



ECONOMIC DEVELOPMENT COMMITTEE

AGENDA

Wednesday, September 21, 2016

2:00 pm

City Council Chambers
150 S. Palm Avenue

- I. CALL TO ORDER / ROLL CALL** **2:00 PM**

- II. REVIEW/MODIFICATIONS TO AGENDA**

- III. PRESENTATIONS:**
 - A. Renaissance Marketplace – Project Update** *(Gary Bauer – LHR)*

- IV. DISCUSSION OF PROPOSED PROJECTS:**
 - A. Metrolink Station Accessibility Improvement Project** *(Robert Eisenbeisz)*
 - B. Options to Select Preferred Developer –RSA Parcel** *(John Dutrey)*
 - C. Amendment No. 2 to Acosta ERN** *(Greg Lantz)*
 - D. Vacation of Public Roadway/Alley – Aldi/WSS Project** *(Greg Lantz)*
 - E. Adoption of 2016 Building Codes** *(James Caro)*

- V. PROJECT UPDATES:**
 - A. SANBAG Update** *(Robert Eisenbeisz)*

- VI. UPCOMING MEETINGS / OTHER DISCUSSION ITEMS**
 - 7th Annual Inland Empire Economic Forecast Conference – September 29, 2016
 - League of California Cities - Annual Conference - Long Beach - October 5-7, 2016
 - NAIOP – State of the Industry – IE Update – Chino – October 6, 2016
 - ACRE Annual Tenant EXPO – Long Beach - October 18, 2016
 - Next Scheduled EDC Meeting - October 19, 2016
 - ICSC 2016 Inland Empire P3 Retail Program – Ontario – November 3, 2016

- VII. ADJOURNMENT**

CITY OF RIALTO

ECONOMIC DEVELOPMENT COMMITTEE AGENDA REPORT

For Meeting of September 21, 2016

| | |
|----------|---|
| TO: | Honorable Economic Development Committee Members |
| FROM: | Robert G. Eisenbeisz, P.E., Public Works Director/City Engineer |
| SUBJECT: | Metrolink Station Accessibility Improvement Project |
| DATE: | September 15, 2016 |

Project Description

The Metrolink Station Accessibility Improvement Project is located around the Rialto Metrolink station on Rialto Ave between Riverside Avenue and Willow Avenue, Willow Avenue between Rialto Avenue (south intersection) and Rialto Avenue (north Intersection), Rialto Avenue between Willow Avenue and Cactus Avenue, and on Cactus between Rialto Avenue and Merrill Avenue. Poor pedestrian access, lack of bicycle lanes, high visibility crosswalks and disconnected bicycle networks resulted in disconnection between residential areas of the City and the Metrolink transit center.

The project will improve bicycle and pedestrian access to the regional transit network and extend the multi-model transportation connections to the station. The improvements will focus on providing a safe path for pedestrian and bicyclist, guide signs to direct users to the station, high visibility crosswalks, and bicycle storage lockers within the Metrolink parking lot.

The users of these improvements to the walking and biking facilities of this project will be commuting to jobs, trips to adjacent cities to access museums, shopping centers and sports stadiums. Also, users from other Cities will be able to visit the historic district of downtown Rialto. The plans and specifications for the improvements are expected to be completed by March of 2017, and funding is expected to be allocated by June of 2017, and construction is expected to begin by the end of 2017.

SANBAG has presented two alternative concept plans to be evaluated by the City:

ALTERNATIVE 1

1. Enhanced High visibility crosswalks at Orange Avenue, Palm Avenue and Willow Avenue.
2. Rialto Avenue between Riverside Avenue and Willow Avenue is a 64-foot wide two-lane secondary arterial travel lane with a posted speed limit of 30 MPH. A proposed bicycle lane for westbound starts at Riverside Avenue and ends at Willow Avenue, and the eastbound bicycle lane will start at Willow Avenue and end east of Orange Avenue. The diagonal parking stalls on Rialto Avenue between Riverside Avenue and Willow Avenue will be converted to parallel parking. Currently, there are a total of 40 angled parking stalls which will be converted to 30 parallel parking stalls resulting in a net loss of 10 parking stalls. The Cross section for the new striping on Rialto Avenue, between Riverside Avenue and Palm Avenue, will accommodate an 8-foot parking area, 3-foot buffer, 5-foot bike lane, and a 16-foot eastbound travel lane on the south side. On the north side of Rialto Avenue, between Palm Avenue and Willow Avenue, the new cross section will accommodate an 8-foot parking area, 3-foot buffer, 5-foot bicycle lane and a 16-foot westbound travel lane. On the south side, the new cross section will accommodate a 17-foot curb lane shared with the bicycles by installing the “sharrow” pavement messages, and a 15-foot right turn lane.
3. There is no proposed improvements on Willow Avenue between Rialto Avenue between the (South intersection and the North Intersection), bicycles will share the travel lanes with vehicles and “sharrow” pavement markings will be installed to indicate to motorists that the street is shared with bicyclists.
4. Rialto Avenue between Willow Avenue and Cactus Avenue is a 64-foot wide, 4-lane arterial roadway with a posted speed limit of 40 MPH. The new cross section for the roadway will accommodate an 8-foot parking lane, a 6-foot bike lane, and two 11-foot travel lanes for both directions. The proposed striping will not result in any loss of parking. Removal of the left-turn pockets at Lilac will provide additional parking on Rialto. The proposed design for this portion of Rialto Avenue will increase the number of parallel parking stalls.
5. Cactus Avenue, between Rialto Avenue and Merrill Avenue, is a 72-foot-foot wide, 4-lane major arterial roadway with a posted speed limit of 50 MPH. The existing cross-section for the roadway has an 18-foot curb lane, 12-foot number one (1) lane in both directions with a 12-foot two-way left turn lane in the middle of the street. Currently Cactus Avenue is posted with “No Stopping Anytime” on

both sides; the parking restriction will remain in place with the proposed striping modifications. The new proposed lane geometry will accommodate a 5-foot bike lane, a 2-foot buffer and two 12-foot travel lanes in both directions separated by a 10-foot two-way left turn lane.

ALTERNATIVE 2

This alternative is the same as Alternative 1, except for the Rialto Avenue between Willow Avenue and Palm Avenue. Alternative 2 will modify the striping along Rialto Avenue between Riverside Avenue and Willow Avenue to allow angled parking on the north side only with the bicycle lane aligned against the curb in front of the angled parking.

The cross section on the north side will accommodate a 6-foot bicycle lane, 2-foot buffer, angled parking, and a 13-foot vehicle travel lane. The south side of Rialto Avenue, between Orange Avenue and Palm Avenue, will accommodate an 8-foot parking lane, 5-foot bicycle lane, and a 12-foot vehicle travel lane. The bicycle lane ends east of Orange Avenue. The Southside between Palm Avenue and Willow Avenue will accommodate an 8-foot parking lane, 5-foot bicycle lane and a 13-foot vehicle travel lane. This alternative will results in a net loss of 5 parking spaces.

RECOMMENDATION:

Staff recommends that the Economic Development Committee provide feedback, suggestions and comments on the proposed Alternatives.

Attachments: Concept Plans



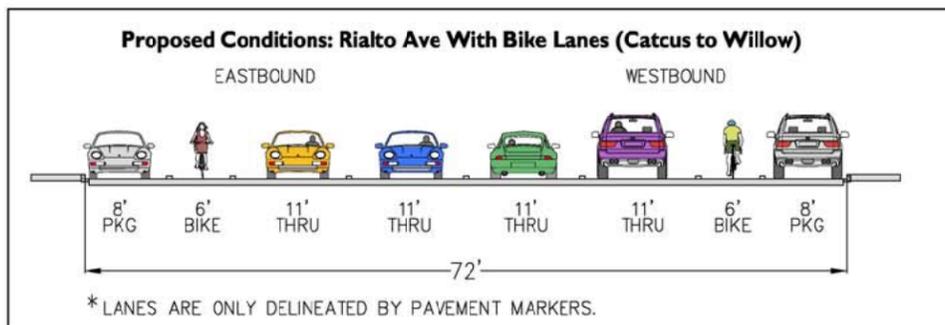
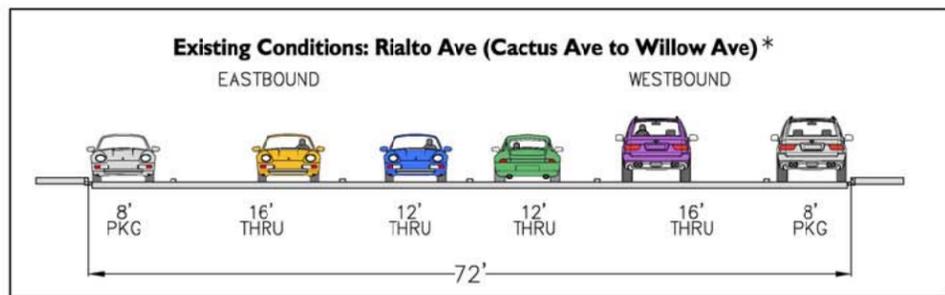
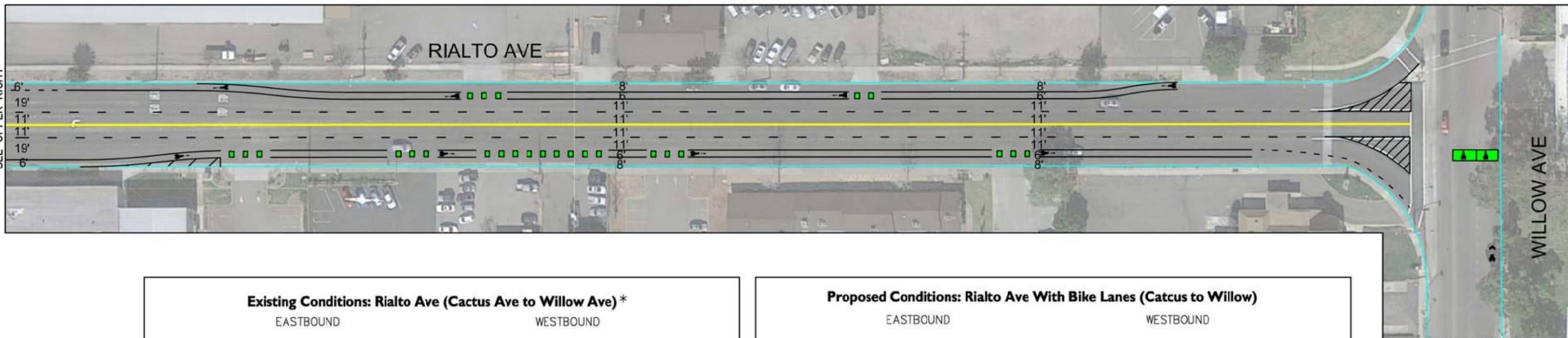
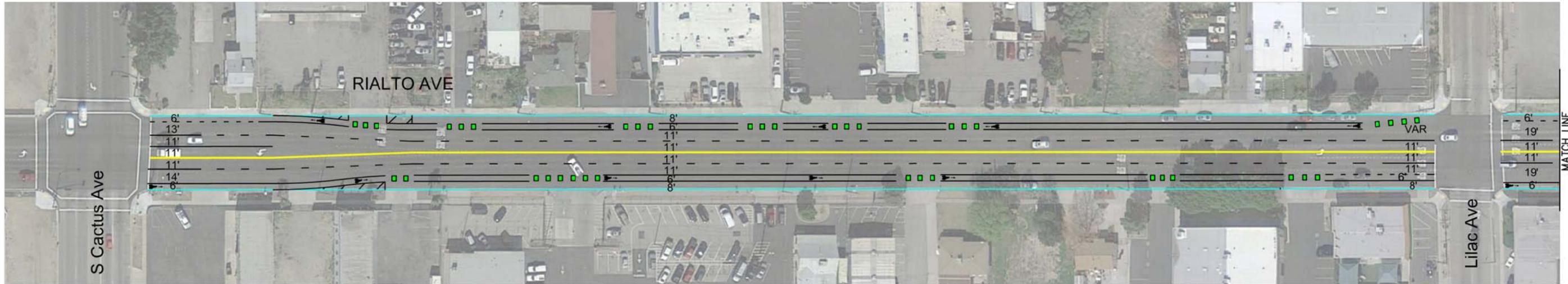
CONVERT ONE (1) PARKING SPACE TO BICYCLE PARKING



| SITE 5: RIALTO METROLINK STATION | |
|----------------------------------|---|
| 2 | PROVIDE ENHANCED PED CROSSWALKS ON RIALTO AVENUE |
| 3 | INSTALL SHORT AND LONG-TERM BIKE PARKING |
| 4 | PROVIDE WAYFINDING SIGNAGE AT RIALTO AVENUE AND PALM AVENUE |
| 6 | ADD BIKE LANES ON RIALTO BETWEEN CACTUS AND RIVERSIDE |
| 7 | ADD BIKE LANES ON CACTUS AVE FROM MERRILL TO PE TRAIL |

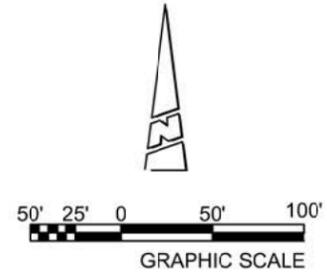


NOT TO SCALE
City of Rialto

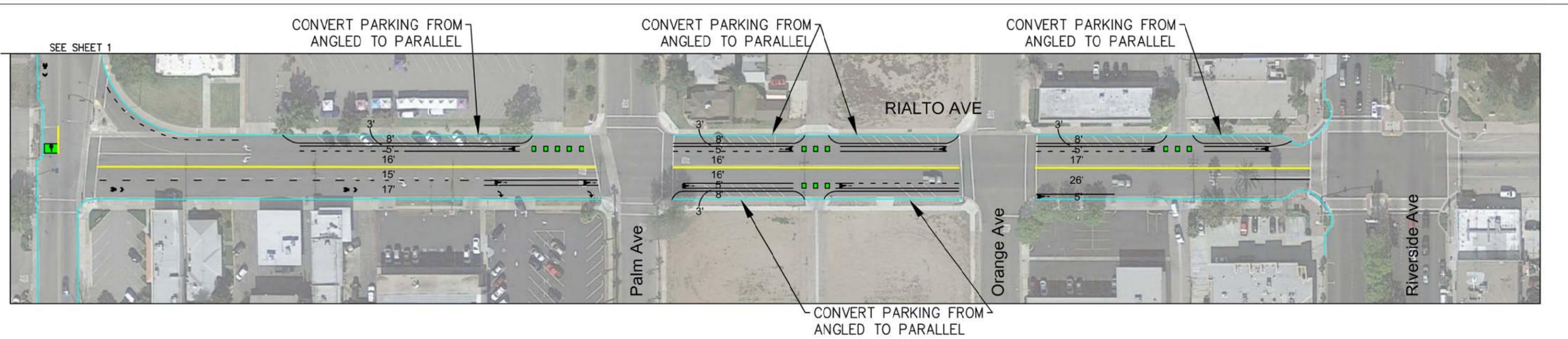


Rialto Ave (Cactus Ave to Willow Ave)
 Major Arterial (Cactus to Willow)
 Truck Route: No
 Speed Limit: 40 mph
 Lvl of Traffic Stress: 4

