



# City of Rialto

## Legislation Text

File #: 21-0659, Version: 1

For City Council Meeting [October 12, 2021]

TO: Honorable Mayor and City Council

APPROVAL: Marcus Fuller, City Manager

FROM: Daniel Casey, Acting Community Development Manager

Public Hearing to consider an appeal of the Planning Commission decision to deny Conditional Development Permit No. 2020-0020 and Precise Plan of Design No. 2020-0026, a request to allow the development and operation of a 47,609 square foot truck terminal and storage warehouse/distribution center, and associated paving, landscaping, fencing, lighting, and drainage improvements on 12.72 gross acres (11.80 net acres) of land (APNs: 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. A Mitigated Negative Declaration (Environmental Assessment Review No. 2020-0024) has been prepared for consideration in conjunction.

**(ACTION)**

Conditional Development Permit No. 2020-0020, Precise Plan of Design No. 2020-0026, and Environmental Assessment Review No. 2020-0024 shall hereinafter be referred to as “Project” or “project”.

**APPLICANT:**

Dedeaux Properties, LLC, 100 Wilshire Boulevard, Suite 250, Santa Monica, CA 90401.

**LOCATION:**

The project site consists of three (3) parcels of land (APNs: 0258-011-01, -09, & -10) located between Cactus Avenue and Lilac Avenue approximately 625 feet south of Slover Avenue (Refer to the attached Location Map (**Exhibit A**)).

**PROJECT BACKGROUND:**

*Surrounding General Plan Land Use Designations*

<b>Location</b>	<b>General Plan Designation</b>
Site	Light Industrial / Light Industrial with a Specific Plan Overlay
North	Light Industrial / Light Industrial with a Specific Plan Overlay
East	General Industrial with a Specific Plan Overlay
South	Light Industrial / Light Industrial with a Specific Plan Overlay
West	Residential 2

### *Surrounding Zoning Designations*

<b>Location</b>	<b>Zoning</b>
Site	Light Industrial (M-1) / Heavy Industrial (H-IND)
North	Light Industrial (M-1) / Heavy Industrial (H-IND)
East	Heavy Industrial (H-IND)
South	Light Industrial (M-1) / Heavy Industrial (H-IND)
West	Jurisdiction of County of San Bernardino

### *Site Characteristics*

The project site is a relatively flat, “L”-shaped piece of land comprised of three (3) parcels. Altogether, the project site is 12.72 gross acres in size with approximate dimensions of 660 feet (north-south) by 1,230 feet (east-west). The project site is bound on the east by Lilac Avenue and on the west by Cactus Avenue. The project site is mostly undeveloped, containing natural grasses and trees, except for approximately 0.28 acres of asphalt paving on the east end of the site and one (1) non-conforming single-family residence, (1) non-conforming modular home, and several accessory structures on the west end of the site. The applicant will remove the existing paving and structures prior to commencing construction on the project site.

### *Surrounding Area*

To the north of the project site are several industrial developments including an approximately 212,000 square foot commercial bakery facility occupied by Biscoamerica Corporation, a petroleum products facility occupied by Flyers Energy, and a truck dispatch yard occupied by SC Fuels. To the east, across Lilac Avenue, is an approximately 27,000 square foot warehouse building occupied by Tsubaki Ballantine an industrial parts distributor, and to the south are several industrial developments including a truck dispatch yard occupied by Impact Energy Transport, a construction contractor’s yard occupied by Chrisp Company, a truck yard occupied by Uppal Trucking and approximately 1.32 acres of vacant land. To the west, across Cactus Avenue, are several single-family residences located within the unincorporated area of Bloomington.

### *Split Zoning*

The easterly parcel of the project site that is adjacent to Lilac Avenue contains a zoning designation of Heavy Industrial (H-IND) within the Agua Mansa Specific Plan, and the two (2) westerly parcels of the project site that are adjacent to Cactus Avenue contain a zoning designation of Light Industrial (M-1). According to Section 18.06.020 of the Rialto Municipal Code, any use or building proposed on the project site shall conform to the regulations required by each zone within the boundaries of each zone.

## **PROJECT ANALYSIS/DISCUSSION:**

### *Project Proposal*

Dedeaux Properties, LLC, the applicant, proposes to consolidate three (3) parcels of land into one (1) 11.80 net acre parcel of land, and then construct a 47,609 square foot truck terminal warehouse building with associated paving, landscaping, fencing, lighting, and drainage improvements on the new parcel. There is no proposed tenant for the new building at this time, but the design of the building will accommodate various warehouse and truck terminal uses. The applicant proposes to limit the hours of operation to daytime hours from 7:00 a.m. to 7:00 p.m. (7) seven days a week,

though this could be even less depending upon a future tenant's needs.

