HARLE, JANICS & KANNEN
A LAW CORPORATION

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OUR FILE NUMBER:

10549

City of Huntington Beach

AUG 25 2008

August 25, 2008

Planning Commission
City of Huntington Beach
P. O. Box 190
Huntington Beach, CA 92649

Re: ***Opposition to Parking Lot Application of Bella Terra***
Date: 7:00 p.m., Tuesday, August 26, 2008
Opposing Party: Old World Owners Association

Dear Members of the Planning Commission:

On behalf of the Old World Owners Association ("Association"), I write to communicate the opposition of the Association to the application of Bella Terra for operational changes at the Bella Terra office complex parking lot, including, but not limited to, a request to install parking control gates and charge money for parking at the Bella Terra office complex property.

By way of relevant history:

1. Developer Bella Terra is the successor in interest to the prior owner of the office building and 24-Hour Fitness Center known as 1 Pacific Plaza, a development bounded by the San Diego Freeway, Huntington Village Lane, and Center Drive (see Exhibit "A" attached).

2. In May 1976, as one of many conditions of approval imposed by the City of Huntington Beach, Jerwel Enterprises (predecessor to 1 Pacific Plaza and Bella Terra) and West Coast Soccer League, Inc. (the developer of Old World Village), entered into and recorded a Reciprocal Easement Agreement for parking, which provided in pertinent part at page 9, section 4.3, that "No charge, fee, toll, levy or expense for entry, exit or parking of a vehicle in, or about the Project shall **ever** be required, laid, assessed or made to or received from Party or it Permittees: . . ." See Exhibit "B" attached. In connection with the agreement, both parties agreed to grant the other a nonexclusive easement for free parking on the other's property (see paragraphs 4.5 and 4.6 of Exhibit "B").

LATE COMMUNICATION #B-1

3. On October 18, 1976, a First Amendment to the Reciprocal Parking Easement Agreement was recorded (see Exhibit "C" attached), which provides at page 2, paragraph "2" that "said reciprocal easement agreement shall **not** be amended or modified without the prior written consent of the City of Huntington Beach if the effect of such amendment or modification would be to alter, amend, terminate or impair the reciprocal ingress, egress and parking easements granted in sections 4.5 and 4.6 of said reciprocal agreement, or the rights of the parties to said reciprocal easement agreement or of their respective Permittees as defined in section 4.2 of said reciprocal easement agreement, to use such easements."

4. On March 6, 1979, in violation of the original 1976 Reciprocal Easement Agreement and the October 1976 First Amendment to the Reciprocal Easement Agreement, the Association attempted to record an amendment to the Reciprocal Parking Agreement (Exhibit "E"), but failed to obtain the approval of the City of Huntington Beach as required by both the original 1976 reciprocal easement agreement and the October 1976 amendment. The Board of Directors of Old World Village (Old World Owners Association) thereby contends that, not only is the March 6, 1979 "agreement" void and unenforceable, but also superseded by the terms of Conditional Use Permit no. 79-16, referenced immediately below.

5. On June 5, 1979, the Huntington Beach Planning Commission, in responding to an application by Jerwel Enterprises for Conditional Use Permit no. 79-16, imposed as a Condition of Approval (see Exhibit "D" attached), that "all previously applied conditions of approval from conditional use permit no. 75-24 which are still applicable, shall apply to conditional use permit no. 79-16." The effect of this resolution and condition of approval by the Planning Commission in 1979 was to reaffirm page 9, paragraph 4.3 of the original reciprocal parking easement agreement that "no charge, fee, toll or expense for entry, exit, or parking of a vehicle, in or upon the Project shall **ever** be required, laid, assessed or made to or received from any Party or its Permittees."

6. On July 23, 1982, attorney Lee Durst, on behalf of the Old World Owners Association, reminded the City Council again that the 1979 "agreement" was recorded by Jerwel and the Association without receiving City approval (see Exhibit "F" attached), and therefore void.

7. In 2005, 1 Pacific Plaza applied to the City for a Conditional Use Permit no. 05-15 and Negative Declaration no. 05-1 (see Exhibit "G" attached) to develop a 24-Hour Fitness facility. At page 2, paragraph 2, the City imposed the following Condition of Approval, among others: "All physical barriers, including concrete barriers and parking control gates, shall be removed from the parking structure." **Note**: At that time, upon removal of the parking control gates from the parking structure in the office building complex of 1 Pacific Plaza, all visitors to either Old World Village or 1 Pacific Plaza were free to park without restriction or expense on each other's property, which removed any incentive for patrons of 1 Pacific Plaza to park in the parking lots of Old World Village (Old World Owners Association).

8. On October 24, 2006, parking planner Michael Adams wrote a letter (Exhibit "H") to Mr. Scott Hess, the Planning Director for the Department of Planning of the City of Huntington Beach, notifying the City that "This letter is intended to remind staff of the reciprocal parking agreement which exists between 1 Pacific Plaza and Old World Village. The original agreement was executed by both parties and recognized by the City in 1976. The agreement was subsequently amended in 1979; however, the amendment was not approved by the City and is therefore considered invalid."

9. On November 6, 2006, legal counsel for Old World Owners Association (aka Old World Village) wrote (Exhibit "I") to Mr. Scott Hess, Planning Director of the Department of Planning for the City of Huntington Beach: "We write to notify and to reconfirm to the City that the proposal should not be approved to the extent that it violates the 1976 Reciprocal Parking Agreement executed between the Association and the predecessor of 1 Pacific Plaza, as affirmed by the City in 1976. . . . It is undisputed that in February of 1979, the developer-controlled Board of Directors of the Association attempted to enter into an amended reciprocal parking agreement with the Jerwel Corporation without receiving required City approval. The 1979 amendment, a copy of which is enclosed as Exhibit "G," is therefore invalid and void on its face and should not be relied upon to support any portion of the current 24-Hour Fitness proposal which relies thereon."

10. The current application which is the subject of the scheduled August 26, 2008 hearing sought by developer Bella Terra seeks to overturn: (a) the express condition of approval issued by the City in 2005 (which specifically required that all physical barriers, including concrete barriers and parking control gates, shall be removed from the parking structure), as well as (b) Paragraph 4.3 of the 1976 Agreement, and also Paragraph 2 of the 1976 First Amendment.

The City should keep the existing 1976 parking conditions in place and should not allow Bella Terra to place parking control devices and charge money for parking, not only in the multi-story parking structure, but also in the non-covered Bella Terra office parking lot, for the reasons that:

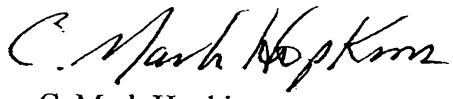
1. Bella Terra's proposal violates the 1976 Reciprocal Parking Easement Agreement and the 1976 First Amendment thereto. The 1976 Agreement was created for the express purpose of avoiding the over-burdening of the Association's free parking lot.

2. It is obvious that when patrons and employees of Bella Terra's office complex are faced with the option of paying for parking in the Bella Terra office building, 24-Hour Fitness Center, and related developments, that they will instead opt to park across the street in the free Old World Village (even when Bella Terra's lot is not full), thereby unfairly overburdening the Old World lot, and resulting in economic damage to Old World Village.

3. The shopping mall parking structure across Center Street is never full during the workday, and could be used by customers and patrons of Bella Terra's office building and 24-Hour Fitness facility. It is therefore transparent that profit from parking fees (not capacity) is the real reason for Bella Terra's current proposal.

Old World Owners Association therefore requests that the Planning Commission deny Bella Terra's application for a revised parking plan and its related requests to (a) install parking control gates and (b) to charge money for parking at Bella Terra's office building and 24-Hour Fitness facility.

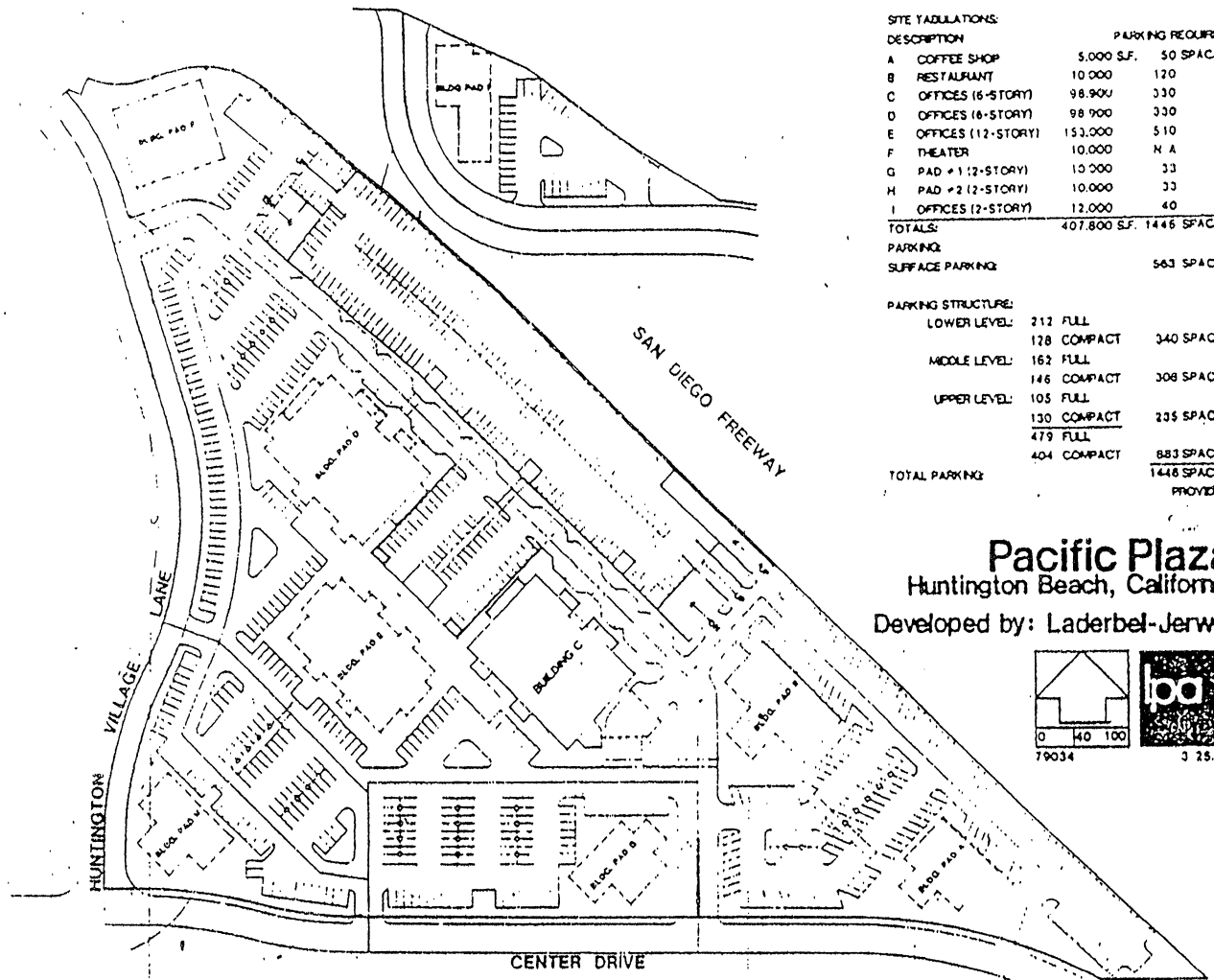
Very truly yours,



C. Mark Hopkins

CMH:cmg
cc: Board of Directors, Old World Owners Association (w/encls)
Encls: Exhibits "A" through "G"

BK 13550PG 1040



SITE TABULATIONS:

