

ATTACHMENT C
APPEAL APPLICATION OF BOARD OF ZONING APPEALS DECISION
DATED FEBRUARY 23, 2017



PASADENA PERMIT CENTER
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REQUEST FOR APPEAL

APPLICATION INFORMATION

Project Address: 490 E. Union St., Pasadena, CA 91101
Case Type (MCUP, TTM, etc.) and Number: Mod - EUP #3537
Hearing Date: Feb. 15, 2017 Appeal Deadline: Feb. 20, 2017

APPELLANT INFORMATION

APPELLANT: The Maryland HOA Telephone: REDACTED
Address: 80 N. Euclid Ave. Fax: []
City: Pasadena State: CA Zip: 91101 Email: REDACTED
APPLICANT (IF DIFFERENT): Robert Ottman

I hereby appeal the decision of the:

- Hearing Officer
- Design Commission
- Historic Preservation
- Zoning Administrator
- Director of Planning and Development
- Film Liaison

Board of Zoning Appeals

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):

The Board of Zoning Appeals incorrectly found that the project (a permit modification increasing the number of party rental events at the project site) is exempt from CEQA under 14CCR 15301 as involving "no or negligible expansion of use" despite the fact that the number of permitted events will increase approx. 600% & the number of attendees by approx. 1,800%. The number of actual events (exceeding the current permit) will increase by approx 225% to 300%.

Steph Fankle, President The Maryland HOA Feb. 23, 2017
Signature of Appellant Date

* OFFICE USE ONLY		
PLN # _____	CASE # _____	PRJ # _____
DESCRIPTION _____		
DATE APPEAL RECEIVED: _____	APPEAL FEES: \$ _____	RECEIVED BY _____



PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION

February 21, 2017

Bob Oltman Trustee
490 East Union Street
Pasadena, CA 91101

Re: **Modification to Expressive Use Permit #3537**
490 East Union Street
Council District # 3

PLN2015-00373

Dear Mr. Oltman:

Your application for a **Modification to Expressive Use Permit at 490 East Union Street** was considered by the **Board of Zoning Appeals** on **February 15, 2017**.

MODIFICATION TO EXPRESSIVE USE PERMIT #3537: To allow modifications to existing conditions of approval to allow 55 events per calendar year to occur in the Event Terrace and Event Hall located on the third floor of the existing structure. Of the proposed 55 events, 29 events would be large events with a maximum of 140 attendees at any one time and 26 events would be small events with a maximum of 75 attendees.

MINOR CONDITIONAL USE PERMIT: To allow the off-site sharing of parking spaces located at 505 East Colorado Blvd.

At the conclusion of the public hearing, the Board of Zoning Appeals decided to adopt the environmental determination that the proposed project is exempt from environmental review. A motion was made to uphold the Hearing Officer's decision and approve the **Modification to Expressive Use Permit #3537**, subject to the conditions in Attachment B that resulted in a 4-1 vote by the five members present. As a result, action was taken to approve the Modification to Expressive Use Permit #3537 along with the findings in Attachment A and the conditions in Attachment B and in accordance with submitted plans stamped **February 15, 2017**.

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 Hearing Officer 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 the decision made by the Board of Zoning Appeals is final and is not subject to further appeal. If you have reason to believe the Environmental Determination is incorrect, this determination is appealable to the City Council. If the Environmental Determination is appealed, the Council will hold a new hearing on the entire application. In addition, a member of the City Council may stay the decision and request that it be called for review to the City Council. An appeal or a request for a call for review of this decision shall be within ten days, the last day to file an appeal or a request for a call for review is **Monday, February 27, 2017**. Appeal applications must cite a reason for objecting to a decision and should be filed with the City Clerk. Without any call-up or appeal, the effective date will be **Tuesday, February 28, 2017**. 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 call up deadline has expired with the understanding that should this decision be called up 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) shall be incorporated into the plans submitted for building permits.

