

**RESOLUTION NO.**\_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIALTO, CALIFORNIA, APPROVING SPECIFIC PLAN AMENDMENT NO. 2022-0001 TO CHANGE THE LAND USE DESIGNATION OF APPROXIMATELY 1.67 ACRES OF LAND (APNS: 0130-013-02) LOCATED ON THE EAST SIDE OF CACTUS AVENUE APPROXIMATELY 360 FEET SOUTH OF FOOTHILL BOULEVARD FROM COMMERCIAL – MIXED USE (C-MU) WITHIN THE FOOTHILL BOULEVARD SPECIFIC PLAN TO RESIDENTIAL – HIGH DENSITY (R-HD) WITHIN THE FOOTHILL BOULEVARD SPECIFIC PLAN.

WHEREAS, approximately 1.67 gross acres of land (APNs: 0130-013-02) located on the east side of Cactus Avenue approximately 360 feet south of Foothill Boulevard, described in the legal description attached as Exhibit A (“Site”), is within the boundary of the Foothill Boulevard Specific Plan and is currently zoned Commercial – Mixed Use (C-MU); and

WHEREAS, the applicants, George Becerra and Fernando Acosta, propose to change the land use designation of the Site from C-MU to Residential – High Density (R-HD) within the Foothill Boulevard Specific Plan (“Project”); and

WHEREAS, in conjunction with the Project, the applicant has submitted Precise Plan of Design No. 2022-0025 to develop a 21-unit apartment complex with 5 Accessory Dwelling Units consisting of 8 two-story buildings and associated paving, landscaping, lighting and drainage improvements on the Site (“PPD No. 2022-0025”); and

WHEREAS, pursuant to Section 18.78.060 of the Rialto Municipal Code, the Project requires the approval of an amendment to the Foothill Boulevard Specific Plan, and the applicant has agreed to apply for Specific Plan Amendment No. 2022-0001 (“SPA No. 2022-0001”); and

WHEREAS, pursuant to Section 18.78.010 of the Rialto Municipal Code, the City Council is authorized to adopt and implement specific plans with the City; and

WHEREAS, pursuant to Section 18.78.060E and Section 18.78.060F of the Rialto Municipal Code, the Planning Commission held a public hearing for a proposed amendment to an

1 adopted specific plan and forwarded a recommendation of approval to the City Council for action;  
2 and

3 WHEREAS, on June 13, 2023, the City Council conducted a duly noticed public hearing,  
4 as required by law, on SPA No. 2022-0001 and PPD No. 2022-0025, took testimony, at which  
5 time it received input from staff, the city attorney, and the Applicant; heard public testimony;  
6 discussed the proposed SPA No. 2022-0001 and PPD No. 2022-0025; and closed the public  
7 hearing; and

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

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

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

12 SECTION 2. Based on substantial evidence presented to the City Council during the public  
13 hearing conducted with regard to SPA No. 2022-0001, including written staff reports, verbal  
14 testimony, project plans, other documents, and the conditions of approval stated herein, the City  
15 Council hereby determines that SPA No. 2022-0001 satisfies the requirements of Government Code  
16 Sections 65358 and 65453 and Section 18.78.060I of the Rialto Municipal Code pertaining to the  
17 findings which must be made precedent to amending a Specific Plan. The findings are as follows:

- 18 1. That the proposed Specific Plan Amendment is consistent with the goals and policies  
19 of the General Plan and its purposes, standards and land use guidelines; and

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

21 The Site has a General Plan designation of Specific Plan and a land use designation of  
22 Commercial – Mixed Use (C-MU) within the Foothill Boulevard Specific Plan. The Project  
23 will not affect the General Plan land use designation for the Site. The applicant proposes to  
24 change the Specific Plan land use designation of the Site to Residential – High Density (R-  
25 HD) within the Foothill Boulevard Specific Plan. The proposed R-HD land use designation  
is consistent with the Specific Plan land use designation, and both will serve to facilitate the  
Development.

26 Additionally, the Project is consistent with Goal 2-19 and Goal 2-21 of the Land Use Element  
27 of the General Plan, which encourages neighborhood preservation, stabilization, and property  
28 maintenance and ensure high-quality planned developments in Rialto. The change in the  
Specific Plan land use designation will facilitate a development of superior architectural

1 quality. The Development proposes to incorporate significant wall plane articulation and  
2 several other architectural features including varied rooflines and roof styles, concrete tile  
3 roofing, stucco exterior finishes, stone, iron accents, and trim elements consistent with  
4 contemporary architectural style.

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2. That the proposed Specific Plan Amendment will help achieve a balanced community of all races, age groups, income levels and ways of life; and

*This finding is supported by the following facts:*

The Project will facilitate the development of 21 multi-family units and 5 accessory dwelling units, which will provide new housing opportunities at varying sizes and price points available to all races, age groups, and ways of life.

