

**RESOLUTION NO. 2021-XX**

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF RIALTO, CALIFORNIA APPROVING CONDITIONAL DEVELOPMENT PERMIT NO. 2021-0028 ALLOWING THE OPERATION OF DRIVE-THRU SERVICE IN CONJUNCTION WITH A 950 SQUARE FOOT COFFEE SHOP TO BE LOCATED AT 127 WEST VALLEY BOULEVARD (APNS: 0132-131-08, -09 & -18) WITHIN THE FREEWAY COMMERCIAL (F-C) ZONE OF THE RIALTO GATEWAY SPECIFIC PLAN.

WHEREAS, the developer, Paragon Commercial Group, proposes to redevelop the former Hometown Buffet site to replace the existing 10,000 square restaurant building with a drive-thru coffee shop and an automated carwash facility (“Development”) located at 127 W Valley Boulevard within the Freeway Commercial (F-C) zone of the Rialto Gateway Specific Plan (“Site”); and

WHEREAS, the applicant, Dutch Bros Coffee, proposes to establish and operate a vehicular drive-thru service in conjunction with a proposed 950 square foot coffee shop building (“Project”) located at on the Site; and

WHEREAS, pursuant to 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. 2021-0028 (“CDP No. 2021-0028”); and

WHEREAS, the Project will consist of a 950 square foot commercial building, a drive-thru lane with stacking for approximately seventeen (17) vehicles, eighteen (18) parking spaces on the project parcel along with an abundant amount of landscaping, and full pedestrian and vehicle access; and

WHEREAS, in conjunction with the Project, the developer has applied for Conditional Development Permit No. 2021-0027 (“CDP No. 2021-0027”) to allow the operation of a 5,137 square foot automated carwash facility also located on the Site; and

WHEREAS, also in conjunction with the Project, the developer has applied for Precise Plan of Design No. 2021-0029 to allow the development of a 950 square foot coffee shop building with drive-thru lane on the westerly portion of the Site and the construction of the 5,137 square foot automated carwash building on the easterly portion of the Site (“PPD No. 2021-0029”); and

1 WHEREAS, on October 13, 2021, the Planning Commission of the City of Rialto  
2 conducted a duly noticed public hearing, as required by law, on CDP No. 2021-0028, CDP No.  
3 2021-0027 and PPD No. 2021-0029, took testimony, at which time it received input from staff,  
4 the city attorney, and the applicant; heard public testimony; discussed the proposed CDP No. 2021-  
5 0028, CDP No. 2021-0027 and PPD No. 2021-0029; and closed the public hearing; and

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

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

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

11 SECTION 2. Based on substantial evidence presented to the Planning Commission during  
12 the public hearing conducted with regard to CDP No. 2021-0028, including written staff reports,  
13 verbal testimony, site plans, other documents, and the conditions of approval stated herein, the  
14 Planning Commission hereby determines that CDP No. 2021-0028 satisfies the requirements of  
15 Section 18.66.020 of the Rialto Municipal Code pertaining to the findings which must be made  
16 precedent to granting a conditional development permit. The findings are as follows:

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

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

21 The applicant, or a franchisee, proposes to operate a Dutch Bros Coffee within the proposed  
22 950 square foot coffee shop building with drive-thru service. Dutch Bros is a drive-through  
23 coffee chain headquartered in Oregon with shops across the United States specializing in  
24 coffee, iced or hot drinks, energy drinks, and pastries. There are currently no other Dutch  
25 Bros Coffee locations in the City of Rialto, and no other similar locations within 14 miles  
26 of the Site. The Project is anticipated to be a benefit to the community and an improvement  
27 to the surrounding area by providing an additional choice of specialty coffee beverages at  
28 a convenient location that is currently underserved by Dutch Bros offerings. 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.

