

## LARA WEISIGER

---

**From:** Trish Spencer  
**Sent:** Tuesday, July 18, 2017 3:43 PM  
**To:** LARA WEISIGER  
**Cc:** Janet Kern; ANDREW THOMAS  
**Subject:** FW: 1200 Park Street: Appeal of CUP Revocation-Tuesday 7/18/17

---

**From:** Oneil, Rick [mailto:roneil@bigotires.com]  
**Sent:** Tuesday, July 18, 2017 3:28 PM  
**To:** Trish Spencer <TSpencer@alamedaca.gov>; Malia Vella <MVella@alamedaca.gov>; Marilyn Ezzy Ashcraft <MEzzyAshcraft@alamedaca.gov>; Jim Oddie <JOddie@alamedaca.gov>; cfmatarrese@alamedaca.gov  
**Cc:** Jill Keimach <JKeimach@alamedaca.gov>; Kairys, John <jkairys@Bigotires.com>; Blackwell, David (dblackwell@allenmatkins.com) <dblackwell@allenmatkins.com>; Kelley, Rena <rekelley@TBCCORP.com>  
**Subject:** FW: 1200 Park Street: Appeal of CUP Revocation-Tuesday 7/18/17

Dear Councilmembers:

I am the Western Division Vice President of Big O Tires, LLC. On behalf of Big O, I will be appearing at tonight's hearing regarding the 1200 Park Street Use Permit (CUP). I would like to reassure you that it is our intent to maintain an auto use on the property by fully complying with the CUP and definitively addressing the concerns raised by the public. Specifically, Big O has sought viable parking solutions such as renting parking spaces from the Civic Center parking garage located at the intersection of Oak and Central, which will provide sufficient parking for Big O's employees. Big O is also actively considering multiple workable options to accommodate customer parking. In addition, to guarantee minimal potential noise, Big O will perform all work inside, the building will be secured and insulated, and all work areas will be contained and cleaned daily. Big O is committed to serving the retail community and co-existing as a good neighbor.

Because a few minutes at the podium may not adequately apprise you of Big O's plans for the site, I wanted to provide you this information to you before the hearing.

I look forward to speaking with you.

Sincerely,  
Rick O'Neil  
Western Division Vice President  
Big O Tires, LLC

---

Confidentiality Notice: The information contained in this electronic e-mail and any accompanying attachment(s) is intended only for the use of the intended recipient and may be confidential and/or privileged. If

any reader of this communication is not the intended recipient, unauthorized use, disclosure or copying is strictly prohibited, and may be unlawful. If you have received this communication in error, please immediately notify the sender by return e-mail, and delete the original message and all copies from your system. Thank you.

## 1200 Park Street Owners Submissions - Table of Contents

The Property Owner at 1200 Park Street has submitted the following electronic files  
for the City Council Meeting of July 18, 2017, Agenda Item 6-B.

Item / Title	Agenda Attachment Name	Description/Comment
Petition for Appeal of PB -17-07	Exhibit 2 Petition for Appeal from Mr. Lane	Appellant's Appeal
Email & Cover Letter	#3 - External Correspondence-1.pdf, pgs 1-4	Cover for Exhibits
Exhibit A: AI Wright Photographic Survey	#3 - External Correspondence-1.pdf, pgs 5-61	AI Wright Photographic Parking Survey from 5/16/17 through 6/10/17, with tally sheet
Exhibit B: History of CUP	#3 - External Correspondence-1.pdf, pgs 62-67	History of the CUP
Exhibit C: Overview of Due Process	#3 - External Correspondence-1.pdf, pgs 68-72	Replace by "Annotated Owner's Position of Due Process Violations" below
Rebuttal to Staff Report	#6 - External Correspondence-1.pdf, pgs 2-11	Rebuttal to errors, omissions % bias in current Staff Report
Legal Brief: Park Street CUP Revocation Appeal	#6 - External Correspondence-1.pdf, pgs 12-19	Legal Theory Arguments
City of Alameda Resolution (Alternate)	#6 - External Correspondence-1.pdf, pgs 24-35	Alternate Resolution for the Council to consider, correcting errors, omissions and bias in the Staff version
Annotated Owner's Position of Due Process Violations	#6 - External Correspondence-1.pdf, pgs 36-47	This Due Process Argument replaces Exhibit C in "External Correspondence-1.pdf", pgs 68-72
1200 Park Street – No Parking Issue	#6 - External Correspondence-1.pdf, pgs 48-58	Two Parking Studies, summary of argument that there is no parking issue, hard copy submitted with photos

Attached is a hard copy of "1200 Park Street – No Parking Issue" with two parking studies and photos attached.

