

(R-98-712)

RESOLUTION NUMBER R-289553

ADOPTED ON DECEMBER 9, 1997

WHEREAS, DALEY CORPORATION, a California Corporation, Owner, and STADIUM PARTNERS, a Partnership, Permittee, filed an application with The City of San Diego for a permit amendment to request that the uses permitted by Conditional Use Permit (CUP) No. 94-0484 be extended for ten years to the year 2015 (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated CUP Permit No. 96-7862), on portions of a 22.6 acre site; and

WHEREAS, the project site is located at 2990 Murphy Canyon Road in the M-1B zone of the Kearny Mesa Community Plan area; and

WHEREAS, the project site is legally described as Parcel 2, Certificate of Compliance F/P 1993-0792010; and

WHEREAS, on November 20, 1997, the Planning Commission of The City of San Diego considered and approved Conditional Use Permit No. 96-7862 pursuant to San Diego Municipal Code section 101.0510; and

WHEREAS, Mike Strode appealed the decision of the Planning Commission to the Council of The City of San Diego; and

WHEREAS, on December 9, 1997, the City Council considered the appeal of Conditional Use Permit No. 96-7862, Amendment to CUP No. 94-0484, pursuant to San Diego Municipal Code sections 101.0510 and 111.0509; 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. 96-7862, Amendment to CUP No. 94-0484:

**1. THE PROPOSED USE WILL FULFILL AN INDIVIDUAL AND/OR COMMUNITY NEED AND WILL NOT ADVERSELY AFFECT THE GENERAL PLAN OR THE COMMUNITY PLAN.**

The golf driving range, club house, putting green, chipping area, batting cage and parking and landscaping improvements will fulfill a community need for recreational uses within the Stonecrest Specific Plan area. Originally, this plan area was approved primarily for office, research and small area for commercial uses but was amended to provide a larger area for commercial, a lesser area for office/research, a residential element and the recreational golf facility. The golf facility puts a recreational use in close proximity to the new residential area which is somewhat isolated from parks and school playgrounds by definition of its location in a canyon area and initial planning for this area predicated on office development.

**2. THE PROPOSED USE, BECAUSE OF CONDITIONS THAT HAVE BEEN APPLIED TO IT, WILL NOT BE DETRIMENTAL TO THE HEALTH, SAFETY AND GENERAL WELFARE OF PERSONS RESIDING OR WORKING IN THE AREA AND WILL NOT ADVERSELY AFFECT OTHER PROPERTY IN THE VICINITY.**

The driving range, putting green, chipping area, club house, batting cage and parking and landscape improvements are conditioned for a specific period of use and compliance with conditions contained within Conditional Use Permit No. 96-7862. Because the use period is being extended and the Stonecrest Specific Plan has been amended to identify this site as a golf driving range, impact fees for traffic are now being required. In addition, the original lighting condition has been modified to assure minimal adverse impacts from light sources illuminating this site. The extension of time to the year 2015 is also predicated upon improvements to an adjacent drainage channel being completed within one year from permit approval. The adjacent earthen drainage channel is at the lower end of Murphy Canyon and its drainage basin northerly of Mission Valley. To the east side of the drainage channel is Murphy Canyon Road. The privately funded improvements to this channel will add protection to the uses permitted by this Conditional Use Permit and enhance the safety and welfare of the citizens using the public street and nearby facilities. The applicant has complied with a number of prior permit conditions.

**3. THE PROPOSED USE WILL COMPLY WITH THE RELEVANT REGULATIONS IN THE MUNICIPAL CODE.**

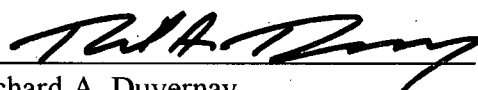
The golf driving range and related uses and improvements will satisfy and comply with all regulations in the Municipal Code by design and by conditions that have been incorporated in the attached permit.

