



*In accordance with City Council Resolution 1995-21, the minutes of meetings of the City Council and the Boards, Commissions, and Committees of the City shall be prepared as Action Minutes.*

*The following information comprises the minutes for the regular meeting of the City Council, a joint meeting of the Banning City Council and Banning Utility Authority and a joint meeting of the Banning City Council and the Banning City Council sitting in its capacity as the Successor Agency Board.*

MINUTES  
CITY COUNCIL

06/23/2020  
REGULAR MEETING

COUNCIL MEMBERS PRESENT: Mayor Andrade  
Mayor Pro Tem Wallace  
Councilmember Happe (via videoconference)  
Councilmember Pingree  
Councilmember Welch

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT Douglas Schulze, City Manager  
Kevin G. Ennis, City Attorney  
Marie Calderon, City Clerk  
Sonja De La Fuente, Deputy City Clerk  
Jennifer Christensen, Administrative Services Director  
Matthew Hamner, Police Chief  
Tom Miller, Electric Utility Director  
Adam Rush, Community Development Director  
Art Vela, Public Works Director/City Engineer  
Ralph Wright, Parks & Recreation Director  
Laurie Sampson, Executive Assistant  
Jacob Stewart, Financial Services Specialist

**I. CALL TO ORDER**

A regular meeting of the Banning City Council was called to order by Mayor Andrade on June 23, 2020, at 6:13 P.M.

Banning Police Chief Matthew Hamner offered the invocation.

Councilmember Welch led the public in the Pledge of Allegiance.

## **II. AGENDA APPROVAL**

A motion was made by Mayor Pro Tem Wallace, seconded by Councilmember Pingree, to approve the agenda. Roll call vote was taken as follows:

|          |  |
|----------|--|
| AYES:    | Andrade, Happe, Pingree, Wallace & Welch |
| NOES:    | None                                     |
| ABSTAIN: | None                                     |
| ABSENT:  | None                                     |

## **III. PRESENTATION(S)**

Mayor's Special Recognitions

The Mayor and City Council recognized Coach Smith and participants of Camp All In as well as Jacob Stewart, Financial Services Specialist (Business License Division), City of Banning, for making Banning a better place to work, live, and play.

## **IV. REPORT ON CLOSED SESSION**

City Attorney Ennis reported that City Council held a special meeting beginning at 3:30 P.M. today. The items discussed were as follows:

1. **CONFERENCE WITH REAL PROPERTY NEGOTIATORS** pursuant to Government Code Section 54956.8

**Property and Owners/Negotiating Parties:** Real Property located in the vicinity of Ramsey and Hathaway – 1483 E. Ramsey Street, APN 541- 170-019 – Raymond Ngoc Huynh and Lucy Nguyen Huynh, as Trustees of the Raymond and Lucy Huynh Revocable Trust

**City Negotiators:** Douglas Schulze, City Manager and Art Vela, Public Works Director

**Under Negotiation:** Price and terms for acquisition of street right of way and temporary construction easements

***A status report was provided with no reportable action.***

2. **CONFERENCE WITH REAL PROPERTY NEGOTIATORS** pursuant to Government Code Section 54956.8

**Property and Owner/Negotiating Party:** Real Property located in the vicinity of Ramsey and Hathaway – 1573 E. Ramsey Street, APN 541-170-021 – Jen H. Huang

**City Negotiators:** Douglas Schulze, City Manager and Art Vela, Public Works Director

**Under Negotiation:** Price and terms for acquisition of street right of way and temporary construction easements

***A status report was provided with no reportable action.***

**3. CONFERENCE WITH REAL PROPERTY NEGOTIATORS** pursuant to Government Code Section 54956.8

**Properties and Owners/Negotiating Party:** Real Property located in the vicinity of Ramsey Street and Martin Street, APN 541-150-025 – City of Banning

**City Negotiator:** Douglas Schulze, City Manager

**Under Negotiation:** Price and terms

***An update was provided regarding the potential for City-owned property.***

**V. PUBLIC COMMENTS, CORRESPONDENCE, AND APPOINTMENTS**

**PUBLIC COMMENT(S)**

John Hagen expressed that he doesn't understand how the budget is balanced if money is being taken from reserves. He encouraged the Council to look at deeper cuts.

Paul Perkins noted that a lot of the City's contracts have a 10% contingency and recommended dropping the contingency. He also mentioned that the City Treasurer had stated that the City wouldn't receive property tax from new development unless it is turned over immediately. He recommended the youth group that was just recognized use the Armory. He also suggested the Chamber of Commerce look at the Ramsey Street Village.

Lilly Aguilera provided the City Council with a photo (Attachment 1) of 2735 W. Lincoln and expressed her desire for the City to do something with this property, as it has been in this state for four years.

City Manager Doug Schulze advised that 2735 W. Lincoln is an active Code Enforcement case. He explained it is a long drawn out legal process to abate a public nuisance, but the City is moving forward.

**CORRESPONDENCE**

None

**APPOINTMENT(S)**

None

## **VI. CONSENT ITEMS**

Consent Items 14, 15, 16 and 21 were pulled for separate consideration.

1. Minutes – June 9, 2020, Regular Meeting
2. Minutes – June 9, 2020, Special Meeting (Workshop)
3. Minutes – June 9, 2020, Special Meeting (Closed Session)
4. Receive and File Police Statistics for May 2020
5. Receive and File Fire Statistics for May 2020
6. Receive and File List of Contracts Approved Under the City Manager's Signature Authority for the Month of May 2020
7. Receive and File Public Works Capital Improvement Project Tracking List
8. Receive and File the Butterfield Specific Plan ("Atwell") Annual Review
9. Receive and File the General Plan Annual Progress Report for Calendar Year 2019
10. Receive and File Proposition 1 Round 1 Integrated Regional Water Management (IRWM) Implementation Grant Update
11. Resolution 2020-77, Authorizing the Application for and Receipt of Local Government Planning Support Grant Program Funds
12. Ordinance 1564, an Ordinance of the City of Banning Amending Chapter 3.17 (Cannabis Commercial Cultivation, Manufacturing, and Laboratory Testing Tax) of Title 3 (Revenue and Finance) of the Banning Municipal Code to Decrease the Cannabis Cultivation Tax Rate, and Making a Determination Under CEQA Guidelines Section 15060(C)(3) (**2<sup>nd</sup> Reading**)
13. Resolutions 2020-84 and 2020-85 approving the following agreements, respectively: a) Agreement for Purchase and Sale and Escrow Instructions Between City of Banning and Frank J. Burgess and Lorna D. Burgess, Trustees of the Burgess Family Trust DOT December 15, 1989 in connection with Ramsey-Hathaway Street Improvement Project (Portions of APN 532-120-020) and b) Agreement for Purchase and Sale and Escrow Instructions Between City of Banning and Frank J. Burgess in Connection with Ramsey-Hathaway Street Improvement Project (Portions of APN 532-140-005)
17. Resolution 2020-80, Approving the Replacement of Vehicles for Fiscal Year 2021 Pursuant to the Five (5) Year Master Equity Lease Agreement with Enterprise Fleet Management
18. Resolution 2020-71, Calling for the Holding of a General Municipal Election to be Held on Tuesday, November 3, 2020 for the Election of Members of the City Council by Districts 1, 2 and 3, City Clerk and City Treasurer
19. Resolution 2020-72, Adopting Regulations for Candidates for Elective Office Pertaining to the Electorate and the Costs Thereof for the General Municipal Election to be Held in the City on Tuesday, November 3, 2020

20. Resolution 2020-89, Calling for the Placement of a Cannabis Distribution Facility Tax on the Ballot of the November 3, 2020 Municipal Election; Approving the Ballot Language for the Measure; Directing the City Attorney to Prepare an Impartial Analysis of the Measure; and Providing Direction Regarding the Submission of Ballot Arguments For or Against the Measure

### **Public Comments**

Paul Perkins addressed Consent Item 17 and expressed concern with the City's ability to continue to be able to afford the contract with Enterprise.

A motion was made by Councilmember Welch, seconded by Councilmember Pingree to approve Consent Items 1-13 and 17-20. Roll call vote was taken as follows:

AYES: Andrade, Happe, Pingree, Wallace & Welch  
NOES: None  
ABSTAIN: None  
ABSENT: None

**Action: Approved Consent Items 1-13 and 17-20.**

14. Resolution 2020-78, Approving the Renewal for the Landscape Maintenance Contract for City Parks with Z&T Ventures, Inc. dba Service Scape of Alta Loma, California, for Fiscal Year 2020/2021 in the Amount of \$73,642.80

Councilmember Pingree expressed concern with the quality of work provided by the contractor based on the scope of work and recommended going back out to bid.

Parks and Recreation Director Ralph Wright explained the scope of the contractor's responsibilities and advised that the allowance for \$10,000 is not in the current scope of work.

Councilmember Pingree recommended updating the Scope of Work and bringing the item back for approval at the next meeting.

### **Public Comments**

None

A motion was made by Councilmember Pingree, seconded by Mayor Pro Tem Wallace to continue Consent Item 14 to the next City Council Meeting. Roll call vote was taken as follows:

AYES: Andrade, Happe, Pingree, Wallace & Welch  
NOES: None  
ABSTAIN: None  
ABSENT: None

**Action: Consent Item 14 was continued to the next Regular City Council Meeting.**

15. Notice of Completion for Project 2019-046 "Dysart Park Fencing Project"

Mayor Pro Tem Wallace explained that she pulled this item for discussion by mistake.

#### **Public Comments**

None

A motion was made by Mayor Pro Tem Wallace, seconded by Councilmember Pingree to approve Consent Item 15. Roll call vote was taken as follows:

AYES: Andrade, Happe, Pingree, Wallace & Welch  
NOES: None  
ABSTAIN: None  
ABSENT: None

**Action: Approved Consent Item 15.**

16. Reject All Bids for the "Senior Center ADA Improvements" Project

Mayor Pro Tem Wallace asked for clarification as to why the City was rejecting all bids.

Public Works Director Art Vela provided the explanation that the City will be going back out to bid using CDBG funds.

#### **Public Comments**

Paul Perkins recommended the City not open the Senior Center until it is ADA compliant.

A motion was made by Councilmember Pingree, seconded by Councilmember Welch to approve Consent Item 16. Roll call vote was taken as follows:

AYES: Andrade, Happe, Pingree, Wallace & Welch  
NOES: None  
ABSTAIN: None  
ABSENT: None

**Action: Approved Consent Item 16.**

21. Resolution 2020-65, Declaring Racism a Public Health Issue

Councilmember Happe requested Resolution 2020-65 to be read in its entirety by the Deputy City Clerk.

Councilmember Welch recommended more direction from Council to staff following the approval of the Resolution.

City Manager Doug Schulze advised there would be staff time associated with the Resolution.

Deputy City Clerk Sonja De La Fuente read Resolution 2020-65 in its entirety.