**City Council Meeting July 18, 2017**  
**1200 Park Street - No Parking Issue**  
Submission by Owners

The Owners have presented two photographic studies of actual examples of parking in this area showing that there is no shortage of available spaces during business hours. The Staff was instructed to do parking studies they but chose not to do them. The Owners' parking studies are as follows:

- Survey #1 - Photos taken on 8 days, at random times, between October 2016 and before the May 8, PB meeting
  - There are approximately 150 parking spaces in the area
  - On average, 35 spaces or 23% were available at any one time
  - It ranged from a high of 50 spaces, or 33%, to a low of 23 spaces, or 15% being vacant
  - (See PB Meeting 5/8/17, Exhibit 3 "Letter from Garfinkle Family with Photographs, pgs 3-20"). One example is attached.
- Survey #2 - Photos taken between May 16 and June 10, 2017 by Al Wright, professional photographer
  - He made 25 visits over 7 days including 2 Saturdays, at pre-specified times throughout each day
  - His summary sheet shows an average 32 spaces were available
  - (See this Agenda Item, Exhibit 3 "External Correspondence, pgs 5-61"). One example is attached.

How big of a problem is there now, based on current volume?

- With a new operator at 1200 Park Street in Big O Corporation, there will be a major reduction in demand for off-street parking.
  - If they split the existing volume of 60 cars per day with Tire Pros, they will only service about 30 cars spread out over the course of the day
  - There are approximately 26 spaces on the lot
  - Many customers wait while their car is serviced, so it never leaves the lot
  - The off-street parking need will go down to near 0, because only the overage beyond the lot capacity needs to park on the street
  - It should be noted that this business is a day time business, thus once the business hours are over, there is no potential parking impact

- How does this neighborhood compare to other neighborhoods that are adjacent to a commercial district?
  - Andrew Thomas told us, he doesn't think parking is any more difficult here, than in other comparable areas adjacent to a commercial zone
- The residents of this particular neighborhood enjoy more than double the number of spaces that most residential areas in Alameda enjoy because they live around Jackson Park.
  - There are no homes on the opposite side of the street, nor curb cuts for driveways, so there are block-long stretches of parking spaces
  - In the block on San Jose, between the east side of Park Avenue and Regent St., there are 5 homes that face, or have sides on San Jose Avenue. There are about 18 unmarked spaces, for the two homes lacking off-street parking
  - Go one block in the other direction across Park St., and parking is extremely limited along Oak St., from San Jose to Encinal
  - Consider the situation for the residents of the strictly residential section of Willow St., between Encinal and Clinton, where the City doesn't permit parking on either side of the street
- The City is not obligated to provide street parking, for every resident in Alameda who lacks off-street parking.
  - How many open spaces throughout the course of the day, do you think there should be in this area?
  - What's a reasonable number, or percentage, that meets most people's needs?
- What evidence did the petitioners present to support their claim of a parking shortage, let alone an actual parking problem?
  - Did they ever show that there was zero, or nearly zero parking available in the area under discussion?
  - Did they ever factually demonstrate a problem?
- What did the City do, to vet these claims?
  - Did they ever study the availability of parking to determine the degree of the alleged problem?
  - The PB asked them to provide studies in 2015 and 2016 yet they failed to do them

There were no documented neighborhood complaints about parking for 23 years following the 1989 Planning Board's unanimous decision that the business was "compatible" with the neighborhood.

