



## CITY OF BANNING STAFF REPORT

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

**PREPARED BY:** Emery Papp, Senior Planner

**MEETING DATE:** June 25, 2024

**SUBJECT:** Consideration of Zoning Text Amendment (ZTA 24-0050) and First Reading of Ordinance 1605, Amending Table 17.08.020 of Section 17.08.020 of Article I of Chapter 17.08 of Division II of Title 17 of the City of Banning Municipal Code to Clarify that Affordable Housing Uses are Permitted by Right and are not Subject to Discretionary Action in Specified Zoning Districts as Required by State Law; and Making a Determination of Exemption from the California Environmental Quality Act

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### **RECOMMENDATION:**

Introduce, as read by title only, and waive further reading of Ordinance 1605.

### **BACKGROUND:**

The 6th Cycle Housing Element Update, which spans the time period from 2021 through 2029, was adopted by the City Council on November 9, 2021 and was submitted to the California Department of Housing and Community Development (HCD) for certification review on November 18, 2021. At the conclusion of a 90-Day Review Period, HCD rescinded their previous conditional certification of the Housing Element and required revisions to an Ordinance previously approved by a former HCD reviewer. These revisions were detailed in the HCD comment letter dated February 21, 2022.

A revised 6th Cycle Housing Element Update was prepared, which addressed comments received from HCD and was reviewed by the Planning Commission on December 6, 2023, and was then reviewed and adopted by the City Council on January 9, 2024. The readopted 6th Cycle Housing Element was transmitted to HCD for Certification review. To be considered for Certification by HCD, the proposed Zoning Text Amendments contained in Ordinance 1600 were integral to implementing the Housing Element Programs. The adopted Ordinance 1600 was transmitted to HCD prior to the conclusion of HCD's 60-day review on March 14, 2024.

A letter from HCD dated March 29, 2024, stated that although the City of Banning 6th Cycle Housing Element complied with the statutory requirements of State Housing Element law, the Housing Element was found to not be in substantial compliance due to the wording of a line item in Table 17.08.020, and the wording of footnote number 7 of the same table. Staff worked directly with HCD to garner tentative agreement of proposed amendments to Table 17.08.020, and footnote number 7, as shown in redline/strikethrough format in the attached Draft Ordinance 1605.

Pursuant to an email conversation with HCD staff on May 17, 2024 (attached), the proposed Zoning Text Amendment/Ordinance 1605, when adopted, and an executed copy of which is transmitted to HCD, will garner certification of the 6th Cycle Housing Element. Until the 6th Cycle Housing Element is Certified

by HCD, the City is not eligible to compete for federal, state, or local grant money. If HCD continues to find that the City has a noncompliant Housing Element, the City can lose the ability to receive Community Development Block Grants as well as other negative incentives such as fines and increases to the City's Regional Housing Needs Assessment.

**JUSTIFICATION:**

Adoption of Ordinance 1605 will implement Zoning Text Amendment (ZTA 24-0050), a proposal to Amend Table 17.08.020 in BMC Section 17.08.020, Residential Zoning Districts (Chapter 17.08, Article I, Division II); amending Permitted and Conditionally Permitted Uses by moving the line item for "Affordable Housing" to just below "Multi-Family Housing" in the Table; and amending footnote number 7 to Table 17.08.020 of the BMC, from:

"<sup>7</sup> Housing developments in the VHDR district are permitted at a minimum density of twenty-four dwelling units to 30 dwelling units per acre, without a Public Hearing required. Applies only to affordable housing projects pursuant to Government Code Section 65583."

to the following:

"<sup>7</sup> Affordable housing developments pursuant to Government Code Section 65583.2 and located within the multi-family housing zoning districts are permitted by right without a public hearing or discretionary action and, in the VHDR district, are permitted at a minimum density of 24 dwelling units to 30 dwelling units per acre."

Findings:

Finding A: The proposed Amendment is consistent with the goals and policies of the General Plan.

