I. CALL TO ORDER: Chairman Escandel

➢ Pledge of Allegiance: Commissioner Arterberry

➢ Roll Call: Chairman Escandel, Commissioner Arterberry; Commissioner Barsh; Commissioner Hawkins; 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 June 15, 2010 Planning Commission Minutes

Page 1

2. Approval of the August 3, 2010 Planning Commission Minutes

Page 5
IV. PUBLIC HEARINGS

1. Resolution No. 2010-12: A Resolution of the Planning Commission of the City of Banning, California Approving Conditional Use Permit No. 10-803 to Construct a two-car garage for an existing single-family dwelling located in an Industrial Zone (APN 541-290-004).

Page 9

2. Initial Study/Negative Declaration and Zone Text Amendment No. 10-97506; Amendment to the Banning Municipal Code to adopt development standards and guidelines to allow the installation of Small Wind Turbines as a conditionally permitted use in the Open Space (OS), Public Facilities-Airport (PF-A), Public Facilities-Schools (PF-S), Public Facilities-Hospitals (PF-H), Ranch Agriculture (R/A), General Commercial (GC), Highway Serving Commercial (HSC), Professional Office (PO), Industrial (I), Airport Industrial (AI), Business Park (BP), and Industrial-Mineral Resources (IMR) zoning districts; and, the installation of small wind turbines permitted by right in Public Facilities-Government (PF-G), and Public Facilities-Fire (PF-F).

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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 DECEMBER 1, 2010

1. Freeway Oriented Signs
2. ZTA #10-97504 – Tattoo, Fortune Telling, etc.
3. ZTA #10-97505 – Code Clean-up, Used Cars, 2nd Units

VIII. ADJOURNMENT

The City of Banning Planning Commission is hereby adjourned to the regular Planning Commission meeting of December 1, 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

June 15, 2010

A special meeting of the City of Banning Planning Commission was held on Tuesday, June 15, 2010 at 6:30 p.m., in the Large Conference Room, City Hall, 99 East Ramsey Street, Banning, CA, 92220.

Commissioners Present: Chairman Hawkins
Commissioner Barsh
Commissioner Escandel
Commissioner Siva

Commissioners Excused: Commissioner Arterberry

Staff Present: Community Development Director Abu Bakar
City Engineer Oei
Banning City Clerk Calderon as Recording Secretary

I. CALL TO ORDER

II. PUBLIC COMMENT

No one came forward.

III. CONSENT CALENDAR

No items at this time.

IV. PUBLIC HEARINGS

A. CONTINUED ITEM:

1. 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.
Chairman Hawkins opened the public hearing. Inge Schuler, 1030 W. Westward Avenue, Banning Ca, came forward to speak. Ms. Schuler mentioned page 149, condition #7.....the date should be June 15, 2010. She wanted to comment on the remarks / questions made by Maggie Scott, 1516 E. Nicolet Street, Banning CA, previously. Ms. Schuler felt they should be answered openly and she also had questions: 1) Impact to water supply, 2) Recycled water, 3) Earthquake faults, 4) Felt the 2006 Phase I environmental site assessment referenced on pages 21 & 22 was old, 5) Environmental issues on page 17, has a problem with this, 6) Regarding the Airport, old document used (2006 Phase I) and 7) Page 23, would this involve eminent domain. However, Ms. Schuler stated she was in favor of the project.

Don Smith, 1681 W. Westward Avenue, Banning CA, came forward to speak. Mr. Smith stated his approval of the project and said it will create jobs for construction workers. He said he felt that all of Inge Schuler’s questions should be answered. Also said his one thing of concern is Wilson Street. He felt it needs to be built to a width at least wide enough for two trucks to go in both directions. Mr. Smith felt there should be safe ingress and egress. Said he is excited about the project and hopes they actually build it.

Chairman Hawkins closed the public hearing and Community Development Director Abu Bakar presented the staff report and stated that the location of the project is east of Hathaway Street at Nicolet Street, where Nicolet dead ends. Currently there are four parcels associated with the project. Mrs. Abu Bakar stated that the proposed development includes manufacturing and warehousing and there is also office use as an ancillary use for this project. The developer is proposing twelve buildings on nine lots. The approval that is required is for the tentative parcel map, design review and CEQA clearance. As it relates to CEQA we have prepared an Initial Study, Mitigated Negative Declaration and Mitigation Monitoring and Reporting Plan. Mrs. Abu Bakar discussed the design review and standards, parking and landscaping and stated that the project complies with the standards. She also discussed the CEQA review and comment period.

The City received a letter from Richard Jackson, 442 N. Morongo Avenue, Banning CA, which was made part of the record. Commissioner Escandel inquired if we have
addressed Mr. Jackson's concerns. Community Development Director Abu Bakar stated that we have.

Commissioner Escandel mentioned that there was another business park proposed to the south of this project and he wondered how they will tie together. He had several questions and City Engineer Oei responded. Mr. Oei addressed the question of water.........the developer conducted a water assessment study which shows the usage of this development will not impact the water supply that we have now. One of the conditions that we have for the developer is to dedicate a well site, so the City can drill on the site and pump it back into the system. Mr. Oei said we should have a report within the next six months from the consultants regarding this. In regard to the fault question from Ms. Schuler, Mr. Oei stated the developer has a geologist who conducted a geo-technical study. They indicated there is not an immediate fault within the area of this project. In regards to the other question regarding right-of-way and if this would be under condemnation, Mr. Oei responded that the developer will dedicate the right-of-way fronting the project and in regards to the right-of-way in front of someone else's property, the City will work with them. However, the developer has been conditioned to design the roadway from Ramsey all the way to the project limits at the ultimate right-of-way. So in the event that we are going to work with the property owners in the future it's their project and they have to construct this improvement at a later date.

The next question was regarding Wilson Street and Mr. Oei responded that the developer will develop their half side, 55 feet right-of-way on the north side, in front of their development. In front of Orco Block, the developer has been working with this company to construct a roadway with a minimum width of 26 feet, which is the requirement from the Fire Department for the secondary emergency access. There is an existing 40 feet right-of-way in front of Orco Block right now. There was discussion regarding the street widths.

Pat Osborne, from Stantec Engineering, 19 Technology Drive, Irvine CA 92618, representative of the project, came forward to speak. Mr. Osborne addressed the issue with Wilson Street and the endangered species question by Inge Schuler.

Mike Santa Cruz, 1471 E. Nicolet, Banning CA, came forward to state that the area of the project used to be a quarry and it will take a lot of money to make this work as there are tons of rocks.

Commissioner Siva had concerns about Building #11, said it is absolutely huge and felt it would generate a great deal of traffic. There will only be one point of egress and he was concerned that would be a problem. George Gosin, KOA Corporation, came forward to speak. He stated that the intersection will be signalized and therefore, will be controlled.

Commissioners Barsh and Siva stated they felt this is a good project.
ACTION (BARSH / SIVA): A motion was moved, seconded and carried that the Planning Commission recommend to the City Council the:

1. Adoption of Initial Study/Mitigated Negative Declaration and Mitigation Monitoring Plan; and

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

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

V. TENTATIVE PROJECTS SCHEDULED FOR JULY 6, 2010

No discussion

VI. PLANNING COMMISSIONER COMMENTS

No discussion

VII. ADJOURNMENT

There being no further business to come before the Planning Commission, the meeting was adjourned at 7:33 p.m. to the Planning Commission meeting on July 6, 2010 at 6:30 p.m.

Respectfully submitted,

Gini Sorenson
Recording Secretary
City of Banning

PLANNING COMMISSION MINUTES

August 3, 2010

A regular meeting of the City of Banning Planning Commission was held on Tuesday, August 3, 2010 at 6:30 p.m., in the Council Chambers, City Hall, 99 East Ramsey Street, Banning, CA, 92220.

Commissioners Present: Chairman Escandel
Commissioner Arterberry
Commissioner Hawkins
Commissioner Siva

Commissioners Excused: Commissioner Barsh

Staff Present: Community Development Director Abu Bakar
Assistant City Attorney Cheung
Recording Secretary Sorenson

I. CALL TO ORDER

II. PUBLIC COMMENT

No one came forward.

III. CONSENT CALENDAR

1. Review of Minutes (July 6, 2010)

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

(Motion carried 3 – 0) (Commissioner Barsh was excused)
IV. PUBLIC HEARINGS

1. Initial Study/Negative Declaration and Zone Text Amendment No. 09-97505: Amendment to the Banning Municipal Code Chapter 5.74, 5.08.080, and Chapter 17.12 to provide regulations regarding massage establishments, State certified massage therapists, and State certified massage practitioners, to establish an annual investigative fee of $150.00 prior to issuance of the business license renewal for the establishment, and to permit by right, the uses to operate in DC (Downtown Commercial), GC (General Commercial), HSC (Highway Serving Commercial), PO (Professional Office), AI (Airport Industrial) and BP (Business Park) zones.

Community Developer Director Abu Bakar presented the staff report and stated that the purpose of the zone text amendment is to comply with State law. In September of 2008 SB 731 was adopted, which established a massage therapy organization (MTO) that regulates massage practitioners and therapists. Therefore, the City can no longer require a separate permit regulating massages, except for zoning regulations and business license. The City can uniformly apply land use and zoning requirements to massage establishments and professional and personal services businesses; cities are prohibited from requiring additional permits, licenses or other authorizations of individuals who are certified massage practitioners or therapists through the State; cities cannot mandate any local building code or physical facility requirements that are different than are required for professional or personal services business; and cities are allowed to require reasonable health and safety standards.

The City has been requiring a conditional use permit for massage establishments. SB 731 states that you have to apply land use regulations uniformly. Our code provides that personal service businesses like barber shops, beauty shops and dentists are allowed by right, but massage businesses require a conditional use permit. Our code regulations are not uniformly applied so SB 731 states that we have to allow massage establishments to be permitted by right. In addition, in order to comply with SB 731, we recommend adding a new chapter regulating massage establishments, massage therapists and practitioners. We also need to amend the current section in the Municipal Code that establishes fees and need to amend the Zoning Ordinance that regulates the zones for massage establishments.

There were some questions from the commissioners and discussion followed. Ms. Abu Bakar said that basically, when a customer applies for a business license they have to submit a certificate from the State. We are not going to allow any massage practitioners or therapists that do not have a license from the State.

The commissioners had questions about owners and their ability to run an establishment correctly. Assistant City Attorney Cheung responded that SB 731 regulates only those persons who actually perform massage. So there is no way to ask for certification from an
owner because if the owner does not want to perform massage, there is no way of obligating that person to obtain an MTO certification.

ACTION (SIVA / HAWKINS): A motion was moved, seconded and carried that the Planning Commission adopt Resolution No. 2010-10 recommending that the City Council take the following actions:

1. Adopt Initial Study/Negative Declaration in compliance with the California Environmental Quality Act Section 15000 et seq.; and

2. Adopt Ordinance No. 1426 amending Section 5.08.080 of the Banning Municipal Code, Table 17.12.020 of Section 17.12.020 of the Banning Zoning Ordinance and Title 5 of the Banning Municipal Code to add Chapter 5.74 regarding Massage Establishments, State Certified Massage Practitioners, and State Certified Massage Therapists; and

3. Adopt Resolution No. 2010-59 repealing Resolution No. 1993-158 and amending fees for state certified massage therapists/practitioners as follows: delete references to Business License Tax (annual fee) of $125, delete Massage therapist Trainee Permit (annual fee) of $30 and delete police background check (one-time fee charged at time of initial application) of $25.00.

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

V. TENTATIVE PROJECTS SCHEDULED FOR SEPTEMBER 7, 2010

1. Review of Paseo San Gorgonio Master Plan: Director Abu Bakar stated she was uncertain if the Commission was involved when the City Council developed a vision for the downtown. The vision includes mixed-use, retail, etc.; this is part of developing and revitalizing downtown. This master plan was used to attract the court-house and other businesses to come to Banning. That master plan was done, but not adopted by the Council. Some grant funding was acquired from SCAG for technical assistance, such as traffic and parking, and to help guide us where we want to go. So we now want to present the findings to the Commission.

Commissioner Escandel inquired since this is for the redevelopment of the downtown Banning business area, why not call it “Downtown Banning Business” rather than Paseo San Gorgonio, this is the City of Banning. Said he just wanted to make that statement.

Commissioner Siva said he wanted to make the statement that it would have been nice to have reversed the review of the two projects: 1) San Gorgonio Inn demolition EIR and 2) Paseo San Gorgonio Master Plan.........instead of trying to decide what
to do with the Inn and get an idea of what to do in place of it, it would have been nice to know there already was a master plan for the area.

VI. PLANNING COMMISSIONER COMMENTS

VII. COMMUNITY DEVELOPMENT DIRECTOR'S REPORT

1. Community Development Director Abu Bakar stated that the City Council adopted the final EIR for the demolition of the San Gorgonio Inn. One direction that the Council gave was to look at the alternative to preserve the sign.

2. Change of Planning Commission meeting date: There has been a request to change the regular Planning Commission meeting day to the first Wednesday of the month. This new schedule will most likely begin in October. Staff recommended approval of Ordinance No. 1427.

ACTION (SIVA / ARTERBERRY): A motion was moved, seconded and carried that the Planning Commission recommend to the City Council adoption of Ordinance No. 1427 amending the Banning Municipal Code Section 2.28 to change the Planning Commission regular meeting date.

3. Joint meeting for Parks Master Plan: The new date that has been set for the joint meeting between the City Council, Planning Commission and Parks Committee to discuss the Parks Master Plan – September 21st at 5:00 p.m. The Commissioner requested that we send out a reminder letter to them.

VIII. ADJOURNMENT

There being no further business to come before the Planning Commission, the meeting was adjourned at 7:10 p.m. to the Planning Commission meeting on September 7, 2010 at 6:30 p.m.

