

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
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Newport Beach, CA 90802-4302
(62) 590-5071



Filed: June 10, 1998
49th Day: July 29, 1998
180th Day: Dec. 7, 1998
Staff: SFR-LB *fw*
Staff Report: Sept. 24, 1998
Hearing Date: Oct. 13-16, 1998
Commission Action: Approved with Conditions

STAFF REPORT: REVISED FINDINGS

APPLICATION NO.: 5-98-120

APPLICANT: Irvine Company

AGENT: Peter Carapetian

PROJECT LOCATION: 900 Bayside Drive, City of Newport Beach, County of Orange

PROJECT DESCRIPTION: Construction of a free standing full service restaurant including bar and live entertainment, patio dining with 76 parking spaces on-site plus 19 parking spaces in an adjacent area next to the restaurant for a total of 95 parking spaces. The proposed restaurant will have a total of 4750 sq. ft. of service area. Service area consists of 3800 sq. ft. of internal restaurant space and 950 sq. ft. of outdoor patio area. Grading consists of 490 cu. yds. of import.

DATE OF COMMISSION ACTION: July 7, 1998

COMMISSIONERS ON PREVAILING SIDE: Commissioners Allen, Armanasco, Dettloff, Busey, Nava, Giacomini, Rose, Wright, Tuttle, and Vice Chairman Wan.

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends that the Commission adopt the following revised findings in support of the Commission's action on July 7, 1998 approving the Bistango Restaurant project with four special conditions. Special conditions contained in this staff report concern: future development, reciprocal parking easement, free valet parking, and conformance with the geological recommendations.

LOCAL APPROVALS RECEIVED: Approval in Concept 621-98 from the City of Newport Beach. Use Permit No. 3619 from the City of Newport Beach.

SUBSTANTIVE FILE DOCUMENTS: City of Newport Beach certified Land Use Plan. Geotechnical Investigation for the Proposed Bayside Rim Restaurant, (project No. 1971245-01) dated December 16, 1997 by Leighton and Associates, Inc., City of Newport Beach Negative Declaration dated January 19, 1998, Coastal Commission permits P-6-11-73-1116 (Far West Services, Inc.) and A-6-30-75-5594 (Far West Services, Inc.).

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution and revised findings:

I. Approval with Conditions.

The Commission hereby **GRANTS** a permit, subject to the conditions below, for the proposed development on the grounds that the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. Standard Conditions.

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and construction shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If construction has not commenced, the permit will expire two years from the date on which the Commission voted on the application, or in the case of administrative permits, the date on which the permit is reported to the Commission. Construction shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Compliance.** All construction must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.

4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director of the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. Special Conditions.

1. Future Development

This coastal development permit 5-98-120 approves only the development, as expressly described and conditioned herein, for the proposed restaurant located at 900 Bayside Drive in the City of Newport Beach. Any future development, such as a change in the intensity of use (including a change in the number of parking spaces, a change in the amount of outdoor or indoor service area or a change in the use of the structure) shall require an amendment to this permit from the Coastal Commission or a new coastal development permit.

2. Reciprocal Easement

Prior to issuance of the coastal development permit, the applicant shall execute and record a reciprocal easement which provides shared ingress, egress, and parking between the restaurant and an adjacent portion of the shopping center in a form and content acceptable to the Executive Director. This easement shall not be removed or changed without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

3. Valet Parking

Prior to issuance of the coastal development permit, the applicant, shall submit for the review and approval of the Executive Director a valet parking plan. The valet parking plan shall:

- Include evidence that the plan has been reviewed and approved by the City of Newport Beach Traffic Engineer;
- Provide valet parking at no charge;
- Contain a signage plan which informs customers of the availability of the free valet service;
- Include a revised parking plan showing the location of the 76 parking spaces and identifies which of the restaurant parking spaces will be valet parking spaces and which will be self parking spaces;
- At a minimum thirteen spaces shall be self-parking spaces (not including the four handicapped spaces);
- Valet parking shall be operated in such a manner that vehicles will not block access driveways and will not block Bayside Drive.

The approved valet parking plan shall be implemented in compliance with the final plans as approved by the Executive Director. Any deviations from the plans shall require a Coastal Commission approved amendment to this permit, or written concurrence from the Executive Director that the deviation is not substantial and therefore a permit amendment is not needed.

4. Conformance with Geotechnical Recommendations

Prior to issuance of the coastal development permit, the applicant shall submit for the review and approval of the Executive Director:

- a) final revised plans. These plans shall include the signed statement of the geotechnical consultant certifying that the plans incorporate the geotechnical recommendations contained in the geotechnical investigation of December 16, 1997 by Leighton and Associates, Inc. (Project No. 1971245-01) into the final design of the proposed development.

The approved development shall be constructed in compliance with the final plans as approved by the Executive Director. Any deviations from the plans

shall require a Coastal Commission approved amendment to this permit, or written concurrence from the Executive Director that the deviation is not substantial and therefore a permit amendment is not needed.

IV. Findings and Declarations.

The Commission hereby finds and declares as follows:

A. Project Description and Location

The proposed project is located at 900 Bayside Drive in the City of Newport Beach, County of Orange (Exhibit 1). The project site previously contained a restaurant which was approved by the Commission in 1973 (coastal development permit A-6-11-73-1116). The site is currently vacant as the restaurant was torn down pursuant to a demolition order by the City of Newport Beach in 1994.

The applicant proposes to construct a free standing full service restaurant in the Bayside Shopping Center (see page 4 of Exhibit 3) which is on the landward side of Bayside Drive. The Bayside Shopping Center was constructed in 1965. The proposed restaurant will have a footprint of 8014 sq. ft. plus 950 sq. ft. of outdoor patio service area, and would supply 76 parking spaces. Of the 76 parking spaces 13 would be self-parking, 4 would be handicapped spaces, and the remaining 59 would consist of valet parking. The gross square footage of the restaurant totals 10014 sq. ft. which includes a 2000 sq. ft. basement, 3800 sq. ft. of service area, and 4214 sq. ft. of kitchen, restroom, and storage areas. The total service area of the restaurant is 4750 sq. ft. based on 3800 sq. ft. of inside service area and 950 sq. ft. of outdoor patio service area. Operational characteristics of the restaurant include: the sale and service of alcoholic beverages as well as live entertainment. The basement will be used as a wine cellar.

The proposed restaurant was the subject of a Mitigated Negative Declaration dated January 19, 1998 by the City of Newport Beach. The Mitigated Negative Declaration notes that the site was formerly occupied by a full service restaurant facility. The Mitigated Negative Declaration found that the proposed development would not have significant impacts on biological resources, cultural resources, traffic circulation (including parking) or recreation.

The Negative Declaration notes potential concerns related to land use planning, and geology. In terms of land use planning, the proposed restaurant may be potentially incompatible with surrounding residential development due to noise, light and glare. In terms of geology the project site is located in an area of historic liquefaction and seismic activity. A geotechnical study conducted by Leighton and Associates

concluded that the site itself has a low potential for liquefaction of the subsurface soils due to the absence of loose sandy soils.

The Newport Beach Planning Commission held a public hearing on March 19, 1998 and approved the proposed restaurant under Use Permit No. 3619 with special conditions. Two significant special conditions contained in the City's approval require that the valet parking be free and that a reciprocal easement agreement between the shopping center and the restaurant be executed to allow for shared ingress, egress, and parking.

B. Coastal Development Permit A-6-11-73-1116

On September 19, 1973 the California Coastal Zone Conservation Commission granted a permit for a 7500 sq. ft. Mediterranean style Restaurant. The restaurant would provide seating for 225 persons and would provide 75 parking spaces. Parking was required based on 1 parking space for each 3 seats plus 1 space. The staff report notes (relative to the adequacy of on-site parking) that: *"In the event of an overflow it would be possible to use parking spaces in the Bayside Shopping Center."* No special conditions were imposed by the Commission.

C. New Development and Public Access

The project site is on the inland side of Bayside Drive which is the first public road immediately inland of Newport Bay. Section 30222 of the Coastal Act encourages the use of private lands suitable for visitor serving commercial uses. The proposed restaurant would be such a use and would replace the prior restaurant which formerly occupied the site.

The City of Newport Beach attracts visitors year round due to its unique recreational opportunities, large harbor and marina facilities, and its coastal amenities, and maintains a generally strong commercial base as a result. Further, like many beach cities, Newport Beach also receives an annual influx of visitors during the summer months. Accordingly rental housing occupancy increases during the summer, as does retail commercial activity particularly in the beach areas of the City which are frequented by out of town visitors.

In this case the project is located on Bayside Drive (Exhibit 1) which is a coastal route around the perimeter of Newport Bay. The project site is approximately 1000 feet north of Balboa Island a major tourist attraction and about 2000 feet south of Newport Dunes Aquatic Park. Though this project is relatively close to Balboa Island and Newport Dunes principle access to these areas would be through Pacific Coast Highway and Jamboree Road which are the major arterial routes to these two areas. Thus most visitors to these coastal destinations would not travel by the project site. Furthermore, even though the project site is approximately 1000 feet

north of Balboa Island, the walking distance to Balboa Island would be approximately 2000 feet (Exhibit 1) because of the need to first walk to the bridge that provides access to Balboa Island.

One of the strongest legislative mandates of the Coastal Access is the preservation of coastal access. Section 30211 of the Coastal Act mandates that development shall not interfere with the public's right of access to the sea. Section 30252 of the Coastal Act requires that new development should maintain and enhance public access to the coast by providing adequate parking. When new development does not provide adequate parking, users of that development are forced to occupy public parking that could be used by visitors to the coast. A lack of public parking discourages visitors from coming to the beach and other visitor serving activities in the coastal zone. The lack of parking would therefore have an adverse impact on public access. In this case, the project site is located on Bayside Drive. Though not a major arterial route, Bayside Drive is the first public road inland of Newport Bay which provides lateral movement for the public around the perimeter of Newport Bay. All private development must, as a consequence provide adequate parking to minimize adverse impacts on public access.

The Commission has consistently found, since the adoption of its parking guidelines in 1980, when evaluating the parking demand generated by a restaurant that one parking space is necessary for each 50 sq. ft. of service area to satisfy the parking demand generated. The proposed project consists of a restaurant with 3800 sq. ft. of service area plus an outdoor patio area of 950 sq. ft. The outdoor patio area constitutes part to the restaurant's service area. The two service areas combined total 4750 sq. ft. Based on the Commission's regularly imposed standard of one space for each 50 sq. ft. of service area the parking demand for the restaurant totals 95 spaces. The applicant proposes 76 on-site parking spaces. Consequently the proposed development is 19 spaces deficient in supplying the required number of parking spaces based on the Commission's parking guidelines.

