

RESOLUTION NO. 17-028

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARSON REVERSING PLANNING COMMISSION'S DECISION TO APPROVE CONDITIONAL USE PERMIT APPLICATION NO. 1016-16 FOR THE CONTINUATION OF THE KEN PORTER AUTO AND EQUIPMENT AUCTION USE UNTIL DECEMBER 31, 2019 AT 21126, 21140, 21212 S. AVALON BOULEVARD AND 640 EAST 213TH STREET

WHEREAS, on May 24, 2011, the Planning Commission adopted Resolution No. 11-2392, approving conditional use permit no. 859-11, to allow automotive repair on a site zoned CA (Commercial, Automotive) located at 21212 S. Avalon Boulevard; and

WHEREAS, on October 11, 2011, the Planning Commission adopted Resolution No. 11-2407, approving Conditional Use Permit No. 881-11 to operate an automotive and equipment auction in the CA (Commercial, Automotive) Zoning District for properties located at 21126, 21140, 21212 S. Avalon Boulevard and 640 E. 213th Street (collectively, the Property); and

WHEREAS, at all times relevant herein, the Property has been and is owned by Applicant Kott Family Trust; and

WHEREAS, tenant Ken Porter Auction has been conducting an automotive and equipment auction business, and tenant AW Collision has been conducting automotive repairs, at the Property; and

WHEREAS, CUPs 859-11 and 881-11 were intended to allow temporary uses at the Property, with expiration dates on the permitted uses of December 31, 2016 and July 1, 2017, respectively; and

WHEREAS, in relevant part the Conditions of Approval for CUP 859-11 required landscaping and irrigation; and

WHEREAS, in relevant part the Conditions of Approval for CUP 881-11 required that all customer parking areas would only be used for customer parking and not for storage or repair of vehicles, and all auction areas were to be maintained clean and neat condition; and

WHEREAS, the Property is located within the six planning areas subject to the Carson Vision Plan; and

WHEREAS, on October 18, 2016, the City Council of the City of Carson adopted Resolution No. 16-139, granting Applicant and exception to the application of Interim Urgency Ordinance No. 16-1578U to allow processing of plans and all related permits for continuation of the then-current temporary uses related to Ken Porter Auctions at the Property until February 20, 2020; and

WHEREAS, at the October 18, 2016 City Council meeting, the City Council expressed concerns relating to the condition of the property. Specifically, the Council found that the Property is in a blighted condition, full of junk and debris, and looks like a "junk yard". The Council further found that the Property, which is visible from the Avalon Boulevard on-ramp to the 405 Freeway south, a major and visible entryway into the City of Carson, is an eyesore and the only "junk yard" left in the City; and

WHEREAS, at the October 18, 2016 City Council meeting, City Council encouraged Applicant to begin the cleanup of the Property immediately to show good will; Applicant stated that the Property would be cleaned up by February 1, 2017, and that landscaping would be installed as soon as the landscaping plan was adopted by the Planning Commission; and

WHEREAS, on December 13, 2016, the Planning Commission approved CUP No. 1016-16, which allowed the following uses at the Property until December 13, 2019: auction of used cars, trucks, and equipment, including preparation and display of the vehicles and equipment for sale; display and retails sales of collector vehicles; display and retails sales of collectibles; and storage of auction vehicles and surplus; and

WHEREAS, CUP 1016-16 also provided that Applicant was to post a \$100,000 performance bond by December 20, 2016, and submit construction-level landscaping and irrigation plans by January 16, 2017, with all landscaping and irrigation to be installed by February 20, 2017; and

WHEREAS, on December 27, 2016, Mayor Albert Robles timely filed an appeal of the Planning Commission's action granting CUP 1016-16 under Section 9173.4 of the Carson Municipal Code, on the basis that continuing the auto auction use is inconsistent with CUP 881-11 and the continued use of the Property as a "junk yard" is incompatible with new developments; and

WHEREAS, until January 31, 2017, the 21212 S. Avalon parcel at the Property was occupied by AW Collision Center; and

WHEREAS, on February 7, 2017, the City Council heard the appeal of CUP No. 1016-16; and

WHEREAS, the City Council finds that as of February 7, 2017, Applicant had taken no action to clean up the Property, and at the time of the hearing the condition of the Property was abysmal and an embarrassing eye-sore; and

WHEREAS, the City Council further finds that as of February 7, 2017, Applicant had taken no action to install landscaping, including not submitting the required landscaping and irrigation plans by January 16, 2017; and

WHEREAS, the City Council finds that it is unclear whether the Property will be sold, and no developer is attached to the Property, therefore the future use of the Property is uncertain; and

