

ORDINANCE NO. 1485

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA APPROVING THE INITIAL STUDY/NEGATIVE DECLARATION, GENERAL PLAN AMENDMENT NO. 14-2503 AND ZONE CHANGE NO. 14-3503 RELATING TO TWELVE (12) PROPERTIES (APN: 535-060-008, 535-070-023, 535-070-038, 535-070-014, 535-070-025, 535-110-002, 535-110-011, 535-311-014, 535-311-015, 535-311-016, 535-311-017 AND 535-311-018)

WHEREAS, on January 31, 2006, the City Council of the City of Banning adopted Resolution No. 2006-12 certifying the Final Environmental Impact Report (California Clearinghouse Schedule No. 2005011039) adopting the Statement of Overriding Considerations, Statement of Facts and Findings, and Mitigation Monitoring Program for General Plan Amendment No. 03-2501 and Zone Change No. 03-3501 (Comprehensive General Plan Amendment); adopted Resolution No. 2006-13 approving General Plan Amendment No. 03-2501 adopting the new General Plan; and, adopted Ordinance No. 1339 approving Zone Change 03-3501 repealing the existing Zoning Ordinance and adopting the new Zoning Ordinance and associated Zoning Map. The Community Development Element of the City's General Plan establishes the land use designations for all properties within the City of Banning and in doing so Gilman Ranch Regional Park was identified as "open space;" and

WHEREAS, On August 28, 1976, the United States Department of the Interior – National Parks Service certified the inclusion of Gilman Ranch Regional Park within the National Register of Historic Places, based upon the support of nomination evidence presented by Dr. John R. Brumgardt (History Division – Riverside County Parks Department). This certification preserves Gilman Ranch Regional Park as open space. Subsequently, in March 1979, the Riverside County Regional Parks and Open Space District purchased the 124.51 acre site and officially established the "historic" Gilman Ranch Regional Park; and

WHEREAS, the General Plan land use designations and Zoning classifications for certain portions of three (3) properties (APN: 535-060-008, 535-070-023 and 535-070-038) contained within Gilman Ranch Regional Park located north of Wilson Street between 16th Street and 20th Street is currently Ranch/Agriculture – Hillside (RA-H) and Low Density Residential (LDR) which is inconsistent with the intended Open Space – Parks (OS-P) General Plan land use designation and Zoning classification for Gilman Ranch Regional Park; and

WHEREAS, the overall land area of Gilman Ranch Regional Park is approximately 124.51 acres. However, of the approximate 124.51 acres, approximately 57% (approximately 71.09 acres) is depicted with General Plan land use designations and Zoning classifications of Ranch/Agriculture – Hillside (RA-H) and Low Density Residential (LDR) which is contrary and inconsistent with what should be a General Plan land use designation and Zoning classification of Open Space – Parks (OS-P) as with the remainder of Gilman Ranch Regional Park. On August 28, 1976, the United States Department of the Interior – National Parks Service certified the inclusion of Gilman Ranch Regional Park within the National Register of

Historic Places, based upon the support of nomination evidence presented by Dr. John R. Brumgardt (History Division – Riverside County Parks Department). This certification preserves Gilman Ranch Regional Park; and

WHEREAS, on September 26, 2006, the City Council of the City of Banning adopted Resolution No. 2006-58 approving the Mitigated Negative Declaration and Mitigation Monitoring Program for Tentative Tract Map No. 33540 for a subdivision creating 172 single family residential lots, 3 open space lots, 1 flood control basin and 10 lettered lots for public streets (public right-of-way) and approving the land area contained within Tentative Tract Map No. 33540 within the City’s Low Density Residential (LDR) General Plan land use designation and Zoning classification; and

WHEREAS, the General Plan land use designations and Zoning classifications for certain portions of nine (9) properties (APN: 535-070-014, 535-070-025, 535-110-002, 535-110-011, 535-311-014, 535-311-015, 535-311-016, 535-311-017 and 535-311-018) contained within approved Tentative Tract Map No. 33540 located north of Gilman Street west of 8th Street is currently Open Space – Parks (OS-P), Ranch/Agriculture – Hillside (RA-H) and Very Low Density Residential (VLDR) which is inconsistent with the intended Low Density Residential (LDR) General Plan land use designation and Zoning classification for Tentative Tract Map No. 33540; and