The City of Newport Beach, however, approved the proposed restaurant with 76 parking spaces as their parking requirements are slightly different from the Commission's. Based on a City staff report of March 5, 1998, the City requires one parking space for each 50 sq. ft. of internal service area. External outdoor dining areas under the City's parking standards do not require parking provided that the outdoor service area is less than 25% of the internal service area. Under the City's parking standards the patio area could be up to 950 sq. ft. without having to supply additional parking. The proposed patio is 950 sq. ft. in size. Consequently the City computed the parking requirement for the restaurant as 76 spaces based on the 3800 sq. ft. of internal service area. To assure that the 76 parking spaces are effectively utilized (since 59 parking spaces are tandem spaces), the City imposed special conditions to require that the applicant provide free valet

parking and to require that the applicant implement a reciprocal easement with the shopping center for purposes of ingress, egress and parking.

In response to Commission staff's request for a copy of the City required reciprocal easement, the applicant has submitted to staff a "*Declaration as to Access Easements*" which is attached as Exhibit 7. This easement declaration was recorded as if it were a requirement of the Coastal Commission. Recording this easement declaration prior to the Commission's action was premature and was not evaluated by the Commission's legal staff to determine that it meets the Commission's requirements prior to it being recorded. Also it is unknown if Exhibit "C" (which is the last page of Exhibit 7) of this access declaration is an accurate implementation of the City's easement special condition as the City has not yet reviewed and approved an easement document. Based on the Commission's findings below, a reciprocal easement will be required.

Based on the Commission's parking standards the proposed restaurant is 19 spaces deficient in supplying adequate parking. Since the proposed restaurant is in a shopping center, it can share parking with the other tenants assuming that the other tenants have surplus parking spaces available to offset the restaurant's parking deficiency. The negative declaration notes: "*There is a potential that parking impacts may occur when the neighboring market and other retail uses are operating concurrent with the restaurant facility.*" To assess the potential for the restaurant to resolve its parking deficiency through shared parking the applicant conducted a parking evaluation. To adequately resolve the parking deficiency the parking study would need to document that the parking supply exceeded or met the parking demand generated by the shopping center including the 19 parking spaces needed by the restaurant.

To evaluate the shared parking potential, the applicant submitted three traffic appraisals by Pirzadeh and Associates (a transportation planning consulting firm) through letters dated May 8, 1998, May 22, 1998, and June 8, 1998 (Exhibits 3,4, and 5) to evaluate the overall availability of parking in the shopping center. The evaluations conducted by Pirzadeh and Associates substantiated (based on observed data) the availability of 19 surplus spaces for joint use in the shopping center (Exhibits 3,4, and 5). In arriving at this conclusion the consultants note that the shopping center is fully occupied and that the 19 space parking surplus is in excess of current demand based on actual observations.

The first parking observations by Pirzadeh and Associates were conducted midweek (Tuesday through Thursday) on May 5, 6, and 7, 1998 from the hours of 11:00 AM to 9:30 PM (see Exhibit 3). A second parking survey was conducted on Saturday, May 16th and Sunday, May 17, 1998 from the hours of 11:00 AM to 9:30 PM (see Exhibit 4). In response to a request from staff for weekend parking data during the summer period a third survey was conducted on Saturday, June 6

and Sunday June 7, 1998 from 11:30 AM to 1:30 PM and from 5:00 PM to 7:00 PM. For this last study, which occurred on a summer weekend, the consultants note that the highest number of occupied spaces was observed on Sunday, June 7th, from 5:15 to 5:30 were 36 vehicles parked in Area 4 (see page 6 of Exhibit 3). Area 4 contains a total 72 parking spaces which means that this area was 50% occupied at the time. The consultants also noted that 4 vehicles were parked in the future Bistango restaurant site. The observed parking demand during this summer weekend was lower than the previously reported weekday parking demand according to the consultants. Each of these observations indicate that surplus parking exists.

Hollis & Associates, Inc., the longtime manager of the shopping center support the conclusions of Pirzadeh and Associates in a letter dated June 4, 1998 (Exhibit 6) which states that: *"Despite the full occupancy, the shopping center parking adjacent to the restaurant site is always under utilized and is the area furthest away from Balboa Island"*.

In this particular case the Commission can accept the parking data as resolving the restaurants parking deficiency based on the following factors. First, the applicant proposes a restaurant which is a visitor serving commercial use favored by the Coastal Act. The project site previously contained a restaurant and this restaurant will replace it. Further, this proposed restaurant will not open till 11:00 AM for lunch with maximum patronage anticipated to occur in the evening when coastal visitors would either be returning home or going to dinner before returning home. Based on this usage pattern restaurant patrons will be visiting the restaurant during non-peak beach hours. Additionally, some patrons of the shopping center who are already parked may visit the restaurant because of the restaurant's close proximity.

Next, the project site though it is near coastal recreational opportunities, is not in an area frequented by visitors to the coast as a recreational destination. Coastal areas that are very popular with the public tend to have traffic circulation and parking problems which surface when public hearings are held to consider new development proposals. When the Newport Beach Planning Commission conducted its public hearing on March 19, 1998 for the proposed restaurant opponents to the project raised issues of noise (due to the proposed live entertainment) and that the restaurant would not be compatible with surrounding residences. Parking did not surface as an issue of concern.

For the reasons stated above, the Commission finds that adequate shared parking is available based on the parking evaluations conducted by Pirzadeh and Associates and the long term observations of the shopping center's management firm. Therefore, the 19 parking space deficiency based on the Commission's parking guidelines can be met through shared parking with the shopping center.

Though the Commission finds that adequate parking exists based on utilizing surplus parking in the adjacent shopping center, the Commission finds it necessary to impose several special conditions to address operational issues raised by the proposed parking plan. First, the Commission has found that the parking is adequate based on utilizing surplus spaces within the shopping center. The Commission also found, based on the testimony of the applicant at the public hearing, that the parking lot is used exclusively for the shopping center and is not used by the public for coastal access. To assure that the shopping center parking spaces are available to the restaurant, the applicant as a condition approval shall record a reciprocal easement for purposes of ingress, egress, and parking for the restaurant parcel on a portion of the shopping center parcel. The reciprocal parking easement shall be limited to a specific area adjacent to the restaurant site, subject to the review and approval of the Executive Director, to facilitate the overall parking management of the shopping center.

Second, the proposed parking plan contains a high number of tandem spaces. Tandem spaces require active management in the form of valet parking as patrons would be reluctant to park in them as their cars could be blocked. For these spaces to be effectively utilized by patrons of the restaurant free valet parking was required by the City and shall also be required as a condition of Commission approval. The applicant shall also submit a signage plan which informs the public of the availability of the free valet parking. The valet parking plan shall also be reviewed and approved by the City of Newport Beach Traffic Engineer. Further, the valet parking operation shall be carried out in such manner that it will not block driveways and will not block Bayside Drive. The plans submitted with the coastal development permit application do not show which spaces are valet and which are not. Therefore, the applicant shall submit a revised parking plan which provides 76 parking spaces and identifies which parking spaces are valet spaces and which are self parking spaces. At a minimum 13 of the parking spaces shall be self-parking spaces (not including the four self parking handicapped spaces) as required by the City.

The proposed structure totals 10014 square feet of which 3800 sq. ft. is service area. Additionally the project includes 950 sq. ft. of outdoor service area. The combined indoor and outdoor service areas total 4750 sq. ft. Once constructed the restaurant could easily be modified, through interior modification, to increase the service area. The outdoor patio area could also be easily modified. To assure that the proposed development plus any future development is consistent with parking requirements, the Commission must impose a future improvements special condition. The future improvement special condition shall require that any future development which changes the intensity of the use of the site or which changes the use of site be required to obtain either an amendment to this permit or a new coastal development permit to assure that the parking supply is adequate for the proposed development.

Thus as conditioned for the submission of a reciprocal parking easement, free valet parking, and for a future improvements special condition does the Commission find that the proposed development would be consistent with the development and public access policies of the Coastal Act.

C. Geotechnical

Section 30253 of the Coastal Act states, in relevant part:

New development shall:

- (1) *Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
- (2) *Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*

The proposed development was subject to a geotechnical investigation conducted by Leighton and Associates (December 16, 1997, project 1971245-01). The report concludes: *"Based on our investigation, we conclude that the proposed project is feasible from a geotechnical standpoint, provided that the recommendations presented in this report are fully implemented in the design and construction of the project. There appear to be no significant geotechnical constraints onsite that cannot be mitigated by proper planning, design, and sound construction practices."*

Though the report concludes that the project can be undertaken, the geotechnical consultants have made recommendations which must be complied with by the applicant to assure that the project will minimize risks to life and property, and will assure structural integrity. Recommendations made by the geotechnical consultants relate to: 1) site preparation and recompaction, 2) foundation design, 3) permanent slopes, 4) surface drainage, and 5) plan review. The geotechnical consultants conclude by stating that final grading plans and final construction drawings should be reviewed to assure that these recommendations have been incorporated to assure that the project will be constructed in a sound manner.

The plans submitted with the application have not been reviewed by the geotechnical firm to assure that the design of the proposed structure will minimize risks to life and property. Consequently, the design of the proposed structures must be reviewed by a geotechnical firm to assure that the project will minimize risks to life and property. To ensure that the geotechnical consultants' recommendations are instituted, it is necessary to impose a special condition

requiring compliance of the project plans with the recommendations made by the geotechnical consultants. Accordingly, the applicant must submit, for the review and approval of the Executive Director, plans (grading, drainage, and foundation) signed by a certified geotechnical engineer which incorporates the recommendations made by Leighton and Associates in their December 16, 1997 geotechnical investigation for the proposed restaurant.

Therefore, the Commission finds that the proposed project, as conditioned, for conformance with the geotechnical recommendations would be consistent with Section 30253 of the Coastal Act regarding hazards.

E. Local Coastal Program

Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Development Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with the Chapter 3 policies of the Coastal Act.

The Newport Beach Land Use Plan was certified on May 19, 1982. The project as conditioned is consistent with the Chapter 3 policies of the Coastal Act. The proposed development will not prejudice the City's ability to prepare a Local Coastal Program for Newport Beach that is consistent with the Chapter 3 policies of the Coastal Act as required by Section 30604(a).

