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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM GEORGETOWN COUNTY
Court of Common Pleas
The Honorable R. Kirk Griffin, Circuit Court Judge

Case No. 2019-CP-22-00212
Appellate Case No. 2023-00646

The Gulfstream Café, Inc. ..... Appellant,

v.

Georgetown County; Georgetown County Council; and Steve Goggans, individually and in his official capacity as Georgetown County Councilmember..... Respondents.

CORRECTED RECORD ON APPEAL
(VOLUME V)

Sean M. Foerster (SC Bar# 77466)
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Admitted Pro Hac Vice
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Counsel for Respondents Georgetown County; Georgetown County Council; and Steve Goggans, individually and in his official capacity as Georgetown County Councilmember

ORDINANCE

An Ordinance to amend the official zoning map of Georgetown County, South Carolina.

Be it ordained that the official zoning map of Georgetown County, a part and parcel of Georgetown County Zoning Ordinance be amended to reflect the following changes:

To change the present zoning from Resort Commercial and General Resort Residential to Planned Unit Development as requested by Martin, Stevens, Nichols and Nichols of property located at the site of Gulf Stream Marina in Murrells Inlet, a copy of map attached.

TYPE OF USES:	60 condominiums, 2 bedroom 1 restaurant 1 marina, 60 slips
LAND AREA:	3.1 acres
LOCATION OF STRUCTURES:	as shown on Plat
LOCATION OF USES:	as shown on Plat
INGRESS & EGRESS:	as shown on Concept Plan
YARD REQUIREMENT:	as shown on Concept Plan
SIZE OF STRUCTURES:	as shown on Plat
LOCATION OF SCREENING, BUFFERS:	at least 6' in height
BUILDING HEIGHT:	commercial uses 35' residential 60' maximum
DENSITY:	as stated on Concept Plan

FILED
BETTY S. WILLIAMS
CCCP.R.C.S.
Jul 29 11 07 AM '82
GEORGETOWN COUNTY, S.C.
BOOK _____ PAGE _____

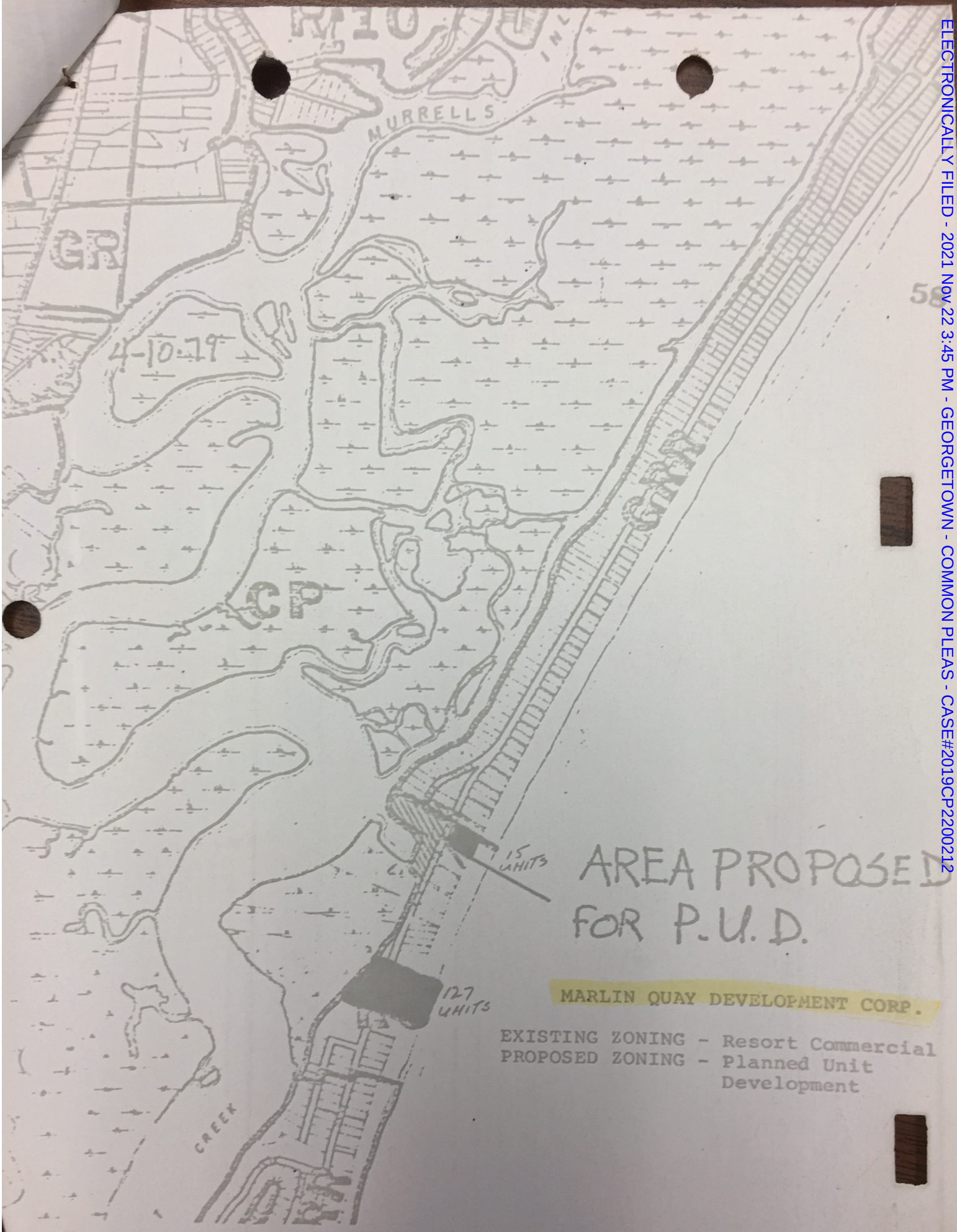
Adoption of the foregoing Ordinance moved by Kenneth W. Thornton, Jr., seconded by J. D. Munnerlyn, and after discussion upon call to vote thereon, the vote was as follows: Those in favor - Alfred B. Schooler, H. E. Hemingway, Kenneth W. Thornton, Jr., Glenn A. Cox and H. E. Hemingway.

Opposed - None.

/s/ Edwd Hemingway
J D Munnerlyn
Glenn A. Cox
Alfred B Schooler
Kenneth W Thornton

First reading: May 11, 1982
Second reading: June 10, 1982
Third reading: July 20, 1982

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EXHIBIT 3

STATE OF SOUTH CAROLINA
COURT OF COMMON PLEAS
COUNTY OF GEORGETOWN

The Gulfstream Café,

Plaintiff(s),

vs.

CIVIL ACTION NO.
2019-CP-22-00212

Georgetown County, Georgetown County Council, John Thomas, Ron Charlton, Lillie Johnson, Austin Beard, Steve Goggans, and Louis Morant, individually and in their official capacity as Georgetown County Councilmembers,

Defendant(s).

VIRTUAL 30(b)(6)
DEPOSITION OF: HOLLY HEMBREE RICHARDSON

DATE: Wednesday, March 3, 2021

TIME: 9:05 a.m. through 3:53 p.m.

DEPONENT LOCATION: 716 Front Street Georgetown, South Carolina

TAKEN BY: Attorneys for the Plaintiff(s)

COURT REPORTER: MADONNA M. FARRELL
Registered Professional Reporter
CaseViewNet Realtime Reporter

(Reported Remotely from Georgetown County, SC)

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see that? Let me see if I can -- well...

(EXHIBIT 2, Site Plan Drawing, was marked for identification.)

BY MS. PEARSON:

Q. All right. Can you see that document?

A. Yes.

Q. And this is -- do you know what this document is?

A. This looks to be a site plan drawing for the original PUD for Marlin Quay.

Q. Okay. So did planning staff for Georgetown County look at this document in reviewing the application that's subject to this case?

A. I can't say for certain every piece of paper that we looked at, but this does look like something that would have been in our file that we likely would have seen.

Q. All right. So looking at these different -- and I'm just kind of using this to give us a layout of Marlin Quay.

So over here is a public restaurant, which you understand that is the Gulfstream Café's location, the Plaintiff in this case?

A. Yes.

Q. Okay. And based on this PUD, this -- this

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piece of property can only be used as a restaurant; is that correct?

A. Correct.

Q. Okay. And then we have in the middle here, or right here this, I guess, sort of shading of this. I can't -- it's not really -- I don't know. I guess it's kind of a tan color. Says Public Parking. And then we have a little gray box labelled Marina Store.

And are you -- I guess is it your understanding that Palmetto Industrial Development owns this property that's labelled with the Public Parking and Marina Store?

A. I don't know exactly where their property boundaries lie currently. That was my understanding, that they owned the store and the parking lot.

Q. Okay. And, you know, I guess this question, both you personally and as a rep for Georgetown County, are aware that Gulfstream, or the Plaintiff, has an easement to use the parking lot labelled in this tan PUD document I'm looking at?

A. We were informed of that, yes.

Q. Okay. So when -- I'm going to talk about the parking lot today and ask you some questions

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Q. Have you ever, either in your capacity as county representative or when you were doing your site visit for the county, or personally, have you ever been to the site when this building was located there?

A. Yes.

Q. Okay. So you understand this was the photos of the old building that used to be located on the property that's subject to the application?

A. Yes.

Q. And that has since been torn down by Palmetto?

A. Yes.

Q. So when I -- I guess throughout, if I ever say "the snack bar," that's what I'm referring to as this building when it was located on the property before it was torn down. Does that make sense?

MS. GOLDING: I'm going to object to the question. While you may refer to it as a snack bar, it is a restaurant.

MS. PEARSON: Okay.

BY MS. PEARSON:

Q. So the former restaurant and snack bar. So if I say "the former restaurant and snack bar,"

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So we already talked about that.

And it says, "The purpose of this new request is for the new structure, MQ-3, to bring the site into compliance with the Court Order."

So the MQ-3 had to be different from MQ-2 in that the footprint of MQ-3 had to be changed; is that correct?

A. MQ-3 had to be different from MQ-2 because MQ-3 had to be wholly located on the applicant's property, on the same footprint, is our understanding of the Court Order.

Q. Okay. Of the former -- the same location -- footprint of the marina store and -- marina restaurant and snack bar?

A. Yes, but on his property.

Q. "His," you mean like Palmetto's?

A. Yes.

Q. Okay. So on Item Number 3, it discusses, "The current request is for a building containing a restaurant and a marina store. The amount of heated square footage has not changed.

"The area for" -- so when you say the amount of heated square footage has not changed, from -- okay, just to clarify, I'm asking these questions in your capacity as county representative.

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parking lot once you added those additional three spaces?

A. Right. As I read it now, I would assume the 62 would include the three, but it's hard to remember writing this back in 2018.

Q. Okay. So then it says, "This exceeds the zoning ordinance requirement of 51 spaces for the proposed building."

Is -- the 51 spaces for the proposed building is the zoning ordinance requirement for the building itself, correct?

A. For MQ-3, yes.

Q. And it says the parking lot is also used by Gulfstream Café and the marina, meaning those businesses also share that same parking lot?

A. Yes.

Q. The report does not include any information regarding how many parking spots those businesses would require, does it?

A. No.

Q. Why not?

A. Because the site is not being newly developed as a whole. This is a replacement of an existing building. So the site likely did not meet -- it was nonconforming into -- its said parking of

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for its square footage is 4,603. Do you remember that?

A. Yes.

Q. Do you see any -- so we see there's a front porch and then some decking. But does it look like the majority of the marina store and snack bar was heated square footage?

A. Based on what I can see here, yes.

Q. Okay. And then can you see Plaintiff's Exhibit 6 again, your staff report?

A. Yes, I can see it.

Q. Okay. So when we're looking at MQ-3, it had 4,596 square feet in heated square footage, but then it has an additional 5,326 square feet of unheated square footage; is that correct?

A. Yes.

Q. So based on that information, is it the -- and looking at the pictures of the, you know, decking from the Marlin Quay marina store and snack bar, was there more unheated square footage in MQ-3 than in the marina store and snack bar?

A. I don't have a number of unheated square footage for the marina store, restaurant, snack bar, but it does appear that there is more deck space on MQ-3.

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for more than one principal use on the same premises?

A. Yes.

Q. Was any -- okay. Was any evaluation done by the county of whether or not the total number of spaces required for each use -- or I guess just, was there any calculation done by the county under this first paragraph regarding parking spaces required for Gulfstream, the marina and MQ-3?

A. Not to my knowledge. Not that I calculated.

Q. Okay. And then it says cumulative parking requirements for misuse occupation -- sorry.

When you said not that I -- that question was based on your capacity as the county representative. So I'm asking you, do you know as the county representative whether that calculation was done?

A. Not that I'm aware of as the county representative.

Q. All right. And then the next is "cumulative parking requirements for mixed-use occupancies may be reduced or can be determined by the zoning administrator that the peak requirements of several occupancies occur at different times, either daily or seasonally, and the parking demand can be

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provided on the premises. The number of parking spaces required is determined by totaling the resulting number of each column. The column total that generates the highest number of parking spaces then becomes the parking requirements."

And then it has a lot of of -- it's got Shared Parking Factors and Percentages.

Did the zoning administrator do any calculation under this paragraph or the below table with respect to the county's evaluation of the application to approve MQ-3?

A. No.

Q. All right. So looking back at Plaintiff's Exhibit 9, in Paragraph 4 -- and this is similar to the staff plan that we looked at. It says, "The site contains a total of 62 spaces. This exceeds the zoning ordinance requirement of 51 spaces for the proposed building."

So if, like you said, the parking requirements didn't apply, why was this evaluation done with respect to the application for the number of parking spots that was required for MQ-3?

A. I said I think we used that restaurant calculation and the marina store calculation as a guide to determine the amount of spaces that would

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A. So it's picking up anything -- any parcel that touches inside the circle gets included. So that area you see outside the circle just means that those parcel boundaries exceed beyond the 400 feet, but some piece of the parcel is within the 400-foot radius.

Q. Okay. We talked a little bit earlier about the Marlin Quay condos. I guess the Marlin Quay condo property that the marina restaurant and snack bar used to be located partially on that property? Do you remember we talked about that?

A. Yes.

Q. So would the Marlin Quay condos be within 400 feet of this property subject to this application?

A. Yes.

Q. And individuals or owners within -- individuals within 400 feet of the property subject to the application were supposed to receive a mailed notice of the application to amend the PD under the ordinance?

A. The owners of the parcels that are included in that 400-foot radius would be on that list there, and they would get a letter from our office.

Q. And the reason the owners -- the reason that

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they would get the notice is based on the Georgetown County ordinance requirements; is that correct?

A. That is an ordinance requirement with the 400-foot radius.

(EXHIBIT 45, Email chain, was marked for identification.)

BY MS. PEARSON:

Q. Okay. I'm showing you what's been marked Plaintiff's Exhibit 45, if you want to take a minute to read this over.

A. You can scroll up.

Q. [Scrolling]

A. Scroll up.

Q. [Scrolling]

A. Okay.

Q. [Scrolling]

A. Okay.

Q. All right. So it looks like Ms. Coleman -- and who's Ms. Coleman, Tiffany Coleman?

A. She's the Associate Planner in our department.

Q. Okay. So it looks like she perhaps emailed notice to Nancy G. at Surfside Realty. Do you know who Nancy G. is?

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names and addresses that come up get a letter from our office. In this case, we did know there were individual homeowners, so we did our best faith effort to contact them through Nancy Gardner to be sure they were notified. And it's my understanding that what Tiffany sent is what went out as a hardcopy letter to the others.

Q. Okay. But the best information -- I guess -- it was sent to the -- Nancy Gardner via email, right, not individual letter?

A. I'm not sure who would have gotten the individual letter for Marlin Quay homeowners association, but based on the this list, it looks like we would have sent a letter to that address. I don't know if that went to Nancy Gardner or who it went to.

Q. All right. But I guess your understanding is that the letter -- a letter was sent to the Marlin Quay homeowners association and not to individual condominium owners, right, via letter?

A. Via Postal Service, snail mail.

Q. Correct. So that's correct?

A. Yes.

Q. Isn't it the applicant's responsibility under the ordinance to actually provide the list of

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A. Okay.
Q. [Scrolling]
A. Okay.
Q. [Scrolling.]
A. Okay.
Q. [Scrolling.]
A. Okay.
Q. All right. Okay. Are you okay with it?
A. Yes.
Q. Okay. So looking at Plaintiff's Exhibit 27, is this the previous application filed for, I guess, approval of a major change for MQ-2?
A. That's what it appears to be, yes.
Q. So looking at this, the property -- I guess the type of regulation to which you were requesting an amendment, it says "other change of building location" and then TMS number 41-1029-002-00-00. Is that -- I'm going to have to pull that back up -- the same tax part -- TMS number as the current application?
A. It looks like there's an additional one.
Q. So for "change of building location," are these the same type of change requested for the two applications?
A. The same type of change. I don't think it

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is the same change.

Q. Okay. And they're both applications for a major change, is that correct, to the PD?

A. Yes.

Q. Okay. Do you recall when the planning commission heard the -- had the hearing on the application in Exhibit 27?

A. I want to say December 21st.

Q. Of 2017?

A. I believe so, yeah, but I'm not certain.

Q. Okay. But you recall it was essentially December of 2017?

A. Can you scroll up and let me see that AMPD number?

Q. [Scrolling.]

A. I think that's correct.

Q. Okay.

All right. Looking back at Exhibit 1, 7201, I'm looking at Eligible Applicants. About halfway through, it says, "Provided, however, that action shall not be initiated for zoning amendment affecting the same parcel or parcels of property or any part thereof and requesting the same change in district classification by a property owner or owners of more often than once every 12 months

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EXHIBIT 4

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APR 2 2 57 PM '86
GEORGETOWN COUNTY, S.C.
BOOK ____ PAGE ____

STATE OF SOUTH CAROLINA)
)
COUNTY OF GEORGETOWN)

AGREEMENT FOR EASEMENT

KNOW ALL MEN BY THESE PRESENTS, that Marlin Quay Marina Corporation, a corporation duly organized pursuant to the laws of the State of South Carolina, for and in consideration of the sum of FIVE ($5.00) DOLLARS and the covenants and conditions expressed herein, paid by The Gulfstream Cafe', Inc., the legal sufficiency and receipt of which is hereby acknowledged, has granted, bargained, sold and released, and by these presents does grant, bargain, sell and release unto The Gulfstream Cafe', Inc., its Successors and Assigns a non-exclusive easement appurtenant to the premises of the Grantee hereinafter described for the full and free right of ingress and egress over and across the following described property of the Grantor, together with the rights of vehicular and pedestrian access and also for the purpose of maintenance, repair, alteration and/or improvements to the Grantee's hereinafter described property. It is anticipated by the parties that while they will each have joint and non-exclusive use of the area covered by this easement that the Grantor will primarily utilize the premises during the daytime and the Grantee will primarily use these premises in the evening. The property of the Grantor subject to this non-exclusive easement is more fully described as follows:

> ALL those certain piece, parcel or lot of land situate, lying and being in the Garden City area of the County of Georgetown, State aforesaid, and being more particularly shown as Lot 5 of Tract 3 on that certain plat entitled "Survey Of Marlin Quay Marina Horizontal Property Regime, Garden City Point", prepared by Sur-Tech, Inc., dated May 21, 1985, revised November 27, 1985, and recorded in the office of the Clerk of Court for Georgetown County in Plat Book 6 at Page 214, said plat being expressly incorporated herein by reference.
>
> The grantor having acquired the aforedescribed property by virtue of that certain deed from Marlin Quay Company, a S.C. General Partnership dated July 1, 1983, and recorded on September 1, 1983, in the Office of the Clerk of Court for Georgetown County in Deed Book 211 at Page 1141.

The property of the Grantee to which this easement is appurtenant is more fully described as follows:

(See attached Exhibit B)

IT IS EXPRESSLY UNDERSTOOD AND AGREED by Marlin Quay Marina Corporation and the The Gulfstream Cafe', Inc., that as part of the consideration for this conveyance, both parties shall be equally responsible for the maintenance and upkeep of the aforementioned easement area and shall equally share the costs associated with its proper maintenance and upkeep to insure that it is satisfactory for the uses and purposes intended herein.

IT IS FURTHER UNDERSTOOD AND ACKNOWLEDGED by the parties hereto that attached hereto as Exhibit "A" and incorporated herein is a Consent And Joinder of Mortgagee To Granting Of Easement from First Union National Bank which has a mortgage recorded in the Office of the Clerk of Court for Georgetown County in Mortgage Book 225 at Page 209 covering certain real property of the Grantor herein, a portion of which will be utilized for the easement.

TOGETHER with all and singular, the Rights, Members, Hereditaments and Appurtenances to the said Premises belonging, or in anywise incident or appertaining.

TO HAVE AND TO HOLD, all and singular, the said premises before mentioned unto the said The Gulfstream Cafe', Inc., its Successors and Assigns forever.

AND the said Marlin Quay Marina Corporation does hereby bind itself and its Successors and Assigns, to warrant and forever defend, all and singular, the said premises unto the said The Gulfstream Cafe', Inc., its Successors and Assigns, against itself and its Successors and Assigns and all others whomsoever lawfully claiming, or to claim the same or any part thereof.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals this 25th day of February, in the year of our Lord One Thousand Nine Hundred and Eighty-six and in the Two Hundred and Tenth Year of the Sovereignty and Independence of the United States of America.

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IN THE PRESENCE OF:

MARLIN QUAY MARINA CORPORATION

By _____
Grover C. Cauthen, Pres.

Attest _____
Jack L. Moore, Asst. Sec.

THE GULFSTREAM CAFE', INC.

By _____
Edward C. Cribb, Jr., Pres.

Attest _____
Grover C. Cauthen, Sec.

STATE OF SOUTH CAROLINA)
)
COUNTY OF GEORGETOWN)

PERSONALLY appeared before me Alec Elmore and made oath that (s)he saw the within named MARLIN QUAY MARINA CORPORATION, a S.C. Corporation, by its duly authorized President, Grover C. Cauthen and its duly authorized Assistant Secretary, Jack L. Moore, sign, seal and attest, and as their official act and deed, deliver the within written instrument and that (s)he with Hal M. Strange witnessed the execution thereof.

_____

SWORN to before me this 25th day of February, 1986

_____(SEAL)
Notary Public for South Carolina
My Commission expires: 10/10/87

STATE OF SOUTH CAROLINA)
)
COUNTY OF GEORGETOWN)

PERSONALLY appeared before me Alec Elmore and made oath that (s)he saw the within named THE GULFSTREAM CAFE', INC., a S.C. Corporation, by its duly authorized President, Edward C. Cribb, Jr., and its duly authorized Secretary, Grover C. Cauthen, sign, seal and attest, and as their official act and deed, deliver the within written instrument and that (s)he with Hal M. Strange witnessed the execution thereof.

_____

SWORN to before me this 25th day of February, 1986

_____(SEAL)
Notary Public for South Carolina
My Commission expires: 10/10/87

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EXHIBIT "A"

STATE OF SOUTH CAROLINA)
) CONSENT AND JOINDER OF MORTGAGEE TO GRANTING OF EASEMENT
COUNTY OF GEORGETOWN)

WHEREAS, Marlin Quay Marina Corporation did on the 4th day of December, 1985, execute and deliver a note in the amount of Six Hundred Thousand and No/100 ($600,000.00) Dollars to First Union National Bank and secured the same by a mortgage and security agreement, said mortgage being recorded in the Office of the Clerk of Court for Georgetown County in Mortgage Book 225 at Page 209; and

WHEREAS, the said Marlin Quay Marina Corporation has executed on February 25, 1986, an Easement in favor of The Gulfstream Cafe', Inc., said Easement being located on a portion of the property described in the aforesaid mortgage, said Easement being more fully described as follows:

> A non-exclusive right of ingress and egress over and across all that certain piece, parcel or tract of land situate, lying and being in the Garden City area of the County of Georgetown, State aforesaid, and being more particularly shown as Lot 5 of Tract 3 on that certain plat entitled "Survey Of Marlin Quay Marina Horizontal Property Regime, Garden City Point", prepared by Sur-Tech, Inc., dated May 21, 1985, revised November 27, 1985, and recorded in the office of the Clerk of Court for Georgetown County in Plat Book 6 at Page 214, said plat being expressly incorporated herein by reference.

WHEREAS, said Easement with this Consent and Joinder attached thereto will be recorded simultaneously in the Office of the Clerk of Court for Georgetown County, South Carolina.

NOW, THEREFORE, for and in consideration of the sum of One ($1.00) Dollar, the receipt and sufficiency of which is hereby acknowledged, First Union National Bank does hereby consent and join in the aforesaid Easement from Marlin Quay Marina Corporation to The Gulfstream Cafe', Inc., and all of the covenants, conditions and provisions contained therein for the sole purpose of consenting to the creation by Marlin Quay Marina Corporation of an easement upon a portion of the property upon which First Union National Bank has a lien and subordinates its aforesaid Mortgage to the easement; provided that First Union National Bank makes no representations or warranties as to the validity of the documents creating the easement; said mortgage however, in all other respects to remain in full force and virtue.

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IN WITNESS WHEREOF the parties have caused this instrument to be executed this 19th day of February, A.D., 1986.

IN THE PRESENCE OF:

Amanda Burton
Amanda Burton

James A. McCartney
James A. McCartney

FIRST UNION NATIONAL BANK

By Catherine R. Williamson
Catherine R. Williamson, Vice President

Attest Dennis Harvey
Dennis Harvey, Assistant Secretary

STATE OF NORTH CAROLINA)
)
COUNTY OF WAKE)

PERSONALLY appeared before me Amanda Burton who, on oath, says that (s)he saw the within named FIRST UNION NATIONAL BANK by Catherine R. Williamson and Dennis Harvey its duly authorized officer(s) sign, seal and as its act and deed, deliver the within written instrument and that (s)he with James A. McCartney witnessed the execution thereof.

James A. McCartney
James A. McCartney

SWORN to before me this 19th day of February, 1986

L. Lee Bettis (SEAL)
Notary Public for North Carolina
My Commission expires: 8-19-89

NOTARY PUBLIC WAKE COUNTY N.C.

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EXHIBIT "B"

All those certain pieces, parcels, areas or tracts of land identified as "Marsh Area, Tract A and Tract B" on that certain "Survey For Marlin Quay Company Garden City Point" dated August 27, 1985, revised January 24, 1986 surveyed and mapped by Sur-Tech, Incorporated and recorded in the Office of the Clerk of Court for Georgetown County in Plat Book 6 at Page 438.

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BOOK 234 PAGE 795 7.00 NCRS

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BETTY L. WILLIAMS
GCCP&C.S.

APR 2 2 57 PM '86

GEORGETOWN COUNTY, S.C.
BOOK 234 PAGE 790

Geraldine M. Wheeler
Deputy clerk

Marlin Quay Marina Corp.

to

Gulfstream Cafe Inc.

Agreement for easement across lot 5 tract B S.C. point tracts A & B marsh area

Recorded this 2nd day of April A.D. 1986
In Book Z Page 1443
Edna E. Keenan, Deputy
Auditor, Georgetown Co., S. C.

COUNTY PARCEL # 41-129-2 thru 5

M80

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STATE OF SOUTH CAROLINA)
)
COUNTY OF GEORGETOWN)

AGREEMENT FOR EASEMENT

KNOW ALL MEN BY THESE PRESENTS, that Marlin Quay Marina Corporation, a corporation duly organized pursuant to the laws of the State of South Carolina, for and in consideration of the sum of FIVE ($5.00) DOLLARS and the covenants and conditions expressed herein, paid by The Gulfstream Cafe', Inc., the legal sufficiency and receipt of which is hereby acknowledged, has granted, bargained, sold and released, and by these presents does grant, bargain, sell and release unto The Gulfstream Cafe', Inc., its Successors and Assigns a non-exclusive easement appurtenant to the premises of the Grantee hereinafter described for the full and free right of ingress and egress over and across the following described property of the Grantor, together with the rights of vehicular parking and vehicular and pedestrian access and also for the purpose of maintenance, repair, alteration and/or improvements to the Grantee's hereinafter described property. It is anticipated by the parties that while they will each have joint and non-exclusive use of the area covered by this easement that the Grantor will primarily utilize the premises during the daytime and the Grantee will primarily use these premises in the evening. The property of the Grantor subject to this non-exclusive easement is more fully described as follows:

> ALL those certain pieces, parcels or lots of land situate, lying and being in the Garden City area of the County of Georgetown, State aforesaid, and being more particularly shown as Lots 3 and 4 of Tract 3 on that certain plat entitled "Survey Of Marlin Quay Marina Horizontal Property Regime, Garden City Point", prepared by Sur-Tech, Inc., dated May 21, 1985, revised November 27, 1985, and recorded in the office of the Clerk of Court for Georgetown County in Plat Book 6 at Page 214, said plat being expressly incorporated herein by reference.
>
> SAVING AND EXCEPTING THEREFROM that portion of Lot 3 of Tract 3 on said plat occupied by that portion of the building identified as "Marina Club & Snack Bar" which projects from Tract 2 into Tract 3 and also the area identified as Sign Easement on said plat.
>
> The grantor having acquired the aforedescribed property by virtue of that certain deed from Marlin Quay Company, a S.C. General Partnership dated July 1, 1983, and recorded on September 1, 1983, in the Office of the Clerk of Court for Georgetown County in Deed Book 211 at Page 1141.

The property of the Grantee to which this easement is appurtenant is more fully described as follows:

(See attached Exhibit A)

IT IS EXPRESSLY UNDERSTOOD AND AGREED by Marlin Quay Marina Corporation and the The Gulfstream Cafe', Inc., that as part of the consideration for this conveyance, both parties shall be equally responsible for the maintenance and upkeep of the aforementioned easement area and shall equally share the costs associated with its proper maintenance and upkeep to insure that it is satisfactory for the uses and purposes intended herein.

IT IS FURTHER UNDERSTOOD AND ACKNOWLEDGED by the parties that First Union National Bank has a mortgage recorded in the Office of the Clerk of Court for Georgetown County in Mortgage Book 225 at Page 209 covering certain real property of the Grantor herein, a portion of which will be utilized for the easement herein granted. First Union National Bank does not consent and join in the aforesaid easement from Marlin Quay Marina Corporation to The Gulfstream Cafe', Inc., upon that portion of the property upon which First Union National Bank has a lien and does not subordinate its aforesaid Mortgage tc this easement. First Union National Bank makes no representations or warranties as to the validity of the documents creating the easement and all aspects of said Mortgage remain in full force and virtue. This easement shall be subordinate to the aforesaid Mortgage.

TOGETHER with all and singular, the Rights, Members, Hereditaments and Appurtenances to the said Premises belonging, or in anywise incident or appertaining.

TO HAVE AND TO HOLD, all and singular, the said premises before mentioned unto the said The Gulfstream Cafe', Inc., its Successors and Assigns forever.

AND the said Marlin Quay Marina Corporation does hereby bind itself and its Successors and Assigns, to warrant and forever defend, all and singular, the said premises unto the said The Gulfstream Cafe', Inc., its Successors and Assigns, against itself and its

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Successors and Assigns and all others whomsoever lawfully claiming, or to claim the same or any part thereof.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals this 25th day of February, in the year of our Lord One Thousand Nine Hundred and Eighty-six and in the Two Hundred and Tenth Year of the Sovereignty and Independence of the United States of America.

IN THE PRESENCE OF:

Hal M Strange

Barbara P. Mahaffey

Hal M Strange

Barbara P. Mahaffey

MARLIN QUAY MARINA CORPORATION

By _____
Grover C. Cauthen, Pres.

Attest _____
Jack L. Moore, Asst. Sec.

THE GULFSTREAM CAFE', INC.

By _____
Edward C. Cribb, Jr., Pres.

Attest _____
Grover C. Cauthen, Sec.

STATE OF SOUTH CAROLINA)
)
COUNTY OF GEORGETOWN)

PERSONALLY appeared before me Barbara P. Mahaffey and made oath that (s)he saw the within named MARLIN QUAY MARINA CORPORATION, a S.C. Corporation, by its duly authorized President, Grover C. Cauthen and its duly authorized Assistant Secretary, Jack L. Moore, sign, seal and attest, and as their official act and deed, deliver the within written instrument and that (s)he with Hal M. Strange witnessed the execution thereof.

Barbara P. Mahaffey

SWORN to before me this 25th day of February, 1986

Hal M Strange (SEAL)
Notary Public for South Carolina
My Commission expires: 10/10/87

ELECTRONICALLY FILED - 2021 Nov 22 3:45 PM - GEORGETOWN - COMMON PLEAS - CASE#2019CP2200212

STATE OF SOUTH CAROLINA)
)
COUNTY OF GEORGETOWN)

PERSONALLY appeared before me Barbara P. Mahaffey and made oath that (s)he saw the within named THE GULFSTREAM CAFE', INC., a S.C. Corporation, by its duly authorized President, Edward C. Cribb, Jr., and its duly authorized Secretary, Grover C. Cauthen, sign, seal and attest, and as their official act and deed, deliver the within written instrument and that (s)he with Hal M. Strange witnessed the execution thereof.

Barbara P. Mahaffey

SWORN to before me this 25th day of February, 1986.

Hal M. Strange (SEAL)
Notary Public for South Carolina
My Commission expires: 10/10/87

4

ELECTRONICALLY FILED - 2021-NOV-22 04:45 PM - GEORGETOWN - COMMON PLEAS - CASE #2019CP2200412

ELECTRONICALLY FILED - 2021 NOV 22 3:45 PM - GEORGETOWN - COMMON PLEAS - CASE#2019CP2200212

EXHIBIT "A"

All those certain pieces, parcels, areas or tracts of land identified as "Marsh Area, Tract A and Tract B" on that certain "Survey For Marlin Quay Company Garden City Point" dated August 27, 1985, revised January 24, 1986 surveyed and mapped by Sur-Tech, Incorporated and recorded in the Office of the Clerk of Court for Georgetown County in Plat Book 6 at Page 438.

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BOOK 236 PAGE 802 2 vers

FILED
BETTY L. WILLIAMS
CCCP&C.S.

APR 2 2 57 PM '86

GEORGETOWN COUNTY, S.C.

BOOK 234 PAGE 797

Dwaldine M-Wheeler
Deputy cccp

Marlin Quay Marina Corp.

+

Gulfstream Cafe' Inc.

easement agreement

Lots 3 + 4 tract 3

tracts A + B Murrells Inlet

Recorded this 4th day of
April A.D. 19 86
in Book 12 Page 1443
Elsie C. Thurmond Deputy
Auditor, Georgetown Co., S.C.

COUNTY PARCEL # 41-179-2 thru 5

1180

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FILED
BETTY L. WILLIAMS
CCCP&G.S.
APR 2 2 57 PM '86
GEORGETOWN COUNTY, S.C.
BOOK ____ PAGE ____

BOOK 234 PAGE 803

STATE OF SOUTH CAROLINA)
)
COUNTY OF GEORGETOWN)

AGREEMENT FOR EASEMENT

KNOW ALL MEN BY THESE PRESENTS, that Marlin Quay Marina Corporation, a corporation duly organized pursuant to the laws of the State of South Carolina, for and in consideration of the sum of FIVE ($5.00) DOLLARS and the covenants and conditions expressed herein, paid by The Gulfstream Cafe', Inc., the legal sufficiency and receipt of which is hereby acknowledged, has granted, bargained, sold and released, and by these presents does grant, bargain, sell and release unto The Gulfstream Cafe', Inc., its Successors and Assigns a non-exclusive easement appurtenant to the premises of the Grantee hereinafter described for the full and free right of ingress and egress over and across the following described property of the Grantor, together with the rights of vehicular parking and vehicular and pedestrian access and also for the purpose of maintenance, repair, alteration and/or improvements to the Grantee's hereinafter described property. It is anticipated by the parties that while they will each have joint and non-exclusive use of the area covered by this easement that the Grantor will primarily utilize the premises during the daytime and the Grantee will primarily use these premises in the evening. The property of the Grantor subject to this non-exclusive easement is more fully described as follows:

> ALL that certain piece, parcel or lot of land situate, lying and being in the Garden City area of the County of Georgetown, State aforesaid, and being more particularly shown as Lot 5 of Tract 3 on that certain plat entitled "Survey Of Marlin Quay Marina Horizontal Property Regime, Garden City Point", prepared by Sur-Tech, Inc., dated May 21, 1985, revised November 27, 1985, and recorded in the office of the Clerk of Court for Georgetown County in Plat Book 6 at Page 214, said plat being expressly incorporated herein by reference.
>
> The grantor having acquired the aforedescribed property by virtue of that certain deed from Marlin Quay Company, a S.C. General Partnership dated July 1, 1983, and recorded on September 1, 1983, in the Office of the Clerk of Court for Georgetown County in Deed Book 211 at Page 1141.

The property of the Grantee to which this easement is appurtenant is more fully described as follows:

(See attached Exhibit A)

IT IS EXPRESSLY UNDERSTOOD AND AGREED by Marlin Quay Marina Corporation and the The Gulfstream Cafe', Inc., that as part of the consideration for this conveyance, both parties shall be equally responsible for the maintenance and upkeep of the aforementioned easement area and shall equally share the costs associated with its proper maintenance and upkeep to insure that it is satisfactory for the uses and purposes intended herein.

IT IS FURTHER UNDERSTOOD AND ACKNOWLEDGED by the parties that First Union National Bank has a mortgage recorded in the Office of the Clerk of Court for Georgetown County in Mortgage Book 225 at Page 209 covering certain real property of the Grantor herein, a portion of which will be utilized for the easement herein granted. First Union National Bank does not consent and join in the aforesaid easement from Marlin Quay Marina Corporation to The Gulfstream Cafe', Inc., upon that portion of the property upon which First Union National Bank has a lien and does not subordinate its aforesaid Mortgage to this easement. First Union National Bank makes no representations or warranties as to the validity of the documents creating the easement and all aspects of said Mortgage remain in full force and virtue. This easement shall be subordinate to the aforesaid Mortgage.

TOGETHER with all and singular, the Rights, Members, Hereditaments and Appurtenances to the said Premises belonging, or in anywise incident or appertaining.

TO HAVE AND TO HOLD, all and singular, the said premises before mentioned unto the said The Gulfstream Cafe', Inc., its Successors and Assigns forever.

AND the said Marlin Quay Marina Corporation does hereby bind itself and its Successors and Assigns, to warrant and forever defend, all and singular, the said premises unto the said The Gulfstream Cafe', Inc., its Successors and Assigns, against itself and its

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Successors and Assigns and all others whomsoever lawfully claiming, or to claim the same or any part thereof.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals this 25th day of February, in the year of our Lord One Thousand Nine Hundred and Eighty-six and in the Two Hundred and Tenth Year of the Sovereignty and Independence of the United States of America.

IN THE PRESENCE OF:

MARLIN QUAY MARINA CORPORATION

By _____
Grover C. Cauthen, Pres.

Attest _____
Jack L. Moore, Asst. Sec.

THE GULFSTREAM CAFE', INC.

By _____
Edward C. Cribb, Jr., Pres.

Attest _____
Grover C. Cauthen, Sec.

STATE OF SOUTH CAROLINA)
)
COUNTY OF GEORGETOWN)

PERSONALLY appeared before me Alec Elmore and made oath that (s)he saw the within named MARLIN QUAY MARINA CORPORATION, a S.C. Corporation, by its duly authorized President, Grover C. Cauthen and its duly authorized Assistant Secretary, Jack L. Moore, sign, seal and attest, and as their official act and deed, deliver the within written instrument and that (s)he with Hal M. Strange witnessed the execution thereof.

SWORN to before me this 25th day of February, 1986

_____ (SEAL)
Notary Public for South Carolina
My Commission expires: 10/10/87

ELECTRONICALLY FILED - 2021 Nov 22 3:45 PM - GEORGETOWN - COMMON PLEAS - CASE#2019CP2200212

STATE OF SOUTH CAROLINA)
)
COUNTY OF GEORGETOWN)

PERSONALLY appeared before me Alec Elmore and made oath that (s)he saw the within named THE GULFSTREAM CAFE', INC., a S.C. Corporation, by its duly authorized President, Edward C. Cribb, Jr., and its duly authorized Secretary, Grover C. Cauthen, sign, seal and attest, and as their official act and deed, deliver the within written instrument and that (s)he with Hal M. Strange witnessed the execution thereof.

SWORN to before me this 25th day of February, 1986

(SEAL)
Notary Public for South Carolina
My Commission expires: 10/10/87

ELECTRONICALLY FILED - 2021 Nov 22 3:45 PM - GEORGETOWN - COMMON PLEAS - CASE#2021CP2200812

EXHIBIT "A"

All those certain pieces, parcels, areas or tracts of land identified as "Marsh Area, Tract A and Tract B" on that certain "Survey For Marlin Quay Company Garden City Point" dated August 27, 1985, revised January 24, 1986 surveyed and mapped by Sur-Tech, Incorporated and recorded in the Office of the Clerk of Court for Georgetown County in Plat Book 6 at Page 438.

FILED ELECTRONICALLY 2021-NOV-23 03:45 PM GEORGETOWN COMMON PLEAS CASE #2019CP2200412

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6.00 NC4S

BOOK 234 PAGE 808

FILED
BETTY L. WILLIAMS
CCCP&C.S.

APR 2 2 57 PM '86

GEORGETOWN COUNTY, S. C.

BOOK 234 PAGE 803

Geraldine M. Wheeler
Deputy ccep

Marlin Quay Marina Corp.

to

Gulfstream Cafe' Inc

easement agreement

Lt 5 tract 3
Garden City Point
Tracts A & B
Marsh Area

Recorded this 4th day of
April A. D. 1986
in Book Z Page 1043
Geneva E. Truman Deputy
Auditor, Georgetown Co., S. C.

COUNTY PARCEL # 41-179-2 thru 5
1150

ELECTRONICALLY FILED - 2021 Nov 22 3:45 PM - GEORGETOWN - COMMON PLEAS - CASE#2019CP2200212

EXHIBIT 5

ELECTRONICALLY FILED - 2021 Nov 22 3:45 PM - GEORGETOWN - COMMON PLEAS - CASE#2019CP2200212

04347

BOOK 382 PAGE 217

FILED
BETTY L. WILLIAMS
COUNTY CLERK
90 JUN -4 PM 12:00
BOOK ____ PAGE ____

STATE OF SOUTH CAROLINA)
) AGREEMENT OF EASEMENT AND CONSENT TO AND JOINDER OF MORTGAGEE TO GRANTING OF EASEMENT
COUNTY OF GEORGETOWN)

WHEREAS, Marlin Quay Marina Corporation did on the 6th day of December, 1985, execute and deliver a Note in the amount of Six Hundred Thousand and no/100 ($600,000.00) Dollars to First Union National Bank and secured the same by Mortgage and Security Agreement, said Mortgage being recorded in the Office of the Clerk of Court for Georgetown County in Real Estate Mortgage Book 225 at Page 209; and

WHEREAS, Marlin Quay Marina Corporation granted three (3) easements to The Gulfstream Cafe, Inc. which easements were recorded in the office of the Clerk of Court for Georgetown County in Deed Book 234 at Pages 790, 797 and 803; and

WHEREAS, the parties acknowledge that there may be discrepancies in the rights granted to The Gulfstream Cafe, Inc., and Marlin Quay Marina Corporation and The Gulfstream Cafe, Inc. therefore desire that Marlin Quay Marina Corporation grant a non-exclusive perpetual easement from Marlin Quay Marina Corporation to The Gulfstream Cafe, Inc. for the purposes of ingress and egress and vehicular parking on, over and across that certain real property of Marlin Quay Marina Corporation, which is more fully described herein below, by owners, agents, employees, servants, visitors, guests and invitees of The Gulfstream Cafe, Inc., and Marlin Quay Marina Corporation and The Gulfstream Cafe, Inc. further desire to clarify the intent of the parties in the granting of all of the easements described above, and First Union

GS000675

National Bank desires to consent to and join in the granting of said easement hereinafter described;

NOW THEREFORE, for and in consideration of the sum of One and No/100 ($1.00) Dollar and the covenants and conditions expressed herein, the receipt and sufficiency of which is hereby acknowledged, Marlin Quay Marina Corporation, a corporation duly organized pursuant to the laws of the State of South Carolina (the "Grantor"), has granted, bargained, sold and released, and by these presents does grant, bargain, sell and release unto The Gulfstream Cafe, Inc., its successors and assigns (the "Grantee") a non-exclusive perpetual easement appurtenant to the premises of the Grantee hereinafter described for the full and free right of ingress and egress on, over and across the following described property of the Grantor, together with the rights of vehicular parking on and vehicular and pedestrian access to, all in accordance with all governmental rules, regulations, ordinances or laws, the premises of the Grantor hereinafter described, and also for the purpose of maintenance, repair, alteration and/or improvements to the Grantee's hereinafter described property. It is anticipated by the parties that while they will each have joint and non-exclusive use at all times of the area covered by this easement that the Grantor will utilize the premises primarily during the daytime regular business hours of Grantor and the Grantee will utilize the premises primarily in the evening regular business hours of Grantee. The property of the

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Grantor subject to this non-exclusive perpetual easement is more fully described as follows:

> A non-exclusive right of ingress, egress and vehicular parking over, across and on all those certain pieces, parcels or tracts of land situate, lying and being in the Garden City area of the County of Georgetown, State aforesaid, and being more particularly shown as Lots 3, 4, and 5 of Tract 3 on that certain Plat entitled Survey of Marlin Quay Marina Horizontal Property Regime, Garden City Point, prepared by Surtech, Inc. dated May 21, 1985, revised November 27, 1985, and recorded in the office of the Clerk of Court for Georgetown County in Plat Book 6 at Page 214, said plat being expressly incorporated herein by reference.
>
> The Grantor acquired the aforedescribed property by virtue of that certain Deed from Marlin Quay Company, a South Carolina General Partnership, dated July 1, 1983 and recorded on September 1, 1983 in the office of the Clerk of Court for Georgetown County in Deed Book Z11 at Page 1141.

The property of the Grantee to which this easement is appurtenant is more fully described as follows:

> All those certain pieces, parcels, areas or tracts of land identified as Marsh Area, Tract A and Tract B on that certain survey for Marlin Quay Company, Garden City Point dated August 27, 1985, revised January 24, 1986, surveyed and mapped by Surtech, Incorporated and recorded in the office of the Clerk of Court for Georgetown County in Plat Book 6 at Page 438.

It is expressly understood and agreed by Marlin Quay Marina Corporation and the Gulfstream Cafe that as part of the consideration for this conveyance, both parties shall be equally responsible for the maintenance and upkeep of the aforementioned easement area and shall equally share the costs associated with its proper maintenance and upkeep to insure that it is satisfactory for the uses and purposed intended herein.

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It is further understood and acknowledged by the parties hereto that the Grantor herein gave a Mortgage in favor of First Union National Bank, said Mortgage having been recorded in the Office of the Clerk of Court for Georgetown County in Mortgage Book 225 at Page 209, and covering certain real property of the Grantor herein, a portion of which real property is covered by the grant of the easement herein (the "Mortgage"). First Union National Bank consents to and joins in the aforesaid grant of easement from Marlin Quay Marina Corporation to The Gulfstream Cafe, Inc. upon and pertaining to that portion of the property covered by the aforedescribed Mortgage lien of First Union National Bank, and First Union National Bank specifically and expressly subordinates its aforesaid Mortgage lien to the easement granted herein; provided, however, that First Union National Bank makes no representations or warranties as to the validity of the documents creating the easement; and provided, further, that said Mortgage in all respects shall remain in full force and effect and be unaffected hereby except as set forth hereinabove;

Together with all and singular the rights, members, hereditaments and appurtenances to the above-described easement belonging, or in anywise incident or appertaining;

To have and to hold, all and singular, the above-described easement and to the said The Gulfstream Cafe, Inc., its successors and assigns forever;

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And the said Marlin Quay Marina Corporation does hereby bind itself and its successors and assigns, to warrant and forever defend, all and singular, the said easement unto the said Gulfstream Cafe, its successors and assigns, against itself and its successors and assigns and all others whomever lawfully claiming, or to claim the same or any part thereof.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals this 12th day of ~~August~~ April, in the year of our Lord One Thousand Nine Hundred and ~~Eighty-Nine~~ Ninety and in the Two Hundred and Thirteenth Year of the Sovereignty and Independence of the United States of America.

IN THE PRESENCE OF:

Nancy L. Rowe
(as to Marlin Quay Marina Corporation)

MARLIN QUAY MARINA CORPORATION
a South Carolina Corporation
(Corporate Seal)

By: [signature]
Its: Pres.

Attest: W/A
Its:

WITNESSES:

[signature]

Ronda A. Britton
(as to The Gulfstream Cafe, Inc.)

The Gulfstream Cafe, Inc.
a South Carolina Corporation
(Corporate Seal)

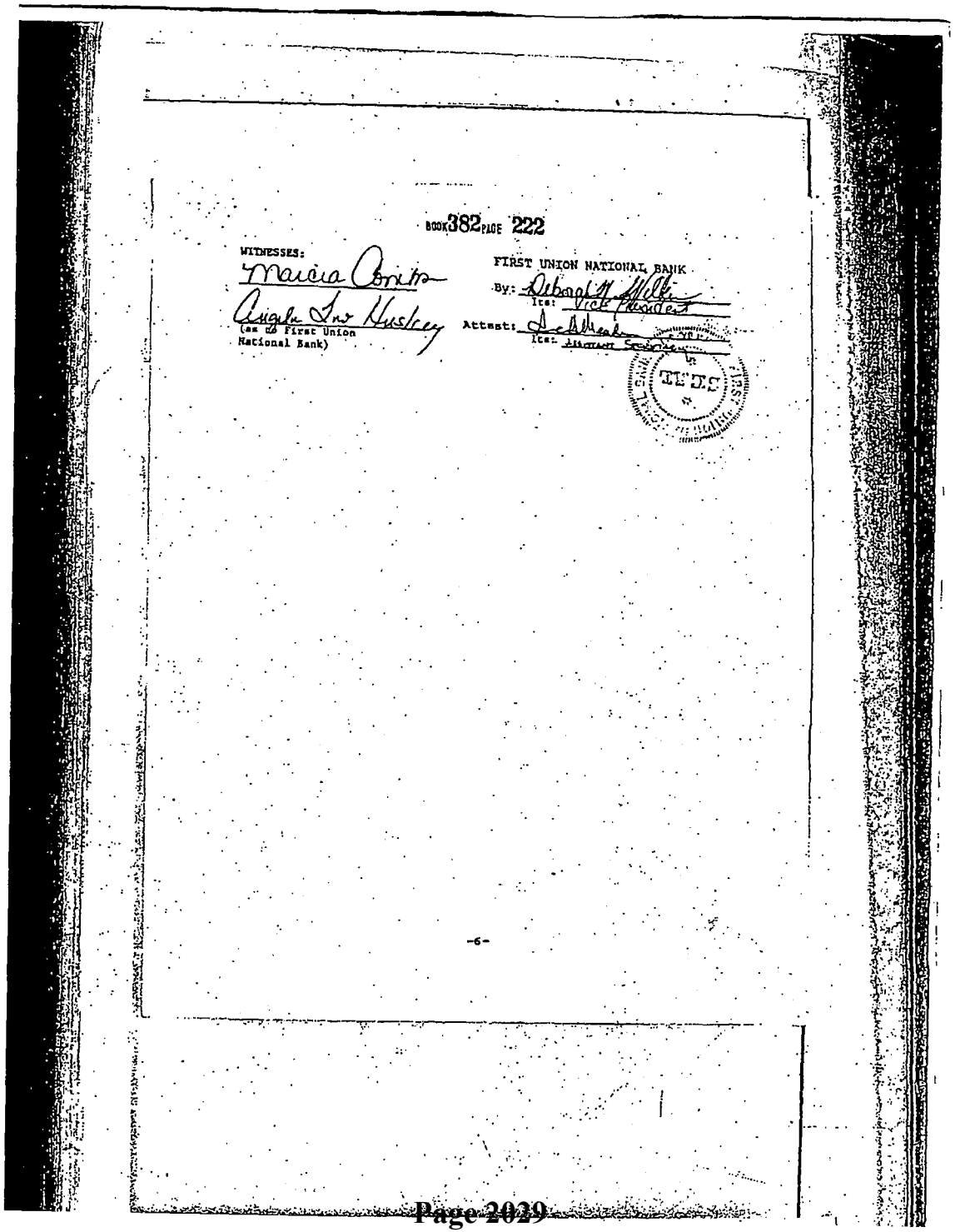
By: [signature]
Edward C. Cribb, Jr.
President

Attest: [signature]
Its: Secretary

-5-

GS000679

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BOOK 382 PAGE 222

WITNESSES:
Marcia Corbin
Angela Lee Huskey
(as to First Union National Bank)

FIRST UNION NATIONAL BANK
By: Deborah M. Miller
Its: Vice President
Attest:
Its: Assistant Secretary

-6-

ELECTRONICALLY FILED - 2021 Nov 22 3:45 PM - GEORGETOWN - COMMON PLEAS - CASE#2019CP2200212

STATE OF SOUTH CAROLINA)
) PROBATE
COUNTY OF GEORGETOWN)

PERSONALLY appeared before me the undersigned witness and made oath that (s)he saw the within named First Union National Bank , by and through its duly authorized officers, sign, seal and as its act and deed, deliver the within written Agreement of Easement and Consent To and Joinder of Mortgagee to Granting of Easement; and that deponent with the other witnesses whose name is subscribed above witnessed the execution thereof.

