

RESOLUTION NUMBER R-293073

ADOPTED ON MAY 2, 2000

WHEREAS, the La Jolla Town Council, appealed the decision of the Planning Commission in approving Coastal Development/Sensitive Coastal Resource/La Jolla Planned District Development Permit No. 98-0755, submitted by Allison-Zongker, L.P. Owner, and Chart House Enterprises, Inc., Permittee to The City of San Diego for a permit to remodel an existing two-story structure and to construct a 1,821 square-foot expansion for development totaling 9,327 square feet, located at 1270 Prospect Street, legally described as Lots 30, 31, and 32 in Block 59 of La Jolla Park per Map No. 352, in the La Jolla Planned District within the La Jolla Community Plan area, in the 1A and Coastal zones; and

WHEREAS, on December 16, 1999, the Planning Commission of The City of San Diego considered and approved, pursuant to Resolution No. 2896-PC, Coastal Development/Sensitive Coastal Resource/La Jolla Planned District Development [CD/SCR/LJPDD] Permit No. 98-0755; and

WHEREAS, on December 16, 1999, the Planning Commission encouraged the Owner/Permittee to institute valet parking and to participate with the community in providing a solution to the parking situation in the area; and

WHEREAS, on December 30, 1999, the approval by the Planning Commission on December 16, 1999 was appealed for consideration by the Council of the City of San Diego; and

WHEREAS, the matter was set for public hearing on May 2, 2000, 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 Coastal Development/Sensitive Coastal Resource/La Jolla Planned District Development [CD/SCR/LJPDD] Permit No. 98-0755:

**COASTAL DEVELOPMENT FINDINGS:**

**1. The proposed development will not encroach upon any existing physical accessway legally utilized by the general public or any proposed public accessway identified in an adopted Local Coastal Program [LCP] Land Use Plan; nor will it obstruct views to and along the ocean and other scenic coastal areas from public vantage points.**

The project fronts on Prospect Street and does not encroach upon any identified existing or proposed physical accessway. The project retains the existing view corridors located to the east and west of the structure consistent with the La Jolla LCP. Through the use of post and beam construction and the incorporation of additional glass windows, visual access from the Prospect Street right-of-way to the coastline and water located beyond the project site will be enhanced. Exterior decks are also incorporated within the project from which the coastline can be viewed.

**2. The proposed development will not adversely affect identified marine resources, environmentally sensitive areas, or archaeological or paleontological resources.**

The proposed project was evaluated according to the California Environmental Quality Act and found to have no adverse impacts to marine resources, environmentally sensitive areas, and paleontological resources. The review did determine that archaeological resources may exist on the site and the project could have significant impacts to these resources and are avoided by mitigating features agreed to by the applicant to reduce potential impacts to a level below significance. Potential impacts to archaeological resources will be mitigated by conditions of approval as described in Mitigated Negative Declaration, LDR No.98-0755, prepared and finalized on November 16, 1999.

**3. The proposed development will comply with the requirements related to biologically sensitive lands and significant prehistoric and historic resources as set forth in the Resource Protection Ordinance, Chapter X, Section 101.0462 of the San Diego Municipal Code, unless by the terms of the Resource Protection Ordinance, it is exempted therefrom.** No biologically sensitive resources were identified on the site during the environmental review of the proposed development. The existing structure to be remodeled and expanded was constructed in 1904 as part of the Green Dragon Colony. The environmental review determined the existing structure to be historically significant. Potential impacts to this

historical resource will be mitigated by conditions of approval as described in Mitigated Negative Declaration, LDR No.98-0755, prepared and finalized on November 16, 1999.

**4. The proposed development will not adversely affect identified recreational or visitor-serving facilities or coastal scenic resources.** The proposed development is located on Prospect Street on sloping property above La Jolla Cove. The proposed development will not affect this recreational and coastal scenic resource. The proposed use is consistent with the Visitor Commercial designation identified for this site. Rehabilitation of the existing facility will provide greater opportunities for visitors to the site to view the coastal scenic resources.

