

RESOLUTION NO. 2023-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA ANA DENYING APPEAL NO. 2023-07 AND UPHOLDING THE DETERMINATION OF THE PLANNING COMMISSION TO DENY CONDITIONAL USE PERMIT NO. 2023-18 TO ALLOW AN ASSEMBLY USE TO OPERATE AT 2938 SOUTH DAIMLER STREET

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SANTA ANA AS FOLLOWS:

**Section 1.** The City Council of the City of Santa Ana hereby finds, determines, and declares as follows:

- A. Property Owner Anchor Stone Christian Church (Applicant) is requesting approval of Conditional Use Permit (CUP) No. 2023-18 to allow an assembly use to operate at an existing office space located at 2938 South Daimler Street.
- B. Pursuant to Section 41-313.5(n) of the Santa Ana Municipal Code (SAMC), assembly uses such as churches located in the P zoning district require approval of a CUP.
- C. Pursuant to SAMC Section 41-638(a)(1), the Planning Commission shall grant approval of a CUP only if all five of the specified findings of fact contained therein are satisfied.
- D. On July 18, 2022, the Applicant acquired the site located at 2938 South Daimler Street, prior to contacting City of Santa Ana staff to ensure the proposed use would be allowed subject to General Plan land use consistency, zoning laws, and land use requirements.
- E. The Applicant did not engage with the City regarding the permissibility of their proposed assembly use on the Property. It is a fundamental responsibility of any party seeking to establish a new use, to proactively seek clarity on the regulatory and zoning requirements from City staff. This proactive approach involves consulting with relevant municipal departments, understanding the jurisdiction's General Plan and zoning ordinances, and ensuring alignment with the City's land use policies.
- F. Alternative General Plan land use designations such as General Commercial (GC) and its accompanying zoning districts allow for retail and service establishments; recreational, cultural, and entertainment uses; business and professional offices; and vocational schools, among which recreational, cultural, and entertainment uses provide for community assembly such as religious facilities.

- G. The City's land use restrictions are applied uniformly to all general assembly uses.
- H. As outlined herein and the Request for City Council Action (RFCA), it is evident that the Applicant's proposed assembly use does not adhere to the principles and objectives laid out in the City's General Plan.
- I. On January 23, 2023, the Applicant submitted a development project application to the City for the change of use from office to an assembly use. Following a thorough analyses during the Development Project Review (DP) process, the Development Review Committee (DRC) identified that the proposed use was not consistent, conflicts with, and negatively impacts the enjoyment and uses of the property within the Industrial/Flex-Medium (Flex-3) General Plan land use designation.
- J. Based on the project's General Plan inconsistency, staff is unable to recommend approval of the Applicant's request due to the inability to satisfy all five findings of fact required by SAMC Section 41-638(a)(1), among which includes the subject property's General Plan land use designation of Industrial/Flex-Medium (Flex-3) that does not allow community assembly uses such as the subject church.
- K. Requiring consistency of a CUP with a local jurisdiction's general plan is well established by California case law. The California Supreme Court and Court of Appeal have consistently found that the discretionary approval of a CUP must be consistent with a general plan (*Neighborhood Action Group v. County of Calaveras*, 156 Cal. App. 3d 1176, 1185 (1984)), and that the general plan is atop the hierarchy of local government land use law, acting as a constitution for all future developments. (*DeVita v. Cty. of Napa*, 9 Cal. 4th 763, 773 (1995); citing *Neighborhood Action Group*, 156 Cal.App.3d at 1183.)
- L. On February 21, 2023, staff and the Applicant met to discuss the project, during which staff informed the Applicant of the identified inconsistencies between the proposed use and the General Plan. As a result, the Applicant was given the option to withdraw the DP application or move forward with the CUP application without the supporting findings necessary in the approval of a CUP and denial recommendation.
- M. On May 2, 2023, the Applicant indicated, as documented in the RFCA, intent to proceed with the CUP application knowing the proposed use did not have the requisite supporting finding necessary for the CUP approval.
- N. On July 24, 2023, the Applicant submitted the CUP application proposing to convert an existing office space into a church.
- O. On September 11, 2023, the Planning Commission held a duly noticed public hearing for Conditional Use Permit No. 2023-18. The Commission voted 6:1 (Ayes: Commissioners Benninger, Escamilla, Leo, Oliva, Pham, and Woo;

Noes: Ramos) to adopt a resolution denying CUP No. 2023-18.

