CITY OF BANNING
PLANNING COMMISSION AGENDA

REGULAR MEETING - Wednesday, August 3, 2011 @ 6:30 PM
City Council Chambers, 99 E. Ramsey Street
Banning, CA 92220

I. CALL TO ORDER: Chairman Arterberry

➢ Pledge of Allegiance: Commissioner Barsh

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

II. PUBLIC COMMENTS:

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

III. CONSENT CALENDAR ITEMS:

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

1. Minutes of March 2, 2011 meeting..............................................Page 1

2. Minutes of May 4, 2011 meeting..................................................Page 5
IV. PUBLIC HEARINGS

1. Design Review (DR) #11-703: Proposed retail store (Dollar General); 1323 W. Ramsey Street / APN 540-130-039.

Staff Report.................................................................Page 9

Recommendation:

That the Planning Commission take the following actions:
1. Adopt a Class 32 Categorical Exemption in compliance with California Environmental Quality Act (CEQA) Guidelines Section 15332 (In-Fill Development); and
2. Adopt PC Resolution No. 2011-06 approving Design Review (DR) #11-703 subject to conditions of approval.

2. Zone Text Amendment No. 11-97501: Amendment to Municipal Code Section 17.08.050 pertaining to Accessory Structures.

Staff Report.................................................................Page 52

Recommendation:

That the Planning Commission take the following actions:
1. Adopt a Categorical Exemption in compliance with CEQA Guidelines Section 15061(b)(3); and

2. Adopt Planning Commission Resolution No. 2011-05 recommending that the City Council approve Ordinance No. 1439 amending the Zoning Ordinance requirements for accessory structures.

V. PLANNING COMMISSIONER COMMENTS

VI. COMMUNITY DEVELOPMENT DIRECTOR'S REPORT

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

VII. TENTATIVE PROJECTS SCHEDULED FOR SEPTEMBER 7, 2011

None at this time.
VIII. ADJOURNMENT

The City of Banning Planning Commission is hereby adjourned to the regular Planning Commission meeting of September 7, 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]
City of Banning

PLANNING COMMISSION MINUTES

March 2, 2011

A regular meeting of the City of Banning Planning Commission was held on Wednesday, March 2, 2011 at 6:30 p.m., in the Council Chambers, City Hall, 99 East Ramsey Street, Banning, CA, 92220.

**Commissioners Present:**
- Vice-Chairman Arterberry
- Commissioner Barsh
- Commissioner Hawkins
- Commissioner Siva

**Commissioners Excused:**
- Chairman Escandel

**Staff Present:**
- Community Development Director Abu Bakar
- Assistant City Attorney Laymon
- Assistant Planner Guillot
- Public Works Director Burk
- Building Official Barrett
- Recording Secretary Sorenson

I. CALL TO ORDER

II. PUBLIC COMMENT

Jim K. Anson, 185 E. Wilson Street, Banning CA, came forward to state that he is a 50 year resident of Banning and wanted to compliment the City on the new facades in the downtown area. Mr. Anson said the City looks better than it has in years.

III. CONSENT CALENDAR

1. Review of Minutes (January 5, 2011)

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

(Motion carried 4 – 0) (Chairman Escandel was excused)
IV. STAFF REPORTS / INFORMATION ITEMS

1. Oral presentation by Art Pearlman and Mark Frost on the Village at Paseo San Gorgonio project.

Community Development Director Abu Bakar stated that the developers of the Village at Paseo San Gorgonio would be giving an oral presentation this evening. Mrs. Abu Bakar stated that she asked the developers to come to the meeting to present the conceptual plans as we are working on the project which will be developed on the San Gorgonio Inn site. Mark Frost was unable to be here tonight, so Art Pearlman, 1137 2nd Street, Santa Monica CA would be giving the presentation.

Mr. Pearlman stated that we have been working on this project for over two and a half years. He said the courthouse decided to build in Banning because they wanted to be part of a “real downtown” and that is the key that drives this project. The first phase of the project will be a sit-down restaurant at the corner of Martin Street, then another restaurant or a series of four restaurants. There will be a two-story mixed use building, the second floor will be service retail or office and the bottom floor will be retail. The large three-story building is planned to be either a hotel or an office building. They envision creating outdoor “people places”. Also will keep Livingston Street open and said that the parking they have provided is in excess of our Code.

Vice-Chairman Arterberry inquired if they had considered the area from 8th Street to 22nd Street and if they considered the number of hotels in town. Mr. Pearlman responded that they considered that property all the way from Highland Springs Avenue to Martin Street, the question is what’s at Highland Springs and what’s at Martin Street and then what’s NOT at Martin Street and needs to be there. They did not want to replicate anything that was going on at Highland Springs Avenue, either on the Banning or Beaumont side. As for the hotel, the courthouse will create the need for the hotel.

Commissioner Siva had questions about access and the bus stop. He also asked if any thought was given to having access to the freeway. Mr. Pearlman said he would love it, but does not see it happening.

The meeting was opened for public comment at this time. Mr. Jim Anson came forward to inquire if the corner where an old gas station used to be on the north side of Ramsey was going to be improved. Mrs. Abu Bakar stated that property is not part of this project. The commissioners stated they hoped this project would encourage other property owners to improve their lots.

Mrs. Abu Bakar stated that Mr. Pearlman will be giving a presentation before the City Council next week.

Jim Barrett, our Assistant Building Official, from Willdan Engineering, came forward to give an oral presentation on some of the new Codes that were recently adopted. California adopts new building codes every three years and this year additional codes were adopted, the International Property Maintenance Code, California Residential Code and the California Green Building Code.

The Property Maintenance Code replaces the old Uniform Housing Code. This was a house cleaning item to make it a little easier and is mainly for enforcement purposes for existing buildings.

The California Residential Code augments the old ICBO Code. Some of the new requirements in this Code are residential fire sprinklers are required now in all new residential construction. Also for occupancy separations, the old standard was five inch drywall on the wall between the house and the garage, now half inch drywall is allowed. And carbon monoxide alarms are required in new dwelling units.

“Green Building” is the practice of creating structures that significantly reduce and eliminate the negative impacts of buildings on the environment and occupants. Green Building laws have been on the books for several years and the new California Green Building Code compiles them and summarizes them all in one book.

3. General Plan Annual Report

Community Development Director Abu Bakar presented the staff report and stated that the Annual Report for the General Plan is required by State law and it has to be filed with the State Office of Planning and Research and Housing and Community Development by April 1st. This document is a report on the status of the implementation of all the action programs in the General Plan. The other mandate is that we have to report specifically on the status of the Housing Element implementation and its progress. Amendments or adjustments to the General Plan are allowed, but only four per year. Our General Plan has twenty-one elements and the City has implemented about 85% of the action programs. Budget cuts and staffing issues and priorities have impeded the ability to implement the other programs. There was discussion regarding getting our Housing Element approved and some of the non-conforming areas. There was also discussion regarding projects that were approved or completed last year.

Commissioner Siva inquired if we could have a meeting with the City Council to discuss some of the issues that were brought up this evening. Mrs. Abu Bakar stated we would like to schedule a joint workshop.

**ACTION (SIVA / HAWKINS): A motion was moved, seconded and carried that the Planning Commission:**
Recommend to the City Council the approval of the report by adopting Resolution No. 2011-01 and direct staff to file it with the State Office of Planning and Research and State Department of Housing and Community Development.

(Motion carried 4 – 0) (Chairman Escandel was excused)

V. TENTATIVE PROJECTS SCHEDULED FOR APRIL 6, 2011

No items scheduled at this time.

VI. PLANNING COMMISSIONER COMMENTS

Commissioner Barsh stated that he commended staff for their work on the Village Project as he feels this will be a wonderful addition to our City. Commissioner Siva complimented the Village plan also.

VII. COMMUNITY DEVELOPMENT DIRECTOR’S REPORT

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

   Director Abu Bakar stated that we took the General Plan Amendment on tattoo parlors, and other special uses to the City Council and they adopted the ordinance.

2. AB 1234 Mandated Ethics Training (March 9th – 3:00-6:00, Council Chambers)

3. Joint PC & CC Workshop to discuss Sign Code amendment on billboards and freeway oriented signs

4. Joint PC & CC Workshop to review the Butterfield Specific Plan (an amendment to the Deutsch SP) on April 19th at 5:00 p.m. – Council Chambers

VIII. ADJOURNMENT

There being no further business to come before the Planning Commission, the meeting was adjourned at 8:03 p.m. to the Planning Commission meeting on April 6, 2011 at 6:30 p.m.

Respectfully submitted,

[Signature]
Gini Sorenson
Recording Secretary

Planning Commission Meeting
March 2, 2011
City of Banning

PLANNING COMMISSION MINUTES

May 4, 2011

A regular meeting of the City of Banning Planning Commission was held on Wednesday, May 4, 2011 at 6:30 p.m., in the Council Chambers, City Hall, 99 East Ramsey Street, Banning, CA, 92220.

Commissioners Present: Vice-Chairman Arterberry
Commissioner Barsh
Commissioner Hawkins

Commissioners Excused: Commissioner Siva

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

I. CALL TO ORDER

II. PUBLIC COMMENT

No one came forward.

III. CONSENT CALENDAR

No items at this time.

IV. PUBLIC HEARINGS

1. Conditional Use Permit (CUP) #11-801: A request by Gerald A. Blake, MD to use the building located at 947 W. Ramsey Street in the Highway Serving Commercial (HSC) zone for a medical office. (APN 540-125-035).

