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Nov 29 2022
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE CIRCUIT COURT
FOURTEENTH JUDICIAL CIRCUIT

The Honorable Bentley D. Price

Appellate Court Case No. 2022-000300
Circuit Court Case No. 2021-CP-07-01241

Historic Beaufort Foundation, ...Appellant,

v.

City of Beaufort, City of Beaufort Historic District Review Board,
and The Beaufort Inn, LLC,..... Respondents.

AND

West Street Farms, LLC and Mix Farms, LLC, ... Appellants,

v.

City of Beaufort, City of Beaufort Historic District Review Board,
and The Beaufort Inn, LLC,..... Respondents.

RECORD ON APPEAL
VOLUME II

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ELECTRONICALLY FILED - 2021 Sep 16 4:44 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0700663

ELECTRONICALLY FILED - 2021 May 10 2:06 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0700663

City of Beaufort Department of Planning and Community Development
Post Office Drawer 1167
1911 Boundary Street
Beaufort, South Carolina 29902
Phone (843) 525-7011 / Fax (843) 986-5606
Website: www.cityofbeaufort.org

See back of application for fees

CITY OF BEAUFORT HISTORIC DISTRICT REVIEW BOARD PROJECT APPLICATION (Revised – 07/15/2011)

Application #: _____ Date Received: _____ Zoning District: _____

Property Address: 918 Craven Street

Applicant: Beaufort Inn, LLC Phone: 843-521-9000

Applicant's Address: 2015 Boundary Street, Suite 300 Beaufort, SC 29902

Beaufort County 1997 Historic Sites Survey listing: yes

Property Owner: same Phone: _____

Owner's Address: _____

Architect: _____ Phone: _____

Architect's Address: _____

REQUEST FOR:

- ☐ Conceptual Review
- ☑ Final Approval
- ☐ Preliminary Review
- ☐ Change After Certification

NATURE OF WORK: (Check All That Apply)

- ☐ Color changes
- ☐ Signage, Awnings
- ☐ Legal Plat
- ☐ Other: _____
- ☐ Alterations, Additions
- ☐ New Construction
- ☐ Minor/Major Demolition or Relocation

DRAWINGS/MATERIALS ACCOMPANYING APPLICATION: (Refer to Appropriate Checklists for Requirements)

- ☐ Photographs
- ☐ Site Plan/Plat
- ☐ Floor/Roof Plans
- ☐ Detail Drawing
- ☐ Color Sample
- ☐ Material Sample
- ☐ Elevation Drawings
- ☐ Model

EXPLANATION AND DESCRIPTION OF WORK:

_____

_____

_____

Pursuant to Section 6-29-1145 of the South Carolina Code of Laws, is this tract or parcel restricted by any recorded covenant that is contrary to, conflicts with, or prohibits the activity described in this application? ____ Yes ____ No

An Application is incomplete until all required information is submitted. Incomplete applications will not be placed on a Board agenda. Applications are reviewed based upon the *Beaufort Preservation Manual and Supplement*, or the *Northwest Quadrant Design Principles* (refer to www.cityofbeaufort.org) which the applicants are strongly encouraged to purchase. Office copies are available for reference. In order that meetings not be excessively long, the Board maintains a strict policy that no more than ten applications are reviewed in any one meeting. If you are under a tight time frame, please be sure to submit your application early. **Submittal Requirements:** 8 hardcopies of all documents + a digital copy of all the documents must be filed by 12:00 noon on the deadline date. If the applicant or a representative is not present at the meeting, the application will not be reviewed.

OWNER'S SIGNATURE: _____ DATE: 5/10/21

APPLICANT'S SIGNATURE: _____ DATE: _____

– OVER FOR FEE SCHEDULE –

ELECTRONICALLY FILED - 2021 May 10 2:06 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0700263

918 Craven Street and 310 West Street are proposed to be demolished to accommodate a new parking facility. This facility is a separate application before the Board. Subject to architectural details and siting the Parking Garage has been approved by the Board. Additional Board review, including final review, is proceeding.

918 Craven Street is listed on *The Beaufort County Above Ground Resources Survey of 1997* as a contributing structure. However, the survey notes that much restoration has occurred to the structure and it was, perhaps, moved to the site. A survey of the structure further confirms it was constructed circa 1950 and has, since that time, deteriorated. A copy of this survey is attached. Sanborn Maps confirm that numerous structures have appeared on this site over time.

Beaufort Inn, LLC is prepared to offer the structure for relocation to any interested party, as well as provide $3,000 to facilitate the relocation. If no one relocates the structure within 6 months of approval of the demolition, we plan to demolish the building on site.

310 West Street is not listed on *The Beaufort County Above Ground Resources Survey of 1997.*

Pictures of both structures, as well as a plat identifying their locations, are attached.

ELECTRONICALLY FILED - 2021 May 10 2:06 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0700663

BEEKMAN WEBB CONSTRUCTION COMPANY

July 20, 2016

To whom it may concern:

On July 19, 2016, at the owner's request, I examined the cottage located at 918 Craven Street, Beaufort. In addition to a general survey of the property, I looked at the foundation and floor system and was able to access the attic area with the help of the current tenant. The house appears to have been constructed circa 1950 and was of average quality for the day. Since that time it has deteriorated significantly due to termite damage ... some of which has been repaired, but much of which has not. The building was constructed on brick piers, likely without footings. The instability of the foundation is evidenced by leaning piers and by a very crooked roofline.
The house has undergone numerous alterations over the years in it's conversion from residential to office/retail use. The porch has been built and rebuilt, the fireplaces have been abandoned and torn down to below the roof level. Holes have been cut through the walls for AC units and later badly patched. Some interior walls have been removed likely affecting the house's stability. Structurally the house is in poor condition.

It is my opinion that the building makes no significant contribution to Beaufort's National Landmark Historic District.

Sincerely,

Beekman Webb

90 GARNET POINT ROAD BEAUFORT, SOUTH CAROLINA 29907
(843) 521-4420 EMAIL: beekman@centurylink.com

BEAUFORT COUNTY
HISTORIC SITES SURVEY - 1997

RECONNAISSANCE LEVEL BUILDING INVENTORY FORM

Statewide Survey Site Form
State Historic Preservation Office
South Carolina Department of Archives and History
Columbia, SC

Site Number: 9 13 - 1029
Access County Site #

USGS Quad: 025 Beaufort
Doc. Level: Reconnaissance Level

Historic name(s):
Common name(s):
Address/location: 918 Craven St.
Map Ref.: BFT.09.(BL)
City Block Ref.: 70 01
Tax Number: R120.004.000.0850.0000
Island: Port Royal Is.
City/Vicinity of (vic.) Beaufort

Date: 1930 ca.? Alteration date:

Ownership: ☒ 1. private ☐ 2. city ☐ 3. county ☐ 4. state ☐ 5. federal ☐ 6. unknown

Category: ☒ 1. building ☐ 2. site ☐ 3. structure ☐ 4. object

Historic use(s): single dwelling Current use: commercial

Notes: single story cross gabled dwelling with exposed rafter ends and double windows. Much restored, moved onto site?

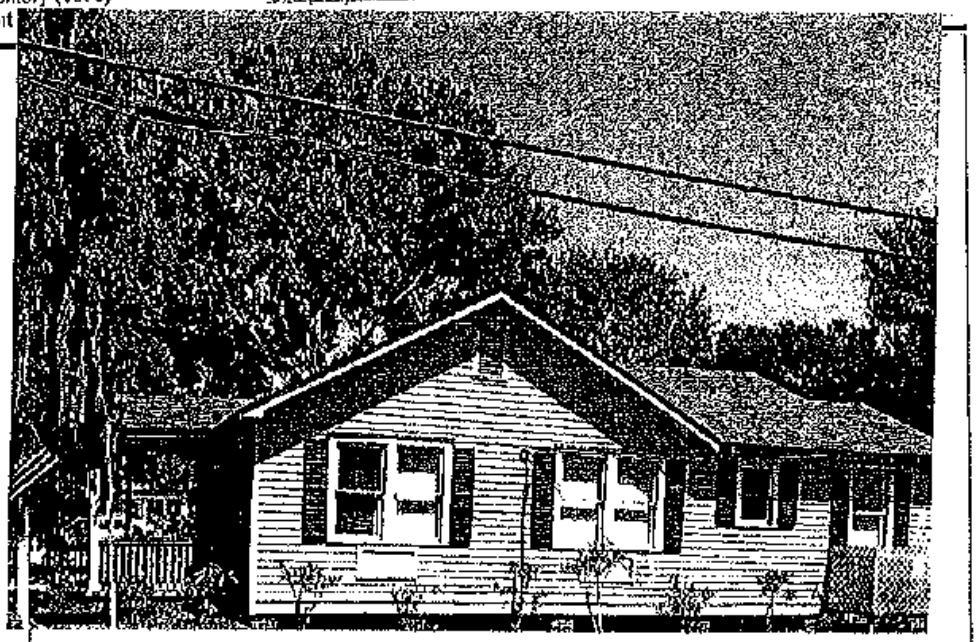
National Register Status:	Date:	Listing Name:	NRIS #
National Register Historic District (NHL, 11/73)	12/17/69	Beaufort Historic District	69000159

SHPO National Register Evaluation: Contributes to listed district Name: Beaufort Historic District

Consultant Recommendation: Name:

Previous Survey:	Reference:	Notes:
☐ H.A.B.S.		
☐ Other		
☐ Feiss-Wright (1969)		
☐ Historic Resources of the Lowcountry (1979)		
☒ Milner Historic District Inventory (1979)	070.(B50).01	Vol. 08; full form
☐ A Guide to Historic Beaufort		

Photograph:



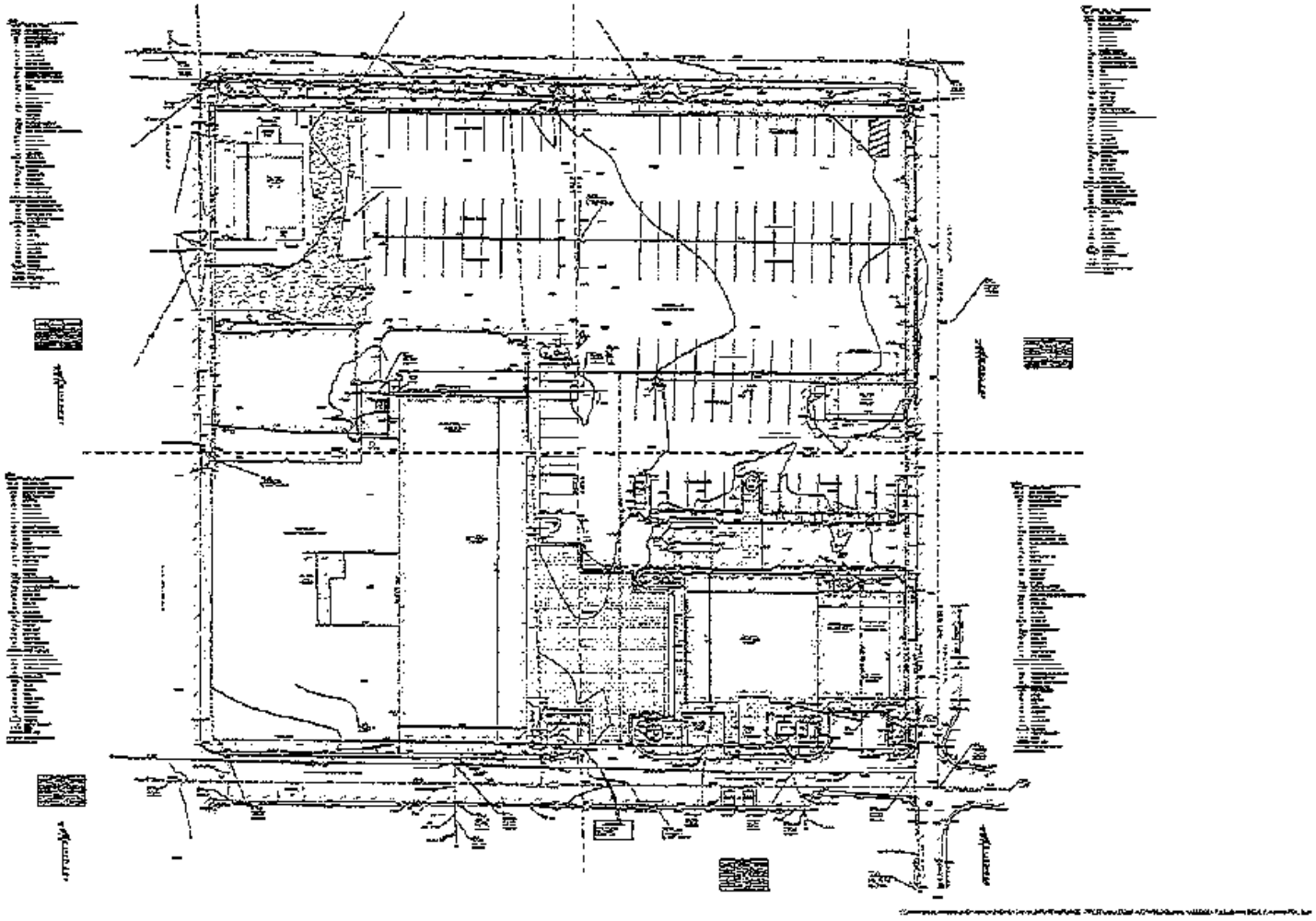
Photographs:
☒ prints
☐ slides
☒ negatives

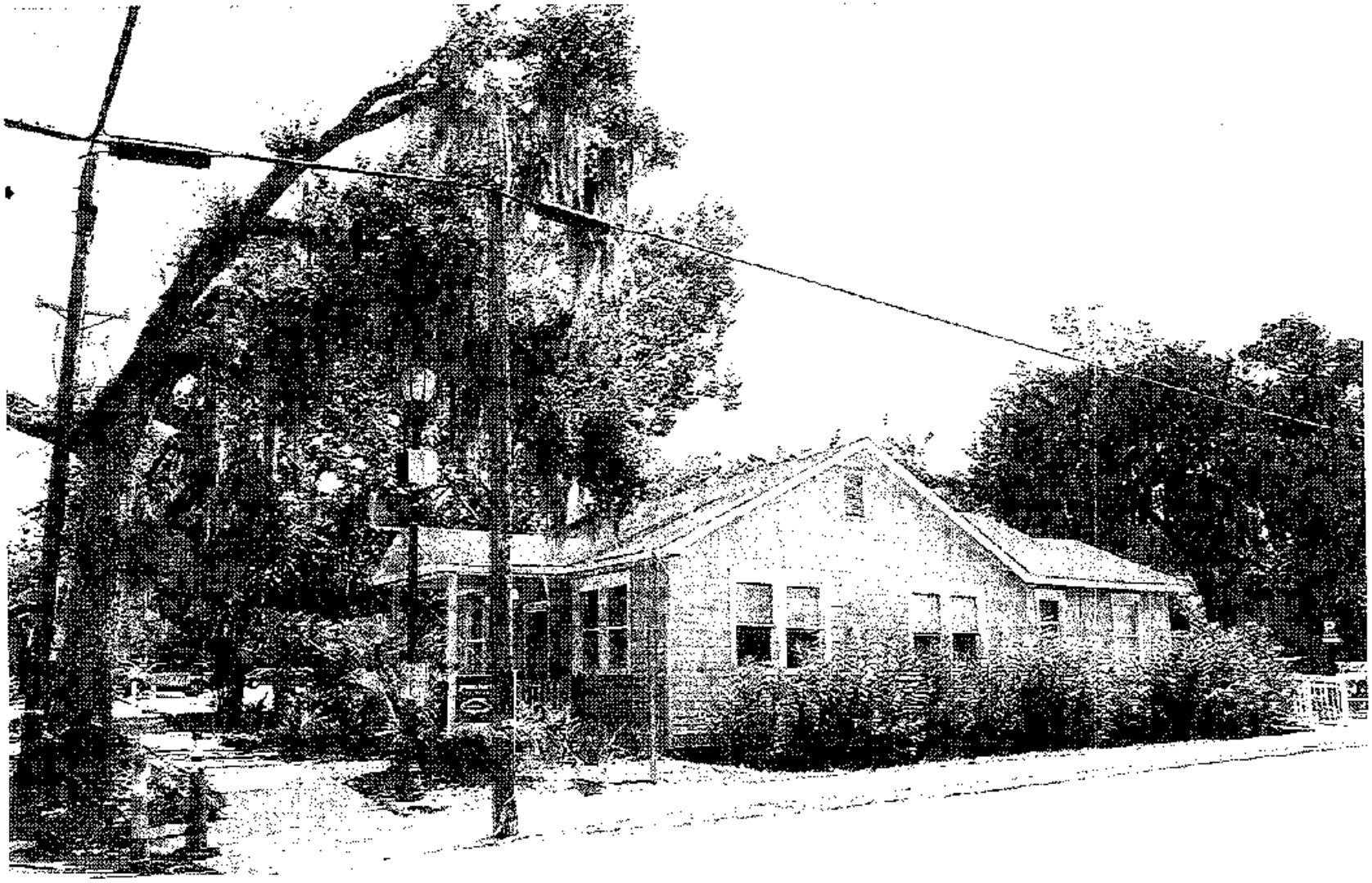
Date: 7.21.97
Recorder: C. Brooker, Brooker Arch. Cons.

Roll # Neg. View of:
B-10 32 N facade (L) & W elev., loc. E

Brockington Associates, Inc. • Brooker Architectural Design Consultants • Historic Beaufort Foundation • Preservation Consultants, Inc.

ELECTRONICALLY FILED - 2021 May 10 2:06 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0700868





918 Craven Street

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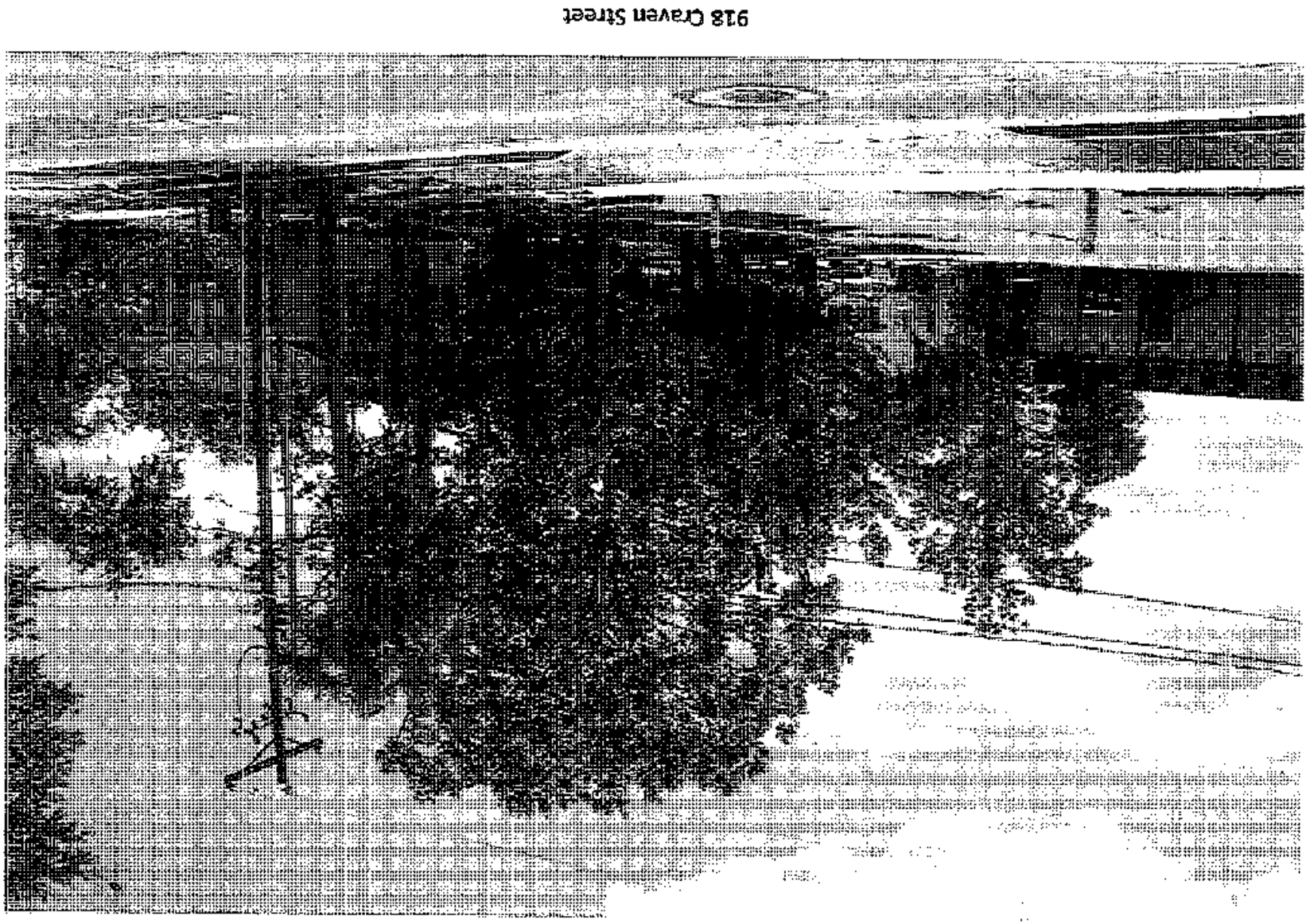
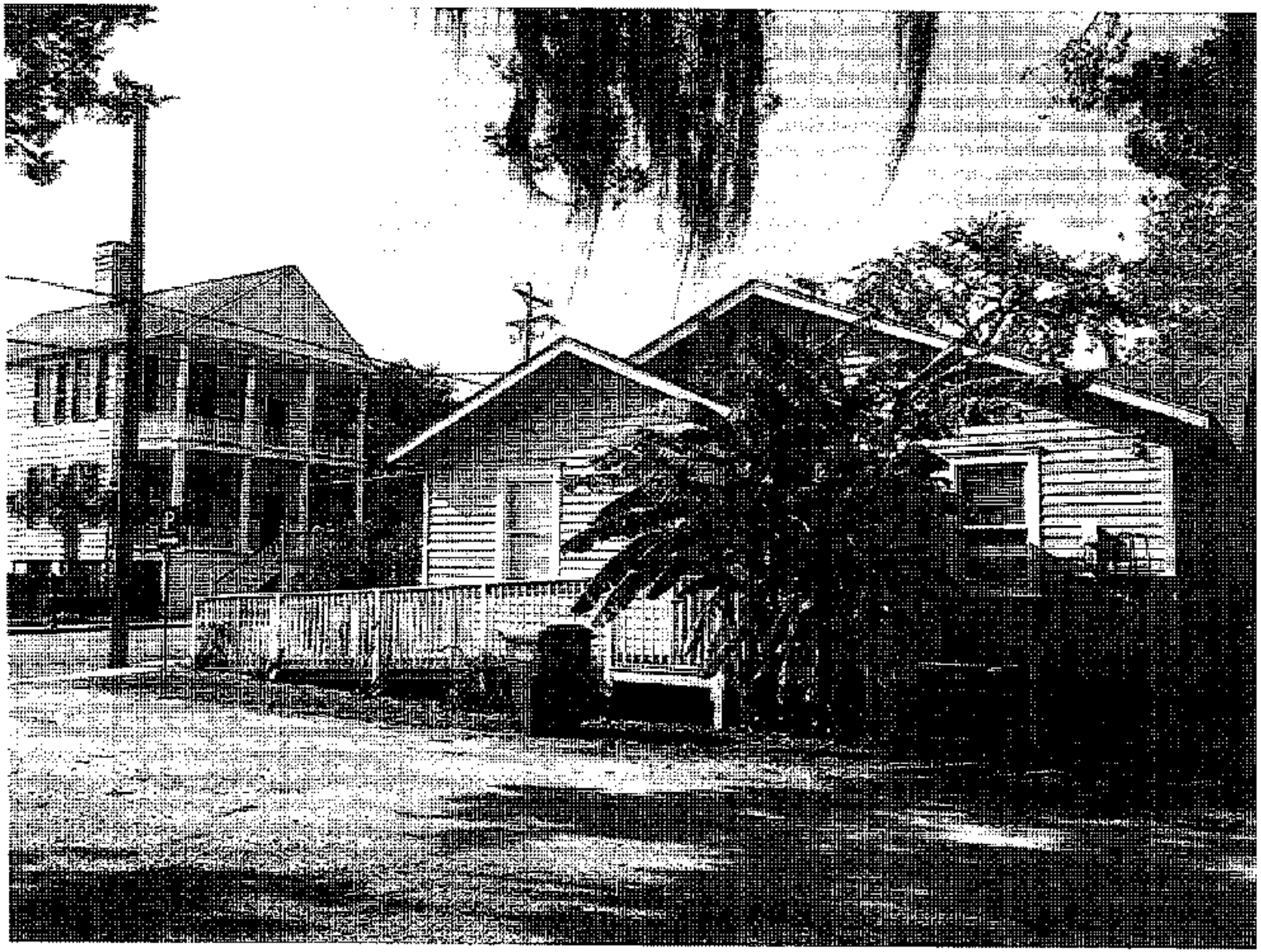
918 Craven Street


918 Craven Street



918 Craven Street

ELECTRONICALLY FILED - 2021 May 10 2:06 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0700363

ELECTRONICALLY FILED - 2021 May 10 2:40 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0700668

BEAUFORT INN, LLC
2015 BOUNDARY STREET, SUITE 300
BEAUFORT, SC 29902
(843) 521-8000

Ameris Bank SOUTH CAROLINA

80015

64-175/612

NUMBER
080015

*TWO HUNDRED FIFTY AND XX / 100

DATE
09/21/16

AMOUNT
*******250.00*

PAY TO THE ORDER OF
CITY OF BEAUFORT
1911 Boundary Street
Beaufort, SC 29902

BEAUCIT

[redacted]

BEAUFORT INN, LLC 80015

DATE	INVOICE NO	COMMENT	AMOUNT	DISCOUNT	NET AMOUNT
09/21/2016	09/21/2016	HBR permit	250.00	0.00	250.00

CHECK: 080015 09/21/2016 CITY OF BEAUFORT 250.00

BEAUFORT INN, LLC 80015

DATE	INVOICE NO	COMMENT	AMOUNT	DISCOUNT	NET AMOUNT
09/21/2016	09/21/2016	HBR permit	250.00	0.00	250.00

CHECK: 080015 09/21/2016 CITY OF BEAUFORT 250.00

SF3001TOP-1
Safeguard
TO REORDER, CALL YOUR LOCAL SAFEGUARD DISTRIBUTOR AT 800-328-3516
CGSC SL0010040 L003F024216
CGSC1 SIKOKO1 03/02/2016 17:25 -168-

EXHIBIT E

ELECTRONICALLY FILED - 2021 May 13 4:04 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0700263

ELECTRONICALLY FILED - 2021 May 10 2:06 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0700663

City of Beaufort Department of Planning and Community Development
Post Office Drawer 1167
1911 Boundary Street
Beaufort, South Carolina 29902
Phone (843) 525-7011 / Fax (843) 986-5606
Website: www.cityofbeaufort.org

See back of application for fees

CITY OF BEAUFORT HISTORIC DISTRICT REVIEW BOARD PROJECT APPLICATION (Revised – 07/15/2011)

Application #: _____ Date Received: _____ Zoning District: _____

Property Address: 310 West Street

Applicant: Beaufort Inn, LLC Phone: 843-521-9000

Applicant's Address: 2015 Boundary Street, Suite 300 Beaufort, SC 29902

Beaufort County 1997 Historic Sites Survey listing: no

Property Owner: same Phone: _____

Owner's Address: _____

Architect: _____ Phone: _____

Architect's Address: _____

REQUEST FOR:

- ☐ Conceptual Review
- ☑ Final Approval
- ☐ Preliminary Review
- ☐ Change After Certification

NATURE OF WORK: (Check All That Apply)

- ☐ Color changes
- ☐ Signage, Awnings
- ☐ Legal Plat
- ☐ Other: _____
- ☐ Alterations, Additions
- ☐ New Construction
- ☐ Minor/Major Demolition or Relocation

DRAWINGS/MATERIALS ACCOMPANYING APPLICATION: (Refer to Appropriate Checklists for Requirements)

- ☐ Photographs
- ☐ Site Plan/Plat
- ☐ Floor/Roof Plans
- ☐ Detail Drawing
- ☐ Color Sample
- ☐ Material Sample
- ☐ Elevation Drawings
- ☐ Model

EXPLANATION AND DESCRIPTION OF WORK:

_____

_____

_____

Pursuant to Section 6-29-1145 of the South Carolina Code of Laws, is this tract or parcel restricted by any recorded covenant that is contrary to, conflicts with, or prohibits the activity described in this application? ____ Yes ____ No

An Application is incomplete until all required information is submitted. Incomplete applications will not be placed on a Board agenda. Applications are reviewed based upon the *Beaufort Preservation Manual and Supplement*, or the *Northwest Quadrant Design Principles* (refer to www.cityofbeaufort.org) which the applicants are strongly encouraged to purchase. Office copies are available for reference. In order that meetings not be excessively long, the Board maintains a strict policy that no more than ten applications are reviewed in any one meeting. If you are under a tight time frame, please be sure to submit your application early. Submittal Requirements: 8 hardcopies of all documents + a digital copy of all the documents must be filed by 12:00 noon on the deadline date. If the applicant or a representative is not present at the meeting, the application will not be reviewed.

OWNER'S SIGNATURE: _____ DATE: 4/16/21

APPLICANT'S SIGNATURE: _____ DATE: _____

– OVER FOR FEE SCHEDULE –

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310 West Street is not listed on *The Beaufort County Above Ground Resources Survey of 1997*.

Pictures of both structures, as well as a plat identifying their locations, are attached.

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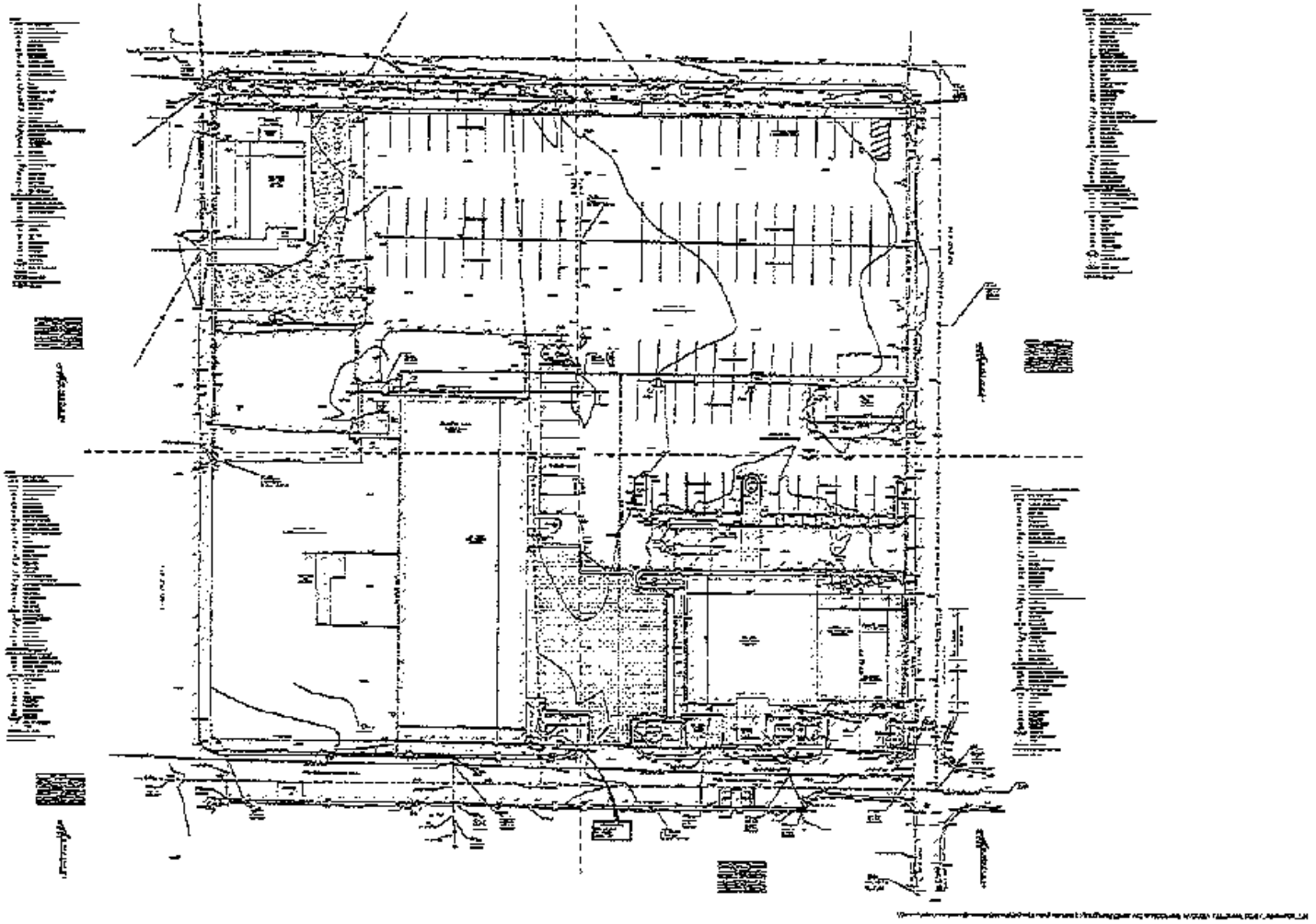
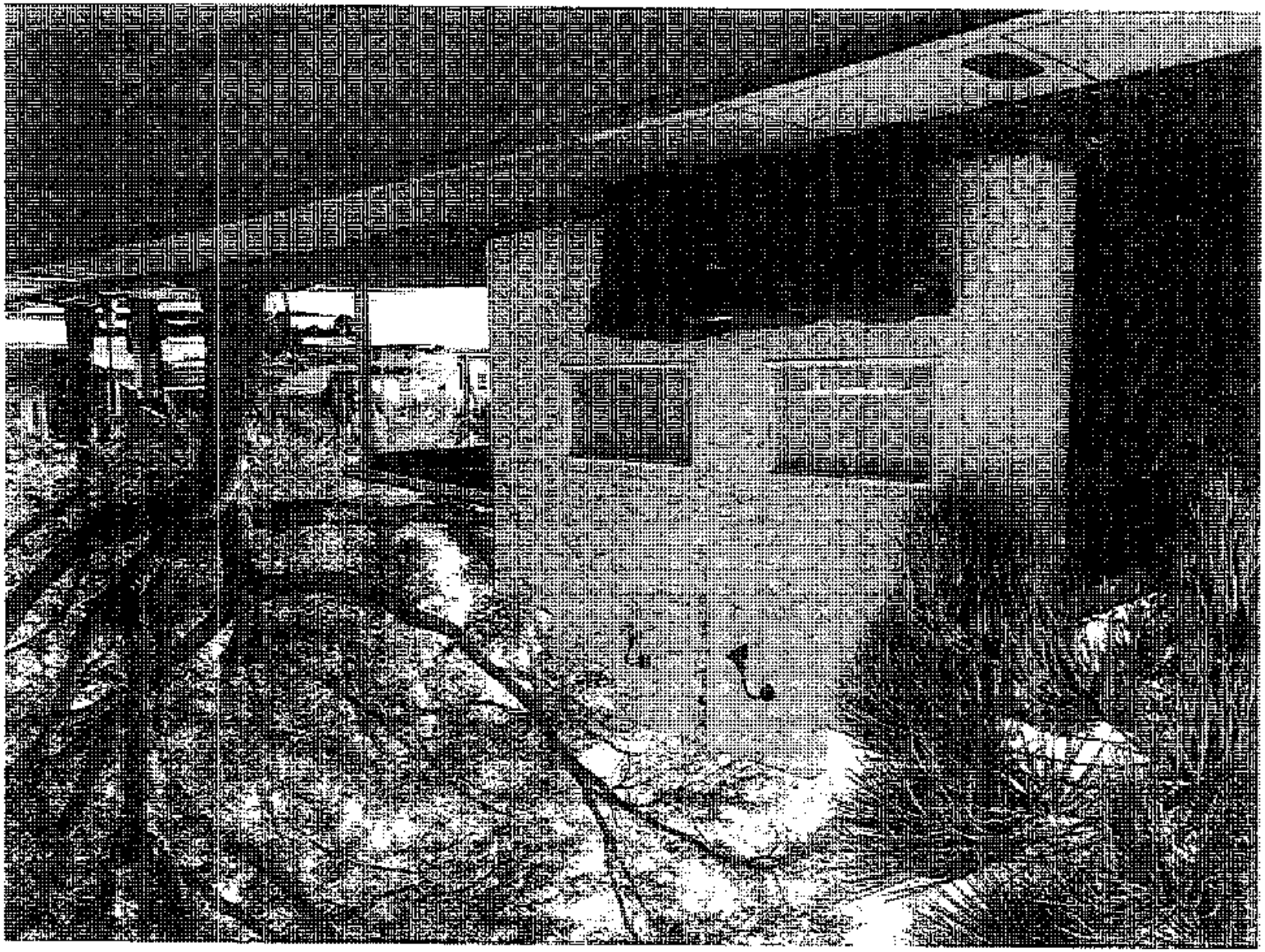


310 West Street



310 West Street

310 West Street

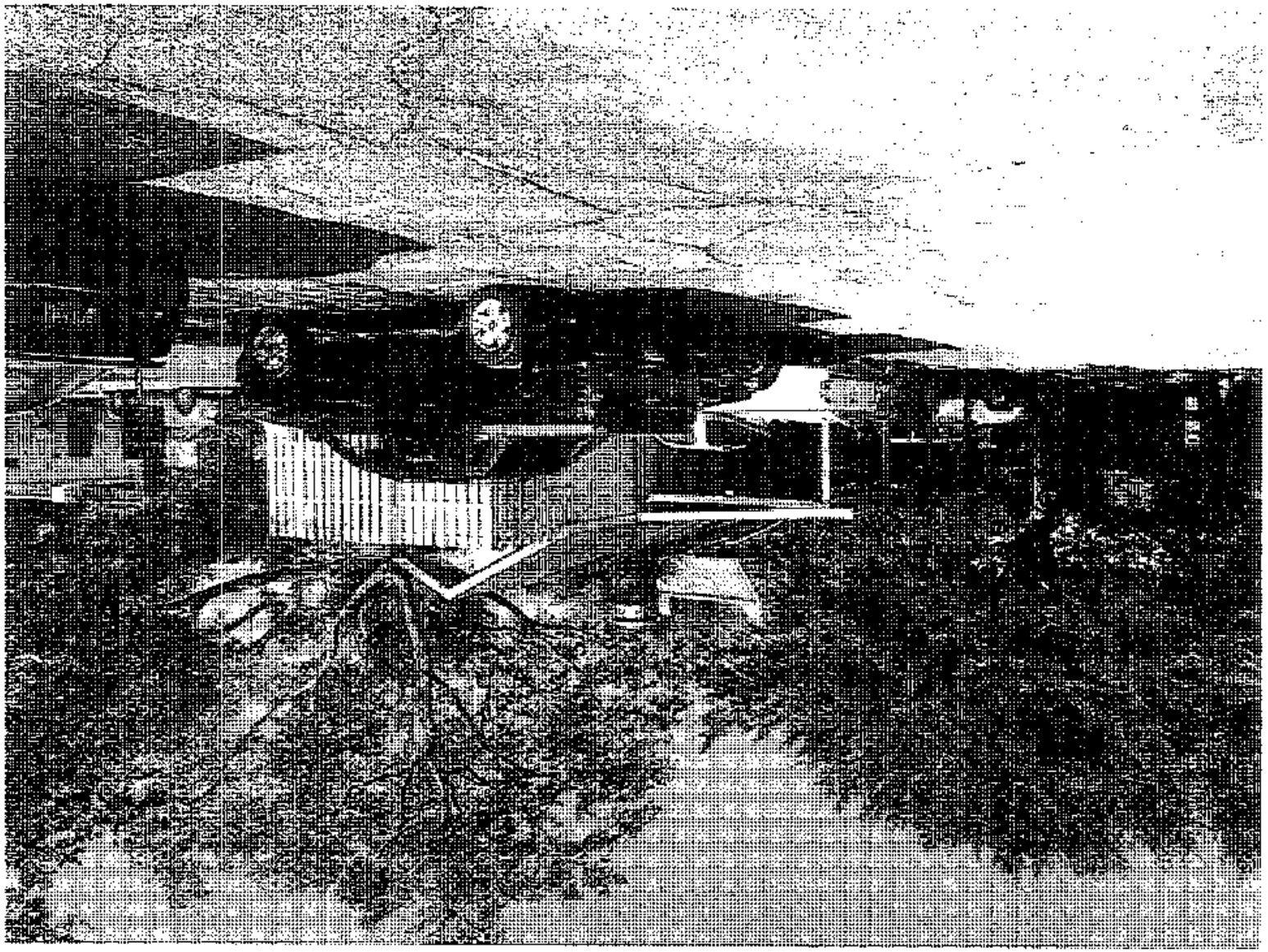


EXHIBIT F

ELECTRONICALLY FILED - 2021 May 10 2:44 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0700263

ELECTRONICALLY FILED - 2021 May 10 2:00 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0700663

A meeting of the Historic District Review Board was held on **November 9, 2016 at 2:00 p.m.** in the City Hall Planning Conference Room, 1911 Boundary Street. In attendance were Chairman Joel Newman, board members Barbara Laurie, Quinn Peitz, Chuck Symes, and Lauren Kelly, planning staff. John Dickerson was absent.

In accordance with the South Carolina Code of Laws, 1976, Section 30-4-80(d) as amended, all local media were duly notified of the time, date, place, and agenda of this meeting.

CALL TO ORDER

Chairman Newman called the meeting to order at 2:00 p.m.

MINUTES

Mr. Peitz made a motion, second by Mr. Symes, to approve the minutes of the October 26, 2016 meeting of the HDRB. Ms. Laurie said on page 3 of the minutes, in the description of the project at 1304 Washington Street, the heading says "the applicant is requesting approval for a series of new cottages," but that phrase is a holdover from the previous time the applicant had come to the HDRB, so the words "series of new cottages" should be replaced with "new cottage." **The motion to approve the minutes as amended passed unanimously.**

PUBLIC HEARING: 918 CRAVEN STREET – DEMOLITION OF STRUCTURE

Chairman Newman opened this public hearing. Ms. Kelly said this is a contributing structure, circa 1930. It's not the original structure on this parcel; the Sanborn maps show a 2-story building on this site in 1924. The request is for demolition in order to build a parking structure, she said; that project has come before this board.

The 1979 and 1990 editions of the *Preservation Manual* and the *Preservation Manual Supplement* both specifically address removing historic buildings for new or large-scale construction and say it should not occur, Ms. Kelly said. **Beekman Webb** had compiled a report about the building, which gives reasons he feels this structure should not be considered as contributing to the historic fabric of the district. Ms. Kelly said there have been no significant changes to the building since it was listed as contributing in the 1997 *Historic Sites Survey*.

Given the scale of the parking garage project, it seemed appropriate, Ms. Kelly said, to do due diligence to ensure that "this is not a contributing historic structure"; the HDRB could then permit the demolition or determine "a rationale to permit it, even if it is contributing." Ms. Kelly said she had called the South Carolina State Historic Preservation Office (SHPO) for their input; one option when "an applicant is questioning the validity" of the *Historic Sites Survey* is for the applicant to request that SHPO "reevaluate the building," which they could do, based on the findings in Mr. Webb's study.

ELECTRONICALLY FILED - 2021 May 10 2:04 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0700663

Andrew Roberts said he wonders about the condition into which the owner has allowed the structure to decay, especially given that it's currently rented. Mr. Webb's report cites many structural issues that are in violation of code, Mr. Roberts said, and he thinks these should be looked at. He said he hopes this report is "not indicative of how they take care of their properties."

Kate Schaefer, Coastal Conservation League, said her comments concern both this demolition and the following one. She said her organization is concerned with the height, mass, and scale of the parking structure that is proposed to be built after the demolition. Ms. Schaefer encouraged the board "to view the justification of the demolition through the lens of what will ultimately be on the property." She questions whether demolishing a historic building to build a parking garage adds to the Historic Landmark District. Ms. Schaefer said Coastal Conservation League's first concern about the parking structure is that it does not adhere to the Civic Master Plan, which "calls for Port Republic Street to be more of a festival street," for Craven Street to also "have a lot of street activity," for liner buildings, and for "a reduction in one single façade all the way down Craven Street," which is "replicated well throughout the rest of the downtown." More infill development creates "a more lively urban area," Ms. Schaefer said, which people are drawn to, and that "benefits . . . the environment in other places." Coastal Conservation League's second concern is that the mass and scale of the parking structure "concentrates vehicular traffic" in one area, and it doesn't add to street life or walkability the way smaller parking facilities or on-street parking can in an urban setting.

Maxine Lutz said Historic Beaufort Foundation (HBF) takes issue with Mr. Webb's letter about the condition of the building. If the structure is in the condition Mr. Webb says it is, it should not have a renter in it now, she said. HBF is opposed to the demolition, but the organization would support the structure being moved to another location in the Historic District, Ms. Lutz said. **There being no further public comment, the public hearing was closed.**

PUBLIC HEARING: 310 WEST STREET – DEMOLITION OF STRUCTURE

Chairman Newman opened this public hearing. Ms. Kelly said this is another structure on the same parcel, and it also is being proposed for demolition. It is not listed on the *Historic Sites Survey*. It was originally a fast food establishment built circa 1956. It is not a historic structure and does not contribute to the historic fabric of the district, so staff recommends final approval of this demolition. Mr. Roberts said he opposes this demolition because it was a good gathering place when it was a restaurant. **There being no further public comment, Chairman Newman closed this public hearing.**

REVIEW OF FULL BOARD PROJECTS

918 CRAVEN STREET, Identified as R120, Tax Map 4, Parcel 850

Major Demolition

Applicant: Beaufort Inn, LLC (HR16-35)

ELECTRONICALLY FILED - 2021 May 10 2:04 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0700663

The applicant is requesting to demolish the structure located on this property to construct a parking deck.

Courtney Worrell said since 303 Associates submitted this application for demolition, it has a memorandum of understanding with someone to potentially move the structure; this person "has a site in mind and is currently doing his due diligence." Moving the structure is 303 Associates' preference, but they "would like to know what our options are should the structure not find a home."

Mr. Symes asked if the HDRB has the authority to say it authorizes the building to be moved somewhere. Chairman Newman said he doesn't know if that is in the board's purview. There have been demolition projects before the board before in which people stepped up and said they would like to move structures to save them from demolition, he said, but then no one ended up moving them. In addition, the board has put "an extension" on "a number of projects" to allow people to remove valuable fabric from structures that were to be demolished, Chairman Newman said.

Ms. Kelly said if the building were to be moved within the Historic District, the HDRB would evaluate that, because it would be "akin . . . to new construction." Mr. Peitz asked if the board votes yes or no on demolition, or if are there other options, such as a deadline for the structure to be moved, after which it would be demolished. Chairman Newman said he doesn't know why the HDRB "would put a timeline on something like that." The building's owner is saying he wants to move or demolish the building to prepare for something else. Mr. Peitz asked if the board could make a motion other than one for or against demolition. There was a general discussion of various options for the motion.

Ms. Laurie said she is concerned that the building's owner came to the board first with his plans to build the parking structure, and she is "not clear about why (the demolition) piece was not done first." This property needs to be cleared to put the parking structure there, so Ms. Laurie feels this demolition should have come to the board first, before the applicant showed the HDRB the parking garage plans. Ms. Kelly said it could have been done that way, but this happens occasionally with larger scale projects when there's not enough time to do all of the procedures in order (e.g., the applicants know that they have conditional approval, but that approval is still contingent on the demolition being approved).

Ms. Laurie asked, if the HDRB were to say that this structure could be demolished, would the board vote on the demolition of another structure in the Historic District if an owner wanted it demolished because it was in poor repair? Ms. Kelly said yes, any structure in the Historic District – contributing or noncontributing – comes to the HDRB for a vote on demolition.

Chairman Newman said Ms. Laurie is right – the applicants could have come to the

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board first about taking down these two buildings before showing the board plans for the parking garage – but instead, when they showed the HDRB the parking garage plans, they notified the board that this demolition would be part of what would need to be done in order to do the project. "They gave us the context of why" they would need to have the buildings demolished, Chairman Newman said.

Chairman Newman asked what the process is for determining whether a building is contributing or not. Ms. Lutz said as part of the survey that established the Historic District, historians and architectural historians surveyed each building in the district, obtained information about it, and when they could, they documented when the structure was built. If that date fell within a certain timeframe, it is considered contributing. This building "certainly was built early enough to be considered contributing," Ms. Lutz said.

Ms. Kelly added that there are state standards as to what is evaluated in a structure. It is not only based on the date it was built; she provided the example of a structure built in 1890 that was "so significantly altered" over time that "it was considered non-contributing," even though it was very old. The date is the first thing that's looked at, though, she said, and the city's "period of significance is 1950." Ms. Lutz restated HBF's opposition to demolition.

Mr. Peitz said he doesn't understand what characteristics make this building contributing, but he does understand that it was built 50 years ago, and "there are age thresholds when determining" if a structure is contributing or not. He supports postponing this demolition for 30 days, so the applicants can see what happens with the memorandum of understanding before the HDRB recommends demolition or not.

Ms. Laurie said she supports staff's recommendation because if this demolition is approved "it would set a precedent." Demolishing this building could potentially lead to people coming to the HDRB to ask for demolitions because structures they own are "in poor repair."

Mr. Symes said he, too, is "sort of stuck" on the issue of setting a precedent. Though the structure is listed as contributing, according to the notes from the original assessment, it has been "much restored and may have been moved onto the site." If the HDRB doesn't decide in favor of demolishing the house, staff could get SHPO "to come down as soon as possible to look at it" and determine if "it really is a contributing structure," because it is "on that 1950 line."

Ms. Kelly said the owner would apply to SHPO, and the office has 30 days to respond. The property owner would present information to SHPO about why the survey may have been done incorrectly, or if "circumstances have changed since the survey was done."

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Chairman Newman said this project has a specific context and a specific reason the owner wants to remove the building, which is not a context that the HDRB is likely to face again, so he doesn't feel this is a precedent-setting demolition, since "the context around this" structure is clearly understood. Also, this building is "on the bubble" as to whether or not it's contributing, Chairman Newman said, noting that the owner is pursuing the possibility of moving the structure. Finally, as an architect, Chairman Newman said he knows it is easy to find flaws in a building if that's what's needed, or to find "facets of great beauty" if one doesn't want a building to be demolished.

Mr. Peitz made a motion to postpone the demolition for up to 60 days. Mr. Symes seconded the motion. Mr. Symes agreed that it seems difficult to believe this structure is contributing, but if they could get SHPO to send experts who determine that it is *not* contributing, the HDRB's decision would be easier to make.

Ms. Laurie said Chairman Newman's comment about context "is my point exactly." The problems will come "because who determines the context" of any project? She understands "the magnitude of the project and what it's going to contribute," which is what Chairman Newman is referring to as "the context" of this demolition. "But," Ms. Laurie said, "that context should not be so much different from another property owner" who proposes to demolish his property, "even though it's a contributing structure," in whatever that owner says "the context" of his proposal is. She said she supports the motion on the table. **The motion passed unanimously.**

<u>310 WEST STREET, Identified as R120, Tax Map 4, Parcel 850</u>
Major Demolition
Applicant: Beaufort Inn, LLC (HR16-36)
The applicant is requesting to demolish the structure located on this property to construct a parking deck.

Mr. Symes made a motion to approve the demolition, and Mr. Peitz seconded the motion. The motion passed unanimously.

<u>509 ADVENTURE STREET, Identified as R120, Map 3, Parcel 228</u>
Alterations, additions
Applicant: Coastal Homes and Sunrooms for Susan Smith (HR16-41)
The applicant is proposing to add a screen porch and deck to the existing structure.

Ms. Kelly said the applicant has updated some of the drawings to address comments in the staff report.

The project is a contributing structure, circa 1935, Ms. Kelly said, that has been used as a hospital and an office space and is now being converted back to a residential use. The front porch was altered at some point after 1958. The applicant is proposing to add a screened porch and deck to the northeast corner of the house, she said, and to replace

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a pair of windows on the wing adjacent to the new screened porch with French doors. This structure is in The Bluff neighborhood.

Ms. Kelly said the *Preservation Manual* and *Supplement* advise against altering window openings and against having decks on the fronts or sides of contributing structures. Since the staff report, the applicants have removed the railing to minimize the depth, she said, but they would like to keep the French doors as indicated on the plan. Since the screened porch provides secondary access to the outside, staff wonders if these windows on the "wing" need to be removed. The board should discuss this, Ms. Kelly said.

Staff had commented that detailing should be added to "show how the proposed addition fits in with the house"; it was unclear in the original submission because of "the simplicity of the drawings," Ms. Kelly said. The applicant did show the exposed rafter tails in the revised drawings, and there "should be a note added that they will match the house.

Another comment that the applicant had responded to was that the bays of the screened porch should be square or vertically proportioned. Additional columns were added, which Ms. Kelly said was successful. She commented that "the foundation should match," which she said was probably "a remnant from the original" submission.

Staff wondered if it were possible to save the windows on the side wing, Ms. Kelly said. The plan notes a door that is to be removed, so staff asked for a picture of that because it is hard to see from the street. The applicant said the door is on the back of the property. Ms. Kelly asked if the lattice would be painted to match the existing foundation color; that should be noted on the plan.

Ms. Kelly said the changes from the original proposal to the one that the board received were that the rail on the deck was removed, there was an updated eave detail to match the existing house, and the division of the screened porch bays was updated. The foundation should be updated, too, she said. The two outstanding items from the staff report that the board should consider are the removal of the original windows to be replaced with the French doors and the general idea of whether having a deck is appropriate.

Staff recommends final approval of the screen porch addition, contingent on the HDRB's discussion of these two items, Ms. Kelly said.

Susan Smith, the applicant, said they are happy to give up the deck rail and to do all that staff recommends, except eliminating the French doors, which they would like for access and more lighting. **Matthew Bredson**, the project's designer, said the deck would be just above ground level. Chairman Newman said that they could go up to 30" without a railing.

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Ms. Lutz said the Preservation Committee had reviewed the original plans and agreed with the questions Ms. Kelly had in the original report; the committee also opposed the size of the deck because it can be seen from the street. They would like the applicant to consider making it a stoop, rather than a deck, she said.

Mr. Symes asked how wide the deck is: Ms. Kelly and Mr. Bredson said 6'4". Mr. Symes said the changes based on staff recommendations are good; the deck is an issue, though, and he doesn't know what the line is between a stoop and a deck. He's not concerned about the windows if they are not original, he said, and he understands removing them for French doors.

Mr. Peitz said he is in support of all the changes and the revised plans. He asked why Ms. Kelly wanted the windows to be retained. Ms. Kelly said it's a guideline if the windows are original, which she thought they were because their size matches others on the house. Dr. Smith said the other windows that match these are probably not original. Ms. Kelly said that's fine.

Ms. Laurie asked the applicants how they felt about having a stoop, as opposed to a deck. Ms. Smith said they want a deck to entertain on; Dr. Smith said they "want more outdoor living space." Ms. Smith said they need a deck because they "are living in 900'" now. Mr. Bredson said the homeowners are limited to only putting a deck on the street side.

Ms. Laurie asked if it would be setting a precedent to approve this project with a deck in the Historic District. Mr. Peitz said the board could look at these as "guidelines for decks," because that's what they are. Ms. Laurie said the board should remember that they "are looking at things across the spectrum of the community," and there were decisions made before this board's, and there will be other members on the HDRB in the future, so she feels they need to be clear about "what our parameters are."

Chairman Newman said the desire to have outdoor living should "almost always be supported." In this context, there are limitations, he said, because the homeowners can't go behind the house to build a deck, so he feels the "simple solution" is landscaping – building a hedgerow around the deck so it will not look like a deck. If the applicants intend to use the space for entertaining, though, Chairman Newman said, "it's a little too modest," so in addition to landscaping, "maybe making it a terrace" would allow them to make the deck a little bigger. They could possibly use hardscaping, which would be more in keeping with the Historic District, he said.

Dr. Smith said they plan to make the deck into "almost a room" eventually, with landscaping. The board can't require that the applicants do hardscaping or landscaping, Chairman Newman said, but a hedgerow would make the difference. Dr. Smith said they would like to use a screen of landscaping to create privacy.

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Ms. Lutz asked if the HDRB could require landscaping as part of its motion. Chairman Newman said he doesn't think they could. If applicants were required to have landscaping, he said, there's no law that they must care for it, so he thinks it's more appropriate to suggest, rather than to require, it. Ms. Lutz said she agrees that landscaping would help to "keep the 1930s character of this house alive."

Mr. Peitz asked Ms. Kelly, if "something (were) detached, and only 18" off the ground," if the HDRB had to approve it. Ms. Kelly said even it were detached by 3", "it's still part of the functionality," so yes, the board would approve it. Ms. Kelly said usually, if people want a deck, staff can approve it if it's in the back of the house and not visible from the street, but homeowners have to go to a review board for approval of a deck that will be visible from the street.

There was a general discussion about whether the HDRB could require landscaping as part of its approval. Ms. Kelly said the board could make it a condition of approval; they don't have to, but they are not prohibited from doing so. Dr. Smith said landscaping is planned for the project's second phase. Ms. Smith asked if they need to get approval to "make a living fence," and Ms. Kelly said yes, it's an easy approval to ensure the fence is on the homeowner's property.

Mr. Symes made a motion to approve the design of this project and the French doors, with landscaping to be added to the side so the deck is not visible from the street. Mr. Peitz seconded the motion. The motion passed unanimously.

712 NEW STREET, Identified as R120, Map 4, Parcel 547
Alterations, additions
Applicant: Thompson Builders (HR16-42)
The applicant is proposing an addition to the northwest corner of the structure.

Ms. Kelly said this project, also known as the "Chaplin House" is a contributing structure, listed as circa 1791, which was altered in 1880 and 1985. The current footprint is different that the 1958 Sanborn map, she said, and the applicant had provided a "helpful illustration of the different iterations and the growth of this plan." This proposal is to modify the 1985 addition to the historic structure, Ms. Kelly said. It includes enclosing the southernmost bay of the porch on the northeast corner of the house, removing the porch on the northwest corner, replacing it with an enclosed addition, and rebuilding the porch further to the west.

All materials in the existing porch will be reused in the addition, Ms. Kelly said. Staff appreciates the sensitive design and reuse of the materials and recommends final approval of the project.

Ms. Lutz said HBF "liked the project." Mr. Symes asked if "the window to the back" on

the right elevation has side lites. Ms. Kelly showed him a photo to answer his question.

Mr. Peitz complimented the applicant on making it easy for the board to follow the plans.

Mr. Symes made a motion for final approval of the project at 712 New Street, and Mr. Peitz seconded the motion. The motion passed unanimously.

There being no further business to come before the board, **Mr. Peitz made a motion, second by Mr. Symes, to adjourn. The motion passed unanimously,** and the meeting adjourned at 3:03 p.m.

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EXHIBIT G

ELECTRONICALLY FILED - 2021 May 10 2:06 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0700663

ELECTRONICALLY FILED - 2021 May 10 2:06 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0700663

CITY OF BEAUFORT
1911 BOUNDARY STREET
BEAUFORT, SOUTH CAROLINA 29902
(843) 525-7011 FAX: (843) 986-5606

HISTORIC DISTRICT REVIEW BOARD

November 14, 2016

Beaufort Inn, LLC
Courtney Worrell
2015 Boundary Street, Suite 300
Beaufort, SC 29902

RE: HR16-36 310 West Street

Dear Ms. Worrell:

On November 9, 2016, the City of Beaufort Historic District Review Board (HRB) met to review your application for approval of demolition of the structure located at 310 West Street. The Board granted final approval as submitted.

This Certificate of Appropriateness applies only to the requirements of the Beaufort Historic District and does not supersede other City ordinances. Compliance with all other provisions of the City of Beaufort Code of Ordinances is required. Please contact the City Codes Enforcement Office located at 1911 Boundary Street, (843) 525-7049, to apply for the necessary permits. A copy of this letter should be submitted with your application for a permit.

Be advised that the certificate will expire two years from the date of this letter as per Section 3.1.M.1of the *City of Beaufort Unified Development Ordinance,* unless there is a demolition permit on file with the City Codes Enforcement Office.

If you have any questions, feel free to call the Planning Department at (843) 525-7011. Thank you for your patience and cooperation during the review process.

Sincerely,

Libby Anderson
Planning Director

cc: Tim Ogden, Fire Marshall

EXHIBIT H

ELECTRONICALLY FILED - 2021 May 10 2:06 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0700263

ELECTRONICALLY FILED - 2021 May 10 2:06 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0700668

CITY OF BEAUFORT
HISTORIC REVIEW BOARD
1911 BOUNDARY STREET
BEAUFORT, SOUTH CAROLINA 29902
(843) 525-7011 FAX: (843) 986-5606

HISTORIC DISTRICT REVIEW BOARD

February 15, 2017

Beaufort Inn, LLC
Courtney Worrell
2015 Boundary Street, Suite 300
Beaufort, SC 29902

RE: HR16-35 continued 918 Craven Street – Relocation Approval

Dear Ms. Worrell:

On February 8, 2017, the City of Beaufort Historic District Review Board (HRB) met to review your application for relocation of the structure on 918 Craven Street to the parcel on the northwest corner of Harrington and Calhoun Streets. The Board granted final approval to the application as submitted.

This Certificate of Appropriateness applies only to the requirements of the Beaufort Historic District and does not supersede other City ordinances. Compliance with all other provisions of the City of Beaufort Code of Ordinances is required. Please contact the City Codes Enforcement Office located at 1911 Boundary Street, (843) 525-7049, to apply for the necessary permits. A copy of this letter should be submitted with your application for a permit.

Be advised that the certificate will expire two years from the date of this letter as per Section 3.1.M.1 of the *City of Beaufort Unified Development Ordinance*. If you make any changes in your project that are not part of the approved plan, you will need to submit an application for a Change After Certification.

If you have any questions, feel free to call the Planning Department at (843) 525-7011 or email me at lkelly@cityofbeaufort.org. Thank you for your patience and cooperation during the review process.

Sincerely,
Lauren W. Kelly

Digitally signed by Lauren Kelly
DN: cn=Lauren Kelly, o=City of Beaufort, ou=Planning Department, email=lkelly@cityofbeaufort.org, c=US
Date: 2017.02.15 12:37:15 -05'00'

Lauren Kelly
Project Development Planner

EXHIBIT I

ELECTRONICALLY FILED - 2021 May 10 2:00 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0700263

ELECTRONICALLY FILED - 2021 May 10 2:06 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0700663

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

MEMORANDUM OF AGREEMENT

WHEREAS, Beaufort Inn, LLC, ("Owner") is the owner of record of certain real property located adjacent to the southwest corner of the intersection of Port Republic Street and Scott's Street, City of Beaufort, further identified and described as the Northeastern portion of Block 60, TMS No. R120 004 000 0926 0000; and

WHEREAS, the above-described property ("Subject Property") is currently utilized as a private vehicle parking lot; and

WHEREAS, the City of Beaufort ("City") utilizes 27 parking spaces under the provisions of an Easement Agreement granted by 303 Associates, LLC, predecessor to Beaufort Inn, LLC, dated October 9, 2007, and recorded in the Beaufort County Register of Deeds Office in Records Book 2642 at Page 1703; and

WHEREAS, Beaufort Inn, LLC, contemplates the construction of a hotel complex on the Subject Property, which project will extend onto its adjoining property (R120 004 000 0984 0000), and contemplates investing significant funds in designing said hotel complex which, once constructed, will result in the loss of said parking spaces; and

WHEREAS, The City desires to retain said parking spaces and Beaufort Inn, LLC, is agreeable to designating another parcel of property in "downtown" Beaufort to be subject to the terms of the aforesaid Easement Agreement; and

WHEREAS, the City of Beaufort Master Civic Plan encourages infill and development of the "downtown" area of the City of Beaufort, and the consolidation of surface parking spaces into a consolidated parking facility is a method to facilitate such infill and development; and

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dated October 9, 2007. A copy of said instrument is attached hereto.

3. Projected Use of Subject Property:

Beaufort Inn, LLC, plans to eliminate the private parking lot described herein and thereafter construct a hotel on the Subject Property and its adjoining parcel of property on Port Republic Street. In connection with said construction:

a. The City agrees, upon receipt of the formal application for a building permit (to include all required supporting documentation) from Beaufort Inn, LLC, in regard to the contemplated hotel project, that the City will make formal application to the South Carolina Department of Transportation (SCDOT) for conveyance and transfer of title to the affected portions of Port Republic Street and Scott's Street.

b. The parties hereto contemplate that the sidewalks adjacent to the affected public streets (Port Republic Street and Scott's Street) will be widened by the Owner by approximately two (2') feet.

c. The Owner agrees that it will convey any title interest it may have in and/or to said sidewalks, once construction is complete, to the City of Beaufort, **subject to** the City's granting a permanent easement to the Owner for balconies and/or porches overhanging said sidewalks, for the placement of supporting columns therefor, and as to other design features of said structure.

c. The parties agree that both the City as well as the City of Beaufort Historic Review Board have the authority to approve any and all construction on the projected project site, to include specifically the overhanging balconies/porches, supporting columns and other design features fronting on Scott's Street and Port Republic Street

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5. Miscellaneous:

a. The parties agree to communicate and cooperate with one another in good faith to facilitate the planned construction of the hotel on the Subject Property / project site herein, and the relocation of the City's parking spaces to the projected parking garage facility to be constructed on another parcel of property of Beaufort Inn, LLC, in Block 70, City of Beaufort.

b. For purposes of notice:

Beaufort Inn, LLC
Attn: Richard H. Stewart
2015 Boundary Street, Suite 300
Beaufort, SC 29902

City of Beaufort
Attn:_____
_____
Beaufort, SC 29902

c. This Memorandum of Agreement shall be binding on the parties hereto, and their respective successors and assigns.

AGREEMENT signed this 22nd day of May, 2017.

BEAUFORT INN, LLC

By:_____

Its: Member Manager

CITY OF BEAUFORT

By:_____

Its: City Manager

EXHIBIT J

ELECTRONICALLY FILED - 2021 May 10 2:00 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0701063

ELECTRONICALLY FILED - 2021 May 10 2:06 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0700663

CITY OF BEAUFORT
HISTORIC REVIEW BOARD
1911 BOUNDARY STREET
BEAUFORT, SOUTH CAROLINA 29902
(843) 525-7011 FAX: (843) 986-5606

HISTORIC DISTRICT REVIEW BOARD

June 20, 2017

Ms. Courtney Worrell
Via email: ctw@303associates.com

RE: HR16-35.2 918 Craven Street – Demolition - Final Approval

Dear Ms. Worrell:

On June 14, 2017, the City of Beaufort Historic District Review Board (HRB) met to review your application for demolition of the structure at 918 Craven Street. The Board granted final approval to the application as submitted.

This Certificate of Appropriateness applies only to the requirements of the Beaufort Historic District and does not supersede other City ordinances. Compliance with all other provisions of the City of Beaufort Code of Ordinances is required. Please contact the City Codes Enforcement Office located at 1911 Boundary Street, (843) 525-7049, to apply for the necessary permits. A copy of this letter should be submitted with your application for a permit.

Be advised that there is no expiration date for demolition approvals. If you make any changes in your project that are not part of the approved plan, you will need to submit an application for a Change After Certification.

If you have any questions, feel free to call the Planning Department at (843) 525-7011 or email me at lkelly@cityofbeaufort.org. Thank you for your patience and cooperation during the review process.

Sincerely,
Lauren W. Kelly
Digitally signed by Lauren Kelly
DN: cn=Lauren Kelly, o=City of Beaufort, ou=Planning Department, email=lkelly@cityofbeaufort.org, c=US
Date: 2017.06.20 12:23:09 -04'00'

Lauren Kelly
Project Development Planner

EXHIBIT K

ELECTRONICALLY FILED - 2021 May 10 2:06 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0700263

ELECTRONICALLY FILED - 2021 May 10 2:00 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0700668

A meeting of the Historic District Review Board was held on July 12, 2017 at 2:00 p.m. in the City Hall Planning Conference Room, 1911 Boundary Street. In attendance were Chairman Joel Newman, board members Chuck Symes, Barbara Laurie, Quinn Peitz, and John Dickerson, and Lauren Kelly, planning staff.

In accordance with the South Carolina Code of Laws, 1976, Section 30-4-80(d) as amended, all local media were duly notified of the time, date, place, and agenda of this meeting.

CALL TO ORDER

Chairman Newman called the meeting to order at 2:00 p.m.

MINUTES

Mr. Dickerson made a motion, second by Mr. Symes, to approve the minutes of the June 7, 2017 meeting of the HDRB. Chairman Newman recused himself because he was not present at the meeting. **The motion to approve the minutes as submitted passed 4-0.**

Mr. Dickerson made a motion, second by Mr. Peitz, to approve the minutes of the June 14, 2017 meeting of the HDRB. Mr. Symes recused himself because he was not present at the meeting. **The motion to approve the minutes as submitted passed 4-0.**

601 CHARLES STREET, identified as R120, Tax Map 4, Parcel 609

Secondary structure

Applicant: Baptist Church of Beaufort, Joe Dean (HR17-24)

The applicant is requesting approval for construction of an elevator structure connecting the pre-school and fellowship hall buildings.

Ms. Kelly said the applicant wishes to construct a new elevator structure to connect the fellowship hall and pre-school buildings. The footprint is just under 600 square feet. It is a link between the buildings and space for an elevator, she said.

Size, mass, and scale, proportions and materials are compatible with the Historic District, Ms. Kelly said. Staff recommends final approval.

Joe Dean said this is to make the buildings more accessible, and it will blend in with the existing buildings. Mr. Peitz asked if there would still be access to the back lot. Mr. Dean said yes, by walking into the building.

Maxine Lutz feels this is "a nice treatment to achieve the" church's goal.

Chairman Newman said this seems like a space that would be a place where information would be collected, so he suggested eliminating windows on the longer elevation to the right upstairs and downstairs for wall space for that purpose. The window on the lower,

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Bay Street) to better understand how and why the materials are used in the Historic District. Buildings built at different periods still relate to one another, Ms. Kelley said.

- "The balance of plantings versus protection" should also be studied, Ms. Kelly said. A linear park on Craven Street was discussed, and awnings, etc. may provide shade that is undesirable for plants.
- There is no cohesion, composition, or relationship among the façades themselves or as they relate to their surroundings, Ms. Kelley said. The most successful portion is the bay that is "repeated several times." The facades could be simplified, but a good starting point could be "something that makes sense and . . . relates to Beaufort," she said.
- Ms. Kelly said there had been a discussion at the last submission of "providing authenticity and true articulation, whether . . . that's being able to bring portions of the building forward or bring them back." In the renderings, "a lot of this façade treatment is really kind of like a wallpaper," she said, in that "there's not a lot of relief in one way or the other." It is "one flat plane with a series of different applications on it."
- The half-barrel vaulted roofs on the corner entries aren't typical of Beaufort and should be studied.
- Specific comments are in the staff report about bays, windows, doors, massing and orientation, she said.
- There should be a hierarchy of treatments to the sides, Ms. Kelley said. All frontages should relate to their context.
- Ms. Kelley said new materials are appropriate, but their color, scale, function, and craftsmanship should be "compatible and sympathetic" with the surrounding context and the overall Historic District.

Staff feels that the problems with the architecture of the building still need to be solved, Ms. Kelly said. This proposal is not what is best for the Historic District, and it should be studied and calibrated to the locality, she said.

Mr. Peitz said today's discussions should be about the aesthetics of the building, not its size, mass, and scale, which have been approved. Ms. Kelly said the board couldn't dictate what the public's comments are.

Chairman Newman said the staff report is good, and the public comments can be about "whatever," but conceptual approval has been given for this building to happen on this site, and the aesthetics that are in the staff report are what the HDRB is considering. Mr. Peitz noted that this is the second public hearing on this project.

Mike Richardson said the garage has been pulled farther from the house on the lower left elevation. He showed the progression of the parking garage's design. He described the two ways parking garages can be done, and said they have chosen "wall panels."

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and he asked what the origin of the plan was to have the multiple facades. He understands the applicants heard the HDRB say to "break it up" instead of the building being "one mass." He doesn't feel that the various colors "pick up Bay Street" or "relate to the City of Beaufort." The envelope of the building is improved, and there are options to do a variety of elements, he said, but he is having trouble understanding "so much variety" that "says nothing about a parking garage." The Civic Master Plan calls for a parking garage and this number of spaces, Mr. Peitz said, but "the design of this building has serious issues that can be resolved" if it relates more to "who we are . . . at this point in time."

Mr. Richardson said there are "geometry issues" with the panels because only a certain size opening can be put in them. The amount of variation was in response to the HDRB's comments, he said, and because the applicants don't want it to look like a parking garage.

Ms. Lutz said the board had told Mr. Richardson to create more facades and to break it up more, but now there are too many facades, and it's "too broken up" and "too busy." The Historic Beaufort Foundation (HBF) Preservation Committee decided "maybe it should look more like a parking garage," and it would be "more authentic" if some cars were visible. The committee concurred with Ms. Kelly's comments in the staff report, Ms. Lutz said.

Mike McNally, 301 Laurens Street, said he sees how the applicants have tried to change the structure, but it appears "they've cut it vertically." On Bay Street, the storefronts have awnings that create a "sort of horizontal base." He understands that there has to be "some of this vertical" (e.g., in the stair towers) in this structure, but for some of the other elements, if they "use more of a Beaufort eye-level streetscape" for the base, with "other stuff that goes on above that," it might work.

Scott Myers, Beaufort Clothing Company, said he supports this project "strongly." He has seen parking structures in other towns and thinks this garage should look like one in Summerville, not like "little houses." With this design, the eye doesn't know what to look at, and it doesn't really look like homes; it looks tacky, he feels. In Summerville, the parking garage is all brick and not as big as this structure, Mr. Meyers said. In Winter Garden, Florida, "the perfect parking structure" is broken up into "2 or 3 things" and has LED lighting around the top outside, which makes parkers and pedestrians "comfortable" and breaks the structure up into 3 pieces. It's clear where the parking garage is, and it feels safe, Mr. Meyers said. On Craven Street, "a continuous look works" for him, as long as there is "some variation."

Peggy Simmer, 915 Port Republic Street, supports **Dick Stewart** and those involved with this project. She thanked Mr. Richardson for moving the structure back from her house and said because she will be looking at it a lot, she would like "a little more" landscaping. She supports the garage and knows it is "much-needed."

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meeting has "evolved" and is "different" than what the board intended. To mitigate the size and mass of the parking garage, it was designed as "a series of buildings" that were "broken up." Mr. Peitz said he now realizes that this is not the best solution because it is "false." So he researched parking garages and showed one in Savannah, one in Charleston next to the Mother Emmanuel Church, and a larger one on Wentworth Street "that says 'parking garage.'" He feels the HDRB is "partially at fault" for this design because, while the board agreed with the concept of the parking garage, they had wanted the mass to be broken up.

Mr. Peitz showed a parking garage that picked up the major facades of 2 major buildings for its façade. He suggested the applicants look at the facades of the buildings around this parking garage and "pick up those things," such as the Tabernacle Baptist Church façade, and "relate it to the City of Beaufort." He said he's prepared to postpone this application for the applicants to look at alternative designs.

Ms. Laurie asked what role the public comments play in the decision-making process. She asked if the comments should be considered in the board's decisions. Chairman Newman said it's impossible for anyone to divorce their decisions from their own feelings and community feedback. The applicants need a decision and a motion today, he said.

Mr. Symes said after the presentations and seeing the options available in concrete and what can be incorporated into it, he feels "more optimistic" about "how we can get there." He feels the architecture should have more of the feel of the Historic District in it, and he agrees with Mr. Peitz that the board's direction was not as simple as it should have been. He thinks the design needs to be "a little less busy."

Mr. Symes said the applicants should look at the stairwells again; the curved roof and glass don't fit in. If they "go to 3," it would help. The entrances and exits of the garage need to be clear to those driving past it, so people can know where to pull in, he said. Mr. Symes is also concerned about the need for "green space along Craven Street" to "soften the building," and he shares Tabernacle Baptist Church's concerns. He suggested brick on the plain façade that is behind Tabby Place.

Mr. Dickerson said at the 2016 meeting, there was support for the linear park. He suggested the applicants draw from the "look and feel across the street" and think about how people move through the space. The linear park would be an opportunity to "make a significant statement," Mr. Dickerson said. The focus then is not on the parking garage but on the items in the park and the history they portray. Focusing on that will help people "enjoy this section of Craven Street a whole lot more," and they will be "basically unaware" that the parking garage is there.

Fred Mueller said he gets nervous when he goes in parking garages sometimes, and other people do, too, so it should be well-lit and well-cared for inside, which will be as

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Mr. Stewart said there are some significant trees in the 6' – 7' gap between the building and the property line. He supports the idea of the linear park, but he also feels the façade will "increasingly incorporate" plants over time. He agrees with the idea of using just 2 or 3 colors and that Craven Street is the most important façade. Mr. Stewart said he doesn't support "recreating historic facades." He feels it should be "uncomplicated" and people can be engaged with plaques, trees, etc. on Craven Street. Mr. Stewart said the power lines might not come down, as they are still negotiating with SCE&G.

Chairman Newman said the applicants should create "a sense of a first floor"; that is the piece of the building people will relate to: what they can see as they are walking along there. The built and green zones are what will be perceived. He definitely favors "the greenscape along there" to connect the building to the ground, the trees, etc., and that will diminish the building's impact the most.

Mr. Symes said on the original plan, he didn't "like the repetition," and "a simpler number" might help with that. He agrees with Chairman Newman about the greenery and about pushing back and opening up certain faces of the building. He said he likes the roofline, except for the curved pieces.

Mr. Dickerson re-emphasized the need to stress the "great story" of Beaufort. Mr. Stewart told him, "We support that," but he doesn't not want to determine whose story gets told and whose doesn't, so they will put plaques up. Ms. Lutz said that is already "done beautifully" in Waterfront Park. Mr. Meyers said it could be about Reconstruction or could be done with artwork.