### **Public Comments**

None

A motion was made by Mayor Pro Tem Wallace, seconded by Councilmember Happe to approve Consent Item 21. Roll call vote was taken as follows:

AYES: Andrade, Happe, Pingree, Wallace & Welch  
NOES: None  
ABSTAIN: None  
ABSENT: None

**Action: Approved Consent Item 21.**

## **VII. PUBLIC HEARING(S)**

1. Resolution 2020-86, Approving the Independent Evaluation of the Banning Electric Utility's Wildfire Mitigation Plan

Electrical Engineering Supervisor Brandon Robinson presented the staff report for this item. He addressed comments in a letter from Dudek and provided a copy of the letter (Attachment 2) to the City Council and public.

### **Public Comments**

None

A motion was made by Councilmember Pingree, seconded by Mayor Pro Tem Wallace to adopt Resolution 2020-86 and authorize staff to address comments in the letter from Dudek. Roll call vote was taken as follows:

|          |  |
|----------|--|
| AYES:    | Andrade, Happe, Pingree, Wallace & Welch |
| NOES:    | None                                     |
| ABSTAIN: | None                                     |
| ABSENT:  | None                                     |

**Action: Adopted Resolution 2020-86 and authorized staff to address comments in the letter from Dudek.**

2. Resolution 2020-79, Approving Conditional Use Permit 20-8001 to Allow the Retail Sale of Cannabis and Cannabis Related Products in an Existing Commercial Building Located at 1034 W. Ramsey Street, Unit A (APN 540-180-052) in the Highway Servicing Commercial Zoning District and Make a Determination of Exemption Under CEQA Guidelines Section 15301

Community Development Director Adam Rush presented the staff report and PowerPoint presentation (Attachment 3) for this item.

Mayor Andrade asked for timelines for opening and advised that she would like to change Item Number Four in Exhibit B to six months and that the Building Permit should be applied for within 30 days from approval of the Conditional Use Permit instead of 45.

### **Public Comments**

Laura Leindecker addressed the Council as Project Manager regarding deadlines being met. She expressed that she feels that 30 days is too short. She would like to know if this is happening with the other two dispensaries. She explained that

allowed locations were limited in the City. She does believe that six months seems doable but feels 45 days is adequate. She advised that the dispensary will open.

John Hagen expressed his disbelief that there isn't a race between the three lottery winners, which leads him to believe the City has some non-business friendly hurdles they must overcome.

Paul Perkins pointed out that it took them a year to get a location. He also noted issues the City had sorting out certain requirements. He recommended taking the applicant's word.

A letter was received from Charter Management Systems, Inc.in opposition to the project (Attachment 4).

A motion was made by Mayor Andrade to approve as amended. Motion died for lack of a second.

A motion was made by Councilmember Pingree, seconded by Councilmember Welch to adopt Resolution 2020-79, but that Mayor Andrade's recommendations apply to future cannabis dispensary applicants. Roll call vote was taken as follows:

AYES: Andrade, Happe, Pingree, Wallace & Welch  
NOES: None  
ABSTAIN: None  
ABSENT: None

**Action: Adopted Resolution 2020-79, but future cannabis dispensary applicants must apply for a Building Permit within 30 days from approval of a Conditional Use Permit and open within six months.**

3. Ordinance 1565, (1) Amending Chapter 5.33 and 5.35 of Title 5 of Banning Municipal Code to Allow Cannabis Distributors to Operate in the City and to Amend the Process for Processing Cannabis Retailer Applications, (2) Amending Chapters 17.12, 17.53, and 17.54 of Title 17 of the Banning Municipal Code (Zoning Text Amendment (ZTA) 20-97501 to Allow Cannabis Retailers to Operate in the General Commercial Zone, to Eliminate the Separation in the Requirement Between Cannabis Retailers and Residentially Zoned Property, to Include Provisions Regarding the Expiration of Cannabis Retailer Conditional Use Permits (CUP), to Allow Indoor Commercial Cultivation Facilities in the Business Park Zone, to Allow Cannabis Distribution Facilities to Operate in the Industrial Zone, and Making Additional Amendments to the Regulations Pertaining to Commercial Cannabis Businesses, and (3) Making a Determination Pursuant to CEQA. The Proposed Amendments Will Affect All Properties

Located in the General Commercial (GC), Highway Serving Commercial (HSC), Business Park (BP), and Industrial (I) Zoning District, in the City of Banning, California. **(The Planning Commission Recommended the Council Retain the Minimum 200-foot setback between Cannabis retailers and residentially zoned properties)**

Community Development Director Adam Rush presented the staff report and PowerPoint presentation (Attachment 5) for this item. He provided an updated copy of Ordinance 1565 (Attachment 6).

Councilmember Pingree asked if churches were included. Community Development Director Adam Rush advised that churches are not included in setbacks per State law.

There was discussion held among Council and Staff regarding the amendments in the Ordinance as provided tonight, which will reduce the time to apply for a Building Permit from 45 days to 30 days and clarify that applicants will be required open within 6 months (180 days) from building permit issuance. The Community Development Director will be authorized to determine and issue any extensions as appropriate.

### **Public Hearing**

John Hagen expressed concern with the 200-foot setback and opening to the General Commercial Zone. He explained that existing businesses will suffer because residents will not want to continue to shop and will go to Beaumont instead. Therefore, he encouraged keeping it in the Highway Serving Commercial Zone only.

Paul Perkins asked if City Council dropped the 200-foot setback from cultivation.

City Attorney Kevin Ennis explained that is included in tonight's ordinance.

Councilmember Happe advised that he didn't see a significant impact based on the map.

Discussion was held among Council and Staff.

A motion was made by Mayor Andrade, seconded by Councilmember Pingree to modify Sections 5 and Section 19 of Ordinance 1565 to provide that in Section 5 an application for a Conditional Use Permit (CUP) must be submitted within 60 days of the issuance of a Regulatory Permit and that in Section 19 upon issuance of the CUP an application for a Building Permit must be submitted within 30 days of approval of a Retailer CUP, a condition that requires that any physical construction commence within 60 days after issuance of a Building Permit and a

condition requiring the retailer to commence business operations within 180 days from the issuance of a Building Permit. In addition, in the same section, the language regarding allowing for extensions would grant authority to the Community Development Director to grant extensions. Roll call vote was taken as follows:

AYES: Andrade, Pingree, Wallace & Welch  
NOES: None  
ABSTAIN: Happe  
ABSENT: None

**Action: Approved amending Ordinance 1565 as recommended.**

Councilmember Pingree recommended keeping a 200-foot setback from residential zone and not allowing in the General Commercial Zone.

Councilmember Happe noted that he did not see a significant impact on the Residential Zone and suggested not allowing in the General Commercial Zone is taking away opportunities from 85 property owners.

There was discussion held among Council and Staff.

A motion was made by Councilmember Pingree, seconded by Mayor Pro Tem Wallace to eliminate Section 20, keeping the 200-foot setback for cannabis retailers from the Residential Zone and eliminating Section 3 and amending the table in Section 11, not allowing cannabis retail to be expanded into the General Commercial Zone. Roll call vote was taken as follows:

AYES: Pingree, Wallace & Welch  
NOES: Andrade and Happe  
ABSTAIN: None  
ABSENT: None

**Action: Approved amending Ordinance 1565 as recommended.**

The Mayor asked the Deputy City Clerk to read the title of Ordinance 1565.

Deputy City Clerk Sonja De La Fuente read the title of Ordinance 1565 as follows:

*"Ordinance 1565, (1) Amending Chapters 5.33 and 5.35 of Title 5 of Banning Municipal Code to Allow Cannabis Distributors to Operate in the City and to Amend the Process for Processing Cannabis Retailer Applications, (2) Amending Chapters 17.12, 17.53, and 17.54 of Title 17 of the Banning Municipal Code (Zoning Text Amendment (ZTA) 20-97501 to Include Provisions Regarding the Expiration of Cannabis Retailer Conditional Use Permits (CUP), to Allow Indoor Commercial Cultivation Facilities in the Business Park Zone, to Allow Cannabis*

*Distribution Facilities to Operate in the Industrial Zone, and Making Additional Amendments to the Regulations Pertaining to Commercial Cannabis Businesses, and (3) Making a Determination Pursuant to CEQA. The proposed amendments will affect all properties located in the Highway Serving Commercial (HSC), Business Park (BP), and Industrial (I) Zoning District, in the City of Banning, California.”*

A motion was made by Mayor Pro Tem Wallace, seconded by Councilmember Pingree to waive further reading of Ordinance 1565 as amended. Roll call vote was taken as follows:

AYES: Andrade, Happe, Pingree, Wallace & Welch  
NOES: None  
ABSTAIN: None  
ABSENT: None

**Action: Waived further reading of Ordinance 1565 as amended.**

A motion was made by Mayor Pro Tem Wallace, seconded by Councilmember Pingree that Ordinance 1565 pass its first reading as amended. Roll call vote was taken as follows:

AYES: Andrade, Happe, Pingree, Wallace & Welch  
NOES: None  
ABSTAIN: None  
ABSENT: None

**Action: Ordinance 1565 passed its first reading as amended.**

4. Resolutions of Necessity for the Acquisition by Eminent Domain of Certain Real Property Interests Identified as Riverside County Tax Assessor Parcel Numbers 541-170-019 and 541-170-021, Owned Respectively by Raymond Ngoc Huynh and Lucy Nguyen Huynh, Trustees of the Raymond and Lucy Huynh Revocable Trust dated August 8, 2007, and Jen H. Huang, for Public Purposes in Connection with the Ramsey-Hathaway Street Improvement Project

City Attorney Kevin Ennis introduced his colleague Gina Danner who presented the staff report for this item.

### **Public Hearing**

None

A motion was made by Mayor Pro Tem Wallace, seconded by Councilmember Welch to 1) adopt Resolution 2020-87, repealing and superseding Resolution 2019-160 and 2) adopt Resolution 2020-88, repealing and superseding Resolution 2019-161. Roll call vote was taken as follows:

AYES: Andrade, Happe, Pingree, Wallace & Welch  
NOES: None  
ABSTAIN: None  
ABSENT: None

**Action: Adopted Resolutions 2020-87 and 2020-88.**

## **VIII. ANNOUNCEMENTS AND REPORTS**

### **CITY COUNCIL COMMITTEE REPORTS**

Councilmember Pingree reported that on July 11<sup>th</sup> Banning High School will hold a drive-up Graduation at 8:30 A.M. He also noted that this is the first time ever that a student is graduating from Banning High School with an Associate's Degree.

Councilmember Wallace reported that Community Action Partnership will be working with the City to help people with paying their bills. On August 15<sup>th</sup> she will be hosting another Townhall Meeting from 5:30 P.M. until 8:00 P.M. with five local pastors along with the Chief of Police and the City Manager.

Councilmember Welch had nothing to report.

Councilmember Happe reported that there will be a second round of small business grants coming and he recommended checking the County of Riverside website on June 25<sup>th</sup> for an update. He encouraged all small businesses in Banning to apply. Applications will be accepted beginning June 29<sup>th</sup> at 9:00 A.M.

