



1 Tentative Tract Map No. 2019-0001, also referred to as Tentative Tract Map No. 20237, (“TTM  
2 No. 20237”), in accordance with the Subdivision Map Act (Government Code §§ 66410 et seq.);  
3 and

4 **WHEREAS**, pursuant to Government Code Sections 65350-65362, the City Council is  
5 authorized to amend the General Plan within the City; and

6 **WHEREAS**, pursuant to Government Code Sections 65350-65362, the Planning  
7 Commission shall hold a public hearing for a proposed amendment to the General Plan and  
8 forward a recommendation to the City Council for action; and

9 **WHEREAS**, pursuant to Section 18.06.030 of the Rialto Municipal Code, the City  
10 Council is authorized to amend the boundaries of zones within the City; and

11 **WHEREAS**, pursuant to Section 18.06.030C of the Rialto Municipal Code, the Planning  
12 Commission shall hold a public hearing for a zone change and forward a recommendation to the  
13 City Council for action; and

14 **WHEREAS**, on July 31, 2019, the Planning Commission of the City of Rialto conducted  
15 a duly noticed public hearing, as required by law, on GPA No. 2019-0001, ZC No. 2019-0001,  
16 and TTM No. 20237, took testimony, at which time it received input from staff, the city attorney,  
17 and the applicant; heard public testimony; discussed GPA No. 2019-0001, ZC No. 2019-0001,  
18 and TTM No. 20237; and closed the public hearing; and

19 **WHEREAS**, on July 31, 2019, the Planning Commission voted 6-0 (1 absence) to  
20 recommend approval of GPA No. 2019-0001, ZC No. 2019-0001, and TTM No. 20237 to the  
21 City Council; and

22 **WHEREAS**, on September 24, 2019, the City Council conducted a public hearing, as  
23 required by law, on GPA No. 2019-0001, ZC No. 2019-0001, and TTM No. 20237, took  
24 testimony, at which time it received input from staff, the city attorney, and the Applicant; heard  
25 public testimony, discussed GPA No. 2019-0001, ZC No. 2019-0001, and TTM No. 20237; and  
26 closed the public hearing; and

27 **WHEREAS**, on September 24, 2019, the City Council voted 5-0 to direct staff to return  
28 with a proposed Resolution to deny GPA No. 2019-0001, ZC No. 2019-0001, and TTM No.

1 20237, incorporating the findings per the Council’s deliberations following the public hearing,  
2 for consideration at the October 8, 2019 City Council meeting; and

3 **WHEREAS**, all legal prerequisites to the adoption of this Resolution have occurred.

4 **NOW, THEREFORE**, the City Council hereby finds, determines, and resolves as follows:

5 **SECTION 1.** The City Council hereby specifically finds that all of the facts set forth in the  
6 recitals above of this Resolution are true and correct and incorporated herein.

7 **SECTION 2.** Based on substantial evidence presented to the City Council during the  
8 public hearing conducted with regard to GPA No. 2019-0001, including written staff reports, verbal  
9 testimony, project plans, other documents, and the conditions of approval stated herein, the City  
10 Council hereby determines that GPA No. 2019-0001 does not satisfy the requirements of  
11 Government Code Section 65358 pertaining to the findings which must be made precedent to  
12 amending a General Plan. The findings are as follows:

13  
14 1. That the proposed General Plan Amendment is in the public interest.

15 *This finding cannot be established, as supported by the following facts:*

16 The Project, and the related development of a private residential neighborhood with a  
17 density of 6.86 dwelling units per acre on the Site, is not consistent with existing sensitive  
18 single-family residential land uses to the north, east, and west of the Site. As confirmed by  
19 testimony provided at the public hearing, the Project will result in the development of an  
20 uncharacteristically higher-density neighborhood that will result in the creation of  
21 significant new levels of traffic, noise, and light from an excessive number of dwelling units  
that will negatively impact the nearby lower-density single-family residences to the north,  
east, and west of the Site and the local streets in the vicinity.

22 **SECTION 3.** Based on substantial evidence presented to the City Council during the public  
23 hearing conducted with regard to ZC No. 2019-0001, including written staff reports, verbal  
24 testimony, project plans, other documents, and the conditions of approval stated herein, the City  
25 Council hereby determines that ZC No. 2019-0001 does not satisfy the requirements of Section  
26 18.06.030 of the Rialto Municipal Code pertaining to the findings which must be made precedent to  
27 approving a change of zone. The findings are as follows:

- 1  
2 1. That the proposed zone change is consistent with the General Plan of the City of  
3 Rialto; and