Mr. Washington said this is a great opportunity to work with the Reconstruction Era monument and others, and what's in the park could keep the structure from making this historic area appear to be in "Anytown, USA." He said the community needs to "develop the will to . . . embrace all the greatness" in Beaufort.

Mr. Symes said this is a parking garage first and foremost, not a monument or a tribute to Beaufort history, etc. If it works out that there are spots in which this could be done, "that's great," but this shouldn't be thought of as "an opportunity to show more of the history of Beaufort." Chairman Newman agreed with Mr. Stewart that it's not the developer's responsibility to create this, but perhaps to create the space to accommodate it.

The board reviewed its comments to the applicants: simplification/simplicity, reducing the number of elements, including the linear park as part of the plan and having that "brought forward by the community," having Craven Street be "the primary relationship" rather than Bay Street, having the stair towers continue to be open, visible, well-ventilated, and safe, and softening the building with greenery.

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area when the developer applies for a building permit for this structure, to allow for the encroachment of a colonnade on Scott Street, she said. This should not be a problem with SCDOT, she said, but the applicant has provided an alternative design in case it doesn't go through.

Staff's main comment on the architecture is about the proportions of bays, Ms. Kelly said. Generally, the goal is to achieve square, vertically proportioned openings. This is achieved on the ground floor, but the openings on the second and third floors are "less and less vertically proportioned," she said. Staff has talked to the applicant about "emphasizing these by use of materials within the bays," and the use of iron railings mitigates this "somewhat," Ms. Kelly said, but the board should discuss the bays.

Ms. Kelly said lot consolidation and the demolition hearing will be required. Staff recommends preliminary approval as submitted, with board and staff comments to be addressed at the final submission.

Hank D'Antonio, of Goff D'Antonio in Charleston, said his firm classifies this as a "boutique hotel." These kinds of projects usually occur in this kind of area and are his firm's specialty, he said. There are not a lot of opportunities in historic districts like this one to be able to get a hotel of this size, so it is "kind of unique" and a "great opportunity" for Beaufort, Mr. D'Antonio said.

Karo Wheeler showed images with elements that had been incorporated into the design. She reviewed plans including entries, discussed options for flood proofing, and use of awnings if the colonnade were not approved by SCDOT.

Ms. Wheeler said the bay width is in line with the guest room spacing, so they might be able to create a more vertical expression by combining the second and third floors. She discussed the elements on the corners and showed the alternative to the colonnade if necessary. The colonnade is continued inside, she said, and she showed images and building sections. The mechanical elements will be on the roof and set back far enough that they will not be visible.

Ms. Lutz said after a meeting with HBF and "this group," HBF prefers "the alternative view on Scott Street." The Preservation Committee wants the HDRB to discuss "the arches marching down Scott Street," which the committee thinks may be "too dominant," given the surrounding buildings, she said. At the meeting, how runoff is being handled was discussed, Ms. Lutz said, and HBF wanted to know if pilings would need to be driven. Mr. D'Antonio said the soils report seems to indicate that they will not. They will have to build up the soil, and there are some "liquefaction issues with earthquake[s]" that need to be considered, he said, so some things about the foundations are still being studied. They will get more into the structural way it's being built in the future, Mr. D'Antonio said.

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Ms. Laurie said she thinks a hotel in downtown Beaufort is a great plan, and she hopes the issues raised can be worked out so the project can proceed.

Mr. Peitz pointed out the secondary entry and asked Ms. Kelly to show the Hotel Royale photo. He suggested that on this building, the cornice be removed and the shed roof rounded around the corner. He said he doesn't like the central tower.

Mr. Symes said he has "a similar concern . . . about the corner entrance," which he doesn't feel is "integrated enough into the rest of the building." He likes the entrance and said he doesn't "know if it would look better if it was a standard 90-degree entrance on the second and third floors, and you had the overhang and the truncated entrance in there."

Mr. Symes thinks where the car entrance is on Port Republic is "very well done." On Scott Street, he is somewhat concerned about the number of columns and thinks the curvature and number should be reduced. Having too many columns makes it feel too closed in, he said.

The south side of the building will be visible all the way to Bay Street, Mr. Symes said, and he suggested a window in each room to "break up that wall" for "a better picture" on the Bay Street side. Chairman Newman said, alternatively, the wall could be articulated with shuttered openings.

Chairman Newman said this is by far the most successful plan for a building on this site. Columns in the Beaufort style are simple and without a lot of detail. He wouldn't "borrow in any way" from the Beaufort Inn, which is not historic and which he feels is "appalling." There's also "a sensitivity in Beaufort to borrowing from" Savannah and Charleston, Chairman Newman said, but he thinks it's important to keep the elements that are more like those cities' architecture and Beaufort's architecture than New Orleans architecture. He thinks the architecture could be simplified, and he feels there is no need for arches. The columns and porches could be "simple," he said.

Chairman Newman said the tabby wall is "cool" and "extremely unique and extremely local," so he suggested combining the easement and a way to incorporate it into what can be seen from the pool, instead of guests seeing another wall with 5' of "no man's land."

Chairman Newman said he prefers the "covered arcade idea" to the awnings, and he hopes SCDOT will allow the city to take over the street so the colonnade can be done.

Chairman Newman said he would separate the porches with screens, and Mr. D'Antonio said that is the plan. That will give more texture and delineation to the façade, too, Chairman Newman said.

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Mr. Cuppia asked for the view from the Greyhound Flats and the aerial view of the wall. He asked about putting in Bahama shutters for the length of the wall to block the view from Greyhound Flats. Mr. Stewart said they would screen it somehow, but he wouldn't commit to doing so with Bahama shutters.

Mr. Stewart said he'd like as much specific approval as possible from the HDRB. Chairman Newman said he's not comfortable with directing what the architects "have to do." Mr. Stewart said he'd like the building's scale and mass approved, comments on the balconies, "shed porches or not," etc.

Chairman Newman made a motion to approve both the submittal with the colonnade which the HDRB supports "robustly" – and the submittal without the colonnade, if that design must be followed because of a decision by SCDOT; the HDRB encourages the study of the corner and the possible incorporation of the colonnade around the corner if having the colonnade is possible. The applicant should consider the following: using simple porch roofs on top of the porches on Scott and Port Republic Streets; a careful study of the southeast corner elevation, as seen from Bay Street and Greyhound Flats, to articulate that face in a way that's sympathetic to the scale of the building and not a blank wall; the access easement and any increase that could be made to it for maintenance of this building and its adjoining neighbors. Mr. Peitz seconded the motion. The motion passed unanimously.

Mr. Dickerson made a motion to postpone discussion of item "C" on the agenda. Mr. Peitz seconded the motion. The motion passed unanimously.

Ms. Kelly said this is Chairman Newman's last meeting as the chair of the HDRB for at least one year, so she thanked him for his service.

There being no further business to come before the board, **Chairman Newman made a motion, second by Mr. Symes, to adjourn the meeting. The motion passed unanimously**, and the meeting was adjourned at 5:02 p.m.

EXHIBIT L

ELECTRONICALLY FILED - 2021 May 10 4:04 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0700263

ELECTRONICALLY FILED - 2021 May 10 2:06 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0700668

PROPERTY RELOCATION AGREEMENT

This Donation Agreement (hereinafter referred to as "Agreement or Contract") entered into the dates hereinafter set forth by BW Bale and Associates, (hereinafter referred to as "Recipient"), with a mailing address of Post Office Box 1143, Beaufort, South Carolina 29901, and Beaufort Inn, LLC (hereinafter referred to as "Donor") with a mailing address of 2015 Boundary Street, Suite 300, Beaufort, South Carolina 29902.

1. **PROPERTY DESCRIPTION AND SCOPE.**
   Recipient agrees to relocate the building located at 918 Craven Street, at the corner of Charles and Craven Streets, in the City of Beaufort, South Carolina.

   Recipient shall be responsible for removing and relocating the structure. As compensation, Donor shall provide Recipient the structure at no charge, as well as Ten Thousand Dollars ($10,0000.00). Recipient is responsible for obtaining all necessary approvals and permits for relocation.

   Should Recipient be unable to relocate the structure, Recipient shall demolish the structure. Donor shall provide Recipient Nine Thousand Dollars ($9,000.00) if this scope of work is pursued. Recipient is responsible for obtaining all necessary approvals and permits for demolition.

2. **TIMING.** Recipient intends to remove and relocate, or demolish, the structure. In no circumstance, shall work occur, either relocation or demolition, after October 31, 2017. If Recipient is unable to relocate or demolish the structure by October 31, 2017, this Agreement is null and void.

3. **CONDITION OF PROPERTY.** The property is being donated in as-is condition with no expressed or implied warranty.

4. **OTHER TERMS.** There are no other contingencies or conditions or modifications of the parties' obligations pursuant to this Agreement.

5. **INVALID PROVISION.** If any provision of this Agreement shall be invalid or unenforceable the remaining provisions shall remain in full force and effect.

6. **EXPIRATION OF OFFER.** This Agreement shall expire at 5:00 PM, Friday, September 1, 2017, unless executed by all parties.

SIGNATURES BELOW SIGNIFY ACCEPTANCE OF ALL TERMS AND CONDITIONS STATED HEREIN AS OF THE DATES STATED. SIGNED SEALED AND DELIVERED IN THE PRESENCE OF:

WITNESS

By:_____

WITNESS

By:_____

DONOR: Beaufort Inn, LLC

By:_____
By: Richard H. Stewart, GP

RECIPIENT: BW Bale and Associates

By: _____ 8-31-17
_____, Its _____

EXHIBIT M

ELECTRONICALLY FILED - 2021 May 13 2:00 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0701643

B.W. Bale & Associates
P.O.Box 1143
Beaufort, SC 29901
(843) 597-0121

Invoice

Date	Invoice #
11/10/2017	83038

Bill To
Dick Stewart

Terms	Project

Description	Amount
a) Removing Cottage at 918 Craven Street b) Dig up and remove all masonry foundation c) Rough grade lot and rake for debris d) Haul away all debris	10,000.00

Total	$10,000.00
Payments/Credits	$0.00
Balance Due	$10,000.00

Fax# 843-379-0988 bwbale@yahoo.com

ELECTRONICALLY FILED - 2021 May 10 4:00 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0700663

EXHIBIT N

ELECTRONICALLY FILED - 2021 Sep 16 4:44 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0700263

PERMIT NUMBER **171504**

NO FEE PERMIT
CITY OF BEAUFORT, SOUTH CAROLINA

1911 Boundary St., Beaufort, SC 29902
PH: (843) 525-7040 – FAX: (843) 986-5606 – INSPECTION LINE: (843) 525-7041

DATE ISSUED: **11/03/2017** APPLICATION : **15866**
COST OF PROJECT: **$28500** IMPACT FEE: **$** TOTAL PERMIT FEES: **$150.00**

CONTRACTOR: **B.W. BALE AND ASSOCIATES** CONTRACTOR ADDRESS: P O BOX 1143
BEAUFORT, SC 29901
843-597-0121

ADDRESS: **918 CRAVEN ST**

DIST/MAP/PARCEL: **R121 004 000 0850 0000**

FLOOD ZONE : ELEVATION REQUIRED:

TYPE OF CONSTRUCTION: **MOVING STRUCTURE**

ZONE: SETBACKS: FRONT:**0.00** SIDE:**0.00** REAR: **0.00**

IMPORTANT INFORMATION	INSPECTIONS
MOVING STRUCTURE TO 1012 NEWCASTLE STREET.	**CALL (843) 525-7041 FOR INSPECTIONS BEFORE 4:00 PM FOR NEXT DAY INSP. NOTE: ALL INSPECTIONS MAY NOT APPLY AND/OR MAY NOT BE LISTED**

NOTES:
1. **PERMITS EXPIRE AFTER 180 DAYS FROM THE LAST INSPECTION. A NEW PERMIT WILL BE REQUIRED.**
2. **WINDOWS SHALL NOT BE COMPLETELY COVERED DURING RENOVATIONS – A MIN. OF 3 FT X 3 FT OPENING REQUIRED.**

SIGNATURE APPLICANT: Bryan Bale BUILDING OFFICIAL: JB

www.cityofbeaufort.org

ELECTRONICALLY FILED - 2021 May-10 4:00 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0700869

EXHIBIT O

ELECTRONICALLY FILED - 2021 Sep 10 2:06 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0700663

ELECTRONICALLY FILED - 2021 Sep 10 4:34 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0700663

A meeting of the Historic District Review Board was held on **September 20, 2017 at 2:00 p.m.** in the City Hall Planning Conference Room, 1911 Boundary Street. In attendance were Vice Chairman Quinn Peitz, board members Bill Allison, Chuck Symes, Barbara Laurie, and John Dickerson, and Lauren Kelly, planning staff.

In accordance with the South Carolina Code of Laws, 1976, Section 30-4-80(d) as amended, all local media were duly notified of the time, date, place, and agenda of this meeting.

CALL TO ORDER

Vice Chairman Peitz called the meeting to order at 2:00 p.m.

MINUTES

Mr. Dickerson made a motion, second by Mr. Symes, to approve the minutes of the July 12, 2017 meeting of the HDRB. The motion to approve the minutes as submitted passed unanimously.

807 SCOTT STREET, identified as R120, Tax Map 4, Parcel 425

Alterations & additions

Applicant: Hilton Head Solar for Jennifer Pope (HR 17-26)

The applicant is requesting approval to add solar panels to the south- and east-facing roofs. The south-facing roof is visible from Scott Street.

Ms. Kelly said this is a contributing historic structure, circa 1885. There are specific provisions for solar panels in the Beaufort Code, she said. They can be approved at the staff level if they are not visible from the public right-of-way. If they are visible, they must come to the HDRB. The west-facing solar panels are on the rear of the building and would not be visible, Ms. Kelly said, but the south-facing panels are on the side and would be visible.

Staff supports integrating "sustainable practices in the Historic District," Ms. Kelly said. Questions for the applicant and the responses are in the staff report, such as whether the panels come "in any color," and the applicant said, "this specific type" of panel is black. These panels are "parallel to the roof, not tilted," she said, to minimize visibility. They will be "set back from the eave a minimum of 3'," Ms. Kelly said, so staff recommends final approval of this project as submitted.

Nancy More of Hilton Head Solar said this is a metal roof, so the panels can be mounted "just 2" from the surface of the roof." They will be mounted "as far back from the street as possible."

Mr. Dickerson asked if the surrounding trees would shade the panels. Ms. More said, ", the south roof has the best production," and the actual panels will be mounted further back from the street than those in the photo rendering, so there will not be "significant

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shading."

Mr. Symes said he thinks the panel placement is appropriate and this does not "harm anything." He feels this application could be approved, but he feels further applications should be delayed until there are implementation guidelines on "how to grant some consistency every time" with solar panels in the Historic District. Ms. Kelly said since the use of solar panels has come into vogue, they have been handled on a case-by-case basis; those currently in the Historic District are not visible. Mr. Symes said he doesn't want to delay putting the panels in, but he would like there to be guidelines. Ms. More offered to help with developing them. She said solar panels that are shaped like shingles, which Mr. Dickerson had mentioned, are not available and won't be for about 5 years.

Mr. Allison said if a whole solar roofing system is installed on a house in the Historic District, those panels need to be as appropriate as possible for the district. He is more amenable to someone putting one solar panel on a roof, because it could "always come down."

Ms. Kelly suggested waiting until a residential project is installed before making guidelines about what the installation should look like.

Maxine Lutz, Historic Beaufort Foundation (HBF), said some "iconic, historic" buildings should not ever be allowed to have solar panels, and that needs to be considered.

Mr. Symes made a motion to approve the solar panels at 807 Scott Street, second by Ms. Laurie. The motion passed unanimously.

Mr. Symes made a motion for staff and HBF to develop guidelines for implementing the use of solar panels in the Historic District, and for the HDRB to not accept new solar panel applications until those guidelines are in place. Mr. Dickerson seconded for discussion.

Mr. Dickerson said he doesn't want to stop people from coming before the HDRB for solar panels in the Historic District because there are not guidelines in place yet. At the same time, he feels asking HBF, staff, and "industry partners" to come up with guidelines that are "wrapped into form-based code" is important but might take a long time. Mr. Symes agreed and said he would like them to develop guidelines that would take no more than a month or two to create.

Mr. Symes withdrew his previous motion and made a motion to ask staff and HBF to provide draft guidelines for solar panels within the Historic District as soon as possible. Mr. Dickerson seconded. The motion passed unanimously.

1012 NEWCASTLE STREET, identified as R120, Map 4, Parcel 172

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New construction
Applicant: Bryan Bale (HR17-27)
The applicant is requesting approval to move the cottage at 918 Craven Street to 1012 Newcastle Street and incorporate it into the upper level of a new, two-story dwelling.

Mr. Allison said his name was on some of the applicant's drawings, but this is not his client, so he would not recuse himself; however, he said, in future meetings, he will recuse himself from any applications that involve his clients.

Ms. Kelly said the applicant is requesting to move the cottage at 918 Craven that was approved for demolition, relocating it to 1012 Newcastle Street, which is currently a vacant lot. The applicant plans for it to be the second floor of a new 2-story structure. The previous structure took up nearly the entire lot, she said; this proposed building is smaller. Ms. Kelly said the applicant has provided a preliminary site plan and conceptual ideas about "what the intent of the house is to be."

Ms. Kelly said applicable guidelines are in the staff report. Staff appreciates the re-use of the building for new construction on a vacant lot in the Historic District. It meets zoning requirements, she said. Staff's only recommendation is to consider moving the cottage "a little bit closer to the Congress Street side," which would provide "a little more space," since the neighbor" on the opposite side of Congress Street "has a pretty large right-of-way." This seems "appropriate with the prevailing setbacks in the general vicinity," Ms. Kelly said.

The general idea of the building concept is appropriate in the Northwest Quadrant, which historically had 1-story cottages, Ms. Kelly said; when there were 2-story structures, they were generally on corners, as this would be.

Staff feels there's insufficient information about building design and how the cottage will be incorporated (e.g., What will remain of the existing structure and what won't?).

Ms. Kelly said staff recommends conceptual approval of the site plan and the general location of the building and driveway if the structure is shifted north 2' – 4'. Additional information listed in the staff report should be provided on the site plan and the building itself for subsequent review.

Ms. Kelly said there's a deadline to move the house, so the applicant needs to know if it's feasible to move it and incorporate it into the design. She explained what the HDRB is approving today.

Mr. Allison said he doesn't see the footprint of the house on Craven Street; he asked if it would fit on the site at 1012 Newcastle Street. **Bryan Bale** said, "Everything fits the dimensions of the lot." He said he is looking for approval to move the structure to the lot now, and he will return to the HDRB to develop "a plan that works for everybody . . .

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for what you'd like to see in the city."

Ms. Laurie asked if there's another vacant lot behind this corner lot. Mr. Bale said there's not. Ms. Kelly said the opposite two sides are vacant.

Ms. Lutz said HBF "supports Lauren's position on this" and agrees that there needs to be more detail on the project after the move. Mr. Bale said the house is 28' x 32'. The lot is 57' x 60'. Mr. Bale showed how the Craven Street house would fit in the design.

Vice Chairman Peitz explained the history of the Craven Street house with the HDRB. He feels the board could be prepared to approve moving the house to Newcastle Street; Mr. Bale may change his mind about his plan for the relocated house, Vice Chairman Peitz said, and he can come back to the HDRB with a concept when he knows what he wants to do.

Mr. Symes made a motion to approve relocating the house at 918 Craven Street to 1012 Newcastle Street. Mr. Dickerson seconded. Mr. Allison said he thinks the approval should be contingent on a plan for the relocated house. Mr. Symes said he feels that if the 918 Craven Street house is incorporated into a new house as planned, it's not "being saved at all." **He withdrew his motion.**

Mr. Dickerson said someone is willing to take a building that was approved for demolition and do something with it. He noted that the house needs to be moved from the site or demolished because there is a timeframe for the construction of the parking garage. Mr. Dickerson agrees that a clearer concept for the design of the new structure would be "great," but the Craven Street building was approved for demolition, so if Mr. Bale wants to move it and do something with it, or even decides to "destroy it," that's "fine," but Mr. Bale "needs the latitude to relocate it" and do something with it.

Ms. Kelly said the board could approve moving the house to 1012 Newcastle Street, but note that nothing could be "permanently affixed to the ground." The board could also place a time limit on Mr. Bale's coming back to the board, she said. Mr. Dickerson asked Mr. Bale how much time he needed to come back to the board. Mr. Bale said he could have drawings done in a month. Mr. Dickerson said the board could offer him 90 days, and Mr. Bale said that would be fine.

Erica Dickerson asked if there's "a guarantee" that "something positive will happen" to the Craven Street house once it's moved. Mr. Bale said he has "a ton of money already wrapped up in this project," so he's "fully committed." He wants to "revitalize" the structure and keep it in the Historic District.

Mr. Symes made a motion to approve moving the structure at 918 Craven Street to 1012 Newcastle Street. This structure is not to be permanently attached to the lot, and the new owner has 90 days to return to the HDRB with a complete plan for the

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moved structure and the building of the new structure. Mr. Dickerson seconded. The motion passed unanimously.

<u>709 GREENE STREET, identified as R120, Map 4, Parcel 219</u>
Alterations & additions
Applicant: Charlie Heyman for Denise Savage (HR17-28)
The applicant is requesting approval for alterations and additions to an existing contributing structure.

Ms. Kelly said the address of this property was formerly 1007 Scott Street. It was originally listed on the Historic Sites Survey as non-contributing but was reclassified as contributing on the 2001 survey. There are no zoning issues, but a site plan is needed, she said.

Ms. Kelly said the applicant is proposing to add two bedrooms and a bathroom to the rear, replace a door with a window on the west (Scott Street) elevation, replace all existing windows, modify the roof height of the main structure from 4:12 to 7:12, and add a window in the gable.

A site plan is needed to confirm the rear setback, Ms. Kelly said. The building may be closer than 5' or 6' to the northern property line, and if it is, "it's okay if that's continued. It can't be encroached further." Also, she said, there are fire code restrictions "if you're closer than 5' to the property line."

Ms. Kelly said while the shiplap siding on the structure "is not rare," it's "not extremely common" in the Historic District, so it – as well as the columns and brackets on the side stoop/portico – should be reused and/or preserved. The columns and brackets were not shown in the drawings, she said, and there are other discrepancies, which she noted.

Vice Chairman Peitz asked if this is "on a separate lot of record." The owner, **Denise Savage**, said it is.

It's preferable to retain existing window and door openings, Ms. Kelly said. All characteristics, such as the corner board and siding type, should be retained and introduced into the addition. On the front/Scott Street elevation, the applicant should consider reducing the window size in the gable, she said, and consider retaining the door in place of the window. Also, Ms. Kelly said, the side shed roof should not be flush with the gabled roof, so the applicant should consider setting the shed roof back 12" – 18".

Ms. Savage said the interior is only "one big room with no divisions," except a separate bathroom. There is a kitchenette, and they wanted to make the existing bathroom into a laundry room/pantry and build the bathroom behind it. They can't make the kitchen any bigger or add in a countertop/galley/island because the side door facing Greene Street is

in the way. They're taking out a door because there would be only limited ways to arrange furniture, Ms. Savage said.

Ms. Kelly said on the south elevation, the existing window is not shown in the plan, so it's hard to see how the proposed openings relate to the one that's there. The applicant should consider reusing the window and door locations and incorporating the column and bracket details on this section.

On Elevation 1, Ms. Kelly said the applicant should consider offsetting the side shed roof to keep it from "being one continuous mass." Also, "the gable is the main portion of the house," and the wing comes off of it, so the applicant should look at the "composition on the gable." On the north elevation (4), the applicant should "clearly indicate the existing structure versus the new structure."

Ms. Kelly said staff recommends preliminary approval with the comments in the staff report and from the HDRB to be addressed in a future submission. If the HDRB chooses to, this submission could be made to staff, she said.

Ms. Savage told Mr. Allison that "a DOT easement literally ran right through the house," and when she bought it, the DOT "relinquished its easements around the entire property."

Mr. Allison said there's no site plan, so he doesn't know if it's in a flood zone. **Charlie Heyman** said it's not. Ms. Kelly said it's exempt from the 50% rule. Mr. Allison said the new windows in the secondary bedroom "do not meet egresses," and Ms. Kelly agreed with him that this not exempt. Mr. Allison said the applicant should look at this because the window "needs to be bigger, so you could escape, in case of a fire."

Mr. Allison said another thing that's "architecturally redeeming" about the house is its corrugated metal roof, but the plan looks like the applicant is putting shingles on the roof. Mr. Heyman said those are not shingles; they plan to use corrugated metal.

Mr. Allison said on the front elevation, he doesn't "care for having two doors," with one being a "non-descript sliding door." Ms. Savage said they had discussed this with HBF, and the plan is for them to be French doors with divided lites in them. They could have just one door with divided lites, she said.

Ms. Lutz said she and HBF agree that the original openings should remain where they are, and she suggested that a sofa could be put in front of the door if the occupants wanted not to use it. She feels the shiplap siding, the brackets, and the metal roof should be retained. She asked how many of the original windows would be retained. Mr. Heyman said the windows are as old as the structure, which is "barely standing up." He doesn't think the original windows can be saved or "would be desirable" because "there's not a lot of quality there."

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Ms. Lutz added that HBF appreciates this project and hopes it's successful.

Mr. Dickerson said on Elevation 2, if the door and window were flipped, "you might have a better sense of entry." There will be a porch there, Ms. Savage said. If the existing columns don't have the integrity to be used, she said, they could have them fabricated "exactly the same," or, as Mr. Heyman had suggested, a little bigger. Ms. Savage said they would probably have to manufacture more of the columns in any case. Mr. Dickerson said he understands that, but he asked them to "consider that sense of entry," and as "the next round of plans is done," to "consider the feeling when you're coming up on it."

Ms. Savage said this is the fifth historic house she's renovated and restored, and of those, it's "the newest one." Her own house is next door to this, so she said she would not "create something ugly."

Mr. Symes asked about "somehow showing where the original structure was" when a historic building is extended. Ms. Kelly said the "guideline is that [it] needs to be indicated in some way," and the best way to do that is "if it is offset on one or both sides." Mr. Allison described how the applicant could do this and said, "The guidelines say" that "what is the original structure" and what has been added to it "needs to be readable."

Ms. Savage showed how the current pantry area juts out, and the door is set in, so it has "that feeling of an entry."

Mr. Dickerson asked if the applicant was applying for the Bailey Bill. He explained what it is and the tax abatement it offers. He asked Ms. Kelly to work with the applicant on the Bailey Bill for the final application to the HDRB, and she agreed.

Ms. Savage asked about the next steps with the HDRB. Vice Chairman Peitz explained.

Vice Chairman Peitz made a motion for preliminary approval of the application for 709 Greene Street with the following conditions: The applicant should come back to the HDRB after refining the entry columns; "dealing with the shiplap siding, concerning the new part versus the old part," the setbacks on the roof, the sliding doors, and the use of original windows, and applying for the Bailey Bill. Mr. Dickerson seconded the motion. The motion passed unanimously.

<u>918 CRAVEN STREET, identified as R120, Tax Map 4, Parcel 850</u>
Parking garage
Applicant: Structured Parking Solutions (HR17-25)
The applicant is requesting approval to construct a new 4-level structured parking deck with 486 parking spaces.

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Ms. Kelly said this project was reviewed under the UDO. The parcel is mostly vacant; the two structures on it have been approved for demolition. Conceptual approval was given in August 2016, and the project came back to the board in July 2017. She listed the revisions the board had recommended for that submission.

Ms. Kelly enumerated staff comments on the site plan:

- One of the scales on the site plan seems not to be measuring correctly.
- On the Craven Street linear park, it will be important to understand how the canopy of the existing trees will be affected by development within 20' of the front setback line. A certified arborist's report will be required.
- A bike rack is required.
- All mechanical equipment must be screened or not visible.
- Dry utilities serving the site must be placed underground.
- Any dumpsters must be screened on all 4 sides.
- A lighting plan is required.
- A separate permit is required for signage.

Ms. Kelly detailed staff comments on the building:

- The building is much simpler than what was previously submitted. The continuous brick base and the clearer rhythm of building elements are a big improvement.
- The projecting brick bays have more successful proportions than the pre-cast bays that were presented. Staff suggests considering making all the projecting bays out of the brick and using the concrete where it is recessed.
    - Alternatives to this would be to reconsider the articulation and proportions of the concrete bays and the openings within the bays, or to have a more organized hierarchy of brick versus concrete bays. Since brick is the "more important material," it could be used at the corners.
- Making the upper portions of the recessed elements brick should be studied to use materials that are more native to the area.
- Even-numbered bays are not typical in this area, so staff suggests using odd-numbered bays for consistency in order to have a center element. At least, the number of bays should be standardized to simplify and unify the design.
- The blue awning should be reconsidered to mesh with the rest of the color palette.
- Consider introducing more brick detail into the taller parapet to "break that up a little bit."
- There are notes in the staff report about the criteria used in the *Preservation Manual and Supplement* to "evaluate buildings and the . . . proportions of bays, windows and doors, massing, [and] orientation."
- Charles and Craven Street are the more important streets in this project. West Street is secondary, but there are similar elements used on the frontages on all

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of the streets, so their relative importance isn't clear.

Ms. Kelly said staff feels this is "a definite improvement" over previous submissions, and recommends that the applicant consider the board's and staff's comments and incorporate them into the next submission.

Vice Chairman Peitz said the HDRB already approved the size, mass, and scale of the building, and that there will be a parking garage here, so comments should be about "what the building looks like."

Mike Richardson said this is a "radical departure from what we presented" to the HDRB in July 2017. The brick base surrounds the garage, he said, and he described the colonnade elements. The walls between them are solid and are recessed in "a couple feet" from the colonnades, Mr. Richardson said. On the ground floor, there will be "a green landscape vine" that will "provide some break in the façade" for pedestrians.

There are columns on the porches of houses surrounding the garage, Mr. Richardson said. Light hits the columns and then there is "a shadow" of the wall behind them. The garage's columns "give you the same general appearance of that," with "the light of the columns" and the "spandrel across there," with the darker garage behind.

Mr. Richardson disagrees with Ms. Kelly's comments about "the hierarchy of brick and the relevance of why it's placed where it's placed." The purpose of the structure is to be a parking garage, he said, so they're "using brick at the two entrances" to draw drivers' attention to them so they'll know where to enter. Brick is used "on the center of the wall on Craven" Street to "highlight or complement the significant building that's across the street, and give it some importance," Mr. Richardson said. They want to use the lighter-colored precast on the corners, because in the neighborhood, "almost everything's white or a variation of white," so this would make the structure "fit in better with the neighborhood and be more contextual," he said.

Mr. Richardson said, "We all are taught in design school that odd numbers are better than even numbers when you're laying out things, but column grids and bay spacings" are directly related to "structural type . . . what your structure lays out to be, and the shape of your building." He showed Greek temples with both even- and odd-numbered column bays. Mr. Richardson said in the parking garage, "the variation" is meant to "augment the appearance of the building" and to "reflect what the structure is behind it."

This material pallet is more simplified, Mr. Richardson said. There is one color of brick and precast. The materials are durable and maintainable over time. A certain classification of brick must be used to cast in the panels, he said. He showed two examples of tumbled brick that would "be acceptable for fitting into the forms."

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Mr. Richardson said he has no problem with changing the canopy color, and he would be willing not to have the canopies at all. He feels it's important for the vehicular egress points to be done as the applicant has designed them "in this iteration."

Mr. Richardson indicated where "we could easily make this 3 bays instead of 4," so it would have "the same relationship as the entrance on the other side." It would not be "hard to fix" because it's in "a non-load-bearing situation," he said, because of "the size of the precast panels." On the other sides, the bays "are actually structural components," Mr. Richardson said.

Dick Stewart said at the previous meeting, the HDRB had told them "to try to do something on the Craven Street façade that honors the building across the street," and "to make the columns more visible on the other side, which we did." He said the intent with the "two green areas" is for the plants "to grow all the way up on that side." Also, Mr. Stewart said, the objective is to have the concrete look like stucco/tabby manse, not to have it be raw concrete.

Ms. Dickerson said she disagrees with Ms. Kelly's comment about additional brick. She thinks this design "works as drawn." She likes the blue awnings and thinks two more brick sections would make "it busier." No one will see both sides of the structure at the same time, Ms. Dickerson said, so she doesn't have a problem with the different number of "windows."

Peggy Simmer asked what the garage would look like from the perspective of her house. She said this rendering looks "softer" than the previous rendering.

Steve Harrison, owner of the Rhett House Inn, said he wasn't at the August 2016 meeting, but he wanted to comment on the parking garage, which he feels "doesn't belong in Beaufort, South Carolina." He feels the board has made a "mistake" in "letting it get to this stage," when the structure is "so out of character" and has "nothing to do with the historic framework of our town." Mr. Harrison said there's "no proven need" for a parking garage with 486 parking spaces, and he feels it's "ugly." He's also surprised that HBF and the HDRB approved this. He said the current parking lot at this location is "never more than half full," except during Water Festival.

Andy Roberts, Duke Street, said he admires Mr. Stewart for spending more money on the garage than is required, but "no amount of money" would "make this thing look [like] anything other than what it is," which is "an obscenely large garage."

"This spot was always targeted as the right place for structured parking," according to various sources, Mr. Stewart said. He congratulated the board members "for doing the right thing," even though "some people won't agree."

Mr. Symes said he feels this design is an improvement. He's concerned about the

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concrete parts of the structure "getting grimy" over time. Mr. Richardson said they'd use "an architectural concrete" and can go to a sandblasted or limestone finish. "It will hold up" and is denser than is typically seen, he said.

Mr. Symes asked, on the street level, where there are louvers over the openings, if it would be possible to change the center set so they're different. Mr. Richardson said they're there for screening. Mr. Symes said maybe the louvers' style could be varied so they don't all look the same to people as they're walking along.

Mr. Allison congratulated the applicants on this "much better submittal." He could see this in downtown Charleston's historic district. His biggest concern is that from the perspective looking down Craven Street, there are several large live oaks, but they weren't in the drawing, so he wants to ensure they aren't being taken out. Mr. Richardson said the intent is not to remove any. Mr. Stewart said there is a 6' setback on one end and 9' on the other. The objective is to fertilize the trees and take care of them, he said, and they are willing to transfer the sidewalk ownership so it could be moved over for the sake of the trees.

Mr. Allison said no one would ever see the full façade of the building and would be unlikely to notice whether the louvers are all the same. He likes "the green spaces in between" and would like to see samples of the concrete color. Mr. Richardson said they'd bring those samples next time.

Mr. Allison asked about "a corrugated panel on the end pieces." Mr. Richardson said it is on the spandrel panel; they did that "to cast a shadow" line for "the illusion of a railing system on a porch." It will have the same finish as the rest of the concrete, he said.

Mr. Allison said he'd question using cloth awnings because of maintenance. The trees create shade, so he "could do without them." He understands staff comments, but he likes the design "as it is."

Mr. Symes said he likes "the contrast" between the large and smaller openings and between the concrete and the brick, which he feels is better than all-brick would be.

Mr. Dickerson thinks this plan is "a tremendous improvement" over the previous submission. He likes "the way it's drawn now," and likes the brick being "just . . . in the center." Mr. Dickerson said, "This is a parking garage," and he feels the architecture should be "honest," which this is.

Ms. Laurie asked if a certain number of parking spaces will be "designated for public use." Mr. Stewart said there are 484, and they will use them for his businesses. "Excess spaces" could be used for the public. "Other property owners" downtown have asked if parking spaces could be committed to them if they build downtown, for example. There will probably be 220 excess spaces, Mr. Stewart said; however, some people who want

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to build downtown can't because there's currently "no parking" there, so they've expressed their interest to him in having spaces in the garage. There's no way to know how many spaces will be available to the public once the structure is done, he said. Also, the Tabernacle Baptist Church has "a capital campaign going" for a Harriet Tubman monument, and they have asked Mr. Stewart to set aside some spaces in the parking garage for visitors to that, he said.

Mr. Symes said he agrees with Mr. Allison about the awnings and feels "trees will take care of" the shading awnings would provide. He would like the applicant to look at "the louvers on the street level." Mr. Richardson said there are fiberglass shutters now with proportions like wood. Mr. Symes said that might work, but he didn't want the applicant to use wood because of its maintenance.

Mr. Symes said he thinks this is "such an important structure in the community," so he feels it needs to come back to the HDRB another time. Vice Chairman Peitz said this application is for preliminary approval.

Mr. Dickerson said the board's "takeaway" for the applicant is that the awnings aren't needed. They like the choice of brick that Mr. Richardson likes, and they like the design. Ms. Laurie asked Ms. Kelly about the board's disagreement with her recommendations. Ms. Kelly said that the board disagrees with most of her recommendations, but that's their prerogative.

Vice Chairman Peitz reiterated that this submission is for preliminary approval as submitted; the applicant could "refine" the project, based on board comments in the minutes, and return to the HDRB for final approval. Mr. Dickerson asked why the applicant needs to come back to the HDRB. Vice Chairman Peitz said staff could do final approval. Mr. Symes said he feels the project should come back to the board because it's "such a hot button issue." Mr. Allison said his concern about maintaining the trees makes him want to see the certified arborist's report before giving final approval. Ms. Kelly said the board has discussed most of the things she was concerned about, and they are "not concerned" about them.

Mr. Dickerson said if there was "really a big political push" against the parking garage, the meeting's "audience would be full," but it's not. Mr. Symes told him that when it's publicized that the HDRB will be considering final approval of the garage, he believes the audience "will be packed."

Ms. Kelly said it "would be prudent" for the applicant to show other required materials, such as reports, before the board gives final approval.

Mr. Stewart said if they could leave with preliminary approval, subject to providing the type and color of the concrete, a lighting plan, a plan for screening mechanical equipment, removal of awnings, and a certified arborist's report and plan for the

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"treatment of the trees," that would be good for them.

Vice Chairman Peitz made a motion to give preliminary approval to the project, provided the applicant refines the following: the type and color of the concrete, a lighting plan, a plan for screening mechanical equipment, removal of awnings, and a certified arborist's report and plan for the "treatment of the trees." Mr. Dickerson seconded for discussion. He said he wants it to be clear that everything in the current plan "is approved," and the applicant will refine "details" before receiving final approval.

Mr. Allison noted that there are other things in the staff report that need to be addressed under the "Site Plan" heading, such as "dumpster locations, [a] lighting plan" and a bike rack. He said these things should be included in the motion. **The motion passed 4-0; Ms. Laurie abstained.**

DISCUSSION OF ELECTION OF OFFICERS IN OCTOBER 2017

Ms. Kelly said officer elections would take place at the next HDRB meeting.

Vice-Chairman Peitz said he doesn't want to be considered for the chairman position and explained why. He is willing to remain the vice-chairman. Ms. Laurie said she has no interest in being the chairman or vice-chairman. Ms. Kelly said the board could have an open election or a closed ballot, or the board could email her their choices.

Ms. Laurie asked if tenure on the board should be a factor in deciding who serves as officers. Ms. Kelly said not necessarily. She asked the members to let her know their thoughts next week.

OTHER BUSINESS

Mr. Dickerson said the board should be "thinking about water inundation." The buildings in cities that require mechanical equipment to be on the second floor have survived better than those that "have it in the basement." Ms. Kelly said it would have to be flood-proofed, and that's covered by Beaufort's building codes. Ms. Kelly said if the equipment is existing and on a historic property, it would be grandfathered in, though the building official sometimes asks for it to be raised up. On all new construction, the equipment all has to be raised, she said.

There was a general discussion about the flooding that resulted from Hurricane Irma.

There being no further business to come before the board, **Mr. Symes made a motion, second by Mr. Dickerson, to adjourn the meeting. The motion passed unanimously**, and the meeting was adjourned at 4:20 p.m.

EXHIBIT P

ELECTRONICALLY FILED - 2021 May 10 2:04 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0700263

ELECTRONICALLY FILED - 2021 May 10 2:04 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0700663

CITY OF BEAUFORT
HISTORIC REVIEW BOARD
1911 BOUNDARY STREET
BEAUFORT, SOUTH CAROLINA 29902
(843) 525-7011 FAX: (843) 986-5606

HISTORIC DISTRICT REVIEW BOARD

October 9, 2017

Mr. Greg Darden
via email: g.darden@structuredparkingsolutions.com

RE: HR17-25 918 Craven Street – HRB Recommendations

Dear Mr. Darden:

On September 20, 2017, the City of Beaufort Historic District Review Board (HRB) met to review your application for new construction on the parcel located at 918 Craven Street. The Board made a motion to give preliminary approval to the project, provided the applicant refines the following: the type and color of the concrete, a lighting plan, a plan for screening mechanical equipment, removal of awnings, and a certified arborist's report and plan for the "treatment of the trees." The HRB clarified that the current drawings were approved as submitted, and that the applicant was tasked with refining the details listed above in order to receive final approval.

Please submit a digital set of plans for further review by the Board at your convenience.

If you have any questions, feel free to call the Planning Department at (843) 525-7011 or email me at lkelly@cityofbeaufort.org. Thank you for your patience and cooperation during the review process.

Sincerely,

Lauren W. Kelly

Digitally signed by Lauren Kelly
DN: cn=Lauren Kelly, o=City of Beaufort, ou=Planning Department, email=lkelly@cityofbeaufort.org, c=US
Date: 2017.10.09 11:52:40 -04'00'

Lauren Kelly
Project Development Planner

cc. Dick Stewart, Courtney Worrell

EXHIBIT Q

ELECTRONICALLY FILED - 2021 May 10 2:06 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0700663

ELECTRONICALLY FILED - 2021 Sep 10 4:06 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0701241
ELECTRONICALLY FILED - 2021 May 13 2:44 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0700663

JOCO construction
GENERAL CONTRACTORS
Commercial • Residential • Utilities

To Whom It May Concern:

JOCO Construction demolished 310 West Street in Beaufort SC in August 2018.

JOCO Construction, LLC

7/7/2020

Date

PO Box 102, Beaufort, SC 29901 843-522-9908 accounts@jococonstructionllc.com

City of Beaufort, South Carolina

BUILDING PERMIT

Permit No.: 180931 **Date:** 8-7-18

Address: 310 West St.

Contractor: JoCo Const.

Description: Demo

POST ON JOB

ELECTRONICALLY FILED - 2021 Sep 10 4:06 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0701241
ELECTRONICALLY FILED - 2021 May 13 2:44 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0700663

EXHIBIT R

ELECTRONICALLY FILED - 2021 Sep 16 4:44 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0700663

ELECTRONICALLY FILED - 2021 May 10 2:06 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0700668

JOCO
GENERAL CONTRACTORS

To: Beaufort Inn, LLC

Re: Invoice

The following is an invoice for the work done at Nippy's and the old BB&T:

Original Contract Amount	$20,700
Draw Request (90%)	$18,630
Balance On Contract	$ 2,070

The total amount due at this time is $18,630.00

Jami Rankin
JOCO Construction, LLC

August 9, 2018
Date

PO Box 102, Beaufort, SC 29901 843-522-9908 accounts@jococonstruction.com

EXHIBIT S

ELECTRONICALLY FILED - 2021 May 10 2:04 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0700663

The Beaufort Inn
2015 Boundary Street, Suite 300
Beaufort, South Carolina 29902
(843) 521-9000 corporate telephone (843) 379-4667 reservations

June 19, 2019

Mr. David Prichard
City of Beaufort

VIA E-MAIL

RE: HR17-25 918 Craven Street

Dear David:

I am writing to follow-up on our conversations and email correspondence to formally request an extension of the Preliminary Approval for a parking structure to be located at 918 Craven Street.

Work, including demolition and removal of structures, as well as additional studies, has been ongoing.

Thank you for your consideration of this request.

Sincerely,
Beaufort Inn, LLC

Courtney Worrell

ELECTRONICALLY FILED - 2021 May 10 2:04 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0700668

EXHIBIT T

ELECTRONICALLY FILED - 2021 May 10 4:04 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0700263

ELECTRONICALLY FILED - 2021 May 10 2:04 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0700668

From: William B. Harvey III <bharvey@harveyandbattey.com>
Sent: Thursday, October 27, 2016 4:01 PM
To: James Grimsley
Cc: ' (dstewart@303associates.com)'; 'Courtney Worrell'; Mary Gatch
Subject: RE: Parking Easement - Beaufort Inn & City of Beaufort

Jim, thanks for this explanation. With regard to #2, our concern is if the hotel is approved and construction begins (necessitating abandonment of the 27 spaces), and for some unforeseen reason there is delay in the final approval or construction of the garage, resulting in a period of abandonment exceeding 12 months. Where would the parking spaces be located in that event?

William B. Harvey, III

HARVEY & BATTEY

P.O. Drawer 1107
Beaufort, SC 29901
Office: (843) 524-3109
Fax: (843) 524-6973
bharvey@harveyandbattey.com

From: James Grimsley [mailto:JimGrimsley@tgdpa.com]
Sent: Thursday, October 27, 2016 2:18 PM
To: William B. Harvey III <bharvey@harveyandbattey.com>
Cc: ' (dstewart@303associates.com)' <dstewart@303associates.com>; 'Courtney Worrell' <ctw@303associates.com>; Mary Gatch <MaryGatch@tgdpa.com>
Subject: RE: Parking Easement - Beaufort Inn & City of Beaufort

Bill -

Thanks for your note (below).

1. Re concern # 1:
   a. We most certainly understand that the City has no control/influence over the HRB.
   b. Initiating and pursuing the HRB process is a significant financial investment by Beaufort Inn, LLC and, at this point, the plan is to pursue the process to conclusion through the HRB.
   c. That being said, Beaufort Inn, LLC, in taking this very significant financial risk, needs assurances from the City that the City will provide concurrent tentative approval for the site plan @ the Scott Street/Port Republic Street intersection - which will (under the current contemplated design plan) necessitate easements as set forth in the draft MOA. In other words, Beaufort Inn, LLC will commit to this significant financial investment of going through the HRB process - at its risk - but only with a clear understanding, memorialized via an MOA, that the City will not subsequently thwart the plan after HRB approval for this site is granted.

d. The City, of course, ultimately will benefit via property taxes, business license fees, , ATAX, HTAX, etc., from the presence of this hotel facility and related site development, so the City, I would think, has a significant stake in entering into the MOA.

2. Re concern # 2:
   a. Once the allocated parking spaces are eliminated as construction proceeds @ the hotel site (Scott Street/Port Republic Street intersection), Beaufort Inn, LLC will commit to a 12-month period of time for the parking spaces to again be available to the City (presuming that the contemplated parking garage plan vic Craven Street site is approved).

I think the City, at this point, is more than familiar with the rather extraordinary quality of property development and investment that Dick Stewart, through his companies, has produced in Beaufort over the past many years. The 2 projects which are the subject of the MOA are projected to move forward in tandem, so there are lots of "moving parts" for consideration, again which - from Beaufort Inn's perspective - constitute a very significant financial commitment, for which it needs a bit of reciprocal certainty and consideration from the City.

If you would like to tinker a bit with the draft MOA, please do so and forward a draft for consideration.

Best regards.

Jim Grimsley
10/27/16

From: William B. Harvey III [mailto:bharvey@harveyandbattey.com]
Sent: Tuesday, October 25, 2016 4:28 PM
To: Dick Stewart ; James Grimsley; Courtney Worrell
Cc: William Prokop (wprokop@cityofbeaufort.org); Jon Verity
Subject: FW: Parking Easement - Beaufort Inn & City of Beaufort

Dick/Jim; thanks for this draft of a MOA. We have 2 concerns:

(1) In paragraph 3(c) , the City cannot make commitments for the actions of the HRB. The approvals of the HRB will be based upon the application, plans and drawings submitted and presentation before the Board. Further, the City cannot agree in advance to approval of easements or other rights with regard to overhanging balconies/porches without review of final construction plans. Please clarify the intent of this paragraph.

(2) There are many variables in the approvals and construction of the hotel on Scott Street, and the Parking Garage as proposed fronting Charles and Craven Streets. We would like more certainty of the period during which the City may be without the use of the 27 parking spaces. We recognize that the current Easement Agreement states that the City accepts that "construction activity will cause parking to be substantially restricted and perhaps completely unavailable for use on the subject property [the Scott Street lot] for approximately twelve (12) months." However, this time period is not carried over into this current proposed draft. We are concerned that one project may not proceed along the same timeline as the other. We welcome your suggestions how to address this concern.

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Thanks for your consideration of these issues. We look forward to further discussions about this proposed MOA.

William B. Harvey, III

HARVEY & BATTEY

P.O. Drawer 1107
Beaufort, SC 29901
Office: (843) 524-3109
Fax: (843) 524-6973
bharvey@harveyandbattey.com

From: Dick Stewart [mailto:dstewart@303associates.com]
Sent: Monday, September 19, 2016 3:27 PM
To: William Prokop <wprokop@cityofbeaufort.org>; Jon Verity <jon@verityvip.com>
Cc: James Grimsley <JimGrimsley@tgdpa.com>; Courtney Worrell <ctw@303associates.com>
Subject: Parking Easement - Beaufort Inn & City of Beaufort

Bill and Jon. I'm enclosing a draft document concerning the relocation of the City's easement for 27 spaces from the lot at the corner of Scotts and port Republic Street to the Parking garage to be constructed behind Tabby Place. We had a good meeting with the Historic review Board last week and we are proceeding with the investment to design the hotel. Please review this and lets us know if changes are needed.
Thank you both.
Dick

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EXHIBIT U

ELECTRONICALLY FILED - 2021 Sep 16 4:44 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0700263

ELECTRONICALLY FILED - 2021 May 10 2:06 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0700663

CITY OF BEAUFORT
HISTORIC REVIEW BOARD
1911 BOUNDARY STREET
BEAUFORT, SOUTH CAROLINA 29902
(843) 525-7011 FAX: (843) 986-5606

HISTORIC DISTRICT REVIEW BOARD

July 25, 2017

Karo Wheeler
Goff D'Antonio Associates
via email: kwheeler@goffdantonio.com

RE: HR17-22 214 Scott Street / 812 Port Republic Street - Preliminary Approval

Dear Ms. Wheeler:

On July 12, 2017, the City of Beaufort Historic District Review Board (HRB) met to review your application for new construction at the southwest corner of Port Republic and Scott Streets. The Board granted preliminary approval to both the submittal with the colonnade - which the HDRB supports "robustly" – and the submittal without the colonnade, if that design must be followed because of a decision by SCDOT, with the following items to be addressed in the next submission:

- The HRB encourages the study of the corner and the possible incorporation of the colonnade around the corner if having the colonnade is possible
- The use of simple porch roofs on top of the porches on Scott and Port Republic Streets
- A careful study of the southeast corner elevation, as seen from Bay Street and Greyhound Flats, to articulate that face in a way that's sympathetic to the scale of the building and not a blank wall
- The access easement and any increase that could be made to it for maintenance of this building and its adjoining neighbors should be addressed

This approval expires ~~12 months~~ 24 months from the date of this letter unless the applicant has an active submittal pending review by the staff and/or the HRB. Please submit a digital set of plans, for further review by the Board at your convenience.

If you have any questions, feel free to call the Planning Department at (843) 525-7011 or email me at lkelly@cityofbeaufort.org. Thank you for your patience and cooperation during the review process.

Sincerely,

Lauren W. Kelly

Digitally signed by Lauren Kelly
DN: cn=Lauren Kelly, o=City of Beaufort, ou=Planning Department, email=lkelly@cityofbeaufort.org, c=US
Date: 2017.07.25 09:10:03 -04'00'

Lauren Kelly
Project Development Planner

Lauren W. Kelly

Digitally signed by Lauren Kelly
DN: cn=Lauren Kelly, o=City of Beaufort, ou=Planning Department, email=lkelly@cityofbeaufort.org, c=US
Date: 2018.05.23 12:12:56 -04'00'

cc: Hank D'Antonio, Dick Stewart, Courtney Worrell

ELECTRONICALLY FILED - 2021 May 10 2:04 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0700263

EXHIBIT V

ELECTRONICALLY FILED - 2021 Sep 16 4:44 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0700263

ELECTRONICALLY FILED - 2021 May 10 2:04 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0700263

From: Lauren Kelly <lkelly@cityofbeaufort.org>
Sent: Wednesday, May 23, 2018 12:17 PM
To: Courtney Worrell; Libby Anderson
Subject: RE: Port Republic Hotel
Attachments: HR17-22 214 Scott St_812 Port Republic New Construction Preliminary July 12 2017-updated.pdf

Courtney,

Thanks for the email. Actually, as we were working on the new Code, we realized that per state law, all approvals were valid for 24 months; after that you can apply for (5) 1-year extensions. I must have just not updated our letter template when this was written.

So I redlined the letter and re-signed it with today's date to clarify this. Let me know if that will suffice for you.

Thanks,

Lauren W. Kelly, Architect
City of Beaufort – Project Development Planner
1911 Boundary Street, Beaufort, SC 29902
843-525-7014
lkelly@cityofbeaufort.org

From: Courtney Worrell <ctw@303associates.com>
Sent: Wednesday, May 23, 2018 9:10 AM
To: Libby Anderson <landerson@cityofbeaufort.org>; Lauren Kelly <lkelly@cityofbeaufort.org>
Subject: Port Republic Hotel

Good morning, Libby and Lauren.

As you now, the Preliminary Approval we received from the HRB for the Port Republic Hotel designed by Goff D'Antonio expires July 25, 2018.

I am writing to request a 12-month extension of this approval. As you know, we have been working with the City on parking garage options and, subsequently, alternative design options, both of which have had potential impacts on and slowed the progress of the hotel.

We are also hopeful that the changing flood maps may positively affect the design and construction costs.

Thank you,
Courtney

EXHIBIT W

ELECTRONICALLY FILED - 2021 May 13 2:04 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0700263

ELECTRONICALLY FILED - 2021 May 10 2:06 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0700668

CITY OF BEAUFORT
HISTORIC REVIEW BOARD
1911 BOUNDARY STREET
BEAUFORT, SOUTH CAROLINA 29902
(843) 525-7011 FAX: (843) 986-5606

CERTIFICATE OF APPROPRIATENESS

October 9, 2019

Beaufort Inn, LLC
2015 Boundary street
Beaufort, SC 29902

RE: 19-13 HRB.1 The Beaufort Inn – 214 Scott Street/812 Port Republic

Dear Beaufort Inn:

On October 9, 2019, the City of Beaufort Historic District Review Board (HRB) met to review your application for new construction of a hotel. The board granted final approval with the exception of changing the false doors to windows. The Board also granted a design exception, allowing the applicant to have up to 6'-6" portico on Scott Street.

This Certificate of Appropriateness applies only to the requirements of the Beaufort Historic District and does not supersede other City ordinances. Compliance with all other provisions of the City of Beaufort Code of Ordinances is required. Please contact the City Building Codes Office located at 1911 Boundary Street, (843) 525-7049, to apply for the necessary permits. A copy of this letter should be submitted with your application for a permit.

Be advised that the certificate will expire two years from the date of this letter as per Section 9.4.1of the *Beaufort Code*. If you make any changes in your project that are not part of the approved plan, you will need to submit an application for a Change After Certification.

If you have any questions, feel free to call the Planning Department at (843) 525-7011. Thank you for your patience and cooperation during the review process.

Sincerely,

John Dickerson
Acting Chair, Historic Review Board Chairman

EXHIBIT X

ELECTRONICALLY FILED - 2021 Sep 16 4:44 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0700663

ELECTRONICALLY FILED - 2021 May 10 2:06 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0700668

CITY OF BEAUFORT
HISTORIC REVIEW BOARD
1911 BOUNDARY STREET
BEAUFORT, SOUTH CAROLINA 29902
(843) 525-7011 FAX: (843) 986-5606

CERTIFICATE OF APPROPRIATENESS

November 13, 2019

Beaufort Inn, LLC
2015 Boundary street
Beaufort, SC 29902

RE: 19-24 HRB.1 812 Port Republic Street – Demolition request

Dear Mr. Stewart:

On November 13, 2019, the City of Beaufort Historic District Review Board (HRB) met to review your application for the demolition of a single-story building located on the property. The Board granted final approval with the condition that the building not be demolished until after a building permit for the hotel construction has been issued. The Board also recommended that care be taken to protect the existing tabby wall on a neighboring property during demolition to avoid damage.

This Certificate of Appropriateness applies only to the requirements of the Beaufort Historic District and does not supersede other City ordinances. Compliance with all other provisions of the City of Beaufort Code of Ordinances is required. Please contact the City Building Codes Office located at 1911 Boundary Street, (843) 525-7049, to apply for the necessary permits. A copy of this letter should be submitted with your application for a permit.

Be advised that there is no expiration date for demolition approvals. If you make any changes in your project that are not part of the approved plan, you will need to submit an application for a Change After Certification.

If you have any questions, feel free to call the Planning Department at (843) 525 7011. Thank you for your patience and cooperation during the review process.

Sincerely,

John Dickerson
Acting Chair, Historic Review Board

EXHIBIT Y

ELECTRONICALLY FILED - 2021 Sep 16 4:44 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0700263

ELECTRONICALLY FILED - 2021 May 10 2:06 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0700663

CITY OF BEAUFORT Historic
District Review Board Full
Board
Staff Report
Meeting of November 13, 2019

Case Number:	HR19-24
Property Address:	812 Port Republic
Applicant:	303 Associates
Type of Request:	Demolition
Zoning:	T5-DC

Historical: Property is located within the Historical Preservation Neighborhood. 812 Port Republic is not listed on the Historic Register, and therefore is non-contributing.

Request: The applicant is requesting approval of the complete demolition of the structure in preparation for a recently approved hotel which will be located at 214 Scott Street and 812 Port Republic.

Use: Commercial

The Beaufort Code Certificate of appropriateness:
9.10.2.A.1.d Minor Certificate of appropriateness: demolition of non-contributing structures in the BCN.

Staff Comments:

- Staff believes that the demolition of the structure located at 812 Port Republic is under the purview of the Historic review board due to the property's location in the Historic Preservation overlay.
- Staff takes no exception and recommends approval as consistent to the project approved on October 9, 2019.

EXHIBIT Z

ELECTRONICALLY FILED - 2021 May 10 4:04 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0700263

Department of Community & Economic Development
1911 Boundary Street, Beaufort, South Carolina 29902
p. (843) 525-7049 / f. (843) 986-5606 / insp: (843) 525-7041
www.cityofbeaufort.org

PERMIT #: 201274
APPLICATION NUMBER: 21140
DATE ISSUED: 12/17/2020
TOTAL PERMIT FEES: $200.00

DEMOLITION COMMERCIAL PERMIT

Parcel ID Number: **R120 004 000 0984 0000**
Project Description: **DEMOLITION (COMPLETE)**
Street Address: **812 PORT REPUBLIC STREET**
Flood Zone:
Construction Type:
Occupancy: Type:
Stories:
Project Cost: **$36,500.00**
Bedrooms:
Bathrooms:
Units:
Total SF:
Heated SF:

Owner Information	Applicant Information	Contractor Information
Owner: 303 ASSOCIATES, LLC	Applicant: JOCO CONSTRUCTION, LLC	Contractor: JOCO CONSTRUCTION, LLC
Address: 2015 BOUNDARY ST BEAUFORT, SC 29902	Address: PO BOX 102 BEAUFORT, SC 29901	Address: PO BOX 102 BEAUFORT, SC 29901
Phone: 843-575-9544	Phone: 843-522-9908	Phone: 843-522-9908
Email:	Email:	Email: License #: Expiration Date: 04/15/2021

Project Description

DEMO OF NON-HISTORIC STRUCTURE.

Additional Notes:

Signatures: Applicant: _____ Building Dept: Bana Skipper

Notes: Permits expire 180 days after the last inspection. All work must comply with approved application documentation. For inspections call 843-525-7041 prior to 4pm the day before the requested inspection.

ELECTRONICALLY FILED - 2021 Sep 10 4:06 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0701241
ELECTRONICALLY FILED - 2021 May 13 2:44 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0700663

EXHIBIT AA

ELECTRONICALLY FILED - 2021 May 10 2:04 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0700663

809 Port Republic Street, Beaufort SC 29902 | 843-379-4667 | BeaufortInn.com

September 11, 2020

Mr. William Prokop, City Manager
City of Beaufort
1911 Boundary Street
Beaufort, South Carolina 29902

VIA US MAIL and EMAIL

RE: Parking Easement

Dear Bill:

I am pleased to report we are moving forward with the building at the corner of Scott's and Port Republic Streets. We expect to be on the property shortly doing work on structural and foundation design. I'm writing in regard to the City of Beaufort's Easement for 27 parking spaces. As we agreed, those spaces will be relocated from the current location at Port Republic and Scotts Streets to a mutually agreeable location near the corner of Port Republic and Charles Streets.

We have achieved the required HRB approvals and are moving forward with development. As such, please consider this formal ninety (90) days' notice of our intent to relocate the 27 spaces.

We welcome the opportunity to meet with you and your team on site to confirm specifics of the relocation area.

Sincerely,
Beaufort Inn, LLC

Richard H. Stewart

ELECTRONICALLY FILED - 2021 May 10 2:06 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0700668

EXHIBIT BB

ELECTRONICALLY FILED - 2021 May 10 2:00 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0700643

ELECTRONICALLY FILED - 2021 May 10 2:06 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0700668

DEVELOPMENT REVIEW PROCESS
HISTORIC REVIEW BOARD APPLICATION

Community & Economic Development Department
1911 Boundary Street, Beaufort, South Carolina, 29902
p. (843) 525-7011 / f. (843) 986-5606
www.cityofbeaufort.org

☐ Staff Review
■ Board Review

Application Fee:
see attached schedule

OFFICE USE ONLY: Date Filed: _____ Application #: _____ Zoning District: _____
BCAGHS Survey: ☐ Yes ☐ No

Schedule: The Historic Review Board (HRB) typically meets the 2nd Wednesday of each month at 2pm. The complete schedule, along with the list of deadlines, may be found here - http://www.cityofbeaufort.org/historic-review-board.aspx

Submittal Requirements: All forms and information shall be submitted digitally. In addition to a complete application form, applicants shall submit the required items according to the checklists on the subsequent page.

Review Request: ☐ Conceptual ☐ Preliminary ■ Final ☐ Bailey Bill Approval* ■ Change After Certification
**Requires a Bailey Bill – Part A Preliminary Review Application Form*

Pursuant to Section 6-29-1145 of the South Carolina Code of Laws, is this tract or parcel restricted by any recorded covenant that is contrary to, conflicts with, or prohibits the activity described in this application? ☐ Yes ■ No

Applicant, Property, and Project Information

Applicant Name: Beaufort Inn, LLC

Applicant Address: 2015 Boundary Street, Suite 300 Beaufort, SC 29902

Applicant E-mail: ctw@303associates.com Applicant Phone Number: 843-521-9000

Applicant Title: ☐ Homeowner ☐ Tenant ☐ Architect ☐ Engineer ■ Developer

Owner (if other than the Applicant): _____

Owner Address: _____

Project Name: The Beaufort Inn Hotel

Property Address: TBD - Port Republic Street

Property Identification Number *(Tax Map & Parcel Number)*: R121 004 000 0984 0000

Date Submitted: 12/23/20

Certification of Correctness: I/we certify that the information in this application is correct.

Applicant's Signature: _____ Date: 12/23/20

Owner's Signature: _____ Date: _____

(The owner's signature is required if the applicant is not the owner.)

Required Project Information

The Beaufort Inn Hotel

With this requested Change after Certification, the Beaufort Inn proposes to utilize the area around the existing elevator shaft to create a unique gathering spot unlike any other in the Lowcountry. This rooftop venue will attract visitors and Beaufortonians alike with an unparalleled view of Beaufort's downtown skyline. As shown in the attached documents; the venue will be shielded from view from the streetscape below by its rooftop location.

Additionally, solar panels will be installed as part of construction (we understand the exact location must be approved by the City), furthering our commitment to sustainable construction and environmentally friendly, energy efficient operations. We are exploring ways these panels can be used as part of this roof top venue, as shown in the additional attached pictures.

This facility will assist in the recruitment of mid-week business, which has been largely lacking for Beaufort's historic downtown hotels, shops and restaurants. Studies show that facilities providing multiple food and beverage venues / gathering spaces are more successful in recruiting meetings and small conferences than those that do not. This additional business will benefit downtown merchants, restaurants, galleries, and building owners, as well as the City of Beaufort.

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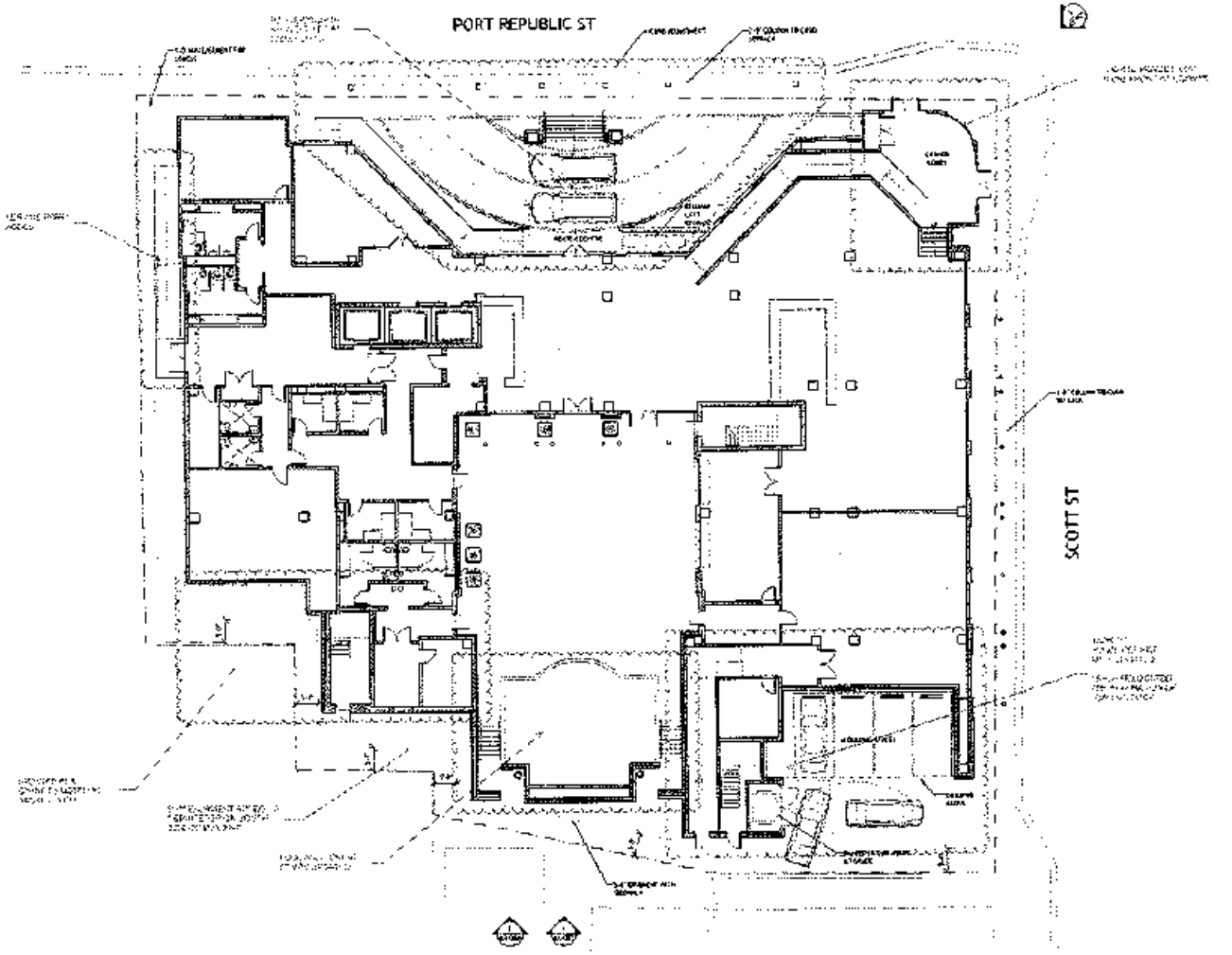
PLAN- GRADE

BEAUFORT INN



A1-000

BEAUFORT INN, LLC | 01/21/2021 | CURRENT PROPOSED

NILES BOLTON ASSOCIATES

ROA 591

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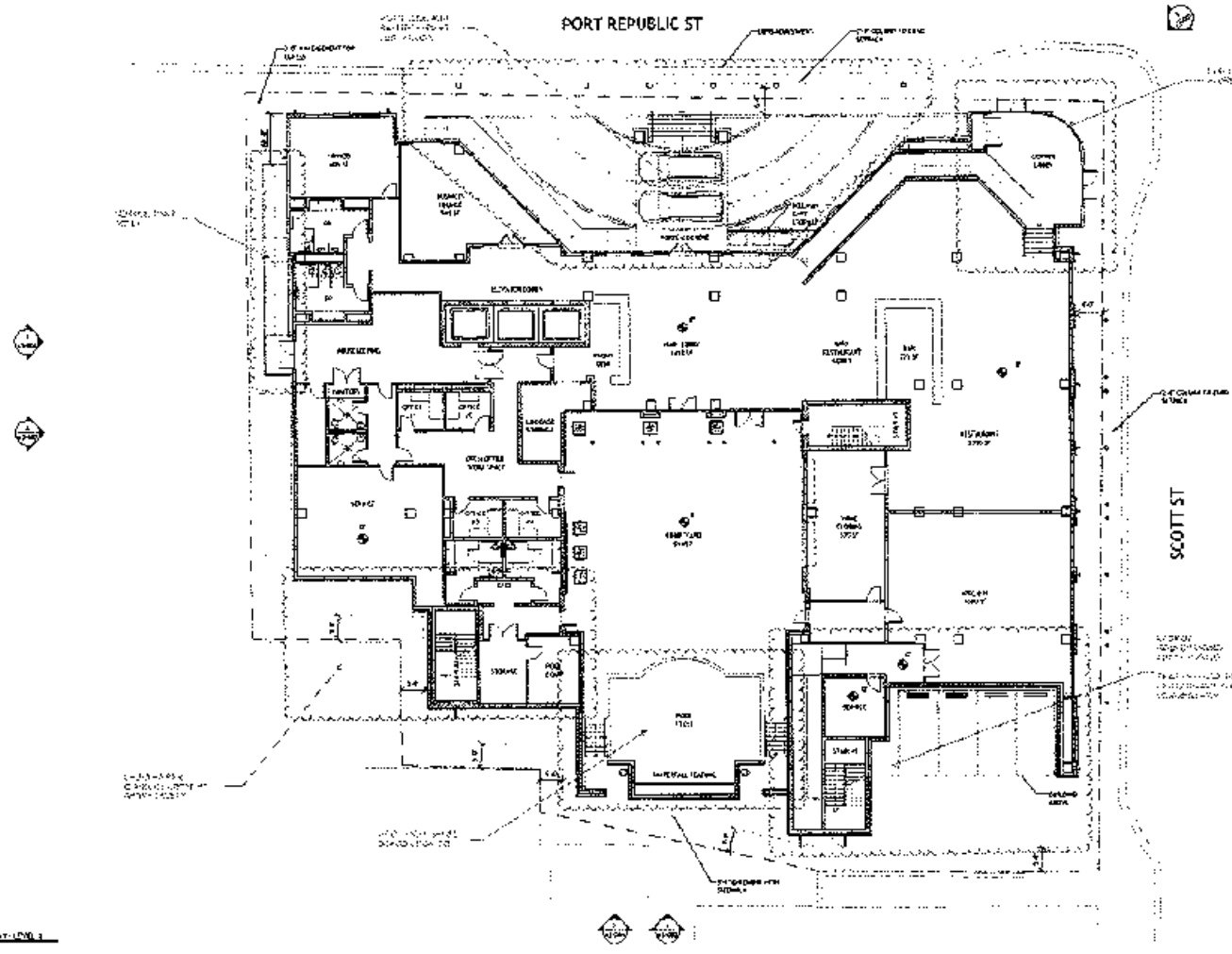
PLAN- LEVEL 1

BEAUFORT INN



BUILDING AREAS:
LEVEL 1: 15,529 SF GBA
LEVEL 2: 18,054 SF GBA
LEVEL 3: 18,054 SF GBA
ROOF: 5,950 SF GBA
GRAND TOTAL: 57,587 SF

ROOM COUNT:
LEVEL 1: 0
LEVEL 2: 31
LEVEL 3: 34
GRAND TOTAL: 65 KEYS

A1-011

BEAUFORT INN, LLC | 01/21/2021 | CURRENT PROPOSED

NILES BOLTON ASSOCIATES

ROA 592

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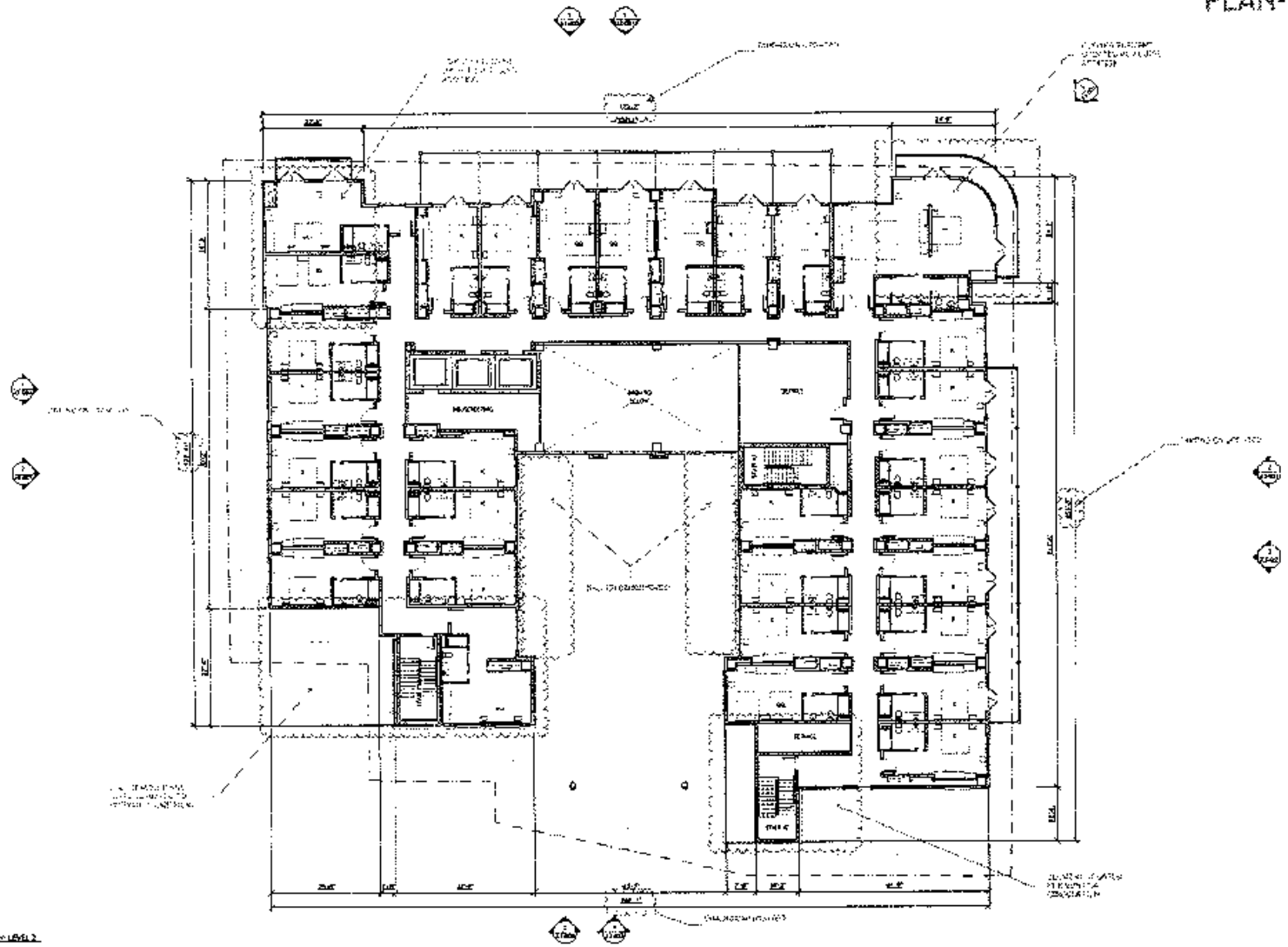
PLAN- LEVEL 2



