

(R-85-1305)

RESOLUTION NUMBER R- 262338

ADOPTED ON JAN 15 1985

WHEREAS, THE CITY OF SAN DIEGO, a municipal corporation, "Owner," and RANCHO BERNARDO RECREATION COUNCIL, INC., a California corporation, "Permittee," filed an application for permission under Conditional Use Permit No. 84-0178 to construct and operate an outdoor amphitheater and performing arts center on approximately 30 acres located on the west side of West Bernardo Drive, between Interstate 15 and Aguamiel Road, described as a portion of Rancho San Bernardo, Record of Survey Map No. 8687, in the A-1-10 Zone of the Rancho Bernardo Community Plan area; and

WHEREAS, on November 29, 1984, the Planning Commission of The City of San Diego made its findings of fact, approved said Conditional Use Permit No. 84-0178 and filed said decision in the office of the City Clerk on December 3, 1984; and

WHEREAS, on December 3, 1984, pursuant to the provisions of Section 101.0506 of the San Diego Municipal Code, THE GALLILEO, SATCHMO, LUTHER, WYCLIFFE, BILLY MITCHELL, JENNER OCTET, by Kenneth S. Breman, appealed the decision of the Planning Commission; and

WHEREAS, said appeal was set for public hearing on January 15, 1985, testimony having been heard, evidence having been submitted, and the City Council having fully considered the same; and

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. 84-0178:

1. The proposed use will not adversely affect the neighborhood, the Rancho Bernardo Community Plan nor the General Plan, nor will it be detrimental to the health, safety and general welfare of persons living or working in the area. The performing arts center is an appropriate use in an open space recreational area and should not adversely affect adjacent development. Conditions contained in this Conditional Use Permit incorporate measures required to mitigate potential traffic impacts, and potential impacts to a recorded archeological resource have been incorporated into the recommended Conditional Use Permit conditions. Any future expansion of the facility would be subject to an amendment of the Conditional Use Permit and additional review.

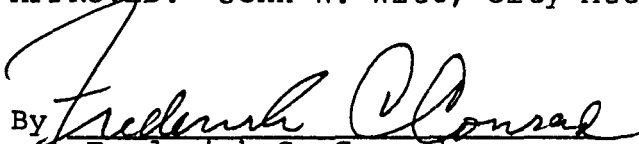
2. The proposed use will comply with all the relevant regulations in the Municipal Code. Section 101.0506 of the Municipal Code of San Diego, paragraph A.5., grants the Planning Commission authority, subject to appropriate conditions, to

approve establishments or enterprises involving large assemblages of people or automobiles, including open air theatres and privately operated recreational facilities, in any zone by a Conditional Use Permit. The City Council believes that appropriate conditions exist in this case to grant the permit.

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

BE IT FURTHER RESOLVED, that this Council hereby grants the appeal of THE GALLILEO, SATCHMO, LUTHER, WYCLIFFE, BILLY MITCHELL, JENNER OCTET, by Kenneth S. Breman, modifies the decision of the Planning Commission and does hereby grant to THE CITY OF SAN DIEGO, a municipal corporation, "Owner," and RANCHO BERNARDO RECREATION COUNCIL, INC., a California corporation, "Permittee," Conditional Use Permit No. 84-0178, 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:ib:632  
01/24/85  
Or.Dept:Clerk  
CUP-84-0178  
R-85-1305  
Form=r.none

CONDITIONAL USE PERMIT NO. 84-0178  
CITY COUNCIL

This Conditional Use Permit is granted by the City Council of The City of San Diego to The City of San Diego, a Municipal Corporation, Owner, and Rancho Bernardo Recreation Council, Inc., a California Corporation, Permittee, under the conditions in Section 101.0506 of the Municipal Code of The City of San Diego.