- P. On September 14, 2023, appellant Steven Lee with Anchor Stone Christian Church, filed Appeal No. 2023-07. Pursuant to SAMC Section 41-645, the City Council is authorized to review appeals of Planning Commission decisions ad may, after holding a public hearing, affirm, revers, change, modify the original decision and may make any additional determination it shall consider appropriate within the limitation imposed by Chapter 41 of the SAMC. To support the City’s recommendation to deny the appeal application and uphold the Planning Commission’s denial of CUP No. 2023-18, the City prepared a response to the comments contained within the appeal application, attached as Exhibit 4 to the Request for Council Action (RFCA) staff report, dated November 21, 2023.
- Q. On November 21, 2023, the City Council held a duly noticed public hearing on Appeal No. 2023-07 for CUP No. 2023-18.
- R. The City Council determines that the following findings, which must be established in order to grant CUP No. 2023-18 pursuant to SAMC Section 41-638(a)(1), have not been established. Specifically, CUP Finding 5 of Section 41-638(a)(1)(v) that the proposed use will not adversely affect the general plan of the city or any specific plan applicable to the area of the proposed use. Therefore, the City Council affirms the Planning Commission’s denial of CUP-2023-18 finding:
1. That the proposed use will adversely affect the general plan of the city or any specific plan applicable to the area of the proposed use.

The subject site has a General Plan land use designation of Industrial/Flex-Medium (Flex-3), which is intended to provide context-appropriate development in areas with existing industrial uses. Industrial/Flex allows for clean industrial uses that do not produce significant air pollutants, noise, or other nuisances typically associated with industrial uses, including office-industrial flex spaces, small-scale clean manufacturing, research and development and multilevel corporate offices, commercial retail, artist galleries, craft maker spaces, and live-work units. Based on the land use designation, development policies and allowable uses within the Flex-3 designation, the subject site is not suitable for the operation of community assembly, nor does it list community assembly-type uses as permissible under the land use designation. Conversely, land use designations such as General Commercial (GC) and its accompanying zoning districts allow for “retail and service establishments; recreational, cultural, and entertainment uses; business and professional offices; and vocational schools,” among which “recreational, cultural, and entertainment uses” provide for community assembly such as religious facilities.

In addition, the subject site is part of one of the five Focus Areas adopted by the General Plan also known as 55 Freeway and Dyer Road Focus Area. The various land use designations within each Focus Area work together to ensure consistency and diversity of land uses achieving development policies to balance developing goals and land use consistencies within the City. The five Focus Areas were identified by the General Plan Advisory Committee and refined through a seven-year community engagement process as the areas of the City most suitable for new development. The five Focus Areas are geographically distributed throughout the City, and each allows the City to meet its diverse needs. The purpose and intent, specific objectives, and custom land uses for each focus area were defined to facilitate new types of urban development and further embody the City's core values.

Furthermore, the 55 Freeway and Dyer Road Focus Area is intended to transition from an area that exclusively focused on professional office to an area that supports a range of commercial, and industrial/flex development. Moreover, the overall scale and experience of the focus area along the freeway and city boundary are intended to reflect an urban intensity and design, with inspiring building forms and public spaces. The industrial/flex land use designation is meant to promote large-scale office-industrial flex spaces, multilevel corporate offices, and research and development in creative buildings and spaces.

Additionally, the subject project will not be consistent with the goals and policies of the General Plan, including those from the Land Use Element (LU) and the Economic Prosperity Element (EP). Specifically, policies 1.1 and 4.1 of the Land Use Element (LU) and policies 1.9 and 2.3 of the Economic Prosperity Element (EP).

Policy 1.1 of the LU encourages compatibility between land uses to enhance livability and promote healthy lifestyles. The introduction of a community assembly use and a Bible school to the existing office complex will generate noise, traffic and queuing, solid waste generation and circulation. Moreover, it will introduce assembly uses with youth services in close proximity to existing industrial uses in the area, counter to this General Plan policy. Additionally, the Flex-3 land use designation allows future developments with clean industrial and office uses in accordance with Table LU-A-2, which specifies interim industrial flex uses. Community assembly such as churches is not permitted. Irreconcilable land use conflicts between a sensitive receptor such as the proposed church and its school operations will be generated if the CUP application were approved with future

industrial uses taking place in the land use designation of the Focus Area. The purpose of the land use plan of the Land Use Element is to prevent these irreconcilable land use conflicts from occurring in the future between sensitive receptors and surrounding industrial uses. In addition, the Flex-3 land use designation allows primarily office, industrial, clean manufacturing, research and development, and similarly-natured industrial/production-oriented land uses and does not allow community assembly such as churches. This land use principle of preventing inconsistent land uses from locating in the same areas is currently codified in the City's Light and Heavy industrial (M1 and M2) zoning districts. The Flex-3 General Plan use designation points to the M1 land uses in Table LU-A-2 as examples of clean industrial uses commensurate with the General Plan land use designation, reaffirming this principle of not locating sensitive receptors such as community assembly uses within or in proximity to industrial areas of the City.

