

## **RESOLUTION NO. 2017-110**

### **RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CORONA, CALIFORNIA, UPHOLDING THE PLANNING AND HOUSING COMMISSION'S DENIAL OF: (1) CHANGE OF ZONE 16-007 TO CHANGE THE ZONING OF 1.37 ACRES LOCATED ON THE SOUTH SIDE OF ONTARIO AVENUE, APPROXIMATELY 100 FEET WEST OF STATE STREET FROM C-2 (RESTRICTED COMMERCIAL) TO C-3 (GENERAL COMMERCIAL); (2) CONDITIONAL USE PERMIT 16-009 TO ESTABLISH A SELF-SERVICE DRIVE-THROUGH CAR WASH ON THE 1.37 ACRES; AND (3) PRECISE PLAN 16-016 FOR A DRIVE-THROUGH RESTAURANT ON THE 1.37 ACRES**

**WHEREAS**, an application was made by Tahir Salim of Salim Development ("Applicant") for the following: (1) a change of zone ("CZ16-007") under the provisions of Chapter 17.104 of the Corona Municipal Code ("CMC") to change the zoning of 1.37 acres of property located on the south side of Ontario Avenue, approximately 100 feet west of State Street ("Project Site") from C-2 (Restricted Commercial) to C-3 (General Commercial); (2) a conditional use permit ("CUP16-009") under the provisions of Chapter 17.92 of the CMC to establish a 2,880 square foot self-service drive-through car wash on the Project Site; and (3) a precise plan ("PP16-016") under the provisions of Chapter 17.91 of the CMC for the site plan and architecture of a 730 square foot restaurant with drive-through services on the Project Site; and

**WHEREAS**, the applications for CZ16-007, CUP16-009 and PP16-016 were duly submitted to the Corona Planning and Housing Commission ("Planning Commission"), and a public hearing was properly noticed and held during the regularly scheduled meeting of the Planning Commission on October 9, 2017 as required by law; and

**WHEREAS**, after close of said hearing, the Planning Commission by formal action, determined the following based upon the evidence presented to the Planning Commission during said hearing: (1) all the findings necessary to granting a change of zone as set forth in CMC Sections 17.104.100 and 17.104.120 cannot be made in reference to CZ16-007; (2) all the findings necessary to granting a conditional use permit as set forth in CMC Section 17.92.110 cannot be made in reference to CUP16-009; and (3) all the findings necessary to granting a precise plan as set forth in CMC Section 17.91.070 cannot be made in reference to PP16-016; and

**WHEREAS**, pursuant to CMC Sections 17.91.100, 17.93.020 and 17.104.130, the Applicant submitted a timely appeal of the Planning Commission's determination on CZ16-007, CUP16-009 and PP16-016; and

**WHEREAS**, at its meeting on November 15, 2017, the City Council of the City of Corona (“City Council”) considered CZ16-007, CUP16-009 and PP16-016 and heard and considered all information in the record, including, without limitation, all oral and written testimony presented to the City Council, such as staff reports, the Applicant testimony and public testimony and City Council deliberations.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Corona, California, as follows:

**SECTION 1. Planning Commission Denial Upheld.** Based on the entire record before the City Council, including, without limitation, all written and oral testimony presented to the City Council, such as staff reports, Applicant testimony and public testimony, City Council deliberations and the findings set forth in this Resolution, the City Council hereby upholds the Planning Commission’s denial of CZ16-007, CUP16-009 and PP16-016.