This project has been determined to be exempt from environmental review pursuant to the guidelines of the California Environmental Quality Act (Public Resources Code §21080(b)(9); Administrative Code, Title 14, Chapter 3, Class 1 §15301, Existing Facilities). Section 15301 applies to the operation and permitting of uses in existing structures where there is negligible or no expansion of the use. The Pasadena Museum of California Art (PMCA) has existed on the subject site since 2002, the events proposed would be ancillary to the museum use and constitute a negligible expansion of the museum use.

For further information regarding this case please contact **Beilin Yu** at **(626) 744-6726**.

Sincerely,



Kelvin Parker
Zoning Administrator

Enclosures: Attachment A, Attachment B, Attachment C (site map)

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

**ATTACHMENT A
SPECIFIC FINDINGS FOR
MODIFICATION FOR EXPRESSIVE USE PERMIT #3537**

Modification of Expressive Use Permit #3537– To allow events at the existing art gallery/museum facility

1. *The proposed use is allowed with an Expressive Use Permit within the subject zoning district and complies with the applicable development and design requirements of the subject zoning district and with all applicable provisions of this Zoning Code. The existing private art gallery/museum was established in 1999 with the approval of an Expressive Use Permit. The proposed events would be ancillary to the main art gallery/museum use. The proposed events are common ancillary activities in a typical art gallery/museum use. The improvements on the third level of the existing facility will be within the footprint of the existing facility and thereby within the design requirement of the Central District Specific Plan.*
2. *The proposed use will provide and maintain wastewater to establish and maintain an unrestricted flow in sanitary sewers during average and peak conditions as established by the city's approved sewer master plan, as amended from time to time. The subject site is in a developed urban area where wastewater service is readily available. The main use of the facility will remain unchanged, as an art gallery/museum. The proposed modification would allow ancillary events to occur at the existing facility. Because of this, significant changes to wastewater flows are not envisioned as there is no substantial change of use. Furthermore, any possible changes to wastewater flows will be reviewed by the Public Works Department during the plan check process. As such, the impacts on the sanitary sewer system are not expected to be significant.*
3. *The proposed use will provide and maintain solid waste services to establish and maintain a level of service consistent with the city's approved source reduction and recycling element. The existing solid waste service for the art gallery/museum use will be maintained. Additionally, a condition of approval will be added to this project to ensure that all solid waste complies with the Waste Management Plan requirements of the Central District. The Waste Management Plan will be reviewed by the Zoning Administrator and Public Works Director and will include trash specifications and recycling specifications.*
4. *The proposed use will provide and maintain fire prevention and suppression services as established by the Uniform Fire Code to establish and maintain minimum response time for fire and emergency medical calls as established by the City's approved general plan. The improvements to the third level of the existing structure will be required to comply with the current Fire Department and Building and Safety Division requirements. These items will be reviewed during the plan check process and verified at the time of inspection for occupancy.*
5. *The proposed use will provide and maintain police services and crime prevention services to establish and maintain minimum response time for police calls for service as established by the city's approved general plan. The proposed use can be serviced by the Police Department and is not anticipated to increase the levels of service. The Police Department reviewed the proposed project and did not express concerns regarding the proposed events.*

