



THE CALIFORNIA INSTITUTE OF TECHNOLOGY

Pasadena, California 91125

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Provost

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September 28, 2006

*I would like to
have the City Council
consider the call-up of
CUP # 4253 - (CALTECH)
Thank you
PAL LITTLE*

Via Facsimile and
First Class Mail

Mayor William J. Bogaard
Vice Mayor Steve Madison
Councilmember Victor Gordo
Councilmember Steve Haderlein
Councilmember Chris Holden
Councilmember Paul Little
Councilmember Joyce Streater
Councilmember Sid Tyler
City of Pasadena
117 East Colorado Boulevard
Pasadena, California 91105

RECEIVED
06 OCT -2 AM 1:13
CITY CLERK
CITY OF PASADENA

Re: California Institute of Technology - Conditional Use Permit No. 4253

Dear Mayor Bogaard and Members of the City Council:

On June 21, 2006, a City Hearing Officer approved a modification to Conditional Use Permit No. 4253, which the City had earlier approved on October 3, 2003 for the construction of a new, three-level subterranean parking structure located on the Caltech campus. The reason given for the modification of the conditional use permit was to address complaints from neighboring residents regarding the number of Caltech employees parking on surrounding public streets. The problem is real and some of you may know of our efforts to try to alleviate it. However, Caltech strongly objects to the proposed modification of the conditional use permit on its content, but more importantly on the grounds that the City lacks the legal authority to unilaterally modify a conditional use permit in the absence of a violation of the conditions of that permit. We accordingly appealed the Hearing Officer's decision to the Board of Zoning Appeals, which upheld the Hearing Officer's decision on September 20, 2006. We continue to feel strongly that the decisions of the Hearing Officer and the Board of Zoning Appeals are misguided and are impermissible as a matter of law. We therefore have no choice but to respectfully request that the City Council call the decisions of the Hearing Officer and the Board of Zoning Appeals for review.

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As you know, Caltech is anxious to maintain the best possible relations with its neighbors and the City of Pasadena, and we have worked hard to that end. We realize that the parking issue has caused considerable concern to both. It is our hope that we can continue down a positive path and work with our neighbors to improve the situation. A recent neighborhood meeting that I attended seemed quite positive in this regard. Unfortunately, the decisions of the Hearing Officer and the Board of Zoning Appeals have put us in an untenable position.

While we are willing to consider all of the suggestions made by the Hearing Officer and to continue meeting with our neighbors to address their concerns, we cannot accept the Hearing Officer's determination that grounds exist to revoke the conditional use permit for our parking facility. Caltech has fully complied with all of the conditions that were imposed in connection with the original conditional use permit, and any suggestion to the contrary is simply untrue. The determination that grounds for revocation exists is not something that we can in good conscience accept and leave unchallenged as it compromises our future. Thus, we find ourselves in the unhappy position of being forced to engage in a potentially contentious dispute with the City we call home. Our strong preference is to avoid that situation.

By this request, we are asking the City Council to set aside the Hearing Officer's decision. In any case, Caltech is committed to continue working with our neighbors to address their concerns. We are forced by City procedures to respond now, but this is a sensitive, important issue and we hope as the Council approaches its decision on our request that it can provide sufficient time for needed discussions to take place and for some of the positive developments we have seen to proceed further. I repeat that we are committed to being good citizens and members of the community and have acted in good faith in dealing with both the City and our neighbors.

I am enclosing a letter from Caltech's outside counsel describing in more detail the legal arguments against the Hearing Officer's determination. I have also enclosed a copy of the determination of the Board of Zoning Appeals for your reference. This is a matter of extreme importance to Caltech. We are prepared to meet with you at your convenience should you have any questions or wish to discuss this matter. In the meantime, your considered attention to this request is greatly appreciated.

Yours sincerely,



Paul C. Jennings

cc: Dean Currie
Hall Daily
Harry Yohalem



PLANNING & DEVELOPMENT DEPARTMENT
PLANNING DIVISION

September 22, 2006

California Institute of Technology
Hall Dailey
Mail Code 2-97
Pasadena, CA 91125-8300

**RE: Conditional Use Permit #4253
1200 East California Boulevard
Council District #7**

Dear Mr. Dailey:

Your appeal of the decision of the Hearing Officer to modify **Conditional Use Permit #4253** was considered by **the Board of Zoning Appeals** on **September 20, 2006**.

CONDITIONAL USE PERMIT: A hearing was conducted to consider the appeal of the decision of the Hearing Officer to modify the conditions of approval for a parking garage. The original Conditional Use Permit allowed the construction of a 700 space parking structure on the Cal-Tech campus.

After careful consideration of this application, and with full knowledge of the property and vicinity, the Board of Zoning Appeals adopted the finding as shown on Attachment A to this letter.

