August 26, 2015

By email (ShAllen@ci.berkeley.ca.us)
By U.S. Mail

Shannon Allen, AICP
Principal Planner, Land Use Planning Division
City of Berkeley Department of Planning and Development
2120 Milvia Street
Berkeley, CA 94704

Re: Public Parking at 1900 Fourth Street Proposed Project Site

Dear Ms. Allen:

I am writing on behalf of West Berkeley Investors, LLC to clarify and confirm that the 237 publicly accessible parking spaces that are proposed as part of the 1900 Fourth Street project will be fully accessible to the public, not just customers of Spenger’s Fresh Fish Grotto Restaurant. Recently, some members of the public have incorrectly stated that only 137 spaces will be publicly available, because 100 spaces will be dedicated exclusively to Spenger’s customers. Public parking is a key benefit of the project so it is important to correct any misunderstandings. In fact, all 237 non-residential parking spaces will be fully accessible to the public, whether or not used by Spenger’s customers.

The lease between the current owner of the parking lot, Frank Spenger Company, and owner of the Spenger’s Restaurant, Avado Brands, Inc., specifically states that Lessor is required to make available to Lessee 100 spaces “on a non-exclusive, first come, first served basis.” Parking for customers of Spenger’s is provided for free with validation. This means that Spenger’s has no right to exclude members of the public not dining at the restaurant from the parking spaces. The pertinent portion of the lease is attached for your convenience.

The original lease term expired on March 31, 2014, but there are three options to extend for consecutive five year periods, the first of which was exercised by Lessee. As a result, the lease will remain in place once the 1900 Fourth project is constructed. While Spenger’s customers will continue to park for free with validation, no spaces will be reserved exclusively for the use of Spenger’s customers and all 237 spaces will be accessible to all members of the public.

sf-3566301
Thank you for your consideration and attention to this important issue, and I look forward to working with you throughout the entitlements and permitting process.

Sincerely,

[Signature]

Miles H. Imwalle

Enclosure

cc: Zach Cowan, City Attorney (zcowan@cityofberkeley.info)
    Michael Vecchio, Traffic Engineer (mvecchio@cityofberkeley.info)
    Bradley Griggs (bgriggs@bhcp.com)
    Lauren Colbert (lcolbert@bhcp.com)
ARTICLE XIV. ADDITIONAL PROVISIONS.

Section 14.01. Parking.

During the Term of this Lease, Lessor shall, subject to the terms hereof, make available to Lessee on a non-exclusive, first come, first served basis parking for not less than one hundred (100) cars on such portion of the real property commonly known as 1920 4th Street (and as more particularly described on Exhibit E) (the "Parking Lot Property") as may be designated by Lessor from time to time in its sole and absolute discretion. Until such time as Lessor has completed a planned parking garage on the rear westerly half of the Parking Lot Property, Lessor shall provide Lessee's customers with one and one half (1 1/2) hours free parking before 5:00 p.m. and up to three (3) hours free parking for Lessee's customers' cars entering into the Parking Lot Property after 5:00 p.m. subject to the presentation by Lessee's customers of a validation ticket (one per car) stamped by Lessee. Upon completion of the planned parking garage, Lessor shall provide Lessee's customers with one (1) hour free parking for each of Lessee's customers upon presentation by the customer of a validation ticket (one per car) stamped by Lessee. Lessee acknowledges that significant development and construction activity will likely take place on the Parking Lot Property and that Lessee has been provided with Lessor's preliminary plans for the development of the Parking Lot Property, which plans may change from time to time. Notwithstanding anything contained in this Section 14.01 to the contrary, in the event Lessor commences substantial construction and
SPENCER LEASE

development of the Parking Lot Property, Lessee may provide parking on a limited basis for less than one hundred (100) cars on a non-exclusive, first come, first served basis for a period not to exceed one (1) year from the date of commencement of substantial construction and development; provided, however, Lessee or its successors, shall use its good faith efforts to conduct such construction and development activity on the Parking Lot Property in such a manner so as to minimize the interruption to the availability of one hundred (100) parking spaces on the Parking Lot Property on a non-exclusive, first come, first served basis. Lessee shall not interfere with or oppose Lessee's right or efforts to develop the Parking Lot Property and shall cooperate with Lessee in its efforts to do so. Lessee shall sign such documents as Lessee's lenders may reasonably require to evidence Lessee's obligations to cooperate.