

**ATTACHMENT F
APPEAL APPLICATION**

CITY OF PASADENA

GENERAL RECEIPT

RECEIVED FROM Jonathan Edwards DATE 9/22/2014
ADDRESS _____ CITY _____ PHONE # 626-676-3466

- MUNICIPAL SERVICES - ACCOUNT # _____
- LICENSE _____
- PARAMEDIC - INV. # _____ INV. AMT. \$ _____
PAID THIS DATE \$ _____
BALANCE DUE \$ _____
- PARKING CITATIONS \$ _____
- OTHER CUP # 4072 INV. AMT. \$ 136.48
Appeal. PAID THIS DATE \$ _____
BALANCE DUE \$ 0

AMT. PAID \$136.48

CODE: _____

CASH

CHECK # 1046

MONEY ORDER # _____

R. Novelo
RECEIVED BY

NOTE: NOT A VALID RECEIPT UNLESS ENDORSED ABOVE BY REGISTER OR SIGNATURE

CTCK0013 (4/99) CASHIER—WHITE CUSTOMER COPY—CANARY OFFICE COPY—PINK

APPEAL APPLICATION

0119 018X

9/22/14

GENERAL INFORMATION: (Please print)

Date: _____

Appellant: Downtown Pasadena Neighborhood Association ^(DPNA) * c/o Jonathan Edwards

Mailing Address: 161 S Madison Ave #12

City: Pasadena State: CA Zip: 91101

Phone #: (day) 626-676-3466 (evening) SAME Fax #: _____

Contact Person: Jonathan Edwards, President, DPNA Phone #: 626-676-3466

E-mail Address of Contact Person: jedwards@gmail.com

Applicant (if different from appellant): _____

APPEAL APPLICATION

Application # _____ Date of Decision 9/10/14 Appeal Deadline 9/22/14

Property Address: 260-400 E Colorado Blvd Pasadena 91101

I hereby appeal the decision of the: Planning Commission CUP # 6022

The decision maker failed to comply with the provisions of the zoning ordinance in the following manner:

See Attached #1

Pasadena
* registered with Neighborhood Connections

If necessary, please attach additional sheets

Jonathan Edwards
Applicant's Signature

9/22/14
Date of Application

Activity # _____	Appeal Hearing Date _____
Application Fee: \$ _____	Received by: _____
Date Received: _____	



REQUEST FOR APPEAL

APPLICATION INFORMATION

Project Address: 260 – 400 EAST COLORADO BLVD., PASADENA, CA 91105

Case Type (MCUP, TTM, etc.) and Number: CONDITIONAL USE PERMIT #6072

Hearing Date: SEPTEMBER 10, 2014 Appeal Deadline: SEPTEMBER 22, 2014

14 SEP 22 09:34AM
CITY CLERK

APPELLANT INFORMATION

APPELLANT: DOWNTOWN PASADENA NEIGHBORHOOD ASSOCIATION (DPNA)*

Telephone: [626] 676--3466

Address: c/o Jonathan Edwards, president
161 S. MADISON AVENUE, #12

Fax: []

City: PASADENA State: CA Zip: 91101

Email: jedwards@gmail.com

APPLICANT (IF

DIFFERENT):

I hereby appeal the decision of the:

Hearing Officer

XXX PLANNING COMMISSION

Design Commission

Director of Planning and Development

Historic Preservation

Film Liaison

REASON FOR APPEAL

The decision maker failed to comply with the provisions of the Zoning Code, General Plan or other applicable plans in the following manner (use additional sheets if necessary):

PLEASE SEE ATTACHMENT NO. 1

* Registered with the City of Pasadena's *Pasadena Neighborhood Connections* office

Jonathan Edwards, president
Signature of Appellant

SEPTEMBER 19, 2014
Date

*** OFFICE USE ONLY**

PLN # _____ CASE # _____ PRJ # _____

DESCRIPTION _____

DATE APPEAL RECEIVED: _____ APPEAL FEES: \$ _____ RECEIVED BY: _____



ATTACHMENT NO. 1

Appeal of Paseo/Hotel Minor Variance Findings: CUP #6072

I. Purpose of Variances

The purpose of Variances, according to the *Zoning Code*, is to allow variations from the development standards of the Zoning Code. Special privileges are prohibited. According to the *Zoning Code*, a Variance “may only be granted when, because of special circumstances applicable to the subject property, including *dimension, location, shape, size, or surroundings; geographic, topographic, or other physical conditions on the site or in the immediate vicinity; or from street locations or traffic conditions in the immediate vicinity,* the strict application of this Zoning Ordinance denies the *property owner privileges enjoyed by other property owners in the vicinity and under identical zoning districts, or creates an unnecessary, and non self-created hardship or unreasonable regulation which makes it obviously impractical to require compliance with the applicable development standards.*” [*Emphasis added*]. Also, a “Variance shall not be granted that would have the effect of granting a special privilege(s) not shared by other property owners in the vicinity and under identical zoning districts.”

