the parkway landscaping for a period of 24 months after acceptance of the improvements, or deposit funds to administer and maintain the parkway landscaping until the assessments placed on the tax roll are collected.

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

U. Traffic

28. Provide a focused traffic study addressing the proposed onsite circulation for the project and address the adequacy as it relates to safe access along Ramsey Street. This includes identifying the desired level of traffic control at project driveways and/or intersections.

29. Driveways accessing Ramsey Street shall provide adequate onsite “throat” depth to provide sufficient queuing for vehicles in accordance with the approved traffic impact analysis.

30. Street name signs and traffic control devices including traffic legends and traffic striping shall be installed, or relocated in accordance with Caltrans Standards and as shown on the approved plans, and/or as directed by the City Engineer.
31. Prior to the issuance of any certificate of occupancy, all fire hydrants shall have a blue reflective pavement marker indicating the hydrant location on the street as approved by the Fire Marshall, and must be maintained in good condition by the property owner until the street is accepted for maintenance.

V. Trash/Recycling

32. The developer shall participate in the City's recycling program by providing two trash receptacles, one for regular trash and one for recycling, within the trash enclosure. The trash enclosure shall be designed and constructed in such a manner to accommodate a recycling bin as well as the necessary solid waste containers.

33. Construction debris shall be disposed of at a certified recycling site. It is recommended that the developer contact the City's franchised solid waste hauler for disposal of construction debris.

W. Fees

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

35. Public Works Inspection fees shall be paid prior to the scheduling the final map for approval by City Council in accordance with the Fee Schedule in effect at time of time of scheduling.

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

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

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

Water & Wastewater Utility

WATER

Submit Water Improvement Plans to the Water Division for review and approval. Design and construct a fire protection water line east side of building within the driveway access at Ramsey Street to the south end of building in a 20’ wide easement connecting to the existing 12” water line on Ramsey Street.
All water lines and fittings shall be a minimum of 8” diameter and shall be DIP or 10-gauge steel pipes, cement mortar lined & wrapped.

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

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

SEWER

Submit Sewer Improvement Plans to the Sewer Division for review and approval. Design and construct a privately owned on site sewer system (lift station) to connect to the existing 12” sewer line on Ramsey Street.

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

FEES

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

APPLICANT SHALL CONTACT THE FIRE MARSHAL AT, (951) 922-3210, FOR COMPLIANCE WITH THE FOLLOWING CONDITIONS:

FIRE DEPARTMENT DEVELOPER FEES:

Fees are increased annually and may be different at the time of construction. The fee schedule at the time of plan submittal shall apply.

Commercial, Industrial and/or Office Complex:

$ ? per square foot +
$ 25.00 per unit Disaster Planning
$ 84.00 per hour

Plan Check and Inspection:
Exception, Sprinkler and Alarm System Plan Check
See Number (7) for Fee Schedule.

CODE COMPLIANCE:
All Plans, Specifications and Construction shall comply with and conform to the current edition of the California Fire Code (CFC), California Building Code (CBC), and other state and local laws as applicable.

SPRINKLER SYSTEMS REQUIRED:

Fire Sprinkler Systems shall be installed as required by the UFC or in any and all structures with a total floor area of ten thousand (10,000) sq. ft. or more (5,000 sq. ft. for assembly occupancies), or that are at or beyond the Fire Department’s response time of ten (10) minutes beginning at the time the call is received at Dispatch.

SPRINKLER AND ALARM SYSTEMS:

Three (3) sets of plans and calculations, including three (3) sets of manufacturer’s hardware specifications, shall be submitted to a State Certified Fire Protection Engineering Firm, designated by the Fire Marshal, for review for compliance with recognized codes and standards.

Alarm monitoring stations must be located within 100 miles of the City of Banning or approved by the Fire Marshal.

SPRINKLER AND ALARM SYSTEM FEE SCHEDULE:

Inspections: Fire Department: $84.00 per hour, per person (One-hour minimum). Additional fees as charged by the designated Fire Protection Engineering Firm.

Plan Checks: Established by the Fire Protection Engineering firm designated.

SPRINKLER SYSTEM UNDERGROUND:

No work shall be started prior to issuance of the permit.

The minimum size for water supply to the base of the riser shall be six (6) inches for commercial systems.

An approved AWWA double check detector check assembly, as approved by the C.O.B. Water Department, located as close to the property line as possible, and a minimum of twelve (12) inches above the ground, shall be provided.

The Water Department shall approve all plans involving water main service.

FIRE HYDRANTS:

Prior to construction or renovation, fire hydrants shall be provided when any portion of any structure exceeds 150 feet from a water supply on a public street.

All hydrants must be installed, working and inspected by the Public Works Department before any combustible materials can be placed at the worksite.

Spacing of fire hydrants shall comply with UFC Appendix III B and the City of Banning Public Works Standards (maximum 300 feet between hydrants).
Minimum 6-inch riser, street valve, approved shear valve, and blue dot identification marker shall be provided for each fire hydrant.

The City standard fire hydrant is the Commercial James Jones #3765 or an equivalent approved by the Fire Marshal.

Fire Hydrants are to be painted by the developer, contractor, etc., prior to the final inspection (EOS Standard W714, Rustoleum Red, damp proof #769 and two (2) coats of Rustoleum semi-gloss yellow #659, or an approved equivalent).

WATER SUPPLY:

Fire flow shall be established by the Fire Department using the information provided in the UFC Appendix III A. Fire flow may be adjusted upward where conditions indicate an unusual susceptibility to fire.

FIRE DEPARTMENT ACCESS:

Shall be required when any portion of the first story of any structure is more than 150 feet from Fire Department apparatus access.

Minimum clearances or widths may be increased when the minimum standards are not adequate for Fire Department access.

Surfaces shall be designed and maintained to support the imposed loads of fire apparatus (65,000gvw). Surfaces shall have all-weather driving capabilities, including bridges. All roads must be placed and meet the above standard before any combustible materials can be delivered to the site.

Minimum unobstructed width shall be 20 feet.

Minimum unobstructed vertical clearance shall not be less than 13 feet, 6 inches.

Minimum turning radius shall be 42 feet.

All dead-end access roads in excess of 150 feet shall have approved provisions for the turning around of fire apparatus.

Cul-de-sacs shall not exceed 600 feet in length.

Maximum grade shall be established by the Fire Department.

Vehicles shall not be parked or otherwise obstruct the required width of any fire apparatus access.

Two means of ingress/egress shall be provided for emergency vehicles and fire apparatus.

The requirements for this segment are covered in UFC Article 9.

All curb faces between parking areas must be painted red and marked “No Parking Fire Lane”
PREMISES IDENTIFICATION:

Approved numbers or addresses shall be placed on all new and existing buildings in such a position as to be plainly visible and legible from the street or road fronting the property. Said numbers shall contrast with their background.

1. Commercial: 6" mm. size

INSPECTIONS:

Inspections shall be requested a minimum of forty-eight (48) hours prior to the time the required inspection is needed.

Fee for each inspection is $84.00 per hour per person.

WORK BEGUN WITHOUT A PERMIT OR WITHOUT AN APPROVED SET OF PLANS AT THE JOB SITE WILL RESULT IN A TRIPLE FEE AND/OR THE WORK STOPPED.

HAZARDOUS MATERIALS:

The storage, dispensing, use or handling of hazardous materials shall be in accordance with the provisions of UFC Article 80 and UBC Section 307, in addition to all federal, state and local laws or ordinances.

Business Plans may be required per SB 2186 and 2187 including MSDS, HMMP and RMPP.

OTHER REQUIREMENTS:

Access to the roof from the 3rd floor will be required at least two points.

The ability to construct a three-story building may depend on the whether or not the a ladder truck is stationed within the San Gorgonio Pass Area.
Attachment 4

(Aerial Photo)
Attachment 5

(Site Photographs)
Looking southwesterly from Ramsey Street

Looking southeasterly from Ramsey Street
Attachment 6

(Project Plans)
ROYAL STREET COMMUNICATIONS CA., LLC
BANNING HOLIDAY INN EXPRESS
LA3236A
3020 W. RAMSEY STREET
BANNING, CA 92220

CODE COMPLIANCE
ALL WORK AND MATERIALS SHALL BE PERFORMED AND INSTALLED IN ACCORDANCE WITH THE CURRENT EDITION OF THE CODES AS AMENDED BY THE LOCAL CONSTRUCTION AUTHORITY. NOTIFY IN THESE MANNER TO DESCRIBE WORK AND CONTINUING TO THE LOCAL CODES.

PROJECT DESCRIPTION
THE PROJECT CONSISTS OF THE INSTALLATION AND OPERATION OF AN ANTENNA AND ASSOCIATED EQUIPMENT FOR ROYAL STREET COMMUNICATIONS, LLC, TO INCREASE THE INTEGRALITY OF THE ELECTRIC CONDUCTORS OF THE PROJECT. THE FOLLOWING ARE THE ELECTRIC CONDUCTORS TO BE PROTECTED:

1. GPS Antenna
2. Pile Antenna
3. Rشؤ Antenna

PROJECTIONS
GPS: 32° 40' 56.3" N 117° 16' 25.6" W

DRIVING DIRECTIONS
FROM ROYAL STREET TO THE SITE:
EXIT 360 CONVERSE, ROYCE, CA 92812 ON CONVERSE (43) TURN LEFT (92) ONTO CONVERSE (43) TURN LEFT (96) ONTO CONVERSE (43) TURN RIGHT (92) ONTO ROYCE BLVD. TURN LEFT (92) ONTO LOCAL ROADS. SEE LEFT (92) ONTO ROBEY WAY. TURN RIGHT (92) ONTO ROBEY WAY. TURN LEFT (92) ONTO SUNSET AVE. TURN LEFT (92) ONTO W. RAMSEY ST.

SHEET INDEX

PROJECT INFORMATION
APPLICANT/OWNER
ROYAL STREET COMMUNICATIONS, LLC
LOCAL ADDRESS:
3020 W. RAMSEY STREET
BANNING, CA 92220

CIVIL ENGINEER:
RABIN OBMAN
PHONE: (909) 321-9233

ELECTRICAL ENGINEER:
CIVIL ENGINEER
PHONE: (909) 321-9233

LAND USE PLANNER:
NECKHARD
PHONE: (909) 321-9233

SURVEYOR:
BLACK MANUFACTURING SERVICES INC.
1655 E. 6TH ST., SUITE A-14
CARSON, CA 90745
PHONE: (310) 321-1410

CONSTRUCTION:
TOTE HOUSE
3020 W. RAMSEY STREET
BANNING, CA 92220
PHONE: (714) 921-9249

GENERAL CONTRACTOR NOTES
DO NOT SCALE DRAWINGS
CONSTRUCTION DRAWING ARE PROVIDED WITH A SCALE SCALED TO THE PROJECT. VERIFY THE SCALE OF THE PROJECT BEFORE PROCEEDING WITH THE WORK. THE CONTRACTOR IS RESPONSIBLE FOR SCALING.

VICTORY MAP

APPROVALS

T1 TITLE SHEET

DELTA GROUPS ENGINEERING INC.
CONSULTING ENGINEERS
Attachment 7

(Photographs Simulations)
CITY OF BANNING
PLANNING COMMISSION REPORT

DATE: June 1, 2010

TO: Mr. Chairman and Members of the Planning Commission

FROM: Zai Abu Bakar, Community Development Director

SUBJECT: Zone Text Amendment No. 10-97501: Amendment to Municipal Code Chapter 17.36 pertaining to election and political signs

STAFF RECOMMENDATION

The Planning Division recommends the Planning Commission take the following actions:

1. Adopt PC Resolution No. 2010-06 (Attachment "A") approving Zone Text Amendment No. 10-97501.

APPLICANT INFORMATION

Applicant: City of Banning

BACKGROUND/ANALYSIS

In October of 2004 the City received inquiries from the Riverside County Grand Jury regarding sections of the Banning Zoning Code (BZC) as it applies to political signs. At that time, the Code was reviewed by the current City Attorney and it was determined that amendments to the code were necessary in order to comply with current law. In January of 2006 the BZC was amended in whole and some of the City Attorney changes were addressed, however, the code still needs to be amended to comply with governing case law. A copy of the current code Chapter 17.36 of the BZC concerning signs is included as Attachment 3.

It should be noted, the courts have held that stricter regulation of non-commercial speech (e.g. political or campaign speech) as specific and distinct from regulations for commercial speech runs afoul of the Equal Protections Clause as applied to the States through the 14th Amendment. (Metromedia Inc. v. San Diego (1981) 453 U.S. 490.) Further, even if the code were to survive the Equal Protection challenge, it could still be found unconstitutional in violation of the First Amendment (as discussed below).

In addition to those changes that are necessary to comply with current law, the placement of political signs in the right-of-way has historically been a problem in the City. As a
result, the proposed ordinance includes amendments to clarify that signs are prohibited in the right-of-way, language has been added to deem the campaign the owner of an election sign in an attempt to alleviate notice difficulties and, the proposed ordinance includes an amendment that provides for summary abatement when necessary. Finally, the existing code is silent on political signs, regulating only election signs. The proposed ordinance adds definitions to define political signs, distinct from election signs.

It might be added that the restrictions recommended below are based on in-put from staff concerning comment sign issues. Should the Council not favor some of these restrictions, we certainly could support eliminating them and there is less likelihood of legal challenge. For example, a sign ordinance without abatement clauses may face fewer legal challenges, but obviously might not accomplish other important goals.

Analysis

1. "Political Sign” and “Election Sign” Definitions Added.

Many sign ordinances have a generic category for “political” signs and then establish regulations related to elections but not suitable to other political messages. Political speech is entitled to the widest protection possible (as opposed to commercial signage), and should not be subject to time and abatement requirements that are only justified for elections. Thus we have distinguished between political and election signs.

Under the existing code, the term “political signs” is defined as a “temporary sign directly associated with a forthcoming national, state, county or local election for.” The existing definition is in fact the definition of an election sign (e.g. “Vote for Dave”), therefore, the proposed ordinance adds to the definition section of the code, “election signs” using essentially the same language currently used for political signs.

A new definition of “political signs” is proposed in the ordinance to capture all signs that may be commonly considered “political signs” (e.g. “Peace in the Middle East”). Accordingly, in the proposed ordinance the definition of “political signs” has been added to include all signs that have an “ideological, political or similar noncommercial message.”

2. Pre-election Time Limits Removed.

Many cities have attempted to regulate the posting of campaign signs by limiting the time of display. BZC section 17.36.050 does just that by providing that political signs “shall not be displayed more than 30 days prior to the applicable election.”

Pre-election durational limitations have been repeatedly struck down. (Maguire v. American Canyon (N.D. Cal., Mar. 1, 2007) 2007 U.S. Dist. Lexis 14748, the court struck down a city code that limited the posting of campaign signs to 90 days before an election. See also, Antioch v. Candidates’ Outdoor Graphic Serv. (N.D. Cal. 1982) 557 F. Supp 52. See also Orazio v. Town of Hempstead, (E.D.N.Y. 1977) 426 F. Supp. 1144.)
Accordingly, the BZC should be amended to remove the pre-election durational time limit to comply with governing constitutional limitations. The proposed ordinance attached accomplishes this goal. As stated below, we would retain the requirement that post election the signs be removed, to eliminate visual clutter, since the sign no longer serves a purpose.


Regulations which impose special permits or deposits have often been held to be a prior restraint on speech and are almost always invalidated. Banning’s existing sign code requires a $200 deposit for election signs. The courts have held that deposits, bonds or special political sign permit fees are invalid. (Verrilli v. City of Concord (9th Cir. Cal. 1977) 548 F.2d 262, 264, the court held a city municipal code which required that any person posting signs deposit a $100.00 cash bond with the city to insure removal of the signs in violation of the First Amendment. See also, Baldwin v. Redwood City (1976) 540 F.2d 1360.) Accordingly, in the proposed ordinance the BZC requirement for a $200 cash bond has been removed.

4. Abatement and Sign Ownership.

Currently, the existing code provides that illegal signs “shall be removed by the property owner within 10 days after notice from the Director.” (BMC § 17.36.090.) The code enforcement department has indicated that signs are often posted in the public right-of-way in violation of the existing code and determining the owner of the sign can sometimes be difficult; as such, making it difficult to notify the sign owner of the violation for purposes of abatement. Accordingly, staff has asked that the code be amended to allow for summary abatement of said signs (that is, removal of illegally placed signs without notice).

The case law requires that notice be provided prior to removal of signs. (Verrilli v. City of Concord (9th Cir. 1977) 548 F.2d 262, 264). Nonetheless, at least one court has acknowledged the difficulty cities face with notifying the owner of a sign and suggests that under certain circumstances a city may permissibly and summarily remove illegal political signs. (Baldwin v. Redwood City (9th Cir. 1976) 540 F.2d 1360, 1374.)

To address this issue, the proposed ordinance makes two amendments. First, the proposed ordinance adds language to provide that the campaign is deemed the owner of an election sign unless the campaign can establish otherwise, in which case the private property owner is deemed the owner. This language not only helps clarify the appropriate party to notify prior to removal, it establishes ownership for the purposes of abatement under governing law.

Second, the proposed ordinance provides that summary abatement of all signs, including political and election signs, are permitted provided City staff has made a reasonable attempt to learn who the owner of the sign is and has been unsuccessful or if for any
reason there remains a question about ownership. This section also provides that if the sign is removed, the same shall be stored for 30 days in the event the owner seeks to recover the sign. Arguably, this is reasonable and valid under the law.


The current code provides that election signs are only permitted on private property. The proposed ordinance clarifies the code to specifically prohibit election and political signs on public property or in the public right-of-way.

Further, the existing sign code prohibits signs in the right-of-way with the exception of certain signs. The code provides that all signs on public property are prohibited, except for “traffic regulatory, informational signs, signs required a governmental agency and model home tour signs...” Additionally, the code permits kiosk signs on public property for off-site residential subdivisions. The current code is problematic in that it permits certain commercial signage on public property (e.g. model home tour signs and residential subdivision kiosks) while prohibiting non-commercial signage (e.g. election signs) likely in violation of the equal protection clause. Accordingly, the proposed ordinance amends the sign code to prohibit almost all signs from public property.

The case law has held that a total ban on signs on public property is permissible. (See City of Los Angeles v. Taxpayers for Vincent, (1984) 466 U.S. 789. See also Sussli v. City of San Mateo (1980) 120 Cal.App.3d 1.) In line with current law, the proposed ordinance prohibits all signs on public property except for traffic regulatory signs and signs required by government agencies.

To the extent there is any question about the two limited exceptions to a City ban, it should be noted that they are not only necessary for the proper circulation of the City, it is consistent with the City’s desire to have the right-of-way free of visual blight and the need to promote vehicular and pedestrian safety. (See e.g. Gerristen v. Los Angeles (9th Cir. 1993) 994 F.2d 570.) Additionally, neither of the permitted sign types are deemed commercial speech and therefore the proposed code can avoid an equal protection challenge.

ENVIRONMENTAL DETERMINATION

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 Department as provided in the Staff Report dated June 1, 2010 and documents incorporated therein by reference, and any other evidence (within the meaning of Public Resources Code § 21080(e) and § 21082.2) within the record or provided at the public hearing of this matter, hereby finds and determines as follows:
1. **California Environmental Quality Act (CEQA):**

CEQA: The State CEQA Guidelines, at Section 15378, define a project as the “whole of an action which has the potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment...” The proposed amendments to the Zoning Code do not result in a direct or indirect physical change in the environment and therefore do not meet the definition of a “project” under CEQA.

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

The amendment to the Zoning Code does not relate to any one physical project and is not subject to the MSHCP. Further, projects subject to this resolution will trigger individual project analysis and documentation related to the requirements of MSHCP including mitigation through payment of the MSHCP Mitigation Fee.

**REQUIRED FINDINGS FOR ZONE TEXT AMENDMENT NO. 10-97501:**

The Zoning Ordinance requires that each Zone Text Amendment meet certain findings in Section 17.116.050 in order to be approved by the Planning Commission. The following findings are provided for Commission consideration:

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

**Findings of Fact:**

The Zone Text Amendment is consistent with the goals and policies of the General Plan, insofar as the General Plan designations and Zoning designations will not change. The primary General Plan Land Use Goal states “A balanced, well planned community including businesses which provides a functional pattern of land uses and enhances the quality of life for all Banning residents.” Additionally, the General Plan, Land Use Element, Residential Goal 1 states, “Preserve and enhance the City's neighborhoods.” By implementing appropriate regulations for election and political signs, the Zone Text Amendment will help protect the residents and its neighborhoods from illegal signage, reduce visual blight and enhance vehicular and pedestrian safety. Further, the Amendment will protect the City from future legal challenge by bringing the code into compliance with governing law.

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

**Findings of Fact:**
The Zone Text Amendment is consistent with the existing provisions of the Zoning Ordinance. Additionally, the Banning Municipal Code has been reviewed to ensure that there is no internally inconsistency created by the proposed amendments.

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

Findings of Fact:

The Planning Commission has analyzed this proposed project and has determined that the proposed amendment does not meet the definition of a "project" under CEQA. The State CEQA Guidelines, at Section 15378, define a project as the "whole of an action which has the potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment..." The proposed amendments to the Zoning Code do not result in a direct or indirect physical change in the environment.

PUBLIC COMMUNICATION:

The proposed Zone Text Amendment No. 10-97501 was advertised in the Record Gazette newspaper on May 21, 2010. As of the date of this report, staff has not received any verbal or written comments for or against the proposed Zone Text Amendment.

Prepared and Recommended By:

[Signature]

Zai Abu Bakar
Community Development Director

PC Attachments:

1. PC Resolution No. 2010-06
2. Draft Ordinance No. 1424
3. Chapter 17.36 of the Banning Zoning Code
RESOLUTION NO. 2010-06

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BANNING, CALIFORNIA RECOMMENDING TO THE CITY COUNCIL APPROVAL OF ZONE TEXT AMENDMENT NO. 10-97501, AMENDING CHAPTER 17.36 OF THE MUNICIPAL CODE RELATING TO POLITICAL AND ELECTION SIGNS AND RELATED SIGN RESTRICTIONS.

WHEREAS, the City of Banning Municipal Code regulating political and election signs requires some amendments to bring the Code into compliance with governing law and the City's intent; and

WHEREAS, the City seeks to appropriately define and regulate political signs and election signs; and

WHEREAS, the City seeks to amend its sign regulations to clarify the size restrictions of political and election signs; and

WHEREAS, the City seeks to amend the existing code to remove the pre-election time limits related to display of political signs and the bond required prior to posting, to comply with governing law; and

WHEREAS, the City seeks amend its sign code to further limit those signs that are permitted in the public rights-of-way to prevent visual clutter, minimize traffic hazards, and prevent interference with the intended use of public property.; and

WHEREAS, the City seeks to amend the code to provide that the City can summarily remove illegally placed political signs, if and only if, the owner of the sign cannot be determined after reasonable effort.

WHEREAS, on May 21, 2010, the City gave public notice as required under Zoning Code Section 17.68 by advertising in the Record Gazette newspaper of the holding of a public hearing at which the Zone Text Amendment would be considered; and

WHEREAS, on the June 1, 2010 the Planning Commission held the noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to, the Zone Text Amendment and at which time the Planning Commission considered the Zone Text Amendment; and

WHEREAS, at this public hearing on June 1, 2010, the Planning Commission considered and heard public comments on the Zone Text Amendment; and

PC RESOLUTION NO. 2010-06
WHEREAS, the Planning Commission has analyzed this proposed project and has determined that it is exempt from the California Environmental Quality Act ("CEQA") per Section 15378. The State CEQA Guidelines, at Section 15378, define a project as the “whole of an action which has the potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment...” The proposed amendments to the Zoning Code do not result in a direct or indirect physical change in the environment and therefore do not meet the definition of a “project” under CEQA.

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

ENVIRONMENTAL DETERMINATION

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 Department as provided in the Staff Report dated June 1, 2010 and documents incorporated therein by reference, and any other evidence (within the meaning of Public Resources Code § 21080(c) and § 21082.2) within the record or provided at the public hearing of this matter, hereby finds and determines as follows:

SECTION 1. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):

1. **CEQA:** The State CEQA Guidelines, at Section 15378, define a project as the “whole of an action which has the potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment...” The proposed amendments to the Zoning Code do not result in a direct or indirect physical change in the environment and therefore do not meet the definition of a “project” under CEQA.

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

The amendment to the Zoning Code does not relate to any one physical project and is not subject to the MSHCP. Further, projects subject to this resolution will trigger individual project analysis and documentation related to the requirements of MSHCP including mitigation through payment of the MSHCP Mitigation Fee.

SECTION 2. FINDINGS

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

Findings of Fact:

The Zone Text Amendment is consistent with the goals and policies of the General Plan, insofar as the General Plan designations and Zoning designations will not change. The primary General Plan Land Use Goal states "A balanced, well planned community including businesses which provides a functional pattern of land uses and
enhances the quality of life for all Banning residents." Additionally, the General Plan, Land Use Element, Residential Goal 1 states, "Preserve and enhance the City’s neighborhoods." By implementing appropriate regulations for election and political signs, the Zone Text Amendment will help protect the residents and its neighborhoods from illegal signage, reduce visual blight and enhance vehicular and pedestrian safety. Further, the Amendment will protect the City from future legal challenge by bringing the code into compliance with governing law.

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

Findings of Fact:

The Zone Text Amendment is consistent with the existing provisions of the Zoning Ordinance. Additionally, the Banning Municipal Code has been reviewed to ensure that there is no internally inconsistency created by the proposed amendments.

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

Findings of Fact:

The Planning Commission has analyzed this proposed project and has determined that the proposed amendment does not meet the definition of a "project" under CEQA. The State CEQA Guidelines, at Section 15378, define a project as the "whole of an action which has the potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment..." The proposed amendments to the Zoning Code do not result in a direct or indirect physical change in the environment.

SECTION 3. PLANNING COMMISSION ACTIONS

The Planning Commission hereby takes the following actions:

1. Recommend Approval of Zone Text Amendment. The Planning Commission hereby recommends approval of Zone Text Amendment No. 10-97501 to the City Council for the following actions:

   Amend Chapter 17.36 of the Banning Municipal Code as indicated in the attached draft Ordinance.

   PASSED, APPROVED AND ADOPTED this 1st day of June 2010.

   ________________________________
   William Escandel, Vice-Chairman
   Banning Planning Commission

   PC RESOLUTION NO. 2010-06
APPROVED AS TO FORM AND
LEGAL CONTENT:

Lona Laymon
Aleshire & Wynder, LLP
Assistant City Attorney
City of Banning, California

CERTIFICATION:

I, Virginia Sorenson, Recording Secretary of the Planning Commission of the City of Banning, California, do hereby certify that the foregoing Resolution, No. 2010-06, was duly adopted by the Planning Commission of the City of Banning, California, at a regular meeting thereof held on the 1st day of June 2010, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Virginia Sorenson, Recording Secretary
City of Banning, California

PC RESOLUTION NO. 2010-06
ATTACHMENT 2

Draft Ordinance No. 1424
ORDINANCE NO. 1424

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BANNING AMENDING CHAPTER 17.36 RELATING TO POLITICAL AND ELECTION SIGNS AND RELATED SIGN RESTRICTIONS

WHEREAS, the City of Banning Municipal Code regulating political signs requires some amendments to bring the code in compliance with governing law and the City’s intent; and

WHEREAS, the City seeks to appropriately define and regulate political signs and election signs; and

WHEREAS, the City seeks to amend its sign regulations to clarify the size restrictions of political and election signs; and

WHEREAS, the City seeks to amend the existing code to remove the pre-election time limits related to display of political signs and the bond required prior to posting, to comply with governing law; and

WHEREAS, the City seeks amend its sign code to further limit those signs that are permitted in the public rights-of-way to prevent visual clutter, minimize traffic hazards, and prevent interference with the intended use of public property.; and

WHEREAS, the City seeks to amend the code to provide that the City can summarily remove illegally placed political signs, if and only if, the owner of the sign cannot be determined after reasonable effort.

