

RESOLUTION NUMBER R-294064

ADOPTED ON OCTOBER 24, 2000

WHEREAS, Handlery Hotels, Inc., Owner/Permittee, filed an application with the City of San Diego for a permit to demolish an existing movie theater and a private recreation club, to construct a 350-unit apartment development with covered parking, and to maintain an existing hotel and accessory facilities for the Presidio View project, located 950-1450 Hotel Circle North between Hotel Circle Place and Fashion Valley Road, and legally described as R.O.S. Maps 1142 and 6238 (a Portion of P.L. 1119) and Joseph Reiners Sub., DB-1-PG 183 (a Portion of P.L. 1103), in the Mission Valley Community Plan area, in the existing MV-CO-CV zone (proposed MV-CO-CV and MVR-4 zones); and

WHEREAS, on August 10, 2000, the Planning Commission of the City of San Diego considered Mission Valley Planned District [MVP] Permit No. 99-0348, and pursuant to Resolution No. 3013-1-PC voted to recommend City Council approval of the permit; and

WHEREAS, the matter was set for public hearing on October 24, 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 MVP Permit No. 99-0348:

MISSION VALLEY PLANNED DISTRICT ORDINANCE [PDO] FINDINGS (SAN DIEGO MUNICIPAL CODE SECTION 103.2101)

A. The proposed development is consistent with the Mission Valley Community Plan and the City's Progress Guide and General Plan.

The 20.46-acre project site consists of two non-contiguous parcels of land, including an approximately 5 acre site of river valley property which is open and undeveloped and an approximately 15 acre developed site under the Mission Valley PDO and designated for "Office or Commercial Recreation" use by the Mission Valley Community Plan. The 15 acre site is currently developed with a movie theater (currently in use as a temporary church through a Conditional Use Permit), a private recreation club and a hotel. A concurrent amendment to the City of San Diego Progress Guide and General Plan, the Mission Valley Community Plan and the Mission Valley Planned District Ordinance is proposed to redesignate the 7.15 acre portion of the site occupied by the theater and recreation club, from the office and visitor recreation designation to residential use. A rezone of the 7.15 acre site from MV-CO-CV to MVR-4 (56 du/ac maximum) is also proposed to accommodate the 350 apartment units, parking, open space and accessory recreational use. The offsite 5 acre site is the subject of an eminent domain action by the Metropolitan Transit Development Board [MTDB] and is being acquired as mitigation for the West Mission Valley Trolley Line impacts. The owner/applicant will retain the development rights through a transfer of ADTs to the 15 acre hotel and proposed apartment site in order to achieve the higher residential density. There will be a future PDO permit application to demolish the hotel and build a new hotel with an increase in the number of rooms and enhanced convention facilities and accessory uses. City staff review of the proposed project and conditions of approval imposed through the accompanying Mission Valley PDO Permit, will assure that the proposed development under current consideration will be consistent with the Mission Valley Community Plan as amended and the City's Progress Guide and General Plan.

B. The proposed development provides the required public facilities and is compatible with adjacent open space areas.

The 20.46 acre site is proposed for redevelopment of a 7.15 acre portion from existing movie theater and private recreation club use to 350 residential apartments with parking, open space and accessory recreational uses, future redevelopment of an existing hotel on approximately 8 acres to provide additional guest rooms and convention facilities through a site specific permit and an increase in development intensity to achieve the residential and hotel developments through transfer of the ADT allocation from the offsite 5-acre open space parcel to the 15-acre residential and hotel parcels. No public facilities are identified by the Mission Valley Community Plan for the subject property. While very few public facilities are actually located in Mission Valley, these services are located in the numerous communities bordering and accessible from Mission Valley and will serve the needs of the project residents. Adjoining properties to the east and west are designated for office and visitor serving uses and the property adjoining to the north

is designated for mixed uses. An open space corridor lies farther to the north and generally follows the route of the San Diego River through a golf course. Interstate 8 and a freeway frontage road lie south of the project site. The residential use proposed on this site is being accomplished through an amendment to the adopted City plans.

