

**RESOLUTION NO. 2020-18**

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF RIALTO, CALIFORNIA APPROVING CONDITIONAL DEVELOPMENT PERMIT NO. 2019-0028 TO ALLOW THE DEVELOPMENT OF A 2,336 SQUARE FOOT RESTAURANT BUILDING WITH DRIVE-THRU SERVICE ON 1.31 GROSS ACRES OF LAND (APNS: 0258-041-42 & -43) LOCATED ON THE WEST SIDE OF RIVERSIDE AVENUE APPROXIMATELY 200 FEET SOUTH OF SLOVER AVENUE WITHIN THE HEAVY INDUSTRIAL (H-IND) ZONE OF THE AGUA MANSA SPECIFIC PLAN.

WHEREAS, the applicant, Rialto PDRC, LP, proposes to develop a 2,336 square foot restaurant building with drive-thru service ("Project") on 1.31 gross acres of land (APNs: 0258-041-42 & -43) located on the west side of Riverside Avenue approximately 200 feet south of Slover Avenue within the Heavy Industrial (H-IND) zone of the Agua Mansa Specific Plan ("Site"); and

WHEREAS, Pursuant to Section 18.66.040A(1) of the Rialto Municipal Code, the Project requires a Conditional Development Permit, and the applicant has agreed to apply for Conditional Development Permit No. 2019-0028 ("CDP No. 2019-0028"); and

WHEREAS, in conjunction with the Project, the applicant will also construct a 2,570 square foot restaurant building with a business name of Cowboy Burger on the Site; and

WHEREAS, the Development will consist of a 2,336 square foot restaurant building, a drive-thru lane with stacking for approximately eight (8) vehicles, with the previously approved entitlements on December 12, 2018 by the Planning Commission and on February 27, 2019 by the Development Review Committee, the combine on-site improvements will include seventy (70) parking spaces, landscape planters around the perimeter of the buildings and project site, and full pedestrian and vehicle access; and

WHEREAS, on July 29, 2020, the Planning Commission of the City of Rialto conducted a duly noticed public hearing, as required by law, on CDP No. 2019-0028, took testimony, at which time it received input from staff, the city attorney, and the applicant; heard public testimony; discussed the proposed CDP No. 2019-0028; and closed the public hearing; and

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

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

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

5 SECTION 2. Based on substantial evidence presented to the Planning Commission during  
6 the public hearing conducted with regard to CDP No. 2019-0028, including written staff reports,  
7 verbal testimony, site plans, other documents, and the conditions of approval stated herein, the  
8 Planning Commission hereby determines that CDP No. 2019-0028 satisfies the requirements of  
9 Section 18.66.020 of the Rialto Municipal Code pertaining to the findings which must be made  
10 precedent to granting a conditional development permit. The findings are as follows:

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

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

15 The Project is anticipated to be a benefit to the community creating a more diverse  
16 economic base for the community by providing an additional choice of food and  
17 beverages for consumers at a convenient location. Additionally, the Project in  
18 conjunction with the previously approved project for a drive-thru restaurant “Cowboy  
Burger” will improve an undeveloped property with desirable improvements that will  
aesthetically enhance the appearance of the community.

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

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

22 The zoning of the Site and all of the surrounding properties is Heavy Industrial (H-IND)  
23 within the Agua Mansa Specific Plan. The project is consistent with the H-IND zone,  
24 and the uses adjacent to the project site. There are no sensitive uses adjacent to or nearby  
the Site.

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

27 *This finding is supported by the following facts:*  
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1 The Site contains 1.31 gross acres of land, is fairly level, and is adjacent to one (1) public  
2 street. The project site will be accessible from a driveway connected to Riverside Avenue  
3 and a reciprocal drive-aisle connected to the property to the north. Upon completion,  
4 with the previously approved project for a drive-thru restaurant "Cowboy Burger", the  
5 development will contain seventy (70) parking spaces, which exceeds the minimum  
6 parking required by Section 18.58.050I(2) of the Rialto Municipal Code and Table 13 of  
7 the Agua Mansa Specific Plan. In addition, the development will have a trash enclosure,  
8 lighting, and accessible pathways leading to and from the public right-of-way.

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12 4. The site has adequate access to those utilities and other services required for the  
13 proposed use; and  
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15 *This finding is supported by the following facts:*

16 The Site has adequate access to all utilities and services required through main water,  
17 electric, sewer, and other utility lines that will be hooked up to the Site as part of the  
18 proposed Project.  
19

- 20 5. The proposed use will be arranged, designed, constructed, and maintained so as it  
21 will not be injurious to property or improvements in the vicinity or otherwise be  
22 inharmonious with the General Plan and its objectives, the Agua Mansa Specific  
23 Plan, or any zoning ordinances; and  
24

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

26 The use is consistent with the H-IND zone. Additionally, the Project will be reviewed by  
27 all of the Departments at plan check, prior to construction, to ensure the design meets or  
28 exceeds the applicable development criteria of the H-IND zone and the applicable design  
criteria contained within Chapter 18.61 (Design Guidelines) of the Rialto Municipal  
Code. The project is anticipated to be a benefit to the community and an improvement to  
the surrounding area.

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

*This finding is supported by the following facts:*

The Project's effects will be minimized through the implementation of the Conditions of  
Approval contained herein, such as extensive landscaping, decorative paving and  
enhanced architectural features. The project will meet the development criteria of the H-  
IND zone and the design criteria required by Chapter 18.61 (Design Guidelines) of the  
Rialto Municipal Code. The project is consistent with the H-IND zone, and the uses  
adjacent to the project site. There are no sensitive uses adjacent to or nearby the project  
site. Therefore, any potential adverse effects are outweighed by the benefits conferred  
upon the community and neighborhood as a whole.