Respectfully submitted,

[Signature]

Gini Sorenson
Recording Secretary
DATE: November 3, 2010

TO: Chairman and Members of the Planning Commission

FROM: Zai Abu Bakar, Community Development Director

SUBJECT: CONDITIONAL USE PERMIT #10-803: A REQUEST BY BELETE DEMISSE TO CONSTRUCT A TWO-CAR GARAGE FOR AN EXISTING SINGLE FAMILY DWELLING LOCATED IN AN INDUSTRIAL ZONE

STAFF RECOMMENDATION:

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

1. Adopt a Class 3 Categorical Exemption in compliance with CEQA Guidelines Section 15303(e) (New Construction of Small Structures); and,

2. Adopt PC Resolution No. 2010-12 (Attachment 1) approving Conditional Use Permit #10-803 subject to conditions of approval.

PROJECT/APPLICANT INFORMATION:

<table>
<thead>
<tr>
<th>Project Location:</th>
<th>1522 E. Lincoln Street</th>
</tr>
</thead>
<tbody>
<tr>
<td>APN Information:</td>
<td>541-290-004</td>
</tr>
<tr>
<td>Project Applicant:</td>
<td>Belete Demisse</td>
</tr>
<tr>
<td>Property Owner:</td>
<td>same as applicant</td>
</tr>
<tr>
<td>Redevelopment Area:</td>
<td>Yes</td>
</tr>
<tr>
<td>Specific Plan:</td>
<td>No</td>
</tr>
</tbody>
</table>
PROJECT BACKGROUND AND DESCRIPTION:

Project Description

The applicant is requesting approval to construct a 504 square foot, two-car garage for an existing single-family dwelling located at 1522 E. Lincoln Street in the Airport Industrial (AI) zone. Chapter 17.88 of the “Zoning Ordinance” allows expansion of a non-conforming use up to 50% of the existing floor area subject to approval of a Conditional Use Permit by the Planning Commission.

Site Description

The project area consists of one parcel, Assessor’s Parcel Number (APN) 541-290-004; consisting of approximately 0.50 acres (21,780 square feet, plus or minus). The parcel was created as a portion of Block 182 of the Banning Colony Lands filed April 1907 with the San Diego County Recorder.

The site is presently developed with two single-family residences on one lot. The homes do not have garages and the owner desires to have one constructed for the primary residence.

The lot is long and rectangular being approximately 60 feet wide by 374 feet in length; the ground is relatively flat-lying with a southeasterly slope. Both the front and rear yard of the residences are sparsely landscaped consisting mostly of weeds and a few trees. The southerly fence/property line is lined with bushes/trees.

The site fronts on Lincoln Street, which is classified as an arterial highway 110 feet in width. The corner lot also has frontage on Hathaway Street, which is classified as a secondary highway 88 feet in width. However, vehicle access is taken on Lincoln Street via small driveways for each residence. It is of note that the City recently completed a public works project in connection with the Municipal Airport that included the construction of additional pavement, curb and gutter, sidewalks, and street lighting fronting the property.

Land Use Information

The project is located in the Airport Industrial (AI) zone. This land use district allows uses focused on airport-related and transportation-related functions, including machining, manufacturing, warehousing, flight schools, restaurants and office uses. Aircraft maintenance, repair and catering services are also appropriate.

The existing residences located on the subject parcel, as can be determined, were originally constructed in 1959. The zoning at that time (per 1953 Zoning Map) was R/A, Residential Agricultural. Sometime prior to 1981 the zoning was changed from residential to a commercial and/or industrial zoning district. The residential use is now classified as “legal non-conforming”, which means that the existing residential use may continue subject to Chapter 17.88 Non-Conforming Structures and Non-Conforming Uses of the “Zoning Ordinance”.
While the area is designated Airport Industrial in the General Plan Land Use map, there are several existing single-family dwellings located in close proximity to the subject project that were constructed prior to the change in land use designation.

Banning Municipal Airport is located to the east of the project and across Hathaway Street. The lot to the west of the project is vacant with no structures present; however, approximately 250 farther to the west is another single-family dwelling located adjacent to an industrial building (presently a RV Storage Facility). To the north and across Lincoln Street is vacant land utilized as the runway protection zone for the Municipal Airport. To the south of the project are a vacant lot and three existing single-family dwellings located on larger parcels of land.

The nature of the surrounding uses, Zoning and General Plan land use designations are delineated for Planning Commission consideration in the following table.

<table>
<thead>
<tr>
<th>Land Use Summary Table</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
<tr>
<td><strong>Existing Land Use</strong></td>
</tr>
<tr>
<td><strong>Subject Site</strong></td>
</tr>
<tr>
<td><strong>North</strong></td>
</tr>
<tr>
<td><strong>South</strong></td>
</tr>
<tr>
<td><strong>East</strong></td>
</tr>
<tr>
<td><strong>West</strong></td>
</tr>
</tbody>
</table>

¹ A vacant lot is one described as improved by a subdivision map where public improvements are present, or will be present, such as public streets, lighting, water mains and sewer mains.

² Unimproved land is land that does not have public improvements.

**PROJECT ANALYSIS:**

**Zoning**

The project is located in the Airport Industrial (AI) zone. Single-family dwellings are not permitted in the Airport Industrial zone; however, the residential uses established prior to the zone change to Airport Industrial are considered “legal non-conforming”. Chapter 17.88 of the “Zoning Ordinance” allows limited expansion of a non-conforming uses subject to approval of a Conditional Use Permit by the Planning Commission.
The change in land use and zoning from what was designated in 1953 for this site looks to the eventual elimination of the non-conforming residential use. The General Plan Land Use designation represents the long-term vision of the community for development. The "Zoning Ordinance" is the tool used to implement that vision. It is recognized that there are divergent neighborhoods in the City because of changes to the vision for development as contained in the latest General Plan. Therefore, the "Zoning Ordinance" provides for the continuation of non-conforming uses on a limited basis as described in Chapter 17.88. The following limits imposed by Chapter 17.88 of the "Zoning Ordinance" ensure the future Airport Industrial land use:

1. Change of ownership, tenancy, or management of a non-conforming use shall not affect its legal non-conforming status, provided that the use and intensity of use does not increase.

2. If a non-conforming use is discontinued for a period of six (6) or more consecutive calendar months, it shall lose its legal non-conforming status, and the continued use of the property shall be required to conform with the provisions of this Zoning Ordinance.

3. Additional development of any property on which a legal non-conforming use exists shall require that all new uses conform to the provisions of this Zoning Ordinance.

4. If a non-conforming use is converted to a conforming use, no non-conforming use may be resumed.

5. No non-conforming use may be established or replaced by another non-conforming use, nor may any non-conforming use be expanded or changed, except as provided in Chapter 17.88.

6. A nonconforming use located in a commercial or industrial zone may be expanded up to but not exceeding 50 percent of the existing floor area provided the expansion conforms to all other requirements of the zone and subject to the approval of a conditional use permit by the planning commission.

Planning Commission consideration of the proposed CUP shall include whether the proposed use should be permitted by weighing the public need for the benefit to be derived from the use against any negative or undesirable impacts which it may cause. Limits which the Planning Commission might want to impose could include conditions that help make the use more compatible with the existing neighborhood.

Staff recommends that a condition of approval be placed on the proposed project to dedicate an avigation easement prior to issuing a building permit. The purpose of the avigation easement is to transfer certain property rights from the owner of the underlying property to the owner of the airport (City) since the property is subject to high noise levels from the airport in general, and restrictions on height of structures and trees because of its close proximity to the airport runway (within 300 feet). A copy of a typical avigation easement is included as Attachment 5.
Site Design Requirements

The site is accessed by the driveways fronting Lincoln Street. The applicant will be required to submit building plans for review and approval of the Building and Safety Division and Planning Division to assure compliance with development regulations.

Below is a chart showing the minimum development standards for Airport Industrial (AI) zone as stated in Table 17.12.030 Commercial and Industrial Development Standards; and, how the proposed project meets those standards.

<table>
<thead>
<tr>
<th>Development Standards</th>
<th>Required</th>
<th>Provided</th>
<th>Complies With Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum Lot Size</td>
<td>5 acres</td>
<td>0.50 acres</td>
<td>No*</td>
</tr>
<tr>
<td>Minimum Lot Width</td>
<td>150 feet</td>
<td>374 feet</td>
<td>Yes</td>
</tr>
<tr>
<td>Minimum Lot Depth</td>
<td>150 feet</td>
<td>60 feet</td>
<td>No*</td>
</tr>
<tr>
<td>Minimum Front Setback</td>
<td>10 feet</td>
<td>0 feet</td>
<td>No*</td>
</tr>
<tr>
<td>Minimum Rear Setback</td>
<td>0 feet</td>
<td>15 feet</td>
<td>Yes</td>
</tr>
<tr>
<td>Minimum Side Yard Setback</td>
<td>15 feet</td>
<td>147 feet</td>
<td>Yes</td>
</tr>
<tr>
<td>Maximum Building Coverage</td>
<td>75 %</td>
<td>8.8 %</td>
<td>Yes</td>
</tr>
<tr>
<td>Maximum Building Height</td>
<td>2 stories/50 feet</td>
<td>1 story</td>
<td>Yes</td>
</tr>
<tr>
<td>Maximum Fence/Wall Height</td>
<td>8 feet</td>
<td>6 feet</td>
<td>Yes</td>
</tr>
</tbody>
</table>

* Existing – legal non-conforming.

Architectural Design

The existing structures located on the site are simple Ranch style stucco homes with gable roofs. The proposed garage will match the architectural features of the existing home as required by the Zoning Code and stipulated in the conditions of approval. The proposed garage building is rectangular in shape with dimensions of approximately 24 feet in width, by 21 feet in depth. The roof type is gable with a 4/12 pitch.
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 affecting the environment. Additionally, the construction of a garage would not significantly impact the character of the existing neighborhood, as accessory structures are present at other single-family residences in the vicinity of the proposed project; although the use is not consistent with the uses allowed in the Airport Industrial (AI) zone.

ENVIRONMENTAL RESOURCES:

CEQA

The Planning Commission, in light of the whole record before it, including but not limited to, the City's Local CEQA Guidelines, the recommendation of the Community Development Director as provided in this Staff Report dated November 3, 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 15303(e) (New Construction of Small Structures) in that the staff report submitted by the Planning Division and other findings made in this Resolution demonstrate that the proposed garage meets the requirements of the exemption in that it consists of construction of a new, small facility or structures specifically an accessory structure identified in the cited exemption.

   (b) None of the exceptions to the Categorical Exemptions contained in CEQA Guidelines Section 15300.2 prevent CEQA Guidelines Section 15303(e) from exempting the project for the following reasons:

      i. The project is not 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 Airport Industrial (AI) zoning standards regulate the land use around the site. The proposed avigation easement will limit the development of the site in accordance with the Airport Compatibility Plan. There is undeveloped land to the west; single-family homes to the south; and street right-of-way and Municipal Airport to the east. To the north and across Lincoln Street is vacant land utilized for the runway protection zone. This is an established industrial area with existing “legal non-conforming residences.
iii. There is no reasonable possibility that unusual circumstances will cause the project to have a significant effect on the environment because a garage 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 was developed as a residential-agricultural project in 1959 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. 10-803:

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 the General Plan Land Use Goal of "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" by ensuring the long term Airport Industrial land use by limiting the existing non-conforming use as stipulated in Chapter 17.88 of the "Zoning Ordinance".

The proposed project is the construction of a two-car garage for an existing single-family home that is located in the Airport Industrial Zone. The existing single-family home was constructed in 1959, which was a permitted use at the time since the zoning was R-A, Residential Agricultural. The land use and zoning for the subject site was changed from residential to a commercial and / or industrial use sometime prior to 1981. In 2006, the site was rezoned to Airport Industrial. The land use and zone change from what it was to Airport
Industrial made the property non-conforming per Chapter 17.88 of the Zoning Ordinance. The City's General Plan recognizes that there are divergent neighborhoods in the city. Based on the existing land use and zoning for the site, vision of the General Plan is to eventually eliminate the non-conforming residential land use to a land use that is suitable for Airport Industrial. The Zoning Ordinance, which is a tool to implement the General Plan provides for the eventual elimination of the non-conforming use in Chapter 17.88 as follows:

1. Change of ownership, tenancy, or management of a non-conforming use shall not affect its legal non-conforming status, provided that the use and intensity of use does not increase.

2. If a non-conforming use is discontinued for a period of six (6) or more consecutive calendar months, it shall lose its legal non-conforming status, and the continued use of the property shall be required to conform with the provisions of this Zoning Ordinance.

3. Additional development of any property on which a legal non-conforming use exists shall require that all new uses conform to the provisions of this Zoning Ordinance.

4. If a non-conforming use is converted to a conforming use, no non-conforming use may be resumed.

5. No non-conforming use may be established or replaced by another non-conforming use, nor may any non-conforming use be expanded or changed, except as provided in Chapter 17.88.

6. A nonconforming use located in a commercial or industrial zone may be expanded up to but not exceeding 50 percent of the existing floor area provided the expansion conforms to all other requirements of the zone and subject to the approval of a conditional use permit by the planning commission.

The construction of the proposed two-car garage is in conformance with the Zoning Ordinance in particular Chapter 17.88 and the development standard in the Airport Industrial. The project is in keeping with the spirit and intent of the General Plan and therefore is consistent with the General Plan.

Finding No. 2: The proposed use is conditionally permitted within the subject land use district and complies with the applicable provisions of the Zoning Code.

Findings of Fact: The limited expansion of a “legal non-conforming” use, the proposed residential two-car garage, is allowed in accordance with Chapter 17.88 Non-Conforming Structures and Non-Conforming Uses of the “Zoning Ordinance” subject to approval of a Conditional Use Permit by Planning Commission. The proposed project is conditioned to meet all local standards pertaining to development and the limited residential use.