DESCRIPTION			PARKING REQUIRED
A	COFFEE SHOP	5,000 S.F.	50 SPACES
B	RESTAURANT	10,000	120
C	OFFICES (6-STORY)	98,900	330
D	OFFICES (6-STORY)	98,900	330
E	OFFICES (12-STORY)	153,000	510
F	THEATER	10,000	N A
G	PAD #1 (2-STORY)	10,000	33
H	PAD #2 (2-STORY)	10,000	33
I	OFFICES (2-STORY)	12,000	40
TOTALS:		407,800 S.F.	1446 SPACES

PARKING:

SURFACE PARKING: 563 SPACES

PARKING STRUCTURE:

LOWER LEVEL:	212	FULL	
	128	COMPACT	340 SPACES
MIDDLE LEVEL:	162	FULL	
	146	COMPACT	308 SPACES
UPPER LEVEL:	105	FULL	
	130	COMPACT	235 SPACES
	479	FULL	
	404	COMPACT	883 SPACES
TOTAL PARKING:			1446 SPACES PROVIDED

Pacific Plaza

Huntington Beach, California

Developed by: Laderbel-Jerwel

0 40 100

79034

3 25.80

EXHIBIT C

EXHIBIT A

END OF RECORDED DOCUMENT

P. O. Box 100
Huntington Beach, CA 92640

RECORDING REQUESTED BY AND
WHEN RECORDED, RETURN TO:
Rutan & Tucker (RPS)
610 Newport Center Drive, Suite 900
Newport Beach, California 92660

3241

RPS/am Revised 3/16/76 MAG II

$31

RECORDED IN OFFICIAL RECORDS
OF ORANGE COUNTY, CALIFORNIA
60 Min. Past 4 PM MAY 4 1976
I. WYLIE CASTLE, County Recorder

116F199-WHS

RECIPROCAL EASEMENT AGREEMENT

THIS RECIPROCAL EASEMENT AGREEMENT is made and entered into as of this 30th day of ~~March~~ APRIL, 1976, by and between JERWEL ENTERPRISES, a general partnership, (hereinafter referred to as "Jerwel") and WEST COAST SOCCER LEAGUE, INC., a California corporation, (hereinafter referred to as "WCSL").

Table of Contents

1.	Use	Page 3
2.	Building Improvements	Page 4
3.	Subdivision	Page 5
4.	Common and Parking Areas	Page 8
5.	Private Street Maintenance	Page 11
6.	Casualty Damage and Repairs	Page 15
7.	Miscellaneous Provisions	Page 16

Exhibits

Exhibit "A" - Legal Description of the Jerwel Parcel

Exhibit "B" - Legal Description of the WCSL Parcel

Exhibit "C" - Legal Description of the Private Street

W I T N E S S E T H:

WHEREAS, Jerwel is the owner of that certain real property located northwesterly of the intersection of the San Diego Freeway and Center Drive in the City of Huntington Beach, County of Orange, State of California, more particularly described in Exhibit "A", attached hereto and by this reference made a part hereof, which real property is hereinafter called the "Jerwel Parcel"; and

WHEREAS, WCSL is the owner of that certain real property

adjacent to a portion of the westerly boundary of the Jerwel Parcel and more particularly described in Exhibit "B" attached hereto and by this reference made a part hereof, which real property is hereinafter called the "WCSL Parcel"; and

WHEREAS, the Jerwel Parcel and the WCSL Parcel are those portions of the real property subject to the North Huntington Center Specific Plan (2026-12/75), adopted by the City Council of the City of Huntington Beach, referred to as Site II and Site III in the said Specific Plan; and

WHEREAS, the requirements of the Conditions of Approval for Conditional Use Permit No. 75-24 require that there be reciprocal easements for the ingress and egress of motor vehicles and pedestrians and for the parking of motor vehicles between those portions of the Jerwel Parcel and the WCSL Parcel improved and maintained, from time to time, for such purposes; and

WHEREAS, the Parties desire to subject each and every portion of the Jerwel Parcel and the WCSL Parcel (hereinafter collectively referred to as the "Project") to the covenants, conditions and restrictions hereinafter set forth, and to establish the reciprocal easements hereinafter described, pursuant to a general plan for the operation and use of the Project as an integrated commercial and combined commercial and residential center for the mutual benefit of Jerwel and WCSL and their respective heirs, successors, assigns, grantees, mortgagees, tenants and subtenants, pursuant to this Reciprocal Easement Agreement (hereinafter referred to as the "Declaration").

EXHIBIT "C"

MAY 4 1976 LOCATOR POSTER A.P. LOG COMPARE

agents, members and contractors of the Parties, (ii) the respective tenants and subtenants, licensees and concessionaires of the Parties and their respective officers, directors, employees, agents and contractors, and (iii) the customers, visitors and invitees of the Parties and their respective tenants, subtenants, licensees and concessionaires.

4.3 No charge, fee, toll, levy or expense for entry, exit, or parking of a vehicle in, on or upon the Project shall ever be required, laid, assessed or made to or received from any Party or its Permittees; provided that in the event any parking surcharge or regulatory fee, however designated, should be imposed upon or levied or assessed against the Project, or any portion thereof, on or on account of the parking spaces thereon, by any governmental agency or authority pursuant to the "Clean Air Act", or any plan implemented pursuant to such Act or any enactment amendatory or in substitution thereof, or pursuant to any other governmental act or decree, WCSL, as to the WCSL Parcel, and Jerwel, as to the Jerwel Parcel, reserve the right, at the sole option and discretion of such Party, to impose a parking charge upon the users of the Parking Area within such Parcel, on a non-discriminatory basis with the Permittees of the other; provided that the entire proceeds thereof, after deduction of all costs and expenses incurred in connection therewith, are applied to the payment of any such parking surcharge or regulatory fee.

4.4 The easements hereinafter granted in each instance shall be appurtenant to either the WCSL Parcel or the Jerwel Parcel, as the case may be, and in each instance shall be non-exclusive and for the use and benefit of each such

MAY 4 1976 LOCATOR POSTER A.P. LOG PARE

grantee, in common with the grantors and others and their Permittees.

4.5 Jerwel does hereby grant to WCSL a non-exclusive easement appurtenant to the WCSL Parcel for the ingress, egress and parking of motor vehicles and for the ingress and egress of pedestrians over and across the Parking Area of the Jerwel Parcel, reserving to Jerwel the right to grant and reserve similar non-exclusive easements over and across the Parking Area of any portion of the Jerwel Parcel, appurtenant to the balance of the Jerwel Parcel, or any portion thereof, upon a sale, encumbrance or other conveyance of any such portion or of any interest therein.

4.6 WCSL does hereby grant to Jerwel a non-exclusive easement appurtenant to the WCSL Parcel for the ingress, egress and parking of motor vehicles and for the ingress and egress of pedestrians over and across the Parking Area of the WCSL Parcel, reserving to WCSL the right to grant and reserve similar non-exclusive easements over and across the Parking Area of any portion of the WCSL Parcel, appurtenant to the balance of the WCSL Parcel, or any portion thereof, upon a sale, encumbrance or other conveyance of any such portion or of any interest therein.

4.7 Subject to obtaining all requisite governmental permits and approvals, each Party reserves the right to alter and/or reconstruct the Common Area and Parking Area upon the real property owned by such Party and/or to redesignate Common Area as building area and/or building area as Common Area and to modify and/or redesign the layout of the Parking Area on such Party's real property. Notwithstanding the foregoing, the WCSL Parcel shall initially be

constructed and improved in conformance with the requirements of Section 2.2 above. Nothing herein contained shall be construed as obligating either Party to improve the Parking Area upon such Party's Parcel nor as authorizing either Party to improve the Parking Area on the Parcel of the other Party.

4.8 Notwithstanding the reciprocal ingress, egress and parking easements created by this Declaration, WCSL acknowledges that under the Conditions of Approval of Conditional Use Permit No. 75-24, the City of Huntington Beach will monitor the operation of the WCSL Parcel during the first six (6) months of its operations in order to determine whether or not the parking facilities constructed upon the WCSL Parcel can reasonably accommodate the traffic generated by such Parcel. If the City of Huntington Beach determines that such facilities are inadequate to reasonably accommodate the traffic generated by the operations from the WCSL Parcel, WCSL agrees to promptly take any and all steps required to cure such deficiency, including without limitation: (i) restriping the said parking facilities to create additional parking spaces through perpendicular parking, (ii) providing valet parking during periods of high parking requirement, (iii) to the extent reasonably possible, reducing the intensity of the use of the WCSL Parcel by its Permittees and (iv) any other steps selected by WCSL.

Section 5. Common and Parking Area Operation and Maintenance

Once improved, each Party shall operate and maintain or cause to be operated and maintained the Common Area and Parking Area on the real property owned by such Party and shall keep the same or cause the same to be kept in good condition and repair. Such maintenance shall include but not be limited to sweeping, gardening, janitorial services,

MAY 4 1976 LOCATOR POSTER A.P. LOG COMPARE

only during its ownership, but the selling, conveying or transferring Party or owner shall remain liable for any obligations incurred prior to the date of such transfer or conveyance.

7.15 Nothing contained in this Declaration shall be deemed to be a gift or dedication of any portion of the Project, or of any other property, to the general public, or for any public use or purpose whatsoever, it being the intention of the Parties hereto that this Agreement be for the exclusive benefit of the Parties and their successors and assigns.

7.16 Subject to Section 7.4, this Declaration may be terminated and/or amended by the written agreement of all Parties, duly acknowledged by each of them, and recorded in the Office of the County Recorder, Orange County. In the event that any portion of the Project is to be improved and used exclusively for residential purposes, as opposed to the type of combined residential and commercial development contemplated for the WCSL Parcel, the Parties agree to cooperate reasonably in terminating the reciprocal ingress, egress and parking easements established by this Declaration with respect to such portion, provided that the approval of the City of Huntington Beach is first had and obtained to such termination.

7.17 In the event a request to change and alter this Declaration is made to the Parties by any lender or beneficiary under any proposed or existing mortgage or deed of trust encumbering the interest of any Party in the Project or by any major tenant, subtenant or prospective purchaser of any such interest, consent to such change or alteration

FEET, AND [illegible] TANGENT TO THE SIDELINES OF SAID STRIP.

of this Declaration shall not be unreasonably withheld by the Party not involved in the request by such lender, beneficiary, major tenant or purchaser. Said Parties, entities or persons not involved in such request shall be at no expense in this regard.

7.18 In the event that Jerwel does not own all of the Jerwel Parcel or in the event that the Parties do not own all of the private street as of the date of the recordation of this Declaration, this Declaration shall nevertheless be binding and enforceable in accordance with its terms with respect to those portions of the Jerwel Parcel and the private street owned by the Parties as of such date of recordation. Upon any subsequent acquisition by the Parties of any such portion of the Jerwel Parcel or of the said private street, or any easement for the use of said private street, this Declaration shall automatically be applicable to and in full force and effect with respect to such portion or portions and may, at such time, or at any subsequent time, be re-recorded by either Party in the Office of the County Recorder, Orange County, California.

IN WITNESS WHEREOF, this Reciprocal Easement Agreement is executed by the Parties hereto as of the day and year first above written.

WEST COAST SOCCER LEAGUE, INC.,
a California corporation

By _____
Josef Bischof, President

By _____

JERWEL ENTERPRISES,
a general partnership

By _____

By _____

FEET, AND BEING PARALLEL TO THE SIDELINES OF SAID STRIP.

