



Planning & Community Development Department

Appeal of Revocation of Conditional Use Permit #5535 300 W. Green Street

City Council
March 9, 2020





Timeline

Planning & Community Development Department

- March 6, 2013 – Hearing Officer approved CUP#5535 with conditions.
- March, 2018 – Pursuant to a condition requiring a five year review, staff initiated an evaluation of the operations of the approved use.
- July 17, 2019 – Hearing Officer considered Revocation of Conditional Use Permit #5535 and decided to revoke Conditional Use Permit #5535.
- July 26, 2019 – Appeal filed by the applicant
- October 30, 2019 – The Board of Zoning Appeals considered the Hearing Officer's decision to approve the revocation of CUP#5535. The BZA voted (5-0) to approve the revocation of CUP#5535.
- November 12, 2019 – Appeal of BZA decision filed by the applicant



Appeal of BZA Decision

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- Before the City Council is an appeal of a decision made by the Board of Zoning Appeals.
- The hearing before the City Council is a de novo hearing where the Council has no obligation to honor the prior decision and has the authority to make an entirely different decision.



Conditional Use Permit #5535

Approved: 3/6/2013

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- Conditional Use Permit: To allow private group events, such as weddings and receptions, at four designated locations within the Ambassador College Campus.
 - 32 group events a year
 - 300 max daily guests (Sun.-Thur.), 500 max daily guests (Fri.-Sat.)
- Minor Conditional Use Permit: To allow shared parking with Maranatha High School (169 S. St. John St.) and the Elk's Lodge (400 W. Colorado Blvd.)
- Minor Conditional Use Permit : To allow off-street valet parking during the events. Valet attendant near Green Street.



Approved CUP Site Plan

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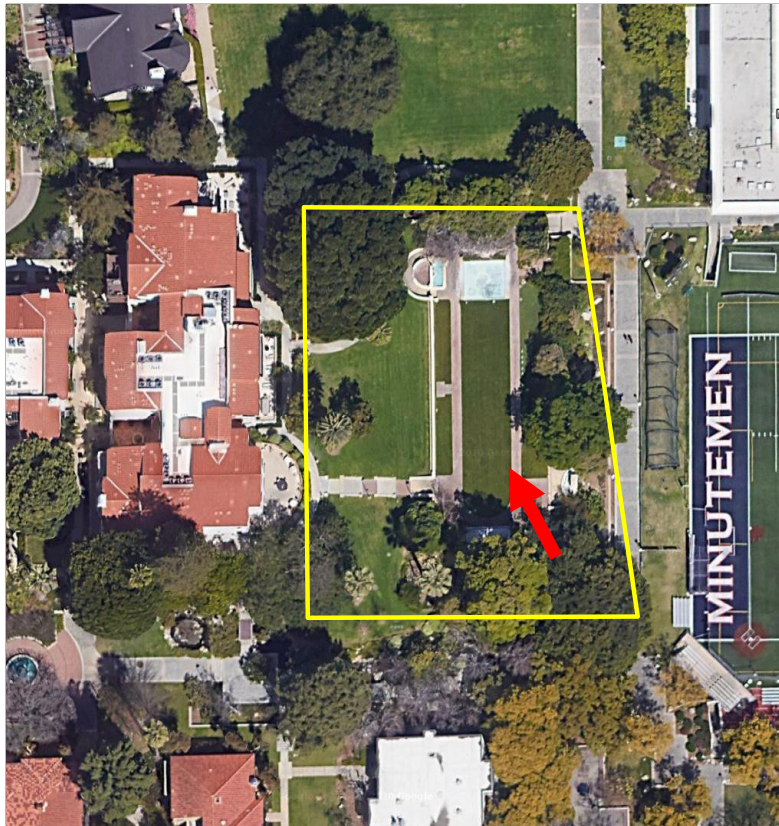