C. The proposed development meets the general purpose, intent and criteria of the Mission Valley Planned District including the applicable "Guidelines for Discretionary Review" adopted as a part of this Planned District Ordinance.

In order to develop a 7.15 acre portion of this 20.46 acre site with 350 residential apartment units with parking, open space and accessory recreational uses, a concurrent Mission Valley Community Plan, Mission Valley Planned District Ordinance and Progress Guide and General Plan amendment is required. With these amendments, the use will conform to the adopted plans as well as the future redevelopment of the existing hotel on approximately 8 acres of the project site. To develop the currently requested 350 residential apartment units and to consider a future permit for the increased intensity of the hotel, a transfer of ADT allocation is proposed from a 5 acre offsite parcel being used as a mitigation site. The permit process is subject to the "Guidelines for Discretionary Review" contained within the Mission Valley Planned District Ordinance. These criteria address physical and visual access to the river and wetlands, preserving buffers, building designs to take advantage of the wetland views, pedestrian and landscaping enhancements, building materials and commercial and recreational incorporation. Staff has reviewed the project for conformity to these guidelines and to the specific requirements of the residential zones and believe that the final design represents conformity to the general intent and purpose.

D. The proposed development will comply will all other relevant regulations of the San Diego Municipal Code in effect for this site.

For the development of this 20.46 acre project site as proposed, it is required to amend the Mission Valley Community Plan, the Mission Valley Planned District Ordinance, and the Progress Guide and General Plan, and to approve the accompanying rezone from MV-CO-CV to MVR-4 and MV-CO-CV in order to permit the residential density up to 56 du/ac, thereby retaining the hotel and allowing for consideration of its future expansion. Also required is the transfer of the ADT allocation from the offsite 5 acre open space parcel to the 15.36 apartment and hotel sites. No other permits or maps are required and the appropriate public hearings, noticings, and actions are all being properly considered as required by the San Diego Municipal Code.

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 Mission Valley Planned District Ordinance Permit No. 99-0348 is granted to Handlery Hotels, Inc., Owner/Permittee, subject to the conditions listed below and pursuant to the terms and conditions set forth in the permit attached hereto and made a part hereof.

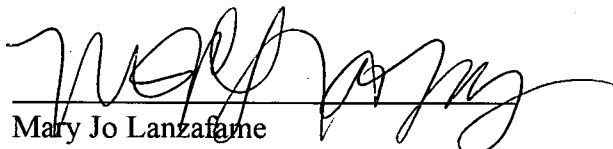
1. The hook ramp improvements shall be done in Phase One;
2. The bus stops and sidewalk improvements shall be included in the permit;
3. Bougainvillea will shall be planted along the fence, similar to the one along

Interstate 5 in Old Town; and

4. Item No. 19 in the draft permit regarding the widening of Hotel Circle North shall be deleted.

APPROVED: CASEY GWINN, City Attorney

By


Mary Jo Lanzafame
Deputy City Attorney

MJL:lc
04/04/01
04/23/01 (Permit corrected.)
Or.Dept:Clerk
R-2001-1183
Form=permitr.frm
Reviewed by Robert Korch

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

MISSION VALLEY PLANNED DISTRICT PERMIT NO. 99-0348
PRESIDIO VIEW
CITY COUNCIL

This Mission Valley Planned District Permit is granted by the Council of the City of San Diego to Handlery Hotels, Inc., a California Corporation, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] sections 103.2101, 101.0900, 101.0910 and 111.0510. The 20.46 acre site is located at 950 and 1440-1450 Hotel Circle North in the MV-CO-CV (proposed MV-CO-CV and MVR-4) zone of the Mission Valley Community Plan area and Mission Valley Planned District Ordinance. The project site is legally described as R.O.S. Maps 1142 and 6238 (a Portion of P.L. 1119) and Joseph Reiners Sub., DB-1-PG 183 (a Portion of P.L. 1103).