EXHIBIT "C"

BK 11927 PG 1037

WHEN RECORDED RETURN TO:
JERWEL ENTERPRISES
111 E. Third St.
P. O. Box 176
San Dimas, CA 91773
Attn: Gerald J. Klein

21564

$6.00

RECORDED AT REQUEST OF
FIRST AMER. TITLE INS. CO.
IN OFFICIAL RECORDS OF
ORANGE COUNTY, CALIF.
8:01 AM OCT 18 1976
J. WYLIE CARLYLE, County Recorder

FIRST AMENDMENT TO

RECIPROCAL EASEMENT AGREEMENT

THIS FIRST AMENDMENT TO RECIPROCAL EASEMENT AGREEMENT is made and entered into as of this 11th day of October, 1976, by and between JERWEL ENTERPRISES, a general partnership, (hereinafter referred to as "Jerwel") and WEST COAST SOCCER LEAGUE, INC., a California corporation, (hereinafter referred to as "WCSL").

R E C I T A L S:

1. Jerwel and WCSL have heretofore entered into that certain Reciprocal Easement Agreement dated April 30, 1976, recorded in Book 11726, at Pages 752 to 780, Official Records, Office of the County Recorder of Orange County, California, which Reciprocal Easement Agreement affects that certain real property situated in the City of Huntington Beach, County of Orange, State of California, legally described as Parcels 3 and 4 as per Parcel Map recorded in Book 81, Pages 12 to 14 of Parcel Maps, Office of the County Recorder of said County.

2. Jerwel is the owner of the real property legally described as Parcel 4 as per the above described Parcel Map, and WCSL is the owner of the real property legally described as Parcel 3 as per the said Parcel Map.

3. Section 7.13 of the said Reciprocal Easement Agreement provides that the parties to the Reciprocal Easement Agreement shall cooperate reasonably each with the other in modifying and/or supplementing the said Reciprocal

EXHIBIT C

II A

Easement Agreement as may be required to obtain the written approval of the Director of Planning and Environmental Resources of the City of Huntington Beach, in accordance with Condition Use Permit No. 75-24.

4. The Director of Planning and Environmental Resources of the City of Huntington Beach has required that the said Reciprocal Easement Agreement be amended in certain respects in order to obtain his approval as required by Conditional Use Permit No. 75-24.

NOW, THEREFORE, in order to obtain the approvals required of the Director of Planning and Environmental Resources of the City of Huntington Beach in accordance with Conditional Use Permit No. 75-24, Jerwel and WCSL hereby modify/supplement and amend the said Reciprocal Easement Agreement as follows:

1. Notwithstanding anything contained in the said Reciprocal Easement Agreement to the contrary, the said Reciprocal Easement Agreement shall not be terminated without the prior written consent of the City of Huntington Beach.

2. Notwithstanding anything contained in the said Reciprocal Easement Agreement to the contrary, the said Reciprocal Easement Agreement shall not be amended or modified without the prior written consent of the City of Huntington Beach if the effect of such amendment or modification would be to alter, amend, terminate or impair the reciprocal ingress, egress and parking easements granted in Sections 4.5 and 4.6 of the said Reciprocal Easement Agreement or the rights of the parties to the said

Reciprocal Easement Agreement or of their respective "Permittees", as defined in Section 4.2 of the said Reciprocal Easement Agreement, to use such easements.

3. Except as expressly modified/supplemented and amended by the foregoing provisions of this First Amendment to Reciprocal Easement Agreement, the said Reciprocal Easement Agreement shall continue in full force and effect in accordance with its terms.

IN WITNESS WHEREOF, this First Amendment to Reciprocal Easement Agreement is executed by the parties hereto as of the day and year first above written.

JERWEL ENTERPRISES,
a general partnership

By: _____

By: _____

WEST COAST SOCCER LEAGUE, INC.,
a California corporation

By: _____
Josef Bischof, President

By: _____ Treasurer
FRANK DRECHSLER

APPROVED AS TO FORM:
DON P. BONFA
City Attorney

By: _____
Deputy City Attorney

STATE OF CALIFORNIA)
) ss.
COUNTY OF Los Angeles)

On October 11, 1976, before me, the undersigned, a Notary Public in and for said State, personally appeared Gerald T. Klein and Earl Welk, known to me to be Both of the partners of JERWEL ENTERPRISES, and acknowledged to me that said partnership executed the same.

WITNESS my hand and official seal.

Carol L. Oates
Notary Public

(SEAL)

OFFICIAL SEAL
CAROL L. OATES
NOTARY PUBLIC CALIFORNIA
NOTARY BOND FILED IN
LOS ANGELES COUNTY
My Commission Expires January 25, 1980

STATE OF CALIFORNIA)
) ss.
COUNTY OF Los Angeles)

On October 11, 1976, before me, the undersigned, a Notary Public in and for said State, personally appeared JOSEF BISCHOF, known to me to be the President, and Frank Drechsler, known to me to be the Treasurer of WEST COAST SOCCER LEAGUE, INC., known to me to be the persons who executed the within instrument on behalf of said corporation, and acknowledged to me that said corporation executed the within instrument pursuant to its by-laws or a resolution of its board of directors.

WITNESS my hand and official seal.

Carol L. Oates
Notary Public

(SEAL)

OFFICIAL SEAL
CAROL L. OATES
NOTARY PUBLIC - CALIFORNIA
NOTARY BOND FILED IN
LOS ANGELES COUNTY
My Commission Expires January 25, 1980

END OF RECORDED DOCUMENT

CITY ATTORNEY
P. O. BOX 190
HUNTINGTON BEACH
CALIFORNIA 92648

DON P. BONFA
CITY ATTORNEY

TELEPHONE
(714) 536-5555

September 23, 1976

HUNTINGTON BEACH
PLANNING DEPT.
OCT 4 1976
P. O. Box 190
Huntington Beach, CA 92648

Rutan & Tucker
Attorneys at Law
610 Newport Center Drive
Suite 900
Newport Beach, California 92660

Attention: Mr. Richard P. Sims

Re: North Huntington Specific Plan

Dear Sirs:

The amendment to the Reciprocal Easement Agreement is acceptable to the City and has been approved.

Very truly yours,

DON P. BONFA
City Attorney

By
JOHN O'CONNOR
Deputy City Attorney

JOC:cs

Enclosure

cc: Bob Kirby, Planning Dept.

FIRST AMENDMENT TO

RECIPROCAL EASEMENT AGREEMENT

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R E C I T A L S:

1. Jerwel and WCSL have heretofore entered into that certain Reciprocal Easement Agreement dated April 30, 1976, recorded in Book 11726, at Pages 752 to 780, Official Records, Office of the County Recorder of Orange County, California, which Reciprocal Easement Agreement affects that certain real property situated in the City of Huntington Beach, County of Orange, State of California, legally described as Parcels 3 and 4 as per Parcel Map recorded in Book 81, Pages 12 to 14 of Parcel Maps, Office of the County Recorder of said County.

2. Jerwel is the owner of the real property legally described as Parcel 4 as per the above described Parcel Map, and WCSL is the owner of the real property legally described as Parcel 3 as per the said Parcel Map.

3. Section 7.13 of the said Reciprocal Easement Agreement provides that the parties to the Reciprocal Easement Agreement shall cooperate reasonably each with the other in modifying and/or supplementing the said Reciprocal

[illegible] to obtain the written approval of the Director of Planning [illegible]d Environmental Resources of the City of Huntington Beach, in accordance with Condition Use Permit No. 75-24.

4. The Director of Planning and Environmental Resources of the City of Huntington Beach has required that the said Reciprocal Easement Agreement be amended in certain respects in order to obtain his approval as required by Conditional Use Permit No. 75-24.

NOW, THEREFORE, in order to obtain the approvals required of the Director of Planning and Environmental Resources of the City of Huntington [illegible] in accordance with Conditional Use Permit No. 75-24, [illegible]wel and WCSL hereby modify/supplement and amend the said Reciprocal Easement Agreement as follows:

1. Notwithstanding anything contained in the said Reciprocal Easement Agreement to the contrary, the said Reciprocal Easement Agreement shall not be terminated without the prior written consent of the City of Huntington Beach.

2. Notwithstanding anything contained in the said Reciprocal Easement Agreement to the contrary, the said Reciprocal Easement Agreement shall not be amended or modified without the prior written consent of the City of Huntington Beach if the effect of such amendment or modification would be to alter, amend, terminate or impair the reciprocal ingress, [illegible] and parking easements granted in [illegible]ions 4.5 and 4.6 of the said Reciprocal Easement Agreement or the rights of the parties to the said

"Permittees", as defined in Section 4.2 of the said Reciprocal Easement Agreement, to use such easements.

3. Except as expressly modified/supplemented and amended by the foregoing provisions of this First Amendment to Reciprocal Easement Agreement, the said Reciprocal Easement Agreement shall continue in full force and effect in accordance with its terms.

IN WITNESS WHEREOF, this First Amendment to Reciprocal Easement Agreement is executed by the parties hereto as of the day and year first above written.

JERWEL ENTERPRISES,
a general partnership

By: _____

By: _____

WEST COAST SOCCER LEAGUE, INC.,
a California corporation

By: _____
Josef Bischof, President

By: _____

APPROVED AS TO FORM:
DON P. BONFA
City Attorney

By: _____
Deputy City Attorney

will have to be platted in some fashion, as it presently is legally a part of the subject property. The Commission discussed the legal ramifications and timing of incorporating the parcel into the map under consideration, and it was the consensus that a continuation was required to allow additional information to be submitted by both the applicant and the City's legal office. The applicant was instructed to provide a recordation history of the property so that the Commission could know when and how title has been transferred.

ON MOTION BY PAONE AND SECOND BY RUSSELL TENTATIVE TRACT 9921X AND NEGATIVE DECLARATION 79-35 WERE CONTINUED TO THE REGULAR MEETING OF JUNE 19, 1979, WITH SPECIFIC DIRECTION TO LEGAL COUNSEL TO SUPPLY AN OPINION ON THE LEGAL STATUS OF THE "NOT A PART" PARCEL, BY THE FOLLOWING VOTE:

AYES: Higgins, Russell, Stern, Cohen, Bazil, Paone
NOES: None
ABSENT: None
ABSTAIN: None

The public hearing was reopened and continued to the June 19, 1979 meeting.

CONDITIONAL USE PERMIT NO. 79-16
Applicant: Jerwel Enterprises

Pacific Plaza

To revive a previously approved site plan for a commercial center and the addition of approximately 27,000 square feet of floor space and 117 parking spaces, on property bounded by the San Diego Freeway on the northeast, Center Drive on the south, and Huntington Village Way on the west.

Mel Ott informed the Commission that the layout may not meet present Fire Department standards for inner circulation and access to various buildings; e.g., the primary access should be 40 feet wide instead of the 30 foot width shown on the plan.

The public hearing was opened.

Jerry Klein addressed the Commission to explain that the plan was revised in response to changing markets and to provide better freeway visibility for the tenants.

Mr. Pomeroy, architect for the project, explained the layout and parking and described the proposed phasing of construction. He indicated that he is willing to work with the Fire Department to meet standards and if the 40-foot drive is required it will be provided.

There being no other persons to address the Commission, the public hearing was closed.

EXHIBIT D

I B

(C)

The Commission reviewed the proposal, taking into particular consideration the location of the theater and hotel and the overlapping use of parking proposed. Also discussed was the mechanism by which the Commission might review any major changes to the plan in the future, and it was determined that provisions of the Specific Plan for such review at the discretion of the Planning Director adequately protect the City. In addition, Mr. Klein stipulated that he would bring a revised plan back to the Commission if such major changes should occur.

ON MOTION BY PAONE AND SECOND BY BAZIL CONDITIONAL USE PERMIT NO. 79-16 WAS APPROVED WITH THE FOLLOWING FINDINGS AND CONDITIONS, BY THE FOLLOWING VOTE:

FINDINGS:

1. The proposed plan is consistent with the criteria established for land development in the Land Use Element of the General Plan.

