

ORDINANCE NO. 1450

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA AMENDING THE DEUTSCH SPECIFIC PLAN AND SUPERSEDING IT WITH THE BUTTERFIELD SPECIFIC PLAN AND ADOPTING CONDITIONS OF APPROVAL AND MAKING FINDINGS IN SUPPORT THEREOF

WHEREAS, the City of Banning received an application on August 20, 2007 for an amendment to the Deutsch Specific Plan to provide zoning regulations for the Butterfield Specific Plan including a General Plan Amendment and Zone Change, amendment to the Development Agreement, 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), and 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; designation of a site for a potential waste water treatment facility; 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.
Highland Springs Country Club Owners Association owns the 21-acre property that is located at the northwest corner of the Butterfield Specific Plan (APN: 408-060-006, 007 & 008 portion).
- Project Location:** Northeast Corner of Highland Springs Avenue and Wilson Street
- APN Number:** The project includes 34 parcels: 408-060-006, 007 & 008 (por.); 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 by superseding it with the zoning regulations for the Butterfield Specific Plan so that future development within the project site conforms to the Butterfield Specific Plan.

WHEREAS, the Butterfield Specific Plan and Conditions of Approval (Exhibit "A") including its companion entitlement applications for General Plan, Zone Change, and Development Agreement amendment, and Water Supply Assessment are considered a Project pursuant to CEQA Guidelines sections 21065.

WHEREAS, Government Code Sections 65450 through 65454 establish the authority for the adoption a Specific Plan, identify the required contents of the Specific Plan and mandate consistency with the General Plan.

WHEREAS, Chapters 17.44 and 17.96 of the Banning Zoning Code specifies the purpose, the content of the Specific Plan, procedures for the preparation and adoption of the Specific Plan, and findings.

WHEREAS, the City of Banning development team has reviewed the Butterfield Specific Plan and associated entitlement and determined that the Specific Plan meets the requirements of Government Code Sections 65450 and 65454 and Chapters 17.44 and 17.96 of the Banning Zoning Code.

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

WHEREAS, consistent with Section 15083 of CEQA and prior to completing the draft Environmental Impact Report ("EIR"), the City held an early consultation or scoping meeting regarding the environmental 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, a Final EIR (SCH No. 2007091149), including Draft EIR and Mitigation Monitoring and Reporting Program were prepared in accordance with the California Environmental Quality Act Sections 15000-15387 (Title 14, Chapter 3 of California Code of Regulations), the State CEQA Guidelines, and the City of Banning Environmental Review Guidelines.

WHEREAS, consistent with Sections 15086 and 15087 of CEQA, the City published the Notice of Availability ("NOA") of the Draft EIR and made the Draft EIR 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 for the Draft EIR and the impacts of the Butterfield Specific Plan, including its associated applications as 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 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 Banning Planning Commission held a duly-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. On March 27, 2012, the City Council held its public hearing on the Project and 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 Report Program was prepared in accordance with the California Environmental Quality Act ("CEQA"), the State CEQA Guidelines Sections 15000 through

15387, and the City of Banning Environmental Review Guidelines. City Council Resolution No. 2012-24, as referenced herein, provides additional environmental findings for the Project.

SECTION 2. REQUIRED FINDINGS FOR THE BUTTERFIELD SPECIFIC PLAN

Finding No. 1: The proposed Specific Plan is consistent with the General Plan, as amended.

Findings of Fact: The proposed Specific Plan is partially inconsistent with the existing General Plan. The current General Plan Land Use and Zoning designations for the project site is Deutsch Specific Plan. The proposed General Plan Amendment No. 11-2501 and Zone Change No. 11-3501 will change the land use designations and zoning of the project site from Deutsch Specific Plan to Butterfield Specific Plan which will make the Butterfield Specific Plan consistent with the General Plan Land Use and Zoning. With approval of the General Plan Amendment No. 11-2501 and Zone Change No. 11-3501, the proposed Butterfield Specific Plan would be consistent with the intent of the General Plan through designation of the site as Specific Plan. Consistency of the Butterfield Specific Plan pertaining to the proposed project is assessed in Section 7.0 of the Butterfield Specific Plan dated November 21, 2011 and is attached herein.

Finding No. 2: The proposed Specific Plan would not be detrimental to the environment, or to the public interest, health, safety, convenience, or welfare of the City.

Finding of Facts: In compliance with State law (Government Code Sections 65450 et. seq.) the proposed Butterfield Specific Plan includes the following information:

(1) *The distribution, location, and extent of land uses, including residential, commercial, open space and trails, golf course, a site for fire station, a public community center, and sites for two elementary schools. Specifically, Section 1.0, pages 1-1 to 1-17 includes maps and diagrams for the distribution, location, and extent of the uses of land, including open space. In addition, the text accompanies the maps and diagrams providing detail information as to the specific plan land uses, their location, and intensity/density of the uses. Furthermore Sections 3.0 through 3.1.2, pages 3-1 through 3-16 of the Specific Plan provide detailed development plans for each of the land uses. Detail information of the distribution, location, and extent of the parks and open space development is provided in Section 3.6 through 3.6.6, pages 3-85 through 3-98.*

(2) *The distribution, location and 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. Specifically, Section 3.2 through 3.5.5, pages 3-17 through 3.84 provide detail information via text and diagrams/maps showing distribution location, and extent and intensity of major components of public and private transportation, sewage, water, drainage, solid waste disposal, energy, and other essential facilities proposed to be located within the area covered by the plan and needed to support the land uses described in the plan. Other public services and essential facilities for the project including schools, fire and police protection, library, cable, gas, and health services are provided in Section 3.7.1 on pages 2-97 through 3-99.

