

RECEIVED

JUN 1 2011

S.C. Supreme Court

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas
Mikell R Scarborough, Master-In-Equity

Case No 2007-CP-10-451

HISTORIC CHARLESTON FOUNDATION and
PRESERVATION SOCIETY OF CHARLESTON,

Appellants,

v

THE CITY OF CHARLESTON, THE CITY OF CHARLESTON
BOARD OF ZONING APPEALS – ZONING and LIBRARY
ASSOCIATES, LLC,

Respondents

RECORD ON APPEAL
VOLUME II OF II

Timothy A Domin, Esq
Clawson & Staubes, LLC
126 Seven Farms Drive, Suite 200
Charleston, SC 29492
(843) 577-2026
Attorney for Respondents The City
of Charleston and The City of
Charleston Board of Zoning
Appeals- Zoning

Frances I Cantwell, Esq
Regan and Cantwell, LLC
105 Wappoo Creek Dr, Suite 1-A
Charleston, South Carolina 29412
(843) 672-8282
Attorney for Respondent Library
Associates, LLC

G Trenholm Walker
Lindsay K Smith-Yancey
Daniel S McQueeney, Jr
Katie F Monoc
Pratt-Thomas Walker P A
P O Drawer 22247
Charleston, SC 29413-2247
(843) 727-2208
Attorneys for Appellant
Preservation Society of Charleston

Edward K Pritchard, III, Esquire
Samia H Nettles, Esquire
Pritchard & Elliott, LLC
129 Broad Street
Charleston, SC 29401
(843) 722-3300
Attorneys for Appellant
Historic Charleston Foundation

INDEX	PAGE
Order of Remand to Board of Zoning Appeals and Order to Deconsolidate with C/A 2007-CP-10-4692 filed June 11, 2009	1
Order of Judge Scarborough filed September 28, 2009	8
Order on Remand of the BZA, filed April 13, 2010	10
Order Affirming Variance, dated June 24, 2010 and filed June 29, 2010	23
Complaint, Petition and Notice of Intent to Appeal, Civil Action No 2007-CP-10-451, including Exhibits 1, 2 and 3	33
Answer/Return- Library Associates	57
Answer/Return- Board of Zoning Appeals	63
Motion to Alter or Amend Judgment, dated May 3, 2010 and filed May 4, 2010	68
Motion to Alter, Amend or Reconsider (BZA and Library Assoc) filed July 7, 2009	75
Notice of Intent to Appeal	88
Transcript of BZA Meeting on January 2, 2007 (transcribed on April 25, 2007)	92
Hearing Transcript of the proceedings on March 10, 2009	144
Transcript of hearing before the Board of Zoning Appeals held February 20, 2007	197
Zoning Map	195
City of Charleston Downtown Plan	196
BZA file on 404 King Street, filed in Civil Action No 2007-CP-10-451 on July 9, 2007	355
Height Variance Application	528
Form Order Granting Variance	535
Application for Rehearing of Variance	536
Staff Report dated January 2, 2007 (2 pages)	538
Position Statement- Preservation Society dated January 2, 2007	540
Position Statement- Historic Charleston Foundation dated January 2, 2007	541

Letters of Support	544
Certificate of Counsel	568

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON
Historic Charleston Foundation and
Preservation Society of Charleston,

Appellants

vs

The City of Charleston, The City of
Charleston Board of Zoning Appeals-
Zoning and Library Associates, LLC,

Respondents

IN THE COURT OF COMMON PLEAS

CASE NO 07-CP-10-451

B Z A DOCUMENTS

2007 JUL -9 PM 2 17
JULIE J ARMSTRONG
CLERK OF COURT

FILED

B Z A file on 404 King Street



Timothy A Domin
CLAWSON & STAUBES, LLC
126 Seven Farms Dr , Suite 200
Charleston, South Carolina 29492-8144
(843) 577-2026

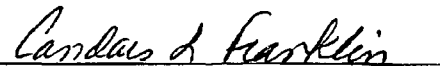
Attorneys for Respondents

Charleston South Carolina

3 2007

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing pleading has been served upon opposing counsel by mailing hand delivering or electronically forwarding a copy properly addressed and with sufficient postage affixed thereto on this 5th day of July 2007



CLAWSON & STAUBES LLC
ATTORNEYS AT LAW

TIMOTHY A. DOMIN
tdomin@clawsonandstaubes.com

July 3 2007

Reply to Charleston Office
File No 2007 159tad

The Honorable Julie J. Armstrong
Charleston County Clerk of Court
100 Broad Street, Suite 106
Charleston, SC 29401

Re Historic Charleston Foundation and Preservation Society of Charleston v. The City
of Charleston The City of Charleston Board of Zoning Appeals-Zoning and Library
Associates, LLC
Case No 07-CP-10-451

Dear Ms. Armstrong

Enclosed please find an original and one copy of B Z A Documents in the above matter.
Please file the original, returning the filed copy to me in the enclosed envelope provided
for your convenience.

Thank you for your assistance in this matter.

With kindest regards, I remain

Very truly yours,

CLAWSON & STAUBES, LLC



Timothy A. Domin

TAD/clf

Enclosures

cc G. Trenholm Walker, Esquire (w/enclosure)
Edward K. Pritchard III, Esquire (w/enclosure)
David B. McCormack, Esquire (w/enclosure)
Frances I. Cantwell, Esquire (w/enclosure)

Charleston Office
126 Seven Farms Dr., Suite 200
Charleston, SC 29492-8144
(o) 843 577 2026
(f) 843 722 2867

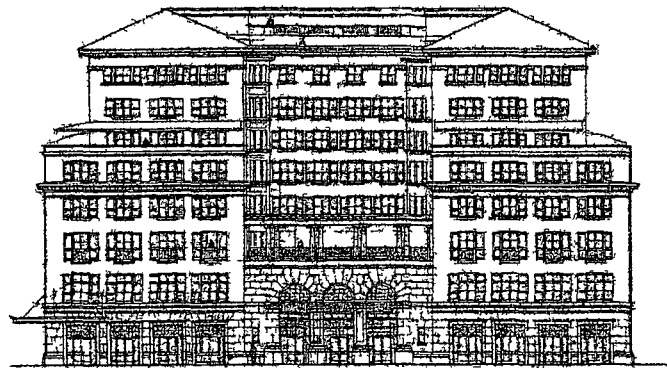
Charlotte Office
756 Tyvola Rd., Suite 130
Charlotte, NC 28217-3535
(o) 704 940 9128
(f) 704 522 9033

clawsonandstaubes.com

B Z A HEIGHT VARIANCE REQUEST

DATE DECEMBER 4 2006

GDA Project # 98005 00



HOTEL AT MARION SQUARE

404 King St
Charleston, SC

BENNETT HOFFORD COMPANY

17 Lockwood Dr
Charleston SC
(843) 722-8169

BOARD OF ZONING APPEALS AND ZONING

ADDRESS 404 King Street

☒ APPROVED FOR ☐ SET BACK
☐ DENIED ☐ DENSITY
☐ WITHDRAWN ☐ PARKING

☒ AS SUBMITTED

☐ W/CONDITIONS

☐ HEIGHT

☐ LOT COVERAGE

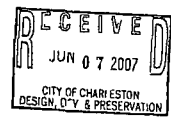
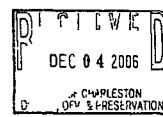
☐ USE OR SPECIAL ORDER

☐ OTHER

New Construction

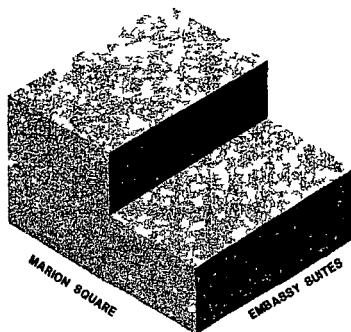
DATE 11/3/07 ZONING OFFICIAL [Signature]

*THIS APPROVAL EXPIRES WITH TWO YEARS UNLESS AN
EXTENSION IS APPROVED PURSUANT TO SEC. 94-405
*THIS DOES NOT CONSTITUTE APPROVAL
BY OTHER CITY BOARDS OR DEPARTMENTS.

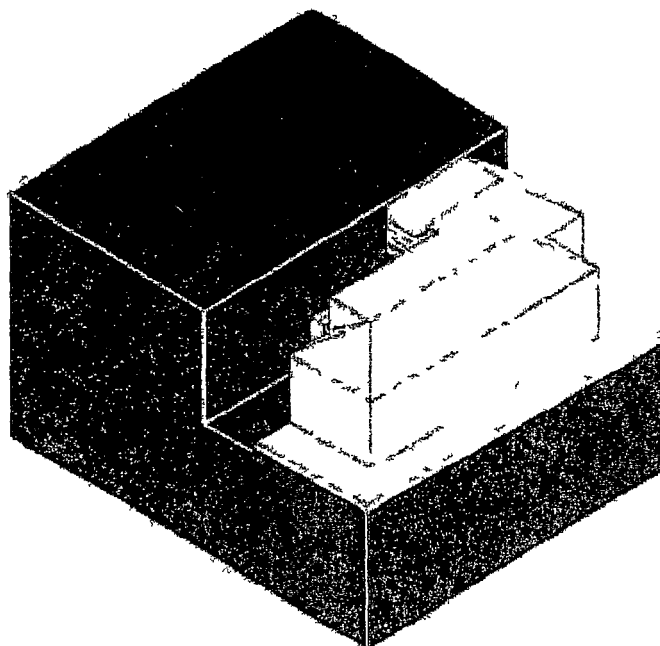
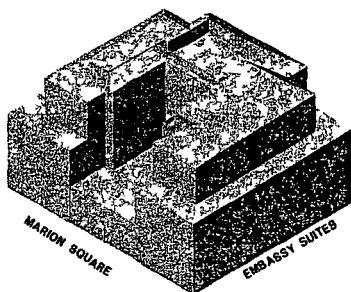


Goff D'Antonio Associates
34 DELIVER STREET
CHARLESTON SC 29403

ZONING ENVELOPE VOLUME: 2,100,980 CUBIC FEET



PROPOSED HOTEL VOLUME: 1,970,703 CUBIC FEET (7% LESS THEN ENVELOPE)

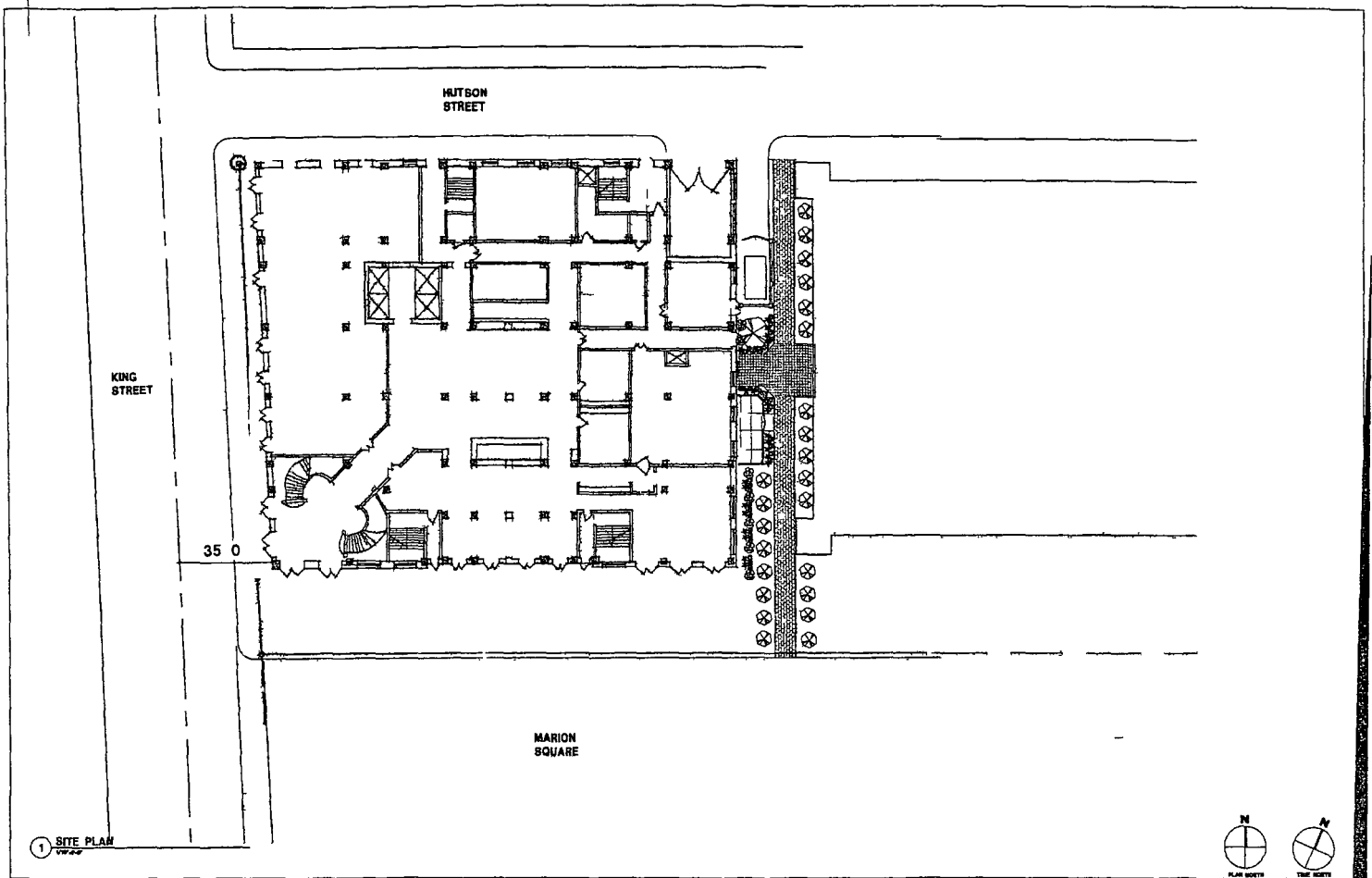


ZONING ENVELOPE ☒ OUTSIDE ENVELOPE(VARIANCE REQ.) ☐

Hotel at Marion Square

Charleston, So th Carolina

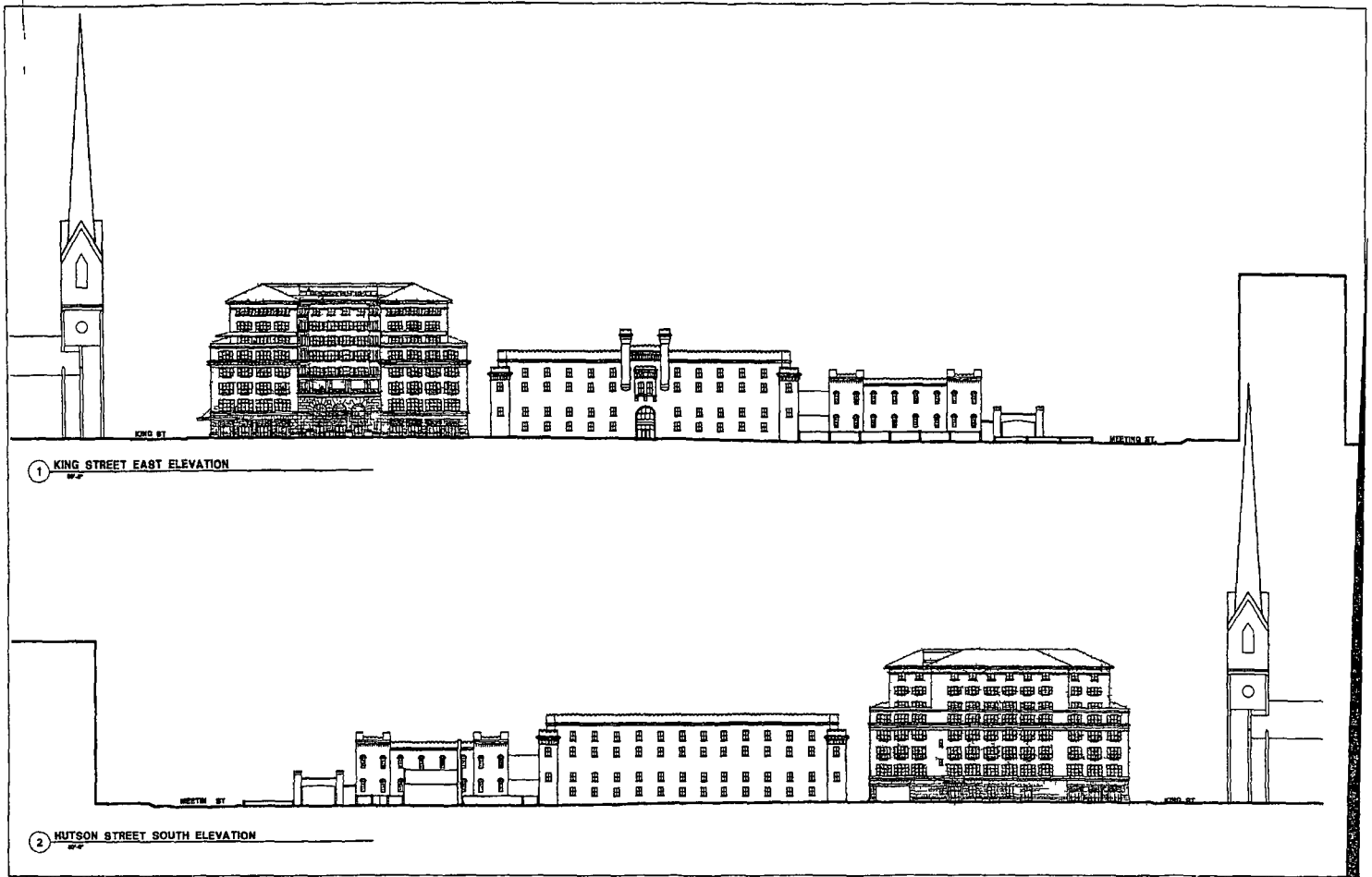
Goff•D'Antonio Associates
December, 2006



Hotel at Marion Square

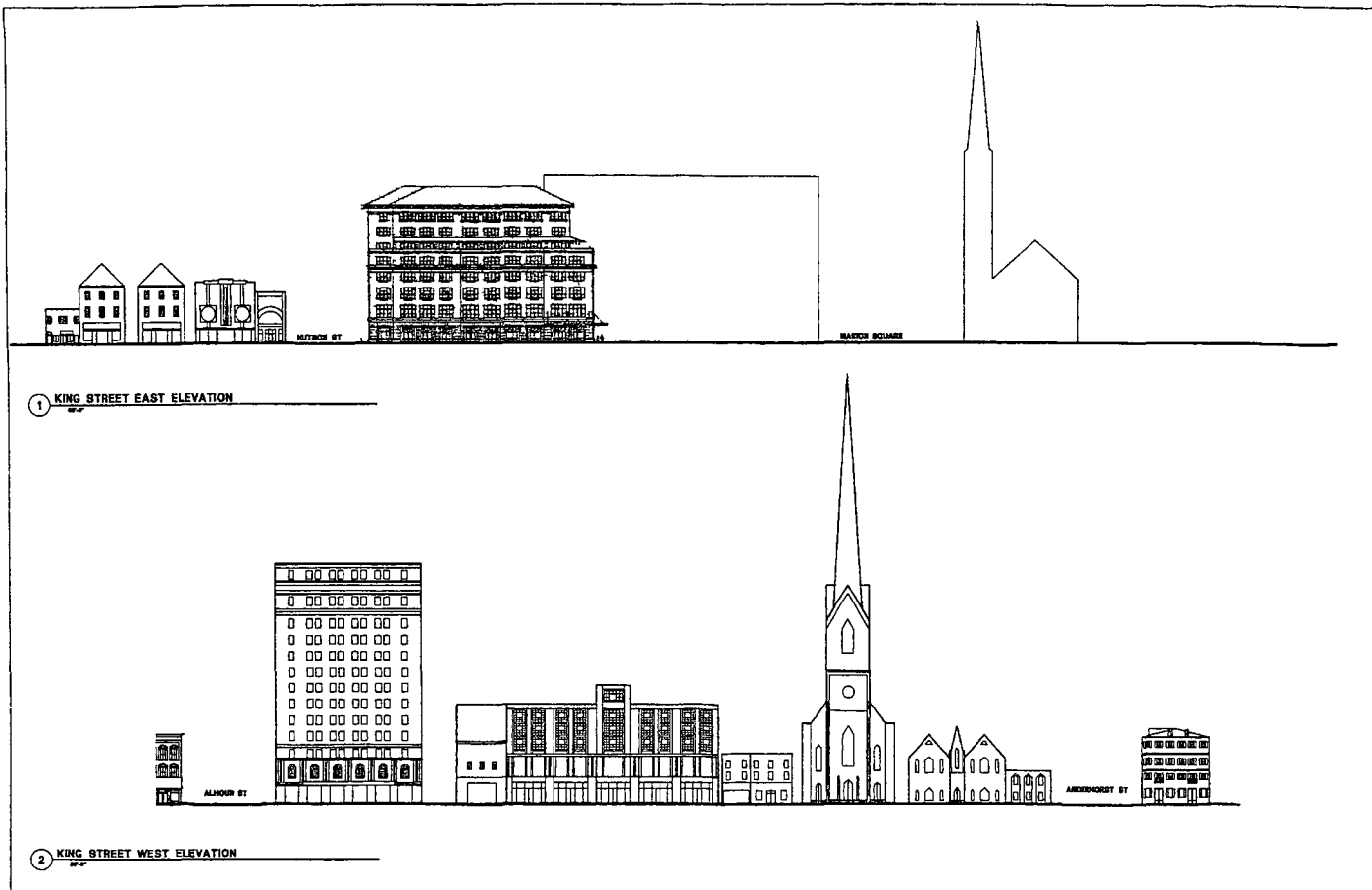
On Marion Square, Marion Square

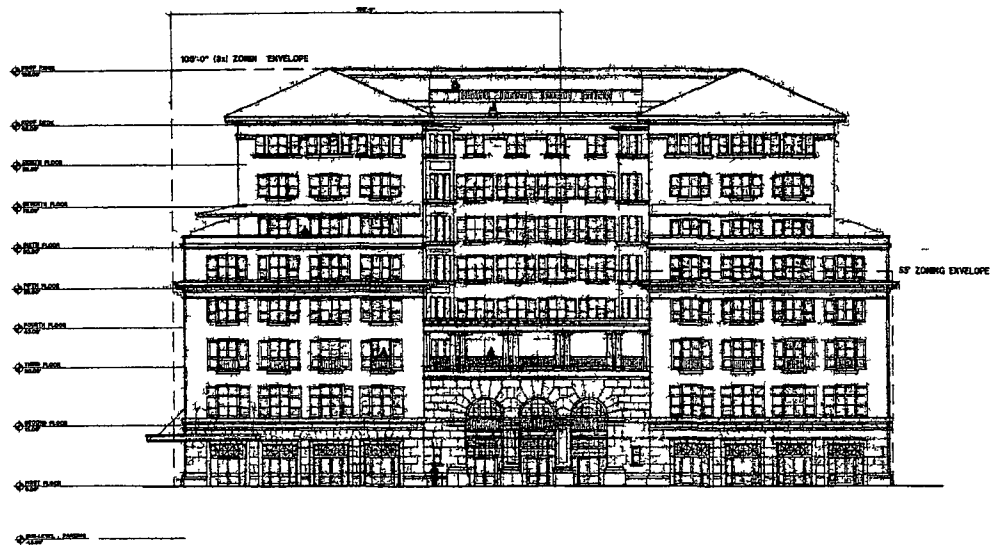
Goff•D'Antonio Associates



Hotel at Marion Square
Charleston, South Carolina

Goff•D'Antonio Associates

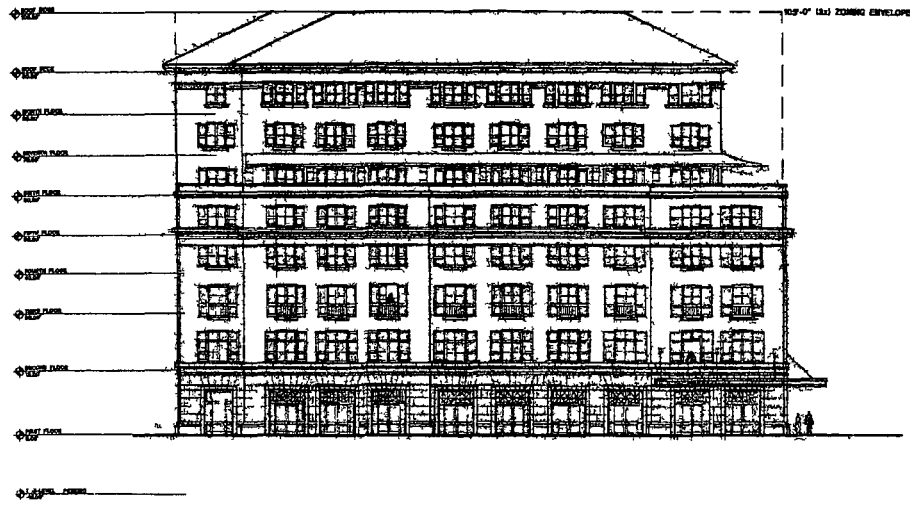




1 SOUTH ELEVATION
50' 0"

Hotel at Marion Square

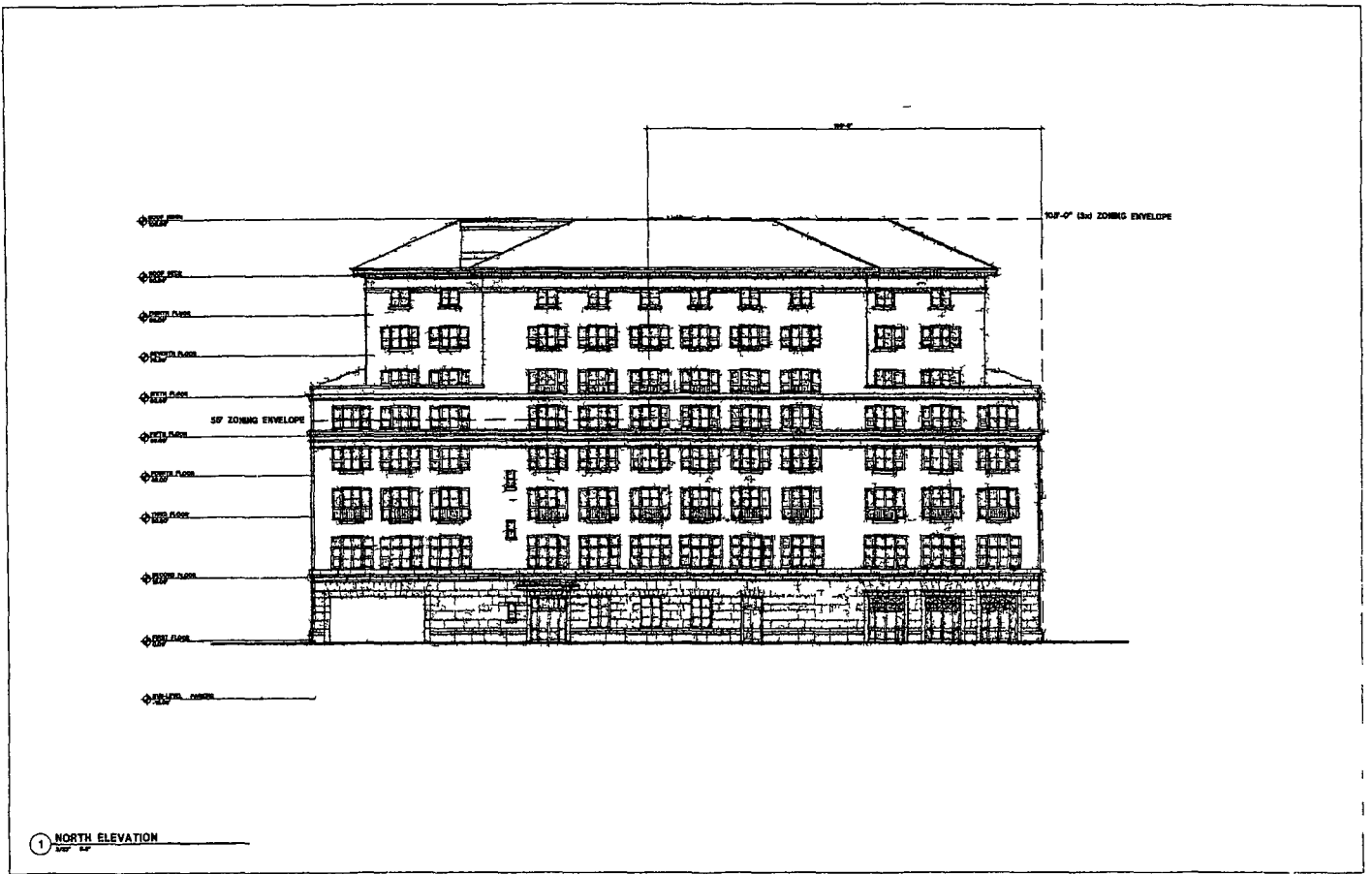
Goff-D'Amico Associates



1 WEST ELEVATION
Scale 1/8" = 1'-0"

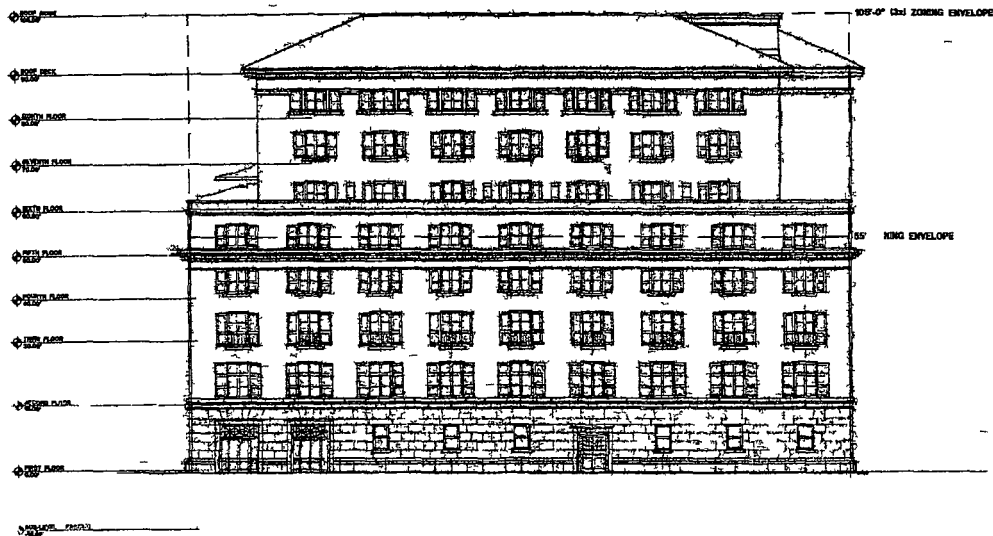
Hotel at Marion Square

Goff•DAntonio Associates



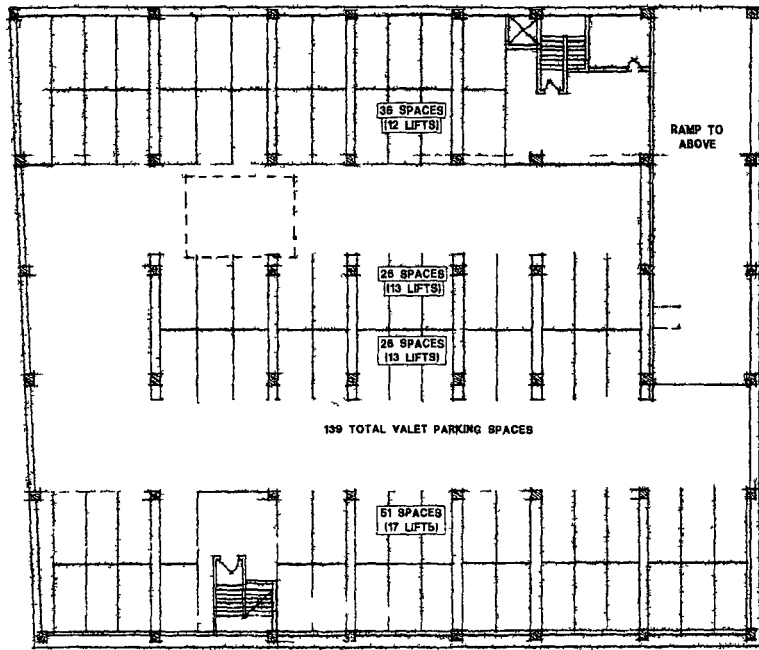
Hotel at Marion Square

Gordon & D'Antonio Associates



Hotel at Marion Square
Charleston, South Carolina

Gulf of Antonio Associates



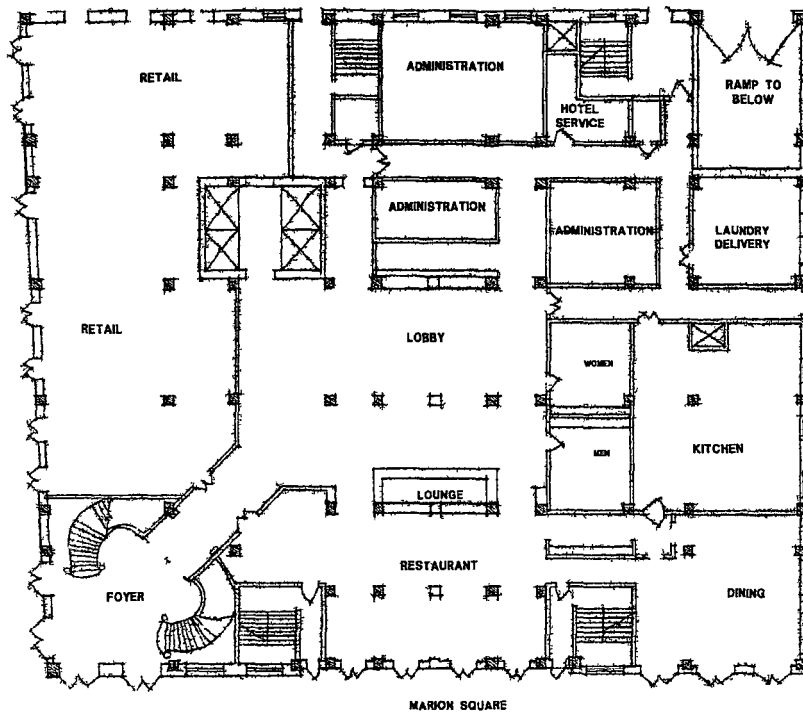
Hotel at Marion Square Charleston, South Carolina

Goff-D'Antonio Associates

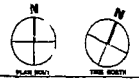
HUTSON STREET

KING STREET

EMBASSY SUITES HOTEL



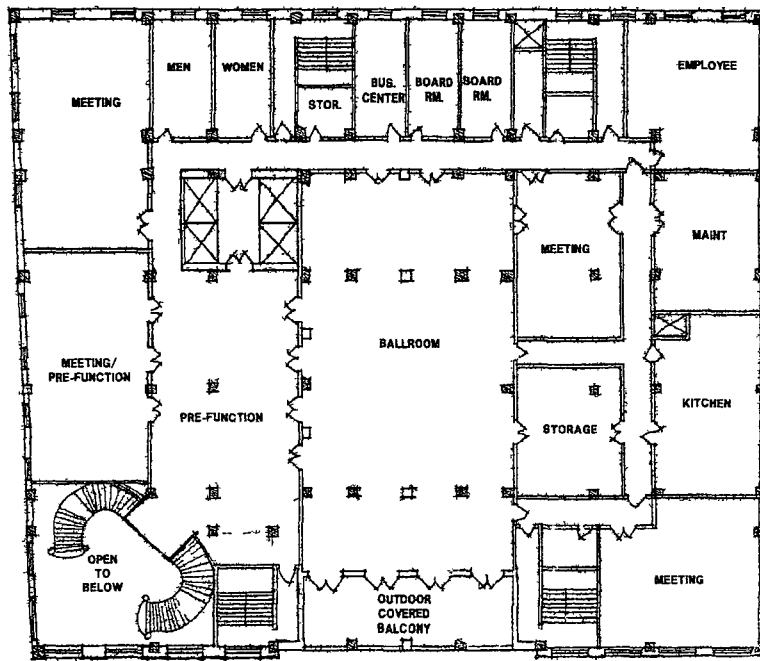
1 1ST FLOOR GROUND LEVEL



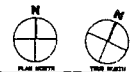
Hotel at Marion Square

Charleston, South Carolina

ff•Danton.o Associates

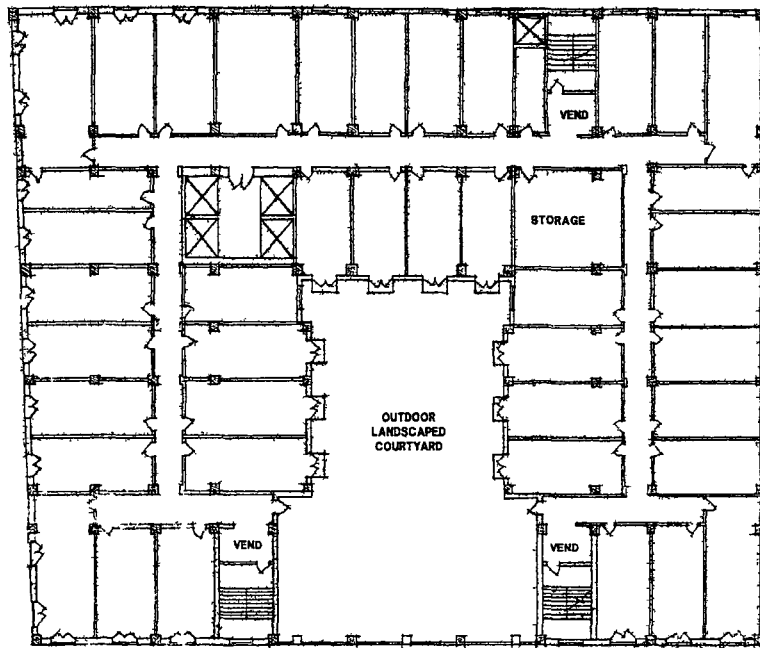


① 2ND FLOOR



Hotel at Marion Square

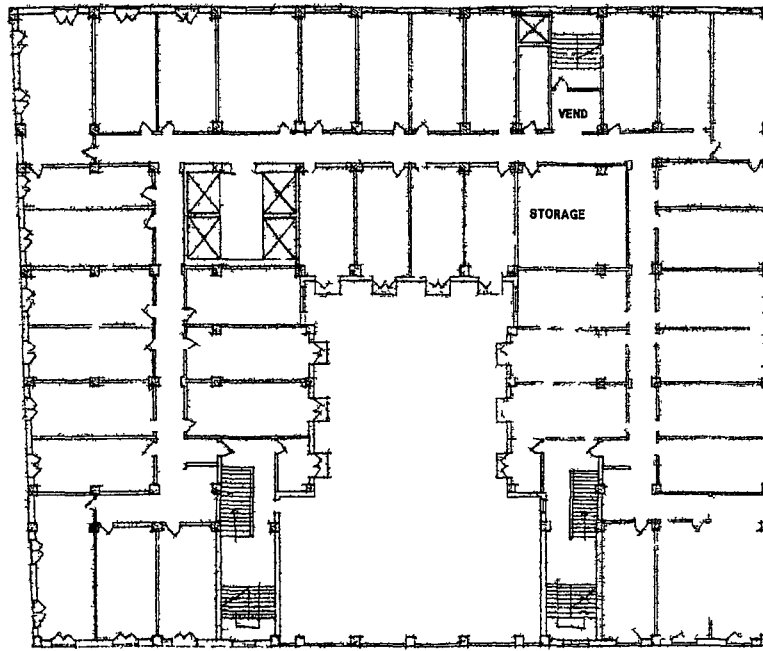
(off)Danton o Assoc ates



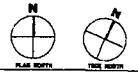
① 3RD-4TH FLOOR
1/4" = 1'-0"



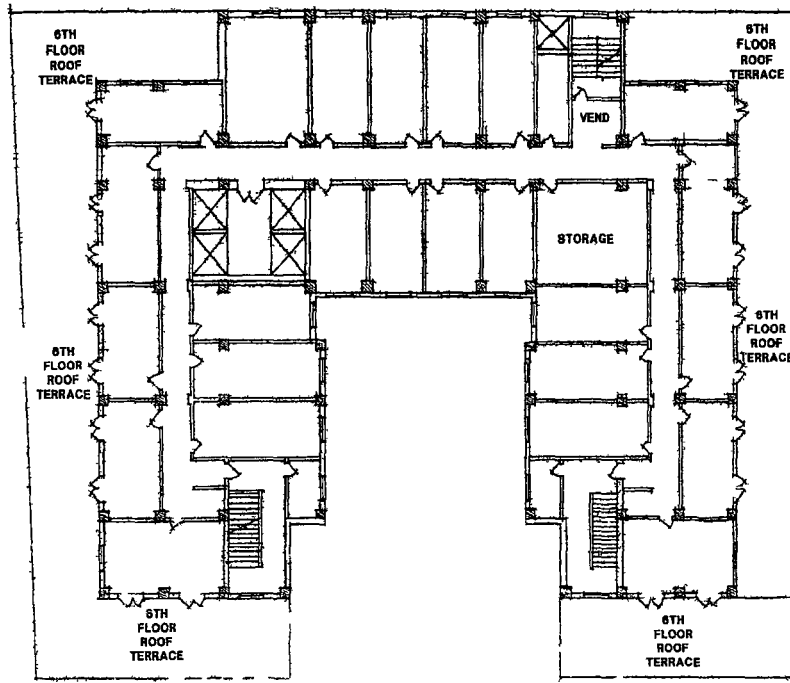
Hotel at Marion Square



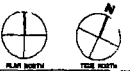
5TH FLOOR



Hotel at Marion Square

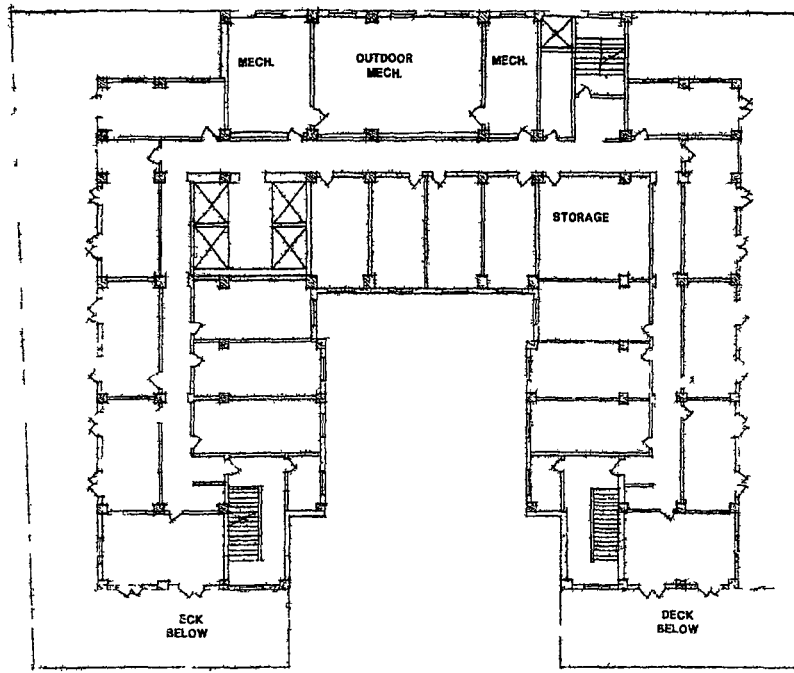


① 6TH-7TH FLOORS
1/8" = 1'

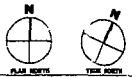


Hotel at Marion Square

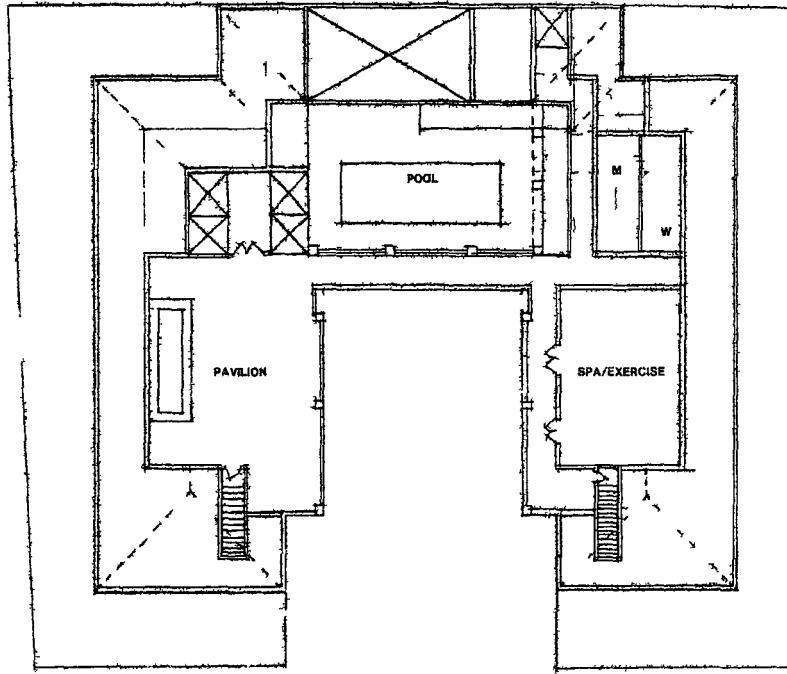
Coff+D'Antonio Associates



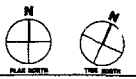
① 8TH FLOOR
SWP 1-10



Hotel at Marion Square



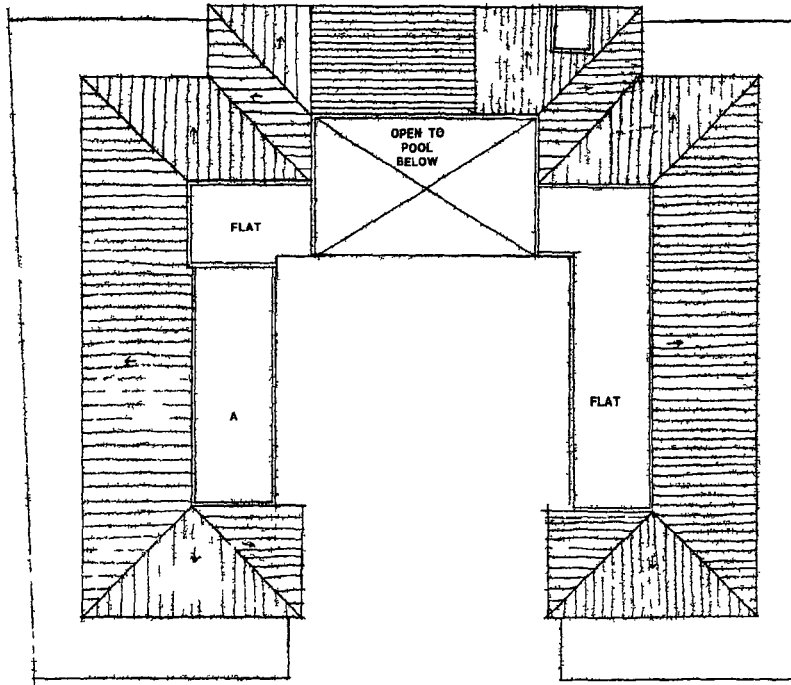
ROOF TERRACE
1/4" = 1'-0"



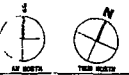
Hotel at Marion Square

Charleston, South Carolina

Goff•D'Antonio A

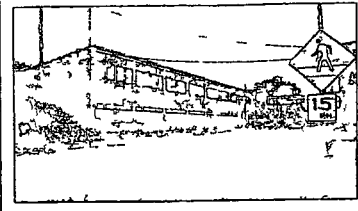


1 ROOF PLAN
1/8" = 1'-0"

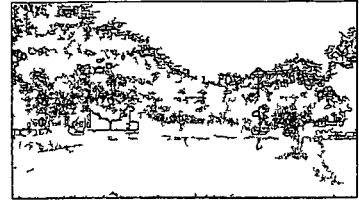


Hotel at Marion Square
Charleston, South Carolina

Goff•Antonio Associates
December, 2006



1 EXISTING WEST ELEVATION



2 EXISTING SOUTH ELEVATION



3 EXISTING NORTH ELEVATION



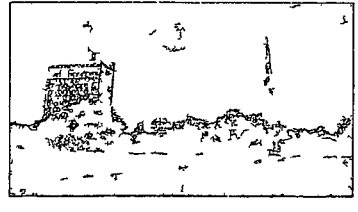
4 EXISTING EAST ELEVATION



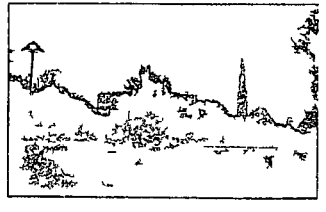
5 EMBASSY SUITES



6 EMBASSY SUITES



7 MARION SQUARE WEST

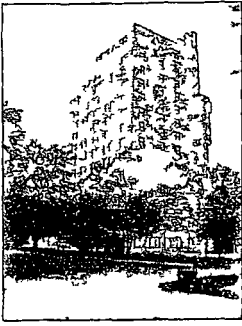


8 MARION SQUARE EAST

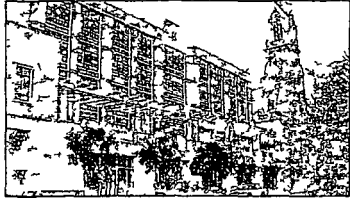
Hotel at Marion Square

 Goff D'Antonio & Partners

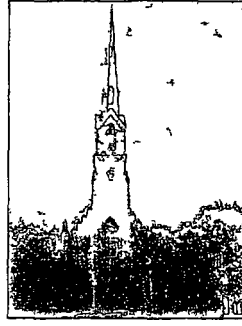
Goff D'Antonio &



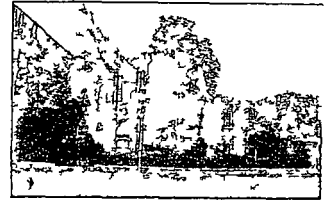
1 FRANCIS MARION HOTEL



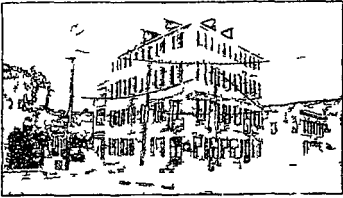
2 CITY PARKING GARAGE



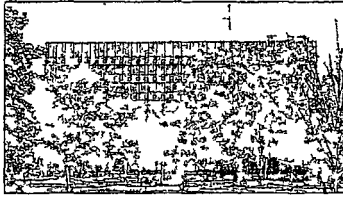
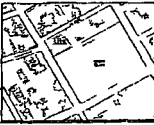
3 ST. MATTHEW'S CHURCH



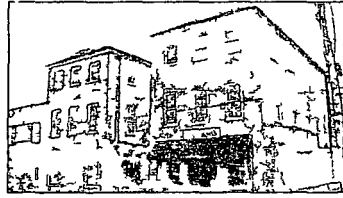
4 ST. MATTHEW'S CHURCH



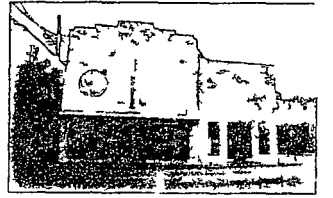
5 409 KING ST



6 334 MEETING ST



7 ADJ. KING ST ELEVATION



8 ADJ. KING ST ELEVATION



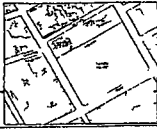
Hotel at Marion Square

Charles S. th Carolina

Goff DAntonio +



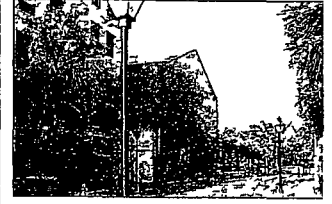
1 HUTSON ST ELEVATION



2 HUTSON ST ELEVATION



3 HUTSON ST ELEVATION



4 HUTSON ST ELEVATION

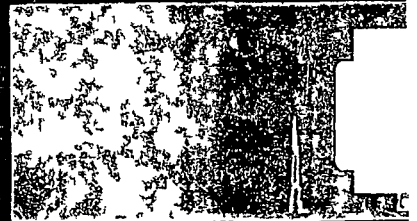


Hotel at Marion Square

Goff•D'Antonio A

COPY
404 King Street - B Z A Z. File

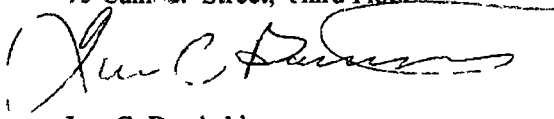
COPY
404 King Street - B Z A Z-Zoning



COPY
404 King Street—Height Variance
(Pending)

May 30, 2006

I hereby certify the copy of the Board of Zoning Appeals- -Zoning file for 404 King Street
(TMS# 460-16-04-009) - Height Variance (Pending) to be a duplicate of the original document
located in the Department of Design, Development and Preservation, Zoning Office at
75 Calhoun Street, Third Floor.