PARKING REDUCTION
 WEST OF WILLOW
 REDUCTION - 0 SPACES

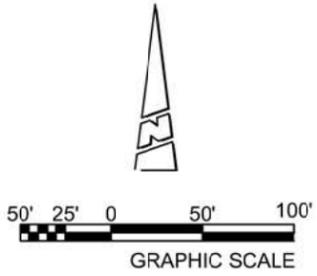
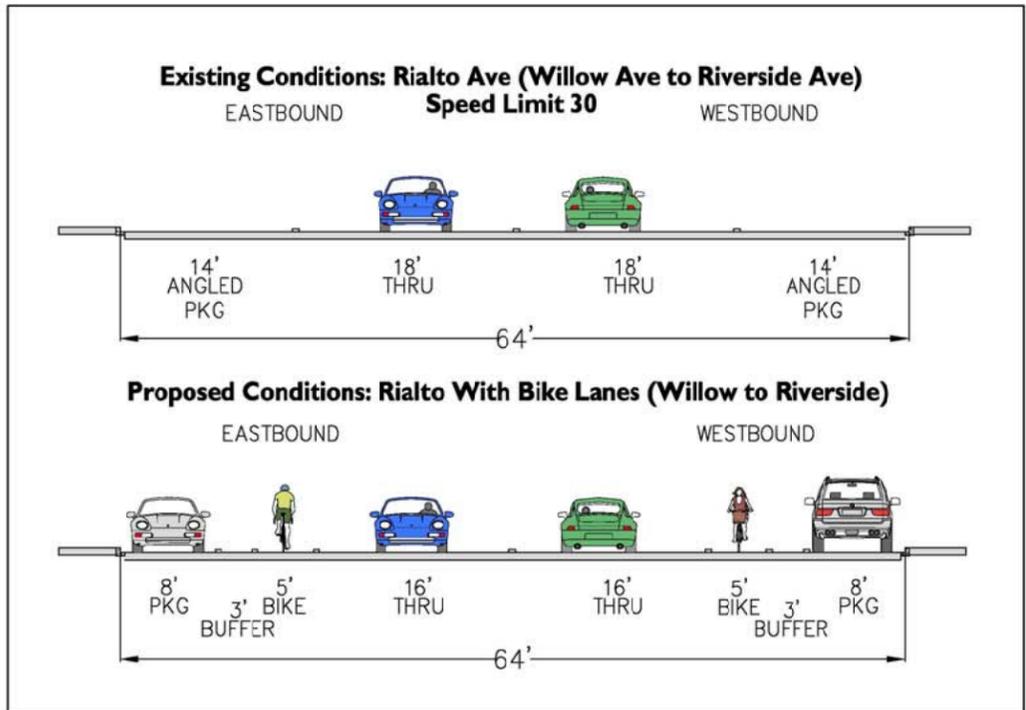


| | | |
|------------------------|--|------------------|
| Conceptual Design Plan | SANBAG Metrolink Accessibility Improvement Phase 1 Improvements | SCALE 1"=100' |
| | Rialto Ave From Cactus Ave to Riverside Ave | SHEET NO. 1/2 |



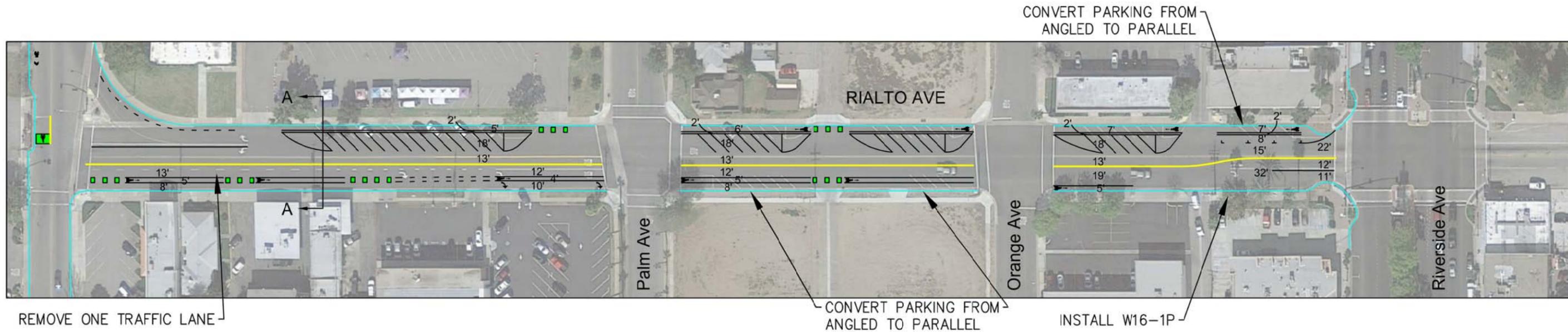
PARKING REDUCTION EAST OF WILLOW
 EXISTING ANGLED PARKING - 40
 PROPOSED PARALLEL PARKING - 30
 LOSS DUE TO CONVERSION - 10

Rialto Ave (Willow to Riverside)
 Secondary Arterial
 Truck Route: No
 Speed Limit: 30 mph
 Lvl of Traffic Stress: 2

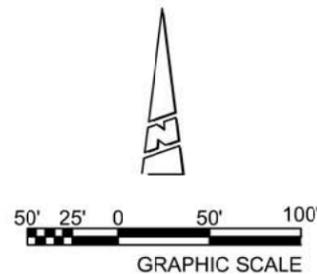
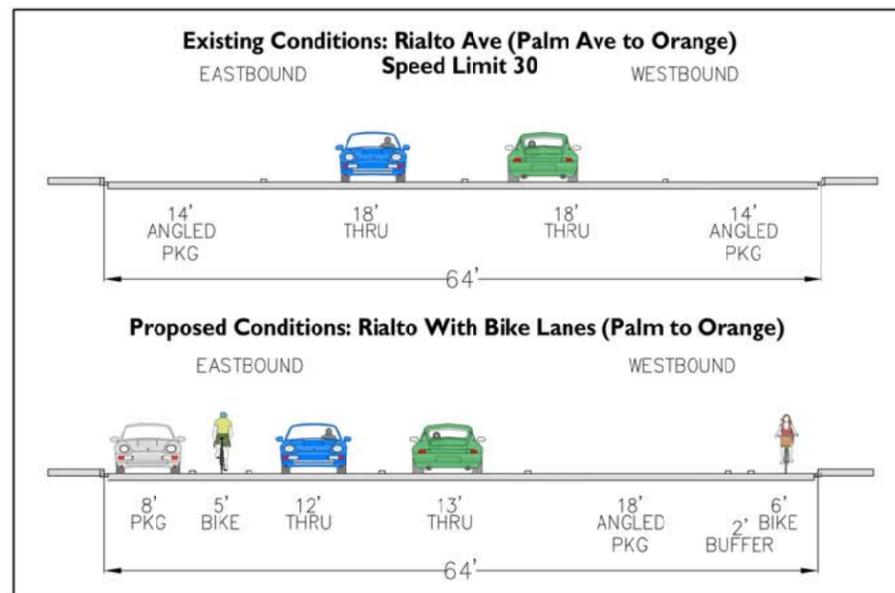
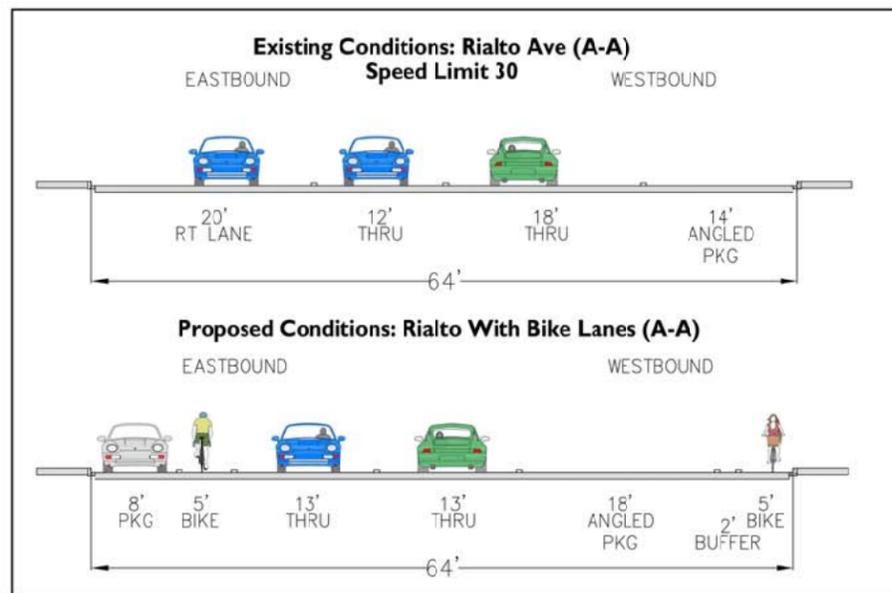


Alternative 1: Parallel Parking

| | | |
|------------------------|---|------------------|
| Conceptual Design Plan | SANBAG Metrolink Accessibility Improvement Phase 1 Improvements | SCALE 1"=100' |
| | Rialto Ave From Catcus Ave to Riverside Ave | SHEET NO. 2/2 |



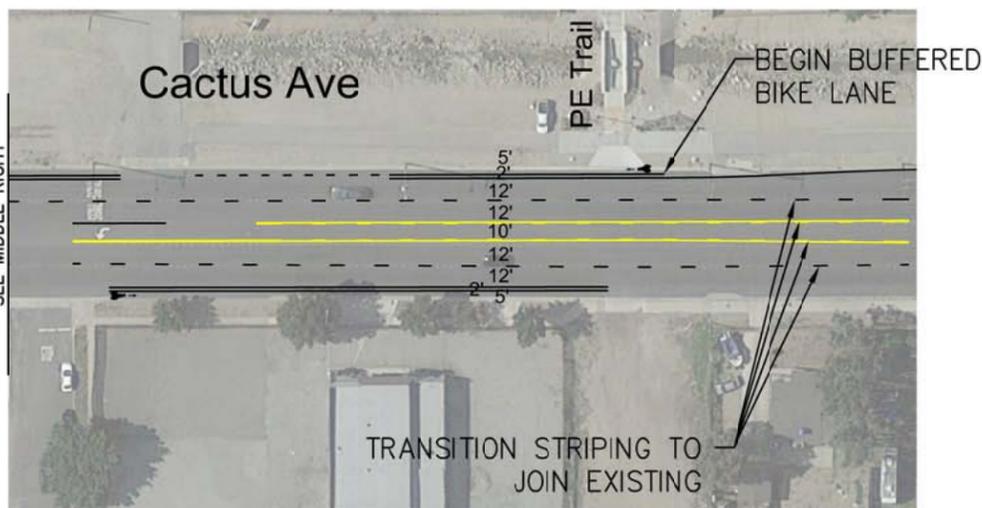
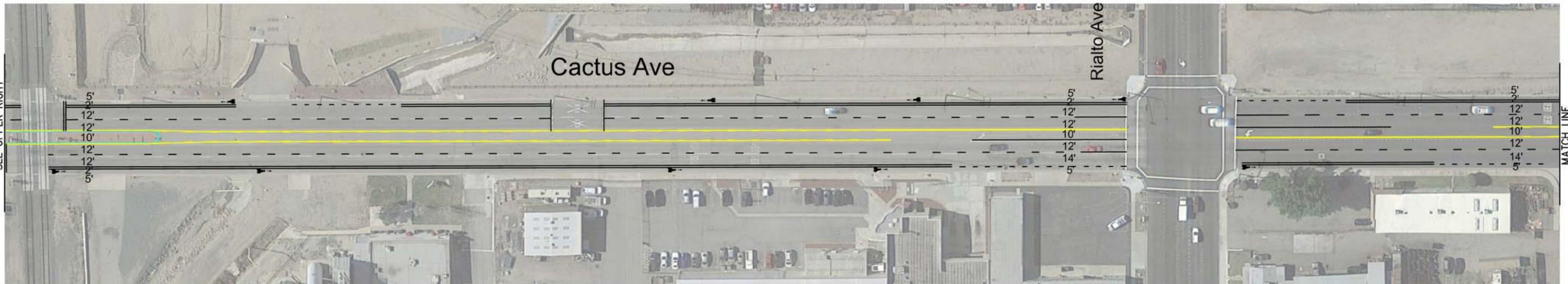
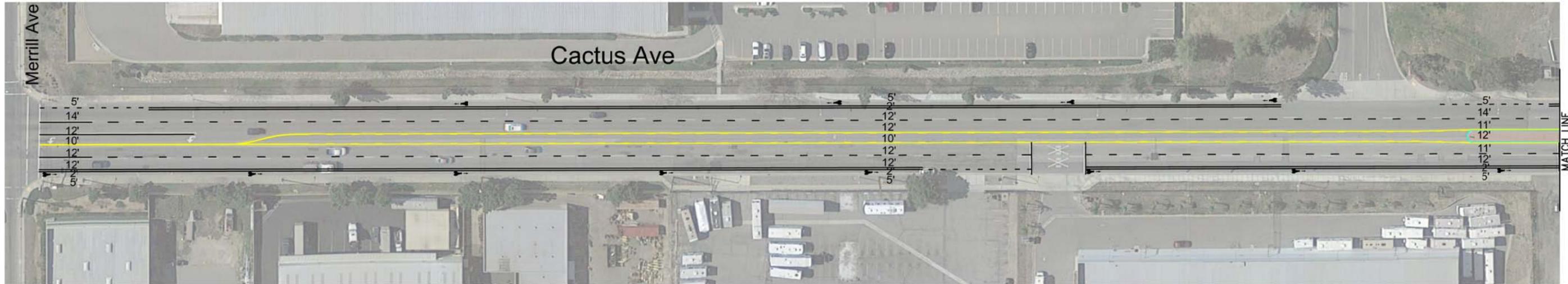
PARKING REDUCTION
EAST OF WILLOW
EXISTING ANGLED PARKING – 40
PARKING LOST AFTER CONVERSION – 5