Minor Conditional Use Permit – To allow the off-site sharing of parking spaces

6. *The proposed use is allowed with a Minor Conditional Use Permit within the applicable zoning district and complies with all applicable provisions of this Zoning Code.* The Zoning Code allows shared parking agreements with a parking study in the Central District Specific Plan, subject to the approval of a Minor Conditional Use Permit. A Parking Study was prepared which concluded the shared parking arrangement will meet the peak parking demands for the project.
7. *The location of the proposed use complies with the special purposes of this Zoning Code and purposes of the applicable zoning district.* The parking lot located at 505 East Colorado Boulevard is located adjacent to the east of the subject site, which is within the maximum 1,000 feet distance allowed within the Central District Specific Plan. Additionally, this parking lot is utilized by an office use whose hours of operation ceases by 6:00 p.m., as such the shared parking can occur without conflict and this meets the parking standards of the Zoning Code.
8. *The proposed use is in conformance with the goals, policies, and objectives of the General Plan and the purpose and intent of any applicable specific plan.* General Plan Land Use Element Policy 19.3 (Parking Management) encourages management of parking to reduce the amount of land devoted to frequently vacant parking lots through parking management tools. The sharing of available parking spaces at 505 East Colorado Boulevard is a good use of existing resources, and reduces the amount of land that would be devoted to parking lots. Lowering the number of off-street parking spaces is one way to promote non-vehicular modes of transportation, which is consistent with the purpose of the Central District Specific Plan to emphasize mixed-use environment to support transit- and pedestrian-oriented mobility strategies.
9. *The establishment, maintenance, or operation of the use would not, 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.* The parking study determined that the projected peak demand for the event parking will be met by the existing parking supply at the subject site and at 505 East Colorado Boulevard. Additionally, conditions of approval have been incorporated that prohibits more than one event to occur at the same time on the same day; or to occur while the art gallery/museum is in operation, which reduced the parking demand for the use. Lastly, conditions of approval have been incorporated to limit the number of attendees to ensure that the parking demand studied in the submitted parking study is current. Any further increase in parking requirements will require review through a modification to or an approval of a new Minor Conditional Use Permit.
10. *The use, as described and conditionally approved, would not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.* The parking study determined that the projected peak demand for the event parking will be met by the existing parking supply at the subject site and at 505 East Colorado Boulevard. Any further increase in parking requirements will require review through a modification to or an approval of a new Minor Conditional Use Permit.
11. *The design, location, operating characteristics, and size of the proposed use would be compatible with the existing and future land uses in the vicinity in terms of aesthetic values, character, scale, and view protection.* The parking study determined that the projected peak

demand for the event parking will be met by the existing parking supply at the subject site and at 505 East Colorado Boulevard. Furthermore, shared parking has successfully existed for other similar mixes of uses. The subject property and the parking locations are located within the Central District Transit Oriented Development Area, which encourages pedestrian activities. By sharing the available parking spaces, which are located adjacent to the site, the shared parking will encourage pedestrian activity in the area.

12. *The spaces to be provided will be available as long as the uses requiring the spaces lawfully exist.* The parking study documented that the parking spaces at 505 East Colorado Boulevard will be available for the events at the subject site and for their respective uses. Any further reduction will require modification to or an approval of a new Minor Conditional Use Permit.
13. *The quality and efficiency of the parking or loading utilization will exceed the level that is otherwise required.* According to the submitted parking study, the existing parking supply and availability on the adjacent lots is sufficient to accommodate the proposed parking demand for the events. Conditions of approval are incorporated to require invitations to the events to include information about the location of parking.

**ATTACHMENT B
CONDITIONS OF APPROVAL FOR
MODIFICATION OF EXPRESSIVE USE PERMIT #3537**

All conditions of approval for Expressive Use Permit #3537 shall remain in full force and effect unless modified herein.

The applicant or successor in interest shall meet the following conditions:

1. The proposed project shall substantially conform to the site plan submitted with this application and dated "Received at Hearing February 15, 2017", except as modified herein.
2. The approval of this application authorizes no more than 55 events to occur per calendar year at the existing art gallery/museum facility. Specifically, there shall be no more than 29 large events with a maximum of 140 attendees, of which five events would be associated with the art gallery and a 24 would be rental events; and 26 small events with a maximum of 75 attendees.
3. The Zoning Administrator, at any time, can call for a review of the approved conditions at a duly noticed public hearing. These conditions may be modified or new conditions added to reduce any impacts of the use. The Hearing Officer may revoke the Expressive Use Permit if sufficient cause is given.
4. The approval of this application authorized the off-site sharing of parking spaces located at 505 East Colorado Boulevard.
5. Any change to these conditions of approval or expansion of the use shall require the modification of this Expressive Use Permit or a new Expressive Use Permit, and/or a modification of this Minor Conditional Use Permit or a new minor Conditional Use Permit with the submittal of a new parking study.
6. The applicant or successor in interest shall meet the applicable code requirements of all other City Departments.
7. The proposed project, Activity Number **PLN2015-00373** is subject to Condition Mitigation Monitoring.