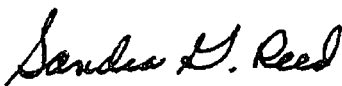


Lee C Batchelder
Zoning Administrator

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

The foregoing instrument was acknowledged before me this 16 day of June, 2006
by Lee C Batchelder, Zoning Administrator, Department of Design, Development and
Preservation, Zoning Office



Notary Public

My Commission Expires My Commission Expires
July 25 2015

certltr / 2



Application for Variance Special Exception or Reconsideration
to the Board of Zoning Appeals – Zoning (Form 1)

Page 1 of 2

City of Charleston

Instructions – Applicants must complete and submit this form along with the required information and fee to the Zoning Division office at 75 Calhoun Street. Applications are due by 3 00 P M on the deadline date. A sign will be posted on the property and a public hearing will be conducted by the Board of Zoning Appeals – Zoning before the Board makes its decision. Each scheduled meeting of the Board is limited to 25 new applications. Additional applications even if submitted prior to the deadline will be placed on the agenda of the next scheduled meeting. There is a five (5) business day appeal period following the date of Board action. No permits may be issued until this appeal period has expired. An appeal to the Board stays all further action on the application.

THE APPLICANT HEREBY APPEALS

- ☒ For a Variance and/or Special Exception as indicated on page 2 of this application
☐ For reconsideration of a decision of the Board or action of a zoning official as stated on attached Form 2

MEETING DATE REQUESTED March 7, 2006

Property Address 404 King St. TMS # 460 16 04 009

Property Owner Library Associates, LLC Daytime Phone 722 81169

Applicant Goff D'Antonio Associates Daytime Phone 577 2163

Applicant's Mailing Address 34 Radcliffe St Charleston, SC 29403

Relationship of applicant to owner (same representative prospective buyer other) Design Professional

Zoning of property GB-A

Information required with application (check information submitted)

- ☒ Scaled plans or plats including elevations if applicable, showing the variance(s) being requested (3 copies)
☐ For density variances scaled floor plans with rooms labeled and the total floor area of each dwelling unit noted (3 copies)
☒ Check or cash (make checks payable to the City of Charleston)

Optional information which will be helpful to the Board

- ☒ Photographs
☐ Letters or petitions from neighbors or organizations directly affected by your request

I certify that the information on this application and any attachments is correct that the proposed improvement(s) comply with private neighborhood covenants if there are any and that I am the owner of the subject property or the authorized representative of the owner. I authorize the subject property to be posted with a notice of the hearing before the Board and inspected.

Applicant Frank D'Antonio Date 2-6-06

For office use only		
Date application received	<u>2/6/06</u>	Time application received <u>2:01</u>
Staffperson	<u>[Signature]</u>	Fee \$ <u>400.00</u>
		Receipt # <u>4206</u>

Dept. of Design Development and Preservation 75 Calhoun Street Third Floor Charleston South Carolina 29401
(843) 724-3781 FAX (843) 724-3772 www.ci.charleston.sc.us

**Exhibit A to Application for Variance,
Special Exception or Reconsideration to the
Board of Zoning Appeals – Zoning**

Applicant must explain how strict application of the ordinance will result in an unnecessary hardship and how the standards for a variance set by the Zoning Ordinance are met by answering the following questions

- a **What are the extraordinary and exceptional conditions pertaining to the particular piece of property** The property in question is unique in the sense that the Applicant is not aware of any other developable site in downtown Charleston which fronts on a major thoroughfare (King Street), a secondary street (Hutson Street) and a major public open space (Marion Square) and is also bifurcated by two separate height districts (i.e. Height District 3-X and Height District 55/30). Because of these extraordinary and exceptional conditions the property is visible from King Street, Hutson Street and Marion Square and accordingly the design of the proposed hotel on the property must respond to and be appropriate for all three vistas.
- b **Explain why these conditions do not generally apply to other property in the vicinity** While other properties in the vicinity may be split by two different height districts (i.e. certain properties on King Street and certain properties on Meeting Street) and while other properties may have frontage on a major thoroughfare, a secondary street and a major public park (i.e. the Old Citadel property) the Applicant is not aware of any property in the vicinity which has the same or similar visibility from three separate sides and is split by two different height districts.
- c **Explain how, because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property** Because of the extraordinary and exceptional conditions described above, the Applicant and its architects are faced with a design dilemma as follows. While it is theoretically possible to design a hotel for this site in a manner that adheres to the zoning/height envelope, such a design does not respond appropriately to the three different vistas described above. Its orientation to Marion Square and King Street results in what the Applicant believes is an inferior design, and a design which is not deemed acceptable to the City Staff nor to several local civic groups which have studied the proposed plan as well as alternative plans and designs for this site. By shifting some of the height, scale and mass of the proposed development from the 3-X building envelope to the 55/30 envelope, the Applicant is able to present what it believes to be a superior design, and one which responds appropriately to its site and its orientation to Hutson Street, King Street and Marion Square, yet occupies approximately fifteen (15%) percent less volume than a building designed to the maximum limits of the existing zoning/height envelope. In short, the application

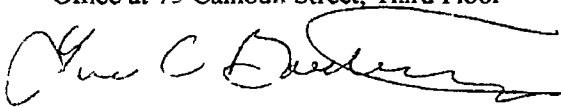
of the ordinance to this particular piece of property would unreasonably restrict the utilization of the property by dictating an inferior and inappropriate design which does not respond to the site, whereas the granting of a variance results in a superior design which does in fact respond appropriately to its site and which occupies less mass and volume than the inferior design

- d **Explain why authorization of the variance will not be of substantial detriment to the adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance** The Applicant is not aware of any adjacent property owners or any property owners in the vicinity who object to the proposed development of the Property. By granting the requested variance the Applicant respectfully submits that the resulting design of a full-service hotel would benefit the public by providing civic amenities that enhance the public good, such as retail restaurants and banquet facilities that can be used by Charlestonians for generations to come. The Applicant respectfully submits that the proposed design which can only be built with a height variance is deferential to adjoining properties and, in the words of a member of the B A R , curtsies to adjoining properties. The design of the hotel has been granted conceptual approval from the B A R and is supported by several community groups neighborhood associations surrounding business owners and citizens of Charleston. In summary the proposed hotel's stepped design, which presents a pleasing vista from all sides coupled with the public amenities that will be available with the proposed full service hotel will enhance the character of the district in which the property is located

COPY
404 King Street -
Appeal to decision of B Z A Z
March 2006

May 30, 2006

I hereby certify the copy of the Board of Zoning Appeals—Zoning file for 404 King Street (TMS# 460-16-04 009) – Appeal to decision of B Z A Z , March 2006 to be a duplicate of the original document located in the Department of Design, Development and Preservation, Zoning Office at 75 Calhoun Street, Third Floor

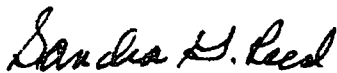


Lee C Batchelder
Zoning Administrator

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

The foregoing instrument was acknowledged before me this 16 day of June, 2006,
by Lee C Batchelder Zoning Administrator Department of Design, Development and
Preservation Zoning Office



Notary Public

My Commission Expires My Commission Expires
 July 25, 2015

certltr / 2

Ashby, Penny

From Ellington Vanessa
Sent Wednesday March 15 2006 10:37 AM
To Ashby Penny
Subject FW: Marion Square Hotel/404 King Street

FYI - discard if you do not want and/or need

From Ellington Vanessa
Sent Wednesday March 15 2006 10:26 AM
To Fortenberry Yvonne Andrews Adelaide
Subject RE: Marion Square Hotel/404 King Street

Yvonne

Below is a copy of the excerpt of which in recent years has been abbreviated. Should you like to obtain a copy of the audiotape, tape to list, and/or higher a stenographer, I would be happy to take the tape to IVS (just give me an call/pr/lpo number for billing purposes).

404 KING STREET (TMS# 463 16 04 009)

Request re approval of special exception granted February 17 2004 as follows: Request approval under Section 14-220 to allow a 185 room hotel in a CB-1 (General Business Accommodation) zone district. Zoned GB-1A.

Presentation Mr. Batchelder distributed and reported on site plans and letters of support to the Board for viewing. Copies are on file in the Zoning Division. Mr. Batchelder stated the applicant request to extend their special exception for another year. City staff recommended approval of the request.

Applicant Present representing the applicant was Mr. Foster Gailhard, Attorney. He noted the state law was amended recently and as a result of that change, City Council adopted a very comprehensive change to the city ordinances dealing with how the Board of Appeals Zoning extends variances and extends special exceptions. Under existing city law passed in 2005, special exceptions, just like variances, are good for a period of two years and can be extended in accordance with the new enacted ordinance adopted 2005. Section 54-962 provided there have been no amendments to this Chapter which precludes or prohibits any aspect of the site specific development plan.

Mr. Gailhard felt as a matter of right the applicant was entitled to a one year extension.

Opposition Present in opposition to the request were Mr. Edward Litchard, Attorney, Mr. Trenholm Walker, Attorney, Dr. Otherson, Mr. Lance Hott, Ms. Pat Jones, Mr. Mark Otton and Ms. Kathryn Saunders, representing the Historic Charleston Foundation.

Motion On motion of Mr. Robinson, seconded by Ms. Campbell, the Board voted unanimously to approve the request.

From Fortenberry Yvonne
Sent Tuesday March 14 2006 2:29 PM
To Ellington Vanessa
Subject Marion Square Hotel/404 King Street

Vanessa

Adelaide and I would like to review an excerpt of the minutes of the Feb. 7 BZA meeting that relate to this item which is being appealed at the meeting next week. Would you send us just this section of the minutes as soon as possible so we can prepare for this appeal next week. Thanks.

Yvonne



Application for Variance Special Exception or Reconsideration
to the Board of Zoning Appeals – Zoning (Form 1)

Page 1 of 2

City of Charleston

Instructions – Applicants must complete and submit this form along with the required information and fee to the Zoning Division office at 75 Calhoun Street. Applications are due by 3 00 P M on the deadline date. A sign will be posted on the property and a public hearing will be conducted by the Board of Zoning Appeals – Zoning before the Board makes its decision. Each scheduled meeting of the Board is limited to 25 new applications. Additional applications even if submitted prior to the deadline will be placed on the agenda of the next scheduled meeting. There is a five (5) business day appeal period following the date of Board action. No permits may be issued until this appeal period has expired. An appeal to the Board stays all further action on the application.

THE APPLICANT HEREBY APPEALS

- ☐ For a Variance and/or Special Exception as indicated on page 2 of this application
☒ For reconsideration of a decision of the Board or action of a zoning official as stated on attached Form 2

MEETING DATE REQUESTED March February 21, 2006

Property Address 404 King Street TMS # 460-16-04-009

Property Owner Library Associates, LLC Daytime Phone (843) 722-8169

Applicant's Historic Charleston Foundation
Preservation Society of Charleston Daytime Phone See Exh A

Applicant's Mailing Address Please see Exhibit "A" attached hereto and
incorporated herein by reference

Relationship of applicant to owner (same representative prospective buyer other) Attorney

Zoning of property GB-A

Information required with application (check information submitted)

- ☐ Scaled plans or plats, including elevations if applicable showing the variance(s) being requested (3 copies)
☐ For density variances scaled floor plans with rooms labeled and the total floor area of each dwelling unit noted (3 copies)
☐ Check or cash (make checks payable to the City of Charleston)

Optional information which will be helpful to the Board

- ☐ Photographs
☐ Letters or petitions from neighbors or organizations directly affected by your request

I certify that the information on this application and any attachments is correct that the proposed improvement(s) comply with private neighborhood covenants if there are any and that I am the owner of the subject property or the authorized representative of the owner. I authorize the subject property to be posted with a notice of the hearing before the Board and inspected.

Applicant [Signature] Date 2/14/2006

For office use only		
Date application received	<u>2/14/06</u>	Fee \$ <u>150.00</u>
Staffperson	<u>[Signature]</u>	Time application received <u>4:53</u> Receipt # <u>4227</u>

Dept. of Design Development and Preservation 75 Calhoun Street Third Floor Charleston South Carolina 29401
(843) 724-3781 FAX (843) 724-3772 www.ci.charleston.sc.us

Exhibit “B” – Grounds for Reconsideration

Application for Variance, Special Exception, or Reconsideration to the Board of Zoning Appeals – Zoning

- 1 The provisions of the Vested Rights Act (hereinafter referred to as the Act), Section 29-510 through 560, Code of Laws of South Carolina, 1976 as amended, do not apply retroactively to the special exception that was granted to Library Associates LLC for 404 King Street in February 2004 (hereinafter referred to as the Special Exception'), before the Act was passed and the ordinance adopted, as the Act is in derogation of the common law, purports to create a new right, and can be applied prospectively only
- 2 The provisions of the Vested Rights Ordinance (hereinafter referred to as the Ordinance'), Section 54-960 through 968 THE ZONING ORDINANCE OF THE CITY OF CHARLESTON (2005), do not apply retroactively to the Special Exception before the Ordinance was passed and the ordinance adopted, as the Ordinance is in derogation of the common law purports to create a new right and can be applied prospectively only
- 3 Application of the Act and the Ordinance to the Special Exception is in violation of the Comprehensive Land Planning Act of 1994 in that it is in derogation of local government's bodies' apparent ability to guide zoning, land uses, and impacts in response to changing circumstances
- 4 There have been significant material changes of circumstance since the Special Exception was granted in February, 2004, which changes and circumstances include but are not limited to the massive influx of additional proposed development in the immediate neighborhood of this proposed project, the additional hotels planned and approved and the Grade 'B' status of the intersections of King and Calhoun and King and meeting
- 5 The traffic assessment plan provided by the applicant in February 2004, which is an essential prerequisite for consideration of the request for renewal and/or extension of special exception was outdated, incomplete and unresponsive in numerous material respects
- 6 The Special Exception was in violation of the City of Charleston Zoning Ordinances governing Special Exceptions as it does not present a current assessment as required and as such the application is incomplete and should not have been acted upon
- 7 The Act and the Ordinance violate the due process clause of U S CONST amend XIV § 1
- 8 The Act and the Ordinance violate the due process clause of S C CONST art I § 4
- 9 The Act and the Ordinance violate the notice and right to be heard provision of S C CONST art I § 23



Board of Zoning Appeals – Zoning
Form 2 (yellow)

City of Charleston

Applicants appealing for reconsideration of a Board decision or decision of the zoning administrator must submit the following information with Form 1

In the case of an appeal for reconsideration of a Board decision applicant shall state below the grounds upon which it is considered that the Board misapprehended or misconceived the question or questions involved or the ground or grounds upon which it is considered that the Board has erred in its finding or disposition of the appeal application or matter

Please see exhibit B " attached hereto and
incorporated herein by reference

In the case of an appeal for reconsideration of a decision of the zoning administrator applicant shall state below the interpretation(s) of the Zoning Ordinance being appealed how the applicant is aggrieved by the interpretation(s) and what the applicant contends is the correct interpretation of the Zoning Ordinance

Applicant's Signature [Signature] Date 2/14/2006

For office use only			
Date application received	<u>2/14/06</u>	Time application received	<u>4:52</u>
		Staffperson	<u>[Signature]</u>

City of Charleston
Department of Design Development and Preservation
75 Calhoun Street Division 610
Charleston South Carolina 29401
(843) 724 3781

DO NOT DUPLICATE OR FAX THIS FORM USE ONLY THE ORIGINAL COLOR CODED COPY

10/03

Exhibit 'A'
Application for Variance, Special Exception, or Reconsideration to the
Board of Zoning Appeals – Zoning

Applicant s [Historic Charleston Foundation] Mailing Address/Daytime Phone

All correspondence for Historic Charleston Foundation should be addressed to

Edward K. Pritchard, III
The Pritchard Law Firm, Inc.
8 Cumberland Street Suite C
Charleston, SC 29401

E-Mail Address epritchard@p-blaw.com
Phone Number (843) 722 3300
Fax Number (843) 722 3379

Applicant s [Preservation Society of Charleston] Mailing Address/Daytime Phone

All correspondence for Preservation Society of Charleston should be addressed to

G. Trenholm Walker
Pratt-Thomas, Epling & Walker, P.A.
Post Office Drawer 22247
Charleston, SC 29413-2247

E-Mail Address gtw@wiselaw.com
Phone Number (843) 727 2208
Fax Number (843) 727 2231

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
 (Domestic Mail Only; No Insurance Coverage Provided)
 For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage	\$	Postmark Here
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		

Total Postage

Sent To **Mr Edward Pritchard**
The Pritchard Law Firm, Incorporated
8 Cumberland Street Suite C
Charleston, South Carolina 29401

Street Apt. N
 or PO Box N
 City State

PS Form 3800, June 2002 See Reverse for Instructions

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
 (Domestic Mail Only; No Insurance Coverage Provided)
 For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage	\$	Postmark Here
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		

Total Postage

Sent To **Mr G Trenholm Walker**
Pratt Thomas Epting and Walker P A
Post Office Drawer 22247
Charleston South Carolina 29413 2247

Street Apt. N
 or PO Box N
 City State, Zi

PS Form 3800, June 2002 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION - Complete items 1 2 and 3 Also complete item 4 if Restricted Delivery is desired - Print your name and address on the reverse so that we can return the card to you - Attach this card to the back of the mailpiece or on the front if space permits	COMPLETE THIS SECTION ON DELIVERY A Signature <i>[Signature]</i> ☐ Agent ☐ Addressee B Received by (Printed Name) <i>G Trenholm Walker</i> C Date of Delivery D Is delivery address different from item 1? ☐ Yes ☒ No If YES enter delivery address below
1 Article Addressed to Mr G Trenholm Walker Pratt Thomas Epting and Walker P A Post Office Drawer 22247 Charleston South Carolina 29413-2247	3 Service Type ☒ Certified Mail ☐ Express Mail ☐ Registered ☐ Return Receipt for Merchandise ☐ Insured Mail ☐ C O D 4 Restricted Delivery? (Extra Fee) ☐ Yes
2 Article Number (Transfer from service label) 7005 3110 0001 4724 7550	

PS Form 3811 February 2004 Domestic Return Receipt 102595-02 M 1540

SENDER: COMPLETE THIS SECTION - Complete items 1 2 and 3 Also complete item 4 if Restricted Delivery is desired - Print your name and address on the reverse so that we can return the card to you - Attach this card to the back of the mailpiece or on the front if space permits	COMPLETE THIS SECTION ON DELIVERY A Signature <i>[Signature]</i> ☐ Agent ☐ Addressee B Received by (Printed Name) <i>Danielle Walker</i> C Date of Delivery <i>3/3/06</i> D Is delivery address different from item 1? ☐ Yes ☒ No If YES enter delivery address below
1 Article Addressed to Mr Edward Pritchard The Pritchard Law Firm, Incorporated 8 Cumberland Street Suite C Charleston, South Carolina 29401	3 Service Type ☒ Certified Mail ☐ Express Mail ☐ Registered ☐ Return Receipt for Merchandise ☐ Insured Mail ☐ C O D 4 Restricted Delivery? (Extra Fee) ☐ Yes
2 Article Number (Transfer from service label) 7005 3110 0001 4724 7598	

PS Form 3811 February 2004 Domestic Return Receipt 102595-02 M 1540

For office use only	
Property address	404 King Street
TMS #	460-16-04-009 / zoning GB-A
Request reconsideration of the Board's decision on February 7, 2006:	
Request approval of special exception granted February 17, 2004 as follows:	
Request approval under Section 54-220 to allow a 185-room hotel in a GB-A (General Business-Accommodating) zone district	

**Board of Zoning Appeals Zoning
Order on Appeal**

The Board of Zoning Appeals Zoning held a public hearing on March 21, 2006 to consider the above appeal for reconsideration of a decision of the Board or the zoning administrator alleged to be erroneous by the appellant and affecting the property described above. After consideration of the evidence and arguments presented the board makes the following findings of fact and conclusions:

1 The Board makes the following findings of fact which are supported by the evidence:

2 The Board concludes the following:

a In the case of an appeal for reconsideration of a decision of the zoning administrator the Board orders that the decision of the zoning administrator is _____ affirmed _____ reversed _____ modified is follows _____

b In the case of an appeal for reconsideration of the decision of the Board the Board ZK denies the appeal _____ grants the appeal withdraws its decision and agrees to hear the application de novo as if no hearing consideration or determination has been previously made or heard

City of Charleston
Department of Design, Development and Preservation
75 Calhoun Street, Division 610
Charleston, South Carolina 29401
(843) 724 3781

[Signature]
3/21/06

DO NOT DUPLICATE OR FAX THIS FORM USE ONLY THE ORIGINAL COPIED OR CODED COPY

10/01

City of Charleston
Board of Zoning Appeals- Zoning

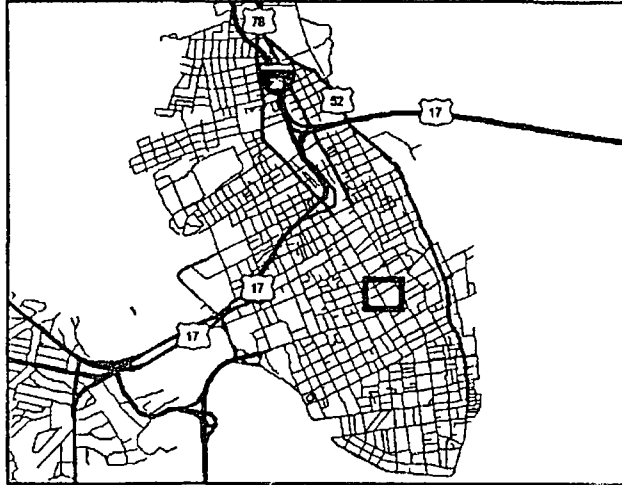
March 21 2006

Item # B 1

Address
404 KING STREET

TMS # 460 16-04-009

Zoning GB A



Subject Property

The Pritchard Law Firm, Inc

Attorneys at Law

Edward K. Pritchard III

8 Cumberland Street Suite C
Charleston South Carolina 29401

Telephone (843) 722 3300

Fax (843) 722 3379

February 14, 2006

Via Hand Delivery

Mr. Lee C. Batchelder
City of Charleston City Zoning Administrator
Department of Design, Development & Preservation
75 Calhoun Street Third Floor
Charleston, SC 29401

**RE APPLICATION FOR VARIANCES, SPECIAL EXCEPTION, OR
RECONSIDERATION TO THE BOARD OF ZONING APPEALS - ZONING**

Subject	404 King Street Charleston SC 29401
Applicant Names	Historic Charleston Foundation Preservation Society of Charleston
TMS#	460-16-04 009

Dear Lee,

Enclosed herewith please find the original and one copy of the above-referenced application and a check in the amount of \$150.00 in payment of the application fee.

Please file the original application and return the filed-stamped copy to me in the enclosed self-addressed stamped envelope.

Thank you.

With warmest personal regards, I am

Yours very truly,



Edward K. Pritchard III

Enclosure

CC: G. Trenholm Walker, Esq. (Via Fax 727 2231)
Ms. Catherine Saunders (Via Fax)
Ms. Cynthia Jenkins

Buist Moore Smythe McGee PA

W FOSTER GAILLARD
ATTORNEY AT LAW
fgaillard@bmsmlaw.com
DIRECT 843 720-4610

5 EXCHANGE STREET
PO BOX 999
CHARLESTON SC 29402 0999

843 722 3400
FAX 843 723 7398

www.btmmlaw.com

Buist Moore Smythe McGee PA

March 21, 2006

W FOSTER GAILLARD
ATTORNEY AT LAW
E Mail fgaillard@bmsmlaw.com
DIRECT DIAL 843 720 4610
FAX 843 723 7398

Via Hand Delivery

Susan J Herdina, Esquire
City of Charleston Legal Department
50 Broad Street
Charleston, SC 29401

Library Associates LLC's Brief in Opposition to Request For Reconsideration

cc: Susan

Please find enclosed *Library Associates LLC's Brief in Opposition to Petitioners Request For Reconsideration of Board of Zoning Appeals-Zoning's Granting of Special Exception Extension*. Please note we have copied opposing counsel. We have also provided Chairman Leonard Krawcheck with a courtesy copy, all by hand delivery.

Please feel free to call me if you have any questions.

Very truly yours,

BUIST MOORE SMYTHE MCGEE P A



W Foster Gaillard

WFG/ksh

cc: Susan

cc: Leonard Krawcheck Esquire
G Trenholm Walker Esquire
Edward K Pritchard, III, Esquire
Adelaide S Andrews, Esquire
(All By Hand Delivery)
Tam A Domin Esquire (By Email,



147 KING STREET • POST OFFICE BOX 521

CHARLESTON SOUTH CAROLINA 29402

**POSITION STATEMENT
BOARD OF ZONING APPEALS - ZONING**

March 21, 2006

158 Ashley Avenue

IMS#460-15-04-059

The Preservation Society of Charleston appreciates the opportunity to speak before the Board of Zoning Appeals - Zoning concerning 158 Ashley Avenue. The Society's Planning and Zoning Committee has reviewed this request for a variance to allow an addition (canopies and elevator) to an existing garage with a maximum height of 89-feet. The Society represents over 1,800 residents of Charleston and the Lowcountry who are concerned about the future of Charleston's historic district.

The Society is opposed to this request for a height variance of 4ft. We do not believe that any extraordinary circumstances exist to justify granting a variance. We ask that this request be denied and that the existing stairwell drainage system be redesigned to handle rain water runoff.

Thank you for considering our position in this matter.

Contact

Robert Gurley
President/Director

(843) 722 4630

FOUNDED 1920

FAX (843) 723 4381

preserve@preservationsofcharleston.org

Buist Moore Smythe McGee PA

March 21, 2006

W FOSTER GAILLARD
ATTORNEY AT LAW
E Mail fgallard@bmsmlaw.com
DIRECT DIAL 843 720-4610
FAX 843 723 7398

Via Hand Delivery

Susan J Herdina, Esquire
City of Charleston Legal Department
50 Broad Street
Charleston SC 29401

Re: Library Associate LLC's Brief in Opposition to Request For Reconsideration

Dear Susan:

Please find enclosed *Library Associates LLC's Brief in Opposition to Petitioners Request For Reconsideration of Board of Zoning Appeals-Zoning's Granting of Special Exception Extension*. Please note we have copied opposing counsel. We have also provided Chairman Leonard Krawcheck with a courtesy copy, all by hand delivery.

Please feel free to call me if you have any questions.

Very truly yours,

BUIST MOORE SMYTHE MCGEE P A



W Foster Gaillard

WFG/ksh

cc: [redacted]

cc: Leonard Krawcheck, Esquire
G Trenholm Walker Esquire
Edward K Pritchard III Esquire
A lelaide S Andrews Esquire
(All By Hand Delivery)
Tim A Pomin Esquire (By Email)

CITY OF CHARLESTON	)	BEFORE THE CITY OF CHARLESTON
	)	BOARD OF ZONING APPEALS-ZONING
	)	
HISTORIC CHARLESTON FOUNDATION	)	
and PRESERVATION SOCIETY OF	)	
CHARLESTON	)	
	)	
Petitioners,	)	LIBRARY ASSOCIATES, LLC'S
	)	BRIEF IN OPPOSITION TO
	)	PETITIONERS' REQUEST FOR
	)	RECONSIDERATION OF BOARD OF
THE CITY OF CHARLESTON, THE CITY	)	ZONING APPEALS ZONING'S
OF CHARLESTON BOARD OF ZONING	)	GRANTING OF SPECIAL EXCEPTION
APPEALS ZONING and LIBRARY	)	EXTENSION
ASSOCIATES LLC,	)	
	)	
Respondents	)	

PRELIMINARY STATEMENT

On February 17, 2004, Library Associates, LLC ('Library Associates') was granted a special exception to build a hotel at 404 King Street in Charleston. At that time, the Zoning Ordinance ('Ordinance') provided that special exceptions were valid for two years.

On June 21, 2005, City Council enacted Ordinance 2005-99. An effect of Ordinance 2005-99 was to repeal certain provisions of the Ordinance pertaining to special exceptions and to substitute new provisions therefor. Then existing Section 54-411 of the Ordinance, which provided that a special exception expired if no permit was not filed within two years, was repealed by Section 54-031 which provides that a special exception permit or variance approved by the Board shall remain valid for two (2) years from the approval, unless extended in accordance with the provision of Section 54-040. Section 54-96, also adopted as part of Ordinance 2005-99 provides that the term of a special exception is extended to up to five

annual extensions, provided there have been no amendments to the Ordinance which preclude or prohibit any aspect of the special exception

In January 2006, Library Associates, in compliance with the only rules in effect at that time, applied for an extension of its special exception permit. The matter came before the Board of Zoning Appeals Zoning ("BZA") on February 7, 2006. After reviewing the Ordinance, the BZA issued an oral order granting the extension. No written order has been issued.

On February 14, 2006, the Preservation Society of Charleston and Historic Charleston Foundation (Petitioners) petitioned for reconsideration of the BZA's decision. On March 8, 2006, the Petitioners filed an appeal in the Charleston County Court of Common Pleas contesting the BZA's decision.¹

Because Library Associates is entitled to an extension under the applicable rules, it respectfully requests the BZA to deny the Petitioners' request for reconsideration.

ARGUMENT

I The BZA's jurisdiction is limited to a determination regarding whether it correctly applied the existing Ordinance to Library Associates' application to extend its special exception

A The BZA's powers are limited to those enumerated in the Enabling Act and Ordinance (Applicable as to All Grounds for Reconsideration)

The BZA is an administrative body created pursuant to the Ordinance. *See* Ordinance at § 54-920. *See also* S.C. Code Ann. § 6-29-780(A) ("As part of the administrative mechanism designed to enforce the zoning ordinance, the zoning ordinance may provide for the creation of a board to be known as the board of zoning appeals"). The BZA's powers are specifically set

¹ This appeal does not divest the BZA of jurisdiction over this Hearing. An appeal to the circuit court of a board decision is permitted upon issuance of a final board order complying with S.C. Code § 6-29-800 (F) (2005). Since the BZA may reconsider this is the decision, it has not issued a final order. Further, the filing of an appeal in the circuit court does not ipso facto act as a supersedeas. S.C. Code § 6-29-920.

forth in the South Carolina Local Government Comprehensive Planning Enabling Act of 1994 (‘Enabling Act’) and in the Ordinance. The BZA must apply the Ordinance as written and is not empowered to entertain or deliberate upon matters of constitutional law and/or statutory construction as the Petitioners suggest. As such, the BZA must grant the extension to Library Associates’ special exception permit, in accordance with Section 54-962 of the Ordinance.

B The BZA is not empowered to decide whether an Act or Ordinance violates provisions of the United States or South Carolina Constitutions (Applicable As to Grounds Seven through Nine for Reconsideration)

1 The BZA must follow the law as written

Grounds Seven through Nine of Petitioners’ Application for Reconsideration assert that the Act and Ordinance violate certain provisions of the United States and South Carolina Constitutions. Respectfully, the BZA is not empowered to rule on these grounds.

The BZA is not a judicial body. Rather, it was created as part of the “administrative mechanism designed to enforce the zoning ordinance” pursuant to the Enabling Act. *See* S.C. Code Ann. § 6-29-780 (2005). The BZA’s powers are derived exclusively from the Enabling Act, and it may not expand upon the powers specifically delineated therein. *See* S.C. Code Ann. § 6-29-800. Because the BZA is a creation of the legislature, it must follow the law as written until the constitutionality of the law is judicially determined. *See Video Gaming Consultants Inc. v. South Carolina Dept. of Revenue*, 342 S.C. 34, 535 S.E.2d 642 (2000) (holding that, as an agency of the executive branch of government, administrative law judges have no authority to pass upon the constitutionality of a statute or a regulation). Petitioners’ request that the BZA make a judicial determination regarding the constitutionality of the Act and Ordinance must be disregarded as such a determination would violate the separation of powers doctrine. *See Ward*

v. State, 343 S.C. 14, 18, 538 S.E.2d 245, 247 (2000) (“Allowing [administrative law judges] to rule on the constitutionality of a statute would violate the separation of powers doctrine.”)

**2 Petitioners’ constitutional challenge to the Act and Ordinance
is without merit**

Even if Petitioners’ constitutional issues could be entertained, they would nonetheless fail, as neither the Vested Rights Act nor Ordinance 2005-99 violate the due process clause of the federal or state constitution.

The maintenance of a due process claim, whether procedural or substantive, presupposes the existence of a property right. See *Sylvia Development Corp. v. Calvert County*, 48 F.3d 810, 41 Cir. 1995) (procedural and substantive due process), *Roper Hospital v. Clermonts*, 326 S.C. 534, 484 S.E.2d 598 (1997) (procedural due process), *Sunset Cay LLC v. City of Folly Beach*, 357 S.C. 414, 513 S.E.2d 462 (2004) (substantive due process).

Property rights are not created by the federal constitution; instead, reference is had to other sources, as state law, to determine if a property right has been bestowed, and only if so does the federal due process clause come into play. *Board of Regents v. Roth*, 408 U.S. 564, 577 (1972) (“Property interests are not created by the Constitution. Rather they are created and their dimensions are defined by existing rules or understandings that stem from an independent source such as state law – rules or understandings that secure certain benefits and that support claims of entitlement to those benefits.”)

State law does not bestow upon Petitioners a property right in the renewal of a special exception. In South Carolina, the power of the General Assembly is plenary, circumscribed only by the constitution. *Ashmore v. Greater Greenville Sewer District*, 211 S.C. 77, 44 S.E.2d 88, 96 (1947). “[I]n the General Assembly rests plenary legislative power, limited only by the constitution, State and Federal. Legislation not expressly or impliedly inhibited by one or the

other of these documents may be validly enacted”) Zoning is not a federal concern, *Bob Jones University Inc v City of Greenville*, 243 S C 351, 133 S E 2d 843, 847 (1963) (“The authority of a municipality to enact zoning ordinances, restricting the use of privately owned property is founded in the police power), and the South Carolina constitution does not limit the General Assembly from legislating in the area Thus, the General Assembly in passing the Vested Rights Act, contravened no federal or state constitutional proscription and acted within its authority

While powers of municipalities are to be liberally construed, *See S C CONST art VIII § 17 S C Code § 5-7 10* the existence of those powers is subject to the general law as prescribed by the General Assembly *See S C CONST art VIII § 9* (The powers duties of the municipalities shall be established by general law”) The General Assembly has provided by general law that certain municipal zoning approvals are vested for a discreet period, and may be renewed for discreet periods subject to certain conditions This it was entitled to do

Because Petitioners have no protected property right arising under state law with respect to special exceptions, they have no cognizable state or federal due process claim, either procedural or substantive

S C CONST art I § 23 (sic) has no application here Article I, §22 provides that one may not be finally bound by a quasi judicial decision of an administrative agency that affects private rights except on due notice and opportunity to be heard This provision contemplates notice and hearing to the parties to a proceeding The Petitioners are not parties to the renewal of the special exception That is a matter between Library Associates and the BZA Further, any decision of this BZA implicates no private rights of Petitioners, as they have no protected property interest on the issue of renewal Finally, neither the Vested Rights Act nor the

Ordinance 2005-99 affect notice or the opportunity to be heard. Notice of BZA meetings is provided (indeed Petitioners appeared), and Petitioners have opportunity to be heard on the issue of whether the conditions for an extension per the Act and Ordinance have been met. Petitioners' real issue is their dissatisfaction with the Vested Rights Act's limitation of the factors to be considered on renewal. That, however, does not implicate constitutional considerations.

C. Petitioners' Challenge to Ordinance 2005-99 is Prohibited by the Enabling Act (Applicable As to Grounds Two and Three for Reconsideration)

The Enabling Act bars the BZA from entertaining Petitioners' arguments concerning the validity of the Ordinance. The Enabling Act specifically prohibits challenges to any zoning amendment made sixty days after its enactment. S.C. Code Ann. § 6-29-760 (D) (2005). Petitioners' challenge to Ordinance 2005-99 is time barred.

II. The BZA is required to apply the Ordinance in effect at the time of its ruling, and therefore, must grant an extension for the February 17, 2004 permit.

A. The BZA must apply the plain language of the Ordinance (Applicable as to All Grounds for Reconsideration)

With regard to special exception permits, the BZA is empowered only 'to permit uses by special exception subject to the terms and conditions for the uses set forth for such uses in the zoning ordinance.' S.C. Code Ann. § 6-29-800(A)(3), Ordinance § 519-2a-2. The BZA is thus required to adhere to the terms of the Ordinance in effect when determining whether to permit uses by special exception.

In enacting Ordinance 2005-99, the City repealed the former Section 54-931 of the Charleston Zoning Ordinance 'deleting the same in its entirety' and 'substituting in its stead the current provision of this Section.' Ordinance No. 2005-99 § 16.2 (2005). The Ordinance

in effect now, and at the time of the February 7, 2006 hearing, requires the BZA to grant an extension of the Library Associates' special exception

The general rule is that the repeal of a statute operates retrospectively and has the effect of blotting it out as completely as if it had never existed and of putting an end to all proceedings under it. Although an administrative agency may have the power to enforce a repealed statute, this authority exists only if there is an applicable savings clause and the violation at issue precedes the expiration of the statute.

South Carolina Department of Natural Resources v. McDonald, 2006 WL 345965 (Ct. App. 2006)

While the City Council had the power to except existing special exceptions from Sections 54-931 and 54-962 of the current Ordinance through the use of a savings clause, it did not. Instead, it manifested its intent that the current Ordinance apply to existing special exceptions. Not only is Ordinance 2005-99 clear in this regard, but being a zoning ordinance, it is to be construed strictly in favor of the landowner. *Purdy v. Moise*, 223 S.C. 298, 75 S.E.2d 605, 607 (1953) (We have as our guide the well founded principle of law that statutes or ordinances in derogation of natural rights of persons over their property are to be strictly construed as they are in derogation of the common law right to use private property so as to realize its highest utility.) Thus, further compelling its application to the case at hand. Accordingly, the BZA must and indeed can only consider the Library Associates' application to extend its special exception under Section 54-931 as it is now written.

B The BZA correctly applied the Ordinance in granting Library Associates' application to extend its special exception (Applicable as to All Grounds for Reconsideration)

The plain language of Ordinance 2005-99 clearly states that a special exception approved by the BZA shall remain valid for two years unless extended pursuant to Section 54-962. See Ordinance § 54-931. Section 54-962 requires that upon application by the landowner

the special exception must be extended if the Ordinance has not been changed to prohibit any aspect of the special exception permit plan Library Associates applied for an extension of its existing special exception after the enactment of Ordinance 2005 99 As nothing in the Ordinance had been changed to preclude or prohibit the special exception, Library Associates was entitled to the extension The BZA's application of Section 54 962 was prospective

**C The Petitioners' retroactivity assertions are without merit
(Applicable at to Grounds One and Two for Reconsideration)**

As set forth above the BZA had no choice but to apply the Ordinance in effect at the time of the hearing, and its doing so was prospective and correct In any event, even a retroactive application of Ordinance 2005 99 would be valid because the Ordinance is remedial in nature Although there exists a presumption that statutory enactments are to be considered prospective rather than retroactive in their operation absent a specific provision or clear legislative intent to the contrary statutes that are remedial or procedural in nature are generally held to operate retrospectively See *Hyder v Jones*, 271 S C 85, 245 S E 2d 123 (1978), *Merchants Mut Ins Co v South Carolina Second Injury Fund*, 277 S C 604, 291 S E 2d 667 (1982), *Hercules Inc v South Carolina Tax Comm'n*, 274 S C 137, 262 S E 2d 45 (1980) (statutes affecting the remedy not the right, are generally retrospective), *Smith v South Carolina Retirement Sys*, 336 S C 505, 520 S E 2d 339 (Ct App 1999) A statute is remedial when it creates new remedies for existing rights or enlarges the rights of persons under disability, unless it violates a contractual obligation creates a new right, or divests a vested right *Hooks v Southern Bell Tel & Tel Co*, 351 S E 2d 900 (Ct App 1986) Further legal treatises have set forth the effect of new statutes on pending litigation as follows

'Procedural statutes are ordinarily accorded a retrospective construction in the sense that they will be applied to pending actions and proceedings
If a new procedural or remedial provision would, if applied in a pending

case, attach a new legal consequence to a completed event then it will not be applied in that case unless the legislature has made it clear its intention that it should apply. On the other hand, a statute providing, or merely affecting, the remedy may apply to, and operate on, causes of action which had accrued and were existing at the time of the enactment of the statute and to all actions commenced before its enactment, unless an intent to the contrary is expressed.