Mayor Andrade reported that she attended a Finance and Taxation Committee meeting via Zoom. There was a guest speaker regarding housing. Homelessness was discussed and numbers are increasing. Banning Market night began again this month and she encouraged promoting the City more.

### **REPORT BY CITY ATTORNEY**

City Attorney Kevin Ennis addressed the comment regarding a 10% contingency included on contracts. He explained that Public Works contracts sometimes require change orders and that 10 % contingency would provide for the funding in that case. With a Professional Services Agreement, if additional services are

required then the Contract Administrator could approve additional services up to 10%. That is why there is sometimes a contingency set aside in a contract.

### REPORT BY CITY MANAGER

City Manager Doug Schulze reported on the following:

- Congressman Ruiz has drafted a letter regarding the closing of the Banning Municipal Airport and that the FAA didn't have any significant changes. The FAA noted that they felt administrative offices (regional office) could process the closure administratively. Congressman Ruiz chose to continue with legislation. The City will continue with the legislative course through the City's Lobbyist and staff with Dr. Ruiz's office by including the legislation as an Amendment to HR2 (transportation bill), which is to be introduced next week. He advised it may get approved through the House but may have difficulties going through the Senate right now.
- In regard to the Exclusive Negotiating Agreement for 150 E. Ramsey Street, Mr. Sudweeks has submitted all required deliverables prior to the deadline of June 30, 2020. He advised that Mr. Sudweeks has indicated that he is having difficulties meeting with medical providers that he would lease the facility to because they have all been impacted by COVID-19.
- The City's grant application for the Ramsey Street Village operations was successful and approved for the full amount requested of \$125,000. The City expects to receive \$165,000 in CDBG funds for the purchase of the shelters. It is scheduled for approval by the County Board of Supervisors on July 7<sup>th</sup>.
- Regarding the public comment related to 2735 W. Lincoln, he advised it is an active code case.
- Regarding the public comment regarding the Enterprise Lease Agreement, he advised the contract does not increase by that amount annually, that is annual amount. The vehicle is for the Fire Marshal, which is a separate contract with the County of Riverside from general fire protection services and that contract requires the City provide a vehicle to the Fire Marshal.

### REPORTS OF OFFICERS

None

### **IX. DISCUSSION ITEM**

None

### **X. ITEMS FOR FUTURE AGENDAS**

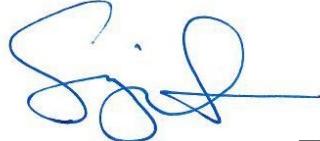
None

**XI. ADJOURNMENT**

By consensus, the meeting was adjourned at 9:56 P.M.

**Next Meeting: Tuesday, July 14, 2020, 5:00 P.M.**

Minutes Prepared by:



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Sonja De La Fuente, Deputy City Clerk

*The entire discussion of this meeting may be viewed here:*

<https://banninglive.viebit.com/player.php?hash=E4uwWUGpQzGK>. Any related documents maybe viewed here:

<http://www.banningca.gov/ArchiveCenter/ViewFile/Item/2324> or by purchasing a CD or DVD in the amount of \$7.00 at Banning City Hall located at 99 E. Ramsey Street.

# **ATTACHMENT 1**



Fw: Sewage smell at 2735 W. Lincoln Street, Banning

From: Lilly Aguilera (lillyofprescottvalley@yahoo.com)

To: jarballojr@ruhealth.org

Date: Wednesday, June 17, 2020, 01:16 PM PDT

— Forwarded Message —

**From:** Lilly Aguilera <lillyofprescottvalley@yahoo.com>  
**To:** chawebmaster@rivcocha.org <chawebmaster@rivcocha.org>  
**Sent:** Wednesday, June 17, 2020, 12:55:30 PM PDT  
**Subject:** Sewage smell at 2735 W. Lincoln Street, Banning

Dear sir,

There is a situation that has been overlooked for 4 years at  
2735 W. Lincoln Street , Banning 92220

Two abandoned buildings at this sight are emitting a toxic  
Sewage smell !

My neighbors and I are deeply concerned  
About this abandoned property and none of the ' Agencies '

have done anything to remedy the situation !

We have been patiently waiting for 4 years !

Enough is enough !

Who would be in charge of a problem like this ?

Today, I have sent a message to Environmental Health  
and Banning Utilities ! It's time for a solution !

After some research I found the owners name :

I believe he is in Real Estate :

Tuan Khong

4097 W-Ramsey Street  
Banning, Ca. 92220

Tele 951 845-3750

951 849-5313

951 295-2558

37493 Brutus Way, Beaumont

Sincerely,

Lillian Aguilera

Tele: 951-902-9531

# **ATTACHMENT 2**

June 23, 2020

12255.03

Mr. Brandon Robinson  
Northern California Power Agency  
99 East Ramsey Street  
Banning, CA 92220

**Subject:** *Evaluation of Banning Electric Utility's Wildfire Mitigation Plan*

Dear Mr. Robinson:

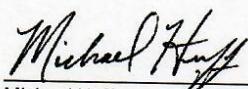
Dudek conducted an evaluation of the Banning Electric Utility's (BEU) Wildfire Mitigation Plan (WMP), as required under California Public Utilities Code (CPUC) Section 8387(b). CPUC Section 8387(b), as modified by Senate Bill (SB) 901, and the Administrative Law Judge's Ruling issued on January 17, 2019 in CPUC Docket No. R.18-10-007 (ALJ Ruling), applies to publicly-owned electric utilities and requires preparation of a Wildfire Mitigation Plan before January 1, 2020. After January 1, 2020, publicly-owned utilities shall prepare a wildfire mitigation plan annually and shall submit the plan to the California Wildfire Safety Advisory Board on or before July 1 of that calendar year. CPUC Section 8387(c) requires that an independent evaluator review and assess the comprehensiveness of a publicly-owned utility's WMP and issue a summary report.

Dudek, as an independent plan evaluator, conducted an initial review of BEU's Draft WMP (version 1.1). The following summarizes the recommended clarifications/modifications identified during the initial review of the Draft WMP (version 1.1), by required element. The following WMP modifications are recommended to be incorporated into the Revised WMP to meet Code requirements:

- 8387(b)(2)(A): Provide clarification and detail regarding climate change.
- 8387(b)(2)(E): Identify previous plan metrics, as available.
- 8387(b)(2)(K): Provide map legend details to differentiate the Fire Hazard Severity Zones, Tier 2 and Tier 3 CPUC Maps. Re-asses the service territory to have areas previously identified as Risk Areas remain included and identified within the appropriate Tier classification.

Should you have any questions or require additional information, please do not hesitate to contact me at (619) 992-9161.

Sincerely,



Michael Huff  
Principal/Senior Fire Protection Planner

For: Asst Chief (ret.) Jason Neuman, Sr. Fire Protection Planner

Att.: *A. Required WMP Elements under PUC Section 8387(b)*

Attachment A

Required WMP Elements under PUC Section 8387(b)

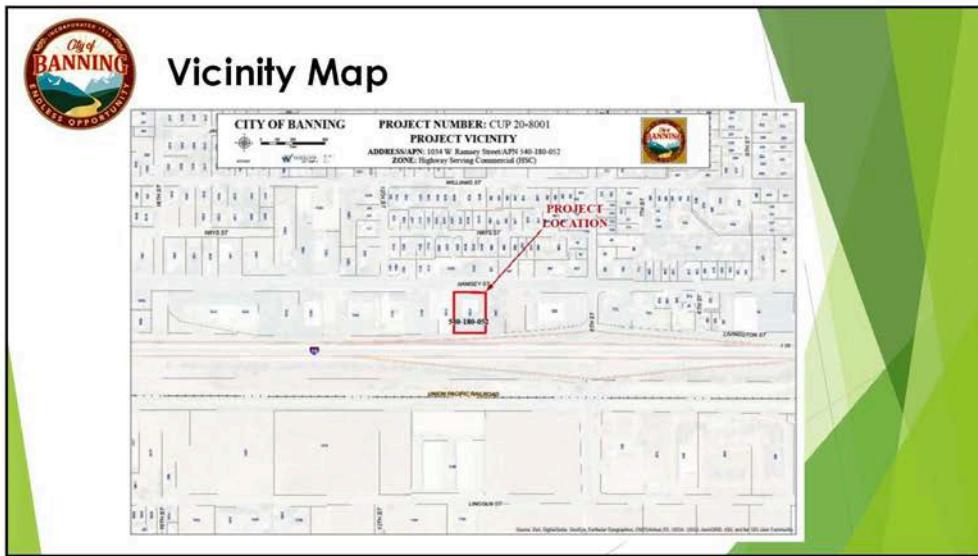
**Required WMP Elements under PUC Section 8387(b)**

| PUC 8387(b)(2) Section | Description  |
|------------------------|--|
| A                      | An accounting of the responsibilities of the persons responsible for executing the plan.   |
| B                      | The objectives of the wildfire mitigation plan.  |
| C                      | Description of the preventative strategies and programs to be adopted by the publicly owned electric utility or electrical cooperative to minimize the risk of its electrical lines and equipment causing catastrophic wildfires, including consideration of dynamic climate change risks.   |
| D                      | A description of the metrics the local publicly owned electric utility or electrical cooperative plans to use to evaluate the wildfire mitigation plan's performance and the assumptions made that underlie the use of those metrics.  |
| E                      | A discussion of how the application of previously identified metrics to previous wildfire mitigation plan performances has informed the wildfire mitigation plan.  |
| F                      | Protocols for disabling reclosers and de-energizing portions of the electrical distribution system that consider the associated impacts on public safety, as well as protocols related to mitigating the public safety impacts of those protocols, including impacts on critical first responders and on health and communication infrastructure                                 |
| G                      | Appropriate and feasible procedures for notifying a customer who may be impacted by the de-energizing of electric lines. The procedures shall consider the need to notify, as a priority, critical first responders, health care facilities, and operators of telecommunications infrastructure.   |
| H                      | Plans for vegetation management.   |
| I                      | Plans for inspections of the local publicly owned electric utility's or electrical cooperative's electrical infrastructure.  |
| J                      | A list that identifies, describes, and prioritizes all wildfire risks, and drivers for those risks, throughout the local publicly owned electric utility's or electrical cooperative's service territory. The list shall include, but not be limited to, both of the following:  |
| J(i)                   | Risks and risk drivers associated with design, construction, operations, and maintenance of the local publicly owned electric utility or electrical cooperative's equipment and facilities.  |
| J(ii)                  | Particular risks and risk drivers associated with topographic and climatological risk factors throughout the different parts of the local publicly owned utility's or electrical cooperative's service territory.  |
| K                      | Identification of any geographic area in the local publicly owned electric utility's or electrical cooperative's service territory that is a higher wildfire threat than is currently identified in a commission fire threat map, and identification of where the commission should expand the high fire threat district based on new information or changes to the environment. |
| L                      | A methodology for identifying and presenting enterprise-wide safety risk and wildfire-related risk.  |
| M                      | A statement of how the local publicly owned electric utility will restore service after a wildfire.  |
| N                      | A description of the processes and procedures the local publicly owned electric utility or electrical cooperative shall use to do all of the following:  |
| N(i)                   | Monitor and audit the wildfire mitigation plan.  |
| N(ii)                  | Identify any deficiencies in the wildfire mitigation plan or its implementation, and correct those deficiencies.   |
| N(iii)                 | Monitor and audit the effectiveness of electrical line and equipment inspections, including inspections performed by contractors, that are carried out under the plan, and other applicable statutes, or commission rules.   |