Planning Division

8. All proposed events shall occur between 6:00 p.m. and 10:00 p.m. Sunday through Thursday, and 6:00 p.m. and 11:00 p.m. Friday and Saturday.
9. No two events shall occur at the same time on the same day.
10. There shall be no more than two large rental events between any Thursday and Sunday of the same week.
11. The events shall not occur at the same time when the art gallery/museum is open to the public.

12. There shall be an art gallery/museum employee on-site during the entire length of all rental large events. The contact information (including a phone number) of the on-site employee shall be made available for the surrounding residences/businesses.
13. No dancing shall be allowed in the Event Terrace.
14. Any amplified music shall be limited to the interior of the Event Hall. Windows and doors for the Event Hall shall be closed after 10:00 p.m. No amplified music shall be permitted in the Event Terrace, only acoustic music is permitted. Amplified sound in the Event Terrace shall be limited to speeches. There shall be no acoustic music or amplified sound at the outdoor Event Terrace after 10:00 p.m.
15. The applicant or its successor shall maintain the lease agreement with 505 East Colorado Boulevard for the use of their parking spaces. In the event the location of the off-site parking is modified, the Zoning Administrator shall be notified, and if necessary, a modification to this Expressive Use Permit and Minor Conditional Use Permit shall be required. Copies of the lease shall be provided to the Zoning Administrator upon request.
16. All events approved under this Conditional Use Permit shall comply with the standards of the City's Noise Ordinance (P.M.C. Chapter 9.36).
17. All large and rental event invitations shall include instruction and directions to the parking locations. The instruction shall clearly state that no parking in the surrounding streets is permitted at any time. The applicant shall keep a copy of the parking instruction and directions for all large and rental events, which shall be available to the Zoning Administrator upon request.
18. All vendor loading and unloading for events shall occur on-site.
19. Truck loading, unloading, and trash pick-up is only allowed between the hours of 7:00 a.m. and 9:00 p.m., Monday through Friday, and between 9:00 a.m. and 5:00 p.m. on Saturdays. No truck loading, unloading, or trash pick-up shall be allowed on Sundays.
20. The premises and surrounding sidewalk and street shall be kept free of litter and debris at all times.
21. A Waste Management Plan shall be submitted for the review and approval by the Zoning Administrator and Public Works Director and shall include trash specifications and recycling specifications. The Waste Management Plan shall indicate how all solid waste complies with the Waste Management Plan requirements of the Central District.

Building and Safety Division

22. Governing Codes: Current Edition of the California Building, Mechanical, Electrical, Plumbing, Energy, and Green Building Standards Codes. The governing edition is based on the date in which the project is submitted to the City for review.
23. Building Code Analysis: Document on the plans the Allowable Height & Area, Occupancy Group(s), Type of Construction, and Height & Area Increases.

24. Means of Egress (Exiting): Provide Occupant Load Calculations for all areas, and provide an "Exit Plan". Identify exit separation and travel distance.
25. California Disabled Access Requirements: Project shall be accessible to the disabled in accordance with Chapter 11B of the CBC.
26. Permit(s): Separate permits are required for demolition, new building structure, fire sprinkler (if required), mechanical, electrical, and plumbing.
27. Change of occupancy shall comply with the requirements of the California Building & Fire Code.
28. Clarify compliance with the following for the purpose of fire, life and safety: CBC 2013; Sections 1004.1.2, 1008, 1009, 1009.3.1.2, 1014, 1016, 1021, 1028.6, 3002.4, and T-508.4 for separation.