82 C.J.S. *Statutes* § 421 (2005)

The Vested Rights Act and Ordinance 2005-99, as applied to Library Associates' special exception, are remedial. Note must be made that Library Associates possessed a vested right to its special exception regardless of which version of the Ordinance was in effect when it was issued. See *Pure Oil Division v City of Columbia*, 254 S.C. 28, 34, 173 S.E.2d 140, 143 (1970) ('We have recognized the rule that, when a zoning or building permit has been properly issued and the owner has incurred expenses thereon, he acquires a vested property right therein of which he cannot be deprived without cause or in the absence of public necessity'). Thus, the Vested Rights Act and Ordinance 2005-99 did not create new rights. At most, they modified the remedy by which Library Associates could vindicate or preserve its existing vested right. Therefore, to the extent it is argued that the Vested Rights Act and Ordinance 2005-99 were not applied prospectively they could nonetheless be applied retroactively as remedial measures since they only enlarge the remedies available to the holders of special exceptions. See *Hooks*, 351 S.F.2d at 702 (finding that a statute which permitted claimants to seek workers compensation payments to pay a lump sum rather than installments was a remedy to an existing right and could be applied retroactively). See also *Graham v Dorchester County School District*, 339 S.C. 121, 528 S.E.2d 80 (Ct. App. 2000) (Change to rules of civil procedure applied to pending litigation effectively forbidding appellant from restoring case to active roster).

III The Enabling Act authorizes and requires the BZA to apply the Vested Rights Act and Ordinance (Applicable as to Ground Three for Reconsideration)

Petitioners claim the application of the Vested Rights Act and Ordinance 2005-99 violate the Enabling Act by stripping the local government of zoning powers. This assertion is erroneous, as it fails to acknowledge the source and scope of the zoning powers.

The original zoning power of the state resides in the state legislature, and the legislature is authorized to delegate to municipalities the power to adopt zoning ordinances. The state, in delegating zoning power to a municipality, may also determine the extent of the power granted.

101A C.J.S. *Zoning and Land Planning* § 7. Further, “[t]he legislature may revoke the powers it has delegated and redelegate such powers to another agency, or the legislature may itself exercise such powers notwithstanding the delegation.” 16 C.J.S. *Constitutional Law* § 290.

Other courts have expounded on this principle:

Among the essential powers of government are the taxing power, the police power, and the power of eminent domain. These powers belong to the state. They are essential to the existence of government. The state cannot divest itself of these powers and retain its sovereignty. Stripped of these great powers, the state would become subordinate to the municipality or corporate entity in which such powers were vested. The mere delegation of any of these powers does not divest the state of its sovereign right to exercise them for itself or to take them away from municipalities at pleasure. Counties, townships, school districts, cities, villages and other municipal and quasi-municipal corporations are created under the authority of the legislature, to better accomplish the purposes of local government. These derive their existence and all of their powers from the Legislature of the state creating them. There is therefore no such thing as an inherent power in any municipality which is created by legislative enactment.

City of Chicago v. M & M Hotel Company, 248 Ill. 264, 93 N.E. 753 (1911). See also Argument 1B1 as to the authority of the General Assembly to prescribe powers of municipalities.

The legislature is clearly entitled to modify the scope and breadth of the powers granted municipalities to effect zoning matters. Neither the Vested Rights Act nor Ordinance 2005-99 passed pursuant thereto violate the Enabling Act.

IV The Petitioners' Grounds for Reconsideration Four through Six are factual in nature and therefore not relevant to this hearing (Applicable As to Grounds Four through Six for Reconsideration)

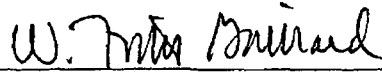
The Petitioners have moved the BZA to reconsider its February 7, 2006 determination that the extension of the Library Associate's special exception was required under 54-962. Therefore, the only issue before the BZA is whether it correctly applied the Ordinance. Because application of the factors required to gain initial approval of a special exception application is inappropriate and irrelevant to the matter at hand, the BZA must not consider Grounds Four through Six in support of reconsideration. However, if the BZA determines it must again review Library Associates' special exception application, Library Associates requests additional time to prepare a presentation.

CONCLUSION

For the foregoing reasons, Library Associates is entitled to an extension of its special exception and respectfully requests the BZA to deny the Petitioners' request for reconsideration.

Respectfully submitted,

BUIST MOORE SMYTHE MCGEE P A



W Foster Gaillard (S C Bar No 2282)
William C Cleveland (S C Bar No 1284)
Five Exchange Street
P O Box 999
Charleston, SC 29402
(843) 722 3400

Frances I Cantwell (S C Bar No 1121)
Regan & Cantwell LLC
105 Wappoo Creek Drive Suite 1-A
Charleston SC 29412

ATTORNEYS FOR RESPONDENTS

March 20 2006
Charleston, SC

CERTIFICATE OF SERVICE

I hereby certify that I have this 21st day of March, 2006 served a true and correct copy of the within **LIBRARY ASSOCIATES, LLC'S BRIEF IN OPPOSITION TO PETITIONERS' REQUEST FOR RECONSIDERATION OF BOARD OF ZONING APPEALS ZONING'S GRANTING OF SPECIAL EXCEPTION EXTENSION** on all counsel of record by hand delivery, addressed as follows

G Trenholm Walker, Esquire
Pratt-Thomas, Epting & Walker PA
16 Charlotte Street
Charleston, SC 29403

Edward K. Pritchard, III Esquire
The Pritchard Law Firm Inc
8 Cumberland Street Suite C
Charleston SC 29401



 *** ACTIVITY REPORT ***

ST TIME	CONNECTION TEL	CONNECTION ID	NO	MODE	PGS	RESULT
02/13 16 09	843 722 5956		8818	AUTO RX ECM	1	OK 03 25
02/13 16 16	97627441		4801	TRANSMIT ECM	2	OK 00 18
02/13 16 47			8819	MEMORY RX ECM	2	OK 00 24
02/13 16 54	98491274		4802	TRANSMIT G3	1	OK 01 18
02/13 17 41			8820	MEMORY RX ECM	3	OK 00 39
02/13 18 03	8435715790		8821	AUTO RX ECM	2	OK 00 38
02/14 11 19	918885239008		4803	TRANSMIT ECM	2	OK 00 21
02/14 11 34	97256616		4804	TRANSMIT ECM	1	OK 00 35
02/14 11 38	8432782042		8822	AUTO RX ECM	5	OK 03 33
02/14 11 42			8823	AUTO RX ECM	1	OK 00 33
02/14 13 41	97227407		4805	TRANSMIT G3	1	OK 00 37
02/14 13 43	843 577 2097		8824	AUTO RX ECM	4	OK 02 08
02/14 13 46	97685572		4806	TRANSMIT ECM	3	OK 01 10
02/14 14 39	98892447		4807	TRANSMIT ECM	1	OK 00 30
02/14 15 14	97631909	HLA INC	4808	TRANSMIT ECM	1	OK 00 17
02/14 15 33	843 577 5860		8825	AUTO RX ECM	1	OK 00 29
02/14 16 17	97223379		4809	TRANSMIT ECM	2	OK 00 27
02/14 17 21	98841427		4810	TRANSMIT G3	1	OK 00 45
02/14 18 05			8826	AUTO RX G3	0	NG 00 46
					0	0005
02/14 18 >	97237398	BUIST MOORE	4811	TRANSMIT ECM	6	OK 01 17



City of Charleston
Design, Development and Preservation

75 Calhoun Street
Charleston South Carolina 29401-3502
843-724-3765 Fax 843-724-3772
e-mail reedsa@ci.charleston.sc.us

Transmittal Letter

To Mr. Foster W. Gaillard 723-17398
Name Fax Number

Date 2/14/06

From D. Ashby (724-11771)

Project _____

Pages 6 (cover sheet included)

Remarks Appendix 404 King Street

I hope this information is helpful.

-PA-

The Pritchard Law Firm, Inc

Attorneys at Law

Edward K. Pritchard III

8 Cumberland Street Suite C
Charleston South Carolina 29401

Telephone (843) 722 3300

Fax (843) 722 3379

February 14 2006

Via Hand Delivery

Mr. Lee C. Batchelder

City of Charleston City Zoning Administrator

Department of Design, Development & Preservation

75 Calhoun Street Third Floor

Charleston, SC 29401

**RE APPLICATION FOR VARIANCES, SPECIAL EXCEPTION, OR
RECONSIDERATION TO THE BOARD OF ZONING APPEALS - ZONING**

Subject 404 King Street, Charleston SC 29401

Applicant Names Historic Charleston Foundation
Preservation Society of Charleston

TMS# 460-16-04-009

Dear Lee

Enclosed herewith, please find the original and one copy of the above-referenced application and a check in the amount of \$150.00 in payment of the application fee.

Please file the original application and return the filed-stamped copy to me in the enclosed self-addressed, stamped envelope.

Thank you.

With warmest personal regards, I am

Yours very truly,



Edward K. Pritchard, III

Enclosure

CC: G. Trenholm Walker Esq. (Via Fax 727-2231)

Ms. Catherine Saunders (Via Fax)

Ms. Cynthia Jenkins



Application for Variance Special Exception or Reconsideration
to the Board of Zoning Appeals – Zoning (Form 1)

Page 1 of 2

City of Charleston

Instructions – Applicants must complete and submit this form along with the required information and fee to the Zoning Division office at 75 Calhoun Street. Applications are due by 3 00 P M on the deadline date. A sign will be posted on the property and a public hearing will be conducted by the Board of Zoning Appeals – Zoning before the Board makes its decision. Each scheduled meeting of the Board is limited to 25 new applications. Additional applications even if submitted prior to the deadline will be placed on the agenda of the next scheduled meeting. There is a five (5) business day appeal period following the date of Board action. No permits may be issued until this appeal period has expired. An appeal to the Board stays all further action on the application.

THE APPLICANT HEREBY APPEALS

- ☐ For a Variance and/or Special Exception as indicated on page 2 of this application
☒ For reconsideration of a decision of the Board or action of a zoning official as stated on attached Form 2

MEETING DATE REQUESTED February 21, 2006

Property Address 404 King Street TMS # 460-16-04-009

Property Owner Library Associates, LLC Daytime Phone (843) 722-8169

Applicant's Historic Charleston Foundation
Preservation Society of Charleston Daytime Phone See Exh A

Applicant's Mailing Address Please see Exhibit "A" attached hereto and
incorporated herein by reference.

Relationship of applicant to owner (same representative prospective buyer other) Attorney

Zoning of property GB-A

Information required with application (check information submitted)

- ☐ Scaled plans or plats including elevations if applicable showing the variance(s) being requested (3 copies)
☐ For density variances scaled floor plans with rooms labeled and the total floor area of each dwelling unit noted (3 copies)
☐ Check or cash (make checks payable to the City of Charleston)

Optional information which will be helpful to the Board

- ☐ Photographs
☐ Letters or petitions from neighbors or organizations directly affected by your request

I certify that the information on this application and any attachments is correct, that the proposed improvement(s) comply with private neighborhood covenants if there are any and that I am the owner of the subject property or the authorized representative of the owner. I authorize the subject property to be posted with a notice of the hearing before the Board and inspected.

Applicant [Signature] Date 2/14/2006

For office use only			
Date application received	<u>2/14/06</u>	Fee \$ <u>150.00</u>	Time application received <u>4:53</u>
Staffperson	<u>[Signature]</u>		Receipt # <u>6227</u>

Dept. of Design Development and Preservation 75 Calhoun Street, Third Floor Charleston South Carolina 29401
(843) 724-3781 FAX (843) 724-3772 www.ci.charleston.sc.us

Exhibit "A"
Application for Variance, Special Exception, or Reconsideration to the
Board of Zoning Appeals – Zoning

Applicant s [Historic Charleston Foundation] Mailing Address/Daytime Phone

All correspondence for Historic Charleston Foundation should be addressed to

Edward K. Pritchard, III
The Pritchard Law Firm, Inc
8 Cumberland Street, Suite C
Charleston, SC 29401

E-Mail Address epritchard@p-blaw.com
Phone Number (843) 722-3300
Fax Number (843) 722-3379

Applicant s [Preservation Society of Charleston] Mailing Address/Daytime Phone

All correspondence for Preservation Society of Charleston should be addressed to

G. Trenholm Walker
Pratt-Thomas Epling & Walker, PA
Post Office Drawer 22247
Charleston, SC 29413 2247

E-Mail Address gtw@wiselaw.com
Phone Number (843) 727-2208
Fax Number (843) 727-2231



Board of Zoning Appeals – Zoning
Form 2 (yellow)
City of Charleston

Applicants appealing for reconsideration of a Board decision or decision of the zoning administrator must submit the following information with Form 1

In the case of an appeal for reconsideration of a Board decision applicant shall state below the grounds upon which it is considered that the Board misapprehended or misconceived the question or questions involved or the ground or grounds upon which it is considered that the Board has erred in its finding or disposition of the appeal application or matter:

Please see Exhibit B attached hereto and incorporated herein by reference

In the case of an appeal for reconsideration of a decision of the zoning administrator applicant shall state below the interpretation(s) of the Zoning Ordinance being appealed how the applicant is aggrieved by the interpretation(s) and what the applicant contends is the correct interpretation of the Zoning Ordinance

Applicants Signature

Date 2/14/2006

For office use only

Date application received

2/14/06

Date application received

2/15/06

Staffperson

City of Charleston
Department of Design, Development and Preservation
75 Calhoun Street, Division 610
Charleston, South Carolina 29401
(843) 724-3781

DO NOT DUPLICATE OR FAX THIS FORM USE ONLY THE ORIGINAL COLOR CODED COPY

10/03

Exhibit “B” – Grounds for Reconsideration

Application for Variance, Special Exception, or Reconsideration to the Board of Zoning Appeals – Zoning

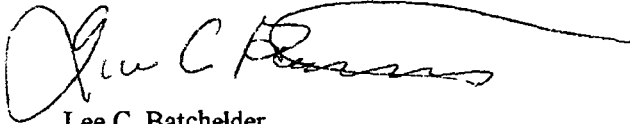
- 1 The provisions of the Vested Rights Act (hereinafter referred to as the “Act”) Section 29-510 through 560, Code of Laws of South Carolina, 1976, as amended, do not apply retroactively to the special exception that was granted to Library Associates, LLC, for 404 King Street in February, 2004 (hereinafter referred to as the “Special Exception”), before the Act was passed and the ordinance adopted, as the Act is in derogation of the common law, purports to create a new right, and can be applied prospectively only
- 2 The provisions of the Vested Rights Ordinance (hereinafter referred to as the “Ordinance”), Section 54-960 through 968, THE ZONING ORDINANCE OF THE CITY OF CHARLESTON (2005), do not apply retroactively to the Special Exception before the Ordinance was passed and the ordinance adopted, as the Ordinance is in derogation of the common law, purports to create a new right, and can be applied prospectively only
- 3 Application of the Act and the Ordinance to the Special Exception is in violation of the Comprehensive Land Planning Act of 1994 in that it is in derogation of local government’s bodies’ apparent ability to guide zoning, land uses, and impacts in response to changing circumstances
- 4 There have been significant material changes of circumstance since the Special Exception was granted in February, 2004, which changes and circumstances include, but are not limited to, the massive influx of additional proposed development in the immediate neighborhood of this proposed project, the additional hotels planned and approved and the Grade “B” status of the intersections of King and Calhoun and King and meeting
- 5 The traffic assessment plan provided by the applicant in February, 2004, which is an essential prerequisite for consideration of the request for renewal and/or extension of special exception was outdated, incomplete and unresponsive in numerous material respects
- 6 The Special Exception was in violation of the City of Charleston Zoning Ordinances governing Special Exceptions as it does not present a current assessment as required and as such, the application is incomplete and should not have been acted upon
- 7 The Act and the Ordinance violate the due process clause of U.S. CONST. amend. XIV, § 1
- 8 The Act and the Ordinance violate the due process clause of S.C. CONST. art. I, § 3
- 9 The Act and the Ordinance violate the notice and right to be heard provision of S.C. CONST. art. I, § 23

COPY
404 King Street –
Hotel Special-Exception
February 2004



May 30, 2006

I hereby certify the copy of the Board of Zoning Appeals—Zoning file for 404 King Street (TMS# 460-16-04-009) – Hotel Special-Exception, February 2004 to be a duplicate of the original document located in the Department of Design, Development and Preservation, Zoning Office at 75 Calhoun Street, Third Floor

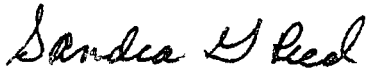


Lee C Batchelder
Zoning Administrator

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

The foregoing instrument was acknowledged before me this 16 day of June 2006,
by Lee C Batchelder, Zoning Administrator, Department of Design, Development and
Preservation, Zoning Office



Notary Public

My Commission Expires July 25 2015

certlfr / 2



Variance Special Exception or Reconsideration to the Zoning Ordinance

Applicants must complete and submit this form along with the required information and fee to the Planning Office at 75 Calhoun Street. Applications are due by noon on the applicable deadline date. Additional applications will be conducted by the Board of Zoning Adjustments. There is a five (5) business day appeal period following the date of Board action on the application. An appeal of a Board decision may be filed on the application form.

THE APPLICANT HERE BY ATTESTS

☐ For a variance as indicated below and on the reverse side of this form
☐ Subback ☐ Height ☐ Lot occupancy ☐ Parking ☐ Density
☒ A special exception as stated on the reverse side of this form
☐ A reconsideration of a decision of the Board of Zoning Adjustments

MEETING DATE REQUESTED March 17, 2004

Property Address 404 King Street
Applicant Library Associates LLC
Applicant's Mailing Address Goff-D Antonio Associates, LLC
34 Radcliffe Street
Charleston South Carolina 29403

IMS # 460-16-4-009
Daytime Phone 843-722-8169
Daytime Phone 843-571-2163

Indicate relationship of applicant to owner (same representative prospective buyer other) Design Representative
Zoning of property GB - Accommodations

Information required with application (check information submitted) (See reverse side of this application)
☐ A tax map identifying the subject property
☐ Site plans, floor plans, and other required documents (3 copies)
☐ Density variances, setbacks, floor plans, and other required documents (3 copies)
☐ Check or cash (make check payable to City of Charleston)

Applicants

- Applicant here described on (1) is a permit.
 - Applicant will meet proposed special exception.
 - The following documents:
- Signature of applicant

Opinion information which will be helpful to the Board:
☐ Photographs
☐ Letters or petitions from neighbors or organizations directly affected by your request

I certify that the information on this application and any attachments is correct and of the subject property or the authorized representative of the owner. I authorize be posted with a notice of the hearing before the Board and inspected.

Applicant Frank W. Antonio

For this only
Date application received 3/15/04
Filing fee \$3,850.00
City of Charleston
Department of Planning and Urban Development
75 Calhoun Street, Division 610
Charleston, South Carolina 29403
(813) 724-3781

DO NOT DUPLICATE OR FAX THIS FORM USE ONLY THE ORIGINAL COLOR CODED COPY

DO NOT DUPLICATE OR FAX

USE ONLY THE ORIGINAL COLOR CODED COPY

GENERAL INFORMATION

DATE: 12/21/2011

TIME: 10:00 AM

BY: [Signature]

FOR: [Signature]

1

NO.	NAME	ADDRESS	CITY	STATE	ZIP	PHONE	TELETYPE	FAX	EMAIL	WEBSITE	MOBILE	PAGER	OTHER
1													
2													
3													
4													
5													
6													
7													
8													
9													
10													
11													
12													
13													
14													
15													
16													
17													
18													
19													
20													
21													
22													
23													
24													
25													
26													
27													
28													
29													
30													
31													
32													
33													
34													
35													
36													
37													
38													
39													
40													
41													
42													
43													
44													
45													
46													
47													
48													
49													
50													
51													
52													
53													
54													
55													
56													
57													
58													
59													
60													
61													
62													
63													
64													
65													
66													
67													
68													
69													
70													
71													
72													
73													
74													
75													
76													
77													
78													
79													
80													
81													
82													
83													
84													
85													
86													
87													
88													
89													
90													
91													
92													
93													
94													
95													
96													
97													
98													
99													
100													

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece or on the front if space permits.	A. Signature X <u>K. 1221</u> ☐ Agent ☐ Addressee B. Received by (Printed Name) <u>K. 1221</u> C. Date of Delivery <u>3-1-04</u> D. Is delivery address different from item 1? ☐ Yes If YES, enter delivery address below ☒ No
1. Article Addressed to Mr. Hank D. Antonio Goff D. Antonio Associates 34 Radcliffe Street Charleston, South Carolina 29403	3. Service Type ☐ Certified Mail ☐ Express Mail ☐ Registered ☐ Return Receipt for Merchandise ☐ Insured Mail ☐ C.O.D.
2. Article Number <i>(Transfer from service label)</i> <u>7099 3220 0003 3932 8192</u>	4. Restricted Delivery? (Extra Fee) ☐ Yes

PS Form 3811 August 2001

Domestic Return Receipt

102595-02 M-1540

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

Article Sent To:

Postmark Here

Postage \$		
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Postage \$		

Name (Please Print) Mr. Hank D. Antonio

Street, Apt. No. Goff D. Antonio Associates

City, State, ZIP+ 34 Radcliffe Street
Charleston, South Carolina 29403

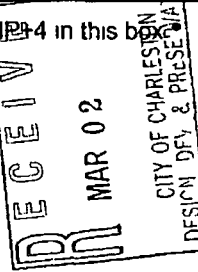
PS Form 3800, July 1999

See Reverse for Instructions

First Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Sender Please print your name address and ZIP+4 in this box

Pennye Ashby Zoning Planner
Design Development and Preservation
75 Calhoun Street, Third Floor
Charleston South Carolina 29401



Certified Mail Provides

- A mailing receipt
- A unique identifier for your mailpiece
- A signature upon delivery
- A record of delivery kept by the Postal Service for two years

Important Reminders

- Certified Mail may ONLY be combined with First Class Mail or Priority Mail
- Certified Mail is not available for any class of International mail
- NO INSURANCE COVERAGE IS PROVIDED with Certified Mail. For valuables, please consider Insured or Registered Mail.
- For an additional fee, a Return Receipt may be requested to provide proof of delivery. To obtain Return Receipt service, please complete and attach a Return Receipt (PS Form 3811) to the article and add applicable postage to cover the fee. Endorse mailpiece: Return Receipt Requested. To receive a fee waiver for a duplicate return receipt, a USPS postmark on your Certified Mail receipt is required.
- For an additional fee, delivery may be restricted to the addressee or addressee's authorized agent. Advise the clerk or mark the mailpiece with the endorsement: Restricted Delivery.
- If a postmark on the Certified Mail receipt is desired, please present the article at the post office for postmarking. If a postmark on the Certified Mail receipt is not needed, detach and affix label with postage and mail.

IMPORTANT Save this receipt and present it when making an inquiry



Board of Zoning Appeals - Zoning

Form 3 (yellow)

City of Charleston

Property address	404 King Street	
TMS #	460-16-04-009	Zoning GB-A
Request special exception under Section 54-220 to allow a 185-room hotel in a GB-A (General Business - Accommodation) zone district		

Order on Special Exception Request

The Board of Zoning Appeals Zoning held a public hearing to consider the above appeal for a special exception which may be permitted by the Board pursuant to the Zoning Ordinance for the property described above. After consideration of the evidence and arguments presented, the Board makes the following findings of fact and conclusions:

- ☐ DENIED The Board concludes that the standards in the Section of the Zoning Ordinance listed above, which are applicable to the requested special exception, have not been met and therefore orders that the special exception be denied.
- ☒ APPROVED The Board concludes that the standards in the Section of the Zoning Ordinance listed above, which are applicable to the requested special exception, have been met and therefore orders that the special exception be granted subject to the following conditions, if any:

Date issued 2/17/04 Chairman [Signature]

Order on Variance Request

The Board of Zoning Appeals Zoning held a public hearing to consider an appeal for a variance from the strict application of the Zoning Ordinance for the property as described above. After consideration of the evidence and arguments presented, the Board makes the following findings of fact and conclusions:

- ☐ DENIED The Board concludes that the requirements for granting a variance have not been met and therefore orders that the variance be denied.
- ☐ APPROVED The Board concludes that:
1. There are extraordinary and exceptional conditions pertaining to the particular piece of property.
 2. These conditions do not generally apply to other property in the vicinity.
 3. Because of these conditions, the application of the ordinance to the particular piece of property would be effective only to prohibit or unreasonably restrict the utilization of the property and
 4. A relaxation of the ordinance will not be of substantial detriment to adjacent property or to the public good and the character of the district will not be harmed by the granting of the variance.

THE BOARD THEREFORE finds that the applicant has an unnecessary hardship and orders that the variance be granted subject to the following conditions, if any:

Date issued _____ Chairman _____

Approvals for special exceptions expire two (2) years from the date of authorization if no permit is obtained from the Zoning Division
10/03

BENNETT HOFFORD
C O M P A N Y

REAL ESTATE CONSTRUCTION DEVELOPMENT
17 Lockwood Drive Charleston South Carolina 29401

/ Non-Support
- letter



147 KING STREET • POST OFFICE BOX 521

CHARLESTON SOUTH CAROLINA 29402

**POSITION STATEMENT
BOARD OF ZONING APPEALS - ZONING
February 17, 2004**

404 King Street

TMS No 460-16-04-009

The Preservation Society of Charleston appreciates the opportunity to speak before the Board of Zoning Appeals - Zoning concerning 404 King Street. The Society's Planning and Zoning Committee has reviewed this request for a special exception to allow a 185 room hotel in a GB-A zone. The Society represents over 1,800 residents of Charleston and the Lowcountry who are concerned about the future of Charleston's historic district.

The Society does not object to a hotel being located at 404 King Street. However, we are concerned that a 185-room hotel is being proposed. The applicant acknowledges that this project will require a height variance. We object to any approval being given for a 185 room hotel before this board has reviewed the request for a height variance.

We are also concerned about several aspects of the traffic study prepared by Day Wilburn Associates, Inc. on behalf of the applicant. Our concerns are as follows:

- The traffic study was conducted on Thursday rather than a heavy traffic day such as Friday.
- The traffic study was conducted on December 11th rather than in the peak tourist season of the spring and fall months.
- We disagree with the characterization of this area as 'low growth' in traffic because the study concludes that the King/ Meeting Street is a built-out urban environment. The study has not considered other large building projects anticipated for the Marion Square area as well as the massive re-development projects envisioned for the upper King and Meeting Street area between Woolfe Street and the Septima Clark Expressway.
- We are concerned that the study predicts the Level of Service (LOS) to drop to a 'D' at the intersection of Hutson and Meeting Streets.

Given the deficiencies of the traffic study and the need for a height variance, we are asking that this request for a 185-room hotel be deferred until these issues can be resolved. Thank you for considering our position in this matter.

Contact
Robert Guiley
Assistant Director

(843) 722-4630

FOUNDED 1920

FAX (843) 723-4381

preserve@preservationsociety.org

Support
letters



City of Charleston

Joseph P. Riley Jr
Mayor

February 17 2004

Leonard Krawcheck, Esq
Chairman
Board of Zoning Appeals Zoning
P O Drawer 1018
Charleston SC 29402

Re 404 King Street

Dear Mr Chairman

It is with great enthusiasm that I write in support of the application before you for 404 King Street. We have spent long hours and tremendous energy to revitalize King Street and the Central Business District. What has occurred here is one of the great stories of urban redevelopment in America. The project proposed for this site is a remarkable one and is one of the best ever proposed for King Street. Not only does it remove the unattractive building there now, it replaces it with an appropriately designed building that will add energy to the street and district. The use as a hotel is the best of the range of choices open to the developers. It will add character to the beautiful Marion Square and add to the continued growth of Upper King Street.

In my opinion, this project meets the conditions established for a special exception for hotels and I urge its approval.

Most sincerely yours

Joseph P. Riley Jr
Mayor, City of Charleston

JPRjr/co



P.O. Box 657 Charleston, South Carolina 29402
843-577-8070 Fax 843-796-4881



Saint Matthew's Lutheran Church

405 KING STREET CHARLESTON SOUTH CAROLINA 29403
PHONE 843 723 1811 FAX 843 723 8050
RICHARD R CAMPBELL CAMERON P KEYSER INA R HOOVER — PASTORS

February 17 2004

Mr Leonard Krawcheck, Chair
Board of Zoning Appeals
City of Charleston
75 Calhoun Street
Charleston, SC 29401

Dear Mr Krawcheck

This letter comes in support of the request of Mr Michael Bennett and Bennett Hafford Associates regarding the building of a hotel at the corner of King and Hutson Streets in downtown Charleston. St. Matthew's is aware of the impact that another hotel will have on the Mazyck Wraggborough and Radcliffe Borough neighborhoods but we feel that the use of the property for this purpose is in the best interest of the entire area and the downtown community. Not only will it add energy and vitality to the Upper King Street business district it will be long awaited improvement over the structure that is currently on this property.

If you have further questions or concerns please do not hesitate to contact me.

Sincerely,

Richard R. Campbell, Senior Pastor



PATTERSON SMITH COMPANY, INC

51 John Street
Charleston SC 29403

PHONE 803/577 7406 • FAX 803/577 7574

February 16 2004

Mr Leonard Krawcheck
Chairman Board of Zoning Appeals
c/o Lee Batchelder
Department of Design Development and Preservation
City of Charleston
75 Calhoun Street
Charleston SC 29401

Via Fax # 724-3772

Re 404 King Street
Special Exception Accommodation Overlay

Dear Lenny

It is my understanding that the Board will be considering a zoning request to replace the old County Library with a new upscale hotel

I am a property and business owner at 426 King Street and an advocate for the revitalization of upper King Street. I have served as chairman of the Upper King Street Revitalization Committee a subcommittee of the Central Business District Revitalization Commission, since 1996. I am writing as a private citizen concerning the proposed hotel at the referenced location. I am in support of the proposed use and the potential increased economic vitality it would foster in the area.

To achieve this vitality I am primarily concerned about two use elements. I advocate retail shop space along the King Street frontage with shopper access directly from the sidewalk into each individual shop. There should be multiple shops each relatively small and hopefully occupied by ventures other than national chain stores.

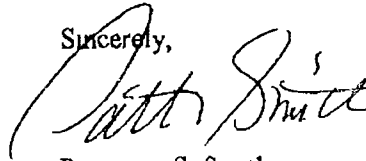
I advocate that the portion of the building facing Marion Square have access uses and design that are beneficial to the function of the Square. I suggest a family oriented restaurant with seating in an outdoor patio located at grade and accessible from the Square. I envision bright umbrellas creating visual excitement and draws pedestrians to the north side of the Square and hopefully to upper King Street.

The purpose of these two design elements is to link middle and upper King Street and to encourage pedestrian activity through this corridor. In addition, the building should accommodate the restroom and storage functions generated by Marion Square activities.

For over fifteen years I have envisioned such a project establishing the missing link between upper and middle King Streets. I believe that it will link the pedestrian activity below Calhoun Street to above Hudson Street and will create a better retail environment for all of King Street.

Thank you and the Board for your careful consideration of this important new project.

Sincerely,

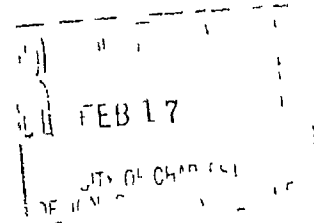
A handwritten signature in black ink, appearing to read "Patt S. Smith". The signature is fluid and cursive, with the first name "Patt" being more prominent.

Patterson S. Smith

Cc Hank D Antonio fax 577-9754

Jackson Davenport
Vision Center
Hearing Aid Specialist

Mr Lenny Krawcheck, Chairman
Board of Zoning Appeals
City of Charleston
75 Calhoun Street
Charleston, SC 29401



PE 401 King Street
Special Exception Accommodation Overlay

Dear Mr Krawcheck,

As owner of Jackson Davenport Vision Center and property owner of a building at the corner of King and Calhoun Streets, I am very concerned with the decisions being made concerning downtown real estate. After reviewing the plans of a potential full-service hotel use at the site of the old library, I am in full support of this proposed project.

This hotel will bring added vitality to the Marion Square area and encourage patronage of Upper King Street. I understand that the hotel will be an upscale venture by Bennett Hofford who has been very successful in the development of the Embassy Suites Hotel on Marion Square, the Hampton Inn on John Street as well as many other suburban hotels in our community.

I strongly encourage the Board of Zoning Appeals to support this project.

Sincerely,

Jack Davenport

379 King Street Charleston SC 29401
Phone 843 722 4416
Fax 843 720 8964
jdvc@bellsouth.net



Mr. Lenny Krawcheck, Chairman
Board of Zoning Appeals
City of Charleston
75 Calhoun Street
Charleston, SC 29401

RE 404 King Street
Special Exception-Accommodation Overlay

Dear Mr. Krawcheck,

As owner of Jackson Davenport Vision Center and property owner of a building at the corner of King and Calhoun Streets, I am very concerned with the decisions being made concerning downtown real estate. After reviewing the plans of a potential full-service hotel use at the site of the old library, I am in full support of this proposed project.

This hotel will bring added vitality to the Marion Square area and encourage patronage of Upper King Street. I understand that the hotel will be an upscale venture by Bennett Hofford who has been very successful in the development of the Embassy Suites Hotel on Marion Square, the Hampton Inn on John Street as well as many other suburban hotels in our community.

I strongly encourage the Board of Zoning Appeals to support this project.

Sincerely,

Dick Davenport

303 King Street Charleston SC 29401
Phone 843 224 4466
Fax 843 720 8984
ddvc@bellsouth.net



JOSEPH P. RILEY JR.
MAYOR

City of Charleston

YVONNE FORTENBERRY
DIRECTOR

South Carolina

Department of Design, Development and Preservation

MEMORANDUM

TO: Herman Penn Director Traffic and Transportation

FROM: Penny Ashby Zoning Planner 

RE: 404 King Street (Old Library Site/Mirion Square Hotel)

Property referenced is on the Board of Zoning Appeals Zoning Agenda for February 17, 2004 as a proposed hotel use. I am submitting the Traffic Impact Study that is required for this use. Your review and comments of this study will be helpful to the Zoning staff.

cc: Lee Batchelder Zoning Administrator

City of Charleston
Board of Zoning Appeals- Zoning
February 17 2004

Item # B 2

Address
404 King Street

TMS # 460-16-04-009

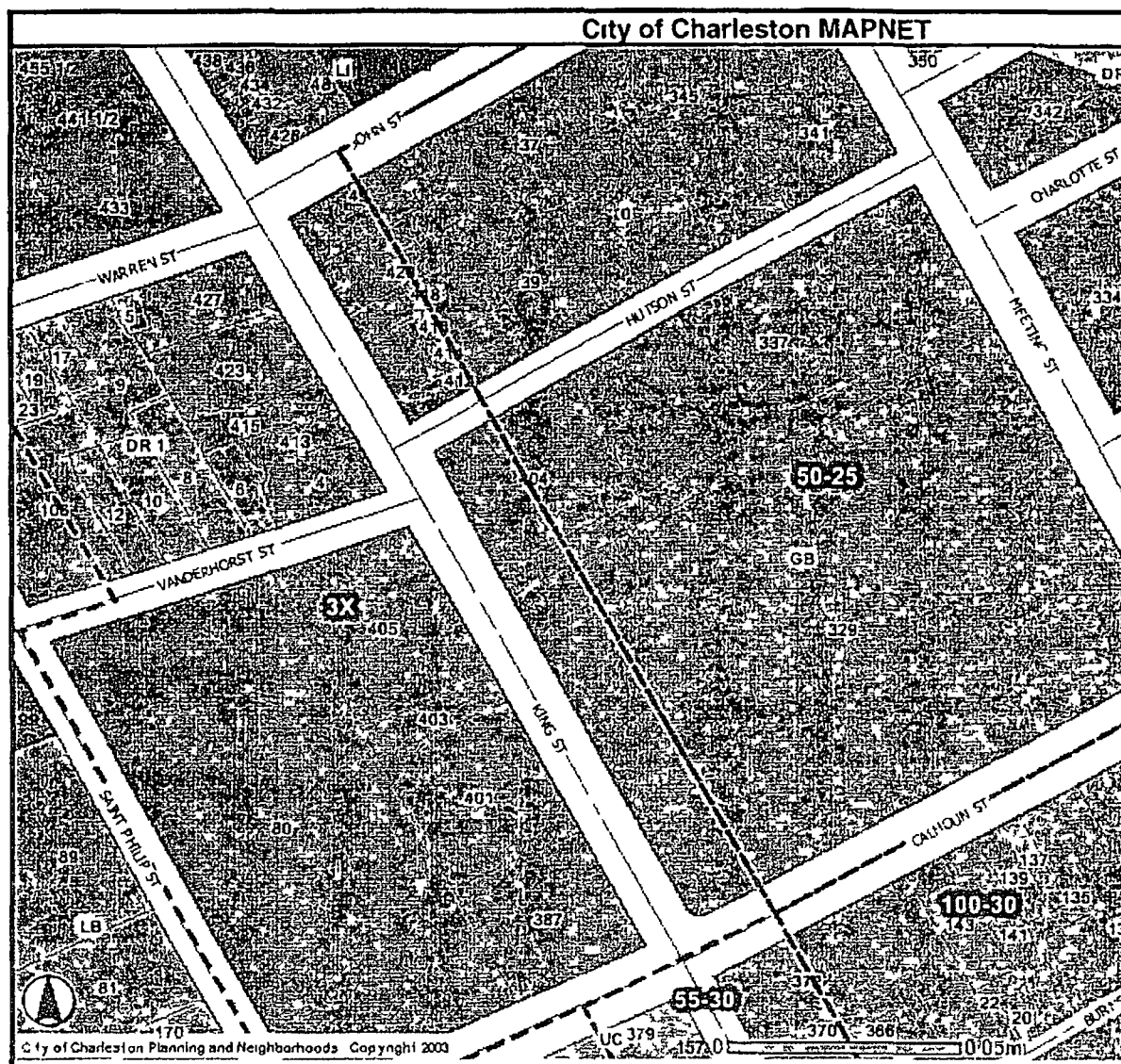
Zoning GB-A



Subject Property







BOARD OF ZONING APPEALS — ZONING

APPLIC. # 404 King Street

☒ APPROVED
☐ DENIED
☐ WITHDRAWN

☒ AS SUBMITTED
☐ WITH CONDITIONS

DATE 2/17/04

FOR: ☐ SET BACK
☐ DENSITY
☐ PARKING
☐ HEIGHT

☐ LOT OCCUPANCY
☐ USE OR RESIDENTIAL ZONE
☐ OTHER

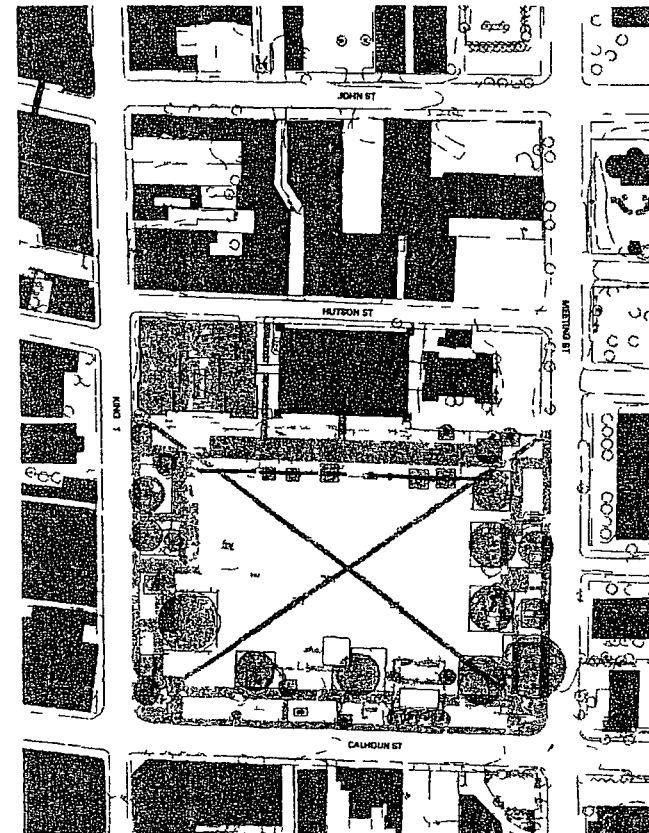
ZONING OFFICIAL

THIS APPROVAL EXPIRES W/IN ONE YEAR ON 2/17/06

THIS DOES NOT CONSTITUTE APPROVAL BY OTHER CITY BOARDS OR DEPARTMENTS.

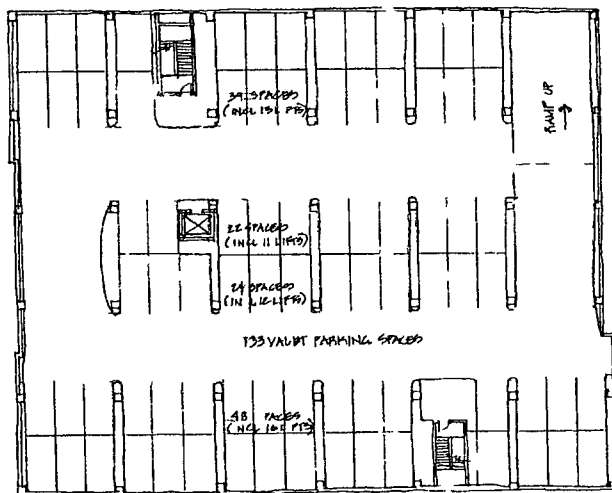
18 room
hotel
use

Site Plan Marion Square Park

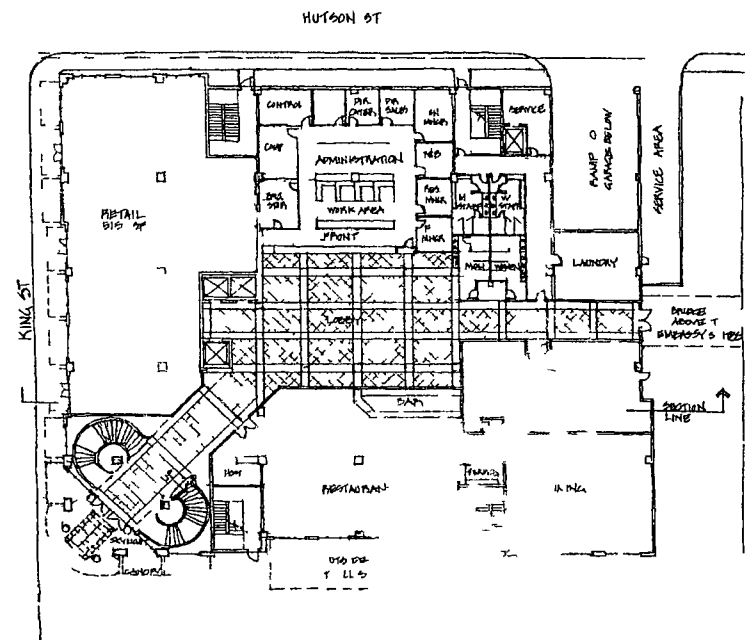


Bennett Hofford Company
Goff•DAntonio Assoc. Inc.

