

(R-98-1253)

RESOLUTION NUMBER R-289985

ADOPTED ON APRIL 21, 1998

WHEREAS, Chartwell Lodging, Inc., a Delaware corporation, Owner, filed an application with The City of San Diego for a Planned Industrial Development [PID] Permit amendment to construct a seven story, 192 room business serving hotel, referred to as the Hilton Garden Inn, on property located at 5520 Morehouse Drive, and legally described as Parcel 3 of Parcel Map 16707, recorded on December 12, 1991, in the Mira Mesa Community Plan area, in the M-1B (proposed M-1) zone; and

WHEREAS, upon approval of the above referenced project by the Council of The City of San Diego, Chartwell Lodging, Inc., will transfer ownership of the property to WW Miramesa, a Delaware corporation; thereby becoming the Owner/Permittee for the Hilton Garden Inn project; and

WHEREAS, on April 2, 1998, the Planning Commission of The City of San Diego considered PID Permit No. 96-7896, amending PID Permit No. 89-0398, and pursuant to Resolution No. 2623-PC, recommended that the City Council approve the permit amendment and related actions; and

WHEREAS, the matter was set for public hearing on April 21, 1998, 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 it adopts the following findings with respect to PID Permit No. 96-7896, amending PID Permit No. 89-0398:

A. The proposed use will fulfill a community need and will not adversely affect the City's Progress Guide and General Plan or the adopted community plan.

The proposed industrial development will fulfill an individual and a community need by providing lodging, restaurant and related facilities for persons doing business in the Mira Mesa Community. There is a demonstrated need for additional room nights based upon a Market Study provided for this project. The out of town travelers who are presently unable to find local accommodations in Mira Mesa, commute out of the area which adds to the existing traffic loads on the Mira Mesa streets and those in adjoining communities. A business serving hotel in Mira Mesa will add to the fulfillment of the community plan goal to provide an efficient transportation system. The hotel will support the industrial uses in the M-1 and General Plan and Community Plan goals through the implementation of the Planned Industrial Development Ordinance. Furthermore, the site is 4.13 acres. The demand for industrial sites exists for lots over 15 acres. Therefore, this lot can be converted with minimal impact to the inventory of marketable industrial lots available to this area's targeted bio-technology/telecommunications firms. Conditions of approval have been applied to assure that the development will not have an adverse impact to the Community and city.

B. The proposed use will not be detrimental to the health, safety and general welfare of persons residing or working in the area and will not adversely affect other properties in the vicinity.

Development of this site will be compatible and complimentary to the surrounding area. The project will be conditioned to avoid and preclude any negative impacts to properties or persons residing or working in the vicinity. As a result, no adverse impacts are anticipated with development of this site.

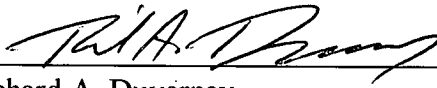
C. The proposed use will fully comply with the relevant regulations of the San Diego Municipal Code in effect for this site.

Conditions of approval will require compliance with the San Diego Municipal Code, Uniform Building Code, Uniform Fire Code, Uniform Plumbing code,, and all other applicable codes and regulations. Routine code enforcement and inspection will ensure that the project will comply with all the relevant regulations of the Municipal Code and all other relevant codes.

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 Planned Industrial Development Permit No. 96-7896, amending PID Permit No. 89-0398, is granted to WW Miramesa, a Delaware corporation, Owner/Permittee, 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
05/01/98
Or.Dept:Clerk
R-98-1253
Form=r-t.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

**PLANNED INDUSTRIAL DEVELOPMENT (PID) PERMIT NO. 96-7896
AMENDMENT TO PID PERMIT NO. 89-0398
HILTON GARDEN INN
CITY COUNCIL**

This Planned Industrial Development Permit No. 96-7896 is an Amendment to Planned Industrial Development Permit No. 89-0398 is granted by the Council of The City of San Diego to WW Miramesa, a Delaware corporation, Owner/Permittee, pursuant to Section 101.0920 of the Municipal Code of The City of San Diego. The 4.13 acre site is located at 5520 Morehouse Drive in the Mira Mesa community. The project site is legally described as Parcel 3 of Parcel Map No. 16707, filed December 12, 1991 in the Mira Mesa Community Plan Area. The site is zoned M-1 (General Industrial).

