

**RESOLUTION NO. 20-XX**

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF RIALTO, CALIFORNIA APPROVING CONDITIONAL DEVELOPMENT PERMIT NO. 2021-0007 AND MAKING A FINDING OF PUBLIC CONVENIENCE AND NECESSITY (PCN) TO ALLOW THE SALE OF BEER, WINE, AND SPIRITS FOR OFF-SITE CONSUMPTION WITHIN A PROPOSED 8,000 SQUARE FOOT MARKET WITHIN MULTI-TENANT COMMERCIAL BUILDING ON 0.62 GROSS ACRES OF LAND (APN: 0264-371-02) LOCATED ON THE NORTHWEST CORNER OF WEST CASMALIA STREET APPROXIMATELY 450 FEET OF RIVERSIDE AVENUE WITHIN THE COMMUNITY COMMERCIAL (C-1) ZONE.

WHEREAS, the applicant, Akraa Architectural Creation, LLC, proposes to sell beer, wine and spirits for off-site consumption from a proposed 8,000 square foot grocery market (“Project”) within a multi-tenant commercial center on 0.62 acres of land (APN: 0264-371-02) located on the northwest corner of West Casmalia Street approximately 450 feet of Riverside Avenue within the Neighborhood Commercial (C-1) Zone (“Site”); 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. 2021-0007 (“CDP No. 2021-0011”); and

WHEREAS, according to California Department of Alcoholic Beverage Control (ABC), the Site is located within Census Tract 27.06, and ABC will allow a maximum of three (3) licenses for the sale of beer, wine and spirits for off-site consumption by right within this particular census tract, based upon its current population of approximately 14,133 persons; and

WHEREAS, according to ABC, there are currently three (3) active licenses for the sale of alcoholic beverages within Census Tract 27.06 – (i) Rite Aid Store located at 2020 N Riverside Avenue (ii) Chevron located at N Riverside Avenue & E Highland Avenue, and (iii) Shell located 5985 N Palm Avenue; and

WHEREAS, the applicant will request that the ABC issue a fourth license within Census Tract 27.06, which will exceed the maximum number of licenses allowed by right for sale of alcoholic beverages for off-site consumption within Census Tract 27.06; and

1 WHEREAS, California Department of Alcoholic Beverage Control (ABC) will require a  
2 Public Convenience and Necessity (PCN) finding prior to issuance of the Type 21 license, which  
3 is typically required if an ABC census tract is at or above the maximum number of licenses  
4 allowed by right for the sale of alcoholic beverages and liquor for off-site consumption; and

5 WHEREAS, on June 30, 2021, the Planning Commission of the City of Rialto conducted  
6 a duly noticed public hearing, as required by law, on CDP No. 2021-0007, took testimony, at  
7 which time it received input from staff, the city attorney, and the applicant; heard public  
8 testimony; discussed the proposed CDP No. 2021-0007; and closed the public hearing; and

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

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

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

14 SECTION 2. Based on substantial evidence presented to the Planning Commission during  
15 the public hearing conducted on June 30, 2021, with regard to CDP No. 2021-0007, including  
16 written staff reports, verbal testimony, site plans, other documents, and the conditions of approval  
17 stated herein, the Planning Commission hereby determines that CDP No. 2021-0007 satisfies the  
18 requirements of Section 18.66.020 of the Rialto Municipal Code pertaining to the findings which  
19 must be made precedent to granting a conditional development permit. The findings are as follows:

- 20 1. The proposed use is deemed CEQA Exempt per Section 15303:

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

22 The proposed grocery market will be located within an existing building within an existing  
23 retail center known as the Rancho Verde Plaza. There will be no expansion of the existing  
24 building to accommodate the establishment of a new grocery market with alcoholic  
25 beverage sales. As such, the project is exempt from environmental analysis pursuant to  
Section 15303 "New Construction or Conversion of Small Structures."

- 26 2. The proposed use is deemed essential or desirable to provide a service or facility  
27 which will contribute to the convenience or general well-being of the neighborhood  
28 or community; and

*This finding is supported by the following facts:*

1 The Project will provide a benefit to the community and customers within the vicinity by  
2 providing sales of beer, wine, and spirits, in addition to typical produce goods. Beer,  
3 wine, and spirits sales are commonly conducted within produce markets, including others  
4 in the nearby area. Additionally, crime prevention measures contained within the  
5 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.

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

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

9 To the north of the Site is single family residences. To the east, within the shopping  
10 center known as Shops at Creekside, is three drive-thru restaurants and to the west is the  
11 Walgreens commercial center comprised of three (3) buildings totaling approximately  
21,000 square feet.