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

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

2        To the north of the Site, across Valley Boulevard is the Rialto Gateway commercial center  
3        comprised of six (6) retail buildings, and to the west is an existing County Flood Control  
4        channel. To the east is an existing USA gas station and vacant land. To the south, is a  
5        triangular shaped city-owned parcel of land with an existing free-standing sign used to  
6        advertise the previous land use for the project site. There are no sensitive uses in the nearby  
7        area. The Project is consistent with the underlying Freeway Commercial (F-C) zone. In  
8        addition, the Project has been reviewed by the City staff for compliance with all health,  
9        safety, and design requirements to ensure the project will significantly enhance the  
10       aesthetics of the local community.

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

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

15       The Site is a relatively flat and a fairly rectangular-shaped piece of land currently comprised  
16       of three (3) parcels totaling 2.45 acres in size with approximate average dimensions of 210  
17       feet (east-west) by 340 feet (north-south). The site is currently developed with a 10,000 square  
18       foot restaurant building, associated parking, lighting, and landscaping that was formerly  
19       occupied by Hometown Buffet but has been vacant. The Site will continue to be accessed  
20       via the existing signalized driveway at Valley Boulevard and Gateway Plaza. The project  
21       site has existing street improvements along Valley Boulevard including the existing 40 feet  
22       wide driveway located at the northeast corner of the site. Upon completion of the  
23       Development, the Site will contain 22 parking spaces, eight (8) more parking spaces than  
24       required by Chapter 18.58 (Off-Street Parking) of the Rialto Municipal Code. In addition,  
25       the development will have twenty-eight (28) vacuum stations, trash enclosures, lighting,  
26       and accessible pathways leading to the public right-of-way. Each parcel will be developed  
27       with its respective facilities for Americans with Disability Act (ADA) access, trash service  
28       lighting and required parking, with Covenants, Conditions and Restrictions (CC&Rs)  
recorded to address reciprocal access and parking, maintenance, etc.

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

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

32       The Site is currently developed with adequate access to all utilities and services required  
33       through main water, electric, sewer, and other utility lines that will be modified as needed as  
34       part of the proposed Project.

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

*This finding is supported by the following facts:*

The use is consistent with the underlying Freeway Commercial (F-C) zone of the Rialto Gateway Specific Plan. The Project will feature high-quality building exteriors designed in compliance with the City's Design Guidelines. Landscaping has been abundantly incorporated into the site. The landscape coverage for the Project is 28.1 percent, which greatly exceeds the minimum requirement. Landscape planters containing trees spaced every thirty (30) linear feet will be installed along the entire perimeter of the Site. Furthermore, the Project includes the installation of 22 parking spaces, and upon completion of the Project, eight (8) more parking spaces than required by Chapter 18.58 (Off-Street Parking) of the Rialto Municipal Code.

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

*This finding is supported by the following facts:*

The Project's effects will be minimized through the implementation of the Conditions of Approval contained herein, and through the implementation of Conditions of Approval imposed by the Planning Commission on the Precise Plan of Design, such as extensive landscaping, decorative paving, and enhanced architectural features. The Project will meet the development criteria of the F-C zone and the design criteria of the Rialto Gateway Specific Plan. The project is consistent with the F-C zone as well as the proposed carwash use on the Site. There are no sensitive uses in the nearby area. Therefore, no potential adverse effects are anticipated and the Project will benefit the community as a whole.

SECTION 3. The project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to Section 15332, In-fill Development Projects. The Planning Commission directs the Planning Division to file the necessary documentation with the Clerk of the Board of Supervisors for San Bernardino County.

