CALL TO ORDER: Chairman Escandel

- Pledge of Allegiance: Commissioner Siva
- Roll Call: Chairman Escandel, Commissioner Arterberry; Commissioner Barsh; Commissioner Hawkins; Commissioner Siva

PUBLIC COMMENTS:

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

CONSENT CALENDAR ITEMS:

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

1. Approval of the November 3, 2010 Planning Commission Minutes
IV. PUBLIC HEARINGS

1. Initial Study/Negative Declaration and Zone Text Amendment No. 10-97505; Amendment to the Banning Municipal Code to adopt development standards and guidelines for Tattoo and Body Piercing Parlors, Hookah and Smoking Lounges, Fortune Telling and Occult Arts, Mobile Vending and Code Cleanup.

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 JANUARY 5, 2011

1. Freeway Oriented Signs
2. East Ramsey Street Monumentation & Beautification Presentation

VIII. ADJOURNMENT

The City of Banning Planning Commission is hereby adjourned to the regular Planning Commission meeting of January 5, 2011 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]
A regular meeting of the City of Banning Planning Commission was held on Wednesday, November 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 Barsh
Commissioner Hawkins

Commissioners Excused: Commissioner Siva

Staff Present: Community Development Director Abu Bakar
Assistant City Attorney Laymon
Assistant Planner Guillot
Recording Secretary Sorenson

I. CALL TO ORDER

II. PUBLIC COMMENT

No one came forward.

III. CONSENT CALENDAR

1. Review of Minutes (June 15, 2010 & August 3, 2010)

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

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

Assistant Planner Guillot presented the staff report and stated that 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 zone. The purpose of this approval is that a single-family residence in the Airport Industrial zone is considered legal non-conforming. That is the residence was built at a time when residences were allowed to be constructed in that area. Since that time, in about 1981, the zoning changed to Commercial Industrial and then to Airport Industrial. Our Zoning Ordinance allows the expansion of these types of non-conforming uses to a limited degree. The applicant is just seeking to place a garage to accompany the two single-family dwellings that are existing on this site. This residence is located very close to the Airport, so there is a condition of approval regarding an avigation easement. Staff recommended approval of this conditional use permit based on the findings as found in the staff report. The project as proposed is consistent with the requirements of the Zoning Code, while not significantly affecting the environment.

The Commissioners discussed the matter briefly and the applicant was not in attendance at the meeting.

ACTION (BARSH / ARTERBERRY): A motion was moved, seconded and carried that the Planning Commission:

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 and incorporates Findings one through seven, on pages 15 through 17 of the staff report.

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

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

Planning Commission Meeting
November 3, 2010
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).

Assistant Planner Guillot presented the staff report and stated that wind turbines are a renewable energy resource and the Pass area has a long history of wind turbines being installed. However, the subject wind turbines for this zone text amendment are the smaller variety, those intended to be used by farms, homes, and businesses, to off-set their energy costs, not to actually generate power. Presently, our Zoning Ordinance does not permit the installation of small wind turbines. This ordinance would allow the installation of those not larger than 50KW and they are primarily for on-site consumption of electricity. The information in our proposed ordinance is modeled after the State of California’s recommended regulations. Wind turbines can be installed in the above mentioned zones (which are the same as communications antennas) and parcels will have to be at least one acre where these are installed. They also will not be allowed to be located off of a structure, unless the Planning Commission approves that. The maximum overall height is 80’ for the one-acre and for the five-acre parcels it is 100’. There would be further restrictions on height if the property is in an airport zone. Access to the turbines would be limited either by a fence around it or limitations on ladders or structures that provide access. Also no sign or advertising would be allowed on the turbine structure. The final regulation would be on noise and that refers to the existing City of Banning noise regulations. Staff recommended approval of the zone text amendment to allow these wind turbines in the specified zones, based on the findings as described in the staff report.

Commissioner Arterberry inquired about zones as it relates to homes and having these turbines at residences. Mr. Guillot explained that the only residential zone available for these turbines is RA, because the minimum lot size is one acre in that zone.

Commissioner Arterberry then asked if there would be any design criteria. Mr. Guillot stated there are some restrictions as the turbine would have to meet the regulations of the zone in which it was placed.

Chairman Escandel mentioned that there are several homes / properties along Lincoln Street and in other areas of the City that are one – three acre lots, but they are not in the RA zone. They are in VLDR, which has a minimum lot size of 20,000 square feet. He feels that these lots should be allowed to have a wind turbine as they meet all the other criteria. Chairman Escandel inquired why solar panels were not included and Mr. Guillot responded that solar is already allowed by our Code. Chairman Escandel said he still wants these large lots to be considered as they probably were R-A designated properties before the new Zoning Code was adopted. Mr. Guillot responded that we tried to remain consistent with our Zoning Code, in that cell towers are permitted in the same zones as these small wind turbines. One factor to consider is that if you have an
installation in an area that could be further subdivided, then you would not be in compliance with the Code. Allowing the installation of a wind turbine on a VLDR lot of five acres, then the owner sells the property and the new owner may decide he would like to put in a subdivision and it would be difficult to address that. We would have to take action on the CUP.

Chairman Escandel inquired how many turbines would be allowed in a business park. He wondered if it would be one per park or one per unit in the park. Mr. Guillot responded that the way the Code is presented is that it is one turbine per one acre parcel. He reminded the Commission that the purpose of the wind turbine is to supplement their energy cost. So someone could not start an energy farm and try to sell the power, that is outside the scope of these regulations. Chairman Escandel stated his concern was if there was a five acre business park with fifteen units, that would entitle them to five turbines, so how would it be decided who got a turbine and who did not. Assistant City Attorney Laymon responded that this is a general zone text amendment. The situation of an individual parcel with fifteen units would come back to the Commission for further review and at that point in time you would deal with those specific issues.

Jim Poyle, 1112 Charles Street, Banning CA, came forward to state that he lives in the Fair Oaks development which is not too far from the City Yards and the new wind turbine (Energy Ball). Mr. Poyle said he felt the Planning Commission should consider allowing these turbines on VLDR properties as there would be more than enough room. He felt that solar was too expensive and we were cutting out the “little guys” by only allowing the energy systems for businesses.