Marcia Conner

SWORN TO before me this
12th day of April 1990

Notary Public for South Carolina
North
My Commission Expires: 10-9-1990

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STATE OF SOUTH CAROLINA)
HORRY) PROBATE
COUNTY OF ~~GEORGETOWN~~)

PERSONALLY appeared before me the undersigned witness and made oath that (s)he saw the within named The Gulfstream Cafe, Inc., by and through its duly authorized officers, sign, seal and as its act and deed, deliver the within written Agreement of Easement and Consent To and Joinder of Mortgagee to Granting of Easement; and that deponent with the other witnesses whose name is subscribed above witnessed the execution thereof.

Pamela A. Britton

SWORN TO before me this
14th day of May, 1990
~~August 1990~~

Notary Public for South Carolina (L.S.)

My Commission Expires: 4-25-96

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STATE OF SOUTH CAROLINA)
) PROBATE
COUNTY OF GEORGETOWN)

PERSONALLY appeared before me the undersigned witness and made oath that (s)he saw the within named Marlin Quay Marina Corporation, by and through its duly authorized officers, sign, seal and as its act and deed, deliver the within written Agreement of Easement and Consent To and Joinder of Mortgagee to Granting of Easement; and that deponent with the other witnesses whose name is subscribed above witnessed the execution thereof.

SWORN TO before me this
10th day of June, 1990.
Notary Public for South Carolina (L.S.)
My Commission Expires: 6-9-98

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10.00 9 1 m

FILED
BETTY L. WILLIAMS
CCCP & GS
90 JUN -4 PM 12:00
BOOK 382 PAGE 217
Wanda J Prevatte
Deputy

BOOK 382 PAGE 226

Marlin Quay Marina Corp

to

Gulfstream Cafe Inc

Recorded this 4th day of June A.D. 1990
In Book ____ Page ____
Auditor, Georgetown Co., S. C.

COUNTY PARCEL # 41-129-5.3
MSO

EXHIBIT 6

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BOARD OF ZONING APPEALS

GEORGETOWN COUNTY, SOUTH CAROLINA

PLANNING AND DEVELOPMENT

IN RE: Appeal - Marlin Quay Marina Store and Snack Bar

DATE: Thursday, February 2, 2017

TIME: 6:30 p.m. through 8:10 p.m.

LOCATION: GEORGETOWN COUNTY COURTHOUSE
129 Screven Street
Georgetown, South Carolina

TRANSCRIBED BY: LUANNE W. JIVIDEN, CCR

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APPEARANCES OF COUNSEL

REPRESENTING THE APPELLANT:

BELLAMY LAW FIRM
BY: GEORGE W. REDMAN, III, ESQUIRE
1000 29th Avenue, North
Myrtle Beach, SC 29577
Office: (843) 448-2400
Fax: (843) 916-7160
E-mail: Gredman@bellamylaw.com

REPRESENTING GEORGETOWN COUNTY:

GEORGETOWN COUNTY
BY: WESLEY BRYANT, ESQUIRE
716 Prince Street
Georgetown, SC 29440
Office: (843) 545-3006
Fax: (843) 545-3121
E-mail: Wbryant@gtcounty.org

ALSO PRESENT:

BOARD OF ZONING APPEAL MEMBERS:

THOMAS ONIONS, CHAIRMAN
JAMES HOLMES
EUGENE GILFILLIN
GARETH BONDS
PAUL YARBOROUGH

STAFF: HOLLY RICHARDSON
BOYD JOHNSON

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All exhibits were retained by Board and Counsel - not attached		
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MR. CHAIRMAN: We do have a quorum so we will proceed. There are, I think, 25 people that signed up wishing to speak. I want to try to simplify things so if -- a lot of you, I'm sure, know each other. So if you could kind of perhaps elect a few spokespeople and we can simply it.

I am going to limit public comment to each individual that wants to speak, I am going to limit them to two minutes. The attorneys get limited to five. So each individual from the public, if there is something you want to say, you are more than welcome, but you are limited to two minutes.

If you can kind of get together, if a couple of people are going to say the same thing, maybe just one person can get up. That will move things along a little bit better.

We -- I don't need to swear you in for the public comments, so we're going to start with that this evening. We will listen to public comment and then we will go on and get into swearing everybody in, and the rest of the meeting.

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So anyone that wants to speak from the public? Raise your hand or something and I will call on you. You will have to stand up when you get up to the podium. You've got it there? Okay.

When your name is called, if you're not going to speak, if somebody else is going to speak because they are going to say the same thing, you can just -- just let me know and we will move to the next name.

Go ahead.

MS. RICHARDSON: Al Avena.

MR. CHAIRMAN: Yeah, give us your name and then just spell your last name.

MR. AVENA: Al, Avena. A-v-e-n-a. I've had my boat at Marlin Quay about three years now. I understand there is some issues with the parking that's being brought up, that's why we're all here tonight.

But another concern, the closest Coast Guard station we have is down here in Georgetown. The building at Marlin Quay with their antennas serves as a little bit of a safe haven for Murrells Inlet boaters.

They can reach us 40 miles offshore,

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our families can communicate, we communicate back. Us not having that building, that way of communication, puts a lot of people in danger.

Over this summer there was an incident at Three Mile Reef. Danny Carey, you heard the call for help, you were at the Marina. He zipped right out there and got there before the Coast Guard did.

So I strongly feel this building needs to -- that is the purpose, it needs to be there. It's is a public safety issue. Thank you.

MR. CHAIRMAN: Thank you.

MS. RICHARDSON: Matthew Neisler.

MR. NEISLER: First of all, I want to thank you for the opportunity to speak and I, like Al, three years have been at Marlin Quay Marina, you know. They are a safe haven. I don't really understand the logistics of everything that's happening here, but you know, it is a vital part of the community.

I've been a businessman for 37 years, they are not going to do anything but bring

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people and tourists and fishermen into the community, to bring money into the community. And, you know, I'm just here to support 'em. They treat everyone very nicely and like I say, they look after people.

Just like he was talking about Three Mile Reef, we was all on our boats going out there, that quick, just because of a call on the radio. You know, but anyway, I'm here to support them.

MR. CHAIRMAN: Thank you.

MS. RICHARDSON: George Ogorak.

MR. OGORAK: George, last name, Ogorak, O-g-o-r-a-k, with Gulfstream.

Thank you, again, for hearing us. I'm not here to talk about not having a building, I'm talking about a parking spot -- parking lot that is going to have some serious issues with two buildings that have worked together for 31 years.

And the parking situation will be the problem for both businesses. We're morally here to figure out if we can just put the process through the right channels to get it

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to the Zoning Committee to see if it's a minor or major change.

We are not here to dispute the fact that they are good people or bad people. We are just here to speak to the facts, figure out how it's going to go through the zoning, how they can figure out the parking, and if a building is built, we just don't want a 13,000 square foot building built over our parking lot that we pay rent for and have easement rights to. Thank you for your time and hopefully you will -- you are appreciated. Thank you.

MR. CHAIRMAN: Thank you.

MS. RICHARDSON: Matt Tyler.

MR. MATT TYLER: Good evening. My name is Matt Tyler. I have a home, basically a quarter mile from Marlin Quay. I wanted to tell the Board that these are good neighbors.

Marlin Quay is a great neighbor to have. They are literally walking distance from the home. Let me position this microphone. I'm trying to be respectful of your two minutes.

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They have elevated the game that -- Marlin Quay being there elevated the game. When the new owners bought it, better dockage, fuel availability for other people that want to come, whether they are locals or whether they are tourists or guests coming to the area. A place to dock your boat.

Of course, the marina store is there, that serves a very valuable need. If you ever go to Garden City, especially during the tourist season, you know that you will get so stuck in traffic if you try and go anywhere north of the end where we are.

And so it's so convenient, and valued to be able to stop by the store and get a gallon of milk or a loaf of bread or whatever you may need, soft drinks. Otherwise, you're tied up for an hour of your time to get something simple.

So that is a resource that is valued by this local community down there. I don't really understand the parking issue, other than to say, folks, it's my understanding as a layperson that there is no change in the

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parking amount and, in fact, there actually may be an increase in the parking spaces available, so they picked some up.

I will let the proper authorities deal with that, but I do know that what was needed, was this building had to be redone. It was dilapidated, it was old, it needed repairs. And I even heard rumors that it was sinking. I don't know if that is true or not. But it had to be rebuilt, redone.

And so this is a good thing for the area. I know that the Zoning Board appreciates and helps to foster development when it's a good thing for this area, which it is.

The last thing is, I also, like the Gulfstream Cafe, I'm a customer there, but it's a different demographic. You know, if I want to go have a nice dinner with a bottle of wine and appetizers, I take my family to Gulfstream. If I want to go have a cheeseburger after I have been working in the yard, I will go to the marina store and that little grill that they have. And we need that in that area. They don't compete

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against one another.

So all I'm asking for is for the Board to please give favorable consideration to the request of Marlin Quay. Thank you.

MS. RICHARDSON: Steve Tyler.

MR. STEVE TYLER: Steve Tyler, I didn't realize when Doc Lawhon asked me to speak that I was going to come up with laryngitis. I think that is the good lord telling me to sit down and shut up.

But I have to reiterate what Matt just said. I fully support both. I've eaten at the Gulfstream Cafe a hundred times. I hope to eat there a hundred more times. But I think having the marina revamped would be a compliment to the whole area there. And that's my support. Thank you.

MS. RICHARDSON: Max Hasty.

MR. HASTY: I'm Max Hasty. I raised my children in Surfside and am partners on a shrimp boat that is docked at Marlin Quay.

Marlin Quay has been really helpful with us in something that is a dying southern tradition, in running a shrimp boat. When we are there, we get people --

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just vacationers, we'll get patrons from the restaurant just coming over and looking and checking out the boat. They enjoy us being there because of the people that it brings in just to see that.

My kids used to ride their bikes from Surfside down the Boulevard to the marina and I knew it was okay. It's a community place, it always has been. The parking has always been what it is. It hasn't been an issue to this point other than apparently an opportunity to make it one. That's all I've got. Thank you.

MS. RICHARDSON: Ray Kawa.

MR. KAWA: Hi, my name is Ray Kawa. I'm from Surfside Beach. I would like to tell you that I first started using the Marlin Quay Marina in 1976 when I came here in the military. It was a marina there with a public landing, or a boat landing. There wasn't no condos and there wasn't no Gulfstream Cafe.

I believe somewhere around the mid 80's or early 80's they built Gulfstream Cafe and them guys shared parking places. The

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property that was there, that they built on, I guess they made a deal to help each other out.

I've been going there for 40 years. I use that place as a safe haven, a place for fuel, if we're out on the water and bad storms come up it's a quick tuck in, some place safe to hide. The people that own the marina, Chris and his family, are super friendly to people, they are very helpful.

I've seen them take their boats out to help strangers that get stuck or in trouble. Having that marina that close to the mouth of the inlet is a benefit to us boaters. Other people have testified that they are quick to respond if you need some help.

But as far as the parking thing goes, you know, pretty much -- now, I'm not an expert on what happens over there, but from what I see in the daytime the marina uses the land and in the evening time it's more the Cafe.

Yeah, it is a problem sometimes on Sunday mornings, but it's been a problem. And the answer ain't to prevent -- they are

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going up. They're not expanding their footprint. They are going in the same spot, just up. So I don't understand how that affects anything and I'm here to support the marina.

MS. RICHARDSON: Caleb Hartley.

MR. HARTLEY: Hello, my name is Caleb Hartley and I'm the inshore captain for Marlin Quay Marina and I'm in full support of the marina being there.

The Lawhons have been nothing but nice to me. They've given me an opportunity to pursue my dream of being a boat captain. It brings -- it's bringing in people for both sides. There's fishermen and then they can go eat and -- all around, that marina needs to be there. I really think if they could work together it could benefit both parties. That is all I have. Thank you.

MS. RICHARDSON: Danny Carey.

MR. CAREY: Good evening, thanks for having us here tonight to talk about this. I talk a little funny. I'm from New York. I moved down here a few years ago and I started a small business and I rely on

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Marlin Quay Marina.

I started my own charter boat business and if it wasn't for Marlin Quay Marina I would have no place to keep my boat, to run my business, to pick up my customers. I'm in favor of Marlin Quay Marina. I hope they get this issue resolved.

We also frequent the Gulfstream restaurant, you know, we come in from fishing and some people go to Gulfstream restaurant and some people go to the Marlin Quay Marina.

I just hope we can get this parking lot issue resolved and continue our business. I generate anywhere from 30 to $50,000 just running a small business like that. And there are several businesses that rely on this marina. Thank you.

MS. RICHARDSON: Kevin Durenzo.

MR. DURENZO: I was going to speak on a couple of different fronts. One, as a resident of Dolphin Street down there in Garden City we most certainly enjoy both establishments. We go to Gulfstream as much as any place and Marlin Quay as well. And

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it's nice to have, you know, a variety.

My kids certainly like going over there to see the boats come in and eat lunch and all of that kind of stuff. I also own Beach Realty in Garden City Beach, which is -- we have 37 oceanfront homes that house 1,100 and 30 something heads at the high season, you know, every week during the season.

And I'm here to tell you, neither one of them can support all of those people, so seven nights, you know, two restaurants, they might get them both -- we need them all. There is no, what do you call it, monopoly down there if someone is going to run one or the other off, I think they work very good in unison. But that ancillary value of that marina, when you get people coming down there and they make that turn to come through Atlantic Avenue and -- South Garden City, I mean, we're getting 18, $17,000 a week for those big houses. And y'all are making real good money on that as well, you know, the accommodations tax.

And we've got to give some ancillary value out there. The beaches are great, the

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creek is great, but they've got to have some activities down there and I think both places really represent the area well.

And if we could find a way to kind of get this worked out so they could both make it work down there, there is plenty to go around for everyone.

MS. RICHARDSON: Constance Lowry.

MS. LOWRY: Thank you for letting us speak. I'm a resident of Marlin Quay. I own two condos there, a penthouse which is a two story and a three bedroom, and another one that is two bedroom.

I'm concerned that we haven't really been told the plans of -- for the Marlin Quay Marina. This appeal came to our attention sort of at the last minute. And we really would like to know, instead of hearing all of the, you know, rumors and everything, we would like to know what their real plans are and how high this building is going to be, and how that is going to impact our views.

I enjoy going to both places. I've been a customer at the bar and the marina

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ship store and over at the Gulfstream, and my guests like to go there, too. So that's not an issue.

I just think we need to have more transparency in what's really happening here. Thank you.

MS. RICHARDSON: Buddy Hucks.

MR. HUCKS: Buddy Hucks, H-u-c-k-s. I've got a long history with this property. In fact, I owned it at one time. And realize the difficulty of this Commission with the PUD that was written back in the day.

But as a resident, I will say that it is very much needed and the cooperation between the parties is -- obviously, y'all can't control that, but to bring something up to new standards to meet the existing PUD seems to be a good compromise or a good -- and a lot of support from the local community. And I just tell you that it's -- they are raising the bar, Marlin -- I mean, Gulfstream has improved their act through the years.

There seems to be commitment from the

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marina people to do that, and we welcome a cooperative solution to this situation, as a resident.

MS. RICHARDSON: Jim Allison.

MR. ALLISON: Jim Allison with Dunes Realty in Garden City Beach. Allison, A-l-l-i-s-o-n.

The company I work for is predominately rentals, approximately 800 vacation rental homes, south of the Garden City Pier is the peninsula itself where the marina is located as well as the Gulfstream Cafe.

Those are the only two commercial operations south of the pier. Both of them are locations that attract tourists, not only from the standpoint of seeing it, seeing the sunset, it's an unusual location because you can see the sunset from both properties.

It's a destination, not only for locals that are fueling boats, buying ice, buying boating supplies, eating hamburgers, enjoying comradery, but as well as a location for tourism, to pick up a T-shirt, to pick up, like was said earlier, to pick

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up a gallon of milk. That's it. There's no clubs in Garden City. There is very little commercial activity except for those two things. So it serves -- both entities serve our community well.

The Marlin Quay building itself was in bad repair. What I know, and I've not seen any plans, is there is going to be a net gain perhaps of two parking spots and there is going to be a brand new building. The existing building is no longer there.

I've know the Marlin Quay Marina for about 25 years and watched that building come down. So I think a new structure that is going to be up to Code is going to be a benefit to our community.

MS. RICHARDSON: Todd Vick.

MR. VICK: Sorry about that guys. Thank you for your time, I appreciate it. I have a prepared statement real quick, so I won't take your two minutes.

Marlin Quay owners are very responsible, reliable folks and they only have the best interest of the community at heart. It's my understanding that they did

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everything they were asked to by the County when they applied for all of the permitting and everything that they needed.

Now it's stuck at a technicality which is just trying to slow down the process. The improvements that it will bring to that area are -- you can't count them. These are not only for the Georgetown residents, but also for visitors for many years to come in that area. It's needed. I hope that everyone can work together, we can get this resolved, because that is one amazing area down there on that part of Georgetown County. Thank you for your time.

MS. RICHARDSON: Stewart Altman.

MR. ALTMAN: Stewart Altman, I'm a businessman here in Georgetown and I live in Murrells Inlet. I'm in the boat business. I sell and service boats and Marlin Quay and the guys that own it have been a tremendous asset to my business since I've been here the last three years.

They have put on tournaments and provided services to all boaters which is a positive for me. I think the economical

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aspect of it as well as has been mentioned, the convenience, the fun, is much needed in that area. Whatever it would take to -- and I don't know anything about the big picture, but I do know that Marlin Quay has done tremendous things for the community since they've been there. And it looks to me like they are trying to better what they've been doing and move forward and I think that would benefit everybody in Georgetown County. Thank you.

MS. RICHARDSON: Danny Springs.

MR. SPRINGS: My name is Danny Springs. We have Harrelson Seafood in Murrells Inlet and I would just like to say without knowing too many of the technicalities involved with the parking issue, I do know that Marlin Quay has set there and done nothing but decompose for the past 15 years.

The Lawhons have come in and gambled with their money to make this place a better spot for visitors, a better spot for locals, and there is no bad feelings towards Gulfstream. I understand completely, but if it comes down to a technicality, I ask that

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it's going to be for -- it's going to be a beautiful building on a beautiful piece of land, and that's only going to do wonders for the community, as well as for tax dollars.

So, you know, I ask that you give them a fair shake here. Thank you.

MS. RICHARDSON: Larry Collins.

MR. COLLINS: My name is Larry Collins. I speak as a homeowner over at Marlin Quay Condominiums. I personally -- I cannot speak for the Association -- but I personally want a viable ship store over there at the marina and I wish them all of the luck in the work with it.

I don't understand what we're talking about here tonight, I thought the whole thing was over a technicality of whether this was a minor or a major alteration to the property over there. I don't understand all of these other things that we're talking about here.

MR. CHAIRMAN: You're correct.

MR. COLLINS: That's not even on the table, as I -- as I see. But I wish Mark

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and them the best in the world. We want -- the store and the marina has got to work together and get their heads together and work this thing out. And that's about the only thing we can do. And I wish y'all the best.

MS. RICHARDSON: Debbie Lutz.

MS. LUTZ: My name is Debbie Lutz and I'm a homeowner at Marlin Quay, and again, I'm not really sure what we seem -- I'm like Larry, I thought we were here to discuss was this a major change or a minor change and tearing down a building and putting up a new one, which we haven't even seen plans for.

The parking as it is, is a problem over there. I sit on my balcony every night and there is people parking up and down the streets and in the parking lots. So if we are building another large restaurant/bar marina store, which I think is good, but it's just going to add more parking issues than we already have.

And that's my concern as a homeowner. My view, and the fact that we have people parking on the streets, it makes it hard to

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go up or across the street. I'm just afraid we are going to have accidents. And that's my biggest concern.

MS. RICHARDSON: Mark Nappier.

MR. NAPPIER: Hi, my name is Mark Nappier and I'm with the law firm of Joye Nappier Risher and Hardin. I represent the Homeowners Association, and the Homeowners Association has indicated that they are not taking a definitive position regarding the issue that is before you today, which is this question of a minor or major change.

We can simply say as an Association that they -- I've been told that certainly as far as having a ship store, they like the idea. What was taken down was about a -- just about a 4,000 square foot building, and we simply ask that you guys look at what was -- what are the requirements for the PD, what are the necessary requirements for making a change, major/minor that you have counsel on both sides who I know are both very capable of making their respective arguments.

All we ask is that this -- that this

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Board consider what is said and apply the requirements under the zoning laws and under the laws of our state, when analyzing what they're requesting to build and what was taken down. And that's all we can hope for. Thank you.

MS. RICHARDSON: Charles MacElven.

MR. MACELVEN: I have nothing to say.

MS. RICHARDSON: Katy Newman.

MS. NEWMAN: My name is Katy Newman and I've worked at Marlin Quay for the past two summers. And personally I know how Mark and Chris run and they don't do anything without making sure their I's are dotted and their T's are crossed.

And having worked there for the past two summers, I know the building had to be redone. There was no way it could make any changes or be, you know -- I can't speak tonight -- it had to go up and it had to be redone in order to do something better for the community.

And even with the building we had, it's obvious that the community functions, especially in Garden City, around that

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building. I know for a fact that the spots -- there will be two new spots added with the new plans in place -- and it's going up and for the marina and everyone that works there, that is something we've been -- it's just going to do amazing things for the community.

MS. RICHARDSON: Kenny Moore.

MR. MOORE: My name is Kenny Moore. I can only speak about my own experiences and observations of years of working and recreating and spending my money in the Marlin Quay and the Gulfstream restaurants.

And that is that Marlin Quay Marina is an immeasurable resource for Georgetown County and for the State of South Carolina. It is utilized by locals as well as visitors. And I know there is a lot of decision that goes into progress like this, but the Lowhans have already invested pretty heavily in renovating and improving that area and have given people a reason to drive south of the Garden City Pier. That is pretty much all I have to say.

MS. RICHARDSON: Mike Brady.

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MR. BRADY: Good evening. My name is Mike Brady, B-r-a-d-y. What I'm hearing sitting back here is a lot of compromise wanting to be had by all parties.

A friend of mine and I were just talking, I remember when the condos were built at the Marlin Quay. I remember going to the Gulfstream in the 80's. So both businesses prosper and kind of feed off of each other.

You know, if you're at the Marlin Quay fishing during the day you look over at the Gulfstream, hey, honey, let's go out to dinner tonight. It makes sense.

I think what I really want to see here is a compromise. Because both businesses are very, very important to the Point. That's just all I have to say. Thank you.

MS. RICHARDSON: Brad and Missy Collins.

MR. COLLINS: My name is Brad Collins, C-o-l-l-i-n-s. Pretty much what we've heard here tonight is compromise. You know, that's what needs to be done. The Lowhans have invested a lot of money and it's a good

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thing for Murrells Inlet. And that's all I have to say. Thank you.

MR. CHAIRMAN: Thank you each and every one of you for your input. And we will continue. Boyd, do you want to give us the steps? The presentation?

MR. JOHNSON: I'm not going to go over every -- I assume y'all have memorized the green staff report so I won't go over every number in here.

But this is basically an appeal from George Redman, an attorney as agent for Gulfstream Cafe regarding staff's interpretation of *Section 6.19.3* of the Zoning Ordinance, specifically related to the Marlin Quay PD.

This PD is in Garden City, in which the Marlin Quay Marina is there, the Gulfstream Cafe, condominiums, and also a store/restaurant associated with the marina. These are located in that PD.

This PD was approved in 1982. I guess it's one of the older ones in the county. Palmetto Industrial, LLC now owns the marina restaurant and store. Until recently this

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building was approximately 4,603 square feet. And the building was literally straddling the property line between the marina property and the condominiums.

I might add, this is an unusual PD in that there are zero setbacks in this PD. Of course, this PD -- this building was a minus setback because it was straddling the property line.

On June 15th, 2016, Georgetown County staff determined that removing that building and constructing a new building entirely on the marina property was a minor change to the plan development. And the subject building I just described was then demolished.

The difference between a minor change and a major change in a planned development, which we've heard mention tonight is primarily that minor changes can be processed by staff in-house, and major changes are an amendment to the plan development and have to go to the Planning Commission for a public hearing and County Counsel for three readings of the amended

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ordinance.

And a minor change, which is outlined in our Zoning Ordinance in *Section 619.301* and a major change is outlined in *Section 619.302.*

To be a minor change a project has to do the following: Not increase the density. Not change the outside exterior boundaries or height limitations. And I might add, this project must meet the County's height regulations established in the Zoning Ordinance.

It also must not materially change the location or amount of land devoted to specific land uses. One of the things that we talked about when we were reviewing this, is when we first saw -- staff, I'm talking about -- when we first saw the building with the property line cutting through the center of the building, you know, we thought it would be a plus to have the building entirely on one lot and not be straddling the property line. So that was one of -- part of our thinking as far as location.

It also should not increase the

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intensity of land use. And I will describe, that's a key point. I will give you the definition of intensity in a minute. It should not significantly change the exterior appearance from those shown on any plans submitted by the developer.

I will say this -- some PDs have architectural standards that they have to build by, this PD, to my knowledge, does not have any architectural standards. There may be some in their covenants or deed restrictions, but as far as the County's PD, I don't believe there are any architectural standards.

Also, as far as a minor change, it may include the minor shifting of buildings and other infrastructure such as a sidewalk or something like that. However, if staff was to approve anything it could not include -- the building could not encroach in any setback. Again, as I said earlier, there is no setbacks for this project.

Intensity, that is one thing that is not supposed to increase to fall under the minor -- to fall under the definition of

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minor change. And intensity is defined in the Zoning Ordinance as the degree of negative impacts on the environment and neighboring land uses. That's a pretty board definition.

A permit was issued by the County on November 7th, 2016, for a foundation and piers only portion of the project, and that was for a 4,350 square foot heated building with 811 square feet of unheated space.

Work on the site has since been stopped due to this appeal. There has been one or more court orders temporarily addressing the project, but I'm not familiar enough with court orders to get into those.

The Applicant's appeal, again, they are saying staffed erred in its interpretation of the Ordinance and this should be a major change and it did not meet those conditions I went over via a minor change.

The Applicant's appeal based on their information basically states that staff's determination was wrong and that it violates their rights regarding a parking easement, creates increased intensity and density,

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changes the exterior appearance of the building, and changes the bulk and height of the building and changes the location of the building.

So the BZA's role tonight is to determine if staff's interpretation to the new replacement building is, in fact, a minor change or did staff error in its interpretation of the Zoning Ordinance and the project should have been viewed as a major change.

And it's not the role of the BZA to decide the merits of the project, you know, whether it's a good project or a bad project. It's simply to determine if staff was correct in its interpretation or did staff err in declaring it a minor change. That's our report.

MR. CHAIRMAN: All right, Mr. Redman, why don't you give us, as the Applicant, your presentation.

MR. REDMAN: Thank you, Mr. Chairman, and members of the Board. If I may, I have a few CAD documents, if I could have those up, I have enough for everyone to have.

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First off, I would like to say thank you for your time in considering this appeal. I know everybody here has a family and a life and we appreciate you showing up, because it's a beautiful piece of property that we're talking about down there.

I -- my name is George Redman and I work at the Bellamy Law Firm in Myrtle Beach with David Gundling who works in our Pawleys Island office. We represent the Gulfstream Cafe, and as you know, we filed this appeal.

The Gulfstream Cafe has been in operation for about 31 years. And it is part of the Marlin Quay Planned Unit Development. The PD was formed in 1982.

Also in that PUD is the condominium owners, who you have heard from, boat slip owners, 67 boat slip owners. There was a marina store and a snack bar there too, and of course, the Gulfstream Cafe.

Now for 31 years, except for this issue, everyone has worked together and compromised on that piece of property, there is no question. Doctor Lawhon purchased the property approximately two or so years ago

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and with that purchase he bought the marina store, which we've heard a lot about, and a snack bar and grill, and also the parking lot in between the Gulfstream restaurant and the prior marina store.

Now, when they were planning this Planned Unit Development, they took into account a lot of the things that these folks are talking about together, that they have to work together. How is it that they can share this one parking lot, these two competing businesses? Well, they did it in recognition of the fact that the marina store was opened primarily during the daytime hours and the restaurant would be primarily opened during the evening hours.

And, in fact, there were easements, agreements between the developer and the Marlin, and the Gulfstream Cafe, when the property was purchased in 1985 that said exactly that. And that's in Exhibit 2 of the tab right there.

You don't need to read it, but if you're interested in seeing exactly what it says, it's behind Tab 2 and I put a little

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red mark there and I highlighted it for you.

It says that while each party shall have full and continuous permanent use of that property in between as a parking lot, it is understood that the Gulfstream will be using it primarily in the evening business hours and the marina store during the primary daytime business hours. That is how it has worked and that parking lot has worked. And that's what we're here about.

I hear a lot of comments about the marina store. We have no opposition to a marina store whatsoever. When I say that, that is absolute.

What we're talking about is the parking lot and whether this change in these plans are a minor or major change. Because that parking lot on that configuration is essential to the operations of the Gulfstream Cafe. Anybody who has gone down there at nighttime knows that and has seen it.

As a matter of fact, in 2003 when there were people parking on the street because of a shortage of parking there was an accident,

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and people were seriously hurt. In fact, two were killed.

So we don't want people parking on the road down there. And if you look at Exhibit 3, you don't have to actually look in there, but there is a plat that is referenced in all of the easements that says, here is what the parking lot looks like. It shows the parking spots in there as they are today, just like that. And it is a public record to provide notice to anybody who wants to buy that property, that that's a parking lot and these folks have easement rights. Permanent easement rights to it, if you buy the property you buy it subject to those rights. And that's how it's worked and it hasn't been a problem.

Now, this issue came to us just like it has still with a lot of people who that are here today, a lot of people who are here today have said, "I would like to see the plans before I make a decision." Well, before construction started we were informed that they were going to renovate that building.

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We thought like everyone else here, good. That would be great if they had a nicer building there. But we were never told that -- we were never shown any plans, just like in your appeal brochure you don't have plans of what is actually going to be built there, and that seems to me to be critical.

But this came to us, this problem came to us when construction started and a fence went up, poles driven into asphalt with hard wire saying, "Construction, keep out." It blocked off the entire parking lot for the customers of Gulfstream right before Thanksgiving. That was a shock.

That initiated a lawsuit, the judge stepped in and issued a ruling that said take the fence down and leave this parking lot open while the litigation -- until we have an opportunity to hear this clear. And that's what has happened. But litigation isn't the subject here.

What we are talking about is the plans, and I have included -- Holly, if you could go to Slide 1 to show the parking lot, my

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Slide 1, is essentially the same, I guess. You can't see it as well. But it's -- there's the old building to the right, and there's the parking lot that we're talking about.

Now, the plans that we go in there -- we were wondering, can I see a copy of the plans? And we were initially told no. But the lawsuit started and we got some of the plans and just as shocked as we were when we saw the fence go up, we were equally shocked when we saw the portion of the plans that we were able to see, we saw a 10,000 square foot building.

Actually, to my eyes it looks more like 13,000 square foot. We saw a 4,000 square foot restaurant going in there. We saw the marina store in there. We saw an extra 5,300 square feet of conditioned storage space. We wondered who needs that much storage on an entire floor that is built wind rated and with windows and everything.

So it gave us more questions than really answers at that point, and we wondered how could this happen? And we

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learned that there were e-mails and correspondence, and I've got those in Exhibit 5, back and forth between the developers and the staff.

And they essentially asked what if, what if we tore down the building we have which is old and we build the exact same size building back up? And it had the exact same size -- same uses inside of it, and the restaurant was the same size, and the marina store was the same size and the parking, the parking only gets better because we are going to redesign -- we are going to put it up and cars can park under there and we get two more parking spaces.

That's what the staff was asked in May -- in January and in May of 2016. It's important to note they weren't reviewing any plans, they were just being asked a hypothetical question. They weren't reviewing any plans because no plans had been drawn up yet, which makes sense. You don't want to spend a lot of money on plans before you have an idea of how staff is going to rule on something like that. So

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that's not out of the ordinary.

Now, whether it's a minor or a major change -- Holly, can you go to the next site? Here is an interior -- this comes from their web page. This is approximately half of the inside of the marina store and snack bar. This is in the marina store part, obviously, but there is a small portion of the building behind. We're informed that -- can you go to the next one there? The restaurant was 1,900 square feet. And now -- let's talk about the plans that we do see.

In the blue area there you will see that that is the proposed building that will be up on stilts and two stories up on top of the stilts and on the green area there is the prior building there.

So when we talk about what is actually being considered here and what we're appealing, we don't agree that the building was originally 4,600 square foot. The biggest approval we saw was 4,200 in the PUD when we looked at it.

But that aside, we're not saying

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necessarily that if they build the exact same thing that shouldn't be allowed, we certainly not saying we're against a marina store because we're not. What we're saying is, if you look at the plans you will be amazed at how big of a major change, and I feel confident in saying that. Maybe you will use your own adjective, I'm sure Mr. Stacy might disagree.

But in Item Number 7 is a -- if you could open that in your packs. I will ask you to look at that -- Holly, if you could go to the next slide. That is an elevation of the building showing that it is three floors, the stilts, the car parking underneath it, and then two full stories with windows, improved, and a four story lighthouse.

We talked about whether a minor or major change includes anything going over the height elevations. If you look at the base of the observation deck and the lighthouse there, we -- they have the elevations in front of them with their packet right there -- we don't have the

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slide for everyone to see of the elevation, but the Board members do.

Now, that lighthouse, the bottom of the observation deck is at 50 feet. The height restrictions, minor/major change, 45 is the limit. Anything above it means it's a major change, and that's just one aspect of it.

I put the Ordinances as Tab 1, so you can see that there. But I looked at this as a lawyer and we hired an engineer, Mr. Robert Castle is here today to look at it, so it's not just what George over in his law firm cooked up.

We had an engineer look at these plans and tell us what does he see when he sees them. If you look at the parking lot, the building goes on top of the parking lot. That is not -- it manipulates the easement, the picture of record. And that's impermissible, but we will deal with that in the court also. But that is something the Planning Commission should consider, that easement, that agreement, how things were supposed to work together.

Our count, Mr. Castle's count, is that

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with this plan you lose 11, the PUD loses 11 parking spaces. 20 of the parking spaces become compact parking spaces, meaning they are much smaller. The lanes have been shifted so that it is not safe when you're driving around.

Now, you take that decrease in parking and consider what we have for the restaurant, the proposed restaurant on the first floor. These are plans from the architect's file that we pulled. They were not submitted to the County. And the County never, to our knowledge, issued a determination as to whether 144 seats was what the snack bar had before, the highest possible count that I've been able to get, although the building is gone now, was they had as many as 70 seats, that includes barstools, that includes out on deck, that includes everything. And the square footage of the restaurant was 1,900 square feet.

This restaurant is 3,000 square feet. The deck on the outside is 900 square feet. So we're going from a 1,900 foot, including indoor and outdoor restaurant, to one that

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is 4,000 square feet total, okay? So we think that will increase the intensity. We think that increases the density. We think when you're shrinking the parking lot down that creates a problem. And we don't want people parking out on the street because it's not safe and it's not good for anyone down there.

Now, if we could talk about the second floor, which is the next floor, which was a real surprise to us when we saw those. Holly, if you could go to the next one.

The second floor was 5,200 square feet of vacant space in the plans that were submitted to the County. When we reviewed the architect's file, which we obtained through litigation, we see that the plans actually show seven motel rooms. Not that that is being requested to be permitted right now, but it shows the future -- that's why you build 5,200 extra square feet of storage and it's all -- you can see, future waste, discharge drops, it's all wired for electrical and plumbing and it's fire rated and it's to withstand 150 mile hour winds,

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that is an expensive venture to build an entire new story of just storage. And we see what the intent there is. And we were surprised and also disappointed in that.

So in Mr. Castle's expert opinion, and I've got his Affidavit, it's in the back of the pack that I've handed you. The changes that are being proposed with this huge restaurant that will go against the agreement of who uses it in the nighttime primarily and who uses it in the daytime primarily, it really creates a problem.

In his expert Affidavit he says these changes will overburden the property, there is not enough parking. And the situation could be dangerous.

We feel -- we're just seeking -- we're not saying that a building -- particularly a marina store -- should not be built. What we're saying is, let's be more, like I heard from somebody else today, transparent about it. Let's send this to the Planning Commission and let's have them look at the plans along with staff and not answer hypothetical questions, and say, what did

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you have in the before, what exactly are you planning in the after? That is all we're seeking, is that you ask that this be a major amendment that requires public notice, a hearing, an opportunity to be heard, and everybody coming together and doing the right thing to compromise on this.

It's my understanding that I have three minutes of rebuttal at the end, is that correct? Or --

MR. CHAIRMAN: Well -- yes.

MR. REDMAN: Okay, then I will --

MR. CHAIRMAN: You only had five minutes to start with.

MR. REDMAN: Did I go over five? My rebuttal -- I will keep my rebuttal to 30 seconds, if that will be okay.

MR. CHAIRMAN: Okay, thank you.

MR. REDMAN: I'm so sorry. Thank you so much for your time.

MR. CHAIRMAN: That's okay. Mr. Redman, do you have any witnesses that you're calling?

MR. REDMAN: I have -- as far as -- with five minutes, it's really difficult to

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put up anybody so I submitted Mr. Castle's Affidavit in an effort to save time. But he is a witness and that is the -- we ask that all of the documents be entered into evidence in this hearing.

MR. CHAIRMAN: Okay, that's very good. All right, let's move to the opponent's presentation. Dan, go ahead.

MR. STACY: Thank you, Mr. Chair, Members of the Zoning Board of Appeals. Because Mr. Redman was generous with his time, I would respectfully ask -- I have some things I would like to present to the BZA but because there has been a lot of suggestions and allegations made about theoretical plans that have not been presented to the County for approval, I have Mr. Steve Goggans here who actually prepared these plans and would like to yield some time to him to be able to explain what has actually been presented versus what he and his client may have been dreaming and scheming about for future use. If that's okay.

MR. CHAIRMAN: Okay.

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MR. STACY: So the subject matter has been correctly stated, is whether or not the staff decision about tearing down the old building and replacing it with a new building is a minor change or a major change.

I think it's important to explain a little bit about the project, everybody's got their tabs and everybody's got their (inaudible.)

This is the initial plat of the PD which shows this store being on a split piece of property, half owned by the condo's Association and half owned by the former owner of the marina store.

The building was built 30 plus years ago, it was not a great building the day it was built and it suffered from a lack of maintenance the whole time. It was, in fact, sinking due to some bulkhead problems. And we looked at renovating the existing building. Federal flood code required that if we are going to spend more than 50% of the value of the building we have to bring it into compliance, which means we have to

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raise it.

So we realized we could not renovate the existing building. So over a series of meetings, we met with Boyd and Holly and JoAnn and members of the condominium owners Association to discuss whether or not we could simply allocate square footage that was belonging to the condo Association but used for our building, allocate it wholly on our site and rebuild a building in approximately the same size as what was there. Remembering that by the International Building Code there has to be some ADA bathroom issues and some other things that have to be slightly increased to comply with building code.

The former building was 4,603 feet, approximately 2,600 feet of retail, about 1,950 of restaurant. The new building, in fully conditioned space is scheduled to be 4,350 square feet, with about 1,680 feet of retail and about 2,600 hundred feet of restaurant operation. Mr. Goggans can deal with that more.

Because everybody is so concerned about

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parking, under the current plan Zoning requires 50 spaces. There are currently 59 spaces in place, and the new parking plan would provide 67.

But we are here about whether this is a major or minor change. This is not an architectural review board to determine whether the plans are acceptable, that is a County building code issue.

You have the Code section between you, but if you go down your own PD code section about what is a major versus a minor change, we are not increasing the density, it's the same amount of square feet that was there, that will be there again.

We are not changing the outside boundaries of the PD. We're not increasing the intensity of the land use, and I will respond to Mr. Redman's allegations. We're not materially changing the location or amount of land devoted to specific uses.

We are changing the exterior appearance, but because there are no architectural guidelines here that condition should not apply, there is nothing to

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compare it to.

And it does specifically say we can shift the location of the buildings. One of the issues raised by the Applicant -- or by the Appellant is that the building height will be increased. Well, absolutely. But your own PD Ordinance specifically provides that a change in height to comply with flood zones is not a major change. By Code it is a minor change.

I think it's important to do a little bit of examination of what the law in South Carolina is. You have Counsel from -- Mr. Bryant. I've searched high and low, there is not an appellant case in the entirety of the United States of America except one in Minnesota that dealt with a major change versus a minor change, and in that case the staff determination was upheld.

The state law in South Carolina comes out of a case called *Vulcan Materials v Greenville County* and the holding is simply this; the construction of a statute by the agency charged with its administration should be accorded great deference and will

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not be overruled without a compelling reason. So the judgement of the staff should be upheld barring some specific egregious violation of its own ordinances.

There is something I think is important for the Board of Zoning Appeals to consider here. This is not specifically about this issue, this is more of a macro issue. Every week, homeowners, business owners, real estate professionals, architects, lawyers, developers, engineers, contact Mr. Johnson's office to talk to he or Holly or JoAnn about, this is my property, this is what I would like to do with it, I've read the Code, can we do this? Staff makes these interpretations all the time.

And based on their interpretations, the public makes big decisions and expends lots of money in reliance on those decisions. I simply offer that -- and I don't want to make them feel old, but their collective 80 years of experience as planning professionals to interpret the very codes that their county counsel wrote, is something that we should be entitled to rely

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on and their expertise in these matters should be deferred to.

We've heard a lot about the plans. I want Mr. Goggans to address the plans. I ask for that courtesy from Mr. Onions. I'm sure the Members of this Board have that consideration.

We've not applied for a set of building plans to be approved. This was a demolition plan and a plan to drive pilings to raise the building.

We believe our plan increases parking. We do not believe it decreases parking. But if you have concerns about the plans, I would defer to Mr. Goggans.

We respectfully ask that you uphold the decision of the staff, because that is the current status of the state law of South Carolina and people make very expensive decisions in reliance on what they are told by the planning staff. Thank you.

MR. CHAIRMAN: Mr. Goggans, as a witness I need to swear you in.

MR. GOGGANS: Yes, sir.

MR. CHAIRMAN: If you will raise your

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right hand.

STEVE GOGGANS, being first duly sworn, testified as follows:

MR. CHAIRMAN: Thank you, go ahead.

MR. GOGGANS: One of the things, as these plans evolved, I was concerned about were some of the issues that have been raised here tonight so I have had considerable dialogue with the planning staff over a number of months. Not one conversation, but many, many conversations and an endeavor to also document those conversations in writing. And some of that this group has and some of it may have been -- may have surfaced in your packets and packages.

But one of the things I want to note is that this building -- this site, as a professional planner and an architect, is a little different and unique is, it's previously developed. And I mean, developed 100%. The site is totally impervious. It's totally paved and/or buildings occupy it. Ergo, when we think about things like intensity, as you move things around on site

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you're really not changing the intensity if you change -- don't change the impervious area of the site.

Had numbers of discussions with storm water and so on. So it's a unique site in that way, again, fully paved, fully developed. Every square inch of site is occupied. If we were doing that today we would have to have a certain amount of open space.

The other criteria that we were faced with when we designed the building, is that the previous building was 4,600 square feet of heated space. Now, the graphic that was shown by Bellamy Law Firm, could we flip back to that? I think it was developed by Mr. Castle that has the blue -- if we can find that. There we go.

The -- it appears per that graphic that we are building a much, much larger building when, in fact, the green building that you see existing, at least half of that, is two stories. So what is a little different here, even though we are only building 4,600 square feet of heated space, 4,350 actually

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in blue, of the 4,600 square feet of space, is that we've spread that out in one floor plate.

And, again, I urge you to keep in mind the site is totally impervious, totally paved, so it doesn't matter in a sense in terms of environmental considerations and so on.

The other thing I ask you point out -- or would like to point out is a good bit of that floor plate that you see is a stair tower, an elevator, a deck, a generator pad and a platform for air conditioning. I would like to submit an exhibit, if I may, I will distribute that too, which shows a slightly different graphic, which shows the net useable and heated space versus the unheated space.

In conversing with planning staff it was also determined that provided -- provided that the heated square feet didn't change and provided that didn't -- exterior space, decks, were okay, and indeed there were decks originally in the original building -- and provided there was parking.

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We actually increased parking considerably by a number of spaces in this. We went from 59 to 67.

Now, we have proposed a modification to make circulation a little easier. The spaces that are there are consistent with the size, the ones that we propose are consistent with the size of the ones that are already there. If those are substandard or -- if ours are substandard, then those are substandard. But we, again, modeled our sizes after those sizes.

In the course of developing the plans, Mr. Lawhon had us look at a lot of options. Some of those options have been shown tonight, they were speculative in nature. They have not been submitted for consideration by planning and zoning or by the building department.

You saw one which had the seven rooms, that is unconditioned space, no electrical, no heating and air. It will not be occupied unless, some point in the future, Mr. Lawhon decides he wants to go through the process of asking for a major change and convincing

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the public bodies at that point that he has sufficient capacity on his land with respect to parking and other considerations to do some of those things.

So that was the subject of conversation with Zoning, too. It -- provided we don't condition that space or improve it, then it's basically a big attic. We even talked about leaving out that floor so that that was a large cathedral space open to the restaurant.

I will mention, too, in all commercial buildings in Georgetown County, the local fire chief, fire marshall, does conduct an annual inspection. He looks into attics. And so if our opposition or others don't seem to trust Mr. Lawhon, he would be readily found out if he tried to sneak anything into that space.

So that is a reality. So with those things, I think I would ask you to consider -- I think staff accurately and adequately considered all of this, the impacts, judged that we weren't building a building that was larger in terms of usable square footage.

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It is spread out on one floor.

The seating doesn't measurably change when you look at all of the seating in the old building, which included a place -- a deck at the bottom, a deck on the top, and two levels of dining and snack bar area. So with that, I would be happy to answer questions, but I will conclude my presentation. Thank you.

MR. CHAIRMAN: Let me ask you one question.

MR. GOGGANS: Yes, sir.

MR. CHAIRMAN: When County reviewed these plans that were submitted to them, they were reviewing plans where this building went from a 4,600 square foot building down to 4,300 square feet of usable space, and the additional square feet, because we heard a lot about it's a 10,000 square foot building, 13,000 square foot building, that's potential future use, and they would have to go through the whole procedure to use that?

MR. GOGGANS: That is correct.

MR. CHAIRMAN: But for this -- for the

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change the County reviewed, we were going kind of from the same square footage to the same square footage?

MR. GOGGANS: The definition we used was conditioned space, and it -- we were actually a few feet less than the original space, or conditioned space of the building.

And I might add, that was all negotiated very carefully with the neighboring HOA in prior years. So that when the building was torn down and moved across the property line that net usable -- so we were alert to that, paid careful attention to the fact that we didn't increase that space.

MR. CHAIRMAN: Okay. Just two more brief questions. We've heard a little discrepancy about parking spaces, we've gone from people commenting on there will actually be a few more parking spaces, Mr. Redman said there would be a few less parking spaces --

MR. GOGGANS: We've actually gone from 59 to 67. Now, there has been a recent -- before litigation began there was a

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discussion between some members or people associated with Gulfstream and Mr. Lawhon, to create a cut-through or an alleyway. That would have reduced the parking somewhat, but it still would have -- even if we allowed the cut-through or the passage, we still had two more spaces than is currently existing.

If you don't do the little cut-through and I would have to show you on the plan where that would occur, then it's 67 versus 59 existing. 67, proposed. 59, existing. So we've increased the parking. And I might add, that if you do a Code review on our building only 50 is required per the Ordinance. 50 is required, 59 exists, 67 proposed.

MR. CHAIRMAN: Okay, thank you.

MR. STACY: Mr. Chairman, I'm sorry we are running long, but the Applicant himself would like to speak if the Board would like to hear from him.

MR. CHAIRMAN: As your witness?

MR. STACY: Yes, sir.

MR. CHAIRMAN: All right. I will swear

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you in, sir. You may approach. If you will raise your right hand.

JAMES MARK LAWHON, being first duly sworn, testified as follows:

MR. CHAIRMAN: If you could state your full name?

MR. LAWHON: Sure. My name is James Mark Lawhon. I'm the owner of Palmetto Industrial Development. I own the Marlin Quay Marina.

MR. CHAIRMAN: Okay.

MR. LAWHON: I just want to say, you know, I feel compelled to speak. I know this issue is over a minor versus a major change, okay? But Jeff knew about this for a year. I think everybody in Murrells Inlet knew about it for a year. We went through the process of the County. I've been doing commercial and residential real estate for the last 17 years.

The first thing I do is hire an architect or a land planner. The second thing I do is hire an attorney and we go to County and we ask. I'm a surgeon, I can tell you anything you want to know about the

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head and neck, the body part, whatever you want to know. But I don't know the actual building codes like they do. So we asked specifically, here is what we want to do, can we do it?

We tore down a functioning business that my son ran, that's his only source of income. I understand your decision is not based upon that, but in good faith of getting a building permit for the foundation, we tore that building down.

Now, we do have -- I don't care what anybody says, we have a net gain of parking spaces and if you want me to show them to you, I will. Or Steve can.

Number two, if we do the cut-through where the trash cans are, we still have a net gain of two. I'm sorry, I will show it to you in black and white. Not just take my word for it.

As far as the hotel rooms that Mr. Redman pointed out, at one time I was almost, almost to the point, I could secure an oceanfront beach house right across the street. I missed it by one day.

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You know, when I building, I'm renovating a historic building or a new construction, I always think about potential, what I can do. The Gulfstream is anywhere from 7, 8,000 square feet. Well, I've already been asked, do I want to buy them out? I will consider that, sure.

That translates into I buy that much square footage. I didn't anticipate that, being -- buying them out, that is what it transfers into. So I'm not trying to hide anything. I come straight at you. Honest, whatever you want to know. They went through the whole process. We told people what we were doing. I don't want to be perceived as someone trying to hide something, because anyone who knows me, I will tell you just what I think when I think it. There is no need hiding anything. It always comes out.

So when I asked Steve, or Steve and I were talking about, what else can we do if this thing if -- we were going to do a two story and I'm like, "I don't want to heat all of this space. Put a floor in it, do

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something. Lower the height of the ceiling because it costs money to heat that stuff."

Of course, they do what they do, "You can do this, you can do that. You can do this." I mean, you know, they get paid to do that stuff. So we're not trying to hide anything. That's a two story building, with half of it -- we have 4,600 square feet by two different architect's measurements. Not just Mr. Goggans, but another architect, two of them, got around about the same square footage.

What they are not telling you is, downstairs in the marina store, we were the only ones in the State of South Carolina, is what DHEC told me that has a special variance that we take food up and downstairs to eat. What they are not telling you is, the restaurant is just not the upstairs. When you walked in the ship store, it was a combination. There was six tables to your right, four chairs per table. We had four or five rocking chairs that people would sit under the deck and have a drink or eat appetizers. We had an outside deck that

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people sat at, all around and you -- I'm not trying to hide that, you can ask anybody here, that happened. We had five round tables upstairs, four chairs apiece. We had a 10 top -- I mean, you walk into the room, we had a small, little four chair table that we sat food down on and that sometimes, in overflow, we would use that.

So if you add all of those spaces up and count the ship store, the ship store was a combination of restaurant and ship store. I want to make sure you understand that. We're not talking about just 1,900 square foot up top. We're talking about the chairs downstairs, the rocking chairs outside under the deck, the 20 or so -- 18 or whatever they were -- upstairs on the deck. Inside the 10 top, the little four thing when you walk in, plus nobody has ever talked about, we had a 10 by 10 room, and you can see it in Mr. Redman's pictures if you look close that we stored dry goods on. We didn't even count that space. We just counted what was under the roof, so to speak. But we used the upstairs attic on a 10 by 10 room that

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was there when I bought the place to store overflow spirits and dry stuff and all of that.

So I'm not trying to hide anything from you. The square footage is the square footage. Thank you.

MR. CHAIRMAN: All right, I appreciate it. Mr. Redman, you can go ahead and take your time with rebuttal. You can have three minutes --

MR. REDMAN: Thank you, Mr. Chairman.

MR. CHAIRMAN: -- you promised me 30 seconds, but you can have three minutes.

MR. REDMAN: The issues that you're hearing are complicated, particularly in this PUD that was formed in 1982, one of the first in the County.