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 Airport Industrial land use district in which it is to be located because it is surrounded by a mix of non-conforming residential lots and industrial development. The architecture as proposed is compatible with the existing structure on the property and surrounding development. Additionally, the “Zoning Ordinance” and proposed conditions require the proposed structure to match the existing architecture thus providing neighborhood enhancement.

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 with a single-family home. The 0.50 acre land area is of adequate size to accommodate the expansion of the proposed 504 square foot garage.

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 existing single-family residence is currently accessed and served from Lincoln Street, an existing fully developed public arterial highway.

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

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

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

Finding of Fact: The construction and use of a garage will not be detrimental to the City’s health, safety, and welfare in that it complies with the Airport Industrial development standards. It is a conditionally permitted use in the Airport Industrial zone to provide covered parking (garage) for the resident. The project will not generate excessive noise or traffic.

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 October 22, 2010. As of the date of
this report, staff has not received any verbal or written comments for or against the proposed project.

PREPARED BY:

Brian Guillot
Assistant Planner

APPROVED BY:

Zai Abu Bakar
Community Development Director

PC Attachments:

1. PC Resolution No. 2010-12 (with Conditions of Approval)
2. Vicinity Map and Aerial Photo
3. Site Photographs
4. Site Plan
5. Sample Avigation Easement
Attachment 1

(PC Resolution No. 2010-12)
RESOLUTION NO. 2010-12

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BANNING, CALIFORNIA APPROVING CONDITIONAL USE PERMIT NO. 10-803 TO CONSTRUCT A TWO-CAR GARAGE FOR AN EXISTING SINGLE-FAMILY DWELLING LOCATED IN AN INDUSTRIAL ZONE (APN 541-290-004).

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

<table>
<thead>
<tr>
<th>Project Applicant:</th>
<th>Betete Demissie</th>
</tr>
</thead>
<tbody>
<tr>
<td>Property Owner:</td>
<td>same as applicant</td>
</tr>
<tr>
<td>Project Location:</td>
<td>1522 E. Lincoln Street</td>
</tr>
<tr>
<td>APN Number:</td>
<td>541-290-004</td>
</tr>
<tr>
<td>Lot Size:</td>
<td>0.50 acres</td>
</tr>
</tbody>
</table>

WHEREAS, the Planning Commission has the authority per Chapters 17.52 and 17.88 of the Banning Municipal Code to take action on Conditional Use Permit No. 10-803: A request to construct a two car garage for an existing single-family dwelling located in the Airport Industrial (AI) zone; and,

WHEREAS, on October 22, 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 November 3, 2010 the Planning Commission held the noticed public hearing at which interested persons had an opportunity to testify in support of, or in opposition to Conditional Use Permit No.10-803; and, at which the Planning Commission considered the Conditional Use Permit; and,

WHEREAS, the Community Development Director has reviewed the project’s potential effects on the environment and has recommended that the project is categorically exempt from the California Environmental Quality Act (“CEQA”) under CEQA Guidelines Section 15303(c) (New Construction of Small Structures) 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.

CEQA

The Planning Commission, in light of the whole record before it, including but not limited to, the City's Local CEQA Guidelines, the recommendation of the Community Development Director as provided in this Staff Report dated November 3, 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 15303(e) (New Construction of Small Structures) in that the staff report submitted by the Planning Division and other findings made in this Resolution demonstrate that the proposed garage meets the requirements of the exemption in that it consists of construction of a new, small facility or structures specifically an accessory structure identified in the cited exemption.

   (b) None of the exceptions to the Categorical Exemptions contained in CEQA Guidelines Section 15300.2 prevent CEQA Guidelines Section 15303(e) from exempting the project for the following reasons:

      i. The project is not 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 Airport Industrial (AI) zoning standards regulate the land use around the site. The proposed avigation easement will limit the development of the site in accordance with the Airport Compatibility Plan. There is undeveloped land to the west; single-family homes to the south; and street right-of-way and Municipal Airport to the east. To the north and across Lincoln Street is vacant land utilized for the runway protection zone. This is an established industrial area with existing "legal non-conforming residences."

      iii. There is no reasonable possibility that unusual circumstances will cause the project to have a significant effect on the environment because a garage 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 was developed as a residential-agricultural project in 1959 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.

Pursuant to Banning Municipal Code Chapter 17.52 and 17.88, and in light of the record before it including the staff report dated November 3, 2010, and 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 the General Plan Land Use Goal of "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" by ensuring the long term Airport Industrial land use by limiting the existing non-conforming use as stipulated in Chapter 17.88 of the "Zoning Ordinance".

The proposed project is the construction of a two-car garage for an existing single-family home that is located in the Airport Industrial Zone. The existing single-family home was constructed in 1959, which was a permitted use at the time since the zoning was R-A, Residential Agricultural. The land use and zoning for the subject site was changed from residential to a commercial and/or industrial use sometime prior to 1981. In 2006, the site was rezoned to Airport Industrial. The land use and zone change from what it was to Airport Industrial made the property non-conforming per Chapter 17.88 of the Zoning Ordinance. The City's General Plan recognizes that there are divergent neighborhoods in the city. Based on the existing land use and zoning for the site, vision of the General Plan is to eventually eliminate the non-conforming residential land use to a land use that is suitable for Airport Industrial. The Zoning Ordinance, which is a tool to implement the General Plan provides for the eventual elimination of the non-conforming use in Chapter 17.88 as follows:
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2. If a non-conforming use is discontinued for a period of six (6) or more consecutive calendar months, it shall lose its legal non-conforming status, and the continued use of the property shall be required to conform with the provisions of this Zoning Ordinance.

3. Additional development of any property on which a legal non-conforming use exists shall require that all new uses conform to the provisions of this Zoning Ordinance.

4. If a non-conforming use is converted to a conforming use, no non-conforming use may be resumed.

5. No non-conforming use may be established or replaced by another non-conforming use, nor may any non-conforming use be expanded or changed, except as provided in Chapter 17.88.

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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 Airport Industrial land use district in which it is to be located because it is surrounded by a mix of non-conforming residential lots and industrial development. The architecture as proposed is compatible with the existing structure on the property and surrounding development. Additionally, the “Zoning Ordinance” and proposed conditions require the proposed structure to match the existing architecture thus providing neighborhood enhancement.
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Finding of Fact: The construction and use of a garage will not be detrimental to the City’s health, safety, and welfare in that it complies with the Airport Industrial development standards. It is a conditionally permitted use in the Airport Industrial zone to provide covered parking (garage) for the resident. The project will not generate excessive noise or traffic.

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 15332 and directs the Community Development Director to prepare and file with the Clerk for the County of Riverside a notice of exemption as provided under Public Resources Code Section 21152(b) and CEQA Guidelines Section 15062.
2. Conditional Use Permit. CUP No. 10-803 is hereby approved subject to the Conditions of Approval attached hereto and incorporated herein by reference as Exhibit "A".

PASSED, APPROVED AND ADOPTED this 3rd day of November, 2010.

Bill Escandel, Chairman
Banning Planning Commission

APPROVED AS TO FORM AND LEGAL CONTENT:

__________________________
Lona N. Laymon
Aleshire & Wynder, LLP
Assistant City Attorney
City of Banning, California

ATTEST:

__________________________
Virginia Sorenson, Recording Secretary
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. 2010-12, was duly adopted by the Planning Commission of the City of Banning, California, at a regular meeting thereof held on the 3rd day of November, 2010, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

__________________________
Virginia Sorenson, Recording Secretary
City of Banning, California
PLANNING
The Applicant may contact the Planning Division at (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. If during the term of the permit the City determines based upon substantial evidence that the permit activity is exercised so as to be detrimental to the public health, safety or welfare, or, so as to be a nuisance to other property owners in the general area which by any means shall interfere with the comfortable peaceful use, possession and enjoyment of property by any person, the Conditional Use Permit shall be subject to revocation as outlined in section 17.52.100 “Revocation” of the Banning Zoning Code.

3. Construction shall commence within two (2) years from the date of Planning Commission approval, or the conditional use permit shall become null and void. Additionally, if after commencement of construction work is discontinued for a period of one year, the conditional use permit shall become null and void. The Community Development Director may upon an application being filed 30 days prior to expiration and for good cause, grant a one time extension not to exceed 12 months.
4. The garage for the primary residence shall not be converted to another use without prior City approvals and unless an additional garage (also subject to prior City approvals) is constructed in accordance with the Zoning Code.

5. Approval of this entitlement shall not waive compliance with all sections of the Municipal Code and all other applicable City Ordinances in effect at the time of building permit issuance.

6. A copy of the signed resolution of approval and all conditions of approval shall be reproduced in legible form on any grading plans, site plan, and building and construction plans submitted for review and approval as required by the reviewing department.

7. Prior to issuance of a building permit, the applicant shall cause to be recorded for the site an avigation easement in accordance with the Airport Compatibility Plan for Banning Municipal Airport.

B. Site Development

8. The site shall be developed and maintained in accordance with the stamped approved plans which include site plans, architectural elevations, exterior materials and colors and any grading plan on file in the Planning Division; the conditions contained herein; and, Municipal Code regulations.

9. Provide for the following design features for the second garage, to the satisfaction of the Community Development Director:
   - The proposed garage building shall be architecturally integrated with the existing single-family dwelling on the property.
   - All parking shall occur on paved surfaces of asphalt, concrete, or similar materials. The drive way leading to the garage shall be 16 feet minimum width and 20 feet minimum depth.
   - All roof mounted equipment and/or projections shall be shielded from view and the sound buffered from adjacent properties. Such screening shall be architecturally integrated with the building design.

BUILDING & SAFETY
The Applicant may contact the Building & Safety Division at (951) 922-3120 for compliance with the following conditions:

C. General Requirements/New Structures/Site Development

10. Plans shall be submitted for plan check and approved prior to construction. All plans shall be marked with the project number (i.e., CUP #10-803). The applicant shall comply with 2007 California Model Codes, and all other applicable codes, ordinances, and regulations in effect at the time of permit application.
11. Submit five complete sets of plans including the following:

Site/Plot Plan;
Foundation Plan;
Cross sections;
Elevations;
Ceiling and Roof Framing 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; and,

12. 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.

13. A preconstruction meeting shall be held for all participating field personnel prior to the commencement of construction activities.
Attachment 2

(Vicinity map and aerial photo)
Attachment 3
(Site photographs)
Looking southwesterly from Lincoln Street at proposed garage location.

Looking southwesterly from Lincoln Street near Hathaway Street.
Attachment 4

(Site Plan)
Attachment 5

(Sample Avigation Easement)
Typical Avigation Easement

This indenture made this ______ day of __________, 20__, between _________________________ hereinafter referred to as Grantor, and the [Insert County or City name], a political subdivision in the State of California, hereinafter referred to as Grantee.

The Grantor, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, does hereby grant to the Grantee, its successors and assigns, a perpetual and assignable easement over the following described parcel of land in which the Grantor holds a fee simple estate. [For military airports: Grantee shall hold said easement on behalf of the United States Government.] The property which is subject to this easement is depicted as ____________________________ on “Exhibit A” attached and is more particularly described as follows:

[Insert legal description of real property]

The easement applies to the Airspace above an imaginary plane over the real property. The plane is described as follows:

The imaginary plane above the hereinbefore described real property, as such plane is defined by Part 77 of the Federal Aviation Regulations, and consists of a plane [describe approach, transition, or horizontal surface]; the elevation of said plane being based upon the ________ Airport official runway end elevation of ______ feet Above Mean Sea Level (AMSL), as determined by [Insert Name and Date of Survey or Airport Layout Plan that determines the elevation] the approximate dimensions of which said plane are described and shown on Exhibit A attached hereto and incorporated herein by reference.

The aforesaid easement and right-of-way includes, but is not limited to:

1. For the use and benefit of the public, the easement and continuing right to fly, or cause or permit the flight by any and all persons, or any aircraft, of any and all kinds now or hereafter known, in, through, across, or about any portion of the Airspace hereinabove described; and

2. The easement and right to cause or create, or permit or allow to be caused and created within all space above the existing surface of the hereinabove described real property and any and all Airspace laterally adjacent to said real property, such noise, vibration, currents and other effects of air illumination and fuel consumption as may be inherent in, or may arise or occur from or during the operation of aircraft of any and all kinds, now or hereafter known or used, for navigation of or flight in air; and

3. A continuing right to clear and keep clear from the Airspace any portions of buildings, structures or improvements of any kinds, and of trees or other objects, including the right to remove or demolish those portions of such buildings, structures, improvements, trees, or other things which extend into or above said Airspace, and the right to cut to the ground level and remove, any trees which extend into or above the Airspace; and

4. The right to mark and light, or cause or require to be marked and lighted, as obstructions to air navigation, any and all buildings, structures or other improvements, and trees or other objects, which extend into or above the Airspace; and

5. The right of ingress to, passage within, and egress from the hereinabove described real property, for the purposes described in subparagraphs (3) and (4) above at reasonable times and after reasonable notice.

Table G2

Typical Avigation Easement
For and on behalf of itself, its successors and assigns, the Grantor hereby covenants with the [Insert County or City name], for the direct benefit of the real property constituting the ____________ Airport hereinafter described, that neither the Grantor, nor its successors in interest or assigns will construct, install, erect, place or grow, in or upon the hereinafore described real property, nor will they permit or allow any building structure, improvement, tree, or other object to extend into or above the Airspace so as to constitute an obstruction to air navigation or to obstruct or interfere with the use of the easement and rights-of-way herein granted.

The easements and rights-of-way herein granted shall be deemed both appurtenant to and for the direct benefit of that real property which constitutes the ____________ Airport, in the [Insert County or City name], State of California; and shall further be deemed in gross, being conveyed to the Grantee for the benefit of [for public-use airports: the Grantee and any and all members of the general public] [for military airports: the United States Government] who may use said easement or right-of-way, in landing at, taking off from or operating such aircraft in or about the ____________ Airport, or in otherwise flying through said Airspace.