WHEREAS, the overall land area of approved Tentative Tract Map No. 33540 is approximately 65 acres. However, of the approximate 65 acres, approximately 33% (21.76 acres) is depicted with General Plan land use designations and Zoning classifications of Open Space – Parks (OS-P), Ranch/Agriculture – Hillside (RA-H) and Very Low Density Residential (VLDR) which is contrary and inconsistent with what should have been a General Plan land use designation and Zoning classification of Low Density Residential (LDR) as with the remainder of approved Tentative Tract Map No. 33540; and

WHEREAS, General Plan Amendment No. 14-2503 and Zone Change No. 14-3503 is intended to reflect the existing open space land use of Gilman Ranch Regional Park and the approved low density residential land use of Tentative Tract Map No. 33540, thereby ensuring the conformity with the City’s General Plan Land Use and Zoning maps; and

WHEREAS, the City Council has authority per Chapter 17.64 of the Municipal Code to approve, approve with modifications, or disapprove amendments to the General Plan; and

WHEREAS, the City Council has authority per Chapter 17.116 of the Municipal Code to approve, approve with modifications, or disapprove amendments to the Zoning Ordinance; and

WHEREAS, on February 4, 2015, during a duly advertised public hearing, the Planning Commission adopted Resolution No. 2015-02 recommending to the City Council the adoption of the Initial Study/Negative Declaration, General Plan Amendment No. 14-2503 and Zone Change No. 14-3503; and

WHEREAS, on the 13th day of February, 2015, the City gave public notice as required under Chapter 17.68 of the Zoning Ordinance by advertising in the Record Gazette newspaper of the holding of a public hearing at which the Initial Study/Negative Declaration, General Plan Amendment No. 14-2503 and Zone Change No. 14-3501 would be considered; and

WHEREAS, on the 24th day of February, 2015, the City Council held the noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to the amendments, and at which time the City Council considered the Initial Study/Negative Declaration, General Plan Amendment No. 14-2503 and Zone Change No. 14-3503; and

WHEREAS, at this public hearing on the 24th day of February, 2015, the City Council considered and heard public comments on the Initial Study/Negative Declaration, General Plan Amendment No. 14-2503 and Zone Change No. 14-3503; and

WHEREAS, the City Council has carefully considered all pertinent documents and the staff report offered in this case as presented at the public hearing held on the 24th day of February, 2015;

NOW THEREFORE, BE IT HEREBY ORDAINED by the City Council of the City of Banning as follows:

SECTION 1. ENVIRONMENTAL FINDINGS.

The following environmental findings are made and supported by substantial evidence on the record before the City Council, including and incorporating all evidence in the staff report and attendant attachments thereto:

California Environmental Quality Act (CEQA)

In accordance with the requirements of the California Environmental Quality Act (CEQA), the proposed General Plan Amendment No. 14-2503 and Zone Change No. 14-3503 are considered a "project." CEQA defines a "project" as an activity that may have a potential for resulting in either a direct or indirect significant effects on the environment. General plan amendments and zone changes are defined as "projects" because they typically involve the adoption of land use policies that involves the potential future land use and/or development of properties. Therefore, General Plan Amendment No. 14-2503 and Zone Change No. 14-3503 is a "project" due to the fact that the proposal involves the change of the General Plan land use designations and Zoning classifications for certain portions of three (3) properties contained within the Gilman Ranch Regional Park from Ranch/Agriculture – Hillside (RA-H) and Low Density Residential (LDR) to Open Space – Parks (OS-P) and for certain portions of nine (9) properties contained within approved Tentative Tract Map No. 33540 from Open Space – Parks (OS-P), Ranch/Agriculture – Hillside (RA-H) and Very Low Density Residential (VLDR) to Low Density Residential (LDR) which in turn changes the manner in which the subject twelve (12) properties may be used and developed.

