

(R-89-1163)

RESOLUTION NUMBER R-272347

ADOPTED ON NOVEMBER 15, 1988

WHEREAS, on June 17, 1988, the Zoning Administrator held a public hearing and continued the item to June 24, 1988 to consider the request of ALL SAINTS LUTHERAN CHURCH, owner, and FRIENDS OF CHABAD LUBAVITCH SAN DIEGO, purchaser, Conditional Use Permit C-19923, to construct a synagogue (1) to measure 38'0" in height where 30'0" is permitted; (2) to provide six (6) on-site parking spaces where forty-eight (48) are required - Portion 2, Parcel Map 6903, being a subdivision of Lot 1, ALL SAINTS LUTHERAN CHURCH, Map 5941, located at the 6300 block of Radcliffe Drive, R1-5000 Zone; and

WHEREAS, the Zoning Administrator considered the plans and materials submitted prior to and at the public hearing, staff report, inspection of the subject property and public testimony at the hearing; and

WHEREAS, the Zoning Administrator found the request could not be approved as submitted. The hearing officer reviewed the definition of height provided flexibility for sloping topography and complex roof line 29 that the project could comply with the definitions of height. The hearing officer did believe that ALL SAINTS LUTHERAN CHURCH and FRIENDS OF CHABAD LUBAVITCH SAN DIEGO could jointly share the parking lot given the nonconflicting hours of operation; and

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SAN DIEGO, CALIF.

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WHEREAS, the Zoning Administrator reviewed and then adopted Negative Declaration No. 88-0296 which indicated the proposed project would not have a significant impact and an environmental impact report was not required; and

WHEREAS, the proposed use would not adversely affect the neighborhood, the General Plan or the Community Plan, and would not be detrimental to the health, safety and general welfare of persons residing or working in the area; and

WHEREAS, the proposed use complied with all relevant regulations in the Municipal Code; and

WHEREAS, in light of the foregoing, the Zoning Administrator denied the Conditional Use Permit as requested but approved six (6) on-site parking spaces where forty-eight (48) were required, subject to certain conditions; and

WHEREAS, on September 7, 1988, the Board of Zoning Appeals considered the appeal of Michael Herascu from the Zoning Administrator's partial approval in the instant case, of ALL SAINTS LUTHERAN CHURCH, owner, and FRIENDS OF CHABAD LUBAVITCH SAN DIEGO, purchaser, request to (1) construct a synagogue where such use requires a conditional use permit; (2) construct such synagogue to measure 34'0" at the highest point where 30'0" is the maximum permitted; (3) construct a bridge/walkway measuring 12'0" in height observing a 2'6" north side yard where 4'0" is required; and (4) provide six (6) on-site parking spaces where forty-eight (48) are required; and

WHEREAS, in arriving at their decision the Board of Zoning Appeals considered the staff report, decision of the Zoning

Administrator, the plans and materials submitted prior to and at the public hearing, an inspection of the subject property, and public testimony presented at the hearing; and

WHEREAS, the Board of Zoning Appeals found the request could not be approved. Appellant expressed concern that the facility would generate increased traffic and noise and cut down on available parking. In addition, the Board felt that the proposed facility was too large for the area and the desire of the Rabbi to enlarge the congregation and the ability of the temple facility to expand would result in a use too intensive for the area; and

WHEREAS, the Board of Zoning Appeals felt the proposed use would adversely affect the neighborhood, the General Plan and the Community Plan and would be detrimental to the health, safety and general welfare of persons residing or working in the area; and

WHEREAS, the Board of Zoning Appeals further found that the proposed use would not comply with all relevant regulations in the Municipal Code; and

WHEREAS, in light of the foregoing, the Board of Zoning Appeals granted the appeal of Michael Herascu and overturned the decision of the Zoning Administrator; and