It should be noted that all the Findings must be made to grant Variances; simply meeting one or two is not sufficient.

II. Conditional Use Permit #6072 - Planning Commission Variance Findings for the Minor Variance, Proposed Hotel on Macy’s Site, Paso Colorado (pp. 32 – 33 of Attachment A, Planning Commission Agenda Report dated September 10, 2014)

“6. Minor Variance: To allow the ground floor of the hotel building to be set back at least 50 feet from Green Street where the maximum allowable setback is five feet.” (emphasis added)

The Planning Commission *cannot* make the Findings as set forth in the Zoning Code to grant the Minor Variance requested by DDR, Corp., the Applicant. The Findings made by the Planning Commission are not fact-based and do not fulfill the purpose for Variances

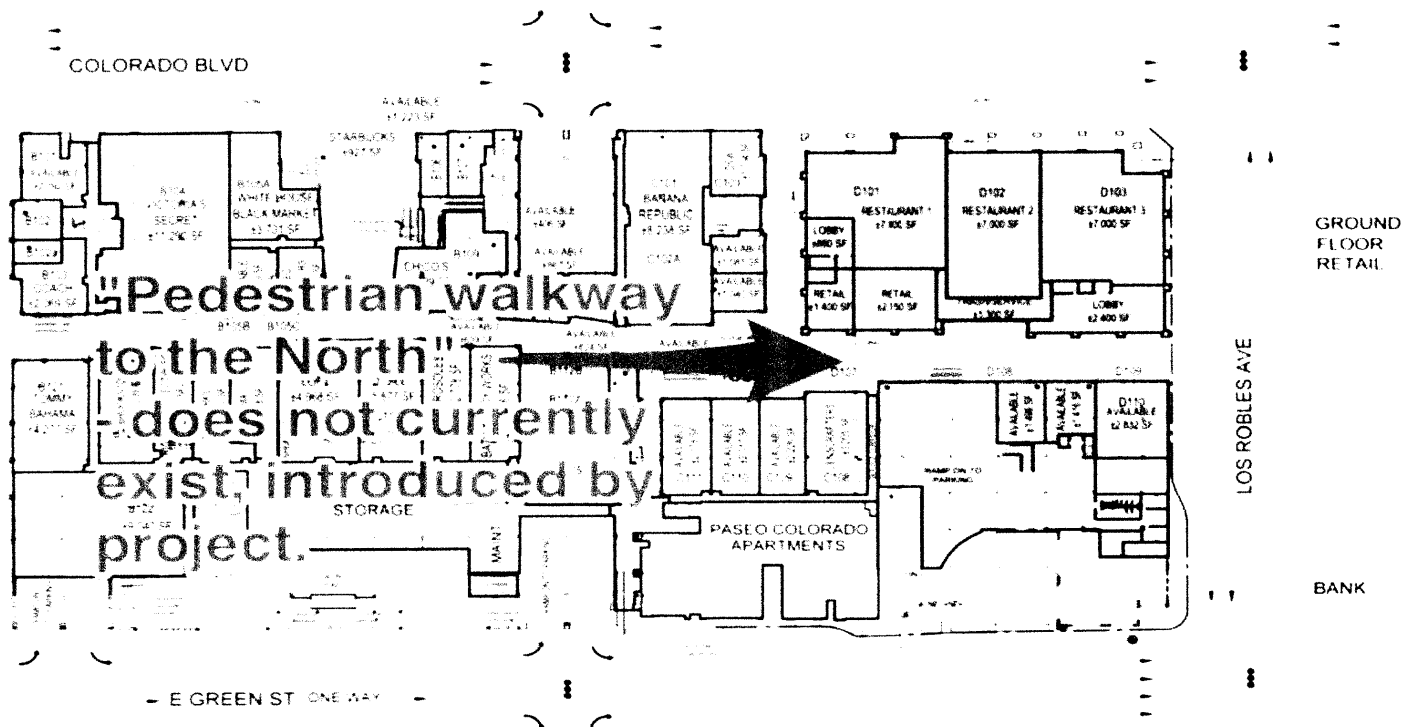


REQUEST FOR APPEAL

as set forth in the Zoning Code. The Downtown Pasadena Neighborhood Association the appealing the Planning Commission-approved as follows:

"36. There are exceptional or extraordinary circumstances or conditions applicable to the project site that do not apply generally to sites in the same zoning district."