Based upon this finding, the Board of Zoning Appeals decided to **sustain** the decision of the Hearing Officer to **modify** Conditional Use Permit #4253 with the added conditions listed in Attachment B (conditions 10-12) in accordance with submitted plans stamped **September 20, 2006**.

You are hereby notified that the decision of the Board of Zoning Appeals is not subject to further appeal. This decision becomes effective on the eleventh day from the date of the decision. The effective date for this case is **October 3, 2006**. However, prior to the effective date, a member of the City Council may stay the decision and request that it be called for review to the City Council.

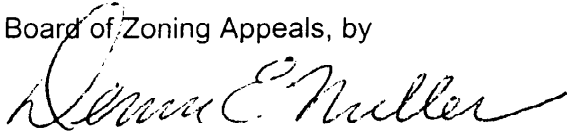
Appeal Conditional Use Permit #4253

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This project has been determined to be Categorical Exempt (Class 1 and Class 21) from environmental review pursuant to the guidelines of the California Environmental Quality Act, CEQA Guidelines Section 15301, Existing Facilities, and Section 15321, Enforcement Actions by Regulatory Agencies.

For further information regarding this case please contact **Lanny Woo** at **(626) 744-6776**.

Board of Zoning Appeals, by



DENVER E. MILLER
Zoning Administrator

DEM:ac

Enclosures: Attachment A, Attachment B

xc: City Clerk, City Council, Building Division, Public Works, Power Division, Water Division, Design and Historic Preservation, Hearing Officer, Code Enforcement-Ellen Clark, Case File, Decision Letter File, Planning Commission (9)

ATTACHMENT A
FINDINGS FOR CONDITIONAL USE PERMIT #4253

Modification of Conditional Use Permit:

1. *There are sufficient grounds to justify revocation that can be corrected by modifying existing conditions or imposing new or additional conditions*, in that the parking structure south of California Boulevard has been in operation since April 2005, and patrons of Caltech have not been utilizing the parking structure since its completion. Due to a fee implementation for parking imposed by Caltech in October 2005, there are patrons that continue to park on the adjacent residential street, to avoid fee parking in the structures. The Department of Transportation has received complaints of parking in the surrounding residential neighborhood, and Planning staff has received letters and phone calls expressing the same concern.

ATTACHMENT B
CONDITIONS OF APPROVAL FOR CONDITIONAL USE PERMIT #4253

1. The site plan, dated August 11, 2003 submitted for building permits shall substantially conform to the site plan submitted with this application and stamped "Received at Hearing October 1, 2003", except as modified herein.
2. The Zoning Administrator may schedule a noticed public hearing at any time to review compliance with the conditions of approval, or modify existing conditions.
3. The applicant shall obtain approval of the parking structure from the Design and Historic Preservation Section through the Design Review process.
4. Interior spaces at the parking structure shall be continuously monitored by a system of fixed television cameras.
5. The parking structure shall be supervised by a 24-hour on-site guard.
6. The mitigation monitoring program shall become part of the condition of approval.
7. The applicant shall incorporate the final conditions of approval into the construction plans when the plans are submitted for plan check.
8. The applicant or successor in interest shall meet the applicable code requirements of all other City Departments.
9. The proposed project, PLN #2003-00281, shall comply with all conditions of approval, including Mitigation Measures specified in the adopted Mitigated Negative Declaration and Initial Study, subject to a Final Zoning Inspection and Condition Monitoring. The project will be inspected by Code Compliance staff to determine compliance with the conditions of approval. Required fees for the inspection and condition monitoring shall be paid on or after the effective date of this permit, but prior to the issuance any building permits. Contact the Code Compliance staff at (626) 744-4633 to verify the fee and to schedule an inspection appointment. All fees are to be paid to the cashier at the permit center located at 175 N. Garfield Avenue. Failures to pay the inspection fee prior to initiating the application may result in revocation proceedings of this entitlement.
10. The applicant (Caltech) shall conduct a neighborhood meeting to clarify concerns of neighboring residents. The meeting shall be conducted prior to creating the development of the plan for use of the parking structure, and must occur within 40 days of the date of this hearing.
11. Caltech shall within 90 days of this hearing develop a plan for the full use of the existing parking structure. The plan shall contain strategies and actions that will be taken to insure the full use of the 700 space parking structure. When the plan is complete it shall be submitted to the Zoning Administrator and the Department of Transportation for review and approval. When approved the plan shall be implemented. The plan may include but not be limited to the following strategies:
 - a. Reduction or elimination of parking fees for parking in the parking structure.
 - b. Provision of a (free) shuttle service between the parking structure and the main area of the campus.
 - c. Assignment of specific parking spaces in the parking structure to students, faculty, and employees.

d. Provide additional guards and security to make those that use the parking structure feel that they are safe in the parking structure, and traveling between the parking structure and the main campus.

12. If within 180 days of this hearing it is determined by the Zoning Administrator that the plan is not effective, this Conditional Use Permit shall be set for Public Hearing.