

**RESOLUTION NO. 2021-XX**

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF RIALTO, CALIFORNIA APPROVING CONDITIONAL DEVELOPMENT PERMIT NO. 2021-0002 ALLOWING THE OPERATION OF DRIVE-THRU SERVICE IN CONJUNCTION WITH A 2,400 SQUARE FOOT RESTAURANT TO BE LOCATED ON THE SOUTHEAST CORNER OF AYALA DRIVE AND CASMALIA STREET (APN: 1133-591-07) WITHIN THE FREEWAY INCUBATOR (F-I) LAND USE DISTRICT OF THE RENAISSANCE SPECIFIC PLAN.

WHEREAS, the developer, CDM Inc., proposes to establish and operate a vehicular drive-thru service in conjunction with a proposed 2,400 square foot fast-food restaurant building (“Project”) located at the southeast corner of Ayala Drive and Casmalia Street (APN: 1133-591-07) within the Freeway Incubator (F-I) land use district of the Renaissance Specific Plan (“Site”); and

WHEREAS, pursuant to Table 3-2 (General Permitted Uses) of the Renaissance Specific Plan and Chapter 18.66 (Conditional Development Permits) of the Rialto Municipal Code, the Project requires a Conditional Development Permit, and the applicant has agreed to apply for Conditional Development Permit No. 2021-0002 (“CDP No. 2021-0002”); and

WHEREAS, the Project will consist of a 2,400 square foot commercial building, a drive-thru lane with stacking for approximately ten (10) vehicles, twenty-three (23) parking spaces with adequate lighting, an abundant amount of landscaping, and full pedestrian and vehicle access; and

WHEREAS, also in conjunction with the Project, the developer has applied for Precise Plan of Design No. 2021-0002 to allow the development of a 2,400 square foot restaurant building with a drive-thru lane on the Site (“PPD No. 2021-0002”); and

WHEREAS, on December 8, 2021, the Planning Commission of the City of Rialto conducted a duly noticed public hearing, as required by law, on CDP No. 2021-0002 and PPD No. 2021-0002, took testimony, at which time it received input from staff, the city attorney, and the applicant; heard public testimony; discussed the proposed CDP No. 2021-0002 and PPD No. 2021-0002; 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 Rialto  
2 as follows:

3 SECTION 1. The Planning Commission hereby specifically finds that all of the facts set forth  
4 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. 2021-0002, 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. 2021-0002 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 applicant proposes to establish a drive-thru use in conjunction with the proposed 2,400  
16 square foot restaurant building. The proposed project is a speculative development, and  
17 the drive-thru operator is unknown at this time. There is currently only one fast-food drive-  
18 thru restaurant on the north side of the SR-210 at the Ayala Drive exit. The Project is  
19 anticipated to be a benefit to the community and an improvement to the surrounding area  
by providing an additional choice for fast-food drive-thru at a convenient location. The  
Project will provide a more diverse economic base for the surrounding area and will  
provide a necessary service for residents and travelers within the City.

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

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

23 To the east of the Site, across Ayala Drive is the Rialto Center comprised of three (3) retail  
24 buildings including a gas station/carwash, multi-tenant retail, and a fast-food drive-thru.  
25 To the south and east is similarly zoned vacant land. To the north, across Casmalia Street,  
26 are existing single-family residences. The proposed project is required to install enhanced  
27 landscaping with berming and hedges to buffer the existing residences to the north. The  
28 Project is consistent with the underlying Freeway Incubator (F-I) land use district and the  
Renaissance Specific Plan. In addition, the Project has been reviewed by the City staff for  
compliance with all health, safety, and design requirements to ensure the project will  
significantly enhance the aesthetics of the local community.