# **ATTACHMENT 3**



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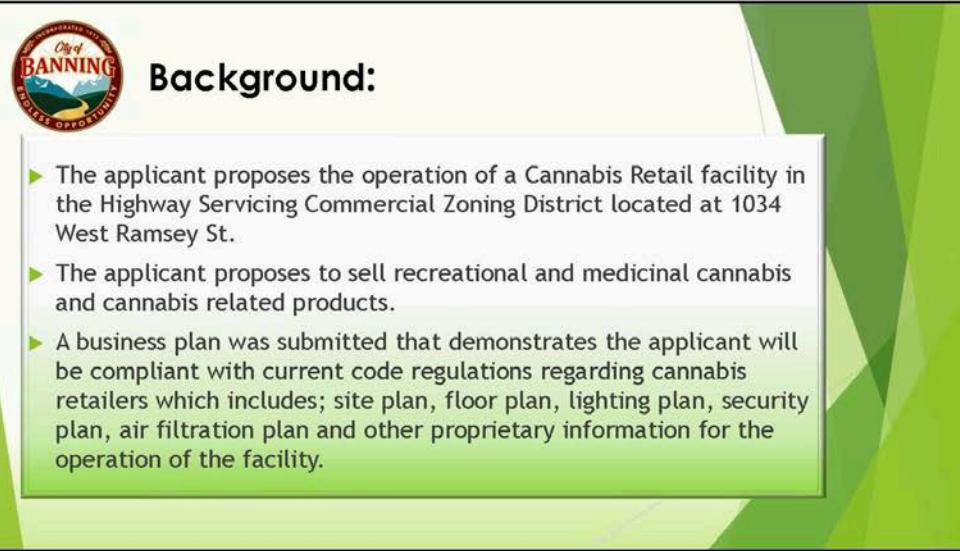


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## Recommended COAs

City Staff is recommending the following Condition of Approval (COA) be added to the Project, prior to the City Council's Action:

*In addition, the Cannabis Retailer shall submit an application for a building permit for any construction or tenant improvements for the cannabis retail use of the property with 45 days of the approval of this CUP. The Cannabis Retailer shall commence physical construction in conformity to the approved building permit within 60 days of the issuance of the building permit. If the Cannabis Retailer fails to satisfy the requirements of the two preceding sentences (the 45-day and 60-day deadlines), this CUP shall become null and void, unless the applicant file an application for an extension prior to the expiration of the applicable deadline and thereafter obtains an extension from the Community Development Director on the basis that the extension is warranted by special circumstances and that the applicant will be irreparably injured by the denial of the extension.*

THE APPLICANT HAS BEEN INFORMED - AND AGREES - TO  
THE ADDITIONAL CONDITION OF APPROVAL

7



## Environmental Determination

- ▶ The project qualifies as a Class 1 Categorical Exemption pursuant to section 15301 (Existing Facilities) of the California Environmental Quality Act (CEQA) Guidelines as the project is operating out of an existing facility and only minor tenant improvements are proposed.
- ▶ A Notice of Exemption has been prepared for adoption with the project.

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## Planning Commission Recommendation

Staff recommends the City Council to adopt Resolution 2020-79, making a determination that the Project is exempt under Section 15301 (Existing Facilities) of the California Environmental Quality Act (CEQA) and approve Conditional Use Permit 20-8001 to allow a Cannabis Retailer in an existing commercial building located at 1034 West Ramsey Street, Unit A (APN: 540-180-052) in the Highway Serving Commercial (HSC) zoning district.

9



## Thank You & Questions

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# **ATTACHMENT 4**

**CHARTER MANAGEMENT SYSTEMS, INC.**  
783 W. RAMSEY #E ~ PO BOX 697 ~ BANNING, CALIFORNIA 92220  
Phone 951-849-2488

May 31, 2020

Community Development Department  
City of Banning  
PO BOX 998  
Banning, Ca 92220



RE: Conditional Use Permit 20-8001  
1034 W Ramsey Street  
Banning, Ca

Dear Committee,

Charter Management owns property located at 783 W Ramsey on the NE corner of 8<sup>th</sup> Street and Ramsey. APN#540-170-064

I know the designated cannabis area borders 8<sup>th</sup> Street to the west. Our property is on the east side of 8<sup>th</sup> Street.

**We strongly oppose the approval of this location for the retail sale of cannabis.**  
Currently, we experience a tremendous problem with the homeless/vagrancy situation as they sleep and defecate and leave trash and drug paraphernalia on our office stairs and landscaping. We have not only had several tenants move out of the property but also have the added expense of monthly security and the cost of security lighting ALL NIGHT.

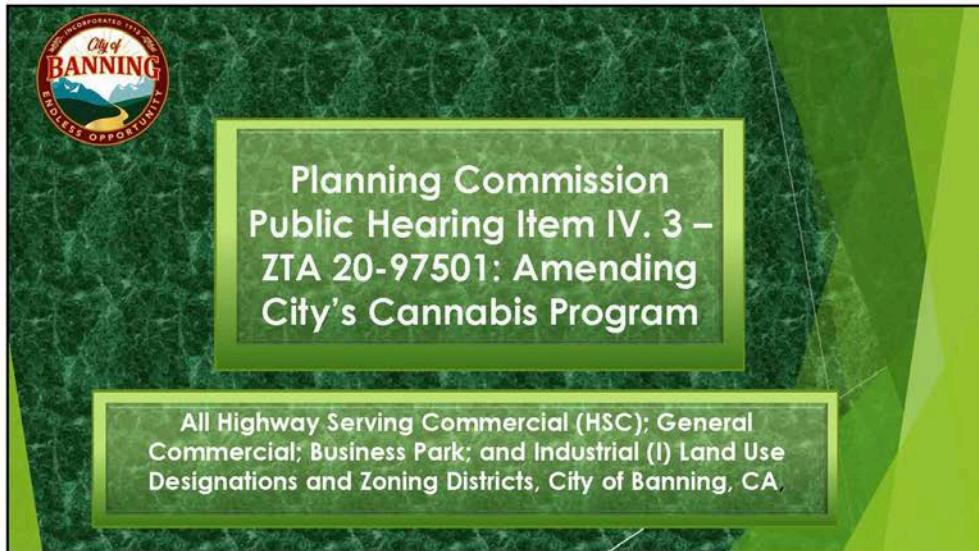
We feel this location is too close to our area and will add to the already trying and costly problems we currently face. It is so difficult to try to get long-term commercial tenants even though we try to keep our property in good safe condition.

However, this cannabis dispensary type of business is too close to our commercial area as it will cause undue attention and risk. The last illegal dispensary was open merely months before there was a murder in the area.

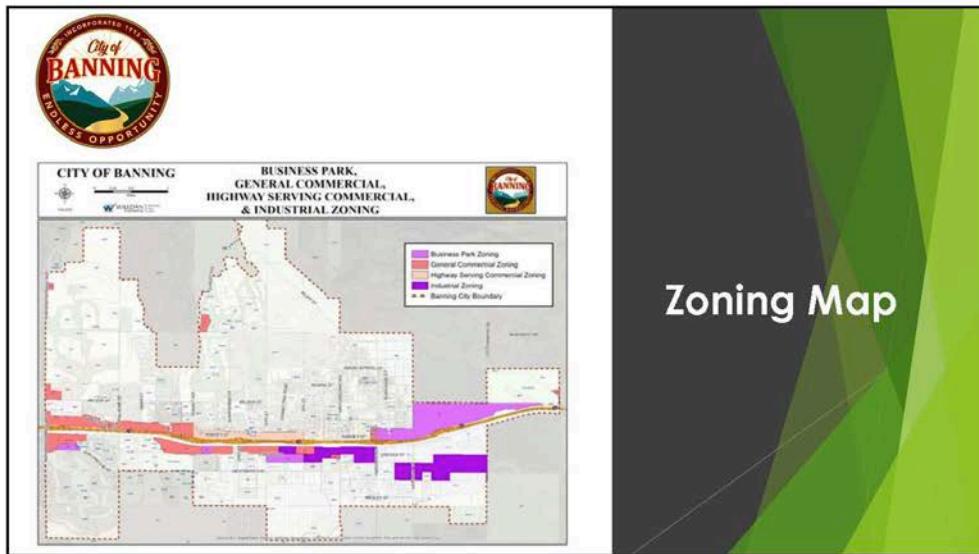
Thank you very much for your attention in this matter.

Sincerely,  
  
Michael L. Galleher  
President  
Charter Management Systems, Inc.

# **ATTACHMENT 5**



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Zoning Map

1



| Land Use                         | Acreage | Cannabis Allowed (Y/N) |
|----------------------------------|---------|------------------------|
| Highway Serving Commercial (HSC) | 87.63   | Yes (Retail Only)      |
| General Commercial (GC)          | 728.47  | No                     |
| Industrial (I)                   | 306.63  | Yes (Commercial)       |
| Business Park                    | 357.87  | No                     |

## Zoning Capacity Data



3



**CITY OF BANNING**  

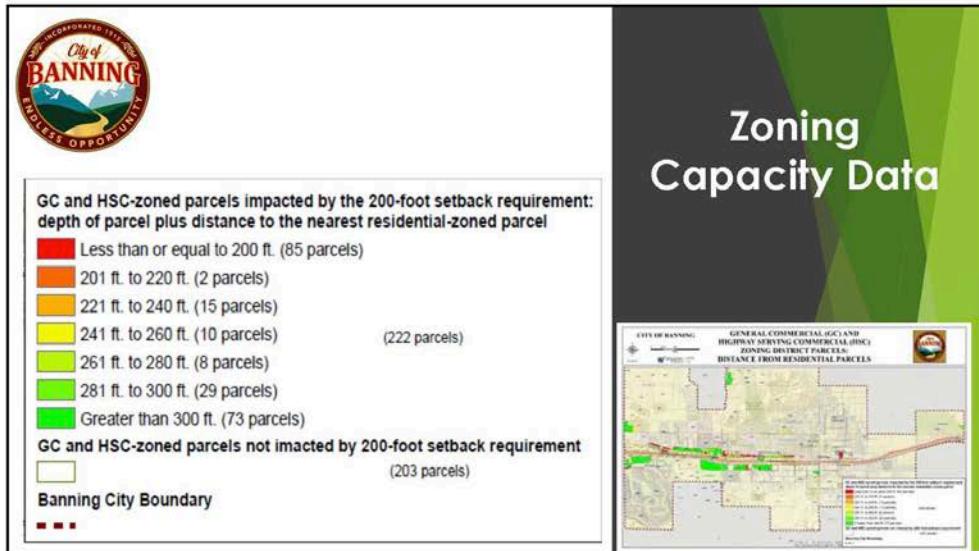

GENERAL COMMERCIAL (GC) AND  
HIGHWAY SERVING COMMERCIAL (HSC)  
ZONING DISTRICT PARCELS:  
DISTANCE FROM RESIDENTIAL PARCELS



## Residential Setbacks

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- ▶ July 10, 2018 - City Council Adopted Ordinance 1523 & 1527, establishing the Commercial and Retail Cannabis CUP processes, setting tax measures on the ballot, and establishing provisions for a commercial cannabis program.
- ▶ City Taxes:
  - ▶ \$15 per sq. ft. of canopy space, but up to \$25 per sq. ft.
  - ▶ 10% of gross receipts for retail dispensaries

## Background





- ▶ January of 2019, the City accepted 24 applications for retail cannabis regulatory permits.
- ▶ May 23, 2019, the City hosted a lottery to select the order of CUP applications.
- ▶ Three applicants were chosen. Two CUPs have been issued concurrent with their Regulatory Permits.
- ▶ The last Cannabis CUP is scheduled for the June 23<sup>rd</sup> City Council Public Hearing.