WHEREAS, on November 15, 1988, the Council for The City of San Diego heard the appeal of ALL SAINTS LUTHERAN CHURCH and FRIENDS OF CHABAD LUBAVITCH, by Voyd H. Beights, in the instant case, from the decision of the Board of Zoning Appeals in denying Conditional Use Permit C-19923; and

WHEREAS, in arriving at their decision, the City Council considered the staff report, decisions of the Zoning Administrator and Board of Zoning Appeals, the plans and materials submitted prior to and at the public hearing and public testimony presented at the hearing; and

WHEREAS, the City Council adopted the findings of the Zoning Administrator in partially approving the request for Conditional Use Permit C-19923 and those for Negative Declaration 88-0296; and

WHEREAS, the proposed use will not adversely affect the neighborhood, the General Plan or the Community Plan and will not be detrimental to the health, safety and general welfare of persons working or residing in the area; and

WHEREAS, the proposed use will comply with all relevant regulations in the Municipal Code; NOW, THEREFORE,

BE IT RESOLVED, by the Council for The City of San Diego, that in light of the foregoing, the decision of the Zoning Administrator in this case is hereby affirmed and the decision of the Board of Zoning Appeals is overturned, subject to the following conditions:

1. That the maximum height permitted is 34'0".
2. The structure shall be constructed substantially as shown on the plans submitted to the City Council marked "Exhibit A" and dated November 15, 1988.
3. That the primary hours for gathering shall be Friday evenings from 6:00 to 10:00 p.m. and Saturdays.

4. That the day-care/nursery shall have a maximum of forty (40) children.

5. That any outdoor play activity shall be supervised and monitored to restrict noise level.

6. That a soils report shall be submitted and made part of this file prior to the issuance of any building permit.

7. That the project shall be developed in a manner that precludes any saturation or drainage onto this property or the adjacent property, said runoff to be diverted to storm drain.

8. That a parcel map shall be filed creating a 17,300 sq. ft. lot.

9. That the project shall comply with all the requirements of Building Inspection, Engineering and Development and Fire Departments.

10. That the landscape plans shall be submitted to and approved by Zoning Administration prior to the issuance of any permit, said landscape plans to include increased plantings adjacent to the east property line.

11. That the parking area shall be installed and maintained in compliance with Division 8.

12. That this Conditional Use Permit shall be signed and notarized by the applicant and returned to the Zoning Administrator to be recorded with the County Recorder within thirty (30) days of receipt of this resolution.

This Conditional Use Permit is not a permit or license and any permits and licenses required by law must be obtained from the proper department. Furthermore, if any condition of this

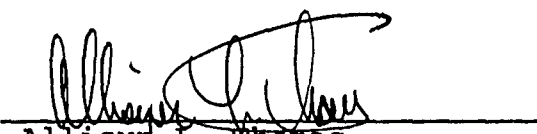
grant is violated, or if the same be not complied with in every respect, then this Conditional Use Permit shall be subject to revocation; provided, however, that after being notified in writing by the City that a condition has been violated and that subject permit is null and void within then (10) days, an appeal may be filed with the Board of Zoning Appeals to show cause why subject permit should be reinstated.

Failure to utilize such Conditional Use Permit within the thirty-six (36) month period will automatically void the same, in accordance with Municipal Code section 101.0510. Except as provided in Section 101.0510, during the thirty-six (36) month period referred to in this section, the property covered by the Conditional Use Permit shall not be used for any purpose other than that authorized by the permit.

BE IT FURTHER RESOLVED, by the Council of The City of San Diego, that its decision is and shall be final.

APPROVED: JOHN W. WITT, City Attorney

By


Allisyn L. Thomas
Deputy City Attorney

ALT:wk
12/02/88
Or.Dept:Clerk
R-89-1163
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NOV 15 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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
H. Wes Pratt	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ed Struiksmma	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
J. Bruce Henderson	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Judy McCarty	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bob Filner	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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 *Ellen Roward*, Deputy.

Office of the City Clerk, San Diego, California

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