

Steven G. Mednick  
Attorney

15 October 2019

Edward Mattison, Chair  
New Haven City Plan Commission  
165 Church Street  
New Haven, CT 06510

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CITY PLAN DEPT.  
165 CHURCH ST.  
NEW HAVEN, CT 06510

In re: Amendment of Site Lease and Parking Agreement PDD-86

Dear Mr. Chair:

**PDD Required Approvals of Lease and Parking Agreement Amendments.** This letter supplements the October 3<sup>rd</sup> request for approval of amendments to the Site Lease Agreement and Parking Agreements<sup>1</sup>. By way of background the October 3<sup>rd</sup> request was made pursuant to the following provisions of New Haven City Plan Commission Advisory Report 1112-01, which was recorded in the Land Records of the City and Town of New Haven, at Vol. 4268, Page 079, under which the recorded PDD requires:

"...any amendment of the lease be submitted for its review and approval to assure its continued adequacy as a basis for Planned Development designation<sup>2</sup>;"

"...any amendment to the (Parking) Agreement shall be filed with the Commission for review and approval, to assure its continued adequacy as a basis for Planned Development designation<sup>3</sup>."

In addition, ¶24 of the Consolidated List of Approval and Detailed Plan Review Conditions of the Board of Aldermen and City Plan Commission (Report 1118-11)", dated 25 July 1990 and approved by the Board of Alders on 7 November 1990 (See, **Exhibit A**), states:

"...the amendment of these leases... (Site Lease, Facilities and Parking Agreements)...shall be submitted for CPC review and approval to assure their continued adequacy as a basis for Planned Development designation."

**The Issue Before the City Plan Commission.** Very simply and to the point, my client, NHCPA Outdoors LLC ("NHCPAO"), a nonprofit subsidiary of New Haven Center for Performing Arts, Inc. ("NHCPA"), will be replacing the Tennis Foundation of Connecticut,

<sup>1</sup> Note: There are no requested changes to the Facilities Agreement. In other words, TFC remains a party to that agreement.

<sup>2</sup> See, PDD, p. 5 of 20.

<sup>3</sup> See, PDD, p. 6 of 20.

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Inc. ("TFC")<sup>4</sup> as the tenant and licensee in the original Lease and the Parking Agreement, respectively, both dated 1 May 1990. These requests are consistent with the permitted uses under PDD-86. NHCPAO plans to present musical concerts and other events at the facility and, as a nonprofit, falls squarely within the parameters of the permitted use as set forth in (1) the PDD both as recorded<sup>5</sup> and, more importantly, as amended by the Board of Alders, on 4 June 1990; as well as (2) ¶18 of the "Consolidated List of Approvals" of PDD-86, which, along with the amendment of the Alders, permit "events sponsored by a nonprofit organization and performed by or with a person employed by such organization."

**The Context.** This request is made in the context of a permitted use by NHCPAO. There are several factors to consider:

- (1) The recorded CPC Report 1112-01, which literally acknowledged the prohibition of concerts for profit:
- (2) The unrecorded PDD amendments adopted by the Board of Alders at the time the PDD was approved, which adopted the explicit provisions of the State Bond Act applicable to "concerts";
- (3) The provisions of the original lease adopted contemporaneously with the designation of the PDD, which included "concerts" as a permitted use; and,
- (4) The actual concert performances that have taken place at the stadium, without any modification of the original PDD.

When considered in this context it should be fully evident that PDD-86 contemplated utilization of the stadium for concerts.

CPC Report 1112-01 set forth, its zoning rationale, the permitted use of "...a commercial athletic facility where a college athletic facility<sup>6</sup>". Yet, that rationale does not tell the entire story of what was or was not permitted in the planned PDD. Included in the CPC report was a specific reference to and clear cognizance of the provision of the State Bonding Agreement that "prohibits concerts for profit<sup>7</sup>." The report was not otherwise expansive on the subject of "concerts" or "other events". It is not clear why that was the case or why the amended PDD was not recorded since amendments were clearly approved by the Board of Alders on June 4, 1990 (see, below).

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<sup>4</sup> New Haven Center for Performing Arts, Inc. ("NHCPA") is a nonprofit which was organized upon recommendation of the FDIC prior to the disposition of properties formerly owned by a private developer. The intent was to ensure that the former Palace Theater would be retained for the public. This venture by NHCPA furthers that charitable purpose envisioned by the federal and local officials at the time of the disposition and is consistent with the Consolidated Conditions of Approval of PDD-86, ¶18, 25 July 1990 ("CCA"). NHCPAO is a disregarded entity for income tax purposes; in effect, falling under the umbrella of NHCPA.

<sup>5</sup> See, PDD, p. 5 of 20.

<sup>6</sup> See, PDD, p. 15 of 20.

<sup>7</sup> See, PDD, p. 5 of 20.

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The PDD was enacted by the adoption of a zoning amendment "Designating a Planned Development District for Certain Properties Located at the Intersection of Yale Avenue and Derby Avenue and Including Lands Adjacent to the Yale Bowl and Incorporating Conditions Generated from the Public Hearing on Same" which, following extensive public hearings by the Legislation Committee was introduced to the Board of Alders on 21 May 1990 (See, **Schedule B**). The proposed PDD was, then, debated and approved on 4 June 1990 (See, **Schedule C**). During the deliberations of the Legislation Committee and on the floor of the Board of Alders, the conditions set forth in CPC Report 1112-01 were amended:

"In addition to all conditions of approval set forth in New Haven City Plan Commission Advisory Report, #1112-01....the following conditions are hereby added as amendments to the Planned Development District (PDD) Designation:...5. **Concerts.** (emphasis added)"

The related bond issue which provided "...a grant-in-aid...for the development of tennis facilities in New Haven, including a tournament stadium to be constructed on land leased for such purpose....(to be) owned by a nonprofit organization subject to the terms of the lease of the land<sup>8</sup>" did not stop there with respect to potential uses. As the record demonstrates the Alders amended the PDD to include language that was set forth in the Bond Act and was not included in the recorded PDD/CPC Report 1112-01. That addition is quite significant. The amendment included the Bond Act prohibition of,

"...any commercial or for profit events for which an admission fee or other contribution or payment is charged other than (1) tennis events and (2) events both sponsored by a nonprofit organization and performed by or with any person employed by such organization<sup>9</sup>."

That identical language is found in CPC Report 1118-11. The amended language is a more robust expression of the state's intent than that which was more obliquely included in the recorded PDD: "A stipulation of that instrument (the Bond Act) prohibits concerts for profit." Yet, even the recorded PDD mentions "concerts". Thus, the only probation pertaining to concerts was not related to "user" but rather to the "user". In this case NHCPAO would unmistakably qualify as a permitted user.

There can be no doubt that the stadium was built, predominantly, to host the Volvo International Tennis Tournament and was so utilized for various replacement tournaments over the years. It is equally true that "concerts" and other "events" were permitted from the onset. There is nothing that demonstrates the legislative intent more than the recitation of amendments during the legislative debate when the Chair of the Legislation Committee specifically referred to "concerts" when reciting the

"...amendments to the actual Planned Development District...involved traffic,

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<sup>8</sup> Journal of the Board of Alders, 4 June 1990, pp. 1197 – 1198 ("6/4/90 Journal").

<sup>9</sup> 6/4/90 Journal, pp. 1198.

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parking, the use of alcohol in the field, public use of the courts, lighting, **concerts, sewage and so forth**<sup>10</sup> (emphasis added)."

It should be further noted that the only limitation on concerts is the one set forth in the state bond act prohibition, i.e. "concerts for profit." There were no limitations on concerts set forth in either the recorded PDD or the Amendments by the Board of Alders. On the contrary those legislative amendments clearly set forth a straightforward intent that "concerts" would take place at the tennis center/stadium.

This intent is further set forth in the Site Lease Agreement, which is one of two required items before the CPC this evening. Section 4.1 of the original lease, approved at the time the PDD was adopted, allowed the Tenant

**"...to use the Premises, for tennis tournaments or other events...other than tennis tournaments and community events** (emphasis added)."

At the inception of the lease, the limitation on such events was "no more than ten (10) events other than tennis tournaments and community events". Yet, even the "10 event limitation" could be waived with the "...Landlord's express consent, to be granted or withheld by Landlord in its reasonable discretion with respect to each such event individually."

Again there is no doubt that tennis tournaments were the impetus for the creation of the stadium. At the same time, as evident by the actions of the Board of Alders and the simultaneous approval of the Site Lease, it was clearly intended that other events would occur at the stadium and there was no limit aside from the "concert for profit" limitation. To repeat, there were no limitations on "other events" in the PDD, the unrecorded Amendments of the PDD or the consolidated conditions document.

Finally, it is demonstrably true that concerts have been performed at the stadium over the years. The fact that there were not more concerts had nothing to do with any limitation in the PDD. There were other non-legal factors in play:

- (1) The bond act prohibition of "concerts for profit" eliminated a broad swath of concert promoters that would have the wherewithal to underwrite and produce shows. NHCPAO does not fall within such a limitation as it is a nonprofit organization as envisioned by the drafters of the State Bond Act and the amendments of the Board of Alders. In fact, by virtue of its experience at the College Street Music Hall, NHCPAO is uniquely suited to meet the mandate of the State Bond Act provisions incorporated in the PDD by the Board of Alders.
- (2) There was the "ten concert" limitation as set forth in the original lease that made it cost prohibitive to successfully stage a concert program, especially

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<sup>10</sup> 6/4/90 Journal pp. 2106-07.

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for most nonprofits.

- (3) A practical limitation stemmed from the fact that the center court required time to "cure" for several months prior to the tennis tournament, which effectively, prohibited a regular or full-scale summer concert series. Again, sporadic concerts, requiring temporary staging, were also cost prohibitive inhibitors for the presentation of concerts.

CPC 1112-01 when read in the context of the 4<sup>th</sup> of June 1990 amendments by the Board of Alders should raise no doubt that "concerts" as addressed in those documents are a permitted use within the PDD.

**The Lease Amendment.** NHCPAO will operate the facility in substantially same manner as the College Street Music Hall which is operated by NHCPA, which abuts a residential apartment complex. Under the lease agreement NHCPAO replace TFC as the tenant and, as such, will operate in accordance with the provisions of law including the applicable PDD.

Since a redline is not available due to the method used by the landlord I am attached the provisions of the original lease which the parties seek to amend; attached hereto as **Exhibit D**, which highlight the sections of the lease that will be amended. The proposed lease amendment reflects the understanding of the parties:

"...to use the Premises for musical concerts and comedy and other performing arts events. In addition, Tenant shall have the right to use the Premises for professional tennis tournaments, community tennis tournaments and other events specifically approved in writing by Landlord, in its sole discretion. All uses by Tenant shall be subject to and in accordance with all PDD Zoning regulations, approvals, conditions and requirements of the City of New Haven, and all other applicable laws, rules and regulations<sup>11</sup>."

The lease amendment also addresses the issue of coordinating the schedules of Yale and NHCPAO in order to ensure compliance with the PDD requirement to avoid simultaneous events<sup>12</sup>. Other lease amendments ensure that NHCPAO will not use the "Yale name" as currently permitted<sup>13</sup>, engage in due diligence and affirmatively address the condition of the facility to ensure its long-term viability<sup>14</sup>; an indemnification provision not currently in the lease<sup>15</sup>; deletion of a reference to improvements required by a dormant contract<sup>16</sup>; modification of the notice provisions<sup>17</sup>.

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<sup>11</sup> Section 4.1 of the Ground Lease.

<sup>12</sup> Section 4.1 of the Ground Lease.

<sup>13</sup> Section 4.4(c) and Exhibit C of the Ground Lease.

<sup>14</sup> Section 6.1. of the Ground Lease.

<sup>15</sup> New section 9.4 of the Ground Lease.

<sup>16</sup> Section 14.1 of the Ground Lease.

<sup>17</sup> Section 20.1 of the Ground Lease.



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**The Parking Agreement Amendments (See, Exhibit E).** With respect to the Parking Agreement NHCPAO is granted a license to utilize the parking lots contiguous to the Yale Bowl. The term is fifteen (15) years, terminating on 31 August 2035. At that time the lease would automatically renew on a year-to-year basis unless either party gives notice of termination thirty (30) days in advance of August 31<sup>st</sup> of any calendar year. The agreement, like the lease, addresses the issue of planning to avoid duplicate events on the site and places significant supervisory functions with NHCPAO. As discussed below, NHCPAO will work with City officials and the representatives of the neighborhoods on strict enforcement of measures required by the PDD and critical to the neighborhood.

**Conclusion.** NHCPAO is not seeking any modifications of the PDD, as the replaced tenant will be operating consistent with the current PDD. Moreover, NHCPAO is not making any physical or structural alterations of the facility or requesting any expansion of seating capacity<sup>18</sup> or the "lighting atop the stadium"<sup>19</sup>. Nor does NHCPAO propose any "material changes" to the facility; meaning there will be no increase in height or the size of the structure or any new permanent structures<sup>20</sup>. The only work will be the placement of a temporary stage and refurbishment of the current concession stands.

NHCPAO will comply with all federal, state and local laws pertaining to the operation of the facility. Most significantly, NHCPAO will strictly enforce the provisions of PDD-86 pertaining to the quality of life of the residents in the neighborhoods contiguous to the facility in order to maximize their access to this great cultural resource and to minimize any inconvenience. This includes the annual review of the Traffic Operations Plan ("TOP") by the "Working Committee"<sup>21</sup> ("WC"). In this regard, NHCPAO will be working with the three Alders from the 23<sup>rd</sup>, 25<sup>th</sup> and 26<sup>th</sup> Wards, either through the WC or otherwise, to have an ongoing vehicle to address the myriad of issues that may impact the neighbors.

Moreover, it can be stated without reservation, that all the parties to these agreements are fully supportive of the efforts of NHCPAO as we proceed to the City Plan Commission for these minor amendments. Their consents are attached hereto ("Exhibit F"). Moreover, the Connecticut Department of Economic and Community Development has worked with NHCPAO and TFC to release certain obligations in order to facilitate this process.

Respectfully submitted,

Steven G. Mednick

SGM:oho

<sup>18</sup> It should be noted that the events at the facility will not and cannot exceed the maximum of 15,000 seat capacity stated in the PDD. Moreover, a major portion of the upper deck is off limits since there are solar panels..

<sup>19</sup> CCA, ¶17.

<sup>20</sup> CCA, ¶23.

<sup>21</sup> CCA, ¶25.

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**EXHIBIT A**

**UNANIMOUS CONSENT APPROVAL OF THE CONSOLIDATED CONDITIONS OF  
APPROVAL (CPC 1118-11) BY THE BOARD OF ALDERS, 7 NOVEMBER 1990**

BOARD OF ALDERMEN  
NOVEMBER 7, 1990

decisions which reflect the highest good. Let us strive forever in our sense of unity and brotherhood, to live up to our name, New Haven. Amen."

President Grasso: "Will we all remain standing for a moment of silence for the Mayor's father, John Daniels, Sr."

MOMENT OF SILENCE OBSERVED.

## APPROVAL OF JOURNAL

The Journal of the Regular Meeting held on October 15, 1990 was approved.

## IMMEDIATE CONSIDERATION

The following were read for the first time and unanimous consent for immediate action thereon having been granted, it was voted, viva voce, on motion of Alderman Dunleavy, duly seconded, that each be accepted and the matter to which they refer be approved, and it was so declared by the Chair:

FROM ALDERMAN MORAND AN ORDER CALLING FOR AN ALDERMANIC HEARING ON PROBLEMS RELATING TO THE PROVISIONS OF EMERGENCY HOUSING BY THE CITY (ORDER PASSED)

ORDER OF THE NEW HAVEN BOARD OF ALDERMEN CALLING FOR AN ALDERMANIC HEARING ON PROBLEMS RELATING TO THE PROVISIONS OF EMERGENCY HOUSING BY THE CITY

WHEREAS: published reports indicate that the Welfare Department of the City of New Haven owes landlords \$746,000 in back rent for emergency housing; and

WHEREAS: Coopers & Lybrand have performed an audit of the Department's activities; and

WHEREAS: this audit points out numerous administrative accounting and record-keeping problems in the Department; and

WHEREAS: the Human Resources Administrator has begun to address these problems.

NOW, THEREFORE BE IT ORDERED that the appropriate committee of the New Haven Board of Aldermen will hold a public hearing to consider the problems around payment for and provision of emergency housing by the Department of Welfare and related issues.

BE IT FURTHER ORDERED that the Human Resources Administrator of the City of New Haven and/or her designee(s) shall testify at said hearing, and shall furnish said committee with a copy of the Coopers & Lybrand audit and any other pertinent information in advance of said hearing; and

BE IT FURTHER ORDERED, that said committee of the Board of Aldermen shall report its findings to the full Board of Aldermen.