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

BE IT FURTHER RESOLVED, that the appeal of Mike Strode is denied; the decision of the Planning Commission is sustained, and Conditional Use Permit No. 96-7862, Amendment to CUP 94-0484, is hereby granted to Daley Corporation, a California Corporation, Owner, and Stadium Partners, a Partnership, Permittee, under the terms and conditions set forth in the permit attached hereto and made a part hereof.

APPROVED: CASEY GWINN, City Attorney

By

  
Richard A. Duvernay  
Deputy City Attorney

RAD:lc  
12/16/97  
Or.Dept:Clerk  
R-98-712  
Form=permitr.frm

RECORDING REQUESTED BY  
CITY OF SAN DIEGO  
DEVELOPMENT SERVICES

AND WHEN RECORDED MAIL TO  
PERMIT INTAKE  
MAIL STATION 501

SPACE ABOVE THIS LINE FOR RECORDER'S USE

CONDITIONAL USE PERMIT NO. 96-7862  
**STADIUM DRIVING RANGE**  
AMENDMENT TO CONDITIONAL USE PERMIT NO. 94-0484  
CITY COUNCIL

This Permit, Amendment to Conditional Use Permit No. 94-0484, is granted by the Council of The City of San Diego to DALEY CORPORATION, A CALIFORNIA CORPORATION, Owner, and STADIUM PARTNERS, Permittee, pursuant to Section 101.0510 of the Municipal Code of the City of San Diego. The approximately 22.6-acre site is located at 2990 Murphy Canyon Road in the M-1B Zone of the Kearny Mesa Community Plan. The project site is legally described as Parcel 2, Certificate of Compliance F/P 1993-0792010.

Subject to the terms and conditions set forth in this permit, permission is granted to Owner/Permittee to maintain a golf practice facility and related uses described as, and identified by size, dimension, quantity, type and location on the approved Exhibits "A," dated January 19, 1995 on file in the Office of Development Services. The facility shall include:

- a. Golf Driving Range, putting green and chipping area; a batting cage; clubhouse and maintenance shed;
- b. Landscaping (planting, irrigation and landscape related improvements); and
- c. Off-street parking facilities; and
- d. Lighting as indicated on Exhibit "A," Site Plan; and
- e. Accessory improvements determined by the City Manager to be consistent with the land use and development standards in effect for this site per the adopted Community Plan, California Environmental Quality Act guidelines, public and private improvement requirements of the City Engineer, the underlying zone(s),

conditions of this permit, and any other applicable regulations of the Municipal Code in effect for this site.

1. Construction, grading or demolition must commence and be pursued in a diligent manner within 36 months after the effective date of final approval by the City, following all appeals. Failure to utilize the permit within 36 months will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all the Municipal Code requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decisionmaker.

2. No permit for the construction, occupancy or operation of any facility or improvement described herein 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 Development Services; and

b. The Permit is recorded in the office of the San Diego County Recorder.

3. Unless this permit has been revoked by the City of San Diego the property included by reference within this permit shall be used only for the purposes and under the terms and conditions set forth in this permit unless otherwise authorized by the City Manager.

4. This permit is a covenant running with the subject property 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 in this permit and all referenced documents.

5. The utilization and continued use of this permit shall be subject to the regulations of this and any other applicable governmental agencies.

6. Issuance of this permit by the City of San Diego does not authorize the applicant for said permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Federal Endangered Species Act of 1973 and any amendments thereto (16 U.S.C. Section 1531 et seq.)

7. The Owner/Permittee shall secure all necessary building permits. The applicant is informed that to secure these permits, substantial modifications to the building and/or site

improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.

8. Before issuance of any building or grading permits, complete grading and working drawings shall be submitted to the City Manager for approval. Plans shall be in substantial conformity to Exhibit "A," dated January 19, 1995, on file in the Office of Development Services. No change, modifications or alterations shall be made unless appropriate applications or amendment of this permit shall have been granted.

9. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this discretionary permit. It is the intent of the City that the holder of this Permit be required to comply with each and every condition in order to be afforded special rights which the holder of the Permit is obtaining as a result of this Permit. It is the intent of the City that the Owner of the property which is the subject of this Permit either utilize the property for any use allowed under the zoning and other restrictions which apply to the property or, in the alternative, that the Owner of the property be allowed the special and extraordinary rights conveyed by this Permit, but only if the Owner complies with all the conditions of the Permit.

In the event that any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new Permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the Permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo and the discretionary body shall have the absolute right to approve, disapprove or modify the proposed Permit and the condition(s) contained therein.

10. All projects submitted for plan check for the purpose of obtaining building permits shall concurrently submit building plans which meet the submittal requirements of the "Applicant's Guide to Project/Permit Applications;" items 11 through 29, as applicable; together with appropriate plan check fees.

11. All projects shall be in compliance with Section 101.0101.25 (Gross Floor Area) of the Municipal Code and all appropriate related definitions.

12. This Conditional Use Permit and corresponding use of this site shall expire on January 29, 2005. If improvements to Murphy Canyon Creek drainage channel (Drawing No. 28946-D) adjacent to the east are completed within one (1) year of the effective date of this amendment, the expiration date of the Conditional Use Permit and use of the site shall then be January 29, 2015. Upon expiration of this permit, the Stadium Driving Range poles, lighting and netting shall be removed from this site.

13. Prior to the expiration date of this Conditional Use Permit, the Permittee may submit an amendment to the original permit or a new Conditional Use Permit application to the City Manager for consideration with review and a decision by the appropriate decisionmaker at that time.

14. Development of this project shall comply with all requirements of State Water Resources Control Board (SWRCB) Order No. 92-08-DWQ (NPDES General Permit No. CAS000002), Waste Discharge Requirements for Discharges of Storm Water Runoff Associated With Construction Activity. In accordance with said permit, a Storm Water Pollution Prevention Plan (SWPPP) and a Monitoring Program Plan shall be developed and implemented concurrently with the commencement of grading activities, and a complete and accurate Notice of Intent (NOI) shall be filed with the SWRCB. A copy of the acknowledgment from the SWRCB that an NOI has been received for this project shall be filed with the City of San Diego when received; further, a copy of the completed NOI from the SWRCB showing the permit number for this project shall be filed with the City of San Diego when received.

**ENGINEERING REQUIREMENTS:**

15. In addition, the lease holder(s) and property owner of the site shall hold the City harmless in the event Murphy Canyon Road is vacated for public use and the site's access to Murphy Canyon Road is vacated for public use and the site's access to Murphy Canyon Road is terminated. It will become the lease holders' and property owner's responsibility to obtain improved access at another location and to obtain any permits required by the City prior to development of alternate access to this site.

16. Permittee shall provide pedestrian access to the Golf Practice Facility from Daley Center Drive within six months of the completion and installation of Daley Center Drive to the northerly boundary of the project site and/or the completion of development for Planning Areas 3 and 4 of the Stonecrest Specific Plan.

17. Permittee shall provide both pedestrian and vehicular access to the Golf Practice Facility from Daley Center Drive within six months of receiving direction from the City Engineer pursuant to

Condition No. 16 above and/or the completion of development for Planning Areas 3 and 4 per the Stonecrest Specific Plan.

18. In addition, the Owner(s) and subsequent Owner(s) of any portion of the property covered by this grading permit and by SWRCB Order No. 92-08-DWQ, and any subsequent amendments thereto, shall comply with special provision as set forth in Section C.7 of SWRCB Order No. 92-08-DWQ.

19. Development Impact mitigation fees are required based on trip generation rates for golf courses. The fee in Kearny Mesa is \$25.00 per average daily trip (ADT) plus \$30.00 per gross 1,000 square feet of building square footage for fire. These fees are payable and due prior to recordation of this permit amendment.

20. The drainage system proposed for this development, as shown on the approved site plan, is subject to approval by the City Engineer.