OLD LIBRARY SITE AT MARION SQUARE



Subfloor Garage Plan

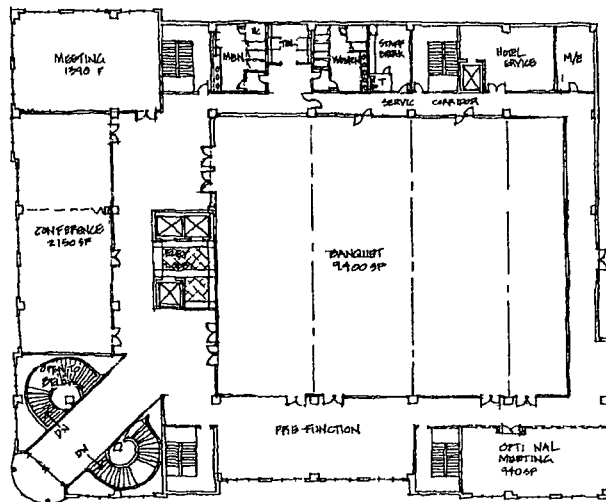


First Floor Plan

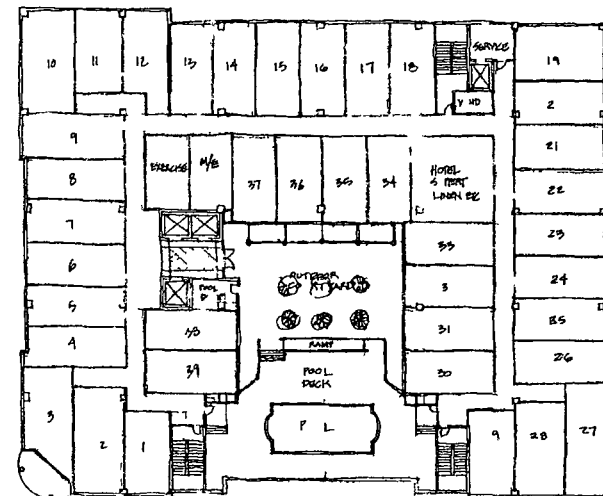


Bennett Hofford Company
Goff D'Antonio & Associates

OLD LIBRARY SITE AT MARION SQUARE



Second Floor Plan

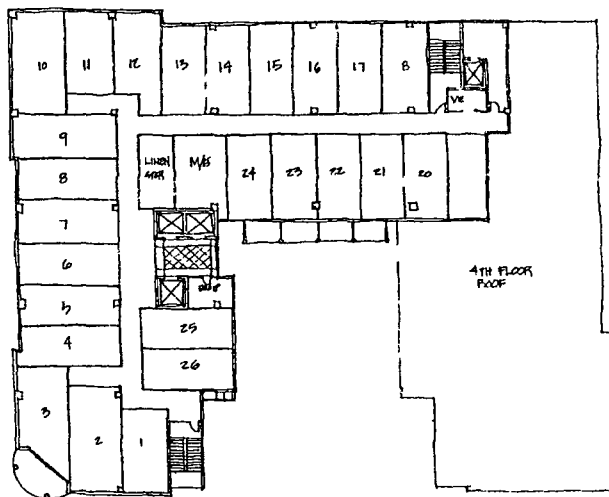


Third Fourth Floor Plans

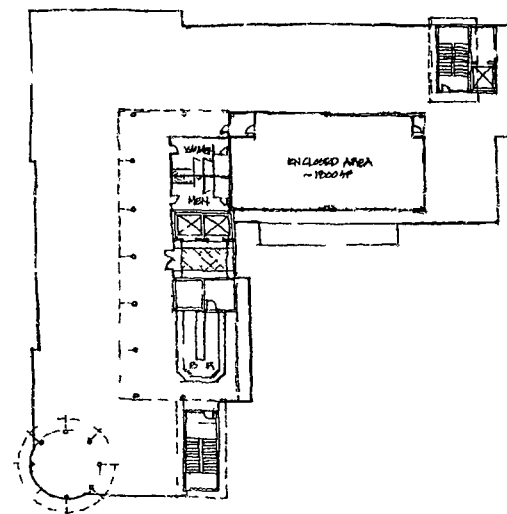


Bennett Hofford Company
Goff•D'Antonio & Associates

OLD LIBRARY SITE AT MARION SQUARE



Fifth Eighth Floor Plans



Roof Plan

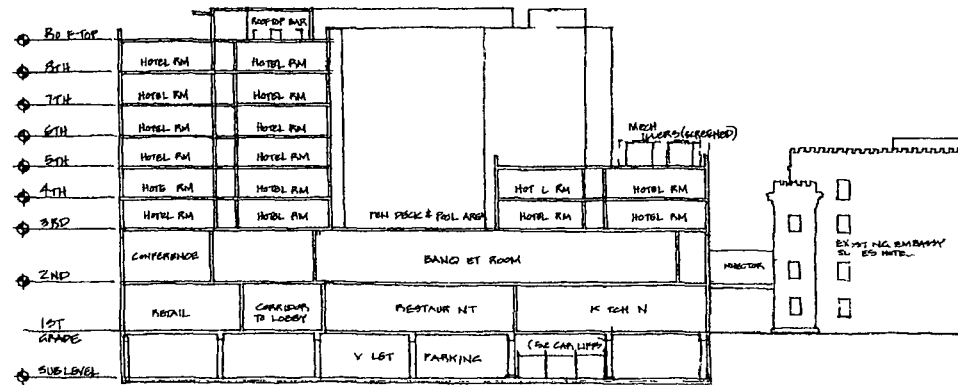


Bennett Hofford Company
Goff•D'Antonio Associates

OLD LIBRARY SITE AT MARION SQUARE

Project Data

First Floor	25 300 gross sq ft
Second Floor	26 400 gross sq ft
Thrd Fourth Floors	43 760 gross sq ft
Fifth Eighth Floors	59,200 gross sq ft
Total Gross sq ft (Heated)	154 800 gross sq ft
Total Gross sq ft (Parking)	28 000 gross sq ft
Total Hotel Rooms	185 Rooms

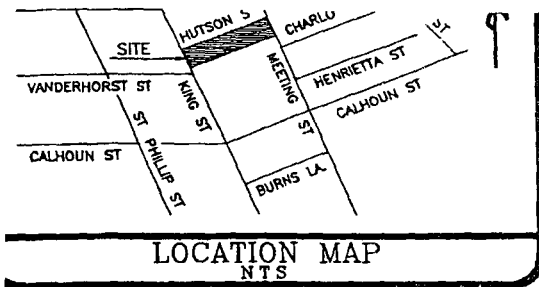


Section Through Hotel



Bennett Hofford Company
Goff D'Antonio Associates

OLD LIBRARY SITE AT MARION SQUARE

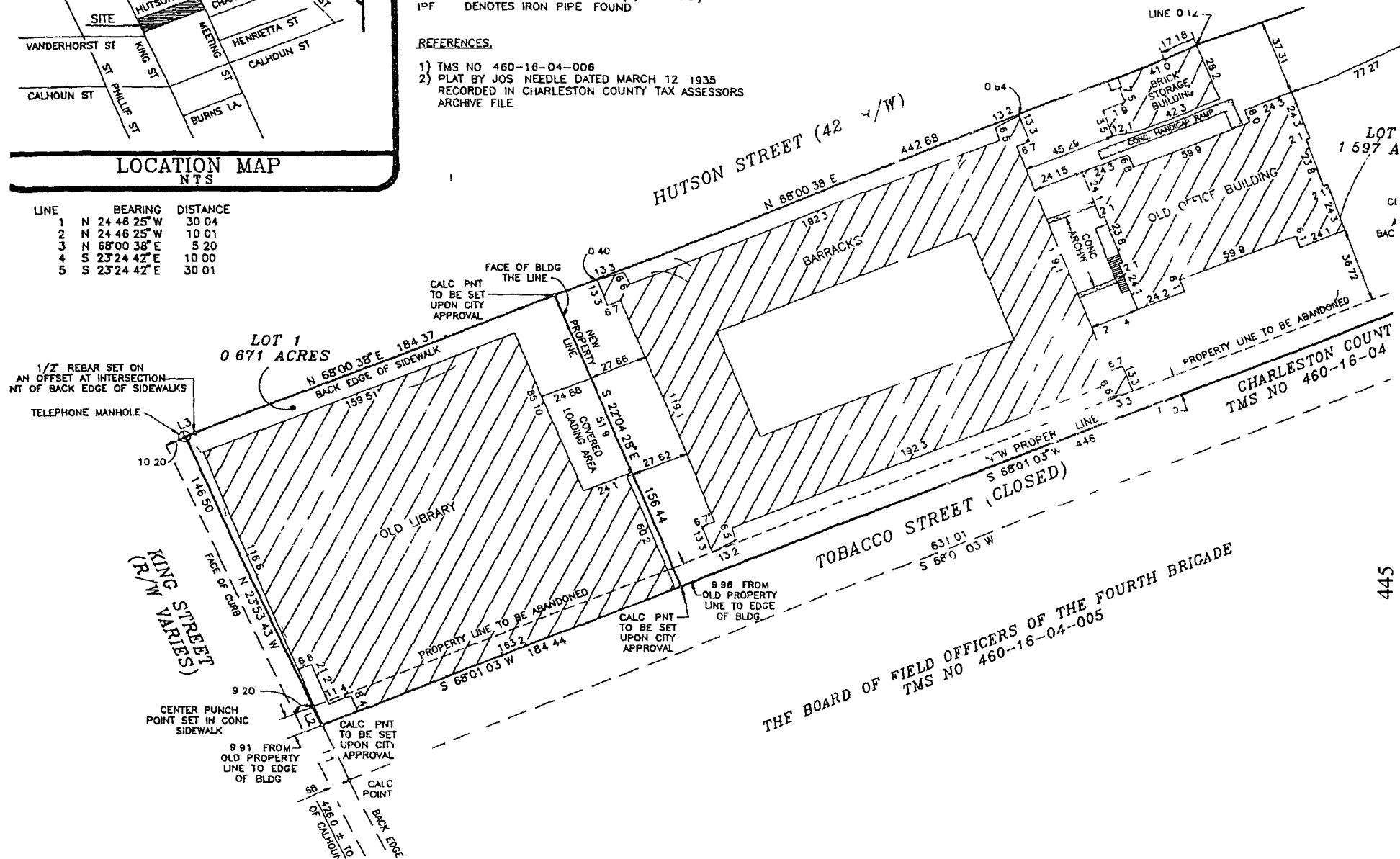


LINE	BEARING	DISTANCE
1	N 24 46 25" W	30 04
2	N 24 46 25" W	10 01
3	N 68°00 38" E	5 20
4	S 23°24 42" E	10 00
5	S 23°24 42" E	30 01

IF DENOTES IRON PIPE FOUND

REFERENCES

- 1) TMS NO 460-16-04-006
- 2) PLAT BY JOS NEEDLE DATED MARCH 12 1935
RECORDED IN CHARLESTON COUNTY TAX ASSESSORS
ARCHIVE FILE



THE BOARD OF FIELD OFFICERS OF THE FOURTH BRIGADE
TMS NO 460-16-04-005

CHARLESTON COUNT
TMS NO 460-16-04

Old Library Site / Marion Square Hotel Traffic Impact Study

Prepared for

Goff-D'Antonio Associates

Prepared by

DWA
Day Wilburn Associates, Inc

January 2004

Old Library Site / Marion Square Hotel Traffic Impact Study

Table of Contents

<u>Section</u>	<u>Title</u>	<u>Page</u>
1	Introduction	1-1
	<i>Figure 1 – Study Area</i>	<i>1-2</i>
2	Existing Traffic Conditions	2-1
	Transportation System	2-1
	Roadway Conditions	2-1
	Existing Conditions Traffic Volumes	2-3
	Traffic Control	2-3
	Existing Intersection Level of Service	2-3
	<i>Figure 2 – Existing Lane Geometry</i>	<i>2-2</i>
	<i>Figure 3 – Existing Weekday Traffic Volumes</i>	<i>2-4</i>
	<i>Figure 4 – Existing Traffic Operations</i>	<i>2-6</i>
	<i>Table 1 – Existing Intersection Operations</i>	<i>2-5</i>
3	Proposed Development	3-1
	Trip Generation	3-1
	Trip Distribution and Assignment	3-2
	<i>Figure 5 – Entering Hotel Trip Distribution and Assignment</i>	<i>3-3</i>
	<i>Figure 6 – Exiting Hotel Trip Distribution and Assignment</i>	<i>3-4</i>
	<i>Figure 7 – Entering Restaurant and Retail Trip Distribution and Assignment</i>	<i>3-5</i>
	<i>Figure 8 – Exiting Restaurant and Retail Trip Distribution and Assignment</i>	<i>3-6</i>
	<i>Figure 9 – Site-Generated Weekday Peak Hour Traffic Volumes</i>	<i>3-7</i>
	<i>Table 2 – Trip Generation</i>	<i>3-1</i>
4	Future Traffic Conditions	4-1
	Historical Traffic Counts	4-1
	Future Traffic Volumes	4-1
	Future Intersection Levels of Service	4-3
	Recommendations	4-3
	<i>Figure 10 – Future Weekday Peak Hour Traffic Volumes</i>	<i>4-2</i>
	<i>Figure 11 – Future Traffic Operations</i>	<i>4-4</i>
	<i>Table 3 – Historical Traffic Information</i>	<i>4-1</i>
	<i>Table 4 – Existing and Future Intersection Operations</i>	<i>4-3</i>

Old Library Site / Marion Square Hotel Traffic Impact Study

5 Summary of Results

5-1

APPENDICES

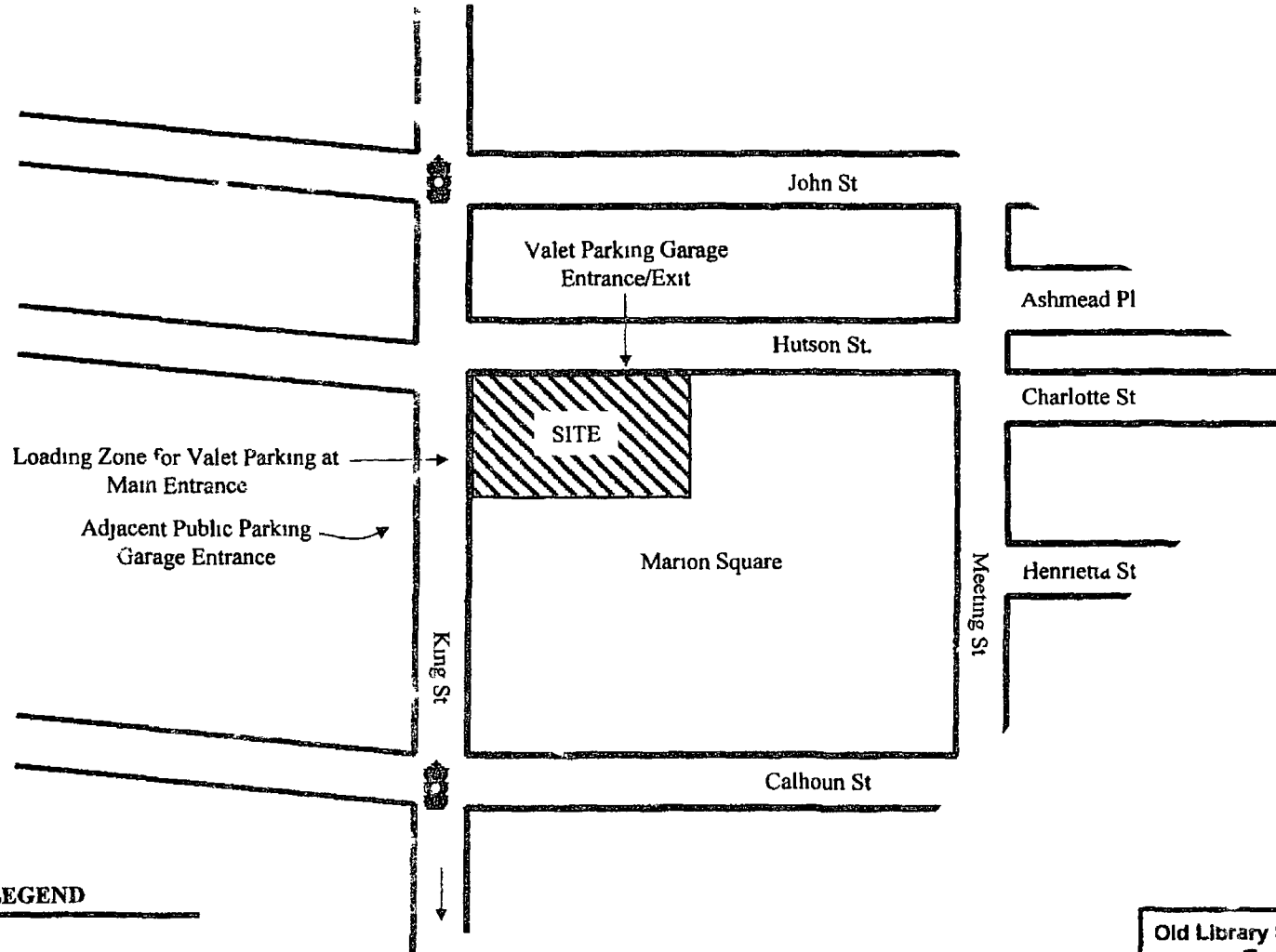
Appendix A – Count Data

Appendix B – Intersection LOS Analysis

Old Library Site / Marion Square Hotel Traffic Impact Study

1 Introduction

Goff-D'Antonio Associates retained Day Wilburn Associates, Inc (DWA) to evaluate the traffic impact of a hotel development in Charleston, South Carolina. The proposed Old Library Site / Marion Square Hotel development is located in the southeast corner of the intersection of King Street at Hutson Street, as shown in Figure 1. This full-service hotel development consists of 185 hotel rooms, a high-quality restaurant and a limited amount of specialty retail. The hotel portion of the development will have valet garage parking as part of its operations. The valet-loading zone is located at the hotel main entrance on King Street and its associated parking garage has one driveway access point on Hutson Street.



LEGEND



Traffic Signal



Old Library Site / Marion Square Hotel
Traffic Impact Study

FIG
1

Study Area

January 2004



Old Library Site / Marion Square Hotel Traffic Impact Study

2 Existing Traffic Conditions

The existing roadway conditions and volumes were considered in order to determine the existing traffic operations within the study area. These traffic operations will be used to compare with future traffic operations in order to determine the expected impacts of the proposed development.

Transportation System

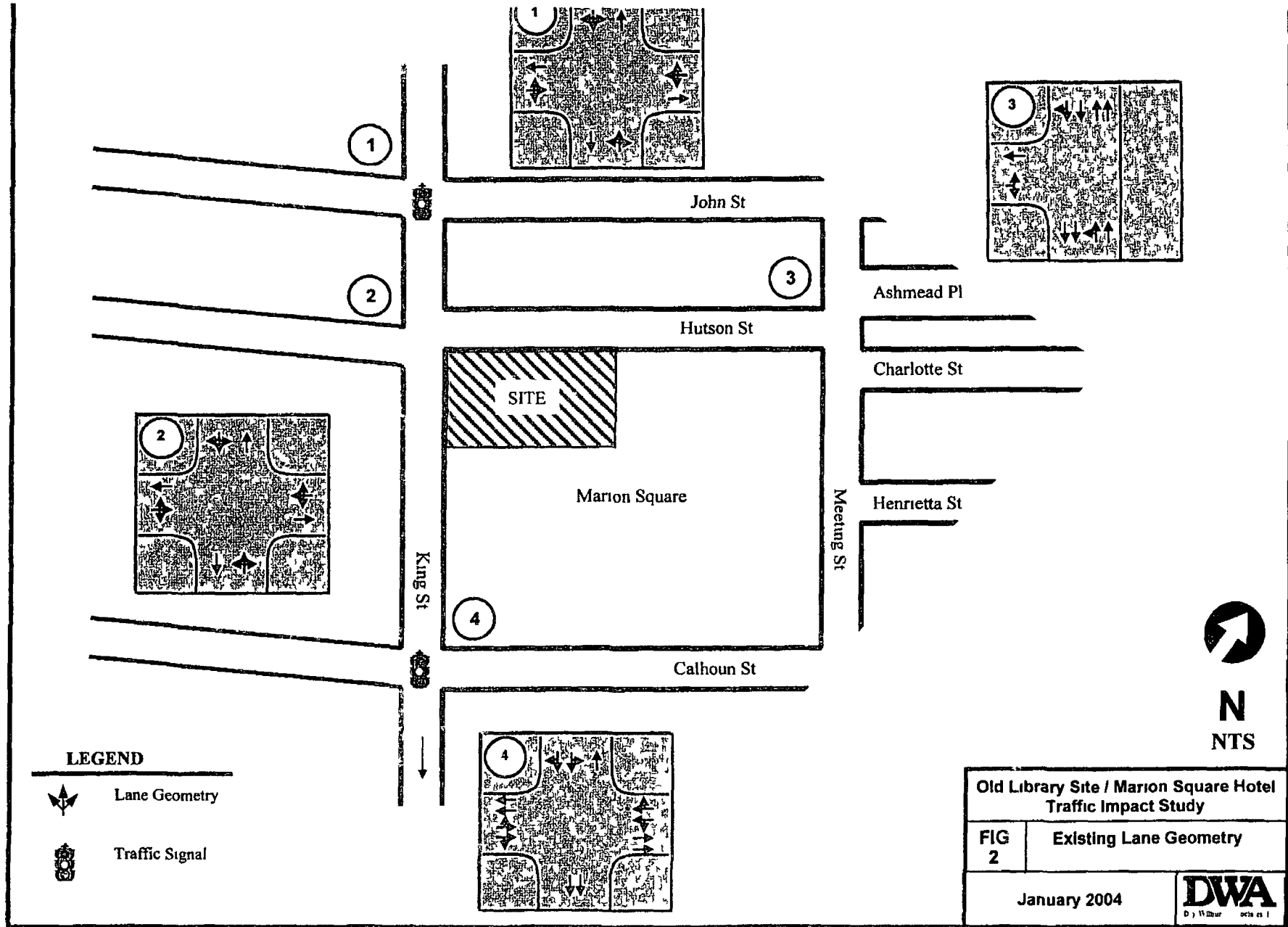
Primarily, this traffic impact study focuses on the roadway system, which includes several collectors and local access roadways. Additionally, several CARTA bus routes currently have nearby bus stops and several DASH shuttle routes also serve the study area. Pedestrian traffic within the study area is also a significant percentage of the travel mode split.

Roadway Conditions

King Street extends past I-26 to the north and ends at Murray Boulevard to the south. For the purposes of this report, King Street is referred to as having a north / south alignment at its intersections with John Street, Hutson Street and Calhoun Street. South of its intersection with Calhoun Street, King Street becomes one-way southbound. North of Calhoun Street and through the study area, King Street has one travel lane in each direction with on-street parking available. According to daily traffic counts taken near the proposed development, the average daily traffic (ADT) volume for King Street on Thursday, December 11, 2003 was 12,346 vehicles per day (vpd). This two-way daily volume included 2,907 northbound vehicles and 9,439 southbound vehicles. This southbound traffic flow orientation reflects the fact that King Street is one-way southbound south of Calhoun Street. The intersections of King Street with Calhoun Street and John Street / Warren Street are signalized. The intersection of King Street at Hutson Street / Vanderhorst Street has side-street stop control.

Meeting Street extends between Morrison Drive to the north and South Battery Street to the south. In the vicinity of the study area, Meeting Street is a four-lane two-way roadway, and its intersection with Hutson Street has side-street stop control.

The existing lane configurations for these intersections can be seen in Figure 2.



Old Library Site / Marion Square Hotel Traffic Impact Study**Existing Conditions Traffic Volumes**

Peak hour turning movement counts were recently performed on Thursday, December 11, 2003, at the following locations

- King Street at Calhoun Street (signalized)
- King Street at Hutson Street / Vanderhorst Street (unsignalized)
- King Street at John Street / Warren Street (signalized)
- Meeting Street at Hutson Street (unsignalized)

All turning movement counts were recorded during the weekday morning and evening peak times, from 7 00-9 00 AM and 4 00-6 00 PM respectively. The four consecutive 15-minute interval volumes, summed to produce the highest volume at each intersection, were then determined. These volumes make up the peak hour traffic volumes for the intersections counted. Using these peak hour volumes, existing traffic conditions were examined in the study area during the weekday AM and PM peak hours to determine intersection level of service (LOS) and current operations. Existing traffic volumes are shown in Figure 3.

Traffic Control

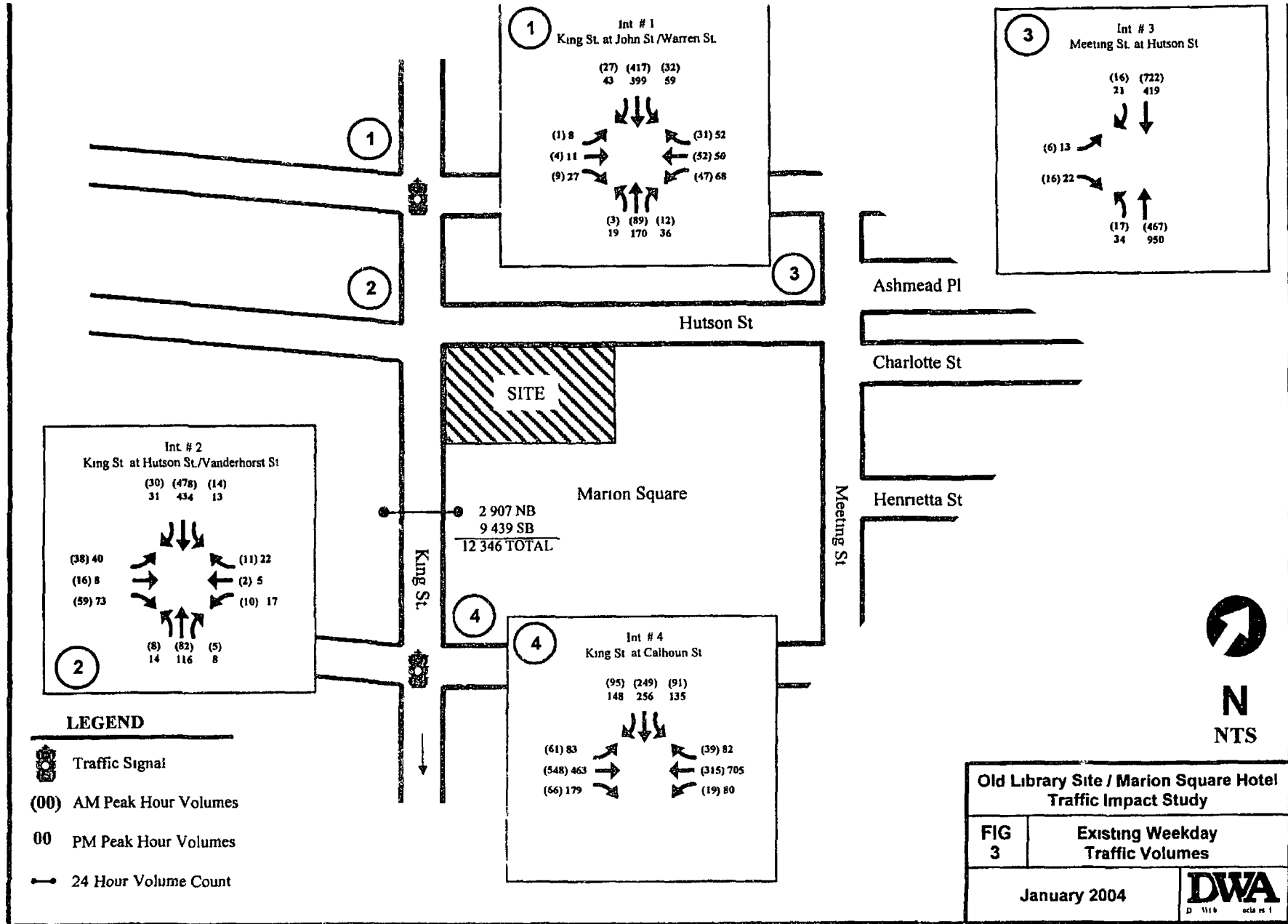
The intersection of King Street at Calhoun Street is controlled by a pre-timed traffic signal. The intersection of King Street at John Street / Warren Street is controlled by a semi-actuated traffic signal. The remaining intersections operate under side-street stop control.

Existing Intersection Level of Service

An analysis of existing peak hour traffic conditions was performed to determine the LOS at the study intersections. LOS for an intersection is based on the vehicular delay at the intersection and is a typical measure of effectiveness used to evaluate intersection operations. The Highway Capacity Manual provides ranges of delay for each LOS definition, spanning from very minimal delays (LOS A) to high delays (LOS F). An LOS F is considered unacceptable for most drivers.

For the signalized intersections, Synchro software was used to determine the LOS based on the following input data:

- Intersection geometry
- Lane configuration
- Turning movement volumes
- Existing signal phasing
- Existing signal timing



Old Library Site / Marion Square Hotel Traffic Impact Study

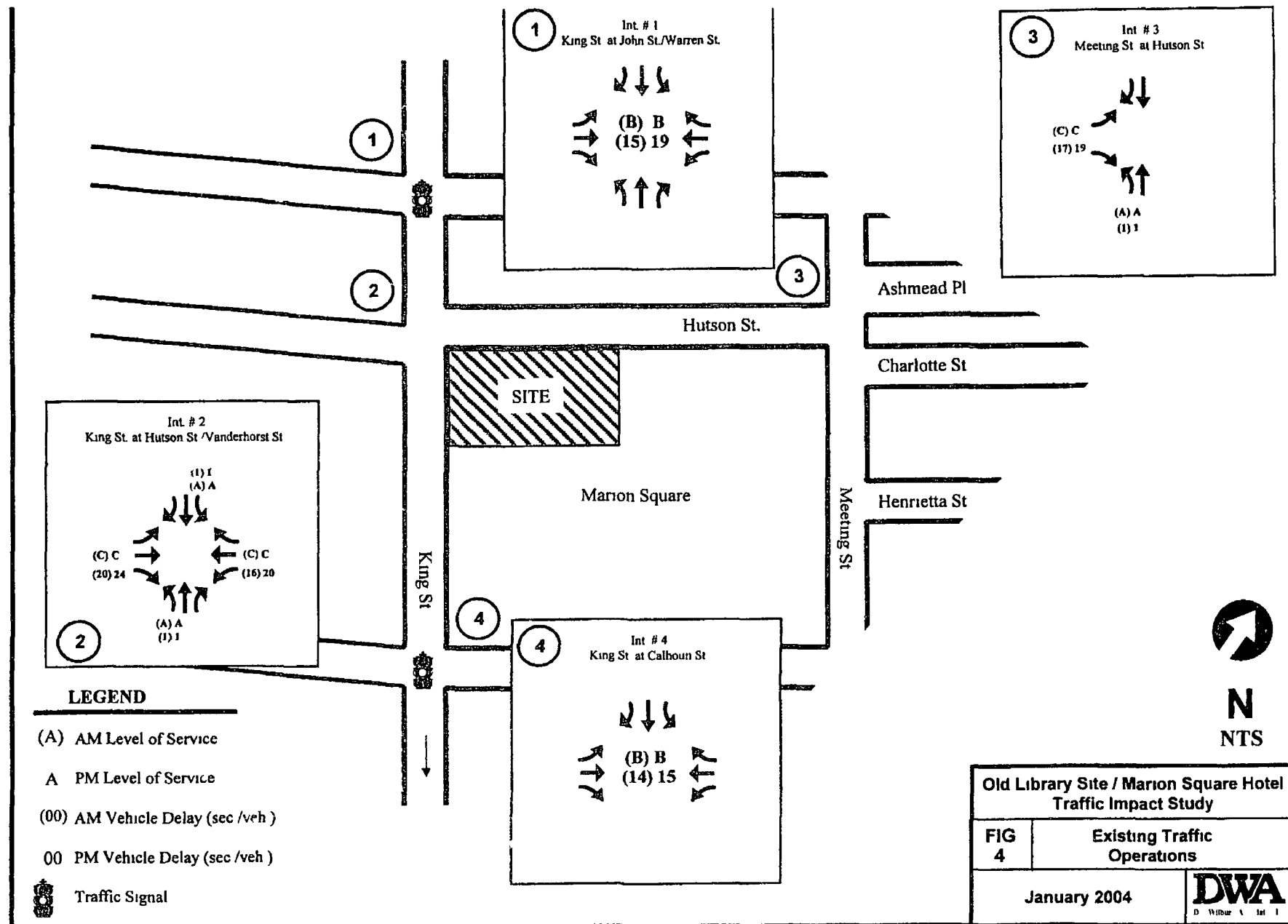
For unsignalized intersections where side streets or minor streets are controlled by a stop sign, the criterion for evaluating traffic operations is the LOS for the controlled turning movements at the intersection. Synchro was used to apply the methodology from the Highway Capacity Manual to determine the delay and LOS for these turning movements.

Synchro was used to both estimate LOS under existing and future conditions. The results for existing conditions traffic operations can be seen in Table 1.

Table 1 Existing Intersection Operations				
Intersection	AM Peak Hour		PM Peak Hour	
	LOS	Delay (sec)	LOS	Delay (sec)
King Street at John Street / Warren Street (s)	B	14.6	B	18.5
King Street at Calhoun Street (s)	B	13.5	B	15.2
King Street at Hutson Street / Vanderhorst Street (u)				
Northbound Left Turn	A	0.8	A	1.0
Southbound Left Turn	A	0.3	A	0.3
Eastbound Approach	C	19.6	C	23.7
Westbound Approach	C	16.2	C	20.1
Meeting Street at Hutson Street (u)				
Northbound Left Turn	A	0.4	A	0.4
Eastbound Approach	C	16.7	C	18.5

(s) = signalized, (u) = unsignalized

The traffic operation results are also shown in Figure 4. As shown in the table and figure, the study intersections operate acceptably during the weekday peak periods.



Old Library Site / Marion Square Hotel Traffic Impact Study

3 Proposed Development

The proposed development consists of 185 hotel rooms, 5,150 s f of retail and one 5,200 s f restaurant and is located in the southeast corner of the intersection of King Street at Hutson Street. The hotel also includes conference and meeting rooms that are included in the general hotel facilities. The main entrance for the development is located on King Street at the valet-loading zone. The valet parking garage has a full-movement driveway on Hutson Street.

Trip Generation

Trip generation for the project was also based on the Institute of Transportation Engineers (ITE) Trip Generation report. The trip generation for the proposed development was based on *ITE Land Use 310 – Hotel*, *ITE Land Use 814 – Specialty Retail Center*, and *ITE Land Use 931 – Quality Restaurant*. Because the expected clientele for the restaurant and retail portions of the development are expected to draw significantly from hotel users and pedestrian traffic, some reductions were made in the trip generation to account for the interaction between the urban mix of land uses. Based on general knowledge of hotel operations, the following mixed use reduction percentages were applied:

- Restaurant 50%
- Retail 30%

The trip generation for the proposed development is shown in Table 2.

Land Use	Size	AM Peak Hour			PM Peak Hour			Daily
		Enter	Exit	Total	Enter	Exit	Total	2 Way
Hotel	185 rooms	53	35	88	58	51	109	1,283
Specialty Retail	5,150 s f	0	0	0	6	8	14	288
-reduction	30%	<u>0</u>	<u>0</u>	<u>0</u>	<u>-2</u>	<u>-2</u>	<u>-4</u>	<u>-68</u>
Retail Total		0	0	0	4	6	10	160
Quality Restaurant	5,200 s f	2	2	4	26	13	39	468
-reduction	50%	<u>1</u>	<u>-1</u>	<u>-2</u>	<u>13</u>	<u>-6</u>	<u>-19</u>	<u>234</u>
Restaurant Total		1	1	2	13	7	20	234
Total New Trips		54	36	90	75	64	139	1,677

The trips from Table 2 were distributed to the roadway network to obtain the future traffic volumes.

Old Library Site / Marion Square Hotel Traffic Impact Study**Trip Distribution and Assignment**

The trip distribution is the percentage of site traffic that travels on each of the various roadways to and from the site. The trip distribution and assignment percentages for the site-generated traffic volumes were based on the existing peak hour movement counts and the bi-directional ADT count on King Street.

Hotel Traffic

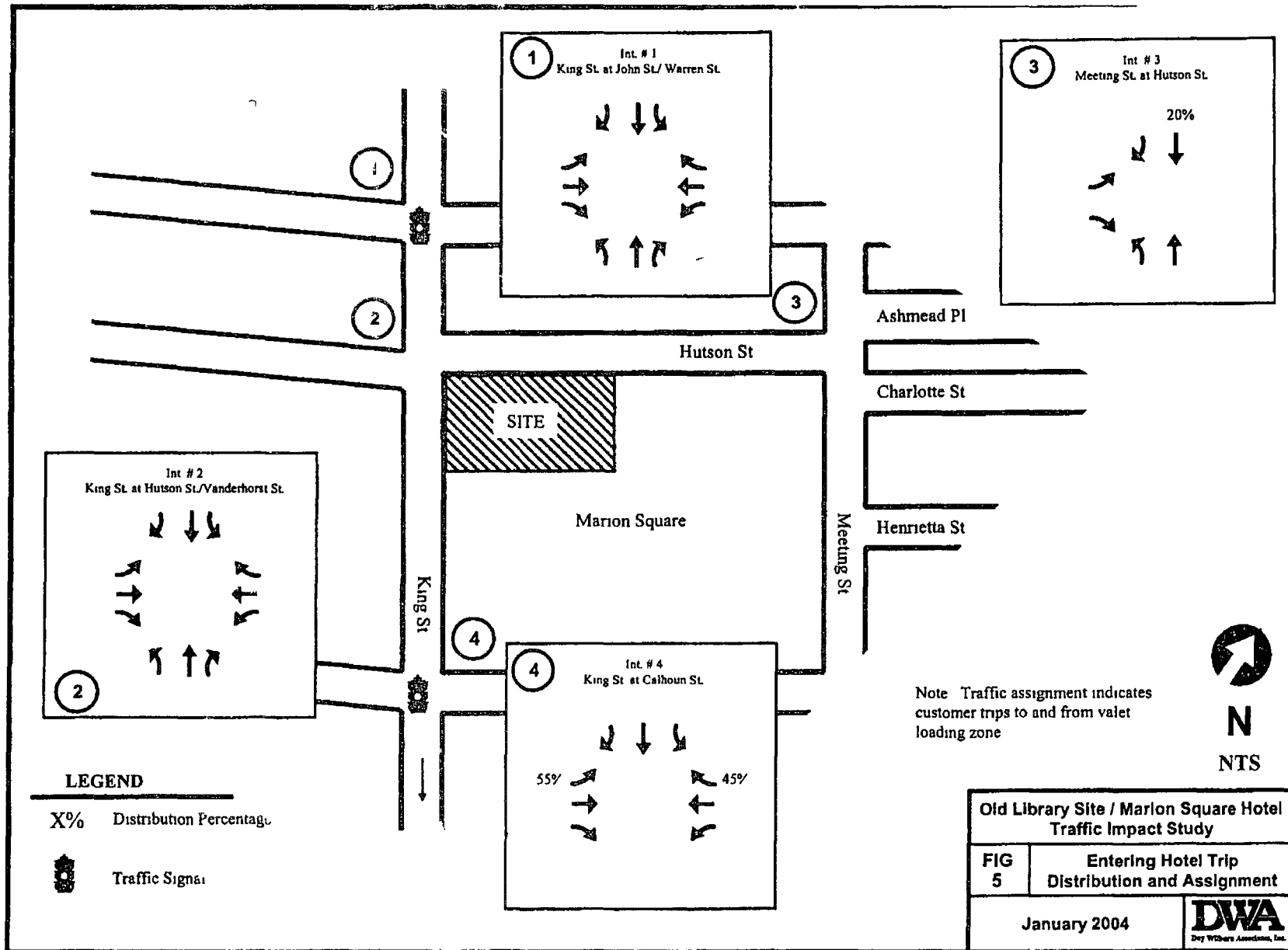
The hotel parking will be handled in a valet area along the east curb lane on King Street, just south of Hutson Street. Because of the valet parking for the hotel, as well as the one way nature of King Street south of Calhoun Street, the entering and exiting percentage for the hotel traffic are listed separately. Entering traffic must travel northbound on King Street to the valet area and exiting traffic must leave the valet area on northbound King Street. Therefore, all entering traffic will approach the hotel from the King Street at Calhoun Street intersection and all exiting traffic will impact the King Street at Hutson Street intersection. These entering and exiting percentages can be seen in Figure 5 and Figure 6 respectively.

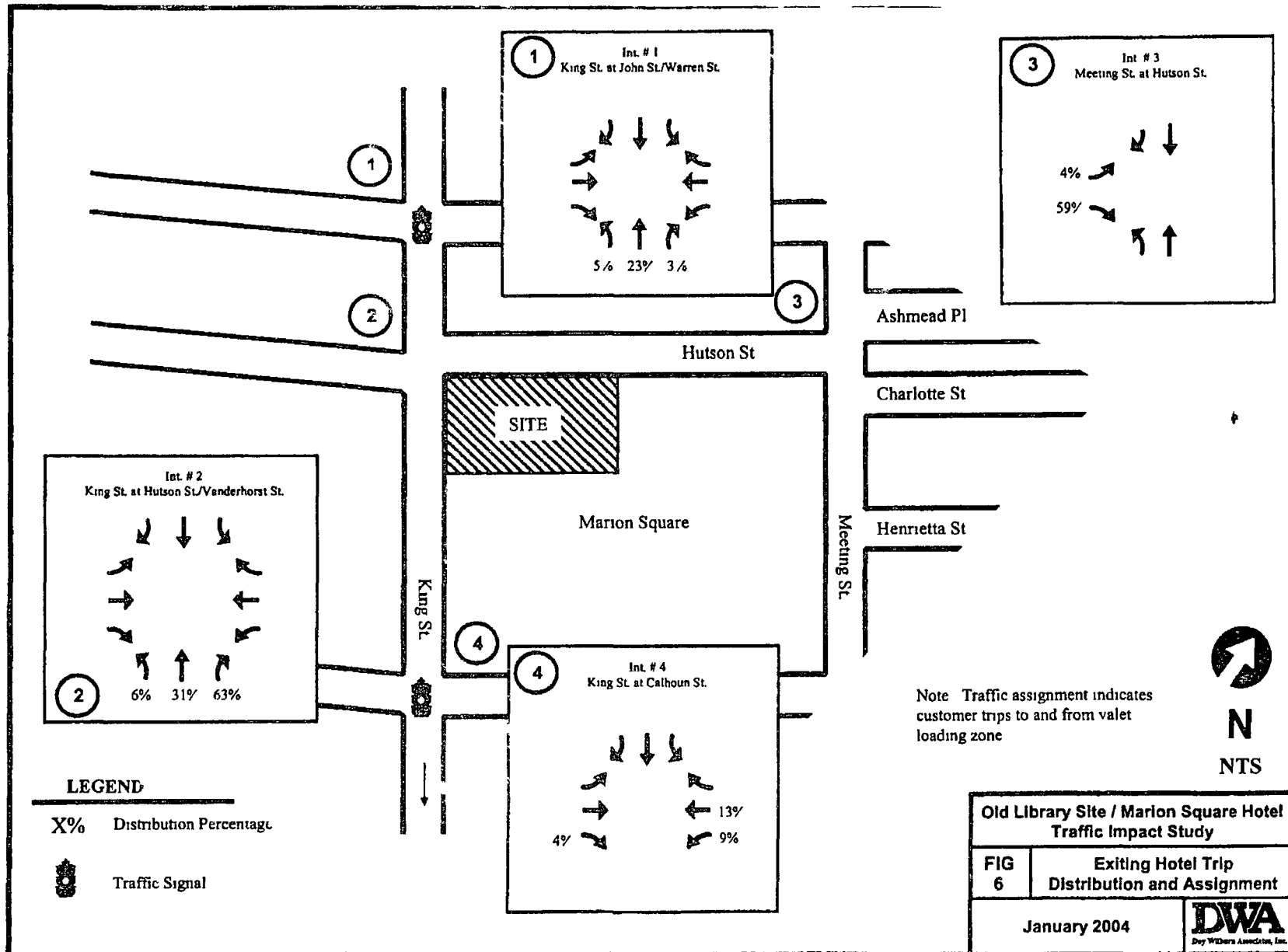
After the vehicle has entered the valet-loading zone, the valet will then drive the vehicle to the King Street at Hutson Street intersection and take a right onto Hutson Street in order to enter the garage. When returning the vehicle, the valet will circle the block, turning right from the garage to Hutson Street, then right from Hutson Street to Meeting Street, then right from Meeting Street to Calhoun Street, then right from Calhoun Street to King Street and returning to the valet area. These additional vehicle movements are also assigned to the roadway network to determine the total impact of the development.

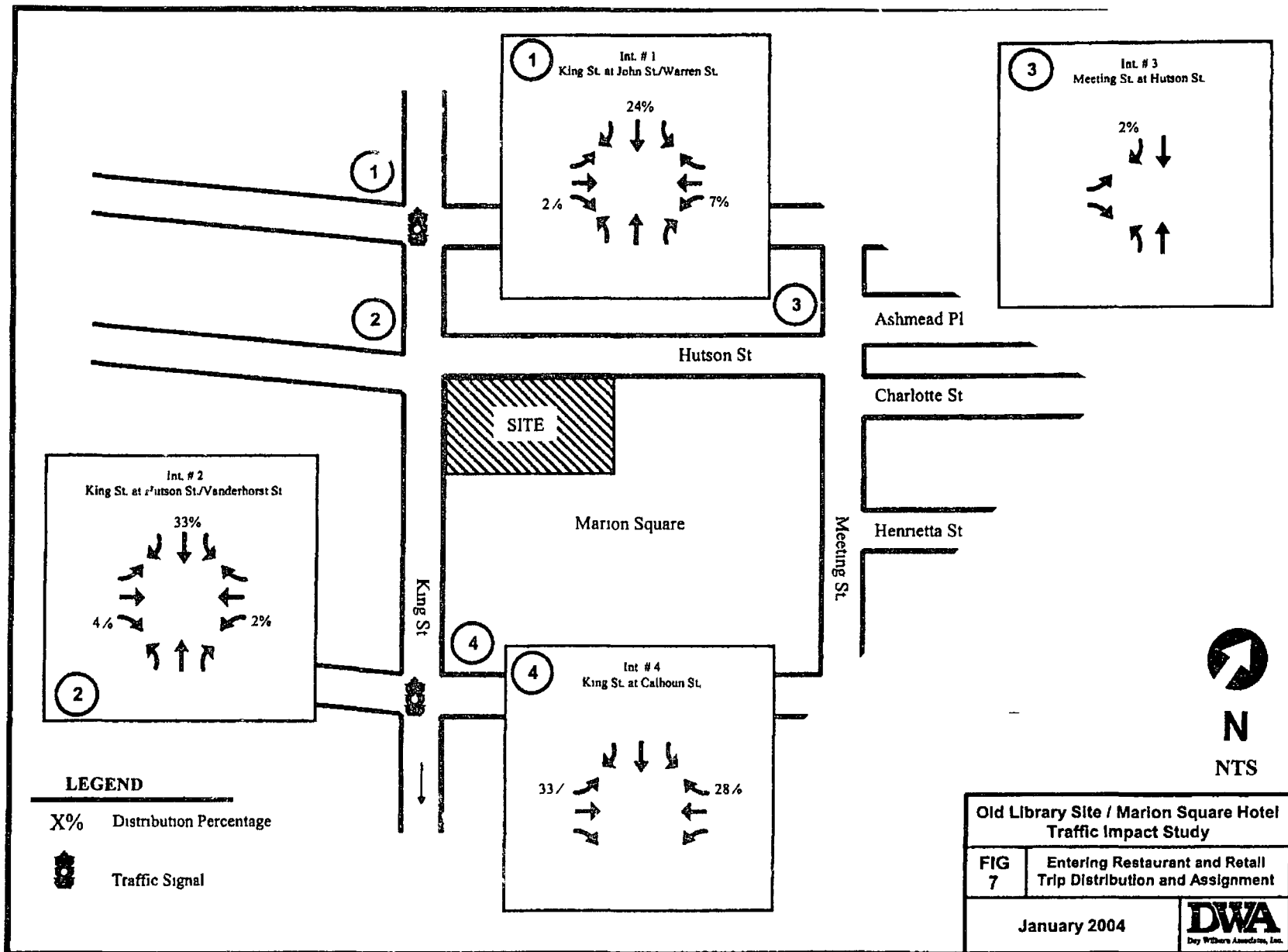
Also as part of the trip assignment, the valet loading zone was considered. Because of the proximity of the loading zone to the King Street at Hutson Street intersection, it is considered likely that the hotel loading zone will extend to the intersection. Thus, traffic turning right at the King Street at Hutson Street intersection will continue through the loading zone to the intersection and turn right onto Hutson Street without returning to the King Street through lane.

