

CAC RESOLUTION NO.

A RESOLUTION OF THE CULTURAL ARTS COMMISSION OF THE CITY OF POMONA, CALIFORNIA APPROVING PUBLIC ARTS PERMIT (PUBARTS - 5907-2016) TO ALLOW INSTALLATION OF “GODDESS OF POMONA” STATUE ON A PROPERTY LOCATED AT 1833 NORTH GAREY AVENUE, ASSESSOR’S PARCEL NUMBER 8359-007-033.

WHEREAS, the applicant, Mel-Pomona, LLC, has submitted an application for Public Arts Permit (PUBArts-5907-2016) to allow installation of “Goddess of Pomona” Statue on a property located at 1833 North Garey Avenue, Assessor’s Parcel Number 8359-007-033;

WHEREAS, the applicant has concurrently submitted an applications for Development Plan Review (DPR-1207-2015) and Tentative Tract Map No. 74171 (TractMap -4490-2016) which were approved through Director’s Review and Planning Commission, Assessor’s Parcel Number 8359-007-033;

WHEREAS, the subject property has a General Plan, Place Type designation of Transit Oriented, Neighborhood as well as a Transect Zone designation of Workplace Gateway Segment of the Pomona Corridor Specific Plan;

WHEREAS, the Cultural Arts Commission of the City of Pomona has, after giving notice thereof as required by law, held a public hearing on May 29, 2018 (continued from May 21, 2018), concerning the requested Public Arts Permit (PUBArts-5907-2016); and

WHEREAS, the Cultural Art Commission has carefully considered all pertinent testimony and the staff report offered in the case as presented at the public hearing.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Cultural Arts Commission of the City of Pomona, California:

SECTION 1. Pursuant to the State Guidelines to Implement the California Environmental Quality Act (CEQA), this action as defined is Categorically Exempt, under Section 15183 (f), exemption for the sculpture, is exempt from further environmental review.

SECTION 2. If any part, provision, or section of this resolution is determined by a court or other legal authority with jurisdiction over the subject matter of this resolution to be unenforceable or invalid, the remainder of the entirety of this resolution shall not be affected and shall continue in full force and effect. To this end, the provisions of this resolution are severable.

SECTION 3. In accordance with Section .5809-25I.3. of the Zoning Ordinance, the Cultural Arts Commission must make four findings in order to approve the Public Arts Permit (PUBArts-5907-2016). Based on consideration of the whole record before it, including but not limited to, the staff report, public testimony received at the public hearing on this matter, and evidence made part of the public record, the Cultural Arts Commission hereby finds as follows:

- A. The mural meets all of the Development Standards listed in sub - section E and is consistent with all of the Guidelines listed in Sub - section G, *in that the sculpture is made out of metal with a metal coating that will last 10 to 15 years and includes a graffiti prevention coating; the proposed sculpture is designed to be of highest aesthetic quality, originality and artistic excellence as depicted in the abstract of the Goddess of Pomona. In addition, the sculpture is located in the courtyard visible to pedestrians, but not placed to be an unsafe feature or create any unsafe conditions or distractions to motorists and pedestrians.*
- B. The artist, or artist team is capable of completing the work in accordance with the plans and specifications, *in that the artist has a substantial and proven history of work dating back to 1991 through 2015. Additional proven work and work examples were provided as part of the Public Arts Permit submission package.*
- C. The information contained in the application regarding the durability and maintenance requirements of the mural is accurate, *in that the staff review of the materials and durability has been reviewed to be true and correct as provided in application package, under divider 5 is Material Safety Data Sheet related to durability and maintenance of material used for this art piece.*
- D. The proposed materials to be used and the manner of application will not require excessive maintenance and repair costs by the owner, *in that the metal material are durable and long lasting which include appropriate coating material to combat potential graffiti to the art piece. The sculpture as designed is long lasting and best material that will not require excessive maintenance and repair costs to the owner.*

SECTION 4. Based upon the above findings, the Cultural Arts Commission hereby approves Public Arts Permit (PUBArt-5907-2016) subject to compliance with all applicable laws and ordinances of the City:

Planning

1. The subject property shall be developed and/or used in a manner consistent with the project plans reviewed and approved by the Cultural Arts Commission on May 29, 2018, and as illustrated in the stamped approved plans dated May 17, 2018. Any major modifications to the approved project plans shall be reviewed and approved by the Cultural Arts Commission as part of a modification to the approved plans. Any minor modifications that do not affect the overall intent of the approved project, may be reviewed and approved by the Development Services Director or designee.
2. This approval shall lapse and become void if the privilege authorized is not utilized within

one year from the date of this approval (May 29, 2019), in accordance with Pomona Zoning Ordinance section .5809-25 J. The Cultural Arts Commission may extend this period for one year upon receipt of an application for a Time Extension request submitted by the applicant at least thirty days before the expiration date of this approval.