A1-021

BEAUFORT INN, LLC | 01/21/2021 | CURRENT PROPOSED

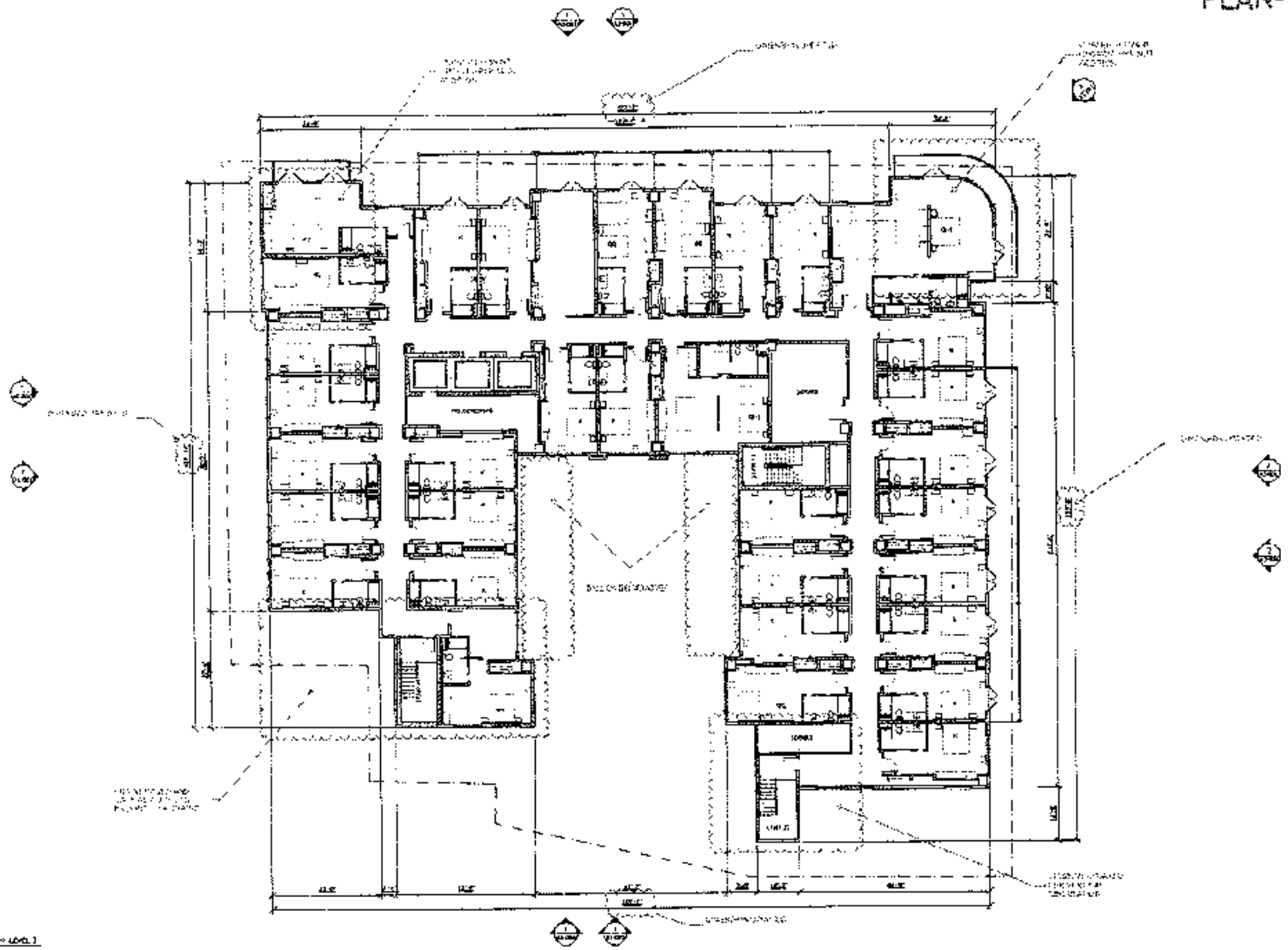
NILES BOLTON ASSOCIATES

ROA 593

ELECTRONICALLY FILED - 2021 May 10 2:06 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0700663

PLAN- LEVEL 3

BEAUFORT INN



A1-031

BEAUFORT INN, LLC | 01/21/2021 | CURRENT PROPOSED

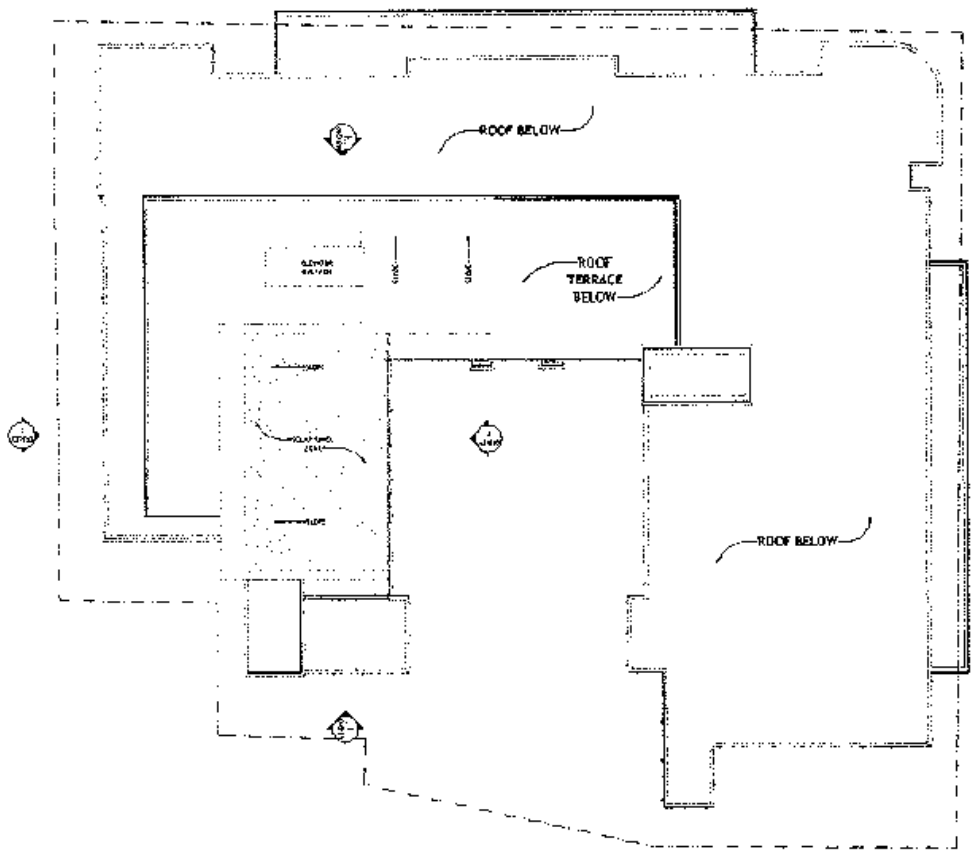
NILES BOLTON ASSOCIATES

ROA 594

ELECTRONICALLY FILED - 2021 May 10 2:06 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0700663

PLAN - PENTHOUSE ROOF

BEAUFORT INN



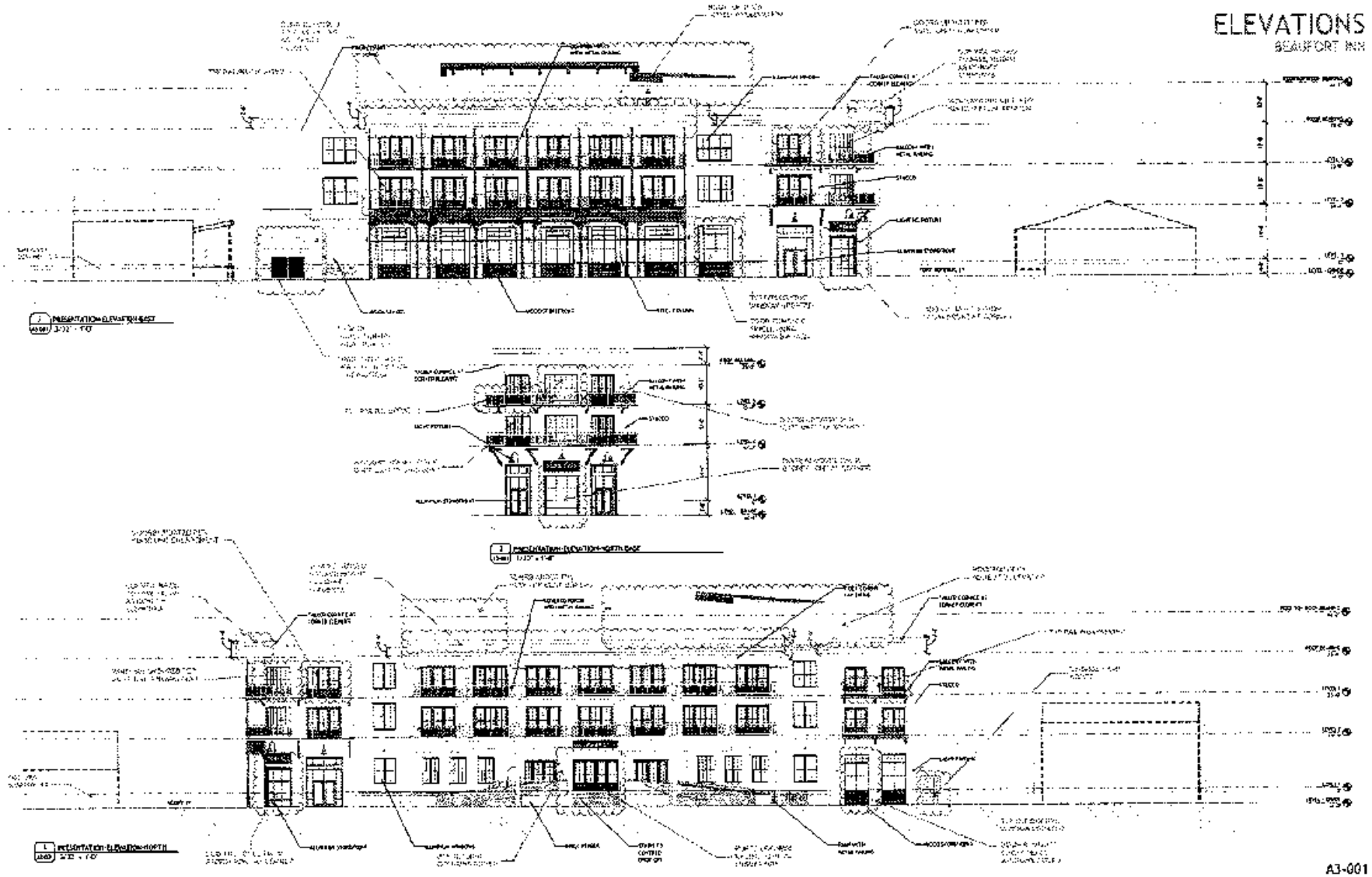
A1-R11

BEAUFORT INN, LLC | 01/21/2021 | CURRENT PROPOSED

NILES BOLTON ASSOCIATES

ROA 595

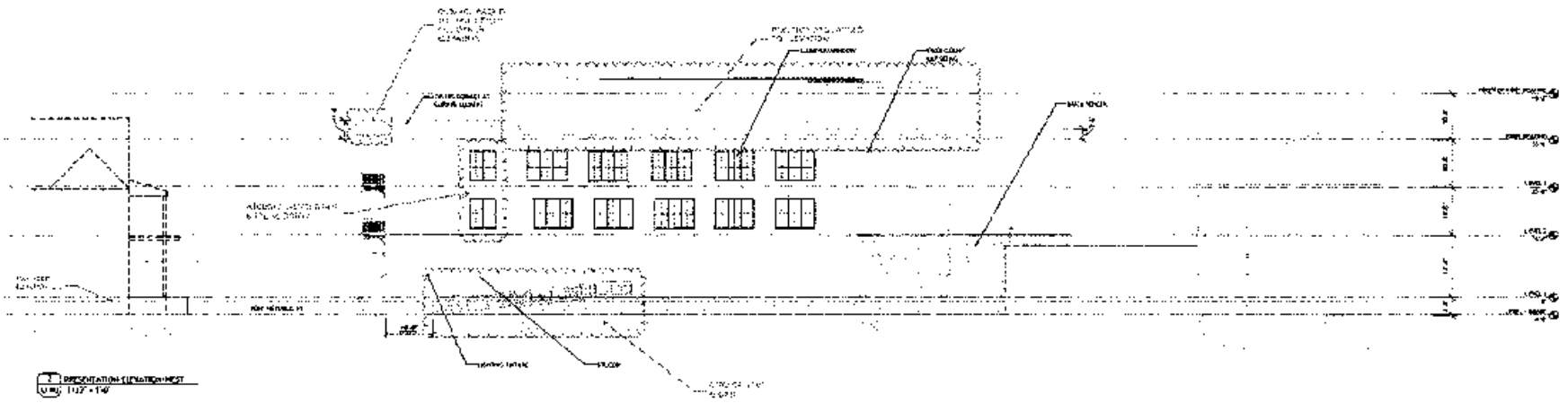
ELECTRONICALLY FILED - 2021 May 10 2:06 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0700663

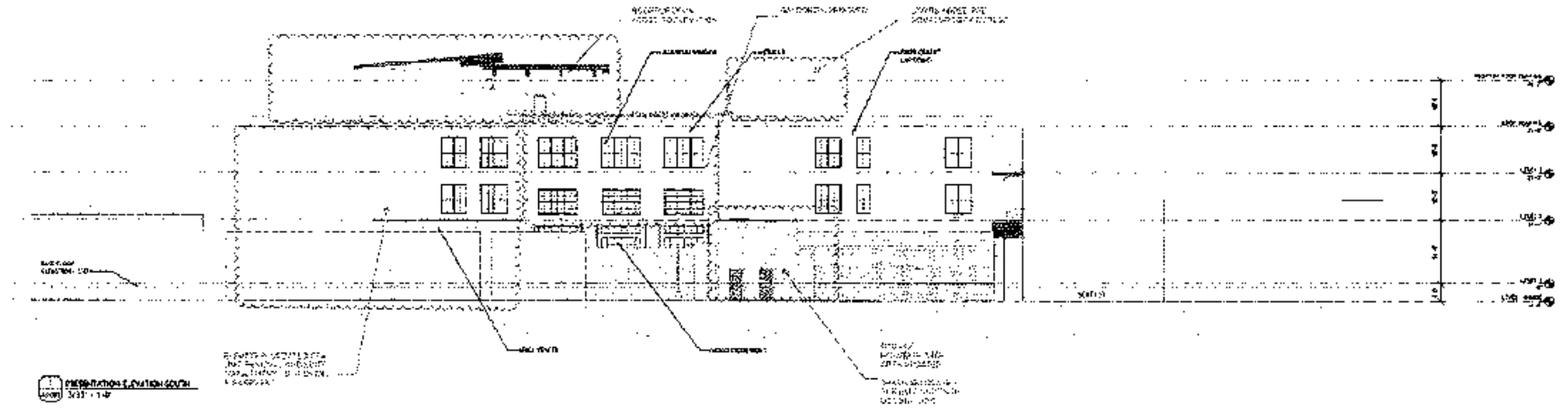


ELECTRONICALLY FILED - 2021 May 10 2:06 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0700663

ELEVATIONS

BEAUFORT INN





A3-002

BEAUFORT INN, LLC | 01/21/2021 | CURRENT PROPOSED

NILES BOLTON ASSOCIATES

ROA 597

ELECTRONICALLY FILED - 2021 May 10 2:06 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0700663

SITE ELEVATIONS

BEAUFORT INN

A3-003

BEAUFORT INN, LLC | 01/21/2021 | CURRENT PROPOSED

NILES BOLTON ASSOCIATES

ROA 598

ELECTRONICALLY FILED - 2021 May 10 2:06 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0700663

3D VIEWS

BEAUFORT INN

A3-004

BEAUFORT INN, LLC | 10/09/2019 | PREVIOUSLY APPROVED

NILES BOLTON ASSOCIATES

ELECTRONICALLY FILED - 2021 May 10 2:06 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0700663

3D VIEWS

BEAUFORT INN

A3-005

BEAUFORT INN, LLC | 10/09/2019 | PREVIOUSLY APPROVED

NILES BOLTON ASSOCIATES

ROA 600

ELECTRONICALLY FILED - 2021 May 10 2:06 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0700663

3D VIEWS

BEAUFORT INN

A3-006

BEAUFORT INN, LLC | 10/09/2019 | PREVIOUSLY APPROVED

NILES BOLTON ASSOCIATES

ROA 601

ELECTRONICALLY FILED - 2021 May 10 2:06 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0700663

3D VIEWS

BEAUFORT INN

A3-007

BEAUFORT INN, LLC | 10/09/2019 | PREVIOUSLY APPROVED

NILES BOLTON ASSOCIATES

ROA 602

ELECTRONICALLY FILED - 2021 May 10 2:06 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0700663

3D VIEWS

BEAUFORT INN

A3-008

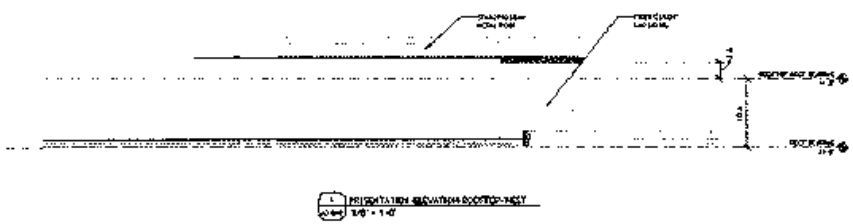
BEAUFORT INN, LLC | 10/09/2019 | PREVIOUSLY APPROVED

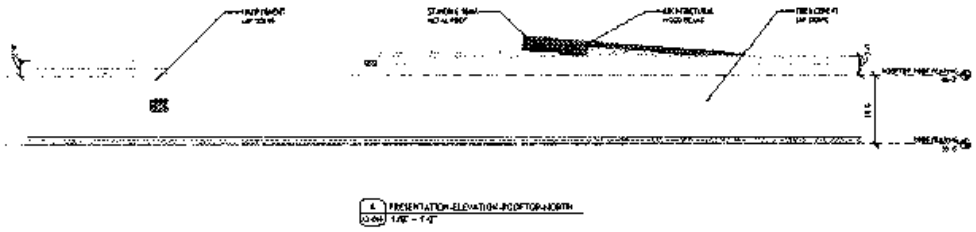
NILES BOLTON ASSOCIATES

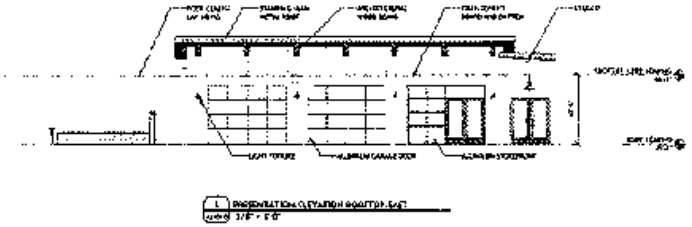
ELECTRONICALLY FILED - 2021 May 10 2:06 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0700663

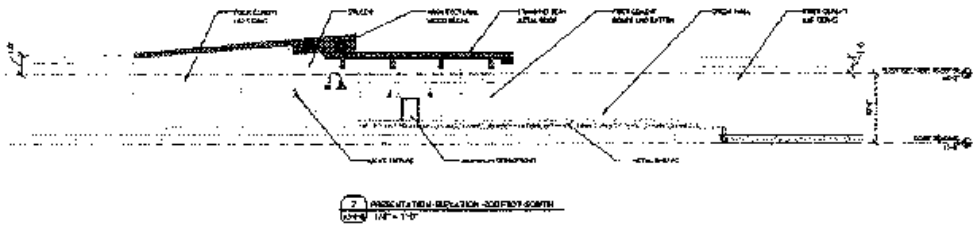
ELEVATIONS - ROOFTOP

BEAUFORT INN









A3-010

BEAUFORT INN, LLC | 01/21/2021 | CURRENT PROPOSED

NILES BOLTON ASSOCIATES

ROA 604

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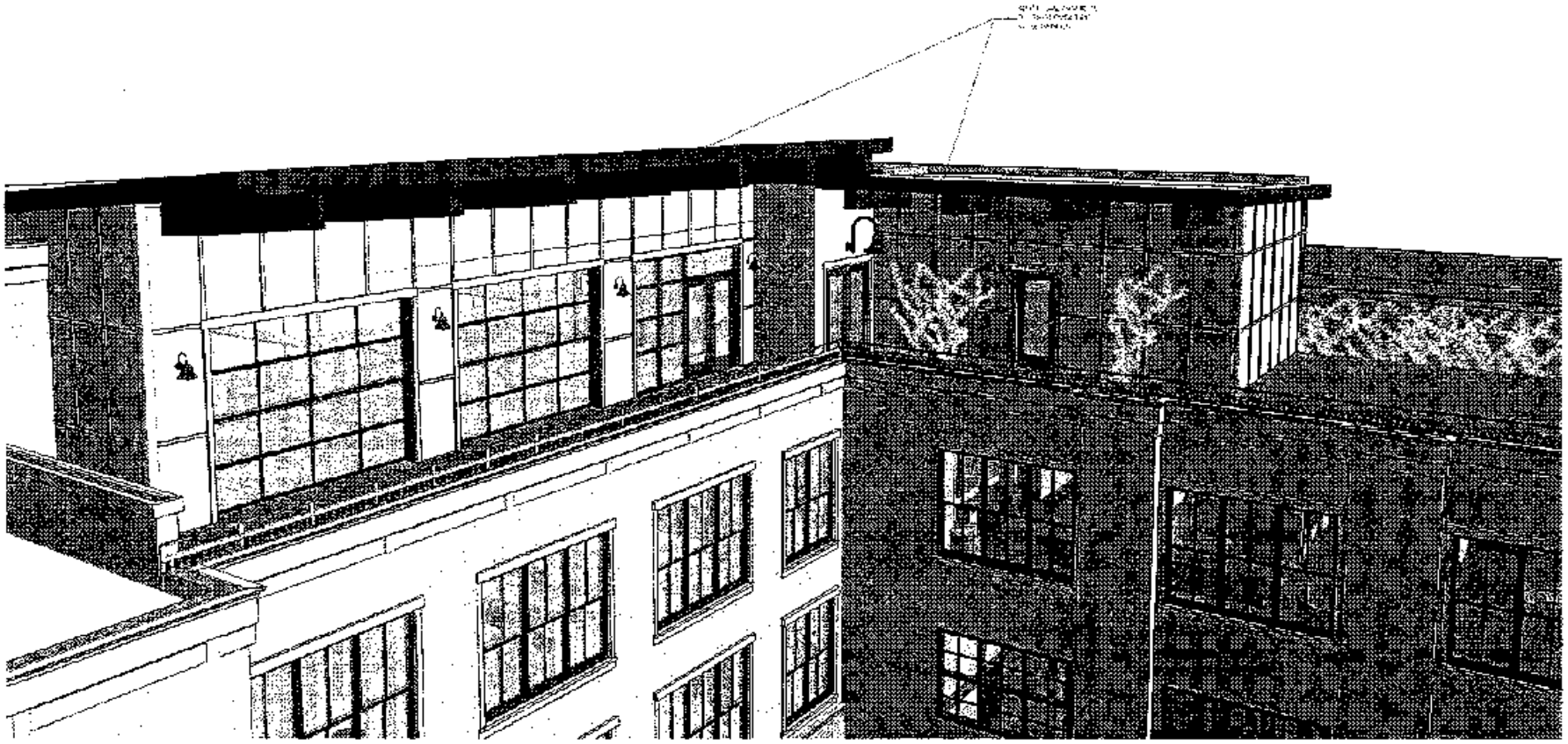
ROOFTOP - AERIAL

BEAUFORT INN



A3-012

BEAUFORT INN, LLC | 01/21/2021 | CURRENT PROPOSED

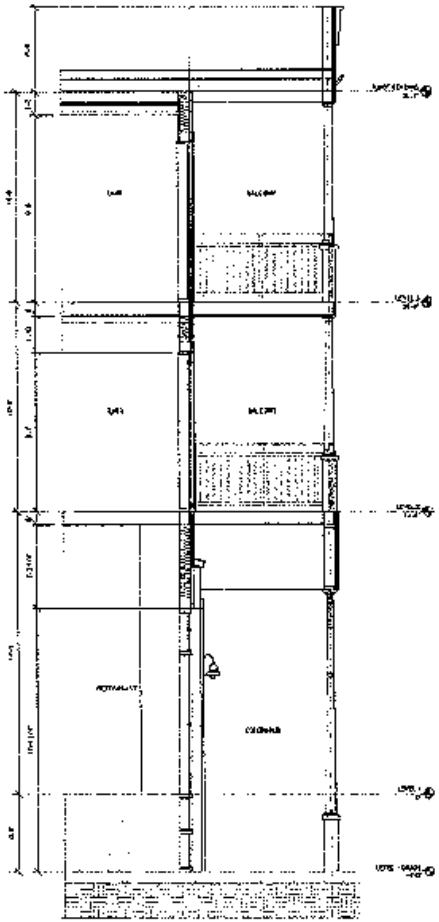
NILES BOLTON ASSOCIATES

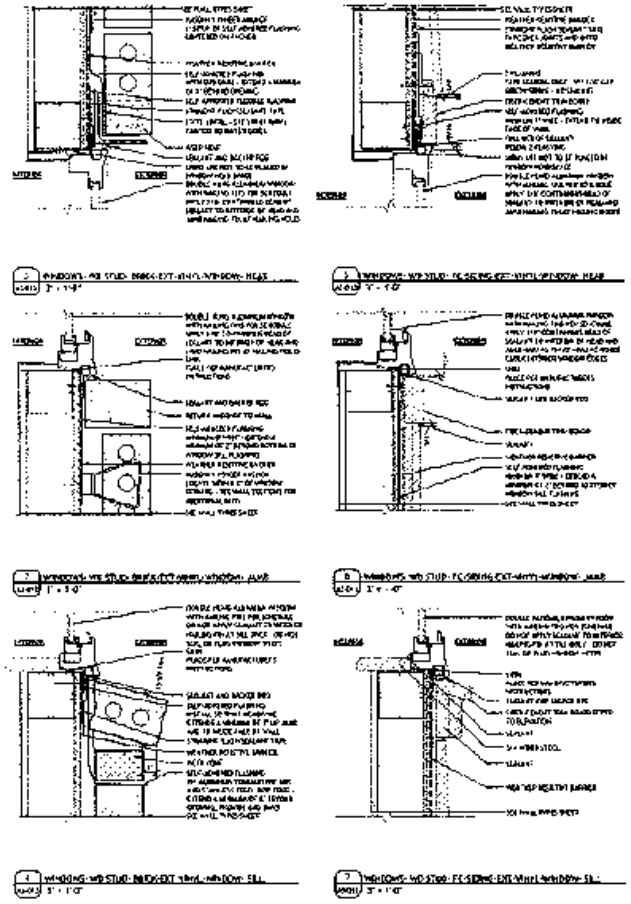
ROA 605

ELECTRONICALLY FILED - 2021 May 10 2:06 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0700663

WALL SECTION

BEAUFORT INN





A3-013

BEAUFORT INN, LLC | 01/21/2021 | CURRENT PROPOSED

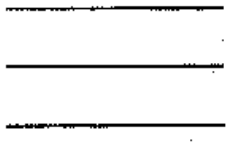
NILES BOLTON ASSOCIATES

ROA 606

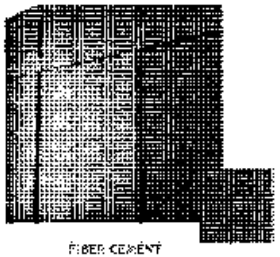
ELECTRONICALLY FILED - 2021 May 10 2:06 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0700663

Materials Board - Hotel

Beaufort Inn Expansion - Beaufort, South Carolina



FIBER CEMENT
LAP SIDING - SW 7006 EXTRA WHITE



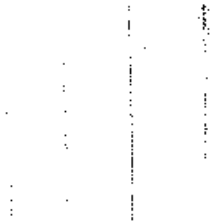
FIBER CEMENT
BOARD & BATTEN - SW 7046 URBANE BRONZE

EXTERIOR LIGHT - LARGE

EXTERIOR LIGHT - SMALL

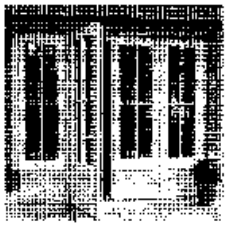
CAST IRON BRACKET - SW 7046 URBANE BRONZE

STUCCO - SW 7006 EXTRA WHITE



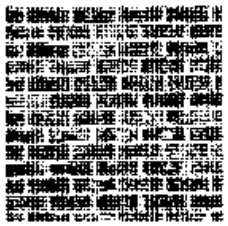
FIBER CEMENT
BOARD & BATTEN - SW 7006 EXTRA WHITE

CAST IRON COLUMN - SW 7046 URBANE BRONZE

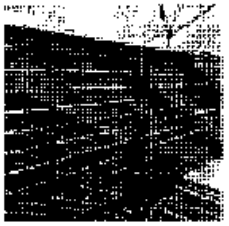


WOOD DOOR - 4 PANEL STYLE

BRACKETS - LARGE

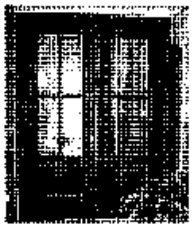


BRICK VENEER - CHEROKEE SAVANNAH GRAY



WOOD PRIVACY FENCE

WOOD STOREFRONT - PANEL STYLE



WOOD DOOR - STAIN

BRACKETS - SMALL

NILES BOLTON ASSOCIATES

ROA 607

ELECTRONICALLY FILED - 2021 May 10 2:06 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0700663

ELECTRONICALLY FILED - 2021 Sep 10 4:06 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0701241

CITY OF BEAUFORT
HISTORIC REVIEW BOARD
1911 BOUNDARY STREET
BEAUFORT, SOUTH CAROLINA 29902
(843) 525-7011 FAX: (843) 986-5606

DECISION LETTER

June 15, 2021

Beaufort Inn, LLC
Courtney Worrell
2015 Boundary Street, Suite 300
Beaufort, SC 29902
Email: ctw@303associates.com

RE: 21-10 HRB.1 918 Craven Street – New Construction

Dear Ms. Worrell:

On June 9, 2021, the City of Beaufort Historic District Review Board (HRB) met to review your application for Final approval for construction of a new four-level structured parking deck with 483 parking spaces on property located at 918 Craven Street. The HRB voted to grant final approval (not your final letter) for with staff conditions listed below:

1. A certified arborist's report dated March 15, 2021, was submitted as part of this request for Final approval application. The report includes a tree evaluation for all existing trees and tree protection and maintenance recommendations for trees identified to remain during and after construction. This report will be used to inform tree removal permitting, tree mitigation and tree protection zone requirements.

2. Section 4.5.11 of the Beaufort Code notes that "Parking Structures shall provide bicycle parking within the structure. It shall be located on the level closest to the street and/or a primary building entrance." Applicant to ensure and demonstrate compliance with this code section and provide the required bicycle parking.

3. In the current application the Applicant has submitted a photometric plan that includes locations and illuminance levels of lighting, and associated cutsheets. The plan meets the maximum illuminance level requirements of Section 5.8.4. Additional lighting requirement comments specific to the lighting cutsheets are as follows:

    a. Section 5.8.3.B of the Beaufort Code states that "In all districts, lighting shall be directed downward. In addition, upwardly directed lighting shall not be used to illuminate structures, except for low-wattage architectural lighting." Staff is in support of the submitted half cylinder

EXHIBIT 4

wall bracket lighting fixture and the Gooseneck outdoor sconce. Applicant to clarify if the Half cylinder wall bracket will direct light downward and submit a new fixture for review if not.

b. Section 5.8.4.B of the Beaufort Code states that "light fixtures in excess of 1,800 lumens shall use full cut-off lenses or hoods to prevent glare or spillover from the project site onto adjacent lands and streets." The proposed lighting fixtures on sheet E0.014 are in excess of 1800 lumens, but no cut-off lenses are noted. Applicant to clarify if these will be provided and ensure and demonstrate compliance with this code section.

4. From discussions with the applicant, Staff understands that there is minimal mechanical equipment to be screened. The only equipment that will require screening will be some ductwork from the maintenance and service rooms on the first floor. This is screened on the South Elevation by two 8' louvers. Staff is in support of this location, but Staff recommends relocating the louvers to have a more purposeful engagement with the soldier course brick band on this façade.

5. At the entryways on the Charles Street and West Street facades, Staff recommends extending the trellis to cover the pedestrian entry as well. Staff feels that this will help achieve a more balanced façade.

6. Regarding the section detail of the proposed Trellis (Drawing 4 on Sheet A4-001), Applicant to clarify whether additional brackets will be used to connect the wood rafters to the engineered support beam below and to the adjacent ledger. If additional brackets will be used, applicant to verify if brackets will be visible or if concealed fasteners will be used. If visible brackets are used in either location, they must be submitted for review.

7. The preliminary application for this project proposed punched openings on the large blank wall on the South Elevation. In the current, final application, the applicant has indicated trim detailing to mimic a punched opening. Staff recommends changing these to true punched openings if feasible. If this is not feasible, applicant to ensure that the panel within the trim detailing is recessed to create a shadow line. Another acceptable option would be to install Bahama shutters in closed positions in these locations.

8. Applicant to clarify the Precast Spandrel – Vertical Texture selection shown on the Materials Board. Two different vertical patterns appear to be shown, and the picture provided appears to be brown and white. Applicant to clarify which vertical pattern will be used and whether the panels are simply textured or if color will be used. Staff preference is that the pattern with smaller spacing of stripes is used and that the panel is textured without any additional color to create a more timeless and natural design.

You must submit a revised design that meet the conditions noted above. Staff will verify concordance and issue a Certificate of Appropriateness. The Certificate of Appropriateness is required to be submitted with your project permit application.

If you have any questions, feel free to call the Development of Community & Economic Development at (843) 525-7011.

Sincerely,

John Dickerson,
Chairman

Digitally signed by John Dickerson, Chairman
DN: cn=John Dickerson, Chairman, o=City of Beaufort, ou=Historic District Review Board, email=john@sleepinhistory.com, c=US
Date: 2021.06.18 08:56:38 -04'00'

John Dickerson, Chair
Historic District Review Board

ELECTRONICALLY FILED - 2021 Sep 10 4:06 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0701241

ELECTRONICALLY FILED - 2021 Sep 10 4:06 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0701241

CITY OF BEAUFORT
HISTORIC REVIEW BOARD
1911 BOUNDARY STREET
BEAUFORT, SOUTH CAROLINA 29902
(843) 525-7011 FAX: (843) 986-5606

DECISION LETTER

June 15, 2021

Beaufort Inn, LLC
Courtney Worrell
2015 Boundary Street, Suite 300
Beaufort, SC 29902
Email:

RE: 21-01 HRB.2 812 Port Republic Street – Change after Certification

Dear Ms. Worrell:

On June 9, 2021, the City of Beaufort Historic District Review Board (HRB) met to review your application for changes after certification to the Beaufort Inn Hotel that involve massing, fenestration, and detail changes to the previously approved three stories of hotel space in addition to a new rooftop venue to the property located at 812 Port Republic Street. The HRB voted to grant final approval (not your final letter) for staff conditions noted 1, 2, and 3 below:

1. Staff is in support of the submitted aluminum-clad wood storefront. Applicant to ensure that they are simulated divided light with spacer bars.
2. Staff is in support of the proposed MiraTEC Exterior Trim. Applicant to ensure that all synthetic claddings are smooth.
3. Proposed New Roof Deck:
    a. Proposed lighting fixture L2 directs light outward, and proposed lighting fixture L4 directs light upwards and outwards in the Dusk View provided on sheet A3-011. All lighting should be directed downward. Applicant to submit light fixtures that direct light downward.
    b. Staff assumes that the Service Doors noted on the Materials Board are metal. Applicant to clarify the materials of these doors.
    c. The applicant has submitted a cut sheet for the roof of the roof deck event space, however no termination details were included in the submission. Applicant to submit drip edge, rake, and any other required termination details for review.

EXHIBIT 5

d. Applicant to clarify how the LSX module system will be installed over the proposed standing seam roof. Applicant to clarify how the support rails will be attached to and connected to the standing seam roof.

e. On sheet A3-005, Applicant to clarify if the materials called out to be used on the porte-cochere stairs will also be used on the porte-cochere ramps and the ramp on the west elevation. Staff assumes that exterior ramp on west elevation will have railings that match the rest of the project. Applicant to clarify and submit details for these areas for review.

You must submit a revised design that meet the conditions noted above. Staff will verify concordance and issue a Certificate of Appropriateness. The Certificate of Appropriateness is required to be submitted with your project permit application.

If you have any questions, feel free to call the Development of Community & Economic Development at (843) 525-7011.

Sincerely,

John Dickerson,
Chairman

Digitally signed by John Dickerson, Chairman
DN: cn=John Dickerson, Chairman, o=City of Beaufort, ou=Historic District Review Board, email=john@sleepinhistory.com, c=US
Date: 2021.06.18 08:55:35 -04'00'

John Dickerson, Chair
Historic District Review Board

ELECTRONICALLY FILED - 2021 Sep 10 4:06 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0701241

STATE OF SOUTH CAROLINA	IN THE COURT OF COMMON PLEAS
	TENTH JUDICIAL CIRCUIT
COUNTY OF BEAUFORT	2021-CP-07-01241

Historic Beaufort Foundation,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
City of Beaufort, et al.,	)	
	)	
Defendants.	)	
----------	)	TRANSCRIPT OF HEARING
West Street Farms, LLC,	)	
	)	
Plaintiff,	)	
	)	
City of Beaufort, et al.,	)	
	)	
----------	)	

January 6, 2022
Beaufort, South Carolina

B E F O R E:

The Honorable Bentley Price, Judge Presiding

A P P E A R A N C E S:

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jmassalon@wmalawfirm.net
843-727-1144

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Harvey & Battey
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Beaufort, SC 29902
843-524-3109

Cathy L. Young, CVR-M
Official Circuit Court Reporter
Post Office Box 4604
Beaufort, South Carolina 29903

A P P E A R A N C E S: (CONT'D)

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803-799-9800

I N D E X

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By Mr. Nicholson 27

Court Reporter Certificate 40

P R O C E E D I N G S

* * * * *

THE COURT: History Beaufort Foundation vs. The City of Beaufort. All right. Whose motion is it?

MR. GOWDER: Your Honor, there are two appeals actually and they're related. One is the case you called, and then there's also one that is West Street Farms and Mixed Farms vs. City of Beaufort. And we're here to argue both of them really together.

THE COURT: Okay. Not a problem.

MR. GOWDER: Your Honor, if it please the Court?

THE COURT: Absolutely.

MR. GOWDER: My name is Andy Gowder. I represent two property owners of commercial property in the Historic District City of Beaufort adjacent to the two projects that are the subject of these pending appeals. We're appealing decisions of the Beaufort Historic District Review Board, which is the architectural review board for the City of Beaufort for a proposed hotel project and a parking garage in the historic district.

We argue two things, one, the preliminary

approvals for these projects has long since expired before this was ever heard, and so the Board was unable to grant any approval because there was nothing for them to rule on. Secondly, the Board has no basis to make these rulings because the projects themselves violate the City's ordinances and standards for buildings in the historic district. They basically ruled without any basis. In the interest of time, 'cause the issues in both appeals are really the same, I'm going to argue the first point about the expiration of the approvals, and then Mr. Massalon, representing the Historic Beaufort Foundation, will argue the second point, if it please the Court?

Your Honor, the Historic Review Board lacked the legal authority to consider either one of these applications on either the parking garage or the hotel. Any approval that the Historic Review Board may have granted the parking garage, also known as 918 Craven Street, had expired by June the 9th, 2021, when the hearing was held, and the Board erred in acting on this application. A very brief history. On August the 17th, 2016, the HRB granted conceptual approval with conditions for the parking garage. On July 12, 2017, roughly a year later, the

Board approved a motion for the parking garage to undergo significant revision and come back to the Board with a simpler design. On September the 20th, 2017, the HRB gave preliminary approval for the parking garage planned with various conditions that they required that the applicant come back with.

Under the zoning code at the time, preliminary approval for the parking garage expired at the latest 18 months later after the September 20th, 2017, preliminary approval date. And I'll explain the calculation of the months in a minute, Your Honor. The parking garage's preliminary approval under the UDO had expired long before the June 9th, 2021, HRB meeting. Parking garage was not eligible to proceed to final approval on June the 9th, 2021. Really, almost 45 months after the issuing of the preliminary approval and almost 27 months after the preliminary approval's expiration. So it was error for the Board to consider that application and we would ask that that decision of the HRB be reversed.

Similarly, Your Honor, on the hotel application, 812 Port Republic Street and 212 Scott Street, that preliminary approval had also expired under the terms of the ordinance. In that case, the

applicant made a preliminary submission of the hotel project in some form to the City in 2016, and then made a new submission of the project to the City in 2017. At a July 12th, 2017, meeting, the hotel received a preliminary approval from the HRB. Such preliminary approval thereafter expired at the latest on January the 12th, 2019, 18 months after the issuing of the preliminary approval. The next approval, however, Your Honor, was not -- was almost 27 months later on October the 9th, 2019. Therefore, that application had also expired. And there was nothing on June 9th, 2021, for the -- for the Board to rule on.

Your Honor, in referring to the 18 months, we are referring to a provision in the unified development ordinance, which was the ordinance that existed prior to the current zoning ordinance called the Beaufort Code, and at that ordinance, Your Honor, at 3.1M, it provides for expiration of permits and approvals. And basically, Your Honor, what it says is that unless you have a vested right in an approval, your use permit, and in this case, a preliminary plan or plat, has a 12-month duration. And with good cause shown, you can apply for and receive another six months. So -- and in none of

these cases was there ever an application for another six months. So I think technically the applications would have expired after 12 months. But giving them the benefit of the doubt, the most they could ever have gotten without reapplying was 18 months. What the applicant and what the City say in response is that -- well, that all may be true, but the -- given everything that the applicant and the City had done back and forth, the applicant had a vested right. There are several problems with that. First of all, I think they almost concede in their memo that under the vested right statute, they don't have a vested right. It doesn't meet the definition. Under 6-29-1530, a vested right is established for two years upon the approval of a site-specific development plan. There's no site-specific development plan here, so there's no vested right.

Similarly, Your Honor, under the -- under the UDO, there's a provision 3.1M(1) and (2), and specifically (2), that has a very similar provision to the State enabling statute for vested rights for final development plans and plats. And it says, "A vested right is established for two years upon the final approval of a development plan, plat, or

phased development plan." Again, that doesn't exist here. So under either the State enabling statute or the local ordinance, there's no vested right. What they say is that -- well, a couple of things. First, just based on their reliance, based on common law, they should be entitled to some sort of vested right. There's no basis, no basis in either decision law or in either of the local ordinances or the State statute for that provision. And in fact, the provision is pretty clear that if under 3.1.3, if you're not able to submit a complete application for a subsequent permit or complete the work within that period of time, your permit has -- would have expired. And we believe that that is what occurred here. Further, they say, well, we were -- we were issued demolition permits in the interim, and so that extended our time. We relied on the demolition permit to extend the preliminary approval. Again, Your Honor, the local ordinance provides for that. And under 3.1M(1), it says, "Approval of any application pursuant to this UDO shall authorize only the particular use plan or other specific activity for which the application was issued and not any other approval requiring separate application. So the development -- I'm sorry, the

demolition permit allows them to do demolition, but it doesn't have any effect on extending the preliminary approval.

Your Honor, finally, I expect they may say, "Well, the UDO may say that, but we're really under the Beaufort code now." But they have a problem with that, and I'd be interested to hear what they argue when they stand up. Because the Beaufort code may not be as explicit on the 12-month, 6-month provision that the prior UDO did. But the Beaufort code also has a provision which we've raised, not only in this appeal, but in a related lawsuit that says that if the Beaufort code applies, then they were required for this size of a building, which is called a large footprint building, to get a special exception from the Board of Zoning appeals. They didn't do that before they got this approval. And they can't have it both ways. So either the UDO applies and they're out of time or the Beaufort code applies and they didn't get their special exception and the Certificate of Appropriateness is also -- was improperly issued. So for either reason, Your Honor, we believe that both actions on both the hotel and the project are without legal basis and ask that you reverse it.

THE COURT: Explain to me exactly what the -- we call it the BAR, Board of Architectural Review, --

MR. GOWDER: Right.

THE COURT: What do you-all call it?

MR. GOWDER: In Beaufort they call it the HRB.

THE COURT: HRB. What explicitly did the HRB rule?

MR. GOWDER: They had a couple of specific rulings. One was basically a grant of a -- and I have it here. One was a grant of a -- for the hotel, they made what was called a change after certification. It was essentially an amendment to their certificate of appropriateness. On the parking garage, it was the issuance of a certificate of appropriateness for a new construction.

THE COURT: Okay. All right.

MR. GOWDER: Your Honor, we raised other grounds in our petition in our brief, but in the interest of time, I'll leave that for the brief. We don't waive any of those, but we'll turn it over now to Mr. Massalon.

THE COURT: Does their decision essentially quash the project altogether?

MR. GOWDER: If -- they have to get the certificate of appropriateness as part in order to go forward, yes, sir.

THE COURT: Okay.

MR. HARVEY: Their certificate actually approved the project altogether, final approval. I mean these projects could have been approved.

THE COURT: So what's the concern?

MR. GOWDER: Well, the concern is that they do need the certificate of appropriateness to go forward as final approval, and they don't have a legal basis for getting it. Because the preliminary approval had expired --

THE COURT: Well, what they're trying to tell me is that they've already jumped over that step, that they already got the approval. That's where my confusion is coming in.

MR. GOWDER: No, sir. They don't already have the approval.

THE COURT: Okay. Then let's start there.

MR. GOWDER: Okay. Your Honor, at this point, I'm going to turn it over to Mr. Massalon to discuss the other part of the argument.

THE COURT: Okay. Yes, sir?

MR. MASSALON: Good morning, Judge. I'm

John Massalon, and I'm here representing the Historic Beaufort Foundation. With me is Wayne Vance and Cynthia Jenkins from the Foundation. As Mr. Gowder said, the issues are similar in these appeals and I'll do my best not to repeat anything. But you know how lawyers are, that may happen, but it won't happen on purpose.

If I may, just to put this in a little bit of context, I'd like to tell you why the Historic Beaufort Foundation is so concerned about these approvals and, Your Honor, for reference purposes, the two decisions that were issued on June the 9th are actually the very last two documents in the submission by the City. They submitted the record. I'll be happy to pass those up to you if you would like to have two cop -- the copies handy. But they are the very last two documents in that package that was submitted to you.

As you've heard, the two projects were approved. One, a hotel one, a parking garage. To give you a sense, the parking garage is four stories tall. The front façade is about the size of a football field goal line to goal line. The volume mass is about three million cubic feet and has room for 484 vehicles as we understand it. The hotel is

four stories with a rooftop bar, a front façade, and about 170 linear feet square footage of about 50,000, and a volume mass of about a million cubic feet.

Nearby, my client owns a historic property called the Verdier House and for comparison purposes, it is about 5500 square feet and has about 50,000 cubic feet in size, so it is -- the garage is roughly 60 times bigger than that building and about 20 -- the hotel is about 20 times the size of that building. And in our view, what's about to happen on these sites is really going to change the face of the historic in Downtown Beaufort. And you're well aware, Your Honor, of the size and scale of the buildings there, and what is being planned and proposed for this is a radical departure from that, a big change from what's there. And that's the primary concern of my client.

Now having done this a few times, one of the things I've learned or been taught is that this process is very rule intensive and a lot of reaction is, so what, it sounds like a lot of technicalities, it sounds like a lot of rules and complaining by people that did not prevail before this Board, and why does it ultimately make a difference? And if I

may, Your Honor, I think the point or one of the issues we would like to get out, and I think you'll learn from the arguments is this has been a long project. As you heard from Mr. Gowder, at the time it started out, the Uniformed Development Ordinance was in place. In 2017, the City changed to the Beaufort code, and we have arguments about whether these approvals were asked for and granted under the old UDO or the new Beaufort code as you've seen in some of the pleadings probably. There is information going both ways, and it's been going on a while. But I think our purpose here and our hope here is that because this is so important and because it's so significant, that we basically get a do over, that you reverse these approvals and send it back to the City to go through this process. And we think if the process is respected and followed, the result we will get out will be better. It may not be one that everybody agrees on or everybody likes, but we think it will be better and we think good process produces good results in this context. So with that big windup, I will jump to the substance of it. We share the concerns and won't repeat the arguments that you heard from Mr. Gowder about the expiration of the preliminary or

conceptual approvals for the hotel and the garage, and also share his view on the vested rights argument. The one thing I would point out to the Court about what you've seen in the vested rights context is the Vested Rights Act was passed in 2005. Some of the cases -- in fact, a lot of the cases that talk about reliance and expenditures and things of that nature are cases that were decided before the Vested Rights Act was passed and people would argue I've got vested rights because I've paid an architect or I've torn something down. Certainly there are some cases on vested rights after that, and the City and the developer cite in the Boehm case, which my understanding of it was that it's not this case. That was a house on Sullivan's Island that had been used, an auxiliary building that had been used as a residence before they passed the zoning ordinance there. It was kind of a grandfather case as I understand it, and some other things. But I think that's really the touchstone and the cases before 2005, I think, are to be read with caution about their effect after the Vested Rights Act has been in place.

Now as far as the arguments I also didn't mention, but we also share the argument that Mr.

Gowder made about the lack of a certificate of appropriateness. If these approvals were actually granted under the Beaufort code and not under the UDO, then we also agree that this is a large footprint building under the Beaufort code required a special exception, and that without that special exception, the Board probably didn't even have subject matter jurisdiction to take up these approvals in June of this past year.

Now as far as a few of the other arguments, and I know this can be a little tedious, so I will try not to be, but just to touch on them briefly, the rules and requirements of the Beaufort code, assuming that these approvals were actually processed under that, that were not complied with, kind of fall into these major categories.

First of all, and in the legal context, we say these decisions were not supported by the record for arbitrary and capricious because big picture, the Board really treated a lot of these things as having already done, and didn't exercise its rule-making and decision-making authority under the Beaufort code. So at the hearing June the 9th, the hotel showed a rooftop bar that, to our knowledge, was treated as approved when it was actually not.

That was a new element and the Board didn't consider it separately and should have. That one of the obligations of this Board when considering construction in this context, meaning in the Historic District, is to consider the scale of the project and the impact on the surrounding buildings and the compatibility and, to our knowledge, the developer never provided a scale model, although one had been requested. And that in assessing some of the materials in the construction, there was not any mockup or, you know, sometimes on these sites you'll see people build a partial wall showing what the materials will look like. And again, we don't believe the Board could have exercised its authority to do these things without knowing those things.

Under Section 4.1 of the Beaufort code, there are particular requirements for what are called infield projects. We think under the Beaufort code this qualifies as one of those, and it has to be separately evaluated for compatibility, no adverse impact on surrounding properties and consistency with other plans, as Your Honor, keeping your other comment in mind, may be aware that cities and counties have lots of plans, they have long-range plans, comprehensive plans, things of that

nature, and we do not believe that the Board exercised its authority in requirement to evaluate this as an infield project. And as I've described the size of these, these projects aren't compatible with the size and scale of the Historic District in Beaufort. I believe a letter from Mr. Gowder that was submitted at the hearing included some information from the State Preservation Office where they actually recommended disapproval of the garage. The National Park Services started studying these issues because of the concern about big development in Beaufort, all of which, I think, goes to show that if this had been evaluated as an infield project as it was required to be under the Beaufort code, then it would have failed the test.

The other issues that we see in this is in the record, which, again, you -- I won't belabor it, but there's a transcript of the hearing. I think -- you don't see any meaningful review of the architectural details. There are solar panels on the hotel. They have not gotten the proper review under the code and should have been. The standards, meaning the long-range plans and other plans that we believe should have been evaluated, are detailed in the memorandum, but include the Beaufort

Preservation Manual and some other rules of standards again that I won't bore you with at this moment but are detailed in the brief.

The -- to the extent that there is a claim that the UDO applies, actually the UDO does contain similar requirements for these infield projects, and so, again, whether it's under the UDO or the Beaufort code, we think it should have been considered as infield and those compatibility and scale issues should have been evaluated and were not.

There is some reference in the memorandum from the City, I believe, about the City master plan including a garage downtown. And I -- just to comment on that briefly, I think a fair review of that is while they're was a recognized need for parking and parking downtown, what that envisioned and what got approved here are apples and oranges. This is a much more significant building in terms of size and scale. Also it's mostly for the benefit of a hotel project and not really for the benefit of the community at large. The number of public spaces, as we understand it, is fairly small.

Last topic on which I'll comment are these, and I'll try to roll them all together. But in the

memoranda, the City and, I believe, the developer joined in arguments that all of these objections, at least by us, are barred by the doctrines of laches and estoppel and waiver. And so if I can comment on those particularly. As I understand, the primary point of those is that under Section 10.7.3 of the Beaufort Code, it says in part that of the five members of the Review Board, one of the five is recommended by my client, the Historic Beaufort Foundation. And the main argument, as I understand it, is because in the City's view or the Respondent's view, we had a member on the Board that we are precluded from making these objections because our member -- supposedly our member didn't vote against it or didn't stop the process earlier or something of that nature. Now as far as the June 9th meeting itself goes, my understanding is that the member that had been recommended by our organization, Chuck Symes, actually vacated that seat in April because he moved away. And the new member, recommended by Historic Beaufort, Ms. Lutz, didn't take her seat until after the meeting. So my understanding was that at the June 9th meeting, there was not a recommended meeting from our organization actually sitting on the Board that

voted on these approvals. And also, under the wording of the ordinance, we dispute the idea that this is our member. It's someone recommended by our group, but we don't believe the Foundation is bound by the votes of the member on the Board, and that member, he or she votes their conscience and we do what we think is in the best interest of the organization.

As far as the time goes, again, these projects have spent some time working through the process, but as Your Honor would imagine, we don't really have any control over how long that takes. A lot of the control of that is in the hands of Mr. Nicholson's clients and Mr. Harvey's clients. They made the applications, the City schedules them, we don't really control that, so to the extent there's been a long time, and it has been several years, that is not anything that apply to us. And again, as far as the other claims of waiver and estoppel, there's really not anything in the record that would support what the legal standard says those are, which is a -- you know, an intentional waiver of a known right or some misconduct or bad conduct by us that should stop us from filing these appeals.

So to the extent I've overlooked anything

in my brief, it wasn't on purpose, and I will commend that to Your Honor's attention, but don't waive those, but whatever arguments are in there, I would like to incorporate those by reference, and unless you've got any questions for me, I'll sit down.

THE COURT: All right. Thank you very much.

MR. MASSALON: Thank you.

THE COURT: Yes, sir?

MR. HARVEY: Thank you, Your Honor.

I am Bill Harvey. I am the City Attorney. I'm also appearing here on behalf of the City Historic Review Board that made the decision. You inquired about the status of why we're here. We're here today because the HRB, my client, approved a final approval on June 9 of both of these projects with some conditions. I would add that all of those conditions have sense been fulfilled. So we are here today really at the final step of a multi-year, a six-year, project for two major projects within the City of Beaufort. These projects have been in the pipeline for design, discussion, review and approvals since 2016. They are very substantial downtown projects that are much intertwined because

the hotel project, as well as the Beaufort Inn and other businesses in the City that are owned by 303 Associates, require parking that only a parking structure downtown will provide. 303 Associates has been working very closely with the City and with the City's Citizen Board such as the HRB over six years. These projects have undergone and received by the HRB conceptual approval, preliminary approval, and now final approval by the City Historic Review Board. With the exception of this June 9, 2021, hearing, where the approval vote was 3 to 1, every approval by the HRB has been unanimous. And more importantly, no one, the HRB or anyone else in Beaufort has challenged or appealed any decision that has occurred over the last six years. In this process, 303 Associates has applied for and been granted by the City permits for the destruction of two buildings and the movement and relocation of a third building, again, without objection or appeal by anyone. Indeed throughout these many proceedings, the Historic Beaufort Foundation that Mr. Massalon represents, one of the petitioners here has had a designated seat on the HRB. And Maxine Lutz, then Executive Director of Historic Beaufort Foundation, participated and voted in favor of these

prior Historic Review Board applications, the conceptual, preliminary, and all of the other issues that have come before the HRB over the last six years.

My role here, Your Honor, is not as an advocate for any particular project or for any particular design. That really is the purview of the HRB. My role here is to support the decisions of the HRB and the processes of the City. We have filed a 17-page brief and a seven-page reply brief outlining in detail the multiple hearings and approvals over these last six years. We are now at the final approval stage, and after a four-and-a-half hour hearing on June 9, the HRB granted final approval of both of these projects. What's important here, Your Honor, is the integrity of this lengthy process. These projects haven't been a one shot approval. They require a lot planning, engineering, and design. That is why our Code requires stages of conceptual, preliminary, and final approval by the HRB for any development in the Historic District. The developer has the right and indeed the need to rely upon matters decided at each stage as they spend lots of money and time in the development process. As a major example, you've

heard arguments by the petitioners here of scale, mass and height. The petitioners in this appeal focus on the height, mass and scale of both of these projects. How they will allegedly overwhelm other buildings in the City and how they will change the look of our Historic Downtown District. But the height, mass and scale of both of these projects were approved by the HRB in 2016 and 2017. That was the initial presentation by the developer. And they were approved in the conceptual and preliminary stages. And the developer relied upon these unanimous approvals and the conditions set forth with these approvals in refining and getting to the final approval stage where we are today. It would be highly inequitable and indeed a violation of all laws and rules concerning vested rights of the developer to allow challenge now of substantial issues decided five years ago.

At the hearing on June 9, under consideration here, the HRB set forth this standard in very, very clear terms. It's in the record throughout that they're duty on June 9 was the issues before them in the final review application. Not -- they weren't revisiting. Decisions had been made by multiple HRBs over the previous five, six

years. The makeup of the Board now is different than the Board in 2016. This Board recognized and said very clearly that they would not and they could not revisit the unchallenged decisions of prior boards, which approved the substantial aspects of these projects which are challenged here today. The law doesn't allow it, and this Court shouldn't entertain such challenge.

The statute, Your Honor, dealing with Historic Review Boards, in the case law mandate that the findings of the HRB shall be treated in the same manner as findings of fact by a jury. This Court cannot substitute its judgment for that of the HRB, and indeed the judgment of multiple HRBs. On June 9, the HRB had limited authority to deal with the conditions and the requirements imposed by the previous HRB at the preliminary approval stage, and at the various times when the demolition and the movement of buildings in reliance upon these prior approvals at the conceptual and preliminary stages were granted. The HRB spent four and a half hours hearing from the applicant, the City's architect, and from many citizens, many of whom sought to review the issues that have been decided in prior hearings and proceedings. The HRB heard this

opposition and after great consideration voted to grant final approval of these projects. This Court should affirm that decision and allow these projects to proceed. Again, I don't want to get into the weaves of every detail date. Those are in our brief, they're very detailed, and they set forth what got us to June 9th. But we're here today about the decision on June 9th. The June 9 decision was an approval of final review, final approval of both of these projects. We believe that they have worked with the City. We believe that they have followed the processes of the City. I've been involved as City Attorney from the get-go of this. I have guided the HRB through this process. We believe -- the City believes that the processes have been followed. The HRB made a final decision, and that decision should be affirmed.

Thank you.

THE COURT: All right. Yes, sir?

MR. NICHOLSON: May it please the Court? I'm Ned Nicholson here for Beaufort Inn, 303 Associates, and Mr. Dick Stewart of Beaufort sitting right behind me is the owner of these entities. Mr. Stewart, and this is in the record, is a long-time resident and developer in Beaufort. I would add

that the -- one of the petitioners is -- or companies owned by Mr. Graham Trask who is a -- also a developer in Beaufort. So this is kind of an interesting appeal from a developer, never like any other developer has gotten. So I think the way you look at it is just as Mr. Harvey pointed out, this process has been going on for years. And at this point, these -- not only has the cow left the barn, the cow has been married and has grandkids at this point in the process it's been so long. The parking garage project was initially approved by the HRB on August 17th, 2016, and the hotel project was initially approved on September 14th, 2016. At that time, there were conceptual approvals. That's mass, scale and height. That's everything that the petitioners are complaining about, size, you know, all that kind of stuff. That was approved in that HRB, public hearing, and no appeal was made as required by the Beaufort Code, as required by the South Carolina Code at that time. You can't go back at the end of a project and go back and try to pull in all these previous things that occurred in the past. By way of kind of a practical example of that is one of the complaints that we make is that the record doesn't show all this information about why

all this mass and scale should be approved. Well, of course it doesn't because those things were approved in prior hearings years ago when there were thousands of pages of documents and those records and aren't up for this week. So they're way too late and they're barred, and frankly this Court doesn't have jurisdiction to entertain the appeals. There are a couple of big differences though. One thing I do want to say is the hotel project already has final approval. That project was finally approved in 2019 after an HRB meeting. What they've asked for now is a change after certification because they wanted to change some aesthetic things and they simply wanted to add a rooftop bar. And that is the only thing that was before the HRB. So any attack on the actual final approval of this hotel is two years too late. The only thing that the HRB considered was not any of that stuff but was only whether or not that rooftop bar and these aesthetic things should have been approved. And as part of that, they heard evidence. They heard evidence from the architect. They heard evidence from Beaufort Inn's architect. Mr. Trask actually stood up and testified himself and said that he thought that the building was too big based on this

rooftop design. The architect said that's not the case. The HRB agreed with the architect and made a finding that obviously agreed with the architect's version of facts, not Mr. Trask. That's a classic fact-finding provision. So there's really nothing to appeal from this hotel project. So -- and there's no evidence that disputes a very narrow issue for the hotel. The parking garage was up for final approval and there's a lot of talk about, well, you waited too long. Well, there were extensions granted. The HRB looked at the extensions, didn't have a problem with them. The Code, I briefed -- like my fellow lawyers incorporated, I briefed into these arguments because they're all very well written and state the issues. But the Code gives the HRB the discretion to give these extensions and they did. And my client relied on them. But just to tell you some of the lengths to which my client went, the garage, before the June 9th, 2021, hearing, there were no less than five public hearings needed to get this off the ground. None of which were appealed from. The conceptual approval on mass, height and scale was August 17th, 2016. The HRB required the demolition of a building November 9th, 2016, at that meeting. The HRB

granted preliminary approval on September 20th, 2017, and again this entire process, extensions were given, buildings were torn down, we had a COVID year, all these kind of things. So the HRB has interpreted its regs and its ordinances to say everything was done properly, and the garage was properly approved. The hotel dates they had four public meetings before the change of certification meeting. September 14th, 2016, conceptual approval; July 25th, 2017, preliminary approval; October 9th, 2019, final approval. They had to have a demo in that one, too, so the HRB had a -- a meeting on the demo November 13th, 2019. And finally this change on this narrow little issue we're talking about here. So really what we're talking about is a competing developer coming late to the game trying to influence the HRB unsuccessfully. A very small group of folks are upset about it. And in the nine previous public hearings, the Board -- HRB voted unanimously every time they released projects. It's just after this competing developer shows up and starts talking to people that have been faced -- you know, these arguments come up and, again, that's just not the way it works. That's not the way the process works. It's not fair to the developers.

It's not fair to the City. And they're simply wrong in that.

To address a couple of other issues, they talk about the Vesting Rights Act. Our memorandum points out that the Vesting Rights Act does not in any way purport to be the exclusive means that a developer can become -- or property owner can become vested in its rights. I mean first of all, you can't just say this Act is the only way because there are constitutional issues with that. Once a property owner does something in reliance, the government tries to take it away. Secondly, statutes in South Carolina, they are judged to be the exclusive remedy say they're the exclusive remedy. Look at the Tort Claims Act. Look at the Workers Comp Act. A very similar statute in this Vested Rights Act was looked at in North Carolina by their Courts, and their Courts said, you know, it's not the exclusive way of doing things. So the whole thing about the Vested Rights Act, you know, that's a good thing, that helps developers, but it's not the only tool in the tool chest. It just helps. The whole Board of Zoning Appeals argument, well, there are two different entities. The Board of Zoning Appeals only has jurisdiction to an appeal

from a decision of an administrative official. The HRB is not an administrative official, so, you know, but they clearly do different things. So that whole argument is just -- in fact, the ordinance itself says you can take whatever order you want in these things, and that's in our brief.

So now you've heard a lot from us, but I'm just going to sum it up that 95 percent of these projects have been granted previously. Nobody talked about it. Nobody appealed it. Nobody had a problem with it. And then suddenly, boom, we have all this going on. But my client has spent thousands and thousands and thousands of dollars, thousands of man hours, all with reliance from the City. And the City's been working with my client constantly. My client has done all these things to meet the City's needs, and the City, I think, has been pushed to build it. But only now we have an outside group filing this appeal. So, Your Honor, I think that the HRB's decisions were correct in the law and the Court should give deference to their analysis of the facts. Of course, you give deference to their interpretation of their own ordinances, and the Court should affirm the HRB.

Thank you.

THE COURT: All right. Anything further?

MR. COOKE: Your Honor, very briefly.

I think there are three questions. The first two, I think, are very black and white. Did the preliminary approvals expire by their own terms under the ordinance? Yes, they did. So the fact that, you know, all of this time expired and they're now here at the final approval doesn't matter. The preliminary approvals that they're based on have expired.

Secondly, did they obtain a special exception for a large footprint building as required by the Beaufort Code if the Beaufort Code applies? And the answer is no, they clearly did not. They can't go forward without a special exception.

Third is, and this is what Mr. Massalon spent a lot of his time talking about, did they follow the review guidelines required by the Beaufort Ordinance? No, they didn't. And, you know, the -- how long this process has lasted between the City and the developer, whether or not the developer relied on advice by the City's staff that was not based on their ordinances and that was -- may have been incorrect is irrelevant. The Vested Rights Act actually is less demanding than

the common law requirements for obtaining a vested right through Reliance. So they didn't have -- they have no vested right in anything other than the approvals they were given. Under the ordinance of the City of Beaufort, those preliminary approvals expired. And the Board had no basis upon which to act.

Thank you.

THE COURT: Fair enough. All right. Anybody else?

MR. MASSALON: I'll try to be even shorter than that. As far as the comment about sort of outside people coming in, I know my client would think I'd be remiss if I let that characterization stand for the Beaufort Foundation. It's been around since the '60s. It owns the Verdier House. It's a long-standing invested community organization. As far as some of the other arguments you've heard about, Reliance and Process, again, this is an important decision for this community, as I said, and one to get right. And we didn't control the timeline and we understand why the developer and others want to get developing. But we think that this one is more important to get right than to get right quickly, so we're not asking you to substitute

your judgment for the Board, but to require them to follow their own rules and their own process. And we think if that happens, what we'll get is a better, more compatible project.

So thank you, Your Honor.

THE COURT: All right. Fair enough. Anybody else?

MR. HARVEY: Your Honor, I would just agree with Mr. Massalon that the HBF, Historic Beaufort Foundation, has been around for a long period of time. I think my mother was one of the founders of the HBF. So we get it. The problem is that HBF can't sit on their rights and be asleep at the wheel and actually vote in favor of all of these other proceedings because they had a designated -- by Ordinance, they had a designated seat on the Historic Review Board. They can't vote in favor of it for all this time, sit on their hands as far as objection, and then at the final stage, move to object. I mean that is really the fundamental inequity that we're seeking here.

THE COURT: All right. In all of this, did somebody say that somebody owned the Beaufort Inn or did I just hear that?

MR. GOWDER: I believe that --

MR. NICHOLSON: Your Honor, that's Mr. Stewart.

MR. STEWART: Yes, Your Honor, the Beaufort Inn.

THE COURT: That's just where my -- that's where Aimee stays every time that she's here. They're always very nice to her and give her the same government rates that she -- I just didn't know who owned it, but she's very appreciative, because she doesn't get but so much money.

MR. STEWART: We appreciate that, Your Honor.

THE COURT: All right. I have extensive experience shockingly enough in this for several reasons. I live in Charleston, and I was a lawyer in Charleston, and can you imagine how many BAR -- we call it the BAR, right?

MR. STEWART: Right.

THE COURT: I'm saying the same thing as you-all's HRB. And I have literally represented tons of investors. I have represented people that were opposed in -- we have -- we call them boroughs now in Charleston. Have you noticed that? You have these, like, boroughs now. And you have these borough commissions. They're like homeowner

associations for downtown Charleston. The come to all these meetings. I've represented even them. It's weird how they do like the Cannonborough, like that's a big one now in Charleston. And so it's weird how we're sectioning Charleston up like that, but they've gone and they have the same thing, like we don't want this X to be put in here because it makes our community look like -- doesn't make it look nice. Or we're going to support it, because if you support it, if that borough supports it, the BAR basically rubberstamps it. I mean -- and again, also in Charleston I've had extensive appeals because you can imagine how much we have in Charleston right now because the development in Charleston is obviously insanity. And so we have a ton of appeals, and that's just the way it goes. And so I -- as much as I appreciate all the arguments, obviously I am very familiar with this and how the process works, and obviously I've made several rulings and been on both sides of the fence. But I'm very reluctant in this situation based on this -- the timing of everything to grant the appeals, so I'm going to deny the appeals and I'll affirm the HRB's decision.

Who will prepare a short order?

MR. HARVEY: I'll prepare the order.

THE COURT: All right.

MR. HARVEY: Two weeks? Ten days?

THE COURT: As long as you want.

MR. HARVEY: Thank you.

- - -END OF TRANSCRIPT- - -

CERTIFICATE OF REPORTER

I, Cathy L. Young, CVR-M, for the Fourteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appear, in the Circuit Court for Beaufort County, South Carolina, on the 6th day of January, 2022.

I do further certify that I am neither of kin, counsel nor interest to any party herein.

Cathy L. Young

Cathy L. Young, CVR-M
Court Reporter and Notary
Public in and for South Carolina
My Commission expires: 3-28-2029

A meeting of the Historic District Review Board was held on July 12, 2017 at 2:00 p.m. in the City Hall Planning Conference Room, 1911 Boundary Street. In attendance were Chairman Joel Newman, board members Chuck Symes, Barbara Laurie, Quinn Peitz, and John Dickerson, and Lauren Kelly, planning staff.

In accordance with the South Carolina Code of Laws, 1976, Section 30-4-80(d) as amended, all local media were duly notified of the time, date, place, and agenda of this meeting.

CALL TO ORDER

Chairman Newman called the meeting to order at 2:00 p.m.

MINUTES

Mr. Dickerson made a motion, second by Mr. Symes, to approve the minutes of the June 7, 2017 meeting of the HDRB. Chairman Newman recused himself because he was not present at the meeting. **The motion to approve the minutes as submitted passed 4-0.**

Mr. Dickerson made a motion, second by Mr. Peitz, to approve the minutes of the June 14, 2017 meeting of the HDRB. Mr. Symes recused himself because he was not present at the meeting. **The motion to approve the minutes as submitted passed 4-0.**

601 CHARLES STREET, identified as R120, Tax Map 4, Parcel 609

Secondary structure

Applicant: Baptist Church of Beaufort, Joe Dean (HR17-24)

The applicant is requesting approval for construction of an elevator structure connecting the pre-school and fellowship hall buildings.

Ms. Kelly said the applicant wishes to construct a new elevator structure to connect the fellowship hall and pre-school buildings. The footprint is just under 600 square feet. It is a link between the buildings and space for an elevator, she said.

Size, mass, and scale, proportions and materials are compatible with the Historic District, Ms. Kelly said. Staff recommends final approval.

Joe Dean said this is to make the buildings more accessible, and it will blend in with the existing buildings. Mr. Peitz asked if there would still be access to the back lot. Mr. Dean said yes, by walking into the building.

Maxine Lutz feels this is “a nice treatment to achieve the” church’s goal.

Chairman Newman said this seems like a space that would be a place where information would be collected, so he suggested eliminating windows on the longer elevation to the right upstairs and downstairs for wall space for that purpose. The window on the lower,

narrower elevation could also be removed. Mr. Dean said there are further renovations planned campus-wide that will accommodate what Chairman Newman suggested.

Mr. Peitz made a motion for final approval of the project as submitted, seconded by Mr. Symes. The motion passed unanimously.

<u>918 CRAVEN STREET, Identified as R120, Tax Map 4, Parcel 850</u>
Parking garage
Applicant: 303 Associates, LLC (HR17-23)
The applicant is requesting approval to construct a new 4-level structured parking deck with 484 spaces.

Ms. Kelly said the parking garage is being reviewed under the city's old UDO. She reviewed the staff report and described historic buildings that had been around the site. The parking garage would have 4 stories and 484 parking spaces. The board granted preliminary approval to the project in August 2016 on the condition that the comments made at the meeting would be considered as the project moves forward, she said.

<u>Zoning requirements</u> – All the setbacks are met, as are all height requirements because the heights vary along the building through a series of step-backs, Ms. Kelly said. The removal of two structures on the property has been approved by the HDRB.

<u>Applicable guidelines</u> – Staff provided these at the August 2016 meeting, Ms. Kelly said.

<u>General comments</u> – Most comments from last year pertained to the architectural problem of the "large form . . . in a fine-grained historic context," Ms. Kelly said. She reviewed the comments and suggestions made at that meeting about the "architectural problem" of the large form of the building in a historic context.

<u>Site plan</u> – There was a discussion last time about setting the building back for a linear park, Ms. Kelly said. The setback on Craven Street ranges from 6.4' to 9'. There are awnings, plantings, etc. and some existing trees within that setback, which are things the board should consider to determine if the intent of the previous comments has been met.

A bike rack is required, as is screening of all mechanical equipment and dumpsters, and a lighting plan with full cut-off fixtures. Ms. Kelley said the applicants should discuss undergrounding all overhead utilities with SCE&G.

<u>Building</u> – It is critical that the building address the street appropriately, Ms. Kelly said.

- The aesthetics of the building are not compatible with the surrounding context; "there is a lot happening on each of the elevations," she said, which is listed in the staff report.
- Staff recommends surveying the diversity of a typical block in this district (e.g.,

Bay Street) to better understand how and why the materials are used in the Historic District. Buildings built at different periods still relate to one another, Ms. Kelley said.

- "The balance of plantings versus protection" should also be studied, Ms. Kelly said. A linear park on Craven Street was discussed, and awnings, etc. may provide shade that is undesirable for plants.
- There is no cohesion, composition, or relationship among the façades themselves or as they relate to their surroundings, Ms. Kelley said. The most successful portion is the bay that is "repeated several times." The facades could be simplified, but a good starting point could be "something that makes sense and . . . relates to Beaufort," she said.
- Ms. Kelly said there had been a discussion at the last submission of "providing authenticity and true articulation, whether . . . that's being able to bring portions of the building forward or bring them back." In the renderings, "a lot of this façade treatment is really kind of like a wallpaper," she said, in that "there's not a lot of relief in one way or the other." It is "one flat plane with a series of different applications on it."
- The half-barrel vaulted roofs on the corner entries aren't typical of Beaufort and should be studied.
- Specific comments are in the staff report about bays, windows, doors, massing and orientation, she said.
- There should be a hierarchy of treatments to the sides, Ms. Kelley said. All frontages should relate to their context.
- Ms. Kelley said new materials are appropriate, but their color, scale, function, and craftsmanship should be "compatible and sympathetic" with the surrounding context and the overall Historic District.

Staff feels that the problems with the architecture of the building still need to be solved, Ms. Kelly said. This proposal is not what is best for the Historic District, and it should be studied and calibrated to the locality, she said.

Mr. Peitz said today's discussions should be about the aesthetics of the building, not its size, mass, and scale, which have been approved. Ms. Kelly said the board couldn't dictate what the public's comments are.

Chairman Newman said the staff report is good, and the public comments can be about "whatever," but conceptual approval has been given for this building to happen on this site, and the aesthetics that are in the staff report are what the HDRB is considering. Mr. Peitz noted that this is the second public hearing on this project.

Mike Richardson said the garage has been pulled farther from the house on the lower left elevation. He showed the progression of the parking garage's design. He described the two ways parking garages can be done, and said they have chosen "wall panels."

There is “an 8” setback each time,” as the panels are set on each other. Because the HDRB had “asked for more variation than that” at the last submission, he “put in a couple of bays.” There is a 2’ depth “where that sets back into that outside edge,” he said.

Mr. Richardson said the board had suggested “little monuments that told about the history of Beaufort” on Craven Street, and that is being done “where the trellises” and “little canopies are,” as well as benches.

Mr. Richardson said there needed to be more variation and less repetition, so they developed something with more variation in the panels and their heights. The panels have railings on them for fall protection and to vary the heights. There are also parapets of different heights to address that comment, he said. Awnings were added per board suggestion, and a residential-style shutter was eliminated and replaced with a Bahama-style shutter.

There were not stair towers in the previous plan, Mr. Richardson said, but they have been added into this plan and are “a little bit more modern element.” The stair towers are “transparent” to deter crime in the parking garage. The stair towers are meant to be more modern and “draw attention . . . so you know that’s where the circulation is,” he said.

Mr. Richardson said staff commented that the design didn't follow the pattern in the surrounding area, but there are 3 buildings on Bay Street with “almost the exact same rhythm” that they have in this plan. Bay Street is the one in the area “with buildings of sufficient mass.”

Chairman Newman asked where the mass has been reduced on the southwest corner. Mr. Richardson discussed what was there and explained what they had done to remove an 18’ piece and make it “that much further” from the house that is in that corner.

Mr. Richardson described to Mr. Peitz how they are trying to relate to the buildings in the Historic District, including the “multitude of different brick colors” downtown. He showed a sample of brick that will be set into the concrete, which he said would make maintenance easy. He told Chairman Newman how it is placed into the form with the concrete cast over it. There is “really nothing white,” Mr. Richardson said, which he had heard in a comment. It’s “a tinted white,” he said, “a white cement base.”

Mr. Richardson showed the rendering of the “most exposed” corners. The HDRB had directed them to do 6 renderings, he said, but only 2 gave “a really good view of the garage.” He asked Ms. Kelly to project the other renderings to show that it is not easy to see the garage from some different locations.

Mr. Peitz said there are 8 different structures broken up across the north streetscape,

and he asked what the origin of the plan was to have the multiple facades. He understands the applicants heard the HDRB say to "break it up" instead of the building being "one mass." He doesn't feel that the various colors "pick up Bay Street" or "relate to the City of Beaufort." The envelope of the building is improved, and there are options to do a variety of elements, he said, but he is having trouble understanding "so much variety" that "says nothing about a parking garage." The Civic Master Plan calls for a parking garage and this number of spaces, Mr. Peitz said, but "the design of this building has serious issues that can be resolved" if it relates more to "who we are . . . at this point in time."

Mr. Richardson said there are "geometry issues" with the panels because only a certain size opening can be put in them. The amount of variation was in response to the HDRB's comments, he said, and because the applicants don't want it to look like a parking garage.

Ms. Lutz said the board had told Mr. Richardson to create more facades and to break it up more, but now there are too many facades, and it's "too broken up" and "too busy." The Historic Beaufort Foundation (HBF) Preservation Committee decided "maybe it should look more like a parking garage," and it would be "more authentic" if some cars were visible. The committee concurred with Ms. Kelly's comments in the staff report, Ms. Lutz said.

Mike McNally, 301 Laurens Street, said he sees how the applicants have tried to change the structure, but it appears "they've cut it vertically." On Bay Street, the storefronts have awnings that create a "sort of horizontal base." He understands that there has to be "some of this vertical" (e.g., in the stair towers) in this structure, but for some of the other elements, if they "use more of a Beaufort eye-level streetscape" for the base, with "other stuff that goes on above that," it might work.