The findings of the Initial Study/Negative Declaration are that General Plan Amendment No. 14-2503 and Zone Change No. 14-3503 could not have a significant effect on the environment. In compliance with CEQA, an Initial Study/Negative Declaration was prepared and made available for the mandatory 20-day public review period commencing on January 9, 2015.

Multiple Species Habitat Conservation Plan (MSHCP)

General Plan Amendment No. 14-2503 and Zone Change No. 14-3503 do not relate to any one physical development project and are not subject to the MSHCP. Further, projects subject to this resolution will trigger individual project analysis and documentation related to the requirements of MSHCP including mitigation through payment of the MSHCP Mitigation Fee.

Senate Bill (SB) 18 – Tribal Consultation

Pursuant to the requirements of Senate Bill (SB) 18, on December 31, 2014, the City of Banning transmitted a formal request for Tribal Consultation to the Native American Heritage Commission. Tribal Consultation request letters were also transmitted directly to the following: Morongo Band of Mission Indians; Soboba Band of Luiseno Indians; Cabazon Band of Mission Indians; Pechanga Band of Luiseno Indians; Augustine Band of Cahuilla Indians; Twenty-Nine Palms Band of Mission Indians; Cahuilla Band of Indians; Ramona Band of Cahuilla Indians; Agua Caliente Band of Cahuilla Indians; Santa Rosa Band of Cahuilla Indians; Fort Mohave Indian Tribe; San Manuel Band of Mission Indians; and Torres Martinez Desert Cahuilla Indians.

SECTION 2. FINDINGS FOR GENERAL PLAN AMENDMENT NO. 14-2503 AND ZONE CHANGE NO. 14-3503:

The California Government Code and the City of Banning Zoning Ordinance require that General Plan Amendments and Zone Changes meet certain findings prior to the approval by the City Council. The following findings, as supported by substantial evidence on the record including and incorporating all facts and evidence in the staff report and its attendant attachments, in support of the approval of the General Plan Amendment No. 14-2503 and Zone Change No. 14-3503:

Finding No. 1: The proposed General Plan Amendment No. 14-2503 and Zone Change No. 14-3503 are internally consistent with the General Plan.

Findings of Fact: The City of Banning General Plan Land Use and Zoning Overlay Map depicts certain portions (totaling approximately 71.09 acres) of three (3) properties contained within Gilman Ranch Regional Park with Ranch/Agriculture- Hillside (RA-H) and Low Density Residential (LDR) designations/classifications and certain portions (totaling approximately 21.76 acres) of nine (9) properties contained within approved Tentative Tract Map No. 33450 with Ranch/Agriculture – Hillside (RA-H), Open Space – Parks (OS-P) and Very Low Density Residential (VLDR) designations/ classifications. The proposed General Plan Amendment and Zone Change will amend the General Plan land use designations and Zoning classifications for the three (3) properties within Gilman Ranch

Regional Park (APN: 535-060-008, 535-070-023 and 535-070-038) located north of Wilson Street between 16th Street and 20th Street to Open Space – Parks (OS-P) and certain portions for the nine (9) properties within Tentative Tract Map No. 33540 (APN: 535-070-014, 535-070-025, 535-110-002, 535-110-011, 535-311-014, 535-311-015, 535-311-016, 535-311-017 and 535-311-018) located north of Gilman Street west of 8th Street to Low Density Residential (LDR).

On January 31, 2006, the City Council of the City of Banning adopted Resolution No. 2006-12 certifying the Final Environmental Impact Report (California Clearinghouse Schedule No. 2005011039) adopting the Statement of Overriding Considerations, Statement of Facts and Findings, and Mitigation Monitoring Program for General Plan Amendment No. 03-2501 and Zone Change No. 03-3501 (Comprehensive General Plan Amendment); adopted Resolution No. 2006-13 approving General Plan Amendment No. 03-2501 adopting the new General Plan; and, adopted Ordinance No. 1339 approving Zone Change 03-3501 repealing the existing Zoning Ordinance and adopting the new Zoning Ordinance and associated Zoning Map. The Community Development Element of the City's General Plan establishes the land use designations for all properties within the City of Banning and in doing so Gilman Ranch Regional Park was identified as "open space."

