

ORDINANCE NO. 1499

AN ORDINANCE OF THE CITY COUNCIL CITY OF BANNING, CALIFORNIA ADOPTING THE DEVELOPMENT AGREEMENT FOR THE RANCHO SAN GORGONIO SPECIFIC PLAN DEVELOPMENT AGREEMENT AND MAKING FINDINGS IN SUPPORT THEREOF

WHEREAS, Diversified Pacific filed an application with the City for a Development Agreement in conjunction with General Plan Amendment No. 13-2503, Zone Change No. 11-3501, Rancho San Gorgonio Specific Plan, Tentative Tract Map 36586, Development Agreement, and Annexation as the Parties desire to define the parameters within which the obligations of the Developer for infrastructure and public improvements and facilities will be met. Likewise to provide for the orderly development of the Developer's Property, assist in attaining the most effective utilization of resources within the City and otherwise achieve the goals of the Development Agreement associated with establishment and adoption of the Rancho San Gorgonio Specific Plan and approval of an EIR to allow the development mix of up to 3,385 residential units on approximately 540 acres; 9.3 acres for Neighborhood Commercial uses, 14 acres for an elementary school site, 210 acres for parks and recreational areas, with varying passive open space trails and sports fields, and 77 acres for circulation uses, including roadways, pathways and bridges for vehicles, bikes, pedestrian and equestrian use. The total 831 acre master plan includes 161 acres annexation.

The project also includes the construction of major on-site and off-site infrastructure, including but not limited to: various on-site and off-site street improvements to provide access to and from the project site; various on-site and off-site conveyance pipelines for sewer, water, storm drain; a multi-purpose detention basin, and grading, the construction of infrastructure and public facilities related to the Project, whether located within or outside the Developer's Property; the construction of structures and buildings; the installation of landscaping; and the operation, use and occupancy of, and the right to maintain, repair, or reconstruct, any private building, structure, improvement or facility after the construction.

Project Applicant: Peter J. Pitassi

Property Owners: Diversified Pacific owns 831 acres of vacant property, of which 161 acres are located in the County of Riverside

Project Location: South of Interstate 10 and bounded by Sunset Avenue and Turtle Dove Lane on the west, Coyote Trail and Old Idyllwild Road on the south, San Gorgonio Avenue (State Route 243) on the east, and portions of Westward Avenue to the north.

APN: 537-150-005 – 007; 537-170-002 – 004; 537-190-001 – 005,
018 – 022; 537-220-031 – 038; 543-020-001, 002, 021, 023;
543-030-001; 543-040-001, 002; 543-050-001 – 003

Specific Plan Size: 831 Acres

WHEREAS, Diversified Pacific requests approval of the Rancho San Gorgonio Specific Plan in conjunction with General Plan Amendment No. 13-2503 and Zone Change 11-3501, Tentative Tract Map No. 36586, Development Agreement, and Annexation, which would provide the Applicant with a vested right to develop their property consistent with the Rancho San Gorgonio Specific Plan development and design standards in exchange for the public benefits to the City.

WHEREAS, Chapter 17.60 of the Banning Municipal Code provides for the purpose, application and public hearing procedures, content of the Development Agreement, and environmental review.

WHEREAS, the City Attorney and the City Manager have negotiated the Development Agreement with the Applicant.

WHEREAS, the City Attorney has prepared the Development Agreement consistent with the requirements of Section 17.60.040 of the Banning Zoning Code.

WHEREAS, the approval of the Development Agreement including its companion applications for the General Plan Amendment No. 13-2503, Zone Change No. 13-3501, Water Supply Assessment, the Rancho San Gorgonio Specific Plan, Tentative Tract Map 36586 and Annexation, is considered a project pursuant to CEQA Guidelines Section 21065.

