

**ATTACHMENT D
APPEAL APPLICATION
MARCH 23, 2021**



REQUEST FOR APPEAL

APPLICATION INFORMATION

Project Address: 141 South Lave Avenue Pasadena, California 91101
Case Type (MCUP, TTM, etc.) and Number: Zoning Admini atrator Determination/Interpretation
Hearing Date: Not Applicable Appeal Deadline: Immediate Process

APPELLANT INFORMATION

APPELLANT: DC Lake Holdings, LLC Telephone: [626] 360-0688
Address: 150 East Colorado Boulevard, Suite 302A Fax: [] _____
City: Pasadena State: California Zip: 91105 Email: jl.pillc@gmail.com

APPLICANT (IF DIFFERENT): _____

I hereby appeal the decision of the:

- Hearing Officer
- Zoning Administrator
- 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 attached response Request for Appeal.



Signature of Appellant

March 23, 2021

Date

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

REQUEST FOR APPEAL

On September 26, 2019, Appellant received the attached letter from the Zoning Administrator (“ZA”) rejecting Appellant’s AHCP based upon her interpretation under Section 17.30.030 of the City’s Zoning Code, and State Government Code section 65915 (the State Density Bonus Law).

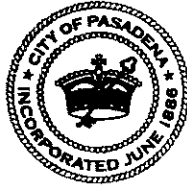
On September 30, 2019, Appellant filed a Request for Appeal, which the ZA rejected per the attached email.

On October 23, 2019, Appellant filed a Petition for Writ of Mandate with various other civil claims to contest the ZA’s determination and City’s ACHP processes.

On March 19, 2021, the Court granted the Writ and ordered the appeal processed.

Appellant believes the ZA determination of September 26, 2019, and the City’s ACHP processes are in error and violate the State Density Bonus Law (Government Code Section 65915, et. seq.).

Accordingly, Appellant hereby files this Request for Appeal so that these issues can be heard by the City’s Board of Zoning Appeals promptly



PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION

September 26, 2019

Odyssey Development Services
Attn: Burke Farrar
141 South Lake Avenue, Ste. 105
Pasadena, CA 91101

**RE: Affordable Housing Concession Permit #11907 (PLN2019-00310)
141 S. Lake Avenue**

Dear Mr. Farrar,

According to the Affordable Housing Concession Permit application you submitted in June 2019 for the proposed project at 141 South Lake Avenue, you are requesting a concession from the requirements of **Section 17.30.030.C.2.b** of the Zoning Code, which read as follows:

***Lake Avenue.** Ground-floor housing is prohibited, and housing shall not occupy more than 50 percent of total building floor area along Lake Avenue from Green Street south to California Boulevard, to maintain the commercial retail and service character of the South Lake Shopping Area. Housing is allowed on upper floors and adjacent parcels to stimulate and activate the area.*

Please note that Section 17.30.030 (CD District Land Uses and Permit Requirements) specifically governs land uses within the Central District; whereas, Section 17.30.040 (CD General Development Standards), specifically governs development standards applicable to projects within the Central District. Accordingly, the regulations in Section 17.30.030.C.2.b, for which you are requesting a concession, are classified as use regulations and not development/building standards.

Section 65915 of California Government Code Section Chapter 4.3 (Density Bonus and Other Incentives) defines "concessions or incentives" as reductions in development standards or modifications of zoning code requirements related to building standards. The provisions in Section 17.30.030 of the Zoning Code are neither development standards nor are they zoning code requirements related to building standards. Therefore, state law does not require that the City grant a use concession or incentive, and further the Pasadena Zoning Code prohibits you from requesting a concession from the use regulations in Section 17.30.030.C.2.b. Nor may you seek a Variance from this regulation, as Section 17.60.080.A.2.a of the Zoning Code provides that "the power to grant Variances does not extend to allowable land uses and the notes on the land-use tables. In no case shall a Variance be granted to allow a use of land or structure not otherwise allowed in the zoning district in which the subject property is located."

This letter serves to notify you that your proposed project does not comply with the Code requirements of Section 17.30.030.C.2.b of the Zoning Code. Therefore, you may either revise the proposed project to comply with the use regulations in Section 17.30.030.C.2.b of the Zoning Code or you may withdraw your application and seek a refund of fees.

You may contact me directly with any questions regarding this matter.

Respectfully,

A handwritten signature in black ink, appearing to read 'Talyn Mirzakhani', written in a cursive style.

Talyn Mirzakhani
Zoning Administrator

Burke Farrar

From: Mirzakhania, Talyn <TMirzakhania@cityofpasadena.net>
Sent: Monday, September 30, 2019 6:30 PM
To: Richard McDonald
Cc: Burke Farrar; Reyes, David; Fuentes, Theresa; Paige, Jennifer; Driver, Jennifer
Subject: RE: AHCP_11907

Richard,

On August 29, 2019, we met with the applicant team and explained verbally that what you were requesting was a concession/variance from a use requirement in the Zoning Code and that this was not something you could pursue. At that meeting, you asked us to state that in writing for you, which is why we prepared the letter that was sent to you last Thursday.

The appeal application that was submitted to the counter planner today will not be processed, and you will be refunded the fees accordingly.

Talyn Mirzakhania

Zoning Administrator | City of Pasadena
(626) 744-7101
175 N Garfield Ave.
Pasadena, CA 91101
TMirzakhania@cityofpasadena.net

From: Richard McDonald <rmcdonald@carlsonnicholas.com>
Sent: Thursday, September 26, 2019 6:05 PM
To: Mirzakhania, Talyn <TMirzakhania@cityofpasadena.net>
Cc: Burke Farrar <BFarrar@odysseypasadena.com>; Reyes, David <davidreyes@cityofpasadena.net>; Fuentes, Theresa <tfuentes@cityofpasadena.net>; Paige, Jennifer <jpaige@cityofpasadena.net>; Driver, Jennifer <jdriver@cityofpasadena.net>
Subject: Re: AHCP_11907

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Talyn - If it is not such an official determination capable of being appealed, then what is it? Friendly advice? Last, how will this letter or point of view impact whether the application seeking said concession is deemed complete?

Richard A. McDonald, Esq.
Of Counsel, Carlson & Nicholas, LLP
301 E. Colorado Blvd., Suite 320
Pasadena, CA 91101

Telephone: (626) 356-4801
Cell: (626) 487-6713
E-mail: RMcDonald@carlsonnicholas.com

Website: www.carlsonnicholas.com

Sent from my iPhone

On Sep 26, 2019, at 5:44 PM, Mirzakhonian, Talyn <TMirzakhonian@cityofpasadena.net> wrote:

Burke,

Please see the attached letter regarding AHCP 11907. The letter serves to notify you that the project does not comply with a specific Code requirement. Please note that this is not a determination or interpretation subject to appeal under Section 17.72.040 of the Zoning Code.

Feel free to contact me with any questions.

Talyn Mirzakhonian

Zoning Administrator | City of Pasadena

(626) 744-7101

175 N Garfield Ave.

Pasadena, CA 91101

TMirzakhonian@cityofpasadena.net

<AHCP_11907_09-26-2019_Letter to Applicant.pdf>