Subject to the terms and conditions set forth in this permit, permission is granted to Owner/Permittee to demolish an existing movie theater currently in use as a temporary church facility under Conditional Use Permit No. 99-1375 and a private recreational facility, to construct a 350 multi-family residential dwelling unit complex with covered parking, and to maintain an existing hotel and accessory facilities, described as, and identified by size, dimension, quantity, type and location on the approved Exhibits "A," dated October 24, 2000, on file in the Development Services Department. This permit and facility shall include:

- a. Demolition of an existing movie theater (in current use as a temporary church facility) and a recreation club; and
- b. Construction of a 350-unit residential apartment development located within eleven buildings (six on-grade buildings and five buildings over 2 levels of covered parking) with on-grade buildings being 4 stories in height and residential buildings over parking being 3 stories in height; and
- c. Maintenance of an existing 217 room hotel and accessory uses; and

- d. Landscaping (planting, irrigation and landscape related improvements); and
- e. Off-street parking facilities; and
- f. Pedestrian paths and a main promenade separating on-grade structures from above parking units, a recreation building/club house and swimming pool/spa, landscaped themed courtyards, shade structures, a sign plan and retaining walls and fencing; and
- g. 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 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 Municipal Code in effect for this site.

1. 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 decisionmaker.

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 Permittee signs and returns the Permit to the Development Services Department; 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 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 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. § 1531 et seq.).

7. 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.

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 October 24, 2000, on file in 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 proposed 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. Rezoning of the subject property shall become effective 30 days after adoption of the accompanying Rezone Ordinance for the project site. No grading or building permits shall be issued until the rezone is effective.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

11. Prior to the issuance of the first grading permit, the applicant shall provide a letter of verification to the Environmental Review Manager of Land Development Review [LDR], Development Services Department, stating that a qualified archaeologist and/or archaeological

monitor, as defined in the City of San Diego Historical Resources Guidelines, have been retained to implement the monitoring program. The requirement for archaeological monitoring shall be noted on the grading plan. **ALL PERSONS INVOLVED IN THE ARCHAEOLOGICAL MONITORING OF THIS PROJECT SHALL BE APPROVED BY LDR PRIOR TO THE START OF MONITORING. THE APPLICANT SHALL NOTIFY LDR OF THE START AND END OF CONSTRUCTION.**

- a. The qualified archaeologist shall attend any preconstruction meetings to make comments and/or suggestions concerning the archaeological monitoring program with the construction manager.
- b. The qualified archaeologist or archaeological monitor shall be present onsite full-time during grading of native soils.
- c. **WHEN REQUESTED BY THE ARCHAEOLOGIST, THE CITY RESIDENT ENGINEER SHALL DIVERT, DIRECT OR TEMPORARILY HALT GROUND DISTURBANCE ACTIVITIES IN THE AREA OF DISCOVERY TO ALLOW EVALUATION OF POTENTIALLY SIGNIFICANT CULTURAL RESOURCES. THE ARCHAEOLOGIST SHALL IMMEDIATELY NOTIFY LDR STAFF OF SUCH FINDING 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 cultural 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 turned over to the appropriate Native American group for reburial.
- d. 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.
- e. Prior to the release of the grading bond, a monitoring results report and/or evaluation report, if appropriate, which describes the results, analysis and conclusions of the archaeological monitoring program (with appropriate graphics) shall be submitted to and approved by the Environmental Review Manager of LDR. For significant cultural resources, a Research Design and Data Recovery Program shall be included as part of the evaluation report. A mitigation report for significant cultural resources, if required, shall be submitted to and approved by the Environmental Review Manager of LDR prior to the release of the grading bond.

12. Prior to the issuance of the first building permit, the applicant shall provide its fair share contribution towards the subdivider-funded street widening project MV-10A in the current Mission Valley Public Facilities Financing Plan dated January 1988, amended December 1996. This project is to widen Hotel Circle North between Camino de La Reina and Interstate 8 westbound ramps. The applicant shall contribute the residential share of 20.32 percent of the total cost of this improvement project with the 15.08 percent share for the hotel site deferred until that future Mission Valley PDO Permit is approved.