FROM HOUSING AND NEIGHBORHOOD DEVELOPMENT A RESOLUTION APPROVING AN APPLICATION TO THE STATE OF CONNECTICUT DEPARTMENT OF HUMAN RESOURCES AND



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Connecticut, at a cost of \$175.00 per month. When the bills had reached a total of \$1,500.00, these payments were no longer made.

The Police Department now owes Gelco for eight (8) months rental on the trailer. The period of time covered is from April, 1989, through December, 1989. The lease was terminated in December of 1989. Attached are copies of the bills owed by the Police Department.

While this is not an approved practice, I am now requesting a waiver of Section 73 of the City Charter to pay for the additional eight months rental that are owed to Gelco. The total cost involved is \$1,400.00. I would like to request Unanimous Consent on this issue.

Thank you for your consideration of this request.

Respectfully submitted,

RICHARD R. MCCANN  
Purchasing Agent

ORDER OF THE BOARD OF ALDERMEN OF THE CITY OF NEW HAVEN APPROVING A CONTRACT BETWEEN THE NEW HAVEN POLICE DEPARTMENT STREET CRIME UNIT NARCOTICS TASK FORCE AND GELCO SPACE

WHEREAS, the City of New Haven in an effort to reduce drug activity conducted a series of drug stings for more than a year; and

WHEREAS, during the course of the sting, a contract was signed and a trailer was rented by

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NOVEMBER 7, 1990

the New Haven Police Department/Street Crime Narcotics Task Force from GELCO Space for use as a field headquarters at the cost of \$175.00 per month; and

WHEREAS, the contract was not completed within one year and exceeded \$1,500.00; and

WHEREAS, an outstanding balance of eight months rent at \$175.00 per month for a total of \$1,400.00 remains unpaid under the contract;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ALDERMEN THAT:

The contract between the New Haven Police Department Street Crime Narcotics Task Force and GELCO Space be approved and ratified and that the New Haven Police Department be authorized to pay the outstanding balance of \$1,400.00 to GELCO Space.

FROM CITY PLAN COMMISSION REQUESTING APPROVAL OF TWO MODIFICATIONS TO THE CONSOLIDATED CONDITIONS OF APPROVAL (CPC 1118-11, AUGUST 1990) RE CHANGE IN HEIGHT OF STADIUM AND REPLACEMENT OF THE PERFORMANCE BOND BY A CONSTRUCTION DELINEATION AND OPERATIONS PLAN, COUPLED WITH ADVANCING THE SCHEDULE FOR SITE IMPROVEMENT TO ASSURE PROVISION OF SITE AMENITIES AND RESTORATION. (ORDER PASSED)

October 19, 1990

Honorable Board of Aldermen  
City of New Haven  
New Haven, Connecticut 06510

2112 BOARD OF ALDERMEN  
NOVEMBER 7, 1990

RE: Connecticut Tennis Center Planned Development District

Ladies and Gentlemen:

You will recall that in approval of the above referenced Planned Development District (PDD), the Board assumed certain administrative duties normally performed solely by the City Plan Commission. Two minor modifications to the conditions of approval have been requested by the Tennis Foundation of Connecticut (TFC) which the Commission believes are reasonable and in the best interest of all involved parties.

The modifications are outlined in attached City Plan Commission Report 1123-08, adopted unanimously by the Commission on October 17, 1990. Also attached for your information are the request from TFC as well as the consolidated conditions of approval for the PDD.

The Board is obliged to act in an administrative capacity as against its normal legislative role and procedures. Given that, the Commission suggests that your honorable Board examine the proposed minor modifications to the conditions of approval and adopt them by unanimous consent at your meeting of November 7, 1990.

Sincerely yours,

JOHN L. MCGUERTY  
Executive Director

ORDER OF THE BOARD OF ALDERMEN OF THE CITY OF NEW  
HAVEN APPROVING TWO MODIFICATIONS TO THE

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CONSOLIDATED CONDITIONS OF APPROVAL (CPC 1118-11, AUGUST 1990) RE CHANGE IN HEIGHT OF STADIUM AND REPLACEMENT OF THE PERFORMANCE BOND BY A CONSTRUCTION DELINEATION AND OPERATIONS PLAN, COUPLED WITH ADVANCING THE SCHEDULE FOR SITE IMPROVEMENT TO ASSURE PROVISIONS OF SITE AMENITIES AND RESTORATION

WHEREAS: City Plan Commission has submitted a request to make modifications to the consolidated conditions of approval in City Plan Commission Report 1118-11, August 1990 (CPC 1118-11, August 1990); and

WHEREAS: the Board of Aldermen has retained jurisdiction over modifications to said consolidated conditions of approval (CPC 1118-11, August 1990); and

WHEREAS: the City Plan Commission has unanimously adopted the modification to the consolidated conditions of approval (CPC 1118-11, August 1990) as outlined in City Plan Commission Report 1123-08 adopted on October 17, 1990.

NOW, THEREFORE, BE IT ORDERED by the Board of Aldermen of the City of New Haven that the modifications to the consolidated conditions of approval (CPC 1118-11, August 1990), as contained in City Plan Commission Report 1123-08 adopted on October 17, 1990, and attached hereto and incorporated herein as set forth in their entirety, be and they are hereby approved.

FINANCE, REVENUE AND BONDING. FAVORABLE. RESOLUTION OF THE NEW HAVEN BOARD OF ALDERMEN APPROVING

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**EXHIBIT B**

**FIRST READING OF THE PDD (CPC 1112-01), AS AMENDED BY THE LEGISLATION  
COMMITTEE OF THE BOARD OF ALDERS, 21 MAY 1990**

TOTAL: \$310,417TOTAL FUNDS AVAILABLE: \$4,204,417

Hardware	\$2,902,785
Software (15%)	\$524,100
Planning & Admin (20%)	\$777,532

LEGISLATION. FAVORABLE. ZONING ORDINANCE AMENDMENT DESIGNATING A PLANNED DEVELOPMENT DISTRICT FOR CERTAIN PROPERTIES LOCATED AT THE INTERSECTION OF YALE AVENUE AND DERBY AVENUE AND INCLUDING LANDS ADJACENT TO THE YALE BOWL AND INCORPORATING CONDITIONS GENERATED FROM THE PUBLIC HEARING ON SAME.

ZONING ORDINANCE AMENDMENT DESIGNATING A PLANNED DEVELOPMENT DISTRICT FOR CERTAIN PROPERTIES LOCATED AT THE INTERSECTION OF YALE AVENUE AND DERBY AVENUE AND INCLUDING LANDS ADJACENT TO THE YALE BOWL AND INCORPORATING CONDITIONS GENERATED FROM THE PUBLIC HEARING ON SAME

WHEREAS: the Legislation Committee, at public hearing on May 10, 1990 and after deliberation on May 14, 1990, has issued a report to the Board of Aldermen regarding a planned development district application on behalf of the Tennis Foundation of Connecticut to construct the Connecticut Tennis Center; and

WHEREAS: as a result of hearings regarding said application, the committee has delivered to this Board certain conditions

*See above p. 967*

and requirements applicable to said application; and

WHEREAS: said conditions and requirements are reasonable in their intent and their application.

NOW, THEREFORE, BE IT ORDAINED that pursuant to the provisions of Section 65 of the Zoning Ordinance of the City of New Haven, the application on behalf of the Tennis Foundation of Connecticut for Planned Development Designation for certain parcels of land located at the intersection Yale Avenue and Derby Avenue, as described at public hearing before the Committee on Legislation of this Board on May 10, 1990 be and it is hereby approved subject to the conditions and requirements contained in the report of the Committee on Legislation of this Board, attached hereto and hereby adopted as a part of this amendment, and the conditions and requirements of the City Plan Commission report number 1112-01, as amended by said report of the Committee on Legislation, which report is incorporated herein as if set forth in its entirety as amended.

#### REPORT OF THE COMMITTEE ON LEGISLATION

Having heard the applicant and public testimony on May 10, 1990, and having reviewed the Report of the City Plan Commission, the Committee on Legislation of the Board of Aldermen, hereby reports the application of the Tennis Foundation of Connecticut out of the committee, without either a favorable or unfavorable recommendation, and subject to the following amendments:

I.

The committee recommends that a final vote by the Board of Aldermen be tabled, unless the following documents and reports are submitted to the full Board for its review prior to said vote:

A. The submission and a public hearing on the proposed Tax Abatement Agreement;

B. An opinion from independent legal counsel as to the ability to impose legally enforceable conditions on a user or applicant of a PDD outside of the borders of the district, but affecting the use proposed within the district and as to the ability to add property within a PDD which is not owned by the applicant;

C. A detailed explanation from the Chief Administrative Officer as to the financial benefits to the City from the ticket surcharge, and an ordinance or resolution to be enacted so as to make the same legally operative;

D. A detailed study from the Department of Traffic and Parking as to the exact number of parking spaces available to the VITT patrons at the Yale Fields, and as to the traffic impact of said PDD, all as required by Sec. 2 1/2-8 of the Code of Ordinances;

E. A letter from the chief of police stating that parking and traffic plans can be safely accomplished and that he

concurs with the same, and that the back-up parking proposal for use of the Rt. 34 connector (Legion Avenue), can safely be accomplished;

F. The approval of the State Traffic Commission of said tennis tournament, which commission is expected to meet on May 15, 1990;

G. A letter from the City Engineer recommending prohibition of truck traffic from the Chapel Street bridge over the West River until the bridge is replaced.

## II. AMENDMENTS TO VOLVO PLANNED DEVELOPMENT DISTRICT

Subject to the receipt and approval by the Legislation Committee of the foregoing documents and agreements, the Committee recommends a favorable vote on the PDD by the full Board, with the following amendments:

In addition to all conditions of approval set forth in New Haven City Plan Commission Advisory Report, #112-01, (The Tennis Foundation of Connecticut, Inc.), the following conditions are hereby added as amendments to the Planned Development District (PDD) Designation:

1. Traffic and Parking: Until amended by further submission to the Legislation Committee, the traffic and parking plan shall be as submitted by Wilbur Smith Associates, in a plan entitled "Tennis



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Foundation of Connecticut Traffic and Parking Study, New Haven, Connecticut, April, 1990", on file with the Board of Aldermen and the City Plan Commission, except that:

- (a) Marginal Drive shall not be opened to Orange Avenue, West Haven, for traffic. Subject to the approval of the Park Commission of the City of New Haven, parking shall be opened on the New Haven side of the drive, but no vehicular ingress or egress shall be allowed through the West Haven side.
- (b) The Roger Road gate to Yale Field D shall not be opened for any event pursuant to this PDD;
- (c) Residential parking permits shall be issued to homes in streets so designated by the Tennis Foundation of Connecticut in consultation with the aldermen from the affected wards;
- (d) A buffer zone of no less than 25 feet shall be created between parked vehicles and the fence on the Cleveland Road (North) side of Yale Field D, which buffer zone shall prohibit parking and driving within its borders;
- (e) A back-up parking plan shall be

submitted to the City Plan Commission for approval, in consultation with the aldermen from the affected wards;

- (f) Ticketed patron parking shall be prohibited from Yale Field A during the PDD;
  - (g) No access shall be allowed to any parking on Chapel Street from the South over the West River Bridge, until the bridge is replaced;
  - (h) Appropriate arrangements shall be presented to the City Plan Department for handicapped parking;
  - (i) No events shall be held concurrently at the Yale Bowl and at the Tennis Stadium.
2. Food and Alcoholic beverages:
- (a) No food or alcoholic beverages shall be sold or consumed within the Yale Parking Fields which are the subject of the Parking Agreement, it being the intent of this section to prohibit "tailgating" and similar events thereon;
  - (b) Alcoholic beverages shall only be sold at the stadium or in any controlled area available only to ticketed patrons, within the Facilities Agreement, during

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tennis events and not during any other events.

3. Public Usage of Courts: Inasmuch as public funds are being used to renovate certain areas and facilities owned by Yale University, the Tennis Courts shall remain open to public use, as per the Facilities Agreement, for a term of not less than 50 years;

4. Lighting:

- (a) A reasonably detailed lighting plan shall be submitted to the Legislation Committee prior to the final vote on this PDD, which plan, if approved, shall be incorporated into the PDD.
- (b) Any lighting plan shall consist only of temporary lighting installations in the parking fields. Such lighting shall be designed so as to minimize light and glare to adjacent neighbors;
- (c) Any lighting atop the stadium shall be designed so as to minimize light and glare to the neighbors;
- (d) No lighting plan shall be approved prior to its review by affected neighbors and aldermen;
- (e) Such lighting shall be available

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for TFC events only;

5. Concerts: The limits of the State Bond Act funding the Connecticut Tennis Center shall also be approvals of the PDD. Said conditions, as written in the State Bond Act shall continue in effect even after the termination of the bond issue, and shall be as follows:

"In accordance with the authorization granted in Section 29 of the State Bond Act, the state, acting through the Department of Economic Development may provide a grant-in-aid to the Tennis Foundation of Connecticut, Inc., for the development of tennis facilities in New Haven, including a tournament stadium to be constructed on land leased for such purpose. Such grant-in-aid shall be made in accordance with the terms of a contract at such time or times as shall be determined within authorization of funds by the State Bond Commission. Such contract shall provide that such stadium shall be owned by a nonprofit organization subject to the terms of the lease of the land on which it is constructed, shall be available for public usage as a tennis facility at such time or times as determined by such nonprofit organization and shall not be made available for any commercial or for profit events for which an admission fee or other contribution or payment is charged

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other than (1), tennis events and (2) events both sponsored by a nonprofit organization and performed by or with any person employed by such organization, as employment is defined in chapter 567 of the general statutes. Such lease shall have a term of ninety-nine years, subject to termination by either party after fifty years and also subject to earlier termination in the event of the tenant's default or bankruptcy. Such lease shall also provide that before termination for the tenant's default or bankruptcy, or in the event that the tenant ceases to make the stadium available to the public as a tennis facility, the tenant shall assign the lease and ownership of the stadium, together with the tenant's right to use other facilities developed with such grant-in-aid funds, to the town and city of New Haven, which shall succeed to the tenant's interest in the lease and the stadium, and that before termination for such town and city's default, such town and city shall offer to assign the lease and ownership of the stadium, together with the tenant's right to use such other facilities, to the state, and, if the state accepts such offer, it shall succeed to the city's interest in the lease and the stadium."

6. Legal Opinion: Prior to a final vote on this PDD, the Board of Aldermen shall obtain:

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(a) A favorable legal opinion from the Corporation Counsel to the effect that the City is adequately insured and indemnified for loss, liability and damage concerning the use of the stadium and facilities; and

(b) An evaluation by the City Engineer of the inland wetlands, flood zone, flood plain and related issues dealing with this project;

7. Sewage: The Commission sewage requirement on page 13 of the City Plan Report is hereby made a condition of approval. In addition, Yale University shall pay to the WPCA, its sewer use charges for use of said sewage facilities, and shall pay its pro-rata share for the construction of a pumping station, lines, etc.

8. West River Bridge: The City shall complete the construction of the bridge over the West River at Chapel Street as quickly as possible. The plans for said bridge shall be approved by neighborhood representatives and the affected aldermen. This condition shall not be interpreted as affecting the granting of the PDD application.

9. Advertising: JEWELL or its successors shall advertise the VITT as being in New Haven, "at Yale in New Haven", and not "at Yale".

10. Finances: Inasmuch as the TFC shall run at a loss the first several years, the City shall not make any financial contribution toward said deficit.
11. Polystyrene Foam: No foods or beverages shall be offered or sold in polystyrene foam containers, or other non-degradable materials;
12. Final Plans: Any material changes in the PDD shall require subsequent approval of the Board of Aldermen. "Material" shall be defined as, any increase in the height of any permanent structure over 5%, the size or location (in excess of 15 feet), of any permanent structure, any new permanent structures, any change in roads, or any change in the use of the tennis stadium, among other matters, but not otherwise as to the design of the stadium.

13. City Plan Report: The City Plan Report, #1112-01, which is incorporated by reference, as amended herein, is further amended as follows:

- (a) Page 5 ("Site Lease Agreement"), is amended to include the Facilities Agreement and the Parking Agreement.
- (b) Page 11 ("Traffic etc."), is amended to provide that the TOP Working Committee is advisory

only, and any change in the traffic, access and parking plans requires the subsequent approval of the Board of Aldermen as opposed to the Commission. Membership of this advisory body shall include (up to a total of 5) any aldermen and neighborhood representatives appointed for that purpose by the President of the Board of Aldermen.

- (c) Page 11 ("Patron Parking"). No change in the patron parking shall be made without approval of the Board of Aldermen, as the TOP is advisory only.

