

RESOLUTION NO. 207796 APR 24 1973
Conditional Use Permit No. 246-PC Amendment No. 2

WHEREAS, C. J. PADEREWSKI, an individual, Owner, and PETER W. BETHEA, an individual, hereafter referred to as "Permittee," filed an application for an amendment to Conditional Use Permit No. 246-PC to construct and operate a private tennis club facility with clubhouse and eight tennis courts, located on the east side of La Jolla Scenic Drive and Soledad Mountain Road, a portion of Pueblo Lot 1264, more particularly described in Appendix "A," attached hereto and make a part hereof, in the R-1-20 Zone; and

WHEREAS, on December 6, 1972, the Planning Commission of The City of San Diego made its finding of facts and filed the same in the office of the City Clerk on December 20, 1972; and

WHEREAS, the motion by the Planning Commission to approve said amendment received the affirmative vote of two of the five Planning Commissioners present and was deemed denied; and

WHEREAS, pursuant to the provisions of Section 101.0506 of the San Diego Municipal Code, PETER W. BETHEA, under date of December 18, 1972, appealed the decision of the Planning Commission; and

WHEREAS, said appeal was set for public hearing on April 17, 1973, continued to April 24, 1973, testimony having been heard, evidence having been submitted and the City Council having fully considered the matter and being fully advised concerning the same; and

WHEREAS, the City Council in considering said appeal is empowered by the provisions of Municipal Code Section 101.0506, paragraph E., to affirm, reverse or modify, in whole or in part, any determination

of the Planning Commission, subject to the limitations as are placed upon the Planning Commission by the Municipal Code; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, as follows:

All of the following facts exist with respect to Conditional Use Permit No. 246-PC Amendment No. 2:

1. The proposed use at the particular location is desirable to provide a service which will contribute to the general well-being of the community.

2. Such use will not, under the the circumstances of the particular case, be detrimental to the health, safety or general welfare of persons residing or working in the vicinity.

3. The proposed use will comply with the regulations and conditions specified in the Code for such use.

4. The granting of this amendment will not adversely affect the General Plan of the City or the adopted plan of any governmental agency.

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

BE IT FURTHER RESOLVED, that by a vote of 8-1, this Council does hereby grant the appeal of Peter W. Bethea and grants Conditional Use Permit No. 246-PC Amendment No. 2 to C. J. PADEREWSKI, an individual, and PETER W. BETHEA, an individual, in the form and with the terms and conditions as set forth in the permit attached hereto and made a part hereof.

APPROVED: JOHN W. WITT, City Attorney

By

Frederick C. Conrad
Frederick C. Conrad, Chief Deputy

FCC:mmb
5-3-73

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CITY COUNCIL
Conditional Use Permit No. 246-PC Amendment No. 2

This conditional use permit amendment is granted by the Council of The City of San Diego to C. J. PADEREWSKI, an individual, and PETER W. BETHEA, an individual, hereafter referred to as "Permittee," for the purpose and under the terms and on the conditions as set out herein pursuant to the authority contained in Section 101.0507 of the San Diego Municipal Code.

1. Permission is hereby granted to Permittee to construct and operate a private tennis club facility with clubhouse and eight tennis courts, located on the east side of La Jolla Scenic Drive and Soledad Mountain Road, being a portion of Pueblo Lot 1264 as more particularly described in Appendix "A," in the R-1-20 Zone.

2. The tennis club facility shall include, and the term "Project" as used in this conditional use permit shall mean the total of the following facilities:

- a. 8 tennis courts.
- b. Clubhouse.
- c. Off-street parking.
- d. Incidental accessory uses as may be determined and approved by the Planning Director.

3. Not less than 36 off-street parking spaces shall be provided and maintained on the subject property in the approximate location shown on Exhibit "A" (dated January 6, 1971) on file in the office of the Planning Department. Areas and driveways shall be surfaced

with not less than 2" A.C. or its equivalent and each parking space shall be marked. Parking spaces and aisles shall conform to Planning Department standards. No charge shall be made at any time for the use of these off-street parking spaces.

4. Prior to the issuance of any building permits, a subdivision map or parcel map as determined by the Planning Director and City Engineer shall be recorded in the office of the County Recorder.

5. The applicant shall enter into an agreement with the City guaranteeing on his own behalf, or any successors in interest, the participation in and waiving their right to oppose any 1911 Improvement Act or similar proceedings initiated for the improvement of La Jolla Scenic Drive adjacent to the Project.

