

**ORDINANCE NO. 1466**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA ADOPTING ZONE CHANGE NO. 13-3502 TO THE ZONING ORDINANCE AND ZONING MAP IN CONFORMANCE WITH THE GENERAL PLAN HOUSING ELEMENT**

**WHEREAS**, California Government Code Section 65302(c) mandates that each city shall include a Housing Element in its General Plan. The Housing Element is required to identify and analyze existing and projected housing needs and include statements of the City's goals, policies, quantified objectives, and scheduled programs for the preservation, improvement, and development of housing. The City in adopting its Housing Element, must consider economic, environmental, and fiscal factors, as well as community goals as set forth in the General Plan.

**WHEREAS**, many of the policies and programs contained in the Housing Element are intended to facilitate the preservation, maintenance and improvement of the City's existing housing stock. These programs would not change development patterns or result in any physical environmental impacts. However, under state law each jurisdiction is also required to demonstrate that local land use plans and zoning regulations provide development opportunities to accommodate the jurisdiction's assigned fair share of the region's new housing needs. The process by which fair share housing needs are determined is called the "Regional Housing Needs

**WHEREAS**, in accordance with Government Code §65854, on the 7th day of June 2013, the City gave public notice as required under Chapter 17.68 of the Zoning Ordinance by advertising in the Record Gazette newspaper of a public hearing to be held by the Planning Commission regarding Zone Change No. 13-3502; and

**WHEREAS**, on the 3rd day of July 2013, the Planning Commission held the noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to, the proposed amendment, and at which time the Planning Commission considered Zone Change No. 13-3502; and

**WHEREAS**, at this public hearing, the Planning Commission analyzed this proposed project together with the Initial Study/Mitigated Negative Declaration in compliance with California Environmental Quality Act Section 15162 and recommended its adoption by the City Council; and

**WHEREAS**, On July 12, 2013 notice of the City Council public hearing regarding Zone Change No. 13-3502 was published in the Record Gazette newspaper; and

**WHEREAS**, on July 23, 2013 the City Council conducted a duly noticed public hearing to consider Zone Change No. 13-3502, at which time all interested persons were invited to provide comments in opposition to or support for the proposed amendment.

**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.

An Initial Study/Mitigated Negative Declaration (IS/MND) and Mitigation Monitoring and Reporting Program were 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. 2013-75 as referenced herein provides environmental findings for the Project. The City Council finds that the IS/MND reflects its independent judgment and further finds that the IS/MND satisfies the requirements of CEQA for the proposed project

#### SECTION 2 REQUIRED FINDINGS FOR ZONE CHANGE NO. 13-3502:

**Finding No. 1:** The proposed Zone Change is consistent with the General Plan.

**Facts in Support of Finding:** The proposed amendments to the Housing and Land Use Elements would demonstrate the availability of adequate sites for residential development commensurate with the Regional Housing Needs Assessment (RHNA) for the 2008-2013 planning period. The proposed amendments to the Zoning Ordinance and Map are not only consistent with the General Plan, they are required to ensure consistency with the Housing and Land Use Elements of the General Plan and the RHNA by

establishing zoning regulations on sufficient sites to accommodate housing development at densities necessary to meet the projected needs of lower-income households in Banning.

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

**Facts in Support of Finding:** Pursuant to CEQA, an Initial Study/Mitigated Negative Declaration (IS/MND) has been prepared for the proposed zoning amendments. The IS/MND concluded that with the mitigation measures identified in the General Plan EIR and the IS/MND, development of the sites proposed for redesignation to higher densities would not result in new significant environmental effects that were not previously analyzed and disclosed in the General Plan EIR. Further, any future development on rezoned sites must comply with applicable development standards and environmental requirements designed to protect the health, safety and welfare of the community and its residents. Further facts and evidence in support of this finding are contained in the IS/MND and the accompanying staff report, all of which are incorporated herein by this reference.

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

**Facts in Support of Finding:** Pursuant to CEQA, an Initial Study/Mitigated Negative Declaration (IS/MND) has been prepared for the proposed zoning amendments. The IS/MND concluded that with the mitigation measures identified in the General Plan EIR and the IS/MND, development of the sites proposed for rezoning to higher densities would not result in new significant impacts regarding access, utilities, land use compatibility or other potential environmental effects that were not previously analyzed and disclosed in the General Plan EIR. Further facts and evidence in support of this finding are contained in the IS/MND and the accompanying staff report, all of which are incorporated herein by this reference.

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

**Facts in Support of Finding:** Pursuant to CEQA, an Initial Study/Mitigated Negative Declaration (IS/MND) has been prepared for the proposed zoning amendments. The IS/MND concluded that with the mitigation measures identified in the General Plan EIR and the IS/MND, development of the sites proposed for rezoning to higher densities would not result in new significant impacts to the surrounding properties or the community in general that were not previously analyzed and disclosed in the General Plan EIR. Further facts and evidence in support of this finding are contained in the IS/MND and the

accompanying staff report, all of which are incorporated herein by this reference. Moreover, zoning amendments to allow higher densities are required by state law to ensure consistency with the Regional Housing Needs Assessment.

SECTION 3. CITY COUNCIL ACTIONS.