WHEREAS, on May 21, 2010, the City gave public notice as required under Zoning Code Section 17.68 by advertising in the Record Gazette newspaper of the holding of a public hearing at which the Zone Text Amendment would be considered; and

WHEREAS, on the June 1, 2010 the Planning Commission held the noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to, the Zone Text Amendment and at which time the Planning Commission considered the Zone Text Amendment; and

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

SECTION 1. The Banning Municipal Code, at Section 17.36.030 is hereby amended to delete the existing definition of “political sign” and add the following definitions of “election sign” and “political sign” as follows:

“17.36.030 Definitions.
Election Sign. A temporary sign related to or directly associated with a national, state, county or local election or referendum.

Political Sign. A sign other than an election sign directly associated with an ideological, political or similar noncommercial message on a sign.

SECTION 2. The Banning Municipal Code, at Section 17.36.050(G), is hereby amended in its entirety to read in as follows:

"17.36.050 Exempt signs.

G. Election Signs. Election signs must comply with the following requirements.

1. Election signs shall be limited in size to the maximum allowed in the zones where located. Any freeway oriented freestanding sign shall be required to secure all applicable permits and comply with these sign regulations including section 17.36.110.

2. No election signs shall be permitted on public property or in the public right-of-way.

3. There are no pre-election restrictions limiting when election signs may be erected, but the owner of the sign must remove the sign within seven days after the applicable election has ended.

4. For all election signs, the campaign shall be deemed the owner of the sign unless it can establish that it is not the owner of the sign. In the event the campaign establishes it is not the owner of the sign, the owner of the property on which the sign is placed, shall be deemed the owner of the sign.

5. In the event that any such sign violates the provisions of this Chapter, or if it is not removed with the period provided hereunder, it shall be subject to abatement pursuant to the procedures prescribed in section 17.36.090.

6. Except as provided in this subsection, no permit shall be required for election signs.

SECTION 3. The Banning Municipal Code, is hereby amended to add Section 17.36.050(T) to read in its entirety as follows:

"17.36.050 Exempt Signs.

T. Political Signs. Political signs must comply with the following requirements.
1. Political signs shall be limited in size to the maximum allowed in the zones where located. Any freeway oriented freestanding sign shall be required to secure all applicable permits and comply with these sign regulations including section 17.36.110.

2. No political signs shall be permitted on public property or in the public right-of-way.

3. In the event that any such sign violates the provisions of this Chapter, it shall be subject to abatement pursuant to the procedures prescribed in section 17.36.090.

4. Except as provided in this subsection, no permit shall be required for political signs.”

SECTION 4. The Banning Municipal Code, at Section 17.36.060(L), is hereby amended in its entirety to read in as follows:

“17.36.060 Prohibited Signs.

... (L) Signs on public property or the public rights-of-way, except for traffic regulation and signs permitted by a governmental agency.

...”

SECTION 5. The Banning Municipal Code, at Section 17.36.080(C), is hereby amended in its entirety to read in as follows:

“17.36.080. Off-site residential subdivision directional signs.

... (C) All kiosk signs shall be placed on private property with written consent of the property owner.

...”

SECTION 6. The Banning Municipal Code, at Section 17.36.090, is hereby amended in its entirety to read in as follows:

“17.36.090 Abatement of Abandoned or Illegal Temporary Signs.

A. Every temporary sign not owned by the property owner of the property on which it is erected shall be marked to indicate on the sign the identity of the sign owner, provided that for any commercial sign where not otherwise indicated it shall be presumed that the business being advertised is the owner.

B. Any abandoned or illegal temporary sign is hereby declared to be a danger to the health, safety, and welfare of the citizens of Banning. Any sign which is (i) in deteriorating condition and not maintained in the condition in which it was...
originally installed, (ii) violates conditions of the sign permit, or (iii) is partially or wholly obscured by the growth of dry vegetation or weeds or by the presence of debris or litter also presents a danger to the health, safety, and welfare of the Banning community. Such signs may be abated as provided in this Chapter.

C. Any such signs as set forth above are hereby deemed to be a public nuisance. Any such sign, including any and all structural supports, shall be removed by the property owner within 10 days after notice from the Director, which notice shall provide an opportunity to be heard before the Director on the abandonment and nuisance decision and an appeal may be taken pursuant to Chapter 17.68. Any sign not removed within 10 days after such notice, may be abated by the Director if no appeal has been taken from the Director's decision, or, if the appeal has been denied or modified. If after a reasonable effort to determine the owner of the sign, the owner cannot be found, then the City may summarily remove the sign and the same shall be stored for a period of 30 days, during which time they may be recovered by the owner.

D. Costs of an abatement conducted pursuant to this Chapter shall be assessed against the owner of the sign, and to the extent permissible under law, against the owner of the property, using the procedures established in the Banning Municipal Code.”

SECTION 7. The Banning Municipal Code, at Section 17.36.110(A)(2)(c), is hereby deleted.

SECTION 8. The Mayor shall sign this ordinance and the City Clerk shall attest thereto and shall within fifteen days of its adoption cause it or a summary of it, to be published in the Record Gazette, a newspaper published and circulated in the City. Thereupon this ordinance shall take effect 30 days after adoption and be in force and effect according to law.

SECTION 9. The City Clerk shall certify to the adoption of this ordinance and shall cause a copy of the same to be published in a manner prescribed by law.

PASSED, APPROVED, and ADOPTED this ______ day of __________, 2010.

______________________________
Robert E. Botts, Mayor
City of Banning
APPROVED AS TO FORM AND LEGAL CONTENT:

Lona Laymon
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. 1424 was duly introduced at a regular meeting of the City Council of the City of Banning, held on the ______ day of June, 2010, and was duly adopted at a regular meeting of said City Council on the ______ day of ________, 2010 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Marie A. Calderon, City Clerk
City of Banning
Banning, California
ATTACHMENT 3

Chapter 17.36 of the Banning Zoning Code
Chapter 17.36
SIGN REGULATIONS

Sections:
17.36.010 Purpose.
17.36.020 Applicability.
17.36.030 Definitions.
17.36.040 Sign permit required.
17.36.050 Exempt signs.
17.36.060 Prohibited signs.
17.36.070 Temporary signs.
17.36.080 Off-site residential subdivision directional signs.
17.36.090 Abandoned signs.
17.36.100 Sign construction and maintenance.
17.36.110 Sign regulations.
17.36.120 Sign design guidelines.
17.36.130 Nonconforming signs.
17.36.140 Removal of illegal and nonconforming signs.
17.36.150 Establishing compliance.
17.36.160 Inventory and abatement—Variances—Penalties.
17.36.170 Murals.

17.36.010 Purpose.

The purpose of this chapter is to establish sign regulations that are intended to:
A. Limit and control the location, size, type and number of signs allowed in the City of Banning.
B. To provide for a more orderly display of advertising devices, while implementing community design standards with respect to character, quality of materials, color, illumination and maintenance, which are consistent with the City’s General Plan.
C. To bring these advertising devices into harmony with the buildings, with the neighborhood, with the natural environment, and with other signs in the area.
D. To preserve and improve the appearance of the City as a place in which to live and work, and as an attraction to nonresidents who come to visit or trade.

E. To encourage sound signage practices as an aid to business and for the information of the public, while preventing excessive and confusing sign displays.
F. To reduce hazards to motorists, bicyclists and pedestrians.
G. And to promote the public health, safety, viewsheds, aesthetic values, and general welfare of the community by regulating and controlling all matters relating to signs. (Zoning Ord. dated 1/31/06, § 9109.01.)

17.36.020 Applicability.

A. This chapter shall apply to all signage proposed within the community. No signs shall be erected or maintained in any land use district established by this Zoning Ordinance, except those signs specifically enumerated in this chapter. The number and area of signs as outlined in this chapter are intended to be maximum standards.
B. In addition to the standards set forth herein, consideration shall be given to a sign’s relationship to the need that it serves, and the overall appearance of the subject property as well as the surrounding community. Compatible design, simplicity, and sign effectiveness are to be used in establishing guidelines for sign approval. (Zoning Ord. dated 1/31/06, § 9109.02.)

17.36.030 Definitions.

Abandoned Sign. Any display remaining in place or not maintained for a period of 120 days or more which no longer advertises or identifies an on-going business, product, or service available on the business premises where the display is located.
Address Sign. The numeric reference of a structure or use to a street, included as part of a wall or monument sign.
A-Frame Sign. A free standing sign usually hinged at the top, or attached in a similar manner, and widening at the bottom to form a shape similar to the letter “A”. Such signs are usually designed to be auxiliary portable commercial signage, hence they are not considered permanent signs.
Anchor Tenant. A shopping center key tenant, usually the largest or one of the largest tenants located within the shopping center, which serves to attract customers to the center through its size, product line, name, and reputation.

Animated Sign. A sign with action or motion, flashing or color changes, requiring electrical energy, electronic or manufactured sources of supply, but not including wind actuated elements such as flags or banners. Said definition shall not include displays such as time and temperature, revolving, changeable copy or public information centers.

Announcement or bulletin board signs. Signs permanent in character designed to accept changeable copy, handbills, posters and matters of a similar nature.

Area of sign. The area of a sign shall be the entire area including any type of perimeter or border which may enclose the outer limits of any writing, representation, emblem, figure or character excluding architectural features or design. The area of the sign having no such perimeter or border shall be computed by enclosing the entire area within parallelograms, triangles or circles of the smallest size sufficient to cover the entire area of the sign and computing the area of these parallelograms, triangles or circles. The area computed shall be the maximum portion or portions which may be viewed from any one direction.

Awning, Canopy, or Marquee Sign. A nonelectric sign that is printed on, painted on, or attached to an awning, canopy, or marquee and is only permitted on the vertical surface or flap.

Banner. A temporary display such as used to announce open houses, grand openings or special announcements. Often made of cloth, bunting, plastic, paper, or similar material.

Bench Sign. Copy painted on any portion of a bus stop or other bench.

Billboard or Off-Site Sign. A sign structure advertising an establishment, merchandise, service, or entertainment, which is not sold, produced, manufactured, or furnished at the property on which the sign is located.

Building Face and/or Frontage. The length of the single front building elevation in which the primary entrance to the business is located. If more than one business is located in a single building, then such length shall be limited to that portion which is occupied by each individual business.

Canopy sign. Shall mean a sign attached to either the underside of the canopy, or marquee, or directly to the canopy itself.

Changeable Copy Sign. A sign designed to allow the changing of copy through manual, mechanical, or electrical means.

Civic Event Sign. A temporary sign, other than a commercial sign, posted to advertise a civic event sponsored by a public agency, school, church, civic-fraternal organization, or similar noncommercial organization.

Commercial Seasonal Sign. A “open” or “closed” window sign, posted on a seasonal basis.

Contractor’s Sign/Construction Sign. A temporary sign erected on the parcel on which construction is taking place, limited to the duration of the construction, indicating the names of the architects, engineers, landscape architects, contractors, or similar artisans, and the owner, financial supporters, sponsors, and similar individuals or firms having a major role or interest with respect to the structure or project.

Directional Sign. Signs limited to on-premises directional messages, principally for pedestrian or vehicular traffic, such as “one way”, “entrance", or "exit”.

Directory Sign. A sign for listing the tenants or occupants and their suite numbers of a building or center.

Double-faced Sign. A single structure designed with the intent of providing copy on both sides.

Eavestone. The bottom of the roof eave or parapet.

Flags and pennants. Shall mean devices generally made of flexible materials, usually cloth, paper or plastic, and displayed on strings. They may or may not contain any text. This definition shall not include the flag of the United States or of any state.

Flags of the State and Nation. A flag of the United States or the State of California.

Flashing Sign. A sign that contains an intermittent or sequential flashing light source.
Freestanding Sign. A sign which is supported by one or more uprights, braces, poles, or other similar structural components that is not attached to a building or buildings. Flagpoles are not included in this definition.

Freeway. A highway in respect to which the owners of abutting land have no right or easement of access or in respect to which such owners have only limited or restricted right or easement of access, and which is declared to be such in compliance with the Streets and Highways Code of the State of California.

Future Tenant Identification Sign. A temporary sign which identifies a future use of a site or building.

Grand Opening. A promotional activity not exceeding 30 calendar days used by newly established businesses, within 2 months after occupancy, to inform the public of their location and service available to the community. Grand Opening does not mean an annual or occasional promotion of retail sales or activity by a business.

Ground Sign. A display attached to the ground, within an architecturally planned wall or structure, and not over eight (8) feet in height.

Height of Sign. The greatest vertical distance measured from the existing grade at the mid-point of the sign support(s) that intersect the ground to the highest element of the sign.

Holiday Decoration Sign. Temporary signs, in the nature of decorations, clearly incidental to and customarily associated with holidays.

Identification Sign. A sign attached to the building and displaying only the name, type of business, and/or logo in combination, identifying a particular business establishment.

Illegal Sign. Any of the following: a sign erected without first complying with all ordinances and regulations in effect at the time of its construction and erection or use; a sign that was legally erected, but whose use has ceased, or the structure upon which the display is placed has been abandoned by its owner, not maintained, or not used to identify or advertise an ongoing business for a period of not less than 120 days; a sign that was legally erected which later became nonconforming as a result of the adoption of an ordinance, the amortization period for the display provided by the ordinance rendering the display nonconforming has expired, and conformance has not been accomplished; a sign which is a danger to the public or is unsafe; a sign which is a traffic hazard not created by relocation of streets or highways or by acts of the City or County. Abandoned signs and prohibited signs are also illegal.

Illuminated Sign. A sign with an artificial light source, either internal or external, for the purpose of lighting the sign.

Institutional Sign. A sign identifying the premises of a church, school, hospital rest home, or similar institutional facility.

Kiosk. An off-premise sign of no more than four square feet in size, used for directing people to the sales office or models of a residential subdivision project.

Logo. An established identifying symbol or mark associated with a business or business entity.

Lot or Street Frontage. The linear front footage of a parcel of property abutting a dedicated public street.

Logo Sign. An established trademark or symbol identifying the use of a building.

Monument Sign. An independent structure supported from grade to the bottom of the sign with the appearance of having a solid base.

Murals. Painted wall signs which have a majority of the sign area comprised of noncommercial content, which generally have artistic, historic or cultural themes, and which are designed and painted (or supervised) by an artist who possesses demonstrated knowledge and expertise in the design, materials, and execution of murals or other art. Commercial content of murals shall be subject to all applicable sign limitations of the underlying zone district.

Non-Commercial Sign. A sign which does not promote, identify or sell a business or product.

Nonconforming Sign. A legally established sign which fails to conform to the regulations of this chapter. Otherwise conforming signs whose height exceeds the provisions of this chapter only because a special topographical circumstance results in a material impairment of the visibility of the display or the
owner's ability to adequately and effectively continue to communicate with the public through the use of the display if the sign were limited to the height allowed in this chapter shall not be considered non-conforming.

**Occupancy Frontage.** Each individual tenant space within a building or group of buildings which faces upon a dedicated street or public parking area between such space and street.

**Off-Site Sign.** Any sign which advertises or informs in any manner businesses, services, goods, persons, or events at some location other than that upon which the sign is located. Off-premise sign, billboard, and outdoor advertising structure are equivalent terms.

**Open House Sign.** A temporary on-site sign posted to indicate a salesperson is available to represent the property subject to sale, lease, or rent.

**Painted Sign.** Signs painted on the exterior surface of a building or structure; however, if such signs have raised borders, letters, characters, decorations or lighting appliances, they shall be considered wall signs.

**Parcel or lot of real property.** A parcel or lot of real property under separate ownership from any other parcel or lot and having street or highway frontage.

**Political Sign.** A temporary sign directly associated with a forthcoming national, state, county or local election or referendum.

**Portable Sign.** A sign that is not permanently attached to the ground or a building.

**Projecting Sign.** Any sign which is suspended from or supported by a building or wall, and which projects eighteen (18) inches or more outward therefrom.

**Promotional Sign.** A sign erected on a temporary basis to promote the sale of new products, new management, new hours of operation, a new service, or to promote a special sale.

**Public Information Center.** Any display which is characterized by changeable copy, letters or symbols.

**Real Estate Sign.** An on-site sign pertaining to the sale or lease of the premises.

**Revolving Sign.** Any sign that revolves, either by wind actuation or by electrical means.

**Roof Sign.** A sign erected, constructed, or placed upon or over a roof of a building, including a mansard roof and which is wholly or partly supported by such buildings.

**Shopping Center.** A group of four (4) or more businesses which function as an integral unit on a single parcel or group of parcels and utilize common off-street parking and access and is identified as a shopping center.

**Sign.** Any structure, housing, device, figure, statuary, painting, display, message placard, or other contrivance, or any part thereof, which is designed, constructed, created, engineered, intended, or used to advertise, or to provide data or information in the nature of advertising, for any of the following purpose: to designate, identify, or indicate the name of the business of the owner or occupant of the premises upon which the advertising display is located; or, to advertise the business conducted, services available or rendered, or the goods produced, sold, or available for sale, upon the property where the advertising display is erected. This definition shall include all parts, portions, units and materials composing same, together with illumination, frame, background, structure, support and anchorage therefor.

**Sign Area.** The entire face of a sign, including the surface and any framing, projections, or molding, but not including the support structure. Individual channel-type letters mounted on a building shall be measured by the area enclosed by four straight lines outlining each word or grouping of words.

**Sign Program.** A coordinated program of one or more signs for an individual building or building complexes with multiple tenants.

**Temporary Sign.** A sign intended to be displayed for a limited period of time.

**Time and temperature sign.** A sign giving the time and or temperature.

**Trademark.** A word or name which, with a distinctive type or letter style, is associated with a business or business entity in the conduct of business.
Tract development sign. A sign indicating the location of a housing tract.

Tract directional sign. An off-premises sign indicating direction to a tract development.

Vehicle Sign. A sign which is attached to or painted on a vehicle which is parked on or adjacent to any property, the principal purpose of which is to attract attention to a product sold or an activity or business located on such property.

Wall Sign. A sign painted on or fastened to a wall and which does not project more than 12 inches from the building or structure.

Window Sign. Any sign that is applied or attached to a window or located in such a manner that it can be seen from the exterior of the structure, on a permanent or temporary basis. (Zoning Ord. dated 1/31/06, § 9109.03; Ord. No. 1382, § 3 (part.))

17.36.040 Sign permit required.
A. General.
1. No sign, or temporary sign, unless exempted by this chapter, shall be constructed, displayed or altered without a sign permit or sign program approved by the City. The Community Development Department shall review all signs unless otherwise stated.

2. Sign permits shall be reviewed and either approved or denied by the Director within 30 days of submittal of a complete application. The determination of a complete application shall be in conformance with the California Permit Streamlining Act.

3. Determination on sign permit applications are to be guided by the standards and criteria set forth in this article. An application will be approved whenever the proposed sign conforms to all design, size, height and other standards for signs subject to a permit requirement, as such requirements are set forth in this chapter.

4. The Director's determination shall be provided in writing, and shall include an explanation of the reasons for approval or denial. Appeal of the Director's decision shall be in conformance with Chapter 17.68, Hearings and Appeals.

B. Sign Program. A permit for a sign program shall be required for all new commercial, office, and industrial centers consisting of three or more tenant spaces. The program shall be filed with the project application to construct the center, and shall be processed concurrently with the project application. The purpose of the program shall be to integrate signs with building and landscaping design to form a unified architectural statement. This may be achieved by:

1. The use of the same background color, and allowing signs to be of up to 3 different colors per multi-tenant center.

2. The use of the same type of cabinet supports, or method of mounting for signs, and the same type of construction material for components, such as sign copy, cabinets, returns, and supports.

3. The use of the same form of illumination of the signs, with internally lit signs generally being preferred by the City due to the lack of overspill from such lighting.

4. Uniform sign placement specifications, letter height, and logo height for both anchor tenants and minor tenants.

5. Logos may be permitted and are not subject to the color restrictions specified in the program. However, no logo should exceed 25% of the allowable sign area. (Zoning Ord. dated 1/31/06, § 9109.04.)

17.36.050 Exempt signs.
The following signs shall be exempt from the provisions of this chapter:
A. Window signs not exceeding one square foot and limited to business identification, hours of operation, address, and/or emergency information. (Neon signs of any size require a permit, if allowed.)
B. Signs within a structure and not visible from the outside.
C. Memorial signs and plaques installed by a civic organization recognized by the Council, when cut in masonry or bronze tablets.
D. Official and legal notices issued by a court or governmental agency.
E. Official flags of the United States, the State of California, County of Riverside, or the City of Banning.
F. Identification signs on construction sites. Such signs shall be limited to one directory or pictorial display sign identifying all contractors and other parties (including lender, realtor, subcontractors, etc.). Each sign shall not exceed 20 square feet in area and 6 feet in height. Each sign shall be removed prior to issuance of a Certificate of Occupancy.
G. Political signs. Applicants for political signs must comply with the following requirements.

1. Political signs shall be located on private property only, and shall be limited in size to the maximum allowed in the zones where located. Such signs shall not be attached to trees, fence posts or public utility poles.

2. In the event that any such sign is detrimental to the environment, or to the public peace, health, safety, aesthetics, or morals, it shall be subject to abatement pursuant to the procedures prescribed in this ordinance concerning signs no longer advertising bona fide businesses, etcetera.

3. No permit shall be required for political signs, however, the applicant shall post a two hundred dollar cash bond with the City to guarantee removal of the political signs within seven days after the election to which the signs relate.

4. Political signs shall not be displayed more than 30 days prior to the applicable election.

H. Real estate signs for residential sales shall be one sign not exceeding four square feet in area and five feet in height, provided it is unlit and is removed within 7 days after the close of escrow or the rental or lease has been accomplished. Open House signs, for the purpose of selling a single house or condominium and not exceeding four square feet in area and five feet in height, are permitted for directing prospective buyers to property offered for sale.

I. Real estate signs for the initial sale, rental, or lease of commercial and industrial premises: One sign not to exceed 20 square feet in area to advertise the sale, lease, or rent of the premises. No such sign shall exceed eight feet in overall height and shall be removed upon sale, lease or rental of the premises or 12 months, whichever comes first. Thereafter, one sign per premise not to exceed 12 square feet in size and five feet in height is permitted for the sale, lease or rent of the premise.

J. Future tenant identification signs: One wall or freestanding sign may be placed on vacant or developing property to advertise the future use of an approved project on the property and where information may be obtained. Such sign shall be limited to one sign, a maximum of 20 square feet in area and eight feet in overall height. Any such signs shall be single faced and shall be removed prior to the granting of occupancy permit by the City.

K. Incidental signs for automobile repair stores, gasoline service stations, automobile dealers with service repairs, motels and hotels, showing notices of services provided or required by law, trade affiliations, credit cards accepted, and the like, attached to the structure or building; provided that all of the following conditions exist:

1. The signs number no more than three.

2. No such sign projects beyond any property line.

3. No such sign shall exceed an area per face of three square feet.

4. Signs may be double-faced.

L. Copy applied to fuel pumps or dispensers such as fuel identification, station logo, and other signs required by law.

M. Agricultural signs, either wall or freestanding types, non-illuminated, and not exceeding four square feet for lots two acres or less and 10 square feet for lots greater than two acres, identifying only the agricultural products grown on the premises. The number of such signs shall be one per street frontage or a maximum of two, with wall signs to be located below the rooftop and freestanding signs to be no higher than six feet.

N. Sign programs which have been approved prior to the adoption of this Zoning Ordinance.

O. Municipal and traffic control signs: Directional signs to aid vehicle or pedestrian traffic provided that such signs are located on-site, have a maximum area which does not exceed three square feet, have a maximum overall height of four feet above grade, and are mounted on a monument or decorative pole. Such signs may be located in a required setback provided that a minimum distance of five feet from any property line is maintained. Directional signs to the railway, the airport or the highway are among the types of signs which fall in this category.

P. Temporary window signs may be permitted on the inside of windows facing out which do not cover more than 25% of the individual window sur-
face for a period not to exceed 30 days use during any 60 day period. Temporary painted signs may be on the outside of the window.

Q. Historic site and historic landmark, and neighborhood signs, when designed in conformance with standards of the California Historic Commission or a similar entity.

R. Professionally made restroom, telephone and walkway signs of under one square foot.

S. Emblems or signs of a political, civic, philanthropic, educational or religious organizations, if those signs are on the premises occupied by such organizations, and do not exceed 24 square feet in area, or number more than one emblem or sign in total. (Zoning Ord. dated 1/31/06, § 9109.05.)

17.36.060 Prohibited signs.

The following signs are inconsistent with the sign standards set forth in this chapter, and are therefore prohibited:

A. Abandoned signs.

B. Animated, moving, flashing, blinking, reflecting, revolving, or any other similar sign, except electronic message boards.

C. Banners, flags, and pennants, except with Temporary Use Permit.

D. Billboards.

E. Chalkboards or blackboards.

F. Changeable copy signs and electronic message boards, except as allowed by a Conditional Use Permit for movie theaters, arenas, stadiums, or auto malls in the commercial land use districts.

G. New freestanding signs, except for new freeway oriented freestanding signs permitted pursuant to Section 17.36.110(B)(6).

H. Off site signs, except as permitted elsewhere in this ordinance.

I. Permanent sale signs.

J. Portable signs or A-frame signs.

K. Roof signs.

L. Signs on public property, except for traffic regulatory, informational signs, signs required by a governmental agency, and model home tour signs, and except as permitted in the Off Site sign section of this zoning ordinance.

M. Signs painted on fences or roofs.

N. Balloons and other inflated devices or signs designed to attract attention, except with Temporary Use Permit.

O. Signs that are affixed to vehicles, excluding permanent signs on commercial vehicles which are driven on a daily or weekly basis.

P. Signs which simulate in color or design a traffic sign or signal, or which make use of words, symbols or characters in such a manner to interfere with, mislead, or confuse pedestrian or vehicular traffic.

Q. Signs which singly or in combination with other signs block more than 5% of the view from any window or door of any structure or dwelling used primarily as a residence.

R. Signs which singly or in combination with other signs, for any portion of the day, block natural sunlight from falling upon any window or door of any structure or dwelling used primarily as a residence.

S. Signs which singly or in combination with other signs block more than 10% of the view from any window or door of any structure used or occupied by people for more than an hour of a typical day, in all zoning districts of the City. (Zoning Ord. dated 1/31/06, § 9109.06; Ord. No. 1377, § 1.)

17.36.070 Temporary signs.

Special event signs and civic event signs may be approved by the Director for a limited period of time as a means of publicizing special events such as grand openings, carnivals, parades, charitable events and holiday sales. Such special event signs shall be limited to the following provisions:

A. No special event sign shall be erected without a temporary use permit.

B. Special event signs shall be limited to 30 days per event from the date of erection or date of permit, whichever occurs first.

C. Special event signs shall not include promotional sales signs, and they must be taken down within a week after the conclusion of the special event.
D. Special event signs may include balloons, inflated devices, search lights, beacons, pennants, and streamers.

E. Such temporary signs may not be granted to the same business or location more than twice during any one year. (Zoning Ord. dated 1/31/06, § 9109.07.)

17.36.080 Off-site residential subdivision directional signs.

The following shall regulate and establish a standardized program of off-site residential subdivision directional kiosk signs for the City. For the purposes of this subsection, a residential subdivision is defined as a housing project within a recorded tract where five or more structures or dwelling units are concurrently undergoing construction.

A. No kiosk sign structure shall be located less than 300 feet from an existing or previously approved kiosk site, except in the case of signs on different corners of an intersection.

B. The placement of each kiosk sign structure shall be reviewed and approved by the Director.

C. All kiosk signs shall be placed on private property with written consent of the property owner or on City right-of-way pursuant to a City encroachment permit.

D. A kiosk sign location plan shall be prepared, showing the site of each kiosk directional sign, and shall be approved by the Director prior to the issuance of a sign permit.

E. There shall be no additions, tag signs, streamers, devices, display boards, or appurtenances, added to the kiosk signs as originally approved, no other non-permitted directional signs, such as posters or trailer signs, may be used.

F. All non-conforming subdivision kiosk directional signs associated with the subdivision in question must be removed prior to the placement of directional kiosk sign(s).