On August 28, 1976, the United States Department of the Interior – National Parks Service certified the inclusion of Gilman Ranch Regional Park within the National Register of Historic Places, based upon the support of nomination evidence presented by Dr. John R. Brumgardt (History Division – Riverside County Parks Department). This certification preserves Gilman Ranch Regional Park as open space. On March 1979, the Riverside County Regional Parks and Open Space District purchased the 124.51 acre site and officially established the "historic" Gilman Ranch Regional Park. General Plan Amendment No. 14-2503 and Zone Change No. 14-3503 to amend the General Plan land use designation and Zoning classification to Open Space – Parks (OS-P) will preserve Gilman Ranch Regional Park as an open space land use.

On September 26, 2006, the City Council of the City of Banning adopted Resolution No. 2006-58 approving the Mitigated Negative Declaration and Mitigation Monitoring Program for Tentative Tract Map No. 33540 for a subdivision creating 172 single family residential lots, 3 open space lots, 1 flood control basin and 10 lettered lots for public streets (public right-of-way) and approving Tentative Tract Map No. 33540 within the City's Low Density Residential (LDR) General Plan land use designation and Zoning classification. General Plan Amendment No. 14-2503 and Zone Change No. 14-3503 to amend the General Plan land use designation and Zoning classification to Low Density Residential (LDR)

will reflect the appropriate General Plan land use designation and Zoning classification for Tentative Tract Map No. 33540.

The subject properties under proposed General Plan Amendment No. 14-2503 and Zone Change No. 14-3503 have been reviewed against the development standards for Open Space – Parks (OS-P) for Gilman Ranch Regional Park and Low Density Residential (LDR) for Tentative Tract Map No. 33540 land uses within the City of Banning Zoning Ordinance for internal consistency within all of the General Plan element's text, diagrams, and maps and it has been determined that the proposed General Plan Amendment and Zone Change will not create any conflicts among the various General Plan elements' goals, policies, and objectives, including the maps and diagrams of all the elements in the City's General Plan. Therefore, proposed General Plan Amendment No. 14-2503 and Zone Change No. 14-3503 will make the land uses for Gilman Ranch Regional Park and Tentative Tract Map No. 33540 consistent with City's General Plan and Zoning Ordinance.

Finding No. 2: The proposed General Plan Amendment No. 14-2503 and Zone Change No. 14-3503 would not be detrimental to the public interest, health, safety, convenience, or welfare of the community.

Findings of Fact: The General Plan Goal 1 for Open Space and Conservation states, "*The conservation and management of open spare areas to provide recreational opportunities and protect important resources in perpetuity.*" General Plan Goal 1 for Residential Land Uses states, "*Preserve and enhance the City's neighborhoods.*" On January 31, 2006, the City Council of the City of Banning adopted Resolution No. 2006-12 certifying the Final Environmental Impact Report (California Clearinghouse Schedule No. 2005011039) adopting the Statement of Overriding Considerations, Statement of Facts and Findings, and Mitigation Monitoring Program for General Plan Amendment No. 03-2501 and Zone Change No. 03-3501 (Comprehensive General Plan Amendment); and on September 26, 2006, the City Council of the City of Banning adopted Resolution No. 2006-58 approving the Mitigated Negative Declaration and Mitigation Monitoring Program for Tentative Tract Map No. 33540. Additionally, on August 28, 1976, the United States Department of the Interior – National Parks Service certified the inclusion of Gilman Ranch Regional Park within the National Register of Historic Places. On March 1979, the Riverside County Regional Parks and Open Space District purchased the 124.51 acre site and officially established the "historic" Gilman Ranch Regional Park. Proposed General Plan Amendment No. 14-2503 and Zone Change No. 14-3503 provides for the preservation of Gilman Ranch Regional Park as open space and conformance with approved Tentative Tract Map No. 33540. Furthermore, an Initial Study/ Negative Declaration was prepared

pursuant to the requirements of the California Environmental Quality Act. The Initial Study/Negative Declaration concluded that proposed General Plan Amendment No. 14-2503 and Zone Change No. 14-3503 would not have any significant impacts on the environment. The Initial Study/ Negative Declaration was made available for the required 20-day public review period from January 12, 2015 through February 2, 2015.