Rialto Ave (Willow to Riverside)
Secondary Arterial
Truck Route: No
Speed Limit: 30 mph
Lvl of Traffic Stress: 2

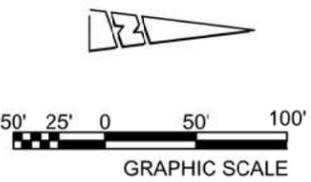
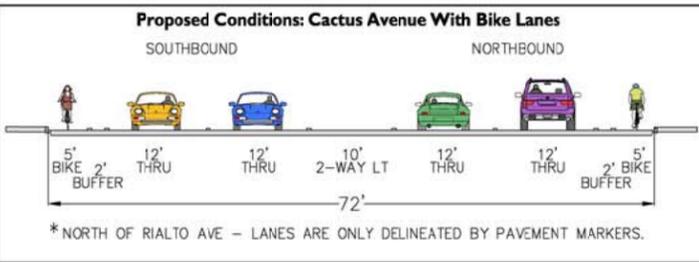
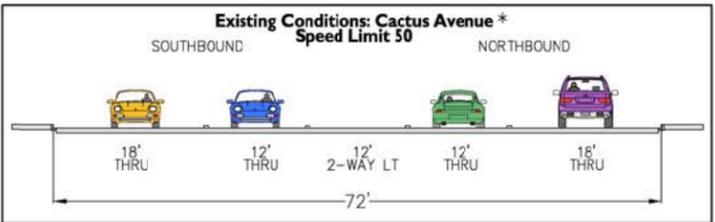
Alternative 2: Angled Parking

| | | |
|------------------------|--|------------------|
| Conceptual Design Plan | SANBAG Metrolink Accessibility Improvement Phase 1 Improvements | SCALE 1"=100' |
| | Rialto Ave From Catcus Ave to Riverside Ave | SHEET NO. 2/2 |



Cactus Ave
 Major Arterial
 Truck Route: No
 Speed Limit: 50 mph
 Lvl of Traffic Stress: 4

NOTE: NORTH OF RIALTO AVENUE, TRAFFIC LANES ARE ONLY DELINEATED BY PAVEMENT MARKERS.



| | | |
|------------------------|--|------------------|
| Conceptual Design Plan | SANBAG Metrolink Accessibility Improvement Phase 1 Improvements | SCALE 1"=100' |
| | Cactus Ave From Merrill Ave to PE Trail | SHEET NO. 1/1 |

CITY OF RIALTO
ECONOMIC DEVELOPMENT COMMITTEE
AGENDA REPORT

For the Meeting of September 21, 2016

| | |
|----------|---|
| TO: | Honorable Economic Development Committee Members |
| VIA: | <i>JB</i> Robb R. Steel, Assistant CA/Director of Development Services |
| FROM: | John Dutrey, Project Manager <i>JD</i> |
| SUBJECT: | Options for Selecting Developer for the 18-Acre site owned by the Successor Agency and adjacent to the Wal-Mart/Rialto Marketplace sites. |
| DATE: | September 14, 2016 |

BACKGROUND:

The Successor Agency to the Redevelopment Agency of the City of Rialto owns seven (7) parcels totaling 18.5 acres ("SA Parcels") between the existing Wal-Mart ("Existing Wal-Mart Property") and the proposed Wal-Mart Supercenter. The Long-Range Property Management Plan ("LRPMP") designates the parcels "to be transferred to the City for future development." See **Exhibit A** for a site map.

The former Redevelopment Agency acquired the SA Parcel to facilitate development of a 65-acre sub-regional/community retail center, ideally connecting the new Wal-Mart Supercenter with the Existing Wal-Mart Property. Several years ago, NewMark Merrill prepared a conceptual site plan for the 65-acre site attached hereto as **Exhibit B**, showing potential linkages between the various properties.

On June 17, 2015, the EDC directed staff to seek proposals from other developers to develop the SA Parcels and reuse the Existing Wal-Mart property.

In January 2016, the City retained Kosmont Companies to assist the City in selecting a developer for the SA Parcel. In addition, Kosmont prepared a retail market analysis PowerPoint for the SA Parcel and Existing Walmart Property and conceptual plans illustrating potential development layouts.

In August 2016, Pacifica Companies informed staff that Wal-Mart selected their proposal to acquire the Existing Wal-Mart property. Wal-Mart has not confirmed the identity of the buyer for City.

DISCUSSION/ANALYSIS:

Both NewMark Merrill and Pacifica expressed interest in purchasing and developing the SA Parcels. Both presented preliminary ideas regarding the potential uses for the SA Parcels. Pacifica provided the City its preliminary plans at the ICSC conference (**Exhibit C**).

The City's options for the 15 acres (assumes that the City acquires 3 acres for Fire Station 205) include:

- 1) Enter into an Exclusive Negotiation Agreement with either NewMark Merrill or Pacifica (if they are the successful buyer) since both are or will be developing adjacent to the site.
- 2) Issue a Request for Proposals to NewMark Merrill and Pacifica, selecting the most qualified respondent for an Exclusive Negotiation Agreement.
- 3) Issue a Request for Proposals to a broader community of developers, including but not limited to the 2 on-site developers.

Ideally, the City would select either NewMark Merrill or Pacifica (if it closes on the Wal-Mart store) since this should better facilitate site connectivity.

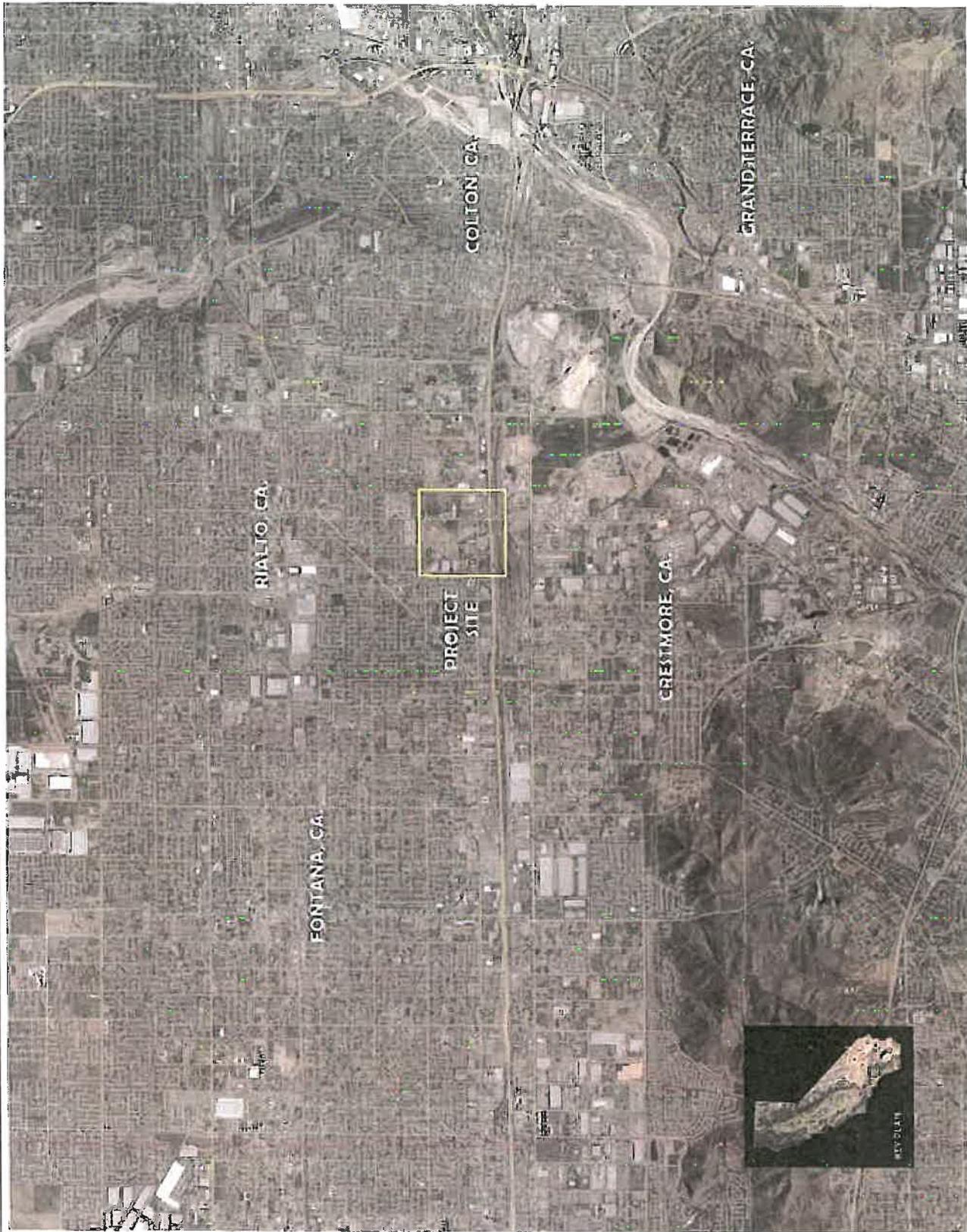
RECOMMENDATION:

Staff recommends that the City establish development goals, prepare a Request for Proposals, and seek proposals from NewMark Merrill and Pacifica (if confirmed) for development of the 15 acre residual SA Parcel.

**Exhibit A
Site Map**

Exhibit B
NewMark Concept Plan

Exhibit C
Pacifica Concept Map



SITE LOCATION PLAN - PROPOSED COMMERCIAL DEVELOPMENT - RIALTO, CA.





D
DYNAMIC
PLANNING
779.348.0796



AREA PLAN - PROPOSED COMMERCIAL DEVELOPMENT - RIALTO, CA.



SITE PLAN DETAIL - PROPOSED COMMERCIAL DEVELOPMENT - RIALTO, CA.



THE SPACE PLACE
 COMMERCIAL REAL ESTATE
 7700 50th AVE

CITY OF RIALTO

ECONOMIC DEVELOPMENT COMMITTEE AGENDA REPORT

For the Meeting of September 21, 2016

| | |
|----------|---|
| TO: | Honorable Economic Development Committee Members |
| VIA: | Robb R. Steel, Assistant CA/Director of Development Services |
| FROM: | Greg Lantz, Economic Development Manager |
| SUBJECT: | Amendment No. 2 to the Exclusive Right to Negotiate Agreement with Fernando Acosta for the Development of Approximately 8 Acres of Property Located at the Northeast Corner of Ayala Drive and Renaissance Parkway. |
| DATE: | September 15, 2016 |

BACKGROUND:

On October 13, 2015, the City Council approved an Exclusive Right to Negotiate Agreement (ERN) with Fernando Acosta (Developer) for the development of approximately 8 acres of property located at the northeast corner of Ayala Drive and Renaissance Parkway (**Exhibit A**). On April 20, 2016,

On March 22, 2016, the City Council Approved Amendment No.1 to the ERN (**Exhibit B**), which extended the original term of the ERN from April 1, 2016 to October 1, 2016 to complete the negotiation of a Disposition and Development Agreement for the Site.

The 8 acre development site consists of approximately 3.3 acres of land owned by the City of Rialto and the Rialto Successor Agency (Parcel A). The former Redevelopment Agency acquired these surplus properties from Caltrans in 2008. The City of Rialto also maintains a well site on a portion of Site adjacent to the 210 Freeway. The remainder of the Site is owned by the San Bernardino County Flood Control District and is immediately adjacent to Parcel A (the County property is Parcel B). The Site and its component parcels are illustrated in **Exhibit C**.

ANALYSIS/DISCUSSION:

The term of the ERN with Fernando Acosta will expire on October 1, 2016, unless extended. During the negotiation period, the primary tasks for the City and Developer were to:

City/RSA

1. **Complete title work and ALTA surveys to determine the location of all easements and encroachments upon the Site.**

The City completed an ALTA survey of the Site to confirm the boundaries and locate all easements and encroachments on the Site. (Exhibit D)

2. **Negotiate terms for the acquisition of Parcel B from the County of San Bernardino, which may require the completion of an appraisal of Parcel to facilitate price negotiations with the County.**

The City completed an appraisal of the County property (Parcel B) and submitted an application to the County Flood Control District to declare the Property surplus so that the City may then enter into formal negotiations to acquire Parcel B from the County. However, the County has not resolved eminent domain litigation with Caltrans, and the County has not yet deemed Parcel B available for sale. Caltrans claims that resolution is imminent that would allow the City to negotiate directly with the County for Parcel B. Consequently, the City still has not conducted formal negotiations with the County for the acquisition of Parcel B, and pricing for the Property cannot be concluded.

3. **Complete appraisal for Parcel A and prepare purchase and sale agreement for approval by the Successor Agency, Oversight Board, and Department of Finance.**

The City completed an appraisal of Parcel A to determine its fair market value. The Developer will either submit a formal offer to purchase the subject property from the RSA, or the City may decide to purchase it directly from the RSA then consolidate Parcel A with Parcel B for sale to the Developer.

Developer

1. **Prepare site plans, land use entitlement applications, and preliminary engineering assessments to determine the economic feasibility of development.**

Developer prepared preliminary development site plan(s) and is currently preparing engineering and development cost estimates to determine the economic feasibility of the development project.

2. **Submit for preliminary development review to establish expected conditions of approval.**

Developer and City staff have conducted two preliminary site plan reviews and provided comments regarding preliminary site plans. Based upon recent direction,

Acosta submitted a revised site plan that contains one or more hotels on the Site. City staff has not had an opportunity to provide comments on the latest site plan that was submitted to the EDC on September 21, 2016.

3. Market the Site to potential users approved by the City.

Developer has marketed the development site to a variety of retail tenants. To date, Developer has received Letters of Intent (LOI) from several restaurant and fast casual/drive thru tenants and has met with several hotel developers and hotel companies

4. Participate in negotiations for acquisition of County and RSA properties.

The City initiated formal negotiations with the County for Parcel B by requesting the surplus declaration and paying the County's \$1,250 application fee. The City also intervened with Caltrans seeking resolution of the outstanding settlement between the County and Caltrans regarding title to the subject property (still has not recorded). Nevertheless, the City will submit the appraisal report on Parcel B to the County in order to expedite negotiations pending perfection of title. The Developer and City/RSA have met informally regarding the terms for acquisition of the County and RSA properties, but cannot conclude price negotiations until the County accepts a value for its interest.