Scott Myers, Beaufort Clothing Company, said he supports this project "strongly." He has seen parking structures in other towns and thinks this garage should look like one in Summerville, not like "little houses." With this design, the eye doesn't know what to look at, and it doesn't really look like homes; it looks tacky, he feels. In Summerville, the parking garage is all brick and not as big as this structure, Mr. Meyers said. In Winter Garden, Florida, "the perfect parking structure" is broken up into "2 or 3 things" and has LED lighting around the top outside, which makes parkers and pedestrians "comfortable" and breaks the structure up into 3 pieces. It's clear where the parking garage is, and it feels safe, Mr. Meyers said. On Craven Street, "a continuous look works" for him, as long as there is "some variation."

Peggy Simmer, 915 Port Republic Street, supports **Dick Stewart** and those involved with this project. She thanked Mr. Richardson for moving the structure back from her house and said because she will be looking at it a lot, she would like "a little more" landscaping. She supports the garage and knows it is "much-needed."

Fred Washington, Jr. agrees there is a need for a parking garage, but his concerns are with the color and ensuring that it looks like "old Beaufort design." He doesn't want Beaufort to look like any other city. He would like the city to retain "as much of the old look downtown as possible." Mr. Washington hopes the applicants consider "the color of things across the street." There were white houses across the street from the site when he was growing up, and he hopes they will retain some of that and bring elements of "that history" into the structure's design.

Beth Grace, who is on HBF's Preservation Committee, said after the applicants met with the committee, she thought about "authenticity." A brick structure with large openings "architecturally done" would open the building up and bring in light, she said. Historic and artistic panels relating to Beaufort's history could be incorporated into the facades, Ms. Grace said. She thinks the applicants should "open it up more" and "admit what it is."

Edie Rodgers said she agrees with Ms. Grace. The plans remind her of Charleston in 1975, when there were "authentic historic facades" that "one group wanted to tear down" to build the OMNI hotel, but the city decided to keep them and let the hotel "build whatever [they] wanted to behind them," she said.

Ms. Rodgers asked that the following comments, which she submitted in writing during the meeting, be entered into the record: "That block was filled with Victorian houses." To the question of "Beaufort style," Ms. Rodgers suggested "arches, wrought iron, balconies, porches, large windows, stucco, tabby, wood shutters, gardens, [and] benches."

Rikki Parker, Coastal Conservation League, said this building is in the heart of the Historic District, and its neighbors have invested in the district's buildings. Their work helps the neighborhood and downtown Beaufort. One of the most important aspects of the Historic District is "a walkable vibrant community." A building this large without liner buildings or first-floor retail is difficult to fit into the interior of the neighborhood, Ms. Parker said.

Erica Dickerson, Charles Street, said **Greg Darden** had explained at a previous meeting that liner buildings "change the entire structure of the building," are expensive, and would become "a concrete tomb."

Chairman Newman said the board had received a number of email responses to the submittal. The consensus was "overwhelmingly" supportive of the idea of the garage but concerned about the interpretation of the board's comments in the current architecture.

Mr. Peitz said some of the direction the HDRB gave the applicants at the previous

meeting has “evolved” and is “different” than what the board intended. To mitigate the size and mass of the parking garage, it was designed as “a series of buildings” that were “broken up.” Mr. Peitz said he now realizes that this is not the best solution because it is “false.” So he researched parking garages and showed one in Savannah, one in Charleston next to the Mother Emmanuel Church, and a larger one on Wentworth Street “that says ‘parking garage.’” He feels the HDRB is “partially at fault” for this design because, while the board agreed with the concept of the parking garage, they had wanted the mass to be broken up.

Mr. Peitz showed a parking garage that picked up the major facades of 2 major buildings for its façade. He suggested the applicants look at the facades of the buildings around this parking garage and “pick up those things,” such as the Tabernacle Baptist Church façade, and “relate it to the City of Beaufort.” He said he’s prepared to postpone this application for the applicants to look at alternative designs.

Ms. Laurie asked what role the public comments play in the decision-making process. She asked if the comments should be considered in the board’s decisions. Chairman Newman said it’s impossible for anyone to divorce their decisions from their own feelings and community feedback. The applicants need a decision and a motion today, he said.

Mr. Symes said after the presentations and seeing the options available in concrete and what can be incorporated into it, he feels “more optimistic” about “how we can get there.” He feels the architecture should have more of the feel of the Historic District in it, and he agrees with Mr. Peitz that the board’s direction was not as simple as it should have been. He thinks the design needs to be “a little less busy.”

Mr. Symes said the applicants should look at the stairwells again; the curved roof and glass don’t fit in. If they “go to 3,” it would help. The entrances and exits of the garage need to be clear to those driving past it, so people can know where to pull in, he said. Mr. Symes is also concerned about the need for “green space along Craven Street” to “soften the building,” and he shares Tabernacle Baptist Church’s concerns. He suggested brick on the plain façade that is behind Tabby Place.

Mr. Dickerson said at the 2016 meeting, there was support for the linear park. He suggested the applicants draw from the “look and feel across the street” and think about how people move through the space. The linear park would be an opportunity to “make a significant statement,” Mr. Dickerson said. The focus then is not on the parking garage but on the items in the park and the history they portray. Focusing on that will help people “enjoy this section of Craven Street a whole lot more,” and they will be “basically unaware” that the parking garage is there.

Fred Mueller said he gets nervous when he goes in parking garages sometimes, and other people do, too, so it should be well-lit and well-cared for inside, which will be as

important as the outside. Chairman Newman said initial discussions about the parking garage focused on security, so the applicants know about it.

Chairman Newman said a year ago, people were convinced they would be able to see the parking garage "from space," and today's comments are more "sober" and focused on what the building will look like.

At the previous meeting, the HDRB gave the applicants a lot of ideas to look at, Chairman Newman said. It's "misdirection" to try to relate this building to the articulation of Bay Street, he said. There is not a "Beaufort look" in the commercial element of Beaufort. To find their expression, Chairman Newman said, the most important thing to look at is Craven Street, considering the church across the street and the history of the street. The linear park is "the strongest piece you have to work with" to "integrate this into Beaufort specifically," he said.

Chairman Newman said he disagrees strongly with Mr. Peitz about the example of the 3 buildings as a façade. He's seen examples of that, and they were "not successful." He thinks the applicants should use Beaufort textures and coloration. The explanation of this is well done in the staff report, he said.

The elements that work in this plan are the shuttered elements, which keep the façade from being flat and give it articulation, Chairman Newman said. The attempt to do the push-in and push-out for a couple of feet of offset would enhance the linear park, he said, and they have done this successfully in terms of how it works, if not how it looks. He feels pulling back the tower from the corner "decreases the Charles Street face" and is successful.

The issue, then, is Craven Street, Chairman Newman said: how to articulate the face with the most mass when they know that will determine how it is on West Street. He feels the plan ideas, the setbacks, and "the idea of awnings, trellises, and shutters" are all successful. The applicants "need to pull back a little more" to using just 2 or 3 colors in the building, he said, not making it look like "these many buildings" and using such a variety of materials, which he agrees with staff "aren't successful."

This is not a series of houses or businesses, Chairman Newman said, and he agrees with others that it's okay for the structure to look like a parking garage. He also agrees with the open stairways and "the security element of that." The "best opportunities for green" are on the south face behind Ms. Simmer's house, he said; "the toughest" is on Craven Street. The trees there and their survival, he feels, are critical. Chairman Newman said he doesn't "think anybody's taken into account [that] the power lines that go along there . . . are going to go away."

Chairman Newman agrees with staff about the arched tops, but he's okay with them on the stairways.

Mr. Stewart said there are some significant trees in the 6' – 7' gap between the building and the property line. He supports the idea of the linear park, but he also feels the façade will "increasingly incorporate" plants over time. He agrees with the idea of using just 2 or 3 colors and that Craven Street is the most important façade. Mr. Stewart said he doesn't support "recreating historic facades." He feels it should be "uncomplicated" and people can be engaged with plaques, trees, etc. on Craven Street. Mr. Stewart said the power lines might not come down, as they are still negotiating with SCE&G.

Chairman Newman said the applicants should create "a sense of a first floor"; that is the piece of the building people will relate to: what they can see as they are walking along there. The built and green zones are what will be perceived. He definitely favors "the greenscape along there" to connect the building to the ground, the trees, etc., and that will diminish the building's impact the most.

Mr. Symes said on the original plan, he didn't "like the repetition," and "a simpler number" might help with that. He agrees with Chairman Newman about the greenery and about pushing back and opening up certain faces of the building. He said he likes the roofline, except for the curved pieces.

Mr. Dickerson re-emphasized the need to stress the "great story" of Beaufort. Mr. Stewart told him, "We support that," but he doesn't not want to determine whose story gets told and whose doesn't, so they will put plaques up. Ms. Lutz said that is already "done beautifully" in Waterfront Park. Mr. Meyers said it could be about Reconstruction or could be done with artwork.

Mr. Washington said this is a great opportunity to work with the Reconstruction Era monument and others, and what's in the park could keep the structure from making this historic area appear to be in "Anytown, USA." He said the community needs to "develop the will to . . . embrace all the greatness" in Beaufort.

Mr. Symes said this is a parking garage first and foremost, not a monument or a tribute to Beaufort history, etc. If it works out that there are spots in which this could be done, "that's great," but this shouldn't be thought of as "an opportunity to show more of the history of Beaufort." Chairman Newman agreed with Mr. Stewart that it's not the developer's responsibility to create this, but perhaps to create the space to accommodate it.

The board reviewed its comments to the applicants: simplification/simplicity, reducing the number of elements, including the linear park as part of the plan and having that "brought forward by the community," having Craven Street be "the primary relationship" rather than Bay Street, having the stair towers continue to be open, visible, well-ventilated, and safe, and softening the building with greenery.

Chairman Newman made a motion for the design to go back for revisions and improvements; what works in the current design is the way the building is articulated more on Craven Street, the reduction of the mass on Charles Street, and the incorporation in the articulation of the face of the building with Bahama shutters, trellises and awnings, and planned stepping using 2 different building techniques. The board recommends the applicants simplify the material pallet and expression; create a more clearly defined base along the lines of a main floor on Craven, Charles, and West Streets, but most importantly on Craven Street; develop the sense of a linear park; incorporate a greenscape, which was a key idea in the initial presentation, on the southwest face of the parking garage and on the other 3 faces as well, to the extent that is possible, and bring back a simpler design to the HDRB. Mr. Peitz seconded.

Chairman Newman amended the motion to add the HDRB's support of a more transparent, open, and secure stairway expression. Mr. Peitz seconded the amendment. The amended motion passed unanimously.

812 PORT REPUBLIC STREET AND 212 SCOTT STREET, identified as R120, Tax Map 4, Parcel 984

New construction

Applicant: Goff D'Antonio Associates (HR17-22)

The applicant is requesting approval for a new mixed-use building with retail/commercial space on the ground floor and a hotel above.

Ms. Kelly said this is a proposal for new construction of a 77-unit hotel building on Port Republic and Scott Streets. One noncontributing structure on the property would have to have a public hearing for demolition. The application for this project came to the board in 2016 and received preliminary approval; many of the details have changed, she said.

Ms. Kelly said the property is being evaluated under the new Beaufort Code. There are no zoning issues with the project. It's proposed to be 3 stories at the sidewalk and 4 stories at the lot's interior. The ground level may have several interior parking spaces, and on the Scott Street side, there is some space for retail that is to be flood-proofed, she said.

The direct context around the site is varied, Ms. Kelly said, and the applicant has done context and precedent studies. There is a historic tabby wall next to the trash enclosure, and it will be protected. The building is set back on the south and west sides from the property line to provide the adjacent property owner with the appropriate easement, she said.

The porte cochère along Port Republic Street is an appropriate, urban way to handle hotel pick-up and drop-off, Ms. Kelley said. Beaufort's city manager and the developer have a memorandum of understanding that the city will take over the sidewalk in this

area when the developer applies for a building permit for this structure, to allow for the encroachment of a colonnade on Scott Street, she said. This should not be a problem with SCDOT, she said, but the applicant has provided an alternative design in case it doesn't go through.

Staff's main comment on the architecture is about the proportions of bays, Ms. Kelly said. Generally, the goal is to achieve square, vertically proportioned openings. This is achieved on the ground floor, but the openings on the second and third floors are "less and less vertically proportioned," she said. Staff has talked to the applicant about "emphasizing these by use of materials within the bays," and the use of iron railings mitigates this "somewhat," Ms. Kelly said, but the board should discuss the bays.

Ms. Kelly said lot consolidation and the demolition hearing will be required. Staff recommends preliminary approval as submitted, with board and staff comments to be addressed at the final submission.

Hank D'Antonio, of Goff D'Antonio in Charleston, said his firm classifies this as a "boutique hotel." These kinds of projects usually occur in this kind of area and are his firm's specialty, he said. There are not a lot of opportunities in historic districts like this one to be able to get a hotel of this size, so it is "kind of unique" and a "great opportunity" for Beaufort, Mr. D'Antonio said.

Karo Wheeler showed images with elements that had been incorporated into the design. She reviewed plans including entries, discussed options for flood proofing, and use of awnings if the colonnade were not approved by SCDOT.

Ms. Wheeler said the bay width is in line with the guest room spacing, so they might be able to create a more vertical expression by combining the second and third floors. She discussed the elements on the corners and showed the alternative to the colonnade if necessary. The colonnade is continued inside, she said, and she showed images and building sections. The mechanical elements will be on the roof and set back far enough that they will not be visible.

Ms. Lutz said after a meeting with HBF and "this group," HBF prefers "the alternative view on Scott Street." The Preservation Committee wants the HDRB to discuss "the arches marching down Scott Street," which the committee thinks may be "too dominant," given the surrounding buildings, she said. At the meeting, how runoff is being handled was discussed, Ms. Lutz said, and HBF wanted to know if pilings would need to be driven. Mr. D'Antonio said the soils report seems to indicate that they will not. They will have to build up the soil, and there are some "liquefaction issues with earthquake[s]" that need to be considered, he said, so some things about the foundations are still being studied. They will get more into the structural way it's being built in the future, Mr. D'Antonio said.

George O'Kelley said his office is downtown, and he wanted to comment about the easement on this property between the City of Beaufort and 303 Associates for 27 parking spaces in "the old Western Auto portion." Mr. Stewart's company can move the spaces, Mr. O'Kelley said, but the city is guaranteed 27 parking spaces "somewhere." He said he couldn't see any parking spaces in this design. Ms. Kelly said 4 parking spaces are proposed as part of a different agreement. There is a mechanism to move the spaces that Mr. O'Kelley referred to, she said; they could be in the parking garage or in a surface parking lot. Mr. O'Kelley said if this structure and the parking garage are built, the spaces will go away, and "at some point in time, the city won't have them."

Mr. Stewart said he will always honor his legal agreements, and there is an agreement with the city that will be honored with parking spaces in the parking garage when it's built. Mr. O'Kelley said that's when the parking garage is built, and he is talking about before that. He said that this is Mr. Stewart's property, and he benefitted financially from this agreement with the City of Beaufort. Mr. Stewart said, "We will honor the terms of the easement." Ms. Kelly said the city manager would contact Mr. O'Kelley about how this is happening because negotiations are underway.

Mr. Meyers said he likes the building and disagrees with Ms. Lutz because he feels individual awnings would be "pretty tacky," and he supports the colonnade. He said he has an issue with the columns; the Beaufort Inn is across the street, and the columns on it are "geared toward . . . that small Victorian home." Mr. Meyers thinks using those kinds of columns on this building looks "cheap" because they are thin, so he feels the applicant might consider more massive, rounded columns for the sake of scale.

Charles Aimar, an adjacent property owner, said his building is a historic brick building, and he's concerned about pilings. Also, runoff from his building goes to the ground, and it would probably be at a lower grade than this building, he said. Mr. Aimar's neighbor, **Kevin Cuppia**, and The Verdier House also might have concerns.

Mr. Cuppia said he agrees with Mr. Aimar because runoff is "a big issue now." Water runs under the building, so he is very concerned about this being solved "before this big building is built." Mr. Cuppia would like the Beaufort Inn and this project's engineer and architect to look at extending the property line back farther on the back side of the building for more "wiggle room" and so he can get service into his building. If Mr. Cuppia does something with the upstairs of his building, when the proposed wall is put up, "we're closed off," he said.

Mr. Dickerson asked, with the access easement on the back side of the property, how firefighting equipment could be gotten in there. Chairman Newman said, "They don't ever do that"; firefighters don't bring trucks in that close. Mr. Cuppia said the fire marshal has said there can be a hydrant placed so a truck doesn't need to be driven to the back of the building.

Ms. Laurie said she thinks a hotel in downtown Beaufort is a great plan, and she hopes the issues raised can be worked out so the project can proceed.

Mr. Peitz pointed out the secondary entry and asked Ms. Kelly to show the Hotel Royale photo. He suggested that on this building, the cornice be removed and the shed roof rounded around the corner. He said he doesn't like the central tower.

Mr. Symes said he has "a similar concern . . . about the corner entrance," which he doesn't feel is "integrated enough into the rest of the building." He likes the entrance and said he doesn't "know if it would look better if it was a standard 90-degree entrance on the second and third floors, and you had the overhang and the truncated entrance in there."

Mr. Symes thinks where the car entrance is on Port Republic is "very well done." On Scott Street, he is somewhat concerned about the number of columns and thinks the curvature and number should be reduced. Having too many columns makes it feel too closed in, he said.

The south side of the building will be visible all the way to Bay Street, Mr. Symes said, and he suggested a window in each room to "break up that wall" for "a better picture" on the Bay Street side. Chairman Newman said, alternatively, the wall could be articulated with shuttered openings.

Chairman Newman said this is by far the most successful plan for a building on this site. Columns in the Beaufort style are simple and without a lot of detail. He wouldn't "borrow in any way" from the Beaufort Inn, which is not historic and which he feels is "appalling." There's also "a sensitivity in Beaufort to borrowing from" Savannah and Charleston, Chairman Newman said, but he thinks it's important to keep the elements that are more like those cities' architecture and Beaufort's architecture than New Orleans architecture. He thinks the architecture could be simplified, and he feels there is no need for arches. The columns and porches could be "simple," he said.

Chairman Newman said the tabby wall is "cool" and "extremely unique and extremely local," so he suggested combining the easement and a way to incorporate it into what can be seen from the pool, instead of guests seeing another wall with 5' of "no man's land."

Chairman Newman said he prefers the "covered arcade idea" to the awnings, and he hopes SCDOT will allow the city to take over the street so the colonnade can be done.

Chairman Newman said he would separate the porches with screens, and Mr. D'Antonio said that is the plan. That will give more texture and delineation to the façade, too, Chairman Newman said.

Chairman Newman feels the entrance on the corner is an important idea. A member of the public had made a comment similar to Mr. Peitz's via email, Chairman Newman said; he feels the entrance is not yet integrated into the building. The arcade in that corner could be a covered entry, he said. He likes "the idea of some break" from the colonnade. He feels this design reflects the HDRB's comments at the last meeting.

Chairman Newman told Ms. Lutz that he would not keep the arches on the arcade. He likes the use of the shutter panels to cut down the porte cochère entry, but he could also envision "simple columns and beams and the porches stacked up."

Mr. Symes feels it would be "cleaner" and "look better without" the Scott Street "arches," which "fit and look well" on the Port Republic side and accentuate the entrance there. Removing some of the columns on the first floor might "make it look a little bit better, too," he feels.

Mr. D'Antonio said things like drainage concerns and pilings are all being looked at, so those issues will be addressed, but he doesn't know how yet. Concerning the columns, he agrees that "simpler looks better," but they want this building to be part of the "Beaufort Inn complex of buildings," so he thinks a relationship between the buildings is important. Beaufort Inn guests (e.g., in the cottages) will check in at this building, Mr. D'Antonio said.

Mr. D'Antonio said the arched area was a suggestion from someone not working on the project, though "we don't disagree." There's an interruption in the columns on the Port Republic side, "so you can get under the building in a car," he said, but they would like not to have "the big openings" if they could. If they got rid of the arches, that "might lighten it," but he wanted to explain what they were thinking about with the arches, he said. The colonnade could be wrapped on the first floor, but Mr. D'Antonio said he wouldn't necessarily do so on all 3 floors. They could "look at wrapping the ground floor" where it "provides protection," he said.

Mr. Stewart said SCDOT has "indicated that [it] will give [permission] to the city" to take over the sidewalk for the colonnade, but the person who said that has "no authority." When asked about taking over "this block," SCDOT may say the city has to take responsibility for "*all* of Scott Street" and "all of Port Republic Street," he said.

The building is set back 2' from the property line on Scott Street, Mr. Stewart said, to enable them to "provide a 6' sidewalk," which will be "a wide enough area under the colonnade for 2 people to walk" side-by-side. They will still provide that whether the colonnade is approved or not. He said he needs the board's approval of both options in case SCDOT does not approve the deal.

Mr. Dickerson said he likes the main entryway very much and likes that retail is available in the building. He supports the project.

Mr. Cuppia asked for the view from the Greyhound Flats and the aerial view of the wall. He asked about putting in Bahama shutters for the length of the wall to block the view from Greyhound Flats. Mr. Stewart said they would screen it somehow, but he wouldn't commit to doing so with Bahama shutters.

Mr. Stewart said he'd like as much specific approval as possible from the HDRB. Chairman Newman said he's not comfortable with directing what the architects "have to do." Mr. Stewart said he'd like the building's scale and mass approved, comments on the balconies, "shed porches or not," etc.

Chairman Newman made a motion to approve both the submittal with the colonnade which the HDRB supports "robustly" – and the submittal without the colonnade, if that design must be followed because of a decision by SCDOT; the HDRB encourages the study of the corner and the possible incorporation of the colonnade around the corner if having the colonnade is possible. The applicant should consider the following: using simple porch roofs on top of the porches on Scott and Port Republic Streets; a careful study of the southeast corner elevation, as seen from Bay Street and Greyhound Flats, to articulate that face in a way that's sympathetic to the scale of the building and not a blank wall; the access easement and any increase that could be made to it for maintenance of this building and its adjoining neighbors. Mr. Peitz seconded the motion. The motion passed unanimously.

Mr. Dickerson made a motion to postpone discussion of item "C" on the agenda. Mr. Peitz seconded the motion. The motion passed unanimously.

Ms. Kelly said this is Chairman Newman's last meeting as the chair of the HDRB for at least one year, so she thanked him for his service.

There being no further business to come before the board, **Chairman Newman made a motion, second by Mr. Symes, to adjourn the meeting. The motion passed unanimously**, and the meeting was adjourned at 5:02 p.m.

HB | HARVEY & BATTEY
ATTORNEYS AT LAW

W. BRANTLEY HARVEY, SR. (1893-1981)
W. BRANTLEY HARVEY, JR. (Retired)
COLDEN R. BATTEY, JR. (Of Counsel)
WILLIAM B. HARVEY, III (SC Circuit Court Mediator)

JOHN M. TATUM, III
THOMAS C. DAVIS
THOMAS A. HOLLOWAY (also admitted in PA and NJ)
EUGENE PARRS (also admitted in NY, NC, FL and GA)
J. SAMUEL SCOVILLE
KEVIN E. DUKES

ELECTRONICALLY FILED - 2021 Nov 08 2:44 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0701241

November 8, 2021

Ms. Jerri Roseneau
Beaufort County Clerk of Court
102 Ribaut Road, Ste. 208
Beaufort, SC 29902

Re: Historic Beaufort Foundation v. City of Beaufort, City of Beaufort Historic District Review Board, and The Beaufort Inn, LLC.
Case No.: 2021-CP-07-01241

Dear Ms. Roseneau:

I represent the City of Beaufort and the City Historic Review Board in the above matter. There was an inadvertent omission in the record of the Hearing on June 9, 2021 of the Application, staff recommendation and other materials before the Board concerning the Parking Garage at 918 Craven Street. This is a very large digital file which I have condensed and broken into smaller files. I am hereby filing these as Supplement to the Record in this matter.

Also filed herewith are portions of the City of Beaufort Unified Development Ordinance (UDO) which we wish to have part of the Record in this matter. Thank you for your cooperation.

Very truly yours,

HARVEY & BATTEY, P.A.

/s/William B. Harvey, III

William B. Harvey, III

WBH/kvm
Enclosure

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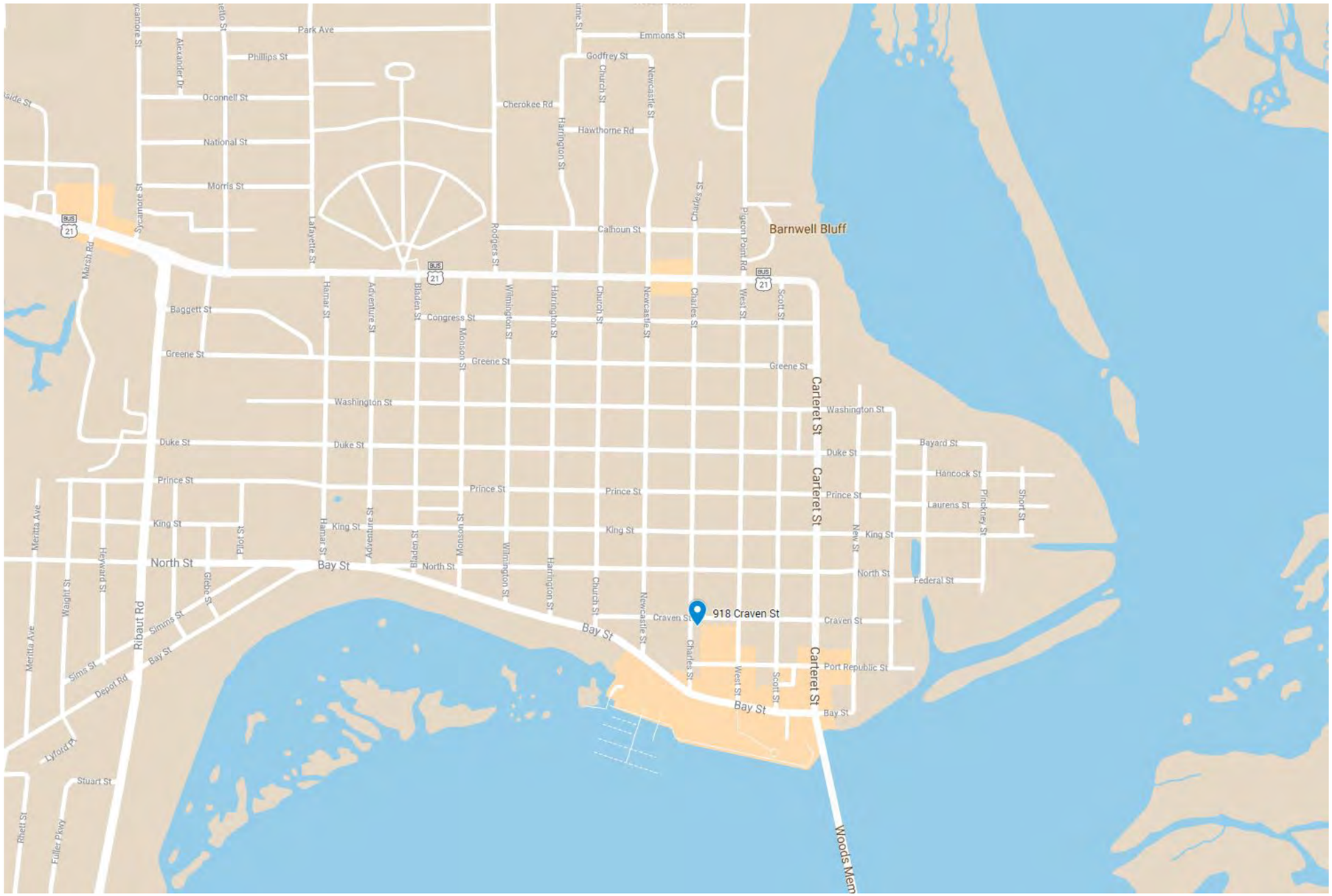
CITY STAFF INTRODUCTION

918 CRAVEN STREET

ELECTRONICALLY FILED - 2021 Nov 08 2:44 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0701241



PROJECT LOCATION- 918 CRAVEN STREET

Site Analysis - Existing Site Photos

918 Craven Street Beaufort Parking Structure

STREET VIEW AT INTERSECTION OF WEST ST & CRAVEN ST

STREET VIEW AT INTERSECTION OF CRAVEN ST & CHARLES ST

STREET VIEW LOOKING NORTH FROM WEST ST

STREET VIEW LOOKING NORTH FROM CHARLES ST

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Site Analysis - Existing Site Photos

918 Craven Street Beaufort Parking Structure

BIRD'S EYE VIEW LOOKING SOUTHWEST

BIRD'S EYE VIEW LOOKING NORTHEAST

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APPLICANT PRESENTATION

918 CRAVEN STREET

DEVELOPMENT REVIEW PROCESS

HISTORIC REVIEW BOARD APPLICATION

Community & Economic Development Department
1911 Boundary Street, Beaufort, South Carolina, 29902
p. (843) 525-7011 / f. (843) 986-5606
www.cityofbeaufort.org

21-10 HRB.1

$ PAID 3/4/21CK

☐ Staff Review
■ Board Review

Application Fee: *see attached schedule*

OFFICE USE ONLY: **Date Filed:** 3/4 **Application #:** 21012 **Zoning District:** TS-DC
BCAGHS Survey: ☒ Yes ☐ No

Schedule: The Historic Review Board (HRB) typically meets the 2nd Wednesday of each month at 2pm. The complete schedule, along with the list of deadlines, may be found here - http://www.cityofbeaufort.org/historic-review-board.aspx

Submittal Requirements: All forms and information shall be submitted digitally. In addition to a complete application form, applicants shall submit the required items according to the checklists on the subsequent page.

Review Request: ☐ Conceptual ☐ Preliminary ■ Final ☐ Bailey Bill Approval* ☐ Change After Certification
**Requires a Bailey Bill – Part A Preliminary Review Application Form*

Pursuant to Section 6-29-1145 of the South Carolina Code of Laws, is this tract or parcel restricted by any recorded covenant that is contrary to, conflicts with, or prohibits the activity described in this application? ☐ Yes ■ No

Applicant, Property, and Project Information

Applicant Name: Beaufort Inn, LLC

Applicant Address: 2015 Boundary Street, Suite 300 Beaufort, South Carolina 29902

Applicant E-mail: ctw@303associates.com Applicant Phone Number: (843) 521-9000

Applicant Title: ☐ Homeowner ☐ Tenant ☐ Architect ☐ Engineer ■ Developer

Owner (if other than the Applicant):

Owner Address:

Project Name: Downtown Parking Structure

Property Address: 918 Craven Street, Beaufort, South Carolina 29902

Property Identification Number *(Tax Map & Parcel Number)*: R121 004 000 0850 0000

Date Submitted: 3/4/21

Certification of Correctness: I/we certify that the information in this application is correct.

Applicant's Signature: [signature] Date: 3/4/21

Owner's Signature: Date:

(The owner's signature is required if the applicant is not the owner.)

Required Project Information

Parking Project 000006

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DEVELOPMENT REVIEW PROCESS

HISTORIC REVIEW BOARD APPLICATION

Community & Economic Development Department
1911 Boundary Street, Beaufort, South Carolina, 29902
p. (843) 525-7011 / f. (843) 986-5606
www.cityofbeaufort.org

Project Name: Downtown Parking Structure

Property Size in Acres: 1.97 Proposed Building Use: parking

Nature of Work (check all that apply):

■ New Construction, Primary Structure ☐ New Construction, Primary Structure ☐ Alterations / Additions

☐ Demolition* ☐ Relocation* **Demolition and Relocation requires a public hearing*

Building Square Footage (if multiple buildings, please list each one and their square footage by floor):

Is this project a redevelopment project: ☑ Y ☐ N

Are there existing buildings on the site? ☐ Y ☑ N if yes, will they remain? ☐ Y ☐ N

Provide a brief Project Narrative (if requesting Bailey Bill Approval, this section may be left blank):

The Beaufort Inn previously received Preliminary Approval of a parking structure to replace the existing surface parking lot at 918 Craven Street. The HRB granted Preliminary Approval, specifically stating they granted "preliminary approval to the project, provided the applicant refines the following: the type and color of the concrete, a lighting plan, a plan for screening mechanical equipment, removal of awnings, and a certified arborist's report and plan for the 'treatment of the trees.' The HRB clarified that the current drawings [mass and scale] were approved as submitted and that the applicant was tasked with refining the details listed above in order to receive final approval." The requested details have been refined as requested as requested, and the additional information has been provided.

CONTACT INFORMATION –

Attention: Julie A. Bachety, Administrative Assistant II
City of Beaufort Department of Planning & Development Services
1911 Boundary Street, Beaufort, South Carolina 29902
E-Mail: jbachety@cityofbeaufort.org | Phone: (843) 525-7011 | Fax: (843) 986-5606

CITY OF BEAUFORT
Community and Economic Development Department
1911 BOUNDARY STREET
BEAUFORT, SC 29902
(843) 525-7011
FAX (843) 986-5606

WILLIAM PROKOP
City Manager

DAVID PRICHARD
Community & Economic
Director

ELECTRONICALLY FILED - 2021 Nov 08 2:44 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0701241

June 21, 2019

Beaufort Inn, LLC
via email: Courtney Worrell: ctw@303associates.com

RE: Certificate of Appropriateness Extension for 918 Craven st.

Dear Beaufort Inn, LLC:

I am granting your request for an extension of the Historic Review Board's, Certificate of Appropriateness for new construction located at 918 Craven Street. The property is identified as R120 004 000 0850.

The Board on September 20, 2017 granted initial preliminary approval to the project, provided the applicant refines the following: the type and color of the concrete, a lighting plan, a plan for screening mechanical equipment, removal of awnings, and a certified arborist's report and plan for the "treatment of the trees." The HRB clarified that the current drawings were approved as submitted, and that the applicant was tasked with refining the details listed above in order to receive final approval. These requirements remain. The extension is valid through September 19, 2020.

Sincerely,

David Prichard
Community and Economic Development Director

Reference:
***The Beaufort Development Code, Adopted June 27, 2017 | Amended July 10, 2018* - section 9.1.4**

CITY OF BEAUFORT
Community and Economic Development Department
1911 BOUNDARY STREET
BEAUFORT, SC 29902
(843) 525-7011
FAX (843) 986-5606

WILLIAM PROKOP
City Manager

DAVID PRICHARD
Community & Economic
Director

ELECTRONICALLY FILED - 2021 Nov 08 2:44 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0701241

July 1, 2020

Beaufort Inn, LLC
via email: Courtney Worrell: ctw@303associates.com

RE: Certificate of Appropriateness Extension for 918 Craven st.

Dear Beaufort Inn, LLC:

I am granting your request for an extension of the Historic Review Board's, Certificate of Appropriateness for new construction located at 918 Craven Street. The property is identified as R120 004 000 0850.

The Board on September 20, 2017 granted initial preliminary approval to the project, provided the applicant refines the following: the type and color of the concrete, a lighting plan, a plan for screening mechanical equipment, removal of awnings, and a certified arborist's report and plan for the "treatment of the trees." The HRB clarified that the current drawings were approved as submitted, and that the applicant was tasked with refining the details listed above in order to receive final approval. These requirements remain. The extension is valid through September 19, 2021.

Sincerely,

David Prichard
Community and Economic Development Director

Reference:
***The Beaufort Development Code, Adopted June 27, 2017 | Amended July 10, 2018* - section 9.1.4**

Site Analysis - Existing Site Photos

918 Craven Street Beaufort Parking Structure

STREET VIEW AT INTERSECTION OF WEST ST & CRAVEN ST

STREET VIEW AT INTERSECTION OF CRAVEN ST & CHARLES ST

STREET VIEW LOOKING NORTH FROM WEST ST

STREET VIEW LOOKING NORTH FROM CHARLES ST

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Site Analysis - Existing Site Photos

918 Craven Street Beaufort Parking Structure

BIRD'S EYE VIEW LOOKING SOUTHWEST

BIRD'S EYE VIEW LOOKING NORTHEAST

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PLANT SCHEDULE

OVERSTORY TREES	QTY	COMMON / BOTANICAL NAME	CAL	CONT.	HEIGHT/SPREAD	REMARKS
	1	Southern Live Oak Quercus virginiana	4\"Cal	B&B	12-15` H	

UNDERSTORY TREES	QTY	COMMON / BOTANICAL NAME	CAL	CONT.	HEIGHT/SPREAD	REMARKS
	11	Cabbage Palmetto Sabal palmetto	N/A	Bare Root	12-15` H	
	1	Forest Pansy Redbud Cercis canadensis `Forest Pansy` TM	2\"Cal	30 gal	8-10`	

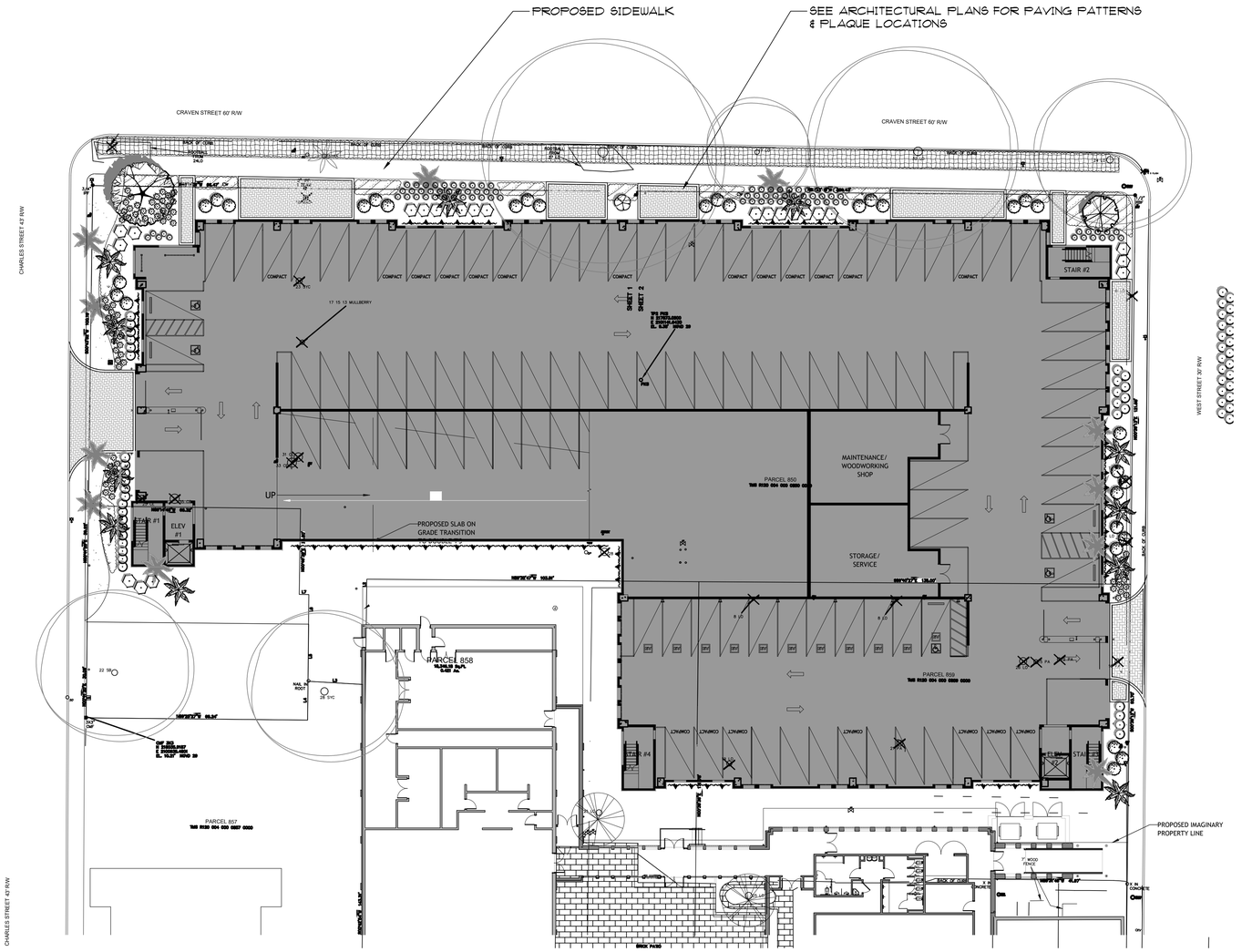
SHRUBS	QTY	COMMON / BOTANICAL NAME	CONT.	HEIGHT/SPREAD	LQP	REMARKS
	23	Anise Tree Illicium parviflorum	7 gal	30-36\"		
	1	Camellia Camellia sasanqua `White Doves`	15 gal	3-4`		
	95	Cast Iron Plant Aspidistra elatior	3 gal	15-18\"		
	58	Dwarf Podocarpus Podocarpus macrophyllus `Dwarf Pringles`	7 gal	24-30\"		
	67	Flax Lily Dianella tasmanica	1 gal	10-12\"		
	31	Formosa Azalea Azalea indica	7 gal	30-36\"		

VINE/ESPALIER	QTY	COMMON / BOTANICAL NAME	CONT.	HEIGHT/SPREAD	LQP	REMARKS
	59	Confederate Jasmine Trachelospermum jasminoides `Confederate`	3 gal	2-3`		

GROUND COVERS	QTY	COMMON / BOTANICAL NAME	CONT	HEIGHT/SPREAD	LQP	SPACING	REMARKS
	286	Asiatic Jasmine Trachelospermum asiaticum `Asiatic`	1 gal	4-6\"		30\" o.c.	
	170	Super Blue Liriope Liriope muscari `Super Blue`	1 gal	8-10\"		24\" o.c.	

SOD/SEED	QTY	COMMON / BOTANICAL NAME	CONT	HEIGHT/SPREAD	LQP	SPACING	REMARKS
	719 sf	Korean Grass Zoysia japonica `Empire`	sod				

GRASSES	QTY	COMMON / BOTANICAL NAME	CONT	HEIGHT/SPREAD	LQP	SPACING	REMARKS
	28	Pink Muhly Muhlenbergia capillaris	1 gal	12-15\"		30\" o.c.	



PLANTING NOTES:

1. CONTRACTOR SHALL PROVIDE A SOIL ANALYSIS BY A QUALIFIED SOIL-TESTING LABORATORY RECOGNIZED BY THE STATE DEPARTMENT OF AGRICULTURE STATING PERCENTAGES OF ORGANIC MATTER, GRADATION OF SAND, SILT, AND CLAY CONTENT, CATION EXCHANGE CAPACITY, DELETERIOUS MATERIAL, pH, AND MINERAL AND PLANT-NUTRIENT CONTENT OF TOPSOIL. REPORT TO BE PROVIDED TO OWNER'S REPRESENTATIVE. CONTRACTOR TO FURNISH SUITABILITY REPORT OF TOPSOIL FOR LAWN AND PLANT GROWTH. STATE RECOMMENDED QUANTITIES OF NITROGEN, PHOSPHOROUS, AND POTASH NUTRIENTS AND SOIL AMENDMENTS TO BE ADDED TO PRODUCE A SATISFACTORY TOPSOIL. IF ADDITIONAL TOPSOIL IS REQUIRED, CONTRACTOR TO PROVIDE STOCKPILED TOPSOIL OR IMPORTED OR MANUFACTURED TOPSOIL FREE OF ROOTS, PLANTS, SOD, STONES, CLAY LUMPS, AND OTHER EXTRANEOUS MATERIALS HARMFUL TO PLANT GROWTH AND HAVING THE APPROPRIATE PERCENTAGES AS RECOMMENDED BY SUITABILITY REPORT.

2. ANY DEVIATION FROM THESE PLANS MUST BE SPECIFICALLY APPROVED BY LANDSCAPE ARCHITECT OR OWNER'S REPRESENTATIVE.

3. NOTIFY LANDSCAPE ARCHITECT OF ANY SITE CONDITIONS WHICH MAY NECESSITATE MODIFICATION TO THE PLAN. LANDSCAPE ARCHITECT SHALL, IF NECESSARY, MAKE "IN-FIELD MODIFICATIONS".

4. FINE GRADING SHALL CONSIST OF HAND RAKED SMOOTH, FREE OF DEBRIS, ALL AREAS TO RECEIVE LANDSCAPE PLANTING AND/OR PINE STRAW MULCH.

5. CONTRACTOR IS RESPONSIBLE FOR INSPECTION OF EXISTING CONDITIONS AND PROMPTLY REPORTING ANY DISCREPANCIES.

6. CONTRACTOR IS RESPONSIBLE FOR LOCATING EXISTING AND PROPOSED UTILITIES AND IS RESPONSIBLE FOR ANY DAMAGE THAT MAY OCCUR TO EXISTING AND PROPOSED UTILITIES.

7. CONTRACTOR TO SUPPLY AUTOMATIC IRRIGATION SYSTEM, COMPLETE AND INSTALLED. SYSTEM TO INCLUDE ALL VALVES, PIPES, HEADS, FITTINGS AND BACKFLOW CONTROLLER, AND TO PROVIDE 100% COVERAGE OF ALL SOD, SPRIG AND PLANTING BEDS. SEE IRRIGATION PLANS FOR INFORMATION.

8. MULCH ALL PLANTING BEDS WITH PINE STRAW TO A 4" DEPTH.

9. CONTRACTOR VERIFIES THAT ALL PLANT MATERIAL IS DETERMINED AVAILABLE AS SPECIFIED WHEN BID/PROPOSAL IS SUBMITTED.

10. PLANT SCHEDULE WAS PREPARED FOR ESTIMATING PURPOSES. CONTRACTOR SHALL MAKE OWN QUANTITY TAKEOFFS USING DRAWINGS TO DETERMINE QUANTITIES TO HIS SATISFACTION, REPORTING PROMPTLY ANY DISCREPANCIES WHICH MAY AFFECT BIDDING.

11. ROOT TYPE MAY BE FREELY SUBSTITUTED IN CASE OF BALLED-IN-BURLAP OR CONTAINER.. OTHER SPECIFICATIONS REMAINING UNCHANGED, EXCEPT IN THE CASE OF CONTAINER GROWN SPECIMEN TREES AS INDICATED IN THE TREE PLANTING SCHEDULE.

12. AREAS SHOWN WITH SOD ARE APPROXIMATE. ADDITIONAL SOD MAY BE REQUIRED DURING INSTALLATION.

13. ALL TREE SHRUBS, & GROUNDCOVERS ARE TO BE GUARANTEED FOR A PERIOD OF 1 YEAR BEGINNING UPON ACCEPTANCE.

14. CONRACTOR IS RESPONSIBLE FOR STAKING ANY PLANT MATERIALS IN HIGH WIND SITUATIONS OR ANY OTHER THAT WOULD REQUIRE STAKING. CONSULT L.A. FOR PROPER STAKING TECHNIQUES.

CURRENT PROPOSED

NORTH

0 20 40 60 feet

SCALE: 1" = 20'

JACKSON & SMALL ASSOCIATES
LANDSCAPE ARCHITECTURE
PO Box 1788
TYBEE ISLAND, GA 31328
912-704-1118
MICHAELSMALL.ASLA@GMAIL.COM

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BEAUFORT PARKING GARAGE

918 CRAVEN STREET
BEAUFORT, SC

Correct plan scale is based on a 24x36 sheet.
The designs and concepts shown are the sole property of Michael S. Small LLC and may not be used without the prior written consent of Michael S. Small LLC.

Date: March 11, 2021
Project #:
REVISIONS:

No.	Date

Drawn By: MSS
Checked By: MSS
Project #: 0

Drawing Title

Planting Plan

SOUTH CAROLINA REGISTERED LANDSCAPE ARCHITECT No. 778 MICHAEL S. SMALL

Drawing Number

L1.1

Parking Project 000017

ROA 680

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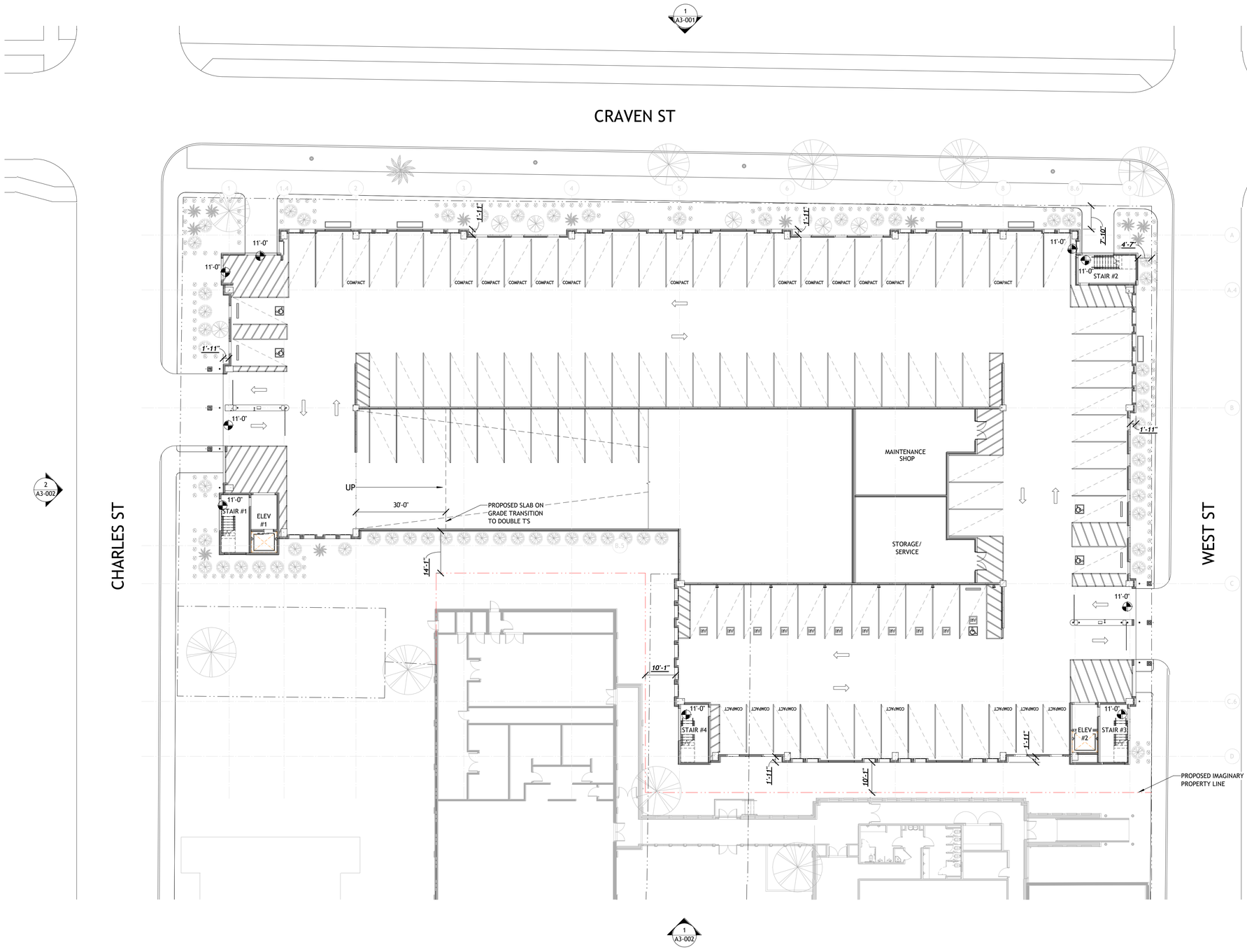
PLAN- LEVEL 1

BEAUFORT PARKING STRUCTURE

PARKING SCHEDULE	
PARKING SPACE TYPE	PARKING SPACE COUNT
LEVEL 1	
ACCESSIBLE (60" ACCESS)	4
ACCESSIBLE VAN (96" ACCESS)	2
COMPACT (9X16)	20
STANDARD (9x18)	96
STANDARD (9x20)	3
LEVEL 2	
COMPACT (9X16)	20
STANDARD (9x18)	102
STANDARD (9x20)	8
LEVEL 3	
ACCESSIBLE (60" ACCESS)	2
ACCESSIBLE VAN (96" ACCESS)	2
COMPACT (9X16)	20
STANDARD (9x18)	101
STANDARD (9x20)	3
LEVEL 4	
COMPACT (9X16)	20
STANDARD (9x18)	72
STANDARD (9x20)	8
	483

COMPACT SPACES: 17% OF TOTAL PARKING



1 A1-011 PRESENTATION FLOOR PLAN- LEVEL 1
1/16" = 1'-0"

A1-011

BEAUFORT INN, LLC | 03/26/2021 | CURRENT PROPOSED

NILES BOLTON ASSOCIATES

Parking Project 000019

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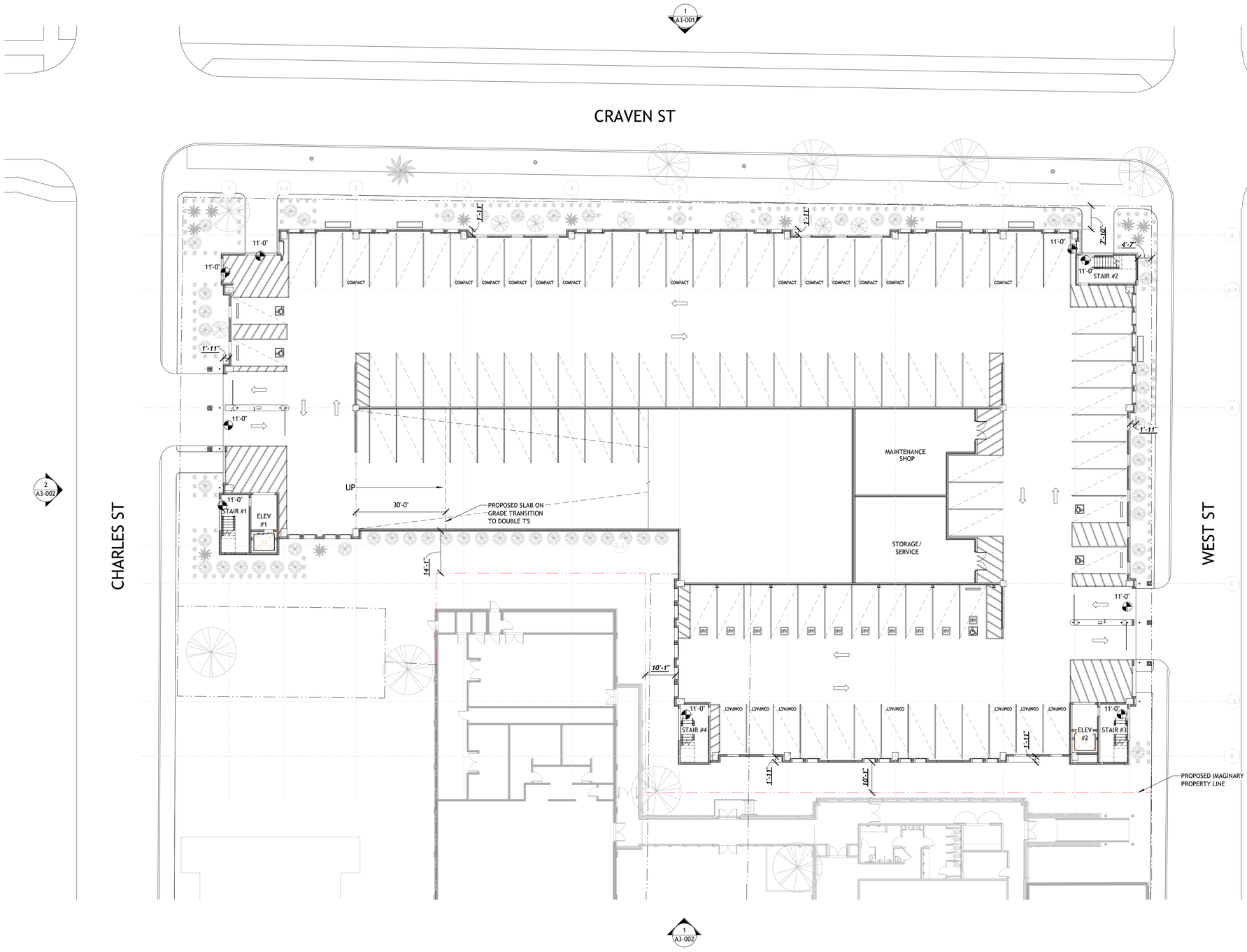
PLAN- LEVEL 1

BEAUFORT PARKING STRUCTURE

PARKING SCHEDULE	
PARKING SPACE TYPE	PARKING SPACE COUNT
LEVEL 1	
ACCESSIBLE (60" ACCESS)	4
ACCESSIBLE VAN (96" ACCESS)	2
COMPACT (9X16)	20
STANDARD (9x18)	96
STANDARD (9x20)	3
LEVEL 2	
COMPACT (9X16)	20
STANDARD (9x18)	102
STANDARD (9x20)	8
LEVEL 3	
ACCESSIBLE (60" ACCESS)	2
ACCESSIBLE VAN (96" ACCESS)	2
COMPACT (9X16)	20
STANDARD (9x18)	101
STANDARD (9x20)	3
LEVEL 4	
COMPACT (9X16)	20
STANDARD (9x18)	72
STANDARD (9x20)	8
	483

COMPACT SPACES: 17% OF TOTAL PARKING



1 A1-011 PRESENTATION FLOOR PLAN- LEVEL 1
1/16" = 1'-0"

A1-011

BEAUFORT INN, LLC | 03/26/2021 | CURRENT PROPOSED

NILES BOLTON ASSOCIATES

Parking Project 000019

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LIGHTING PARTNERS OF CENTRAL FL LUMINAIRE SCHEDULE								
Symbol	Qty	Label	Arrangement	Total Lamp Lumens	LLF	Lum. Watts	[MANUFAC]	Description	BUG Rating
	40	PG1	SINGLE	N.A.	0.912	28	EATON - McGRAW-EDISON (FORMER COOPER LIG	GT-D1-740-U-WQ	B2-U0-G1
	12	PG2	SINGLE	N.A.	0.912	74.7	EATON - McGRAW-EDISON (FORMER COOPER LIG	GT-D5-740-U-CQ	B3-U0-G1
	5	L2	SINGLE	N.A.		20	COOPER LIGHTING - B95-HE-BLK-LD4-20M-40-OPL-120		
	6	L1	SINGLE	N.A.		20	COOPER LIGHTING - 9004-W2-LED2790-M-WT-L1		

Calculation Summary							
Label	CalcType	Units	Avg	Max	Min	Avg/Min	Max/Min
Room_1_Floor	Illuminance	Fc	6.73	75.5	1.2	5.61	62.92

1 E0.011 ELECTRICAL GARAGE PHOTOMETRICS LEVEL 1
1/16" = 1'-0"

BEAUFORT INN, LLC | 03/26/2021 | CURRENT PROPOSED

TRUE NORTH

0 8'-0" 16'-0" 32'-0"
SCALE: 1/16" = 1'-0"

JOSEPH B HARRILL
PE 041847
2016/XX/XX

PROJECT # : XXXXXX
DRAWN BY: BSF
CHECKED BY: JBH

NILES BOLTON ASSOCIATES

CA# PEF004892 I20394.00

INGENUITY ENGINEERS, INC.
"PROACTIVE ENGINEERING SOLUTIONS"
4798 NEW BROAD ST. ORLANDO, FLORIDA SUITE 500 | 407.898.8007

3060 Peachtree Rd. N.W.
Suite 600
Atlanta, GA 30305

T 404 365 7600

www.nilesbolton.com

No.	Description	Date

This drawing, as an instrument of service, is and shall remain the property of the Architects and shall not be reproduced, published or used in any way without the permission of the Architect.

BEAUFORT PARKING GARAGE
918 CRAVEN ST.
BEAUFORT, SC,29902
BEAUFORT INN, LLC

SHEET TITLE:
ELECTRICAL
GARAGE PHOTOMETRICS
LEVEL 1

SHEET NUMBER:
E0.011

MM-DD-YYYY

Parking Project 000020

NOT RELEASED FOR CONSTRUCTION

121018_BEAUFORT_HOTEL_ARCH_NBA_R20_V5_detached_detached.rvt
3/5/2021 9:55:59 AM

PREVIOUS APPROVED DESIGN

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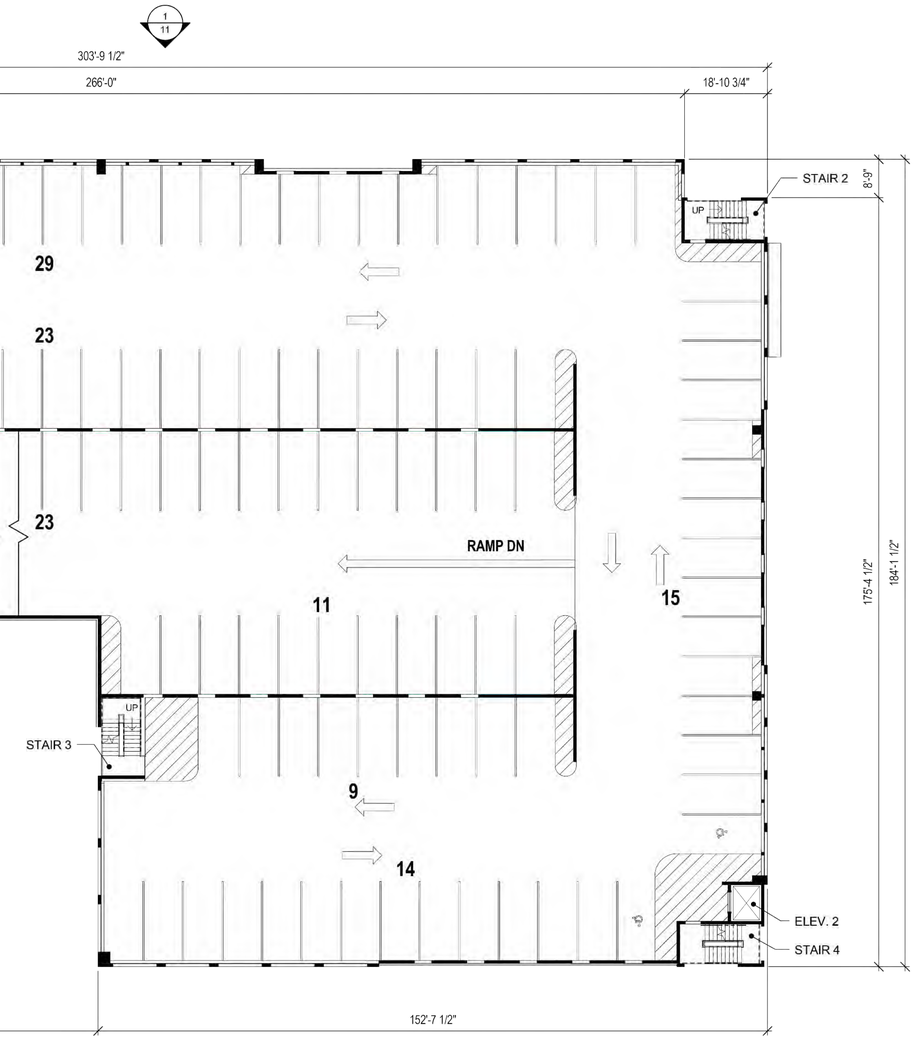

PARKING COUNT	
TIER	COUNT
GROUND TIER	90
TIER 2	132
TIER 3	132
TIER 4	132
GRAND TOTAL: 486	

TIER 2: 43,174 SQUARE FEET
TIER 3: 43,174 sQUARE FEET

0 8' 16' 32'

SCALE: 1/16" = 1'-0"

TIER 2 AND 3 PLANS

SCALE: 1/16" = 1'-0"

structured parking solutions
21 south tarragona
pensacola, fl 32502
p/ 850.982.7104 f/ 850.432.5208
www.structuredparking.com

Parking Project: 200021

8

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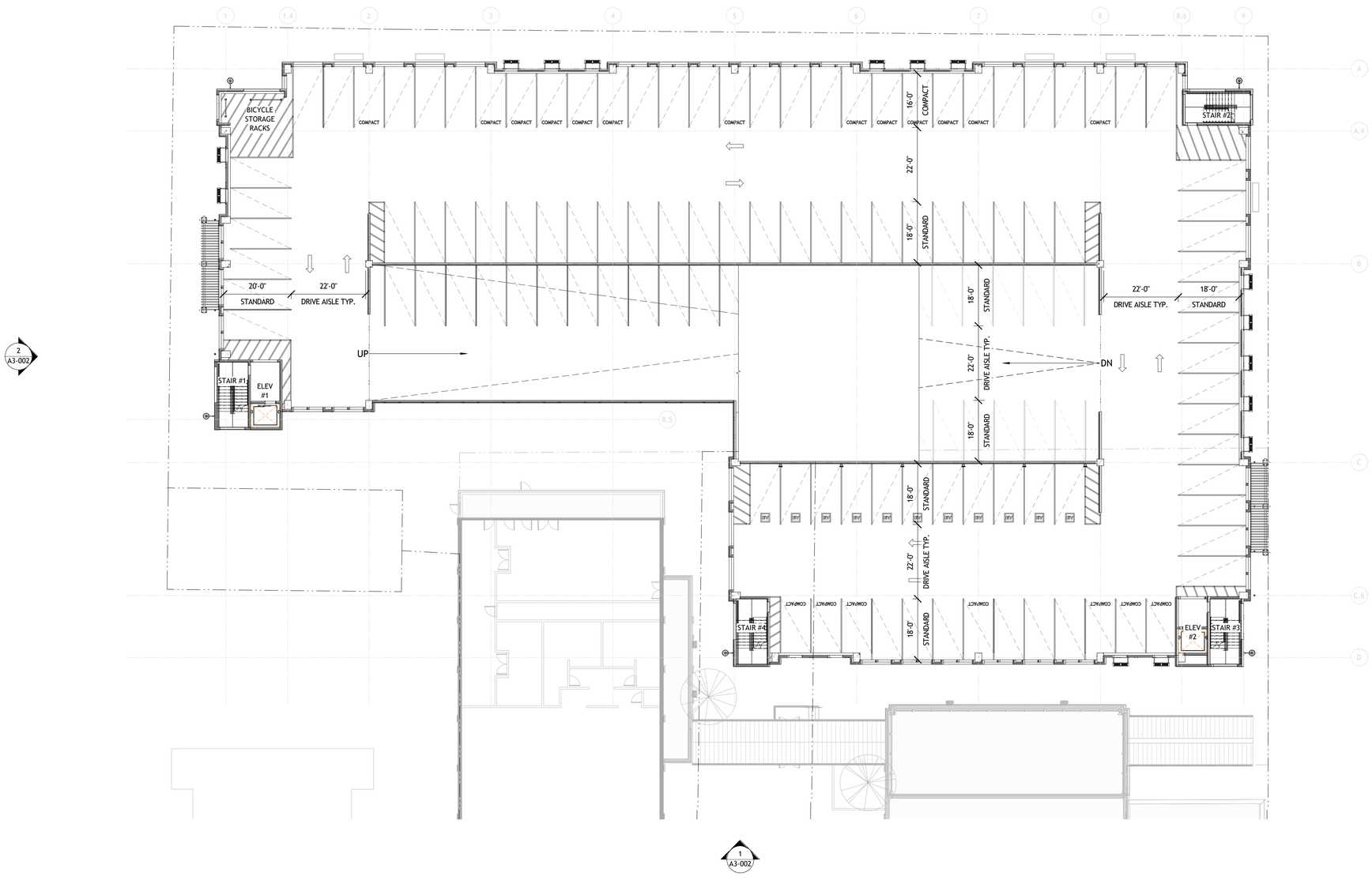
PLAN- LEVEL 2

BEAUFORT PARKING STRUCTURE

PARKING SCHEDULE	
PARKING SPACE TYPE	PARKING SPACE COUNT
LEVEL 1	
ACCESSIBLE (60" ACCESS)	4
ACCESSIBLE VAN (96" ACCESS)	2
COMPACT (9X16)	20
STANDARD (9x18)	96
STANDARD (9x20)	3
LEVEL 2	
COMPACT (9X16)	20
STANDARD (9x18)	102
STANDARD (9x20)	8
LEVEL 3	
ACCESSIBLE (60" ACCESS)	2
ACCESSIBLE VAN (96" ACCESS)	2
COMPACT (9X16)	20
STANDARD (9x18)	101
STANDARD (9x20)	3
LEVEL 4	
COMPACT (9X16)	20
STANDARD (9x18)	72
STANDARD (9x20)	8
	483

COMPACT SPACES: 17% OF TOTAL PARKING



1 PRESENTATION FLOOR PLAN- LEVEL 2
A1-021 1/16" = 1'-0"

A1-021

BEAUFORT INN, LLC | 03/26/2021 | CURRENT PROPOSED

NILES BOLTON ASSOCIATES

Parking Project 000022

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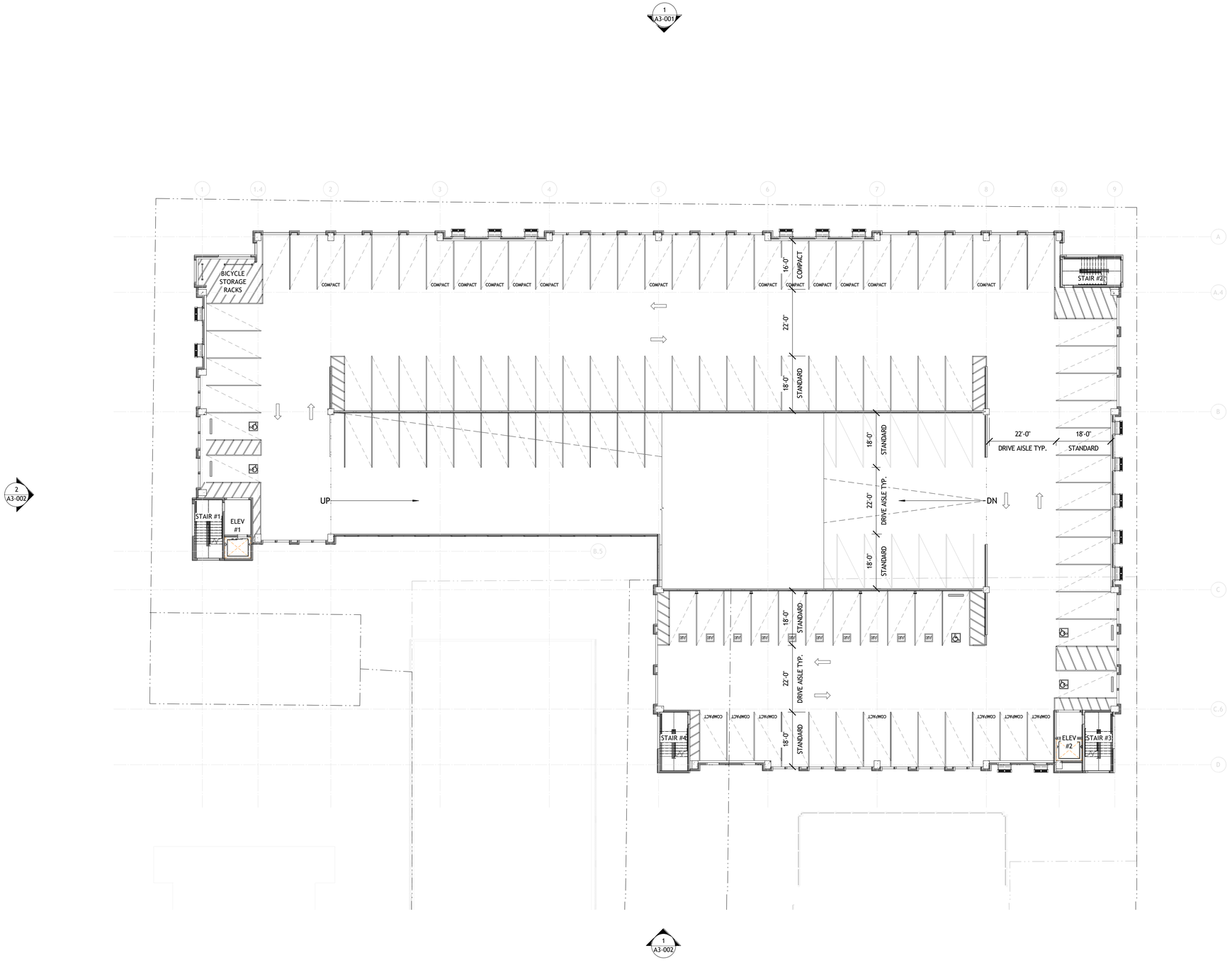
PLAN- LEVEL 3

BEAUFORT PARKING STRUCTURE

PARKING SCHEDULE	
PARKING SPACE TYPE	PARKING SPACE COUNT
LEVEL 1	
ACCESSIBLE (60" ACCESS)	4
ACCESSIBLE VAN (96" ACCESS)	2
COMPACT (9X16)	20
STANDARD (9x18)	96
STANDARD (9x20)	3
LEVEL 2	
COMPACT (9X16)	20
STANDARD (9x18)	102
STANDARD (9x20)	8
LEVEL 3	
ACCESSIBLE (60" ACCESS)	2
ACCESSIBLE VAN (96" ACCESS)	2
COMPACT (9X16)	20
STANDARD (9x18)	101
STANDARD (9x20)	3
LEVEL 4	
COMPACT (9X16)	20
STANDARD (9x18)	72
STANDARD (9x20)	8
	483

COMPACT SPACES: 17% OF TOTAL PARKING



1 A1-031 PRESENTATION FLOOR PLAN- LEVEL 3
1/16" = 1'-0"

A1-031

BEAUFORT INN, LLC | 03/26/2021 | CURRENT PROPOSED

NILES BOLTON ASSOCIATES

Parking Project 000023

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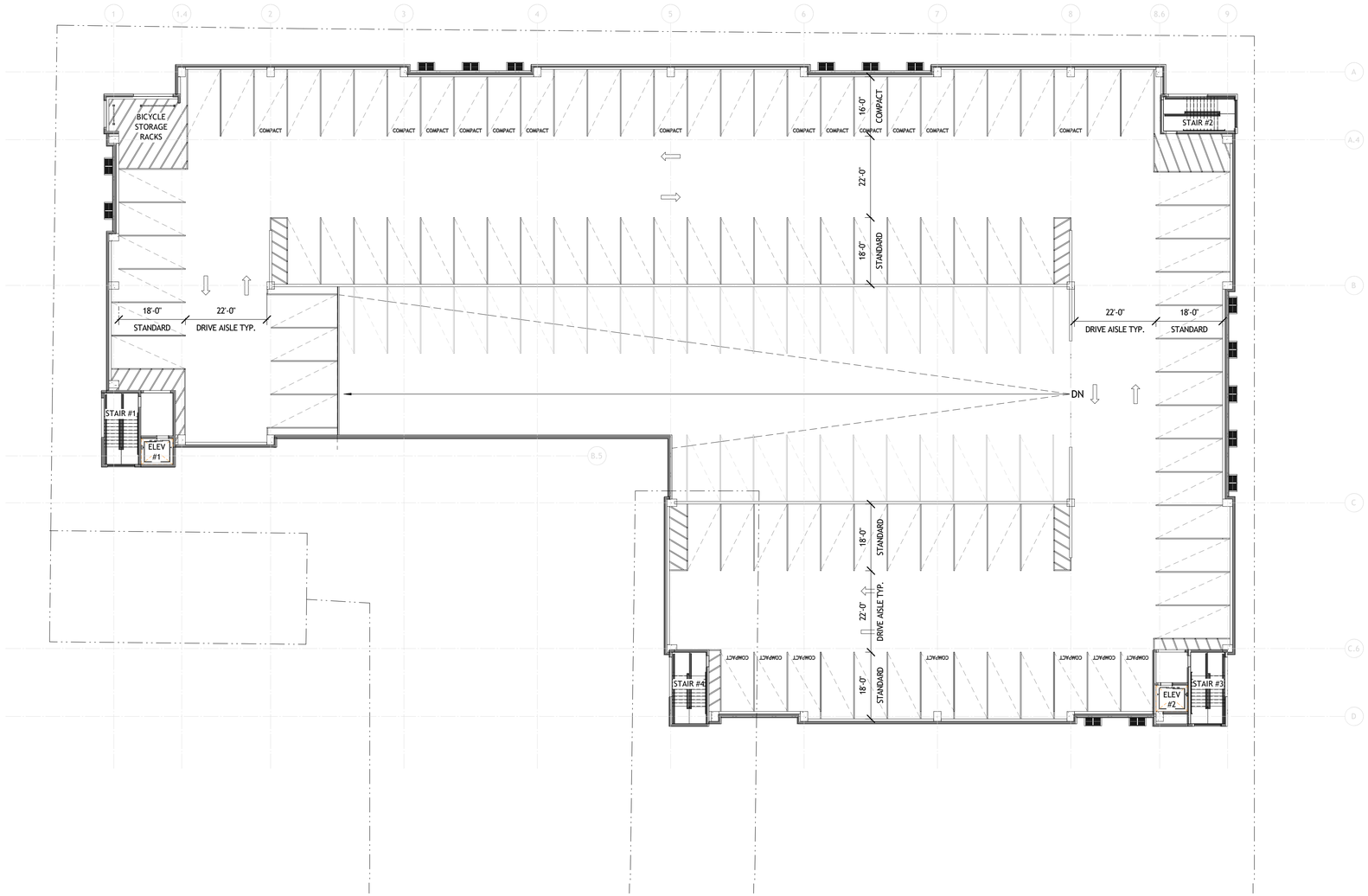
PLAN- LEVEL 4

BEAUFORT PARKING STRUCTURE

PARKING SCHEDULE	
PARKING SPACE TYPE	PARKING SPACE COUNT
LEVEL 1	
ACCESSIBLE (60" ACCESS)	4
ACCESSIBLE VAN (96" ACCESS)	2
COMPACT (9X16)	20
STANDARD (9x18)	96
STANDARD (9x20)	3
LEVEL 2	
COMPACT (9X16)	20
STANDARD (9x18)	102
STANDARD (9x20)	8
LEVEL 3	
ACCESSIBLE (60" ACCESS)	2
ACCESSIBLE VAN (96" ACCESS)	2
COMPACT (9X16)	20
STANDARD (9x18)	101
STANDARD (9x20)	3
LEVEL 4	
COMPACT (9X16)	20
STANDARD (9x18)	72
STANDARD (9x20)	8
	483

