

RESOLUTION NUMBER R-289180

ADOPTED ON SEPTEMBER 16, 1997

WHEREAS, John Nobel, Permittee, and Judith and Parviz Hakakha, Owners, submitted an application to Development Services for a Conditional Use Permit/Coastal Development Permit (CUP/CDP) amendment to (1) rehabilitate and convert an existing 8,974 square-foot historic structure, the Dunaway Building, to restaurant uses and (2) convert 700 square feet of space in a 4,183 square-foot non-historic building to a restaurant with three on-site parking spaces; and

WHEREAS, the two buildings are located on a 12,500 square-foot site at 972-80 Garnet Avenue and 4502-8 Cass Street, as more particularly described as Lots 21 through 24, in Block 195 of the Pacific Beach Subdivision, Map No. 854, in the City of San Diego, County of San Diego, State of California, filed in the Office of the County Recorder of San Diego County, September 28, 1898, in the Pacific Beach Community Plan area, in the C-1 zone; and

WHEREAS, on May 29, 1997, the Planning Commission of The City of San Diego considered CUP/CDP No. 96-0472, amending CDP Nos. 91-0468 and 92-0727, pursuant to San Diego Municipal Code section 101.0510 and sections 105.0201 through 105.0218, and recommended that the City Council approve the permit; and

WHEREAS, the matter was set for public hearing on September 16, 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/Coastal Development Permit No. 96-0472, amending CDP Nos. 91-0468 and 92-0727:

**CONDITIONAL USE PERMIT FINDINGS:**

**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 Pacific Beach Community Plan designation for the area is "Community Commercial." The proposed project will comply with this land use designation. The Community Plan also specifically recommends that the Dunaway building be retained and preserved as one of the few remaining historic buildings in the community. The proposed project will accomplish this recommendation and will contribute positively to the quality of life for persons residing or working in the area.

The proposed use is similar in character to existing uses in the vicinity and the project otherwise meets the purpose and intent of Pacific Beach Community Plan 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 1926.

**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/Coastal Development Permit Amendment allows deviations from the strict application of development regulations to tailor the development to the specific circumstances of the site. The project will provide only three (3) parking spaces where up to forty-eight (48) parking spaces could be required, depending on the actual restaurant square footage, however, retail uses have been in operation in the building for more than seventy (70) years and the change to restaurant use will not constitute a significant change in the functioning of the site as an existing commercial building. Three (3) spaces is the maximum number that can be provided on site without adversely impacting the integrity of the historic resource. The preservation of the historic resource for the benefit of the community at large will offset any negative impacts to the neighborhood from allowing the use of the site without the required number of parking spaces.

**COASTAL DEVELOPMENT PERMIT FINDINGS:**

**A. THE PROPOSED DEVELOPMENT WILL NOT ENCROACH UPON ANY EXISTING PHYSICAL ACCESSWAY LEGALLY UTILIZED BY THE PUBLIC OR ANY PROPOSED PUBLIC ACCESSWAY IDENTIFIED IN AN ADOPTED LCP LAND USE PLAN; NOR WILL IT OBSTRUCT VIEWS TO AND ALONG THE OCEAN AND OTHER SCENIC COASTAL AREAS FROM PUBLIC VANTAGE POINTS.**

There are no existing or proposed public accessways on the project site nor are there scenic views to and along the ocean and other scenic coastal areas from public vantage points adjacent to the site. The site has been fully developed for more than seventy (70) years and the area surrounding the site is fully developed.

**B. THE PROPOSED DEVELOPMENT WILL NOT ADVERSELY AFFECT MARINE RESOURCES, ENVIRONMENTALLY SENSITIVE AREAS, OR ARCHAEOLOGICAL OR PALEONTOLOGICAL RESOURCES.**

There were no potential adverse impacts to marine resources, environmentally sensitive areas, archaeological or paleontological resources identified during the environmental review of the project.

