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A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIALTO, CALIFORNIA OVERTURNING THE PLANNING COMMISSION DECISION TO DENY CONDITIONAL DEVELOPMENT PERMIT NO. 2020-0020, THEREBY ALLOWING THE DEVELOPMENT AND OPERATION OF A 47,690 SQUARE FOOT TRUCK TERMINAL WAREHOUSE BUILDING ON 12.72 GROSS ACRES (11.80 NET ACRES) OF LAND (APN: 0258-011-01, -09, & -10) LOCATED BETWEEN CACTUS AVENUE AND LILAC AVENUE APPROXIMATELY 625 FEET SOUTH OF SLOVER AVENUE WITHIN THE LIGHT INDUSTRIAL (M-1) ZONE AND THE HEAVY INDUSTRIAL (H-IND) ZONE OF THE AGUA MANSA SPECIFIC PLAN.

WHEREAS, the applicant, Dedeaux Properties, LLC, proposes to develop and operate a 47,609 square foot truck terminal warehouse building (“Project”) on 12.72 gross acres (11.80 net acres) of land (APN: 0258-011-01, -09, & -10) located between Cactus Avenue and Lilac Avenue, approximately 625 feet south of Slover Avenue within the Light Industrial (M-1) zone and the Heavy Industrial (H-IND) zone of the Agua Mansa Specific Plan (“Site”); and

WHEREAS, APN: 0258-011-01 contains a zoning designation of H-IND within the Agua Mansa Specific Plan, and APNs: 0258-011-09 & -10 contain a zoning designation of M-1; and

WHEREAS, in accordance with Section 18.06.020 of the Rialto Municipal Code, the Project shall comply with the requirements of the M-1 and H-IND zones in the areas of the Site that are zoned M-1 and H-IND; and

WHEREAS, Pursuant to Chapter 18.66 (Conditional Development Permits) of the Rialto Municipal Code, the Project within the M-1 and H-IND requires a Conditional Development Permit, and the applicant has agreed to apply for Conditional Development Permit No. 2020-0020 (“CDP No. 2020-0020”); and

WHEREAS, in conjunction with the Project, the applicant submitted Precise Plan of Design No. 2020-0026 (“PPD No. 2020-0026”) to facilitate the development of a 47,609 square foot truck terminal warehouse building and associated paving, landscaping, fencing, lighting, and drainage improvements on the Site; and

1 **WHEREAS**, on July 28, 2021, the Planning Commission of the City of Rialto conducted
2 a duly noticed public hearing, as required by law, on CDP No. 2020-0020 and PPD No. 2020-
3 0026, took testimony, discussed the proposed CDP No. 2020-0020 and PPD No. 2020-0026, and
4 closed the public hearing; and

5 **WHEREAS**, on July 28, 2021, the Planning Commission voted 4-2 (1 absence) to deny
6 CDP No. 2020-0020 and PPD No. 2020-0026 and to direct staff to prepare a formal Resolution of
7 Denial for consideration at the August 11, 2021 Planning Commission meeting; and

8 **WHEREAS**, on August 11, 2021, the Planning Commission voted 4-2 (1 abstention) to
9 adopt Planning Commission Resolution No. 21-38 to formally deny CDP No. 2020-0020 and PPD
10 No. 2020-0026; and

11 **WHEREAS**, on August 18, 2021, pursuant to Chapter 18.68 (Appeals) of the Rialto
12 Municipal Code, the applicant filed with the office of the City Clerk an appeal to the City Council
13 requesting a review and reversal of the decision previously made by the Planning Commission
14 denying CDP No. 2020-0020 and PPD No. 2020-0026 (“Appeal”); and

15 **WHEREAS**, on October 12, 2021, in accordance with Chapter 18.68 (Appeals) of the
16 Rialto Municipal Code, the City Council conducted a public hearing of the Appeal, took testimony,
17 discussed the Appeal, and closed the public hearing; and

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

19 **NOW, THEREFORE**, the City Council hereby finds, determines, and resolves as follows:

20 **SECTION 1.** The City Council hereby specifically finds that all of the facts set forth in the
21 recitals above of this Resolution are true and correct and incorporated herein.