COMPACT SPACES: 17% OF TOTAL PARKING



1 PRESENTATION FLOOR PLAN- LEVEL 4
A1-041 1/16" = 1'-0"

Project		Catalog #		Type	
Prepared by		Notes		Date	

McGraw-Edison

GPC Galleon Pedestrian Companion

Area / Site Luminaire

Typical Applications

Outdoor • Parking Lots • Walkways • Roadways • Building Areas

Interactive Menu

- Ordering Information page 2
- Product Specifications page 2
- Optical Configurations page 3
- Energy and Performance Data page 4
- Control Options page 5

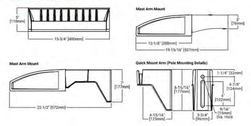
Product Certifications

Product Features

Quick Facts

- Choice of sixteen high-efficiency, patented AccuLED Optics™
- Quick mount pole or mast-arm mounting configurations
- Eight lumen packages from 3,215 up to 17,056 lumens
- IP66 rated housing and LED light squares

Dimensional Details



COOPER Lighting Solutions

Project		Catalog #		Type	
Prepared by		Notes		Date	

McGraw-Edison

TT TopTier

Parking Garage / Canopy
Low-Bay Luminaire

Typical Applications

Parking Garages • Parking Lots

Interactive Menu

- Ordering Information page 2
- Product Specifications page 2
- Optical Configurations page 3
- Mounting Details page 3
- Energy and Performance Data page 4
- Control Options page 5

Product Certifications / Features

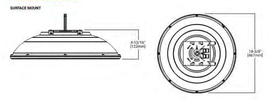
Quick Facts

- Lumen packages range from 3,000 - 13,300
- Efficacies up to 146 lumens per watt
- Utilizes patented waveguide technology for maximum visual comfort
- Surface, pendant, trunnion, wall and direct conduit mount options

Connected Systems

- WaveLinx Lite
- Synapse
- Enlighted

Dimensional Details



COOPER Lighting Solutions

LIGHTING PARTNERS OF CENTRAL FL LUMINAIRE SCHEDULE								
Symbol	Qty	Label	Arrangement	Total Lamp Lumens	LLF	Lum. Watts	[MANUFAC]	Description	BUG Rating
	8	S1	SINGLE	N.A.	0.912	59	COOPER LIGHTING SOLUTIONS - McGRAW-EDIS	GPC-SA1C-740-U-T3	B1-U0-G2
	7	S2	BACK-BACK	N.A.	0.912	59	COOPER LIGHTING SOLUTIONS - McGRAW-EDIS	GPC-SA1C-740-U-SWQ	B3-U0-G2

Calculation Summary							
Label	CalcType	Units	Avg	Max	Min	Avg/Min	Max/Min
CalcPts_1	Illuminance	Fc	3.50	7.3	0.6	5.83	12.17

1 E0.014 ELECTRICAL GARAGE PHOTOMETRICS LEVEL 4
1/16" = 1'-0"

BEAUFORT INN, LLC | 03/26/2021 | CURRENT PROPOSED

TRUE NORTH

0 8'-0" 16'-0" 32'-0"
SCALE: 1/16" = 1'-0"

JOSEPH B HARRILL
PE 041847
2016/XX/XX

PROJECT # : XXXXXX
DRAWN BY: BSF
CHECKED BY: JBH

NILES BOLTON ASSOCIATES

CA# PEF004892 I20394.00

3060 Peachtree Rd. N.W.
Suite 600
Atlanta, GA 30305

T 404 365 7600

www.nilesbolton.com

No.	Description	Date

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BEAUFORT PARKING GARAGE
918 CRAVEN ST.
BEAUFORT, SC,29902
BEAUFORT INN, LLC

SHEET TITLE:
ELECTRICAL
GARAGE PHOTOMETRICS
LEVEL 4

SHEET NUMBER:
E0.014

MM-DD-YYYY

Parking Project 000026

ROA 688

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NOT RELEASED FOR CONSTRUCTION

12101B_BEAUFORT_HOTEL_ARCH_NBA_R20_V5_detached_detached.rvt
3/5/2021 9:55:59 AM

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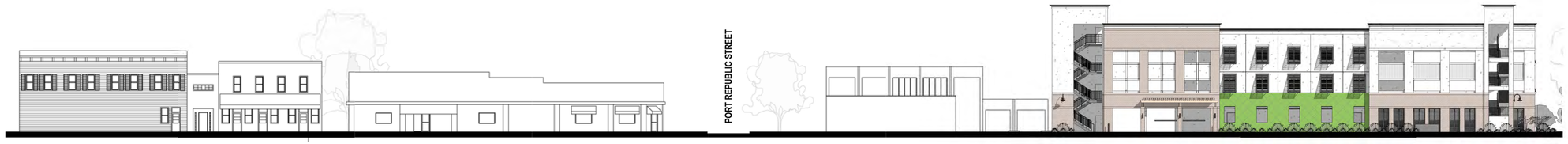
STREETSCAPE ELEVATIONS

BEAUFORT PARKING STRUCTURE

2 A3-003 PARTIAL CRAVEN ST. STREETSCAPE
1" = 20'-0"

4 A3-003 PARTIAL CRAVEN ST. STREETSCAPE
1" = 20'-0"

3 A3-003 PARTIAL WEST ST. STREETSCAPE
1" = 20'-0"



5 A3-003 PARTIAL WEST ST. STREETSCAPE
1" = 20'-0"

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STREETSCAPE ELEVATIONS

BEAUFORT PARKING STRUCTURE

1 / A3-004 CHARLES ST. STREETSCAPE
1" = 20'-0"

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PERSPECTIVES

BEAUFORT PARKING STRUCTURE

1 A3-005 WEST ST. - PERSPECTIVE

EXISTING AND PROPOSED LANDSCAPE SHOWN

A3-005

BEAUFORT INN, LLC | 03/26/2021 | CURRENT PROPOSED

NILES BOLTON ASSOCIATES

Parking Project 000034

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PERSPECTIVES

BEAUFORT PARKING STRUCTURE

1 A3-006 CRAVEN ST. / WEST ST. - PERSPECTIVE

EXISTING AND PROPOSED LANDSCAPE SHOWN

A3-006

BEAUFORT INN, LLC | 03/26/2021 | CURRENT PROPOSED

NILES BOLTON ASSOCIATES

Parking Project 000035

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PERSPECTIVES

BEAUFORT PARKING STRUCTURE

1 A3-007 CRAVEN ST. / WEST ST. - PERSPECTIVE (NO PLANTING)

TREES NOT SHOWN FOR CLARITY

A3-007

BEAUFORT INN, LLC | 03/26/2021 | CURRENT PROPOSED

NILES BOLTON ASSOCIATES

Parking Project 000036

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PERSPECTIVES

BEAUFORT PARKING STRUCTURE

1 A3-008 CRAVEN ST. - PERSPECTIVE

EXISTING AND PROPOSED LANDSCAPE SHOWN

A3-008

BEAUFORT INN, LLC | 03/26/2021 | CURRENT PROPOSED

NILES BOLTON ASSOCIATES

Parking Project 000037

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PERSPECTIVES

BEAUFORT PARKING STRUCTURE

1 A3-009 CRAVEN ST. / CHARLES ST. - PERSPECTIVE

EXISTING AND PROPOSED LANDSCAPE SHOWN

A3-009

BEAUFORT INN, LLC | 03/26/2021 | CURRENT PROPOSED

NILES BOLTON ASSOCIATES

Parking Project 000038

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PERSPECTIVES

BEAUFORT PARKING STRUCTURE

1 A3-0010 CRAVEN ST. / CHARLES ST. - PERSPECTIVE (NO PLANTING)

TREES NOT SHOWN FOR CLARITY

A3-0010

BEAUFORT INN, LLC | 03/26/2021 | CURRENT PROPOSED

NILES BOLTON ASSOCIATES

Parking Project 000039

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PERSPECTIVES

BEAUFORT PARKING STRUCTURE

1 A3-0011 CHARLES ST. - PERSPECTIVE

EXISTING AND PROPOSED LANDSCAPE SHOWN

A3-0011

BEAUFORT INN, LLC | 03/26/2021 | CURRENT PROPOSED

NILES BOLTON ASSOCIATES

Parking Project 000040

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PERSPECTIVES

BEAUFORT PARKING STRUCTURE

1 A3-0012 CHARLES ST. - PERSPECTIVE (NO PLANTING)

TREES NOT SHOWN FOR CLARITY

BEAUFORT INN, LLC | 03/26/2021 | CURRENT PROPOSED

NILES BOLTON ASSOCIATES

Parking Project 000041

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PERSPECTIVES

BEAUFORT PARKING STRUCTURE

1 A3-0013 PORT REPUBLIC ST. - PERSPECTIVE

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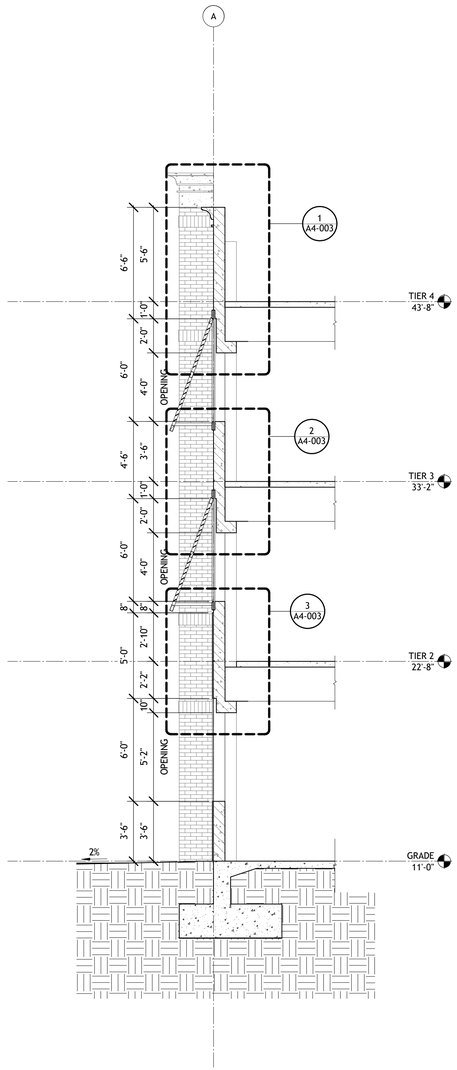
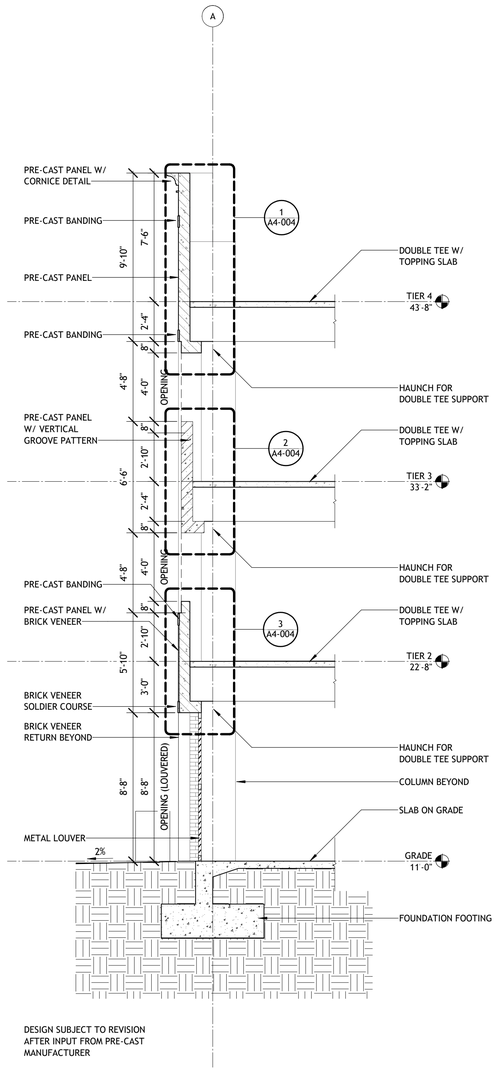
WALL SECTIONS

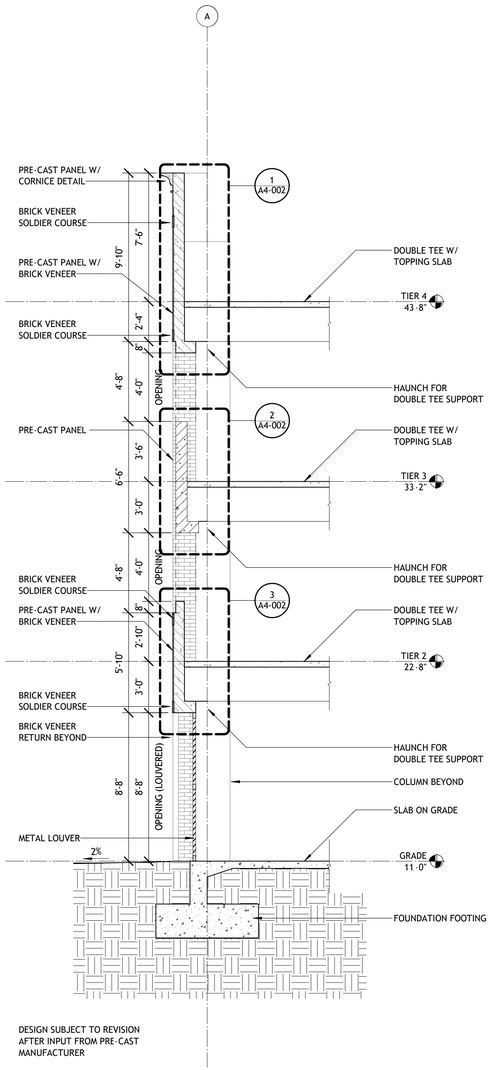
BEAUFORT PARKING STRUCTURE



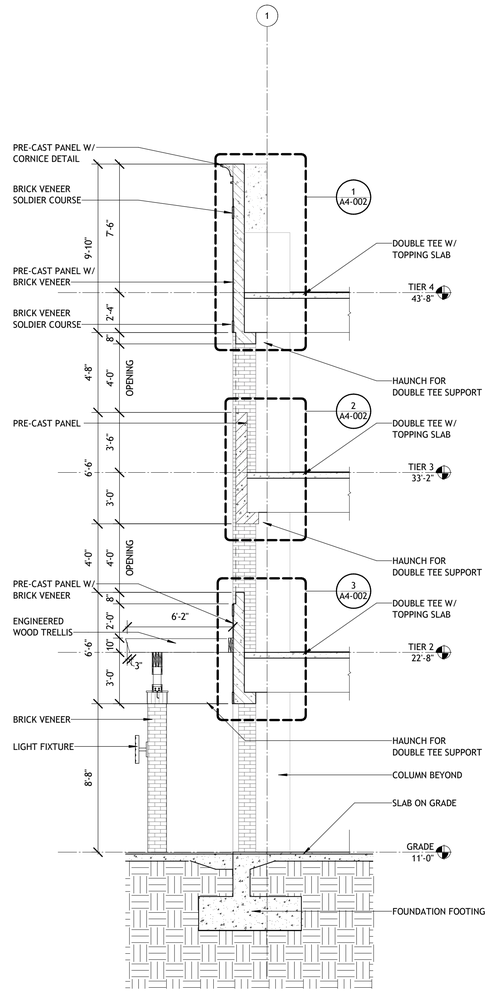
1 A4-001 WALL SECTION - PRE-CAST PANEL BUMP-IN
1/4" = 1'-0"



2 A4-001 WALL SECTION - PRE-CAST PANEL BUMP-OUT
1/4" = 1'-0"



3 A4-001 WALL SECTION - PRE-CAST PANEL BUMP-OUT W/ BRICK VENEER
1/4" = 1'-0"



4 A4-001 WALL SECTION - PRE-CAST PANELS AT GARAGE ENTRY
1/4" = 1'-0"

A4-001

NILES BOLTON ASSOCIATES

Parking Project 000043

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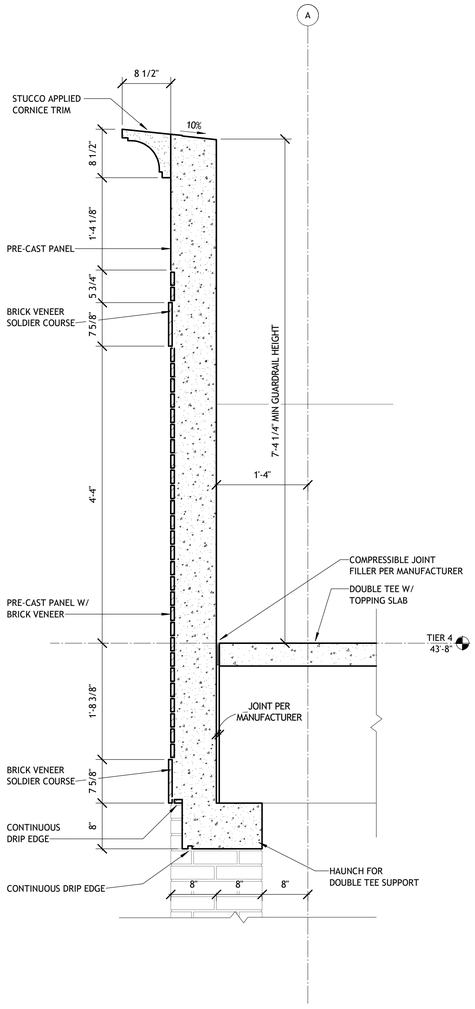
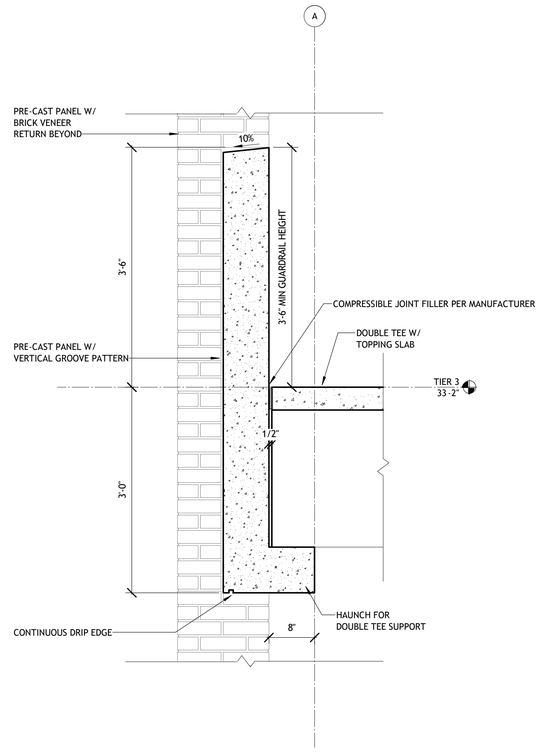
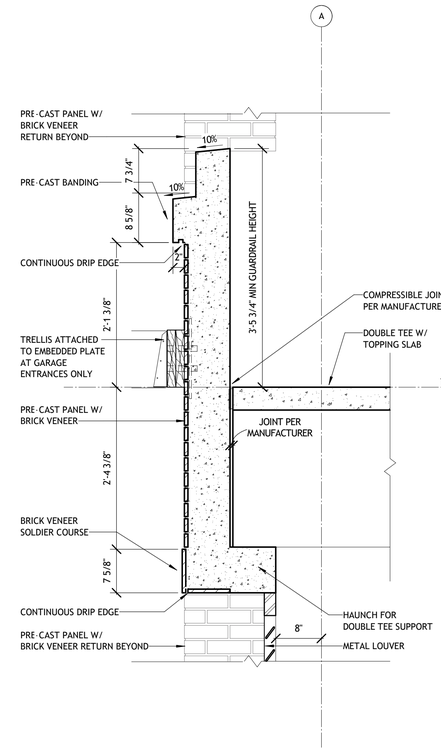
DETAILS
BEAUFORT PARKING STRUCTURE



1 A4-002 DETAIL - PRE-CAST PANEL BUMP-OUT W/ BRICK VENEER - TIER 4
1" = 1'-0"



2 A4-002 DETAIL - PRE-CAST PANEL BUMP-OUT W/ BRICK VENEER - TIER 3
1" = 1'-0"



3 A4-002 DETAIL - PRE-CAST PANEL BUMP-OUT W/ BRICK VENEER - TIER 2
1" = 1'-0"

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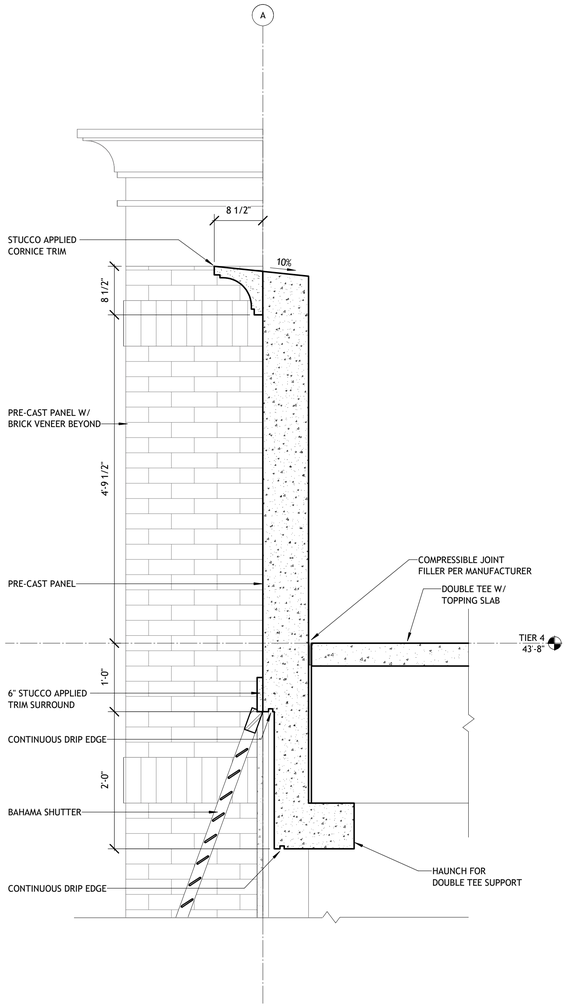
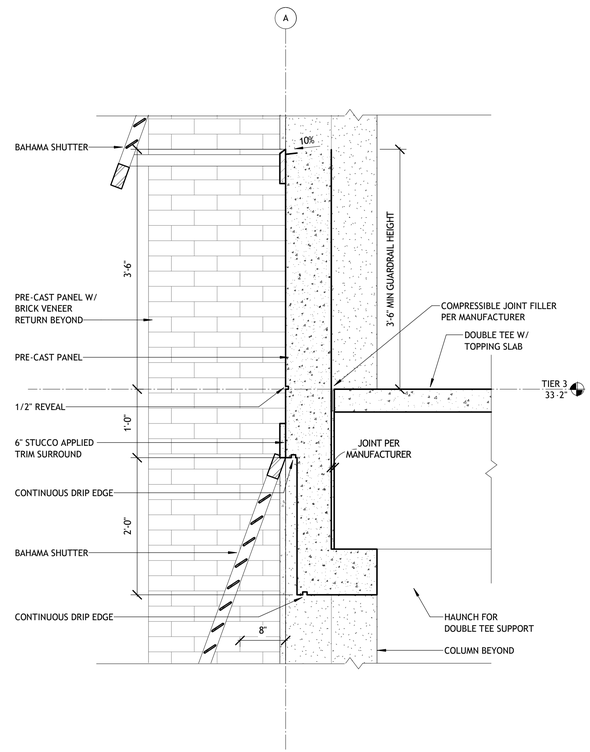
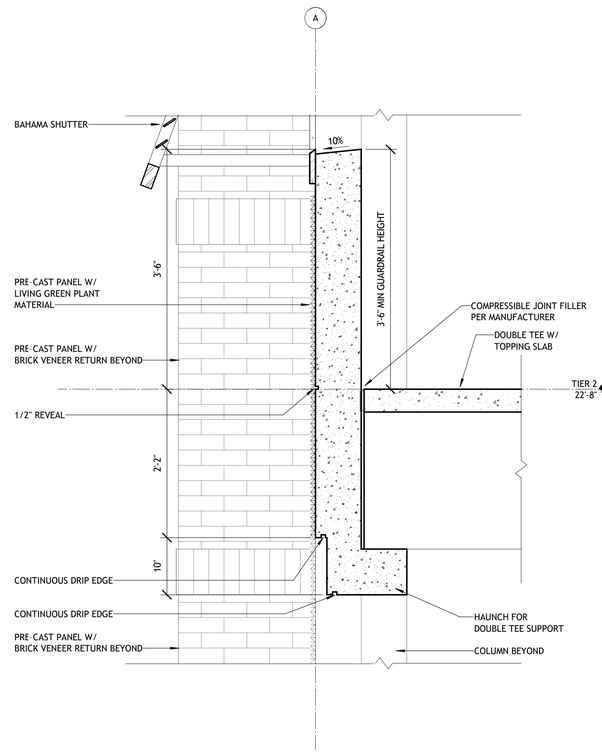
DETAILS
BEAUFORT PARKING STRUCTURE



1 A4-003 DETAIL - PRE-CAST PANEL BUMP-IN - TIER 4
1" = 1'-0"



2 A4-003 DETAIL - PRE-CAST PANEL BUMP-IN - TIER 3
1" = 1'-0"



3 A4-003 DETAIL - PRE-CAST PANEL BUMP-IN - TIER 2
1" = 1'-0"

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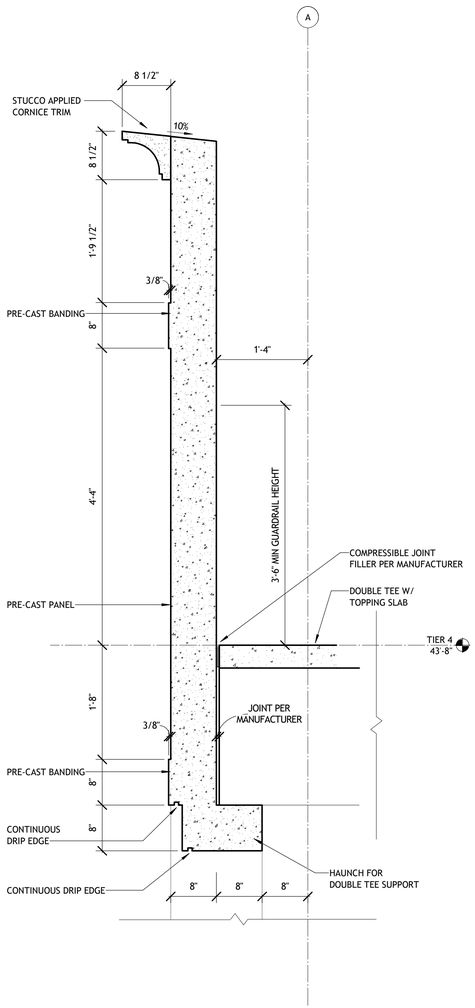
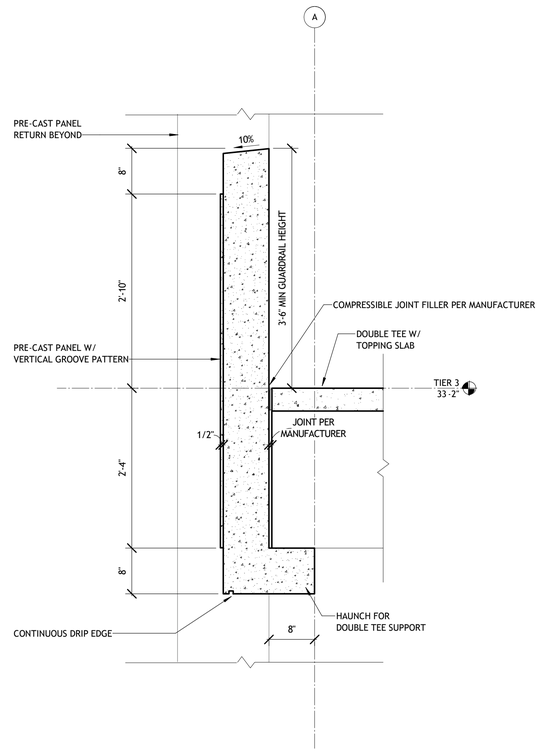
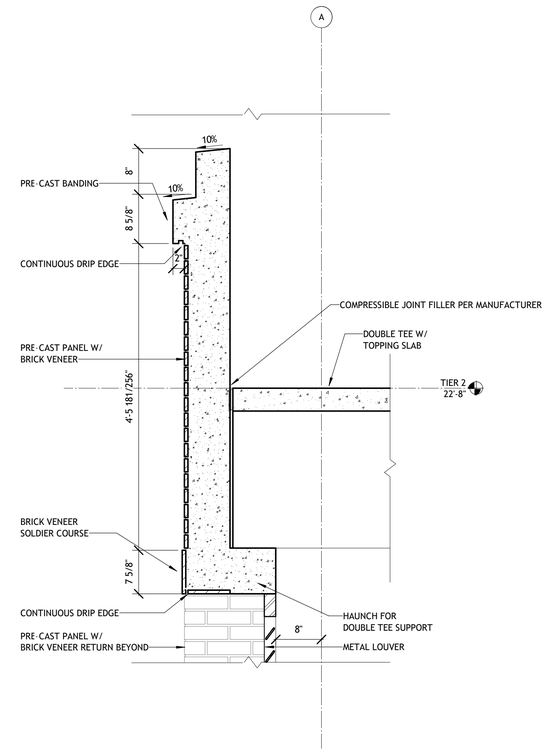
DETAILS
BEAUFORT PARKING STRUCTURE



1 A4-004 DETAIL - PRE-CAST PANEL BUMP-OUT - TIER 4
1" = 1'-0"



2 A4-004 DETAIL - PRE-CAST PANEL BUMP-OUT - TIER 3
1" = 1'-0"



3 A4-004 DETAIL - PRE-CAST PANEL BUMP-OUT - TIER 2
1" = 1'-0"

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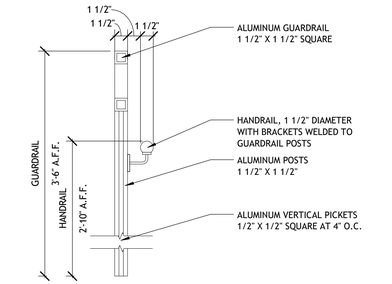
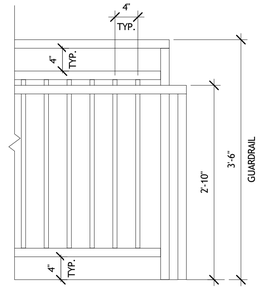
STAIR - DETAILS

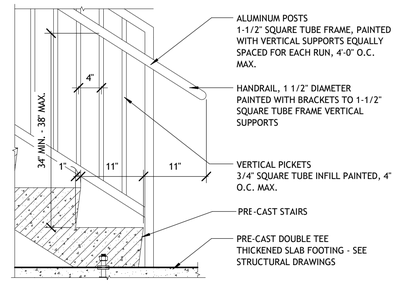
BEAUFORT PARKING STRUCTURE



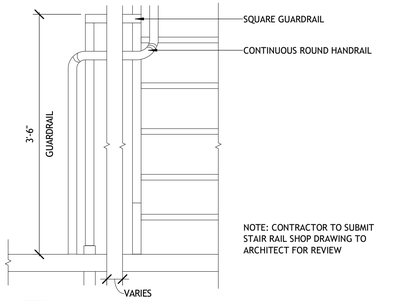
6 A4-005 STAIRS- PRES- GUARDRAIL
1 1/2" = 1'-0"



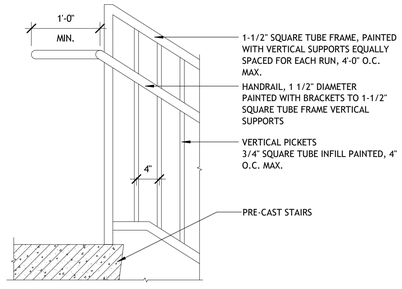
5 A4-005 STAIRS- PRES- RAILING-HEIGHT-AT-UPPER-LANDING
1" = 1'-0"



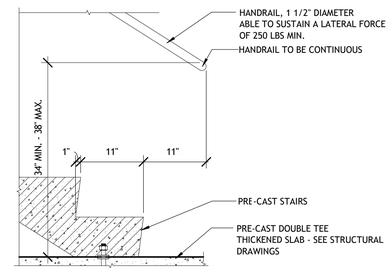
2 A4-005 STAIRS- PRES- HANDRAIL-RETURN-AT-BASE-OF-STAIR
1" = 1'-0"



1 A4-005 STAIRS- PRES- GUARDRAIL-HEIGHT-AT-LANDING
1" = 1'-0"



3 A4-005 STAIRS- PRES- HANDRAIL-RETURN-AT-LANDING
1" = 1'-0"



4 A4-005 STAIRS- PRES- HANDRAIL-RETURN-AT-WALL
1" = 1'-0"

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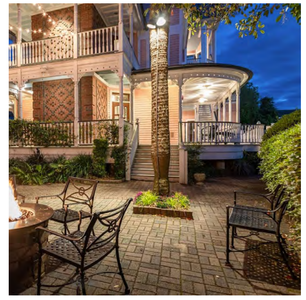
Materials Board

Beaufort Parking Structure - Beaufort, South Carolina

BRICK - THIN BRICK EMBEDDED INTO PRECAST (GENERAL SHALE - MESQUITE OR EQUAL)

PRECAST CONCRETE CORNICE AND TRIMS

BAHAMA/BERMUDA SHUTTERS - URBANE BRONZE ALUMINUM



HISTORICAL BRICK PAVERS TO MATCH BEAUFORT INN COURTYARD

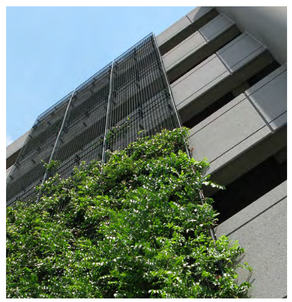
SANDBLASTED PRECAST CONCRETE

WOODEN TRELLIS/BRICK BASE - KEBONY ENGINEERED WOOD

ARCHITECTURAL LOUVERS - URBANE BRONZE ALUMINUM

WOOD BENCHES - WOOD STAIN TO MATCH TRELLIS

PRECAST SPANDREL - VERTICAL TEXTURE



GREEN SCREEN WALL - URBANE BRONZE

RAILINGS - ALUMINUM

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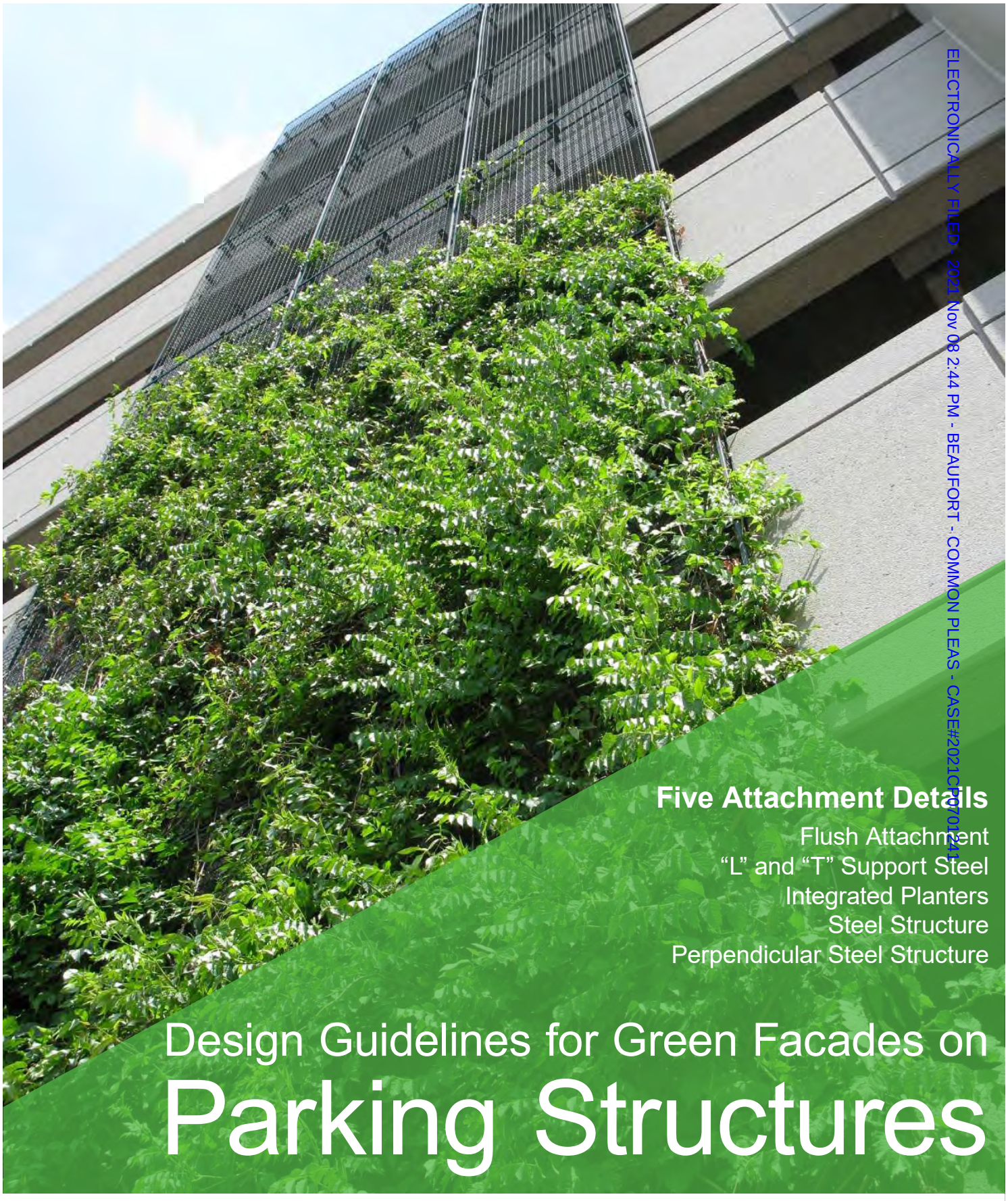
07 - GREEN SCREEN



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Five Attachment Details

Flush Attachment
"L" and "T" Support Steel
Integrated Planters
Steel Structure
Perpendicular Steel Structure

Design Guidelines for Green Facades on Parking Structures

greenscreen®

Parking Project 000050

ROA 707

Parking structure design places an emphasis on the integration of functional, efficient, attractive, and cost-effective solutions. The inclusion of sustainable products such as greenscreen® modular panels can be an important component in achieving these goals.

The following pages illustrate five typical greenscreen® attachment details that have proven successful when incorporating green facades into parking structure design.

For more information related to your particular project, please give us a call at 800.450.3494 or visit our website at greenscreen.com.

A digital copy of this book is available at greenscreen.com/greenscreen-Parking-Structures.pdf

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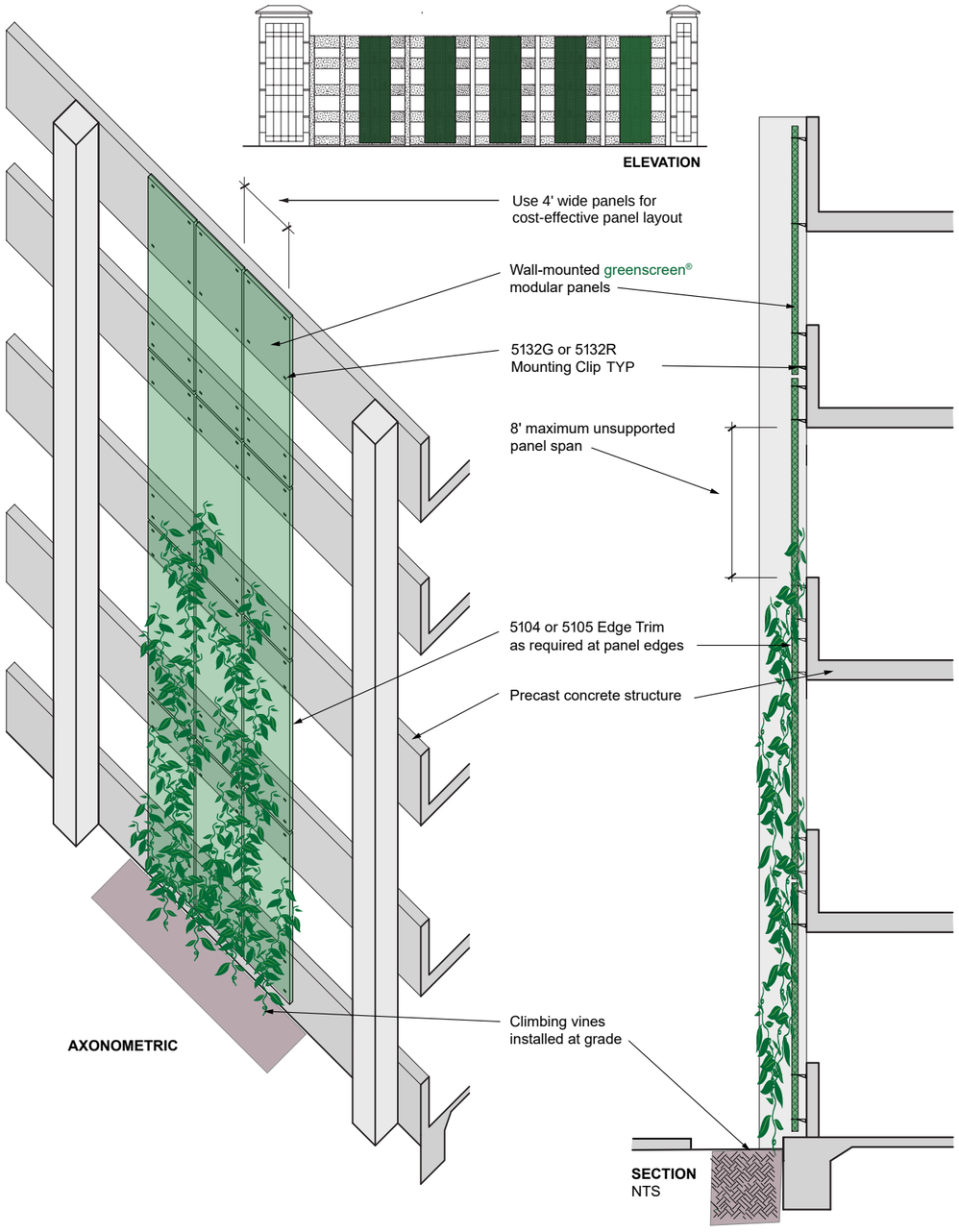
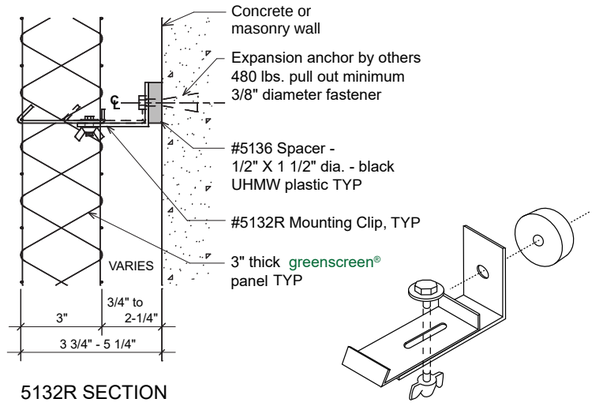
Parking Structure Green Facade Details

• Wall Mounted



ADJUSTABLE MOUNTING CLIPS

The 5132R and 5132G adjustable clips provide panel support for both download and uplift. The clips can mount to wall surfaces or to a steel frame. The sled with slot allows for panel adjustment and ease of installation.



5132R SECTION

5132G SECTION

NOTES:

- 4' wide greenscreen® panels mounted to precast.
- 5132R or 5132G standard mounting clips used for attachment to concrete structure.
- All precast mounting surfaces typically in the same plane.

Fishers Place at Metro Center, Rockville, MD

greenscreen®

725 South Figueroa Street Suite 1825 Los Angeles, CA 90017 T - 800.450.3494

greenscreen.com

Parking Project 000052

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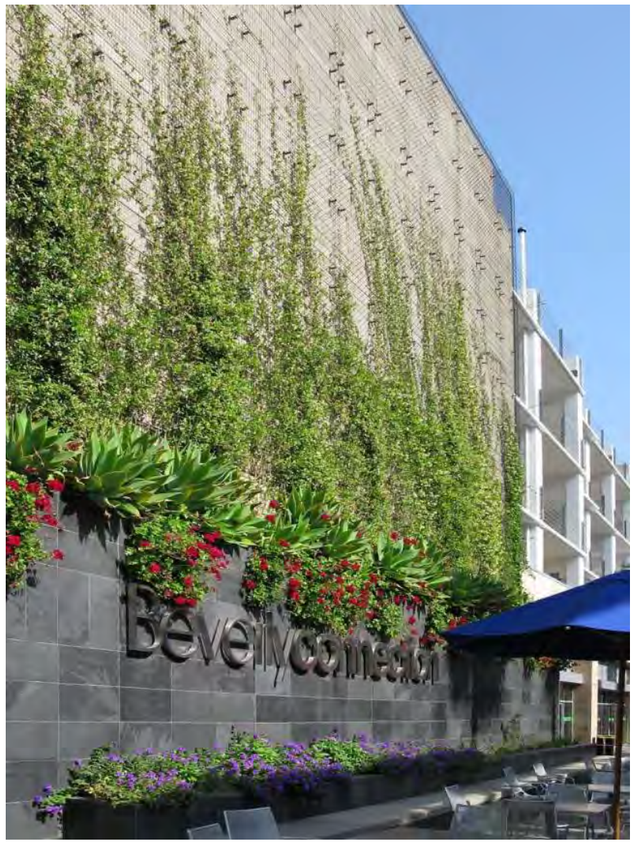

Beverly Connection

Los Angeles, CA

A parking structure is enhanced with a greenscreen® green facade. Modular panels are wall mounted and vines grow from above grade planters.

Hardiness Zone 10b / Installed 2008
Star / Confederate Jasmine
All Photos from April 2008

Horizon at Playa Vista

Los Angeles, CA

Wall mounted greenscreen® panels are used on the parking structure and store entries serving a multi-building office cluster.

Hardiness Zone 10b / Installed 2009
Royal Trumpet Vine
All Photos from March 2011

greenscreen®

Parking Project 000053

ROA 710

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10 - BAHAMA SHUTTERS

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LARSON SHUTTER COMPANY

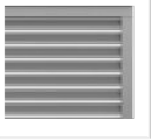
Photo is a stock image and will not represent the options you choose.

Z Louver Style Decorative Aluminum Bahama Shutter (each)

PC-ALUM-Z-BAH

$1,635.74

Price reflects any applicable discounts



Width:

Parking Project 000055

56"

Height:

84"

Vertical Mullion:

1 Mullion (shutters 36" to 72" wide) +$44.00

Color Choice:

125 Black

Hinge Type:

Flat Track Face Mount +$7.50

Holdout Arms:

Adjustable Painted Arms/Brackets +$121.00

Special Instructions:

$1,635.74

Price reflects any applicable discounts

– 1 +

ADD TO CART

Product Details | Specifications | Reviews

See Available Colors

- **Price Range:** from $138 each
- **Product Return:** Custom - No Returns
- **Usual Processing:** 6-14 Weeks
- **Ship:** N Charleston, SC

Parking Project 000056

ELECTRONICALLY FILED - 2021 Nov 08 2:44 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0701241

Warranty: 15 Year Limited

New Horizon Decorative Aluminum Z Blade Bahama Shutter

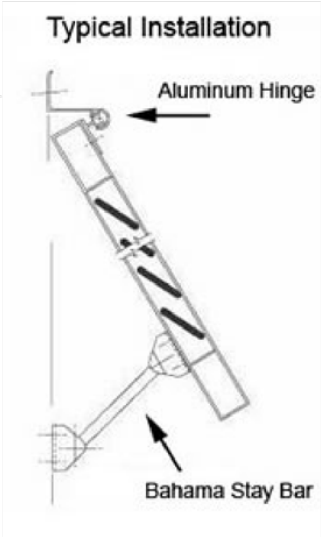
Z Blade Bahama Shutters Specifications.pdf

Non-Impact Bahama Installation Instructions.pdf

Hold out arms are optional and you can choose from several options. If you choose the continuous aluminum top hinge then it is pre-installed on the aluminum Bahama shutter and painted the same color as the shutter.

Decorative Bahama Z Blade Louver Shutter Details:

- Maximum shutter width without vertical mullion: 36"
- Louvers: 2-1/4" wide Z Blades set at 26 degree angle.
- Top and bottom rails: 2-1/4" wide by 1-7/16" thick.
- Side Vertical Stiles: 2" wide by 1-1/4" thick.
- Option: Hinge and arms to hold the Bahama exterior shutters open if you choose that option.
- Arm length provided will angle the louver style shutter at 20 degrees when installed at bottom rail of shutter. Other angles provided on request.
- If ordered the top hinge will be the same color as the shutter.
- 26 standard colors available or Custom Color match option.
- The size of the Bahama exterior shutters ordered does not include top hinge height.
- 15 Year limited Warranty.



RELATED ITEMS

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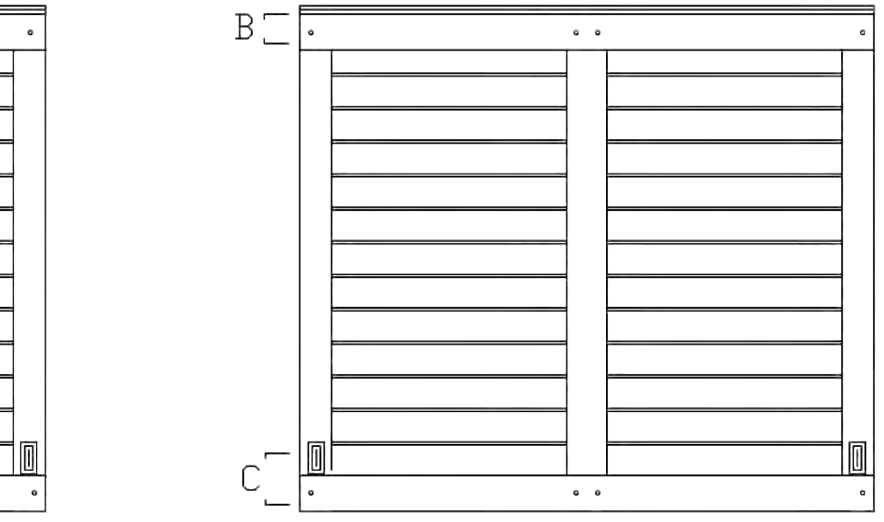
m Bahama

ubtract additional 5/8" from height when
easuring trapped opening to accommodate
ttached male track.

tle Stile Width	2"
ail Height	2¼"
n Rail Height	2¼"
tle Stile Width	2½"
ickness	1¼"
Angle	25°
Width	2"
Gap In Verticle position	¼"
Panel Height	120"



Parking Project 000058 Ver. 2.0

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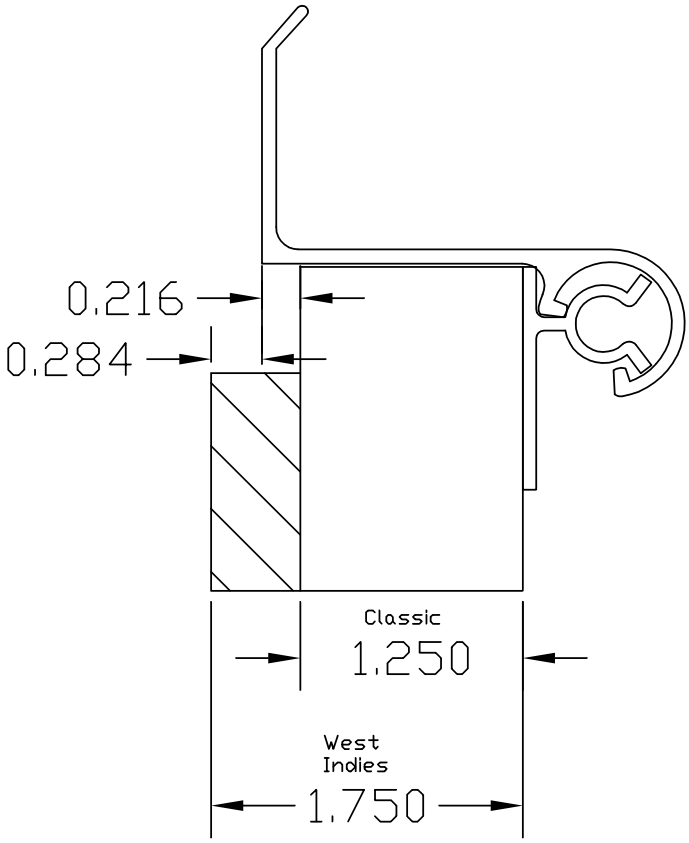
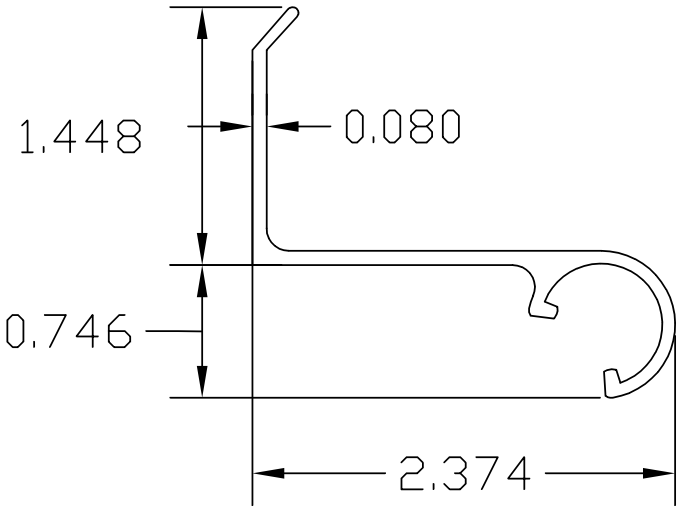
Standard Track Detail

"Standard Track"



Note:
Male Track is fastened to face of shutter
Subtract 1 ½" from height for "trapped mounting"



Parking Project 000059

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26 - ELECTRICAL

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3110
HALF CYLINDER WALL BRACKET

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3110
HALF CYLINDER WALL BRACKET

DIMENSIONS: SD | SS | ESD | ESS
7½" W × 12" H × 5½" PROJECTION
BACKPLATE: 4¼" W × 9¼" H

DIMENSIONS: LD | LS | ELD | ELS
9" W × 18" H × 7½" PROJECTION
BACKPLATE: 4½" W × 14" H

LAMPING
SD & LD : (2) 75 WATT A19
SS & LD : (1) 45 WATT R20
ESD : (2) 38 WATT PAR20
ESS : (1) 38 WATT PAR 20
ELD : (2) 90 WATT PAR38
ELD : (1) 90 WATT PAR38

FINISH OPTIONS
POLISHED BRASS
SATIN BRASS
LIGHT ANTIQUE
LIGHT ANTIQUE WAX
MEDIUM ANTIQUE
MEDIUM ANTIQUE WAX
DARK ANTIQUE
DARK ANTIQUE WAX
VERDE GRIS
BRONZE
MOTTLED BRASS
POLISHED CHROME
SATIN CHROME
POLISHED NICKEL
SATIN NICKEL
ANTIQUE NICKEL
FAUX PEWTER
POLISHED COPPER
SATIN COPPER
VINTAGE BRASS

CUSTOM SIZES AND FINISHES AVALABLE

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GOOSENECK OUTDOOR SCONCE - LARGE

SKU OL19100

$180.00

- **In stock and ready to ship**

Qty 1 ADD TO CART

+ Add to Wish List

Description

The Gooseneck Outdoor Sconce will bring a rustic feel to your outdoor entryway. The dynamic finish is two-toned, with a glossy black on the shade and backplate, and an iron black finish on the arm. For a visually pleasing wall decoration that will bring a warm brilliance to your outdoors, incorporate this piece to light your path.

- **Actual Size:** 19"Hx10.25"Wx16"D
- **Backplate/Canopy Size:** 12"Hx4.75"W Rectangular
- **Bulb Base:** US Medium-E26
- **Color:** Black
- **Indoor-Outdoor:** Yes
- **Material:** Aluminum
- **Max Bulb Wattage:** 150
- **Number of Lights:** 1
- **Safety Rating:** Wet
- **Weight:** 2.9

California Residents See PROP 65 WARNINGS ▾

Reviews

EXPAND +

SHOP COLLECTION

VIEW ALL

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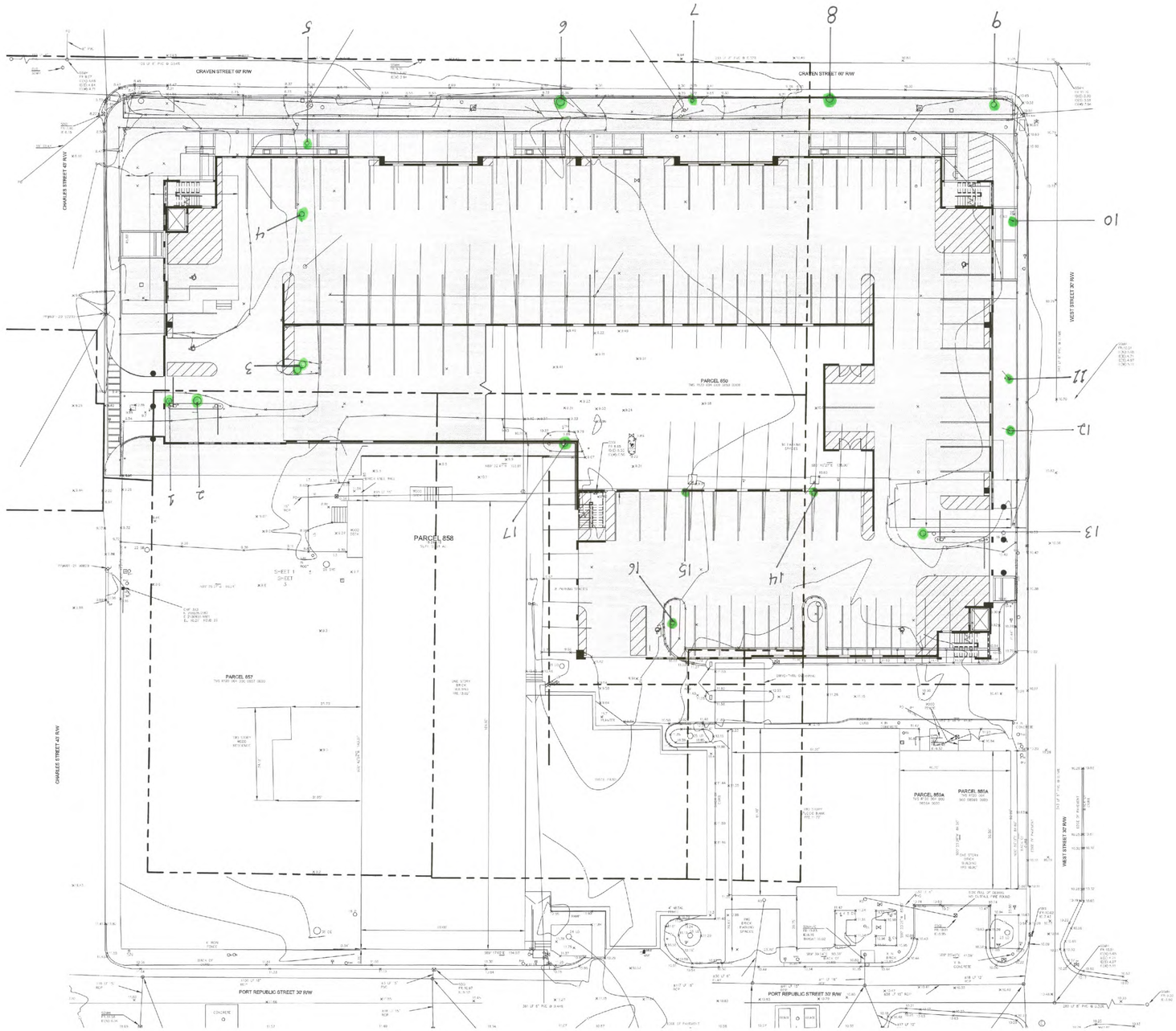

N

1/5

ARCHITECTURAL SITE PLAN

1" = 20'-0"

0 10' 20' 40'

SCALE: 1" = 20'-0"

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8/24/2017 4:05:39 PM

BEAUFORT PARKING GARAGE

918 CRAVEN STREET, BEAUFORT, SC 29902

STA #: 148616.02 Date: 08/22/17

ARCHITECTURAL SITE PLAN

SCALE: 1" = 20'-0"

structured parking solutions

21 south tarragona
pensacola, fl 32502
p/ 850.982.7104 f/ 850.432.6208
www.structuredparking.com

Parking Project: 000064

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Pre-Construction Tree Protection
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PO Box 2293 Beaufort SC 29901 843-522-9553 Fax 843-522-2925 strees@islc.net

303 Associates 20210309

Tuesday, March 9, 2021

303 Associates
2015 Boundary St.
Suite 300
Beaufort, SC 29901

Estimator: Ronnie Reiselt

Worksite: Craven Street Project
Beaufort, SC 29902

#	Item	Description	Co
1	Trees	**Tree Evaluation and Recommendation**	

This report is a general synopsis on tree species and their current condition. The trees will be numbered 1 through 17. There will be a set of drawings with this report, each tree will be assigned a number and individually referenced in the report. Each tree will be given a rating between 1 and 10. Any tree given a rating under 5 should be considered for removal.

Tree #1. 24" Red Cedar tree.
This tree is in good condition with some minor structural limb damage. Rating 8.

Tree #2. 38" Red Cedar tree.
This tree is in good condition with the exception of a structural wound near the base of the tree caused by a codominant stem failure. Rating 8.

Tree #3. 22"&18" Red Cedar tree. This tree is in good condition with some structural damage to the 18 in lead. Rating 8.

Tree #4. 23" Sycamore tree. This tree is in good condition no structural defects found. Rating 9.

Tree #5. 18" Magnolia tree.
This tree is in fair condition. No structural defects found. Canopy is sparse due to shading from the Sycamore tree and pruning from the power line. Rating 7.

Tree's
#6. 38"
#7. 17"
#8. 33"
These Live Oak tree's are in good condition with no structural defects other than the pruning for power line clearance. Some tip dieback in the outer limbs possibly due to poor root structure environment. Rating 8.

Our arborists are always ISA certified:
Ronnie Reiselt Certification # SO-1382A
Sonya Reiselt Cerification # SO-1383A
Thomas Hunt Certification # SO-6016A

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Tree #9. 21" Live Oak tree.
This tree is in poor condition, much of the canopy has extensive dieback on the outer branches and large deadwood. Possibly due to many years of over pruning and a poor root environment. Rating 5

Tree #10. 9.5" Live Oak tree.
This tree is in good condition. Rating 9.

Tree #11. 14" Live Oak tree.
This tree is in good condition. There are signs of dieback in the outer limbs, this is possibly due to poor root environment. Rating 8.

Tree #12. 28" Live Oak tree.
This tree is in exceptionally good condition given it's environment. No structural defects and very little dieback in the upper canopy. However, there are some signs of dieback in the very tips of the branches possibly due to poor root environment. Rating 9.

Tree #13. 26" Live Oak tree.
This tree is in poor condition with extensive dieback in the upper canopy. Possibly due to poor root environment. Rating 6.

Tree #14. 9" Live Oak tree. This tree is in good condition no structural defects. Very little dieback in the upper canopy. Possibly due to poor root environment. Rating 9.

Tree #15. 8" Live Oak tree. This tree is in fair condition. The canopy appears to be stunted and has extensive dieback. Possibly due to poor root environment. Rating 6.

Tree #16. 20" Live Oak tree.
This tree is in good condition with no structural defects. The upper canopy does show signs of dieback possibly due to poor root environment. Rating 9.

Tree #17. 29" Live Oak tree. This tree is in good condition. No structural defects found. The upper canopy has some signs of dieback possibly due to poor root environment. Rating 8.

Respectfully,
Ronnie Reiselt, Jr.
Certified Arborist SO 1382A

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SOUTHERN TREE SERVICES of Beaufort, Inc.

Hazard Tree Evaluation
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PROPOSAL

Generated uniquely for

303 Associates 20210315

Monday, March 15, 2021

303 Associates
2015 Boundary St.
Suite 300
Beaufort, SC 29901
843-812-8404

Estimator: Ronnie Reiselt

Worksite: Craven Street Project
Beaufort, SC 29902

We hereby submit specifications and estimates for:

#	Item	Description	Cost
0	Trees	**Tree Protection Notes** Tree protection and maintenance recommendations. Concerning trees on site plan that are to remain during and after construction. Care should be taken to ensure the least amount of damage is done to the root system while excavating the existing asphalt. Once the asphalt is removed, as much open ground area should be obtained as possible for each tree. Wherever the root system is to be covered by asphalt, a pervious material should be used to provide a gas exchange between the surface of the root system and the atmosphere. This will also allow for water penetration to the root zone. Whatever remaining root system is left and exposed this area should be covered with a layer of mulch 2" to 3" inches in depth. The mulch will help to cool the remaining root system as well as retain moisture and create a better environment for root growth. A fertilization program should be implemented fertilizing each tree using the ANSI A300 standards.	**$0.00**
1	Live Oak	**Liquid Inject. Fertilization** Tree, #6 Fertilize a 38" Live Oak tree using 190 gallons of water soluble fertilizer and Mycorrhiza fungi.	**$380.00**
2	Live Oak	**Liquid Inject. Fertilization** Tree, #7 Fertilize a 17"inch Live Oak tree using 85 gallons of water soluble fertilizer and Mycorrhiza fungi.	**$170.00**
3	Live Oak	**Liquid Inject. Fertilization** Tree, #8 Fertilize a 33" inch Live Oak tree using 150 gallons of water soluble fertilizer and mycorrhizae fungi.	**$300.00**

Additional Services: **$0.00**

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Sonya Reiselt Cerification # SO-1383A
Thomas Hunt Certification # SO-6016A

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Parking Project 000067

ROA 724

4	Live Oak	**Liquid Inject. Fertilization** Tree, #9 Fertilize a 21" inch Live Oak tree using 100 gallons of water soluble fertilizer and Mycorrhizae fungi. Note to customer. Southern Tree Services recommends putting these trees on an annual fertilization program fertilizing each spring for 3 years. After the 3rd inoculation the trees can be re-evaluated and further recommendations made. Please confirm if you would like Southern Tree Services to continue with the fertilization program.	**$200.00**

Subtotal: $1,050.00

Disclaimer: We will not be held responsible for damage to any underground utilities (water, irrigation, lighting, unmarked pipes, utility lines) concealed structures, and/or septic systems, unless they are advised of, and marked by client prior to commencement of job. We assume no liability or responsibility for any cracking, breaking, puncturing, depressing, or any other damage to any driveway, patio, or other paved, bricked, stoned, concrete, or asphalted surface which may result from trucks and or/ equipment being used to access the job site. We are not liable for light fallen debris, such as sawdust, small branches or sap on cars, furniture, landscaping, or other objects located under or near the vicinity or the trees being worked on. Client assumes all responsibility for removing such objects from the work area. Any changes added or removed from the signed proposal will be subjected to price change. Please sign and return either by mail, email, or fax within 30 days, upon acceptance of job.

Subtotal: $1,050.00

Signature _____ Date _____

Total: $1,050.00

Payment is due on completion of work.15% interest on unpaid balance due after 15 days. We look forward to caring for your tree(s)! We accept major credit cards. There will be an additional 3% added to any credit card charge. Thank you for allowing us to care for your trees!

Additional Services: **$0.00**

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Sonya Reiselt Cerification # SO-1383A
Thomas Hunt Certification # SO-6016A

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ROA 725

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Historic Review Board Meeting Staff Report

From the Department of Community and Economic Development
09 June 2021

THIS IS THE CURRENT REVISED STAFF REPORT FOR THIS PROJECT. THE STAFF REPORT PREVIOUSLY SENT OUT FOR THIS PROJECT ERRONEOUSLY REFERRED TO THE BEAUFORT CODE. THIS PROJECT STARTED UNDER THE UNIFIED DEVELOPMENT ORDINANCE AND SHOULD BE COMPLETED UNDER THE UNIFIED DEVELOPMENT ORDINANCE. ALL REFERENCES TO THE BEAUFORT CODE HAVE BEEN REMOVED FROM THIS STAFF REPORT.

1 SUMMARY OF REQUEST

918 Craven Street, New Construction
Applicant: Courtney Worrell/Beaufort Inn, LLC
The applicant is requesting Final approval for construction of a new four-level structured parking deck with 483 parking spaces.

Background: The Historic Review Board (HRB) granted conceptual approval of this project in August 2016. The HRB granted preliminary approval of this project in September 2017. On June 21, 2019, the applicant was granted an extension of the Historic Review Board's Certificate of Appropriateness for new construction located at 918 Craven Street valid through September 19, 2020. On July 1, 2020, the applicant was granted a second extension of the Historic Review Board's Certificate of Appropriateness for new construction located at 918 Craven Street valid through September 19, 2021.

2 FACTS

Property Address:	918 Craven Street
Parcel ID:	R120 004 000 0850 0000
Case Number:	21-10 HRB.1
Applicant:	Courtney Worrell/Beaufort Inn, LLC
Zoning:	CC- Core Commercial
Use:	Ground Level Paid Parking Facility (no existing structures)

District Development Standards for CC:

- **Setback requirements – Primary Structure:**
  - *Front- none*
  - *Rear setback – none*
  - *Side setback – none*
- **Maximum Lot Coverage***:* N/A
- **Permitted Uses:** Commercial Parking is permitted in the CC Zoning District

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References:

- The Beaufort Preservation Manual
- The Beaufort Preservation Manual Supplement
- The Unified Development Ordinance

3 STAFF COMMENTS/ RECOMMENDATIONS

Staff Acknowledgements:

- On September 20, 2017, the HRB granted preliminary approval of the new construction project provided the applicant refines the following: the type and color of the concrete, a lighting plan, a plan for screening mechanical equipment, removal of awnings, and a certified arborist's report and plan for the "treatment of the trees." The HRB further clarified that the current drawings were approved as submitted, and that the applicant was tasked with refining the details listed above in order to receive final approval.
- Staff feels that this project has continued to improve since the preliminary submission. Details have been refined, and facades have been further simplified.
- In some locations, bays have been further developed to be more vertical in nature. Staff feels that this is a positive change that creates a more harmonious façade that is in keeping with the intent of the referenced standards.

Staff Conditions:

1. A certified arborist's report dated March 15, 2021, was submitted as part of this request for Final approval application. The report includes a tree evaluation for all existing trees and tree protection and maintenance recommendations for trees identified to remain during and after construction. This report will be used to inform tree removal permitting, tree mitigation and tree protection zone requirements.
2. Applicant to provide bicycle parking within the structure.
3. In the current application the Applicant has submitted a photometric plan that includes locations and illuminance levels of lighting, and associated cutsheets. All lighting should be directed downward. Additional lighting requirement comments specific to the lighting cutsheets are as follows:
    a. Staff is in support of the submitted half cylinder wall bracket lighting fixture and the Gooseneck outdoor sconce. Applicant to clarify if the Half cylinder wall bracket will direct light downward and submit a new fixture for review if not.
    b. The proposed lighting fixtures on sheet E0.014 do not clearly demonstrate that lighting will be directed downward. Applicant to clarify that these lights will include any cutoff lenses that would be required to ensure light is directed downward.
4. From discussions with the applicant, Staff understands that there is minimal mechanical equipment to be screened. The only equipment that will require screening will be some ductwork from the maintenance and service rooms on the first floor. This is screened on the

South Elevation by two 8' louvers. Staff is in support of this location, but Staff recommends relocating the louvers to have a more purposeful engagement with the soldier course brick band on this façade.

5. At the entryways on the Charles Street and West Street facades, Staff recommends extending the trellis to cover the pedestrian entry as well. Staff feels that this will help achieve a more balanced façade.

6. Regarding the section detail of the proposed Trellis (Drawing 4 on Sheet A4-001), Applicant to clarify whether additional brackets will be used to connect the wood rafters to the engineered support beam below and to the adjacent ledger. If additional brackets will be used, applicant to verify if brackets will be visible or if concealed fasteners will be used. If visible brackets are used in either location, they must be submitted for review.

7. The preliminary application for this project proposed punched openings on the large blank wall on the South Elevation. In the current, final application, the applicant has indicated trim detailing to mimic a punched opening. Staff recommends changing these to true punched openings if feasible. If this is not feasible, applicant to ensure that the panel within the trim detailing is recessed to create a shadow line. Another acceptable option would be to install Bahama shutters in closed positions in these locations.

8. Applicant to clarify the Precast Spandrel – Vertical Texture selection shown on the Materials Board. Two different vertical patterns appear to be shown, and the picture provided appears to be brown and white. Applicant to clarify which vertical pattern will be used and whether the panels are simply textured or if color will be used. Staff preference is that the pattern with smaller spacing of stripes is used and that the panel is textured without any additional color to create a more timeless and natural design.

STAFF RECOMMENDATION:

Final Approval with conditions noted.

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Beaufort, South Carolina
Unified Development Ordinance

ADOPTED
January 28, 2003

Revised September 14, 2012

The online version of the City of Beaufort's Unified Development Ordinance is provided as a customer service. Since the Ordinance is constantly undergoing changes, it is only as accurate as the last date revised. Should you desire updated information, please contact the Planning Department at (843) 525-7011.

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6. To process applications for Variances and Special Exceptions;
7. To issue Certificates of Compliance;
8. To review and take action on Development Names;
9. To review and take action on Administrative Adjustments;
10. To review and make recommendations on site plans;
11. To review and make recommendations on Landscaping and Tree Conservation Plans on plans for lots in the Historic District, and to take action on plan for lots outside the Historic District; and
12. To review and approve subdivision plats for lots zoned Limited Industrial or Industrial Park.

2.6 Technical Review Committee

A. Designation

The City Manager shall designate a Technical Review Committee consisting of the Administrator, the Building Official and any other City staff professional the Manager deems necessary for professional review. The Administrator shall serve as chair of the Committee and be responsible for all final decisions of the Committee.

B. Powers and Duties

The Technical Review Committee (through its chair, the Administrator) has the following powers and duties:

1. Minor Subdivision Plats

The Technical Review Committee shall approve, approve with conditions or deny minor subdivision plats.

2. Final Plats

The Technical Review Committee shall approve, approve with conditions or deny major subdivision final plats.

2.7 Historic District Review Board

A. Creation

A Historic District Review Board is hereby established as a board of architectural review pursuant to Section 6-29-870 of the South Carolina Code of Laws, 1994, as amended.

B. Purpose

The Historic District Review Board shall review and approve new construction and changes to the exterior of any structure located within the Beaufort Historic District. It shall preserve and protect this historic and architecturally significant district.

C. Territorial Jurisdiction

The Historic District Review Board shall have jurisdiction throughout the Beaufort Historic District. The Board shall also have jurisdiction to review the demolition or removal of all structures listed in the Beaufort County Historic Sites Survey – 1997, that are located within the City limits, but outside the Historic District.

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D. Membership, Terms and Compensation

1. Number, Composition

(1) The Historic District Review Board shall consist of five members with an interest competence or knowledge in historic preservation. All Board members shall be residents of the City, own property in the City, or own or operate a business in the City. Two members shall, to the extent that such is available in the community, be professionals in the disciplines of historic preservation, architecture, history, architectural history, planning, archeology, or related disciplines, including urban planning. Three of the members shall either live or own property in the Historic District. One of the five members shall be a person recommended by the Historic Beaufort Foundation who is a member of its board of directors.

2. Terms, Appointment

All members shall be appointed by the City Council for terms of two years. All terms shall end on June 30 of the applicable year and members must continue to serve until their successors are appointed. The City Council, upon recommendation of the City Manager, may also appoint annually an architect or individual with demonstrated architectural or historic preservation expertise to serve as a professional advisor to the Board. The professional advisor shall not be a voting member of the Board. Appointments to the Board shall comply with the City Council's resolution establishing the guidelines for appointments to City Boards/Committees as adopted on November 9, 1993 and revised from time to time.

3. Current Members

Members of the Historic District Review Board on the effective date of this UDO shall continue to serve until their respective terms expire.

4. Term Limits

No member may serve for more than two successive terms, except for extraordinary circumstances where the City Council believes it to be in the best interest of the community to have a continuation for a specific period of a particular member of the Board. This limitation shall not prevent any person from being appointed to the Board after an absence of one year. Service for a partial term of less than 1½ years shall not constitute a term of service for purposes of this Section.

5. Vacancies

Any vacancy in the membership shall be filled for the unexpired term in the same manner as the initial appointment.

6. Removal

The City Council may remove any member appointed by the City of Beaufort for cause by majority vote of the Council.

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7. Compensation

Members shall serve without pay. Members may be reimbursed for actual expenses incurred in the performance of their duties from available funds approved in advance by the Administrator.

E. Officers, Meetings, Quorum

1. Officers

The Board shall elect a Chairperson and Vice-Chairperson from its voting members, who shall serve for one year and may be reelected to an additional one year term. The Board shall also appoint a secretary who may be an employee of the City. The maximum terms of office for each officer shall be two consecutive years.

2. Meetings

Meetings of the Historic District Review Board shall be held at the call of the Chairperson and at such other times as the Board may determine. All meetings shall be open to the public.

3. Quorum

At least three of the members of the Historic District Review Board must be present to constitute a quorum.

4. Notice of Meetings

Reasonable notice of the time, place and agendas of the meetings shall be given to the public. The news media shall be contacted in accordance with state law.

5. Rules of Proceeding

a. The Historic District Review Board shall adopt and adhere to rules of procedure for the conduct of business.

b. An abstention from voting shall be considered a vote to deny the motion.

6. Minutes

The Historic District Review Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating that fact.

F. Powers and Duties

1. It shall be the function of the Historic District Review Board to pass upon the appropriateness of altering, constructing or demolishing any building or structure within the Beaufort Historic District in accordance with Section 3.20, Certificate of Appropriateness, except for those applications where that authority has been delegated to the Administrator.
2. In exercising the authority granted the Historic District Review Board under this article, the Board may call upon the advice of any professionals it deems appropriate and any costs incurred for such consultation may be paid for with funds approved for such use by the City Council.
3. The Historic District Review Board shall maintain an inventory of historic properties within the City of Beaufort and make such information available to the public.