G. Kiosk signs, or attached project directional signage, shall be removed when the subdivision is sold out. The applicant (or his/her legal successors) will be responsible for removal of panels and structures no longer needed. (Zoning Ord. dated 1/31/06, § 9109.08.)

17.36.090 Abandoned signs.

A. Any abandoned or illegal sign is hereby declared to be a danger to the health, safety, and welfare of the citizens of Banning. Any sign which is partially or wholly obscured by the growth of dry vegetation or weeds or by the presence of debris or litter also presents a danger to the health, safety, and welfare of the Banning community.

B. Any such signs as set forth above are hereby deemed to be a public nuisance. Any such sign, including any and all structural supports, shall be removed by the property owner within 10 days after notice from the Director, which notice shall provide an opportunity to be heard before the Director on the abandonment and nuisance decision. The appeal shall be granted or the decision modified if facts or circumstances disprove the existence of a public nuisance. Any sign not removed within 10 days after such notice, may be summarily abated by the Director if no appeal has been taken from the Director's decision, or, if the appeal has been denied or modified. Costs of such abatement shall be assessed against the property, using the procedures established in the Banning Municipal Code. (Zoning Ord. dated 1/31/06, § 9109.09.)

17.36.100 Sign construction and maintenance.

A. Every sign, and all parts, portions, and materials shall be manufactured, assembled, and erected in compliance with all applicable State, Federal, and City regulations and the Uniform Building Code.

B. Every sign, including those specifically exempt from this Zoning Ordinance, in respect to permits and permit fees, and all parts, portions, and materials shall be maintained and kept in good repair. The display surface of all signs shall be kept clean, neatly painted, and free from rust and corrosion. Any cracked, broken surfaces, malfunctioning lights, missing sign copy or other unmaintained or damaged portion of a sign shall be repaired or replaced within 30 calendar days following notification by the City.
Noncompliance with such a request shall constitute a nuisance and penalties may be assessed in accordance with the provisions of these zoning ordinances. (Zoning Ord. dated 1/31/06, § 9109.10.)

17.36.110 Sign regulations.

Signs permitted in each of the City’s land use districts are identified below. In addition to the following regulations, all signs must be in compliance with all other provisions of this chapter pertaining to signs.

Signs may have commercial or non-commercial messages. A non-commercial message may be substituted for the copy of any commercial sign allowed by this chapter.

A. Signs in Residential Zones.

1. Up to one flagpole, displaying the flag of the US or the State of California, up to 35 feet in height, unless a permit is obtained from the City to have a flagpole in a private park or public park for up to 65 feet in height.

2. For single family homes, the following are allowed:

   a. Up to one sign not to exceed one square foot in area, identifying the address;

   b. Up to one unlit sign not to exceed four square feet in area, pertaining to the rental, sale or lease of the property on which the sign is located. Such signs must be temporary, and may contain no flashing, blinking or reflective objects.

   c. A temporary non-commercial sign.

3. For apartment complexes and multifamily developments, the following are allowed:

   a. Sign(s) containing the name and/or address of the development, providing that the combined area of such signs is not exceeded as established below:

      i. Up to one wall sign

      ii. Up to one freestanding sign per street frontage (which shall be in a landscaped area at least 15 feet from the curb face, and not closer than five feet to the property line). Freestanding signs shall have a maximum height of eight feet inclusive of supporting structures.

   iii. The maximum combined area of the signs set forth above shall not exceed 20 square feet, for complexes with 125 feet of frontage or less, and shall not exceed 30 square feet for complexes with over 125 square feet of frontage.

4. For properties in the residential zones where farming takes place, lots may have one sign per street frontage (up to a maximum of two signs) advertising only the agricultural products grown on the premises. These signs may not be illuminated, and may be either free standing or wall signs. For lots of two acres or less, each sign may be a maximum of four square feet. For lots over two acres, each sign may be a maximum of ten square feet.

5. No neon signs are permitted in residential areas.

B. Signs in Commercial and Industrial Zones.

1. No sign attached to a structure shall be placed above the roof line.

2. Wall signs. Each business shall be permitted wall signs per occupancy footage. The area devoted to such signs shall not exceed one square foot of sign area per one foot of building frontage, and shall not exceed 50 square feet of sign area.

3. Monument signs. Each parcel or property shall be permitted one monument sign subject to all of the following conditions being met:

   a. One square foot of sign area for one foot of building frontage is permitted. Such sign shall not exceed 50 square feet.

   b. The buildings must be set back at least 25 feet from the property line.

   c. The monument sign shall be located in a landscaped planter area not less than 50 square feet, with one dimension being at least four feet.

   d. The monument sign may be no more than 8 feet high.

   e. Shopping centers may have one monument sign not to exceed one square foot of display face per one foot of building frontage, not to exceed 100 square feet, for center identification. Said sign may include reader panels, and or a bulletin or a changeable copy pane.

4. Painted signs. Each business shall be permitted painted signs subject to the following conditions:

   a. Said signs shall be in combination with or in lieu of wall signs.
b. The area of said painted sign shall be deducted from the total allowable wall sign.

5. Accessory signs. Signs denoting credit cards, hours of operation, etc., shall be allowed but shall not exceed three square feet in total area.

6. Freeway Oriented Freestanding Sign. A freeway oriented freestanding sign ("freeway sign") is a sign located and designed in such a manner as to be viewed by the public traveling to, from or through the City of Banning on Interstate 10. To prevent visual clutter and preserve the aesthetics of the City, there shall be no more than seven freeway signs in the City. Freeway signs shall be located along the Interstate 10 right-of-way in accordance with the Freeway Oriented Freestanding Sign District Map, as illustrated in the map attached as Exhibit A to the ordinance codified in this section. Freeway signs shall be subject to the following regulations:

a. The freeway sign shall be designed in accordance with the City’s Freeway-Oriented Freestanding Sign Design Criteria, as illustrated in the map attached as Exhibit A to the ordinance codified in this section.

b. The freeway sign shall accommodate advertising displays for multiple businesses, and shared use of the freeway sign, including any video displays, shall be required.

c. The freeway sign shall not block any portion of another freeway sign from the view of any vehicle driver or passenger traveling on Interstate 10. The applicant shall be responsible for providing the Director with evidence to assure satisfactory compliance with this requirement.

d. The freeway sign shall be located in a planter area not less than 50 square feet with one dimension being at least four feet.

e. The freeway sign shall not exceed an overall height of 55 feet as measured from the Interstate 10 surface road grade.

f. The freeway sign’s display faces shall not exceed 180 square feet per display face, and no variance to this maximum dimension may be granted.

g. Video displays, if used, shall be turned off between the hours of 10:00 P.M. and 6:00 A.M.

h. Sound shall not be permitted.

i. Freeway Oriented Freestanding Sign District Map (see Exhibit A attached to the ordinance codified in this section.)

j. Freeway Oriented Freestanding Sign Design Criteria shall be established by City Council resolution.

7. One flag pole, displaying one or more flags of the state and nation, not to exceed 35 feet in height.

8. No new freestanding signs shall be permitted after adoption of this Ordinance. Any existing freestanding sign shall be considered legal and conforming, but shall not be altered or replaced. (Zoning Ord. dated 1/31/06, § 9109.11; Ord. No. 1377, § 2.)

17.36.120 Sign design guidelines.

A. General. The following design guidelines shall be consulted prior to developing signs for any project. Unless there is a compelling reason, these design guidelines shall be followed. If a guideline is waived, the Mayor and City Council shall be notified. An appeal, which does not require a fee, may be filed by the Mayor or any Council person within 15 days of the waiver approval.

1. Use a brief message: The fewer the words, the more effective the sign. A sign with a brief, succinct message is simpler and faster to read, looks cleaner and is more attractive.

2. Avoid hard-to-read, overly intricate typefaces: These typefaces are difficult to read and reduce the sign’s ability to communicate.

3. Avoid faddish and bizarre typefaces: Such typefaces may look good today, but soon go out of style. The image conveyed may quickly become that of a dated and unfashionable business.

4. Sign colors and materials: should be selected to contribute to legibility and design integrity. Even the most carefully thought out sign may be unattractive and a poor communicator because of poor color selection. Day-glo colors must be avoided.

5. Use significant contrast between the background and letter or symbol colors: If there is little contrast between the brightness or hue of the message of a sign and its background, it will be difficult to read.
6. Avoid too many different colors on a sign: Too many colors overwhelm the basic function of communication. The colors compete with content for the viewer's attention. Limited use of the accent colors can increase legibility, while large areas of competing colors tend to confuse and disturb.

7. Place signs to indicate the location of access to a business: Signs should be placed at or near the entrance to a building or site to indicate the most direct access to the business.

8. Place signs consistent with the proportions of scale of building elements within the facade: Within a building facade, the sign may be placed in different areas. A particular sign may fit well on a plain wall area, but would overpower the finer scale and proportion of the lower storefront. A sign which is appropriate near the building entry may look tiny and out of place above the ground level.

9. Place wall signs to establish rhythm across the facade, scale and proportion where such elements are weak. In many buildings that have a monolithic or plain facade, signs can establish or continue appropriate design rhythm, scale, and proportion.

10. Avoid signs with strange shapes: Signs that are unnecessarily narrow or oddly shaped can restrict the legibility of the message. If an unusual shape is not symbolic, it is probably confusing.

11. Carefully consider the proportion of letter area to overall sign background area: If letters take up too much sign, they may be harder to read. Large letters are not necessarily more legible than smaller ones. A general rule is that letters should not appear to occupy more than 75% of the sign panel area.

12. Make signs smaller if they are oriented to pedestrians: The pedestrian-oriented sign is usually read from a distance of 15 to 20 feet; the vehicle-oriented sign is viewed from a much greater distance. The closer a sign's viewing distance, the smaller that sign need be.

B. Wall or Fascia Signs.

1. Building wall and fascia signs should be compatible with the predominant visual elements of the building. Commercial centers, offices, and other similar facilities are required to be part of a sign program in accordance with the provisions of this chapter.

2. Where there is more than one sign, all signs should be complementary to each other in the following ways:
   a. Type of construction materials (cabinet, sign copy, supports, etc.)
   b. Letter size and style of copy
   c. Method used for supporting sign (wall or ground base)
   d. Configuration of sign area
   e. Shape to total sign and related components

3. The use of graphics consistent with the nature of the product to be advertised is encouraged, i.e., hammer or saw symbol for a hardware store, mortar and pestle for a drug store.

4. Direct and indirect lighting methods are allowed provided that they are not harsh or unnecessarily bright. The use of can-type box signs with translucent backlit panels are less desirable. Panels should be opaque if a can-type sign is used and only the lettering should appear to be lighted. The overspill of light should be negligible.

5. The use of backlit individually cut letter signs is strongly encouraged.

6. The use of permanent sale or come-on signs is prohibited.

7. The identification of each building or store's address in 6 inch high numbers over the main entry doorway or within 10 feet of the main entry is encouraged.

C. Monument Signs.

1. Monument signs are intended to provide street addresses, and identification for the commercial center development as a whole and for up to three major tenants.

2. All tenant signs should be limited in size to the width of the architectural features of the sign and shall be uniform in size and color.

3. A minimum of 10% of the sign area of monument signs for center developments should be devoted to identification of the center or building by address or name.

4. Monument signs should be placed perpendicular to approaching vehicular traffic.
5. Each monument sign should be located within a planted landscaped area which is of a shape and design that will provide a compatible setting and ground definition to the sign, incorporating the following ratio of landscape area to total sign area:
   a. Monument: 4 square feet of landscaped area for each square foot of sign area (1 side only).
   b. Directory: 2 square feet of landscaped area for each square foot of sign area. (Zoning Ord. dated 1/31/06, § 9109.12.)

17.36.130 Nonconforming signs.
   A. A legally established sign which fails to conform to this chapter shall be allowed continued use, except that the sign shall not be:
      1. Structurally altered so as to extend its useful life.
      2. Expanded, moved, or relocated.
      3. Re-established after a change in use.
      4. Re-established after a business has been abandoned for 120 days or more.
      5. Re-established after damage or destruction of more than 50%.
   B. Sign copy and sign faces may be changed on nonconforming signs when there is no change in use of the site or when only a portion of a multiple tenant sign is being changed.
   C. Any non-conforming sign shall be required to be brought into conformance or abated. (Zoning Ord. dated 1/31/06, § 9109.13.)

17.36.140 Removal of illegal and nonconforming signs.
   A. The Director shall remove or cause the removal of any fixed, permanent sign constructed, placed or maintained in violation of this chapter, after 30 days following the date of mailing of registered or certified written notice to the owner of the sign, if known, at the last known address or to the owner of the property as shown on the latest assessment roll, or to the occupant of the property at the property address.
   B. The notice shall describe the sign and specify the violation involved, and indicate that the sign will be removed if the violation is not corrected within 30 days. If the owner disagrees with the opinion of the Director, the owner may, within the said 30 day period request a hearing before the Planning Commission to determine the existence of a violation.
   C. If salvageable in the opinion of the Director, signs removed by the Director pursuant to this chapter shall be stored for a period of 60 days, during which time they may be recovered by the owner upon payment to the City for costs of removal and storage. If not recovered prior to expiration of the 60 day period, the sign and supporting structures shall be declared abandoned and title thereto shall vest to the City, and the cost of removal shall be billed to the owner or lien placed on the property upon which said sign was erected. (Zoning Ord. dated 1/31/06, § 9109.14.)

17.36.150 Establishing compliance.
   A. Any sign that does not conform to the requirements of this chapter, either by variance previously granted or by conformance to the existing sign regulations at the time the initial permit for the sign was issued, shall either be removed or brought up to code requirements within 10 years from the date it became noncompliant with this chapter. Notwithstanding the foregoing, the City shall not require a nonconforming sign to be removed pursuant to this chapter without paying compensation to the sign owner, if compensation is required by the Outdoor Advertising Act (Business and Professions Code section 5200 et seq.), or Division 3, Chapter 2.5 ("Outdoor Premises Advertising Displays") of the Business and Professions Code, or compensation is otherwise required by Federal or State law.
   B. In accordance with California Business and Professions Code Section 5499, no legal nonconforming sign will be required to be removed on the sole basis of its height or size if special topographic circumstances would result in a material impairment of visibility of the sign or the owner's or user's ability to adequately and effectively continue to communicate to the public through the use of the sign. The owner or user may maintain the sign at the premises and at a location necessary for continued public visibility at the height or size at which the sign was pre-
viously lawfully erected pursuant to all applicable codes, regulations and permits. Any such sign will be deemed to be in conformance with this chapter. (Zoning Ord. dated 1/31/06, § 9109.15; Ord. No. 1377, § 3.)

17.36.160 Inventory and abatement—Variances—Penalties.

A. Inventory and Abatement. Within 6 months from the date of adoption of this Zoning Ordinance, the City shall commence a program to inventory and identify illegal or abandoned signs within its jurisdiction. Within 60 days after this 6 month period, the City may commence abatement of identified illegal or abandoned signs. If a previously legal sign is merely nonconforming, however, the terms of Section 17.36.150 of this Zoning Ordinance titled “Establishing Compliance,” shall apply.

B. Variances. Variances from these sign ordinances are strongly discouraged. However, where results inconsistent with the general purposes of this ordinance would occur from its strict literal interpretation and enforcement, the Planning Commission may grant a variance therefrom upon such terms and conditions as it deems necessary.

C. Penalties. Each violation of this ordinance or any regulation, order or ruling promulgated or made hereunder, shall be punishable by a fine of not more than $200 per day, with each calendar day in violation, constituting a separate offense. (Zoning Ord. dated 1/31/06, § 9109.16.)

17.36.170 Murals.

Murals shall be allowed by permit reviewed by the beautification and mural council of the Banning Chamber of Commerce and permitted by the city’s community development department. Applications shall be on a form devised by the community development department. A permit for a mural will be granted when the following conditions have been satisfied:

A. Completed application;
B. Sign permit fee paid;
C. Approved by the beautification and mural council of the Banning Chamber of Commerce;

D. The mural shall not cause a pedestrian or vehicular safety hazard;
E. The mural shall be applied to the wall of a building; and
F. The mural shall be maintained.

(Ord. No. 1382, § 3 (part).)
(UNDER SEPARATE COVER)

ATTACHMENT 2

Initial Study / Mitigated Negative Declaration and Errata Sheet
RE-CIRCULATED DRAFT
Initial Study/Mitigated Negative Declaration
Banning Business Park
(Previously Banning Gateway Project)
City of Banning, California
(SCH No. 2009031073)

Prepared for:
City of Banning
99 East Ramsey
Banning, CA 92220
951.922.3125

Contact: Zai Abu Bakar, Community Development Director

Prepared by:
Michael Brandman Associates
621 E. Carnegie Drive, Suite 100
San Bernardino, California 92408
909.884.2255

Contact: Frank Coyle, Branch Manager

March 25, 2010
# Environmental Checklist Form

<p>| | |</p>
<table>
<thead>
<tr>
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</thead>
</table>
| 1. | **Project title:** Banning Business Park  
   (Previously Banning Gateway Project - State Clearing House No. 2009031073) |
| 2. | **Lead agency name and address:**  
   City of Banning  
   99 East Ramsey  
   Banning, CA 92220 |
| 3. | **Contact person and phone number:**  
   Zai Abu Bakar, Community Development Director.  
   (951) 922-3125 |
| 4. | **Project location:** Northeast corner of Hathaway Street and Ramsey Street off the Interstate 10 Freeway, in the City of Banning. Assessor’s Parcel No(s): 532-110-003-1; 532-110-008-6; 532-110-009-7; and 532-110-010-7 |
| 5. | **Project sponsor’s name and address:**  
   Greg Chila  
   The O'Donnell Group, Inc.  
   3 San Joaquin Plaza, Suite 160  
   Newport Beach, CA 92660 |
| 6. | **General Plan designation:** Business Park (BP)  
   **Zoning:** Business Park (BP) |
| 7. |   |
| 8. | **Description of project:** The Banning Business Park (Proposed Project) will consist of 12 office/warehouse buildings and associated parking on approximately 63.98 acres located approximately 1,100 feet north of the intersection of Ramsay Street and Hathaway Street, in the eastern portion of the City of Banning. The Project proposes office and warehouse buildings that will vary from 11,719 to 786,984 square feet with total buildout area of approximately 1,194,045 square feet. Buildings 1, 2, 3, 4 and 10 are designated for Manufacture uses, buildings 5, 6, 7, 8, 9, are designated for Warehouse uses, and buildings 11 and 12 are designated for High Cube Warehouse uses. The Proposed Project will provide the parking at a ratio of 1.02 totaling 1,244 spaces, which will exceed the city requirement of 1,218 spaces by 26 spaces. In addition, the Project will provide two (2) access points to the Project site, located on the east and west portions of Nicolet Street. Exhibit 4 *Conceptual Site Plan* (dated October 1, 2009), illustrates the Proposed Project buildout summary and the Table 1 summarizes the land use distribution for the Proposed Project. |
The Project is proposed to be built in the following phases:
Phase 1 (Year 2011): Include building 11;
Phase 2 (Year 2012); Include building 12; and
Phase 3 (Year 2015); Include buildings (1, 2, 3, 4, 5, 6, 7, 8, 9, and 10).

Rock Hauling/Crushing
The Project site contains small to medium boulders generally scattered all over the site. In
addition, onsite soils underlying the Project site contain gravel, cobbles and boulders (SCG
2006). It is uncertain at this time to know exactly how much rock material is present on the
site. However, the existing rock will need to be removed in one of the two ways prior to
grading activities.

- Removal to an offsite rock crushing facility; and
- Onsite crushing

Removing rocks from the site would require transportation to an existing rock-crushing site.
This would increase the truck trips and could result in temporary traffic impacts. Additional
information on the impacts of offsite hauling is analyzed in Section XV, Transportation.

As an alternative, rocks could also be crushed onsite and potentially used during site levelling
and grading. This could result in air quality and noise impacts. Therefore, additional
discussions on the impacts of onsite rock crushing are included in Section III, Air Quality and
Section XI, Noise.

Entitlements
Design Review DR #07-708 and Tentative Parcel Map No. 36056

Design Review DR #07-708 is a request to review the design of the project, which included 12
buildings and site development to ensure conformity with the City’s development standards
and design guidelines.

Tentative Parcel Map No. 36056 is a request to subdivide approximately 64-acre site into 9 lots
for the development of a business park, which include office, manufacturing, and warehouse
uses.

9. Surrounding land uses and setting: The surrounding area abutting the Project site is mostly
undeveloped. Orco Block is located at southeast corner of Wilson Street and Hathaway Street.

North: Undeveloped land under the authority of the Morongo Indian Reservation
South: Caltrans yard and undeveloped land fronting Ramsey Street, Interstate-10
West: Residential properties across Hathaway Street
East: Undeveloped land owned by Lloyd Fields.

10. Other public agencies whose approval is required (e.g., permits, financing approval, or
participation agreement.)
None
## Table 1: Land Use Distribution Summary

<table>
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<tr>
<th>Development Area</th>
<th>Net Acres</th>
<th>Maximum Yield Per Development Area</th>
<th>Parking Space Required</th>
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Table 1 (cont.): Land Use Distribution Summary

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<td>Total Building Area - 12</td>
<td>7.72</td>
<td>152,520 sq ft</td>
<td></td>
<td></td>
</tr>
<tr>
<td>TOTAL</td>
<td>56.29</td>
<td>1,194,045 sq ft</td>
<td>1,218</td>
<td>1,244</td>
</tr>
</tbody>
</table>

Source: HPA, October 1, 2009
Environmental Factors Potentially Affected:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

<table>
<thead>
<tr>
<th>Aesthetics</th>
<th>Agriculture Resources</th>
<th>Air Quality</th>
</tr>
</thead>
<tbody>
<tr>
<td>Biological Resources</td>
<td>Cultural Resources</td>
<td>Geology /Soils</td>
</tr>
<tr>
<td>Green House Gas</td>
<td>Hazards &amp; Hazardous Materials</td>
<td>Hydrology / Water Quality</td>
</tr>
<tr>
<td>Land Use / Planning</td>
<td>Mineral Resources</td>
<td>Noise</td>
</tr>
<tr>
<td>Population / Housing</td>
<td>Public Services</td>
<td>Recreation</td>
</tr>
<tr>
<td>Transportation/Traffic</td>
<td>Utilities / Service Systems</td>
<td>Mandatory Findings of Significance</td>
</tr>
</tbody>
</table>
**DETERMINATION:** (To be completed by the Lead Agency)

Based on this initial evaluation:

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>X</td>
<td>I find that although the Proposed Project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.</td>
</tr>
<tr>
<td></td>
<td>I find that the Proposed Project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.</td>
</tr>
<tr>
<td></td>
<td>I find that the Proposed Project MAY have a &quot;potentially significant impact&quot; or &quot;potentially significant unless mitigated&quot; impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.</td>
</tr>
<tr>
<td></td>
<td>I find that although the Proposed Project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the Proposed Project, nothing further is required.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Prepared By:</th>
<th>Date:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Reviewed By:</td>
<td>Date:</td>
</tr>
</tbody>
</table>
Evaluation of Environmental Impacts:

1) A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).

2) All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.

3) Once the lead agency has determined that a particular physical impact may occur, and then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an Environmental Impact Report (EIR) is required.

4) "Negative Declaration: Less Than Significant With Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Than Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from Section XVIII, "Earlier Analyses," may be cross-referenced).

5) Earlier analyses may be used where, pursuant to the tiering, program EIR, or other California Environmental Quality Act (CEQA) process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D). In this case, a brief discussion should identify the following:

   a) Earlier Analysis Used. Identify and state where they are available for review.

   b) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.

   c) Mitigation Measures. For effects that are "Less than Significant with Mitigation Measures Incorporated," describe the mitigation measures, which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.
6) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.

7) Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.

8) This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project's environmental effects in whatever format is selected.

9) The explanation of each issue should identify:

a) The significance criteria or threshold, if any, used to evaluate each question; and

b) The mitigation measure identified, if any, to reduce the impact to less than significance
## Environmental Checklist

<table>
<thead>
<tr>
<th>Potentially Significant Impact</th>
<th>Less Than Significant w/ Mitigation</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>I. AESTHETICS — Would the Proposed Project:</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>a) Have a substantial adverse effect on a scenic vista?</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?</td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>c) Substantially degrade the existing visual character or quality of the site and its surroundings?</td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?</td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

I. **Less than Significant Impact.** The City's General Plan does not designate the Project site as a scenic vista corridor (CBGP 1987). The primary scenic vistas visible from the Project site and surrounding land uses are San Jacinto Mountains to the north and San Bernardino Mountains to the south. However, the Proposed Project is consistent with surrounding development and the overall views of San Jacinto and San Bernardino Mountain from the surrounding area would not be significantly impacted. In addition, the proposed development is required to comply with the City's development standards that regulate the building heights, setback distance, etc. for new development. Therefore, the Proposed Project would not result in substantial adverse effect on a scenic vista.

I. **b) Less than Significant Impact.** The Proposed Project will convert existing, vacant land to commercial uses. Accordingly, development of the Project will change the current landscape and natural vistas of the site. The Project site is located next to Interstate 10, which is designated as an “Eligible State Scenic Highway” (DOT 2009).

Notwithstanding the permanence of these impacts, the changes are not considered to be substantial in the context of creating significant injury or damage to the prevailing and surrounding landscape, or degrading views from the nearby Interstate 10 Freeway (I-10). Specifically, the Project site does not contain unique features or landmarks that will be affected by development of the Proposed Project. Moreover, development of the Project will not block, obstruct or impede visual access to any scenic vistas, features or views located in proximity to the Project site, or views of the mountains from the nearby I-10 Freeway. The
design, layout and elements of the Project comply with the City’s design guidelines and will be aesthetically appropriate for the site and the surrounding area, including building heights. Therefore, development of the Project is not expected to create significant aesthetic impacts that are detrimental to the site or to resources within a state scenic highway.

I. c) **Less than Significant Impact.** The Proposed Project will induce short-term and long-term impacts both on-site and off-site. The Project construction will cause short-term visual impacts. Views of the site will include heavy construction equipment and machinery preparing the land (i.e., grading). Dust may temporarily diminish views of the area during grading and construction activities as well.

The Project would develop vacant land into a commercial development containing 12 buildings and associated parking spaces. The Proposed Project is consistent with the adjacent uses, zoning, and the General Plan vision for this portion of the City. Development standards for setbacks, building heights and landscaping would be consistent with the surrounding development and the City zoning ordinance. Therefore, even though the Proposed Project would alter the existing visual character, it would not degrade the visual character or quality of the site and its surroundings.

I. d) **Less than Significant Impact.** Development of the Proposed Project will include the installation and operation of new lighting features (e.g., parking area lamps) that will increase light levels upon and in proximity to the Project site. However, these new sources of light are not expected to generate excessive light spillover or glare that could adversely affect daytime and/or nighttime views in the area. Moreover, the Proposed Project will be required to comply with the City’s lighting standards for commercial development, which will further mitigate potential light impacts. Therefore, development of the Project is not expected to produce significant lighting impacts that would adversely affect views.

The Proposed Project has the potential to impact the existing residential neighborhood to the west, by introducing light incursion and glare from the Proposed Project’s building and street/parking lights. As mentioned above, the Proposed Project will be required to comply with the City’s lighting standards for commercial development, which will orient potential light and glare away from existing residences. Therefore, development of the Proposed Project is not expected to expose residential property to unacceptable light levels.
### II. AGRICULTURE RESOURCES: Would the Proposed Project:

<table>
<thead>
<tr>
<th></th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant w/ Mitigation</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program (FMMP) of the California Resources Agency, to non-agricultural use?</td>
<td></td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?</td>
<td></td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>c) Involve other changes in the existing environment, which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?</td>
<td></td>
<td></td>
<td>X</td>
<td></td>
</tr>
</tbody>
</table>

II. a) **Less than Significant Impact.** The review of historical aerial photographs does not show any evidence of the agricultural uses on the Project site. The Farmland Map prepared in pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency indicates that the site has not been designated as Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (SCDC 2007). In addition, the site’s soil type, precipitation, and hydrologic conditions are not suitable for agricultural activities (SCG 2006). Thus, impacts are less than significant.

