



The following information comprises the minutes for a special and 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**

**12/08/2020
REGULAR MEETING**

COUNCIL MEMBERS PRESENT:

Mayor Daniela Andrade
Council Member David Happe
Council Member Kyle Pingree
Mayor Pro Tem Colleen Wallace
Council Member Art Welch

AFTER COUNCIL REORGANIZATION: Council Member Mary Hamlin
Mayor Pro Tem David Happe
Council Member Kyle Pingree
Council Member Alberto Sanchez
Mayor Colleen Wallace

COUNCIL MEMBERS ABSENT: None

OTHER PRESENT

Douglas Schulze, City Manager
Kevin G. Ennis, City Attorney
Marie Calderon, City Clerk
Sonja De La Fuente, Deputy City Clerk
Art Vela, Public Works Director/City Engineer
Adam Rush, Community Development Director
Ralph Wright, Parks & Recreation Director
Laurie Sampson, Executive Assistant

1. CALL TO ORDER REGULAR MEETING

The Mayor called to order the regular meeting of the Banning City Council at 5:04 P.M.

ITEM.1.1. Invocation

Reverend Bill Dunn with St. Stephens Episcopal Church offered the invocation.

ITEM.1.2. Pledge of Allegiance

Council Member Welch led the Pledge of Allegiance.

ITEM.1.3. Roll Call

COUNCIL	PRESENT	ABSENT
Andrade, Daniela	X	
Happe, David	X	
Pingree, Kyle	X	
Wallace, Colleen	X	
Welch, Art	X	

2. SPECIAL PRESENTATION**ITEM.2.1. Mayor's Special Presentations**

The Mayor recognized Viviana and Steve Bunting, Marva Biggers, Doug & Lynn Hammer, Ruben Cruz, Onoalyse Lyons, and John Norvell for making Banning a better place to live, work and play. She also recognized Bea Smith for winning Educator of the Year for Region 10.

Chris Gray, Director of Transportation with Western Riverside Council of Governments (WRCOG) presented Mayor Daniela Andrade with a Proclamation thanking her for her service and participation on their Executive Committee.

3. CERTIFICATION OF ELECTION RESULTS

ITEM.3.1. Resolution 2020-145, Reciting the Facts of the Consolidated General Election Held in the City of Banning on November 3, 2020
City Manager Doug Schulze presented the staff report for this item.

Public Comment

None

Adopt Resolutions 2020-145, Reciting the Facts of the Consolidated General Election held in said City on November 3, 2020 and declaring the result thereof and such other matters as provided by law.

VOTING

Motion by: Council Member Welch
Second by: Council Member Pingree

COUNCIL	YES	NO	ABSTAIN	RECUSE	ABSENT
Andrade, Daniela	X				
Happe, David	X				
Pingree, Kyle	X				
Wallace, Colleen	X				
Welch, Art	X				

4. PRESENTATIONS

ITEM.4.1. Outgoing City Council Members and Treasurer

City Manager Schulze presented outgoing Council Members Andrade and Welch and outgoing City Treasurer John McQuown with a plaque recognizing their service.

ITEM.4.2. Swearing in of City Council Members, Treasurer and Clerk

The Oath of Office was administered to incoming Council Members, City Treasurer and City Clerk.

5. REORGANIZATION OF CITY COUNCIL

ITEM.5.1. City Council Reorganization

The Deputy City Clerk called for nominations for Mayor. Council Member Sanchez nominated Council Member Wallace. There were no other nominations.

Public Comment

None

Appoint Council Member Colleen Wallace as Mayor for a term of one year.

VOTING

Motion by: Council Member Pingree

Second by: Council Member Hamlin

COUNCIL	YES	NO	ABSTAIN	RECUSE	ABSENT
Hamlin, Mary	X				
Happe, David	X				
Pingree, Kyle	X				
Sanchez, Alberto	X				
Wallace, Colleen	X				

The Deputy City Clerk called for nominations for Mayor Pro Tem. Council Member Hamlin nominated Council Member Happe. There were no other nominations.

Public Comment

None

Appoint Council Member David Happe as Mayor Pro Tem for a term of one year.

VOTING

Motion by: Mayor Colleen Wallace
Second by: Council Member Pingree

COUNCIL	YES	NO	ABSTAIN	RECUSE	ABSENT
Hamlin, Mary	X				
Happe, David	X				
Pingree, Kyle	X				
Sanchez, Alberto	X				
Wallace, Colleen	X				

6. AGENDA APPROVAL

ITEM.6.1. Approve Agenda

Approve Agenda.

VOTING

Motion by: Mayor Wallace
Second by: Council Member Pingree

COUNCIL	YES	NO	ABSTAIN	RECUSE	ABSENT
Hamlin, Mary	X				
Happe, David	X				
Pingree, Kyle	X				
Sanchez, Alberto	X				
Wallace, Colleen	X				

7. PUBLIC COMMENTS, CORRESPONDENCE, AND APPOINTMENTS, CITY COUNCIL COMMITTEE, CITY MANAGER, AND CITY ATTORNEY REPORTS

PUBLIC COMMENT

Comments from John Hagen (Attachment 1) were read aloud by the Deputy City Clerk.

Ron Duncan, President of the San Gorgonio Pass Water Agency congratulated the incoming Council Members and thanked the outgoing Council Members.

Cindy Barrington spoke against Waste Management reducing green waste service to bi-weekly and requested extra bins to accommodate.

Lily with Waste Management explained that due to COVID-19 and staff shortages they were forced to reduce service for green waste pick-up to bi-weekly. She will contact Ms. Barrington to work with her. She advised this is a temporary situation (at least until the end of January) and when staffing levels are back to normal, they will return to regular weekly service.

Oleg Ivaschuck expressed his support for what is happening in the City. He believes it is going in a good direction and everyone should be proud.

Daniela Andrade disputed the statements made by Mr. Hagen in his public comment letter.

CORRESPONDENCE

None

APPOINTMENTS

None

CITY MANAGER REPORT

City Manager Schulze reported on a recent visit to the Ramsey Street Village by the San Bernardino County Sheriff's office, who is considering doing something similar for their indigent inmates. They were extremely impressed with what the City of Banning has done. Regarding the letter submitted by the Mr. Hagen, he clarified that the motion by the Council at the last meeting was to direct staff to bring forward a future item to the City Council for discussion. Initially a workshop will be held and if the Council pursues it would be brought back at public meetings. He reported that OpenGov, the City's new transparency portal is now available on the City's website. He shared a PowerPoint presentation (Attachment 2).

CITY ATTORNEY REPORT

None

CITY COUNCIL COMMITTEE REPORTS

Mayor Wallace reported that she attended the SCAG Economic Summit. They are looking at helping struggling businesses in small cities. Community Action Partnership is also trying to help people during this difficult time.

8. CONSENT ITEMS

Council Member Hamlin pulled Item 8.13 for separate consideration.

ITEM.8.1. Minutes of the November 5 and November 10, 2020 City Council Meetings

ITEM.8.2. Policy B-38, Organization Conflict of Interest for Design-Build Projects

ITEM.8.3. Policy B-37, Environmentally Preferable Purchases and Practices and Recycled Products Purchasing

ITEM.8.4. Police Department Statistics for October 2020

ITEM.8.5. Fire Department Statistics for October 2020

- ITEM.8.6.** Contracts Approved Under the City Manager's Signature Authority in October 2020
- ITEM.8.7.** Notice of Completion for Project No. 2020-01WW "Wastewater Treatment Plant Mechanical Bar Screen"
- ITEM.8.8.** Award a Professional Services Agreement to West & Associates Engineering, Inc. in the Amount of \$39,800 plus 10% Contingency for the 2020 Urban Water Management Plan Update
- ITEM.8.9.** Accept Easement for Electric Utility Purposes at 313 S. Gallaher Way (APN: 541-220-023)
- ITEM.8.10.** Accept Easement for Sidewalk Purposes at 313 S. Gallaher Way (APN: 541-220-018)
- ITEM.8.11.** Accept Right-of-Way Dedication at the Southeast Corner of Hathaway Street and Hoffer Street for Road and Utility Purposes (APN: 534-283-011 and 534-283-014)
- ITEM.8.12.** Resolution 2020-150, Adopting the Water Supply Verification for Rancho San Gorgonio Specific Plan Phases 1 and 2
- ITEM.8.14.** Bulky Item Community Clean-Up Event Update
- ITEM.8.15.** Resolution 2020-144, Authorizing the Purchase and Installation of Replacement Playground Equipment at Richard Sanchez Park in the Amount of \$70,092.24 and Approving the Agreement with Playcore Wisconsin, Inc. dba Gametime
- ITEM.8.16.** Ratification of Amendment No. 1 to the Cooperation Agreement with Riverside County for the 2021-2024 Urban County Cycle
- ITEM.8.17.** Resolution 2020-148, Approving the Amendment to Grant of Exclusive Easement and Approving a Temporary Right of Entry Agreement with Southern California Gas Company with Respect to Portions of Real Property Located Along East Westward Avenue
- ITEM.8.18.** Resolution 20020-147, Approving the Banning Municipal Airport Capital Improvement Plan for 2021-2025
- ITEM.8.19.** Change Order to the Professional Services Agreement with Blais and Associates, LLC in the Amount of \$7,500 and Amendment 1 to the Professional services Agreement with Blais and Associates, LLC for Year 2 Grant Research and Grant Activity Reporting Services in the Amount of \$16,380
- ITEM.8.20.** Accounts Payable and Payroll Warrants Issued in the Month of October 2020

ITEM.8.21. Cash, Investments and Reserve Report for the Month of October 2020

ITEM.8.22. Resolution 2020-149, Approving a Lease Agreement with Cell Business Leasing for Seven Copiers for 60 Months and Approving a Maintenance Agreement with Cell Business Equipment for 60 Months

Public Comment

None

Approve Consent Items 8.1 through 8.12 and 8.14 through 8.22.

VOTING

Motion by: Council Member Pingree

Second by: Council Member Hamlin

COUNCIL	YES	NO	ABSTAIN	RECUSE	ABSENT
Hamlin, Mary	X				
Happe, David	X				
Pingree, Kyle	X				
Sanchez, Alberto	X				
Wallace, Colleen	X				

ITEM.8.13. Memorandum of Understanding and Agreement for Maintenance of Traffic Signals Along Highland Springs Avenue

Public Works Director Art Vela presented the Staff Report for this item.

Public Comment

None

Approve Consent Items 8.13.

VOTING

Motion by: Council Member Hamlin

Second by: Council Member Pingree

COUNCIL	YES	NO	ABSTAIN	RECUSE	ABSENT
Hamlin, Mary	X				
Happe, David	X				
Pingree, Kyle	X				
Sanchez, Alberto	X				
Wallace, Colleen	X				

9. PUBLIC HEARINGS

ITEM.9.1. Diagram and the Levy and Collection of a Change in Assessments and Declaring the Results of the Assessment Ballot Tabulation within the City of Banning's Landscape Maintenance District No. 1 for Fiscal Year 2021/22

Public Works Director Art Vela presented the Staff Report and PowerPoint presentation (Attachment 3) for this item.

Public Hearing

Letter from Jack Gunderson (Attachment 4) was read aloud by the Deputy City Clerk.

Letter from John Hagen (Attachment 5) was read aloud by the Deputy City Clerk.

Letter from Elsa Berumen (Attachment 6) was read aloud by the Deputy City Clerk.

Letter from Estella Berumen (Attachment 7) was read aloud by the Deputy City Clerk.

Richard from Zone 5 spoke against the approval of the rate changes.

Public Works Director Art Vela explained that the landscape contractor does not maintain the fences, but the repairs will be made by City staff and billed to the Landscape Maintenance District account.

Cynthia Barrington shared that she noticed the fence gets damaged during baseball games at Lions Park.

The Mayor closed the Public Hearing.

Continue the item to near the end of the meeting after ballots have been counted.

VOTING

Motion by: Council Member Pingree

Second by: Council Member Hamlin

COUNCIL	YES	NO	ABSTAIN	RECUSE	ABSENT
Hamlin, Mary	X				
Happe, David	X				
Pingree, Kyle	X				
Sanchez, Alberto	X				
Wallace, Colleen	X				

The Mayor recessed the meeting at 7:00 P.M. and reconvened at 7:10 P.M.

ITEM.9.2. Conditional Use Permit (CUP) 20-8005, a Proposal to Allow for a Commercial Cannabis Cultivation Facility in an Existing 4,000 Square-Foot Building Located at 679 West Lincoln Street (APN: 540-220-007) in the Industrial Zoning District

Community Development Director Adam Rush presented the Staff Report and PowerPoint presentation (Attachment 8) for this item.

Public Hearing

Comments from Patrick Haninger on behalf of the Golden State Environmental Justice Alliance (Attachment 9) were read aloud by the Deputy City Clerk.

There was discussion held regarding licenses and requirements as they relate to the cannabis industry and allowed uses for the property.

Adopt Resolution 2020-142, making a determination that the Project is exempt under Section 15270 (Projects which are disapproved) of the California Environmental Quality Act (CEQA) and denying the request to permit and authorize CUP 20-8005; which is a proposal to allow for a commercial cannabis cultivation facility in an existing 4,000 square foot building located at 679 West Lincoln Street (APN: 540-220-007) in the Industrial (I) zoning district.

VOTING

Motion by: Council Member Sanchez
Second by: Council Member Pingree

COUNCIL	YES	NO	ABSTAIN	RECUSE	ABSENT
Hamlin, Mary	X				
Happe, David	X				
Pingree, Kyle	X				
Sanchez, Alberto	X				
Wallace, Colleen	X				

ITEM.9.3. Conditional Use Permit (CUP) 20-8010, to Allow for a Commercial Cannabis Cultivation Facility in an Existing Industrial Building Located at 820 S. Hathaway Street (APN: 532-160-012) in the Industrial Zoning District

Community Development Director Adam Rush presented the Staff Report and PowerPoint presentation (Attachment 10) for this item.

Public Hearing

Laura Leindecker, Project Manager for the project indicates that they will be able to begin operations by the end of July 2021.

The Mayor closed the Public Hearing.

Adopt Resolution 2020-143, making a determination that the Project is exempt under Section 15301 (Existing Facilities) of the California Environmental Quality Act (CEQA) and approving CUP 20-8010 to allow for the commercial cultivation of cannabis in an existing industrial building

located at 820 South Hathaway Street (APN: 532-160-012) in the Industrial (I) zoning district.

VOTING

Motion by: Council Member Sanchez

Second by: Mayor Wallace

COUNCIL	YES	NO	ABSTAIN	RECUSE	ABSENT
Hamlin, Mary	X				
Happe, David	X				
Pingree, Kyle		X			
Sanchez, Alberto	X				
Wallace, Colleen	X				

ITEM.9.4. Amendment 5 to the Sun Lakes Village North Specific Plan, Zone Change and Final Environmental Impact Report (EIR) to Allow for a New Development Concept Including Business and Warehouse, Office and Professional, and Retail and Service Land Uses on an Approximately 47-Acre Vacant Parcel Located North of Sun Lakes Boulevard, East of Highland Springs Avenue Community Development Director Adam Rush provided the Council with updated documentation related to this item (Attachment 11) and presented the Staff Report and PowerPoint presentation (Attachment 12) for this item.

Public Hearing

Seeing nobody wishing to speak, the Mayor closed the Public Hearing.

Adopt Resolution 2020-141, certifying an EIR and adopting a Statement of Overriding Considerations and Mitigation Monitoring and Reporting Program for Specific Plan Amendment of approximately 47 gross acres located between Sun Lakes Boulevard and Interstate 10, approximately 840 feet east of Highland Springs Avenue (APN: 419-140-057) to update the existing specific plan document to amend the Specific Plan Land Use Plan from Retail Commercial (Auto Dealer) to Business Park and Warehouse, Office & Professional, and Retail & Service. The Specific Plan is also proposed to be amended to revise the permitted land uses; development standards (including maximum building height, setbacks, open space, landscaping, parking, and signage); design guidelines for development; and administration and implementation provisions, and approve Specific Plan Amendment No. 20-2001, Zone Change No. 20-3501, Environmental Assessment No. 20-1502

VOTING

Motion by: Council Member Pingree

Second by: Council Member Happe

COUNCIL	YES	NO	ABSTAIN	RECUSE	ABSENT

Hamlin, Mary	X				
Happe, David	X				
Pingree, Kyle	X				
Sanchez, Alberto	X				
Wallace, Colleen	X				

The Deputy City Clerk read the title of Ordinance 1571, approving Zone Change No. 20-3501 to amend the Zoning Ordinance to incorporate the text of the Sun Lakes Village North Specific Plan Amendment 5 (Specific Plan Amendment No. 20-2001).

Waive further reading of Ordinance 1571

VOTING

Motion by: Mayor Wallace

Second by: Council Member Pingree

COUNCIL	YES	NO	ABSTAIN	RECUSE	ABSENT
Hamlin, Mary	X				
Happe, David	X				
Pingree, Kyle	X				
Sanchez, Alberto	X				
Wallace, Colleen	X				

Ordinance 1571 pass its first reading.

VOTING

Motion by: Council Member Sanchez

Second by: Mayor Wallace

COUNCIL	YES	NO	ABSTAIN	RECUSE	ABSENT
Hamlin, Mary	X				
Happe, David	X				
Pingree, Kyle	X				
Sanchez, Alberto	X				
Wallace, Colleen	X				

10. REPORTS OF OFFICERS

ITEM.10.1. Fiscal Year 2020-21 First Quarter Budget Update and Financial Status Report Administrative Services Director Jennifer Christensen presented the staff report and presentation (Attachment 13) for this item.

Public Comment

None

Receive and file the Fiscal Year 2020-21 First Quarter Budget Update and Financial Status Report for the quarter ending September 30, 2020.

VOTING

Motion by: Council Member Sanchez
Second by: Council Member Hamlin

COUNCIL	YES	NO	ABSTAIN	RECUSE	ABSENT
Hamlin, Mary	X				
Happe, David	X				
Pingree, Kyle	X				
Sanchez, Alberto	X				
Wallace, Colleen	X				

The Mayor reopened Item 9.1 to receive the results from the ballot count.

Public Works Director Art Vela shared the results from the ballot count (Attachment 14)

Adopt Resolution 2020-146, Confirming a Diagram and the Levy and Collection of a Change in Assessments if approved through the Proposition 218 Ballot Tabulation within the City of Banning's Landscape Maintenance District No. 1 for Fiscal Year 2021/2022 pursuant to the provisions of Part 2 of Division 15 of the California Streets and Highways Code and Article XIII D of the California Constitution with Section 2 reflecting the ballot results where a majority protest for all zones does exist.

VOTING

Motion by: Council Member Pingree
Second by: Council Member Sanchez

COUNCIL	YES	NO	ABSTAIN	RECUSE	ABSENT
Hamlin, Mary	X				
Happe, David	X				
Pingree, Kyle	X				
Sanchez, Alberto	X				
Wallace, Colleen	X				

11. DISCUSSION ITEMS

None

12. ITEMS FOR FUTURE AGENDAS

Council Member Pingree requested the Sportsman's Club Lease be brought back to Council for consideration.

13. CLOSED SESSION

ITEM.13.1. Fiscal Year 2020-21 First Quarter Budget Update and Financial Status Report
Public Comment

None

The City Council convened to closed session at 8:38 P.M. and reconvened to open session at 9:41 P.M.

14. REPORT ON CLOSED SESSION

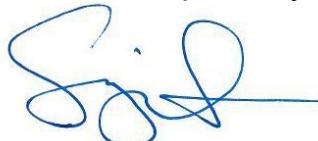
There was no final or reportable action.

15. ADJOURNMENT

The Mayor adjourned the regular meeting at 9:42 P.M.