F. California Environmental Quality Act

Section 13096(a) of the Commission's administrative regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The project is located in an existing urbanized area. The proposed development has been conditioned to assure that the project will not have a significant adverse impact on coastal access and has been conditioned to: for the submission of a reciprocal parking easement, to provide free valet service, to comply with the geotechnical recommendations, and to obtain a coastal development permit for future improvements which change the intensity of use. The proposed development, as conditioned, is consistent with the Chapter 3 policies of the Coastal Act. The project as proposed is the least environmentally damaging

alternative. Therefore, the Commission finds that the proposed project is consistent with CEQA and the policies of the Coastal Act.

DETAIL

SEE 918 MAP

ORANGE CO.

919

Project Site 889

PACIFIC OCEAN

EXHIBIT No. 1

Application Number:

5-98-120

Location Map

California Coastal
Commission

920

**California Coastal
Commission**



3

Michael Carapetian - A.A.D.P.
Studio Two - Photos

MADE WITH PRIDE IN AMERICA

THOMAS MORGAN
500 Bayview Drive
Newport Beach, California

John Ghoukassian
18106 Van Kermes Avenue, Suite 200
Beverly Hills, California 90212

PIRZADEH

& ASSOCIATES

*Transportation Planning,
Engineering & Project Management*

May 8, 1998

**Mr. Grant Davis
OTC Group
2049 Vista Cajon
Newport Beach, CA 92660-3911**

Subject: Bistango Restaurant, Bayside Center

Dear Mr. Davis:

Pursuant to your request, we have conducted a parking demand analysis to determine the availability of parking supply in the Bayside Center to augment the proposed on-site parking for the proposed Bistango Restaurant in Newport Beach. Our findings demonstrate that there is an adequate supply of parking available next to the Pavilions Market to accommodate some overflow parking from the proposed restaurant.

The following are the findings of our parking analysis:

Proposed Project

Bistango is proposed to be constructed on the vacant property located on the west side of Pavilions Market located in the Bayside Retail Center in Newport Beach. The restaurant will be open for lunch and dinner service from 11:00 a.m. to 12:00 a.m. daily. Bistango will replace a restaurant within the center that closed sometime ago.

Project Site

The proposed restaurant will be located within the Bayside Retail Center. The site plan for the center is shown on Figure 1. The access to the site is provided by a joint use driveway from Bayside Drive. Two internal driveways will provide access to the restaurant pad from the existing developed portion of the retail center. Parking for the restaurant is proposed to be located directly in front of the restaurant as shown on Figure 2.

**17801 Cartwright Road
Suite D
Irvine, CA 92614
Telephone 714 851 1367
Facsimile 714 851 5179**

RECEIVED
MAY 11 1998
**CALIFORNIA
COASTAL COMMISSION**

EXHIBIT No. 3

**Application Number:
5-98-120**

Pirzadeh Letter



**California Coastal
Commission**

Parking Analysis

In order to determine the adequacy of the parking within Bayside Center and the potential for joint use with the proposed restaurant, parking counts were conducted during different periods on May 5, May 6, and May 7, 1998. The parking counts were taken by counting the occupied spaces during the different periods from 11:00 a.m. to 9:30 p.m.

As shown on Figure 3, there are four major parking areas within the existing retail center. Based on our observations, supply of parking in the existing center is well in excess of current demand. The parking spaces are well situated in relationship to the businesses within the center and they are located within very short walking distance from the stores.

The parking spaces located in Areas 2 and 3 are the most frequently used spaces within the center. Areas 1, 4, and 5 had the highest number of unoccupied spaces during our observation periods. Area 5 will be reconfigured in conjunction with the construction of the proposed restaurant.

Potential Joint Parking Use

Due to the layout of the retail center and the proposed location of Bistango, parking spaces located in Area 4 have the best potential for joint use. There are 72 spaces in this section of the parking lot. The highest use of these spaces was observed during 12:00 p.m. to 1:15 p.m. and 5:15 p.m. to 7:00 p.m., with a maximum of 42 spaces being occupied. During these periods, it was observed that a maximum of 11 spaces were occupied in Area 5 which will be the site of the proposed restaurant. During the mid day counts, it was observed that several of the spaces in these areas were occupied by individuals that entered the center to have their lunch in the car with only some of them shopping at the market.

The peak demand period for the restaurant is expected to coincide with the peak parking utilization observed in the center. Therefore, based on the total number of spaces occupied in areas 4 and 5 ($42 + 11 = 53$), it is estimated that approximately 19 spaces ($72 - 53 = 19$) will be available for potential joint use by the restaurant during the peak demand period.

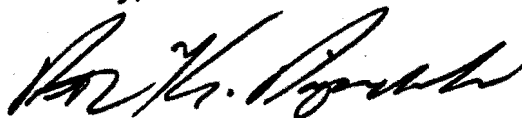
Mr. Grant Davis
Page 3
May 8, 1998

Conclusions

A parking demand analysis was completed by conducting a parking occupancy count in the Bayside retail center to determine the feasibility and availability of parking supply for joint use with the proposed Bistango restaurant. Based on the analysis, it is our conclusion that the supply of parking in Bayside Center exceeds the current demand. We have further concluded that the most feasible area for joint parking use with the proposed restaurant is area 4. It is estimated that approximately 19 spaces will be available for use by the restaurant during peak periods.

Please call me if you have any questions regarding this analysis, or if you need any additional information.

