



CITY OF BANNING STAFF REPORT

TO: CITY COUNCIL

FROM: Robert Fisher, Acting City Manager

PREPARED BY: David Newell, Community Development Director

MEETING DATE: May 13, 2025

SUBJECT: Consideration of (1) Resolution 2025-59, Approving the Banning Commerce Center Project by Sansone Group, Including a Design Review Application, Case DR 21-7017, for the Construction of a 1,320,284-Square Foot Industrial Warehouse Building on 131.28-acres of Land Generally Located North of the I-10 Freeway/E. Ramsey Street, East of N. Hathaway Street and Bisected by Wilson Street ("Project Site") and a Tentative Parcel Map Application, Case TPM 38756, for the Subdivision of the 131-28-acre Project Site into Three Numbered Lots for Private Development Improvements and Four Lettered Lots for Right-of-Way and Other Improvements; (2) Resolution 2025-60, Certifying the Environmental Impact Report (SCH No. 2022090102), Adopting Findings and a Statement of Overriding Considerations, and Adopting a Mitigation Monitoring and Reporting Program for the Banning Commerce Center Project Consisting of a 1,320,284-Square Foot Industrial Warehouse Building on 131.28-acres of Land Located on the Project Site; and (3) Introduction and First Reading of Ordinance 1609, Approving a Development Agreement By and Between the City of Banning and JDJN Enterprises, LLC, a Missouri Limited Liability Corporation

RECOMMENDATION:

1. Adopt Resolution 2025-59.
2. Adopt Resolution 2025-60.
3. Introduce and conduct first reading of, by title only, Ordinance 1609: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING A DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF BANNING AND JDJN ENTERPRISES, LLC, A MISSOURI LIMITED LIABILITY CORPORATION

BACKGROUND:

Project Location:

The Site is located in the eastern portion of the City of Banning, and is generally bounded by Interstate 10 and Ramsey Street to the south with the Banning Municipal Airport located further south of I-10; vacant land and the California Highway Patrol (CHP) Banning West Weigh Station to the east; and vacant lands to the north and west. Immediately north of the Project site is Morongo Band of Mission Indians Tribal Land. The Site is located east of the intersection of Hathaway Street and Morongo Road and the Site's development involves improving and extending Wilson Street from this intersection, requiring a realignment of Morongo Road further north on Hathaway Street. The Site comprises eight Assessor's Parcel Numbers (APNs) totaling 131.28 acres: 532-030-008, 532-030-009, 532-080-008, 532080-010, 532-090-026, 532-090-028, 532-090-030, 532-110-015 ("Project Site").

Proposed Applications:

The applications that have been filed in conjunction with this project and the scope of the City Council's review are the following:

- Design Review, Case DR 21-7017 for the construction of one concrete tilt-up speculative industrial building of approximately 1,320,284 square feet, with approximately 39,600 square feet of office space and 1,312,284 square feet of warehousing on the 131.28-acre Project Site. The location of office space within the speculative warehouse building is not currently known, however, it would likely be located on the southwestern or southeastern corners of the building. For the purposes of the Environmental Impact Report (EIR) and the analyses contained therein, it is assumed that the Project would consist of approximately 640,200 square feet of warehousing and approximately 640,200 square feet of high-cube fulfillment uses. The City Council shall review the Design Review application for conformance to the criteria listed in Banning Zoning Ordinance (BZO) Section 17.56.050.
- Tentative Parcel Map, Case TPM 38756, for the subdivision of the 131.28-acre Project Site. The Tentative Parcel Map establishes road rights-of way, Project development areas, public infrastructure locations, and easements for various public facilities. The TPM proposes seven (7) new parcels (including four lettered and three numbered lots), consisting of a variety of industrial and civic uses, lot types and sizes ranging from 1.34 acres to 89.5-acres, common open spaces, and circulation, access easements and other public improvements. The proposed map furthers the objectives and policies of the General Plan in that 89.5 acres of the project area is dedicated to industrial development and related site improvements, and 17.23-acres will be dedicated to new right-of-way improvements consistent with the Circulation Element. The City Council shall review the Tentative Parcel Map application for conformance to the criteria listed in Banning Municipal Code Title 16.14.030.
- Development Agreement is proposed to specify terms and obligations between the developer and City, including public benefit fees, land dedication, term for development and other items specific to the Project. The terms are described in more detail later in this report. The City Council shall review the Development Agreement application for conformance to the criteria listed in BZO Section 17.60.030(C).

In addition to the above, due to the project's proximity to the Banning Municipal Airport, the Project is subject to review by the Riverside County Airport Land Use Commission (ALUC). The site is located within Airport Compatibility Zone D of the Banning Municipal Airport Influence Area (AIA), requiring an ALUC determination of consistency with the County's Airport Land Use Compatibility Plan. On April 1, 2025, the ALUC Director determined the project is consistent with their Plan, subject to the City applying conditions to its approval (Letter Attached). These conditions are included in the draft conditions of approval attached to this report.