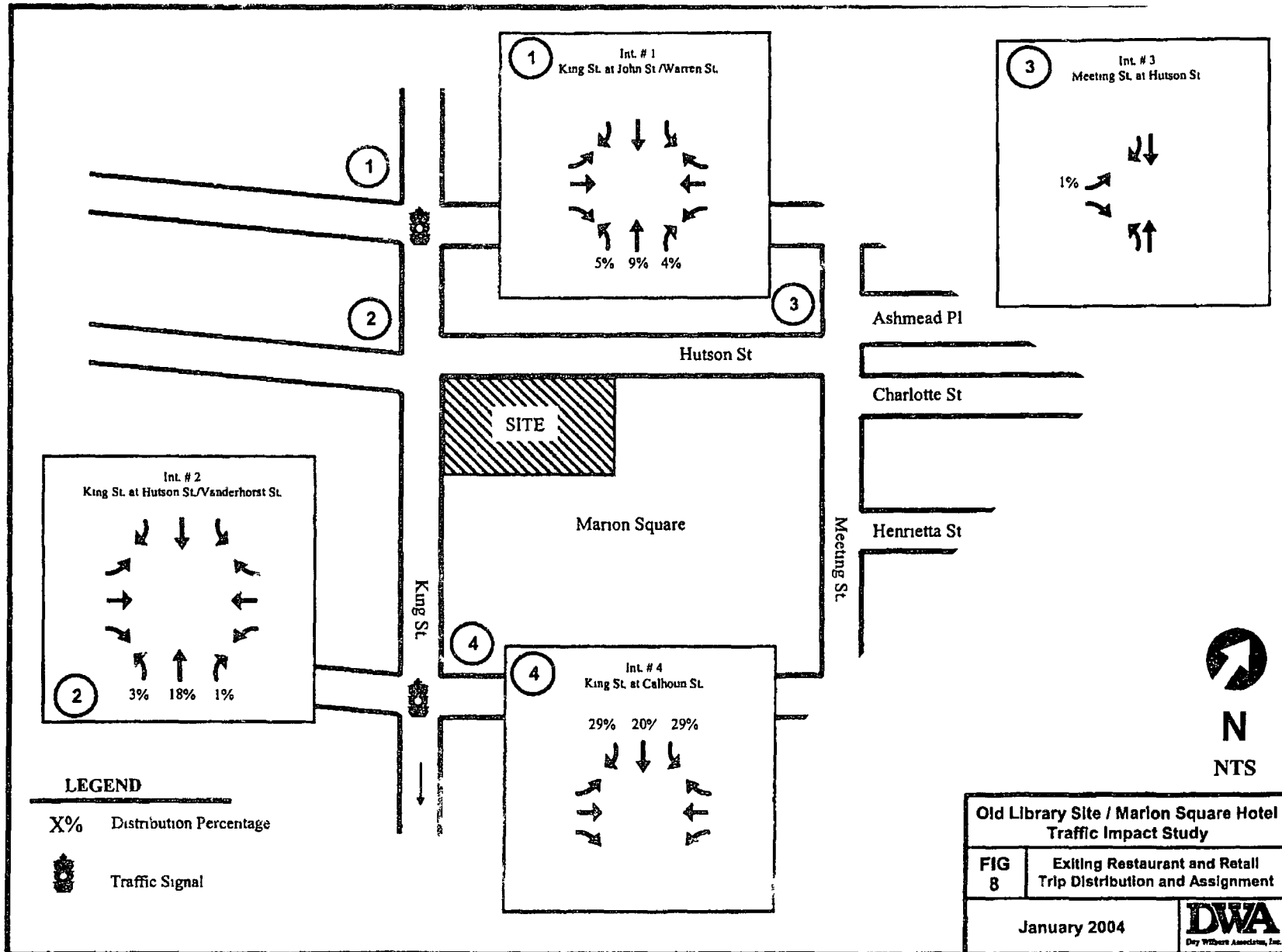
Restaurant and Retail Traffic

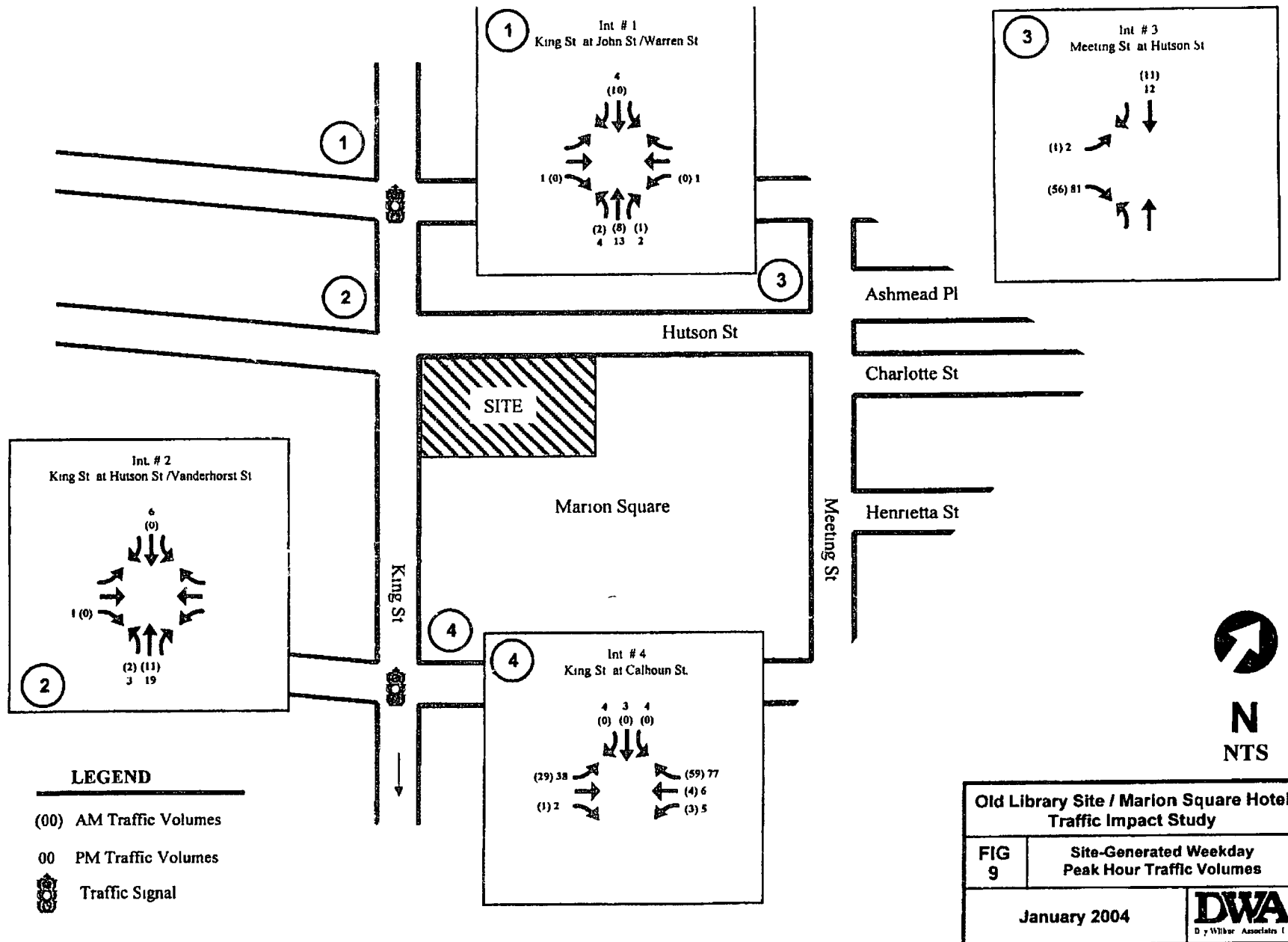
The retail areas will have their frontage along King Street and the restaurant main entrance will be off the hotel main entrance, also on King Street. The restaurant fronts on Marion Square, which does not usually have vehicular access. Non-hotel users of the restaurant and retail facilities are therefore primarily expected to park along King Street or in the garage facility on King Street across from the proposed development. Based on knowledge of available parking on King Street, it is assumed that 25% of the trips will park in on-street parking and 75% of the trips will park in the adjacent King Street garage. Because King Street is one-way south of Calhoun Street, different entering and exiting percentages were used for these land uses. These entering and exiting percentages can be seen in Figure 7 and Figure 8 respectively. The resulting site-generated traffic volumes are shown in Figure 9.











Old Library Site / Marion Square Hotel Traffic Impact Study

4 Future Traffic Conditions

The increases in traffic volumes due to background traffic growth as well as the traffic volumes generated by the proposed development, were added to the existing volumes in order to determine the future conditions traffic volumes. The existing roadway conditions and future traffic volumes were considered in order to determine the future traffic operations within the study area. These traffic conditions are then compared with the existing traffic operations in order to determine the expected impacts of the proposed development.

Historical Traffic Counts

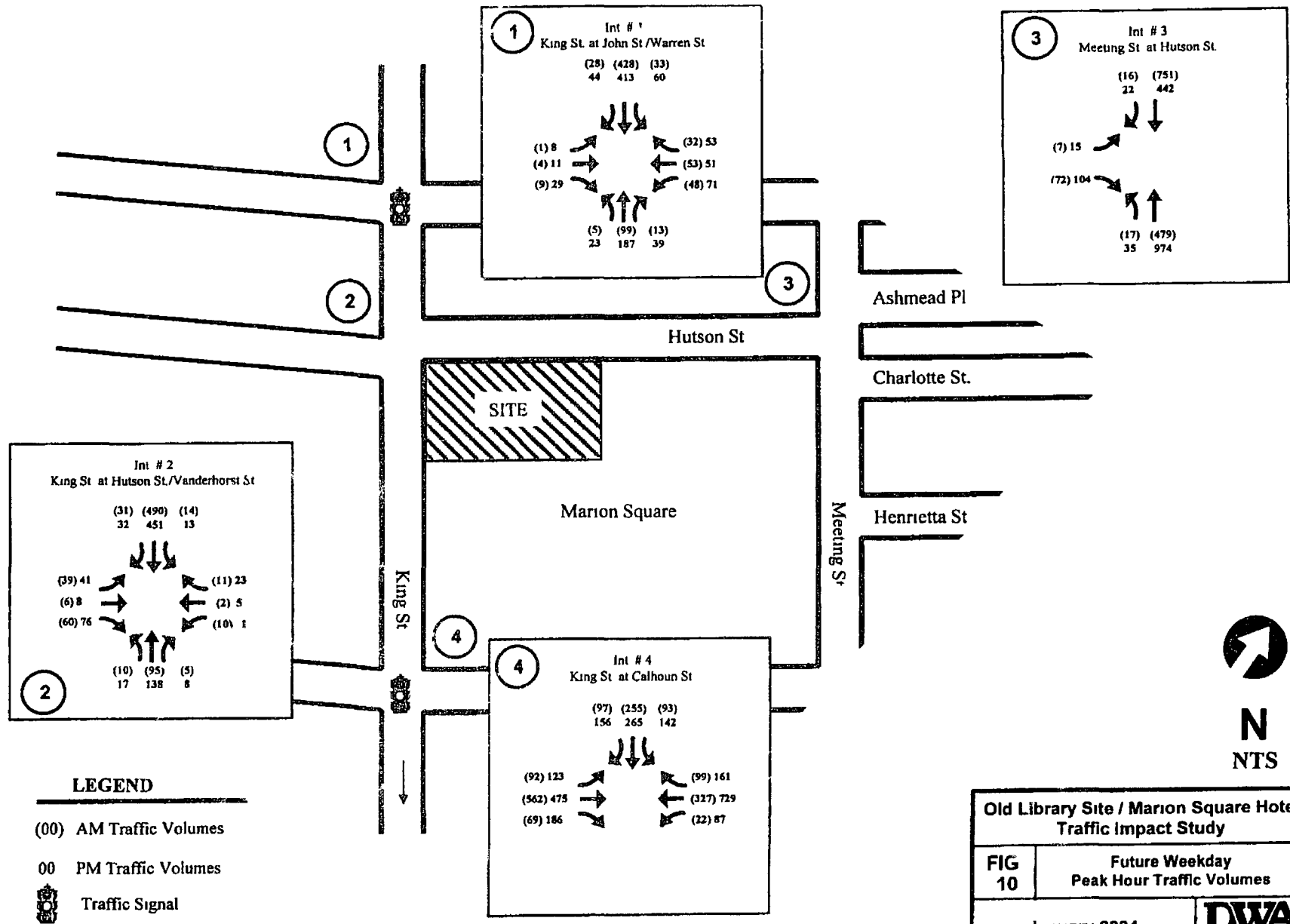
To estimate future traffic volumes, the existing traffic volumes will be increased to account for background traffic growth not related directly to the proposed development. In order to determine this average annual growth factor, data from several South Carolina Department of Transportation (SCDOT) count stations were analyzed. These historical traffic volumes are shown in Table 3.

Table 3 Historical Traffic Information								
TC Station	Street	1997	1998	1999	2000	2001	2002	Average Annual Growth
415	Calhoun Street between Pitt Street and Smith Street	20 500	21 300	21 900	20 500	21 600	19 600	0.9%
437	King Street between Reid Street and Mary Street	10 600	11 200	10 700	10 000	10 200	10 800	0.4%
439	Meeting Street between Ann Street and John Street	19 600	19,800	19 600	19,100	19 700	19 000	-0.6%
Average								0.4%

Low traffic growth is consistent with a built-out urban environment, as being considered for this study. DWA plans to assume a 1% annual growth rate to apply to the study roadways to account for minimal traffic growth. The proposed development is expected to be operating by mid-2006, so this growth rate will be applied over 2.5 years.

Future Traffic Volumes

The traffic volumes that will be generated from the proposed development were then added to the increased existing traffic volumes in order to determine the impact of the proposed project after full development. These future traffic volumes are shown in Figure 10.



Old Library Site / Marion Square Hotel Traffic Impact Study

Future Intersection Levels of Service

Each of the intersections included in this study were re-evaluated for the future conditions. The future operations are compared with the existing traffic operations in Table 4. These future peak period results are also shown in Figure 11.

Table 4 Existing and Future Intersection Operations								
Intersection	Existing Traffic Operations				Future Traffic Operations			
	AM Peak		PM Peak		AM Peak		PM Peak	
	LOS	Delay (sec)	LOS	Delay (sec)	LOS	Delay (sec)	LOS	Delay (sec)
King Street at John Street / Warren Street (s)	B	14.6	B	18.5	B	14.5	B	18.9
King Street at Calhoun Street (s)	B	13.5	B	15.2	B	14.1	B	18.1
King Street at Hutson Street / Vanderhorst Street (u)								
Northbound Left Turn	A	0.8	A	1.0	A	0.9	A	1.2
Southbound Left Turn	A	0.3	A	0.3	A	0.3	A	0.3
Eastbound Approach	C	19.6	C	23.7	C	21.0	D	28.8
Westbound Approach	C	16.2	C	20.1	C	17.1	C	23.5
Meeting Street at Hutson Street (u)								
Northbound Left Turn	A	0.4	A	0.4	A	1.2	A	0.5
Eastbound Approach	C	16.7	C	18.5	C	16.6	C	17.2

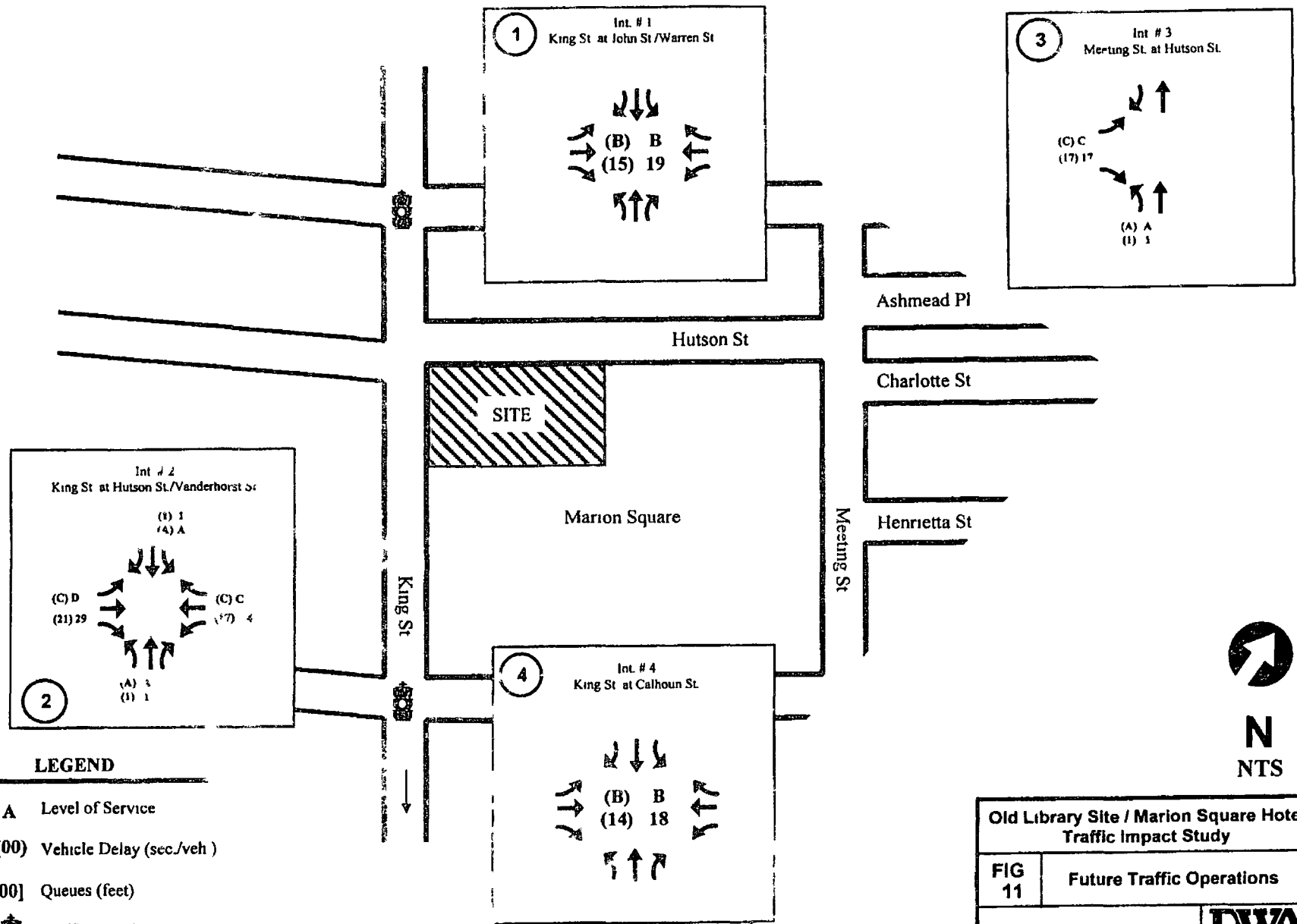
(s) = signalized, (u) = unsignalized

The future conditions analysis shows some increase in delays from the existing conditions. However, the side-street operations of the unsignalized intersections are not expected to operate at lower than LOS D during the weekday peak periods, which is generally considered acceptable within an urban environment.

The side-street approach delay for Meeting Street at Hutson Street decreases slightly in the future condition. This result is caused by the increased percentage of right-turn turning movements, which typically experience lower delays than left-turn turning movements.

Recommendations

It is recommended that the valet loading zone be continued to the intersection of King Street at Hutson Street as previously discussed in this report, in order to allow smoother right-turn flow from the valet loading zone to Hutson Street.



Old Library Site / Marion Square Hotel Traffic Impact Study	
FIG 11	Future Traffic Operations
January 2004	
 D W Associates, Inc.	

Old Library Site / Marion Square Hotel Traffic Impact Study

5 Summary of Results

The following results were concluded from this traffic evaluation

- The intersections are expected to have acceptable operations after the completion of the proposed development
- The valet loading zone extension to the intersection of King Street at Hutson Street is recommended.

APPENDICES

Appendix A Count Data

Traffic Data Collection Inc
917 Legends Club Drive Mount Pleasant S
Ph/Fax 843 216 3304
Atlanta Charleston

Counter T 2291
Counted By BE
Weather Mild
Other DWA

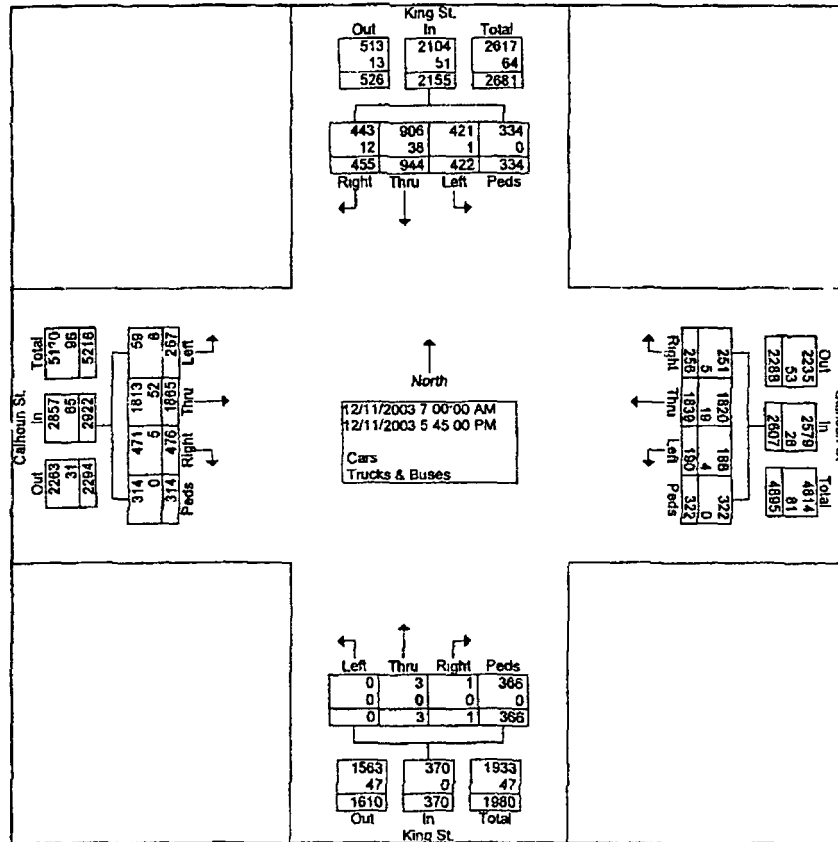
File Name 03682-02
Site Code 00368202
Start Date 12/11/2003
Page No 1

Groups Printed- Cars - Trucks & Buses

Start Time	King St Northbound					King St Southbound					Calhoun St Eastbound					Calhoun St Westbound					Int. Total
	Left	Thru	Right	Peds	App Total	Left	Thru	Right	Peds	App Total	Left	Thru	Right	Peds	App Total	Left	Thru	Right	Peds	App Total	
Factor	1.0	1.0	1.0	1.0		1.0	1.0	1.0	1.0		1.0	1.0	1.0	1.0		1.0	1.0	1.0	1.0		
07:00 AM	0	0	0	5	5	14	39	16	2	71	7	63	6	1	77	2	42	3	7	54	207
07:15 AM	0	0	0	3	3	9	33	16	6	64	9	114	9	3	135	4	56	6	12	78	280
07:30 AM	0	0	0	0	0	21	59	35	7	122	14	117	10	2	143	2	69	7	22	100	365
07:45 AM	0	2	0	3	5	24	68	27	11	130	11	140	8	11	170	6	88	14	14	122	427
Total	0	2	0	11	13	68	199	94	26	387	41	434	33	17	525	14	255	30	55	354	1279
08:00 AM	0	1	0	3	4	24	62	28	11	125	15	123	12	8	158	4	78	11	17	110	397
08:15 AM	0	0	0	7	7	20	54	19	7	100	15	136	19	6	176	3	70	7	16	96	379
08:30 AM	0	0	0	7	7	23	65	21	11	120	20	149	27	9	205	6	79	7	17	109	441
08:45 AM	0	0	1	3	4	34	63	23	7	127	13	122	27	5	167	14	88	9	11	122	420
Total	0	1	1	20	22	101	244	91	36	472	63	530	85	28	706	27	315	34	61	437	1637
Break																					
04:00 PM	0	0	0	48	48	27	64	37	44	172	18	120	48	27	213	25	151	31	38	245	678
04:15 PM	0	0	0	38	38	28	61	26	43	158	18	127	46	35	226	19	145	28	21	213	635
04:30 PM	0	0	0	31	31	23	58	38	34	153	15	118	45	28	206	15	150	17	24	206	596
04:45 PM	0	0	0	42	42	42	78	37	27	184	23	122	41	25	211	27	151	19	34	231	668
Total	0	0	0	159	159	120	261	138	148	667	74	487	180	115	856	86	597	95	117	895	2577
05:00 PM	0	0	0	34	34	38	52	44	34	168	22	117	41	51	231	20	217	19	37	293	726
05:15 PM	0	0	0	39	39	32	68	29	34	163	23	106	52	48	229	18	187	27	25	257	688
05:30 PM	0	0	0	56	56	32	53	29	44	158	24	92	40	21	177	14	143	21	13	191	582
05:45 PM	0	0	0	47	47	31	67	30	12	140	20	99	45	34	198	11	125	30	14	180	565
Total	0	0	0	176	176	133	240	132	124	629	89	414	178	154	835	63	672	97	89	921	2561
Grand Total	0	3	1	366	370	422	944	455	334	2155	267	1865	476	314	2922	190	1839	256	322	2607	8054
Approch %	0.0	0.8	0.3	98.9		19.6	43.8	21.1	15.5		9.1	63.8	16.3	10.7		7.3	70.5	9.8	12.4		
Total %	0.0	0.0	0.0	4.5	4.6	5.2	11.7	5.6	4.1	26.8	3.3	23.2	5.9	3.9	36.3	2.4	22.8	3.2	4.0	32.4	

Traffic Data Collection, Inc
 917 Legends Club Drive Mount Pleasant S
 Ph/Fax 843 216-3304
 Atlanta Charleston

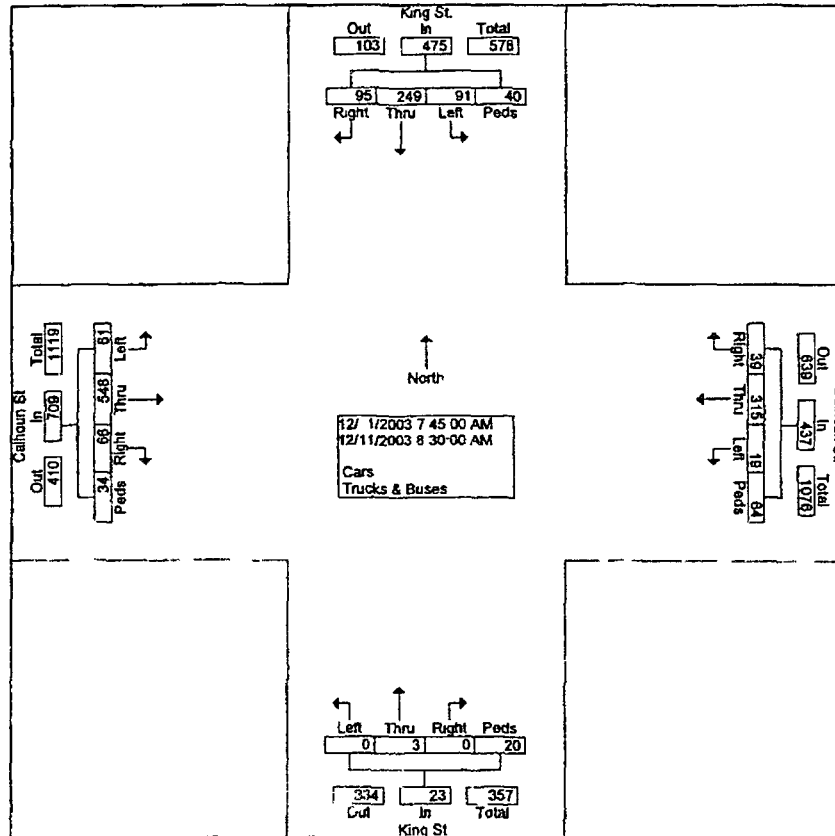
File Name 03682-02
 Site Code 00368202
 Start Date 12/11/2003
 Page No 2



Traffic Data Collection, Inc
917 Legends Club Drive Mount Pleasant, S
Ph/Fax 843 216 3304
Atlanta Charleston

File Name 03682-02
Site Code 00368202
Start Date 12/11/2003
Page No 3

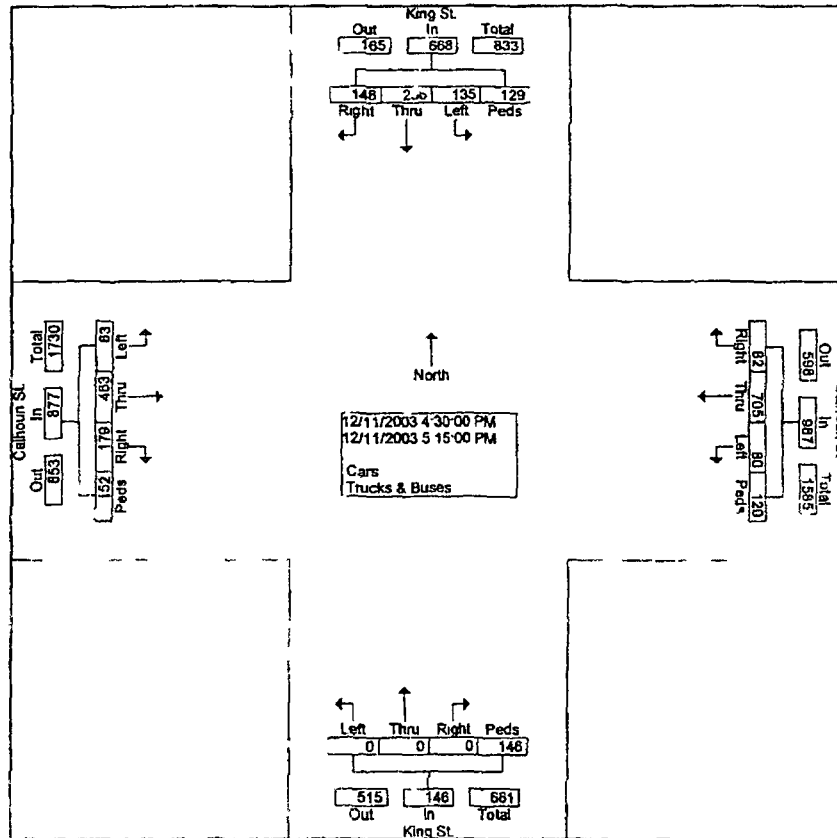
	King St. Northbound					King St. Southbound					Calhoun St Eastbound					Calhoun St. Westbound					
Start Time	Left	Thru	Right	Peds	App Total	Left	Thru	Right	Peds	App Total	Left	Thru	Right	Peds	App Total	Left	Thru	Right	Peds	App Total	Int. Total
Peak Hour From 07:00 AM to 11:45 AM Peak 1 of 1																					
Intersection	07:45 AM																				
Volume	0	3	0	20	23	91	249	95	40	475	61	548	66	34	709	119	315	39	64	437	1644
Percent	0.0	13.0	0.0	87.0		19.2	52.4	20.0	8.4		8.6	77.3	9.3	4.8		4.3	72.1	8.9	14.6		
08:30	0	0	0	7	7	23	65	21	11	120	20	149	27	9	205	6	79	7	17	109	441
Volume																					
Peak Factor																					0.932
High Int.	08:15 AM					07:45 AM					08:30 AM					07:45 AM					
Volume	0	0	0	7	7	24	68	27	11	130	20	149	27	9	205	6	68	14	14	122	
Peak Factor					0.821					0.913					0.865					0.895	



Traffic Data Collection Inc
917 Legends Club Drive Mount Pleasant S
Ph/Fax 843 216-3304
Atlanta Charleston

File Name 03682-02
Site Code 00368202
Start Date 12/11/2003
Page No 4

	King St Northbound					King St Southbound					Calhoun St Eastbound					Calhoun St Westbound					Int. Total
Start Time	Left	Thru	Right	Peds	App Total	Left	Thru	Right	Peds	App Total	Left	Thru	Right	Peds	App Total	Left	Thru	Right	Peds	App Total	
Peak Hour From 12 00 PM to 05 45 PM - Peak 1 of 1																					
Intersection	04 30 PM																				
Volume	0	0	0	146	146	135	256	148	129	668	83	463	179	152	877	80	705	82	120	987	2678
Percent	0.0	0.0	0.0	100		20.2	38.3	22.2	19.3		9.5	52.8	20.4	17.3		8.1	71.4	8.3	12.2		
05 00 Volume	0	0	0	34	34	38	52	44	34	168	22	117	41	51	231	20	217	19	37	293	726
Peak Factor																					0.922
High Int.	04 45 PM					04 45 PM					05 00 PM					05 00 PM					
Volume	0	0	0	42	42	42	78	37	27	184	22	117	41	51	231	20	217	19	37	293	
Peak Factor																					0.842
	0.869					0.908					0.949										



Traffic Data Collection Inc
917 Legends Club Drive Mount Pleasant S
Ph/Fax 843 216 3304
Atlanta Charleston

Counter D4 0930
Counted By LME
Weather Mild
Other DWA

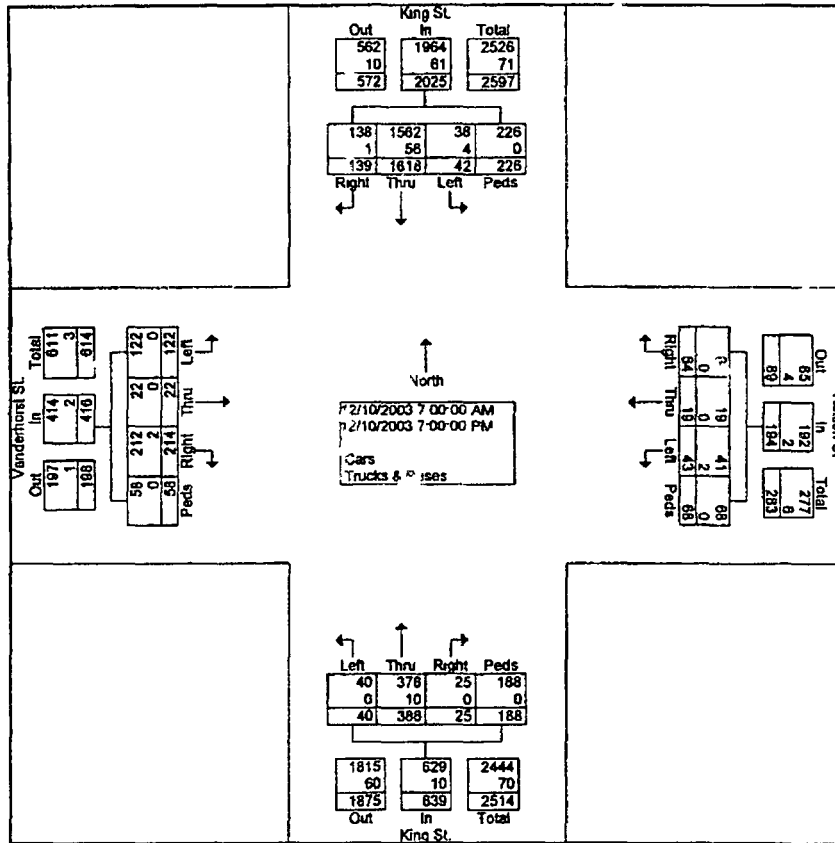
File Name 03682-03
Site Code 00368203
Start Date 12/10/2003
Page No 1

Groups Printed Cars Trucks & Buses

	King St Northbound					King St Southbound					Vanderhorst St Eastbound					Hutson St Westbound					Int
Start Time	Left	Thru	Right	Peds	App Total	Left	Thru	Right	Peds	App Total	Left	Thru	Right	Peds	App Total	Left	Thru	Right	Peds	App Total	Total
Factor	1.0	1.0	1.0	1.0		1.0	1.0	1.0	1.0		1.0	1.0	1.0	1.0		1.0	1.0	1.0	1.0		
07:00 AM	0	13	3	0	16	0	51	3	6	60	2	0	1	1	4	1	0	1	2	4	84
07:15 AM	2	10	2	5	19	3	60	10	9	82	2	1	6	1	10	1	2	0	0	3	114
07:30 AM	0	13	0	3	16	0	82	12	13	107	3	0	9	4	16	1	0	0	5	6	145
07:45 AM	3	15	0	1	19	3	97	14	15	129	6	1	8	1	16	2	2	4	3	11	175
Total	5	51	5	9	70	6	290	39	43	378	13	2	24	7	46	5	4	5	10	24	518
08:00 AM	2	22	2	4	30	2	109	8	9	128	9	0	21	1	31	1	0	1	2	4	193
08:15 AM	3	18	0	0	21	2	119	12	9	142	7	0	14	1	22	1	1	3	4	9	194
08:30 AM	1	13	0	5	19	3	124	5	12	144	10	1	7	1	19	3	0	6	5	14	196
08:45 AM	2	29	3	7	41	7	126	5	8	146	12	5	17	3	37	5	1	1	5	12	236
Total	8	82	5	16	111	14	478	30	38	560	38	6	59	6	109	10	2	11	16	39	819
Break																					
04:00 PM	3	30	2	36	71	3	116	9	18	146	12	0	15	7	34	1	2	0	5	8	259
04:15 PM	3	23	2	30	58	2	116	10	19	147	8	0	21	8	37	4	2	8	6	21	263
04:30 PM	2	40	1	13	56	1	91	5	24	121	6	2	18	10	36	7	0	6	4	17	230
04:45 PM	6	23	3	19	51	7	111	7	21	146	14	6	19	1	40	4	1	8	5	18	255
Total	14	116	8	98	236	13	434	31	82	560	40	8	73	26	147	17	5	22	20	64	1007
05:00 PM	2	36	1	6	45	2	113	12	26	153	6	3	13	3	25	3	2	7	8	20	243
05:15 PM	3	34	0	22	59	6	113	11	18	148	12	1	18	11	42	2	2		3	14	264
05:30 PM	4	33	3	27	67	0	93	7	8	108	9	1	13	0	23	4	2	8	11	25	223
05:45 PM	4	34	3	10	51	1	97	9	11	118	4	1	14	5	24	2	2	3	0	7	200
Total	13	137	7	65	222	9	416	39	63	527	31	6	58	19	114	11	8	26	22	67	930
Grand Total																					
	40	386	25	188	639	42	1618	139	226	2025	122	22	214	58	416	43	19	64	68	194	3274
Approch %	6.3	60.4	3.9	29.4		2.1	79.9	6.9	11.2		29.3	5.3	51.4	13.9		22.2	9.8	33.0	35.1		
Total %	1.2	11.8	0.8	5.7	19.5	1.3	49.4	4.2	6.9	61.9	3.7	0.7	6.5	1.8	12.7	1.3	0.6	2.0	2.1	5.9	

Traffic Data Collection Inc
 917 Legends Club Drive Mount Pleasant S
 Ph/Fax 843 216-3304
 Atlanta Charleston

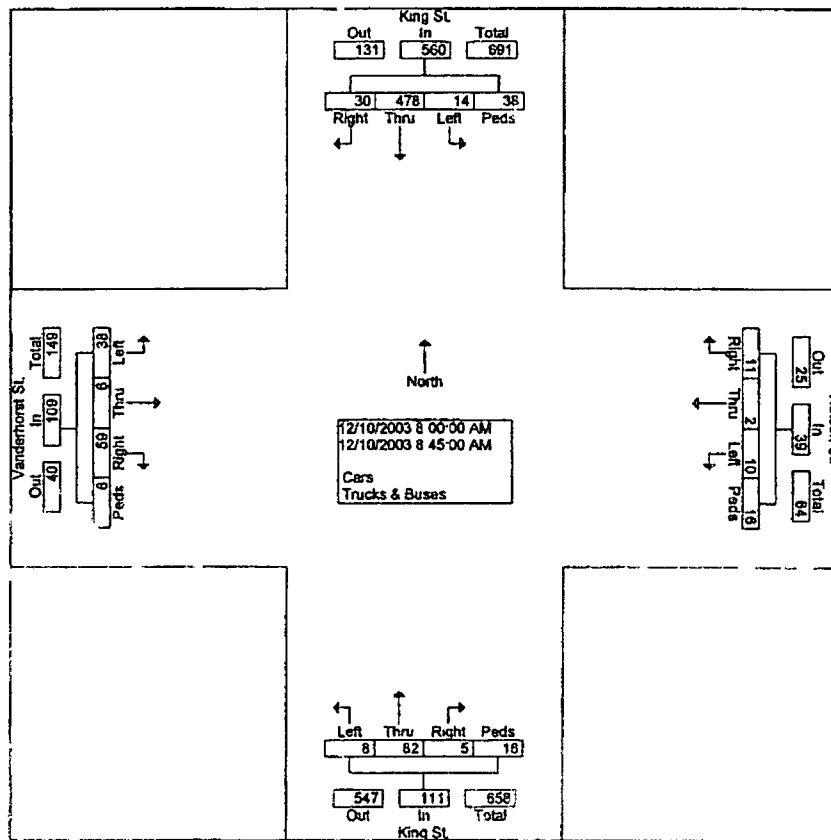
File Name 03682-03
 Site Code 00368203
 Start Date 12/10/2003
 Page No 2



Traffic Data Collection Inc
917 Legends Club Drive Mount Pleasant S
Ph/Fax 843 216-3304
Atlanta Charleston

File Name 03682-03
Site Code 00368203
Start Date 12/10/2003
Page No 3

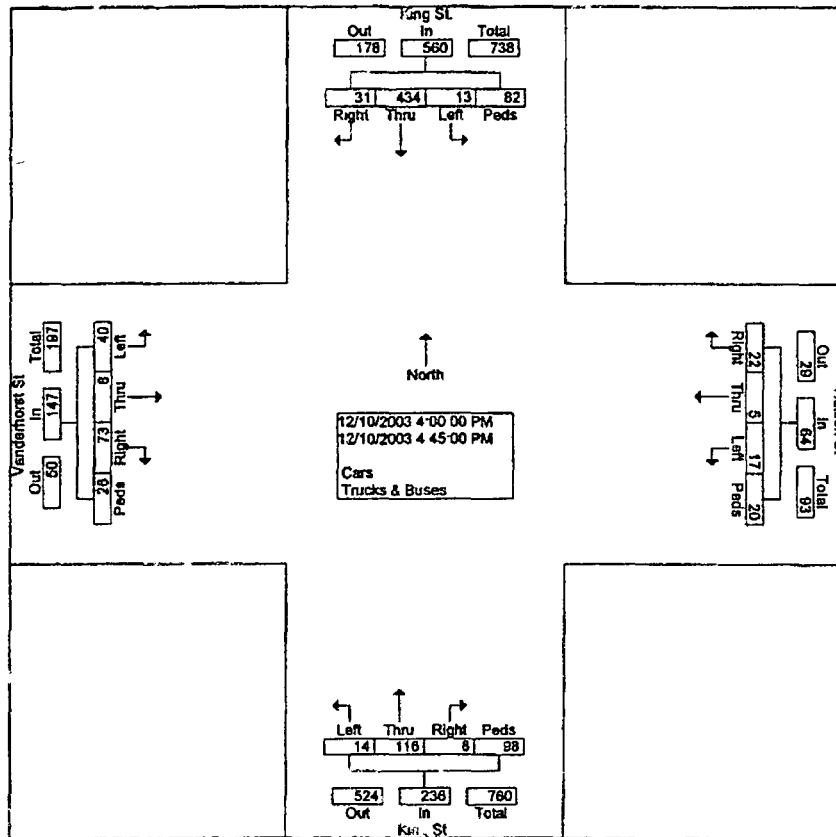
	King St Northbound					King St Southbound					Vanderhorst St Eastbound					Hutson St Westbound					
Start Time	Left	Thru	Right	Peds	App Total	Left	Thru	Right	Peds	App Total	Left	Thru	Right	Peds	App Total	Left	Thru	Right	Peds	App Total	Int. Total
Peak Hour From 07:00 AM to 11:45 AM Peak 1 of 1																					
Intersection 08:00 AM																					
Volume	8	82	5	16	111	14	478	30	38	560	38	6	59	6	109	10	2	11	16	39	819
Percent	7.2	73.9	4.5	14.4		2.5	85.4	5.4	6.8		34.9	5.5	54.1	5.5		25.6	5.1	28.2	41.0		
08:45																					
Volume	2	29	3	7	41	7	126	5	8	146	12	5	17	3	37	5	1	1	5	12	236
Peak Factor																					0.868
High Int.	08:45 AM					08:45 AM					08:45 AM					08:30 AM					
Volume	2	29	3	7	41	7	126	5	8	146	12	5	17	3	37	3	0	6	5	14	
Peak Factor	0.677					0.959					0.736					0.696					



Traffic Data Collection Inc
917 Legends Club Drive Mount Pleasant S
Ph/Fax 843 216 3304
Atlanta Charleston

File Name 03682-03
Site Code 00368203
Start Date 12/10/2003
Page No 4

	King St. Northbound					King St. Southbound					Vanderhorst St. Eastbound					Hutson St. Westbound					
Start Time	Left	Thru	Right	Peds	App Total	Left	Thru	Right	Peds	App Total	Left	Thru	Right	Peds	App Total	Left	Thru	Right	Peds	App Total	Int. Total
Peak Hour From 12 00 PM to 07 00 PM Peak 1 of 1																					
Intersection	04 00 PM																				
Volume	14	116	8	98	236	13	434	31	82	560	40	8	73	26	147	17	5	22	20	64	1007
Percent	5.9	49.2	3.4	41.5		2.3	77.5	5.5	14.6		27.2	5.4	49.7	17.7		26.6	7.8	34.4	31.3		
04 15	3	23	2	30	58	2	116	10	19	147	8	0	21	8	37	5	2	8	6	21	263
Volume																					
Peak Factor																					0.957
High Int.	04 00 PM					04 15 PM					04 45 PM					04 15 PM					
Volume	3	30	2	36	71	2	116	10	19	147	14	6	19	1	40	5	2	8	6	21	
Peak Factor					0.831					0.952					0.919					0.762	



Traffic Data Collection, Inc
917 Legends Club Drive Mount Pleasant S
Ph/Fax 843 216 3304
Atlanta Charleston

Counter D4-0930
Counted By LME
Weather Mild
Other DWA

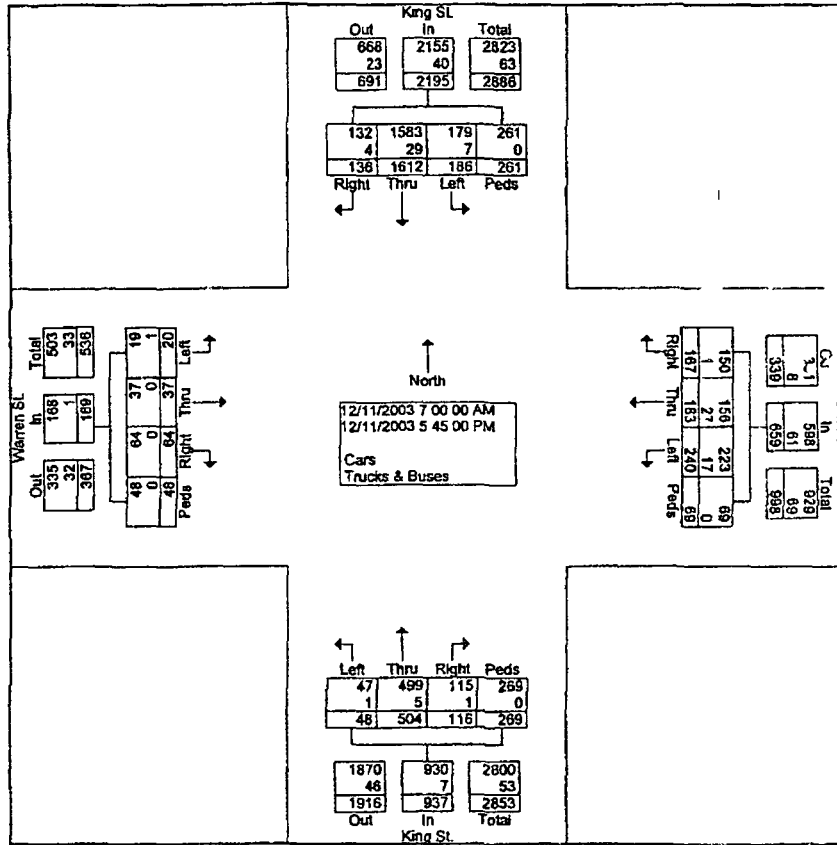
File Name 03682-04
Site Code 00368204
Start Date 12/11/2003
Page No 1