**SECTION 2. Findings for Denial of Change of Zone.** The City Council hereby finds that the findings necessary for the approval of a change of zone pursuant to Corona Municipal Code (“CMC”) section 17.104.120 cannot be made for CZ16-007 for the following reasons:

A. Although the C-3 zone is consistent with the General Commercial designation of the General Plan, CZ16-007 is not in conformity with the General Plan text for the following reasons:

(i) General Plan Policy 1.2.6 encourages a land use pattern that accommodates a diversity of commercial districts that are differentiated by their function, customer base and physical character and avoids unnecessary competition. CZ16-007 would replace the current C-2 zone on the Project Site with the C-3 zone, which is the same zoning that currently exists on the adjacent property to the west. Unlike the current C-2 zone, the C-3 zone allows a wider variety of land uses that are similar to other commercial zones in the immediate area. The property to the north of the Project Site across Ontario Avenue is zoned Commercial in the El Cerrito Specific Plan and the properties to the west on Ontario Avenue beyond the Interstate 15 overpass are zoned Commercial in the Corona Vista Specific Plan. The commercial zones in each of the specific plans allow land uses very similar to the C-3 zone, including commercial businesses with drive-through services and car washes. By allowing general commercial uses similar to the surrounding area, CZ16-007 would remove the diversity of commercial districts in the area and open an opportunity for commercial businesses with drive-through services and car washes to be located on the property, which is prohibited in the current C-2 zone.

(ii) General Plan Policy 1.4.3 encourages the development of vacant lands within the City on the periphery of existing development that complements the scale and pattern of existing uses, protects significant plant, animal and other natural environmental resources, protects development and population from natural hazards and, where it is feasible, to extend infrastructure improvements. CZ16-007 does not complement the scale and pattern of existing

adjacent residential uses. The Project Site is adjacent to residential properties zoned R-1-8.4 on the east and commercial properties zoned C-3 to the west. The C-2 zone was specifically placed on the Project Site to be a transitional zone between the C-3 zone to the west and R-1-8.4 zone to the east. The current C-2 zone is intended for a limited range of commercial uses that serve local community needs and provides a buffer between residential properties and higher intensity uses.

(iii) General Plan Policy 1.11.7 encourages the ability to regulate the extent and location of drive-through and big box commercial uses to ensure their compatibility with the functional role and character of adjoining uses. The Project Site is adjacent to residential properties on one side and was historically used for residential purposes prior to the zoning of the property being changed from Agriculture to the C-2 zone in 1978 pursuant to CZ 78-14. CZ16-007 would allow higher intensity commercial uses, such as drive-through commercial uses, immediately adjacent to existing residential land uses, which would not be compatible with the character of the adjacent residential neighborhood and, thus, would be inconsistent with General Plan Policy 1.11.7.

B. The Project Site is not suitable for the uses permitted in the C-3 zone in terms of access, size of parcel, relationship to similar or related uses, for the following reasons:

(i) Chapter 17.33 of the Corona Municipal Code describes the purpose, permitted and non-permitted land uses and development standards for the C-P (Professional and Office), C-2 (Restricted Commercial) and C-3 (General Commercial) zones. Section 17.33.010 of said chapter states *the purpose of the C-2 zone is intended for a limited range of commercial uses that serve local community needs, provide a buffer between residential properties and higher intensity uses and will be encouraged to be compatible with adjacent land uses. The C-2 designation is generally applied to areas appropriate to serve the daily shopping needs within the neighborhood, including restaurants, small businesses and studios. The purpose of the C-3 zone is intended for higher intensity commercial uses that serve community and sub-regional needs with an emphasis on convenient automobile access, while incorporating efficient, safe and attractive on-site pedestrian circulation. The C-3 designation is generally applied to areas appropriate to serve the entire community, including shopping centers, automotive service and repair, theaters and drive-throughs.* CZ16-007 does not meet the purpose described in Section 17.33.010 as the change in zoning from C-2 to C-3 on the Project Site would allow higher intensity commercial uses, such as automobile services and repair, car washes, drive-throughs and other types of commercial uses designed to serve the entire community, to be located immediately adjacent to residential properties.