Don Smith, 1681 W. Westward Avenue, Banning CA, came forward to state that he was curious about the zones that were considered and the theory behind why those zones were chosen. He looked at the zoning map and it was his belief that the RA zones are outside the City limits. He also had some issues about the height of the towers and wanted to know why we would assume that it was a right for the City to put up a tower, but the hospital or a business person would have to pay $5,000 just ask if they could install one, if our goal was to actually encourage these towers to go up. He felt we should to some degree encourage alternative energy and we should proceed with this zone text amendment. But we should give careful thought as to where the towers should be allowed, what the design criteria is supposed to be, whether or not even the City should be able to install one without at least having a hearing for the neighbors to comment on it before it goes up. He is in favor of the theory of using alternative energy, but feels this zone text amendment should be refined a bit more. He also brought up the point that there are homes in the commercial zones and he felt that the “view-shed” for those homes should be considered if a business next door wants to install a tower. Feels this ZTA should be fair to everyone, so that everyone could have the opportunity help to solve the nation’s energy crisis, but at the same time it does not unnecessarily interfere with your neighbor’s enjoyment of our views.
Rudy Green, 51561 Ida Avenue, Cabazon CA, came forward to state that he is a contractor who has installed turbines and windmills and solar panels. He said he questions the wisdom of restricting these power balls or wind turbines to just one acre or five acre parcels because it leaves out about 90% of the population of this town or any other town. He said he understands the aesthetic issues, but at the same time, we are constantly reminded about how much trash we create, that we must save energy, that we must do something and yet we have more restrictions that anything else. Feels we should not lose our primary focus on energy conservation, that eventually smaller units will be produced that will be more aesthetically pleasing.

Chairman Escandel stated that it seemed like everyone who had spoken, including himself, would like to re-address some of the issues with this ZTA. He said that there are other technologies out there and feels the ZTA should be more general as to other technologies and address all types of wind generators, etc. Also felt maybe we should treat each application individually, we might have a better resolution.

Mr. Guillot stated that just for background, the regulations before the Commission are based on the State’s model ordinance and this is our first pass with this issue. If the Commission would like, we can certainly continue this item and come back with revisions.

Commissioner Barsh said he would appreciate it if we could do some research on other technologies. Mr. Guillot stated that in his research, one of the factors that seems to be prevalent in all the designs of these types of installations is height. Because the efficiency of the turbine is affected by the speed of the wind and surface winds are faster as you go higher…………so the higher turbines are more efficient. The purpose of the Planning Commission’s regulations is to provide consistent regulations throughout the City and beginning with that model ordinance that the State proposed.

Commissioner Hawkins asked if we were limited to the State model. Mr. Guillot responded that we are not. Commissioner Hawkins said then he would have to agree with Chairman Escandel and would like to pursue the idea of individually evaluating each proposal that comes in.

Community Development Director Abu Bakar said that she has heard the issues raised this evening and we will look at all these items and do our research and come back at a future date uncertain.

**ACTION (BARSHE / ARTERBERRY):** A motion was moved, seconded and carried that the Planning Commission continue this item to a date uncertain.

(Motion carried 4 – 0) (Commissioner Siva was excused)
V. TENTATIVE PROJECTS SCHEDULED FOR DECEMBER 1, 2010

No discussion on these items.

VI. PLANNING COMMISSIONER COMMENTS

No comments at this time.

COMMUNITY DEVELOPMENT DIRECTOR’S REPORT

Community Development Director Abu Bakar reported that the City Council adopted the massage ordinance that the Commission had recommended and at the October 25, 2010 meeting they also adopted a $50 fee for the business license for massage establishment owners which is consistent with the fee for hair salons and barber shops.

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 December 1, 2010 at 6:30 p.m.

Respectfully submitted,

[Signature]
Gini Sorenson
Recording Secretary
DATE: December 1, 2010

TO: Chairman and Members of the Planning Commission

FROM: Community Development Department, Planning Division

SUBJECT: ZONE TEXT AMENDMENT NO. 10-97505:
STANDARDS AND GUIDELINES FOR TATTOO AND BODY PIERCING
PARLORS, HOOKAH AND SMOKING LOUNGES, FORTUNE TELLING
AND OCCULT ARTS, MOBILE VENDING AND CODE CLEAN-UP

STAFF RECOMMENDATION

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

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


APPLICANT INFORMATION

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

BACKGROUND/ANALYSIS

On May 25, 2010, the City Council adopted Interim Urgency Ordinance No. 1423 prohibiting the subject land uses on a temporary basis until regulations could be prepared by staff for consideration by Planning Commission and City Council.
The concerns related to the subject land uses are listed as follows:

The practice of tattoo and body piercing presents certain public health and safety risks, in particular the potential spread of blood born disease such as hepatitis. Additionally, the image of tattoo parlors may not be compatible with other uses designed to encourage a family-oriented environment.

The establishment of hookah and smoking lounges produces secondary smoke which can negatively affect workers, passers-by and neighbors, particularly minors, the elderly, sick and disabled. Moreover, smoking lounges may serve as a marketing vehicle for tobacco, which can also have detrimental effects on minors by encouraging them to smoke.

Consistent with the City's image as primarily a single-family community, fortune telling and other occult arts may not be compatible with single-family residential neighborhoods and those commercial zones that allow single-family dwellings such as the Downtown Commercial zone.

The unrestricted sale and distribution of food, beverages, merchandise or services from mobile vendors or pedestrians within or upon public streets, sidewalks and rights-of-way, public property or in the vicinity of school buildings, under certain circumstances, constitutes a danger to public safety because of the risk of injury to pedestrians that are exposed to hazards from other vehicular traffic in the vicinity. Also, the unauthorized use of public property for private commercial activity constitutes a misuse of public property and tax money and that similar activity on private property when not in conformity with health, safety, zoning and land use regulations is contrary to the public welfare.

With consideration given to the comments listed above, staff has prepared and proposes the following amendments to the "Zoning Ordinance" to specifically address those concerns.

Therefore, Title 17 of the Banning Municipal Code (Zoning Ordinance) is proposed to be amended as follows:
Add the following code section:

17.12.020 Permitted, conditional and prohibited uses.

Table 17.12.020
Permitted, Conditional and Prohibited Commercial and Industrial Uses

<table>
<thead>
<tr>
<th>Services</th>
<th>DC</th>
<th>GC</th>
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<th>IMR</th>
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<td>C</td>
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<td>X</td>
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<tr>
<td>Hookah and Smoking Lounges</td>
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<td>X</td>
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<tr>
<td>Fortune Telling and Occult Arts</td>
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<td>X</td>
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<td>Mobile Vending</td>
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</table>

Add the following code section:

17.12.050 Use Specific Standards

Table 17.12.050
Use Specific Development Standards

<table>
<thead>
<tr>
<th>Q. Tattoo and Body Piercing Parlors</th>
<th>DC</th>
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<td>Q. Tattoo and Body Piercing Parlors</td>
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</table>

Q. Tattoo and Body Piercing Parlors.

As indicated in Table 17.12.020, a Conditional Use Permit is required for tattoo and body piercing businesses. The following standards shall apply:

1. The business shall not be located within 1,000 feet of any other tattoo and/or body piercing parlor as measured from any point from the outer boundaries of the property containing the business.

2. The business shall not be located within 500 feet of any adult-oriented business as measured from any point from the outer boundaries of the property containing the business.

3. The business shall not be located within 500 feet of any business selling alcoholic beverages, as measured from any point from the outer boundaries of the property containing the business.
4. The business shall not be located within 100 feet of any residential use as measured from any point between the outer boundaries of the property containing the business and the nearest property line of a residentially occupied property.

5. The business shall not be located within 600 feet of a school, park or day care center/family day care home as measured from any point between the outer boundaries of the property containing the business to the nearest property line of the school, park or day care center/family day care home.