Groups Printed Cars - Trucks & Buses

	King St Northbound					King St Southbound					Warren St Eastbound					John St Westbound					
Start Time	Left	Thru	Right	Peds	App Total	Left	Thru	Right	Peds	App Total	Left	Thru	Right	Peds	App Total	Left	Thru	Right	Peds	App Total	Int Total
Factor	1.0	1.0	1.0	1.0		1.0	1.0	1.0	1.0		1.0	1.0	1.0	1.0		1.0	1.0	1.0	1.0		
07:00 AM	0	6	2	3	11	2	58	3	4	67	0	1	1	0	2	6	6	3	0	15	95
07:15 AM	0	14	1	1	16	7	75	10	2	94	0	1	0	0	1	7	7	5	1	20	131
07:30 AM	2	19	1	3	25	7	120	6	9	142	0	0	1	1	2	9	13	3	3	28	197
07:45 AM	0	25	6	2	33	6	108	12	4	130	1	3	2	0	6	11	17	8	3	39	208
Total	2	64	10	9	85	22	361	31	19	433	1	5	4	1	11	33	43	19	7	102	631
08:00 AM	1	25	4	2	31	8	101	4	6	119	0	1	1	1	3	17	9	9	0	35	188
08:15 AM	1	20	1	3	25	11	88	5	8	112	0	0	5	1	6	10	13	11	4	38	181
08:30 AM	1	27	11	2	41	13	98	1	8	120	1	1	1	1	4	11	5	6	3	25	190
08:45 AM	0	16	9	1	26	20	109	4	8	141	1	2	1	0	4	12	9	9	1	31	202
Total	2	88	25	8	23	52	396	14	30	492	2	4	8	3	17	50	36	35	8	129	761
Break																					
03:45 PM	6	44	11	29	90	20	112	9	33	174	0	4	6	4	14	13	10	16	9	48	226
Total	6	44	11	29	90	20	112	9	33	174	0	4	6	4	14	13	10	16	9	48	326
04:00 PM	2	44	9	34	89	14	86	8	31	139	1	0	5	8	14	19	11	11	9	50	292
04:15 PM	4	35	8	35	82	14	90	10	36	150	2	5	8	3	18	18	16	14	1	49	299
04:30 PM	7	47	8	29	91	11	111	16	24	162	5	2	8	4	19	18	13	11	11	53	325
04:45 PM	4	32	12	35	83	9	91	15	24	139	2	5	8	15	30	17	13	10	9	49	301
Total	17	158	37	133	345	48	378	49	115	590	10	12	29	30	81	72	53	46	30	201	1217
05:00 PM	5	39	10	17	71	14	98	10	15	137	2	4	9	4	19	19	13	11	0	43	270
05:15 PM	6	39	3	25	73	9	101	7	15	132	1	2	2	0	5	19	11	14	5	49	259
05:30 PM	6	48	13	28	95	7	88	9	13	117	1	3	4	3	11	19	8	11	3	41	264
05:45 PM	4	24	7	20	55	14	78	7	21	120	3	3	2	3	11	15	9	15	7	46	232
Total	21	150	33	90	294	44	365	33	64	506	7	12	17	10	46	72	41	51	15	179	1025
Grand Total	48	504	116	269	937	186	1612	136	261	2195	20	37	64	48	169	240	183	167	69	659	3960
Approch %	5.1	53.8	12.4	28.7		8.5	73.4	6.2	11.9		11.8	21.9	37.9	28.4		36.4	27.8	25.3	10.5		
Total %	1.2	12.7	2.9	6.8	23.7	4.7	40.7	3.4	6.6	55.4	0.5	0.9	1.6	1.2	4.3	6.1	4.6	4.2	1.7	18.6	

Traffic Data Collection Inc
 917 Legends Club Drive Mount Pleasant, S
 Ph/Fax 843 216-3304
 Atlanta Charleston

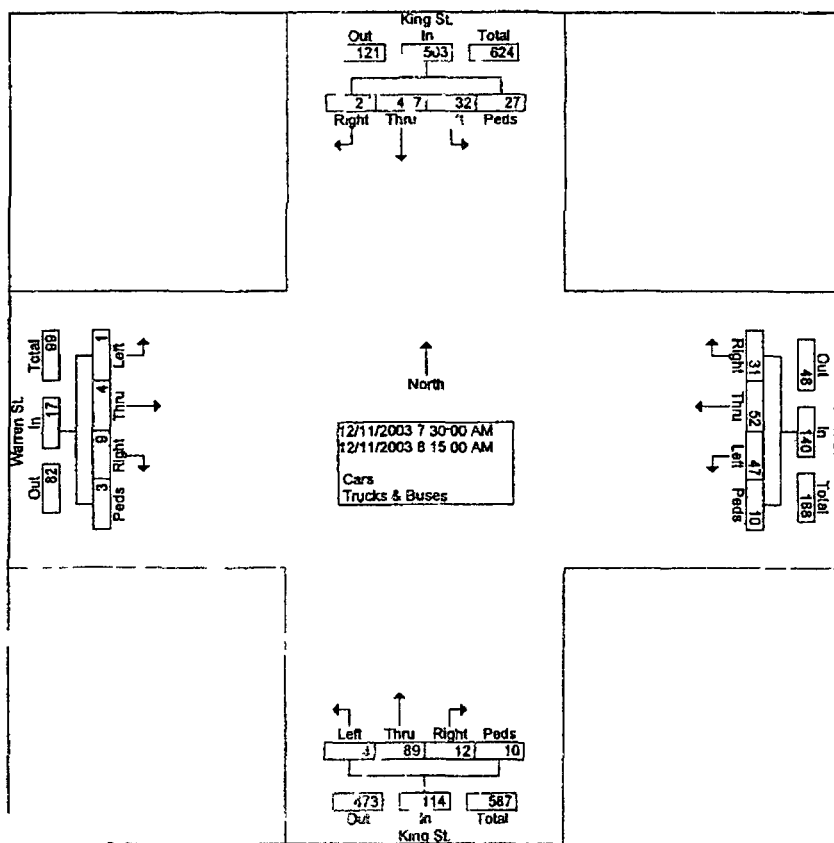
File Name 03682-04
 Site Code 00368204
 Start Date 12/11/2003
 Page No 2



Traffic Data Collection Inc
917 Legends Club Drive Mount Pleasant, S
Ph/Fax 843 216-3304
Atlanta Charleston

File Name 03682-04
Site Code 00368204
Start Date 12/11/2003
Page No 3

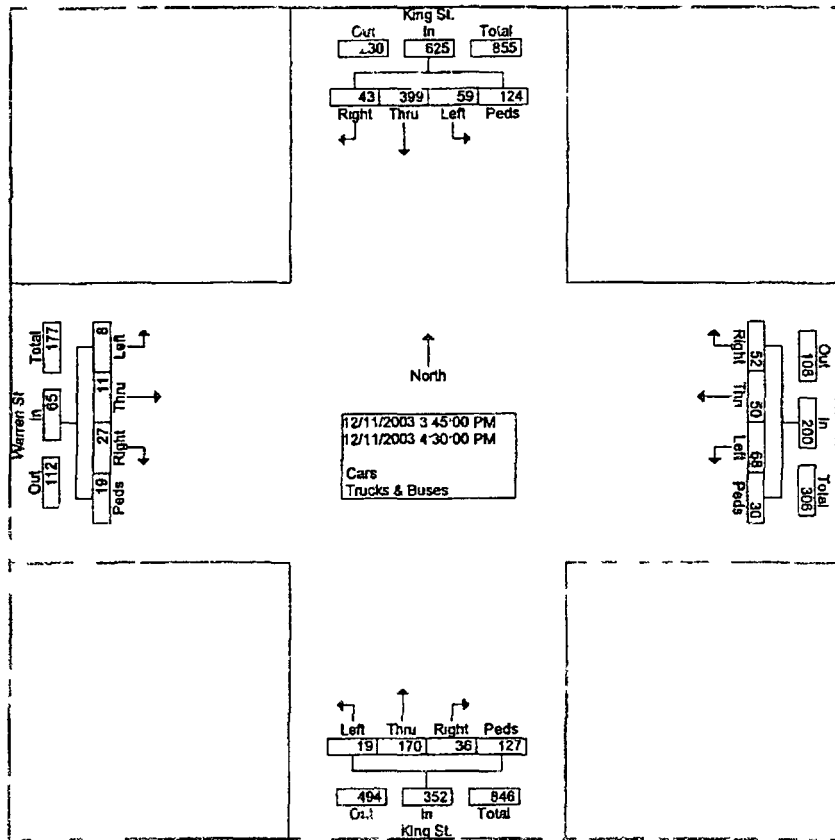
	King St Northbound					King St Southbound					Warren St Eastbound					John St Westbound					
Start Time	Left	Thru	Right	Peds	App Total	Left	Thru	Right	Peds	App Total	Left	Thru	Right	Peds	App Total	Left	Thru	Right	Peds	App Total	Int Total
Peak Hour From 07 00 AM to 12 30 PM Peak 1 of 1																					
Intersection 07 30 AM																					
Volume	3	89	12	10	114	32	417	27	27	503	1	4	9	3	17	47	52	31	10	140	774
Percent	2.6	78.1	10.5	8.8		6.4	82.9	5.4	5.4		5.9	23.5	52.9	17.6		33.6	37.1	22.1	7.1		
07 45																					
Volume	0	25	6	2	33	6	108	12	4	130	1	3	2	0	6	11	17	8	3	39	208
Peak Factor																					0.930
High Int. 07 45 AM						07 30 AM					07 45 AM					07 45 AM					
Volume	0	25	6	2	33	7	120	6	9	142	1	3	2	0	6	11	17	8	3	39	
Peak Factor					0.864				0.886					0.708						0.897	



Traffic Data Collection Inc
917 Legends Club Drive Mount Pleasant S
Ph/Fax 843 216 3304
Atlanta Charleston

File Name 03682-04
Site Code 00368204
Start Date 12/11/2003
Page No 4

Start Time	King St Northbound					King St Southbound					Warren St Eastbound					John St Westbound					Int. Total
	Left	Thru	Right	Peds	App Total	Left	Thru	Right	Peds	App Total	Left	Thru	Right	Peds	App Total	Left	Thru	Right	Peds	App Total	
Peak Hour	From 12 45 PM to 05 45 PM					Peak 1 of 1															
Intersection	03:45 PM																				
Volume	19	170	36	127	352	59	399	43	124	625	8	11	27	19	65	68	50	52	30	200	1242
Percent	5.4	48.3	10.2	36.1		9.4	63.8	6.9	19.8		12.3	16.9	41.5	29.2		34.0	25.0	26.0	15.0		
03:45 Volume	6	44	11	29	90	20	112	9	33	174	0	4	6	4	14	13	10	16	9	48	328
Peak Factor																					0.952
High Int.	04:30 PM					03:45 PM					04:30 PM					04:30 PM					
Volume	7	4	8	29	91	20	112	9	33	174	5	2	3	4	19	18	13	1	11	53	
Peak Factor	0.967					0.898					0.855					0.943					



Traffic Data Collection Inc
917 Legends Club Drive Mount Pleasant S
Ph/Fax 843 216-3304
Atlanta Charleston

Counter T 2291
Counted By BE
Weather Mild
Other DWA

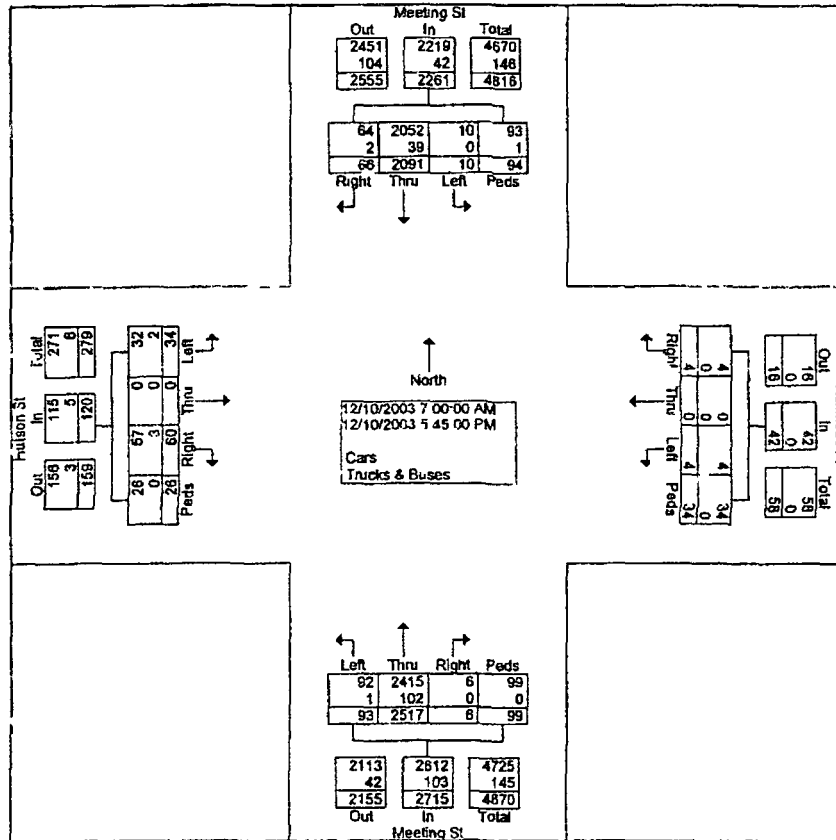
File Name 03682-05
Site Code 00368205
Start Date 12/10/2003
Page No 1

Groups Printed- Cars Trucks & Buses

Start Time	Meeting St Northbound					Meeting St Southbound					Hutson St Eastbound					Ashmead Pl Westbound					Int Total
	Left	Thru	Right	Peds	App Total	Left	Thru	Right	Peds	App Total	Left	Thru	Right	Peds	App Total	Left	Thru	Right	Peds	App Total	
Factor	1.0	1.0	1.0	1.0		1.0	1.0	1.0	1.0		1.0	1.0	1.0	1.0		1.0	1.0	1.0	1.0		
07:00 AM	1	47	0	1	49	0	80	0	1	81	1	0	2	0	3	0	0	0	1	1	134
07:15 AM	0	63	0	2	65	0	118	4	4	126	5	0	4	1	10	0	0	0	1	1	202
07:30 AM	1	73	0	2	76	2	145	3	3	153	1	0	0	4	5	0	0	0	1	1	235
07:45 AM	7	92	0	2	101	0	213	2	7	222	0	0	3	2	5	0	0	1	4	5	333
Total	9	275	0	7	291	2	556	9	15	582	7	0	9	7	23	0	0	1	7	8	904
08:00 AM	5	128	0	2	135	0	203	2	12	217	0	0	2	0	2	0	0	0	2	2	356
08:15 AM	4	113	0	2	119	1	178	6	7	192	1	0	4	1	6	0	0	0	3	3	320
08:30 AM	5	93	0	3	101	0	178	3	8	189	1	0	3	1	5	0	0	0	3	3	298
08:45 AM	3	133	0	5	141	1	163	5	9	178	4	0	7	0	11	0	0	1	6	7	337
Total	17	467	0	12	496	2	722	16	36	776	6	0	16	2	24	0	0	1	4	15	1311
Break																					
04:00 PM	8	243	0	15	266	0	101	2	6	109	1	0	3	2	6	1	0	0	1	2	383
04:15 PM	9	202	0	13	224	1	106	4	4	115	1	0	3	1	5	0	0	0	2	2	346
04:30 PM	7	222	1	10	240	1	106	7	7	121	2	0	2	3	7	1	0	1	2	4	372
04:45 PM	8	221	0	8	237	1	89	4	9	103	7	0	9	1	17	1	0	0	3	4	361
Total	32	888	1	46	967	3	402	17	26	448	11	0	17	7	35	3	0	1	8	12	1462
05:00 PM	12	274	2	12	300	1	98	4	3	106	2	0	6	6	14	1	0	0	0	1	421
05:15 PM	7	229	1	9	246	0	123	6	5	134	2	0	5	3	10	0	0	0	3	3	393
05:30 PM	9	200	1	8	218	1	88	7	4	100	2	0	4	1	7	0	0	1	1	2	327
05:45 PM	7	184	1	5	197	1	102	7	5	115	4	0	3	0	7	0	0	0	1	1	320
Total	35	887	5	34	961	3	411	24	17	455	10	0	18	10	38	1	0	1	5	7	1461
Grand Total	93	2517	6	99	2715	10	2091	66	94	2261	34	0	60	26	120	4	0	4	34	42	5138
Approch %	3.4	92.7	0.2	3.6		0.4	92.5	2.9	4.2		28.3	0.0	50.0	21.7		9.5	0.0	9.5	81.0		
Total %	1.8	49.0	0.1	1.9	52.8	0.2	40.7	1.3	1.8	44.0	0.7	0.0	1.2	0.5	2.3	0.1	0.0	0.1	0.7	0.8	

Traffic Data Collection Inc
 917 Legends Club Drive Mount Pleasant S
 Ph/Fax 843 216 3304
 Atlanta Charleston

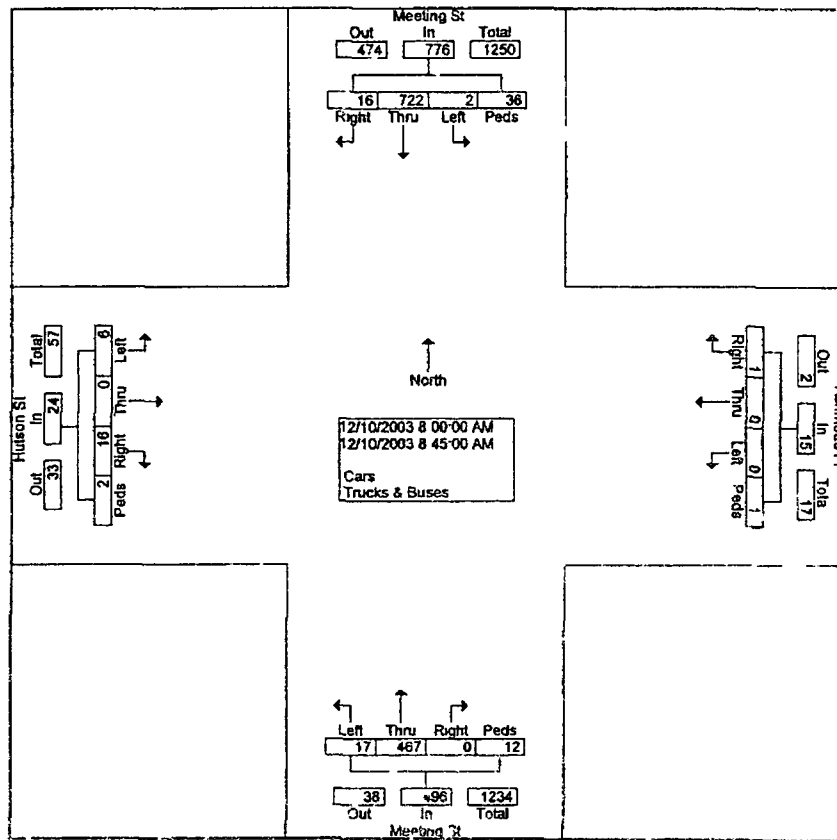
File Name 03682-05
 Site Code 00368205
 Start Date 12/10/2003
 Page No 2



Traffic Data Collection Inc
917 Legends Club Drive Mount Pleasant S
Ph/Fax 843 216-3304
Atlanta Charleston

File Name 03682-05
Site Code 00368205
Start Date 12/10/2003
Page No 3

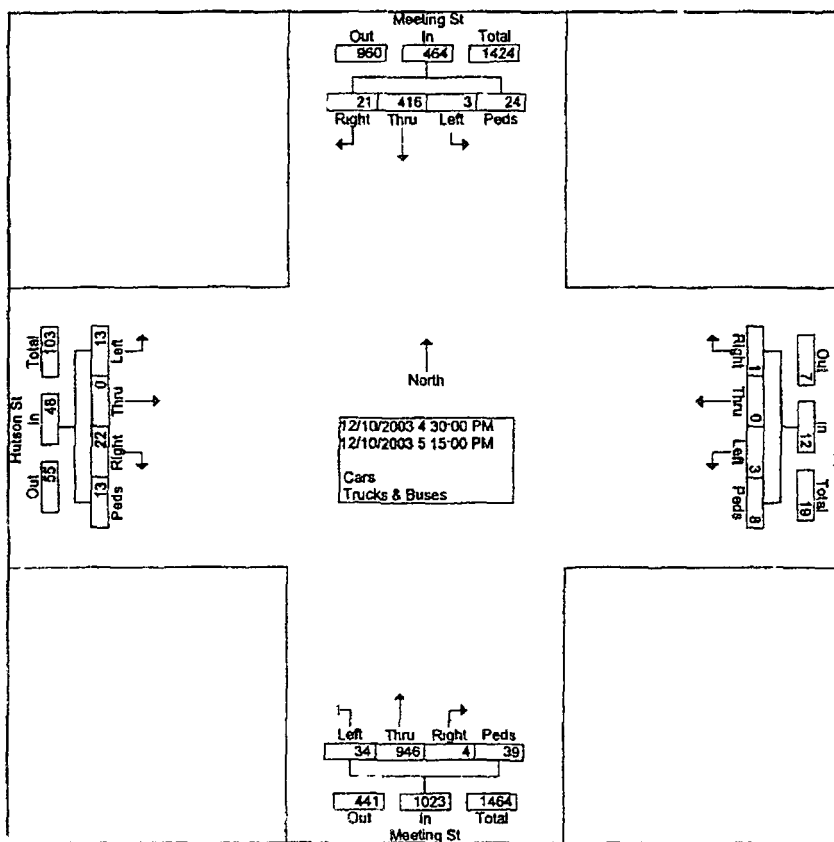
	Meeting St Northbound					Meeting St Southbound					Hutson St Eastbound					Ashmead Pl Westbound					
Start Time	Left	Thru	Right	Peds	App Total	Left	Thru	Right	Peds	App Total	Left	Thru	Right	Peds	App Total	Left	Thru	Right	Peds	App Total	Int Total
Peak Hour From 07:00 AM to 12:30 PM	Peak 1 of 1																				
Intersection 08:00 AM	17	467	0	12	496	2	722	16	36	776	6	0	16	2	24	0	0	1	14	15	1311
Volume	34	94.2	0.0	2.4		0.3	93.0	2.1	4.6		25.0	0.0	66.7	8.3		0.0	0.0	6.7	93.3		
Percent	5	128	0	2	135	0	203	2	12	217	0	0	2	0	2	0	0	0	2	2	356
Volume																					0.921
Peak Factor																					
High Int 08:45 AM	3	133	0	5	141	0	203	2	12	217	4	0	7	0	11	0	0	1	6	7	
Volume																					
Peak Factor	0.879					0.894					0.545					0.536					



Traffic Data Collection Inc
917 Legends Club Drive Mount Pleasant, S
Ph/Fax 843 216-3304
Atlanta Charleston

File Name 03682-05
Site Code 00368205
Start Date 12/10/2003
Page No 4

	Meeting St Northbound					Meeting St Southbound					Hutson St Eastbound					Ashmead Pl Westbound					
Start Time	Left	Thru	Right	Peds	App Total	Left	Thru	Right	Peds	App Total	Left	Thru	Right	Peds	App Total	Left	Thru	Right	Peds	App Total	Int. Total
Peak Hour From 12:45 PM to 05:45 PM Peak 1 of 1																					
Intersection 04:30 PM																					
Volume	34	946	4	39	1023	3	416	21	24	464	13	0	22	13	48	3	0	1	8	12	1547
Percent	3.3	92.5	0.4	3.8		0.6	89.7	4.5	5.2		27.1	0.0	45.8	27.1		25.0	0.0	8.3	66.7		
05:00	12	274	2	12	300	1	98	4	3	106	2	0	6	6	14	1	0	0	0	1	421
Volume																					
Peak Factor																					0.919
High Int. 05:00 PM						05:15 PM					04:45 PM					04:30 PM					
Volume	12	274	2	12	300	0	123	6	5	134	7	0	9	1	17	1	0	1	2	4	
Peak Factor					0.853					0.866					0.706					0.750	



Traffic Data Collection, Inc

917 Legends Club Drive Mount Pleasant SC 29466

Atlanta - Charleston

Ph 843 216 3304 Fax 843 216 5621

File 03682 01

11 Dec 02 Location 1 NB Rte 51 south of Hudson St												
End Time	00	01	02	03	04	05	06	07	08	09	10	11
15	17	7	9	2	2	3	5	9	28	31	37	40
30	13	9	9	3	1	2	3	15	22	31	42	51
45	18	9	4	7	1	2	13	17	28	25	48	51
00	14	3	7	1	1	7	9	27	28	41	52	48
Hour Total	62	28	29	13	5	14	30	68	106	128	179	190
End Time	12	13	14	15	16	17	18	19	20	21	22	23
15	55	51	39	46	55	48	37	36	30	40	35	42
30	46	47	45	51	51	55	41	57	45	43	35	27
45	44	51	50	50	40	56	46	29	32	32	31	22
00	44	51	53	53	48	48	48	46	24	41	36	23
Hour Total	189	200	187	200	194	207	172	168	131	156	137	114
24 Hour Total 2907												
AM Peak Hour Begins			AM Peak Volume 194					AM Peak Hour Factor 0.07				
PM Peak Hour Begins			PM Peak Volume 209					PM Peak Hour Factor 0.07				
11 Dec 02 Location 1 SB Rte 51 south of Hudson St												
End Time	00	01	02	03	04	05	06	07	08	09	10	11
15	29	26	23	9	6	4	23	69	120	123	120	160
30	31	28	16	8	6	6	74	76	102	116	150	114
45	26	14	11	7	7	25	50	125	122	137	133	189
00	30	29	14	6	5	37	53	132	144	125	143	162
Hour Total	116	97	64	30	24	72	200	402	488	501	546	625
End Time	12	13	14	15	16	17	18	19	20	21	22	23
15	189	169	209	191	144	137	136	121	82	92	86	74
30	171	172	176	192	129	156	134	83	103	62	100	77
45	162	176	142	189	153	138	152	86	86	85	86	55
00	182	173	183	167	194	176	132	90	74	77	89	42
Hour Total	704	690	710	739	620	607	554	380	345	316	361	248
24 Hour Total 9439												
AM Peak Hour Begins			AM Peak Volume 625					AM Peak Hour Factor 0.07				
PM Peak Hour Begins			PM Peak Volume 755					PM Peak Hour Factor 0.08				

Appendix B

Intersection LOS Analysis

HCM Signalized Intersection Capacity Analysis

3 John Street & King Street

1/12/2004



Movement	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations	⬆			⬆			⬆			⬆		
Ideal Flow (vphpl)	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900
Total Lost time (s)	4.0			4.0			4.0			4.0		
Lane Util. Factor	1.00			1.00			1.00			1.00		
Frpb ped/bikes	0.96			0.97			0.99			1.00		
Flpb ped/bikes	1.00			0.99			1.00			1.00		
Frt	0.91			0.97			0.98			0.99		
Flt Protected	1.00			0.98			1.00			1.00		
Satd Flow (prot)	1466			1420			1639			1653		
Flt Permitted	0.99			0.88			0.99			0.98		
Satd Flow (perm)	1452			1267			1630			1623		
Volume (vph)	11	4	9	47	52	31	3	89	12	32	417	27
Peak-hour factor PHF	0.71	0.71	0.71	0.90	0.90	0.90	0.86	0.86	0.86	0.89	0.89	0.89
Adj. Flow (vph)	1	6	13	52	58	34	3	103	14	36	469	30
Lane Group Flow (vph)	0	20	0	0	144	0	0	120	0	0	535	0
Confl. Peds. (#/hr)	27	0	10	10	27	3	10	10	10	10	27	3
Heavy Vehicles (%)	2%	2%	2%	10%	10%	10%	2%	2%	2%	2%	2%	2%
Parking (#/hr)	0	0	10	0	0	10	0	0	10	0	0	10
Turn Type	Perm			Perm			Perm			Perm		
Protected Phases	4			8			2			6		
Permitted Phases	4			8			2			6		
Actuated Green G (s)	11.3			11.3			62.4			62.4		
Effective Green g (s)	11.3			11.3			62.4			62.4		
Actuated g/C Ratio	0.14			0.14			0.76			0.76		
Clearance Time (s)	4.0			4.0			4.0			4.0		
Vehicle Extension (s)	3.0			3.0			3.0			3.0		
Lane Grp Cap (vph)	201			175			1245			1240		
v/s Ratio Prot												
v/s Ratio Perm	0.01			0.11			0.07			0.33		
v/c Ratio	0.10			0.82			0.10			0.43		
Uniform Delay d1	30.8			34.2			2.5			3.4		
Progression Factor	1.00			1.00			1.00			1.00		
Incremental Delay d2	0.2			25.7			0.2			1.1		
Delay (s)	31.0			59.9			2.6			4.5		
Level of Service	C			E			A			A		
Approach Delay (s)	31.0			59.9			2.6			4.5		
Approach LOS	C			E			A			A		
Intersection Summary												
HCM Average Control Delay	14.6			HCM Level of Service			B					
HCM Volume to Capacity Ratio	0.49											
Actuated Cycle Length (s)	81.7			Sum of lost time (s)			8.0					
Intersection Capacity Utilization	57.1%			ICU Level of Service			A					
c Critical Lane Group												

c Critical Lane Group

HCM Signalized Intersection Capacity Analysis 3 Warren Street & King Street

1/12/2004



Movement	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations	↕			↕			↕			↕		
Ideal Flow (vphpl)	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900
Total Lost time (s)	4.0			4.0			4.0			4.0		
Lane Util. Factor	1.00			1.00			1.00			1.00		
Frpb ped/bikes	0.82			0.91			0.99			0.99		
Flpb ped/bikes	0.97			0.89			1.00			0.99		
Frt	0.92			0.96			0.98			0.99		
Flt Protected	0.99			0.98			1.00			0.99		
Satd Flow (prot)	1216			1181			1608			1629		
Flt Permitted	0.95			0.85			0.95			0.94		
Satd Flow (perm)	1163			1028			1532			1541		
Volume (vph)	8	11	27	68	50	52	19	170	36	59	399	43
Peak-hour factor PHF	0.86	0.86	0.86	0.94	0.94	0.94	0.97	0.97	0.97	0.90	0.90	0.90
Adj. Flow (vph)	9	13	31	72	53	55	20	175	37	66	443	48
Lane Group Flow (vph)	0	53	0	0	180	0	0	232	0	0	557	0
Confl. Peds* (#/hr)	124		127	127		124	19		30	30		19
Heavy Vehicles (%)	2%	2%	2%	10%	10%	10%	2%	2%	2%	2%	2%	2%
Parking (#/hr)	0	0	10	0	0	10	0	0	10	0	10	10
Turn Type	Perm			Perm			Perm			Perm		
Protected Phases	4			8			2			6		
Permitted Phases	4			8			2			6		
Actuated Green G (s)	14.3			14.3			52.3			52.3		
Effective Green g (s)	14.3			14.3			52.3			52.3		
Actuated g/C Ratio	0.19			0.19			0.70			0.70		
Clearance Time (s)	4.0			4.0			4.0			4.0		
Vehicle Extension (s)	3.0			3.0			3.0			3.0		
Lane Grp Cap (vph)	223			197			1074			1080		
v/s Ratio Prot												
v/s Ratio Perm	0.05			0.18			0.15			0.36		
v/c Ratio	0.24			0.91			0.22			0.52		
Uniform Delay d1	25.5			29.5			3.9			5.2		
Progression Factor	1.00			1.00			1.00			1.00		
Incremental Delay d2	0.6			40.5			0.5			1.8		
Delay (s)	26.1			70.1			4.4			7.0		
Level of Service	C			E			A			A		
Approach Delay (s)	26.1			70.1			4.4			7.0		
Approach LOS	C			E			A			A		
Intersection Summary												
HCM Average Control Delay	18.5			HCM Level of Service			B					
HCM Volume to Capacity ratio	0.60											
Actuated Cycle Length (s)	74.6			Sum of lost time (s)			8.0			C		
Intersection Capacity Utilization	72.2%			ICU Level of Service			C					
* Critical Lane Group												

HCM Signalized Intersection Capacity Analysis 12 Calhoun Street & King Street

1/12/2004



Movement	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations	↔			↔						↔		
Ideal Flow (vphpl)	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900
Total Lost time (s)	4.0			4.0						4.0		
Lane Util. Factor	0.95			0.95						0.95		
Frpb ped/bikes	1.00			0.99						0.98		
Flpb ped/bikes	1.00			1.00						0.98		
Frft	0.99			0.98						0.97		
Flt Protected	1.00			1.00						0.99		
Satd Flow (prot)	3444			3436						2989		
Flt Permitted	0.88			0.91						0.99		
Satd Flow (perm)	3031			3125						2989		
Volume (vph)	61	548	66	19	315	39	0	0	0	91	249	95
Peak-hour factor PHF	0.87	0.87	0.87	0.90	0.90	0.90	0.92	0.92	0.92	0.91	0.91	0.91
Adj Flow (vph)	70	630	76	21	350	43	0	0	0	100	274	104
Lane Group Flow (vph)	0 776		0	0 414		0	0 0		0	0 478		0
Confl. Peds. (#/hr)	40		20	20		40	61		64	64		61
Heavy Vehicles (%)	2%		2%	2%		2%	2%		2%	3%		3%
Parkings (#/hr)										10		10
Turn Type	Perm			Perm						Perm		
Protected Phases	2			6						4		
Permitted Phases	2			6						4		
Actuated Green G (s)	35.0			35.0						27.0		
Effective Green g (s)	35.0			35.0						27.0		
Actuated g/C Ratio	0.50			0.50						0.39		
Clearance Time (s)	4.0			4.0						4.0		
Lane Grp Cap (vph)	1516			1563						1153		
v/s Ratio Prot												
v/s Ratio Perm	0.26			0.13						0.16		
v/c Ratio	0.51			0.26						0.41		
Uniform Delay d1	11.8			10.1						15.7		
Progression Factor	1.00			1.00						1.00		
Incremental Delay d2	1.2			0.4						1.1		
Delay (s)	13.0			10.5						16.8		
Level of Service	B			B						B		
Approach Delay (s)	13.0			10.5			0.0			16.8		
Approach LOS	B			B			A			B		
Intersection Summary												
HCM Average Control Delay	13.5			HCM Level of Service			B					
HCM Volume to Capacity ratio	0.47											
Cycle Length (s)	70.0			Sum of lost time (s)			8.0					
Intersection Capacity Utilization	63.5%			ICU Level of Service			B					
Critical Lane Group												

HCM Signalized Intersection Capacity Analysis 12 Calhoun Street & King Street

1/12/2004

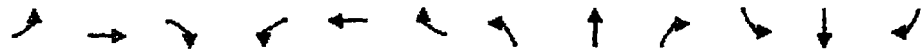


Movement	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations	TT			TT						TT		
Ideal Flow (vphpl)	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900
Total Lost time (s)	40			40						40		
Lane Util Factor	0.95			0.95						0.95		
Flpb ped/bikes	0.95			0.97						0.97		
Flpb ped/bikes	0.99			0.99						0.96		
Frt	0.96			0.99						0.96		
Flt Protected	0.99			1.00						0.99		
Satd Flow (prot)	3204			3357						2852		
Flt Permitted	0.73			0.80						0.99		
Satd Flow (perm)	2350			2714						2852		
Volume (vph)	83	463	179	80	705	82	0	0	0	135	256	148
Peak hour factor PHF	0.95	0.95	0.95	0.84	0.84	0.84	0.92	0.92	0.92	0.91	0.91	0.91
Adj. Flow (vph)	87	487	188	95	839	98	0	0	0	148	281	163
Lane Group Flow (vph)	0	762	0	0	1032	0	0	0	0	0	592	0
Confl. Peds (#/hr)	129		146	146		129	83		120	120		83
Heavy Vehicles (%)	2%	2%	2%	2%	2%	2%	2%	2%	2%	3%	3%	3%
Parking (#/hr)											10	10
Turn Type	Perm			Perm						Perm		
Protected Phases	2			6						4		
Permitted Phases	2			6						4		
Actuated Green G (s)	40.0			40.0						22.0		
Effective Green g (s)	40.0			40.0						22.0		
Actuated g/C Ratio	0.57			0.57						0.31		
Clearance Time (s)	4.0			4.0						4.0		
Lane Grp Cap (vph)	1343			1551						896		
v/s Ratio Prot												
v/s Ratio Perm	0.32			0.38						0.21		
v/c Ratio	0.57			0.67						0.66		
Uniform Delay d1	9.5			10.4						20.8		
Progression Factor	1.00			1.00						1.00		
Incremental Delays d2	1.7			2.3						3.8		
Delay (s)	11.3			12.6						24.6		
Level of Service	B			B						C		
Approach Delay (s)	11.3			12.6			0.0			24.6		
Approach LOS	B			B			A			C		
Intersection Summary												
HCM Average Control Delay	15.2			15.2			15.2			15.2		
HCM Volume to Capacity ratio	0.66			0.66			0.66			0.66		
Cycle Length (s)	70.0			70.0			70.0			70.0		
Intersection Capacity Utilization	85.6%			85.6%			85.6%			85.6%		
ICU Level of Service	D			D			D			D		
Critical Lane Group	EBL, EBT, EBR			WBL, WBT, WBR			NBL, NBT, NBR			SBL, SBT, SBR		

HCM Unsignalized Intersection Capacity Analysis

6 Hutson Street & King Street

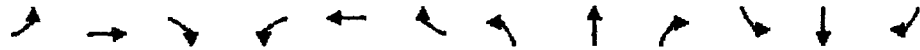
1/9/2004



Movement	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations	↕			↕			↕			↕		
Sign Control	Stop			Stop			Free			Free		
Grade	0%			0%			0%			0%		
Volume (veh/h)	38	6	59	10	2	11	8	82	5	14	478	30
Peak Hour Factor	0.74	0.74	0.74	0.70	0.70	0.70	0.70	0.70	0.70	0.96	0.96	0.96
Hourly flow rate (veh/h)	51	8	80	14	3	16	11	117	7	15	498	31
Pedestrians	6			16			16			38		
Lane Width (ft)	12.0			12.0			12.0			12.0		
Walking Speed (ft/s)	4.0			4.0			4.0			4.0		
Percent Blockage	1			1			1			3		
Right turn flare (veh)												
Median type	None			None								
Median storage (veh)												
Upstream signal (ft)							770			300		
pX platoon unblocked	0.90	0.90	0.90	0.90	0.90		0.90					
vC conflicting volume	747	712	536	802	724	175	535			140		
vC1 stage 1 conf vol												
vC2 stage 2 conf vol												
vCu unblocked vol	719	680	484	780	693	175	483			140		
tC single (s)	7.1	6.5	6.2	7.1	6.5	6.2	4.1			4.1		
tC 2 stage (s)												
tF (s)	3.5	4.0	3.3	3.5	4.0	3.3	2.2			2.2		
p0 queue free %	82	97	85	94	99	98	99			99		
cM capacity (veh/h)	281	322	515	220	317	830	966			1418		
Direction Lane	EBL	WBL	NBL	SBT								
Volume Total	139	33	136	544								
Volume Left	51	14	11	15								
Volume Right	80	16	7	31								
cSH	384	354	966	1418								
Volume to Capacity	0.36	0.09	0.01	0.01								
Queue Length (ft)	41	8	1	1								
Control Delay (s)	19.6	16.2	0.8	0.3								
Lane LOS	C	C	A	A								
Approach Delay (s)	19.6	16.2	0.8	0.3								
Approach LOS	C	C										
Intersection Summary												
Average Delay		4.2										
Intersection Capacity Utilization		59.6%										
ICU Level of Service		A										

HCM Unsignalized Intersection Capacity Analysis 6 Vanderhorst Street & King Street

1/9/2004



Movement	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations	⇄			⇄			⇄			⇄		
Sign Control	Stop			Stop			Free			Free		
Grade	0%			0%			0%			0%		
Volume (veh/h)	40	8	73	17	5	22	14	116	8	13	434	31
Peak Hour Factor	0.92	0.92	0.92	0.76	0.76	0.76	0.83	0.83	0.83	0.95	0.95	0.95
Hourly flow rate (veh/h)	43	9	79	22	7	29	17	140	10	14	457	33
Pedestrians	26			20			98			82		
Lane Width (ft)	12.0			12.0			12.0			12.0		
Walking Speed (ft/s)	4.0			4.0			4.0			4.0		
Percent Blockage	2			2			8			7		
Right turn flare (veh)												
Median type	None						None					
Median storage (veh)												
Upstream signal (ft)							770					
pX platoon unblocked	0.89	0.89	0.89	0.89	0.89	0.89						
vC conflicting volume	819	730	597	881	741	247	515	169				
vC1 stage 1 conf vol												
vC2 stage 2 conf vol												
vCu unblocked vol	797	697	549	866	710	247	458	169				
tC single (s)	7.1	6.5	6.2	7.1	6.5	6.2	4.1	4.1				
tC 2 stage (s)												
tE (s)	3.5	4.0	3.3	3.5	4.0	3.3	2.2	2.2				
p0 queue free %	80	97	82	87	98	96	98	99				
cM capacity (veh/h)	222	305	430	167	300	726	964	1379				
Direction Type	EBL	WBL	NBL	SB								
Volume Total	132	58	166	503								
Volume Left	43	22	17	14								
Volume Right	79	29	10	33								
cSH	322	296	964	1379								
Volume to Capacity	0.41	0.20	0.02	0.01								
Queue Length (ft)	48	18	1	1								
Control Delay (s)	23.7	20.1	1.0	0.3								
Lane LOS	C	C	A	A								
Approach Delay (s)	23.7	20.1	1.0	0.3								
Approach LOS	C	C										
Intersection Summary												
Average Delay	5.4											
Intersection Capacity Utilization	58.5%											
ICU Level of Service	A											

HCM Unsignalized Intersection Capacity Analysis 9 Hutson Street & Meeting Street

1/9/2004



Movement	EBL	EBR	NBL	NBT	SBT	SBR
Lane Configurations	Y			↑↑	↑↑	
Sign Control	Stop			Free	Free	
Grade	0%			0%	0%	
Volume (veh/h)	6	16	17	467	722	16
Peak Hour Factor	0.55	0.55	0.88	0.88	0.89	0.89
Hourly flow rate (veh/h)	11	29	19	531	811	18
Pedestrians	2			12	36	
Lane Width (ft)	12.0			12.0	12.0	
Walking Speed (ft/s)	4.0			4.0	4.0	
Percent Blockage	0			1	3	
Right turn flare (veh)						
Median type	None					
Median storage (veh)						
Upstream signal (ft)						
pX platoon unblocked						
vC conflicting volume	1162	429	831			
vC1 stage 1 conf vol						
vC2 stage 2 conf vol						
vCu unblocked vol	1162	429	831			
tC single (s)	6.9	7.0	4.2			
tC 2 stage (s)						
f (s)	3.5	3.3	2.2			
p0 queue free %	94	95	98			
cM capacity (veh/h)	173	560	783			
Direction Lane #	EBL	NB 1	NB 2	SB 1	SB 2	
Volume Total	40	196	354	541	288	
Volume Left	11	19	0	0	0	
Volume Right	29	0	0	0	18	
cSH	348	783	1700	1700	1700	
Volume to Capacity	0.11	0.02	0.21	0.32	0.17	
Queue Length (ft)	10	2	0	0	0	
Control Delay (s)	16.7	1.2	0.0	0.0	0.0	
Lane LOS	C	A				
Approach Delay (s)	16.7	0.4		0.0		
Approach LOS	C					
Intersection Summary						
Average Delay	0.6					
Intersection Capacity Utilization	36.3%					
ICU Level of Service	A					

HCM Unsignalized Intersection Capacity Analysis 9 Hutson Street & Meeting Street

1/9/2004



Movement	EBL	EBR	NBL	NBT	SBT	SBR
Lane Configurations	↖			↗	↗	
Sign Control	Stop			Free	Free	
Grade	0%			0%	0%	
Volume (veh/h)	13	22	34	950	419	21
Peak Hour Factor	0.71	0.71	0.85	0.85	0.87	0.87
Hourly flow rate (veh/h)	18	31	40	1118	482	24
Pedestrians	13			39	24	
Lane Width (ft)	12.0			12.0	12.0	
Walking Speed (ft/s)	4.0			4.0	4.0	
Percent Blockage	1			3	2	
Right turn flare (veh)						
Median type	None					
Median storage (veh)						
Upstream signal (ft)						
pX platoon unblocked						
vC conflicting volume	1170	305	519			
vC1 stage 1 conf vol						
vC2 stage 2 conf vol						
vCu unblocked vol	1170	305	519			
tC single (s)	6.9	7.0	4.2			
tC 2 stage (s)						
tE (s)	3.5	3.3	2.2			
p0 queue free %	89	95	96			
cM capacity (veh/h)	169	653	1018			
Direction/Lane	EB 1	NB 1	NB 2	SB 1	SB 2	
Volume Total	49	413	745	321	185	
Volume Left	18	40	0	0	0	
Volume Right	31	0	0	0	24	
cSH	317	1018	1700	1700	1700	
Volume to Capacity	0.16	0.04	0.44	0.19	0.11	
Queue Length (ft)	14	3	0	0	0	
Control Delay (s)	18.5	1.2	0.0	0.0	0.0	
Lane LOS	C	A				
Approach Delay (s)	18.5	0.4	0.0	0.0	0.0	
Approach LOS	C					
Intersection Summary						
Average Delay	0.8					
Intersection Capacity Utilization	64.1%					
ICU Level of Service	B					