1           SECTION 3.    Rialto PDRC, LP is hereby granted CDP No. 2019-0028 to allow the  
2 development of a 2,336 square foot restaurant building with drive-thru service on 1.31 gross acres  
3 of land (APNs: 0258-041-42 & -43) located on the west side of Riverside Avenue approximately  
4 200 feet south of Slover Avenue within the Heavy Industrial (H-IND) zone of the Agua Mansa  
5 Specific Plan.  
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7           SECTION 4.    The previous approval involving the drive-thru restaurant and the retail  
8 building was categorically exempt from the requirements of the California Environmental Quality  
9 Act (CEQA) pursuant to Section 15332, In-Fill Development Projects. As the proposed drive-thru  
10 restaurant will be replacing the existing retail building under the same site, the proposal remains  
11 exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to  
12 Section 15332, In-Fill Development Projects. The Planning Commission directs the Planning  
13 Division to file the necessary documentation with the Clerk of the Board of Supervisors for San  
14 Bernardino County.  
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16           SECTION 5.    CDP No. 2019-0028 is granted to Rialto PDRC, LP in accordance with the  
17 plans and application on file with the Planning Division, subject to the following conditions:  
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- 19           1. The approval is granted allowing the development of a 2,336 square foot restaurant  
20 building with drive-thru service on 1.31 gross acres of land (APN: 0258-041-42 &-43)  
21 located on the west side of Riverside Avenue approximately 200 feet south of Slover  
22 Avenue within the Heavy Industrial (H-IND) zone of the Agua Mansa Specific Plan,  
as shown on the plans resubmitted to the Planning Division on April 29, 2020 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.
- 23           2. Approval of this entitlement does not become effective until the applicant has signed a  
24 statement acknowledging awareness and acceptance of any required conditions of  
25 approval.
- 26           3. The proposed project shall be developed in accordance with the Conditional  
27 Development Permit approval and Precise Plan of Design approval for “Zendejas  
28 Restaurant” and “Cowboy Burger Restaurant”. If the Conditional Development Permit  
and Precise Plan of Design for the Cowboy Burger Restaurant is not developed, the

1 applicant shall seek an entitlement to ensure all site infrastructure is completed prior to  
2 issuance of grading permit.

- 3 4. The allowable hours of operation for the establishment shall be from 9:00 a.m. through  
4 12:00 a.m. Monday through Sunday.
- 5 5. If there are circulation impacts as a result of vehicles stacking or queuing in the main  
6 drive aisles of the center, the business owner shall implement measures to address and  
7 eliminate the impacts, if requested by the Community Development Director.
- 8 6. City inspectors shall have access to the site to reasonably inspect the site during  
9 normal working hours to assure compliance with these conditions and other codes.
- 10 7. The applicant shall defend, indemnify and hold harmless the City of Rialto, its agents,  
11 officers, or employees from any claims, damages, action, or proceeding against the  
12 City or its agents, officers, or employees to attack, set aside, void, or annul any  
13 approval of the City, its advisory agencies, appeal boards, or legislative body  
14 concerning CDP No. 2019-0028. The City will promptly notify the applicant of any  
15 such claim, action, or proceeding against the City and will cooperate fully in the  
16 defense.
- 17 8. In accordance with the provisions of Government Code Section 66020(d)(1), the  
18 imposition of fees, dedications, reservations, or exactions for this Project, if any, are  
19 subject to protest by the applicant at the time of approval or conditional approval of  
20 the Project or within 90 days after the date of the imposition of the fees, dedications,  
21 reservations, or exactions imposed on the Project.
- 22 9. The restaurant operator shall install a trash receptacle on the “driver’s side” at the end of  
23 the drive-thru lane, prior to the issuance of a Certificate of Occupancy. The trash  
24 receptacle shall be maintained at all times and kept free of overflowing trash.
- 25 10. The applicant shall obtain all necessary approvals and operating permits from all  
26 Federal, State and local agencies prior to the issuance of a Certificate of Occupancy.
- 27 11. The privileges granted by the Planning Commission pursuant to approval of this  
28 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.

1 12. If the applicant fails to comply with any of the conditions of approval placed upon  
2 Conditional Development Permit No. 2019-0028, the Planning Commission may  
3 initiate proceedings to revoke the conditional development permit in accordance with  
4 the provisions of Sections 18.66.070 through 18.66.090, inclusive, of the Rialto  
5 Municipal Code.

6 SECTION 6. The Chairman of the Planning Commission shall sign the passage and  
7 adoption of this resolution and thereupon the same shall take effect and be in force.

8 PASSED, APPROVED AND ADOPTED this 29th day of July, 2020.

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12 JOHN PEUKERT, CHAIR  
13 CITY OF RIALTO PLANNING COMMISSION  
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5 STATE OF CALIFORNIA )  
6 COUNTY OF SAN BERNARDINO ) ss  
7 CITY OF RIALTO )  
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9 I, Adrianna Martinez, Administrative Assistant of the City of Rialto, do hereby certify that  
10 the foregoing Resolution No. \_\_\_\_ was duly passed and adopted at a regular meeting of the  
11 Planning Commission of the City of Rialto held on the \_\_\_\_th day of \_\_\_\_, 2020.

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

14 Vote on the motion:

15 AYES:

16 NOES:

17 ABSENT:

18 IN WITNESS WHEREOF, I have hereunto set my hand and the Official Seal of the City  
19 of Rialto this \_\_\_\_th day of \_\_\_\_, 2020.  
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23 \_\_\_\_\_  
24 ADRIANNA MARTINEZ, ADMINISTRATIVE ASSISTANT  
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