6. The business shall maintain in a sanitary condition at all times both the facilities and employees of the business. All walls, ceilings, floors, furnishings, and instruments used for tattoo and piercing shall be kept in good repair, and maintained in a clean and sanitary condition. Employees shall be required to wash their hands prior to any contact with customers.

7. Officers of the Police Department, Code Enforcement Division, and the Fire Department shall have the right to enter any tattoo and body piercing businesses during regular business hours to make reasonable inspection to ascertain whether the provisions of this chapter are being complied with, provided reasonable and normal business operations shall not be interfered with by said inspection.

8. The hours of operation shall be no earlier than 7:00 a.m. and no later than 10:00 p.m.

Table 17.12.050
Use Specific Development Standards

<table>
<thead>
<tr>
<th></th>
<th>DC</th>
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<th>IMR</th>
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<tbody>
<tr>
<td>R. Hookah and Smoking Lounge</td>
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</table>

R. Hookah and Smoking Lounge.

As indicated in Table 17.12.020, a Conditional Use Permit is required for hookah and smoking lounge businesses. The following standards shall apply:

1. The business shall not be located within 1,000 feet of any other hookah and smoking lounge as measured from any point from the outer boundaries of the property containing the business.

2. The business shall not be located within 500 feet of any adult-oriented business as measured from any point from the outer boundaries of the property containing the business.

3. The business shall not be located within 100 feet of any residential use as measured from any point between the outer boundaries of the property containing the business and the nearest property line of a residentially occupied property.
4. The business shall not be located within 600 feet of a school, park or day care center/family day care home as measured from any point between the outer boundaries of the property containing the business to the nearest property line of the school, park or day care center/family day care home.

5. An outdoor patio shall be required together with any proposed or existing hookah or smoking lounge use.

6. The hours of operation shall be no earlier than 7:00 a.m. and no later than 11:00 p.m.

Table 17.12.050
Use Specific Development Standards

<table>
<thead>
<tr>
<th>S. Fortune Telling and Occult Arts.</th>
<th>DC</th>
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<th>PO</th>
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<th>AI</th>
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<th>IMR</th>
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</table>

S. Fortune Telling and Occult Arts.

As indicated in Table 17.12.020, a Conditional Use Permit is required for fortune telling and occult arts businesses. The following standards shall apply:

1. The business shall not be located within 1,000 feet of any other fortune telling and occult arts businesses as measured from any point from the outer boundaries of the property containing the business.

2. The business shall not be located within 500 feet of any adult-oriented business as measured from any point from the outer boundaries of the building lease space containing the business.

3. The business shall not be located within 100 feet of any residential use as measured from any point between the outer boundaries of the property containing the business and the nearest property line of a residentially occupied property.

4. The business shall not be located within 600 feet of a school, park or day care center/family day care home as measured from any point between the outer boundaries of the property containing the business to the nearest property line of the school, park or day care center/family day care home.

5. The hours of operation shall be no earlier than 7:00 a.m. and no later than 10:00 p.m.
Add the following code section:

17.108.020

K. Mobile Vending of food, beverages, merchandise or services from a vehicle as defined by the California Vehicle Code including any non-self-propelled or nonmotorized vehicle or similar vending device and a cart propelled by human power.

17.108.080 Mobile Vending

The unrestricted sale and distribution of food, beverages, merchandise or services from mobile vendors within or upon public streets, sidewalks and rights-of-way, public property or in the vicinity of school buildings, under certain circumstances constitutes a detriment to the public health, safety, and welfare because of the increased risk of injury to pedestrians and damage to personal property in the vicinity. Therefore, the following prohibitions shall apply:

A. No food, beverages, merchandise or services shall be sold or distributed or offered for sale or distribution from a mobile vendor on a street or highway, on public property or upon a sidewalk without a permit from the city manager or a designee authorizing such sale or distribution.

B. No food, beverages, merchandise or services shall be sold or distributed or offered for sale or distribution from a mobile vendor upon public property without the authorization of the public entity.

C. No food, beverage, merchandise or services shall be sold or distributed or offered for sale or distribution from a mobile vendor on private property without the express written consent of the owner or lessee of the property and except in conformity with health, safety and zoning regulations contained herein.

D. No food, beverage, merchandise or services shall be sold or distributed or offered for sale or distribution from a mobile vendor within five hundred (500) feet from any public school property, measured in a straight line to the nearest point of the school property between 7:00 a.m. and 4:00 p.m. on regular school days; except in commercial zones, on private property, with the express written consent of the owner or lessee of the property and in conformity with health, safety and zoning regulations contained herein.

E. No food, beverage, merchandise or services shall be sold or distributed or offered for sale or distribution from a mobile vendor that is not on an improved surface and that is creating an obstruction to vehicles, pedestrians or parking.

Code Clean-up

1. Repeal the requirement of Note 3 "Must include a minimum of fifty percent new product
sales” from Table 17.12.020 Permitted, Conditional and Prohibited Commercial and Industrial Uses (Note 3 is attached to Auto, mobile home and motor vehicle sales, and parts sales, new and used).

2. Amend **Single-family dwellings, existing** in Table 17.12.020 Permitted, Conditional and Prohibited Commercial and Industrial Uses to a permitted use as follows:

<table>
<thead>
<tr>
<th>Residential Uses</th>
<th>DC</th>
<th>GC</th>
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3. Amend **Second Dwelling Unit** in Table 17.08.020 Permitted, Conditional and Prohibited Residential Uses to permitted uses for MDR and HDR zones as follows:

<table>
<thead>
<tr>
<th>Residential Uses</th>
<th>R/A</th>
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<th>RR/H</th>
<th>VLD</th>
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</table>

4. Title 6 of the Banning Municipal Code (Animals) is hereby proposed to be amended as follows:

*Amend Limit of Animals is Section 6.08.100 as follows:*

No person shall keep, house, confine or maintain more than the number specified in the “Zoning Ordinance” of adult dogs or cats in any combination in any place in the city except in licensed commercial establishments.

**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 December 1, 2010, and documents incorporated therein by reference, and any other evidence (within the meaning of Public Resources Code § 21080(e) and § 21082.2) within the record or provided at the public hearing of this matter, hereby finds and determines as follows:

1. California Environmental Quality Act (CEQA):

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. A copy of the Initial Study/Negative Declaration is included with this report as Attachment 2.

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.

**REQUIRED FINDINGS FOR ZONE TEXT AMENDMENT NO. 10-97505:**

The “Zoning Ordinance” requires that each Zone Text Amendment meet certain findings in Section 17.116.050 in order to be approved by the Planning Commission. The following findings are provided for Commission consideration:

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

   **Findings of Fact:**

   The Zone Text Amendment is consistent with the goals and policies of the General Plan, insofar as the General Plan designations and Zoning designations will not change, and the text amendments will result in clarifying the goals, policies and programs of the General Plan. The primary General Plan Land Use Goal states “A balanced, well-planned community including businesses which provides a functional pattern of land uses and enhances the quality of life for all Banning residents”. The amendment to the Municipal Code to provide development standards and guidelines for tattoo and body piercing parlors, hookah and smoking lounges, fortune telling and occult arts, and mobile vending land uses will ensure a functional pattern of land uses by imposing limits on the location of the subject uses in relation to other uses; and, ensure that the quality of life, health, safety, and welfare of the community is not compromised by designating specified zones and regulations for the subject uses.