The parking there isn't just used by their proposed building, it's obviously used by the Gulfstream Cafe as well in a shared agreement. It's a complicated calculation of -- when I asked the staff, "Did you take our easement into consideration?" The answer was, "No, we didn't, because they said y'all were happy with it and consulted

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about it." And we obviously were not too pleased about it. We are like many other people here, we had no idea what the plans are. They still haven't seen -- the public still hasn't seen the plans.

I would also mention that the 67 boat slips, they use the parking as well, and per the Code for every three slips you're supposed to have one parking space. So it's a complicated matter.

And so is square footage, heated, enclosed, decking, what did you have before, what did you have -- what are you proposing now? And that is exactly why this matter should go to the Planning Commission.

It shouldn't be for y'all to look and stare at the plans and say, "Who is right? Who is not right?" Our parking calculations were not done by me, they were done by -- Mr. Castle is an engineer.

And if you look behind Tab 6, I put a blue tab on it and I put a red circle around the numbers for there -- for what we have now and are proposed, and you lose 11 spots. You just do.

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Now, one exhibit I would point you to is Exhibit 10 in the packet that we handed out. And this is a letter that was -- that we obtained that Mr. Goggans, the site architect obtained -- or that he wrote to his client, Doctor Lawhon, about this project.

It was his subsequent -- initially he was paid quite a bit of money and he wrote this letter saying I've done more work and I would like you to pay me more money for it. And in Mr. Goggan's, in his letter, September 22, I will read it, he says, "Dear Mark: I hope you are well. A month ago I had a phone conversation regrading the Marlin Quay project many additions and out of the scope of requirements that have occurred over the course. These have included the following: Increase of the building size to include a possible future inn. Doubling the size of the enclosed space to almost 10,000 square feet to include a fire rated second floor.

Our original proposal was based on approximately 5,000 square feet." If you go

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down the letter a little bit he talks about that he went -- apart from the design changes and all of that had to be engineered, he went to the staff and got favorable outcomes, but he didn't talk to anybody in the public or anything about these, but he got approval that the porch did not count against the 4,000 square foot that was previously negotiated.

This item had to be negotiated in consider of local parking requirements, that wasn't our language, that's the architect's language. So they're adding 800 square feet onto 4,600 without anyone from the public having any notice or opportunity to say anything about it.

Number two, on the second page, he says that he obtained approval for confirming that the existing parking, which is substandard, would comply with the Zoning requirements in terms of stalls, driveways and green space.

There is an acknowledgment there that the existing parking is substandard. I -- that's a reason to send this to the Planning

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Commission and let the matter be considered.

The next item, Item 3, he received approval for a full second story, unconditioned and designed for future expansion. And I will pause it as to the future expansion, once that space is built the same opportunity exists to do then what has been done now, just go the building department and ask for an interior non-load bearing wall, and without anyone in the public knowing, that could happen. I'm not saying it will happen, but that's why we are here today, to avoid that.

Number 5, approval for increasing the size of the kitchen area to within the 4,600 square foot requirement. This is where I say the restaurant is 4,000 square feet. I think the Planning Commission should look at that.

And finally, Number 6, approval for the observation tower and not a violation of the height requirement. I've talked about, if you look at Tab 1, the Zoning Code says the height requirement is 35 feet except for in a series of zones. We are in a VE Zone, but

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shall not exceed 45 feet. The tower is above 60 feet. The observation deck itself is at 50 feet. That, pursuant to the Code, along with the change of the exterior of the building, along with the doubling of the size of the seats and the square footage of the restaurant, all we're saying is, let this be considered by the Planning Commission, because these are complicated issues and it's important that the citizens, the invitees, the tourists aren't out there walking on South Waccamaw Drive because they see a beautiful, beautiful piece of property they would like to enjoy.

So the issue you're considering is whether this is minor or a major is extremely important. The only thing we're seeking is that it goes to the Planning Commission, everybody gets notice, everybody gets a copy of the plans, which they have not gotten today, an opportunity to speak, and then the marina store, whatever variation of snack bar goes with it, then it can be properly considered, permitted, safely for everyone. That is all we're

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saying. We appreciate your time. If you have any questions, myself or Mr. Castle would be happy to address them. Thank you.

MR. CHAIRMAN: Wes, do you want to give us the County's --

MR. BRYANT: Mr. Chairman, I'm not sure there is anything left to say, but I do have a few things.

I do agree with Mr. Redman in one respect, that we are here for a minor or a major change. It's important that the Board understands exactly what your purpose is today. And I know we go over this every meeting. This is a different one. Some of the newer members haven't had a -- this sort of request before.

And this is authorized by State Code and I will just simply read it, "The Board of Appeals has the following powers to hear and decide appeals where it is alleged there is error in a determination made by an administrative official in the enforcement of the Zoning Ordinance." And that's it. That is what we are here for, that is what they are appealing.

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Our staff has concluded that this a minor change to a Planned Unit Development from 1982. The Applicant disagrees.

Now, let me give you some background on how this law works. This law -- the body of law that we use to do this zoning thing we do in the county all started in 1994. That is when this started.

This PUD is before the body of law, the state level that even governs what we do now. So, you know, we have an issue with the retrofitting, you know, all of this together and meshing these things.

But I will say this, with regard to minor changes, and this is specific, it talks about planned developed districts in the Code specifically and it specifically says, "The adopted plan may include a method for minor modifications to the site or development provisions." That is it.

If you search this entire body of law, minor comes up one time, and that's it. That gives County Counsel the latitude to create its own regulations regarding minor changes. It gives them the ability to

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assign how they want those minor changes treated, how they want them administratively reviewed, how they want them approved.

What we have here is a body of law, our local Zoning Ordinance, that these folks wrote. The very folks in this room wrote this. And they presented that to County Counsel.

County Counsel then vetted that, talked it over, discussed it, approved that as law for this county. Theses folks wrote we are dealing with here.

Who best to interpret and determine the law or a change in this PD than the folks who wrote the law on which this change is based? I think it's important, you need to remember that here.

So we have an outside body who has never looked at this except until last week, and he has his experts and everybody else, but we have the folks who wrote the law here.

Mr. Stacy stole my thunder a little bit with my Vulcan case quote, but he's right. In this state, case law defers to the local

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governing body with regard to zoning interpretations with respect to its local rules. And that's all there is to it.

I'm not going to recapitulate everything we've gone over here tonight, there is seven points in the minor section, you can read them. They have been discussed by both parties.

I think it's important to note that one of the things that has been emphasized, at least by the Applicant, is that there is a height issue here. There's not.

Section 804 of the Zoning Ordinance specifically exempts an observation tower from height requirements. It's not intended for permanent human occupancy. That's something that these people wrote into that rule some four or five years ago. So that exists.

I also need to point out that parking lot easements are not here for this Board to consider. I know it's important to those folks in a private setting, and they have a civil case that they will deal with that individually, separate from you.

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But what I think you need to consider is, is this a minor change or a major change. All of the sentiment, all of the pros and cons that have been discussed here tonight are important to certain individuals.

I think here you need to look at the facts, you need to look at staff's interpretation of this and consider what's been said, and that's what you're supposed to do, and nothing more.

And we would respectfully request that you do that and I will answer any questions on behalf of staff that I can actually answer.

BOARD MEMBER: Yeah, I have a couple of questions that I think sort of cut to the chase here, we've heard all kinds of definitions of heated space, unheated space, 4,600 square feet, 10,000 plus. To me -- is the footprint of this building, the square foot of the footprint, is it no larger than it was?

MR. BRYANT: And let me add something to that, too, before we get to that specific

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answer. I want to point out that that plan that was presented up there on Slide 4 or 5 tonight, we've never seen that until earlier today when it was sent over to us.

BOARD MEMBER: I understand. But in my mind, I would think that if we increase, drastically anyway, the size of a building it would have -- almost have to be a major change.

MR. BRYANT: And my point is, the plan that was submitted to us did not increase the building. It is that same square footage.

BOARD MEMBER: Okay, so we're ruling on what was presented and I assume that you would not allow a larger footprint that what was there?

MR. BRYANT: Well, I think it would determine -- there is a number of factors involved and we would have to determine that on a case by case basis.

BOARD MEMBER: Okay.

MR. Bryant: But the assumption you're making is -- you know, seems correct.

BOARD MEMBER: Okay. Now, the other

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thing that troubles me a little bit, although you solved a problem, is exactly where -- I'm looking at this blue up here, the new building. How much was it moved, and you don't have to tell me inches, but where was it before? How much did we shift the location?

MR. BRYANT: My understanding is where the green was --

BOARD MEMBER: Uh-huh.

MR. BRYANT: -- that is where the old building was. It's gone. It's been demolished.

BOARD MEMBER: So all of this other is added --

MR. Bryant: Right. So the blue building is going to encroach on that old section a little bit and then go over to the left on the owner's property.

BOARD MEMBER: The green is gone.

BOARD MEMBER: The green will be gone or -- is the green already gone?

MR. BRYANT: The green is gone, yes.

BOARD MEMBER: And the third, I don't think -- maybe this is not a County

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consideration, is the use of the building covered in the PD plan -- the PD restrictions?

MR. BRYANT: My understanding is, the PUD allows the marina store and the restaurant and -- yes, sir.

BOARD MEMBER: Okay, everything there is the same --

MR. BRYANT: Right.

BOARD MEMBER: -- it's legal as far as PD is --

BOARD MEMBER: Not an inn, that was talked about earlier --

MR. BRYANT: Yeah, not an inn. And let's make that clear as well. That's a totally -- if they want to come in a year from now and ask for that to be a canning factory, they can do that.

BOARD MEMBER: I'm not talking about use, really, just the location and so forth.

MR. BRYANT: You know, or a hotel or whatever, but it would be a different process and we would start anew. But that's not what they are asking for here.

BOARD MEMBER: I have a question.

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MR. BRYANT: Yes, sir.

BOARD MEMBER: Once you said the definition will (inaudible) but primarily our purpose tonight, we're just here to decide minor/major?

MR. BRYANT: You're here to decide whether this man erred with respect to these seven criteria right there.

BOARD MEMBER: Not to (inaudible) what anybody else said, but a lot of the things that were said has no bearing on the minor/major footprint of the building and all of that? Somebody else can deal with that. Is my understanding as you said, we are (inaudible.) From that they have presented they are within the realm of (inaudible.)

MR. CHAIRMAN: All right, in essence we need -- we, as the Board, we need to decide whether a motion is going to be made to overrule the decision that was made by the staff or whether the staff was correct. The staff looked at this correctly and it met the criteria, what they were given, what they reviewed, did they err or did they not?

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That is the only issue that is before us. That is the only issue that we need to vote on tonight. I -- with the information that was given to the staff, I don't see that they erred. The potential for that building becoming bigger and having more use is future. It's not now.

Staff wasn't even given that information. They were given the information that it was going from 4,600 up to 4,600 or 4,300. It was moving within the site, it wasn't changing the environment as far as negative impacts affecting the intensity, I -- I'm hearing nothing but positive. I'm not hearing negative.

So, you know, at this point if anyone cares to make a motion as to whether -- either a motion to overrule the staff's decision, that they erred; or to make a motion that the staff looked at what they had at the time correctly, they did not err in what they looked at and met the criteria.

BOARD MEMBER: Mr. Chairman, I would like to make a motion to affirm the staff.

BOARD MEMBER: I second that motion.

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MR. CHAIRMAN: All right, then we will take a vote.

MS. RICHARDSON: Mr. Holmes?

MR. HOLMES: (Inaudible.)

MS. RICHARDSON: Mr. Yarborough.

MR. YARBOROUGH: I agree.

MS. RICHARDSON: Mr. Bonds?

MR. BONDS: Yes.

MS. RICHARDSON: Mr. Gilfillin?

MR. GILFILLIN: Yes.

MS. RICHARDSON: Chairman Onions?

MR. CHAIRMAN: Yes.

(Ambient room noise of crowd talking.)

MR. CHAIRMAN: We need a motion to approve the minutes.

BOARD MEMBER: I make a motion.

BOARD MEMBER: Second.

MS. RICHARDSON: We need to do election of officers.

MR. CHAIRMAN: First, before that?

MS. RICHARDSON: Yeah. Either way, but --

MR. CHAIRMAN: Old officers ought to approve the minutes. Did you make a motion to approve?

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BOARD MEMBER: A motion was made down there, wasn't it?

MR. CHAIRMAN: A motion to approve?

BOARD MEMBER: I made a motion to approve --

MS. RICHARDSON: Bonds, approve minutes.

MR. CHAIRMAN: You've got it right?

MS. RICHARDSON: I have it.

MR. CHAIRMAN: Okay, we made it.

BOARD MEMBER: Subject to one correction.

MR. CHAIRMAN: All right, and now we need election of the Board, the officers. I will open the floor for nominations.

BOARD MEMBER: I nominate (inaudible.)

BOARD MEMBER: Second.

MS. RICHARDSON: For Chair?

BOARD MEMBER: For Chair.

MR. CHAIRMAN: Any other motions? Well, we need to --

MS. RICHARDSON: Do we need a Vice?

MR. CHAIRMAN: One at a time -- you want to vote on them one at a time or do it all at once?

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MS. RICHARDSON: We have Chair, we need a Vice.

MR. CHAIRMAN: All right, I will make a motion to keep Gene as Vice-Chair. I guess we will do it together. All in favor of both of those motions? (Ayes unanimous.)

MR. CHAIRMAN: All opposed? *(No response.)* Motion is carried. Motion to adjourn?

MS. RICHARDSON: Just so -- we do have a meeting next month.

MR. CHAIRMAN: We do have a meeting?

MS. RICHARDSON: Yes, two cases.

(Meeting adjourned.)

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CERTIFICATE OF REPORTER

I, Luanne W. Jividen, Certified Court Reporter and Notary Public in and for the State of South Carolina, do hereby certify that the forgoing is, to the best of my skill and ability, a transcript of the digitally recorded meeting of the Georgetown Board of Zoning Appeals, Pages 4 through 87, inclusive, and transcribed by me to the best of my ability.

I FURTHER CERTIFY that the foregoing transcript is a true and correct transcript of the testimony given by the said witnesses at the time and place specified.

I FURTHER CERTIFY that I am neither attorney or counsel for, nor related to or employed by any of the parties to the action in which this deposition is taken, or financially interested in this action.

IN WITNESS WHEREOF, I have set my hand and seal this 15th day of May, 2017.

_____
Luanne W. Jividen, CCR
Notary Public
My commission expires
February 4, 2024

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EXHIBIT 7

STATE OF SOUTH CAROLINA COURT OF COMMON PLEAS
COUNTY OF GEORGETOWN
COUNTY OF GEORGETOWN

THE GULFSTREAM CASE NO. 2016-CP-22-00961
CAFE, INC.,
Plaintiff(s),

-vs-

J. MARK LAWHON, INDIVIDUALLY, AND
PALMETTO INDUSTRIAL DEVELOPMENT, LLC,
Defendant(s).

THE VIDEOTAPED DEPOSITION OF STEVE GOGGANS, taken on behalf of the Plaintiff on the 11th day of April 2018, commencing at 1:17 p.m. at the Law Offices of Bellamy, Rutenberg, Copeland, Epps, Gravely, & Bowers, PA, 1000 29th Avenue North, Myrtle Beach, South Carolina.

REPORTED BY: Nicole D. White

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intent was to maintain the quantity of parking, maybe even add some. At one point we had added about 11 spaces to the site above the existing, but our main goal was to not take any parking away, although we, in the first building, were adjusting some of the parking. And adjusting it to also include a filtration system.

And then finally mentioned here, coordination with a sea wall and design.

BY MR. NUGENT:

Q. Okay.

A. And --

Q. Sorry, I didn't mean to interrupt you.

A. Okay.

Q. Just wanted to make sure I've got it. Items one through eight --

A. Right.

Q. -- on this page of Exhibit 7, these are things that increased the scope of the project that SGA was hired to do; is that a correct description?

A. Correct.

Q. And the first of those is the building size increased to almost 10,000 square feet; is

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that correct?
A. Correct.
Q. And when you say 10,000 square feet, that means 10,000 square feet of enclosed space?
A. Yeah. Under roof, right.
Q. So that includes unheated plus heated space?
A. Yes.
Q. And that's double what initially SGA had planned to build?
A. That's true.
Q. Okay. And the heated space of 10,000 square feet here, we're talking about version 1.0?
A. Uh-huh.
Q. Is that right?
A. Uh-huh.
Q. Not the heated space, I'm sorry, the enclosed space?
A. Right.
Q. Version 1.0 has enclosed space of -- had enclosed space of 10,000 square feet?
A. Right. We originally had a tall building, because we wanted to have some presence with a cathedral ceiling and that -- that later

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Holly Richardson is the zoning administrator, so any time we're working on any piece of ground, most of the time there are gonna be questions, particularly in the PUD, planned unit development, and there are lots of them in Georgetown County. There are going to be questions about -- relating to the planned unit development.

And in Georgetown County context, the planned unit development is a negotiated land use or type of zoning, so typically when you approach a piece of ground and you want to do something on it, you have to make sure you're complying with the original guidelines of the PUD and if you're going to do anything different, that has to be worked out and negotiated.

Q. In this paragraph you state that you obtained favorable outcomes for a variety of issues.

A. (Indicating.)

Q. When you say, "favorable," do you mean outcomes that favor your client; is that right?

A. We -- yeah. We generally -- we approached him on several things. You know, one was approached Holly and Boyd on the seating. If

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we -- what -- because there were no parameters around outdoor space that -- assigned or unassigned that we were aware of, so what could we do with outdoor space. Could we put dining out there. How much, how did that relate to parking. And I was initially concerned about a land disturbance permit being required, but thought there -- that that might be an issue and so those were clarifications we needed. Land disturbance permit was not required because there were no additional impacts to the -- to the site caused by the building.

Q. The type of negotiation you engaged in for Dr. Lawhon, is that typical of what you do in other projects for other clients?

A. Very typical.

Q. Okay. And in those other projects you're attempting to negotiate with regulatory authorities to get a favorable outcome; is that right?

A. Well, and clarify. Clarify. I mean, some of this stuff is very ambiguous and subject to interpretation.

Q. Does your status as a county councilmen assist you in getting favorable

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MR. NUGENT: Are you okay?
COURT REPORTER: I'm okay.
BY MR. NUGENT:
Q. Okay. Do you see where the e-mail states, "Attached are some responses to questions that I asked Boyd and Holly in our recent meeting."
A. Yes.
Q. And what were you discussing with -- Boyd is Mr. Johnson and Holy is Ms. Richardson, correct?
A. Correct.
Q. And what were you discussing with Mr. Johnson and Ms. Richardson?
A. Whether within the context of the 4600 square feet we had to have an exact replication from the prior building of kitchen size, dining size and store size or were those things within that general 4600 square foot box fluid and flexible.
Q. You go on to state, "Boyd and Holly are friends by the way and they are usually helpful in my efforts." Do you see that?
A. Yes.
Q. What do you mean by, "Boyd and Holly

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EXHIBIT 8

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SGA ARCHITECTURE
ARCHITECTURE | LAND PLANNING
LANDSCAPE ARCHITECTURE

Dr. Mark Lawhon
611 West Palmetto Street
Florence, SC 29501

September 22, 2016

Dear Mark,

I hope you are well. About a month ago, you and I had a phone conversation regarding the Marlin Quay Project, and the many additions and out of scope requirements that have occurred during the course of the project. These include the following:

1. Increase of the building size to accommodate a possible future Inn, doubling the size of the enclosed space to almost 10,000 SF to include a fire rated second floor---our original proposal was based on approximately 5,000 SF).
2. Change of the foundation design, to driven timber piling, with a pile cap, and cast in place piers. Also, the addition of foundation designs for the emergency generators.
3. Design of room layout for the Inn for the coordination of PM&E and Structural consulting
4. Design of a covered observation deck three stories above parking.
5. Engineering changes include the inclusion of a fire suppression system, and design of a waste water system for the second floor, and design of future electric for the second floor. The design of emergency generators and design of future capacity and calculations for the second floor. This resulted in higher than anticipated structural and PM&E consulting costs.
6. An Extensive Porch that wasn't contemplated by the original proposal.
7. A modified site design to include an adjusted parking layout, and engineering to include a filtration system required for storm water quality.
8. Coordination with the Sea Wall design and Construction.

Apart from the design changes listed above, I personally engaged in numerous negotiations with local regulatory authorities resulting in favorable outcomes for a variety of issues. These issues included:

1. Approval for the porch did not count against the 4,600 SF that was previously negotiated; this item had to be negotiated in consideration of local parking requirements.



Pawleys Island Post Office Box 1859, Pawleys Island, SC 29585 Phone (843) 237-3421 Fax (843) 237-1992 Website www.SGAarchitecture.com
Charleston 456 King Street, William Aiken House, Charleston, SC 29403 Phone (843) 853-4506 Fax (843) 853-4507 Email info@SGAarchitecture.com

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2. Approval for confirming that the existing parking, which is substandard, would comply with the zoning requirements in terms of size of stalls, driveways, and greenspace.
3. Approval for a full second story (unconditioned), and designed for future expansion.
4. Confirmation that a storm water plan was not required by Georgetown County--- It was previously confirmed that a plan would not be required by the State.
5. Approval for increasing the size of the kitchen area within the 4,600 SF requirement.
6. Approval for the Observation Tower and not a violation of the height requirement.

In addition to the above, and despite the many changes, SGA is releasing an early foundation package to meet Owner requirements, which creates additional work.

In consideration of all of the above, we have calculated all of the extra time, consulting costs, and other impacts to our original proposal. Therefore, I would respectfully request a fee modification in the amount of an additional $72,000.00. Assuming this acceptable, please acknowledge in the space provided and return a copy of the same to our office.

On behalf of SGA, I appreciate the work and look forward to completing Marlin Quay. We are very proud of the design, and we are optimistic it will serve your business interests well in the years to come.

Respectfully submitted,

Steve Goggans, AIA
President, SGA Architecture

Accepted:

By: _____ Date: _____

GS000915

EXHIBIT 9

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Message

From: Mark Lawhon [marklawhon@gmail.com]
Sent: 5/6/2016 9:53:43 AM
To: Steve Goggans [steve@sgaarchitecture.com]
Subject: Re_ FW_ Message from KMBT_C454e(1).pdf

From:
To:
Cc:
Mark Lawhon
Steve Goggans
Chris Lawhon
Subject:
Date:
Re: FW: Message from KMBT_C454e
Friday, May 06, 2016 8:53:43 AM
Steve, two comments...
One,
The layout appears to be a go. The front of the building facing Waccamaw will no longer be roll up doors. We want this to have a design that pops with a mural in the section in the middle that steps out lite up for all to see.
Two,
I want to make sure holly knows that the I went back and checked the square footage. It is my understanding that the 4600 did not include our outside decking we have currently. That decking is used for the restaurant. Also the downstairs decking, directly below and in the same foot print as the upstairs decking, is used for seating also with rocking chairs. Our liquor license covers the upstairs and downstairs decking for eating and drinking. It is my understanding that all of that is allowed with our current parking.
Unfortunately the other architect left this important point out, which is a hugh oversight. I hope you can shed new light on these facts.
Mark
On May 4, 2016 4:18 PM, "Steve Goggans" <Steve@sgaarchitecture.com> wrote:
Mark and Chris,
Attached are some responses to questions that I asked Boyd and Holly in our recent meeting, along with a prior email you shared with me, as background. Some of my questions are the same your prior consultant asked, such as how allowable area or square feet can we have? Boyd and Holly are friends by the way, and they are usually helpful in my efforts. So I think we got a good interpretation here, with one exception. Holly is saying that the restaurant must be the size of the original restaurant.
In our latest sketch, the restaurant and kitchen are about 1,000SF larger than the original. I talked to Boyd today, and he and Holly are going to see if they can find a way to "help" . In the meantime, Boyd suggested I do a parking analysis based on the current sketch. We may find that under the current parking ordinance we can have a little more area in the restaurant, which I think Boyd will then approve. If all else fails, I would suggest we remove some of the SF from the end of the restaurant, and pour the additional space back into the store. The store is very narrow, so a little more SF wouldn' t hurt, although I know you would like to have the extra space in the restaurant.



If we can get this stuff nailed down, we are ready to start construction documents. So, my goal is to have this figured out by the end of the week. Meantime, I didn' t know if you had any other comments based on the last sketches we sent? If so, send them on.
Thanks
Steve
The only thing that was
From: copier@downstairs.com [mailto:copier@downstairs.com]
Sent: Wednesday, May 04, 2016 4:18 PM
To: Steve Goggans
Subject: Message from KMBT_C454e

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EXHIBIT 10

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State of South Carolina
State Ethics Commission

CHILDS C. THRASHER, CHAIR
DONALD GIST, VICE CHAIR
BRIAN M. BARNWELL
SAMUEL L. ERWIN

DON JACKSON
VICTOR K. LI
BRANDOLYN THOMAS PINKSTON
ASHLEIGH R. WILSON

201 EXECUTIVE CENTER DRIVE, SUITE 150
COLUMBIA, S.C. 29210

MEGHAN L. WALKER
EXECUTIVE DIRECTOR

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September 17, 2019

Mr. Greg Greenbaum
CentraArchy Restaurant Management Co.
c/o Bloom Parham, LLP
977 Ponce de Leon Ave, NE
Atlanta, GA 30306

Certified Mail: 91719690093501010468O5

RE: COMPLAINT C2017-107 In the Matter of Steve Goggans

Please find enclosed a copy of the Consent Order which was signed by the Commission Chair.

If you have any questions or need additional information, please feel free to contact me.

Sincerely,

Courtney M. Laster

Courtney M. Laster
General Counsel

MLW:rp
Enclosure

CF: Mr. Robert P. Wood, Esq., Rogers Townsend & Thomas, PC, 1221 Main St, 14th Floor, Columbia, SC 29201

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STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)
)
IN THE MATTER OF:)
COMPLAINT C2017-107)
)
State Ethics Commission,)
Complainant,)
)
Steve Goggans,)
Respondent.)

BEFORE THE STATE ETHICS COMMISSION

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2019 SEP 16 AM 11:18
STATE ETHICS COMMISSION

CONSENT ORDER

This matter comes before the South Carolina State Ethics Commission (Commission) by way of a complaint filed on June 2, 2017. Pursuant to Section 8-13-320(10)(i), the Complaint against Steve Goggans (Respondent) was considered by the Commission and probable cause was found to warrant an evidentiary hearing. Prior to the call of the case, Respondent agreed to entry of the following Statements of Fact, Conclusions of Law, Discussion, and Disposition in this matter.

STATEMENTS OF FACT

1. Respondent is a public official serving on the Georgetown County Council (Council).
2. Respondent is the President of SGA Architecture.
3. The Georgetown County Board of Zoning Appeals (ZBA) consists of seven (7) members, all of whom are appointed by Council.
4. The Marlin Quay Marina (marina) is situated in Georgetown County.
5. The Gulfstream Café (Gulfstream) is situated in Georgetown County next to the marina.
6. Since 1986, Gulfstream had held an easement over a portion of the parking lot of the marina.
7. In 2014, Palmetto Industrial Development, LLC, (Palmetto) purchased the marina and implemented plans to redevelop the property.
8. Palmetto, owned by Dr. Mark Lawhon, hired Respondent/SGA Architecture as the designer

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and architect of record for the redevelopment.

9. On June 15, 2016, the County Director of Planning and Code Enforcement Boyd Johnson determined that a requested zoning revision to the development was a minor change and, therefore, did not require public notice or a public hearing.
10. Gulfstream appealed this decision to the ZBA, arguing the revision was a major change requiring public notice and a public hearing.
11. The ZBA heard Gulfstream's appeal on February 2, 2017. Attorney George Redman addressed the ZBA on behalf of Gulfstream.
12. Attorney Dan Stacy, Lawhon, and Respondent addressed the ZBA on behalf of Palmetto.
13. The ZBA ultimately upheld the determination, finding the revision was a minor change and, therefore, did not require public notice or a public hearing.

CONCLUSIONS OF LAW

Based upon the Statements of Fact, the Commission concludes, as a matter of law:

1. During all times relevant, Respondent was a public official as defined by Section 8-13-100(27). Therefore, the Commission has personal and subject matter jurisdiction.
2. Section 8-13-740(A)(4) provides:

> A public official . . . of a county may not knowingly represent a person before an agency, unit, or subunit of that county for which the public official . . . has official responsibility except: (a) as required by law; or (2) before a court under the unified judicial system.

3. Section 8-13-100(23) provides:

> 'Official responsibility' means the direct administrative or operating authority, whether intermediate or final and whether exercisable personally or through subordinates, to approve, disapprove, or otherwise direct government action.

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4. Section 8-13-100(24) provides:

> 'Person' means an individual, a proprietorship, firm, partnership, joint venture, joint stock company, syndicate, business trust, an estate, a company, committee, an association, a corporation, club, labor organization, or any other organization or group of persons acting in concert.

5. Section 8-13-100(28) provides:

> 'Represent' or 'representation' means making an appearance, whether gratuitous or for compensation, before a state agency, office, department, division, bureau, board, commission, or council, including the General Assembly, or before a local or regional government office, department, division, bureau, board, or commission.

6. SEC AO95-006 provided, in part:

> The legislature, by not limiting the meaning of "represent" to only those instances when one appears as the advocate for another person, appears to have intended for the term to encompass other types of appearances before any state or local government office. Thus . . . the [Commission] advises that [members] may not appear before the Board as witnesses to offer opinion testimony . . .

7. SEC AO93-070 provided, in part:

> The phrase "agency, unit, or subunit of that county," which appears in Section 8-13-740(A)(4), is not defined in the [Act]. Nevertheless, the [Commission] believes that the word "county" as used in this code section should be given its plain and ordinary meaning. The South Carolina Attorney General's Office, in an opinion dated October 26, 1989, advised that a "county is one of the 46 political subdivisions into which the State is divided. (See Article VIII, Sections 1-3, South Carolina Constitution and Section 4-1-10, S.C. Code Ann., 1976, as amended.) Counties have the powers accorded them by the General Assembly...." A "public agency" has been defined as a department or division "endowed with government or public functions, and it has been held that the authority to act with the sanction of government behind it determines whether or not a governmental agency exists." 73 C.J.S. Public Administrative Law Section 8. In accordance with this definition, the attorney general's opinion cited above determined that a "[c]ounty could reasonably include: (a) any agency, board or commission delegated by the county (b) to perform a county function. Both of these requirements must be met for the entity to qualify as an instrumentality of the county."

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8. Section 8-13-130 allows the Commission to "levy an enforcement or administrative fee on a person who is in violation" of the Act.
9. Section 8-13-320(10)(l)(i) allows the Commission to require payment of a civil penalty of up to $2,000 for each violation of the Act.

DISCUSSION

The Commission found probable cause to charge Respondent with one (1) count of violating Section 8-13-740 for knowingly making an appearance before the Georgetown County ZBA on February 2, 2017. In mitigation, Respondent asserts he believed he was appearing at the hearing in his capacity as the designer and architect of the redevelopment project before the ZBA. Respondent further asserts he was the only person available for Palmetto to address questions of fact regarding the design and layout of the project. Respondent contends Attorney Stacy was the sole and exclusive advocate during the hearing and, as a result, he was under the belief that his appearance was permitted because he was asked by an attorney to attend.

DISPOSITION

1. The Commission hereby finds Respondent Steve Goggans in violation of one count of Section 8-13-740(A).
2. The Commission hereby adopts the Statements of Fact, Conclusions of Law, Discussion, and Disposition as agreed upon by the Respondent.

THEREFORE, the Commission hereby issues this written warning to Respondent,

AND orders Respondent to pay the Commission, within ninety (90) days from receipt of this Order, an administrative fee of $300 and a reduced civil penalty of $700, for a total of $1,000.

By executing this Consent Order, Respondent understands he is confessing to a judgment

of $2,000 (less any money paid to the Commission) in the event he does not make full and timely payment as provided for in this Order. In that event, the Commission shall file a Judgment against Respondent with the Clerk of Court of the County of Respondent's last known residence. Upon said filing, the Clerk of Court shall enter this Order in the amount of $2,000 (less any money paid to the Commission) in its Judgment Rolls, without cost to the Commission.

AND IT IS SO ORDERED THIS 5th DAY OF September 2019.

STATE ETHICS COMMISSION

CHILDS CANTEY THRASHER, CHAIR

s/ Steve Goggans
STEVE GOGGANS
RESPONDENT

s/ Karl S. Bowers, Jr.
KARL S. BOWERS, JR.
RESPONDENT'S ATTORNEY

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EXHIBIT 11

STATE OF SOUTH CAROLINA COUNTY OF GEORGETOWN The Gulfstream Café, Inc., Plaintiff, v. J. Mark Lawhon, Individually, and Palmetto Industrial Development, LLC, Defendants.	IN THE COURT OF COMMON PLEAS FIFTEENTH JUDICIAL CIRCUIT Civil Action No. 2016-CP-22-00961 **VERDICT FORM**

PLAINTIFF'S CLAIM

1. <u>Interference with Easement</u>

☒ We, the jury, by unanimous decision find for the Plaintiff on its claim of interference with its easement.

OR

☐ We, the jury, by unanimous decision find for the Defendants.

If you found for the Plaintiff, set forth the amount of damages, if any.

$ ~~0~~ $1,000.00 DAR

Please proceed to Question 2

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ELECTRONICALLY FILED - 2021 Nov 22 3:45 PM - GEORGETOWN - COMMON PLEAS - CASE#2019CP220212

ELECTRONICALLY FILED - 2018 Jun 12 10:50 AM - GEORGETOWN - COMMON PLEAS - CASE#2016CP220961
ELECTRONICALLY FILED - 2021 Nov 22 3:45 PM - GEORGETOWN - COMMON PLEAS - CASE#2019CP220212

DEFENDANTS' CLAIMS

2. Trespass as to Plaintiff's Trash Dumpster

☐ We, the jury, by unanimous decision find for the Defendants on their claim of trespass.

OR

☒ We, the jury, by unanimous decision find for the Plaintiff.

If you found for the Defendants, set forth the amount of damages, if any.

$ _____

Please proceed to Question 3

3. Breach of Easement as to Equally Sharing Costs of Proper Maintenance and Upkeep

☐ We, the jury, by unanimous decision find for the Defendants on their claim of Breach of Easement.

OR

☒ We, the jury, by unanimous decision find for the Plaintiff.

If you found for the Defendants, set forth the amount of damages, if any.

$ _____

Foreperson: _____

June 11, 2018
Georgetown, SC

WHEN YOU HAVE REACHED A VERDICT, KNOCK ON THE DOOR AND NOTIFY THE BAILIFF

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EXHIBIT 12

ELECTRONICALLY FILED - 2018 Jul 27 12:07 PM - GEORGETOWN - COMMON PLEAS - CASE#2016CP2200961
ELECTRONICALLY FILED - 2021 Nov 22 3:45 PM - GEORGETOWN - COMMON PLEAS - CASE#2019CP2200212

STATE OF SOUTH CAROLINA **COUNTY OF GEORGETOWN** The Gulfstream Café, Inc., Plaintiff, vs. J. Mark Lawhon, Individually, and Palmetto Industrial Development, LLC, Defendants.	**IN THE COURT OF COMMON PLEAS** **FIFTEENTH JUDICIAL CIRCUIT** CIVIL ACTION NO. 2016-CP-22-00961 **ORDER GRANTING PLAINTIFF'S MOTION TO ALTER OR AMEND THE JUDGMENT**

This matter is before the Court on Plaintiff The Gulfstream Café, Inc.'s Motion to Alter or Amend the Judgment. On June 12, 2018, the Court entered a Permanent Injunction in the above case. On June 22, 2018, Plaintiff filed the instant Motion to Alter or Amend pursuant to South Carolina Rule of Civil Procedure 59(e). Based upon the filings in this matter, the arguments of counsel, and the entire record at trial, the Court enters the following order.

South Carolina Rule of Civil Procedure 59(e) permits a party to file a motion to alter or amend the judgment. The purpose of Rule 59(e) is to enable a party to request that the Court reconsider matters properly encompassed in a decision on the merits. Arnold v. State, 309 S.C. 157, 420 S.E.2d 834 (1992). As with other motions under Rule 59, a motion to alter or amend is addressed to the sound discretion of the trial court. See Brinkley v. South Carolina Dept. of Corrections, 386 S.C. 182, 185, 687 S.E.2d 54, 56 (Ct. App. 2009)

Having reviewed Plaintiff's Motion to Alter or Amend, Defendants' response, the record in this case, and having considered the arguments of the parties, the Court finds

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that the parties are unclear as to the order of the Court entered on June 12. As a result, the Court exercises its discretion to amend the Permanent Injunction. The following, amended Permanent Injunction is hereby entered.

Based on the case law of this state, the facts presented at this trial, and the jury's verdict, a permanent restraining order is issued with the following terms. The Defendants are enjoined from preventing the Plaintiff from enjoying the right granted to it in the recorded nonexclusive joint easement. The Defendants are restrained and may not expand the outside boundaries of any new building beyond those previously used. The outside boundaries specifically are the outside boundaries of the old building, which was depicted on the 1985 Plat recorded at Plat Book 6, Page 214 of the Georgetown County real property records and was demolished by Defendants in November 2016. The outside boundaries do not include any outbuildings, fixtures, concrete pads, dumpsters, or other accessories. As a result, any new building must be located on the same footprint as the old building. The Court is specifically not talking about height, only the outside boundaries.

SO ORDERED this __ day of July, 2018.

Steven H. John
Resident Circuit Judge
Fifteenth Judicial Circuit

At Chambers, SC

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Georgetown Common Pleas

Case Caption: Gulfstream Cafe Inc VS J Mark Lawhon , defendant, et al

Case Number: 2016CP2200961

Type: Order/Amend

So Ordered

s/ Steven H. John, Resident Circuit Judge, #129

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EXHIBIT 13

AMPD-9-18-21424

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129 Screven St. Suite 222
Post Office Drawer 421270
Georgetown, S. C. 29440
Phone: 843-545-3158
Fax: 843-545-3299

APPLICATION TO AMEND A PLANNED DEVELOPMENT (PD)

COMPLETED APPLICATIONS MUST BE SUBMITTED ALONG WITH THE REQUIRED FEE, AT LEAST FORTY-FIVE (45) DAYS PRIOR TO A PLANNING COMMISSION MEETING.

Please note this approval applies to this particular property only.

Name of Planned Development: Marlin Quay

Regulation to which you are requesting an amendment *(check applicable):*

( ) **Setback – Complete SECTION B: SETBACK AMENDMENT**
( ) **Signage – Complete SECTION C: SIGNAGE AMENDMENT**
(x) **Site Plan – Complete SECTION D: SITE PLAN AMENDMENT**
(x) **Other** – Change of Building Configuration

All Applicants must complete SECTION A: APPLICANT INFORMATION

SECTION A: APPLICANT INFORMATION

Property Information:

TMS Number: 41-0128-032-61-00 (a portion) and 41-0129-02-00-00 (a portion)
(Include all affected parcels)

Street Address: 1508 South Waccamaw Drive

City / State / Zip Code: Garden City Beach, South Carolina 29576

Fee - $ 262.50

Lot / Block / Number: Tract 3, Marlin Quay

Existing Use: Marina Retail Store and Restaurant

Proposed Use: Marina Retail Store and Restaurant

Commercial Acreage: Less than .5 Acres Residential Acreage: _____

Property Owner of Record:

Name: Palmetto Industrial Development, LLC

Address: 611 West Palmetto Street, Suite B

City/ State/ Zip Code: Florence, South Carolina 29501

Telephone/Fax: 843-235-6747 (Attorney for Owner)

E-Mail: marklawhon@gmail.com

Signature of Owner / Date: _____

Contact Information:

Name: Dr. Mark Lawhon

Address: 611 West Palmetto Street, Suite B, Florence South Carolina 29501

Phone / E-Mail: 843-235-6747 (Attorney for Owner) / marklawhon@gmail.com

I have appointed the individual or firm listed below as my representative in conjunction with this matter related to the Planning Commission of proposed new construction or improvements to the structures on my property.

Agent of Owner:

Name: Daniel W. Stacy, Jr., Esquire

Address: 90 Wall Street / Unit B

City / State / Zip Code: Pawleys Island, South Carolina 29585

Telephone/Fax: 843-235-6747 / 843-235-6650

E-Mail: dstacy@oxnerandstacy.com

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Signature of Agent/ Date: Daniel W. Stacey

Signature of Owner /Date: _____

Fee Schedule: $250.00 plus $10.00 per Residential acre or $25.00 per Commercial acre.

Adjacent Property Owners Information required:

1. The person requesting the amendment to the Zoning Map or Zoning Text must submit to the Planning office, at the time of application submittal, stamped envelopes addressed with name of each resident within **Four Hundred Feet (400)** of the subject property. The following return address must appear on the envelope: **"Georgetown County Planning Commission, 129 Screven St. Suite 222, Georgetown, SC 29440."**

2. A list of all persons (and related Tax Map Numbers) to whom envelopes were addressed to must also accompany the application.

It is understood by the undersigned that while this application will be carefully reviewed and considered, the burden of proving the need for the proposed amendment rests with the applicant.

Please submit this **completed application** and appropriate **fee** to Georgetown County Planning Division at 129 Screven St. Suite 222, Georgetown, S. C. 29440. If you need any additional assistance, please call our office at 843-545-3158.

Site visits to the property, by County employees, are essential to process this application. The owner\applicant as listed above, hereby authorize County employees to visit and photograph this site as part of the application process.

A sign will to be placed on your property informing residents of an upcoming meeting concerning this particular property. This sign belongs to Georgetown County and will be picked up from your property within five (5) days of the hearing.

All information contained in this application is public record and is available to the general public.

SECTION B: SETBACK AMENDMENT

Please supply the following information regarding your request:

- List any extraordinary and exceptional conditions pertaining to your particular piece of property. _____

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- Do these conditions exists on other properties else where in the PD?

- Amending this portion of the text will not cause undue hardship on adjacent property owners. _____

Submittal requirements: 12 copies of 11 x 17 plans

- A scaled site plan indicating the existing conditions and proposed additions.
- Elevations of the proposal (if applicable).
- Letter of approval from homeowners association (if applicable).

SECTION C: SIGNAGE AMENDMENT

Reason for amendment request:_____

_____

Number of signs existing currently on site _____

Square footage of existing sign(s) _____

Number of Proposed signs: _____

Square footage of the proposed sign(s)_____

Submittal requirements:

- Proposed text for signage requirements.
- 12 copies (11 x 17) of proposed sign image.
- Site plan indicating placement of the proposed sign(s).
- Elevations.
- Letter from POA or HOA (if applicable)

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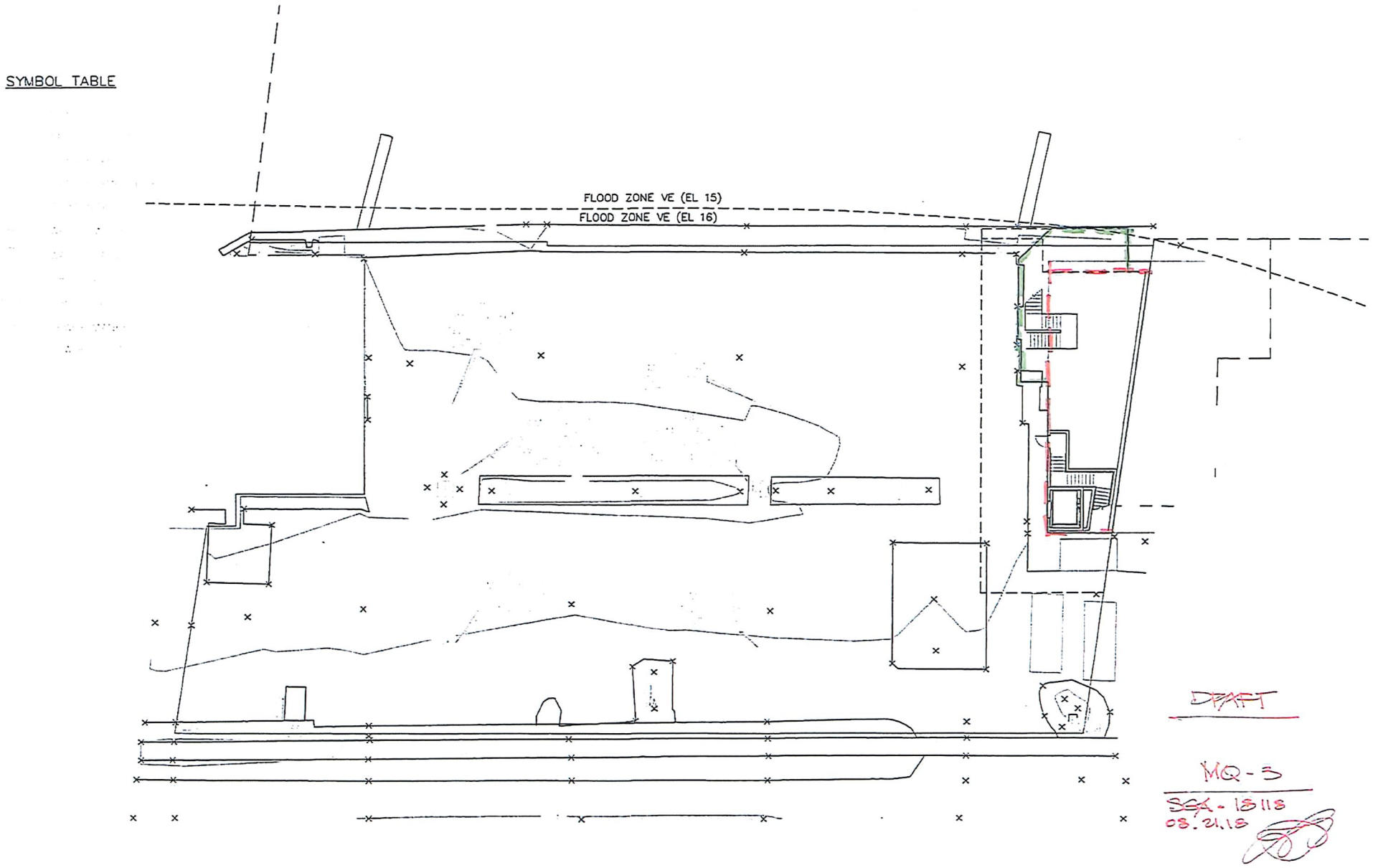
SECTION D: SITE PLAN AMENDMENT

Proposed amendment request: Per Separate litigation, a court has ordered that the site plan approved by Planning Commission and County Council cannot be built, and the applicant has to rebuild wholly within the footprint of the building that existed prior on this site. This change is to bring the site into compliance with said Court Order.

Reason for amendment request: Site plans attached to application, revised calculation to follow under separate cover.

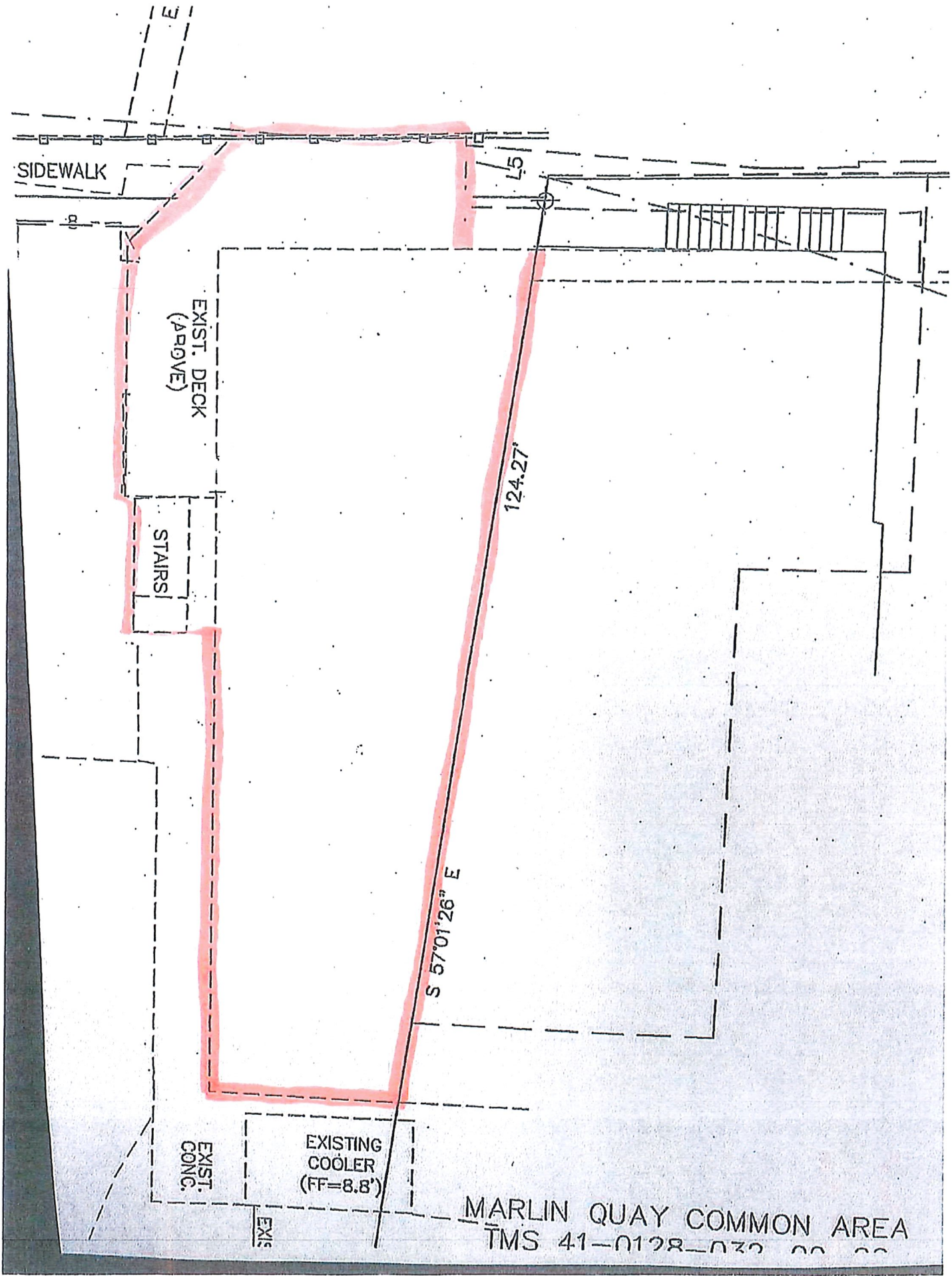
Submittal requirements:

- 12 copies of existing site plan.
- 12 copies of proposed site plan.
- Revised calculations (*calculations may include density, parking requirements, open space, pervious/impervious ratio, etc.*).