SECTION 4. CDP No. 2021-0028 is granted to Dutch Bro Coffee in accordance with the plans and application on file with the Planning Division, subject to the following conditions:

1. The applicant is granted CDP No. 2021-0028 allowing the establishment of vehicular drive-thru service in conjunction with a 950 square foot coffee shop to be located at 127 West Valley Boulevard (APNs: 0132-131-08, -09 & -18) within the Freeway Commercial (F-C) zone of the Rialto Gateway Specific Plan, as shown on the plans submitted to the Planning Division on September 3, 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

2. City inspectors shall have access to the site to reasonably inspect the site during normal working hours to assure compliance with these conditions and other codes.
3. The applicant shall indemnify, protect, defend, and hold harmless, the City of Rialto, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof (collectively, the "City Parties"), from any and all claims, demands, law suits, writs of mandamus, and other actions and proceedings (whether legal, equitable, declaratory, administrative or adjudicatory in nature), and alternative dispute resolutions procedures (including, but not limited to arbitrations, mediations, and other such procedures), (collectively "Actions"), brought against the City, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, that challenge, attack, or seek to modify, set aside, void, or annul, the any action of, or any permit or approval issued by, the City and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof (including actions approved by the voters of the City), for or concerning the Project (collectively, the "Entitlements"), whether such Actions are brought under the California Environmental Quality Act, the Planning and Zoning Law, the Subdivision Map Act, Code of Civil Procedure Chapter 1085 or 1094.5, the California Public Records Act, or any other state, federal, or local statute, law, ordinance, rule, regulation, or any decision of a court of competent jurisdiction. This condition to indemnify, protect, defend, and hold the City harmless shall include, but not 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. 2021-0028.
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 applicant shall install a "DO NOT ENTER" street sign and an illuminated "DO NOT ENTER" directional sign on the drive-side of the drive-thru lane at the exit of the drive-thru lane. The street sign and directional sign shall be identified on the site plan within the building plan check submittal set, prior to the issuance of a building permit. Furthermore, the street sign and the directional sign shall be installed prior to the issuance of the Certificate of Occupancy.

6. The applicant shall paint "EXIT" and a directional arrow within the center of the drive-thru lane at the exit of the drive-thru lane, prior to the issuance of the Certificate of 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. Thereafter, the drive-thru shrubs shall be permanently irrigated and maintained into a continuous box-shape along the entire length of the drive-thru lane with a height of no less than three and one-half (3.5) feet above the finished grade. The shrubs shall be identified on the formal Landscape Plan submittal prior to the issuance of a landscape permit.
10. 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.
11. 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 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.
12. Approval of CDP No. 2021-0028 will not become effective until the applicant has signed a statement acknowledging awareness and acceptance of the required conditions of approval contained herein
13. In the event, that any operation on the Site is found to be objectionable or incompatible with the character of the City and its environs due to excessive noise, excessive traffic, loitering, criminal activity or other undesirable characteristics including, but not strictly limited to, uses which are or have become offensive to neighboring property or the goals

and objectives of the Freeway Commercial (F-C) zone of the Rialto Gateway Specific Plan and the City's General Plan, the applicant shall address the issues within forty-eight (48) hours of being notified by the City

14. If the applicant fails to comply with any of the conditions of approval placed upon CDP No. 2021-0028 or PPD No. 2021-0029 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. CDP No. 2021-0028 may 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 has 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 the Freeway Commercial (F-C) zone, the Rialto Gateway Specific Plan, and the City's General Plan.

15. Approval of CDP No. 2021-0028 will not become effective until the applicant has signed a statement acknowledging awareness and acceptance of the required conditions of approval contained herein.

SECTION 5. The Chairman of the Planning Commission 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 13th day of October, 2021.

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FRANK GONZALEZ, CHAIR  
CITY OF RIALTO PLANNING COMMISSION

STATE OF CALIFORNIA )  
COUNTY OF SAN BERNARDINO ) ss

1 CITY OF RIALTO )  
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3 I, Adrianna Martinez, Administrative Assistant of the City of Rialto, do hereby certify that  
4 the foregoing Resolution No. \_\_\_\_ was duly passed and adopted at a regular meeting of the Planning  
5 Commission of the City of Rialto held on the \_\_\_\_th day of \_\_\_\_, 2021.

6 Upon motion of Planning Commissioner\_\_\_\_\_, seconded by Planning Commissioner  
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 \_\_\_\_th day of \_\_\_\_, 2021.

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18 ADRIANNA MARTINEZ, ADMINISTRATIVE ASSISTANT  
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