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

   **Findings of Fact:**

   The Zone Text Amendment is internally consistent with the existing provisions of the “Zoning Ordinance”. City staff has checked all sections of the “Zoning Ordinance” to ensure that there are no references to tattoo and body piercing parlors, hookah and smoking lounges, fortune telling and occult arts, and mobile vending land uses and confirmed that with the amendment the “Zoning Ordinance” is internally consistent.
3. The City Council has independently reviewed and considered the requirements of the California Environmental Quality Act.

Findings of Fact:
CEQA: The Planning Commission has analyzed this proposed project and has determined that it is not exempt from the California Environmental Quality Act ("CEQA") under 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 hereby recommended for adoption by the City Council.

PUBLIC COMMUNICATION

The proposed Zone Text Amendment was advertised in the Press Enterprise newspaper on November 12, 2010. As of the date of this report, staff has not received any verbal or written comments for or against the proposal.
Prepared by:

[Signature]
Brian Guiffot
Assistant Planner

Approved by:

[Signature]
Zai Abu Bakar
Community Development Director

PC Attachments:

1. PC Resolution No. 2010-13 (including a copy of Draft Ordinance No. 1434)
2. Initial Study/Negative Declaration
Attachment 1

(PC Resolution No. 2010-13)
RESOLUTION NO. 2010-13

A RESOLUTION OF THE PLANNING COMMISSION OF
THE CITY OF BANNING, CALIFORNIA
RECOMMENDING TO THE CITY COUNCIL THE
APPROVAL OF ZONE TEXT AMENDMENT NO. 10-97505,
TO ADOPT DEVELOPMENT STANDARDS AND
GUIDELINES FOR TATTOO AND BODY PIERCING
PARLORS, HOOKAH AND SMOKING LOUNGES,
FORTUNE TELLING AND OCCULT ARTS, MOBILE
VENDING, AND CODE CLEAN-UP

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 the subject land uses in accordance with the proposed development standards and guidelines; and

WHEREAS, on the 12th day of November, 2010, the City gave public notice as required under “Zoning Ordinance” Chapter 17.68 by advertising in the Press Enterprise newspaper of the holding of a public hearing at which the amendment to the “Zoning Ordinance” would be considered; and

WHEREAS, on the 1st day of December, 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 1st day of December, 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 December 1, 2010, and documents incorporated therein by reference, and any other evidence (within the meaning of Public Resources Code § 21080(e) and § 21082.2) within the record or provided at the public hearing of this matter, hereby finds and determines as follows:

1. California Environmental Quality Act (CEQA):

   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.

SECTION 2: REQUIRED FINDINGS.

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

   Findings of Fact:

   The Zone Text Amendment is consistent with the goals and policies of the General Plan, insofar as the General Plan designations and Zoning designations will not change, and the text amendments will result in clarifying the goals, policies and programs of the General Plan. The primary General Plan Land Use Goal states "A balanced, well-planned community including businesses which provides a functional pattern of land uses and enhances the quality of life for all Banning residents". The amendment to the Municipal Code to provide development standards and guidelines for tattoo and body piercing parlors, hookah and smoking lounges, fortune telling and occult arts, and mobile vending land uses will ensure a functional pattern of land uses by imposing limits on the location of the subject uses in relation to other uses; and, ensure that the quality of life, health, safety, and welfare of the community is not compromised by designating specified zones and regulations for the subject uses.
2. The proposed Amendment is internally consistent with the Zoning Ordinance.

Findings of Fact:

The Zone Text Amendment is internally consistent with the existing provisions of the "Zoning Ordinance". City staff has checked all sections of the "Zoning Ordinance" to ensure that there are no references to tattoo and body piercing parlors, hookah and smoking lounges, fortune telling and occult arts, and mobile vending land uses and confirmed that with the amendment the "Zoning Ordinance" is internally consistent.

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

Findings of Fact:

CEQA: The Planning Commission has analyzed this proposed project and has determined that it is not exempt from the California Environmental Quality Act ("CEQA") under 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 hereby recommended for adoption by City Council.

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. 2010-13 recommending approval of Ordinance No. 1434 (as shown in Exhibit "A") to City Council amending the "Zoning Ordinance" for tattoo and body piercing parlors, hookah and smoking lounges, fortune telling and occult arts, and mobile vending land uses, and code clean-up as follows:
Title 17 of the Banning Municipal Code (Zoning Ordinance) is hereby amended as follows:

*Add the following code section:*

17.12.020 Permitted, conditional and prohibited uses.

**Table 17.12.020**

Permitted, Conditional and Prohibited Commercial and Industrial Uses

<table>
<thead>
<tr>
<th>Services</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>Tattoo and Body Piercing Parlors</td>
<td>X</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td></td>
<td>C</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Hookah and Smoking Lounges</td>
<td>X</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td></td>
<td>C</td>
<td>C</td>
<td>X</td>
</tr>
<tr>
<td>Fortune Telling and Occult Arts</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>C</td>
<td></td>
<td>C</td>
<td>C</td>
<td>X</td>
</tr>
<tr>
<td>Mobile Vending</td>
<td>T</td>
<td>T</td>
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<td>T</td>
<td>T</td>
<td>T</td>
<td>T</td>
<td>T</td>
</tr>
</tbody>
</table>

*Add the following code section:*

17.12.050 Use Specific Standards

**Table 17.12.050**

Use Specific Development Standards

<table>
<thead>
<tr>
<th>Q. Tattoo and Body Piercing Parlors</th>
<th>DC</th>
<th>GC</th>
<th>HSC</th>
<th>PO</th>
<th>I</th>
<th>AI</th>
<th>BP</th>
<th>IMR</th>
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</tr>
</tbody>
</table>

**Q. Tattoo and Body Piercing Parlors.**

As indicated in Table 17.12.020, a Conditional Use Permit is required for tattoo and body piercing businesses. The following standards shall apply:

1. The business shall not be located within 1,000 feet of any other tattoo and/or body piercing parlor as measured from any point from the outer boundaries of the property containing the business.

2. The business shall not be located within 500 feet of any adult-oriented business as measured from any point from the outer boundaries of the property containing the business.

3. The business shall not be located within 500 feet of any business selling alcoholic beverages, as measured from any point from the outer boundaries of the property.
containing the business.

4. The business shall not be located within 100 feet of any residential use as measured from any point between the outer boundaries of the property containing the business and the nearest property line of a residentially occupied property.

5. The business shall not be located within 600 feet of a school, park or day care center/family day care home as measured from any point between the outer boundaries of the property containing the business to the nearest property line of the school, park or day care center/family day care home.