II. b) **Less than Significant Impact.** The Project is currently undeveloped and vacant and has a General Plan land use designation of Business Park. Additionally, the Project site is not within or the subject of, a Williamson Act contract. Therefore, implementation of the Proposed Project will not conflict with any agricultural use or violate any existing agricultural preservation agreement. Thus, impacts will be less than significant.

II. c) **Less than Significant Impact.** As discussed above, the Project site is not designated as Prime Farmland, Unique Farmland, or Farmland of Statewide Importance. In addition, the Project site and surrounding areas are not zoned for agricultural use. There exists a residential development on the west, Orco block to the northwest and Caltrans yard to the south. The remaining surrounding land is vacant and is not currently used for agriculture. Therefore, the Proposed Project will not result in a change in use of existing agricultural lands onsite or in the adjacent areas zoned and the impact will be less than significant.
## III. AIR QUALITY: Would the Proposed Project:

<table>
<thead>
<tr>
<th></th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant w/ Mitigation</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>a)</td>
<td>Conflict with or obstruct implementation of the applicable air quality plan?</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>b)</td>
<td>Violate any air quality standard or contribute substantially to an existing or projected air quality violation?</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>c)</td>
<td>Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)? (SCAQMD CEQA Handbook)</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>d)</td>
<td>Expose sensitive receptors to substantial pollutant concentrations?</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>e)</td>
<td>Create objectionable odors affecting a substantial number of people?</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>f)</td>
<td>Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>g)</td>
<td>Conflict with any applicable plan, policy or regulation of an agency adopted for the purpose of reducing the emissions of greenhouse gases?</td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations.

Refer to the Air Quality Analysis Report prepared by LSA Associates, Inc. on February 2010 within Appendix A for further information, recommendations, and conclusions.

### III. a.) Less than Significant Impact

The Air Quality Management Plan (AQMP) for the South Coast Air Quality Management District (SCAQMD) sets forth a comprehensive program that will lead the SoCAB into compliance with all federal and State ambient air quality standards. According to the SCAQMD, the most widely used significance thresholds in their CEQA Air Quality Handbook are the mass daily emission significance thresholds for short-term construction and long-term operation, which indicate whether a project has significant adverse
regional effects on air quality, and thus may conflict with or obstruct implementation of the AQMP.

To assess the regional significance of the Proposed Project’s emissions, the Proposed Project’s short-term construction and long-term operational emissions were estimated using information from the project description and traffic impact analysis. The Proposed Project is planned for development in three phases with differing land uses developed in each phase as described below:

1. **Phase 1 (Year 2011) Conditions.** Include industrial building 11 and will begin operations as early as 2011.

2. **Phase 2 (Year 2012) Conditions.** Include industrial building 12 and will begin operations as early as 2012.

3. **Phase 3 (Year 2015) Conditions.** Include all buildings and will begin operations as early as 2015.

Table 2 below lists a representative set of emissions sources that represent a peak day during the most intense of the planned non-overlapping construction phases. Table 2 lists total construction emissions (fugitive dust emissions and construction equipment exhausts). As seen in Table 2 above, during all construction phases, daily total construction emissions would not exceed daily thresholds established by the SCAQMD for carbon monoxide (CO), ROC, nitrogen oxides (NOx), sulphur oxide (SOx) particulate matter (PM10 and PM2.5).

### Table 2: Short-term Regional Construction Emissions

<table>
<thead>
<tr>
<th>Emission Source</th>
<th>CO</th>
<th>ROC</th>
<th>NOx</th>
<th>SOx</th>
<th>PM10</th>
<th>PM2.5</th>
<th>CO2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mass Grading</td>
<td>19</td>
<td>4.2</td>
<td>34</td>
<td>0.0016</td>
<td>11</td>
<td>3.6</td>
<td>3,200</td>
</tr>
<tr>
<td>Fine Grading</td>
<td>19</td>
<td>4.2</td>
<td>34</td>
<td>0.0016</td>
<td>11</td>
<td>3.6</td>
<td>3,200</td>
</tr>
<tr>
<td>Trenching</td>
<td>9.3</td>
<td>2.1</td>
<td>18</td>
<td>0.0013</td>
<td>0.89</td>
<td>0.81</td>
<td>1,800</td>
</tr>
<tr>
<td>Paving</td>
<td>22</td>
<td>7.6</td>
<td>48</td>
<td>0.044</td>
<td>2.8</td>
<td>2.5</td>
<td>5,800</td>
</tr>
<tr>
<td>Building</td>
<td>84</td>
<td>7.5</td>
<td>45</td>
<td>0.11</td>
<td>2.9</td>
<td>2.4</td>
<td>13,000</td>
</tr>
<tr>
<td>Regional Thresholds</td>
<td>550</td>
<td>75</td>
<td>100</td>
<td>150</td>
<td>150</td>
<td>55</td>
<td>No Threshold</td>
</tr>
<tr>
<td>Significant Emissions</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td></td>
</tr>
</tbody>
</table>

Source: LSA 2010, Table F
Tables 3, 4 and 5 below lists a representative set of operational emissions sources that represent a peak day during the most intense of the planned non-overlapping operation phases for the Year 2011, 2012 and 2015 respectively.

### Table 3: Phase 1 Operation Emissions

<table>
<thead>
<tr>
<th>Emission Source</th>
<th>CO</th>
<th>ROC</th>
<th>NOx</th>
<th>SO₂</th>
<th>PM₁₀</th>
<th>PM₂.₅</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stationary Sources</td>
<td>5.1</td>
<td>5.0</td>
<td>4.2</td>
<td>0</td>
<td>0.02</td>
<td>0.02</td>
</tr>
<tr>
<td>Mobile Sources</td>
<td>190</td>
<td>20</td>
<td>45</td>
<td>0.28</td>
<td>46</td>
<td>9.1</td>
</tr>
<tr>
<td>Total Project Emissions</td>
<td>200</td>
<td>25</td>
<td>49</td>
<td>0.28</td>
<td>46</td>
<td>9.1</td>
</tr>
<tr>
<td>SCAQMD Thresholds</td>
<td>550</td>
<td>55</td>
<td>55</td>
<td>150</td>
<td>150</td>
<td>55</td>
</tr>
<tr>
<td>Significant Emissions</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
</tr>
</tbody>
</table>

Source: LSA 2010, Table II

### Table 4: Phase 2 Operation Emissions

<table>
<thead>
<tr>
<th>Emission Source</th>
<th>CO</th>
<th>ROC</th>
<th>NOx</th>
<th>SO₂</th>
<th>PM₁₀</th>
<th>PM₂.₅</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stationary Sources</td>
<td>5.8</td>
<td>6.0</td>
<td>5.0</td>
<td>0</td>
<td>0.02</td>
<td>0.02</td>
</tr>
<tr>
<td>Mobile Sources</td>
<td>220</td>
<td>22</td>
<td>49</td>
<td>0.33</td>
<td>54</td>
<td>11</td>
</tr>
<tr>
<td>Total Project Emissions</td>
<td>230</td>
<td>28</td>
<td>54</td>
<td>0.33</td>
<td>54</td>
<td>11</td>
</tr>
<tr>
<td>SCAQMD Thresholds</td>
<td>550</td>
<td>55</td>
<td>55</td>
<td>150</td>
<td>150</td>
<td>55</td>
</tr>
<tr>
<td>Significant Emissions</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
</tr>
</tbody>
</table>

Source: LSA 2010, Table I

### Table 5: Phase 3 Operation Emissions

<table>
<thead>
<tr>
<th>Emission Source</th>
<th>CO</th>
<th>ROC</th>
<th>NOx</th>
<th>SO₂</th>
<th>PM₁₀</th>
<th>PM₂.₅</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stationary Sources</td>
<td>8.4</td>
<td>7.7</td>
<td>4.5</td>
<td>0</td>
<td>0.03</td>
<td>0.03</td>
</tr>
<tr>
<td>Mobile Sources</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hi-Cube Warehouse</td>
<td>47</td>
<td>4.8</td>
<td>11</td>
<td>0.08</td>
<td>14</td>
<td>2.7</td>
</tr>
<tr>
<td>Warehouse</td>
<td>42</td>
<td>3.7</td>
<td>11</td>
<td>0.07</td>
<td>14</td>
<td>2.7</td>
</tr>
<tr>
<td>Business Park</td>
<td>100</td>
<td>12</td>
<td>27</td>
<td>0.17</td>
<td>34</td>
<td>6.5</td>
</tr>
<tr>
<td>Total Mobile Emissions</td>
<td>190</td>
<td>21</td>
<td>49</td>
<td>0.32</td>
<td>62</td>
<td>12</td>
</tr>
<tr>
<td>Total Project Emissions</td>
<td>200</td>
<td>29</td>
<td>54</td>
<td>0.32</td>
<td>62</td>
<td>12</td>
</tr>
<tr>
<td>SCAQMD Thresholds</td>
<td>550</td>
<td>55</td>
<td>55</td>
<td>150</td>
<td>150</td>
<td>55</td>
</tr>
<tr>
<td>Significant Emissions</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
</tr>
</tbody>
</table>

Source: LSA 2010, Table J
Results from Tables 3, 4 and 5 above indicate that the emissions from the long-term operation of the proposed project would not exceed the SCAQMD’s regional emission significance thresholds for CO, ROC, NOx, SOx, PM_{10} and PM_{2.5}.

Therefore, the proposed project would not conflict with or obstruct implementation of the applicable SCAQMD air quality plan.

III. b) **Less than Significant Impact.** The CEQA Guidelines indicate that a significant impact would occur if the Proposed Project would violate any air quality standard or contribute substantially to an existing or projected air quality violation.

The South Coast Air Basin, the geographical area in which the Proposed Project is located, is a nonattainment for PM_{10}, PM_{2.5}, and ozone. Levels of PM_{10} and PM_{2.5} are locally high enough that contributions from new sources may add to the concentrations of those pollutants and contribute to a projected air quality violation. Although background levels of ozone are high in the SoCAB, the Proposed Project alone (without other cumulative sources) would not contribute substantially to a projected air quality violation of ozone. Proposed Project emissions of volatile organic compound (VOC) and NOx (ozone precursors) and their cumulative contribution to ozone and particulate matter concentrations are discussed in Cumulative Impacts below.

As opposed to the discussion of Impact “III a” which focuses on regional scale impacts, the discussion of Impact “III b” focuses on Proposed Project impacts at the local scale, adjacent and near to the Proposed Project site. The potential for violation of ambient air quality standards was determined based on two criteria: 1) the localized significance threshold analysis for the Proposed Project’s construction and operational emissions; and 2) the CO hot spot assessment for operational emissions.

**Criterion 1: Localized Significance Thresholds (LST)**

The localized construction and operational analysis uses thresholds that represent the maximum emissions or pollutant concentrations from the Proposed Project that would not cause or contribute to an exceedance of the most stringent applicable federal or State ambient air quality standard (SAAQS). If the Proposed Project results in emissions or air quality concentrations below these thresholds, it follows that the Proposed Project would not cause or contribute to an exceedance of the standard.

Table 6 lists the applicable ambient air quality standards, background ambient air quality, construction-related LSTs for the project area, and the maximum air quality impact from the construction of the Proposed Project as calculated using Industrial Source Complex air dispersion model. As shown therein, the project’s construction emissions would not exceed the SCAQMD’s LSTs for CO, NOx, PM_{10} and PM_{2.5}.
Table 6: Localized Significance Threshold Analysis - Construction

<table>
<thead>
<tr>
<th>Pollutant</th>
<th>AAQS</th>
<th>Ambient Concentration</th>
<th>Local Significance Threshold</th>
<th>Maximum Concentration Increase</th>
<th>Exceed LST?</th>
</tr>
</thead>
<tbody>
<tr>
<td>CO (1-hour)</td>
<td>20 ppm</td>
<td>3.8 ppm</td>
<td>16.2 ppm</td>
<td>0.73 ppm</td>
<td>No</td>
</tr>
<tr>
<td>CO (8-hour)</td>
<td>9.0 ppm</td>
<td>2.9 ppm</td>
<td>6.1 ppm</td>
<td>0.20 ppm</td>
<td>No</td>
</tr>
<tr>
<td>NO₂ (1-hour)</td>
<td>0.18 ppm</td>
<td>0.107 ppm</td>
<td>0.073 ppm</td>
<td>0.015 ppm</td>
<td>No</td>
</tr>
<tr>
<td>PM10 (24-hour)</td>
<td></td>
<td></td>
<td>10.4 µg/m³</td>
<td>9.8 µg/m³</td>
<td>No</td>
</tr>
<tr>
<td>PM2.5 (24-hour)</td>
<td></td>
<td></td>
<td>10.4 µg/m³</td>
<td>6.0 µg/m³</td>
<td>No</td>
</tr>
</tbody>
</table>

Source: LSA 2010, Table G
AAQS = Ambient Air Quality Standards.
* Since both PM10 and PM2.5 are in nonattainment, the thresholds are not based on AASQ exceedances, but rather a violation of SCAQMD Rule 403.

Long-term operational emissions occur over the life of the Proposed Project once the project commences normal operations. Table 7 summarizes the calculated emissions for the proposed operational activities compared with the appropriate LSTs. As shown therein, the project's operational emissions would not exceed the SCAQMD's LSTs for CO, NO₂, PM₁₀ and PM₂.₅.

Table 7: Localized Significance Threshold Analysis - Operational

<table>
<thead>
<tr>
<th>Pollutant</th>
<th>AAQS</th>
<th>Ambient Concentration</th>
<th>Local Significance Threshold</th>
<th>Maximum Concentration Increase</th>
<th>Exceed LST?</th>
</tr>
</thead>
<tbody>
<tr>
<td>CO (1-hour)</td>
<td>20 ppm</td>
<td>3.8 ppm</td>
<td>16.2 ppm</td>
<td>0.029 ppm</td>
<td>No</td>
</tr>
<tr>
<td>CO (8-hour)</td>
<td>9 ppm</td>
<td>2.9 ppm</td>
<td>6.1 ppm</td>
<td>0.0065 ppm</td>
<td>No</td>
</tr>
<tr>
<td>NO₂ (1-hour)</td>
<td>0.18 ppm</td>
<td>0.092 ppm</td>
<td>0.088 ppm</td>
<td>0.0015 ppm</td>
<td>No</td>
</tr>
<tr>
<td>PM10 (24-hour)</td>
<td></td>
<td></td>
<td>2.5 µg/m³</td>
<td>0.37 µg/m³</td>
<td>No</td>
</tr>
<tr>
<td>PM2.5 (24-hour)</td>
<td></td>
<td></td>
<td>2.5 µg/m³</td>
<td>0.13 µg/m³</td>
<td>No</td>
</tr>
</tbody>
</table>

Source: LSA 2010, Table K
AAQS = Ambient Air Quality Standards.
* Since both PM10 and PM2.5 are in nonattainment, the thresholds are not based on AASQ exceedances, but rather a violation of SCAQMD Rule 403.
The results provided in Tables 6 and 7 indicate that the emissions from the construction and the operation of the Proposed Project would not exceed the SCAQMD's localized significance thresholds. The project meets Criterion 1, Localized Significance Thresholds.

**Criterion 2: CO Hot Spot Thresholds**
Within an urban setting, vehicle exhaust is the primary source of CO emissions. Consequently, the highest ambient CO concentrations are generally found within close proximity to the most congested intersection locations. During typical meteorological conditions, CO concentrations tend to decrease as the distance from the emission source (congested intersection) increases. For purposes of providing a worst-case impact analysis, CO concentrations are typically analyzed at the most congested intersection locations, because if impacts are less than significant in close proximity to the most congested intersections, impacts would also be less than significant at more distant sensitive receptor locations and less congested intersections.

Currently neither the federal nor State ambient air quality standards are exceeded for CO within the area where the Proposed Project is located. Therefore, the Proposed Project is considered to have a significant impact if emissions from the Proposed Project when added to the existing background results in an exceedance of the CO standards at the intersections impacted by such project (CO hot spot significance thresholds).

Localized CO concentrations were projected using the CALINE4 traffic pollutant dispersion model (CDOT 1989). The analysis of CO impacts followed the protocol recommended by the California Department of Transportation and published in a document titled “Transportation Project-Level Carbon Monoxide Protocol (UCD 1997). As stated in the protocol, receptor locations for the 1-hour analysis were located 3 meters from each intersection corner.

The Project Air Quality Impact Study (LSA 2010) analyzed the CO concentrations at the seven (7) existing signalized intersection analyzed in the Traffic Impact Analysis Study (KOA 2009) for the existing and existing-plus ambient growth-plus cumulative-plus project scenarios. The Air Quality Impact Report indicated that, the emissions from traffic generated by the Proposed Project in combination with emissions from background traffic and traffic from other development projects would not result in a CO hot spot and, therefore, not exceed federal or State CO air quality standards (LSA 2010). Therefore, the Proposed Project meets Criterion 2, CO Hot Spot Significance Thresholds.

Since the Proposed Project meets both of the criteria, the Project would not violate any air quality standard or contribute substantially to an existing or projected air quality violation.

Rock crushing onsite can contribute to emissions of dust particles during the construction phase. Depending upon the amount of rock materials processed, the rock-crushing activity could continue for
several days. However, the rock crushing would be conducted during clearing and grubbing activities (i.e. before grading), so it will not generate additional dust during grading. One of the major concerns regarding rock crushing is the emissions of dust and potential impact to existing residents. However, if rock crushing would occur on site, the crushing activity would be concentrated on the northwest portion of the Project site, which is at the greatest distance from existing residential neighborhood located west of Hathaway Street. In addition, the rock crushing would only last for few days and the potential impacts would be temporary. Therefore, rock-crushing onsite would not result in a significant air quality impact.

The Air Quality Impact Report identified a number of “standard conditions” that the Proposed Project would be required to implement which would ensure that the construction and operational air quality emissions associated with the Proposed Project would not exceed the thresholds and violate air quality standards. These standard conditions are listed below:

**Standard Conditions - Construction**

1. The Project shall comply with SCAQMD Rule 403 and 402. SCAQMD Rule 403 requires that fugitive dust be controlled with best available control measures so that presence of such dust does not remain visible in the atmosphere beyond the property line of the emission source. SCAQMD 402 requires implementation of dust suppression techniques to prevent fugitive dust from creating a nuisance off site. The following specific actions shall be taken during construction:

   - Apply nontoxic chemical soil stabilizers according to manufacturer’s specifications to all inactive construction areas (previously graded areas inactive for 10 days or more).
   - Water active sites at least twice daily (locations where grading is to occur will be thoroughly watered prior to earthmoving).
   - All trucks hauling dirt, sand, soil or other loose materials are to be covered, or should maintain at least 2 feet of freeboard (vertical space between the top of the load and top of the trailer) in accordance with the requirements of California Vehicle Code (CVC) section 23114.
   - Pave construction access roads at least 100 feet onto the site from the main road.
   - Traffic speeds on all unpaved roads shall be reduced to 15 miles per hour or less.
2. The following additional dust suppressions measures in the SCAQMD CEQA Air Quality Handbook shall be implemented to reduce the project's construction emissions:

- Revegetate disturbed areas as quickly as possible.
- Suspend all excavating and grading operations when wind speeds (as instantaneous gusts) exceed 25 mph.
- Sweep all streets once per day if visible soil materials are carried to adjacent streets (recommend water sweepers with reclaimed water).
- Install wheel washers where vehicles enter and exit unpaved roads onto paved roads, or wash trucks any equipment leaving site.
- Pave, water, or chemically stabilize all on-site roads as soon as feasible.
- Minimize at all time the area disturbed by clearing, grading, earthmoving, or excavation operations.
- To the extent practicable use required coatings and solvents with a VOC content lower than required under SCAQMD Rule 1113 or no-VOC paints and architectural coatings should be employed.

3. The construction contractor shall select the construction equipment used onsite based on low-emission factors and high-energy efficiency. The construction contractor shall ensure that construction-grading plans include a statement that all construction equipment will be tuned and maintained in accordance with the manufacturer's specifications.

4. The construction contractor shall utilize electric or diesel-powered equipment in lieu of gasoline-powered engines where feasible.

5. The construction contractor shall ensure that construction grading plans include a statement that work crew will shut off equipment not in use. During smog season (May through December), the overall length of the construction period will be extended, thereby decreasing the size of the area prepared each day, to minimize vehicles and equipment vehicles and equipment operating at the same time. The construction contractor shall utilize electric or diesel-powered equipment in lieu of gasoline-powered engines where feasible.
6. The construction contractor shall time the construction activities so as to interfere with peak-hour traffic and minimize obstruction of through traffic lanes adjacent to the site; if necessary, a flag person shall be retained to maintain safety adjacent to the existing roadways.

7. The construction contractor shall support and encourage ride sharing and transit incentives for the construction crew.

Standard Conditions – Operation

8. The Project shall comply with Title 24 of the California Code of Regulations established by the Energy Commission regarding energy conservation standards. The Project applicant shall incorporate the following in building plans:

- Low-emission water heaters shall be used. Solar water heaters are encouraged.
- Exterior windows shall utilize window treatments for efficient energy conservation.

III. c) Less than Significant Impact. The CEQA Guidelines indicate that Proposed Project would create a significant impact if it would “result in a cumulatively considerable net increase of any criteria pollutant for which the project region is nonattainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors).”

Project impacts on a regional scale may occur many miles away from the project. Project emissions when added to the overall emission burden of the SoCAB could result in a cumulatively significant impact. Currently, the Basin in non-attainment for PM10, PM2.5 and Ozone as discussed in impact “III. a”, the Proposed Project would not exceed the SCAQMD’s regional emission significance threshold for CO, NOx, SO2, PM10 and PM2.5 during construction an operation phases. Additionally, the Air Quality Analysis Report prepared for the Proposed Project recommends the standard conditions and implementation of those measures would reduce the impacts in this regard to less than significant level.

III. d) Less than Significant Impact. The CEQA Guidelines indicate that a significant impact would occur if the Proposed Project would expose sensitive receptors to substantial pollutant concentrations. To address this impact, three criteria were assessed: the localized significance thresholds, the health risk significance thresholds, and CO hotspot significance thresholds.

Criterion 1: Localized Thresholds
The localized construction and operational analyses demonstrated that the Proposed Project would not exceed the SCAQMD localized construction and operation significance thresholds.
(Refer to impact "III. b"). Therefore, the Proposed Project meets Criterion 1 and would not expose sensitive receptors to substantial pollutant concentrations.

**Criterion 2: Health Risk Significance Thresholds**

The toxic air contaminant of concern regarding this health risk assessment is diesel particulate matter (DPM) that would be emitted during the construction and operation of the Proposed Project. The California Air Resources Board (CARB) has determined that DPM is a carcinogen; therefore, this assessment quantified the impact of DPM emissions from the Proposed Project on both cancer and non-cancer risks.

The construction equipment would emit diesel particulate matter from the operation of various pieces of construction equipment. However, the diesel particulate matter emissions during construction are short term in nature. Determination of risk from diesel particulate matter is considered over a 70-year exposure time for residential and 40 years for worker receptor locations. Therefore, considering the dispersion of the emissions and the short construction time frame, exposure to diesel particulate matter is anticipated to be less than significant during construction.

During operations of the Proposed Project, diesel particulate matter would be emitted by mobile sources accessing the project site. Such emissions would come from the diesel-powered delivery vehicles and employee and customer vehicles, which would operate onsite each day and would include diesel exhaust emissions as the vehicles travel onsite and diesel emissions from vehicles that idle at the respective project buildings. DPM emissions were estimated for diesel vehicles while traveling and idling on the project site. An idling time of 10 minutes per truck per day was assumed. Trucks are assumed to operate 24 hours per day and 7 days a week. The Banning Business Park Project Traffic Impact Study (KOA 2009) shows a daily trip rate of 109 2-axle trucks, 116 3-axle trucks and 480 4+ axle trucks.

Emissions factors for the health risk assessment were developed using the CARB EMFAC2007 emission factor model for the SoCAB. Because this HRA is examining long-term, 70-year carcinogenic and chronic effects, and because the HARP model only allows for a single emission rate for the entire period, a median set of emission factors for the 70-year period was developed. EMFAC2007 was used to produce emissions factors for vehicle fleets for the years 2009, 2020, 2030, and 2040 (EMFAC2007 does not model emissions past 2040). In the EMFAC2007 model, the normal mode is where emissions factors for any one year actually comprise emissions factors for a fleet of vehicles ranging from new that year to 25 years old. In an effort to extend the EMFAC2007 emissions factors out to the upper end of the 70-year period, a special EMFAC2007 scenario was included that only incorporates vehicles produced in 2040. This limitation in the model forces the assumption that vehicle emission factors will stay at the 2040 rate until 2079. This is a conservative assumption, as it is
expected that the vehicle emission factors will continue to be reduced over time as they have for the last 50 years or more.

The estimation of health risks made use of the AERMOD air dispersion model and the HARP health risk model, meteorological data, and receptor network as used to perform the LST threshold assessment described above. The air dispersion model provides estimates of the annual average DPM concentration at the receptors located within the receptor network. To estimate cancer and non-cancer risks from the DPM concentrations, use was made of the methods and guidance published by the California Office of Environmental Health Hazard Assessment (OEHHA) Air Toxics Hot Spots Program Guidance Manual for Preparation of Health Risk Assessments (OEHHA 2003) and the SCAQMD (SCAQMD 2005) for inhalation exposures to toxic air contaminants.

The results of the cancer risk assessment are summarized in Table 8.

<table>
<thead>
<tr>
<th>MICR – 30 -year exposure</th>
<th>Cancer Risk per million</th>
<th>Chronic Hazard Index</th>
</tr>
</thead>
<tbody>
<tr>
<td>0.35</td>
<td></td>
<td>0.00058</td>
</tr>
<tr>
<td>MICR –7 0 - year exposure</td>
<td>0.92</td>
<td>0.00058</td>
</tr>
<tr>
<td>Child –9 - year exposure</td>
<td>0.18</td>
<td>0.00058</td>
</tr>
<tr>
<td>Worker – 40 - year exposure</td>
<td>2.0</td>
<td>0.0064</td>
</tr>
<tr>
<td>Threshold</td>
<td>10.0</td>
<td>1.0</td>
</tr>
</tbody>
</table>

Source: LSA 2010, Table N
MICR = Maximum Individual Cancer Risk

Based on Table 8, the Proposed Project would not exceed the SCAQMD’s cancer risk significance threshold. Further, the emissions from the Proposed Project would also not exceed the chronic hazard index. Therefore, the Proposed Project meets Criterion 2, Health Risk Thresholds.

Criterion 3: CO Hotspot Assessment
A CO hotspot analysis is the appropriate tool to determine if project emissions of CO during operation would exceed the CO ambient air quality standards. The main source of air pollutant emissions during operation are from offsite motor vehicles traveling on the roads surrounding the project site. The CO hotspot analysis (see Impact “III b”) demonstrated that the emissions from traffic generated by the Proposed Project in combination with emissions from background traffic and traffic from other development projects would not result in a CO hot spot and, therefore, not exceed federal or State CO air quality standards (LSA 2010). Therefore, the Proposed Project meets Criterion 3, CO Hotspot Assessment.
Based on the above discussion, the Project would not expose sensitive receptors to substantial pollutant concentrations and therefore, the impacts in this regard would be less than significant.

III. c) **Less than Significant Impact.** The proposed commercial uses are not anticipated to emit any kind of objectionable odors. Heavy-duty and diesel powered equipments in the project area will emit odors during construction phase. However, the construction activity will be short-term and would cease to occur after construction is completed. Therefore, objectionable odors posing a health risk to potential on-site and existing off-site uses will not occur as a result of the Proposed Project.
<table>
<thead>
<tr>
<th>IV. BIOLOGICAL RESOURCE: Would the Proposed Project:</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant w/ Mitigation</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game (CDFG) or U.S. Fish and Wildlife Service (USFWS)?</td>
<td></td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the CDFG or USFWS?</td>
<td></td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (CWA) (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?</td>
<td></td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?</td>
<td></td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?</td>
<td></td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>f) Conflict with the provisions of an adopted Habitat Conservation Plan (HCP), Natural Community Conservation Plan (NCCP), or other approved local, regional, or state HCP?</td>
<td></td>
<td></td>
<td>X</td>
<td></td>
</tr>
</tbody>
</table>

Refer to the following resources within Appendix C for further information, recommendations, and conclusions:


IV. a) **Less than Significant Impact with Mitigation.** The biological resource assessment was prepared for the Project site on October 30, 2006 and was updated by Michael Brandman Associates (MBA) on February 20, 2009.
Special-Status Plant Species
The Project site is designated as a rare survey area for many-stemmed dudleya (*Dudleya multicaulis*) and Marvin’s onion (*Allium marvinii*). However, neither of the species was found during the 2006 and 2009 surveys. There is a low potential for either species to occur on site due to the lack of clay soils within the Project site, as both of these species are found in areas of clay soils.