Other City permits required for the Project may include, but are not limited to: issuance of encroachment permits for driveways, sidewalks, and utilities; security and parking area lighting; demolition permits; building permits; grading permits; tenant improvement permits; and permits for new utility connections.

Planning Commission Action:

On March 5, 2025, the Planning Commission voted 3-2 and adopted Resolution 2025-04 recommending the City Council approve the Project applications and certify the EIR. In addition to the conditions recommended by staff, the Planning Commission conditioned this recommendation on the following:

1. Negotiate with City Attorney on concerns on development agreement, including Community Facilities District (CFD), Development Impact Fee (DIF) credits, and other concerns.
2. Improve Hathaway Street to four lanes with parking (or wide shoulder) on the west side of the street and turn pockets at each intersection.
3. The Developer shall do their best efforts to do local hiring.

Additional discussion on these conditions is provided later in this report.

Comments from Planning Commissioners opposed to the motion included the following:

1. Non-compliance with the Criteria Cell and Special Linkage requirements of the Multiple Species Habitat Conservation Plan (MSHCP)
2. Missing decision from ALUC
3. Concern with inadequate information on cumulative traffic impacts due to the cumulative project list not including the occupancy of the warehouse at 200 John Street

The Applicant has provided a response to these items in a response letter attached to this report.

Existing Conditions:

The Project site consists of vacant, mostly undeveloped land that contains non-ornamental vegetation.

The western portion of the Project site contains a 5-acre stockpile that is approximately 15 to 20 feet in height. The material originated during the grading of the adjacent site to the west. Additionally, there is an existing Southern California Edison (SCE) 112-kilovolt (kV) transmission line that bisects the Project site in a southwest-northeast manner. An unpaved access/utility road exists to serve this transmission line. Additionally, there is an unpaved road that runs east-west along the northern portion of the Project site.

The Project site is gently sloping and does not contain drastic elevation changes over short distances. Project site elevations range from approximately 2,325 feet above mean sea level (AMSL) at the northwest corner of the Project site near the intersection of Hathaway Street and Morongo Road, and approximately 2,152 feet AMSL at the southeast corner of the Project site. There is approximately 173 feet of elevation difference across the Project site and the average site gradient is approximately 3.8 percent. The existing drainage pattern for the Project site is characterized by sheet flows across the Project site towards the southeasterly corner of the Project site. Runoff is captured by an existing earthen ditch on the southern boundary of the Project site and is conveyed easterly into the California Department of Transportation (Caltrans) right-of-way. The Project site lies within the San Geronio River Watershed and ultimately discharges into the Salton Sea.

Analysis – Development Applications:

The Banning Commerce Center Project the development of approximately 1,320,284 square feet of warehouse building (including office space) within one concrete tilt-up building. The Project also proposes associated facilities and improvements of the Project Site including on-site parking, loading docks, landscaping, and other related onsite and off-site improvements. A sewer lift-station is required on the southwesterly portion of the site (Lot “D” of the Tentative Parcel Map) and an electrical substation may be constructed on the northwesterly area of the project site (north side of Wilson Street extension on Lot “C” of the Tentative Parcel Map).

Zoning. The property is located within the Business Park Zone. Pursuant to the permitted uses table in BZO Section 17.12.020, warehousing is permitted as a by-right use. The building complies with standards in 17.12.030, including building height (50-ft. maximum and 50-ft. proposed), required setbacks (10-ft. minimum front and 254-ft. proposed), and lot coverage (60% maximum and 34% proposed).

Site Access, Project Circulation and Parking. Regional access to the Project would be provided from I-10. Local access would be provided via East Ramsey Street, Hathaway Street, Wilson Street, and Nicolet Street. Project site ingress and egress for the Project building would be via two driveways: one 44-foot wide driveway at the intersection of Nicolet Street and O'Donnell Street and one 52-foot wide driveway along Wilson Street. The Project access point along Wilson Street would be signalized. The Project access points from Nicolet Street and O'Donnell Street would be unsignalized. While not considered as part of the Project, the City has currently proposed a roadway alignment on the eastern portion of the Project site for the future alignment of Cottonwood Road. This road would connect the Project to a proposed interchange with I-10. At such a point when the proposed interchange and roadway are constructed, there would be additional regional access to/from the Project site. Emergency access to the Project site would be provided by the proposed driveways located at the intersection of

Nicolet Street and O'Donnell Street and at the driveway along Wilson Street.

Based upon a site-specific parking analysis for the various occupancy types proposed for the site, Banning Municipal Code Section 17.12.110 requires a total of 802 parking stalls for the Project site. Parking stalls would be provided in a combination of 805 passenger vehicle parking stalls, consisting of a combination of standard auto stalls, ADA stalls, and electric vehicle (EV) charging stations. Specifically, 614 standard stalls, 17 Americans with Disabilities Act (ADA) stalls, 3 ADA van stalls, and 171 electric vehicle (EV) stalls to include a combination of standard EV, EV ADA, EV ADA Van, and ambulatory EV stalls will be provided. Parking for 82 bicycles would also be provided on site. Additionally, 270 truck trailer parking stalls (including dock doors and surface parking) are proposed at the building and 205 truck trailer parking stalls are proposed on the Project site north of Wilson Street. The Project would exceed the City requirement of 802 standard stalls by 3 standard parking stalls.