### *Entitlement Requirements*

The following entitlements are required for the Project:

- **Lot Merger:** The merging of three (3) parcels of land into one (1) parcel of land requires the approval of a Lot Line Adjustment application.
- **Conditional Development Permit:** The development and operation of Project within the M-1 and H-IND zones requires the approval of a Conditional Development Permit.
- **Precise Plan of Design:** The design of the development and the related site improvements (e.g. building exterior, landscaping, etc.) requires the approval of a Precise Plan of Design.

### *Lot Merger*

The applicant filed Lot Line Adjustment No. 2020-0005 to facilitate the merger of the three (3) parcels of land that comprise the project site into one (1) 11.80 net acre parcel of land. According to Chapter 18.38 (M-1 Zone) of the Rialto Municipal Code, the M-1 zone does not require a minimum lot size for a new parcel, and according to Table 11 (Development Standards For "Heavy Industrial" Land Use Category) of the Agua Mansa Specific Plan, the H-IND zone requires a minimum lot size of 15,000 square feet (0.34 acres). The proposed parcel greatly exceeds the minimum parcel size requirements of both the M-1 and H-IND zones. Lot Line Adjustment No. 2020-0005 does not require Planning Commission or City Council action. The Community Development Department and Public Works Department will process Lot Line Adjustment No. 2020-0005 upon completion of the entitlement process for the applicant's Conditional Development Permit and Precise Plan of Design applications.

### *Site Design*

According to the site plan (**Exhibit B**), the applicant will construct a 47,609 square foot truck terminal warehouse building on the east half of the project site near Lilac Avenue, and the west half of the project site will consist of pavement to facilitate the parking of up to 228 trailers and drive-aisles for access around the parked trailers. The proposed layout also includes a passenger vehicle parking area on the east side of the building along the Lilac Avenue frontage. Two new forty (40) foot wide driveways connected directly to Lilac Avenue on both the north and south ends of the project frontage will provide full access movements for both trucks and passenger vehicles. No driveways will be constructed onto Cactus Avenue to prevent project generated vehicle traffic from passing by the existing residential to the west of the project site. Other proposed on-site improvements include paving, lighting, landscape planters, 14-foot tall concrete screen walls, and an underground stormwater infiltration system.

### *Floor Plan*

The floor plan for the proposed building (**Exhibit C**) indicates that the building will consist of 4,712 square feet of office space and 42,897 square feet of warehouse space. The office space will occupy the east end of the building, with 2,063 square feet on the ground floor and another 2,649 square feet up above on a second-floor mezzanine. The north side of the building will have forty-two (42) dock high loading doors and one (1) grade level roll-up door, and the south side of the building will have forty-three (43) dock high loading doors. The applicant will place the main entrance to the building in

the east side of the building, along with four (4) secondary/emergency exits distributed amongst the north, south, and west sides of the building.

### *Architectural Design*

The proposed building will feature vertical and horizontal wall plane articulation in the form of projected wall panels and/or panel height variations on all four (4) sides of each building. As shown on the elevations (**Exhibit D**), the building height ranges from 35 feet to 38 feet from the finished floor level, with the highest point being on the east side of the building over the office area. The exterior of the building will be of concrete tilt-up wall construction painted with a palette of four (4) different colors - various gray tones and a subtle blue accent. Other architectural features of the building include reveals, metal brow accents, and glazing.

### *Parking*

The development will have 44 auto-parking spaces, including two (2) ADA accessible parking spaces and three (3) clean air/van pool/electric vehicle parking spaces. This quantity exceeds the minimum parking requirement as shown in the parking calculation chart below and as required by Table 13 (Off-Street Parking Requirements) of the Agua Mansa Specific Plan, which requires one (1) parking space for every 300 square feet of office space gross floor area, one (1) parking space for every 1,000 square feet of warehouse space gross floor area up to 10,000 square feet, and one (1) parking space for every 2,000 square feet of warehouse space gross floor area beyond 10,000 square feet:

<b>Type of Use</b>	<b>Floor Area (square feet)</b>	<b>Parking Ratio</b>	<b>Number of spaces required</b>
Office Warehouse	4,712	1 / 300	16
Floor area up to 10,000 square feet	10,000	1 / 1,000	10
Floor area 10,001 square feet or more	32,897	1 / 2,000	17
Total Required/Total Provided			<b>43/44</b>

### *Landscaping*

The landscape coverage for the project is 6.1 percent. This includes a twenty-five (25) foot deep landscape planter along Cactus Avenue and a fifteen (15) foot deep landscape planter along Lilac Avenue, as well as planters around the perimeter of the office and throughout the passenger vehicle parking area. The landscape planter along Cactus Avenue will feature a four (4) foot high berm up to the concrete screen wall to reduce the visible height of the wall. All the landscape planters will feature a variety of trees spaced every thirty (30) linear feet and an abundant number of shrubs and groundcover (**Exhibit E**).