13. Prior to the issuance of the first building permit, the applicant shall provide its fair share contribution towards the subdivider-funded street widening project MV-8B in the current Mission Valley Public Facilities Financing Plan dated January 1988, amended December 1996. This project is to widen Hotel Circle South between Camino de La Reina and the Interstate 8 eastbound ramps. The applicant shall contribute the residential share of 15.56 percent of the total cost of this improvement project with the 11.54 percent share for the hotel site deferred until that future Mission Valley PDO Permit is approved.

14. Prior to the issuance of the first building permit, the applicant shall assure the installation of a traffic signal at the intersection of Hotel Circle South/Bachman Place unless an acceptable arrangement is made where the University of California at San Diego Medical Center shall assure the signal installation prior to the development of Presidio View.

15. Prior to the issuance of the first building permit for the second phase of this project (remodel/renovation/reconstruction of the hotel with a future MVP Amendment to this Permit), the applicant shall assure the installation of a traffic signal at the intersection of Hotel Circle North/Interstate 8 westbound ramps. This improvement is subject to the approval of the City Engineer and Caltrans. Installation of the traffic signal will also need to be coordinated and reviewed with the City Engineer and Caltrans. City staff shall initiate contact and discussions with Caltrans to implement and coordinate these improvements. Should Caltrans not approve or permit this improvement, the applicant shall deposit the equivalent funds in the Mission Valley FBA fund to be used for other transportation improvements.

16. Prior to the issuance of the first building permit, the applicant shall assure the installation of a traffic signal at Hotel Circle South/Interstate 8 eastbound ramps. This improvement is subject to the approval of the City Engineer and Caltrans. Installation of the traffic signal will also need to be coordinated and reviewed with the City Engineer and Caltrans. City staff shall initiate contact and discussions with Caltrans to implement and coordinate these improvements. Should Caltrans not approve or permit this improvement, the applicant shall deposit the equivalent funds in the Mission Valley FBA fund to be used for other transportation improvements.

17. Prior to the issuance of the first grading permit, the City Engineer shall verify that appropriate post-construction Best Management Practices [BMPs] have been incorporated into the project design. The stormwater BMPs could include, but are not limited to, one or a combination of the following:

- a. Infiltration trenches or dry wells which can reduce runoff volume and peak discharge rate from a site.
- b. Vegetative controls such as grassed swales and filter strips.
- c. Porous pavement that allows stormwater to pass through and infiltrate the underlying soil, such as pre-cast concrete lattice pavers or porous asphalt that contains a much smaller percentage of very fine particles.

18. The Mitigation Monitoring and Reporting Program [MMRP] shall require a deposit of \$450 to be collected prior to the issuance of the first grading permit to cover the City's costs associated with implementation of the MMRP.

ENGINEERING REQUIREMENTS:

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 San Diego Municipal Code in a manner satisfactory to the City Engineer.

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

21. Prior to the issuance of any permits, the applicant shall provide an off-site drainage easement for the proposed box culvert at the westerly property.

22. Development of this project shall comply with all requirements of State Water Resources Control Board (SWRCB) Order No. 92-08-DWQ (NPDES General Permit No. CAS000002), Waste Discharge Requirements for Discharges of Storm Water Runoff Associated With Construction Activity. In accordance with said permit, a Storm Water Pollution Prevention Plan (SWPPP) and a Monitoring Program Plan shall be developed, approved, and implemented concurrently with the commencement of grading activities, and a complete and accurate Notice of Intent (NOI) shall be filed with the SWRCB. A copy of the acknowledgment from the SWRCB that an NOI has been received for this project shall be filed with the City of San Diego when received; further, a copy of the completed NOI from the SWRCB showing the permit number for this project shall be filed with the City of San Diego when received.

In addition, the owner(s) and subsequent owner(s) of any portion of the property covered by this grading permit and by SWRCB Order No. 92-08-DWQ, and any subsequent amendments thereto, shall comply with special provisions as set forth in Section C.7 of SWRCB Order No. 92-08-DWQ.

