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A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF RIALTO, CALIFORNIA APPROVING CONDITIONAL DEVELOPMENT PERMIT NO. 2021-0006, ALLOWING THE SALE OF DISTILLED SPIRITS FOR OFF-SITE CONSUMPTION, IN ADDITION TO EXISTING SALES OF BEER AND WINE FOR OFF-SITE CONSUMPTION, FROM AN EXISTING CONVENIENCE MARKET LOCATED AT 718 E. FOOTHILL BOULEVARD WITHIN THE COMMERCIAL PEDESTRIAN (C-P) LAND USE DISTRICT OF THE FOOTHILL BOULEVARD SPECIFIC PLAN.

WHEREAS, the applicant, Samer Elia Ibrahim, currently owns and operates a convenience market, known as Foothill Beer & Wine Mart, within a 1,700 square foot tenant space located at 718 E. Foothill Boulevard within the Commercial Pedestrian (C-P) land use district of the Foothill Boulevard Specific Plan (“Site”); and

WHEREAS, the applicant currently possesses a Type 20 license from the California Department of Alcoholic Beverage Control (“ABC”) allowing the sale of beer and wine only for off-site consumption from the existing convenience market; and

WHEREAS, the applicant proposes to sell distilled spirits for off-site consumption, in addition to the existing sale of beer and wine for off-site consumption, from within the existing convenience market (“Project”); and

WHEREAS, pursuant to Section 18.110.040 of the Rialto Municipal Code, the Project requires a Conditional Development Permit, and the applicant has agreed to apply for Conditional Development Permit No. 2021-0006 (“CDP No. 2021-0006”); and

WHEREAS, the applicant will seek, or has sought, to obtain a Type 21 license from ABC for the sale of beer, wine, and distilled spirits for off-site consumption; and

WHEREAS, on September 8, 2021, the Planning Commission of the City of Rialto conducted a duly noticed public hearing, as required by law, on CDP No. 2021-0006, took testimony, at which time it received input from staff, the city attorney, and the applicant; heard public testimony; discussed the proposed CDP No. 2021-0006; and closed the public hearing; and

1
2 WHEREAS, all legal prerequisites to the adoption of this Resolution have occurred.

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

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

7 SECTION 2. Based on substantial evidence presented to the Planning Commission during
8 the public hearing conducted with regard to CDP No. 2021-0006, including written staff reports,
9 verbal testimony, site plans, other documents, and the conditions of approval stated herein, the
10 Planning Commission hereby determines that CDP No. 2021-0006 satisfies the requirements of
11 Section 18.66.020 of the Rialto Municipal Code pertaining to the findings which must be made
12 precedent to granting a conditional development permit. The findings are as follows:

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

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

17 The Project will provide a benefit to the community and customers within the vicinity by
18 providing sales of distilled spirits in addition to typical convenience goods and beer and
19 wine. Distilled spirits sales are commonly conducted within convenience markets,
20 including others in the nearby area. Additionally, crime prevention measures contained
21 within the conditions of approval herein will ensure that the establishment contributes to
the well-being of the community and that it does not become a nuisance or hazard to the
public.

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

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

25 The Site consists of a 1,700 square foot tenant space within the Rialto Town Center
26 commercial center located at the northeast corner of Foothill Boulevard and Eucalyptus
27 Avenue to the north is the Rialto Eucalyptus Head Start State Preschool, and to the east is
the San Bernardino County Department of Behavioral Health Rialto facility. To the
28 south, across Foothill Boulevard, is the Holiday Manor mobile home park and another
commercial center comprised of four (4) buildings totaling approximately 16,650 square

1 feet, and to the west, across Eucalyptus Avenue, are several single-family residences, the
2 Chandler Court apartment complex, and approximately 0.45 acres of vacant land.

3 The conditions of approval contained herein require the applicant to implement and
4 permanently maintain all the safety measures documented within the Crime Prevention
5 Plan prepared for the Project. Proper maintenance of these safety measures will
6 minimize crime and nuisance activities associated with the Project to the fullest extent
7 possible.