1. Subject to the terms and conditions set forth in this permit, permission is granted to Owner NAVSAT, Corporation and CHARTWELL LODGING, INC., Permittee, to construct a Planned Industrial Development consisting of a seven story, 192 room business serving hotel and implementation of associated improvements (as described herein) on a portion of a vacant 4.13 acre site. The site address is 5520 Morehouse Drive, located on the north side of Morehouse Drive, one-half mile east of the Interstate I-805 freeway.

2. This amendment incorporates Planned Industrial Development Permit No. 89-0398 on file in the Office of Development Services, except as identified in the terms and conditions of this permit, and as described by size, dimension, quantity, type, and locations and terms of the approved Exhibit "A," dated April 22, 1998, on file in the Office of Development Services.

3. The permit shall consist of the following facilities and site improvements as identified by size, dimension, location and quantify of the associated Exhibits "A" approved for the project, dated April 22, 1998, on file in the Office of Development Services. The facility shall include:

- a. A seven story structure with a maximum gross floor area of 97,154 square feet consisting of a total of 192 guest rooms; including a restaurant, work-out facility, pool and spa for the use of the guests and their business associates;
- b. Landscaping and permanent underground electronically controlled automated irrigation systems; and

- c. Off-street parking facilities surface parking facilities (refer to Condition No. 25); and
 - d. Building signs (four) mounted on the hotel structure and monument sign; and
 - e. Accessory improvements determined by the City Manager to be consistent with the development standards in effect for this site per the existing M-1 zone, the Mira Mesa Community Plan, California Environmental Quality Act guidelines, the City-Wide Landscape Regulations and Landscape Technical Manual, the Planned Industrial Development Ordinance requirements.
4. Construction, grading or demolition must commence and be pursued in a diligent manner within 36 months after the effective date of final approval by the City, following all appeals. Failure to utilize the permit within 36 months will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all the Municipal Code requirements and applicable guidelines in effect at the time the extension is considered by the appropriate City Council.
5. No permit for the construction, occupancy or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this permit be conducted on the premises until:
- a. The Permittee signs and returns the Permit to Development Services; and
 - b. The Permit is recorded in the office of the San Diego County Recorder.
6. Unless this permit has been revoked by the City of San Diego the property included by reference within this permit shall be used only for the purposes and under the terms and conditions set forth in this permit unless otherwise authorized by the City Manager.
7. 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.
8. The utilization and continued use of this permit shall be subject to the regulations of this and any other applicable governmental agencies.
9. Issuance of this permit by the City of San Diego does not authorize the applicant for said permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Federal Endangered Species Act of 1973 and any amendments thereto (16 U.S.C. Section 1531 et seq.)
10. The Owner/Permittee shall secure all necessary building permits. The applicant is informed that to secure these permits, substantial modifications to the building and/or site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.

11. Before issuance of any building or grading permits, complete grading and working drawings shall be submitted to the City Manager for approval. Plans shall be in substantial conformity to Exhibit "A," dated April 22, 1998, on file in the Office of Development Services. No change, modifications or alterations shall be made unless appropriate applications or amendment of this permit shall have been granted.

12. 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 the 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 the Permit.

In the event that any condition of this Permit, on a legal challenge by the Owner/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 an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new Permit without the "invalid" condition(s) 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 be a hearing de novo and the discretionary body shall have the absolute right to approve, disapprove or modify the proposed Permit and the condition(s) contained therein.

13. All projects submitted for plan check for the purpose of obtaining building permits shall concurrently submit building plans which meet the submittal requirements of the "Applicant's Guide to Project/Permit Applications;" items 11 through 29, as applicable; together with appropriate plan check fees.