In addition to the improvements located on the Project site, the Applicant will improve the Project frontage with full- or half-width roadway improvements for the functional classification of the roadways. Improvements would include roadway paving, curb and gutter, sidewalk, lighting, landscaping, underground utility infrastructure (water, sewer, electrical, storm), and striping as follows:

- **Wilson Street.** The Project will be required to construct half-width improvements of Wilson Street along the Project frontage from Hathaway Street to the intersection of Wilson Street and O'Donnell Street. The remaining half of Wilson Street along this segment is to be constructed by others. The Project will construct fullwidth improvements of Wilson Street from the intersection of Wilson Street and O'Donnell Street to the eastern extent of the easternmost driveway along the Project's northern portion.
- **O'Donnell Street.** The Project will require constructing half-width improvements of O'Donnell Street along the Project frontage from Nicolet Street to the intersection of Wilson Street and O'Donnell Street. The remaining half of O'Donnell Street along this segment is to be constructed by others.
- **Nicolet Street.** An additional access road consisting of the extension of Nicolet Street from Hathaway Street to O'Donnell Street, will be required to comply with Fire access requirements.

The Project Site includes frontage on its easterly side for the future Cottonwood Road, which will be required as part of the realignment of the Ramsey Street/I-10 interchange. However, improvement of this street is not required at the time of the development of the Project.

Storm Drainage and Water Quality. The storm drain infrastructure to be constructed by the Project would be installed as part of the roadway improvements of O'Donnell Street and Wilson Streets along the Project frontages. These storm drains would be conveyed into the existing City of Banning storm conveyance infrastructure. In addition, on-site storm water retention infrastructure, including storm catch basins, underground conveyance, a concrete reinforced drainage swale on the northern Project boundary, and detention basins located on the southern and northern portions of the Project site would be constructed to intercept and retain the 100-yr 3-hour stormwater flows pursuant to the City of Banning Municipal Code Section 13.24.110. A total of six detention basins are proposed on the Project site and have the capacity to detain 21.76 acre-feet of storm flows on the Project site. A drainage swale is proposed along the northern boundary of the Project site which would intercept and convey off-site sheet flows and shallow concentrated flows from the north to the east then south along to eastern boundary of the Project site. These flows would be conveyed into existing Caltrans stormwater infrastructure located at the CHP Banning West Weigh Station.

Grading Improvements. Retaining walls would be constructed onsite to address the approximately 173-foot elevation change across the Project site. These retaining walls would be located on the northwest, north, south and southeast portions of the Project Site, with wall heights ranging from 2 to 10 feet. It is anticipated that a net import of 250,000 CY of earthwork will be required for the implementation of the Project. As part of the grading required for the Project, the maximum depth of excavation would be approximately 40 feet below grade.

Electrical Infrastructure. Existing on-site SCE transmission lines would be relocated to accommodate the Project. These transmission lines would be rerouted and installed underground within the rights-of-way of O'Donnell Street and Wilson Street as part of the off-site roadway improvements along the Project frontages. The undergrounding of above-ground electrical infrastructure would start at the intersection of Nicolet Street and O'Donnell Street, then northward along O'Donnell Street to the intersection of O'Donnell Street and Wilson Street, then eastward along Wilson Street to the eastern driveway along the northern portion of the Project site. At this point, the transmission line would daylight and continue along the proposed Wilson Street alignment to connect with the existing SCE transmission line at the northeast corner of the Project site.

Architecture. The proposed architectural design for the concrete, tilt-up building is a contemporary style of industrial building with variations in roof planes, wall planes, generous use of reveals to lend shading interest, glass windows with anodized aluminum trim, metal awning accents over entrances, and a pleasing and contrasting warm earth-tone paint palette. The variations in wall plane and roof plane movement are consistent with the City's Industrial Design Guidelines.

Landscaping. Irrigated landscaped areas would be constructed as part of the Project. Landscaping would include drought-tolerant shrubs, ground cover, and ornamental trees. The storm water basin(s) would be planted with grasses and shrubs tolerant of seasonal water inundation. Landscaping would be planted along Project frontages to provide screening from the public rights-of-way. Based upon comments received during the DEIR public review and comment period, a revised conceptual landscape plan for the project has been included in the Final EIR.

Other Off-Site Improvements. Recommendations made in the 2023 Traffic Analysis (FEIR Appendix K1) prepared for the Project are based on the minimum improvements needed to accommodate site access and maintain acceptable peak hour operations for the Project. Intersection improvements are recommended for seven intersections. For those improvements listed in Section 4.12 Transportation, Table 4.12-3 and not constructed as part of the Project, the Project Applicant's responsibility for the Project's contributions towards deficient intersections is fulfilled through payment of fair share contributions or fees that would be assigned to construction of the identified recommended improvements. The Project Applicant would be required to pay fair share and fees consistent with the City's requirements.