Sincerely,



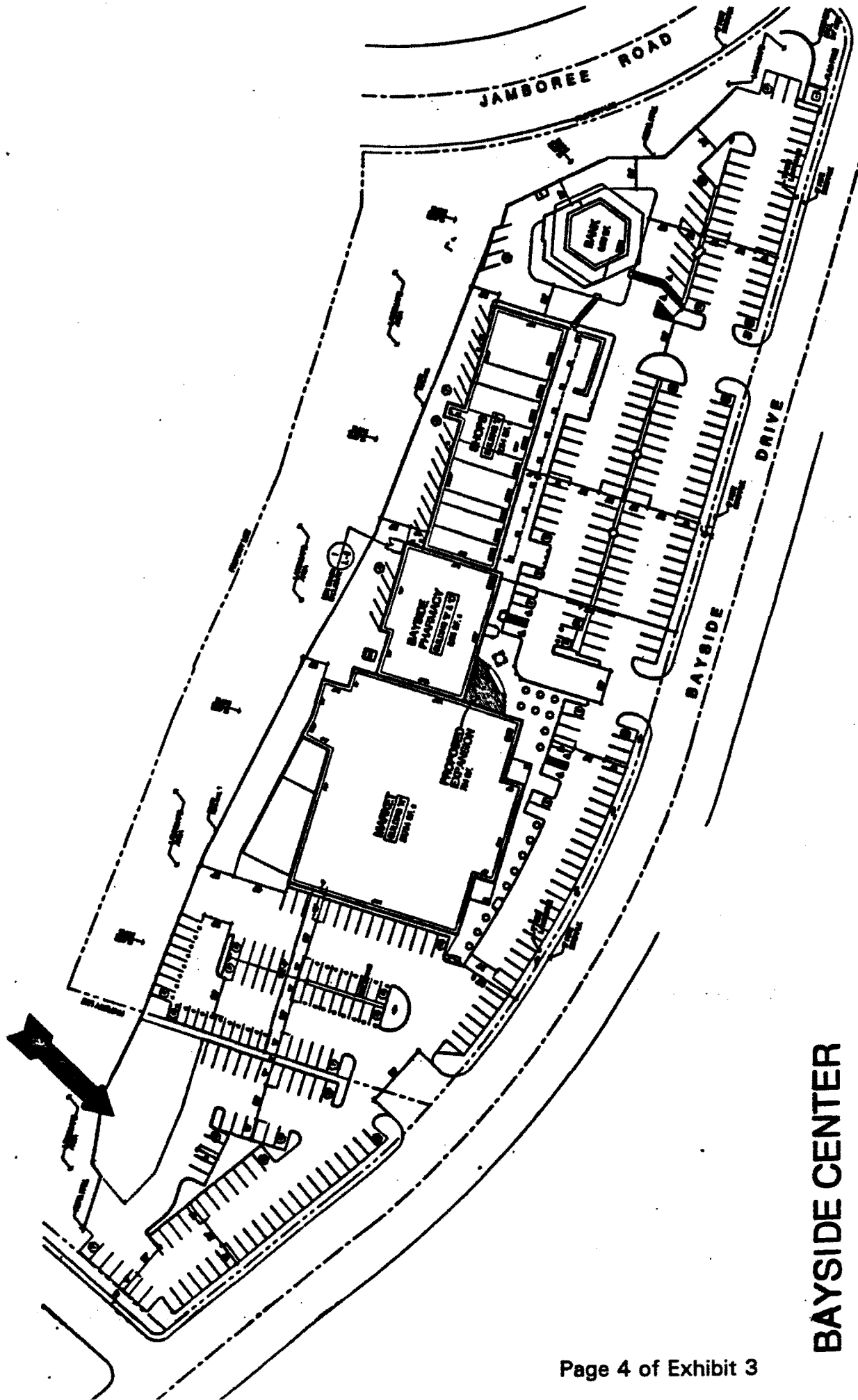
Peter K. Pirzadeh, P.E.
Principal

Attachments

BistangoBaysideCenterJointParkingAnalysis5-8-98



Proposed Restaurant Site



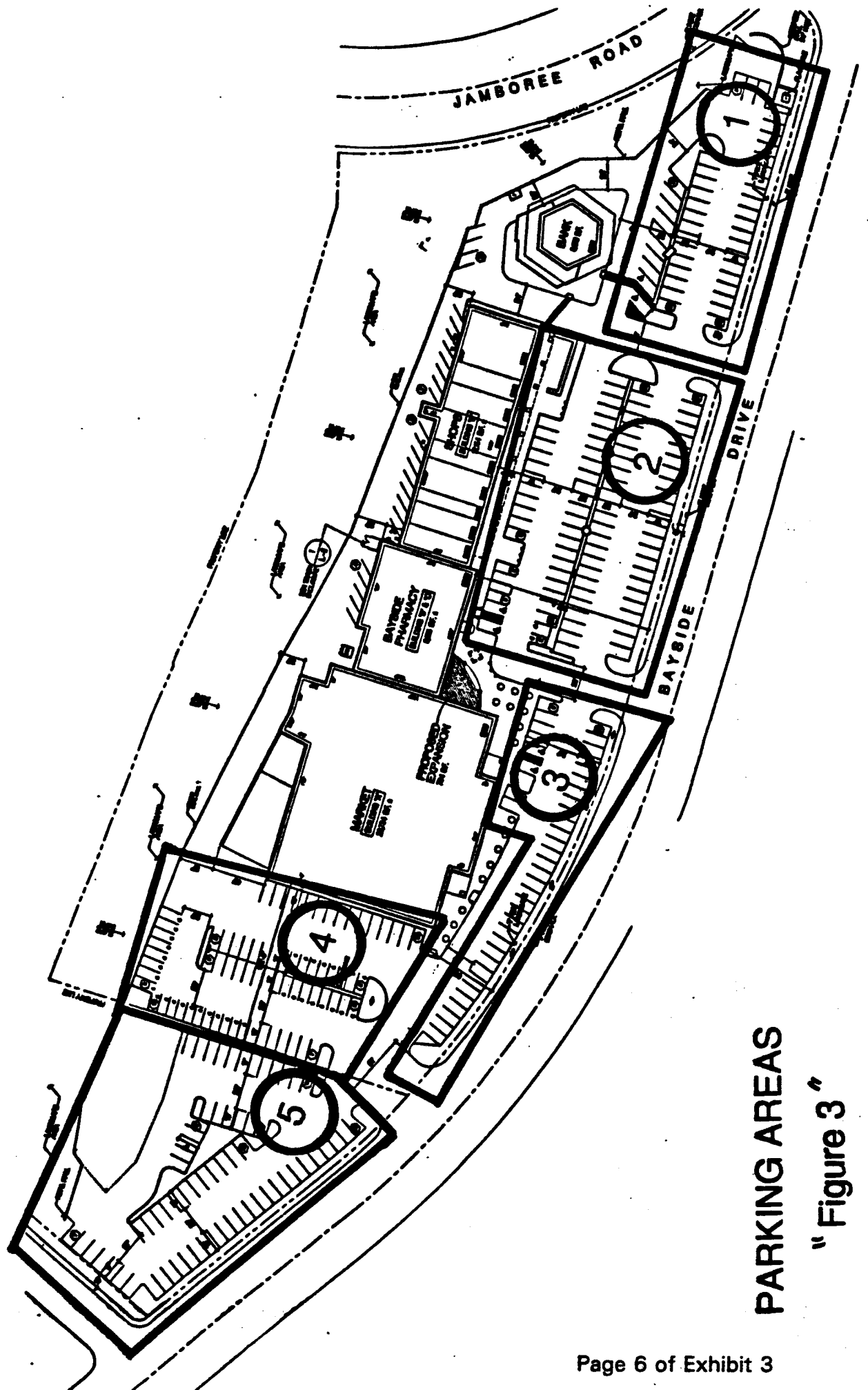
BAYSIDE CENTER

" Figure 1 "

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BISTANGO RESTAURAN'



PARKING AREAS

"Figure 3"

PIRZADEH**& ASSOCIATES**

*Transportation Planning,
Engineering & Project Management*

May 22, 1998

Mr. Grant Davis
OTC Group
2049 Vista Cajon
Newport Beach, CA 92660-3911

Subject: Bistango Restaurant, Bayside Center

Dear Mr. Davis:

Pursuant to your request, we have conducted a parking demand analysis to determine the availability of parking supply in the Bayside Center to augment the proposed on-site parking for the proposed Bistango Restaurant in Newport Beach. Our findings demonstrate that the proposed on-site parking supply and the valet service will meet the expected demand for the restaurant. Also, we have determined that there is an adequate supply of parking available next to the Pavilions Market for joint use with Bistango.

The following are the findings of our parking analysis:

Proposed Project


Bistango is proposed to be constructed on the vacant property located on the west side of Pavilions Market located in the Bayside Retail Center in Newport Beach. Bistango will replace a restaurant within the center that closed sometime ago.

The proposed restaurant will provide a total of 3,800 square feet of indoor dining area and 750 square feet of outdoor dining area. The restaurant will be open for lunch and dinner service from 11:00 a.m. to 12:00 a.m. daily.

Project Site

The proposed restaurant will be located within the Bayside Retail Center. The site plan for

17801 Cornwright Road
Suite D
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Telephone 714 851 1367
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EXHIBIT No. 4
Application Number: 5-98-120
Pirzadeh Letter
 California Coastal Commission

Mr. Grant Davis

Page 2

May 22, 1998

the center is shown on Figure 1. The access to the site is provided by a joint use driveway from Bayside Drive. Two internal driveways will provide access to the restaurant pad from the existing developed portion of the retail center. Parking for the restaurant is proposed to be located directly in front of the restaurant as shown on Figure 2.

Project Parking

The parking rate for quality restaurants varies among different public agencies. However, a typical rate is about one space per 75 square feet of floor area. Other rates have been published by the Urban Land Institute (ULI) and Institute of Transportation Engineers (ITE). ULI data shows an average rate of one space per 50 square feet of floor area. The average rate published by ITE is about one space per 80 square feet of leasable area. Some agencies do not consider the restaurant patio area as part of the floor area. Other agencies apply a reduced rate for this portion of the facility. Due to the fact that the utility of the patio is related to the condition of the elements, it is reasonable to apply a different parking demand rate for the outdoor dining areas. Based on our experience, a reduction of 50 percent is appropriate for the parking demand rate for the patio area.

Providing valet parking service for the restaurant patrons will further reduce the parking requirements for the site. However, the reduction of the parking requirements is related to the type of operation, pricing strategy, and the convenience of the valet parking.

The proposed project is subject to the California Coastal Commission development requirements. The Commission's parking demand guidelines require that one parking space be provided for each 50 square foot of service area. In our opinion this rate should be applicable to the indoor dining area only. As discussed earlier in this document, the requirements for the outdoor dining area should be at the 50 percent reduced rate. Based on these requirements the following parking supply should be provided for the site:

<u>Dinning Area Location</u>	<u>Area (Sq. Ft.)</u>	<u>Parking Rate</u>	<u>Parking Required</u>
Indoor	3,800	1 per 50 sq. ft.	76
Outdoor	750	1 per 100 sq. ft.	8
Total			84

A total of 76 parking spaces is provided on-site. Additionally, complimentary valet parking is proposed for the site. The on-site parking supply and the valet service will provide adequate supply of parking for the operation of the restaurant.

Mr. Grant Davis
Page 3
May 22, 1998

Joint Use Parking Analysis

In order to determine the adequacy of the parking within Bayside Center and the potential for joint use with the proposed restaurant, parking counts were conducted during different periods on May 5, May 6, and May 7, 1998. The parking counts were taken by counting the occupied spaces during the different periods from 11:00 a.m. to 9:30 p.m.

Additionally, based on discussions with the Coastal Commission staff, parking counts were conducted on Saturday, May 16, 1998, and Sunday, May 17, 1998. These counts were conducted during the same time period as those conducted during the weekdays.

As shown on Figure 3, there are four major parking areas within the existing retail center. The retail center is fully occupied except for the proposed restaurant site. Based on our observations, supply of parking in the existing center is well in excess of current demand. The on-site parking spaces are well situated in relationship to the businesses within the center and they are located within very short walking distance from the stores.

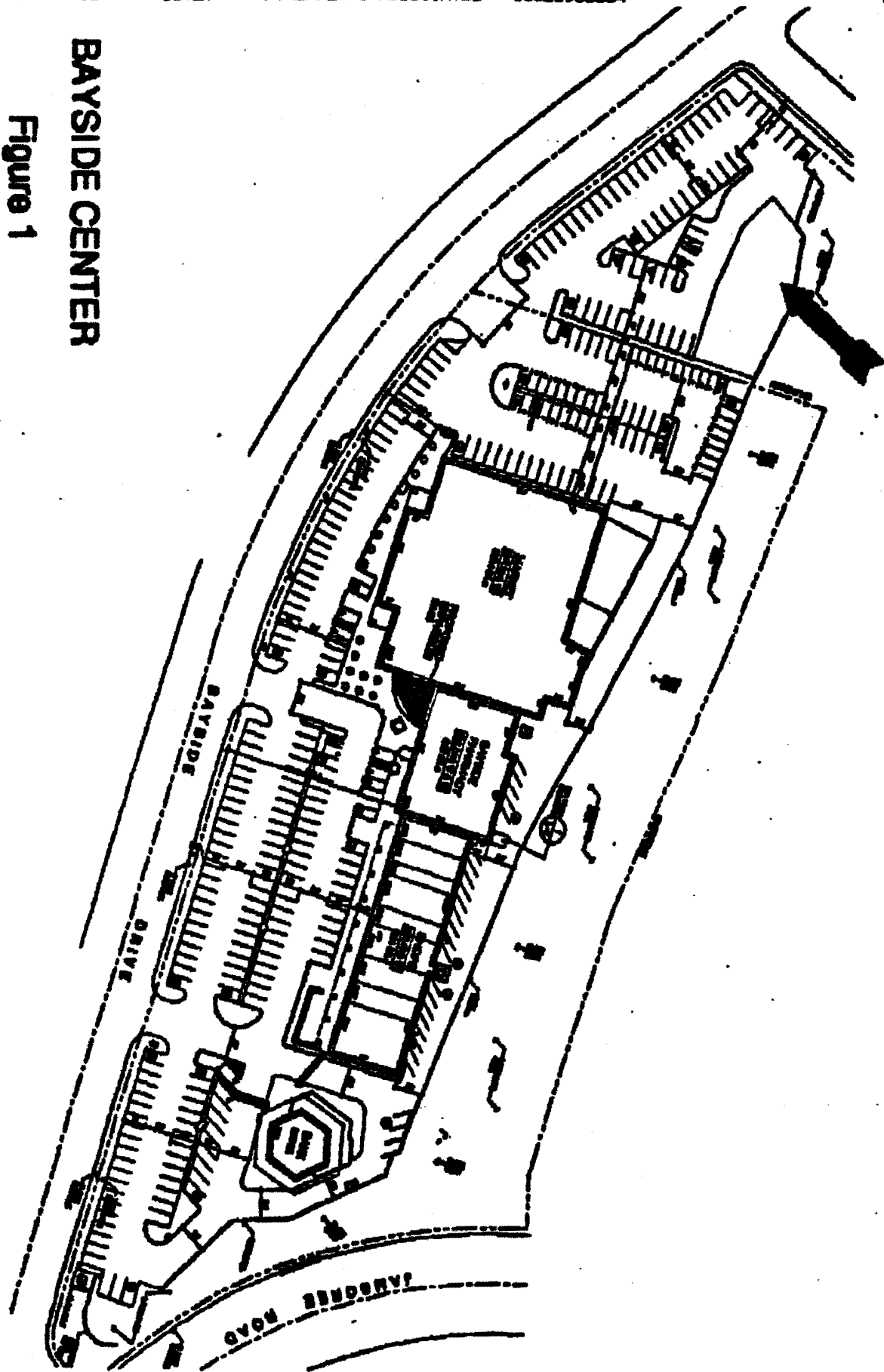
The parking spaces located in Areas 2 and 3 are the most frequently used spaces within the center. Areas 1, 4, and 5 had the highest number of unoccupied spaces during our observation periods. Area 5 will be reconfigured in conjunction with the construction of the proposed restaurant.