22 **SECTION 2.** Based on substantial evidence presented to the City Council during the public
23 hearing conducted with regard to CDP No. 2020-0020, including written staff reports, verbal
24 testimony, site plans, other documents, and the conditions of approval stated herein, the City Council
25 hereby determines that CDP No. 2020-0020 satisfies the requirements of Section 18.66.020 of the
26 Rialto Municipal Code pertaining to the findings which must be made precedent to granting a
27 conditional development permit, which findings are as follows:
28

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

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

5 The Site is relatively flat, “L”-shaped, expansive in size, and covered mostly by natural
6 grasses, shrubs, and trees, except for 0.28 acres of asphalt paving, one (1) non-conforming
7 single-family residence, one (1) non-conforming modular home, and several accessory
8 structures. The Project will develop the highest and best use for the Site, in accordance
9 with the Light Industrial (M-1) zone and the Heavy Industrial (H-IND) zone of the Agua
10 Mansa Specific Plan. Additionally, the Project will provide employment opportunities
11 within the City.

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

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

15 The development and operation of a truck terminal warehouse building on the Site is
16 consistent with the Light Industrial (M-1) zone and the Heavy Industrial (H-IND) zone of
17 the Agua Mansa Specific Plan, which conditionally permit the development and operation
18 of truck terminal warehouse buildings. To the north of the project site are several industrial
19 developments including an approximately 212,000 square foot commercial bakery facility occupied by Biscoamerica Corporation, a petroleum products
20 facility occupied by Flyers Energy, and a truck dispatch yard occupied by SC Fuels. To
21 the east, across Lilac Avenue, is an approximately 27,000 square foot warehouse building
22 occupied by Tsubaki Ballantine an industrial parts distributor, and to the south are several
23 industrial developments including a truck dispatch yard occupied by Impact Energy
24 Transport, a construction contractor’s yard occupied by Chrisp Company, a truck yard
25 occupied by Uppal Trucking and approximately 1.32 acres of vacant land. To the west,
26 across Cactus Avenue, are several single-family residences located within the
27 unincorporated area of Bloomington. The Project is consistent with the M-1 and H-IND
28 zones and the surrounding land uses. The nearby area is predominantly zoned for and
developed with industrial uses except for the single-family residences to the west of the
Site, across Cactus Avenue. The project is not expected to negatively impact any uses
since measures, such as the installation of a solid screen wall and landscape buffering, will
ensure that both noise and visual impacts remain at acceptable levels. The project will be
a benefit to the community and an improvement to the surrounding area.

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:

1 The Site contains 12.72 gross acres (11.80 net acres), is “L”-shaped, fairly level, and adjacent
2 to two (2) public streets, which are able to accommodate the proposed use. The Project will
3 have two (2) points of access – both via Lilac Avenue. Both driveways on Lilac Avenue will
4 provide full access for both trucks and passenger vehicles. In addition, the building will have
44 parking spaces, which exceeds the amount required by Table 13 (Off-Street Parking
Requirements) of the Agua Mansa Specific Plan.

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

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

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

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

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

14 As previously stated, the use is consistent with the M-1 and H-IND zones. The building
15 will be oriented such that none of the dock doors will front or face the public right-of-way,
16 the design includes a solid screen wall around the Site, the building will have forty-four
(44) passenger vehicle parking spaces, and the building will have a Floor Area Ratio (FAR)
17 of 9.3 percent, all of which comply with the General Plan, the M-1 and H-IND zones, and
the City’s Design Guidelines. Additionally, a twenty-five (25) foot wide landscape setback
18 will be provided along the entire frontage of Cactus Avenue, and a fifteen (15) foot wide
19 landscape setback will be provided along the entire frontage of Lilac Avenue.

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

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

23 The Project’s effects will be minimized through the implementation of the Conditions of
24 Approval contained herein, and through the implementation of Conditions of Approval
25 imposed by the Planning Commission on the Precise Plan of Design, such as extensive
landscaping, solid screen walls, decorative paving, and enhanced architectural features.
26 The development of a high-quality industrial development will provide additional
employment opportunities for residents and visitors to the City. The Project is consistent
27 with the M-1 and H-IND zones and the surrounding land uses. The nearest sensitive use
28 is the single-family residences to the west of the Site, across Cactus Avenue. The project
is not expected to negatively impact any use with the successful implementation of

1 measures such as landscape buffering, the installation of solid screen walls, and aesthetic
2 building enhancements. Therefore, any potential adverse effects are outweighed by the
3 benefits conferred upon the community and neighborhood as a whole.