**5. The proposed development will be sited and designed to prevent adverse impacts to environmentally sensitive habitats and scenic resources located in adjacent parks and recreation areas, and will provide adequate buffer areas to protect such resources.** The proposed development is a remodel and expansion of an existing structure. Mitigation measures are incorporated into the conditions of approval to address archaeological and historic resources. Coast Boulevard, a public roadway located between the property and the ocean and coastal bluffs, will act as a buffer between these recreational and scenic resources and the proposed development.

**6. The proposed development will minimize the alterations of natural landforms and will not result in undue risks from geologic and erosional forces and/or flood and fire hazards.** The natural landform of the project site has been altered to accommodate the existing development on the site. The proposed project includes minor modifications to this landform. The City's Geology Section of Land Development Review, Planning and Development Review Department have concluded the proposed project will not result in undue risks from geologic and erosional forces or flood. The Fire Department has concluded the project will not result in undue risks from fire hazards.

**7. The proposed development will be visually compatible with the character of the surrounding area, and where feasible, will restore and enhance visual quality in visually degraded areas.** The proposed development retains and enhances visual access to the ocean and coastal bluffs, consistent with the policies of the La Jolla Community Plan and Local Coastal Program. The remodel and expansion also retains the architectural style of the existing commercial structure, which is characteristic of the village atmosphere of La Jolla, an important element of the La Jolla Community Plan and LCP. The project will incorporate the historical features of the existing structure, including the original interior fireplace and mantle, and several other significant elements. Appropriate signage and/or information plaques will be provided to explain the significance of the retained elements.

**8. The proposed development will conform with the City's Progress Guide and General Plan, the Local Coastal Program, and any other applicable adopted plans and programs in effect for this site.** The project proposes to renovate the existing restaurant structure to bring it into conformance with current building codes and to construct an expansion integrating into the existing structure. The use is consistent with the La Jolla Community Plan's Land Use designation for this site. The development is consistent with the standards of Zone 1A

of the La Jolla Planned District Ordinance, the La Jolla LCP, and the City's Progress Guide and General Plan.

**SENSITIVE COASTAL RESOURCE FINDINGS:**

**9. The proposed development will be sited, designed, and constructed to minimize, if not preclude, adverse impacts upon sensitive coastal resources and environmentally sensitive areas.** The project includes a remodel and expansion of an existing structure located on sloping property above La Jolla Cove. Coast Boulevard provides additional separation of the project property from the coastal resources located at La Jolla Cove. A Mitigated Negative Declaration prepared for this project determined that archaeological resources may exist on the site and potential impacts to this resource could occur from implementation of the project. These potential impacts will be mitigated by conditions of approval as described in Mitigated Negative Declaration, LDR No.98-0755, prepared and finalized on November 16, 1999.

**10. The proposed development will not encroach upon any existing physical accessway legally utilized by the general public or any proposed public accessway identified in the adopted community plan; nor will it obstruct views to and along the ocean and other scenic coastal areas from public vantage points.** The project fronts on Prospect Street and does not encroach upon any existing or proposed physical accessway identified in the La Jolla Community Plan. The project maintains the existing view corridors located to the east and west of the structure consistent with the La Jolla LCP. Through the use of post and beam construction and the incorporation of additional glass windows, visual access from the Prospect Street right-of-way to the coastline and water located beyond will be enhanced. Exterior decks proposed as part of the remodel and expansion project will enhance views of the coastline.

**11. The proposed development will minimize the alteration of natural landforms and will not result in undue risk from geologic and erosional forces and/or flood and fire hazards on site.** The natural landform of the project site has been previously altered to accommodate the existing development. The project includes minor modifications to this landform. The City's Geology Section of Land Development Review, Planning and Development Review Department have concluded the proposed project will not result in undue risks from geologic and erosional forces or flood. The Fire Department has concluded the project will not result in undue risks from fire hazards.

