

(R-98-165)

RESOLUTION NUMBER R-288834

ADOPTED ON JUNE 10, 1997

WHEREAS, Norman and Susan Finkelstein, Individuals, Owner/Permittee, submitted an application to Development Services for a Conditional Use Permit for the Finkelstein Law Office to rehabilitate and convert an existing two story, 2,532-square foot historic residential structure to law offices with no on-site parking on a 5,000-square foot lot located at 2243 Front Street, also described as Lot C, Block 255, Horton's Addition, in the MR-1000 zone of the Mid-City Communities Planned District, Airport Approach Overlay Zone, in the Uptown Community Plan area; and

WHEREAS, on March 27, 1997, the Planning Commission of The City of San Diego considered Conditional Use Permit No. 96-0689 pursuant to San Diego Municipal Code section 101.0510 and recommended that the City Council adopt the written findings and approve the permit; and

WHEREAS, the matter was set for public hearing on June 10, 1997, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, that this Council adopts the following findings with respect to Conditional Use Permit No. 96-0689:

**A. THE PROPOSED USE WILL NOT ADVERSELY AFFECT THE NEIGHBORHOOD, THE GENERAL PLAN, OR THE UPTOWN COMMUNITY PLAN, AND, IF CONDUCTED IN CONFORMITY WITH THE CONDITIONS PROVIDED BY**

**THE PERMIT, WILL NOT BE DETRIMENTAL TO THE HEALTH, SAFETY AND GENERAL WELFARE OF PERSONS RESIDING OR WORKING IN THE AREA.**

The project is the conversion of an existing residential historic site to law offices. The proposed use is similar in character to existing uses in the vicinity. Adjacent to the north is an existing law office within a building designated as a historic site. One block north of the site are other law offices. Retail businesses are located adjacent to the east in the CV-4 Zone. The Uptown Community Plan (the "Plan") identifies the encouragement of mixed land use in appropriate areas to improve land utilization and encourage redevelopment as a significant issue in this area. The Plan also calls for the utilization of the historic site designation and Conditional Use Permit as the preferred procedure to allow office use in isolated structures. Conditions imposed within the permit including the limitation on the number of employees and hours of operation will ensure that the proposed use will not adversely affect the neighborhood. The project conforms to the purpose and intent of the Plan and the Mid-City Communities Planned District by preserving an historic structure in its original location and in its historic context. The proposed rehabilitation will restore and preserve the exceptional architecture of the historic building which fits in well with and enhances the mixed architectural character of the surrounding neighborhood. The historic building has contributed to and enhanced the character of the neighborhood since 1901.


**B. THE PROPOSED USE WILL COMPLY WITH ALL THE RELEVANT REGULATIONS IN THE SAN DIEGO MUNICIPAL CODE.**

The project complies with all Municipal Code regulations in that a Conditional Use Permit allows deviations from the strict application of development regulations to tailor the development to the specific circumstances of the site. The preservation of the historic resource provides a benefit for the community at large. The project will provide no on site parking spaces where seven (7) parking spaces are required. No legal on site parking can be accommodated on the site without significantly modifying the structure to provide access to the rear yard. The Plan encourages the re-use of historic buildings through the recommendation of incentives to applicants. The requested Conditional Use Permit and deviation to the required parking are considered appropriate mechanisms to allow the structure to be converted with a use that otherwise would not be permitted by the underlying zone. Further, the immediate area provides ample on-street, un-metered parking spaces. Twenty-nine (29) parking spaces exist on this block of Front Street alone. All but two (2) of the residential developments on this block provide some on-site parking for tenants.

The above findings are supported by the minutes, maps and exhibits, all of which are herein incorporated by reference.

BE IT FURTHER RESOLVED, that the recommendation of the Planning Commission is sustained, and Conditional Use Permit No. 96-0689 is hereby granted to Norman and Susan Finkelstein, under the terms and conditions set forth in the permit attached hereto and made a part hereof.

APPROVED: CASEY GWINN, City Attorney

By   
Richard A. Duvernay  
Deputy City Attorney

RAD:lc  
08/04/97  
Or.Dept:Clerk  
R-98-165  
Form=permitr.frm  
Reviewed by Sandra Teasley

**RECORDING REQUESTED BY  
CITY OF SAN DIEGO  
DEVELOPMENT SERVICES**

**AND WHEN RECORDED MAIL TO  
PERMIT INTAKE  
MAIL STATION 501**

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**CONDITIONAL USE PERMIT NO. 96-0689  
FINKELSTEIN LAW OFFICE  
CITY COUNCIL**

This Conditional Use Permit is granted by the Council of The City of San Diego to NORMAN AND SUSAN FINKELSTEIN, Individuals, Owner/Permittee, under the conditions contained in Section 101.0510 of the Municipal Code of the City of San Diego.