UDO 000023

ROA 734

4. The Historic District Review Board shall have the opportunity to comment on National Register nominations proposed for any building within its jurisdiction at its discretion.

G. Conflicts of Interest

Any member of the Historic District Review Board who shall have a direct financial interest in any property which is subject matter of, or affected by, a decision of the Historic District Review Board shall be disqualified from participating in the discussion, decision, or proceedings of the Historic District Review Board in connection therewith.

H. Staff

The Historic District Review Board shall use the Department of Planning and Development Services when appropriate.

2.8 Design Review Board

A. Creation

There is hereby created the Design Review Board for the purpose of reviewing and taking action on the development applications subject to the ordinance, guidelines, and standards established in Section 6.6 Design Districts.

B. Territorial Jurisdiction

The Design Review Board shall have jurisdiction over all lands within the Design Districts.

C. Membership, Terms and Compensation

1. Number, Appointment

a. The Design Review Board shall be appointed by the City Council.

b. The Design Review Board shall be composed of five voting members who either are residents of the City of Beaufort, own property within the City or hold a current City of Beaufort business license. The Design Review Board is to include three design professionals, and two citizen representatives. With regard to the design professional positions, it is preferable that the positions be as follows: one landscape architect, one architect, and one engineer. With regard to the citizen representatives, it is preferable that one representative be a business owner, operator, or employee of a business within one of the corridors.

c. Appointments to the Board shall comply with the City Council's resolution establishing the guidelines for appointments to City Boards/Committees as adopted on November 9, 1993 and revised from time to time.

2. Terms

All terms shall be for two years. All terms shall expire on June 30 of the applicable year and members must continue to serve until their successors are appointed.

3. Current Members

Members of the Design Review Board on the effective date of this UDO shall continue to serve until their respective terms expire.

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3.20 Certificates of Appropriateness

A. Applicability

1. A Certificate of Appropriateness shall be required for any construction activity in any historic district, including:
   a. New structures;
   b. Modification or expansion of existing structures; and
   c. Demolition or partial demolition of any structure.
2. No structure that is outside the Historic District that is listed on the "Beaufort County Historic Sites Survey -1997" may be demolished or partially demolished until an application for a Certificate of Appropriateness has been submitted and processed in accordance with this UDO.
3. A certificate of appropriateness shall not be required for any of the following activities:
   a. Routine repair and maintenance; and
   b. Replacement in-kind, where there is no change in color or materials.
4. For the purposes of this Section, the term "structure" shall include:
   a. Buildings;
   b. Walls or fences;
   c. Signs;
   d. Light fixtures; or
   e. Anything else constructed or erected, the use of which requires a permanent or semi-permanent location on the ground or which is attached to something having a permanent or semi-permanent location on the ground.

B. Hearings on Certificate of Appropriateness Applications

1. The Administrator may approve applications for a Certificate of Appropriateness for the following types of projects:
   a. Individual signs;
   b. Fences;
   c. Paint color
   d. Roof materials;
   e. Canopies and awnings;
   f. Site changes; and
   g. Demolition of noncontributing accessory structures (ex., sheds, carports, etc.)
2. The Historic District Review Board shall review all other applications for Certificates of Appropriateness.

ROA 736

3. Evidence of approval of a Certificate of Appropriateness shall be in writing by the Administrator.

C. Guidance Standards, Maintenance of Consistent Policies

In order to provide guidance and insight into desirable goals and objectives for the Beaufort Historic District, the documents described in this section are hereby adopted for use by the Historic District Review Board in the exercise of its authority granted under Section 2.7 of this UDO.

1. The "Beaufort Preservation Manual," August 1979, and the "Beaufort Preservation Manual, Supplement," August 1990, prepared for the City by John Milner Associates, shall be utilized by the Board for review of projects located within the Beaufort Preservation Neighborhood.
2. The "Northwest Quadrant Design Principles," May 1999, prepared for the City by Winter & Company, shall be utilized by the Board for the review of projects located within the Beaufort Conservation Neighborhood.
3. The Secretary of Interior's "Standards for Rehabilitation" shall be utilized for projects within both districts.
4. Any special area standards as adopted by the Board.

D. Approval of Certificate of Appropriateness

1. In passing upon an application to demolish or demolish in part, or remove, or alter the exterior architectural appearance of any existing structure, the Board shall consider, among other things, the historic, architectural and aesthetic features of such structure, the nature and character of the surrounding area, the use of such structure and its importance to the City.
2. In passing upon an application for new construction in the Beaufort Historic District, the Board shall consider, among other things, the general design, the character and appropriateness of design, scale of buildings, arrangement, texture, materials and color of the structure in question, and the relation of such elements to similar features of structures in the immediate surroundings. The Board shall not consider the interior arrangement or interior design unless the interior arrangement or design affect the exterior appearance; nor shall it make requirements except for the purpose of preventing developments which are not in harmony with the prevailing character of the Beaufort Historic District, or which are obviously incongruous with this character.
3. The Board may refuse a Certificate of Appropriateness for the erection, reconstruction, alteration, demolition, partial demolition, or removal of any structure within the Historic District, which in the opinion of the Board, would be detrimental to the interests of the City.
4. Upon receiving an application for demolition or partial demolition of a structure which is listed in the "Beaufort County Historic Sites Survey-1997" and lies within the limits of the City but outside the Beaufort Historic District, the Board, within 45 days after receipt of the application, shall either approve such application, or find that the preservation and protection of historic places and the public interest will be best served by postponing the demolition for a designated period, which shall not exceed 180 days from the receipt of the application, and notify the applicant of such postponement.

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5. In all applications involving the demolition of the primary structure on a lot or of a contributing accessory structure, provisions shall be made for a public hearing as set forth in Section 3.1.
6. In any case involving the demolition or partial demolition of a structure, before granting approval or requiring a postponement, the Board may call on the Building Official to provide them with a report on the state of repair and structural stability of the structure under consideration.
7. Within the period of postponement of such demolition or alteration of any building, the Board shall take steps to ascertain what the City Council can or may do to preserve such building, including consultation with private civic groups, interested private citizens and other public boards or agencies and including investigation of the potential use of the power of eminent domain when the preservation of a given building is clearly in the interest of the general welfare of the community and of certain historic and architectural significance. The Board shall then make such recommendations thereabout to the City Council as the Board may determine to submit.
8. In case of disapproval, the Historic District Review Board shall state the reasons therefore in a written statement to the applicant and may give verbal advice to the applicant and make recommendations in regard to appropriateness of design, arrangement, texture, material, color and the like of the property involved.

E. Review Criteria

All development within the historic districts shall be reviewed in accordance with the guidance standards listed in paragraph C above. Among other grounds for considering a design inappropriate and requiring disapproval and resubmission are the following defects:

1. Arresting and spectacular effects;
2. Violent contrasts of materials or colors and intense or lurid colors;
3. A multiplicity or incongruity of details resulting in a restless and disturbing appearance;
4. The absence of unity and coherence in composition not in consonance with the dignity and character of the present structure in the case of repair; or
5. Construction of or remodeling or enlargement of an existing building in a manner not consistent with the prevailing character of the neighborhood.

F. Report to Building Official

Upon approval of the plans, the Historic District Review Board shall forthwith transmit a report to the Building Official stating the basis upon which such approval was made and cause a Certificate of Appropriateness to be issued to the applicant. If the Board shall fail to take action upon any case within 45 days after the receipt of application for permit, the application shall be deemed to be approved, except where written agreement has been made for an extension of the time limit.

G. Issuance of Certificate of Appropriateness

When a Certificate of Appropriateness and Building Permit have been issued, the Building Official shall, from time to time, inspect the alteration or construction

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approved by such certificate and shall report such inspection to the Board listing all work inspected and reporting any work not in accordance with such certificate or violating any ordinances of the City.

H. Denials of Certificate of Appropriateness

Upon disapproval of the plans, the Board shall state its reasons for doing so and transmit a record of such action and reasons therefore in writing to the applicant. In addition to stating the reasons for denial, the Board may also make general or specific recommendations in order for the application to be approved. The applicant may then make modifications to the plans and resubmit the application. Reconsideration of an application for demolition which has been denied by the Historic District Review Board may not be heard until 12 months from the date of the original public hearing, unless a major change has occurred in the property condition attributable to vandalism or natural causes, such as fire or weather.

I. Appeal

A person having substantial interest may make an appeal from a Historic District Review Board decision to the Circuit Court of Beaufort County within 30 days after the decision of the Board is postmarked.

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**10" except where property abuts a non-industrial zoning district when 35' is required.

6.4 Beaufort Historic District Standards

A. General Requirements

1. No structure within the Historic District may be erected, demolished or removed, in whole or in part, nor may the exterior architectural character of such structure be altered until after an application for a Certificate of Appropriateness has been submitted to the Historic District Review Board and approved by it. A Certificate of Appropriateness shall be required for all permanent signs including permanent window signs displaying business name, proprietor, or logo and for all window neon signs or neon displays. A Certificate of Appropriateness shall not be required for temporary signs (e.g., going out of business signs) and standard auxiliary signs (e.g., "open," "welcome," hours of operation, credit card decal signs),
2. No structure that is within the limits of the city, but outside the Historic District that is listed in the "Beaufort County Historic Sites Survey- 1997" may be demolished or removed in whole or in part, until an application for a Certificate of Appropriateness has been submitted to the Board and either approved by it or the period of postponement provided for in Section 3.20.D has expired.
3. Evidence of the approval required above shall be a Certificate of Appropriateness issued by the Historic District Review Board as created herein. Such certificate shall be a statement signed by the Administrator stating that the demolition or changes in the exterior, appearance of the proposed construction, reconstruction, alteration, or restoration for which application has been made are approved by the Historic District Review Board.

B. Exclusions

1. Ordinary maintenance and repair of any of the existing features of a structure that does not involve a change in design, type of materials, or outward appearance shall be exempt from the review and approval requirements of this UDO.
2. Nothing in this UDO shall be construed to prevent the construction, reconstruction, alteration or demolition of any elements of a structure which the authorized municipal officers certify as required by public safety.
3. Repairs and renovations to existing structures which do not alter the exterior appearance need not be approved by the Historic District Review Board.

C. Display of Merchandise

Merchandise may be displayed in the front of commercial establishments within the Historic District only in compliance with the following:

1. Merchandise shall be displayed outdoors during business hours only;
2. Merchandise shall not be placed on the public sidewalk or within the right-of-way without approval of the City Manager. If merchandise is displayed on any privately-owned sidewalk, a minimum of 42 inches of the sidewalk as measured

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from the curb must remain open and unobstructed to facilitate safe pedestrian circulation;

3. Merchandise shall be displayed outdoors only within 5' of the building and only in front of the building or the tenant space;

4. Merchandise shall be arranged and spaced so as not to clutter the front of the property, as determined by the Administrator;

5. Areas designated for vehicular parking may not be used as outdoor display areas;

6. For purposes of this section, merchandise is defined as any item that is for sale on the premises or is representative of an item that is for sale on the premises, regardless of whether or not that particular item is available for purchase; and

7. Vending machines, (except newspaper vending machines), realty advertising racks, phone booths and other street furniture visible from the public right-of-way shall not display any advertising or other commercial message, except where such advertising or commercial message is counted as a sign under Section 7.2, Sign Regulations. Premises not meeting the requirements of this section shall be brought into compliance within one year of the effective date of the UDO.

D. Trash Facilities

All private trash receptacles shall be hidden or screened from view. Unscreened facilities shall come into compliance with the provisions of this section within 18 months of adoption of this UDO.

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H. Development Design Review

1. Applicants shall submit the following items for review by the Design Review Board before an application shall be considered complete:
   - **a.** Photographs, including a general view of the street showing the building site and adjacent properties (i.e. the streetscape); individual photographs of the buildings immediately adjacent to and across from the site; and a frontal view of the building site from the street;
   - **b.** Site plan meeting the requirements of Section 3.8;
   - **c.** Floor plans and elevation drawings showing the design of all elevations, proposed grade, finish floor elevations, roof slopes, mechanical vents and equipment, location and type of outdoor lighting fixtures, location of signage, proposed materials including walls, roofs, gutters and down spouts, and porches and railings; and
   - **d.** Material specifications which can include samples, brochures, and or photographs of all exterior materials, finishes, colors, and fixtures.
2. Preliminary project review requires items (1) and (2) above. Final project review requires items (1) through (4) above.
3. A conceptual presentation requires item (1) above; a site plan to scale showing the existing site and location of proposed changes; and conceptual elevation drawings showing the proposed design of the building.

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I. Certificate of Appropriateness Requirements

All of the following data shall be filed with the Administrator which shall allow the data to be made available to the Board.

1. Drawings required for alterations and/or additions to existing structures or for new construction. Every application for review involving (a) alterations and/or additions to existing structures in the Beaufort Historic District or (b) existing structure erected prior to 1900 or (c) the erection of any new structure within the Beaufort Historic District shall be accompanied by drawings signed by the architect or draftsman and submitted in duplicate, for the proposed alterations, additions or changes, and for new construction of buildings or property use. In cases where the planning staff determines that a third set of plans will be needed due to the complexity of a project, the applicant shall submit a third set upon request. As used herein, drawings shall mean plans and exterior elevations drawn to scale with sufficient detail to show, as far as they relate to exterior appearances, the architectural design of buildings, including proposed materials, textures and colors, including samples of materials or color samples and the site plan or site layout, including all improvements affecting appearances such as walls, walks, terraces, planting, accessory buildings, signs, lights and other elements. Such documents shall be filed with the office of planning and community development, which shall allow such documents to be made available to the board.
2. Photographs required with application for demolition of existing structures. In the case of application for the demolition of structures within the city constructed prior to 1900 or the demolition of an existing structure situated within the Beaufort Historic District, regardless of age, the applicant shall submit legible photographs of all sides of the building under consideration and photographs showing contiguous properties.
3. Photographs required with applications for repair, alteration, and/or additions to existing structures. In the case of application to repair, alter or make additions to a structure within the city constructed prior to 1900 or to structure situated within the Beaufort Historic District regardless of age, the application shall be accompanied by legible photographs of all sides of the structure.
4. Photographs required with applications for new construction. In the case of application to construct a new building situated within the Beaufort Historic District the application shall be accompanied by legible photographs of the adjoining properties.

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STATE OF SOUTH CAROLINA)) COUNTY OF BEAUFORT)	IN THE COURT OF COMMON PLEAS FOURTEENTH JUDICIAL CIRCUIT CASE NO.: 2021-CP-07-01241
Historic Beaufort Foundation) Petitioner,)) v.)) City of Beaufort, City of Beaufort Historic) District Review Board, and The Beaufort) Inn, LLC,)) Respondents.)))	**MEMORANDUM OF CITY OF BEAUFORT AND BEAUFORT HISTORIC DISTRICT REVIEW BOARD IN OPPOSITION TO PETITION OF APPEAL**

Respondents City of Beaufort ("City") and City of Beaufort Historic District Review Board ("HRB") (collectively, "City Defendants") hereby submit their Memorandum in Opposition[1] to the appeal of the HRB decision of June 9, 2021 by the Petitioner Historic Beaufort Foundation (HBF) as follows:

I. INTRODUCTION

This matter arises from two long-pending development projects in the Historic District of downtown Beaufort: a hotel project ("Hotel Project") and associated parking garage project ("Parking Garage Project") by Respondent Beaufort Inn, LLC ("Beaufort Inn"), and the latest decisions of the City's Historic District Review Board (HRB) (an architectural review board) approving certain aspects of those projects. Notwithstanding years of approvals by these projects at various stages by the HRB, Petitioner has waited until after the Parking Garage Project approvals were nearly complete, and years after the Hotel Project was approved to file an appeal of the last

[1] A virtually identical appeal of the HRB decision was also filed by the Historic Beaufort Foundation in Civil Action No. 2021-CP-07-0141. This memo with few substantive changes has also been filed in that action.

and latest HRB decisions regarding these projects. Simply put, if they wanted to protest the height, mass and scale issues involved with these projects, as they attempt to do in the current appeal, Petitioner has waited far too late, and are not statutorily permitted to do so now.

These appeals of the HRB decisions are but one part of a recent fight by West Street Farms, LLC and Mix Farms, LLC (collectively, the "Trask Petitioners"), two entities owned or controlled by Graham Trask, and the Historic Beaufort Foundation, Inc. ("HBF"), which for years sat on the sidelines as these projects were developed without complaint. Indeed, during the years of conceptual and preliminary approvals of these projects, HBF had a designated seat on the HRB, which voted unanimously in favor of these earlier applications.

Prior to these petitions by the Trask Petitioners and HBF, the Trask Petitioners began a broad attack on the two projects by a lawsuit filed on April 5, 2021 captioned "*West Street Farms, LLC and Mix Farms, LLC v. City of Beaufort, Beaufort Inn, LLC, and 303 Associates*," Civil Action No. 2021-CP-07-00663 ("Lawsuit"), which seeks to attack these two project and another, claiming that the three projects did not comply with the City of Beaufort's development code, primarily on the basis that the three projects each required a special exception by the City's Zoning Board of Appeals to move forward. The special exception requirement was not a requirement under the City's prior development code (the UDO), but is a requirement under the current code (The Beaufort Code).

The City and Beaufort Inn, LLC each answered the Complaint in the Lawsuit, and each asserted in their respective Answers that both the Hotel Project and the Parking Project were begun, and work progressed under various permits, prior to the implementation of the current development code, and therefore Beaufort Inn, LLC had vested rights under the UDO, so that no special exception by the ZBOA was needed for those two projects. The voluminous Answer of

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Beaufort Inn, LLC to the Lawsuit ("BI Answer") was also filed with the HRB for its June 9, 2021 hearing and is part of the Record here. See Exhibit 3 to Record, R. 297-479. Although the Lawsuit concerns matters outside the purview of the HRB, and are not properly part of this appeal, the BI Answer and its exhibits, which are part of the Record here, provide background and context to the decisions of the HRB that are part of the current appeal.

II. STANDARD OF REVIEW

"On appeal, the findings of fact by the [HRB] shall be treated in the same manner as a finding of fact by a jury, and the court may not take additional evidence." *Helicopter Sols., Inc. v. Hinde*, 414 S.C. 1, 8-9, 776 S.E.2d 753, 757 (Ct. App. 2015) (alteration in original) (quoting *Wyndham Enters., LLC v. City of North Augusta*, 401 S.C. 144, 147, 735 S.E.2d 659, 661 (Ct. App. 2012)); see S.C. Code Ann. § 6-29-840(A) (Supp. 2020) ("The findings of fact by the board of appeals must be treated in the same manner as a finding of fact by a jury, and the court may not take additional evidence.").

"In reviewing the questions presented by the appeal, the court shall determine only whether the decision of the [HRB] is correct as a matter of law." *Helicopter Sols., Inc.*, 414 S.C. at 9, 776 S.E.2d at 757 (alteration in original) (quoting *Wyndham Enters*., 401 S.C. at 147-48, 735 S.E.2d at 661). "However, a decision of a [HRB] will be overturned if it is arbitrary, capricious, has no reasonable relation to a lawful purpose, or if the board has abused its discretion." *Id*. (quoting *Wyndham Enters*., 401 S.C. at 148, 735 S.E.2d at 661). "An abuse of discretion occurs when a trial court's decision is unsupported by the evidence or controlled by an error of law." *Newton v. Zoning Bd. of Appeals for Beaufort Cnty*., 396 S.C. 112, 116, 719 S.E.2d 282, 284 (Ct. App. 2011) (quoting *County of Richland v. Simpkins*, 348 S.C. 664, 668, 560 S.E.2d 902, 904 (Ct. App. 2002)).

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III. BACKGROUND

A. The Applicable Zoning Codes

The City of Beaufort's current development code ("Code" or "the Beaufort Code") governing development matters was enacted effective **June 27, 2017** pursuant to the State of South Carolina's enabling legislation at S.C. Code § 6-29-710 *et seq*. Prior to the enactment of the Beaufort Code, the City's development code was known as the Unified Development Ordinance ("UDO") which had been adopted on January 28, 2003 (last revised September 14, 2012.) The Beaufort Code superseded the UDO when enacted. The UDO provided for a Historic District Review Board ("HRB") at Section 2.7 which is a board of architectural review established pursuant to the State's enabling legislation for such bodies at S.C. Code Ann. § 6-29-870 *et seq*. The Beaufort Code, when enacted, similarly provided for the HRB at Section 10.7.

The HRB is essentially a specialized architectural review board, which has jurisdiction throughout the Beaufort Historic District. Code § 10.7.2.A. Generally speaking, the HRB reviews alterations to structures in the Beaufort Historic District and "will seek to preserve and protect the historic character and architectural integrity of Beaufort's National Landmark Historic District." Code § 10.7.1.B. Among its duties, the HRB reviews and takes action on "any Major Certificates of Appropriateness" pursuant to Section 9.7.1 of the Code. Code § 10.7.2.B.1. A "Certificate of Appropriateness" ("COA") is required before a new structure can be built in the Historic District. Code § 9.10.A.1. On large projects that can take years to develop, the HRB under both the UDO and the Code follows a stepped procedure of conceptual approval, preliminary approval, and final approval.[2]

[2] See Code Section 9.10.2 at diagram stating "HRB Review and Decision (Approved, Approved with Conditions, Denied) 2-3 Phases (Conceptual, Preliminary, and Final are Typical)." Also see, Appendix I to the UDO, which has similar descriptions.

The UDO required any appeal of the HRB to be within thirty (30) days of the decision. See UDO, ¶ 3.20.I.[3] See S.C. Code ¶ 6-29-900(1)("The appeal must be filed within thirty days after the affected party receives actual notice of the decision of the board of architectural review.") The same is now true of the Beaufort Code; under the Code, there is still only a thirty-day window to appeal decisions of the HRB. See Code, ¶ 9.10.I.[4]

B. The Parking Garage Project

As mentioned, both the Parking Garage Project and the Hotel Project have been in process for years. Indeed, the City and Beaufort Inn executed a Memorandum of Understanding dated **March 22, 2017** (before the enactment of the Beaufort Code) which stated that upon approval by the HRB of any and all construction on the projected project site, "the City, for itself, and in recognition of the extensive project design and planning expenses/costs that have been and will be incurred by Owner, agree[d] that it will grant such approvals, without exception." See BI Answer, ¶¶ 12-18, R. 306-309; Ex. I, R. 394-396. The City and Beaufort Inn have been cooperating and working toward these projects for years. This is reflected in the conceptual and preliminary project applications, which were approved by the HRB.

The Parking Garage Project was first presented by Beaufort Inn to the HRB at its **August 17, 2016** meeting. This was prior to the enactment of the Beaufort Code. After a lengthy meeting with much discussion, the HRB gave unanimous conceptual approval of the Parking Garage, calling it a "496 space, 186,000 square foot parking garage." See BI Answer, ¶6.c., R.

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3 UDO Section 3.20.I stated: "A person having substantial interest may make an appeal from a Historic District Review Board decision to the Circuit Court of Beaufort County within 30 days after the decision of the Board is postmarked." Each HRB letter confirming the granting of a Certificate of Appropriateness in the Record is dated.

4 Beaufort Code § 9.10.I states: "Any party aggrieved by the decisions of the HRB may appeal to the circuit court within 30 days of the decision."

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299, and Ex. C (HRB meeting minutes), R. 336-360. As noted in the HRB meeting minutes, the mass, scale and height of the proposed Parking Garage were discussed and approved. R. 360. The Executive Director of the HBF, Maxine Lutz, was present at the meeting and expressly stated that "this seems like a wonderful way to develop this parcel," but then qualified that statement that the HBF was "primarily interested in the height, mass, and scale of a parking garage." See BI Answer, ¶6.c R. 299, and Ex. C, page 20 of Minutes, R. 347. The HRB then unanimously gave conceptual approval of the mass, height and scale.

No party appealed the decision of the HRB granting conceptual approval of the mass, height and scale of the Parking Garage Project, including the HBF, which had its Executive Director present.

The HRB then at its **November 9, 2016** meeting advised Beaufort Inn that a condition of further development of the Parking Garage was the demolition of structure at 310 West Street. The HRB voted unanimously to allow this demolition, and issued a Certificate of Appropriateness dated November 14, 2016 granting Beaufort Inn permission for the demolishing of 310 West Street, for the specific purpose of building the Parking Project in that space. See BI Answer, ¶6.f., R. 300, and Ex. G, R. 390. By follow up hearing on February 8, 2017, and letter dated February 15, 2017, the HRB issued a COA to Beaufort Inn, LLC to relocate the building at 918 Craven Street, again as part of the Parking Garage Project. See BI Answer, ¶6.d-g and j, R. 299-302, 361-398. The City issued permits for both this demolition and building relocation, which were completed by Respondent Beaufort Inn. There was no appeal of either of these decisions by the HRB, or the Certificates of Appropriateness that were issued.

On **September 20, 2017**, the HRB met and unanimously voted to grant preliminary approval to the Parking Garage Project as memorized by the City's October 9, 2017 letter. See

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Supplemental Record, p. 8; also see BI Answer, ¶6.n-o, R. 303-04; and Transcript pages 113:5-11, R. 114. In that letter granting preliminary approval, the City's Project Development Planner stated "The HRB clarified that the current drawings were approved as submitted, and that the applicant was tasked with refining the details listed above in order to received final approval." The preliminary approval did not change the height, mass and scale issues which had previously received conceptual approval. Many members of the public, and representatives of HBF, were present and participated in this September 20, 2017 HRB meeting. There was similarly no appeal of this preliminary approval of the Parking Garage Project.

The Parking Garage Project was submitted to the HRB for final approval at its **June 9, 2021** meeting. The final approval did not involve any elements of mass, scale or height but dealt with the architectural and aesthetic details set forth in preliminary approval. As noted the HRB's October 9, 2017 preliminary approval letter, the *only things that needed to be addressed* by Beaufort Inn for final approval were:

> the type and color of the concrete, a lighting plan, a plan for screening mechanical equipment, removal of awnings, and a certified arborist report and plan for the 'treatment of trees.' The HRB clarified that the current drawings were approved as submitted, and that the applicant was tasked with refining the details listed in order to receive final approval.

See Supplemental Record, p. 8. Thus, for all practical purposes, the hearing on final approval of Garage Parking Project had a very limited agenda and list of items to be considered.

HRB staff recommended final approval of the Parking Garage Project with minor additional conditions. See Supplemental Record, Staff Report, R. 69-71; Transcript of meeting, 164:12-169:22, R. 164-168.

The Petitioners in their appeals attack the Parking Garage Project generally, disagreeing with the mass, scale and height and citing to many provisions of the Code and various documents

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Petitioner claims are relevant. However, the HRB members specifically discussed whether or not the HRB could revisit prior approvals given to Beaufort Inn for the Parking Garage Project and the HRB specifically decided they could not. Four of the five HRB members specifically stated that it was not their position to revisit approvals given by the HRB at prior meetings. See Transcript, 169:22-170:14, (R. 169-170); Transcript, 170:22-171:10, (R. 171-172); Transcript, 171:20-172:14, (R. 172-173); and Transcript, 174:2-9; 175:8-13, (R. 174, 175.) Therefore, the HRB specifically discussed and rejected Petitioners claims that the HRB could revisit matters already decided favorably to Beaufort Inn in prior meetings.

After a 4 ½ hour hearing, involving many members of the public, the HRB voted 4-1 to give final approval to the Parking Garage Project. See Transcript, 174:14-176: 8, R. 175-176. The HRB issued a letter dated June 15, 2021 confirming final approval. See Exhibit 4 to Hearing Transcript, R. 476-477. The petitions appealing this HRB decision followed.

C. The Hotel Project

The Hotel Project matter currently being appealed is a request of a change after certification. That is, the Hotel Project has had final approval and a COA two years ago and Beaufort Inn by its current application (R. 287-288) requested several changes to the original HRB approval to construct the Hotel Project. In their appeal, Petitioners attempt to reargue matters decided years ago by the HRB, and seek to vastly expand the scope of what was actually heard at the June 9, 2021 HRB meeting. The issues complained of now by the Petitioners involve elements of the Hotel Project which were approved in 2019, and which were not challenged or appealed at that time. Thus, the Petitions are (1) time barred; and (2) present issues far beyond this Court's scope of review.

The Hotel Project was first presented to the HRB and received unanimous HRB conceptual

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approval on **September 14, 2016**. See BI Answer, ¶12.a, R. 306. This was prior to the enactment of the Beaufort Code in 2017. Therefore, the Hotel Project began under the UDO. Indeed, at the HRB meeting of June 9, 2021, the chair of the HRB recognized that the UDO governed this matter. See Transcript, 27:2-8; R. 28. There was no appeal of the HRB's conceptual approval.

As earlier stated, City and Respondent Beaufort Inn executed a Memorandum of Understanding dated **March 22, 2017** while the UDO applied, concerning the Hotel Project concept (and the Parking Garage Project concept). See BI Answer, ¶¶ 12-18, R. 306-309; Ex. I, R. 394-396. This MOU stated that upon approval by the HRB of any and all construction on the projected project site, "the City, for itself, and in recognition of the extensive project design and planning expenses/costs that have been and will be incurred by Owner, agree[d] that it will grant such approvals, without exception." See BI Answer, ¶¶ 12-18, R. 306-309; Ex. I, R. 394-396.

The Hotel Project's preliminary approval was issued unanimously by the HRB on **July 25, 2017**. See BI Answer, ¶12.d., R. 307, Ex. U, R. 442-443. There was no appeal of the preliminary approval of this COA approving the Hotel Project design.

The Hotel Project was granted a final approval and Certificate of Appropriateness at the HRB's **October 9, 2019** meeting. See Transcript, 29:14-19, R. 29. The HRB issued its Certificate of Appropriateness by letter dated October 9, 2019. See BI Answer, R. 447. There was no appeal of this COA.

The HRB also required that Beaufort Inn demolish the building at 812 Port Republic Street in order to build the Hotel Project, per the HRB meeting minutes for the **November 13, 2019** meeting. See BI Answer, R. The HRB granted Beaufort Inn a COA demolish this building on November 13, 2019. See BI Answer, ¶12.g, R. 307-308; 449, 451. There was no appeal or other

challenge from this decision. Beaufort Inn obtained a demolition permit from the City per this COA on December 17, 2020. See BI Answer, ¶12.h, R. 308, 453, and completed this demolition.

Beaufort Inn determined that it wanted to make certain changes to the approved COA for the Hotel Project. To that end, it applied for a "Change After Certification" for the Hotel Project on **March 4, 2021**. See Record, 287-288. The items Beaufort Inn requested to be changed from the original approved COA were: slight changes in exterior design for storefronts; revised cornice design, revised porte-cochere design, change in type of doors, and a proposed new roof deck. See HRB Staff Report, R. 285. Those items are described in the HRB Staff's Summary of Request issued by the HRB Staff presented to the HRB, see R. 284-286, opining on Beaufort Inn's application for the change. See R. 284-288. HRB staff supported all of the requested changes. See R. 286. The rooftop change was to add a rooftop amenity space. See Transcript, 29:19-30:11; R. 30-31.

Petitioner has not directly challenged any of these changes to the Hotel Project except the rooftop change. Mr. Trask, the owners of the Trask Petitioner, complained at the June 9, 2021 HRB meeting about mass and scale of the entire Hotel Project, not just the matters at issue with respect to the changes proposed at the meeting. See Transcript, 50:18-59:11, R. 51-60. Trask also claimed, without evidence, that the new "rooftop bar []increases the size and scale of this hotel by 25 percent because it's a 4th floor. The HRB chair acknowledged that the HRB would consider that issue, but not the original mass and scale of the Hotel Project. See Transcript, 51:11-22: R. 52; Tran. 53:3-54:4; R. 54-55.

However, this claim by Trask was refuted by the Hotel Project design architect, Ken Ramsey, who said that a 4th floor was not being added and the size of the building was not being increased by 25%. See Transcript, 93:4-11; R. 94; Transcript, 94:11-13, R. 95. The HRB

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obviously accepted Mr. Ramsey's testimony over the opinion of Mr. Trask, as it approved Beaufort Inn's application. Assessing development plans, and differing interpretations of those plans, is part of the normal function of the HRB. In this case, after making such assessment, the HRB decided in favor of the applicant. There was clearly evidence in the record to support the HRB's decision.

Notwithstanding Petitioner's claims, the HRB felt that the prior approvals of the Hotel Project were final and could not be changed by the HRB. At the beginning of the June 9, 2021 HRB meeting under appeal, the Chair noted:

> I will explain, also, at this point that we are at final, which means mass, scale, and all of those items have all been dealt with and voted upon in advance. We will not be relitigating them, we will not be going back over all of those details today. We're only here today to review the last details for this project and then to make a decision to approve or not.

See Transcript, 28:2-11; R. 29. This is consistent with the view the HRB took of prior approvals of the Parking Garage Project as well, see *supra*.

The Change after Certification for the Hotel Project was then approved by a 4-1 vote of the HRB. See Transcript, 110:22-112:10, R. 111-113. These appeals followed.

IV. ARGUMENTS

A. The Appeals of the Parking Garage Project Final Approval Should be Denied.

1. The Appeals are Untimely.

It is too late to appeal the mass, height and scale of the Parking Garage Project. There have been multiple levels of approvals of the Parking Garage prior to the June 9, 2021 HRB meeting. The June 9, 2021 meeting only covered certain limited additions that were not material to mass, scale or height of the Parking Garage. Any complaint with the mass, scale or height of the Parking Garage could and should have been made as an appeal of the HRB decisions on such

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on many prior occasions. Under both the UDO and the Beaufort Code, a person aggrieved by a decision of the HRB has thirty days to appeal that decision. There was no appeal of any of the following decisions of the HRB regarding the Parking Garage Project:

- August 17, 2016 HRB Meeting grants conceptual approval of Garage Parking Project.
- November 9, 2016 HRB Meeting grants COA for demolition (and later relocation) of 918 Craven Street and the demolition of 310 West Street for Parking Garage Project.
- September 20, 2017 HRB Meeting grants preliminary approval for Parking Garage Project with October 9, 2017 City letter.

It is well settled that the failure to appeal within the ordinance timelines renders the court with no jurisdiction to determine such appeal. *Strother v. Lexington County Recreation Comm'n*, 332 S.C. 54, 63 n. 6, 504 S.E.2d 117, 122 n. 6 (1998); *Blind Tiger, LLC v. City of Charleston*, 366 S.C. 182, 186, 621 S.E.2d 361, 362–63 (Ct. App. 2005).

The HRB itself felt that it had conclusively decided the issues raised by the Petitioner in its prior meetings over the years regarding the Parking Garage Project, and it was too late for the Petitioner to raise such issues at the final approval stage. The Court should defer to the HRB's determination of its scope of review of prior approvals. "We give great deference to the decisions of those charged with interpreting and applying local zoning ordinances." *Gurganious v. City of Beaufort*, 317 S.C. 481, 487, 454 S.E.2d 912, 916 (Ct. App. 1995).

Thus, the failure of any party to appeal any of the prior approvals by the HRB of the Parking Garage Project means that the Court is without jurisdiction to hear an appeal of any matter decided by one of the prior HRB meetings. As the Petitioner attacks the existence of the Parking Garage Project itself, and nothing specifically with respect to those minor issues reviewed for final

approval by the HRB at its June 9, 2021 meeting, their appeals are untimely and must be denied.[5]

B. The Appeals of the Hotel Project Change Should Be Denied.

1. The Appeal is Untimely.

The COA for final approval for the Hotel Project was granted at the HRB October 9, 2019 meeting. There was no appeal from that decision or from the conceptual or preliminary design approval decisions of the HRB beforehand. Petitioner could and should have appealed these decision if they did not agree with the COA or the issues that were approved. Their failure to so appeal renders the Court without jurisdiction to hear an appeal of any issue decided at that HRB meeting, including the issuance of the Hotel Project COA. *Strother v. Lexington County Recreation Comm'n*, 504 S.E.2d at 122 n. 6.

Further, as recognized by the HRB, the only issues that could be discussed properly at the June 9, 2021 HRB meeting with respect to the Change after Certification Request by Beaufort Inn were the changes under consideration by the HRB at that meeting, not any prior approvals granted. The Court should defer to the HRB's determination of the scope of its agenda. *Gurganious v. City of Beaufort*, 454 S.E.2d at 916. Thus, the appeals of the Petitioner to the extent they address anything other than the matters raised only in the Change after Certification application are untimely and should be denied.

2. To the Extent the Petitioners Challenge Matters within the Scope of the HRB Meeting, there is Evidence to Support the HRB's Decision.

5 Petitioners argue that the approvals granted to Beaufort Inn for the Parking Garage Project expired and thus the application for final approval was not properly before the HRB. However, the City granted two extensions to Beaufort Inn, one by letter of June 21, 2019 and one by letter of July 1, 2020, pursuant to § 9.1.4 of the Code, which allows up to five one-year extensions. See Transcript of Hearing, 112:20-114:22, (R. 113-114); Supplemental Record, p. 9-10. There are no time limitations on extensions for conceptual, preliminary, or final approvals for COAs other than those stated in § 9.1.4. See Code § 9.1.9.C. Thus, the City was within its discretion to provide such extensions, and such extensions were accepted by the HRB in its discretion. See *Gurganious v. City of Beaufort*, 454 S.E.2d at 916.

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As noted, the only item at the June 9, 2021 HRB meeting that Petitioner timely challenged with respect to the Hotel Project was the change to the rooftop design. However, there was clearly evidence in the record to support the HRB's decision as the project architect presented his opinion and plans that the design was essentially minimal and not obstructive. Petitioner presented no evidence (only one man's opinion) that the roof design might change the mass of the roof in some respect. By the HRB comments on the record, and by its decision approving the application, the HRB rejected the layperson's opinion and accepted the architect's opinion.

A court may not reverse the finding of the HRB unless the [HRB's] findings of fact have no evidentiary support or the [HRB] commits an error of law. *Gurganious v. City of Beaufort*, 317 S.C. 481, 487, 454 S.E.2d 912, 916 (Ct. App. 1995.) "A court will refrain from substituting its judgment for that of the reviewing body, even if it disagrees with the decision." *Furr v. Horry Cnty. Zoning Bd. of Appeals*, 411 S.C. 178, 184, 767 S.E.2d 221, 224 (Ct. App. 2014) (quoting *Clear Channel Outdoor v. City of Myrtle Beach,* 372 S.C. 230, 234, 642 S.E.2d 565, 567 (2007)). "The party challenging a governmental body's decision bears the burden of proving the decision is arbitrary." *Pressley v. Lancaster County*, 343 S.C. 696, 704, 542 S.E.2d 366, 370 (Ct. App. 2001). Petitioners have failed to meet this burden. They do not argue that the HRB's decision was arbitrary; rather, they in general disagree with prior HRB decisions that were not challenged. Thus, the HRB decision must stand.

C. The HRB has No Jurisdiction over BZA Matters.

Petitioner claims that the HRB should not act on either the Parking Garage Project or the Hotel Project because they argue that both require a Special Exception issued by the City's Zoning Board of Appeals ("ZBOA") for a Large Footprint Building pursuant to the Beaufort Code. Petitioner is incorrect for several reasons.

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First, as noted, the Parking Project and the Hotel Project were initiated under the UDO, not the Beaufort Code. As held by the HRB, and affirmed by the City in the Lawsuit, these two projects were to be assessed under the UDO, not the Beaufort Code.

Second, there is no provision in Beaufort Code requiring ZBOA approval of any project **before** HRB approval. Indeed, Section 9.2.5 of the Beaufort Code allows applicants to apply for approvals concurrently at its own risk. Section 9.1.4 of the Beaufort Code outlining "Permit/Process Type Table" has no indication of sequential ordering of applications as between the ZBOA and the HRB.

Third, the HRB has completely different functions from ZBOA. The ZBOA per Section 10.3.1.C.1 of the Code: "shall hear and decide appeals where it is alleged there is error in an order, requirement, decision or determination made by an Administrative Official in the enforcement of the Code." The ZBOA thus has no authority over HRB matters as the HRB is not an "Administrative Official" as defined in Section 13.1 of the Code. As noted by HRB member at the June 9, 2021 meeting, the HRB does not determine Special Exceptions, so any issue for a Special Exception was not an impediment to the HRB. See Transcript, 105:5-106:4; R. 106-107.

Fourth, the Petitioners know that there is no connection between the HRB's functions and the ZBOA's functions, as the alleged failure of Beaufort Inn to obtain Special Exceptions from the ZBOA is already the subject of the Lawsuit pending before the Court. If the HRB was the correct forum for such an issue, the Petitioners would not have brought the Lawsuit.

Therefore, there is no validity to the arguments by Petitioners regarding Special Exceptions before the HRB, and the HRB properly disregarded such arguments.

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V. CONCLUSION

As shown, the size, scale, height and mass issues with both the Hotel and Parking Garage projects were addressed and decided by the City's Historic Review Board in numerous proceeds well before the June 9, 2021 meeting under appeal. All of these prior HRB decisions were by unanimous vote, and there was no challenge or appeal by anyone to these hearings and decisions. More importantly, in reliance upon these decisions, and the permits that were issued by the City thereafter, Respondent Beaufort Inn demolished two buildings, moved a third building, and otherwise spent large sums in designs and refinements. It would be highly improper, and totally inequitable, to allow Petitioner to revisit these very fundamental issues at this late stage.

The issues before the HRB on June 9, 2021, on both the Hotel Project and the Parking Garage Project were limited in nature. The HRB had significant application packages before them, including detailed color architectural and engineering diagrams, and City staff reports and recommendations. The HRB held conducted a 4 ½ hour hearing, in which many members of the public, including Petitioners Graham Trask and representatives from Historic Beaufort Foundation, spoke, often very passionately. The HRB heard from the Applicant and his professional representatives, and professionals from the City. After this extended discussion, the HRB voted 4-1 in favor of both applications.

It is not the Court's prerogative to revisit on appeal the findings and decisions of the HRB that are supported by evidence in the record, and are not arbitrary and capricious. With this lengthy unchallenged procedural background, and the record currently before the Court, there is ample evidentiary support for the decisions of the HRB on both projects. The City and HRB would therefore request that the Court affirm the HRB's decisions of June 9, 2021, and deny the current appeal.

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Beaufort, SC
November 12, 2021

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STATE OF SOUTH CAROLINA COUNTY OF BEAUFORT	)))	IN THE COURT OF COMMON PLEAS FOURTEENTH JUDICIAL CIRCUIT CASE NO.: 2021-CP-07-01241
Historic Beaufort Foundation, Petitioner, v. City of Beaufort and City of Beaufort Historic District Review Board, and Beaufort Inn, LLC, Respondents.	)	**HISTORIC BEAUFORT FOUNDATION'S MEMORANDUM IN SUPPORT OF PETITION AND NOTICE OF APPEAL**

The Historic Beaufort Foundation ("Petitioner") files this memorandum in support of its petition, pursuant to S.C. Code Ann. § 6-29-900 and Section 9.10 of The Beaufort Code ("the Code"), appealing the decision of the Historic District Review Board ("Board") issued on June 9, 2021 and in reply to the responses filed by the City of Beaufort, the City of Beaufort Historic District Review Board and Beaufort Inn, LLC (collectively "Respondents").

INTRODUCTION

On June 9, 2021, the Board approved plans for a new hotel to be constructed at 812 Port Republic Street (the "Hotel") and a parking garage to be built at 918 Craven Street (the "Parking Garage"). Each of these structures individually are multiple times larger across all dimensions and metrics than any other building in historic downtown Beaufort. As approved by the Board, the Parking Garage is 4 levels tall with a front facade of approximately 300 linear feet, square footage of approximately 160,000 square feet, volumetric mass approaching 3 million cubic feet, and room to accommodate 484 vehicles. The Hotel has a proposed fourth-story roof-top bar, a front façade of approximately 170 linear feet, square footage of approximately 50,000, and

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volumetric mass of approximately 1 million cubic feet.

The John Mark Verdier House (the "Verdier House") owned by the Petitioner, is one of the finest examples of federal architecture in South Carolina and is in the immediate vicinity of the proposed Hotel. As a point of comparison, the Verdier House is approximately 5,500 square feet and has volumetric mass of 50,000 cubic feet. The Parking Garage is 60 times larger, and the Hotel is 20 times larger in volumetric mass than the Verdier House. Construction of these massive new buildings would completely overwhelm the Verdier House and the rest of the built environment. Clearly, the Hotel and the Parking Garage benefit from their location in the National Landmark Historic District, but the neighboring properties, the historic district in general and the Verdier House in particular, will be adversely impacted by light, noise, congestion and other factors. The process that preceded the approvals at issue was marred by a series of legal errors and procedural irregularities which ultimately led to decisions which are arbitrary, capricious and contrary to law. Therefore, the approval of those projects should be reversed by this Court.

FACTUAL BACKGROUND

The Petitioner is a nonprofit corporation organized in 1965 and existing pursuant to the laws of the State of South Carolina with its principal place of business located at 208 Scotts Street in Beaufort South Carolina. The Petitioner owns the Verdier House located at 801 Bay Street and operates it as a museum open to the public. The Verdier House is in the immediate vicinity of the property located at 812 Port Republic Street which is owned by Respondent Beaufort Inn, LLC, separated by less than one hundred (100) feet of real estate and two small, one-story buildings.

The City of Beaufort, South Carolina (the "City") is a municipal corporation as defined in S.C. Code Ann. § 5-1-20 and body politic created by and subject to the laws of the State of South Carolina. The Board is a five-member Board of architectural review appointed by the members of

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Beaufort City Council pursuant to Section 10.7 of The Beaufort Code Section in accordance with the authority granted by S.C. Code Ann. § 6-29-870. According to the City's website, the Board's mission is "to aid in the preservation, protection and enhancement of the Beaufort National Historic Landmark District."

Upon information and belief, Beaufort Inn LLC (the "LLC") is a limited liability company organized and existing pursuant to the laws of the State of Georgia that is authorized to do business and does business in Beaufort County, South Carolina. Upon information and belief, the LLC owns the two parcels located in the City of Beaufort that are the subject of this Petition and Notice of Appeal: 812 Port Republic Street (Property Identification No. 120-004-000-0984); and 918 Craven Street (Property Identification No. 121-004-000-0850-0000).

STANDARD OF REVIEW

Pursuant to S.C. Code Ann. § 6-29-900(A) "[a] person who may have a substantial interest in any decision of the board of architectural review or any officer, or agent of the appropriate governing authority may appeal from any decision of the board to the circuit court…" S.C. Code Ann. § 6-29-900(A). Section 9.10.2(I) similarly provides that "[a]ny party aggrieved by the decisions of the HRB may appeal to the circuit court within 30 days of the decision. In reviewing a decision by a board of architectural review, the circuit court should act when the board abuses its discretion by committing errors of law or bases its decision on findings of fact that are not supported by the evidence. Blind Tiger, LLC v. City of Charleston, 366 S.C. 182, 185, 621 S.E.2d 361, 362 (Ct. App. 2005); see also Gurganious v. City of Beaufort, 317 S.C. 481, 486, 454 S.E.2d 912, 915 (Ct.App.1995).

I. THE APPROVALS ARE INVALID DUE TO NUMEROUS LEGAL ERRORS

A. The Board erred in granting final approval under the UDO because any prior approvals had expired by the terms of the ordinance.

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At the outset of the hearing on the Hotel application, the Chair announced that the application would be considered under the Unified Development Ordinance ("UDO"). That announcement was surprising because prior to the hearing on June 9th, the Hotel never received any approval under the UDO. The Beaufort Code was adopted on June 27, 2017 and replaced the UDO as of that date. The Hotel Project was originally presented in a July 12, 2017, Board meeting, fifteen (15) days after The Beaufort Code was adopted.

Furthermore, the official July 12, 2017, minutes indicate that the Hotel "is being evaluated under the new Beaufort Code," confirming that the Hotel was considered under The Beaufort Code and not the UDO. During the July 12, 2017, meeting, the Hotel received preliminary approval. Under the UDO, specifically item 3.1.M.3c, conceptual and preliminary approvals expire after 18 months and cannot be renewed beyond 18 months. Under table 9.1.4 of The Beaufort Code any approval under that ordinance expired 24 months thereafter. However, the next approval for the Hotel was not issued until nearly 27 months later on October 9, 2019, when the owner was issued a "Certificate of Appropriateness." Therefore, the Hotel's preliminary approval expired under the terms of the ordinance prior to the alleged approval of the Hotel's "Certificate of Appropriateness".

It is telling that the "Certificate of Appropriateness", dated October 9, 2019, and signed by the chairman of the Board confirms that the Hotel was evaluated under The Beaufort Code. The Certificate of Appropriateness specifically referenced Section 9.4.1 of The Beaufort Code. It did not reference the UDO.

Since the Hotel had no valid preliminary approval under either the UDO or The Beaufort Code on June 9, 2021, and it was legal error for the Board to consider the application for final approval as a necessary legal prerequisite had not been satisfied.

B. <u>Any approval of the Parking Garage under the UDO expired before June 9, 2021</u>

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The approval of the Parking Garage suffers from a similar legal infirmity. There are three levels of approval required to achieve a Certificate of Appropriateness: Conceptual, Preliminary, and Final. On August 17, 2016, the Board, granted conceptual approval with conditions for the Parking Garage. Assuming, without conceding, that the Garage was conceptually approved under the UDO, the Parking Garage received preliminary approval from the City as evidenced by a letter written by Lauren Kelley, former project development planner for City of Beaufort dated October 9th, 2017, which referenced a September 20, 2017, Board meeting. A copy of that letter was included in the application for the June 9th meeting at page 195.

The preliminary approval for the Parking Garage was granted on September 20, 2017, after the UDO was repealed and replaced by The Beaufort Code. Under the terms of the UDO that approval expired on March 20, 2019, i.e., 18 months after the issuing of the preliminary approval and could not be renewed. Consequently, the Parking Garage application was not eligible for consideration of final approval at the June 9, 2021 hearing, because the preliminary approval for the Garage expired over two years before the Board heard the final approval application.

C. <u>The Board never issued a Certificate of Appropriateness for the Parking Garage</u>

Yet another legal error is that the Board granted final approval for the Parking Garage based on an erroneous understanding that the Parking Garage had previously been granted a "Certificate of Appropriateness." Both the UDO and The Beaufort Code require an applicant to apply for a Certificate of Appropriateness. The Board then votes on final approval of the project. When the Board grants final approval, a Certificate of Appropriateness may be issued.

The consideration of a Certificate of Appropriateness is not a mere technicality. It is a substantial compliance issue and vital to the Board's approval process as shown by the language of Section 9.10(c) of The Beaufort Code which details the following process and criteria for

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granting a Certificate of Appropriateness:

> In reviewing an application, the [Board] shall conduct a public meeting and consider, among other things, the historic, architectural and aesthetic features of such structure, the nature and character of the surrounding area, the use of such structure and its importance to the city, the character and appropriateness of design, scale of buildings, arrangement, texture, materials and color of the structure in question, and the relation of such elements to similar features of structures in the immediate surroundings.

David Prichard, Director of Economic Development and Community Planning for the City of Beaufort issued two letters dated June 20, 2019, and July 21, 2020 which were included in the materials for the June 9th meeting at pages 196 and 197 which purported to extend a "Certificate of Appropriateness" for the Parking Garage that never actually existed in the first place. To further compound the legal confusion, Mr. Prichard referenced section 9.1.4 of The Beaufort Code as the basis for the extensions. Mr. Prichard did not reference the UDO. Clearly, it was error for the Board to consider the application for the Parking Garage, since the prior approval under the UDO had expired, and any further action relating to the parking Garage would have to proceed under The Beaufort Code.

Instead of considering the Parking Garage application submitted for the June 9th meeting, the Board should have required the applicant to begin the process anew under the terms of The Beaufort Code. The Beaufort Code is clear on this point. Section 1.4.2 (B) provides that

> If the applicant elects to have the pending application reviewed in accordance with the prior standards, the City shall review and decide the application in good faith and in accordance with any time frames established by the prior standards. If the application is approved, and the approval or subsequent authorization of the approved development expires or becomes invalid (e.g., for failure to comply with time limits or the terms and conditions of approval), any subsequent development of the site shall be subject to the procedures and standards of this Code.

Because the Board failed to follow this clear directive, the Court should vacate the approval and

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remand the Parking Garage application to the Board for proper consideration.

D. <u>Neither application should have been considered in the absence of a Special Exception from the City of Beaufort Board of Zoning Appeals.</u>

Both the Hotel and the Parking Garage amount to a Large Footprint Building as that term is defined under The Beaufort Code. The Beaufort Code controls consideration of both of these projects. Section 4.5.10 (B)(5) of The Beaufort Code requires a Large Footprint Building to secure a Special Exception from the Zoning Board of Appeals ("ZBOA"). According to the rules that the City wrote for itself, neither application could proceed before the Board without satisfying the condition precedent of obtaining a Special Exception from the ZBOA. However, the applicant did not request or receive a Special Exception for either project. Absent the Special Exceptions required by Section 4.5.10 (B)(5) of The Beaufort Code the Board had no jurisdiction to consider either application approved on June 9th.

II. THE APPROVALS WERE ARBITRARY AND CAPRICIOUS AND CONTRARY TO LAW BECAUSE THERE IS NO SUPPORTING EVIDENCE IN THE RECORD.

In addition, the approvals must be reversed because the Respondent, Beaufort Inn, LLC, failed to present any evidence that the Hotel or Parking Garage qualified for approval under of the guidance documents that govern the Board's decision-making as a matter of law, as provided in The Beaufort Code, Section 9.10.2 (B). Absent such evidence, the Board's decision to grant approval was arbitrary and capricious and an error of law.

As noted earlier, the Parking Garage plan that was approved is 4 levels tall with a front facade of approximately 300 linear feet, square footage of approximately 160,000 square feet, volumetric mass approaching 3 million cubic feet, and accommodates over 475 vehicles. The Hotel has a proposed fourth-story roof-top bar, a front façade of approximately 170 linear feet, square footage of approximately 50,000; and volumetric mass of approximately 1 million cubic

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feet. At the hearing on June 9th the 4th floor rooftop bar was treated as previously approved even though the addition of that element indisputably affected the height, scale and mass of the Hotel. The applicant did not present evidence on those issues and the Board approved the Hotel without giving any consideration to the effect of the 4th floor on the Hotel's height, scale and mass. That decision was not based on any evidence in the record and was contrary to law.

Each of these structures individually are multiple times larger by every measure than any other building in historic downtown Beaufort. City staff requested scale models of these buildings in 2016, but the applicant was never required to present models illustrating the true impact of the Hotel and the Garage on the historic district. The applicant did not submit scale models in support of the applications and the Board's determination that the projects were compatible with the character of the surrounding neighborhood has no support in the record and is contrary to law.

The Verdier House owned by the Petitioner, is one of the finest examples of federal architecture in South Carolina and is in the immediate vicinity of the proposed Hotel. As a point of comparison, the Verdier House is approximately 5,500 square feet and has volumetric mass of 50,000 cubic feet. The Parking Garage is 60 times larger, and the Hotel is 20 times larger in volumetric mass than the Verdier House. Construction of these massive new buildings would completely overwhelm the Verdier House and the rest of the built environment. The Hotel and the Parking Garage obviously benefit from their location in the National Landmark Historic District, but the neighboring properties and the district in general and the Verdier House in particular will be adversely impacted by light, noise, congestion and other factors if the approval of those projects are not reversed.

The Parking Garage and the Hotel are both infill projects which are subject to special criteria addressed in Section 4.1 of The Beaufort Code. Specifically, Section 4.1 provides:

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4.1.1 PURPOSE

The purpose of this section is to:

A. protect and enhance Beaufort's unique aesthetic character
B. support high quality streets and public spaces
C. encourage architecture that blends harmoniously with the natural surroundings and neighboring development
D. safeguard property values and long-term economic assets
E. carefully preserve the character of Beaufort's National Historic Landmark District while permitting appropriate growth.

The Parking Garage and the Hotel, even in the absence of the Hotel's proposed fourth story rooftop bar, are not compliant with any of the stated points of 4.1 Purpose and Intent of Infill Projects given their outsized proportions and are completely out of character in Beaufort's National Historic Landmark District.

Additionally, there was no meaningful review of the architectural details of either the Hotel or the Parking Garage on June 9th. The applicant never constructed a sample wall to allow City staff or the Board an opportunity to review the building elements, construction materials or proposed workmanship. At the very least a sample should have been required and reviewed and Board approval without reviewing a sample had no basis in the record and was contrary to law.

The Hotel was granted approval with little or no details about the solar panels that will be installed on the building. It is apparent in the record that there was some concern by the Board about the design of the panels and their visibility, but no details were provided and the Board simply abrogated its legal duty to review evidence and deny the approval if the evidence was lacking as it was in this instance.

Section 4.2.3 of The Beaufort Code provides:

4.2.3 RELATIONSHIP TO HISTORIC DISTRICT STANDARDS

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a. Applicability: In addition to the standards and guidelines in this article, any development located within the Beaufort Historic District is subject to the standards, guidelines, and procedures established in Section 9.10.
b. Conflicts: In the event of a conflict between the requirements of this article and the requirements and guidance provided by the documents listed in 9.10.2.B, the later shall take precedence.

2. In Section 9 of The Beaufort Code, 9.10: CERTIFICATE OF APPROPRIATENESS outlines, the following specific criteria that infill projects in the Historic District must meet in order to be approved to include: a) Compatibility; b) No Adverse Impact; and c) Consistency with Adopted Plans.

Neither the Parking Garage nor the Hotel are compatible in downtown historic Beaufort given their height, scale, and mass; they will each individually have irreparable adverse impact on the character of downtown Beaufort and have already triggered the National Parks Service's intervention. Because of the threat that each of these structures poses to the Beaufort National Historic Landmark District, the National Parks Service has started an "Integrity and Condition Study for the Beaufort National Historic Landmark District". Moreover, the director of its State Historic Preservation Office, W. Eric Emerson, Ph.D., wrote a letter discouraging the approval of the Parking Garage. In that letter Dr. Emerson stated, "When we refer to the established design guidelines for the City of Beaufort, (Beaufort Preservation Manual dated 1979, and the 1990 Supplement), we see more inconsistencies with the guidelines than consistencies.". The contents of the Park Service notification to the City and the Emerson's letter were part of the record before the Board and referenced in the public comments to the Board.

9.10.2.B.1 then specifically requires that the Board utilize the "Beaufort Preservation Manual," August 1979, and the "Beaufort Preservation Manual, Supplement," August 1990 in evaluating infill projects. The manual specifically mandates that new construction have appropriate scale, absolute size, massing, and proportions to the surrounding buildings and

townscape. The manual also includes illustrations of examples of prohibited buildings such as those that are significantly taller and/or wider and/or have a significantly larger footprint and/or have a significantly larger mass than surrounding buildings and within the townscape. The size and incompatibility of Hotel and the Parking Garage are immensely beyond even the illustrated prohibited structures.

Sections 4, 9, and the Beaufort Preservation Manual all clearly prohibited Board approval of the Parking Garage and prohibited a fourth story rooftop bar for the Hotel. The UDO, which has been superseded by The Beaufort Code, also required that the Board evaluate infill buildings and structures in exactly the same manner as The Beaufort Code to ensure their: Compatibility, No Adverse Impact, and Consistency with Adopted Plans. The UDO also required that the Board abide by the "Beaufort Preservation Manual."

Counsel for the applicant argued in support of the Parking Garage that a parking Garage in the district is part of the City's master plan; however, neither the Vision Beaufort 2009 Comprehensive Master Plan nor the City of Beaufort Master Plan of 2014 contemplated a facility of the nature, size or scale of the Parking Garage approved on June 9th. Instead, those plans envisioned a parking Garage in the Historic District that was publicly owned for the benefit of citizens and visitors and appropriately scaled. The Parking Garage that was approved will be privately owned primarily for the benefit of the applicant's Hotel and other businesses. It is completely out of scale and proportion with the surrounding buildings and the overall character of the Historic District.

The applicants did not present evidence before the Board, or make arguments to the Board, establishing even a minimum compliance with any of the guidelines the Board is required to apply in its decision-making under The Beaufort Code (or the UDO, even if it were to apply). Based on

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this dearth of evidence before the Board, the Board erred in granting the relief requested by the applicants in the absence of even a minimum threshold of evidence by the applicant.

III. THE PETITIONER'S CLAIMS ARE NOT BARRED BY LACHES, WAIVER OR ESTOPPEL

In response to the Petition, the Respondents filed responses in which they allege that the claims are barred by the doctrines of laches, waiver and estoppel. The alleged factual premise of those three defenses is that a member of the Historic Beaufort Foundation (HBF) who also serves on the HRB voted in favor the projects in earlier stages of the process and did not object until "after Respondent had utilized significant time and money in the projects in reliance on those votes signifying HBF's approval."

Section 10.7.3 of the Beaufort Code provides the following specifications for the number and composition of the members of the HRB:

"The HRB shall consist of 5 members with an interest, competence, or knowledge in historic preservation. All HRB members shall be residents of the city, own property in the city, or own or operate a business in the city. To the extent that such is available in the community, 2 members shall, be professionals in the disciplines of historic preservation, architecture, landscape architecture, history, architectural history, planning, archeology, or related disciplines. Three of the members shall either live or own property in the Historic District. One of the 5 members shall be recommended by the Historic Beaufort Foundation."

At the time of the vote on June 9, the seat on the board which had been filled by Chuck Symes who was recommended by HBF to serve in that capacity had been vacant since April 2021. Mr. Symes moved out of the area, and therefore was not allowed to serve on the board any longer. Therefore, only 4 board members were present on June 9, 2021 for the final votes and did not include Mr. Symes. A new board took the helm July 1, 2021, and included Maxine Lutz who had been recommended by HBF to serve.

It is clear from the wording of the ordinance that the HRB member, is not an HBF representative but an HRB member who was recommended for consideration by HBF. Therefore,

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the voting record of that individual HRB member is not dispositive of Petitioner's claims in this appeal.

Furthermore, Respondents cannot demonstrate a factual basis for any of those defenses. Laches is an equitable doctrine defined as "neglect for an unreasonable and unexplained length of time, under circumstances affording opportunity for diligence, to do what in law should have been done." *Historic Charleston Holdings, LLC v. Mallon*, 673 S.E.2d 448, 456 (S.C. 2009), citing *Hallums v. Hallums,* 371 S.E.2d 525, 527 (S.C. 1988). In order to establish laches as a defense, a party must show that the complaining party unreasonably delayed its assertion of a right, resulting in prejudice to the party asserting the defense of laches. *Id.* citing *Strickland v. Strickland,* 650 S.E.2d 465, 469 (S.C. 2007). Here, although the projects took a significant amount of time to progress through the approval process, the Petitioner had no control over the timing of that process. The HRB's final decision on the Hotel and Parking Garage projects was not made until June 30, 2021, and the Petitioner filed a prompt and timely appeal from that decision within the time limitations provided in S.C. Code Ann. § 6-29-900 and Section 9.10 of The Beaufort Code. Consequently, the Respondents cannot prove the required elements of laches.

Likewise, the estoppel defense is substantively lacking. The doctrine of estoppel applies if a person, by his actions, conduct, words, or silence which amounts to a representation, or a concealment of material facts, causes another to alter his position to his prejudice or injury." *Rushing v. McKinney,* 633 S.E.2d 917, 924 (Ct.App.2006). As to the party being estopped, the essential elements are (1) conduct amounting to a false representation or concealment of material facts, or conduct calculated to convey the impression that the facts are different or inconsistent with those that the party subsequently attempts to assert; (2) intention or expectation that the conduct will be acted upon by the other party; and (3) knowledge, actual or constructive,

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of the real facts. *Brading v. County of Georgetown,* 490 S.E.2d 4, 7 (SC 1997). As to the party claiming estoppel, "the essential elements are (1) lack of knowledge and of the means of knowledge of the truth as to the facts in question, (2) reliance upon the conduct of the party estopped, and (3) prejudicial change in position." *Id.* 490 S.E.2d at 7–8. That defense is not supported by the record in this matter primarily because the conduct alleged as the basis for the defense is not the concealment or misrepresentation of facts.

A waiver is a voluntary and intentional abandonment or relinquishment of a known right. Generally, the party claiming waiver must show that the party against whom waiver is asserted possessed, at the time, actual or constructive knowledge of his rights or of all the material facts upon which they depended. *Janasik v. Fairway Oaks Villas Horizontal Prop. Regime*, 415 S.E.2d 384, 387–88 (S.C. 1992). The record is devoid of evidence that Petitioner voluntarily and intentionally abandoned its right to object to the approvals granted by the HRB on June 9, 2021.

IV. THE DEVELOPER DID NOT HAVE A VESTED RIGHT TO DEVELOP/CONTINUE THE PROJECTS

Finally, the Respondents City of Beaufort and City of Beaufort Historic District Review Board allege in the response that the Developers had vested rights to develop and/or continue the projects because of various factors including applications, decisions, approvals and permits submitted and approved, agreements and assurances by the City and the expenditure of funds by the Developers. However, none of those factors are sufficient to confer vested rights. The Vested Rights Act, effective July 1, 2005, was enacted to clarify when a landowner acquired those rights. Under the Vested Rights Act, a vested right is established for two years upon the approval of a site specific development plan. *Id*. § 6-29-1530 (A)(1).[1] That Act generally requires the local

[1] In the Act a site specific development plan is defined as a plan describing "with reasonable certainty the types and density of uses for specific property", and may include a "planned unit development; subdivision plan; preliminary or general development plan; variance; conditional use or special use permit plan;" etc.. *Id.* § 6-29-1520(9)

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government to establish a point in time in the zoning or land development plan approval process, before issuing the building permit, at which the landowner's right to use or develop vests, *id*. Section 6-29-1540 provides criteria for the standards and procedures in local land development ordinances and regulations. Under § 6-29-1560 of the Vested Rights Act, the issue of significant owner and government acts only comes into consideration if the local governing body does not have local development ordinances or regulations. The City of Beaufort adopted those standards and procedures, and therefore the factors alleged in this affirmative defense do not apply in this instance.

CONCLUSION

Neither the Parking Garage nor the Hotel had the requisite valid approvals from the City of Beaufort for the Board to consider these applications. Furthermore, the structures failed to meet even the minimal threshold requirements for infill projects as clearly defined in Sections 4 and 9 of The Beaufort Code and the Beaufort Preservation Manual. The Board failed as a matter of law to fulfill its duties under The Beaufort Code in evaluating these applications. Therefore, the approvals must be reversed by this Court and these issues should be remanded to the Board for further action and grant such other, further, or different relief as may be just and proper.

s/John A. Massalon
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November 12, 2021
Charleston, South Carolina

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF BEAUFORT	)	
	)	CASE NO.: 2021-CP-07-01231
West Street Farms, LLC, and Mix Farms, LLC,	)	
	)	
Petitioners,	)	
v.	)	
	)	
City of Beaufort, City of Beaufort Historic District Review Board, and The Beaufort Inn, LLC,	)	
	)	
Respondents.	)	

MEMORANDUM IN SUPPORT OF PETITIONERS' APPEAL

INTRODUCTION

The City of Beaufort's Historic District Review Board ("HRB") had no basis upon which to grant the applications of the owner of the proposed parking garage and hotel in the historic district. Both structures that would tower over the city as its largest buildings are out of scale and character for the district and would violate the most fundamental measures the HRB has to make its decisions. But, the HRB should never have even gotten to a decision on the merits of these structures. The earlier approvals that were the necessary predicates to these applications were either never obtained or had long expired under the City's ordinances. Additionally, the size and type of the buildings by definition require a Special Exception from the Board of Zoning Appeals before these applications can proceed, and the applicants never sought that approval. As a result, the HRB erred in granting both of these applications, and this Court should reverse the actions of the HRB and deny the applications: first, because they are premature, and second, if reached, because the applications do not satisfy the statutory criteria for approval.

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FACTS

Procedural History

The Beaufort Inn, LLC ("**Applicant"**) seeks to develop two properties that are the subject of this action:

- 812 Port Republic Street and 212 Scott Street, identified as R120, Tax Map 4, Parcel 984, as a 77-unit hotel building, with retail/commercial space on the ground floor and the hotel on the upper floors ("**Hotel**"); and
- 918 Craven Street for which it has sought approval of plans for a parking garage ("**Parking Garage**").

On June 9, 2021, the Applicant appeared before the HRB seeking two approvals: (a) Agenda Item No. IV(C) 812 Port Republic Street: Change after Certification for the Hotel, and (b) Agenda Item No. IV(D) 918 Craven Street, New Construction for the Parking Garage.

West Street Farms, LLC ("**West Street**") owns 205, 207, 209, and 221 West Street and Mix Farms ("**Mix Farms**") owns 211 Scott Street, all in the historic district of Beaufort and located adjacent to the proposed Hotel and Parking Garage. West Street and Mix Farms appeared and objected to the applications at the June 9, 2021, hearing, and a letter from their counsel detailing the basis of the objections was submitted as part of the record for both applications.

After the HRB's decisions, West Farms and Mix Farms timely appealed pursuant to S.C. Code Ann. § 6-29-900 and The Beaufort Code Section 9.10

Expiration Dates for Approvals under the UDO and The Beaufort Code

The current ordinance in the City of Beaufort that governs development and building approvals is The Beaufort Code, which was adopted effective June 27, 2017, and was updated on July 10, 2018. The Beaufort Code repealed and replaced the Unified Development Ordinance ("**UDO**") which governed development and building prior to that date.

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Under the UDO, Section 3.1 (M)(3)(c) specifically outlines expiration dates for City approvals: conceptual and preliminary approvals expire after 18 months and cannot be renewed beyond 18 months.

Likewise, under The Beaufort Code, a conceptual or preliminary approval is valid only for eighteen months.

Application Chronology

Parking Garage

On August 17, 2016, the HRB granted conceptual approval with conditions for the Parking Garage.

On July 12, 2017, the HRB approved a motion for the Parking Garage to undergo significant revision and come back to the HRB with a simpler design. By this point, The Beaufort Code had already been approved and was in effect.

On September 20, 2017, the HRB gave preliminary approval for the Parking Garage plan with various conditions. The then current drawings were approved as submitted and the Applicant was tasked with refining the design details in order to receive final approval. Lauren Kelly, acting for the City described that preliminary approval in a letter dated October 9, 2017, referencing September 20, 2017, HRB meeting.[1]

Under either the UDO or The Beaufort Code, preliminary approval for the Parking Garage expired on March 20, 2019, 18 months after the September 20, 2017, preliminary approval date.

David Prichard, on behalf of the City, in two letters dated June 20, 2019, and July 21, 2020[2], erroneously issued an extension of a "Certificate of Appropriateness" for the Parking Garage that had

[1] Ms. Kelley's letter was included on page 195 of the June 9, 2021, HRB meeting agenda documents and is part of the record of this appeal.

[2] On pages 196 and 197 respectively of the June 9, 2021's HRB meeting agenda.

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never been issued and did not exist. The Parking Garage never received a "Certificate of Appropriateness" from the HRB, a requirement under both the UDO and The Beaufort Code. Under either ordinance, a Certificate of Appropriateness could only be issued after final approval.

Also, in those two letters, David Prichard referenced The Beaufort Code section 9.1.4 as the governing code. Mr. Prichard did not reference the UDO.

Hotel Project.

Applicant made a preliminary submission of the Hotel Project in some form to the City in 2016, then made a new submission of the project to the City in 2017.

Lauren Kelly, representing the City, originally presented the Hotel Project in a July 12, 2017, HRB meeting, approximately two weeks after the Beaufort Code was adopted. The approved official July 12, 2017, minutes quote Lauren Kelly saying, "this project (the Hotel) is being evaluated under the new Beaufort Code," confirming that the Hotel was considered under the Beaufort Code, and not the UDO.

During this July 12, 2017, meeting, the Hotel received preliminary approval. According to the Beaufort Code, such preliminary approval expired on January 12, 2019, i.e., 18 months after the issuing of such preliminary approval.

The Applicant's next request for approval for the Hotel, however, was almost 27 months later on October 9, 2019, for a "Certificate of Appropriateness." Notably, the "Certificate of Appropriateness," dated October 9, 2019, and signed by John Dickerson, the current chairman of the HRB, specifically referenced the Beaufort Code and its Section 9.4.1 as the governing authority. It did not reference the UDO at all.

Large Footprint Buildings

The Hotel Project and the Parking Garage are located in the Downtown Core District (T5-DC) zoning district under the Beaufort Code. In the T5-DC transect zoning district, buildings are

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restricted to 100 feet building width at the frontage. Beaufort Code Sec. 2.4.1(D)(3). Buildings that exceed 100 feet building width must comply with the Large Footprint Building standards in Beaufort Code Sec. 4.5.10. Beaufort Code Sec. 2.4.1(D)(3), footnote 9.

The Beaufort Code defines Large Footprint Buildings as "a type often used by big-box, national retailers. In the T4 and T5 transect zones, they shall be integrated into the streetscape or screened with Liner Buildings (see Section 4.5.9)." Beaufort Code Sec. 4.5.10(A).

Large Footprint Buildings have various specific development requirements under Beaufort Code Sec. 4.5.10 (B)(1)-(7). One preliminary and fundamental requirement for Large Footprint Buildings is that in the Historic District, except along Boundary Street, Large Footprint Buildings "are permitted by Special Exception only." Beaufort Code Sec. 4.5.10 (B)(5).

The Hotel Project and the Parking Garage Project are located within the Beaufort Historic District (HD) Overlay as defined by Beaufort Code Sec. 2.7.1 and as shown on the official Zoning Map of the City of Beaufort.

Special Exceptions to the Beaufort Code may only be granted by the City of Beaufort Zoning Board of Appeals ("**ZBOA**") Beaufort Code Sec. 10.3.1(C)(3). The ZBOA has not considered or issued Special Exceptions to either the Hotel Project or the Parking Garage.

The Hotel Project as currently submitted has a 179-foot building width and, as such, must follow the Beaufort Code requirements for Large Footprint Buildings as specified in Sec. 4.5.10. The Hotel Project has not applied for or received a Special Exception by the ZBOA.

When the applications for preliminary approval of the Hotel Project was presented to the HRB in 2017, neither the City staff members nor the Applicant's agents presenting these plans for approval made the members of the HRB aware that these projects as planned were Large Footprint Buildings or of the requirement for Special Exception approval by the ZBOA of Large Footprint Buildings before further planning approval could be obtained. In fact, the HDRB was told at the 2017

meeting when that version of the Hotel Project was presented that "no zoning issues existed."

Like the Hotel Project, the Parking Garage is also a Large Footprint Building, having a frontage of 300 feet. Like the Hotel Project, the Applicant for the Parking Garage has sought or received a Special Exception from the ZBOA.

STANDARD OF REVIEW

In reviewing a decision by a board of architectural review, the circuit court should act when the board abuses its discretion by committing errors of law or bases its decision on findings of fact that are not supported by the evidence. *Blind Tiger, LLC v. City of Charleston*, 366 S.C. 182, 185, 621 S.E.2d 361, 362 (Ct. App. 2005), citing *Gurganious v. City of Beaufort*, 317 S.C. 481, 486, 454 S.E.2d 912, 915 (Ct. App. 1995).

ARGUMENT

I. THE HRB LACKED THE LEGAL AUTHORITY TO CONSIDER THESE APPLICATIONS.

Under either the UDO or The Beaufort Code, any approvals which the City may have granted the Parking Garage or the Hotel in the past have expired. As a result, neither of these applications had the requisite legal approvals to proceed before the HRB.

A. Any approval that the HRB may have granted the Parking Garage under the UDO had expired by June 9, 2021, and the HRB erred in acting on this application.

According to the UDO, such preliminary approval expired on March 20, 2019, i.e., 18 months after the issuing of the preliminary approval. The Parking Garage's preliminary approval under the UDO had expired long before the June 9, 2021, HRB meeting. The Parking Garage was therefore not eligible to proceed to final approval on June 9, 2021, almost 45 months after the issuing of the preliminary approval and almost 27 months after the preliminary approval's expiration.

It was error for the HRB to consider the application for a change after certification for the Parking Garage, since the prior action under the UDO no longer had any effect, and any further action

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relating to the parking garage would have had to have proceeded under The Beaufort Code. The Parking Garage was not eligible to proceed to final approval on June 9, 2021. Rather, the approval process had to begin again as the Parking Garage has no valid current approval.

B. Any application that the HRB had previously granted the Hotel was granted under The Beaufort Code, not the UDO, and that approval had expired by the terms of the ordinance.

Lauren Kelly, representing the City at the time, originally presented the Hotel Project in a July 12, 2017, HRB meeting, approximately two weeks after the Beaufort Code was adopted. The approved official July 12, 2017, minutes quote Lauren Kelly saying, "this project (the Hotel) is being evaluated under the new Beaufort Code," confirming that the Hotel is being considered under the Beaufort Code and not the UDO. During this July 12, 2017, meeting, the Hotel received preliminary approval. According to the Beaufort Code, such preliminary approval expired on January 12, 2019, i.e., 18 months after the issuing of such preliminary approval.

The next approval, however, for the Hotel was almost 27 months later on October 9, 2019, for a "Certificate of Appropriateness." Therefore, the Hotel's preliminary approval expired prior to the purported approval of the Hotel's "Certificate of Appropriateness". As a consequence, the Hotel's "Certificate of Appropriateness" issued on October 9, 2019, is null and void. Notably, though, the "Certificate of Appropriateness", dated October 9, 2019, and signed by John Dickerson, the current chairman of the HRB, specifically referenced the Beaufort Code and its Section 9.4.1 as the governing authority. It did not reference the UDO.

The Hotel had no approval under either the UDO or the Beaufort Code on June 9, 2021, and it was clear legal error for the HRB to proceed on the application.

C. Neither application could proceed before the HRB without each of these Large Footprint Buildings having first obtained a special exception from the City of Beaufort

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Board of Zoning Appeals.

Neither the Hotel nor the Parking Garage could proceed at all before the HRB without having first received a special exception from the City of Beaufort Zoning Board of Appeals, which neither had received. Each project is a Large Footprint Building under the Beaufort Code and neither has received a Special Exception as required by Beaufort Code Sec. 4.5.10 (B)(5).