**12. The proposed development will not contribute to the erosion of public beaches or adversely impact local shorelines and supply, shoreline protective works will be designed to be the minimum necessary to adequately protect existing principal structures to reduce beach consumption and to minimize shoreline encroachment.** The proposed development is not located along the beach or on a coastal bluff. No shoreline protective works are proposed or necessary. Coast Boulevard is located between the project site and the ocean. All drainage from the site will be directed to a public storm drain system to reduce the risk of erosion of the coastal bluffs and beach.

**13. The proposed development will not adversely affect the City's Progress Guide and General Plan, the Local Coastal Program, or any other applicable adopted plans and programs in effect for this site.** The proposed development retains and enhances the visual access to the ocean and coastal bluffs, consistent with the policies of the La Jolla LCP and Community Plan. The remodel and expansion will enable the structure to comply with current building codes. The design retains the architectural style of the existing commercial structure, which is characteristic of the village atmosphere of La Jolla and consistent with the policies of the La Jolla Community Plan and LCP. The project will incorporate the historical features of the existing structure, including the original interior fireplace and mantle, and several other significant elements. Appropriate signage and/or information plaques will be provided to explain the significance of the retained elements.

**LA JOLLA PLANNED DISTRICT FINDINGS:**

**14. The proposed use will fulfill a community need and will not adversely affect the City's Progress Guide and General Plan or the adopted Planned District Ordinance.** The restaurant use on the project site is consistent with the recommended land use designation, design guidelines, and development standards in effect for this site per the City's Progress Guide and General Plan, La Jolla Community Plan and LCP and La Jolla Planned District Ordinance regulations. The site is specifically designated for Visitor Commercial uses by the La Jolla Community Plan and LCP. The existing structure would be brought into compliance with existing building codes through the removal and replacement of those elements that currently do not comply. The project fulfills a community need by adapting a designated Heritage Structure that currently provides a visitor serving use consistent with the La Jolla LCP and Community Plan recommendations.

**15. 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.** The permit controlling the development and continued use of the development proposed for this site contains conditions addressing the project compliance with the City's Municipal Code and other regional, State and Federal regulations to prevent detrimental impacts to the health, safety, and general welfare of persons residing and/or working in the area. Conditions of approval require compliance with several operational constraints and development controls intended to assure the continued health, safety and general welfare of persons residing or working in the area. All Uniform Building, Fire, Plumbing, Electrical, Mechanical Code and the Municipal Code regulations governing the construction and continued operation of the development apply to this site to prevent adverse affects to those persons or other properties in the vicinity.

**16. The proposed use will fully comply with the relevant regulations of the Municipal Code in effect for this site.** The proposed project is consistent with the relevant regulations of the Municipal Code in effect for the subject property, including requirements for building setbacks, gross floor area, building height, site design. The project includes a minor addition as defined by the La Jolla Planned District Ordinance and the structure is designated as a

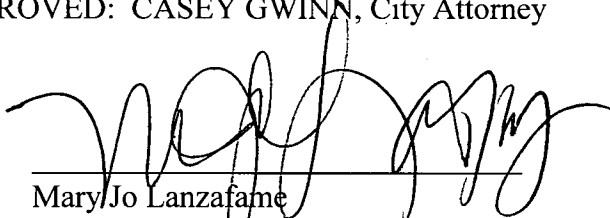
Heritage Structure. The La Jolla Planned District Ordinance exempts both minor additions and Heritage Structures from providing off-street parking.

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 appeal of the La Jolla Town Council, is denied, the decision of the Planning Commission is sustained, and Coastal Development/Sensitive Coastal Resource/La Jolla Planned District Development Permit No. 98-0755 is hereby granted to Allison-Zongker, L.P., Owner and Chart House Enterprises, Inc., Permittee, under the terms and conditions set forth in the permit attached hereto and made a part hereof.