A sanitary sewer lift station would be required to be constructed in order to serve the Project. However, this sanitary lift station would serve all other projects in the vicinity to the Project. As this area of the City has been identified by the City for development and was analyzed within the General Plan EIR, this new infrastructure would not have been previously unknown. Further, the lift station, and associated force main and gravity main would be constructed within already established ROW or within easements to be dedicated to the City on land previously disturbed. Further, this lift station is currently planned to be a public lift station and would not necessarily be implemented by the Project, however, the Project's contribution to fair share funding and development impact fees would provide for the implementation of the lift station.

Hours of Operation and Employment. As the end-user of the Project is currently unknown and the ultimate Project use is speculative, it is assumed that the Project would operate 24 hours a day, seven (7) days a week. Likewise, it is assumed that approximately 2,841 employees would be employed on-site across three (3) shifts (947 employees per shift).

Analysis - Development Agreement:

California Government Code, §65864 through 65869.5, establish procedures for cities and counties to enter into development agreements; BZO Chapter 17.60 implements the requirements of state law and specifies the required content and process for review and approval of development agreements. Development agreements establish a vested right to proceed with development in conformation with the regulations in effect at the time of approval. This provides assurance to a developer that the project may

proceed as originally approved, and not be affected by future changes in land uses regulations. In exchange for this assurance, the developer may agree to provide additional dedications, construction of public improvements, or other similar public benefits.

The proposed Development Agreement is included as an attachment to this report. Points that have been negotiated between the City and the Applicant are as follows:

1. Term of Agreement. The agreement has a term of fifteen (15) years with an option to extend five (5) years.
2. Vesting of Development Rights. As a material inducement to Developer and its lenders to continue with diligent efforts to promote the development of the Property, Developer shall have the vested right to develop the Project on the Site in accordance with the terms and conditions of the Project Approvals, this Development Agreement, and the Existing Development Regulations, and City shall have the right to control development of the Site in accordance with the provisions of the Project Approvals, this Development Agreement, and the Existing Development Regulations.
3. Subdivision Map Extension and Other Development Approvals. As permitted by Government Code § 66452.6, each subdivision or parcel map, heretofore or hereafter approved in connection with development of the Site or the Project shall be extended and shall remain in effect for the term provided by the Agreement. In addition, all subsequently adopted discretionary project approvals shall remain in effect for the term provided by this Development Agreement.
4. Development Impact Fees. Development Impact Fees ("DIF") currently imposed are identified as applicable. Impact fees and sewer and water connection and capacity fees shall be those in effect at the time of the issuance of a building permit and due and payable by Developer prior to the issuance of the building permit for the building in question.
5. Ramsey Interchange Fee. Developer shall pay City a Ramsey Interchange Fee in the amount of Nine Million Dollars (\$9,000,000) ("Ramsey Interchange Fee") no later than two (2) years from the date of the ordinance approving the Development Agreement. If not paid within two (2) years, the fee shall be subject to CPI during the term of the agreement.
6. Electric Facilities Fee. The developer would pay \$357,000 per megavolt-amperes (MVA), based on the requested electrical load prior to issuance of building permit.
7. Electrical Substation Land Dedication. The developer is offering to dedicate Lot "C" of the Tentative Parcel Map for electric facilities and receive credit from its impacts fee payments, based on an appraised cost, and if determined the land is still necessary after its appraisal.
8. Sanitary Lift Station Land Construction and Dedication. Developer shall construct a sanitary lift station ("Lift Station") on lettered lot "D" on the proposed Tentative Parcel Map No. 38576 ("Lift Station Property") subject to plans and specifications approved by the Public Works Director. City shall issue DIF Wastewater (Sanitary) credits in the amounts of (i) the cost of designing and constructing the Lift Station, and (ii) the FMV of the Lift Station Property (collectively, "Lift Station Costs") which are in excess of the fair share of such costs attributable to the Project at full buildout as determined by the Public Works Director. Developer shall complete construction of the Lift Station prior to the issuance of the first certificate of occupancy for the Project.
9. Service and Facilities Components Required through the Formation of a Community Facilities District. After occupancy, the owner would pay \$0.10 per square foot annually (with an annual CPI escalator) for use towards maintenance of public streets, public facilities and parks, and other related improvements and maintenance in the District.

The proposed agreement was reviewed by the Planning Commission at their meeting of March 5, 2025, and was recommended for approval by the City Council subject to conditions. The conditions included the following:

1. Negotiate with City Attorney on concerns on development agreement, including Community Facilities District (CFD), Development Impact Fee (DIF) credits, and other concerns.
2. Improve Hathaway Street to four lanes with parking (or wide shoulder) on the west side of the street and turn pockets at each intersection.
3. The Developer shall do their best efforts to do local hiring.