Next Meeting: *Regular Meeting, Tuesday, January 12, 2021, 5:00 P.M.*

Minutes Prepared by:



Sonja De La Fuente, Deputy City Clerk

The entire discussion of this meeting may be viewed here:

Part 1: <https://banninglive.viebit.com/player.php?hash=yokdYKVNVrmA>

Part 2: <https://banninglive.viebit.com/player.php?hash=AzM1Zay7FPDT>

Part 3: <https://banninglive.viebit.com/player.php?hash=58XIkUx9o7I6>

*or by purchasing a CD or DVD in the amount of \$7.00 each
at Banning City Hall located at 99 E. Ramsey Street.*

All related documents maybe viewed here:

<https://banningca.gov/ArchiveCenter/ViewFile/Item/2399>

Attachment 1

Re: Item 7 - Public Comment
RECEIVED
Office of the City Clerk
12/08/2020

To be read into the record. December 8th Council meeting

I would like to pull the minutes from the consent items. More specifically 9.1 of the November 10 meeting. It was listed as an item of discussion. This item was jamb through the session without proper vetting or comment. I would like to address the issue that was voted on at the last council meeting regarding the expansion of the retail cannibus and Micro business operations. I feel that this was at least the 4th attempt to subvert the intentions of the voters of this city. It was a last ditch effort to jam this through under the old council prior to The Mayor losing her seat on the council. I request that this motion be rescinded and tabled until the new council has an opportunity to weigh in on this matter for the following reasons.

!. Every time this issues was brought forward it failed with a 3 to 2 vote with Colleen Wallace, Art Welch, and Kyle Pengree all agreeing that the will of the voters should be honored and it should stand as intentionally passed. As this motion shook out it appears that Colleen now has been swayed to change her vote and sell out the voter intentions that she so strongly supported in the past. Well it turns out that the Gentleman that spoke in favor of this issue just after I spoke Is the partner of Colleen Wallace's Cousin which has now expressed interest in opening up shop. So I guess its alright to turn on the voters if there is a family interest to be satisfied. Colleen Wallace should have at the very least excused herself from this vote due to a conflict of interest, which would have forced it into a 2/2 vote, tabled and reconsidered at a later date. She did not do this but instead changed her vote selling out the voters. She used the guises of her and Danielle touring a cannibus facility in Palm Desert and commenting on how well it was operated. (No doubt it was the Nick Perez Cannabis property.)

In comes Daniellas' last ditch effort to jam this issue through as she is on the way out the door. A little background on the mayor and Nick Fraiser. It is rumored that Nick and Danellia have a silent partnership pending on this cannabus extention.

Nick Perez lives in the same complex as Danielle and encouraged to run for Danellias seat. Nick was unsuccessful in his run therefore forcing Danielle to try get this passed before leaving office. Nick's name at one point was #9 on the eligibility list for retail Cannibus sales.(Isn't it strange the list expansion always hovered at an additional 10 locations Pushed by Danielle)This is just a light rake I pulled across the ground you don't have to dig deep. Without Belaboring these issues further at this time, the eyebrows this info should have raised should be enough to reconsider this motion.

This addition of the mrcro cannibus prortion is just another attempt to get around the existing restrictions and adds more fuel to the fire in that with this reclassification it would allow on site consumption and opening up the zoning to other areas that were not originally intended. This is such a blaiant and obvious attempt to subvert the will of the people that this vote be rescinded and the new council be allowed to consider the consequences. That still will not rule out the fact that Colleen has sold out to personal family gain over the will of the voters she has sworn to represent.

John Hagen, Concerned Citizen.
Resident Banning Ca.

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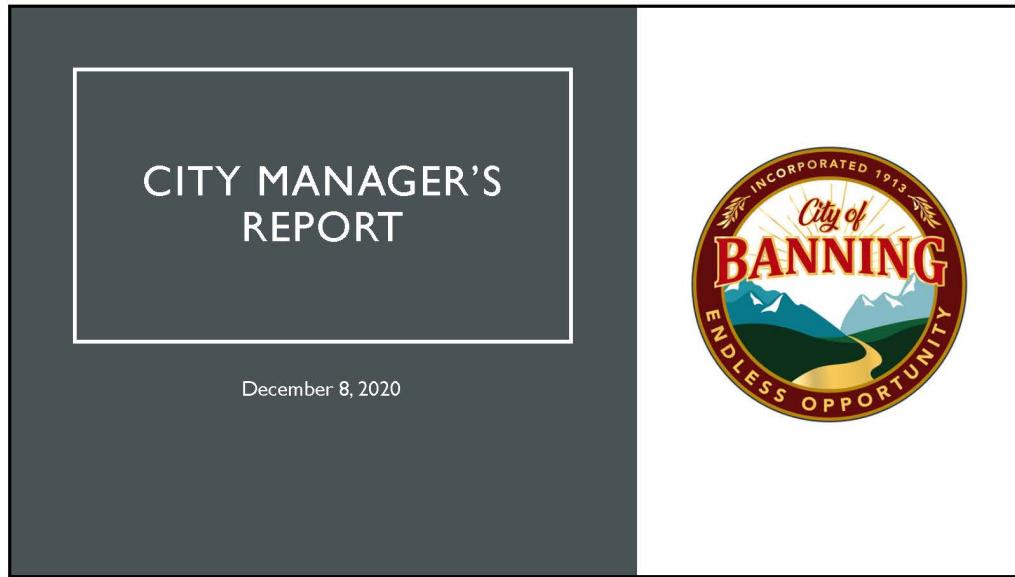
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Nick Fraiser lives in the same complex as Danielle and encouraged to run for Danellias seat. Nick was unsuccessful in his run therefore forcing Danielle to try get this passed before leaving office. Nick's name at one point was #9 on the eligibility list for retail Cannibus sales.(Isn't it strange the list expansion always hovered at an additional 10 locations Pushed by Danielle)This is just a light rake I pulled across the ground you don't have to dig deep. Without Belaboring these issues further at this time, the eyebrows this info should have raised should be enough to reconsider this motion.

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John Hagen, Concerned Citizen.
Resident Banning Ca.

Attachment 2

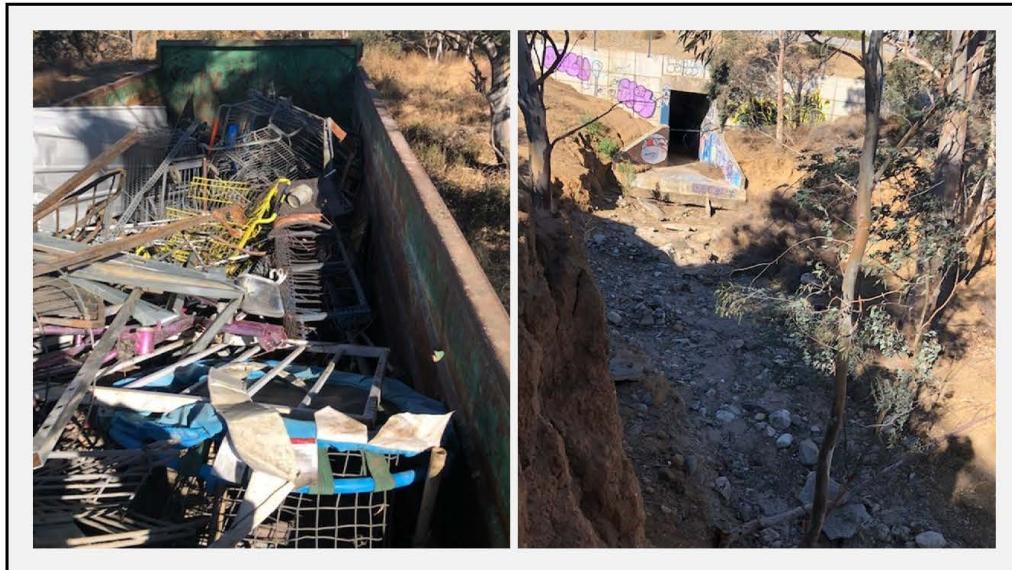


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REGIONAL STAY AT HOME ORDER

- Effective Sunday, December 6th and will remain in effect for minimum of 3 weeks (December 28);
- Triggered by ICU bed capacity dropping below 15%;
- Includes Southern California Counties: Imperial, Inyo, Los Angeles, Mono, Orange, Riverside, San Bernardino, San Diego, San Luis Obispo, Santa Barbara and Ventura;
- Sectors allowed to remain open
 - Critical Infrastructure (when remote option is not possible)
 - Schools
 - Non-urgent medical and dental care
 - Child care and pre-K
 - Outdoor recreational facilities – to facilitate physically distanced personal health and wellness
 - Retail 20% capacity
 - Shopping Centers 20% capacity
 - Restaurants – take out or delivery only
 - Places of worship and political expression – outdoor only

4

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Attachment 3



1

BACKGROUND

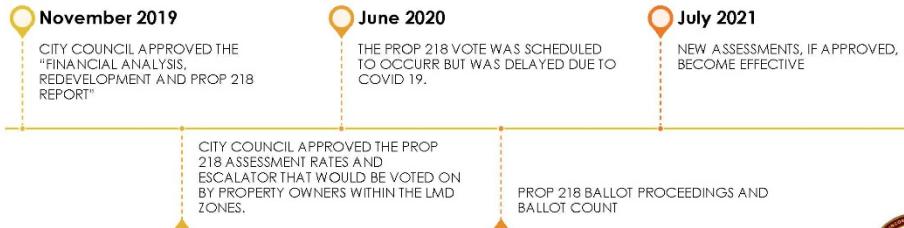
- ▶ DUE TO AN ONGOING FUNDING SHORTFALL A FINANCIAL ANALYSIS WAS COMPLETED RECOMMENDING:
 - ▶ RESTRUCTURING OF LMD ZONES FROM 4 TO 10 ZONES
 - ▶ ESTABLISHING A SEPARATE REV./EXPEND. BUDGET FOR EACH ZONE
 - ▶ INCREASE IN ASSESSMENTS FOR MOST TRACTS IN ORDER TO INCREASE SERVICE LEVELS
 - ▶ CONDUCT A PROP 218 PROCESS FOR A VOTER APPROVED RATE INCREASE
- ▶ The 2020/2021 APPROVED BUDGET INCLUDES A \$69,974 FUNDING SHORTFALL THAT WILL BE COVERED BY THE LMD FUND BALANCE (\$295,355).



2

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BACKGROUND



3

PROPOSITION 218 BALLOT PROCEEDING

- ▶ NEW ASSESSMENT RATES, IF APPROVED, WILL BECOME EFFECTIVE FISCAL YEAR 2021/2022 FOR THOSE ZONES THAT APPROVE IT
- ▶ IF THE PROP 218 VOTE FAILS THE ASSESSMENT RATES WILL REMAIN THE SAME
 - ▶ FOR THOSE TRACTS ANNEXED IN 2005 THE ASSESSMENTS RATE WILL HAVE A CPI ADJUSTMENT APPLIED AS PREVIOUSLY APPROVED BY THE PROPERTY OWNERS
- ▶ SEVERAL ZONES ARE OPERATING AT A DEFICIT. WITHOUT AN CHANGE TO THE ASSESSMENT RATE THE SERVICE LEVELS WITHIN THESE ZONES WILL HAVE TO BE REDUCED.



4

2

PROPOSITION 218 BALLOT PROCEEDING

- ▶ NEXT STEPS:
 - ▶ TAKE TESTIMONY FROM THE PUBLIC
 - ▶ CLOSE PUBLIC HEARING
 - ▶ THE ITEM IS CONTINUED UNTIL LATER IN THE MEETING IN ORDER TO ALLOW TIME FOR BALLOT TABULATION
 - ▶ CITY CLERK DECLARES THE RESULTS AND FILES CERTIFICATE OF ELECTION RESULTS



5

PROPOSITION 218 BALLOT PROCEEDING

- ▶ STAFF'S RECOMMENDATION:
 - ▶ THAT THE CITY COUNCIL ADOPT:

Resolution 2020-146, Confirming a Diagram and the Levy and Collection of a Change in Assessments if approved through the Proposition 218 Ballot Proceeding and Declaring the results of the Assessment Ballot Tabulation within the City of Banning's Landscape Maintenance District No. 1 for Fiscal Year 2021/22



6

3

THANK YOU!



7

4

Attachment 4

Re: Item 9.1 - Public Hearing

RECEIVED

Office of the City Clerk

12/07/2020

12-5-20

To City Council of Banning

I was very disappointed with the 218 workshop on November 19, 2020, the website was not able to be reached by all participants, when connected on phone you could listen but not join the workshop.

I was logged in as fourteenth caller and during the discussions it was noted two of the participants had never received their letter for the vote. My question is how many others did not receive the notice? This is very similar to the last questionable mailing on the subject.

I applaud the fact several people brought up the issues of poor performance from the landscape crew. These were the same issues that have been brought up in numerous council meetings and nothing has improved. What is worse is they were given the promise it would be looked into: the same empty promises we have been receiving during the council meetings!

The city needs to come to the realization they have been sold a ridiculous plan to solve the landscape issue.

Listen to the people of the city for once and get a plan to work for all!

Jack Gunderson
Citizen of Banning

Attachment 5

Re: Item 9.1 - Public Hearing
RECEIVED
Office of the City Clerk
12/08/2020

Please read into record at the Dec 8 Council meeting.
Landscape District #1

In touring the 10 different zones that make up Landscape District number one it is easy to realize how they have amassed a 295,000 dollar reserve account bank. This appears to be monies saved on the maintenance that has not been done in the past. Now they want to raise the rates for the work they did not do in the past. Art's analysis touts costs for accent lighting, water, plant replacement and general maintenance. In my observations I did not see any accent lighting other than the normal limited street lighting which we are already paying for on the \$18.00 per meter charge on our utility bill. The so called water bill which we are being charged the retail rate instead of a discounted wholesale is ridiculous. All of these areas are City public right of ways and at the very least should be wholesale rated if charged at all. We already pay for general maintenance on the public right of ways throughout the entire city through the Public Works Department budget which the entire city benefits from (If that were maintained) Check out all the trash and lack of maintenance on the median stripe all the way down Ramsey. Then on top of that they want to tax you again on the public right of ways in Landscape District #1. All of these public right of ways should be encompassed into the Public Works Department budget. This would eliminate the over exaggerated Admin costs that the city is charging to management of LSD#1. Most cities I know of are responsible for all their public right of ways as the entire city benefits from the maintenance. To throw an additional cost on 1015 home owners to supplement their coffers and reserve fund is a ploy to amass monies for other projects. They claim that that money can't be used for any other porpoise(sounds like a bell that has been rung before).

It is so easy for the city to simply raise the rates when ever there is a short fall with the attitude of just add a couple dollars here and there to the taxpayers. It true it is easy because I would venture to say that at least 40 percent of the people in LSD#1 do not even realize they are paying for the work that is not being done. This is apparent through the lack of response to the public hearings that were set up and ill attended. Instead of using this 295,000 dollar reserve account to figure out how they can suck more money out of us, it would be money well spent to figure out away to eliminate this District charge ie desert scap, drought resistant vegetation and the like.

This 218 ballot measure indicate that even if the zone charges fail regardless you will receive an up to 5 percent annual increase in you bill anyway which does not seem to be a fair vote as you just cannot pick and choose what portion of the increase applies or not. If it fails it should all fail. I believe this is forced taxation and does not comply with the 218 process.

There are some zones that actually receive a reduction in costs however once you figure in the 5 % annual increase that they never have to present to the voters again this savings will disappear and you will be paying as everyone else

I feel that this measure should fail city wide and a new measure be pursued to eliminate this LSD#1 entirely. The entire city will benefit, no additional admin fees, all covered under The Public Works division and ease of maintaining the city. There is so little plant vegetation in these areas it would be easy to convert to drought tolerant landscaping which is how it should have been designed in the first place.

Art claims that the budget will not be there to maintain the program but there are still collecting the annual fees from your taxes so they will have to continue this program unless they eliminate the entire program and roll it all under public works.

John Hagen
Concerned Banning Resident

Attachment 6

From: [Elsa Berumen](#)
To: [Sonia De La Fuente](#); [Arturo Vela](#)
Subject: Fair Oaks Landscape
Date: Tuesday, December 8, 2020 11:07:33 AM

Re: Item 9.1 - Public Hearing

RECEIVED

Office of the City Clerk

12/08/2020

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City of Banning Information Technology

These pictures depict our landscape in Fair Oaks Community. Need to be shared at today's meeting.

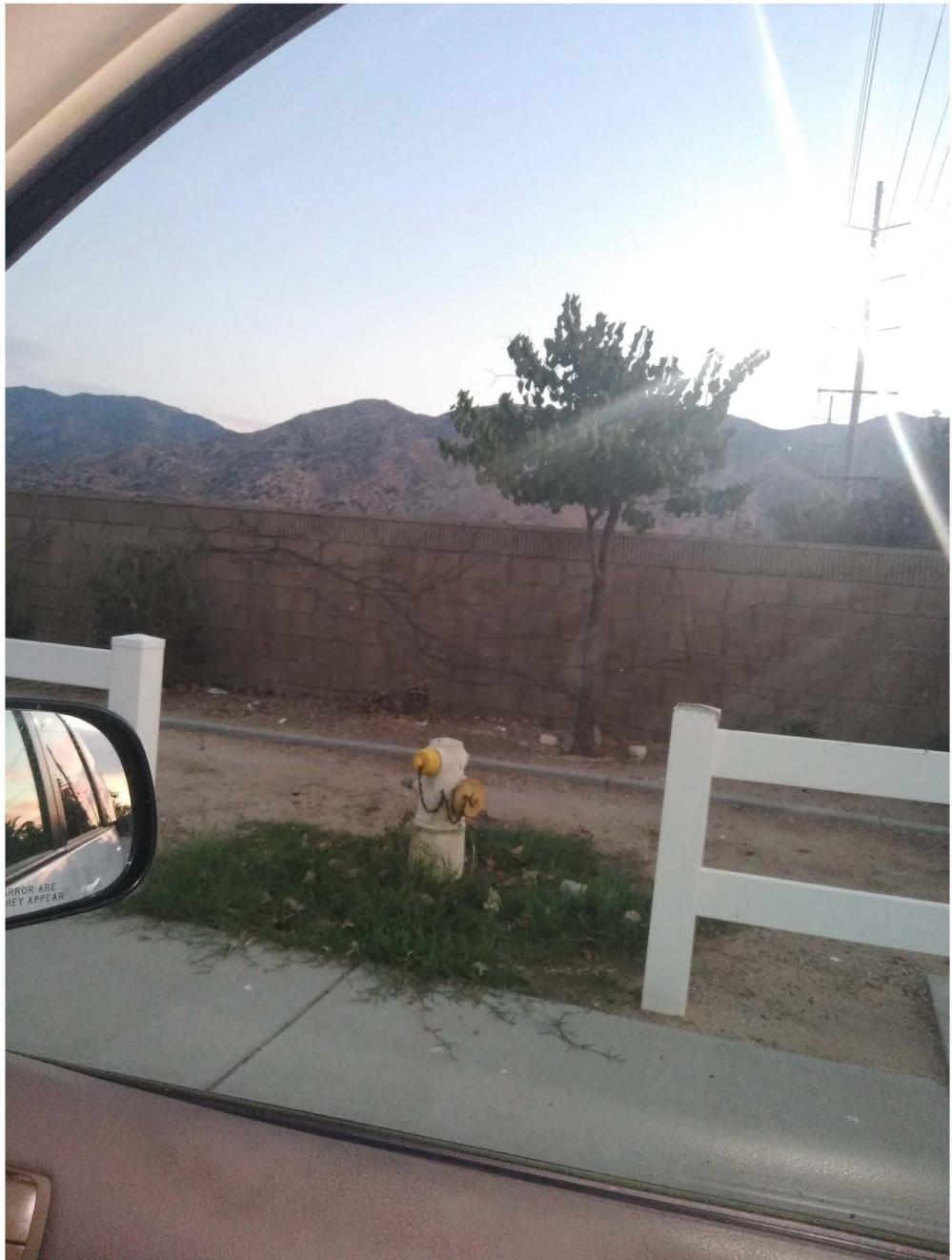
Also, 100% of neighbors I spoke to oppose the tax increase. The other 5% were either not home and also did not receive ballots. Please READ this info at meeting. Thank you



















Attachment 7

Re: Item 9.1 - Public Hearing

RECEIVED

Office of the City Clerk

12/08/2020

From: [Estela Berumen](#)
To: [Sonia De La Fuente](#)
Subject: Fair Oak's Landscape
Date: Tuesday, December 8, 2020 12:42:26 PM

Warning

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City of Banning Information Technology

Hello Ms De La Fuentes, I am sending these pictures I took around our neighborhood. Please include in meeting these depict our Landscape and attest to the fact that even litter as big as a house for sale sign which has been there for months is not cleared out. Also it is obvious that weeds are not pulled, bushes are dying because they are not watered sufficiently, trees are not trimmed, and broken fences are not replaced.