Planning Commission Finding: "The proposed project is a redevelopment of an existing development is therefore constrained by the existing development, namely the pedestrian walkway to the north. To locate the vehicular courtyard to the rear of the hotel would create the potential for pedestrian/vehicular conflict."



Basis for Appeal: The Planning Commission failed to make the required Finding. It failed to identify supporting facts and to base its decision on an objective analysis of those facts. The project proposes to demolish the existing former Macy’s building and create, among other project elements, an extended pedestrian walkway to Los Robles. Because the pedestrian walkway (a) does not exist as a current condition on the site; (b) would be introduced only as part of the new project, and (c) is not a requirement of the Zoning Code, **the pedestrian walkway is not a special circumstance applicable to the subject property.** In addition, if the extended pedestrian walkway to Los Robles Avenue were a hardship, it



REQUEST FOR APPEAL

would be a ***"self-created hardship"*** which is not allowed as a Finding pursuant to the Zoning Code.

"37. Granting the application is necessary for the preservation and enjoyment of a substantial property right of the applicant and to prevent unreasonable property loss or unnecessary hardship."

Planning Commission Finding: "To require that the hotel be located up at the Green Street frontage would effectively eliminate or hide the vehicular courtyard at the rear of the hotel, thereby reducing visibility to access the site, which could place the hotel at a competitive disadvantage compared to other hotels in the vicinity. "

Basis for Appeal: *The Planning Commission failed to make the required Finding. The Agenda Report states: "The proposed uses, residential, restaurant, and retail, are permitted as a matter of right in the CD -2 zone, while the proposed hotel ('Lodging – Hotels, Motels') requires the approval of a Conditional Use Permit..."(p. 6) Therefore, a hotel use is not the only use allowed on the site, and the Zoning Code specifically requires a CUP for such a use. The Applicant does not have a substantial property right in the use of the site as a hotel and would not suffer unreasonable property loss or unnecessary hardship because other uses are permitted by right. The property is fully developable if the Applicant conforms to the existing setback. Therefore, the Planning Commission failed to made a Finding that the strict application of the Zoning Ordinance would: (1) deny the property owner privileges enjoyed by other property owners in the vicinity and under identical zoning districts; (2) deny the preservation and enjoyment of a substantial property right of the applicant, and (3) create unreasonable property loss or unnecessary hardship."*

"38. Granting the application will not be detrimental or injurious to property or improvements in the vicinity of the subject site, or to the public health, safety, or general welfare."

Planning Commission Finding: "The design of the vehicular courtyard at the front of the hotel has been designed such that there will be only one driveway access, rather than a 'circular' configuration where vehicles would enter in one driveway and exit out of another. By limiting the configuration to only one driveway, there will be fewer ingress/egress points



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and therefore fewer points for conflict with traffic traveling on Green Street.”

Basis for Appeal: *The Planning Commission failed to make the required Finding. The Findings focused solely on the design for the ingress and egress of the proposed circular vehicular courtyard, stating that one point of ingress and egress was better than more than one. The Finding did not focus on whether or not the granting of the minimum of 50-foot setback would be detrimental or injurious to property or improvements in the vicinity of the project site. Therefore, no facts or analysis were offered to show that the proposed setback of a least 50 feet from Green Street would not be “detrimental or injurious to property or improvements in the vicinity of the subject site, or to the public health, safety, or general welfare.”*

“39. Granting the application is in conformance with the goals, policies, and objectives of the General Plan and the purpose and intent of any applicable specific plan and the purposes of this Zoning Code, and would not constitute a grant of special privilege inconsistent with limitations on other properties in the vicinity and in the same zone district.”