3. That the proposed Specific Plan Amendment results in development of desirable character, which will be compatible with existing and proposed development in the surrounding neighborhood; and

*This finding is supported by the following facts:*

The Project will facilitate the development of a quality multi-family project. The proposed Development is consistent with the existing multi-family development across Cactus Avenue to the west of the Site and the proposed medium density residential land use would serve as an adequate buffer between the existing low density residential to the south and the remaining commercial – mixed use designated land to the north within the Foothill Boulevard Specific Plan area.

The land to the north of the Site is predominantly vacant for the nearest sensitive land uses are the existing single-family dwelling to the east and south of the Site. Although the existing land use designation allows for building heights up to 75 feet and a maximum Floor Area Ratio (FAR) up to 4.0, the proposed buildings are limited to no more than 26 feet (two-stories) in height and the proposed FAR is approximately 1.0 and therefore, the project is not expected to negatively impact any of the surrounding uses.

4. That the proposed Specific Plan Amendment contributes to a balance of land uses that will enable local residents to work and shop in the community in which they live; and

*This finding is supported by the following facts:*

The Site is bound by Cactus Avenue to the west and single-family residential neighborhoods to the east and south. The Site has remained historically vacant under the Commercial – Mixed Use (C-MU) land use designation. The likelihood that the project site will develop into a commercial – mixed use is unknown, but C-MU land use designation has not resulted in any development on the Site for 13 years. One of the market criteria that retailers look for when locating a new establishment is the number of residential rooftops in the vicinity. The proposal to change in land use designation to R-HD will accommodate the proposed

development and result in 26 new dwelling units in the immediate area. The proposed development has a density of 12.6 units per acre which is permitted under the current land use designation of C-MU which allows for the maximum density of 13 dwellings per acre. However, the C-MU land use district requires at least 50 percent of the proposed development to be commercial use. The R-HD land use designation for this property would be consistent with the Specific Plan, will serve as a buffer between the single-family zoning and the C-MU land use district and result in 26 new dwelling units to incentivize new retailer development and job opportunities for the area.

5. That the proposed Specific Plan Amendment respects the environmental and aesthetic assets of the community consistent with economic realities; and

*This finding is supported by the following facts:*

The City reviewed the 2010 Foothill Boulevard Specific Plan Initial Study – Mitigated Negative Declaration (Environmental Assessment CRP/EAR No. 10-04) prepared by Hogle-Ireland Planning, Inc. and determined that the proposed Project would result in no new significant impacts that were not analyzed in the May 2010 Foothill Boulevard Specific Plan Initial Study – Mitigated Negative Declaration (“2010 FBSP MND”), nor would the proposed Project cause a substantial increase in the severity of any previously identified environmental impacts. The potential impacts associated with proposed Project would either be the same or less than those described in the 2010 FBSP MND. In addition, there are no substantial changes to the circumstances under which the proposed Project would be undertaken that would result in new or more severe environmental impacts than previously addressed in the 2010 FBSP MND, nor has any new information regarding the potential for new or more severe significant environmental impacts been identified.

Additionally, the Development, enabled by the Project, will meet or exceed all aesthetic design guidelines required by the Foothill Boulevard Specific Plan and City’s Design Guidelines through the incorporation of landscaping, significant wall plane articulation on the building, and several other building features varied rooflines and roof styles, concrete tile roofing, stucco exterior finishes, stone, iron accents, and trim elements.

6. That the proposed Specific Plan Amendment incorporates, where feasible, active and passive energy conservation measures.

*This finding is supported by the following facts:*

The Development, enabled by the Project, is required to meet or exceed California Building Code Title 24, Part 6 Energy Efficiency Standards. This will be achieved through the implementation of features such as, but not limited to, energy efficient windows, energy efficient heating and cooling systems, painting in light off-white colors to reflect heat away, and installation of photovoltaic solar electric systems.