1. Permission is granted to Owner/Permittee to construct and operate an outdoor amphitheater and performing arts center on approximately 30 acres located on the west side of West Bernardo Drive between Interstate 15 Freeway and Aguamiel Road, described as Portion of Rancho San Bernardo and Record of Survey Map No. 8687, in the A-1-10 Zone.
2. The facility shall consist of the following:
  - a. A 2,500-seat amphitheater;
  - b. Grass seating;
  - c. Stage;
  - d. Entry facility with ticket booths, concessions, restrooms and stage lighting;
  - e. Off-street parking; and
  - f. Accessory uses as may be determined incidental and approved by the Planning Director.
3. No fewer than 1,520 off-street parking spaces shall be maintained on the property in the approximate location shown on Exhibit "A," dated January 15, 1985, on file in the office of the Planning Department. A parking plan shall be approved by the Planning Director and City Engineer, prior to the issuance of building permits. The parking plan shall include materials to be used for parking areas (including the use of such non-hard surface materials as decomposed granite or lawn) and plans for maintenance and dust control.
4. Events held at the Performing Arts Center shall not exceed the following Schedule of Events Criteria with regard to frequency, time, audience size, parking and type of activity:

CONDITIONAL USE PERMIT NO. 84-0178

TABLE 1  
SCHEDULE OF EVENTS CRITERIA

Class of Event	Maximum Annual Frequency	Audience/Parking Limits	Time of Event
A.	20 (May - Oct)	up to 2,500 chair seats; 1,000 cars	Open: Week Nights 6 p.m. Sat./Sun/ 4 p.m. Perform: 7:45 p.m. or later Exit: 10 p.m. with spread out departures
B.	16 (May - Oct)	Up to 4,000 chair and lawn seats; 1,200 cars plus 10 buses	Same as "A"
C.	4 (July - Aug.)	Up to 4,560 chair and lawn seats; 1,300 cars plus 16 buses	Sat and Sunday only Open: 4 p.m. Perform: 8 p.m. Exit: 10 p.m. with spread out departures
D.	1	1,520 cars and 16 buses	4 - 9 a.m.
E.	2-3	Same as "A"	9:30 a.m. - 3 p.m.

All events will be subject to compliance with the provisions of Article 9.5 of the San Diego Municipal Code; Noise Abatement and Control.

5. The City reserves the right to revise the Schedule of Events Criteria, based upon actual operating experience. Revisions may include downsizing or minor upsizing of any or all criteria, as recommended by the City Traffic Engineer. However, major increases in event criteria which may adversely affect localized traffic circulation or parking will require an amendment to this Conditional Use Permit and shall be supported by appropriate studies.

6. Prior to execution of the lease agreement the permittee shall develop a "Traffic and Parking Control Program" which will identify the means to assure that events will not exceed the Schedule of Events Criteria. This control program shall include, but is not limited to, strategies controlling numbers of admission to events, remote parking with transit to facility and/or parking areas. The control program shall be reviewed and approved by the City Traffic Engineer and, upon approval, shall be filed as part of Exhibit "A," of this Conditional Use Permit. Proposed changes to the "Traffic and Parking Control Program" shall be made only with the concurrence of the City Traffic Engineer.

7. Parking facilities shall be limited to a maximum of 1,520 automobile spaces and 16 bus spaces in the main parking area and 25 spaces in the service area behind the stage.

8. Improvements along West Bernardo Road adjacent to the Performing Arts Center Leasehold will be required to the satisfaction of the City Engineer.

9. The project shall be designed to assure that a minimum 100-foot-wide buffer area shall exist between the project leasehold boundary and loci A through F of archeological resource site SDi-585, as mapped on Exhibit "A," Archaeology Survey Map, on file in the Environmental Quality Division.

10. During project construction, all portions of site SDi-585 within 200 feet of construction activities or storage areas shall be enclosed within a temporary fence. Placement of fences shall be overseen by a qualified archaeologist approved by the Deputy Director, Environmental Quality Division, prior to the start of construction.

11. Complete documentation (maps and photographs) of the "isolated bedrock milling feature" (identified on Exhibit "A") shall be required, and shall be submitted to the Deputy Director, Environmental Quality Division, for review and approval prior to disturbance of this area.

12. Permanent barriers, including fences, walls, or berms planted with dense vegetation, shall be constructed along the project boundary and between the buffer area around SDi-585 and the project site. Maintenance of these facilities shall be the responsibility of the permit holder.

13. On-site monitoring of all subsurface grading and excavation within 300 feet of identified archaeological resources shall be provided by a

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qualified archaeologist approved by the Deputy Director, Environmental Quality Division.

14. A complete set of elevations, signage and perspectives shall be approved by the Planning Director and City Manager, prior to the issuance of building permits. A special treatment entry theme shall be submitted to and approved by the Planning Director and City Manager.