6. The business shall maintain in a sanitary condition at all times both the facilities and employees of the business. All walls, ceilings, floors, furnishings, and instruments used for tattoo and piercing shall be kept in good repair, and maintained in a clean and sanitary condition. Employees shall be required to wash their hands prior to any contact with customers.

7. Officers of the Police Department, Code Enforcement Division, and the Fire Department shall have the right to enter any tattoo and body piercing businesses during regular business hours to make reasonable inspection to ascertain whether the provisions of this chapter are being complied with, provided reasonable and normal business operations shall not be interfered with by said inspection.

8. The hours of operation shall be no earlier than 7:00 a.m. and no later than 10:00 p.m.

**Table 17.12.050**

*Use Specific Development Standards*

<table>
<thead>
<tr>
<th>R. Hookah and Smoking Lounge</th>
<th>DC</th>
<th>GC</th>
<th>HSC</th>
<th>PO</th>
<th>I</th>
<th>AI</th>
<th>BP</th>
<th>IMR</th>
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</table>

**R. Hookah and Smoking Lounge.**

As indicated in Table 17.12.020, a Conditional Use Permit is required for hookah and smoking lounge businesses. The following standards shall apply:

1. The business shall not be located within 1,000 feet of any other hookah and smoking lounge as measured from any point from the outer boundaries of the property containing the business.

2. The business shall not be located within 500 feet of any adult-oriented business as measured from any point from the outer boundaries of the property containing the business.
3. The business shall not be located within 100 feet of any residential use as measured from any point between the outer boundaries of the property containing the business and the nearest property line of a residentially occupied property.

4. The business shall not be located within 600 feet of a school, park or day care center/family day care home as measured from any point between the outer boundaries of the property containing the business to the nearest property line of the school, park or day care center/family day care home.

5. An outdoor patio shall be required together with any proposed or existing hookah or smoking lounge use.

6. The hours of operation shall be no earlier than 7:00 a.m. and no later than 11:00 p.m.

<table>
<thead>
<tr>
<th>Table 17.12.050</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Use Specific Development Standards</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>S. Fortune Telling and Occult Arts.</th>
<th>DC</th>
<th>GC</th>
<th>HSC</th>
<th>PO</th>
<th>I</th>
<th>AI</th>
<th>BP</th>
<th>IMR</th>
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</tr>
</tbody>
</table>

S. **Fortune Telling and Occult Arts.**

As indicated in Table 17.12.020, a Conditional Use Permit is required for fortune telling and occult arts businesses. The following standards shall apply:

1. The business shall not be located within 1,000 feet of any other fortune telling and occult arts businesses as measured from any point from the outer boundaries of the property containing the business.

2. The business shall not be located within 500 feet of any adult-oriented business as measured from any point from the outer boundaries of the building lease space containing the business.

3. The business shall not be located within 100 feet of any residential use as measured from any point between the outer boundaries of the property containing the business and the nearest property line of a residentially occupied property.

4. The business shall not be located within 600 feet of a school, park or day care center/family day care home as measured from any point between the outer boundaries of the property containing the business to the nearest property line of the school, park or day care center/family day care home.

5. The hours of operation shall be no earlier than 7:00 a.m. and no later than 10:00 p.m.
Add the following code section:

17.108.020

K. Mobile Vending of food, beverages, merchandise or services from a vehicle as defined by the California Vehicle Code including any non-self-propelled or nonmotorized vehicle or similar vending device and a cart propelled by human power.

17.108.080 Mobile Vending

The unrestricted sale and distribution of food, beverages, merchandise or services from mobile vendors within or upon public streets, sidewalks and rights-of-way, public property or in the vicinity of school buildings, under certain circumstances constitutes a detriment to the public health, safety, and welfare because of the increased risk of injury to pedestrians and damage to personal property in the vicinity. Therefore, the following prohibitions shall apply:

A. No food, beverages, merchandise or services shall be sold or distributed or offered for sale or distribution from a mobile vendor on a street or highway, on public property or upon a sidewalk without a permit from the city manager or a designee authorizing such sale or distribution.

B. No food, beverages, merchandise or services shall be sold or distributed or offered for sale or distribution from a mobile vendor upon public property without the authorization of the public entity.

C. No food, beverage, merchandise or services shall be sold or distributed or offered for sale or distribution from a mobile vendor on private property without the express written consent of the owner or lessee of the property and except in conformity with health, safety and zoning regulations contained herein.

D. No food, beverage, merchandise or services shall be sold or distributed or offered for sale or distribution from a mobile vendor within five hundred (500) feet from any public school property, measured in a straight line to the nearest point of the school property between 7:00 a.m. and 4:00 p.m. on regular school days; except in commercial zones, on private property, with the express written consent of the owner or lessee of the property and in conformity with health, safety and zoning regulations contained herein.

E. No food, beverage, merchandise or services shall be sold or distributed or offered for sale or distribution from a mobile vendor that is not on an improved surface and that is creating an obstruction to vehicles, pedestrians or parking.

Code Clean-up

1. Repeal the requirement of Note 3 "Must include a minimum of fifty percent new product sales" from Table 17.12.020 Permitted, Conditional and Prohibited Commercial and
Industrial Uses (Note 3 is attached to Auto, mobile home and motor vehicle sales, and parts sales, new and used).

2. Amend Single-family dwellings, existing in Table 17.12.020 Permitted, Conditional and Prohibited Commercial and Industrial Uses to a permitted use as follows:

<table>
<thead>
<tr>
<th>Residential 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>Single-family dwellings, existing</td>
<td>P</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td></td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
</tbody>
</table>

3. Amend Second Dwelling Unit in Table 17.08.020 Permitted, Conditional and Prohibited Residential Uses to permitted uses for MDR and HDR zones as follows:

<table>
<thead>
<tr>
<th>Residential 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>Second Dwelling Unit</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>X</td>
</tr>
</tbody>
</table>

4. Title 6 of the Banning Municipal Code (Animals) is hereby amended as follows:

Amend Limit of Animals is Section 6.08.100 as follows:

No person shall keep, house, confine or maintain more than the number specified in the "Zoning Ordinance" of adult dogs or cats in any combination in any place in the city except in licensed commercial establishments.
PASSED, APPROVED AND ADOPTED this 1st day of December, 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. 2010-13, was duly adopted by the Planning Commission of the City of Banning, California, at a regular meeting thereof held on the 1st day of December, 2010, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Virginia Sorenson, Recording Secretary
City of Banning, California
Exhibit A

(Draft City Council Ordinance No. 1434)
ORDINANCE NO. 1434

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA ADOPTING AN INITIAL STUDY/NEGATIVE DECLARATION AND APPROVING ZONING TEXT AMENDMENT NO. 10-97505 TO ADOPT DEVELOPMENT STANDARDS AND GUIDELINES FOR TATTOO AND BODY PIERCING PARLORS, HOOKAH AND SMOKING LOUNGES, FORTUNE TELLING AND OCCULT ARTS, MOBILE VENDING, AND CODE CLEAN-UP