1. Permission is granted to Owner/Permittee to rehabilitate and convert an existing two-story, 2,532-square-foot residential historic structure to law offices which would retain the historic designation of the site and the building with no on-site parking on a 5,000-square-foot lot located at 2243 Front Street, described as Lot C, Block 255, Horton's Addition. The project is located in the MR-1000 Zone of the Mid-City Communities Planned District, Airport Approach Overlay Zone, in the Uptown Community Plan area.

2. The Conditional Use Permit shall include the following facilities:

- a. A 2,532-square-foot commercial law office in the historically designated structure; and
- b. Hours of operation shall be limited to 8:00 a.m. to 5:30 p.m. for a total of seven (7) attorneys and staff; and
- c. Incidental accessory uses as may be determined and approved by the City Manager.

3. Prior to the issuance of building permits, complete building/construction plans, shall be submitted to the City Manager for approval. All plans shall be in substantial conformity to Exhibit "A," dated June 10, 1997, on file in Development Services. Subsequent to the approval of this project, no changes shall be made to the project or plans unless a finding of substantial conformity or an amendment to this permit shall have been granted.

4. The construction and continued use of this permit shall be subject to the regulation of this and any other governmental agencies.

5. Prior to the issuance of any building permits, complete lighting information for all outdoor lighting fixtures shall be submitted to the City Manager for review and approval. Complete lighting information shall include construction details as necessary to direct installation of the outdoor lighting system, including: manufacturers name, fixture model name and number, all necessary shields, visors, prisms, lenses and reflectors. The outdoor lighting system for the entire property shall be designed, manufactured and installed to allow shading, adjusting, and shielding of the light source so that all outdoor lighting is directed to fall only on the same premises as light sources are located.

6. The effective date of this permit shall be the eleventh working day after the date of final action by the City Council. The permit must be utilized within 36 months after the effective date. Failure to utilize the permit within 36 months will automatically void the permit unless an Extension of Time has been granted by the City Council, as set forth in Section 111.1122 of the Municipal Code. Any such Extension of Time must meet all the Municipal Code requirements and applicable guidelines in effect at the time of approval of an Extension of Time.

7. This Conditional Use Permit shall expire if the historic site loses its historic site designation.

8. No development shall commence, nor shall any permit for construction be issued, until:

- a. The Permittee signs and returns the permit to Development Services;
- b. The Permit is recorded by Development Services in the Office of the County Recorder.

9. Within one year after receiving a Certificate of Occupancy, Development Services shall provide a report to the Planning Commission on any adverse parking impacts to the neighborhood created as a result of this project.

10. After establishment of the project, the property included within this Conditional Use Permit shall be used only for the purposes and under the terms and conditions set forth in this permit unless:

- a. The proposed use meets every requirement of the zone existing for the property at the time of change of use; and
- b. The permit has been canceled or revoked by The City of San Diego.

11. This Permit may be canceled or revoked if there is any material breach or default in any of the conditions of this Permit. Cancellation or revocation may be instituted by the City or Permittee.

12. This Permit is a covenant running with the subject property and shall be binding upon the Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this permit and all referenced documents.

13. Prior to the issuance of building permits, the Permittee shall:

- a. Ensure that building address numbers are visible and legible from the street (UFC 10.208).
- b. Show the location of all fire hydrants on the plot plan (UFC 10.301).

14. Prior to the issuance of any building permits, the Permittee shall assure, by permit and bond, the replacement of damaged curb and sidewalk with new curb, gutter and sidewalk adjacent to this site on Front Street, satisfactory to the City Engineer.

15. Prior to the issuance of any building permits, the Permittee shall obtain an encroachment removal agreement, from the City Engineer, for landscaping in the public right-of-way.

16. Prior to the issuance of any buildings permits, the applicant shall assure by permit and bond, the installation of correct markings and signs and the installation of pedestrian ramps, satisfactory to the City Engineer.

17. Prior to the issuance of any grading, or building permits, complete landscape construction documents, including plans, details and specifications (including a permanent automatic irrigation system unless otherwise approved), shall be submitted to the City Manager for approval. The construction documents shall be in substantial conformance with Exhibit "A," Landscape

Concept Plan, dated June 10, 1997, on file in the office of Development Services. Subsequent to the approval of this project, no changes shall be made to the project or plans unless a finding of substantial conformity or an amendment to this permit shall have been granted.

