

RESOLUTION NO.

222395

R.79-1708

Conditional Use Permit No. 489-PC/Amendment No. 1

DEC 12 1978

WHEREAS, SERO AMUSEMENT COMPANY, a California corporation, Owner, hereafter referred to as "Permittee," filed an application under Conditional Use Permit No. 489-PC/Amendment No. 1, to allow the operation of a swap meet on an authorized drive-in theater with parking and landscaping on a 13.2-acre site in the R-2 and CA Zones. The property is located on the north side of Coronado Avenue between Green Street and I-5, and is more particularly described as Bayview Drive-In Theater Tract No. 2, Map No. 4493; and

WHEREAS, on October 19, 1978, the Planning Commission of The City of San Diego voted 5 to 1 to deny the amendment to the Permit and filed said decision in the office of the City Clerk on October 20, 1978; and

WHEREAS, pursuant to the provisions of Section 101.0506 of the San Diego Municipal Code, SERO AMUSEMENT COMPANY, a California corporation, appealed the decision of the Planning Commission; and

WHEREAS, said appeal was held for public hearing on December 12, 1978, and 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

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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. 489-PC/Amendment No. 1:

1. The proposed use at this location would be desirable to provide a service contributing to the general well-being of the neighborhood and community.

The drive-in theater has been in operation at this location for a number of years. The applicant is proposing to utilize a portion of the theater as a swap meet on weekends. The City Council finds that a swap meet is an acceptable accessory use for drive-in theater sites, contributing to the consumer needs of the adjacent neighborhood and the community.

The City Council finds that the movie marquee sign and the new ticket booths with identification signs attached would also provide a service. However, the City Council finds that the sign shall be reduced in area to 200 square feet, consistent with the city-wide sign ordinance regulations and consistent with other Planning Commission and City Council actions.

2. The subject swap meet would not be detrimental to the health, safety or general welfare of persons living or working in the area nor be injurious to property or improvements in the vicinity.

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The proposed swap meet would not result in physical changes to the existing development on site. Any additional traffic which may be generated on weekends can be adequately handled by Coronado Avenue. The City Council finds that the excessive size of the movie marquee sign would be detrimental to the general welfare of persons living or working in the area, and the sign shall be reduced to 200 square feet in area.

3. The proposed swap meet would comply with regulations and conditions specified in the Municipal Code for such use.

The swap meet requires no variations or exceptions from any applicable regulations or conditions in the Municipal Code.

4. The granting of this conditional use permit would not adversely affect the General Plan of the City nor the proposed Otay-Nestor Community Plan.

Although the adopted General Plan designates the subject property for very low density residential development, the proposed Otay-Nestor Community Plan proposes commercial development for the site.

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

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BE IT FURTHER RESOLVED, that this Council does hereby grant to SERO AMUSEMENT COMPANY, a California corporation, Owner and Permittee, Conditional Use Permit No. 489-PC/ Amendment No. 1, 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  
Chief Deputy City Attorney

FCC:clh  
3/3/79  
Or.Dept.:Clerk

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CONDITIONAL USE PERMIT NO. 489-PC/AMENDMENT NO. 1  
CITY COUNCIL

This Conditional Use Permit Amendment is granted by the City Council of The City of San Diego to SERO AMUSEMENT COMPANY, a California corporation, Owner, hereafter referred to as "Permittee," for the purposes and under the terms and on the conditions as set out herein, pursuant to the authority contained in Section 101.0506 of the San Diego Municipal Code.

1. Permission is hereby granted to Permittee to maintain a drive-in movie theater and operate a swap meet as an accessory use, located on the north side of Coronado Avenue between Green Street and the I-5 freeway described as Bayview Drive-In Theater Tract No. 2, Map No. 4493, in the R-2 and CA Zones.

2. The drive-in movie theater shall include, and the term "Project" as used in this Conditional Use Permit Amendment shall mean the total of the following facilities:

- a. A drive-in movie theater.
- b. A swap meet.
- c. Off-street parking.
- d. Incidental accessory uses as may be determined and approved by the Planning Director.

3. All conditions originally imposed by the Zoning Administrator for this drive-in theater shall be met.

4. No sales activities shall occur prior to 7:00 a.m. except that the snack bar may be opened at 6:00 a.m. to serve the sellers.

5. The permittee shall provide for trash collection immediately after the swap meet.

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6. There shall not be less than three off-street parking spaces located on site for each selling space at the swap meet.

7. No public address system shall be permitted except for use in case of emergency.

8. No booth shall be permitted within 50 feet of any residential structure.

9. All sales activities shall be confined to the area designated "Theater No. 1" on the approved site plan.

10. The movie marquee sign shall be reduced in area to 200 square feet.

11. The permittee shall comply with the General Conditions for Conditional Use Permits attached hereto and made a part hereof.

ADOPTED BY THE COUNCIL OF THE CITY OF SAN DIEGO DECEMBER 12, 1978.

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 October 19, 1978, 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 October 19, 1978, 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.

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4. Substantial construction of the project shall have commenced and shall be proceeding within 18 months 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.

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AUTHENTICATED BY:

Mayor of The City of San Diego, California

City Clerk of The City of San Diego, California

STATE OF CALIFORNIA)  
                                          ) ss  
COUNTY OF SAN DIEGO)

On this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, before me the undersigned, a Notary Public in and for said County and State, residing therein, duly commissioned and sworn, personally appeared PETE WILSON, known to me to be the Mayor, and CHARLES G. ABDELNOUR, known to me to be the City Clerk of The City of San Diego, the municipal corporation that executed the within instrument and known to me to be the persons who executed the within instrument on behalf of the municipal corporation therein named, and acknowledged to me that such municipal corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal, in the County of San Diego, State of California, the day and year in this certificate first above written.

(Notary stamp)

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

The undersigned Permittee by execution hereof agrees to each and every condition of this conditional use permit and promises to perform each and every obligation of Permittee hereunder.

SERO AMUSEMENT COMPANY, a California  
corporation (Seal)

By \_\_\_\_\_

By \_\_\_\_\_

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Acknowledgment

STATE OF CALIFORNIA) ss  
COUNTY OF SAN DIEGO)

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 \_\_\_\_\_ and  
\_\_\_\_\_ known to me to be the  
\_\_\_\_\_ of \_\_\_\_\_

the corporation that executed the within instrument and known  
to me to be the persons who executed the same on behalf of said  
corporation and acknowledged to me that said corporation  
executed the same, pursuant to its bylaws or a resolution of  
its Board of Directors.

WITNESS my hand and official seal.  
(Notary Stamp)

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

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DEC 12 1978

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

Councilmen	Yeas	Nays	Not Present	Ineligible
Bill Mitchell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Maureen F. O'Connor	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Bill Lowery	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Leon L. Williams	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Fred Schnaubelt	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Tom Gade	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Larry Stirling	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lucy Killea	<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.

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California.

By *Barbara Berridge* Deputy.

(Seal)

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SAN DIEGO, CALIF.

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Office of the City Clerk, San Diego, California

Resolution Number 222395 Adopted DEC 12 1978