APPROVED: CASEY GWINN, City Attorney

By



Mary Jo Lanzafame  
Deputy City Attorney

MJL:pev  
5/30/00  
01/06/03 COR. COPY  
05/16/03 COR. COPY 2  
08/05/03 COR. COPY 3 (permit only)  
Or.Dept:Clerk  
R-2000-1482  
Form=permitr.frm

**RECORDING REQUESTED BY**  
CITY OF SAN DIEGO  
PLANNING AND DEVELOPMENT REVIEW  
PERMIT INTAKE, MAIL STATION 501

**AND WHEN RECORDED MAIL TO**  
CITY CLERK  
MAIL STATION 2A

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**COASTAL DEVELOPMENT/SENSITIVE COASTAL RESOURCE/  
LA JOLLA PLANNED DISTRICT PERMIT NO. 98-0755 (MMRP)  
LA JOLLA CHART HOUSE REMODEL**

**NOTE:** The La Jolla Town Council appealed the City Council's approval of Coastal Development Permit No. 98-0755 on May 23, 2000 to the California Coastal Commission. Since the La Jolla Town Council (et. al.) appealed the City's Coastal Development Permit, the California Coastal Commission assumes jurisdiction as permitting authority and all reference to Coastal Development Permit No. 98-0755 becomes null and void. All other special conditions of the City of San Diego's Sensitive Coastal Resource, La Jolla Planned District Permit No. 98-0755 shall remain subject to the City's jurisdiction. The California Coastal Commission conducted a public hearing and approved Coastal Development Permit Nos. F8945-A1 and F8945-A2 with conditions on June 11, 2002. On September 9, 2002, the applicant requested City of San Diego approval of the changes associated with the Coastal Commission approval of June 11, 2002. The City of San Diego, Development Services Department, has reviewed the revised plans (approved by the California Coastal Commission) and determined that the changes reflected in the replacement plans, dated June 11, 2002, are in substantial conformance with Sensitive Coastal Resource, La Jolla Planned District Permit No. 98-0755. Exhibit "A" to the City of San Diego Sensitive Coastal Resource, La Jolla Planned District Permit NO. 98-0755 has been modified to reflect the changes requested by the California Coastal Commission Permit Nos. F8945-A1 and F8945-A2, and has been incorporated as Exhibit "A" of Sensitive Coastal Resource, La Jolla Planned District Permit No. 98-0755, on file in the Office of the Development Services Department.

**NOTE:** After approval of the above-referenced permit by the City Council and the California Coastal Commission, Chart House Enterprises, Inc. assigned its leasehold interest in the subject project property to CHLN, Inc., successor-in-interest to Chart House Enterprises, Inc., which has been consented thereto by Allison-Zongker, L.P., as Owner and Lessor.

This Permit was granted by the Council of The City of San Diego to Allison-Zongker, L.P., Owner, and Chart House Enterprises, Inc., Permittee, pursuant to San Diego Municipal Code [SDMC] sections 105.0202, 101.0480, and 103.1201. The 0.91-acre site is located at 1270 Prospect Street in the 1A and Coastal zones of the La Jolla Planned District within the La Jolla Community Plan area. The project site is legally described as Lots 30, 31, and 32 in Block 59 of La Jolla Park per Map No. 352.

Subject to the terms and conditions set forth in this permit, permission is granted to Owner/ Permittee to remodel an existing two-story structure and to construct a 1,821 square-foot

expansion for development totaling 9,327 square feet described as, and identified by size, dimension, quantity, type and location on the approved Exhibit "A," dated May 2, 2000, on file in the Office of the Development Services Department. The facility shall include:

- a. The remodel of an existing two-story structure and the construction of a 1,821 square-foot expansion for development totaling 9,327 square feet;
- b. Landscaping (planting, irrigation and landscape related improvements); and
- c. Accessory improvements determined by the City Manager to be consistent with the land use and development standards in effect for this site per the adopted community plan, California Environmental Quality Act [CEQA] Guidelines, public and private improvement requirements of the City Engineer, the underlying zone(s), conditions of this permit, and any other applicable regulations of the SDMC in effect for this site.