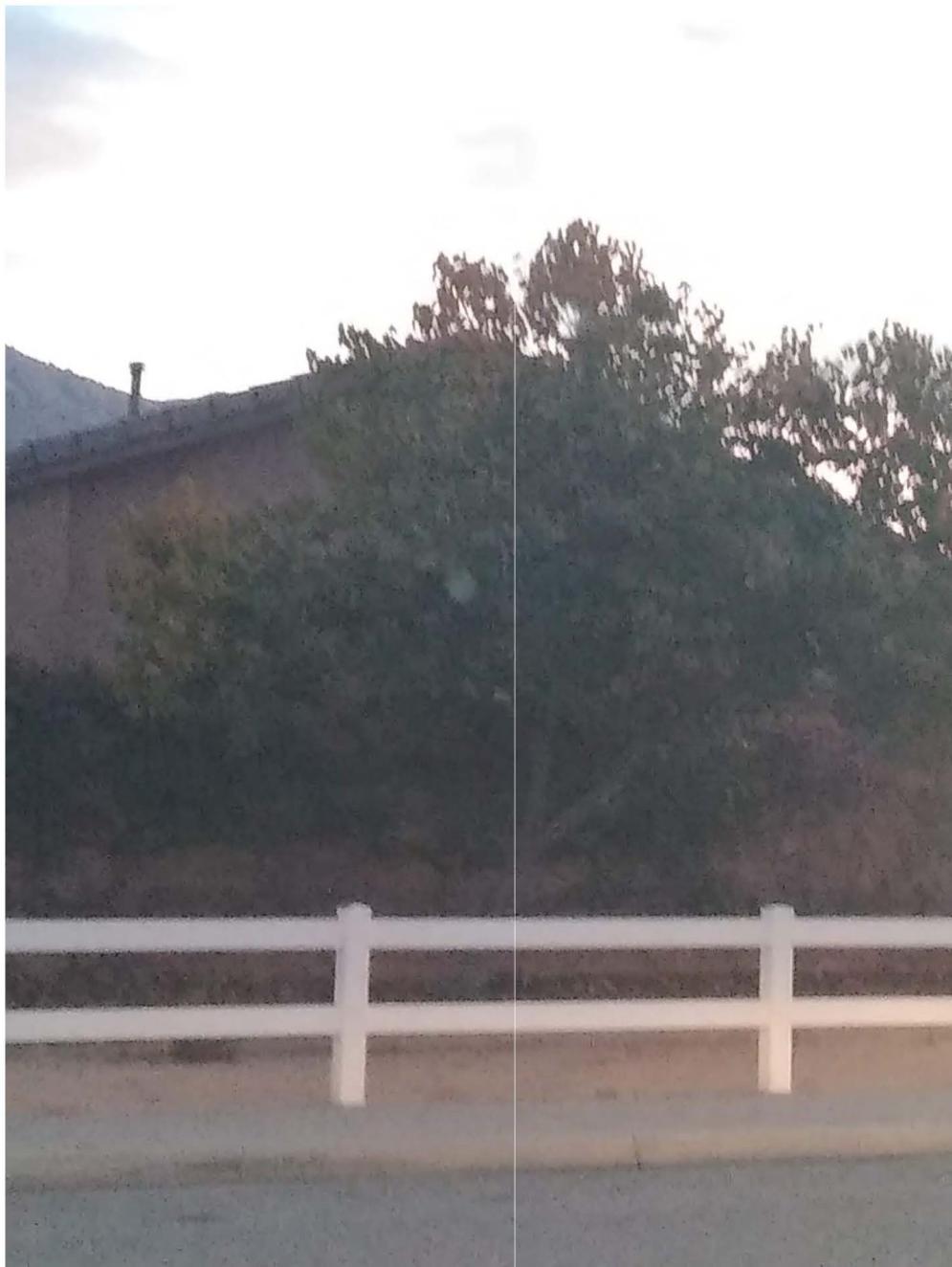
One neighbor shared that he had replaced the busted fence in front of his home along Charles Street and mows his own lawn as well which is the cities responsibility. Many neighbors have shared with me they oppose the tax increase as I do. 100% of the people that I spoke to in my neighborhood the Fair Oaks neighborhood (regardless of zone) agree that they opposed the tax increase and would like to see a cleaner neighborhood in our neighborhood for which we are pay additional taxes. Thank you for your time and attention to this matter.





















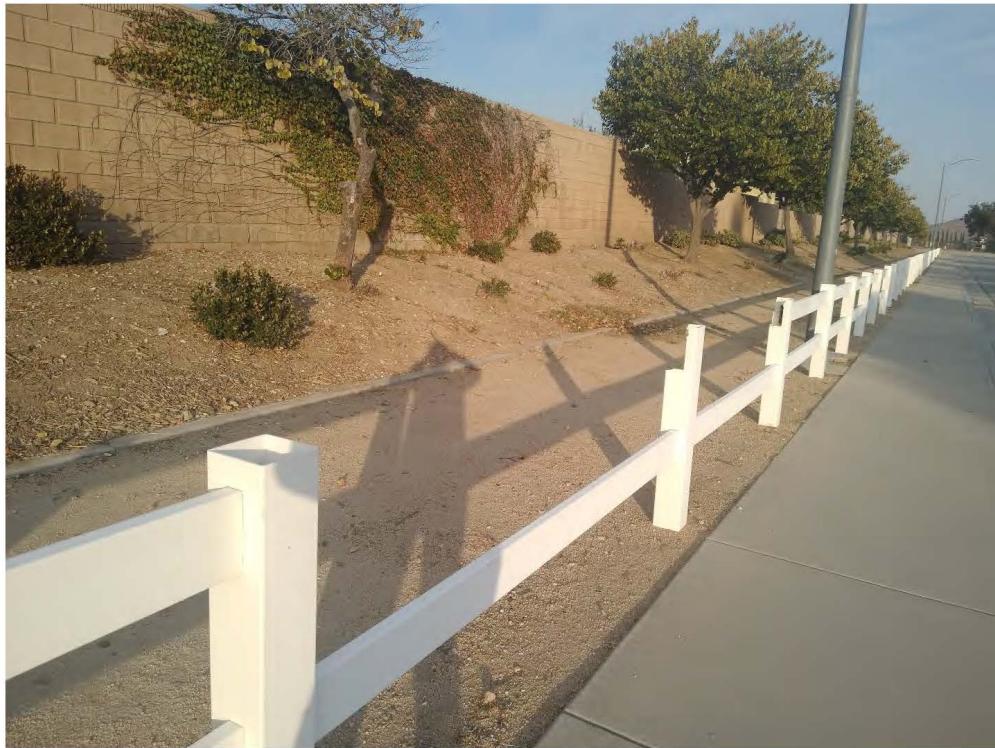


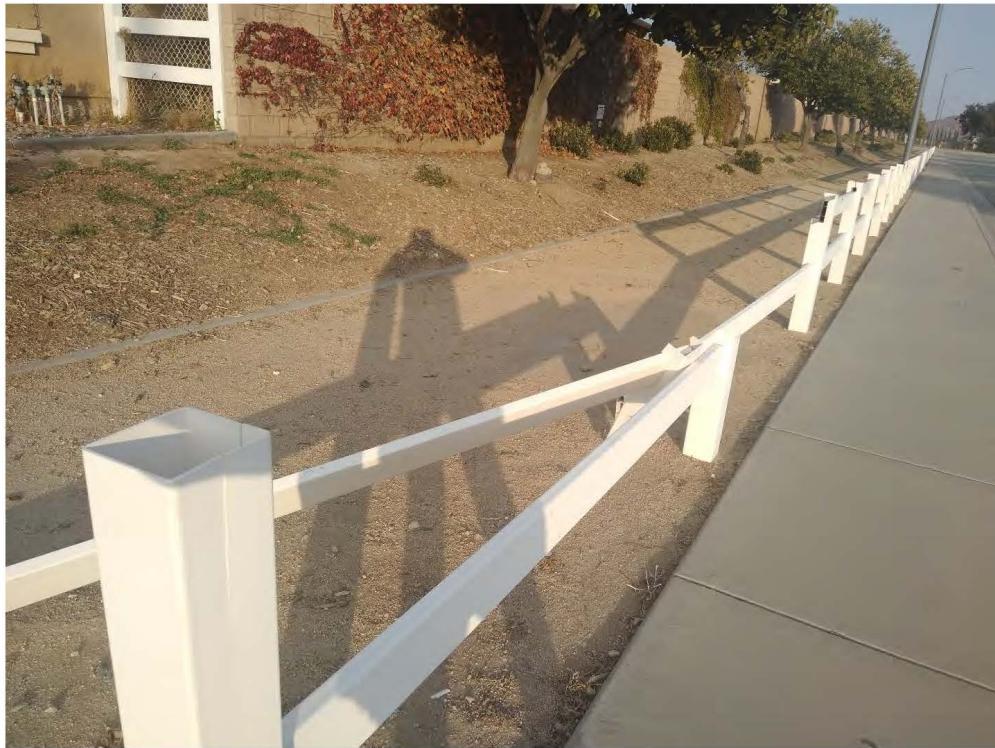










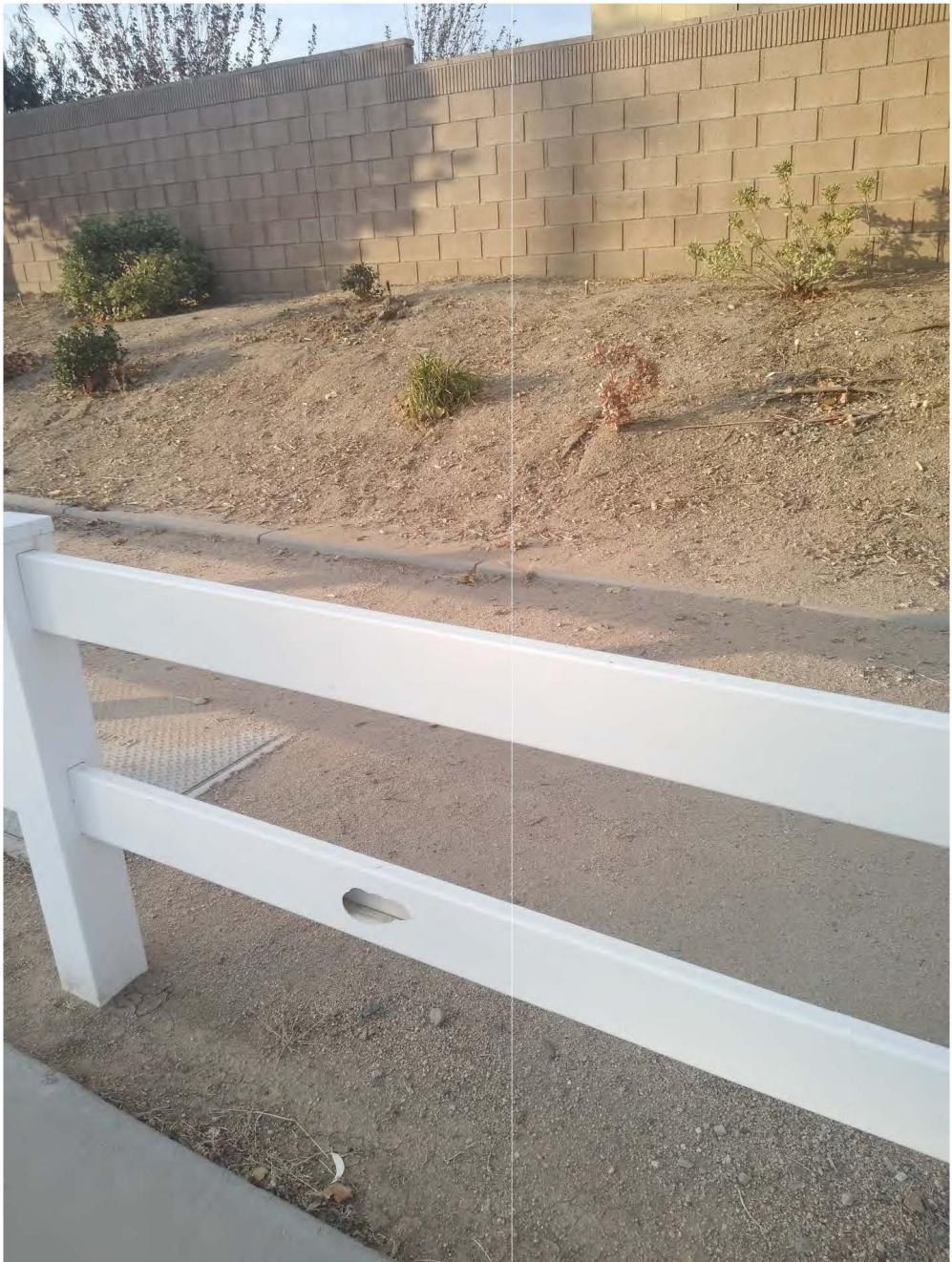






















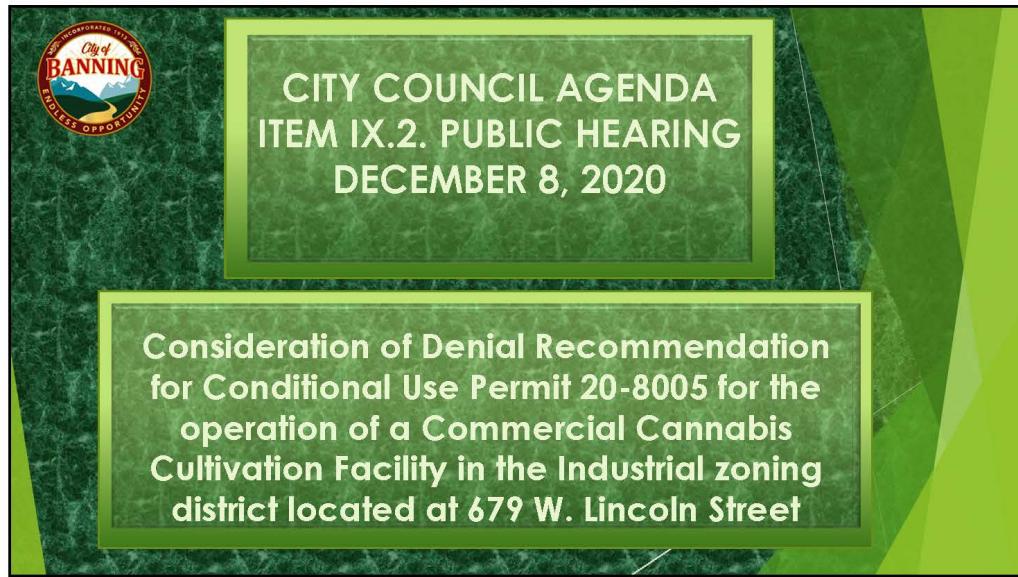




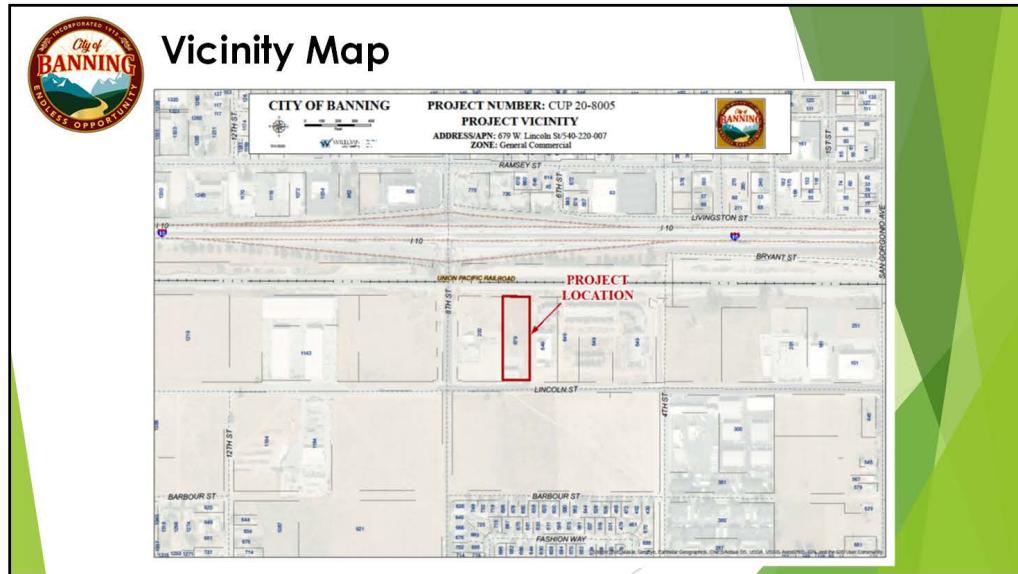




Attachment 8



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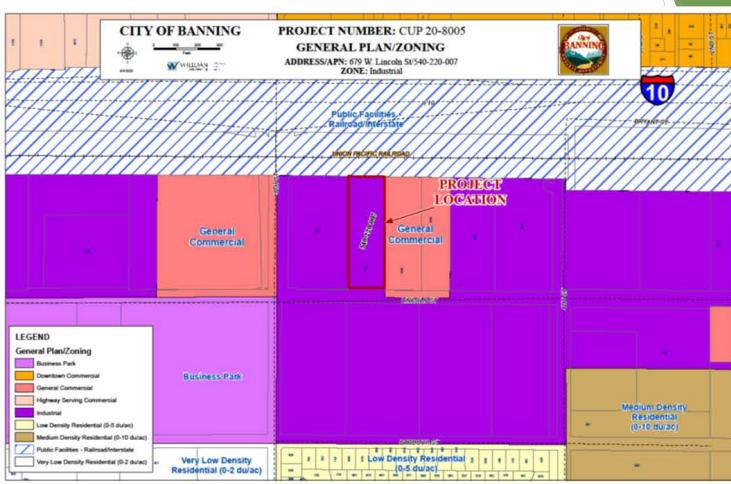
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Aerial Map



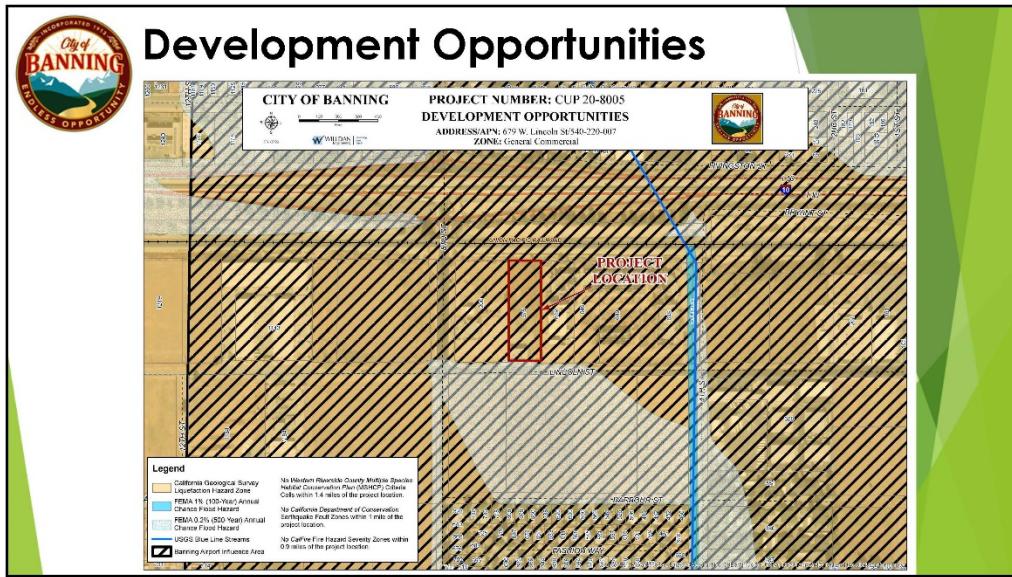
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Zoning Map



