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RESOLUTION NO. 2024-XX

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF RIALTO, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL APPROVE VARIANCE NO. 2024-0001 TO VARY FROM SECTION 18.30.30 (C) OF THE RIALTO MUNICIPAL CODE TO REDUCE THE SETBACK FROM 50 FEET TO 10 FEET FROM THE RIVERSIDE AVENUE RIGHT-OF-WAY FOR A 950 SQUARE-FOOT ONE-STORY DRIVE-IN COFFEE RESTAURANT ON A 0.59-ACRE PORTION OF A PREVIOUSLY DEVELOPED 2.35-ACRE LOT (APN: 0127-321-45) WITHIN THE COMMUNITY SHOPPING CENTER (C-1A) ZONE.

WHEREAS, the applicant, John Caglia, Dutch Bros LLC, proposes to develop a 950 square foot one-story drive-in coffee restaurant on a 0.59-acre portion of a previously developed 2.35 lot (APN: 0127-321-45) within the Community Shopping Center (C-1A) zone (“Site”); and

WHEREAS, in conjunction with the Development, the applicant has submitted Conditional Development Permit No. 2023-0035 (“CDP No. 2023-0035”) to allow a drive-in coffee restaurant, Precise Plan of Development No. 2023-0044 (“PPD No. 2023-0044) to develop a 0.59 acre portion of a an existing 2.35 acre shopping center on APN: 0127-321-45, within General Commercial (GC) land use area and Community Commercial (C-1A) zone; and

WHEREAS, the project is surrounded on all sides by existing and developed General Commercial land uses C-1A zoning; and

WHEREAS, pursuant to Section 18.30.030 (C) of the Rialto Municipal Code, the building setback to Riverside Avenue is 50 feet; and

WHEREAS, the proposed building setback would be 10-feet from Riverside Avenue when all dedications and ultimate Riverside Avenue improvements are completed in the future; and

WHEREAS, the building setback of the Development does not comply with Section 18.30.030 (C) of the Rialto Municipal Code, thus requiring an decrease in the minimum allowable setback in order to facilitate the Development (“Project”); and

1 WHEREAS, pursuant to Section 18.64.030 of the Rialto Municipal Code, the Project
2 requires the approval of a Variance, and the applicant has applied for Variance No. 2024-0001
3 (“VAR No. 2024-0001”) to increase decrease the minimum allowable setback from 50 feet to 10
4 feet from Riverside Avenue Right-of-Way; and

5 WHEREAS, on November 6, 2024, the Planning Commission of the City of Rialto
6 conducted a duly noticed public hearing, as required by law, on VAR No. 2024-0001, CDP No.
7 2023-0035, and PPD No. 2023-0044, took testimony, at which time it received input from staff,
8 the city attorney, and the applicant; heard public testimony; discussed the VAR No. 2024-0001,
9 CDP No. 2023-0035, and PPD No. 2023-0044; and closed the public hearing; and

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

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

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

15 SECTION 2. Based on substantial evidence presented to the Planning Commission during
16 the public hearing conducted with regard to VAR No. 2024-0001, including written staff reports,
17 verbal testimony, site plan, other documents, and the conditions of approval stated herein, the
18 Planning Commission hereby determines that VAR No. 2024-0001 satisfies the requirements of the
19 Section 18.64.020 of the Rialto Municipal Code pertaining to the findings which must be made
20 precedent to granting a variance. The findings are as follows:

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

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

26 This 0.59-acre portion of the larger parcel is designated for parking but is under-utilized
27 and not aesthetically pleasing. The proposed development has approximately 147 feet of
28 frontage on Riverside Avenue and is approximately 175 feet deep. Most of the adjacent
 commercial lots are much larger. The size of the developable area is like that of the property
 to the north, developed with a restaurant that is setback approximately 18 feet from the

