

CITY OF CARSON
PLANNING COMMISSION
RESOLUTION NO. 22- 2836

**A RESOLUTION OF THE PLANNING COMMISSION OF
THE CITY OF CARSON CONDITIONALLY APPROVING,
IN PART, AND DISAPPROVING, IN PART, AN
APPLICATION FOR APPROVAL OF TWO EXISTING
MURALS LOCATED AT 21126 S. AVALON BLVD.**

WHEREAS, on or about March 16, 2022, the Department of Community Development received an application from Trophy VPC, LLC (“Applicant”), for real property located at 21126 S. Avalon Blvd. and legally described in Exhibit “A” attached hereto, requesting design review approval of two existing wall paintings claimed to constitute murals (the “Murals”) located on the subject property (the “Application”); and

WHEREAS, studies and investigations were made and a staff report with recommendations was submitted, and the Planning Commission, upon giving the required notice, did on the 12th day of July, 2022, and continued on the 9th day of August, 2022, conduct a duly noticed public hearing as required by law to consider the Application. Notice of the hearing was originally posted and mailed to property owners and properties within a 750-foot radius of the project site by June 28, 2022; and

NOW, THEREFORE, THE PLANNING COMMISSION OF THE CITY OF CARSON, CALIFORNIA, HEREBY RESOLVES AS FOLLOWS:

SECTION 1. The Planning Commission finds that the foregoing recitals are true and correct, and are incorporated herein by reference.

SECTION 2. The Planning Commission finds as follows:

- a) CMC Section 9138.15(E)(1) provides that each automobile dealer business in the Commercial Automotive District (CAD) “will be responsible for the construction, installation and maintenance of its signage, and must submit for design review approval to the City of Carson pursuant to this Section.”
- b) CMC Section 9138.15(E)(8)(e) requires Planning Commission approval for “special displays such as murals or other similar types, not specified [in CMC 9138.15(E)]” that are located in the CAD. The subject property is located in the CAD. “Mural” is not defined in the Carson Zoning Ordinance, so the dictionary definition applies. The dictionary definition of “mural,” as a noun, is generally understood to be a large painting or work of art done on a wall.
- c) Mural number 1 (as it is referred to and depicted in Figure A in the Planning Commission staff reports dated July 12, 2022 and August 9, 2022 related to the Application) in the Application is painted on a wall that is visible to pedestrian and vehicular traffic on Avalon Boulevard. It measures approximately 12 feet high by 56 feet wide, and consists of a collage of brilliant flowers (yellow, red, orange, green) on a blue background. A notable trait of Mural number 1 is that it includes a prominent “Fab Cars” logo/insignia in the

middle, which is advertising and attracting attention to the business that currently operates at the subject property (under the name of Fab Cars).

- d) Carson Municipal Code (“CMC”) Section 9138.15(E)(2)(a)(5) expressly prohibits wall-painted signs in the CAD. For purposes of CMC Section 9138.15, “sign” is defined (in CMC 9191.558) as “any name, figure, painting, character, outline, spectacle, display, delineation, announcement, advertising, billboard, signboard, device, appliance or any other thing of similar nature to attract attention outdoors or on the face, wall or window of any building, and shall include all parts, portions, units and materials composing of the same, together with the frame, background, support and anchorage therefor.” “Wall sign” is defined for purposes of CMC Section 9138.15 as “any sign posted, painted on, suspended from or otherwise affixed to the wall of any building or structure in an essentially flat position or with the exposed face of the sign in a plane approximately parallel to the plane of such wall.” (CMC 9191.606).
- e) Mural number 1 constitutes a wall-painted sign within the meaning of Section 9138.15(E)(2)(a)(5), and therefore is prohibited in its current form on the subject property. The inclusion of the “Fab Cars” logo in the middle of Mural number 1 renders it a “sign” under the definition in CMC 9191.558 because it constitutes an advertisement of the subject business and attracts attention outdoors on the wall of a building. As a “sign,” it also constitutes a “wall sign” under the definition in CMC 9191.606 because it is painted on a wall in an essentially flat position or with the exposed face of the sign in a plane approximately parallel to the plane of the wall. As a “wall sign,” it also constitutes a wall-painted sign within the meaning of 9138.15(E)(2)(a)(5) because it is painted on the wall. Accordingly, Mural number 1 cannot be approved as a mural pursuant to CMC 9138.15(E)(8)(e) consistent with CMC Section 9138.15(E)(2)(a)(5) unless the existing “Fab Cars” logo is removed from Mural number 1. Accordingly, removal of the Fab Cars logo must be required as a condition of approval of Mural number 1, and such a condition is included in the conditions of approval attached hereto as Exhibit “B.”
- f) Mural number 2 (as it is referred to and depicted in Figure B in the Planning Commission staff reports dated July 12, 2022 and August 9, 2022 related to the Application) in the Application is painted on a wall that is only visible to vehicular traffic traveling southbound on the I-405 Freeway. It measures approximately 13 feet high by 11 feet wide, and consists of an image of a telephone cord that spells out the word “help” and at the end a male figure is both holding on to the telephone cord and appears to be falling down in a prone position.
- g) “Graffiti” is defined in CMC 5401(d) to mean “any writing, printing, symbol, figure, design, painting, marking, inscription, or other defacement that is written, sprayed, painted, scratched, etched, engraved, drawn, marked, or otherwise applied, with any paint, aerosol paint, indelible marker, engraver, chalk, ink, dye, graffiti implement or other substance capable of defacing property, to any exterior surface of a building, wall, window, fence, tree, sidewalk, curb, or other structure *without the prior consent of the owner or person in possession thereof.*” (emphasis added). CMC Section 5402 provides that “the maintenance of graffiti visible from a public street or alley [constitutes] a nuisance, the abatement of which shall be provided as set forth [in Chapter 4 (Graffiti Prevention and Removal) of Article V (Sanitation and Health) of the CMC].” CMC Section 5403 provides that “no person shall permit any graffiti which is within public view to remain on any building, structure, tree, shrub, sidewalk or curb owned or possessed by such person.” Additionally, CMC Section 5418 provides that “[a]ny person applying graffiti shall be responsible for the removal or for the payment therefor.”