With regard to the compatibility with the existing surrounding land uses and neighborhoods, the proposed General Plan land use designations and Zoning classifications for Gilman Ranch Regional Park and Tentative Tract Map No. 33540 will make the properties consistent and compatible with the existing surrounding land uses and neighborhoods.

Therefore, proposed General Plan Amendment No. 14-2503 and Zone Change No. 14-3503 would not be detrimental to the public interest, health, safety, convenience, or welfare of the community as the project has been reviewed for compliance with the City of Banning General Plan, City of Banning Zoning Ordinance and the California Environmental Quality Act (Public Resources Code Section 21000 et seq.).

Finding No. 3: The proposed General Plan Amendment No. 14-2503 and Zone Change No. 14-3503 would maintain the appropriate balance of land uses within the City.

Findings of Fact: The overall land area of Gilman Ranch Regional Park is approximately 124.51 acres. However, of the approximate 124.51 acres, approximately 57% (approximately 71.09 acres) is depicted with General Plan land use designations and Zoning classifications of Ranch/Agriculture – Hillside (RA-H) and Low Density Residential (LDR) which is contrary and inconsistent with what should be a General Plan land use designation and Zoning classification of Open Space – Parks (OS-P) as with the remainder of Gilman Ranch Regional Park. The overall land area of approved Tentative Tract Map No. 33540 is approximately 65 acres. However, of the approximate 65 acres, approximately 33% (21.76 acres) is depicted with General Plan land use designations and Zoning classifications of Open Space – Parks (OS-P), Ranch/Agriculture – Hillside (RA-H) and Very Low Density Residential (VLDR) of Ranch/Agriculture – Hillside (RA-H) and Low Density Residential (LDR) which is contrary and inconsistent with what should have been a General Plan land use designation and Zoning classification of Low Density Residential (LDR) as with the remainder of approved Tentative Tract Map No. 33540. The proposed General Plan Amendment and Zone Change is intended to reflect the existing open space land use of Gilman Ranch Regional Park and the approved low density residential land use of Tentative Tract Map No. 33540, thereby ensuring the

conformity with the City's General Plan Land Use and Zoning maps. Therefore, General Plan Amendment No. 14-2503 and Zone Change No. 14-3503 will maintain the appropriate balance of land uses within the City.

Finding No. 4: With regard to the General Plan Amendment No. 14-2503 and Zone Change No. 14-3503 to the General Plan Land Use, the subject properties are physically suitable for the requested land use designation(s) and the anticipated land use development(s).

Findings of Fact: On March 1979, the Riverside County Regional Parks and Open Space District purchased the 124.51 acre site and officially established the "historic" Gilman Ranch Regional Park as "open space." Based on the facts indicated in this subsection and subsections above, the subject properties are suitable for the requested Open Space – Parks (OS-P) for Gilman Ranch Regional Park by proposed General Plan Amendment No. 14-2503 and Zone Change No. 14-3503.

During the discretionary review and approval process for Tentative Tract Map No. 33540, it was determined that the subject site was physically suitable to accommodate the residential subdivision and that the residential subdivision was designed to accommodate the 172 single family residential dwelling units considering the site configuration, physical characteristics, topography and existing and proposed infrastructure improvements. Based on the facts indicated in this subsection and subsections above, the subject properties are suitable for the requested Low Density Residential (LDR) for Tentative Tract Map No. 33540 by proposed General Plan Amendment No. 14-2503 and Zone Change No. 14-3503.

SECTION 3. CITY COUNCIL ACTION.