1 back of the Riverside Avenue right-of-way and 12 feet from the East Baseline Road right-
2 of-way. Dutch Bros Coffee requests a variance to the 50-foot setback requirement from the
3 new Riverside Avenue right-of-way to allow the 950-square-foot building and 320-square-
4 foot canopy to be oriented to screen the drive-through queuing lanes, integral to the Dutch
5 Bros operations, and internal parking from the right-of-way, and permit the
6 pedestrian/walk-up window to be oriented toward the public sidewalk. The reduced setback
7 of ten (10) feet for the canopy and 22 feet for the structure also closer aligns the proposed
8 structure with the setback of the neighboring building to the north. The proposed layout is
9 an efficient use of space of a larger piece of property, and the proposed use as a drive-
10 through and walk-up coffee shop is unique to the area. As proposed, the site provides
11 vehicle stacking for 17 vehicles fully on site in addition to a loading zone on the eastern
12 portion of the property. The lane size and location are necessary for Dutch Bros to
efficiently serve customers, and due to the lot size and access points, the building extends
into the required street setback. The site must also allow large delivery vehicles to access
the rear portion of the adjacent retail store to the east. Space is provided to permit access
for delivery vehicles to pass the Dutch Bros Coffee site while also allowing the current
parking arrangement to remain on the west side of the existing commercial building. As
designed, the proposed lot configuration allows Dutch Bros Coffee and the site to the east
to maintain operational functionality without conflict.

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

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

17 The requested variance of ten (10) feet for the canopy and 22 feet for the structure is necessary
18 to redevelop an under-utilized site as a drive-through coffee shop, an allowed use in the C-1A
19 zone. The reduced setback allows for the efficient use of the site and closer aligns the proposed
20 structure with the commercial property immediately north. It also has a similar setback to the
21 development on the northwest corner of Riverside Avenue and Baseline Road. To the north
22 of the Dutch Bros project area, the neighboring business projects further into the Riverside
23 Avenue setback than what is proposed on this application submittal. To maintain operational
24 functionality, Dutch Bros requires dual stacking lanes and must allow for large delivery
25 vehicles to enter and exit to the adjacent commercial building's loading area. Allowing the
26 variance serves as a functional requirement for Dutch Bros and the remainder of the
27 businesses on the lot to operate effectively. The proposal deviates from the 50-foot setback
28 requirement for practical purposes and remains further from Riverside Avenue than the
adjacent property to the north. The drive-through lanes, shade structures, and trash enclosure
of the drive-through restaurant on the southwest corner of Riverside Avenue and East Baseline
Road are within the 50-foot required setback. With the reduction of the setback, Dutch Bros
can orient the pedestrian/walk-up window towards the public sidewalk and screen the drive-
through lanes and internal parking.

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

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

5 Granting the variance to the 50-foot street setback requirement to ten (10) feet for the canopy
6 and 22 feet for the structure will not be materially detrimental to the public welfare or injurious
7 to the property or the improvements in the vicinity. The orientation of the structure and
8 physical separation of the queued vehicles and pedestrians on the public sidewalk increases
9 the public welfare and provides a safer space for pedestrians. The site as proposed
10 accommodates a ten-foot (10) right-of-way dedication behind the existing sidewalk along
11 Riverside Avenue as well as an additional ten-foot (10) landscaped setback. The twenty-foot
12 (20) area will be enhanced with trees and shrubs, improving the landscaping along the right-
13 of-way. The deviation from the setback requirement does not impact any portion of the right-
14 of-way and maintains site improvements that align well with the properties in the vicinity.

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

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

18 Permitting the 50-foot setback variance of ten (10) feet for the canopy and 22 feet for the
19 structure will not adversely affect the Master Plan or the vision for the Community
20 Commercial land use designation. The small-scale building remains aligned with the intent of
21 the Community Commercial area by offering a use that serves the residential properties in the
22 vicinity. The site will be improved with an attractive landscape buffer along Riverside Avenue
23 to increase the aesthetics of the commercial site as well as provide a pedestrian connection to
24 the right-of-way. In addition, the project site utilizes a currently vacant portion of a larger site
25 to maximize the use potential of the commercial area. Allowing the street setback deviation
26 allows for redevelopment of an underutilized site while retaining access and parking for the
27 neighboring commercial development, and maintaining a setback that closer aligns with the
28 other properties in the vicinity.

29 SECTION 3. The project is categorically exempt from the requirements of the California
30 Environmental Quality Act (CEQA). The project qualifies for a Class 3 exemption under CEQA
31 Guidelines Section 15303 – New Construction or Conversion of Small Structures. The Planning
32 Commission directs the Planning Division to file the necessary documentation with the Clerk of the
33 Board of Supervisors for San Bernardino County.