2. The proposed plan complies with all applicable provisions of the North Huntigton Center Specific Plan.

CONDITIONS OF APPROVAL:

1. The site plan received and dated May 21, 1979, shall be the approved layout.

2. Interior circulation and street widths shall comply with the specifications of the Fire Department.

3. An automatic sprinklering system shall be installed within all landscaping provided for the project.

4. All previously applied conditions of approval from Conditional Use Permit No. 75-24 which are still applicable shall apply to Conditional Use Permit No. 79-16.

AYES: Higgins, Russell, Stern, Cohen, Bazil, Paone
NOES: None
ABSENT: None
ABSTAIN: None

CODE AMENDMENT NO. 79-3
Applicant: Initiated by the Planning Department

Request for adoption of a code amendment repealing certain sections of the Ordinance Code and adding other sections pertaining to the merger of parcels.

Acting Secretary Palin suggested that the ordinance as submitted be modified to not delete the code sections itemized in Section 1 of the proposed ordinance and to delete from the ordinance Subsection (c) of Section 2. Legal counsel Jim Georges expressed the opinion that the deletion of Subsection (c) would be in violation of the Subdivision

WHEN RECORDED RETURN TO:

RUTAN & TUCKER (RPS)
Post Office Box 7369
Newport Beach, CA 92660

8605

$6.00
C3

RECORDING REQUESTED BY
FIRST AMERICAN TITLE INS. CO.

RECORDED IN OFFICIAL RECORDS
OF ORANGE COUNTY, CALIFORNIA

11 15 AM MAR 6 1979

LEE A. BRANCH County Recorder

AGREEMENT

THIS AGREEMENT is made and entered into as of this 19th day of February, 1979, by and between JERWEL ENTERPRISES, a general partnership (hereinafter referred to as "Jerwel") and OLD WORLD OWNER'S ASSOCIATION, a California corporation (hereinafter referred to as "Association").

R E C I T A L S:

1. Jerwel has heretofore entered into that certain Reciprocal Easement Agreement dated April 30, 1976, recorded in Book 11726, at Pages 752 to 780, Official Records, Office of the County Recorder of Orange County, California, which Reciprocal Easement Agreement was amended by instrument entitled First Amendment to Reciprocal Easement Agreement dated October 11, 1976, and recorded in Book 11927, at Page 1037, Official Records, Office of the County Recorder in and for said County.

2. The said Reciprocal Easement Agreement, as amended, (hereinafter referred to as the "REA") affects that certain real property situated in the City of Huntington Beach, County of Orange, State of California, legally described as Parcels 3 and 4 as per Parcel Map recorded in Book 81, Pages 12 to 14 of Parcel Maps, Office of the County Recorder of said County.

3. Jerwel is the owner of the real property legally described as Parcel 4 as per the above described Parcel Map, and Association is the entity defined as "Association" in Section 3.3 of the REA and is entitled to exercise all rights and privileges of the party to the REA owning Parcel 3 as per the above described Parcel Map.

III

EXHIBIT E

4. Section 7.17 of the REA provides that the parties to the REA will not withhold their approval unreasonably to any change or alteration to the REA requested by any proposed lender, beneficiary, major tenant or purchaser with respect to the interest of the other party in the real property subject to the REA.

NOW, THEREFORE, in order to comply with the provisions of Section 7.17 of the REA and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Jerwel and Association hereby modify/supplement and clarify the intent of the said REA as follows:

1. Jerwel may use the Jerwel Parcel, or portions thereof, for the construction, operation and maintenance of office buildings, restaurants and other commercial enterprises and may, in connection therewith, subject to obtaining all requisite governmental permits and approvals, reserve parking spaces within adjacent parking areas for the exclusive use of the tenants of such buildings and/or the employees and/or invitees of such tenants and/or install a system of validated-pay parking within such adjacent parking areas for the tenants of such buildings and/or such tenants' employees and/or invitees. Any such adjacent parking facilities may be underground, multi-story or ground level parking. Not withstanding the foregoing, at least one half of all ground level parking spaces within 200 feet of the W. C. S. L. parcel and one half of all ground level parking spaces within 400 feet of the W. C. S. L. parcel shall not be restricted.

2. To the extent, if any, that this Agreement required the consent and approval of the City of Huntington Beach pursuant to Section 7.16 of the REA, the parties hereto agree that, to such extent only, this Agreement shall not be deemed to become effective unless and until such consent and approval is obtained. Such consent and approval by the City of Huntington Beach may be evidenced by a separate instrument recorded in the Office of the County Recorder, Orange County, California, at any time following the recordation of this instrument and any delay in obtaining the recordation of such consent and approval shall not be deemed to effect this Agreement or permit the

rescission or termination of this Agreement. Such consent and approval by the City of Huntington Beach may be conditional or impose restrictions on the Jerwel parcel not specified in Paragraph 1 above and, in such event, this Agreement shall become fully effective subject to such conditions or restrictions; provided that, if requested by Jerwel, Association agrees, for itself, its successors or assigns, as the "Association", as defined in Section 3.3 of the RFA, to execute any amendment to this Agreement required in order to incorporate such conditions and/or restrictions in this Agreement and to obtain the consent and approval of the City of Huntington Beach.

3. Except as expressly modified/ supplemented and/or clarified by the preceding provisions of this Agreement, the RFA shall continue in full force and effect.

IN WITNESS WHEREOF, this Agreement is executed by the parties hereto as of the day and year first above written.

JERWEL ENTERPRISES,
a general partnership

By _____
Gerald J. Klein

By _____
Earl Welk

OLD WORLD OWNER'S ASSOCIATION,
a california corporation

By _____
Earl Welk President

By _____
Virgil Batesole, Secretary

BK 13057 PG 1893

STATE OF CALIFORNIA)
) ss.
COUNTY OF ORANGE)

On February 2, 1979, before me, the undersigned, a Notary Public in and for said State, personally appeared Gerald J. Klein and Earl Welk, known to me to be the partners of Jerwel Enterprises, the partnership that executed the within instrument and acknowledged to me that such partnership executed the same.

WITNESS my hand ~~and official seal.~~

OFFICIAL SEAL
CAROL L. OATES
NOTARY PUBLIC - CALIFORNIA
NOTARY BOND FILED IN
LOS ANGELES COUNTY
My Commission Expires January 25, 1980

[signature]
CAROL L. OATES

STATE OF CALIFORNIA)
) ss.
COUNTY OF ORANGE)

On February 2, 1979, before me, the undersigned, a Notary Public in and for said State, personally appeared Earl Welk, known to me to be the President and [illegible], known to me to be the Secretary of OLD WORLD OWNER'S ASSOCIATION, the corporation that executed the within instrument, and known to me to be the persons who executed the within instrument on behalf of said corporation, and acknowledged to me that such corporation executed the within instrument pursuant to its by-laws or a resolution of its board of directors.

WITNESS my hand and official seal.

[signature]
CAROL L. OATES

OFFICIAL SEAL
CAROL L. OATES
NOTARY PUBLIC - CALIFORNIA
NOTARY BOND FILED IN
LOS ANGELES COUNTY
My Commission Expires January 25, 1980

END OF RECORDED DOCUMENT

Law Offices of
Lee H. Durst

July 23, 1982

Members of the City Council
CITY OF HUNTINGTON BEACH
Post Office Box 190
Huntington Beach, California 92648

RE: Old World Owners Association
Reciprocal Parking Easement and amendment thereto

Dear Council Members:

As corporate counsel for Old World Owners Association, I have been instructed to contact you regarding a Reciprocal Easement Agreement (regarding parking) between said Association and the Jerwel Corporation. A copy of said Agreement, and amendment thereto, is enclosed with this letter for your reference. Pursuant to the terms of said Agreement, no subsequent amendments thereto may be made without approval by the City of Huntington Beach.

In February of 1979, the then Board of Directors for Old World Owners Association, still controlled by its developer, entered into an amended reciprocal parking easement Agreement with the Jerwel Corporation without receiving any City approval thereof.

The present Board of Directors for Old World Owners Association is opposed to this proposed 1979 Amendment ("AGREEMENT") to said Agreement and requests that the City take no action whatsoever -- including, but not limited to, executing any "CONSENT" forms allegedly submitted some time ago -- which would adversely affect the Association's position in this matter.

If you have any questions, please do not hesitate to contact this office. Thank you for your anticipated cooperation.

Sincerely,

LEE H. DURST
Attorney at Law

vb
cc: B/D Old World Owners Assn.
Sarco Services, Inc.

Enc: Copy of Reciprocal Easement Agreement
First Amendment to Reciprocal Easement Agreement
AGREEMENT
Consent form

Imperial Bank Building
895 Town Center Drive · Suite 800 · Costa Mesa, California 92626 · (714) 641-1397

EXHIBIT F

FINDINGS AND CONDITIONS OF APPROVAL

CONDITIONAL USE PERMIT NO. 05-15/ NEGATIVE DECLARATION NO. 05-01

FINDINGS FOR APPROVAL - NEGATIVE DECLARATION NO. 05-01:

1. Negative Declaration No. 05-01 has been prepared in compliance with Article 6 of the California Environmental Quality Act (CEQA) Guidelines. It was advertised and available for a public comment period of twenty (20) days. Comments received during the comment period were considered by the Planning Commission prior to action on Negative Declaration No. 05-01 and Conditional Use Permit No. 05-15.

2. Standard code requirements avoid or reduce the project's effects to a point where clearly no significant effect on the environment will occur.

3. There is no substantial evidence in light of the whole record before the Planning Commission that the project will have a significant effect on the environment.

FINDINGS FOR APPROVAL - CONDITIONAL USE PERMIT NO. 05-15:

1. Conditional Use Permit No. 05-15 for the establishment, maintenance and operation of a two-story, 37,946 square foot 24-Hour Fitness health club within One Pacific Plaza, will not be detrimental to the general welfare of persons working or residing in the vicinity or detrimental to the value of the property and improvements in the neighborhood. The proposed use will not impact existing on-site shared parking based on the divergent parking needs for existing land uses as identified in an updated shared parking analysis provided by a consultant for the applicant.

2. The conditional use permit will be compatible with surrounding uses. The subject land use is appropriate at the proposed location because the site is easily accessible by major roadways and anticipated traffic will not impact local streets, and adequate shared parking will be provided based on an updated shared parking analysis. The proposed use will be compatible with the adjacent office uses and surrounding uses as it promotes mixed-use within the center and provides a recreation amenity for employees, visitors, and residents of the surrounding area.

3. The proposed facility will comply with the provisions of the base district and other applicable provisions in the North Huntington Center Specific Plan (SP-1) and Titles 20-25 of the Huntington Beach Zoning and Subdivision Ordinance. The HBZSO allows for a reduction in parking requirements when it can be demonstrated through a shared parking analysis that adequate parking within a commercial center can be provided based on the divergent parking needs of individual uses. The shared parking analysis, submitted by Linscott, Law, and Greenspan, concluded that adequate parking will be provided on-site

c. All glazing shall be recessed from the exterior façade of the building to the maximum extent possible. **(DRB)**

d. The blank façade portion of the building along the southerly elevation shall be treated with a smooth exterior plaster finish up to approximately half of the height of the building. The smooth plaster element shall project a minimum of 12 inches from the face of the building and match the color of other smooth plaster elements on the north elevation. **(DRB)**

e. The size of the parapet return, as depicted on the northerly elevation, shall be minimized in length by 15 feet as modified on the colored elevations dated January 12, 2006. **(DRB)**

2. Prior to issuance of building permits, the following shall be completed:

a. A Parking Management Plan, approved by the property owner, shall be submitted for review and approval by the Planning Department. Said plan shall depict designated (tenants/employees/guest /customers/carpooling) parking space locations and be consistent with the approval of CUP No. 05-15. The PMP shall incorporate the following:

1) A minimum of 201 visitor parking spaces shall be provided on the first and second level, southeasterly portion of the parking structure. These spaces shall have a time restriction of one to two hours in duration.

