

(R-88-1788)

RESOLUTION NUMBER R-270331

ADOPTED ON FEBRUARY 9, 1988

WHEREAS, Kobey Corporation, by Charles R. Gill of McDonald, Hecht & Solberg, appealed the decision of the Planning Commission in denying Conditional Use Permit No. 86-0974 submitted by the Kobey Corporation, Permittee, described as portions of Pueblo Lots 241, 242, 259, 276, 311, 312, 313 and 338 of Pueblo Lands of San Diego, Miscellaneous Map No. 36 and Lot "A," and a portion of Lot "B" of Pueblo Lot 339, and a portion of Case and McElwee Subdivision, Map 1581, located on the north side of Sports Arena Boulevard between Rosecrans Street and Hancock Street, in the Midway Community Plan area, in the CR Zone and Midway Planned District Area B Zone; and

WHEREAS, the matter was set for public hearing on February 9, 1988, 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 Conditional Use Permit No. 86-0974:

1. The proposed use will not adversely affect the neighborhood, the General Plan, or the Community Plan, and, if conducted in conformity with the conditions provided by the conditional use permit, will not be detrimental to the health,

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safety and general welfare of persons residing or working in the area. The proposed use is an ongoing use which serves as a major attraction to the area. Provisions for landscaping and litter control, incorporated into the conditional use permit, will serve to enhance the visual quality of the area. Provisions regulating the hours of operation for the proposed use will ensure that the proposal will not adversely impact the area. The proposed use will serve as an economic benefit to the City and its residents.

2. The proposed use will comply with all the relevant regulations in San Diego Municipal Code Section 101.0510, as they are applied to the property under this conditional use permit. The processing of a conditional use permit on the site will ensure that development standards will be implemented. Provisions for landscaping will ensure consistency with the landscape ordinance.

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 Kobey Corporation, by Charles R. Gill of McDonald, Hecht & Solberg, is granted; the decision of the Planning Commission is overruled, and Conditional Use Permit No. 86-0974 is hereby granted to the Kobey Corporation, under the terms and conditions set forth in the permit attached hereto and made a part hereof.

BE IT FURTHER RESOLVED, that the Candidate Findings as submitted by the applicant, attached hereto and made a part hereof, are hereby included.

APPROVED: JOHN W. WITT, City Attorney

By *Frederick C. Conrad*
Frederick C. Conrad
Chief Deputy City Attorney

FCC:ta
04/20/88
Or.Dept:Clerk
R-88-1788
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CONDITIONAL USE PERMIT NO. 86-0974

CITY COUNCIL

This Conditional Use Permit ("Permit") is granted by the Council of The City of San Diego to THE CITY OF SAN DIEGO, a Municipal corporation, ("Owner"), and the KOBAY CORPORATION, a California corporation, ("Permittee"), under the conditions in Section 101.0510 of the Municipal Code of The City of San Diego ("Code").

1. Permission is granted to Owner/Permittee to operate a swap meet located on the north side of Sports Arena Boulevard between Rosecrans Street and Hancock Street, described as Portions of Pueblo Lots 241, 242, 259, 276, 311, 312, 313 and 339 of Pueblo Lands of San Diego, Miscellaneous Map No. 36 and Lot "A" and a Portion of Lot "B" of Pueblo Lot 339, and a Portion of Case and McElwee Subdivision, Map No. 1581, in the CR and Midway Planned District Area B Zone.

2. The facility shall consist of the following:

a. A swap meet operation.

b. Operating times shall be limited to Thursday, Friday, Saturday and Sunday from 7:00 a.m. to 3:00 p.m., plus seven (7) days a week between Thanksgiving and Christmas and on Monday holidays also from 7:00 a.m. to 3:00 p.m. Operations shall be further restricted if same-day special events at the Sports Arena warrant it, such as, but not limited to, hours of operation, number of sellers, and size of vendor area.

c. The number of dual events held at the Sports Arena and swap meet shall be limited to the number that has occurred over the past year (seventeen (17) events). Free parking shall be available after the start of those matinee events. Parking fees for these spaces (seven hundred fifty (750) spaces indicated on 2-C) will either be reimbursed to the swap meet patron, or the patron will receive free admittance up to a maximum of three (3) persons per vehicle for the swap meet for that particular day.

d. Accessory uses as may be determined incidental and approved by the Planning Director.

