

**RESOLUTION NO. 18-XX**

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF RIALTO, CALIFORNIA, APPROVING VARIANCE NO. 2017-0011 TO INCREASE THE MAXIMUM BUILDING HEIGHT FROM 35' TO 47' FOR FIVE (5) PARCELS LOCATED BETWEEN SPRUCE AVENUE AND CACTUS AVENUE ON THE SOUTH SIDE OF VALLEY BOULEVARD WITHIN THE GATEWAY SPECIFIC PLAN INDUSTRIAL PARK (I-P) ZONE.

WHEREAS, the applicant, Panattoni Development Company, Inc, proposes to consolidate five (5) parcels into one 19.1 gross acre lot to facilitate the development of a 404,837 square foot speculative industrial building ("Project"); and

WHEREAS, the Project location comprises 19.1 gross acres of land located between Spruce Avenue and Cactus Avenue with approximately 1,245 square feet of frontage on the south side of Valley Boulevard within the Industrial Park (I-P) zone of the Gateway Specific Plan; and,

WHEREAS, the Subdivision within the Gateway Specific Plan I-P zone requires approval of a tentative parcel map, and the applicant has applied for approval of Tentative Parcel Map No. 2017-0008, also referred to as Tentative Parcel Map No. XXXXX, ("TTM No. XXXXX"), in accordance with the Subdivision Map Act (Government Code §§ 66410 et seq.); and

WHEREAS, in conjunction with TTM No. 2017-0008 the applicant will also develop a 404,837 square foot speculative industrial building with 5,000 square feet of office space; and

WHEREAS, pursuant to Gateway Specific Plan Section 18.35.030A the maximum building height is 35 feet; and

WHEREAS, the proposed building height is 47 feet; and;

WHEREAS, pursuant to Section 18.64.030 of the Rialto Municipal Code, the Project requires the approval of a Variance, and the applicant has agreed to apply for Variance No. 2017-0011 ("VAR No. 2017-0011"); and

WHEREAS, on January 10, 2018, the Planning Commission of the City of Rialto conducted a duly noticed public hearing, as required by law, on VAR No. 2017-0011 and TPM No2017-0008, took testimony, at which time it received input from staff, the city attorney, and

1 the applicant; heard public testimony; discussed the VAR No. 2017-0011 and TTM No. 2017-  
2 0008; 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 Rialto  
5 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  
9 during the public hearing conducted with regard to VAR No. 2017-0011, including written staff  
10 reports, verbal testimony, site plan, other documents, and the conditions of approval stated herein,  
11 the Planning Commission hereby determines that VAR No. 2017-0011 satisfies the requirements  
12 of the Section 18.64.020 of the Rialto Municipal Code pertaining to the findings which must be  
13 made precedent to granting a variance. The findings are as follows:

- 14  
15 1. There are exceptional circumstances or conditions applicable to the property  
16 involved, or to the intended use of the property, that do not apply generally to the  
property or class of use in the same vicinity or district.

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

18 Strict enforcement of the maximum building height will prevent the applicant from  
19 providing the highest quality design and prospect tenant for the site.

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

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

23 Strict enforcement of the lot area, lot width, and lot depth requirements will prevent the  
24 applicant from providing the highest quality design for the site. The majority of the lots  
25 within the single-family residential subdivision to the north of the project site (Tract 8241)  
26 do not comply with the minimum lot area of the R-1C zone, with the smallest lot size  
27 being 7,195 square feet. The smallest lot size within Tract 8241 is smaller than the  
28 average lot size of the applicant's proposal. The Planning Commission granted  
Variance No. 703 to Rapido Investments, Inc. in 2014 reducing the minimum lot width for  
a similar R-1C project from 70 feet to 58 feet. Furthermore, while there is no record of a  
variance, there are several other R-1C zoned lots in the vicinity with lot widths as low as

55 feet, including 571 S. Acacia Avenue, 581 S. Acacia Avenue, and 590 S. Encina Avenue. Additionally, while there is no record of a variance, there are several other R-1C zoned lots in the vicinity with lot depths below 95 feet, and as low as 86 feet, including 535 W Merrill Avenue, 510 S Encina Avenue, 522 S. Encina Avenue, 534 S. Encina Avenue, and 546 S. Encina Avenue.

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

*This finding is supported by the following facts:*

Granting the variance will not be detrimental to the public welfare or injurious to other property or improvements in that the project site will be used for a single-family residential development in keeping with the character of the area and the density limits established within the area.

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

*This finding is supported by the following facts:*

Granting the variance will facilitate the development of a high-quality single-family residential subdivision in keeping with General Plan Land Use Element Goal 2-21, which requires the City to "Ensure high-quality planned developments within Rialto". Additionally, precedent has previously been set to allow lot dimensions below the criteria required by the R-1C zone, as established by Tract 8241, Variance No. 703 for Rapido Investments, Inc., and the lot depths of 535 W Merrill Avenue, 510 S Encina Avenue, 522 S. Encina Avenue, 534 S. Encina Avenue, and 546 S. Encina Avenue.

SECTION 3. An Initial Study (Environmental Assessment Review No. 2017-0076) has been prepared for the proposed project in accordance with the California Environmental Quality Act (CEQA) and it has been determined that any impacts will be reduced to a level of insignificance and a Mitigated Negative Declaration has been prepared in accordance with CEQA. The Planning Commission directs the Planning Division to file the necessary documentation with the Clerk of the Board of Supervisors for San Bernardino County.

SECTION 4. That VAR No. 2017-0011 is granted to Panattoni Development Company, Inc., in accordance with the plans and application on file with the Planning Division, subject to the following conditions:

1. Variance No. 2017-0011 is approved to increase the maximum building height from 35' to 47', as shown on the site plan submitted to the Planning Division on November 1, 2017, and as approved by the Planning Commission.

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 defend, indemnify and hold harmless the City of Rialto, its agents, officers, or employees from any claims, damages, action, or proceeding against the City or its agents, officers, or employees to attack, set aside, void, or annul any approval of the City, its advisory agencies, appeal boards, or legislative body concerning VAR No. 2017-0002. The City will promptly notify the applicant of any such claim, action, or proceeding against the City, and applicant will cooperate fully in the defense.
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 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 complete and abide by all mitigation measures contained within the Mitigation Monitoring and Reporting Program associated with Environmental Assessment Review No. 2017-0076 prior to issuance of any Certificate of Occupancy.
6. Applicant shall comply with all conditions of approval contained in TTM No. 2017-0008, to the extent they are not in conflict with any condition of approval herein.

SECTION 5. The Chairman of the Planning Commission 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 10th day of January, 2018.

\_\_\_\_\_  
JOHN PEUKERT, CHAIR  
CITY OF RIALTO PLANNING COMMISSION

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

5 I, Sheree Lewis, Administrative Assistant 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 Planning Commission of the City of Rialto held on the 10 th day of January, 2018.  
8

9 Upon motion of Planning Commissioner\_\_\_\_\_, seconded by Planning Commissioner  
10 \_\_\_\_\_, the foregoing Resolution No. \_\_\_\_ was duly passed and adopted.

11 Vote on the motion:

12 AYES:

13 NOES:

14 ABSENT:

15 IN WITNESS WHEREOF, I have hereunto set my hand and the Official Seal of the City of  
16 Rialto this 10 th day of January, 2018.  
17  
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19

20 \_\_\_\_\_  
21 SHEREE LEWIS, ADMINISTRATIVE ASSISTANT  
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