2) All physical barriers, including concrete barriers and parking control gates shall be removed from the parking structure.

3) Directional signage to direct patrons to available self-park and valet parking areas shall be provided throughout the site.

4) There shall be no restrictions on parking spaces within the field of on-site shared parking after 4 p.m., seven days a week.

5) All parking spaces shall be clearly marked to identify use limitations.

6) All surface level parking spaces within the field of shared parking shall be designated and clearly identified as general visitor parking.

7) The One Pacific Plaza PMP shall be consistent with the Old World Village PMP dated August 26, 2003.

3. A review of the use shall be conducted by the Planning Commission with a report within six (6) months of the issuance of Certificate of Occupancy to verify compliance with all conditions of approval and applicable Chapters of the Huntington Beach Zoning and Subdivision Ordinance. At that time the Planning Commission may consider modifications to the conditions of approval.

Background:

One Pacific Plaza is a mixed-use complex and consists of three office towers, two medical office buildings, two restaurant/nightclub buildings, and a hotel totaling approximately 592,176 square feet. The complex was originally approved under Conditional Use Permit No. 75-24 and permitted a reduction in the total number of required parking spaces based on a shared parking analysis. The required parking for One Pacific Plaza is located within the 5-story parking structure and surface level parking throughout the complex. The parking structure contains approximately 1,509 parking spaces and the surface level parking totals approximately 529 spaces for a total of 2,038 spaces. The original conditional use permit also permitted reciprocal parking between the subject site and the Old World Village. Although reciprocal parking exists between the two sites, patrons of Old World Village primarily utilize parking at One Pacific Plaza during the annual Oktoberfest. The reciprocal parking is provided to address the need for additional overflow parking during the event

An amendment to the original CUP was approved under Conditional Use Permit No. 83-28 which permitted a revision of the previously approved commercial complex. The amendment involved replacing the previously approved theatre component with a hotel. The parking for the hotel is provided in a 184-space subterranean parking structure. In addition, a 153-space remote parking structure was approved to provide employee parking for the medical office building. Under this approval, the hotel provides all of its required parking on site and employees of the medical office building utilize the remote parking structure.

On July 26, 2005, the Planning Commission approved a request by Platt College (CUP No. 05-09) to occupy approximately 35,000 square feet on the fourth and fifth floors of the existing 12-story office building. The approval included an update to the existing on-site shared parking analysis based on the change to the mix of uses. The update to the shared parking analysis included the future development of the 24-Hour Fitness health club.

At the January 10, 2006, Planning Commission Study Session, the Commission had several questions regarding the shared parking for the site. One of the issues is the reciprocal parking between One Pacific Plaza and Old World. The reciprocal parking agreement between the two sites requires that one-half of all ground-level parking spaces, within 400 feet of the Old World property, be unrestricted parking. No changes to this arrangement are proposed as part of this request. The Commission also requested information regarding peak parking demand within the complex which is provided in the parking study (Attachment No. 4.9 – 4.11) and discussed in the Analysis section of this report. Staff also responded to a question regarding the provision of a crosswalk between One Pacific Plaza and the Bella Terra Mall. A signalized crosswalk already exists at One Pacific Plaza Dr., between the two complexes to allow pedestrian access across Center Drive. A second traffic signal with crosswalk will be placed at Huntington Village Way. The current and proposed crosswalks are located in the most logical locations and provide the safest means for pedestrians to cross Center Avenue. In response to the question regarding occupant load, the Building Department reviewed the floor plan and identified a maximum occupant load for the entire 24-Hour Fitness building of approximately 1,119 persons. The applicant has indicated that during peak operating times there are approximately 350 to 400 people utilizing the gym facility; therefore, it is unlikely that the maximum occupant load would ever be reached.

Shared Parking

A shared parking analysis was prepared by Linscott, Law, and Greenspan as the basis for determining the provision of adequate on-site shared parking for the proposed health club (Attachment No. 4). The shared parking analysis recognizes that individual land uses experience peak parking demands at different times of the day, or days of the week. By taking advantage of the significant differences in hourly parking demand between uses, a well-planned mixed-use development will require fewer total parking spaces to serve the demand. This results in more efficient use of available land. This shared parking concept has been previously accepted by the City on projects such as Plaza Almeria, The Strand, Bella Terra, Pacific City, and the Downtown Parking Master Plan.

In order to determine the parking demand for existing uses at One Pacific Plaza, parking surveys were taken at the site. The surveys concluded that peak-parking demand for all of the uses within One Pacific Plaza occurs at 10:00 a.m. during the week, with an average of 1,080 parking spaces (50%) occupied of the 2,019 spaces. A total of only 210 parking spaces (10%) are utilized during the weekend peak hours, which was identified at 8:00 p.m. The peak parking demand for 24-Hour Fitness (6 a.m. to 8 a.m./5 p.m. to 7 p.m.) is based on sports club operation data from typical health club facilities in the region.

The overall peak-parking requirement includes the current occupied, vacant, and proposed uses combined with existing parking demand (based on parking surveys) within the shared parking model. The shared parking analysis identified a total shared parking demand of 1,924 spaces (95%) during the peak hour of 10 a.m. The site has a proposed parking supply of 2,019 spaces with the development of 24-Hour Fitness; therefore, a parking surplus of 95 spaces is forecast on the subject site during the peak hour for parking. The following table identifies each land use category that currently utilizes shared parking, the amount of square footage, and peak parking demand hours:

*ONE PACIFIC PLAZA		
Land Use	Square Footage	Peak Parking Hour(s)
Office	413,294 sq.ft.	10 a.m. to 2 p.m. (closed Sat. – Sun)
24-Hour Fitness	37,946 sq. ft.	6 a.m. to 8 a.m./5 p.m. to 7 p.m.
Restaurant (Buca Di Beppo)	9,982 sq. ft.	6 p.m. to 8 p.m.
Platt College	35,000 sq. ft.	6 p.m. to 8 p.m. (closed Fri. – Sun.)

* It should be noted that of the 2,019 parking spaces, 248 spaces are located on the hotel parcel. For purposes of the survey, the 248 spaces were assumed to be 100 percent occupied based on the fact that hotel parking is for patrons and employees of the hotel only and not a part of the overall field of shared parking.

The peak demand for 24-Hour Fitness is expected to occur in the early morning hours (6:00 a.m. – 8:00 a.m.) and in the early evening hours (5:00 p.m. – 7:00 p.m.) of a typical weekday. In contrast, the peak hours for the office uses within the center occur between 10 a.m. and 2 p.m., with overall office parking demand between the hours of 8 a.m. and 6 p.m. The office use and health club use represent the two largest land use categories with divergent parking needs in terms of hourly peak demand. The restaurant and college have a similar hourly peak demand as 24-Hour Fitness (6 p.m. to 8 p.m.). The analysis identified that the majority of the parking spaces occupied by office employees are vacated by the time (5 p.m.) the other land uses (24-Hour Fitness/Restaurant/College) reach their peak parking demand. The analysis concluded that the entire field of parking (2,019 spaces) is provided for the health club, restaurant, and college in the evenings after 4 p.m. Based on the analysis, adequate on-site parking is provided and no impacts to parking are anticipated.

Parking Management Plan

To manage parking on-site, the applicant has submitted a Draft Parking Management Plan (PMP) (Attachment No. 5). The PMP identifies existing and proposed parking measures to increase efficiency within designated parking areas. In general, the parking structure consists of five levels of parking with the below-grade level designated for employee parking, the at grade and first two levels provides general parking for patrons and visitors, and the upper levels are for parking by the remaining employees. Surface parking located throughout the complex consists of patron and visitor parking and handicapped stalls. This arrangement provides the patron and visitor with the ability to park in a premium and convenient location.

The Draft Parking Management Plan identifies the parking allocation plan for the existing and proposed uses within One Pacific Plaza as follows:

- Hotel Huntington Beach – Employees/patrons have right to the exclusive use of the on-site underground parking structure and surrounding surface-level parking spaces.

- General Office Uses / Medical Center (7801 Center) – Employees park in the parking structure and medical center visitors are provided visitor parking on that parcel.

- Medical Building (7677 Center) – The employee parking is managed between two locations which are in an off-site parking structure on Huntington Village Lane and within the on-site parking structure. Patient parking is available in the surface parking lot.

- Platt College – Employees and students are provided with access cards to allocated parking within the parking structure. After 4 p.m. the gates are lifted and unrestricted access to the entire structure is provided.

- Buca Di Beppo – Parking is provided in the surface lot located around the restaurant and in the parking structure (gates are lifted after 4 p.m.).

- 24-Hour Fitness – Employee parking will be provided in the parking structure. Guests will parking in surface-level parking stalls located around the building and in the parking structure. After 4 p.m. all access gates within the parking structure are lifted and unrestricted access to the entire structure is provided.

The One Pacific Plaza Association consistently patrols and enforces the use of parking. This is accomplished through security guards on the property seven days a week, 24 hours a day. During business hours a parking patrol officer enforces parking restrictions through adherence to a tow policy. The purpose of the parking patrol is to ensure that visitor parking is adequate and available to patrons of the center and to enforce policies and procedures identified in the PMP. A suggested condition of approval (No. 2) has been included to require that a PMP be submitted consistent with the approval of CUP No. 05-15.

LINSCOTT
LAW &
GREENSPAN
engineers

Engineers & Planners
Traffic
Transportation
Parking

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714.641.0139 F
www.llgengineers.com

Pasadena
Costa Mesa
San Diego
Las Vegas

November 11, 2005

Ms. Jennifer Blanchart
The Muller Company
7755 Center Avenue, Suite 845
Huntington Beach, CA 92647

LLG Reference No. 2-042532-1

Subject: **UPDATED PARKING DEMAND ANALYSIS FOR THE PROPOSED ONE PACIFIC PLAZA REDEVELOPMENT PROJECT (Beach Pointe) - Huntington Beach, California**

Dear Ms. Blanchart:

As requested, Linscott, Law & Greenspan, Engineers (LLG) is pleased to submit this Parking Demand Analysis for the proposed One Pacific Plaza redevelopment project to be named "Beach Pointe". The proposed One Pacific Plaza redevelopment project includes a new 40,000 SF health club, and "Plaza" feature within the existing site. In addition, Platt College will be relocating to Beach Point from Irvine and will be occupying approximately 35,000 SF of existing office space within Building E to accommodate a buildout enrollment of 400 students within 20 classrooms and 2,500 SF of administration area. The One Pacific Plaza Redevelopment project site is bound by Center Avenue on the south, Huntington Village Drive on the west, and the I-405 Freeway on the north and east in the City of Huntington Beach, California. Based on our understanding, a parking study is required by the City to determine the parking demand for the proposed redevelopment project. ***Exhibit 1***, located at the rear of this letter report, presents a Vicinity Map, which illustrates the general location of the project and depicts the surrounding street system

Briefly, based on this parking demand analysis for the One Pacific Plaza Redevelopment project, a sufficient number of on-site parking spaces will be provided to accommodate the parking demand for the proposed One Pacific Plaza Redevelopment project.

On that basis, this parking analysis evaluates the project development parking requirements based on the City of Huntington Beach zoning code, the methodology outlined in Urban Land Institute's (ULI) *Shared Parking* guidelines, and parking surveys conducted on site.

Briefly, based on direct application of City of Huntington Beach parking codes to the One Pacific Plaza Redevelopment project, a total of ***2,314 parking spaces*** would be required for the One Pacific Plaza Redevelopment project.

Philip M. Linscott, PE (1924-2000)
Jack M. Greenspan, PE
William A. Law, PE (Ret.)
Paul W. Wilkinson, PE
John P. Keating, PE
David S. Shender, PE
John A. Boarman, PE
Clare M. Look-Jaeger, PE
Richard E. Barretto, PE

ATTACHMENT NO. 4.1

In addition, based on the results of our theoretical shared parking analysis, the One Pacific Plaza Redevelopment project is forecast to have a theoretical weekday and weekend peak parking demand of ***2,188 parking spaces*** and ***844 parking spaces***, respectively.