The County has indicated that they do not wish to enter into negotiations to sell the property until all outstanding issues with Caltrans have been settled; consequently, the City and Developer have been unable to complete negotiation of a Disposition and Development Agreement (DDA).

The ERN automatically terminates on October 1, 2016, if the parties do not extend the term of the ERN. Because the City has been unable to negotiate the acquisition of Parcel B from the County, staff recommends the City approve an extension of the ERN with Fernando Acosta until April 1, 2017. The proposed extension of the ERN is also subject to and conditioned upon LHR approving the extension of their waiver of ERN rights contained in Section 7 of the Second Amended and Restated Contract of Sale until April 1, 2017.

RECOMMENDATION:

Staff recommends that the Economic Development Committee forward a recommendation to the City Council to approve the Amendment No. 2 to the Exclusive Negotiation Agreement by and between the City of Rialto and Fernando Acosta to extend the termination date from October 1, 2017 to April 1, 2017.

EXHIBIT A

EXCLUSIVE RIGHT TO NEGOTIATE AGREEMENT

between

**THE CITY OF RIALTO
a municipal corporation**

and

Fernando Acosta R. E. , Inc.

[Dated as of October 13, 2015 for reference purposes only]

EXHIBIT A

1. PARTIES AND EFFECTIVE DATE.

1.1 Parties. This Exclusive Right to Negotiate Agreement (“Agreement”) is made this 13th day of October 2015, by and between the City of Rialto, a municipal corporation, (“City”), and Fernando Acosta R.E., Inc., a California corporation (“Developer”). For purposes of this Agreement, City’s principal address is 150 South Palm Avenue, Rialto, California, 92376. Developer’s principal address is 1130 N. Yucca Avenue, Rialto, CA 92376. City and Developer are sometimes referred to individually as “Party” and collectively as “Parties” throughout this Agreement.

1.2 Effective Date. This Agreement shall become effective on the date when it has been approved by City’s governing board and executed by the authorized representatives of City and Developer (“Effective Date”). The term of this Agreement shall commence on the Effective Date and shall continue thereafter until terminated pursuant to Section 3.5 below.

2. RECITALS.

2.1 The City is a municipal corporation exercising powers and organized and existing under the California Constitution.

2.3 The Rialto Successor Agency (“RSA”) owns approximately 3 acres of land located on the easterly of the northeast corner of Ayala Drive and Easton Avenue (“Parcel A”). The land is designated for disposition “for the benefit of taxing entities” in the RSA’s Long Range Property Management Plan approved by the State of California Department of Finance.

2.4 The County of San Bernardino owns (or will eventually own) approximately 5 acres of land located on the northeast corner of Ayala Drive and Easton Avenue (“Parcel B”). The County and Caltrans are concluding an eminent domain proceeding that is expected to vest title to Parcel B with the County of San Bernardino.

2.5 The Site consisting of Parcel A and Parcel B is illustrated in Exhibit A attached hereto and incorporated herein by reference. Whenever reference is made to “Site”, it shall be interpreted to mean some or all of the area illustrated in Exhibit A.

2.6 Developer expressed an interest in developing the Site and City desires to

EXHIBIT A

encourage comprehensive planning and development of various commercial uses on the Site that are beneficial to the City of Rialto.

2.7 Subject to the terms of this Agreement, City and Developer desire to enter into a period of exclusive negotiation concerning the acquisition of the Site (by the City and or Developer) for the subsequent resale to the Developer for development in accordance with the Renaissance Specific Plan. City and Developer agree that the object of their negotiations is the preparation of a Disposition and Development Agreement (hereinafter "DDA") which would provide for, among other things, the development of the Site into retail, restaurants, hotel or other commercially viable uses as more particularly described in Exhibit B attached hereto.

2.8 Developer represents and warrants to City that the Developer has expertise to acquire the Site and to develop the Project as generally described in this Agreement.

3. TERMS.

3.1 Term of Agreement. The term of this Agreement shall commence on the Effective Date, and shall continue thereafter until terminated pursuant to Section 3.5 below.

3.2 Good Faith Negotiations; Fulfillment of Disposition and Development Agreement Obligations. City and Developer agree, for the term of this Agreement, to negotiate diligently and in good faith the terms of a DDA for Developer's acquisition and development of the Site. During the term of this Agreement, City may not negotiate with any other person or entity for acquisition and development of the Site, except as hereinafter set forth. The term "negotiate" as used in this Section 3.2 shall preclude City from accepting proposals to acquire and develop the Site from the City by any persons or entities other than Developer.

Developer acknowledges that the City obtained a conditional release from Lewis-Hillwood Rialto LLC ("LHR") pursuant to the Second Amended and Restated Contract of Sale by and between the City of Rialto and Lewis-Hillwood Rialto LLC dated September 25, 2012. LHR granted a waiver of its exclusive rights (if any) regarding the Site until April 1, 2016.

City shall not be precluded by anything in this Agreement from furnishing to other persons or entities unrelated to Developer information related to the Specific Plan for the Site. City may also furnish any information concerning the Project or the Site, with the exception of confidential personal or financial information of the Developer pursuant to Section 3.4.3, which

EXHIBIT A

it is required by law to furnish or which it would otherwise normally furnish to persons requesting information from the City concerning its activities, goals or matters of a similar nature.

3.3 Negotiation of a DDA; Obligations during the Negotiating Period. During the term of this Agreement, the Parties shall cooperate and work in good faith towards the goal of negotiating a mutually acceptable DDA concerning the disposition and development of the Site. The exact terms and conditions of the DDA, if any, shall be determined during the course of these negotiations. Nothing herein shall be deemed to be a representation by either City or Developer that a mutually acceptable DDA will be produced. Nothing herein shall be deemed to be a guarantee or representation that any proposed DDA which may be negotiated by City staff and Developer will be approved by the City Council. Developer acknowledges that City's approval of the DDA is subject to the appropriate public hearing, notices and factual findings required by Law, including compliance with the California Environmental Quality Act ("CEQA") and other relevant legal provisions.

By its execution of this Agreement, the City is not committing itself to or agreeing to undertake (a) any acquisition and disposition of land to the Developer; or (b) any other acts or activities requiring the subsequent independent exercise of discretion by the City, the City, or any City or department thereof. This Agreement does not constitute a disposition of property or exercise of control over property by the City or the City and does not require a public hearing. Execution of this Agreement by the City is merely an agreement to enter into a period of exclusive negotiations according to the terms hereof, reserving final discretion and approval by the City and City as to any DDA and all proceedings and decisions in connection therewith.

3.4 Scope of Negotiations/Schedule of Performance. City and Developer acknowledge that the basic scope of negotiations and schedule of performance which shall control the negotiation of the DDA is described in Exhibit B attached hereto.

EXHIBIT A

3.4.1 Parties to DDA. City and Developer acknowledge and agree that the qualifications and identity of Developer are of particular concern to City, and it is because of such qualifications and identity that the City is negotiating a DDA with the Developer. For the purposes of this Agreement, the Developer shall be Fernando Acosta. No voluntary or involuntary successor-in-interest of the Developer shall acquire any rights or powers under this Agreement except as expressly set forth herein. The Developer may not assign or transfer all or any part of this Agreement without the prior written approval of City, which may be given or withheld in City's sole and absolute discretion.

3.4.2 Environmental Review, Analysis and Documentation. Any environmental review, analysis or documentation necessary to adequately assess the environmental effects of the proposed Project in accordance with CEQA, including the preparation of proposed mitigation measures for any such effects, shall be prepared at the direction of the City by persons or entities selected solely by the City, and City shall pay for all costs associated therewith using funds deposited by Developer.

3.4.3 Developer Financial Disclosures. The Developer acknowledges that it may be requested to make certain confidential financial disclosures to the City, its staff or legal counsel, as part of the financial due diligence investigations of the City relating to the potential disposition of the Site to the Developer. The parties recognize that such financial disclosures may contain sensitive information relating to other business transactions of the Developer, that the disclosure of such information to third parties could impose commercially unreasonable and/or anti-competitive burdens on the Developer and, correspondingly, diminish the value or fiscal benefit that may accrue to the City upon the disposition of the Site to the Developer, if terms for such disposition are mutually agreed upon. Accordingly, the City agrees to maintain the confidentiality of any business records described in Government Code Section 6254.15, as may be provided by the Developer to the City or its consultants, to the maximum extent permitted by law. The City shall not provide a copy of any business record protected from disclosure under Government Code Section 6254.15 to a third party, unless the Developer first consents to such disclosure in writing or, unless a court of competent jurisdiction compels disclosure.

EXHIBIT A

3.4.4 Project Financing and Commitment. City does not intend to provide construction or development financing for the Project. Developer shall arrange for its own construction and development financing. During negotiations, Developer shall prepare such studies, reports and analysis as shall be necessary to permit Developer to determine the feasibility of acquisition and development of the Site. As part of the DDA negotiations, and prior to the termination of this Agreement, Developer shall demonstrate to City that Developer will have appropriate and adequate financing in place prior to the Site conveyance.

Developer shall disclose to City, in writing, any and all methods of financing the Project proposed by Developer including, but not limited to, the terms and conditions of any construction or permanent financing. Developer shall also submit to City any and all financing documents when available, including but not limited to, land acquisition financing documents, applicable to the Project. Developer shall also fully disclose to City all information necessary to show tenant availability and interest, the nature of the proposed tenants, and the financial strength and resources of the tenants.

3.4.5 Entitlements. Prior to the disposition of the Site to the Developer under the terms of a DDA, the Developer shall prepare and process all necessary development applications, including but not limited to a Conditional Development Permit(s), Precise Plan(s) of Design, an Initial Study or other environmental analysis to comply with CEQA, and any boundary surveys, soils tests and other studies necessary to receive approvals, entitlements, and permits to construct the Project in accordance with City development standards and requirements at Developer's sole expense.

3.4.6 Other Documents Related to Site. Notwithstanding any provision herein to the contrary, copies of any and all studies, reports, analyses or Site appraisals obtained by any Party hereunder shall promptly be submitted by the Party at whose direction they were prepared to the other Party and may thereafter be used by such Party for any purpose as if it were the Site of such other Party, on condition that such use does not violate any agreement with the applicable consultant or contractor.

3.5 Termination. This Agreement shall terminate upon the earliest to occur of the following:

(i) On April 1, 2016, unless a DDA, acceptable in form and content to both the City staff and Developer is approved by the City's governing board and the City Council of the City of Rialto; or

EXHIBIT A

(ii) At any time, upon written notice to the other party by the party electing to terminate, upon the terminating party's good faith determination that further negotiations would be unproductive; or

(iii) At any time, upon written notice to the other party by the party electing to terminate, upon the terminating party's good faith determination that the other party has failed to negotiate in good faith in accordance with the terms of this Agreement or has otherwise materially breached any term of this Agreement; or

(iv) The City terminates this Agreement pursuant to Section 3.6(b) because the City's eligible Third Party Costs exceed Ten Thousand Dollars (\$10,000) and Developer fails to provide sufficient additional deposits to fully satisfy the Third Party Costs incurred by City.

3.6 Good Faith Deposit. Concurrently with the execution of this Agreement, Developer shall submit to City a good faith deposit in the amount of Ten Thousand Dollars (\$10,000) ("Good Faith Deposit") to insure that Developer will proceed diligently and in good faith to fulfill its obligations under this Agreement and as consideration for City to enter into this Agreement and forego negotiations with parties unrelated to Developer for the term hereof. The Good Faith Deposit shall be deposited in general City accounts and any interest earned shall not be added to the Good Faith Deposit, but may be retained and expended by City.

(a) The Good Faith Deposit shall be credited and applied by the City to various costs or expenses incurred during the negotiation of the DDA, including but not limited to legal costs incurred in drafting or reviewing the DDA and/or professional financial advisory or real estate services incurred in the review of the terms of the DDA (collectively, "Third Party Costs"). Any portion of the Good Faith Deposit not expended by City on eligible Third Party Costs shall be returned to the Developer upon execution of the DDA or within thirty (30) days after termination of this Agreement.

(b) Developer acknowledges that the Good Faith Deposit paid herewith may not be adequate to fully reimburse the City for its Third Party Costs incurred in connection with the negotiation of the DDA. In the event the Third Party Costs exceed Ten Thousand Dollars (\$10,000), the City may demand one more additional deposit from Developer

EXHIBIT A

in order to fully cover the City's eligible Third Party Costs. In the event, for any reason, the City's request for further deposits from Developer is not fully satisfied, the City reserves the right to cease negotiations with Developer and terminate this Agreement pursuant to Section 3.5(iv).

(c) The Developer's obligation to pay the Good Faith Deposit or any subsequent additional deposit shall not be contingent on the hiring by City of any specific employees or consultants. The City reserves absolute discretion regarding the selection, hiring, assignment, supervision and evaluation of any and all employees, contractors, or consultants that may be necessary to assist the City in connection with the Project. The City shall have the sole discretion to establish the amount of compensation paid to the employees and the amount of fees paid to the consultants or the consultants' firms that are hired by the City in connection with the Project.

(d) Notwithstanding the preceding conditions, in the event that the Developer does not breach this Agreement and has diligently performed all of his duties and obligation as required by this Agreement, but the City and Developer do not finalize their negotiations and enter into a DDA due to the City's failure to negotiate in good faith with Developer, then the Developer shall be entitled to a refund of the entire amount of its Good Faith Deposit within 30 days after the termination of this Agreement.

3.7 Limitation on Remedies for Breach and Release of Claims. City and Developer both acknowledge that they would not have entered into this Agreement if they were to be liable to the other for an unknown amount of monetary damages or other remedies. Accordingly, each Party acknowledges and agrees that its exclusive right and remedy upon the breach of this Agreement by the other Party is to terminate this Agreement, without cost, expense or liability to either Party.

Each Party acknowledges that it is aware of the meaning and legal effect of California Civil Code Section 1542, which provides:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him would have materially affected his settlement with the debtor "

EXHIBIT A

Civil Code Section 1542 notwithstanding, it is City's and Developer's intention to be bound by the limitation on damages and remedies set forth in this Section 3.7, and each Party hereby releases any and all claims against the other for monetary damages or other legal or equitable relief related to such breach, whether or not such released claims were known or unknown to the Parties as of their entry into this Agreement. City and Developer each hereby waive, but only as to the claims released under this Section 3.7, the benefits of Civil Code Section 1542 and all other statutes and judicial decisions (whether state or federal) of similar effect.

3.8 Solicitation and Conflicts of Interest. Developer represents and warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for Developer or a licensed real estate broker, to solicit or secure this Agreement. Further, Developer warrants it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Developer or a licensed real estate broker, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the making of this Agreement. For any breach or violation of this warranty, City shall have the right to rescind this Agreement without liability.