Grantor, together with its successors in interest and assigns, hereby waives its right to legal action against Grantee, its successors or assigns for monetary damages or other redress due to impacts, as described in paragraph (2) of the granted rights of easement, associated with aircraft operations in the air or on the ground at the airport, including future increases in the volume or changes in location of said operations. Furthermore, Grantee, its successors, and assigns shall have no duty to avoid or mitigate such damages through physical modification of airport facilities or establishment or modification of aircraft operational procedures or restrictions. However, this waiver shall not apply if the airport role or character of its usage (as identified in an adopted airport master plan, for example) changes in a fundamental manner which could not reasonably have been anticipated at the time of the granting of this easement and which results in a substantial increase in the in the impacts associated with aircraft operations. Also, this grant of easement shall not operate to deprive the Grantor, its successors or assigns of any rights which may from time to time have against any air carrier or private operator for negligent or unlawful operation of aircraft.

These covenants and agreements run with the land and are binding upon the heirs, administrators, executors, successors and assigns of the Grantor, and, for the purpose of this instrument, the real property firstly hereinabove described is the servient tenement and said ____________ Airport is the dominant tenement.

DATED: ____________

STATE OF ____________

COUNTY OF ____________

On ____________, before me, the undersigned, a Notary Public in and for said County and State personally appeared ____________, and ____________, known to me to be the persons whose names are subscribed to the within instrument and acknowledged that they executed the same.

WITNESS my hand and official seal.

__________________________
Notary Public

Table G2, continued
DATE: November 3, 2010

TO: Chairman and Members of the Planning Commission

FROM: Community Development Department, Planning Division

SUBJECT: ZONE TEXT AMENDMENT #10-97506:
STANDARDS AND GUIDELINES FOR SMALL WIND TURBINES

STAFF RECOMMENDATION

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

1. Recommending that the City Council adopt a Negative Declaration in compliance with the California Environmental Quality Act Section 15000 et seq.; and,

2. Adopt Planning Commission Resolution No. 2010-10 recommending approval of Ordinance No. 1432 to City Council amending the “Zoning Ordinance” for Small Wind Turbines.

APPLICANT INFORMATION

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

BACKGROUND/ANALYSIS

In the year 2004, wind energy in California produced 4,258 million kilowatt-hours of electricity, about 1.5 percent of the state's total electricity. More than 13,000 of California's wind turbines, or 95 percent of all of California's wind generating capacity and output, are located in three primary regions: Altamont Pass east of San Francisco, Tehachapi south east of Bakersfield, and the San Gorgonio Pass. In 1995, these areas produced 30 percent of the entire world's wind-generated electricity. 1
According to the Electric Power Research Institute, the cost of producing wind energy has decreased nearly fourfold since 1980. The levelized cost of energy from wind turbines in 1993 was about 7.5 cents per kilowatt-hour. With current wind research and development efforts, the Energy Commission estimates that newer technologies can reduce the cost of wind energy to 3.5 cents per kilowatt-hour. Wind energy also creates jobs. The American Wind Energy Association estimated that through the early 1990s, 1,200 direct jobs in California's wind industry, with as many as 4,000 indirect jobs, were created.  

Small wind turbines can be used by farms, homes, and businesses in windy locations, such as the Pass area. They can also be used (like solar cells) in areas where it is not feasible to run power lines because of the cost.

An example of a small wind turbine is installed at the City Yard, 176 E. Lincoln Street, as a test unit. The turbine is a new generation “Energy Ball” manufactured by Home Energy Americas, LLC and is rated at 2.5 kW (2500 W). The height of the turbine is approximately 50 feet mounted on a single steel pole (refer to Attachment 4 for photographs). After several more months of data is collected on this installation, the Electric Department will evaluate whether installing this type of system on other municipal buildings is cost effective.

Presently, the “Zoning Ordinance” for the City of Banning does not permit the installation of small wind turbines. The purpose of this “Zoning Ordinance” amendment is to allow the installation of small wind turbines that have a rated capacity of not more than 50kW and are intended primarily to reduce on-site consumption of utility power. The installation of large wind turbines and wind farms is outside the scope of this proposal and would require more detailed review in accordance with the California Environmental Quality Act (CEQA). Additionally, the City owned electric utility is not providing any incentives at this time for wind turbine installations.

The regulations as proposed in the subject Zone Text Amendment are modeled after State of California Assembly Bill (AB) 45 that sets forth guidelines for the installation of small wind energy systems. The Bill is limited to installations outside of urbanized areas on a parcel of land of at least 1 acre in size.

Specific requirements for the proposed City of Banning Ordinance include the following:

1. Amend the Banning “Zoning Ordinance” to allow installation of small wind turbines as a conditionally permitted use in the Open Space (OS), Public Facilities-Airport (PF-A), Public Facilities-Schools (PF-S), Public Facilities-Hospitals (PF-H), Ranch Agriculture (R/A), General Commercial (GC), Highway Serving Commercial (HSC), Professional Office (PO), Industrial (I), Airport Industrial (AI), Business Park (BP), and Industrial-Mineral Resources (IMR) zoning districts; and, the installation of small wind turbines permitted by right in Public Facilities-Government (PF-G), and Public Facilities-Fire (PF-F).

2. The parcel where the small wind turbine is located shall be at least one acre in size.
3. The small wind turbine or related structures shall not be located on any building, unless approved by the Planning Commission.

4. The small wind turbine shall be setback from the property lines and street at least equal to the height of the tower.

5. The maximum overall height for a ground mounted small wind turbine shall be eighty feet above grade for one acre to five acre parcels, and one-hundred feet above grade for parcels greater than five acres; or, as stipulated by the airport land use plan or Federal Aviation Administration requirement.

6. Access to the small wind turbine shall be restricted from the public right-of-way by a wall/fence; or, restricted by locating any climbing apparatus greater than 12 feet from the ground.

7. No sign or advertising shall be attached to the small wind turbine structure, except for signs that identify the manufacturer, installer, or owner, or public health and safety signs related to the small wind turbine installation or operation; and, any sign shall be approved by the Planning Commission.

8. Decibel levels for small wind turbine installations in residential zones shall not exceed the outdoor one-hour average of 45 dBA as measured from the nearest property line; or, as provided for in the City’s Noise Ordinance.

The purpose of the setback requirement is that sound levels tend to lessen as you move away from the generator and the setback requirement will help ensure that the noise generated from the small wind turbine installation does not disturb neighbors. Please note that the proposed Ordinance would only permit small wind turbine installations in the Ranch-Agriculture (R/A) residential zoning district because of the minimum lot size. All other proposed zoning districts where small wind turbines may be installed are outside residential zones.

The installation of small wind turbines provides the opportunity for development and utilization of local renewable energy resources, which could reduce dependence on less environmentally friendly energy resources. The City Council has adopted goals and polices to encourage local on-site generation of electrical power. These include the Clean & Green Report & Recommendations accepted in June 2008; along with the policies of the General Plan, specifically those listed in the Environmental Resources Element as follows:

Policy 2 states that the City “promote the integration of alternative energy systems, including but not limited to solar thermal, photovoltaics, and other clean energy systems, directly into building design and construction”. Permitting the installation of small wind turbines by amending the “Zoning Ordinance” effectively promotes the integration of alternative energy systems. Small wind turbines are clean energy systems that utilize local renewable resources (wind). Further, Policy 4 states that the City “support public and private efforts to develop and operate alternative systems of wind, solar and other electrical production, which take advantage of local renewable resources”. The adoption
of proposed standards and guidelines for small wind turbines support private efforts to
develop and operate alternative systems of electrical production in the appropriate zone
districts in accordance with the setback, height, and other stated development standards
as listed in the "Zoning Ordinance" and proposed amendments.

If approved, the cost of obtaining a conditional use permit in the City of Banning for a small wind
turbine installation will be $4,779.00 plus the cost associated with the environmental review. In a
report prepared by KEMA for the California Energy Commission dated July 2009, it was related
that the cost for permitting in Riverside County averaged $4,000 to $12,000. ²

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 November 3, 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 Planning Commission has analyzed this proposed project and has determined that
a Negative Declaration is required per the California Environmental Quality Act ("CEQA")
under Section 15070(a) regarding negative declarations, Section 15268 regarding ministerial
projects, and Section 15378 regarding the definition of "project" of the CEQA Guidelines,
which provide that the adoption of an ordinance by a city is considered a project which requires
the preparation of an Initial Study. However, the Project (the adoption of an ordinance
amending the City of Banning "Zoning Ordinance") does not have negative impacts on the
environment. A Negative Declaration is proposed for adoption.

2. Multiple Species Habitat Conservation Plan (MSHCP).

The amendment to the "Zoning Ordinance" 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.

PUBLIC COMMUNICATION

The proposed Zone Text Amendment was advertised in the Record Gazette newspaper on
October 15, 2010. As of the date of this report, staff has not received any verbal or written
comments for or against the proposal.
Prepared by:
Brian Guillot
Assistant Planner

Approved by:

Zal Abu Bakar
Community Development Director

PC Attachments:

1. PC Resolution No. 2010-10 (including a copy of Draft Ordinance No. 1434)
2. Copy of Government Code Section 65893-65899
3. Photographs - City Yard installation, 176 E. Lincoln Street
4. Initial Study/Negative Declaration
Attachment 1

(PC Resolution No. 2010-10)
RESOLUTION NO. 2010-10

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BANNING, CALIFORNIA RECOMMENDING THAT THE CITY COUNCIL APPROVE ZONE TEXT AMENDMENT NO. 10-97506, TO ADOPT DEVELOPMENT STANDARDS AND GUIDELINES FOR SMALL WIND TURBINES IN THE CITY OF BANNING

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

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

WHEREAS, the City desires to amend the “Zoning Ordinance” to permit small wind turbines in accordance with the proposed development standards and guidelines; and

WHEREAS, on the 15th day of October, 2010, the City gave public notice as required under “Zoning Ordinance” Chapter 17.68 by advertising in the Record Gazette newspaper of the holding of a public hearing at which the amendment to the “Zoning Ordinance” would be considered; and

WHEREAS, on the 3rd day of November, 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 proposed Zone Text Amendment and at which time the Planning Commission considered the Zone Text Amendment; and

WHEREAS, at this public hearing on the 3rd day of November, 2010 the Planning Commission considered and heard public comments on the proposed Zone Text Amendment; and

WHEREAS, at this public hearing, the Planning Commission has analyzed this proposed project and has determined that it is not exempt from the California Environmental Quality Act (“CEQA”) Sections 15070(a) regarding negative declarations, 15268 regarding ministerial projects, and 15378 regarding the definition of “project” of the CEQA Guidelines and a Negative Declaration is recommended for adoption by the City Council.

NOW THEREFORE, the Planning Commission of the City of Banning does hereby find, determine, and resolve as follows:
SECTION 1 ENVIRONMENTAL FINDINGS.

The Planning Commission, in light of the whole record before it, including but not limited to, the City's Local CEQA Guidelines, the recommendation of the Community Development Department as provided in the Staff Report dated November 3, 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):

   The Planning Commission has analyzed this proposed project and has determined that a Negative Declaration is required per the California Environmental Quality Act ("CEQA") under Section 15070(a) regarding negative declarations, Section 15268 regarding ministerial projects, and Section 15378 regarding the definition of "project" of the CEQA Guidelines, which provide that the adoption of an ordinance by a city is considered a project which requires the preparation of an Initial Study. However, the Project (the adoption of an ordinance amending the City of Banning Municipal Code) does not have negative impacts on the environment. A Negative Declaration is proposed for adoption.

2. Multiple Species Habitat Conservation Plan (MSHCP)

   The amendment to the "Zoning Ordinance" 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 REQUIRED FINDINGS.

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

Facts:
Zone Text Amendment No. 10-97506 is consistent with the goals and policies of the General Plan. First, the proposed Ordinance regulating small wind turbines will not result in any changes to the General Plan text or land use map which will maintain internal consistency. Second, the proposed standards and guidelines in proposed Zone Text Amendment No. 10-97506 will permit compliance with the policies of the Environment Resources Element of the General Plan as follows:

Policy 2 states that the City "promote the integration of alternative energy systems, including but not limited to solar thermal, photovoltaics, and other clean energy systems, directly into building design and construction". Permitting the installation of small wind turbines by amending the "Zoning Ordinance" effectively promotes the integration of alternative energy
systems. Small wind turbines are clean energy systems that utilize local renewable resources (wind). Further, Policy 4 states that the City "support public and private efforts to develop and operate alternative systems of wind, solar and other electrical production, which take advantage of local renewable resources". The adoption of the proposed standards and guidelines for small wind turbines supports private efforts to develop and operate alternative systems of electrical production in the appropriate zone districts in accordance with the setback, height, and other stated development standards as listed in the "Zoning Ordinance" and proposed amendments.

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

**Facts:**
Zone Text Amendment No. 10-97506 is consistent with the provisions of the "Zoning Ordinance" in that the proposed amendment will establish specific development and operational standards, and land use regulations for reviewing and processing small wind turbine installations in the City. It is the intent of the "Zoning Ordinance" to provide specific development standards for a variety of land use types in the City of Banning, and small wind turbines will be permitted in the appropriate zoning districts similar to antennae installations.

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

**Facts:**
The Planning Commission has analyzed this proposed project and has determined that a Negative Declaration is required per the California Environmental Quality Act ("CEQA") under Section 15070(a) regarding negative declarations, Section 15268 regarding ministerial projects, and Section 15378 regarding the definition of "project" of the CEQA Guidelines, which provide that the adoption of an ordinance by a city is considered a project which requires the preparation of an Initial Study. However, the Project (the adoption of an ordinance amending the City of Banning "Zoning Ordinance") does not have negative impacts on the environment. A Negative Declaration is proposed for adoption.