8 The Project is consistent with the Commercial Pedestrian (C-P) land use district of the
9 Foothill Boulevard Specific Plan, the commercial uses within the Rialto Town Center
10 commercial center, and the commercial uses to the south of the Site. The nearest
11 sensitive uses are the preschool to the north of the Site and the single-family residences to
12 the west of the Site. These sensitive uses are not expected to be negatively impacted by
13 the Project since the applicant is required by the conditions of approval contained herein
14 to implement and permanently maintained the safety measures listed within the Crime
15 Prevention Plan.

16 Furthermore, conditions of approval contained herein restrict the display and advertising
17 of alcoholic beverages, and the age of employees who sell alcoholic beverages, and
18 require the applicant to provide public education regarding drinking laws in the form of
19 signage and decals at the register.

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

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

24 The Site is within the Rialto Town Center commercial center. The commercial center
25 consists of seven (7) parcels of land, approximately 225,000 square feet or 5.17 acres in size,
26 located at the northeast corner of Foothill Boulevard and Eucalyptus Avenue. Four (4)
27 commercial buildings totaling approximately 46,300 square feet existing throughout the
28 commercial center. The applicant currently owns and operates a convenience market within
a 1,700 square foot tenant space within one (1) of the four (4) buildings. The applicant's
tenant space and the Rialto Town Center commercial center have adequate physical
characteristics to accommodate the addition of a new product for sale within the tenant
space.

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:

1 The existing convenience market has adequate access to all utilities and services required
2 through main water, electric, sewer, and other utility lines that are already hooked up to the
3 Site. The Project will not require any additional utilities or services.

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

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

9 The Site consists of an existing tenant space within an existing commercial center that
10 has been developed and maintained in a manner that is consistent with the C-P land use
11 district. The operation of the existing convenience market within the Site is also
12 consistent with the C-P land use district. The Conditions of Approval contained herein
13 require the applicant to conform to the standards for the sale of beer, wine, and distilled
14 spirits set forth in Chapter 18.110 relating to visibility, sign requirements, employees,
15 education of the public, and litter control and maintenance. If all Conditions of Approval
16 contained herein are satisfied, the Project will not negatively impact any land uses within
17 the vicinity.

18 Furthermore, the Project is consistent with Goal 3-1 of the General Plan by contributing
19 to the strengthening of an economic base and employment opportunities.

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

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

24 As conditioned, the Project's effects will be minimized through the implementation of the
25 applicant's Crime Prevention Plan, safety measures endorsed by the Rialto Police
26 Department, education of the public and employees, litter control, and maintenance.
27 Therefore, the adverse effects are outweighed by the benefits conferred upon the
28 community and neighborhood as a whole.

29 SECTION 3. The Project is categorically exempt from the requirements of the California
30 Environmental Quality Act (CEQA) pursuant to Section 15301, Existing Facilities. No new
31 construction or physical alterations are proposed as a part of the Project. The Planning Commission
32 directs the Planning Division to file the necessary documentation with the Clerk of the Board of
33 Supervisors for San Bernardino County.

1 SECTION 5. CDP No. 2021-0006 is granted to Samer Elian Ibrahim, in accordance with
2 the plans and application on file with the Planning Division, subject to the following conditions:

- 3 1. CDP No. 2021-0006 is granted allowing the sale of distilled spirits for off-site
4 consumption, in addition to existing sales of beer and wine for off-site consumption,
5 from an existing convenience market located at 718 E. Foothill Boulevard and as
6 approved by the Planning Commission. If the Conditions of Approval specified herein
7 are not satisfied or otherwise completed, the Project shall be subject to revocation.
- 8 2. 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 3. The applicant shall indemnify, protect, defend, and hold harmless, the City of Rialto,
11 and/or any of its officials, officers, employees, agents, departments, agencies, and
12 instrumentalities thereof (collectively, the "City Parties"), from any and all claims,
13 demands, law suits, writs of mandamus, and other actions and proceedings (whether
14 legal, equitable, declaratory, administrative or adjudicatory in nature), and alternative
15 dispute resolutions procedures (including, but not limited to arbitrations, mediations,
16 and other such procedures), (collectively "Actions"), brought against the City, and/or
17 any of its officials, officers, employees, agents, departments, agencies, and
18 instrumentalities thereof, that challenge, attack, or seek to modify, set aside, void, or
19 annul, the any action of, or any permit or approval issued by, the City and/or any of
20 its officials, officers, employees, agents, departments, agencies, and instrumentalities
21 thereof (including actions approved by the voters of the City), for or concerning the
22 Project (collectively, the "Entitlements"), whether such Actions are brought under the
23 California Environmental Quality Act, the Planning and Zoning Law, the Subdivision
24 Map Act, Code of Civil Procedure Chapter 1085 or 1094.5, the California Public
25 Records Act, or any other state, federal, or local statute, law, ordinance, rule,
26 regulation, or any decision of a court of competent jurisdiction. This condition to
27 indemnify, protect, defend, and hold the City harmless shall include, but not limited
28 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. 2021-0006.
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