### *Floor Area Ratio*

Per Chapter 2 (Managing Our Land Supply) of the Rialto General Plan, the maximum allowable Floor Area Ratio (FAR) for parcels within the Light Industrial land use designation is 100.0 percent. The FAR proposed for the project is 9.3 percent, which is well within the allowable limit.

### *Land Use Compatibility*

The project is consistent with the Light Industrial (M-1) zone, the Heavy Industrial (H-IND) zone, and the design guidelines contained within Chapter 18.61 (Design Guidelines) of the Rialto Municipal Code, including, but not limited to, requirements pertaining to landscape setbacks, building height, floor area ratio, parking, screening, etc. Additionally, the project is consistent with the industrial uses to the north, east, and south of the project site. The nearest sensitive uses are the single-family residences located to the west of the project site, across Cactus Avenue. The development and operation of proposed storage warehouse/distribution center will not significantly impact the residents to the west since measures, such as the installation of solid screen walls and landscape buffering will reduce both noise and visual impacts to acceptable levels. Additionally, the Draft Resolution of Approval for Conditional Development Permit No. 2020-0020 contains a condition of approval limiting the allowable hours of operation to daytime hours from 7:00 a.m. to 7:00 p.m. seven (7) days a week to further reduce any impacts to the residents to the west of the project site.

### **ENVIRONMENTAL IMPACT:**

#### *Initial Study*

The applicant engaged FirstCarbon Solutions to prepare an Initial Study (Environmental Assessment Review No. 2020-0024) for the project in accordance with the requirements of the California Environmental Quality Act (CEQA). Based on the findings and recommended mitigation within the Initial Study, staff determined that the project will not have an adverse impact on the environment and prepared a Mitigated Negative Declaration. The Initial Study/Mitigated Negative Declaration with supporting technical reports/studies and responses to comments is attached to the agenda report (**Exhibit F**). Given the size of this document, the Initial Study is available for public review at the City Clerk's Office.

Although the Mitigated Negative Declaration identified potential impacts related to air quality, biological resources, cultural resources, geology/soils, greenhouse gas emissions, hazards/hazardous materials, noise, transportation/traffic, and tribal cultural resources, any of these impacts will be reduced to a level of insignificance subject to the imposition of the recommended mitigation contained within the project's Mitigation Monitoring and Reporting Program (**Exhibit G**).

#### *Air Quality / Greenhouse Gas Emissions*

Tables 6 through 14, 17, and 18 within the Initial Study provide evidence that the project will not exceed any threshold or standard required by either the South Coast Air Quality Management District (SCAQMD) or the Rialto General Plan without mitigation, except for construction localized PM<sub>10</sub> and PM<sub>2.5</sub> emissions. However, the incorporation of Standard Condition AIR-1 (SC AIR-1) and Mitigation Measure AIR-1 (MM AIR-1) will ensure that the project generated emissions of PM<sub>10</sub> and PM<sub>2.5</sub> will be below the established SCAQMD threshold for the project's construction localized emissions. SC AIR-1 requires the applicant to implement various measures including the daily use of water trucks, street sweepers, reduced speeds of construction vehicles on-site, and truck covers to prevent dust and other particulate matter from exceeding the established SCAQMD threshold. MM AIR-1 requires the applicant to ensure that all construction equipment with engines greater than 50 horsepower meet or exceed United States Environmental Protection Agency or California Air Resources Board (CARB) Tier IV off-road emission standards.

Additionally, in accordance with California Senate Bill 32 (SB 32), the incorporation of Standard Condition GHG-1 (SC GHG-1), Mitigation Measure GHG-1 (MM GHG-1), and Mitigation Measure GHG-2 (MM GHG-2), will require the applicant to incorporate vehicle charging stations and infrastructure to support the use of electric powered forklifts and/or other interior vehicles into the

design of the project, as well as utilize zero-emission on-site service vehicles (e.g. yard hostlers, counterbalance forklifts, rider pallet jacks) or purchase carbon credits to offset greenhouse gas emissions produced by any exterior on-site service vehicles that would produce greenhouse gas emissions.

As indicated in the Initial Study, the project will not result in a significant impact as it relates to air quality and greenhouse gas emissions with the incorporation of the proposed mitigation measures.