15. No permit for construction of any facility 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 Planning Department; and
- b. The Conditional Use Permit is recorded in the office of the County Recorder.

16. Before issuance of any building permits, complete grading and building plans shall be submitted to the Planning Director and City Manager for approval. Plans shall be in substantial conformity to Exhibit "A," dated January 15, 1985, on file in the office of the Planning Department. No change, modifications or alterations shall be made unless appropriate applications for amendment of this permit shall have been granted.

17. Before issuance of any grading or building permits, a complete landscape plan, including a permanent irrigation system, shall be submitted to the Planning Director and City Manager for approval. The plans shall be in substantial conformity to Exhibit "A," dated January 15, 1985, on file in the office of the Planning Department. Approved planting shall be installed before issuance of any occupancy permit on any building. Such planting shall not be modified or altered unless this permit has been amended.

18. All outdoor lighting shall be so shaded and adjusted that the light is directed to fall only on the same premises as light sources are located and not reflect.

19. This Conditional Use Permit must be used within 36 months after the date of City approval or the permit shall be void. An Extension of Time may be granted as set forth in Section 101.0506 and 101.0507 of the Municipal Code. Any extension of time shall require the project to conform to all Municipal Code requirements and applicable guidelines in effect at the time the Planning Commission considers the extension.

20. Construction and operation of the approved use shall comply at all times with the regulations of this or any other governmental agencies. This shall include but not be limited to noise standards, lighting and requests of the City Traffic Engineer.

21. After establishment of the project, the property shall not be used for any other purposes unless:

- a. Authorized by the Planning Commission; and
- b. The proposed use meets every requirement of the zone existing for the property at the time of conversion; or
- c. The permit has been revoked by the City.

22. This Conditional Use Permit may be revoked by the City if there is a material breach or default in any of the conditions of this permit.

23. This Conditional Use Permit is a covenant running with the lands 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.

24. The parking lot landscaping as shown on Exhibit "A," shall be extensively expanded to include additional aisle landscaping and break-up of the appearance of the parking area in a manner approved by the City Manager and Planning Director.

25. Prior to the issuance of any building permits or land development permits in connection with this Conditional Use Permit, the applicant shall assure by permit and bond the construction of a minimum of 40 feet of paving on West Bernardo Drive between the two entrances to the parking area in order to provide for left-turns, and shall construct transitions, satisfactory to the City Engineer, at both ends of this widened section of roadway.

26. Water and sewer for this project will be provided in connection with the adjacent tentative map of Casa de las Campanas (TM 83-0738). If this project is developed before the adjacent subdivision provides the water and sewer facilities, then all or any part of the utilities required in connection with that tentative map, as determined by the City Engineer, will become requirements of this Conditional Use Permit and shall be assured by permit and bond prior to the issuance of any building permits or land development permits.

27. A bicycle and pedestrian linkage plan shall be approved by the Planning Director, prior to the issuance of building permits.

28. The facility shall be subject to review 12 months after its completion by the Planning Commission at a public hearing.

Passed and Adopted by the City Council of the City of San Diego on January 15, 1985.



AUTHENTICATED BY:

\_\_\_\_\_  
Roger Hedgecock  
Mayor of The City of San Diego

\_\_\_\_\_  
City Clerk of The City of San Diego

STATE OF CALIFORNIA )  
                                  )  
COUNTY OF SAN DIEGO )

On this \_\_\_\_\_ day of \_\_\_\_\_, 1985, before me, the undersigned, a notary public in and for said County and State, residing therein, duly commissioned and sworn, personally appeared ROGER HEDGECOCK, 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 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.

CITY OF SAN DIEGO, a municipal  
corporation

By \_\_\_\_\_

RANCHO BERNARDO RECREATION COUNCIL, INC.  
a California corporation

By \_\_\_\_\_

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

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R- 262338

JAN 15 1985

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"/>
Bill Cleator	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Gloria McColl	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
William Jones	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ed Struiksma	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mike Gotch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Dick Murphy	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Uvaldo Martinez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Roger Hedgecock	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

ROGER HEDGECOCK  
Mayor of The City of San Diego, California.

CHARLES G. ABDELNOUR  
City Clerk of The City of San Diego, California.

By *Barbara Baxter*, Deputy.

(Seal)

Office of the City Clerk, San Diego, California

Resolution Number *R-262338* Adopted *JAN 15 1985*