3. No fewer than three thousand five hundred three (3,503) off-street parking spaces shall be available for parking. Approximate locations are shown on Exhibit "A," dated February 9, 1988, on file in the office of the Planning Department. Two thousand four hundred (2,400) spaces shall be maintained on the subject property for use on weekdays. An additional one thousand one hundred three (1,103) off-site parking spaces shall be made available on weekends. Parking spaces shall be permanently

maintained and not converted for any other use. Parking spaces and aisles shall conform to Planning Department standards. Parking areas shall be marked.

4. The applicant shall provide documentation to the Planning Director that one thousand one hundred three (1,103) off-site parking spaces are available for use on weekends.

5. 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.

6. This Permit must be used within thirty-six (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 101.0510 of the Code. Any Extension of Time shall be subject to all standards and criteria in effect at the time the extension is applied for.

7. Operation of the approved use shall comply at all times with the regulations of this or any other governmental agencies.

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

a. Authorized by the Planning Commission.

b. The proposed use meets every requirement of the zone existing for the property at the time of conversion.

c. The Permit has been revoked by the City.

9. The applicant shall use reasonable best efforts to implement Phase 1 of the Master Landscape Plan for the Sports Arena as reflected on Exhibit "A," dated February 9, 1988, within one (1) year.

10. A free shuttle service shall be provided every fifteen (15) minutes in each direction for swap meet shoppers from the Midway Adult Education Center parking lot to the Sports Arena, if the parking lot is used by the swap meet.

11. Parking attendants shall enforce parking regulations for swap meet shoppers who may park at adjacent parking lots on weekends, holidays and during the Christmas season.

12. A signage program shall be implemented which includes the placement of temporary signs (during operating days) at key locations to direct swap meet shoppers to parking areas, entrances, exits, etc.

13. A litter control program shall be implemented to include:

a. Trash cans shall be placed at exits with signs discouraging littering.

b. Litter shall be manually collected by 12:00 p.m. on the following Monday on and adjacent to Kurtz Street, Hancock Street and Sports Arena Boulevard.

c. Trash cans shall be placed in the Sports Arena Village parking area and along Kurtz Street.

14. The vendor area shall be limited to that area as shown on Exhibit "A," dated February 9, 1988.

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

16. Alcohol sales in conjunction with the swap meet shall be limited to the existing beer garden only. No roving alcohol sales shall be allowed.

17. The Permittee shall provide an annual parking demand study in the future if future conditions warrant such a study. This study is to be conducted satisfactory to the Planning Director and to the City Engineer.

18. This Permit shall be reviewed every six (6) months.

PASSED AND ADOPTED by the City Council on February 9, 1988.

AUTHENTICATED BY:

MAUREEN O'CONNOR, Mayor
The City of San Diego

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

STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN DIEGO)

On this _____ day of _____, 198_____, before me, the undersigned, a notary public in and for said County and State, residing therein, duly commissioned and sworn, personally appeared 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 person whose name is subscribed to the within instrument, as a witness thereto, who being by me duly sworn, deposes and says that he was present and saw MAUREEN O'CONNOR, known to him to be the Mayor of The City of San Diego, and known to him to be the person who executed the within instrument on behalf of the municipal corporation therein named, and acknowledged to me that such municipal corporation executed the same, and that said affiant subscribed his name to the within instrument as a witness.

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 Permit and promises to perform each and every obligation of Permittee hereunder.

KOBEY CORPORATION
(Permittee)

By _____

By _____

NOTE: Notary acknowledgments
must be attached per Civil
Code Section 1180, et seq.

CANDIDATE FINDINGS
for the
KOBAY SWAP MEET PROJECT

November 16, 1987

EQD No. 86-0974

Having considered the Final Environmental Impact Report for the Kobey Swap Meet project and the record before them, the decision maker has made the following findings pursuant to Section 15091 of Title 14 of the California Administrative Code.

A. The decision maker finds that changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental visual quality and parking effects as identified in the final EIR.

VISUAL QUALITY

Impact. Kobey's Swap Meet significantly impacts the visual quality of the Sports Arena area. The vendor displays and the high degree of pedestrian activity which occur within the vendor area and the parking lot create a visual focal point in the area. As there is no landscaping or other visual barriers along Sports Arena Boulevard, the vendor area is clearly visible from the road and adjacent sidewalks. The visual effect of the swap meet is considered greatest along Sports Arena Boulevard. Litter associated with the swap meet activities also affects the visual quality of the surrounding area. Problems with litter accumulation are mainly limited to Kurtz and Hancock Streets.