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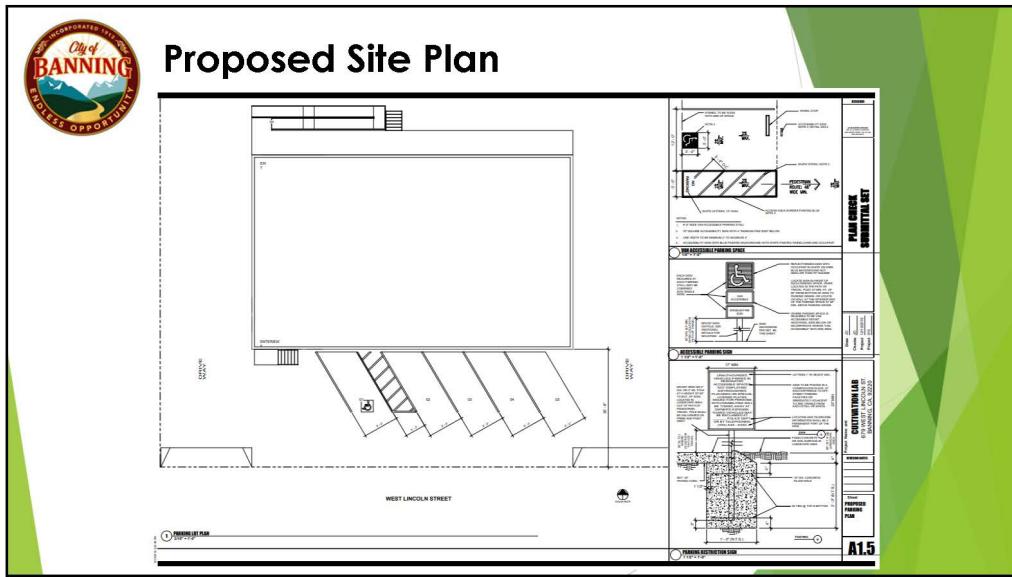


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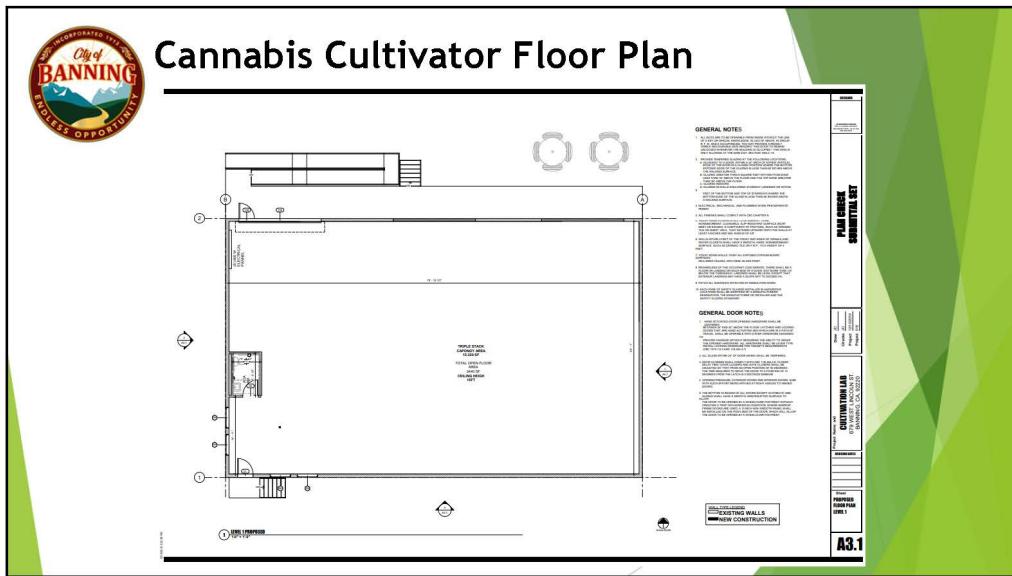


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Background:

- ▶ The existing building does not exceed 4,000 s.f. or 15-feet in floor-to-ceiling height. This floor area is inadequate for achieving a minimum cultivation canopy area of 10,000 s.f.
- ▶ In an effort to utilize the existing space, the applicant proposed a "stacking system" which can be designed to accommodate a maximum of four (4) levels; however, each between 7.5" to ten (10) feet in height. In order to meet the provisions of the BMC, three (3) levels of cannabis grow are required over 50% of the existing floor space; however, three (3) levels exceeds 21-feet in overall height, thus is infeasible and any configuration of the stacking system does not fit inside the existing building and maximizing the entire building height results in numerous Fire and Building Code violations.
- ▶ There is no configuration that can accommodate the 10,000-sf minimum canopy area in a 4,000 square foot building and still leave sufficient area for other supporting rooms such as; office, storage, drying/trimming, cloning, security, equipment, restroom, break room, etc...

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Environmental Determination

- ▶ Planning Division staff has determined that this Project is exempt from the requirements of the California Environmental Quality Act ("CEQA") and the State CEQA Guidelines pursuant to Section 15270(a) of the CEQA Guidelines because CEQA does not apply to projects which a public agency rejects or disapproves.

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Recommendation

- ▶ The Planning Commission recommends that the City Council Resolution 2020-142 making the determination that the Project is exempt under Section 15270 (Projects which are disapproved) of the California Environmental Quality Act (CEQA) and DENY the request to permit and authorize Conditional Use Permit 20-8005; which is a proposal to allow for a commercial cannabis cultivation facility in an existing 4,000 square foot building located at 679 West Lincoln Street (APN: 540-220-007) in the Industrial (I) zoning district.

13



Conclusion

THANK YOU & QUESTIONS

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Additional Background

- ▶ In addition, the existing building will require upgrades to a commercial fire suppression system which requires a minimum clearance of eighteen (18) inches, where all obstructions are prohibited. As such, even double-stacking the cannabis racking system will not provide any clearance as a double-stack system measures fifteen (15) feet in height, which is the maximum height of the building, and would leave zero (0) feet of clearance between the racking and the ceiling. Given these obvious conflicts with the City's and County Fire Codes and the BMC, the existing building cannot accommodate a minimum of 10,000 sf of canopy space for cannabis cultivation.
- ▶ Additionally, the applicant failed to respond or correct any of the issues stated in the incomplete letter sent, July 20, 2020 (see Attachment 4). The application was incomplete. The site plan was incomplete. There was no operations plan, neighborhood context map, or lighting plan.
- ▶ Furthermore, the building was previously used as an illegal grow facility for the cultivation of cannabis. Utilities were bypassed and potentially hazardous waste was disposed into the existing septic system. While bypassing the Banning Electric Utility service, City of Banning Electric Utility equipment was damaged.
- ▶ With the issues stated above and the applicant's inability to demonstrate how the project would comply with Banning's Municipal Code, Staff recommends denial of the project.

Attachment 9

From: Adam Rush
To: eperea@romoplanninggroup.com; "Ginetta Giovino"
Cc: syoung@nwqlaw.com; Sonja De La Fuente; Laurie Lowret
Subject: RE: City of Banning City Council Meeting 12-8-2020/ Public Hearing Item Sun Lakes Village North Specific Plan EIR
Date: Sunday, December 6, 2020 9:17:12 PM
Importance: High

Adam B. Rush, M.A. AICP
Community Development Director
Community Development Department
City of Banning
Direct Line: 951-922-3131
Direct Fax: 951-922-3128
arush@banningca.gov
99 E. Ramsey Street
Banning, CA 92220
www.banningca.gov



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From: PATRICK HANINGER <phaninger1@gmail.com>
Sent: Sunday, December 6, 2020 3:40 PM
To: Adam Rush <arush@banningca.gov>
Subject: City of Banning City Council Meeting 12-8-2020/ Public Hearing Item Sun Lakes Village North Specific Plan EIR

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City of Banning Information Technology

Mr. Rush,

Attached are the comments for the City of Banning City Council Meeting 12-8-2020/ Public Hearing Item Sun Lakes Village North Specific Plan EIR. Please have these comments forwarded to the City Council for their consideration.

Thank you,

To Whom It May Concern, Below you will find Public Comments on behalf of the Golden State Environmental Justice Alliance for the City of Banning City Council meeting scheduled for December 8, 2020 at 5 PM. At the City of Banning's request, these comments are hereby submitted to the City Council. The below comments are regarding Public Hearing Item, Sun Lakes Village North Specific Plan EIR Good evening, my name is Patrick Haninger and I'm with the Golden State Environmental Justice Alliance. We submitted a comment letter to the Draft Environmental Impact Report. Our letter identified several deficiencies with the DEIR. The deficiencies include but are not limited to, project description, aesthetics, air quality, biological resources, energy, greenhouse gas emissions, noise, transportation, and other CEQA related topics. Further, our comment letters are not "standardized" as Michael Weber, representative of the developer had previously claimed during the planning commission hearing. Any comment letter we submit is analyzing a specific project. This project EIR is deficient in several ways, as outlined by our letter. During these turbulent times, we as citizens expect and deserve our local government's elected and appointed officials to protect us from environmental and social injustice, to aid in the preservation and rehabilitation of the environment in which we all share, and to ensure accountability and responsibility in regard to the environmental decisions they may make. We stand by our comment letter and believe the EIR is flawed and must be redrafted and recirculated for public review. In closing we call on this Council to be a leader on the aforementioned issues and be the first line of defense for our citizenry and environment. Only by working together can we continue to be excellent stewards of our environment, outstanding stewards to our citizens and each other.

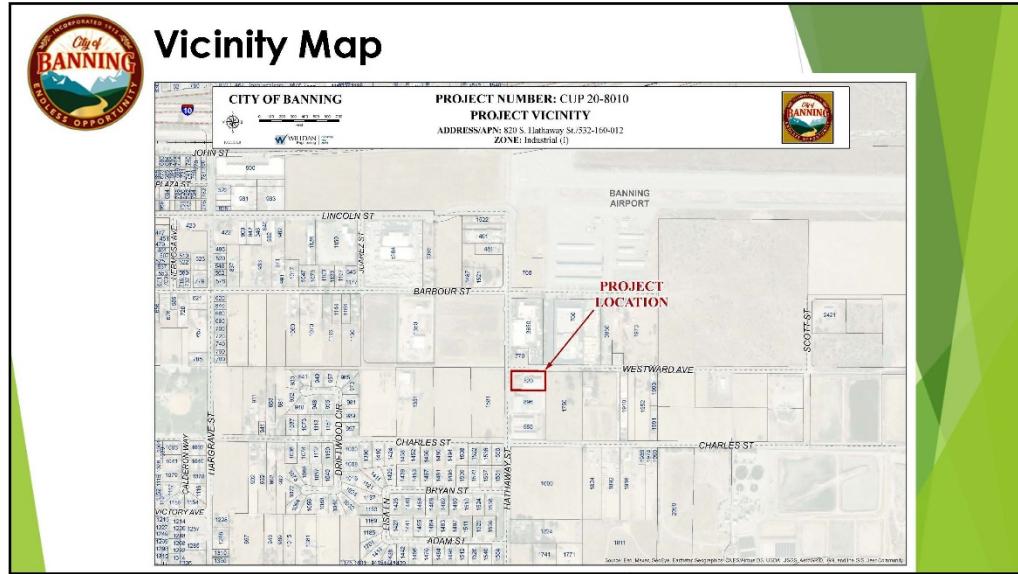
Thank You, Patrick Haninger.

Attachments area

Attachment 10



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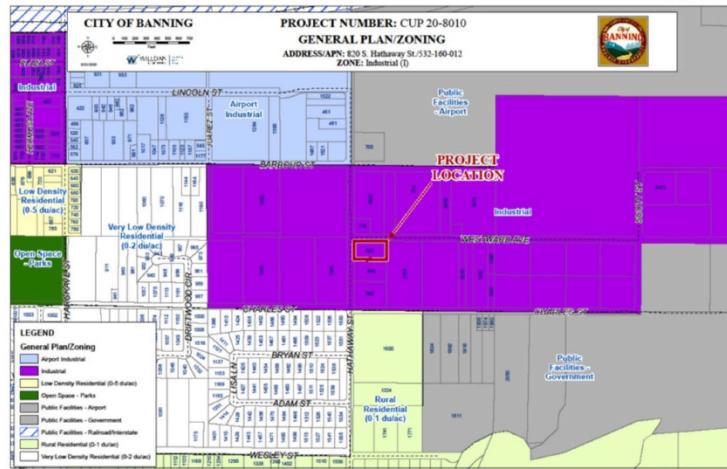
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Aerial Base Map



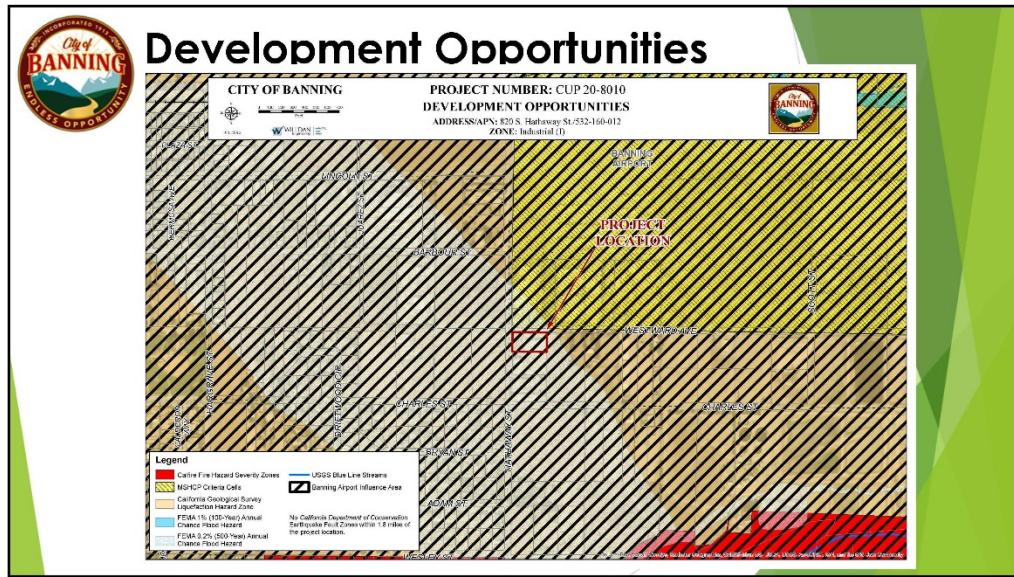
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Zoning Map

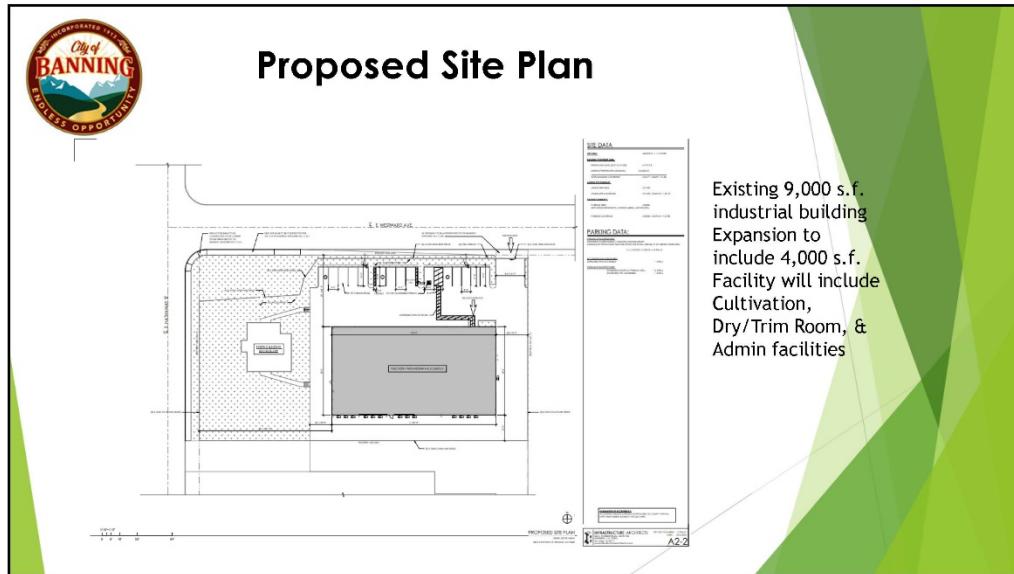


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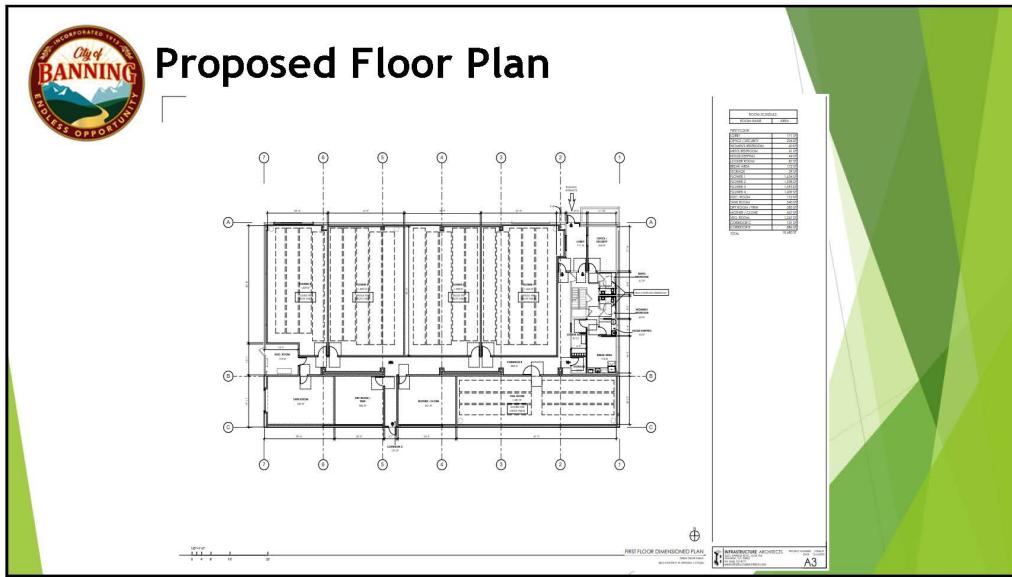


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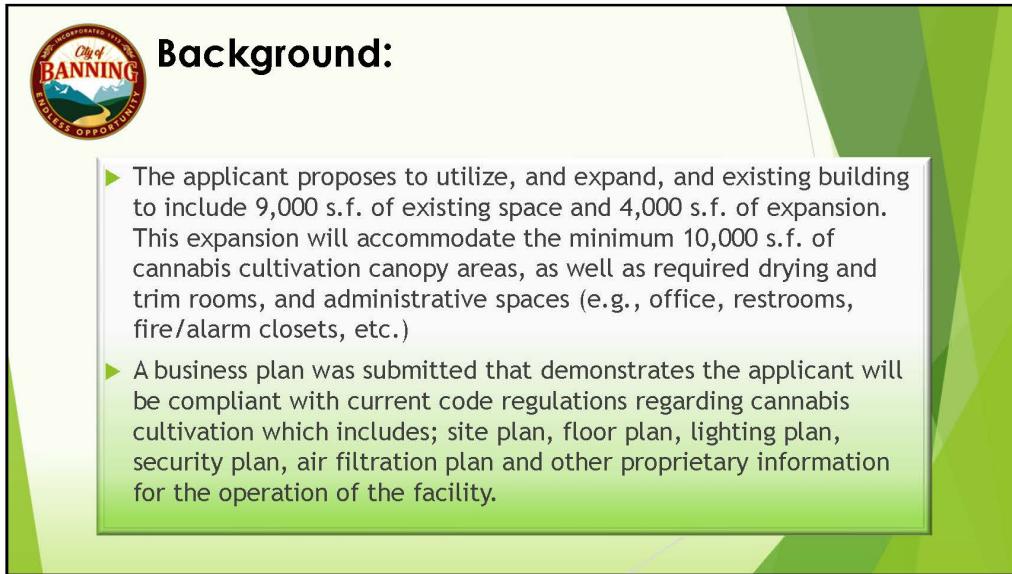


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Environmental Determination

- ▶ 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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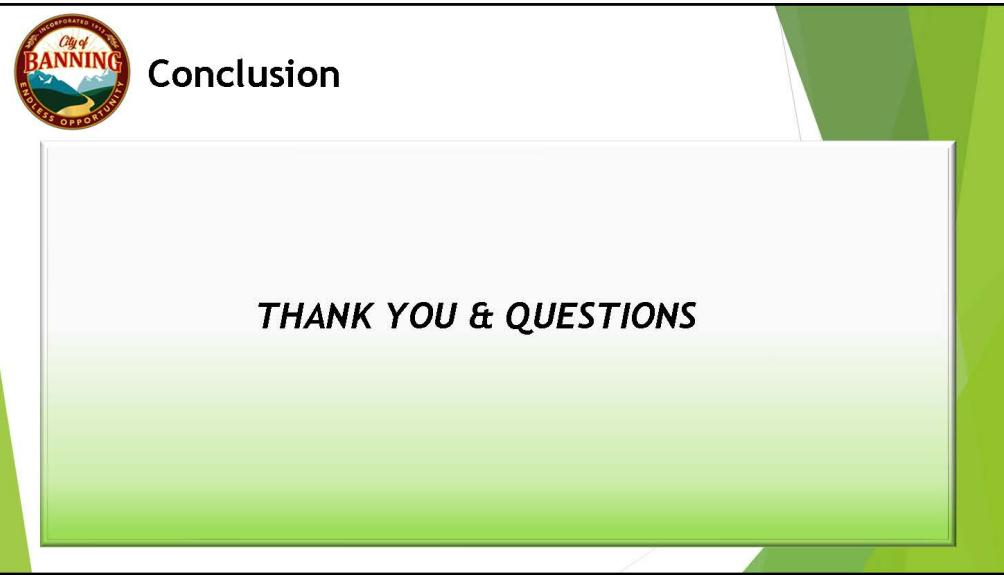


Recommendation

- ▶ The Planning Commission recommends the Council adopt Resolution 2020-142, 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 20-8010 to allow a Commercial Cannabis Cultivation facility in an existing industrial building located at 820 South Hathaway Street (APN: 532-160-012) in the Industrial (I) zoning district.