A revised development agreement is attached to this report and includes revisions made to the agreement based on the above conditions. The one exception is Item #2 and the extent of the required

improvements to Hathaway Street. After evaluating the recommendation from the Planning Commission, the City Engineer determined that the requested improvements along Hathaway would be difficult to implement with existing constraints along this roadway. As a result, staff requested the applicant prepare an exhibit showing improvements to restrict truck entry into the residential areas located west of Hathaway and create an additional buffer via bike lane between traffic lanes and adjacent residential. Staff recommends this alternative, depicted in an Exhibit of the Development Agreement, to the recommendation on Item #2.

Environmental Determination:

Environmental Impact Report. The proposed project is subject to the California Environmental Quality Act (CEQA). Based upon the complexity and magnitude of the proposed project, staff determined that an Environmental Impact Report should be prepared for the project. A Notice of Preparation (NOP) was subsequently completed and distributed to the State Clearinghouse, as well as agencies and organizations that may provide comments on the Project's potential impact(s) on the environment. The State Clearinghouse issued a project number for the project, SCH No. 2022090102. The 30-day public comment period for the NOP extended from September 2 to October 3, 2022. An electronic copy of the NOP was made available on the City's website. Comments received during the public review of the NOP were utilized to assist in identifying potential environmental impacts addressed in Chapter 4 of the Draft EIR. A Public Scoping meeting was held in person at the City of Banning Council Chambers and virtually via Zoom on September 20, 2022. Notice of the Public Scoping Meeting was published in the Banning Record Gazette on September 2, 2022 providing the appropriate instructions for public participation in the Scoping Meeting. The Public Scoping Meeting included a presentation providing a summary of the Project, required actions, and the environmental review process. No public comments were received during the Scoping Meeting.

The Banning Commerce Center development project would result in construction and operational activities upon a currently undeveloped, vacant site. Such activities could potentially uncover Native American historical or archaeological resources unknown prior to ground disturbing activities; therefore, Native American consultation pursuant to both SB 18 and Assembly Bill 52 (AB 52) was conducted. On September 14, 2022 the City reached out to Native American contacts to formally invite participation in tribal consultation pursuant to AB 52 and SB 18 required for the Project. The City received responses from the Morongo Band of Mission Indians (MBMI) requesting formal consultation with the City regarding the Development Project, and the Yuhaaviatam of San Manuel Nation (formerly known as the San Manuel Band of Mission Indians) with YSMN stating that the development project is outside of their ancestral territory.

A Notice of Availability (NOA) of the Draft EIR was provided to responsible and trustee agencies, as well as the organizations and persons who have previously requested notification. The NOA was distributed via priority mail with confirmed receipt. The NOA identified the State mandated 45-day public review period extending from June 17, 2024 to August 2, 2024 and included a weblink to the City's public noticing page providing further access to the Draft EIR, project material, and related technical appendices. Emails advising of the availability of the Draft EIR were sent by the City on June 17, 2024 to those parties requesting electronic notification. These emails provided the same weblink leading to the Draft EIR. During the public review and comment period, the City received 14 letters from Resource Agencies, Trustee Agencies, and other interested parties. The following comment letters were submitted to the City during the public review period:

State Agencies:

S1: California Department of Fish and Wildlife

S2: South Coast Air Quality Management District

Tribal Governments:

T1: Morongo Band of Mission Indians

Local Agencies/Governments:

L1: Riverside County Flood Control and Water Conservation District

Organizations:

O1: Advocates for the Environment

O2: California Native Plant Society

O3: Center for Biological Diversity

O4: Coalition for Californians Allied for a Responsible Economy

O5: Golden State Environmental Justice Alliance

O6: Oswit Land Trust

O7: SC Wildlands

O8: SC Wildlands (2nd Letter)

O9: Stand Up for Mother Earth

The City prepared a response to each comment letter received and prepared a Final Environmental Impact Report for the Project.

Less Than Significant Impacts. Of the 20 environmental factors analyzed in the Environmental Impact Report, specific categories associated with these factors were determined to be less than significant and were not further analyzed in the Draft EIR. The categories in these specific factors include:

- Aesthetics (Thresholds 4.1-1, 4.1-2, 4.1-3, 4.1-4)
- Agriculture and Forestry Resources (Thresholds 7.2-1, 7.2-2, 7.2-3, 7.2-4)
- Air Quality (Thresholds 4.3-4)
- Biological Resources (Thresholds 4.4-4, 4.4-4)
- Cultural Resources (Threshold 4.5-1)
- Energy (Threshold 4.6-1, 4.6-2)
- Geology and Soils (Thresholds 4.7-1(i), 4.7-1(ii), 4.7-1(iii), 4.7-1(iv), 4.7-2, 4.7-3, 4.7-4, 4.7-5)
- Hazards and Hazardous Materials (Thresholds 4.9-1, 4.9-2, 4.9-3, 4.9-4, 4.9-5, 4.9-6, 4.9-7)
- Hydrology and Water Quality (Thresholds 4.10-1, 4.10-2, 4.10-3, 4.10-4, 4.10-5, 4.10-6, 4.10-7, 4.10-8)
- Land Use and Planning (Thresholds 4.11-1, 4.11-2)
- Mineral Resources (Thresholds 4.12-1)
- Noise (Thresholds 4.13-1, 4.13-2, 4.13-3)
- Population and Housing (Thresholds 4.14-1, 4.14-2)
- Public Services (Thresholds 4.15-1, 4.15-2, 4.15-3, 4.15-4, 4.15-5)
- Recreation (Thresholds 4.16-1, 4.16-2)
- Transportation (Thresholds 4.17-1, 4.17-3, 4.17-4)
- Utilities and Service Systems (Thresholds 4.19-1, 4.19-2, 4.19-3, 4.19-4, 4.19-5)
- Wildfire (Thresholds 4.20-1, 4.20-2, 4.20-4)