4 *This finding cannot be established, as supported by the following facts:*

5 The applicant proposes GPA No. 2019-0001 to change the land use designation of the Site  
6 from Residential 2 with an Animal Overlay for the southern parcel (APN: 0131-131-23) and  
7 Residential 6 for the two (2) northern parcels (APNs: 0131-131-13 & -14) to Residential 12,  
8 and to change the zoning designation of the Site from Agricultural (A-1) for the southern  
9 parcel (APN: 0131-131-23) and Single-Family Residential (R-1C) for the two (2) northern  
10 parcels (APNs: 0131-131-13 & -14) to Multi-Family Residential (R-3). The Residential 12  
11 land use designation, combined with the R-3 zone, would allow single-family residential  
12 developments between 6.1 and 12.0 dwelling units per acre. GPA No. 2019-0001, ZC No.  
13 2019-0001, and TTM No. 20237 would facilitate the development of a sixty (60) single-  
14 family residence neighborhood with a density of 6.86 dwelling units per acre. The proposed  
15 designations of the Project are consistent with each other, however they are not consistent  
16 with the existing land use and zoning designations to the north, east, and west of the Site, as  
17 well as Goal 2-8 and Goal 2-9 of the General Plan.

18 The Project is not consistent with Goal 2-8 of the Land Use Element of the General Plan,  
19 which encourages the preservation and improvement of established residential  
20 neighborhoods in Rialto, specifically by discouraging extreme changes in scale between  
21 adjacent structures. As confirmed by testimony provided at the public hearing, the Project  
22 would result in the development of an uncharacteristically higher-density single-family  
23 residential neighborhood with lower setbacks than required by the zoning designations to  
24 the north, east, and west of the Site. Additionally, as further described in testimony at the  
25 public hearing, lighting and noise generated by the new residential neighborhood will  
26 excessively impact the existing low-density single-family residences to the north and east of  
27 the Site by introducing a larger number of residents in the area than currently planned for by  
28 the General Plan. The Project is also not consistent with Goal 2-9 of the Land Use Element  
of the General Plan, which strives to protect residential, schools, parks, and other sensitive  
land uses from the impacts associated with other developments. Again, the Project would  
result in the creation of significant new levels of noise and traffic from the introduction of a  
larger number of residents in the area than currently planned for by the General Plan.

- 23 2. That the proposed zone change will not adversely affect the surrounding properties.

24 *This finding cannot be established, as supported by the following facts:*

25 The Project, and the related development of a private residential neighborhood with a  
26 density of 6.86 dwelling units per acre on the Site, is not consistent with existing sensitive  
27 single-family residential land uses to the north, east, and west of the Site. As confirmed by  
28 testimony provided at the public hearing, the Project will result in the development of an  
uncharacteristically higher-density neighborhood that will result in the creation of

1 significant new levels of traffic, noise, and light from an excessive number of dwelling units  
2 that will negatively impact the nearby lower-density single-family residences to the north,  
3 east, and west of the Site and the local streets in the vicinity. Additionally, the lack of  
4 adequate funding through the proposed service community facilities district for the project  
5 would likely result in inadequate funding for required public safety resources to be deployed  
6 to the Site and its inhabitants. Without funding to assure such services, the Project would  
7 likely tend to adversely affect the enjoyment and safety of surrounding properties.

8 **SECTION 4.** Based on substantial evidence presented to the City Council during the public  
9 hearing conducted with regard to TTM No. 20237, including written staff reports, verbal testimony,  
10 project plans, other documents, and the conditions of approval stated herein, the City Council  
11 hereby determines that TTM No. 20237 does not satisfy the requirements of Government Code  
12 Sections 66473.5 and 66474 and Section 17.16.070 of the Rialto Municipal Code pertaining to the  
13 findings which must be made precedent to approving a subdivision. As documented below, the  
14 Project does not satisfy findings number 6. The findings are as follows:

- 15 1. That the proposed tentative tract map is consistent with the General Plan of the City  
16 of Rialto and the Multi-Family Residential (R-3) zone, as applicable; and

17 *This finding cannot be established, as supported by the following facts:*

18 The proposed density of the Site, as a result of the Project, is 6.86 dwelling units per acre,  
19 which is not authorized under the current zoning designations of Agricultural (A-1) for the  
20 southern parcel (APN: 0131-131-23) and Single-Family Residential (R-1C) for the two (2)  
21 northern parcels (APNs: 0131-131-13 & -14) of the Site, which allow a maximum of 2.0  
22 and 6.0 dwelling units per acre, respectively.

23 Without approval of GPA No. 2019-0001 and/or ZC No. 2019-0001, TTM No. 20237  
24 would not be consistent with the current land use and zoning designations of the Site.

