

November 26, 2002

Council Members
Town of Chapel Hill
306 North Columbia Street
Chapel Hill, North Carolina 27516

Re: Village Plaza Shopping Center Renovation – Application for a Special Use Permit
(File No. 7.46.B.11; PIN# 9799148584)

Dear Council Members:

The undersigned are authorized representatives of Eastern Federal Corporation and Mark Properties, Inc., whose companies own the lots and manage the improvements comprising Village Plaza shopping center. We jointly write this letter to respond to the inaccuracies contained in the e-mail message from George Jones of Whole Foods Market and sent to each council member on November 11, 2002. According to his e-mail, Mr. Jones intended to “clarify the issue regarding Whole Foods Market employee parking”.

Mr. Jones writes “our contract for employee parking is with Mark Properties and has been in effect since 1994”. The fact of the matter is the parking agreement (“Parking Lease Agreement dated April 26, 1994”) is between Mark Properties and R. Charles Ginn (owner of the property in which Whole Foods is located). Contrary to Mr. Jones’ assertion, Whole Foods is not a party to the parking agreement and as a result, Whole Foods has no rights or authority to assert any claim or represent the owner (Mr. Ginn) in any way whatsoever in regards to the term of the lease, number or location of spaces leased, hours of availability, etc. If there is further dispute as to the terms and conditions set forth in the parking agreement, a copy can be provided upon the approval of Mark Properties and Mr. Ginn.

Secondly, Mr. Jones states “there is no language in this agreement stipulating that these spaces are to be made available to theater customers”. Again, Mr. Jones does not have the correct information. By virtue of a recorded cross-easement parking agreement between Eastern Federal and Mark Properties, theater customers already have the perpetual right to park in spaces located on Mark Properties lot, as do Mark Properties customers on Eastern Federal’s lot. A copy of this cross-easement parking agreement is a matter of public record and can be found in the Orange County Register of Deeds.

Thirdly, Mr. Jones asserts “we do not have any agreement with Eastern Federal for employee parking and do not use their property as such”. While it may be true that Whole Foods employees do not park on the property owned by Eastern Federal, they do park on the Mark Properties property available to Eastern Federal for its customer parking, and they do cross Eastern Federal’s property to access those spaces. If Eastern Federal were to determine that Whole Foods employees were using too much of the cross-easement parking available to theater patrons, then Mark Properties would be required to take such actions as necessary to either (1) terminate the parking agreement with Mr. Ginn for Whole Foods employee parking, or (2) renegotiate the agreement by either (i) reducing or



restricting the number of parking spaces available to Whole Foods employees or (ii) limiting the hours those spaces are available.

Lastly, Eastern Federal does have an arrangement with the Employees Credit Union allowing the Credit Union the use of ten parking spaces on Eastern Federal's lot. This agreement may be terminated by either party upon thirty days prior notice. Because of the Credit Union's business hours, these spaces are only used during daytime hours and don't conflict with the theater's parking needs.

Over the years and to the best of our knowledge, we feel our respective companies have maintained an excellent relationship with the adjacent property owners, tenants, small businesses, as well as the community in general. We have shown our willingness to work with them to help them meet their parking needs by making our property available. The counter-cyclical nature of the different business uses in Village Plaza has allowed the parking lot to be well utilized, but under-utilized (see staff's parking analysis). We believe the new movie theater, as proposed, would be the best use for the center due to the counter-cyclical nature of its parking demand.

Thank you very much for your time and consideration.

Sincerely,

EASTERN FEDERAL CORPORATION

William H. Wilson, Jr.
Director of Real Estate

MARK PROPERTIES, INC.

Richard Roccesano
Vice President