

**RESOLUTION NO. 2024-XX**

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF RIALTO, CALIFORNIA APPROVING CONDITIONAL DEVELOPMENT PERMIT NO. 2023-0028 TO ALLOW THE DEVELOPMENT OF A 3,700 SQUARE FOOT CONVENIENCE MARKET BUILDING ON 1.46 ACRES OF LAND (PARCEL 2 OF TENTATIVE PARCEL MAP NO. 20602) LOCATED ON THE EAST SIDE OF PEPPER AVENUE APPROXIMATELY 185 FEET SOUTH OF THE SR-210 FREEWAY WITHIN THE COMMUNITY COMMERCIAL (CC) LAND USE DISTRICT OF THE PEPPER AVENUE SPECIFIC PLAN.

WHEREAS, the applicant, Newcastle Rialto Associates, LLC, proposes to develop and operate a 3,700 square foot convenience market building (“Project”) on 1.46 acres of land (Parcel 2 of Tentative Parcel Map No. 20602) located on the east side of Pepper Avenue approximately 185 feet south of the SR-210 Freeway within the Community Commercial (CC) land use district of the Pepper Avenue Specific Plan (“Site”); and

WHEREAS, Pursuant to Table 5-2 (Permitted Uses) of the Pepper Avenue Specific Plan, the Project requires a Conditional Development Permit, and the applicant has agreed to apply for Conditional Development Permit No. 2023-0028 (“CDP No. 2023-0028”); and

WHEREAS, in conjunction with the Project, the applicant has applied for Tentative Parcel Map No. 2023-0005, also referred to as Tentative Parcel Map No. 20602, (“TPM No. 20602”), to facilitate the subdivision of two (2) parcels of land (APNs: 0264-191-02 & -04) into three (3) new parcels of land – Parcel 1 (1.18 acres), Parcel 2 (1.46 acres), and Parcel 3 (11.65 acres); and

WHEREAS, in conjunction with the Project, the applicant has applied for Conditional Development Permit No. 2023-0026 to allow the development and operation of a 3,915 square foot restaurant building with drive-thru service on Parcel 1 of TPM No. 20602 (“CDP No. 2023-0026”); and

WHEREAS, in conjunction with the Project, the applicant has applied for Conditional Development Permit No. 2023-0027 to allow the development and operation of a vehicle fuel station, consisting of six (6) fuel dispensers and a 4,042 square foot overhead canopy on Parcel 2 of TPM No. 20602 (“CDP No. 2023-0027”); and

1 WHEREAS, in conjunction with the Project, the applicant has applied for Conditional  
2 Development Permit No. 2023-0029 to allow the development of a 1,458 square foot automated  
3 car wash building on Parcel 2 of TPM No. 20602 (“CDP No. 2023-0029”); and

4 WHEREAS, in conjunction with the Project, the applicant has applied for Conditional  
5 Development Permit No. 2023-0031 to allow the sale of beer, wine, and distilled spirits for off-  
6 site consumption from a proposed 3,700 square foot convenience market on Parcel 2 of TPM No.  
7 20602 (“CDP No. 2023-0031”); and

8 WHEREAS, in conjunction with the Project, the applicant has applied for Conditional  
9 Development Permit No. 2022-0015 to allow the development and operation of a 224,566 square  
10 foot industrial warehouse building on Parcel 3 of TPM No. 20602 (“CDP No. 2022-0015”); and

11 WHEREAS, in conjunction with the Project, the applicant has applied for Precise Plan of  
12 Design No. 2022-0017 (“PPD No. 2022-0017”) to facilitate the development of a 224,566 square  
13 foot industrial warehouse building, a 3,915 square foot restaurant building with drive-thru service,  
14 and a vehicle fuel station comprised of six (6) fuel dispensers, a 4,042 square foot overhead  
15 canopy, a 3,700 square foot convenience market building, a 1,458 square foot automated car wash  
16 building, and associated paving, landscaping, fencing, lighting, and drainage improvements on  
17 Parcel 1, Parcel 2, and Parcel 3 of TPM No. 20602; and