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Attachment 11

PUBLIC HEARING ITEM NO. IX.4

**RESOLUTION NO. 20-141 - SPECIFIC
PLAN AMENDMENT NO. 20-2001 – ZONE
CHANGE NO. 20-3501 -**

**UPDATES & REVISIONS TO
SUN LAKES CITY COUNCIL
ORDINANCE NO. 1571**

DATED DECEMBER 8, 2020

ORDINANCE NO. 1571

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING ZONE CHANGE NO. 20-3501 TO AMEND THE ZONING ORDINANCE TO INCORPORATE THE TEXT OF THE SUN LAKES VILLAGE NORTH SPECIFIC PLAN AMENDMENT 5 (SPECIFIC PLAN AMENDMENT NO. 20-2001) INTO THE ZONING ORDINANCE.

WHEREAS, an application for Zone Change No. 20-3501 has been initiated by:

Project Applicant:	City of Banning 99 E. Ramsey St. Banning, CA 92220
Property Owner:	The McRae Group Augustine H. Gomez 8800 N. Gainey Center Drive, Suite 255 Scottsdale, AZ 85258
Property Developer:	LGE Design & Build Ben McRae 1200 N. 52nd St. Phoenix, AZ 85008
Project Location:	North of Sun Lakes Boulevard, south of I-10, and approximately 840 feet east of Highland Springs Avenue
APN:	419-140-057
Specific Plan Size:	47.1 acres

WHEREAS, on November 4, 2020, the Planning Commission held a duly noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to, the Zone Change and at which the Planning Commission considered the Zone Change and recommended by adoption of Resolution No. 2020-21 that the City Council approve Zone Change No. 20-3501 to amend the Zoning Ordinance to incorporate the text of the Sun Lakes Village North Specific Plan Amendment 5.

WHEREAS, in accordance with Government Code § 65854, a notice was published in the Record Gazette newspaper announcing a City Council public hearing on December 8, 2020, for consideration of the Zone Change and other entitlements associated with the Sun Lakes Village North Specific Plan Amendment 5, including the certification of the Project's Final Environmental Impact Report and adoption of the Mitigation Monitoring and Reporting Program, Statement of Overriding Considerations and Findings of Fact.

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

SECTION 1. ENVIRONMENTAL FINDINGS.

A. The City Council, in light of the whole record before it, including but not limited to, the City's Local CEQA Guidelines and Thresholds of Significance, the recommendation of the Planning Director as provided in the Staff Report dated December 8, 2020, 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:

B. The approval of this Zone Change is in compliance with requirements of the California Environmental Quality Act ("CEQA"), in that on December 8, 2020, at a duly noticed public hearing, the City Council considered the Findings and Project Alternatives of the Final Environmental Impact Report, including associated comments from persons and agencies received during the 45 day EIR review and comment period, and certified the Final Environmental Impact Report, adopted the Mitigation Monitoring and Reporting Program, Statement of Overriding Considerations, and Findings of Fact, reflecting its independent judgment and analysis, documenting that economic, social, planning, and other benefits of the Project outweighed the significant and unavoidable impacts. The documents comprising the City's environmental review for the project are on file and available for public review at Banning City Hall, 99 East Ramsey Street, Banning, California 92220.

SECTION 2. REQUIRED ZONE CHANGE FINDINGS.

Pursuant to Banning Municipal Code Section 17.116.050, the City Council makes the following findings pertaining to Zone Change No. 20-3501:

1. The proposed Amendment is consistent with the goals and policies of the general plan.

The purpose of Zone Change No. 20-3501 is to incorporate the text of the Sun Lakes Village North Specific Plan Amendment 5 into the City of Banning's Zoning Ordinance. As demonstrated in Ordinance No. 1571 for the adoption of the Sun Lakes Village North Specific Plan Amendment 5, the Specific Plan is consistent with the goals and policies of the General Plan. An analysis of the consistency of the Specific Plan with the General Plan goals and policies is also included in the Appendix of the Sun Lakes Village North Specific Plan Amendment 5. Therefore, the Zone Change to incorporate the text of the Specific Plan into the City's Zoning Ordinance will also be consistent with the goals and policies of the General Plan.

2. The proposed Amendment is internally consistent with the Zoning Ordinance. The Zoning Ordinance implements and is consistent with the General Plan. Ordinance No. 1571 for the adoption of the Sun Lakes

Village North Specific Plan Amendment 5 and the consistency analysis contained in the Appendix of the Specific Plan demonstrate that the project is consistent with the General Plan. Therefore, the amendment of the Zoning Ordinance to incorporate the text of the Sun Lakes Village North Specific Plan Amendment 5 is internally consistent with the Zoning Code. The Sun Lakes Village North Specific Plan Amendment 5 is legally adequate in that, pursuant to Section 65450 et. seq. of the California Government Code, it incorporates maps, diagrams, and descriptions to adequately describe the distribution, location, and extent of land uses; the distribution, location, extent and intensity of major components of public and private transportation, water, sewer, drainage, solid waste disposal, energy, and other essential facilities within the project area required to support the land uses described in the Specific Plan; standards and criteria for which the development will proceed; a program for implementation including regulations, programs, public works projects and financing measures necessary to carry out the project; and a detailed statement of the relationship of the specific plan to the general plan; including consistency between both plans and comparison of goals, objectives, and policies; and discussion of how the plan implements the policies of the general plan.

3. The City Council has independently reviewed and considered the requirements of the California Environmental Quality Act concerning the preparation of the Draft Environmental Impact Report, Final Environmental Impact Report, Notice of Preparation, the comments on the Draft Environmental Impact Report and responses to those comments; the staff report for the public hearing before the Planning Commission, Statement of Overriding Considerations, and Findings of Fact. Moreover, the Final Environmental Impact Report has described an adequate range of alternatives to the Project, even when those alternatives might impede the attainment of project objectives and might be more costly. In making its decision on the Project, the City Council of the City of Banning finds that it has given great weight to the significant and unavoidable adverse impacts, but the significant and unavoidable adverse impacts are clearly outweighed by the economic, social, and other benefits of the Project as set forth in the Statement of Overriding Considerations.
 1. **Review Period:** That the City has provided the public review period for the Draft Environmental Impact Report for the 45-day duration required under CEQA Guidelines Sections 15087 and 15105.
 2. **Compliance with Law:** That the Draft Environmental Impact Report, Final Environmental Impact Report, Mitigation Monitoring and Reporting

Program, Statement of Overriding Considerations and Findings of Fact were prepared, processed, and noticed in accordance with the California Environmental Quality Act (Public Resources Code Section 21000 et seq.), the CEQA Guidelines (14 California Code of Regulations Section 15000 et seq.), and the local CEQA Guidelines and Thresholds of Significance adopted by the City of Banning.

3. Independent Judgment: That the Final Environmental Impact Report, Mitigation Monitoring and Reporting Program, Statement of Overriding Considerations and Findings of Fact reflect the independent judgment and analysis of the City.

4. Statement of Overriding Considerations and Findings of Fact: That the significant impacts of the Project as identified in the Statement of Overriding Considerations and Findings of Fact in support thereof that will have not been reduced to a level of insignificance will have been substantially reduced in their impacts by imposition of conditions on the approved project and the imposition of mitigation measures. In making its decision on the Project, the City Council of the City of Banning finds that it has seriously considered the significant unavoidable adverse environmental impacts, but the significant and unavoidable adverse impacts are outweighed by the economic, social and other benefits of the Project as set forth in the Statement of Overriding Considerations.

SECTION 3: CITY COUNCIL ACTION.

The City Council hereby:

1. Approves Zone Change No. 20-3501 to incorporate the text of the Sun Lakes Village North Specific Plan Amendment 5 into Section 17.96 of the City of Banning's Zoning Ordinance and modification of the Specific Plan Zoning Classifications in accordance with Exhibit A attached herein.

PASSED, APPROVED AND ADOPTED this ____ day of _____, 2020

Mayor, City of Banning

ATTEST:

Sonja De La Fuente, Deputy City Clerk
City of Banning

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

Kevin Ennis, City Attorney
Richards, Watson & Gershon

CERTIFICATION:

I, Sonja De La Fuente, Deputy City Clerk of the City of Banning, California, do hereby certify that Ordinance 1571 was duly introduced at a regular meeting of the City Council of the City of Banning, held on the 8th day of December, 2020, and was duly adopted at a regular meeting of said City Council on the _____ day of _____, 2021, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Sonja De La Fuente, Deputy City Clerk
City of Banning, California

Sun Lakes Village North Specific Plan

Exhibit A



Figure 4 – Land Use Plan

PUBLIC HEARING ITEM NO. IX.4

**RESOLUTION NO. 20-141 - SPECIFIC
PLAN AMENDMENT NO. 20-2001 – ZONE
CHANGE NO. 20-3501 -**

**UPDATES & REVISIONS TO
SUN LAKES CITY COUNCIL
RESOLUTION NO. 20-141**

DATED DECEMBER 8, 2020

RESOLUTION 2020-141

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING CERTIFY AN ENVIRONMENTAL IMPACT REPORT AND ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS AND MITIGATION MONITORING AND REPORTING PROGRAM FOR A SPECIFIC PLAN AMENDMENT OF APPROXIMATELY 47 GROSS ACRES LOCATED BETWEEN SUN LAKES BOULEVARD AND INTERSTATE 10 APPROXIMATELY 840 FEET EAST OF HIGHLAND SPRINGS AVENUE. AND ADMINISTRATION AND IMPLEMENTATION PROVISIONS., AND APPROVE SPECIFIC PLAN AMENDMENT NO. 20-2001, ZONE CHANGE NO. 20-3501.

THE CITY COUNCIL OF THE CITY OF BANNING DOES RESOLVE AS FOLLOWS:

Section 1. Project. The City of Banning is proposing Specific Plan Amendment No. 20-2001 and Zone Change No. 20-3501 to update the Sun Lakes Village North Specific Plan ("Project") by amending the Specific Plan Land Use Plan from Retail Commercial (Auto Dealer) to Business Park & Warehouse (BW), Office & Professional (OP), and Retail & Service (RS). The Specific Plan is also proposed to be amended to revise the permitted land uses; development standards (including maximum building height, setbacks, open space, landscaping, parking, and signage); design guidelines for development; and administration and implementation provisions. (the "Project").

Section 2. Specific Plan.

(a) Specific The City of Banning is proposing to update the Sun Lakes Village North Specific Plan ("Project") by amending the Specific Plan Land Use Plan from Retail Commercial (Auto Dealer) to Business Park & Warehouse (BW), Office & Professional (OP), and Retail & Service (RS). The Specific Plan is also proposed to be amended to revise the permitted land uses; development standards (including maximum building height, setbacks, open space, landscaping, parking, and signage); design guidelines for development; and administration and implementation provisions. (the "Project") on approximately 47 acres of real property located between Sun Lakes Boulevard and Interstate 10 approximately 840 feet east of Highland Springs Avenue (APN: 419-140-057).

(b) Section 17.96.030 of the Banning Municipal Code provides that specific plans shall be heard and adopted in accordance with the provisions of Section 65450 *et seq.* of the Government Code, as now written or hereafter amended, and in accordance with Section 17.96.030 of the Banning Municipal Code (as described in Section 2 of this Resolution).

(c) Government Code Section 65453(a) provides that a specific plan shall be prepared, adopted, and amended in the same manner as a general plan, except that a specific plan may be adopted by resolution or by ordinance and may be amended as often as deemed necessary by the legislative body.

(d) Government Code Section 65353(a) provides that when a city has a planning commission authorized by local ordinance or resolution to review and recommend action on a proposed general plan, the commission shall hold at least one public hearing before approving a recommendation on the adoption of a general plan.

(e) Government Code Section 65354 provides that the planning commission shall make a written recommendation on the adoption of a general plan. A recommendation for approval shall be made by the affirmative vote of not less than a majority of the total membership of the commission. The planning commission shall send its recommendation to the legislative body.

Section 4. Procedural Findings. The City Council of the City of Banning does hereby find, determine, and declare that:

(a) The Specific Plan Amendment No, 20-2001 and Zone Change No. 20-3501 were processed including, but not limited to a public notice, in the time and manner prescribed by State law and Banning Ordinances.

(b) On November 4, 2020, the Planning Commission of the City of Banning held a public hearing on Specific Plan Amendment No. 20-2001 and Zone Change No. 20-3501, at which time all persons interested in the Project 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.

(c) Public Hearing before the Council.

(d) All legal preconditions to the adoption of this Resolution have occurred.

Section 5. California Environmental Quality Act Findings and Recommendation for Certification of Environmental Impact Report and Adoption of Statement of Overriding Considerations and Mitigation Monitoring and Reporting Program.

The City Council of the City of Banning make the following environmental findings and determinations in connection with the approval of the Project:

Procedural Findings. The City Council of the City of Banning (City) does hereby find, determine, and declare that:

(a) The City of Banning is proposing to update the Sun Lakes Village North Specific Plan ("Project") by amending the Specific Plan Land Use Plan from Retail Commercial (Auto Dealer) to Business Park & Warehouse (BW), Office & Professional (OP), and Retail & Service (RS). The Specific Plan is also proposed to be amended to revise the permitted land uses; development standards (including maximum building height, setbacks, open space, landscaping, parking, and signage); design guidelines for development; and administration and implementation provisions. (the "Project") on approximately 47 acres of real property located between Sun Lakes Boulevard and Interstate 10 approximately 840 feet east of Highland Springs Avenue (APN: 419-140-057).

(b) The proposed Project was processed, including but not limited to all public notices, in the time and manner prescribed by State and local law, including the California Environmental Quality Act, Public Resources Code § 21000, *et seq.* (CEQA) and the CEQA Guidelines, 14. Cal. Code Regs. § 15000 *et seq.*

(c) Pursuant to CEQA, the City is the lead agency for the proposed Project because it is the public agency with the authority and principal responsibility for reviewing, considering, and potentially approving the proposed Project.

(d) The City determined that an Environmental Impact Report (EIR) would be required for the proposed Project and issued a Notice of Preparation (NOP) on February 21, 2020. The NOP was sent to the State Clearinghouse (SCH # 2020029074), responsible agencies, trustee agencies, and interested parties and posted on the City's website on February 21, 2020. The thirty (30)-day public review period ran from February 21, 2020 to March 19, 2020 and its purpose was to receive comments and input from interested public agencies and private parties on issues to be addressed in the EIR for the proposed Project.

(e) In accordance with CEQA Guidelines Section 15082(c)(1), a scoping meeting was held during the NOP review period, on March 2, 2020, to solicit additional suggestions on the scope of the Draft EIR. Attendees were provided an opportunity to identify verbally or in writing the issues they felt should be addressed in the Draft EIR; verbal comments were received during the scoping meeting.

(f) The scope of the Draft EIR was determined based on the NOP, comments received in response to the NOP, and technical input from environmental consultants.

(g) Thereafter, the City contracted for the independent preparation of a Draft EIR for the proposed Project, including preparation and review, as applicable, of all necessary technical studies and reports in support of the Draft EIR. In accordance with CEQA and the CEQA Guidelines, the City analyzed the proposed Project's potential impacts on the environment, potential mitigation, and potential alternatives to the proposed Project.

(h) Upon completion of the Draft EIR in September 2020, the City initiated a public comment period by preparing and sending a Notice of Availability (NOA) for the Draft EIR to all interested persons, agencies, and organizations; the NOA also was published in the Record Gazette. The City also filed a Notice of Completion (NOC) with the State Office of Planning and Research. The Draft EIR was made available for a forty-five (45)-day public review period beginning September 11, 2020 and ending on October 26, 2020.

(i) Copies of the Draft EIR were sent to various public agencies, as well as to organizations and individuals requesting copies. In addition, copies of the documents have been available for public review and inspection at the Banning City Hall and the Banning Public Library. The DEIR was also made available for download via the City's website: <https://banningca.gov/ArchiveCenter/ViewFile/Item/2368>

(j) In response to the Draft EIR, written comments were received from various agencies, individuals, and organizations. In compliance with CEQA Guidelines Section 15088, the City prepared written responses to all comments that were timely received on the Draft EIR. None of the comments presented any new significant environmental impacts or otherwise constituted significant new information requiring recirculation of the Draft EIR pursuant to CEQA Guidelines Section 15088.5.

(k) The Final EIR consists of the Draft EIR and all of its appendices, the comments, and responses to comments on the Draft EIR, and clarifications/revisions to the Draft EIR. The Final EIR was made available to the public and to all commenting agencies at least 10 days prior to certification of the Final EIR, in compliance with Public Resources Code Section 21092.5(a).

(l) On December 8 2020, the City Council, at a duly noticed public hearing, considered the proposed Project and the Final EIR, at which time the City staff presented its report and interested persons had an opportunity to be heard and to present evidence regarding the proposed Project and the Final EIR.

(m) Section 15091 of the CEQA Guidelines requires that the City, before approving a project for which an EIR is required, make one or more of the following written finding(s) for each significant effect identified in the EIR accompanied by a brief explanation of the rationale for each finding:

1) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the Final EIR; or,

2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency; or,

3) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.

(n) These required written findings are set forth in the Facts and Findings Regarding the Environmental Effects of the Approval of the Banning Sun Lakes Specific Plan Amendment No. 5 Project (SCH No.: 202002074), herein referred to as Exhibit "A" which is attached to the City Council Resolution and incorporated herein by reference as if set forth in full and are hereby adopted.

1) Environmental impacts determined during the scoping process to be less than significant and not potentially impacted by the proposed Project are described in Section 3.0 of Exhibit "A."

2) Environmental impacts determined in the EIR to be less than significant and not requiring mitigation are also described in Section 3.0 of Exhibit "A."

3) Environmental impacts determined in the EIR to be less than significant with mitigation are described in Section 4.0 of Exhibit "A."

4) Environmental impacts that remain significant and unavoidable despite the imposition of all feasible mitigation are described in Section 5.0 of Exhibit "A."

5) Alternatives to the proposed Project that might eliminate or reduce significant environmental impacts are described in Section 9.0 of Exhibit "A."

(o) CEQA Guidelines Section 15093 requires that if a project will cause significant unavoidable adverse impacts, the City must adopt a Statement of Overriding Considerations prior to approving the project. A Statement of Overriding Considerations states that any significant adverse project effects are acceptable if expected project benefits outweigh unavoidable adverse environmental impacts. The Statement of Overriding Considerations is attached hereto as Exhibit "A," is incorporated herein by reference as if set forth in full and is hereby adopted.

(p) CEQA Section 21081.6 requires the City to prepare and adopt a Mitigation Monitoring and Reporting Program for any project for which mitigation measures have been imposed to ensure compliance with the adopted mitigation measures. The Mitigation Monitoring and Reporting Program is attached to this Resolution as Exhibit "B," is herein incorporated by reference as if set forth in full and is hereby adopted.

(q) Prior to taking action, the City Council has heard, been presented with, reviewed, and considered the information and data in the administrative record, including the Final EIR, the written and oral comments on the Draft EIR and Final EIR, responses to comments, staff reports and presentations, and all oral and written testimony presented during the public hearings on the proposed Project.