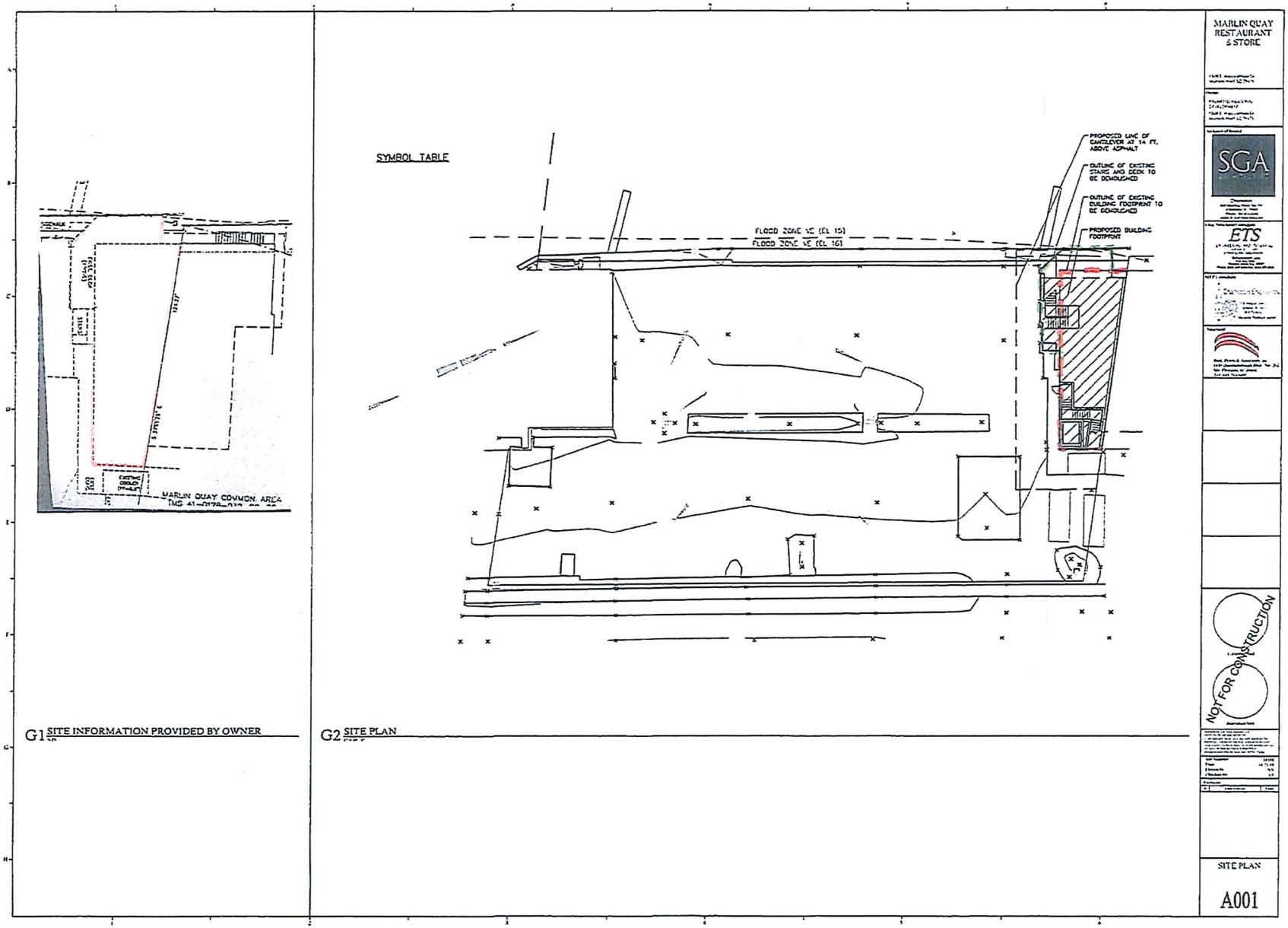


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Selected Lot Lines Feature

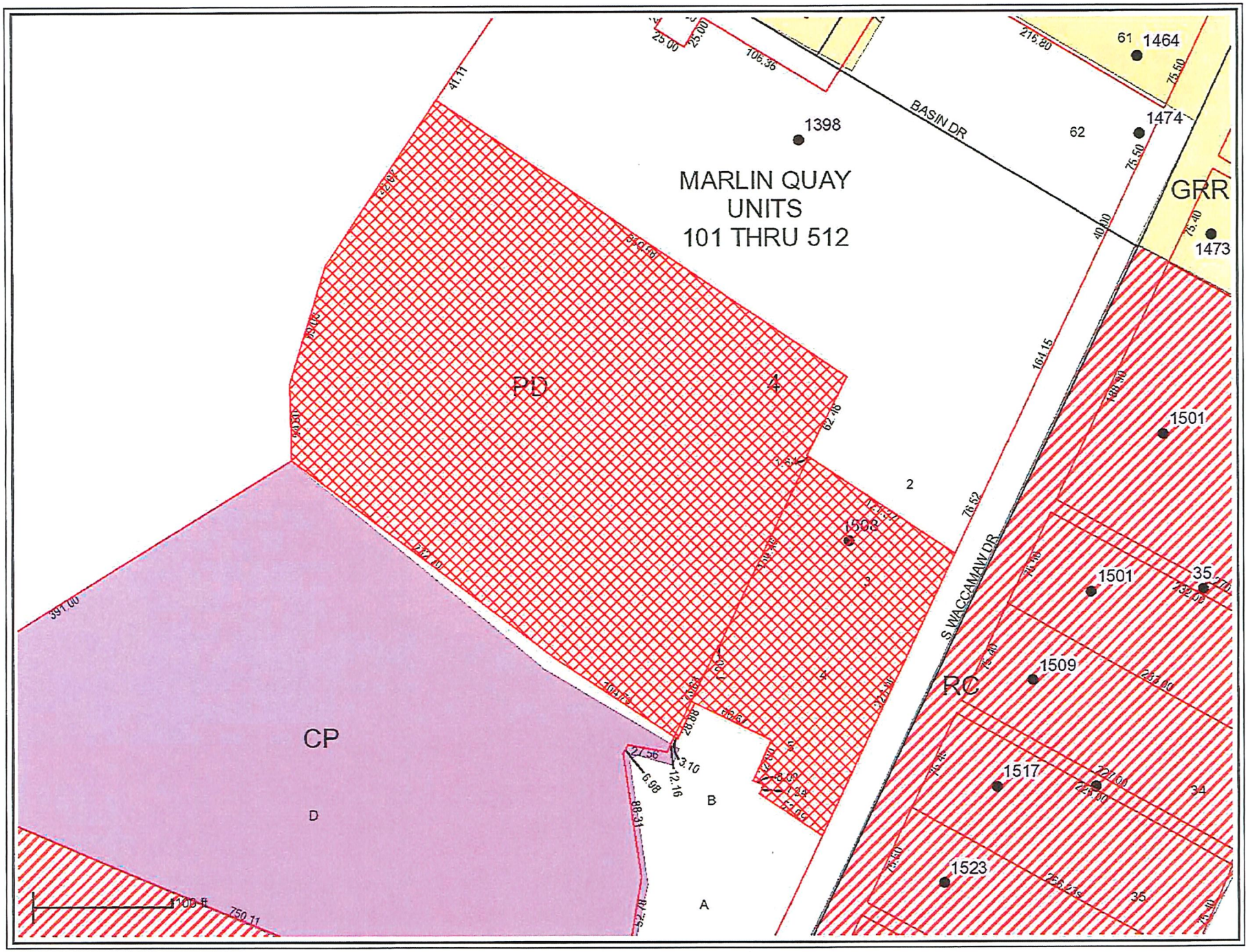
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Date	2014-08-19 20:00:00
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Legal Ref	2421-267
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Owner	PALMETTO INDUSTRIAL DEVELOP LLC
Owner 2	
Address1	611 WEST PALMETTO STREET
Address2	
City	FLORENCE
State	SC
Zip	29501

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Selected Lot Lines Feature

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Street Number	
Acreage	1
Date	2014-08-19 20:00:00
Sale	800000
Legal Ref	2421-267
Location	BASIN DR
Owner	PALMETTO INDUSTRIAL DEVELOP LLC
Owner 2	
Address1	611 WEST PALMETTO STREET
Address2	
City	FLORENCE
State	SC
Zip	29501

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EXHIBIT 14

(B)

OXNER & STACY, P.A.
ATTORNEYS AND COUNSELORS AT LAW
90 WALL STREET - UNIT B
PAWLEYS ISLAND, SC 29585
TELE: (843) 235-6747 • FAX: (843) 235-6650

HARRY A. OXNER
DANIEL W. STACY, JR.

GEORGETOWN OFFICE:
235 CHURCH STREET
POST OFFICE BOX 481
GEORGETOWN, SC 29442-0481
TELE: (843) 527-8020
FAX: (843) 485-4121

REPLY TO:
PAWLEYS ISLAND OFFICE

October 12, 2018
VIA EMAIL & U.S. MAIL

Holly H. Richardson, AICP
Chief Planner
Georgetown County Planning and
Code Enforcement
129 Screven Street, Room 222
Georgetown, SC 29440

Re: Major change application for Marlin Quay PD
O.S. File #17-1739

Dear Holly:

I just wanted to follow up with our earlier conversation to confirm our earlier discussions that a request for adjustments to the height of the building are a component part of our application. As we discussed, the final plans have not yet been completed when we made our application, but I wanted to make sure you confirm this for your records and for your discussion among the staff in the Planning Commission. Also, thank you for confirming the receipt of our application on September 4, 2018, as I submitted it on August 27, 2018 per our cover letter.

With kindest regards, I remain

Very truly yours,

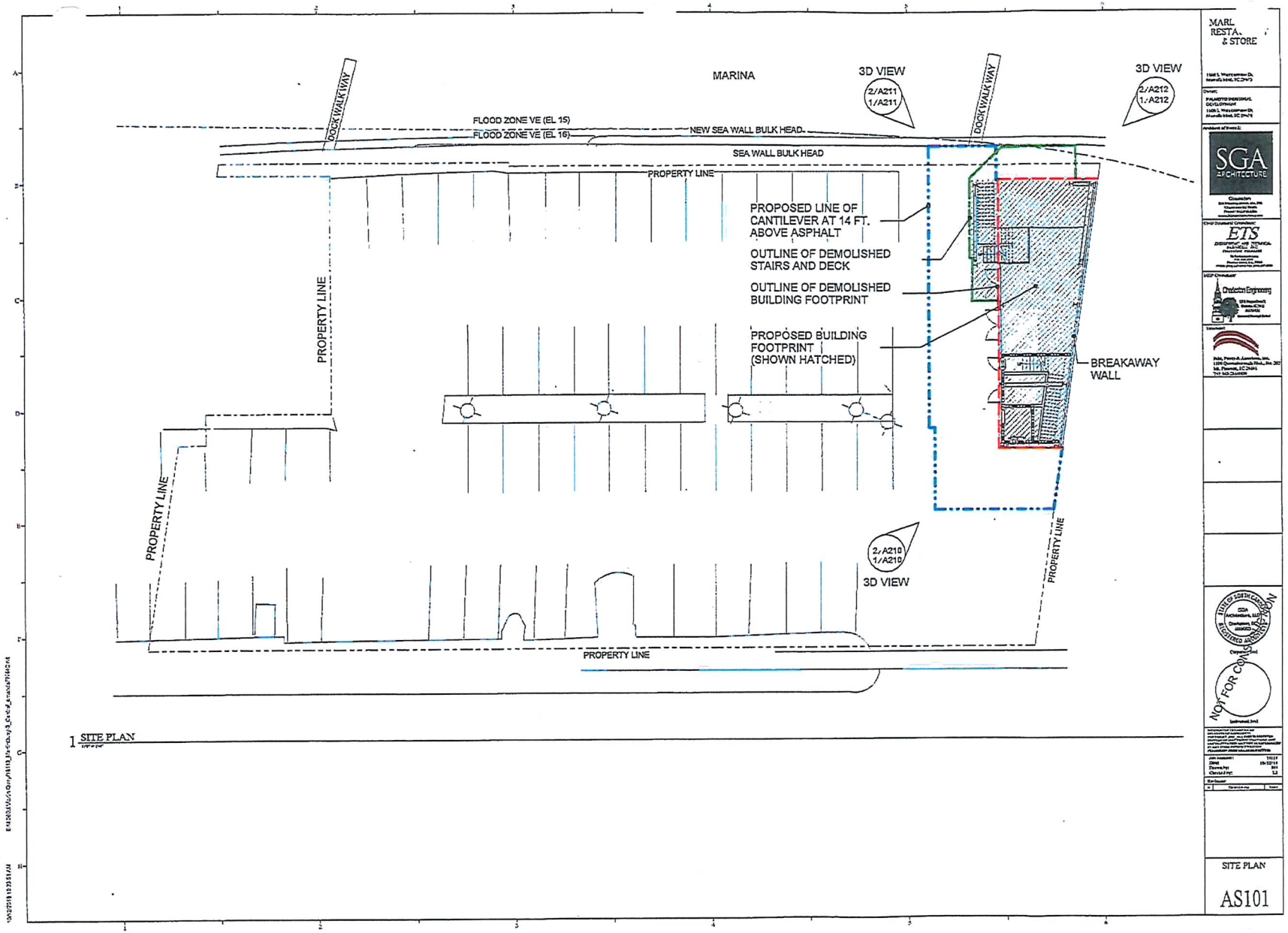
Daniel W. Stacy, Jr.

Daniel W. Stacy, Jr.

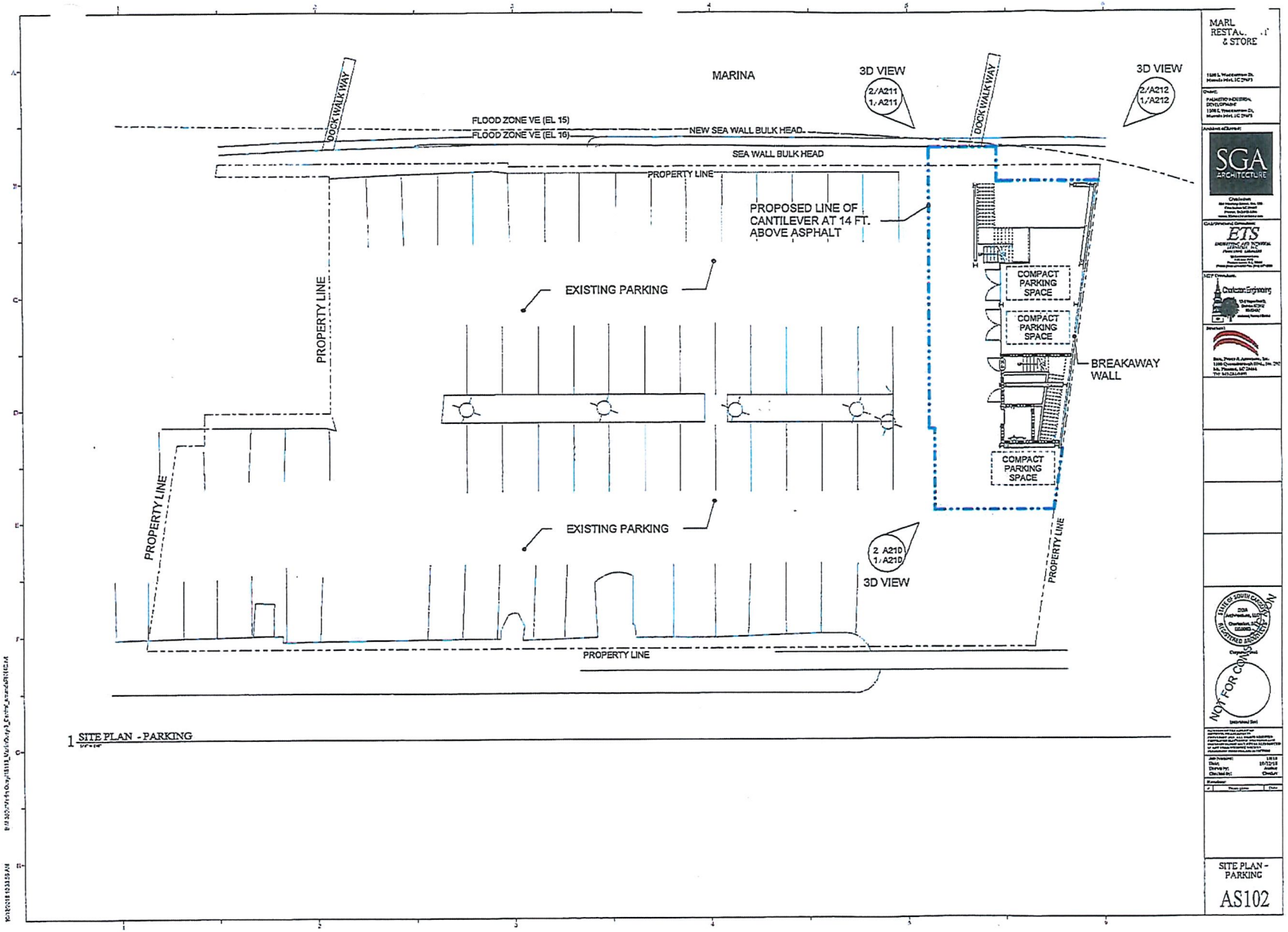
DWS/scp

cc: Mark Lawhon

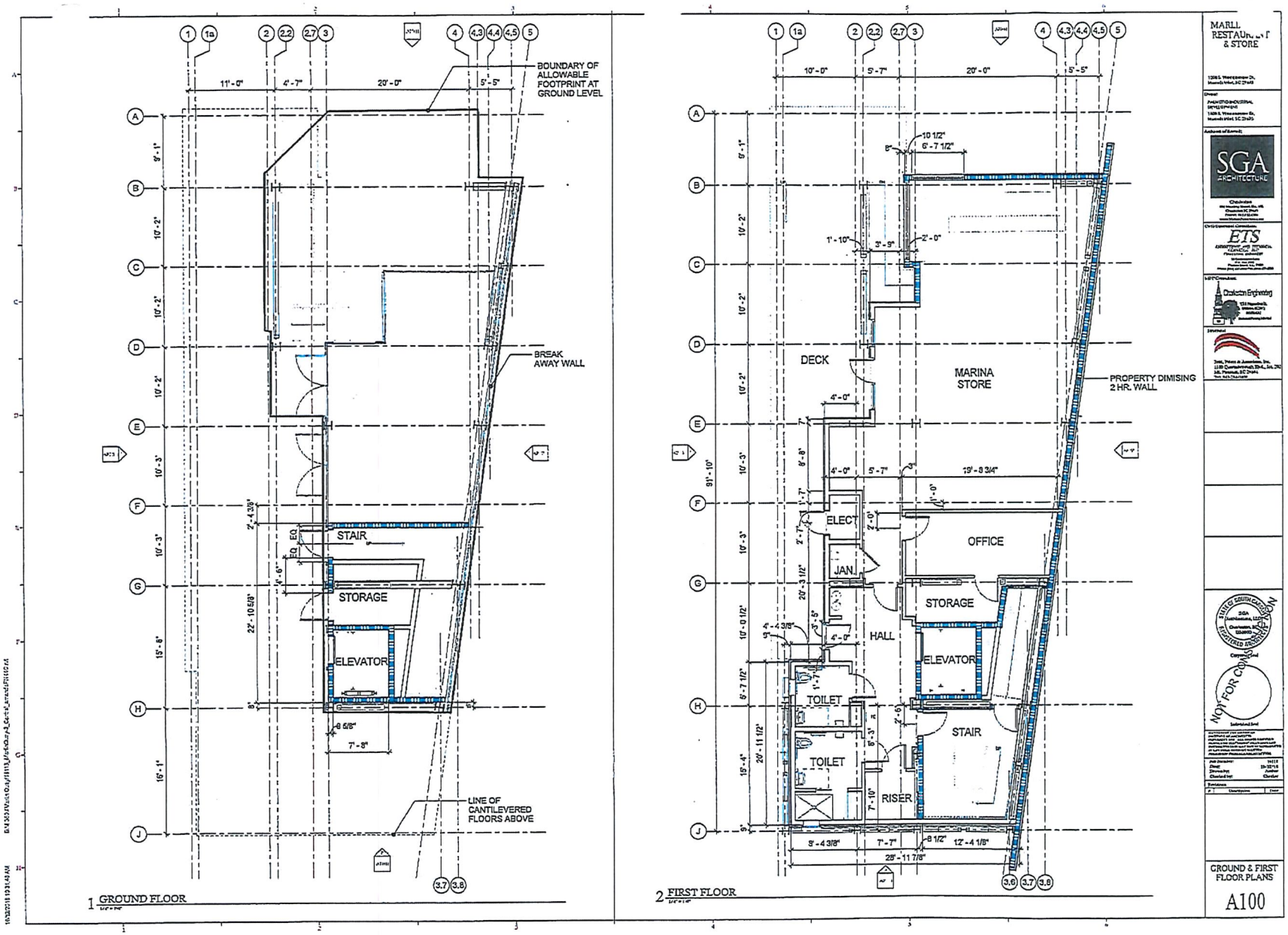
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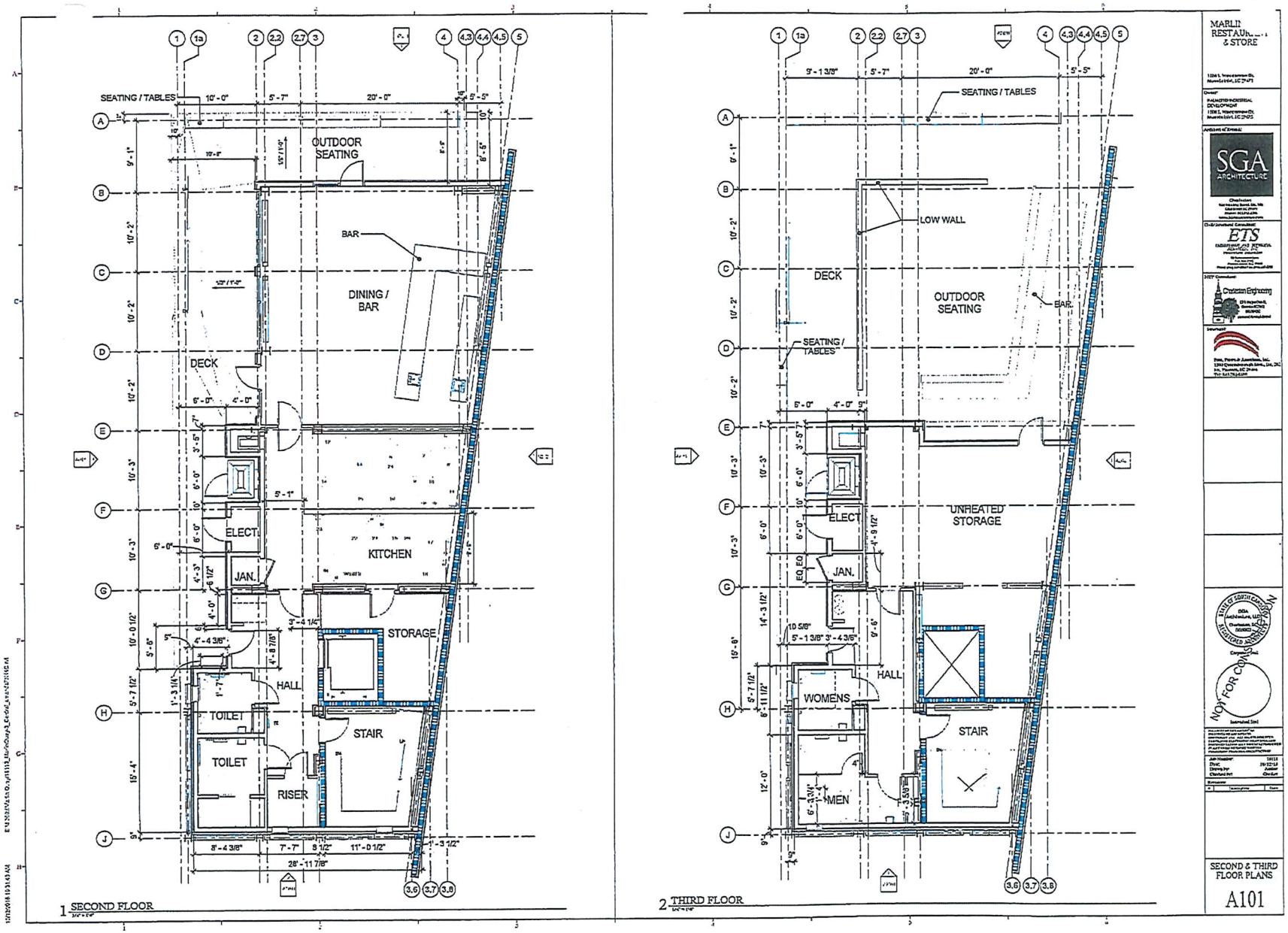
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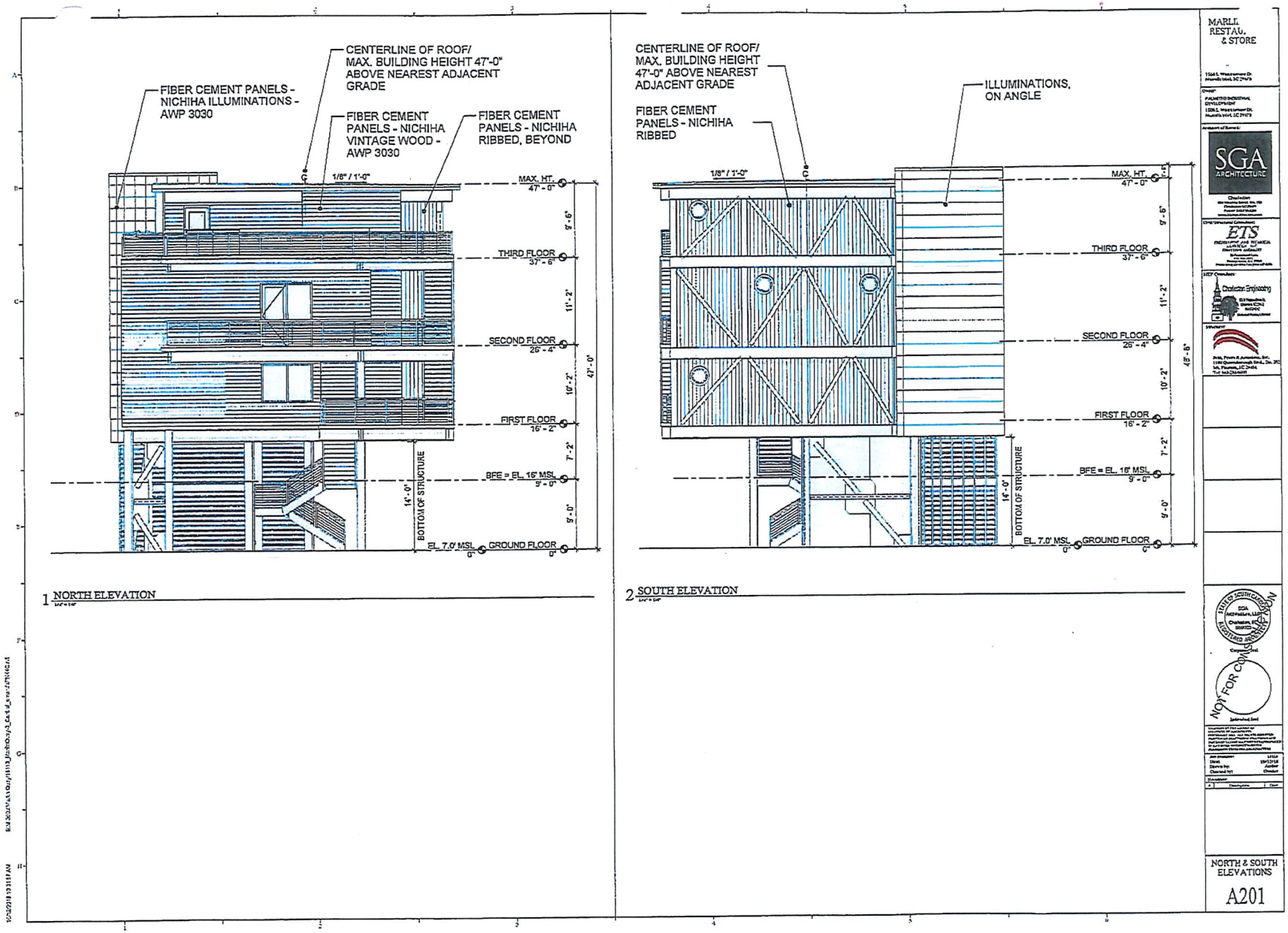
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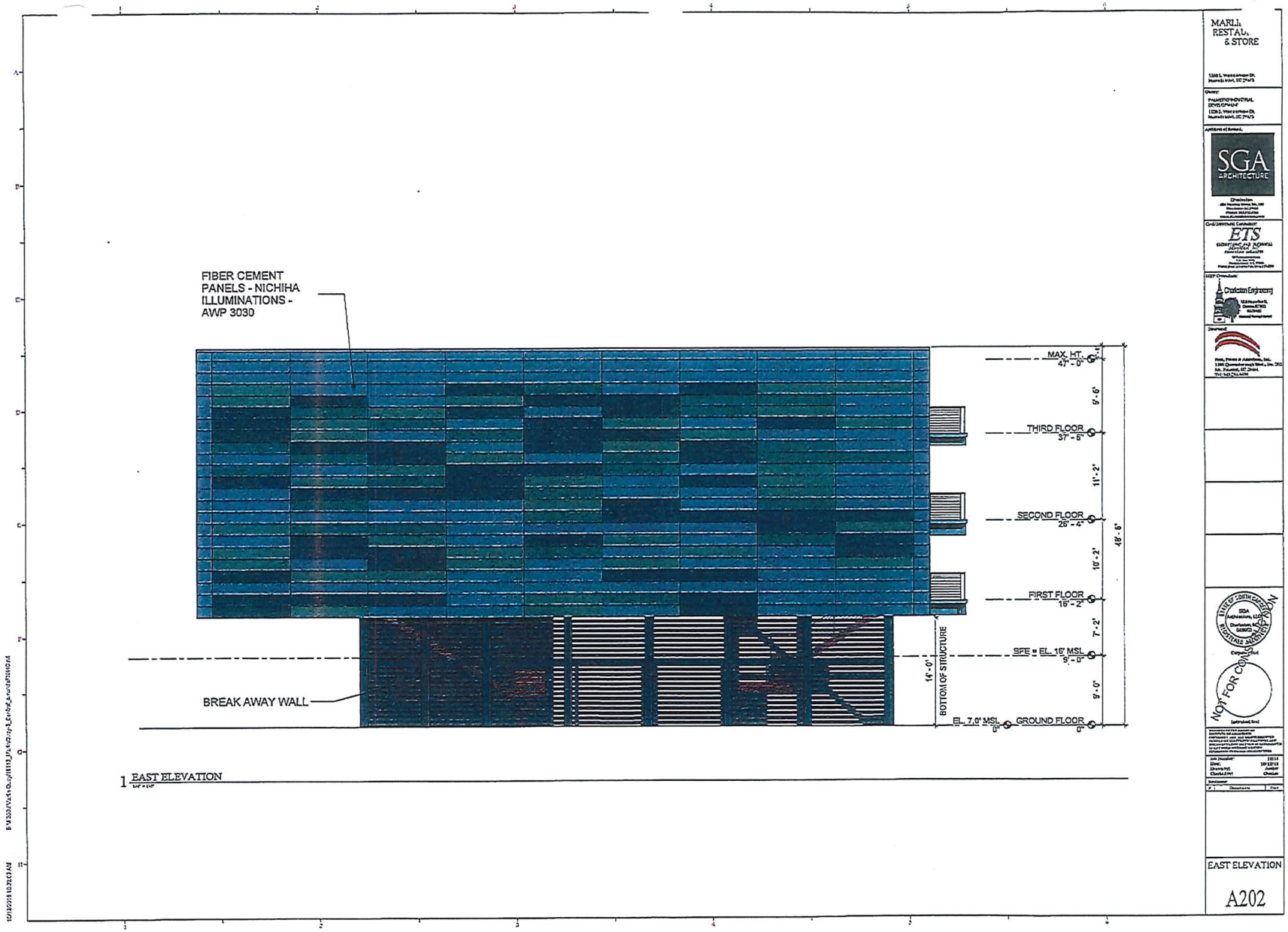
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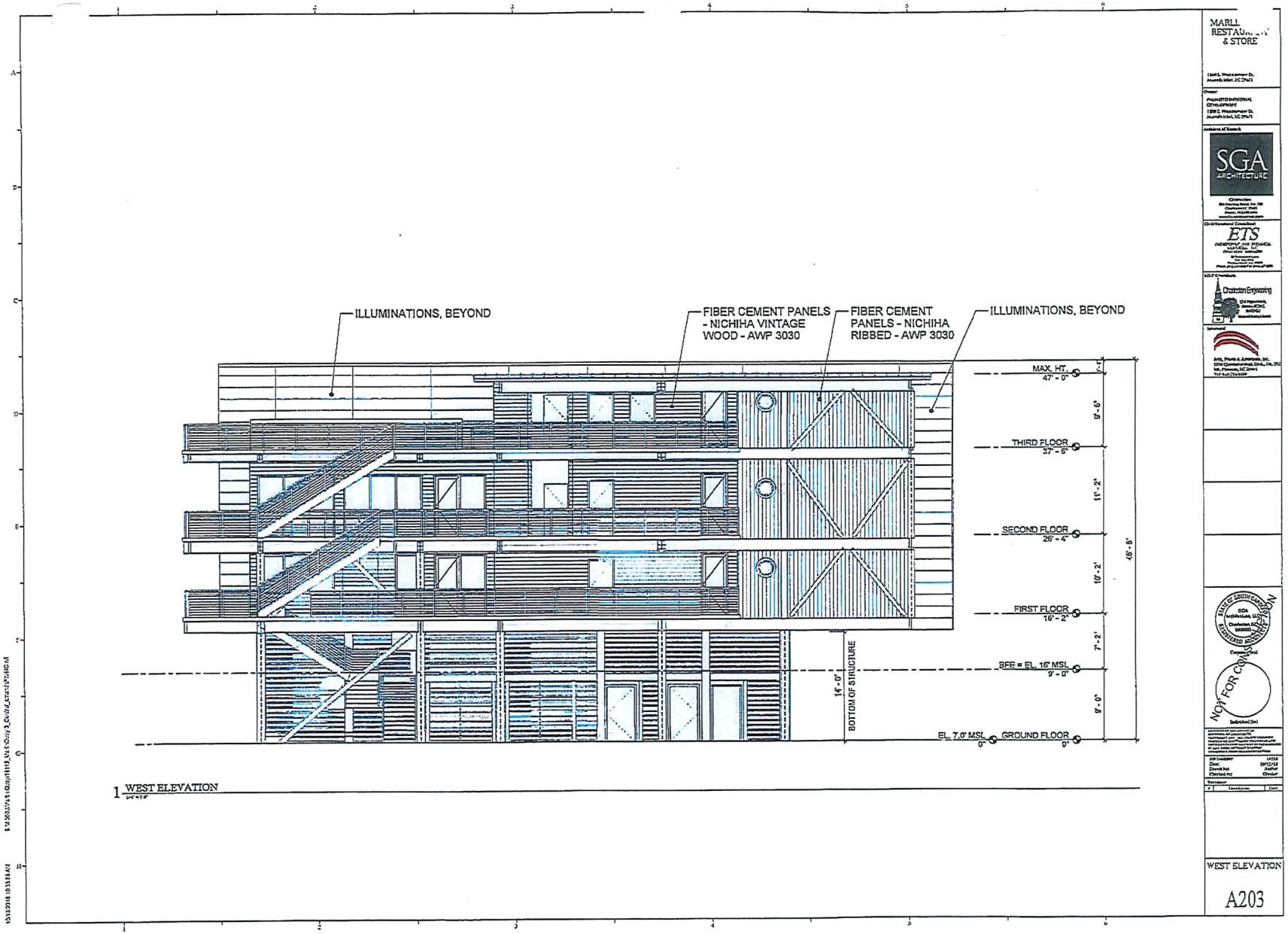
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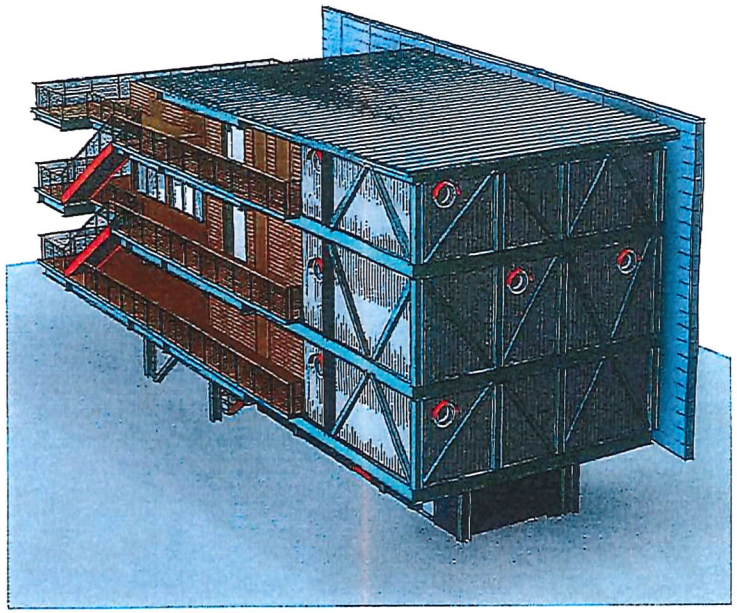
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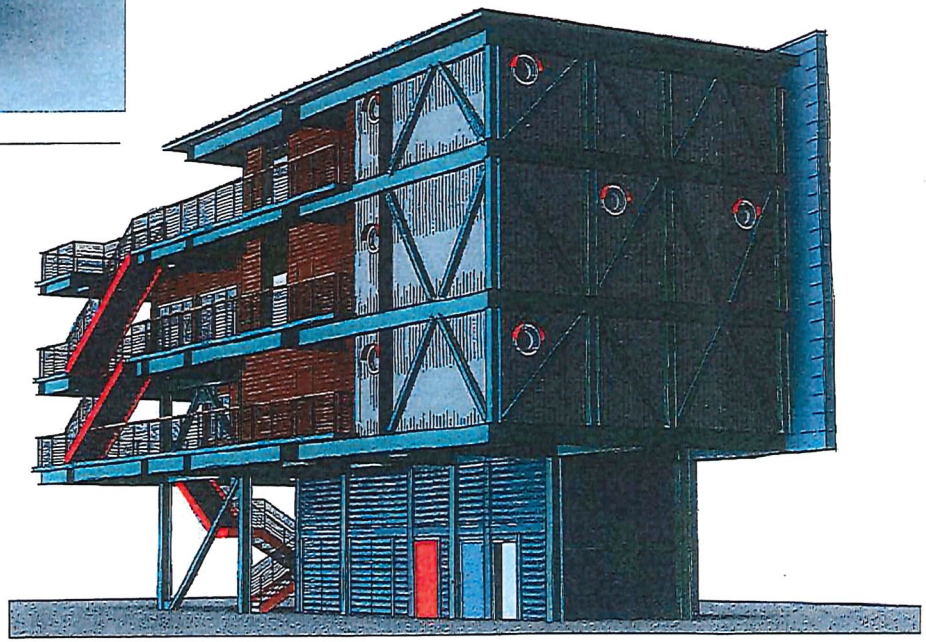
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2 SW CORNER HIGH



1 SW CORNER LOW

MARIL
RESTAU.
& STORE

SGA
ARCHITECTURE

ETS

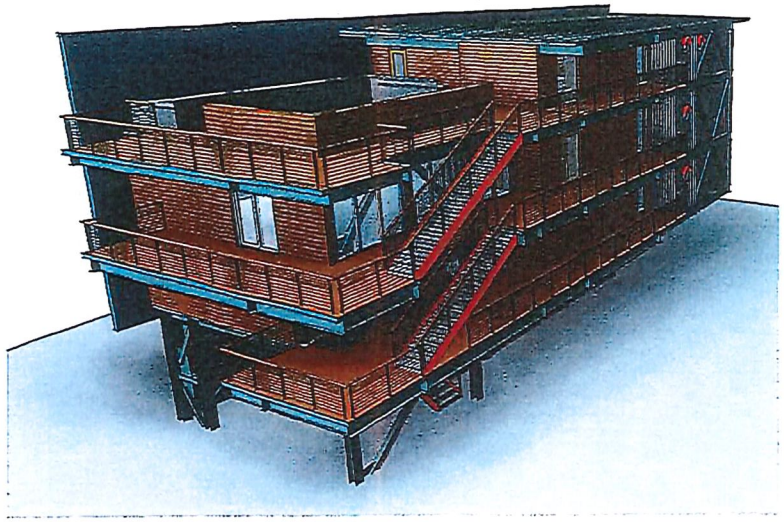
Charleston Engineering

NOT FOR CONSTRUCTION

RENDERINGS

A210

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2 NW CORNER HIGH



1 NW CORNER LOW

MARLI
RESTAU... & STORE

SGA ARCHITECTURE

ETS

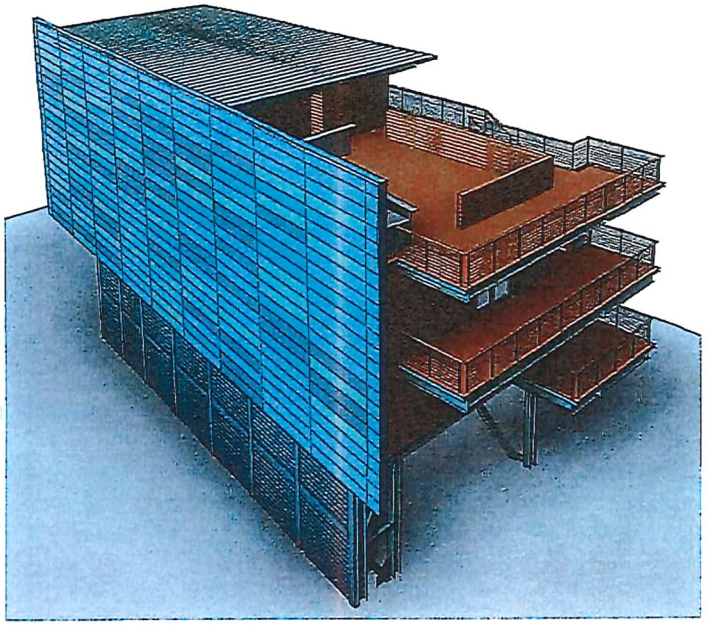
Charleston Engineering

NOT FOR CONSTRUCTION

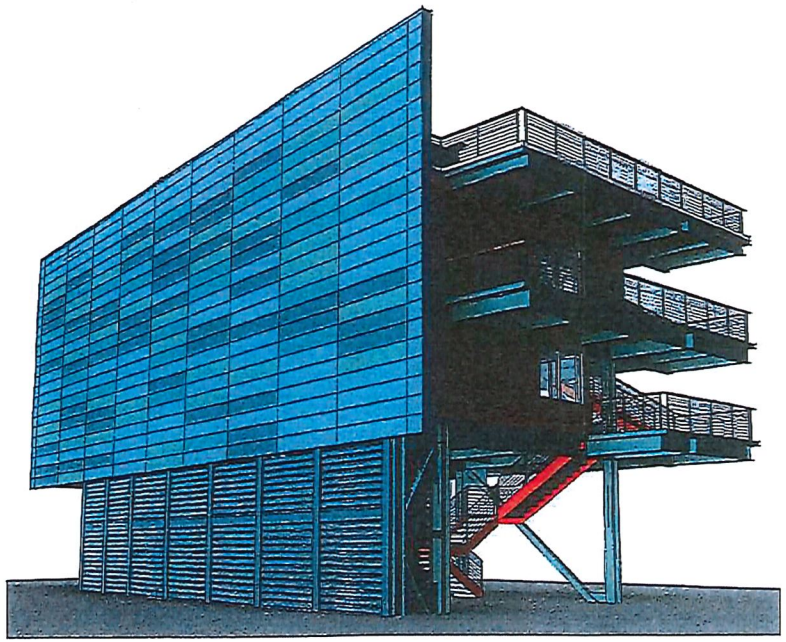
RENDERINGS

A211

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2 NE CORNER HIGH



1 NE CORNER LOW

MARLI RESTAURANT & STORE

SGA ARCHITECTURE

ETS

Crafcon Engineering

NOT FOR CONSTRUCTION

RENDERINGS

A212

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EXHIBIT 15

ELECTRONICALLY FILED - 2021 Nov 22 3:45 PM - GEORGETOWN - COMMON PLEAS - CASE#2019CP2200212

GEORGETOWN COUNTY PLANNING COMMISSION

DATE: October 18, 2018

AGENDA ITEM: A request from Dan Stacy, as agent for Dr. Mark Lawhon of Palmetto Industrial Development, LLC to amend the Marlin Quay Planned Development to allow for the redevelopment of the Marlin Quay Marina Store/Restaurant. The property is located at 1508 S. Waccamaw Drive in Murrells Inlet. TMS 41-0129-002-00-00. Case Number AMPD 9-18-21424.

CURRENT STATUS: On February 27, 2018, County Council approved an ordinance amending the Marlin Quay Planned Development to allow for a redevelopment of the marina store/restaurant (Ordinance 2018-03). The ordinance allowed for 4,598 heated square feet for the new structure, 62 parking spaces for the site, a 45 foot height limit and a seating capacity of 110. Prior to Council action, the Zoning Board of Appeals also ruled twice on this issue after an appeal of Staff's decision to treat the issuance of a permit for the new structure as a minor change by the Gulfstream Café Inc. The ZBA ruled in favor of staff. The ZBA decision was appealed to Circuit Court and the County won the appeal.

The project has been in litigation since the Council approval. A court has ordered that the site plan approved in February 2018 by Council cannot be built. The applicant is required to build wholly within the footprint of the building that was previously located on the site. The purpose of this new request is for a new structure (MQ3) to bring the site into compliance with the court order.

ISSUE UNDER CONSIDERATION: Dan Stacy of Oxner and Stacy, as agent for Palmetto Industrial Development, LLC, applied to amend the Marlin Quay PD as a major change to allow for redevelopment of the marina store and restaurant. The submittal included a new site plan as well as a request regarding the roof pitch for the proposed building.

POINTS TO CONSIDER:

1. The Marlin Quay PD is located on the west side of South Waccamaw Drive, south of Basin Drive in Garden City. The PD was approved in July of 1982 for condominiums, a restaurant and a marina. No setbacks were provided. The PD was amended numerous times to include additional uses and amendments to the original layout.

2. Prior to November of 2016 the Marlin Quay Marina Restaurant and Store were located on the property line between TMS 41-0129-002-00-00 which they own and TMS 41-0128-032-00-00 owned by the Marlin Quay Homeowners Association. The property owner had a long term lease for the section of their building on the condo association property. The owner inquired about demolishing the existing building in order to reconstruct a new building wholly on the owner's property. After significant negotiations with the condo HOA, their board agreed to allow the demolition. A demolition permit was issued on November 1, 2016. According to an email from the property owner's representative, the

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building contained a total of 4,603 square feet at that time. The current submittal (MQ3) is the third version of a plan to reconstruct this building.

3. The current request is for a building containing a restaurant and a marina store. The amount of heated square footage has not changed. The area for the restaurant has decreased slightly, the area for the marina has increased and the unheated storage area has decreased. The proposed heated square footage is less than the original 4,603 SF for the original building that was demolished. A comparison of the square footage amounts between this proposal (MQ3) and the previous proposal that was approved by Council in February 2018 (MQ2) are shown below:

	MQ2	MQ3	Change
• Total Restaurant HEATED	2641	2630	↓11 SF
• Total Restaurant UNHEATED	2994	2943	↓51 SF
• Total Marina/Retail HEATED	1955	1966	↑11 SF
• Total Marina/Retail UNHEATED	1004	1224	↑220 SF
• Total Storage UNHEATED	1794	1159	↓635 SF
Total HEATED	4,596	4,596	No change
Total UNHEATED	5,792	5,326	↓466 SF
Total HEATED & UNHEATED	10,388	9,922	↓466 SF

4. The parking layout for the site will not be changed. Like the previous plan for MQ2, the current plan shows three additional compact spaces to be located underneath the proposed building. The site contains a total of 62 spaces. This exceeds the Zoning Ordinance requirement of 51 spaces for the proposed building. The parking lot is also used by the Gulf Stream Café and the marina.

5. The amount of pervious/impervious space on the site will not be affected. The County's Stormwater Department did not require a review of the redevelopment based on the lack of increased impervious space.

6. Part of the Council approval from February 2018 included a condition that the building for MQ2 not exceed the seating capacity of the original building which according to the applicant was 110 seats. Plans from the applicant indicate that MQ3 will also not exceed 110 seats.

7. The PD was originally approved with a 60 foot height limit for condominiums and a 35 foot height limit for commercial uses. The property is located in a VE-16 flood zone.

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The previous building did not meet current flood requirements. Any new structure must be elevated to meet the County's flood ordinance requirements.

Since the applicant's last submittal for MQ2, the County's requirements for maximum height in a Planned Development have changed. Previously, the ordinance limited the height in a flood zone to 45 feet. This was in conflict with the current Article VIII Exceptions which allows for differing heights in a flood zone based on the BFE (base flood elevation). The PD ordinance has since been changed to state that "the height limits established elsewhere in the ordinance shall not be exceeded" (Section 619.4, Ordinance 2017-24).

Section 806 requires that structures in the Flood Zone V are allowed a maximum height of 35 feet as measured from the BFE to the midpoint of the roof, plus an additional three feet to allow for the FEMA-required floor system. For this particular site, the total allowed height is 38 feet from the BFE or a total height of 47 feet based on the ground elevation of 7 feet. The proposed plan meets this requirement.

Section 806 also includes a statement that structures in a V zone that exceed 35 feet utilize a roof pitch not less than 4/12. The proposed building contains a flat roof in order to maximize the useable space between the BFE and the roof. The applicant has requested that this Planned Development not include the provision requiring a roof pitch of 4/12 or greater.

FINANCIAL IMPACT: Not applicable

OPTIONS:

1. Recommend approval as requested by applicant.
2. Recommend approval as amended by Planning Commission
3. Defer for 30 days pending further requested information.
4. Recommend denial of request.

STAFF RECOMMENDATION:

Staff recommends approval for this request for redevelopment of the site and an amended roof pitch based on the proposed replacement of an existing use/structure with one that complies with current flood ordinance requirements and the resolution of the issue of having a building located over a property line.

ATTACHMENTS:

1. Application and attachments
2. Proposed site and building plans

3. GIS Location map
4. GIS Zoning map
5. GIS aerial map
6. Adjacent Property Notice

Boyd Johnson
Director
Planning and Code Enforcement

Public Notification Information:
Date Advertised: 10-3-18 (Georgetown Times) 10-4-18 (Coastal Observer)
Date Property Posted/By: 10-2-18 Kristal Infinger
Date of Notification: 9-24-18 **Number Notified:** 23

Case Number/Staff Contact: AMPD 9-18-21424/Holly H. Richardson
Report Completion Date: 10-11-18 **Revision Date:**

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EXHIBIT 16

STATE OF SOUTH CAROLINA
COURT OF COMMON PLEAS
COUNTY OF GEORGETOWN

THE GULFSTREAM CAFE, INC.,

Plaintiff,

vs. CASE NO. 2019-CP-22-00212

GEORGETOWN COUNTY, GEORGETOWN COUNTY COUNCIL, JOHN THOMAS, RON CHARLTON, LILLIE JOHNSON, AUSTIN BEARD, STEVE GOGGANS, AND LOUIS MORANT, INDIVIDUALLY AND IN THEIR OFFICIAL CAPACITY AS GEORGETOWN COUNTY COUNCIL MEMBERS,

Defendants.

DEPOSITION OF: LESTER BOYD JOHNSON, JR.
(Appearing via VTC)

DATE: March 4, 2021

TIME: 9:11 a.m.

LOCATION: 716 Prince Street
Georgetown, South Carolina

TAKEN BY: Counsel for the Plaintiff

REPORTED BY: KAREN M. ERNST, CSR
Court Reporter
(Appearing via VTC)

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situated on the particular parcel.

Q. Okay. But maybe not a rendering, how about information regarding the size or dimensions of the proposed building? It is common or expected that that type of information would be included in the initial application submitted by the applicant?

A. There would be some type of number that would certainly be, you know, probably modified as staff would review the project to get more details.

Q. But you testified before that the size of a building is an important consideration in evaluating a zoning application; is that right?

A. Yes. We would have that as we reviewed the application.

Q. And you can't review the application if you don't know what size the building is going to be; is that a fair statement?

A. True.

Q. Okay. I'm going to scroll down to section 1702.206. Do you see where I am?

A. Yes.

Q. In this section -- I'm just going to paraphrase it -- it references the process of an applicant providing notice to property owners located within 400 feet of the subject property.

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Q. And are you aware of anything in that section -- Section XVII that we looked at a few minutes ago, that's the section that deals with planned developments, right -- I'm sorry, section 6 is planned developments, correct?

A. The previous section. I don't remember the number but, yeah, what we looked at.

Q. Okay. And if there were some exemption from the parking requirement spelled out in the zoning ordinance, would you expect it to be in that section 6 about planned developments?

A. Not necessarily. It could be in a different section of the zoning ordinance.

Q. You're not aware of any type of section that spells out that exemption that you just described?

A. Specific to parking?

Q. Yeah.

A. Yes. No, there are not.

Q. There are not.

Now, tell me, you said that it's staff's opinion that the parking requirements of the zoning ordinance don't apply in a planned development. Is it good zoning practice to ignore parking requirements when establishing or modifying

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this No. 4, the last sentence states, The parking lot is also used by the Gulfstream Cafe and the marina, correct?

A. Yes.

Q. And so the planning staff knew that the Gulfstream Cafe and the marina were users of the parking lot at the time this report was made.

A. Yes.

Q. Did the planning staff make any effort to determine what number of spots the Gulfstream Cafe or the marina required in this parking lot?

A. No.

MS. GOLDING: Object to the form of the question. It's a nonexclusive --

MR. NUGENT: I got your objection, Henri. I think he already answered.

BY MR. NUGENT:

Q. Was your answer no, Mr. Johnson?

A. We didn't study that aspect of it.

Q. Okay. And why not?

A. Because it was an existing PD and so we sort of had to live with what we had. It wasn't like somebody was coming in with a brand new PD and create something.

Q. Did the existing PD have any specific

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seating of the Gulfstream Cafe, for example.

Q. Okay. So the planning department never evaluated the square footage or seating of Gulfstream in determining what kind of parking situation existed in the Marlin Quay PD?

A. No.

Q. And same for the marina. Did the planning department consider the size of the marina in determining what kind of parking demand existed in the Marlin Quay PD?