#### SECOND READINGS

FINANCE, REVENUE AND BONDING. FAVORABLE. ORDER IMPOSING A LEVY AS MUNICIPAL TAX LEVY IN THE WHALLEY AVENUE SPECIAL SERVICES DISTRICT.

The favorable report from the Committee on Finance, Revenue and Bonding recommending passage of the proposed order as printed on pages 832-833 of the Journal of the Regular Meeting held on May 7, 1990 was read for the second time, and on motion made and duly seconded, it was voted, viva voce, that said report be accepted and proposed order be passed and it was so declared by the Chair.

Alderman Harp: "The matters before you represent the budgets and special levy for the

**Steven G. Mednick**  
Attorney

**EXHIBIT C**

**ADOPTION AND ENACTMENT OF THE PDD (CPC 1112-01), AS AMENDED BY THE  
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President Pro Tempore Mednick: "Before I recognize the Chairman of the Legislation Committee, I just want to state for the record that the Chair neglected to recognize Alderwoman Sweeten, who serves on a number of community boards that are receiving funding, and she would like to have her vote on the CD package noted as an abstention. It is so noted."

Note: Alderwoman Sweeten abstained from voting on the entire Community Development Block Grant package.

LEGISLATION. FAVORABLE. ZONING ORDINANCE AMENDMENT DESIGNATING A PLANNED DEVELOPMENT DISTRICT FOR CERTAIN PROPERTIES LOCATED AT THE INTERSECTION OF YALE AVENUE AND DERBY AVENUE AND INCLUDING LANDS ADJACENT TO THE YALE BOWL AND INCORPORATING CONDITIONS GENERATED FROM THE PUBLIC HEARING ON SAME.

The favorable report from the Committee on Legislation, recommending enactment of the proposed zoning ordinance amendment as printed on pages 966-977 of the Journal of the Regular Meeting held on May 21, 1990, was read for the second time.

Alderman Einhorn: "Before I begin on debate, there's two housekeeping items we must take up. The first, as you indicated begins with the main agenda. I would move that we amend the agenda for the purpose of receiving and voting upon the report of the New Haven City Plan Commission with regard to Coastal Site Plan Review."

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CITY PLAN COMMISSION REPORT RE: COASTAL SITE PLAN REVIEW FOR TEMPORARY STADIUM AND TENNIS COURT AT YALE AND DERBY AVENUE. (ADDED TO THE AGENDA BY A TWO-THIRDS MAJORITY VOTE) (PRESENTED UNDER SUSPENSION OF SECTION 24-1-A OF THE RULES OF THE BOARD OF ALDERMEN - 2/3 MAJORITY VOTE)

June 4, 1990

Honorable Board of Aldermen  
City of New Haven  
200 Orange Street  
New Haven, CT. 06510

Ladies and Gentlemen:

The attached reports referenced below adopted by the City Plan Commission at its meeting of April 25, 1990 is forwarded to you for your consideration.

RE: Yale and Derby Avenue, Coastal Site Plan Review for Temporary Stadium and Tennis Court; Conceptual Review of 15,000 seat Permanent Stadium Facility (Tennis Foundation of Connecticut, Inc.)

REPORT: 1111-09

FINDING/RECOMMENDATION: Approval with Conditions

Respectfully submitted,

JOHN L. MCGUERTY  
Executive Director

Alderman Einhorn: "Mr. President, to continue with this item, I would move that we approve the Coastal Site Report concerning the

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Property at Yale and Derby Avenues as in Report 1111-9."

COASTAL SITE PLAN REVIEW APPROVED.

Upon motion made and duly seconded, the approval of said Coastal Site Plan Review was put to a roll call vote, which results were as follows:

Those voting "Aye": Harp, Dawson, Reyes, Perez, Krevit, Zeidenberg, Delauro, Staples, Lyons, Paolillo, Kroogman, Sweeten, Crisco, Depino, Pearson, Greene, Rogers, Simmonds, McCormack, Einhorn, Mednick, Dunleavy, Braffman, Botto and Moore - 25.

Those voting "No": None.

Note: Alderpersons Morand, Lampo and Valentovich were not present at the time of the voting on the above-entitled matter.

Alderman Einhorn: "The next and final piece of housekeeping that we need to take up is as follows."

MOTION TO AMEND AND AMENDMENT.

Alderman Einhorn made a motion to amend as follows, which motion was duly seconded: Substitute in its entirety the following Order for the Committee report as it appears on pages 966-977 of the Journal of the Regular Meeting of the Board of Aldermen held on May 21, 1990:

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ZONING ORDINANCE AMENDMENT DESIGNATING A PLANNED DEVELOPMENT DISTRICT FOR CERTAIN PROPERTIES LOCATED AT THE INTERSECTION OF YALE AVENUE AND DERBY AVENUE AND INCLUDING LANDS ADJACENT TO THE YALE BOWL AND INCORPORATING CONDITIONS GENERATED FROM THE PUBLIC HEARING ON SAME

WHEREAS: the Legislation Committee, at public hearing on May 10, 1990 and after deliberation on May 14, 1990, has issued a report to the Board of Aldermen regarding a planned development district application on behalf of the Tennis Foundation of Connecticut to construct the Connecticut Tennis Center; and

WHEREAS: as a result of hearings regarding said application, the committee has delivered to this Board certain conditions and requirements applicable to said application; and

WHEREAS: said conditions and requirements are reasonable in their intent and their application.

NOW, THEREFORE, BE IT ORDAINED that pursuant to the provisions of Section 65 of the Zoning Ordinance of the City of New Haven, the application on behalf of the Tennis Foundation of Connecticut for Planned Development Designation for certain parcels of land located at the intersection Yale Avenue and Derby Avenue, as described at public hearing before the Committee on Legislation of this Board on May 10, 1990 be and it is hereby approved subject to the conditions and requirements contained in the report of the Committee on Legislation of this Board, attached hereto and hereby adopted as a part of this amendment, and the conditions and

requirements of the City Plan Commission report number 1112-01, as amended by said report of the Committee on Legislation, which report is incorporated herein as if set forth in its entirety as amended.

#### REPORT OF THE COMMITTEE ON LEGISLATION

Having heard the applicant and public testimony on May 10, 1990, and having reviewed the Report of the City Plan Commission, the Committee on Legislation of the Board of Aldermen, hereby reports the application of the Tennis Foundation of Connecticut out of the committee, without either a favorable or unfavorable recommendation, and subject to the following amendments:

I. The committee recommends that a final vote by the Board of Aldermen be tabled, unless the following documents and reports are submitted to the full Board for its review prior to said vote:

A. The submission and a public hearing on the proposed Tax Abatement Agreement;

B. An opinion from independent legal counsel as to the ability to impose legally enforceable conditions on a user or applicant of a PDD outside of the borders of the district, but affecting the use proposed within the district and as to the ability to add property within a PDD which is not owned by the applicant;

C. A detailed explanation from the Chief Administrative Officer as to the financial benefits to the City from the ticket surcharge,

and an ordinance or resolution to be enacted so as to make the same legally operative;

D. A detailed study from the Department of Traffic and Parking as to the exact number of parking spaces available to the VITT patrons at the Yale Fields, and as to the traffic impact of said PDD, all as required by Sec. 2 1/2-8 of the Code of Ordinances;

E. A letter from the chief of police stating that parking and traffic plans can be safely accomplished and that he concurs with the same, and that the back-up parking proposal for use of the Rt. 34 connector (Legion Avenue), can safely be accomplished;

F. The approval of the State Traffic Commission of said tennis tournament, which commission is expected to meet on May 15, 1990;

G. A letter from the City Engineer recommending prohibition of truck traffic from the Chapel Street bridge over the West River until the bridge is replaced.

#### II. AMENDMENTS TO VOLVO PLANNED DEVELOPMENT DISTRICT

Subject to the receipt and approval by the Legislation Committee of the foregoing documents and agreements, the Committee recommends a favorable vote on the PDD by the full Board, with the following amendments:

In addition to all conditions of approval set forth in New Haven City Plan Commission Advisory

Report, #1112-01, (The Tennis Foundation of Connecticut, Inc.), the following conditions are hereby added as amendments to the Planned Development District (PDD) Designation:

1. Traffic and Parking: Until amended by further submission to the Legislation Committee, the traffic and parking plan shall be as submitted by Wilbur Smith Associates, in a plan entitled "Tennis Foundation of Connecticut Traffic and Parking Study, New Haven, Connecticut, April, 1990", on file with the Board of Aldermen and the City Plan Commission, except that:
  - (a) Marginal Drive shall not be opened to Orange Avenue, West Haven, for traffic. Subject to the approval of the Park Commission of the City of New Haven, parking shall be opened on the New Haven side of the drive, but no vehicular ingress or egress shall be allowed through the West Haven side.
  - (b) The Roger Road gate to Yale Field D shall not be opened for any event pursuant to this PDD;
  - (c) Residential parking permits shall be issued to homes in streets so designated by the Tennis Foundation of Connecticut in consultation with the aldermen from the affected wards;

- (d) A buffer zone of no less than 25 feet shall be created between parked vehicles and the fence on the Cleveland Road (North) side of Yale Field D, which buffer zone shall prohibit parking and driving within its borders;
  - (e) A back-up parking plan shall be submitted to the City Plan Commission for approval, in consultation with the aldermen from the affected wards;
  - (f) Ticketed patron parking shall be prohibited from Yale Field A during the PDD;
  - (g) No access shall be allowed to any parking on Chapel Street from the South over the West River Bridge, until the bridge is replaced;
  - (h) Appropriate arrangements shall be presented to the City Plan Department for handicapped parking;
  - (i) No events shall be held concurrently at the Yale Bowl and at the Tennis Stadium.
2. Food and Alcoholic beverages:
- (a) No food or alcoholic beverages shall be sold or consumed within the Yale Parking Fields which are the subject of the Parking

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Agreement, it being the intent of this section to prohibit "tailgating" and similar events thereon;

(b) Alcoholic beverages shall only be sold at the stadium or in any controlled area available only to ticketed patrons, within the Facilities Agreement, during tennis events and not during any other events.

3. Public Usage of Courts: Inasmuch as certain funds are being used to renovate Yale University, the Tennis Courts shall remain open to public use, as per the Facilities Agreement, for a term of not less than 50 years;

4. Lighting:

(a) Only temporary, removable lighting shall be utilized for the VIIT in 1990. Within six (6) months after approval by the Board of Aldermen, the Tennis Foundation shall submit a final lighting plan to the Board of Aldermen and its Legislation Committee for approval. Said Plan may include permanent lighting;

(b) Any lighting atop the stadium shall be designed so as to minimize light and glare to the neighbors;

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(c) No lighting plan shall be approved prior to its review by affected neighbors and aldermen;

(d) Such lighting shall be available for TFC events only;

5. Concerts: The limits of the State Bond Act funding the Connecticut Tennis Center shall also be approvals of the PDD. Said conditions, as written in the State Bond Act shall continue in effect even after the termination of the bond issue, and shall be as follows:

"In accordance with the authorization granted in Section 29 of the State Bond Act, the state, acting through the Department of Economic Development may provide a grant-in-aid to the Tennis Foundation of Connecticut, Inc., for the development of tennis facilities in New Haven, including a tournament stadium to be constructed on land leased for such purpose. Such grant-in-aid shall be made in accordance with the terms of a contract at such time or times as shall be determined within authorization of funds by the State Bond Commission. Such contract shall provide that such stadium shall be owned by a nonprofit organization subject to the terms of the lease of the land on which it is constructed, shall be available for public usage as a tennis facility at such time or times



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as determined by such nonprofit organization and shall not be made available for any commercial or for profit events for which an admission fee or other contribution or payment is charged other than (1), tennis events and (2) events both sponsored by a nonprofit organization and performed by or with any person employed by such organization, as employment is defined in chapter 567 of the general statutes. Such lease shall have a term of ninety-nine years, subject to termination by either party after fifty years and also subject to earlier termination in the event of the tenant's default or bankruptcy. Such lease shall also provide that before termination for the tenant's default or bankruptcy, or in the event that the tenant ceases to make the stadium available to the public as a tennis facility, the tenant shall assign the lease and ownership of the stadium, together with the tenant's right to use other facilities developed with such grant-in-aid funds, to the town and city of New Haven, which shall succeed to the tenant's interest in the lease and the stadium, and that before termination for such town and city's default, such town and city shall offer to assign the lease and ownership of the stadium, together with the tenant's right to use such other facilities, to the state, and, if the state accepts such offer, it shall succeed to the

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city's interest in the lease and the stadium."

6. Legal Opinion: Prior to a final vote on this PDD, the Board of Aldermen shall obtain:

(a) A favorable legal opinion from the Corporation Counsel to the effect that the City is adequately insured and indemnified for loss, liability and damage concerning the use of the stadium and facilities; and

(b) An evaluation by the City Engineer of the inland wetlands, flood zone, flood plain and related issues dealing with this project;

7. Sewage: The Commission sewage requirement on page 13 of the City Plan Report is hereby made a condition of approval. In addition, Yale University shall pay to the MPCA, its sewer use charges for use of said sewage facilities, and shall pay its pro-rata share for the construction of a pumping station, lines, etc.

8. West River Bridge: The City shall complete the construction of the bridge over the West River at Chapel Street as quickly as possible. The plans for said bridge shall be approved by neighborhood representatives and the affected aldermen. This condition shall not be

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interpreted as affecting the granting of the PDD application.

9. Advertising: JEWELL or its successors shall advertise the VITT as being in New Haven, "at Yale in New Haven", and not "at Yale".

10. Finances: Inasmuch as the TFC shall run at a loss the first several years, the City shall not make any financial contribution toward said deficit.

11. Polystyrene Foam: No foods or beverages shall be offered or sold in polystyrene foam containers, or other non-degradable materials;

12. Final Plans: Any material changes in the PDD shall require subsequent approval of the Board of Aldermen. "Material" shall be defined as, any increase in the height of any permanent structure over 5%, the size or location (in excess of 15 feet), of any permanent structure, any new permanent structures, any change in roads, or any change in the use of the tennis stadium, among other matters, but not otherwise as to the design of the stadium. Permanent structures shall not include any non-occupied structures of less than 100 square feet.

13. City Plan Report: The City Plan Report, #1112-01, which is incorporated by reference, as amended herein, is

further amended as follows:

- (a) Page 5 ("Site Lease Agreement"), is amended to include the Facilities Agreement and the Parking Agreement.

- (b) Page 11 ("Traffic etc."), is amended to provide that the TOP Working Committee is advisory only, and any change in the traffic, access and parking plans requires the subsequent approval of the Board of Aldermen as opposed to the Commission. Membership of this advisory body shall include (up to a total of 5) any aldermen and neighborhood representatives appointed for that purpose by the President of the Board of Aldermen.

- (c) Page 11 ("Patron Parking"). No change in the patron parking shall be made without approval of the Board of Aldermen, as the TOP is advisory only.

14. At times the Tennis Center is not in use, Yale University will continue to be able to use the tennis courts west of Yale Avenue and the northerly undeveloped portion of Lot A for University educational, social and athletic activities, and parking, as it has in the past.

Alderman Einhorn: "This is a matter that is of historic posture tonight. We have the station of sitting on a matter that will change the history of the City of New Haven, some would say

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for better or for worse. But at this point, it is my position that, with the amendments we have worked out after a long and thoughtful process, that this is a matter that should occur at this time. The neighborhood, with these amendments, welcomes it. It's the end of a very long process, and a process I think that typifies how major developments like this ought to occur in the City of New Haven.

Those of you who had the opportunity to see the committee report, can see that it's approximately seven pages. It also has involved pages and pages of reports from other city officials. This is not a matter that was taking lightly, nor is it a matter that anyone could complain was pushed down anyone's throat. It's a matter that involved input from the neighborhood and it involved a very thoughtful response from the Connecticut Tennis Foundation and from other appropriate officials. And that response came. It was a matter that involved a good deal of cooperation, and I think it provides the model for such matters.

I'm reminded as we take up this matter tonight, of the New Haven Coliseum. There were those of our predecessors who stood and sat in the same positions we are and approved the Coliseum who probably heard the same thing, and who know a little more about the Coliseum than we do tonight. It's on that point that I obviously would know whatever misgivings we have about the facility that's going up. And I will say I honestly believe we've done our best to allay any of those misgivings and fears. I say that honestly. I think that this is, in fact, a small

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Yale Bowl. What is occurring, for those of you who went to a very lengthy and very involved committee hearing, is the construction of a 15,000 seat stadium for tennis events, as well as \$3 million worth of improvements for Yale tennis courts that are on Yale property adjacent to the Yale Bowl, and across Yale Avenue from this facility. It is a very involved process. It could not have occurred, also, without the assistance of the State of Connecticut. I would have to say that this is probably a project in which New Haven stands in a unique position in the State of Connecticut.