## Background

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| #  | Project Name                   | Project Number | Submitted Date | Applicant         | Description*                                     |                      | Status | Lottery Number |
|----|--------------------------------|----------------|----------------|-------------------|--|----------------------|--------|----------------|
|    |                                |                |                |                   | Cannabis Regulatory Permit Application           |                      |        |                |
| 1  | WUX LLC                        | 19-0501        | 2/11/2019      | Yose Lu           | 1411 W Ramsey St Retail Dispensary               | Approved for Lottery | 14     |                |
| 2  | North Park Inc                 | 19-0502        | 2/12/2019      | Mark Nowell       | 273 W Ramsey St Retail Delivery Dispensary       | Approved for Lottery | 2      |                |
| 3  | Organic Plus LLC               | 19-0503        | 2/19/2019      | David Hoffmeyer   | 273 W Ramsey St Retail Delivery Dispensary       | Approved for Lottery | 8      |                |
| 4  | Janessa B. Flame               | 19-0504        | 2/20/2019      | Jessica Flores    | 273 W Ramsey St Retail Delivery Dispensary       | Approved for Lottery | 18     |                |
| 5  | Whipple Bush LLC               | 19-0505        | 2/20/2019      | John Whipple      | 273 W Ramsey St Retail Delivery Dispensary       | Approved for Lottery | 5      |                |
| 6  | Flame Choice Retail Enterprise | 19-0506        | 2/20/2019      | Nicholas Flores   | 300 W Ramsey St Retail Delivery Dispensary       | Approved for Lottery | 17     |                |
| 7  | Black Sun Medicinals Inc       | 19-0507        | 2/20/2019      | Michelle West     | 273 W Ramsey St Retail Delivery Dispensary       | Approved for Lottery | 1      |                |
| 8  | MIL Holdings LLC               | 19-0508        | 2/20/2019      | Hoang Pham        | 273 W Ramsey St Retail Delivery Dispensary       | Approved for Lottery | 4      |                |
| 9  | Harvest Circuit LLC            | 19-0509        | 2/20/2019      | Daleysa Poncegat  | 273 W Ramsey St Retail Delivery Dispensary       | Approved for Lottery | 3      |                |
| 10 | Canna Connect Corp             | 19-0510        | 2/20/2019      | Adelio Calleira   | 273 W Ramsey St Retail Delivery Dispensary       | Approved for Lottery | 19     |                |
| 11 | Homestead Health LLC           | 19-0511        | 2/20/2019      | Linda Truong      | 273 W Ramsey St Retail Delivery Dispensary       | Approved for Lottery | 18     |                |
| 12 | JB Smoke Shop                  | 19-0512        | 2/20/2019      | Julie Le          | 273 W Ramsey St Retail Delivery Dispensary       | Approved for Lottery | 13     |                |
| 13 | Janessa L. Vironica            | 19-0513        | 2/21/2019      | Janessa Vironica  | 300 W Ramsey St Retail Delivery Dispensary       | Approved for Lottery | 20     |                |
| 14 | Jonathan Carter Jr             | 19-0514        | 2/21/2019      | Jonathan Carter   | 273 W Ramsey St Retail Delivery Dispensary       | Approved for Lottery | 6      |                |
| 15 | DF Highways LLC                | 19-0515        | 2/21/2019      | Devon Julian      | 273 W Ramsey St Retail Delivery Dispensary       | Approved for Lottery | 23     |                |
| 16 | The Denkey LLC                 | 19-0516        | 2/21/2019      | Sabrina Ancto     | 273 W Ramsey St Retail Delivery Dispensary       | Approved for Lottery | 22     |                |
| 17 | Nation Deli/Asia               | 19-0517        | 2/21/2019      | Nadine Delana     | 273 W Ramsey St Retail Delivery Dispensary       | Approved for Lottery | 15     |                |
| 18 | WHD Ventures LLC               | 19-0518        | 2/21/2019      | Jeffrey Willbald  | 300 W Ramsey St Retail Delivery Dispensary       | Approved for Lottery | 24     |                |
| 19 | D & O Ventures Group Inc       | 19-0519        | 2/21/2019      | Giana Wilbald     | 2914-2914 W Ramsey St Retail Delivery Dispensary | Approved for Lottery | 17     |                |
| 20 | WHD LLC                        | 19-0520        | 3/2/2019       | Bernard Goodwin   | 300 W Ramsey St Retail Delivery Dispensary       | Approved for Lottery | 6      |                |
| 21 | Green Horizons Health Corp     | 19-0521        | 3/2/2019       | Tonya Nguyen      | 273 W Ramsey St Retail Delivery Dispensary       | Approved for Lottery | 11     |                |
| 22 | Bethrock Retail                | 19-0522        | 3/21/2019      | Stevon Bobbitt    | 3002 W Ramsey St Retail Delivery Dispensary      | Approved for Lottery | 7      |                |
| 23 | Wholistic Partners LLC         | 19-0523        | 3/21/2019      | Nicole Foy        | 2736 W Ramsey St Retail Delivery Dispensary      | Approved for Lottery | 21     |                |
| 24 | Veronica Express Cannabis      | 19-0524        | 3/21/2019      | Veronica Castillo | 2732 W Ramsey St Retail Delivery Dispensary      | Approved for Lottery | 10     |                |

## Cannabis Lottery

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**Background**

- ▶ The City has accepted 2 Commercial Cannabis Cultivation facilities.
- ▶ The first was submitted in October of 2019 and the second in December of the same year.
- ▶ Both are located at the intersection of S. 8<sup>th</sup> Street and W. Lincoln St.
- ▶ Public Hearings are anticipated early Fall of 2020.

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**Commercial & Retail Cannabis Site Selection**

**Analysis**

- ▶ Over one year has passed since the City's Cannabis program was adopted.
- ▶ The City's Cannabis program has not yielded the anticipated results.
- ▶ The constraints are two-fold:
  - ▶ Property Constraints /Location/Zoning
  - ▶ "Typical" Development Process



**Zoning/Land Use**  
Retail Cannabis Dispensaries and Commercial Cannabis Cultivation can only operate in the Highway Serving Commercial (HSC) and Industrial Zoning Districts, respectively.

**Real Estate**  
Available commercial land or existing land/structures must be structurally sound and not require significant upgrades.

**Complete Application**  
Operations, complete entitlement process which can include Environmental Impact Statement, Hydrology, Cultural, Air/GG, Noise, Geology, and Lighting.

**CUP**

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**Further Discussion**

- ▶ **Expansion of Retail Dispensaries (General Commercial)** - Expansion of the Retail Dispensary licenses from the Highway Servicing Commercial Zone (HSC) (**87-acres**) to include the General Commercial Zone. This includes an additional **728-acres** of zoning capacity for retail cannabis.
- ▶ **Remove the 200-foot setback from residential:**  
The Ordinance Amendment will remove this setback which is not required by state law.
- ▶ **Cannabis Distributors & Distribution Facilities: Transport Only (Type 11 license)** - Distributors and Distribution facilities are responsible for transporting cannabis goods between licensees, but may not transport any cannabis goods, except for immature cannabis plants and/or seeds, to a licensed retailer or to the retailer portion of a licensed microbusiness.
- ▶ **Cannabis cultivation in the Business Park Zoning District:**  
A request for Cultivation Only in the Business Park Zone, as an industrially consistent use.

13

 **RECOMMENDED ACTION:** 

Make a determination pursuant to Section 15060(c)(3) of the California Environmental Quality Act (CEQA) that the Zoning Text Amendment is not subject to CEQA because the amendment is not a project as defined by the CEQA Guidelines Section 15378.

 That City Council take the following actions:  That the City Council waive full reading of, and introduce Ordinance 1565, approving Zoning Text Amendment No. 20-97501, Amending Chapter 5.33 and 5.35, 17.12, 17.53, and 17.54 as described in the staff report. **NOTE: The Planning Commission does not recommend removing the 200-foot setback.**

**Planning Commission Recommended Action**

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# **ATTACHMENT 6**

**ORDINANCE 1565**

**AN ORDINANCE 1565, (1) AMENDING CHAPTERS 5.33 AND 5.35 OF TITLE 5 OF THE BANNING MUNICIPAL CODE TO ALLOW CANNABIS DISTRIBUTORS TO OPERATE IN THE CITY AND TO AMEND THE PROCESS FOR PROCESSING CANNABIS RETAILER APPLICATIONS, (2) AMENDING CHAPTERS 17.12, 17.53, AND 17.54 OF TITLE 17 OF THE BANNING MUNICIPAL CODE (ZONING TEXT AMENDMENT (ZTA) 20-97501) TO ALLOW CANNABIS RETAILERS TO OPERATE IN THE GENERAL COMMERCIAL ZONE, TO ELIMINATE THE SEPARATION REQUIREMENT BETWEEN CANNABIS RETAILERS AND RESIDENTIALLY ZONED PROPERTY, TO INCLUDE PROVISIONS REGARDING THE EXPIRATION OF CANNABIS RETAILER CONDITIONAL USE PERMITS, TO ALLOW INDOOR COMMERCIAL CULTIVATION FACILITIES IN THE BUSINESS PARK ZONE, TO ALLOW CANNABIS DISTRIBUTION FACILITIES TO OPERATE IN THE INDUSTRIAL ZONE, AND MAKING ADDITIONAL AMENDMENTS TO REGULATIONS PERTAINING TO COMMERCIAL CANNABIS BUSINESSES, AND (3) MAKING A DETERMINATION PURSUANT TO CEQA. THE PROPOSED AMENDMENTS WILL AFFECT ALL PROPERTIES LOCATED IN THE GENERAL COMMERCIAL (GC), HIGHWAY SERVING COMMERCIAL (HSC), BUSINESS PARK (BP), AND INDUSTRIAL (I) ZONING DISTRICTS, IN THE CITY OF BANNING, CALIFORNIA**