This controversy was artificially generated in 2013 when Art Thoms, a neighboring business owner complained about Big O using metered parking spaces. Hearings were held in 2015 and some residents, having been recruited by Mr. Thoms, were upset to see the tire store employees parking their own cars, and retrieving customer cars, even though there is ample parking otherwise. The owners agree that the City has an obligation to respond to these complaints, and to find out whether there is a negative parking impact resulting from the allegations being made. The PB and Staff have done nothing to substantiate the merits of the complaints. In the face of solid evidence to the contrary, and admitting to the fact that the asserted permit violation was actually in compliance, the PB went ahead and revoked the use permit, relying on Staff's bias, and a mis-guided opinion from the Assistant City Attorney.

The question of whether a 28 year old permit condition about parking was still relevant, or correctly understood by Mr. Thomas, was brushed aside by the PB. By 2016, Staff and some Board Members were focused on ending the use at this location by any means necessary.

The Owner's position is based on facts; on actual physical evidence and lack of evidence to the contrary. There is no parking problem in the vicinity of 1200 Park Street.

## Photographic Parking Survey Summary

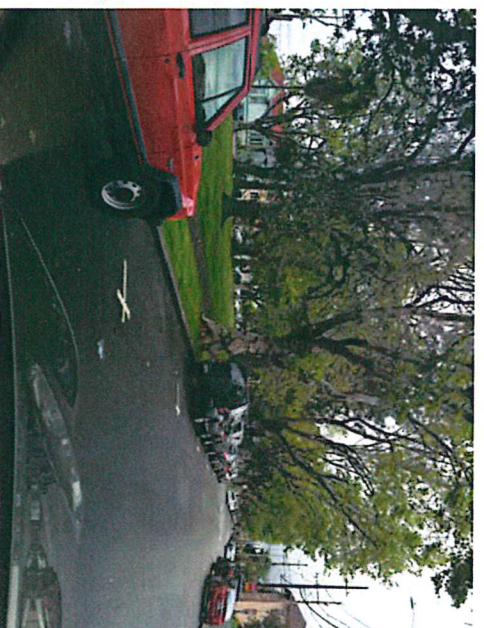
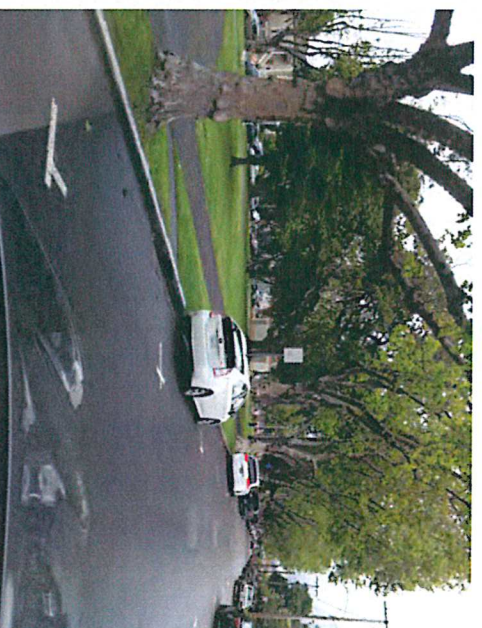
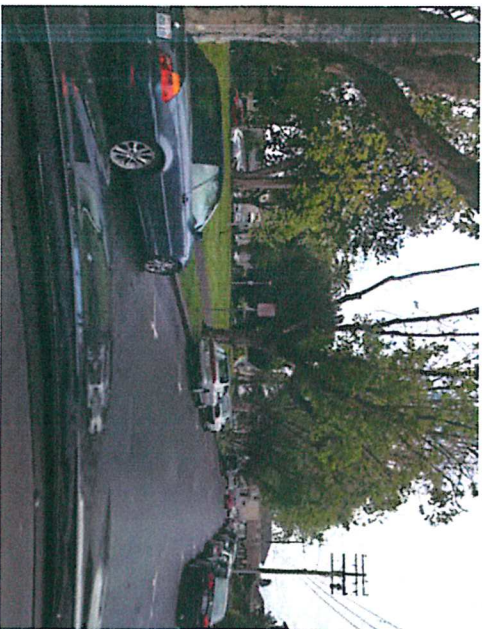
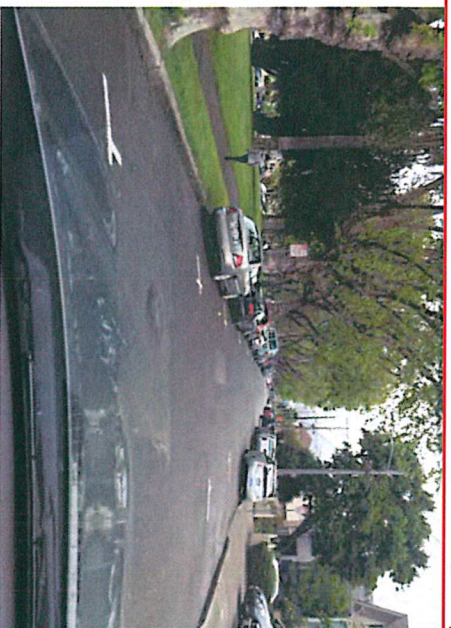
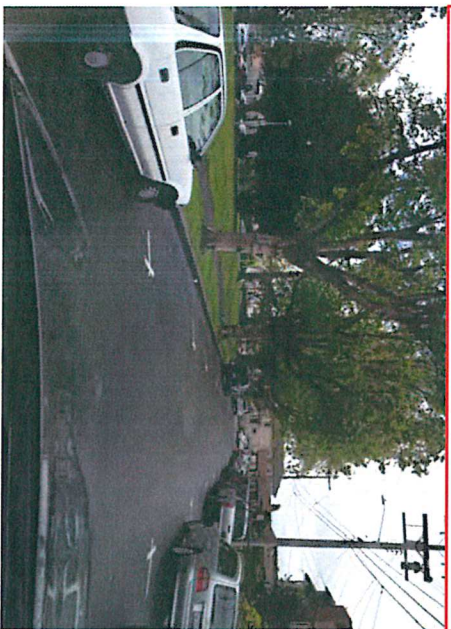
The table below is a summary of available off-street parking spaces in the vicinity of 1200 Park St. The area includes San Jose Avenue from Park St. to Regent St. and Park Avenue from Encinal Avenue to the end of Jackson Park. It does not include spaces on Park St or on San Jose across Park St. The counts do not include handicap spaces and photos were not taken during street sweeping hours.