WHEREAS, the proposed Zoning Text Amendment No. 10-97505 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, in response to public inquiries, staff has identified that no provision is made in the adopted “Zoning Ordinance” for tattoo and body piercing parlors, hookah and smoking lounges, fortune telling and occult arts, and mobile vending land uses; and

WHEREAS, it is necessary to regulate the subject uses to prevent community-wide adverse impacts, increased crime, decreased property values and the deterioration of neighborhoods that can be brought about by the concentration of the subject uses and their location near sensitive uses and to ensure compatibility of such uses with surrounding land uses and properties and to avoid any impacts associated with such uses. Also, a code clean-up is included; and

WHEREAS, on November 12, 2010, the City published a public hearing notice for Zoning Text Amendment No. 10-97505 in the Press Enterprise newspaper in compliance with state law and Chapter 17.68 of the Banning Zoning Ordinance; and

WHEREAS, on December 1, 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. 10-97505 and at which time the Planning Commission considered the proposed Zoning Text Amendment and recommended City Council approval; 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. 10-97505; and

WHEREAS, at said public hearing on ________________, the City Council considered and heard public testimony and comments regarding Zoning Text Amendment No. 10-97505; and
WHEREAS, at this public hearing, 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 "Zoning Ordinance") does not have negative impacts on the environment; a Negative Declaration is proposed for adoption; and

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

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 "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.

SECTION 2: REQUIRED FINDINGS.

1. The proposed Amendment is consistent with the goals and policies of the General Plan.
Findings of Fact:

The Zone Text Amendment is consistent with the goals and policies of the General Plan, insofar as the General Plan designations and Zoning designations will not change, and the text amendments will result in clarifying the goals, policies and programs of the General Plan. The primary General Plan Land Use Goal states “A balanced, well-planned community including businesses which provides a functional pattern of land uses and enhances the quality of life for all Banning residents”. The amendment to the Municipal Code to provide development standards and guidelines for tattoo and body piercing parlors, hookah and smoking lounges, fortune telling and occult arts, and mobile vending land uses will ensure a functional pattern of land uses by imposing limits on the location of the subject uses in relation to other uses; and, ensure that the quality of life, health, safety, and welfare of the community is not compromised by designating specified zones and regulations for the subject uses.

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

Findings of Fact:

The Zone Text Amendment is internally consistent with the existing provisions of the “Zoning Ordinance”. City staff has checked all sections of the “Zoning Ordinance” to ensure that there are no references to tattoo and body piercing parlors, hookah and smoking lounges, fortune telling and occult arts, and mobile vending land uses and confirmed that with the amendment the “Zoning Ordinance” is internally consistent.

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

Findings of Fact:

CEQA: The City Council has analyzed this proposed project and has determined that it is not exempt from the California Environmental Quality Act (“CEQA”) under 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 hereby adopted.

SECTION 3: ZONING ORDINANCE AMENDMENT.

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

17.12.020 Permitted, conditional and prohibited uses.

Table 17.12.020
Permitted, Conditional and Prohibited Commercial and Industrial Uses

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<thead>
<tr>
<th>Services</th>
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<td>C</td>
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<td>X</td>
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<tr>
<td>Hookah and Smoking Lounges</td>
<td>X</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
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<td>X</td>
</tr>
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<td>X</td>
<td>X</td>
<td>C</td>
<td>C</td>
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<td>C</td>
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17.12.050 Use Specific Standards

Table 17.12.050
Use Specific Development Standards

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Q. Tattoo and Body Piercing Parlors.

As indicated in Table 17.12.020, a Conditional Use Permit is required for tattoo and body piercing businesses. The following standards shall apply:

1. The business shall not be located within 1,000 feet of any other tattoo and/or body piercing parlor as measured from any point from the outer boundaries of the property containing the business.

2. The business shall not be located within 500 feet of any adult-oriented business as measured from any point from the outer boundaries of the property containing the business.

3. The business shall not be located within 500 feet of any business selling alcoholic beverages, as measured from any point from the outer boundaries of the property containing the business.

4. The business shall not be located within 100 feet of any residential use as measured from
any point between the outer boundaries of the property containing the business and the nearest property line of a residentially occupied property.

5. The business shall not be located within 600 feet of a school, park or day care center/family day care home as measured from any point between the outer boundaries of the property containing the business to the nearest property line of the school, park or day care center/family day care home.

6. The business shall maintain in a sanitary condition at all times both the facilities and employees of the business. All walls, ceilings, floors, furnishings, and instruments used for tattoo and piercing shall be kept in good repair, and maintained in a clean and sanitary condition. Employees shall be required to wash their hands prior to any contact with customers.

7. Officers of the Police Department, Code Enforcement Division, and the Fire Department shall have the right to enter any tattoo and body piercing businesses during regular business hours to make reasonable inspection to ascertain whether the provisions of this chapter are being complied with, provided reasonable and normal business operations shall not be interfered with by said inspection.

8. The hours of operation shall be no earlier than 7:00 a.m. and no later than 10:00 p.m.

Table 17.12.050
Use Specific Development Standards

<table>
<thead>
<tr>
<th>R. Hookah and Smoking Lounge</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>
</table>

R. Hookah and Smoking Lounge.

As indicated in Table 17.12.020, a Conditional Use Permit is required for hookah and smoking lounge businesses. The following standards shall apply:

1. The business shall not be located within 1,000 feet of any other hookah and smoking lounge as measured from any point from the outer boundaries of the property containing the business.

2. The business shall not be located within 500 feet of any adult-oriented business as measured from any point from the outer boundaries of the property containing the business.

3. The business shall not be located within 100 feet of any residential use as measured from any point between the outer boundaries of the property containing the business and the nearest property line of a residentially occupied property.
4. The business shall not be located within 600 feet of a school, park or day care center/family day care home as measured from any point between the outer boundaries of the property containing the business to the nearest property line of the school, park or day care center/family day care home.

5. An outdoor patio shall be required together with any proposed or existing hookah or smoking lounge use.

6. The hours of operation shall be no earlier than 7:00 a.m. and no later than 11:00 p.m.

### Table 17.12.050
**Use Specific Development Standards**

<table>
<thead>
<tr>
<th>S. Fortune Telling and Occult Arts.</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>
</table>

**S. Fortune Telling and Occult Arts.**

As indicated in Table 17.12.020, a Conditional Use Permit is required for fortune telling and occult arts businesses. The following standards shall apply:

1. The business shall not be located within 1,000 feet of any other fortune telling and occult arts businesses as measured from any point from the outer boundaries of the property containing the business.

2. The business shall not be located within 500 feet of any adult-oriented business as measured from any point from the outer boundaries of the building lease space containing the business.

3. The business shall not be located within 100 feet of any residential use as measured from any point between the outer boundaries of the property containing the business and the nearest property line of a residentially occupied property.