Planning Commission Meeting
May 4, 2011
Assistant Planner Guillot presented the staff report and stated that the applicant is requesting approval to use an existing 3,503 square foot building located at 947 W. Ramsey Street as a medical office. Staff is recommending that a condition of approval be placed on the project that the parking lot be repaired and brought up to standards. The building itself has not been occupied for some time and it needs some repairs and that is also a condition. Also the landscaping needs to be revived and add some trees in the parking area to meet the City’s current code. There is a site plan provided which shows the medical office portion in the front of the building and in the back there are some storage areas. There is adequate parking provided for the medical office use. Staff recommended approval of the project.

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

1. Adopt a Class I Categorical Exemption in compliance with California Environmental Quality Act (CEQA) Guidelines Section 15301 (Existing Facilities); and,
2. Adopt PC Resolution No. 2011-03 approving Conditional Use Permit #11-801 subject to conditions of approval.

(Motion carried 3 - 0) (Commissioner Siva was excused)

2. Design Review (DR) #11-702 / Variance (VAR) #11-301: A request by Miller Architectural Corporation of Redlands, California to construct a Subway Sandwich Shop with drive through on a 0.26 acre site in the Highway Serving Commercial (HSC) zone located at 933 W. Ramsey Street (APN 540-125-033, -034).

At this time Deputy City Attorney Laymon suggested that the Planning Commission move Item # 2 to the end of the meeting to allow Commissioner Siva time to arrive. Vice-Chairman Arterberry would have to recuse himself and then there would not be a quorum.

3. Design Review (DR) #10-702 / Tentative Parcel Map (TPM) 36285: A request by JMA Village, LLC-the Frost Company of Laguna Niguel, California to construct a mixed use commercial development on a 5.25 acre parcel in the Downtown Commercial (DC) zone located south of Ramsey Street, east of San Gorgonio Avenue (APN 541-181-009, 010, 011, 012, 014, 023-028; 541-183-004)

Assistant Planner Guillot presented the staff report and stated that the applicant is seeking approval to construct a 68,955 square foot mixed-use commercial development on a 5.25 acre parcel. The project proposes the construction of approximately 13,500 square feet of office space; 29,955 square feet of hotel or office space; 13,500 square feet of retail space and 12,000 square feet of restaurant space. Improvements on the site include a parking lot for approximately 360 vehicles, landscaping, utilities and public
improvements along the street frontages. The project also includes a tentative parcel map and design review application. The design and architecture of the new development and redevelopment in the Downtown Commercial district needs to be consistent with the Ramsey Street Corridor Charrette, these are design guidelines which the City Council has previously approved. The proposed buildings reflect the Mission style architectural theme, with some adaptions.

The tentative parcel map reflects that there are fifteen separate parcels involved with this project. The applicant is proposing consolidating those parcels into four parcels corresponding to lots for each of the buildings. Also the Redevelopment Agency is in the process of acquiring 220 E. Ramsey Street. This property acquisition is a subject matter to be considered by the Redevelopment Agency. However, the Planning Commission’s responsibility is to make findings that the acquisition of the property is consistent with the General Plan. Staff recommends approval of this design review and tentative parcel map, that includes these findings for 220 E. Ramsey Street, as the proposed project is consistent with the requirements of the General Plan and Zoning Code.

Arthur Pearlman and Mark Frost came forward to represent their project and stated that they have read the conditions and are in agreement with the conditions and would answer any questions that the Commission may have.

The Commissioners all agreed that they did not have any questions and that they felt the presentation at the last meeting was very thorough and they thought the project was a very good one.

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

1. Adopt a Mitigated Negative Declaration in compliance with CEQA Guidelines and file a Notice of Determination with the Riverside County Clerk; and
2. Adopt PC Resolution No. 2011-02 recommending approval to City Council of Design Review (DR) #10-702 and Tentative Parcel Map (TPM) #36285 subject to conditions; and, findings of consistency with the General Plan regarding the acquisition of property at 220 E. Ramsey Street.

(Motion carried 3 – 0) (Commissioner Siva was excused)

2. Design Review (DR) #11-702 / Variance (VAR) #11-301: A request by Miller Architectural Corporation of Redlands, California to construct a Subway Sandwich Shop with drive through on a 0.26 acre site in the Highway Serving Commercial (HSC) zone located at 933 W. Ramsey Street (APN 540-125-033, -034).
It was noted that Commissioner Siva had not arrived to tonight’s meeting. Deputy City Attorney Laymon requested that Chairman Arterberry state for the record his conflict and reason for stepping down on this matter. Chairman Arterberry stated that on item #2, request to construct a Subway Restaurant, he will be stepping down as he is employed by ReMax as a realtor and was fortunate enough to be involved with procuring the land deal for the applicant and the deal was closed. There was a fee for service that took place prior to this meeting and he just wanted to keep this clear for the record and would be excusing himself from this matter.

Chairman Arterberry then left the room. Commissioner Hawkins took charge of the meeting and since we did not have a quorum to discuss the Subway, Ms. Laymon stated the matter would have to be continued to the next regular meeting. As there was no quorum, there also could be no motion or vote on the continuation.

Chairman Arterberry returned to the Council Chamber.

V. COMMUNITY DEVELOPMENT DIRECTOR’S REPORT

Community Development Director Abu Bakar stated that earlier the Commissioners were given a memo regarding the joint meeting with the City Council to preview the Pardee project and that meeting will be on June 7th at 5:00 p.m.

She also reminded the Commissioners about the Ethics Training and that it would be provided on a web site and once completed they would need to print out the certificate and turn it into the City Clerk.

VI. ADJOURNMENT

There being no further business to come before the Planning Commission, the meeting was adjourned at 7:00 p.m. to the Planning Commission meeting on June 1, 2011 at 6:30 p.m.

Respectfully submitted,

Gini Sorenson
Recording Secretary
DATE: August 3, 2011

TO: Planning Commission

FROM: Zai Abu Bakar, Community Development Director

SUBJECT: DESIGN REVIEW (DR) #11-703 PROPOSED RETAIL STORE (DOLLAR GENERAL); 1323 W. RAMSEY STREET; (APN 540-130-039).

STAFF RECOMMENDATION:

That the Planning Commission take the following actions:

1. Adopt a Class 32 Categorical Exemption in compliance with California Environmental Quality Act (CEQA) Guidelines Section 15332 (In-Fill Development); and

2. Adopt PC Resolution No. 2011-06 approving Design Review (DR) #11-703 subject to conditions of approval.

PROJECT/APPLICANT INFORMATION:

Project Location: 1323 W. Ramsey Street
APN Information: 540-130-039
Project Applicant: Dynamic Development Company, LLC - Agent
Property Owner: Our Savior's Lutheran Church of Banning
Project Architect: Tim Salivar
Redevelopment Area: Yes
Specific Plan: No
PROJECT BACKGROUND AND DESCRIPTION:

Project Description

The applicant is requesting approval to construct a 9,002 square foot general retail building (Dollar General) on a 1.09 acre (47,600 square foot) site fronting Ramsey Street in the Highway Serving Commercial (HSC) zoning district. The site consists of Parcel 2 of Parcel Map No. 35617 and is approximately 175 feet wide by 272 feet deep. A 47 foot wide utility easement transitions across the northerly portion of the parcel. The site was formerly occupied by a bowling alley that was demolished in 1993 (then known as 1309 W. Ramsey Street).

Surrounding Land Use

Located north of the site is the “Our Saviors Lutheran Church” fronting Williams Street in the Medium Density Residential (MDR) zoning district (0-10 du/acre); this area also includes an apartment complex to the northeast. West of the site is a restaurant (Johnny Russo’s Italian Kitchen) with the northerly portion of the lot being vacant land. East of the site are small offices. South of the site and across Ramsey Street is a church use (House of Miracles-Victorious Living Institute), and vacant lot in the Highway Serving Commercial zone.

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

Land Use Summary Table

<table>
<thead>
<tr>
<th>Subject Site</th>
<th>Existing Land Use</th>
<th>Zoning Designation</th>
<th>General Plan Designation</th>
</tr>
</thead>
<tbody>
<tr>
<td>North</td>
<td>Church</td>
<td>Medium Density Residential (MDR)</td>
<td>Medium Density Residential</td>
</tr>
<tr>
<td>South</td>
<td>Church/vacant lot¹</td>
<td>Highway Serving Commercial (HSC)</td>
<td>Highway Serving Commercial</td>
</tr>
<tr>
<td>East</td>
<td>Commercial buildings</td>
<td>Highway Serving Commercial (HSC)</td>
<td>Highway Serving Commercial</td>
</tr>
<tr>
<td>West</td>
<td>Restaurant</td>
<td>Highway Serving Commercial (HSC)</td>
<td>Highway Serving Commercial</td>
</tr>
</tbody>
</table>

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

² Unimproved land is land that does not have public improvements.
PROJECT ANALYSIS:

Zoning

The project is located in the Highway Serving Commercial (HSC) zone. This district allows land uses geared toward the Interstate 10 traveler, including restaurants (fast food and sit down), hotels and motels, auto related retail, repair and services, including gas stations, convenience stores and similar uses. Restaurants that include drive-in, take-out fast food retail uses are permitted. Drive through services are also permitted in the HSC zone. The proposed use, retail store general merchandise, is permitted; however, design review is required to assure that the proposed project conforms to the development standards and design guidelines of the Zoning Ordinance.

Compliance with HSC Development Standards

The site consists of Parcel 2 of Parcel Map No. 35617 filed November 18, 2009. Below is a chart showing the minimum development standards for the Highway Serving Commercial (HSC) zone as stated in Table 17.12.030; and, how the proposed project meets those standards.