(r) Custodian of Records. The City Clerk of the City of Banning is the custodian of records, and the documents and other materials that constitute the record of proceedings upon which this decision is based are located at the Office of the City Clerk, City of Banning, 99 E. Ramsey Street, Banning, California, 92220.

Substantive Findings. The City Council of the City of Banning, California does hereby:

(a) Declare that the above Procedural Findings are true and correct, and hereby incorporates them herein by this reference.

(b) Find that agencies and interested members of the public have been afforded ample notice and opportunity to comment on the Final EIR and the proposed Project.

(c) Find and declare that the City Council has independently considered the administrative record before it, which is hereby incorporated by reference and which includes the Final EIR, the written and oral comments on the Draft EIR, staff reports and responses to comments incorporated into the Final EIR, and all testimony related to environmental issues regarding the proposed Project.

(d) Find and determine that the Final EIR fully analyzes and discloses the potential impacts of the proposed Project, and that those impacts have been mitigated or avoided to the extent feasible for the reasons set forth in the Findings attached as Exhibit "A" and incorporated herein by reference, with the exception of those impacts found to be significant and unmitigable as discussed therein.

(e) Find and declare that the Final EIR reflects the independent judgment of the City Council. The City Council further finds that the additional information provided in the staff reports, in comments on the Draft EIR, the responses to comments on the Draft EIR, and the evidence presented in written and oral testimony does not constitute new information requiring recirculation of the EIR under CEQA. None of the information presented has deprived the public of a meaningful opportunity to comment upon a substantial environmental impact of the proposed Project or a feasible mitigation measure or alternative that the City has declined to implement.

(f) Certify the Final EIR as being in compliance with CEQA. The City Council further adopts the Findings pursuant to CEQA and the Statement of Overriding Considerations as set forth in Exhibit "A" and adopts the Mitigation Monitoring and Reporting Program attached as Exhibit "B."

(g) The City Council further determines that all of the findings made in this Resolution (including Exhibit "A") are based upon the information and evidence set forth in the Final EIR and upon other substantial evidence that has been presented at the hearings before the City Council, and in the record of the proceedings. The City Council further finds that each of the overriding benefits stated in Exhibit "A," by itself, would individually justify proceeding with the proposed Project despite any significant unavoidable impacts identified in the Final EIR or alleged in the record of proceedings.

(h) The City Council hereby imposes as a condition on the Project each mitigation measure specified in Exhibit "B," and directs City staff to implement and to monitor the mitigation measures as described in Exhibit "B."

(i) The City Council hereby directs staff to file a Notice of Determination as set forth in Public Resources Code Section 21152.

Section 6. Findings for Recommendation of Approval of Specific Plan.

The City of Banning does hereby recommend that the City Council of the City of Banning find and determine that the Specific Plan Amendment No. 20-2001 should be adopted because:

(a) The proposed Specific Plan would either contribute to the purposes of the General Plan or, at a minimum, would not be detrimental to them in that the Specific Plan would contribute to the goals and policies of the General Plan including creating economic growth by providing additional jobs and accommodating the development of new commercial, residential industrial, and professional offices in areas designated for specific plans such as this project site.

(b) The proposed Specific Plan is required to expand basic employment job opportunities (jobs that contribute directly to the City's economic base) and that would improve the ratio of jobs-to-workers in the City in that the site, in its existing state, does not provide any employment, whereas upon development of approximately of up to 877,298 square feet (sf) of industrial park 52,065 sf of professional office, and 37,189 sf of retail use will support a significant number of new jobs.

Section 7. Findings for Recommendation of Approval of Zone Change.

The Planning Commission of the Banning does hereby recommend that the City Council of the City of Banning find and determine that Zone Change No. 20-3501 should be adopted because:

(a) The proposed Zone Change No. 20-3501 will be consistent with the City of Banning General Plan, as amended by Zone Change No. 20-3501, in that the Business Park & Warehouse (BW), Office & Professional (OP), and Retail & Service (RS) land uses are consistent with the underlying General Plan Land Use Designations of Business Park (with Specific Plan Overlay) General Commercial (with Specific Plan Overlay).

Section 8. Based upon all the Findings contained herein, the City Council hereby approves the Specific Plan Amendment No. 20-2001.

Section 9. Certification. The City Clerk shall certify to the adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 8th day of December, 2020

Mayor, City of Banning

ATTEST:

Sonja De La Fuente, Deputy City Clerk
City of Banning

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

Kevin Ennis, City Attorney
Richards, Watson & Gershon

CERTIFICATION:

I, Sonja De La Fuente, Deputy City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution, No. 20-141 was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 8th day of December, 2020 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Sonja De La Fuente, Deputy City Clerk
City of Banning, California

PUBLIC HEARING ITEM NO. IX.4

**RESOLUTION NO. 20-141 - SPECIFIC
PLAN AMENDMENT NO. 20-2001 – ZONE
CHANGE NO. 20-3501 -**

**RESPONSE TO LOZEAU & DRURY
COMMENT LETTER DATED NOVEMBER
30, 2020**

DATED DECEMBER 8, 2020

**Sun Lakes Village North Specific Plan Amendment No. 5
Final Environmental Impact Report SCH No. 2020029074
Administrative Response to Late Comment Letter from Lozeau Drury, LLP Dated November 30, 2020**

Pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15087, the Draft Environmental Impact Report (DEIR) for the Sun Lakes Village North Specific Plan Amendment No. 5 was circulated for a 45-day public review period which began September 11, 2020 and closed October 26, 2020.

Commencing on October 27, 2020, in accordance with CEQA Guidelines Section 15088, the City of Banning (City) as the lead agency under CEQA evaluated comments on environmental issues received from public agencies and interested parties who reviewed the DEIR and timely submitted comments, and prepared written responses to the comments.

On November 30, 2020, the City received an additional late comment letter from Lozeau Drury, LLP ("3rd Comment Letter"). According to CEQA Guidelines Section 15088 (a), the lead agency (City) shall respond to comments raising significant environmental issues received during the noticed comment period and any extensions and may respond to late comments but is not required to do so. The City did not formally extend the 45-day public review period which closed on October 26, 2020 and is not obligated to respond to late comments. Nonetheless, the City is including the technical responses contained herein for the purposes of demonstrating that all issues raised have been addressed and for a complete administrative record only.

The 3rd comment letter submitted by Lozeau Drury, LLP generally repeats previous comments that have been responded to in the following documents:

1. *Sun Lakes Village North Specific Plan Amendment No. 5 Final Environmental Impact Report SCH No. 2020029074, October 28, 2020.*
2. *Sun Lakes Village North Specific Plan Amendment No. 5 Final Environmental Impact Report SCH No. 2020029074 Administrative Response to Late Comment Letter from Lozeau Drury, LLP, (presented to Planning Commission on November 4, 2020).*

However, in some instances the 3rd Comment Letter raises new information or expands on previous comments made.

Air Quality and Health Risk Assessment

Response to Health Risk Assessment Comments:

Operation of the proposed project would not result in any non-permitted direct emissions (e.g., those from a point source such as diesel generators). However, the proposed Project could result in exposure of sensitive receptors in the vicinity of the Project site (i.e., the residences to the east of the Project site) to potential TAC emissions from diesel trucks from (a) future warehouse project(s).

If the Proposed Project generates or attracts vehicular trips, especially heavy-duty diesel-fueled vehicles, the City will require the Project proponent to perform a mobile source health risk assessment per Mitigation Measure AQ-7 below. Guidance for performing a mobile source health risk assessment ("Health Risk Assessment Guidance for Analyzing Cancer Risk from Mobile Source Diesel Idling Emissions for CEQA Air Quality Analysis"). This document provides technical guidance for analyzing cancer risks from potential diesel particulate emissions impacts from truck idling and movement (such as warehouse and distribution centers).

Because the Project consists of a specific plan amendment (which in essence is a zoning level document), there is not sufficient detailed information available such as a site plan, loading dock locations, on-site circulation, or anticipated operational year in order to prepare a Health Risk Assessment. Without this information, any risk calculations provided for the Project would be speculative at best. The reason it is important to have a site plan with loading dock locations and on-site circulation is due to the fact that the majority of the potential risk estimates are associated with the distance of the on-site idling and on-site travel activities from diesel trucks to the exposed areas. Since this information is not known, preparing a HRA analysis could potentially overstate or understate the potential impacts to the adjoining community if one were prepared at this time.

Additionally, the HRA prepared by SWAPE is flawed for several reasons. First, the HRA prepared by SWAPE is based on the U.S. EPA's AERSCREEN model which is a "screening" model. In the SCAQMD's jurisdiction, the U.S. EPA's AERMOD model is recommended as it allows the user to input specific project characteristics such as local meteorology, geospatial locations for source and receptors and uses a more refined calculation procedure for determining annual concentrations than the simplistic AERSCREEN model. Second, it is unclear how SWAPE translates the CalEEMod output values to DPM – since CalEEMod does not report DPM emissions. CalEEMod *does* report PM10 and PM2.5 emissions, however *not all* PM10 and PM2.5 emissions are DPM emissions. This same rationale applies to operational activity, for which SWAPE provides an emissions total but erroneously claims that CalEEMod reports 307 pounds of DPM per year for operations. Lastly, as noted by the commenter AERSCREEN provides a one-hour concentration – SWAPE applies a conversion factor based on old guidance (from 1992) and applies it to the one-hour concentration to convert to an annual concentration. This is not the most appropriate method for determining annual concentrations and the AERMOD model should have been used.

Response to Mitigation Measures Comments:

The EIR already identifies seven (7) mitigation measures to reduce emissions to the maximum extent possible. SWAPE identifies several mitigation measures but fails to establish how any of these specific measures would reduce air quality or greenhouse gas emissions, specifically, substantively enough. The majority of the measures identified by SWAPE have to do with site design and would not substantively reduce any potential impacts.

Vehicle Miles Traveled (VMT)

Response to Southern California Association of Government (SCAG) Vehicle Miles Traveled (VMT) Target Comment:

As noted in the previous response to comments, The EIR's analysis with respect to VMT is in fact based on substantial evidence as summarized in the EIR and associated technical appendices. The VMT analysis is based on the Governor's Office of Planning and Research's (OPR's) *Technical Advisory on Evaluation Transportation Impacts in CEQA (December 2018)* and additionally information published by the Western Riverside Council of Governments (WRCOG). Accordingly, the City utilizes the most stringent threshold recommended by OPR and considered by WRCOG of 15 percent below the existing regional HBW VMT per worker. As such, the EIR identifies this impact as significant and considered 7 potential reduction strategies to reduce VMT that could be implemented. Notwithstanding, as identified in the EIR, even with implementation of applicable mitigation measures, the Project cannot achieve a 15 percent reduction and is therefore significant and unavoidable, as identified in the EIR. SWAPEs assertion to using the RP/SCS SB 375 targets is unfounded and not based on any substantial evidence and is not even consistent with OPRs recommendation – which the EIR and underlying technical analysis follows. Lastly, the finding that SWAPE arrives at is similar to the EIR – which determined a significant and unavoidable impact with respect to VMT.

Biological Resources

Site Visit

The comment states that two special status species were observed by Ms. Smallwood, red-tailed hawk, and American kestrel. This is incorrect. Red-tailed hawk and American kestrel are common raptors; they are not special status species. California Fish and Game Code prohibits take of raptors or their eggs, as noted in the L&L report (Section 5.8), but common raptors are not considered special status species by the California Department of Fish and Wildlife (CDFW) (see CDFW List of Special Animals <https://www.dfg.ca.gov/wildlife/nongame/list.html>). Ms. Smallwood's site visit was conducted on November 9, which is outside the nesting season for raptors.

Biological Impacts Assessment

The following points are made with respect to the comments:

- As clearly stated in L&L's report (Sections 1.0, 2.2, and 2.3), this was a habitat assessment survey including a habitat assessment for burrowing owl. It was not a focused protocol survey for burrowing owl or any other species and the report did not in any way state or imply that it was. As stated in Section 1.0, the survey was "...field reconnaissance, intended to identify plants and animals on the property and presence/absence of habitat for species of concern, including burrowing owl and narrow endemic plants."
- Under the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP), habitat assessment surveys on this parcel are required to address riparian/riverine and vernal pool habitats, fairy shrimp, burrowing owl, and narrow endemic plant species. The narrow endemic plant species are Marvin's (Yucaipa) onion (*Allium marvinii*) and many-stemmed dudleya (*Dudleya multicaulis*) (Section 3.1).
- A potential for occurrence analysis was conducted for special status species and the results are included in Appendix B. As stated in Section 1.0, "The assessment consisted of (1) a records search and literature review, conducted to determine the species of concern in the Project area and proximity to documented special status species occurrences..."
- The analysis (Section 3.4 and Appendix B) determined the potential for occurrence of special status wildlife species on the site based on documented occurrences in the region (CNDB and IPaC with supplemental information from eBird), habitat present on the site, past and ongoing site disturbance, and the setting within a developed area. The survey is intended to support that analysis with assessment of the habitat. If additional surveys were deemed necessary to adequately address special status species, those surveys would be recommended.
- The habitat assessment survey was not intended to compile an exhaustive list of wildlife species on the site. For the purposes of the survey, the time spent on the site was adequate to characterize the presence/absence of habitat for burrowing owl and narrow endemic plants, as well as riparian/riverine and vernal pool and fairy shrimp. The habitat assessment concluded that potential habitat for burrowing owl and nesting birds is present. The time spent on the survey was sufficient to make this determination and additional time spent on the site would not have changed this conclusion.
- Since the habitat assessment survey was not intended to compile an exhaustive list of wildlife species on the site, an analysis of survey duration versus species observed was neither required nor appropriate. Listed species can only be detected by surveys if they

are present. The likelihood of any state or federally listed wildlife species utilizing the site is low at best.

Burrowing Owl

- The habitat assessment found that there is potentially suitable habitat for burrowing owl on the site, including small mammal burrows. Counting the number of ground squirrel burrows on the site is not standard practice for a habitat assessment for burrowing owl, is not required for a habitat assessment by the MSHCP survey guidelines or CDFW survey protocols, and would not have affected the conclusion that potentially suitable burrowing owl habitat is present.
- The assessment found that there is suitable habitat for nesting birds, including nesting raptors, on the site. Counting the number of birds observed on the site is not standard practice for a habitat assessment and would not have affected the conclusion that suitable habitat for nesting birds is present.
- The potentials for occurrence of special status species are in Appendix B in the report, which clearly indicates whether each species is covered under the MSHCP and whether or not it is considered adequately conserved under the MSHCP.
- It is acknowledged that a focused protocol breeding season burrowing owl survey is required for compliance with the MSHCP at some point in the development process. (Please refer to the *Sun Lakes Village North Specific Plan Amendment No. 5 Final Environmental Impact Report SCH No. 2020029074*, October 28, 2020, and *Sun Lakes Village North Specific Plan Amendment No. 5 Final Environmental Impact Report SCH No. 2020029074 Administrative Response to Late Comment Letter from Lozeau Drury, LLP*, (presented to Planning Commission on November 4, 2020) for further response to this issue).
- The habitat assessment concluded that potential habitat for burrowing owl is present. The time spent on the survey was sufficient to make this determination and additional time spent on the site would not have changed this conclusion.
- L&L reviewed the California Natural Diversity Database (CNDDB) and eBird.org for records of burrowing owl in the vicinity (within 5 miles) of the Project site (Section 3.4.2) and also reviewed the 2005 burrowing owl habitat assessment results for the site (Section 3.1.2) to provide site-specific and regional context. Consultation with residents or local experts was not required to determine if the site contained suitable habitat for burrowing owl.
- The review of eBird records conducted at the time the report was prepared (March 2020) found three (3) records of burrowing owls within 5 miles of the Project site, as stated in the report (Section 3.4.2). The report also clearly states that one record included an

observation of a pair of burrowing owls with juveniles. The review of eBird records for the report was conducted in March 2020 (as noted in the list of references, Section 6.0). Since that time, two additional records have been added to eBird – a sighting of three (3) burrowing owls from September 2020 (with photos, appears to be a burrow with juveniles) about 1.6 miles east-southeast of the Project site and sightings from April through October 2020 of from one (1) to three (3) burrowing owls (no photos and no information included in these records) at one location about 2.6 miles east-southeast of the Project site. Since these additional burrowing owl sightings did not occur until after the report was prepared, they could not have been included in the report. The sixth burrowing owl record in the vicinity is over five (5) miles from the Project site and the report clearly states that records within five (5) miles of the site are included. The report accurately characterized the reports on eBird at the time the report was prepared and within 5 miles of the Project site. The inclusion of two additional eBird records would not change the conclusion that suitable habitat for burrowing owl is present on the site.

- The report provided a description of the setting, soils, vegetation, and surrounding land uses. It is unclear what additional information could be supplied on how this would relate to burrowing owls other than, as the report clearly concludes, potentially suitable habitat for burrowing owls is present.
- Other than the CNDDDB and eBird records within 5 miles and the results of the 2005 habitat assessment that were included in the report, L&L is not aware of any other historical information available on burrowing owl use of the Project site. The inclusion of additional historical information, if any were available, would not change the conclusion that suitable habitat for burrowing owl is present on the site.
- The report described the vegetation on the site in detail (Section 3.2) and noted that the site appears to be regularly disked/mowed (Section 1.2). A description of changes in the height of non-native grassland over time and how it is affected by mowing would not change the conclusion that suitable habitat for burrowing owl is present on the site.
- The presence/absence of burrowing owl and sign is reported as part of the habitat assessment. Habitat assessments may be done at any time of the year. As previously stated, it is acknowledged that a focused protocol breeding season burrowing owl survey is required for compliance with the MSHCP at some point in the development process. L&L was not contracted for and did not conduct a focused protocol survey for burrowing owl. The report clearly states that it is a habitat assessment and does not state or imply that a focused protocol survey for burrowing owl was conducted.

- Regardless of the outcome of the protocol survey, a preconstruction clearance survey for burrowing owl is required under the MSHCP because the habitat assessment found suitable habitat on the site.
- Discussion of regional declines in burrowing owl populations is well outside the scope of a site-specific habitat assessment.
- Red-tailed hawk and American kestrel are common raptors; they are not special status species. Ground squirrels are commonly found throughout many parts of southern California, including highly disturbed areas with little value for special status wildlife. As stated in the L&L report (Section 2.1), CNDDDB records from the USGS topographic quad in which the Project is located and the surrounding quads, as well as the U.S. Fish and Wildlife Service Information for Planning and Consultation (IPaC) for the Project site, were utilized to develop a list of special status wildlife species for analysis. eBird was used for supplemental information, with the caveat that it is derived from "citizen scientists" and should be interpreted with caution (Section 3.4.2 and Appendix B legend). Records in iNaturalist are also provided by citizen scientists and may be utilized for supplemental information when interpreted with caution. Records in eBird and iNaturalist were not used to generate a list of these special status species for this reason. It should also be noted that an observation of a bird flying overhead does not necessarily mean that the species is utilizing habitat in that area. The comments state that 81 special status species could utilize the site based on eBird and iNaturalist sightings. The inappropriateness of basing an analysis on these records is discussed above.
- In addition to presence in the area based on CNDDDB and IPaC records, L&L's analysis considered the habitat present on the site, past and ongoing site disturbance, and the setting within a developed area to determine the potential for occurrence on the site. The comments do not indicate that any of these factors were considered when preparing the list included in Tables 2 and 3 of the comments. The L&L report analyzed 61 vertebrate and four (4) invertebrate special status wildlife species (Appendix B) to derive an assessment of the potential for occurrence of each species on the Project site.
- Tables 2 and 3 in the comments include 33 wildlife species that were not included in L&L's analysis (because they were not included in the CNDDDB records for the 9 quads or IPaC records for the site). Of these species, six (6) are not special status species. These are common raptors (turkey vulture, red-shouldered hawk, American kestrel, barn owl, great horned owl, western screech owl). California Fish and Game Code prohibits take of raptors or their eggs, as noted in the L&L report, but common raptors are not considered special status species by CDFW. The remaining 27 species include many that have little or no potential for occurrence on the site. The potentials for occurrence (Appendix B) in L&L's report are based on habitat on the site and the setting, as well as presence of the species in the vicinity. A species may be present in the region but not likely to be present on the site if there is no suitable habitat or the species is not tolerant of areas with

adjacent existing development. Conducting an analysis of each of these species is beyond the scope of this response to comments, but a brief review indicates that many would not be expected to occur on the site. Examples are: double-crested cormorant, which nests in colonies on coastal cliffs, offshore islands, and along lake margins and feeds on fish and other aquatic animals (no nesting colonies and no aquatic habitat on the site); osprey, which nests on large trees or cliffs and forages for fish in shallow, open water (no large trees or cliffs and no aquatic habitat on the site); bald eagle, which is typically found in association with large bodies of water and nests in large trees (no bodies of water or large trees on the site; the nearest bald eagle nest site is in the San Bernardino Mountains). Based on this cursory review, the species included in Tables 2 and 3 in the comments have not been evaluated by the commenter for a realistic potential for occurrence on the Project site.