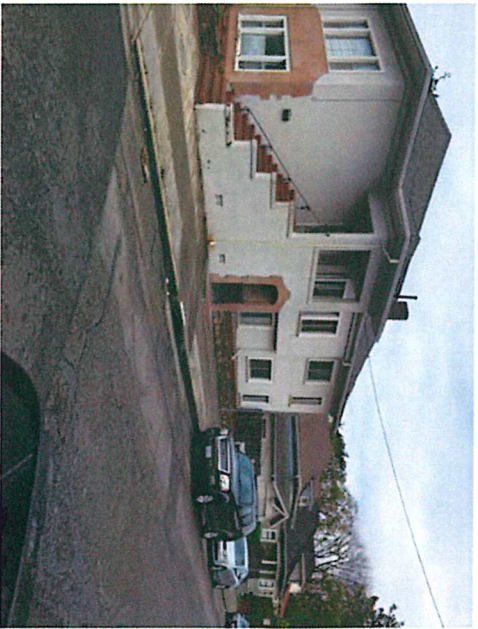
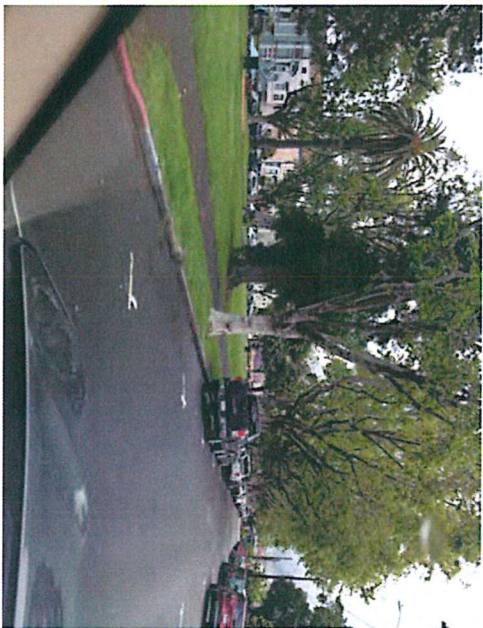
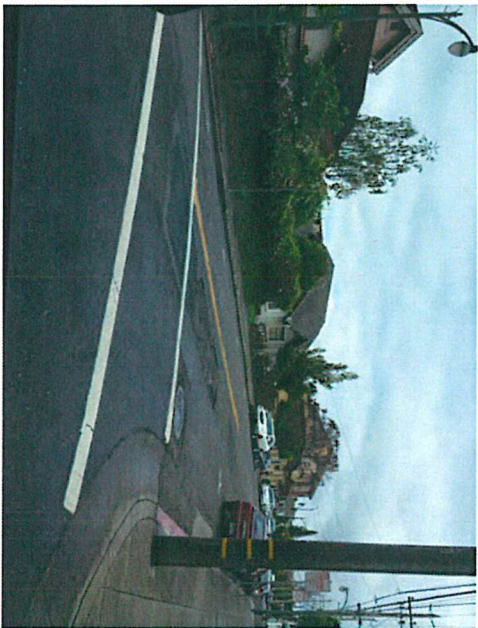
Date	Day	Time	Available Spaces
October 19, 2016	Wednesday	2:00pm	39
October 24, 2016	Monday	9:30am	35
October 28, 2016	Friday	1:00pm	50
November 28, 2016	Monday	1:00pm	23
November 29, 2016	Tuesday	2:00pm	32
December 7, 2016	Wednesday	2:30pm	41
April 11, 2017	Tuesday	2:00pm	23
April 18, 2017	Tuesday	9:45am	41