The Beaufort Code controls both of these projects, as neither the Hotel nor the Parking Garage have vested rights under state law that would make the UDO the governing law for these applications. Rather, The Beaufort Code applies. Under the Vested Rights Act, a "vested right is established for two years upon the approval of a site-specific development plan." S.C. Code Ann. § 6-29-1530. A "Site specific development plan" means a development plan submitted to a local governing body by a landowner describing with reasonable certainty the types and density or intensity of uses for a specific property or properties. The plan may be in the form of, but is not limited to, the following plans or approvals: planned unit development; subdivision plat; preliminary or general development plan; variance; conditional use or special use permit plan; conditional or special use district zoning plan; or other land-use approval designations as are used by a county or municipality." S.C. Code Ann. § 6-29-1520(9).

There is no evidence in the record that any such site-specific development plan was ever submitted or approved for either of these projects. Further, even if a submission in 2016 or 2017 for one or the other was considered a site-specific development plan, there is no indication in the record that the Applicant either sought or was granted an extension of that two-year vested right under the statute. S.C. Code Ann. § 6-29-1530(A)(2)(b).

The applicants, not having received Special Exceptions from the City of Beaufort Zoning Board of Appeals for either the Hotel or the Parking Garage, could not proceed to obtain approval for either of these applications from the HRB, and the HRB had no jurisdiction to consider those

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applications.

II. THE HRB COMMITTED LEGAL ERROR IN GRANTING THESE APPLICATIONS WHERE THE APPROVALS LACK ANY LEGAL BASIS AND ARE NOT SUPPORTED BY THE FACTUAL RECORD.

The Applicant failed to present any evidence bringing the Hotel or Parking Garage projects within the parameters of the guidance documents that control the HRB's decision-making as a matter of law, as provided in The Beaufort Code, Section 9.10.2 (B). In the absence of such evidence, the HRB erred as a matter of law in granting the relief requested by the applications.

The Parking Garage is four stories tall with a front façade of over 300 linear feet, square footage of over 160,000 square feet, volumetric mass approaching 3 million cubic feet, and accommodates over 475 vehicles. The Hotel has a proposed fourth-story roof-top bar, a front façade of over 170 linear feet, square footage of approximately 50,000, and volumetric mass of over 1 million cubic feet. Each of these structures individually are multiple times larger across all dimensions and metrics than any other building in historic downtown Beaufort. As already stated, these two projects are so large that each individually is classified as a "Large Footprint Building" under The Beaufort Code and is specifically prohibited in downtown historic Beaufort unless a Special Exception is issued by the City of Beaufort Zoning Board of Appeals. Neither of these projects has a Special Exception.

By comparison and for context, the Verdier House, which itself is immediately adjacent to the proposed Hotel, has square footage of approximately 5,500 square feet and volumetric mass of 50,000 cubic feet. The Parking Garage is 60 times larger, and the Hotel is 20 times larger in volumetric mass than the Verdier House.

The Parking Garage and the Hotel are both infill projects. Section 4.1 of the Beaufort Code specifically addresses infill projects and dictates the following purpose and intent of infill projects:

4.1.1 PURPOSE

The purpose of this section is to:

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A. protect and enhance Beaufort's unique aesthetic character
B. support high quality streets and public spaces
C. encourage architecture that blends harmoniously with the natural surroundings and neighboring development
D. safeguard property values and long-term economic assets
E. carefully preserve the character of Beaufort's National Historic Landmark District while permitting appropriate growth.

The Parking Garage and the Hotel, even in the absence of the Hotel's proposed fourth story rooftop bar, are each individually incongruous with all five of the points of 4.1 Purpose and Intent of Infill Projects given their outsized proportions and are completely out of character in Beaufort's National Historic Landmark District.

Section 4.2.3 of the Beaufort Code goes on to address specifically for infill projects:

4.2.3 RELATIONSHIP TO HISTORIC DISTRICT STANDARDS

a. Applicability: In addition to the standards and guidelines in this article, any development located within the Beaufort Historic District is subject to the standards, guidelines, and procedures established in Section 9.10.
b. Conflicts: In the event of a conflict between the requirements of this article and the requirements and guidance provided by the documents listed in 9.10.2.B, the later shall take precedence.

In Section 9 of the Beaufort Code, **9.10: CERTIFICATE OF APPROPRIATENESS** outlines, for the HRB, the specific criteria that infill projects in the Historic District must meet in order to be approved to include: a) Compatibility; b) No Adverse Impact; and c) Consistency with Adopted Plans. Furthermore, the Approval of a Certificate of Appropriateness requires that the HRB "consider, among other things, the historic, architectural and aesthetic features of such structure, the nature and character of the surrounding area, the use of such structure and its importance to the city, the character and appropriateness of design, scale of buildings, arrangement, texture, materials and color of the structure in question, and the relations of such elements to similar features of structures in the immediate surroundings" (9.10.2.C).

Neither the Parking Garage nor the Hotel are compatible in downtown historic Beaufort given

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their size, scale, and mass; they will each individually have irreparable adverse impact on the character of downtown Beaufort and have already triggered the National Parks Service's intervention; and they are not consistent with adopted plans for the Beaufort historic district.

9.10.2.B.1 specifically requires that the HRB utilize the "Beaufort Preservation Manual," August 1979, and the "Beaufort Preservation Manual, Supplement," August 1990 in evaluating infill projects. These manuals dictate that infill buildings must interrelate with surrounding buildings. The manual specifically mandates that new construction have appropriate scale, absolute size, massing, and proportions to the surrounding buildings and townscape. The manual also provides drawings which show very clear examples of prohibited buildings such as those that are significantly taller and/or wider and/or have a significantly larger footprint and/or have a significantly larger mass than surrounding buildings and within the townscape.

Sections 4, 9, and the Beaufort Preservation Manual all clearly prohibited HRB approval of the Parking Garage and prohibited a fourth story rooftop bar for the Hotel. The UDO, which has been superseded by The Beaufort Code, also required that the HRB evaluate infill buildings and structures in exactly the same manner as the Beaufort Code to ensure their: Compatibility, No Adverse Impact, and Consistency with Adopted Plans. The UDO also required that the HRB abide by the "Beaufort Preservation Manual."

Because of the threat that each of these structures poses to the Beaufort National Historic Landmark District, the National Parks Service "NPS" has undertaken an "Integrity and Condition Study for the Beaufort National Historic Landmark District" and the South Carolina Department of Archives and History, in a letter from the director of its State Historic Preservation Office "SHPO", W. Eric Emerson, Ph.D., discouraged the approval of the Parking Garage. Dr. Emerson stated, "When we refer to the established design guidelines for the City of Beaufort, (Beaufort Preservation Manual dated 1979, and the 1990 Supplement), we see more inconsistencies with the guidelines than

consistencies." The contents of the NPS notification to the City and the SPHO's letter were part of the record before the HRB.

The Applicant did not present evidence before the HRB, or make arguments to the HRB, establishing even a minimum compliance with any of the guidelines the HRB is required to apply in its decision-making under The Beaufort Code (or the UDO, even if it were to apply). Based on this dearth of evidence before the HRB, the Board erred in granting the relief requested by the applicants in the absence of even a minimum threshold of evidence by the applicant.

SUMMARY

Neither the Parking Garage nor the Hotel had the requisite valid approvals from the City of Beaufort for the HRB to proceed to consider these applications. Beyond that, the merits of each of these structures fails to meet even the minimal threshold of requirements for approval in Sections 4 and 9 of The Beaufort Code and the Beaufort Preservation Manual. The HRB failed as a matter of law to fulfill its responsibility under The Beaufort Code in approving these applications, and, as a result, those approvals must be reversed by this Court.

Respectfully Submitted,

AUSTEN & GOWDER, LLC

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ATTORNEYS FOR PETITIONERS

November 12, 2021
Charleston, South Carolina

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STATE OF SOUTH CAROLINA COUNTY OF BEAUFORT	)))	IN THE COURT OF COMMON PLEAS FOURTEENTH JUDICIAL CIRCUIT CASE NO.: 2021-CP-07-01241
Historic Beaufort Foundation, Petitioner, v. City of Beaufort and City of Beaufort Historic District Review Board, and Beaufort Inn, LLC, Respondents.	)	**HISTORIC BEAUFORT FOUNDATION'S AMENDED MEMORANDUM IN SUPPORT OF PETITION AND NOTICE OF APPEAL**

The Historic Beaufort Foundation ("Petitioner") files this memorandum in support of its petition, pursuant to S.C. Code Ann. § 6-29-900 and Section 9.10 of The Beaufort Code ("the Code"), appealing the decision of the Historic District Review Board ("Board") issued on June 9, 2021 and in reply to the responses filed by the City of Beaufort, the City of Beaufort Historic District Review Board and Beaufort Inn, LLC (collectively "Respondents").

INTRODUCTION

On June 9, 2021, the Board approved plans for a new hotel to be constructed at 812 Port Republic Street (the "Hotel") and a parking garage to be built at 918 Craven Street (the "Parking Garage"). Each of these structures individually are multiple times larger across all dimensions and metrics than any other building in historic downtown Beaufort. As approved by the Board, the Parking Garage is 4 levels tall with a front facade of approximately 300 linear feet, square footage of approximately 160,000 square feet, volumetric mass approaching 3 million cubic feet, and room to accommodate 484 vehicles. The Hotel has a proposed fourth-story roof-top bar, a front façade of approximately 170 linear feet, square footage of approximately 50,000, and volumetric mass of

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approximately 1 million cubic feet.

The John Mark Verdier House (the "Verdier House") owned by the Petitioner, is one of the finest examples of federal architecture in South Carolina and is in the immediate vicinity of the proposed Hotel. As a point of comparison, the Verdier House is approximately 5,500 square feet and has volumetric mass of 50,000 cubic feet. The Parking Garage is 60 times larger, and the Hotel is 20 times larger in volumetric mass than the Verdier House. Construction of these massive new buildings would completely overwhelm the Verdier House and the rest of the built environment. Clearly, the Hotel and the Parking Garage benefit from their location in the National Landmark Historic District, but the neighboring properties, the historic district in general and the Verdier House in particular, will be adversely impacted by light, noise, congestion and other factors. The process that preceded the approvals at issue was marred by a series of legal errors and procedural irregularities which ultimately led to decisions which are arbitrary, capricious and contrary to law. Therefore, the approval of those projects should be reversed by this Court.

FACTUAL BACKGROUND

The Petitioner is a nonprofit corporation organized in 1965 and existing pursuant to the laws of the State of South Carolina with its principal place of business located at 208 Scotts Street in Beaufort South Carolina. The Petitioner owns the Verdier House located at 801 Bay Street and operates it as a museum open to the public. The Verdier House is in the immediate vicinity of the property located at 812 Port Republic Street which is owned by Respondent Beaufort Inn, LLC, separated by less than one hundred (100) feet of real estate and two small, one-story buildings.

The City of Beaufort, South Carolina (the "City") is a municipal corporation as defined in S.C. Code Ann. § 5-1-20 and body politic created by and subject to the laws of the State of South Carolina. The Board is a five-member Board of architectural review appointed by the members of

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Beaufort City Council pursuant to Section 10.7 of The Beaufort Code Section in accordance with the authority granted by S.C. Code Ann. § 6-29-870. According to the City's website, the Board's mission is "to aid in the preservation, protection and enhancement of the Beaufort National Historic Landmark District."

Upon information and belief, Beaufort Inn LLC (the "LLC") is a limited liability company organized and existing pursuant to the laws of the State of Georgia that is authorized to do business and does business in Beaufort County, South Carolina. Upon information and belief, the LLC owns the two parcels located in the City of Beaufort that are the subject of this Petition and Notice of Appeal: 812 Port Republic Street (Property Identification No. 120-004-000-0984); and 918 Craven Street (Property Identification No. 121-004-000-0850-0000).

STANDARD OF REVIEW

Pursuant to S.C. Code Ann. § 6-29-900(A) "[a] person who may have a substantial interest in any decision of the board of architectural review or any officer, or agent of the appropriate governing authority may appeal from any decision of the board to the circuit court…" S.C. Code Ann. § 6-29-900(A). Section 9.10.2(I) similarly provides that "[a]ny party aggrieved by the decisions of the HRB may appeal to the circuit court within 30 days of the decision. In reviewing a decision by a board of architectural review, the circuit court should act when the board abuses its discretion by committing errors of law or bases its decision on findings of fact that are not supported by the evidence. Blind Tiger, LLC v. City of Charleston, 366 S.C. 182, 185, 621 S.E.2d 361, 362 (Ct. App. 2005); see also Gurganious v. City of Beaufort, 317 S.C. 481, 486, 454 S.E.2d 912, 915 (Ct.App.1995).

I. THE APPROVALS ARE INVALID DUE TO NUMEROUS LEGAL ERRORS

A. The Board erred in granting final approval under the UDO because any prior approvals had expired by the terms of the ordinance.

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At the outset of the hearing on the Hotel application, the Chair announced that the application would be considered under the Unified Development Ordinance ("UDO"). That announcement was surprising. The Beaufort Code was adopted on June 27, 2017 and replaced the UDO as of that date. The Hotel Project was originally presented in a September, 2016, Board meeting, before The Beaufort Code was adopted. The September 14, 2016 minutes failed to record a vote; however the July 12, 2017 minutes indicate that Preliminary Approval was granted in September 2016.

The official July 12, 2017, minutes indicate that the Hotel "is being evaluated under the new Beaufort Code," confirming that the Hotel was considered under The Beaufort Code and not the UDO. During the July 12, 2017, meeting, the minutes failed to record whether the approval was for Conceptual or Preliminary. Under the UDO, specifically item 3.1.M.3c, conceptual and preliminary approvals expire after 18 months and cannot be renewed beyond 18 months. Under table 9.1.4 of The Beaufort Code any approval under that ordinance expired 24 months thereafter. However, the next approval for the Hotel was not issued until nearly 27 months later on October 9, 2019, when the owner was issued a "Certificate of Appropriateness." Therefore, the Hotel's preliminary approval expired under the terms of the ordinance prior to the alleged approval of the Hotel's "Certificate of Appropriateness."

It is telling that the "Certificate of Appropriateness," dated October 9, 2019, and signed by the chairman of the Board confirms that the Hotel was evaluated under The Beaufort Code. The Certificate of Appropriateness specifically referenced Section 9.4.1 of The Beaufort Code. It did not reference the UDO.

Since the Hotel had no valid preliminary approval under either the UDO or The Beaufort Code on June 9, 2021, and it was legal error for the Board to consider the application for final

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approval as a necessary legal prerequisite had not been satisfied.

B. <u>Any approval of the Parking Garage under the UDO expired before June 9, 2021</u>

The approval of the Parking Garage suffers from a similar legal infirmity. There are three levels of approval required to achieve a Certificate of Appropriateness: Conceptual, Preliminary, and Final. On August 17, 2016, the Board, granted conceptual approval with conditions for the Parking Garage. Assuming, without conceding, that the Garage was conceptually approved under the UDO, the Parking Garage received preliminary approval from the City as evidenced by a letter written by Lauren Kelley, former project development planner for City of Beaufort dated October 9, 2017, which referenced a September 20, 2017, Board meeting. A copy of that letter was included in the application for the June 9th meeting at page 195.

The preliminary approval for the Parking Garage was granted on September 20, 2017, after the UDO was repealed and replaced by The Beaufort Code. Under the terms of the UDO that approval expired on March 20, 2019, i.e., 18 months after the issuing of the preliminary approval and could not be renewed. Consequently, the Parking Garage application was not eligible for consideration of final approval at the June 9, 2021 hearing, because the preliminary approval for the Garage expired over two years before the Board heard the final approval application.

C. <u>The Board never issued a Certificate of Appropriateness for the Parking Garage</u>

Yet another legal error is that the Board granted final approval for the Parking Garage based on an erroneous understanding that the Parking Garage had previously been granted a "Certificate of Appropriateness." Both the UDO and The Beaufort Code require an applicant to apply for a Certificate of Appropriateness. The Board then votes on final approval of the project. When the Board grants final approval, a Certificate of Appropriateness may be issued.

The consideration of a Certificate of Appropriateness is not a mere technicality. It is a

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substantial compliance issue and vital to the Board's approval process as shown by the language of Section 9.10(c) of The Beaufort Code which details the following process and criteria for granting a Certificate of Appropriateness:

> In reviewing an application, the [Board] shall conduct a public meeting and consider, among other things, the historic, architectural and aesthetic features of such structure, the nature and character of the surrounding area, the use of such structure and its importance to the city, the character and appropriateness of design, scale of buildings, arrangement, texture, materials and color of the structure in question, and the relation of such elements to similar features of structures in the immediate surroundings.

David Prichard, Director of Economic Development and Community Planning for the City of Beaufort issued two letters dated June 20, 2019, and July 21, 2020 which were included in the materials for the June 9th meeting at pages 196 and 197 which purported to extend a "Certificate of Appropriateness" for the Parking Garage that never actually existed in the first place. To further compound the legal confusion, Mr. Prichard referenced section 9.1.4 of The Beaufort Code as the basis for the extensions. Mr. Prichard did not reference the UDO. Clearly, it was error for the Board to consider the application for the Parking Garage, since the prior approval under the UDO had expired, and any further action relating to the parking Garage would have to proceed under The Beaufort Code.

Instead of considering the Parking Garage application submitted for the June 9th meeting, the Board should have required the applicant to begin the process anew under the terms of The Beaufort Code. The Beaufort Code is clear on this point. Section 1.4.2 (B) provides that

> If the applicant elects to have the pending application reviewed in accordance with the prior standards, the City shall review and decide the application in good faith and in accordance with any time frames established by the prior standards. If the application is approved, and the approval or subsequent authorization of the approved development expires or becomes invalid (e.g., for failure to comply with time limits or the terms and conditions of approval), any subsequent development of the site shall be subject to the procedures and standards of this Code.

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Because the Board failed to follow this clear directive, the Court should vacate the approval and remand the Parking Garage application to the Board for proper consideration.

D. <u>Neither application should have been considered in the absence of a Special Exception from the City of Beaufort Board of Zoning Appeals.</u>

Both the Hotel and the Parking Garage amount to a Large Footprint Building as that term is defined under The Beaufort Code. The Beaufort Code controls consideration of both of these projects. Section 4.5.10 (B)(5) of The Beaufort Code requires a Large Footprint Building to secure a Special Exception from the Zoning Board of Appeals ("ZBOA"). According to the rules that the City wrote for itself, neither application could proceed before the Board without satisfying the condition precedent of obtaining a Special Exception from the ZBOA. However, the applicant did not request or receive a Special Exception for either project. Absent the Special Exceptions required by Section 4.5.10 (B)(5) of The Beaufort Code the Board had no jurisdiction to consider either application approved on June 9th.

II. THE APPROVALS WERE ARBITRARY AND CAPRICIOUS AND CONTRARY TO LAW BECAUSE THERE IS NO SUPPORTING EVIDENCE IN THE RECORD.

In addition, the approvals must be reversed because the Respondent, Beaufort Inn, LLC, failed to present any evidence that the Hotel or Parking Garage qualified for approval under of the guidance documents that govern the Board's decision-making as a matter of law, as provided in The Beaufort Code, Section 9.10.2 (B). Absent such evidence, the Board's decision to grant approval was arbitrary and capricious and an error of law.

As noted earlier, the Parking Garage plan that was approved is 4 levels tall with a front facade of approximately 300 linear feet, square footage of approximately 160,000 square feet, volumetric mass approaching 3 million cubic feet, and accommodates over 475 vehicles. The

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Hotel has a proposed fourth-story roof-top bar, a front façade of approximately 170 linear feet, square footage of approximately 50,000; and volumetric mass of approximately 1 million cubic feet. At the hearing on June 9th the 4th floor rooftop bar was treated as previously approved even though the addition of that element indisputably affected the height, scale and mass of the Hotel. The applicant did not present evidence on those issues and the Board approved the Hotel without giving any consideration to the effect of the 4th floor on the Hotel's height, scale and mass. That decision was not based on any evidence in the record and was contrary to law.

Each of these structures individually are multiple times larger by every measure than any other building in historic downtown Beaufort. City staff requested scale models of these buildings in 2016, but the applicant was never required to present models illustrating the true impact of the Hotel and the Garage on the historic district. The applicant did not submit scale models in support of the applications and the Board's determination that the projects were compatible with the character of the surrounding neighborhood has no support in the record and is contrary to law.

The Verdier House owned by the Petitioner, is one of the finest examples of federal architecture in South Carolina and is in the immediate vicinity of the proposed Hotel. As a point of comparison, the Verdier House is approximately 5,500 square feet and has volumetric mass of 50,000 cubic feet. The Parking Garage is 60 times larger, and the Hotel is 20 times larger in volumetric mass than the Verdier House. Construction of these massive new buildings would completely overwhelm the Verdier House and the rest of the built environment. The Hotel and the Parking Garage obviously benefit from their location in the National Landmark Historic District, but the neighboring properties and the district in general and the Verdier House in particular will be adversely impacted by light, noise, congestion and other factors if the approval of those projects are not reversed.

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The Parking Garage and the Hotel are both infill projects which are subject to special criteria addressed in Section 4.1 of The Beaufort Code. Specifically, Section 4.1 provides:

4.1.1 PURPOSE

The purpose of this section is to:

A. protect and enhance Beaufort's unique aesthetic character
B. support high quality streets and public spaces
C. encourage architecture that blends harmoniously with the natural surroundings and neighboring development
D. safeguard property values and long-term economic assets
E. carefully preserve the character of Beaufort's National Historic Landmark District while permitting appropriate growth.

The Parking Garage and the Hotel, even in the absence of the Hotel's proposed fourth story rooftop bar, are not compliant with any of the stated points of 4.1 Purpose and Intent of Infill Projects given their outsized proportions and are completely out of character in Beaufort's National Historic Landmark District.

Additionally, there was no meaningful review of the architectural details of either the Hotel or the Parking Garage on June 9th. The applicant never constructed a sample wall to allow City staff or the Board an opportunity to review the building elements, construction materials or proposed workmanship. At the very least a sample should have been required and reviewed and Board approval without reviewing a sample had no basis in the record and was contrary to law.

The Hotel was granted approval with little or no details about the solar panels that will be installed on the building. It is apparent in the record that there was some concern by the Board about the design of the panels and their visibility, but no details were provided and the Board simply abrogated its legal duty to review evidence and deny the approval if the evidence was lacking as it was in this instance.

Section 4.2.3 of The Beaufort Code provides:

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4.2.3 RELATIONSHIP TO HISTORIC DISTRICT STANDARDS

a. Applicability: In addition to the standards and guidelines in this article, any development located within the Beaufort Historic District is subject to the standards, guidelines, and procedures established in Section 9.10.
b. Conflicts: In the event of a conflict between the requirements of this article and the requirements and guidance provided by the documents listed in 9.10.2.B, the later shall take precedence.

2. In Section 9 of The Beaufort Code, 9.10: CERTIFICATE OF APPROPRIATENESS outlines, the following specific criteria that infill projects in the Historic District must meet in order to be approved to include: a) Compatibility; b) No Adverse Impact; and c) Consistency with Adopted Plans.

Neither the Parking Garage nor the Hotel are compatible in downtown historic Beaufort given their height, scale, and mass; they will each individually have irreparable adverse impact on the character of downtown Beaufort and have already triggered the National Parks Service's intervention. Because of the threat that each of these structures poses to the Beaufort National Historic Landmark District, the National Parks Service has started an "Integrity and Condition Study for the Beaufort National Historic Landmark District." Moreover, the director of its State Historic Preservation Office, W. Eric Emerson, Ph.D., wrote a letter discouraging the approval of the Parking Garage. In that letter Dr. Emerson stated, "When we refer to the established design guidelines for the City of Beaufort, (Beaufort Preservation Manual dated 1979, and the 1990 Supplement), we see more inconsistencies with the guidelines than consistencies." The contents of the Park Service notification to the City and the Emerson's letter were part of the record before the Board and referenced in the public comments to the Board.

9.10.2.B.1 then specifically requires that the Board utilize the "Beaufort Preservation Manual," August 1979, and the "Beaufort Preservation Manual, Supplement," August 1990 in evaluating infill projects. The manual specifically mandates that new construction have

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appropriate scale, absolute size, massing, and proportions to the surrounding buildings and townscape. The manual also includes illustrations of examples of prohibited buildings such as those that are significantly taller and/or wider and/or have a significantly larger footprint and/or have a significantly larger mass than surrounding buildings and within the townscape. The size and incompatibility of Hotel and the Parking Garage are immensely beyond even the illustrated prohibited structures.

Sections 4, 9, and the Beaufort Preservation Manual all clearly prohibited Board approval of the Parking Garage and prohibited a fourth story rooftop bar for the Hotel. The UDO, which has been superseded by The Beaufort Code, also required that the Board evaluate infill buildings and structures in exactly the same manner as The Beaufort Code to ensure their: Compatibility, No Adverse Impact, and Consistency with Adopted Plans. The UDO also required that the Board abide by the "Beaufort Preservation Manual."

Counsel for the applicant argued in support of the Parking Garage that a parking Garage in the district is part of the City's master plan; however, neither the Vision Beaufort 2009 Comprehensive Master Plan nor the City of Beaufort Master Plan of 2014 contemplated a facility of the nature, size or scale of the Parking Garage approved on June 9th. Instead, those plans envisioned a parking Garage in the Historic District that was publicly owned for the benefit of citizens and visitors and appropriately scaled. The Parking Garage that was approved will be privately owned primarily for the benefit of the applicant's Hotel and other businesses. It is completely out of scale and proportion with the surrounding buildings and the overall character of the Historic District.

The applicants did not present evidence before the Board, or make arguments to the Board, establishing even a minimum compliance with any of the guidelines the Board is required to apply

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in its decision-making under The Beaufort Code (or the UDO, even if it were to apply). Based on this dearth of evidence before the Board, the Board erred in granting the relief requested by the applicants in the absence of even a minimum threshold of evidence by the applicant.

III. THE PETITIONER'S CLAIMS ARE NOT BARRED BY LACHES, WAIVER OR ESTOPPEL

In response to the Petition, the Respondents filed responses in which they allege that the claims are barred by the doctrines of laches, waiver and estoppel. The alleged factual premise of those three defenses is that a member of the Historic Beaufort Foundation (HBF) who also serves on the HRB voted in favor of the projects in earlier stages of the process and did not object until "after Respondent had utilized significant time and money in the projects in reliance on those votes signifying HBF's approval."

Section 10.7.3 of the Beaufort Code provides the following specifications for the number and composition of the members of the HRB:

"The HRB shall consist of 5 members with an interest, competence, or knowledge in historic preservation. All HRB members shall be residents of the city, own property in the city, or own or operate a business in the city. To the extent that such is available in the community, 2 members shall, be professionals in the disciplines of historic preservation, architecture, landscape architecture, history, architectural history, planning, archeology, or related disciplines. Three of the members shall either live or own property in the Historic District. One of the 5 members shall be recommended by the Historic Beaufort Foundation."

At the time of the vote on June 9, the seat on the board which had been filled by Chuck Symes who was recommended by HBF to serve in that capacity had been vacant since April 2021. Mr. Symes moved out of the area, and therefore was not allowed to serve on the board any longer. Therefore, only 4 board members were present on June 9, 2021 for the final votes and did not include Mr. Symes. A new board took the helm July 1, 2021, and included Maxine Lutz who had been recommended by HBF to serve.

It is clear from the wording of the ordinance that the HRB member, is not an HBF

representative but an HRB member who was recommended for consideration by HBF. Therefore, the voting record of that individual HRB member is not dispositive of Petitioner's claims in this appeal.

Furthermore, Respondents cannot demonstrate a factual basis for any of those defenses. Laches is an equitable doctrine defined as "neglect for an unreasonable and unexplained length of time, under circumstances affording opportunity for diligence, to do what in law should have been done." *Historic Charleston Holdings, LLC v. Mallon*, 673 S.E.2d 448, 456 (S.C. 2009), citing *Hallums v. Hallums,* 371 S.E.2d 525, 527 (S.C. 1988). In order to establish laches as a defense, a party must show that the complaining party unreasonably delayed its assertion of a right, resulting in prejudice to the party asserting the defense of laches. *Id.* citing *Strickland v. Strickland,* 650 S.E.2d 465, 469 (S.C. 2007). Here, although the projects took a significant amount of time to progress through the approval process, the Petitioner had no control over the timing of that process. The HRB's final decision on the Hotel and Parking Garage projects was not made until June 9, 2021, and the Petitioner filed a prompt and timely appeal from that decision within the time limitations provided in S.C. Code Ann. § 6-29-900 and Section 9.10 of The Beaufort Code. Consequently, the Respondents cannot prove the required elements of laches.

Likewise, the estoppel defense is substantively lacking. The doctrine of estoppel applies if a person, by his actions, conduct, words, or silence which amounts to a representation, or a concealment of material facts, causes another to alter his position to his prejudice or injury." *Rushing v. McKinney,* 633 S.E.2d 917, 924 (Ct.App.2006). As to the party being estopped, the essential elements are (1) conduct amounting to a false representation or concealment of material facts, or conduct calculated to convey the impression that the facts are different or inconsistent with those that the party subsequently attempts to assert; (2) intention or expectation

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that the conduct will be acted upon by the other party; and (3) knowledge, actual or constructive, of the real facts. *Brading v. County of Georgetown,* 490 S.E.2d 4, 7 (SC 1997). As to the party claiming estoppel, "the essential elements are (1) lack of knowledge and of the means of knowledge of the truth as to the facts in question, (2) reliance upon the conduct of the party estopped, and (3) prejudicial change in position." *Id.* 490 S.E.2d at 7–8. That defense is not supported by the record in this matter primarily because the conduct alleged as the basis for the defense is not the concealment or misrepresentation of facts.

A waiver is a voluntary and intentional abandonment or relinquishment of a known right. Generally, the party claiming waiver must show that the party against whom waiver is asserted possessed, at the time, actual or constructive knowledge of his rights or of all the material facts upon which they depended. *Janasik v. Fairway Oaks Villas Horizontal Prop. Regime*, 415 S.E.2d 384, 387–88 (S.C. 1992). The record is devoid of evidence that Petitioner voluntarily and intentionally abandoned its right to object to the approvals granted by the HRB on June 9, 2021.

IV. THE DEVELOPER DID NOT HAVE A VESTED RIGHT TO DEVELOP/CONTINUE THE PROJECTS

Finally, the Respondents City of Beaufort and City of Beaufort Historic District Review Board allege in the response that the Developers had vested rights to develop and/or continue the projects because of various factors including applications, decisions, approvals and permits submitted and approved, agreements and assurances by the City and the expenditure of funds by the Developers. However, none of those factors are sufficient to confer vested rights. The Vested Rights Act, effective July 1, 2005, was enacted to clarify when a landowner acquired those rights. Under the Vested Rights Act, a vested right is established for two years upon the approval of a site specific development plan. *Id.* § 6-29-1530 (A)(1).[1] That Act generally requires the local

[1] In the Act a site specific development plan is defined as a plan describing "with reasonable certainty the types and

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government to establish a point in time in the zoning or land development plan approval process, before issuing the building permit, at which the landowner's right to use or develop vests, *id*. Section 6-29-1540 provides criteria for the standards and procedures in local land development ordinances and regulations. Under § 6-29-1560 of the Vested Rights Act, the issue of significant owner and government acts only comes into consideration if the local governing body does not have local development ordinances or regulations. The City of Beaufort adopted those standards and procedures, and therefore the factors alleged in this affirmative defense do not apply in this instance.

CONCLUSION

Neither the Parking Garage nor the Hotel had the requisite valid approvals from the City of Beaufort for the Board to consider these applications. Furthermore, the structures failed to meet even the minimal threshold requirements for infill projects as clearly defined in Sections 4 and 9 of The Beaufort Code and the Beaufort Preservation Manual. The Board failed as a matter of law to fulfill its duties under The Beaufort Code in evaluating these applications. Therefore, the approvals must be reversed by this Court and these issues should be remanded to the Board for further action and grant such other, further, or different relief as may be just and proper.

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November 12, 2021
Charleston, South Carolina

density of uses for specific property," and may include a "planned unit development; subdivision plan; preliminary or general development plan; variance; conditional use or special use permit plan;" etc.. *Id*. § 6-29-1520(9)

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STATE OF SOUTH CAROLINA COUNTY OF BEAUFORT	)	IN THE COURT OF COMMON PLEAS FOURTEENTH JUDICIAL CIRCUIT CASE NO.: 2021-CP-07-01241
Historic Beaufort Foundation, Petitioner, v. City of Beaufort and City of Beaufort Historic District Review Board, and The Beaufort Inn, LLC, Respondents.	)	**RESPONDENTS' JOINT REPLY MEMORANDUM IN OPPOSITION TO PETITION**

The Respondents jointly submit their Reply Memorandum in Opposition to the appeal of the HRB decision of June 9, 2021 by the Petition of Historic Beaufort Foundation ("Petitioner")[1] as follows:

I. BEAUFORT INN HAD VESTED RIGHTS

A. Beaufort Inn Substantially Relied on HRB Approvals and is Vested in those Approvals.

The Petitioner attempts to parse the many acts of Beaufort Inn and the City through the years but by doing so have missed the forest for the trees. There are multiple levels of approval by the HRB and Beaufort Inn took substantial steps in reliance on those approvals, thus becoming vested in them. The Petitioner fails to distinguish between extensions for the developer to get started vs the developer

[1] Respondents will file an identical Reply to this one in the companion appeal of the HRB decision by the West Street Farms, LLC and Mix Farms, LLC (Graham Trask companies) in Civil Action No. 2021-CP-07-01231.

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actually doing the work requested in those extensions. Once a governmental entity gives permission to proceed to take actions in reliance on the governmental entity at any stage of the process, the governmental entity cannot just reverse course after the proper owner has so relied. *Boehm v. Town of Sullivan's Island Board of Zoning Appeal*, 423 S.C. 169, 813 S.E.2d 874 (Ct. App. 2018); *Friarsgate, Inc. v. Town of Irmo*, 290 S.C. 266, 349 S.E.2d 891 (Ct. App. 1986).

The Petitioner ignores that in between various approvals of the Parking Garage Project, Beaufort Inn had to get Certificates of Appropriateness from the HRB to demolish 310 West Street and relocate 918 Craven Street, two buildings owned by Beaufort Inn, to proceed with the Parking Garage Project. The City issued demolition and relocation permits and Beaufort Inn acted on those permits. The permits timeline is as follows:

- **August 17, 2016**--Parking Garage Conceptual Approval by HRB-Beaufort Inn is required to demolish or relocate two buildings.
- **September 16, 2016**—Beaufort Inn applies for approval by HRB to demolish two buildings.
- **November 9, 2016**—HRB approves demolition of 310 West Street for Parking Garage Project. COA issued November 14, 2016, see *infra*.
- **November 14, 2016 --**Two year Certificate of Appropriateness for demolition of 310 West issued by City which stated: "the certificate will expire two years from the date of this letter per Section 3.1.M.1 of the City of Beaufort Unified Development Ordinance unless there is a demolition permit on file with the City Codes Enforcement Officer." (Emphasis added.) See Answer, Ex. G, (R. 390.)
- **February 15, 2017**-- Two year Certificate of Appropriateness for Relocation (in lieu of demolition) issued for 918 Craven Street. See Answer, Ex. H, (R. 392.)
- **September 20, 2017**—HRB grants preliminary approval of the Parking Garage Project.
- **November 3, 2017** – Relocation permit issued by City for 918 Craven Street. See Answer, Ex. N, (R. 413.) The building was then relocated per this permit. See Answer, Exhibit M, (R. 411.)

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- **May 23, 2018**—HRB Staff emails Beaufort Inn and tells Beaufort Inn that all approvals are for **twenty-four months with up to five one-year extensions**. See Answer, Ex. V, (R. 445.)
- **August 7, 2018**-- Building Permit to demolish 310 West was issued by the City. See Answer, Ex. Q, (R. 431.) Also at Exhibit Q, see Joco Construction verified that it demolished 310 West in August 2018.)
- **June 19, 2019**—Beaufort Inn requested extension from City for preliminary approval in part because of the demolition and removal of structures. See Answer, Ex. S, (R. 436.)
- **June 21, 2019**—City issues one-year extension for preliminary approval for Parking Garage Project.
- **July 1, 2020**—City issues a second one-year extension for preliminary approval of Parking Garage Project.

Thus, in reliance on the City's initial conceptual approval, subsequent preliminary approval, and the subsequent COAs for the demolition and relocation of buildings as part of the necessary approval process for the Parking Garage Project, between August 17, 2016 and June 21, 2019, Beaufort Inn took numerous actions and destroyed one building it owned and moved another one in reliance on the City's initial conceptual approval of the project and the subsequent COAs and resulting permits. The City HRB staff advised Beaufort Inn via email on May 23, 2018 that the preliminary approval of September 20, 2017 was good for two years.

Consequently, Beaufort Inn on June 19, 2019, within two years of the date of the September 20, 2017 HRB preliminary approval, asked for an extension from the HRB. It got the first extension on June 21, 2019 and the second extension, amid the pandemic, on July 1, 2020.

The first extension of June 31, 2019 was within one year of the issuance of the Building Permit to demolish 310 West (and its COA which had no end date), to Beaufort Inn on August 7, 2018 and within two years of the issuance of the Relocation Permit for 918 Craven Street on November 3, 2017. These subparts of the Parking

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Garage Projects are all inextricably intertwined with one another, and Beaufort Inn substantially relied on these various City mandated steps.

Again, there was no appeal or other challenge to any of these steps or permits. As such, third parties such as Petitioner cannot step in and interfere with the process that has been ongoing for years between the City and Beaufort Inn since the City itself has agreed that Beaufort Inn has vested rights and relied upon the process that was approved.

B. The Vested Rights Act Does Not Bar Beaufort Inn's Vested Rights.

1. The Vested Rights Act is Not the Exclusive Method of Establishing Vested Rights.

Petitioner argues that Beaufort Inn has failed to comply with the Vested Rights Act, S.C. Code § 6-29-1510, *et. seq*. ("VCA"), and therefore it obtained no vested rights. This is incorrect for several reasons.

First, the VCA nowhere states that it is the exclusive method of establishing vested rights by a property owner in South Carolina. It is well settled in South Carolina that a statutory scheme creating a remedy of some type is not deemed to create an exclusive remedy unless the statute expressly so provides. *See e.g.*, *Tilley v. Pacesetter Corp.*, 333 S.C. 33, 40–41, 508 S.E.2d 16, 20 (1998)(creation of specific remedy by statute did not mean it was the sole one at law); *Pinckney v. Pettijohn Builders, Inc.*, 289 S.C. 405, 407, 346 S.E.2d 533, 534 (Ct. App. 1986)(Collection of Rent by Distraint Statute not exclusive remedy); and *Wimberly v. Barr*, 359 S.C. 414, 419, 597 S.E.2d 853, 856 (Ct. App. 2004)(timber cutting statute not the exclusive remedy). Conversely, where the legislature intends a statute to create an exclusive

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remedy, it has expressly said so. *See e.g.*, *Dickert v. Metro. Life Ins. Co.,* 311 S.C. 218, 220, 428 S.E.2d 700, 701 (1993)(workers compensation is exclusive remedy); *Wimberly v. Barr*, 597 S.E.2d at 857 (S. C. Tort Claims Act is exclusive remedy.)

North Carolina, with its similar vested rights act, has recognized that its vested rights act is not meant to be the sole method of establishing vested rights, and that the traditional framework of substantial reliance on municipal actions is still an avenue of relief for property owners. *Simpson v. City of Charlotte*, 115 N.C. App. 51, 56, 443 S.E.2d 772, 776 (1994). The same reasoning should apply here; the Supreme Court has recognized "the purpose of the Act was to protect, preserve, and create vested rights in development permits." *Grays Hill Baptist Church v. Beaufort Cty.*, 431 S.C. 630, 640, 850 S.E.2d 29, 34 (2020). Limiting the ability of a property owner to acquire vested rights to those under a statutory scheme is anathema to the purpose for the VRA. The VRA merely provides another vehicle by which a property owner and developer can achieve some certainly in the development process—it is not the only method.

2. The City Has Not Adopted the Vested Rights Act, but Even if it Had, Beaufort Inn Qualified for Vested Rights Under that Act.

The Beaufort Code does not specifically adopt the VCA. It mentions various enabling legislation elsewhere in the South Carolina Code, but there is no express enactment of the VCA. Further, while some of the timelines for permits and renewals are in the VCA are the same as those in the Beaufort Code, the Code does not include critical terms of the VCA as required by S. C. Code § 6-29-1540.

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Even if the Code did adopt the VCA, and it applied to these Projects, Beaufort Inn complied with the requirements of Beaufort Code § 9.1.9 to obtain vested rights by the many prior HRB meetings and voluminous information provided by Beaufort Inn in those meeting, all followed by approvals, permits and action.[2]

II. THE BEAUFORT CODE COULD APPLY FOR EXTENSIONS, AT THE DISCRETION OF THE HRB.

Petitioner HBF at ¶33 of its Petition cites to § 1.4.2 (B) of the UDO stating that the City and Beaufort Inn must follow the UDO time limits on extensions. Under that theory, the HRB could not provide extensions to Beaufort Inn under the Code, and so only a one-time 18-month extension was permitted.

However, Petitioner fails to mention another portion of the Code, Section 1.4.4.A: "Other Approved Development Permits and Approvals." Section 1.4.4.A provides:

> Any other development that has received approval of a development permit or approval of a portion of a development—including any required Traffic Impact Analysis and/or Archaeology Survey—before the effective date of this chapter or any amendments thereof **may** be carried out in accordance with the terms and conditions of the development permit or approval and the procedures and standards in effect at the time of the approval, provided the permit or approval does not expire and otherwise remains valid. If significant changes are made to the development, associated studies and surveys required as part of the development process shall be redone. If the development permit or approval expires, is revoked (e.g., for failure to comply with time limits or terms and conditions), or otherwise becomes invalid, any subsequent

[2] That Petitioner claims a lack of a record of these plans in the June 9, 2021 HRB meeting underscores that their appeals are untimely as these matters were all decided years ago when the plans were provided to the HRB. It would defy common sense and be a waste of municipal resources to require an applicant at the final approval stage to re-submit the thousands of pages of a development plans previously considered and approved at HRB meetings over many years.

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> development of the site shall be subject to the procedures and standards of this Code.

(Emphasis added.) In statutory construction, the use of the word "may" means the action is permissive. *State v. Wilson*, 274 S.C. 352, 356, 264 S.E.2d 414, 416 (1980)("The use of the word 'may' signifies permission and generally means that the action spoken of is optional or discretionary."); *Cricket Store 17, LLC v. City of Columbia Bd. of Zoning Appeals*, 428 S.C. 270, 276, 834 S.E.2d 209, 212 (Ct. App. 2019).

Section 1.4.4.A clearly gives the HRB the discretion to apply the UDO or the Code with respect to timelines it applied to the Parking Garage Project. Thus, the HRB staff was free to apply the Beaufort Code timelines per this section of the Code.[3]

III. CONCLUSION

Petitioner in these two appeals seek to disrupt projects that have been before the City in many capacities for years and years, without challenge or appeal, attempting to drag up issues that were long ago decided.

Further, the Petitioner (ironically) attempts to obscure the long history of these projects by nit-picking individual events without looking at the total context of the

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[3] To the extent that the Code § 1.4.4.A may be interpreted to conflict with § 1.4.2 (B), the interpretation of the HRB giving precedence to § 1.4.4.A must be given great weight. "We give great deference to the decisions of those charged with interpreting and applying local zoning ordinances." *Gurganious v. City of Beaufort*, 317 S.C. 481, 487, 454 S.E.2d 912, 916 (Ct. App. 1995). "'The Board['s] ... construction of its own ordinance, the enforcement of which it is charged with, should be given some consideration and not overruled without cogent reason therefor.'" *Boehm v. Town of Sullivan's Island Bd. of Zoning Appeals*, 423 S.C. 169, 184, 813 S.E.2d 874, 881 (Ct. App. 2018), *quoting Purdy v. Moise*, 223 S.C. 298, 304-05, 75 S.E.2d 605, 608 (1953).

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projects, as presented here. These projects have each had multiple public hearings, many taking hours as citizen comments were received. Beaufort Inn has appeared before the HRB time and time again to meet the HRB's expectations. Now that Beaufort Inn has reached the final stages with a 4-1 vote approving these applications, Petitioner asks the Court to ignore history and forget all that happened before. History is certainly important, but Petitioner cannot pick and choose the history they want. In this case, the full history demonstrates that the HRB properly considered and approved the applications before it on June 9, 2021. Their decisions should be upheld and these appeals should be denied.

Respectfully submitted, this 4th day of January, 2022,

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ELECTRONICALLY FILED - 2022 Jan 28 4:05 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0701241

STATE OF SOUTH CAROLINA COUNTY OF BEAUFORT	)))	IN THE COURT OF COMMON PLEAS FOURTEENTH JUDICIAL CIRCUIT CASE NO.: 2021-CP-07-01241
Historic Beaufort Foundation, Petitioner, v. City of Beaufort and City of Beaufort Historic District Review Board, and The Beaufort Inn, LLC, Respondents.	)))))))))))	**NOTICE AND PETITIONERS' MOTION TO RECONSIDER**
West Street Farms, LLC, and Mix Farms, LLC, Petitioner, v. City of Beaufort, City of Beaufort Historic District Review Board, and The Beaufort Inn, LLC, Respondents.	)))))))))))	CASE NO.: 2021-CP-07-01231

PLEASE TAKE NOTICE that ten (10) days after service hereof, or as soon as the parties may be heard, Petitioners Historic Beaufort Foundation, West Street Farms, LLC, and Mix Farms, LLC ("Petitioners"), by and through undersigned counsel, will move pursuant to Rule 59 of the South Carolina Rules of Civil Procedure before the Honorable Bentley Price for reconsideration of the January 20, 2022 order of this Court denying Petitioners' Appeal of the Decision of the June 9, 2021 decision of the Beaufort Historic District Review Board.

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The grounds for this motion are that the January 20 order fails to consider the merits of all Petitioners' grounds for the Appeal. In particular, the order does not address the following arguments presented by the Petitioners:

- That the Board erred in granting final approval under the UDO because any prior approvals had expired by the terms of the ordinance;
- Any approval of the Parking Garage under the UDO expired before June 9, 2021;
- The Board never issued a Certificate of Appropriateness for the Parking Garage;
- Neither application should have been considered in the absence of a Special Exception from the City of Beaufort Board of Zoning Appeals;
- The approvals were arbitrary and capricious and contrary to law because there is no supporting evidence in the record;
- That the petitioners' claims are not barred by laches, waiver or estoppel; and
- That the developer did not have a vested right to develop/continue the projects.

Petitioners urge that neither the Parking Garage nor the Hotel had the requisite valid approvals from the City of Beaufort for the Board to consider these applications. Furthermore, the structures failed to meet even the minimal threshold requirements for infill projects as clearly defined in Sections 4 and 9 of The Beaufort Code and the Beaufort Preservation Manual. The Board failed as a matter of law to fulfill its duties under The Beaufort Code in evaluating these applications. The approvals must be reversed by this Court and these issues should be remanded to the Board for further action and grant such other, further, or different relief as may be just and proper. In addition, the January 20 order, as written, exceeds the scope of the Court's ruling at the hearing on this matter and includes factual inconsistencies.

For these reasons, Petitioners respectfully request this Court reverse the January 20 order denying the Appeal and enter an order granting the Appeal. This motion is further supported by all pleadings, any evidence, and any memorandum of law to be filed as well as all applicable law and further proof and testimony as may hereafter be offered at a hearing on this motion.

PLEASE BE PRESENT TO DEFEND IF SO MINDED.

ELECTRONICALLY FILED - 2022 Jan 28 4:05 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP0701241

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January 28, 2022

ELECTRONICALLY FILED - 2022 Feb 01 5:00 PM - BEAUFORT - COMMON PLEAS - CASE#2021CP701241

STATE OF SOUTH CAROLINA COUNTY OF BEAUFORT	)	IN THE COURT OF COMMON PLEAS FOURTEENTH JUDICIAL CIRCUIT CASE NO.: 2021-CP-07-01241
Historic Beaufort Foundation, Petitioner, v. City of Beaufort, City of Beaufort Historic District Review Board, and The Beaufort Inn, LLC, Respondents.	)	**RESPONDENTS' JOINT REPLY MEMORANDUM IN OPPOSITION TO PETITIONER'S RULE 59 MOTION**

The Respondents City of Beaufort, City of Beaufort Historic District Review Board, and The Beaufort Inn, LLC jointly submit their Memorandum in Opposition to the Historic Beaufort Foundation's Motion to Reconsider pursuant to Rule 59, SCRCP of the Court's Order of January 20, 2022 denying the Petitioner's appeal of the June 9, 2021 decision of the City of Beaufort's Historic Review Board decision as follows.[1]

The identical Motions to Reconsider filed by all of the Petitioner appears to simply be error preservation protective filings, as nothing new is argued, save that they argue that the written Order is inconsistent with the Court's verbal ruling from the bench. Of course, the final written order is what controls, not what the Court

[1] Respondents will file an identical Memorandum to this one in the companion appeal of the HRB decision by West Street Farms, LLC and Mix Farms, LLC in Civil Action No. 2021-CP-07-01231.

says from the bench, even if what the Court stated was inconsistent with the final written order (which is was not in any event.)

"No order is final until it is written and entered." *First Union Nat'l Bank v. Hitman, Inc.*, 306 S.C. 327, 329, 411 S.E.2d 681, 682 (Ct. App. 1991), *aff'd*, 308 S.C. 421, 418 S.E.2d 545 (1992). "Until written and entered, the trial judge retains discretion to change his mind and amend his oral ruling accordingly." *Ford v. State Ethics Comm'n*, 344 S.C. 642, 646, 545 S.E.2d 821, 823 (2001). "To the extent the written order may conflict with the prior oral ruling, the written order controls." *Parag v. Baby Boy Lovin*, 333 S.C. 221, 226, 508 S.E.2d 590, 592 (Ct. App. 1998).

"The purpose of Rule 59(e), SCRCP, to alter or amend the judgment[,] is to request the trial judge to reconsider matters properly encompassed in a decision on the merits." *Coward Hund Const. Co. v. Ball Corp.*, 336 S.C. 1, 518 S.E. 2d 56 (Ct. App. 1999.) New matters cannot be raised by a Rule 59(e) Motion. *Stevens & Wilkinson of S.C., Inc. v. City of Columbia*, 409 S.C. 563, 567, 762 S.E.2d 693, 695 (2014) ("[A] party cannot use a Rule 59(e) motion to advance an issue the party could have raised to the circuit court prior to judgment, but did not.")

Further, the Court is not required to hold a hearing on this type of motion per SCRCP Rule 59(f) ("The motion may in the discretion of the court be determined on briefs filed by the parties without oral argument.") See *Pollard v. County of Florence*, 314 S.C. 397, 444 S.E.2d 534, 536 (Ct. App. 1994).

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As there is nothing additional of substance for the Court to consider by Petitioner's Motion, Respondents submit that no hearing is needed and that the Court should summarily deny each Motion.

Respectfully submitted, this 1st day of February, 2022,

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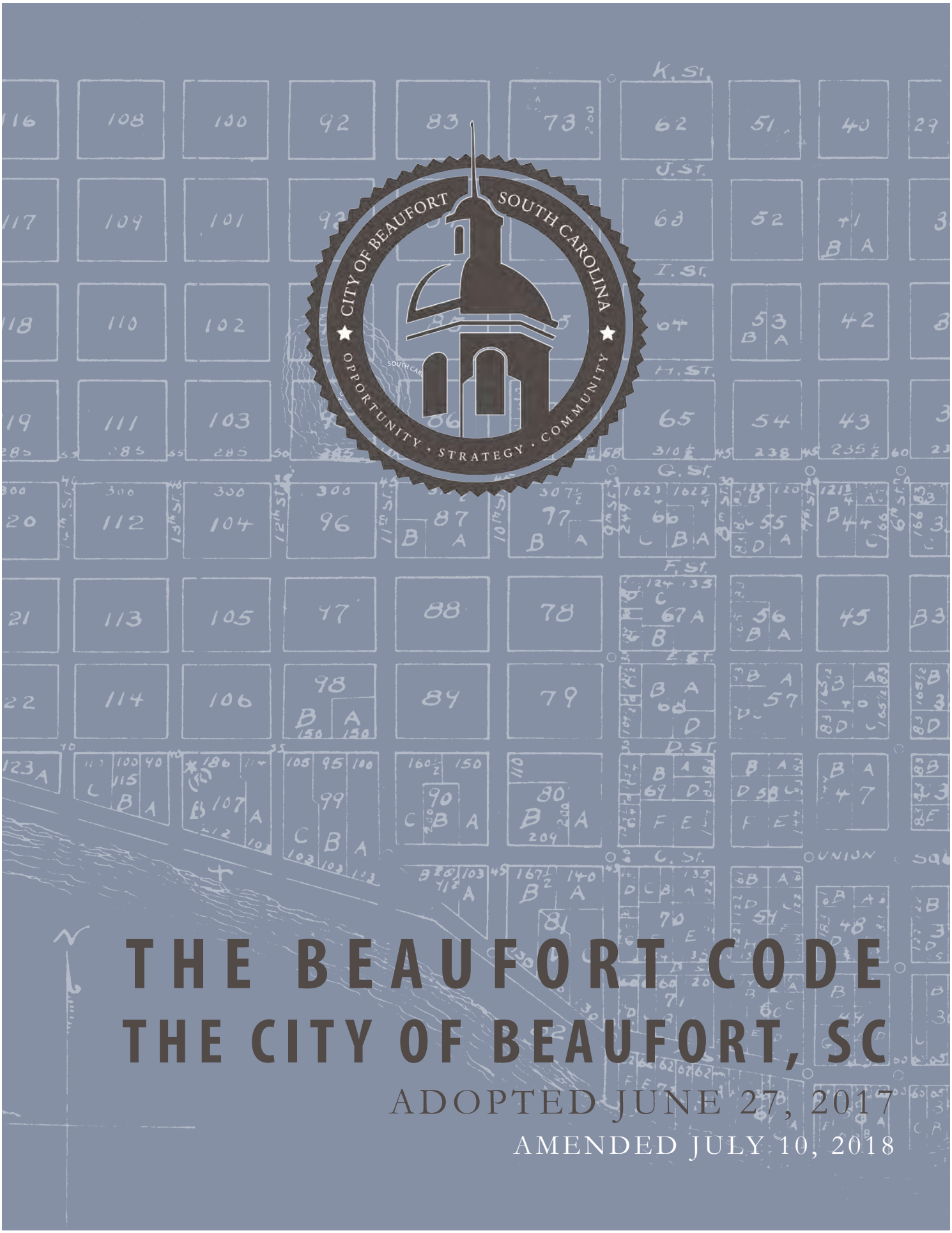

THE BEAUFORT CODE
THE CITY OF BEAUFORT, SC

ADOPTED JUNE 27, 2017

AMENDED JULY 10, 2018

This code was prepared for

THE CITY OF BEAUFORT, SOUTH CAROLINA

BEAUFORT CITY COUNCIL

Billy Keyserling, Mayor
Phillip Cromer
Michael McFee
Stephen Murray
George O'Kelley

METROPOLITAN PLANNING COMMISSION

Joe DeVito - Port Royal (Chairman)
James Crower - Port Royal (Vice-Chairman)
Bill Harris - Beaufort
George Johnston - County
Tim Rentz - Beaufort
Robert Semmler - County

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Kathy Todd, Chief Financial Officer
Libby Anderson, Planning Director
Lauren Kelly, Planner
Liza Hill, Planner

PROJECT PARTNERS

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This code is based on an initial code collaboration prepared by Opticos Design, Inc. for Beaufort County, the City of Beaufort and the Town of Port Royal.

This Code was adopted on June 27, 2017. It was most recently amended on July 25, 2017.
For a complete amendment log, please visit www.cityofbeaufort.org/zoning-map-ordinance.aspx

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7. Subdivision of land into parcels less than 5,000 square feet exclusively for the provision of local utilities, such as pump stations
8. Underbrushing, or bushhogging that does not involve removal of trees that require a permit for removal

1.3.3 CONFLICTING PROVISIONS

A. **Conflict with Other Laws:** Whenever the requirements made under authority of these regulations impose stricter standards than are required in any other statute or local ordinance or regulation, the provisions of this Code shall govern. Whenever the provisions of any other statute or local ordinance or regulation impose stricter standards than are required by this Code, the provisions of such statute or local ordinance or regulations shall apply.

B. **Conflict with Covenants**

1. The City does not enforce private covenants; however, the City may require approval from formalized neighborhood associations before projects are approved. When there is a dispute as to the interpretation of covenants, the City reserves the right to issue permits that are otherwise in compliance with this Code. Whenever the requirements of formally adopted covenants impose stricter standards than the provisions of this Code, the covenants shall govern. However, in case of a conflict in which this Code is stricter than the covenants, this Code shall govern.
2. Per Section 6-29-1145. (B) of South Carolina law, the City shall not issue a permit if the request or activity is expressly prohibited in recorded covenants.

1.4: TRANSITIONAL PROVISIONS

1.4.1 EFFECTIVE DATE

This Code shall take effect and be in force from and after the date of its adoption by City Council.

1.4.2 COMPLETE APPLICATIONS

A. If an application for a Project Permit or Design Review is accepted as complete before the effective date of this chapter or any amendment thereto, but is still pending final action as of that date, the application shall be reviewed and decided, at the applicant's option, wholly in accordance with the development standards in effect when the application was accepted, or wholly in accordance with the standards put into effect by this Code (but not in accordance with a mix of provisions from both sets of standards).

B. If the applicant elects to have the pending application reviewed in accordance with the prior standards, the City shall review and decide the application in good faith and in accordance with any time frames established by the prior standards. If the application is approved, and the approval or subsequent authorization of the approved development expires or becomes invalid (e.g., for failure to comply with time limits or the terms and conditions of approval), any subsequent development of the site shall be subject to the procedures and standards of this Code.

C. To the extent a pending application is approved in accordance with the prior standards and proposes development that does not comply with this Code, the subsequent development, although allowed, shall be nonconforming and subject to the provisions of Article 11 (Nonconformities).

ROA 821

1.4.3 DEVELOPMENT SUBJECT TO A PUD AND/OR AND DEVELOPMENT AGREEMENT

Any application that has received approval for a PUD district and/or development agreement after 1990 and before the effective date of this Code, or any amendment thereto, may be carried out in accordance with the master plan for the PUD and its terms and conditions of approval, and the terms and conditions of the development agreement, provided the PUD and development agreement do not expire and otherwise remain valid. If the PUD approval and/or development agreement expires, is revoked (e.g., for failure to comply with time limits or the terms and conditions of approval), or otherwise becomes invalid, any subsequent development of the site shall be subject to the procedures and standards of this Code.

1.4.4 OTHER APPROVED DEVELOPMENT PERMITS AND APPROVALS

A. Any other development that has received approval of a development permit or approval of a portion of a development — including any required Traffic Impact Analysis and/or Archaeology Survey — before the effective date of this chapter or any amendment thereto may be carried out in accordance with the terms and conditions of the development permit or approval and the procedures and standards in effect at the time of approval, provided the permit or approval does not expire and otherwise remains valid. If significant changes are made to the development, associated studies and surveys required as part of the development process shall be redone. If the development permit or approval expires, is revoked (e.g., for failure to comply with time limits or the terms and conditions), or otherwise becomes invalid, any subsequent development of the site shall be subject to the procedures and standards of this Code.

B. To the extent a prior approval authorizes development that does not comply with this Code, the subsequent development, although allowed, shall be nonconforming and subject to the provisions of Article 11 (Nonconformities).

1.5: SEVERABILITY

1.5.1 SEVERABILITY

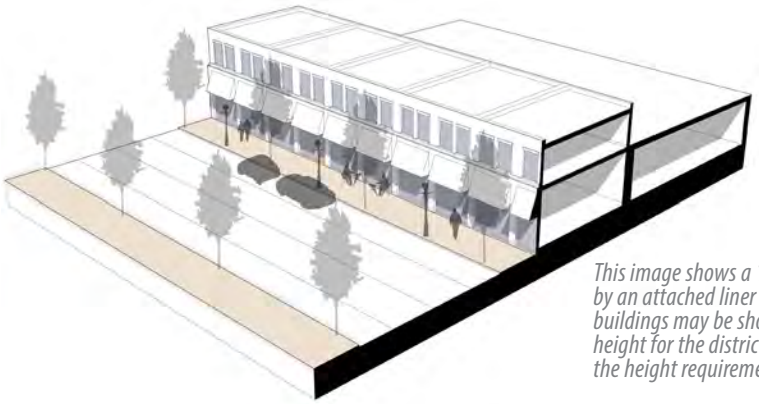
It is the legislative intent of the City Council in adopting this Code that all provisions shall be liberally construed to implement the City of Beaufort Comprehensive Plan and to guide zoning and development in accordance with the existing and future needs of the City as established in the Comprehensive Plan. If any section, subsection, sentence, clause, or phrase of this Code is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity and continued enforcement of any other provision of this Code. The City Council hereby declares that it would have adopted this Code and any section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases of the Code is declared invalid by a court of competent jurisdiction.

ROA 822

B. **Special Requirements**

1. **Frontage Types:** Balcony, Shopfront/Awning, Gallery/Colonnade, Arcade
2. **Frontage Build-Out:** 75% minimum
3. **Height:** The minimum height for Liner Buildings is 1 story; however, when attached to another structure, it must be tall enough to conceal the building it is screening. Where Liner Buildings conceal a parking structure, the Liner Building shall be a minimum of 1 story; however it is preferred that it be built to such a height that the structure cannot be seen from the right-of-way.
4. **Connection:** Liner Buildings may either be detached from or attached to the building they are lining

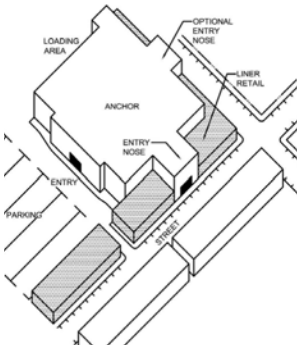
EXAMPLE: LINER BUILDINGS



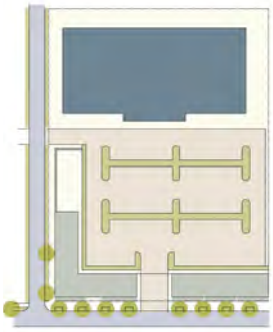
This image shows a 1-story structure concealed by an attached liner building. Large footprint buildings may be shorter than the minimum height for the district, as long as the liner meets the height requirements listed above.

4.5.10 LARGE FOOTPRINT BUILDING

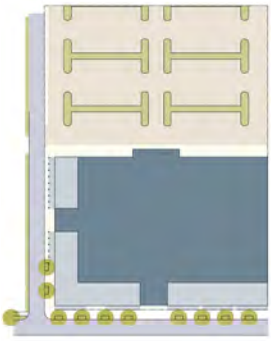
LARGE FOOTPRINT BUILDING DIAGRAMS



sketch view



plan view - detached liners



plan view - attached liners

A. **Description:** This is a building that has a footprint greater than 20,000 square feet. It is a type often used by big-box, national retailers. In the T4 and T5 transect zones, they shall be integrated into the streetscape or screened with Liner Buildings (see Section 4.5.9).

B. **Special Requirements**

1. **Frontage Types:** Shopfront/Awning, Gallery/Colonnade, Arcade — Balconies may be used if there is true habitable space on the upper floor(s)

ROA 823

2. **Liner Buildings:** Liner Buildings (Section 4.5.9) are required in the T4 and T5 districts between the Large Footprint Building and the Primary Street frontage. They may be used in other districts to fulfill the requirements of this code, such as height, entrances on the street, and parking location.
    a. **Exceptions:** When a Large Footprint building provides an entry on the primary street frontage, and a minimum of 40% clear and unobstructed glazing along that street, liners are not required
3. **Height:** Buildings may be 1 story in height on the interior of the block, but should be at least 2 stories in height along all Primary Street frontages (see Street Hierarchy Diagram in Appendix C). This may be accomplished with multi-story buildings, higher ceiling heights, parapets, and/or separate Liner Buildings. See Section 2.6.3 for more details on two-story building requirements.
4. **Entrances:** See Section 2.5.1.D.
5. **Location:** In the Historic District, except along Boundary Street, these are permitted by special exception only

LARGE FOOTPRINT BUILDING EXAMPLE

The large footprint building in the photo above is sited close to the sidewalks and incorporates frequent windows and doors. These techniques help to reinforce the urban character of the street and encourage use by pedestrians.

6. **Size:** Building footprints shall not be larger than a single block. Floor area of buildings shall not cantilever over public rights-of-way.
7. **Parking Location**
    a. **Specific to T4 and T5:** A minimum of 75% of all parking shall be located behind the primary building or a Liner Building
    b. **All other districts:** The majority of the parking spaces shall be located to the side or rear of the building, or behind a Liner Building

ROA 824

9.1.4 PERMIT/PROCESS TYPE TABLE

PERMIT/PROCESS TYPE	SECTION	PERMIT/PROCESS TYPE	REVIEWING AGENCY	PUBLIC NOTIFICATION (9.1.3)	APPROVING AGENCY	APPEAL PROCESS	PERMIT PERIOD	PERMIT EXTENSION
ADMINISTRATIVE PERMITS								
Zoning Permit	9.5	Administrative	Admin	None	Admin	ZBOA	6 months	6 months, 1 time
Building Permit	9.5	Administrative	Admin	None	Admin	ZBOA	6 months	Resubmit
Certificate of Compliance	9.5	Administrative	Admin	None	Admin	ZBOA	n/a	n/a
Certificate of Occupancy	9.6	Administrative	Admin	None	Admin	ZBOA	n/a	n/a
DEVELOPMENT DESIGN REVIEW								
Development Design Review, Minor	9.7	Administrative	Admin	None	Admin	DRB	24 months	12 months, up to 5 times
Development Design Review, Major	9.7	Discretionary	Admin	None	DRB	Court 30 days to appeal	24 months	12 months, up to 5 times
SUBDIVISION REVIEW								
Subdivision, Minor, Site Plan	9.8	Administrative	Admin	None	Admin	MPC	24 months	12 months, up to 5 times
Subdivision, Major, Sketch Plan	9.8	Discretionary	Admin TRC	None	MPC	Court	24 months	12 months, up to 5 times
Subdivision, Major, Site Plan	9.8	Administrative	Admin, TRC	None	Admin	MPC	24 months	12 months, up to 5 times
Subdivision Final Plan	9.8	Administrative	Admin TRC	None	Admin	MPC	24 months	12 months, up to 5 times
HISTORIC PRESERVATION								
Certificate of Appropriateness, Minor	9.9	Administrative	Admin	Demolition Only: Yes (1,2, 3)	Admin	HRB	24 months	12 months, up to 5 times
Certificate of Appropriateness, Major	9.9	Discretionary	Admin	Demolition & Design Exception only: Yes (1,2)	HRB	Court 30 days to appeal	24 months; no expiration for demolitions	12 months, up to 5 times
Local Historic District/ Historic Sign Designation	9.10	Legislative	Admin, MPC, HRB	None	CC	Court	n/a	n/a
RELIEF								
Administrative Adjustment	9.11	Administrative	Admin	None	Admin	ZBOA	24 months	12 months, up to 5 times
Special Exception	9.12	Discretionary	Admin	Yes (1, 2)	ZBOA	Court 30 days to appeal	24 months	12 months, up to 5 times
Variance	9.13	Discretionary	Admin	Yes (1, 2)	ZBOA	Court 30 days to appeal	24 months	12 months, up to 5 times
ADMINISTRATION APPEALS								
Administrative Appeal	9.14	Discretionary	Admin	Yes (1)	ZBOA	Court 30 days to appeal	12 months	6 months
AMENDMENTS								
Code Amendments	9.16	Legislative	Admin, MPC	Yes (1, 2 & 3)	CC	Court 30 days to appeal	n/a	n/a

Admin–Administrator / MPC–Metropolitan Planning Commission / CC–City Council / ZBOA–Zoning Board of Appeals / HRB–Historic District Review Board / DRB–Design Review Board / TRC–Technical Review Committee / Court - Circuit Court

Note: Any appeals that are assigned to Court are eligible for pre-litigation mediation pursuant to § SC ST 6-29-1155

9.2.3 APPLICATION DEADLINE

All applications shall be completed and submitted to the Administrator according to schedules as determined by the city.

9.2.4 COMPLETE APPLICATION REQUIRED

A. The Administrator shall have 5 working days to review the application materials submitted and confirm that all the required items have been submitted.

B. If the application is not complete, the Administrator shall inform the applicant in writing within the 5-day period, specifying the ways in which the application is incomplete, and the applicant shall have 60 days during which to provide the requested materials and complete the application. Any application for which additional materials have not been forthcoming during this 60-day period shall be considered null and void. This application period may be extended by the Administrator upon mutual agreement to provide the required materials at some date certain in the future.

9.2.5 CONCURRENT PROCESSING

Any applicant may submit an application for any sequential approvals (such as a zoning map amendment and site plan approval) required under this Code and request that such sequential approvals be processed concurrently; however, such concurrent processing shall proceed at the applicant's own risk, and shall have no implication in regard to the approval of any of the various approvals requested.

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the city, or the county, or the public of the dedication of any street or other ground shown upon the plat. Upon receipt of the plat, City Council shall determine the acceptance or non-acceptance of all dedicated streets, easements, rights-of-way, public parks, and other public lands as shown on the plat. If accepted by the city, action to that effect shall be noted on the Final Plat; if not accepted, the reasons for non-acceptance shall be so stated.

d. It shall be unlawful to sell or transfer property (lots) within the approved subdivision until after the plat has been recorded with the Register of Deeds Office.

B. **Subdivision in Phases:** Whenever part of a tract is proposed for platting, and it is intended to subdivide additional parts in the future, or abutting land is in the same ownership, a sketch plan for the entire tract shall be submitted with the plat.

9.10: CERTIFICATE OF APPROPRIATENESS

9.10.1 APPLICABILITY

A Certificate of Appropriateness shall be required for any construction activity in any historic district, including:

1. New structures
2. Modification to, or expansion of, existing structures, including those that apply for the Bailey Bill Special Tax Assessment for Rehabilitated Historic Properties
3. Relocation of any existing structure

C. Demolition or partial demolition of any structure

9.10.2 PROCESS AND APPROVAL

A. **Process Type:** The review process required to approve Certification of Appropriateness is based on the following project types:

1. **Minor:** Administrative review shall apply to applications for Certification of Appropriateness for the following items. The Administrator may submit any applications that are subject to staff approval to the Historic District Review Board (HRB) for approval.

   a. Changes to a building or property, to include fences, paint color, roof materials, canopies and awnings, site changes, and window replacements on noncontributing structures

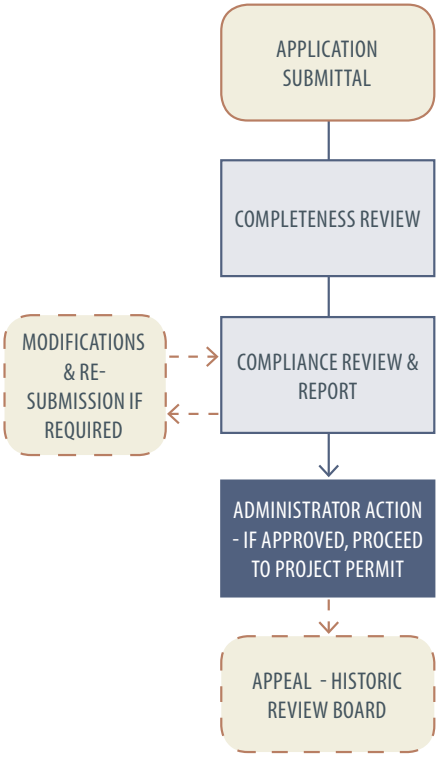
   b. New construction and building modifications to include construction of non-habitable accessory buildings in the Beaufort Preservation Neighborhood

   c. Modifications to non-contributing structures in the BCN

   d. Demolitions of non-contributing structures in the BCN

   e. Demolition or partial demolition of a structure that is listed in the "1997 Beaufort County Historic Sites Survey," or the most recent historic sites survey, and lies outside the Beaufort Historic District.

   f. Demolition of noncontributing accessory structures (e.g., sheds, carports, etc.).



Such approval shall follow the procedures for Development Design Review-Minor (Section 9.8.1).

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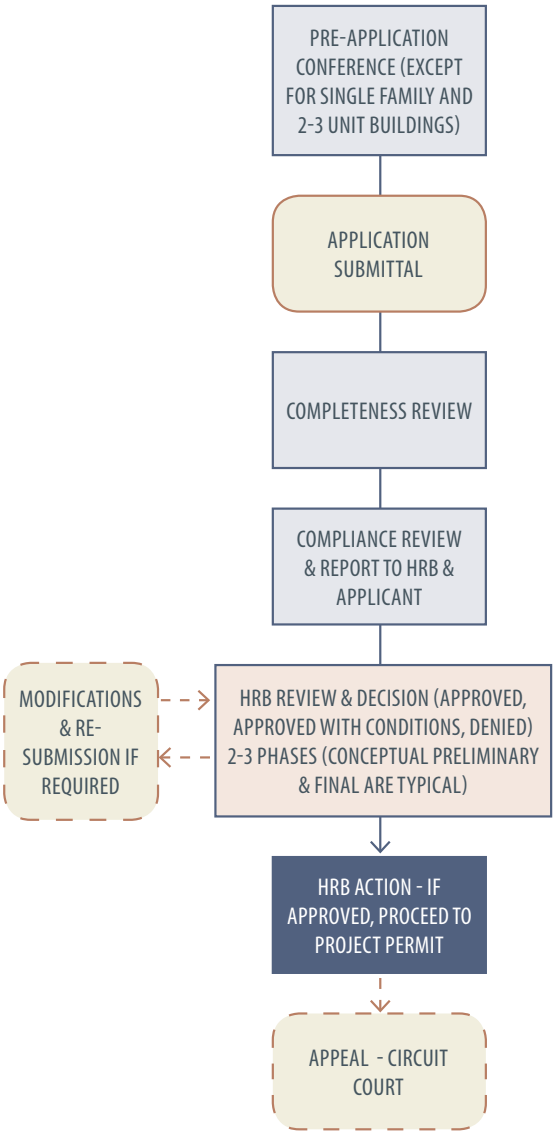
2. **Major:** Discretionary review by the HRB shall apply to all other applications for Certificates of Appropriateness.

3. **Design Exception:** Design Exceptions shall be used to modify any dimensional standards or design requirements, found in Articles 2 and 4, for development projects that have unique characteristics that justify a deviation from the underlying standards. Such deviations are intended to provide flexibility from the underlying standards to permit compatible development patterns which are indicative of the surrounding area and/or use an innovative approach or technique. The process is intended to provide the minimum relief necessary to create a more innovative and context-sensitive development consistent with the City's adopted plans. This tool is not intended to circumvent the map amendment (rezoning) procedure where that tool would provide a similar modification of standards.



   a. **Applicability:** The HRB shall have the authority to authorize a variance of up to 35 percent from any numerical standard set forth in Article 2 (Maps and Districts) —except for Section 2.6, Height and Section 2.7.4, Air Installation Compatibility Use Zone (AICUZ) overlay district standards — and Article 4 (Building Design and Infill Standards).

   b. **Review Criteria:** The HRB may approve an application for a Design Exception where it reasonably determines that there will be no significant negative impact upon residents of surrounding property, or upon the general public. The board shall consider the following criteria in its review:

      i. **Compatibility:** The proposed exception is appropriate for its location. It is compatible with the character of surrounding properties and the development permitted by the zoning of the surrounding properties, and will not reduce property values of surrounding properties.

      ii. **No Adverse Impact:** The design of the proposed exception minimizes adverse effects including visual impacts of the proposed use on surrounding properties; furthermore, the proposed exception does not create a nuisance for surrounding properties .

      iii. **Consistency with Adopted Plans:** The proposed development is in general conformity with the City's Comprehensive Plan, Civic Master Plan and other plans officially adopted by the City

B. **Guidance Standards, Maintenance of Consistent Policies:** In order to provide guidance and insight into desirable goals and objectives for the Beaufort Historic District, the documents described in this section are hereby adopted for use by the HRB in the exercise of its authority granted under Section 10.7 of this Code.

   1. The "Beaufort Preservation Manual," August 1979, and the "Beaufort Preservation Manual, Supplement," August 1990, shall be utilized by the HRB for review of projects located within the Beaufort Preservation Neighborhood.

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2. The "Northwest Quadrant Design Principles," May 1999 shall be utilized by the HRB for the review of projects located within the Beaufort Conservation Neighborhood.
3. The Secretary of Interior's "Standards for Rehabilitation" shall be utilized for review of all projects that modify a contributing structure.
4. The Building Design Standards, in Article 4 of this code, shall be utilized for review of all new construction.
5. The Historic District Infill Design Guidelines, in Section 4.7 of this Code, shall be utilized for review of all new construction.
6. Any special area policies adopted by the HRB

C. **Approval of Certificate of Appropriateness:** In reviewing an application, the HRB shall conduct a public meeting and consider, among other things, the historic, architectural and aesthetic features of such structure, the nature and character of the surrounding area, the use of such structure and its importance to the city, the character and appropriateness of design, scale of buildings, arrangement, texture, materials and color of the structure in question, and the relation of such elements to similar features of structures in the immediate surroundings. The HRB shall not consider the interior arrangement or interior design unless the interior arrangement or design affect the exterior appearance, nor shall it make requirements except for the purpose of preventing developments that are not in harmony with the prevailing character of the Beaufort Historic District, or that are obviously incongruous with this character.