Policy 4.1 of the LU supports complete neighborhoods by encouraging a mix of complimentary uses, community services, and people places within a walkable area. The site is surrounded by professional and industrial uses, and the nearest residential community is approximately 0.3 miles away. As such, the introduction of a religious institution in this site would not be compatible with the surrounded uses and will not encourage development of place-making within a walkable area. Moreover, as detailed above, the purpose of the land use plan of the Land Use Element is to prevent irreconcilable land use conflicts from occurring in the future between sensitive receptors and surrounding industrial uses. However, irreconcilable land use conflicts between a sensitive receptor such as the proposed church and its school operations will be generated if the CUP application were approved with future industrial uses taking place in the land use designation of the Focus Area.

Policy 1.9 of the EP seeks to avoid potential land use conflicts by prohibiting the location of sensitive receptors and noxious land uses in close proximity. Establishing uses such as community assembly, coupled with youth services and Bible school, would introduce sensitive receptors into an area that is mostly comprised of industrial and office uses and that is intended to transition to industrial uses over time, through implementation of the General Plan. The purpose of the land use plan in the Land Use Element is to prevent these land use conflicts from taking place through goals, policies, and zoning practices designed to create "a physical environment that encourages healthy lifestyles, a planning process that ensures that health impacts are considered, and a community that actively pursues policies and

practices that improve the health of our residents,” as listed as an adopted Core Value of the Land Use Element. Approval of the CUP application would be contrary to the Land Use Element and this adopted Core Value.

Policy 2.5 of the EP encourages the development of mutually beneficial and complementary business clusters within the community. As promulgated by the adopted General Plan Land Use Element, introducing community assembly does not support the development of mutually beneficial and complementary business clusters at the subject site. To the contrary, it will create irreconcilable conflicts by introducing a sensitive receptor within an area that is presently and continuing to transition to industrial uses. Approval of the requested application would lead to present and future land use conflicts stemming from noise, traffic, vibrations, queuing, solid waste generation, and circulation. Moreover, community assembly uses are not listed as permissible within the subject site’s General Plan land use designation, as the use is not considered among those that foster development of mutually beneficial and complementary business clusters within the community. The land use would be incompatible with surrounding uses and approval of the CUP would be contrary to the General Plan.

**Section 2.** In accordance with the California Environmental Quality Act (CEQA) and the CEQA Guidelines, this project is exempt from further review under Section 15061(b)(4) of the CEQA Guidelines, as the City Council has denied Appeal No. 2023-07, and affirm the determination of the Planning Commission to deny Conditional Use Permit No. 2023-18.

**Section 3.** The City Council of the City of Santa Ana, after conducting the public hearing, hereby denies Appeal No. 2023-07 and affirms the Planning Commission denial of CUP No. 2023-18 for the proposed assembly use at 2938 South Daimler Street. The denial shall prohibit the assembly use at the subject site but leaves in effect the permitted office uses, allowed by right under SAMC Section 41-313, subject to all applicable standards and regulations set forth in Chapter 41 of the Santa Ana Municipal Code. This decision is based upon the evidence submitted at the above-referenced hearing, including but not limited to: The Request for Planning Commission Action dated September 11, 2023, and exhibits attached thereto; the Request for City Council Action (RFCA) dated November 21, 2023 and exhibits attached thereto; and the public testimony, written and oral, all of which are incorporated herein by this reference.

[Signatures on the following page]

ADOPTED this 21<sup>st</sup> day of November 2023, by the following vote:

\_\_\_\_\_  
Valerie Amezcua  
Mayor

APPROVED AS TO FORM:  
Sonia R. Carvalho  
City Attorney

By:  \_\_\_\_\_  
Jose Montoya  
Assistant City Attorney

AYES: Councilmembers \_\_\_\_\_

NOES: Councilmembers \_\_\_\_\_

ABSTAIN: Councilmembers \_\_\_\_\_

NOT PRESENT: Councilmembers \_\_\_\_\_

CERTIFICATE OF ATTESTATION AND ORIGINALITY

I, Jennifer L. Hall, City Clerk, do hereby attest to and certify the attached Resolution No. 2023-XX to be the original resolution adopted by the City Council of the City of Santa Ana on November 21, 2023.

Date: \_\_\_\_\_

\_\_\_\_\_  
City Clerk, City of Santa Ana