14. All projects shall be in compliance with Section 101.0101.25 (Gross Floor Area) of the Municipal Code and all appropriate related definitions.

15. All projects shall be in compliance with Section 101.0216 (Topographical Survey Requirements) of the Municipal Code and all building plans shall be predicated upon said concurrently submitted topographical survey. Said topographical survey (and accompanying grading plan) shall accurately depict both pre-existing grade and finished grade as set forth in Section 101.0101.24 (Grade) of the Municipal Code.

16. ENVIRONMENTAL MITIGATION MONITORING AND REPORTING PROGRAM REQUIREMENTS:

- a. Prior to the issuance of a Certificate of Occupancy, the developer shall contribute 24% of the cost of the future traffic signal at Lusk Boulevard and Morehouse Drive.
- b. Upon submittal of plans for a building permit, an interior acoustical analysis shall be submitted to the Development Services' Noise

Abatement Officer. The report shall determine the appropriate design and use of building materials to ensure that interior noise levels would be reduced to 45 dB(A) CNEL or less, based on projected aircraft noise levels from Marine Corps Air Station (MCAS) Miramar.

- c. Prior to issuance of building permits, construction plans shall be reviewed by the City Manager to determine that the noise mitigation measures have been incorporated into the plans. During construction, the City Manager shall verify compliance with the mitigation measures.
- d. The applicant shall provide a letter of verification to the Environmental Analysis Section of Development Services stating that a qualified paleontologist has been retained to implement the monitoring program. A qualified paleontologist is defined as an individual with a PhD or MS degree in paleontology or geology who is a recognized expert in the application of paleontological procedures and techniques such as screen washing of materials and identification of fossil deposits.

A paleontological monitor may be retained to perform the on-site monitoring in place of the qualified paleontologist. A paleontological monitor is defined as an individual who has experience in the collection and salvage of fossil materials and who is working under the direction of a qualified paleontologist.

- e. All persons involved in the paleontological monitoring of this project shall be approved by EAS at least 30 days prior to the preconstruction meeting.
- f. The qualified paleontologist shall attend the preconstruction meeting to consult with the excavation contractor. The paleontologist's duties shall include monitoring, salvaging, preparation of collected materials for storage at a scientific institution that houses paleontological collections, and preparation of a monitoring results report. These duties are defined as follows:

1. Monitoring

The paleontologist or paleontological monitor shall be on-site during the initial cutting of previously undisturbed areas to inspect for well-preserved fossils. Monitoring shall be done full-time in those formations (Ardath Shale, Baypoint and Scripps) with a high sensitivity rating, and shall be half-time in those formations (Lindavista) with a moderate sensitivity rating. The monitoring time may be increased or decreased at the discretion of the paleontologist in consultation with EAS. Monitoring shall occur only when excavation activities affect the geologic formation.

2. Salvaging

In the event that well-preserved fossils are found, the paleontologist shall have the authority to divert, direct, or

temporarily halt construction activities in the area of discovery to allow recovery of fossil remains in a timely fashion.

The paleontologist shall contact EAS at the time of discovery. EAS must concur with the salvaging methods before construction activities are allowed to resume.

3. Fossil Preparation

Fossil remains shall be cleaned, sorted, repaired, catalogued, and then (with the permission of the owner of the property where the remains were collected) stored in a local scientific institution that houses paleontological collections.

The qualified paleontologist shall be responsible for preparation of fossils to a point of identification, and submittal of a letter of acceptance from a local qualified curation facility. If the fossil collection is not accepted by a local qualified facility for reasons other than inadequate preparation of specimens, the project paleontologist shall contact EAS to suggest an alternative disposition of the collection.

4. Report Preparation

A monitoring results report with appropriate graphics summarizing the results (even if negative), analyses, and conclusions of the above program shall be prepared and submitted to EAS within three months following the termination of the paleontological monitoring program, and prior to DSD's final inspection. Any discovered fossil sites shall be recorded at the San Diego Natural History Museum.

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 to ensure the successful completion of the monitoring program.