There was an average of 35.5 spaces per visit to the site when these photographs were taken.

Photographs taken by Ben Garfinkle on random dates and times as indicated.

4/18/17 @ 9:45AM, 41 total spaces, 27 on Park Ave., 3 metered, 4 free on San Jose, 7 spaces San Jose between Park Ave & Regent





Declaration of  
Al Wright, Photographer

I, Al Wright, hereby declare that:

I am Al Wright, an Alameda professional photographer with my long time studio located at 1205 Park Street, Alameda.

In the middle of May, 2017, I was commissioned by Ben Garfinkle, on behalf of the Garfinkle Family Trust, to perform a representative Parking Survey with photographs for their property at 1200 Park Street (Big O Tires). I am acquainted with the Garfinkle family by way of having been a tenant of theirs in the past.

The purpose of my Parking Survey, a true and correct copy of which is attached hereto as group Exhibit "A" ("Project"), was and is to show the availability of parking during the Big O business hours in the vicinity of 1200 Park, both in the commercial zone and the surrounding residential neighborhood. The geographic area covered is the few metered parking spaces on the east side of Park Street directly in front of the Big O Tire location, San Jose Avenue from Park Street to Regent Street, including the six (6) metered spaces on San Jose right at Park Street, and both sides of Park Avenue around Jackson Park from Encinal Avenue down to the south end of the park.

The agreed schedule for the Project was to take a sample of available parking four (4) times a day (at approximately 9:30 a.m.; 11:30 a.m.; 2:00 p.m.; and 4:30 p.m.) on six (6) separate days.

On May 16<sup>th</sup> at approximately 9:30 a.m. I did a trial run to get an idea of how much time it would take to complete a segment of the assignment. That trial run on May 16<sup>th</sup> is included in Exhibit A, otherwise Exhibit A shows that the Project included taking the sampling at the four (4) different times on six (6) days; Tuesday, May 30; Wednesday, May 31; Saturday, June 3; Monday, June 5; Wednesday, June 7; and Saturday, June 10 for a total sampling of twenty-five (25) samples of the available parking.

Note: No sampling was done on Thursday or Friday of either week since the Park Avenue area is posted for street sweeping on those days.