In addition, occurrence of other rare plants on the Project site is low and the Project site does not provide suitable habitat for other Cell Criteria Species as well as Narrow Endemic Plant Species (NEPS) (CBC 2006 & MBA 2009a).

Special-Status Wildlife Species
During the biological assessment, one special-status wildlife species, black-tailed jackrabbit was observed onsite with the possibility of occurrence of four more individuals of the same species. However, the biology report suggests that the subspecies of black-tailed jackrabbit occurring in the Project site is not the special-status subspecies (CB 2006). Some of the western Riverside County area does include the distributional area for the special-status subspecies of black-tailed jackrabbit. However, since Banning is in the eastern-most portion of the MSHCP area, the animals detected may not be of the special-status subspecies of the black-tailed jackrabbit (*Lepus californicus*). Notwithstanding, since only two individual jackrabbits were observed, the impact will not be expected to substantially affect any local or regional population of the subspecies.

Two additional special-status wildlife species are also considered to have a high or moderate to high potential for occurring on site; loggerhead shrike and California horned lark (*Eremophila alpestris*). However, neither of these species was observed on site. In addition, ideal nesting habitat is not present on the Project site for neither of these species. However, both of these species are highly mobile species and therefore if present during the grading should be avoided any on-site disturbances.

The Project site has potential for the occurrence of Los Angeles pocket mouse (*Perognathus longimembris*) (LAPM) and Northwestern San Diego pocket mouse (*Chaetodipus fallax*). However, the existing data could not provide sufficient information to determine the absence/presence of these species. Therefore, a potential significant impact would occur without mitigation. In addition to paying the established Multiple Species Habitat Conservation Plan (MSHCP) impact fee, mitigation measure MM BR-1a will reduce the potentially significant impact to less than significant level.

The project site is within the MSHCP habitat assessment area for Western Burrowing Owl (*Athene cunicularia*) (BUOW). One record of BUOW occurred in the general vicinity
(7-miles) of the Project site. The closest BUOW was reported 5.5 miles southwest of the Project site (CNDBB 2009). The survey done in February 2009 by MBA confirmed that no BUOW were observed within the Project site. Even though BUOW were not observed during survey, the Project site contains suitable foraging habitat and burrows for BUOW (MBA 2009). Therefore, a potential significant impact would occur without mitigation. In addition to paying the established MSHCP impact fee, mitigation measure MM BR-1b will reduce the potentially significant impact to less than significant level.

The Project site provides suitable foraging and nesting habitat for the different bird species. Proposed grubbing of vegetation and/or grading during the active nesting season would occur in a potentially significant impact without mitigation. In addition to paying the established MSHCP impact fee, the following mitigation measure MM BR-1c will reduce the potentially significant impact to less than significant level (CB 2006).

Mitigation Measures

**MM BR-1a**
A live-trapping study shall be conducted by a qualified biologist to determine presence/absence of Los Angeles pocket mouse and Northwestern San Diego pocket mouse. The surveys shall be conducted between April and September and shall follow CDFG protocol. If individuals are found during the survey, the biologist shall determine if the population represents a significant impact to the total population. If the impact is determined to be less than significant, no further action is required. If the impact is determined to be potentially significant, the onsite population shall be preserved until it can be relocated to an appropriate offsite location in consultation with CDFG.

**MM BR-1b**
A 30-day preconstruction survey for BUOW shall be done prior to any ground disturbance activities according to CDFG protocol. Any individuals found during that survey shall be relocated to an appropriate offsite location according to CDFG protocol and in consultation with CDFG.

**MM BR-1c**
All grubbing or other vegetation removal associated with the Project site preparation shall avoid nesting season of February 15, through July 30. If such avoidance is not feasible, a qualified biologist shall conduct a focused nesting bird survey. Any active nests identified shall have highly visible construction fencing installed within a 100-feet radius of any active nest. The fencing shall remain in place until the biologist determines that the young have fledged, or that the nest is otherwise no longer active.

**IV. b) Less than Significant Impact.** The biological resources assessment determined that the Project site does not contain any riparian/rarine habitat. In addition, no vernal pools, vernal pool habitat, or fairy shrimp habitat occur on the Project site; therefore, impacts are less than significant and no mitigation is required (CB 2006).
IV. c) **Less than Significant Impact.** The Investigation of Jurisdictional Wetlands and Waters of the United States (U.S.) indicated that the Project site does not contain the drainage feature that qualifies to be jurisdictional (PE 2006b). Therefore, impacts in this regard will be less than significant.

IV. d) **Less than Significant Impact.** The Project site does not contain flowing water or standing pools, nor does the site support any vegetation or resources that serves as a habitat for the migratory fish or wildlife. The site does not lie within any known wildlife corridors. In addition, the site does not contain any nursery areas or resources (CB 2006 & MBA 2009). Therefore, implementation of the Proposed Project will not have a significant impact on wildlife corridors.

IV. c-f) **Less than Significant Impact with Mitigation.** The Project site is located within the Riverside County MSIICP area; however, it is not within a MSHCP Criteria Area Cell. In addition, the Project site is not located within the conservation plan area as designated under the City of Banning General Plan. However, the Project site provides potential habitat for the Northwestern San Diego pocket mouse and Los Angeles pocket mouse, which are species of special concern under Riverside County MSCHP. In addition, the Project site is within the MSHCP habitat assessment area for BUOW. Therefore as previously stated, a potential significant impact would occur to those species without mitigation. Mitigation measure MM BR-1a and MM BR-1b (Refer to Impact “IV.a”) will reduce the potentially significant impact to those species to less than significant level.
V. CULTURAL RESOURCE:
Would the Proposed Project:

<table>
<thead>
<tr>
<th>Potential</th>
<th>Less Than</th>
<th>Less Than</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>Impact</td>
<td>Significant</td>
<td>Impact</td>
<td>Mitigation</td>
</tr>
<tr>
<td>a) Cause a substantial adverse change in the significance of a historical resource as defined in '15064.5'?</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to '15064.5'?</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>d) Disturb any human remains, including those interred outside of formal cemeteries?</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Refer to the following resources within Appendix C for further information, recommendations, and conclusions:

LSA Associates, Inc. February 2009. Phase I Cultural Resources Assessment


V. a) **Less than Significant Impact.** The Phase I Cultural Resources Assessment indicated a general scatter and some clusters of historic artifacts in the area immediately south of the Orco Block Company boundary. This area was designated as site LSA-OSI0801-H1. In addition, three previously unrecorded historic-period structural foundations were found adjacent to the southwest corner of the Orco Block company boundary. Because of their spatial proximity, they were designated as a single site, LSA-OSI0801-H2.

Sites LSA-OSI0801-H1 and LSA-OSI0801-H2 appear to have buried deposits that may contain important historical information (LSA 2009b). Therefore, these sites are considered potentially historical resources and destruction of these sites will have a significant impact unless additional survey and recovery work is performed. A Phase II Archaeological Testing was conducted by LSA Associates in March 2009 and determined that the resources on this site did not meet the eligibility criteria for the California Register, and are not considered significant resources under CEQA (LSA 2009c). As part of this work, California Department of Parks and Recreation Site Forms (DPR 523 series) be filled out for sites LSA–OSI0801-H1 and LSA-OSI0801-H2.
Although no evidence of a significant or unique archaeological resources was identifies the sites are an indication of historic activity. Therefore, an archaeological monitor shall be present during all ground-disturbing activities within 200 feet of the size boundaries of Sites LSA-OSI0801-H1 and LSA-OSI0801-H2. If any significant archaeological resources are identified, work shall temporarily be halted or diverted to allow the archaeologist to assess the significance of the site. This may include additional archaeological excavation and laboratory analysis (LSA 2009c).

V. b) **Less than Significant Impact.** As discussed earlier, sites LSA-OSI0801-H1 and LSA-OSI0801-H2 had the potential to contain buried deposits that could be important archaeological resources. Thus, additional investigation (i.e., Phase II Archaeological Testing) was conducted and determined that these resources did not constitute significant archaeological or historical resources. Therefore, potential impacts to archaeological resources will be less than significant.

V. c) **Less than Significant Impact.** The paleontological literature search indicated that there are young quaternary sediments on the Project site with low potential to contain significant, nonrenewable paleontological resources. The Paleontological Resource Sensitivity Map of Riverside County indicated that the paleontological sensitivity for sediments on the Project is very low (LSA, 2009d). Therefore, based on the low sensitivity for paleontological resources in sediments observed on the Project site and the lack of fossils located during the field survey, the impacts associated with paleontological resources will be less than significant.

V. d) **Less than Significant Impact with Mitigation.** Neither the Phase I Cultural Resources Assessment (LSA 2009b) nor the Phase II Archaeological Testing (LSA 2009c) discovered any human remains on the Project site. However, the ground-disturbing activities during construction may unearth previously unknown buried human remains. If this event does happen, federal laws and regulations, including Native American Graves Protection and Repatriation Act (NAGPRA) and its regulations found in the Code of Federal Regulations at 43 CFR 10 will come into affect.

**Mitigation Measures**

**MM CR-4a** The California State Health and Safety Code § 7050.5 states that no further construction or disturbance within 100 feet shall occur until the County Coroner has made the necessary findings as to the origin and disposition according to CEQA regulations and Public Resources Code (PCR) § 5097.98. If the Coroner determines the remains are Native American in origin, the Native American Heritage Commission (NAHC) will be notified and, in turn, the person determined to be the Most Likely Descendant (MLD). The MLD will provide recommendations for treatment of the remains in accordance with
the following: CEQA Guidelines § 15064.5; Health and Safety Code § 7050.5; Public Resources Code §§ 5097.94 and 5097.98.

With the adherence to the preceding following policies and regulations, the impacts related to the disturbance of human remains will be less than significant.
<table>
<thead>
<tr>
<th>VI. GEOLOGY AND SOILS: Would the Proposed Project:</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant w/ Mitigation</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault?</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>ii) Strong seismic ground shaking?</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>iii) Seismic-related ground failure, including liquefaction?</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>iv) Landslides?</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>b) Result in substantial soil erosion or the loss of topsoil?</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the Project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

Refer to the following resources within Appendix D for further information, recommendations, and conclusions:


VI. a) 

i) **Less than Significant Impact.** According to the Geotechnical Report (SCG 2006), the Proposed Project site is not located with an Alquist-Priolo Earthquake Fault Zone. Therefore, the potential for significant fault rupture onsite is considered to be low. Thus, impacts will be less than significant.

ii) **Less than Significant Impact.** The Proposed Project is located in a region subject to strong seismic ground shaking. The two closest major faults to the Proposed Project site are the San Andreas Fault and the San Jacinto Fault, which are 5.59 and 11.2 miles away, respectively. In order to mitigate the effects of ground movement from earthquakes, the Proposed Project will be required to implement the design procedures within the Uniform Building Code (UBC) and/or the California Building Code (CBC). By implementing these design features, impacts relating to seismic ground shaking will be reduced to less than significant levels.

iii) **Less than Significant Impact.** Liquefaction may occur when loose, unconsolidated, saturated, sandy soils are subject to ground vibrations during a seismic event. It is caused by the strong vibrations of an earthquake, especially in certain types of soils and low depth groundwater tables. Soils that increase the chance of liquefaction at the ground surface include loose to medium density granular soils that are saturated near the ground surface.

According to the Geotechnical Report (SCG 2006), the Proposed Project site is not located in an area known to have potentially liquefiable soils. Additionally, the soil subsurface conditions excavated onsite were not considered to be conductive to liquefaction. For instance, a static groundwater table was not observed within the upper 15 feet of the soil, and the soils observed generally consisted of well graded medium dense to dense granular soils. Furthermore, the Project site is not located within a designated liquefaction hazard zone as depicted on Riverside County Geologic Hazards Map does not contain the site within. For the preceding reasons, impacts relating to liquefaction will be less than significant.

iv) **Less than Significant Impact.** The Proposed Project site is relatively flat which slopes southeasterly. The soils located onsite contain a 3 to 8 inch topsoil/root mat layer, which helps prevent the occurrence of landslides onsite. Approval of the Project grading and building plans will ensure that compliance with building codes and other federal, State and local regulations will reduce any landslide impacts to less than significant levels.
VI. b) **Less than Significant Impact with Mitigation.** Strong winds, particularly during grading activities, may erode exposed soils. Additionally, the flow of water during storm events onsite may lead to soil erosion. However, the Proposed Project will provide the appropriate soil erosion control techniques per the City of Banning requirements. In addition, mitigation measures are recommended to reduce impacts from soil erosion and loss of topsoil. Compliance with the City guidelines and recommended mitigation measures within the Project’s geotechnical study will reduce the impacts to less than significant level.

**Mitigation Measures**

**MM GEO-2a** The Proposed Project shall submit a Storm Water Pollution Prevention Plan (SWPPP) for construction-related activities, and will mitigate any potentially significant erosion impacts.

VI. c) **Less than Significant Impact with Mitigation.** The soils underlying the Proposed Project are alluvial in nature, consisting mainly of sand and gravels, with some cobbles and/or boulders (SCG 2006). Soil consolidation and collapse testing was performed on soil samples from the property adjacent to the proposed property. These tests identified potentially collapsible and compressible soils within the approximately five upper feet. It is assumed that the Proposed Project has soils similar in nature to the adjacent property’s collapsible and compressible soils. Therefore, impacts relating to these soils will be potentially significant. As discussed before, the Project will be required to abide by the most current standards set forth in the Uniform Building Code UBC/California Building Code.

With the implementation of the mitigation measures found below, as well as the compliance with recommendations within the geotechnical report, the Project’s potential geotechnical impacts will be reduced to less than significant levels.

**Mitigation Measures**

**MM GEO-3a** The initial site clearing and grubbing shall include removal of any surficial vegetation, including the grass and weed growth, shrubs, and brush, as well as the surficial layer of topsoil and root mat material. The surficial topsoil and mate material may be blended with the underlying native soils within the over excavation areas based on the extent of remedial grading required onsite. The final soil mixture shall not contain more than two percent of organic materials by weight; the organic content of the mixture should be determined in the field by the geotechnical engineer, paid by the developer. Based on the organic content and stability of the soil observed, the actual extent of the site stripping should be determined in the field by the geotechnical engineer.
Loose or softened soils shall be removed from the two washes that transverse the site in northwest to southeast directions. These washes are expected to be underlain by 3 to 5-feet plus of loose or softened soils; however, the amount of soil removed from these areas shall be determined by the geotechnical engineer at the time of site grading.

Low strength soils shall be removed from the proposed building pad areas. Based on conditions observed at the trench conditions, the existing soils shall be excavated to a depth of at least 4 feet below the proposed building pad subgrade elevation and to a depth of 4 feet below existing grade, whichever is greater. Soils not directly underlying the general building pad but within the influence zones of the new foundations shall be overexcavated to a depth of 3 feet below the proposed bearing grade. Other overexcavation guidelines, which are found within the Project's geotechnical report, must be complied with to mitigate potential impacts.

After all overexcavation of the site has been completed per the Proposed Project's geotechnical study, the Project soil shall be scarified to depth specified within the study, and the overexcavated soil flooded. The soils shall be processed according to the conditions presented within the Project's geotechnical report. As soon as the processed overexcavated soils abide to the report's guidelines, they may then be replaced as compacted structural fill.

**VI. d) Less than Significant Impact.** According to the geotechnical study (SCG 2006), onsite soils include silts, sands, and gravels, which have been visually classified as very low expansion to non-expansion. Thus, impacts related to expansive soils will be less than significant.

**VI. e) Less than Significant Impact.** The City of Banning has a piped sewer system, which transports the wastewater to the treatment plant in the area. The Proposed Project will require the installation of wastewater infrastructure onsite, which will be connected to City's sewer system located ofsite. Since the Project will not utilize septic systems, impacts will be less that significant.
### VII. GREEN HOUSE GAS: Would the Proposed Project:

<table>
<thead>
<tr>
<th>a) Generate greenhouse gas emissions (GHG), either directly or indirectly, that may have a significant impact on the environment?</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant w/ Mitigation</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>b) Conflict with any applicable plan, policy or regulation of an agency adopted for the purpose of reducing the emissions of greenhouse gases?</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant w/ Mitigation</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Refer to the Air Quality Impact Report prepared for the Proposed Project by LSA Associates on February 2010 (LSA 2010) within Appendix A for further information, recommendations, and conclusions.

#### VII. a, b) Less than Significant Impact with Mitigation.

Greenhouse Gas (GHG) emissions associated with the Project would occur in both construction and operational phases of the Proposed Project.

Construction activities produce combustion emissions from various sources such as site grading, utility engines, on-site heavy-duty construction vehicles, and equipment hauling materials to and from the site, asphalt paving, and motor vehicles transporting the construction crew. Exhaust emissions from on-site construction activities would vary daily as construction activity levels change.

Long-term operation of the Proposed Project would generate GHG emissions from area and mobile sources and indirect emissions from stationary sources associated with energy consumption. Mobile source emissions of GHGs would include project-generated vehicle trips associated with on-site facilities and visitors/deliveries to the Project site. Area-sources emissions would be associated with activities such as landscaping and maintenance of proposed land uses, natural gas for heating, and other sources. Increases in stationary source emissions would also occur at off-site utility providers as a result of demand for electricity, natural, gas, and waste by the proposed uses.
The estimated Project GHG emissions are presented below in Table 9.

### Table 9: Project Greenhouse Gas Emissions

<table>
<thead>
<tr>
<th>Emission Sources</th>
<th>CO₂</th>
<th>CH₄</th>
<th>N₂O</th>
<th>CO₂e</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vehicles</td>
<td>5,700</td>
<td>0.23</td>
<td>0.7</td>
<td>5,900</td>
</tr>
<tr>
<td>Electricity Production</td>
<td>2,200</td>
<td>0.024</td>
<td>0.013</td>
<td>2,200</td>
</tr>
<tr>
<td>Natural Gas Combustion</td>
<td>1,000</td>
<td>0.029</td>
<td>0.028</td>
<td>1,000</td>
</tr>
<tr>
<td>Solid Waste</td>
<td>--</td>
<td>--</td>
<td>--</td>
<td>17,000</td>
</tr>
<tr>
<td>Other Area Sources</td>
<td>1.4</td>
<td>--</td>
<td>--</td>
<td>1.4</td>
</tr>
<tr>
<td><strong>Total Annual Emissions</strong></td>
<td>8,900</td>
<td>0.28</td>
<td>0.74</td>
<td><strong>26,000</strong></td>
</tr>
</tbody>
</table>

Source: LSA 2010, Table 0.

Source: LSA 2009, Table 0

As shown in Table 9 above, the Project will produce 26,000 metric tons per year of CO₂e. In addition, the emissions from solid waste disposal would comprise approximately 65 percent of the project’s total CO₂e emissions. The emissions from vehicle exhaust would comprise approximately 23 percent of the project’s total CO₂e emissions.

The emissions from vehicle exhaust are controlled by the State and federal governments and are outside the control of the County. The remaining CO₂e emissions are primarily associated with building heating systems and increased regional power plant electricity generation due to the project’s electrical demands. Specific development projects proposed under the project would comply with existing State and federal regulations regarding the energy efficiency of buildings, appliances, and lighting, which would reduce the project’s electricity demand. The new buildings constructed in accordance with current energy efficiency standards would be more energy efficient than older buildings.

In addition, at present, there is a federal ban on CFCs; therefore, it is assumed the project would not generate emissions of CFCs. The project may emit a small amount of hydrofluorocarbon (HFC) emissions from leakage and service of refrigeration and air conditioning equipment and from disposal at the end of the life of the equipment. However, the details regarding refrigerants to be used in the project site are unknown at this time. Perfluorinated carbons (PFCs) and sulfur hexafluoride are typically used in industrial applications, none of which would be used on the project site. Therefore, it is not anticipated that the project would contribute significant emissions of these additional GHGs.

While implementation of the project is not expected to result in GHG emission levels that would substantially conflict with implementation of the GHG reduction goals under AB 32 or
other State regulations, the California Environmental Protection Agency (EPA), CAT and ARB have developed several reports to achieve the Governor's GHG targets that rely on voluntary actions of California businesses, local government and community groups, and State incentive and regulatory programs. These include the CAT's 2006 "Report to Governor Schwarzenegger and the Legislature," ARB's 2007 "Expanded List of Early Action Measures to Reduce Greenhouse Gas Emissions in California," and ARB's "Climate Change Proposed Scoping Plan: a Framework for Change." The reports identify strategies to reduce California's emissions to the levels proposed in Executive Order S-3-05 and AB 32 that are applicable to proposed project. The Proposed Scoping Plan is the most recent document, and the strategies included in the Scoping Plan that apply to the project are contained in Table 10, below, which also summarizes the extent to which the project would comply with the strategies to help California reach the emission reduction targets. According to the Air Analysis (LSA 2010), the project is expected to produce approximately 26,000 metric tons of CO2e per year, or 0.0026 MMTCO2E per year; thus, none of Measure 11 applies to this project.

In order to ensure that the proposed project complies with and would not conflict with or impede the implementation of reduction goals identified in AB 32, the Governor’s Executive Order S-3-05, and other strategies to help reduce GHGs to the level proposed by the Governor, Mitigation Measure GCC-1 shall be implemented. Many of the individual elements of this measure are already included as part of the proposed project or are required as part of project-specific mitigation measures.

**Table 10: Project Compliance with Greenhouse Gas Emission Reduction Strategies**

<table>
<thead>
<tr>
<th>Energy Efficiency Measures</th>
<th>Project Compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Energy Efficiency.</strong> Maximize energy efficiency building and appliance standards, and pursue additional efficiency efforts including new technologies, and new policy and implementation mechanisms. Pursue comparable investment in energy efficiency from all retail providers of electricity in California (including both investor-owned and publicly owned utilities).</td>
<td>Compliant with Mitigation Incorporated. The proposed project would be required to comply with the updated Title 24 standards for building construction. In addition, the project would be required to comply with the requirements of Mitigation Measure GCC-1, identified below, including measures to incorporate energy efficient building design features.</td>
</tr>
<tr>
<td><strong>Renewables Portfolio Standard.</strong> Achieve a 33 percent renewable energy mix statewide.</td>
<td></td>
</tr>
<tr>
<td><strong>Green Building Strategy.</strong> Expand the use of green building practices to reduce the carbon footprint of California's new and existing inventory of buildings.</td>
<td></td>
</tr>
<tr>
<td>Strategy</td>
<td>Project Compliance</td>
</tr>
<tr>
<td>-------------------------------------------------------------------------</td>
<td>---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td><strong>Water Use Efficiency.</strong></td>
<td>Compliant with Mitigation Incorporated. The project would be required to comply with the requirements of Mitigation Measure GCC-1, identified below, including measures to increase water use efficiency.</td>
</tr>
<tr>
<td>Continue efficiency programs and use cleaner energy sources to move and treat water. Approximately 19 percent of all electricity, 30 percent of all natural gas, and 88 million gallons of diesel are used to convey, treat, distribute and use water and wastewater. Increasing the efficiency of water transport and reducing water use would reduce GHG emissions.</td>
<td></td>
</tr>
<tr>
<td><strong>Increase Waste Diversion, Composting, and Commercial Recycling, and Move Toward Zero-Waste.</strong></td>
<td>Compliant with Mitigation Incorporated. Data available from the California Integrated Waste Management Board (CIWMB) indicates that City of Banning has not achieved the 50 percent diversion rate. The proposed project would be required to comply with Mitigation Measure GCC-1, identified below, including measures to increase solid waste diversion, composting, and recycling.</td>
</tr>
<tr>
<td>Increase waste diversion from landfills beyond the 50 percent mandate to provide for additional recovery of recyclable materials. Composting and commercial recycling could have substantial GHG reduction benefits. In the long term, zero-waste policies that would require manufacturers to design products to be fully recyclable may be necessary.</td>
<td></td>
</tr>
<tr>
<td><strong>Transportation and Motor Vehicle Measures</strong></td>
<td>Compliant. The project does not involve the manufacture, sale, or purchase of vehicles. However, vehicles that operate within and access the project site would comply with any vehicle and fuel standards that ARB adopts.</td>
</tr>
<tr>
<td><strong>Vehicle Climate Change Standards.</strong></td>
<td></td>
</tr>
<tr>
<td>AB 1493 (Pavley) required the State to develop and adopt regulations that achieve the maximum feasible and cost-effective reduction of GHG emissions from passenger vehicles and light duty trucks. Regulations were adopted by ARB in September 2004.</td>
<td></td>
</tr>
<tr>
<td><strong>Light-Duty Vehicle Efficiency Measures.</strong></td>
<td></td>
</tr>
<tr>
<td>Implement additional measures that could reduce light-duty GHG emissions. For example, measures to ensure that tires are properly inflated can both reduce GHG emissions and improve fuel efficiency.</td>
<td></td>
</tr>
<tr>
<td><strong>Adopt Heavy- and Medium-Duty Fuel and Engine Efficiency Measures.</strong></td>
<td></td>
</tr>
<tr>
<td>Regulations to require retrofits to improve the fuel efficiency of heavy-duty trucks that could include devices that reduce aerodynamic drag and rolling resistance. This measure could also include hybridization of and increased engine efficiency of vehicles.</td>
<td></td>
</tr>
<tr>
<td><strong>Low Carbon Fuel Standard.</strong></td>
<td></td>
</tr>
<tr>
<td>ARB identified this measure as a Discrete Early Action Measure. This measure would reduce the carbon intensity of California’s transportation fuels by at least 10 percent by 2020.</td>
<td></td>
</tr>
</tbody>
</table>
Table 10 (cont.): Project Compliance with Greenhouse Gas Emission Reduction Strategies

<table>
<thead>
<tr>
<th>Strategy</th>
<th>Project Compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Regional Transportation-Related Greenhouse Gas Targets.</td>
<td>Compliant. Specific regional emission targets for transportation emissions do not directly apply to this project; regional GHG reduction target development is outside the scope of this project. The project will comply with any plans developed by the City.</td>
</tr>
<tr>
<td>Source: LSA 2010, Table P.</td>
<td></td>
</tr>
<tr>
<td>Measures to Reduce High Global Warming Potential (GWP) Gases.</td>
<td>Compliant. New products used or serviced on the project site (after implementation of the reduction of GHG gases) would comply with future ARB rules and regulations.</td>
</tr>
<tr>
<td></td>
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</tr>
</tbody>
</table>

As can be see in Table 10, the project would be consistent with all applicable regulatory requirements, which would reduce GHG emissions of the project. After implementation of application of regulatory requirements, the project would implement appropriate GHG reduction strategies and would not conflict with or impede implementation of reduction goals identified in AB 32, the Governor’s Executive Order S-3-05, and other strategies to help reduce GHGs to the level proposed by the Governor. The control measures listed in Measure GCC-1 would further reduce the project’s greenhouse gas emissions and the project’s contribution to cumulative GHG emissions to a less than significant level.

Mitigation Measure

GCC-1. To the extent feasible and to the satisfaction of the County, the following measures shall be incorporated into the design and construction of the project (including specific building projects):

Construction and Building Materials

- Use locally produced and/or manufactured building materials for at least 10 percent of the construction materials used for the project;
• Recycle/reuse at least 50 percent of the demolished construction material (including, but not limited to, soil, vegetation, concrete, lumber, metal, and cardboard); and

• Use “Green Building Materials,” such as those materials that are resource efficient, and recycled and manufactured in an environmentally friendly way for at least 10 percent of the project.

Energy Efficiency Measures.

