

**ORDINANCE NO. 1451**

**AN ORDINANCE OF THE CITY COUNCIL CITY OF BANNING, CALIFORNIA ADOPTING THE DEVELOPMENT AGREEMENT SUPERSEDING THE DEUTSCH SPECIFIC PLAN DEVELOPMENT AGREEMENT AND MAKING FINDINGS IN SUPPORT THEREOF**

**WHEREAS**, Pardee Homes filed an application with the City for an amendment to the Development Agreement for the Deutsch Specific Plan in conjunction with General Plan Amendment No. 11-2501, Zone Change No. 11-3501, and an amendment to the Deutsch Specific Plan to provide for Zoning regulations for the Butterfield Specific Plan, and approval of an EIR to allow the development of up to 5,387 dwelling units (937.4 acres of residential), a golf course and open space (253.9 acres) , parks (66.5 acres) and other open space (108.4 acres), two school sites (23.0 acres), an existing utilities substation facility (4.2 acres), a fire station site (1.6 acres) and backbone roadways (113.6 acres). The project also includes the construction of major on-site and off-site infrastructure, including but not limited to: various on-site and off-site street improvements to provide access to and from the project site; various on-site and off-site conveyance pipelines for sewer, water, storm drain; a multi-purpose detention basin, and drainage improvements to Pershing Channel and Smith Creek immediately upstream and downstream of the 1,543 acre project site to accommodate the mixed-use master planned community.

Project Applicant: Pardee Homes (Authorized Agent Mike Taylor, Vice President of Pardee Homes, 10880 Wilshire Boulevard, Suite 1900, Los Angeles, CA 90024)

Property Owners: Pardee Homes owns 1,522 acres within the Butterfield Specific Plan.

Project Location: Northeast Corner of Highland Springs Avenue and Wilson Street

APN Number: The project includes 34 parcels: 408-030-001 & 005; 408-120-001 through 020, 022, 024, 025, 027 & 033; and 531-080-013 & 014.

Specific Plan Size: 1,543 Acres

**WHEREAS**, Pardee Homes requests an amendment to the Deutsch Specific Plan Development Agreement as restated in the Development Agreement for the Butterfield Specific Plan in conjunction with General Plan Amendment No. 11-2501, Zone Change 11-3501, and the Butterfield Specific Plan, which would provide the Applicant with a vested right to develop their property consistent with the Butterfield Specific Plan in exchange for the public benefits to the City.

**WHEREAS**, Chapter 17.60 of the Banning Municipal Code provides for the purpose, application and public hearing procedures, content of the Development Agreement, and environmental review.

**WHEREAS**, the City Attorney and the City Manager have negotiated the Development Agreement with the Applicant.

**WHEREAS**, the City Attorney has prepared the Development Agreement consistent with the requirements of Section 17.60.040 of the Banning Zoning Code.

**WHEREAS**, the approval of the Development Agreement including its companion applications for the General Plan Amendment No. 11-2501, Zone Change No. 11-3501, and an amendment to the Deutsch Specific Plan to replace its zoning regulations with Butterfield Specific Plan Zoning regulations as referenced herein, is considered a project pursuant to CEQA Guidelines Section 21065.

**WHEREAS**, consistent with Section 15083 of the California Environmental Quality Act ("CEQA") and prior to completing the draft Environmental Impact Report (EIR), the City held an early consultation regarding the issue areas to be considered in the EIR. The City published the Notice of Preparation ("NOP") including the Scoping Meeting in the Record Gazette and on the City's website. The City also mailed the NOP to residents who are located within 300' of the Project site and to members of the public, organizations/groups, public agencies and persons who have requested to be on the mailing lists. As part of early consultation, the City held three (3) public scoping meetings. Two (2) scoping meetings were held on October 16, 2007 from 2 p.m. to 4 p.m. and from 6 p.m. to 8 p.m. Another scoping meeting was held on October 22, 2007 from 6 p.m. to 8 p.m.

**WHEREAS**, consistent with Section 15086 and 15087 of CEQA, the City published the Notice of Availability ("NOA") of the Draft EIR and made available for a 45-day public review period from June 6, 2011, to July 21, 2011. The NOA was published in the Press Enterprise and the City's website. The City also mailed the NOA to the State Clearinghouse for distribution to State Agencies. Also, the City mailed the NOA to the residents who live within 300' radius of the Project boundaries, groups and organizations, and members of the public who requested to be on the mailing list of the Project.

**WHEREAS**, prior to the close of the comment period, the City held a public workshop on June 21, 2011, to provide information and answer questions from interested members of the public regarding the Project and the Draft EIR.

**WHEREAS**, during the public workshop of June 21, 2011, the City received questions and comments mostly on traffic, among other questions about the Project. In response to the oral comments on traffic, the City held another workshop on July 14, 2011 to respond to questions from members of the public regarding the traffic analysis report and conclusions.

**WHEREAS**, the City received 31 comment letters from members of the public, public agencies, groups/organizations, and persons who requested to be a part of the mailing list of the Project regarding the Draft EIR and the impacts of the Butterfield Specific Plan, including its associated applications referenced herein.

**WHEREAS**, consistent with Section 15088 of CEQA, the City evaluated the responses received from members of the public, public agencies, groups/organizations, and persons who requested to be a part of the mailing list of the Project and prepared written responses which culminated in a Final EIR for the Project and is referenced herein. The Final EIR was made available for a 10-day public review on Friday, February 24, 2012. The Final EIR was made available at City Hall Community Development Counter, the Banning Public Library, and the City's website.