23. Prior to building occupancy, the applicant shall conform to the San Diego Municipal Code section titled, "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, satisfactory to the permit-issuing authority.

24. A portion of this project has been identified as being within a floodway or floodplain fringe area. In connection with approval of this permit:

- a. The developer shall submit a Hydraulic and Hydrologic Study of the area within the floodway for approval by the City Engineer.
- b. Any development within the floodplain fringe area will require either the property to be graded to an elevation two feet above the 100-year frequency flood elevation or provide floodproofing of all structures to that same elevation.
- c. The developer shall grant a flowage easement, satisfactory to the City Engineer, over the property within the floodway.
- d. The developer shall not oppose the formation of a special assessment initiated for the construction of flood control facilities and their perpetual maintenance.
- e. The developer shall denote on the improvement plans "Subject to Inundation" for those areas at an elevation lower than the 100-year frequency flood elevation plus one foot.
- f. The developer shall provide slope protection, as required by the City Engineer, where the flow velocity exceeds 5 FPS.
- g. The developer shall provide safety fencing where required by the City Engineer.
- h. Permits or exemptions must be obtained from the California Department of Fish and Game and the U.S. Army Corps of Engineers before City permits will be issued for work within the floodplain fringe areas.
- i. The developer shall grant drainage easements, satisfactory to the City Engineer.
- j. Portions of the project are located in the floodplain of San Diego River, as delineated on Panel 1618 of the Flood Insurance Rate Map (FIRM) for the City of San Diego. These maps are prepared by the Federal Emergency Management Agency [FEMA].
- k. No permits shall be issued for grading or other work in the floodplain of San Diego River until the developer obtains a Conditional Letter of Map Amendment [Conditional LOMA] or Conditional Letter of Map Revision [Conditional LOMR]

from FEMA. The request for the Conditional LOMA or Conditional LOMR must be submitted through the Floodplain Management Section of the City of San Diego's Engineering and Capital Projects Department. The developer must provide all documentation, engineering calculations, and fees which are required by FEMA.

- l. When as-built grading and public improvement plans are available, the developer must submit a request for a Final LOMA or Final LOMR to FEMA via the Floodplain Management Section of the City of San Diego's Engineering and Capital Projects Department. The developer must provide all documentation, engineering calculations, and fees which are required by FEMA.
- m. The bond for this project will not be released until the Final LOMA or Final LOMR is issued by FEMA. The Floodplain Management Section of the City of San Diego's Engineering and Capital Projects Department will notify the Development Services Department of such issuance as soon as it is informed by FEMA.
- n. Notes provided by the Floodplain Management Section of the City of San Diego's Engineering and Capital Projects Department concerning work in designated floodplains shall be included in all grading and improvement plans.

25. The easterly driveway shall not exceed the City standard of 30-foot width and if any portion of the driveway remains on the adjoining property, a Letter of Concurrence from the adjoining property owner is required.

26. The applicant and the adjoining property owner to the east, will dedicate the appropriate right-of-way to provide for improvements to Hotel Circle North and the Interstate 8 westbound ramps, based on an improvement plan acceptable to the City Engineer and Caltrans. The applicant shall assure the construction of these improvements prior to the issuance of the first building permit for the apartment development. The traffic signal associated with this improvement is deferred per Condition No. 15 of this permit to the second phase (Hotel Amendment). If the Irrevocable Offer of Dedication from the adjoining owner is not provided, or the continued use of the hotel service entrance cannot be preserved through the improvement project design, or if Caltrans does not accept a workable design, this condition would be void and the traffic signal required in Condition No. 15 above would be required prior to the issuance of the first building permit for the apartment development.

PLANNING/DESIGN REQUIREMENTS:

27. Conditional Use Permit [CUP] No. 99-1375 for the use of the former movie theater as a church facility shall be canceled and the use terminated according to the terms of the CUP, prior to the utilization of this permit.