- 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 is a relatively flat, rectangular-shaped piece of land currently comprised of one (1)  
6           parcel totaling 0.64 acres in size with approximate average dimensions of 250 feet (east-west)  
7           by 132 feet (north-south) and is currently developed with a non-conforming residence. The  
8           project site will be accessed via the driveway on Casmalia Street near the northeast corner of  
9           the project site. The Renaissance Specific Plan identifies a raised median for Casmalia  
10          Street so the proposed driveway will be restricted to right-in, right-out only access in the  
11          future. Upon completion of the Development, the Site will contain 23 parking spaces  
12          which meets the minimum required by the Renaissance Specific Plan. In addition, the  
13          development will have a trash enclosure, landscaping, lighting, and accessible pathways  
14          leading to the public right-of-way.

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

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

18          The Site is currently developed with adequate access to all utilities and services required  
19          through main water, electric, sewer, and other utility lines that will be modified from  
20          residential capacity to retail commercial capacity as needed as part of the proposed Project.

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

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

25          The use is consistent with the underlying Freeway Incubator (F-I) land use district of the  
26          Renaissance Specific Plan. The Project will feature high-quality building exteriors  
27          designed in compliance with the City's Design Guidelines. Landscaping has been  
28          abundantly incorporated into the site. The landscape coverage for the Project is 12 percent,  
29          which exceeds the minimum requirement of the Renaissance Specific Plan. Landscape  
30          planters containing trees spaced every thirty (30) linear feet will be installed along the  
31          entire perimeter of the Site. Furthermore, the Project includes the installation of 23 parking  
32          spaces upon completion of the Project which also meets the minimum requirement of the  
33          Renaissance Specific Plan.

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

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

2       The Project's effects will be minimized through the implementation of the Conditions of  
3       Approval contained herein, and through the implementation of Conditions of Approval  
4       imposed by the Planning Commission on the Precise Plan of Design, such as extensive  
5       landscaping, decorative paving, and enhanced architectural features. The Project will meet  
6       the development criteria of the F-I land use district and the design criteria of the  
      Renaissance Specific Plan. No potential adverse effects are anticipated and the Project will  
      benefit the community as a whole.

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

11      SECTION 4. CDP No. 2021-0002 is granted to CDM Inc. in accordance with the plans and  
12      application on file with the Planning Division, subject to the following conditions:

- 13      1. The applicant is granted CDP No. 2021-0002 allowing the establishment of vehicular  
14      drive-thru service in conjunction with a 2,400 square foot fast-food restaurant to be located  
15      at the southeast corner of Ayala Drive and Casmalia Street (APNs: 1133-591-07) within  
16      the Freeway Incubator (F-I) land use district of the Renaissance Specific Plan, as shown  
17      on the plans submitted to the Planning Division on August 25, 2021, 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
- 18      2. City inspectors shall have access to the site to reasonably inspect the site during normal  
19      working hours to assure compliance with these conditions and other codes.
- 20      3. The applicant shall indemnify, protect, defend, and hold harmless, the City of Rialto,  
21      and/or any of its officials, officers, employees, agents, departments, agencies, and  
22      instrumentalities thereof (collectively, the "City Parties"), from any and all claims,  
23      demands, law suits, writs of mandamus, and other actions and proceedings (whether  
24      legal, equitable, declaratory, administrative or adjudicatory in nature), and alternative  
25      dispute resolutions procedures (including, but not limited to arbitrations, mediations,  
26      and other such procedures), (collectively "Actions"), brought against the City, and/or  
27      any of its officials, officers, employees, agents, departments, agencies, and  
28      instrumentalities thereof, that challenge, attack, or seek to modify, set aside, void, or  
      annul, 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

1 Records Act, or any other state, federal, or local statute, law, ordinance, rule, regulation,  
2 or any decision of a court of competent jurisdiction. This condition to indemnify,  
3 protect, defend, and hold the City harmless shall include, but not be limited to (i)  
4 damages, fees and/or costs awarded against the City, if any, and (ii) cost of suit,  
5 attorneys' fees and other costs, liabilities and expenses incurred in connection with  
6 such proceeding whether incurred by applicant, Property owner, or the City and/or  
7 other parties initiating or bringing such proceeding (collectively, subparts (i) and (ii)  
8 are the "Damages"). Notwithstanding anything to the contrary contained herein, the  
9 Applicant shall not be liable to the City Parties under this indemnity to the extent the  
10 Damages incurred by any of the City Parties in such Action(s) are a result of the City  
11 Parties' fraud, intentional misconduct or gross negligence in connection with issuing  
12 the Entitlements. The applicant shall execute an agreement to indemnify, protect,  
13 defend, and hold the City harmless as stated herein within five (5) days of approval of  
14 CDP No. 2021-0002.