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Fowler Garden

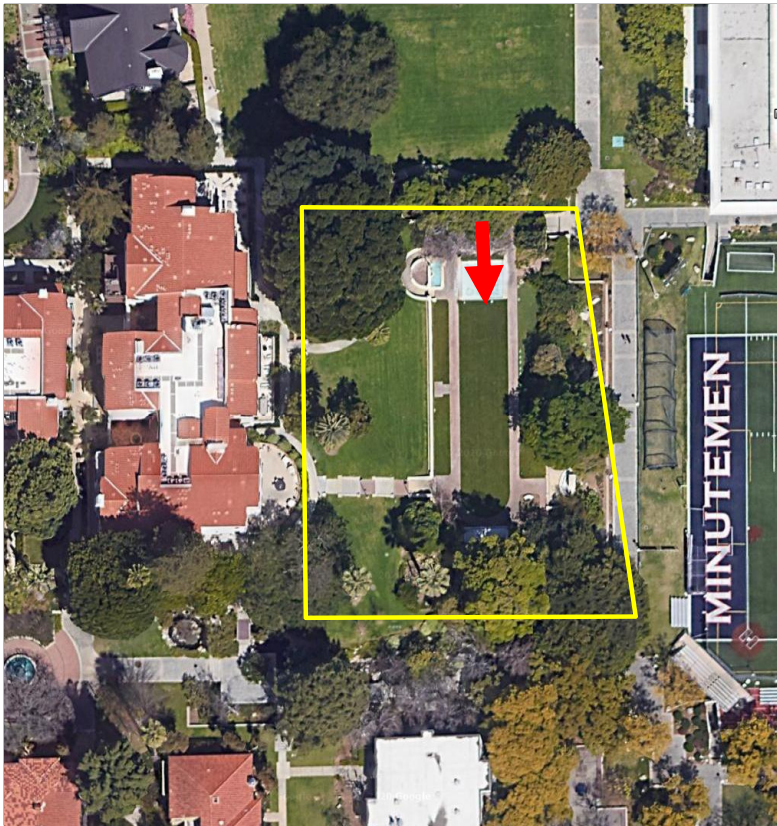
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Fowler Garden

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Fowler Garden

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Fowler Garden

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Kate Fowler Estate Lower Garden, Garden east of No. 31, facing south



The Kate Fowler Estate Lower Garden was designed in 1915 by important landscape designer Paul J. Howard in the style of an Italian Renaissance garden. Significant elements include the tempietto at the south end, staircases at the west side, retaining walls with balustrades, brick walkways, and a fountain at the north end. It meets the fourth definition of an historical resource because it was assigned a CHR Status Code of 5S1 in WGSP Survey in 1997, thereby meeting the City of Pasadena's criteria for significance. It is eligible for the California Register under Criterion 3 for the quality of its Italian Renaissance Revival style by landscape designer Paul J. Howard. The retaining wall to the east of the garden is not original and does not contribute to the significance of the garden. It was re-constructed in a different location when Terrace Drive was realigned in 1981.

Ambassador West Project
Historic Resources
Final EIR, 2006

SOURCE: Jones & Stokes



Ambassador West Project
Environmental Impact Report
CITY OF PASADENA

FIGURE 3.4-7
VILLA FRANCESCA APARTMENTS (GROVE
VILLA EAST AND GROVE VILLA WEST) AND
KATE FOWLER ESTATE LOWER GARDEN

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Revocation

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- Chapter 17.78 of P.M.C.: Authorizes the Zoning Administrator to schedule a public hearing if it has been determined that there are reasonable grounds for revocation of a discretionary permit.
- The City has the authority to revoke any discretionary land use permit, such as a Conditional Use Permit, if any one of the following findings of fact can be made in a positive manner (P.M.C. 17.78.090.F):



Revocation Findings

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- a) Circumstances under which the permit or entitlement was granted have been changed by the applicant to a degree that one or more of the findings contained in the original permit or entitlement can no longer be made in a positive manner and the public health, safety, and welfare require the revocation;
- b) The permit or entitlement was issued, in whole or in part, on the basis of a misrepresentation or omission of a material statement in the application or in the applicant's testimony presented during the public hearing for the permit or entitlement;
- c) One or more of the conditions of the permit or entitlement have not been substantially fulfilled or have been violated;
- d) The exercise of rights granted by the permit or entitlement has been discontinued for a continuous period of at least 12 months;
- e) The improvement authorized in compliance with the permit or entitlement is in violation of any code, law, ordinance, regulation, or statute; or
- f) The improvement/use allowed by the permit or entitlement has become detrimental to the public health, safety, or welfare, or the manner of operation constitutes or is creating a public nuisance.



Existing Operation Site Plan

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Applicant Changed Circumstances Event Space

- Italian Garden: Incorporated as part of the open space for a multi-family project
- Merritt Mansion: Sold, used as single-family residence
- Terrace Villa: Sold, used as single-family residence
- Fowler Garden: Remains available for events