Finding. Landscaping along Sports Arena Boulevard from the main entrance to the arena to the westerly property line would fully mitigate the visual impact of the swap meet. A landscape concept plan is included in the Final EIR as Figure 7 which indicates how this mitigation could be accomplished. The Conditional Use Permit includes a requirement that this or a similar landscape program, as determined by the City of San Diego Planning Director, be accomplished.

The existing litter control program will be expanded to reduce offsite problems which are occurring along Kurtz Street and the Sports Arena Village parking area. Additional measures include: placement of trash cans at exits and along Kurtz Street as well as manual collection of litter along Kurtz and Hancock Streets before 12:00 p.m. the following Monday.

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PARKING

Impact. The swap meet generates a substantial demand for parking during the weekend when attendance is highest. Normally, the parking demand is met through a combination of the 2,400 spaces onsite and 1,103 offsite parking spaces. Based on observations and demand projections, the swap meet provides adequate parking with the exception of the weekend before Christmas and those weekend days when free parking is not available on the arena lot. When parking demand cannot be met by the swap meet parking facilities, swap meet shoppers may use surrounding parking lots which impacts nearby commercial uses by reducing the parking spaces available to patrons of those commercial uses.

Finding. The swap meet operation includes a number of measures which lessen the impact of the swap meet on the parking facilities which surround the Sports Arena. These measures include:

1. A free shuttle service for swap meet shoppers from the Midway Adult Education Center parking lot to the swap meet.
2. Parking attendants to enforce parking regulations when need for swap meet shoppers who may attempt to park in adjacent lots.
3. Provision of a minimum of 3,503 parking spaces, of which 2,400 would be at the Sports Arena. No charge for parking in swap meet lots on or off-site.
4. A signage program including placement of temporary signs (during operating days) at key locations to direct swap meet shoppers to authorized parking areas, entrances, and exits.

These measures will substantially lessen the parking impacts of the swap meet but cannot provide for the full peak parking demand on the weekend preceding Christmas or on weekend days when a daytime arena event is held. Full mitigation of the parking impacts would require implementation of the one of the mitigation measures or alternatives addressed in the Final EIR. The feasibility of these measures is addressed in the "C" findings.

B. The decision maker finds that there are no changes or alterations within the responsibility of another public agency which are necessary to avoid or substantially lessen significant environmental effects of the project.

C. The decision maker finds that specific economic, social or other considerations make infeasible the mitigation measures or project alternatives identified to mitigate parking impacts associated with the swap meet.

PARKING

Impact. Significant parking impacts would occur if the number of weekend days the Sports Arena parking lot is not available for free parking before 2:00 p.m. exceeds five times a year or if a daytime arena event occurs during the day on the weekend before Christmas. Last year neither of these situations occurred, however, the schedule of events at the Sports Arena does change from year to year and a schedule change could result in a significant parking impact.

Finding. Despite the measures taken by the swap meet to control parking impacts, overflow conditions occur during the year. In order to fully mitigate potential parking impacts, three mitigation measures are available to reduce this potential impact to a level of insignificance: (1) provision of additional offsite parking spaces, (2) not operating the swap meet when major weekend arena events conflict with the swap meet, or (3) the no project alternative. All of these mitigation measures are considered to be impractical and/or infeasible for the reasons described below.

(1) Additional parking

In order to be appropriate, additional offsite parking facilities must meet a number of criteria including: (1) provide a sizeable number of parking spaces which are close enough to the swap meet to ensure use by patrons and to make shuttle service practical; (2) the parking area must not be along the Rosecrans Street corridor in order to avoid directing additional traffic to this congested corridor and (3) the parking lot must not be needed during the weekend by the land use with which the parking lot is associated.

The Kobey Corporation has canvassed the Midway area for additional parking but has not found any suitable areas. The majority of the large parking lots are associated with retail uses which need the lots on the weekends. In their search, the Kobey Corporation contacted six potential parking lot owners. None of these owners indicated a willingness to allow weekend parking associated with the swap meet. As a result, mitigation through the acquisition of additional offsite parking is considered infeasible at this time.