18 WHEREAS, on April 3, 2024, the Planning Commission of the City of Rialto conducted a  
19 duly noticed public hearing, as required by law, on CDP No. 2023-0028, TPM No. 20602, CDP  
20 No. 2022-0015, CDP No. 2023-0026, CDP No. 2023-0027, CDP No. 2023-0029, CDP No. 2023-  
21 0031, and PPD No. 2022-0017, took testimony, at which time it received input from staff, the city  
22 attorney, and the applicant; heard public testimony; discussed the proposed CDP No. 2023-0028,  
23 TPM No. 20602, CDP No. 2022-0015, CDP No. 2023-0026, CDP No. 2023-0027, CDP No. 2023-  
24 0029, CDP No. 2023-0031, and PPD No. 2022-0017; and closed the public hearing; and

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

26 NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Rialto  
27 as follows:  
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1        SECTION 1. The Planning Commission hereby specifically finds that all of the facts set forth  
2 in the recitals above of this Resolution are true and correct and incorporated herein.

3        SECTION 2. Based on substantial evidence presented to the Planning Commission during  
4 the public hearing conducted with regard to CDP No. 2023-0028, including written staff reports,  
5 verbal testimony, site plans, other documents, and the conditions of approval stated herein, the  
6 Planning Commission hereby determines that CDP No. 2023-0028 satisfies the requirements of  
7 Section 18.66.020 of the Rialto Municipal Code pertaining to the findings which must be made  
8 precedent to granting a conditional development permit. The findings are as follows:

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

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

13            The Site is located approximately 185 feet south of the intersection of Pepper Avenue and  
14 the SR-210 Freeway, which is currently not served by convenience markets. The next  
15 nearest convenience market is located over 1.0 miles west of the Site. The Project is  
16 anticipated to be a benefit to the community and an improvement to the surrounding area  
17 by providing additional retail choices for consumers at a convenient location that is  
currently underserved. The Project will provide a more diverse economic base for the  
surrounding area and will provide necessary goods and services for the residents and  
travelers within the City.

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

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

21            The development and operation of a convenience market on the Site is consistent with the  
22 underlying Community Commercial (CC) land use district of the Pepper Avenue Specific  
23 Plan, which conditionally permits the development and operation of convenience markets.  
24 To the north of the Site is approximately 1.18 acres of vacant land planned for the  
development of a restaurant building with drive-thru service, and to the east is  
25 approximately 11.65 acres of vacant land planned for the development of a 224,566 square  
foot industrial warehouse building. To the south is approximately 23.82 acres of vacant  
26 land entitled for the development of a 470,000 square foot industrial warehouse building,  
and to the west, across Pepper Avenue, is approximately 3.83 acres of vacant land. There  
27 are no sensitive use adjacent to or across the street from the Site. The project is not  
28 expected to negatively impact any uses with the successful implementation of measures  
such as landscape buffering and aesthetic building enhancements.

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

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

5           The Site consists of 1.46 acres of vacant land that is fairly level and adjacent to one (1) public  
6           street. The Site will be accessible from a sixty-five (65) foot wide signalized shared  
7           driveway connected to Pepper Avenue on the south end of the Site. Upon completion of  
8           the Project, the Site will contain 32 parking spaces, seventeen (17) more parking spaces  
9           than required by Chapter 18.58 (Off-Street Parking) of the Rialto Municipal Code. In  
10           addition, the development will have a trash enclosure, lighting, and accessible pathways  
11           leading to the public right-of-way.

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

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

15           The Site has adequate access to all utilities and services required through main water, electric,  
16           sewer, and other utility lines that will be hooked up to the Site as part of the proposed Project.