Also, based on parking surveys at the current One Pacific Plaza site combined with the shared parking methodology, the One Pacific Plaza Redevelopment project is forecast to have a weekday and weekend peak parking demand of ***1,924 parking spaces*** and ***731 parking spaces***, respectively.

Table 1, located at the rear of this letter report following the exhibits, presents the existing land use development summary for One Pacific Plaza. As presented in *Table 1*, the site includes three office towers, two medical office buildings, a 224-room Holiday Inn hotel, and two restaurant/nightclub buildings totaling 592,176 SF. The site currently has 2,038 parking spaces within a five-level parking structure, several surface lots, and a subterranean lot for the hotel. ***Exhibit 2*** presents the existing site plan for One Pacific Plaza. Based on our research, there is a current reciprocal parking agreement with the adjacent Old World development, which allows parking within the One Pacific Plaza development on an "as needed" basis during non-peak times (night time and weekend) and requires that at least one-half of all ground level parking spaces within 400 feet of the Old World parcel shall not be restricted. Based on discussions with One Pacific Plaza management services, the Old World development only utilizes the parking structure during Oktoberfest festivities.

PROJECT DESCRIPTION

The Proposed One Pacific Plaza Redevelopment project consists of replacing the existing 8,660 square-foot (SF) restaurant/night club building, currently "Liquid Lounge", with a 40,000 SF health club, construction of a "Plaza" feature in the center area of the three existing office towers, and relocation of Platt College from their Irvine Campus site to within Building E. ***Exhibit 3*** presents the proposed site plan for the portion of the site to be redeveloped with the health club, prepared by GAA Architects, Inc. As a result of the One Pacific Plaza Redevelopment project, the new parking supply for the site will be 2,019 parking spaces without any modification to the existing parking structure to provide additional spaces.

Table 2 presents the proposed land use development summary for the proposed One Pacific Plaza Redevelopment project. As presented in *Table 2*, the proposed Redevelopment project includes a 40,000 SF health club in place of the existing 8,660 SF restaurant/nightclub building at 7887 Center Avenue and inclusion of Platt College (35,000 SF: 400 Students/20 Classrooms) in Building E at 7755 Center Avenue resulting in a total development of 623,516 SF.

ATTACHMENT NO. 4.2

PARKING REQUIREMENT-DEMAND ANALYSIS

This parking analysis for the One Pacific Plaza Redevelopment project involves determining the expected parking needs, based on the size and type of proposed development components. In general, there are three methods that can be used to estimate the site's peak parking requirements. These methods include:

1. Application of City code requirements (which typically treat each use in the project as a "stand alone" use at maximum demand);
2. Application of shared parking usage patterns by time-of-day (which recognizes that the parking demand for each land use component varies by time of day, day of week, and/or month of year); and
3. Application of parking survey information combined with the shared parking methodology, which combines actual parking demand data with reoccupancy of vacant uses and proposed uses based on City code and time of day profiles.

The shared parking methodology is certainly applicable to a development such as the One Pacific Plaza Redevelopment project, as the individual land uses (i.e., restaurant, health club, and office uses) experience peak demands at different times of the day and the parking survey/shared parking combination is the most accurate parking requirement forecast.

PARKING CODE REQUIREMENTS

To determine the number of parking spaces required to support the One Pacific Plaza Redevelopment project, parking demand was first calculated using the City of Huntington Beach Zoning Code. As mentioned previously, City parking code requirements typically treat each individual use in the project as a "stand alone" use at maximum demand, as opposed to an integrated part of the entire project.

As such, the City of Huntington Beach Zoning Code (*Chapter231.04; Off-Street Parking and Loading Spaces Required)* specifies a parking ratio of 1 space per 250 SF of office use, 1 space per 100 SF of restaurant and outdoor dining use, 1 space per 175 SF of medical office use, 1 space per 200 SF (excluding instruction area) & 1 space per 100 SF of instruction area of health club use, 1.1 spaces per hotel room, and 7 spaces per classroom for colleges. ***Table 3*** summarizes the parking requirements for the proposed One Pacific Plaza Redevelopment project using the above code parking ratios. As shown, direct application of City parking ratios to the One Pacific Plaza Redevelopment project program results in a City parking code requirement of ***2,314 parking spaces,*** which overstates the amount of parking which will be needed to accommodate the mix of uses proposed within the Redevelopment project. However, as previously mentioned, there is an opportunity to share parking spaces based on the utilization profile of each land use component, except for the hotel component, which

does not share parking spaces within the rest of the site, per their *Memorandum of Exemption from Common Area*, dated March 14, 1984 (84-105515).

SHARED PARKING ANALYSIS

Based on the mix of uses proposed within the proposed One Pacific Plaza Redevelopment project, the parking demand can be calculated using shared parking criteria as established by the Urban Land Institute (ULI) which lays out a calculation matrix for computing the project's realistic parking needs. The shared parking calculations included in this report are based on proposed land uses/mix of tenants for One Pacific Plaza Redevelopment, and reflects the most recent development tabulation presented in *Table 2*.

Shared Parking Rationale and Basis

Accumulated experience in parking demand characteristics indicates that a mixing of land uses results in an overall parking need that is less than the sum of the individual peak requirements for each land use. Shared Parking calculations recognize that different uses often experience individual peak parking demands at different times of day, or days of the week. When uses share a common parking footprint, the total number of spaces needed to support the collective whole is determined by adding parking profiles (by time of day or day of week), rather than individual peak ratios as represented in the City of Huntington Beach Zoning and Subdivision Ordinance (Chapter 231 - Off-Street Parking and Loading Provisions).

The analytical procedures for Shared Parking Analyses are well documented in the Shared Parking publication by the Urban Land Institute (ULI) and have been previously accepted by the City of Huntington Beach for the Plaza Almeria project and proposed Bella Terra project, for example. As for other local application, the City of Costa Mesa, and the City of Irvine, among others, has adopted Shared Parking procedures into their Zoning Ordinances based on the ULI techniques and individual parking studies, which validate and/or refine the ULI demand projections and profiles.

Shared parking calculations for the One Pacific Plaza Redevelopment project utilize peak parking ratios and hourly parking accumulations developed from field studies of single developments in free-standing settings, where travel by private auto is maximized. These characteristics permit the means for calculating peak parking needs when land use types are combined. Further, the shared parking approach will result, at other than peak parking demand times, in an excess amount of spaces that will service the overall needs of One Pacific Plaza Redevelopment project.

ATTACHMENT NO. 4.4

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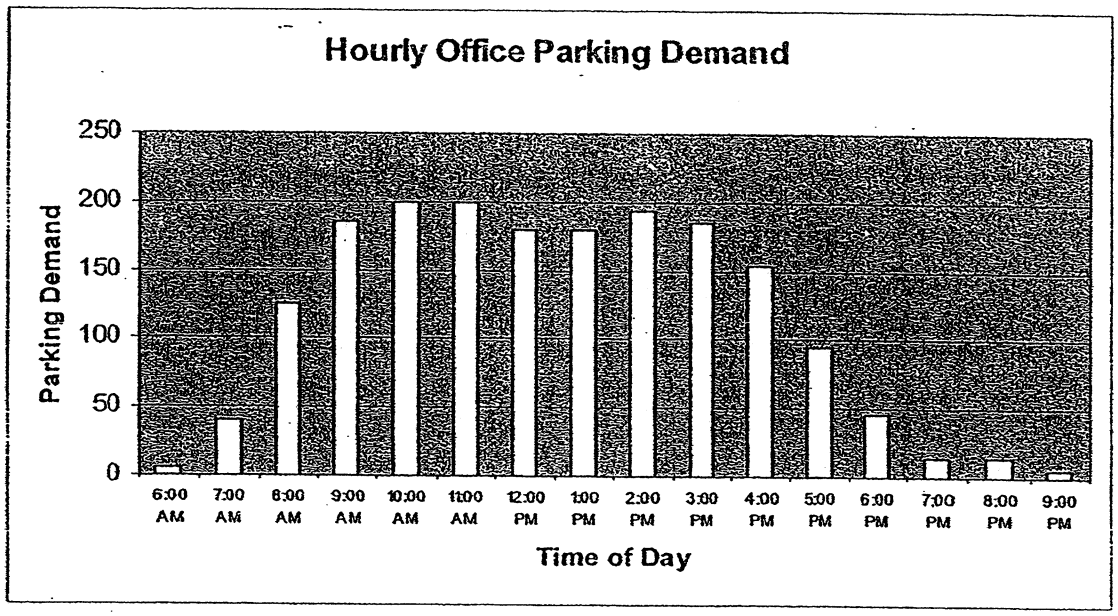
Shared Parking Example

The graphic below illustrates the typical parking demand variation for a 50,000 square foot office building on a typical weekday. It shows that the office reaches its peak parking demand of 200 spaces in the late morning, and uses a relatively high percentage of the parking between 10 am and 4 pm.



ATTACHMENT NO. 4.5

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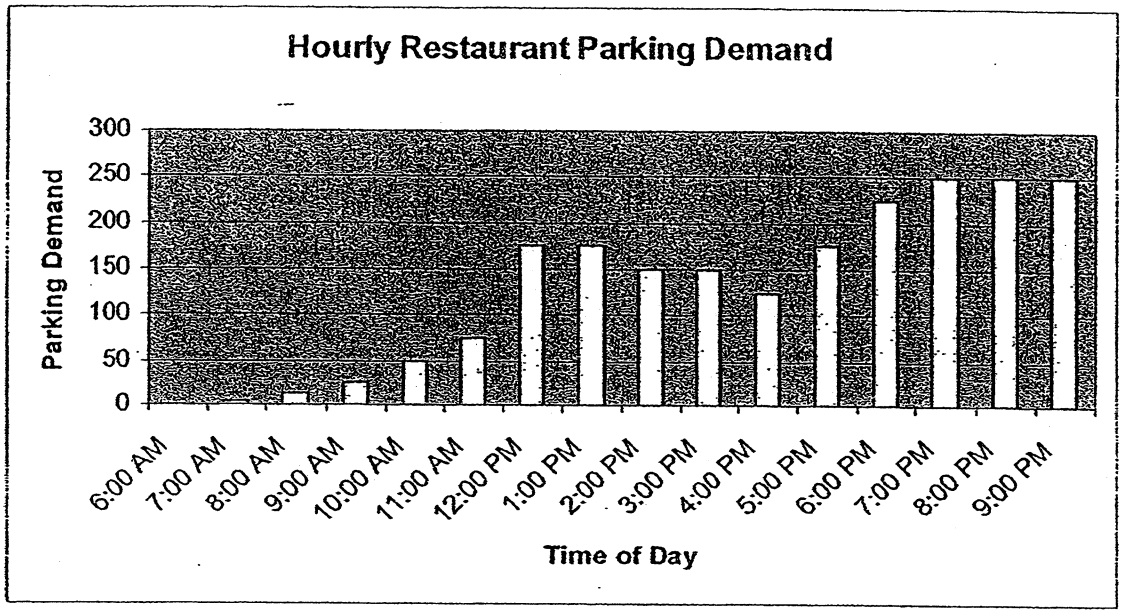
Similarly, the graphic below illustrates a typical parking demand for restaurant space totaling 25,000 square feet of floor area (area consists of several restaurants). The peak parking demand of 250 spaces occurs in the evening with moderate use during the middle of the day.