3. The project is subject to a twenty day appeal period. Written appeals may be filed with the Planning Division within twenty days by one or more City Council members, the applicant, or any person owning property within four hundred feet of the exterior boundary of the applicant's property. The appeal shall be filed with the City Clerk within twenty days from the date of action by the Planning Commission.
4. The applicant shall indemnify, protect, defend, and hold harmless, the City, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, from any and all claims, demands, law suits, writs of mandamus, and other actions and proceedings (whether legal, equitable, declaratory, administrative or adjudicatory in nature), and alternative dispute resolutions procedures (including, but not limited to arbitrations, mediations, and other such procedures), (collectively "Actions"), brought against the City, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, that challenge, attack, or seek to modify, set aside, void, or annul, the any action of, or any permit or approval issued by, the City and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof (including actions approved by the voters of the City), for or concerning the project, whether such Actions are brought under the California Environmental Quality Act, the Planning and Zoning Law, the Subdivisions Map Act, Code of Civil Procedure Section 1085 or 1094.5, or any other state, federal, or local statute, law, ordinance, rule, regulation, or any decision of a court of competent jurisdiction. It is expressly agreed that the City shall have the right to approve, which approval will not be unreasonably withheld, the legal counsel providing the City's defense, and that applicant shall reimburse City for any costs and expenses directly and necessarily incurred by the City in the course of the defense. City shall promptly notify the applicant of any Action brought and City shall cooperate with applicant in the defense of the Action.
5. In case of a violation of any of the conditions of approval and/or City law, the property owner and tenant will be issued a Notice of Correction. If said violation is not remedied within a reasonable period of time and/or a subsequent violations of the conditions of approval and/or City law occurs within ninety (90) days of any Notice of Correction, the property owner shall be held responsible to reimburse the City for all staff time directly attributable to enforcement of the conditions of approval and/or City law.
6. Any future substantial changes in the approved plans, except as allowed for by the following conditions, shall require a modification to the Public Arts Permit.

PC Resolution No.
Public Arts Permit (PUBArts-5907-2016)
1833 N. Garey Avenue
Page 4 of 5

7. The applicant shall comply with all conditions of approval approved in Development Plan Review No. 14-003 (DPR-1207-2015) and Tentative Tract Map No. 74171 (TRACTMAP 4490-2016), pertaining to allowing approximately 47,610-square foot, three-story mixed use building containing 35 residential units, approximately 6,640-square foot commercial retail space, 88-space at-grade and subterranean parking garage, and various onsite landscape and hardscape improvements on a vacant 0.66 acre lot on property.

Building and Safety

8. Proposed project shall comply with the 2016 California Green Building Standards Code and all other relevant laws, ordinances and resolutions governing sustainable design as adopted by the City of Pomona.

SECTION 5. The Secretary shall certify to the adoption of this Resolution and forward the original to the City Clerk.

APPROVED AND ADOPTED THIS 29TH DAY OF MAY, 2018.

SALLY EGAN
CULTURAL ARTS COMMISSION CHAIRPERSON

ATTEST:

EMILY STADNICKI
CULTURAL ARTS COMMISSION SECRETARY

APPROVED AS TO FORM:

ANDREW JARED
ASSISTANT CITY ATTORNEY

PC Resolution No.
Public Arts Permit (PUBArts-5907-2016)
1833 N. Garey Avenue
Page 5 of 5

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.
CITY OF POMONA)

AYES:
NOES:
ABSTAIN:
ABSENT:

Pursuant to Resolution No. 76-258 of the City of Pomona, the time in which judicial review of this action must be sought is governed by California Code of Civil Procedure Section 1094.6.