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

16 The zoning of the project site and the properties to the north, east, and west are  
17 Neighborhood Commercial (C-1) and to the south is Single Family Zone (R-1A-10,000).  
18 The project is consistent with the Neighborhood Commercial (C-1) zone the uses  
19 adjacent to the project site. The nearest sensitive uses are the single-family residences  
20 approximately 172 feet to south of the Site. These sensitive uses are not expected to be  
negatively impacted by the Project since the applicant is required by the conditions of  
approval contained herein to implement and permanently maintained the safety measures  
listed within the Crime Prevention Plan.

21 The proposed use also meets the location criteria described in Section 18.110.050 by  
22 being at least 2,293 feet from schools (minimum of 1,000 feet required), at least 2,299  
23 feet from churches and parks (minimum of 500 feet required), and at least 172 feet from  
residential areas (minimum of 100 feet required).

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

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

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

3 The Site contains 0.62 acres, is fairly level, and adjacent to one (1) major arterial street,  
4 which is able to accommodate the proposed use. The development will have three (3) points  
5 of access – two (2) driveways connected directly to Riverside Avenue. The westerly and  
easterly driveways along Riverside Avenue will allow left-in/right-in/right-out access.

- 6 5. The site has adequate access to those utilities and other services required for the  
7 proposed use; and

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

9 The Site will have adequate access to all utilities and services required through main water,  
10 electric, sewer, and other utility lines that will be hooked up to the Site.

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

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

15 As conditioned, the Project's effects will be minimized through the implementation of the  
16 applicant's Crime Prevention Plan, safety measures endorsed by the Rialto Police  
17 Department, litter control, and maintenance. Therefore, the adverse effects are  
outweighed by the benefits conferred upon the community and neighborhood as a whole.

18 SECTION 3. Per Section 18.110.090 of the Rialto Municipal Code pertaining to the  
19 findings which must be made precedent for a determination of public convenience and necessity.  
20 The Planning Commission finds the project satisfies the following findings:

- 21 1. The proposed use is not located within an area designated by the city for targeted  
22 neighborhood enhancement services or programs, or located within an area in which the  
23 chief of police has determined, based upon quantifiable information, that the proposed  
24 use: (a) would be detrimental to the public health, safety, or welfare of persons located in  
the area; or (b) would significantly increase the severity of existing law enforcement or  
public nuisance problems in the area; and

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

26 The City of Rialto Police Department supports this request. The applicant prepared and  
27 submitted a Crime Prevention Plan, attached as "Exhibit D", for the project, in  
28 accordance with Section 18.106.050 of the Rialto Municipal Code. Sergeant Joshua  
Lindsay with the Rialto Police Department reviewed and endorsed the prevention

measures within the Crime Prevention Plan. Safety measures contained within the Crime Prevention Plan include the installation of security lighting at a minimum of 1.5 foot-candles around the entire building, the installation of burglary and robbery alarms, as well as surveillance cameras. The Crime Prevention Plan also includes a measure requiring auto-locks on the alcohol refrigerators from 2:00 a.m. to 6:00 p.m. The Rialto Police Department concludes that, if properly implemented and sustained, these safety measures will minimize crime and nuisance activities that may otherwise be associated with the establishment.

2. The proposed use would not lead to the grouping of more than four off-sale of alcoholic beverage uses within a one-thousand-foot radius from the exterior of the building containing the proposed use; and;

*This finding is supported by the following facts:*

The request will not lead to the grouping of more than four (4) establishments that sell alcoholic beverages for off-site consumption within a 1,000-foot radius of the proposed produce grocery market. There are currently three (3) active ABC licenses within 1,000 feet of the proposed produce grocery market – (i) Walgreens at 1280 W. Foothill Boulevard, (ii) Food 4 Less at 1410 W. Foothill Boulevard, and (iii) Chevron at 1325 W. Foothill Boulevard.

3. The proposed use complies with the site Location criteria under Section 18.110.050; and;

*This finding is supported by the following facts:*

The proposed location of the produce grocery market, in which beer, wine and spirits will be available for sale, exceeds the minimum separation criteria required by Section 18.110.050 of the Rialto Municipal Code. The proposed use meets the location criteria described in Section 18.110.050 by being at 2,619 feet from schools (minimum of 1,000 feet required), at least 2,299 feet from churches and parks (minimum of 500 feet required), and at least 172 feet from residential areas (minimum of 100 feet required).

4. At least one of the following additional findings:

- a. The proposed outlet for the off-sale of alcoholic beverages would enhance or facilitate the vitality of an existing commercial area without presenting a significant adverse impact on public health or safety;

*This finding is supported by the following facts:*

The proposed use will be vital to the success of the convenience market. The stability of the business requires a complete range of typical produce-type merchandise, as other grocery markets in the near vicinity already provide this service to their customers.