Habitat Loss

- The habitat assessment report recommends nesting bird clearance surveys to avoid and minimize impacts to nesting birds.

Multiple Species Habitat Conservation Plan (MSHCP)

Ground squirrels are commonly found throughout many parts of southern California, including highly disturbed areas with little value for special status wildlife. As stated in the L&L report (Section 2.1), CNDDDB records from the USGS topographic quad in which the Project is located and the surrounding quads, as well as the U.S. Fish and Wildlife Service Information for Planning and Consultation (IPaC) for the Project site, were utilized to develop a list of special status wildlife species for analysis. eBird was used for supplemental information, with the caveat that it is derived from “citizen scientists” and should be interpreted with caution (Section 3.4.2 and Appendix B legend). Records in iNaturalist are also provided by citizen scientists and may be utilized for supplemental information when interpreted with caution. Records in eBird and iNaturalist were not used to generate a list of these special status species for this reason. It should also be noted that an observation of a bird flying overhead does not necessarily mean that the species is utilizing habitat in that area.

In addition to presence in the area based on CNDDDB and IPaC records, L&L’s analysis considered the habitat present on the site, past and ongoing site disturbance, and the setting within a developed area to determine the potential for occurrence on the site. The comments do not indicate that any of these factors were considered when preparing the list included in Tables 2 and 3 of the comments. The L&L report analyzed 61 vertebrate and four (4) invertebrate special status wildlife species (Appendix B) to derive an assessment of the potential for occurrence of each species on the Project site.

Tables 2 and 3 in the comments include 33 wildlife species that were not included in L&L’s analysis (because they were not included in the CNDDDB records for the 9 quads or IPaC records for the site). Of these species, six (6) are not special status species. These are common raptors (turkey vulture, red-shouldered hawk, American kestrel, barn owl, great horned owl, western

screech owl). California Fish and Game Code prohibits take of raptors or their eggs, as noted in the L&L report, but common raptors are not considered special status species by CDFW.

The remaining 27 species include many that have little or no potential for occurrence on the site. The potentials for occurrence (Appendix B) in L&L's report are based on habitat on the site and the setting, as well as presence of the species in the vicinity. A species may be present in the region but not likely to be present on the site if there is no suitable habitat or the species is not tolerant of areas with adjacent existing development.

A brief review indicates that many would not be expected to occur on the site. Examples are: double-crested cormorant, which nests in colonies on coastal cliffs, offshore islands, and along lake margins and feeds on fish and other aquatic animals (no nesting colonies and no aquatic habitat on the site); osprey, which nests on large trees or cliffs and forages for fish in shallow, open water (no large trees or cliffs and no aquatic habitat on the site); bald eagle, which is typically found in association with large bodies of water and nests in large trees (no bodies of water or large trees on the site; the nearest bald eagle nest site is in the San Bernardino Mountains). Based on this cursory review, the species included in Tables 2 and 3 in the comments have not been evaluated by the commenter for a realistic potential for occurrence on the Project site.

As discussed in the Draft EIR pps. 4.13-12-13, the Project site is located within the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP). The MSHCP, a regional Habitat Conservation Plan was adopted on June 17, 2003. The intent of the MSHCP is to preserve native vegetation and meet the habitat needs of multiple species, rather than focusing preservation efforts on one species at a time. The MSHCP provides coverage (including take authorization for listed species) for special-status plant and animal species, as well as mitigation for impacts to sensitive species.

- 1) The site is not mapped within any MSHCP Criteria Cell or subunit.
- 2) The site is not mapped within an area where additional surveys are required for any Amphibian, Mammal, or other Criteria Area Species.
- 3) The project will not impact any Riparian/Riverine or Vernal Pool areas.
- 4) The site is not within or adjacent to any MSHCP Conservation Areas and therefore does not require mitigation measures pursuant Section 6.1.4 (pertaining to Urban/ Wildlands Interface) of the MSHCP, which presents guidelines to minimize indirect effects of Projects in proximity to the MSHCP Conservation Areas.
- 5) The site is mapped within a Burrowing Owl (BUOW) required habitat suitability assessment survey area. Therefore, to be thorough, a habitat suitability assessment for BUOW was conducted during site visit. The result of the assessment was that no BUOW habitat or BUOW sign was detected on site, and this species is currently considered

absent from the Project area. However, because BUOW have been known to occupy disturbed sites, Mitigation Measure BIO-1 is required.

- 6) The site is mapped within a Narrow Endemic Plant Species required habitat suitability assessment survey area. Therefore, to be thorough, a habitat suitability assessment for the three listed Narrow Endemic Plant Species was conducted during site visit. Based on habitat requirements for specific species, availability and quality of habitats needed by the three Narrow Endemic Plant Species, it was determined that the project site does not provide suitable habitat for Narrow Endemic Plant species San Diego ambrosia, Brand's phacelia, and San Miguel Savory.

Wildlife Movement

Stopover habitat provides food, water, and cover to migrating birds so they can rest and refuel before continuing on their migration. Stopovers may last for hours, days, or even weeks. The Project site includes primarily non-native grassland surrounded by existing development. There is little cover and little or no water. Far larger areas of open space are located to the north and east of the site. It is unlikely that the Project site provides important stopover habitat for migrating birds.

Cumulative Impacts

As discussed in the Draft EIR pps. 4.13-13-14, an evaluation of whether an impact on biological resources would be substantial must consider both the resource itself and how that resource fits into a regional or local context. Substantial impacts would be those that substantially diminish or result in the loss of an important biological resource, or those that would conflict with local, state, and/or federal resource conservation plans, goals, or regulations. Impacts can be locally adverse but not significant because, although they would result in an adverse alteration of existing conditions, they would not substantially diminish or result in the permanent loss of an important resource on a population- or region-wide basis.

The Project and other projects in the vicinity are located within the jurisdictional boundaries of the MSHCP. As described in the Regulatory Framework of this section, the MSHCP is a comprehensive, multi-jurisdictional Habitat Conservation Plan that addresses biological impacts for the “take” of covered species through establishment and implementation of a regional conservation strategy and other measures, such as mitigation fees.

The MSHCP provides programs and policies for the review of projects in areas where habitat must be conserved and for the collection and development of mitigation fees. All discretionary development projects are to be reviewed for compliance with the MSHCP.

Mitigation Measures

Based on the analysis contained in the Draft EIR, Final EIR, and the Administrative Responses to the two (2) late comment letters submitted by Lozeau Drury, LLP, the City disagrees that

additional mitigation measures for bats, wildlife movement, road mortality, and funding of wildlife rehabilitation facilities is required.

Attachment 12



CITY COUNCIL AGENDA
ITEM IX.3 PUBLIC HEARING
December 8, 2020

Amendment 5 of the Sun Lakes Village North Specific Plan, Zone Change and FEIR to allow for a new development concept including business and warehouse, office and professional, and retail and service land uses on an approximately 47-AC vacant parcel located north of Sun Lakes Boulevard east of Highland Springs Avenue.

1



Regional Map

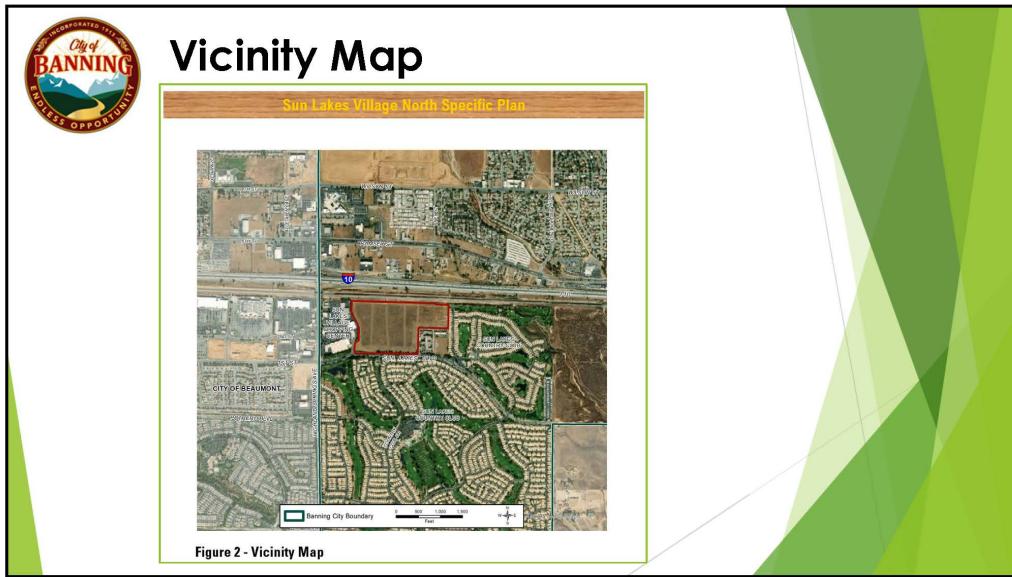
Sun Lakes Village North Specific Plan



Figure 1 – Regional Map

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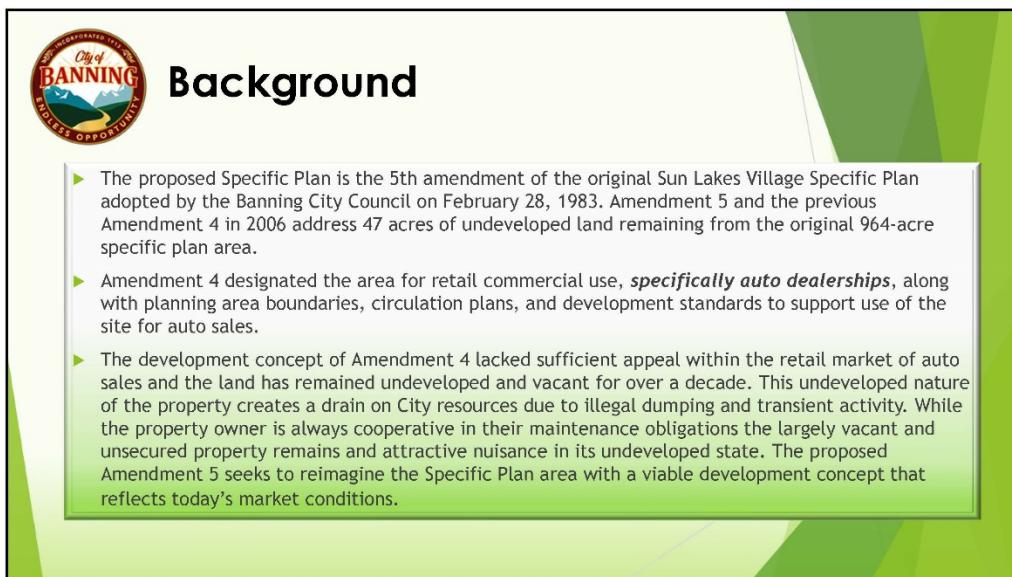


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Land Use Summary Table

	Existing Land Use	Zoning Classification	General Plan Designation
Subject Site	Retail	Specific Plan Zone	Business Park*
North	Right-of-Way	R/W	R/W
South	Residential	Specific Plan Zone	Medium Density Residential (MDR)
East	Residential	Low Density Residential (LDR)	LDR
West	Sun Lakes Village Shopping Center	Specific Plan Zone	General Commercial

*The City's General Plan Land Use Designation (LUD) Layer is incorrect and does not represent the adopted Specific Plan.

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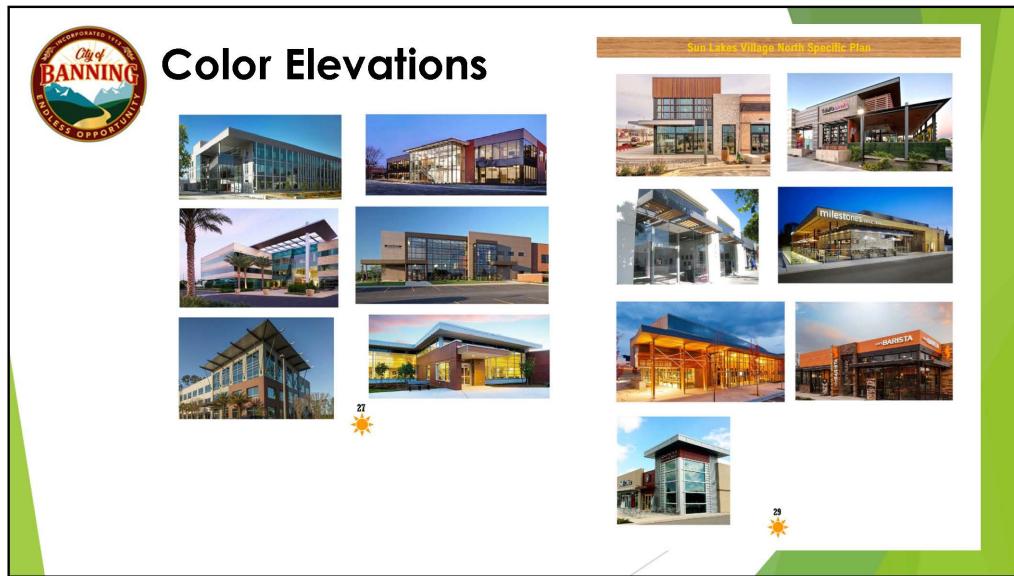


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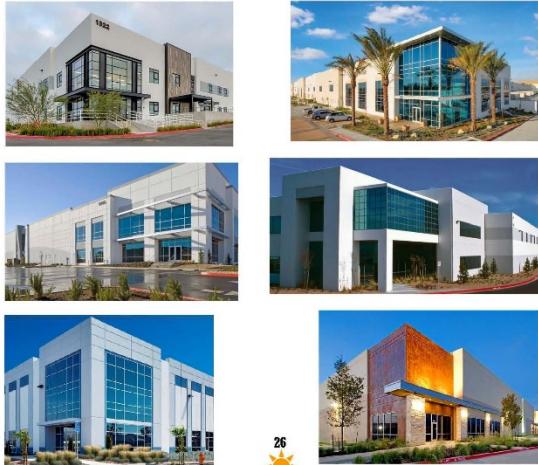


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Color Renderings (cont'd)



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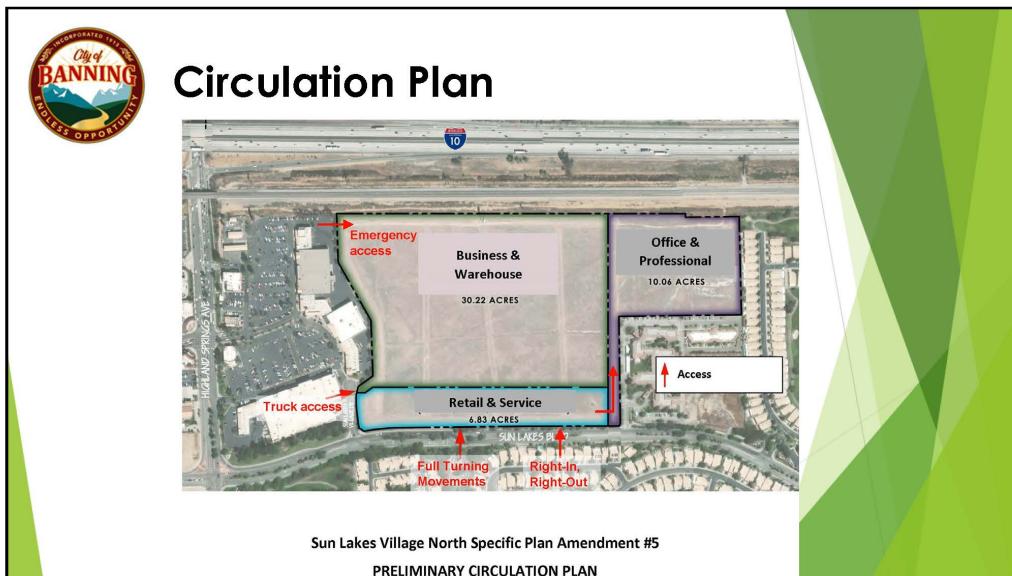
Landscape Example Photos

Sun Lakes Village North Specific Plan

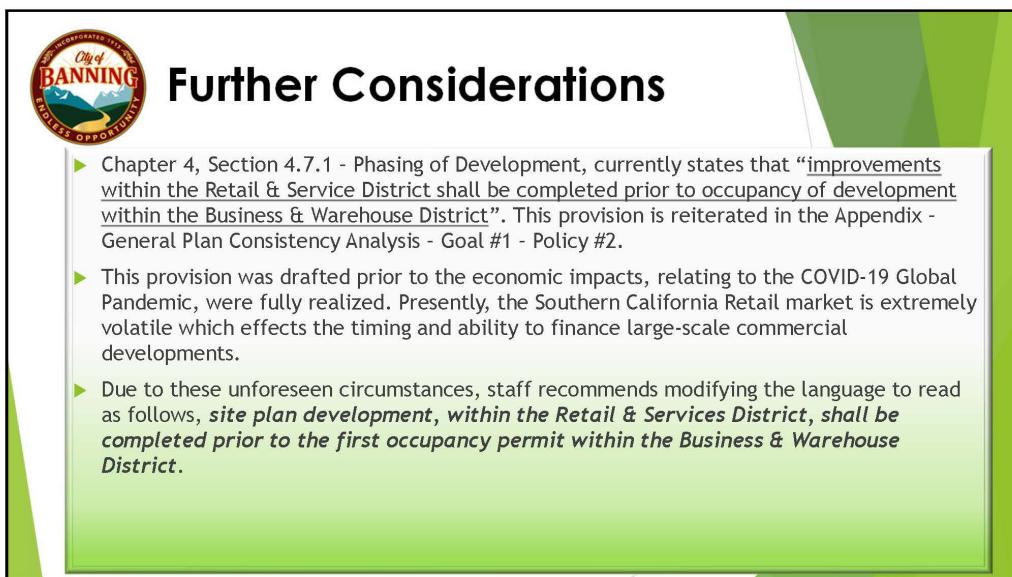


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Further Considerations

- ▶ Section 2.1.1 - Allowable Land Uses:
 - ▶ The language has been clarified to ensure that all major land use applications require a discretionary action.
 - ▶ This section incorporates BMC Section 17.56.020, which requires a Design Review application for new development projects, redevelopment projects or projects involving an intensification of land use(s). Projects shall be subject to the applicable development standards and design guidelines contained within this Specific Plan and the BMC.
 - ▶ During the Planning Commission Public Hearing, concerns were raised that projects not requiring a Conditional Use Permit (CUP) were "exempt" from any future discretionary action which would in turn, initiate a CEQA review by City acting as the Lead Agency.
 - ▶ While this interpretation is incorrect, the Specific Plan now incorporates the verbatim language from the Banning Municipal Code which requires any major land development to undergo an entitlement process, which initiates a discretionary action.
 - ▶ This process currently exists and cannot be modified by the Specific Plan document.