### *Biological Resources*

The applicant engaged FirstCarbon Solutions to prepare a Biological Resources Assessment of the project site. The assessment consisted of literature review and a series of field surveys conducted in August 2020 and March 2021 to document existing site conditions and the potential presence of any special status biological resources. As documented in the assessment, FirstCarbon Solutions did not observe any special status plant or wildlife species on the site during any of the field surveys. FirstCarbon Solutions determined that the project site does not contain suitable habitat for any special status plant or wildlife species, although one species, the Burrowing Owl, has moderate potential to briefly forage or stopover on the project site. To prevent potential impacts to the Burrowing Owl, the applicant will implement Mitigation Measure BIO-1 (MM BIO-1) and conduct a pre-construction Burrowing Owl survey on the project site within fourteen (14) days prior to construction activities. If Burrowing Owls are discovered on-site during the pre-construction survey, then the applicant will follow California Department of Fish and Wildlife (CDFW) protocols for relocating any Burrowing Owls. The Initial Study indicates that impacts to the Burrowing Owl will be less than significant with the implementation of MM BIO-1.

The Biological Resources Assessment prepared by FirstCarbon Solutions also determined that the grasses and trees on the project site provide suitable habitat for tree-nesting and ground-nesting birds protected under the California Fish and Game Code (CFGF) and the Migratory Bird Treaty Act (MBTA). No active nests were discovered during the field surveys conducted in August 2020 or March 2021. However, to prevent potential impacts to any nesting birds, the applicant will implement Mitigation Measure BIO-2 (MM BIO-2) and, if construction occurs during the nesting season of January 1 through September 15, the applicant will engage a qualified biologist to conduct pre-construction nesting survey no more than three (3) days prior to the initiation of ground disturbance and vegetation removal activities. If any active nests are discovered on-site during the pre-construction survey, then the applicant will be required to inform the United States Fish and Wildlife Service (USFWS) and CDFW of the status of the nest(s) and then will be required to restrict construction activities to avoid disturbance of the active nest(s). The Initial Study indicates that impacts to nesting birds will be less than significant with the implementation of MM BIO-2.

### *Noise*

The applicant engaged FirstCarbon Solutions to prepare a Noise Impact Analysis Report for the project. The report analyzed noise measurements at the nearest sensitive receptor location, which is an existing single-family residence located approximately 125 feet west of the project site, across Cactus Avenue. The applicant will install a fourteen (14) tall concrete screen wall along the entire western side of project site for noise attenuation purposes. The report concludes that the project operational activities will generate a maximum noise level of approximately 49 dBA CNEL at the exterior of the nearest residential receptor and 37 dBA CNEL inside the nearest residential receptor. According to Exhibit 5.5 (Rialto Noise Guidelines for Land Use Planning), exterior noise levels at or below 60 dBA CNEL are deemed normally acceptable, while Title 24 of the California Health and

Safety Code stipulates a maximum of 45 dBA CNEL for interior residential noise levels. As documented in the report, the maximum exterior noise levels at the nearest residential receptor are 11 dBA CNEL less than maximum allowable, and the maximum interior noise levels that the nearest residential receptor will experience are 8 dBA CNEL less than the maximum and therefore allowable. The report concludes that operational noise generated by the project will be less than significant.

To address potential temporary construction noise impacts the applicant will implement Mitigation Measure NOI-1, which includes the use of mufflers on all combustion engine construction equipment, limiting the idling of construction equipment to no more than five (5) minutes, staging/storing construction equipment the greatest distance feasible from sensitive receptors, and abiding by the City's allowable hours of construction.

### *Traffic*

Urban Crossroads, Inc. prepared a Traffic Impact Analysis (TIA), dated June 2021 and a Vehicle Miles Traveled Screening Analysis (VMT), to assess the project's traffic generation and potential impacts to local streets and intersections. The TIA estimates that the project will generate up to approximately 892 actual daily vehicle trips (1,324 PCE daily vehicle trips) with 95 trips in the AM peak hour and 89 trips in the PM peak hour. Trucks will constitute up to 364 of the 892 actual daily vehicle trips.

The TIA analyzed twelve (12) intersections in the project vicinity, listed below:

- Cedar Avenue and I-10 Westbound Ramps (Signalized)
- Cedar Avenue and I-10 Eastbound Ramps (Signalized)
- Cedar Avenue and Orange Street (Signalized)
- Cedar Avenue and Slover Avenue (Signalized)
- Cactus Avenue and Slover Avenue (Unsignalized)
- Lilac Avenue and Slover Avenue (Unsignalized)
- Lilac Avenue and Driveway 1 (Unsignalized)
- Lilac Avenue and Driveway 2 (Unsignalized)
- Willow Avenue and Slover Avenue (Unsignalized)
- Riverside Avenue and Slover Avenue (Signalized)
- Riverside Avenue and I-10 Eastbound Ramps (Signalized)
- Riverside Avenue and I-10 Westbound Ramps (Signalized)

The TIA also analyzed two (2) roadway segments in the project vicinity, listed below:

- Riverside Avenue from Valley Boulevard to I-10 Freeway
- Riverside Avenue from I-10 Freeway to Slover Avenue

Traffic counts were collected at these intersections in March 2018, May 2019, and January 2021. The counts revealed that all twelve (12) of the intersections operate at Level of Service (LOS) D or better with existing traffic, which is considered acceptable by the Rialto General Plan. The counts also revealed that the two (2) roadway segments operate at LOS E, which is considered acceptable by the Rialto General Plan for areas of Riverside Avenue south of the Metrolink tracks to the City's southern border at the Santa Ana River south of the I-10 Freeway.