Based on the parking counts conducted on week days and weekends, it is concluded that the parking supply within the center exceeds the demand. Also, it is concluded that there is adequate supply of parking, in close proximity to the proposed restaurant, in the existing center that could be used as shared parking with Bistango Restaurant.

Due to the layout of the retail center and the proposed location of Bistango, parking spaces located in Area 4 have the best potential for joint use. There are 72 spaces in this section of the parking lot. The highest use of these spaces was observed during 12:00 p.m. to 1:15 p.m. and 5:15 p.m. to 7:00 p.m., on weekdays with a maximum of 42 spaces being occupied. During these periods, it was observed that a maximum of 11 spaces were occupied in Area 5 which will be the site of the proposed restaurant. During the mid day counts, it was observed that several of the spaces in these areas were occupied by individuals that entered the center to have their lunch in the car with only some of them shopping at the market.

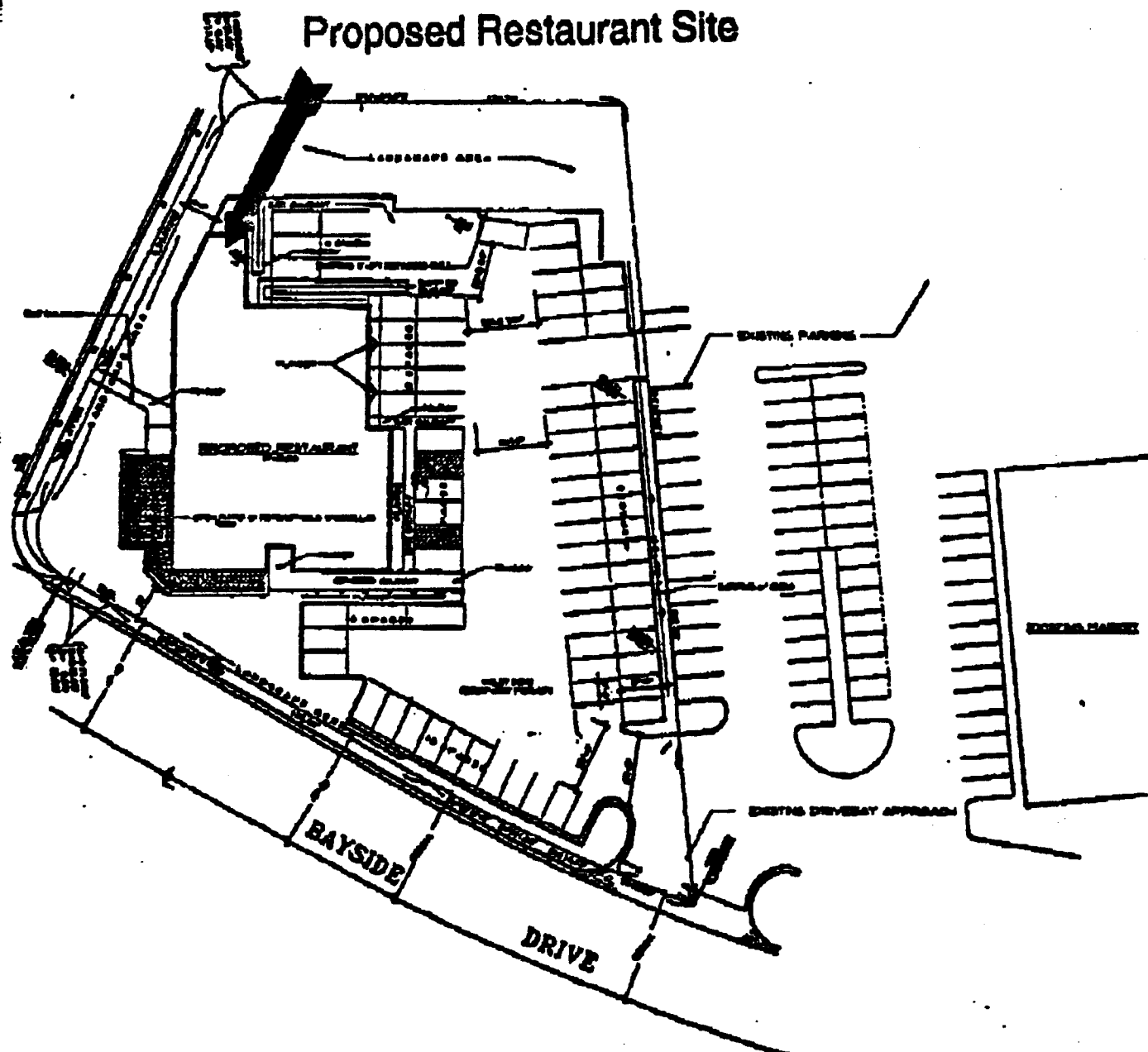
The peak demand period for the restaurant is expected to coincide with the peak parking utilization observed in the center. Therefore, based on the total number of spaces occupied in areas 4 and 5 ($42 + 11 = 53$), it is estimated that approximately 19 spaces ($72 -$

Proposed Restaurant Site

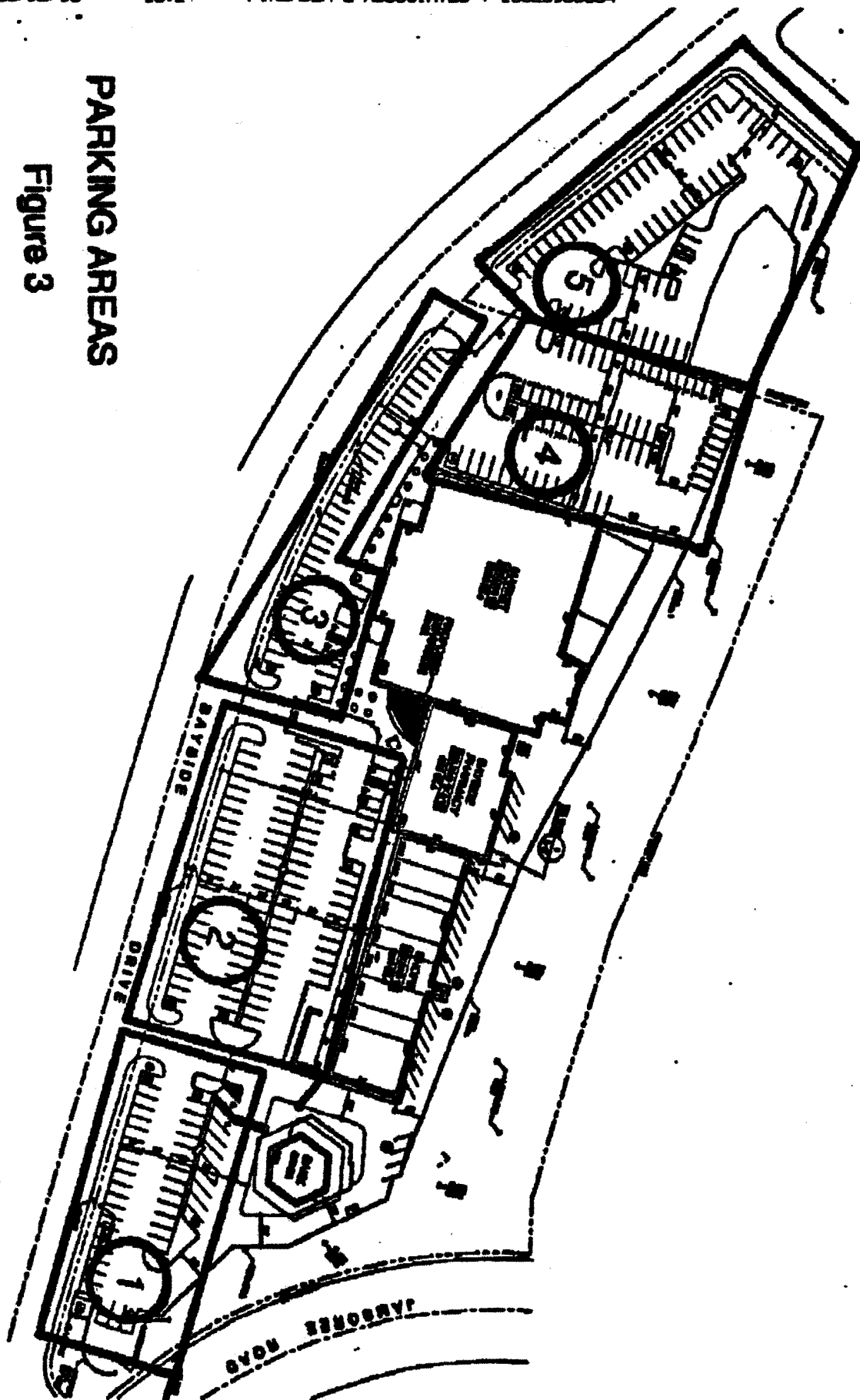


BAYSIDE CENTER

Figure 1

**BISTANGO RESTAURANT****Figure 2**

PARKING AREAS
Figure 3



PIRZADEH

& ASSOCIATES

*Transportation Planning,
Engineering & Project Management*

June 8, 1998

RECEIVED
JUN 8 1998

CALIFORNIA
COASTAL COMMISSION

Mr. Stephen Rynas, AICP
California Coastal Commission
South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302

Subject: Bistango Restaurant, Bayside Center

Dear Mr. Rynas:

Pursuant to your request, we conducted additional parking demand counts in Bayside Center over the weekend to augment our May 22, 1998 parking analysis. These counts were conducted to evaluate the utilization of the retail center parking lot during the summer time. The parking demand data was collected on Saturday and Sunday, from 11:30 a.m. to 1:30 p.m., and from 5:00 p.m. to 7:00 p.m. The weather condition during these counts was clear to partly cloudy.

Bayside Center is currently fully occupied. This center provides a variety of retail shops, restaurants, financial, and other services. As shown on Figure 1, direct access to the center is provided by three driveways from Bayside Drive. The parking lot is well situated in relationship to the stores and services in the center. Bistango Restaurant is proposed to be developed on the vacant lot located on the west side of the Center.