(3) *Standards and criteria for which the development will proceed; and* Specifically, the following sections of the Butterfield Specific Plan provides standards and criteria for which the development will proceed:

- a. Section 3.7.2, pages 3-99 through 3-105 provide phasing for each development
- b. Sections 4.1 through 4.13.9, pages 4-1 through 4-139 provide detail development design guidelines for the community, neighborhood, and individual buildings and how they are to be developed.
- c. Sections 5.0 through 5.8.1 provide specific details development regulations for each of the land use districts and how they are to be developed.

(4) *A program for implementation including regulations, programs, public works projects and financing measures necessary to carry out the project;* Specifically, Section 6.0 through 6.2.2, pages 6-1 through 6-4 of the Butterfield Specific Plan provides details information on the administration and implementation of the Specific Plan that includes regulations, programs, public works projects, and financing measures necessary to carry out items (1), (2), and (3). The financing measures include Community Facility District which is described in detail in Section 3.7.3 on page 3-105. Details of the finding of facts are included in Ordinance No 1450.

(5) *A Statement of Relations of the Specific Plan to the adopted General Plan.* Specifically, Section 7.0 of the Butterfield Specific Plan findings of consistency with the General Plan as referenced herein, the proposed General Plan Amendment and Zone Change would maintain the appropriate balance of land uses within the City and specifically, it will implement the Citywide goal of “a balanced well-planned community including business which provides a functional pattern of land uses and enhances the quality of life for all Banning residents.”

Additionally, the Specific Plan has been reviewed to ensure that there are adequate two-points of access within each of the neighborhoods/ planning areas of the Plan to provide access for public safety emergency vehicles during an emergency.

As required by the California Environmental Quality Act (CEQA) Section 20165, an environmental impact report (EIR) [State Clearinghouse No. 2007091149] was prepared for the project. The EIR identified potentially significant effects on the environment and on the public interest, health, safety, convenience, and welfare of the City and identified mitigation measures that shall be incorporated into the Project to reduce impacts. In certain instances incorporation of mitigation measures were unable to reduce impacts to less than significant. Section 15091 allows the City to approve a project that has significant impacts on the environment and that which the impacts cannot be mitigated when there are economic, social, or other considerations that make it infeasible to mitigate the significant effects of the projects. Findings for approval must be provided consistent with Section 15093 of the CEQA Guidelines in that the City Council will need to adopt a Statement of Overriding Considerations for the significant and unavoidable Project-related impacts

The City has prepared a Statement of Overriding Considerations for the significant and unavoidable Project-related impacts associated with aesthetics, light and glare, air quality, and traffic and circulation and the cumulative impacts associated with aesthetics, light and glare, air quality, climate change, noise, and traffic and circulation. (Refer to City Council Resolution No. 2012-24).

Based upon the Statement of Overriding Considerations, sixteen (16) areas of Public Benefit related to the proposed Butterfield Specific Plan Project outweigh the seven (7) areas of significant unavoidable adverse impacts. The significant unavoidable adverse impacts are considered acceptable.

Finding No. 3: The subject property is physically suitable for the requested land use designation(s) and the anticipated development(s).

Findings of Fact: The project site is 1,543 acres and the majority of the site is located on flat land. The project site has been analyzed for constraints and opportunities for development including compatibility of the various densities and intensity of land uses surrounding the development, flood zone, earthquake fault, proximity to natural open space, availability of water and utilities to serve the development.

The proposed Project would continue a pattern of development that is already in place to the south, southeast, west and northwest of the site, providing desirable linkages between existing developments, extending

and improving the City's circulation system, and providing additional parks, schools, and other public facilities that would serve both proposed and existing land uses in the area. The Butterfield Specific Plan is proposing to substantially increase the open space to 428.8 acres, compared to the previously designated 268 acres of open space in the previously approved Deutsch Specific Plan. The Project would not physically divide an established community since the Project site is currently vacant and undeveloped.

As part of the community input and public review process for the preparation of the Specific Plan and at the request of the residents who live on Mockingbird Lane, the developer modified the lot sizes for the area that is located on the east side of the Highland Home Road and north of the "F" Street. Planning Area 50 of the Butterfield Specific Plan (refer to Exhibit 3.1, Land Use Plan, in the Specific Plan) which is the area to the north of the Mockingbird Lane has been designated as Low Density Residential, with a minimum average lot size of 7,500 sq. ft. Furthermore, starting at the back of lots along the existing lots on the north side of Mockingbird Lane, there would be approximately 390 ft. of open space between the rear property lines of lots located on Mockingbird Lane and the southern boundary of Planning Area 50.