However, seven (7) of the intersections are anticipated to operate at LOS E or worse when the existing and project generated traffic volumes are combined with cumulative growth and ambient growth without any mitigation. The specific intersections and the estimated LOS under existing, project, cumulative, and ambient growth conditions are as follows:

- Cedar Avenue and I-10 Westbound Ramps (Signalized)
- Cedar Avenue and I-10 Eastbound Ramps (Signalized)
- Cedar Avenue and Orange Street (Signalized)
- Cedar Avenue and Slover Avenue (Signalized)
- Lilac Avenue and Slover Avenue (Unsignalized)
- Riverside Avenue and I-10 Eastbound Ramps (Signalized)
- Riverside Avenue and Slover Avenue (Signalized)

The TIA recommends fair-share participation in future improvements to the seven (7) cumulatively impacted intersections. The recommended improvements include the installation of a traffic signal at the intersection of Lilac Avenue and Slover Avenue, widening Riverside Avenue south of the I-10 freeway to include a third southbound travel lane, various traffic signal timing modifications, and the addition of various turn lanes at certain intersections. The seven (7) intersections will operate at LOS D or better during future cumulative and ambient conditions upon completion of the recommended improvements. Based upon the estimated trip generation within the TIA, the project will be responsible for a total fair-share payment of \$227,114 towards recommended improvements to the seven (7) intersections. The seven (7) intersections are spread out throughout three (3) separate jurisdictions - City of Rialto, County of San Bernardino, and Caltrans. The fair-share payment to each jurisdiction is as follows:

• City of Rialto	-	\$128,337
• County of San Bernardino	-	\$84,160
• Caltrans	-	\$14,617

The Transportation Commission reviewed and approved the TIA on June 2, 2021. In its decision, the Transportation Commission agreed with the findings within the TIA and the recommended “fair-share” mitigation in the TIA.

The project will construct half-width street improvements along the entire project frontages of Cactus Avenue and Lilac Avenue. Additionally, the applicant will pay development impact fees related to traffic. All street improvements, “fair-share” payments, and development impact fee payments must be paid and/or completed prior to final inspection and occupancy.

#### *Tribal Cultural Resources*

In accordance with California Assembly Bill 52, the Planning Division mailed notices to six (6) Native American tribes informing them of the project and allowing them to request consultation on the project. The Planning Division provided each tribe thirty (30) days, from December 12, 2020 to January 10, 2021, to request consultation on the proposed project. One (1) tribe, The Gabrieleño Band of Mission Indians-Kizh Nation (Kizh Nation), requested formal consultation during the period. Planning staff conducted formal consultation with Chairman Andrew Teutimez-Salas and Matt Teutimez of the Kizh Nation on February 11, 2021. The topics discussed included a basic



background of the project and the anticipated construction activities. During the consultation, Chairman Teutimez-Salas requested the ability to allow a certified Native American Monitor on-site during all ground disturbance activities. The Mitigated Negative Declaration and the Mitigation Monitoring and Reporting Program prepared for the project include mitigation measures requiring the applicant to coordinate with the Kizh Nation to allow access to the project site during all ground disturbance activities.

### *Public Review*

The Planning Division published a Notice of Intent to adopt the Mitigated Negative Declaration for the project in the San Bernardino Sun newspaper and mailed copies to all property owners within 1,000 feet of the project site. A twenty (20) day public comment period for the Mitigated Negative Declaration began on June 19, 2021 and ended on July 8, 2021. Three (3) comment letters were received during the public comment period.

On July 6, 2021, the Planning Division received a comment letter from Scott Wilson, Environmental Program Manager, with the California Department of Fish and Wildlife (CDFW). Mr. Wilson's letter recommended revisions to language of MM BIO-1 and MM BIO-2 to reflect the latest CDFW protocols as it relates to Burrowing Owls and nesting birds. The applicant's response letter contained within the Initial Study/Mitigated Negative Declaration indicates that the final language for MM BIO-1 and MM BIO-2 were updated to reflect the recommendations from CDFW. The Planning Division forwarded a copy of the response letter to the CDFW on July 15, 2021. The CDFW did not provide any further comment upon receiving the response.