The City Council hereby takes the following actions:

1. **Adoption of Negative Declaration.** In accordance with Public Resources Code Section 21006 and CEQA Guidelines Section 15074 the City Council hereby adopts the Negative Declaration, based upon the Initial Study prepared pursuant to CEQA Guidelines Section 15063, for General Plan Amendment No. 14-2503 and Zone Change No. 14-3503.
2. **Approve General Plan Amendment No. 14-2503.** Approve General Plan Amendment No. 14-2503 amending the General Plan land use designations for certain portions of three (3) properties (APN: 535-060-008, 535-070-023 and 535-070-038) contained within Gilman Ranch Regional Park, located north of Wilson Street between 16th Street and 20th Street, from Ranch/Agriculture – Hillside (RA-H) and Low Density Residential (LDR) to Open Space – Parks (OS-P) and certain portions of nine (9)

properties (APN: 535-070-014, 535-070-025, 535-110-002, 535-110-011, 535-311-014, 535-311-015, 535-311-016, 535-311-017 and 535-311-018) contained within approved Tentative Tract Map No. 33540, located north of Gilman Street west of 8th Street, from Open Space – Parks (OS-P), Ranch/Agriculture – Hillside (RA-H) and Very Low Density Residential (VLDR) to Low Density Residential (LDR).

3. Approve Zone Change No. 14-3503. Approve Zone Change No. 14-3503 amending the Zoning classifications for certain portions of three (3) properties (APN: 535-060-008, 535-070-023 and 535-070-038) contained within Gilman Ranch Regional Park, located north of Wilson Street between 16th Street and 20th Street, from Ranch/Agriculture – Hillside (RA-H) and Low Density Residential (LDR) to Open Space – Parks (OS-P) and certain portions of nine (9) properties (APN: 535-070-014, 535-070-025, 535-110-002, 535-110-011, 535-311-014, 535-311-015, 535-311-016, 535-311-017 and 535-311-018) contained within approved Tentative Tract Map No. 33540, located north of Gilman Street west of 8th Street, from Open Space – Parks (OS-P), Ranch/Agriculture – Hillside (RA-H) and Very Low Density Residential (VLDR) to Low Density Residential (LDR).

SECTION 4. SEVERABILITY.

If any section, subsection, sentence, clause, or portion of this ordinance is, for any reason, held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this ordinance. The City Council of the City of Banning hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections sentences, clauses, phrases, or portions thereof may be declared invalid or unconstitutional.

SECTION 5. PUBLICATION; EFFECTIVE DATE.

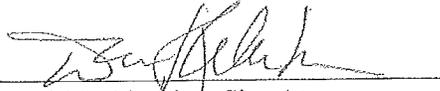
The City Clerk shall certify to the passage and adoption of this ordinance, and shall make a minute of the passage and adoption thereof in the records of and the proceedings of the City Council at which the same is passed and adopted. This ordinance shall be in full force and effect thirty (30) days after its final passage and adoption, and within fifteen (15) days after its final passage, the City Clerk shall cause it to be published in a newspaper of general circulation and shall post the same at City Hall, 99 E. Ramsey Street, Banning, California.

PASSED, APPROVED, AND ADOPTED this 24th day of March, 2015.



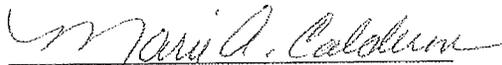
Deborah Franklin, Mayor
City of Banning, California

APPROVED AS TO FORM AND
LEGAL CONTENT:



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

ATTEST:



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

CERTIFICATION:

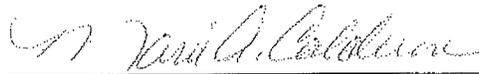
I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that Ordinance No. 1485 was duly introduced at a regular meeting of the City Council of the City of Banning, held on the 24th day of February, 2015, and was duly adopted at a regular meeting of said City Council on the 24th day of March, 2015, by the following vote, to wit:

AYES: Councilmembers Miller, Moyer, Peterson, Welch, Mayor Franklin

NOES: None

ABSENT: None

ABSTAIN: None



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