**SECTION 3 PLANNING COMMISSION ACTIONS.**

The Planning Commission hereby takes the following actions:

1. Recommending that the City Council adopt a Negative Declaration in compliance with the California Environmental Quality Act Section 15000 et seq.; and,

2. Adopt Planning Commission Resolution No. 2010-10 recommending approval of Ordinance No. 1432 (as shown in Exhibit "A") to City Council amending the "Zoning Ordinance" for Small Wind Turbines as follows:
Add the following code section:

17.24.065 – Small Wind Turbine, design standards.

All small wind turbines, which have a rated capacity of not more than 50 kW and are intended primarily to reduce on-site consumption of utility power, shall be installed in the following manner:

A. The location shall conform to all development standards of the zoning district in which it is proposed.

B. The parcel where the small wind turbine is located shall be at least one acre in size.

C. The small wind turbine or related structures shall not be located on any building, unless approved by the Planning Commission.

D. The small wind turbine shall be setback from the property lines and street at least equal to the height of the tower.

E. The maximum overall height for a ground mounted small wind turbine shall be eighty feet above grade for one acre to five acre parcels and one-hundred feet above grade for parcels greater than five acres; or, as stipulated by the airport land use plan or Federal Aviation Administration requirement.

F. Access to the small wind turbine shall be restricted from the public right-of-way by a wall/fence; or, restricted by locating any climbing apparatus greater than 12 feet from the ground.

G. No sign or advertising shall be attached to the small wind turbine structure, except for signs that identify the manufacturer, installer, or owner, or public health and safety signs related to the small wind turbine installation or operation; and, any sign shall be approved by Planning Commission.

H. Decibel levels for small wind turbine installations in residential zones shall not exceed the outdoor one-hour average of 45 dBA as measured from the nearest property line; or, as provided for in the City’s Noise Ordinance.

Add the following row to the “Miscellaneous” category of Table 17.44.010:

<table>
<thead>
<tr>
<th>Miscellaneous:</th>
<th>Community Development Director</th>
<th>Planning Commission</th>
<th>City Council</th>
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<tbody>
<tr>
<td>Antennae</td>
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<td>X</td>
<td></td>
</tr>
<tr>
<td>Small wind turbine</td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Fence and Walls</td>
<td>X</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Add the following row to the “Other Uses” category of Table 17.20.020 “Permitted, Conditional and Prohibited Open Space Uses”:

<table>
<thead>
<tr>
<th>Other Uses</th>
<th>OS-R</th>
<th>OS-PA</th>
<th>OS-PU</th>
<th>OS-II</th>
</tr>
</thead>
<tbody>
<tr>
<td>Antennae and communications towers</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>Small wind turbine</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
</tr>
</tbody>
</table>

Add the following row to the “Other Uses” category of Table 17.16.020 “Permitted, Conditional and Prohibited Public Facilities Uses”:

<table>
<thead>
<tr>
<th>Other Uses</th>
<th>PF-A</th>
<th>PF-G</th>
<th>PF-F</th>
<th>PF-S</th>
<th>PF-II</th>
</tr>
</thead>
<tbody>
<tr>
<td>Antennae and communications towers</td>
<td>C</td>
<td>P</td>
<td>P</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>Small wind turbine</td>
<td>C</td>
<td>P</td>
<td>P</td>
<td>C</td>
<td>C</td>
</tr>
</tbody>
</table>

Add the following row to the “Accessory Uses” category of Table 17.08.020 “Permitted, Conditional and Prohibited Residential Uses”:

<table>
<thead>
<tr>
<th>Accessory Uses</th>
<th>R/A</th>
<th>R/A/H</th>
<th>RR</th>
<th>RR/H</th>
<th>VLDR</th>
<th>LDR</th>
<th>MDR</th>
<th>HDR</th>
<th>MHP</th>
</tr>
</thead>
<tbody>
<tr>
<td>Telecommunications Antennae</td>
<td>C</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Small wind turbine</td>
<td>C</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
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</table>

Modify the following row in Table 17.08.030 “Residential Development Standards”:

<table>
<thead>
<tr>
<th>Maximum Height (stories/feet) 9</th>
<th>R/A</th>
<th>R/A/H</th>
<th>RR</th>
<th>RR/H</th>
<th>VLDR</th>
<th>LDR</th>
<th>MDR</th>
<th>HDR</th>
<th>MHP</th>
</tr>
</thead>
</table>

9 Not including control towers, communications towers, small wind turbines, bell towers, steeples and similar architectural treatments.

Add the following row to the “Other Uses” category of Table 17.12.020 “Permitted, Conditional and Prohibited Commercial and Industrial Uses”:

<table>
<thead>
<tr>
<th>Other Uses</th>
<th>DC</th>
<th>GC</th>
<th>HSC</th>
<th>PO</th>
<th>I</th>
<th>AI</th>
<th>BP</th>
<th>IMR</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commercial or telecommunications antennae</td>
<td>X</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>Small wind turbine</td>
<td>X</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
</tr>
</tbody>
</table>
PASSED, APPROVED AND ADOPTED this 3rd day of November, 2010.

Bill Escandel, Chairman
Banning Planning Commission

APPROVED AS TO FORM AND
LEGAL CONTENT:

Lona N. Laymon
Aleshire & Wynder, LLP
Assistant City Attorney
City of Banning, California

ATTEST:

Virginia Sorenson, Recording Secretary
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. 2010-10, was duly adopted by the Planning Commission of the City of Banning, California, at a regular meeting thereof held on the 3rd day of November, 2010, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Virginia Sorenson, Recording Secretary
City of Banning, California

50
ORDINANCE NO. 1432

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA APPROVING ZONING TEXT AMENDMENT NO. 10-97506 TO ADOPT DEVELOPMENT STANDARDS AND GUIDELINES FOR SMALL WIND TURBINES IN THE CITY OF BANNING

WHEREAS, the proposed Zoning Text Amendment #10-97506 was duly initiated by the City of Banning; and

WHEREAS, the Municipal Code provides for “Zoning Ordinance” amendments consistent with the goals and policies of the General Plan; and

WHEREAS, on June 10, 2008, the City Council accepted the Clean & Green Report & Recommendations that stated, along with other recommendations, that the City adopt regulations that encourage local on-site generation of electrical power; and

WHEREAS, the installation of small wind turbines provides the opportunity for development and utilization of local renewable energy resources, which could reduce dependence on less environmentally friendly energy resources; and

WHEREAS, the City’s current “Zoning Ordinance” does not address small wind turbines; and, therefore does not provide for the development of the same; and

WHEREAS, on November 3, 2010, the Planning Commission held a noticed public hearing at which time interested persons had an opportunity to testify in support of, or opposition to Zoning Text Amendment No. 10-97506 and at which time the Planning Commission considered the proposed Zoning Text Amendment and recommended City Council approval; and

WHEREAS, on ______________, the City published a public hearing notice for Zoning Text Amendment No. 10-97506 in the Record Gazette newspaper in compliance with state law and Chapter 17.68 of the Banning Zoning Ordinance; and

WHEREAS, on ______________, the City Council held a noticed public hearing at which time interested persons had an opportunity to testify in support of, or opposition to Zone Text Amendment No. 10-97506; and

WHEREAS, at said public hearing on ______________, the City Council considered and heard public testimony and comments regarding Zoning Text Amendment No. 10-97506; and

WHEREAS, at this public hearing, the City Council analyzed the proposed project and has determined that it is not exempt from the California Environmental Quality Act (“CEQA”) Sections 15070(a) regarding negative declarations, 15268 regarding ministerial projects, and
15378 regarding the definition of “project” of the CEQA Guidelines and a Negative Declaration is recommended for adoption by the City Council.

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

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

SECTION 1 ENVIRONMENTAL FINDING.

The City Council, in light of the whole record before it, including but not limited to, the City’s Local CEQA Guidelines, the recommendation of the Community Development Department as provided in the Staff Report dated ______________ 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):
The City Council has analyzed this proposed project and has determined that a Negative Declaration is required per the California Environmental Quality Act (“CEQA”) under Section 15070(a) regarding negative declarations, Section 15268 regarding ministerial projects, and Section 15378 regarding the definition of “project” of the CEQA Guidelines, which provide that the adoption of an ordinance by a city is considered a project which requires the preparation of an Initial Study. However, the Project (the adoption of an ordinance amending the City of Banning Municipal Code) does not have negative impacts on the environment. A Negative Declaration is proposed for adoption.

2. Multiple Species Habitat Conservation Plan (MSHCP).
The amendment to the “Zoning Ordinance” 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 REQUIRED FINDINGS.

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

Facts:
Zoning Text Amendment No. 10-97506 is consistent with the goals and policies of the General Plan. First, the proposed Ordinance regulating small wind turbines will not result in any changes to the General Plan text or land use map which will maintain internal consistency. Second, the proposed standards and guidelines in proposed Zoning
Text Amendment No. 10-97506 will permit compliance with the policies of the Environment Resources Element of the General Plan as follows:

Policy 2 states that the City "promote the integration of alternative energy systems, including but not limited to solar thermal, photovoltaics, and other clean energy systems, directly into building design and construction". Permitting the installation of small wind turbines by amending the "Zoning Ordinance" effectively promotes the integration of alternative energy systems. Small wind turbines are clean energy systems that utilize local renewable resources (wind). Further, Policy 4 states that the City "support public and private efforts to develop and operate alternative systems of wind, solar and other electrical production, which take advantage of local renewable resources". The adoption of the proposed standards and guidelines for small wind turbines supports private efforts to develop and operate alternative systems of electrical production in the appropriate zone districts in accordance with the setback, height, and other stated development standards as listed in the "Zoning Ordinance" and proposed amendments.

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

Facts:
Zoning Text Amendment No. 10-97506 is consistent with the provisions of the "Zoning Ordinance" in that the proposed amendment will establish specific development and operational standards, and land use regulations for reviewing and processing small wind turbine installations in the City. It is the intent of the "Zoning Ordinance" to provide specific development standards for a variety of land use types in the City of Banning, and small wind turbines will be permitted in the appropriate zoning districts similar to antennae installations.

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

Facts:
The City Council upon recommendation of the Planning Commission has analyzed this proposed project and has determined that a Negative Declaration is required per the California Environmental Quality Act ("CEQA") under Section 15070(a) regarding negative declarations, Section 15268 regarding ministerial projects, and Section 15378 regarding the definition of "project" of the CEQA Guidelines, which provide that the adoption of an ordinance by a city is considered a project which requires the preparation of an Initial Study. However, the Project (the adoption of an ordinance amending the City of Banning Municipal Code) does not have negative impacts on the environment. A Negative Declaration is proposed for adoption.
SECTION 3 ZONING ORDINANCE AMENDMENT.

Title 17 of the Banning Municipal Code (Zoning Ordinance) is hereby amended as follows:

Add the following code section:

17.24.065 – Small Wind Turbine, design standards.
All small wind turbines, which have a rated capacity of not more than 50kW and are intended primarily to reduce on-site consumption of utility power, shall be installed in the following manner:

A. The location shall conform to all development standards of the zoning district in which it is proposed.

B. The parcel where the small wind turbine is located shall be at least one acre in size.

C. The small wind turbine or related structures shall not be located on any building, unless approved by the Planning Commission.

D. The small wind turbine shall be setback from the property lines and street at least equal to the height of the tower.

E. The maximum overall height for a ground mounted small wind turbine shall be eighty feet above grade for one acre to five acre parcels, and one-hundred feet above grade for parcels greater than five acres; or, as stipulated by the airport land use plan or Federal Aviation Administration requirement.

F. Access to the small wind turbine shall be restricted from the public right-of-way by a wall/fence; or, restricted by locating any climbing apparatus greater than 12 feet from the ground.

G. No sign or advertising shall be attached to the small wind turbine structure, except for signs that identify the manufacturer, installer, or owner, or public health and safety signs related to the small wind turbine installation or operation; and, any sign shall be approved by Planning Commission.

H. Decibel levels for small wind turbine installations in residential zones shall not exceed the outdoor one-hour average of 45 dBA as measured from the nearest property line; or, as provided for in the City's Noise Ordinance.
Add the following row to the “Miscellaneous” category of Table 17.44.010:

<table>
<thead>
<tr>
<th></th>
<th>Community Development Director</th>
<th>Planning Commission</th>
<th>City Council</th>
</tr>
</thead>
<tbody>
<tr>
<td>Miscellaneous:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Antennae</td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Small wind turbine</td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Fence and Walls</td>
<td></td>
<td>X</td>
<td></td>
</tr>
</tbody>
</table>

Add the following row to the “Other Uses” category of Table 17.20.020 “Permitted, Conditional and Prohibited Open Space Uses”:

<table>
<thead>
<tr>
<th>Other Uses</th>
<th>OS-R</th>
<th>OS-PA</th>
<th>OS-PU</th>
<th>OS-H</th>
</tr>
</thead>
<tbody>
<tr>
<td>Antennae and communications towers</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>Small wind turbine</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
</tr>
</tbody>
</table>

Add the following row to the “Other Uses” category of Table 17.16.020 “Permitted, Conditional and Prohibited Public Facilities Uses”:

<table>
<thead>
<tr>
<th>Other Uses</th>
<th>PF-A</th>
<th>PF-G</th>
<th>PF-F</th>
<th>PF-S</th>
<th>PF-H</th>
</tr>
</thead>
<tbody>
<tr>
<td>Antennae and communications towers</td>
<td>C</td>
<td>P</td>
<td>P</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>Small wind turbine</td>
<td>C</td>
<td>P</td>
<td>P</td>
<td>C</td>
<td>C</td>
</tr>
</tbody>
</table>

Add the following row to the “Accessory Uses” category of Table 17.08.020 “Permitted, Conditional and Prohibited Residential Uses”:

<table>
<thead>
<tr>
<th>Accessory Uses</th>
<th>R/A</th>
<th>R/A/H</th>
<th>RR</th>
<th>RR/H</th>
<th>VLD/R</th>
<th>LDR</th>
<th>MDR</th>
<th>HDR</th>
<th>MHP</th>
</tr>
</thead>
<tbody>
<tr>
<td>Telecommunications Antennae</td>
<td>C</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Small wind turbine</td>
<td>C</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
</tbody>
</table>

Modify the following row in Table 17.08.030 “Residential Development Standards”:

<table>
<thead>
<tr>
<th>Maximum Height (stories/feet) 9</th>
<th>R/A</th>
<th>R/A/H</th>
<th>RR</th>
<th>RR/H</th>
<th>VLD/R</th>
<th>LDR</th>
<th>MDR</th>
<th>HDR</th>
<th>MHP</th>
</tr>
</thead>
</table>

9 Not including control towers, communications towers, small wind turbines, bell towers, steeples and similar architectural treatments.
Add the following row to the “Other Uses” category of Table 17.12.020 “Permitted, Conditional and Prohibited Commercial and Industrial Uses”:

<table>
<thead>
<tr>
<th>Other Uses</th>
<th>DC</th>
<th>GC</th>
<th>HSC</th>
<th>PO</th>
<th>I</th>
<th>AI</th>
<th>BP</th>
<th>IMR</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commercial or telecommunications</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>antennae</td>
<td>X</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>Small wind turbine</td>
<td>X</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
</tr>
</tbody>
</table>

SECTION 4 SEVERABILITY.