WHEREAS, consistent with Section 15083 of the California Environmental Quality Act (“CEQA”) and prior to completing the draft Environmental Impact Report (EIR), the City held an early consultation regarding the issue areas to be considered in the EIR. The City published the Notice of Preparation (“NOP”) including the Scoping Meeting in the Record Gazette and on the City’s website. The City also mailed the NOP to members of the public, organizations/groups, public agencies and persons who have requested to be on the mailing lists. As part of early consultation, the City held a public scoping meeting on April 29, 2015 at the City of Banning Council Chambers, 99 East Ramsey Street, Banning, California.

WHEREAS, consistent with Section 15086 and 15087 of CEQA, the City published the Notice of Availability (“NOA”) of the Draft EIR and made available for a 45-day public review period from June 20, 2016 through August 3, 2016. The NOA was published in the Press Enterprise and the Record Gazette, as well as on the City’s website. The City also mailed the NOA to the State Clearinghouse for distribution to State Agencies, and to organizations/groups, public agencies and members of the public who requested to be on the mailing list of the Project.

WHEREAS, the City received comment letters from members of the public, public agencies, groups/organizations, and persons who requested to be a part of the mailing list of the Project regarding the Draft EIR and the impacts of the Ranch San Geronio Specific Plan, including its associated applications referenced herein.

WHEREAS, consistent with Section 15088 of CEQA, the City evaluated the responses received from members of the public, public agencies, groups/organizations, and persons who requested to be a part of the mailing list of the Project and prepared written responses which culminated in a Final EIR for the Project and is referenced herein. The Final EIR was made available for 10-day public review on September 16, 2016. The Final EIR was made available at City Hall Community Development Counter.

WHEREAS, on September 7, 2016, the Planning Commission held a duly-noticed public hearing, at which time the Commission considered the public testimony, staff report, full documentation of the Final EIR and all other documentation relating to the Project, and the Commission recommended approval of the Project, certification of the Final EIR, adoption of the Statement of Overriding Considerations and Findings of Fact to the City Council.

WHEREAS, on September 16, 2016, the City gave public notice by advertisement in the Press Enterprise and the Record Gazette newspaper of a public hearing concerning the Project to be held before the City Council. In addition, the City mailed public hearing notices to the owners of properties that are located within a 1200' radius of the project boundaries and to interested persons who requested to be on the mailing lists for the project. On September 27, 2016, the City Council held its public hearing on the Project and the Final EIR, to consider public testimony, the staff reports and presentations, full copy of the Final EIR, Statement of Overriding Considerations and Findings of Fact and all other documentation relating to the Project.

NOW THEREFORE, the Planning Commission of the City of Banning does hereby ordain, determine, find, and order as follows:

SECTION 1. ENVIRONMENTAL FINDINGS.

A Final Environmental Impact Report [EIR] (SCH No. 2015041064), including Draft EIR and Mitigation Monitoring and Reporting Program, Statement of Overriding Considerations and Findings of Fact was prepared in accordance with the California Environmental Quality Act ("CEQA"), the State CEQA Guidelines, and the City of Banning Environmental Review Guidelines. City Council Resolution No. 2016-83 as referenced herein provides environmental findings for the project.

SECTION 2. REQUIRED FINDINGS FOR DEVELOPMENT AGREEMENT:

Finding No. 1: The proposed Development Agreement is consistent with the General Plan and Applicable Specific Plan.

Finding of Facts: With approval of the Development Agreement, the City has approved the Specific Plan, which contemplates very low, low, medium and medium-high density residential development, to a maximum total of 3,385 dwelling units, 9.3 acres of neighborhood commercial development, parks and other public uses, a Tentative Tract Map No. 36586, Annexation to incorporate 161 acres of property within the Project Sphere of Influence and has certified a Final Environmental Impact Report, State Clearinghouse No. 2015041064 and adopted a Statement of Overriding Considerations and Findings of Fact. Through the adoption of the Rancho San Gorgonio Specific Plan, the proposed Map provides for the accommodation of forty-four (44) planning areas, consisting of a variety of residential densities, lot types and housing types, common open spaces, an elementary school, and a commercial area. The density level and number of units for each housing type will be commensurate with each residential zoning classification. The Project's density meets the objectives and policies of the General Plan Housing Element in meeting the City's Regional Housing Needs Assessment (RHNA) objectives.

