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RESOLUTION NO. 2021-XX

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF RIALTO, CALIFORNIA, APPROVING VARIANCE NO. 2021-0001 TO REDUCE THE MINIMUM REQUIRED PARKING REQUIREMENT FROM 459 PARKING SPACES TO 367 PARKING SPACES, AS IT RELATES TO A PROPOSAL TO DEVELOP OF A RESIDENTIAL MULTI-FAMILY APARTMENT COMPLEX ON 8.02 GROSS ACRES OF LAND (APNs: 0133-171-07, -08, -09, and -31) LOCATED AT 534 E FOOTHILL BOULEVARD, WHICH IS APPROXIMATELY 200 FEET EAST OF ACACIA AVENUE WITHIN THE RESIDENTIAL-MIXED USE (R-MU) ZONE OF THE FOOTHILL BOULEVARD SPECIFIC PLAN.

WHEREAS, the applicant, Frontier Enterprises, proposes the development of a 204-unit apartment complex comprised of seven three-story buildings with a maximum height of 40 feet. The proposed residential units would consist of one- to three-bedroom units, ranging between 702 square feet to 1,106 square feet, configured in four buildings that contain twenty-four (24) units and three buildings that contain thirty-six (36) units (“Development”) on 8.02 gross acres of land (APNs: 0133-171-07, -08, -09, and -31) located at 534 E Foothill Boulevard, which is approximately 200 feet east of Acacia Avenue within the Residential-Mixed Use (R-MU) zone of the Foothill Boulevard Specific Plan. (“Site”); and

WHEREAS, pursuant to Section 18.58.060B of the Rialto Municipal Code, the minimum of two parking spaces of the two required spaces may be located within an enclosed garage. The required parking spacing for the proposed 204-unit Apartment Complex Development is 459 parking spaces and the development proposes 367 parking spaces; and

WHEREAS, the proposed 367 parking spaces for the Development does not comply with Section 18.58.060B of the Rialto Municipal Code. According to the survey conducted by ITE, multi-family development peak weekday parking demand for the 204-unit Apartment Complex is 1.3 parking spaces per dwelling units, the applicant proposed a 20 percent reduction of the parking spaces required within the R-MU zone in order to facilitate the Development (“Project”); and

1 WHEREAS, pursuant to Section 18.64.030 of the Rialto Municipal Code, the Project
2 requires the approval of a Variance, and the applicant has agreed to apply for Variance No. 2021-
3 0001 (“VAR No. 2021-0001”); and

4 WHEREAS, on December 8, 2021, the Planning Commission of the City of Rialto
5 conducted a duly noticed public hearing, as required by law, on VAR No. 2021-0001, took
6 testimony, at which time it received input from staff, the city attorney, and the applicant; heard
7 public testimony; discussed the VAR No. 2021-0001; and closed the public hearing; and

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

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

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

13 SECTION 2. Based on substantial evidence presented to the Planning Commission during
14 the public hearing conducted with regard to VAR No. 2021-0001, including written staff reports,
15 verbal testimony, site plan, other documents, and the conditions of approval stated herein, the
16 Planning Commission hereby determines that VAR No. 2021-0001 satisfies the requirements of the
17 Section 18.64.020 of the Rialto Municipal Code pertaining to the findings which must be made
18 precedent to granting a variance. The findings are as follows:

- 19 1. There are exceptional circumstances or conditions applicable to the property
20 involved, or to the intended use of the property, that do not apply generally to the
21 property or class of use in the same vicinity or district.

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

23 The City requires on-site retention of stormwater. Due to the size, slope, and location of
24 the site, a large retention basin is required. Due to the high demand for multi-family
25 residential in the City, the applicant elected to not reduce the total number of dwelling
26 units to accommodate the retention basin and the applicant is requesting a reduction in
27 parking instead.

- 28 2. This variance is necessary for the preservation and enjoyment of a substantial
property right of the applicant as possessed by other property owners in the same
vicinity and district.

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

2 Developing a residentially zoned property for residential purposes in a manner consistent
3 with allowed densities is a substantial property right. Given that a large retention basin is
4 required, reduction of parking is necessary for the applicant to preserve and enjoy that
5 right.

- 6 3. The granting of this variance will not be materially detrimental to the public welfare
7 or injurious to the property or improvements in such vicinity and district in which
8 the property is located.

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

10 According to the survey conducted by ITE, multi-family development peak weekday
11 parking demand is 1.3 parking spaces per dwelling unit. At 1.8 parking spaces per
12 dwelling unit, as proposed, the project will supply sufficient parking. Moreover, the
13 development is well designed and will not be unsightly or otherwise injurious to the
14 property or improvements in the vicinity or detrimental to public welfare.

- 15 4. The proposed use and development are consistent with the General Plan and
16 objectives of the zoning ordinance.

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

18 Granting the variance will facilitate the development of a high-quality apartment complex
19 in keeping with General Plan Land Use Element Goal 2-20: which requires the City to
20 “Require high-quality multi-unit design, landscaping, and architecture.”

