

**RESOLUTION NO. 2021-**

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF RIALTO, CALIFORNIA CONDITIONAL DEVELOPMENT PERMIT NO. 2021-0018, A REQUEST TO ESTABLISH A PLASTIC CONVERSION TO FUEL PROCESSING FACILITY WITHIN A 14,779 SQUARE FOOT BUILDING ON 1.07 GROSS ACRES OF LAND (APN: 0258-181-09) LOCATED AT 2259 S. VISTA ROAD WITHIN THE HEAVY INDUSTRIAL (H-IND) LAND USE DISTRICT OF THE AGUA MANSA SPECIFIC PLAN.

WHEREAS, the applicant, Enerra Corporation, Inc., proposes to establish a plastic conversion to fuel processing facility within an existing 14,779 square foot building located at 2259 S. Vista Avenue (APN: 0258-181-09) within the Heavy Industrial (H-IND) land use district of the Agua Mansa Specific Plan (“Site”); and

WHEREAS, Pursuant to Table 8 within Section 4.2.2.C. of the Agua Mansa Specific Plan, any use that involves the processing of oil and/or gas, such as the Project, within the H-IND zone requires a Conditional Development Permit, and the applicant has agreed to apply for a Conditional Development Permit (“CDP No. 2021-0018”); and

WHEREAS, on December 8, 2021, the Planning Commission of the City of Rialto conducted a duly noticed public hearing, as required by law, on CDP No. 2021-0018, took testimony, at which time it received input from staff, the city attorney, and the applicant; heard public testimony; discussed the proposed CDP No. 2021-0018; and closed the public hearing; and

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

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

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

SECTION 2. Based on substantial evidence presented to the Planning Commission during the public hearing conducted with regard to CDP No. 2021-0018, including written staff reports, verbal testimony, site plans, other documents, and the conditions of approval stated herein, the

1 Planning Commission hereby determines that CDP No. 2021-0018 satisfies the requirements of  
2 Section 18.66.020 of the Rialto Municipal Code pertaining to the findings which must be made  
3 precedent to granting a conditional development permit. The findings are as follows:

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

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

8 The Project involves the production of a conventional fuel from an alternative plastic  
9 waste. Generally speaking, alternative means of providing energy is seen as critical to  
10 ensuring the sustainability of communities, including Rialto. Greater access to  
11 alternative fuels and a business as technologically advanced as the applicant's will be a  
12 great benefit to the community. Rialto historically has been a champion of "green"  
13 industry businesses, and the Project will continue to promote Rialto as a community that  
14 welcomes such businesses.

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

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

18 The project site is a 1.07-acre irregular-shaped piece of land comprised of one (1) parcel.  
19 The property is fully developed with a 14,779 square foot warehouse. It was previously  
20 occupied by a vehicle services repair shop up until October 2018. The project site is  
21 bound on the west by South Vista Avenue. To the north there is a machine shop, to the  
22 east is Old Dominion Freight Line, to the west is a maintenance shop, and south of the  
23 project site, a vehicle refinishers shop. The zoning of the project site and the properties  
24 to the north, south, east, and west is Heavy Industrial (H-IND) within the Agua Mansa  
25 Specific Plan. The Project is consistent with the Heavy Industrial (H-IND) zone and the  
26 surrounding land uses. The nearby area is predominantly zoned for and developed with  
27 heavy industrial uses, and as a result, there are no sensitive land uses near the project site.

28 Additionally, a Hazardous Material Business Plan (HMBP) and a Spill Prevention,  
Control, and Countermeasure Plan (SPCCP) will be prepared for the Project. Each plan  
will be reviewed and approved by the Rialto Fire Department, prior to issuance of any  
building permits, to ensure that the project is not a hazard to the public. With the  
implementation of the HMBP and SPCCP, and the fact that there are no sensitive uses  
adjacent to or nearby the Site, the Project is not expected to be injurious or detrimental to  
the public in any way.

The Enerra plastic waste processing facility will operate 6am - 10 pm, seven (7) days a  
week, with a staff of up to twelve (12) employees spread out over two (2) shifts. Each  
truckload of plastic feedstock will weigh approximately 24 tons. Each load will provide

1 approximately 40 bales of repurposed plastic weighing approximately 1,200 lbs. each. Each  
2 load of baled plastic feedstock can be stored in a footprint of approximately 200 sf when  
3 stacked four bales high, approximately 8' in height. Each truckload of repurposed plastic  
4 feedstock can be stored in a 200 square foot area equivalent to .012 tons per square foot. The  
facility intends to store 1-3 weeks of repurposed plastic feedstock, approximately 6-20 days  
of production. The repurposed plastic materials will be stored indoors.