(ii) Access to and from the Project Site from Ontario Avenue will be limited to right-in and right-out only turn movements. Based on the traffic study prepared for the Project Site, the trip distribution pattern associated with the proposed drive-through restaurant and self-service drive-through car wash shows 70% of the daily trips exiting the site would make a U-turn at the intersection of State Street and Ontario Avenue to either get back on Interstate 15 or go westbound on Ontario Avenue, with the other 30% going eastbound on Ontario Avenue. The traffic study shows 30% of the inbound traffic coming westbound on Ontario Avenue would

make a U-turn in the center median turn-pocket on Ontario Avenue before the I-15 northbound ramp and Ontario Avenue intersection. CZ16-007, as proposed, would allow opportunity for commercial drive-through establishments, which generally result in short-term stays on the Project Site and quick turn-over of vehicle trips with, according to the traffic study, the majority of those vehicle trips exiting the Project Site having to make U-turns at the intersection of Ontario Avenue and State Street. As such, the location of the Project Site has limited access opportunities as because a left-out turn-movement would be prohibited from the Project Site and, thus, the Project Site is not suitable for the uses permitted in the C-3 zone in terms of access.

C. CZ16-007 is not necessary and proper at this time, and is likely to be detrimental to the adjacent property or residents, because CZ16-007 would replace the C-2, Restricted Commercial zone with the C-3, General Commercial zone, and eliminate the zoning buffer created between the residential properties to the east of the Project Site and the higher intensity commercial uses to the west.

D. CZ16-007 is not in the interest of the public health, safety, necessity, convenience and general welfare and not in accordance with good zoning practice because the C-3 zone would allow more intensive commercial uses, such as a drive-through restaurants and car washes, which uses are currently prohibited in the C-2 zone, to be located on the Project Site. The Project Site is located immediately adjacent to single family residences that have rear yards along the common property line of the Project Site. CZ16-007 would remove the transitional zone that was put in place by CZ78-14 to buffer the residences from higher intensity commercial uses.

**SECTION 3. Findings for Denial of Conditional Use Permit.** The City Council hereby finds that the findings necessary for the approval of a conditional use permit pursuant to Corona Municipal Code (“CMC”) section 17.92.110 cannot be made for CUP16-009 for the following reasons:

A. CUP16-009 will be detrimental to the public health, safety, convenience and general welfare because the use associated with CUP16-009 does not comply with the C-2 (Restricted Commercial) zone because a car wash is not permitted in the C-2 Zone pursuant to CMC Section 17.33.030.

B. The proposed land use associated with CUP16-009 would be detrimental to other existing and permitted uses in the general area of the Project Site because the site abuts a residential neighborhood to the east and south and the current C-2 zoning on the Project Site is intended for a limited range of commercial uses that provides a buffer between residential properties and higher intensity commercial uses, such as a car wash, as proposed by CUP16-009. A car wash service is not permitted in the C-2 zone pursuant to CMC Section 17.33.030 and does not provide an adequate buffer for the adjacent residential uses. For this reason, CUP16-009 would be detrimental to the adjacent residential neighborhoods.

C. In accordance with CMC Section 17.33.030, car wash is not permitted in the C-2

zone; therefore, CUP16-009 is not consistent with the zoning of the Project Site.

D. CUP16-009 is not consistent with the City's General Plan for the following reasons:

(i) General Plan Policy 1.4.3 encourages the development of vacant lands within the city on the periphery of existing development that complements the scale and pattern of existing uses, protects significant plant, animal and other natural environmental resources, protects development and population from natural hazards and, where it is feasible, to extend infrastructure improvements. The car wash use associated with CUP16-009 is expressly prohibited in the C-2 zone, which is intended for a limited range of commercial uses that serve local community needs and provides a buffer between residential properties and higher intensity uses. The Project Site is adjacent to residential properties zoned R-1-8.4 on the east and commercial properties zoned C-3 to the west. The C-2 zone, with its limited range of permitted commercial uses, was intentionally placed on the Project Site to be a transitional zone between the C-3 zone to the west and the R-1-8.4 zone to the east. CUP 16-009, which would allow a use that is not permitted in the C-2 zone, would not complement the scale and pattern of existing adjacent residential uses.