<table>
<thead>
<tr>
<th>Development Standards</th>
<th>Required</th>
<th>Provided</th>
<th>Complies With Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum Lot Size</td>
<td>6,000 square feet</td>
<td>47,600 square feet</td>
<td>Yes</td>
</tr>
<tr>
<td>Minimum Lot Width</td>
<td>60 feet</td>
<td>175 feet</td>
<td>Yes</td>
</tr>
<tr>
<td>Minimum Lot Depth</td>
<td>100 feet</td>
<td>272 feet</td>
<td>Yes</td>
</tr>
<tr>
<td>Minimum Front Setback</td>
<td>10 feet</td>
<td>83 feet</td>
<td>Yes</td>
</tr>
<tr>
<td>Minimum Rear Setback</td>
<td>0 feet</td>
<td>58 feet</td>
<td>Yes</td>
</tr>
<tr>
<td>Minimum Side Yard Setback</td>
<td>0 feet</td>
<td>10 feet</td>
<td>Yes</td>
</tr>
<tr>
<td>Maximum Building Coverage</td>
<td>35 %</td>
<td>20%</td>
<td>Yes</td>
</tr>
<tr>
<td>Maximum Building Height (stories/feet)</td>
<td>2/35 feet</td>
<td>1 story/24 feet</td>
<td>Yes</td>
</tr>
<tr>
<td>Maximum Fence/Wall Height</td>
<td>6 feet</td>
<td>6 feet</td>
<td>Yes</td>
</tr>
</tbody>
</table>

Site Design/Grading

The site is presently vacant land and was observed to consist of relatively flat-lying ground with a southeasterly slope (see Attachment 4-Site Photographs). The surface appears to be soil with
seasonal grasses. A few palm trees front the site along Ramsey Street. Previously, a bowling
alley occupied the site; however, it was demolished in September of 1993 due to a fire.
The existing ground surface slopes to the southeast at an average of 3%. A precise grading plan
shall be required and a minor amount of grading will need to be done to complete the building
pad and parking area improvements. A retaining wall will be required along the northwesterly
part of the development due to the grade difference between the two lots. This will require that
engineered grading plans be submitted to the City Engineer for review and approval in
accordance with the City’s Grading Ordinance and a grading permit be issued prior to any
construction activities taking place. The City’s Grading Ordinance makes provision for dust
prevention and control during construction, erosion and sediment control, protection of adjoining
properties, water quality, and other regulations for grading.

The site fronts Ramsey Street along the southern property boundary, a fully improved arterial
highway. Also, overhead electric utility lines are located along the northern property boundary
(casement). The site is accessed by the main driveway fronting Ramsey Street at the southeast
corner of the property. Parking is set back from the street to allow at least one vehicle to enter
and exit the parking lot without being blocked by vehicles pulling out from, or into the parking
spaces. This design feature helps reduce vehicle congestion along Ramsey Street by allowing
vehicles to enter the site unobstructed. The onsite driveway provides for vehicle circulation in
both directions. The design of the parking spaces and driveway comply with the requirements of
the Parking Lot Design Standards. Section 17.24.040 “Access” of the Zoning Ordinance
encourages onsite circulation between projects; therefore, the developer has been conditioned to
provide reciprocal access with the adjacent restaurant.

Parking Requirements

Table 17.28.040.B “Commercial and Industrial Parking Requirements” of the Zoning Ordinance
requires that for a retail commercial use that one space for each 250 square feet of gross floor
area be provided. The building is 9,002 square feet; therefore, 36 parking spaces are required.
The project proposes to provide 38 parking spaces, which includes two handicap parking places
as required by the California Building Code. A loading space is provided at the northeast corner
of the parking area.

Architectural Design

The building will be a metal frame with pre-fabricated sloping metal truss system. The building
has varying height raised parapet walls with integrated moldings. Roof mounted equipment will
be screened by the parapet. The finish includes different color stucco panels with colored stucco
banding. Desirable elements of the design include metal canopies at the building entrances and a
decorative wrought iron panel trellis. The storefront will be Bronze anodized aluminum frames
with clear glass. A sidewalk surrounds the storefront and includes an area for bicycle parking
(see Exhibit 4-Project Plans).
Landscaping and Lighting Design

The landscaping design and construction emphasizes drought tolerant features as required by State and Zoning Code regulations for the purpose of conserving water. A minor amount of turf is proposed in a planter near the building entrance. A landscape documentation package that includes a water conservation statement shall be required at time of construction for approval of the final landscape design plans.

The Parking Lot Design Standards of the Zoning Code require that at least 15% of the parking area be landscaped. The parking area as proposed in the design plans is approximately 23,885 square feet. Therefore, the minimum landscape area is 3,582 square feet. The applicant is proposing 4,352 square feet of landscaping in the parking area, which is more than the minimum square footage required.

Exterior lighting is conditioned to be shielded or recessed so that light is contained within the boundaries of the parcel on which the lighting is located. All lighting shall be directed downward and away from adjoining properties and public rights-of-way. Along the east exterior of the proposed building wall mounted fixtures are utilized.

Projects Near Airports

The project is located within Compatibility Zone E of the Riverside County Airport Land Use Compatibility Plan Policy Document adopted in October 2004. The plan identifies Zone E as a low risk level area. Staff recommends that a condition of approval be placed on the proposed project to dedicate an avigation easement prior to issuing an occupancy permit. The purpose of the avigation easement is to transfer certain property rights from the owner of the underlying property to the owner of the airport (City) since the property is subject to low noise levels from the airport in general. A copy of a typical avigation easement is included as Attachment 5.

Conclusion

Staff recommends approval of the subject Design Review as the proposed project is consistent with the requirements of the General Plan and Zoning Code, while not significantly effecting the environment. The project adequately meets the performance standards and design guidelines as discussed in the staff report; or, will meet those requirements as stated in the conditions of approval and upon review and approval of the construction plans and specifications.

ENVIRONMENTAL RESOURCES:

1. CEQA

Section 21065 of the California Environmental Quality Act (CEQA) Guidelines requires that all projects that have the potential to affect the environment must be evaluated to determine the extent of the project impacts and mitigation measures that must be incorporated into the projects
to lessen or alleviate the impacts. CEQA Guidelines also provide for statutory exemptions of projects that meet certain thresholds.

Section 15332 of CEQA exempts from preparation of an environmental document since the proposed retail store is considered an in-fill development that meets the following four criteria under CEQA:

a. The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with the applicable zoning designations and regulations.

The General Plan Land Use and Zoning Map designates the project site as Highway Serving Commercial (HSC), which allows commercial uses. A retail store is permitted commercial use in the HSC zoning district. Additionally, the project is consistent with the General Plan Land Use Element Policy which states: “The land-use map shall provide for sufficient lands to provide a large range of products and services to the City and the region while carefully considering compatibility with adjacent residential lands”. The proposed development (Dollar General retail store) will provide a place for the community to purchase products and services on a site that is zoned commercial, was used as a commercial site, and is compatible with the surrounding uses.

b. The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.

The proposed retail store will be constructed within the city limits on a 1.09-acre property, which is less than five acres and is surrounded by existing commercial developments and uses.

c. The project site has no value as habitat or endangered, rare or threatened species.

The site was formerly occupied by a bowling alley which was torn down in September 1993. The site is currently vacant and no value as habitat for endangered, rare or threatened species.

d. The site can be adequately served by all required utilities and public services.

Since the project site is located along a well-established commercial corridor and is surrounded by existing developments, all of the required utilities, including sewer, water, electricity, gas, and cable are readily available and can serve the development.

2. Multiple Species Habitat Conservation Plan (MSHCP).

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

REQUIRED FINDINGS FOR DESIGN REVIEW #11-703:
The Zoning Ordinance requires that each Design Review (BMC §17.56.050) application meet certain findings in order to be approved by the Planning Commission. The following findings are made for Design Review:

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

Findings of Fact: The project site is designated Highway Serving Commercial on the General Plan Land Use Map and is zoned Highway Serving Commercial (HSC). A retail store is a permitted use in the HSC zoning district. Additionally, the project is consistent with the General Plan Land Use Element Policy which states: “The land-use map shall provide for sufficient lands to provide a large range of products and services to the City and the region while carefully considering compatibility with adjacent residential lands”. The proposed development (Dollar General retail store) will provide a place for the community to purchase products and services on a site that is zoned commercial, was used as a commercial site, and is compatible with the surrounding uses.

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

Findings of Fact: The proposed project is consistent with the Zoning Ordinance and the development standards of the HSC zone, including setbacks, building height, and building coverage on the lot. Furthermore, the proposed project will provide parking and landscaping in accordance with the development standards and guidelines by providing 38 parking spaces and 4,352 square feet of parking lot landscaping.

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

Findings of Fact: The proposed project has provided design and site and circulation layout in such a way that the project will not interfere with the use and enjoyment of existing and future development. The project has been reviewed by the City Engineer and Fire Department with regard to site circulation for pedestrian and motor vehicles and emergency access, which will not result in vehicular and/or pedestrian hazards. Furthermore, the project as proposed will provide additional onsite parking lot and pedestrian circulation with the existing restaurant to the west.

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

Finding of Fact: The proposed use will not impair the integrity and character of the HSC land use district in which it is to be located because it is surrounded by existing developments and on Ramsey Street corridor which is a long-established commercial corridor. The building architecture, site circulation, and landscaping has been designed in a way that the project is compatible with the character of the surrounding neighborhood. This includes
separating the Medium Density Residential from the proposed project with a solid block wall and landscaping planter.