1 SECTION 4. The Planning Commission hereby approves VAR No. 2024-0001 to vary from
2 Section 18.30.30 (C) of the Rialto Municipal Code to reduce the setback from 50 feet to 10 feet
3 from the Riverside Avenue Right-of-Way for a 950-square foot one-story drive-in coffee
4 restaurant on a 0.59-acre portion of a previously developed 2.35-acre lot (APN: 0127-321-45)
5 within the Community Shopping Center (C-1A) zone, in accordance with the plans and application
6 on file with the Planning Division, subject to the following conditions:

- 7 1. Variance No. 2024-0001 is approved to reduce the minimum building setback on the Site
8 from 50 feet to 10 feet from the Riverside Avenue right-of-way as shown on the plans
9 attached as Exhibit A, and as approved by the Planning Commission.
- 10 2. City inspectors shall have access to the Site to reasonably inspect the Site during normal
11 working hours to assure compliance with these conditions and other codes.
- 12 3. The applicant shall indemnify, protect, defend, and hold harmless, the City of Rialto,
13 and/or any of its officials, officers, employees, agents, departments, agencies, and
14 instrumentalities thereof (collectively, the “City Parties”), from any and all claims,
15 demands, law suits, writs of mandamus, and other actions and proceedings (whether
16 legal, equitable, declaratory, administrative or adjudicatory in nature), and alternative
17 dispute resolutions procedures (including, but not limited to arbitrations, mediations,
18 and other such procedures), (collectively “Actions”), brought against the City, and/or
19 any of its officials, officers, employees, agents, departments, agencies, and
20 instrumentalities thereof, that challenge, attack, or seek to modify, set aside, void, or
21 annul, the any action of, or any permit or approval issued by, the City and/or any of its
22 officials, officers, employees, agents, departments, agencies, and instrumentalities
23 thereof (including actions approved by the voters of the City), for or concerning the
24 Project (collectively, the “Entitlements”), whether such Actions are brought under the
25 California Environmental Quality Act, the Planning and Zoning Law, the Subdivision
26 Map Act, Code of Civil Procedure Chapter 1085 or 1094.5, the California Public
27 Records Act, or any other state, federal, or local statute, law, ordinance, rule, regulation,
28 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,

1 and hold the City harmless as stated herein within five (5) days of approval of VAR
2 No. 2024-0001.

- 3 4. In accordance with the provisions of Government Code Section 66020(d)(1), the
4 imposition of fees, dedications, reservations, or exactions for this Project, if any, are
5 subject to protest by the applicant at the time of approval or conditional approval of the
6 Project or within 90 days after the date of the imposition of the fees, dedications,
7 reservations, or exactions imposed on the Project.
- 8 5. Approval of VAR No. 2024-0001 will not be valid until such time that the Planning
9 Commission of the City of Rialto has approved Conditional Development Permit No.
10 2023-0035 and Precise Plan of Design No. 2023-0044, which were prepared in
11 conjunction with the Project.
- 12 6. The applicant shall comply with all conditions of approval contained in, CDP No. 2023-
13 0035, and PPD No. 2023-0044, to the extent they are not in conflict with any condition of
14 approval herein.

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

17 PASSED, APPROVED AND ADOPTED this _____ day of __, 2024.

18 _____
19 JERRY GUTIERREZ, CHAIR
20 CITY OF RIALTO PLANNING COMMISSION
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1 STATE OF CALIFORNIA)
2 COUNTY OF SAN BERNARDINO) ss
3 CITY OF RIALTO)
4

5 I, Kimberly Dame, Administrative Analyst of the City of Rialto, do hereby certify that the
6 foregoing Resolution No. ____ was duly passed and adopted at a regular meeting of the Planning
7 Commission of the City of Rialto held on the ____th day of ____, 2024.

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 ____, 2024.

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KIMBERLY DAME, ADMINISTRATIVE ANALYST