21. Prior to issuance of any building permits, the applicant shall assure, by permit and bond, the following items in a manner satisfactory to the Water Utilities Director:

- a. Cut and plug the existing 16-inch water main located in Murphy Canyon Road at the northerly property line.
- b. Provide the necessary improvements to ensure the safe operation of the existing 16-inch water main in Murphy Canyon Road adjacent to this site.
- c. Install fire hydrants at locations satisfactory to the Fire Department and the City Engineer. If more than two (2) fire hydrants and/or thirty (30) Equivalent Dwelling Units (EDUs) are located on a dead-end main, then a dual-fed system shall be installed.

22. In conjunction with this development, any connection to the existing trunk sewer shall be made through a manhole, in a manner satisfactory to the Water Utilities Director.

23. Providing water for this development is dependent upon the prior construction of certain water mains in previously approved developments in this area. If they have not been constructed when required for this development, then the construction of certain portions of these previously approved water mains, as required by the City Engineer, will become off-site improvement requirements for this development.



24. Prior to the issuance of any building permits, the applicant shall:

- a. Ensure that building address numbers are visible and legible from the street (UFC 10.208).
- b. Show the location of all fire hydrants on the plot plan (UFC 10.301).

25. This development may be subject to a building permit park fee in accordance with San Diego Municipal Code Section 96.0401 et seq.

26. This development may be subject to payment of School Impact Fees at the time of issuance of building permits, as provided by California Government Code Section 53080(b) (Statutes of 1986, Chapter 887), in accordance with procedures established by the Director of Development Services.

**PLANNING/DESIGN REQUIREMENTS:**

27. No fewer than 132 off-street parking spaces shall be maintained on the property at all times in the approximate locations shown on the approved Exhibits "A," dated January 19, 1995, on file in the Office of Development Services. Parking spaces shall comply at all times with Division 8 of the Municipal Code and shall not be converted for any other use unless otherwise authorized by the City Manager.

28. There shall be compliance with the regulations of the underlying zone(s) unless a deviation or variance to a specific regulation(s) is approved or granted as condition of approval of this permit. Where there is a conflict between a condition (including exhibits) of this permit and a regulation of the underlying zone, the regulation shall prevail unless the condition provides for a deviation or variance from the regulations. Where a condition (including exhibits) of this permit establishes a provision which is more restrictive than the corresponding regulation of the underlying zone, then the condition shall prevail.

29. The height(s) of the building(s) or structure(s) shall not exceed those heights set forth in the conditions and the exhibits (including, but not limited to, elevations and cross sections) or the maximum permitted building height of the underlying zone, whichever is lower, unless a deviation or variance to the height limit has been granted as a specific condition of this permit.

30. A topographical survey conforming to the provisions of Section 101.0216 of the Municipal Code may be required if it is determined, during construction, that there may be a conflict between the building(s) under construction and a condition of

this permit or a regulations of the underlying zone. The cost of any such survey shall be borne by the permittee.

31. Any future requested amendment to this permit shall be reviewed for compliance with the regulations of the underlying zone(s) which are in effect on the date of the submittal of the requested amendment.

32. All signage associated with this development shall be consistent with sign criteria established by either of the following:

- a. Approved project sign plan (Exhibit "A," dated January 19, 1995, on file in the Office of Development Services) or;
- b. Citywide sign regulations.

33. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located.

34. Within 30 days of the effective date of the final permit, complete outdoor lighting information shall be submitted to the Development Services, Land Development Review Division for review and approval. Complete lighting analysis shall include a point by point plot to include all areas within the private property and to extend a minimum of fifty (50) feet beyond the property line, construction details as necessary to direct installation of the outdoor lighting system, necessary to direct installation of the outdoor lighting system, manufacturers name, visors, prisms, louvers, lenses and reflectors and a lighting plan locating each fixture in plan view and a legend.

Within 30 days of the effective date of the final permit, a night inspection shall be required to verify compliance of the outdoor lighting system. No light shall be directed to fall outside the property line. Light levels along the perimeter of the property shall be measured no higher than three footcandles. Light levels throughout the development shall be the least practical level necessary to effectively illuminate the operation. Sky glow or light halo shall be reduced to the greatest extent practical and in no case shall light levels exceed current IES levels. The Owner/Permittee, or an authorized representative, shall provide an illuminance meter to measure light levels as required to establish conformance with the conditions of this permit during the night inspection. Night inspections require a \$200.00 additional fee and are limited in frequency to one with this amended permit and one with each interval described in the succeeding paragraph.