Fire Department

29. The occupancy of 3rd floor approved for R3, any changes to occupancy shall comply with the requirements of California Fire Code, Building code, mechanical and electrical code, 2013 edition.
30. Exit and exit access shall comply with CBC Section 1014.
31. Stair shaft shall comply in accordance with CBC Section 1009.
32. Fire resistance rating of stairs shall comply with CBC Section 1009.3.1.2.
33. Exit door and panic hardware shall be accordance with CBC Section 1008.
34. Occupancy separation between A2 and R3 shall comply with requirements of CBC Table 508.4.
35. Exit access travel distance shall comply with requirements of CBC Section 1016.
36. Number of exit shall comply with requirements of CBC Section 1021.
37. Means of egress illumination and emergency light shall comply with requirements of CBC Section 1006.
38. Elevator shall comply with the requirements of CBC Section 3002.4a for Gurney size.
39. Building shall comply with the requirements of CFC Section 510 for Emergency Responder Radio Coverage.
40. Occupant load shall comply with the requirements of CBC Table 1004 .1.2.
41. Width of means of egress for assembly occupancy shall comply with the requirements of CBC Section 1028.6.
42. Fire sprinkler and fire alarm system shall be updated for A2 occupancy.

Public Works Department

43. Prior to the start of construction or the issuance of any permits, the applicant shall submit a Construction Staging and Traffic Management Plan to the Department of Public Works for review and approval. The template for the Construction Staging and Traffic Management Plan can be obtained from the Department of Public Works webpage at: [http://cityofpasadena.net/PublicWorks/Engineering Division/](http://cityofpasadena.net/PublicWorks/Engineering%20Division/)
44. A deposit, based on the General Fee Schedule, is required for plan review and on-going monitoring during construction. This plan shall show the impact of the various construction stages on the public right-of-way including all street occupations, lane closures, detours, staging areas, and routes of construction vehicles entering and exiting the construction site. An occupancy permit shall be obtained from the department for the occupation of any traffic lane, parking lane, parkway, or any other public right-of-way. All lane closures shall be done in accordance with the Manual of Uniform Traffic Control Devices (MUTCD) and California Supplement. If the public right-of-way occupation requires a diagram that is not a part of the MUTCD or California Supplement, a separate traffic control plan must be submitted as part of the Construction Staging and Traffic Management Plan to the department for review and approval. No construction staging, material storage, or trailer in the public right-of-way.
45. Past experience has indicated that projects such as this tend to damage the abutting street improvements with the heavy equipment and truck traffic that is necessary during construction. Additionally, the City has had difficulty in requiring developers to maintain a clean and safe site during the construction phase of development. Accordingly, the applicant shall place a \$1,000 deposit with the Department of Public Works prior to the issuance of any permit. This deposit is subject to refund or additional billing, and is a guarantee that the applicant will keep the site clean and safe, and will make permanent repairs to the abutting street improvements that are damaged, including striping, slurry seal/resurfacing, street trees, curb, gutter, and sidewalk, either directly or indirectly, by the construction on this site. This deposit may also be used for charges due to damage to existing street trees and for City personnel to review traffic control plans and maintain traffic control. A processing fee will be charged against the deposit
46. All costs associated with these conditions shall be the applicant's responsibility. Unless otherwise noted in this memo, all costs are based on the General Fee Schedule that is in effect at the time these conditions are met. A processing fee will be charged against all deposits.

In addition to the above condition, the requirements of the following ordinances may apply to the proposed project:

- a. Sidewalk Ordinance - Chapter 12.04 of the Pasadena Municipal Code (PMC)

In accordance with Section 12.04.035, entitled "Abandoned Driveways" of the PMC, the applicant shall close any unused drive approach with standard concrete curb, gutter and sidewalk. In addition, the applicant shall repair any existing or newly damaged sidewalk along the subject frontage prior to the issuance of a Certificate of Occupancy or any building permit for work in excess of \$20,000 pertaining to occupancy or construction on

the property in accordance with Section 12.04.031, entitled "Inspection required for Permit Clearance" of the PMC.

b. City Trees and Tree Protection Ordinance - Chapter 8.52 of the PMC

The ordinance provides for the protection of specific types of trees on private property as well as all trees on public property. No street trees in the public right-of-way shall be removed without the approval of the Urban Forestry Advisory Committee.

ATTACHMENT C
SITE PLAN