WHEREAS, the City Council finds that continuing the current use, in light of the condition in which the Property has been operated, is a threat to the public health and safety, and that the condition of the Property decreases the City's attractiveness to visitors and potential businesses alike; and

WHEREAS, the City Council finds that the condition of the Property until at least February 7, 2017, violated CUP 859-11 conditions of approval 28 through 32 by not providing the required landscaping and irrigation; and

WHEREAS, the City Council finds that the condition of the Property until at least February 7, 2017, violated CUP 881-11 conditions of approval 16, and 19, in that not all customer parking areas were used for customer parking but also for storage or repair of vehicles and equipment, and

that some areas of the Property were not maintained in a neat and clean condition but rather like a “junk yard”; and

WHEREAS, Section 9173.4 of the Carson Municipal Code provides that any decision by the Planning Commission may be appealed to the City Council; and

WHEREAS, Section 9172.21(D)(1) of the City of Carson Zoning Ordinance mandates that a Conditional Use Permit shall only be granted if the Planning Commission (and City Council in the event of an appeal) finds all the following to be true:

- a. The proposed use and development will be consistent with the General Plan.
- b. The site is adequate in size, shape, topography, location, utilities, and other factors to accommodate the proposed use and development.
- c. There will be adequate street access and traffic capacity.
- d. There will be adequate water supply for fire protection.
- e. The proposed use and development will be compatible with the intended character of the area.
- f. Such other criteria as are specified for the particular use in other Sections of this Chapter.

If the Commission finds that any adverse effects will occur as a result of the proposed use and development, such effects must be found to be justified by the benefits to the public interest which will occur as a result of such use and development.

If the Commission does not make affirmative findings with respect to the above criteria and is unable to impose conditions to mitigate any adverse finding, the Commission shall disapprove a Conditional Use Permit.

WHEREAS, based on the above, the City Council cannot make the findings required by Section 9172.21(D)(1)(e), as the intended use is incompatible with the Vision Plan for the six planning areas, which provides in relevant part that “the City is partnering with private investors to develop a new regional retail center on a 157-acre property. These new destinations are surrounded by over 600 acres of vacant and developed land with commercial, industrial and recreational uses within six planning areas that present a unique development and redevelopment opportunity. If planned accordingly, the entire area could be envisioned and transformed into vibrant districts designed to maximize the compatibility of the new facilities with new commercial businesses and nearby residences.” An unsightly “junk yard”, at a major access point of the six planning areas is inconsistent with the anticipated development of the area; and

WHEREAS, the City Council affirmatively finds that the continued operation of the current uses at the Property adversely impacts the public health, safety and welfare, and that such effects are not justified by any discernible public benefits that will occur as a result of the proposed continued use.

NOW, THEREFORE, the City Council of the City of Carson does hereby resolve as follows:

SECTION 1. The above Recitals are true and correct and incorporated herein by reference.

SECTION 2. The City Council finds that the current use at the Property is incompatible with the Vision Plan for the six planning areas, which provides in relevant part that “the City is partnering with private investors to develop a new regional retail center on a 157-acre property. These new destinations are surrounded by over 600 acres of vacant and developed land with commercial, industrial and recreational uses within six planning areas that present a unique development and redevelopment opportunity. If planned accordingly, the entire area could be envisioned and transformed into vibrant districts designed to maximize the compatibility of the new facilities with new commercial businesses and nearby residences.” An unsightly ”junk yard”, at a major access point of the six planning areas is inconsistent with the anticipated development of the area.

SECTION 3. The City Council further finds that the continued operation of the current uses at the Property adversely impacts the public health, safety and welfare, and that such effects are not justified by any discernible public benefits that will occur as a result of the proposed continued use.

SECTION 4. Application for Conditional Use Permit No. 1016-16 is hereby DENIED by reversing the Planning Commission’s decision to approve the said Conditional Use Permit.

Any challenge to this Resolution, and the findings set forth therein, must be filed within the 90 day statute of limitations set forth in Code of Civil Procedure Section 1094.6.

PASSED AND ADOPTED by the City Council of the City of Carson at a regular meeting held on the _____ day of _____, 2017.

ALBERT ROBLES, MAYOR

ATTEST:

CITY CLERK OF THE CITY OF CARSON

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS

I, DONESIA GAUSE, City Clerk of the City of Cypress, DO HEREBY CERTIFY that the foregoing Resolution was duly adopted at a regular meeting of the said City Council held on the day of _____, 2017, by the following roll call vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

CITY CLERK OF THE CITY OF CARSON