5 Between 2,800 - 4,000 tons of waste of plastic from landfills will be repurposed and  
6 converted to ready to use fuel(s) kerosene, diesel, and gasoline on an annual basis. Fuels are  
7 not stored inside the building; they are continuously pumped to a Multi-Compartment Fuel  
8 Tanker Trailer staged on site. Once the tanker trailer has been filled, the fuel is transported  
9 off site for distribution. Each ton of repurposed waste plastic will produce approximately  
112 gallons of Gasoline, 55 gallons of Diesel, 23-25 gallons of Kerosene, and 40 lbs. of  
paraffin.

10 One tanker will be staged on site during batch operations. As fuels are produced, they are  
11 continually transferred directly to the Multi-Compartment Fuel Trailer, the tanker trailer will  
12 be staged outside the building, inside of the containment area until full. The full tanker will  
be removed and replaced with an empty tanker, and fuel production will be resumed.

- 13 3. The Site for the proposed use is adequate in size, shape, topography, accessibility  
14 and other physical characteristics to accommodate the proposed use in a manner  
15 compatible with existing land uses; and

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

17 The Site is 1.07 acres in size irregular-shaped piece of land comprised of one (1) parcel.  
18 The property is fully developed with a 14,779 square foot warehouse. All structures and  
19 operations will be conducted on the flat area of the Site. As evidenced by the site plan,  
20 attached as Exhibit C, the Site and building is adequate in size and shape to accommodate  
21 the proposed development. Additionally, the Project will be accessible via an existing  
22 driveway located on the west side of Vista Avenue. Furthermore, the development will  
have twenty-two (22) parking spaces, along with the reciprocal parking agreement with the  
southern property providing an additional 40 parking spaces, which exceeds the quantity of  
parking spaces required by Table 10 of Section 4.2.2.D. of the Agua Mansa Specific Plan.

- 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 will have adequate access to all utilities and services required through main water,  
27 electric, sewer, and other utility lines that will be hooked up to the Site.

- 28 5. The proposed use will be arranged, designed, constructed, and maintained so as it  
will not be injurious to property or improvements in the vicinity or otherwise be

1 inharmonious with the General Plan and its objectives, the Agua Mansa Specific  
2 Plan, or any zoning ordinances, and

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

4 The use is consistent with the Heavy Industrial (H-IND) zone. The Project, as submitted,  
5 meets or exceeds the applicable development criteria of the H-IND zone and the design  
6 criteria contained in Chapter 18.61 (Design Guidelines) of the RMC. Furthermore, the  
7 site is fully developed and will only change in the interior to install the technology that  
8 will transform plastic waste to fuel.

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

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

13 The Project's effects will be minimized through the implementation of the Conditions of  
14 Approval contained herein. The development of a technologically innovative use, such  
15 as the Project, will serve to provide advanced employment opportunities for residents and  
16 visitors to the City. The Project will also provide further access to conventional fuels  
17 made from alternative resources, which will serve to encourage, promote, and strengthen  
18 sustainability of the community. Therefore, any potential adverse effects are outweighed  
19 by the benefits conferred upon the community and neighborhood as a whole.

20 SECTION 3. the applicant, Enerra Corporation, Inc., proposes to establish a plastic  
21 conversion to fuel processing facility within an existing 14,779 square foot building located at 2259  
22 S. Vista Avenue (APN: 0258-181-09) within the Heavy Industrial (H-IND) land use district of the  
23 Agua Mansa Specific Plan.

24 SECTION 4. The Project is categorically exempt from the requirements of the California  
25 Environmental Quality Act (CEQA) pursuant to Section 15301, Existing Facilities. No new  
26 construction or physical alterations are proposed as a part of the Project. The Planning Commission  
27 directs the Planning Division to file the necessary documentation with the Clerk of the Board of  
28 Supervisors for San Bernardino County.