The applicant shall commit \$25,000.00 during the first year following the effective date of this Conditional Use Permit

Amendment toward the further diminishing of lighting impacts to off site locations and achieving compliance with this condition as required in the preceding paragraphs of this condition No. 34.

The permittee shall, at five (5) year intervals from the effective date of the final permit, provide a report to the City Manager of the City of San Diego, a review of current IES standards for golf driving range lighting and improvements in lighting technology, fixtures and methods of lighting and screening. The permittee shall incorporate changes in lighting technology for golf driving ranges which would further diminish lighting impacts to off-site locations and enhance the overall operation of the facility. A limit of a maximum expenditure of \$25,000.00, in 1997 dollar valuation, at each five (5) year interval is established for any potential modification to the lighting of this facility.

35. The subject property and associated common areas on site shall be maintained in a neat and orderly fashion at all times.

36. All uses, except storage and loading, shall be conducted entirely within an enclosed building. Outdoor storage of merchandise, material and equipment is permitted in any required interior side or rear yard, provided the storage area is completely enclosed by walls, fences or a combination thereof. Walls or fences shall be solid and not less than six feet in height and, provided further, that no merchandise, material or equipment stored not higher than any adjacent wall.

37. No mechanical equipment, tank, duct, elevator enclosure, cooling tower or mechanical ventilator or air conditioner shall be erected, constructed, converted, established, altered, or enlarged on the roof of any building, unless all such equipment and appurtenances are contained within a completely enclosed structure whose top and sides may include grillwork, louvers and latticework.

38. No merchandise, material or equipment shall be stored on the roof of any building.

39. No mechanical equipment shall be erected, constructed, or enlarged on the roof of any building on this site, unless all such equipment is contained within a completely enclosed architecturally integrated structure.

**LANDSCAPE REQUIREMENTS:**

40. Prior to issuance of any grading, or building permits, complete landscape construction documents, including plans, details and specifications (including a permanent automatic irrigation system unless otherwise approved), shall be submitted to the City Manager for approval. The construction documents

shall be in substantial conformance with Exhibit "A," Landscape Concept Plan, dated January 19, 1995, on file in the Office of Development Services. No change, modification or alteration shall be made unless appropriate application or amendment of this Permit shall have been granted.

41. Prior to issuance of any Certificate of Occupancy it shall be the responsibility of the Permittee to install all required landscape and obtain all required landscape inspections and to obtain a No Fee Street Tree Permit for the installation, establishment and on-going maintenance of all street trees. Copies of these approved documents must be submitted to the City Manager.

42. All required landscape shall be maintained in a disease, weed and litter free condition at all times and shall not be modified or altered unless this Permit has been amended. Modifications such as severe pruning or "topping" of trees is not permitted unless specifically noted in this Permit. The Permittee, or subsequent Owner shall be responsible to maintain all street trees and landscape improvements consistent with the standards of the *Landscape Technical Manual*.

43. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved plans is damaged or removed during demolition, it shall be repaired and/or replaced in kind and equivalent size per the approved plans within 30 days of completion of construction by the Permittee. The replacement size of plant material after three years shall be the equivalent size of that plant at the time of removal (the largest size commercially available and/or an increased number) to the satisfaction of the City Manager.

APPROVED by the Council of The City of San Diego on December 9, 1997, by Resolution No. R-289553.

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AUTHENTICATED BY THE CITY MANAGER

By \_\_\_\_\_

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**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.

**DALEY CORPORATION**  
a California Corporation  
Owner

By \_\_\_\_\_

**STADIUM PARTNERS**  
a Partnership  
Permittee

By \_\_\_\_\_

**NOTE: Notary acknowledgments  
must be attached per Civil Code  
section 1180 et seq.**

12/16/97  
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