For the term of this Agreement, no member, officer or employee of City, during the term of his or her service with City, shall have any direct or indirect interest in this Agreement or obtain any present or anticipated material benefit arising therefrom.

3.9 Disclosures and Cooperation. City and Developer shall generally cooperate with each other and supply such documents and information as may be reasonably requested by the other to facilitate the conduct of the negotiations. Without limiting the generality of the foregoing, City particularly reserves the right to obtain further information, data and commitments to ascertain the ability and capacity of Developer to acquire the Site and develop the Project. Unless precluded by law, City shall keep confidential all proprietary information provided by Developer to City.

City shall prepare such public notices and schedule such public hearings, in accordance with CRL and other relevant law, as may be necessary for the City's governing board and the City Council's consideration of any DDA which may be agreed upon between City staff and Developer. Developer expressly acknowledges and agrees that City will not be bound by any statement, promise or representation made by City staff during the course of negotiations of a

EXHIBIT A

DDA and that the City shall be legally bound only upon the approval of the DDA by City's governing board and the City Council of the City, in accordance with the provisions of CRL.

3.10 Attorneys' Fees. In the event that either Party brings any legal action to interpret or enforce any provision of this Agreement, the prevailing Party in that action shall be entitled to receive, in addition to all other relief available to it, its costs of litigation and reasonable attorneys' fees, including costs and fees incurred on appeal and in enforcing any judgment which may be rendered on the underlying action.

3.11 Governing Law; Jurisdiction and Venue. This Agreement shall be interpreted and enforced in accordance with the law of the State of California in effect at the time it is executed, without regard to conflicts of law provisions. Any action brought concerning this Agreement shall be brought in the appropriate court for the County of San Bernardino, California. Each Party hereby irrevocably consents to the jurisdiction of said court. Developer hereby expressly waives all provisions of law providing for a change of venue due to the fact that City or the City may be a Party to such action, including, without limitation, the provisions of California Code of Civil Procedure Section 394. Developer further waives and releases any right it may have to have any action concerning this Agreement transferred to Federal District Court due to any diversity of citizenship which may exist between City and Developer or due to the fact that a federal question or right is alleged or involved in such action.

3.12 No Third Party Beneficiaries. City and Developer expressly acknowledge and agree that they do not intend, by their execution of this Agreement, to benefit any persons or entities not signatory to this Agreement, including, without limitation, any brokers representing the Parties to this transaction. No person or entity not a signatory to this Agreement shall have any rights or causes of action against either City or Developer arising out of or due to City's and Developer's entry into this Agreement.

3.13 Counterpart Originals. This Agreement may be executed in two (2) counterpart originals which, when taken together, shall constitute but one and the same instrument.

[Signatures on following pages]

EXHIBIT A

SIGNATURE PAGE TO
EXCLUSIVE RIGHT TO NEGOTIATE AGREEMENT

CITY:

THE CITY OF RIALTO

By:


DEBORAH ROBERTSON,
Mayor

Dated:

11/9/15

ATTEST:


BARBARA MCGEE,
City Clerk

APPROVED AS TO LEGAL FORM:

ALESHIRE & WYNDER, LLP

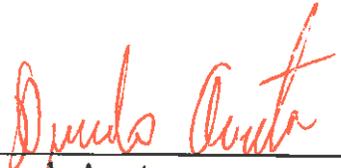

FRED GALANTE, ESQ.
City Attorney

EXHIBIT A

SIGNATURE PAGE TO
EXCLUSIVE RIGHT TO NEGOTIATE AGREEMENT

DEVELOPER:

FERNANDO ACOSTA R.E., INC.

By: 
Fernando Acosta

Dated: 10-28-15

EXHIBIT A

EXHIBIT A TO EXCLUSIVE RIGHT TO NEGOTIATE AGREEMENT

SITE MAP



EXHIBIT A

EXCLUSIVE RIGHT TO NEGOTIATE AGREEMENT

SCOPE OF NEGOTIATIONS/SCHEDULE OF PERFORMANCE

The goal of the negotiations is to prepare a Development and Disposition Agreement (“DDA”) acceptable to both parties that will then be submitted to the City Council (or Successor Agency as applicable) for consideration at a joint public hearing (if required by law). The proposed DDA contemplates the acquisition of Parcel A and Parcel B by the City and the conveyance of the Site to the Developer at fair market value, subject to various conditions precedent and the subsequent redevelopment of the Site into a high quality commercial development.

The City and Developer shall structure any public assistance to avoid the applicability of prevailing wages for the private improvements to be constructed.

City Planning Goals

The City encourages redevelopment of the Site into a high quality commercial development that will maximize tax revenues to the City, create a significant number of job opportunities, and provide goods and services currently lacking in the community.

The proposed development should consist of complementary freeway oriented commercial uses consistent with the Freeway Incubator land use designation in the Renaissance Specific Plan including but not limited to the following:

1. Full and limited service restaurants that may include coffee shops, buffets, dinner houses, and similar establishments. The City and Developer shall collectively determine the appropriate restaurant uses.
2. Other fast casual, or drive thru restaurants that are underrepresented in Rialto.
3. Retail uses allowed by the Renaissance Specific Plan and complementary to the proposed shopping center.
4. Hotels of approximately 100 rooms operated by a national chain such as Hampton Suites, Holiday Inn Express, Hyatt Place, or equivalent.

Site development may be phased and include commercial pads that are structured for sale or for lease. The Project shall be of highest quality of design and must or exceed all current City development and design standards.

It is expected that the Project will require a mitigated negative declaration of environmental impact. The Parties desire that the environmental review obligations will be a condition of the Disposition and Development Agreement, which will be completed subsequently as part of the formal land use entitlement process.

EXHIBIT A

Responsibilities/Schedule of Performance

The Developer shall complete the following tasks during the Exclusive Negotiation Period:

1. Submit site plan and building elevations that identify the various development parcels within the Site in relation to the final location of the public streets. The site plan and building elevations shall be revised and resubmitted as required to satisfy the City and City with respect to the City Planning Goals noted above.
2. Submit preliminary commitment letters from tenants satisfying the City Planning Goals noted above.
3. Identify the critical infrastructure currently available to the Site and any improvements that are needed to support the Project. Provide preliminary cost estimates for the public improvements related to the Project.
4. Provide the City with real estate valuation input to help determine the cost of the DDA to the City. This may include proformas detailing the value of the various development parcels and the associated public and private improvement costs to produce finished parcels ready for development. This should also include an estimate of governmental fees to be paid.
5. Provide the City with other cost/benefit information to enable its consultants to prepare a cost benefit analysis for presentation to the City Council. This typically includes the number of construction jobs created, the number of permanent jobs created, the cost to maintain the public improvements upon dedication, the value of the completed development, and the various tax revenues associated with development operations.
6. Provide a tentative schedule for acquisition and development of the Project.
7. If it is determined to be a necessary condition precedent to the City's consideration of the DDA, the Developer shall submit an application for environmental review by the City and City and pay all normal and customary fees related thereto.

EXHIBIT B

**AMENDMENT NO. 1 TO
EXCLUSIVE RIGHT TO NEGOTIATE AGREEMENT**

between

**THE CITY RIALTO
a municipal corporation**

and

Fernando Acosta R.E., Inc.

[Dated as of March 22, 2016 for reference purposes only]

EXHIBIT B

This Amendment No. 1 ("Amendment") to that certain Exclusive Right to Negotiate Agreement ("Agreement") is made this 22nd day of March 2016 by and between the City of Rialto, a municipal corporation ("City"), and Fernando Acosta, R.E., Inc. ("Developer"), pursuant to the following facts:

RECITALS

WHEREAS, City and Developer did enter into the Agreement dated as of October 13, 2015; and

WHEREAS, the parties have commenced negotiations as provided for in the Agreement; and

WHEREAS, the parties have mutually concluded that it is desirable for them to amend the term of the Agreement to provide additional time to complete their negotiations of a Disposition and Development Agreement for the development of commercial and retail uses on approximately 8 acres of property located on the northeast corner of Ayala Drive and Renaissance Parkway in the City of Rialto.

NOW, THEREFORE, City and Developer do hereby agree to amend the Agreement as follows:

Section One: Section 3.5 (i) of the Agreement is amended to be October 1, 2016.

Section Two: All other terms, conditions, clauses, phrases, covenants and promises contained in the Agreement and not modified herein shall remain in full force and effect notwithstanding this Amendment.

WHEREFORE, the parties have executed this Amendment No. 1, effective March 22, 2016.

EXHIBIT B

SIGNATURE PAGE TO AMENDMENT NO. 1
TO EXCLUSIVE RIGHT TO NEGOTIATE AGREEMENT

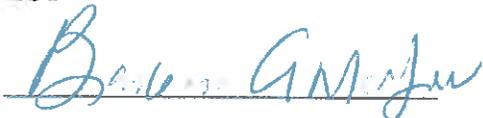
CITY:

THE CITY OF RIALTO

By: 
DEBORAH ROBERTSON, Mayor

Dated: 4/7 2016

ATTEST:

By: 
BARBARA MCGEE, City Clerk

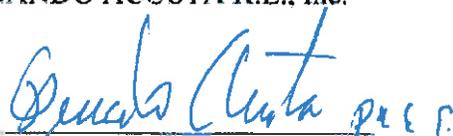
APPROVED AS TO LEGAL FORM:

ALESHIRE & WYNDER, LLP

By: 
FRED GALANTE, ESQ.
City Attorney

DEVELOPER:

FERNANDO ACOSTA R.E., Inc.

By: 
FERNANDO ACOSTA

Dated: 3-23-16 2016

EXHIBIT C

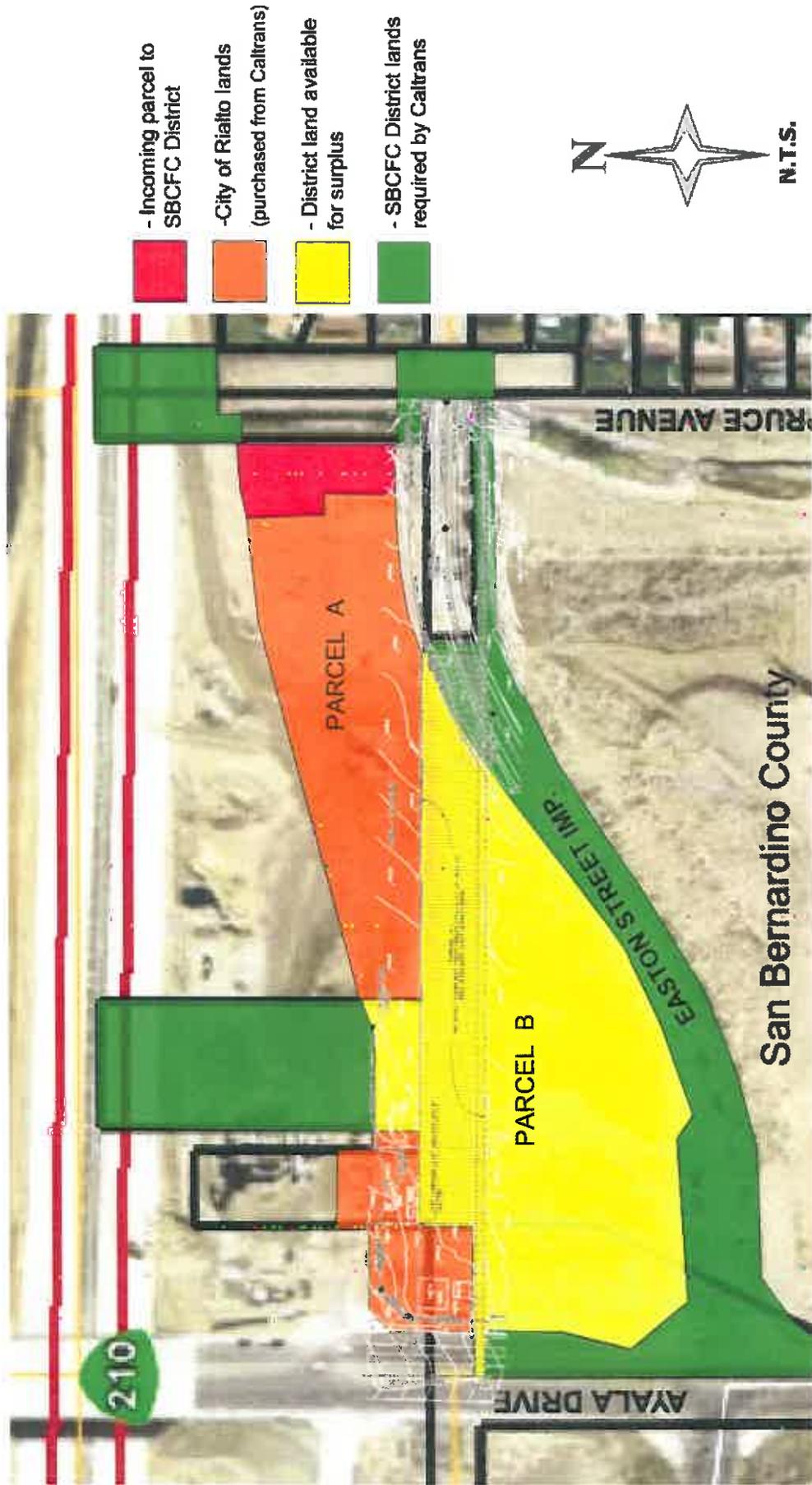
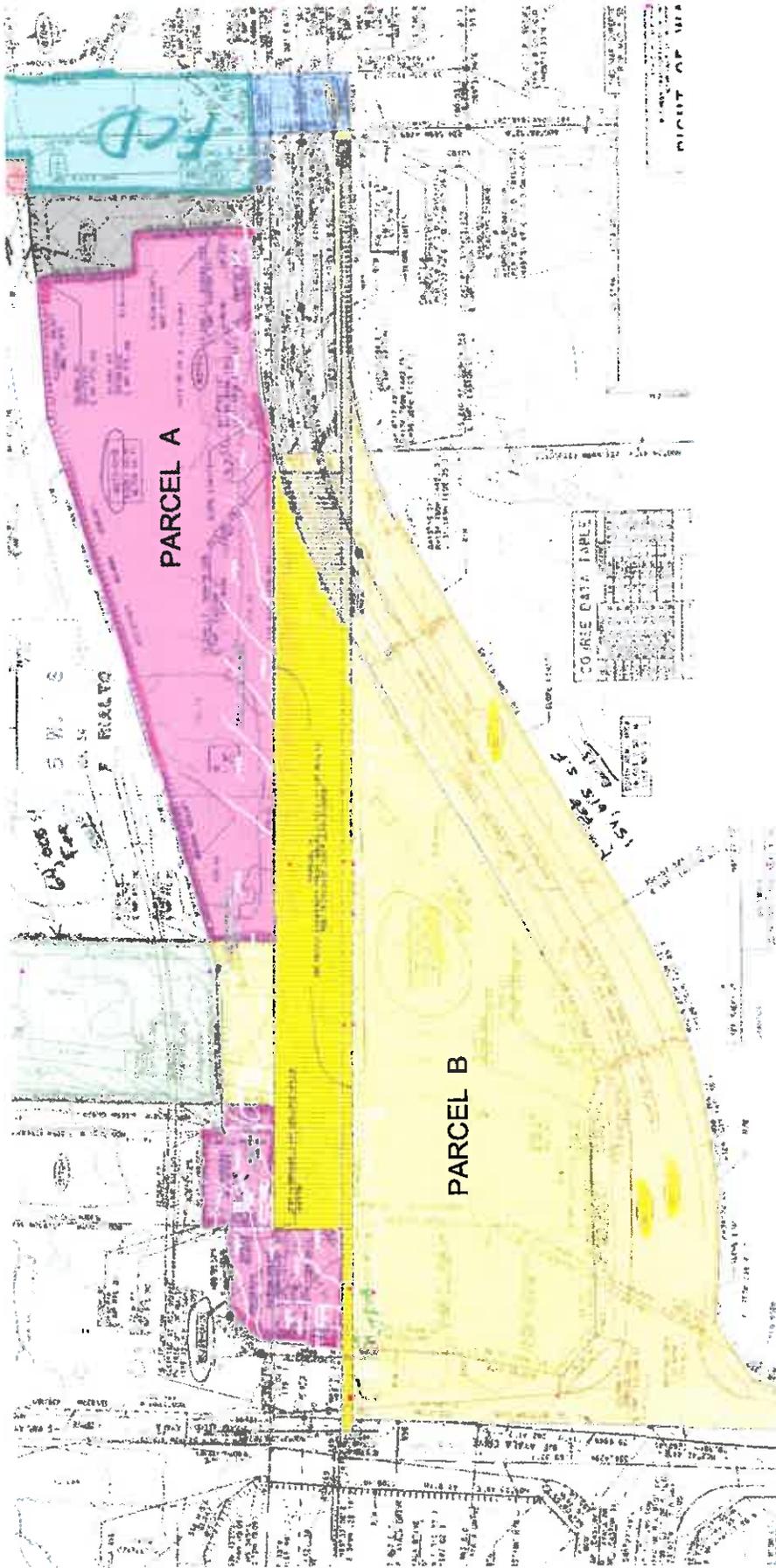


