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A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF RIALTO, CALIFORNIA APPROVING CONDITIONAL DEVELOPMENT PERMIT NO. 2021-0033 TO ESTABLISH AN UNDERGRADUATE COLLEGE WITHIN AN EXISTING CHURCH FACILITY LOCATED AT 2759 NORTH AYALA DRIVE WITHIN THE SINGLE FAMILY RESIDENTIAL (R-1A 10,000) ZONE.

WHEREAS, the applicant, Oak Valley College, proposes to establish an undergraduate college within approximately 11,000 square feet of existing office and classroom area within the church facility (“Project”) located at 2759 North Ayala Drive (APNs: 1133-361-01) within the Single Family Residential (R-1A 10,000) zone (“Site”); and

WHEREAS, Pursuant to Section 18.66 of the Rialto Municipal Code, the Project requires a Conditional Development Permit and the applicant has agreed to apply for Conditional Development Permit No. 2021-0033 (“CDP No. 2021-0033”); and

WHEREAS, the Project will be situated on an existing developed site with all the improvements necessary to co-occupy with the existing church use on-site; and

WHEREAS, the Site has six hundred and forty (640) parking stalls which exceeds the minimum parking requirement; and

WHEREAS, on September 29, 2021, the Planning Commission of the City of Rialto conducted a duly noticed public hearing, as required by law, CDP No. 2021-0033, took testimony, at which time it received input from staff, the city attorney, and the applicant; heard public testimony; discussed the proposed CDP No. 2021-0033; 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. 2021-0033, including written staff reports,

1 verbal testimony, site plans, other documents, and the conditions of approval stated herein, the  
2 Planning Commission hereby determines that CDP No. 2021-0033 satisfies the requirements of  
3 Section 18.66.020 of the Rialto Municipal Code pertaining to the findings which must be made  
4 precedent to granting a conditional development permit. The findings are as follows:

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

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

9 The project will contribute to general well-being of the community by improving access to a  
10 high-quality education opportunity and providing a local alternative for higher education.  
11 Additionally, the Project will help the community have access to improve their education  
12 levels and skills.

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

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

16 The zoning of the Site is Single Family Residential (R-1A 10,000). The Project is  
17 consistent with the R-1A 10,000 zone and is compatible with the surrounding residential  
18 land uses in the vicinity. The Project is also compatible with the on-site church use and  
19 adjacent educational facility. The surrounding residential land uses are physically  
20 separated from the Project by public right-of-way or extensive landscape buffering. These  
21 land uses are not expected to be negatively impacted by the proposed project, since there  
22 will be no site changes and the indoor operation will be indistinguishable from the existing  
23 on-site operations.

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

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

28 The Project Site is irregularly shaped, consists of one (1) parcel approximately 10 acres in  
size which is developed as a church facility complete with parking, lighting, landscaping, and  
structures for worship center, kitchen, offices, classrooms, and other ancillary uses. The site  
has existing access to Riverside Avenue via one (1) driveway at the northeast corner of the  
site as well as access to Ayala Drive via three (3) existing driveways. The site is more than  
adequate to accommodate the proposed use in a manner compatible with existing land uses.

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

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

4           The Project Site and the surrounding area is completely developed with existing utility  
5           hookups required for the proposed Project.

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

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

10          The use is consistent with the Single Family Residential (R-1A 10,000) zone. The Project,  
11          as submitted, proposed to occupy space within an existing building with no proposed site  
12          modification. The project Site is designed to adequately accommodate both the proposed  
13          and existing uses concurrently and will not be injurious or otherwise inharmonious with the  
14          General Plan and its objectives, or any zoning ordinances.

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

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

19          The Project is compatible with the on-site church use and adjacent educational facility.  
20          The surrounding residential land uses are physically separated from the Project by public  
21          right-of-way or extensive landscape buffering. The land uses are not expected to be  
22          negatively impacted by the proposed project, since there will be no site changes and the  
23          indoor operation will be indistinguishable from the existing on-site operations  
24          Additionally, the project will improve access to a high-quality education opportunity by  
25          providing a local alternative for higher. Therefore, any potential adverse effects are  
26          outweighed by the benefits conferred upon the community and neighborhood as a whole.