We have the ability to obtain \$18 million in State funds for a project in which the State will be paid back, it hopes, through its entertainment tax. Yet, it obviously wouldn't have occurred, but for the State subsidy. There's no way the City obviously could have funded this, there's no way the State would have done otherwise, and some say other states could not have matched this package.

I will tell you that to my way of thinking this puts an end to and dispels the rumors and the unkind comments, I think, that were made that 'Westville doesn't really want anything.' In fact.....

It's going to be a large stadium. And yet, thanks to the intricate traffic patterns, the parking arrangements, and hopefully what we do work out on lighting -- it can be done. And it shows that those of you who have neighborhood concerns, those of you who have major problems in your neighborhood, they can be addressed with

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persons who are willing to listen. And I will say that the Foundation was willing to listen, or else I am certain we would not be here tonight.

The discussion could not end tonight without some minor reference -- not so minor I suppose -- to the finances involved. For posterity, you should know that this is a project that will run at a loss for many years, and it is not really expected in its construction and its theory that this would be a project that would be a financial benefit to the City in terms of its revenues. And yet, the concept is, that the establishment of this tennis facility in the City will bring attention to New Haven, will bring people to New Haven hoping to locate here, who have some interest in this City, so that the City's benefits will be indirect. I will say that I would love to see some way to measure these indirect benefits, as I heard the same argument for the Shubert Theater and other properties. But that is the argument with regard to here.

So please, in future years, when you hear this is running at a loss, you should not think that anyone misled you into thinking that it was going to yield a profit. In fact, the matter that we don't have before us tonight, although it has been submitted to this Board, is the Tax Abatement Agreement. And that Tax Abatement Agreement also includes the proposal for a surcharge on tickets. Thanks to that particular agreement, the City will be guaranteed some revenue each year. It's hard to put figures on it because the committee has not yet heard it. My guess is that it will start at approximately \$150,000 -a-year and work upwards on that based

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upon ticket sales. And that, of course, is something for the City. The discussion also could not end without reference to the youth tennis program in the City. Those of us who are involved in tennis, feel strongly about the youth programs in this City -- feel very strongly and always have with regard to the Volvo -- that there should be a commitment to youth tennis in minority areas of the City, and all over the City. And, in fact, what is happening on this agreement is a proposal for a permanent establishment, the youth tennis program. The Mayor will appoint the directors of that foundation.

This will, hopefully, guarantee that there is youth tennis promoted in the City of New Haven. Now, I stand here not being able to do much more than say that. I would hope though that all of your commitments to youth tennis goes beyond this tonight. In order to encourage the youngsters in the Hill and Newhallville, and kids who haven't been exposed to tennis and could use it as an opportunity to better themselves and enjoy it, we need the commitment of this City to renovate, to build, to repair, to maintain existing courts within the City. And also, to be certain that this program doesn't become a playground for rich kids from the suburbs. I want to make sure that this program is available to minority children of the City. And I think that's the intent of it. In order for you and for me to do that, we may have to adjust the figures with regard to the financial commitment to the youth tennis program. That's something we can talk about in later years. We should all make sure that the program doesn't end with a few days in the summer and spring. We should make

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sure that the commitment to youth tennis goes throughout the City ... and Fair Haven. I apologize Joe. The commitment should extend to all parts of the City. And I feel strongly about that. This is something I ask you to keep your eyes open to, because if you find or I find, the youth tennis program is limited to nice rich kids from the suburbs and other parts of the City, then I won't be happy and you shouldn't be either.

I will tell you that what is before you is a long, complicated set of packages with regards to the Volvo. And I don't think it's necessary to go through them tonight. I will tell you that the Tennis Foundation has negotiated the arrangements with Jewel Productions. The contract sets forth in great detail what is happening. It is negotiating a lease, and a facilities agreement with regard to Yale University with regard to the construction and the use of the field, and the construction of the stadium. Of course, there is the committee report that I will not go through with you tonight, because it is available to you. And I think the points are in there. I have tried to go through in less than detail -- but it is available.

I will tell you that the committee report was of two sections. The first section were requirements of City officials in other areas of the City. Before this Board would even consider it, we wanted, in this very thoughtful committee process, to have certain opinions for us -- and we got them. I am pleased to say that part of the process worked well. And secondly, there were the amendments to the actual planned

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Development District, which is what, in fact, we're voting upon tonight. And those [amendments] involved traffic, parking, the use of alcohol in the field, public use of the courts, lighting, concerts, sewage and so forth. And these are matters which are contained in the very thoughtful committee report.

There is a matter which is of major concern in the neighborhood that could not be resolved tonight, and that has to do, obviously, with the lighting of the parking lots which are so close to the neighborhood. And yet, the neighborhood is willing to work in good faith with the Foundation, which is also willing to work in good faith towards resolving this issue.

Finally, I will tell you what we are doing here tonight with regard to the Volvo. This is a Planned Development District. And the zoning itself is a residential zone. As we have done in other major projects, we are creating a special zone, a Planned Development District for the purpose of allowing this use, allowing these structures that would not otherwise be available to be used. So, I will say to you finally that after much soul searching in the neighborhood, and after much work and thoughtful work, I have to say of the committee -- which I will commend, having spent a good deal of time on this -- I think the committee was very impressive in the work it did. I will say that I am here to support this project, I am here to welcome the Volvo Tennis and the VITT to the neighborhood, and to New Haven, with the conditions that are set forth in the committee report. And, I will say that the conditions themselves allay and



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satisfy the neighborhood fears, and I look forward to future report cards on this project."

Alderman Perez: "I rise in support of this PDD, and I urge my colleagues to bear with me for a couple of minutes while I give you some legislative background and expand a little bit more about what some of the benefits to the City are.

The Volvo International Tennis Tournament known as VITT was established in 1973 at Bretton Woods, New Hampshire. Other sites for the Volvo have included North Conway, New Hampshire, and Stratton, Vermont. In early 1989, Volvo began to look for a new and permanent home. After a year-long search, the VITT selected New Haven and the athletic fields of Yale University as its home for the next 21 years.

The VITT is one of only 21 Championship Series Tournaments on the new worldwide Association of Tennis Professionals tour. This top tier category is limited to five tournaments in North America in the summer season. The VITT is the only one played in the Northeast. The 1990 VITT will offer a \$1 million purse to its field of world-class tennis champions.

Some of the benefits that the City and the State would benefit from are increased spending in the local economy; and additional tax revenues for both the City of New Haven and the State of Connecticut. For the City, I want to make it clear for the record, that it is estimated to be \$100,000 the first year and not \$150,000.

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Third, enhancement to Connecticut's quality of life, which is so vital to job retention and recruitment; increased national and international recognition of Connecticut companies, particularly important for business participation; and opportunity for the development of a minority youth tennis program with the goal of placing a minority player on the world tennis circuit within eight years. The minority youth tennis program will provide another conduit for many youths to learn the lessons about commitment and discipline that involvement in sports can bring. The first year, it's estimated they're going to spend \$50,000; the second year, it will be \$100,000. I urge all my colleagues to support this, and hopefully, we can get this unanimously done. Thank you."

Alderman McCormack: "I just wanted to say that there have been a number of hearings on the Volvo Tennis Tournament, the people involved in the hearings, with negotiations, the people attending the neighborhood meetings -- we have tried to work very hard. You have tried to work very hard to address every concern, answer every question, and if this thing doesn't work, it is not going to be because we didn't try to plan properly. The people involved worked very hard, and I'd like to commend them and urge you to vote for it."

Alderman Dunleavy: "As another alderperson from Westville, I'm very pleased that consensus in the community was reached. This is exactly the sort of activity that every neighborhood should be striving to have. It's good entertainment. It does mean some inconvenience to the

community, but at the same time the benefits to the City are overwhelming.

Alderman Einhorn alluded earlier to the fact that it will be hard to tell some of the tangible benefits of this particular event. I would contend that there are ways to tell. One of the primary ways you can tell whether this event is having impact on the City is to look at the increase in both sales taxes and hotel/motel taxes for the month during the period the tennis tournament is held. I think that this will absolutely mean a major impact on businesses in the community. I think you will see particularly restaurants, stores and shops and hotels doing very well. And I think we'll see the increased sales and increased state revenues which we'll monitor, and eventually, much of that money will come back to the City. I think it's imperative that we act in unison on this and send a message, particularly after the results of the recent decisions regarding some other events that were planned for Westville. Both Westville and the City of New Haven welcomes responsible development, and welcomes working in unison with a responsible promoter to bring events to the community, and I urge my colleagues to adopt it."

President Pro Tempore Mednick: "Before we proceed any further, I'd like to ask the Majority leader to relieve the Chair for a few moments so that I can speak on this item."

Alderman Mednick: "I rise in support of the favorable support of the Legislation Committee. I simply want to say as the alderman from the ward where the Bowl is, where the tennis stadium

is, that this process has been a long and arduous process. When Alderman Einhorn and I were invited to serve as members of the Board of Directors of the Tennis Foundation of Connecticut, I don't either of us had any idea how time-consuming that work would be, how complicated the series of inter-relationships would be between the City, the State, Yale University, the private foundation, Jewel Productions, which is the parent of the tennis tournament, in ultimately resolving a number of problems that cropped up in the neighborhood -- not only relating to this, but to a whole series of events and activities that have been slated for the Yale athletic facilities.

I think that one of the outstanding developments of this process, first of all to have two aldermen working together and the entire Westville delegation of aldermen working together as we have on so many other occasions, draws out the establishment of a very refined process that was developed by the Westville Residents Association. And particularly, as it comes to this process and this particular proposal, we worked together with the various parties to make this program work for Westville as well as for the entire City of New Haven. I think that the Volvo International Tennis Tournament will be an outstanding opportunity for this City to find a place on the map, from the marketing point-of-view, in terms of our own development and the other ancillary types of development for retail, restaurant and hotel development that this city so sorely needs.

I just want to commend the Chair of the Legislation Committee for his leadership in this

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process, the citizens involved, Mr. DeStefano, and our colleagues on the Tennis Foundation, for their hard work and dedication, as well as commend the other participants in this process. It shows that very good collaborative efforts can work, can get important ventures off the ground for the City of New Haven. I urge all my colleagues to support this package."

Alderman Kroogman: "I also rise in support of this project. I think it's a good project, and I think that we all should support it. Just a little bit of sort of adult-motherly chastisement, if you will to our Westville neighbors. I grew up in Westville, I was born there, and I love that part of the City. I appreciate all the work that they've done for this effort. But I just want to put them on notice that the rest of the City has been looking very carefully at this, and although we're very excited about it, we're looking to do whatever we can for the greater City. And no matter where it is or when it is, we all need to keep in mind that we have the City as a whole in our best interest, and we'll try to do whatever we can in the future and currently to bring in revenue -- not at the expense of the neighborhood, but to benefit anything that's going on here. We have a river for example, and in Fair Haven, hopefully, it'll be used for things to better the City also. So, I urge you to support this project. Thank you."

Alderman Dunleavy: "I'd like to return those motherly comments with a little bit of fatherly comments. Alderman Kroogman had some interesting observations about Westville and some

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of the "NIMBY" syndrome that revolved around the McCartney concert. I believe that was what the reference was to.

The fact was Westville did not speak with a unified voice during that period, that Westville like any other neighborhood around major issues that may impact the neighborhood did have a divided opinion. And the bottom line is that like every other neighborhood in the community, when something's going to impact the neighborhood, the community does have a discussion, does have different opinions and are divided. I was very supportive of that effort as you well know, but I don't think that any neighborhood should be chastised for looking out for their best interest.

The newspaper's done a pretty good job of kicking the heck out of Westville, and in this body I understand, there's some hostility towards Westville because of the unsuccessful concert effort. But the bottom line is this, we are representative officials, here to represent our constituents. We are representatives from neighborhoods, we're not representatives city-wide, and what we really need to do is try to work and balance the interest of our neighborhoods, with the interest of the whole City. And I respect everyone of you in your ability to make those judgments. I hope you'll respect us from Westville as well. Thank you very much."

AMENDMENT PASSED.

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Upon motion made and duly seconded, said amendment was put to a roll call vote which resulted as follows:

Those voting "Aye": Morand, Harp, Dawson, Reyes, Perez, Krevit, Zeidenberg, Delauro, Staples, Lyons, Paolillo, Kroogman, Sweeten, Crisco, Depino, Valentovich, Pearson, Greene, Rogers, Simmonds, McCormack, Einhorn, Mednick, Dunleavy, Braffman, Botto and Moore - 27.

Those voting "No": None.

Note: Alderman Lampo was not present at the time of the vote on the above-entitled matter.

Said amendment was passed by a roll call vote and it was so declared by the Chair.

Alderman Greene moved for the acceptance of the report and enactment of the zoning ordinance amendment, as amended by substitution, which motion was duly seconded and passed.

REPORT ACCEPTED. ZONING ORDINANCE AMENDMENT, AS AMENDED BY SUBSTITUTION, ENACTED.

Upon motion made and duly seconded, the acceptance of the report and enactment of the zoning ordinance amendment, as amended by substitution, was put to a roll call vote which resulted as follows:

Those voting "Aye": Morand, Harp, Dawson, Reyes, Perez, Krevit, Zeidenberg, Delauro, Staples, Lyons, Paolillo, Kroogman, Sweeten, Crisco, Depino, Valentovich, Pearson, Greene,

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Rogers, Simmonds, McCormack, Einhorn, Mednick, Dunleavy, Braffman, Botto and Moore - 27.

Those voting "No": None.

Note: Alderman Lampo was not present at the time of the vote on the above-entitled matter.

Said report was accepted and zoning ordinance, as amended by substitution, enacted by a majority vote of the Board of Aldermen and it was so declared by the Chair.

MISCELLANEOUS

TABLED ITEM:

LEGISLATION. FAVORABLE. RESOLUTION OF THE BOARD OF ALDERMEN APPOINTING MEMBERS TO THE COMMISSION FOR CHARTER REVISION.

LEGISLATION. FAVORABLE. RESOLUTION CREATING A CHARTER: REVISION COMMISSION AND INCORPORATING INTO THE CHARGE OF THE COMMISSION THE FOLLOWING COMMUNICATIONS:

- (1) FROM THE GREEN PARTY REQUESTING REVISIONS OF VARIOUS PARTS OF THE CITY CHARTER;
- (2) FROM FORMER ALDERMAN ZELINSKY REQUESTING REVIEW OF CHARTER REVIEW OF CHARTER SECTIONS RELATING TO CONTRACTS AND PROCUREMENTS;
- (3) FROM EDUCATION COMMITTEE REQUESTING REVISIONS FOR PURPOSE OF CREATING A PARTIALLY ELECTED BOARD OF EDUCATION;

process, the citizens involved, Mr. DeStefano, and our colleagues on the Tennis Foundation, for their hard work and dedication, as well as commend the other participants in this process. It shows that very good collaborative efforts can work, can get important ventures off the ground for the City of New Haven. I urge all my colleagues to support this package."

Alderswoman Kroogman: "I also rise in support of this project. I think it's a good project, and I think that we all should support it. Just a little bit of sort of adult-motherly chastisement, if you will to our Westville neighbors. I grew up in Westville, I was born there, and I love that part of the City. I appreciate all the work that they've done for this effort. But I just want to put them on notice that the rest of the City has been looking very carefully at this, and although we're very excited about it, we're looking to do whatever we can for the greater City. And no matter where it is or when it is, we all need to keep in mind that we have the City as a whole in our best interest, and we'll try to do whatever we can in the future and currently to bring in revenue -- not at the expense of the neighborhood, but to benefit anything that's going on here. We have a river for example, and in Fair Haven, hopefully, it'll be used for things to better the City also. So, I urge you to support this project. Thank you."

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The newspaper's done a pretty good job of kicking the heck out of Westville, and in this body I understand, there's some hostility towards Westville because of the unsuccessful concert effort. But the bottom line is this, we are representative officials, here to represent our constituents. We are representatives from neighborhoods, we're not representatives city-wide, and what we really need to do is try to work and balance the interest of our neighborhoods, with the interest of the whole City. And I respect everyone of you in your ability to make those judgments. I hope you'll respect us from Westville as well. Thank you very much."

AMENDMENT PASSED.

Upon motion made and duly seconded, said amendment was put to a roll call vote which resulted as follows:

Those voting "Aye": Morand, Harp, Dawson, Reyes, Perez, Krevit, Zeidenberg, Delauro, Staples, Lyons, Paolillo, Kroogman, Sweeten, Crisco, Depino, Valentovich, Pearson, Greene, Rogers, Simmonds, McCormack, Einhorn, Mednick, Dunleavy, Braffman, Botto and Moore - 27.

Those voting "No": None.

Note: Alderman Lampo was not present at the time of the vote on the above-entitled matter.

Said amendment was passed by a roll call vote and it was so declared by the Chair.