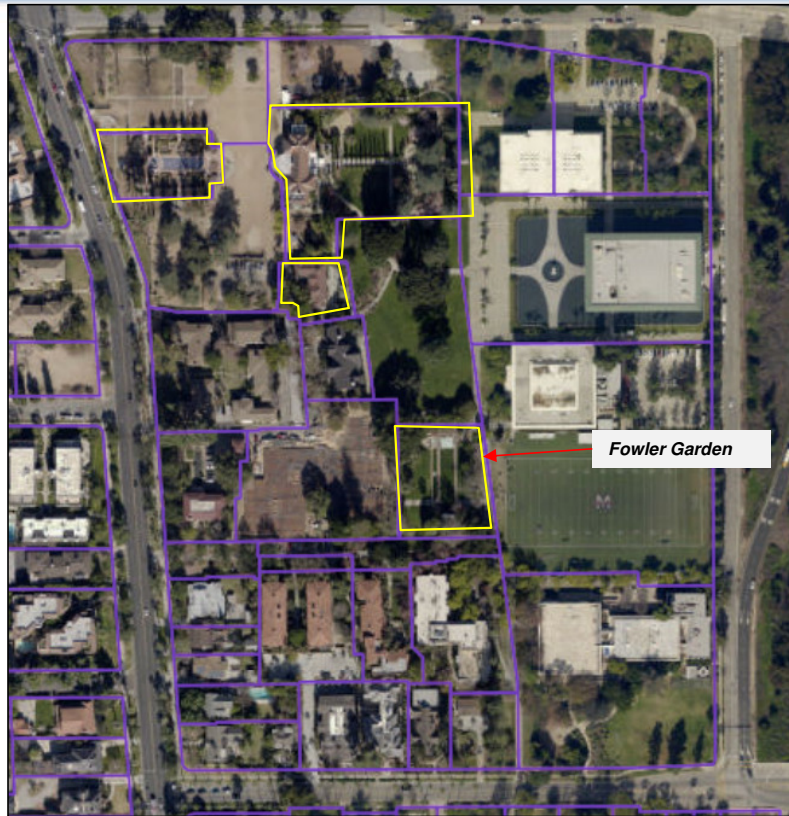
Parking

- On-Site: Removed to accommodate multi-family
- Elk's Lodge Parking: Not utilized
- Maranatha HS Parking: Utilized for events at Fowler Garden
- Valet: Utilized at Maranatha HS, not Green St



Change in Site Conditions

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2014



2019

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Revocation Finding

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- a) Circumstances under which the permit or entitlement was granted have been changed by the applicant to a degree that one or more of the findings contained in the original permit or entitlement can no longer be made in a positive manner and the public health, safety, and welfare require the revocation.
- *The proposed use is not in conformance with the goals, policies, and objectives of the General Plan and the purpose and intent of any applicable specific plan;*
 - *The establishment, maintenance, or operation of the use would, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the neighborhood of the proposed use; and*
 - *The design location, operating characteristics, and size of the proposed use would not be compatible with the existing and future land uses in the vicinity in terms of aesthetic values, character, scale, and view protection.*



Revocation Finding

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- f) The use allowed by the permit or entitlement has become detrimental to the public health, safety, or welfare, and the manner of operation is creating a public nuisance.
- Not consistent with the General Policy that requires that commercial uses adjoining residential uses be designed to be compatible with each other.
 - Fowler Garden remains the sole event space for the approved 32 events, with 300-500 daily guests.
 - The concentration of events and corresponding activities (e.g. amplified music, lighting, event set-up and tear-down) at Fowler Garden is no longer compatible with the surroundings.
 - Without Merritt Mansion and Terrace Villa to provide kitchen or restroom amenities, Fowler Garden relies on either additional amenities brought on-site or the use of adjacent facilities (Maranatha High School) not part of the original CUP.
 - Associated parking is now concentrated in one location.



Appeal

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➤ **Appellant Cites the Following:**

- > Since the issuance of the CUP, the applicant has been in compliance with all the conditions of approval; and
- > The Board of Zoning appeals decision did not meet the stringent standard for revocation of a vested CUP right.

➤ **The revocation of the CUP is based on the six findings set forth in P.M.C. 17.78.090.F.1**



Staff Recommendation

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1. Adopt the Environmental Determination, that the project is exempt from environmental review pursuant to the guidelines of the California Environmental Quality Act, pursuant to §15321, Class 21, Enforcement Actions by Regulatory Agencies; and
2. Uphold the Board of Zoning Appeals' decision and approve Revocation of Conditional Use Permit #5535.



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Staff Response to Appeal

Planning & Community Development Department

- **CLAIM:** Since the issuance of the CUP, the applicant has been in compliance with all the conditions of approval.
- **RESPONSE:**
 - > The applicant has not been in compliance with Condition No. 2 and No. 7, from CUP#5535.
 - > Condition No. 2 allows events to occur at four specified locations and requires a new CUP or modification to the CUP if the locations of the event areas are modified.
 - > Condition No. 7 requires the applicant to provide the Zoning Administrator, at the beginning of each month, a list of group events for the month listing the date, time, location, number of attendees and staff, parking location, and parking agreement.



Staff Response to Appeal

Planning & Community Development Department

- CLAIM: The Board of Zoning Appeals' decision did not meet the stringent standard for revocation of a vested CUP right.
- RESPONSE:
 - > The Board of Zoning Appeals was provided with a detailed staff report and findings. It was staff's position that the findings to revoke the CUP could be made. The Board of Zoning Appeals determined that the findings could be made to revoke the CUP, as demonstrated in the July 19, 2019 decision letter.