ENGINEERING REQUIREMENTS:

17. Prior to the issuance of any building permits, the applicant shall obtain a grading permit from the City Engineer (referred to as an "engineering permit") for the grading proposed for this project. All grading shall conform to requirements in accordance with Sections 62.0401 - 62.0423 of the City of San Diego Municipal Code in a manner satisfactory to the City Engineer.

18. The drainage system proposed with this development is subject to approval by the City Engineer.

19. Prior to building occupancy, the applicant shall conform to Section 62.0203 of the Municipal Code, "Public Improvement Subject to Desuetude or Damage." If repair or replacement of such public improvements is required, the owner shall obtain the

required permits for work in the public right-of-way (at Morehouse Drive), satisfactory to the permit-issuing authority.

WATER AND SEWER REQUIREMENTS:

20. Prior to the issuance of any building permit, the developer shall install fire hydrants at locations satisfactory to the Fire Department and the City Engineer. If more than two (2) fire hydrants and/or thirty (30) dwelling units are located on a dead-end main then the developer shall install a looped water system.

21. The developer shall design all public water and sewer facilities to the most current edition of the "City of San Diego Water & Sewer Design Guide." If facilities do not meet the current standards, then such facilities shall be private.

PLANNING/DESIGN REQUIREMENTS:

22. No fewer than 192 off-street parking spaces shall be maintained on the property at all times in the approximate locations shown on the approved Exhibits "A," dated April 22, 1998, on file in the Office of Development Services. Parking spaces shall comply at all times with Division 8 of the Municipal Code and shall not be converted for any other use unless otherwise authorized by the City Manager.

23. There shall be compliance with the regulations of the underlying zone(s) unless a deviation or variance to a specific regulation(s) is approved or granted as condition of approval of this permit. Where there is a conflict between a condition (including exhibits) of this permit and a regulation of the underlying zone, the regulation shall prevail unless the condition provides for a deviation or variance from the regulations. Where a condition (including exhibits) of this permit establishes a provision which is more restrictive than the corresponding regulation of the underlying zone, then the condition shall prevail.

24. The height(s) of the building(s) or structure(s) shall not exceed those heights set forth in the exhibits (including, but not limited to, elevations and cross sections).

25. A topographical survey conforming to the provisions of Section 101.0216 of the Municipal Code may be required if it is determined, during construction, that there may be a conflict between the building(s) under construction and a condition of this permit or a regulations of the underlying zone. The cost of any such survey shall be borne by the permittee.

26. Any future requested amendment to this permit shall be reviewed for compliance with the regulations of the underlying zone(s) which are in effect on the date of the submittal of the requested amendment.

27. All signage associated with this development shall be consistent with sign criteria established by either of the following:

- a. Approved project sign plan (Exhibit "A," dated April 22, 1998, on file in the Office of Development Services) or;
- b. Citywide sign regulations.

28. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located.

29. Prior to the issuance of any building permits, complete outdoor lighting information shall be submitted to the Development Services, Land Development Review Division for review and approval. Complete lighting information shall include a plan view photometric analysis indicating an isofoot candle plot and a point by point plot to include all areas within the private property and to extend a minimum of fifty (50) feet beyond the property line, construction details as necessary to direct installation of the outdoor lighting system, manufacturers name, visors, prisms, lenses and reflectors and a lighting plan locating each fixture in plan view and a legend. The outdoor lighting system shall be designed, manufactured and installed to allow shading, adjusting, and shielding of the light source so all outdoor lighting is directed to fall only onto the same premises as light sources are located.

Prior to the issuance of any occupancy permit, a night inspection shall be required to verify compliance of the outdoor lighting system. No light shall be directed to fall outside the property line. Light levels along the perimeter of the property shall be measured no higher than three footcandles. Light levels throughout the planned commercial development shall be the least practical level necessary to effectively illuminate the operation. Sky glow or light halo shall be reduced to the greatest extent practical and in no case shall initial light levels be measured exceeding fourteen footcandles anywhere within the site. The Owner/permittee, or an authorized representative, shall provide an illuminance meter to measure light levels as required to establish conformance with the conditions of this permit during the night inspection. Night inspections may be required additional fees as determined by the Development Services Manager.