Without accounting for the hourly parking demand variations, the total parking required to serve both uses together would be 450 parking spaces (200 office + 250 restaurant). Merging the two hourly parking demand graphics together, as illustrated on the following page, reveals the concept of shared parking. Using the hourly demand variations, a more realistic estimate of the parking needed to serve the two uses can be obtained. In essence, by taking advantage of the significant differences in hourly parking demand between two uses, a well planned mixed use development will require fewer total parking spaces to serve the demand, resulting in more cost effective and aesthetically pleasing developments. In this case, 355 parking spaces would be needed, versus the stand alone totals of 450 spaces.

ATTACHMENT NO. 4.6

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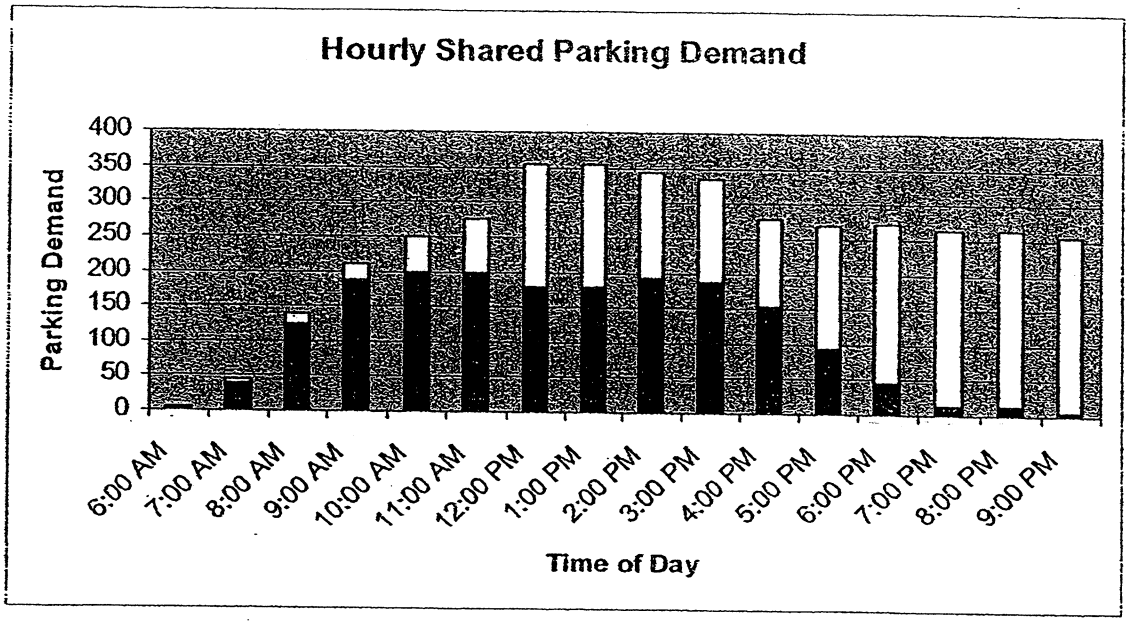

Shared Parking Ratios And Profiles

The hourly parking demand profiles (expressed in percent of peak demand) are based on profiles developed by the Urban Land Institute (ULI) and published in Shared Parking. The ULI publication presents hourly parking demand profiles for seven general land uses: office, retail, restaurant, cinema, residential (Central Business District: CBD and non-CBD), hotel (consisting of separate factors for guest rooms, restaurant/lounge, conference room, and convention area). These factors present a profile of parking demand over time and have been used directly, by land use type, in the analysis of this project.

Since the primary project component for the One Pacific Plaza Redevelopment project is office space, the ULI office use profiles are applied directly. In doing so, there is an intermediate step in expressing ULI profiles as a percentage of the week-long peak, thus arriving at a weekday profile and weekend profile each expressed as a percentage of the baseline parking ratio (ULI actually starts with separate ratios for weekday and weekend day, and develops profiles for each accordingly; we've found it more convenient to translate both profiles to a percent of expected maximum demand, which, for retail, turns out to be on a Saturday). The resulting profiles represent the most likely hourly parking demand profile, and are applied to a recommended parking ratio of 1 space per 250 SF (4.0 spaces per 1000 SF) of GLA for office uses consistent with City's parking code.

ATTACHMENT NO. 4.7

In addition, the office profile directly derived from ULI was utilized for the medical office land use. The peak parking ratio for medical office use exactly equals the City's Parking Code requirement of 1 space per 175 SF (5.71 spaces per 1000 SF).

The restaurant use profile is based on a quality/sit-down restaurant (typically non fast-food). Like the office profiles, the restaurant profile derives exactly from the ULI baseline, which assumes lunch service. The City's parking requirement for restaurants is 1 space/100 SF (10 spaces/1000 SF) for establishments with more than 12 seats, and 1 space/200 SF (5 spaces/1000 SF) for places with less than 12 seats. The restaurant parking ratio recommended as part of the One Pacific Plaza Redevelopment Shared Parking Criteria exactly matches the City code rate of 10 spaces/1000 SF of GBA.

A fitness facility (i.e., health club) is not included in the ULI studies. Therefore, the fitness facility hourly parking profiles are based on an amalgamation of sports club operation data from actual LLG studies at typical sports clubs (i.e., 24-Hour Fitness, West Hollywood Sports Connection, Spectrum Club, etc.). The peak demand for the fitness facility is expected to occur in the early morning hours (6:00 AM – 8:00 AM) and the early evening hours (5:00 PM – 7:00 PM) of weekday, and the morning hours of a weekend day. In addition, a college is also not included in the ULI studies, so we utilized actual parking survey data from parking utilization counts conducted at Platt College Ontario Campus. The peak demand for the college is expected to occur in the early evening hours (6:00 PM – 8:00 PM) of a typical weekday. The college is basically non-operational on weekends similar to office use, so the office profile was utilized on the weekend demand analysis. The hotel hourly parking profile assumes a maximum demand of 100% parking occupancy for the entire day because the hotel parking supply is not available to the rest of the site.

Shared Parking Results for the One Pacific Plaza Redevelopment Project

Tables 4 and ***5*** apply the ULI methodology directly and forecast the theoretical weekday and weekend shared parking requirements for the One Pacific Plaza Redevelopment project, respectively, based upon the development summary presented in *Table 2*. As shown in *Table 4*, the theoretical peak parking requirement for the proposed One Pacific Plaza Redevelopment project during a weekday totals **2,188 parking spaces** and occurs at 10:00 AM. As shown in *Table 5*, the theoretical peak parking requirement for the proposed One Pacific Plaza Redevelopment project during a weekend totals **844 parking spaces** and occurs at 12:00 PM (noon). As a result, the total theoretical shared parking demand for the proposed Redevelopment project is ***2,188 parking spaces***. With a proposed on-site parking supply of 2,019 parking spaces, a theoretical ***parking deficiency of 169 spaces*** is forecast.

As a result, based on the parking demand characteristics of the mix of proposed uses within the One Pacific Plaza Redevelopment project and the theoretical shared parking demand analysis for the proposed One Pacific Plaza Redevelopment project, 169 parking spaces would need to be added to the existing parking supply of 2,019 spaces to accommodate the theoretical shared parking demand.

PARKING SURVEY ANALYSIS

To determine the existing parking demand of the existing uses at One Pacific Plaza, parking surveys were conducted by Transportation Studies, Inc. (TSI) on a "typical" weekday and weekend day. The parking surveys were performed at hour intervals between 9:00 AM and 9:00 PM on Thursday February 12, 2004 and Saturday February 14, 2004 and consisted of counting the number of parked vehicles within five parking zones, which includes the on-site surface parking areas and the five-level parking structure. ***Exhibit 4*** presents the five parking survey zones and indicates the parking supply within each zone and ***Exhibit 5*** presents the time-restricted parking inventory for the site. However, based on the peak parking demand for the site (10:00 AM and 11:00 AM), supplemental parking surveys were conducted between 10:00 AM and 12:00 PM (Noon) on Tuesday, Wednesday, and Thursday July 12, 13, & 14, 2005 to determine the existing peak demand during the Summer. The peak parking demand was recorded on July 12, 2005 and the shared parking demand analyses were adjusted to reflect the summer peak with the parking profile based on the prior 12 hour parking surveys. Please note that Zone I has restricted access between 6:00 AM and 5:00 PM to preserve the parking for the restaurants and to restrict office tenants from parking in this area.

The results of the weekday parking surveys are summarized in ***Table 6A***. This table presents the parking demands at the study site for each hour of the weekday count day. As shown in *Table 6A*, the study site experienced peak parking demands of 722 vehicles at 2:00 PM and 706 vehicles at 10:00 AM, which is the typical peak demand hour for the office land use. The results of the summer focused parking survey are summarized in ***Table 6B***, in which a peak demand of 1,080 parking spaces occurred at 10:00 AM. Please note that the office vacancy was less during the summer surveys than during the winter survey, but the peak parking demand rate was greater in the summer surveys.

The results of the weekend parking surveys are summarized in ***Table 7***. This table presents the parking demands at the study site for each hour of the weekend count day. As shown in *Table 7*, the study site experienced a peak parking demand of 210 vehicles at 8:00 PM, which is based primarily on the existing restaurant and nightclub uses on the eastern portion of the site in Zone I.

ATTACHMENT NO. 4.9

Based on discussions with City staff regarding the unique characteristics of Platt College compared to a typical college or trade school, a parking survey was conducted by City Traffic Counters between 8:00 AM and 11:00 PM on Thursday July 14, 2005 at the Ontario Campus of Platt College, which has a current enrollment of 310 students and a parking supply of 288 spaces. Based on the parking surveys, the peak parking demand for Platt College was 205 parking spaces at 7:00 PM, which translates into a peak parking demand of 0.66 spaces per student (205 parking spaces divided by 310 students). This peak parking time period is consistent with Platt College attendance characteristics, which typically peak in the evenings. ***Appendix A***, attached, presents the hourly parking survey data for the Platt College Ontario Campus.

Survey Data Shared Parking Demand Analysis

In order to determine the peak parking requirement for the proposed One Pacific Plaza Redevelopment project utilizing the existing survey data, which is the most accurate approach, the current on site vacancy and proposed uses are combined with the existing parking demand within the shared parking model. Based on leasing information provided by the Muller Company, One Pacific Plaza had 63,927 SF of office vacancy and 2,653 SF of medical office vacancy at the time of the peak Summer parking surveys in July 2005.

Tables 8 and ***9*** presents an approach which applies the City code parking requirement and ULI time of day parking profiles to the vacant office and medical office square-footage as well as to the proposed 40,000 SF health club use for the weekday and weekend time frame, respectively, while directly applying the parking survey results as a time of day parking profile for the occupied square-footage within the current One Pacific Plaza development. In addition, the parking survey demand profiles include parking demand for a lunch service within the existing restaurant, which currently does not serve lunch but accounts for the potential. As shown in *Table 8*, the peak parking requirement for the proposed One Pacific Plaza Redevelopment project during a weekday totals **1,924 parking spaces** and occurs at 10:00 AM. As shown in *Table 9*, the peak parking requirement for the proposed One Pacific Plaza Redevelopment project during a weekend totals **731 parking spaces** and occurs at 11:00 AM. As a result, the total parking survey data shared parking demand for the Redevelopment project is ***1,924 parking spaces***. With a proposed on-site parking supply of 2,019 parking spaces, a ***parking surplus of 95 parking spaces*** is forecast.

The parking survey data shared parking demand analysis indicates that there is currently adequate parking on site, particularly within the parking structure, to accommodate the One Pacific Plaza Redevelopment project. In addition, based on the proximity of the proposed health club to the parking structure in conjunction with valet parking operation for the existing quality restaurant (Buca di Beppo), the parking

ATTACHMENT NO. A.10

structure is a viable parking resource and will likely be utilized extensively. The valet operation also improves the utilization of the parking area by parking vehicles in areas typically not occupied by parked vehicles.