- h) Mural number 2 is painted on a wall located on the subject property, which Applicant is in possession of via a lease from the property owner (Kott Family Trust). It is within public view, as it is visible to vehicular traffic travelling southbound on the I-405 Freeway in the City. During the July 12, 2022 public hearing, Applicant admitted that Mural number 2 was painted on the wall in its current location by a third party without the prior knowledge or consent of the Applicant. Accordingly, Mural Number 2 in its entirety constitutes “graffiti” which is a public nuisance that is the responsibility of the Applicant, the property owner, and the perpetrator under applicable provisions of Chapter 4 of Article V of the CMC, and which is subject to abatement as set forth in said chapter.

SECTION 3. Pursuant to Section 15060(c) of the California Environmental Quality Act (CEQA) Guidelines, the proposed activity (review of the Application for approval of the existing Murals) is not subject to CEQA because the activity does not have the potential to, and will not, result in direct or reasonably foreseeable indirect physical change in the environment, and therefore does not constitute a project within the meaning of CEQA (14 CCR §15378). Alternatively, if the proposed activity does constitute a project, the activity is covered by the common sense exemption that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Here it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, as it relates only to approval or legalization of existing Murals. Also if the proposed activity does constitute a project, then to the extent the Application is being disapproved (as to Mural number 2), the proposed activity is exempt from CEQA on the basis that CEQA applies only to projects that an agency proposes to carry out, support, or approve; projects that a public agency rejects or disapproves are exempt from CEQA. Pub. Res. Code §21080(b)(5); 14 Cal Code Regs §15270(a).

SECTION 4. The Planning Commission of the City of Carson, based on the findings noted above, does hereby: (1) approve the Application as to Mural number 1 only, subject to the Conditions of Approval contained in Exhibit “B” attached hereto; and (2) disapprove the Application as to Mural number 2.

SECTION 5. This decision of the Planning Commission shall become effective and final 15 days after the date of the action unless an appeal is filed in accordance with Section 9173.4 of the Zoning Ordinance.

SECTION 6. The Secretary of the Planning Commission shall certify to the adoption of this Resolution.

PASSED, APPROVED and ADOPTED this 13th day of September, 2022.

Chris Palmer - Acting Chair Covid Signature.

CHAIRPERSON

ATTEST:

Maria A. Gonzalez

SECRETARY

Exhibit B to Planning Commission Resolution No. 22-2836
Mural Application
21140 S. Avalon Boulevard
Conditions of Approval

Planning Conditions

1. Applicant (“Applicant,” as used in these conditions, means and includes the applicant and the property owner, and their respective successors-in-interest to which the project entitlements or approvals that are the subject of these conditions may be assigned) shall remove the “Fab Cars” logo/insignia from Mural number 1 within 120 days of the effective date of Planning Commission Resolution No. 22-2836.
2. Applicant shall remove Mural number 2 in its entirety within 120 days of the effective date of Planning Commission Resolution No. 22-2836.
3. Applicant shall defend, indemnify and hold harmless the City of Carson (“City”) and its agents, officers, and employees, and each of them (“Indemnitees”) from and against any and all claims, actions, proceedings, liabilities, damages, losses, costs, fees, expenses, penalties, errors, omissions, and forfeitures (“Claims”) against Indemnitees to attack, set aside, void, or annul any of the approvals or entitlements that are the subject of these conditions, and any Claims against Indemnitees which are in any way related to Indemnitees’ review of or decision upon the project or application that is the subject of these conditions. The City shall promptly notify the applicant of any such Claim against Indemnitees, and, at the option of the City, Applicant shall either undertake the defense of the matter or pay Indemnitees’ associated legal costs or shall advance funds assessed by the City to pay for the defense of the matter by the City Attorney. In the event City opts for Applicant to undertake defense of the matter, the City will cooperate reasonably in the defense, but retains the right to settle or abandon the matter without Applicant’s consent. Applicant shall provide a deposit to City in the amount of 100% of the City’s estimate, in its sole and absolute discretion, of the cost of litigation, including the cost of any award of attorneys’ fees, and shall make additional deposits as requested by City to keep the deposit at such level. If Applicant fails to provide or maintain the deposit, Indemnitees may abandon the action and Applicant shall pay all costs resulting therefrom and Indemnitees shall have no liability to Applicant.
4. Applicant shall remove all graffiti from Mural number 1 (as modified pursuant to Condition of Approval No. 1, above) within 72 hours of any graffiti incident.
5. Applicant shall maintain and preserve Mural number 1 (as modified pursuant to Condition of Approval No. 1, above) in good condition to the satisfaction of the Director, unless Applicant removes Mural number 1 in its entirety.
6. Applicant shall comply with all applicable NPDES or other laws, regulations or permit requirements related to ensuring no lead-based paint or other contaminants are discharged into the stormwater system in the removal of the “Fab Cars” logo/insignia from Mural number 1 or in the removal of Mural number 2.

EXHIBIT "A"

Property Boundary Description

Real property in the City of Carson, County of Los Angeles, State of California,
described as follows:

PARCEL MAP AS PER BK 53 P 29 OF P M

LOT 1