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A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF RIALTO, CALIFORNIA APPROVING CONDITIONAL DEVELOPMENT PERMIT NO. 2022-0058 TO ALLOW THE INSTALLATION OF APPROXIMATELY 611 LINEAR FEET OF ELECTRIC FENCING AROUND THE PERIMETER OF AN EXISTING TOW YARD ON APPROXIMATELY 1.18 ACRES OF LAND (APNS: 0132-211-05 AND 0132-211-06) LOCATED AT 1746 SOUTH SYCAMORE AVENUE WITHIN THE FREEWAY COMMERCIAL (F-C) ZONE OF THE GATEWAY SPECIFIC PLAN.

WHEREAS, the applicant, Steve's Tow Yard, proposes to install approximately 611 linear feet of electric security fencing ("Project") around the perimeter of an existing tow yard on approximately 1.18 acres of land (APN's: 0132-211-05 & -06) located at 1746 South Sycamore Avenue within the Freeway Commercial (F-C) zone of the Gateway Specific Plan ("Site"); and

WHEREAS, Section 18.61.170 of the Rialto Municipal Code permits security fencing to be made of a combination of solid pillars, or short solid walls segments and wrought iron grille work and prohibits barbed wire, razor wire, or similar wire or security fences, but said Section 18.61.170 is otherwise silent regarding electrified fences; and

WHEREAS, pursuant to Section 18.02.050 of the Rialto Municipal Code, the installation of an electric security fence within the F-C zone, such as the Project, is subject to a determination by the Planning Commission of whether the particular use is within the scope of permitted uses and allowable accessory uses in the F-C zone; and

WHEREAS, the Planning Commission has previously approved five (5) separate electric security fences similar to the Project via a Conditional Development Permit (Conditional Development Permit Nos. 759, 774, 802, 2019-0002, and 2022-0010), thereby establishing that electric fencing may be permitted subject to the approval of a Conditional Development Permit, and the applicant has agreed to apply for Conditional Development Permit No. 2022-0058 (CDP); and

WHEREAS, on December 6, 2023, the Planning Commission of the City of Rialto conducted a duly noticed public hearing, as required by law, on the CDP, took testimony, at

1 which time it received input from staff, the city attorney, and the applicant; heard public  
2 testimony; discussed the proposed CDP; and closed the public hearing; and

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

4 NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of  
5 Rialto as follows:

6 SECTION 1. The Planning Commission hereby specifically finds that all of the facts set  
7 forth in the recitals above of this Resolution are true and correct and incorporated herein.

8 SECTION 2. Based on substantial evidence presented to the Planning Commission during  
9 the public hearing conducted with regard to CDP, including written staff reports, verbal testimony,  
10 site plans, other documents, and the conditions of approval stated herein, the Planning Commission  
11 hereby determines that CDP satisfies the requirements of Section 18.66.020 of the Rialto Municipal  
12 Code pertaining to the findings which must be made precedent to granting a conditional  
13 development permit. The findings are as follows:

- 14 1. The proposed use is deemed essential or desirable to provide a service or facility  
15 which will contribute to the convenience or general well-being of the neighborhood  
16 or community; and

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

18 The Project will provide a benefit to the community and neighborhood by serving to deter  
19 crime at the Site. Additionally, the Project will create a more secure environment for an  
20 existing tow yard operation on the Site to ensure that vehicles are not subject to external  
21 theft.

- 22 2. The proposed use will not be detrimental or injurious to health, safety, or general  
23 welfare of persons residing or working in the vicinity; and

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

25 To the north of the project site, across Valley Boulevard, is an approximately 132,000  
26 square foot industrial warehouse building located in the City of Colton. To the south  
27 there is an approximately 10,200 square foot truck repair shop, occupied by Fire  
28 Apparatus Solutions. To the east of the project site, across South Sycamore Avenue, is an  
approximately 7,677 square foot industrial building on an approximate 34,830 square  
foot industrial property in the City of Colton. To the west, there are two industrial  
developments including an approximately 10,000 square foot auto parts store, occupied  
by Clutch Meters. The zoning of the site and the properties to the south and west is

1 Freeway Commercial (F-C) within the Gateway Specific Plan. The properties to the  
2 north and east are within the jurisdiction of the City of Colton.