21 SECTION 3. Lilburn Corporation prepared an Initial Study (Environmental Assessment
22 Review No. 2021-0045) for the proposed project in accordance with the requirements of the
23 California Environmental Quality Act (CEQA). The Initial Study is attached to the agenda report
24 (Exhibit G). Based on the findings and recommended mitigation within the Initial Study, staff
25 determined that the project will not have an adverse impact on the environment and a Mitigated
26 Negative Declaration was prepared. A Notice of Intent to adopt the Mitigated Negative Declaration
27 for the project was published in the San Bernardino Sun newspaper and mailed to all property
28 owners within 660 feet of the project site. A twenty (20) day public comment period was held from
November 10, 2021, to November 29, 2021. The Planning Division did not receive any public
comment letters during the twenty (20) day public comment period. The Planning Commission

1 directs the Planning Division to file the necessary documents with the Clerk of the Board
2 Supervisors for San Bernardino County.

3 SECTION 4. That VAR No. 2021-0001 is granted Frontier Enterprises, in accordance with
4 the plans and application on file with the Planning Division, subject to the following conditions:

- 5 1. Variance No. 2021-0001 is approved to reduce the minimum required parking from 459
6 parking spaces to 367 parking spaces, as it relates to a proposal to develop a 204-unit
7 apartment complex on 8.02± acres of land (APNs: 0133-174-07, -08, -09, and -31)
8 located at 534 E Foothill Boulevard, which is approximately 200 feet east of Acacia
9 Avenue within the Residential-Mixed Use (R-MU) land use district of the Foothill
Boulevard Specific Plan, as shown on the plans submitted to the Planning Division on
September 10, 2021, and as approved by the Planning Commission.
- 10 2. City inspectors shall have access to the Site to reasonably inspect the Site during normal
11 working hours to assure compliance with these conditions and other codes.
- 12 3. The applicant shall indemnify, protect, defend, and hold harmless, the City of Rialto,
13 and/or any of its officials, officers, employees, agents, departments, agencies, and
14 instrumentalities thereof (collectively, the “City Parties”), from any and all claims,
15 demands, law suits, writs of mandamus, and other actions and proceedings (whether
16 legal, equitable, declaratory, administrative or adjudicatory in nature), and alternative
17 dispute resolutions procedures (including, but not limited to arbitrations, mediations,
18 and other such procedures), (collectively “Actions”), brought against the City, and/or
19 any of its officials, officers, employees, agents, departments, agencies, and
20 instrumentalities thereof, that challenge, attack, or seek to modify, set aside, void, or
21 annul, the any action of, or any permit or approval issued by, the City and/or any of
22 its officials, officers, employees, agents, departments, agencies, and instrumentalities
23 thereof (including actions approved by the voters of the City), for or concerning the
24 Project (collectively, the “Entitlements”), whether such Actions are brought under the
25 California Environmental Quality Act, the Planning and Zoning Law, the Subdivision
26 Map Act, Code of Civil Procedure Chapter 1085 or 1094.5, the California Public
27 Records Act, or any other state, federal, or local statute, law, ordinance, rule,
28 regulation, or any decision of a court of competent jurisdiction. This condition to
indemnify, protect, defend, and hold the City harmless shall include, but not be
limited to (i) damages, 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

1 indemnify, protect, defend, and hold the City harmless as stated herein within five (5)
2 days of approval of VAR No. 2021-0001.

- 3 4. In accordance with the provisions of Government Code Section 66020(d)(1), the
4 imposition of fees, dedications, reservations, or exactions for this Project, if any, are
5 subject to protest by the applicant at the time of approval or conditional approval of
6 the Project or within 90 days after the date of the imposition of the fees, dedications,
7 reservations, or exactions imposed on the Project.

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

10 PASSED, APPROVED AND ADOPTED this 8th day of December, 2021.

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13 FRANK GONZALEZ, CHAIR
14 CITY OF RIALTO PLANNING COMMISSION
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6 STATE OF CALIFORNIA)
7 COUNTY OF SAN BERNARDINO) ss
8 CITY OF RIALTO)
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10 I, Adrianna Martinez, Administrative Assistant of the City of Rialto, do hereby certify that
11 the foregoing Resolution No. ____ was duly passed and adopted at a regular meeting of the
12 Planning Commission of the City of Rialto held on the ____th day of ____, 2021.

13 Upon motion of Planning Commissioner_____, seconded by Planning Commissioner
14 ____, the foregoing Resolution No. ____ was duly passed and adopted.

15 Vote on the motion:

16 AYES:

17 NOES:

18 ABSENT:

19 IN WITNESS WHEREOF, I have hereunto set my hand and the Official Seal of the City
20 of Rialto this ____th day of ____, 2021.
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24 _____
25 ADRIANNA MARTINEZ, ADMINISTRATIVE ASSISTANT
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