- 25 2. That the design and improvements of the proposed tentative tract map are consistent  
26 with the Subdivision Ordinance, the General Plan of the City of Rialto, and the  
27 Multi-Family Residential (R-3) zone; and

28 *This finding cannot be established, as supported by the following facts:*

The Project will comply with all of the technical standards required by Subdivision Map  
Act. However, the Project is inconsistent with the current zoning, as described above..

1 An existing portion of Acacia Avenue will provide the primary access to the Project. A new  
2 distinctive entryway, featuring a landscaped median, decorative paving, and signage, will be  
3 located near the center of the Acacia Avenue street frontage. The applicant proposed to  
4 install a secondary emergency-exit only driveway at the south end of the Acacia Avenue  
street frontage. Access within the Project was proposed to be provided by a new private  
street system throughout the inside of the project site.

- 5 3. That the site is physically suitable for the type of proposed development, but is  
6 inconsistent with the current General Plan land use and Zoning Code designations  
for the Site, as described above; and

7 *This finding is supported by the following facts:*

8 The Site is a relatively flat, rectangular, expansive in size, and development of the land  
9 should be easily accommodated. The applicant would have been required to submit a  
10 geotechnical/soils report to the Public Works Department for review and approval prior  
to issuance of any building permits.

- 11 4. That the site is physically suitable for the proposed density of the development; and

12 *This finding cannot be established, as supported by the following facts:*

13 The Site is 8.74 net acres in size. Without approval of GPA No. 2019-0001 and ZC No.  
14 2019-0001 the maximum density allowed on the Site will be 12.0 dwelling units per acre,  
15 which is inconsistent with the current General Plan land use and Zoning Code designations,  
16 as described above, to accommodate the proposed density of 6.86 dwelling units per acre.

- 17 5. That the design of the land division is not likely to cause substantial environmental  
18 damage or substantially injure fish, wildlife, or their habitat; and

19 *This finding is supported by the following facts:*

20 According to Section 4.4.2 of the General Plan Environmental Impact Report, the Site is  
21 designated as a habitat for the endangered Delhi Sands Flower-Loving Fly (DSF).  
22 However, the applicant hired Powell Environmental Consultants to conduct survey of the  
23 Site in 2017 and 2018 to determine if the DSF was present on the Site. Each survey  
24 determined that the DSF was not present on the Site. A condition of approval contained  
25 herein requires the applicant to provide the Planning Division with documentation of  
26 clearance from the United States Fish & Wildlife Services prior to the commencement of  
any ground disturbance activities on the Site. Additionally, the initial study prepared for the  
Project determined that the Site did not contain suitable habitat for any other known  
threatened or endangered species, including the Burrowing Owl and the San Bernardino  
Kangaroo Rat.

- 27 6. That the design of the land division is not likely to cause serious public health  
28 problems; and

1                    *This finding cannot be established, as supported by the following facts:*

2                    The Project, and the related development of a private residential neighborhood with a  
3                    density of 6.86 dwelling units per acre on the Site, is not consistent with existing sensitive  
4                    single-family residential land uses to the north, east, and west of the Site. The Project will  
5                    result in the development of an uncharacteristically higher-density neighborhood that will  
6                    result in the creation of significant new levels of traffic, noise, and light from an excessive  
7                    number of dwelling units, more than planned for by the current land use and zoning  
8                    designations. More specifically, the traffic study prepared for the Project estimated the  
9                    generation of approximately 576 daily passenger car trips, with 45 AM peak hour trips and  
10                    60 PM peak hour trips. The location of the access points to the neighborhood will place all  
11                    of these vehicle trips onto Acacia Avenue, a collector street that contains the fronts and  
12                    driveways of existing single-family residences along vast portions of the street. These  
13                    additional vehicle trips onto Acacia Avenue will significantly affect the existing resident's  
14                    ability to enter and exit their properties due to the increased volume in traffic. Additionally,  
15                    noise generated by the vehicles and light generated by the headlights of vehicles will  
16                    increase in the area particularly affecting the existing residences along Acacia Avenue, as  
17                    they are in the direct path of all vehicle trips generated by the Project. Ultimately, the  
18                    Project will negatively impact the nearby existing lower-density single-family residences to  
19                    the north, east, and west of the Site and the local streets in the vicinity.

- 20                    7.            That the design of the land division or proposed improvements will not conflict with  
21                    easements, acquired by the public at large, for access through or use of, property  
22                    within the proposed land division.