**WHEREAS**, on July 10, 2018, the City Council adopted Ordinance 1523 which added Chapter 17.53 (Cannabis Conditional Use Permits) to the Banning Municipal Code to establish a conditional use permit process for cannabis cultivation, manufacturing level 1, and testing laboratory facilities. The City Council also adopted Ordinance 1524 which added Chapter 5.35 (Cannabis Regulatory Permits) to the Banning Municipal Code to establish a procedure for issuance of cannabis regulatory permits to cannabis cultivation, manufacturing level 1, and testing laboratory facilities; and

**WHEREAS**, Ordinances 1523 and 1524, by their own terms, provided that the Cannabis Conditional Use Permit and Cannabis Regulatory Permit provisions would only go into effect if the voters of the City of Banning approved specific municipal taxes on cannabis cultivation, manufacturing level 1 and testing laboratory facilities by the approval of Measure N that had been placed on the November 2018 ballot by the Banning City Council; and

**WHEREAS**, Measure N was approved by 62% of the voters on the November 2018 ballot thereby imposing certain municipal taxes on cannabis cultivation,

manufacturing level 1 and testing laboratory facilities and allowing for the Cannabis Conditional Use Permit and Regulatory Permit provisions to become operative; and

**WHEREAS**, the City Council also placed a second and companion measure on the November 2018 ballot, known as Measure O, that would impose a tax on cannabis retailers if the City Council subsequently acted to allow those uses in the City; and

**WHEREAS**, Measure O, imposing a tax on cannabis retailers, was approved by 61% of the voters on the November 2018 ballot; and

**WHEREAS**, on November 13, 2018, following the adoption of Measure O, the City Council adopted Ordinance 1531 which added Chapter 17.54 (Cannabis Retailer Conditional Use Permits) to the Banning Municipal Code to allow for and establish a conditional use permit process for cannabis retailers. The City Council also adopted Ordinance 1532 which added Chapter 5.33 (Cannabis Retailer Regulatory Permits) to the Banning Municipal Code to allow for and establish a procedure for issuance of cannabis retailer regulatory permits; and

**WHEREAS**, Ordinance 1531 provides, in part, that cannabis retailers (1) may operate with a conditional use permit only in the Highway Servicing Commercial zone, (2) must be located at least 200-feet away from residentially zoned property, and (3) are limited in number in Banning to a ratio of one cannabis retailer for every 10,000 residents which, based on the current population of the City, allowed up to a maximum of three cannabis retailers to operate in the City; and

**WHEREAS**, ~~these restrictions reduced the potential number of cannabis retailers that can operate in the City as well as reduced the number of eligible properties that can be improved with a cannabis retailer since all the commercial properties located along the north side of Ramsey Avenue are within 200 feet of residentially zoned property. In addition, cannabis retailers are prohibited from being located in the General Commercial zone which is a zone that allows for other retail uses;~~ and

**WHEREAS**, the State of California does not have any separation requirement between cannabis retailers and residentially zoned property but does include a 600-foot separation requirement between a cannabis retailer and a school providing instruction in kindergarten or any grades 1 through 12, day care center, or youth center that is in existence at the time the license is issued, unless a licensing authority or a local jurisdiction imposes a separation requirement that requires a greater distance between cannabis retailers and these uses; and

**WHEREAS**, the City Council finds that the City cannot fully realize the financial benefits from the generation of taxes that these businesses can bring to the City if the City unduly restricts the zones in which cannabis retailers may operate in the City and if cannabis retailers are not able to find commercially available sites to quickly commence operations; and

**WHEREAS**, there were 24 businesses that participated in the lottery that was held on May 23, 2019 to determine which three businesses would be the first ones eligible to

obtain cannabis regulatory permits and proceed to the Conditional Use permit approval process for operation at specific sites; and

**WHEREAS**, at its May 12, 2020 City Council meeting, the City Council determined that the Banning voters should decide whether to allow more cannabis retailers to operate in the City, or to maintain the current cap; and

**WHEREAS**, the City is currently operating with a structural budget deficit in Fiscal Year 2019-2020, is facing significant revenue decline from the economic effects of the COVID-19 pandemic and is in danger of not having sufficient funding to keep essential City services fully staffed and fully operational. It is therefore in the City's financial interest and in the public interest that the City take action to allow more cannabis businesses to operate in the City as these businesses will pay local taxes and generate money for the City's general fund; and

**WHEREAS**, in addition to cannabis retailers, the City understands that cannabis distributors are also integral parts of the cannabis supply chain and cannabis industry. Distributors transport cannabis goods between cultivators, manufacturers, testing laboratories and retailers, arrange for the testing of cannabis goods, and conduct quality assurance review for cannabis goods to ensure compliance with all packaging and labeling requirements. A distributor is the gatekeeper to getting a compliant product from the manufacturers and cultivators to the retailers for sale. Allowing distributors to operate in the City will allow for a key component of the cannabis supply chain to occur in the City, eliminate the need for cannabis businesses operating in the City to have to contract with a distributor located outside the City, and thereby make the City more attractive for cannabis cultivators, manufacturers and testing laboratories to be located in the City. Allowing distributors to operate in the City will also provide greater assurance that related cannabis business transactions will be treated for tax purposes as occurring in the City; and

**WHEREAS**, City staff has received inquiries from cannabis cultivation facilities that are interested in operating in the Business Park zone. Light industrial and office/warehouse buildings are allowed uses in this district as are restaurants, retail uses ancillary to a primary use, and professional offices. Commercial development, such as large-scale retail (club stores, home improvement, etc.) and mixed-use project may also be permitted in the Business Park zone, subject to a conditional use permit; and

**WHEREAS**, on May 6, 2020, the Planning Commission of the City of Banning held a duly noticed public hearing regarding this Ordinance, at which time all persons interested in the contents of this Ordinance had the opportunity and did address the Planning Commission on these matters. Following the receipt of public testimony, the Planning Commission continued the public hearing to June 3, 2020; and

On June 3, 2020, the Planning Commission held a duly noticed continued public hearing regarding this Ordinance, at which time all persons interested in the contents of this Ordinance had the opportunity and did address the Planning Commission on these matters. Following the receipt of public testimony, the Planning Commission closed the

public hearing. At the conclusion of the Planning Commission hearing, and after due consideration of the testimony, the Planning Commission adopted Resolution No. 2020-09 recommending that the City Council adopt this Ordinance; and

**WHEREAS**, in accordance with Banning Municipal Code Chapter 17.68 ("Hearings and Appeals") and Government Code Sections 65090 and 65091, on \_\_\_\_\_, 2020, the City gave public notice, by advertisement in the Record Gazette, a newspaper of general circulation within the City of Banning, of a public hearing at which the proposed Zoning Text Amendment would be considered by the City Council; and

**WHEREAS**, on June 23, 2020, the City Council of the City of Banning held a public hearing on the proposed Ordinance, at which time all persons interested in this Ordinance had the opportunity and did address the City Council on these matters. Following the receipt of public testimony, the City Council closed the public hearing.

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA DOES HEREBY ORDAIN AS FOLLOWS:**

**Section 1. ENVIRONMENTAL FINDINGS**

**A. California Environmental Quality Act (CEQA)**

(1) The City Council finds and determines that this Ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to the State CEQA Guidelines Section 15060(c)(3), because it is not a project as defined by the CEQA Guidelines Section 15378. Adoption of the Ordinance does not have the potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. Further projects subject to the Ordinance will require a discretionary permit and CEQA review and will be analyzed at the appropriate time in accordance with CEQA.

(2) The City Council further finds and determines that this Ordinance is exempt from review under the CEQA and the State CEQA Guidelines Section 15061(b)(1) which exempts a project from CEQA if the project is exempt by statute. Business and Professions Code Section 26055(h) provides that Division 13 (commencing with Section 21000) of the Public Resources Code does not apply to the adoption of an ordinance, rule, or regulation by a local jurisdiction that requires discretionary review and approval of permits, licenses, or other authorizations to engage in commercial cannabis activity. Pursuant to that exemption, Chapters 17.53 and 17.54 of the Banning Municipal Code provide that conditional use permit applications for cannabis retailers, cannabis distribution facilities, and commercial cultivation facilities will be required to include any applicable environmental review pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code. Additionally, conditional use permits for cannabis retailers and distribution facilities are subject to discretionary review by both the Planning Commission and the City Council.

(3) The City Council hereby adopts a categorical exemption for this Ordinance and directs staff to file a Notice of Exemption.

B. Multiple Species Habitat Conservation Plan (MSHCP)

The proposed amendments to the Zoning Ordinance do not relate to any one physical project and are not subject to the MSHCP. Further, projects that may be subject to this Ordinance will trigger individual project analysis and documentation related to the requirements of the MSHCP including mitigation through payment of the MSHCP Mitigation Fee.

**Section 2. ADDITIONAL REQUIRED FINDINGS**

The California Government Code and Section 17.116.050 (Findings) of the City of Banning Municipal Code require that Zoning Text Amendments meet certain findings prior to the approval by the City Council. The following findings are provided in support of the approval of the Zoning Text Amendment No. 20-97501.

**Finding No. 1:** Proposed Zone Text Amendment No. 20-97501 is consistent with the goals and policies of the General Plan.

**Findings of Fact:** Proposed Zone Text Amendment No. 20-97501 is consistent with the goals and policies of the General Plan. Cannabis retailers, commercial cultivation facilities, and cannabis distribution facilities will be paying voter-approved local taxes that will generate money for the City's general fund and are also anticipated to generate employment opportunities for City residents. The Proposed Zone Text Amendment No. 20-97501 amends the Zoning Code to allow cannabis retailers to operate in the General Commercial zone. In order to achieve and implement the City's vision of an economically vibrant business climate, the expansion of cannabis retailers is a logical evolution that will facilitate a greater number of retail cannabis dispensaries to operate in the City.

Cannabis distributors are an integral part of the cannabis industry as they transport cannabis goods between cultivators, manufacturers, testing laboratories and retailers, arrange for testing of cannabis goods, and perform quality assurance review of cannabis goods to ensure compliance with all packaging and labeling requirements. Allowing cannabis distribution facilities to operate in the City is anticipated to attract more cannabis cultivation and manufacturing facilities to operate in the City and ensure the success of the City's cannabis program.

The amendment will also allow for cannabis cultivation facilities to operate in the Business Park zone. This zone allows for light industrial and office/warehouse buildings. Light industrial manufacturing and office/warehouse buildings are also appropriate

in this designation. These existing use provisions, allowing manufacturing and storage, are similar in size, scope, and intensity to a commercial cannabis cultivation operation. Furthermore, cannabis cultivation is a similar use in size, scope and intensity and as such is consistent with the uses allowed in the Business Park zone.

It is in the public interest to regulate cannabis, and to allow for responsible and lawful retail cannabis sales in the City. With adequate regulation and oversight, commercial cannabis activity is consistent with the following General Plan goals and policies:

**Economic Development Element:**

Goal

A balanced, broadly-based economy that provides a full range of economic and employment opportunities, while maintaining high standards of development and environmental protection.