1. Construction, grading or demolition must commence and be pursued in a diligent manner within thirty-six months after the effective date of final approval by the City, following all appeals. Failure to utilize the permit within thirty-six months will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all the SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker.

2. 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 Owner/Permittee signs and returns the permit to Planning and Development Review; and
- b. The Permit is recorded in the office of the San Diego County Recorder.

3. 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.

4. This Permit is a covenant running with the subject property and shall be binding upon the Owner/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.

5. The utilization and continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agencies.

6. Issuance of this Permit by the City of San Diego does not authorize the Owner/Permittee for said Permit to violate any Federal, State or City laws, ordinances, regulations or policies.

7. The Owner/Permittee shall secure all necessary building permits. The Owner/Permittee 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.



8. 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 May 2, 2000, on file in the Office of the Development Services Department. No changes, modifications or alterations shall be made unless appropriate applications or amendment of this Permit shall have been granted.

9. 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 new 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.

10. This Coastal Development Permit shall become effective on the eleventh working day following receipt by the Coastal Commission of the Notice of Final Action, following all appeals.

#### **ENVIRONMENTAL/MITIGATION REQUIREMENTS:**

##### Historical Resources [Historic]

11. Prior to the issuance of the first grading permit, the Owner/Permittee shall complete the Historic American Buildings Survey/Historic American Engineering Record [HABS/HAER] documentation of the original sections of the Chart House [Wahnfried] structure, and shall submit the documentation to the Environmental Review Manager [ERM] of the Land Development Review Division.

12. Prior to the issuance of building permits, the Owner/Permittee shall submit complete construction plans to the ERM for approval. The plans shall include the following elements:

- a. Reconstruction of the original Wahnfried interior fireplace with mantle (in the original location if possible);
- b. Incorporation of the carved beam which is currently above the windows near the southwest corner of the existing dining area into the new construction;
- c. Incorporation of the inscribed wood which is currently located above the windows along a south portion of the first floor; and

- d. Provision of appropriate signage and/or informational plaques explaining the significance of the retained elements and the history and association of the Wahnfried building with Anna Held.

13. Prior to the issuance of certificates of occupancy, the Environmental Analysis Section [EAS] shall verify through a sight inspection that Measures 12a. through 12d. above have been implemented.

14. Any affected concrete sidewalk stamps over 45 years of age shall be saw-cut and replaced in approximately the same location in the new sidewalk(s).

#### Historical Resources [Prehistoric]

15. Prior to the issuance of grading permits, the ERM shall verify through the plan check process that the requirement for archaeological monitoring is noted on the grading plans.

16. Prior to the issuance of grading permits, the Owner/Permittee shall provide a letter of verification to the ERM stating that a qualified archaeologist and/or archaeological monitor have been retained to implement the archaeological monitoring program. All persons involved in the archaeological monitoring of this project shall be approved by Land Development Review [LDR] prior to the start of monitoring.

- a. The project archaeologist shall include a local Native American representative in the monitoring program.
- b. The qualified archaeologist shall attend the preconstruction meeting to discuss the archaeological construction monitoring program with the construction manager.
- c. The qualified archaeologist or archaeological monitor shall be present on site full-time during removal of any portions of the existing structure. Special attention shall be paid to the possibility that human skeletal remains may be encountered during excavation or grading.
- d. When requested by the archaeologist, the City Resident Engineer or designee shall divert, direct, or temporarily halt ground disturbance activities in the area of discovery to allow evaluation of potentially significant historical resources. The archaeologist shall contact LDR at the time of discovery. The significance of the discovered resources shall be determined by the archaeologist, in consultation with LDR and the Native American community. LDR must concur with the evaluation before grading activities will be allowed to resume. For significant historical resources, a Research Design and Data Recovery Program shall be prepared and carried out to mitigate impacts before grading activities in the area of discovery will be allowed to resume. Any human bones of Native American origin shall be given to the appropriate Native American group for reburial.
- e. All cultural materials collected shall be cleaned, catalogued, and permanently curated with an appropriate institution. All artifacts shall be analyzed to identify function and chronology as they relate to the history of the area. Faunal material shall be identified as to species and specialty studies shall be completed, as appropriate.
- f. Within three months following the end of the monitoring program, a monitoring report (with appropriate graphics) which describes the results, analysis, and conclusions of the archaeological monitoring program shall be submitted for approval by the ERM.