Less Than Significant Impacts with Mitigation. The following mitigation measures are feasible and are made binding through the Mitigation Monitoring and Reporting Program (MMRP). Based on the analysis in the EIR, imposing mitigation measures will reduce potentially significant impacts to less than significant to Air Quality, Biological Resources, Cultural Resources, Geology and Soils, Greenhouse Gas Emissions, Transportation, Tribal Cultural Resources, and Wildfires, including the below referenced mitigation measure list which are fully described in the MMRP.

- MM BIO-1: MSHCP Burrowing Owl 30-Day Preconstruction Surveys.
- MM BIO-2: Nesting Bird Preconstruction Surveys.
- MM BIO-3: USACE/CDFW/RWQCB Riverine Resources.
- MM CUL-1.
- MM CUL-2.
- MM CUL-3.
- MM GEO-1.

- MM GEO-2.
- MM GEO-3.
- MM GEO-4.
- MM TCR-1: Native American Treatment Agreement.
- MM TCR-2: Retention of Archaeologist.
- MM TCR-3: Cultural Resource Management Plan.
- MM TCR-4: Pre-Grade Meeting.
- MM TCR-5: On-site Monitoring.
- MM TCR-6: Inadvertent Discovery of Cultural Resources.
- MM TCR-7: Inadvertent Discovery of Human Remains.
- MM TCR-8: Final Report.
- MM FIRE-1: Fire Safety Requirements.

Significant and Unavoidable Impacts. Section 15126 of the CEQA Guidelines requires that the EIR identify the significant environmental effects that cannot be avoided if the proposed project should be implemented (CEQA Guidelines Section§ 15126(b)), and the significant irreversible environmental changes that would be involved if the proposed project is implemented (CEQA Guidelines Section§ 15126(c)). The City finds the Development Project would result in significant and unavoidable impacts with respect to air quality, greenhouse gas emissions, and transportation after implementation of all feasible mitigation measures. In accordance with CEQA Guidelines Section 15092(b)(2), the City cannot approve the Development Project unless it first finds (1) under Public Resources Code Section 21081(a) (3), and CEQA Guidelines Section 15091(a)(3), that specific economic, legal, social technological, or other considerations, including provisions of employment opportunities to highly trained workers, make infeasible the mitigation measures or Project alternatives identified in the EIR; and (2) under CEQA Guidelines Section 15092(b), that the remaining significant effects are acceptable due to overriding considerations described in CEQA Guidelines Section 15093 because the economic, legal, social, technological or other benefits of the proposed project outweigh its unavoidable adverse environmental effects. Therefore, a Statement of Overriding Considerations has been prepared.

Statement of Overriding Considerations. The California Environmental Quality Act provides provisions for an agency to approve a project when such a project will cause one or more significant environmental effects. In conjunction with the certification of the EIR, findings of fact are required pursuant to Section 15091 of the Public Resources Code (PRC) which provides that no public agency shall approve or carry out a project for which an Environmental Impact Report (EIR) has been certified that identifies one or more significant environmental effects of the project, unless, the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings are:

1. Changes or alterations have been required in, or incorporated into, the project, which avoid or substantially lessen the significant environmental effects as identified in the Final EIR.
2. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
3. Specific economic, legal, social, technological, or other considerations, including provisions of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the Final EIR. Additionally, the Lead Agency must not approve a project that will have a significant effect on the environment unless it finds that specific overriding economic, legal, social, technological, or other benefits of the project outweigh the unavoidable adverse environmental effects (PRC § 21081(b)).

A draft resolution for Council consideration is included as an attachment for certifying the EIR, including the adoption of findings and statement of overriding considerations and the MMRP.

JUSTIFICATION:

In order to approve the subject applications, the City Council is required to make findings pursuant to

BZO Section 17.56.050 (Design Review), Section 66474 of the Subdivision Map Act (Tentative Map), and BZO Section 17.60.030(C) (Development Agreement). The Planning Commission recommended approval of these applications pursuant to the findings in Planning Commission Resolution 2025-04. The findings are included in the draft resolution and ordinance attached to this report.

Design Review:

BZO Section 17.56.050 requires that four findings be met to justify approval of a Design Review application. The Planning Commission found the following:

Finding A: The proposed use is consistent with the General Plan.