Policy 1

General Plan land use designations and allocations will facilitate a broad range of residential, commercial, industrial and institutional development opportunities.

Policy 2

The City shall take a proactive role in the retention of existing businesses and the recruitment of new businesses, particularly those that generate and broaden employment opportunities, increase discretionary incomes, and contribute to City General Fund revenues.

**Finding No. 2:** Proposed Zone Text Amendment No. 20-97501 is internally consistent with the Zoning Ordinance.

**Findings of Fact:** Proposed Zone Text Amendment No. 20-97501 is internally consistent with the Zoning Ordinance. This amendment will allow for cannabis retailers to be located in the General Commercial zone. This district is the broadest of the City's commercial districts, and allows food and drug stores; home improvement; auto sales, leasing, service and repair; department and general retail outlets; merchandise leasing; neighborhood serving retail and services; restaurants; entertainment uses; gas stations; general offices (secondary to retail); mixed uses; and financial institutions. Allowing cannabis retailers to operate in this zone is consistent with the other types of uses allowed to operate in this zone.

The amendment will also allow cannabis distributors to operate in the Industrial Zone. This district includes industrial parks and freestanding industrial users. Permitted uses in this district include, but are not limited to, light and medium intensity manufacturing operations, warehousing, and distribution, ministorage, and associated offices. Cannabis distribution is consistent with the other types of uses allowed to operate in this zone.

The amendment will also allow for cannabis cultivation facilities to operate in the Business Park zone. This zone allows for light industrial and office/warehouse buildings. The amendment will also allow for cannabis cultivation facilities to operate in the Business Park zone. This zone allows for light industrial and office/warehouse buildings. Light industrial manufacturing and office/warehouse buildings are also appropriate in this designation. These existing use provisions, allowing manufacturing and storage, are similar in size, scope, and intensity to a commercial cannabis cultivation operation. Furthermore, cannabis cultivation is a similar use in size, scope and intensity and as such is consistent with the uses allowed in the Business Park zone. Cannabis cultivation, which is only permitted to occur indoors, is consistent with light industrial uses.

**Finding No. 3:** The City Council has independently reviewed and considered the requirements of the California Environmental Quality Act.

**Findings of Fact:** In accordance with the requirements of the California Environmental Quality Act ("CEQA"), the City Council finds and determines that this Ordinance is not subject to CEQA pursuant to the State CEQA Guidelines Section 15060(c)(3), because it is not a project as defined by the CEQA Guidelines Section 15378. Adoption of this Ordinance does not have the potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. Further projects subject to this Ordinance will require a discretionary permit and CEQA review and will be analyzed at the appropriate time in accordance with CEQA.

The City Council has analyzed proposed Zone Text Amendment No. 20-97501 and has determined that, pursuant to California Business and Professions Code Section 26055(h), CEQA "does not apply to the adoption of an ordinance, rule, or regulation by a local jurisdiction that requires discretionary review and approval of permits, licenses, or other authorizations to engage in commercial cannabis activity", provided that said law, ordinance, rule, or regulations shall include any applicable environmental review pursuant to Division 13 of the Public Resources Code. Pursuant to that exemption, Chapters 17.53 and 17.54 of the Banning Municipal Code provide that applications for conditional use permits for

cannabis retailers, distribution facilities, and cultivation facilities will be required to include any applicable environmental review pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code. Additionally, conditional use permits for cannabis retailers and distribution facilities are subject to discretionary review by both the Planning Commission and the City Council.

**Section 3. Code Amendment.** The City Council hereby amends Section 5.33.010 (Definitions.) of Chapter 5.33 (Cannabis Retailer Regulatory Permits) of Title 5 (Business Licenses and Regulations) of the Banning Municipal Code to amend the definition of "Eligible property" to read as follows, with all other provisions of Section 5.33.010 remaining unchanged:

“Eligible property” or “eligible properties” means any property located within the Highway Serving Commercial zone or the General Commercial zone that meets the location requirements set forth in chapter 17.54.”

**Section 4. Code Amendment.** The City Council hereby amends Subsection (F)(12)(k) of Section 5.33.030 (Cannabis regulatory permit application requirements.) of Chapter 5.33 (Cannabis Retailer Regulatory Permits) of Title 5 (Business Licenses and Regulations) of the Banning Municipal Code to read as follows, with all other provisions of Section 5.33.030 remaining unchanged:

“F(12)(k). A copy of a DOJ background check for each owner and person with a financial interest in the cannabis business procured through a Live Scan provider.”

**Section 5. Code Amendment.** The City Council hereby amends Section 5.33.050 (Decision on cannabis regulatory permit) of Chapter 5.33 (Cannabis Retailer Regulatory Permits.) of Title 5 (Business Licenses and Regulations) of the Banning Municipal Code to revise subsections “C” and “D” to read as follows, with all other provisions of Section 5.33.040 remaining unchanged:

C. Within seven business days of the lottery being conducted, the city manager, or his or her designee, shall issue a cannabis regulatory permit to the first three retailers that were selected in the lottery and shall notify the applicants that they are eligible to apply for a cannabis conditional use permit. The applicants that were not the first three retailers selected in the lottery will be placed on a waiting list in the order that they were selected in the lottery. The City Council shall adopt a resolution establishing the terms, time, manner, and procedures by which additional cannabis regulatory permits will be issued to cannabis retailers that are on the waiting list.

D. Any cannabis retailer that obtains a cannabis regulatory permit must submit a complete conditional use permit application pursuant to chapter 17.54 within 60~~90~~ days of issuance of the cannabis regulatory permit. Any cannabis regulatory permit shall be deemed null and void if the applicant therefor has not submitted a complete cannabis conditional use permit application to the City and had that application deemed complete by City within 90-60 days of the issuance of the cannabis regulatory permit.”

**Section 6. Code Amendment.** The City Council hereby amends Subsection B of Section 5.33.060 (Lottery appeals.) of Chapter 5.33 (Cannabis Retailer Regulatory Permits) of Title 5 (Business Licenses and Regulations) of the Banning Municipal Code to read as follows, with all other provisions of Section 5.33.060 remaining unchanged:

“B. Upon receipt of a timely appeal, the community development director shall make arrangements for the selection of a hearing officer to conduct the appeal hearing. Not less than seven days prior to the appeal hearing, the community development director shall notify the city manager, chief of police, and the appellant of either: the name of the administrative law judge who will serve as the hearing officer, or any other option determined by the city to serve as a fair and impartial process to hear the appeal. The hearing officer shall be fair and impartial and shall have no bias for or against the city manager, chief of police, or the appellant. The appeal shall be heard within thirty days of the submittal of an appeal but may be extended for due cause including scheduling limitations of the hearing officer.”

**Section 7. Code Amendment.** The City Council hereby amends Section 5.35.010 (Definitions.) of Chapter 5.35 (Cannabis Regulatory Permits) of Title 5 (Business Licenses and Regulations) of the Banning Municipal Code to amend the definition of “Cannabis business” and to add the definitions of “Distribution” and “Distribution facility” to read as follows, with all other provisions of Section 5.35.040 remaining unchanged:

“Cannabis business” means a cultivation facility, a manufacturing facility, testing laboratory facility, or a distribution facility.”

“Cannabis goods” means cannabis, including dried flower, and cannabis products.

“Distribution” means the procurement, sale and transport of cannabis goods between State licensed cannabis retailers, manufacturers, cultivators and testing laboratories.

“Distribution facility” means a facility that transports cannabis goods between State licensed cannabis retailers, manufacturers, cultivators and testing laboratories.

**Section 8. Code Amendment.** The City Council hereby amends Subsection (D)(14)(k) of Section 5.35.040 (Cannabis regulatory permit application requirements.) of Chapter 5.35 (Cannabis Regulatory Permits) of Title 5 (Business Licenses and Regulations) of the Banning Municipal Code to read as follows, with all other provisions of Section 5.35.040 remaining unchanged:

“(D)(14)(k) A copy of a DOJ background check for each owner and person with a financial interest in the cannabis business procured from a Live Scan provider.”

**Section 9. Code Amendment.** The City Council hereby amends Section 5.35.050 (Additional application requirements.) of Chapter 5.35 (Cannabis Regulatory Permits) of Title 5 (Business Licenses and Regulations) of the Banning Municipal Code to add a new subsection “D” to read as follows, with all other provisions of Section 5.35.050 remaining unchanged:

**"D. Cannabis Distribution Facilities.**

1. A detailed site plan showing where cannabis and cannabis products will be stored, and the entry/exit points of where cannabis and cannabis products will be moved off-site and received into the distribution facility.

2. A list of the of the individuals and vehicles authorized to conduct transportation on behalf of the distributor. This list shall be updated within seven (7) business days of a new employee being hired to transport cannabis goods or a new vehicle being purchased or leased by the distribution facility to transport cannabis goods."

**Section 10. Code Amendment.** The City Council hereby amends Table 17.12.020 of Section 17.12.020 (Permitted, conditional and prohibited uses.) of Chapter 17.12 (Commercial and Industrial Districts) of Title 17 (Zoning) of the Banning Municipal Code to relocate the uses entitled "Cannabis Commercial Indoor Cultivation," "Cannabis Personal Cultivation" "Cannabis Manufacturing Level 1," Cannabis Retailer, "Cannabis Testing Laboratory," and "Other Cannabis Uses" from the portion of the table entitled "Resource and Open Space Uses" to the portion of the table entitled "Other Uses."

**Section 11. Code Amendment.** The City Council hereby amends Table 17.12.020 of Section 17.12.020 (Permitted, conditional and prohibited uses.) of Chapter 17.12 (Commercial and Industrial Districts) of Title 17 (Zoning) of the Banning Municipal Code to amend the "Cannabis Commercial Indoor Cultivation" and "Cannabis Retailer" lines to read as follows, and to add a footnote 10 to "Cannabis Manufacturing Level 1" and "Cannabis Testing Laboratory," with all other provisions of Table 17.12.020 remaining unchanged:

| Zone   | DC | GC | HSC | PO | I | AI | BP | IMR |
|--|----|----|-----|----|---|----|----|-----|
| <b>Other Uses</b>                                    |    |    |     |    |   |    |    |     |
| Cannabis Commercial Indoor Cultivation <sup>10</sup> | X  | X  | X   | X  | C | X  | C  | X   |
| Cannabis Manufacturing Level 1 <sup>10</sup>         | X  | X  | X   | X  | C | X  | X  | X   |
| Cannabis Retailer <sup>9</sup>                       | X  | C  | C   | X  | X | X  | X  | X   |
| Cannabis Testing Laboratory <sup>10</sup>            | X  | X  | X   | X  | C | X  | X  | X   |

9. Cannabis Retailers shall require approval of a Cannabis Conditional Use Permit by the City Council, after recommendation by the Planning Commission, and shall be subject to the requirements of Chapter 17.54.