On July 7, 2021, the Planning Division received a comment letter from Mr. and Mrs. Randall Mills. Mr. and Mrs. Mills' letter expressed concerns regarding operational noise from the project, language within the Initial Study indicating the repair and manufacturing of vehicles, and the potential of vehicles parking along Cactus Avenue in front of the project site. The applicant's response letter contained within the Initial Study/Mitigated Negative Declaration explained that the estimated project's operational noise levels are expected to be a maximum of 49 dBA CNEL as measured from the exterior of the nearest residence and 37dBA CNEL as measured from the interior of the nearest residence, and that both projected noise levels are below the thresholds required by the Rialto General Plan and Title 24 of the California Health and Safety Code. Additionally, the applicant's response letter indicated that the language regarding the repair and manufacturing of vehicles as a part of the project operations was input in error and was removed in response to the comment from Mr. and Mrs. Mills, and, lastly, the response letter indicated that the City of Rialto, through a condition of approval, will require the installation of "No Stopping Anytime" signs along the entire project frontage of Cactus Avenue as a means to prevent the parking of trucks and other vehicles along this frontage near the existing residences. The Planning Division forwarded a copy of the response letter to Mr. and Mrs. Mills on July 15, 2021. Mr. and Mrs. Mills did not provide any further comment upon receiving the response.

On July 8, 2021, the Planning Division received a comment letter from Mr. Richard Ciranny. Mr. Ciranny's letter expressed concerns about the split-zoning of the project site, the analysis conducted regarding the project generated traffic and the traffic of other new and proposed developments, existing traffic issues (e.g. speeding, vehicle noise, street light intensity), and the location and size of the proposed screen wall along Cactus Avenue. Mr. Ciranny's letter also recommended specific improvements to certain roadway segments and intersection in the vicinity of the project site. The applicant's response letter contained within the Initial Study/Mitigated Negative Declaration indicates

that the project has been designed to meet the requirements of the M-1 and H-IND zones in the areas of the project site that are zoned M-1 and H-IND, in accordance with Section 18.06.020 of the Rialto Municipal Code. The response letter also indicated that the Traffic Impact Analysis was conducted in accordance with the City of Rialto's Traffic Impact Analysis Guidelines and did in fact consider the presence of larger multi-axle vehicles and cumulative project traffic. Additionally, the response letter explained that the enforcement of speeds and the maintenance of existing streetlights is under the purview of the City of Rialto and County of San Bernardino and not related to the effects of the project. The response letter also explains that the project will pay fair-share contribution fees and transportation-related development impact fees to go towards regional improvements, including along Slover Avenue and other nearby intersections and roadway segments, and that the improvements that Mr. Ciranny recommends at the intersection of Cactus Avenue and Slover Avenue require additional street-dedication from the property at the southeast corner of the intersection and that this property is privately owned by another party and not under the control of the applicant. Lastly, the response letter explains that the proposed 14-foot concrete screen wall will not contain a 40-foot wide driveway, as previously proposed at one point, and that the wall will be behind a landscape setback containing a berm and a landscape hedge to reduce the visible height of the wall. The Planning Division forwarded a copy of the response letter to Mr. Ciranny on July 15, 2021. Mr. Ciranny did not provide any further comment upon receiving the response.

#### **GENERAL PLAN CONSISTENCY:**

The General Plan land use designation of the entire site is Light Industrial. According to Chapter 2 (Managing Our Land Supply) of the Rialto General Plan, warehouse uses, such as the project, are consistent with the Light Industrial designation. Furthermore, the project is consistent with the following goals of the Land Use Element and Economic Development Element of the Rialto General Plan:

**Goal 2-16:** Improve the architectural and design quality of development in Rialto.

**Goal 3-1:** Strengthen and diversify the economic base and employment opportunities, and maintain a positive business climate.

#### **PLANNING COMMISSION ACTION:**

On July 28, 2021, the Planning Commission considered the project during a regularly scheduled public meeting. During the meeting, the Planning Division presented the project and recommended that the Planning Commission approve the project. The Planning Division's recommendation was based upon, but not limited to, the following conclusions:

- The project is consistent with the land use and zoning designations of the project site.
- The project is consistent with the existing industrial uses to the north, east, and south of the project site.
- The project will not significantly impact the residents to the west since measures, such as the installation of solid screen walls, landscape buffering, and no driveways along Cactus Avenue would reduce both noise and visual impacts to acceptable levels, as evidenced in the project's Initial Study/Mitigated Negative Declaration.

- The project's Initial Study/Mitigated Negative Declaration determined that the project will not have an adverse impact on the environment, particularly with respect to air quality, noise, and transportation/traffic.

After closing the public hearing, the Planning Commission voted to deny the project by a 4-2 vote (one absence), and directed staff to prepare a denial resolution for adoption. In its decision, the Planning Commission cited concerns related to increased truck traffic and air pollution impacts associated with the project.