1        SECTION 5. CDP No. 2021-0018 is granted to Enerra Corporation, Inc, in accordance  
2 with the plans and application on file with the Planning Division, subject to the following  
3 conditions:

- 4        1. CDP No. 2021-0018 is granted allowing the reuse of plastic waste to be turned into the  
5 fuel use, from an existing tenant space located at 2259 S. Vista Avenue and as approved  
6 by the Planning Commission. If the Conditions of Approval specified herein are not  
7 satisfied or otherwise completed, the Project shall be subject to revocation.
- 8        2. City inspectors shall have access to the Site to reasonably inspect the Site during  
9 normal working hours to assure compliance with these conditions and other codes.
- 10       3. The applicant shall indemnify, protect, defend, and hold harmless, the City of Rialto,  
11 and/or any of its officials, officers, employees, agents, departments, agencies, and  
12 instrumentalities thereof (collectively, the "City Parties"), from any and all claims,  
13 demands, law suits, writs of mandamus, and other actions and proceedings (whether  
14 legal, equitable, declaratory, administrative or adjudicatory in nature), and alternative  
15 dispute resolutions procedures (including, but not limited to arbitrations, mediations,  
16 and other such procedures), (collectively "Actions"), brought against the City, and/or  
17 any of its officials, officers, employees, agents, departments, agencies, and  
18 instrumentalities thereof, that challenge, attack, or seek to modify, set aside, void, or  
19 annul, the any action of, or any permit or approval issued by, the City and/or any of  
20 its officials, officers, employees, agents, departments, agencies, and instrumentalities  
21 thereof (including actions approved by the voters of the City), for or concerning the  
22 Project (collectively, the "Entitlements"), whether such Actions are brought under the  
23 California Environmental Quality Act, the Planning and Zoning Law, the Subdivision  
24 Map Act, Code of Civil Procedure Chapter 1085 or 1094.5, the California Public  
25 Records Act, or any other state, federal, or local statute, law, ordinance, rule,  
26 regulation, or any decision of a court of competent jurisdiction. This condition to  
27 indemnify, protect, defend, and hold the City harmless shall include, but not be  
28 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  
indemnify, protect, defend, and hold the City harmless as stated herein within five (5)  
days of approval of CDP No. 2021-0018.
4. In accordance with the provisions of Government Code Section 66020(d)(1), the  
imposition of fees, dedications, reservations, or exactions for this Project, if any, are  
subject to protest by the applicant at the time of approval or conditional approval of

1 the Project or within 90 days after the date of the imposition of the fees, dedications,  
2 reservations, or exactions imposed on the Project.

- 3 5. The facility shall be restricted to processing a maximum of 4000 tons annually of  
4 repurposed waste plastic which will produce approximately 112 gallons of gasoline, 55  
5 gallons of Diesel, 23-25 gallons of Kerosene, and 40 lbs. of paraffin per ton of waste  
6 plastic processed.
- 7 6. The applicant shall obtain all necessary approvals and operating permits from all  
8 Federal, State and local agencies prior to the issuance of a Certificate of Occupancy.
- 9 7. The privileges granted by the Planning Commission pursuant to approval of this  
10 Conditional Development Permit are valid for one (1) year from the effective date of  
11 approval. If the applicant fails to commence the project within one year of said  
12 effective date, this conditional development permit shall be null and void and any  
13 privileges granted hereunder shall terminate automatically. If the applicant or his or  
14 her successor in interest commence the project within one year of the effective date of  
15 approval, the privileges granted hereunder will continue inured to the property as long  
16 as the property is used for the purpose for which the conditional development permit  
17 was granted, and such use remains compatible with adjacent property uses.
- 18 8. If the applicant fails to comply with any of the Conditions of Approval placed upon  
19 Conditional Development Permit No. 2021-0018, the Planning Commission may  
20 initiate proceedings to revoke the Conditional Development Permit in accordance  
21 with the provisions of sections 18.66.070 through 18.66.090, inclusive, of the Rialto  
22 Municipal Code. Conditional Development Permit No. 2021-0018 shall be revoked,  
23 suspended or modified in accordance with Section 18.66.070 of the Zoning  
24 Ordinance at the discretion of the Planning Commission if:
- 25 a) The use for which such approval was granted has ceased to exist, been  
26 subsequently modified or have been suspended for six (6) months or more;
  - 27 b) Any of the express conditions or terms of such permit are violated;
  - 28 c) The use for which such approval was granted becomes or is found to be  
objectionable or incompatible with the character of the City and its  
environs due to odor, noise, loitering, criminal activity or other  
undesirable characteristics including, but not strictly limited to uses which  
are or have become offensive to neighboring property or the goals and  
objectives of the Heavy Industrial (H-IND) zone of the Agua Mansa  
Specific Plan and the City's General Plan.

SECTION 6. The Chairman of the Planning Commission shall sign this resolution evidencing it's the passage and adoption of this resolution and thereupon the same shall take effect and be in force.

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

FRANK GONZALEZ, CHAIR  
CITY OF RIALTO PLANNING COMMISSION