- 17           5.       The proposed use will be arranged, designed, constructed, and maintained so as it will  
18                   not be injurious to property or improvements in the vicinity or otherwise be  
19                   inharmonious with the General Plan and its objectives, the Pepper Avenue Specific  
20                   Plan, or any zoning ordinances; and

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

22           The Project is consistent with the underlying Community Commercial (CC) land use  
23           district of the Pepper Avenue Specific Plan. The Project will feature a high-quality  
24           building exterior designed in compliance with the City's Design Guidelines. Landscaping  
25           has been abundantly incorporated into the site. The landscape coverage for the Project is  
26           21.8 percent, which greatly exceeds the minimum required amount of 10.0 percent.  
27           Landscape planters containing trees spaced every thirty (30) linear feet will be installed  
28           along the entire perimeter of the Site. Furthermore, the Project includes the installation of  
29           32 parking spaces, seventeen (17) more parking spaces than required by Chapter 18.58  
30           (Off-Street Parking) of the Rialto Municipal Code.

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

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

1 The Project's effects will be minimized through the implementation of the Conditions of  
2 Approval contained herein, and through the implementation of Conditions of Approval  
3 imposed by the Development Review Committee during the Precise Plan of Design  
4 Process, such as extensive landscaping, a decorative trash enclosure, decorative paving,  
5 and enhanced architectural features. The development and operation of a convenience  
6 market, a vehicle fuel station, and a car wash along a major arterial street, such as Pepper  
7 Avenue, will provide additional employment opportunities and a convenient location for  
8 residents and visitors to purchase fuel and other goods. Additionally, the applicant will  
9 implement landscape buffering and a Crime Prevention Plan, which has been endorsed by  
10 the Rialto Police Department, as a means to minimize crime and nuisance activities  
11 generated by the Project. Therefore, any potential adverse effects are outweighed by the  
12 benefits conferred upon the community and neighborhood as a whole.

9 SECTION 3. An Addendum to the Pepper Avenue Specific Plan Amendment and Industrial  
10 Development Project Subsequent Environmental Impact Report (Environmental Assessment Review  
11 No. 2023-0048) has been prepared for the Project in accordance with the California Environmental  
12 Quality Act (CEQA), and it has been determined that the proposed Project would result in no new  
13 significant impacts that were not analyzed in the Pepper Avenue Specific Plan Amendment and  
14 Industrial Development Project Subsequent Environmental Impact Report ("SEIR"), nor would the  
15 proposed Project cause a substantial increase in the severity of any previously identified  
16 environmental impacts. The potential impacts associated with proposed Project would either be the  
17 same or less than those described in the SEIR. In addition, there are no substantial changes to the  
18 circumstances under which the proposed Project would be undertaken that would result in new or  
19 more severe environmental impacts than previously addressed in the SEIR, nor has any new  
20 information regarding the potential for new or more severe significant environmental impacts been  
21 identified. The Planning Commission hereby adopts the Addendum to the Pepper Avenue Specific  
22 Plan Amendment and Industrial Development Project Subsequent Environmental Impact Report  
23 (Environmental Assessment Review No. 2023-0048) for the Project.

24 SECTION 4. CDP No. 2023-0028 is granted to Newcastle Rialto Associates, LLC in  
25 accordance with the plans and application on file with the Planning Division, subject to the following  
26 conditions:

- 27 1. The applicant is granted CDP No. 2023-0028 allowing the development and operation of  
28 a 3,700 square foot convenience market building on 1.46 acres of land (Parcel 2 of TPM

No. 20602) located on the east side of Pepper Avenue approximately 185 feet south of the SR-210 Freeway within the Community Commercial (CC) land use district of the Pepper Avenue Specific Plan, as shown on the plans attached as Exhibit A and as approved by the Planning Commission. If the Conditions of Approval specified herein are not satisfied or otherwise completed, the project shall be subject to revocation.