4 **SECTION 3.** Based on the findings and recommended mitigation within the Initial Study,
5 staff determined that the project will not have an adverse impact on the environment, provided that
6 mitigation measures are implemented, and a Mitigated Negative Declaration was prepared. The local
7 newspaper published a copy of the Notice of Intent to adopt the Mitigated Negative Declaration for
8 the project, and the City mailed the notice to all property owners within 1,000 feet of the project site
9 for a public comment period held from June 19, 2021 to July 8, 2021. The Mitigated Negative
10 Declaration was prepared in accordance with the California Environmental Quality Act (CEQA). The
11 City Council directs the Planning Division to file the necessary documentation with the Clerk of the
12 Board of Supervisors for San Bernardino County.

13 **SECTION 4.** In accordance with the authority conveyed by Section 18.68.060 of the Rialto
14 Municipal Code, the City Council hereby overturns the Planning Commission decision to deny CDP
15 No. 2020-0020.

16 **SECTION 5.** CDP No. 2020-0020 is granted to Dedeaux Properties, LLC, in accordance
17 with the plans and application on file with the Planning Division, subject to the following conditions:
18

- 19 1. CDP No. 2020-0020 is approved allowing the development and operation of a 47,609
20 square foot truck terminal warehouse building on 12.72 gross acres (11.80 net acres) of
21 land (APNs: 0258-011-01, -09, & -10) located between Cactus Avenue and Lilac Avenue
22 approximately 625 feet south of Slover Avenue within the Light Industrial (M-1) zone
23 and Heavy Industrial (H-IND) zone of the Agua Mansa Specific Plan, as shown on the
24 plans attached as Exhibit A and as approved by the City Council. If the Conditions of
25 Approval specified herein are not satisfied or otherwise completed, the project shall be
26 subject to revocation.
- 27 2. City inspectors shall have access to the site to reasonably inspect the site during normal
28 working hours to assure compliance with these conditions and other codes.
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

1 dispute resolutions procedures (including, but not limited to arbitrations, mediations,
2 and other such procedures), (collectively “Actions”), brought against the City, and/or
3 any of its officials, officers, employees, agents, departments, agencies, and
4 instrumentalities thereof, that challenge, attack, or seek to modify, set aside, void, or
5 annul, the any action of, or any permit or approval issued by, the City and/or any of its
6 officials, officers, employees, agents, departments, agencies, and instrumentalities
7 thereof (including actions approved by the voters of the City), for or concerning the
8 Project (collectively, the “Entitlements”), whether such Actions are brought under the
9 California Environmental Quality Act, the Planning and Zoning Law, the Subdivision
10 Map Act, Code of Civil Procedure Chapter 1085 or 1094.5, the California Public
11 Records Act, or any other state, federal, or local statute, law, ordinance, rule, regulation,
12 or any decision of a court of competent jurisdiction. This condition to indemnify,
13 protect, defend, and hold the City harmless shall include, but not limited to (i) damages,
14 fees and/or costs awarded against the City, if any, and (ii) cost of suit, attorneys’ fees
15 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.
2020-0020.

- 16 4. In accordance with the provisions of Government Code Section 66020(d)(1), the
17 imposition of fees, dedications, reservations, or exactions for this Project, if any, are
18 subject to protest by the applicant at the time of approval or conditional approval of the
19 Project or within 90 days after the date of the imposition of the fees, dedications,
reservations, or exactions imposed on the Project.
- 20 5. The operator(s) and/or tenant(s) on the Site and within the building shall always conduct
21 operations consistent with the environmental analysis contained within Environmental
Assessment Review No. 2020-0024.
- 22 6. The applicant shall complete and abide by all pre-construction mitigation measures
23 contained within the Mitigation Monitoring and Reporting Program associated with
24 Environmental Assessment Review No. 2020-0024, prior to the issuance of a grading
permit.
- 25 7. The applicant shall complete and abide by all during-construction mitigation measures
26 contained within the Mitigation Monitoring and Reporting Program associated with
27 Environmental Assessment Review No. 2020-0024, prior to the conducting of a final
28 inspection by the Building Division.