EXHIBIT C



CITY OF RIALTO

ECONOMIC DEVELOPMENT COMMITTEE AGENDA REPORT

For the Meeting of September 21, 2016

| | |
|----------|---|
| TO: | Honorable Economic Development Committee Members |
| VIA: | Robb R. Steel, Assistant CA/Director of Development Services |
| FROM: | Greg Lantz, Economic Development Manager |
| SUBJECT: | Proposed Site Plan - Redevelopment of 630 W. Foothill Boulevard |
| DATE: | September 15, 2016 |

BACKGROUND:

City staff has met several times with representative of WSS Shoes related to the proposed disposition and development of its 2.3 acre property located on the northeast corner of Foothill Boulevard and Cactus Avenue (the "Site"). The architect for the Buyer/Developer, Jimone Berookhim, prepared a development site plan (**Exhibit A**), which has been approved by Aldi and WSS. However, several issues must be addressed before the Site can be developed as proposed on the Site Plan.

ANALYSIS/DISCUSSION:

The proposed Site Plan shows the buildings situated approximately 10 feet from the north property line. Placing the buildings near the rear property line is generally acceptable as long as they meet the minimum setback; however, constructing the building within this area will require the following actions and approvals by the City:

1. A Variance from the development standards contained within the commercial Pedestrian zone of the Foothill Boulevard Specific Plan ("Foothill SP"), which requires all buildings to be massed to the front of the parcel.
2. Vacate or quit claim the City's rights and interest to construct a public roadway/alleyway along the rear 25 feet of the Site; and
3. Relocation of an existing water line and any easements within the building area.

Variance

Development standards within the Commercial Pedestrian zone of the Foothill SP require buildings to be massed to the street, with parking located behind or to the side of the buildings. Aldi, the major tenant for the Site, has indicated that they will not approve a Site Plan with their building massed along the street frontage and the parking located behind the store.

Furthermore, the property is encumbered by Covenants, Conditions and Restrictions (“CCR’s”), (**Exhibit B**), that restricts the development of any buildings within 100 feet of the centerline of Foothill Boulevard. The CC&R’s will prevent the development of any buildings within the front 45 feet of the Property. This restriction could be removed if the owners of the Carl’s Jr. consent; however, this is highly unlikely given that the restriction was imposed to protect Carl’s Jr’s visibility. Because the CCR’s restrict and negatively affect the development of the property, the City may make the necessary findings to grant a variance from the development standards in the Foothill SP to permit the building to be situated at the rear of the Property.

Vacation of Roadway/Alleyway

Although it has not been fully constructed, the City currently hold rights for a public roadway (alleyway) on and across the northern 25 feet of the WSS property/Site. The roadway right-of-way was acquired by the City via Deed No. 1168 and Deed No.1169 (**Exhibit C**) and is highlighted on the ALTA Survey Map (**Exhibit D**).

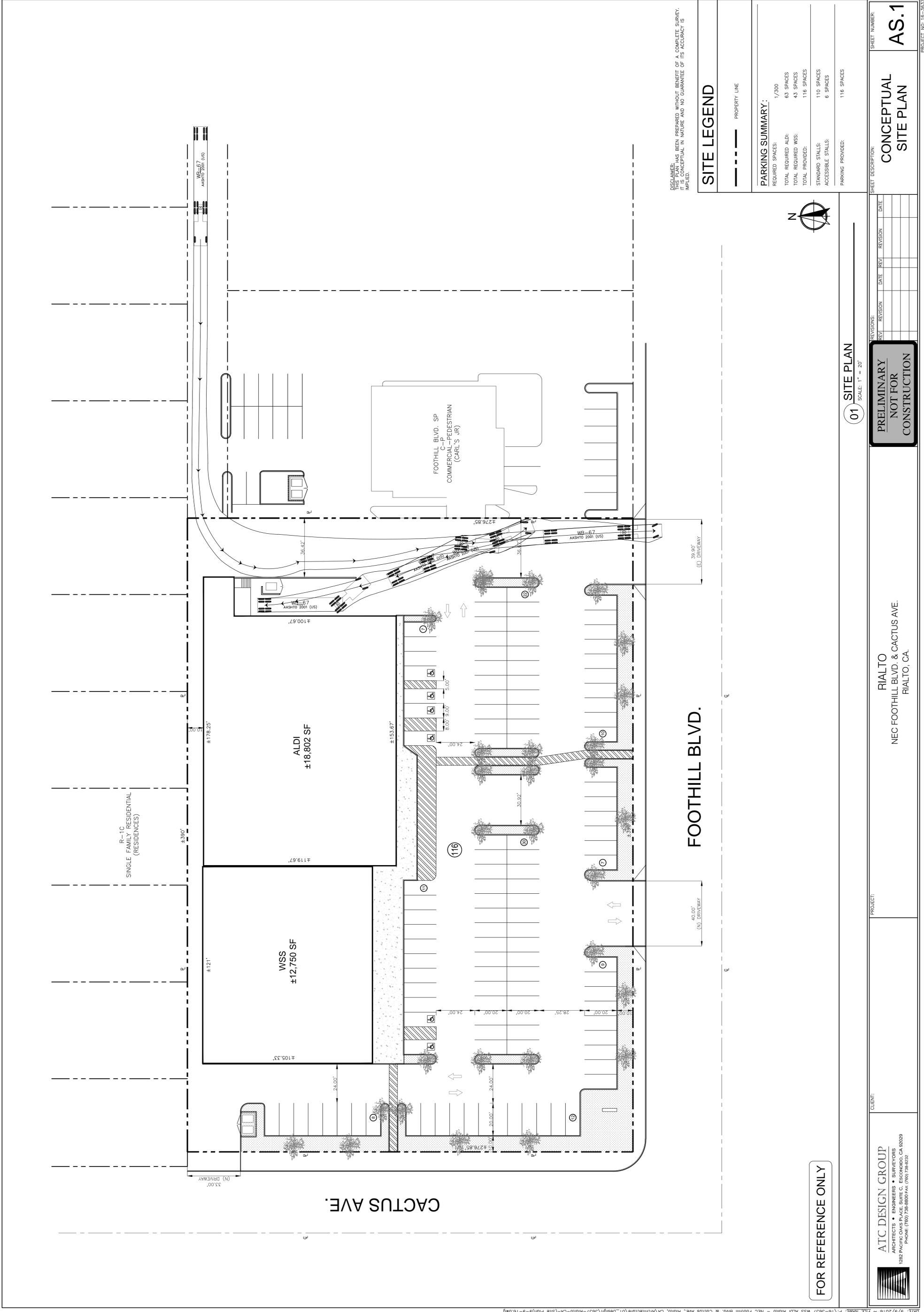
The development Site Plan anticipates that the alleyway will be terminated and any vehicles using the alleyway can then traverse the Site to the south and exit onto Foothill Boulevard. To facilitate the development of the Site, the City will need to process and approve a non-summary vacation to abandon and quit claim its right to develop a public roadway/alleyway on and across the WSS Property.

Water line Relocation:

As part of the due diligence on the Site, the Developer has determined that the City/RWS has an active water line located at the rear of the property. A map depicting the location of the water line is attached hereto as **Exhibit E**. To develop the Site, the Developer plans to relocate and construct a new water line within the project site to eliminate this existing dead-end line, provide on-site fire and domestic services and connect into the existing waterline in Cactus Avenue

RECOMMENDATION:

1. Staff recommends that the Economic Development Committee forward a recommendation to the Planning Commission to approve a Variance to the Foothill Boulevard Specific Plan to permit the construction of the buildings adjacent to the rear of the Property.
2. Staff recommends that the Economic Development Committee forward a recommendation to the City Council to approve the vacation of the public roadway/alley from the north 25’ of the Project Site.



DISCLAIMER: THIS PLAN HAS BEEN PREPARED WITHOUT BENEFIT OF A COMPLETE SURVEY. IT IS CONCEPTUAL IN NATURE AND NO GUARANTEE OF ITS ACCURACY IS IMPLIED.

SITE LEGEND

--- PROPERTY LINE

PARKING SUMMARY:

| | |
|----------------------|------------|
| REQUIRED SPACES: | 1/300 |
| TOTAL REQUIRED ALDI: | 63 SPACES |
| TOTAL REQUIRED WSS: | 43 SPACES |
| TOTAL PROVIDED: | 116 SPACES |
| STANDARD STALLS: | 110 SPACES |
| ACCESSIBLE STALLS: | 6 SPACES |
| PARKING PROVIDED: | 116 SPACES |



01 SITE PLAN
SCALE: 1" = 20'

**PRELIMINARY
NOT FOR
CONSTRUCTION**

| REVISIONS: | REV | REVISION | DATE | REV | REVISION | DATE |
|------------|-----|----------|------|-----|----------|------|
| | | | | | | |

SHEET DESCRIPTION: CONCEPTUAL SITE PLAN

SHEET NUMBER: AS.1

PROJECT NO: 16-3637
DATE: xx.xx.xx

FOR REFERENCE ONLY

CLIENT: RIALTO
PROJECT: NEC FOOTHILL BLVD. & CACTUS AVE.
RIALTO, CA.

ATC DESIGN GROUP
ARCHITECTS • ENGINEERS • SURVEYORS
1282 PACIFIC OAKS PLACE, SUITE C, ESCONCADO, CA 92529
PHONE: (760) 738-8800 FAX: (760) 738-9232



EXHIBIT B

RECORDED AT THE REQUEST OF:
FIRST AMERICAN TITLE INSURANCE CO.

) BOOK 9658 PAGE 363

207

RECORDED IN OFFICIAL RECORDS
APR 5 1979 AM 8 AM
SAN BERNARDINO COUNTY, CALIF.

8.00
E

Return to:

FIRST AMERICAN TITLE COMPANY
OF SAN BERNARDINO
323 WEST COURT STREET
SAN BERNARDINO, CALIFORNIA 92401
710296-DS

DECLARATION OF ESTABLISHMENT OF COVENANTS, CONDITIONS
AND RESTRICTIONS

THIS DECLARATION is entered into this 11th day of January, 1979, by and between HEFCO, INC., a Corporation, hereinafter called "HEFCO", and CARL KARCHER ENTERPRISES, INC., a California corporation, hereinafter called "CKE".

"HEFCO" is the owner of that certain real property described in Exhibit A, which is attached hereto and made a part hereof for all purposes. CKE concurrently with the recordation hereof will be the recorded owner of that certain real property described in Exhibit "B", which is attached hereto and made a part hereof for all purposes. "HEFCO" will remain the owner of that certain real property described in Exhibit "C", which is attached hereto and made a part hereof for all purposes.

IT IS THEREFORE AGREED:

1. The above recitals are to be considered as an integral part of this agreement.
2. The parties hereto agree and establish that the covenants, conditions and restrictions as set forth herein are granted to each other to being pertinent to the parcels of real property described in each and all of the Exhibits attached hereto.

3. It is agreed that no new buildings will be built or constructed in the area described in Exhibit "D", which is attached hereto and made a part hereof for all purposes. It is further agreed that no portion of the real property described in Exhibit "C" shall be used for the operation of a competing retail fast food business, excepting the existing restaurant use currently on said real property.

4. All of the provisions set forth in this Declaration of Establishment of Covenants, Conditions and Restrictions shall be covenants running with the land in accordance with California Law including, but not limited to, California Code of Civil Procedure, Section 1468, it being agreed that each covenant is for the benefit of each parcel of land, runs with the land, and shall benefit or be binding upon each successive owner of each parcel as attached as an Exhibit hereto.

JAN 31 1979

CKE

5. This Declaration may be amended or terminated by the written agreement of the fee owners and lessees of recorded leases of the parcels set forth on the attached Exhibits.

6. This Declaration shall be effective only upon its recording in the office of the county recorder.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

CARL KARCHER ENTERPRISES, INC.
a California corporation

HEFCO, INC.