1 the Project or within 90 days after the date of the imposition of the fees, dedications,
2 reservations, or exactions imposed on the Project.

- 3 5. The sale of beer by the individual bottle or can is prohibited.
- 4 6. The Crime Prevention Plan endorsed by the Rialto Police Department, attached to this
5 Resolution as "Exhibit A" shall be adhered to at all times. Crime prevention measures,
6 in the Crime Prevention Plan and as follows, shall be incorporated into the design and
7 operation of the business:
- 8 a. The management shall be responsible for educating the public regarding drunken
9 driving laws and the related penalties for breaking those laws. This includes
10 minimum age laws, open container laws and laws related to driving under the
11 influence of alcohol and shall be accomplished by posting prominent signs or
12 decals, providing brochures at the point of purchase and providing adequate
13 training for employees.
 - 14 b. Surveillance cameras shall be installed and shall be available to Rialto Police
15 Department upon request.
 - 16 c. Any coolers containing alcoholic beverages shall automatically lock at 2:00 a.m.
17 and unlock at 6:00 a.m. daily.
 - 18 d. Consumption of any alcoholic beverages on site is prohibited.
 - 19 e. No advertisement of beer, wine, and distilled spirits on the exterior of the
20 building, including window decals, posters, signs, etc.
 - 21 f. A minimum of one-and-one half (1.5) foot-candle of light shall be provided, as
22 measured at the ground level of the entire site, from the period of one-half hour
23 before sunset until one-half hour after sunrise. Lighting fixtures shall be so
24 situated and shielded as not to direct or reflect lighting glare on adjacent
25 properties or public rights-of-way.
 - 26 g. A locking device shall be installed on the cash register. An adequate floor safe
27 shall be installed behind the counter. Only a minimum amount of cash shall be
28 kept in the cash register at all times.
 - h. Burglary and robbery alarm systems shall be installed as required and approved
by the Rialto Police Department. A telephone with speaker push button alarm
shall be installed. The telephone must have a separate button that automatically
dials into 911 and will transmit on-going conversations and activity.
Alternatively, a panic-button, which automatically contacts the Rialto Police
Department upon activation, may be installed at each register. A 24-hour
security camera system shall be installed on the premises with camera locations

1 approved by the Rialto Police Department. All surveillance and security
2 equipment shall be continuously maintained and in operation during business
3 hours. Surveillance footage shall be provided to the Rialto Police Department
4 within 12 hours after a request has been made for said footage. The software or
5 media player required to view the type of video format shall be provided to the
6 Rialto Police Department, if necessary. An R-P card must be filed with the
7 Rialto Police Department containing twenty-four (24) hour phone numbers of
8 persons to be contacted.

9 i. The height of the cash register counter shall be no more than forty-two (42)
10 inches above the floor level and shall be illuminated during the hours of darkness
11 so as to be clearly visible through the window areas.

12 j. Employees on duty who sell alcoholic beverages must be at least 21 years of age
13 and shall comply with the ABC rules and regulations.

14 k. The business licensee for the convenience market shall maintain a litter control
15 program around the exterior of the convenience market in order to minimize the
16 resultant impacts of litter on properties adjacent to the store. An exterior trash
17 receptacle for employee and customer use shall be placed near the entrance of
18 the store.