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

SECTION 5 EFFECTIVE DATE.

This Ordinance shall take effect thirty (30) days after its 2nd reading in accordance with California law.
PASSED, APPROVED, AND ADOPTED this ___th day of __________, 2010.

Robert E. Botts, Mayor
City of Banning

APPROVED AS TO FORM AND LEGAL CONTENT:

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

ATTEST:

Marie A. Calderon, City Clerk
City of Banning
CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that Ordinance No. 1432 was duly introduced at a regular meeting of the City Council of the City of Banning, held on the ______ day of __________________, 2010, and was duly adopted at a regular meeting of said City Council on the ______ day of __________, 2011, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

______________________________
Marie A. Calderon, City Clerk
City of Banning
Banning, California
Attachment 2

(Copy of Government Code Section 65893-65899)
GOVERNMENT CODE
SECTION 65893-65899

65893. (a) The Legislature finds and declares all of the following:
   (1) Wind energy is an abundant, renewable, and nonpolluting energy resource.
   (2) Wind energy, when converted to electricity, reduces our dependence on nonrenewable energy resources, reduces air and water pollution that result from conventional sources burning fossil fuels, and reduces emissions of greenhouse gases.
   (3) Distributed generation small wind energy systems also enhance the reliability and quality of electricity delivered by the electrical grid, reduce peak power demands, increase in-state electricity generation, diversify the state’s energy supply portfolio, and make the electricity supply market more competitive by promoting consumer choice.
   (4) Small wind energy systems designed for onsite home, farm, and small commercial use are recognized by the Legislature and the State Energy Resources Conservation and Development Commission as an excellent technology to help achieve the goals of increased in-state electricity generation, reduced demand on the state electrical grid, increased consumer energy independence, and nonpolluting electricity generation.
   (5) It is the intent of the Legislature to encourage local agencies to support the state's ambitious renewable energy procurement requirements by developing and adopting ordinances that facilitate the installation of small wind energy systems and do not unreasonably restrict the ability of homeowners, farms, and small businesses to install small wind energy systems in zones in which they are authorized by local ordinance.
   (6) It is the intent of the Legislature to facilitate the implementation of consistent statewide standards to achieve the timely and cost-effective installation of small wind energy systems.

65894. For purposes of this article, the following terms shall have the following meanings:
   (1) "Energy Commission" means the State Energy Resources Conservation and Development Commission.
   (2) "Small wind energy system" means a wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics that has a rated capacity of not more than 50 kilowatts per customer site, consistent with the requirements of paragraph (3) of subdivision (b) of Section 25744 of the Public Resources Code, and that will be used primarily to reduce onsite consumption of utility power.
   (3) "System height" means the higher of either the height of the tower and the system measured to the top of the blade at the highest point of the system extended above the existing grade when being operated.
   (4) "Tower height" means the height above grade of the fixed portion of the tower, excluding the wind turbine.
   (5) "Urbanized area" means either of the following:
   (A) An urbanized area as defined in paragraph (2) of subdivision
(d) of Section 65944.
(B) A city as defined in Section 56023.

65895. (a) A county that has not adopted an ordinance providing for the installation of small wind energy systems located outside an urbanized area, but within the county's jurisdiction, by January 1, 2011, may adopt such an ordinance at a later date, but the ordinance shall be in accordance with Section 65896. Ordinances adopted prior to January 1, 2011, are exempt from this article.

(b) A county may establish a process for the issuance of conditional use permits for small wind energy systems located outside an urbanized area, subject to all of the following conditions:

(1) A county shall review an application for a small wind energy system pursuant to the timelines established in the Permit Streamlining Act (Chapter 4.5 (commencing with Section 65920)).

(2) Fees charged by a county to review an application for a small wind energy system shall be determined in accordance with Sections 66014 and 66016.

(3) An application for the installation of a small wind energy system submitted between January 1, 2011, and the date of the county's adoption of an ordinance that meets the requirements and conditions of subdivision (b) of Section 65896 shall be approved through a ministerial permit by the county meeting the requirements and conditions of subdivision (b) of Section 65896.

65896. (a) A county may adopt an ordinance that provides for the installation of small wind energy systems outside an urbanized area, but within the county's jurisdiction.

(b) The ordinance may impose conditions on the installation of small wind energy systems that include, but are not limited to, notice, tower height, setback, view protection, aesthetics, aviation, and design-safety requirements. However, the ordinance shall not require conditions on notice, tower height, setback, noise level, visual effects, turbine approval, tower drawings, and engineering analysis, or line drawings that are more restrictive than the following requirements and conditions:

(1) The parcel where the system is located shall be at least one acre in size and located outside an urbanized area.

(2) Tower heights of not more than 80 feet shall be allowed on parcels between one and five acres. Tower heights of not more than 100 feet shall be allowed on parcels above five acres. All tower heights shall not exceed the applicable limits established by the Federal Aviation Administration. An application shall include evidence that the proposed height of a tower does not exceed the height recommended by the manufacturer or distributor of the system.

(3) Minimum setbacks for the system tower shall be no farther from the property line than the system height, unless a greater setback is needed to comply with applicable fire setback requirements set forth in Section 4290 of the Public Resources Code.

(4) Decibel levels for the system shall not exceed the lesser of 60 decibels (dBA), or any existing maximum noise levels applied pursuant to the noise element of a general plan for the applicable zoning classification in a jurisdiction or applicable noise regulations, as measured at the nearest property line, except during short-term events, such as utility outages and severe windstorms.

(5) Notice of an application for installation of a small wind
energy system shall be provided to property owners within 300 feet of the property on which the system is to be located, except that the county may, if it deems it necessary due to circumstances specific to the proposed installation, require the applicant to provide notice by placing a display advertisement of at least one-eighth of a page in at least one newspaper of general circulation within the county in which the installation is proposed.

(6) The system shall not substantially obstruct views of adjacent property owners and shall be placed or constructed below any major ridgeline when visible from any scenic highway corridor designated pursuant to Article 2.5 (commencing with Section 260) of Chapter 2 of Division 1 of the Streets and Highways Code or any scenic highway corridor designated by a county in its general plan.

(7) The system shall use a wind turbine that has been approved by the Energy Commission as qualifying under its Emerging Renewables Program pursuant to Section 25744 of the Public Resources Code or has been certified by a national program recognized and approved by the commission.

(8) The application shall include standard drawings and an engineering analysis of the system's tower, showing compliance with the current version of the California Building Standards Code and certification by a professional mechanical, structural, or civil engineer licensed by this state. A wet stamp, however, shall not be required if the application demonstrates that the system is designed to meet the most stringent wind requirements (Uniform Building Code wind exposure D), the requirements for the worst seismic class (Seismic 4), and the weakest soil class, with a soil strength of not more than 1,000 pounds per square foot, or other relevant conditions normally required by a county.

(9) The system shall comply with all applicable Federal Aviation Administration requirements, including Subpart B (commencing with Section 77.11) of Part 77 of Title 14 of the Code of Federal Regulations regarding installations close to airports, and the State Aeronautics Act (Part 1 (commencing with Section 21001) of Division 9 of the Public Utilities Code). A system that complies with this subdivision shall be deemed to meet the applicable health and safety requirements regarding civil aviation.

(10) The application shall include a line drawing of the electrical components of the system in sufficient detail to allow for a determination that the manner of installation conforms to the National Electric Code.

(11) If required by the county, the applicant shall provide information demonstrating the system will be used primarily to reduce onsite consumption of electricity. The county may also require the application to include evidence, unless the applicant does not plan to connect the system to the electricity grid, that the electric utility service provider that serves the proposed site has been informed of the applicant's intent to install an interconnected customer-owned electricity generator.

(12) If a county receives an application to install a small wind energy system on a site that is within 1,000 feet of a military installation, within special use airspace, or beneath a low-level flight path as defined by Section 21098 of the Public Resources Code, then the county shall promptly comply with Section 65944. If the governing authority of any military installation, special use airspace, or low-level flight path provides written comments regarding that application, the county shall consider those comments before acting on the application.

(13) If a small wind energy system is proposed to be sited in an agricultural area that may have aircraft operating at low altitudes,
the county shall take reasonable steps, concurrent with other notices issued pursuant to this subdivision, to notify pest control aircraft pilots registered to operate in the county pursuant to Section 11921 of the Food and Agricultural Code.

(14) Tower structure lighting shall be prohibited unless otherwise required by another provision of law or pursuant to paragraph (13).

(15) No climbing apparatus attached to the system shall be located less than 12 feet above the ground, and the system shall be designed to prevent climbing within the first 12 feet.

(16) No sign shall be attached to the system if visible from a public road, except for signs that identify the manufacturer, installer, or owner of the system, or public health and safety signs applicable to the installed system, but the signs shall neither be larger than four square feet, unless approved by the county, nor located at the base of the system within 10 feet of the ground surface.

(17) A small wind energy system shall not be allowed where otherwise prohibited by any of the following:

(A) A local coastal program and any implementing regulations adopted pursuant to the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code).

(B) The California Coastal Commission, pursuant to the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code).

(C) The regional plan and any implementing regulations adopted by the Tahoe Regional Planning Agency pursuant to the Tahoe Regional Planning Compact (Title 7.4 (commencing with Section 66800)).

(D) The San Francisco Bay Plan and any implementing regulations adopted by the San Francisco Bay Conservation and Development Commission pursuant to the McAteer-Petris Act (Title 7.2 (commencing with Section 66600)).

(E) A comprehensive land use plan and any implementing regulations adopted by an airport land use commission pursuant to Article 3.5 (commencing with Section 21670) of Chapter 4 of Division 9 of Part 1 of the Public Utilities Code.

(F) The Alquist-Priolo Earthquake Fault Zoning Act (Chapter 7.5 (commencing with Section 2621) of Division 2 of the Public Resources Code).

(G) A local ordinance to protect the scenic appearance of the scenic highway corridor designated pursuant to Article 2.5 (commencing with Section 260) of Chapter 2 of Division 1 of the Streets and Highways Code or pursuant to scenic highways designated in the local general plan.

(H) The terms of a conservation easement entered into pursuant to Chapter 4 (commencing with Section 815) of Division 2 of Part 2 of the Civil Code.

(I) The terms of an open-space easement entered into pursuant to the Open-Space Easement Act of 1974 (Chapter 6.6 (commencing with Section 51070) of Division 1 of Title 5).

(J) The terms of an agricultural conservation easement entered into pursuant to the California Farmland Conservancy Program Act (Division 10.2 (commencing with Section 10200) of the Public Resources Code).

(K) The terms of a contract entered into pursuant to the Williamson Act (Chapter 7 (commencing with Section 51200) of Division 1 of Title 5).

(L) The listing of the proposed site in the National Register of Historic Places or the California Register of Historical Resources pursuant to Section 5024.1 of the Public Resources Code.

(c) A county may impose, as a condition of approval, a requirement
that a small wind energy system be removed if it remains inoperable for 12 consecutive months, and at that time the small wind energy system shall be subject to nuisance codes and code enforcement action.

(d) (1) Nothing in this article interferes with or prevents the exercise of authority by a county to carry out its programs, projects, or responsibilities.

(2) Nothing in this article affects requirements imposed under any other law.

65897. It is the policy of the state to promote and encourage the use of distributed renewable energy systems and to limit obstacles to their use, and it is the intent of the Legislature that local agencies encourage the installation of distributed renewable energy systems by removing obstacles to, and minimizing costs of, permitting distributed renewable energy systems.

65898. On or before January 1, 2016, the State Energy Resources Conservation and Development Commission shall submit to the Assembly Committee on Local Government, the Senate Committee on Local Government, and the Assembly Committee on Utilities and Commerce a report that contains all of the following:

(a) The number of ordinances adopted on or after January 1, 2011, by counties pursuant to Section 65895.

(b) The number of applications to install small wind energy systems received by those counties on or after January 1, 2011.

(c) The number of applications to install small wind energy systems approved by those counties on or after January 1, 2011.

(d) The tower heights, system heights, parcel sizes, and generating capacities of the small wind energy systems approved by those counties on or after January 1, 2011.

(e) Any recommendations to the Legislature by the State Energy Resources Conservation and Development Commission for the continuation, modification, or termination of this article.