On August 11, 2021, the Planning Commission voted 4-2 (1 abstention) to adopt Planning Commission Resolution No. 2021-38 formally denying Conditional Development Permit No. 2020-0020, Precise Plan of Design No. 2020-0026, and the associated Mitigated Negative Declaration. A copy of Planning Commission Resolution No. 2021-38 is attached as **Exhibit H**. As detailed in Planning Commission Resolution No. 2021-38, the Planning Commission determined that the project does not satisfy the following three (3) findings required by Section 18.66.020 of the Rialto Municipal Code and one (1) finding required by Section 18.65.020E of the Rialto Municipal Code:

- **Section 18.66.020 Required Findings:**

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

*The Planning Commission determined:*

The Project will generate an increase in truck traffic to the local streets, which will negatively impact the efficiency of traffic in the immediate area. The Traffic Impact Analysis prepared for the Project identified seven (7) intersections in the immediate area that will operate at an unacceptable Level of Service "E" or worse with existing, project, cumulative, and ambient growth conditions, with no action plan or program to physically address the deficiencies.

Additionally, the Project will generate an unnecessary increase in pollution in the immediate area through construction, operational, and mobile emission sources

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

*The Planning Commission determined:*

The Project will generate harmful pollution through construction, operational, and mobile emission sources, including but not limited to Carbon Monoxide (CO), Nitrogen Oxide (NOx), etc., that will disperse throughout the area around the Site.

Additionally, the Project will increase truck traffic in the immediate area, which will create further traffic delays on local streets that will negatively affect persons residing or working in the vicinity.

- F. 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.

*The Planning Commission determined:*

The Project will generate an increase in truck traffic and air pollution that will affect the surrounding properties, including the sensitive residential properties to the west of the Site, but also throughout the immediate area. These adverse effects do not outweigh any benefits posed by the implementation of the Project.

- **Section 18.65.020E Required Finding:**

3. The proposed development will not unreasonably interfere with the use or enjoyment of neighboring property rights or endanger the peace, health, safety or welfare of the general public.

*The Planning Commission determined:*

The Project will generate harmful pollution through construction, operational, and mobile emission sources, including but not limited to Carbon Monoxide (CO), Nitrogen Oxide (NOx), etc., that will disperse throughout the area around the Site. Additionally, the Project will increase truck traffic in the immediate area, which will create further traffic delays on local streets that will negatively affect persons residing or working in the vicinity.

The increase in truck traffic and air pollution by the Project will negatively affect the health, safety, and welfare of those residing or working in the immediate area, particularly the sensitive residential receptors to the west of the Site.

**APPEAL:**

On August 18, 2021, the applicant filed an Appeal with the City Clerk's office, in accordance with Chapter 18.68 (Appeals) of the Rialto Municipal Code. A copy of the applicant's Appeal form is attached as **Exhibit I**. The applicant's appeal seeks to have the City Council consider the project and overturn the Planning Commission's denial.

In general, the applicant's appeal states that the Planning Commission's Resolution of Denial and the supporting findings are inadequate and insufficient to justify denial of the project. Contrary to the Resolution of Denial, the applicant believes that the project is consistent with the findings required by Section 18.66.020 and Section 18.65.020E of the Rialto Municipal Code for the following reasons:

- **The Project Will Not Result in Significant or Impermissible Truck-Related Impacts**

*The applicant provides the following justification:*

- No driveways will be constructed on Cactus Avenue, which will prevent project generated vehicle traffic from passing by the existing residential to the west of the project site.

- The project will provide two (2) new forty (40) foot wide driveways connected to Lilac Avenue on both the north and south ends of the project frontage that will provide full access movements for both trucks and passenger vehicles.
  - Truck traffic to and from the project site will traverse Slover Avenue, which is designated a truck route by Chapter 4 (Circulation Element) of the City's General Plan and is specifically designed to accommodate such traffic.
  - The project is consistent with the underlying Light Industrial (M-1) and Heavy Industrial (H-IND) zoning designations
  - The project is consistent with the surrounding industrial uses to the north, east, and south of the project site.
  - The project is conditioned to contribute a fair-share payment towards future improvements to seven (7) cumulatively impact intersections including:
    - Installation of a traffic signal at the intersection of Lilac Avenue and Slover Avenue
    - Widening of Riverside Avenue south of the I-10 freeway to include a third southbound travel lane.
    - Various traffic signal timing modifications
    - Addition of various turn lanes at certain intersections
  - Upon completion of the future improvements, the seven (7) intersections will operate at LOS D or better during future cumulative and ambient conditions thereby alleviating the Project's proposed traffic impacts.
- **The Project Mitigation Measures Will Ensure the Avoidance of Significant Transportation- Related Air Quality and GHG Impacts**