PUBLIC COMMUNICATION:

The proposed project was advertised in the Record Gazette newspaper, and notices were mailed to all property owners within a 300-foot radius of the site on July 22, 2011. As of the date of this report, staff has not received any comments.

PREPARED BY:

Brian Guillot
Assistant Planner

APPROVED BY:

Zai Abu Bakar
Community Development Director

PC Attachments:

1. Resolution No. 2011-06 with Conditions of Approval
2. Location Map and Aerial Photograph
3. Site Photographs
4. Project Plans
5. Typical Avigation Basement.
Attachment 1

(PC Resolution No. 2011-06 with Conditions of Approval)
RESOLUTION NO. 2011-06

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BANNING, CALIFORNIA APPROVING DESIGN REVIEW #11-703 TO CONSTRUCT A DOLLAR GENERAL RETAIL STORE ON A 1.09-ACRE SITE IN THE HIGHWAY SERVING COMMERCIAL (HSC) ZONE LOCATED AT 1323 W. RAMSEY STREET.

WHEREAS, an application for a Design Review and Variance to construct a retail store has been duly filed by:

Project Applicant: Dynamic Development Company, LLC - Agent
Property Owner: Our Savior’s Lutheran Church of Banning
Project Architect: Tim Saivar
Project Location: 1323 W. Ramsey Street
APN Number: APN 540-130-039
Lot Area: 1.09 Acres

WHEREAS, the Planning Commission has the authority per Chapter 17.56 to take action on Design Review #11-703 to construct a retail store on a 1.09 acre parcel in the Highway Serving Commercial zone located at 1323 W. Ramsey Street; and,

WHEREAS, on July 22, 2011, the City gave public notice by advertisement in the Record Gazette newspaper and mailed notice to property owners’ within 300 feet of the site of the holding of a public hearing at which the project would be considered; and,

WHEREAS, on August 3, 2011, the Planning Commission held the noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to, Design Review and at which the Planning Commission considered the Design Review; and,

WHEREAS, the project’s potential effects on the environment have been evaluated as required under the California Environmental Quality Act (CEQA) and has recommended that the project is categorically exempt under CEQA Guidelines Section 15332 “In-Fill Development Projects”.

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

SECTION 1. ENVIRONMENTAL FINDINGS.

1. CEQA

Section 21065 of the California Environmental Quality Act (CEQA) Guidelines requires that all projects that have the potential to affect the environment must be evaluated to determine the extent of the project impacts and mitigation measures that must be incorporated into the projects.
to lessen or alleviate the impacts. CEQA Guidelines also provide for statutory exemptions of projects that meet certain thresholds.

Section 15332 of CEQA exempts from preparation of an environmental document since the proposed retail store is considered an in-fill development that meets the following four criteria under CEQA:

a. The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with the applicable zoning designations and regulations.

The General Plan Land Use and Zoning Map designates the project site as Highway Serving Commercial (HSC), which allows commercial uses. A retail store is permitted commercial use in the HSC zoning district. Additionally, the project is consistent with the General Plan Land Use Element Policy which states: "The land-use map shall provide for sufficient lands to provide a large range of products and services to the City and the region while carefully considering compatibility with adjacent residential lands". The proposed development (Dollar General retail store) will provide a place for the community to purchase products and services on a site that is zoned commercial, was used as a commercial site, and is compatible with the surrounding uses.

b. The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.

The proposed retail store will be constructed within the city limits on a 1.09-acre property, which is less than five acres and is surrounded by existing commercial developments and uses.

c. The project site has no value as habitat or endangered, rare or threatened species.

The site was formerly occupied by a bowling alley which was torn down in September 1993. The site is currently vacant and no value as habitat for endangered, rare or threatened species.

d. The site can be adequately served by all required utilities and public services.

Since the project site is located along a well-established commercial corridor and is surrounded by existing developments, all of the required utilities, including sewer, water, electricity, gas, and cable are readily available and can serve the development.

2. Multiple Species Habitat Conservation Plan (MSHCP).

The project is found to be consistent with the MSHCP. The project is located outside of any MSHCP criteria area and mitigation is provided through payment of the MSHCP Mitigation Fee.
SECTION 2. REQUIRED FINDINGS FOR DESIGN REVIEW #11-703:

The Zoning Ordinance requires that each Design Review (BMC §17.56.050) application meet certain findings in order to be approved by the Planning Commission. The following findings are made for Design Review:

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

Findings of Fact: The project site is designated Highway Serving Commercial on the General Plan Land Use Map and is zoned Highway Serving Commercial (HSC). A retail store is a permitted use in the HSC zoning district. Additionally, the project is consistent with the General Plan Land Use Element Policy which states: "The land-use map shall provide for sufficient lands to provide a large range of products and services to the City and the region while carefully considering compatibility with adjacent residential lands". The proposed development (Dollar General retail store) will provide a place for the community to purchase products and services on a site that is zoned commercial, was used as a commercial site, and is compatible with the surrounding uses.

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

Findings of Fact: The proposed project is consistent with the Zoning Ordinance and the development standards of the HSC zone, including setbacks, building height, and building coverage on the lot. Furthermore, the proposed project will provide parking and landscaping in accordance with the development standards and guidelines by providing 38 parking spaces and 4,352 square feet of parking lot landscaping.

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

Findings of Fact: The proposed project has provided design and site and circulation layout in such a way that the project will not interfere with the use and enjoyment of existing and future development. The project has been reviewed by the City Engineer and Fire Department with regard to site circulation for pedestrian and motor vehicles and emergency access, which will not result in vehicular and/or pedestrian hazards. Furthermore, the project as proposed will provide additional onsite parking lot and pedestrian circulation with the existing restaurant to the west.

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

Finding of Fact: The proposed use will not impair the integrity and character of the HSC land use district in which it is to be located because it is surrounded by existing developments and on Ramsey Street corridor which is a long-established commercial corridor. The building architecture, site circulation, and landscaping has been designed in a way that the
project is compatible with the character of the surrounding neighborhood. This includes separating the Medium Density Residential from the proposed project with a solid block wall and landscaping planter.

SECTION 3. PLANNING COMMISSION ACTIONS.

The Planning Commission hereby takes the following actions:

1. In accordance with Public Resources Code Section 21152(b) and CEQA Guidelines Section 15062 the Planning Commission hereby approves a categorical exemption for the project under CEQA Guidelines Section 15332 and directs the Planning Director to prepare and file with the Clerk for the County of Riverside a notice of exemption as provided under Public Resources Code Section 21152(b) and CEQA Guidelines Section 15062.

2. Design Review (DR) #11-703 is hereby approved subject to the Conditions of Approval attached hereto and incorporated herein by reference as Exhibit A.
PASSED, APPROVED AND ADOPTED this 3rd day of August, 2011.

Dennis Arterberry, Vice-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. 2011-06, was duly adopted by the Planning Commission of the City of Banning, California, at a regular meeting thereof held on the 3rd day of August 2011, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

PROJECT #: Design Review (DR) #11-703

SUBJECT: Conditions of Approval

APPLICANT: Dynamic Development Company, LLC (Dollar General)

LOCATION: 1323 W. Ramsey Street (APN 540-130-039)

I. General/On-Going.

* All fair share agreements, covenant agreements and agreements subject to recordation will be subject to review and approval by the City Attorney and will include appropriate enforcement provisions by the City and be properly securitized.

Community Development Department

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

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

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

5. The site shall be developed and maintained in accordance with the stamped approved plans dated August 3, 2011 which include site plans, architectural elevations, exterior materials and colors, landscaping, and grading on file in the Planning Division; the conditions contained herein; and, municipal code regulations.

6. The property owner shall construct and maintain a 6-foot solid block wall and 10-foot landscape buffer between the commercial use and residential zone.

7. Approval of this entitlement shall not waive compliance with any sections of the Development Code, other applicable City Ordinances, in effect at the time of building permit issuance.

8. If human remains are encountered during grading and other construction excavation, the developer/owner shall stop/cease work in the immediate vicinity and the County Coroner shall be contacted pursuant to State Health and Safety Code Section 7050.5.

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

10. All graffiti shall be removed immediately or within 24 hours of notice from the City.

11. The entire site shall be kept free from trash and debris at all times and in no event shall trash and debris remain for more than 24 hours.
12. The property owner shall permanently maintain all parking lot signs and markings in a clear and visible manner.

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

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

15. Any future walls (block, wrought iron, or retaining) to be constructed for the project shall be subject to review and approval by the Community Development Director.

16. Exterior wall mounted lighting shall be decorative fixtures in a prefinished color to match the building. Wall fixtures shall be consistent with any pole mounted fixtures required to maintain minimum lighting levels.

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

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

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

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

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

Public Works Department

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

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

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

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

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

- Rough Grading Plans 1" = 40' horizontal
- Precise Grading Plans 1" = 40' horizontal
  (All conditions of approval shall be reproduced on last sheet of set)
- Erosion Control & Storm Water Pollution Prevention Plan (SWPPP) 1" = 40' horizontal
  (Note: a, b, c & d shall be reviewed and approved concurrently)
- Construction Traffic Control Plan 1" = 40' horizontal
  (Major or arterial highways only)
- Landscaping Plans-Streets 1"=20' Horizontal
- On-site Utility Plans 1" = 40' horizontal

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

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

29. The applicant shall not grant any easements over any property subject to a requirement of dedication or irrevocable offer of dedication to the City of Banning or the Riverside County Flood Control and Water Conservation District unless such easements are expressly made subordinate to the easements to be offered for dedication to the City or RCFCD. Prior to granting any of said easements, the applicant shall furnish a copy of the proposed easement to the City Engineer for review and approval. Further, a copy of the approved easement shall be furnished to the City Engineer prior to the issuance of any certificate of use and/or occupancy.
30. All street improvement design shall provide pavement and lane transitions per Caltrans standards for transition to existing street sections.