• Design all project buildings to exceed California Building Code’s Title 24 energy standard, including, but not limited to any combination of the following:
  o Increase insulation such that heat transfer and thermal bridging is minimized; o Limit air leakage through the structure or within the heating and cooling distribution system to minimize energy consumption; and
  o Incorporate ENERGY STAR or better rated windows, space heating and cooling equipment, light fixtures, appliances or other applicable electrical equipment.

• Provide a landscape and development plan for the project that takes advantage of shade, prevailing winds, and landscaping;

• Install efficient lighting and lighting control systems. Use daylight as an integral part of lighting systems in buildings;

• Install light colored “cool” roofs and cool pavements;

• Install energy efficient heating and cooling systems, appliances and equipment, and control systems; and

• Install solar or light-emitting diodes (LEDs) for outdoor lighting.

Water Conservation and Efficiency Measures.

• Devise a comprehensive water conservation strategy appropriate for the project and location.
The strategy may include the following, plus other innovative measures that might be appropriate: Create water-efficient landscapes within the development;

- Install water-efficient irrigation systems and devices, such as soil moisture-based irrigation controls;

- Use reclaimed water for landscape irrigation within the project. Install the infrastructure to deliver and use reclaimed water;

- Design buildings to be water-efficient. Install water-efficient fixtures and appliances, including low-flow faucets, dual-flush toilets and waterless urinals; and

- Restrict watering methods (e.g., prohibit systems that apply water to nonvegetated surfaces) and control runoff.

Solid Waste Measures.

- Provide interior and exterior storage areas for recyclables and green waste and adequate recycling containers located in public areas; and

- Provide employee education about reducing waste and available recycling services.
### VIII. HAZARDS AND HAZARDOUS MATERIALS: Would the Proposed Project:

<table>
<thead>
<tr>
<th></th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant w/ Mitigation</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>a)</td>
<td></td>
<td></td>
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<td>X</td>
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<tr>
<td>b)</td>
<td></td>
<td></td>
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<td>X</td>
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<tr>
<td>c)</td>
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<td>g)</td>
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<tr>
<td>h)</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

Refer to the Phase I Environmental Site Assessment Report prepared for the Proposed Project by Premier Environmental Services, Inc. (PES) on November 7, 2006 within Appendix E for further information, recommendations, and conclusions.

**VIII. a) Less than Significant Impact.** The Proposed Project's planned uses include those permitted under the Business Park land use designation. The exact types of uses are currently unknown, but some may potentially routinely transport, use, or dispose of hazardous materials. The City of Banning Development Code, the Riverside County Fire Department, and State's
Occupational Safety Codes regulate hazardous material activities within the City. During construction-related activities, the Project may involve the use and transport of hazardous materials. These materials may include fuels, oil, mechanical fluids, and other chemicals. Compliance with all applicable federal, State, and local statute regulations will be required in order to transport, store, use, and dispose of hazardous materials during construction and operational activities. By abiding by all applicable regulations, the impacts related to routine hazardous material activities will be less than significant. In addition, prior to the commencement of construction, the construction manager must submit a Spill Prevention and Control Plan (SPCP) as described in the BMP for Stormwater Pollution Prevention Plan Requirements, which will explain how to manage any spill that may occur while work is in progress. No Underground Storage Tanks (UST) are proposed on the project site and hazardous waste storage would be limited to landscaping products, maintenance products and household chemicals.

VIII. b) *Less than Significant Impact*. As discussed previously, the Proposed Project land uses are currently unknown, certain types of development may potentially conduct hazardous material activities. The construction of the Project will involve the use and transport of hazardous materials. The City of Banning Development Code, the Riverside County Fire Department, and State's Occupational Safety Codes regulate hazardous material activities within the City. Compliance with all applicable federal, State, and local statute regulations will be required in order to transport, store, use, and dispose of hazardous materials during construction and operational activities. By abiding by all applicable regulations, the impacts relating to the release of hazardous materials into the environment will be less than significant. In addition, prior to the commencement of construction, the construction manager must submit a Spill Prevention and Control Plan (SPCP) as described in the BMP for Stormwater Pollution Prevention Plan Requirements, which will explain how to manage any spill that may occur while work is in progress. No USTs are proposed on the project site and hazardous waste storage would be limited to landscaping products, maintenance products and household chemicals.

VIII. c) *Less than Significant Impact*. The Project site is approximately 0.3 mile from Hoffer Elementary School, located at 1115 East Hoffer Street in Banning. Transportation of hazardous materials is anticipated to exit the site southerly off Hathaway Street away from the existing school. Thus, the impact of hazardous materials or emissions on this school will be less than significant.

VIII. d) *Less than Significant Impact*. A Phase I Environmental Site Assessment (ESA) was conducted for the Proposed Project on November 7, 2006. The Project site is not listed within the databases researched for the Phase I. It was determined that no evidence of recognized environmental conditions (RECs) was found in connection to the Project site based on the
site's historical and environmental review, site reconnaissance, and personal interviews (PES 2006a). Thus, impacts in this regard will be less than significant.

VIII. e) Less than Significant Impact. The Proposed Project site is located within one mile of the Banning Municipal Airport. The Riverside County Air Port Land Use Compatibility Plan Policy Document (October 2004) provides land use compatibility guidelines for municipal airports in Riverside County, including the Banning Municipal Airport Land Use Plan. The following is a compatibility analysis for the project's land uses in comparison to the Riverside County Air Port Land Use Compatibility Plan Policy Document (October 2004) for Compatibility Zone D:

Zone D Compatibility

According to the Riverside County Air Port Land Use Compatibility Plan Policy Document, Zone D is designated as being within the Primary Traffic Patterns and Runway Buffer Area. Compatibility criteria for projects under Zone D include the Maximum Densities/Intensities for people per acre as 100 average people per acre, a concentration of 300 people per single acre and a requirement of 10 percent of open land.

The intensity for nonresidential uses within Zone D can be estimated using three methods: actual parking spaces as in Site Plan; parking spaces as required by local ordinance; and/or maximum occupancy levels set in accordance with the California Building Code. The intensity for the project was estimated using the actual parking spaces as in the Site Plan. The project proposes to construct 1,244 parking spaces within the project site. See Table 11 below for consistency analysis:

<table>
<thead>
<tr>
<th>Quality</th>
<th>Project Intensity</th>
<th>Threshold: Zone D</th>
<th>Consistent with Threshold?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Average number of people per acre²</td>
<td>29.2</td>
<td>100</td>
<td>Consistent</td>
</tr>
<tr>
<td>Number of people per single acre³</td>
<td>69.1</td>
<td>300</td>
<td>Consistent</td>
</tr>
</tbody>
</table>

Sources:
1) The range is based on the California Airport Land Use Planning Handbook, 2002 calculation method: Actual parking spaces (1,244) multiplied by 1.5 people per parking space, which totals 1,866 people.
2) Average people per acre is calculated by dividing people (1,866) by total acreage (64 acre), which totals 29.2.
3) People on a single acre is calculated by dividing people (1,866) by building footprint (27 acres), which totals 69.1.
4) Riverside County Air Port Land Use Compatibility Plan Policy Document (October 2004).

As shown in Table 11, the project is consistent with the average and maximum number of people per acre thresholds. Additionally, the project proposes to implement 16 percent of landscaping, which is well over the 10 percent requirement of open space for project within Zone D.
Criterion for Projects within Zone D

Highly noise-sensitive outdoor nonresidential uses: Examples of highly noise-sensitive outdoor nonresidential uses within Zone D that should be prohibited include amphitheaters and drive-in theaters. Because the potential of airport noise to increase the sound from these surroundings, caution should be exercised with respect to uses such as poultry farms and nature preserves. The project is proposed as a Business Park, which is not a highly noise-sensitive outdoor nonresidential use (See Section XII for additional noise analysis). Therefore, the project is consistent with this criterion.

Hazards to flight: Hazards to flight within Zone D include physical (e.g., tall objects), visual, and electronic forms of interference with the safety of aircraft operations. Land use development that may cause the attraction of birds to increase are also incompatible.

The maximum height of the structures for the proposed Business Park facilities will be 50 feet in height, consistent with Banning Municipal Code Section 17.12.030 (Commercial and Industrial Development Standards), and will not include visual or electronic forms of interference. Lighting plans for the project are also subject to plan check review to ensure that lighting of the facilities and parking does not adversely affect surrounding land uses.

Additionally, the landscape proposed for the project will be consistent with Section 17.32, Landscaping Standards, of the City of Banning Municipal Code. Consistency with the City's landscaping regulations and standards will not create a significant impact in regards to the attraction of birds. However, to ensure that the uses associated with the project do not create a hazard to flight, mitigation measures HAZ-1 and HAZ-2 are recommended. Therefore, the project is consistent with this criterion.

Airspace review requirements: Airspace review is required for objects over 70 feet tall within Zone D. The maximum height of the structures for the proposed Business Park facilities will be 50 feet in height, consistent with Banning Municipal Code Section 17.12.030 (Commercial and Industrial Development Standards). Therefore, the project is below the 70-foot regulation and is consistent with this criterion.

Children's schools, hospitals, nursing homes are discouraged: The project is proposed as a Business Park, which will not include schools, hospitals or nursing homes. Therefore, the project is consistent with this criterion.

Project Criterion

Noise Compatibility Contours (Map BN-3) within the Airport Land Use Plan indicates that the project site is located beyond the 55dB CNEL contour and therefore there will not be a significant noise impact to the people working in the Project site. Compatibility Map (Map BN-1) indicated that the Project site is located within Zone D (RCALUCP 2004).
Residential projects: Residential projects are required to record a Deed Notice for each parcel associated with any discretionary land use action affecting property within an airport influence area. The project does not propose to develop residential uses on the project site. Therefore, the filing of a Deed Notice is not a requirement for the project and the project is consistent with this criterion.

FAA Notification: According to the California Public Utilities Code (PUC), Section 21659 prohibits structural hazards on or near airports. The project is located within the Banning Airport Influence Area boundaries. Depending on structural heights and in accordance with Federal Aviation Regulation, Part 77 “Objects Affecting Navigable Airspace” a Notice of Proposed Construction or Alteration (Form 7460-1) may be required by the Federal Aviation Administration (FAA). Therefore, with mitigation, the project will comply with PUC Section 21659 by filing Form 7460-1 with the FAA (See mitigation measure HAZ-3). Therefore, the project is consistent with this criterion.

ALUC Review: The Riverside County Airport Land Use Commission (ALUC) is tasked under the Public Utilities Code Section 21676 et seq with reviewing proposed development that falls within Airport Influence Areas. The project falls within Zone D of the Banning Airport Influence Area boundaries. Mitigation measure HAZ-4 calls for ALUC to review the project’s final improvement plans in conformance with ALUCP compatibility criteria, including land use intensity, noise, and height. Therefore, the project is consistent with this criterion.

Mitigation Measures:

HAZ 1: The following shall be prohibited from the project site:

- Any use which would direct a steady light of red, white, green, or amber colors associated with airport operations toward an aircraft engaged in an initial straight climb following takeoff or toward an aircraft engaged in a straight final approach toward a landing at the Banning Airport, other than an FAA-approved navigational signal light or visual approach slope indicator;
- Any use which would cause sunlight to be reflected toward an aircraft engaged in initial straight climb following takeoff or toward an aircraft engaged in a straight final approach toward a landing at the Banning Airport;
- Any use which would generate a significant sources of smoke or vapor or which could attract large concentrations of birds, or which may otherwise affect safe air navigation within the area shall be prohibited; and
- Any use which would generate electrical interference that may be detrimental to the operation of aircraft and/or aircraft instrumentation.
HAZ 2: Refuse and recycling containers at the project site shall be covered to prohibit attracting any wildlife to the project site.

HAZ 3: Federal Aviation Administration Form 7460, Notice of Proposed Construction or Alteration, shall be completed prior to final approval of the project’s final improvement plans. Refer to http://forms.faa.gov/forms/faa7460-1.pdf for more information.

HAZ 4: Review by the Riverside County Airport Land Use Commission shall be conducted prior to final approval of the Project’s facility improvement plans.

VIII. f) No Impact. There are no private airstrips in the vicinity of the Proposed Project site. Thus, there are no impacts relating to hazards from private airstrips.

VIII. g) Less than Significant Impact. The Proposed Project would introduce employees to the site that would be subject to emergency evacuation or response in the event of a major disaster. Traffic associated with the proposed development could impact evacuation routes in the vicinity of the Project site. These potential traffic impacts were analyzed in a traffic study prepared for the proposed development and are evaluated in Section XV, Transportation and Traffic. The Proposed Project would not result in the impairment or interference with the implementation of the City of Banning emergency evacuation and support services procedures in the event of a natural disaster or war emergency. The Project site is adjacent to Hathaway Street and Interstate 10, and the proposed street network provides adequate emergency vehicular access to and through out the Project site. Therefore, the Project related impacts regarding an adopted emergency response plan or emergency evacuation plan would be less than significant.

VIII. h) Less than Significant Impact. According to the City of Banning General Plan, the Proposed Project is located within a Very High Threat Zone. According to Fire Resource and Prevention Program (FRAP) of the California Department of Forestry and Fire Prevention, the site is designated as Local Responsibility Area, Very High Threat Zone; Consequently, the site is not located within a State Responsibility Zone (CDFFP 2009). Areas that are susceptible to wildfire, such as the project site, are governed by special State, County, and local fire codes. Often, property owners are required to follow maintenance guidelines aimed at reducing the amount and continuity of the fuel (vegetation) available. Potential damage from fire can be significantly reduced by vegetation management practices in such areas. Additionally, the site has been designated for Business Park, which the Proposed Project is conforming to by planning to implement commercial uses. Thus, as long as the Project abides by all applicable federal, state, and local regulations, City of Banning General Plan Goals, and Policies, impacts will be less than significant.
<table>
<thead>
<tr>
<th>IX. HYDROLOGY AND WATER QUALITY: Would the Proposed Project:</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant w/ Mitigation</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) Violate any water quality standards or waste discharge requirements?</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner, which would result in substantial erosion or siltation on- or off-site?</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner, which would result in flooding on- or off-site?</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>e) Create or contribute runoff water, which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>f) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>g) Place within a 100-year flood hazard area structures, which would impede or redirect flood flows?</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

Refer to the following resources within Appendix F for further information, recommendations, and conclusions:


IX. a) **Less than Significant Impact.** The Proposed Project will result in potential short-term and long-term impacts to the effluent stormwater and wastewater. Short-term impacts will occur
from construction and grading activities onsite, which will disturb surface soils as well as remove vegetative cover. This will expose the soil to possible erosion and sedimentation in local waterways. The long-term operations and development of the Proposed Project will potentially increase the pollutant burden of the stormwater flows. The Proposed Project will increase the amount of impervious surfaces onsite, resulting in an increase in stormwater flows. Furthermore, the Project’s potential commercial activities may result in runoff containing the following contaminants: oil, grease surfactants, heavy metals, solvents, pesticides or nutrients. To minimize potential pollutant burden, by virtue of the size of the Proposed Project, the Project applicant prepared a Preliminary Water Quality Management Plan (WQMP) through the Municipal Separate Storm Sewer System (MS4), National Pollutant Discharge Elimination System (NPDES). The Best Management Practices (BMPs) of the Preliminary WQMP required that the Project proponent implement site design concepts to minimize urban runoff, minimize impervious footprint, conserve natural areas and minimize directly connected impervious areas (SCI 2009b). Implementation of the BMPs, as outlined in Preliminary Project Specific WQMP, will reduce runoff and the potential for impacts associated with violation of water quality standards or water discharge requirements to less than significant levels.

IX. b) **Less than Significant Impact.** The City of Banning draws water from four main sources: groundwater, surface water, recycled water, and imported water. The groundwater basins serving the City are naturally recharged through the percolation of runoff, direct precipitation, subsurface inflow, and artificial recharge. Implementation of the Proposed Project will increase the amount of impervious surfaces onsite, which could conceptually affect groundwater recharge due to the loss of soil infiltration. However, as discussed in “VIII a”, the Proposed Project is required to implement BMPs that will help in the soil infiltration and groundwater recharge.

IX. c-e) **Less than Significant Impact.** The Project site does not contain any watercourses on site. The natural watercourses originating offsite northwesterly of the Project boundary traverse the Project boundary at the north and west boundaries and drains towards the south and east boundaries. The Project storm drainage system would collect the major offsite flows at the site boundary and conveyed through a channel to discharge points at the easterly and southwesterly project boundaries. The onsite storm flow will be collected through catch basins and/or grated inlets and would be treated prior to entering the main storm drain systems. The system will control the quality and quantity of storm water before leaving the site through a storm drain outlet system (SCI 2009a). Therefore, even though the proposed development will alter the natural flow of the site, the project design features and implementation of BMPs will reduce the associated impacts to less than significant levels.
According to the Preliminary Drainage Study for the Project (SCI, 2009a), the drainage areas in the before development and after development condition are same and no diversion of storm flows are required. In addition, the drainage study indicated that the proposed storm drainage system will be sufficient to provide 100-year storm flow protection for the Project site. Therefore, the Project's runoff water will not exceed the capacity of existing or planned stormwater drainages systems and thus would not result in flooding on- or off-site.

IX. f) No Impact. The Proposed Project does not include the construction of residential uses on or within the Project site. In addition, according to the flood map prepared by Federal Emergency Management Agency (FEMA), the Project site is not located within a 100-year flood plain or other flood hazard delineation area. Accordingly, implementation of the Proposed Project will not generate any risks associated with the placement of housing any residential structures within a flood hazard area.

IX. g) No Impact. According to the flood map prepared by FEMA, the Project site is not located within a 100-year flood plain. Therefore, implementation of the Proposed Project will not result in the construction of improvements within the ascribed flood hazard area that would impede or redirect flood flows, and the impact will be less than significant.
X. LAND USE AND PLANNING: Would the Proposed Project:

<table>
<thead>
<tr>
<th></th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant w/ Mitigation</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) Physically divide an established community?</td>
<td></td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?</td>
<td></td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>c) Conflict with any applicable habitat conservation plan or natural community conservation plan?</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

X. a) **Less than Significant Impact.** The Proposed Project will be constructed on vacant, undeveloped land. The Project site does not consist of any established communities. There exits a residential development on the west, Orco block to the northwest and Caltrans yard to the south, however, as depicted in Exhibit 2 Local Vicinity Aerial Map, the remaining areas adjacent to the Project site are undeveloped and vacant and there is not any established community. Therefore, the Proposed Project would not divide an established community so the impact in this regard will be less than significant.

X. b) **Less than Significant Impact.** The site is within the City of Banning and is therefore subject to the City’s land use plans, policies and regulations. The Project site is designated in the City of Banning General Plan as Business Park. As per the General Plan, light industrial manufacturing and office/warehouse buildings are appropriate in this designation. The development proposed includes warehousing/office buildings and thus the proposed development concurs with the City’s designated uses for the Project site. In addition, the construction and design of the buildings will abide with the development standards set forth by the City for Business Park designation. Therefore, there will not be a potentially significant impact in this regard. (For the discussion on Airport Land Use Plan compatibility, refer to Hazard and Hazardous Material Section VII Impact “e”).

If the Project proposes any other than “high cube” commercial uses in the building 11 or 12, the applicant shall submit additional CEQA documents to demonstrate the environmental impacts would not exceed as indicated on the Proposed Project.

X. c) **Less than Significant Impact.** As discussed in the Biological Resources section under impact “e”, the Proposed Project will not require additional mitigation measure except for MM BR-1a and 1b. Thus, the implementation of proposed mitigation measure will reduce the impact in this regard to less than significant.
<table>
<thead>
<tr>
<th>XI. MINERAL RESOURCES: Would the Proposed Project:</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?</td>
</tr>
<tr>
<td>b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?</td>
</tr>
</tbody>
</table>

XI. a) **Less than Significant Impact.** The California Department of Conservation Division of Mines and Geology has conducted a Mineral Land Classification Map survey for the Project site, and the Project site falls under MRZ-2 zone (CDC 1987). MRZ-2 zone refers to the areas where adequate information indicates that significant mineral deposits are present, or where it is judged that a high likelihood for their presence exists. In addition, the site reconnaissance shows that there is existing mining activities being undertaking on the areas that are located south from the Project site. However, the proposed site is currently undeveloped and unutilized for mineral resource extraction. In addition, mineral extraction will result in incompatible uses with the business park zoning and uses on-site and in the immediate surroundings. Therefore, the impacts associated with the loss of availability of a mineral resource of statewide importance will be less than significant.

XI. b) **Less than Significant Impact.** The City of Banning General Plan designates the Project site as MRZ-2 zone for mineral resources zone. However, as discussed earlier, mineral extraction will result in incompatible uses with the business park zoning and uses on-site and in the immediate surroundings. Therefore, the impacts resulting in the loss of availability of a locally important mineral resource will be less than significant.
<table>
<thead>
<tr>
<th>XII. NOISE: Would the Proposed Project result in:</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>b) Exposure of persons to or generation of excessive groundwater vibration or groundborne noise levels?</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

XII. a-d) **Less than Significant Impact.** Within the Project study area and where Project trucks and autos are most likely to travel, there are sensitive receptors (i.e., residential units) located: 1) on the west side of Hathaway Street north of Williams Street; 2) along the north side of Williams Street between Hathaway Street and Hargrave Street; and 3) along Hargrave Street north of Williams Street. The residences on the west side of Hathaway Street north of Williams Street represent the "most" sensitive receptors in this case since they would be exposed to the highest amount of traffic from the Proposed Project. Based on area traffic volumes and project-related traffic, if noise impacts to the residences along the west side of Hathaway Street are not significant, then noise impacts from project traffic in other areas are not expected to exceed significance thresholds.

The project traffic study (KOA 2009) indicates the existing peak hour traffic volumes on Hathaway Street north of Williams Street are 626 (AM) and 439 (PM) or a total peak hour volume of 1,065 vehicles. Assuming peak hour volumes represent 10 percent of the total average daily trips (ADT), the current daily traffic volume on Hathaway Street north of Williams Street is approximately 10,650 ADT. Assuming 6 percent growth, this would increase to 11,290 ADT by 2010 which is expected to be the buildout year for the Proposed
Project. The traffic study indicated the project would generate 3,565 total truck and auto trips at buildout, and that approximately 90 percent of those trips will travel south on Hathaway Street toward the I-10 Freeway. This represents a project contribution of 3,210 vehicles per day to Hathaway Street in 2010 (90% of 3,565 total project trips). Table 11 summarizes the project traffic and noise data based on an assumed mix of 25 percent trucks and 75 percent autos. Table 2 indicates that project traffic will increase ambient noise levels along Hathaway Street by 1.6 dB. Since the threshold for human perception of change is 3 dB, this noise increase will be incremental and is not considered significant. In addition, the closest house to the street is approximately 80 feet from the centerline, so ambient (outdoor) noise levels in this residential neighborhood will be equal or less than 65 dB on the Community Noise Equivalent Level (CNEIL) scale, which is also considered to be less than significant. Therefore, the Proposed Project is not expected to create significant noise impacts from traffic along local streets.

Table 12: Local Noise Impacts – Hathaway Street north of Williams Street

<table>
<thead>
<tr>
<th>Traffic Characteristics *</th>
<th>Traffic Volumes</th>
<th>Noise Levels (dB Ldn) from Centerline of Hathaway Street</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>24-Hour</td>
<td>Equivalent 1-Hour</td>
</tr>
<tr>
<td>Existing</td>
<td>10,065</td>
<td>986</td>
</tr>
<tr>
<td>Future No Project</td>
<td>11,296</td>
<td>1,105</td>
</tr>
<tr>
<td>Future with Project</td>
<td>14,500</td>
<td>1,420</td>
</tr>
<tr>
<td>Change from Existing</td>
<td>4,435</td>
<td>434</td>
</tr>
<tr>
<td>Change from Future No Project</td>
<td>3,210</td>
<td>314</td>
</tr>
</tbody>
</table>


* includes trucks (5%) and autos (95%)

Rock Hauling and Crushing

The Project site contains a large amount of small to medium boulders spread throughout the site. These rocks either can be removed to an offsite crushing facility, or can be crushed onsite. If the rocks are transported to an offsite crushing facility, the trucks carrying rocks will create elevated noise levels for short periods of time for loading and traveling to and from the site. Conversely, rocks could be crushed on site, the crushing equipments and activity will also generate high noise levels for short periods of time. It is not possible at this time to know exactly how much rock material is present and what kind of equipments will be used for crushing and the number of truck trips required to export the rock material to an offsite crushing site. In addition the level of impact will also depend upon the distance of rock
hauling and crushing activity from the nearest residential neighborhood. However, the rock hauling and crushing will not have significant noise impact as it will last for short periods of time and given that the activity would take place at the greatest distance possible from the existing residents near the Project site.

XII. e) **Less than Significant Impact.** The Proposed Project site is located within one mile of the Banning Municipal Airport. The Riverside County Airport Land Use Commission Comprehensive Land Use Plan (Airport Land Use Plan) provides land use compatibility guidelines for municipal airports in Riverside County, including the Banning Municipal Airport Land Use Plan. Noise Compatibility Contours (Map BN-3) within the Airport Land Use Plan indicated that the Project site is located beyond the 55dB CNEL contour and therefore there will not be a significant noise impact to the people working in the Project site (RCALUCP 2004).

XII. f) **No impact.** There is no private airstrip within the vicinity of the Project site. Therefore, the Project will not expose people residing or working in the project area to excessive noise levels.
XIII. POPULATION AND HOUSING:
Would the Proposed Project:

<table>
<thead>
<tr>
<th>Potential Impact</th>
<th>Less Than Significant w/ Mitigation</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?</td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?</td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

XIII. a) **Less than Significant Impact.** The Proposed Project consists of 12 office and warehouse buildings, which will total approximately 1,194,045 square feet upon buildout. The development does not propose any new housing on- or off site; thus population will not be directly increased by the development of the project. Based on SCAG and NAIOP studies, job creation numbers for commercial developments are estimated to be between 1 per 1000 square feet and 1 per 3000 square feet. The ratio for larger buildings tends to be approximately 1 per 2200 square feet. As a conservative estimate, a ratio of 1:2200 was applied to buildings 1-10 and a ratio of 1:3000 was applied to buildings 11-12. The total estimated job creation based on these ratios is approximately 430 employees. The Project will likely draw employees directly from the City of Banning as well as from other nearby communities in Riverside or San Bernardino County. More affordable housing and shorter commute times would potentially encourage employees to live within the City itself, thus increasing its population.

Assuming a worst-case scenario where the construction of the Proposed Project takes only a year, the buildout date of the development would be 2010. According to the 2008 Regional Transportation Plan (RTP) from the Southern California Association of Governments (SCAG), the City of Banning employment amount is expected to increase to 10,018 in 2010 from the 2005 estimate of 7,475. The 430 estimated employment positions generated by the Project represent approximately 17% of the increase from 2005 to 2010 (SCAG 2008). Thus, it is assumed that most of the Project's positions will be filled within the City of Banning with the rest of the balance coming from nearby communities in the Riverside or San Bernardino Counties. Furthermore, the global economic crisis is currently affecting Riverside County; according to the Riverside County Economic Development Agency, the unemployment level has increased from a low of 5.1 percent in 2006 to 9.6 percent in September 2008, the highest level in almost a decade. For this reason, the project will result in a benefit in regards to employment.
According to SCAG forecasts, the housing inventory for the City of Banning will increase from 10,456 in 2005 to 12,536 in 2010 (CDF 2008 & SCAG 2008). As a worse case scenario, it can be assumed that each new employee working at the Proposed Project would require housing for the employee and his or her family. Thus, under that assumption, approximately 165 units (based upon SCAG forecast of average household 2.62) of housing would be required to house the Project's workforce. Per the 2000 U.S. Census, the City of Banning had an unoccupied household inventory of 838 units, or approximately 8.59 percent of the total housing inventory. As a worst-case scenario, assuming that the unoccupied housing inventory, 838 units, maintains its 2000 level and all employees take residence in Banning, the current household inventory will be able to house all the employees of the Project without the required construction of housing outside of the SCAG housing forecasts. Thus, impacts to housing will be less than significant.