21

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Exhibit A

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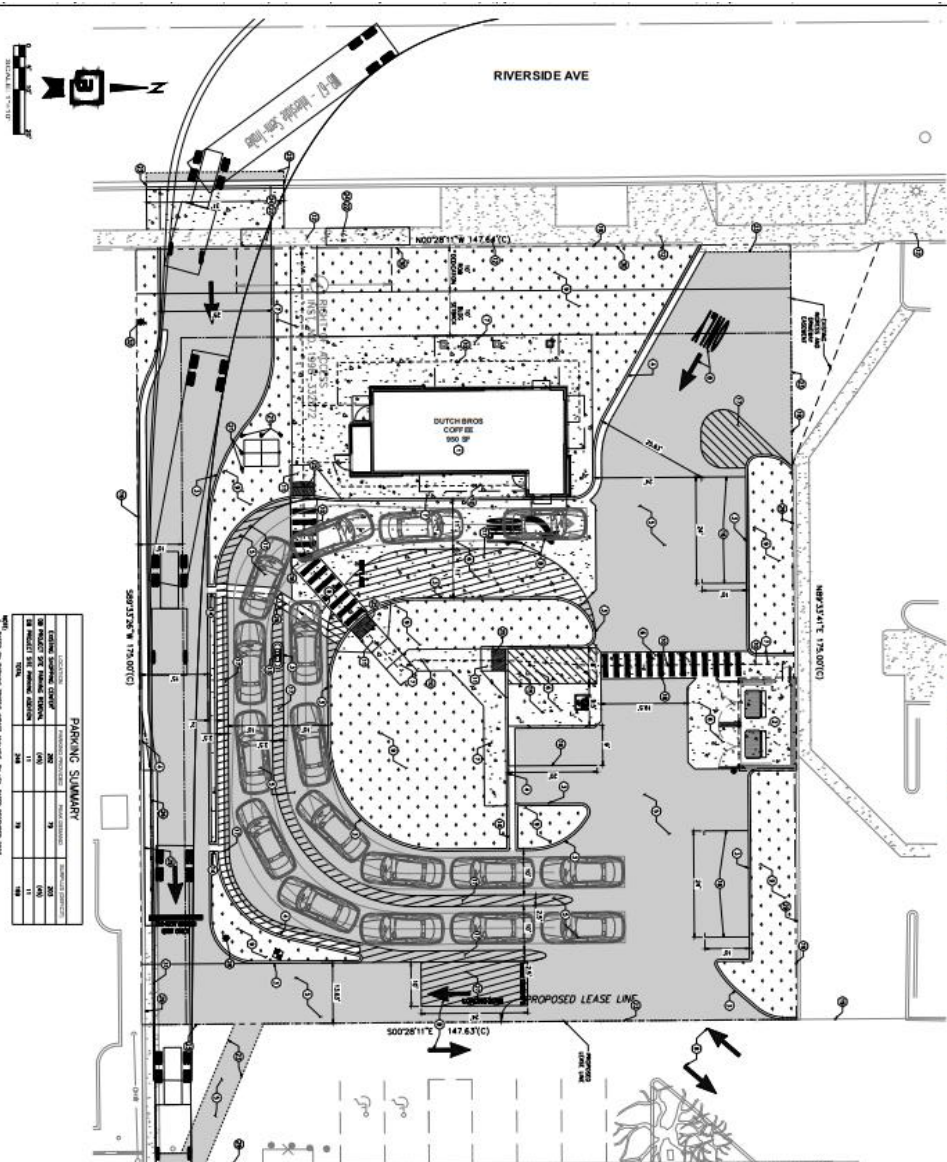
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DUTCH BROS. COFFEE - CA4907 - RIALTO, CA
PRELIMINARY SITE PLAN

PRELIMINARY NOT FOR CONSTRUCTION



PARKING SUMMARY

LOCATION	TYPE	NO. OF SPACES
EXISTING SURFACE PARKING	STANDARD	200
NEW SURFACE PARKING	STANDARD	200
TOTAL		400

SEE SHEET 02 FOR PARKING DETAILS



PROJECT DATA:

PROJECT NO: 22737
 DATE: 07/11/24
 SCALE: AS SHOWN
 DRAWN BY: JLM
 CHECKED BY: JLM
 APPROVED BY: JLM
 DATE: 07/11/24

- CONSTRUCTION NOTES:**
1. EXISTING AND PROPOSED CONSTRUCTION ARE SHOWN ON THIS PLAN.
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LEGEND

	BUILDING LINE
	EXISTING CURBS TO REMAIN
	PROPOSED CURBS
	PROPOSED LANDSCAPING
	PROPOSED CONCRETE
	PROPOSED ASPHALT

Job Number 22737	Designed by Engineering	Drawn by JLM	Checked by JLM	Approved by JLM	Date 07/11/24	For DUTCH BROS	Title PRELIMINARY SITE PLAN 155 E BASELINE ROAD RIALTO, CA 92376
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