31. The developer shall participate in the City's recycling program by providing two trash receptacles, one for regular trash and one for recycling, within the trash enclosure. The trash enclosure shall be designed and constructed in such a manner to accommodate a recycling bin as well as the necessary solid waste containers.

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

33. Construction debris shall be disposed of at a certified recycling site. It is recommended that the developer contact the City's franchised solid waste hauler, Waste Management of the Inland Valley at 1-800-423-9986, for disposal of construction debris.

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

Electric Utility Department

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

II. Prior to Issuance of Grading Permits.

Community Development Department

36. All site, grading, landscape, irrigation, and street improvement plans shall be coordinated for consistency such as grading, tree removal, encroachments, building location, etc. or prior to final map approval in the case of a subdivision, or approved use has commenced, whichever comes first.

37. The developer shall submit a construction access plan and schedule for the development of the project for Community Development Director and City Engineer approval; including, but not limited to, public notice requirements, special street posting, phone listing for community concerns, hours of construction activity, dust control measures, and security fencing.

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

2
Public Works Department

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

40. The applicant shall execute a Stormwater Management Facilities Agreement guaranteeing the maintenance of stormwater pollution controls. Said agreement shall be subject to prior review and approval by the City Attorney. The applicant or developer shall bear the cost of the review. Said approved agreement shall be recorded with the Riverside County Recorder and run with the land.

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

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

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

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

44. The applicant is responsible for meeting all requirements of permits and/or clearances from the above listed agencies. When the requirements include approval of improvement plans, the applicant shall furnish proof of such approvals when submitting improvements plans to the City.

45. All utility systems including gas, electric, telephone, water, sewer, storm drain, and cable TV shall be provided underground, with easements provided as required, designed and submitted for review and approval. Said items shall be constructed in accordance with City codes and the utility provider. Telephone, cable TV, and/or security systems shall be pre-wired.

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

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

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

50. The applicant shall comply with Chapter 13.24 “Stormwater Management and Discharge Controls” of the Banning Municipal Code (BMC); California Building Code related to excavation and grading; and, the State Water Resources Control Board’s orders, rules and regulations.

51. For construction activities including clearing, grading or excavation of land that disturbs one (1) acre or more of land, or that disturbs less than one (1) acre of land, but which is a part of a construction project that encompasses more than one (1) acre of land, the applicant shall be required to submit a Storm Water Pollution Protection Plan (SWPPP) and file a Notice of Intent (NOI) with the Regional Water Quality Control Board.

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

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

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

54. Grading and excavations in the public right-of-way shall be supplemented with a soils and geology report prepared by a professional engineer or geologist licensed by the State of California. A grading permit shall be obtained prior to commencement of any grading activity.

55. Prior to issuance of any grading or building permit a Project-Specific Water Quality Management Plan (WQMP) shall be reviewed and approved in accordance with California Regional Water Quality Control Board Colorado River Basin Region Order No. R7-2008-0001.

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

Electric Utility Department

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

III. Prior to the Issuance of Building Permit.

Community Development Department

58. Obtain clearance and/or permits from the Banning Unified School District

59. A detailed on-site lighting plan, including a photometric diagram, shall be reviewed and approved by the Community Development Director and Police Department. Such plan shall indicate style, illumination, location, height, and method of shielding so as not to adversely affect adjacent properties in accordance with the Zoning Code. Lighting fixtures shall be shielded or recessed to prevent spillage to the adjacent properties. The lighting fixture design shall compliment the architecture of the site. Additionally, all lighting plans and installations shall conform to the requirements of the conditions stipulated by the Airport Land Use Commission (ALUC) and Federal Aviation Administration (FAA) review.
60. Plans for any security gates to secure the building premises shall be submitted for the Community Development Director, City Engineer, and City of Banning Fire Marshal review and approval. Security gates will not be allowed to block any public street.

61. A complete landscape/irrigation package prepared by a landscape architect licensed by the State of California shall be reviewed and approved by the Planning Division prior to issuance of building permit. The plans shall include the following elements:
   i. Water conservation concept statement.
   ii. Calculation of maximum applied water allowance.
   iii. Calculation of estimated total water use.
   iv. Landscape design plan.
   v. Irrigation design plan.
   vi. Grading design plan.
   vii. Soil analysis.
   viii. Certificate of substantial completion.

62. The final design of the perimeter parkways, walls, landscaping, and sidewalks shall be included in the required landscape plans and shall be subject to Community Development Director review and approval and coordinated for consistency with any parkway landscaping plan, which may be required by the Engineering Division.

63. All landscaping and irrigation shall be designed to conserve water through the principles of Xcriscape in accordance with Zoning Ordinance requirements.

64. Building and Safety plans shall be submitted for plan check and approval. All plans shall be marked with the project number (i.e., DR #11-703). The applicant shall comply with latest adopted California Building Codes, and all other applicable codes, ordinances, and regulations in effect at the time of permit application including but not limited to those regulations that relate to ground movement.

65. The applicant shall pay development impact fees at the established rate. Such fees may include, but are not limited to: Transportation Development Fee, Drainage Fee, School Fees, Permit and Plan Checking Fees. Applicant shall provide a copy of the school fees receipt to the Building and Safety Division prior to permit issuance.

66. Projects subject to flood hazards shall implement standards for flood hazard reduction in accordance with Banning Municipal Code Section 15.64 including, but not limited to, anchoring, construction materials and methods, elevation and floodproofing, and utilities.

Public Works Department

67. All utility systems including gas, electric, telephone, water, sewer, and cable TV shall be provided for underground, with easements provided as required, and designed and constructed in accordance with City codes and the utility provider. Telephone, cable TV, and/or security systems shall be pre-wired.
68. The developer shall provide for the relocation of any sewer or water mains that interfere with the proposed project.

69. A precise grading plan shall be submitted to the City Engineer for review and approval. Precise grading plans shall include perimeter walls with top of wall and top of footing elevations shown. All footings shall have a minimum of 1-foot of cover, and/or sufficient cover to clear any obstructions.

70. The applicant shall provide a lot pad certification stamped and signed by a qualified civil engineer or land surveyor. Each pad certification shall list the pad elevation as shown on the approved grading plan, the actual pad elevation and the difference between the two, if any. Such pad certification shall also list the relative compaction of the pad soil.

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

72. The developer shall prepare a water conservation plan to reduce water consumption in the landscape environment using xeriscape principles. “Xeriscape” shall mean a combination of landscape features and techniques that in the aggregate reduce the demand for and consumption of water, including appropriate low water using plants, non-living ground-cover, a low percentage of turf coverage (limited to 25% of the planted area), permeable paving and water conserving irrigation techniques and systems. A low water-using drought tolerant plant includes species suited to our climate, requiring less water in order to grow well.

73. Fire hydrants shall be installed within and on the project boundaries as per the approval plans, at a 250’ maximum spacing.

74. Provide fire flow calculations for the project and construct the necessary facilities to meet those flows for the project.

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

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

77. Water Connection Fees shall be paid per EDU (EDU is based upon meter size), Sewer Connection Fees shall be paid per EDU (EDU is based upon the estimated quality and quantity of discharge), and payment of Water Meter Installation Charges for each building in accordance with the fee schedule in effect at the time the fees are paid. Also, pay all water and sewer frontage fees and recycled/irrigation water fees, if applicable, and in accordance with the fee schedule in effect at the time the fees are submitted, prior to plan checking proceedings.

**Electric Utility Department**

78. Pay required fees - electrical permit, plan check fee, inspection fees, meter fee and cost of electrical apparatus for completing the underground line extension.

79. Grant easement for electric facilities installation/maintenance, etc.

**IV. Prior to the Issuance of Certificate of Occupancy.**

**Community Development Department**

80. Prior to any use of the project site, or business activity being commenced thereon, all Conditions of Approval shall be completed to the satisfaction of the Community Development Director.

81. All ground-mounted utility appurtenances such as transformers and AC condensers shall be located out of public view and adequately screened through the use of a combination of concrete or masonry walls, berming, and/or landscaping to the satisfaction of the Community Development Director.

82. All building numbers and individual units shall be identified in a clear and concise manner, including proper illumination.

83. Provide for the following design features in each trash enclosure, to the satisfaction of the Community Development Director:
   
   1. Architecturally integrated into the design of the project.
   2. Separate pedestrian access that does not require the opening of the main doors and to include self-closing pedestrian doors.
   3. Large enough to accommodate two trash bins (see Public Works Dept for details).
   4. Trash bins with counter-weighted lids.
   5. Architecturally treated overhead shade trellis, or cover.
   6. Chain link screen on top to prevent trash from blowing out of the enclosure and designed to be hidden from view.
84. The buildings shall be constructed in substantial compliance with the design elements as depicted in plans approved by the Planning Commission at their regularly scheduled meeting held on August 3, 2011; and, in accordance with Zoning Code regulations.

85. All parking spaces shall be 9 feet wide by 19 feet long minimum. When a side of any parking space abuts a building, wall, support column, or other obstruction, the space shall be a minimum of 11 feet wide.

86. A 25 foot minimum parking setback from the curb face shall be maintained at the driveway fronting all public streets.

87. All parking lot landscape islands shall have a minimum interior dimension of 6 feet in width and shall contain a 12-inch walk adjacent to any parking stall (including curb width).

88. Decorative paving shall be required at all driveway entrances in accordance with the requirements of the Zoning Code and City Engineer and Community Development Director.