D. **Demolitions**

1. In all applications involving the demolition of a contributing primary structure or contributing accessory structure, provisions shall be made for a public hearing as set forth in Section 9.1.5. Demolition of non-contributing structures are approved by the Administrator.
2. In any case involving the demolition or partial demolition of a structure, before granting approval or requiring a postponement, the HRB may call on the Administrator to provide them with a report on the state of repair and structural stability of the structure under consideration.
3. Upon receiving an application for demolition or partial demolition of a structure that is listed in the "1997 Beaufort County Historic Sites Survey" and lies within the limits of the city but outside the Beaufort Historic District, the Administrator, within 30 days of receiving the application, shall either approve it, or find that the preservation and protection of historic places and the public interest will be best served by postponing the demolition for a designated period — this shall not exceed 60 days from the receipt of the application, and notify the applicant of such postponement. The application will be announced to the public in accordance with the notification standards set forth in Section 9.1.3. Within the period of postponement of demolition or alteration of any building, the Administrator shall take steps to ascertain what may be done to preserve the building, including consultation with private civic groups, interested private citizens and other public boards or agencies, including investigation of the potential use of the power of eminent domain when the preservation of a given building is clearly in the interest of the general welfare of the community and of certain historic and architectural significance.

E. **Denial of Certificate of Appropriateness:** The HRB may refuse any application that, in the opinion of the HRB, does not comply with the standards and guidelines listed in Section 9.10.2.B and thus would be detrimental to the interests of the city. In case of disapproval, the HRB shall state the reasons therefore in a written statement to the applicant, and may give verbal advice to the applicant and make recommendations in regard to appropriateness of design, arrangement, texture, material, color, etc. of the property involved.

Among other grounds for considering a design inappropriate and requiring disapproval and resubmission are the following defects:

1. Arresting and spectacular effects
2. Violent contrasts of materials or colors and intense or lurid colors

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3. A multiplicity or incongruity of details resulting in a restless and disturbing appearance
4. The absence of unity and coherence in composition, that is not in consonance with the dignity and character of the present structure, in the case of repair
5. Construction of, remodeling, or enlargement of an existing building in a manner not consistent with the prevailing character of the neighborhood

F. **Issuance of Certificate of Appropriateness:** When a Certificate of Appropriateness and Building Permit have been issued, the Administrator shall, from time to time, inspect the alteration or construction approved by such certificate and may report such inspection to the HRB listing all work inspected and reporting any work that is not in accordance with such certificate, or that violates any ordinances of the city.

G. **Resubmittal:** After disapproval of an application, the applicant may make modifications to the plans and resubmit. The applicant may not resubmit the same proposal, without modifying it based on HRB comments, for 12 months from the date of the original submission. Reconsideration of an application for demolition that has been denied by the HRB may not be heard until 12 months from the date of the original public hearing, unless a major change has occurred in the property condition that is attributable natural causes.

H. **Appeal - Minor:** Appeals of the decisions of the Administrator shall be heard by the HRB. The application for appeal shall be made within 30 days of the decision.

I. **Appeal - Major:** Any party aggrieved by the decisions of the HRB may appeal to the circuit court within 30 days of the decision.

9.11: HISTORIC DESIGNATION

9.11.1 STANDARDS FOR LOCAL HISTORIC DISTRICT DESIGNATION

A. A structure, group of structures, site or district may be designated for historic preservation if it demonstrates at least one of the following:

1. Historic, Cultural Importance
    a. It has significant character, interest, or value as part of the development, or heritage of the community.
    b. It is the site of a historic event with a significant effect upon society.
    c. It exemplifies the cultural, political, economic, social, or historic heritage of the community.
2. Architectural or Engineering Importance
    a. It portrays the environment in an era of history characterized by a distinctive architectural style.
    b. It embodies those distinguishing characteristics of an architectural type or engineering specimen.
    c. It is the work of a designer whose individual work has significantly influenced the development of Beaufort.
    d. It contains elements of design, detail, materials, or craftsmanship that represent significant innovation.
3. Geographical Importance
    a. By being part of or related to a square, park, or other distinctive area, it should be developed or preserved according to a plan based on a historic, cultural, or architectural motif.
    b. Owing to its unique location or singular physical characteristic, it represents an established and familiar feature of the neighborhood, community or city.
4. Archeological Importance
    a. It has yielded, or may be likely to yield, information important in prehistory or history.

B. An area may be designated as a Beaufort Conservation Neighborhood (BCN) if it meets one or more of the

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E. **Rules of Proceeding**

1. The MPC shall adopt and adhere to rules of procedure for the conduct of business.
2. An abstention from voting shall be considered a vote to deny the motion.

F. **Minutes:** The MPC shall keep minutes of its proceedings, showing the vote of each member upon each question, or indicating absence or failure to vote.

G. **Staff:** The MPC shall work with the Department of Planning and Development Services for all projects within the city.

10.3: ZONING BOARD OF APPEALS

10.3.1 POWERS AND DUTIES

A. **Authority:** The Zoning Board of Appeals (ZBOA) is hereby established, pursuant to the authority of § 6-29-780, et seq., of the South Carolina Code of Laws, as amended, and shall hereafter be referred to as the Board.

B. **Territorial Jurisdiction**

1. The ZBOA shall have jurisdiction over all lands within the City.
2. The City Council may expand the jurisdiction of the ZBOA by ordinance and/or intergovernmental agreement, in accordance with the provisions of § 6-29-330 of the South Carolina Code of Laws.

C. **Powers and Duties**

1. **Appeals:** The ZBOA shall hear and decide appeals where it is alleged there is error in an order, requirement, decision, or determination made by an Administrative Official in the enforcement of this Code.
2. **Variances**
   a. The ZBOA shall hear and decide requests for Variance from the requirements of this Code when strict application of the provisions of the Ordinance would result in unnecessary hardship.
   b. The ZBOA shall hear and decide requests for Variance from the requirements of Chapter 4 of the City of Beaufort Code of Ordinances's "Flood Damage Prevention Ordinance."
3. **Special Exception:** The ZBOA shall permit uses by Special Exception subject to the terms and conditions set forth for such uses in this Ordinance.

10.3.2 MEMBERSHIP, TERMS, AND COMPENSATION

A. **Number:** The ZBOA shall consist of 5 members, appointed by the City Council. None of the members of the ZBOA shall hold any other public office or position in the city.

B. **Terms, Appointment:** All members shall be appointed by the City Council for overlapping terms of 3 years. All members shall be residents of the city, own property in the city, or own or operate a business in thecity. All terms shall end on June 30 of the applicable year, and members must continue to serve until their successors are appointed.

C. **Term Limits:** No member may serve for more than 2 successive terms, except for extraordinary circumstances where the City Council believes it to be in the best interest of the community to have a particular member continue for a specific period of time. This limitation shall not prevent any person from being appointed to the ZBOA after an absence

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10.6: TECHNICAL REVIEW COMMITTEE

10.6.1 DESIGNATION

The City Manager shall designate a Technical Review Committee (TRC) consisting of the Administrator, the Building Official and any other city staff professional the City Manager deems necessary for professional review. A traffic engineer shall be included on the TRC to review Traffic Impact Analyses. The Administrator shall serve as chair of the committee and be responsible for all final decisions of the committee.

10.6.2 POWERS AND DUTIES

A. **Staff the Pre-Application Conference:** The TRC shall review any projects that appear at pre-application conferences.

B. **Site Plans and Final Plats:** The TRC shall approve, approve with conditions, or deny Major Subdivision Site Plans and Final Plats.

C. **Traffic Impact Analyses:** The TRC shall review and make recommendations on Traffic Impact Analyses.

10.7: HISTORIC DISTRICT REVIEW BOARD

10.7.1 DESIGNATION

A. **Creation:** A Historic District Review Board (HRB) is hereby established as a board of architectural review pursuant to Section 6-29-870 of the South Carolina Code of Laws, 1994, as amended.

B. **Purpose:** The HRB shall review and take action on projects located within the Beaufort Historic District, including changes to the exterior of any structure and new construction. The HRB will seek to preserve and protect the historic character and architectural integrity of Beaufort's National Landmark Historic District.

10.7.2 POWERS AND DUTIES

A. **Territorial Jurisdiction:** The HRB shall have jurisdiction throughout the Beaufort Historic District. The HRB shall also have jurisdiction to review the Special Property Tax Assessment for Rehabilitated Historic Properties (a.k.a.Bailey Bill) applications for any structure listed in the Beaufort County Historic Sites Survey – 1997, or most recent historic sites survey, that are located within the city limits, but outside the Historic District.

B. **Powers and Duties**

1. It shall be the function of the HRB to review and take action on any Major Certificates of Appropriateness (Section 9.7.1).
2. It shall be the function of the HRB and for approving alterations to structures listed on the "1997 Beaufort County Above Ground Historic Sites Survey (or most recent historic sites survey) which have applied for the Bailey Bill in accordance with Section 9.10 (Certificate of Appropriateness).
3. In exercising the authority granted the HRB under this Section, the HRB may call upon the advice of any professionals it deems appropriate; any costs incurred for such consultation may be paid for with funds approved for such use by the City Council.
4. The HRB shall maintain an inventory of historic properties within the City of Beaufort and make such information available to the public. This inventory shall be updated

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periodically to record structures and buildings that have gained historic or architectural significance, and buildings that no longer contribute to the character of the National Landmark Historic District due to demolition or loss of character.

5. The HRB shall have the opportunity to comment to the appropriate approving agency on National Register nominations proposed for any building within its jurisdiction at its discretion.

C. **Staff:** The staff of the City's Department of Planning and Development Services may provide support to the HRB from time to time.

10.7.3 MEMBERSHIP, TERMS, AND COMPENSATION

A. **Number, Composition:** The HRB shall consist of 5 members with an interest, competence, or knowledge in historic preservation. All HRB members shall be residents of the city, own property in the city, or own or operate a business in the city. To the extent that such is available in the community, 2 members shall, be professionals in the disciplines of historic preservation, architecture, landscape architecture, history, architectural history, planning, archeology, or related disciplines. Three of the members shall either live or own property in the Historic District. One of the 5 members shall be a member of the board of directors of the Historic Beaufort Foundation, and shall be recommended by that organization.

B. **Terms, Appointment:** All members shall be appointed by the City Council for terms of 3 years. All terms shall end on June 30 of the applicable year and members must continue to serve until their successors are appointed.

C. **Term Limits:** No member may serve for more than 2 successive terms, except for extraordinary circumstances where the City Council believes it to be in the best interest of the community to have a particular member continue for a specific period of time. This limitation shall not prevent any person from being appointed to the HRB after an absence of 1 year. Service for a partial term of less than 1½ years shall not constitute a term of service for purposes of this Section.

D. **Vacancies:** Any vacancy in the membership shall be filled for the unexpired term in the same manner as the initial appointment.

E. **Removal:** The City Council may remove any member of the HRB for cause.

F. **Compensation:** Members shall serve without pay. Members may be reimbursed for actual expenses incurred in the performance of their duties from available funds approved in advance by the Administrator.

10.7.4 OFFICERS, MEETINGS, AND QUORUM

A. **Officers:** The HRB shall elect a chairperson and a vice-chairperson from its members who shall serve for 1 year or until reelected, or until a successor is elected. The HRB shall appoint a secretary, who may be an employee of the City.

B. **Meetings:** Meetings of the HRB shall be held at the call of the chairperson and at such other times as the HRB may determine. All meetings shall be open to the public.

C. **Quorum:** At least 3 of the members of the HRB must be present to constitute a quorum.

D. **Rules of Proceeding**

1. The HRB shall adopt and adhere to rules of procedure for the conduct of business.
2. An abstention from voting shall be considered a vote to deny the motion.

E. **Minutes:** The HRB shall keep minutes of its proceedings, as required by state law.

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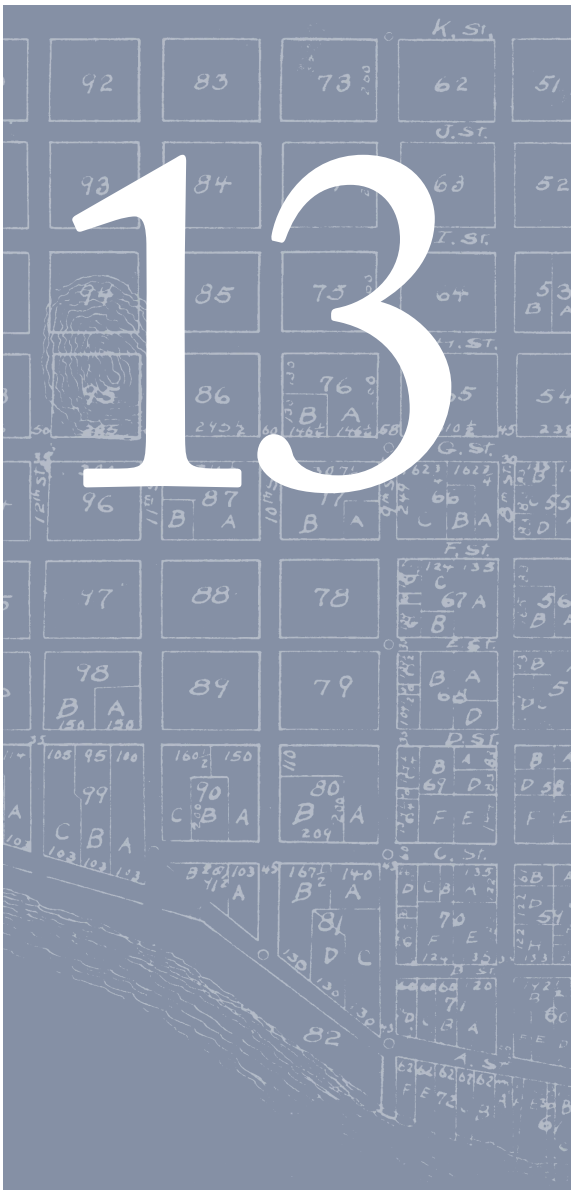

13: DEFINITIONS

13.1: DEFINITIONS OF SPECIALIZED TERMS

Abutting Parcel. Any parcel that shares a lot line with another parcel.

Accessory Structure. A structure physically detached from, secondary and incidental to, and commonly associated with a primary structure and/or use on the same site. The use of the accessory structure must not change the character of the use for the site. Accessory Structures normally associated with a residential use property include, but are not limited to: garages (unenclosed or enclosed) for the storage of automobiles (including incidental restoration and repair), personal recreational vehicles and other personal property; studios; workshops; greenhouses (noncommercial); enclosed cabanas and pool houses; storage sheds; and outdoor saunas. Accessory structures normally associated with a non-residential use property include, but are not limited to: garages (unenclosed or enclosed) for the storage of automobiles and work related vehicles and equipment (including incidental restoration and repair); storage structures; workshops; and studios.

ACI (Aggregate Caliper Inch). A measure of the total combined number of inches of existing and proposed trees used to meet landscaping requirements. Caliper inch sizes for individual proposed trees are measured as indicated in the American Standard for Nursery Stock (ANSI 260.1-2004). Caliper inch sizes for existing trees are measured in diameter at breast height (DBH).

Agriculture and Crop Harvesting. A nursery, orchard, or farm primarily engaged in the growth, processing, and packaging of fruits, vegetables, plants, trees, or fish (aquaculture) for the distribution of vegetation, seafood, wine, or dry goods. The premises may include agricultural accessory structures, plant nurseries, and secondary retail or wholesale sales. See also "Community Garden."

1. **Agricultural Accessory Structure.** A building for sheltering animals or agricultural equipment, hay, feed, etc. These structures include, but are not limited to: barns, non-commercial greenhouses, coops, corrals, and pens. Does not include pasture fencing.

SECTIONS

13.1: DEFINITIONS OF SPECIALIZED TERMS 233
13.2: DETAILED USE DEFINITIONS 256
13.3 REFERENCE MAPS 266

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2. **Plant Nursery.** A commercial agricultural establishment engaged in the production and sale of ornamental plans and other nursery products, grown under cover (e.g. greenhouses) either in containers or in the soil on the site, or outdoors in containers.
3. **Produce Stand.** A temporary business established and operated for a specific time, selling raw, unprocessed fruits, vegetables, nuts, and other produce in its raw or natural state, and that is accessory to an on-site or adjacent agricultural operation.

Agricultural Support Services. Nursery, orchard, or farm supply and support services including, but not limited to: equipment dealers, support uses for agricultural, harvesting, and/or animal rearing, seasonal packing sheds, etc.

Administrator. The City Manager, or any person or persons designated by the City Manager to fulfill the duties outlined in Section 10.5 of this Development Code.

AICUZ (Air Installations Compatible Use Zone). The area surrounding MCAS—Beaufort as identified on the Zoning Map (Airport Overlay District/MCAS—Beaufort).

AICUZ Buffer. The quarter-mile area surrounding the AICUZ for MCAS—Beaufort.

Airport/Aviation Services. An airport, runway, landing strip, seaport, or heliport providing accommodations by public, private, or not-for-profit entities for the conveyance of persons from one location to another by airplane, seaplane, helicopter, or other means of aviation. Includes facilities for loading and unloading areas.

Alcoholic Beverage Sales. The retail sale of beer, wine, and/or spirits for on-site or off- site consumption, either as part of another retail use or as a primary business activity.

Animal Keeping, Small. The raising or keeping of small animals kept wholly or partially outside of a residential structure, including, but not limited to: rabbits, fowl, and poultry. Does not include animals normally considered as household pets (as determined by the Administrator).

Animal Keeping. The raising, breeding, feeding, and/or keeping of a limited number of animals kept wholly or partially outside of a residential structure, including, but not limited to: horses, bees, rabbits, fowl, and poultry. Does not include animals normally considered as household pets (as determined by the Administrator).

1. **Livestock and Sales Yards.** The raising, breeding, feeding, or keeping of animals for purposes of dairy manufacturing, processing, slaughter, or sales, kept wholly or partially outside of a residential structure, including, but not limited to: horses, mules, llamas, bison, elk deer, cattle, swine, sheep, ostrich and goats. Does not include animals normally considered as household pets (as determined by the Administrator).
2. **Large Lot Feed Operations.** The raising, breeding, feeding, and/or keeping of confined animals in production operations that are separate from standard agricultural activities (i.e. crops, vegetation, or pasture foraging are not sustained over any portion of the facility), and that sustain activities for a minimum of 45 days during any 12-month period.

Animal Services: Animal Clinic, Boarding, and Animal Hospital.

1. **Animal Clinic.** An establishment used by a veterinarian where animals are treated.
2. **Animal Boarding.** A commercial facility for the grooming, keeping, boarding or maintaining of five or more animals (four months of age or older) in an enclosed facility, except for dogs or cats for sale in pet shops or in animal hospitals. Includes pet day care.
3. **Animal Hospital.** An establishment where a veterinarian treats animals of any size and where there may be functions and facilities that are not completely enclosed within a structure.
4. **Animal Kennel.** A commercial facility for the grooming, keeping, boarding or maintaining of

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ten or more animals (four months of age or older), except for dogs or cats for sale in pet shops or in animal hospitals. Includes outdoor runs and open-air facilities.

Approved Phase. An phase of development that has been approved through the subdivision or site plan approval process, or a phase thereof approved by the Administrator prior to a request for an inspection for a certificate of compliance.

Arborist Report. See Appendix A.

Archaeological Resources. As defined in the Archaeological Resources Protection Act of 1979 (16 USC 470aa--470mm) Section (1): The term "archaeological resource" means any material remains of past human life which are of archaeological interest. Such determination shall include, but not be limited to: pottery, basketry, bottles, weapons, weapon projectiles, tools, structures or portions of structures, pit houses, rock paintings, rock carvings, intaglios, graves, human skeletal materials, or any portion or piece of the foregoing items. Nonfossilized and fossilized paleontological specimens, or any portion or piece thereof, shall not be considered archaeological resources, under this definition, unless found in an archaeological context. No item shall be treated as an archaeological resource under this definition unless such item is at least 100 years of age.

Archaeological Site. The area of the development identified as being listed in or having the potential for listing in the National Register of Historic Places.

Architectural Features. Exterior building elements intended to provide ornamentation to the building massing, including, but not limited to: eaves, cornices, bay windows, window and door surrounds, light fixtures, canopies, and balconies.

ATM. An automated teller machine (computerized, self-service machine used by banking customers for financial transactions, including deposits, withdrawals and fund transfers, without face-to-face contact with financial institution personnel), located outdoors at a bank or in another location. Does not include drive-up ATM's.

Bank/Financial Services. See "General Services."

Bar/ Tavern/Night Club.

1. **Bar, Tavern.** A business where alcoholic beverages are sold for on-site consumption, which are not part of a larger restaurant. Includes bars, taverns, pubs, and similar establishments where any food service is subordinate to the sale of alcoholic beverages. May also include beer brewing as part of a micro brewery ("brew-pub"), and other beverage tasting facilities.
2. **Night Club.** A facility serving alcoholic beverages for on-site consumption, and providing entertainment, examples of which include live music and/or dancing, comedy, etc. Does not include adult-oriented businesses.

Basement. Any area of the building having its floor subgrade (below ground level) on all sides. A raised basement is a basement story with a floor level that is subgrade and ceiling level that is above grade.

Bed and Breakfast. See "Lodging."

Block Face. The span from one street to another street. When reference "block face development/ redevelopment" blocks must be a minimum of 150' wide to meet this standard. If blocks are longer than 600', or located along a waterfront, the dimension which constitutes development/redevelopment is defined as a minimum of 300'

Boat Sales and Service. See "Vehicle and Boat Sales and Rental."

Brew Pub. A pub or restaurant that also contains a microbrewery (see definition).

Buildable Area. The area of a lot that remains after removing the required front, side and rear yards for individual lots, as set forth for the particular zone.

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Building Footprint. The total area of a structure under roof, regardless of whether it is heated or unheated.

Building Supplies/Lumber Yard. An establishment in which building or construction and home improvement materials are offered or kept for retail sale, which may also include the fabrication of certain materials related to home improvement and/or the outdoor storage of such materials designated for retail sale.

Building Type. A structure defined by its combination of configuration, disposition and function.

Build-to Line (BTL). A line parallel to a property line or right-of-way where a building facade must be placed. The BTL may appear graphically on the regulating plan or be stated as a dimension from the property line or right-of-way. Minor deviations from the BTL are allowed for architectural features, recessed entries, and recessed balconies and do not count against the calculations of % of BTL Defined by a building or Building at the BTL.

Bungalow Court. See Division 5.1 (Building Type Standards).

Caliper. A horticultural method of measuring the diameter of a tree trunk for the purposes of determining the tree's size. The caliper of the trunk is measured six inches above the ground for trees with a diameter of four inches or less, twelve inches above the ground for trees with diameters more than four and less than ten inches, and at breast height (4½ feet) for trees with diameters of ten inches or greater.

Campground. An area of land utilized for temporary occupation by travelers in recreational vehicles, campers, tents, and camping cabins not exceeding three hundred seventy-five (375) square feet. Does not include mobile home parks.

Canopy Tree. A tree that has an expected height at maturity greater than 30 feet and produces significant shade because it has a crown that is oval, round, vase-shaped, or umbrella-shaped.

Ceiling Height, Ground Floor. Height from finished floor to finished ceiling of primary rooms on the ground floor, not including secondary rooms such as bathrooms, closets, utility rooms and storage spaces.

Ceiling Height, Upper Floor(s). Height from finished floor to finished ceiling of primary rooms on the floor(s) above the ground floor, not including secondary rooms such as bathrooms, closets, utility rooms and storage spaces.

Charrette. A multiple-day collaborative design and planning workshop held on-site and inclusive of all affected stakeholders.

Civic Institution. A term defining not-for-profit organizations that are dedicated to arts, culture, education, religious activities, recreation, government, and transportation.

Civic Building. A structure operated by governmental or not-for-profit organizations and limited to civic and related uses. Civic Buildings may include the following:

1. **Library, Museum.** Public or quasi-public facilities, examples of which include: aquariums, arboretums, art galleries and exhibitions, botanical gardens, historic sites and exhibits, libraries, museums, planetariums, and zoos. May also include accessory retail uses such as a gift/book shop, restaurant, etc.
2. **Theater (Cinema or Performing Arts).** An indoor facility for group entertainment, other than sporting events. Examples of these facilities include: Civic theaters, facilities for "live" theater and concerts, and movie theaters.

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3. **Public Service Buildings.** These are municipal buildings which include City Hall, Courthouse, Police Stations, and Fire Stations. May also be considered "Community/Public Safety Facilities."
4. **Religious Institutions**

Civic Space. An An outdoor area, dedicated for community activities. These areas may be reserved for use by a specific neighborhood or community or group, or open for public use. See Section 7.4 for more information and examples.

Colleges and Universities. A facility for post-secondary education that grants associates, bachelors, masters, or doctoral degrees, and may include research functions. Includes professional schools (e.g. law, medicine, etc.) and technical colleges.

Commercial. A term defining workplace, office and retail uses collectively.

Common Courtyard. An entry court, forecourt or courtyard shared by multiple residential units or commercial spaces.

Community Garden. A site used for growing plants for food, fiber, herbs, and flowers and shared and maintained by community residents.

Community Based Farmer's Market. The temporary use of a site for the outdoor sales of food and farm produce items.

Community Care Facilities. Facilities that provide living, sleeping, and sanitation accommodations for institutional purposes in coordination with the provision of social services. The facilities may include facilities for eating and cooking. This category does not include Group Homes, or Community Residences; see "Group Home."

1. **Custodial Care Facility.** A facility providing care and treatment in a protective living environment for persons residing voluntarily, by court placement, or under protective control of federal, State, county, or City governance including, without limitation, post-correctional facilities, temporary detention facilities, chronically ill tenants, domestic violence victims, outpatient clients, and developmentally disabled.
2. **Homeless Shelter.** A supervised publicly or privately operated shelter and services designed to provide temporary living accommodations to individuals or families who lack a fixed, regular and adequate nighttime residence.
    a. **Emergency Shelter.** A facility that provides temporary housing on a first- come, first-served basis where clients must leave in the morning and have no guaranteed bed for the next night OR provide beds for a specific period of time, regardless of whether or not clients leave the building. Facilities that provide temporary shelter during extremely cold weather (such as churches) are also included.
    b. **Short Term Housing.** A facility that provides housing for individuals or families (not to exceed 6 months) with a continued identified bed space. The facility would also provide personal assistance to indigent, needy, homeless or transient persons who lack a fixed, regular, and adequate nighttime residence. Such personal assistance must include food and/or shelter, and in addition may include needed and necessary supportive services.
    c. **Transitional Housing.** A structure or a group of structures providing housing for clients with a maximum stay of two years and offer supportive services to promote self-sufficiency and to help obtain permanent housing.

Community/Public Safety Facility. A facility operated by a public agency including fire stations, other fire preventive and fire fighting facilities, police and sheriff substations and headquarters, including interim incarceration facilities. May include ambulance dispatch on the same site. May also be considered "Civic

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Facilities".

Contributing Structure. Any structure within the Historic District that was indicated on the 1997 Beaufort County Above Ground Historic Sites Survey, or subsequent historic sites survey, that is deemed to have qualities that exemplify the character of the Historic District.

Critical Area. All saline waters and related lands which are subject to the ebb and flood of the tide including coastal waters, tidelands, coastal wetlands, mudflats, marshes and shallows. The critical area is seaward of the critical line, as delineated by the Department of Ocean and Coastal Resources Management of the South Carolina Division of Health and Environmental Control,.

Critical Line. The line defining the edge of a Critical Area. This border is delineated by the Department of Ocean and Coastal Resources Management of the South Carolina Division of Health and Environmental Control.

Day Care, Child or Adult. A state-licensed facility that provides non-medical care and supervision for adult clients or minor children for periods of less than 24 hours per day for any client. Each individual receiving care is considered one "client". These facilities include the following, all of which are classified and required to be licensed by the South Carolina Department of Health and Environmental Control and the South Carolina Department of Social Services.

1. **Family Day Care Home.** A licensed facility in a private home where an occupant of the residence provides family day care for up to 6 adult clients or minor children for periods of less than 24 hours per day for any client. Facilities include but are not limited to: infant centers, nursery schools, preschool, after-school or extended day care, and school age child care centers. See "Home Occupation - Minor."
2. **Group Care Home.** A licensed day care facility that provides non-medical care and supervision to 7-12 adult clients or minor children for periods of less than 24 hours per day for any client. Facilities include, but are not limited to: infant centers, nursery schools, preschools, after-school or extended day care, and school age child care centers.
3. **Commercial Care Center.** A licensed day care facility licensed that provides non- medical care and supervision to more than 12 adult clients or minor children for periods of less than 24 hours per day for any client. Facilities include, but are not limited to: infant centers, nursery schools, preschools, after-school or extended day care, and school age child care centers. Conditional Use. These uses that require Administrator approval for conditional uses allowed within a zone.

DBH (Diameter at Breast Height). A standard measure of tree size for existing trees. The tree trunk diameter is measured, in inches, at a height of four and one-half (4.5) feet above the ground. If a tree splits into multiple trunks below four and one-half (4.5) feet, but adjacencies of trunks clearly show sharing of a singular rootball, then diameters of trunks below four and one-half feet to be totaled as a single number indicating DBH.

Density. Density refers to the number of dwelling units per unit of land area. Density is calculated by dividing the number of dwelling units on a site by the gross area (in acres) of the site on which the dwelling units are located. The number of dwelling units allowed on a site is based on the presumption that all other applicable standards will be met. The maximum density established for a zone, including Planned Unit Development districts, is not a guarantee that such densities may be obtained, nor shall the inability of a development to achieve the stated maximum density be considered sufficient justification for varying or otherwise adjusting other density, intensity or dimensional standards.

Depth, Ground-Floor Commercial Space. The distance from the street-facing facade to the rear interior wall of the ground-floor space available to a commercial tenant.

Design Review Authority. The person or group that has the authority to review projects, as specified in

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Article 9 of this Code.

Detention Facility. A facility operated by a public agency that provides protective care for the region in which it is located. Such facilities include: prisons, detention facilities, temporary detention facilities, work camps, etc.

Development. Any man-made change in improved and unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, diking, berming, excavation, drilling operations, or storage of equipment or materials.

Diseased Trees. Those trees that may constitute a hazard to life and property or harbor insects or disease which represent a potential threat to other trees within the city.

Dooryard. See Section 4.4 (Private Frontage Types).

Drive-Through Facility. Facilities where food or other products may be purchased or services may be obtained by motorists without leaving their vehicles. Examples of drive-through sales facilities include fast-food restaurants, drive-through coffee,, photo stores, pharmacies, bank teller windows and ATMs, dry cleaners, etc., but do not include gas station or other vehicle services which are separately defined under "Vehicle Sales and Services."

Dwelling /Dwelling Unit/Housing Unit. A room or group of internally connected rooms that have sleeping, cooking, eating, and sanitation facilities, but not more than one kitchen, which constitute an independent housekeeping unit, occupied by or intended for one household on a long-term basis.

1. **Accessory.** An auxiliary dwelling unit located within an accessory structure of a primary dwelling unit on the lot. Includes, but is not limited to dwelling units in guest houses, carriage houses, pool houses, and above or beside a garage.
2. **Single Family.** A structure containing one primary dwelling unit on a single lot.
3. **Family.** A structure containing two dwelling units on a single lot.
4. **Three Family.** A structure containing three dwelling units on a single lot.
5. **Multi-Family.** A structure containing four or more dwelling units on a single lot.
6. **Multi-Family Development.** One parcel that contains multiple buildings containing housing units, either as apartments, or condominium. Each building may have one or more units.

Eave/Parapet. Building height to eave/parapet shall be measured from the eave or top of parapet to natural grade or finished grade at the lowest point adjacent to the building exterior, whichever yields the greatest height.

Effect and Adverse Effect.

1. Effect means an undertaking has an impact on a historic resource when the undertaking may alter the characteristics of the resource that may qualify the resource for inclusion in the National Register of Historic Places.
2. Adverse effect means an undertaking in which the effect on a historic resource may diminish the integrity of the property's location, design, setting, materials, workmanship, feeling, or association.

Engaged. See Section 4.4 (Private Frontage Types).

Encroachment. Any architectural feature, structure or structural element, such as a gallery, fence, garden wall, porch, stoop, balcony, bay window, terrace or deck, that breaks the plane of a vertical or horizontal regulatory limit extending into a setback, beyond the build-to-line, into the public frontage, or above a height limit.

Facade. The vertical surface of a building.

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Facade Zone. The area between the minimum and maximum setback lines.

Fair Market Value. The value of a structure or parcel based upon one of the following, at the discretion of the owner:

1. The value listed in the Beaufort County's tax assessor data
2. The value listed in a professional appraisal not older than 1 year

Fenestration. The arrangement of windows and doors on the exterior of a building.

Finish Level, Ground Floor. Height difference between the ground floor finished floor of residential or commercial space, excluding lobbies and common-use areas, and the adjacent public walk. In the case of a loading dock frontage that serves as the public right-of-way, the floor finish level is the height of the walk above the adjacent street.

Flex Space. A room or group of internally connected rooms designed to accommodate an evolution of use over time in response to an evolving market demand. Typically designed to accommodate future commercial uses, while accommodating less intense short-term uses, such as residential or live/work, until the full commercial demand has been established.

Forestry. Perpetual management, harvesting and enhancement of forest resources for ultimate sale or use of wood products, requiring replanting, and subject so South Carolina Forestry Commission Best Management Practices (BMPs).

Formalized On-Street Parking. see "Parking, On-Street"

Formally Disposed. Composed in a formal arrangement, in a regular, classical, and typically symmetrical manner.

Front. The primary frontage(s) of a lot, determined as follows:

- For lots with frontages along multiple thoroughfares, the Primary Frontage is determined by the Street Hierarchy Diagram in Appendix C. All other frontages may be considered to be side street frontages.
- For lots with frontages along a thoroughfare and a civic space, the Front may be the frontage along either the thoroughfare or the civic space, or both frontages may be treated as Fronts, with the following exception: the frontage along certain Civic Spaces may be required to be a Front, as per the standards in Section 7.4 (Civic and Open Space).
- For lots with a single frontage along a thoroughfare or a Civic Space, but not both, that frontage is the Front.
- Frontages along alleys, service drives, and parking drives may never be a front.

Frontage. A strip or extent of land abutting a thoroughfare, civic space or other public right-of-way.

Frontage, Primary. The elevation(s) of a structure that fronts a Primary Street. See also "Primary Street."

Frontage, Private. The area between the edge of the public right-of-way and the front or side façade

Frontage, Public. The area between the curb of the vehicular lanes and the frontage line.

Frontage Line. The property line(s) of a lot fronting a thoroughfare or other public way, or a civic space.

Garage. A structure, or part thereof, used or intended to be used for the parking and storage of motor vehicles.

Garage/Carport, Detached. A garage or carport that is separated from the main body of the house. It may be physically connected to the house with a covered walk if that walk is unconditioned and does not exceed 2/3 the width of the garage.

General Retail. Stores and shops intended to serve as destination retail, convenience shopping, and

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provision of general services. Examples of these stores, lines of merchandise, and services include: Art galleries; retail; art supplies, including framing services; books, magazines, and newspapers; cameras and photographic supplies; clothing, shoes, and accessories; collectibles (cards, coins, comics, stamps, etc.); drug stores and pharmacies; dry goods; fabrics and sewing supplies; furniture and appliance stores; hobby materials; home and office electronics; jewelry; luggage and leather goods; musical instruments; neighborhood markets; parts; accessories; small wares; specialty grocery store; specialty shops; sporting goods and equipment; stationery; toys and games; variety stores; videos, DVD's, records, and CD's, including rental stores. May include sales of materials produced on the premises.

General Services. Professional, commercial and public activities conducted in offices and storefronts, without outdoor storage needs, including but not limited to business and financial services, advanced technology uses that are compatible in terms of noise/ vibration impacts and hazards with adjoining buildings, minor repair services, health services, social services, legal services, educational services and cultural services. Does not include industrial or medical services.

1. **Bank/Financial Services.** Financial institutions, including, but not limited to: banks and trust companies, credit agencies, holding (but not primarily operating) companies, lending and thrift institutions, other investment companies, securities/ commodity contract brokers and dealers, security and commodity exchanges, and vehicle finance (equity) leasing agencies. Includes ATM facilities (see "ATM").
2. **Business Services.** Establishments providing direct services to consumers. Examples of these uses include employment agencies, insurance agent offices, real estate offices, travel agencies, utility company offices, elected official satellite offices, etc. This use does not include "Bank, Financial Services," which is separately defined.
3. **Business Support Service.** An establishment within a building that provides services to other businesses. Examples of these services include, but are not limited to: Computer-related services (rental, repair) (see also "Maintenance Service - Client Site Services"), copying, quick printing, and blueprinting services, film processing and photofinishing (retail), mailing and mailbox services.
4. **Personal Services.** Establishments that provide non-medical services to individuals as a primary use. Examples of these uses include: barber and beauty shops, body piercing facilities, clothing rental, dry cleaning pick-up stores with limited equipment, home electronics and small appliance repair, laundromats (self-service laundries), locksmiths, massage (licensed, therapeutic, non-sexual), nail salons, pet grooming with no boarding, shoe repair shops, tailors, tanning salons, tattoo parlors. These uses may also include accessory retail sales of products related to the services provided.
5. **Professional, Administrative Services.** Office-type facilities occupied by businesses that provide professional services, or are engaged in the production of intellectual property. Examples of these uses include: Accounting, auditing and bookkeeping services, advertising agencies, attorneys, business associations, chambers of commerce, commercial art and design services, construction contractors (office facilities only), counseling services, court reporting services, design services including architecture, engineering, landscape architecture, urban planning, detective agencies and similar services, educational, scientific and research organizations, financial management and investment counseling, literary and talent agencies, management and public relations services, media postproduction services, news services, photographers and photography studios, political campaign headquarters, psychologists, secretarial, stenographic, word processing, and temporary clerical employee services, security and commodity brokers, writers' and artists'

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offices.

Ground Cover. Low-growing plants that grow in a spreading fashion to form a more or less solid mat of vegetation, generally planted to provide decorative landscaping or permeable cover for bare earth that prevents soil erosion.

Group Dwelling. A residential facility for unrelated persons providing living facilities, sleeping rooms, and meals. This category does not include homes for the developmentally disabled or other institutional uses such as protective living or sheltered care facilities; see "Community Care Facilities."

1. **8 or Fewer Residents, in a Home.** Residential facility for eight or fewer unrelated persons providing living facilities, sleeping rooms, and meals. This use shall be considered as a single-family dwelling, in terms of applicable building form standards. The number listed does not include the operator, members of the operator's family, or persons employed by the operator as staff, except that the total number of persons living in a group home shall not exceed 10. This category does not include a home for the developmentally disabled or other institutional uses such as protective living or sheltered care facilities, see "Community Care Facilities."
2. **More than 8 Residents, in a Community Residence.**
    a. **Dormitories.** A building or portion thereof which contains living quarters for nine or more students, staff, or members of a college, university, primary or secondary boarding school, theological school, or other comparable organization, provided that such building is either owned or managed by such organization. Single family and two-family dwellings are defined separately. See "Rooming and Boarding Facilities."
    b. **Convent or Monastery.** The living quarters or dwelling units for a religious order or for the congregation of persons under religious vows.
    c. **Congregate Care Facility.** A facility for long-term residence exclusively by persons 62 years of age or older, and which may include, without limitation, common dining and social and recreational features, special safety and convenience features designed for the needs of the elderly, such as emergency call systems, grab bars and handrails, special door hardware, cabinets, appliances, passageways, and doorways designed to accommodate wheelchairs, and the provision of social services for residents which must include at least two of the following: meal services, transportation, housekeeping, linen, and organized social activities.
    d. **Nursing Home.** A health care institution other than a hospital or sheltered care home which provides inpatient or resident beds and is licensed by the South Carolina Department of Health and Environmental Control as a skilled nursing facility for two or more unrelated persons. A nursing home provides services to those who need continuous care but do not require hospital care or direct daily care from a physician.

Hedge. A group of shrubs planted in line or in groups that forms a compact, dense, living barrier that demarcates an area from on-site or off-site views.

Height, Overall. Overall building height shall be measured vertically from the natural grade or finished grade adjacent to the building exterior to the highest point of coping of a flat roof, the top of a mansard roof, or the highest point of the highest pitched roof. In general, this Code measures heights in stories rather than feet. See Section 2.4.1 and 2.6 for more standards and description.

Home Occupation - Major. Residential premises used for the transaction of business, the supply of professional services, and the limited supply of retail by the resident thereof. Major Home Occupations may include agent, architect, artist, broker, consultant, draftsman, dressmaker, engineer, family daycare home, interior decorator, lawyer, notary public, teacher, and other similar occupations, as determined by the Administrator. The Home Occupation use shall not disrupt the general character of the neighborhood.

Home Occupation - Minor. Residential premises used for the transaction of business or the supply of professional services. Home Offices shall be limited to the following: agent, architect, artist, broker,

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consultant, draftsman, dressmaker, engineer, interior decorator, lawyer, notary public, teacher, and other similar occupations, as determined by the Administrator. Such use shall not simultaneously employ more than 1 person in addition to the residents of the dwelling. The Home Office use shall not disrupt the generally residential character of the neighborhood.

Household. A group or family living in a single Dwelling Unit. A single household may include up to 5 unrelated people.

Historic Resources. According to the National Historic Preservation Act of 1966, as amended through 1992 (16 USC 470 et seq.) Section 101(a)(1)(A) Any district, site, building, structure, or object that is at least 50 years of age and is significant in American history, architecture, archaeology, engineering, and culture may be considered for inclusion on the National Register of Historic Places.

Impervious Surface Coverage. The percent of a property that is covered with non-infiltrating material. This includes all structures, slabs and paving material.

Infill. The development of vacant land that is now largely surrounded by developed land. It is typically served by existing infrastructure, particularly roads, and may include properties which were previously developed but have been vacant for a number of years.

Infrastructure and Utilities. Installations or facilities or means for furnishing to the public, electricity, gas, steam, communications, water, drainage, sewage disposal, or flood control, irrespective of whether such facilities or means are underground or above ground; utilities may be owned and operated by any person, firm, corporation, municipal department or board, duly appointed by state or municipal regulations. Utility or utilities as used herein may also refer to such persons, firms, corporations, departments, or boards; however it does not include Maintenance Yards (see "Maintenance Yard") or utility offices (see "General Service and Office").

Intensive Level Survey. A survey that will be based on a systematic approach to the entire tract, usually at 100-foot intervals, that are differentiated between having high or low potential for containing archaeological and historic resources. Topography and soil types are also taken into consideration to help determine the areas of high and low potential. In addition, subsurface activity, such as shovel tests, are done, unless surface exposure is evident, and the materials are sifted. All of the findings, as well as a determination of eligible sites, will be compiled into a final report.

Landmark Tree. Any existing broad-leaved overstory tree with a DBH of 36 inches or greater. Additional standards for specific trees, including cone-bearing trees, are as listed in the chart in Section 5.3.2.

Landscape Strip, Perimeter. Vegetative material associated with the perimeter landscaping required for a parking lot area.

Laundry, Dry Cleaning Plant. A service establishment engaged primarily in high volume laundry and garment services, including: carpet and upholstery cleaners; diaper services; dry cleaning and garment pressing; commercial laundries; and linen supply. These facilities may include accessory customer pick-up facilities. These facilities do not include coin-operated laundries or dry cleaning pick up stores without dry cleaning equipment, see "Personal Services".

Liner Building. An occupiable structure specifically designed to mask a separate interior use from a frontage.

Live/ Work Unit. An integrated housing unit and working space, that accommodates both residential occupancy and work or commercial activity. Typically the commercial space is below or in front of the residential space.

Lodging. (syn. Overnight Guest Accommodation)

1. **Bed & Breakfast Inn (B&B).** (10 or Fewer Rooms) The use of a single residential structure for commercial lodging purposes, with up to ten bedrooms used for the purpose of the lodging transient guests and in which meals may be prepared for them, provided that no meals may be sold

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to persons other than such guests except as provided for in Section 3.6.2.C.1.e.

2. **Hostel.** A facility for residence of under twenty-nine (29) days that provides simple dormitory or sleeping rooms and common rooms for cooking, meeting, recreational, and educational use; that is chartered or approved by the International Hostel Federation or its national or regional affiliates, or similar organizations; and that is supervised by resident house-parents or managers.
3. **Hotel/Motel (25 or more rooms).** A lodging establishment of 25 or more rooms in a building or group of buildings offering transient lodging accommodations on a daily rate to the general public. Additional services may include a restaurant, meeting rooms, and recreational facilities.
4. **Inn (6 to 24 rooms).** A building or group of buildings used as a lodging establishment having six to 24 guest rooms providing overnight accommodations and breakfast to transient guests.
5. **Resort.** Lodging that serves as a destination point for visitors, located and designed with some combination of recreational uses or natural areas, such as marinas, beaches or pools, tennis, golf, equestrian, other special recreation opportunities, and/or a variety of restaurants and shops to serve the guests. Buildings and structures in the resort shall complement the scenic and natural qualities of the location and area where it is situated.
6. **Rooming and Boarding Facility.** A residence or dwelling, other than a hotel, wherein three or more rooms, with or without individual or group cooking facilities, are rented to individuals under separate rental agreements or leases, either written or oral, whether or not an owner, agent, or rental agent is in residence. Includes dormitories, single room occupancy, fraternities, and sororities.
7. **Short-Term Rental.** A single-family dwelling, individual two-family or three-family dwelling, multifamily dwelling, or boat docked in approved marina, or any portion thereof, that is available for use or is used for accommodations or lodging of guests paying a fee or other compensation for a period of less than 30 days. When a portion of a dwelling unit is being rented, only one rental party may rent space at one time. If separate parties are renting rooms simultaneously, the use is considered a Bed and Breakfast.

Lot Area. Lot area refers to the horizontal land area within lot lines, excluding any wetlands.

Lot Width. Lot width is measured between side lot lines along a line that is parallel to the front lot line or its chord and located the minimum front setback distance from the front lot line. On cul-de-sac lots existing on the date of adoption of this Development Code, the required lot width will be 80% of that required by this Development Code.

Maintenance Yard. An outdoor storage area for large equipment, vehicles, and/or other common materials used by the City and/or master developer for maintenance of public/private infrastructure; storage of scrap materials used for repair and maintenance; and buildings or structure for uses such as repair facilities. May include an accessory office.

Manufacturing, Processing, Packaging: Light. A facility accommodating manufacturing processes involving less intense levels of fabrication and/or production such as the assembly, fabrication, and conversion of already processed raw materials into products, where the operational characteristics of the manufacturing processes and the materials used are unlikely to cause significant impacts on surrounding land uses or the community. The premises may include secondary retail or wholesale sales. Examples of light manufacturing/assembly uses include:

1. **Artisan/Craft Product Manufacturing.** An establishment that manufactures and/or assembles small products primarily by hand, including jewelry, pottery and other ceramics, as well as small glass and metal art and craft products, where any retail sales are incidental to the manufacturing activity.

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2. **Clothing and Fabric Product Manufacturing.** An establishment that assembles clothing, draperies, and/or other products by cutting and sewing purchased textile fabrics, and related materials including leather, rubberized fabrics, plastics and furs. Does not include custom tailors and dressmakers not operating as a factory and not located on the site of a clothing store (see "Personal Services"). Does not include the production of textile fabrics and related materials.
3. **Furniture and Fixtures Manufacturing, Cabinet Shop.** A business that manufactures wood and metal household furniture and appliances; bedsprings and mattresses; all types of office furniture and partitions, shelving, lockers and store furniture; and miscellaneous drapery hardware, window blinds and shades. Includes furniture re-upholstering businesses, and wood and cabinet shops, but not sawmills or planing mills.
4. **Handicraft Industries, Small-Scale Manufacturing.** Establishments manufacturing and/or assembling small products primarily by hand, including jewelry, pottery and other ceramics, as well as small glass and metal art and craft products, and taxidermists. Also includes manufacturing establishments producing small products not classified in another major manufacturing group, including: brooms and brushes; buttons, costume novelties; jewelry; musical instruments; pens, pencils, and other office and artists' materials; sporting and athletic goods; toys; etc.
5. **Media Production.** Facilities for motion picture, television, video, sound, computer, and other communications media production.
6. **Photo/Film Processing Lab.** A facility that provides high volume and/or custom processing services for photographic negative film, transparencies, and/or prints, where the processed products are delivered to off-site retail outlets for customer pick-up. Does not include small-scale photo processing machines accessory to other retail businesses.
7. **Printing & Publishing.** An establishment engaged in printing by letterpress, lithography, gravure, screen, offset, or electrostatic (xerographic) copying; and other establishments serving the printing trade such as bookbinding, typesetting, engraving, photoengraving and electrotyping. This use also includes establishments that publish newspapers, books and periodicals; establishments manufacturing business forms and binding devices. "Quick printing" services are included in the definition of "Business Support Services."

Manufacturing and Processing, Heavy. A facility accommodating manufacturing processes that involve and/or produce basic metals, building materials, chemicals, fabricated metals, paper products, machinery, textiles, and/or transportation equipment, where the intensity and/or scale of operations may cause significant impacts on surrounding land uses or the community. Examples of heavy manufacturing uses include the following:

1. **Chemical Product Manufacturing.** An establishment that produces or uses basic chemicals, and other establishments creating products predominantly by chemical processes. Examples of these products include: basic chemicals, including acids, alkalis, salts, and organic chemicals; chemical products to be used in further manufacture, including synthetic fibers, plastic materials, dry colors, and pigments; and finished chemical products to be used for ultimate consumption, including drugs/pharmaceuticals, cosmetics, and soaps; or to be used as materials or supplies in other industries including paints, fertilizers, and explosives. Also includes sales and transportation establishments handling the chemicals described above, except as part of retail trade.
2. **Concrete, Gypsum, and Plaster Product Manufacturing.** An establishment that produces bulk concrete, concrete building block, brick, and/or other types of precast and prefabricated concrete products. Also includes ready-mix concrete batch plants, lime manufacturing, and the manufacture of gypsum products, including plasterboard.
3. **Glass Product Manufacturing.** An establishment that manufactures glass and/or glass products

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by melting silica sand or cullet, including the production of flat glass and other glass products that are pressed, blown, or shaped from glass produced in the same establishment. Artisan and craftsman type operations of a larger scale than home occupations are instead included under ("Manufacturing – Light - Handcraft Industries and Small-Scale Manufacturing").

4. **Paving and Roofing Materials Manufacturing.** The manufacture of various common paving and petroleum-based roofing materials, including bulk asphalt, paving blocks made of asphalt, creosote wood, and various compositions of asphalt and tar.
5. **Petroleum Refining and Related Industries.** Industrial plants for purifying petroleum, and the compounding of lubricating oils and greases from purchased materials. Also includes oil or gas processing facilities, liquefied natural gas (LNG) facilities, the manufacture of petroleum coke and fuel briquettes, tank farms, and terminal facilities for pipelines. Does not include petroleum pipeline surge tanks and pump stations ("Public Services"), or petroleum product distributors ("Flammable Liquid, Gas, and Bulk Fuel - Storage and Sale").
6. **Plastics, other Synthetics, and Rubber Product Manufacturing.** The manufacture of rubber products including: tires, rubber footwear, mechanical rubber goods, heels and soles, flooring, and other rubber products from natural, synthetic, or reclaimed rubber. Also includes establishments engaged primarily in manufacturing tires; products from recycled or reclaimed plastics or styrofoam; molding primary plastics for other manufacturers, manufacturing miscellaneous finished plastics products, fiberglass manufacturing, and fiberglass application services. Does not include establishments engaged primarily in recapping and retreading automobile tires (See "Vehicle Sales and Services").
7. **Primary Metal Industries.** An establishment engaged in: the smelting and refining of ferrous and nonferrous metals from ore, pig, or scrap; the rolling, drawing, and alloying of metals; the manufacture of castings, forgings, stampings, extrusions, and other basic metal products; and the manufacturing of nails, spikes, and insulated wire and cable. Also includes merchant blast furnaces and by-product or beehive coke ovens.
8. **Pulp and Pulp Product Manufacturing.** An establishment that manufactures pulp, paper, or paperboard. Includes pulp, paper, and paperboard mills. Does not include establishments primarily engaged in converting paper or paperboard without manufacturing the paper or paperboard, including envelope manufacturing, converted paper products, paper coating and glazing, paper bags, assembly of paperboard boxes, wallpaper (See "Manufacturing - Light – Paper Product Manufacturing").
9. **Textile and Leather Product Manufacturing.** An establishment that converts basic fibers (natural or synthetic) into a product, including yarn or fabric, that can be further manufactured into usable items (See "Manufacturing - Light - Clothing and Fabric Product Manufacturing"), and industries that transform hides into leather by tanning or curing. Includes: Coating, waterproofing, or otherwise treating fabric; Manufacturing woven fabric, carpets, rugs from yarn; Dressed and dyed furs Preparation of fiber and subsequent manufacturing of yarn, threads, braids, twine cordage; Dying and finishing fiber, yarn, fabric, and knit apparel Scouring and combing plants; Leather-tanned, curried, and finished upholstery manufacturing; Manufacture of knit apparel and other finished products from yarn and thread mills; and Manufacture of felt goods, lace goods, non-woven fabrics and miscellaneous textiles.

Marine Industrial. A place of business serving marine-related needs including but not limited to: the loading and unloading of boats, boat storage (dry stack or boatyard), major boat repairs and servicing (engine, painting, body work, overhaul), commercial boat manufacturing, commercial fishing, the shipping of goods and containers, and other activities whose primary purpose is to facilitate the commercial maritme industry.

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Medical Services: Clinic, Urgent Care; Doctor Office; and Extended Care.

1. **Clinic, Urgent Care.** A facility other than a hospital where medical, mental health, surgical and other personal health services are provided on an outpatient basis. Examples of these uses include: Medical offices with five or more licensed practitioners and/or medical specialties, outpatient care facilities, urgent care facilities, other allied health services. These facilities may also include incidental medical laboratories. Counseling services by other than medical doctors or psychiatrists are included under "Offices - Professional/Administrative."
2. **Doctor Office.** A facility other than a hospital where medical, dental, mental health, surgical, and/or other personal health care services are provided on an outpatient basis, and that accommodates no more than four licensed primary practitioners (for example, chiropractors, medical doctors, psychiatrists, etc., other than nursing staff) within an individual office suite. A facility with five or more licensed practitioners is instead classified under "Medical Services – Clinic, Urgent Care." Counseling services by other than medical doctors or psychiatrists are included under "Office – Professional, Administrative."
3. **Extended Care.** Residential facilities providing nursing and health-related care as a primary use with in-patient beds. Examples of these uses include: board and care homes; convalescent and rest homes; extended care facilities; and skilled nursing facilities. Long-term personal care facilities that do not emphasize medical treatment are included under "Residential Care."

Maximum Lot Coverage. The percentage of a lot that is covered by roofs of the primary structure, and any accessory structures.

Medical Services: Hospital. A major institution where people receive medical, surgical, or psychiatric treatment and nursing care.

Meeting Facility, Public or Private. A facility for public or private meetings, including: Community centers, religious assembly facilities (e.g., churches, mosques, synagogues, etc.), civic and private auditoriums, Grange halls, union halls, meeting halls for clubs and other membership organizations, etc. Also includes functionally related internal facilities such as kitchens, multi-purpose rooms, and storage. Does not include conference and meeting rooms accessory and incidental to another primary use, and which are typically used only by on-site employees and clients, and occupy less floor area on the site than the offices they support. Does not include: Cinemas, performing arts theaters, indoor commercial sports assembly or other commercial entertainment facilities. Related on-site facilities such as day care centers and schools are separately defined and regulated.

Memorandum of Agreement. An agreement between the City and the applicant to avoid, reduce, or mitigate adverse effects on archaeological and historic properties, or to accept each effect in the public interest.

Microbrewery. (syn. Craft Brewery) A brewery that produces a small amount of beer (up to 10,000 barrels per year) for sale and consumption on or off premises. These establishments may be part of a brew pub (see definition). Mining /Resource Extraction. Extractive uses such as surface mining for sand, gravel, clay and topsoil and any other such use. Quarrying is not permitted.

Mixed-Use. Multiple functions within the same building or the same general area through superimposition or within the same area through adjacency.

Mixed-Use Project. A development that combines both commercial and residential uses on the same site, typically with the commercial uses occupying the ground floor street frontage and the residential uses above.

Museum. See "Community Oriented Civic Facility."

Naturally Disposed. A preservation of the existing natural condition or a composition of elements arranged as they would appear in a nature, with irregular shapes and asymmetry.

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National Historic Landmark District. A historic district that is officially recognized by the United States government for its outstanding historic significance.

National Register of Historic Places. The official list of the Nation's historic places worthy of preservation, as maintained by the National Parks Service.

Neighborhood Market. A neighborhood serving retail store, primarily offering food products, which may also carry a range of merchandise oriented to daily convenience shopping needs, and may be combined with food service (e.g., delicatessen).

Non-contributing Structure. Any structure within the Historic District that was indicated on the 1997 Beaufort County Above Ground Historic Sites Survey, or subsequent historic sites survey, that is not deemed to have qualities that exemplify the character of the Historic District. This also includes any structure that was not listed on the survey.

Office. See "General Services, Business Services, and Professional, Administrative Services."

Open Air Retail. A retail sales establishment operated substantially in the open air including, but not limited to: flea markets, trading posts, roadside stands, beach recreation and rental, and the like. Does not include community farmer's markets (see "Community Farmer's Market"), Vehicle Sales and Rental (see "Vehicle Sales and Rental"), industrial or agricultural equipment sales and rental (see "Agricultural Support Services"), home or garden supplies and equipment, or plant nurseries.

Outdoor Storage. Open yard area used for storage of materials or equipment associated with a primary use, excluding junk or other salvage. This is an accessory or primary use.

Outparcel. A small lot at the outer edge of a shopping center. Also called a pad site.

Parking Facility, Public or Commercial, Surface or Structure. Parking lots or structures operated by the jurisdiction or a private entity, providing parking either for free or for a fee. Does not include towing impound and storage facilities.

Parking, On-Street. On-street parking is parking constructed parallel or diagonal to the street right-of-way, defined by a ribbon or vertical curb, utilizing a durable surface material such as asphalt, concrete, pavers, or gravel, with appropriate stormwater controls.

Passive Recreation. Recreation requiring little or no physical exertion focusing on the enjoyment of one's natural surroundings.

Pedestrian Shed. An area centered on a major destination. Its size is limited by an average distance that may be traversed at an easy walking pace in a given amount of time from its center to its edge. Pedestrian sheds are useful for planning walkable areas. See Section 2.8.1.G.

Personal Storage Facility, Indoor. Structures containing generally small, individual, compartmentalized stalls or lockers offered for rent or lease to the general public as individual storage spaces and characterized by low parking demand. Premises may include retail or wholesale sales related to storage (e.g. boxes, locks, tape, protective material, etc.)

Perimeter Buffer. The required installation of landscaping and screening materials between specified Districts. See Section 5.3.1 Perimeter Buffer Requirements.

Planting Strip. Areas intended for the placement of vegetation within the interior of parking lot areas or along street right-of-way edges, typically between the back of the curb and the inside edge of the sidewalk.

The Point Neighborhood. The neighborhood of the Historic District bounded by Carteret Street on the West and the marshes of the Beaufort River on the North, East and South. See Section 13.3 for the Map of City Neighborhoods.

Prevailing Setback. Specific to the Historic District - the average setback of Contributing Structures, or new structures that are built in accordance with the historic building pattern.

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Primary Facade. The elevation(s) of a structure fronting a street. When located on a corner, this may be the elevation fronting only the Primary Street, if applicable. See Appendix C for the Street Hierarchy map.

Primary Street. The most significant street that a building fronts. When a structure only fronts one street, that street is considered the Primary Street. When a building is on a corner, the Street Heirarchy map in Appendix C shall determine which streets are Primary Streets. Certain design elements, as discussed in Articles 2-4, apply only to those streets designated as Primary on the Street Heirarchy map.

Public Right-of-Way. The entire area between property boundaries which is owned by a government, dedicated to public use, or impressed with an easement for public use; which is primarily used for pedestrian or vehicular travel; and which is publicly maintained, in whole or in part, for such use, and includes without limitations the street, curb, shoulder, sidewalk, parking or parking strip, planting strip, and any public way.

Public Right-of-Way Line. The line where the property meets the public right-of-way at a public street or public waterway, provided that this definition shall not include unimproved alleys, easements or other similar dedicated uses.

Public Way. Any street, highway, road, path or right-of-way, whether privately or publicly owned, which is designed, or used for vehicular or pedestrian traffic or access.

Qualified Personnel. Professional consultants meeting the criteria set forth by the Secretary of the Interior, as well as the state historic preservation office and published in their Guidelines and Standards for Archaeological Investigation.

Recreation Facility, Commercial or Institutional.

1. **Indoor.** An establishment providing indoor amusement and entertainment services for a fee or admission charge, including: Bowling alleys, coin-operated amusement arcades, electronic game arcades (video games, pinball, etc.), ice skating and roller skating, pool and billiard rooms as primary uses. Any establishment with four or more electronic games or amusement devices (e.g., pool or billiard tables, pinball machines, etc.) or a premises where 50 percent or more of the floor area is occupied by electronic games or amusement devices is considered a commercial recreation facility; three or fewer machines or devices are not considered a use separate from the primary use of the site. Does not include adult-oriented businesses.
2. **Golf Course and Country Club.** This land use consists of golf courses and accessory facilities and uses including: clubhouses with bar and restaurant; locker and shower facilities; "pro shops" for on-site sales of golfing equipment and clothing; and golf cart storage and sales facilities.
3. **Health/Fitness Facility.** A fitness center, gymnasium, or health and athletic club, which may include any of the following: Exercise machines, weight facilities, group exercise rooms, sauna, spa, hot tub, or swimming facilities, indoor tennis, handball, racquetball, archery and shooting ranges and other indoor sports activities. Does not include adult-oriented businesses.
4. **Outdoor.** A facility for outdoor recreational activities where a fee may be charged for use. Examples include amusement and theme parks; campgrounds, recreational vehicle (RV) parks, and picnicking areas; go-cart tracks; golf driving ranges; miniature golf courses; outdoor pools, and water slides. May also include commercial facilities customarily associated with the above outdoor commercial recreational uses, including bars and restaurants, video game arcades, etc. Does not include golf courses.

Recreational Vehicle Park. See "Recreation Facility, Commercial or Institutional - Outdoor."

Redevelopment Area. For purposes of this Code, the following areas are defined as Redevelopment Areas:

1. The area defined by the lots on the north side of Calhoun Street, the lots on the east side of Carteret Street, the centerline of Bay Street, and the lots on the west side of Ribaut Road

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2. Boundary Street Redevelopment District
3. Any lot within one-quarter mile of the intersection of Ribaut Road and Mossy Oaks Road

Reserved Strip. A piece of land in a subdivision that is reserved, held or controlled for the purpose of prohibiting access to streets and roads.

Residential. Premises used primarily for human habitation.

Restaurant, Cafe, Coffee Shop. A retail business selling ready-to-eat food and/or beverages for on- or off-premise consumption. These include eating establishments where customers are served from a walk-up ordering counter for either on- or off- premise consumption ("counter service"); and establishments where customers are served food at their tables for on-premise consumption ("table service"), that may also provide food for take-out, but does not include drive-through services, which are separately defined and regulated.

Root Flare. (syn. Trunk Flare). The outwardly curving base of a tree where it joins the roots.

SCDHEC (South Carolina Department of Health and Environmental Control). South Carolina's public health and environmental protection agency.

School, Private or Public. Includes the following facilities:

1. **Elementary, Middle, Secondary.** A public or private academic educational institution, including elementary (kindergarten through 6th grade), middle and junior high schools (7th and 8th grades), secondary and high schools (9th through 11th grades), and facilities that provide any combination of those levels. May also include any of these schools that also provide room and board.
2. **Does not include pre-schools and child day care facilities (see "Day Care, Child or Adult").** See also the definition of "Studio - Specialized Education/Training" for smaller-scale facilities offering specialized instruction.

Setback. The mandatory clear distance between a property line and a structure.

Sexually Oriented Business. See Appendix B.

Shared Parking. Any parking spaces assigned to more than one user, where different persons utilizing the spaces are unlikely to need the spaces at the same time of day.

Sharrow. A marking on the road delineating travel lanes to be shared by bikes and cars.

Sign. The term "Sign" shall mean and include every sign, billboard, poster panel, freestanding ground sign, roof sign, projecting sign, pylon sign, illuminating sign, sign painted on a wall, window, marquee, awning or canopy, and shall include any announcement, declaration, demonstration, display, ribbon, banner, illustration or insignia used to advertise or promote the interests of any person when the same is placed in view of the general public, traveling along a public street right-of-way.

1. **Abandoned Sign.** A permitted sign which was erected on property in conjunction with a particular use which use has been discontinued for a period of 30 days or more, or a permitted temporary sign for which the permit has expired.
2. **Billboard.** A large board for displaying advertising of either on- or off-premises businesses or organizations. For the purposes of this Code, any sign over 125 SF is considered a billboard.
3. **Canopy Sign.** A sign which is suspended from, attached to, supported from or forms a part of a canopy.
4. **Changeable Copy Sign.** A sign on which message copy is changed manually in the field, through the utilization of attachable letters, numbers, symbols and other similar characters or changeable pictorial panels.

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5. **Construction Sign.** Any sign erected and maintained on the premises temporarily while undergoing construction by an architect, contractor, developer, finance organization, subcontractor or materials vendor upon which property such individual is furnishing labor, services or material.
6. **Dilapidated Sign.** Any sign which is structurally unsound, has defective parts or it in need of painting or maintenance.
7. **Directional Sign.** A sign used to guide vehicular and/or pedestrian traffic by using symbols and/or such words as 'entrance", "exit", "parking", "one-way", or similar directional instructions.
8. **Easel Sign.** A sign or message board displayed on a portable open frame, the outline of which (the frame) is roughly pyramidal in shape.
9. **Flashing Sign.** Any lighted or electrical sign which emits light in sudden transitory bursts.
10. **Freestanding Sign.** Any sign supported by structures or supports that are placed on, or anchored in, the ground and that are independent from any building or other structure.
11. **Illuminated Sign, External.** Any sign which is directly lighted by an external source.
12. **Illuminated Sign, Internal.** Any sign which transmits light through its face or any part thereof.
13. **Incidental Sign.** A sign, generally informational, that has a purpose secondary to the use of the parcel on which it is located, such as "no parking", "loading zone", and other similar directives. No sign with a commercial message legible from a position off the lot on which the sign is located shall be considered incidental.
14. **Inflatable Sign.** A sign that is either expanded to its full dimensions or supported by gasses contained within the sign, or sign parts, at a pressure greater than atmospheric pressure.
15. **Monument Sign.** A sign constructed on the ground with a continuous footing or foundation with the base of the sign at grade.
16. **Off-premise Sign.** Any sign located or proposed to be located at any place other than within the same platted parcel of land on which the specific business or activity being promoted on such sign is itself located or conducted. For purposes of this UDO, easements and other appurtenances shall be considered to be outside such platted parcel of land and any sign located or proposed to be located in an easement or other appurtenance shall be considered an off-premises sign.
17. **On-premises Sign.** Any sign located or proposed to be located at any place, if otherwise permitted by this article, within the plat of record for the business or other activity identified on such sign.
18. **Painted Wall Sign.** A sign painted directly on any exterior building wall or door surface, exclusive of window and door glass areas on any outside wall or roof or on glass of any building.
19. **Political Sign.** A sign erected by a political candidate, group or agent thereof, for the purpose of advertising a candidate or stating a position regarding an issue upon which the voters of the city shall vote.
20. **Real Estate Sign.** A temporary sign erected by the owner, or his agent, advertising the real property upon which the sign is located for rent, for lease or for sale.
21. **Roof Sign.** A sign erected over or on, and wholly or partially dependent upon, the roof of any building for support, or attached to the roof in any way.
22. **Rotating Sign.** Any sign which revolves around one or more fixed areas.
23. **Sandwich Board Sign.** A portable sign shaped like an A-frame with a sign panel on one or both sides where the sign panel is integral to the structure of the sign.

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24. **Snipe Sign.** A sign which is tacked, nailed, posted, pasted, glued or otherwise attached to trees, poles, stakes or fences, or to other objects.
25. **Special Event Sign.** A sign which carries message regarding a special event or function which is of general interest to the community.
26. **Suspended Sign.** A sign that is suspended from the underside of a horizontal plane surface and is supported by such surface.
27. **Temporary Sign.** Any sign or information transmitting structure intended to be erected or displayed for a limited period.
28. **Tenant Directory Sign.** A sign listing only the names and/or use, or location of more than one business, activity or professional office conducted within a building, group of buildings or commercial center. This sign is located on the interior of the lot.
29. **Time and Temperature Sign.** An electrical sign utilizing lights going on and off periodically to display the current time and temperature in the community.
30. **Vehicle Sign.** A permanent or temporary sign affixed, painted on or placed in or upon any parked vehicle, parked trailer or other parked device capable of being towed, which is displayed in public view under such circumstances as to location on the premise, time of day, duration, availability of other parking space on the premises where it is loaded, unloaded or otherwise carries out its principal function, which circumstances indicate that the primary purpose of the display is to attract the attention of the public rather than to serve the business of the owner thereof in the manner which is customary for the vehicle.
31. **Wall Sign.** A sign mounted parallel to or painted on a building facade or other vertical building surface. Wall signs shall not project more than 18 inches from the wall surface.
32. **Window Sign.** Any sign which is painted on, applied to, attached to or projected upon or within the exterior or interior of a building glass area, including doors, or located within 15 feet of the identification, message, symbol, insignia, visual representation, logotype, or any other form which communicates information, can be read from off-premises contiguous property or public right-of-way.
33. **Window Sign, Temporary.** A window sign of a temporary nature used to direct attention to the sale of merchandise, or a change in the status of the business, including, but not limited to, sign for sales, specials, going out of business, and grand openings.

Shrub. A woody plant, smaller than a tree, consisting of several small stems emerging from the ground, or small branches near the ground. Shrubs may be deciduous or evergreen.

Significant Resources. Historic resources eligible for listing in the National Register of Historic Places.

Single-Family/Unit House. See Division 5.1 (Building Type Standards).

Special Exception Permit. See Section 7.2.60 (Special Exception Permit). These permits are issued by the Zoning Board of Appeals (ZBOA) for special uses allowed within a zone.

Specimen Tree. Any existing broad-leaved overstory tree with a DBH of 24 inches or greater; any existing understory tree with a DBH of 12 inches or greater; and any Palmetto tree having a clear trunk height of at least 2 feet. Additional standards for specific trees, including cone-bearing trees, are as listed in the chart in Section 5.3.2.

Sports Complex. See Division 2.5 (Civic and Open Space Types).

Square. See Division 2.5 (Civic and Open Space Types).

Storage, Outdoor. See "Outdoor Storage."

Storefront. The portion of a frontage composed of the display window and/or entrance and its

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components, including windows, doors, transoms and sill pane, that is inserted into various frontage types, such as a shopfront or gallery, to accommodate retail uses.

Story. An above-grade habitable floor level within a building.

Studio - Specialized Education/ Training, etc. Small-scale facilities that provide individual and group instruction, education and/or training, including tutoring and vocational training in limited subjects, such as:

1. **The arts.** Production rehearsal; photography, and the processing of photographs produced only by users of the studio facilities; martial arts training studios; gymnastics instruction, and aerobics and gymnastics studios with no other fitness facilities or equipment. Also includes production studios for individual musicians, painters, sculptors, photographers, and other artists.
2. **Vocational and Professional Schools.** Business, secretarial, and vocational school, computers and electronics school, driver education school, establishments providing courses by mail, language school, professional school (e.g. law, medicine, etc.), religious ministry training facilities.

Structure. Anything constructed or erected, the use of which requires attachment to the ground, attachment to something located on the ground, or placement on the ground. The term "structure" shall include: Buildings; Walls or fences; Signs; Light fixtures; or anything else constructed or erected, the use of which requires a permanent or semi-permanent location on the ground or which is attached to something having a permanent or semi-permanent location on the ground.

Tandem Parking. A parking space deep enough to allow two cars to park, one behind the other.

Temporary Parking Lots. Parking lots that are not permanent, are only intended to fulfill a short-term need, and ultimately will be replaced by a permanent building or structure. Temporary Parking lots are not subject to the parking location regulations and liner requirements for above grade parking in the building form standards, but must comply with all landscaping standards.

Thoroughfare. A road, street, or path providing a connection between two places.

Traffic Impact Analysis (TIA). A study performed by professional engineers with expertise in traffic engineering principles and practice, which reviews development of a specific property and analyzes how it integrates into the existing and proposed city street network and ongoing traffic study. The analysis utilizes data and conclusions developed in previous studies, and identifies improvements needed to mitigate the impact of traffic generated by a development on the street network system.

Transect. A cross-section of the environment showing a range of different habitats. The rural-to-urban transect of the human environment is divided into multiple transect zones that describe the physical form and character of a place according to the intensity of its land use and urbanism. See Section 2.3.1 for more information.

Transit Station. A lot or structure used for the purpose of parking, loading and unloading freight and passengers from train or bus transportation. May include parking facilities and other commercial amenities to service transit passengers.

Transit Stop. A location where buses or other transit providers stop to load and unload passengers. A transit stop may or may not include a shelter or a pullout.

Transitional/Supportive Housing. A state licensed residential dwelling occupied with a 24-hour per day resident attendant directly employed for the temporary care, assistance and supervision of not more than eight (8) adults, with or without children, who require transitional housing accommodations made necessary due to conflict or threat of personal harm arising from the person's former living arrangement.

Transportation Terminal. Facilities for the embarkation and departure of surface transit facilities, including but not limited to: bus transit stations, rail transit stations, and ferry terminals. Does not include airports or related services (see "Airport, Aviation Services").

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Tree, Deciduous. A tree that drops its foliage annually before becoming dormant.

Tree, Evergreen. A tree with foliage that is not dropped, or that remains green throughout the year.

Tree, Shade. See "Canopy Tree."

Tree, Street. See "Street Tree."

Tree Protection Zone. Area of no disturbance of organic layer or subsurface tree roots as measured from the furthest point of root emergence from ground to a minimum radius equal to one half of trunk diameter at breast height (DBH). See Section 5.2.2.D

Understory Tree. A tree that has an expected height at maturity of no greater than 30 feet.

Utilities. See "Infrastructure and Utilities."

Unit. See "Dwelling Unit."

Does not include Maintenance Yards (see "Maintenance Yard") or utility offices (see "General Service and Office").

Vegetation, Native. Any indigenous tree, shrub, ground cover or other plant adapted to the soil, climatic, and hydrographic conditions occurring on the site.

Vehicle and Boat Sales and Rental. A retail or wholesale establishment selling and/or renting automobiles, trucks, vans, trailers, motorcycles, boats, and/or scooters with internal combustion engines. May also include repair shops and the sales of parts and accessories incidental to vehicle dealerships. Does not include businesses dealing exclusively in used parts, auto wrecking and/or salvage; the sale of auto parts/accessories separate from a vehicle dealership (see "General Retail"); or service stations (see "Vehicle Services").

Vehicle Services.

1. **Gas Station/Fuel Sales.** Where petroleum products are dispensed for retail sales to automobiles, and may include a canopy, car wash, and/or accessory retail. Does not include the repair or servicing of vehicles (see "Minor Maintenance and Repair").
2. **Minor Maintenance and Repair.** Incidental minor repairs to include replacement of parts and service to passenger cars, but not including any operation defined as "automobile repair, major," or any other operation similar thereto.
3. **Major Maintenance and Repair.** General repair, rebuilding or reconditioning of engines, motor vehicles or trailers; collision service including body or frame, straightening or repair, overall painting, or paint shop.

Vehicle, Wrecked. Any vehicle that has visible exterior damage to the extent that it cannot operate without substantial repair or reconstruction.

Waterfront Lot. Any lot that is bound on one or more sides by a significant and naturally occurring body of water. This includes rivers, marsh, creeks, and tidal basins. This does not include retention or detention ponds, ditches, or pools.

Water/Marine Oriented Facilities. A non-for-profit or for-profit marina for on-water storage, servicing, fueling, berthing, securing, loading and unloading of boats, and other marine related activities including: recreational and charter fishing, boat and watercraft rentals, and marine-related retail (bait and tackle, marine supplies, etc.)

Warehousing. Facilities for the storage of furniture, household goods, or other commercial goods of any nature. May include an outdoor storage component, provided that the outdoor storage is not the primary use. Does not include warehouse, storage, or mini-storage facilities offered for rent or lease to the general public (see "Storage Facility: Personal Storage Facility, Indoor); warehouse facilities primarily used for wholesaling

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and distribution (see "Wholesaling and Distribution"); or terminal facilities for handling freight.

Waste Transfer and Recycling Facility. A site, location, tract of land, installation, or building that is used for the purpose of transferring solid wastes and recyclables that are generated "off site" in the local community from vehicles or containers into other vehicles or containers for transport to a regional waste collection and recycling facility.

Wholesaling and Distribution. An establishment engaged in selling merchandise to retailers; to contractors, industrial, commercial, institutional, farm, or professional business users; to other wholesalers; or acting as agents or brokers in buying merchandise for or selling merchandise to such persons or companies. Examples of these establishments include: agents, merchandise or commodity brokers, and commission merchants, assemblers, buyers and associations engaged in the cooperative marketing of farm products, merchant wholesalers, stores primarily selling electrical, plumbing, heating and air conditioning supplies and equipment.

Wireless Communications Facility. Public, commercial and private electromagnetic and photoelectric transmission, broadcast, repeater and receiving stations for radio, television, telegraph, telephone, data network, and wireless communications, including commercial earth stations for satellite-based communications. Includes antennas, commercial satellite dish antennas, and equipment buildings. Does not include telephone, telegraph and cable television transmission facilities utilizing hard-wired or direct cable connections.

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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED
Nov 29 2022
SC Court of Appeals

APPEAL FROM THE CIRCUIT COURT
FOURTEENTH JUDICIAL CIRCUIT

The Honorable Bentley D. Price

Appellate Court Case No. 2022-000300
Circuit Court Case No. 2021-CP-07-01241

Historic Beaufort Foundation, ...Appellant,

v.

City of Beaufort, City of Beaufort Historic District Review Board,
and The Beaufort Inn, LLC,.....Respondents.

AND

West Street Farms, LLC and Mix Farms, LLC, ...Appellants,

v.

City of Beaufort, City of Beaufort Historic District Review Board,
and The Beaufort Inn, LLC,.....Respondents.

CERTIFICATE OF COUNSEL

The undersigned certify that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

November 9, 2022

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