Finding of Fact: Proposed Design Review 21-7017 is consistent with the General Plan Land Use Element Policy, which states: “The land–use map shall provide for sufficient lands to provide a large range of products and services to the City and the region while carefully considering compatibility with adjacent residential lands.” The subject property is designated Business Park (BP) on the General Plan land use map. The proposed use is consistent with the BP land-use designation and is a permitted use within the zoning district. This land use designation includes industrial parks and freestanding industrial users. Examples of permitted uses include light and medium intensity manufacturing operations, warehousing and distribution, ministorage, and associated offices. Further, Design Review 21-7017 is consistent with General Plan Economic Development Policy, which states: “The City shall take a proactive role in the retention of existing businesses and the recruitment of new businesses, particularly those that generate and broaden employment opportunities, increase discretionary incomes, and contribute to City General Fund revenues.” Approval of proposed Design Review 21-7017 would allow the applicant to promote business diversity, while providing an economic benefit to the City.

Finding B: The proposed use is consistent with the Zoning Ordinance, including the development standards and guidelines for the district in which it is located.

Finding of Fact: The proposed Project is an approximately 1,320,284 square-foot light industrial speculative warehouse facility and is consistent with the Zoning Ordinance and development standards. Warehousing and distribution are permitted uses in the Business Park zone and the Project will provide adequate parking and landscaping. Additionally, all setbacks, height requirements and other applicable standards and design guidelines have been satisfied.

Finding C: The design and layout of the proposed project will not unreasonably interfere with the use and enjoyment of neighboring existing or future development, and will not result in vehicular and/or pedestrian hazards.

Finding of Fact: The design and layout of the proposed Project is consistent with the development standards and design standards of the Banning Municipal Code. The proposed design and layout will not create any new interference with pedestrian or vehicular traffic paths of the neighboring properties or future development. Additionally, the Project proposes street frontage and circulation improvements with access to the street to be provided by driveways from Wilson Street and the intersection of Nicolet and O'Donnell Streets, and will not result in hazards for vehicles or pedestrians. The Project is conditioned to provide additional right-of-way fronting onto O'Donnell Street and to improve the roadway for Wilson Street into the site to its ultimate configuration.

Finding D: The design of the proposed project is compatible with the character of the surrounding neighborhood.

Finding of Fact: The Project is a new construction development with a proposed 1,320,284 square-foot light industrial speculative warehouse facility, which will be compatible with adjacent Industrial and other non-residentially zoned properties to the north, south, and east. The Project is considered an Industrial use. Landscaping is required to maintain the character of the surrounding neighborhood.

Tentative Parcel Map:

Pursuant to Section 66474 of the Subdivision Map Act, there are seven findings that must be met to justify approval of a Tentative Map application. The Planning Commission found the following:

Finding A: The proposed Tentative Tract Map or Tentative Parcel Map is consistent with all applicable general and specific plans.

Finding B: The design and improvements of the proposed Tentative Tract Map or Tentative Parcel Map is consistent with the zone in which the property is located.

Findings of Fact: The City's General Plan land use designation and Zoning Map will continue to indicate the designation of the project site as "Business Park," and the proposed Map provides for the accommodation of seven (7) new parcels, consisting of a variety of industrial and civic uses, lot types and sizes ranging from 1.34-acres to 89.5-acres, common open spaces, and circulation and other public improvements. The proposed map furthers the objectives and policies of the General Plan in that 89.5 acres of the project area is dedicated to industrial development, and 17.23-acres will be dedicated to new right-of-way improvements.

Finding C: The site of the proposed map is physically suitable for the type of development proposed.

Finding D: The subject site is physically suitable for the proposed density of development.

Finding of Fact: The 131.28-acre Project site is currently vacant and undeveloped. The Project site has gentle sloping and does not contain drastic elevation changes over short distances. The Project site has elevations ranging between 2,325 feet above mean sea level (amsl) on the northwest corner of the Project site at the intersection of Hathaway Street and Morongo Road, and 2,152 ft amsl on the southeast corner of the Project site. There is approximately 173 ft of elevation difference across the Project site and the site gradient is approximately 3.8 percent. The existing drainage pattern for the Project site is characterized by sheet flows across the Project site to the southeasterly corner of the Project site. Runoff is captured by an existing earthen ditch on the southern boundary of the Project site and is conveyed easterly into the California Department of Transportation right-of-way. The Project site lies within the San Gorgonio River Watershed and ultimately discharges into the Salton Sea. The proposed map as conditioned, including the mitigation measures contained within the Final Environmental Impact Report and the Mitigation Monitoring Reporting Program will ensure that the Project's development is in accordance with and will implement the public improvements and mechanisms whereby the necessary facilities and resources will be available for future uses.