A. No, because there was no changes being made so we didn't examine that. We knew aware of the existence, but we didn't do a specific analysis.

Q. Now, were you familiar with the existence of an easement in favor of the Gulfstream Cafe related to parking in Marlin Quay?

A. I was not originally. As this project developed, yes, I was made aware of it. I don't know the specifics of it, I just know it's an easement for Gulfstream to park on that property, I guess.

Q. Were you aware of the existence of an easement for the marina to park in the parking lot at the Marlin Quay PD?

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A. No, I've never read the easement. I don't know what the easement entails.
Q. But the report states the parking lot is used by the marina, correct?
A. Yes. I know they park there in the parking lot.
Q. Right.
You didn't know, or did you know at the time this report was done about the existence of an easement in favor of the marina related to the issue of parking?
A. I don't know when we became aware of that easement. Probably we were aware of it. Yeah, because it's MQ3, so we were aware.
Q. Okay. So you knew that there were two other users of the parking lot who held easement rights in some description for the purpose of --
MS. GOLDING: Object to the form of the question.
MR. NUGENT: You can answer.
THE WITNESS: I wasn't aware of anything about who had access to the easement, I just knew there was a parking easement.
BY MR. NUGENT:
Q. You knew it was a parking easement and

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you knew that Gulfstream and the marina were users of the parking lot at Marlin Quay, right?

A. Yes, I did know they used the actual parking.

Q. And planning staff didn't do anything to determine how many spaces those particular users required?

A. No, we did not include that in our analysis.

Q. Okay. And did planning staff evaluate whether it was possible under the parking regulations for the various businesses at Marlin Quay to share the parking lot?

MS. GOLDING: Object to the form of the question.

BY MR. NUGENT:

Q. You can answer.

A. Sir, could you repeat the question?

Q. Sure. Did planning staff do an analysis about whether under the parking requirements of the zoning ordinance if it was possible for the users of the Marlin Quay parking lot to share use of the parking lot?

A. We knew as part of the planned development that that parking lot was there for the

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the parties would be sharing the parking and working those things out, like I say, with valet parking or something like that.

BY MR. NUGENT:

Q. And if you received information that a proposed amendment to a PD could overtax the existing parking, you agree that it would be appropriate for planning staff to review the existing supply of parking and the existing demands on that parking, correct?

A. We consider parking in general, yes.

Q. But in terms of considering the demand for parking at Marlin Quay, that wasn't considered, right?

A. We did not look at every use on site like Gulfstream and the marina, for example.

Q. And information was made available to you that other users were concerned that the proposed MQ3 building would overtax the parking lot, right?

A. That was stated to us, yes.

Q. Okay.

A. Not in those terms, but they complained about parking. I don't know that they specifically said that but, yes, they expressed parking --

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Q. And what were the nature of those complaints, just so we're all on the same page?
A. Basically what you said. They said it would be overtaxed.
Q. Okay. So you and the planning staff knew that there were concerns that the approval of MQ3 might overtax the parking?
A. We knew that that was stated. We didn't know if that was factual.
Q. What did the planning staff do to evaluate whether the MQ3 building, if approved, would overtax the parking?
A. My recollection is that's when we got into the seating, the heated square feet of the building. You know, they limited the seating to, I think it's, 110; whereas, the actual capacity on a traditional building from fire inspection was like over 300. They agreed to limit it to 110. That was an example.
Q. So your testimony is that the resolution or the effort to resolve concerns about parking was to place a seating limit on the building, the proposed building?
A. That's how it ended up, yes.
Q. Did your planning department do

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anything to evaluate what kind of parking demands existed outside of this reference to a seating limit?

A. I do not believe so.

Q. And why not?

A. Well, I will say this, like the deck, for instance. And we talked earlier about whether there was seating on the deck or not. So, yeah, we did in that regard for this building.

Q. Now, if you've got a bar -- and did you understand that there would likely expect to be a bar in this MQ3 building?

A. Somewhere in the building, yes. Yes. I don't remember the layout, but I do know there was a bar.

Q. It's possible to patronize a bar without having an actual place to sit, isn't it?

A. Yes.

Q. And you've stated that this MQ3 building would have an occupancy limit of 350 something people; is that right?

A. That's what would have been allowed under the fire code. Again, we would limit the seating to 110 --

Q. Right. But that's just --

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MS. GOLDING: Adam --
MR. NUGENT: I'm sorry. I didn't mean to interrupt.
MS. GOLDING: -- you are continuing to interrupt. Let the witness...
THE WITNESS: I was just saying that was an additional requirement.
BY MR. NUGENT:
Q. Right. So the ordinance put a seating limit on the Marlin Quay 3 proposal, correct?
A. Ultimately, yes.
Q. The ordinance did not put an occupancy limit on the Marlin Quay 3 proposal, right?
A. From my recollection, it was just seating.
Q. And you agree that if a bar is being operated in the Marlin Quay 3 building, it is possible for patrons to go to that establishment without having a place to sit?
A. In a bar, yes.
Q. And here the occupancy limit is approximately, let's just call it, 200 people greater than the seating limit, right?
A. I don't remember the exact number. You're talking about the fire code occupancy, I

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assume?
Q. I think that you referenced that number. I'm sorry.
A. Yeah, it was a bigger number. Yes.
Q. And you testified, I believe it was something like 350 people?
A. Yeah. Something in that area as far as the fire capacity, yes.
Q. So it would be possible for there to be an additional 200 patrons in the Marlin Quay 3 building who did not have a seat to sit in but were still drinking or dining at that establishment?
A. That would be possible as far as them meeting the fire provisions, yes.
Q. And do you agree that if there were 350 people in the Marlin Quay 3 building drinking and/or dining, that that would overtax the parking available in the Marlin Quay area?
A. No, not necessarily.
Q. And why not?
A. I think because of the nature of that location, first off, people are not going to come there if they can't park. Secondly, I think a tremendous number of people going to that bar, for instance, would be walk ups, would be people

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walking from their beach houses going down there to Marlin Quay. I don't think anybody from Georgetown is going to get in their car and drive all the way to come to Marlin Quay to stand up and not be able to park and stand up at a bar. I just don't think that's practical.

Q. Well, what actual study -- I understand you've got some opinions about what you think might be practical, but did the planning staff study the possible impacts of there being 350 patrons at one time at the Marlin Quay MQ3 building?

A. No, we did not. We focused on the 110.

Q. Okay. And the 110, that was designed to prevent the parking lot from being overtaxed in your view, correct?

A. It was really going back to what was originally in the building.

Q. Okay. Well, I just want to make sure --

A. I'm sure that would be a factor, but that's where the number came from, I believe.

Q. But I --

A. It's exactly what had always been there.

Q. I just want to make sure I understand

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PD?

A. I don't agree at all if you're using the parking reg section as the guide to make that determination.

Q. I understand. You're saying you don't have to follow the parking regulations to the letter. That's your position, right?

A. Yes. Not only not to follow them, but also that they don't apply, yes, that's true.

Q. But you still, from a planning standpoint, have to consider the availability and demand for parking when evaluating an application to amend the PD?

A. Yes. We talk about parking.

Q. It would be inconsistent with good planning practice to ignore the demand and supply of parking in a PD when reviewing an application to amend the PD, right?

A. Yeah. We don't ignore an issue.

Q. Right. You don't ignore an issue.

And so that obligation to consider parking applies, even if the zoning ordinance parking regulations are inapplicable, in planned developments in Georgetown County?

A. We do consider parking, yes.

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Q. Okay. I'm just trying to understand why you did not include any reference in this agenda report regarding the amount of open space and decking. Any other reason besides what you've already testified to?

A. I can't -- no, I don't know of another reason.

Q. If we go down to point No. 4, there's a reference to the parking layout, right?

A. Yes.

Q. And at the last sentence, you state -- first, the second to last sentence, you state, The parking lot is also used by the Gulfstream Cafe and the marina, correct?

A. Yes.

Q. You then go on to say that these two uses are not included in the parking requirement of 51 spaces. Do you see that?

A. Yes.

Q. And why did you notify the council that you were not evaluating the parking requirements for Gulfstream Cafe and the marina?

A. I believe it was because simply to say where the 51 came from or the 62 and the 51.

Q. Do you agree that if you did the

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A. Yes.

Q. And why did you notify the council that you were not evaluating the parking requirements for Gulfstream Cafe and the marina?

A. I believe it was because simply to say where the 51 came from or the 62 and the 51.

Q. Do you agree that if you did the

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determination?

A. Just reviewing the project itself.

Q. Reviewing the project itself. Can you explain what you mean by that?

A. Well, what was submitted to the planning department. If it had not been, we would still been at the planning commission level and kicked it back.

Q. You're saying that -- I'm not sure I follow. Are you saying that the project itself was submitted to planning staff 45 days prior to the planning commission hearing?

A. The application to amend the PD was.

Q. Right. There was an application submitted, but you agree did not contain all of the information that was relevant to the planning department's review, correct?

A. We deemed it to be a complete application.

Q. Okay. So the position of the planning department was that the application submitted, the initial one we looked at -- I believe it's Plaintiff's Exhibit 3 -- that that was a complete application?

A. Yes.

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Q. And you, planning department staff, determined it was a complete application even though it did not contain information about the size and dimensions of the proposed MQ3 building?

A. Yeah. I don't remember what was submitted when, whether the information came in, you know, after the form that was signed was brought to us. I don't remember the data itself.

Q. The next item referenced here states, Multiple applications within a 12-month period. Do you see that?

A. Yes.

Q. And what did you tell the county council about this issue regarding multiple applications within the 12-month period?

A. People were misreading that provision of the zoning ordinance. I believe it says that if a project that is denied, they can't come back within 12 months. That's to keep somebody from coming back and forth, back and forth. A different project can come back earlier than 12 months.

Q. And that's just your interpretation of what the language of the ordinance says, correct?

A. I think it's pretty clear.

Q. No, no. Look, you're certainly

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A. The plans, the final ordinance, the plans that were approved.
Q. You believe that the plans approved for MQ3 provided sufficient parking?
A. Yes.
Q. And just explain what the basis of that conclusion was.
A. Again, like we've earlier said, I believe there was going to be a lot of walk-up customers. There's other ways to provide parking that a business person would address if you needed parking, like valet parking, for example, would be one. That would have to be factored in by the businessman, you know, as well as the actual physical parking space.
Q. Okay. Other than walk-up parking or a business owner obtaining valet parking, what other basis do you have for claiming that --
A. That's it.
Q. That's it.
A. Yes.
Q. Have you done the calculations or anybody in your department done the calculations set forth in Article XI for the Marlin Quay PUD taking into account the use of the area by the

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Gulfstream Cafe, the marina, and the proposed MQ3 building?

A. No, I don't believe so.

Q. And as you sit here today, do you know whether if Article XI applies to the Marlin Quay MQ3 PUD, do you know whether the parking that exists satisfies or would satisfy the requirements of Article XI taking into account the three uses I just identified?

A. I don't know.

(EXHIBIT 38, Email chain dated October 22, 2018, was marked for identification.)

BY MR. NUGENT:

Q. Mr. Johnson, I'm going to put up on your screen what's been marked as Plaintiff's Exhibit No. 38. Do you see that document on your screen, Mr. Johnson?

A. Yes.

Q. And do you recognize this document?

MS. GOLDING: Can he look at the whole document?

MR. NUGENT: Absolutely.

BY MR. NUGENT:

Q. That's all there is, these two pages.

A. Okay. Go back up. Stop right there.

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explain that?

A. Well, if it did not apply to anything that we were looking at like whatever parking, for instance, then we would know the answer to that question because we would have the plans in front of us. So, yeah, I mean, I guess the answer is yeah, we would know that information.

Q. If we go down to the second email on this page -- and I'm happy to zoom in a little bit if that makes it easier to see -- the one from Ms. Ochal, she states, Heather, here's a summary of what I understood from our meeting. Do you see that?

A. Yes.

Q. In your copy, do you have any reason to dispute that you were in the meeting that's being summarized in this email?

MS. GOLDING: If you know.

THE WITNESS: I don't remember that meeting.

BY MR. NUGENT:

Q. Okay. The first bullet point states, Heated square footage of proposed building is 4,598, need to make sure that it's not any larger than the building that was torn down. Do you see

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that?

A. I do.

Q. And do you agree with that statement that the building that was being proposed here needed to be the same size in terms of heated square footage as the prior, the old marina store that was torn down?

A. Yes. That's what we were looking at.

Q. Right. And you testified before that you didn't do any independent measurements of that heated square footage.

A. Right.

Q. Okay. The second bullet point states, Proposed unheated area is 4,250, can be constructed as long as parking can be met. The parking calculations have been confirmed. There is adequate parking on site. Do you see that?

A. Yes, I do.

Q. Now, is it your understanding from that bullet point that parking requirements that apply here were those contained in the zoning ordinance?

A. No, that's not my understanding.

Q. Okay. What is your understanding of why there's a reference to the need to meet parking in this email?

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EXHIBIT 17

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Georgetown County Planning Commission
129 Screven Street
Georgetown, SC 29440
October 18, 2018
County Council Chambers

MEMBERS PRESENT
Johnny Weaver
Robert Davis
Zach Grate
Elizabeth Krauss
Norma Grant
Freddie Hill

OTHERS PRESENT
Boyd Johnson
Tiffany Coleman
Judy Blankenship

MEMBERS ABSENT

The Chairperson called the meeting to order at 5:33 pm.

I. ELECTION OF VICE-CHAIRMAN

Mr. Weaver made a motion to elect Mr. Freddie Hill as Vice-Chairman. The motion was seconded by Mr. Davis.

In Favor: Mr. Hill
Mr. Weaver
Ms. Grant
Mr. Davis
Mrs. Krauss

Opposed:

**Note*: Mr. Grate did not vote since he arrived late to the meeting.

II. PUBLIC INPUT PERIOD

The Chairperson opened the public input period.

No one came forward to speak.

The Chairperson closed the public input period.

III. PLANNED DEVELOPMENTS

A. A request from Perry Shelley to amend the Village Green Planned Development to add a drive thru for a new tenant. The property is located at 11405 Ocean Highway in Pawleys Island.

The applicant requested to withdraw.

Mr. Weaver made a motion to approve the withdrawal request. Mr. Hill seconded the motion.

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In Favor: Mr. Hill
Mr. Weaver
Ms. Grant
Mr. Davis
Mrs. Krauss

Opposed:

*Note: Mr. Grate did not vote since he arrived late to the meeting.

B. A request from Wes Gordon to amend the Hawks Nest Retreat Planned Development to add RV campsites and rental cabins to the single family site designation and to add RV campsites to the outdoor storage designation. The property is located east of Journeys End Road and north of Pond Road in Murrells Inlet.

The applicant requested to withdraw.

Mr. Weaver made a motion to approve the withdrawal request. Mr. Davis seconded the motion.

In Favor: Mr. Hill
Mr. Weaver
Ms. Grant
Mr. Davis
Mrs. Krauss

Opposed:

*Note: Mr. Grate did not vote since he arrived late to the meeting.

C. A request from Dan Stacey, as agent for Dr. Mark Lawhon of Palmetto Industrial Development, LLC to amend the Marlin Quay Planned Development to allow for redevelopment of the Marlin Quay Marina Store/Restaurant. The property is located at 1508 S. Waccamaw Drive in Murrells Inlet.

Mr. Boyd Johnson presented the staff report. The current request is for a change in the proposed building containing a restaurant and a marina store. The amount of heated square footage has not changed. The area for the restaurant has decreased slightly, and the area for the marina store has slightly increased. The heated storage area has decreased. The parking layout for the site will not be changed. The amount of pervious/impervious space on the site will not be affected. The previously agreed upon 110 seats for the restaurant will remain the same. The plans indicate a flat roof for the proposed building. Since the ordinance states that a structure exceeding 35 feet utilize a roof pitch of no less than 4/12, the applicant is requesting that this PD not include the provision requiring this roof pitch.

Staff recommended approval of the request for redevelopment of the site and an amended roof pitch based on the proposed replacement of an existing use/structure with one that complies with current flood ordinance requirements and the resolution of the issue of having a building located over a property line.

The Chairperson opened the public input period.

Mr. Dan Stacy, attorney for the applicant, came forward to speak. He stated that this new plan complies with all County ordinances. The proposed structure has the same heated square footage, same restaurant seating and same parking layout as the previously approved structure. He stated that the base floor has been raised as to not interfere with traffic, including delivery trucks. The rooftop bar has been removed since many residents opposed that particular feature in the previously approved plan. He said that the flat roof of the design would not cause detriment to the area since many of the surrounding structures already

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have flat roofs. He stated that the wall behind the proposed structure is a fire wall which is required by the fire department since the structure is built on the property line. He further stated that the proposed building complies with the current court order and has no difference in functionality from the previously demolished marina store and restaurant.

Mr. Adam Nugent, attorney for the Gulfstream Cafe, spoke in opposition of the request citing many concerns including: difference in the building plan, an incomplete application submitted by the applicant with no plans which did not meet the 45 day requirement, concerns over violation of the ordinance which prohibits multiple applications within 12 months. He also stated that the proposed parking lot could not support both businesses and that the Planning Commission should not move forward with the request.

Ms. Chris Sanders, a resident of the Marlin Quay condos, spoke in opposition of the request. She expressed concerns over increased noise and traffic. She also stated that the fire wall would block views from the condos. She questioned the allowable occupancy numbers and the 110 seats for the restaurant.

Mr. Greg Greenbaum, owner of the Gulfstream Café, spoke in opposition of the request. He stated that the business relationship between the two neighbors would never be friendly. He stated that his main issue is with the parking. In his opinion, the proposed parking could not support both businesses. He also stated that since previous requests from other businesses in the area for flat roofs had been denied, this request should also be denied.

Mr. Dan Stacy, attorney for the applicant, came forward to offer rebuttal. In order to address the question of maximum allowable occupancy, he introduced Mr. Patrick Williams, engineer with ETS. Mr. Williams stated that the building had a 360 person maximum allowable occupancy including staff and patrons. He said that number is determined by the International Building Code based on size of the structure. He further stated that parking is not based on that number.

The Chairperson closed the public input period.

Discussion followed regarding the proposed flat roof and the PD amendment application process.

Mr. Davis asked staff for clarification on allowable seating for the restaurant. Mr. Johnson stated that the previously approved 110 seats would still apply for this request.

Mr. Weaver made a motion to approve the request as submitted by staff including the 47 foot flat roof. Mr. Hill seconded the motion.

In Favor:	Mr. Hill	Opposed:
	Mr. Grate	
	Mr. Weaver	
	Ms. Grant	
	Mr. Davis	
	Mrs. Krauss	

IV. OTHER BUSINESS

A. Discussion

Planning Commission initializing rezoning in particular neighborhoods in Murrells Inlet.

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Mr. Boyd Johnson presented the staff report. Staff would like to study the possibility of rezoning certain areas within Murrells Inlet to better reflect what it is on the ground, address the concerns over multi-family development and conform to the Future Land Use Map. Much of the area is currently zoned General Residential which allows a minimum lot size of 6,000 square feet. However, many of the lots contain much larger square footage and already have single family dwellings. Staff believes much of the area could be rezoned to require larger single family lots without creating many nonconforming existing lots. Staff would write letters to each property owner seeking input and support if needed. Also, area group meetings would be scheduled to ascertain public position before bringing any proposal back to the Planning Commission.

The Planning Commission gave approval to proceed with exploring the possibility of rezoning parts of Murrells Inlet including meeting with certain neighborhoods.

B. Street Names

Mrs. Tiffany Coleman presented the staff report. Two street names were presented for approval: Go Away Lane in the Carvers Bay area and Aaron Lane in Hemingway.

Staff recommended approval of the street names.

Mr. Davis made a motion to approve the street name. The motion was seconded by Ms. Grant.

In Favor: Mr. Hill
Mr. Grate
Ms. Krauss
Mr. Weaver
Ms. Grant
Mr. Davis

Opposed:

C. Attendance Report

The attendance report was approved as submitted.

V. MINUTES SEPTEMBER 2018

Mr. Hill made a motion to approve the minutes. Mr. Davis seconded the motion.

In Favor: Ms. Krauss
Mr. Weaver
Ms. Grant
Mr. Davis
Mr. Grate
Mr. Hill

Opposed:

VI. STATUS REPORT

The status report was approved as submitted.

VII. LETTER OF CREDIT REPORT

The letter of credit report was approved as submitted.

VIII. ADJOURNMENT

Mr. Weaver made a motion to adjourn. The motion was seconded by Mr. Davis. The meeting adjourned at 6:20 pm.

In Favor: Mr. Hill
Mr. Davis
Ms. Krauss
Mr. Grate
Mr. Weaver
Ms. Grant

Opposed:

Respectfully,

Tiffany Coleman

Tiffany Coleman
Secretary to Planning Commission

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EXHIBIT 18

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Sonya Papanikolaou

From: Dan Stacy
Sent: Wednesday, February 3, 2021 10:17 AM
To: Sonya Papanikolaou
Subject: FW: wall
Attachments: 17021 - MQ2_Property Line Wall.pdf; 2017-11-14_MarlinQuay-North_17021.pdf

From: Luda Sobchuk <Luda@SGAarchitecture.com>
Sent: Tuesday, October 02, 2018 11:43 AM
To: Christie Lawhon <clawhon214@gmail.com>
Cc: Dan Stacy <DStacy@OxnerandStacy.com>; Steve Goggans <Steve@SGAarchitecture.com>
Subject: RE: wall

Attached is a drawing of *wall* in the set of MQ-2. This set was approved and attached here too.
Our *wall* is a bit different in size because our building is different.
But, if you want to keep that wall as in MQ-2, we will adjust the pattern on our *wall* to reflect MQ-2.

This should conclude the discussion of this *wall* altogether.

Thank you,

Lyudmila Sobchuk, AIA
Partner
mobile: 843.478.3811
Charleston, Greenville, and Pawleys Island, SC
sgarchitecture.com

From: Christie Lawhon [mailto:clawhon214@gmail.com]
Sent: Tuesday, October 02, 2018 10:16 AM
To: Luda Sobchuk
Cc: Dan Stacy; Steve Goggans
Subject: Re: wall

Make it look like what was already approved.

Sent from my iPhone

On Oct 2, 2018, at 9:52 AM, Luda Sobchuk <Luda@SGAarchitecture.com> wrote:

> Please send me Final Confirmation about "Wall on the Property Line".
> Are we keeping it as we have it -- Blue Wall?
>
> We need to move forward with this ASAP.
> Thank you.

<image002.jpg>

From: Dan Stacy [mailto:DStacy@OxnerandStacy.com]
Sent: Tuesday, October 02, 2018 9:47 AM
To: Luda Sobchuk; Christie Lawhon
Cc: Steve Goggans
Subject: RE: wall

She gone.

From: Luda Sobchuk [mailto:Luda@SGAarchitecture.com]
Sent: Tuesday, October 02, 2018 9:20 AM
To: Christie Lawhon <clawhon214@gmail.com>
Cc: Dan Stacy <DStacy@OxnerandStacy.com>; Steve Goggans <Steve@SGAarchitecture.com>
Subject: RE: wall
Importance: High

Dr. Lawhon,

Quick question –
is existing building already demolished or it is still there?

<image003.jpg>

From: Christie Lawhon [mailto:clawhon214@gmail.com]
Sent: Tuesday, October 02, 2018 8:38 AM
To: Luda Sobchuk
Cc: Dan Stacy; Steve Goggans
Subject: Re: wall

The wall was approved before and it can stay the way it is. I am not doing any steps and losing square footage or increasing the cost of the building with all kind of steps or recesses.

Mark

Sent from my iPhone

On Oct 1, 2018, at 5:30 PM, Luda Sobchuk <Luda@SGAarchitecture.com> wrote:

> Yes, but it will not be sizable. Like I said, we will try to find a "compensation" within the plan.
> Dan is concerned about "large" as well as all of us. I am trying to "break the size with some interruptions and recesses"....
>
> <image003.jpg>
>
> **From:** Christie Lawhon [mailto:clawhon214@gmail.com]
> **Sent:** Monday, October 01, 2018 5:22 PM
> **To:** Luda Sobchuk
> **Cc:** Dan Stacy; Steve Goggans
> **Subject:** Re: wall

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Square footage .....

Sent from my iPhone

On Oct 1, 2018, at 4:13 PM, Luda Sobchuk <Luda@SGAarchitecture.com> wrote:

> Dan,
> Thanks for call and further update on the "project's legal issues".
>
> While my associate is putting together a little package showing the Building Code requirement for that wall.... I am coming up with something here, too. I am going to "steal" a bit of square footage from the enclosed space, though. Maybe find where we can compensate it.... We should have it to you by end of today or the latest tomorrow morning.
>
> <image003.jpg>

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EXHIBIT 19

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Boyd Johnson

From: Steven Elliott
Sent: Thursday, October 25, 2018 2:08 PM
To: Boyd Johnson
Subject: FW: Marlin Quay Marina Restaurant and Store - Code Review Questions

Any thoughts?

From: Beth Novak [mailto:Beth@SGAarchitecture.com]
Sent: Wednesday, October 24, 2018 5:13 PM
To: Steven Elliott <selliott@gtcounty.org>
Cc: Luda Sobchuk <Luda@SGAarchitecture.com>; Steve Goggans <Steve@SGAarchitecture.com>
Subject: Marlin Quay Marina Restaurant and Store - Code Review Questions

Good afternoon Mr. Elliott,

As you may be aware, the replacement structure for the Marlin Quay Marina Restaurant and Store was contested after it received its building permit last year. SGA Architecture is redesigning a new facility to meet the guidelines that resulted from the related court case. I am the project architect for the redesigned facility.

We have changed from a wood framed structure to steel framing and therefore have changed building types. There are other code related items that I would like reviewed prior to us submitting our new permit review package. Would it be best to send you drawings along with my questions or set up an appointment to meet in person? If you want to meet, please let me know a time you are available early next week.

Thank you,
Beth

SGA ARCHITECTURE

Beth Haas Novak, AIA

direct: 843.723.2494
Charleston, Greenville, and Pawleys Island, SC
sgaarchitecture.com

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EXHIBIT 20

	PLAT	TMS	Area	TMS	Housenum	Street	Name	Name2	AD1	AD2	City	Staqte	Zip	Acres	Deed	Date	Sale	Legal	LUC
1		41-0129-011-00-00	17060.90466309	41-0129-011-00-00	1517	SOUTH WACCAMAW DR	JACOBS HOWARD N	JACOBS EMELINE S	71 DOCK RD		CHESTER	CT	06412	1	2127-328	2013-04-15 20:00:00	1375000	35 BLK B GARDEN CITY	N500
2	264-5	41-0128-034-00-00	53753.44616699	41-0128-034-00-00	1438	BASIN DR	SEAPORT VILLAGE HPR		C/O SURFSIDE REALTY INC	213 S OCEAN BLVD	SURFSIDE	SC	29575	1	848-262	1998-01-31 19:00:00	5	58, 59, 60 & 61 BLK A GARDEN CITY SLD 466-2 & 3, 474-7 & 10~	E452
3		41-0128-030-00-00	15811.19116211	41-0128-030-00-00	1472	BASIN DR	GRANTHAM TERRELL W	GRANTHAM VICTORIA I	2508 TROTTER RD		FLORENCE	SC	29501	1	650-144	1995-08-31 20:00:00	425000	56 BLK A GARDEN CITY	N500
4	03-243	41-0128-032-62-00	617.12744141	41-0128-032-62-00		BASIN DR	GEORGETOWN CO WATER & SEWER		PO DRAWER E		GEORGETOWN	SC	29442	1	2291488	1983-10-31 19:00:00	1	MARLIN QUAY LIFT STATION	E970
5		41-0129-005-01-02	52842.25952148	41-0129-005-01-02	1556	WACCAMAW DR S	DEBERRY JOHN S		179 SOUTH COIT STREET		FLORENCE	SC	29503	1.33	1657-137	2005-05-31 20:00:00	40000	PARCEL E-1 SLD 351-9~	N500
6	S-078 351	41-0129-005-01-00	335735.60803223	41-0129-005-01-00	1556	WACCAMAW DR S	ALLEN JEAN D		1210 CHEROKEE ROAD		FLORENCE	SC	29501	9.84	495-107	2007-04-29 20:00:00	5	PARCEL E SOUTH POINT SLD 351-9~F/K/A BLK E SOUTH POINT~	N500
7	145-2	41-0129-005-02-01	17410.65930176	41-0129-005-02-01	1535	SOUTH WACCAMAW DR	K & R LAND HOLDINGS LLC		90 HANES MILL RD		ST MATTHEWS	SC	29135	1	1471-293	2010-04-29 20:00:00	2050000	1 BLK F SOUTH POINT	N500
8			17260.90527344																
9	O-031	41-0128-031-00-00	16578.57287598	41-0128-031-00-00	1478	BASIN DR	BRICKLE GREGORY S		155 SYLVAN DRIVE		CHAPIN	SC	29036	1	2492-142	2014-12-18 19:00:00		57 BLK A GARDEN CITY	N500
10		41-0128-067-00-00	17160.27526855	41-0128-067-00-00	1465	WACCAMAW DR S	TIMPANOGOS LLC LIFE ESTATE		P.O. BOX 1024		MURRELLS INLET	SC	29576	1	1265-313	2002-04-03 19:00:00	5	30 BLK B GARDEN CITY	N500
11	O-031 054	41-0128-068-00-00	17463.86608887	41-0128-068-00-00	1473	WACCAMAW DR S	GRANTHAM TERRELL W	GRANTHAM VICTORIA I	2508 TROTTER ROAD		FLORENCE	SC	29501	1	379-222	1990-04-30 20:00:00	450000	31 BLK B GARDEN CITY	N500
12		41-0129-008-00-00	51070.93395996	41-0129-008-00-00	1501	SOUTH WACCAMAW DR	BAGWELL JAMES KEITH		1275 S SUBER RD		GREER	SC	29650	1	1469-100	2010-04-19 20:00:00	119700	DWL 1A A PLACE AT TH	N450
13	Z-015	41-0129-009-00-00	17293.53979492	41-0129-009-00-00	1501	SOUTH WACCAMAW DR	A PLACE AT BCH OCEAN FRONT NO2	ASSOC INC	PO BOX 14280		SURFSIDE BEACH	SC	29587	1	152-454	1977-09-22 20:00:00	1	33 BLK B SOUTH POINT	N701
14			17551.99060059		1509		SHULL LAURA T		PO BOX 2074		CAMDEN	SC	29020	1			1500000		N500

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DEFS 00058

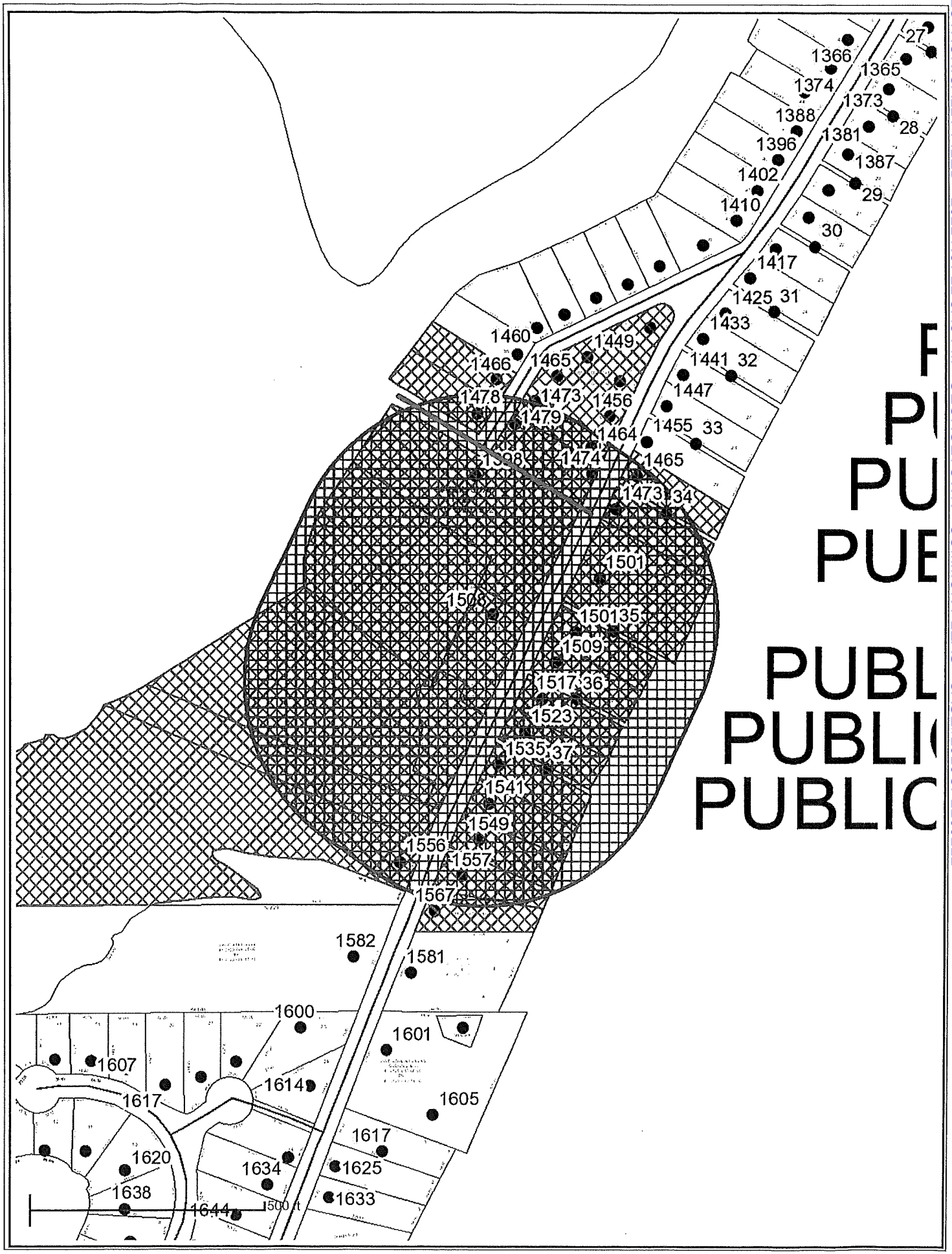
	127-10A	41-0129-010-00-00		41-0129-010-00-00		SOUTH WACCAMAW DR									1428-280	2003-09-29 20:00:00		34 BLK B GARDEN CITY	
15	O-031	41-0129-012-00-00	16811.66357422	41-0129-012-00-00	1523	SOUTH WACCAMAW DR	KUPERMAN PAUL M	KUPERMAN JENNIFER O	133 GREEN LAKE DRIVE		MYRTLE BEACH	SC	29572	1	1872-295	2012-04-01 20:00:00	900000	36 BLK B GARDEN CITY	N500
16	145-2	41-0129-005-04-00	17713.83898926	41-0129-005-04-00	1541	SOUTH WACCAMAW DR	OGDEN SHERRILL R CO-TRUSTEE	OGDEN PHILLIP R CO-TRUSTEE	790 OLD LATHEMTOWN ROAD		CANTON	GA	30115	1	2052-236	2012-12-25 19:00:00	1600000	LOT 2 BLK F SOUTH POINT	N500
17	S-078	41-0129-005-02-00	17592.16101074	41-0129-005-02-00	1549	SOUTH WACCAMAW DR	DEBERRY JOHN S		PO BOX 1422		FLORENCE	SC	29503	1	2369-202	2006-12-31 19:00:00	5	3 BLK F SOUTH POINT	N500
18		41-0129-005-02-02	16274.30834961	41-0129-005-02-02	1557	SOUTH WACCAMAW DR	YOUNG STEPHEN F	BATTS SARAH Y	109 STONYBROOK RD		ROCKY MOUNT	NC	27804	1	2925-302	2016-11-14 19:00:00		4 BLK F SOUTH POINT	N500
19	6-438	41-0129-005-03-00	23934.20556641	41-0129-005-03-00	1536	SOUTH WACCAMAW DR	GULFSTREAM CAFE INC THE		236 ALBEMARLE RD		CHARLESTON	SC	29407	1	234-778	1986-02-24 19:00:00	149812	LOTS A & B PLAT 6-438	N150
20	6-438	41-0129-005-00-00	134362.85412598	41-0129-005-00-00		SOUTH WACCAMAW DR	PALMETTO INDUSTRIAL DEVELOP LLC		611 WEST PALMETTO STREET		FLORENCE	SC	29501	4.8	2421-274	2014-08-19 20:00:00	5	BLK D SOUTH POINT	N009
21	06-214	41-0128-032-61-00	102775.00720215	41-0128-032-61-00		BASIN DR	PALMETTO INDUSTRIAL DEVELOP LLC		611 WEST PALMETTO STREET		FLORENCE	SC	29501	1	2421-267	2014-08-19 20:00:00	800000	YACHT BASIN Boat Docks	N003
22	6-214	41-0129-002-00-00	26063.26794434	41-0129-002-00-00	1508	SOUTH WACCAMAW DR	PALMETTO INDUSTRIAL DEVELOP LLC		611 WEST PALMETTO STREET		FLORENCE	SC	29501	1	2421-267	2014-08-19 20:00:00	800000	LTS 3, 4 & 5, BLK C SOUTH POINT A/K/A TRACT 3	N231
23		41-0128-032-00-00	108666.11877441	41-0128-032-00-00	1398	BASIN DR	MARLIN QUAY HOMEOWNERS ASSN		SOUTH WACCAMAW DR		GARDEN CITY	SC	29576	1	205-270	1982-10-31 19:00:00		MARLIN QUAY COMMON AREA	E451

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EXHIBIT 21

STATE OF SOUTH CAROLINA
COURT OF COMMON PLEAS
COUNTY OF GEORGETOWN

THE GULFSTREAM CAFE, INC.,

Plaintiff,

vs. CASE NO. 2019-CP-22-00212

GEORGETOWN COUNTY, GEORGETOWN COUNTY COUNCIL, JOHN THOMAS, RON CHARLTON, LILLIE JOHNSON, AUSTIN BEARD, STEVE GOGGANS, AND LOUIS MORANT, INDIVIDUALLY AND IN THEIR OFFICIAL CAPACITY AS GEORGETOWN COUNTY COUNCIL MEMBERS,

Defendants.

DEPOSITION OF: TIFFANY COLEMAN
(Appearing via VTC)

DATE: March 4, 2021

TIME: 3:26 p.m.

LOCATION: 716 Prince Street
Georgetown, South Carolina

TAKEN BY: Counsel for the Plaintiff

REPORTED BY: KAREN M. ERNST, CSR
Court Reporter
(Appearing via VTC)

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Q. Got it.

And going back to Plaintiff's Exhibit 43, is that up on your screen, or do I need to refresh?

A. I can see that.

Q. Okay. The people listed on this notice, are these the only people who were sent notice of the proposal for the Marlin Quay PD Amendment?

A. It would have been these people and then also I see at the bottom there the Marlin Quay Homeowner's Association. That is the condominiums next to that property. I also emailed the notice to Nancy Gardner, who is the manager of that homeowner's association, so that she could notify the residents of that building.

Q. And what prompted you to send the notice via email to Ms. Gardner?

A. There was some discussion within the office. We know that that list did not contain the property owners for the Marlin Quay Condominiums because that information would not pull from the tax records in the GIS system. So I was instructed to also email Nancy and make her aware and send her a copy of the notice so that she could distribute

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A. I cannot recall at this time.
Q. And this Exhibit 45 that we're looking at, you sent the email to Ms. Gardner September 24, 2018. If we scroll down, I'm happy for you to take a look at this. And I apologize. This actually has your name as being the person who printed it out.
A. Uh-huh.
Q. But it lists -- it's still an email from you to Judy Blankenship October 10, 2018. Are you with me?
A. Yes.
Q. Do you see where I am?
And you are forwarding on an email you received from Ms. Gardner?
A. Yes.
Q. And in that email, Ms. Gardner informed you that she sent the notice to all owners whose email addresses she had on record, correct?
A. Yes.
Q. Do you know whether she had email addresses for all the property owners who owned units in the condominium?
A. I don't know.
Q. Okay. And did you make any effort to

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find out how many of the property owners Ms. Gardner had the email address for?

A. No.

Q. And Ms. Gardner went on to indicate that -- she references a Ms. Lowery. We can look at that email in just a second.

A. Yes.

Q. She goes on to state that we did not receive any plans or diagrams of the proposed building to forward to all. Do you see that?

A. Yes.

Q. And did you take any action when you received the email from Ms. Gardner indicating that plans and diagrams had not been provided to condominium owners?

A. The plans and diagrams would not be included in the public notice. The public notice is strictly to notify the property owners that there will be a meeting. So that email would have been forwarded on to probably Holly, possibly Boyd, and Judy, probably everyone in the office so that they could contact her and send her whatever documents she requested.

Q. It looks like Ms. Richardson and Mr. Johnson were actually copied or cc'd on that

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EXHIBIT 22

Judy Blankenship

From: Tiffany Coleman
Sent: Monday, September 24, 2018 2:52 PM
To: NancyG@surfsiderealty.com
Cc: Holly Richardson; Judy Blankenship; Boyd Johnson
Subject: Georgetown County Planning Commission: Application to Amend the Marlin Quay PD
Attachments: Marlin Quay AMPD 9-18-21424.pdf

Hello Nancy:

Please find attached a notice for property owners regarding an amendment to the Marlin Quay PD. We are available to answer any questions.

Thank you,

Tiffany Coleman
Associate Planner Georgetown County
129 Screven St.
Georgetown,SC 29440
Phone: 843-545-3158
E:mail: tcoleman@gtcounty.org

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Tiffany Coleman

From: Tiffany Coleman
Sent: Wednesday, October 10, 2018 4:27 PM
To: Judy Blankenship
Subject: FW: Notice of Public Hearing, Thursday Oct. 18, 2018 - Amendment of Marlin Quay Planned Development

FYI...

Tiffany Coleman
Associate Planner Georgetown County
129 Screven St.
Georgetown,SC 29440
Phone: 843-545-3158
E:mail: tcoleman@gtcounty.org

From: Nancy Gardner [mailto:NancyG@surfsiderealty.com]
Sent: Wednesday, October 10, 2018 4:24 PM
To: Constance Lowery <ithdolldoc@hotmail.com>; Tiffany Coleman <tcoleman@gtcounty.org>
Cc: Holly Richardson <hrichardson@gtcounty.org>; Boyd Johnson <bjohnson@gtcounty.org>
Subject: RE: Notice of Public Hearing, Thursday Oct. 18, 2018 - Amendment of Marlin Quay Planned Development

I did send the notice you sent the Association to all owners whose email address the management office had on record. I believe this is how Ms. Lowery received her notice and talking about. We did not receive any plans or diagram of the proposed building to forward to all.

From: Constance Lowery [mailto:ithdolldoc@hotmail.com]
Sent: Wednesday, October 10, 2018 4:01 PM
To: tcoleman@gtcounty.org
Cc: Holly Richardson; Boyd Johnson; Nancy Gardner
Subject: Notice of Public Hearing, Thursday Oct. 18, 2018 - Amendment of Marlin Quay Planned Development

Dear Ms. Coleman:

I believe you are the Georgetown County Associate Planner to be contacted with any questions in regard to the above Notice.

I note that you forwarded the Notice to Nancy Gardner (Surfside) of the above meeting. I also note that you forwarded to Chris Sanders, Marlin Quay Homeowner, by e-mail, the Application to Amend a Planned Development (PD) submitted by Attorney Stacy for Palmetto Industrial Development, LLC. While I see signatures of Mr. Stacy and Dr. Lawhon, on page 3 of that Application, no dates appear. Preliminary red-lined drawings were included, but no hard information as to the elevations or number of floors of the planned building was included. I am most interested in knowing of this latter information.

Page 3 of the Application calls for " Adjacent Property Owners Information (required)". I own two units within 400 feet of the subject property, and did not receive this Notice in the US mail. I submit that paragraphs 1 and 2 (page 3) have not properly been executed. I believe that the many owners within 400 feet of the subject property (Marlin Quay condos and homeowners on S. Waccamaw Drive) are entitled to receive this Notice of Public Hearing by US Mail, as outlined in the Application, not a two-stepped, or three-stepped blanket process of e-mail.

I welcome your explanation of these discrepancies. Thank you for your time.

Yours truly,

Constance A. Lowery
Owner of Condos 501 and 205 at Marlin Quay
Mailing address: 1181 Crooked Oak Drive, Pawleys Island, SC 29585
Telephone: 607-229-6044
October 10, 2018

Sent from Mail for Windows 10

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EXHIBIT 23

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EXHIBIT 24

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BLOOM PARHAM

Adam D. Nugent
anugent@bloom-law.com
404.577.7710

October 17, 2018

VIA U.S. MAIL & E-MAIL
wbryant@gtcounty.org

Georgetown County Attorney
c/o Mr. Wesley Bryant
716 Prince Street
Georgetown, SC 29440

Re: Marlin Quay Marina

Dear Mr. Bryant:

As you know, I represent the Gulfstream Café, Inc. I write regarding the application submitted by Palmetto Industrial Development, LLC ("Palmetto") for a major amendment to the Georgetown County Zoning Ordinance for property located at Marlin Quay Marina (the "Property"). Palmetto's application is set to be heard by the Georgetown County Planning Commission on October 18, 2018. This application is procedurally defective and should not be considered at the hearing.

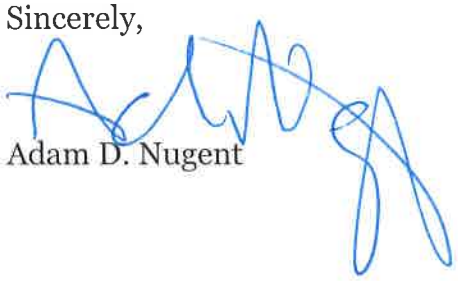
First, Section 1702.1 of the Georgetown County Zoning Ordinance provides that an applicant may not initiate a request for a zoning amendment for the same parcel of property more than once every 12 months, measured from the date of the original recommendation by the Planning Commission. Here, Palmetto Industrial Development previously submitted an application for a major amendment to the Marlin Quay Planned Development in late 2017, and that application was considered by the Planning Commission in January 2018. The present application represents a new request for a major amendment to construct a completely different building than was contained in prior applications. As such, Palmetto may not seek another amendment for the Property until January 2019.

Second, Section 1702.201 of the Zoning Ordinance requires that all applications for amendments must be submitted in proper form, at least 45 days prior to a Planning Commission meeting in order to be heard at that meeting. Here, Palmetto submitted an incomplete application on August 27, 2018, which did not contain any calculations related to the proposed building. Palmetto did not submit these required calculations until early October 2018. The application is therefore not eligible to be heard at the October 18 Planning Commission meeting.

As you know, previous applications by Palmetto related to the Property have created significant controversy within Georgetown County. Accordingly, it is imperative that the County follow the Zoning Ordinance in considering Palmetto's present application. Please note that Gulfstream does not waive its right to challenge any other aspects related to Palmetto's application. I simply wish to remind you of the clear defects in the application and request that the County decline to consider that application until such procedural requirements are met.

Please feel free to contact me if you have any questions regarding the above.

Sincerely,



Adam D. Nugent

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EXHIBIT 25

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BLOOM
PARHAM

WI comments.

Adam D. Nugent
anugent@bloom-law.com
404.577.7710

December 11, 2018

VIA HAND DELIVERY
& VIA EMAIL – tfloyd@gtcounty.org

Georgetown County Council
129 Screven Street
Georgetown, SC 29442

Re: Proposed Amendment to Marlin Quay Planned Development
Ordinance No. 2018-40

Dear Sirs and Madams:

Introduction

The Council has before it Ordinance No. 2018-40, which seeks to amend the Marlin Quay Planned Development in order to permit construction of a new building on property owned by Palmetto Industrial Development, LLC ("Palmetto"). The Gulfstream Café, Inc. submits the following opposition to the Ordinance and respectfully requests that the Council decline to amend the Marlin Quay Planned Development for the following reasons. Palmetto's application is both untimely and incomplete and therefore procedurally defective. Additionally, Palmetto's proposed development will violate Georgetown County Zoning Ordinance provisions related to parking requirements. Palmetto's proposed development also exceeds the building height and square footage permitted at Marlin Quay. Further, Palmetto's proposed development constitutes a more intense use of the Marlin Quay PUD than is acceptable at this location. Finally, Palmetto's proposed development will interfere with Gulfstream's easement rights.

Discussion

The Georgetown County Zoning Ordinance treats a major change to a PUD as an amendment to the zoning ordinance, and all major changes must satisfy the requirements for an amendment. (Zoning Ordinance § 619.302). The Zoning Ordinance may only be amended when "the public necessity, convenience, general welfare, or good zoning practice justifies the action." (Zoning Ordinance § 1701). The major change request must follow the amendment procedures set forth in Section 1702 of the Zoning Ordinance, including providing required documents to the Planning Commission and providing proper notice to affected property owners.

Palmetto presently requests to amend the Marlin Quay Planned Development to permit construction of a large, four-story building that is substantially larger than the structure it would replace. As set forth below, Palmetto's application contains procedural defects that render it invalid. Additionally, Palmetto's application is substantively deficient because the proposed development would violate the Zoning Ordinance, exceed the limitations contained in the Marlin Quay PUD, increase the intensity of use at Marlin Quay, and interfere with Gulfstream's easement.

A. Procedural Defects in Palmetto's Application

1. Palmetto's Application Is Untimely and Incomplete.

Palmetto's present application to amend the Marlin Quay PUD comes on the heels of a prior amendment sought in early 2018, which was Ordinance No. 2018-03. That amendment sought to construct a different building, and Palmetto has apparently abandoned the plans associated with Ordinance 2018-03.

Palmetto submitted the present application on August 27, 2018; however, that application was clearly incomplete and contained no plans, renderings, drawings, or other calculations related to the proposed building. Palmetto did not provide the Georgetown County Planning Commission with any drawings or plans for its proposed building until October 2018, approximately two weeks prior to the Planning Commission's hearing on Palmetto's application, which occurred on October 18, 2018. Section 1702.01 requires that an application to amend the Zoning Ordinance be submitted in proper form 45 days before it is heard by the Planning Commission. There is no question that Palmetto's application was incomplete and improper at the time it was submitted to the Planning Commission, and as a result the Planning Commission should not have considered the application.

Additionally, Palmetto's present application is its second request for a major change to the Marlin Quay PUD made during the past 12 months. Section 1702.1 of the Zoning Ordinance prohibits an applicant from seeking to amend the ordinance twice in a single year for the same parcel of property. Palmetto's last application was heard by the Planning Commission in January 2018 and considered by the Council in February 2018. It is too soon for Palmetto to seek yet another amendment to the Marlin Quay PUD.

Further, Palmetto did not notify property owners in the area directly impacted. The Zoning Ordinance requires Palmetto to send letters to each property owner within 400 feet of the subject property containing certain information regarding the requested major change. (Zoning Ordinance § 1702.206). There are more than 300 property owners within this 400-foot radius, including multiple condominium complexes. Palmetto's application does not indicate that it sent notice to these property owners. The planning staff report does not indicate how many property owners were notified.

WRONG drawings viewed attached w/ initial submission. More drawings & calculations came later.

No, Tiffany scanned some in Energov on 9/4/18.

This leaves out "requesting the same" change which this does not.

WRONG. 23 notified on report, also we sent notice to the Condo POA Mgt. company.

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Further, Section 1702.206 requires Palmetto to submit the letters it sent to nearby property owners as part of the application. Palmetto's application contains no copies of letters, which makes it impossible to determine what information Palmetto actually disclosed.

- Staff prepares these letters and included copy in packet for PC's review. Letters are available to PC + Council + were sent out by staff.

B. Substantive Defects in Palmetto's Application.

1. Palmetto's Proposed Development Violates Georgetown County Parking Requirements.

Palmetto's proposed development would violate the Zoning Ordinance because it does not contain sufficient parking. Section 1102.1 of the Georgetown County Zoning Ordinance provides minimum requirements for off-street parking. Planning staff has determined that Palmetto's proposed development would require 51 parking spaces. Staff has determined that there are 62 available spots in the parking lot adjacent to Palmetto's proposed building.

Critically, the planning staff analysis ignores the other uses of the parking lot. Palmetto does not have the exclusive rights to park cars in that lot. The Marlin Quay Marina possesses a perpetual easement to use the parking lot. The Marina has 67 boat slips. Section 1102.1 requires one parking space per every three slips, meaning that the Marina requires 22 parking spots. Additionally, Gulfstream has a perpetual easement to use the parking lot. Gulfstream is a 5,000 square foot restaurant that is required to have 47 parking spaces under Section 1102.1. Collectively, Palmetto's proposed building, the Marina, and Gulfstream require 103 parking spaces,[1] 43 more than are available.

The new building is a replacement of what was there previously therefore no requirements for the whole site did not kick in.