65899. This article shall remain in effect only until January 1, 2017, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2017, deletes or extends that date.
Attachment 3

(Photographs City Yard Installation-176 E. Lincoln Street)
Attachment 4

(Initial Study/Negative Declaration)
CITY OF BANNING
Initial Study/Negative Declaration
for
Zone Text Amendment # ZTA 10-97506
Small Wind Turbines

October 11, 2010

City of Banning
Community Development Department
99 E. Ramsey Street
Banning, California 92220

Zai Abu Bakar
Community Development Director
(951) 922-3131
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<th>Page No.</th>
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<td>2. EVALUATION OF ENVIRONMENTAL IMPACTS</td>
<td>1</td>
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<tr>
<td>3. ENVIRONMENTAL DETERMINATION</td>
<td>3</td>
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<tr>
<td>4. PROJECT DESCRIPTION</td>
<td>4</td>
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<td>5. ENVIRONMENTAL ANALYSIS CHECKLIST</td>
<td>5</td>
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<td>6. EXPLANATION OF THE ITEMS MARKED ON THE ENVIRONMENTAL CHECKLIST FORM</td>
<td>14</td>
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<tr>
<td>7. INCORPORATION BY REFERENCE</td>
<td>17</td>
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<tr>
<td>8. LIST OF PREPARERS</td>
<td>13</td>
</tr>
</tbody>
</table>
EXECUTIVE SUMMARY

This Initial Study assesses the potential environmental impacts of Zone Text Amendment, ZTA# 10-97506, an amendment to the Banning "Zoning Ordinance" to establish the zoning districts in which small wind turbines may be installed conditionally and by right in the City. The purpose of the project is to allow the installation of small wind turbines of less than 50 kW only for the purpose of reducing consumption of on-site utility power.

The project adds Section 17.24.065 and modifies various portions of the Banning "Zoning Ordinance" to allow the installation of small wind turbines as a conditionally permitted use in the Open Space (OS), Public Facilities-Airport (PF-A), Public Facilities-Schools (PF-S), Public Facilities-Hospitals (PF-H), Ranch Agriculture (R/A), General Commercial (GC), Highway Serving Commercial (HSC), Professional Office (PO), Industrial (I), Airport Industrial (AI), Business Park (BP), and Industrial-Mineral Resources (IMR) zoning districts; and, the installation of small wind turbines permitted by right in Public Facilities-Government (PF-G), and Public Facilities-Fire (PF-F). Previously, the installation of small wind turbines was not permitted in the "Zoning Ordinance".

The results of the Initial Study show that there is no substantial evidence that the Project would have a significant effect on the environment. A Negative Declaration is being recommended for adoption.

1. INTRODUCTION

Purpose and Scope

This Initial Study serves as the environmental review of the proposed Project, as required by the California Environmental Quality Act (CEQA), Public Resources Code Section 21000 et seq., the State CEQA Guidelines, and the City of Banning Local Guidelines for Implementing CEQA.

In accordance with Section 15063 of the State CEQA Guidelines, the City is required to prepare an Initial Study to determine if the Project may have a significant effect on the environment. This initial Study is intended to be an informational document providing the Planning Commission, City Council, other public agencies, and the general public with an objective assessment of the potential environmental impacts that could result from the implementation of the Project.

Incorporation by Reference

This Initial Study is based in part on the information and analysis contained in other environmental and planning documents. These documents are hereby incorporated by reference in their entirety into this Initial Study, as authorized by Section 15150 of the State CEQA Guidelines. All of the documents incorporated by reference are listed in Section 8 of this Initial Study.

2. EVALUATION OF ENVIRONMENTAL IMPACTS

An Environmental Checklist Form (Form) has been used to evaluate the potential environmental impacts associated with the proposed Project. The Form has been prepared by the Resources Agency of California to assist local governmental agencies, such as the City of Banning, in complying with the requirements of the Statutes and Guidelines for implementing the California Environmental Quality Act.
The Form has been used by the City of Banning to review the effects of the proposed Project with respect to the following environmental factors. The environmental factors checked below would be potentially affected by this project, involving at least one impact that is “Potentially Significant Impact”. Based on the analysis contained in this Initial Study, the following environmental factors are affected by the proposed project.

☐ Aesthetics
☐ Agriculture Resources
☐ Air Quality
☐ Biological Resources
☐ Cultural Resources
☐ Geology/Soils
☐ Hydrology/Water Quality
☐ Hazards & Hazards Materials
☐ Land Use and Planning
☐ Mineral Resources
☐ Noise
☐ Population/Housing
☐ Public Services
☐ Recreation
☐ Transportation/Traffic
☐ Utilities/Service Systems

In the Form, a series of questions is asked about the Project for each of the above-listed environmental factors. A brief explanation is then provided for each question on the Form.

There are four possible responses to each question:

A. **Potentially Significant Impact.**

   This response is used when the Project has the potential to have an effect on the environment that is considered to be significant and adverse.

B. **Potentially Significant Unless Mitigation Incorporated.**

   This response is used when the Project has the potential to have a significant impact, which is not expected to occur because:

   a. Mitigation measures have been incorporated into the Project design in order to reduce the impact to a less than significant level; or,

   b. Adherence to existing policies, regulations, and/or design standards would reduce the impact of the Project to a less than significant level.

C. **Less Than Significant Impact.**

   This response is used when the potential environmental impact of the Project is determined to be below known or measurable thresholds of significance and thus would not require mitigation.

D. **No Impact.**

   This response is used when the proposed Project does not have any measurable impact.
3. ENVIRONMENTAL DETERMINATION

On the basis of this initial evaluation, I find that:

☑ The proposed Project could not have a significant effect on the environment, and a Negative Declaration will be prepared.

☐ Although the proposed Project could have a significant effect on the environment, there will not be a significant effect in this case because the mitigation measures, described in Exhibit C (attached), have been added to the Project. A Mitigated Negative Declaration will be prepared.

☐ The proposed Project may have a significant effect on the environment, and an Environmental Impact Report is required.

☐ The proposed Project may have a potentially significant impact unless mitigation is incorporated, but at least one of the impacts has been: 1) adequately analyzed in an earlier document pursuant to applicable legal standards and 2) addressed by mitigation measures based on the earlier analysis as described on the attached sheets. An Environmental Impact Report is required, but it is to analyze only those impacts that have not already been addressed.

☐ 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 Environmental Impact Report (EIR) or in a Negative Declaration pursuant to applicable legal 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.

Approved for distribution by:

Signature: Zai Abu Bakar, Community Development Director

Prepared by: Zai Abu Bakar, Community Development Director

Date: October 5, 2010

Public Review: October 15, 2010 through November 3, 2010
4. PROJECT DESCRIPTION

Project Title: Zone Text Amendment #ZTA 10-97506 - An amendment to the Banning "Zoning Ordinance" to adopt development standards and guidelines for small wind turbines in the City of Banning.

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

Project Description: Zone Text Amendment 10-97506 is an amendment to the Banning "Zoning Ordinance" to allow installation of small wind turbines as a conditionally permitted use in the Open Space (OS), Public Facilities-Airport (PF-A), Public Facilities-Schools (PF-S), Public Facilities-Hospitals (PF-H), Ranch Agriculture (R/A), General Commercial (GC), Highway Serving Commercial (HSC), Professional Office (PO), Industrial (I), Airport Industrial (AI), Business Park (BP), and Industrial-Mineral Resources (IMR) zoning districts; and, the installation of small wind turbines permitted by right in Public Facilities-Government (PF-G), and Public Facilities-Fire (PF-F).

Approvals Required:

In order to complete and approve the Project, the City of Banning would need to take the following actions:

- Approval of a Negative Declaration;
- Approval of Zone Text Amendment ZTA #10-97506 and adoption of an Ordinance;
- Issuance of Conditional Use Permits and issuance of Building and Safety permits.
### 5. ENVIRONMENTAL ANALYSIS CHECKLIST

<table>
<thead>
<tr>
<th>I. AESTHETICS: Would the Project:</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) Have a substantial adverse effect on a scenic vista?</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>
</tr>
<tr>
<td>c) Substantially degrade the existing visual character or quality of the site and its surroundings?</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>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>II. AGRICULTURAL RESOURCES: Would the Project:</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 of the California Resources Agency, to non-agricultural use?</td>
</tr>
<tr>
<td>b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?</td>
</tr>
<tr>
<td>c) Involve other changes in the existing environment that, due to their location or nature, could result in conversion of Farmland to non-agricultural use?</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>III. AIR QUALITY: Would the Project:</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) Conflict with or obstruct implementation of the applicable air quality plan?</td>
</tr>
<tr>
<td>b) Violate any air quality standard or contribute to an existing or projected air quality violation?</td>
</tr>
<tr>
<td>c) Result in a cumulatively considerable net increase of any criteria pollutant for which the region is in non-attainment under an applicable federal or state</td>
</tr>
<tr>
<td>Question</td>
</tr>
<tr>
<td>-------------------------------------------------------------------------</td>
</tr>
<tr>
<td>d) Expose sensitive receptors to substantial pollutant concentrations?</td>
</tr>
<tr>
<td>e) Create objectionable odors affecting a substantial number of people?</td>
</tr>
</tbody>
</table>

**IV. BIOLOGICAL RESOURCES: Would the Project:**

<table>
<thead>
<tr>
<th>Question</th>
<th>Potentially Significant Impact</th>
<th>Potentially Significant Unless Mitigation Incorporated</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 modification, on any species identified as candidate, sensitive or special status species in local or regional plans, policies or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife?</td>
<td>□</td>
<td>□</td>
<td>□</td>
<td>[x]</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 or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife?</td>
<td>□</td>
<td>□</td>
<td>□</td>
<td>[x]</td>
</tr>
<tr>
<td>c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (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>□</td>
<td>[x]</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>□</td>
<td>[x]</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>□</td>
<td>[x]</td>
</tr>
<tr>
<td>f) Conflict with the provisions of an adopted Habitat Conservation</td>
<td>□</td>
<td>□</td>
<td>□</td>
<td>[x]</td>
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<tr>
<td>Natural Conservancy Conservation Plan, or other approved local, regional, or state habitat conservation plan?</td>
<td>Potentially Significant Impact</td>
<td>Potentially Significant Unless Mitigation Incorporated</td>
<td>Less Than Significant Impact</td>
<td>No impact</td>
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V. CULTURAL RESOURCES: Would the Project:

a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?

b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?

c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?

d) Disturb any human remains including those interred outside of formal cemeteries?

VI. GEOLOGY AND SOILS: Would the Project:

a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:
   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? Refer to Division of Mines and Geology Special Publication 42.
   ii) Strong seismic ground shaking?
   iii) Seismic-related ground failure, including liquefaction?
   iv) Landslides?

b) Result in substantial soil erosion or the loss of topsoil?

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
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<tr>
<td>spreading, subsidence, liquefaction or collapse?</td>
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<tr>
<td>d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code, creating substantial risks to life or property?</td>
<td>![Checkmark]</td>
<td></td>
<td></td>
<td>![Checkmark]</td>
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<tr>
<td>e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems if sewers are not available?</td>
<td>![Checkmark]</td>
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**VII. HAZARDS AND HAZARDOUS MATERIALS. Would the Project:**

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<tbody>
<tr>
<td>a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?</td>
<td>![Checkmark]</td>
<td></td>
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<td>![Checkmark]</td>
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<tr>
<td>b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?</td>
<td>![Checkmark]</td>
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<td>![Checkmark]</td>
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<tr>
<td>c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?</td>
<td>![Checkmark]</td>
<td></td>
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<td>![Checkmark]</td>
</tr>
<tr>
<td>d) Be located on a site included on the list of hazardous materials sites compiled per Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?</td>
<td>![Checkmark]</td>
<td></td>
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<td>![Checkmark]</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 it result in a safety hazard for people residing or working in the project area?</td>
<td>![Checkmark]</td>
<td></td>
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</tr>
<tr>
<td>f) For a Project within the vicinity of a private airstrip, would the Project result in a safety hazard for people residing or working in the area?</td>
<td>![Checkmark]</td>
<td></td>
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<tr>
<td>g) Impair implementation of, or physically interfere with, an adopted emergency response plan</td>
<td>![Checkmark]</td>
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<tr>
<td>or emergency evacuation plan?</td>
<td>Potentially Significant Impact</td>
<td>Potentially Significant Unless Mitigation Incorporated</td>
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<tr>
<td>h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?</td>
<td>☐</td>
<td>☐</td>
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<tr>
<td>VIII. HYDROLOGY AND WATER QUALITY. Would the Project:</td>
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<td></td>
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<tr>
<td>a) Violate any water quality standards or waste discharge requirements?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
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</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 or planned land uses for which permits have been granted)?</td>
<td>☐</td>
<td>☐</td>
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<tr>
<td>c) Substantially alter the existing drainage pattern of the site or area, including alteration of the course of a stream or river, in a manner that would result in substantial erosion or siltation on- or off-site?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
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</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 such a way as to result in flooding either on-site or off-site?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
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<tr>
<td>e) Create or contribute runoff water exceeding the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
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<tr>
<td>f) Otherwise substantially degrade water quality?</td>
<td>☐</td>
<td>☐</td>
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<tr>
<td>g) Place housing within a 100-year</td>
<td>☐</td>
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<td>Impact</td>
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<tr>
<td>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>□</td>
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<tr>
<td>h) Place, within a 100-year flood hazard area, structures that would impede or redirect flood flows?</td>
<td>□</td>
<td>□</td>
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</tr>
<tr>
<td>i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?</td>
<td>□</td>
<td>□</td>
<td>□</td>
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<tr>
<td>j) Inundation by seiche, tsunami, or mudflow?</td>
<td>□</td>
<td>□</td>
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<tr>
<td>IX. LAND USE AND PLANNING: Would the Project:</td>
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</tr>
<tr>
<td>a) Physically divide an established community?</td>
<td>□</td>
<td>□</td>
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<td>□</td>
</tr>
<tr>
<td>b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the Project adopted for the purpose of avoiding or mitigating an environmental effect?</td>
<td>□</td>
<td>□</td>
<td>□</td>
<td>□</td>
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<tr>
<td>c) Conflict with any applicable habitat conservation plan or natural community conservation plan?</td>
<td>□</td>
<td>□</td>
<td>□</td>
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<tr>
<td>X. MINERAL RESOURCES: Would the Project:</td>
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<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>
<td>□</td>
<td>□</td>
<td>□</td>
<td>□</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>
<td>□</td>
<td>□</td>
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<tr>
<td>XI. NOISE: Would the Project:</td>
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<tr>
<td>a) Expose persons to a 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>
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<tr>
<td>b) Expose persons to a generation of excessive groundborne vibration or</td>
<td>□</td>
<td>□</td>
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<tr>
<td>Question</td>
<td>Potentially Significant Impact</td>
<td>Potentially Significant Unless Mitigation Incorporated</td>
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<tr>
<td>c) Create 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>
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<tr>
<td>d) Create 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>☐</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>
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<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>
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**XII. POPULATION AND HOUSING. Would the Project:**