1        SECTION 4. The proposed grocery market is categorically exempt from the requirements  
2 of the California Environmental Quality Act (CEQA) pursuant to Section 15301, Existing Facilities.  
3 No new construction is being proposed other than a tenant improvement to the existing building, the  
4 proposal remains exempt from the requirements of the California Environmental Quality Act  
5 (CEQA) pursuant to Section 15301, Existing Facilities. The Planning Commission directs the  
6 Planning Division to file the necessary documentation with the Clerk of the Board of Supervisors  
7 for San Bernardino County.

8        SECTION 5. The Planning Commission makes a finding of public convenience and  
9 necessity and hereby grants CDP No. 2021-0007 to allow the sale of beer, wine, and spirits for off-  
10 site consumption from a proposed 8,000 square foot grocery produce market within a in multi-  
11 tenant commercial building on 0.62 acres of land (APN: 0264-371-02) located on the northwest side  
12 of Riverside Avenue approximately 172 feet north of Casmalia Street within the Neighborhood  
13 Commercial (C-1) zone.

14  
15        In accordance with the plans and application on file with the Planning Division, subject to  
16 the following conditions:

- 17        1. CDP No. 2021-0007 is granted allowing the sale of beer, wine, and spirits for off-site  
18 consumption in conjunction with an 8,000 square foot grocery market within multi-  
19 tenant commercial center on 0.62 acres of land (APN: 0264-371-02) located on the  
20 south side of Casmalia Street and west of Riverside Avenue, as shown on the plans  
21 submitted to the Planning Division on March 9, 2021, and as approved by the Planning  
22 Commission. If the Conditions of Approval specified herein are not satisfied or  
23 otherwise completed, the project shall be subject to revocation.
- 24        2. City inspectors shall have access to the site to reasonably inspect the site during  
25 normal working hours to assure compliance with these conditions and other codes.
- 26        3. The applicant shall indemnify, protect, defend, and hold harmless, the City of Rialto,  
27 and/or any of its officials, officers, employees, agents, departments, agencies, and  
28 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 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. 2021-0007.

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.
5. The sale of beer by the individual bottle or can is prohibited.
6. The Crime Prevention Plan endorsed by the Rialto Police Department, attached to this Resolution as "Exhibit D" shall be adhered to at all times. Crime prevention measures, in the Crime Prevention Plan and as follows, shall be incorporated into the design and operation of the business:
  - a. The management shall be responsible for educating the public regarding drunken driving laws and the related penalties for breaking those laws. This includes minimum age laws, open container laws and laws related to driving under the influence of alcohol. Shall be accomplished by posting prominent signs or decals, providing brochures at the point of purchase and providing adequate training for employees.
  - b. Surveillance cameras shall be installed and shall be available to Rialto Police Department upon request.
  - c. Any coolers containing alcoholic beverages shall automatically lock at 2:00 a.m. and unlock at 6:00 a.m. daily.

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- 2 d. Consumption of any alcoholic beverages on site is prohibited.
- 3 e. No advertisement of beer, wine, and spirits on the exterior of the building,
- 4 including window decals, posters, signs, etc.
- 5 f. A minimum of one-and-one half (1.5) foot-candle of light shall be provided, as
- 6 measured at the ground level of the entire site, from the period of one-half hour
- 7 before sunset until one-half hour after sunrise. Lighting fixtures shall be so
- 8 situated and shielded as not to direct or reflect lighting glare on adjacent
- 9 properties or public rights-of-way.
- 10 g. A locking device shall be installed on the cash register. An adequate floor safe
- 11 shall be installed behind the counter. Only a minimum amount of cash shall be
- 12 kept in the cash register at all times.
- 13 h. Burglary and robbery alarm systems shall be installed as required and approved
- 14 by the Rialto Police Department. A telephone with speaker push button alarm
- 15 shall be installed. The telephone must have a separate button that automatically
- 16 dials into 911 and will transmit on-going conversations and activity.
- 17 Alternatively, a panic-button, which automatically contacts the Rialto Police
- 18 Department upon activation, may be installed at each register. A 24-hour
- 19 security camera system shall be installed on the premises with camera locations
- 20 approved by the Rialto Police Department. All surveillance and security
- 21 equipment shall be continuously maintained and in operation during business
- 22 hours. Surveillance footage shall be provided to the Rialto Police Department
- 23 within 12 hours after a request has been made for said footage. The software or
- 24 media player required to view the type of video format shall be provided to the
- 25 Rialto Police Department, if necessary. An R-P card must be filed with the
- 26 Rialto Police Department containing twenty-four (24) hour phone numbers of
- 27 persons to be contacted.
- 28 i. 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.
- j. Employees on duty who sell alcoholic beverages must be at least 21 years of age
- and shall comply with the ABC rules and regulations.
- k. The business licensee for the grocery market shall maintain a litter control
- program around the exterior of the grocery market in order to minimize the
- resultant impacts of litter on properties adjacent to the store. An exterior trash
- receptacle for employee and customer use shall be placed near the entrance of
- the store.