**WHEREAS**, on March 7, 2012, the Planning Commission held a duly-noticed the noticed public hearing, at which time the Commission considered the public testimony, staff report, full documentation of the Final EIR and all other documentation relating to the Project, and the Commission unanimously recommended approval of the Project and certification of the Final EIR to the City Council.

**WHEREAS**, on March 16, 2012, the City gave public notice by advertisement in the Record Gazette newspaper of a public hearing concerning the Project to be held before the City Council. In addition, the City mailed public hearing notices to the owners of properties that are located within a 300' radius of the project boundaries and to interested persons who requested to be on the mailing lists for the project. On March 27, 2012, the City Council held its public hearing on the Project and the Final EIR, to consider public testimony, the staff reports and presentations, full copy of the Final EIR and all other documentation relating to the Project.

**NOW THEREFORE**, the City Council of the City of Banning does make the following findings and based thereon and the administrative record does ordain as follows:

SECTION 1. ENVIRONMENTAL FINDINGS.

A Final Environmental Impact Report [EIR] (SCH No. 2007091149), including Draft EIR and Mitigation Monitoring and Reporting Program was prepared in accordance with the California Environmental Quality Act ("CEQA"), the State CEQA Guidelines, and the City of Banning Environmental Review Guidelines. City Council Resolution No. 2012-24 as referenced herein provides environmental findings for the project.

SECTION 2. REQUIRED FINDINGS FOR DEVELOPMENT AGREEMENT:

**Finding No. 1:** The proposed Development Agreement is consistent with the General Plan and Applicable Specific Plan

**Finding of Facts:** The current zoning for the project is Deutsch Specific Plan. The proposed Development Agreement is inconsistent with the General Plan and the Deutsch Specific Plan in that the Agreement provides for the developer's vested right to develop the property in accordance with the Butterfield Specific Plan. However, in conjunction with the proposed Development Agreement for the Butterfield Specific Plan, the Applicant is requesting a General Plan Amendment No. 11-2501 and Zone Change No. 11-3501 and an amendment to the Deutsch Specific Plan. The General Plan

Amendment and Zone change would replace the zoning on the general Plan Land Use and Zoning Overlay Map and replace it with the Butterfield Specific Plan. The amendment to the Deutsch Specific Plan would replace the Specific Plan with the Butterfield Specific Plan. With approval of the General Plan Amendment No. 11-2501 and Zone Change No. 11-3501, and amendment to the Deutsch Specific Plan, the Development Agreement would be consistent with the intent of the General Plan through designation of the site as Butterfield Specific Plan.

**Finding No. 2:** The proposed Development Agreement would promote the welfare and interest of the City.

**Finding of Facts:** The development of the Butterfield Specific Plan requires an up-front and substantial investment in public infrastructure costs. The total initial infrastructure investment cost for the project is estimated to be \$100 million. The ultimate infrastructure investment is approximately \$460 million. The infrastructure to be developed includes streets, sewer, water, storm drain and flood control. In exchange for the investment, the developer is requesting approval of an amendment to the existing development agreement to provide a vested right to develop the project consistent with the Zoning (Butterfield Specific Plan) for the property without worrying that the Zoning will change during the 30-year period.

With the vested right to develop the property, the City will receive the following benefits that promote general welfare and interest of the City:

- A substantial investment in infrastructure as mentioned above.
- New master-planned community that provides a cohesive, well-coordinated development that would provide a sense of place.
- New and variety of home types that includes single-family homes with various lot sizes, homes sizes and design. Additionally, there will be high density housing that could include apartments and condominiums with various designs for existing and future residents.
- Revenue from property tax, sales tax, and development fees since the property will be developed and improved from the current vacant state.
- The developer will provide the City with fully improved parks as part of the development.
- Provide construction jobs for the construction of the homes and for the various trades that are associated with home building which include draftsman, architects, engineers, electricians, plumbing, roofing, interior designer, and home furnishing.
- More home construction provides incentives for future retailers and restaurants to locate in Banning once the homes are occupied. The project would incentivize the local economy.

SECTION 3. CITY COUNCIL ACTION.

The City Council hereby:

1. Adopts Ordinance No. 1451 amending the Deutsch Specific Plan Development Agreement by superseding it with the Development Agreement for the Butterfield Specific Plan as attached hereto as Exhibit "A".

SECTION 4. PUBLICATION

The Mayor shall sign this Ordinance and the City Clerk shall attest thereto and shall within fifteen (15) days of its adoption cause it, or a summary of it, be published in the Record Gazette, a newspaper published and circulated in the city. Thereupon, this Ordinance shall take effect thirty (30) days after adoption and be in effect according to the law.

**PASSED, APPROVED AND ADOPTED** this 10<sup>th</sup> day of April, 2012.



Don Robinson, Mayor  
City of Banning

**ATTEST:**



Marie Calderon, City Clerk  
City of Banning, California

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



David Aleshire City of Banning  
Aleshire & Wynder, LLP  
City of Banning

**CERTIFICATION:**

I, Marie Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Ordinance No. 1451 was duly introduced at a regular meeting of the City Council of the City of Banning, held on the 27<sup>th</sup> day of March, 2012 and was duly adopted at a regular meeting of said City Council held on the 10th day of April 2012, by the following vote, to wit:

AYES: Councilmembers Botts, Franklin, Machisic, Mayor Robinson

NOES: None

ABSENT: None

ABSTAIN: None

*(Note: Councilmember Hanna recused from voting)  
(Conflict of Interest)*

  
Marie Calderon, City Clerk  
City of Banning, California