Based on our observations during numerous visits to the center, the shopping center parking lot is never fully occupied and there is always ample supply of parking spaces in all areas of the center. However, we specifically focused our analysis on the utilization of Area 4 of the parking lot, as shown on Figure 2. There are 72 parking spaces in this section of the parking lot. This area is adjacent to the proposed Bistango Restaurant site and is the most likely location for accommodating any restaurant related parking.

17801 Cartwright Road
Suite D
Irvine, CA 92614
Telephone 714 851 1367
Facsimile 714 851 5179

EXHIBIT No. 5

Application Number:

5-98-120

Pirzadeh Letter



California Coastal
Commission

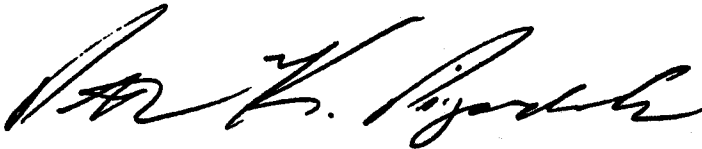
Mr. Stephen Rynas
Page 2
June 8, 1998

The highest number of occupied spaces during the weekend was observed on Sunday, June 7, 1998 between 5:15 and 5:30 p.m. During this period, 36 vehicles were parked in Area 4 of the parking lot. Also, 4 vehicles were parked in the future Bistango site. The observed parking demand during the weekend was lower than the previously reported weekday parking demand.

As stated in our May 22, 1998-report, we believe that Bistango's proposed on-site parking facility and valet service can adequately accommodate the expected restaurant parking demand. However, based on the highest observed parking utilization of Area 4 of the parking lot, up to 19 spaces will be available in the Bayside Center parking lot for joint use with Bistango.

I hope this information will facilitate your review of the proposed project. Please call me if you have any questions regarding this parking analysis.

Sincerely,



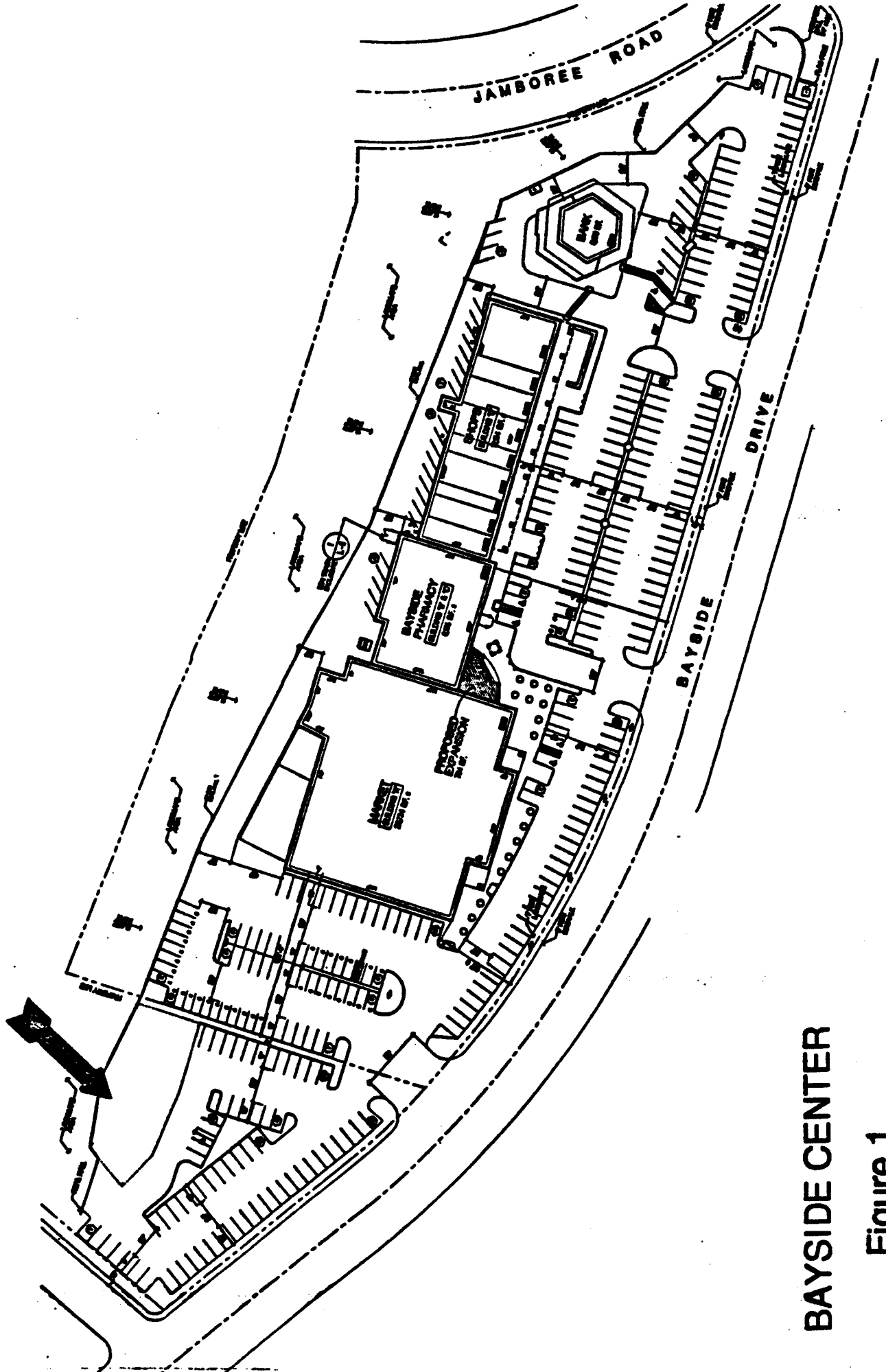
Peter K. Pirzadeh, P.E.
Principal



Attachments

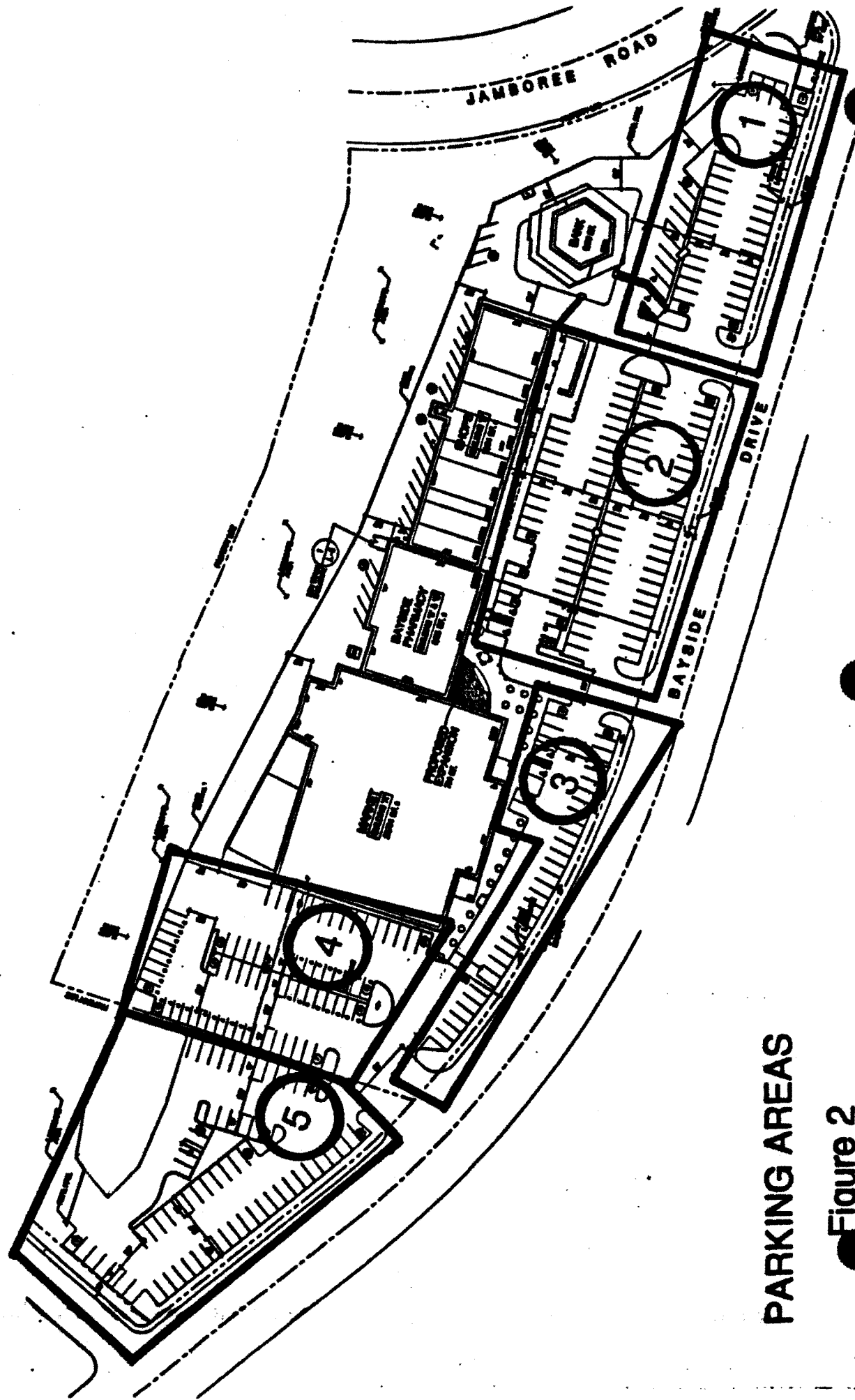
Copy: Carol Hoffman, The Irvine Company
Peter Carapetian, 900 Bayside Project
Grant Davis, OTC Group

Proposed Restaurant Site



BAYSIDE CENTER

Figure 1



PARKING AREAS

Figure 2

HOLLIS & ASSOCIATES, INC.

Shopping center management, marketing, merchandising, market research

June 4, 1998

Mr. Steve Rynas
Orange County Area Supervisor
California Coastal Commission
200 Oceangate - 10th Floor - Suite 1000
Long Beach, CA 90802-4302

RECEIVED
JUN 8 1998
CALIFORNIA
COASTAL COMMISSION

**Re: Bistango Restaurant CDP
900 Bayside Drive
Newport Beach, CA**

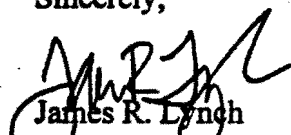
Dear Mr. Rynas:

The purpose of this letter is to clarify parking lot operations for the neighborhood shopping center located on Bayside Drive in Newport Beach. It is my understanding that as a part of the Coastal Commission review of the Use Permit for the above referenced restaurant questions have been raised regarding the use of the parking lot for Balboa Island or coastal visitors. Please be advised that as the long-time managers of Bayside Center for The Irvine Company it has been our continuing experience that Bayside Center functions as a neighborhood center with no beach related parking problems.