(ii) General Plan Policy 1.11.7 encourages the ability to regulate the extent and location of drive-through and big box commercial uses to ensure their compatibility with the functional role and character of adjoining uses. The Project Site is adjacent to residential properties on one side and was historically used for residential purposes prior to the zoning of the property being changed from Agriculture to the C-2 zone in 1978 pursuant to CZ 78-14. CUP16-009 proposes to establish a higher intensity commercial use, namely a self-service drive-through car wash, adjacent to existing residential land uses, which is not compatible with the character of the adjacent residential neighborhood.

**SECTION 4. Findings for Denial of Precise Plan.** The City Council hereby finds that the findings necessary for the approval of a precise plan pursuant to Corona Municipal Code ("CMC") section 17.91.070 cannot be made for PP16-016 for the following reasons:

A. PP16-016 is consistent with the General Commercial land use designation of the General Plan because this designation is established on properties that are zoned C-2, C-3 and other similar commercial zones in specific plans.

B. PP16-016 does not comply with the C-2 (Restricted Commercial) Zone, as restaurants with a drive-through service are not permitted in the C-2 Zone pursuant to CMC Section 17.33.030.

C. In accordance with Section 21080 (b)(5) of the California Public Resources Code, projects that a public agency rejects or disapproves are exempt from the California Environmental Quality Act (CEQ) and thus are not required to prepare an initial study or adopt a negative declaration or EIR. Therefore, no environmental analysis was considered with PP16-

016 as the recommendation by staff is to deny the proposed project because the proposed use is not permitted in the C-2 zone.

D. The Project Site is of a sufficient size and configuration to accommodate the design and scale of the proposed development, including buildings and elevations, landscaping, parking and other physical features of the proposal. However, the drive-through restaurant use associated with PP16-016 is not permitted in the C-2 zone and therefore not consistent with the zoning of the property.

E. The design, scale and layout of the development proposed by PP16-06 will unreasonably interfere with the use and enjoyment of the existing and future neighboring developments because the drive-through restaurant use associated with PP16-016 is not permitted in the C-2 zone. Therefore, PP16-016 is considered to have a negative impact on the health, safety and welfare of the neighboring uses because the use is not consistent with the zoning of the property.

F. The architectural design of the development proposed by PP16-06 is not compatible with the character of the surrounding neighborhood, as the building has modern eclectic architecture that is different from the Mediterranean style used on the commercial properties to the west and north. Although the project would enhance the visual character of the neighborhood by improving a vacant undeveloped property, it will not provide harmonious development in relation to the other commercial properties.

G. The design of the development proposed by PP16-06 will not provide a desirable environment for its occupants and visiting public or the adjacent neighbors because the modern eclectic architecture of the proposed building is dramatically different from the Mediterranean style buildings established to the west and north of the Project Site and thus the proposed materials, texture and color of the proposed development is not aesthetically appealing for the occupants, visiting public or the adjacent residential neighborhood.

**SECTION 5. Distribution and Effective Date.** The Mayor shall sign this Resolution, and the City Clerk shall attest thereto, and thereafter shall distribute a copy of this Resolution to the Applicant. This Resolution shall take effect and be in force on the date of its adoption.

**PASSED, APPROVED AND ADOPTED** this 15<sup>th</sup> day of November 2017.

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Mayor of the City of Corona, California

**ATTEST:**

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City Clerk of the City of Corona, California

**CERTIFICATION**

I, LISA MOBLEY, City Clerk of the City of Corona, certify that the foregoing resolution was adopted by the City Council of the City of Corona at a regular meeting held on the 15<sup>th</sup> day of November 2017, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAINED:**

**IN WITNESS WHEREOF**, I have hereunto set my hand and affixed the official seal of the City of Corona this 15<sup>th</sup> day of November 2017.

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City Clerk of the City of Corona, California