- 15 4. In accordance with the provisions of Government Code Section 66020(d)(1), the  
16 imposition of fees, dedications, reservations, or exactions for this Project, if any, are  
17 subject to protest by the applicant at the time of approval or conditional approval of the  
18 Project or within 90 days after the date of the imposition of the fees, dedications,  
19 reservations, or exactions imposed on the Project.
- 20 5. The applicant shall install a "DO NOT ENTER" street sign and an illuminated "DO NOT  
21 ENTER" directional sign on the drive-side of the drive-thru lane at the exit of the drive-  
22 thru lane. The street sign and directional sign shall be identified on the site plan within  
23 the building plan check submittal set, prior to the issuance of a building permit.  
24 Furthermore, the street sign and the directional sign shall be installed prior to the issuance  
25 of the Certificate of Occupancy.
- 26 6. The applicant shall paint "EXIT" and a directional arrow within the center of the drive-  
27 thru lane at the exit of the drive-thru lane, prior to the issuance of the Certificate of  
28 Occupancy.
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.

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

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

9       11. The privileges granted by the Planning Commission pursuant to approval of this  
10       Conditional Development Permit are valid for two (2) years from the effective date of  
11       approval. If the applicant fails to commence the project within two years of said  
12       effective date, this conditional development permit shall be null and void and any  
13       privileges granted hereunder shall terminate automatically. If the applicant or his or  
14       her successor in interest commence the project within two years of the effective date of  
15       approval, the privileges granted hereunder will continue inured to the property as long  
16       as the property is used for the purpose for which the conditional development permit  
17       was granted, and such use remains compatible with adjacent property uses.

18       12. Approval of CDP No. 2021-0002 will not become effective until the applicant has signed  
19       a statement acknowledging awareness and acceptance of the required conditions of  
20       approval contained herein

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

28       14. If the applicant fails to comply with any of the conditions of approval placed upon CDP  
29       No. 2021-0002 or PPD No. 2021-0002 the Planning Commission may initiate  
30       proceedings to revoke the conditional development permit in accordance with the  
31       provisions of Sections 18.66.070 through 18.66.090, inclusive, of the Rialto Municipal  
32       Code. CDP No. 2021-0002 may be revoked, suspended or modified in accordance with  
33       Section 18.66.070 of the Zoning Ordinance at the discretion of the Planning  
34       Commission if:

- 35           a)       The use for which such approval was granted has ceased to exist, been  
36               subsequently modified, or has been suspended for six (6) months or more;
- 37           b)       Any of the express conditions or terms of such permit are violated;

- 1           c)     The use for which such approval was granted becomes or is found to be  
2                     objectionable or incompatible with the character of the City and its environs  
3                     due to noise, loitering, criminal activity or other undesirable characteristics  
4                     including, but not strictly limited to uses which are or have become  
5                     offensive to neighboring property or the goals and objectives of the Freeway  
6                     Incubator (F-I) land use district, the Renaissance Specific Plan, and the  
7                     City's General Plan.

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9     15. Approval of CDP No. 2021-0002 will not become effective until the applicant has signed  
10       a statement acknowledging awareness and acceptance of the required conditions of  
11       approval contained herein.

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

14     PASSED, APPROVED AND ADOPTED this    8th    day of December, 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 )  
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5 I, Adrianna Martinez, Administrative Assistant of the City of Rialto, do hereby certify that  
6 the 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 \_\_\_\_, 2021.

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 \_\_\_\_, 2021.

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20 ADRIANNA MARTINEZ, ADMINISTRATIVE ASSISTANT  
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