Alderman Greene moved for the acceptance of the report and enactment of the zoning ordinance amendment, as amended by substitution, which motion was duly seconded and passed.

REPORT ACCEPTED. ZONING ORDINANCE AMENDMENT, AS AMENDED BY SUBSTITUTION, ENACTED.

Upon motion made and duly seconded, the acceptance of the report and enactment of the zoning ordinance amendment, as amended by substitution, was put to a roll call vote which resulted as follows:

Those voting "Aye": Morand, Harp, Dawson, Reyes, Perez, Krevit, Zeidenberg, Delauro, Staples, Lyons, Paolillo, Kroogman, Sweeten, Crisco, Depino, Valentovich, Pearson, Greene,

Rogers, Simmonds, McCormack, Einhorn, Mednick, Dunleavy, Braffman, Botto and Moore - 27.

Those voting "No": None.

Note: Alderman Lampo was not present at the time of the vote on the above-entitled matter.

Said report was accepted and zoning ordinance, as amended by substitution, enacted by a majority vote of the Board of Aldermen and it was so declared by the Chair.

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- (3) FROM EDUCATION COMMITTEE REQUESTING REVISIONS FOR PURPOSE OF CREATING A PARTIALLY ELECTED BOARD OF EDUCATION;



**Steven G. Mednick**  
**Attorney**

**EXHIBIT D**

**LEASE PROVISIONS TO BE AMENDED**

THIS LEASE, made and entered into as of this 1st day of May, 1990 by and between THE TENNIS FOUNDATION OF CONNECTICUT, INC., a Connecticut nonstock corporation having an office at 555 Long Wharf Drive, New Haven, Connecticut 06511 (hereinafter referred to as "Tenant"), and YALE UNIVERSITY, a Connecticut specially chartered corporation having an office at 451 College Street, New Haven, Connecticut 06520 (hereinafter referred to as "Landlord").

W I T N E S S E T H:

ARTICLE 1. LEASED PREMISES

1.1. Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, all that certain piece or parcel of land, nontaining approximately 8 acres of land, more or less, situated in the Town and County of New Haven and State of Connecticut, being more particularly described on Schedule A attached hereto and made a part hereof, presently unimproved, together with all appurtenances, rights, privileges and easements benefiting, belonging or pertaining thereto (all of the foregoing being hereinafter referred to as the "Premises"). Title to all improvements (including the Improvements referred to in Section 5.1 below) subsequently erected on the Premises shall be in Tenant during the term of this lease, but title to all such improvements shall automatically revert to Landlord upon the expiration or sooner termination of this lease.

3.3 It is understood and agreed that the annual base rent and additional rent payable hereunder shall be net to Landlord, so that this lease shall yield to Landlord the annual rent specified herein for the term of this lease, and that all costs, taxes (except as provided in Article 7), expenses and obligations of every kind and nature whatsoever relating to the use, occupancy, operation, repair and maintenance of the Premises and all improvements thereon shall be borne and paid for by Tenant.

#### ARTICLE 4. TENANT'S USE

4.1 Tenant will have the right to permit Jewel to use the Premises for the Volvo International Tennis Tournament, other professional tennis tournaments and other events as provided in the agreement between Tenant and Jewel, and to use the Premises, or permit others (not including Jewel) to use the Premises, for tennis tournaments or other events; provided that no more than three (3) tennis tournaments and no more than ten (10) events other than tennis tournaments and community events may be held in any year at the Premises without Landlord's express consent, to be granted or withheld by Landlord in its reasonable discretion with respect to each such event individually. For purposes of this paragraph, a "community event" is an event (i) sponsored by TFC or another public

or private nonprofit organization, (ii) in connection with which neither TFC, Jewel, the sponsor, any promoter, any participant or performer or any other person (exclusive of service personnel paid reasonable wages for services) or entity is compensated or receives income in excess of its expenses for the event, (iii) which is no more than one day in duration, (iv) which is reasonably expected to involve no more than 2,000 participants and attendees and (v) which is reasonably expected to require no parking beyond that available on the Premises and on the lot immediately to the north of the Premises. No other uses are permitted.

4.2 Notwithstanding the provisions of paragraph 4.1, Tenant will not permit any use of the Premises at any time that materially interferes with the use of the Yale Athletic Fields for Landlord's educational purposes, including without limitation all Yale varsity and junior varsity events and practices and all other Yale Athletics Department activities. Without limiting the generality of the foregoing, a use by or permitted by Tenant will be deemed to have interfered with such use of the Yale Athletic Fields if it caused damage to fields or other facilities that Tenant failed or was unable to repair promptly and to a condition reasonably equivalent to the condition in which Landlord customarily maintains them or the condition in which they were before Tenant's use (reasonable wear and tear excepted), whichever condition is better. Except to the

the provisions of paragraph 4.4(c) below. Tenant shall require Jewel and others which it permits to use the Premises to agree to comply with the terms of this subparagraph in a written document to which Landlord is a party or which expressly includes Landlord as a third party beneficiary.

(b) erect temporary signs on and about the Premises during events taking place at the Premises, including signs that display the name and logo of corporate sponsors of such events, provided that (i) no such signs shall be visible by casual passersby from outside the Premises (except for signs visible solely from other Yale facilities being used with permission for such event) other than signs directing people to the Premises; (ii) no such signs shall contain Landlord's name or insignia; and (iii) no such signs containing the name of any corporate sponsor or commercial entity shall be placed near Landlord's name or insignia so as to suggest an association between Landlord and such sponsor or commercial entity or an endorsement by Landlord of such sponsor or commercial entity.

4.4  
(c) use the Yale name, as defined in Schedule C attached hereto, but only on the terms and conditions of Schedule C.

Tenant shall require Jewel and others which it permits to use the Premises to agree to comply with the terms of this subparagraph in a written document to which Landlord is a party or which expressly includes Landlord as a third party beneficiary.

(d) sell and serve refreshments, including alcoholic beverages, subject to all state and local laws including permit and license requirements.

#### ARTICLE 5. IMPROVEMENTS

5.1 Tenant shall construct certain improvements on the Premises (the "Improvements"), consisting principally of a tennis stadium, which term is understood to permit inclusion of related player and official changing and rest facilities, food service and concession facilities and such other ancillary uses as may be appropriate to a tennis stadium. The Improvements are expected to have a useful life equal to the term of this lease. No such construction shall proceed except in accordance with plans approved by Landlord pursuant to paragraph 5.2.

5.2 Promptly after the execution of this lease, Tenant, at its sole cost and expense, shall cause to be prepared such



6.1 Tenant shall, at all times during the term of this lease, and at its own cost and expense, keep and maintain or cause to be kept and maintained in good repair and condition (ordinary wear and tear excepted), the Premises, the Improvements, and all utility systems, apparatus and equipment therein, and all other improvements at any time erected on the Premises, shall not waste or damage the same, and shall use all reasonable precaution to prevent waste, damage or injury thereto. Landlord shall not be required to furnish any services or facilities or to make any improvements, repairs or alterations in or to the Premises during the term of this lease of any nature whatsoever. On the last day or sooner termination of the term of this lease, Tenant shall quit and surrender the Premises, Improvements and other permanent improvements then situated thereon, broom clean and in good condition and repair (ordinary wear and tear excepted), and title to the Improvements and all other permanent improvements on the Premises shall revert to and become the absolute property of Landlord; or, at Landlord's option, Tenant shall, at its expense, demolish, dismantle and remove all improvements on the Premises (except for any improvements which Landlord does not wish to have demolished).

6.2 Any construction done on the Premises, whether original

12.1 Tenant, upon paying the rent and additional rent and all other sums and charges to be paid by it as herein provided, and observing and keeping all covenants, warranties, agreements and conditions of this lease on its part to be kept, shall quietly have and enjoy the Premises during the term of this lease.

ARTICLE 13. ACCESS TO PREMISES

13.1 Landlord or Landlord's agents and designees shall have the right, but not the obligation, to enter upon the Premises at all reasonable time to examine the same at any time, and from time to time, during the term of this lease upon one business day's prior notice to Tenant.

ARTICLE 14. DEFAULT AND TERMINATION

14.1 A default shall exist if Tenant fails to comply with any provision of this lease, or if the Premises be abandoned or deserted for more than one year, or if Tenant ceases to make the Improvements available to the public as a tennis facility, as required by the contract between Tenant and the State of Connecticut executed in connection with the grant referred to in Paragraph 2.2(c), which contract shall be consistent with the terms of this

19.3 In the event of a partial taking not resulting in the termination of this lease pursuant to the provisions of section 19.1 Tenant shall, at its own cost and expense, make or cause to be made all repairs to the Improvements and Premises affected by such taking (or conveyance in lieu of such taking) to the extent necessary to restore the same as a complete architectural unit (to the extent permitted taking into consideration, however, the amount of land remaining after any such taking or conveyance in lieu of such taking), provided, however, that Tenant shall not be obligated to expend or refinance the expenditure of an amount in excess of the proceeds of the net award available for such purposes, as hereinafter provided. All restoration shall be in accordance with the provisions of section 6.2. All compensation available or paid to Landlord or Tenant upon such a partial taking shall be paid to Tenant for payment of the cost of such restoration, or, in the event that the parties hereto agree that only a portion as agreed upon shall be paid to Tenant for such purpose and the balance shall be distributed pursuant to section 19.2, except that all compensation for any temporary taking shall be distributed to Tenant without participation by Landlord.

#### ARTICLE 20. NOTICES AND OTHER COMMUNICATIONS

20.1 Except as otherwise expressly provided, any invoice,

statement, notice or other communication permitted or required by the terms of this lease to be given shall be deemed sufficiently given or rendered if in writing and sent by express or certified mail, return receipt requested, postage prepaid, to the following addresses:

If to           Executive Director  
                  The Tennis Foundation of Connecticut, Inc.  
Tenant:       555 Long Wharf Drive  
                  New Haven, Connecticut 06511

with a         Wiggin & Dana  
copy to:       195 Church Street  
                  New Haven, Connecticut 06510

If to           Director of Athletics  
Landlord:      20 Tower Parkway  
                  402A Yale Station  
                  New Haven, Connecticut 06520

with           General Counsel  
copies         451 College Street  
to:            New Haven, Connecticut 06520

                  Secretary  
                  Woodbridge Hall  
                  105 Wall Street  
                  New Haven, Connecticut 06520

If to           Jewel Productions, Ltd.  
Jewel:         555 Long Wharf Drive  
                  New Haven, Connecticut 06511

or at such other address designated in writing for mailing purposes.

The time of the rendition of any invoice, statement, notice or other communication, shall be deemed to be upon mailing.

## SCHEDULE C

### Use of Yale Name

Except as set forth herein and subject to the rights of the public at large, if any, Yale owns all rights to the Yale name, insignia, arms, emblems, and other representation, symbolic or otherwise, including photographs and artist's renderings of University facilities, herein collectively referred to as the "Yale Name".

Any proposed use of the Yale Name which is not related to the Volvo International Tennis Tournament or the other two professional tennis tournaments permitted to be held on the Premises under this lease (the "Permitted Tournaments") is specifically prohibited, except with prior express written permission by Yale. Approval of use of the Yale Name under this agreement, whether in connection with the Permitted Tournaments or otherwise, shall be effective only when given in writing by the Secretary of the University or his or her designee. In consideration of the nature of this agreement, approval or disapproval shall whenever feasible be issued within five (5) business days of the receipt of a request for permission.

In connection with the Permitted Tournaments, there shall be three (3) categories of usage of the Yale Name, as follows:

- A. Incidental Written Material
- B. Graphic Designs, Advertising, and Promotion
- C. Merchandise.

It is understood that certain uses of the Yale Name, as proposed from time to time, may not be easily placed in any of the listed categories of usage. In such event, the parties shall use their best efforts in consultation to reach a mutually satisfactory resolution with respect to the proposed use.

#### A. Incidental Written Materials

Incidental Written Materials shall include but not necessarily be limited to tickets; ticket order forms; communications with ticket holders and purchasers; communications with vendors, sponsors, suppliers and subcontractors; stationery; office supplies; press releases; and communications to or by the Association of Tennis Professionals, Inc.

With respect to Incidental Written Materials, use of written forms of the Yale Name in text shall be permitted without prior review and approval of each such usage, provided that the following

conditions are observed:

(1) No such use shall imply or indicate by content, prominence, or design that Yale is the owner or operator or is otherwise connected with the operation or conduct of the Permitted Tournaments.

(2) Such use shall be limited to identifying the location or site of the Permitted Tournaments, by means of terminology such as "at Yale University in New Haven, Connecticut" and "near Yale Bowl in New Haven, Connecticut."

#### B. Graphic Design, Advertising, and Promotion

Graphic Design, Advertising, and Promotion shall include but not necessarily be limited to brochures and fliers; posters (except as defined under Paragraph C below); advertising; banners and signs; point of sale material (except as defined under Paragraph C below); and all other promotional material whether in written, pictorial, video, or other format.

With respect to Graphic Design, Advertising, and Promotion, any use of the Yale Name other than incidental textual reference to the location of the Permitted Tournaments governed by the terms of Paragraph A above shall require the prior approval of Yale before the publication or distribution of the item. Such approval may be granted for either single-use items (such as a sign) or for repetitive-use items (such as a tournament logo or emblem). Approval of a repetitive-use item shall permit its use thereafter on similar items without specific reauthorization, so long as there are no additions or modifications thereto.

#### C. Merchandise

Merchandise shall include all items offered for sale to the public, given on a complimentary basis to sponsors and others, manufactured or produced by outside vendors, or otherwise not included in either of the categories described above. Posters and point of sale items offered for sale shall be considered Merchandise.

With respect to Merchandise, any use of the Yale Name shall require the prior approval of Yale before the manufacture, distribution, or sale of the item. Whenever possible, actual samples of the merchandise shall be submitted for review. Criteria used by Yale in approving or disapproving a proposed use of the Yale Name may include the nature and quality of the underlying merchandise, as well as the size, style, design, prominence, or placement of the particular Yale representation proposed to be used.

All manufacturers or producers of Merchandise which uses the Yale Name shall be licensed by the Office of the Secretary or its designee and shall be subject to the terms of any such licensing



agreement. For purposes of any Yale royalty payments under such licensing agreements, sales of Merchandise by mail order from TFC or Jewel offices in New Haven shall be deemed to be sales within New Haven County. Sales of Merchandise originating from other TFC or Jewel offices or from TFC or Jewel designees, subcontractors, concessionaires, or vendors located outside New Haven County shall not be deemed to be sales within New Haven County for purposes of any Yale royalty payments on such Merchandise. It is agreed by the parties hereto that no Yale royalty payments shall be imposed or collected on any Merchandise until at least August 31, 1990. Yale reserves the right to apply the terms of its standard licensing agreements to all Merchandise sold after September 1, 1990.

**Steven G. Mednick**  
Attorney

**EXHIBIT E**

**REDLINE OF AMENDED PARKING AGREEMENT**

## AMENDED AND RESTATED PARKING AGREEMENT

~~BY—THIS~~ AMENDED AND RESTATED PARKING AGREEMENT, (this Agreement) ~~is made and entered into as of this 1st day of May, 1990, THE TENNIS FOUNDATION OF CONNECTICUT, INC., October, 2019, by and between NHCFA (NHCFA), a Connecticut nonstock corporation having an office c/o Premier Logistics LLC, at 835 Long Wharf Drive, New Haven 11 Scovill Street, P.O. Box 2763, Wallingford, Connecticut 06494 ("TFC" "Licensee") and YALE UNIVERSITY, a Connecticut specially chartered corporation having an office at 451 College Street, New Haven, Connecticut 06520 ("Yale") agree as follows: Licensors).~~

### WITNESSETH:

~~WHEREAS~~ Licensors and The Tennis Foundation of Connecticut, Inc. ("TFC"), predecessor-in-interest to Licensee, entered into that certain Parking Agreement dated May 1, 1990 ("Original Agreement"), pursuant to which Licensors granted TFC a license to use certain Lots (as defined in the Original Agreement).

~~WHEREAS~~ concurrently with the execution of the Original Agreement, Licensors, as landlord, and TFC, as tenant, entered into that certain Ground Lease dated May 1, 1990 ("Ground Lease"), for approximately 3 acres of land, more or less, situated in the Town and County of New Haven, State of Connecticut, as more particularly described in the Ground Lease (as described and defined in the Ground Lease, the "Leased Premises").

~~WHEREAS~~ TFC has indicated to Licensors that it is impractical and infeasible for Licensee to hold Volvo International Tennis Tournament at the Premises and that it desires to assign the Ground Lease and the Original Agreement;

~~WHEREAS~~ at the request of TFC and Licensee, and with the consent of Licensors, the Ground Lease and the Original Agreement are being assigned from Licensee to Licensee, simultaneously with the execution of this Agreement;

~~WHEREAS~~ concurrently with the acceptance of the Original Agreement, NHCFA, desires to amend and restate Original Agreement.