Section 1102.3 contains requirements for shared parking lots, but that section only allows reductions in required parking where occupancies occur at different times. Here, Palmetto's proposed building would contain a restaurant that is open during the evening hours, the same hours that Gulfstream operates. Accordingly, the Georgetown County Zoning Ordinance does not permit a reduction in the required parking spaces.

We do not have separate parking requirements for a bar vs. a snack restaurant.

Historically, Gulfstream, the Marina, and the prior Ship's Store and Snack Bar were able to share the parking lot because Gulfstream and the Snack Bar were open at different times. The Snack Bar was much smaller than Palmetto's proposed development and was generally open during the day. Palmetto intends to upset this balance by operating its proposed restaurant during the evening.

The planning staff erred by analyzing Palmetto's parking requirements in a vacuum and ignoring the other, existing uses of the parking lot. The reality is that the Marlin Quay PUD does not have enough parking spaces to support Palmetto's large redevelopment in addition to Gulfstream Café and Marlin Quay Marina. Palmetto's

[1] The total required parking for all three occupants would be 120 spaces, but Gulfstream has 17 parking spaces on its property.

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proposed building will violate Georgetown County Zoning Ordinance parking requirements, and the Council should deny Palmetto's application.

2. **Palmetto's Proposed Development Exceeds the Square Footage and Maximum Height Allowed by the PUD.**

4603 - unknown to staff as heated vs. unheated This # was provided by previous architect.

The planning Staff report states that Palmetto's proposed building is the same size as the Snack Bar that was demolished in 2016. The staff is incorrect. The Snack Bar contained 4,600 square feet, and this calculation included both enclosed space and unheated space. By the staff's own calculations, Palmetto's new development would contain 4,598 square feet of enclosed space and 5,326 square feet of unheated space, which includes three outdoor decks. When comparing apples to apples and using the staff's own calculations, Palmetto is seeking to replace a 4,600 square foot building with a more than 9,000 square foot building.[2]

Palmetto's proposed development greatly exceeds the square footage requirements of the Marlin Quay PUD. Nothing in the PUD permits Palmetto to build a more than 9,000 square foot building, and Palmetto has not sought an amendment to the PUD to enlarge the size of its building. In fact, the PUD documents contemplate only a 1,200 square foot marina store in the location where Palmetto intends to construct the proposed development. The Council should deny the application to construction this building that grossly exceeds the maximum square footage allowed by the PUD.

meets the height requirements in the current PD language for flood zones.

Palmetto seeks to amend the Marlin Quay PUD to exceed the height limit contained in the PUD. The proposed building would be 47 feet tall, which exceeds the 45 foot height limit in Marlin Quay. If Palmetto were simply building a 4,600 square foot building (including both heated and unheated space), there would be no need to exceed this height limit. Instead, Palmetto is constructing a 9,000 plus square foot structure, and the only way to fit that structure on its property is by exceeding the height limit. The County should reject Palmetto's request to exceed the height limit of the Marlin Quay PUD because that request is tied to Palmetto's attempt to build an excessively large building.

actually — it's 35 in the PUD.

3. **Palmetto's Proposed Building Would Increase the Intensity of Land Use in the Marlin Quay PUD.**

Palmetto's proposed major change offends notions of necessity, convenience, general welfare and good zoning practices because it would substantially increase the intensity of land use at Marlin Quay. The Georgetown County Zoning Ordinance section 619.3023 defines intensity as:

[2] Palmetto's architect, Steve Goggans, has acknowledged that Palmetto's proposed building is much larger than the Snack Bar.

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> [T]he degree of the negative impacts on the environment and neighboring land uses. Impacts of intensity include, but are not limited to, greater impervious surface coverage, reduced open space, increased bulk and height of buildings, increased traffic with associated noise and congestion, signs and exterior lighting visible from neighboring property.

Palmetto's proposed development would increase the intensity of land use in the PUD by increasing the bulk and height of buildings at Marlin Quay, increasing the number of restaurant seats, and increasing traffic in the area.

As discussed above, Palmetto seeks to build a 47-foot tall building with approximately 9,000 square feet. That building would replace the Snack Bar which was 1.5 stories, and contained 4,600 square feet, including both enclosed and unenclosed space. There is accordingly no question that the intensity of land use in the Marlin Quay area will greatly increase.

Additionally, Palmetto plans to build a full-service restaurant that would contain 110 seats and an occupancy limit of 359 people. Notably, even if only 110 people can sit in the building, an additional 200 can fit, standing up, on one of the three outdoor decks. This full-service restaurant would replace the Snack Bar, which had less than 2,000 square feet and approximately 70 seats. The Snack Bar did not contain a full, commercial kitchen, and it was not open during the evenings. By moving from a 2,000 square foot, 70-seat snack bar to a full-service restaurant, Palmetto's proposed development would increase the intensity of land use at Marlin Quay.

Further, Palmetto's proposed development would significantly increase traffic volume at Marlin Quay. Palmetto's restaurant would be much larger than the Snack Bar, would be open during the evening, and would cater to people arriving by car. These factors would clearly increase the vehicular traffic in the Marlin Quay area, which already experiences significant congestion during the summer months. The traffic problems would be made worse by the fact that there is only one road in and out of Marlin Quay.

Planning staff did not consider the increase in intensity of use associated with Palmetto's proposed development. It is clear that increased building height, increased restaurant size, and increased traffic all qualify as intensity impacts under Section 619.3023. There is no basis for increasing the intensity of use at Marlin Quay, and the Council should deny Palmetto's application. At a minimum, the Council should remand the application for evaluation of the intensity impacts.

4. **Palmetto's Proposed Redevelopment Interferes with Gulfstream's Easement and Would Violate a Court Order.**

As the Council is likely aware, Gulfstream possesses an easement for parking at Marlin Quay. Palmetto's proposed building would interfere with Gulfstream's perpetual easement. The scope of Gulfstream's easement was the subject of litigation between

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Palmetto and Gulfstream. Gulfstream prevailed in that litigation, and the Court permanently enjoined Palmetto from interfering with Gulfstream's easement, and the Court limited the area on which Palmetto can construct a building. It is apparent that Palmetto's proposed building will interfere with Gulfstream's easement and violate the Court's injunction.

The Court's injunction prohibits Palmetto from interfering with the easement. The Court has already held Palmetto in contempt on two occasions for violating this injunction. Based on the extreme size of the proposed building and the fact that the building would be cantilevered over the parking lot, it will be impossible for Palmetto to construct the proposed building without physically blocking large portions of the easement area and interfering with Gulfstream's right to use the parking lot. Accordingly, any attempt by Palmetto to construct the building would represent further contempt of the Court's order.

Additionally, it appears that portions of Palmetto's proposed building would sit on Gulfstream's easement, and the operation of Palmetto's proposed building would overburden the parking lot in a manner that interferes with Gulfstream's easement. Gulfstream reserves the right to challenge the impact of Palmetto's current plans on Gulfstream's easement, and the outcome of any challenge could require Palmetto to submit yet another set of plans.

Further, if Georgetown County approves Palmetto's major change request, that approval would violate Gulfstream's constitutional rights, materially reduce the value of Gulfstream's property and easement rights, and therefore constitute a taking without compensation. In this scenario, Gulfstream would be permitted to seek damages for this taking.

It does not constitute good zoning practices for the Council to approve Palmetto's requested change to the Marlin Quay PUD. Instead, the Council should deny the application until Palmetto submits a proposal that does not interfere with Gulfstream's easement.

5. **Planning Staff Concerns can be Addressed with a Different Design from Palmetto.**

The planning staff analysis recommended approval of Palmetto's proposed development based on two factors: constructing a building that meets flood zone requirements; and constructing a building that sits exclusively on Palmetto's property. While these may be valid concerns, they do not support approval of Palmetto's proposed development. It is possible for Palmetto to design a building on the portion of its property that is not part of the Gulfstream easement that meets flood zone requirements. But the current proposal is defective because it would:

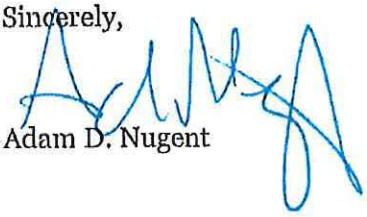
- Violate Zoning Ordinance requirements related to parking;

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- Exceed the restrictions contained in the Marlin Quay PUD;
- Increase the intensity of land use in Marlin Quay; and
- Interfere with Gulfstream's easement both during construction and after completion.

The Council should require Palmetto to go back to the drawing board and design a building that addresses the planning staff's concerns but does not violate the Ordinance, exceed the PUD limitations, violate a Court order, or interfere with Gulfstream's easement.

Sincerely,



Adam D. Nugent

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EXHIBIT 26

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Georgetown County Council held a Regular Council Session on Tuesday, December 11, 2018, at 5:30 PM in County Council Chambers located in the old Georgetown County Courthouse, 129 Screven Street, Georgetown, South Carolina.

Present:	Austin Beard	Lillie Jean Johnson
	Everett Carolina	Johnny Morant
	Ron Charlton	John Thomas
	Steve Goggans	
Staff:	Wesley P. Bryant	Sel Hemingway
	Theresa E. Floyd	

Other staff members, members of the public, and representatives of the media were also present. In accordance with the Freedom of Information Act, a copy of the agenda was sent to newspapers, television, and radio stations, citizens of the County, Department Heads, and posted on the bulletin board located in the lobby of the historic Courthouse.

Chairman Johnny Morant called the meeting to order. Councilmember Ron Charlton gave an invocation, and all joined in the pledge of allegiance.

APPROVAL OF AGENDA:
A recommendation was made to move two reports forward on the meeting agenda to follow public comments: recognition of 2018 Holiday Card Art Contest winners, and recognition of the Employee of the 3rd Quarter. Councilmember Ron Charlton moved for approval of the meeting agenda. Councilmember Everett Carolina seconded the motion. Chairman Johnny Morant called for discussion on the motion, and there was none.

In Favor:	Austin Beard	Lillie Jean Johnson
	Everett Carolina	Johnny Morant
	Ron Charlton	John Thomas
	Steve Goggans	

PUBLIC COMMENTS:
Adam Nugent
Mr. Nugent, an attorney representing the Gulf Stream Café, voiced concerns regarding the proposed amendment to the Marlin Quay Planned Development (Ordinance No. 2018-40) currently before County Council. He said there was reason to believe that proper procedure under the County's Zoning Ordinance had not been followed. He said the building being proposed was far different than the building that was there before. The County's Zoning Code requires that County Council consider whether adequate parking accommodations exist. He encouraged Council members to observe the situation firsthand to ensure that the proper procedures were followed, and that this building will be beneficial to the entire area.

Vince Van Brunt
Mr. Van Brunt stated that he is the CEO of CentraArch Restaurant Group, and representing the group in voicing opposition to the proposed Marlin Quay Planned Development amendment. The Gulf Stream Café, which has been in existence since 1979, shares a parking area with Marlin Quay, and a court order stipulates that the Marlin Quay development cannot interfere with the current parking situation. He stated that the County is aware of the easement, and he cannot understand why valid concerns are being ignored. He asked that Council members personally look at this property, and take appropriate action to deny the application.

Certified and True Copy
Theresa E. Floyd, Clerk

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Linda Barnaba
Ms. Barnaba spoke in opposition of Ordinance No. 2018-40, an amendment to the Marlin Quay Planned Development. She said the lack of sufficient parking needs to be addressed and asked County Council to address the 30 year old parking problem.

Chris Causey
Mr. Causey spoke in opposition of Ordinance No. 2018-40, an amendment to the Marlin Quay Planned Development, stating the existing parking problems will be exacerbated by the proposed building. He said people currently park on the side of Waccamaw Road, and walk along the narrow road, which is unsafe.

Jef Kirk
Mr. Kirk stated that he has been an operating partner at the Gulf Stream Café for 9 years. He voiced opposition to the proposed Marlin Quay Planned Development, as parking has presented a problem in the area for a number of years. He said the existing parking issues can be collaborated by the Sheriff's Department. The operating partners of the Gulf Stream Café do not want to put the Lawhon family out; they are simply trying to protect their own rights.

Dan Stacy
Mr. Stacy spoke on behalf of the property applicant associated with Ordinance No. 2018-40, an amendment to the Marlin Quay Planned Development. He said the application has previously been approved, on a minimum, of six various levels. Aside from a few condo owners, those objecting to the project were paid by the Gulf Stream Café, and all rode to this meeting on a bus. He noted his availability to address any technical questions Council members may have specific to this project.

Connie Lowery
Ms. Lowery stated that she is an owner of two condos at the Marlin Quay Marina, and voiced her opposition to the proposed Marlin Quay Development. She stated that notices regarding this project were never mailed to adjacent property owners as required. County regulations stipulate that adjacent properties within 400 ft. of the subject property receive notification, and as an owner of two adjacent properties, she was not notified. If this part of the code is not enforced by the County, she suggested that it be removed from the application process.

Clete Skipper
Mr. Skipper, a resident of Marlin Quay, spoke in opposition of Ordinance No. 2018-40, an amendment to the Marlin Quay Planned Development, voicing concerns over the current parking situation. He said there has already been a fatality on the road in front of Marlin Quay, and this will make the situation worse.

Chris Lawhon
Mr. Lawhon stated that he and his father are investors in the Marlin Quay Bar & Drill. He asked that County Council vote in favor of Ordinance No. 2018-40, to amend the Marlin Quay Planned Development. The proposed project will have the same number of seats as before, and the same square footage. He asked that Council not get distracted by the height of the building, and noted that the property has been developed in a manner that was authorized by the County.

Mark Lawhon
Mr. Lawhon said he is the owner of the Marlin Quay facility (Ordinance No. 2018-40). He stated that this is his third attempt to "make everybody happy" by changing the development plans for this property. He said those opposing the plan have "brought a fancy high priced attorney here

to threaten County Council", but he neglected to tell County Council that the proposed building is compliant. He said Marlin Quay has been a part of the community since the 1960's, and they only want what is best for the entire community.

Keith Gossett
Mr. Gossett stated that he is a Charter Captain out of the Marlin Quay Marina. Mr. Gossett said he has known the Lawhon family for about 5 years, and has known the family to have character and integrity. Throughout this process they have been truthful and honest, and only want what is best for the community.

Rob Boros
Mr. Boros, a manager with Gulf Stream Café, said parking is an issue and spoke in opposition of the proposed amendment to the Marlin Quay Planned Development. He said the existing parking situation is dangerous, and as a result guests of the Gulf Stream restaurant have pulled out in front of other vehicles. The proposed marlin Quay building will only create additional problems.

Janelle Castillo
Ms. Castillo spoke in opposition of Ordinance No. 2018-40, an amendment to the Marlin Quay Planned Development. She said that she has been an employee of the Gulf Stream Restaurant for fourteen years, and issues with parking prevent her from getting to work on time (because there is no place to park).

Ashley Deval
Ms. Deval spoke in opposition of the proposed Marlin Quay Planned Development. She stated that although she has been an employee of the Gulf Stream Café for 9 years, she was not paid to be here tonight, but rather she chose to come to this meeting on her day off because the parking situation is such an issue. Restaurant guests are constantly complaining, and employees who are just trying to do their job are issued parking tickets.

Micah Sawyer
Mr. Sawyer said he has been an employee of the Gulf Stream Café for six years and could attest that parking is a huge issue. He said pulling into the parking lot is scary because of the tight space limitations. There have been several accidents in the parking lot, some even involving restaurant employees, including him.

Chris Sanders
Mr. Sanders spoke in opposition of Ordinance No. 2018-40, an amendment to the Marlin Quay Planned Development. He stated that he would have no objections if Mr. Lawhon built the new structure in compliance with the original plan that was presented, but it has changed drastically.

MINUTES:
Regular Council Session – November 13, 2018
Councilmember Ron Charlton moved to approve the minutes of the November 13, 2018 meeting. Councilmember Steve Goggans seconded the motion. Chairman Morant called for discussion on the motion, and there was none.

In Favor:	Austin Beard	Lillie Jean Johnson
	Everett Carolina	Johnny Morant
	Ron Charlton	John Thomas
	Steve Goggans	

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CONSENT AGENDA:
The following report was included on the Consent Agenda and previously approved during the meeting:

Task Order #6 to Contract #18-020S, Civil Engineering Services, IDIQ – County Council approved Task Order 6 (Contract 18-020S) with Stantec Consulting Services for Garden City Drainage Improvements, Phase 2, in the amount of $201,600.

PUBLIC HEARING:
Ordinance No. 2018-37
County Council held a public hearing on Ordinance No. 2018-37, an amendment of the FY 2018/2019 Budget Ordinance. There were no comments regarding Ordinance No. 2018-37, and Chairman Johnny Morant ordered the public hearing closed.

Ordinance No. 2018-38
A public heard was held on Ordinance No. 2018-38, an Ordinance to declare as surplus a portion of land, approximately 4.64-acre, located in the Andrews Industrial Park adjacent to Georgetown Highway (US HWY 521) Georgetown County, South Carolina, and to authorize the County Administrator to sell the property in the manner as prescribed within Ordinance No. 2008-09, Georgetown County Purchasing Ordinance, as amended. There were no comments pertaining to Ordinance No. 2018-38, and Chairman Morant closed the public hearing.

Ordinance No. 2018-39
County Council held a public hearing on Ordinance No. 2018-39, an Ordinance to authorize the Lease of Property Located at 108 N. Morgan Avenue in the Town of Andrews to Karen Hogan (Odyssey Kids Club). No individual came forward to speak for, or against, Ordinance No. 2018-39, and Chairman Morant called the public hearing closed.

BOARDS AND COMMISSIONS:
Alcohol & Drug Abuse Commission
Councilmember John Thomas moved to appoint Ms. Patricia Molloy Fancher to the Alcohol & Drug Abuse Commission (representing Council District 1). Councilmember Austin Beard seconded the motion. No discussion followed.

In Favor:	Austin Beard	Lillie Jean Johnson
	Everett Carolina	Johnny Morant
	Ron Charlton	John Thomas
	Steve Goggans	

Councilmember Ron Charlton nominated Mr. Mark Barber Jr. for appointment to the Alcohol & Drug Abuse Commission (representing Council District 2). Councilmember Lillie Jean Johnson seconded the motion. No discussion followed.

In Favor:	Austin Beard	Lillie Jean Johnson
	Everett Carolina	Johnny Morant
	Ron Charlton	John Thomas
	Steve Goggans	

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Midway Fire-Rescue Board
Councilmember John Thomas made a motion to appoint Ms. Lissa Byrd to fill a vacancy on the Midway Fire-Rescue Board. Councilmember Ron Charlton seconded the motion. Upon a call for discussion on the motion from Chairman Morant, there was none.

In Favor:	Austin Beard	Lillie Jean Johnson
	Everett Carolina	Johnny Morant
	Ron Charlton	John Thomas
	Steve Goggans	

Planning Commission
Councilmember John Thomas moved for the appointment of Ms. Sandra Bundy (to represent Council District 1) on the Planning Commission. Councilmember Steve Goggans offered a second on the motion. Upon a call for discussion on the motion, there was none.

In Favor:	Austin Beard	Lillie Jean Johnson
	Everett Carolina	Johnny Morant
	Ron Charlton	John Thomas
	Steve Goggans	

ORDINANCES-Third Reading
Ordinance No. 2018-37
Councilmember Austin Beard moved for third reading approval of Ordinance No. 2018-37, an amendment of the FY 2018/2019 Budget Ordinance. Councilmember John Thomas seconded the motion. Chairman Johnny Morant called for discussion.

Councilmember Austin Beard moved to amend Ordinance No. 2018-37 in order to incorporate proposed amendments made subsequent to second reading. Councilmember John Thomas seconded the amended motion. There was no further discussion.

In Favor:	Austin Beard	Lillie Jean Johnson
	Everett Carolina	Johnny Morant
	Ron Charlton	John Thomas
	Steve Goggans	

The vote on the main motion was as follows:

In Favor:	Austin Beard	Lillie Jean Johnson
	Everett Carolina	Johnny Morant
	Ron Charlton	John Thomas
	Steve Goggans	

Ordinance No. 2018-38
Councilmember Austin Beard moved for third reading approval of Ordinance No. 2018-38, an Ordinance to declare as surplus a portion of land, approximately 4.64-acre, located in the Andrews Industrial Park adjacent to Georgetown Highway (US HWY 521) Georgetown County, South Carolina, and to authorize the County Administrator to sell the property in the manner as prescribed within Ordinance No. 2008-09, Georgetown County Purchasing Ordinance, as amended. Councilman Steve Goggans offered a second on the motion. Chairman Johnny Morant called for discussion.

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County Attorney, Wes Bryant, noted that an inaccurate tax map number was referenced in some of the documents that were provided. This scrivener's error has been corrected, and he noted, for the record, the correct TMS #02-0416-035-06-00.

In Favor:	Austin Beard	Lillie Jean Johnson
	Everett Carolina	Johnny Morant
	Ron Charlton	John Thomas
	Steve Goggans	

Ordinance No. 2018-39
Councilmember Everett Carolina moved for third reading approval of Ordinance No. 2018-39, an Ordinance to Authorize the Lease of Property Located at 108 N. Morgan Avenue in the Town of Andrews to Karen Hogan (Odyssey Kids Club). Councilmember Austin Beard seconded the motion. Chairman Johnny Morant called for discussion on the motion, and there was none.

In Favor:	Austin Beard	Lillie Jean Johnson
	Everett Carolina	Johnny Morant
	Ron Charlton	John Thomas
	Steve Goggans	

ORDINANCES-Second Reading:
Prior to discussion on Ordinance No. 2018-40, Councilmember Steve Goggans disclosed a conflict of interest, and requested to be recused prior to any discussion and/or voting on Ordinance No. 2018-40.

Ordinance No. 2018-40
Councilmember John Thomas moved for second reading approval of Ordinance No. 2018-40, an amendment to the Marlin Quay Planned Development to allow for the redevelopment of the Marlin Quay Marina Store/Restaurant. Councilmember Austin Beard offered a second on the motion. Chairman Johnny Morant called for discussion on the motion, and no discussion occurred.

In Favor:	Austin Beard	Lillie Jean Johnson
	Ron Charlton	John Thomas
	Johnny Morant	
Opposed:	Everett Carolina	
Absent:	Steve Goggans	

ORDINANCES-First Reading:
No reports.

BIDS:
No reports.

REPORTS TO COUNCIL:
2018 Holiday Card Art Contest
(Presentation of this report was moved forward on the meeting agenda)
Georgetown County Council recognized Georgetown County School District students who had submitted winning entries in Georgetown County's 2018 Holiday Art Contest. Students received

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monetary awards for their achievements, courtesy of Anderson Brothers Bank. Additionally, the winning entry, submitted by Kaitlyn Munoz, was Georgetown County's annual holiday card.

County Council Vice Chairman Austin Beard recognized the following students, and made presentations on behalf of Anderson Brothers Bank:

1st Place Award – **Kaitlyn Munoz** *(sophomore at Georgetown High School)*

2nd Place Award – **Olivia Welsh** *(Senior at Waccamaw High School)*

3rd Place Award – **Emily Rivers Roberts** *(Waccamaw Intermediate School 6th grader)*

Recognition of Employee of the Quarter – 3rd Quarter
(Presentation of this report was moved forward on the meeting agenda)
Georgetown County Council recognized, Heather Pelham, named Georgetown County's Employee of the Quarter for the third quarter of 2018. Ms. Pelham is a public services librarian with the Georgetown County Library System who has been employed with the county for nearly eight years.

Among her job duties are: oral history video production, digital arts instruction for teens and adults, the library's social media and website management, public relations activities for the library, and special projects related to digital video production. She also served as Hurricane Project Manager in 2009, a temporary position funded by an ICMA grant.

In the third quarter, Heather added several new duties to her job description when she agreed to assist on the Public Information Officer's desk at the County Emergency Operations Center during its activation for Hurricane Florence and related flooding. The EOC was activated for 29 consecutive days, and Heather was there for many of those, working 12 hour shifts. Among her other accomplishments during the third quarter of this year, Heather completed a significant grant-funded prison library project in September. This project re-established a library for the general population at the county's Detention Center and provided a portable laptop training lab for detention center staff, along with a professional book collection. It also furnished technology, books and DVDs to a new vocational training center for a select group of inmates in the Sheriff's Office Re-entry program. She also wrote, videotaped and presented a nomination package on the Re-entry program, which earned an Honorable Mention for the J. Mitchell Graham Award from the SC Association of Counties in August. Library Director Dwight McInvaill said Heather's work and dedication to her job are always impressive.

Accommodations Tax Advisory Committee Award Recommendations
Fall 2018 Accommodations Tax funding recommendations were presented on behalf of the Accommodations Tax Advisory Committee by the County Administrator. Mr. Hemingway stated that the Accommodations Tax Committee recommended funding the amount requested by each applicant, with the award of $8,500 in surplus funds to the Tourism Management Commission (acting as the County's designated agency for the promotion of tourism).

Councilmember Austin Beard moved for approval of the Accommodations Tax Committee's funding recommendations in the amount of $911,130, as outlined in the report provided to Council. Councilmember Steve Goggans seconded the motion. Chairman Johnny Morant called for discussion.

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In Favor:	Austin Beard	Lillie Jean Johnson
	Everett Carolina	Johnny Morant
	Ron Charlton	John Thomas
	Steve Goggans	

Special Presentation to Chairman Johnny Morant

The County Administrator, Sel Hemingway, noted that there was one last matter of business this evening, as this was a landmark meeting, the last of Chairman Johnny Morant's term, all members of County Council had signed a proclamation honoring Johnny Morant for 25 years of outstanding leadership to fellow council members, and service to the citizens of Georgetown County. Mr. Hemingway read the proclamation aloud prior to presenting Chairman Morant with a framed copy. The Chairman expressed his gratitude to County Council, and thanked staff for the assistance that had been provided to him throughout the years. He said nothing could have been accomplished without everyone working together.

DEFERRED:

Ordinance No. 2017-23

Pending further review by the County Attorney, County Council deferred action on Ordinance No. 2017-23, a proposed amendment to the Pawleys Plantation Planned Development pursuant to legal questions pertaining to the application as submitted by the Pawleys Plantation Property Owners Association.

EXECUTIVE SESSION:

Councilmember John Thomas made a motion to move into Executive Session to discuss a legal matter. Councilmember Steve Goggans seconded the motion. Chairman Morant called for discussion, and there was none.

In Favor:	Austin Beard	Lillie Jean Johnson
	Everett Carolina	Johnny Morant
	Ron Charlton	John Thomas
	Steve Goggans	

County Council moved into Executive Session at 7:07 PM.

OPEN SESSION:

As Open Session resumed at 7:47 PM, Chairman Johnny Morant noted that County Council discussed a legal issue during Executive Session. No votes were taken, nor were any decisions made while in Executive Session. He called for any further action to come before County Council.

Councilmember John Thomas moved to authorize the County Administrator to execute a stop loss insurance policy in conjunction with the County's self-insured health insurance plan. Councilmember Austin Beard seconded the motion. No discussion occurred on the motion.

In Favor:	Austin Beard	Lillie Jean Johnson
	Everett Carolina	Johnny Morant
	Ron Charlton	John Thomas
	Steve Goggans	

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Being no further business to come before County Council, Chairman Johnny Morant moved to adjourn his last meeting as Chairman, his parting words to Council members, "take care of each other".

_____
Date

_____
Clerk to Council

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EXHIBIT 27

ELECTRONICALLY FILED - 2021 Nov 22 3:45 PM - GEORGETOWN - COMMON PLEAS - CASE#2019CP2200212

Georgetown County Council held a Regular Council Session on Tuesday, January 8, 2019, at 5:30 PM in County Council Chambers located in the historic Georgetown County Courthouse, 129 Screven Street, Georgetown, South Carolina.

Present:	Everett Carolina	Lillie Jean Johnson
	Ron Charlton	Louis R. Morant
	Steve Goggans	John Thomas

Staff:	Wesley P. Bryant	Jackie Broach-Akers
	Theresa E. Floyd	

Other staff members, members of the public, and representatives of the media were also present. In accordance with the Freedom of Information Act, a copy of the agenda was sent to newspapers, television, and radio stations, citizens of the County, Department Heads, and posted on the bulletin board located in the lobby of the historic Courthouse.

In an unprecedented situation involving the absence of a Chairman (former Chairman Johnny Morant's term ended on December 31, 2018), and Vice Chairman Austin Beard was not present due to illness. County Attorney, Wesley P. Bryant opened the meeting. Councilmember Ron Charlton gave an invocation, and all joined in the pledge of allegiance. County Administrator, Sel Hemingway was out-of-town, and also not in attendance.

ELECTION OF OFFICERS:

Mr. Bryant noted that pursuant to County Council's adopted Rules of Procedure, Georgetown County Council elects a Chairperson and Vice Chairperson during the first meeting in January following each General Election. Mr. Bryant stated that he would preside over the meeting until a Chairman was elected by the body, and the meeting would be handed over at that time.

Councilmember Lillie Jean Johnson moved to nominate Councilmember John Thomas to serve as Chairman. Councilmember Louis Morant seconded the motion. The floor was opened for discussion.

Councilmember Everett Carolina made a motion to place the name of Councilmember Ron Charlton in to consideration to serve as Chairman. The motion was seconded by Councilmember Ron Charlton.

According to the County Attorney, parliamentary procedure as outlined in *Roberts Rules of Order*, specify that motions to elect board officers cannot be amended; these motions should be voted on in the order that they are made. He opened the floor for further discussion, and being none, he called for the vote on the motion nominating Councilmember John Thomas to serve as Chairman.

In Favor:	Steve Goggans	Louis R. Morant
	Lillie Jean Johnson	John Thomas

Opposed:	Everett Carolina	Ron Charlton

At this point, Mr. Bryant turned the meeting over to the newly elected Chairman, John Thomas.

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Chairman Thomas moved to nominate Councilmember Lillie Jean Johnson to serve as Vice Chairperson. Councilmember Louis Morant offered a second. Upon a call for discussion, no discussion followed the motion.

In favor:	Everett Carolina	Lillie Jean Johnson
	Ron Charlton	Louis R. Morant
	Steve Goggans	John Thomas

OATH OF OFFICE:
Chairman John Thomas announced, for the record, that prior to this regular meeting of Council being called to order, the following newly elected and re-elected members of Council pledged an "Oath of Office" for the upcoming four-year term: Councilmember John Thomas, Councilmember Steve Goggans, and newly elected Councilmember, Louis Morant.

APPROVAL OF AGENDA:
Councilmember Ron Charlton moved for approval of the meeting agenda. Councilmember Steve Goggans seconded the motion. There was no discussion on the motion.

In favor:	Everett Carolina	Lillie Jean Johnson
	Ron Charlton	Louis R. Morant
	Steve Goggans	John Thomas

PUBLIC COMMENTS:
Prior to public comments, Councilmember Steve Goggans disclosed a conflict of interest pertaining to Ordinance No. 2018-40. Due to individuals that had signed up to comment on this issue, Councilmember Goggans requested to be recused from this portion of the meeting. Councilmember Goggans was not present in County Council Chambers during the public comments.

George Redman
Mr. Redman, an attorney for the Bellamy Law Firm, representing the Gulf Stream Café spoke in opposition of a proposed amendment to the Marlin Quay Planned Development (Ordinance No. 2018-40). He said the Gulf Stream Café is one of four members of the Planned Unit Development (PUD), and his comments were in a defensive posture to prevent the proposed redevelopment of the Marina Store/Restaurant (significantly larger than the previous facility) from imposing on a court order and recorded easement pertaining to the parking lot shared by the businesses. He said the parking needs analysis made by the County's planning staff pertain only to the new building, and disregard the shared use of existing parking as well as concerns voiced by other parties in this Planned Development.

Fred Williams
Mr. Williams, President of the West End Citizens Council, voiced concern regarding issues surrounding a member of County Council pertaining to violation of residency requirements. He said the group hoped to bring clarity to concerns over the violation of this requirement, which exists and applies to each and every member of County Council. Georgetown County's ordinance states the one must reside in his/her district during the election and also the duration of his/her council term. The council district Mr. Beard represents has been "grossly neglected", and it was the hope of these groups that he recuse himself from Council business going forward.

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Marilyn L. Hemingway

Ms. Hemingway congratulated the newly elected officers, and newly elected Councilmember, Louis Morant, sworn into his first term prior to this meeting. Ms. Hemingway noted that she resides in County Council District 2, represented by Councilmember Ron Charlton, who has always acknowledged her concerns in a professional, fair, and reasonable manner. As a resident of Georgetown County, and taxpayer, she expressed expectations to County Council regarding their leadership as fair, accountable, and transparent. Additionally, as CEO of the Gullah Geechee Chamber of Commerce, with a mission of profitability and sustainability for African American Businesses, and businesses that support businesses in the Gullah Geechee Corridor, Ms. Hemingway noted that County Council will be seeing more of her in the future and she looked forward to working with them.

Janette Graham

Ms. Graham congratulated the newly elected officers of County Council. She said that as a citizen of Georgetown County, the West End, and a taxpayer, she was concerned over recent unsettling news pertaining to a member of Georgetown County Council involving allegations that he does not reside in the council district he was elected to represent. She said that anyone can rent a post office box; however, every member of County Council should have a physical address that is made known and available to their constituents.

Wesley Gibson

Mr. Gibson spoke on behalf of the "Citizens for Progress" voicing concerns on behalf of the group that Council member James Austin Beard "fraudulently" stated that he lived in the Council District that he was elected to represent, however, information has been collected that disputes this. A packet of compiled information was mailed to each member of County Council, the media, and also County Administrator, Sel Hemingway. Mr. Gibson said that some members of County Council must have been aware of the situation regarding Mr. Beard's residence prior to the information being made public, and indicated his disappointment that no one came forward about this. He asked Chairman John Thomas to ask Councilmember Beard to step down, and call for an investigation by State Law Enforcement. Mr. Gibson stated that he and others were watching, and this was only the "tip of the iceberg".

Marvin Neal

Mr. Neal offered congratulations to newly elected Chairman John Thomas, and his newly elected Council representative, Louis Morant. Mr. Neal noted that he was speaking on behalf of the NAACP, regarding a complaint that had been filed against Councilmember Austin Beard. Mr. Neal said that based on information collected, Mr. Beard is in violation of Georgetown County's ordinance that required council members to reside within the district he/she is elected to represent. This does not appear to be the case for Councilman Beard. Mr. Neal said Georgetown County Council needs to follow its own ordinance, and make a determination if a violation has taken place. If so, Mr. Beard must resign from his office, and a special election should be held to fill his vacant seat. This appears to be a situation of "taxation without representation". All taxpayers of this County deserve to have true and fair representation.

Dan Stacy

Mr. Stacy offered congratulations to each new member of Council sworn into a new position. As a representative of the property applicant for the Marlin Quay Marina re-development (Ordinance No. 2018-40), Mr. Stacy said he had noticed several consistencies over the past three years. The County's planning staff has consistently approved proposed plans; the Planning Commission has consistently approved the plan; and the Zoning Board has consistently approved the plan. He pointed out that this project must meet certain codes in order to be rebuilt. He stated that those opposing this project

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consistently provide "misinformation", and consistently threaten County Council. He said the threat of litigation is not a valid method to use in zoning the land in Georgetown County.

Mark Lawhon

Mr. Lawhon said he had been coming here for the past three years regarding this same project (Ordinance No. 2018-40). He said the information from those opposing this development project is all "smoke and mirrors". These individuals want County Council to believe that the plan includes a huge building, when in reality is a "small little pie wedge" of 15 feet on one end and approximately 23 feet on the other. The proposed marina store/restaurant will have the same number of seats as before, the same hours of operation as before, and serve the same food as before. Mr. Lawhon said once the previous building was torn down; he was sued to stop reconstruction. He said that he has been bullied, and County Council has been bullied; this is a "David and Goliath" story. His parents were honest, hardworking people, and they taught him to be fair, honest, and straight forward. He has been married to the same woman for 30 years, and would spend every dime to defend what is rightfully his.

MINUTES:

Regular Council Session – December 11, 2018

Councilmember Steve Goggans moved to approve the minutes of the December 11, 2018 meeting (including a change to on page 6). Councilmember Lillie Jean Johnson seconded the motion. Chairman Thomas called for discussion on the motion, and there was none.

In Favor:	Everett Carolina	Lillie Jean Johnson
	Ron Charlton	John Thomas
	Steve Goggans	
Abstained:	Louis R. Morant	

CONSENT AGENDA:

No reports.

ORDINANCES-Third Reading

Prior to discussion on Ordinance No. 2018-40, Councilmember Steve Goggans disclosed a conflict of interest, and requested to be recused prior to any discussion and/or voting on Ordinance No. 2018-40.

Ordinance No. 2018-40

Chairman John Thomas moved for third reading approval of Ordinance No. 2018-40, an amendment to the Marlin Quay Planned Development to allow for the redevelopment of the Marlin Quay Marina Store/Restaurant. Councilmember Ron Charlton offered a second on the motion. Upon a call for discussion from the Chairman, no discussion occurred.

In Favor:	Ron Charlton	Louis R. Morant
	Lillie Jean Johnson	John Thomas
Opposed:	Everett Carolina	
Absent:	Steve Goggans	

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EXHIBIT 28

STATE OF SOUTH CAROLINA	)	**IN THE COURT OF COMMON PLEAS**
	)	**COUNTY OF GEORGETOWN**
COUNTY OF GEORGETOWN	)	Civil Action No. 2019-CP-22-00212
	)	
The Gulfstream Café, Inc.,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	**AFFIDAVIT OF JEF KIRK**
	)	
Georgetown County, Georgetown County Council, John Thomas, Ron Charlton, Lillie Johnson, Austin Beard, Steve Goggans, and Louis Morant, individually and in their official capacity as Georgetown County Councilmembers,	)	
	)	
Defendants.	)	
	)	

Personally appeared before me, Jef Kirk, who, upon being duly sworn, deposes and states as follows:

1. I am over eighteen years of age and I am competent to testify to the matters stated herein. I provide this Affidavit for all purposes allowed by law. I make this Affidavit based upon my own personal knowledge.

2. I am the operating partner of the Gulfstream Cafe.

3. Gulfstream is a fine dining restaurant that is primarily open during the evening hours.

4. Gulfstream relies on the parking lot adjacent to the restaurant to provide parking for restaurant guests. Gulfstream uses the parking lot primarily during the evening.

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5. Gulfstream must have primary use of the parking lot during the evening in order to function. There is not another parking lot in the area, and there are no sidewalks nearby, so there is not sufficient foot traffic to generate enough business to keep Gulfstream open. Patrons do not often use Uber or Lyft to visit Gulfstream. The majority of Gulfstream's customers drive to the restaurant.

6. Gulfstream cannot operate its restaurant without adequate parking. Parking is absolutely essential to Gulfstream's operations.

7. If the large project known as Marlin Quay Version 3.0 opens and operates at night, it will grossly overtax the available parking, and Gulfstream will not have enough parking spaces to operate its business.

FURTHER AFFIANT SAYETH NAUGHT.

Jef Kirk

SWORN TO AND SUBSCRIBED before me
this 21 day of November, 2021.

Matthew Elam Caldwell
Notary Public, State of South Carolina
My Commission Expires June 8, 2030

Notary Public

My commission expires: 06/08/2030

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EXHIBIT 29

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STATE OF SOUTH CAROLINA	)	**IN THE COURT OF COMMON PLEAS**
	)	**COUNTY OF GEORGETOWN**
COUNTY OF GEORGETOWN	)	Civil Action No. 2019-CP-22-00212
	)	
The Gulfstream Café, Inc.,	)	
	)	
Plaintiff,	)	**AFFIDAVIT OF JAMES R. MORING**
	)	
v.	)	
	)	
Georgetown County, et al.,	)	
	)	
Defendants.	)	
	)	

Personally appeared before me, James R. Moring., who, upon being duly sworn, deposes and states as follows:

1. I am over eighteen years of age and I am competent to testify to the matters stated herein. I provide this Affidavit for all purposes allowed by law. I make this Affidavit based upon my own personal knowledge.

2. I am the owner and manager of the Commonwealth Company, Inc, which is a full-service real estate brokerage firm based in Charleston South Carolina. I have been in the commercial Real Estate business for over 35 years.

3. The Commonwealth Company Inc. is a full service Commercial Real Estate Firm, which sells Commercial Properties in South Carolina and throughout the Southeast.

4. I have particular expertise buying and selling restaurants in South Carolina and the Southeast.

5. I was retained to provide expert testimony to evaluate and offer opinions regarding feasibility and marketability of the property at issue in the above-referenced matter based on my experience as a real estate broker in South Carolina.

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6. I have reviewed the approval of the new building at Marlin Quay Marina ("Version 3.0"). I have also reviewed the uses permitted by the Marlin Quay PUD, and I understand that the Gulfstream Café is only permitted to be used as a restaurant.

7. I have also spoken with the operating partner for the Gulfstream Café, Jef Kirk, who explained the existing parking situation and discussed the expected impact of the construction of Version 3.0 on the parking situation at Marlin Quay. Mr. Kirk explained that Gulfstream Café alone uses all available parking during its busy season.

8. I believe that parking will be insufficient to meet the parking needs for patrons of Gulfstream and Version 3.0 once Version 3.0 is completed and it will not be feasible to operate the restaurant.

9. There is no other available parking within a one-mile radius of the Gulfstream Café. There are no available lots to lease for offsite parking. Additionally, street parking is not permitted on Waccamaw Drive. Accordingly, there are no feasible parking options for patrons other than the parking lot.

10. In my experience, any restaurant in an area such as Marlin Quay must have sufficient parking in order to operate. Gulfstream does not have sufficient parking as a result of the County's approval of Version 3.0.

11. In my opinion, there is no market for a restaurant in the Marlin Quay area that does not have dedicated, sufficient parking.

12. Once Version 3.0 is completed, it will be almost impossible to find a buyer for the Gulfstream property.

13. Because the Gulfstream property may only be used as a restaurant, I believe the Gulfstream property will only have nominal value once Version 3.0 is completed.

FURTHER AFFIANT SAYETH NOT.

James R. Moring

SWORN TO AND SUBSCRIBED before me
this 26th day of February, 2021.

Notary Public
My commission expires: 8/1/2028

JOHN C. WARE
Notary Public, State of South Carolina
My Commission Expires 8/1/2028

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EXHIBIT 30

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APPRAISAL REPORT OF
1536 SOUTH WACCAMAW DRIVE
0.58 ACRES (25,366 SF) OF LAND AND EXISTING IMPROVEMENTS
LOCATED ALONG THE NORTHWEST SIDE OF SOUTH WACCAMAW DRIVE,
MURRELLS INLET, GEORGETOWN COUNTY, SOUTH CAROLINA



AS OF
JANUARY 23, 2019

FOR

ADAM D. NUGENT, ESQUIRE
BLOOM PARHAM, LLP
977 PONCE DE LEON, AVENUE NE
ATLANTA, GEORGIA 30306

BY

GEORGE E. KNIGHT, JR., MAI
SOUTH CAROLINA STATE CERTIFIED GENERAL
REAL ESTATE APPRAISER NO. CG 1531



Real Estate Appraisers and Consultants, LLC
R·E·A·C
"We're on point with value"

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Real Estate Appraisers and Consultants, LLC
R·E·A·C
"We're on point with value"

May 24, 2021

Adam D. Nugent, Esquire
Bloom Parham, LLP
977 Ponce de Leon, Avenue NE
Atlanta, Georgia 30306

Re: The appraisal of 0.58 acres (25,366 SF) of land and existing improvements located at 1536 South Waccamaw Drive, Murrells Inlet, Georgetown County, South Carolina. Property now or formerly of The Gulfstream Café, Inc., identified as TMS# 41-0129-005-03-00.
My File No.: 19-072

Dear Mr. Nugent:

At your request, I have inspected and appraised the property located at 1536 South Waccamaw Drive, Murrells Inlet, Georgetown County, South Carolina. The property is further identified in the Georgetown County Tax Map System on 41-0129-005-03-00. The property contains 0.58 acres (25,366 SF) of land of which 12,085 SF is usable space and the remainder of the land (13,281 SF) is marsh. The site is improved with a 2-story restaurant with lower level storage containing a total of 5,161 gross square feet along with the necessary site improvements to support the operation of the building.

The intended use of the appraisal is for litigation purposes. The subject of the assignment is to provide an estimate of the market value 'as is' of the fee simple interest both before and after the loss of easement parking, as of January 23, 2019, which is a retrospective date. This date is 15 days from the third reading and approval of the amendment to the PUD on January 8, 2019, based on Georgetown County's Zoning Ordinance Section 1702.4. The client and intended user is Adam D. Nugent, Esquire of Bloom Parham, LLP. Other intended users include CentraArchy Restaurant Management Company and Gulfstream Café.

The results of my inspection and analyses are combined in this letter along with the attached appraisal report which are intended to comply with the minimum requirements, as set forth in Standards Rule 2-2(a) of the *Uniform Standards of Professional Practice* (USPAP), 2020-2021 Edition, published by The Appraisal Foundation.

The value estimates reported in this letter are based upon the facts and conclusions contained in the appraisal report that is attached and should be considered an integral part of this transmittal and incorporated herein by reference. Special attention is brought to the assumptions and limiting conditions contained in the report. No other special assumptions have been made in arriving at the market value estimates. This appraisal assignment was not made, nor was the appraisal rendered on the basis of requested minimum valuations or specific valuations.

The interest appraised is that of the fee simple interest. The property has been appraised as if free and clear from all liens and encroachments which may render the title to the subject property unmarketable.

This letter and the attached appraisal report have been prepared in accordance with the Code of Professional Ethics and Uniform Standards of Professional Appraisal Practice, as approved and adopted by the Appraisal Standards Board of the Appraisal Foundation and the Appraisal Institute. The use of this letter and

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the attached report are subject to the requirements of the Appraisal Institute relating to their review by its duly authorized representatives.

After applying the methods and techniques recommended by the Appraisal Institute, and after analyzing the data presented in the attached appraisal report, it is my opinion that the market value of the fee simple interest of the subject property, excluding furniture fixtures and equipment, **before loss of easement parking**, as of January 23, 2019, is:

ONE MILLION EIGHT HUNDRED FIFTY THOUSAND DOLLARS
($1,850,000)

It is my opinion that the market value of the fee simple interest of the subject property, **after loss of easement parking**, as of January 23, 2019, is:

EIGHTY NINE THOUSAND NINE HUNDRED DOLLARS
($89,900)

The difference in the before loss of easement parking and after loss of easement parking is:

ONE MILLION SEVEN HUNDRED SIXTY THOUSAND ONE HUNDRED DOLLARS
($1,760,100)

As outlined in this report, the appraisal is based upon the following extraordinary assumptions: (1) the subject property was not inspected on January 23, 2019, the date of value, and an extraordinary assumption exists that the overall condition of the subject property was similar on January 23, 2019, to the observed condition on the last date of inspection, November 25, 2019; (2) that the after value is based on the loss of easement access of 62 parking spaces contained within the easement area. The final value estimates are based upon the various considerations outlined in the definition of market value. The value estimates outlined within this report are based upon an estimated marketing time and exposure time of 12 months to 18 months. It should be noted that exposure time occurs prior to the value estimate and the marketing time occurs after the value estimate.

My valuation of the subject property considered the best information that was available at the time of my analysis and users of this appraisal should consider the appraisal may be affected by the scope of work. Users are reminded that the appraisal conclusions in this report are effective as of the stated date(s) of valuation.

Respectfully submitted,

George E. Knight, Jr., MAI
S.C. State Certified General
Real Estate Appraiser No. CG 1531

GEKjr/kdw
Attachments:
61-Page Appraisal Report
Addenda

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Certification

I, the undersigned appraisers, do hereby certify to the best of my knowledge and belief that:

The statements of fact contained in this report are true and correct.

The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and is my personal, impartial, and unbiased professional analyses, opinions, and conclusions.

I have no present or prospective interest in the property that is the subject of this report and I have no personal interest with respect to the parties involved.

I have provided services, as an appraiser, regarding the property that is the subject of this report within the three-year period immediately preceding the acceptance of this assignment.

I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.

My engagement in this assignment was not contingent upon developing or reporting predetermined results.

My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined result, value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.

My analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Uniform Standards of Professional Appraisal Practice.

I have made a personal inspection of the property that is the subject of this report unless otherwise noted below.

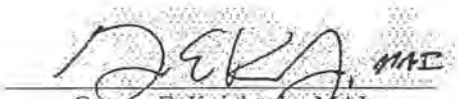
No one provided significant real property appraisal assistance to the persons signing this report.

The reported analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Code of Professional Ethics and Standards of Professional Appraisal Practice of the Appraisal Institute.

The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.

As of the date of this report, George E. Knight, Jr., MAI has completed the continuing education program for Designated Members of the Appraisal Institute.

SIGNED:



George E. Knight, Jr., MAI
South Carolina State Certified General
Real Estate Appraiser No. CG 1531
Inspecting Appraiser

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Summary of Major Conclusions

Identification of Property:	1536 South Waccamaw Drive: 2-story restaurant with lower level storage containing 5,161 gross square feet, furniture, fixtures and equipment and the necessary site improvements to support the operation of the building. The usable area of the site contains 12,085 square feet with the remainder of 13,281 square feet being marsh.
Tax Map Identification:	41-0129-005-03-00
Site Description:	The site contains 0.58 acres or 25,366 square feet of which 12,085 square feet is usable space with the remainder of 13,281 square feet being marsh. The site is irregular in shape, located along the northwest side of South Waccamaw Drive, Murrells Inlet, Georgetown County, South Carolina. A copy of the Plat is contained in the **Subject Photographs and Exhibits** section of the report.
Improvements:	The existing improvements consist of a 2-story restaurant with lower level storage containing a total of 5,161 gross square feet, square feet, furniture, fixtures and equipment and the necessary site improvements to support the operation of the building. The overall physical condition is average. Copies of the Sketch as well as the floor plans are contained in the **Subject Photographs and Exhibits** section of the report.
Age:	The improvements were constructed in 1985, renovated in 1995. The overall physical condition is average with the subject's actual age being approximately 36 years with an effective age being approximately 20 years. The total economic life of the improvements is approximately 50 years with the remaining economic/useful life being approximately 30 years.
Property Rights Appraised:	Fee Simple
Date of Value Opinion:	January 23, 2019
Highest and Best Use As Vacant:	Restaurant Development, as allowed by zoning and as the market dictates
Highest and Best Use As Improved:	Restaurant, as presently improved
Zoning (Georgetown County):	PD, Planned Development District
Assessable Transfer of Interest:	The current tax law for the assessment of real estate has a provision that permits the tax assessor to adjust the market value for tax purposes to the assessable transfer of interest (contract sales price). For counties with assessed values considerably less than actual market values, this will result in higher real estate taxes. The subject property has a current market value of $1,065,300 (aggregate). If

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	and when the subject property is sold, the adjustment point for tax purposes would be that of the actual sales price and could result in a change of the property tax liability. This is further discussed in detail within the **Tax Assessment Data** section of this report.	
Market / Exposure Time:	12 months to 18 months	
Market Value Opinion Before Loss of Easement Parking:	Sales Comparison Approach: Income Approach:	$1,910,000 $1,773,000
	Before Final Value:	**$1,850,000**
Market Value Opinion After Loss of Easement Parking:	**After Final Value:**	**$89,900**
Difference in Before and After Loss of Easement Parking:		**$1,760,100**
Extraordinary Assumptions:	(1) the subject property was not inspected on January 23, 2019, the date of value, and an extraordinary assumption exists that the overall condition of the subject property was similar on January 23, 2019, to the observed condition on the last date of inspection, November 25, 2019; (2) that the after value is based on the loss of easement access of 62 parking spaces contained within the easement area.	
Hypothetical Conditions:	There are no hypothetical conditions for this appraisal.	

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Assignment Elements

Client and Intended User

The client is Adam D. Nugent, Esquire of Bloom Parham, LLP on behalf of Gulfstream Café. The client and intended user is Adam D. Nugent, Esquire of Bloom Parham, LLP. Other intended users include Gulfstream Café. Possession of this report does not constitute an intended user.

Intended Use

The intended use of the appraisal is for litigation purposes.

Appraisal Reporting

Based upon the client's intended use of the appraisal, I have prepared an appraisal report of the property. This appraisal report is intended to comply with the minimum requirements of Standards Rule 2-2(a) of the Uniform Standards of Professional Appraisal Practice for an appraisal report.

Property Rights Appraised

The interest appraised is that of fee simple ownership, subject to the existing easements and encroachments of record. The property has been appraised as if free and clear of all liens and encumbrances which may render the title to the subject property unmarketable.

