

1 WHEREAS, on November 6, 2024, the Planning Commission of the City of Rialto
2 conducted a duly noticed public hearing, as required by law, on CDP No. 2023-0035, PPD No.
3 2023-0044, and Variance No. 2024-0001, took testimony, at which time it received input from
4 staff, the city attorney, and the applicant; heard public testimony; discussed the proposed CDP No.
5 2023-0035, PPD No. 2023-0044, and Variance No. 2024-0001 and closed the public hearing; and

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

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

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

11 SECTION 2. Based on substantial evidence presented to the Planning Commission during
12 the public hearing conducted with regard to CDP No. 2023-0035, including written staff reports,
13 verbal testimony, site plans, other documents, and the conditions of approval stated herein, the
14 Planning Commission hereby determines that CDP No. 2023-0035 satisfies the requirements of
15 Section 18.66.020 of the Rialto Municipal Code pertaining to the findings which must be made
16 precedent to granting a conditional development permit. The findings are as follows:

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

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

21 The applicant, or a franchisee, proposes to operate a Dutch Bros Coffee within the proposed
22 950 square-foot restaurant building with drive-thru service. Dutch Bros is a drive-through
23 coffee chain headquartered in Oregon with shops across the United States specializing in
24 coffee, iced or hot drinks, energy drinks, and pastries. The Project is anticipated to be a
25 benefit to the community and an improvement to the surrounding area by providing an
26 additional choice of specialty coffee beverages at a convenient location. The Project will
27 provide a more diverse economic base for the surrounding area and will provide a necessary
28 service for residents and travelers within the City.

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

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

1 The project site is surrounded on all sides by other commercial shopping center uses. There
2 are no sensitive uses in the nearby area. The Project is consistent with the underlying
3 Commercial Shopping Center (C-1A) zone. In addition, the Project has been reviewed by
4 the City staff for compliance with all health, safety, and design requirements to ensure the
5 project will significantly enhance the aesthetics of the local community.

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

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

10 The proposed use is adequate in size, shape, and accessibility to accommodate the drive-in
11 coffee restaurant. The lot is relatively flat and is of an area size to accommodate the use. The
12 project coffee shop provides adequate space for customers and staff. As proposed, the site
13 meets the C-1A zoning bulk and space requirements by demonstrating compliance with the
14 required development standards. The development is a reasonable use for the lot which
15 currently serves as surplus parking for the existing shopping center. Introducing Dutch Bros.
16 Coffee to the site is a productive use for the land.

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

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

20 The proposed use will be constructed on a portion of a previously developed commercial
21 shopping center site. The site has adequate access to all utilities and other services required to
22 support a drive-in coffee restaurant. Dutch Bros Coffee will comply with the requirements
23 established by the City and other agencies. Water and sewer mains are located west of East
24 Baseline Road and storm drainage is found on the east side of East Baseline Road.

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

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

Dutch Bros Coffee shall comply with all requirements set forth by the City of Rialto and all
conditions established by the Planning Commission to ensure the proposed development is
successful in accomplishing the objectives for the General Plan and zoning ordinances.
Because of this, the project will not be injurious to properties or improvements in the
vicinity.

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.

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

2 Any adverse effects created by Dutch Bros Coffee will be mitigated to the greatest extent
3 possible to ensure the business is a productive addition to the City of Rialto. Even though
4 the project proposes parking and vehicle stacking to City requirements, to mitigate any effects
5 of the drive-through vehicle traffic, traffic plan meetings with staff and daily traffic strategy
6 plans to make sure service is as safe and efficient as possible. The project also plans for
7 extensive landscaping along the perimeter to increase visual buffering between properties.

8 SECTION 3. The project is categorically exempt from the requirements of the California
9 Environmental Quality Act (CEQA), pursuant to Section 15303, New Construction or Conversion of
10 Small Structures. The Planning Commission directs the Planning Division to file the necessary
11 documentation with the Clerk of the Board of Supervisors for San Bernardino County.

12 SECTION 4. CDP No. 2023-0035 is granted to Dutch Bro Coffee in accordance with the
13 plans and application on file with the Planning Division, subject to the following conditions:

- 14 1. The applicant is granted CDP No. 2023-0035 allowing the establishment of vehicular
15 drive-thru service in conjunction with a 950 square foot coffee shop to be located along
16 Riverside Avenue on APN: 0127-321-45 within the Commercial Shopping Center (C-1A)
17 zone of the General Commercial land use area, as shown on the plans submitted to the
18 Planning Division and as approved by the Planning Commission. If the Conditions of
19 Approval specified herein are not satisfied or otherwise completed, the project shall be
20 subject to revocation.
- 21 2. City inspectors shall have access to the site to reasonably inspect the site during normal
22 working hours to assure compliance with these conditions and other codes.
- 23 3. The applicant shall indemnify, protect, defend, and hold harmless, the City of Rialto,
24 and/or any of its officials, officers, employees, agents, departments, agencies, and
25 instrumentalities thereof (collectively, the “City Parties”), from any and all claims,
26 demands, law suits, writs of mandamus, and other actions and proceedings (whether
27 legal, equitable, declaratory, administrative or adjudicatory in nature), and alternative
28 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,

1 or any decision of a court of competent jurisdiction. This condition to indemnify,
2 protect, defend, and hold the City harmless shall include, but not limited to (i) damages,
3 fees and/or costs awarded against the City, if any, and (ii) cost of suit, attorneys' fees
4 and other costs, liabilities and expenses incurred in connection with such proceeding
5 whether incurred by applicant, Property owner, or the City and/or other parties
6 initiating or bringing such proceeding (collectively, subparts (i) and (ii) are the
7 "Damages"). Notwithstanding anything to the contrary contained herein, the Applicant
8 shall not be liable to the City Parties under this indemnity to the extent the Damages
9 incurred by any of the City Parties in such Action(s) are a result of the City Parties'
10 fraud, intentional misconduct or gross negligence in connection with issuing the
11 Entitlements. The applicant shall execute an agreement to indemnify, protect, defend,
12 and hold the City harmless as stated herein within five (5) days of approval of CDP No.
13 2023-0035.