4. The business shall not be located within 600 feet of a school, park or day care center/family day care home as measured from any point between the outer boundaries of the property containing the business to the nearest property line of the school, park or day care center/family day care home.

5. The hours of operation shall be no earlier than 7:00 a.m. and no later than 10:00 p.m.
Add the following code section:

17.108.020

K. Mobile Vending of food, beverages, merchandise or services from a vehicle as defined by the California Vehicle Code including any non-self-propelled or nonmotorized vehicle or similar vending device and a cart propelled by human power:

17.108.080 Mobile Vending

The unrestricted sale and distribution of food, beverages, merchandise or services from mobile vendors within or upon public streets, sidewalks and rights-of-way, public property or in the vicinity of school buildings, under certain circumstances constitutes a detriment to the public health, safety, and welfare because of the increased risk of injury to pedestrians and damage to personal property in the vicinity. Therefore, the following prohibitions shall apply:

A. No food, beverages, merchandise or services shall be sold or distributed or offered for sale or distribution from a mobile vendor on a street or highway, on public property or upon a sidewalk without a permit from the city manager or a designee authorizing such sale or distribution.

B. No food, beverages, merchandise or services shall be sold or distributed or offered for sale or distribution from a mobile vendor upon public property without the authorization of the public entity.

C. No food, beverage, merchandise or services shall be sold or distributed or offered for sale or distribution from a mobile vendor on private property without the express written consent of the owner or lessee of the property and except in conformity with health, safety and zoning regulations contained herein.

D. No food, beverage, merchandise or services shall be sold or distributed or offered for sale or distribution from a mobile vendor within five hundred (500) feet from any public school property, measured in a straight line to the nearest point of the school property between 7:00 a.m. and 4:00 p.m. on regular school days; except in commercial zones, on private property, with the express written consent of the owner or lessee of the property and in conformity with health, safety and zoning regulations contained herein.

E. No food, beverage, merchandise or services shall be sold or distributed or offered for sale or distribution from a mobile vendor that is not on an improved surface and that is creating an obstruction to vehicles, pedestrians or parking.

Code Clean-up

1. Repeal the requirement of Note 3 "Must include a minimum of fifty percent new product sales" from Table 17.12.020 Permitted, Conditional and Prohibited Commercial and
Industrial Uses (Note 3 is attached to Auto, mobile home and motor vehicle sales, and parts sales, new and used).

2. Amend Single-family dwellings, existing in Table 17.12.020 Permitted, Conditional and Prohibited Commercial and Industrial Uses to a permitted use as follows:

<table>
<thead>
<tr>
<th>Residential 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>Single-family dwellings, existing</td>
<td>P</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>

3. Amend Second Dwelling Unit in Table 17.08.020 Permitted, Conditional and Prohibited Residential Uses to permitted uses for MDR and HDR zones as follows:

<table>
<thead>
<tr>
<th>Residential 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>Second Dwelling Unit</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>X</td>
</tr>
</tbody>
</table>

4. Title 6 of the Banning Municipal Code (Animals) is hereby amended as follows:

Amend Limit of Animals is Section 6.08.100 as follows:

No person shall keep, house, confine or maintain more than the number specified in the “Zoning Ordinance” of adult dogs or cats in any combination in any place in the city except in licensed commercial establishments.

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 ___ 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

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that Ordinance No. 1434 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

(Initial Study/Negative Declaration)
DEVELOPMENT STANDARDS AND GUIDELINES FOR TATTOO AND BODY PIERCING PARLORS, HOOKAH AND SMOKING LOUNGES, FORTUNE TELLING AND OCCULT ARTS, MOBILE VENDING AND CODE CLEAN-UP

November 10, 2010

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

Zai Abu Bakar
Community Development Director
(951) 922-3131
# TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>EXECUTIVE SUMMARY</td>
<td>1</td>
</tr>
<tr>
<td>1. INTRODUCTION</td>
<td>1</td>
</tr>
<tr>
<td>2. EVALUATION OF ENVIRONMENTAL IMPACTS</td>
<td>1</td>
</tr>
<tr>
<td>3. ENVIRONMENTAL DETERMINATION</td>
<td>3</td>
</tr>
<tr>
<td>4. PROJECT DESCRIPTION</td>
<td>4</td>
</tr>
<tr>
<td>5. ENVIRONMENTAL ANALYSIS CHECKLIST</td>
<td>5</td>
</tr>
<tr>
<td>6. EXPLANATION OF THE ITEMS MARKED ON THE ENVIRONMENTAL CHECKLIST FORM</td>
<td>15</td>
</tr>
<tr>
<td>7. INCORPORATION BY REFERENCE</td>
<td>18</td>
</tr>
<tr>
<td>8. LIST OF PREPARERS</td>
<td>18</td>
</tr>
</tbody>
</table>
EXECUTIVE SUMMARY

This Initial Study assesses the potential environmental impacts of Zone Text Amendment, ZTA# 10-97505, an amendment to the Banning "Zoning Ordinance" to establish development standards and guidelines for Tattoo and Body Piercing Parlors, Hookah and Smoking Lounges, Fortune Telling and Occult Arts, Mobile Vending and Code Cleanup uses in the specified zoning districts. The purpose of the project is to regulate the subject uses to prevent community-wide adverse impacts, increased crime, decreased property values and the deterioration of neighborhoods that can be brought about by the concentration of the subject uses and their location near sensitive uses and to ensure compatibility of such uses with surrounding land uses and properties and to avoid any impacts associated with such uses.

The project adds/modifyes various portions of the Banning "Zoning Ordinance" to conditionally permit the subject uses in certain zoning districts. Previously, the subject uses were 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 7 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: November 10, 2010

Public Review: November 12, 2010 through December 1, 2010
4. PROJECT DESCRIPTION

Project Title: Zone Text Amendment #ZTA 10-97505 - An amendment to the Banning "Zoning Ordinance" to adopt development standards and guidelines for Tattoo and Body Piercing Parlors, Hookah and Smoking Lounges, Fortune Telling and Occult Arts, Mobile Vending and Code Cleanup

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

Project Description: Zone Text Amendment 10-97505 is an amendment to the Banning "Zoning Ordinance" to establish development standards and guidelines for Tattoo and Body Piercing Parlors, Hookah and Smoking Lounges, Fortune Telling and Occult Arts, Mobile Vending and Code Cleanup uses in the specified zoning districts.