By: Robert D. Kuster
Robert Kuster, Vice President

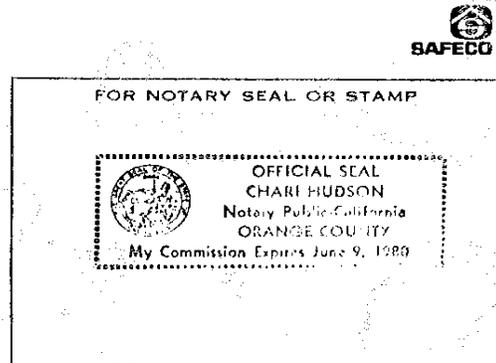
By: T. Fred Hedding
T. Fred Hedding, President

By: Donald Karcher
Donald Karcher, Executive V. P.

By: _____

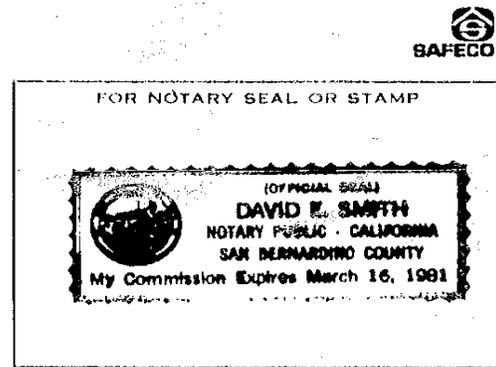
STATE OF CALIFORNIA
COUNTY OF Orange } SS.
On January 31, 1979 before me,
the undersigned, a Notary Public in and for said County and State,
personally appeared Donald Karcher
known to me to be the Vice President, and
Robert D. Kuster, known to me to be
Executive V.P. of the corporation that executed the
within instrument, known to me to be the persons who executed the
within instrument on behalf of the corporation therein named, and
acknowledged to me that such corporation executed the within
instrument pursuant to its by-laws or a resolution of its board of
directors.

Signature Chari Hudson



STATE OF CALIFORNIA
COUNTY OF San Bernardino } SS.
On February 16, 1979 before me,
the undersigned, a Notary Public in and for said County and State,
personally appeared T. Fred Hedding
known to me to be the President, and
_____, known to me to be
_____, Secretary of the corporation that executed the
within instrument, known to me to be the persons who executed the
within instrument on behalf of the corporation therein named, and
acknowledged to me that such corporation executed the within
instrument pursuant to its by-laws or a resolution of its board of
directors.

Signature David E. Smith
David E. Smith



207

EXHIBIT "A"

Parcels 1 and 2 of Parcel Map 4580 as filed in book 42
_____, page 27-28 of Parcel Maps,
records of San Bernardino County, California, together
with that portion of the South 1/2 of Lot 57, Map of Town
of San Bernardino, State of California, as per plat
recorded in book 4 of Maps, page 11, records of said
County, described as follows:

Beginning at a point on the South line of said Lot 57,
said point being in the center line of Foothill Boulevard,
and Cactus Avenue, Thence running East along the centerline
of Foothill Boulevard, 380 feet, thence running North 330
feet more or less to the North line of the South 1/2
of said lot 57; thence running Westerly along the North
line of said South 1/2 of Lot 57, 380 feet; thence
running South 330 feet more or less along the centerline
of Cactus Avenue to the point of beginning.

EXCEPT any portion on Foothill Boulevard and Cactus Avenue.

207

JAN 31 1979

CKE

EXHIBIT "B"

Parcel 2 of Parcel Map No. 4580, filed in Book 46, Page 27-28, of Parcel Maps, records of San Bernardino County.

TOGETHER WITH an easement for ingress and egress over and across Parcel 1 of Parcel Map No. 4580, filed in Book 46, page 27-28, of Parcel Maps, records of San Bernardino County.

TOGETHER WITH an easement and right of way for ingress and egress over the North 33 feet of the West 180 feet of the South 1/2 of Lot 57.

ALSO TOGETHER WITH the right to use right of way for ingress and egress over the North 33 feet of the East 300 feet of the West 480 feet of the South 1/2 of Lot 57.

EXCEPTING THEREFROM any portion of said right of way lying within said Parcel 2 of Parcel Map No. 4580.

The areas and distances of the property herein described are computed to the center of all adjoining streets and roads.

207

JAN 31 1979

CJK

EXHIBIT B

BOOK 9658 PAGE 367

EXHIBIT "C"

Parcel 1 of Parcel Map 4580 as filed in book 46,
page 20-22 of Parcel Maps, records of San Bernardino
County, California, together with that portion of the South 1/2 of Lot 57, Map
of Town of San Bernardino, State of California, as per plat recorded in book 4
of Maps, page 11, records of said County, described as follows:

Beginning at a point on the South line of said Lot 57, said point being in
the center line of Foothill Boulevard, and Cactus Avenue, thence running
East along the centerline of Foothill Boulevard, 380 feet, thence running
North 330 feet more or less to the North line of the South 1/2 of said lot
57; thence running Westerly along the North line of said South 1/2 of Lot 57,
380 feet; thence running South 330 feet more or less along the centerline of
Cactus Avenue to the point of beginning.

EXCEPT any portion on Foothill Boulevard and Cactus Avenue.

207

JAN 31 1979

CXE

EXHIBIT "D"

That portion of the South 1/2 of Lot 57, Map of Town of San Bernardino, State of California, as per plat recorded in book 4 of Maps, page 11, records of said County, described as follows:

Beginning at a point on the South line of said Lot 57, said point being in the center line of Foothill Boulevard and Cactus Avenue, thence running East along the center line of Foothill Boulevard, 380 feet, thence North 100 feet; thence West 380 feet on a line parallel with the center line of Foothill Boulevard; thence South 100 feet along the centerline of Cactus Avenue to the point of beginning.

207

JAN 31 1979

C.K.E.

Exhibit C

ASSASSIN'S Parcel No. 127-572-28

Return to:
City of Rialto
150 South Palm Avenue
Rialto, California 92176

EXHIBIT C
OF

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DEED N.O. 1168

We, the undersigned, for a valuable consideration, receipt of which is hereby acknowledged, do hereby grant to the City of Rialto, a Municipal Corporation, for street and highway purposes, all the right, title and interest in and to the real property in the City of Rialto, County of San Bernardino, State of California described as follows:

Portion of the Town of Rialto and Adjacent Subdivisions being the East 150' feet and the West 330' feet of the South 1/2 of Lot No. 57 as recorded in Map Book 4, Page 11, more particularly described as:

The North 25' feet of the above described parcel.

All distances measured to adjacent street centerlines.

82-167950

IN WITNESS WHEREOF, I hereunto set my hand this 29th day of June 1982

Jerome A. Hedding

STATE OF CALIFORNIA) ss
COUNTY OF SAN BERNARDINO)

On this 29th day of June, 1982, before me Virginia S. Camp, a Notary Public in and for said County and State, residing therein, duly commissioned and sworn, personally appeared Jerome A. Hedding known to me to be the person (or whose name (or) is/are subscribed to the within and foregoing instruments, and they acknowledge to me that they executed the same.

WITNESS My Hand and Official Seal the day and year in this certificate first above written.

Virginia S. Camp



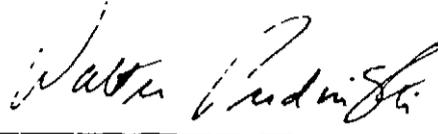
Exhibit C

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

This is to certify that the interest in real property conveyed by the (Deed) (~~XXXXXXXXXX~~) (~~XXXXXXXXXX~~) from Jerome A. Hedding

to the City of Rialto, a political corporation, is hereby accepted by the order of the City Council of the City of Rialto on July 6, 1982, and the grantee consents to recordation thereof by its duly authorized officer:

DATED: July 7, 1982



WALTER PUDINSKI
CITY ADMINISTRATOR

82-167950

82-167950

NO FEE
A

RECORDED IN
OFFICIAL RECORDS
1982 AUG 25 PM 2:36
SANTA ANA COUNTY
CO., CALIF.

Exhibit C

Assessor's Parcel No. 127-572-27

RECORDED
REQUEST OF

City of Rialto
150 South Palm Avenue
Rialto, California 92376

DEED L. O. 1169

We, the undersigned, for a valuable consideration, receipt of which is hereby acknowledged, do hereby grant to the City of Rialto, a Municipal Corporation, for street and highway purposes, all the right, title and interest in and to the real property in the City of Rialto, County of San Bernardino, State of California described as follows:

Portion of the Town of Rialto and Adjacent Subdivisions and a portion of the South 1/2 of Lot No. 57 commencing at a point in the centerline of Foothill Blvd. which is 330' feet East of the centerline of the intersection with Cactus Avenue; thence along the centerline of said Foothill Blvd. East 50' feet; thence North 330' feet more or less to a point in the North line of the South 1/2 of said Lot No. 57; thence along said North line of the South 1/2 of said lot West 50' feet; thence South 330' feet more or less to the point of beginning, more particularly described as:

The North 25' feet of the above described parcel.
All distances measured to adjacent street centerlines.

IN WITNESS WHEREOF, I hereunto set my hand this 29th day of June 1982

Jerome A. Hedding

STATE OF CALIFORNIA) ss
COUNTY OF SAN BERNARDINO)

On this 29th day of June, 1982, before me Virginia S. Camp, a Notary Public in and for said County and State, residing therein, duly commissioned and sworn, personally appeared Jerome A. Hedding known to me to be the person(s) whose name (s) is/are subscribed to the within and foregoing instruments, and they acknowledge to me that they executed the same.

WITNESS My Hand and Official Seal the day and year in this certificate first above written.

Virginia S. Camp



82-167951

Exhibit C

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

This is to certify that the interest in real property conveyed by the (Deed) (~~XXXXXXXX~~) (~~XXXXXXXXXXXX~~) from _____

Jerome A. Hedding

to the City of Rialto, a political corporation, is hereby accepted by the order of the City Council of the City of Rialto on July 6, 1982, and the grantee consents to recordation thereof by its duly authorized officer:

DATED: July 7, 1982

Walter Pudinski

WALTER PUDINSKI
CITY ADMINISTRATOR

82-167951

82-167951

NO FEE
A

RECORDED IN
OFFICIAL RECORDS
1982 AUG 25 PM 2:36
SAN BERNARDINE
CO., CALIF.

ALTA/ACSM LAND TITLE SURVEY

TITLE REPORT INFORMATION

A PRELIMINARY TITLE REPORT HAS BEEN PROVIDED BY ONICHO TITLE COMPANY, ORDER NO. 12100101-10, DATED DECEMBER 5, 2012. THE FOLLOWING ITEMS REFERENCED IN THIS SURVEY ARE FROM THE TITLE REPORT AND ARE REFERENCED TO CORRESPOND WITH SAID TITLE REPORT.

- AN EASEMENT IN FAVOR OF SOUTHERN CALIFORNIA EDISON COMPANY FOR UNDERGROUND ELECTRICAL SUPPLY SYSTEMS AND COMMUNICATION SYSTEMS, PER DEED RECORDED AUGUST 17, 1979, IN BOOK 5752, PAGE 2092 OF OFFICIAL RECORDS.
- AN EASEMENT IN FAVOR OF SOUTHERN CALIFORNIA EDISON COMPANY FOR PUBLIC UTILITIES AND INCIDENTAL PURPOSES, PER DEED RECORDED AUGUST 31, 2005 AS INSTRUMENT NO. 2005-0680184, OF OFFICIAL RECORDS.
- AN EASEMENT IN FAVOR OF SOUTHERN CALIFORNIA EDISON COMPANY FOR UNDERGROUND ELECTRICAL SUPPLY SYSTEMS AND COMMUNICATION SYSTEMS, PER DEED RECORDED AUGUST 17, 1979, IN BOOK 5752, PAGE 2092 OF OFFICIAL RECORDS.
- AN EASEMENT IN FAVOR OF SOUTHERN CALIFORNIA EDISON COMPANY FOR PUBLIC UTILITIES AND INCIDENTAL PURPOSES, PER DEED RECORDED AUGUST 31, 2005 AS INSTRUMENT NO. 2005-0680184, OF OFFICIAL RECORDS.

PROPERTY INFORMATION

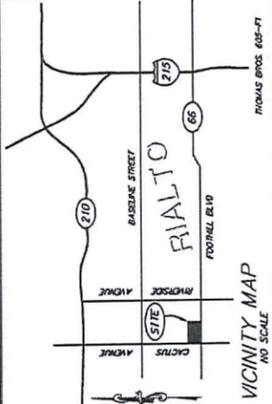
OWNER: STARVOS ISERBERIDIS, A MARRIED MAN, AS HIS SILE AND SEPARATE PROPERTY, DBA LAS PLUMAS RESTAURANT
 ADDRESS: 630 WEST FOOTHILL BOULEVARD, RIALTO, CA 92376
 ASSESSOR'S PARCEL NUMBER: 0127-572-27, 28, 29 & 30
 GROSS LAND AREA: 2.34 ACRES (101,888.83 SQ. FT.)

FLOOD ZONE

ZONE "X", AREA DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN, PER FEMA MAP NO. 0807120630H, EFFECTIVE 8/28/2008.

VERTICAL RELIEF

THE TOPOGRAPHY SHOWN HEREON IS ESTABLISHED FROM A GROUND SURVEY PERFORMED BY ACCURATE LAND SURVEYS. CONTOUR INTERVAL IS ONE (1) FOOT. THE BENCHMARK FOR THIS SURVEY IS THE CITY OF RIALTO BENCHMARK NO. 029-28, A NAIL AND BRASS SET IN THE TOP OF CURB AT THE NORTHEAST CORNER OF FOOTHILL BLVD AND CACTUS AVE.
 ELEVATION = 1275.66 M.S.L. (NAVD '88)



LEGAL DESCRIPTION

PARCEL NO. 1: (0127-572-27)
 THE SOUTH 130 FEET OF THE WEST 180 FEET OF LOT 57, MAP OF TOWN OF RIALTO AND ADJOINING SUBDIVISION, IN THE CITY OF RIALTO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 4 OF MAPS, PAGE 11, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

PARCEL NO. 2: (0127-572-28)
 THAT PORTION OF THE SOUTH ONE-HALF OF LOT 57, MAP OF TOWN OF RIALTO AND ADJOINING SUBDIVISION, IN THE CITY OF RIALTO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 4 OF MAPS, PAGE 11, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:
 BEGINNING AT A POINT ON THE SOUTH LINE OF SAID LOT 57, SAID POINT BEING IN THE CENTER OF CACTUS AVENUE AND FOOTHILL BOULEVARD, THENCE RUNNING EAST ALONG THE CENTERLINE OF FOOTHILL BOULEVARD, 150 FEET; THENCE RUNNING NORTH 130 FEET MORE OR LESS TO THE NORTH LINE OF SAID LOT 57, THENCE RUNNING SOUTH 130 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

EXCEPT THEREFROM ANY PORTION THEREOF LYING WITHIN FOOTHILL BOULEVARD.
 EXCEPT THEREFROM THE INTEREST CONVERTED TO THE CITY OF RIALTO BY DEED RECORDED IN BOOK 6274, PAGE 743, OF OFFICIAL RECORDS.