2. City inspectors shall have access to the site to reasonably inspect the site during normal working hours to assure compliance with these conditions and other codes.
3. The applicant shall indemnify, protect, defend, and hold harmless, the City of Rialto, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof (collectively, the "City Parties"), from any and all claims, demands, law suits, writs of mandamus, and other actions and proceedings (whether legal, equitable, declaratory, administrative or adjudicatory in nature), and alternative dispute resolutions procedures (including, but not limited to arbitrations, mediations, and other such procedures), (collectively "Actions"), brought against the City, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, that challenge, attack, or seek to modify, set aside, void, or annul, the any action of, or any permit or approval issued by, the City and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof (including actions approved by the voters of the City), for or concerning the Project (collectively, the "Entitlements"), whether such Actions are brought under the California Environmental Quality Act, the Planning and Zoning Law, the Subdivision Map Act, Code of Civil Procedure Chapter 1085 or 1094.5, the California Public Records Act, or any other state, federal, or local statute, law, ordinance, rule, regulation, or any decision of a court of competent jurisdiction. This condition to indemnify, protect, defend, and hold the City harmless shall include, but not be limited to (i) damages, fees and/or costs awarded against the City, if any, and (ii) cost of suit, attorneys' fees and other costs, liabilities and expenses incurred in connection with such proceeding whether incurred by applicant, Property owner, or the City and/or other parties initiating or bringing such proceeding (collectively, subparts (i) and (ii) are the "Damages"). Notwithstanding anything to the contrary contained herein, the Applicant shall not be liable to the City Parties under this indemnity to the extent the Damages incurred by any of the City Parties in such Action(s) are a result of the City Parties' fraud, intentional misconduct or gross negligence in connection with issuing the Entitlements. The applicant shall execute an agreement to indemnify, protect, defend, and hold the City harmless as stated herein within five (5) days of approval of CDP No. 2023-0028.
4. In accordance with the provisions of Government Code Section 66020(d)(1), the imposition of fees, dedications, reservations, or exactions for this Project, if any, are subject to protest by the applicant at the time of approval or conditional approval of the Project or within 90 days after the date of the imposition of the fees, dedications, reservations, or exactions imposed on the Project.

- 1           5. Outdoor display and storage of any kind is prohibited at all times.
- 2           6. The Crime Prevention Plan endorsed by the Rialto Police Department, attached to this
- 3           Resolution as "Exhibit 'A'" shall be adhered to at all times.
- 4           7. Crime prevention measures, as endorsed by the City of Rialto Police Department, shall be
- 5           incorporated into the design and operation of the business as follows:
- 6               a. A minimum of one-and-one half (1.5) foot-candle of light shall be provided, as
- 7               measured at the ground level of the entire site, from the period of one-half hour
- 8               before sunset until one-half hour after sunrise. Lighting fixtures shall be so
- 9               situated and shielded as not to direct or reflect lighting glare on adjacent properties
- 10              or public rights-of-way.
- 11              b. A locking device shall be installed on the cash register. An adequate floor safe
- 12              shall be installed behind the counter. Only a minimum amount of cash shall be
- 13              kept in the cash register at all times.
- 14              c. Burglary and robbery alarm systems shall be installed as required and approved
- 15              by the Rialto Police Department. A telephone with speaker push button alarm
- 16              shall be installed. The telephone must have a separate button that automatically
- 17              dials into 911 and will transmit on-going conversations and
- 18              activity. Alternatively, a panic-button, which automatically contacts the Rialto
- 19              Police Department upon activation, may be installed at each register. A 24-hour
- 20              security camera system shall be installed on the premises with camera locations
- 21              approved by the Rialto Police Department. All surveillance and security
- 22              equipment shall be continuously maintained and in operation during business
- 23              hours. Surveillance footage shall be provided to the Rialto Police Department
- 24              within 12 hours after a request has been made for said footage. The software or
- 25              media player required to view the type of video format shall be provided to the
- 26              Rialto Police Department, if necessary. An R-P card must be filed with the Rialto
- 27              Police Department containing twenty-four (24) hour phone numbers of persons to
- 28              be contacted.
- d. All tobacco products will be displayed and sold from behind the cash register
- counter area.
- e. The height of the cash register counter shall be no more than forty-two (42) inches
- above the floor level, and shall be illuminated during the hours of darkness so as
- to be clearly visible through the window areas.
8. The sale of drug paraphernalia, gang paraphernalia, and adult-oriented magazines and
- materials is prohibited.
9. The applicant shall require adequate management to be on-site at the convenience market
- at all times to ensure proper execution of the Crime Prevention Plan.