XIII. b) Less than Significant Impact. Since the Proposed Project is currently vacant and undeveloped, the Project will not displace housing. Therefore, the impacts will be less than significant.

XIII. c) Less than Significant Impact. The Proposed Project site is currently vacant, undeveloped, and will not displace an existing population. Therefore, the impacts will be less than significant.
XIV. PUBLIC SERVICES

<table>
<thead>
<tr>
<th>Potentially Significant Impact</th>
<th>Less Than Significant w/ Mitigation</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:</td>
<td></td>
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<td></td>
</tr>
<tr>
<td>Fire protection?</td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Police protection?</td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Schools?</td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Parks?</td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Other public facilities?</td>
<td></td>
<td>X</td>
<td></td>
</tr>
</tbody>
</table>

XIV. a) Less than Significant Impact. (Fire Protection): Fire protection for the City of Banning is provided via contract by the Riverside County Fire Department. The County Fire Department provides other services as well, including paramedic response, hazardous materials response, search and rescue, swift water rescue, full fire prevention support, and disaster preparedness. The station serving the City of Banning and the Proposed Project site is Station 89, located at 172 N. Murray Road, approximately one mile from the Project site (BFD 2009).

The Proposed Project would incrementally increase the demand for fire prevention services, potentially resulting in the need for additional personnel and facilities. The 64.5-acre and 12 building development will increase fire ignition potential during both its construction and operational phases. Furthermore, the Project may induce both direct and indirect population growth to the City via the addition of employment opportunities. Additionally, the Project site is located in an area designated as a Very High Threat Zone per the City of Banning General Plan. According to Fire Resource and Prevention Program (FRAP) of the California Department of Forestry and Fire Prevention, the Project site is designated as Local Responsibility Area, Very High Threat Zone; Consequently, the site is not located within a State Responsibility Zone.

Since the site is located in a Very High Fire Threat Zone, the Project will be required to comply with all applicable federal, State, and local codes and regulations. The applicable local regulations include the City’s ordinance adopting the 2007 California Fire Code (Ordinance No. 1380), standard conditions for commercial development, Riverside County Fire Department standard requirements for development adjacent to wildland areas, etc.
Additionally, the Proposed Project will be required to pay development impact fees to the City of Banning to mitigate the project’s impacts on fire prevention services. By complying with all applicable federal, State, and local codes and regulations, including the payment of development impact fees, the Proposed Project will have less than significant impacts on fire protection services.

The Proposed Project will be served by the County Fire Department under City contract. Build out of the Proposed Project will generate sales and property tax, which will offset the costs of added police and fire services, as well as the costs of general government. The Project will be required to pay the mandated school fees, development impact fees and park in lieu fees in place at the time of issuance of building permits. Payment of these fees and the generation of sales and property tax will lower potential impacts associated with additional services to less than significant levels.

XIV. b) Less than Significant Impact. (Police Protection): Police protection services are provided by the Banning Police Department. The Banning Police Station is located at 321 W. Ramsey St., approximately 1.25 miles from the Project site. The Banning Police Department consists of 41 sworn personnel and 20 classified personnel (BPD 2009).

The Proposed Project will result in an increased demand for police protection services. During construction, there exists the potential for service calls concerning theft as well as other crimes. Project operation will result in an increase in the amount of traffic, and an ensuing need for traffic enforcement. Additionally, the Project and its employees will necessitate the need for protection onsite.

The increased Banning Police Department operational budget will be partially funded through existing sources, in addition to the tax revenue from this Project. Development impact fees will mitigate the impacts of the Proposed Project on existing police protection services. As long as development impact fees are paid, impacts to the Banning Police Department will be less than significant.

XIV. c) Less than Significant Impact. (Schools): The City of Banning and the Proposed Project Area are located within the Banning Unified School District (BUSD). The District has four elementary schools, an intermediate school, a middle school, a comprehensive high school, and an independent high school (BUSD 2009).

The Proposed Project consists of only commercial uses with no residential uses. Thus, no direct population growth will stem from the implementation of the development. However, the Project may result in indirect impacts (e.g., increase of residents to the area based on the addition of employment and infrastructure). It is expected that many of these employment
positions will be taken by existing residents in the City, minimizing any potential influx of students to local schools.

The Proposed Project will be required to pay development impact fees to reduce indirect impacts on the BUSD. Additionally, the potential population influx resulting of the implementation of the Project was deemed to insignificant to the BUSD. Thus, as long as required development impact fees are paid, impacts to the BUSD will be less than significant.

XIV. d) Less than Significant Impact. (Parks): The City of Banning currently has eight developed parks, totaling approximately 200 acres in area. In addition to these facilities, more than 150 acres have been dedicated by the City for future park development (BED 2009).

The Proposed Project will incrementally increase the demands on park and recreational facilities in the City. The development consists of commercial uses; no residential uses are proposed. Thus, as discussed previously, population growth will not stem directly from the Project; however, the Project may result in an increase of residents to the area based on the addition of employment and infrastructure to the area. It is expected that many of these employment positions will be filled by existing residents in the City, minimizing potential population influx to the City. As long as required development impact fees are paid impacts to park and recreational facilities will be less than significant.

XIV. e) Less than Significant Impact. (Other Public Facilities): The Banning Library District provides library materials and services to the City of Banning. There are currently two libraries in the district: one located at 21 West Nicolet Street, Banning and the other at 50171 Ramona Avenue, Cabazon (BLD 2009).

The Proposed Project will result in an increased demand for library services, potentially resulting in the need for additionally library services and personnel to cover this impact. However, the development is not expected to result in substantial population growth, reducing potential impacts on library services. Additionally, the Project may be required to pay development impact fees to reduce impacts on the library district. As long as required development impact fees are paid, impacts to the Banning Library District will be less than significant.
<table>
<thead>
<tr>
<th>XV. RECREATION:</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant w/ Mitigation</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?</td>
<td></td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>b) Does the project include recreational facilities or require the construction or expansion of recreational facilities, which might have an adverse physical effect on the environment?</td>
<td></td>
<td></td>
<td>X</td>
<td></td>
</tr>
</tbody>
</table>

XV. a) **Less than Significant Impact.** The City of Banning currently has eight developed parks, totaling approximately 200 acres in area. In addition to these facilities, more than 150 acres have been dedicated by the City for future park development (BED 2009). The Proposed Project consists of only commercial uses. Commercial uses do not usually result in significant levels of park usage. The Project will not directly increase population growth, but may indirectly result to the population influx based on the project's employment opportunities and extension of the existing infrastructure. However, it is expected that many of these employment positions will be filled by existing residents in the City, reducing the potential of the population influx.

The Proposed Project will be required to pay development impact fees to reduce impacts on City parks and recreational facilities. As long as required development impact fees are paid, impacts to park and recreational facilities will be less than significant.

XV. b) **Less than Significant Impact.** As discussed previously, the Proposed Project consists of commercial uses, which do not usually result in significant amounts of park usage. Although the project may result in an increase in population in the area due to the additional employment opportunities and infrastructure, this influx was deemed to be insignificant since many employees are expected to be current residents of Banning.

For the preceding reasons, the Proposed Project is not expected to require the construction or expansion of recreational facilities. In order to mitigate potential impacts, the project may be required to pay development fees. Thus, as long as required development impact fees are paid, impacts to park and recreational facilities will be less than significant.
<table>
<thead>
<tr>
<th>XVI. TRANSPORTATION/TRAFFIC: Would the Proposed Project:</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant w/ Mitigation</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) Cause an increase in traffic, which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?</td>
<td></td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?</td>
<td></td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that result in substantial safety risks?</td>
<td></td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?</td>
<td></td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>e) Result in inadequate emergency access?</td>
<td></td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>f) Result in inadequate parking capacity?</td>
<td></td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?</td>
<td></td>
<td></td>
<td>X</td>
<td></td>
</tr>
</tbody>
</table>

Refer to the Traffic Study for the Proposed Banning Business Park prepared by KOA Corporation on December 2, 2009 within Appendix G for further information, recommendations, and conclusions.

XVI. a -b) Less than Significant Impact With Mitigation. The project related traffic impacts were analyzed in the Traffic Impact Analysis (TIA) prepared by KOA Corporation on December 2, 2009 (KOA 2009). To assess existing and ambient growth, the traffic study examined existing traffic conditions along with other approved development and projected area wide growth, with and without the Proposed Project. In addition, per the requirements of the CMP, the analysis includes a.m. and p.m. peak hour traffic conditions in the vicinity of the Proposed Project.

The TIA examined the following scenarios during the morning and evening peak hours:

- Near-term (Year 2011) conditions (Phase 1 - Building 11);
• Near Term (Year 2012) conditions (Phase 2 - Buildings 11 and 12);
• Near-term (Year 2015) conditions (Phase 3 -- Buildings 1 through 12); and
• Build-out (Year 2030) conditions.

Table 12 summarizes the projected traffic generated from the proposed project. The Project is estimated to generate a total of 3,502 daily trips which include 312 AM and 321 PM peak hour trips.

### Table 13: Project Traffic Generation

<table>
<thead>
<tr>
<th>Land Use</th>
<th>A.M. Peak Hour</th>
<th></th>
<th>P.M. Peak Hour</th>
<th></th>
<th>Daily Trips</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>In</td>
<td>Out</td>
<td>Total</td>
<td>In</td>
<td>Out</td>
</tr>
<tr>
<td>Business Park Buildings 1 &amp; 5- Autos</td>
<td>30</td>
<td>6</td>
<td>36</td>
<td>7</td>
<td>25</td>
</tr>
<tr>
<td>Business Park Buildings 1 &amp; 5- Trucks</td>
<td>74</td>
<td>14</td>
<td>88</td>
<td>19</td>
<td>62</td>
</tr>
<tr>
<td><strong>Business Park Subtotal</strong></td>
<td>104</td>
<td>20</td>
<td>124</td>
<td>26</td>
<td>87</td>
</tr>
<tr>
<td>Warehouse Buildings 2-4 &amp; 6-10- Autos</td>
<td>40</td>
<td>10</td>
<td>50</td>
<td>12</td>
<td>40</td>
</tr>
<tr>
<td>Business Park Buildings 2-4 &amp; 6-10-Trucks</td>
<td>23</td>
<td>7</td>
<td>30</td>
<td>7</td>
<td>23</td>
</tr>
<tr>
<td><strong>Warehouse Subtotal</strong></td>
<td>63</td>
<td>17</td>
<td>80</td>
<td>19</td>
<td>63</td>
</tr>
<tr>
<td>High Cube Warehouse Buildings 11&amp;12- Autos</td>
<td>47</td>
<td>19</td>
<td>66</td>
<td>25</td>
<td>50</td>
</tr>
<tr>
<td>High Cube Warehouse Buildings 11&amp;12- Autos</td>
<td>31</td>
<td>11</td>
<td>42</td>
<td>11</td>
<td>40</td>
</tr>
<tr>
<td><strong>High Cube Warehouse Subtotal</strong></td>
<td>78</td>
<td>30</td>
<td>108</td>
<td>36</td>
<td>90</td>
</tr>
<tr>
<td>Total</td>
<td>245</td>
<td>67</td>
<td>312</td>
<td>81</td>
<td>240</td>
</tr>
</tbody>
</table>

Source: KOA 2009, Table 24

The project is designed and intended to utilize buildings 11 and 12 as a High-Cube Distribution Centers. If, at any time, the use of these buildings is changed to a Warehouse use or a more intensive use, the property owner shall be required to address all impacts associated with that use prior to certificate of occupancy.

LOS models quantitatively measure traffic conditions and how drivers and passengers perceive these conditions. The City of Banning follows the County of Riverside policies for the determination of Level-of-Service (LOS) definitions for intersections. The County of Riverside has identified LOS D as the minimum allowable service during peak hours at signalized intersections. In addition, for freeway facilities, Caltrans has identified the...
minimum level of Service as E for freeway ramp terminals. For the purpose of this analysis, LOS D was used as the minimum level of standard for intersection operations and LOS E was used as minimum level of standard for freeway ramp terminals.

Near-term (Year 2011) conditions (Phase 1 - Building 11). Table 13 summarizes a comparison of near-term study scenarios for year 2011 – Phase 1(Building 11). Traffic impacts created by the Project can be evaluated by comparing the “Near-Term (Year 2011) Without Project” conditions to the “Near-Term (Year 2011) With Project” conditions for Phase 1.

Table 14: Near-term Year 2011 Conditions (Phase 1-Building 11)

<table>
<thead>
<tr>
<th>Int. #</th>
<th>Intersections</th>
<th>Without Project</th>
<th>With Project</th>
<th>Significance Impact?</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>AM Peak Hour</td>
<td>PM Peak Hour</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Max. Delay LOS</td>
<td>Max. Delay LOS</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>Nicolet St. at Hathaway St. (Project Driveway)</td>
<td>9.9 A</td>
<td>9.9 A</td>
<td>11.0 B</td>
</tr>
<tr>
<td>2</td>
<td>Morongo Rd/Wilson St. at Hathaway St.</td>
<td>10.8 B</td>
<td>16.8 C</td>
<td>10.8 B</td>
</tr>
<tr>
<td>3</td>
<td>George St. at Hathaway St.</td>
<td>10.8 B</td>
<td>11.7 B</td>
<td>10.8 B</td>
</tr>
<tr>
<td>4</td>
<td>Williams St. at Hathaway St.</td>
<td>9.7 A</td>
<td>10.1 B</td>
<td>10.2 B</td>
</tr>
<tr>
<td>5</td>
<td>Ramsey St. at Heathway St.</td>
<td>10.9 B</td>
<td>10.5 B</td>
<td>11.9 B</td>
</tr>
<tr>
<td>6</td>
<td>Nicolet St. at Hargrave St.</td>
<td>14.2 B</td>
<td>11.9 B</td>
<td>14.3 B</td>
</tr>
<tr>
<td>7</td>
<td>Williams St. at Hargrave St.</td>
<td>22.7 C</td>
<td>16.8 C</td>
<td>22.9 A</td>
</tr>
<tr>
<td>8</td>
<td>Hargrave St. at I-10 WB Ramps</td>
<td>62.5 F</td>
<td>42.2 E</td>
<td>74.4 F</td>
</tr>
<tr>
<td>9</td>
<td>Hargrave St. at I-10 EB Ramps</td>
<td>&gt;120 F</td>
<td>31.9 D</td>
<td>&gt;120 F</td>
</tr>
<tr>
<td>10</td>
<td>Ramsey St. at Hargrave St.</td>
<td>30.4 C</td>
<td>33.1 C</td>
<td>30.7 C</td>
</tr>
<tr>
<td>11</td>
<td>Ramsey St. at 8th St.</td>
<td>37.7 D</td>
<td>36.2 D</td>
<td>37.7 D</td>
</tr>
</tbody>
</table>

Source: KOA 2009, Tables 29 & 30
As shown in Table 13, the Project will contribute to significant impact at two intersection in the near term year 2011-Phase 1-condition:

- Hargrave Street at I-10 Westbound Ramps (AM peak hour); and
- Hargrave Street at I-10 Eastbound Ramps (AM hour)

**Near-term (Year 2012) conditions (Phase 2 - Buildings 11 and 12);** Table 14 summarizes a comparison of near-term study scenarios for year 2012 – Phase 2 (Buildings 11 and 12). Traffic impacts created by the Project can be evaluated by comparing the "Near-Term (Year 2012) Without Project" conditions to the "Near-Term (Year 2012) With Project" conditions for Phase 2.

#### Table 15: Near-term Year 2012 Conditions (Phase 2-Buildings 11 and 12)

<table>
<thead>
<tr>
<th>Int. #</th>
<th>Intersections</th>
<th>Without Project</th>
<th>With Project</th>
<th>Significant Impact?</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>AM Peak Hour</td>
<td>PM Peak Hour</td>
<td>AM Peak Hour</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Max. Delay LOS</td>
<td>Max. Delay LOS</td>
<td>Max. Delay LOS</td>
</tr>
<tr>
<td>1</td>
<td>Nicolet St. at Hathaway St. (Project Driveway)</td>
<td>9.9 A</td>
<td>10.0 A</td>
<td>11.2 B</td>
</tr>
<tr>
<td>2</td>
<td>Morongo Rd/Wilson St. at Hathaway St.</td>
<td>10.9 B</td>
<td>17.3 C</td>
<td>10.9 B</td>
</tr>
<tr>
<td>3</td>
<td>George St. at Hathaway St.</td>
<td>10.8 B</td>
<td>11.7 B</td>
<td>10.8 B</td>
</tr>
<tr>
<td>4</td>
<td>Williams St. at Hathaway St.</td>
<td>9.7 A</td>
<td>10.2 B</td>
<td>10.4 B</td>
</tr>
<tr>
<td>5</td>
<td>Ramsey St. at Heathway St.</td>
<td>11.0 B</td>
<td>10.5 B</td>
<td>12.3 B</td>
</tr>
<tr>
<td>6</td>
<td>Nicolet St. at Hargrave St.</td>
<td>14.6 B</td>
<td>12.1 B</td>
<td>14.7 B</td>
</tr>
<tr>
<td>7</td>
<td>Williams St. at Hargrave St.</td>
<td>23.4 C</td>
<td>17.1 B</td>
<td>23.6 C</td>
</tr>
<tr>
<td>8</td>
<td>Hargrave St. at I-10 WB Ramps</td>
<td>67.8 F</td>
<td>45.7 E</td>
<td>84.0 F</td>
</tr>
<tr>
<td>9</td>
<td>Hargrave St. at I-10 EB Ramps</td>
<td>&gt;120 F</td>
<td>34.0 D</td>
<td>&gt;120 F</td>
</tr>
<tr>
<td>10</td>
<td>Ramsey St. at Hargrave St.</td>
<td>30.5 C</td>
<td>33.1 C</td>
<td>30.9 C</td>
</tr>
<tr>
<td>11</td>
<td>Ramsey St. at 8th St.</td>
<td>38.1 D</td>
<td>36.5 D</td>
<td>38.2 D</td>
</tr>
</tbody>
</table>

Source: KOA 2009, Tables 31 & 32
As shown in Table 14, the Project will contribute to significant impact at two intersection in the near term year 2012-Phase 2-condition:

- Hargrave Street at I-10 Westbound Ramps (AM and PM peak hours); and
- Hargrave Street at I-10 Eastbound Ramps (AM and PM peak hours)

Near-term (Year 2015) conditions (Phase 3 - Building 1 through 12); Table 15 summarizes a comparison of near-term study scenarios for year 2015 – Phase 3 (Buildings 1 through 12). Traffic impacts created by the Project can be evaluated by comparing the “Near-Term (Year 2015) Without Project” conditions to the “Near-Term (Year 2015) With Project” conditions for Phase 3.

Table 16: Near-term Year 2015 Conditions (Phase 3-Buildings 1 through 12)

<table>
<thead>
<tr>
<th>Int. #</th>
<th>Intersections</th>
<th>Without Project</th>
<th>AM Peak Hour</th>
<th>PM Peak Hour</th>
<th>With Project</th>
<th>AM Peak Hour</th>
<th>PM Peak Hour</th>
<th>Significant Impact?</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Max. Delay</td>
<td>LOS</td>
<td>Max. Delay</td>
<td>LOS</td>
<td>Max. Delay</td>
<td>LOS</td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>Nicolet St. at Hathaway St. (Project Driveway)</td>
<td>10.0</td>
<td>A</td>
<td>10.1</td>
<td>B</td>
<td>13.3</td>
<td>B</td>
<td>21.0</td>
</tr>
<tr>
<td>2</td>
<td>Morongo Rd/Wilson St. at Hathaway St.</td>
<td>11.0</td>
<td>B</td>
<td>18.7</td>
<td>C</td>
<td>11.1</td>
<td>B</td>
<td>18.9</td>
</tr>
<tr>
<td>3</td>
<td>George St. at Hathaway St. 1</td>
<td>11.0</td>
<td>B</td>
<td>12.0</td>
<td>B</td>
<td>11.1</td>
<td>B</td>
<td>12.1</td>
</tr>
<tr>
<td>4</td>
<td>Williams St. at Hathaway St.</td>
<td>9.8</td>
<td>A</td>
<td>10.3</td>
<td>B</td>
<td>12.2</td>
<td>B</td>
<td>13.8</td>
</tr>
<tr>
<td>5</td>
<td>Ramsey St. at Heathway St.</td>
<td>11.2</td>
<td>B</td>
<td>10.7</td>
<td>B</td>
<td>18.1</td>
<td>C</td>
<td>18.4</td>
</tr>
<tr>
<td>6</td>
<td>Nicolet St. at Hargrave St.</td>
<td>15.8</td>
<td>C</td>
<td>12.6</td>
<td>B</td>
<td>16.0</td>
<td>C</td>
<td>13.0</td>
</tr>
<tr>
<td>7</td>
<td>Williams St. at Hargrave St.</td>
<td>25.7</td>
<td>D</td>
<td>18.02</td>
<td>C</td>
<td>26.3</td>
<td>D</td>
<td>18.7</td>
</tr>
<tr>
<td>8</td>
<td>Hargrave St. at I-10 WB Ramps</td>
<td>87.4</td>
<td>F</td>
<td>59.1</td>
<td>F</td>
<td>&gt;120</td>
<td>F</td>
<td>95.7</td>
</tr>
</tbody>
</table>
### Table 16 (cont.): Near-term Year 2015 Conditions (Phase 3-Buildings 1 through 12)

<table>
<thead>
<tr>
<th>Int. #</th>
<th>Intersections</th>
<th>Without Project</th>
<th>AM Peak Hour</th>
<th>PM Peak Hour</th>
<th>With Project</th>
<th>AM Peak Hour</th>
<th>PM Peak Hour</th>
<th>Significant Impact?</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>Max. Delay</td>
<td>LOS</td>
<td>Max. Delay</td>
<td>LOS</td>
<td>Max. Delay</td>
<td>LOS</td>
</tr>
<tr>
<td>9</td>
<td>Hargrave St. at I-10 EB Ramps</td>
<td></td>
<td>&gt;120</td>
<td>F</td>
<td>41.9</td>
<td>E</td>
<td>&gt;120</td>
<td>F</td>
</tr>
<tr>
<td>10</td>
<td>Ramsey St. at Hargrave St.</td>
<td></td>
<td>30.7</td>
<td>C</td>
<td>33.3</td>
<td>C</td>
<td>31.0</td>
<td>C</td>
</tr>
<tr>
<td>11</td>
<td>Ramsey St. at 8th St.</td>
<td></td>
<td>39.6</td>
<td>D</td>
<td>37.4</td>
<td>D</td>
<td>39.8</td>
<td>D</td>
</tr>
</tbody>
</table>

Source: KOA 2009, Tables 33 & 34

As shown in Table 15, the Project will contribute to significant impact at two intersection in the near term year 2015-Phase 3-condition:

- Hargrave Street at I-10 Westbound Ramps (AM and PM peak hours); and
- Hargrave Street at I-10 Eastbound Ramps (AM and PM peak hours)

**Build-out (Year 2030) conditions**: Table 16 summarizes a comparison of build-out study scenarios for year 2030. Traffic impacts created by the Project can be evaluated by comparing the “Build-out (Year 2030) Without Project” conditions to the “Build-out (Year 2030) With Project” conditions.

### Table 17: Build-out Year 2015 Conditions

<table>
<thead>
<tr>
<th>Int. #</th>
<th>Intersections</th>
<th>Without Project</th>
<th>With Project</th>
<th>Significant Impact?</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>AM Peak Hour</td>
<td>PM Peak Hour</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Max. Delay</td>
<td>LOS</td>
</tr>
<tr>
<td>1</td>
<td>Nicolet St. at Hathaway St. (Project Driveway)</td>
<td></td>
<td>13.1</td>
<td>B</td>
</tr>
<tr>
<td>2</td>
<td>Morongo Rd/Wilson St. at Hathaway St.</td>
<td></td>
<td>21.7</td>
<td>C</td>
</tr>
</tbody>
</table>
### Table 17 (cont.): Build-out Year 2015 Condition

<table>
<thead>
<tr>
<th>Int. #</th>
<th>Intersections</th>
<th>Without Project</th>
<th>With Project</th>
<th>Significant Impact?</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>AM Peak Hour</td>
<td>PM Peak Hour</td>
<td>AM Peak Hour</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Max. Delay LOS</td>
<td>Max. Delay LOS</td>
<td>Max. Delay LOS</td>
</tr>
<tr>
<td>3</td>
<td>George St. at Hathaway St.</td>
<td>10.3 B</td>
<td>10.7 B</td>
<td>10.7 B</td>
</tr>
<tr>
<td>4</td>
<td>Williams St. at Hathaway St.</td>
<td>12.6 B</td>
<td>12.3 B</td>
<td>11.7 B</td>
</tr>
<tr>
<td>5</td>
<td>Ramsey St. at Hathaway St.</td>
<td>36.6 D</td>
<td>40.9 D</td>
<td>56.0 E</td>
</tr>
<tr>
<td>6</td>
<td>Nicolet St. at Hargrave St.</td>
<td>33.9 C</td>
<td>39.0 D</td>
<td>34.2 C</td>
</tr>
<tr>
<td>7</td>
<td>Williams St. at Hargrave St.</td>
<td>34.4 C</td>
<td>38.5 D</td>
<td>34.5 C</td>
</tr>
<tr>
<td>8</td>
<td>Hargrave St. at I-10 WB Ramps</td>
<td>29.8 C</td>
<td>&gt;120 F</td>
<td>31.3 C</td>
</tr>
<tr>
<td>9</td>
<td>Hargrave St. at I-10 EB Ramps</td>
<td>93.4 F</td>
<td>110.5 F</td>
<td>100.6 F</td>
</tr>
<tr>
<td>10</td>
<td>Ramsey St. at Hargrave St.</td>
<td>38.1 D</td>
<td>&gt;120.0 F</td>
<td>58.2 E</td>
</tr>
<tr>
<td>11</td>
<td>Ramsey St. at 8th St.</td>
<td>32.0 C</td>
<td>33.1 C</td>
<td>32.0 C</td>
</tr>
</tbody>
</table>

Source: KOA 2009, Tables 35 & 36

As shown in Table 16, the Project will contribute to significant impact at the following intersections in the Build-out (Year 2030):

- Ramsey Street at Hathaway Street (AM and PM peak hours);
- Hargrave Street at I-10 Westbound Ramps (AM and PM peak hours);
- Hargrave Street at I-10 Eastbound Ramps (AM and PM peak hours); and
- Ramsey Street at Hargrave Street (AM and PM peak hours).

As identified above, the Proposed Project will result in unacceptable traffic conditions at the above intersections without implementation of the appropriate mitigation measures.
Rock crushing and hauling
The rock crushing and hauling activity could result in short term impacts to the local traffic by generating additional truck trips. However, the crushing and hauling activity should only last for a few days and the transportation of rock material from the site to an offsite crushing site will be avoided during the peak hours. In addition, the trucks carrying rock materials will exit the site southerly off of Hathaway Street away from the existing school and residential neighborhood, which will minimize the safety concern during transportation of rock materials. Therefore, rock crushing and hauling activity will not represent a significant traffic impact or safety concern to existing traffic.

Mitigation Measures
The following measures are recommended to mitigate for project impacts associated with traffic increases and levels of service (KOA 2009).

**MM T-1a**

**Near-term (Year 2011) – Phase 1 Improvements.** Prior to the issuance of building permits, the developer shall construct/provide fair share the following improvements.

**Hargrave Street at I-10 Westbound Ramp**
- Install a signal

**Hargrave Street at I-10 Eastbound Ramp**
- Install a signal

**MM T-1b**

**Buildout (Year 2020) Improvements.** Prior to the issuance of building permits, the developer shall construct/provide fair share the following improvements.

**Ramsay Street at Hathaway Street**
- Southbound Approach: Widen to provide one left-turn lane, one all way lane, and one right-turn lane.
- Eastbound Approach: Widen to provide two left-turn lanes and two through lanes.

**Hargrave Street at I-10 Westbound Ramp**
- Southbound Approach: Widen to provide two through lanes and one free right-turn lane.
- Westbound Approach: Widen to provide one left-turn lane, one shared left/through lane, and one free right-turn lane.