19 l. A building maintenance program shall be established for the purposes of
20 maintaining the building structure and landscaping on-site in good physical
21 appearance.

22 7. All signage shall comply with Section 18.102 (Regulation of Signs) of the Rialto
23 Municipal Code. The premises on which such business is located shall be posted to
24 indicate that it is unlawful for any person to drink or consume alcoholic beverages
25 in any public place or posted premises.

26 8. Six (6) months after the date of approval, the Planning Commission may review
27 Conditional Development Permit No. 2021-0006 to determine if the operator has
28 complied with all of the required conditions of approval. Thereafter, the Planning
Commission may review the approved facility on an annual or as needed basis.

9 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 commences 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.

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2 10. If the applicant fails to comply with any of the Conditions of Approval placed upon
3 Conditional Development Permit No. 2021-0006, the Planning Commission may
4 initiate proceedings to revoke the Conditional Development Permit in accordance
5 with the provisions of sections 18.66.070 through 18.66.090, inclusive, of the Rialto
6 Municipal Code. Conditional Development Permit No. 2021-0006 shall be revoked,
7 suspended or modified in accordance with Section 18.66.070 of the Zoning
8 Ordinance at the discretion of the Planning Commission if:

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

19 SECTION 6. The Chairman of the Planning Commission shall sign this resolution
20 evidencing it's the passage and adoption of this resolution and thereupon the same shall take effect
21 and be in force.

22 PASSED, APPROVED AND ADOPTED this 8th day of September, 2021.

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FRANK GONZALEZ, CHAIR
CITY OF RIALTO PLANNING COMMISSION

1 STATE OF CALIFORNIA)
2 COUNTY OF SAN BERNARDINO) ss
3 CITY OF RIALTO)
4

5 I, Adrianna Martinez, Administrative Assistant of the City of Rialto, do hereby certify that
6 the foregoing Resolution No. **2021-39** was duly passed and adopted at a regular meeting of the
7 Planning Commission of the City of Rialto held on the 8th day of September 2021.

8 Upon motion of Commissioner Artist Gilbert, second by Commissioner BarBara Chavez
9 the foregoing Resolution No. **2021-39** was duly passed and adopted.

10
11 Vote on the motion:

12 AYES: 7

13 NOES: 0

14 ABSENT:

15 IN WITNESS WHEREOF, I have hereunto set my hand and the Official Seal of the City of
16 Rialto this 8th day of September 2021.

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Adrianna Martinez, Administrative Assistant
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2. Enhanced Security Measures

- FOOTHILL BEER & WINE MART will also incorporate state-of-the-art video camera systems and alarms. Our Rialto Store will have a 24-hour, closed-circuit video cameras with audio capabilities and a high-resolution color monitor mounted in clear view of the customers. Multiple cameras will be displayed: (1) at the main entrance, (1) at the cash register, and (1) at the rear of the store.
- The alarm system will also include fixed and remote-activator devices.
- All systems may be coordinated with Rialto Police systems as required.
- FOOTHILL BEER & WINE MART will be equipped with a Time- Access Safe. Employees will be instructed to keep no more than \$50 (\$30 at night) in the cash register. Signs will be posted on the door or window notifying patrons that less than \$30 is kept in the cash register after dark and that the store staffers cannot open the safe.
- FOOTHILL BEER & WINE MART will install bright interior and exterior lighting.

3. All video systems shall be coordinated with Rialto Police Department and utilize the FUSUS web application for connection.

4. Measures to Control Loitering

- FOOTHILL BEER & WINE MART plans on controlling loitering by following these steps:
 - o Train store employees on how to handle to ask loiterers to leave the premises (i.e. day-laborers, panhandling, or loitering teens)
 - o Ensuring unobstructed lines of sight so that external activity can be easily monitored and viewed
 - o Maintain a clear line of sight into and out of the store front windows and a well-lit and litter-free parking lot and store sidewalk
 - o Post "No Loitering" signs
 - o Engage local police when there is a problem
 - o Work with municipality to communicate services that assist panhandlers, day-laborers
 - o No sale of single bottles of high-alcohol-content beverages.