6. A geological report shall be provided to substantiate the proposed cut and fill banks, with a special design showing an adequate factor of safety as a prerequisite pending the City Engineer's approval of the grading plans. All slopes shall be planted within 90 days of the grading, and a permanent sprinkler system shall be installed as approved by the City Engineer and the Planning Director.

7. The hours of operation shall be limited from sunrise to sunset. No lights will be permitted for night tennis, except for the two most easterly located courts where night lights shall be permitted for operation until 10 p.m., provided however, such lights shall be located and shielded to comply with Condition No.3 of General Conditions for Conditional Use Permits.

8. Permittee shall comply with the General Conditions for Conditional Use Permits attached hereto and made a part hereof.

Passed and adopted by the City Council of The City of San Diego on April 24, 1973.

GENERAL CONDITIONS FOR CONDITIONAL USE PERMITS

1. Prior to the issuance of any building permits, complete building plans (including signs) shall be submitted to the Planning Director for approval. Plans shall be in substantial conformity with Exhibit A, dated January 6, 1971, on file in the office of the Planning Department. The property shall be developed in accordance with the approved building plans except where regulations of this or other governmental agencies require deviation therefrom. Prior to and subsequent to the completion of the project, no changes, modifications or alterations shall be made unless and until appropriate applications for amendment of this permit shall have been approved and granted.

2. Prior to the issuance of any building permits, a complete landscaping plan, including a permanent watering system, shall be submitted to the Planning Director for approval. Said plans shall be in substantial conformity with Exhibit A, dated January 6, 1971, on file in the office of the Planning Department. Approved planting shall be installed prior to the issuance of an occupancy permit on any building. Such planting shall not be modified or altered unless and until this permit shall have been amended to permit such modification or alteration.

3. All outdoor lighting shall be so shaded and adjusted that the light therefrom is directed to fall only on the same premises where such light sources are located.

4. Substantial construction of the project shall have commenced and shall be proceeding within one year from the effective date of this conditional use permit or any extension of time as may be granted herein by The City of San Diego pursuant to the terms set forth in Section 101.0507 and Section 101.0508 of the San Diego Municipal Code.

5. Construction and operation of the approved use shall comply at all times with the regulations of this or other governmental agencies.

6. The effectiveness of this conditional use permit is expressly conditioned upon, and the same shall not become effective for any purpose unless and until the following events shall have occurred:

a. Permittee shall have agreed to each and every condition hereof by having this conditional use permit signed within 90 days of the Council's decision. In no event shall this condition be construed to extend the time limitation set forth in 4 above; i.e., the time commences to run on the date that the City Council granted this conditional use permit.

b. This conditional use permit executed as indicated shall have been recorded in the office of the County Recorder.

7. After the establishment of the project as provided herein, the subject property shall not be used for any other purposes unless specifically authorized by the planning Commission, or

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City Council, or both unless the proposed use meets every requirement of zone existing for the subject property at the time of conversion.

8. The property included within this conditional use permit shall be used only for the purposes and under the terms and conditions as set forth in this permit unless the permit shall have been revoked by The City of San Diego.

9. In addition to any other remedy provided by law, any breach in any of the terms or conditions of this permit or any default on the part of Permittee or its successors in interest, shall be deemed a material breach hereof and this conditional use permit may be cancelled or revoked. Cancellation or revocation of this conditional use permit may be instituted by City or Permittee. The Planning Director shall set this matter for public hearing before the Planning Commission giving the same notice as provided in Section 101.0506. An appeal from the decision of the Planning Commission may be taken to the City Council within ten days after the decision is filed with the City Clerk. The Clerk shall set the matter for public hearing before the City Council giving the same notice as provided in Section 101.0506.

10. This conditional use permit shall inure to the benefit of and shall constitute a covenant running with the lands, and the terms, conditions and provisions hereof shall be binding upon Permittee, and any successor or successors thereto, and the interests of any successor shall be subject to each and every condition herein set out.