89. All parking spaces shall be striped per City standards and all loading zones, driveway aisles, entrances, and exits shall be striped per City standards. Each exit from a parking area shall be clearly marked with a “Stop” sign.

90. A minimum of 20% of trees planted shall be 36 inch box or larger specimens; and, a minimum of 50% trees planted shall be 24 inch box or larger specimens.

91. Within parking lots, trees shall be planted at a rate of at least one 24 inch box tree for every four parking spaces. The maximum spacing between trees in parking areas shall be 30 feet.

92. All parking areas shall provide at least 30% permanent shading for parked vehicles within two years of occupancy.

93. Trees shall be planted in areas of public view adjacent to and along structures at a rate of at least one tree per 30 linear feet of building.

94. The slopes within any detention basin shall be irrigated and landscaped with appropriate ground cover for erosion control. Slope planting shall include a permanent irrigation system.

Public Works Department

95. The applicant shall furnish the City with reproducible record drawings on Mylar of all improvement plans that were approved by the City Engineer. Each sheet shall be clearly marked "As-Built" or "As-Constructed" and shall be stamped and signed by the engineer or surveyor certifying the accuracy and completeness of the drawings. The applicant
shall have all AutoCAD or raster-image files submitted to the City, revised to reflect the “As-Built” conditions.

96. All fire hydrants shall have a blue reflective pavement marker indicating the hydrant location on the street as approved by the Fire Marshall, and must be maintained in good condition by the property owner until the street is accepted for maintenance.

97. Offer to dedicate to the City of Banning an aviation easement for the airspace related to the operation of Banning Municipal Airport.

98. An automatic sprinkler system and landscaping shall be installed, prior to occupancy of the development, within the parkway fronting Ramsey Street and any interior public spaces. The system shall include a landscape controller, a separate water meter and electric meter, and plantings as approved by the Community Development Director. Landscaping plans and specifications shall be reviewed and approved by the City Engineer.

99. Any public improvements damaged during the course of construction shall be replaced to the satisfaction of the City Engineer, or his/her designee.

100. All required public improvements for the project shall be completed, tested, and approved by the Engineering Division.

101. Landscape improvements shall be certified by a licensed landscape architect or licensed landscape contractor as having been installed in accordance with the approved detailed plans and specifications. The applicant shall furnish said certification, including an irrigation management report, for each landscape irrigation system and any other required implementation report determined applicable, to the City Engineer for review and approval.

102. Street name signs and traffic control devices including traffic legends and traffic striping shall be installed, or relocated in accordance with Caltrans Standards and as shown on the approved plans, and/or as directed by the City Engineer.

103. Monuments and center line ties shall be certified and submitted to the City Engineer for review and approval.

**Electric Utility Department**

104. The developer shall provide all conduits, vaults, and other materials associated with electric facility installations (except cables and their terminations).

105. The developer shall install Streetlight poles and conduits.

106. Secondary service entrance conductors to be provided and installed by the developer.

107. Pay required fees.
108. Grant required easements for electric facilities.

**FIRE DEPARTMENT**

The following codes and standards quoted in this review response are selected from the various regulations that apply to this development. Other regulations that are not included on this review response may also apply after additional information is provided.

10. **General Conditions**

10. **FIRE**

With respect to the conditions of approval for the referenced project, the Fire Department recommends the following fire protection measures be provided in accordance with Riverside County Ordinances and/or recognize fire protection standards:

10. **FIRE SHELL BUILDINGS**

**THESE CONDITIONS ARE FOR A SHELL BUILDING ONLY.**

Shell building will receive a shell final only. No certificate of Occupancy (human occupant and/or materials) will be issued until the building occupants have been identified with their occupancy classification and have been conditioned by Riverside County Fire Department. Occupant or tenant identification is imperative for orderly and prompt processing.

Upon identification of the occupant or tenant a Fire Protection Analysis report maybe required prior to establishing the requirements for the occupancy permit. Failure to provide comprehensive data analysis and/or technical information acceptable to the Fire Department may result in project delays. A complete commodity listing disclosing type, quantity, level of hazard and potential for "Reactivity" must be provided within 15 days. The forgoing is necessary to properly occupy classify the building(s). Failure to provide comprehensive data and/or highly technical information will result in project delay and Requirement for a complete Fire Protection Study for review.

10. **FIRE RESPONSIBILITY**

It is the responsibility of the recipient of these Fire Department conditions to forward them to all interested parties. The building permit number is required on all correspondence: (i.e. general contractor, superintendent, owner, subcontractors, etc).

10. **FIRE APPROVED SYSTEM**

All of the following conditions titled "Prior to Final Inspection", and/ or any
type of fire suppression systems, must be approved, inspected and finaled by the Riverside County Fire Department, prior to Building and Safety's Final inspection. the Fire Department letter of conditions, job card and approved plans must be at the job site for all inspections.

10. FIRE  HIGH PILE/RACK STORAGE

A separate permit may be required for high-pile storage and/or racks. Sprinkler Plans and/or sprinkler review must be submitted by a licensed sprinkler contractor with storage and/or rack plans to Riverside County Fire Department for review and approval of the 2007 CFC Chapters 24 and 34 compliance. Complete Chapters 24 and 34 information re: all commodities stored, rack dimensions, placement in building, sprinkler densities, etc. must be provided with suppression system for racks and/or high-pile storage review. A complete listing of commodities, Classified using CFC Article 81, 2007 Edition and NFPA 13, 2007 Edition guidelines by a licensed Fire Protection Engineer (or other consultant approved by this jurisdiction).

10. FIRE  ROOFING MATERIAL

All buildings shall be constructed with Class B roofing materials as per the California Building Code.

10. FIRE  BLUE DOT REFLECTOR

Blue retro reflective pavement markers shall be mounted on private street, public streets and driveways to indicate location of fire hydrants. Prior to installation, placement of markers must be approved by Riverside County Fire Department.

10. FIRE  SUPER FIRE HYDRANT

Super fire hydrant (s) (6" x 4" x 2 ½") shall be located not less than 25 feet or More than 165 feet from any portion of the building as measured along approved vehicular travel ways.

10. FIRE  ABOVE/UNDERGROUND TANK PERMITS

Applicant/developer shall be responsible for obtaining under/aboveground fuel, Propane, chemical and mixing liquid storage tank permits from the Riverside County Fire Department. Underground and chemical tank plans must be approved by the Environmental Health Department prior to submitting plans to the Fire Department. (Fire Department needs to review the Environmental Health Approved Set) Plans must be in triplicate and submitted with the current fee for review and Approval prior to installation. Aboveground fuel/mixed liquid tank(s) shall meet the following standard: Tank must be tested and labeled to UL 2085 Protection Tank Standard or SwRI 93-01. The test must include the Projectile Penetration Test and the Heavy Vehicle Impact Test. A sample copy of the tank’s label.
from and independent test laboratory must be included with your Plans. (TANK PLANS CANNOT BE SUBMITTED TO THE FIRE DEPARTMENT UNTIL A BUILDING PERMIT HAS BEEN ISSUED, CONTACT FIRE DEPARTMENT FOR GUIDELINE HANDOUT)

10. FIRE RAPID HAZMAT BOX

Rapid entry Hazardous Material data and key storage cabinet shall be installed on outside of the building. Plans shall be submitted to the Riverside County Fire Department for approval prior to installation.

10. FIRE GATE ENTRANCES

Gate entrances shall be at least two feet wider than the width of the traffic lane(s) serving that gate. Any gate providing access from a road to a driveway shall be located at least 35 feet from the roadway and shall open to allow vehicle to stop without obstructing traffic on the road. Where a one-way road with a single traffic lane provides access to a gate entrance, 40 foot turning radius shall be used.

10. FIRE ADDRESS AT CONSTRUCTION

During the construction of this project, the site address shall be clearly posted at the job site entrance. This will enable incoming emergency equipment and the inspectors to locate the job-site from the assigned street location. Number shall be a minimum of 24 inches in height.

10. FIRE PROHIBITED H MATERIALS

It is prohibited to use/process or store any material in this occupancy that would classify it as "H" occupancy per the 2007 Uniform Building Code.

60. PRIOR TO GRADING PERMIT ISSUANCE

60. FIRE WATER PLANS

The applicant or developer shall separately submit two copies of the water system plans to the Fire Department for review. Plans shall conform to the fire hydrant types, location and spacing, and the system shall meet the fire flow requirements. Plans shall be signed/approved by a registered civil engineer and the local water company with the following certification: "I certify that the design of the water system is in accordance with the requirements prescribed by the Riverside County Fire Department."

80. PRIOR TO BUILDING PERMIT ISSUANCE

80. FIRE ACCESS ROADS
All fire department access roads shall be as Banning Engineering standards, item #21 of the Building Department Street Conditions.

Fire apparatus access roads and water supplies for fire protection are required to be in service prior to and during the time of construction. (C.F.C., sec. 501.4)

Fire vehicle access shall be provided by either temporary or permanent roads, capable of supporting vehicle loading under all weather conditions. Temporary vehicle access shall be maintained until permanent fire apparatus access roads are available. (C.F.C., sec. 1410.1)

CFC D102.1, shall be able to support at least 75,000 pounds.

All fire department access roads shall have a 28’ radius minimum, larger radiiuses may exist when detailed building drawings are submitted. [CFC Appendix D]

80. FIRE WATER CERTIFICATION

The applicant or developer shall be responsible to submit written certification from the water company noting the location of the existing fire hydrant and that the existing water system is capable of delivering 2,750 GPM fire flow for a 2 hours duration at 20 PSI residual operating pressure. If a water system currently does not exist, the applicant or developer shall be responsible to provide written certification that financial arrangements have been made to provide them.