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 #10-97505 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>
<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 on a scenic vista?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
<tr>
<td>b) Substantially damage scenic resources, including but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
<tr>
<td>c) Substantially degrade the existing visual character or quality of the site and its surroundings?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
<tr>
<td>d) Create a new source of substantial light or glare, which would adversely affect day or nighttime views in the area?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>II. AGRICULTURAL RESOURCES. 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>
</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>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
<tr>
<td>b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</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>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>III. AIR QUALITY. 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>
</thead>
<tbody>
<tr>
<td>a) Conflict with or obstruct implementation of the applicable air quality plan?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
<tr>
<td>b) Violate any air quality standard or contribute to an existing or projected air quality violation?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</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 ambient air quality standard</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
<tr>
<td>(including releasing emissions with exceeded quantitative thresholds for ozone precursors)?</td>
<td>Potentially Significant Impact</td>
<td>Potentially Significant Mitigation Incorporated</td>
<td>Less Than Significant Impact</td>
<td>No Impact</td>
</tr>
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<td>□</td>
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<td></td>
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<tr>
<td>d) Expose sensitive receptors to substantial pollutant concentrations?</td>
<td></td>
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<tr>
<td>e) Create objectionable odors affecting a substantial number of people?</td>
<td></td>
<td></td>
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</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>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?</th>
<th>Potentially Significant Impact</th>
<th>Potentially Significant Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>□</td>
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</table>

<table>
<thead>
<tr>
<th>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?</th>
<th>Potentially Significant Impact</th>
<th>Potentially Significant Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>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?</th>
<th>Potentially Significant Impact</th>
<th>Potentially Significant Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
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<td>□</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>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?</th>
<th>Potentially Significant Impact</th>
<th>Potentially Significant Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>□</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?</th>
<th>Potentially Significant Impact</th>
<th>Potentially Significant Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>□</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Conservancy</th>
<th>Potentially Significant Impact</th>
<th>Potentially Significant Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>□</td>
<td>□</td>
<td>□</td>
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<td></td>
</tr>
<tr>
<td>V. CULTURAL RESOURCES. 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>
</tr>
<tr>
<td>------------------------------------------</td>
<td>---------------------------------</td>
<td>------------------------------------------------------</td>
<td>-----------------------------</td>
<td>-----------</td>
</tr>
<tr>
<td>a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?</td>
<td>□</td>
<td>□</td>
<td>□</td>
<td>☑</td>
</tr>
<tr>
<td>b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?</td>
<td>□</td>
<td>□</td>
<td>□</td>
<td>☑</td>
</tr>
<tr>
<td>c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?</td>
<td>□</td>
<td>□</td>
<td>□</td>
<td>☑</td>
</tr>
<tr>
<td>d) Disturb any human remains including those interred outside of formal cemeteries?</td>
<td>□</td>
<td>□</td>
<td>□</td>
<td>☑</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>VI. GEOLOGY AND SOILS. 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>
</thead>
<tbody>
<tr>
<td>a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.</td>
<td>□</td>
<td>□</td>
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<tr>
<td>ii) Strong seismic ground shaking?</td>
<td>□</td>
<td>□</td>
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<tr>
<td>iii) Seismic-related ground failure, including liquefaction?</td>
<td>□</td>
<td>□</td>
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<tr>
<td>iv) Landslides?</td>
<td>□</td>
<td>□</td>
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<tr>
<td>b) Result in substantial soil erosion or the loss of topsoil?</td>
<td>□</td>
<td>□</td>
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<tr>
<td>c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the Project, and potentially result in on- or off-site landslides, lateral spreading, subsidence, liquefaction</td>
<td>□</td>
<td>□</td>
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<td></td>
<td>Potentially Significant Impact</td>
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<td>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>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</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>☐</td>
<td>☐</td>
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<tr>
<td>VII. HAZARDS AND HAZARDOUS MATERIALS. Would the Project:</td>
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<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>☐</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>☐</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>☐</td>
<td>☐</td>
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<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>☐</td>
<td>☐</td>
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<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>☐</td>
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<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>☐</td>
<td>☐</td>
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<tr>
<td>g) Impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan?</td>
<td>☐</td>
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<td>Potentially Significant Impact</td>
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<tr>
<td>h)</td>
<td>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>
<td>☐</td>
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<tr>
<td>VIII.</td>
<td><strong>HYDROLOGY AND WATER QUALITY.</strong> Would the Project:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>a)</td>
<td>Violate any water quality standards or waste discharge requirements?</td>
<td>☐</td>
<td>☐</td>
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<tr>
<td>b)</td>
<td>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>
<td>☐</td>
</tr>
<tr>
<td>c)</td>
<td>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>
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</tr>
<tr>
<td>d)</td>
<td>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>
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<tr>
<td>e)</td>
<td>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>
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<tr>
<td>f)</td>
<td>Otherwise substantially degrade water quality?</td>
<td>☐</td>
<td>☐</td>
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<tr>
<td>g)</td>
<td>Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?</td>
<td>☐</td>
<td>☐</td>
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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>No</td>
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<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>No</td>
<td></td>
<td></td>
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<tr>
<td>j) Inundation by seiche, tsunami, or mudflow?</td>
<td>No</td>
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</tbody>
</table>

**IX. LAND USE AND PLANNING. Would the Project:**

| a) Physically divide an established community? | No | | | |
| 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? | No | | | |
| c) Conflict with any applicable habitat conservation plan or natural community conservation plan? | No | | | |

**X. MINERAL RESOURCES. Would the Project:**

| 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? | No | | | |
| 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? | No | | | |

**XI. NOISE. Would the Project:**

<p>| 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? | No | | | |
| b) Expose persons to a generation of excessive groundborne vibration or groundborne noise levels? | No | | | |
| c) Create a substantial permanent increase in ambient noise levels in the Project vicinity above levels | No | | | |</p>
<table>
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<tr>
<th></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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<tbody>
<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>
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<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>
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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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<tr>
<td><strong>XII. POPULATION AND HOUSING. Would the Project:</strong></td>
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<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>
<td>☐</td>
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<td><strong>XIII. PUBLIC SERVICES.</strong></td>
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<tr>
<td>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:</td>
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<tr>
<td>a) Fire protection?</td>
<td>☐</td>
<td>☐</td>
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<tr>
<td>b) Police protection?</td>
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<td>c) Schools?</td>
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<td>d) Parks?</td>
<td>☐</td>
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<td>e) Other public facilities?</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>
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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>
<td>☐</td>
<td>☐</td>
<td>☐</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>
<td>☐</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>
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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>
<td>☐</td>
<td>☐</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>
<td>☐</td>
<td>☐</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>
<td>☐</td>
<td>☐</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>
<td>☐</td>
<td>☐</td>
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<tr>
<td>e) Result in inadequate emergency access?</td>
<td>☐</td>
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<tr>
<td>f) Result in inadequate parking capacity?</td>
<td>☐</td>
<td>☐</td>
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<tr>
<td>g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?</td>
<td>☐</td>
<td>☐</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>
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<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>
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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>
<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>
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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>
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<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>
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<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.

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 an amendment to the Banning "Zoning Ordinance" to establish development standards and guidelines for Tattoo and Body Piercing Parlors, Hookah and Smoking Lounges, Fortune Telling and Occult Arts, Mobile Vending and Code Cleanup uses in the specific zoning districts. 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 regulate the subject uses to prevent community-wide adverse impacts, increased crime, decreased property values and the deterioration of neighborhoods that can be brought about by the concentration of the subject uses and their location near sensitive uses and to ensure compatibility of such uses with surrounding uses and properties and to avoid any impacts associated with such uses. The amendment addresses standards and guidelines for the subject uses 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