Finding No. 2: The proposed Development Agreement would promote the welfare and interest of the City.

Finding of Facts: The proposed Development Agreement would promote the welfare and the interest of the city. The development of the Rancho San Gorgonio Specific Plan requires an up-front and substantial investment in public infrastructure costs. The infrastructure to be developed includes streets, sewer, water, storm drain and flood control. The City of Banning and Developer therefore desire to define the parameters within which the obligations of the Developer for infrastructure and public improvements and facilities will be met and to provide for the orderly development of the Developer's property, assist in attaining the most effective utilization of resources within the City and otherwise achieve the goals of the Development Agreement Statute. In consideration of these benefits to the City, the Developer will receive assurances that the City shall grant all permits and approvals required for total development of the Developer's property and will provide for the assistance called for in this Agreement in accordance with the terms of this Agreement.

With the vested right to develop the property, the City will receive the following benefits that promote the general welfare and interest of the City:

- The term of the Development Agreement shall commence on the Effective Date and shall continue for a period of forty (40) years, subject to review, to determine whether the development goals have been met.
- A substantial investment in infrastructure as mentioned above.
- New master planned community that provides a cohesive, well-coordinated development that would provide a sense of place.
- A mix of up to 3,385 residential units and variety of home types that includes single-family homes with lot sizes, homes sizes and design, Neighborhood Commercial uses intended to provide a location for businesses and day-to-day shopping, 14 acres for an elementary school site, 210 acres for parks and recreational areas and 77 acres for circulation uses.
- Revenue from property tax, sales tax, and development impact fees as the property will be developed and improved from the current vacant state.
- The developer will provide the City with fully improved parks as part of the development that include approximately 50 acres of community and neighborhood parks and 160 acres of paseos, trails and other open space.
- The Rancho San Geronio Specific Plan will be developed in six (6) phases. Through the phasing plan, the project will provide construction jobs for the construction of the homes and for the various trades that are associated with home building which include draftsman, architects engineers, electricians, plumbing, roofing, interior design and home furnishing.
- Increase home construction provides incentives for future retailers and other commercial services to locate in Banning once the homes are occupied. The project would incentivize the local economy.

SECTION 3. CITY COUNCIL ACTION.

The City Council hereby takes the following action:

1. Adopt Ordinance No. 1499, approving the Development Agreement for the improvement of the Developer's property for purposes of effecting the structures, improvements and facilities composing the Project including, without limitation: grading, the construction of infrastructure and public facilities related to the Project, whether located within or outside the Developer's property; the construction of structures and buildings; the installation of landscaping; and the operation, use and occupancy of, and the right to maintain, repair, or reconstruct, any private building, structure, improvement

or facility after the construction and completion thereof, provided that such repair, or reconstruction takes place during the Term of this Agreement on parcels subject to this Agreement within and associated with the Rancho San Gorgonio Specific Plan as attached hereto as Exhibit "A", based on the findings of facts indicated in this resolution and the administrative record.

PASSED, APPROVED AND ADOPTED this 11th day of October, 2016.

Arthur L. Welch, Mayor
City of Banning

ATTEST:

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

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

John C. Cotti, Interim City Attorney
Jenkins & Hogan, LLP

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Ordinance No. 1499 was duly introduced at a joint meeting of the City Council of the City of Banning, California and the Banning Utility Authority held on the 27th day of September, 2016 and was duly adopted at a regular meeting of said City Council held on the 11th day of October, 2016 by the following vote, to wit:

AYES: Councilmembers Franklin, Moyer, Mayor Welch

NOES: Councilmember Peterson

ABSENT: None

ABSTAIN: Councilmember Miller

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