HCM Signalized Intersection Capacity Analysis 3 John Street & King Street

1/12/2004

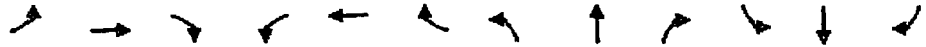


Movement	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations	↕			↕			↕			↕		
Ideal Flow (vphpl)	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900
Total Lost time (s)	4.0			4.0			4.0			4.0		
Lane Util. Factor	1.00			1.00			1.00			1.00		
Flpb ped/bikes	0.96			0.97			1.00			1.00		
Flpb ped/bikes	1.00			0.99			1.00			1.00		
Frt	0.91			0.97			0.99			0.99		
Flt Protected	1.00			0.98			1.00			1.00		
Satd Flow (prot)	1467			1418			1640			1653		
Flt Permitted	0.99			0.88			0.98			0.98		
Satd Flow (perm)	1452			1267			1616			1621		
Volume (vph)	14	4	9	48	53	32	5	99	13	33	428	28
Peak hour factor PHF	0.71	0.71	0.71	0.90	0.90	0.90	0.86	0.86	0.86	0.89	0.89	0.89
Adj Flow (vph)	1	6	13	53	59	36	6	115	15	37	481	31
Lane Group Flow (vph)	0	20	0	0	148	0	0	136	0	0	549	0
Confl. Peds. (#/hr)	27	0	10	10	0	27	3	0	10	10	0	3
Heavy Vehicles (%)	2%	2%	2%	10%	10%	10%	2%	2%	2%	2%	2%	2%
Parking (#/hr)	0	0	10	0	0	10	0	0	10	0	0	10
Turn Type	Perm			Perm			Perm			Perm		
Protected Phases	4			8			2			6		
Permitted Phases	4			8			2			6		
Actuated Green G (s)	11.4			11.4			61.5			61.5		
Effective Green g (s)	11.4			11.4			61.5			61.5		
Actuated g/C Ratio	0.14			0.14			0.76			0.76		
Clearance Time (s)	4.0			4.0			4.0			4.0		
Vehicle Extension (s)	3.0			3.0			3.0			3.0		
Lane Grp Cap (vph)	205			179			1228			1232		
v/s Ratio Prot												
v/s Ratio Perm	0.01			0.12			0.08			0.34		
v/c Ratio	0.10			0.83			0.11			0.45		
Uniform Delay d1	30.3			33.8			2.5			3.5		
Progression Factor	1.00			1.00			1.00			1.00		
Incremental Delay d2	0.2			25.7			0.2			1.2		
Delay (s)	30.5			59.5			2.7			4.7		
Level of Service	C			E			A			A		
Approach Delay (s)	30.5			59.5			2.7			4.7		
Approach LOS	C			E			A			A		
Intersection Summary												
HCM Average Control Delay			14.5			HCM Level of Service			B			
HCM Volume to Capacity ratio			0.51									
Actuated Cycle Length (s)			80.9			Sum of lost time (s)			8.0			
Intersection Capacity Utilization			68.1%			ICU Level of Service			B			
c Critical Lane Group												

c Critical Lane Group

HCM Signalized Intersection Capacity Analysis
3 Warren Street & King Street

1/12/2004



Movement	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations	⬆			⬆			⬆			⬆		
Ideal Flow (vphpl)	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900
Total Lost time (s)	40			40			40			40		
Lane Util. Factor	1.00			1.00			1.00			1.00		
Frpb, ped/bikes	0.81			0.91			0.99			0.99		
Flpb, ped/bikes	0.97			0.89			1.00			0.99		
Frt	0.92			0.96			0.98			0.99		
Flt Protected	0.99			0.98			1.00			0.99		
Satd Flow (prot)	1206			1183			1609			1630		
Flt Permitted	0.95			0.85			0.94			0.94		
Satd Flow (perm)	1154			1024			1518			1537		
Volume (vph)	87	11	29	71	51	53	23	187	39	60	413	44
Peak-hour factor PHF	0.86	0.86	0.86	0.94	0.94	0.94	0.97	0.97	0.97	0.90	0.90	0.90
Adj Flow (vph)	9	13	34	76	54	56	24	193	40	67	459	49
Lane Group Flow (vph)	0	56	0	0	186	0	0	257	0	0	575	0
Confl Peds (#/hr)	124		127	127		124	19		30	30		19
Heavy Vehicles (%)	2%	2%	2%	10%	10%	10%	2%	2%	2%	2%	2%	2%
Parking (#/hr)	0	0	10	0	0	10	0	0	10	0	0	10
Turn Type	Perm			Perm			Perm			Perm		
Protected Phases	4			8			2			6		
Permitted Phases	4			8			2			6		
Actuated Green G (s)	14.6			14.6			51.6			51.6		
Effective Green g (s)	14.6			14.6			51.6			51.6		
Actuated g/C Ratio	0.20			0.20			0.70			0.70		
Clearance Time (s)	40			40			40			40		
Vehicle Extension (s)	30			30			30			30		
Lane Grp Cap (vph)	227			201			1056			1069		
v/s Ratio Prot												
v/s Ratio Perm	0.05			0.18			0.17			0.37		
v/c Ratio	0.25			0.93			0.24			0.54		
Uniform Delay d1	25.2			29.3			4.1			5.5		
Progression Factor	1.00			1.00			1.00			1.00		
Incremental Delay d2	0.6			42.7			0.5			1.9		
Delay (s)	25.7			71.9			4.7			7.4		
Level of Service	C			E			A			A		
Approach Delay (s)	25.7			71.9			4.7			7.4		
Approach LOS	C			E			A			A		
Intersection Summary												
HCM Average Control Delay	18.9			HCM Level of Service			B					
HCM Volume to Capacity ratio	0.62											
Actuated Cycle Length (s)	74.2			Sum of lost time (s)			80					
Intersection Capacity Utilization	74.4%			ICU Level of Service			C					

c Critical Lane Group

HCM Signalized Intersection Capacity Analysis 12 Calhoun Street & King Street

1/12/2004

Movement	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations	←↑→			←↑→			←↑→			←↑→		
Ideal Flow (vphpl)	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900
Total Lost time (s)	40			40						40		
Lane Util Factor	0.95			0.95						0.95		
Frpb ped/bikes	1.00			0.98						0.98		
Flpb ped/bikes	0.99			1.00						0.98		
Frt	0.99			0.97						0.97		
Flt Protected	0.99			1.00						0.99		
Satd Flow (prot)	3436			3333						2988		
Flt Permitted	0.82			0.90						0.99		
Satd Flow (perm)	2823			3014						2988		
Volume (vph)	92	562	69	22	327	99	0	0	0	93	255	97
Peak hour factor PHF	0.87	0.87	0.87	0.90	0.90	0.90	0.92	0.92	0.92	0.91	0.91	0.91
Adj Flow (vph)	106	646	79	24	363	110	0	0	0	102	280	107
Lane Group Flow (vph)	0	831	0	0	497	0	0	0	0	0	489	0
Confl Peds. (#/hr)	40	20	20	20	40	61	64	64	64	64	61	61
Heavy Vehicles (%)	2%	2%	2%	2%	2%	2%	2%	2%	2%	3%	3%	3%
Parking (#/hr)											10	10
Turn Type	Perm			Perm						Perm		
Protected Phases	2			6						4		
Permitted Phases	2			6						4		
Actuated Green G (s)	35.0			35.0						27.0		
Effective Green g (s)	35.0			35.0						27.0		
Actuated g/C Ratio	0.50			0.50						0.39		
Clearance Time (s)	4.0			4.0						4.0		
Lane Grp Cap (vph)	1412			1507						1153		
v/s Ratio Prot	0.29			0.16						0.16		
v/c Ratio	0.59			0.33						0.42		
Uniform Delay d1	12.4			10.5						15.8		
Progression Factor	1.00			1.00						1.00		
Incremental Delay d2	1.8			0.6						1.1		
Delay (s)	14.2			11.1						16.9		
Level of Service	B			B						B		
Approach Delay (s)	14.2			11.1			0.0			16.9		
Approach LOS	B			B			A			B		
Intersection Summary												
HCM Average Control Delay	14.1			HCM Level of Service			B					
HCM Volume to Capacity ratio	0.52											
Cycle Length (s)	70.0			Sum of lost time (s)			8.0					
Intersection Capacity Utilization	67.1%			ICU Level of Service			B					
Critical Lane Group												

HCM Signalized Intersection Capacity Analysis 12 Calhoun Street & King Street

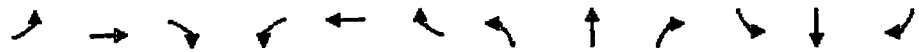
1/12/2004



Movement	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations	↔↔			↔↔						↔↔		
Ideal Flow (vphpl)	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900
Total Lost time (s)	4.0			4.0						4.0		
Lane Util Factor	0.95			0.95						0.95		
Frpb ped/bikes	0.95			0.95						0.97		
Flpb ped/bikes	0.99			1.00						0.96		
Frt	0.96			0.98						0.96		
Flt Protected	0.99			1.00						0.99		
Satd Flow (prot)	3208			3253						2850		
Flt Permitted	0.61			0.79						0.99		
Satd Flow (perm)	1961			2575						2850		
Volume (vph)	123	475	186	87	729	161	0	0	0	142	1265	156
Peak-hour factor PHF	0.95	0.95	0.95	0.84	0.84	0.84	0.92	0.92	0.92	0.91	0.91	0.91
Adj Flow (vph)	129	500	196	104	868	192	0	0	0	156	291	171
Lane Group Flow (vph)	0 825		0	0 1164		0	0 0		0	0 618		0
Confl Peds (#/hr)	129		146	146		129	83		120	120		83
Heavy Vehicles (%)	2%	2%	2%	2%	2%	2%	2%	2%	2%	3%	3%	3%
Parking (#/hr)										10 10		
Turn Type	Perm			Perm						Perm		
Protected Phases	2			6						4		
Permitted Phases	2			6						4		
Actuated Green G (s)	40.0			40.0						22.0		
Effective Green g (s)	40.0			40.0						22.0		
Actuated g/C Ratio	0.57			0.57						0.31		
Clearance Time (s)	4.0			4.0						4.0		
Lane Grp Cap (vph)	1124			1471						896		
v/s Ratio Prot												
v/s Ratio Perm	0.42			0.45						0.22		
v/c Ratio	0.74			0.79						0.69		
Uniform Delay d1	11.1			11.7						21.0		
Progression Factor	1.00			1.00						1.00		
Incremental Delay d2	4.3			4.4						4.3		
Delay (s)	15.4			16.2						25.3		
Level of Service	B			B						C		
Approach Delay (s)	15.4			16.2			0.0			25.3		
Approach LOS	B			B			A			C		
Intersection Summary												
HCM Average Control Delay	18.1			HCM Level of Service			B					
HCM Volume to Capacity ratio	0.76											
Cycle Length (s)	70.0			Sum of lost time (s)			8.0					
Intersection Capacity Utilization	92.6%			ICU Level of Service			E					
c Critical Lane Group												

HCM Unsignalized Intersection Capacity Analysis 6 Hutson Street & King Street

1/9/2004



Movement	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations	↕			↕			↕			↕		
Sign Control	Stop			Stop			Free			Free		
Grade	0%			0%			0%			0%		
Volume (veh/h)	39	6	60	10	2	11	10	95	5	14	490	31
Peak Hour Factor	0.74	0.74	0.74	0.70	0.70	0.70	0.70	0.70	0.70	0.96	0.96	0.96
Hourly flow rate (veh/h)	53	8	81	14	3	16	14	136	7	15	510	32
Pedestrians	6			16			16			38		
Lane Width (ft)	12.0			12.0			12.0			12.0		
Walking Speed (ft/s)	4.0			4.0			4.0			4.0		
Percent Blockage	1			1			1			3		
Right turn flare (veh)												
Median type	None											
Median storage (veh)												
Upstream signal (ft)	770											
pX platoon unblocked	0.89	0.89	0.89	0.89	0.89		0.89					
vC conflicting volume	785	749	549	841	762	193	549			159		
vC1 stage 1 conf vol												
vC2 stage 2 conf vol												
vCu unblocked vol	759	719	494	822	733	193	495			159		
tC single (s)	7.1	6.5	6.2	7.1	6.5	6.2	4.1			4.1		
tC 2 stage (s)												
tE (s)	3.5	4.0	3.3	3.5	4.0	3.3	2.2			2.2		
p0 queue free %	80	97	84	93	99	98	98			99		
cM capacity (veh/h)	262	303	504	203	297	810	950			1396		
Direction Lane	EBL	WBL	NBL	SBL								
Volume Total	142	33	157	557								
Volume Left	53	14	14	15								
Volume Right	81	16	7	32								
cSH	365	330	950	1396								
Volume to Capacity	0.39	0.10	0.02	0.01								
Queue Length (ft)	45	8	1	1								
Control Delay (s)	21.0	17.1	0.9	0.3								
Lane LOS	C	C	A	A								
Approach Delay (s)	21.0	17.1	0.9	0.3								
Approach LOS	C	C										
Intersection Summary												
Average Delay			4.3									
Intersection Capacity Utilization			60.7%									
ICU Level of Service			B									

HCM Unsignalized Intersection Capacity Analysis
6 Vanderhorst Street & King Street

1/9/2004



Movement	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations	⇕			⇕			⇕			⇕		
Sign Control	Stop			Stop			Free			Free		
Grade	0%			0%			0%			0%		
Volume (veh/h)	41	8	76	17	5	23	17	138	8	13	451	76
Peak Hour Factor	0.92	0.92	0.92	0.76	0.76	0.76	0.83	0.83	0.83	0.95	0.95	0.95
Hourly flow rate (veh/h)	45	9	83	22	7	30	20	166	10	14	475	80
Pedestrians	26			20			98			82		
Lane Width (ft)	12.0			12.0			12.0			12.0		
Walking Speed (ft/s)	4.0			4.0			4.0			4.0		
Percent Blockage	2			2			8			7		
Right turn flare (veh)												
Median type	None						None					
Median storage (veh)												
Upstream signal (ft)							770			300		
pX platoon unblocked	0.86	0.86	0.86	0.86	0.86	0.86	0.86					
vC conflicting volume	896	805	639	959	840	273	581			196		
vC1 stage 1 conf vol												
vC2 stage 2 conf vol												
vCu unblocked vol	879	774	582	953	815	273	515			196		
tC single (s)	7.1	6.5	6.2	7.1	6.5	6.2	4.1			4.1		
tC 2 stage (s)												
t (s)	3.5	4.0	3.3	3.5	4.0	3.3	2.2			2.2		
p0 queue free %	76	97	79	84	97	96	98			99		
cM capacity (veh/h)	187	265	398	136	251	701	888			1348		
Direction Lane	EBL	WBL	NBL	SBL								
Volume Total	136	59	196	568								
Volume Left	45	22	20	14								
Volume Right	83	30	10	80								
cSH	284	254	888	1348								
Volume to Capacity	0.48	0.23	0.02	0.01								
Queue Length (ft)	61	22	2	1								
Control Delay (s)	28.8	23.5	1.2	0.3								
Lane LOS	D	C	A	A								
Approach Delay (s)	28.8	23.5	1.2	0.3								
Approach LOS	D	C										
Intersection Summary												
Average Delay	5.9											
Intersection Capacity Utilization	63.9%											
ICU Level of Service	B											

HCM Unsignalized Intersection Capacity Analysis

9 Hutson Street & Meeting Street

1/9/2004



Movement	EBL	EBR	NBL	NBT	SBT	SBR
Lane Configurations	2			2	2	
Sign Control	Stop			Free	Free	
Grade	0%			0%	0%	
Volume (veh/h)	7	72	17	479	751	16
Peak Hour Factor	0.55	0.55	0.88	0.88	0.89	0.89
Hourly flow rate (veh/h)	13	131	19	544	844	18
Pedestrians	2			12	36	
Lane Width (ft)	12.0			12.0	12.0	
Walking Speed (ft/s)	4.0			4.0	4.0	
Percent Blockage	0			1	3	
Right turn flare (veh)						
Median type	None					
Median storage (veh)						
Upstream signal (ft)						
pX platoon unblocked						
vC conflicting volume	1202	445	864			
vC1 stage 1 conf vol						
vC2 stage 2 conf vol						
vCu unblocked vol	1202	445	864			
tC single (s)	6.9	7.0	4.2			
tC 2 stage (s)						
tF (s)	3.5	3.3	2.2			
p0 queue free %	92	76	97			
cM capacity (veh/h)	163	548	761			
Direction/Lane #	EBL	NB	NB/2	SB	SB/2	
Volume Total	144	201	363	563	299	
Volume Left	13	19	0	0	0	
Volume Right	131	0	0	0	18	
cSH	452	761	1700	1700	1700	
Volume to Capacity	0.32	0.03	0.21	0.33	0.18	
Queue Length (ft)	34	2	0	0	0	
Control Delay (s)	16.6	1.2	0.0	0.0	0.0	
Lane LOS	C	A				
Approach Delay (s)	16.6	0.4		0.0		
Approach LOS	C					
Intersection Summary						
Average Delay	1.7					
Intersection Capacity Utilization	41.6%					
ICU Level of Service	A					

HCM Unsignalized Intersection Capacity Analysis
9 Hutson Street & Meeting Street

1/9/2004

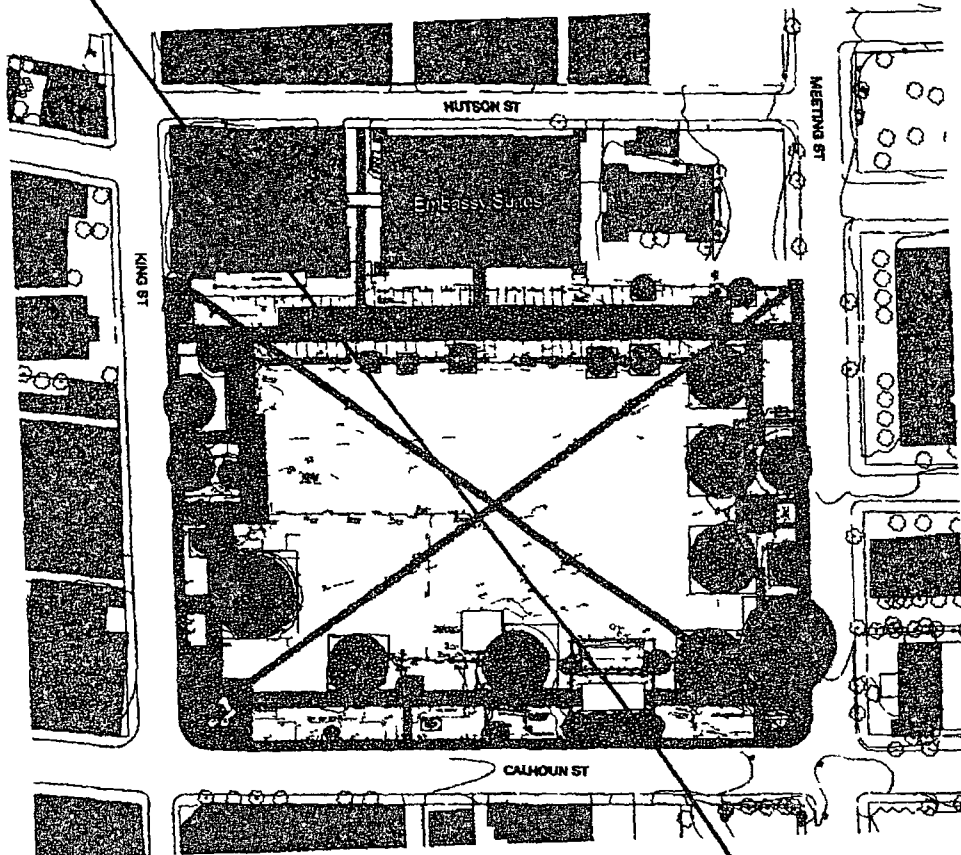


Movement	EBL	EBR	NBL	NBT	SBT	SBR
Lane Configurations	↰	↱	↰	↱	↱	↱
Sign Control	Stop	Stop	Stop	Free	Free	Free
Grade	0%	0%	0%	0%	0%	0%
Volume (veh/h)	15	104	35	974	442	22
Peak Hour Factor	0.71	0.71	0.85	0.85	0.87	0.87
Hourly flow rate (veh/h)	21	146	41	1146	508	25
Pedestrians	13			39	24	
Lane Width (ft)	12.0			12.0	12.0	
Walking Speed (ft/s)	4.0			4.0	4.0	
Percent Blockage	0.1			0.3	0.2	
Right turn flare (veh)						
Median type	None					
Median storage (veh)						
Upstream signal (ft)						
pX platoon unblocked						
vC conflicting volume	1213	319	546			
vC1 stage 1 conf vol						
vC2 stage 2 conf vol						
vCu unblocked vol	1213	319	546			
tC single (s)	6.9	7.0	4.2			
tC 2 stage (s)						
f(s)	3.5	3.3	2.2			
p0 queue free %	87	77	96			
cM capacity (veh/h)	158	640	994			
Direction Lane	EB	NE	NE 2	SE	SE 2	
Volume Total	168	423	764	339	195	
Volume Left	21	41	0	0	0	
Volume Right	146	0	0	0	25	
cSH	462	994	1700	1700	1700	
Volume to Capacity	0.36	0.04	0.45	0.20	0.13	
Queue Length (ft)	41	3	0	0	0	
Control Delay (s)	17.2	1.3	0.0	0.0	0.0	
Lane LOS	C	A				
Approach Delay (s)	17.2	0.5		0.0		
Approach LOS	C					
Intersection Summary						
Average Delay	1.8					
Intersection Capacity Utilization	68.2%					
ICU Level of Service	B					

~~OLD~~

Old Library Site/
Proposed Marion Square Hotel
404 King Street

Special Exception Assessment Report
January 16, 2004



Prepared for	Library Associates, LLC Charleston, SC
Prepared by	Goff-D'Antonio Associates Charleston, SC
Traffic Study by	Day Wilburn Associates Atlanta, GA

January 16, 2004

Old Library Site /
Proposed Marion Square Hotel

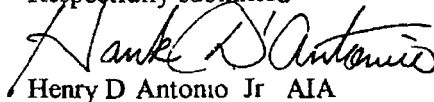
Special Exception for Accommodation Overlay

Dear Sir or Madam

The enclosed document addresses the questions outlined in Section 54-220 of the Zoning Code as related to the Accommodation Overlay. These questions are listed under b. Permitted Uses, Number 1e of the Ordinance. Each item is organized with the question first and the response to the question below it. There are 18 items addressed. Some items, such as questions related to traffic and vehicle trips, are addressed under separate study/cover authored by Day Wilburn Associates, a qualified Traffic Engineering consultant from Atlanta who has conducted a number of studies in Charleston.

It should be noted that this site is already zoned for General Business with an Accommodation Overlay. The site is one of the few remaining sites in downtown Charleston capable of supporting a significant landmark hotel on one of the major urban parks, Marion Square, in the City. This project will bring added vitality to the park and complete the redevelopment of the property adjacent to the park, which was started with the renovation of the Old Citadel Building into a successful Embassy Suites Hotel.

Respectfully submitted



Henry D. Antonio Jr. AIA
Principal

HDA ks1

January 16 2004

**Accommodations Overlay Zone
Old Library Site
Marion Square/King Street**

Assessment Report

1 Number of Existing Housing Units

This site has no existing housing units that will be displaced

2 Effect of Displacement of Housing Units

There is no affect on the communities housing stock The current site is a vacant County library, which has moved to its new location on Calhoun Street

3 Vehicle Trips generated by the facility and traffic circulation pattern serving the facility and efforts made to minimize traffic impacts

See attached Traffic Study

4 Distance of main entrance and parking entrance of facility from a road classified as an arterial or collector road

The proposed hotel is sited at the corner of King Street and Hutson Street The proposed main pedestrian entrance is located closest to the corner of Marion Square Park and King Street The vehicle parking entrance to the parking garage below the building is located approximately 175 feet from the corner of King and Hutson Streets on Hutson Street A vehicular passenger drop-off/pick-up will be located near the King Street pedestrian entrance The pedestrian entrance to the hotel is approximately 160 feet south of the intersection of King and Hutson Streets The hotel entrance is approximately 470 feet to the corner of Calhoun and King Streets intersection Both King Street and Calhoun Street serve as arterial streets with King Street serving as a north/south arterial and Calhoun Street serving as the east/west arterial across the peninsula

Accommodations Overlay Zone

January 16, 2004

Page 2 of 6

- 5 Development pattern and predominant land uses within five hundred feet (500) of the facility

The site is located within the commercial district of Charleston at the southern edge of what is considered the upper King Street commercial district. Surrounding uses include The Embassy Suites Hotel immediately to the east of the site, Marion Square to the south with commercial retail clubs and cafes on the south side of Calhoun. The Francis Marion Hotel is located at Calhoun and King Streets and retail outlets and a City Parking garage located on the west side of King Street within a few hundred feet of the site. St. Mathews Lutheran Church and supporting functions are located adjacent to the parking garage and occupy the site to the corner of King Street and Vanderhorst Street. The northwest corner of King and Vanderhorst Street is a commercial office building with a combination of commercial retail and office buildings located further along the west side of King Street north of Vanderhorst Street. Directly north of the subject site across Hutson Street are additional commercial retail and office uses with retail generally occupying the ground floor and office on the upper floors.

This area represents a district of mixed-use commercial retail, office, hotels and entertainment including various restaurants. The block between King, Hutson, Meeting, and John Streets also includes another parking garage, The Hampton Inn and the Charleston Music Hall auditorium. Further north on the other side of John Street includes the Charleston Visitors Center and the new Children's Museum.

This entire area is attractive and ideal for the location of a new hotel based upon the surrounding land uses.

- 6 Proximity of residential neighborhoods to the facility

This proposed hotel site is not within any residential neighborhood but is between the Wraggborough neighborhood to the east and Radcliffeborough to the west. The Wraggborough neighborhood is on the east side of Meeting Street. The Radcliffeborough neighborhood is west of King

Accommodations Overlay Zone

January 16, 2004

Page 3 of 6

Street with few residences in close proximity to King Street with the majority west of St Phillip Street a block from King Street

- 7 Accessory uses proposed for the facility and their impact on traffic generation and the existence of comparable uses within the service area

The hotel is planned to be a full service hotel and as such will have restaurant(s) and some retail space on the ground floor as well as conference space. The retail and restaurant will cater to both hotel guests and outside customers with the conference space serving primarily hotel guests. All these uses are compatible with surrounding uses and guests staying in other hotels such as The Embassy Suite and Hampton Inn would likely use some of the facilities in this proposed hotel.

Don show
as well,
ABC license w/
church
Foot by bar

Refer to the traffic study regarding the traffic impact

- 8 The demonstrated provision of off-street parking at the rate of two spaces for each three hotel rooms

It is proposed that this new hotel will have a lower level parking garage below grade to accommodate the required number of spaces for the number of hotel rooms provided. The planned parking will be valet parking.

- 9 The presence of industrial uses and uses which use, store or produce toxic or hazardous materials in quantities in excess of those specified by the EPA listing of toxic and hazardous materials within five hundred feet (500') of the facility.

There are no known facilities which produce toxic or hazardous materials within (500') of the proposed building.

- 10 The commitment to environmental sustainability and recycling

The design will incorporate environmental sustainable principles where practical including types of materials used, building orientation, sun shading devices and others as may be appropriate as the building is being designed. Recycling of

Accommodations Overlay Zone

January 16, 2004

Page 4 of 6

paper, plastics, metals etc will be incorporated into the practices of operating the building when it is completed

11 The distance of the facility from major tourist attractions

This proposed hotel is within walking distance to such attractions as

- | | | |
|---|---------------------------|------------------|
| a | The Visitors Center | one block |
| b | The Charleston Museum | one block |
| c | King Street Shopping area | either direction |
| d | The Aquarium | five blocks |
| e | College of Charleston | two blocks |
| f | The Market | six blocks |

12 The distance of the facility from existing or planned transit facilities

The site is located on King Street which is a major transit street with a variety of stops nearby Likewise Meeting Street is within one block and easy access to transit stops north of Calhoun Street Current buses include the downtown area shuttle and countywide buses The Visitors Center one block away is a major hub for DASH and other buses There are also two existing parking garages nearby on King Street and between Hutson and John Streets which add to the available on-street parking available to visitors of the hotel

✓13 The long term provision of on-site or off-site parking for employees who drive vehicles to work

A number of spaces beyond those for the hotel guests will be provided on-site in the proposed parking garage Other employees may park in nearby public parking garages while other employees may be coming to the site via public transportation

*how many spaces
more analysis*

*185 room hotel
off-site type plans
plus carpool use
typically less than
of employees of
 whom — drive*

Accommodations Overlay Zone

January 16 2004

Page 5 of 6

- 14 The location of the proposed facility will contribute to the creation of a diverse mixed-use community

This proposed hotel with a variety of uses planned within will reinforce the already existing commercial and entertainment area developing in the vicinity of Marion Square. It will provide an opportunity for a food service/restaurant use adjacent to Marion Square which will enliven the square throughout the day an evening. It is one of the last sites on Marion Square to provide a vibrant use appropriate to the heart of Charleston a place where both residents and guest can enjoy the hotel and related uses

- 15 The number of rooms in the facility based upon A-1 A-2, or A-3 designations on the zoning map

Our site is not within the A-1 A-2 or A-3 designated districts, which limits the number of hotel rooms. Therefore our site has no limitations of rooms based upon the areas limitations stated above. Our planned number of rooms and/or suites is 185. The underlying restraint will be the size of the site zoning height envelop restrictions and/or any applicable or approved variances. This site is recognized by the owner and the City in general as an appropriate site for a hotel. The current zoning is General Business with an Accommodation Overlay. No rezoning of the site is being requested or necessary. This request is for the approval of the Special Exception for an Accommodation Overlay

Plans
gone
a height
variance

- 16 The provision of shuttle bus service for hotels with 150 rooms or more located beyond the Peninsula area that are not served by DASH

The question/issue is not applicable

- 17 The commitment to make affirmative good faith efforts to see that construction and procurement opportunities are available to DBE s (Disadvantaged Business Enterprise) and WBE s (Women Business Enterprise) as outlined in Section 2-267 (D) (1), (2), and (3) of the Code of the City of Charleston

Accommodations Overlay Zone

January 16 2004

Page 6 of 6

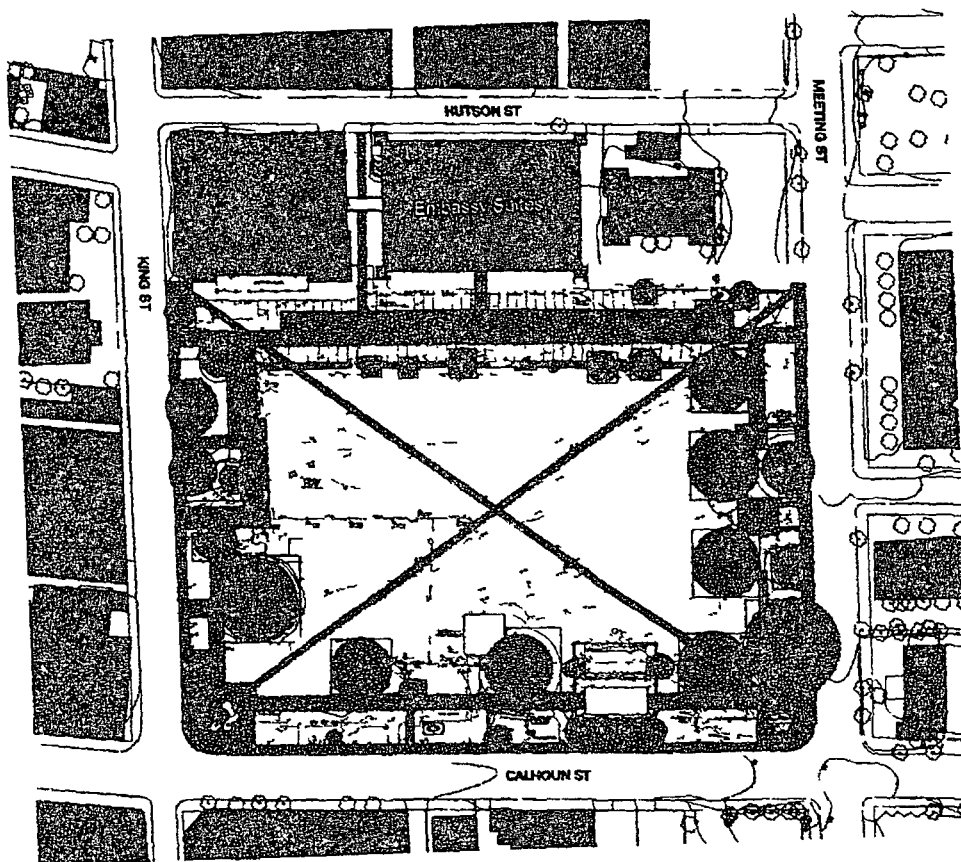
Efforts will be made by the contractor to solicit bids from DBE and WBE companies where possible and available to attempt to meet this provision where applicable

- 18 The commitment to make affirmative good faith efforts to hire personnel representative of the population of the Charleston Community at all employment levels

The owner will make this effort through the relationship with the proposed hotel operator

Old Library Site/
Proposed Marion Square Hotel
404 King Street

Special Exception Assessment Report
January 16, 2004



Prepared for Library Associates, LLC
Charleston, SC

Prepared by Goff-D'Antonio Associates
Charleston, SC

Traffic Study by Day Wilburn Associates
Atlanta, GA

January 16, 2004

Old Library Site /
Proposed Marion Square Hotel

Special Exception for Accommodation Overlay

Dear Sir or Madam

The enclosed document addresses the questions outlined in Section 54-220 of the Zoning Code as related to the Accommodation Overlay. These questions are listed under b. Permitted Uses, Number 1e of the Ordinance. Each item is organized with the question first and the response to the question below it. There are 18 items addressed. Some items, such as questions related to traffic and vehicle trips, are addressed under separate study/cover authored by Day Wilburn Associates, a qualified Traffic Engineering consultant from Atlanta who has conducted a number of studies in Charleston.

It should be noted that this site is already zoned for General Business with an Accommodation Overlay. The site is one of the few remaining sites in downtown Charleston capable of supporting a significant landmark hotel on one of the major urban parks, Marion Square, in the City. This project will bring added vitality to the park and complete the redevelopment of the property adjacent to the park, which was started with the renovation of the Old Citadel Building into a successful Embassy Suites Hotel.

Respectfully submitted,


Henry D. Antonio Jr., AIA
Principal

HDA:ksi

January 16 2004

Revised February 13 2004

**Accommodations Overlay Zone
Old Library Site
Marion Square/King Street**

Assessment Report

1 Number of Existing Housing Units

This site has no existing housing units that will be displaced

2 Effect of Displacement of Housing Units

There is no affect on the communities housing stock The current site is a vacant County library which has moved to its new location on Calhoun Street

3 Vehicle Trips generated by the facility and traffic circulation pattern serving the facility and efforts made to minimize traffic impacts

See attached Traffic Study

4 Distance of main entrance and parking entrance of facility from a road classified as an arterial or collector road

The proposed hotel is sited at the corner of King Street and Hutson Street The proposed main pedestrian entrance is located closest to the corner of Marion Square Park and King Street The vehicle parking entrance to the parking garage below the building is located approximately 175 feet from the corner of King and Hutson Streets on Hutson Street A vehicular passenger drop-off/pick-up will be located near the King Street pedestrian entrance The pedestrian entrance to the hotel is approximately 160 feet south of the intersection of King and Hutson Streets The hotel entrance is approximately 470 feet to the corner of Calhoun and King Streets intersection Both King Street and Calhoun Street serve as arterial streets with King Street serving as a north/south arterial and Calhoun Street serving as the east/west arterial across the peninsula

Accommodations Overlay Zone

January 16 2004

Revised February 13 2004

Page 2 of 6

- 5 Development pattern and predominant land uses within five hundred feet (500) of the facility

The site is located within the commercial district of Charleston at the southern edge of what is considered the upper King Street commercial district. Surrounding uses include The Embassy Suites Hotel immediately to the east of the site. Marion Square to the south with commercial retail clubs and cafes on the south side of Calhoun. The Francis Marion Hotel is located at Calhoun and King Streets and retail outlets and a City Parking garage located on the west side of King Street within a few hundred feet of the site. St. Mathews Lutheran Church and supporting functions are located adjacent to the parking garage and occupy the site to the corner of King Street and Vanderhorst Street. The northwest corner of King and Vanderhorst Street is a commercial office building with a combination of commercial retail, and office buildings located further along the west side of King Street north of Vanderhorst Street. Directly north of the subject site across Hutson Street are additional commercial retail and office uses with retail generally occupying the ground floor and office on the upper floors.

This area represents a district of mixed-use commercial retail, office hotels and entertainment including various restaurants. The block between King, Hutson, Meeting, and John Streets also includes another parking garage, The Hampton Inn and the Charleston Music Hall auditorium. Further north on the other side of John Street includes the Charleston Visitors Center and the new Children's Museum.

This entire area is attractive and ideal for the location of a new hotel based upon the surrounding land uses.

- 6 Proximity of residential neighborhoods to the facility

This proposed hotel site is not within any residential neighborhood but is between the Wraggborough neighborhood to the east and Radcliffeborough to the west. The Wraggborough neighborhood is on the east side of Meeting

Accommodations Overlay Zone

January 16, 2004

Revised February 13, 2004

Page 3 of 6

Street The Radcliffeborough neighborhood is west of King Street with few residences in close proximity to King Street with the majority west of St Phillip Street a block from King Street

- 7 Accessory uses proposed for the facility and their impact on traffic generation and the existence of comparable uses within the service area

The hotel is planned to be a full service hotel and as such will have restaurant(s) and some retail space on the ground floor as well as conference space The retail and restaurant will cater to both hotel guests and outside customers with the conference space serving primarily hotel guests In addition the plan also anticipates a rooftop function that would include a bar and additional meeting/activity space All these uses are compatible with surrounding uses and guests staying in other hotels such as The Embassy Suite and Hampton Inn would likely use some of the facilities in this proposed hotel

Refer to the traffic study regarding the traffic impact

- 8 The demonstrated provision of off-street parking at the rate of two spaces for each three hotel rooms

It is proposed that this new hotel will have a lower level parking garage below grade to accommodate the required number of spaces for the number of hotel rooms provided The planned parking will be valet parking

- 9 The presence of industrial uses and uses which use store or produce toxic or hazardous materials in quantities in excess of those specified by the EPA listing of toxic and hazardous materials within five hundred feet (500') of the facility

There are no known facilities which produce toxic or hazardous materials within (500') of the proposed building

Accommodations Overlay Zone

January 16, 2004

Revised February 13 2004

Page 4 of 6

10 The commitment to environmental sustainability and recycling

The design will incorporate environmental sustainable principal where practical including types of materials used building orientation, sun shading devices and others as may be appropriate as the building is being designed Recycling of paper plastics metals, etc will be incorporated in the practices of operating the building when it is completed

11 The distance of the facility from major tourist attractions

This proposed hotel is within walking distance to such attractions as

- | | | |
|---|---------------------------|------------------|
| a | The Visitors Center | one block |
| b | The Charleston Museum | one block |
| c | King Street Shopping area | either direction |
| d | The Aquarium | five blocks |
| e | College of Charleston | two blocks |
| f | The Market | six blocks |

12 The distance of the facility from existing or planned transit facilities

The site is located on King Street which is a major transit street with a variety of stops nearby Likewise, Meeting Street is within one block and easy access to transit stops north of Calhoun Street Current buses include the downtown area shuttle and countywide buses The Visitors Center one block away is a major hub for DASH and other buses There are also two existing parking garages nearby on King Street and between Hutson and John Streets which add to the available on-street parking available to visitors of the hotel

13 The long term provision of on-site or off-site parking for employees who drive vehicles to work

Though we obviously do not have staff for this hotel currently we anticipate many of the housekeeping and maintenance staff will use public transportation via taxi or bus We anticipate

Accommodations Overlay Zone

January 16, 2004

Revised February 13 2004

Page 5 of 6

hotel management and some other staff will park in our garage (9 spaces dedicated for staff) and use nearby garages (There are over 1300 spaces in nearby garages)

The staff on the largest shift based upon comparables such as the Embassy Suite Hotel is anticipated to be approximately 40. The number of staff who may drive is 18. The additional spaces for staff parking over those spaces provided on our site will be accommodated in the nearby parking garages. The Camden Exchange garage and the Visitors Center garage have monthly lease spaces available totaling over 130-140 spaces. The Marion Square garage has some daily spaces available. We anticipate we need 9 off-site spaces. Republic Parking, the operator for garages has indicated they can accommodate our needs.

- 14 The location of the proposed facility will contribute to the creation of a diverse mixed-use community.

This proposed hotel with a variety of uses planned within will reinforce the already existing commercial and entertainment area developing in the vicinity of Marion Square. It will provide an opportunity for a food service/restaurant use adjacent to Marion Square which will enliven the square throughout the day and evening. It is one of the last sites on Marion Square to provide a vibrant use appropriate to the heart of Charleston a place where both residents and guest can enjoy the hotel and related uses.

- 15 The number of rooms in the facility based upon A-1 A-2 or A-3 designations on the zoning map.

Our site is not within the A-1 A-2 or A-3 designated districts, which limits the number of hotel rooms. Therefore our site has no limitations of rooms based upon the areas limitations stated above. Our planned number of rooms and/or suites is 185. The underlying restraint will be the size of the site, zoning height envelop restrictions and/or any applicable or approved variances. The concept plan submitted would require height variances to accommodate the uses proposed based upon part of

Accommodations Overlay Zone

January 16, 2004

Revised February 13 2004

Page 6 of 6

the site zoned for a 3X height and part in the 50/25 height district. The variance would relate to proposed roof top functions, parapets and mechanical equipment systems. These issues would be resolved at future BAR and BZA hearings. This site is recognized by the owner and the City in general as an appropriate site for a hotel. The current zoning is General Business with an Accommodation Overlay. No rezoning of the site is being requested or necessary. This request is for the approval of the Special Exception for an Accommodation Overlay.

- 16 The provision of shuttle bus service for hotels with 150 rooms or more located beyond the Peninsula area that are not served by DASH.

The question/issue is not applicable.

- 17 The commitment to make affirmative good faith efforts to see that construction and procurement opportunities are available to DBE's (Disadvantaged Business Enterprise) and WBE's (Women Business Enterprise) as outlined in Section 2-267 (D) (1), (2) and (3) of the Code of the City of Charleston.

Efforts will be made by the contractor to solicit bids from DBE and WBE companies where possible and available to attempt to meet this provision where applicable.

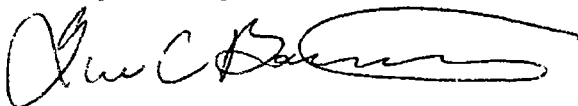
- 18 The commitment to make affirmative good faith efforts to hire personnel representative of the population of the Charleston Community at all employment levels.

The owner will make this effort through the relationship with the proposed hotel operator.

COPY
404 King Street

May 30, 2006

I hereby certify the copy of the Board of Zoning Appeals—Zoning file for 404 King Street (TMS# 460-16-04-009) to be a duplicate of the original document located in the Department of Design, Development and Preservation, Zoning Office at 75 Calhoun Street, Third Floor



Lee C Batchelder
Zoning Administrator

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

The foregoing instrument was acknowledged before me this 16 day of June 2006,
by Lee C Batchelder, Zoning Administrator, Department of Design, Development and
Preservation, Zoning Office



Notary Public

My Commission Expires

My Commission Expires
July 25, 2015

certltr / 2



The City of Charleston Sign Permit Application

To Be Completed by Applicant

Please Type or Print - Use reverse side for extra space

Location (Address) of Sign(s) 404 King St, Charleston, SC (Old Public Library)

Business Name at Sign Address CSO Haunted House

Name of Applicant Fred McDan Daytime Phone 577-2909

Sign Company Builder / Installer Fred McDan / Nigel Bonkers / CSO

Address 14 George St City Charleston State SC Zip 29401

Existing Conditions Attach a photograph of existing signs at business location if any and indicate the type of sign (see back) height width size of each sign face and original cost (including cost of installation) for each sign [If there is currently no sign(s) enter NONE do not leave this section blank]

Facade will cover existing building facade & signage

Number of driveways to lot _____ Distance separating driveways _____

Total square footage of heated public areas of building used by this business _____

Proposed Signs Attach photograph or drawing of each proposed sign and a site plan showing the location of each proposed sign relative to property lines or rights of way (R/W) [Note include color samples and indicate materials on drawings]

Also indicate the following for each sign Temporary Sept 18 - 11/15/00

1 Type of sign [see reverse side] Facade Sign
Height of sign _____ Number of sign faces 1 Cost \$ _____
Size of each sign face (in square feet) _____ Distance from R/W _____

2 Type of Sign _____
Height of sign _____ Number of sign faces _____ Cost \$ _____
Size of each sign face (in square feet) _____ Distance from R/W _____

For facade signs indicate the size of the facade (H = height x W = width) on which sign will be placed
H 15 x W 40 = _____ sf x 15 = _____ sf Allowable Signage

Window signs indicate the window size (height x width) of each window that will have signage plus total area of all windows on the front of the building Note that only the portion of the window area associated with the business can be computed for the purpose of establishing allowable window signage Attach drawing of the front building facade indicating window dimensions and total window area

Total Window area _____ sf x 10 = Allowable Window Sign Area _____

Illumination ☐ None ☒ Temporary ☐ Shielded Light ☐ Internal ☐ Reflective Lettering

I hereby acknowledge by my signature below that the foregoing application and all attached documentation is complete and accurate

Signature of Applicant Fred McDan Date Sept 18, 2000

For Planning Department Use Only

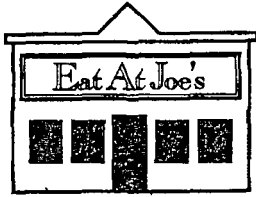
9-18-00
Board of Architectural Review Julia C Bennett ☒ Approved ☒ With conditions (see back)
or #5A-00-1303 Duplication of last year's signage
Commercial Corridor Design Review ☐ Approved ☐ With conditions (see back)

Zoning CSO ☒ Approved ☐ Denied

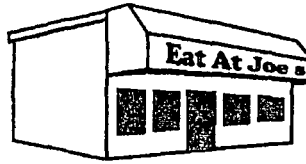
Receipt # N/A Date _____ Processing Fee Paid \$ Non Profit

Note Approval of this document does not constitute right of encroachment Owner is required to gain approval from Engineering Division Department of Public Service prior to placement of any sign within the public right of way This approved application must be submitted to the Business License Division to update city license and to the Building Inspection Division for a Building Permit which must be posted at the job site during installation
Distribution original - zoning file 1 copy BAR / CCDB (if applicable) 1 copy Business License 2 copies - Building Inspections (1 copy for sign company with permit)

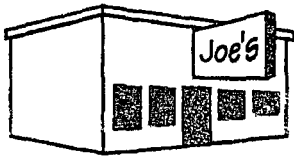
Most Common Signs Defined In the Zoning Ordinance



Facade Sign



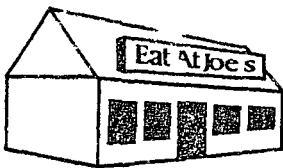
Canopy Facade Sign



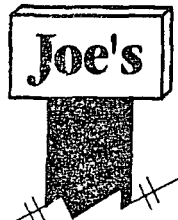
Right angle Facade sign



Sandwich Board



Roof Sign Below Peak



Freestanding Monument Sign



Freestanding Pole sign

for additional information

Please see attached documentation for further information.

August 30, 1999 ⁹⁻¹⁸⁻²⁰⁰⁰

Fred MaDan
Charleston Symphony Orchestra Haunted House
14 George Street
Charleston, SC 29401

Lee Batchelder, Zoning Administrator
City of Charleston
75 Calhoun Street
Charleston SC 29401

RE CSO Haunted House

For the past ^{five} ~~four~~ Halloween Seasons a Haunted House has been staged at a private residence located at 93 Rutledge Avenue ^{at 404 King Street} for the benefit of the Charleston Symphony Orchestra. Gross proceeds in excess of \$^{25,000.00} ~~25,000.00~~ were generated for the Symphony.

For Halloween ²⁰⁰⁰ ~~1999~~ a leasehold through November 15 ²⁰⁰⁰ ~~1999~~ for the vacant public library building at 404 King Street has been secured from Library Associates, LLC. The CSO, Fred MaDan and Nigel Bowers request zoning permission to stage the ^{6th} ~~5th~~ Annual CSO Haunted House at this site.