~~WHEREAS~~ effective as of the date of the assignment, the parties hereto have agreed to amend and restate the Original Agreement.

~~NOW, THEREFORE~~ for and in consideration of the mutual covenants and promises herein and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by the parties hereto, Licensors and Licensee agree as follows:

### AGREEMENT:

1. **Grant of License.** ~~Yale~~ Licensors grants to TFC permission and Licensee a nonexclusive license to use the fields described areas listed and depicted in Exhibit -A hereto (the

~~"Lots 1-7")~~ as parking lots, for the purposes set forth herein, at the times, and on the terms and conditions set forth in this agreement.

In addition,

~~2. Term~~

~~3. Use of Lots~~

~~TTC will use the Lots only~~ during such times that the Lots are used by Licensee **for parking** pursuant to the terms and conditions hereof. Licensor grants NHCPA a nonexclusive license to use those pathways depicted in red on Exhibit A attached hereto (the "Pathways") **for persons participating in or attending events held at the Leased Premises** for the purpose of pedestrian ingress and egress to and from the Leased Premises to those Lots used by Licensee for parking during an event. Collectively, the "Lots" and "Pathways" shall be referred to herein as the Licensed Premises.

~~2. Term~~ or the Facilities. ~~TTC will not.~~ The term of this Agreement shall commence on the date hereof and shall terminate, if not sooner terminated as provided in this Agreement, including, without limitation, pursuant to section 10 hereof, on August 31, 2035. Notwithstanding the foregoing, this Agreement shall be automatically extended annually following the initial term unless terminated in accordance with Section 10 or with this Section 2 by either party. Either Licensor or Licensee shall **have the right**, following the expiration of the initial term, to terminate this Agreement as of August 31 of any calendar upon thirty (30) days' prior written notice to the other party.

~~3. to use the Lots~~ Use of Licensed Premises.

a. Licensee will use the Lots only for parking for persons participating in or attending events held at the Leased Premises in accordance with the terms and conditions of the Ground Lease. Licensee will use the Pathways only for ingress and egress to and from the Lots and the Leased Premises of person participating in or attending events held at the Leased Premises. Licensee will not have the right to use the Licensed Premises **for any other purpose.** ~~Yale/Licensor reserves the right to use the Lots for parking, as- athletic fields, and reserves the right to use the Licensed Premises or for any other purpose at other times.~~ All uses by Licensee shall be subject to and in accordance with all PDD zoning regulations, approvals, conditions and requirements of the City of New Haven, and all other applicable laws, rules and regulations.

b. ~~TTC will inform Yale at least 60 days before the first day of an event of the schedule for the event and the number of persons expected to participate and attend. Yale will designate, in Yale's sole judgment, which of the Lots are to be used for an event. For the Volvo International Tennis Tournament, Yale will provide sufficient spaces in the Lots to meet TTC's requirements (at least 5,500 spaces, if needed, and any additional reserve spaces as may be available), subject to the provisions of (c) below. For other events, Yale will provide sufficient spaces to meet TTC's reasonable requirements, subject to availability of the Lots and also subject to the provisions of (c) below. In designating Lots to be used for an event, Yale will attempt to minimize the impact on the surrounding neighborhood of the use of the Lots; will take into account the~~

~~expectation that TFC is arranging with the City of New Haven to use the City's parking lot located on Marginal Drive, and will be guided by the traffic and parking management plan that TFC has submitted to Yale.~~

b. Licensee shall provide Licensor with a proposed schedule of events for each concert season at the Leased Premises at least sixty (60) days prior to the start of such season, including the number of persons expected to participate and attend and its anticipated needs for parking at the Lots. Licensee shall coordinate its schedule in advance with Licensor. For purposes of this Agreement the concert season shall be the period between May and September of any calendar year. Licensor will have the sole right and option to designate, in Licensor's sole judgment, which of the Lot(s) and Pathway(s) may be used for an event at the Leased Premises. Licensor will endeavor to provide sufficient spaces to meet Licensee's reasonable requirements, subject to availability of the Lots and also subject to the provisions of subsection (d) below. Without limiting the foregoing, Licensee's prior approval of the schedule of any event(s) and designation of the Lot(s) and Pathways which may be used for such events shall be required, in Licensor's discretion. In addition, and subject to Licensor's prior approval as set forth herein and Licensor's right to designate Lots and Pathways, Licensee shall notify Licensor as far in advance as possible of any unanticipated event at the Premises not included in the approved concert season and in any event no less than thirty (30) days prior to such event. Notwithstanding the foregoing, due to the nature of the music industry, events can become available and be scheduled on less than thirty (30) days' notice. Subject to all requirements and conditions of this Agreement including Licensor's approval rights and rights to designate Lots and Pathways and the provisions of subsection (d) below, and provided further that Licensee has provided Licensor with written notice as far in advance as possible of such event, Licensor agrees not to unreasonably withhold its consent to any such unanticipated event and agrees to endeavor to provide sufficient spaces to meet Licensee's reasonable requirements, subject to availability of the Lots and also subject to the provisions of subsection (d) below.

c. Notwithstanding the foregoing, prior to each concert season, Licensee shall submit to Licensor a traffic and management plan for review by Licensor (submission of such plan shall not be deemed approval of Licensor of such plan). In all respects, Licensee shall use commercially reasonable efforts to minimize the impact of traffic on the surrounding neighborhoods and shall comply with all conditions, approvals, requirements of the City of New Haven and all applicable laws, regulations, ordinances. Licensee shall be solely responsible for the parking related to its events at the Licensed Premises. In addition to the foregoing, Licensee shall have the obligation of ensuring that there is adequate parking for each of its events. Licensor's designation of the Lots shall, in no event or respect, be deemed a representation that such Lot(s) shall have adequate capacity for an event, it being acknowledged and agreed by the parties that the designation of such Lot(s) shall be based on estimates provided to Licensor, the availability of the Lot(s) and any other factor considered in the designation of Lot(s), in Licensor's sole discretion. Licensor shall have no obligation to ensure sufficient capacity in the Lot(s) and Licensee shall have the sole obligation to ensure adequate parking for its events.

e.d. Notwithstanding the other provisions of this paragraph 3-4 TFC, Licensee will have no right to use the ~~Leased~~ Licensed Premises or permit ~~jewel~~ or others to use the ~~Leased~~ Licensed Premises at any time or in any manner that materially interferes with the use of the Licensed

~~premises the~~ **Yale Athletic Fields** ~~for Yale's educational purposes, including without limitation~~ **all YaleLicensors varsity and junior varsity events and practices and all other YaleLicensors Athletics Department activities.** Licensee agrees that any such event at the Leased Premises and the use of the Licensed Premises shall not interfere with, conflict with, or be scheduled on the same date as any event at the Yale Bowl, Yale Athletic Fields or any other property of Licensors adjacent to or near the Licensed Premises or Leased Premises, without the prior written consent of Licensors in Licensors's sole discretion. **Without limiting the generality of the foregoing, a use by or permitted by TFCLicensee will be deemed to have interfered with such use of the YaleLicensors Athletic Fields if it caused damage to the Lots Licensed Premises or other fields or facilities that TFCLicensee failed or was unable to repair promptly or to a condition reasonably equivalent to the condition in which YaleLicensors customarily maintains them or the condition in which they were before TFCLicensee's use (reasonable wear and tear excepted), whichever condition is better.** ~~Except to the extent it causes such damage, TFC's use of the Lots for parking for the Volvo International Tennis Tournament in August of each year, in compliance with the terms and conditions of this agreement, will not be deemed to interfere with such use of the Yale Athletic Fields.~~

d.e. ~~TFCLicensee~~ **may not use the Lots or permit others to use the Lots for overnight parking or for parking between the hours of 1:00 a.m. and 6:00 a.m. TFCLicensee will be responsible for ensuring that all vehicles leave the Lots during such hours, except where special arrangements have been made with Yale.** ~~Except for the Volvo International Tennis Tournament or other tennis tournaments holding both day and evening sessions, TFCLicensee will not open the Lots for parking more than three hours before the start of an event each day or allow them to remain open more than two hours after the event ends each day. TFCLicensee may not use the pathways except during those times that it is permitted to use the Lots. Licensee will prohibit consumption of food and beverages, including alcoholic beverages, in the Lots and TFC Licensed Premises, and Licensee will be responsible for the reasonable enforcement of such prohibition.~~

4. **No Warranties.** Except as set forth in paragraph 6 below, ~~YaleLicensors~~ **makes no representations or warranties about the present or future condition of the Lots Licensed Premises or about their suitability for the uses contemplated in this agreement, and TFCLicensee accepts the Lots Licensed Premises (to the extent of the limited rights to use them granted herein) "as is" and subject to all laws, ordinances and governmental regulations applicable to them, including without limitation those pertaining to zoning, building and environmental matters.**

~~5. Supervision of Parking Fees. Yale will supervise the use of the Lots for parking through personnel hired by Yale at Yale's expense. Yale will have the right to charge fees for parking in the~~

5. **Supervision of Parking Fees.** Licensee, at its sole cost and expense, shall supervise the use of the Licensed Premises, including supervision of the Lots for parking through a third-party parking company approved in advance by Licensors, in Licensors's sole discretion. Such vendor shall obtain and provide insurance in amounts and with coverages acceptable to Licensors in Licensors's sole discretion. Licensee shall pay to Licensors ten percent (10%) of all revenue received by Licensee after paying any third-party parking company its fees for such parking within fifteen (15) days following each event. Licensors shall have the right to review and



maintain the books and records of Licensee with regard to parking revenue related to Licensee's use of the Lots. Licensee shall not provide free parking on the Lots in excess of five percent (5%) of the total parkers at any one event without Licensor's prior written consent.

**Lots** (provided that such fees may not exceed by more than 15% the fees charged by Yale for parking for Yale home football games in the preceding season, except with TFC's consent, which will not be unreasonably withheld) and to retain all such fees, provided that TFC may provide free parking passes or free parking areas to no more than 1,000 persons for the Volvo International Tennis Tournament, and Yale will honor such passes or areas. Notwithstanding the foregoing, TFC may, at its option (exercisable at the time TFC notifies Yale pursuant to the Lease or the Facilities Agreement that it plans to hold such tournament) and at TFC's expense, supervise the use of the Lots for parking for the Volvo International Tennis Tournament and up to two other professional tennis tournaments each year and collect and retain all fees for such parking.

**6. Expenses.**

a. Subject to subparagraph (b) below, in consideration of the grant of rights to use the Lots, TFC Licensee agrees to bear and pay, as and when they become due, all costs, expenses and other obligations pertaining to TFC Licensee's use of the Lots (other than the Yale Licensor expenses described in paragraph 5 above) including without limitation:

i. All costs for preparing the Lots for any permitted use, for maintaining the Lots during such use, and for cleaning, repairing and otherwise returning the Lots (and any adjacent property of Yale Licensor requiring cleaning or repair as a result of such use) to the condition they were in before such use, normal wear and tear excepted.

ii. All signs, temporary lighting, portable toilet facilities and other equipment necessary for TFC Licensee's use of the Lots, and all costs for utility service to the Lots during such use, to the extent Yale Licensor can meter them separately.

b. During the period when TFC Licensee is not using the Lots, Yale Licensor will, at Yale Licensor's expense, maintain the Lots in the same condition as Yale Licensor maintains its other fields used for recreational and not varsity or junior varsity athletics activities.

7. Compliance with Laws. TFC Licensee will at its sole expense comply with all laws, ordinances, orders, rules and regulations of federal, state and municipal authorities and with any direction made pursuant to law by any public officer relating to the use of the Lots or relating to any abatement of nuisance or imposing any order or duty upon Yale Licensor or TFC Licensee with respect to the use of the Lots. All uses conducted at the Lots by Licensee will be so conducted as not to constitute a public nuisance, and will be conducted with due regard and consideration for the residential nature of the surrounding neighborhood. TFC Licensee will be responsible, at

~~THE Licensee's~~ expense, for maintaining security during its use of the ~~the~~ Licensed Premises, and will consult with ~~Yate~~ Licenser before any event about its plans for security.

8. Insurance. At all times during the term of this agreement, ~~THE~~ Licensee will keep in force at its own expense a policy or policies of comprehensive general liability insurance, insuring ~~THE~~ Licensee and ~~Yate~~ Licenser with respect to any claim for injury to persons (including death as a result thereof) or damage to property arising out of or in connection with the use of the ~~the~~ Licensed Premises by ~~THE~~ by ~~Jewel~~ Licensee or by any other person or entity during the period of any use of the ~~the~~ Licensed Premises hereunder. All such insurance policies must (i) be in amounts reasonably acceptable to ~~Yate~~ Licenser and adjusted from time to time to ~~Yate~~ Licenser's reasonable satisfaction, initial limits to be \$10,000,000; (ii) name ~~Yate~~ Licenser and its trustees, officers and employees as additional insureds; (iii) provide that such policies are primary and not ~~contributor~~ contributor or excess with respect to any other insurance such additional insureds may have; and (iv) provide that ~~Yate~~ Licenser will be given notice at least 30 days in advance of any material change or cancellation of the policy. ~~THE~~ Licensee will furnish ~~Yate~~ Licenser with a current certificate of insurance upon execution of this Agreement and thereafter no more than 90 days and no less than 45 days before each use of the ~~the~~ Licensed Premises hereunder.

9. Indemnity.

a. Licensee shall indemnify, defend and hold harmless the Licenser, its officers, trustees, employees, agents, tenants, contractors and representatives (collectively, the "Licenser Indemnified Parties") from and against any and all claims (including, without limitation, mechanic's lien claims), actions, causes of action, liability, losses, damages, costs and expenses, including without limitation reasonable attorneys' fees and any actual costs and expenses incurred by any such Licenser Indemnified Parties (collectively, "Loss"), arising out of or resulting from the breach of this Agreement by Licensee, its guests, invitees, agents, contractors, representatives, employees or any other party acting by, through or under Licensee (collectively, "Licensee Parties"), the use of the Licensed Premises by Licensee or any Licensee Party acting by, through or under Licensee, which Loss may include, but shall not be limited to (i) any physical damage to the Licensed Premises or any improvements thereon, (ii) any injury or death to persons, (iii) the violation of any applicable environmental law, requirement or regulation by Licensee or a Licensee Party and relating to the Licensed Premises or Licensee's or a Licensee Party's use, occupancy or operation thereof, and (iv) any third-party claim suffered or asserted against the Licenser or other Licenser Indemnified Parties. The provisions of this Section 9(a) shall survive any expiration or earlier termination of this Agreement. The indemnity set forth in this Section 9(a) shall be in addition to any rights that the Licenser may have at law or in equity and shall, in no way, limit or diminish any other rights of the Licenser.

b. Licenser shall indemnify, defend and hold harmless the Licensee, its officers, trustees, employees, agents, tenants, contractors and representatives (collectively, the "Licensee Indemnified Parties") from and against any and all Loss, arising out of or resulting from the breach of this Agreement by Licenser, its agents, contractors, representatives, employees or any other party acting by, through or under Licenser, or the ownership of the Licensed Premises by Licenser. The provisions of this Section 9(b) shall survive any expiration or earlier termination

of this Agreement. The indemnity set forth in this Section 9(b) shall be in addition to any rights that the Licensee may have at law or in equity and shall, in no way, limit or diminish any other rights of the Licensee.