30. The use of textured or enhanced paving shall meet applicable City standards as to location, noise and friction values.

31. The subject property and associated common areas on site shall be maintained in a neat and orderly fashion at all times.

32. All uses, except storage and loading, shall be conducted entirely within an enclosed building. Outdoor storage of merchandise, material and equipment is permitted in any required interior side or rear yard, provided the storage area is completely enclosed by walls, fences or a combination thereof. Walls or fences shall be solid and not less than six feet in height and, provided further, that no merchandise, material or equipment stored not higher than any adjacent wall.

33. No mechanical equipment, tank, duct, elevator enclosure, cooling tower or mechanical ventilator or air conditioner shall be erected, constructed, converted, established, altered, or enlarged on the roof of any building, unless all such equipment and appurtenances are contained within a completely enclosed structure whose top and sides may include grillwork, louvers and latticework.

34. No merchandise, material or equipment shall be stored on the roof of any building.

35. No mechanical equipment shall be erected, constructed, or enlarged on the roof of any building on this site, unless all such equipment is contained within a completely enclosed architecturally integrated structure.

LANDSCAPE REQUIREMENTS:

36. Prior to 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 April 22, 1998, on file in the Office of Development Services. No change, modification or alteration shall be made unless appropriate application or amendment of this Permit shall have been granted.

37. Prior to issuance of grading permits, interim landscape and erosion control measures, including hydroseeding of all disturbed land (all slopes and pads), shall be submitted to the satisfaction of the City Manager (including the Environmental Section) and City Engineer. All plans shall be in substantial conformance to Exhibit "A," dated April 22, 1998, on file in the Office of Development Services and all other applicable conditions of related permits.

38. The timely erosion control including planting and seeding of all slopes and pads consistent with the approved plans is considered to be in the public interest and the Permittee shall initiate such measures within 45 days from the date that the grading of the site is deemed to be complete. Such erosion control and the associated irrigation systems (temporary and/or permanent) and appurtenances shall be installed in accordance with the approved plans and the *Landscape Technical Manual*.

39. Prior to issuance of any Certificate of Occupancy it shall be the responsibility of the Permittee to install all required landscape and obtain all required landscape inspections and to obtain a No Fee Street Tree Permit for the installation, establishment and on-going maintenance of all street trees. Copies of these approved documents must be submitted to the City Manager.

40. All required 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 landscape improvements consistent with the standards of the *Landscape Technical Manual*.

41. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved plans is damaged or removed during demolition, 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.

42. Prior to the issuance of any building permit, the applicant shall grant to the Department of the Navy, USMC an avigation easement for the purpose of maintaining all aircraft approach paths to MCAS Miramar. This easement shall permit the unconditioned right of flight of aircraft in the federally controlled airspace above the subject property. This easement shall identify the easement's elevation above the property and shall include prohibitions regarding use of and activity on the property that would interfere with the intended use of the easement. This easement may require the grantor of the easement to waive any right of action arising out of noise associated with the flight of aircraft within the easement. A copy of the avigation easement shall be attached to this permit when the permit has been signed and notarized and is returned to the office of Development Services for recording with the County Recorder. If other agreement is reached with the Department of the Navy/USMC, such written agreement shall serve to satisfy this requirement.

43. Prior to submitting building plans to the City for review, the applicant shall place a note on all building plans indicating that an avigation easement or other agreement as described in Condition 42., has been granted across the property. The note shall include the County Recorder's recording number for the avigation easement if one is required by the Department of the Navy/USMC.

APPROVED by the Council of The City of San Diego on April 21, 1998, by Resolution No. R-289985.

L:\DUVERNAY\PERMITS\96-7896.WPD

AUTHENTICATED BY THE CITY MANAGER

By _____

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.

WW MIRAMESA
a Delaware corporation
Owner/Permittee

By _____

By _____

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

5/1/98

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