ALSO EXCEPTING THEREFROM THE INTEREST CONVERTED TO THE CITY OF RIALTO BY DEED RECORDED AUGUST 25, 1982, AS INSTRUMENT NO. 82-167850, OF OFFICIAL RECORDS.

ALL DISTANCES MEASURED TO ADJACENT STREET CENTER LINES.

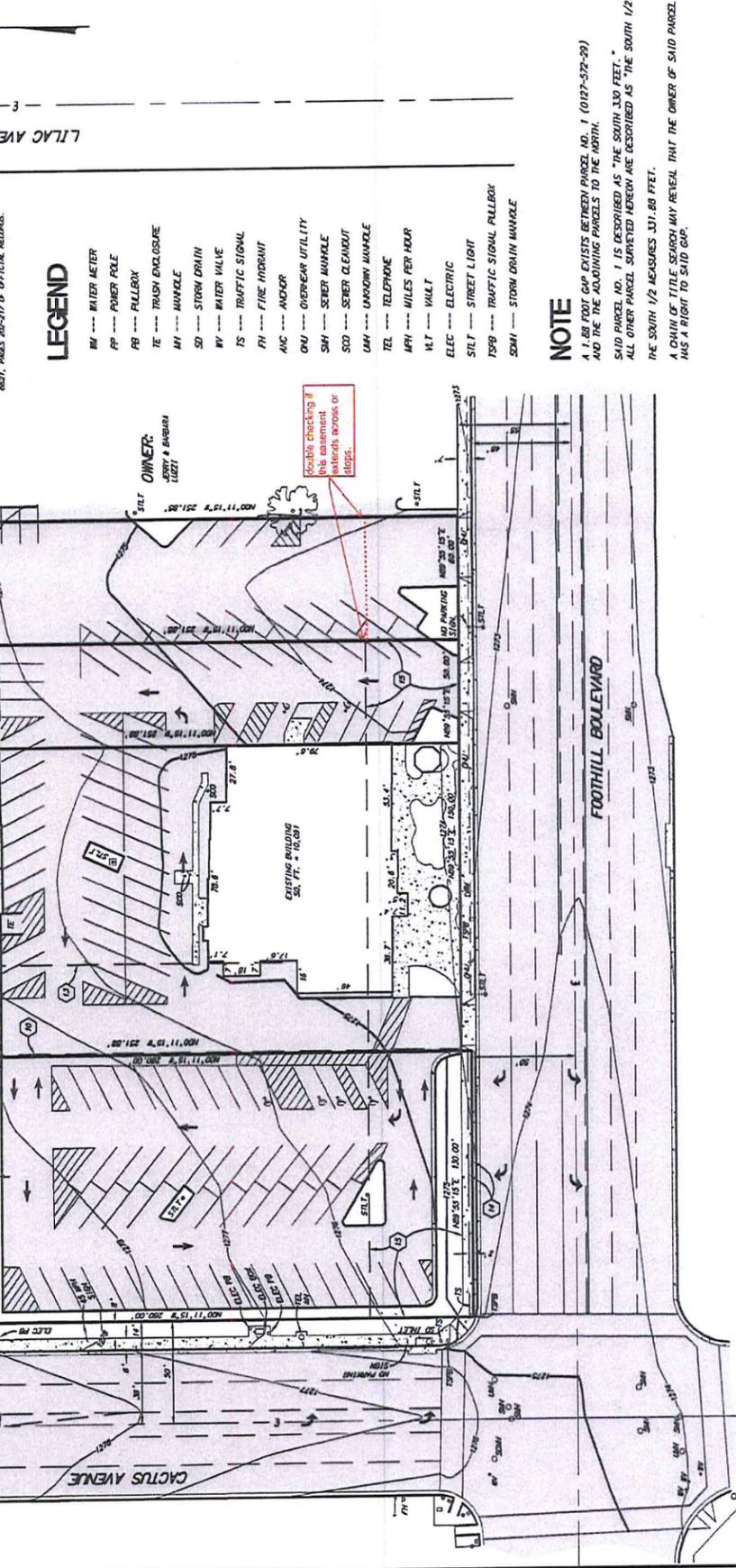
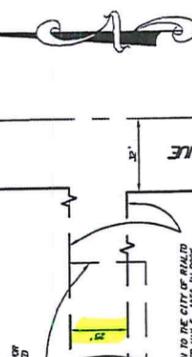
LEGAL DESCRIPTION

PARCEL NO. 3: (0127-572-27)
 THAT PORTION OF THE SOUTH 1/2 OF LOT 57, MAP OF TOWN OF RIALTO AND ADJOINING SUBDIVISION, IN THE CITY OF RIALTO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 4 OF MAPS, PAGE 11, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:
 BEGINNING AT A POINT ON THE SOUTH LINE OF SAID LOT 57, SAID POINT BEING IN THE CENTERLINE OF CACTUS AVENUE AND FOOTHILL BOULEVARD, THENCE RUNNING EAST ALONG THE CENTERLINE OF FOOTHILL BOULEVARD, 150 FEET; THENCE RUNNING NORTH 130 FEET MORE OR LESS TO THE NORTH LINE OF SAID LOT 57, THENCE RUNNING SOUTH 130 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

EXCEPTING ANY PORTION IN FOOTHILL BOULEVARD.
 EXCEPT THEREFROM THE INTEREST CONVERTED TO THE CITY OF RIALTO BY DEED RECORDED IN BOOK 6274, PAGE 743, OF OFFICIAL RECORDS.

ALSO EXCEPTING THEREFROM THE INTEREST CONVERTED TO THE CITY OF RIALTO BY DEED RECORDED AUGUST 25, 1982, AS INSTRUMENT NO. 82-167850, OF OFFICIAL RECORDS.

ALL DISTANCES MEASURED TO ADJACENT STREET CENTER LINES.



LEGEND

- WM --- WATER METER
- PP --- POWER POLE
- FB --- FULCRUM
- TE --- TRASH ENCLOSURE
- MF --- MANHOLE
- SD --- STORM DRAIN
- WV --- WATER VALVE
- TS --- TRAFFIC SIGNAL
- PH --- FIRE HYDRANT
- AVC --- AVENUE
- OHV --- OVERHEAD UTILITY
- SH --- SEWER MANHOLE
- SOD --- SEWER CLEANOUT
- UAM --- UNKNOWN MANHOLE
- TEL --- TELEPHONE
- MPH --- MILES PER HOUR
- WLT --- WALKWAY
- ELEC --- ELECTRIC
- STLT --- STREET LIGHT
- TSB --- TRAFFIC SIGNAL FULLBOX
- SDM --- STORM DRAIN MANHOLE

Double checking if this easement extends across or through blocks.

SURVEYOR'S CERTIFICATE

WE, THE UNDERSIGNED, HIS SUCCESSORS AND ASSIGNS AND CHICAGO TITLE COMPANY, ITS SUCCESSORS AND ASSIGNS, DO HEREBY CERTIFY THAT THIS MAP OR PLAN AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE 2011 MINIMUM STANDARD DETAILS REQUIREMENTS FOR A STANDARD LAND TITLE SURVEY, AS SET FORTH IN THE 2011 MINIMUM STANDARD DETAILS REQUIREMENTS FOR A STANDARD LAND TITLE SURVEY, CALIFORNIA, 2011 EDITION, AS AMENDED, AND THE FIELD WORK WAS COMPLETED ON JANUARY 31, 2014.

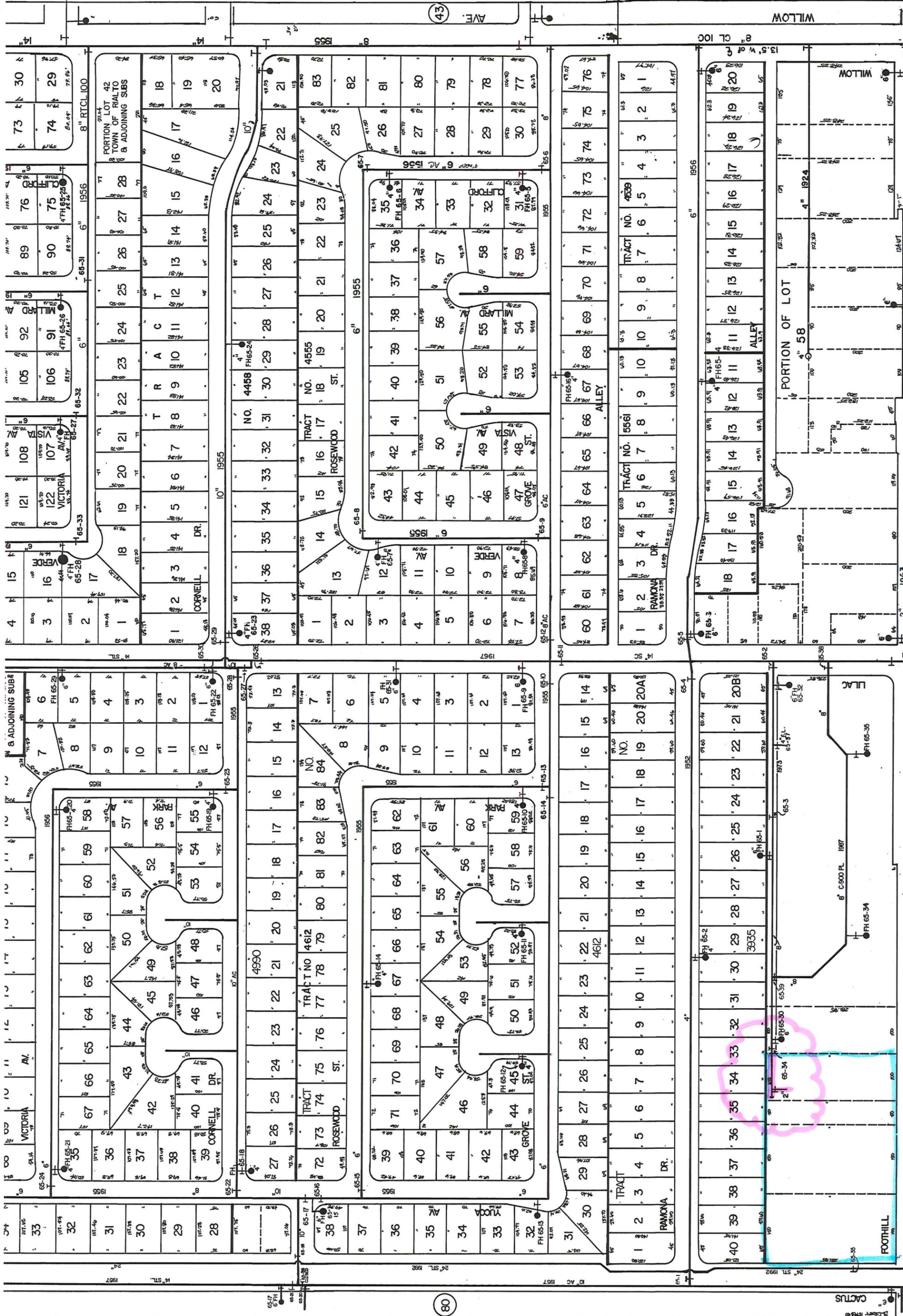
DATE OF PLAN: JANUARY 31, 2014



ACCURATE
 LAND SURVEYS
 2880 OLIVE VIEW ROAD
 ALPINE, CA 91901
 TEL: 619-445-0110

ROBERT J. RUBBELL, PLS. DATE: 02/05/14

EXHIBIT E



N
SCALE
1" = 100'

(80)

CACTUS

(43)

WILLOW

WILLOW

FOOTHILL

RAMONA

TRACT

NO.

ALLEY

PORTION OF LOT

58

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

1924

CITY OF RIALTO

ECONOMIC DEVELOPMENT COMMITTEE AGENDA REPORT

For the Meeting of September 21, 2016

| | |
|----------|--|
| TO: | Honorable Economic Development Committee Members |
| VIA: | <i>PK</i> Robb R. Steel, Assistant CA/Director of Development Services |
| FROM: | James Caro, Building & Code Enforcement Manager <i>JC</i> |
| SUBJECT: | Review of Ordinance Approving 2016 Code Adoption and Amendments |
| DATE: | September 14, 2016 |

BACKGROUND:

The State revises the California Building Codes every three years to implement the most recent technology and standards as it relates to building requirements for new and existing structures. These revisions also update the proper methods and procedures for best maintenance and repair practices for existing structures. The State requires that California cities adopt each revision of the California Building Codes every (3) years. The City executed the preceding adoption in January 2014, when the City Council adopted by reference, with minor amendments, the 2013 Editions of the California Building, Residential, Plumbing, Mechanical, Electrical, Energy and Green Building codes, as well as the 2012 International Property Maintenance Code.

ANALYSIS/DISCUSSION:

Staff is working on the formation of the required ordinance for adoption of the 2016 Codes, amending Chapter 15.08 title 15 of the Rialto Municipal Code. At this time, amendments include changes to the California Building, Residential, Referenced Standards, Plumbing, Mechanical, Electrical, Energy and Green Building, Administrative and Fire codes, as well as the 2015 International Property Maintenance Code.

The City may also require additional amendments to the Ordinance as it pertains to life and safety, and/or energy conservation.

Mayor Robertson has requested the discussion of the addition of these specific items:

- Mandatory installation of two (2) AC units for all new two-story homes.
- Require an electric charge station option for all new home garages.
- Require that additional hose bibs be added to the sides of each new home.
- Require insulation in all interior walls, where drain lines might exist.
- Require a dedicated circuit for future security.
- Require wiring for the option of a whole house fan.

Staff has reached out to City Attorney, Fred Galante for counsel as to the feasibility of the aforementioned requests.

The First Reading of the Ordinance will be presented to City Council on Tuesday, November 8, 2016. A public hearing for Tuesday, December 13, 2016.

RECOMMENDATION:

Staff recommends that the Economic Development Committee review and discuss the requested additions and recommend any modification to the Ordinance, pertaining to life and safety, and/or energy conservation.