Access to and from the project has been evaluated consistent with the General Plan policies and the County Master Plan of Roadways. Internal circulation systems have been reviewed to provide automobile, low speed electric vehicles, pedestrian, and bikeway connections within the project site. Additionally, each of the neighborhoods have been reviewed and provided two points of access for public safety vehicles during an emergency. Necessary utilities that include water, sewer, gas, electricity, cable, and telephone that will serve the development will be provided through the implementation of the Specific Plan.

Finding No. 4: The proposed Specific Plan shall ensure development of desirable character which will be compatible with existing and proposed development in the surrounding neighborhood.

Finding of Fact: The project site is 1,543 acres and is adequate and suitable to develop with the proposed land uses which are described in detailed in the Butterfield Specific Plan as incorporated herein by reference. The land use plan for the project takes into consideration the physical constraints and opportunities of the site including surrounding land uses, topography, geology, seismic hazards, soils, groundwater, drainage and flood control channels – Smith Creek and Pershing Channel, paleontology and archeology, biology, circulation and access, and utilities as described in detailed in Sections 2.1 through 2.7.2 of the Specific Plan.

The proposed Project would continue a pattern of development that is already in place to the south, southeast, west and northwest of the site, providing desirable linkages between existing developments, extending and improving the City's circulation system, and providing additional parks, schools, and other public facilities that would serve both proposed and existing land uses in the area. The Butterfield Specific Plan is proposing to substantially increase the open space to 428.8 acres, compared to the previously designated 268 acres of open space in the previously approved Deutsch Specific Plan. The Project would not physically divide an established community since the Project site is currently vacant and undeveloped.

The location of the various land uses has been distributed and placed to provide compatibility within the neighborhoods in the project and the surrounding area, including the neighborhood on the north side of the Mockingbird Lane as this neighborhood provided input as to compatibility of the previous lot sizes which were smaller compared to lot sizes in their neighborhood. Specifically, to improve compatibility with the existing residential development on the north side of Mockingbird Lane, the Project has designated Planning Area 50 (refer to Exhibit 3.1, Land Use Plan, in the Specific Plan) as Low Density Residential, with an minimum average lot size of 7,500 sq. ft. Furthermore, starting at the back of lots along the existing lots on the north side of Mockingbird Lane, there would be approximately 390 ft. of open space between the rear property lines of lots located on Mockingbird Lane and the southern boundary of Planning Area 50.

Access to and from the project has been evaluated consistent with the General Plan policies and the County Master Plan of Roadways. Internal circulation systems have been reviewed to provide automobile, low speed electric vehicles, pedestrian, and bikeway connections within the project site. Additionally, each of the neighborhoods have been reviewed and provided two points of access for public safety vehicles during an emergency. Necessary utilities that include water, sewer, gas, electricity, cable, and telephone that will serve the development will be provided through the implementation of the Specific Plan.

In compliance with SB 610 (Water Code Section 10910 et seq.), a Water Supply Assessment was prepared for the project, which is consistent with the City's Urban Water Management Plan, and which is incorporated herein by reference. The Water Supply Assessment concluded that the City's total projected water supplies are adequate to meet the projected water demand associated with the project, in addition to the City's existing and planned future uses.

Based on the facts indicated in this subsection and subsections above and the administrative record, the project site is suitable for requested land use designation(s) and the anticipated land use development(s).

SECTION 3. CITY COUNCIL ACTIONS.

The City Council hereby:

1. Adopts the Conditions of Approval attached hereto as Exhibit "A".
2. Adopts Ordinance No. 1450 approving an amendment to the Deutsch Specific Plan and superseding it with the Butterfield Specific Plan.

SECTION 4. PUBLICATION

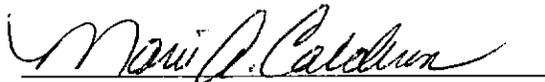
The Mayor shall sign this Ordinance and the City Clerk shall attest thereto and shall within fifteen (15) days of its adoption cause it, or a summary of it, to be published in the Record Gazette, a newspaper published and circulated in the City. Thereupon, this Ordinance shall take effect thirty (30)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

PASSED, APPROVED AND ADOPTED this 10th day of April, 2012.



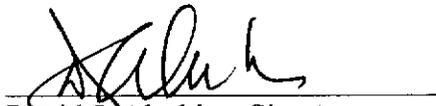
Don Robinson, Mayor
City of Banning

ATTEST:



Marie Calderon, City Clerk
City of Banning, California

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



David J. Aleshire, City Attorney
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. 1450 was duly introduced at a regular meeting of the City Council of the City of Banning, held on the 27th 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:

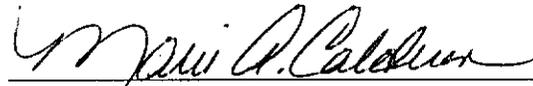
AYES: Councilmembers Botts, Franklin, Machisic, Mayor Robinson

NOES: None

ABSENT: None

ABSTAIN: None

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



Marie Calderon, City Clerk
City of Banning, California