3 No negative impacts are expected by the proposed Project, if all Conditions of Approval  
4 are strictly followed, including regulations requiring the installation of warning signage  
5 with bi-lingual text (English and Spanish) every thirty (30) linear feet along the fence.  
6 The arrangement of the electric fencing behind an existing fencing and walls will make  
7 accidental contact highly unlikely for someone not seeking to gain unauthorized access to  
8 the site. Unlike typical electric fences, the one proposed by the applicant is a low voltage,  
9 battery powered, self-contained system with an audible siren to deter trespass and a single  
10 burst of voltage, that has a duration of four-ten-thousandths of one second (0.00004  
11 seconds), rather than a continuous current. The proposed fence is designed in compliance  
12 with the Underwriters Laboratories 69 (UL 69) standard for electric fencing. The  
13 Occupational Safety & Health Administration (OSHA) of the United States Department  
14 of Labor recognizes the UL 69 standard. OSHA maintains a database of accidental  
15 deaths from various causes and to date no deaths or incidents have occurred related to  
16 fencing installed in compliance with the UL 69 standard.

- 17 3. The site for the proposed use is adequate in size, shape, topography, accessibility  
18 and other physical characteristics to accommodate the proposed use in a manner  
19 compatible with existing land uses; and

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

21 The Site is a developed property. The Site will be able to accommodate the installation of  
22 an electric fence around the perimeter of the existing development.

- 23 4. The site has adequate access to those utilities and other services required for the  
24 proposed use; and

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

26 The Site already has access to all utilities and services required through main water, electric,  
27 sewer, and other utility lines that are hooked up to the Site. The Project is battery-operated  
28 and self-contained. It does not require the use of any utilities.

- 29 5. The proposed use will be arranged, designed, constructed, and maintained so as it  
30 will not be injurious to property or improvements in the vicinity or otherwise be  
31 inharmonious with the General Plan and its objectives or any zoning ordinances; and

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

33 The Project does not involve the altering of the Site in any manner, other than the  
34 addition of a new fence. The Project will be arranged so that the proposed electric  
35 fencing is placed behind the existing perimeter fencing and walls. This arrangement will

1 make accidental contact highly unlikely for someone not seeking to gain unauthorized  
2 access to the site. If all Conditions of Approval contained within CDP are satisfied, the  
3 Project will not negatively impact the neighboring land uses.

4 Additionally, the proposed use is consistent with Goal 5-9 of the General Plan by serving  
5 to reduce criminal activity in the City of Rialto.

- 6 6. Any potential adverse effects upon the surrounding properties will be minimized to  
7 every extent practical and any remaining adverse effects shall be outweighed by the  
8 benefits conferred upon the community or neighborhood as a whole.

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

10 The Conditions of Approval contained herein will minimize the Project's impacts. The  
11 granting of the CDP, allowing the installation of an electric fence around the perimeter of  
12 the Site, will serve to deter crime. Additionally, the Project will create a more secure  
13 environment for an existing tow truck facility on the Site. Therefore, any potential  
14 adverse effects are outweighed by the benefits conferred upon the community and  
15 neighborhood as a whole.

16 SECTION 3. The Project is categorically exempt from the requirements of the California  
17 Environmental Quality Act (CEQA), pursuant to Section 15303, New Construction or Conversion  
18 of Small Structures. The Planning Commission directs the Planning Division to file the necessary  
19 documentation with the Clerk of the Board of Supervisors for San Bernardino County.

20 SECTION 4. The CDP is granted to the applicant in accordance with the plans and  
21 application on file with the Planning Division, subject to the following conditions:

- 22 1. The approval is granted allowing the installation of approximately 611 linear feet of  
23 electric security fencing around the perimeter of an existing tow truck facility on  
24 approximately 1.18 acres of land (APNs: 0132-211-05 and 0132-211-06) located at  
25 1746 South Sycamore Avenue, as shown on the plans attached as Exhibit A and as  
26 approved by the Planning Commission. If the Conditions of Approval specified herein  
27 are not satisfied or otherwise completed, the Project shall be subject to revocation.
- 28 2. City inspectors shall have access to the site to reasonably inspect the site during  
normal working hours to assure compliance with these conditions and other codes.
3. The applicant shall indemnify, protect, defend, and hold harmless, the City of Rialto,  
and/or any of its officials, officers, employees, agents, departments, agencies, and  
instrumentalities thereof (collectively, the "City Parties"), from any and all claims,  
demands, law suits, writs of mandamus, and other actions and proceedings (whether