Floodplain Management Section of the City of San Diego's Engineering and Capital Projects Department

28. A site specific Mission Valley Planned District Ordinance Permit [MVP] will be required at a future date for the proposed expansion of the existing hotel from 217 rooms to a proposed 328 rooms with convention facilities and accessory uses. As required by Conditions No. 12 and 13 above, the hotel share of contributions to traffic oriented improvement projects will be required as conditions of the required MVP Permit to consider approving the expansion plans for the hotel.

29. No fewer than 653 off-street residential automobile parking spaces, 25 motorcycle spaces and 151 bicycle spaces shall be maintained on the property at all times in the approximate locations shown on the approved Exhibit "A," dated October 24, 2000, on file in the Development Services Department. Of the 653 automobile spaces, 502 are required for the tenants and 151 spaces are required for the supplemental guest parking (131 spaces must be located in a common area). Parking spaces shall comply at all times with the Municipal Code and shall not be converted for any other use unless otherwise authorized by the City Manager. Additionally, the Hotel parking requirement is one space per guest room existing.

30. This permit may be developed in phases. Each phase shall be constructed prior to the sale, rent or lease to individual owners or tenants to ensure that all development is consistent with the conditions and exhibits approved for each respective phase.

31. 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 a 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.

32. 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.

33. A topographical survey conforming to the provisions 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 regulation of the underlying zone. The cost of any such survey shall be borne by the permittee.

34. 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.

35. All signage associated with this development shall be consistent with the sign plan marked Exhibit "A," dated October 24, 2000, on file in the Development Services Department.

36. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located.
37. The use of textured or enhanced paving shall meet applicable City standards as to location, noise and friction values.
38. The subject property and associated common areas on site shall be maintained in a neat and orderly fashion at all times.
39. 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.
40. Prior to the issuance of building permits, construction documents shall fully illustrate compliance with the Citywide Storage Standards for Trash and Recyclable Materials per the Municipal Code to the satisfaction of the City Manager. 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 with the conceptual site plan marked Exhibit "A," dated October 24, 2000, on file in the Development Services Department.
41. The owner/permittee, with the future amendment of this permit for renovation/expansion of the existing hotel site, shall provide an acceptable vehicular drive/access between Hotel Circle North and the proposed Street 'B' currently shown in the Levi-Cushman Specific Plan and Development Agreement to the satisfaction of the City Engineer and City Planner. Additionally, recreational facilities shown conceptually in Exhibit "A," dated October 24, 2000, on file in the Development Services Department, shall be encouraged to be retained when the hotel amendment is submitted for review and processed by the City.

LANDSCAPE REQUIREMENTS:

42. The project shall provide the public sidewalk on the north side of Hotel Circle North across the entire project frontage with the first building permits for the development of the apartment units. In conjunction with the sidewalk improvements, the Owner/applicant shall provide Bus Stop improvements, including additional sidewalk widths and a shelter structure at the appropriate location(s) to best serve the apartment dwellers and hotel guests, as determined by the Metropolitan Transit Development Board [MTDB]. The bus stop improvements may encroach into the front yard setback as necessary. An easement for any encroachment onto private property shall be provided as determined by the City Engineer.
43. Prior to issuance of any construction permits for structures (including shell), complete landscape and irrigation construction documents consistent with the Landscape Technical Manual (including planting and irrigation plans, details and specifications) shall be submitted to the City.

Manager for approval. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Concept Plan, dated October 24, 2000, on file in the Development Services Department.

44. No change, modification or alteration shall be made to the project unless appropriate application or amendment of this Permit shall have been granted by the City.

45. In the event that a foundation only permit is requested by the Permittee or subsequent owner, a site plan or staking layout plan shall be submitted identifying all landscape areas consistent with Exhibit "A," Landscape Concept Plan, dated October 24, 2000, on file in the Development Services Department. These landscape areas shall be clearly identified with a distinct symbol, noted with dimensions and labeled as "landscaping area."