**C. THE PROPOSED DEVELOPMENT WILL COMPLY WITH THE REQUIREMENTS RELATED TO BIOLOGICALLY SENSITIVE LANDS AND SIGNIFICANT PREHISTORIC AND HISTORIC RESOURCES OF THE RESOURCE PROTECTION ORDINANCE, CHAPTER X, SECTION 101.0462 OF THE SAN DIEGO MUNICIPAL CODE, BY THE TERMS OF THAT ORDINANCE.**

No sensitive biological resources were discovered on site during the environmental review of the project. The site contains a designated historic resource but the proposal will comply with the SECRETARY OF THE INTERIOR'S STANDARDS FOR REHABILITATION OF HISTORIC STRUCTURES and so will have no adverse impacts to the historic building and the project complies with the regulations of the Resource Protection Ordinance.

**D. THE PROPOSED DEVELOPMENT WILL NOT ADVERSELY AFFECT RECREATIONAL OR VISITOR-SERVING FACILITIES OR COASTAL SCENIC RESOURCES.**

The project will not encroach into or contain any activities that will affect or disturb recreational or visitor-serving facilities. There are no recreational or visitor-serving facilities or coastal scenic resources adjacent to the site.

**E. THE PROPOSED DEVELOPMENT WILL BE SITED AND DESIGNED TO PREVENT ADVERSE IMPACTS TO ENVIRONMENTALLY SENSITIVE HABITATS AND SCENIC RESOURCES LOCATED IN ADJACENT PARKS AND**

**RECREATIONAL AREAS, AND WILL PROVIDE ADEQUATE BUFFER AREAS TO PROTECT SUCH RESOURCES.**

The proposed project re-uses the existing buildings which are not located adjacent to parks or recreational areas.

**F. THE PROPOSED DEVELOPMENT WILL MINIMIZE THE ALTERATIONS OF NATURAL LAND FORMS AND WILL NOT RESULT IN UNDUE RISKS FROM GEOLOGIC AND EROSIONAL FORCES AND/OR FLOOD AND FIRE HAZARDS.**

The proposed project will make use of existing buildings on the site and will not require grading or alteration to the existing landform of the site.

**G. THE PROPOSED DEVELOPMENT WILL BE VISUALLY COMPATIBLE WITH THE CHARACTER OF SURROUNDING AREAS, AND WHERE FEASIBLE, WILL RESTORE AND ENHANCE VISUAL QUALITY IN VISUALLY DEGRADED AREAS.**

The proposed remodeling of the existing commercial buildings will create structures similar in character and size to the other commercial buildings adjacent to and surrounding the project site. Building materials such as red brick, cast concrete moldings and cornices, terra cotta roof tiles and old-fashioned light fixtures are incorporated into the design of the buildings and enhance the architectural character of Pacific Beach. The project site is not in a visually degraded area.

**H. THE PROPOSED DEVELOPMENT WILL CONFORM WITH THE GENERAL PLAN, THE LOCAL COASTAL PROGRAM, OR ANY OTHER APPLICABLE ADOPTED PLANS AND PROGRAMS.**

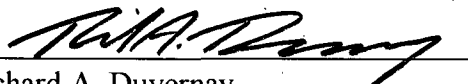
The proposed project will conform with the Progress Guide and General Plan, the Local Coastal Program and the adopted Pacific Beach Community Plan which designates the site for community commercial development. The project also complies with the historic preservation element of the Community Plan which specifically addressed the retention and preservation of the subject building.

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/Coastal Development Permit No. 96-0472, amending CDP Nos. 91-0468 and 92-0727, is hereby granted to John Nobel, Permittee, and Judith and Parviz

Hakakha, Owenrs, 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  
10/03/97  
Or.Dept:Clerk  
R-98-390  
Form=permitr.frm



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/COASTAL DEVELOPMENT PERMIT NO. 96-0472  
AMENDING COASTAL DEVELOPMENT PERMITS 91-0468 AND 92-0727  
DUNAWAY BUILDING  
CITY COUNCIL

This Conditional Use Permit and Coastal Development Permit Amendment is granted by the Council of The City of San Diego to JOHN NOBEL, an individual, Permittee, and JUDITH & PARVIZ HAKAKHA, Owners, under the conditions contained in San Diego Municipal Code section 101.0510 and sections 105.0201 through 105.0218.