1 legal, equitable, declaratory, administrative or adjudicatory in nature), and alternative  
2 dispute resolutions procedures (including, but not limited to arbitrations, mediations,  
3 and other such procedures), (collectively “Actions”), brought against the City, and/or  
4 any of its officials, officers, employees, agents, departments, agencies, and  
5 instrumentalities thereof, that challenge, attack, or seek to modify, set aside, void, or  
6 annul, the any action of, or any permit or approval issued by, the City and/or any of  
7 its officials, officers, employees, agents, departments, agencies, and instrumentalities  
8 thereof (including actions approved by the voters of the City), for or concerning the  
9 Project (collectively, the “Entitlements”), whether such Actions are brought under the  
10 California Environmental Quality Act, the Planning and Zoning Law, the Subdivision  
11 Map Act, Code of Civil Procedure Chapter 1085 or 1094.5, the California Public  
12 Records Act, or any other state, federal, or local statute, law, ordinance, rule,  
13 regulation, or any decision of a court of competent jurisdiction. This condition to  
14 indemnify, protect, defend, and hold the City harmless shall include, but not be  
15 limited to (i) damages, fees and/or costs awarded against the City, if any, and (ii) cost  
16 of suit, attorneys’ fees and other costs, liabilities and expenses incurred in connection  
17 with such proceeding whether incurred by applicant, Property owner, or the City  
18 and/or other parties initiating or bringing such proceeding (collectively, subparts (i)  
19 and (ii) are the “Damages”). Notwithstanding anything to the contrary contained  
20 herein, the Applicant shall not be liable to the City Parties under this indemnity to the  
21 extent the Damages incurred by any of the City Parties in such Action(s) are a result  
22 of the City Parties’ fraud, intentional misconduct or gross negligence in connection  
23 with issuing the Entitlements. The applicant shall execute an agreement to indemnify,  
24 protect, defend, and hold the City harmless as stated herein within five (5) days of  
25 approval of CDP No. 2022-0058.

- 26 4. In accordance with the provisions of Government Code Section 66020(d)(1), the  
27 imposition of fees, dedications, reservations, or exactions for this Project, if any, are  
28 subject to protest by the applicant at the time of approval or conditional approval of  
the Project or within 90 days after the date of the imposition of the fees, dedications,  
reservations, or exactions imposed on the Project.
5. The applicant shall apply for and obtain a building permit from the Building Division  
prior to the installation of the electric fencing.
6. The applicant shall install the electric security fencing in accordance with the UL 69  
standard.
7. The applicant shall install signage containing warnings in bi-lingual text (English and  
Spanish) every thirty (30) linear feet along the proposed fence.
8. Six (6) months after the date of approval, the Planning Commission may review the  
approved electric fence to determine if the applicant has complied with all conditions  
of approval of the CDP, and to ensure that the electric fence has not become a safety  
concern.

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2 9. The applicant shall obtain all necessary approvals and operating permits from all  
3 Federal, State and local agencies prior to the issuance of a Certificate of Occupancy.

4 10. The privileges granted by the Planning Commission pursuant to approval of this CDP  
5 are valid for one (1) year from the effective date of approval. If the applicant fails to  
6 commence the project within one year of said effective date, this conditional  
7 development permit shall be null and void and any privileges granted hereunder shall  
8 terminate automatically. If the applicant or his or her successor in interest  
9 commences the project within one year of the effective date of approval, the  
10 privileges granted hereunder will continue inured to the property as long as the  
11 property is used for the purpose for which the conditional development permit was  
12 granted, and such use remains compatible with adjacent property uses.

13 11. If the applicant fails to comply with any of the Conditions of Approval placed upon  
14 CDP, the Planning Commission may initiate proceedings to revoke the Conditional  
15 Development Permit in accordance with the provisions of sections 18.66.070 through  
16 18.66.090, inclusive, of the Rialto Municipal Code. CDP No. 2022-0058 shall be  
17 revoked, suspended or modified in accordance with Section 18.66.070 of the Zoning  
18 Ordinance at the discretion of the Planning Commission if:

- 19 a) The use for which such approval was granted has ceased to exist, been  
20 subsequently modified or have been suspended for six (6) months or more;  
21  
22 b) Any of the express conditions or terms of such permit are violated;  
23  
24 c) The use for which such approval was granted becomes or is found to be  
25 objectionable or incompatible with the character of the City and its  
26 environs due to noise, loitering, criminal activity or other undesirable  
27 characteristics including, but not strictly limited to uses which are or have  
28 become offensive to neighboring property or the goals and objectives of  
the Freeway Commercial (F-C) zone of the Gateway Specific Plan and the  
City's General Plan.

29 SECTION 5. The Chairman of the Planning Commission shall sign the passage and  
30 adoption of this resolution and thereupon the same shall take effect and be in force.

31 PASSED, APPROVED AND ADOPTED this 6th day of December 2023.

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JERRY GUTIERREZ, CHAIR  
CITY OF RIALTO PLANNING COMMISSION

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

5 I, Kimberly Dame, Administrative Analyst 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 Planning  
7 Commission of the City of Rialto held on the 6th day of December, 2023.

8 Upon motion of Planning Commissioner\_\_\_\_\_, seconded by Planning Commissioner  
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 \_\_th day of December, 2023.

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20 KIMBERLY DAME, ADMINISTRATIVE ANALYST  
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Exhibit A  
“Project Plans”

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