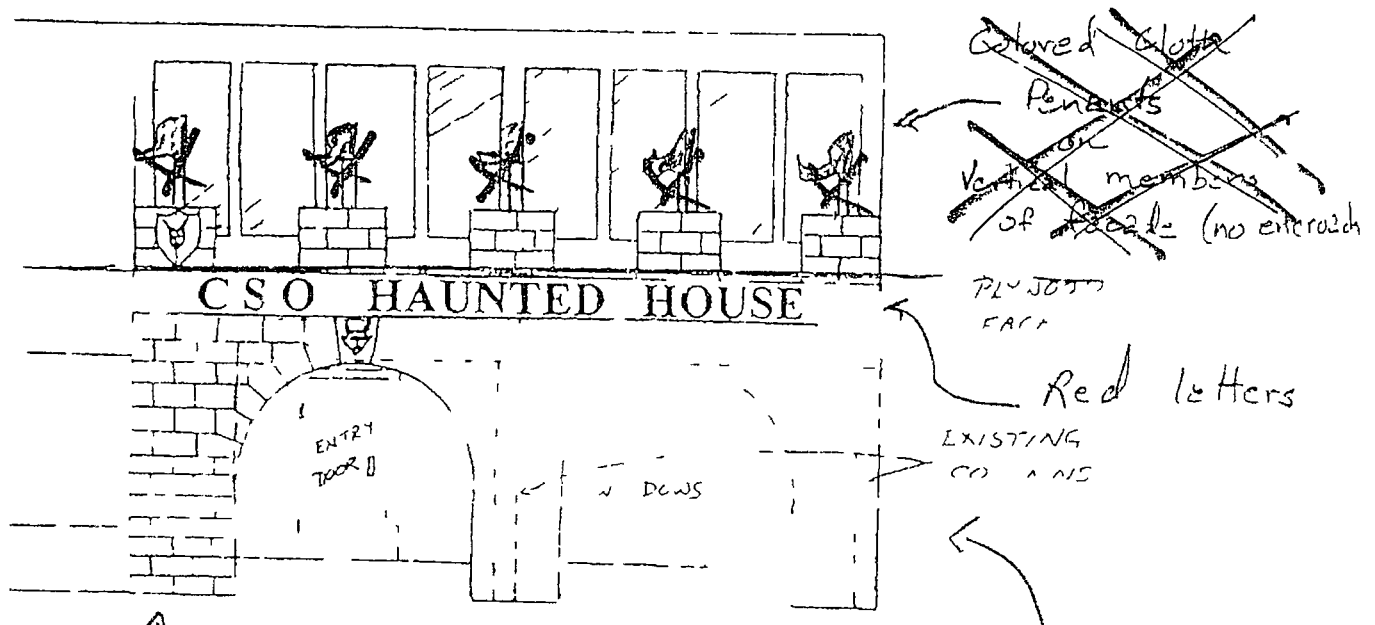
Approximately 4000 square feet will be utilized on each floor toward the King Street side of the building. Egress will be through the existing doorways. Parking will be facilitated through ~~the lot adjacent to the building~~ spaces on the streets and the surrounding garages. Temporary façade signage will be erected September 15 and will remain until November 15, 1999. Please reference the sign permit application for additional details.

The House will operate the entire month of October. Hours will be from 7pm to 12am each night and from 1pm to 5pm on Saturday and Sunday afternoons. No alcoholic beverages will be sold on the premises and no alcoholic beverages will be allowed on the premises during public operating hours. At least one off-duty policeman and/or fireman will be present during evening hours. There will be live radio broadcasts promoting the House from local radio stations during some hours of operation.

Our goal is to stage the premiere haunted attraction for the Charleston area that will provide safe family fun and at the same time help support the Charleston Symphony Orchestra.

Thank you for your consideration.

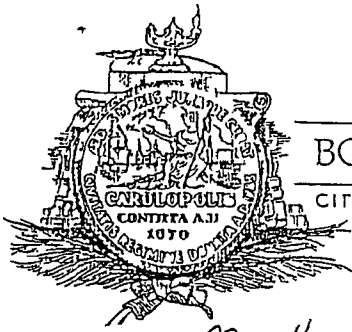




↑
 Faux
 Stone Block
 grey, black/white
 resemble castle exterior

KING ST FACADE
 OVER
 EXISTING ENTRY

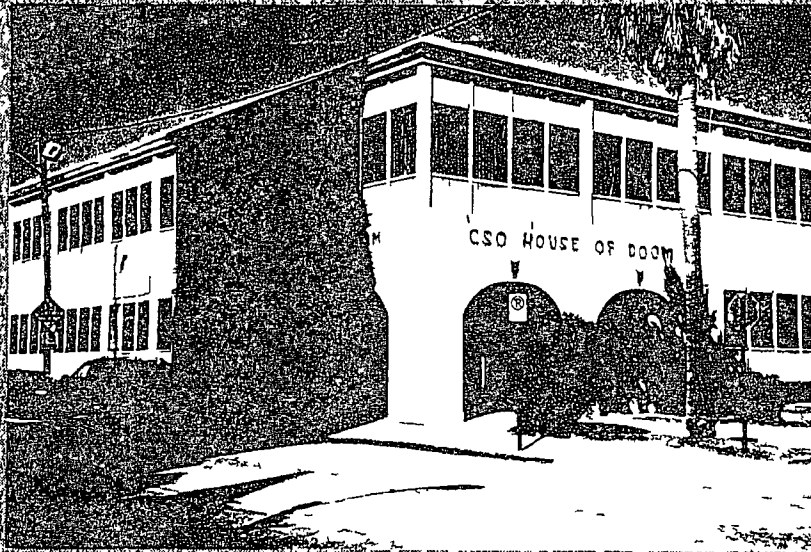
Matching Floor
 Facing Floor
 Floor



PHOTOGRAPHIC INFORMATION
BOARD OF ARCHITECTURAL REVIEW

CITY OF CHARLESTON

Applicant CSO Haunted House Date 9-18-00
Street Address 404 King St Tax Map Number 460-16-04-009





Application for Variance Special Exception or Reconsideration
to the Board of Zoning Appeals – Zoning (Form 1)

Page 1 of 2

City of Charleston

Instructions – Applicants must complete and submit this form along with the required information and fee to the Zoning Division office at 75 Calhoun Street. Applications are due by 3:00 P.M. on the deadline date. A sign will be posted on the property and a public hearing will be conducted by the Board of Zoning Appeals – Zoning before the Board makes its decision. Each scheduled meeting of the Board is limited to 25 new applications. Additional applications, even if submitted prior to the deadline, will be placed on the agenda of the next scheduled meeting. There is a five (5) business day appeal period following the date of Board action. No permits may be issued until this appeal period has expired. An appeal to the Board stays all further action on the application.

THE APPLICANT HEREBY APPEALS

- ☒ For a Variance and/or Special Exception as indicated on page 2 of this application
☐ For reconsideration of a decision of the Board or action of a zoning official as stated on attached Form 2

MEETING DATE REQUESTED January 2 2007

Property Address 404 King Street TMS # 460-16-04-009

Property Owner Library Associates, LLC Daytime Phone 722-8169

Applicant Regan and Cantwell, LLC Daytime Phone 762-8282

Applicant's Mailing Address 105 Wappoo Creek Drive, Suite 1-A
Charleston, SC 29412

Relationship of applicant to owner (same representative prospective buyer other) Attorney

Zoning of property GB-A

Information required with application (check information submitted)

- ☒ Scaled plans or plats including elevations if applicable showing the variance(s) being requested (3 copies)
☐ For density variances scaled floor plans with rooms labeled and the total floor area of each dwelling unit noted (3 copies)
☐ Check or cash (make checks payable to the City of Charleston)

Optional information which will be helpful to the Board

- ☒ Photographs
☐ Letters or petitions from neighbors or organizations directly affected by your request

I certify that the information on this application and any attachments is correct, that the proposed improvement(s) comply with private neighborhood covenants if there are any and that I am the owner of the subject property or the authorized representative of the owner. I authorize the subject property to be posted with a notice of the hearing before the Board and inspected.

Applicant Frederic J. Cantwell Date 12/4/06

For office use only		
Date application received <u>12/4/06</u>	Fee \$ <u>400.00</u>	Time application received <u>1:10</u>
Staffperson <u>[Signature]</u>		Receipt # _____

Dept. of Design Development and Preservation 75 Calhoun Street Third Floor Charleston South Carolina 29401
(843) 724-3781 FAX (843) 724-3772 www.ci.charleston.sc.us

APPLICANTS FOR VARIANCES MUST COMPLETE THE FOLLOWING

Applicant hereby appeals to the Board for a variance from the strict application of the Zoning Ordinance to the property described on this application so that a zoning permit may be issued to allow use of the property in a manner shown on the attached site plan and described as follows

A height variance is requested for a 185-room, full service hotel with retail along King Street and Hutson Street, a restaurant overlooking Marion Square, 5,500 sq ft conference space and a roof terrace

Applicant must explain how strict application of the ordinance will result in an unnecessary hardship and how the standards for a variance set by the Zoning Ordinance are met by answering the following questions

- a What are the extraordinary and exceptional conditions pertaining to the particular piece of property See attached
- b Explain why these conditions do not generally apply to other property in the vicinity
See attached
- c Explain how because of these conditions the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property
See attached
- d Explain why authorization of the variance will not be of substantial detriment to the adjacent property or to the public good and the character of the district will not be harmed by the granting of the variance See attached

Signature of applicant Francis J Cantwell Date 12/4/06

APPLICANTS FOR SPECIAL EXCEPTIONS MUST COMPLETE THE FOLLOWING

- 1 Applicant hereby appeals to the Board for a special exception to use the property identified on this application as follows: _____
- 2 Applicant will meet the special exception requirements listed in Section 54-_____ of the Zoning Ordinance in the following manner

- 3 The following documents are submitted in support of this application

Signature of applicant _____ Date _____

Dept. of Design Development and Preservation 75 Calhoun Street Third Floor Charleston South Carolina 29401
(843) 724-3781 FAX (843) 724-3772 www.ci.charleston.sc.us

The Proposal The subject property is the site of the old Charleston County Library, at the southeast corner of King and Hutson Streets, facing Marion Square. The Applicant intends to construct a 185 room full service hotel, with retail space along King and Hutson Streets. There are two height districts applicable to the subject property: Height District 3X and Height District 55/30. A variance is being requested to allow a portion of the height otherwise allowed in the 3X district portion of the site to be shifted back from King Street and into the portion of the site subject to the 55/30 height district. The requested variance will not result in a larger building being constructed. In fact, the building contemplated under the variance will be smaller in volume than is allowed under the combined height districts. The height, scale, and mass of the proposed building have received conceptual approval from the Board Architectural Review, which includes shifting the height as contemplated by this variance request.

Applicant must explain how strict application of the ordinance will result in unnecessary hardship, and how the standards for a variance set by the Zoning Ordinance are met by answering the following questions:

- a. **What are the extraordinary and exceptional conditions pertaining to the particularly piece of property?**

The subject property is exceptional and unique by virtue of its location. It has prominence on both King Street and Marion Square and is bordered on three sides by historically or architecturally important spaces or structures. To the west are the Aymar Building and St. Matthews German Lutheran Church, to the south is Marion Square, and to the east is the old Citadel Building. Whatever is

constructed on the subject property will require a scale that respects each of these buildings and spaces. And, as every elevation of the building constructed on the subject property will be visible, the shape of the building is of more paramount concern than would be on other properties where typically only one or two elevations are visible to the public.

The subject property is subject to two height districts, Height District 3X and Height District 55/30. The 3X district encompasses the King Street elevation. A strict application of these height districts to the subject property results in a building having a peculiar L-shaped envelope with substantial massing on King Street.

b Explain why these conditions do not generally apply to other property in the vicinity

There is no other vacant property in the vicinity which, when improved, will result in a building with four visible elevations. There is no other property in the vicinity split by height districts where the application of those districts results in a top heavy building with massing concentrated on the street. Other properties with two height districts typically accommodate massing to the interior of the site, which allows for a building to be designed with height stepped back from the street, reducing the visual scale. This result is not possible with the strict application of the height districts to the subject property.

c. Explain how, because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property

The applicant has been granted a special exception to construct a 185 room, full service hotel on the subject property. Being located in the Old and Historic District, construction on the site must satisfy design criteria specified by the Board of Architectural Review. The Board of Architectural Review has given conceptual approval to the height, scale and mass of the project, which approval contemplates shifting some height from the 3X District into a portion of the 55/30 District. Absent a variance, the use of the subject property in accordance with these granted approvals will be unreasonably restricted in that the scale of the project resulting from a strict application of the height districts will not meet the design criteria expected by the Board of Architectural Review, thus compromising the ability of the applicant to effectively utilize its property to construct its project, as approved.

d. Explain why authorization of the variance will not be of substantial detriment to the adjacent property or the public good, and the character of the district will not be harmed by the granting of the variance

The variance will not be of substantial detriment to adjacent property. The design of the project conceptually approved by the Board of Architectural Review contemplates the height of the building being stepped back from all sides. This concept avoids substantial massing along King Street, in the face of the Aamar Building and St. Matthews Church, and results in a building height more typical of the scale of the buildings fronting on King Street. At the same time, the stepped design is similarly respectful to its neighbor to the east, the old

Citadel Building The variance allows for the construction of a building that is deferential to all it neighbors

The variance will not be of substantial detriment to the public good The subject property, as currently zoned, could accommodate a structure larger than that being proposed Thus the variance will not affect the overall size of the building The addition of a publicly accessible hotel, with amenities, at this location will enhance the ability of the public to more fully enjoy Marion Square by providing grade level dining opportunities and access to a roof top pavilion affording panoramic views of the Square and the peninsula The addition of retail space along King and Hutson Streets furthers the public good by bringing life to the streetscape and improving security on the block, thus contributing to the revitalization of King Street, north of Calhoun

The character of the district will not be harmed by the granting of the variance The subject property is one of the most important locations on the peninsula It demands a significant, signature structure The variance will accommodate a superior massing for the site that is sensitive to its environs by moving the taller massing to the interior of the site/building, consistent with the overall character and scale of the district

Law Offices
Regan and Cantwell LLC
William B. Regan
Frances I. Cantwell

December 4, 2006

105 wappoo creek drive

suite 1-a

charleston sc

29412

Via Hand Delivery

City of Charleston
Division of Design, Development and Preservation
75 Calhoun Street, 3rd Fl
Charleston, South Carolina 29401

tel 843-762 8282

fax 843 762-8284

Re 404 King Street

Dear Sir

In regard to the above, enclosed please find an application for a height variance to allow for the construction of a 185-room full service hotel, with retail space along King and Hutson Streets. Also enclosed is the filing fee.

I am requesting that this matter be placed on the agenda for the Board of Zoning Appeals – Zoning agenda of January 2, 2007.

Please advise if any further information is needed.

With kind regards, I am,

Yours truly,



Frances I. Cantwell

FIC/tm

Enclosures

cc Library Associates, LLC
W. Foster Gaillard, Esq
Golf-D'Antonio Associates

e-mail billregan@bellsouth.net

fcantwell@bellsouth.net

tmonteiro@bellsouth.net



Board of Zoning Appeals – Zoning
Results

City of Charleston

Page 1 of 1

PROPERTY LOCATION TMS NUMBER(S) AND DESCRIPTION OF REQUEST(S)

404 KING STREET (RADCLIFFEBOROUGH/GARDEN DISTRICT) (TMS# 460 16-04-009)

Request variance from Section 54-306 to allow construction of a hotel with a maximum building height of 105 feet in the 55/30 height district.

Zoned GB A.

Height District 3X 55/30

Order on Special Exception Request

The Board of Zoning Appeals Zoning held a public hearing to consider the above appeal for a special exception which may be permitted by the Board pursuant to the Zoning Ordinance for the property described above. After consideration of the evidence and arguments presented, the Board makes the following findings of fact and conclusions

☐ DENIED The Board concludes that the standards in the Section(s) of the Zoning Ordinance listed above which are applicable to the requested special exception(s) have not been met and therefore orders that the special exception(s) be denied

☐ APPROVED The Board concludes that the standards in the Section(s) of the Zoning Ordinance listed above, which are applicable to the requested special exception(s) have been met and therefore order that the special exception(s) be granted, subject to the following conditions, if any:

Date issued _____ Chairman _____

Order on Variance Request

The Board of Zoning Appeals-Zoning held a public hearing to consider an appeal for a variance from the strict application of the Zoning Ordinance for the property described above. After consideration of the evidence and arguments presented, the Board makes the following findings of facts and conclusions.

☐ DENIED The Board concludes that the requirements for granting a variance have not been met and, therefore orders that the variance be denied.

☒ APPROVED The Board concludes that:

25 There are extraordinary and exceptional conditions pertaining to the particular piece of property

26 These conditions do not generally apply to other property in the vicinity

27 Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property and

28 Authorization of the variance will not be of substantial detriment to adjacent property or to the public good and the character of the district will not be harmed by the granting of the variance.

THE BOARD THEREFORE finds that the applicant has an unnecessary hardship and orders that the variance be granted, subject to the following conditions if any:

Date issued 1/2/07 Chairman [Signature]

Approvals of the Board shall remain valid for two (2) years from the approval date, unless extended in accordance with the provisions of Section 54-962. Applicants may not apply for the same request that has been denied by the Board until a period of six (6) months has lapsed.
8/06



Application for Variance Special Exception or Reconsideration
to the Board of Zoning Appeals - Zoning (Form 1)

Page 1 of 2

City of Charleston

Instructions - Applicants must complete and submit this form along with the required information and fee to the Zoning Division office at 75 Calhoun Street. Applications are due by 12 Noon on the deadline date. A sign will be posted on the property and a public hearing will be conducted by the Board of Zoning Appeals - Zoning before the Board makes its decision. Each scheduled meeting of the Board is limited to 25 new applications. Additional applications even if submitted prior to the deadline will be placed on the agenda of the next scheduled meeting. There is a five (5) business day appeal period following the date of Board action. No permits may be issued until this appeal period has expired. An appeal to the Board stays all further action on the application.

THE APPLICANT HEREBY APPEALS

- ☒ For a Variance and/or Special Exception as indicated on page 2 of this application.
☒ For reconsideration of a decision of the Board or action of a zoning official as stated on attached Form 2.

MEETING DATE REQUESTED 2-20-07
 Property Address 404 King St TMS # 460 16 04 009
 Property Owner Library Associates, LLC Daytime Phone 722-8167
 Applicant Historic Charleston Foundation Daytime Phone 720 1186
 Applicant's Mailing Address P.O. Box 1120
Char, SC 29402 E mail Address lwhughes@historicharleston.org
 Relationship of applicant to owner (same representative, prospective buyer other) other
 Zoning of property GB A

Information required with application (check information submitted)

- ☐ Scaled plans or plats including elevations if applicable, showing the variance(s) being requested (3 sets)
☐ For density variances scaled floor plans with rooms labeled and the total floor area of each dwelling unit noted (3 sets)
☐ Check or cash (make checks payable to the City of Charleston)

Optional information which will be helpful to the Board

- ☐ Photographs
☐ Letters or petitions from neighbors or organizations directly affected by your request

I certify that the information on this application and any attachments is correct, that the proposed improvement(s) comply with private neighborhood covenants if there are any and that I am the owner of the subject property or the authorized representative of the owner. I authorize the subject property to be posted with a notice of the hearing before the Board, and inspected.

Applicant [Signature] Date 1-9-07

For office use only	Date application received <u>1/9/07</u>	Fee \$ <u>150.00</u>	Time application received <u>5:00</u>
Staffperson <u>[Signature]</u>			Receipt # <u>6728</u>

Department of Planning Preservation & Economic Innovation 75 Calhoun Street, Third Floor Charleston, South Carolina 29401
 (843) 724-3781 FAX (843) 724-3772 www.charlestoncity.org

Board of Zoning Appeals - Zoning
(Form 2)

Page 1 of 2

City of Charleston

Applicants appealing for reconsideration of a Board decision or decision of the zoning administrator must submit the following information with Form 1.

In the case of an appeal for reconsideration of a Board decision applicant shall state below the grounds upon which it is considered that the Board misapprehended or misconceived the question or questions involved or the ground or grounds upon which it is considered that the Board has erred in its finding or disposition of the appeal application or matter

See attachment

In the case of an appeal for reconsideration of a decision of the zoning administrator applicant shall state below the interpretation(s) of the Zoning Ordinance being appealed how the applicant is aggrieved by the interpretation(s) and what the applicant contends is the correct interpretation of the Zoning Ordinance

Applicants Signature

Date

1/9/07

For office use only

Date application received

1/9/07

Time application received

5:00

Staffperson

PA

STAFF REPORT

To Be Supplemented if Located

STAFF REPORT

To Be Supplemented if Located

t



147 KING STREET

POST OFFICE BOX 521 • CHARLESTON SOUTH CAROLINA 29402

**POSITION STATEMENT
BOARD OF ZONING APPEALS - ZONING
January 2, 2007**

404 King Street

TMS No 460-16-04-009

The Preservation Society of Charleston appreciates the opportunity to speak before the Board of Zoning Appeals - Zoning concerning 404 King Street. The Society's planning and zoning committee has reviewed this request for a variance to allow construction of a hotel with a maximum building height of 105 ft in the 55/30 foot height district. The Society represents over 1,800 residents of Charleston and the Low Country who are concerned about the future of Charleston's historic district.

The Society is opposed to this application. We believe that the applicant has failed to meet the variance test.

The property is not exceptional and unique. It was originally a corner lot at the juncture of King and Tobacco Streets. In addition, there are numerous examples of split height districts along King Street. The district requires a 55/30 foot maximum height along most of King Street and a 100 ft setback before the 80/30 foot height is allowed in the interior of the lots. In fact, 404 King Street has the most generous height allowance the 3X district along King Street, one of only a few properties with this benefit on King Street. Also, as a commercial venture, the property's southern facade facing the park is an amenity, allowing the hotel to capitalize on the open vista of Marion Square.

The applicant can certainly make reasonable use of the property within the 55/30 height district. Most buildings along King and Meeting Streets are within this height and have not suffered any disadvantage. The Board of Architectural Review has not reviewed the design before you tonight. The BAR did not request a building of this height; it was presented with such a building by the applicant. The BAR would certainly approve a smaller building as well.

As to the public good, that interest would be better served by a structure that is respectful of the historic character of the district. These amenities can be provided in a smaller, more compatible structure. Finally, we believe that approving this variance would certainly be detrimental to the historic character of the district. The adjacent historic 3 and 4 story structures would be overwhelmed by a 105 ft structure.

We would ask the Board to deny this request at 404 King Street. Thank you for considering our position in this matter.
Contact

Robert Gurley
Assistant Director



(843) 722 4630

FOUNDED 1920

FAX (843) 723 4381

WWW.PRESERVATIONSOCIETY.ORG



Non-support
letter

POSITION STATEMENT

To Members of the Board of Zoning Appeals
Date January 2 2007
Re Agenda Item #7 -404 King Street

Historic Charleston Foundation has reviewed this application for a height variance for the proposed hotel and is opposed to the request

For the record we have never been opposed to the proposed use of this site. We agree that a new lively use for this area would be a great contribution to both upper King Street and Marion Square. We have however been consistently opposed to the proposed height and I would like to go through the four hardship findings for the variance test and explain how this application does not adequately meet those findings

a ***There are extraordinary and exceptional conditions pertaining to the particular piece of property***

There are not extraordinary and exceptional conditions pertaining to this piece of property. Most parcels downtown are bordered on almost **all** sides by historically significant spaces or structures so this property is no different from the majority of properties in the historic district. Also many of the parcels between King and Meeting north of Calhoun Street are split between two height districts so this is really not an extraordinary condition either. The fact that a strict application of the existing height districts could potentially result in an awkwardly massed building is not a relevant finding and is not germane to this Board.

b ***These conditions do not generally apply to other property in the vicinity***

First this parcel is not vacant as the applicant asserts. Moreover the demolition approval for the hotel is tied to the approval of the replacement structure so that is not an accurate description. It is true that most of the parcels split by two height districts are divided in such a way that the higher height limit is zoned towards the middle of the block and not on either King or Meeting streets. However I would like to reiterate that the massing and architectural design of the proposed building is not an appropriate argument for a variance request.

The height districts for this area were rezoned by the City in 2004 and if they had seen this split height district configuration as a hardship then it should have been addressed **then** rather than maintaining and creating a hardship for a project that was known to be in its early planning phase

c ***Because of these conditions the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property***

The applicant argues that if they are not granted a variance for height then their project will not meet the 'design criteria' of the BAR. This is false. Different massing or design schemes were not presented to the BAR because the applicant wanted the BAR to feel as if there was **no question** that they would receive their height variance. This approach does not seem appropriate for a project of this magnitude. For some unknown reason this project was presented to the BAR before getting its height variance from this Board yet the building presented to the BAR was presented as if it had **already** received BZA approval. This seems backward and a bit disingenuous. Having worked at the BAR I know that projects are not reviewed by the BAR **until** they meet all aspects of the zoning ordinance. We honestly don't understand how the BAR could review and conceptually approve a project that does not meet zoning requirements. I could practically guarantee that the BAR would indeed be able to approve a building within the allowable zoning envelope that exists today. Also, it is significant to note that the project design before you today differs substantially from the project given conceptual approval by the BAR in December of 2005. The most significant change is that the revised design has an additional floor which goes directly **against** the conditions that the BAR attached to their rather tepid conceptual approval.

d ***The authorization of a variance will not be of substantial detriment to adjacent property or to the public good and the character of the district will not be harmed by the granting of the variance***

The last finding is where we have our most vehement opposition over the hotel building as it is proposed today because we do feel that the authorization of this variance will be of substantial detriment to the character of the district. As the applicant is quick to point out, this building is extremely visible from many angles in the city and therefore has the ability to negatively impact the historic district more than a typical mid block building. The concept that the applicant presents is that they are attempting to shift the mass of the building away from King Street towards the center of the block. That proposed shift is an approximate fifteen foot setback from the King Street property line between the fifth and sixth floors which is really not adequate for mitigating the visual impacts of an additional four floors of building. This nine-story hotel is **not** a building that is deferential to its historic neighbors. In addition, the massing is really not being concentrated on the interior of this site as written in the application because there is a large light court in the center of the site. This variance would actually allow for an enormous portion of the massing to be distributed to the rear of the site up



404 King Street Height Variance
Historic Charleston Foundation Position Statement
January 2, 2007

against the Old Citadel building. In addition, Dr. Rodger Stroup, South Carolina's State Historic Preservation Officer, wrote a letter to the BAR in December of 2005 in opposition to the height of the proposed building as its inappropriate height would be extremely detrimental to the historic district.

Respectfully Submitted,



Winslow Hastie
Director of Preservation



Lee Blatchelder



City of Charleston

Joseph D. Riley Jr.
Mayor

December 28 2006

Hon Leonard Krawcheck, Chairman
Board of Zoning Appeals
75 Calhoun Street
Charleston South Carolina 29401

Re 404 King Street

Dear Chairman Krawcheck

The property located at 404 King Street, the site of the old County Library, will be before you Tuesday night for a height variance to enable the construction of a hotel. This project has been in the making for quite some time, and is one that I wholeheartedly support.

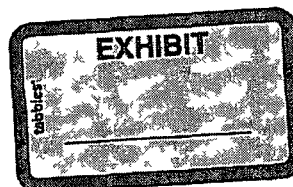
This site is important for a number of reasons. Its location will require a structure that is sensitive to its surroundings and a use that will continue the revitalization of King Street. It is my belief that the proposed hotel accomplishes these objectives.

This property is somewhat unusual in that it is split by two different height districts - 3X and 55/30. Any structure built on this property, if built to the maximum limits of the existing building envelope, would result in massing on King Street as opposed to the interior of the site. The height variance requested would allow for the massing of the building to be shifted somewhat to the east, resulting in what I believe is a beautiful building, one which is respectful towards its adjoining properties, and one that will be well received, and used by the community.

The project proposed for this site is a remarkable one and is one of the best ever proposed for King Street. Not only does it remove the unattractive building there now, it replaces it with an appropriately designed building that will add energy to the street and district. It will add character to the beautiful Marion Square and add to the continued growth of Upper King Street.



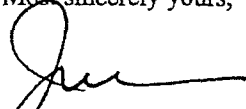
P.O. Box 652 Charleston South Carolina 29402
843-577-6970 Fax 843-120-3827



356
CITY OF CHARLESTON

I hope you and the Board can look favorably upon this request

Most sincerely yours,

A handwritten signature in black ink, appearing to read 'Joe Riley Jr.', with a large, stylized initial 'J'.

Joseph P. Riley Jr
Mayor City of Charleston

!

!

2

857
CITY CHARLESTON

Lee - Penny - For 2-ay
A. Bell

This was hand-
delivered to Mr.
Ravenscroft this
morning.

12/29/06 Cathy

355
CITY CHARLESTON



SEAMON, WHITESIDE
& ASSOCIATES, INC

December 21 2006

Mr. Leonard Kawcheck
Chairman
Board of Zoning Appeals
City of Charleston
75 Calhoun Street
Charleston, SC 29401

11647660

404 King Street
Charleston, South Carolina

Dear Mr. Chairman,

It is with great enthusiasm that I write in support of the application before you for 404 King Street. A tremendous amount of time, energy and resources have been put into the revitalization of Upper King Street and this project furthers that objective perfectly. I have reviewed the exterior elevations of the building and feel that it would be an appropriate cornerstone for Marion Square. The structure is a handsome piece of architecture and will enhance the character of Marion Square and Upper King Street.

In my opinion, this project should be approved for the requested height variance and I urge its approval.

Sincerely,

J. Lee Castlev, ASLA
Director of Landscape Architectural Services, Principal

11647660
11647660
11647660

www.swasc.com

11647660
11647660
11647660



19 December 2006

Mr. Leonard Krawcheck, Chairman
Board of Zoning Appeals
City of Charleston
75 Calhoun Street
Charleston, South Carolina 29401

RE: 404 King Street

Dear Mr. Chairman:

It is with great enthusiasm that I write in support of the application before you for 404 King Street. A tremendous amount of time, energy, and resources have been put into the revitalization of Upper King Street. This project furthers that objective perfectly.

I have reviewed the design of the building and find it appropriate for the location, street, and district. The building is remarkable and will add character to Marion Square and Upper King Street.

In my opinion, this project should be approved for the requested height variance, and I urge its approval.

Sincerely,

Christopher A. Rose, AIA, ASID
President

NAI BATTEN & MOORE, LLC

COMMERCIAL REAL ESTATE SERVICES WORLDWIDE

Commercial and
Industrial Real Estate

December 19, 2006

Mr. Leonard Krawcheck
Chairman
Board of Zoning Appeals
City of Charleston
75 Calhoun Street
Charleston, SC 29401

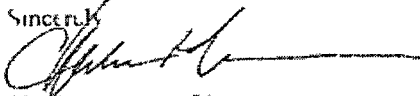
RE: 404 King Street

Dear Mr. Chairman:

It is with great enthusiasm that I write in support of the application before you for 404 King Street. A tremendous amount of time, energy, and resources have been put into the revitalization of Upper King Street, and this project furthers that objective perfectly. I have reviewed the design of the building and find it appropriate for the location, street, and district. The building is remarkable and will add character to Marion Square and Upper King Street.

In my opinion, this project should be approved for the requested height variance, and I urge its approval.

Sincerely,



Charlie Moore, CCIM

49 Immigration Street, Suite 400
Charleston, SC 29403
P.O. Box 519
Charleston, SC 29402
(843) 800-6000
FAX: (843) 776-6000
www.battenmoore.com



Individual Member

134 Meeting Street, Suite 310
Charleston, SC 29401
P.O. Box 310
Charleston, SC 29402
Phone 843-777-0702
Fax 843-577-0710
www.cbrecharleston.com

December 19, 2006

Mr. Leonard Krawenck
Chairman
Board of Zoning Appeals
City of Charleston
75 Calhoun Street
Charleston, SC 29401

12/19/06

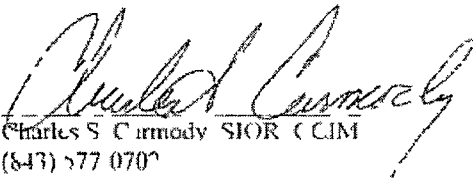
Re: 404 King Street

Dear Mr. Chairman:

It is with great enthusiasm that I write in support of the application before you for 404 King Street. A tremendous amount of time, energy and resources have been put into the revitalization of Upper King Street and this project further that objective perfectly. I have reviewed the design of the building and find it appropriate for the location, street and district. The building is remarkable and will add character to Marion Square and Upper King Street.

In my opinion, this project should be approved for the requested height variance, and I urge its approval.

Sincerely,

Signature: 
Name (Print): Charles S. Carmody, SIOR, CCIM
Business: (843) 577-0702
Location: 134 Meeting Street
Charleston, SC 29401

December 1^A 2006

Mr Leonard Krawchuk
Chairman
Board of Zoning Appeals
City of Charleston
75 Calhoun Street
Charleston SC 29401

Re: 404 King Street

Dear Mr. Chairman:

It is with great enthusiasm that I write in support of the application before you for 404 King Street. A tremendous amount of time, energy and resources have been put into the revitalization of Upper King Street and this project furthers that objective perfectly. I have reviewed the design of the building and find it appropriate for the location, street and district. The building is remarkable and will add character to Marion Square and Upper King Street.

In my opinion, this project should be approved for the requested height variance and I urge its approval.

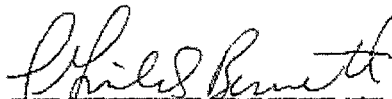
Sincerely,

Signature

Name (Print)

Business

Location


Philip Bennett
Hostile
346 King St Charleston 29401

December 18 2006

Mr. Leonard Krawcheck
Chairman
Board of Zoning Appeals
City of Charleston
70 Cannon Street
Charleston, SC 29401

RE: 101 King Street

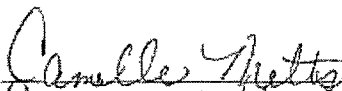
Dear Mr. Chairman:

It is with great enthusiasm that I write in support of the application before you for 101 King Street. A tremendous amount of time, energy and resources have been put into the revitalization of Upper King Street, and this project furthers that objective perfectly. I have reviewed the design of the building and find it appropriate for the location, street and district. The building is remarkable and will add character to Marion Square and Upper King Street.

In my opinion, this project should be approved for the requested height variance, and I urge it approval.

Sincerely,

Signature
Name (Print)
Business
Location


Camille Thelton
Resident
108 Register Rd
The Citadel

December ~~14th~~^{11th}, 2006

Mr. Leonard Krawcheck
Chairman
Board of Zoning Appeals
City of Charleston
75 Calhoun Street
Charleston, SC 29101

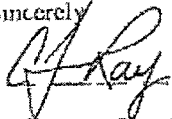
RE: 404 King Street

Dear Mr. Chairman:

It is with great enthusiasm that I write in support of the application before you for 404 King Street. A tremendous amount of time, energy and resources have been put into the revitalization of Upper King Street and this project furthers that objective perfectly. I have reviewed the design of the building and find it appropriate for the location, street and district. The building is remarkable and will add character to Marion Square and Upper King Street.

In my opinion, this project should be approved for the requested height variance, and I urge its approval.

Sincerely,


JASON RAY
PROJECT MANAGER
THE GIAN COMPANY

December 14 2006

Mr. Leonard Krawcheck
Chairman
Board of Zoning Appeals
City of Charleston
75 Calhoun Street
Charleston, SC 29401

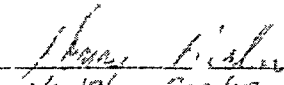
RE: 404 King Street

Dear Mr. Chairman:

It is with great enthusiasm that I write in support of the application before you for 404 King Street. A tremendous amount of time, energy, and resources have been put into the revitalization of Upper King Street, and this project furthers that objective perfectly. I have reviewed the design of the building and find it appropriate for the location, street, and district. The building is remarkable and will add character to Marion Square and Upper King Street.

In my opinion, this project should be approved for the requested height variance, and I urge its approval.

Sincerely,

Signature	<u></u>
Name (Print)	<u>Steven Fisher</u>
Business	<u>City of Charleston</u>
Location	<u>144 King St.</u>

December 11 2006

Mr. Leonard Krawcheck
Chairman
Board of Zoning Appeals
City of Charleston
75 Calhoun Street
Charleston SC 29401

Re: 404 King Street

Dear Mr. Chairman:

It is with great enthusiasm that I write in support of the application before you for 404 King Street. A tremendous amount of time, energy, and resources have been put into the revitalization of Upper King Street, and this project furthers that objective perfectly. I have reviewed the design of the building and find it appropriate for the location, street, and district. The building is remarkable and will add character to Marion Square and Upper King Street.

In my opinion, this project should be approved for the requested height variance, and I urge its approval.

Sincerely,

Signature: [Handwritten Signature]
Name (Print): Robert E. Macioni
Business: Resident
Location: Aspenborough

December 14 2006

Mr. Leonard Krawcheck
Chairman
Board of Zoning Appeal
City of Charleston
75 Cannon Street
Charleston, SC 29401

RE: 404 King Street

Dear Mr. Chairman:

It is with great enthusiasm that I write in support of the application before you for 404 King Street. A tremendous amount of time, energy, and resources have been put into the revitalization of Upper King Street, and this project furthers that objective perfectly. I have reviewed the design of the building, and find it appropriate for the location, street, and district. The building is remarkable and will add character to Marion Square and Upper King Street.

In my opinion, this project should be approved for the requested height variance, and I urge its approval.

Sincerely,

Signature	<u>Sallie Brame</u>
Name (Print)	<u>Sallie Brame</u>
Business	<u>Resident</u>
Location	<u>62 King</u>

December 14 2006

Mr. Leonard Kravchick
Chairman
Board of Zoning Appeals
City of Charleston
75 Calhoun Street
Charleston SC 29401

RE: 404 King Street

Dear Mr. Chairman

It is with great enthusiasm that I write in support of the application before you for 404 King Street. A tremendous amount of time, energy and resources have been put into the revitalization of Upper King Street and this project furthers that objective perfectly. I have reviewed the design of the building and find it appropriate for the location, street and district. The building is remarkable and will add character to Marion Square and Upper King Street.

In my opinion, this project should be approved for the requested height variance, and I urge its approval.

Sincerely,

Signature	<u>Mary E. Cutler</u>
Name (Print)	<u>Mary E. Cutler</u>
Business	<u>Charleston Day School</u>
Location	<u>15 Archdale St</u>
	<u>resident</u>

December 18, 2006

Mr. Leonard Krawcheck
Chairman
Board of Zoning Appeals
City of Charleston
75 Calhoun Street
Charleston, SC 29401

RE: 404 King Street

Dear Mr. Chairman:

It is with great enthusiasm that I write in support of the application before you for 404 King Street. A tremendous amount of time, energy and resources have been put into the revitalization of Upper King Street, and this project furthers that objective perfectly. I have reviewed the design of the building and find it appropriate for the location, street and district. The building is remarkable and will add character to Marion Square and Upper King Street.

In my opinion, this project should be approved for the requested height variance, and I urge its approval.

Sincerely,

Signature	<u>Marthe P. Rhodes</u>
Name (Print)	<u>Marthe Rhodes</u>
Business	<u>56 Ridcl Post</u>
Location	<u>Ridcl Post Baroque</u>

December 14 2006

Mr. Leonard Krawcheck
Chairman
Board of Zoning Appeals
City of Charleston
75 Calhoun Street
Charleston, SC 29401

Re: 404 King Street

Dear Mr. Chairman,

It is with great enthusiasm that I write in support of the application before you for 404 King Street. A tremendous amount of time, energy and resources have been put into the revitalization of Upper King Street and this project furthers that objective perfectly. I have reviewed the design of the building and find it appropriate for the location, street and district. The building is remarkable and will add character to Marion Square and Upper King Street.

In my opinion, this project should be approved for the requested height variance and I urge its approval.

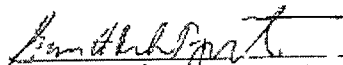
Sincerely,

Signature

Name (Print)

Business

Location


Kenneth R. Dwyer
375 King St.
Dwyer Property Management Co.

December 14 2006

Mr Leonard Kravcheck
Chairman
Board of Zoning Appeals
City of Charleston
75 Calhoun Street
Charleston SC 29401

Re 404 King Street

Dear Mr. Chairman

It is with great enthusiasm that I write in support of the application before you for 404 King Street. A tremendous amount of time, energy and resources have been put into the revitalization of Upper King Street and this project furthers that objective perfectly. I have reviewed the design of the building and find it appropriate for the location, street and district. The building is remarkable and will add character to Marion Square and Upper King Street.

In my opinion, this project should be approved for the requested height variance and I urge its approval.

Sincerely,

Signature

Name (Print)

Business

Location


Thomas W. Fowles
The Sportsman's Shop
359 King St

December 11 2006

Mr. Leonard Krawcheck
Chairman
Board of Zoning Appeals
City of Charleston
75 Calhoun Street
Charleston, SC 29401

Re: 404 King Street

Dear Mr. Chairman,

It is with great enthusiasm that I write in support of the application before you for 404 King Street. A tremendous amount of time, energy and resources have been put into the revitalization of Upper King Street and this project furthers that objective perfectly. I have reviewed the design of the building and find it appropriate for the location, street and district. The building is remarkable and will add character to Marion Square and Upper King Street.

In my opinion, this project should be approved for the requested height variance and I urge its approval.

Sincerely,

Signature

Name (Print)

Business

Location


Sean S. Foster
THE WORLD TRAVELER MAP & GLOBE STORE
159 King St.

December 14, 2006

Mr. Leonard Krawcheck
Chairman
Board of Zoning Appeals
City of Charleston
75 Calhoun Street
Charleston, SC 29401

RE: 404 King Street

Dear Mr. Chairman:

It is with great enthusiasm that I write in support of the application before you for 404 King Street. A tremendous amount of time, energy, and resources have been put into the revitalization of Upper King Street, and this project furthers that objective perfectly. I have reviewed the design of the building and find it appropriate for the location, street, and district. The building is remarkable and will add character to Marion Square and Upper King Street.

In my opinion, this project should be approved for the requested height variance, and I urge its approval.

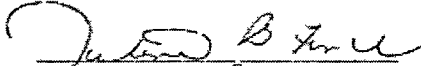
Sincerely,

Signature

Name (Print)

Business

Location


Justine B. Finch
Resident
34 Rutledge Avenue

December 18 2006

Mr. Leonard Krawchuck
Chairman
Board of Zoning Appeals
City of Charleston
75 Cannon Street
Charleston, SC 29401

RE: 404 King Street

Dear Mr. Chairman:

It is with great enthusiasm that I write in support of the application before you for 404 King Street. A tremendous amount of time, energy, and resources have been put into the revitalization of Upper King Street, and this project furthers that objective perfectly. I have reviewed the design of the building and find it appropriate for the location, street, and district. The building is remarkable and will add character to Marion Square and Upper King Street.

In my opinion, this project should be approved for the requested height variance, and I urge its approval.

Sincerely,

Signature

Name (Print)

Business

Location

Stephen M. Master
Stephen M. Master
Charleston Day School

December 14 2006

Mr. Leonard Krawcheck
Chairman
Board of Zoning Appeals
City of Charleston
7 Cannon Street
Charleston SC 29401

Re: 401 King Street

Dear Mr. Chairman:

It is with great enthusiasm that I write in support of the application before you for 401 King Street. A tremendous amount of time, energy, and resources have been put into the revitalization of Upper King Street, and this project furthers that objective perfectly. I have reviewed the design of the building and find it appropriate for the location, street, and district. The building is remarkable and will add character to Marion Square and Upper King Street.

In my opinion, this project should be approved for the requested height variance, and I urge its approval.

Sincerely,

Signature: 
Name (Print): Hope Parker
Business: Resident
Location: 128 Todd St.

December __, 2006

Mr. Leonard K. Aschek
Chairman
Board of Zoning Appeals
City of Charleston
75 Calhoun Street
Charleston, SC 29401

Re: 404 King Street

Dear Mr. Chairman:

It is with great enthusiasm that I write in support of the application before you for 404 King Street. A tremendous amount of time, energy, and resources have been put into the revitalization of Upper King Street, and this project furthers that objective perfectly. I have reviewed the design of the building and find it appropriate for the location, street, and district. The building is remarkable and will add character to Marion Square and Upper King Street.

In my opinion, this project should be approved for the requested height variance, and I urge its approval.

Sincerely,

Signature Alice T. Crutcher
Name (Print) Alice T. Crutcher
Business Princeton
Location 1000 1st St



December 27 2006

M. Leonard Krawcheck
Chairman
Board of Zoning Appeals
City of Charleston
75 Calhoun Street
Charleston SC 29401

RE 104 King Street

Dear Mr. Chairman,

It is with great enthusiasm that I write in support of the application before you for 404 King Street. A tremendous amount of time, energy and resources have been put into the revitalization of Upper King Street, and this project furthers that objective perfectly. I have reviewed the design of the building, and find it appropriate for the location, street and district. The building is remarkable and will add character to Marion Square and Upper King Street.

In my opinion this project should be approved for the requested height variance, and I urge its approval.

Sincerely

Sincerely, John Barkley
Signature J miles BARKLEY
Name (Print) _____
Business OWNER OF Real Estate
Location 73 St Philips St, 115 Calhoun St

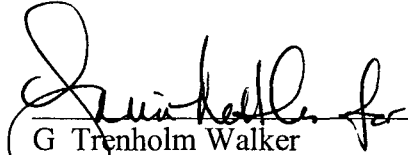
[illegible]

CERTIFICATE OF COUNSEL

In accordance with Rule 210(g), SCACR, I certify that this Record on Appeal contains all materials proposed to be included by any of the parties and not any other material

Charleston, South Carolina

April 27, 2011


G Trenholm Walker
Lindsay K. Smith-Yancey

Daniel S. McQueeney, Jr.

Katie F. Monoc

Pratt-Thomas Walker, P.A.

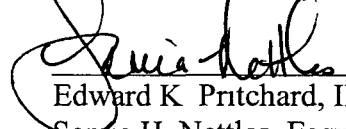
P.O. Drawer 22247

Charleston, SC 29413-2247

(843) 727-2208

Attorneys for Appellant

Preservation Society of Charleston


Edward K. Pritchard, III, Esquire
Samia H. Nettles, Esquire
Pritchard & Elliott, LLC
129 Broad Street
Charleston, SC 29401
(843) 722-3300
Attorneys for Appellant
Historic Charleston Foundation

THE STATE OF SOUTH CAROLINA
In The Supreme Court

RECEIVED

JUN 1 2011

APPEAL FROM CHARLESTON COUNTY

Court of Common Pleas

Mikell R Scarborough, Master-In-Equity

SC Supreme Court

Case No 2007-CP-10-451

HISTORIC CHARLESTON FOUNDATION and
PRESERVATION SOCIETY OF CHARLESTON,

Appellants,

v

THE CITY OF CHARLESTON, THE CITY OF CHARLESTON
BOARD OF ZONING APPEALS – ZONING and LIBRARY
ASSOCIATES, LLC,

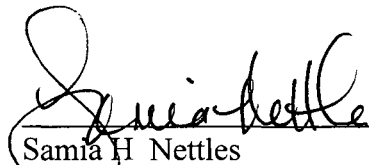
Respondents

CERTIFICATE OF SERVICE

I hereby certify that I served the Record on Appeal on Frances I Cantwell, Esquire, and Timothy A Domin, Esquire, attorneys for Respondents, by depositing a copy of it in the United States Mail, postage prepaid, on May 31, 2011, addressed to follows

Frances I Cantwell, Esquire
Regan & Cantwell
105 Wappoo Creek Drive, Ste 1-A
Charleston, SC 29412

Timothy A Domin, Esquire
Clawson & Staubes, LLC
126 Seven Farms Drive, Suite 200
Charleston, SC 29492


Samia H Nettles
Pritchard & Elliott, LLC
129 Broad Street
Post Office Box 630
Charleston, South Carolina 29401
(843) 722-3300