46. Prior to issuance of any construction permit for parking structures, the Permittee shall submit on the planting and irrigation plans a signed statement by a Registered Structural Engineer indicating that supporting structures are designed to accommodate the necessary structural loads and associated planting and irrigation.

47. Prior to issuance of any Certificate of Occupancy, it shall be the responsibility of the Permittee, or subsequent owner, to install all required landscaping and obtain all required landscape inspections. A No Fee Street Tree Permit, if applicable, shall be obtained for the installation, establishment and on-going maintenance of all street trees.

48. All required landscape shall be maintained in a disease, weed and litter free condition at all times. Severe pruning or "topping" of trees is not permitted unless specifically noted in this Permit.

49. The Permittee, or subsequent owner, shall be responsible for the maintenance of all street trees and landscape improvements (right-of-way and median landscaping) consistent with the standards of the Landscape Technical Manual unless long-term maintenance of street trees, right-of-way and median landscaping will be the responsibility of a Landscape Maintenance District or other approved entity. In this case, a Landscape Maintenance Agreement shall be submitted for review by a Landscape Planner.

50. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction document plans is damaged or removed during demolition or construction, it shall be repaired and/or replaced in kind and equivalent size per the approved documents to the satisfaction of the City Manager within 30 days of damage or Certificate of Occupancy.

51. The applicant, as a requirement of the first building permit for the apartment units, shall plant bougainvillea vines along the chain link fencing between Hotel Circle North and the

Interstate 8 Freeway along the project boundary, plant size, spacing and irrigation system to be determined to the satisfaction of the City Manager.

WASTEWATER REQUIREMENTS:

52. Prior to the issuance of any building permits, the developer shall provide a sewer study, satisfactory to the Metropolitan Wastewater Department Director, for the sizing, grade and alignment of any proposed public gravity sewer mains and to show that the existing and proposed public sewer facilities will provide adequate capacity and have cleansing velocities necessary to serve this development and the drainage basin in which it lies. The study shall identify appropriate easements and vehicular access.

53. Prior to the issuance of any certificates of occupancy, the developer shall install all sewer facilities as required by the accepted sewer study necessary to serve this development, including vehicular access within easements.

54. The developer agrees to design all proposed public sewer facilities in accordance with the criteria established in the most current edition of the "City of San Diego Water & Sewer Design Guide." Proposed facilities that do not meet the current standards shall be private.

55. The developer shall grant adequate, sewer, and/or access easements, including vehicular access to each manhole, for all public sewer facilities that are not located within fully improved public rights-of-way, satisfactory to the Metropolitan Wastewater Department Director. Vehicular access roadbeds shall be a minimum of 20 feet wide and surfaced with suitable approved material satisfactory to the Wastewater Department Director. Minimum easement width for sewer mains with manholes is 20 feet. The easements shall be located within single lots. No structures shall be installed nor any trees planted in or over any access easement prior to the applicant obtaining an encroachment removal agreement.

LITIGATION:

56. The referenced owner/permittee and the Metropolitan Transit Development Board [MTDB] are involved in litigation over MTDB acquisition of the 5-acre offsite parcel that MTDB requires as mitigation for the construction of the West Mission Valley Trolley Line. MTDB is to acquire the FW zoned site, preserve it as open space and the development rights associated with the existing parcel are transferred to the Presidio View apartment and hotel sites through 1,315 ADTs, thereby permitting the 350 proposed apartment units and future expansion of the hotel rooms and convention facilities. No grading, public improvement or building permits may be issued until evidence of the final resolution of this litigation is provided to the City of San Diego.

INFORMATIONAL:

At the time of building permit issuance, a Development Impact Fee [DIF] of \$2,307 per dwelling unit will be assessed.

APPROVED by the Council of the City of San Diego on October 24, 2000, by Resolution No. R-294064.

4/5/01; 4/23/01 Corrected
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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.

HANDLERY HOTELS, INC.
a California Corporation
Owner/Permittee

By _____

By _____

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

4/5/01; 4/23/01 Corrected
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