Planning Commission Finding: “The inclusion of the building wall along Green Street will be in conformance with the ‘Streetwall Continuity’ goals from Section 6 (The Public-Private Open Space) of the Central District Specific Plan and District –wide Map 23: Street Setback Concept. These two areas are intended to achieve improved visual interest at the pedestrian level to encourage pedestrian activity and safety. “

Basis for Appeal: *The Planning Commission failed to make the required Findings. The facts are that the “building wall” functions as a “screen” to hide vehicular movement and/or dead space created when hotel check-in/check-out activity is low. Granting such a setback is not in conformance with the goals, policies and objectives of the General Plan and the purpose and intent of the Central District Specific Plan as well as the purposes of the Zoning Code. Moreover, the sections of the Central District Specific Plan cited by the Planning Commission regarding “Streetwall Continuity” and “Street Setback Concept” are taken out of context and misrepresented. In fact, granting the requested setback is diametrically opposed to the provisions of General Plan, the Central District Specific Plan and the Zoning Code. Granting of such a request would be a “special privilege” which is prohibited. The reasons for this conclusion are as follows:*



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- One of the seven Guiding Principles of the General Plan is the **“Pasadena will be a city where people can circulate without cars”**;
- Objective 29 of the *Central District Specific Plan* is to **“Make Downtown Walkable”** (p. 35).
- The *Central District Specific Plan* is very clear in the section entitled, “Activate the Street Edge”, *“Intent”*, that having **“public use at the ground floor is critical to a socially and visually stimulating Downtown, and street level facades offer the greatest opportunity to support pedestrian activity. Multiple storefronts, shop entrances, and activities enliven the street, sustain attention, and provide a safe pedestrian environment.”** (p. 155)
- In the *Central District Specific Plan*, **“Map 21: Linkage Concept”** shows Green Street as a **“Multi-modal Corridor w/ Commercial Character (strong pedestrian-orientation)”** from Fair Oaks Avenue eastward beyond Lake Avenue (p. 79).
- The *Central District Specific Plan* states that Downtown’s ***buildings shall support pedestrian activity***, calling out the need for “interest generating uses...such as walk-in commercial uses, multiple doors and transparent windows.” (p. 62)
- An important concept of the *Central District Specific Plan* is that of **“Downtown Linkages”** – that the subdistricts of the Downtown (e.g. the Civic Center and the Playhouse District) should be interconnected and complementary of one another (p. 76), be accommodating to pedestrians (p. 78), and support development along “multi-modal corridors” (p. 78).
- “The District-wide Urban Design Concept - The Public-Private Interface” in the *Central District Specific Plan* states that Downtown’s streets should (a) “be active, with new development oriented to the street with an emphasis on ground-floor uses that engage and active the sidewalk”; (b) “reinforce the building street wall with buildings consistently built at or near the sidewalk”, and (c) “maximize the retail store fronts and walk-in commercial uses along Downtown shopping streets and main commercial corridors in order to sustain and generate intense pedestrian traffic



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where is it most desired". (p. 86)

- **"Site services and parking facilities are to face away from public spaces and activities"** (*Central District Specific Plan*, p. 130);
- **"Parking and services should be sited to allow desired uses and activities – locate parking behind buildings interior to a block to support pedestrian-oriented streets"** (*Central District Specific Plan*, p. 145).
- **"Where the building meets the sidewalk should be a place of intense interaction"** (*Central District Specific Plan*, p. 145).
- The *Central District Specific Plan* states in its "Recommendations": (a) "Promote active, pedestrian-oriented uses with a high degree of transparency along the street; uses should be readily discernable to the passer-by"; (b) "Design buildings to encourage multi-tenant occupancy and walk-in traffic at the street level as far as feasible, uses which have little need for walk-in traffic should be discouraged from street-front locations", and (c) "Rely on shop windows and entrances to animate the street and sustain attention; provide generous street-level windows and encourage storefronts that are predominantly transparent glass." (p. 155)

III. Mitigated Negative Declaration

The Mitigated Negative Declaration for Conditional Use Permit #6072 is legally inadequate, specifically with regard to the lack of analysis of the impacts on land use. This includes impacts on the policies and goals of the *City of Pasadena General Plan*, the intent, goals and objectives of the *Central District Specific Plan*, and the *Zoning Code*.



PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION

September 16, 2014

Richard A. McDonald, Esq.
Law Office of Richard A. McDonald
Of Counsel, Carlson & Nicholas, LLP
140 South Lake Avenue, Suite No. 251
Pasadena, CA 91101-4724

CITY CLERK

14 SEP 22 09:44AM

**Subject: Conditional Use Permit #6072
260-400 East Colorado Boulevard
PLN2013-00235
Council District #6**

Dear Mr. McDonald:

Your application for a Conditional Use Permit at 260-400 East Colorado Boulevard was considered by the Planning Commission on September 10, 2014.