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Environmental Process

ENVIRONMENTAL IMPACT REPORT:

- ▶ The City determined that an EIR would be required.
- ▶ A Notice of Preparation (NOP) was issued, and comments accepted from February 21st - March 21st.
- ▶ A Public Scoping Meeting was held on March 2nd at the Sun Lakes Village Community Center/Country Club.
- ▶ The Draft EIR was prepared in conformance with the CEQA Guidelines and includes a study of specific land use factors affected by the proposed Specific Plan Amendment.
- ▶ The Draft EIR was made available for public review from September 11th thru October 26th.
- ▶ A Statement of Overriding Considerations and Findings of Fact pursuant to Section 21081 of the Public Resources Code and Section 15091 of CEQA
 - ▶ No public agency shall approve or carry out a project for which an Environmental Impact Report (EIR) has been certified that identifies one or more significant environmental effects of the project, unless the public agency makes one or more written findings for each of those significant effects

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Environmental Process

Comment	COMMENTING ORGANIZATION, PERSON, OR PUBLIC AGENCY	DATE
A	Riverside County Airport Land Use Commission (via email)	9/15/20
B	Lozeau Drury LLP	10/01/20
C	Lozeau Drury LLP via email	10/01/20
D	Golden State Environmental Justice Alliance	10/16/20
D	Lozeau Drury LLP	11/03/20
D	Lozeau Drury LLP	11/29/20
	Golden State Environmental Justice Alliance	12/7/20

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Environmental Process

ENVIRONMENTAL IMPACT REPORT:

- City staff, in consultation with the City Attorney's Office, have reviewed and provided responses to all relevant comment letters associated with the Draft and Final EIR.
- It is important to note that the majority of comments were received outside of the Notice of Availability/Draft EIR publication period.
- The City has chosen to provide responses to these comment letters in order to provide correction, clarification, and rebuttal within the Administrative Record for the proposed Project.
- It is also important to note that modifications have been made to the Specific Plan Amendment itself in order to clarify and address some concerns raised in the comment letters.
- The volume and lateness of the most recent comment letters are typically used as a precursor to the filing of litigation under the California Environmental Quality Act (CEQA) as potential litigants are required to exhaust all administrative remedies prior to the filing of legal action.
- It is also important to note that while the City is the Applicant of Record, the recommended Conditions incorporate an Indemnification Agreement that binds the property owner for coverage of all legal costs associated with potential future action.

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Recommendation

RECOMMENDED ACTION:

- Staff recommends that the Planning Commission adopt Resolution 2020-22 recommending the City Council adopt, approve, and certify the following:
 - The Final Environmental Impact Report (FEIR) and adopting the Mitigation Monitoring and Reporting Program (MMRP); and
 - A Statement of Overriding Considerations, and CEQA Findings of Fact, for the Sun Lakes Village North Specific Plan Amendment 5.

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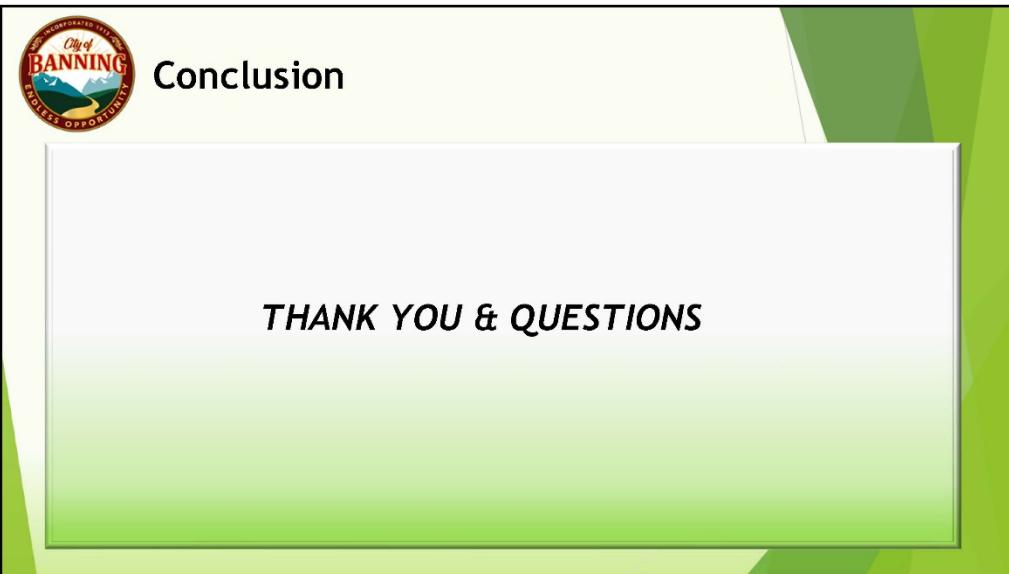
Planning Commission Recommendation

RECOMMENDED ACTION (Cont'd):

- Staff recommends that the Planning Commission adopt Resolution 2020-21 recommending the City Council adopt, approve, and certify the following:
 - Sun Lakes Village North Specific Plan Amendment 5 modifying the land use designation of Retail Commercial to the Retail and Services District, Office and Professional District and the Business and Warehouse District which will allow for a variety of development including business and warehouse, office and professional, and retail and service uses within an approximately 47-acre specific plan area in the City of Banning;
 - Adopt Zone Change 20-3501, Adopting the associated Zoning Ordinance text corresponding to the Sun Lakes Village North Specific Plan Amendment 5.

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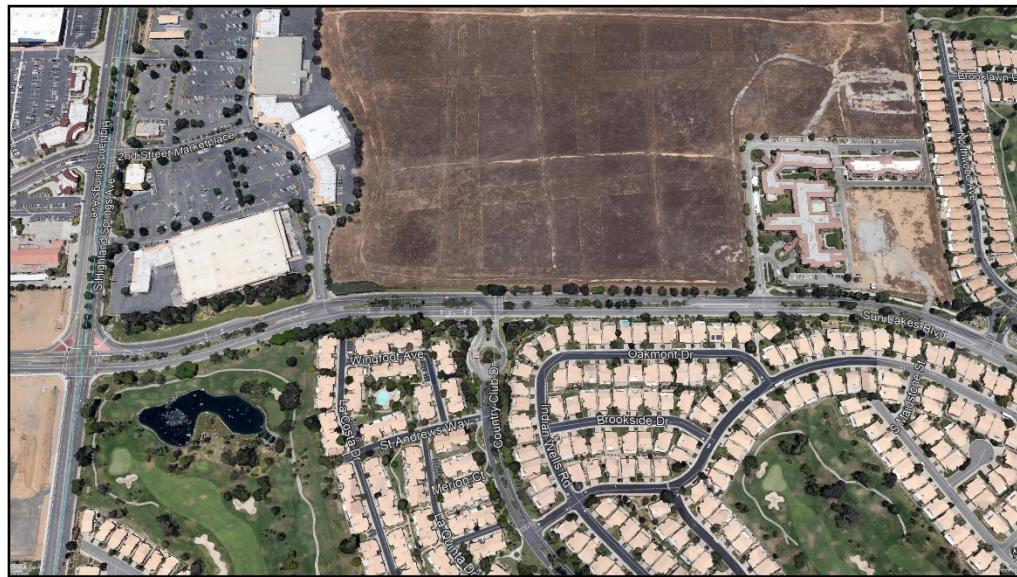


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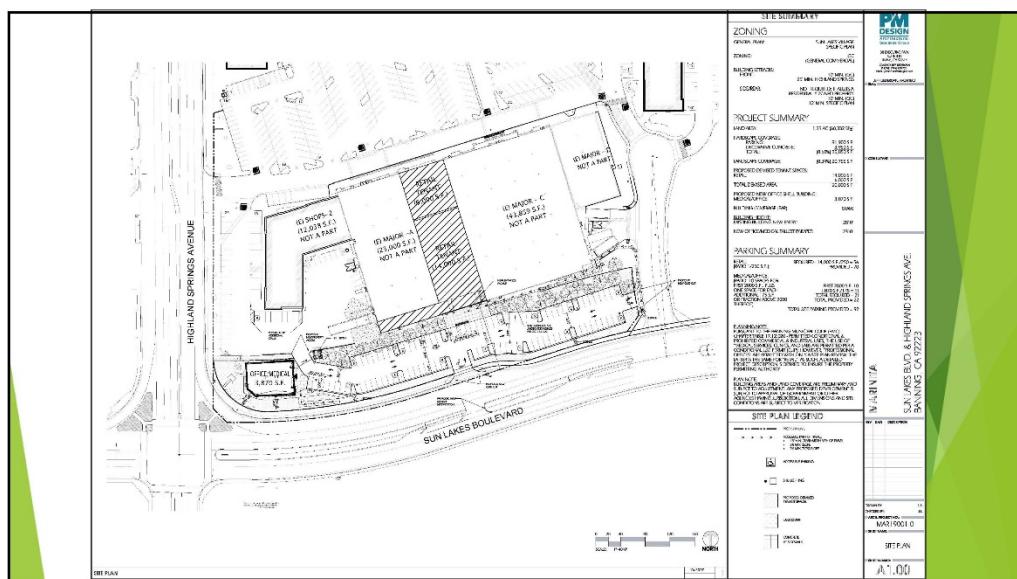


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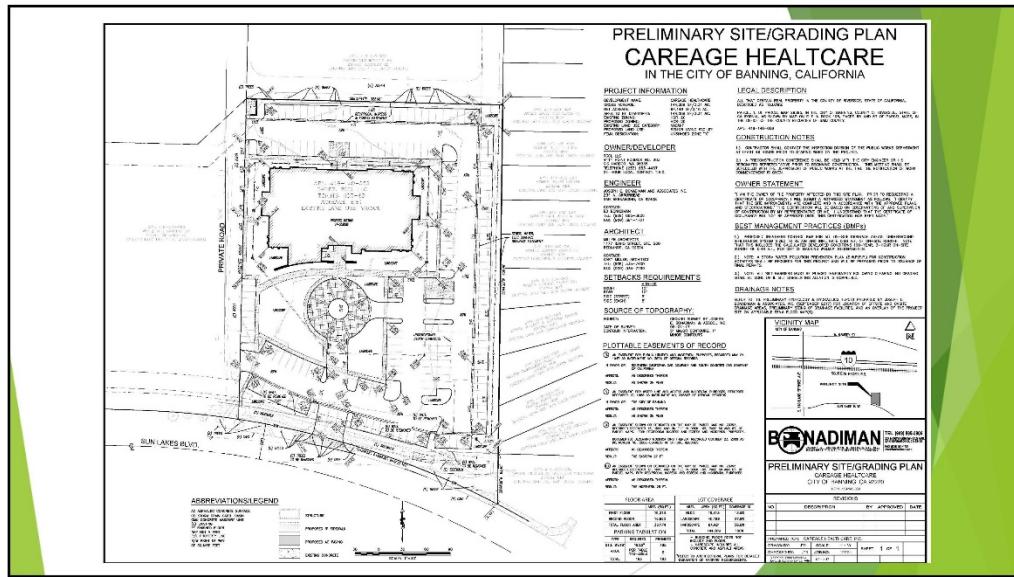
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Attachment 13

City of Banning

Quarterly Financial Report

For Period ending September 30, 2020



Department of Finance

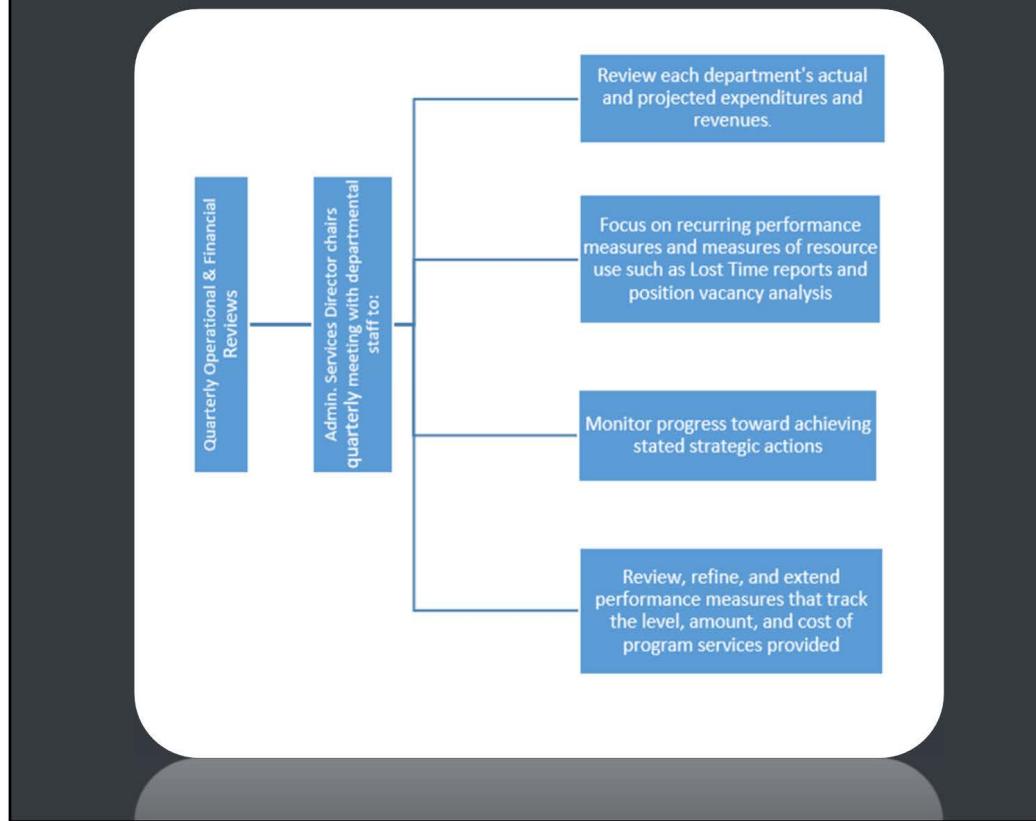
Division of Administrative Services



Background

The Fiscal Year 2020-21 Budget and Financial Update and Financial Status Report for the first quarter ending September 30, 2020, provides an early look at the City's financial position relative to the 2020-21 adjusted budget.

Methodology:



Why We Do This...

Adherence to Adopted Reporting & Budget Policies:

Financial Statements



Budget



OpenGov

- ❖ Accountability/Transparency
- ❖ Fiscal Stability
- ❖ Identify Future Risks
- ❖ Identify Capital and Infrastructure Needs
- ❖ Determine Variances Early
- ❖ Good Budgeting Practices (Review, Monitor and Revisit)

Overall Operating Summary

Q1 FY2020/21 SUMMARY

	Revised		% of Budget Used	Variance	
	Budget	Jul-Sept		Remaining Budget	
	2020/21	Q1 FY2020		\$	%
Operating Revenues	18,168,847	2,691,684	15%	15,477,163	85%
Taxes	10,945,056	1,019,843	9%	9,925,213	91%
Property Taxes	2,712,021	0	0%	2,712,021	100%
In Lieu Property Tax (VLF)	2,538,637	0	0%	2,538,637	100%
Sales Tax	3,373,038	483,916	14%	2,889,122	86%
Other Taxes	2,321,360	535,927	23%	1,785,433	77%
Other Operating Revenues	7,223,791	1,671,841	23%	5,551,950	77%
Building Permits Total	460,000	58,014	13%	401,986	87%
Other Permits Total	1,496,601	746,279	50%	750,322	50%
Intergovernmental Revenues	261,148	324,683	124%		124%
Charges for Services	940,130	38,052	4%	902,078	96%
Use of Money and Property	63,276	20,824	33%	42,452	67%
Fines and Forfeitures	233,389	19,964	9%	213,425	91%
Contributions	5,400	1,350	25%	4,050	75%
Miscellaneous Revenue	545,996	975	0%	545,021	100%
Transfers/Recoveries	3,217,851	461,700	14%	2,756,151	86%
Operating Expenditures	25,317,704	5,246,874	21%	20,070,830	79%
Personnel	13,621,713	3,346,078	25%	10,275,635	75%
Services and Supplies	8,359,828	1,084,276	13%	7,275,552	87%
Capital	3,336,163	816,520	24%	2,519,643	76%
Operating Surplus/(Deficit)	(7,148,857)	(2,555,190)	36%	(4,593,667)	

Items We Will Closely Monitor

- **Cannabis Tax Revenue**
- **Miscellaneous Income (Special Events & BUSD)**
- **Revenues Associated With Medical Billing Fees**
- **Any items that may be effected due to timing variance (Property Tax).**

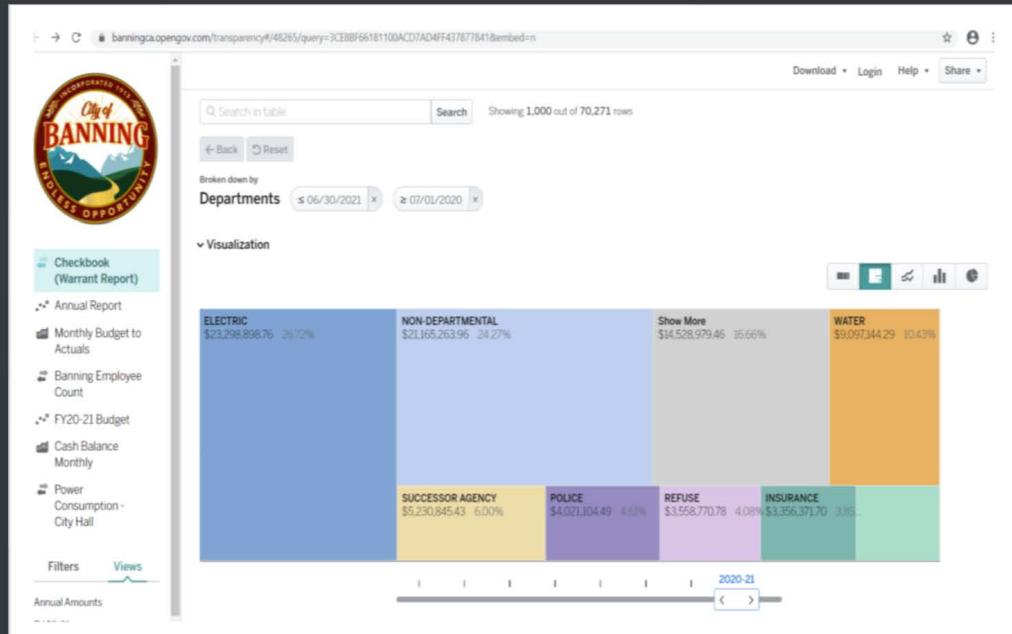


ACTION:

We have performed a thorough analysis of budget to actuals and this exercise will enable Finance to continue monitoring for timing variances or adjust the FY2020-21 budget to accommodate unanticipated increases in expenditures or decreases in revenue.

OpenGov Transparency Portal

City of Banning's Website is now Active!



<https://banningca.opengov.com>

Recommendation:

That City Council receive and file the
Fiscal Year 2020-21 First Quarter
Budget Update and Financial Status
Report for the quarter ending
September 30, 2020

Any Questions?



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Attachment 14

Final Vote Result

Zone 01	Vote Yes	Vote NO	Total
Assessment Counts	3	95	98
Dollar Amount	\$622.16	\$19,701.65	\$20,323.80
Assessment Percentage	3.06%	96.94%	100.00%

FAIL

Zone 02	Vote Yes	Vote NO	Total
Assessment Counts	10	72	82
Dollar Amount	\$1,076.90	\$7,753.67	\$8,830.57
Assessment Percentage	12.20%	87.80%	100.00%

FAIL

Zone 03	Vote Yes	Vote NO	Total
Assessment Counts	1	8	9
Dollar Amount	\$316.14	\$2,529.09	\$2,845.22
Assessment Percentage	11.11%	88.89%	100.00%

FAIL

Zone 04	Vote Yes	Vote NO	Total
Assessment Counts	3	12	15
Dollar Amount	\$512.11	\$2,048.45	\$2,560.56
Assessment Percentage	20.00%	80.00%	100.00%

FAIL

Zone 05	Vote Yes	Vote NO	Total
Assessment Counts	6	17	23
Dollar Amount	\$954.06	\$2,703.17	\$3,657.22
Assessment Percentage	26.09%	73.91%	100.00%

FAIL

Zone 06	Vote Yes	Vote NO	Total
Assessment Counts	0	21	21
Dollar Amount	\$0.00	\$3,695.36	\$3,695.36
Assessment Percentage	0.00%	100.00%	100.00%

FAIL

Zone 07	Vote Yes	Vote NO	Total
Assessment Counts	3	14	17
Dollar Amount	\$503.38	\$2,349.12	\$2,852.50
Assessment Percentage	17.65%	82.35%	100.00%

FAIL

Zone 08	Vote Yes	Vote NO	Total
Assessment Counts	0	22	22
Dollar Amount	\$0.00	\$8,270.56	\$8,270.56
Assessment Percentage	0.00%	100.00%	100.00%

FAIL

Zone 09	Vote Yes	Vote NO	Total
Assessment Counts	0	15	15
Dollar Amount	\$0.00	\$4,718.15	\$4,718.15
Assessment Percentage	0.00%	100.00%	100.00%

FAIL

Zone 10	Vote Yes	Vote NO	Total
Assessment Counts	2	3	5
Dollar Amount	\$443.11	\$664.66	\$1,107.77
Assessment Percentage	40.00%	60.00%	100.00%

FAIL