Type and Definition of Value

Market value is defined in *The Dictionary of Real Estate Appraisal*, Sixth Edition, published by the Appraisal Institute, as *"The most probable price that a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and passing of title from seller to buyer under conditions whereby: 1) buyer and seller are typically motivated; 2) both parties are well informed or well advised, and each acting in what they consider their best interest; 3) a reasonable time is allowed for exposure in the open market; 4) payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and 5) the price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale."* (12 C.F.R. Part 34.42(f))

Effective Date

The effective date of the appraisal is January 23, 2019; the date of the report is May 24, 2021. The date of inspection was November 25, 2019. The effective date of the appraisal is a retrospective date of January 23, 2019. This date is 15 days from the third reading and approval of the amendment to the PUD on January 8, 2019, based on Georgetown County's Zoning Ordinance Section 1702.4, which provides:

> *Changes in the Zoning Map. Following final action by the County Council any necessary changes shall be made on the Official Zoning Map. A written record of the type and date of such change shall be maintained by the County Planning Commission. Until such change is made, no action by the County Council on amendments to the Zoning Ordinance shall be considered official,*

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unless the Planning Commission fails to make the change within fifteen (15) days after formal action by the County Council. In the latter event, action by the County Council shall be considered official fifteen (15) days after the date of the action if the Planning Commission failed to make the appropriate changes.

Subject of the Assignment and its Relevant Characteristics

The subject of the assignment is to provide an estimate of the market value 'as is' of the fee simple interest both before and after the loss of easement parking, as of January 23, 2019. The subject site, located at 1536 South Waccamaw Drive, Murrells Inlet, Georgetown County, South Carolina, is comprised of one (1) parcel, containing a total of approximately 0.58 acres (25,366 SF) of land of which 12,085 square feet is usable space with the remainder of 13,281 square feet being marsh. The site is, irregular in shape. The improvements consist of a 2-story restaurant with lower level storage containing 5,161 gross square feet, along with the necessary site improvements to support the operation of the building. The improvements were constructed in 1985, renovated in 1995. The overall physical condition is average with the subject's actual age being approximately 36 years with an effective age being approximately 20 years. The total economic life of the improvements is approximately 50 years with the remaining economic/useful life being approximately 30 years.

Ownership History

The property was conveyed to The Gulfstream Café, Inc. by Deeds of Marlin Quay Marina Corporation, in consideration of the total sum of $149,812, dated February 25, 1986, and recorded on April 2, 1986, in the Office of the ROD for Georgetown County in Deed Book 234 at Page 778.

Listings and Contracts of Sale

Research of the applicable public records, private data services and an interview of the current owner, revealed that the subject property is not currently under current agreement or option and is not offered for sale on the open market. Additionally, according to these sources, the subject property has not been transferred during the past three (3) years.

Marketing Time / Exposure Time

The final value estimate is based upon the various considerations outlined in the definition of market value. The value estimate outlined within this report is based upon an estimated marketing time and exposure time of 12 months to 18 months. It should be noted that exposure time occurs prior to the value estimate and the marketing time occurs after the value estimate.

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Scope of Work

As a part of this appraisal, I made a number of independent investigations and analyses. I relied upon data retained in my office files, which I update regularly. The investigations undertaken and the major data sources used are outlined as follows. I reviewed the local economic and demographic trends for Georgetown County on the *Site to Do Business* website. I studied the available market data and economic trends of the subject area and neighborhood. I inspected the subject neighborhood and the subject property. I examined the records of Georgetown County concerning the zoning ordinance and the available public utilities in the area. I examined the records of Georgetown County Tax Assessor's Office and reviewed the method of taxation and the specific tax data including assessment percentages and millage rates applicable to the subject property. I examined the public records for deeds and plats relating to the subject property.

I obtained land sales, improved sales and lease information for comparables within the South Carolina, North Carolina and Georgia waterfront market areas. Sources utilized to verify the sales analyzed include a portion or all of the following: public records, aerial photographs, brokers, owners, third parties, real estate appraisal files and inspections.

The intended use of this appraisal is for litigation purposes, as described in this report. As outlined in the report, the appraisal is based upon the following extraordinary assumptions: (1) the subject property was not inspected on January 23, 2019, the date of value, and an extraordinary assumption exists that the overall condition of the subject property was similar on January 23, 2019, to the observed condition on the last date of inspection, November 25, 2019; (2) that the after value is based on the loss of easement access of 62 parking spaces contained within the easement area. Conventional appraisal theory dictates that market value may be determined by the use of one of more of the three accepted approaches to value. These approaches to value are the cost approach, the sales comparison approach and the income capitalization approach.

The cost approach is a set of procedures by which an indication of the value of the subject is obtained by estimating the depreciated value of the subject improvements, to which is added the value of the subject site, valued at its highest and best use.

The sales comparison approach is a set of procedures by which an indication of the value of the subject property is estimated by comparing it to similar properties which have sold recently. Appropriate units of comparison are used and adjustments, based upon various elements of comparison, are made to the sales.

The income capitalization approach is a set of procedures by which an indication of the value of the subject is estimated based upon converting anticipated income into value. The conversion of income into value is accomplished by capitalizing (discounting) a single year's income or several year's income into value.

The subject property is currently improved with a 2-story restaurant with lower level storage containing 5,161 gross square feet, along with the necessary site improvements to support the operation of the building. The sales comparison approach will be used to value the land. In forming an opinion of the "as is" value of the subject property as improved, the sales comparison approach to value and the income approach to value will be used. The information upon which these approaches to value are based is from the market and is the best information available for the application of the approaches to value and will lead to a credible value conclusion. Due to the age of the improvements, the cost approach to value has been omitted from this report. This exclusion will not lead to a misleading report.

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Assignment Conditions

Assumptions and Limiting Conditions

The legal description, or other property identification furnished by others, is assumed to be correct, and no responsibility is assumed for matters legal in nature. No opinion is rendered as to title, which is assumed to be marketable. Any existing liens or encumbrances have been disregarded, and the property is appraised as if free and clear, unless otherwise noted in the body of the report.

No current survey of the property was made, and the improvements are assumed to be within the lot lines, in accordance with local building codes. Drawings, sketches, or maps are included in this report for the sole purpose of assisting the reader in visualizing the property. Unless otherwise indicated, they are not engineering drawings.

There is a full compliance with all applicable federal, state, and local environmental regulations and laws unless noncompliance is stated, defined and considered in this appraisal report.

All applicable zoning and use regulations and restrictions have been complied with, unless a non-conformity has been stated, defined and considered in the appraisal report.

All required licenses, certificates of occupancy, consents, or other legislative or administrative authority from any local, state or national government or private entity or organization have been or can be obtained or renewed for any use on which the value estimate contained in this report is based.

In cases of proposed projects, all permits and governmental regulations are assumed to be secured and/or complied with.

All major improvements on the property being appraised appear to be structurally sound, unless otherwise noted within the body of the appraisal. However, the appraiser is not an engineer and has not been instructed to secure a qualified engineer's certification of the structural soundness of the said improvements or functional utility of major appliances or mechanical failures which would not be reasonably obvious in the scope of an appraiser's normal inspection of the specified improvements, or to a prudent purchaser.

Certain information used in this report has been furnished by others. The sources and the information are considered to be reliable, but cannot be guaranteed.

The subject property is assumed to be under responsible ownership and reasonable and competent management.

No responsibility is assumed for service or operating inspections of equipment in the buildings covered by the appraisal report.

No responsibility is assumed for an inspection of weather tightness of the exterior or interior surfaces of this building.

No tests of material or equipment were made.

Acceptance of, and/or use of, this appraisal report by client or any third party constitutes acceptance of the above conditions. Appraiser liability extends only to stated client, not subsequent parties or users of any type, and the total liability of appraiser and firm is limited to the amount of the fee received by appraiser. This appraisal report is an economic study for value; it is not an engineering, structural, mechanical, feasibility or architectural study.

The appraiser is not required to give testimony or to appear in court with reference to this property by reason of this report unless prior arrangements have been made.

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Distribution of the value reported between land and buildings applies only under the existing program of utilization, and separate valuations for land and improvements must not be used in conjunction with any report and are invalid if so used.

Possession of this report, or a copy thereof, does not carry with it the right of publication, either in whole or in part, nor may it be used for any purpose by any except the party for whom it was prepared without the consent of the appraiser, and then only with proper qualifications.

Neither all nor any part of the contents of this report shall be conveyed to the public through advertising, public relations, news media, sales, or other media without written consent and approval of the author, particularly as to value conclusions, the identity of the appraiser or firm with which he is connected, or by reference to any professional societies or designations conferred upon the appraiser.

Users of this appraisal report are directed to obtain the services of a professional engineer to determine the presence and/or absence of hazardous materials including, but not limited to: asbestos and/or radon gas and/or urea formaldehyde foam insulation, as well as the structural integrity of the building and the present condition of its mechanical systems, since the appraiser(s) has made no such inspection expressly or implied and accept no responsibility. The presence of such substances or other potentially hazardous materials may affect the value of the property. The value estimate is predicated on the assumption that there are no such materials on or in the property that would cause a loss in value.

This appraisal is specifically contingent upon, and the appraiser's understanding that, there has been, or will be, a removal of any underground storage tanks which exist or which may have existed on the subject site; also, that there has been no contamination of soils. If contamination has occurred, the contaminated soils and the source of contamination will be removed and the contamination remedied on the subject site in accordance with all federal and state regulations.

The Americans with Disabilities Act (ADA) became effective January 26, 1992. Noncompliance with this Act may have a negative effect upon the property. Since a compliance survey is outside the realm of expertise of a real estate appraiser, a possible noncompliance with the requirement of ADA was not considered in this report. An expert in this field should be consulted.

Extraordinary Assumptions -- An assignment-specific assumption as of the effective date regarding uncertain information used in an analysis which, if found to be false, could alter the appraiser's opinions or conclusions. (USPAP, 2020-2021 ed.)

(1) the subject property was not inspected on January 23, 2019, the date of value, and an extraordinary assumption exists that the overall condition of the subject property was similar on January 23, 2019, to the observed condition on the last date of inspection, November 25, 2019; (2) that the after value is based on the loss of easement access of 62 parking spaces contained within the easement area.

Hypothetical Conditions – A condition, directly related to a specific assignment, which is contrary to what is known by the appraiser to exist on the effective date of the assignment results, but is used for the purpose of analysis. (USPAP, 2020-2021 ed.)

There are no hypothetical conditions for this appraisal.

Jurisdictional Exceptions – An assignment condition established by applicable law or regulation, which precludes an appraiser from complying with a part of USPAP. (USPAP, 2020-2021 ed.)

No jurisdictional exceptions have been taken in the appraisal of the subject.

Other Conditions that Affect the Scope of Work

There are no specific conditions that affect the scope of work that have not been outlined within the body of this report.

Signature(s) / Electronic Signature(s)

The signature(s) contained within this report are personalized evidence indicating authentication of the work performed by the appraiser(s) and the acceptance of the responsibility for content, analyses, and the conclusions in the report. The signature(s) were applied by the original appraiser and represent the facts, opinions and conclusions found in the report. The appraiser applied signature(s) electronically using a password encrypted method. Hence, the signature(s) have more safeguards and carry the same validity as the individual's hand applied signature.

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Glossary of Appraisal Terms

Appraisal[1]: (Noun) the act or process of developing an opinion of value; an opinion of value. (Adjective) of or pertaining to appraising and related functions such as appraisal practice or appraisal services.)

Appraiser's Peers: Other appraisers who have expertise and competency in a similar type assignment.

Assignment: A valuation service that is provided by an appraiser as a consequence of an agreement with a client.

Client[2]: The party or parties (i.e., individual, group, or entity) who engage an appraiser by employment or contract in a specific assignment, whether directly or through an agent.

Cost Approach: A set of procedures through which a value indication is derived for the fee simple interest in a property by estimating the current cost to construct a reproduction of (or replacement for) the existing structure; including an entrepreneurial incentive, deducting depreciation from the total cost, and adding the estimated land value. Adjustments may then be made to the indicated value of the fee simple interest in the subject property to reflect the value of the property interest being appraised.

Credible: Worthy of belief.

Discounted Cash Flow (DCF) Analysis: The procedure in which a discount rate is applied to a set of projected income streams and a reversion. The analyst specifies the quantity, variability, timing, and duration of the income streams as well as the quantity and timing of the reversion, and discounts each to its present value at a specified yield rate.

Easement: The right to use another's land for a stated purpose.

Exposure Time[3]: An opinion, based on supporting market data, of the length of time that the property interest being appraised would have been offered on the market prior to the hypothetical consummation of a sale at market value on the effective date of the appraisal.

Fee Simple Estate: Absolute ownership unencumbered by any other interest or estate, subject only to the limitations imposed by the governmental powers of taxation, eminent domain, police power, and escheat.

Highest and Best Use: The reasonably probable use property that results in the highest value. The four criteria the highest and best use must meet are legal permissibility, physical possibility, financial feasibility, and maximum productivity.

Income Approach (income capitalization approach): Specific appraisal techniques applied to develop a value indication for a property based on its earning capability and calculated by the capitalization of property income.

Intended Use: The use(s) of an appraiser's reported appraisal or appraisal review assignment results, as identified by the appraiser based on communication with the client at the time of the assignment.

[1] Uniform Standards of Professional Appraisal Practice, 2020-2021 Edition
[2] Uniform Standards of Professional Appraisal Practice, 2020-2021 Edition
[3] Uniform Standards of Professional Appraisal Practice, 2020-2021 Edition

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Intended User: The client and any other party as identified, by name or type, as users of the appraisal or appraisal review report by the appraiser, based on communication with the client at the time of the assignment.

Leased Fee (leased fee interest): The ownership interest held by the lessor, which includes the right to receive the contract rent specified in the lease plus the reversionary rights when the lease expires.

Leasehold Interest: The right held by the lessee to use and occupy real estate for a stated term and under the conditions specified in the lease.

Report[4]**:** Any communication, written or oral, of an appraisal or appraisal review that is transmitted to the client or a party authorized by the client upon completion of an assignment.

Sales Comparison Approach: The process of deriving a value indication for the subject property by comparing sales of similar properties to the property being appraised, identifying appropriate units of comparison, and making adjustments to the sale prices (or unit prices, as appropriate) of the comparable properties based on relevant, market-derived elements of comparison. The sales comparison approach may be used to value improved properties, vacant land, or land being considered as though vacant when an adequate supply of comparable sales is available.

Scope of Work: The type and extent of research and analyses in an appraisal or appraisal review assignment.

SOURCE: Appraisal Institute, *The Dictionary of Real Estate Appraisal*, 6th ed. (Chicago: Appraisal Institute, 2015)

[4] Uniform Standards of Professional Appraisal Practice, 2020-2021 Edition

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Neighborhood Data

Location

The subject property is located on South Waccamaw Drive within the Garden City Beach area. The property has a Murrells Inlet address and is located on the intracoastal waterway of Murrells Inlet, a coastal area of Georgetown County. The general neighborhood boundaries are north by US Hwy 17; south and east by the Atlantic Ocean; and on the west by Ocean Hwy (US Hwy 17). Overall, the neighborhood has excellent access from interstate highways, secondary highways, as well as the intracoastal waterway.



Uses

The subject neighborhood is characterized by commercial and residential uses. Beach oriented residential uses are predominate within the linear neighborhood with the south end of the area being limited for more commercial uses by commercial PUD. The primary travel corridor of US Hwy. 17 Business is Murrells Inlet, a commercial area cloistered with restaurant uses. The neighborhood is built out with limited vacant land for new construction.

Utilities

Utilities are widely available in the neighborhood but must be checked on a case by case basis. Utilities in the subject neighborhood consist of water and sewer provided by Georgetown County; electricity provided by Dominion Energy; natural gas, if available, provided by Dominion Energy; gas provided by Suburban Propane; telephone service provided by AT&T as well as a number of independent carriers; and cable service provided by Spectrum. All available public utilities appear to be in adequate supply for development in the area.

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Government

Governmental considerations generally include zoning and building codes, real estate tax burdens, any special assessments for fire and police protection, schools, and other governmental services. The properties located within the neighborhood are within Georgetown County and are subject to the Georgetown County Zoning Ordinance. Land within the neighborhood is zoned for some type of residential use with a PUD for commercial use with certain areas being protected under a conservation preservation designation. Building improvements are under the jurisdiction of Georgetown County.

Georgetown County is the taxing authority for real estate within the subject neighborhood. Assessments and millage rates are comparable to other similar neighborhoods. It is expected that millage rates will continue to increase based on historical figures with no additional special assessments anticipated. The millage rates should not create an adverse effect on the market value of properties in the neighborhood due to real estate tax burden.

Social Considerations

The Georgetown area has a well-educated population base which has seen a steady increase in population. In addition, the available education within the area provides the area with a well-educated workforce. The stability of the neighborhood indicates a positive social environment which should allow the neighborhood to remain in a stable period.

Economic Considerations

As stated previously, the majority of the immediate neighborhood is characterized by residential uses with commercial uses limited by commercial PUD. As indicated, there is limited vacant land in the area for new development. Current market data indicates the primary motivation of purchase for restaurant buildings is for owner occupied uses. Older properties similar to the subject have been renovated and continue to be utilized as the original use. This will continue until demand for redevelopment increases to point that the improvements will be razed for redevelopment.

Market Analysis

The initial market analysis consisted of using Co Star real estate data to search for waterfront restaurants in the Grand Strand area. This search let to a limited amount of data. The Co Star search was expanded along the eastern seaboard searching for waterfront restaurants. The focus of this search was primarily SC, NC and Georgia. This search produced adequate waterfront sales to research. This search also produced several waterfront restaurant leases to research.

Data conformation with brokers actively involved in restaurant sales and leases produced additional sale and lease leads. These additional leads were researched through public records for Horry and Georgetown Counties. The initial market analysis indicated that waterfront sites did produce a premium. The additional research produced additional local sales that were deemed more comparable than the out of state sales initially located in the search. I also researched all restaurant sales in a five year period in Co Star within the grand strand area to produce an overview of the total market for restaurants. This data provides insight on capitalization rates and vacancy rates within this restaurant market.

A summary of the CoStar Market Analysis for restaurants in the Grand Strand area is shown on the following page.

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Sale Comps Analytics

CAP RATE	SALE PRICE/SF	AVERAGE SALE PRICE	SALES VOLUME	SALE VS ASKING PRICE	AVERAGE SF	MONTHS TO SALE
8.6%	$127	$1 M	$126 M	-9.5%	7.2 K	9.8

Key Metrics

Sales Volume	Survey	Lowest	Highest
Transactions	178	-	-
Sales Volume	$126 M	$271	$11.8 M
Properties Sold	137	-	-
Sold SF	1.3 M	492	185 K
Average SF	7.2 K	492	185 K

Sales Price	Survey	Lowest	Highest
Cap Rate	8.6%	5.4%	12.1%
Sale Price/SF	$127	$0	$849
Average Sale Price	$1 M	$271	$11.8 M
Sale vs Asking Price	-9.5%	-37.2%	0.6%
% Leased at Sale	96.6%	0%	100%

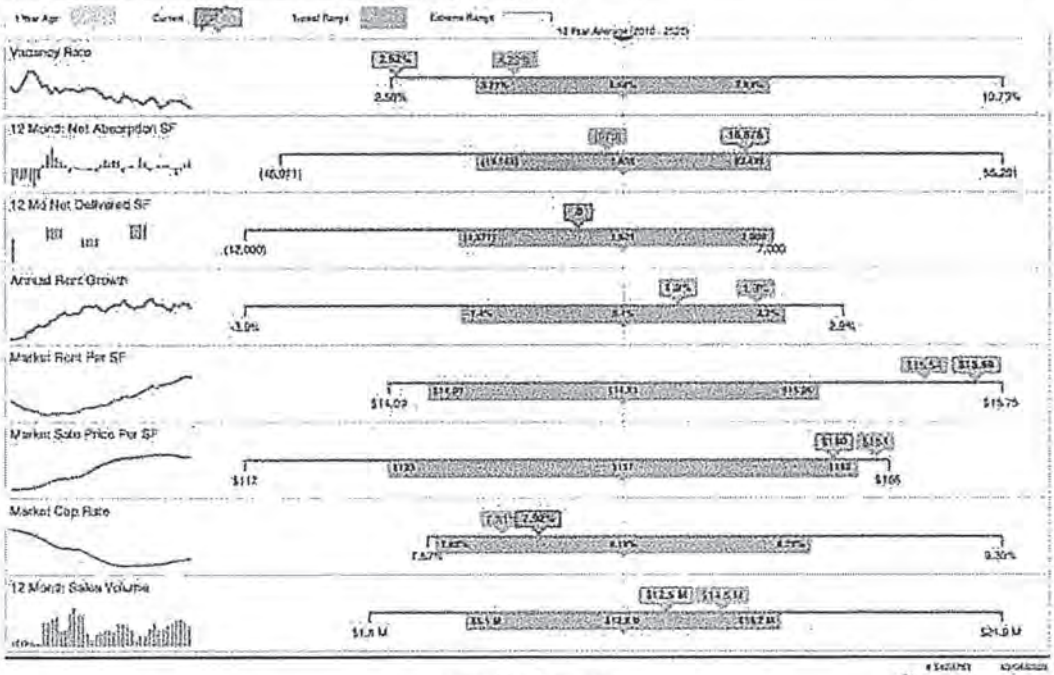
For Sale	Survey	Lowest	Highest
Listings	-	-	-
For Sale SF	-	-	-
List Price/SF	-	-	-
Cap Rate	-	-	-
Average SF	-	-	-

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CoStar

Sale Comps Analytics

Key Performance Indicators

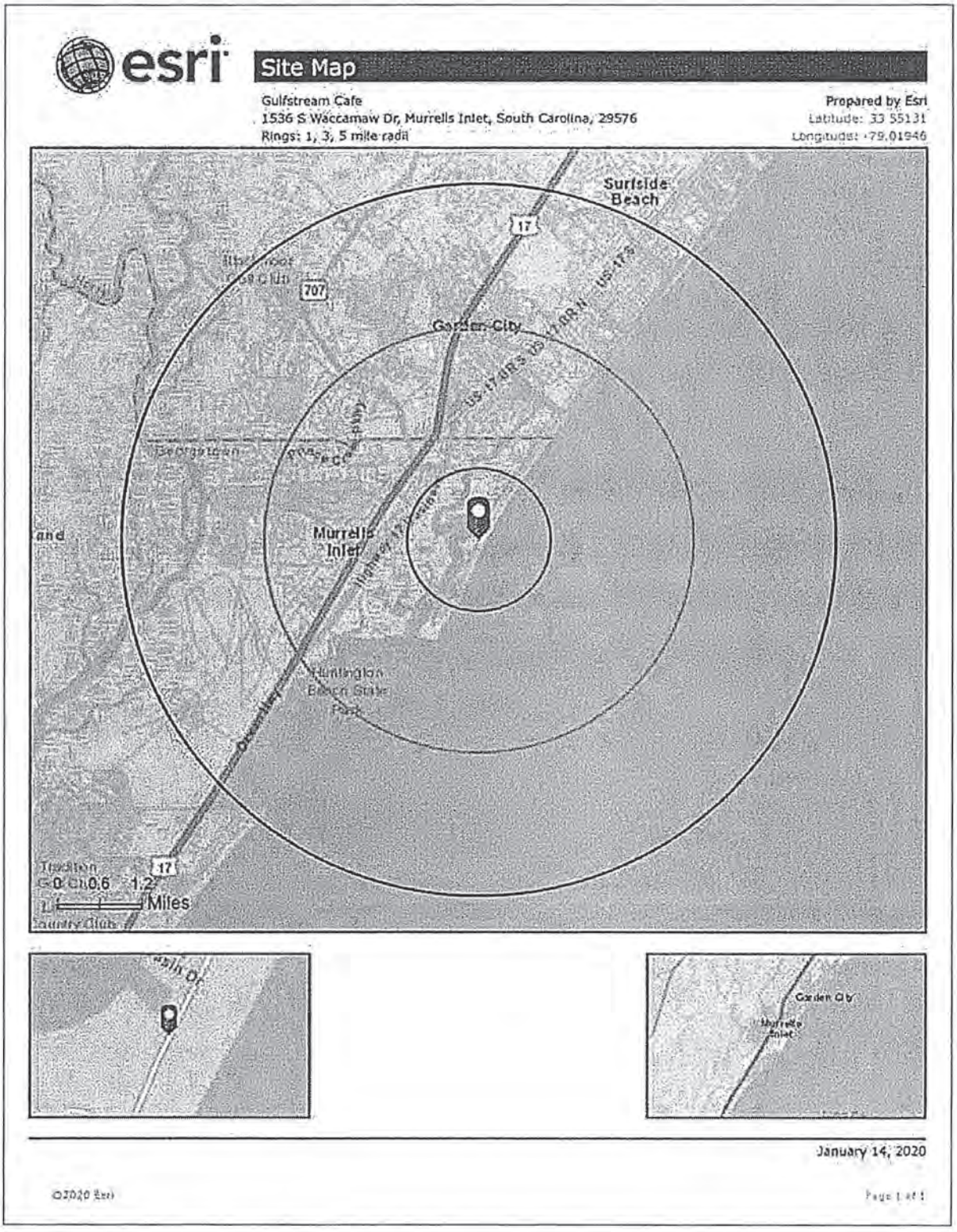


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CoStar

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On the following pages is a Graphic Profile analysis covering a 1, 3, and 5 mile radii of the subject property prepared by *The Site To Do Business.*



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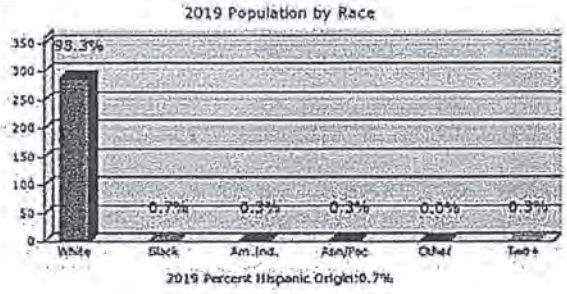
esri

Graphic Profile

Gulfstream Cafe
1536 S Waccamaw Dr, Murrells Inlet, South Carolina, 29576
Ring: 1 mile radius

Prepared by Esri
Latitude: 33.55131
Longitude: -79.01946

2019 Population by Race

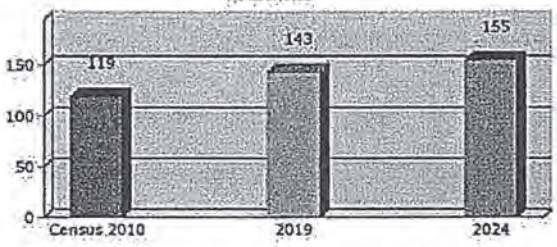


2019 Percent Hispanic Origin: 0.7%

2019 Population by Age



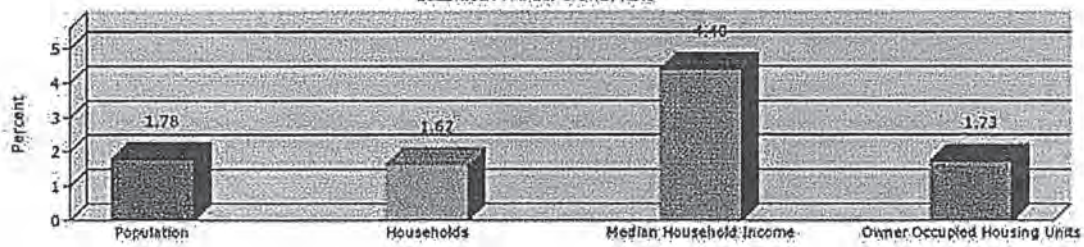
Households



2019 Home Value



2019-2024 Annual Growth Rate



Household Income



Source: U.S. Census Bureau, Census 2010 Summary File 1. Esri forecasts for 2019 and 2024.

January 14, 2020

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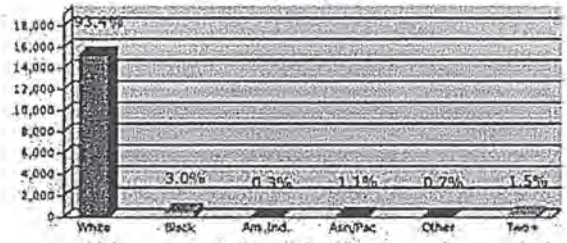
esri

Graphic Profile

Gulfstream Cafe
1536 S Waccamaw Dr, Murrells Inlet, South Carolina, 29576
Ring: 3 mile radius

Prepared by Esri
Latitude: 33.55131
Longitude: -79.01946

2019 Population by Race

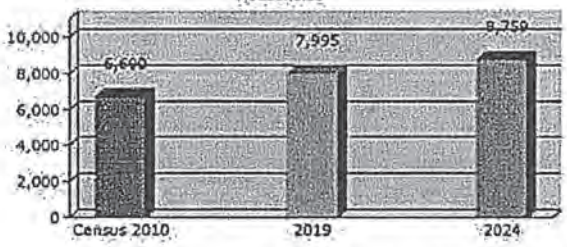


2019 Percent Hispanic Origin: 2.4%

2019 Population by Age



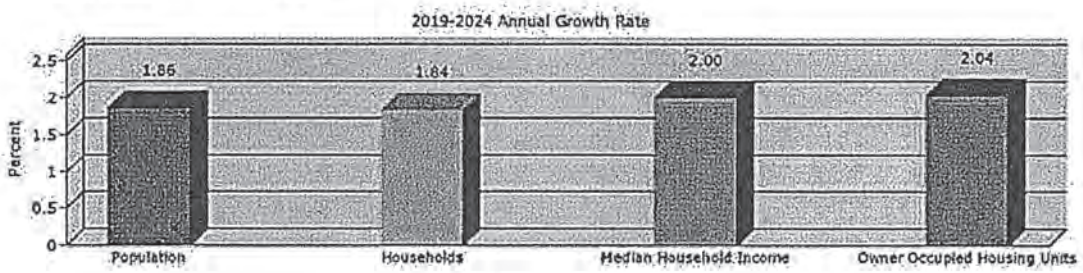
Households



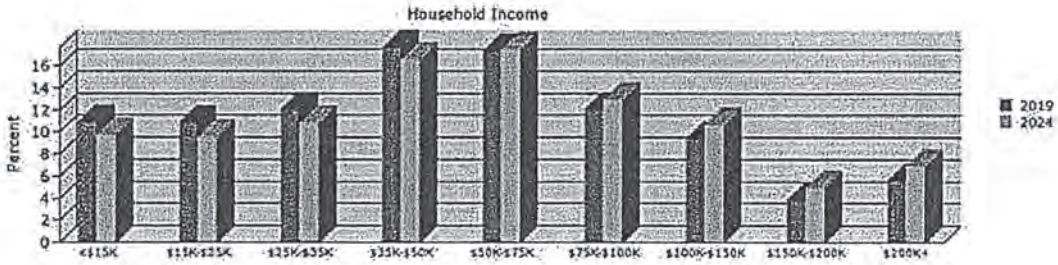
2019 Home Value



2019-2024 Annual Growth Rate



Household Income



Source: U.S. Census Bureau, Census 2010 Summary File 1. Esri forecasts for 2019 and 2024.

January 14, 2020

©2019 Esri

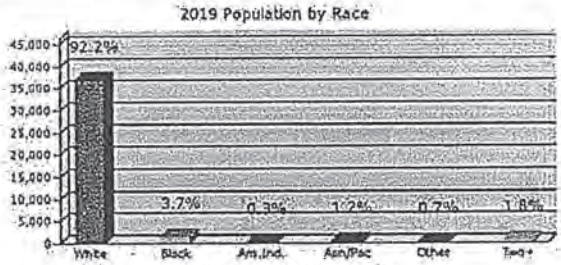
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esri **Graphic Profile**

Gulfstream Cafe
1536 S Waccamaw Dr, Murrells Inlet, South Carolina, 29576
Ring: 5 mile radius

Prepared by Esri
Latitude: 33.59131
Longitude: -79.01946

2019 Population by Race

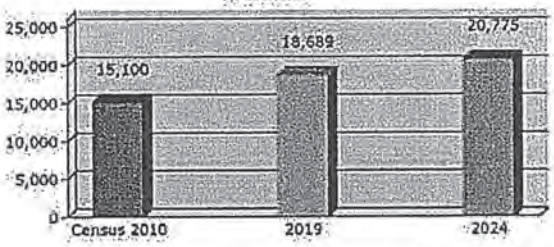


2019 Percent Hispanic Origin: 2.6%

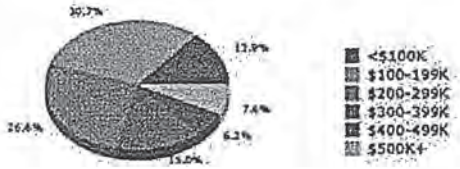
2019 Population by Age



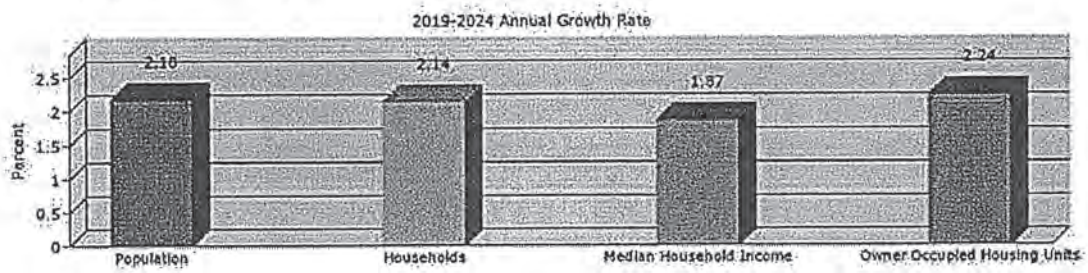
Households



2019 Home Value



2019-2024 Annual Growth Rate



Household Income



Source: U.S. Census Bureau, Census 2010 Summary File 1. Esri forecasts for 2019 and 2024.

January 14, 2020

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Description of Site

Location/Description

The subject property is an interior site located along the northwest side of South Waccamaw Drive, Murrells Inlet, within Georgetown County, South Carolina. Full access to the site is available from South Waccamaw Drive.



Source: Georgetown County GIS (for demonstration purposes only, not to scale)

Size and Shape

The subject property, comprised of one (1) parcel, contains a total of approximately 0.58 acres of land (25,366 SF) of which 12,085 square feet is usable space with the remainder of 13,281 square feet being marsh. The site is irregular in shape. The site contains a 2-story restaurant with lower level storage containing 5,161 gross square feet. A copy of the GIS Map is shown above to provide a better understanding of the size, shape, and location of the property. A plat of the subject property is in the **Subject Photographs and Exhibits** section of this report.

Road Frontage/Access

The site has approximately 242.10 linear feet of frontage along South Waccamaw Drive. Access to the property is by way of South Waccamaw Drive, a two (2) lane road.

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Topography, Drainage and Soils

The topography of the land is mostly level and at grade with South Waccamaw Drive with the rear of the property gently sloping towards the marsh. The drainage appears to be adequate. The soils on the site are suitable for development as indicated by the current improvements which have been developed on the subject and adjacent properties.

Easements/Encroachments

Typical utility easements were located on the property as noted from inspection. These easements do not have a negative impact on the use or desirability of the property.

Zoning

The subject property is zoned PD, Planned Development, by Georgetown County. This district is intended to "provide opportunities to create more desirable environments through the application of flexible and diversified land development standards under a comprehensive plan and program that is professionally prepared. The Planned Development District is intended to be used to encourage the application of new techniques and technology to community development which will result in superior living or development arrangements with lasting values. It is further intended to achieve economics in land development, maintenance of street systems and utility networks while providing buildings groupings for privacy, usable attractive open space, buffer zones, safe circulation and the general well-being of the inhabitants.." The current improvement utilized as a restaurant building is a legally conforming use. The setbacks standards and building height standards within this district are as follows:

Setbacks and Building Height Requirements			
Front	Rear	Side	Maximum Building Height

Setbacks and Building Height Requirements based on Development Plan

Deed Restrictions

No recorded deed restrictions on the use of the property were located.

Tax Assessment Data

The tax data for the subject properties was obtained from the tax records of Georgetown County with the property identified on Tax Map 41-0129-005-03-00. According to a review of the Georgetown County Tax Records, the property has a total market value of $1,065,300, with $315,300 allocated to the land and $750,000 allocated to the building. The chart below shows the size (acres) per county assessor, deed, and/or plat, market value and taxes for the property. The 2019 taxes in the amount of $14,563.12 have not been paid, as of the date of this appraisal. The millage rate and taxes for 2020 have not yet been assessed.

2019 Tax Summary									
Tax Map ID	Location	Based on Acreage	Assessor's Market Value					2019 Taxes	Paid
			Land	Building	Agricultural	Other	Total		
41-0129-005-03-0	1536 South Waccamaw	1.00	$315,300	$750,000	$0	$0	$1,065,300	$14,563.12	No

Source: Georgetown County Assessor / Georgetown County Treasurer

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The current tax law for the assessment of real estate has a provision that permits the tax assessor to adjust the market value for tax purposes to the assessable transfer of interest value (contract sales price). For counties with assessed values considerably less than actual market values, this will result in higher real estate taxes. The subject property, as a whole, has a current market value of $1,065,300 (aggregate). State property tax legislation (Act 388) passed in 2007 allows for reassessment increase to be capped at 15% over a five year period. Additionally, when a property is sold in a transaction that is considered an assessable transfer of interest (ATI), the property is subject to an immediate reassessment to the amount of the sales price. Legislation approved in 2011 is applicable to all primary residential properties which are assessed at a six percent (6%) rate and include commercial properties, investment properties and second homes but excludes manufacturing properties assessed at 10.5%. Properties will receive a 25% exemption from the sales value for taxation purposes. The exemption cannot decrease a property's assessed tax value beyond what is already established on the county tax rolls. All properties will continue to be subject to each county's reassessment program and will be subject to the 1% cap on tax increases for each five-year reassessment period.

The following is an analysis of the projected taxes if sold at an assessable transfer of interest based on market value of $1,850,000. The property would be eligible for the 25% exemption.

Actual Tax Analysis

1536 South Waccamaw Drive, Murrells Inlet, SC
TMS# 41-0129-005-03-00

SF	5,161	
MV for Tax	$1,065,300	
MV Per SF	$206.41	
Assessed Value	$63,918	6.0%
Rounded	$63,918	
Tax District - District 2 City of Cayce	0.225400	
Tax Amount	$14,407.12	before credit
Local Option Tax Credit	$0.00	
Fees/Penalties	$156.00	
Tax Amount	$14,563.12	
RE Taxes Per SF	$2.82	
Tax Credit		
MV	$63,918	
Lost Credit Factor	0.000000	
Tax Credit	$0.00	

ATI at 75% of Market Value

1536 South Waccamaw Drive, Murrells Inlet, SC
TMS# 41-0129-005-03-00

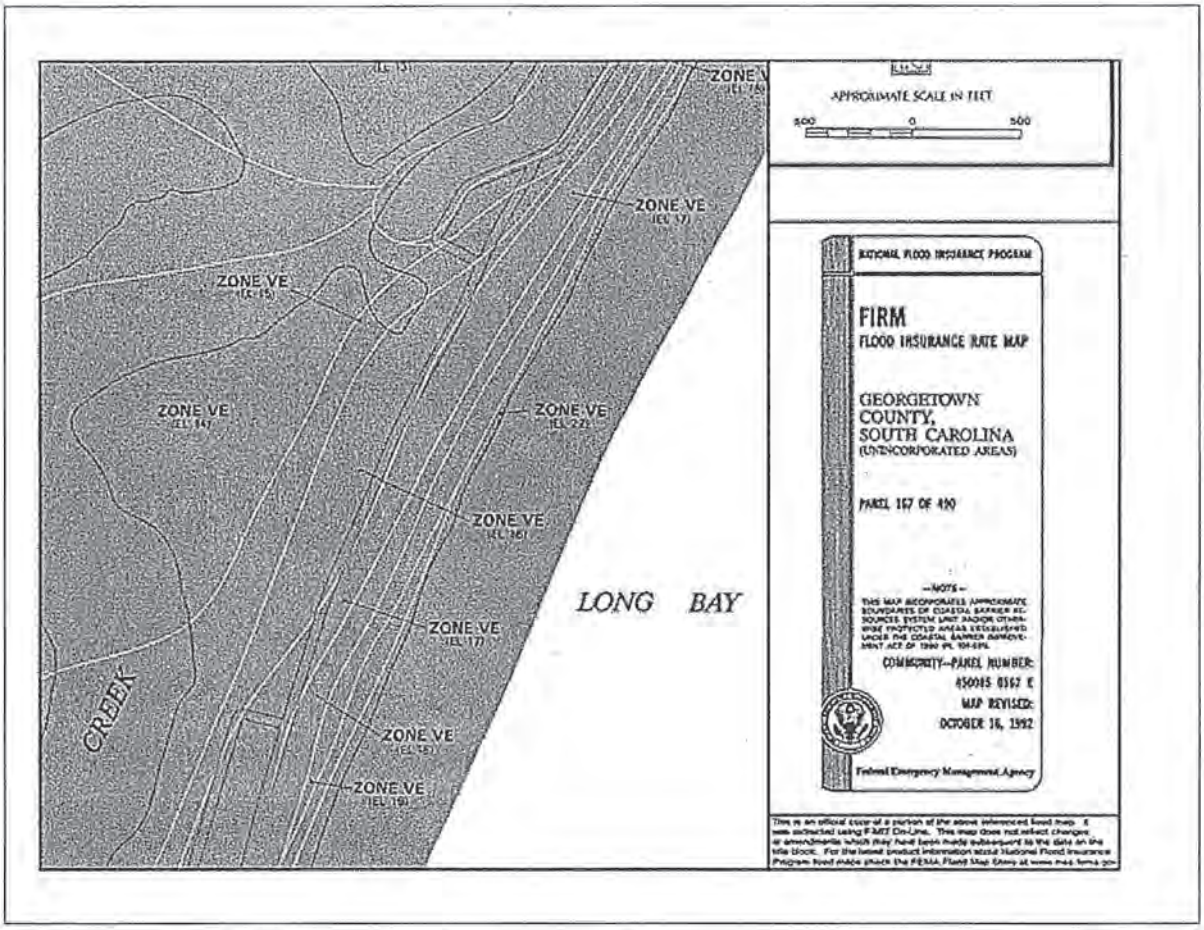
SF	5,161	
MV for Tax	$1,387,500	
MV Per SF	$268.84	
Assessed Value	$83,250	6.0%
Rounded	$83,250	
Tax District - District 2 City of Cayce	0.225400	
Tax Amount	$18,764.55	before credit
Local Option Tax Credit	$0.00	
Fees/Penalties	$0.00	
Tax Amount	$18,764.55	
RE Taxes Per SF	$3.64	
Tax Credit		
MV	$83,250	
Lost Credit Factor	0.000000	
Tax Credit	$0.00	

Flood Insurance Rate Map (FIRM)

According to a review of the Georgetown County FIRM Map 4500850167E, dated October 16, 1992, the property is located within Zone VE, which is in an area of coastal flood with velocity hazard

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(wave action) based flood elevations determined. A copy of the flood map is shown below to provide the reader a better understanding as to the location of this coastal flood area.



Potential Environmental Hazards

An environmental site assessment has not been performed on the subject property. I am not an expert in environmental conditions; however, I recommend that any potential purchaser of the site have an environmental site assessment performed. If an environmental site assessment is performed and negative environmental conditions are present, a re-appraisal may be required.

Wetlands

A wetlands delineation has not been provided. The available survey makes no reference to wetlands. I have assumed the property has no significant jurisdictional wetlands which would have a negative impact on the site.

Utilities

Utilities available to the site include water and sewer provided by the Georgetown County; electricity and natural gas provided by Dominion Energy; gas provided by Suburban Propane; telephone service provided by AT&T (formerly BellSouth) as well as independent providers, and cable service provided by Spectrum. All utilities are available in adequate supply at reasonable rates.

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Description of Improvements

Overview

The present improvements consist of a 2-story restaurant with lower level storage containing 5,161 gross square feet in the restaurant and 3,693 gross square feet of lower level storage. This improvement was originally constructed as a full service restaurant and the current use continues as a full service restaurant. The improvements were constructed in 1985, renovated in 1995. The overall physical condition is average with the subject's actual age being approximately 36 years with an effective age being approximately 20 years. The total economic life of the improvements is approximately 50 years with the remaining economic/useful life being approximately 30 years. A copy of the Sketch is contained in the **Subject Photographs and Exhibits** section of the report.

Dimensions

The dimensions of the building are rectangular containing 5,161 gross square feet in the restaurant. A copy of the Sketch is contained in the **Subject Photographs and Exhibits** section of the report to provide the reader a better understanding of the size and shape of the building.

Exterior

The building, designed and used for a restaurant, is constructed on a concrete foundation with wood exterior walls and railings. The roofing is frame wood system with composition shingles. A decorative façade is located on the front of the building with insulated double pane glass windows. One (1) exterior doorway provides entry and exit to the improvements at the front covered porch. Photographs of the exterior are contained in the **Subject Photographs and Exhibits** section of the report. The sidewalks and entries accommodate handicapped ingress and egress to the improvements.

Interior

The interior of the building is an average quality restaurant. The interior is made up of the main level with a waiting area, hostess area, a large dining area, bar area, kitchen with prep area, storage area, restrooms and outside dining area. The upper level has a large dining area, a bar area, and outside dining. The lower level storage area is unfinished and used primarily for storage. The flooring varies between carpet, vinyl, and tile. Walls are drywall and ceilings are painted sheetrock. The equipment located in the building is excluded from the valuation. Photographs of the interior are contained in the **Subject Photographs and Exhibits** section of the report

HVAC

The HVAC system is a split central system. This system is typical of other coastal restaurants. I am not an expert in HVAC systems but it appears the HVAC system was working at the time of my inspection.

Electrical

The electrical system is typical of this type improvement and appears adequate for the current requirements of a restaurant. There did not appear to be any visible deficiencies in the electrical system upon inspection. However, I am not an expert on electrical systems.

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Parking

Parking for the subject property is located along the front and side of the building with additional easement access to parking located within the adjacent parking lot. With the parking easement in place, the building has 62 spaces within the easement area, and 16 dedicated spaces on site, for a total of 78 available spaces with the parking easement. Ingress and egress to the parking locate is by way of South Waccamaw Drive. The asphalt parking lot has concrete walks, curbs and gutters, and lighting. There is adequate parking spaces, easement access to additional parking spaces and handicap space to operate this business.

Landscaping

Although, the subject property is landscaped with good quality trees, shrubs and grass, the front of the property is mostly asphalt paving. The landscaping is considered good for a restaurant.

Condition

The subject building was designed, constructed and functional as a 2-story restaurant with lower level storage. The overall physical condition of the interior is average with the exterior condition being average.

Equipment

The furniture, fixtures and equipment has been excluded from this appraisal.