**Hargrave Street at I-10 Eastbound Ramp**
- Eastbound Approach: Widen to provide one left-turn lane, one shared left/through lane, and one right-turn lane with a signal overlap.
This intersection would require capacity enhancements greater than those specified in the General Plan to provide acceptable levels of service during peak hours with the addition of forecast traffic growth, including the project. Northbound and westbound dual left-turn lanes would be required as well an additional through capacity on the northbound and southbound intersection approaches. These types of improvements do not seem feasible due to the extensive right-of-way acquisition that would be required and the spacing between Ramsey Street and the westbound freeway ramps.

It is recommended that this intersection be improved according to the General Plan and that traffic improvements be implemented above and beyond those improvements to be determined by extensive future traffic monitoring and engineering studies. The proposed project proponent as well as future cumulative projects would have a fair share responsibility toward future improvements as they will contribute traffic volumes to this location.

At present, Hathaway Street is used as traffic route and is a designated traffic route in the City’s General Plan. However, prior to occupancy, Hathaway Street shall be signed as “Truck Route” by the applicant.

XVI. c) Less than Significant Impact. The proposed commercial development does not anticipate impacts to air traffic. However, the Proposed Project site is located within one mile of the Banning Municipal Airport. As per discussion in Hazards and Hazardous Materials Section VII, impact “c”, the Proposed Project is consistent with the Riverside County Airport Land Use Commission Comprehensive Land Use Plan and will not result in any kind of safety hazards associated with Banning Municipal Airport. Therefore, impacts to air traffic patterns and associated safety risks will be less than significant.

XVI. d) Less than Significant Impact. The Proposed Project has the potential to change local traffic patterns and to increase traffic levels that could result in substantial safety risks. The traffic study prepared by KOA Associates (KOA 2009) determined that the Project will not create significant impacts as long as necessary improvements are made, including contributions to area-wide traffic improvements. The Project is a compatible use with the City’s policies and does not allow or contemplate uses that are incompatible with uses/activities conducted in the surrounding area. Additionally, roadways and intersections in the Proposed Project will be required to meet the City of Banning roadway design criteria requirements, which will ensure that roadway hazards are not created. Therefore, traffic hazard impacts associated with the Proposed Project will be less than significant.

XVI. e) Less than Significant Impact. The I-10 Freeway provides regional access to the project area while Hathaway Street, Ramsay Street and Wilson Street near the project site provide local access and primarily serve the existing area. As part of Project development, roadways and signals will be improved in the project area and the Project will provide adequate emergency
access in all phases of development. In addition, the Project applicant will comply with applicable Fire Department and Development of Building and Safety regulations relating to emergency access. Therefore, impacts with regard to emergency access will be less than significant.

XV. f) **Less than Significant Impact.** The Proposed Project will provide the parking at a ratio of 1.02 totaling 1,244 spaces, which will exceed the city requirement of 1,218 spaces by 26 spaces. Therefore, the Project will provide adequate parking capacity and the impact in this regard will be less than significant.

XVI. g) **Less than Significant Impact.** Pass Transit provides bus service within the surrounding area of the Project. Route 6 Southern provides service from the Kmart Garden Center on Sunlakes Boulevard within the city limits to Sunset Avenue and West Ramsey Street. Service is provided on one-hour headways on weekdays from 6:00 AM to 7:00 PM. There are no existing bicycle facilities located within the Project area. The development of the Proposed Project will not interfere with the existing transit facilities and there is no planned transit service, which would extend across the site. In addition, the proposed development will be consistent with design policies, plans, or programs within the General Plan supporting alternative transportation. Therefore, conflicts with alternative transportation policies, plans, and programs will be less than significant.
**City of Banning – Banning Business Park**  
*Re-circulated Initial Study and Mitigated Negative Declaration*  
**Evaluation of Environmental Impacts**

<table>
<thead>
<tr>
<th>XVI. UTILITIES AND SERVICE SYSTEMS: Would the Proposed Project:</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant w/ Mitigation</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project’s projected demand in addition to the provider’s existing commitments?</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>f) Be served by a landfill with sufficient permitted capacity to accommodate the project’s solid waste disposal needs?</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>g) Comply with federal, state, and local statutes and regulations related to solid waste?</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

Refer to the following resources within Appendix F for further information, recommendations, and conclusions:


**XVII. a) Less than Significant Impact.**  The Project site is within the jurisdiction of the Colorado River RWQCB.  The RWQCB maintains a Basin Plan that establishes water quality objectives and management policy for the Basin.  The Project will be required to comply with the
objectives and policies within this plan. Furthermore, a Preliminary WQMP has been prepared for the proposed development, which identified and required the implementation of BMPs to control pollutant runoff. As standard practice, construction and operation plans will be reviewed by the City for compliance with water quality standards and waste discharge requirements. Thus, as long as the project abides by the policies and objectives within the RWQCB’s Water Quality Control Plan, the recommendations within the Preliminary WQMP, and approved by the City prior to construction; the proposed development will not impact wastewater treatment requirements.

XVII. b) Less than Significant Impact. The City of Banning Wastewater Utility collects wastewater from generators and then treats the sewage at the City’s Wastewater Reclamation Plant. The reclamation plant has a secondary treatment capacity of 3.6 million gallons per day, but a designed capacity of 7.8 million gallons per day (MGD). The average throughput of the plant is 2.5 MGD according to the City of Banning Water/Wastewater Utilities Monthly Report dated May 2008. Thus, the plant runs at approximately 69.4% of capacity (2.5 MGD current / 3.6 MGD capacity). The Proposed Project will be required to install wastewater infrastructure onsite and connect it to the existing system adjacent to the site. According to the City of Banning Water Department, general commercial uses on average generate approximately 1,500 gallons per acre per day of wastewater. Since the project consists of general commercial uses and is approximately 64 acres in area, the total wastewater generation will be roughly 96,000 gallons per day (GPD). The plant will have an approximate influent rate of 2.42 MGD of wastewater, or approximately 72.1 percent of capacity (2.6 MGD / 3.6 MGD).

Additionally, there currently is a wastewater treatment plant expansion project that received CEQA approval on May 27, 2008. Since the Proposed Project will not place a significant burden on the City of Banning Wastewater Reclamation Plant and with the approved expansion of that facility is in the midst, impacts will be less than significant.

XVII. c) Less than Significant Impact. According to the Preliminary Drainage Study for the Project (SCL, 2009a), the drainage areas in the before development and after development condition remain the same and no diversion of storm flows is required. In addition, the drainage study indicated that the proposed storm drainage system will be sufficient to provide 100-year storm flow protection for the Project site. Therefore, the Project’s runoff water will not exceed the capacity of existing or planned stormwater drainages systems and thus will result in flooding on- or off-site. The Project applicant also prepared a Preliminary Water Quality Management Plan (WQMP) with Best Management Practices (BMPs) that will minimize urban runoff that flows offsite. Implementation of the Project design according to the project hydrology report, and the BMPs outlined in the WQMP will reduce the significant impact associated with stormwater discharge to less than significant levels.
XVII. d) Less than Significant Impact. Based upon the analysis presented in the water supply assessment (IW 2009) and within City's Urban Water Management Plan, the City has sufficient water supplies to meet its current and projected water demands including those of the Proposed Project, over the next 20 years. The Project's estimated annual demand of 87.1 acre-feet falls within the available and projected water supplies available for normal, single-dry and multiple-dry years through the year 2030 (UWMP 2005). Therefore, no capital improvements on the existing water supply infrastructure are required and thus the Project-related impacts to water supply will be less than significant.

XVII. e) Less than Significant Impact. As discussed in Impact "b", the Proposed Project's wastewater effluent will be collected by the City of Banning sewer system and transported to the City's Wastewater Reclamation Plant. This plant has a secondary treatment capacity of 3.6 million gallons per day, and a designed capacity of 7.8 MGD. The average throughput of the plant is 2.5 MGD per the City of Banning Water/Wastewater Utilities Monthly Report May 2008. The predicted wastewater generation rate of the project is 96,000 GPD. The total throughput of the plant increases to roughly 2.6 MGD, approximately 72.1 percent (2.6 MGD / 3.6 MGD) of the capacity of the Proposed Project with the additional of the wastewater of the Project. Furthermore, a 1.5 MGD expansion to the treatment plant is expected to be finished in July 2011. Since the Proposed Project will not result in a substantial impact on the wastewater facility and an expansion will eventually be constructed, impacts will be less than significant.

XVII. f) Less than Significant Impact. The solid waste generated from the Proposed Project will be transported to the Badlands Sanitary Landfill. Riverside County Waste Management Department owns and operates this landfill. According to the Solid Waste Information System (SWIS) of the California Integrated Waste Management Board (CIWMB), this landfill has a maximum permitted capacity of 30,386,332 cubic yards and a remaining capacity of 21,866,092 cubic yards as of May 21, 2005. The maximum permitted throughput for this landfill is 4,000 tons per day, while the expected closure date for the landfill is January 1st, 2016. Therefore, according to the CIWMB, the current landfill has sufficient permitted capacity to accommodate the project's solid waste disposal needs.

XVII. g) Less than Significant Impact. As part of standard procedure, the Propose Project will be required to abide by all applicable local, State, and federal solid waste disposal regulations. Therefore, impacts related to solid waste regulation compliance will be less than significant.
<table>
<thead>
<tr>
<th>XVIII. MANDATORY FINDINGS OF SIGNIFICANCE</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant w/ Mitigation</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?</td>
<td></td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>b) Does the project have the potential to achieve short-term, to the disadvantage of long-term environmental goals?</td>
<td></td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>c) Does the project have impacts that are individually limited, but cumulatively considerable? (&quot;Cumulatively considerable&quot; means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?</td>
<td></td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>d) Does the project have environmental effects, which will cause substantial adverse effects on human beings, either directly or indirectly?</td>
<td></td>
<td></td>
<td>X</td>
<td></td>
</tr>
</tbody>
</table>

XVIII. a) **Less than Significant Impact with Mitigation.** The biological resource assessment for the Proposed Project indicated that the Project site provides potential habitat for the Northwestern San Diego pocket mouse and Los Angeles pocket mouse, which are species of special concern under Riverside County MSHCP. In addition, the Project site is within the MSHCP habitat assessment area for BUOW. However, with the implementation of the proposed mitigation measure (Refer to MM BR-1a through 1c in Biological Resources Section), impacts to biological resources are expected to be less than significant.

The Phase I cultural resource assessment for the Proposed Project indicated that sites LSA-OS10801-H1 and LSA-OS10801-H2 might have buried deposits that might contain important archaeological and historical resources. Phase II testing was conducted on the site to determine if any cultural resources were significant. The Phase II testing indicated that none of the sites was considered potentially significant in regards to cultural resources. Similarly, paleontological analysis determined that the Project site have low potential to contain significant nonrenewable paleontological resources. Therefore, impacts to cultural resources due to the Proposed Project are expected to be less than significant.
XVIII. b) Less than Significant Impact. The Proposed Project supports the long-term goals of the General Plan by providing employment opportunities in the area. In addition, the proposed development is in concurrent with the development vision as depicted in the General Plan for that part of the City. As discussed earlier, with the implementation of appropriate mitigation measures all of the Project's impacts on the environment are mitigated to less than significant level. Therefore, the Proposed Project meets the long-term land use and associated goals of the City and is consistent with the City's vision of sustainable development.

XVIII. c-d) Less than Significant Impact with Mitigation. Several of the potential impacts identified in this Re-circulated Initial Study have potential to degrade the quality of the environment if they were not avoided or sufficiently mitigated. The Proposed Project has potential to result in considerable cumulative impacts in regards to air quality and climate change. In addition, through air quality and climate change impacts, the Proposed Project has potential to adversely affect humans. However, appropriate mitigation measures have been recommended for each of the significant impact and with the implementation of those mitigation measures, considerable cumulative and health impacts are expected to be mitigated to a less than significant level. There are no major development projects in the immediate project area that would contribute at the present time to cumulative impacts, although eventual growth according to the General Plan will have cumulative impacts in the future that have been anticipated in the City's General Plan EIR.
XVIV. EARLIER ANALYSES.

Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, one or more effects have been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D). In this case, a discussion should identify the following on attached sheets:

a) Earlier analyses used. Identify earlier analyses and state where they are available for review.

Not applicable.

b) Impacts adequately addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.

Not applicable.

c) Mitigation measures. For effects that are “Less than Significant with Mitigation Incorporated,” describe the mitigation measures, which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.

Not applicable.
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References

Text Reference Citation


Websites

BFD 2009 City of Banning Fire Department http://www.ci.banning.ca.us/index.asp?mid=24

BPD 2009 City of Banning Police Department http://www.banningpolice.org/
Text Reference Citation

BUSD 2009  Banning Unified School District
            http://www.banning.k12.ca.us/

BUSD 2009  Banning Unified School District
            http://www.banning.k12.ca.us/

BLD 2009   Banning Library District
            http://www.banninglibrarydistrict.org/

BLD 2009   Banning Library District
            http://www.banninglibrarydistrict.org/

BED 2009   Banning Economic Development
            http://www.ci.banning.ca.us/index.asp?NID=97

CBGP 1987  City of Banning General Plan,
            http://www.ci.banning.ca.us/DocumentsView.asp?DID=4

CDC 1987   California Department of Conservation (CDC), Division of Mines and Geology.

CDF 2008   The California Department of Finance. *E-5 City/County Population

CNDDDB 2009  California Department of Fish and Game, Natural Diversity Data Base.
              Sacramento, California. February 2009

CDFFP 2009  California Department of Forestry and Fire Prevention, Fire Resource and
            Prevention Program www.fire.ca.gov/php

DOT 2009   California Department of Transportation (DOT), The California Scenic Highway

RCALUCP 2004  Riverside County Airport Land Use Compatibility Plan
              http://www.rcaluc.org/plan_new.asp

SCAG 2008   The Southern California Association of Governments. *2008 Regional
            Transportation Plan.* www.scag.ca.gov

            & Monitoring Program.
            http://www.conservation.ca.gov/dlrp/FMMP/Pages/Index.aspx

UWMP 2005  City of Banning 2005 Urban Water Management Plan

WRCMSHCP 2009  Western Riverside County MSHCP Criteria Area Map
SECTION 1: ERRATA

The following are revisions to the Draft Initial Study Mitigated Negative Declaration (IS MND). These revisions are minor modifications and clarifications and do not change the significance of any of the environmental issue conclusions within the IS MND. The revisions are listed by page number. Draft IS MND text that is shown is indented underneath explanatory information. All additions to the text are underlined (underlined) and all deletions from the text are stricken (stricken).

1.1 - Revisions or Additions to the Text of the Draft IS MND

The following clarifications are intended to apply to the entire Draft IS MND document, including the Introduction, Project Description, Project Impacts, etc.:

Section VI, Geology and Soils
Page 37, Impact Analysis VI c):

The following information has been added to further clarify soil consolidation and collapse testing for the Project. See below for errata:

The soils underlying the Proposed Project are alluvial in nature, consisting mainly of sand and gravels, with some cobbles and/or boulders (SCG 2006). These materials possess loose to medium dense relative densities within the approximately upper eight (8) feet. The very low moisture contents of the encountered soils and loose relative densities precluded the Geotechnical Investigation from obtaining any relatively undisturbed ring samples of these materials (SCG 2006). However, consolidation and collapse testing performed on soil samples from the immediately adjacent site identified potentially collapsible and compressible soils within the approximately upper five (5) feet. In addition, the assumed grading will create cut/fill transitions within all of the proposed building areas. Soil consolidation and collapse testing was performed on soil samples from the property adjacent to the proposed property. These tests identified potentially collapsible and compressible soils within the approximately five upper feet. It is assumed that the Proposed Project has soils similar in nature to the adjacent property's collapsible and compressible soils. Therefore, impacts relating to these soils will be potentially significant. As discussed before, the Project will be required to abide by the most current standards set forth in the Uniform Building Code UBC/ California Building Code.

Section VIII, Hazards and Hazardous Materials:
Page 46, Impact Analysis VIII a):

A typographical error has occurred in Impact Analysis VIII (a), which has been revised to replace the Riverside County Fire Department with the California Department of Forestry and Fire Prevention, which assist in regulating hazardous material activities within the City. See below for errata:

The City of Banning Development Code, the Riverside County Fire Department California Department of Forestry and Fire Prevention (operating as the City's fire services), and State's Occupational Safety Codes regulate hazardous material activities within the City.
Page 47, Impact Analysis VIII b):
A typographical error has occurred in Impact Analysis VIII (b), which has been revised to replace the Riverside County Fire Department with the California Department of Forestry and Fire Prevention, which assist in regulating hazardous material activities within the City. See below for errata:

The City of Banning Development Code, the Riverside County Fire Department California Department of Forestry and Fire Prevention (operating as the City's fire services), and State's Occupational Safety Codes regulate hazardous material activities within the City.

Section IX, Hydrology and Water Quality:

Page 53, Impact Analysis IX b):
A typographical error has occurred in Impact Analysis IX (b), which has been revised to state that the City of Banning draws water from groundwater and surface water. See below for errata:

The City of Banning draws water from four main sources: groundwater and surface water, recycled water, and imported water.

Section XIV, Public Services:

Page 82-83, Impact Analysis XIV a):
A typographical error has occurred in Impact Analysis XIV (a), which has been revised to replace the Riverside County Fire Department with the California Department of Forestry and Fire Prevention. See below for errata:

Fire protection for the City of Banning is provided via contract by the Riverside County Fire Department California Department of Forestry and Fire Prevention (operating as the City's fire services). The County Fire Department provides other services as well, including paramedic response, hazardous materials response, search and rescue, swift water rescue, full fire prevention support, and disaster preparedness. The station serving the City of Banning and the Proposed Project site is Station 89, located at 172 N. Murray Road, approximately one mile from the Project site (BFD 2009).

Since the site is located in a Very High Fire Threat Zone, the Project will be required to comply with all applicable federal, State, and local codes and regulations. The applicable local regulations include the City's ordinance adopting the 2007 California Fire Code (Ordinance No. 1380), standard conditions for commercial development, Riverside County Fire Department California Department of Forestry and Fire Prevention (operating as the City's fire services) standard requirements for development adjacent to wildland areas, etc. Additionally, the Proposed Project will be required to pay development impact fees to the City of Banning to mitigate the project's impacts on fire prevention services. By complying with all applicable federal, State, and local codes and regulations, including the payment of development impact fees, the Proposed Project will have less than significant impacts on fire protection services.
Page 83, Impact Analysis XIV b):
A typographical error has occurred in Impact Analysis XIV (b), which has been revised to reflect the Banning Police Department's current address. See below for errata:

Police protection services are provided by the Banning Police Department. The Banning Police Station is located at 3241 E. 125 W. Ramsey St., approximately 1.25 miles from the Project site. The Banning Police Department consists of 41 sworn personnel and 20 classified personnel (BPD 2009).

Section XVI, Transportation/Traffic:
Page 67, Impact Analysis XVI a-b):
A typographical error has occurred in Impact Analysis XVI (a-b), which has been revised to reflect the City of Banning's LOS standards. See below for errata:

The County of Riverside City of Banning has identified LOS D as the minimum allowable service during peak hours at signalized intersections.

Page 71, Impact Analysis XVI a-b):
A typographical error regarding Table 15 has been corrected to reference Table 16. See below for errata:

As shown in Table 15-16, the Project will contribute to significant impact at two intersections in the near term year 2015-Phase 3-condition:

Page 71-72, Impact Analysis XVI a-b):
A typographical error regarding the Project's horizon year has been revised to replace the year 2015 with cumulative 2030, as outlined and analyzed within the Traffic Study. See below for errata:

Cumulative Build-out (Year 2015 2030) conditions): Table 46 17 summarizes a comparison of cumulative build-out study scenarios for year 2015 2030. Traffic impacts created by the Project can be evaluated by comparing the cumulative “Build-out (Year 2015 2030) Without Project” conditions to the cumulative “Build-out (Year 2015 2030) With Project” conditions.

<table>
<thead>
<tr>
<th>Int. #</th>
<th>Intersections</th>
<th>Without Project</th>
<th>With Project</th>
<th>Significant Impact?</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>AM Peak Hour</td>
<td>PM Peak Hour</td>
<td>AM Peak Hour</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Max. Delay LOS</td>
<td>Max. Delay LOS</td>
<td>Max. Delay LOS</td>
</tr>
<tr>
<td>1</td>
<td>Nicolet St. at Hathaway St. (Project Driveway)</td>
<td>13.1 B</td>
<td>12.3 B</td>
<td>20.4 C</td>
</tr>
<tr>
<td>2</td>
<td>Morongo Rd/Wilson St. at Hathaway St.</td>
<td>21.7 C</td>
<td>32.6 C</td>
<td>21.7 C</td>
</tr>
<tr>
<td></td>
<td>Intersection</td>
<td>A</td>
<td>B</td>
<td>C</td>
</tr>
<tr>
<td>----</td>
<td>-------------------------</td>
<td>------</td>
<td>------</td>
<td>------</td>
</tr>
<tr>
<td>3</td>
<td>George St. at Hathaway St.</td>
<td>10.3</td>
<td>B</td>
<td>10.7</td>
</tr>
<tr>
<td>4</td>
<td>Williams St. at Hathaway St.</td>
<td>12.6</td>
<td>B</td>
<td>12.3</td>
</tr>
<tr>
<td>5</td>
<td>Ramsey St. at Hathaway St.</td>
<td>36.6</td>
<td>D</td>
<td>40.9</td>
</tr>
<tr>
<td>6</td>
<td>Nicolet St. at Hargrave St.</td>
<td>33.9</td>
<td>C</td>
<td>39.0</td>
</tr>
<tr>
<td>7</td>
<td>Williams St. at Hargrave St.</td>
<td>34.4</td>
<td>C</td>
<td>38.5</td>
</tr>
<tr>
<td>8</td>
<td>Hargrave St. at I-10 WB Ramps</td>
<td>29.8</td>
<td>C</td>
<td>&gt;120</td>
</tr>
<tr>
<td>9</td>
<td>Hargrave St. at I-10 EB Ramps</td>
<td>93.4</td>
<td>F</td>
<td>110.5</td>
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<tr>
<td>10</td>
<td>Ramsey St. at Hargrave St.</td>
<td>38.1</td>
<td>D</td>
<td>&gt;120.0</td>
</tr>
<tr>
<td>11</td>
<td>Ramsey St. at 8th St.</td>
<td>32.0</td>
<td>C</td>
<td>33.1</td>
</tr>
</tbody>
</table>

Source: KOA 2009, Tables 35 & 36

As shown in Table 46.17, the Project will contribute to significant impact at the following intersections in the Cumulative Build-out (Year 2015 2030):

- Ramsey Street at Hathaway Street (AM and PM peak hours);
- Hargrave Street at I-10 Westbound Ramps (AM and PM peak hours);
- Hargrave Street at I-10 Eastbound Ramps (AM and PM peak hours); and
- Ramsey Street at Hargrave Street (AM and PM peak hours).

As identified above, the Proposed Project will result in unacceptable traffic conditions at the above intersections without implementation of the appropriate mitigation measures.

Page 73, Impact Analysis XVI a-b):

A typographical error regarding the Project's horizon year has been revised within Mitigation Measure MM T-1b, to replace the year 2015 with cumulative 2030, as outlined and analyzed within the Traffic Study. See below for errata:

**MM T-1b**

**Cumulative Buildout (Year 2015 2030) Improvements.** Prior to the issuance of building permits, the developer shall construct/provide fair share the following improvements.

Page 74, Impact Analysis XVI e):

A typographical error regarding the spelling of Ramsey Street has been corrected. See below for errata:

The I-10 Freeway provides regional access to the project area while Hathaway Street, Ramsey Street and Wilson Street near the project site provide local access and primarily serve the existing area.
Section XVII, Utilities and Service Systems

Page 77, Impact Analysis XVII b):

The Project’s average generation of wastewater for the proposed Office/warehouse and high cube uses has been updated to reflect comments made by the City of Banning Water and Wastewater Department. See below for errata:

The City of Banning Wastewater Utility collects wastewater from generators and then treats the sewage at the City’s Wastewater Reclamation Plant. The reclamation plant has a secondary treatment capacity of 3.6 million gallons per day (MGD), but a designed capacity of 7.8 million gallons per day (MGD). The average throughput of the plant is approximately 2.5 MGD according to the City of Banning Water/Wastewater Utilities Monthly Report dated May 2008. Thus, the plant runs at approximately 69.4% of capacity (2.5 MGD current / 3.6 MGD capacity). The Proposed Project will be required to install wastewater infrastructure onsite and connect it to the existing system adjacent to the site. According to the City of Banning Water and Wastewater Department, general commercial the Project’s office/warehouse and high cube uses on average will generate approximately 1,500 gallons per acre per day of wastewater. Since the project consists of general commercial uses and is approximately 64 acres in area, the total wastewater generation will be roughly 96,000 800-1,000 gallons per day (GPD) of wastewater. The plant will have an approximate influent rate of 2.42 2.6 MGD of wastewater, or approximately 72.4% 72.2 percent of capacity (2.6 MGD / 3.6 MGD).

Page 77, Impact Analysis XVII d):

The Project’s storm drainage system for the proposed Office/warehouse and high cube uses has been updated to reflect comments made by the City of Banning Water and Wastewater Department. See below for errata:

According to the Preliminary Drainage Study for the Project (SCI, 2009a), the drainage areas in the before development and after development condition remain the same and no diversion of storm flows is required. In addition, the drainage study indicated that the proposed storm drainage system will be sufficient to provide 100-year storm flow protection for the Project site. The Project storm drainage system would collect the major offsite flows at the northern site boundary and conveyed through a channel to discharge points at the easterly and southwesterly project boundaries. The onsite storm flow will be collected through catch basins and/or grated inlets and would be treated prior to entering the main storm drain systems. The system will control the quality and quantity of storm water before leaving the site through a storm drain outlet system (SCI 2009a). Therefore, the Project’s runoff water will not exceed the capacity of existing or planned stormwater drainages systems and thus will result in flooding on- or off-site. The Project applicant also prepared a Preliminary Water Quality Management Plan (WQMP) with Best Management Practices (BMPs) that will minimize urban runoff that flows offsite. Implementation of the Project design according to the project hydrology report, and the BMPs outlined in the WQMP will reduce the significant impact associated with stormwater discharge to less than significant levels.
Page 78, Impact Analysis XVII e):
The Project's average generation of wastewater for the proposed Office/warehouse and high cube uses has been updated to reflect comments made by the City of Banning Water and Wastewater Department. See below for errata:

As discussed in Impact "b", the Proposed Project's wastewater effluent will be collected by the City of Banning sewer system and transported to the City's Wastewater Reclamation Plant. This plant has a secondary treatment capacity of 3.6 million gallons per day, and a designed capacity of 7.8 MGD. The average throughput of the plant is 2.5 MGD per the City of Banning Water/Wastewater Utilities Monthly Report May 2008. The predicted wastewater generation rate of the project is 96,000-800-1,000 GPD. Consequently, implementation of the Project has the potential to increase the average total wastewater throughout of the plant increase to roughly 2.6 MGD, approximately 72.172.2 percent (2.6 MGD / 3.6 MGD) of the capacity of the Proposed Project with the additional of the wastewater of the Project. Furthermore, a 1.5 MGD expansion to the treatment plant was expected to be finished in July 2011; however, according to the City Public Works Department, since plans have not yet been prepared, the expansion will not be completed in 2011. Since the Proposed Project will not result in a substantial impact on the wastewater facility and an expansion will eventually be constructed, impacts will be less than significant.

List of Preparers
Page 84,
The reference has been updated to reflect the hydrology and water quality consultant used within the IS MND. See below for errata:

Hydrology and Water Quality Consultant
Stantec Consulting Inc.
Glenn Budd, P.E Pat Osborne, Senior Project Manager
25864 F Business Center Drive Stantec
19 Technology Drive, Suite 200
Redlands-Irvine, CA 92374 92618
(949) 335-6416  (909) 923-6275

References
Page 84
The following references have been updated to reflect citations used within the IS MND. See below for errata:

Text Reference Citation
Text Reference Citation

BUSD 2009 Banning Unified School District
http://www.banning.k12.ca.us/