23                    *This finding is supported by the following facts:*

24                    Four (4) easements exist on or in relation to the Site. The first two (2) easements are in  
25                    relation to land dedicated to the City of Rialto for road, street, highway, and other incidental  
26                    purposes. Both of these easements will remain unaffected by the Project. The third  
27                    easement is in favor of the Semi-Tropic Land and Water Company and dates back to  
28                    December 24, 1890. The fourth involves various agreements, conditions, and reservations  
as to water and rights-of-way and easements of undisclosed route and width, as set forth in a  
deed from John H. Carruthers to the Fontana Development Company recorded on March 30,  
1901. The locations of the third and fourth easements cannot be determined from the record  
information.

**SECTION 5.** The City Council hereby denies GPA No. 2019-0001, ZC No. 2019-0001,  
and TTM No. 20237 on the grounds that the Project is incompatible with the existing lower-density  
single-family residential uses to the north, east, and west of the Site, that the Project will be a  
detriment to the aesthetics (light pollution), noise, and the level of service of traffic in the immediate

1 area, and that the Project does not comply with the required findings necessary for approval  
2 contained in Government Code Sections 65358, 65453, 66473.5 and 66474 and Sections 17.16.070  
3 and 18.06.030 of the Rialto Municipal Code.

4 **SECTION 6.** The Mayor shall sign the passage and adoption of this resolution and  
5 thereupon the same shall take effect and be in force.

6  
7 **PASSED, APPROVED AND ADOPTED** this  8th  day of  October, 2019.

8  
9  
10 \_\_\_\_\_  
11 DEBORAH ROBERTSON, MAYOR  
12  
13  
14  
15  
16  
17  
18  
19

20 **ATTEST:**  
21  
22

23 \_\_\_\_\_  
24 BARBARA MCGEE, CITY CLERK  
25

26 **APPROVED AS TO FORM:**  
27  
28 \_\_\_\_\_

1 FRED GALANTE, CITY ATTORNEY

2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1 STATE OF CALIFORNIA )  
2 COUNTY OF SAN BERNARDINO ) ss  
3 CITY OF RIALTO )  
4

5 I, BARBARA MCGEE, City Clerk of the City of Rialto, do hereby certify that the  
6 foregoing Resolution No. \_\_\_\_\_ was duly passed and adopted at a regular meeting of the  
7 City Council of the City of Rialto held on the \_\_\_\_\_ day of \_\_\_\_\_, 2019.

8 Upon motion of Councilmember \_\_\_\_\_, seconded by Councilmember  
9 \_\_\_\_\_, the foregoing Resolution No. \_\_\_\_\_ was duly passed and adopted.

10 Vote on the motion:  
11 AYES:  
12 NOES:  
13 ABSENT:

14 IN WITNESS WHEREOF, I have hereunto set my hand and the Official Seal of the City  
15 of Rialto this \_\_\_\_\_ day of \_\_\_\_\_, 2019.  
16  
17  
18

19 \_\_\_\_\_  
20 BARBARA MCGEE, CITY CLERK  
21  
22  
23  
24  
25  
26  
27  
28

# LEGAL DESCRIPTION

## GENERAL PLAN AMENDMENT & ZONE CHANGE

### LEGAL DESCRIPTION

**APN 0131-131-13**

THE SOUTH 1/2 OF THE NORTH 1/2 OF THE WEST 1/2 OF LOT 137, TOWN OF RIALTO AND ADJOINING SUBDIVISIONS, IN THE CITY OF RIALTO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER PLAT RECORDED IN BOOK 4 OF MAPS, PAGE 11, RECORDS OF SAID COUNTY.

**APN 0131-131-14**

THE SOUTH 1/2 OF THE NORTH 1/2 OF THE WEST 1/2 OF LOT 137, TOWN OF RIALTO AND ADJOINING \_\_\_\_\_ SUBDIVISIONS, IN THE CITY OF RIALTO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER PLAT RECORDED IN BOOK 4 OF MAPS, PAGE 11, RECORDS OF SAID COUNTY.

**APN 0131-131-23**

THE SOUTH 1/2 OF THE WEST 1/2 OF LOT 137, OF THE TOWN OF RIALTO AND ADJOINING SUBDIVISIONS, IN THE CITY OF RIALTO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER PLAT RECORDED IN BOOK 4 OF MAPS, PAGE 11, RECORDS OF SAID COUNTY.

EXCEPTING THEREFROM THE WEST 235 FEET OF THE SOUTH 1/2 OF THE ABOVE DESCRIBED PROPERTY.

<p><b>LOVE ENGINEERING</b>          PLANNING • ENGINEERING • SURVEYING          31915 RANCHO CALIFORNIA ROAD/SUITE 200-166          TEMECULA, CA 92591          TEL (951) 440 - 8149 / FAX (951) 303 - 6701</p>	
PREPARED UNDER THE SUPERVISION OF:	R.C.E. NO. 50993 EXP. DATE: 9-30-19
_____ THOMAS S. LOVE	_____ DATE