*The applicant provides the following justification:*

- The Planning Commission's conclusion about the project's alleged air quality and greenhouse gas emission impacts is inconsistent with the findings set forth in the Project's Initial Study.
  - The Project's Initial Study concluded that the Project will not exceed any threshold or standard required by either the SCAQMD or the City's General Plan, except for short-term construction localized PM<sub>10</sub> and PM<sub>2.5</sub>, which after implementation of mitigation, will be less than significant.
  - The Project includes implementation of Standard Condition GHG-1, Mitigation Measure GHG-1, and Mitigation Measure GHG-2, which require the incorporation of the following:
    - Vehicle charging stations and infrastructure
    - Utilization of zero-emission on-site service vehicles (e.g. yard hostlers, counterbalance forklifts, rider pallet jacks, etc.), or the purchasing of carbon credits to offset greenhouse gas emissions produced by any exterior on-site service vehicles that would produce greenhouse gas emissions
- **The Project Contributes to the Convenience and General Well-Being of the Community and is an Appropriate and Beneficial Use of the Site**

*The applicant provides the following justification:*

- The project is an appropriate and beneficial use of the Site that will revitalize an under-utilized collection of parcels in an area designated for and surrounded by industrial uses with near-direct access to a City-approved truck route.
- The project will minimize and avoid impacts to sensitive receptors.
- The project will generate increased revenue for the City and provide significant contributions towards the construction of traffic-related improvements that will benefit the entire community.
- The project will create short-term and long-term employment opportunities for City residents and surrounding communities.

The applicant's appeal concludes that the Planning Commission's denial of the project was not supported by valid findings and is without any legitimate or lawful basis. The Planning Division concurs that, as documented in the Planning Commission staff report, the Project's Initial Study/Mitigated Negative Declaration, and the applicant's appeal form, the project will not have an adverse effect on the environment, particularly with respect to air quality, greenhouse gas emissions, and traffic, and the project, as proposed, is consistent with the surrounding industrial uses, the underlying land use and zoning designations, and each of the findings required by Section 18.66.020 and Section 18.65.020E of the Rialto Municipal Code.

#### **LEGAL REVIEW:**

The City Attorney has reviewed and approved the staff report and the attached resolutions.

#### **FINANCIAL IMPACT:**

##### Operating Budget Impact

If the Planning Commission's decision to deny the project is upheld, no revenue will be generated from the project and no impact will occur to the General Fund. If the Planning Commission's decision to deny the project is overturned, the project will generate annual recurring revenues to the General Fund in the form of increased property tax, business license taxes, and utility taxes.

##### Capital Improvement Budget Impact

No City funds will be used to construct the project. In the event the Planning Commission's decision to deny the project is overturned, the applicant will bear the full capital cost of construction of the project and the required infrastructure improvements. Additionally, prior to the issuance of a building permit, the applicant would need to pay plan check, permit, development impact fees, and traffic "fair-share" fees to the City.

##### Business License

Prior to any construction, the applicant would be responsible to submit a contractors list to the Business License Division, and each contractor listed would need to obtain a business license. Subsequently, the owner and tenant(s) would need to obtain separate business licenses for the leasing and use of the building.

#### **RECOMMENDATION:**

In accordance with the Appeal process provided in Section 18.68.050 of the Rialto Municipal Code, Staff recommends that the City Council conduct a Public Hearing to consider the applicant's appeal, and either:

- Uphold the decision of the Planning Commission and Adopt the attached Resolution (**Exhibit J**) denying Conditional Development Permit No. 2020-0020 and Precise Plan of Design No. 2020-0026; or
  - Overturn the decision of the Planning Commission and Adopt the following Resolutions:
    - Adopt the attached Resolution (**Exhibit K**) to approve the Mitigated Negative Declaration (Environmental Assessment Review No. 2020-0024) prepared for the project and authorize staff to file a Notice of Determination with the Clerk of the Board of San Bernardino County; and
    - Adopt the attached Resolution (**Exhibit L**) to approve Conditional Development Permit No. 2020-0020 to allow the development and operation of a 47,609 square foot truck terminal and storage warehouse/distribution center on 12.72 gross acres (11.80 net acres) of land (APNs: 0258-011-01, -09, & -10), subject to the findings and conditions therein; and
    - Adopt the attached Resolution (**Exhibit M**) to approve Precise Plan of Design No. 2020-0026 to allow the development of a 47,609 square foot truck terminal and storage warehouse/distribution center and associated paving, landscaping, fencing, lighting, and drainage improvements on 12.72 gross acres (11.80 net acres) of land (APNs: 0258-011-01, -09, & -10), subject to the findings and conditions therein.
- ; or
- Overturn the decision of the Planning Commission and approve the project with modifications.