Findings of Fact: The proposed amendment to Title 17 (Zoning) is consistent with the following goals and policies of the General Plan: Community Development Element: Goal. A balanced, well planned community including businesses which provides a functional pattern of land uses and enhances the quality of life for all Banning residents. Policy 1. The City maintain a land use map which assures a balance of residential, commercial, industrial open space and public lands. Policy 2. The Planning, Public Works and Economic Development staff shall be closely coordinated, to assure [sic] efficient and cost effective processing of applications. Policy 3. Development in all land use categories shall be of the highest quality. Policy 4. Specific Plans shall be required to for projects proposing one or more of the following: More than one residential land use designation; A combination of residential, commercial and/or industrial land use designation; or Extension of infrastructure (water, sewer and roadways) into an area where these do not exist. Policy 5. All land use proposals shall be consistent with the goals, policies and programs of this General Plan, and with the Zoning Ordinance. Policy 6. The City shall implement a program for art in public places. Housing Element (6th Cycle Housing Element Update): Goal Promote the maintenance and preservation of the City's existing housing stock. Policy 1.1 Encourage the revitalization of the existing housing stock through rehabilitation programs. Policy 1.2 Continue to establish and enforce property maintenance regulations that promote the sound maintenance of property and enhance the livability and appearance of residential areas. Policy 1.3 Promote the development of attractive and safe housing to meet community needs.

Finding B. The proposed Amendment is consistent with the goals and policies of Title 17 of the Municipal Code (Zoning Ordinance).

Findings of Fact: The proposed amendment to Title 17 (Zoning) is internally consistent with the rest of Title 17. This proposed amendment will create opportunities for attractive and safe residential housing for all current and future City of Banning residents from all socio-economic groups. The Project will also implement Housing Element Policy 2.2 by supporting the development of housing affordable to all income groups by utilizing a variety of public and private efforts.

Finding C: That the Planning Commission has independently reviewed and considered the requirements of CEQA. Findings of Fact: As stated in Section 1 of this Resolution, Planning Division staff find and

determine that the proposed amendments to Title 17 (Zoning), as set forth in Exhibit B to this Resolution, is not subject to CEQA pursuant to State CEQA Guidelines Section 15061(b)(3); the Planning Commission has reviewed staff's determinations of exemption from CEQA, and recommends that the City Council, based on its own independent judgement, concur with staff's determination of exemption and direct the Community Development Director to file the Notice of Exemption attached as Exhibit A to this Resolution.

#### Environmental Determination

Pursuant to the California Environmental Quality Act (CEQA) and the State CEQA Guidelines, the Project is exempt from the California Environmental Quality Act (CEQA) subject to Section 15061(b)(3), because it can be seen with certainty there is no possibility these amendments may have a significant effect on the environment. Subject to Section 15061(b)(3) (Review For Exemptions) of the CEQA Guidelines, no further analysis is required and a Notice of Exemption has been prepared for the Project. Future projects subject to proposed amendments to Title 17 (Zoning) will require a discretionary permit and CEQA review, and will be analyzed at the appropriate time in accordance with CEQA.

#### Public Communication

The proposed Ordinance 1605 (Zoning Text Amendment 24-0050) to achieve certification of the City of Banning 6th Cycle Housing Element was advertised in the Record Gazette newspaper on May 17, 2024 for the May 29, 2024 Planning Commission meeting; and on June 14, 2024 for the June 25, 2024 City Council public hearing.

As of the date of this report, staff has not received any written comments on the project.

#### Planning Commission Action

On May 29, 2024, the Planning Commission voted unanimously to adopt PC Resolution 2024-11, recommending that the City Council adopt Ordinance 1605; and find that the project is exempt from the California Environmental Quality Act pursuant to Section 15061(b)(3) of the CEQA Guidelines.

#### **FISCAL IMPACT:**

Other than staff time, none if adopted but potentially severe sanctions if the Housing Element is not Certified by HCD. Future residential or mixed-use development pursuant to adopted Housing Element goals and policies will be paid for through the submittal of developer fees.

#### **ALTERNATIVES:**

1. Adopt Ordinance 1605 (ZTA 24-0050)
2. Direct staff to the revise the Draft Zoning Text Amendment
3. Provide alternative direction to staff.

#### **ATTACHMENTS:**

1. [Ordinance 1605.docx](#)
2. [RE\\_ Draft Zoning Ordinance 16xx, City of Banning, CA HCD Certification Review.pdf](#)
3. [draft\\_NOE\\_ZTA\\_24-0050.docx](#)
4. [2024 06 11\\_PHN ZTA 24-0050 \(Housing Element Implementation 2\).docx](#)