- 14 4. In accordance with the provisions of Government Code Section 66020(d)(1), the
15 imposition of fees, dedications, reservations, or exactions for this Project, if any, are
16 subject to protest by the applicant at the time of approval or conditional approval of the
17 Project or within 90 days after the date of the imposition of the fees, dedications,
18 reservations, or exactions imposed on the Project.
- 19 5. The applicant shall install a "DO NOT ENTER" street sign and an illuminated "DO NOT
20 ENTER" directional sign on the drive-side of the drive-thru lane at the exit of the drive-
21 thru lane. The street sign and directional sign shall be identified on the site plan within
22 the building plan check submittal set, prior to the issuance of a building permit.
23 Furthermore, the street sign and the directional sign shall be installed prior to the issuance
24 of the Certificate of Occupancy.
- 25 6. The applicant shall paint "EXIT" and a directional arrow within the center of the drive-
26 thru lane at the exit of the drive-thru lane, prior to the issuance of the Certificate of
27 Occupancy.
- 28 7. The property owner, and the tenant utilizing the drive-thru use, shall ensure that vehicle
stacking/queuing for the drive-thru lane does not create circulation impacts on the Site at
all times. The property owner and the tenant shall implement measures to address and
eliminate any impacts, should they occur, as required by the Community Development
Director.
8. The applicant shall install and maintain a trash receptacle on the driver-side of the exit of
the drive-thru lane. The trash receptacle shall be installed prior to issuance of the
Certificate of Occupancy.
9. The applicant shall plant shrubs around the entire outer perimeter of the drive-thru lane
for the purpose of creating a solid hedge to screen the headlights of vehicles within the
drive-thru. All of the drive-thru shrubs shall be a minimum of five (5) gallons in size upon
initial planting, and the shrubs shall be spaced no more than three (3) feet on-center.
Thereafter, the drive-thru shrubs shall be permanently irrigated and maintained into a

1 continuous box-shape along the entire length of the drive-thru lane with a height of no
2 less than three and one-half (3.5) feet above the finished grade. The shrubs shall be
3 identified on the formal Landscape Plan submittal prior to the issuance of a landscape
4 permit.

5 10. The applicant shall obtain all necessary approvals and operating permits from all Federal,
6 State, and local agencies and provide proof thereof to the City prior to the issuance of a
7 Certificate of Occupancy.

8 11. The privileges granted by the Planning Commission pursuant to approval of this
9 Conditional Development Permit are valid for one (1) year from the effective date of
10 approval. If the applicant fails to commence the project within one year of said
11 effective date, this conditional development permit shall be null and void and any
12 privileges granted hereunder shall terminate automatically. If the applicant or his or
13 her successor in interest commence the project within one year of the effective date of
14 approval, the privileges granted hereunder will continue inured to the property as long
15 as the property is used for the purpose for which the conditional development permit
16 was granted, and such use remains compatible with adjacent property uses.

17 12. Approval of CDP No. 2023-0035 will not become effective until the applicant has signed
18 a statement acknowledging awareness and acceptance of the required conditions of
19 approval contained herein.

20 13. In the event, that any operation on the Site is found to be objectionable or incompatible
21 with the character of the City and its environs due to excessive noise, excessive traffic,
22 loitering, criminal activity or other undesirable characteristics including, but not strictly
23 limited to, uses which are or have become offensive to neighboring property or the goals
24 and objectives of the Community Shopping Center (C-1A) zone and the City's General
25 Plan, the applicant shall address the issues within forty-eight (48) hours of being notified
26 by the City.

27 14. If the applicant fails to comply with any of the conditions of approval placed upon CDP
28 No. 2023-0035, PPD No. 2023-0044, or Variance No. 2024-0001 the Planning
Commission may initiate proceedings to revoke the conditional development permit in
accordance with the provisions of Sections 18.66.070 through 18.66.090, inclusive, of
the Rialto Municipal Code. CDP No. 2023-0035 may be revoked, suspended or
modified in accordance with Section 18.66.070 of the Zoning Ordinance at the
discretion of the Planning Commission if:

- a) The use for which such approval was granted has ceased to exist, been subsequently modified, or has been suspended for six (6) months or more;
- b) Any of the express conditions or terms of such permit are violated;
- c) The use for which such approval was granted becomes or is found to be objectionable or incompatible with the character of the City and its environs

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due to noise, loitering, criminal activity or other undesirable characteristics including, but not strictly limited to uses which are or have become offensive to neighboring property or the goals and objectives of the Community Shopping Center (C-1A) zone, and the City’s General Plan.

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

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

JERRY GUTIERREZ, CHAIR
CITY OF RIALTO PLANNING COMMISSION

1 STATE OF CALIFORNIA)
2 COUNTY OF SAN BERNARDINO) ss
3 CITY OF RIALTO)

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

Upon motion of Planning Commissioner_____, seconded by Planning Commissioner _____, the foregoing Resolution No. ____ was duly passed and adopted.

Vote on the motion:

AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand and the Official Seal of the City of Rialto this ____th day of ____, 2024.

KIMBERLY DAME, ADMINISTRATIVE ANALYST