The only exception to this is the annual Newport Beach Christmas Boat Parade held for 10 days during the holiday season. Every year at that time we employ security guards to insure adequate parking for our tenants and their customers.

I would like to further clarify that the center is now and almost always operates at 100% tenant occupancy. Despite the full occupancy, the shopping center parking adjacent to the restaurant site is always under utilized and is the area furthest away from Balboa Island. Please do not hesitate to contact me or Carol Hoffman of The Irvine Company should you have any questions, regarding the operation of Bayside Center.

Sincerely,


James R. Lynch
General Manager

cc: Carol Hoffman
Peter Carapetian

EXHIBIT No. 6
Application Number: 5-98-120
Hollis Letter
 California Coastal Commission

CONFORMED COPY
Not Compared with Original

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

The Irvine Company
550 Newport Center Drive
P.O. Box 6370
Newport Beach, California 92658-6370
Attention: Audrey Pope, Retail Division

Recorded in the County of Orange, California
Gary L. Granville, Clerk/Recorder

30.00

1998030867 08:10am 05/15/98

005 12838024 12 08
001 0 0.00 24.00 0.00 0.00 0.00 0.00

DECLARATION AS TO ACCESS EASEMENTS

This DECLARATION AS TO ACCESS EASEMENTS ("Declaration") is made this 27th day of May, 1998, by The Irvine Company, a Delaware corporation ("Declarant").

1.0 RECITALS

This Declaration is made with reference to the following facts and objectives:

1.1 Declarant is the owner of certain real property (hereinafter referred to as the "Market Parcel") situated in the City of Newport Beach, County of Orange, State of California, described on EXHIBIT A-1 and generally depicted on EXHIBIT A-2.

1.2 Declarant is also the owner of certain real property (hereinafter referred to as "Restaurant Parcel") situated in the City of Newport Beach, County of Orange, State of California, described on EXHIBIT "B-1" and generally depicted on EXHIBIT "B-2".

1.3 The Market Parcel and the Restaurant Parcel are collectively referred to herein as the "Shopping Center".

1.4 The tenant under the "Restaurant Lease" (as hereinafter defined) desires to construct a restaurant on the Restaurant Parcel and in connection with such construction, the California Coastal Commission (the "Commission") has required that Declarant establish the easement granted herein.


1.5 Subject to the terms and conditions contained in this Declaration, Declarant desires to establish the easements provided for herein as and to the extent necessary to satisfy the requirements of the Commission.

2.0 CERTAIN DEFINITIONS

2.1 The term "Commission" shall have the meaning given in Recital 1.4 above.

C:\WP61\111330DECL.VS
JEP May 8, 1998

1

EXHIBIT No. 7
Application Number: 5-98-120
Access Easement
 California Coastal Commission

2.2 The term "Commission Requirement" shall mean the requirement that in addition to the parking on the Restaurant Parcel as shown on "EXHIBIT B-2." parking be provided for the use of the 750 square feet patio area intended to be included and operated within the new restaurant facilities at the rate of one space per 50 square feet.

2.3 The term "Common Area" shall mean that portion of the Market Parcel which is available and designated from time to time for parking, ingress and egress.

2.4 The term "Declarant" shall mean The Irvine Company, a Delaware corporation, and its successor owners of the Market Parcel.

2.5 The term "Declaration" shall mean this Declaration As To Access Easement.

2.6 The term "Easement" shall mean the easement granted under Section 3.1 below.

2.7 The term "Market Parcel" shall have the meaning given in Recital 1.1 above.

2.8 The term "Permitted Restaurant Use" shall mean the normal operation under the terms of the Restaurant Lease of both a full-service restaurant and bar in a building of a size not to exceed 8,000 square feet plus a patio consisting of approximately 750 square feet, and shall for purposes of this Declaration not include any special events or uses which require more parking than for normal restaurant and bar use.

2.9 The term "Restaurant Lease" shall mean that certain Retail Ground Lease dated as of August 27, 1997, by and between The Irvine Company, a Delaware corporation, as Landlord, and Varuj LLC, a California limited liability company, as Tenant, as amended from time to time, covering the Restaurant Parcel.

2.10 The term "Restaurant Parcel" shall have the meaning given in Recital 1.2 above.

2.11 The term "Restaurant Users" shall mean the tenant under the Restaurant Lease and its licensees, subtenants, concessionaires, contractors and suppliers, and their respective employees, officers, representatives, customers and invitees.

2.12 The term "Shopping Center" shall mean, collectively, the Market Parcel and the Restaurant Parcel.

3.0 CREATION OF EASEMENTS

3.1 Grant of Easement. Declarant hereby establishes and reserves for the benefit of the Restaurant Parcel, to the extent that parking on the Restaurant Parcel is from time to time insufficient to satisfy the Commission Requirement, an easement to use that portion of the Common Area shown on EXHIBIT "C" or from time to time otherwise designated by Declarant (the "Easement Area") for up to fifteen (15) parking spaces for parking not otherwise existing on the Restaurant Parcel by

customers utilizing the facilities on the Restaurant Parcel for a Permitted Restaurant Use, together with the right of reasonable ingress and egress over the Common Area as necessary for access to the Easement Area (collectively, the "Easement").

3.2 Easement Appurtenant. The Easement is appurtenant to the Restaurant Parcel.

4.0 GENERAL PROVISIONS

4.1 Recording. This Declaration shall become effective and binding upon recordation in the Official Records of Orange County, California.

4.2 Covenants Run With The Land. The Easements shall be binding upon and shall inure to the benefit of Declarant and any person owning any part of the Shopping Center. All of the provisions of this Declaration shall be enforceable as equitable servitudes and constitute covenants running with the land pursuant to applicable law, including, but not limited to Section 1457, et seq. of the California Civil Code.

4.3 Amendment. So long as Declarant remains the owner of the Market Parcel, Declarant shall have the right, at Declarant's sole discretion, to amend this Declaration or to impose rules and regulations on the use of the Easement Area and other portions of the Common Area which are not inconsistent with this Declaration. The tenant under the Restaurant Lease shall cause the Restaurant Users to comply with such rules and regulations and the terms of this Declaration.

4.4 Encumbrances. This Declaration is subject to all existing encumbrances, leases and other valid claims of title affecting the Shopping Center as of the date of this Declaration as recorded. Declarant reserves the right to further encumber the Shopping Center, or any portion thereof or interest therein, and to cause the lien of any such future encumbrance to be superior to the lien of this Declaration. At Declarant's option, this Declaration shall be subject and subordinate to any and all liens and encumbrances now or hereafter placed against the Shopping Center by Declarant, provided that such encumbrances shall not interfere with the use by Permitted Users of the Easement as contemplated in this Declaration.

4.5 Mortgage Protection. No breach or violation of this Declaration or of the Easement granted herein shall render invalid the lien of any mortgage, deed of trust or similar instrument securing a loan made in good faith and for value with respect to any portion of the Shopping Center, but all of the provisions of this Declaration shall be binding upon and effective against any subsequent owner (including any mortgagee or beneficiary under a deed of trust) who acquires title to the Shopping Center or any portion thereof, by foreclosure, trustee's sale, deed in lieu of foreclosure, or otherwise, provided such subsequent owner shall take title free and clear of any violations of this Declaration occurring prior to its acquisition of title.

4.6 No Public Dedication. Nothing contained in this Declaration shall be deemed to constitute a gift or dedication of the Shopping Center or any portion thereof to the general public or for any public use or purpose whatsoever, it being the intention of Declarant that this Declaration shall be

strictly limited to and for the purpose of facilitating the Permitted Restaurant Use on the Restaurant Parcel on private property solely for benefit of the tenant under the Restaurant Lease.

4.7. Governing Law. This Declaration shall be construed and enforced in accordance with the laws of the State of California.

THE IRVINE COMPANY
a Delaware corporation

By: 

RICHARD G. SIM, Executive Vice President

By: 

GARY A. VACCARO, Sr. Vice Pres.
Finance & Acquisitions - IPG

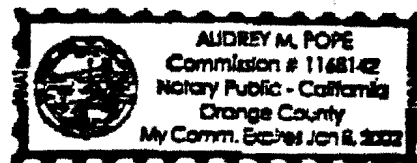


STATE OF CALIFORNIA)
) ss.
COUNTY OF ORANGE)

On May 12, 1998, before me, the undersigned, a Notary Public in and for said County and State, personally appeared Richard G. Sim and Gary A. Vaccaro personally known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument the persons, or the entity upon behalf of which the persons acted, executed the instrument.

WITNESS my hand and official seal.


(signature of notary)