The City Council hereby takes the following actions:

1. Zoning Code Section 17.08 140 is amended to read as follows:

**“17.08.140 - Multi-family housing standards.**

Multi-family housing is permitted in the LDR, MDR, ~~and~~ HDR and VHDR zones, and is subject to design review. Multi-family housing shall be constructed in the following manner:

A. All multi-family developments with more than ten units shall provide 30% useable open space for active and passive recreational uses. Useable open space areas may not include: rights of way; vehicle parking areas; areas adjacent to or between any structures less than 15 feet apart; setbacks; detention basins or any use whose primary purpose is not intended for recreation; patio or private yards; or areas with a slope greater than eight percent.

B. Every dwelling unit shall have a patio or balcony not less than 300 square feet in area or 25% of the dwelling unit size, whichever is less

C. All multi-family developments shall provide recreational amenities within the site such as a: swimming pool; spa; clubhouse; tot lot with play equipment; court game facilities for tennis, basketball or racquetball; improved softball or baseball fields; or day care facilities. The type of amenities shall be approved by the Community Development Director and provided according to the following schedule:

0 to 10 units	1 amenity
11-50 units	2 amenities
51 to 100 units	3 amenities
101 to 200 units	4 amenities
201 to 300 units	5 amenities
Above 300 units	one amenity should be added for each 100 additional units or fraction thereof.

D. Off street parking spaces for multi-family residential developments shall be located within 150 feet from the front or rear door of the dwelling for which is parking space is designated.

E. Each dwelling unit shall be provided at least 150 cubic feet of private enclosed storage space within the garage, carport, or immediately adjacent to the dwelling unit.

F. Driveway approaches within multi-family developments of more than ten units shall be delineated with interlocking pavers, rough textured concrete, or stamped concrete and landscaped medians.

G. Common laundry facilities of sufficient number and accessibility consistent with the number of living units and the Uniform Building code shall be provided.

H. Every dwelling unit shall be plumbed and wired for a washing machine and a dryer.

I. For multi-family developments of over ten units, security and management plans shall be submitted for review and approval.”

2. Zoning Code Section 17.12.050 H.2 is amended to read as follows:

“2. Multi-family residential uses shall be permitted at a density of up to 18 dwelling units per acre. Multi-family or mixed-use developments with a minimum of 16 units and that reserve at least 50% of the units for lower-income households shall be permitted at a density of up to 20 dwelling units per acre. Multi-family residential uses are prohibited on the ground floor on Ramsey Street and San Gorgonio within the Downtown Commercial district Multi-family uses on Ramsey Street and San Gorgonio must occur above commercial uses. In the balance of the district, multi-family uses may occur on any level.”

3. Zoning Code Section 17.08.010.B is hereby amended to add a new High Density Residential-20 (“HDR-20”) zoning district and to renumber the remaining section as follows:

“9. High Density Residential-20 (HDR-20) (20 du/acre). Allows condominiums and townhomes, as well as apartments with the provision of common area amenities and open space by-right at a minimum density of 20 dwelling units per acre when at least 50% of the units are reserved for lower-income households. The clustering of condominiums and townhomes is appropriate with the provision of common area amenities and open space. Home Occupations may be appropriate with approval of a Home Occupation permit.”

4. Zoning Code Table 17.08.020 is amended to add the following footnote to the HDR section:

“\*Housing developments in the HDR-20 district are permitted at a density of 20 dwelling units per acre when at least 50% of the units are reserved for lower-income households. Development standards for qualifying developments shall be as provided for the HDR district in Chapter 17.24.”

5. A new *Very High Density Residential* (“VHDR”) zoning district is hereby added to Zoning Code Section 17.08.010.B as follows:

“10. Very High Density Residential (VHDR) (19-24 du/acre). Allows condominiums and townhomes, as well as apartments with the provision of common area amenities and open space. The clustering of condominiums and townhomes is appropriate with the provision of common area amenities and open space. Home Occupations may be appropriate with approval of a Home Occupation permit.”

6. Zoning Code Table 17.08.020 is amended to add the following footnote to the new VHDR section:

“\*\*Housing developments in the VHDR district are permitted at a minimum density of 20 dwelling units per acre by-right when at least 50% of the units are reserved for lower-income households.”

7. The Zoning Map is hereby amended to change the designations for the following parcels to HDR-20 (Exhibit 5):

“537-120-034	419-140-059
540-083-002	534-161-010
541-110-013	537-110-008
532-080-004	541-110-009”

- 8 The Zoning Map is hereby amended to change the designations for the following parcels to VHDR:

“537-190-018”

#### 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 13<sup>th</sup> day of August, 2013.

  
\_\_\_\_\_  
Deborah Franklin, Mayor  
City of Banning

**ATTEST:**

  
\_\_\_\_\_  
Marie A. Calderon, City Clerk  
City of Banning

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

  
\_\_\_\_\_  
David J. Aleshire, City Attorney  
Aleshire & Wynder, LLP

**CERTIFICATION:**

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Ordinance No. 1466 was duly introduced at a regular meeting of the City Council of the City of Banning, held on the 23<sup>rd</sup> day of July, 2013 and was duly adopted at a regular meeting of said City Council held on the 13<sup>th</sup> day of August, 2013, by the following vote, to wit:

AYES            Councilmembers Botts, Miller, Peterson, Welch, Mayor Franklin

NOES           None

ABSENT:       None

ABSTAIN:      None



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Marie A. Calderon, City Clerk  
City of Banning, California