1. Permission is granted to Owners/Permittee to rehabilitate and convert an existing 8,974 square-foot historic structure to restaurant uses and convert 700 square feet of space in a 4,183 square-foot non-historic building to a restaurant with three on-site parking spaces. The two buildings are located on a 12,500 square-foot property located at 972-80 Garnet Avenue and 4502-8 Cass Street, also described as Lots 21 through 24, in Block 195 of the Pacific Beach Subdivision, Map No. 854, in the City of San Diego, County of San Diego, State of California, filed in the Office of the County Recorder of San Diego County, September 28, 1898. The project is located in the C-1 Zone in the Pacific Beach Community Plan area.

2. The Conditional Use Permit/Coastal Development Permit Amendment shall include the total of the following facilities:

- a. An 8,974 square-foot designated historic building with any commercial or residential use allowed in the underlying zone, with the exception that, subject only to leasehold interests of preexisting tenants, no new tattoo parlor, body piercing, or body painting studio shall be allowed to operate at the premises; and
- b. A 4,183 square-foot non-historic building with up to a maximum of 700 square feet of restaurant use and any retail or office use permitted in the underlying zone, with the exception that, subject only to leasehold interests of preexisting tenants, no new tattoo parlor,

body piercing, or body painting studio shall be allowed to operate at the premises; and

- c Three (3) off-street parking spaces; and
- d. Incidental accessory uses as may be determined and approved by the City Manager.

3. No fewer than three (3) off-street parking spaces are required and shall be maintained on the property in the approximate location shown on Exhibit "A," dated September 16, 1997, on file in the office of Development Services. Parking spaces and aisles shall be consistent with San Diego Municipal Code Chapter X, Article 1, Division 8, and shall be permanently maintained and not converted for any other use.

4. 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 September 16, 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.

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

6. 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.

7. The effective date of this permit shall be 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 San Diego Municipal Code section 111.1122. 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.

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. After establishment of the project, the property included within this 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 conversion; and
  - b. The Permit has been revoked by The City of San Diego.
10. 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.
11. 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.
12. 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).
13. Prior to the issuance of any building permits, the Permittee shall obtain an encroachment removal agreement, from the City Engineer, for sidewalk cafe use.
14. Prior to the issuance of any building permits, the Permittee shall assure by permit and bond the installation of a pedestrian ramp on the corner of Cass Street and Garnet Avenue in a manner satisfactory to the City Manager.
15. This property may be subject to impact fees, as established by the City Council, at the time of building permit issuance.
16. All railing barricades for the sidewalk cafe shall have the appearance of wrought iron in a simple vertical design as shown on Exhibit "A," dated September 16, 1997, on file in the office of Development Services.



17. A clear path, eight feet wide, shall be maintained in the public right-of-way between the sidewalk cafe railing barricades and any obstruction such as a tree, lamp post or any other sidewalk furniture or equipment.

18. No sidewalk cafe will occupy any portion of the sidewalk in front of a space that is not a part of the restaurant without the express permission of the tenant of that space. No sidewalk cafe barricade shall be placed within eight feet of an entrance to another lease space not a part of the restaurant without the express permission of the tenant of that space.

19. All modifications to the exterior of the historic building shall be according to the "Secretary of Interior's Standards for the Rehabilitation of Historical Buildings" including the retention or replacement of all original doors, windows, exterior fixtures, lighting and architectural features where possible. Any changes or additions of such features shall be approved by the Secretary to the Historical Site Board. The Secretary to the Historical Site Board may bring such changes to the Board for their approval at his or her discretion.

20. The proposed awnings shall be as shown on Exhibit "A," dated September 16, 1997, on file in the office of Development Services except that no silver metal shall be visible. All metal parts shall be black.

21. 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 Owners 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 Owners of the property be allowed the special and extraordinary rights conveyed by this permit, but only if the Owners comply with all the conditions of this permit.

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.

## LANDSCAPE CONDITIONS

22. 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 September 16, 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.

23. 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.

24. 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.

25. 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 thirty (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.

APPROVED by the Council of The City of San Diego on September 16, 1997, by Resolution No. R-289180.

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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.

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**JUDITH HAKAKHA, Owner**

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**PARVIZ HAKAKHA, Owner**

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**JOHN NOBEL, Permittee**

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

10/2/97  
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