I declare under penalty of perjury that the foregoing is true and correct of my own personal knowledge, and that if called upon to confirm these statements, can competently do so.

Executed on July 5, 2017, at Alameda, California.

A handwritten signature in black ink, appearing to read 'Al Wright', with a stylized, cursive script.

Al Wright

## Exhibit “A”

### Parking Availability around Big O Tires

Day	Date	Time	San Jose Park St-Park Ave		San Jose Park Ave- Regent	Park Ave	Total
			Meter	Non			
Tue	5/16	9:30	2		6	16	24
Tue	5/30	9:30	4	1	10	27	42
Tue	5/30	11:30	1		6	10	17
Tue	5/30	2:00	1		7	16	24
Tue	5/30	4:30	4		7	20	31
Wed	5/31	9:30	1	1	11	24	37
Wed	5/31	11:30	2		8	21	31
Wed	5/31	2:00	1	3	9	18	31
Wed	5/31	4:30	4	1	11	15	31
Sat	6/03	9:30	5		11	41	57
Sat	6/03	11:30			8	24	32
Sat	6/03	2:00	2		2	4	8
Sat	6/03	4:30	2	2	11	38	53
Mon	6/05	9:30	3	1	14	18	36
Mon	6/05	11:30	6		14	7	27
Mon	6/05	2:00	4	2	15	12	33
Mon	6/05	4:30	5	1	11	22	39
Wed	6/07	9:30	4		10	16	30
Wed	6/07	11:30	2		10	12	24
Wed	6/07	2:00	3	1	14	10	28
Wed	6/07	4:30	4	1	7	21	33
Sat	6/10	9:30	1	1	2	42	46
Sat	6/10	11:30			6	23	29
Sat	6/10	2:00			8	19	27
Sat	6/10	4:30	4	3	1	25	33
AVERAGES			2.6	0.7	8.8	20	32.1



02



03



04



05



06



07



08



09



10



11



12



13



14



15



16



17



18



19



20



21



22



23

## LARA WEISIGER

---

**From:** Jan Mason <jan@ommhomes.com>  
**Sent:** Tuesday, July 18, 2017 3:16 PM  
**To:** Trish Spencer; Malia Vella; Frank Matarrese; mezzashcraf@alamedaca.gov; Jim Oddie  
**Cc:** LARA WEISIGER  
**Subject:** Garfinkle Trust and Big O Tires - Agenda Item: 6B. 2017-4492

Dear Mayor Trish Spencer, Vice Mayor Maria Vella, and Council members Frank Matarrese, Jim Oddie, and Marilyn Ezzy Ashcraft:

I am writing this email to you to give some background information on the item up for discussion tonight regarding the Conditional Use Permit for the Garfinkle Trust property located at 1200 Park Street.

Big O Tires would like to consummate their proposal to purchase this property. A Big O franchise was doing business at this location since 1982.

I am very familiar with this property as I have been the property manager for the Garfinkle Trust since 1992. During this time of representing the Garfinkle Trusts and managing not only their properties located at 1125 Park Street, 1205 -1209 Park Street and 1211– 1215 Park Street, and 1200 Park Street, I also managed and sold the corner property at 1201 Park Street.

Over the past 30+ years of being involved in that area of Park Street, I can honestly say that we have not experienced a parking issue there. Tenants never complained about parking, I was never without a space when I went to the property, and my staff and contractors always found a place to park during inspections and service calls. I always found a place to park when frequenting the commercial properties in the area – Party Warehouse, Kinukos Beauty Creations and Julie's Coffee and Tea – to name a few.

I cannot think of a better use for the property than its current use. The Big O Company is a reliable and well known business and has served our Alameda residents for many years. Please consider my information and allow a Conditional Use Permit to continue to exist at this location.

Thank you for your consideration of this issue.

Sincerely,

Jan Mason  
Owner, OMM, INC.

Janice L. Mason, Owner/REALTOR  
OMM, INC.  
2514 Santa Clara Avenue  
Alameda, CA 94501  
(510) 522-8074 (w) (510) 381-1573 (c)  
jan@ommhomes.com

CalBRE#: 00867680