18. Prior to the issuance of any Certificate of Occupancy it shall be the responsibility of the Permittee to install all approved landscape and obtain all required landscape inspections and to obtain a NO FEE STREET TREE PERMIT for all street trees. All conditions of the no fee street tree permit shall be binding upon the Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this permit and all referenced documents. Copies of these approved documents must be submitted to the City Manager.

19. All approved landscape shall be maintained in a disease, weed and litter free condition at all times and shall not be modified or altered unless this Permit has been amended. Modifications such as severe pruning or "topping" of trees is not permitted unless specifically noted in this permit. The Permittee, or subsequent owner shall be responsible to maintain all street trees and related landscape improvements consistent with the standards of the Landscape Technical Manual.

20. If any existing or installed landscape (including hardscape, landscape features, etc.) indicated on the approved plans is damaged or removed during demolition, construction or at any time after issuance of any permit or Certificate of Occupancy, it shall be repaired and/or replaced in kind and equivalent size per the approved plans within 30 days of completion of construction by the Permittee. The replacement size of plant material after three years shall be the equivalent size of that plant at the time of removal (the largest size commercially available and/or an increased number) to the satisfaction of the City Manager.

#### ENVIRONMENTAL MITIGATION MEASURES

21. Prior to issuance of building permits, the Permittee shall submit complete construction plans to the City Manager. These plans shall show compliance with the Secretary of Interior's Standards for the Rehabilitation of Historical Buildings for the exterior of the building.

22. Prior to issuance of a Certificate of Occupancy, the City Manager shall confirm that the exterior building rehabilitation complies with the Secretary of Interior's Standards.

The above mitigation monitoring and reporting program will require additional fees and/or deposits to be collected prior to the issuance of building permits, certificates of occupancy

and/or final maps to ensure the successful completion of the monitoring program.

23. The exterior of the building shall be rehabilitated according to the "Secretary of Interior's Standards for the Rehabilitation of Historical Buildings," including the retention of all original doors, windows, exterior fixtures and architectural features where possible.

24. Prior to the issuance of any grading, building or other permits, the property owner shall grant to the airport owner an avigation easement, pursuant to the Lindbergh Field Comprehensive Land Use Plan dated April 1994. The easement shall evidence an acknowledgment by the property owner of the existence of the easement, a description of the easement's elevation or elevations above the property, and the name or names of the property owner(s) and such other information as the County Recorder may require. Any other easement information shall be supplied in a form provided by the airport owner or operator whose prescriptive rights to airport approach paths are affected. The easement shall be properly recorded in the Office of the County Recorder upon the title of the subject property. The easement shall document the existing prescriptive rights in the airspace uses as set forth in current Federal Air Regulations, Part 77. The easement must permit the unconditioned right of flight of aircraft in the federally controlled air space above the subject property.

25. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this discretionary Permit. It is the intent of the City that the holder of this permit be required to comply with each and every condition in order to be afforded special rights which the holder of this Permit is obtaining as a result of this Permit. It is the intent of the City that the owner of the property which is the subject of this Permit either utilize the property for any use allowed under the zoning and other restrictions which apply to the property or, in the alternative, that the owner of the property be allowed the special and extraordinary rights conveyed by this Permit, but only if the owner complies with all the conditions of this Permit.

26. Any interior modifications to the structure shall maintain the following historic interior features: fireplace mantel built-in china cabinet and bookshelves, columns, molding, floors, staircase and their banisters, etc., lighting fixtures, decorative plaster work, and original wall decoration and finish.

27. In the event that any condition of this Permit, on a legal challenge by the Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable or



unreasonable, this Permit shall be void. However, in such event, the Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the permit can still be made in the absence of the "invalid" condition(s). Such hearing shall have the absolute right to approve, disapprove or modify the proposed permit and the condition(s) contained therein.

APPROVED by the Council of The City of San Diego on  
June 10, 1997, by Resolution No. R-288834.

AUTHENTICATED BY THE CITY MANAGER

By \_\_\_\_\_

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**The undersigned Permittee**, by execution hereof, agrees to each and every condition of this Permit and promises to perform each and every obligation of Permittee hereunder.

**NORMAN FINKELSTEIN**  
Owner/Permittee

By \_\_\_\_\_

**SUSAN FINKELSTEIN**  
Owner/Permittee

By \_\_\_\_\_

**NOTE: Notary acknowledgments  
must be attached per Civil Code  
section 1180 et seq.**

8/4/97

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