DESCRIPTION OF THE MARKET PARCEL

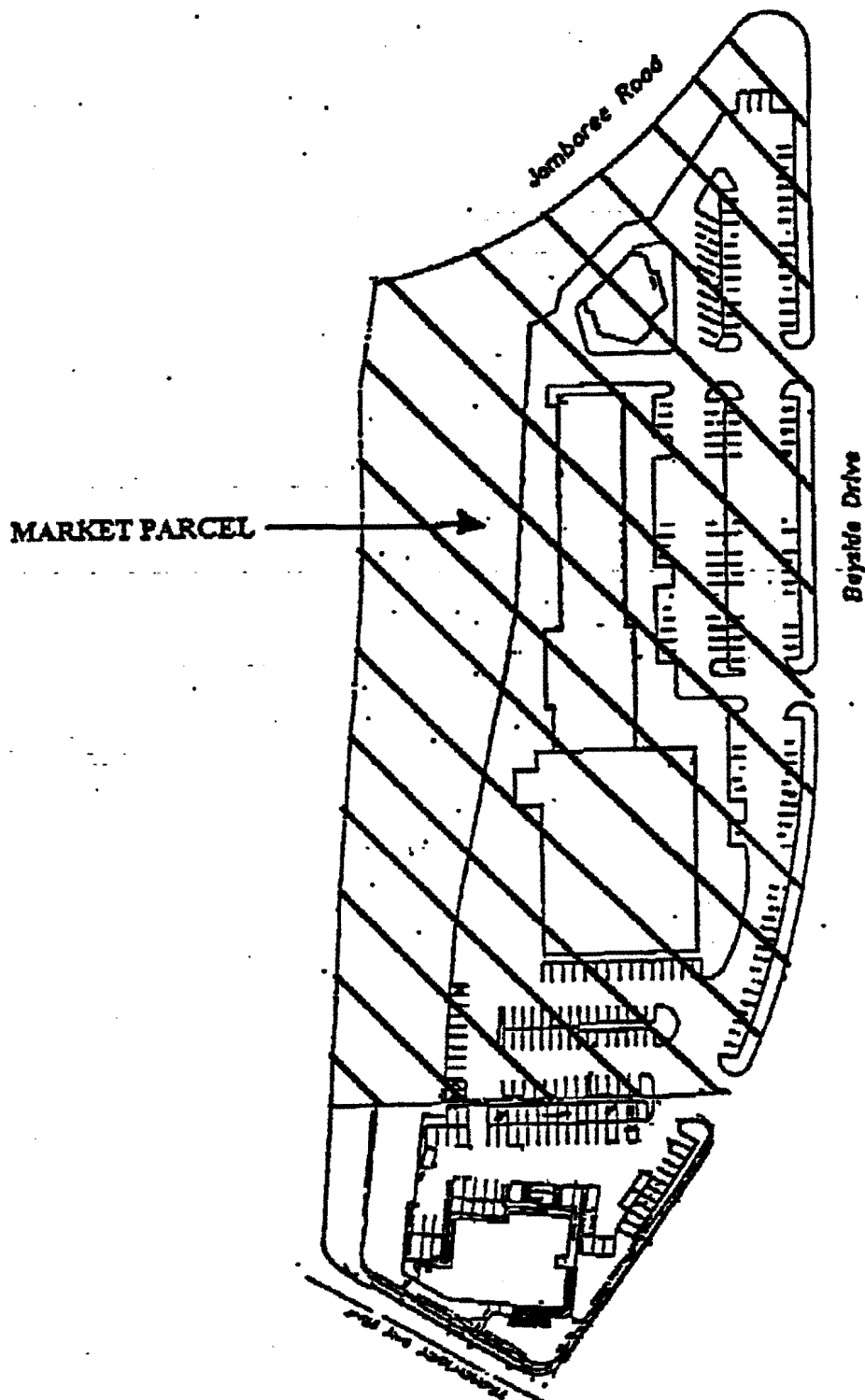
Parcels 1, 2, 3 and 4, in the City of Newport Beach, County of Orange, State of California, as per map recorded in Book 11 Page 7 of Parcel Maps in the Office of the County Recorder of said County.

Except therefrom that portion of Parcel 4 now shown as Parcel 3, in the City of Newport Beach, County of Orange, State of California, as per map recorded in Book 49 Page 15 of Parcel Maps, in the Office of the County Recorder of said County.

Also except that portion of said Parcel 4 lying southwesterly of the following described line:

Beginning at a point on the westerly boundary of said Parcel distant North 4 degrees 15 minutes 25 seconds East 77.24 feet from the southwesterly corner thereof, said point being also on a curve, non-tangent to said westerly boundary, concave northeasterly having a radius of 741.00 feet, a radial to said point bears South 30 degrees 38 minutes 59 seconds West; thence leaving said westerly boundary southeasterly 341.34 feet along said curve through an angle of 26 degrees 23 minutes 34 seconds to a point of tangency with the southerly boundary of said Parcel distant South 35 degrees 44 minutes 35 seconds East 329.39 feet from said southwesterly corner.

PLOT OF THE MARKET PARCEL



C:\74\1111336\DECL

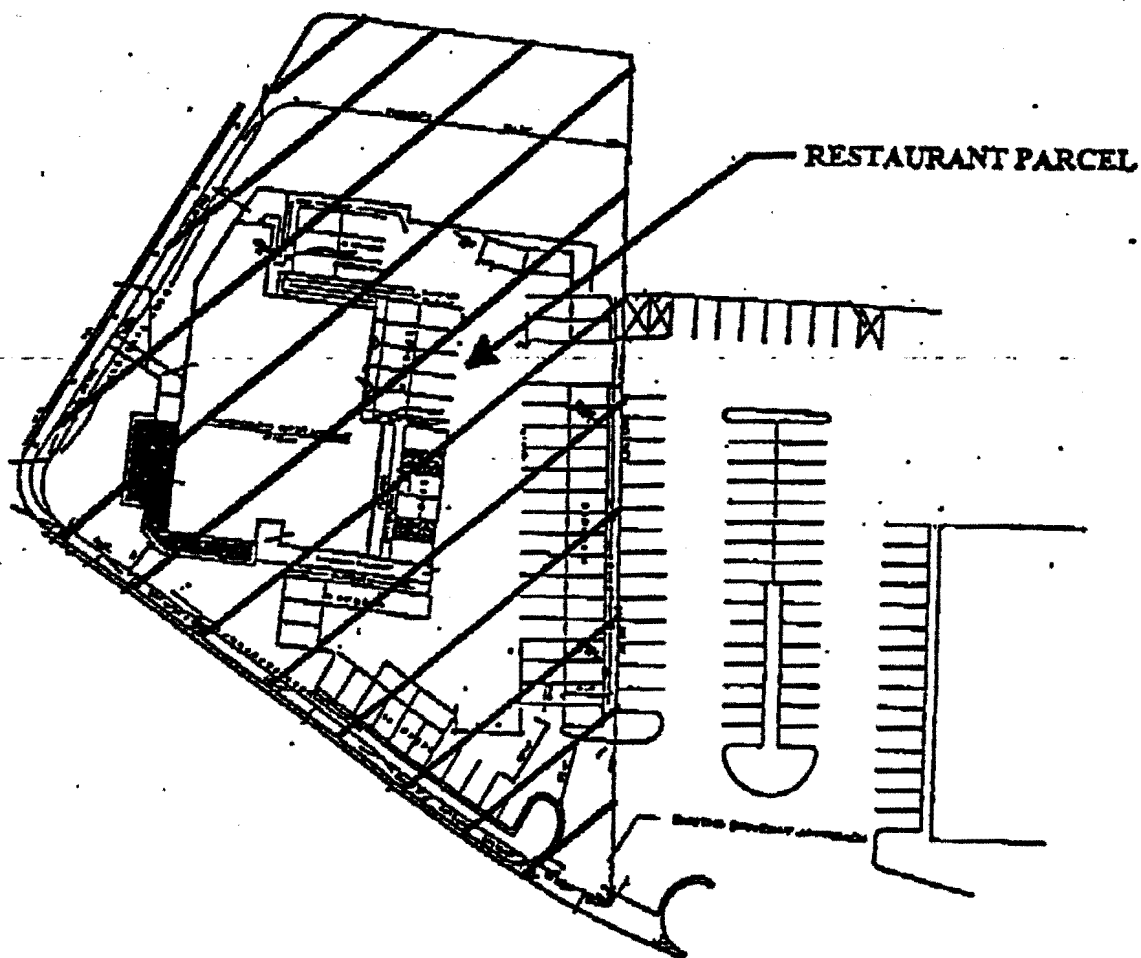
EXHIBIT "A-2"

Declaration As To Access Easements
Bayside Shopping Center/Parking Easements

DESCRIPTION OF THE RESTAURANT PARCEL

Parcel 2, as per map filed in Book 49, page 15 of Parcel Maps, in the Office of the County Recorder of said County.

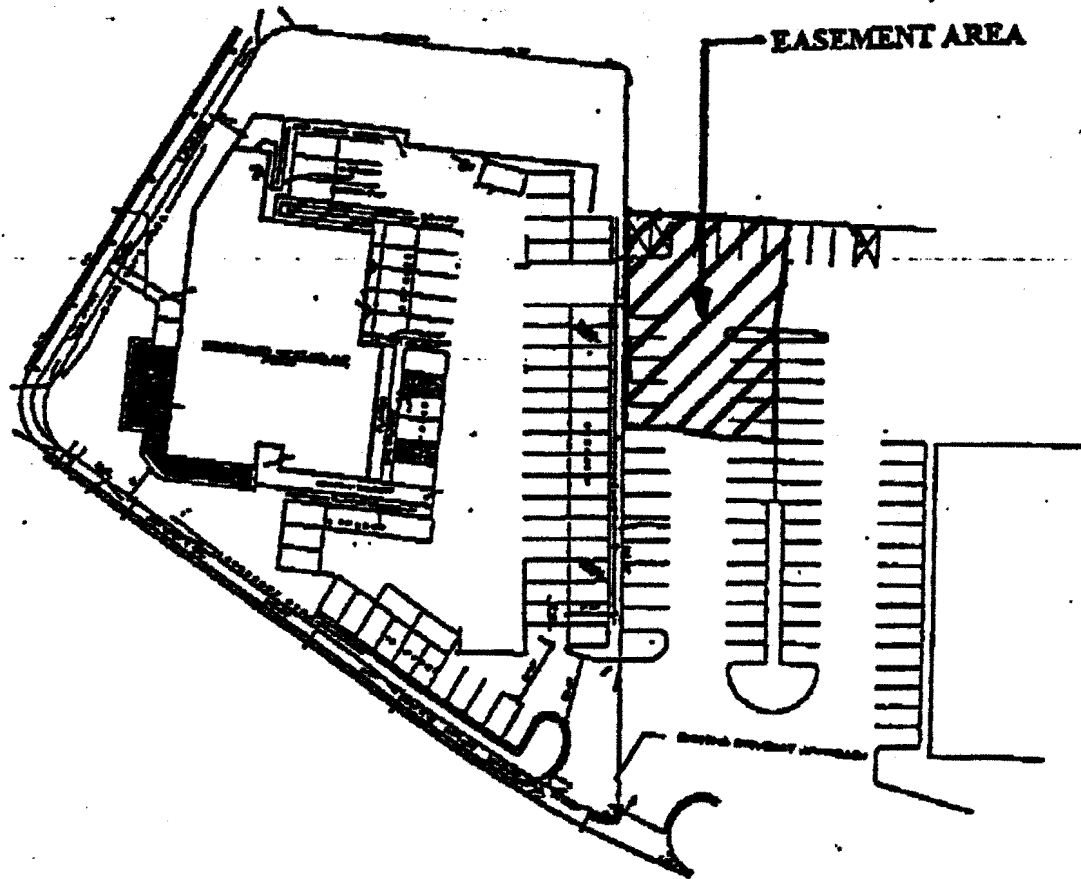
PLOT OF THE RESTAURANT PARCEL



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EXHIBIT "B-2"

Declaration As To Access Easements
Bayside Shopping Center/Parking Easement

PLOT OF EASEMENT AREA

CH7610113508CL

EXHIBIT "C"Declaration As To Access Easements
Revised Shopping Center/Parking Easements