1. A building maintenance program shall be established for the purposes of maintaining the building structure and landscaping on-site in good physical appearance.
7. All signage shall comply with Section 18.102 (Regulation of Signs) of the Rialto Municipal Code. The premises on which such business is located shall be posted to indicate that it is unlawful for any person to drink or consume alcoholic beverages in any public place or posted premises.
8. The applicant shall obtain all necessary approvals and operating permits from all Federal, State, and local agencies and provide proof thereof to the City prior to the issuance of a Certificate of Occupancy.
9. Six (6) months after the date of approval, the Planning Commission may review Conditional Development Permit No. 2021-0007 to determine if the operator has 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.
10. 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.
11. If the applicant fails to comply with any of the Conditions of Approval placed upon Conditional Development Permit No. 2021-0007, 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. Conditional Development Permit No. 2021-0007 shall 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 have 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 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

1 the Neighborhood Commercial (C-1) zone, the Foothill Boulevard  
2 Specific Plan, and the City's General Plan.

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

5 PASSED, APPROVED AND ADOPTED this 30th day of June, 2021.  
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8 FRANK GONZALEZ, CHAIR  
9 CITY OF RIALTO PLANNING COMMISSION  
10

11  
12 STATE OF CALIFORNIA )  
13 COUNTY OF SAN BERNARDINO ) ss  
14 CITY OF RIALTO )  
15

16 I, Adrianna Martinez, Administrative Assistant of the City of Rialto, do hereby certify that  
17 the foregoing Resolution No. \_\_\_\_ was duly passed and adopted at a regular meeting of the  
18 Planning Commission of the City of Rialto held on the \_\_\_\_th day of \_\_\_\_, 2021.

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

21 Vote on the motion:

22 AYES:

23 NOES:

24 ABSENT:

25 IN WITNESS WHEREOF, I have here unto set my hand and the Official Seal of the City  
26 of Rialto this \_\_\_\_th day of \_\_\_\_, 21.  
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ADRIANNA MARTINEZ, ADMINISTRATIVE ASSISTANT

To: CITY OF RIALTO  
Sub.: CRIME PREVENTION PLAN

Date: 04/29/2021

RIALTO RANCH MARKET at (2018 N Riverside Ave, Rialto CA 92377)

**1. Measures to Increase Employee and Customer Safety:**

- RIALTO RANCH MARKET employees and owners are aware and trained about security procedures, violence avoidance and recommended behaviors for managing a robbery or other potentially violent encounter.
- We will train our staff on how to prevent the sale of Age restricted products such as Alcohol and cigarettes. This shall be done with new hires and on a yearly basis.
- Our design puts the cash register opened to the sales area and in line with the store main entrance so Police and others can see inside.
- Any violations and accusations of violations are considered serious and may trigger full investigation, with the possibility of termination of employee.

**2. Enhanced Security Measures:**

- RIALTO RANCH MARKET will incorporate state-of-the-art video camera systems and alarms. Our Store will have closed circuit video cameras with audio capabilities mounted in clear view of the customers. Cameras will be displayed at the main entrance, cash register, and store front and we will use FUSUS for the camera connection to the PD.
- The alarm system will also include fixed and remote-activator devices.
- All systems may be coordinated with Rialto Police systems as required.
- Our store will be equipped with a Time-Access Safe.
- Employees will be instructed to keep no more than \$50 in the cash register.
- Signs will be posted on the door or window notifying patrons that less than \$50 is kept in the cash register and that the store staffers cannot open the safe.

**3. Measures to Control Loitering:**

- Train store employees on how to ask loiterers to leave the premises.
- Maintain a clear line of sight into and out of the store and a well litter-free store sidewalk.
- Engage local police when there is a problem.
- Post "No Loitering" signs.

**4. Any other Crime related measures required by the police department which are intended to mitigate the cost of the city provide services for the proposed store.**

- The sale of drug paraphernalia, gang paraphernalia, and adult-oriented magazines and materials is prohibited.
- Crime prevention measures, as endorsed by the City of Rialto Police Department, shall be incorporated into the design and operation of the business as follows:
  - A locking device shall be installed on the cash register.
  - An adequate floor safe shall be installed behind the counter.
  - Self – locking doors for the coolers/storage that contain alcoholic beverages.
  - Burglary and robbery alarm systems shall be installed as per Rialto Police Department.
  - All tobacco products will be displayed and sold from behind the cash register counter area.

RIALTO RANCH MARKET