1        SECTION 3. An Addendum to the May 2010 Foothill Boulevard Specific Plan Mitigated  
2 Negative Declaration (Environmental Assessment Review No. 2022-0037) has been prepared for the  
3 Project in accordance with the California Environmental Quality Act (CEQA), and it has been  
4 determined that the proposed Project would result in no new significant impacts that were not  
5 analyzed in the May 2010 Foothill Boulevard Specific Plan Mitigated Negative Declaration (“2010  
6 FBSP MND”), nor would the proposed Project cause a substantial increase in the severity of any  
7 previously identified environmental impacts. The potential impacts associated with proposed Project  
8 would either be the same or less than those described in the 2010 FBSP MND. In addition, there are  
9 no substantial changes to the circumstances under which the proposed Project would be undertaken  
10 that would result in new or more severe environmental impacts than previously addressed in the 2010  
11 FBSP MND, nor has any new information regarding the potential for new or more severe significant  
12 environmental impacts been identified. The City Council hereby approves the Addendum to the May  
13 2010 Foothill Boulevard Specific Plan Mitigated Negative Declaration for the Project.  
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15        SECTION 4. The City Council hereby approves SPA No. 2022-0001 to change the Specific  
16 Plan land use designation of the Site from Commercial – Mixed Use (C-MU) within the Foothill  
17 Boulevard Specific Plan to Residential – High Density (R-HD) within the Foothill Boulevard Specific  
18 Plan, in accordance with the applications on file with the Planning Division, subject to the following  
19 conditions:  
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- 21        1. SPA No. 2022-0001 is approved changing the land use designation of a 1.67-acre parcel  
22 of land (APN: 0130-013-02) located on the east side of Cactus Avenue approximately 360  
23 feet south of Foothill Boulevard, and described in the legal description attached as Exhibit  
24 A, from Commercial - Mixed Use (C-MU) to Residential – High Density (R-HD) within  
the Foothill Boulevard Specific Plan. If the Conditions of Approval specified herein are  
not satisfied or otherwise completed, the Project shall be subject to revocation.
- 25        2. City inspectors shall have access to the Site to reasonably inspect the Site during normal  
26 working hours to assure compliance with these conditions and other codes.
- 27        3. The applicant shall indemnify, protect, defend, and hold harmless, the City of Rialto,  
28 and/or any of its officials, officers, employees, agents, departments, agencies, and  
instrumentalities thereof (collectively, the “City Parties”), from any and all claims,

1 demands, law suits, writs of mandamus, and other actions and proceedings (whether  
2 legal, equitable, declaratory, administrative or adjudicatory in nature), and alternative  
3 dispute resolutions procedures (including, but not limited to arbitrations, mediations,  
4 and other such procedures), (collectively “Actions”), brought against the City, and/or  
5 any of its officials, officers, employees, agents, departments, agencies, and  
6 instrumentalities thereof, that challenge, attack, or seek to modify, set aside, void, or  
7 annul, the any action of, or any permit or approval issued by, the City and/or any of its  
8 officials, officers, employees, agents, departments, agencies, and instrumentalities  
9 thereof (including actions approved by the voters of the City), for or concerning the  
10 Project (collectively, the “Entitlements”), whether such Actions are brought under the  
11 California Environmental Quality Act, the Planning and Zoning Law, the Subdivision  
12 Map Act, Code of Civil Procedure Chapter 1085 or 1094.5, the California Public  
13 Records Act, or any other state, federal, or local statute, law, ordinance, rule, regulation,  
14 or any decision of a court of competent jurisdiction. This condition to indemnify,  
15 protect, defend, and hold the City harmless shall include, but not limited to (i) damages,  
16 fees and/or costs awarded against the City, if any, and (ii) cost of suit, attorneys’ fees  
and other costs, liabilities and expenses incurred in connection with such proceeding  
whether incurred by applicant, Property owner, or the City and/or other parties  
initiating or bringing such proceeding (collectively, subparts (i) and (ii) are the  
“Damages”). Notwithstanding anything to the contrary contained herein, the Applicant  
shall not be liable to the City Parties under this indemnity to the extent the Damages  
incurred by any of the City Parties in such Action(s) are a result of the City Parties’  
fraud, intentional misconduct or gross negligence in connection with issuing the  
Entitlements. The applicant shall execute an agreement to indemnify, protect, defend,  
and hold the City harmless as stated herein within five (5) days of approval of SPA No.  
2022-0001.

- 17 4. In accordance with the provisions of Government Code Section 66020(d)(1), the  
18 imposition of fees, dedications, reservations, or exactions for this Project, if any, are  
19 subject to protest by the applicant at the time of approval or conditional approval of the  
20 Project or within 90 days after the date of the imposition of the fees, dedications,  
21 reservations, or exactions imposed on the Project.
- 22 5. The applicant shall comply with all conditions of approval contained in PPD No. 2022-  
23 0025, to the extent they are not in conflict with any condition of approval herein.
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SECTION 5. The Mayor shall sign the passage and adoption of this resolution and thereupon the same shall take effect and be in force.

PASSED, APPROVED AND ADOPTED this 13th day of June 2023.

DEBORAH ROBERTSON, MAYOR

**ATTEST:**

BARBARA MCGEE, CITY CLERK

**APPROVED AS TO FORM:**

ERIC S. VAIL, CITY ATTORNEY

1 STATE OF CALIFORNIA )  
2 COUNTY OF SAN BERNARDINO ) ss  
3 CITY OF RIALTO )  
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5 I, BARBARA MCGEE, City Clerk of the City of Rialto, do hereby certify that the foregoing  
6 Resolution No. \_\_\_\_\_ was duly passed and adopted at a regular meeting of the City Council  
7 of the City of Rialto held on the \_\_\_\_\_ day of \_\_\_\_\_, 2023.

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 of  
15 Rialto this \_\_\_\_\_ day of \_\_\_\_\_, 2023.  
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20 BARBARA MCGEE, CITY CLERK  
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Exhibit “A”

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