27          SECTION 3. The project is categorically exempt from the requirements of the California  
28          Environmental Quality Act (CEQA), pursuant to Section 15301, Existing Facilities. The Planning  
29          Commission directs the Planning Division to file the necessary documentation with the Clerk of the  
30          Board of Supervisors for San Bernardino County.

31          SECTION 4. CDP No. 2021-0033 is granted to Oak Valley College, in accordance with the  
32          plans and application on file with the Planning Division, subject to the following conditions:

1. The applicant is granted CDP No. 2021-0033 allowing the establishment of an undergraduate college within approximately 11,000 square feet of existing office and classroom area within the church facility located at 2759 North Ayala Drive (APNs: 1133-361-01) within the Single Family Residential (R-1A 10,000) zone, as shown on the plans submitted to the Planning Division dated August 4, 2021 and as approved by the Planning Commission. If the Conditions of Approval specified herein are not satisfied or otherwise completed, the project shall be subject to revocation.
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 legal, equitable, declaratory, administrative or adjudicatory in nature), and alternative dispute resolutions procedures (including, but not limited to arbitrations, mediations, and other such procedures), (collectively "Actions"), brought against the City, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, that challenge, attack, or seek to modify, set aside, void, or annul, the any action of, or any permit or approval issued by, the City and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof (including actions approved by the voters of the City), for or concerning the Project (collectively, the "Entitlements"), whether such Actions are brought under the California Environmental Quality Act, the Planning and Zoning Law, the Subdivision Map Act, Code of Civil Procedure Chapter 1085 or 1094.5, the California Public Records Act, or any other state, federal, or local statute, law, ordinance, rule, 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 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. 2021-0033.
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 obtain all necessary approvals and operating permits from all Federal, State, and local agencies and provide proof thereof to the City prior to the issuance of a Certificate of Occupancy.
6. The privileges granted by the Planning Commission pursuant to approval of this Conditional Development Permit are valid for one (1) year from the effective date of approval. If the applicant fails to commence the project within one year of said effective date, this conditional development permit shall be null and void and any privileges granted hereunder shall terminate automatically. If the applicant or his or her successor in interest commence the project within one year of the effective date of approval, the privileges granted hereunder will continue inured to the property as long as the property is used for the purpose for which the conditional development permit was granted, and such use remains compatible with adjacent property uses.
7. Approval of CDP No. 2021-0033 will not become effective until the applicant has signed a statement acknowledging awareness and acceptance of the required conditions of approval contained herein.
8. In the event, that any operation on the Site is found to be objectionable or incompatible with the character of the City and its environs due to excessive noise, excessive traffic, 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 Single Family Residential (R-1A 10,000) zone and the City's General Plan, the applicant shall address the issues within forty-eight (48) hours of being notified by the City.
9. If the applicant fails to comply with any of the conditions of approval placed upon CDP No. 2021-0033, the Planning Commission may initiate proceedings to revoke the conditional development permit in accordance with the provisions of Sections 18.66.070 through 18.66.090, inclusive, of the Rialto Municipal Code. Conditional Development Permit No. 2021-0033 may be revoked, suspended or modified in accordance with Section 18.66.070 of the Zoning Ordinance at the discretion of the Planning Commission if:
  - a. The use for which such approval was granted has ceased to exist, been subsequently modified, or has been suspended for six (6) months or more;
  - b. Any of the express conditions or terms of such permit are violated;
  - 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 excessive noise, excessive traffic, loitering, criminal activity or other undesirable characteristics including, but not strictly limited to uses which are or

1 have become offensive to neighboring property or the goals and objectives of the  
2 Single Family Residential (R-1A 10,000) zone, and the City's General Plan.

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

5 PASSED, APPROVED AND ADOPTED this 29th day of September, 2021.  
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9 FRANK GONZALEZ, CHAIR  
10 CITY OF RIALTO PLANNING COMMISSION  
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1 STATE OF CALIFORNIA )  
2 COUNTY OF SAN BERNARDINO ) ss  
3 CITY OF RIALTO )  
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5 I, Adrianna Martinez, Administrative Assistant of the City of Rialto, do hereby certify that  
6 the 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 \_\_\_\_th day of \_\_\_\_, 2021.

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 of  
15 Rialto this \_\_\_\_th day of \_\_\_\_, 2021.

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20 ADRIANNA MARTINEZ, ADMINISTRATIVE ASSISTANT  
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