80. FIRE WATER PLANS

The applicants or developer shall separately submit two copies of the water system plans to the Fire Department for review and approval. Calculated velocities shall not exceed 100 feet per second. Plans shall conform to the fire hydrant types, location and spacing, and the system shall meet the fire flow requirements. Plans shall be signed and approved by a registered civil engineer and the local Water Company with the following certification: “I certify that the design of the water system is in accordance with the requirements prescribed by the Riverside County Fire Department.”

90. FIRE DESIGNATED AREAS

Existing fire lanes shall be maintained, additional fire lanes may be required. Contact Fire Department for guideline handout.

90. FIRE EXTINGUISHERS

Install portable fire extinguishers with a minimum rating of 2A-10BC one per 3000 sq. ft. or 75 feet of travel distance. Fire extinguishers located in the public Areas shall be in recess cabinets mounted 48 inches to the center above floor.
level with maximum 4 inch projection from the wall. (extinguishers must have current CSFM service tag affixed)

90. FIRE SUPER FH/FLOW

Approved super fire hydrants (6” x 4” x 2 ½”) with a fire flow of 2,750 GPM, shall be installed within 165 feet of all public use type buildings and any recreational vehicle type storage area.

90 FIRE SPRINKLER SYSTEM

Install a complete fire sprinkler system per NFPA 13 2010 edition (13D and 13R system are not allowed) in all buildings requiring a fire flow of 1500 GPM or greater sprinkler system(s) with pipe size in excess of 4” inch diameter will require the project structural engineer to certify (wet signature) the stability of the building system for seismic and gravity loads to support the sprinkler system. All fire sprinkler risers shall be protected from any physical damage. The post indicator valve and fire department connection shall be located to the front, within 50 feet of a hydrant, and the minimum of 25 feet from the building(s). A statement that the building(s) will be automatically fire sprinkled must be included on the title page of the building plans.

Applicant or developer shall be responsible to install a Central Station Monitored Fire Alarm System. Monitoring System shall monitor the fire Sprinkler system(s) water flow, P.I.V. s and all control valves. Plans must be submitted to the Fire Department for approval prior to installation. Contact Fire Department for guideline handout.

90. FIRE AUTO/MAN FIRE ALARM

Applicant or developer shall be responsible to install a manual and automatic Fire Alarm System. Plans must be submitted to the Fire Department for approval prior to installation. Standard for this project will be NFPA 72, 2010 edition.

90. FIRE HOOD DUCT EXTIG SYSTEM

A U.L. 300 hood duct fire extinguishing system must be installed over cooking Equipment. Wet chemical extinguishing system must provide automatic Shutdown of all electrical components and outlets under the hood upon activation System must be installed by a licensed c-16 contractor. Plans must be submitted With current fee to the Fire Department for review and approval prior to installation

Note: A dedicated alarm system is not required to be installed for the exclusive Purpose of monitoring this suppression system. However, a new or pre existing Alarm system must be connected to the extinguishing system. (*separate fire Alarm plans must be submitted for connection)
Attachment 2

(Location Map and Aerial Photograph)
Attachment 3

(Site Photographs)
Attachment 4

(Project Plans)
MATERIAL SAMPLE BOARD

Proposed Color Elevations for New Retail Store at
1323 W. Ramsey St., Banning, CA.
Attachment 5
(Typical Avigation Easement)
Typical Avigation Easement

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

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

[Insert legal description of real property]

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

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

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

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

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

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

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

(5) The right of ingress to, passage within, and egress from the hereinabove described real property, for the purposes described in subparagraphs (3) and (4) above at reasonable times and after reasonable notice.
For and on behalf of itself, its successors and assigns, the Grantor hereby covenants with the [Insert County or City name], for the direct benefit of the real property constituting the ________ Airport hereinafter described, that neither the Grantor, nor its successors in interest or assigns will construct, install, erect, place or grow, in or upon the hereinabove described real property, nor will they permit or allow any building structure, improvement, tree, or other object to extend into or above the Airspace so as to constitute an obstruction to air navigation or to obstruct or interfere with the use of the easement and rights-of-way herein granted.

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

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

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

DATED:


STATE OF }

SS

COUNTY OF }

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

WITNESS my hand and official seal.

__________________________
Notary Public

Table G2, continued
CITY OF BANNING
PLANNING COMMISSION REPORT

DATE: August 3, 2011
TO: Chairman and Members of the Planning Commission
FROM: Zai Abu Bakar, Community Development Director
SUBJECT: Zone Text Amendment No. 11-97501:
Amendment to Municipal Code Section 17.08.050 pertaining to
Accessory Structures.

STAFF RECOMMENDATION

That the Planning Commission takes the following action:

1. Adopt a Categorical Exemption in compliance with CEQA Guidelines Section 15061(b)(3); and

2. Adopt Planning Commission Resolution No. 2011-05 recommending that the City Council approve Ordinance No. 1439 amending the Zoning Ordinance requirements for accessory structures.

APPLICANT INFORMATION

Applicant: City of Banning

BACKGROUND/ANALYSIS

The Planning Commission and City Council reviewed and approved the General Plan and the Zoning Ordinance on January 31, 2006. As part of the administration and implementation of the Zoning Ordinance, staff has identified that it is not necessary to review the architectural design of accessory structures, structures that are incidental to that of the primary structure such as a house or place of business, in parts of the community where local architectural review boards or committees are active. For example, the Sun Lakes community has architectural standards in place that are enforced through their covenants, conditions, and restrictions (commonly referred to as CC & R's). An architectural review board or committee for the Sun Lakes community
reviews and approves the design of all proposed structures. Therefore, it is not necessary that the City also perform a design review for accessory structures.

Section 17.04.060 of the Zoning Ordinance defines an accessory structure as follows:

Accessory or Ancillary Use or Structure is a detached, subordinate use or structure, the use of which is clearly incidental and related to that of the principal structure or use of the land, which is located on the same lot as that of the principal structure or use, and which is not intended for human habitation.

By definition an accessory structure is placed on an improved site where parking, landscaping, and other necessary design elements have already been placed. Please note that a building permit will still be required.

Therefore staff recommends that the Zoning Ordinance be amended as follows:

17.08.050 Accessory Structures.

Accessory structures in residential zoning districts shall be compatible with the materials and architecture of the primary dwelling of the property. Accessory structures may only be constructed on a lot containing a main dwelling unit. Accessory structures may be built to the interior side and rear property lines as long as these structures are not closer than 10 feet to any other structure. Building Code regulations may further restrict the distance to be maintained from property lines or other structures. The accessory structure may be a maximum of 50% of the footprint of the primary structure, and may be the same height as the principal structure. Second units are not considered accessory structures, and have specific development standards enumerated in Section 17.08.100. No design review shall be required for accessory structures located in a specific plan area, a planned unit development, or other approved development plan area with an active architectural review board, or committee.

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 August 3, 2011 and documents incorporated therein by reference, and any other evidence (within the meaning of Public Resources Code § 21080(e) and § 21082.2) within the record or provided at the public hearing of this matter, hereby finds and determines as follows:

1. California Environmental Quality Act (CEQA):

CEQA: The Planning Commission has analyzed this proposed project and has determined that it is exempt from the California Environmental Quality Act ("CEQA") under Section 15061(b)(3) of the CEQA Guidelines which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment. Where, as here, it can
be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment; the activity is not subject to CEQA. The amendments to the Zoning Code do not relate to any one physical project and will not result in any physical change to the environment. Further, projects subject to this resolution will trigger individual analysis and documentation related to CEQA. Therefore, it can be seen with certainty that there is no possibility that this resolution may have a significant adverse effect on the environment, and therefore the adoption of this resolution is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines.

2. **Multiple Species Habitat Conservation Plan (MSHCP).**

The amendments to the Zoning Ordinance do not relate to any one physical project and are 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. 11-97501:**

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

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

**Findings of Fact:**

The Zone Text Amendment is consistent with the goals and policies of the General Plan, insofar as the General Plan designations and Zoning designations will not change, and the text amendments will result in clarifying the goals, policies and programs of the General Plan. The primary General Plan Land Use Goal is “*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 design standards for a specific plan, planned unit development, or other development plan area are reviewed in accordance with General Plan requirements; therefore, any accessory structure will be required to meet the approved design standards and the General Plan Land Use Goal of a well planned community.

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

**Findings of Fact:**

The proposed Zone Text Amendment is consistent with the existing provisions of the Zoning Ordinance. The amendment will streamline the review and approval process by allowing the local active architectural review board or committee to be responsible for
design review of accessory structures. This is consistent with other parts of the Zoning Ordinance such as the Downtown Commercial zoning district where design review is not required for the commercial development of improved sites (see Section 17.12.050H).

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

Findings of Fact:

The Planning Commission has analyzed this proposed project and has determined that it is exempt from the California Environmental Quality Act ("CEQA") under Section 15061(b)(3) of the CEQA Guidelines which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment. Where, as here, it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Amendments to the Municipal Code do not relate to any one physical project and will not result in any physical change to the environment. Further, projects subject to this resolution will trigger individual analysis and documentation related to CEQA through the building permit process. Therefore, it can be seen with certainty that there is no possibility that this resolution may have a significant adverse effect on the environment, and therefore the adoption of this resolution is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines.

PUBLIC COMMUNICATION:

The proposed Zone Text Amendment No. 11-97501 was advertised in the Record Gazette newspaper on July 22, 2011. As of the date of this report, staff has not received any verbal or written comments for or against the proposed Zone Text Amendment.

