

RESOLUTION NO. 22-213

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, MODIFYING, PURSUANT TO CARSON MUNICIPAL CODE SECTION 9173.4(C)(2)(b), THE DECISION OF THE CARSON PLANNING COMMISSION TO ADOPT PLANNING COMMISSION RESOLUTION NO. 22-2836 APPROVING, IN PART, AND DISAPPROVING, IN PART, AN APPLICATION FOR APPROVAL OF TWO EXISTING MURALS LOCATED AT 21126 S. AVALON BLVD.

WHEREAS, on September 13, 2022, following a duly noticed public hearing, the Carson Planning Commission adopted Planning Commission Resolution No. 22-2836, conditionally approving, in part, and disapproving, in part, an application of Trophy VPC, LLC for approval of two existing murals located at 21126 S. Avalon Blvd. in the City (the “Planning Commission Decision”); and

WHEREAS, on September 19, 2022, City Councilmember Jim Dear filed a complete appeal of the Planning Commission Decision pursuant to Carson Municipal Code (“CMC”) Section 9173.4; and

WHEREAS, on October 18, 2022, the City Council conducted a duly noticed public hearing to consider the appeal of the Planning Commission Decision, in accordance with CMC Section 9173.4, and elected to modify the Planning Commission Decision pursuant to CMC Section 9173.4(C)(2)(b).

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF CARSON DOES HEREBY FIND, DETERMINE, AND RESOLVE AS FOLLOWS:

SECTION 1. The foregoing recitals are true and correct and are incorporated herein by reference.

SECTION 2. Based upon substantial evidence taken from the record as a whole, and received at the hearing, conducted on October 18, 2022, both oral and written, including the staff report and all attachments thereto, the City Council hereby finds that: (i) the Planning Commission Decision is in accordance with CEQA as well as applicable law related to the process, noticing and hearings conducted in relation to consideration of the application; and (ii) the Planning Commission Decision is in accordance with the requirements of the CMC (including the City’s Zoning Ordinance) except as to Mural number 2. The City Council hereby makes, ratifies, and affirms the findings set forth in Planning Commission Resolution No. 22-2836 except as to Mural number 2, which the City Council finds, based upon substantial evidence taken from the record as a whole and received at the hearing, constitutes a “mural” within the meaning of CMC 9138.15(e)(8)(E) and not “graffiti” within the meaning of CMC 5401.

SECTION 3. Based on the foregoing findings, the City Council hereby modifies the Planning Commission Decision, pursuant to CMC Section 9173.4(C)(2)(b), to conditionally approve the application as to both Mural number 1 and Mural number 2, subject to the following conditions of approval, as modified from those attached as Exhibit B to Planning Commission Resolution No. 22-2836 (with additions shown in ***bold italics*** and deletions in ~~strikethrough~~):

“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 ***City Council Planning Commission Resolution No. 22-213***

~~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.

~~3~~ 4. Applicant shall remove all graffiti from Mural number 1 (as modified pursuant to Condition of Approval No. 1, above) ***and Mural number 2*** within 72 hours of any graffiti incident.

~~4~~ 5. Applicant shall maintain and preserve Mural number 1 (as modified pursuant to Condition of Approval No. 1, above) ***and Mural number 2*** in good condition to the satisfaction of the Director, unless Applicant removes Mural number 1 ***or Mural number 2*** in its entirety.

5 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 *voluntary* removal of *Mural number 1 or Mural number 2 in its entirety.*”

SECTION 4. Should any provision, section, paragraph, sentence or word of this Resolution be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this Resolution as hereby adopted shall remain in full force and effect.

SECTION 5. This Resolution shall be effective immediately upon its adoption. As provided in Code of Civil Procedure §1094.6(b) and Carson Municipal Code §9173.5, any court action or proceeding brought to challenge this Resolution or the findings set forth herein pursuant to Code of Civil Procedure §1094.5 must be filed within 90 days after the date of this Resolution, except that any action or proceeding challenging this Resolution or the findings set forth herein that is within the scope of Carson Municipal Code §9173.5(A) must be filed within 60 days after the date of this Resolution. A copy of this Resolution shall be sent by first class mail to the applicant and to any person who has filed a written request for notice of this decision pursuant to Carson Municipal Code §9173.32.

SECTION 6. The City Clerk shall certify to the adoption of this Resolution and enter it into the book of original Resolutions.

PASSED, APPROVED and ADOPTED this 18th day of October 2022.

MAYOR LULA DAVIS-HOLMES

ATTEST:

CITY CLERK DR. KHALEAH K. BRADSHAW

APPROVED AS TO FORM:

SUNNY K. SOLTANI, CITY ATTORNEY