Finding E: The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

Finding of Fact: With the exception of the significant and unavoidable environmental effects of the project identified in the FEIR and the MMRP, the design of the subdivision and proposed improvements are not expected to cause substantial environmental damage or to substantially injure fish or wildlife or their habitat. The project site is not in a linkage designated under the MSHCP that is a connection between substantial habitat blocks with adequate size, configuration, and vegetation characteristics to generally provide for "live-in" habitat and/or provide for genetic flow for identified covered species. Significant cumulative effects of the project on the MSHCP-covered plants and wildlife, wildlife movement, riparian/riverine areas and habitat connectivity are fully mitigated by the City of Banning's signatory status under the MSHCP and the requisite measures for mitigation of project-specific impacts to the burrowing owl, Los Angeles pocket mouse and Stephens' kangaroo rat and these species' habitat. Cumulative effects not specially covered under the MSHCP are nevertheless mitigated to less than significant levels by the broad range of habitats covered by the MSHCP, project design features and mitigation measures required for the proposed project, and payment of the MSHCP mitigation fee.

Finding F: The design of the proposed map, and its proposed design and improvements, is not likely to cause serious public health problems.

Finding of Fact: The design of the subdivision is in conformance with the City's General Plan, Zoning Ordinance and Subdivision Ordinance. Moreover, the future construction of the Banning Commerce Center development project will comply with all applicable City of Banning Ordinances, codes, and standards including but not limited to the California Uniform Building Code, the City's Ordinances relating to Stormwater runoff management and controls. The design and construction of all improvements for the subdivision will be in conformance with the City of Banning General Plan Circulation Element which

establishes the general layout and design standards for the major vehicular roadways and non-vehicular paths within the project area. The proposed street improvements and internal circulation have been created based on currently accepted standards and practices for the preservation of the public health, safety and welfare, and are in compliance with the General Plan Circulation Element. By means of the project's circulation design, the proposed street system throughout the Project area will not impede emergency vehicle access and response times throughout the neighborhoods.

Finding G: The design of the proposed map, and its proposed design and improvements, will not conflict with easements, acquired by the public at large, for access through or use of property, within the proposed subdivision.

Finding of Fact: The subdivision design with any easements acquired by the public at large for access through or use of the property. The design of the subdivision and type of improvements will maintain or reconfigure easements when necessary for public access and services, abandon those easements no longer needed for public purposes, and dedicate new easements as needed to provide for public access and services through the property within the proposed subdivision.

Development Agreement:

BZO Section 17.60.030(C) requires that two findings be met to justify approval of a Development Agreement. The Planning Commission found the following:

Finding A: The proposed Development Agreement via adoption and certification of the Final Environmental Impact Report, and approval of the Design Review and Tentative Parcel Map will be consistent with the General Plan and Zoning Map.

Findings of Fact: In accordance with the Banning Municipal Code, the Development Agreement contains provisions that set forth a defined term, the specific types, density, and intensity of uses allowed, reservations or dedication of land for public purposes, a limited stay on future development fee increases; and processes for reviewing related future approvals and amending the Development Agreement. Approval of the Development Agreement would provide for the orderly development of the Project and necessary infrastructure improvements.

Finding B: The proposed Development Agreement would promote the welfare and the interest of the City.

Findings of Fact: The Development Agreement incorporates provisions for financing, acquisition, and construction of infrastructure, for the Banning Commerce Center Project, as well as acquisition and development of public street improvements. The DA would grant the applicant vested rights to development of the Project in accordance with a phasing plan and other City approvals in exchange for certain financial contributions, including a substantial public benefit fee, and other consideration to be received by the City.

FISCAL IMPACT:

Fiscal impacts will be offset by fees and improvement costs paid by the developer, including permit applications, impact fees, and roadway and other public improvements. In addition, the City will receive directly benefit financially by the following negotiated items, which are beyond the typical fees paid by a development application if the development agreement is approved:

1. \$9,000,000 in payments to the City for funding transportation-related costs toward roadways/interchanges
2. \$357,000 payment for per megavolt-amperes (MVA), based on the requested electrical load
3. \$0.10 per sq. ft. annually (with annual CPI escalator) as part of a community facilities district to pay for on-going maintenance costs of public streets, public facilities and parks, and other related improvements and maintenance in the District; this would amount to over \$132,000 in annual revenue to offset maintenance costs.

Once the property is developed, the City will also receive additional property tax revenue from an increase in the property's assessed value in future years.

ALTERNATIVES:

1. Continue the hearing to a date certain if the Council requires further information that cannot be answered during the hearing
2. Modify the conditions for approval based on evidence received during the hearing
3. Provide alternate responses to the required findings and direct staff to return with resolution ratifying a different decision

BUDGETED?:

No

CONTRACT/AGREEMENT:

Yes

ATTACHMENTS:

1. [CC Resolution 2025-59](#)
2. [CC Resolution 2025-60](#)
3. [Exhibit A Community Development Conditions](#)
4. [Exhibit B Public Works Conditions](#)
5. [Ordinance 1609](#)
6. [Draft Development Agreement](#)
7. [Applicant Response to PC Concerns](#)
8. [Riverside Co ALUC Approval Ltr](#)
9. [EIR and Appendices Links](#)
10. [Preliminary Site, Grading, and Street Plans](#)
11. [Floor Plan and Elevations](#)
12. [Landscape Plan](#)
13. [Tentative Parcel Map, TPM 38576](#)
14. [Aerial and Vicinity Maps](#)
15. [Public Hearing Notice - City Council 5-13-25 Meeting](#)