APPENDIX "A"
CONDITIONAL USE PERMIT 246-PC/AMENDMENT

ALL THAT PORTION OF PUEBLO LOT 1264 OF THE PUEBLO LANDS OF SAN DIEGO, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF MADE BY JAMES PASCOE IN 1870, A COPY OF WHICH SAID MAP WAS FILED IN THE OFFICE OF COUNTY RECORDER OF SAN DIEGO COUNTY, AND KNOWN AS MISCELLANEOUS MAP NO. 36, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTHERLY LINE OF SAID PUEBLO LOT 1264, DISTANT THEREON NORTH $75^{\circ}38'33''$ EAST, 2081.77 FEET FROM THE SOUTHWEST CORNER OF SAID PUEBLO LOT 1264, SAID POINT BEING ALSO THE SOUTHEASTERLY CORNER OF AN EASEMENT AND RIGHT OF WAY AS CONVEYED TO U.S.A. IN DECREE OF CONDEMNATION, RECORDED JUNE 1, 1944 IN BOOK 1679, PAGE 457 OF OFFICIAL RECORDS: THENCE NORTH $11^{\circ}19'40''$ WEST, 214.01 FEET TO THE MOST SOUTHERLY CORNER OF LAND DESCRIBED IN PARCEL 2 IN EASEMENT DEED TO THE CITY OF SAN DIEGO, RECORDED FEBRUARY 9, 1954 IN BOOK 5136, PAGE 446 OF OFFICIAL RECORDS, BEING A PORTION IN THE ARC OF A 360 FOOT RADIUS CURVE, CONCAVE SOUTHEASTERLY: THENCE ALONG THE SOUTHEASTERLY LINE OF SAID PARCEL 2 NORTHEASTERLY ALONG SAID CURVE THROUGH AN ANGLE OF $17^{\circ}37'49''$, A DISTANCE OF 110.77 FEET TO THE MOST WESTERLY CORNER OF LAND DESCRIBED IN DEED TO THE CITY OF SAN DIEGO, RECORDED AUGUST 6, 1957 AS DOCUMENT NO. 117420 OF OFFICIAL RECORDS: THENCE ALONG THE SOUTHWESTERLY LINE OF SAID LAND RADIAL TO SAID CURVE, SOUTH $69^{\circ}59'05''$ EAST - RECORD SOUTH $70^{\circ}11'22''$ EAST - 205 FEET TO THE MOST SOUTHERLY CORNER THEREOF: THENCE CONTINUING SOUTH $69^{\circ}59'05''$ EAST TO A POINT IN A LINE WHICH IS PARALLEL WITH AND 190.00 FEET NORTHERLY, MEASURED AT RIGHT ANGLES, FROM THE SOUTHERLY LINE OF SAID PUEBLO LOT: THENCE NORTH $75^{\circ}38'33''$ EAST ALONG SAID PARALLEL LINE TO THE WESTERLY LINE OF THE EASTERLY 200 FEET OF SAID PUEBLO LOT: THENCE SOUTH $17^{\circ}48'28''$ EAST ALONG SAID WESTERLY LINE 190 FEET MORE OR LESS TO SAID SOUTHERLY LINE: THENCE SOUTH $75^{\circ}38'33''$ WEST ALONG SAID SOUTHERLY LINE, 430.02 FEET TO THE POINT OF BEGINNING.

RESERVING THEREFROM AN EASEMENT FOR INGRESS AND EGRESS OVER THE SOUTHERLY 12 FEET OF THE EASTERLY 100 FEET THEREOF. THIS EASEMENT IS RESERVED FOR THE BENEFIT OF THE GRANTOR'S ADJOINING LAND AND IS HEREBY DECLARED TO BE FOREVER APPURTENANT THERETO AND SHALL BE USED BY THE PRESENT AND FUTURE OWNERS OF ALL OR ANY PART OF THE GRANTOR'S ADJOINING LAND.

Acknowledgment

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO) ss

On this _____ day of _____, 19____, before me the undersigned, a Notary Public in and for said County and State, personally appeared _____, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that _____ executed the within instrument.

WITNESS my hand and official seal.
(Notary Stamp)

Notary Public in and for the County
of San Diego, State of California

Acknowledgment

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO) ss

On this _____ day of _____, 19____, before me the undersigned, a Notary Public in and for said County and State, personally appeared _____, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that _____ executed the within instrument.

WITNESS my hand and official seal.
(Notary Stamp)

Notary Public in and for the County
of San Diego, State of California

APR 24 1973

Passed and adopted by the Council of The City of San Diego on _____,
by the following vote:

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CITY CLERK'S OFFICE

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SAN DIEGO, CALIF.

Councilmen	Yeas	Nays	Excused	Absent
Gil Johnson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Maureen F. O'Connor	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Henry L. Landt	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Leon L. Williams	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Floyd L. Morrow	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bob Martinet	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Allen Hitch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jim Bates	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Pete Wilson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

PETE WILSON
Mayor of The City of San Diego, California.

EDWARD NIELSEN
City Clerk of The City of San Diego, California.

By Mary Anne Neuse, Deputy.

(Seal)

Office of the City Clerk, San Diego, California

Resolution Number 207796 Adopted APR 24 1973
eh