10. Cannabis Commercial Indoor Cultivation, Cannabis Manufacturing Level 1, and Cannabis Testing Laboratory uses shall require approval of a Cannabis Conditional Use Permit by the City Council, after recommendation by the Planning Commission, and shall be subject to the requirements of Chapter 17.53.

**Section 12. Code Amendment.** The City Council hereby amends Table 17.12.020 of Section 17.12.020 (Permitted, conditional and prohibited uses.) of Chapter 17.12 (Commercial and Industrial Districts) of Title 17 (Zoning) of the Banning Municipal Code to add a new line for "Cannabis Distributor" to read as follows, with all other provisions of Table 17.12.020 remaining unchanged:

| Zone                               | DC | GC | HSC | PO | I | AI | BP | IMR |
|------------------------------------|----|----|-----|----|---|----|----|-----|
| <b>Other Uses</b>                  |    |    |     |    |   |    |    |     |
| Cannabis Distributor <sup>11</sup> | X  | X  | X   | X  | C | X  | X  | X   |

11. Cannabis Distributors shall require approval of a Cannabis Conditional Use Permit by the City Council, after recommendation by the Planning Commission, and shall be subject to the requirements of Chapter 17.53.

**Section 13. Code Amendment.** The City Council hereby amends Section 17.53.010 (Definitions.) of Chapter 17.53 (Cannabis Conditional Use Permits) of Title 17 (Zoning) of the Banning Municipal Code to amend the definition of "Cannabis business" and to add the definitions of "Distribution" and "Distribution facility" to read as follows, with all other provisions of Section 17.53.010 remaining unchanged:

"Cannabis business" means a cultivation facility, a manufacturing facility, testing laboratory facility, or a distribution facility"

"Cannabis goods" means cannabis, including dried flower, and cannabis products.

"Distribution" means the procurement, sale and transport of cannabis goods between State licensed cannabis retailers, manufacturers, cultivators and testing laboratories.

"Distribution facility" means a facility that transports cannabis goods between State licensed cannabis retailers, manufacturers, cultivators and testing laboratories.

**Section 14. Code Amendment.** The City Council hereby renames Section 17.53.190 (Other provisions.) of Chapter 17.53 (Cannabis Conditional Use Permits) of Title 17 (Zoning) of the Banning Municipal Code as Section 17.53.200, with all other subsequent sections being renumbered in consecutive order.

**Section 15. Code Amendment.** The City Council hereby adds a new Section 17.53.190 "Cannabis distribution facility" to Chapter 17.53 (Cannabis Conditional Use Permits) of Title 17 (Zoning) of the Banning Municipal Code to read as follows:

"17.53.190 Cannabis distribution facility.

A. The transportation of cannabis or cannabis products shall only be conducted by persons holding a State license for cannabis distribution or employee of those persons.

B. Transportation safety standards, in addition to those imposed by the State of California, shall be approved by the Chief of Police including without limitations, the type of vehicles in which cannabis or cannabis product may be distributed, and minimum qualification for persons eligible to operate such vehicles.

C. A person holding a permit to operate a distribution facility shall observe and comply with all security manifest and notice requirements of Business and Professions Code Section 26070, as well as all State law requirements and Bureau regulations to operate a distribution facility."

**Section 16. Code Amendment.** The City Council hereby amends Subsection A of Section 17.54.020 (Cannabis retailer conditional use permit required.) of Chapter 17.54 (Cannabis Retailer Conditional Use Permits) of Title 17 (Zoning) of the Banning Municipal Code to read as follows, with all other provisions of Section 17.54.020 remaining unchanged:

"A. Except as expressly authorized pursuant to this Title (Title 17, Zoning), all commercial cannabis activity is prohibited in the City. Notwithstanding the foregoing, the City shall not prohibit any commercial cannabis activity for which the City is preempted by State law from prohibiting. Consistent with Section 5416 of Title 16 of the California Code of Regulations, or any successor section, cannabis retail deliveries are permitted from lawful and permitted retailers in the City and from retailers located outside the City that are lawfully operating and permitted by the county or city in which they are located."

**Section 17. Code Amendment.** The City Council hereby amends Subsection D of Section 17.54.040 (Cannabis retailer conditional use permit application requirements.) of Chapter 17.54 (Cannabis Retailer Conditional Use Permits) of Title 17 (Zoning) of the Banning Municipal Code to read as follows, with all other provisions of Section 17.54.040 remaining unchanged:

"D. Neighborhood Context Map. An accurate straight-line drawing depicting the boundaries of the premises, the boundaries of all other properties within 600 feet of the premises, and the uses of those properties, specifically including, but not limited to, any use identified in Business and Professions Code section 26054(b), and any park. The map must be professionally prepared by a licensed civil engineer or architect."

**Section 18. Code Amendment.** The City Council hereby amends Subsection A of Section 17.54.060 (Procedures and findings for approval of cannabis retailer

conditional use permit) of Chapter 17.54 (Cannabis Retailer Conditional Use Permits) of Title 17 (Zoning) of the Banning Municipal Code to read as follows, with all other provisions of Section 17.54.060 remaining unchanged:

“A. A cannabis retailer conditional use permit shall be processed in accordance with the procedures set forth in Chapter 17.52, Conditional Use Permits, with the following exceptions:

1. Any provision that requires the approval by the Planning Commission with appeal to the City Council shall be replaced with the requirement that the Planning Commission make a recommendation on the cannabis retailer conditional use permit and that the approval of such permit shall be made by the City Council.

2. Sections 17.52.020 (Application Procedures), 17.52.070 (Expiration), and 17.52.080 (Modifications) shall not apply.

3. Any procedures pertaining to noticing and the setting of a public hearing before the Planning Commission shall also apply to the City Council.”

**Section 19.** Code Amendment. The City Council hereby adds a new Section 17.54.200 (Expiration.) of Chapter 17.54 (Cannabis Retailer Conditional Use Permits) of Title 17 (Zoning) of the Banning Municipal Code to read as follows:

“Notwithstanding any other provision of this Code, a retailer conditional use permit shall only be issued if it has (1) a condition that requires an application for a building permit for any construction or tenant improvements for the proposed use to be submitted within 45-30 days of approval of the retailer conditional use permit, (2) and another condition that requires that any physical construction in reliance on the building permit be commenced within 60 days after the issuance of the building permit, and (3) and condition that requires that the retailer commence its business operations within 180 days. If the applicant fails to satisfy the requirements for either the 4530-day, or 60-day, or 180 day period, -the retailer conditional use permit shall automatically become null and void, unless the applicant files an application for an extension prior to the expiration of the applicable deadline and thereafter obtains that extension from the permit approving authority on the basis that the extension is warranted by special circumstances and that the applicant would be irreparably injured by the denial of an extension. In addition, if after commencement of construction, work is discontinued for a period of one year 180 days, the Conditional Use Permit shall become null and void.”

**Section 20.** Code Amendment. The City Council hereby amends Subsection B of Section 17.54.080 (Separation requirements and other limitations.) of Chapter 17.54 (Cannabis Retailer Conditional Use Permits) of Title 17 (Zoning) of the Banning Municipal Code to read as follows:

“B. No cannabis business shall be located within a 600-foot radius of any day care center, youth center, public or private school providing instruction in kindergarten or any of grades 1—12, or park. The 600-foot distance requirement does not include any private school in which education is primarily conducted in a private home or a family day

care home. The distances specified in this subsection shall be the horizontal distance measured in a straight line without regard to intervening structures, from the property line of the lot on which the cannabis business is located to the nearest property line of those uses described in this subsection."

**Section 21. Code Amendment.** The City Council hereby amends Section 17.54.160 (Odor control.) of Chapter 17.54 (Cannabis Retailer Conditional Use Permits) of Title 17 (Zoning) of the Banning Municipal Code to read as follows:

"A. A cannabis business must have a ventilation and filtration system installed that shall prevent cannabis odors from exiting the interior of the structure and shall comply with all related Building Code requirements.

B. The ventilation and filtration system must be approved by the Building Official and installed prior to the commencement of business activities on the premises."

**Section 22. Code Amendment.** The City Council hereby amends Subsection H of Section 17.54.170 (Operating regulations.) of Chapter 17.54 (Cannabis Retailer Conditional Use Permits) of Title 17 (Zoning) of the Banning Municipal Code to read as follows, with all other provisions of Section 17.54.170 remaining unchanged:

"H. Sale of Untested Products. All cannabis and cannabis products sold by a cannabis retailer must be tested by a State licensed testing laboratory prior to sale to a purchaser in accordance with the MAUCRSA."

**Section 23. Code Amendment.** The City Council hereby amends Subsection L of Section 17.54.170 (Operating regulations.) of Chapter 17.54 (Cannabis Retailer Conditional Use Permits) of Title 17 (Zoning) of the Banning Municipal Code to read as follows, with all other provisions of Section 17.54.170 remaining unchanged:

"L. State-Mandated Warnings and Information. All cannabis and cannabis product labels and inserts shall include the state-mandated warnings and information contained in Business and Professions Code Section 26120(c)."

**Section 24. Severability.** If any section, subsection, subdivision, sentence, clause, phrase, or portion of this ordinance or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remainder of this ordinance. The City Council hereby declares it would have adopted this ordinance, and each and every section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

**Section 25. Savings Clause.** Neither the adoption of this Ordinance nor the repeal of any other ordinance of this City shall in any manner affect the prosecution of any violation of any City ordinance or provision of the Banning Municipal Code, committed prior to the effective date hereto, nor be construed as a waiver of any license or penalty or the penal provision applicable to any violation thereof.

**Section 26. Publication.** The City Clerk shall certify to the passage and adoption of this Ordinance and shall make a minute order of the passage and adoption thereof in the records and the proceeding of the City Council at which time the same is passed and adopted. Except as set forth in Section 25 below, this Ordinance shall be in full force and effect thirty (30) days after its final passage and adoption, and within fifteen (15) calendar days after its final passage, the City Clerk shall publish, or cause a summary of this Ordinance to be published in a newspaper of general circulation and shall post the same at City Hall, 99 E. Ramsey Street, Banning, California. The City Clerk shall cause the Ordinance to be printed, published, and circulated.

**Section 27. Effective Date.** Sections 7, 9, 12, 13, and 15 of this Ordinance shall only take effect if a tax measure imposing a tax on cannabis distribution facilities is adopted by the Banning voters at the November 3, 2020 general election.

**Section 28. Certification.** The City Clerk shall certify to the adoption of this Ordinance and shall cause it to be published in the manner required by law.

**INTRODUCED** for the first reading, the 23<sup>rd</sup> day of June 2020, and **PASSED**,  
**APPROVED AND ADOPTED** at a second reading, the 14<sup>th</sup> day of July 2020.

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Daniela Andrade, Mayor  
City of Banning

**ATTEST:**

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Sonja De La Fuente, Deputy City Clerk  
City of Banning

**APPROVED AS TO FORM AND  
LEGAL CONTENT:**

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Kevin G. Ennis, City Attorney  
Richards, Watson & Gershon