Prepared by:

Brian Guillot  
Assistant Planner

Approved by:

Zai Abu Bakar  
Community Development Director

PC Attachments:

1. PC Resolution No. 2011-05 (including a copy of Draft Ordinance No. 1439)
Attachment 1

(PC Resolution No. 2011-05)
RESOLUTION NO. 2011-05

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BANNING, CALIFORNIA RECOMMENDING APPROVAL TO THE CITY COUNCIL OF ZONE TEXT AMENDMENT NO. 11-97501, AMENDING THE REVIEW REQUIREMENTS FOR ACCESSORY STRUCTURES

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 streamline the permitting process by allowing local active architectural review boards or committees to review and approve the design of accessory structures; and

WHEREAS, on the 22nd day of July, 2011, the City gave public notice as required under “Zoning Ordinance” Chapter 17.68 by advertising in the Record Gazette newspaper of the holding of a public hearing at which the amendment to the “Zoning Ordinance” would be considered; and

WHEREAS, on the 3rd day of August 2011, the Planning Commission held the noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to, the proposed Zone Text Amendment and at which time the Planning Commission considered the Zone Text Amendment; and

WHEREAS, at this public hearing on the 3rd day of August 2011 the Planning Commission considered and heard public comments on the proposed Zone Text Amendment; and

WHEREAS, at the public hearing, the Planning Commission analyzed the proposed project and determined that it is exempt from the California Environmental Quality Act (“CEQA”) under Section 15061(b)(3) of the CEQA Guidelines which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment and is recommending adoption of the same 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.

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 August 3, 2011, and documents incorporated
therein by reference, and any other evidence (within the meaning of Public Resources Code § 21080(e) and § 21082.2) within the record or provided at the public hearing of this matter, hereby finds and determines as follows:

1. California Environmental Quality Act (CEQA):

CEQA: The Planning Commission has analyzed this proposed project and has determined that it is exempt from the California Environmental Quality Act ("CEQA") under Section 15061(b)(3) of the CEQA Guidelines which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment. Where, as here, it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment; the activity is not subject to CEQA. The amendments to the Zoning Code do not relate to any one physical project and will not result in any physical change to the environment. Further, projects subject to this resolution will trigger individual analysis and documentation related to CEQA. Therefore, it can be seen with certainty that there is no possibility that this resolution may have a significant adverse effect on the environment, and therefore the adoption of this resolution is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines.

2. Multiple Species Habitat Conservation Plan (MSHCP).

The amendments to the Zoning Ordinance do not relate to any one physical project and are 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 Zone Text Amendment is consistent with the goals and policies of the General Plan.

Findings of Fact:

The Zone Text Amendment is consistent with the goals and policies of the General Plan, insofar as the General Plan designations and Zoning designations will not change, and the text amendments will result in clarifying the goals, policies and programs of the General Plan. The primary General Plan Land Use Goal is "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 design standards for a specific plan, planned unit development, or other development plan area are reviewed in accordance with General Plan requirements; therefore, any accessory structure will be required to meet the approved design standards and the General Plan Land Use Goal of a well planned community.
2. The proposed Zone Text Amendment is internally consistent with the Zoning Ordinance.

Findings of Fact:

The proposed Zone Text Amendment is consistent with the existing provisions of the Zoning Ordinance. The amendment will streamline the review and approval process by allowing the local active architectural review board or committee to be responsible for design review of accessory structures. This is consistent with other parts of the Zoning Ordinance such as the Downtown Commercial zoning district where design review is not required for the commercial development of improved sites (see Section 17.12.050H).

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

Findings of Fact:

The Planning Commission has analyzed this proposed project and has determined that it is exempt from the California Environmental Quality Act ("CEQA") under Section 15061(b)(3) of the CEQA Guidelines which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment. Where, as here, it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment; the activity is not subject to CEQA. Amendments to the Municipal Code do not relate to any one physical project and will not result in any physical change to the environment. Further, projects subject to this resolution will trigger individual analysis and documentation related to CEQA through the building permit process. Therefore, it can be seen with certainty that there is no possibility that this resolution may have a significant adverse effect on the environment, and therefore the adoption of this resolution is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines.

SECTION 3 PLANNING COMMISSION ACTIONS.

The Planning Commission hereby takes the following actions:

1. Adopt a Categorical Exemption in compliance with CEQA Guidelines Section 15061(b)(3); and

2. Adopt Planning Commission Resolution No. 2011-05 recommending that the City Council approve Ordinance No. 1439 amending the Zoning Ordinance requirements for accessory structures.
PASSED, APPROVED AND ADOPTED this 3\textsuperscript{rd} day of August, 2011.

Dennis Arterberry, 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. 2011-05, was duly adopted by the Planning Commission of the City of Banning, California, at a regular meeting thereof held on the 3\textsuperscript{rd} day of August, 2011, by the following vote, to wit:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

Virginia Sorenson, Recording Secretary  
City of Banning, California
ORDINANCE NO. 1439

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA APPROVING ZONING TEXT AMENDMENT NO. 11-97501 AMENDING THE REVIEW REQUIREMENTS FOR ACCESSORY STRUCTURES

WHEREAS, the proposed Zoning Text Amendment No. 11-97501 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, the City desires to amend the “Zoning Ordinance” to streamline the permitting process by allowing local active architectural review boards or committees to review and approve the design of accessory structures; and

WHEREAS, on July 22, 2011, the City published a public hearing notice for Zoning Text Amendment No. 11-97501 in the Record Gazette newspaper in compliance with state law and Chapter 17.68 of the Banning Zoning Ordinance; and

WHEREAS, on 3rd day of August 2011, 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. 11-97501 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. 11-97501; and

WHEREAS, at said public hearing on ____________, the City Council considered and heard public testimony and comments regarding Zoning Text Amendment No. 11-97501; and

WHEREAS, at this public hearing, the City Council analyzed the proposed project and determined that it is exempt from the California Environmental Quality Act (“CEQA”) under Section 15061(b)(3) of the CEQA Guidelines which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment; 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 ______ ________, 2011;
NOW THEREFORE, BE IT HEREBY ORDAINED by the City Council of the City of Banning as follows:

SECTION 1: ENVIRONMENTAL.

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 Planning Commission as adopted in Resolution No. 2011-05 and the information as provided in the Staff Report dated __________, 2011, 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 it is exempt from the California Environmental Quality Act ("CEQA") under Section 15061(b)(3) of the CEQA Guidelines which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment. Where, as here, it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment; the activity is not subject to CEQA. The amendments to the Zoning Code do not relate to any one physical project and will not result in any physical change to the environment. Further, projects subject to this resolution will trigger individual analysis and documentation related to CEQA. Therefore, it can be seen with certainty that there is no possibility that this ordinance may have a significant adverse effect on the environment, and therefore the adoption of this ordinance is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines.

2. Multiple Species Habitat Conservation Plan (MSHCP):

   The amendments to the Zoning Ordinance do not relate to any one physical project and are 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 Zone Text Amendment is consistent with the goals and policies of the General Plan.

   Findings of Fact:

   The Zone Text Amendment is consistent with the goals and policies of the General Plan, insofar as the General Plan designations and Zoning designations will not change, and the text amendments will result in clarifying the goals, policies and programs of the General Plan. The primary General Plan Land Use Goal is "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 design standards for a specific plan, planned unit development, or other development plan area are reviewed in accordance with General Plan requirements; therefore, any accessory structure will be required to meet the approved design standards and the General Plan Land Use Goal of a well planned community.

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

Findings of Fact:

The proposed Zone Text Amendment is consistent with the existing provisions of the Zoning Ordinance. The amendment will streamline the review and approval process by allowing the local active architectural review board or committee to be responsible for design review of accessory structures. This is consistent with other parts of the Zoning Ordinance such as the Downtown Commercial zoning district where design review is not required for the commercial development of improved sites (see Section 17.12.050H).

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

Findings of Fact:

The Planning Commission has analyzed this proposed project and has determined that it is exempt from the California Environmental Quality Act ("CEQA") under Section 15061(b)(3) of the CEQA Guidelines which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment. Where, as here, it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment; the activity is not subject to CEQA. Amendments to the Municipal Code do not relate to any one physical project and will not result in any physical change to the environment. Further, projects subject to this resolution will trigger individual analysis and documentation related to CEQA through the building permit process. Therefore, it can be seen with certainty that there is no possibility that this resolution may have a significant adverse effect on the environment, and therefore the adoption of this resolution is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines.
SECTION 3: ZONING ORDINANCE AMENDMENT.

Section 17.08.050 of the Municipal Code is amended to read as follows:

17.08.050 Accessory Structures.

Accessory structures in residential zoning districts shall be compatible with the materials and architecture of the primary dwelling of the property. Accessory structures may only be constructed on a lot containing a main dwelling unit. Accessory structures may be built to the interior side and rear property lines as long as these structures are not closer than 10 feet to any other structure. Building Code regulations may further restrict the distance to be maintained from property lines or other structures. The accessory structure may be a maximum of 50% of the footprint of the primary structure, and may be the same height as the principal structure. Second units are not considered accessory structures, and have specific development standards enumerated in Section 17.08.100. No design review shall be required for accessory structures located in a specific plan area, a planned unit development, or other approved development plan area with an active architectural review board, or committee.

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 __________, 2011.

________________________________________
Barbara Hanna, Mayor
City of Banning

APPROVED AS TO FORM
AND LEGAL CONTENT:

________________________________________
David J. Alehshire, 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. 1439 was duly introduced at a regular meeting of the City Council of the City of Banning, held on the ___ day of ___________, 2011, 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