- 1 8. The applicant, property owner, operator(s), and tenant(s) shall always abide by all
2 operational mitigation measures contained within the Mitigation Monitoring and
3 Reporting Program associated with Environmental Assessment Review No. 2020-0024.
- 4 9. The Project shall be limited to a maximum of 528 actual passenger car trips and 364 actual
5 truck trips daily, in accordance with the Traffic Impact Analysis prepared for the Project
6 by Urban Crossroads, Inc. and dated June 2021.
- 7 10. The applicant, landlord, operator(s) and/or tenant(s) shall ensure that all inbound truck
8 traffic that requires temporary queuing or staging do so on-site. Inbound truck traffic shall
9 not queue or stage on any public street at any time. Activities on-site shall not operate in
10 such a manner that would impact traffic lanes, cause back up (queuing or staging) of
11 vehicles into the public-right-of-way, or create any unsafe conditions. Fire and Police
12 access and passage around trucks queuing or staging on-site shall be feasible at all times
13 and activities shall not block parking areas, access or passage for disabled persons or
14 emergency response vehicles.
- 15 11. The applicant, landlord, operator(s) and/or tenant(s) shall only park or store trucks and
16 trailers within designated truck and trailer parking spaces on-site. No trucks or trailers
17 shall be parked or stored within any public street or within any on-site drive-aisles or
18 passenger vehicle parking areas at any time.
- 19 12. The applicant, landlord, operator(s) and/or tenant(s) shall not store any product, goods,
20 materials, etc. outside of the building at any time, except for trucks, trailers, and vehicles
21 associated with the operation(s) conducted within the building, without prior approval of
22 a separate Conditional Development Permit in accordance with Chapter 18.104 (Outdoor
23 Storage Uses) of the Rialto Municipal Code.
- 24 13. Operations of any use on the Site may occur only between the hours of 7:00 a.m. and 7:00
25 p.m. seven (7) days a week.
- 26 14. The applicant shall install "No Stopping Anytime" R26A(S)(CA) signage along the entire
27 project frontage of Cactus Avenue, as required by the City Engineer, prior to the issuance
28 of a Certificate of Occupancy.
15. The privileges granted by the City Council 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 commence 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.

1 16. Approval of CDP No. 2020-0020 will not become effective until the applicant has signed
2 a statement acknowledging awareness and acceptance of the required conditions of
3 approval contained herein.

4 17. In the event, that any operation on the Site is found to be objectionable or incompatible
5 with the character of the City and its environs due to excessive noise, excessive traffic,
6 loitering, criminal activity or other undesirable characteristics including, but not strictly
7 limited to, uses which are or have become offensive to neighboring property or the goals
8 and objectives of the Light Industrial (M-1) zone, the Heavy Industrial (H-IND) zone of
9 the Agua Mansa Specific Plan, and/or the City's General Plan, the applicant shall address
10 the issues within forty-eight (48) hours of being notified by the City.

11 18. If the applicant fails to comply with any of the conditions of approval placed upon CDP
12 No. 2020-0020 or PPD No. 2020-0026, the Planning Commission may initiate
13 proceedings to revoke the conditional development permit in accordance with the
14 provisions of Sections 18.66.070 through 18.66.090, inclusive, of the Rialto Municipal
15 Code. Conditional Development Permit No. 2020-0020 may be revoked, suspended or
16 modified in accordance with Section 18.66.070 of the Zoning Ordinance at the
17 discretion of the Planning Commission if:

- 18 a) The use for which such approval was granted has ceased to exist, been
19 subsequently modified, or has been suspended for six (6) months or more;
20 b) Any of the express conditions or terms of such permit are violated;
21 c) The use for which such approval was granted becomes or is found to be
22 objectionable or incompatible with the character of the City and its environs
23 due to excessive noise, excessive traffic, loitering, criminal activity or other
24 undesirable characteristics including, but not strictly limited to uses which
25 are or have become offensive to neighboring property or the goals and
26 objectives of the Light Industrial (M-1) zone, the Heavy Industrial (H-IND)
27 zone of the Agua Mansa Specific Plan, and/or the City's General Plan.

28 **SECTION 6.** The Mayor shall sign the passage and adoption of this resolution and
thereupon the same shall take effect and be in force.

PASSED, APPROVED AND ADOPTED this 12th day of October, 2021.

DEBORAH ROBERTSON, MAYOR

ATTEST:

BARBARA MCGEE, CITY CLERK

APPROVED AS TO FORM:

ERIC S. VAIL, CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO) ss

1 CITY OF RIALTO)
2

3 I, BARBARA MCGEE, City Clerk of the City of Rialto, do hereby certify that the foregoing
4 Resolution No. _____ was duly passed and adopted at a regular meeting of the City Council
5 of the City of Rialto held on the _____ day of _____, 2021.

6 Upon motion of Councilmember _____, seconded by Councilmember
7 _____, the foregoing Resolution No. _____ was duly passed and adopted.

8 Vote on the motion:

9 AYES:

10 NOES:

11 ABSENT:

12 IN WITNESS WHEREOF, I have hereunto set my hand and the Official Seal of the City of
13 Rialto this _____ day of _____, 2021.

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17 _____
18 BARBARA MCGEE, CITY CLERK
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27 Exhibit A
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