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2 **5. Any other Crime related measure required by the police department which are**
3 **intended to mitigate the cost of the city provide services for the proposed**
4 **convenience type store.**

- 5 • The sale of drug paraphernalia, gang paraphernalia, and adult-oriented
6 magazines and materials is prohibited.
- 7 • **Crime prevention measures, as endorsed by the City of Rialto Police**
8 **Department, shall be incorporated into the design and operation of the**
9 **business as follows:**
 - 10 ○ A minimum of one-and-one half (1.5) foot-candle of light shall be provided, as
11 measured at the ground level of the entire site, from the period of one-half hour before
12 sunset until one-half hour after sunrise. Lighting fixtures shall be so situated and
13 shielded as not to direct or reflect lighting glare on adjacent properties or public
14 rights-of-way.
 - 15 ○ A locking device shall be installed on the cash register. An adequate floor safe shall be
16 installed behind the counter. Only a minimum amount of cash shall be kept in the cash
17 register at all times.
 - 18 ○ Self – locking refrigerator doors for the coolers that contain alcoholic beverages. The doors
19 shall auto – lock at 2:00 am and unlock at 6:00 am without interaction from an employee.
 - 20 ○ Burglary and robbery alarm systems shall be installed as required and approved by the
21 Rialto Police Department. A telephone with speaker push button alarm shall be installed.
22 The telephone must have a separate button that automatically dials into 911 and will
23 transmit on-going conversations and activity. Alternatively, a panic-button, which will be
24 transferred to the Rialto Police Department upon activation, may be installed at each
25 register. A 24-hour security camera system shall be installed on the premises with camera
26 locations approved by the Rialto Police Department. All surveillance and security equipment
27 shall be continuously maintained and in operation during business hours. Surveillance
28 footage shall be provided to the Rialto Police Department within 12 hours after a request
has been made for said footage. The software or media player required to view the type of
video format shall be provided to the Rialto Police Department, if necessary. An R-P card
must be filed with the Rialto Police Department containing twenty-four (24) hour phone
numbers of persons to be contacted.
 - All tobacco products will be displayed and sold from behind the cash register counter area.
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.

- o A locking device shall be installed on the cash register. An adequate floor safe shall be installed behind the counter. Only a minimum amount of cash shall be kept in the cash register at all times.
- o Self – locking refrigerator doors for the coolers that contain alcoholic beverages. The doors shall auto – lock at 2:00 am and unlock at 6:00 am without interaction from an employee.
- o Burglary and robbery alarm systems shall be installed as required and approved by the Rialto Police Department. A telephone with speaker push button alarm shall be installed. The telephone must have a separate button that automatically dials into 911 and will transmit on-going conversations and activity. Alternatively, a panic-button, which will be transferred to the Rialto Police Department upon activation, may be installed at each register. A 24-hour security camera system shall be installed on the premises with camera locations approved by the Rialto Police Department. All surveillance and security equipment shall be continuously maintained and in operation during business hours. Surveillance footage shall be provided to the Rialto Police Department within 12 hours after a request has been made for said footage. The software or media player required to view the type of video format shall be provided to the Rialto Police Department, if necessary. An R-P card must be filed with the Rialto Police Department containing twenty-four (24) hour phone numbers of persons to be contacted.
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- o Self – locking refrigerator doors for the coolers that contain alcoholic beverages. The doors shall auto – lock at 2:00 am and unlock at 6:00 am without interaction from an employee.

- o Burglary and robbery alarm systems shall be installed as required and approved by the Rialto Police Department. A telephone with speaker push button alarm shall be installed. The telephone must have a separate button that automatically dials into 911 and will transmit on-going conversations and activity. Alternatively, a panic-button, which will be transferred to the Rialto Police Department upon activation, may be installed at each register. A 24-hour security camera system shall be installed on the premises with camera locations approved by the Rialto Police Department. All surveillance and security equipment shall be continuously maintained and in operation during business hours. Surveillance footage shall be provided to the Rialto Police Department within 12 hours after a request has been made for said footage. The software or media player required to view the type of video format shall be provided to the Rialto Police Department, if necessary. An R-P card must be filed with the Rialto Police Department containing twenty-four (24) hour phone numbers of persons to be contacted.

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