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10. Measures to discourage loitering shall be incorporated in the design and operation of the business as follows:
    - a. Signs displaying “No Loitering” shall be posted on the building, to the satisfaction of the Rialto Police Department, at all times.
    - b. Arcades and video games are prohibited from being on the premises.
  11. The business licensee for the convenience market shall maintain a litter control program around the exterior of the convenience market in order to minimize the resultant impacts of litter on properties adjacent to the store. An exterior trash receptacle for employee and customer use shall be placed near the entrance of the store.
  12. The applicant shall establish building maintenance program for the purposes of maintaining the building structure and landscaping on-site in good physical appearance. The building maintenance program shall be submitted to the Planning Division prior to the issuance of a Certificate of Occupancy.
  13. All signage on the 3,700 square foot multi-tenant commercial building containing the convenience market shall comply with Chapter 18.102 (Regulation of Signs and Advertising Structures) of the Rialto Municipal Code or any subsequent Master Sign Program.
  14. The applicant shall obtain all necessary approvals and operating permits from all Federal, State, and local agencies and provide proof thereof to the City prior to the issuance of a Certificate of Occupancy.
  15. The privileges granted by the Planning Commission pursuant to approval of this Conditional Development Permit are valid for one (1) year from the effective date of approval. If the applicant fails to commence the project within one year of said effective date, this conditional development permit shall be null and void and any privileges granted hereunder shall terminate automatically. If the applicant or his or her successor in interest commence the project within one year of the effective date of approval, the privileges granted hereunder will continue inured to the property as long as the property is used for the purpose for which the conditional development permit was granted, and such use remains compatible with adjacent property uses.
  16. Approval of CDP No. 2023-0028 will not become effective until the applicant has signed a statement acknowledging awareness and acceptance of the required conditions of approval contained herein.
  17. In the event, that any operation on the Site is found to be objectionable or incompatible with the character of the City and its environs due to excessive noise, excessive traffic, loitering, criminal activity or other undesirable characteristics including, but not strictly limited to, uses which are or have become offensive to neighboring property or the goals

1 and objectives of the Community Commercial (CC) land use district of the Pepper Avenue  
2 Specific Plan and/or the City's General Plan, the applicant shall address the issues as  
3 quickly as reasonably possible after being notified by the City.

4 18. If the applicant fails to comply with any of the conditions of approval placed upon CDP  
5 No. 2023-0028, TPM No. 20602, or PPD No. 2022-0017, the Planning Commission  
6 may initiate proceedings to revoke the conditional development permit in accordance  
7 with the provisions of Sections 18.66.070 through 18.66.090, inclusive, of the Rialto  
8 Municipal Code. CDP No. 2023-0028 may be revoked, suspended or modified in  
9 accordance with Section 18.66.070 of the Zoning Ordinance at the discretion of the  
10 Planning Commission if:

- 11 a) The use for which such approval was granted has ceased to exist, been  
12 subsequently modified, or has been suspended for six (6) months or more;
- 13 b) Any of the express conditions or terms of such permit are violated;
- 14 c) The use for which such approval was granted becomes or is found to be  
15 objectionable or incompatible with the character of the City and its environs  
16 due to excessive noise, excessive traffic, loitering, criminal activity or other  
17 undesirable characteristics including, but not strictly limited to uses which  
18 are or have become offensive to neighboring property or the goals and  
19 objectives of the Community Commercial (CC) land use district, the Pepper  
20 Avenue Specific Plan, and the City's General Plan.

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

23 PASSED, APPROVED AND ADOPTED this 3rd day of April, 2024.

24 \_\_\_\_\_  
25 JERRY GUTIERREZ, CHAIR  
26 CITY OF RIALTO PLANNING COMMISSION  
27  
28

1 STATE OF CALIFORNIA )  
2 COUNTY OF SAN BERNARDINO ) ss  
3 CITY OF RIALTO )  
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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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19 \_\_\_\_\_  
20 KIMBERLY DAME, ADMINISTRATIVE ANALYST  
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Exhibit “A”

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