Other

17. Prior to the issuance of the first grading permit, an additional deposit of \$450.00 shall be collected to ensure the successful implementation of the mitigation program.
18. Prior to building occupancy, the applicant shall conform to the Municipal Code, "Public Improvement Subject to Desuetude of 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, satisfactory to the permit-issuing authority.
19. 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 the SDMC in a manner satisfactory to the City Engineer.
20. The drainage system proposed for this development as shown on the site plan, is subject to approval by the City Engineer.
21. 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.
22. The height(s) of the building(s) or structure(s) shall not exceed those heights set forth in the conditions and the exhibits (including, but not limited to, elevations and cross sections) or the maximum permitted building height of the underlying zone, whichever is lower, unless a deviation or variance to the height limit has been granted as a specific condition of this permit.
23. A topographical survey conforming to the SDMC 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 Owner/Permittee.
24. 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.
25. All signage associated with this development shall be consistent with the Citywide sign regulations.
26. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located.
27. The use of textured or enhanced paving shall meet applicable City standards as to location, noise and friction values.
28. The subject property and associated common areas on site shall be maintained in a neat and orderly fashion at all times.

29. 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.

30. 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.

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

32. Prior to the issuance of building permits, construction documents shall fully illustrate compliance with the SDMC requirements for Citywide Storage Standards for Trash and Recyclable Materials. All exterior storage enclosures for trash and recyclable materials shall be located in a manner that is convenient and accessible to all occupants of and service providers to the project, in substantial conformance to Exhibit "A," dated May 2, 2000, on file in the Office of the Development Services Department.

33. A building address number, visible and legible from the street or road fronting the property, shall be provided per the Uniform Fire Code [UFC] section 901.4.4.

34. 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 May 2, 2000, on file in the Office of the Development Services Department. No change, modification or alteration shall be made unless appropriate application or amendment of this Permit shall have been granted.

35. Prior to issuance of any grading permits, complete landscape construction documents for erosion control purposes, including plans, details and specifications (including a permanent automatic irrigation system unless otherwise approved), shall be submitted to the City Manager for approval. 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 Owner/Permittee shall initiate such measures within forty-five 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.

36. Prior to issuance of any Certificate of Occupancy, it shall be the responsibility of the Owner/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. The Urban Forester must approve of the final selection of the street trees. Copies of these approved documents must be submitted to the City Manager.

37. 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 Owner/Permittee shall be responsible to maintain all street trees and landscape improvements consistent with the standards of the Landscape Technical Manual.

38. 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 thirty days of completion of construction by the Owner/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.

39. Prior to the issuance of any Certificate of Occupancy, five street trees shall be installed within the right-of-way fronting Prospect Avenue and be equally spaced along the frontage of Lots 30, 31, and 32.

40. Prior to the issuance of any building permit, the Owner/Permittee shall secure ten parking spaces, to the satisfaction of the City Manager.

41. At no time shall any window be obscured by curtains or window dressing.

42. At no time shall there be an increase in seating capacity above the existing maximum 294 seats.

APPROVED by the Council of the City of San Diego by Resolution No. R-293073, on May 2, 2000.

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.

ALLISON-ZONGKER, LP  
Owner

By \_\_\_\_\_

CHLN, Inc  
Leasee/Permittee

By \_\_\_\_\_

**NOTE: Notary acknowledgments  
must be attached per Civil Code**

R- 293073