10. **Default; Termination.** (a) ~~TFCLicensee will be in default if the Lease terminates, or if:~~ (i) Licensee fails to pay in full any amount due and payable under this Agreement as and when due, following ten (10) days after written notice from Licensor to Licensee (such notice shall be conclusively presumed to be given one (1) day after Licensor deposits such written notice in the mail or sends such notice via email); (ii) Licensee fails to utilize the Leased Premises ~~for at least three consecutive years the Lots are not used~~(3) concerts or performing arts events ~~for~~ **for** ~~part of any~~ concert season; (iii) there is a filing by Licensee of a voluntary petition in bankruptcy or a voluntary petition or answer seeking reorganization, arrangement, or readjustment of the debts of Licensee or ~~for the Volvo International Tennis Tournament or any other relief, or any action by Licensee indicating consent to, approval of, or acquiescence in, any such petition or proceeding, the application by Licensee for a professional tennis tournament of comparable quality and importance, or if TFC fails to comply~~ receiver or trustee of Licensee or for all or a substantial part of Licensee's property, or the appointment of such a receiver or trustee of Licensee or for all or a substantial part of Licensee's property, or the appointment of such a receiver or trustee **with** any other obligation imposed Licensee's consent or acquiescence; the making by Licensee of any general assignment for the benefit of creditors of Licensee, or the inability of Licensee, or the admission of Licensee of the inability thereof, to pay the debts of Licensee as they mature; (iv) Licensee is insolvent; (v) ~~PKM MANAGEMENT, INCAPACITY OR DECEASED~~ Keith Mahler ceases to be an owner, principal or member of Licensee, directly or indirectly, or is not directly involved in the scheduling and hosting of concerts and performing arts events at the Leased Premises, or in the event that Licensee, or any principal or owner of Licensee is accused of a crime or action which, in Licensor's reasonable discretion, could have negative impacts on the reputation of Licensor; (vi) there is a filing of any involuntary petition against Licensee in bankruptcy or seeking reorganization, arrangement, or readjustment of the debts of Licensee, or for any other relief, or the involuntary appointment of a receiver or trustee of Licensee; or the issuance of attachment, execution or other similar process against any substantial part of the property of Licensee and the continuation of any such process for a period of sixty (60) days undismissed, unbounced or undischarged; (vii) the Licensed Premise or the Leased Premises, or Licensee's interest therein, are levied **upon** ~~it under this or~~ attached under process against Licensee and same is not satisfied or dissolved within thirty (30) days after notice from Licensor to Licensee to obtain satisfaction thereof; (viii) the assignment, subletting or mortgaging of the Leased Premises or Licensed Premises without the prior written consent of Licensor; (ix) there is a filing of any action for foreclosure of any leasehold financing or other financing with respect to the Leased Premises which is not withdrawn within thirty (30) days of filing; or (x) if Licensee fails to observance or performance of any term, covenant, **agreement.** ~~In the event of a default by TFC that,~~ representation, warranty or condition on Licensee's part to be observed or performed under any this Agreement, the Ground Lease or any other lease, license, contract, instrument, or other agreement of any kind between Licensee or Licensor or Licensor's affiliates or inuring to the benefit of Licensor or its affiliates, which **is not cured within thirty (30) days after** ~~Yate~~ **Licensor notifies TFC** Licensee **in writing that such default exists** (or, if such default is unless a shorter period of time for notice and cure is provided in any other agreement (or, if such default solely with respect to obligations arising under this

~~Agreement~~ is of such a nature that ~~it~~they cannot be cured within 30 days, that ~~TFC~~Licensee does not within 30 days diligently commence curing and thereafter diligently and in good faith proceed to cure or remedy~~); Yale may, at Yale's~~. Upon the occurrence of any default beyond any applicable notice and cure period set forth herein, Licensor may, at Licensor's sole option, terminate this agreement on ten days' written notice, subject to subparagraph (b) below. ~~Yale will use its best efforts to notify Jewel of any TFC~~upon written notice to Licensee. Notwithstanding the foregoing, this Agreement, if not expired or terminated sooner, shall be co-terminus with the Ground Lease. In the event that the Ground Lease is terminated, this Agreement shall automatically terminate and be of no further force or effect (except for those provisions which expressly survive termination or expiration), without the need for notice to ~~Licensee~~.

11. Representations. Licensee represents to Licensor that: (a) Licensee has full authority to enter into this Agreement, notwithstanding any other agreements which Licensee may have entered into and the execution and delivery of this Agreement by the signatory hereto on behalf of Licensee has been duly authorized by Licensee; and (b) Licensee is qualified to conduct the business in the State of Connecticut. Licensee covenants that it shall remain so qualified during the term hereof. Licensee acknowledges and represents that as of the date of this Agreement, Licensee (i) is not in **default** at the same time as it notifies TFC, and will permit Jewel to cure any such under the terms of the Original Agreement; (ii) has no defense, set off or counterclaim to the enforcement by Licensor of the terms of the Original Agreement; and (iii) is not aware of any action or inaction by Licensor that would constitute a **default** on TFC's behalf by Licensor under the Original Agreement.

~~(b) Notwithstanding any provision to the contrary in subparagraph (a) above, if TFC's interests in the Lease and Facilities Agreement executed by the parties (the "Other Agreements") are assigned to another party pursuant to the provisions of the Other Agreements, this agreement shall also be assigned to such party at the same time and on the same terms.~~

~~1012.~~ Restatement. Licensor and Licensee agree that Original Agreement is hereby amended and restated in its entirety and the Original Agreement is superseded by this Agreement.

13. Counterparts. This Agreement may be executed in any number of counterparts, all of which when taken together shall be deemed an original and shall comprise one (1) agreement. Signatures transmitted electronically or via fax shall be deemed to be as effective as original signatures.

14. Notices. All notices required hereunder shall be delivered in accordance with the notice provision set forth in the Ground Lease.

15. Miscellaneous. This ~~agreement~~Agreement will be governed by Connecticut law.

~~THE TENNIS FOUNDATION OF CONNECTICUT, INC.~~

By: \_\_\_\_\_  
[Signatures Appear on Following Page]

NHCPA OUTDOORS LLC, a Connecticut nonstock  
corporation

By: New Haven Center for the Performing Arts, Inc.,  
Its Manager

By: \_\_\_\_\_  
Betsy Goff  
Its President

**YALE UNIVERSITY**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

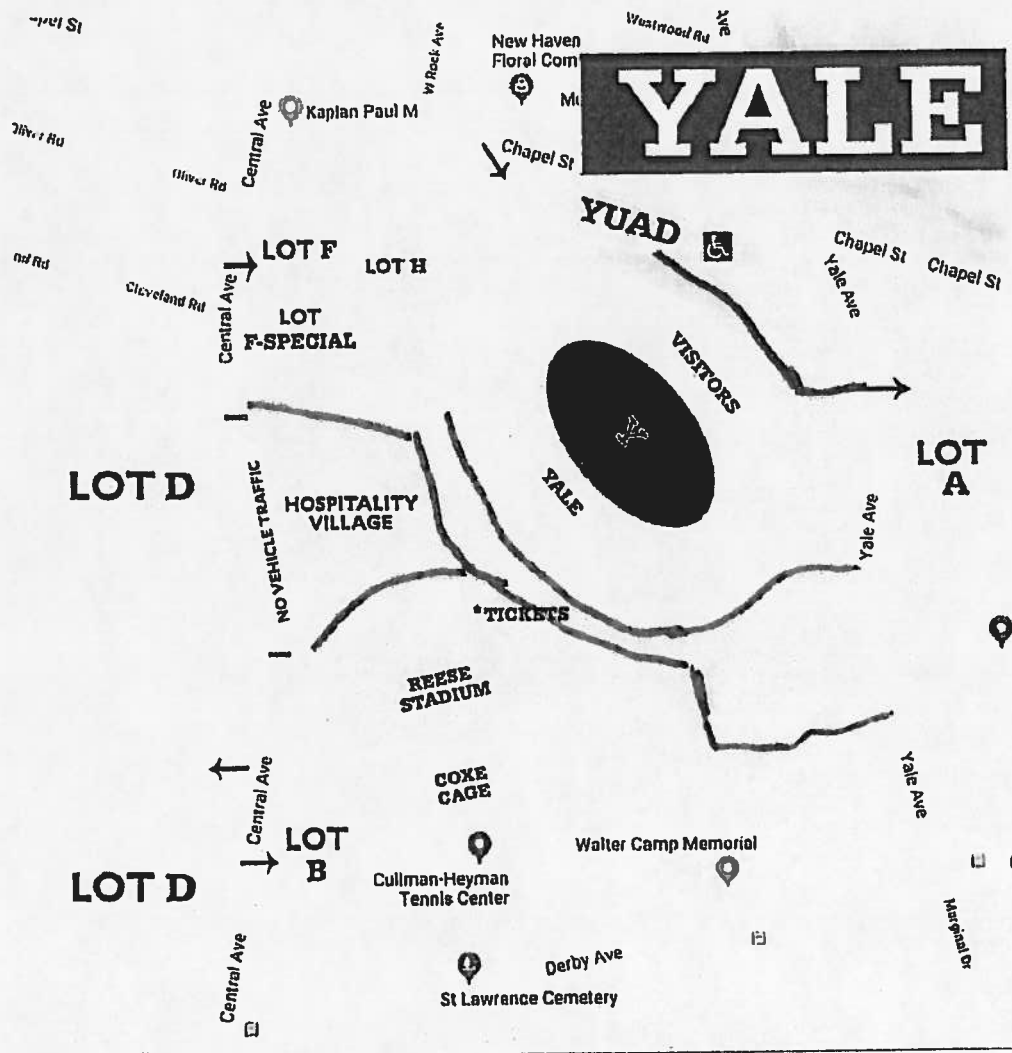
EXHIBIT A

Lots By: \_\_\_\_\_

The following lots depicted on the picture below:

1. YUAD
2. Lot H
3. Hospitality Village
4. Lot A
5. Lot D
6. Lot B
7. Lot F

The use of any Lot(s) shall be at the discretion of Yale in accordance with Section 3(b) of the Agreement.



**Steven G. Mednick**  
**Attorney**

**EXHIBIT F**

**CONSENT OF THE PARTIES TO THE AGREEMENTS**



## Steve Mednick

---

**From:** Bercury, Danielle M. <dbercury@bswlaw.com>  
**Sent:** Tuesday, October 8, 2019 5:55 PM  
**To:** Veenstra, Eric; Michael Piscitelli  
**Cc:** Zucker, Lauren; Filer, Donald; Jacob, Richard; 'Keith S. Mahler'; Steve Mednick; Deakin, Jennifer D.; chris@coliseumpartners.com  
**Subject:** RE: Tennis Center - Assignment from TFC to NHCPA

Mike,

On behalf of The Tennis Foundation of Connecticut ("TFC"), the current ground lessor of the property in question, including the related parking area, and the owner of the tennis arena, TFC consents to the submission of NHCPA Outdoors, LLC to the CPC for the requested review and approval of the proposed amendments to the ground lease and parking lease that would become effective upon approval by CPC, the releases by the State of Connecticut Eric mentioned below and the ultimate execution of the assignment and assumption of lease agreement between TFC and NHCPA Outdoors, LLC.

Please feel free to contact me with any questions for TFC.

Thank you,

~d

Danielle M. Bercury



**Brenner, Saltzman & Wallman LLP**

271 Whitney Avenue

New Haven, Connecticut 06511-3714

Telephone: (203) 772-2600

Facsimile: (203) 772-4008

[dbercury@bswlaw.com](mailto:dbercury@bswlaw.com)

[www.bswlaw.com](http://www.bswlaw.com)

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Thank you.

---

**From:** Veenstra, Eric [<mailto:eric.veenstra@yale.edu>]  
**Sent:** Tuesday, October 08, 2019 9:57 AM  
**To:** Michael Piscitelli  
**Cc:** Zucker, Lauren; Filer, Donald; Jacob, Richard; 'Keith S. Mahler'; Steve Mednick; Bercury, Danielle M.; Deakin, Jennifer D.  
**Subject:** Tennis Center - Assignment from TFC to NHCPA

Mr. Piscitelli,

## Steve Mednick

---

**From:** Veenstra, Eric <eric.veenstra@yale.edu>  
**Sent:** Tuesday, October 8, 2019 9:57 AM  
**To:** Michael Piscitelli  
**Cc:** Zucker, Lauren; Filer, Donald; Jacob, Richard; 'Keith S. Mahler'; Steve Mednick; 'Bercury, Danielle M.'; 'Deakin, Jennifer D.'  
**Subject:** Tennis Center - Assignment from TFC to NHCPA  
**Attachments:** NHCPA CPC Submission.pdf

Mr. Piscitelli,

Yale University is aware of the attached submission made by counsel to NHCPA Outdoors, LLC, a proposed assignee of (i) an existing Ground Lease between Yale University and The Tennis Foundation of Connecticut, Inc. ("TFC"), (ii) an existing Parking Agreement between Yale University and TFC, and (iii) interests in certain improvements owned by TFC and located at the ground leased premises Subject to NHCPA and TFC obtaining the consent of the City of New Haven and the State of Connecticut, and any and all approvals required for the use of the leased premises for concerts, including any consents and releases and agreements from the City of New Haven and the State of Connecticut, and local neighborhood support, Yale is willing to amend the Ground Lease and Parking Agreement in the form attached hereto to consent to such assignment and transfer to NHCPA.

If you have any questions or if there is further information you require, please do not hesitate to contact me directly.

Regards,

---

Eric R. Veenstra  
Senior Associate General Counsel  
Office of the Vice President and General Counsel  
Yale University  
2 Whitney Avenue, 6<sup>th</sup> Floor  
New Haven, Connecticut 06510  
Email: [eric.veenstra@yale.edu](mailto:eric.veenstra@yale.edu)  
Direct Dial: (203) 432-7712  
General Phone: (203) 432-4949  
Facsimile: (203) 432-7960

COPY from  
file

NEW HAVEN CITY PLAN COMMISSION ADVISORY REPORT

Vol 4263-Phase 079

RE: Yale and Derby Av., Application and General Plans for Planned Development District (PDD) Designation of a 24.1 Acre tract bounded by Chapel Street, West River, the West Haven town line, Cullman Tennis Building, Yale Bowl, and Yale Avenue for The Connecticut Tennis Center, to house the Volvo International Tennis Tournament (The Tennis Foundation of Connecticut, Inc.).

REPORT: 1112-81

ADVICE: Approval with Conditions

PROJECT SUMMARY

ADDRESS: Yale and Derby Avenues  
SITE: 24.1 Acre tract.  
ZONE: RM-1  
USE: 15,000 Seat Connecticut Tennis Center, 27 tennis courts, support facilities.  
CONSTRUCTION: Steel and Concrete.  
PROJECT COST: \$18.0 million  
FINANCING: State Bond  
DEVELOPER: Tennis Foundation of Connecticut, Inc.  
ARCHITECTS: Edward Larrabee Barnes/John M.Y. Lee & Partners  
LANDSCAPE: and Browning Day Mullins Dierdorf, Inc.  
ENGINEERS: Jack Curtis & Associates  
TRAFFIC: Lenard Engineering, Inc.  
LIGHTING: Wilbur Smith Associates  
CITY LEADS: Sylvan Shemitz  
CPD CITY CONTACTS: John McGuerty  
David Barone

PHONE: 787-6380  
787-6373

EXECUTIVE SUMMARY OF REPORT:

The Tennis Foundation of Connecticut, Inc. (TFC) proposes to construct a temporary tennis court and stadium on what is now a Yale University athletic field/parking area known as Lot A, in a block bounded by the bank of the West River, Chapel Street, and Yale and Derby Avenues, in the Westville section of the City. The temporary stadium and court will be used to host the Volvo International Tennis Tournament (VITT) in August, 1990.

The proposed PDD boundary also includes the area north of Derby Avenue north of the West Haven town line, from Yale Avenue westward to the east end of Cooke Cags, south of Yale Bowl. Existing courts west of Yale Avenue will be replaced by facilities developed to tournament standards, and a landscaped promenade with concession areas developed.

Following completion of the 1990 tournament, permission to construct a permanent 15,000 seat stadium and centre court, to be ready for the VITT in August, 1991 is requested. The complex will be known as the Connecticut Tennis Center (CTC).

VL4263 PMS081

CPC 1112-01: CONNECTICUT TENNIS CENTER PDD

page 3 of 20

SUBMISSION:

Application and General Plans. 31 page Text with Illustrations.  
Reduced Drawings: Current Site Plan, 1990 Center Plan,  
Permanent Center Plan, 1990 & 1991 Site Sections with Stadia,  
Regional Locator with Parking and General Access, CSFR, PDD  
Boundary. submitted 02-05-1990.

Supplementary Materials requested by Commission:

Map of Coastal Resources, 1990 & 1991 site plan, text.  
Inland Wetlands Application, with ACOE letter stating no  
permit required for proposed activity. Text with 17 soil  
borings, notifications list. Lenard Engineering, Inc.,  
submitted 04-18-1990.  
Traffic and Parking Study, 59 pages with illustrations.  
Wilbur Smith & Associates, in association with Herbert S.  
Levinson, submitted 04-24-1990.

Supplementary Materials submitted by Applicant at Meeting:

Mayor Daniels Letter. Mayor Evangelista Letter.  
Letters from DEP (2), ACOE, City Engineer, CTDED, Yale, and  
West Haven Police Chief.  
Tennis Foundation Board Membership. Tax Summary. Youth Tennis  
Program Summary, State Bond Language and Amendment, Estimate  
of City Revenues and Reimbursements.

TFC and Yale University Draft Agreements Submitted:  
Parking, Facilities, and Land Lease.

Other Materials at Public Hearing:

Statement of Alderman Steven G. Madnick

ADDITIONAL MATERIALS:

Engineering Report, Office of City Engineer, 2 page text plus  
illustration, dated May 9, 1990.  
Preliminary Traffic Impact Analysis, Department of Traffic and  
Parking, 3 page text, dated May 9, 1990.

See Meeting File for other documents and correspondence received.

PUBLIC HEARING:

The Wednesday, May 9, 1990 Public Hearing of the City Plan  
Commission was attended by about thirty-five interested citizens.  
The central focus of the Public Hearing was the Application and  
General Plan for Planned Development designation.

