

RESOLUTION NO. 2024-XX

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF RIALTO, CALIFORNIA APPROVING CONDITIONAL DEVELOPMENT PERMIT NO. 2023-0027 TO ALLOW THE DEVELOPMENT OF A VEHICLE FUEL STATION 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 a vehicle fuel station (“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, the Project will be comprised of six (6) fuel dispensers and a 4,042 square foot overhead canopy; 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. 2023-0027 (“CDP No. 2023-0027”); 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. 2023-0028 to allow the development and operation of a 3,700 square foot convenience market building on Parcel 2 of TPM No. 20602 (“CDP No. 2023-0028”); 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. 2023-0027, TPM No. 20602, CDP
20 No. 2022-0015, CDP No. 2023-0026, CDP No. 2023-0028, 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. 2023-0027,
23 TPM No. 20602, CDP No. 2022-0015, CDP No. 2023-0026, CDP No. 2023-0028, 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:

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. 2023-0027, 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. 2023-0027 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 Project is anticipated to be a benefit to the community and an improvement to the
14 surrounding area by providing a fueling choice for consumers at a convenient location near
15 the intersection of Pepper Avenue and the SR-210 Freeway, which is one of the busiest
16 intersections in the City of Rialto, and is currently void of any vehicle fuel stations. The
17 Project will provide a more diverse economic base for the surrounding area and will
18 provide necessary goods and services for the residents and travelers within the City.

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

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

This finding is supported by the following facts:

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

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

This finding is supported by the following facts:

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

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

This finding is supported by the following facts:

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

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:

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 of a vehicle fuel station, a
6 convenience market, and a car wash along a major arterial street, such as Pepper Avenue,
7 will provide additional employment opportunities and a convenient location for residents
8 and visitors to purchase fuel and other goods. Additionally, the applicant will implement
9 landscape buffering and a Crime Prevention Plan, which has been endorsed by the Rialto
10 Police Department, as a means to minimize crime and nuisance activities generated by the
11 Project. Therefore, any potential adverse effects are outweighed by the benefits conferred
12 upon the community and neighborhood as a whole.

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

28 **SECTION 4.** CDP No. 2023-0027 is hereby granted to Newcastle Rialto Associates, LLC,
29 in accordance with the plans and application on file with the Planning Division, subject to the
30 following conditions:

1. The applicant is granted CDP No. 2023-0027 allowing the development of a vehicle fuel
station on 1.46 acres of land (Parcel 2 of TPM No. 20602) located on the east side of

1 Pepper Avenue approximately 185 feet south of the SR-210 Freeway within the
2 Community Commercial (CC) land use district of the Pepper Avenue Specific Plan, as
3 shown on the plans attached as Exhibit A and as approved by the Planning Commission.
4 If the Conditions of Approval specified herein are not satisfied or otherwise completed,
the project shall be subject to revocation.

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6 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.

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8 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. 2023-0027.

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25 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.

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1 5. The applicant shall install signage throughout the Site informing drivers that idling of
2 vehicles long than five (5) consecutive minutes is not permitted, as required by the South
3 Coast Air Quality Management District, prior to the issuance of a Certificate of
4 Occupancy.

5 6. The applicant shall obtain all necessary approvals from the Hazardous Materials Division
6 of San Bernardino County Fire (HMD) for the installation of the underground storage
7 tanks (UST's) for the purpose of fuel storage on the Site, prior to the issuance of a building
8 permit for the overhead vehicle fuel station canopy. The UST's shall be installed and
9 permanently maintained to the standards and requirements of the HMD.

10 7. The exterior of any healy tank enclosure shall match the color and materials of the
11 buildings on-site. Corrugated metal and chain-link are not acceptable materials to use
12 within the healy tank enclosure. An elevation detail for the healy tank enclosure shall be
13 provided within formal building plan check submittal prior to the issuance of building
14 permits.

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

24 9. Approval of CDP No. 2023-0027 will not become effective until the applicant has signed
25 a statement acknowledging awareness and acceptance of the required conditions of
26 approval contained herein.

27 10. In the event, that any operation on the Site is found to be objectionable or incompatible
28 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
 and objectives of the Community Commercial (CC) land use district of the Pepper Avenue
 Specific Plan and/or the City's General Plan, the applicant shall address the issues as
 quickly as reasonably possible after being notified by the City.

29 11. If the applicant fails to comply with any of the conditions of approval placed upon CDP
30 No. 2023-0027, TPM No. 20602, or PPD No. 2022-0017, the Planning Commission
31 may initiate proceedings to revoke the conditional development permit in accordance
32 with the provisions of Sections 18.66.070 through 18.66.090, inclusive, of the Rialto
33 Municipal Code. CDP No. 2023-0027 may be revoked, suspended or modified in

1 accordance with Section 18.66.070 of the Zoning Ordinance at the discretion of the
2 Planning Commission if:

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

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

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

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JERRY GUTIERREZ, CHAIR
18 CITY OF RIALTO PLANNING COMMISSION
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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.

20 KIMBERLY DAME, ADMINISTRATIVE ANALYST
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