(2) Closing the swap meet during daytime arena events

Closing the swap meet during daytime Sports Arena events is not an acceptable mitigation to the applicant. Such a requirement would represent an economic hardship to the applicant as well as swap meet sellers. The swap meet receives nearly all of its income from weekend operations; weekday operations often result in a negative cash flow but the swap meet is open on week days for the benefit of the sellers.

Based on average revenue statistics for weekend days, the swap meet would lose an estimated \$30,000 of gross income each weekend day on which the swap meet would be closed during arena events. If the swap meet would be closed on at least five weekend days, the swap meet would lose an estimated \$150,000 of potential income; this loss would be even greater if the swap meet were forced to close during the weekend before Christmas which is typically the highest income days for the swap meet. The economic impact on the sellers is less quantifiable and would be a function of the size of the sellers operation and the dependence on swap meet sales.

Although not as easily quantified, the swap meet operator believes that any unpredictability as to the days that the swap meet would operate would discourage continued patronage by many sellers and shoppers. Some sellers would also be adversely affected because their swap meet sales represent a major source of their income. Many shoppers could become frustrated after traveling to the swap meet only to find that it is closed. Advance notification of shoppers as to the days the swap meet would be closed would be difficult and costly as it could involve additional radio and/or television time. Pre-determined schedules would be ineffective as they would likely not be retained by patrons for future reference. In the applicant's opinion, the combined impact of the periodic closures on the swap meet would be significant. This impact could be far worse in the long-run than the immediate loss of revenue from closing on individual days as it could affect the long-term viability of the swap meet. The regularity of swap meet operations is considered a vital part of its continued success.

(3) No project

The no project alternative is also considered economically infeasible. The swap meet represents the major source of income for the Kobey Corporation and for many of the vendors who, as described above, also depend on the swap meet for their livelihood.

STATEMENT OF OVERRIDING CONSIDERATIONS
for the
KOBAY SWAP MEET PROJECT

EQD No. 86-0974

November 16, 1987

The decision maker, pursuant to Section 15093 of the CEQA Guidelines, after balancing the benefits of the proposed Kobey Swap Meet against the unavoidable adverse cumulative impact on parking which remain notwithstanding the mitigation measures incorporated with the project, determine that the impact is acceptable due to the following:

1. Based on the new lease arrangements between the City and the operator of the arena, San Diego Entertainment, the swap meet will provide a major revenue source to the City of San Diego which will be derived from payment of a portion of the swap meet revenues to the City.

Past swap meet revenues paid to the operator of the Sports Arena have represented a tremendous financial benefit and played a key role in making possible many of the recent improvements which have been made at the arena. Most notable, is the new sound system which was installed last year; much of the \$500,000 expenditure was generated from the swap meet revenues. These and future improvements, such as landscaping, will represent an economic and social benefit to the residents of the City of San Diego by making the Sports Arena a first class facility.

2. In addition to the lease payments, the City receives other revenues from the operation of the swap meet including sales tax and business license revenues.

3. The swap meet provides an important source of livelihood to many of the vendors. The swap meet has been in operation for 7 years and many of the vendors have come to depend on the swap meet. Records kept by the Kobey Corporation indicate that an estimated 425 vendors have booths in the swap meet on a permanent basis. In addition, the swap meet provides an opportunity for individuals and families to sell things which they no longer need and to generate additional income.

4. The swap meet has become a popular form of recreation for many residents of San Diego. A broad cross section of the population visits the swap meet to enjoy the open-air bazaar atmosphere and to browse through the new and used merchandise for anything from frivolous knick-knacks to basic sundries. As a result, the swap meet has become a source of entertainment as well as discounted merchandise.

Overriding Considerations
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Therefore, the City of San Diego finds that the revenue received by the City and the arena operator from swap meet operations, the economic benefits to existing vendors, and recreation value to the population override the significant unmitigated impact to parking impact which could result from the project.

334/C

FEB 9 1988

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

Council Members	Yeas	Nays	Not Present	Ineligible
Abbe Wolfsheimer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ron Roberts	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Gloria McColl	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
H. Wes Pratt	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ed Struikma	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
J. Bruce Henderson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Judy McCarty	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bob Filner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Maureen O'Connor	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

MAUREEN O'CONNOR
Mayor of The City of San Diego, California.

(Seal)

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

By *Rhonda R. Barnes*, Deputy.

Office of the City Clerk, San Diego, California

Resolution Number R-270331 Adopted FEB 9 1988