Conditional Use Permit: 1) Construction of a non-residential project over 25,000 gross square feet in size; 2) Conditional Use Permit (#2) for the construction of a 'Lodging - Hotels, Motels' use; 3) Minor Conditional Use Permit (#1) for the construction of a non-residential project with over 15,000 square feet of gross floor area in the Transit-Oriented Development Area; 4) Minor Conditional Use Permit (#2) to allow shared parking; 5) Minor Conditional Use Permit (#3) to allow on-site valet parking; and 6) Minor Variance to allow the ground floor of the hotel building to be set back at least 50 feet from Green Street where the maximum allowable setback is five feet.

The proposed project involves (1) demolition of the 160,000 square foot former Macy's department store and adjacent street-front tenant spaces along Colorado Boulevard, located at the east end of the Paseo Colorado shopping center; (2) construction and operation of a six-story, 179-room Hyatt Place hotel on the south end of the site along East Green Street; and (3) construction of a six-story mixed-use building on the north end of the site, along East Colorado Boulevard, to include 25,000 square feet of ground-floor retail and restaurant tenant space and 71 for-sale residential units on the second through sixth floors. The existing subterranean parking would be used for hotel parking.

After careful consideration of this application, and with full knowledge of the property and vicinity, the Planning Commission made the findings as shown on Attachment A to this letter. Based upon these findings, it was decided by the Planning Commission that **Conditional Use Permit #1, Conditional Use Permit #2, Minor Conditional Use Permit #1, Minor Conditional Use Permit #2, Minor Conditional Use Permit #3, and the Minor Variance** be approved with

the conditions in Attachment B and in accordance with submitted plans stamped September 10, 2014.

In addition, the Planning Commission also adopted a Mitigated Negative Declaration and Mitigation and Monitoring Reporting Program (Attachment D) for the project. An Initial Environmental Study was prepared for this project in accordance with the requirements of the California Environmental Quality Act in order to identify and analyze the project's potential impacts on the environment. Of the topic areas that were analyzed, the only potentially significant impacts were found to be in the areas of Greenhouse Gas Emissions and Noise/Vibration, but through the incorporation of mitigation measures, these impacts would be reduced to less than significant levels.

In accordance with Section 17.64.040 of the Pasadena Municipal Code, the exercise of the right granted under this application must be commenced within three years of the effective date of the approval. This approval is eligible for two one-year extensions. Each one year extension is required to be reviewed and approved by the Planning Commission at a noticed public hearing. In order for a project to be eligible for a time extension, the applicant is required to submit the required fee and time extension application to the Permit Center prior to the expiration date of the land use entitlement. The right granted by this approval may be revoked if the entitlement is exercised contrary to the conditions of approval or if it is exercised in violation of the Zoning Code.

You are advised that an application for a building permit is not sufficient to vest the rights granted by this approval. The building permit must be issued and construction diligently pursued to completion prior to the expiration of this approval. It should be noted that the time frame within which judicial review of the decision must be sought is governed by California Code of Civil Procedures, Section 1094.6.

You are hereby notified that, pursuant to Pasadena Municipal Code Chapter 17.72, any person affected or aggrieved by the decision of the Planning Commission has the right to appeal this decision within **ten days (September 22, 2014)**. The effective date of this case will be **September 23, 2014**. Prior to such effective date, a member of the City Council may request that it be called for review to the City Council. However, if there is a request for a call for review, the appeal period will continue to run. If the tenth day falls on a day when City offices are closed, the appeal deadline shall be extended through the next day when offices are open. The decision becomes effective on the eleventh day from the date of the decision. The regular Appeal fee is \$272.95. The Appeal fee for Non-profit Community-based Organizations pre-registered with Neighborhood Connections is \$136.48.

Any permits necessary may be issued to you by the Building Division on or after the effective date stated above. A building permit application may be submitted before the appeal deadline has expired with the understanding that should an appeal be filed, your application may, at your expense, be required to be revised to comply with the decision on the appeal. A copy of this decision letter (including conditions of approval and mitigation monitoring program) shall be incorporated into the plans submitted for building permits.

For further information regarding this case please contact the case planner, **David Sinclair**, at (626) 744-6766 or DSinclair@CityofPasadena.net.

Sincerely,



David Reyes
Deputy Director of Planning
& Community Development

Enclosures: Attachment A, Attachment B, Attachment C (site map), Attachment D (Mitigated Negative Declaration and Mitigation and Monitoring Reporting Program)

xc: City Clerk, City Council, Building Division, Public Works, Power Division, Water Division, Design and Historic Preservation, Transportation, Police Department, Fire Department, Health Department, Code Enforcement-Jon Pollard, Case File, Decision Letter File, Planning Commission (9)