

RESOLUTION NO. R-224196 (R.80-1413)

Conditional Use Permit No. 7139-PC/Amendment No. 2 AUG 7 1979

WHEREAS, ALLAN AND O'HARA DEVELOPMENT, INC., a Tennessee corporation, Owner, hereafter referred to as "Permittee", filed an application under Conditional Use Permit No. 7139-PC/Amendment No. 2, to amend City Council Resolution No. 184273 which restricts dining facilities usage to students in residence and their guests. The applicant requests permission to feed San Diego State University sports teams and conference groups during certain times of the year. The subject property is located on the south side of Montezuma Road between 55th Street and Campanile Drive, and is more particularly described as Lot 1, O'Meara Chandler Subdivision, Map No. 5639; and

WHEREAS, on May 10, 1979, the Planning Commission of The City of San Diego made its findings of fact, granted said Conditional Use Permit No. 7139-PC/Amendment No. 2 and filed said decision in the office of the City Clerk on May 31, 1979; and

WHEREAS, on May 21, 1979, pursuant to the provisions of Section 101.0506 of the San Diego Municipal Code, EL CONQUISTADOR RESIDENCE HALL, by Higgs, Fletcher & Mack, appealed the decision of the Planning Commission; and

WHEREAS, said appeal was set for public hearing on July 10, 1979, continued to July 24, 1979, July 31, 1979, and August 7, 1979, 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

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WHEREAS, the City Council in considering said appeal is empowered by the provisions of Municipal Code, Section 101.0506 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. 7139-PC/Amendment No. 2:

1. That the proposed use at the particular location is necessary or desirable to provide a service or facility which will contribute to the general well-being of the neighborhood or the community.

The proposed use of the dining facility would provide an incidental service for the San Diego State University community.

2. That such use, under the circumstances of the particular case will not be detrimental to health, safety or general welfare of persons residing or working in the vicinity, or injurious to property or improvements (existing or future) in the vicinity.

The proposed use of the dining facilities would be restricted to the time of the year when the University is not in session.

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

The proposed use of the dining facilities would be an incidental accessory use to the major facility.

4. That the granting of this Conditional Use will not

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San Diego State University Area Plan.

The proposed use would be an incidental accessory use and would not adversely affect the General Plan or the adopted community plan.

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 EL CONQUISTADOR RESIDENCE HALL, by Higgs, Fletcher & Mack, is granted, and this Council does hereby grant to ALLAN AND O'HARA DEVELOPMENT, INC., a Tennessee corporation, Owner and Permittee, Conditional Use Permit No. 7139-PC Amendment No. 2, 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:ps
2/6/80
Or.Dept. Clerk

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CONDITIONAL USE PERMIT NO. 7139-PC/AMENDMENT NO. 2
CITY COUNCIL

This Conditional Use Permit Amendment is granted by the City Council of The City of San Diego to ALLAN AND O'HARA DEVELOPMENT, INC., a Tennessee 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.

Add new paragraphs to Conditional Use Permit No. 7139-PC, as granted by the Planning Commission on June 2, 1965, and as approved by the City Council on June 8, 1965, and as amended on May 10, 1972, by the Planning Commission:

7. Only registered students at San Diego State University and their immediate families may use the dining facility.

8. This conditional use permit amendment permits use of the existing dining facilities to serve the San Diego State University football and baseball teams during the academic year and two weeks prior to the opening of the football season.

9. This conditional use permit amendment shall not be final until the eleventh day following its filing in the office of the City Clerk and is subject to appeal to the City Council as provided for in Section 101.0506 of the Municipal Code of The City of San Diego.

10. The effectiveness of this conditional use permit amendment 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 amendment 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 Condition No. 4 above, i.e., the time commences to run on the date that the City Council granted this conditional use permit amendment.

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

11. 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 City Council; unless the proposed use meets every requirement of zone existing for the subject property at the time of conversion.

12. The project 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 and amendments unless the permit and amendments shall have been revoked by The City of San Diego.

In addition to any other remedy provided by law, any breach in any of the terms or conditions of this permit and amendments or any default on the part of the Permittee or its successors in interest shall be deemed a material breach hereof and this conditional use permit amendment may be cancelled or revoked. Cancellation or revocation of this conditional use permit

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amendment may be instituted by the 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 or 101.0507. An appeal from the decision of the Planning Commission may be taken to the City Council within 10 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 or 101.0507.

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

ADOPTED BY THE COUNCIL OF THE CITY OF SAN DIEGO AUGUST 7, 1979.

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 May 10, 1979, 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 May 10, 1979, 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

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.

ALLAN AND O'HARA DEVELOPMENT, INC.
a Tennessee corporation (Seal)

NOTE: NOTARY ACKNOWLEDGMENTS
MUST BE ATTACHED - PER
CIVIL CODE, SEC. 1180 et seq.

By _____

By _____

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Passed and adopted by the Council of The City of San Diego on AUG 7 1979,
 by the following vote:

Councilmen	Yeas	Nays	Not Present	Ineligible
Bill Mitchell	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input 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.

(Seal)

By Rita Andrews, Deputy.

Office of the City Clerk, San Diego, California

Resolution Number 224196 Adopted AUG 7 1979

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