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<tr>
<th>Question</th>
<th>Potentially Significant Impact</th>
<th>Potentially Significant Unless Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
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</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>☐</td>
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<tr>
<td>b) Displace a substantial number of existing housing, necessitating the construction of replacement housing elsewhere?</td>
<td>☐</td>
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</table>

**XIII. PUBLIC SERVICES:**

Would the Project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities or the 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:

<table>
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<tr>
<th>Question</th>
<th>Potentially Significant Impact</th>
<th>Potentially Significant Unless Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
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<tr>
<td>a) Fire protection?</td>
<td>☐</td>
<td>☐</td>
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<tr>
<td>XIV. RECREATION:</td>
<td>Potentially Significant Impact</td>
<td>Potentially Significant Unless Mitigation Incorporated</td>
<td>Less Than Significant Impact</td>
<td>No Impact</td>
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<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>
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<tr>
<td>b) Does the Project include recreational facilities or require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment?</td>
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<tr>
<th>XV. TRANSPORTATION/TRAFFIC: Would the Project:</th>
<th>Potentially Significant Impact</th>
<th>Potentially Significant Unless Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
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<tbody>
<tr>
<td>a) Cause an increase in traffic that 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>
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<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>
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<tr>
<td>c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?</td>
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<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>
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<tr>
<td>e) Result in inadequate emergency access?</td>
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<tr>
<td>f) Result in inadequate parking capacity?</td>
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<tr>
<td>g) Conflict with adopted policies, plans, or programs supporting</td>
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<tr>
<td>XVI UTILITIES AND SERVICE SYSTEMS. Would the Project:</td>
<td>Potentially Significant Impact</td>
<td>Potentially Significant Unless Mitigation Incorporated</td>
<td>Less Than Significant Impact</td>
<td>No Impact</td>
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<tr>
<td>a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?</td>
<td>☐</td>
<td>☐</td>
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<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>☐</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>☐</td>
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<tr>
<td>d) Have sufficient water supplies available to serve the Project from existing entitlements and resources, or new or expanded entitlements needed?</td>
<td>☐</td>
<td>☐</td>
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</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>
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<tr>
<td>f) Be served by a landfill with sufficient permitted capacity to accommodate the Project's solid waste disposal needs?</td>
<td>☐</td>
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<tr>
<td>g) Comply with federal, state and local statutes and regulations related to solid waste?</td>
<td>☐</td>
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<tr>
<td>XVII. MANDATORY FINDINGS OF SIGNIFICANCE</td>
<td>Potentially Significant Impact</td>
<td>Potentially Significant Unless Mitigation Incorporated</td>
<td>Less Than Significant Impact</td>
<td>No Impact</td>
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<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 an endangered threatened species, or eliminate important examples of the major periods of California history or prehistory?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
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</tr>
<tr>
<td>b) Does the Project have impacts that are individually limited, but cumulatively considerable? (Are the incremental effects of the Project considerable when viewed in connection with those of past Projects, those of other current Projects, and those of probable future Projects?)</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>c) Does the Project have environmental effects that will cause substantial adverse effects on human beings, either directly or indirectly?</td>
<td>☐</td>
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6. EXPLANATION OF THE ITEMS MARKED ON THE ENVIRONMENTAL CHECKLIST FORM

Checklist Item I Aesthetics.

a-d No Impact (Scenic Vista, Scenic Resources-State Scenic Highway, Visual Character, Light/Glare). The project is an amendment to the Banning "Zoning Ordinance" for a use that will have a less than significant impact on aesthetic resources, visual character or light/glare. Any use involving new construction or expansion of an existing use will be evaluated as a conditional use at the appropriate time when more information is known. Additionally, the City adopted zoning regulations for "Hillside" and "Open Space" areas that includes development standards to preserve natural hillsides and ridgelines in accordance with the General Plan goals and policies.

Checklist Item II Agricultural Resources.

a-c No Impact (Farmland Conversion, Zoning, Land Use) The project is an amendment to the Banning "Zoning Ordinance" for a use that will not have an impact on agricultural resources. Any use involving new construction or expansion of an existing building will be evaluated at the appropriate time when more information is known.
Checklist Item III  Air Quality.

a-e No Impact (Air Quality Plan, Air Quality Standards, Cumulative Considerable Net Increase/Criteria, Sensitive Receptors, Pollutant Concentrations, Odors, Global Climate Change). The project is an amendment to the Banning "Zoning Ordinance" for a use that will not have an impact on air quality. Any use involving new construction or expansion of an existing building will be evaluated at the appropriate time when more information is known.

Checklist Item IV  Biological Resources.

a-f No Impact (Listed Species, Riparian Habitat, Natural Communities, Wetlands, Wildlife Movement, Local Policies – Tree Preservation, Conservation Plans). The project is an amendment to the Banning "Zoning Ordinance" for a use that will not have an impact on biological resources. Any use involving new construction or expansion of an existing building will be evaluated at the appropriate time when more information is known.

Checklist Item V  Cultural Resources.

a-d No Impact (Historic Resource, Archeological Resources, Paleontological Resources, Disturbance of Human Remains). The project is an amendment to the Banning "Zoning Ordinance" for a use that will not have an impact on cultural resources. Any use involving new construction or expansion of an existing building will be evaluated at the appropriate time when more information is known.

Checklist Item VI  Geology and Soils.

a-e No Impact (Alquist-Priolo Zone, Seismic Ground Shaking, Seismic Ground Failure, Liquefaction, Landslide, Soil Erosion, Loss of Topsoil, Unstable Geologic Unit, Expansive Soil, Septic Tank Suitability) The project is an amendment to the Banning "Zoning Ordinance" for a use that will not have an impact on geology and soils. Any use involving new construction or expansion of an existing building will be evaluated at the appropriate time when more information is known.

Checklist Item VII  Hazards and Hazardous Materials.

a-h No Impact (Transport, Use, Disposal of Hazardous Materials, Upset and Accident Conditions Involving Hazardous Materials, Emit if Handle Hazardous Materials within 1/4 mile from a School, Identified Hazardous Site, Within Airport Plan Area, Safety Hazard from Private Airstrip, Impair Emergency Evacuation Plan, Wildland Fire Hazard). The project is an amendment to the Banning "Zoning Ordinance" for a use that will not have an impact on hazard and hazardous materials. Any use involving new construction or expansion of an existing building will be evaluated at the appropriate time when more information is known. As a conditional use any new or expansion of an existing use within the airport land use plan area would require review and approval of the Riverside County Airport Land Use Commission and Federal Aviation Administration review and approval and conditioned accordingly.

Checklist Item VIII  Hydrology and Water Quality.

a-j No Impact (Water Quality, Waste Discharge, Groundwater, Drainage Patterns Flooding, Storm Drains, Water Quality, Housing in 100-Year Flood Hazard Area, Flood Levee or Dam, Seiche, Tsunami, or Mudflow). The project is an amendment to the Banning "Zoning Ordinance" for a use that will not have an impact on hydrology and water quality. Any use involving new construction or expansion of an existing building will be evaluated at the appropriate time when more information is known.
Checklist Item IX Land Use and Planning.

a-c No Impact (Physical Division, Land Use Plans, Conservation Plans) The project is an amendment to the Banning "Zoning Ordinance" for a use that will not have an impact on land use and planning. Guidelines and regulations which provide standards for use is proposed in the Municipal Code as part of this Zone Text Amendment to ensure that there is no land use impacts. Any use involving new construction or expansion of an existing building will be evaluated at the appropriate time when more information is known.

Checklist Item X Mineral Resources.

a-b No Impact (Loss of Mineral Resources, Site Delineated as Mineral Resource Site) The project is an amendment to the Banning "Zoning Ordinance" for a use that will not have an impact on mineral resources. Any use involving new construction or expansion of an existing building will be evaluated at the appropriate time when more information is known.

Checklist Item XI Noise.

a-f No Impact (Exceed Noise Standard, Groundborne Vibration, Ambient Noise Levels, Temporary Noise Levels, Airport Noise, Private Airstrip) The project is an amendment to the Banning "Zoning Ordinance" for a use that will not have an impact on noise. Any use involving new construction or expansion of an existing building will be evaluated at the appropriate time when more information is known.

Checklist Item XII Population and Housing.

a-c No Impact (Population Growth, Displace Housing) The project is an amendment to the Banning "Zoning Ordinance" for a use that will not have an impact on population and housing. Any use involving new construction or expansion of an existing building will be evaluated at the appropriate time when more information is known.

Checklist Item XIII Public Services.

a-c No Impact (Fire Services, Police Services, Schools, Parks, Other Public Facilities) The project is an amendment to the Banning "Zoning Ordinance" for a use and will not create a direct demand for public services. Any use involving new construction or expansion of an existing building will be evaluated at the appropriate time when more information is known.

Checklist Item XIV Recreation

a-b No Impact (Existing Facilities, New or Altered Facilities) The project is an amendment to the Banning "Zoning Ordinance" for a use and will not create a direct demand for recreation services. Any use involving new construction or expansion of an existing building will be evaluated at the appropriate time when more information is known.

Checklist Item XV Transportation/Traffic.

a-g No Impact (Roadway Capacity and Level of Service, Congestion Management Program (CMP), Air Traffic Patterns, Roadway Design Hazards, Emergency Access, Parking, Alternative Transportation) The project is an amendment to the Banning "Zoning Ordinance" for a use and will not create an increase in traffic. Any use involving new construction or expansion of an existing building will be evaluated at the appropriate time when more information is known.
Checklist Item XVI. Utilities and Service Systems

a-g No Impact (RWQCB Wastewater Treatment, New Water and Wastewater Facilities, New Stormwater Drainage Facilities, Water Supplies, Wastewater, Landfill, Solid Waste) The project is an amendment to the Banning “Zoning Ordinance” for a use and will not create a demand for new utility service or the construction of new facilities. Any use involving new construction or expansion of an existing building will be evaluated at the appropriate time when more information is known.

Checklist Item XVII. Mandatory Findings of Significance

a. No Impact (Environment and Habitat) Based on the analysis contain in this Initial Study, the proposed project will not impact Aesthetics, Agriculture Resources, Air Quality, Biological Resources, Cultural Resources, Geology/Soils, Hydrology/Water Quality, Land Use and Planning, Mineral Resources, Noise, Population/Housing, Public Services, Recreation, Transportation/Traffic, and Utility/Services Systems. Thus the project would have no impact on the environment.

It will not degrade the quality of the environment and no habitat, wildlife populations, and plant and animal communities would be impacted. The purpose of the project is to provide zoning districts in which small wind turbines may operate by conditional use and by right. Any use involving construction or expansion of a building will be evaluated at the appropriate time when more information is known.

b. No Impact (Cumulatively Considerable) Based on the analysis contain in this Initial Study, the projects purpose is to allow the installation of small wind turbines that have a rated capacity of not more than 50kW and are intended primarily to reduce on-site consumption of utility power utilizing renewable energy resources (wind). The amendment addresses standards and guidelines for the installation of the same as conditional uses in specific zoning districts. The project does not create environmental impacts. Any use involving construction or expansion of a building will be evaluated at the appropriate time when more information is known.

c. No Impact (Human Beings) The implementation of the project amends the City’s “Zoning Ordinance” as identified in this Initial Study and compliance with mandatory City requirements, proposed standards and guidelines, would not result in significant impacts to human beings, either directly or indirectly. Any use involving construction or expansion of a building will be evaluated at the appropriate time when more information is known.

7. INCORPORATION BY REFERENCE

This Initial Study is based in part on the information and analysis contained in the documents listed below. These documents are hereby incorporated by reference in their entirety into this Initial Study. Copies of all documents incorporated herein are available for review in the Community Development Department at the Banning Civic Center, 99 E. Ramsey Street, Banning, and California, 92220.

A. City of Banning General Plan

This document provides a vision for the future development of the community. It is the official policy statement of the City Council intended to guide the private and public development of the City. The General Plan was adopted March 2006.

B. Environmental Impact Report (EIR) for the City of Banning General Plan and Zoning Ordinance

This document was prepared to review the environmental constraints and opportunities associated with the adoption of the Banning Comprehensive General Plan and Zoning Ordinance that was adopted March 2006. The EIR is designed to be used as an information database to facilitate the streamlining of, or tiering of the environmental review process for subsequent projects for the City.
C. City of Banning Municipal Code

The Municipal Code contains various regulations and development standards that govern use and development of properties within the City. The Zoning Ordinance was adopted in March 2006.

D. City of Banning Local Procedures for Complying with CEQA

These procedures identify how the City implements CEQA and the State CEQA Guidelines. These local procedures were put into effect in order to comply with Section 15022 of the State CEQA Guidelines.

8. LIST OF PREPARERS

Listed below are the persons who prepared or participated in the preparation of the Initial Study:

Project Manager:

Brian Guillot, Assistant Planner

Reviewed by:

Zai Abu Bakar, Community Development Director