It was stated that to shorten the present hearing the Coastal  
Site Plan Review and Inland Wetlands Applications were heard  
administratively on April 25, 1990, that the minutes of that meet-  
ing and the findings of the City Plan Commission would be entered  
into the record of the public hearing, and summarized in the  
applicant's presentation. It was noted that the minutes and  
reports on these environmental concerns are available for public  
review at the City Plan Department offices.



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Circulation among these courts will be through a landscaped promenade with concession areas. A tented food court will be erected each year. In 1990 the food court will be located in the plaza southeast of Yale Bowl. In 1991 and thereafter the food court is expected to be located in the wooded grove on the corner of Yale and Derby Avenues. In all years the food will be served by permanent utility connections. Parking, which will be accommodated in existing Yale Bowl lots, is discussed in a separate section of this report.

The PDD tract is 24.1 acres, on both sides of Yale Avenue between Chapel Street and Derby Avenue, within the existing Yale Athletic complex which straddles the New Haven-West Haven town line. The site is within the Coastal Management District, and is certified by the applicant's qualified Soil Scientist to contain no Inland Wetlands.

Commission consideration will focus on the submitted proposal and supplementary materials, the required findings of Section 63.A of the New Haven Zoning Ordinance, and concerns expressed at the public hearing. Coastal and Wetland concerns and findings are addressed separately and in detail in companion CPC Reports 1111-09 and 1111-13, previously adopted.

#### Development Entities:

The Tennis Foundation of Connecticut, Inc. (TFC) is an association of the State of Connecticut, City of New Haven, Yale University, and the Connecticut Business Community. TFC will construct the Connecticut Tennis Center, whose principal tenant will be the Volvo International Invitational Tennis Tournament. The physical components of the CTC are described in detail below.

#### State Bonding Agreement:

To support the Tennis Center, the 1990-91 State of Connecticut Capital Budget includes an \$18 million appropriation to construct the facility. A stipulation of that instrument prohibits concerts for profit. Estimated annual debt service will be repaid by added ticket, cabaret, sales, and bed taxes. The Bond Agreement has been filed for the record.

#### Site Lease Agreement:

Yale University has agreed to lease the 8 acre stadium site to the Connecticut Tennis Center for a 99 year period. Either party may terminate the lease after 50 years, with three to six years prior notice. A copy of the draft lease has been filed for the record. The Commission requires any amendment of the lease be submitted for its review and approval to assure its continued adequacy as a basis for Planned Development designation.

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pedestrian activity will be predominantly to the south side of Yale Bowl, with only a VIP parking lot for about 200 accessed from Chapel Street. Major pedestrian routing will be along the south side of the Bowl, and from the Walter Camp Gate.

The Stadium and Support Facilities:

Courts West of Yale Avenue: Permanent courts and landscaping will be built to the west of Yale Avenue prior to the August 1990 tournament. Five existing courts near Derby Avenue will remain. A total of 22 new courts will flank a landscaped pedestrian promenade from Yale Avenue westward, terminating at the east end of Cox's Cage. A second promenade from the Walter Camp Gate (at Derby Avenue in West Haven) northward to Yale Bowl will intersect the east-west promenade, dividing the practice and preliminary elimination round courts into four quadrants.

Promenade paving will be decorative, with brick edging, and tall evergreen hedges will be placed along north and south side of the promenade, adjacent to the courts. Large deciduous trees will create an arcade within the 80' wide east-west promenade and will provide shade for concession tents placed among the trees during the VITT. Landscaping will be supplemented by flags, lighting, and decorative signage, and concession tents will be required to meet tournament design standards.

All new tennis courts will be oriented due north to meet tournament standards. Vinyl clad fencing and translucent fabric wind breaks will surround the courts, and each court will have its own water and electric power supply. Temporary grandstands will be placed around 7 of 22 courts to provide spectator seating for the VITT, with the largest capacity being 3,000 seats. All ticketholders are able to visit any court within the VITT grounds. Separate ticketing for courts west of Yale Avenue will not be available.

The Facilities Agreement between TFC and Yale provides for continued use of the courts by Yale University for educational purposes at other times, or permit others to use the facilities, and Yale will continue its current practice of permitting members of the public to use the tennis courts for a reasonable fee, when the courts are not needed by TFC or Yale for their respective purposes.

The Commission finds the practice and elimination round courts and promenade to be a high quality landscaped pedestrian environment, similar in amenity to existing Yale Athletic facilities, and fully acceptable as a design concept. It also finds the terms allowing continued public use of the tennis courts, as defined in the Draft Facilities Agreement which has been filed with the Commission, acceptable. The Commission requires any amendment of the Agreement be submitted for its review and approval to assure its continued adequacy as a basis for Planned Development designation.

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Each year Yale Avenue will be completely closed from Chapel Street to Derby Avenue for several weeks. Closure this year will be from Monday, July 30 through Tuesday August 21. While the Commission recognizes traffic volumes in this segment are relatively low, it recommends that all measures possible to reduce the length of the closure be taken. It is noted that annual closure of Yale Avenue will require submission and approval of the schedule by the Department of Traffic and Parking each year. The Commission finds the concept plan for the Food Court area fully acceptable.

In summary, submission of detailed plans for each of the CTC components outlined above for review and approval by the City Plan Commission will be required to assure the design quality continues to meet VITT and City standards.

Traffic, Access, Public Transportation, and Parking:

As required by a recent City Ordinance a detailed Traffic Impact Study has been submitted by Wilbur Smith Associates, in association with Herbert Levinson. While preliminary findings were submitted at the Public Hearing, materials are still being evaluated by the Department of Traffic and Parking, which will submit a separate report to the Board. Nevertheless, the Commission summary below reflects its traffic and parking management concerns.

The stated goal of the traffic and parking management plan is to minimize traffic on Westville residential streets while providing needed access to various parking areas. A proposed Traffic Operations Program (TOP) provides for monitoring and evaluation for possible modification in future years to improve access and minimize neighborhood intrusion.

In terms of general perspective, the Commission notes that the VITT will generate smaller traffic volumes than all but a handful of Yale Bowl sports events in the last several years. Sellout attendance of Yale Bowl, such as the Harvard-Yale game, exceeds 70,000, more than four times the 15,000 maximum attendees at the VITT.

The State Traffic Commission has scheduled a review of the proposal on May 15. Preliminary indications are that as the event takes place within the Yale Athletic complex, which has much higher existing traffic volumes associated with Bowl events, no significant added traffic impact is anticipated. The Commission concurs with this conceptual view of the VITT from a traffic standpoint. It is noted that the Parking Agreement effectively precludes any conflict with separate events in Yale Bowl.

Regional Vehicular Access will be from Route 34 (Derby Av.), which links to I-95 and I-91 on the east, and the Merritt-Wilbur Cross Parkway (Route 15) via Forest Road (Route 122) and Boulevard (Route 10). Key local routes east-west are Chapel, Edgewood, Fountain and Whalley, with north-south access from Boulevard and Forest.



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A Traffic Operation Program (TOP) Working Committee with representatives of the State, New Haven, and West Haven Police, State DOT, and City Departments of Traffic and Parking, Parks and Fire, and other members including neighborhood representatives chosen by the City Administration and TPC, is required as a condition of approval. The TOP is required to be submitted to the Commission annually, not less than six weeks prior to the scheduled event. In addition, following the 1990 VITT an evaluation of traffic operations and problems shall be submitted to the Commission for its review by January 1, 1991. The Commission shall review and approve the TOP, and may require its amendment.

Bus and Shuttle Services:

Limited bus and shuttle service will be available to downtown and the railroad station to provide access to and from the VITT and to and from downtown before, during, and after events. The number and type of vehicles, pickup and dropoff points, and frequency of operation shall be approved as part of the TOP, and included in the annual submission to the Commission detailed above. The Commission encourages development of such services.

Hospitality and Corporate Sponsor Services:

Hospitality and Corporate Sponsor areas will be served by a single commissary to the north of the restrooms adjacent to Yale Bowl in 1990, and in future years the commissary will be at the north end of the stadium, adjacent to the loading docks. Access will be from the existing drive, which will remain gravel but be upgraded. As traffic volumes are small and in off peak hours of the event, the Commission finds this to be adequate.

Player, Press and Television Services:

Player, press and television services will be accommodated at the south end of the stadium in 1990, serviced by a drive off Derby Avenue. Television equipment for ESPN and ABC will be set up in off hours prior to the event, and most will remain for the duration. As traffic volumes are small and will occur in off peak traffic hours, the Commission finds this adequate.

Patron Parking:

Parking will be accommodated in existing areas around Yale Bowl. The Parking Agreement prohibits alcoholic beverage consumption in parking areas. On-street parking during the VITT will be prohibited, but residents will be issued parking permits. The Commission leaves the mechanics of these matters to the TOP Working Committee, which will include these elements in their submission to the Commission.

The proposed parking ratio of vehicles to people of 1:2.5 is fully acceptable, conforms with national standards, and substantially exceeds the 1:4 requirement of the Zoning Ordinance. Handicapped parking to meet State standards will be required as part of the detailed plan submission.

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The Commission will require the tennis stadium sanitary sewer be connected to the City system. It will also require Yale University to eliminate its leaching field and connect existing Bowl facilities to the City system. Any agreement on methodology and expense allocation for completion of these tasks shall be determined by Yale and the TFC.

Water is to be supplied from Yale Avenue. Adequate capacity is available.

Trash Disposal:

Trash disposal is not shown in the submission. As the State will require trash separation by 1991, the Commission believes that state of the art techniques should be employed. A fully developed trash solution meeting all 1991 State requirements for trash separation and local requirements in effect as of July 1990 will be required as part of the Detailed Plan submission. Maximum recycling will be required. As a condition of approval, all trash pick-up shall be a CTC responsibility.

Mail Service:

It is presumed that a single mail distribution point will be employed. A plan showing location and design of mail service facilities as approved by the U.S. Postal Service shall be required as part of the Detailed Plan submission.

Site Design, Building Massing and Height:

Connecticut Tennis Center is a large tract in a prominent location within the existing Yale Athletic Complex at the New Haven-West Haven town line. The Connecticut Tennis Center would be a distinctive facility that positively adds to the fabric of Westville and the existing Yale Athletic Complex while respecting the existing neighborhood framework and the integrity of Edgewood Park.

The relationship of the proposed structure with abutting land uses is particularly important. The 78' height of the permanent stadium is masked by existing large trees at the periphery of the site and by Yale Bowl. The Commission finds the mass of this institutional structure acceptable and compatible with the closest homes, some 800' removed in adjacent RM-1 and RS-2 zones, because the site approach nestles the Tennis Center within the existing trees and landscape to reduce its massing and preserve the site to the greatest degree possible.

The existing tree buffers along Yale Avenue, the West River, Chapel Street, and Derby Avenue are retained. By using existing trees as an integral design element the Connecticut Tennis Center is developed within the present community fabric to the greatest degree physically possible for a large facility. The Commission finds the design approach preserves the existing character and topography of the site.

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**ZONING:**

The Connecticut Tennis Center is located in Westville on a 24.1 acre zoning lot, entirely within the RM-1 zone, which allows private colleges and universities by right, and neighborhood recreation facilities and athletic clubs by special exception. The sole zoning departures are to allow a commercial athletic facility where a college athletic facility is a permitted use and to permit a height of  $\pm 47'$  (above Yale Avenue) where an average height of 35' is permitted.

The accompanying Inland Wetlands Report (CPC 1111-13) finds the proposal to have a minimal impact because of two stormwater outfalls into the West River, and therefore to be the most prudent development alternative. That report therefore makes a finding of minor impact on Inland Wetlands and Watercourses.

Given the site constraints, retention of the character of the site, the required Traffic Operations Plan, and suggested improvements, the level of project design and amenity, the Commission believes full approval of the request is warranted.

**SUMMARY:**

The Connecticut Tennis Center is a prime site within the existing Yale Athletic Complex, on lands with topographic and infrastructure constraints. The overall site planning, design, and amenities to be provided assure that Connecticut Tennis Center will be a positive addition to Westville, the City, and the region. The design, quality of materials, and site development are consistent with the letter and intent of Section 63 of the Ordinance.

Based on its past experience, the Commission approval incorporates several conditions to assure project continuity, minimize administrative workload, and to insure prompt construction of the project. For the applicant's convenience, Detailed Plan submission requirements of the preceding text are outlined below.

**Detailed Plan Submission Requirements:**

To assure Detailed Plan submissions are fully developed and in accord with Section 63.E of the Zoning Ordinance, the following shall be included for City Plan Commission review and approval:

- o **Detailed Utilities and Service Plan**, in accord with text, with:
  - a. Water Service, as approved by South Central Regional Water Authority and City Engineer.
  - b. Fire apparatus access and fire hydrant locations, as approved by Fire Department and City Engineer.
  - c. Storm and sanitary treatment, including removal of existing leaching field, as approved by the Water Pollution Control Authority and City Engineer. Stormwater Plan shall have signoff by CTDEP.
  - d. Electric Service, including transformer and meter placement, as approved by United Illuminating.

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- o Traffic Operations Program (TOP), prepared by the Working Committee as outlined in the text, is required to be submitted to the Commission annually for review and approval not less than six weeks prior to the scheduled event. Responsibility for submission of the TOP shall reside with the TFC. The initial program shall include:
1. Prohibition on Roger Road access/egress to parking.
  2. Buffer zone to rear of Cleveland Road residences.
  3. Delineation of current Yale Parking capacities, including entire Lot A.
  4. Materials and methods for pest control, including pesticides to be used, if any.
  5. Use of Marginal Drive only for event traffic, subject to Department of Parks approval.
  6. Back-up parking plan for severe rain days.
  7. Post 1990 VITT event review and recommendations, to be presented by January 1, 1991.

The City Plan Commission will only review complete Detailed Plan Review submissions for each phase and at that time City Plan staff may be delegated the power to authorize signoff for a Temporary Certificate of Occupancy for the approved development phase. A Final Certificate of Occupancy will only be issued upon project completion. Partial submissions will NOT be accepted.

**FINDING AND RECOMMENDATION:**

It is the Commission's judgement that the Application and General Plans meet the objectives of Section 63.A of the Zoning Ordinance as follows:

1. The Connecticut Tennis Center is in accordance with the 1971 Future Land Use element of the Comprehensive Plan of the City of New Haven, which permits institutional and public uses. Its contemporary design uses materials, massing, and forms of a quality and amenity typical of the existing Yale Athletic Complex facilities and commensurate with the quality of the Westville residential community. The project maintains to the greatest degree possible the existing topography and unique character of the site, in a manner compatible with and complementary to adjacent residential development. Construction of the development will create a unique complex of high architectural quality.
2. The General Plans for the PDD show a carefully designed approach to retain the existing land forms and trees. The CTC is a landscaped pastoral environment within an open park like setting allowing public access, continued privacy for nearby dwellings, and buffering of adjacent development in accordance with the objectives of Section 63.A.
3. The General Plans are sufficient in scope to describe the proposed improvements. Submission of detailed plans for review and approval, in accordance with text recommendations and conditions of approval and Section 63.E, will assure the project continues to meet the requisite design standards.

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8. Detailed plans for the development shall be submitted within six months of the effective date of PDD designation, unless the Commission grants an extension upon written request by the Developer, who shall state a basis for delay.
10. At the time of submission of Detailed Plans the Commission will establish a reasonable time for phase and project completion. If at any time subsequent to Aldermanic approval the Commission determines the project is not likely to be completed within a reasonable time, it may submit to the Board of Aldermen a communication to revert the tract to the RM-1 zone standards.
11. Tennis Foundation of Connecticut shall be responsible for trash pick-up, and shall meet all state and local trash separation and material requirements for the VITT.
12. Prior to issuance of any Certificate of Occupancy for each phase, the Developer shall submit a certified estimate of the cost of completion of remaining site work (e.g., landscape, walks, lighting) for that phase; and furnish a passbook bond, escrow, or other binding financial instrument acceptable to Corporation Counsel and the Commission for 150% of their estimated cost of completion.
13. Prior to any disturbance of the site the Developer shall furnish a passbook bond, escrow, or other binding financial instrument acceptable to Corporation Counsel and the Commission for \$500,000 to assure site restoration if the project does not proceed. The amount of this surety may be increased by the Commission prior to the initiation of work or any subsequent phase of work if it finds such larger amounts necessary to meet the objectives of this clause, or if the developer in any way violates the terms of this approval as pertains to protection and preservation of the site.
14. The limits of the State Bond Act funding the Connecticut Tennis Center shall also be conditions of approval of the Planned Development District.

ADOPTED: May 9, 1990  
William B. Post  
Chairman

ATTEST:   
John L. McQuarrie  
Executive Director