SUMMARY OF FINDINGS AND CONCLUSIONS

1. The Proposed One Pacific Plaza Redevelopment project consists of replacing the existing 8,660 square-foot (SF) restaurant/night club building, currently "Liquid Lounge", with a 40,000 SF health club, construction of a "Plaza" feature in the center area of the three existing office towers and inclusion of Platt College (35,000 SF: 400 Students/20 Classrooms) in Building E at 7755 Center Avenue resulting in a total development of 623,516 SF. The new parking supply for the site will be 2,019 parking spaces without any modification to the existing parking structure to provide additional spaces. The existing Holiday Inn is included in the analysis and assumes maximum parking demand of 100% occupancy all day because their parking spaces are not shared with the rest of the On Pacific Plaza site.

2. Direct application of City parking ratios to the One Pacific Plaza Redevelopment project program results in a City parking code requirement of ***2,314 parking spaces***. 2,314 parking spaces for the One Pacific Plaza Redevelopment project would result in a significant amount of excess parking spaces than which is actually needed to serve the project.

3. The Shared Parking Analysis indicates that the theoretical peak parking demand for the proposed One Pacific Plaza Redevelopment project (Table 4) during a weekday totals ***2,188 parking spaces*** and occurs at 10:00 AM. In addition, the theoretical peak parking demand for the proposed One Pacific Plaza Redevelopment project (Table 5) during a weekend totals ***844 parking spaces*** and occurs at 12:00 PM (Noon). With a proposed on-site parking supply of 2,019 parking spaces, a theoretical parking deficiency of 169 parking spaces is forecast.

4. The Survey Data Shared Parking Analysis indicates that the peak parking demand for the proposed One Pacific Plaza Redevelopment project (Table 8) during a weekday totals ***1,924 parking spaces*** and occurs at 10:00 AM. In addition, the peak parking demand for the proposed One Pacific Plaza Redevelopment project (Table 9) during a weekend totals ***731 parking spaces*** and occurs at 11:00 AM. With a proposed on-site parking supply of 2,019 parking spaces, a parking surplus of 95 parking spaces is forecast. The existing valet operation for the restaurant improves the parking demand by more often utilizing the unused area of the parking supply than self parking.

ATTACHMENT NO. 4.11

Directions:

THURSDAY: JULY 14, 2005 - 8:00 AM to 11:00 PM

otal Parkinig Lot Spaces =	Platt: 288 spaces
m Available Parking Spaces =	Total Parked Cars 84
m Available Parking Spaces =	Total Parked Cars 138
lam Available Parking Spaces =	Total Parked Cars 141
lam Available Parking Spaces =	Total Parked Cars 122
2pm Available Parking Spaces =	Total Parked Cars 97
m Available Parking Spaces =	Total Parked Cars 109
m Available Parking Spaces =	Total Parked Cars 101
m Available Parking Spaces =	Total Parked Cars 95
pm Available Parking Spaces =	Total Parked Cars 146
pm Available Parking Spaces =	Total Parked Cars 106
pm Available Parking Spaces =	Total Parked Cars 195
pm Available Parking Spaces =	Total Parked Cars 205
pm Available Parking Spaces =	Total Parked Cars 186
pm Available Parking Spaces =	Total Parked Cars 119
0pm Available Parking Spaces =	Total Parked Cars 51
1pm Available Parking Spaces =	Total Parked Cars 11

ATTACHMENT NO. 4.28

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GREENSPAN
engineers

Based on the attached parking analysis, parking demand will be less than the code required number of spaces; and the proposed uses within the One Pacific Plaza Redevelopment project will not generate additional parking demand beyond the 2,019 parking spaces proposed with the One Pacific Plaza Redevelopment project.

We appreciate the opportunity to prepare this analysis for the Muller Company. Should you have any questions or need additional assistance, please do not hesitate to call me at (714) 641-1587.

Very truly yours,
LINSCOTT, LAW & GREENSPAN, ENGINEERS

Keil D. Maberry, P.E.
Associate Principal

Attachments

REGISTERED PROFESSIONAL ENGINEER
KEIL D. MABERRY, P.E.
No. 1802
Exp. 6/30/07
TRAFFIC
STATE OF CALIFORNIA

ATTACHMENT NO. 4.12

MICHAEL C. ADAMS ASSOCIATES

October 24, 2006

Mr. Scott Hess, Planning Director
Department of Planning
City of Huntington Beach
2000 Main Street
Huntington Beach, Ca 92648

Re: One Pacific Plaza, Parking Management Plan

Dear Scott:

On February 14, 2006 the Planning Commission approved the "24 Hour Fitness Center" proposal for One Pacific Plaza. Condition of Approval 2.a required the submittal of a Parking Management Plan, for review and approval by the Planning Department.

This letter is intended to remind staff of the reciprocal parking agreement which exists between One Pacific Plaza and Old World Village. The original agreement was executed by both parties and recognized by the City in 1976. The agreement was subsequently amended in 1979 however, the amendment was not approved by the City and therefore is considered invalid.

On August 24, 2006 as part of Entitlement Plan Amendment No. 02-04 Conditions of Approval, the Planning Department approved the Old World Village Parking Management Plan. The reciprocal parking portion of the Plan is consistent with the provisions of the 1976 Agreement. In addition, the Plan was submitted to the Muller Company, property manager for One Pacific Plaza, for review and comment. The approved Parking Management Plan was amended on December 1, 2004 and reviewed and approved by the Planning Department on January 31, 2006.

The Old World Village H.O.A. is requesting that prior to the Planning Departments approval of the proposed One Pacific Plaza Parking Management Plan, the document be reviewed for consistency with Villages Parking Master Plan.

If you have any questions or concerns please contact my office.

Sincerely,

Mike

Mike Adams

cc: Marie Tran, President Old World Village H.O.A.

P.O. BOX 382
HUNTINGTON BEACH, CA 92648
PHONE 714.374.5678 FAX 714.374.2211
e-mail: AdamsAssoc@socal.rr.com

EXHIBIT H

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JERI E. TABBACK, OF COUNSEL
KRIS J. GEIGER, OF COUNSEL

OUR FILE NUMBER:

10549

November 6, 2006

Mr. Scott Hess, Planning Director
Department of Planning
City of Huntington Beach
2000 Main Street
Huntington Beach, CA 92648

Re: ***One Pacific Plaza - 24-Hour Fitness adv. Old World Owners Association***

Subject: ***Notice of Opposition to Proposed Parking Management Plan for One Pacific Plaza***

Dear Mr. Hess:

As corporate counsel for Old World Owners Association (hereinafter "Association" or "Old World"), we write to the City of Huntington Beach (hereinafter "City") regarding opposition of the Association (the immediate adjacent neighbor to One Pacific Plaza) to the parking management plan which is a part of, and condition of approval to, the 24-Hour Fitness Center proposed by One Pacific Plaza.

We write to notify and to reconfirm to the City that the proposal should not be approved to the extent that it violates the 1976 Reciprocal Parking Agreement executed between the Association and the predecessor of One Pacific Plaza, as affirmed by the City in 1976.

Notification to the City was confirmed by parking consultant Michael Adams in his letter of November 6, 2006 (copy enclosed as Exhibit "R"), as well as a letter dated July 23, 1982 from attorney Lee Durst (legal counsel for the Association at the time) enclosed as Exhibit "L."

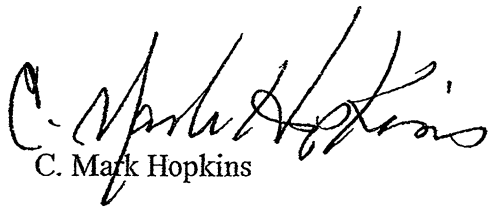
It is undisputed that in February 1979, the developer-controlled Board of Directors of the Association attempted to enter into an amended Reciprocal Parking Agreement with the Jerwel Corporation without receiving required City approval. The 1979 amendment, a copy of which is enclosed as Exhibit "G," is therefore invalid and void on its face, and should not be relied upon to support any portion of the current 24-Hour Fitness proposal which relies thereon. Any proposal by 24-Hour Fitness should be required to be consistent with the 1976 Reciprocal Parking Agreement. (Exhibits "C," "E" and "F")

EXHIBIT I

If the Association does not receive a written response from the City within ten (10) days from the date of this letter, the Association shall conclusively presume that the City does not dispute the truth of any of the facts stated herein or the documents attached as Exhibits "A" through "R."

Thank you for your courtesy and cooperation in this regard.

Very truly yours,



C. Mark Hopkins

CMH:cms
Encl: Exhibits "A" - "R" (see attached Index)
cc: Board of Directors, Old World Owners Association (w/o encls)

INDEX OF DOCUMENTS

Exhibit A	February 3, 1976 Minutes of Planning Commission approving at page 15, paragraph "9," the Reciprocal Parking Agreement
Exhibit B	February 18, 1976 Addendum to Conditions of Approval for Conditional Use Permit 75-24 to applicant Jerwel Enterprises
Exhibit C	**March 4, 1976 Reciprocal Easement Agreement for Parking pursuant to a site plan approved by the City of Huntington Beach. Page 24, Section 7.1 requires approval of the City of Huntington Beach to be first obtained before any amendment of written agreement.**
Exhibit D	**September 23, 1976 letter from City approving Reciprocal Easement Agreement**
Exhibit E	**First Amendment to Reciprocal Easement Agreement approved by City Attorney, Don Bonfa**
Exhibit F	**October 18, 1976 First Amendment to Reciprocal Easement Agreement**
Exhibit G	Alleged Agreement/Amendment to Reciprocal Parking Agreement recorded March 6, 1979. Page 2, paragraph "2" requires that the Agreement shall not be deemed to be effective unless and until such consent and approval is obtained from the City of Huntington Beach. The City never approved this document.
Exhibit H	June 5, 1979 Minutes of City Planning Commission
Exhibit I	March 26, 1980 CC&Rs for Pacific Plaza property
Exhibit J	February 10, 1981 letter from One Pacific Plaza requesting consent of the City for the original Reciprocal Parking Agreement and the First Amendment thereto. (Exhibits "C" and "F")
Exhibit K	October 19, 1981 letter from Old World to City stating at page 2, paragraph "1," "The legality of the Board of Directors Resolution to approve the modification to the Reciprocal Easement Agreement particularly in light of the obvious conflict of interest of some of the directors, is questionable." Page 3, paragraph "2" documented the concern that patrons "working or visiting at Pacific Plaza would end up parking at Old World (for free) rather than paying for parking at Pacific Plaza.

Exhibit L	July 23, 1982 letter from attorney Lee Durst again notifying City that the original developers controlling the Association attempted to enter into an Amendment Reciprocal Parking Agreement with Jerwell Corporation without receiving any City approval.
Exhibit M	CC&Rs for One Pacific Plaza recorded February 14, 1984
Exhibit N	December 3, 1986 letter from Association lot owner Skistimas notifying City of unenforceable action by developer-controlled Board to amend Reciprocal Parking Agreement
Exhibit O	February 26, 1987 letter from Deputy City Attorney, Arthur de la Loza, to owner of Association Unit No. 35 acknowledging Skistimas' letter
Exhibit P	September 8, 1987 letter from City of Huntington Beach to One Pacific Plaza confirming that the City was aware that, "a number of amendments were made to the original CC&Rs without first obtaining approval from Old World Village and their attorney." March 8, 1989 letter from One Pacific Plaza real estate manager Sherry Bower (Coldwell Banker) responding to letter concerning Reciprocal Parking Agreement.
Exhibit R	November 6, 2006 letter from Association parking consultant Michael Adams to City of Huntington Beach requesting that prior to the City approving the proposal of One Pacific Plaza/24-Hour Fitness parking management plan, that any approval be reviewed for consistency with the Association's parking master plan.