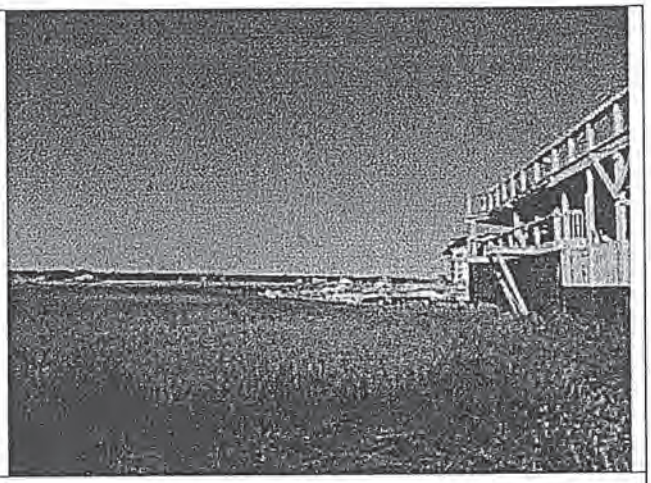
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Subject Photographs and Exhibits

Date of Subject Photos: November 25, 2019



FRONT VIEW



VIEW OF MARSH AREA



EASEMENT PARKING AREA



EASEMENT PARKING AREA



EASEMENT PARKING AREA



CONSTRUCTION ON ADJUSTMENT PROPERTY

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Date of Subject Photos: November 25, 2019



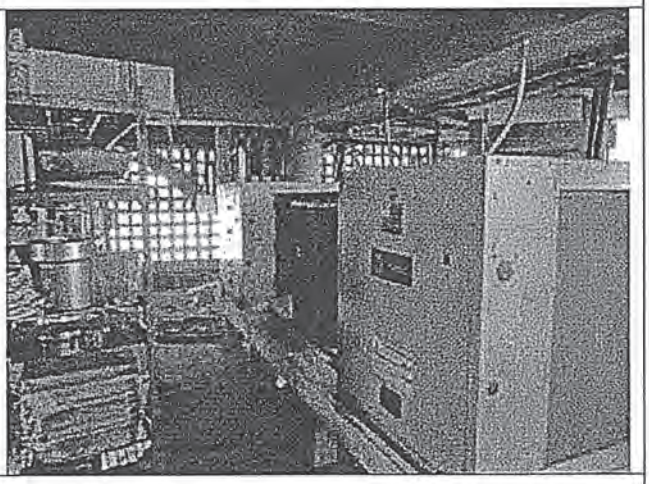
SIDE VIEW



REAR VIEW



LOWER LEVEL STORAGE



LOWER LEVEL STORAGE



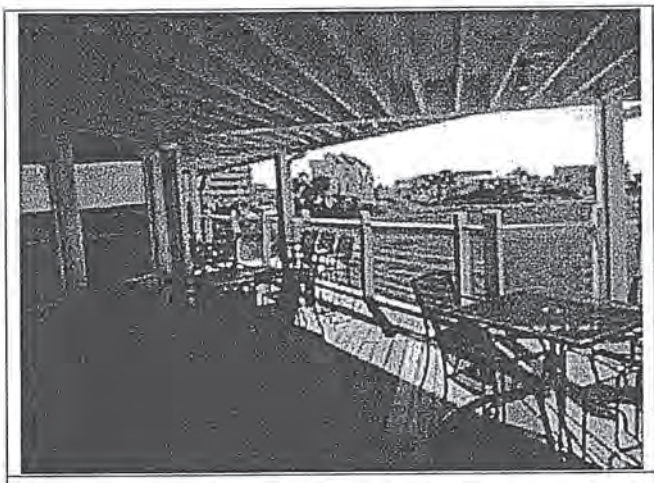
FIRST FLOOR ENTRYWAY



VIEW OF MARSH

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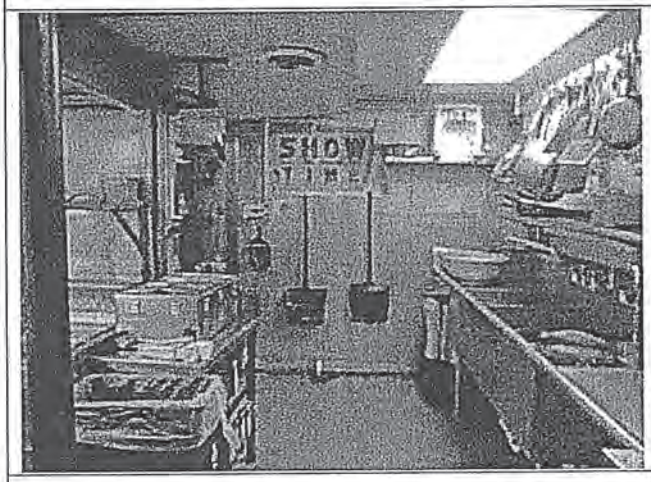
Date of Subject Photos: November 25, 2019



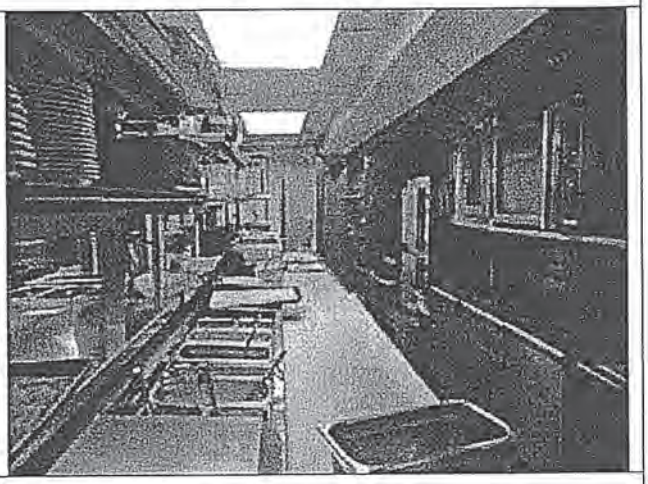
FIRST FLOOR OUTSIDE DINING AREA



KITCHEN AREA



KITCHEN AND PREP AREA



KITCHEN AND PREP AREA



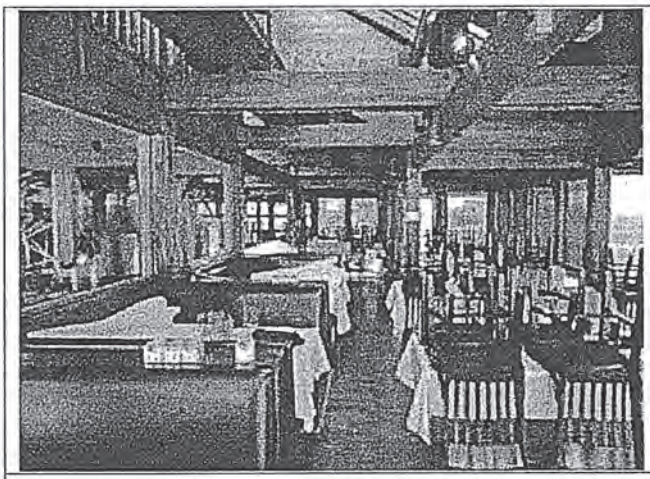
DRINK AREA



KITCHEN PREP AREA

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Date of Subject Photos: November 25, 2019



MAIN DINING AREA



MAIN DINING AREA



STAIRWELL TO UPPER LEVEL



UPPER LEVEL DINING AREA



TYPICAL MENS' RESTROOM



TYPICAL WOMENS' RESTROOM

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Date of Subject Photos: November 25, 2019



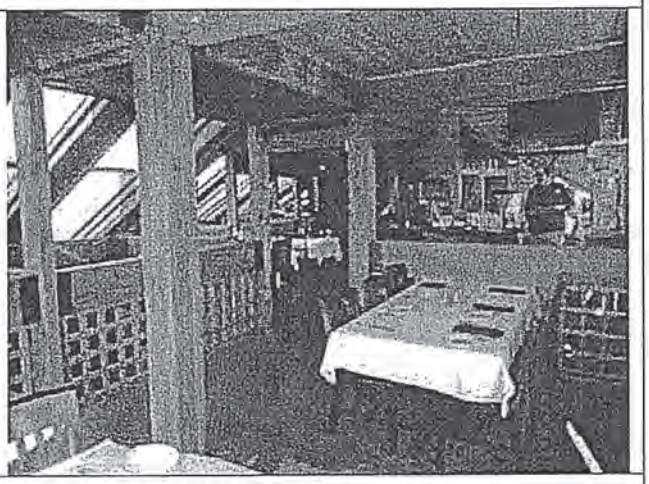
BAR



OFFICE



UPPER LEVEL DINING AREA



UPPER LEVEL DINING AREA



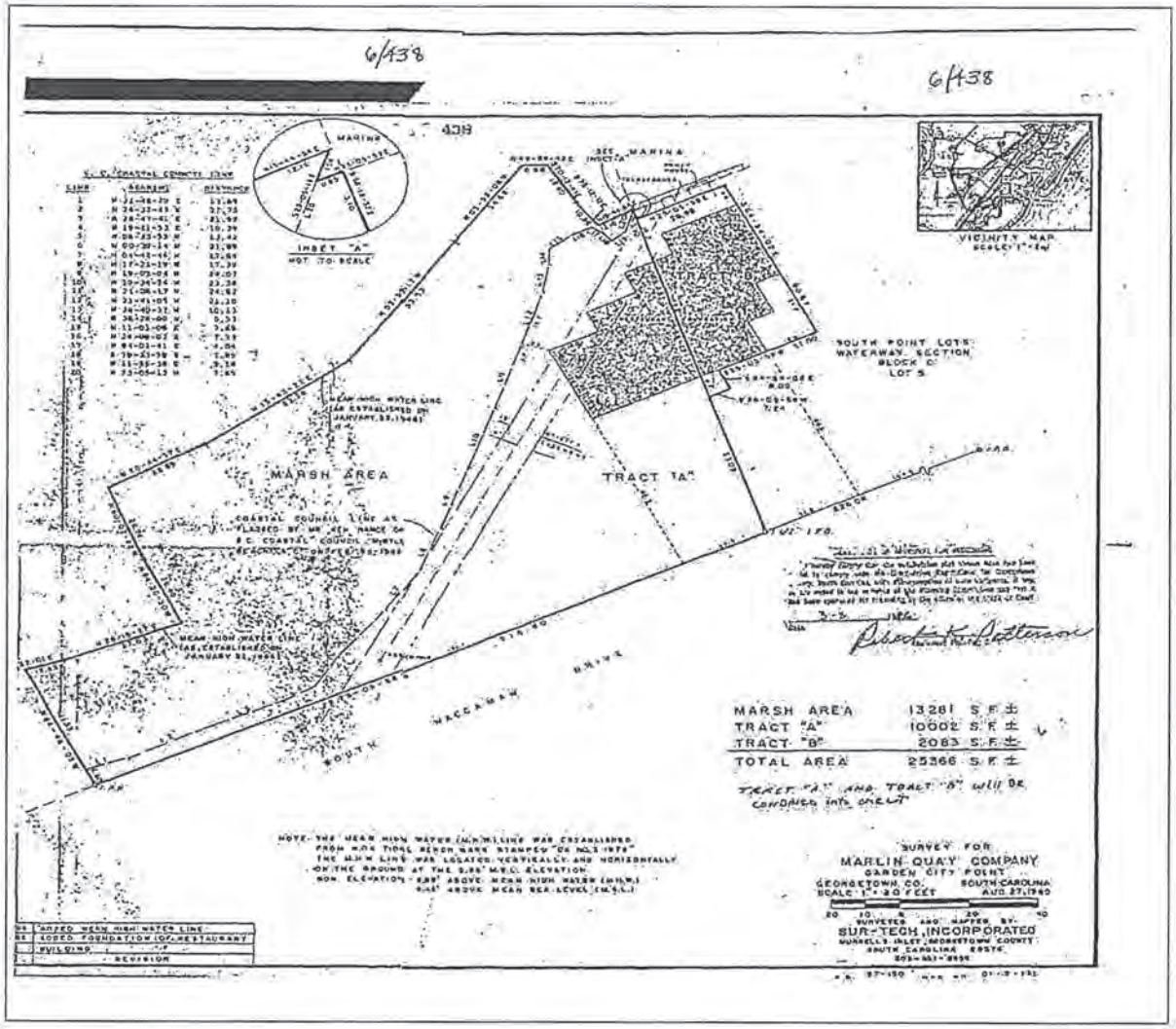
UPPER LEVEL DINING AREA



UPPER LEVEL DINING AREA

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SUBJECT PLAT



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SKETCH – FIRST FLOOR (Main)

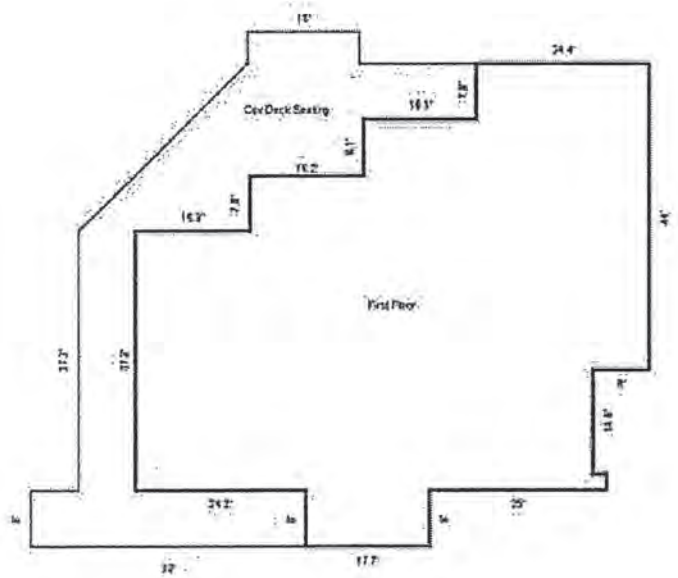
SKETCH/AREA TABLE ADDENDUM

File No 19-072

SUBJECT

Property Address 1536 S. Waccamaw Dr.
City Murrells Inlet County Georgetown State SC Zip 29576
Borrower
Lender/Client Bloom Parham, LLP LC Address 977 Ponce de Leon Ave., Atlanta, GA 30306
Appraiser Name REAC, LLC Appr Address 17 Calendar Ct., Ste. 1, Columbia, SC 29206

IMPROVEMENTS SKETCH



Scale: 1" = 20'

AREA CALCULATIONS

AREA CALCULATIONS SUMMARY

Code	Description	Net Size	Net Totals
GBAI	First Floor	3693.32	3693.32
P/P	Cov Deck Seating	1364.76	1364.76
Net BUILDING Area		(rounded)	3693

BUILDING AREA BREAKDOWN

Breakdown			Subtotals
First Floor			
20.1	x	73.0	1467.30
14.9	x	65.0	968.50
8.0	x	17.7	141.60
2.2	x	66.9	147.18
7.9	x	56.7	447.93
8.1	x	40.5	328.05
7.9	x	24.4	192.76
7 Items		(rounded)	3693

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SKETCH – SECOND FLOOR (Upper)

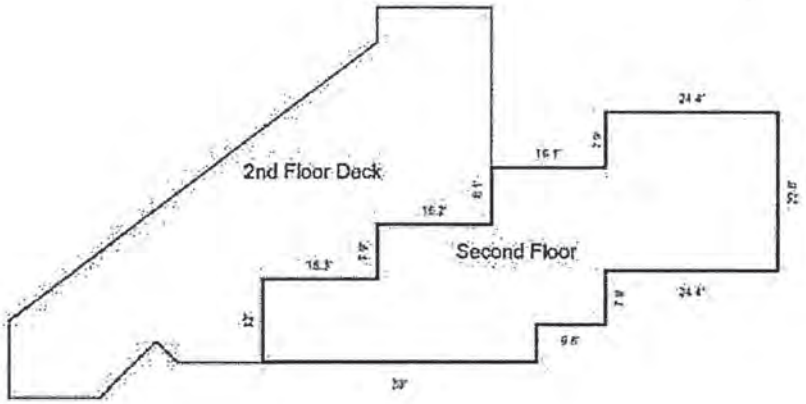
SKETCH/AREA TABLE ADDENDUM

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SUBJECT

Property Address 1536 S. Waccamaw Dr.
City Murrells Inlet County Georgetown State SC Zip 29576
Borrower
Lender/Client Bloom Parham, LLP LC Address 977 Ponce de Leon Ave., Atlanta, GA 30306
Appraiser Name REAC, LLC Appr Address 17 Calendar Ct., Ste. 1, Columbia, SC 29206

IMPROVEMENTS SKETCH



Scale: 1" = 20'

AREA CALCULATIONS

AREA CALCULATIONS SUMMARY

Code	Description	Net Size	Net Totals
GBAL	Second Floor	1468.38	1468.38
P/P	2nd Floor Deck	1736.52	1736.52
Net BUILDING Area		(rounded)	1468

BUILDING AREA BREAKDOWN

Breakdown			Subtotals
Second Floor			
5.4	x	39.0	210.60
1.3	x	32.3	41.99
8.6	x	48.6	320.76
8.1	x	40.5	328.05
6.6	x	56.7	374.22
7.9	x	24.4	192.76
6 Items		(rounded)	1468

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SKETCH – AT GRADE STORAGE (Lower)

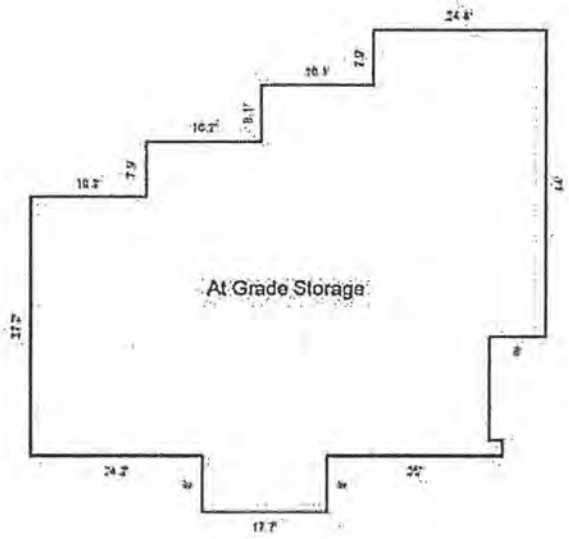
SKETCH/AREA TABLE ADDENDUM

File No 19-072

SUBJECT

Property Address 1536 S. Waccamaw Dr.
City Murrells Inlet County Georgetown State SC Zip 29576
Borrower
Lender/Client Bloom Parham, LLP L/C Address 977 Ponce de Leon Ave., Atlanta, GA 30306
Appraiser Name REAC, LLC Appr Address 17 Calendar Ct., Ste. 1, Columbia, SC 29206

IMPROVEMENTS SKETCH



Scale: 1" = 20'

AREA CALCULATIONS

AREA CALCULATIONS SUMMARY

Code	Description	Net Size	Net Totals
OTH	At Grade Storage	3693.32	3693.32

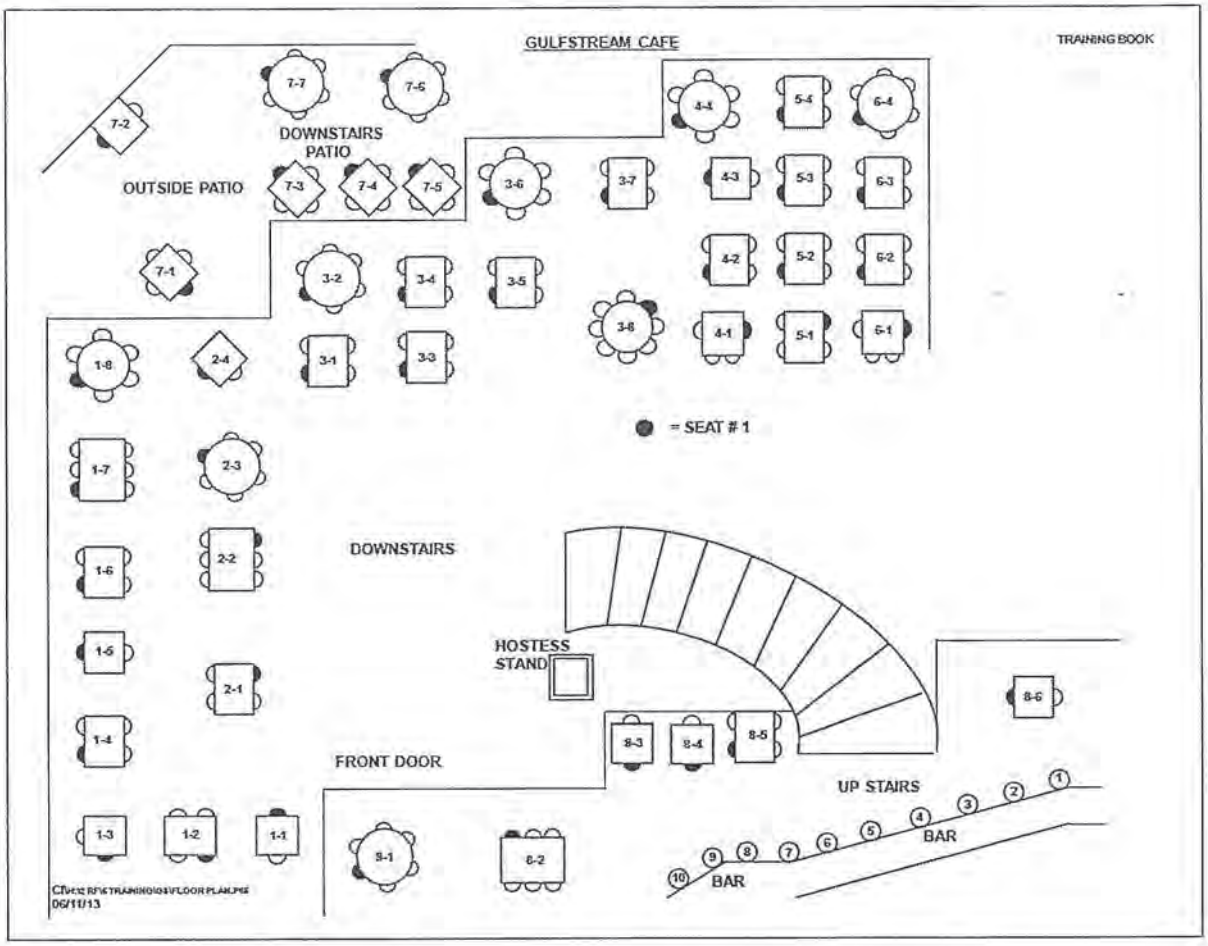
AREA BREAKDOWN

Breakdown	Subtotals

Page 3 of 3

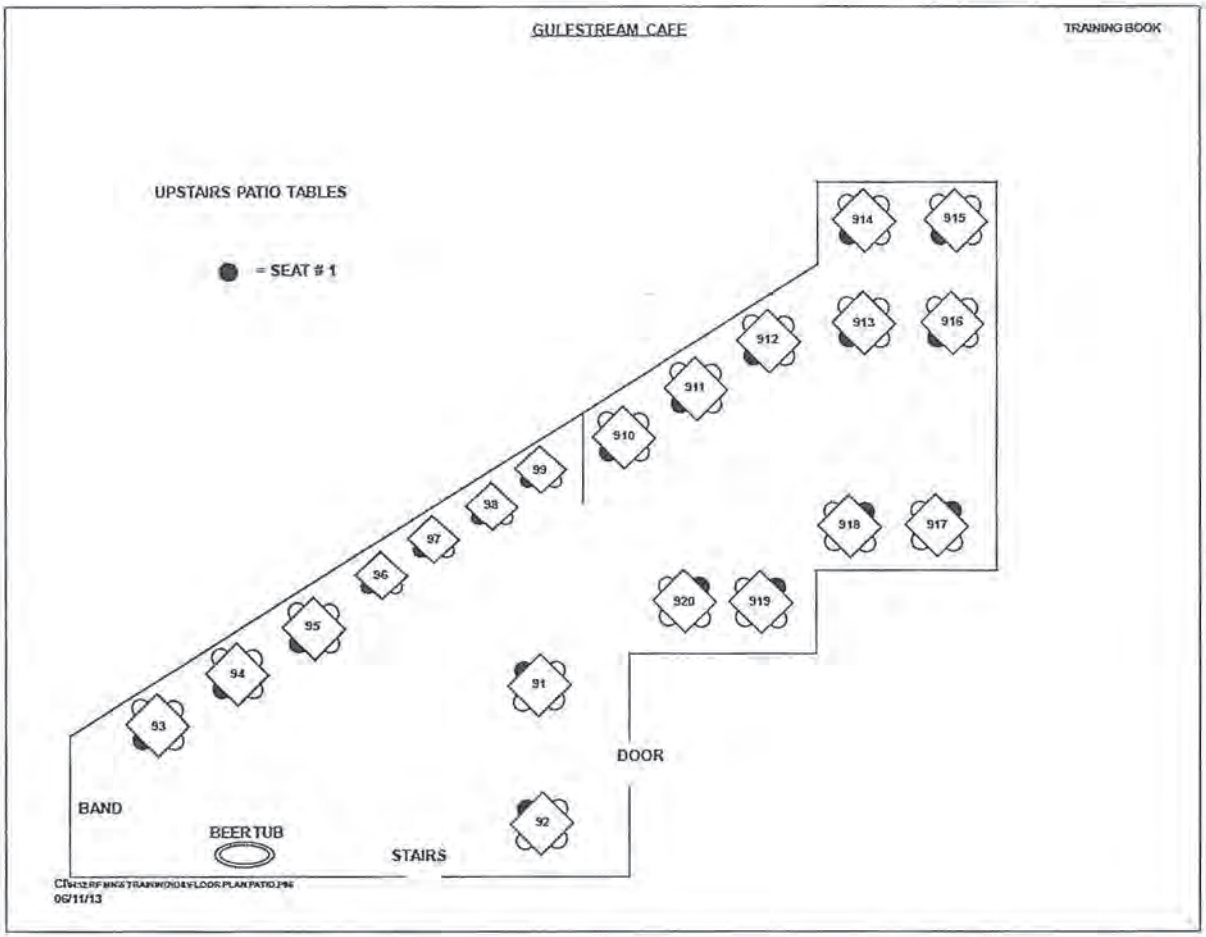
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FLOOR PLAN



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FLOOR PLAN



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Highest and Best Use

Introduction

The highest and best use is defined in The Dictionary of Real Estate Appraisal, sixth edition, published by the Appraisal Institute as "the reasonably probable use property that results in the highest value. The four criteria the highest and best use must meet are legal permissibility, physical possibility, financial feasibility, and maximum productivity."

Since the property is improved, two determinations of highest and best use must be made. The first determination is the highest and best use of the site as if vacant. The second determination will be the highest and best use of the site as improved. In order to determine the highest and best use of the property, the test of physical possibility, legal permissibility, financial feasibility and maximum productivity must be used both for the property as vacant and for the property as improved.

Highest and Best Use as if Vacant

The first constraint on the use of the subject property that must be considered is its physical characteristics. The size, location and shape of a site are the most important physical determinants of value. The site is a mostly irregular shaped tract containing 0.58 acres or 25,366 square feet of which 12,085 square feet is usable space with the remainder of 13,281 square feet being marsh. The site has frontage and access along South Waccamaw Drive. The topography of the land is mostly level and at grade with South Waccamaw Drive with the rear of the property gently sloping towards the marsh. As outlined in detail in the **Site Data** section of the report, the physical characteristics of the site are suitable for some type of development. All utilities are available to the site. The physical attributes are not considered limitations on the possible development of the site.

The primary legal limitation on the site is the Georgetown County Zoning Ordinance. The property is zoned PD, Planned Development. This district is intended to "provide opportunities to create more desirable environments through the application of flexible and diversified land development standards under a comprehensive plan and program that is professionally prepared. The Planned Development District is intended to be used to encourage the application of new techniques and technology to community development which will result in superior living or development arrangements with lasting values. It is further intended to achieve economics in land development, maintenance of street systems and utility networks while providing buildings groupings for privacy, usable attractive open space, buffer zones, safe circulation and the general well-being of the inhabitants." The setbacks standards and building height standards within this district are as follows:

Setbacks and Building Height Requirements			
Front	Rear	Side	Maximum Building Height

Setbacks and Building Height Requirements based on Development Plan

The PD, Planned Development, zoning designation limits the use of the property to a restaurant. Additional legal limitations include the building code requirements for Georgetown County. There are no other legal restrictions that should limit the use of the property.

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Financial feasibility is dependent upon the physically possible uses and the legally permissible uses of the property. The primary commercial development in the immediate area of the subject is of professional office buildings. As outlined in the **Neighborhood Data** section of the report, there is limited amount of vacant land available in the immediate area. Based upon these developments, it appears that the most financially feasible use of the site as if vacant is for construction of some type of restaurant development.

Based upon the physically possible uses, legally permissible uses and financially feasible uses, it is apparent that the maximally productive use and the highest and best use of the site as if vacant is for restaurant development which complies with the ordinance outlined. The most probable buyer of the property as vacant would be an owner user or investor.

Highest and Best Use as Improved

Highest and best use of a property as improved also takes into the consideration the physical possibility, legal permissibility, financial feasibility, and maximum productivity of the property as improved. If the property, as improved, has a higher value than the property as vacant, then the current improvements contribute value to the property and represent a higher and better use than the vacant property. The next question is if the improvements are the optimum improvement for the property. If not, then the current improvements could have value but may be an interim use for the property.

The improvements located on the property consist of a 2-story restaurant with lower level storage containing 5,161 gross square feet. The existing improvements are a legal and physically possible use of the site.

The financial feasibility of the improvements must be tested in the market. Sites similar to the subject have been developed with office buildings similar to the subject and existing buildings have been renovated. Land to building ratios for the properties analyzed for this report, range from 1.51 to 19.80. Utilizing the subject's floor foot print of 5,161 gross square feet indicates a land to building ratio of 2.34 to 1 based on the usable land area. The subject site is maximally improved for the site size and the overall size of the improvements. Buildings similar to the subject have a resale market in the area for owner occupancy. I used the sales of properties purchased for owner occupancy and market rents to test the feasibility for the subject project. The subject is owner-occupied. The market rental survey indicates the building is rented at a market rental rate with future increases at the option periods of years 6 and 11.

Market information indicates that the subject site would be best utilized with continued use as a restaurant with the benefit of the parking easement. Each of the sales analyzed herein was purchased with the motivation of the owner occupying the improvement. In the current market, the primary purchaser of this type of building is an owner occupant. Lease rates within a building of this type are currently $26.00 to $43.44 per square foot primarily structured on a net basis.

Therefore, based upon the considerations of physically possible uses, legally permissible uses, and financially feasible uses, it is my opinion that the maximally productive use of the property as improved is a restaurant, as presently improved. The most probable buyer of the property as improved would be an owner user.

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Sales Comparison Approach

Introduction

This is an appraisal procedure in which the market value estimate for the subject property is predicated upon prices in actual real estate transactions and considering current offerings, if any, with the former fixing the lower limit of value in a static or advancing market (pricewise) and fixing the higher limit of value in a declining market; and the latter fixing the higher limit of value in any market. It is a process of analyzing the sales of similar properties recently sold in order to derive an indication of the most probable sales price of the property being appraised. The reliability of this technique is dependent upon the availability of comparable sales data, the verification of the sales data, the degree of comparability or extent of adjustment necessary for factors such as time of sale, size, physical characteristics and motivation of the purchaser, and the presence or absence of any non-typical conditions affecting the sales price.

This approach is based upon the principles of supply and demand, substitution, balance and external conditions. The application of these principles in this approach to value will lead to a reasonable and well-supported conclusion for the value of the property being appraised.

The subject property is presently improved with a 2-story restaurant with lower level storage containing 5,161 gross square feet of restaurant space. I have located four (4) comparable similar building sales to compare with the subject property. The unit of comparison used in the sales comparison approach is price per square foot. These are the accepted unit of comparison/measure in properties similar to the subject. The detailed information about each comparable sale is located on the following pages.

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IMPROVED SALES SUMMARY TABLE

Comp	Address City	Grantor Grantee	Price Date	Price Per SF GBA	Year Built Construction
Subject	1536 South Waccamaw Drive Murrells Inlet	Marlin Quay Marina Corporation The Gulfstream Café, Inc.	-- 2/25/1986	-- 5,161	1985 Cedar
1	315 Canal Drive Carolina Beach	Harbor Masters Properties, LLC, a NC limited liability company Noelle Holdings, LLC and Stoked on the Water, LLC, both NC limited liability companies	$2,000,000 2/4/2019	$400.00 5,000	1971 Brick Veneer
2	1407 Shrimp Boat Ln Mt. Pleasant	PWM, LLC, a NC limited liability company GH Shem Creek, a SC limited liability company	$3,333,000 1/17/2019	$538.62 6,188	1985 Brick Veneer
3	4078 Hwy 17 ByPass Murrells Inlet	Burroughs Brothers Properties, Inc. 417 Callowhill, Inc., a PA corporation	$1,350,000 11/9/2018	$450.75 2,995	2004 Brick Veneer
4	2200 Little River Neck N Myrtle Beach	BOAC Marine, Inc. LR Neck Holdings, LLC	$1,900,000 8/1/2019	$380.00 5,000	1963 / 2014 Wood



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Comparable 1





Transaction			
ID	1912	Date	2/4/2019
Address	315 Canal Drive	Price	$2,000,000
City	Carolina Beach	Price Per SF	$400.00
State	North Carolina	Transaction Type	Closed
Tax ID	R08818-006-027-000	Financing	Cash to Seller
Grantor	Harbor Masters Properties, LLC, a NC limited	Property Rights	Fee Simple
Grantee	Noelle Holdings, LLC and Stoked on the Water, LLC, both NC limited liability companies	Days on Market	Unknown
Legal Description	DB 6193 @ 1951; PB 3 @ 67	Verification Source	Public Records. Alt. RE Data Sources: Broker

Site			
Acres	0.410	Topography	Gently Sloping
Land SF	17,860	Zoning	CBD
Road Frontage	Canal Drive	Flood Zone	AE
Shape	Flag	Encumbrance or Easement	No Adverse
Utilities	Available	Parking	18

Improvements & Financial Data			
Source For SF Area	CoStar / Broker	PGI	–
GBA	5,000	EGI	–
No. of Units	1	Expense Ratio	–
Year Built	1971	NOI	–
Water Frontage Type	Canal	Cap Rate	–
Condition	Average	EGIM	–

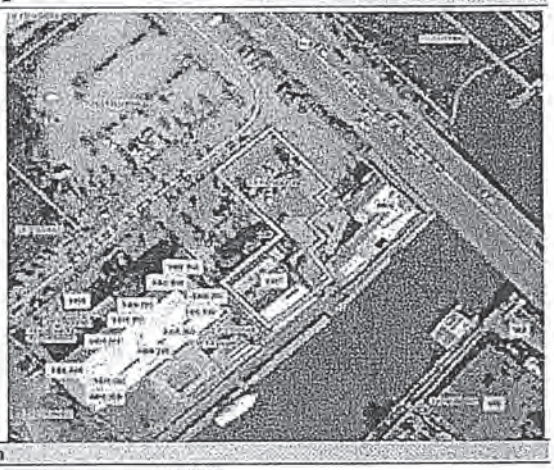
Comments

This property is located along the west side of Canal Drive and is improved with a 5,000 SF restaurant. The site has approximately 18 parking spaces with numerous public parking lots available within a block of the site. The property is located within a flood hazard area.

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Comparable 2





Transaction

ID	1915	Date	1/17/2019
Address	1407 Shrimp Boat Ln	Price	$3,333,000
City	Mt. Pleasant	Price Per SF	$538.62
State	South Carolina	Transaction Type	Closed
Tax ID	517-11-00-013	Financing	Cash to Seller
Grantor	PWM, LLC, a NC limited liability company	Property Rights	Fee Simple
Grantee	GH Shem Creek, a SC limited liability company	Days on Market	Unknown
Legal Description	DB 0773 @ 420; PB BD @ 045 & BG @ 136	Verification Source	Public Records, Alt. RE Data Sources: Broker

Site

Acres	0.407	Topography	Gently Sloping
Land SF	17,729	Zoning	MD
Road Frontage	Shrimp Boat Ln	Flood Zone	AE
Shape	Irregular	Encumbrance or Easement	No Adverse
Utilities	Available	Parking	50

Improvements & Financial Data

Source For SF Area	CoStar / Broker	PGI	--
GBA	6,188	EGI	--
No. of Units	1	Expense Ratio	--
Year Built	1985	NOI	--
Water Frontage Type	Creek	Cap Rate	--
Condition	Average	EGIM	--

Comments

This property is located along the south side of Shrimp Boat Lane and is improved with a 6,188 SF restaurant. The property is located within a flood hazard area.

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Comparable 3





Transaction			
ID	1919	Date	11/9/2018
Address	4078 Hwy 17 ByPass	Price	$1,350,000
City	Murrells Inlet	Price Per SF	$450.75
State	South Carolina	Transaction Type	Closed
Tax ID	41-0114-069-01-00	Financing	Cash to Seller
Grantor	Burroughs Brothers Properties, Inc.	Property Rights	Fee Simple
Grantee	417 Callowhill, Inc., a PA corporation	Days on Market	Unknown
Legal Description	DB 3384 @ 107; PB 11 @ 339	Verification Source	Public Records, Alt. RE Data Sources: Broker

Site			
Acres	1.361	Topography	Mostly Level
Land SF	59,296	Zoning	CG
Road Frontage	Hwy 17 ByPass; Maclen Ave	Flood Zone	AE & X
Shape	Rectangular	Encumbrance or Easement	No Adverse
Utilities	Available	Parking	84

Improvements & Financial Data			
Source For SF Area	CoStar / Broker	PGI	--
GBA	2,995	EGI	--
No. of Units	1	Expense Ratio	--
Year Built	2004	NOI	--
Water Frontage Type	None	Cap Rate	--
Condition	Average	EGIM	--

Comments

This property is located at the corner of Hwy 17 ByPass and Maclen Ave. The property is improved with a 2,995 SF restaurant. A portion of the property is located within a flood hazard area. Their are 30 parking spaces in the front of the building and an additional 54 marked spaces in the rear that is used by the owner for overflow parking for his restaurant across the street (Wicked Tuna).

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Comparable 4





Transaction			
ID	1971	Date	8/1/2019
Address	2200 Little River Neck	Price	$1,900,000
City	N Myrtle Beach	Price Per SF	$380.00
State	South Carolina	Transaction Type	Closed
Tax ID	13012-14-024	Financing	Cash to Seller
Grantor	BOAC Marine, Inc.	Property Rights	Fee Simple
Grantee	LR Neck Holdings, LLC	Days on Market	Unknown
Legal Description	DB 4230 @225	Verification Source	Public Records, Alt. RE Data Sources: Grantee

Site			
Acres	8.230	Topography	Mostly Level
Land SF	358,499	Zoning	HC
Road Frontage	Little River Neck Rd	Flood Zone	AE
Shape	Irregular	Encumbrance or Easement	No Adverse
Utilities	All Available	Parking	52

Improvements & Financial Data			
Source For SF Area	CoStar / Grantee	PGI	--
GBA	5,000	EGI	--
No. of Units	1	Expense Ratio	--
Year Built	1963 / 2014	NOI	--
Water Frontage Type	ICW	Cap Rate	--
Condition	Average	EGIM	--

Comments

This property is located along the east side of Little River Neck Road and is improved with a 5,000 SF restaurant and 75 slip marina. The partners allocated the purchase price of $3,800,000 a 50/50 split between the restaurant valued at $1,900,000 and the marina valued at $1,900,000. The purchaser's opened the restaurant in 2014 and at the time of sale the restaurant was leased at $15,000/month or $36/SF on a modified gross basis. No FF&E was included in the sale.

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Analysis Grid			Comp 1		Comp 2		Comp 3		Comp 4	
Address	1536 South Waccamaw Drive		315 Canal Drive		1407 Shrimp Boat Ln		4078 Hwy 17 ByPass		2200 Little River Neck	
City	Murrells Inlet		Carolina Beach		Mt. Pleasant		Murrells Inlet		N Myrtle Beach	
State	South Carolina		North Carolina		South Carolina		South Carolina		South Carolina	
Date	1/23/2019		2/4/2019		1/17/2019		11/9/2018		8/1/2019	
Price	--		$2,000,000		$3,333,000		$1,350,000		$1,900,000	
GBA	5,161		5,000		6,188		2,995		5,000	
GBA Unit Price	$0.00		$400.00		$538.62		$450.75		$380.00	
Transaction Adjustments										
Property Rights	Fee Simple		Fee Simple	0.0%	Fee Simple	0.0%	Fee Simple	0.0%	Fee Simple	0.0%
Financing	Cash to Seller		Cash to Seller	0.0%	Cash to Seller	0.0%	Cash to Seller	0.0%	Cash to Seller	0.0%
Conditions of Sale	Arms Length		Arms Length	0.0%	Arms Length	0.0%	Arms Length	0.0%	Arms Length	0.0%
Adjusted GBA Unit Price			$400.00		$538.62		$450.75		$380.00	
Market Trends Through	1/23/2019	0.0%	0.0%		0.0%		0.0%		0.0%	
Adjusted GBA Unit Price			$400.00		$538.62		$450.75		$380.00	
Location	Murrells Inlet		Carolina Beach		Mt. Pleasant		Murrells Inlet		N Myrtle Beach	
% Adjustment			0%		-25%		0%		0%	
$ Adjustment			$0.00		-$134.66		$0.00		$0.00	
GBA	5,161		5,000		6,188		2,995		5,000	
% Adjustment			0%		0%		0%		0%	
$ Adjustment			$0.00		$0.00		$0.00		$0.00	
Year Built	1985		1971		1985		2004		1963 / 2014	
% Adjustment			0%		0%		-5%		-10%	
$ Adjustment			$0.00		$0.00		-$22.54		-$38.00	
Condition	Average		Average		Average		Average		Average	
% Adjustment			0%		0%		0%		0%	
$ Adjustment			$0.00		$0.00		$0.00		$0.00	
Land SF	12,085		17,860		17,729		59,296		358,499	
% Adjustment			0%		0%		0%		0%	
$ Adjustment			$0.00		$0.00		$0.00		$0.00	
Land to Building Ratio	2.34 to 1		3.57		2.87		19.80		71.70	
% Adjustment			0%		0%		-20%		0%	
$ Adjustment			$0.00		$0.00		-$90.15		$0.00	
Current Use	Restaurant		Restaurant		Restaurant		Restaurant		Restaurant	
% Adjustment			0%		0%		0%		0%	
$ Adjustment			$0.00		$0.00		$0.00		$0.00	
Water Frontage Type	ICW		Canal		Creek		None		ICW	
% Adjustment			0%		0%		0%		0%	
$ Adjustment			$0.00		$0.00		$0.00		$0.00	
Parking	78		18		50		84		52	
% Adjustment			0%		0%		0%		0%	
$ Adjustment			$0.00		$0.00		$0.00		$0.00	
Parking Ratio	66 SF per parking space		278		124		36		96	
% Adjustment			0%		0%		0%		0%	
$ Adjustment			$0.00		$0.00		$0.00		$0.00	
Adjusted GBA Unit Price			$400.00		$403.97		$338.06		$342.00	
Net Adjustments			0.0%		-25.0%		-25.0%		-10.0%	
Gross Adjustments			0.0%		25.0%		25.0%		10.0%	

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Explanation of Adjustments

The first adjustment to be made in any appraisal is for:

1) Property rights appraised
2) Financing concessions
3) Condition of sale
4) Expenditures immediately after sale
5) Market conditions (time)

The fee simple interest of the subject property is being appraised. No adjustment property rights conveyed is indicated. No unusual or atypical financing arrangements were noted. The conditions of sale were typical for the market. There were no expenditures immediately after sale which were made. The effective date of the report is January 23, 2019 which is a retrospective date. Comparables 1 and 4 are after the effective date of appraisal. All of the comparables are considered current indicators of value as of the effective date of appraisal with no market conditions adjustments indicated.

Physical adjustments considered include location, building size, age, condition, land/building ratio, current use, water frontage type, parking and parking ratio. The location of the Comparables 1, 3 and 4 is similar to the subject with no adjustment. Comparable 2 located on Shem Creek in Mt. Pleasant, SC and is considered superior to the subject and adjusted a negative 25%. The subject was built in 1985 with general upkeep and maintenance with an overall average condition. The age and condition of Comparables 1 and 2 is similar to the subject. Comparable 3 is newer than the subject and adjusted a negative 5% for superior (newer) age compared to the subject. Comparable 4 was renovated in 2014 and is adjusted a negative 10% for superior condition. Comparable 3 has excess land used for parking by the owner at a restaurant across from this property. This excess land results in a high land to building ratio of 19.8 to 1. This is superior to the subject and this comparable is adjusted a negative 20% for land to building ratio to reflect excess land used for overflow parking. The comparables, like the subject, are restaurants with no additional adjustments indicated.

Value Indication / Summary

After the indicated adjustments are made, the sales range in price from $338.06 to $403.97 per square foot. The median price per square foot for the sales is $371.00 and the average price per square foot is $371.01. After consideration is given to the following data and the adjustments are made to the sales, it is my opinion that the subject property has an indicated market value per square foot of $370.00. The following calculation shows the estimated fee simple value of the subject property using the sales comparison approach:

Building Size (SF)		$/SF		Estimated Value
5,161	x	$370.00	=	$1,909,570
		Rounded to:		$1,910,000

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Income Approach

Introduction

The income approach to value is an appraisal technique which converts anticipated benefits (income) to be derived into a value estimate. The income approach usually applies in the appraisal of income producing properties, such as the subject property. Anticipated future income, whether through anticipated rents or anticipated sales prices, is discounted to a present value through the direct capitalization process or the yield capitalization process. Gross income multipliers are used to compare the income producing characteristics of properties. This method of capitalization is mathematically related to direct capitalization since rates are the reciprocals of multipliers or factors.

The type interest being appraised is very important in applying this approach to value. If something less than the full fee interest is appraised, there must be an allocation of the income stream. The value of the unencumbered fee interest is the value of the total income stream. If a property is currently leased at a market rental rate, then the unencumbered fee simple interest in the property should be equal to the leased fee value because a rental advantage would not exist. The subject property is an owner-occupied building containing 5,161 gross square feet, along with the necessary site improvements to support the operation of the building. The building has been maintained and is in average condition. The overall condition of the existing improvement is average.

In the valuation of the subject property by the income approach to value, the direct capitalization method will be used to estimate the market value of the fee simple interest of the subject property. A discounted cash flow analysis is not considered necessary to value of the property and has been omitted. The unit of comparison used in this approach to value is the rent per square foot. It is my experience that this is the preferred unit of comparison in the market for properties similar to the subject. The direct capitalization analysis considers the current lease in place with a market derived capitalization rate considering the contract lease increases over time.

Direct Capitalization Method

The direct capitalization method is used to convert an estimate of income expectancy from a single year into an indication of value in one direct step, either by dividing the income estimate by appropriate income rate or by multiplying the income estimate by an appropriate factor.

Since the subject property is owner-occupied, the first step in the direct capitalization process is to determine market rent for the property. Market rents are derived by market investigation, typically through a rental survey and information provided about the subject property if it is currently leased.

Market Rent

To determine market rent, I have researched the Grand Strand area along with similar waterfront markets in South Carolina, North Carolina and Georgia for current available leases of buildings approximately the same size and condition as the subject property. The following summarizes the rental survey conducted for the subject property.

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RENTAL PHOTOGRAPHS



RENTAL 1
610 N KINGS HWY, MYRTLE BEACH, SC



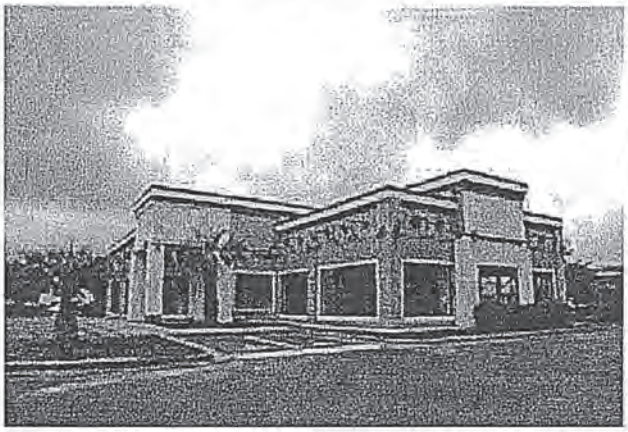
RENTAL 2
1565 21ST AVE N, MYRTLE BEACH, SC



RENTAL 3
2200 LITTLE RIVER NECK RD., N. MYRTLE BEACH, SC



RENTAL 4
7 N MARTIN LUTHER KING JR. BLVD., SAVANNAH, GA



RENTAL 5
101 N. STRAND PARKWAY, MYRTLE BEACH, SC



RENTAL 6
508 MILL STREET, MT. PLEASANT, SC

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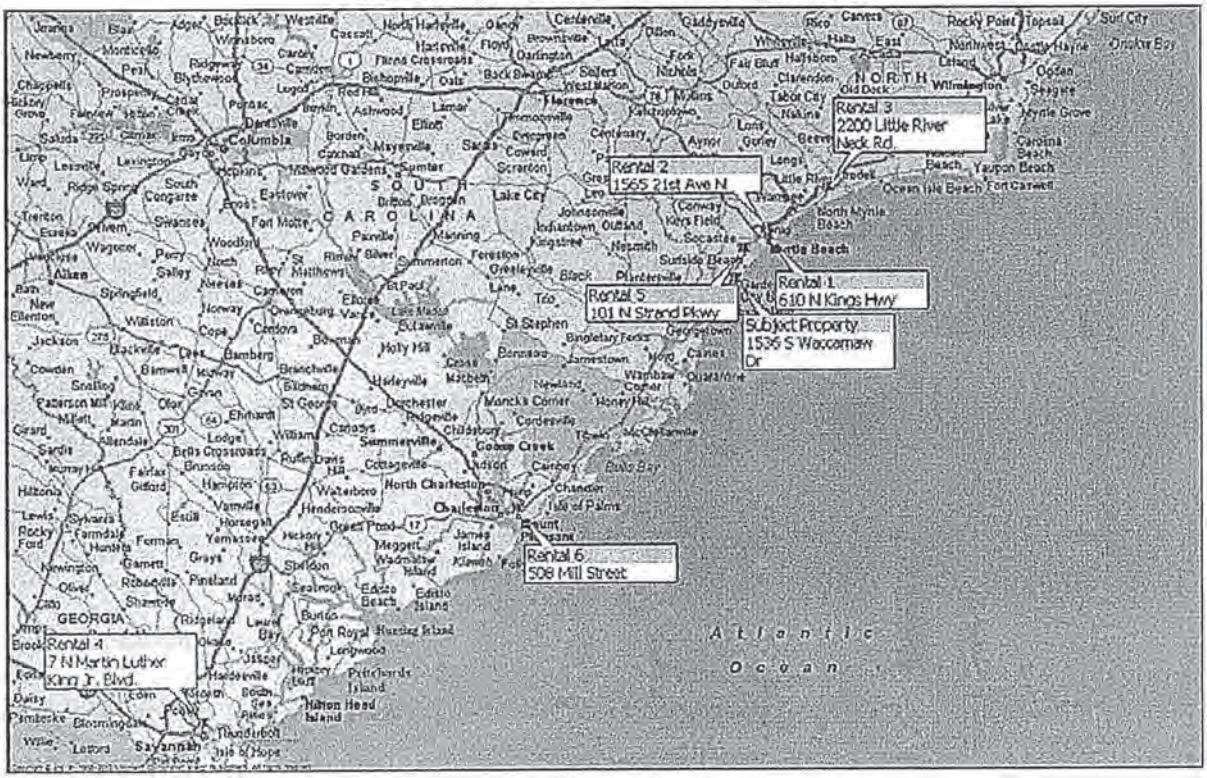
RENTAL CHART

ID	Location	Building SF	Building Use	Lease Start	Term	Rent/SF	Lease Type
Subject	1536 South Waccamaw Drive Murrells Inlet, South Carolina	5,161	Water View Restaurant	N/A	N/A	N/A	N/A
Rental 1	610 N Kings Hwy Myrtle Beach, South Carolina	6,000	The Royal Crab	06/2018	3 Years	$43.44	NNN
Rental 2	1565 21st Ave N Myrtle Beach, South Carolina	7,000	Tilted Kilt	10/2016	10 Years	$42.67	NNN
Rental 3	2200 Little River Neck Rd N Myrtle Beach, South Carolina	5,000	Water View Restaurant	08/2014	5 Years	$36.00	MG
Rental 4	7 N Martin Luther King Jr. Blvd. Savannah, Georgia	8,200	River Front Restaurant	01/2020	Undisclosed	$30.00	NNN
Rental 5	101 N. Strand Parkway Myrtle Beach, South Carolina	5,090	Delish Bistro	12/18	15 years	$36.50	NNN
Rental 6	508 Mill Street Mt. Pleasant, South Carolina	5,180	Shem Creek Bar & Grill	10/2015	5 Years	$26.00	NNN

High Rent/SF	$43.44
Low Rent/SF	$26.00
Median Rent/SF	$36.25
Average Rent/SF	$35.77

We have gathered the information in the chart from a variety of sources (brokers, public records, county assessor). We assume all information is correct. The information that is missing from the chart could not be confirmed.

SUBJECT AND RENTAL LOCATION MAP



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The rental chart is a summary of the comparable rentals outlined and provides a range of rents similar to the subject from $26.00 to $43.44 per square foot. The typical lease structure is a triple net lease with the tenant paying taxes and insurance. The rents provide a consistent range with the subject rental falling in the middle of the range.

Based upon the comparable rent study, a net lease is typical in the market and will maximize income over the modified gross rental structure. It is my opinion a rental rate of $15,053 per month or $35.00 per square foot net of expenses is market rent in the current restaurant market. This is based upon a net lease structure with the tenant paying the taxes and insurance.

Vacancy

There is currently some vacancy with properties available. Overall, the rent market is stable with some deduction for vacancy to recognize tenant turnover being appropriate. I did reference CoStar for a market overview of restaurant vacancy which shows the overall vacancy for full service restaurants in the Grand Strand Market range from 3.71% to 7.63% with a 10 year average of 5.68%. Based on this analysis, I have used a 5% vacancy and collection loss allowance. This indicated effective gross income is $171,603.

Expenses

The operating expenses, which are typical in the operation of an income property similar to the subject, are deducted from the effective gross income estimate to arrive at a net operating income estimate. As outlined, the net lease structure is typical for properties similar to the subject. Therefore, the real estate taxes and insurance premium have not been deducted. I have deducted a 3.00% management fee for the property. I have allocated 2.00% of effective gross income for repairs and 2.00% for reserves. These expense deductions are consistent with the PwC Real Estate Investor Survey for the first quarter 2020. The restaurant sector is not specifically surveyed but is considered most similar to retail that is included in a strip shopping center asset. The management fees average 3.33% and reserves average $0.25 per square foot to $0.75 per square foot. The subject is estimated based on a percentage of effective gross income with equals $0.67 per square foot. This is the same estimate used for repair estimate and consistent with the survey. No other operating expenses are deducted. The total operating expenses are estimated at $12,012. This is deducted from the effective gross income estimated to arrive at the net operating income estimate of $159,591.

Capitalization Rate

After deducting the operating expenses, the result is the net operating income for the property. These are funds available from the operation of the property before debt service and income tax consequences. The net operating income is then capitalized or discounted using the appropriate capitalization rate to arrive at the indicated value by the direct capitalization approach.

The overall capitalization rate can be derived by several methods. The most reliable method of finding an overall rate is to derive it from actual market transactions, dividing net operating income of the comparable sales by its sales price. No capitalization rates were extracted from comparable sales.

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Another method of estimating a capitalization rate is the mortgage-equity technique. This technique is based upon a weighted average of the capitalization rate for debt, referred to as the mortgage constant, which is a function of available loans terms, and the equity capitalization rate, which is function of the desired return on equity invested in a particular investment considering the inherent or perceived risks of that investment by the purchasers. Investigations in the market will be of the loan terms available for property such as the subject:

Mortgage - Equity Technique

Interest Rate	4.50%
Loan To Value Ratio	75.00%
Amortization Period	20.00 years
Mortgage Constant	0.0759
Equity Cap Rate	12.00%

Discussions with the real estate brokers and investors regarding the rate of return on invested equity revealed that the desired return ranged from 8.0% to 12.00%, depending upon the degree of risk involved in the investment. I have selected 12% as the equity capitalization rate applicable to the subject property based on a typical investor's expectations from similar type buildings. The following calculations are made to obtain an overall capitalization rate:

Mortgage Component	75.00%	0.0759	=	5.69%
Equity Component	25.00%	0.1200	=	3.00%
Overall Rate				8.69%

Another method used to derive an overall capitalization rate is by using a debt coverage formula. The lenders survey stated that they would expect the annual net operating income to equal between 120% and 125% of the annual debt service. I have used a debt coverage ratio of 125%. The formula used to apply this methodology is shown below:

$$RO = DCR \times RM \times M$$

The overall rate (RO) is equal to the debt coverage ratio (DCR) multiplied by the mortgage capitalization rate (RM) multiplied by the loan to value ratio (M). The following calculation is made to obtain an overall capitalization rate by this method:

Debt Coverage Ratio

Ro=DCR x Rm x M

Debt Coverage Ratio	1.35
Mortgage Constant	0.0759
Loan To Value Ratio	75.00%
Overall Rate	7.69%

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I also consulted the outside data service of RealtyRates.com Investor Survey with the findings for restaurants within all markets as indicated below:

RealtyRates.com INVESTOR SURVEY - 4th Quarter 2019*
All Markets - Restaurants - Full Service

Investment Data	Low	High	Average	Local
DCR Technique	6.45%	16.06%	11.00%	7.69%
Band of Investmnet	8.44%	17.48%	12.56%	8.69%
Surveyed Rates	8.11%	16.60%	13.06%	

*3rd Quarter 2019 Data

I also consulted the Co Star data service with the findings for restaurants within the Grand Strand market in Myrtle Beach as indicated below:

Sale Comps Analytics

CAP RATE	SALE PRICE/SF	AVERAGE SALE PRICE	SALES VOLUME	SALE VS ASKING PRICE	AVERAGE SF	MONTHS TO SALE
8.6%	$127	$1 M	$126 M	-9.5%	7.2 K	9.8

Key Metrics

Sales Volume	Survey	Lowest	Highest
Transactions	178	-	-
Sales Volume	$126 M	$271	$11.8 M
Properties Sold	137	-	-
Sold SF	1.3 M	492	185 K
Average SF	7.2 K	492	185 K

Sales Price	Survey	Lowest	Highest
Cap Rate	8.6%	5.4%	12.1%
Sale Price/SF	$127	$0	$849
Average Sale Price	$1 M	$271	$11.8 M
Sale vs Asking Price	-9.5%	-37.2%	0.6%
% Leased at Sale	96.6%	0%	100%

For Sale	Survey	Lowest	Highest
Listings	-	-	-
For Sale SF	-	-	-
List Price/SF	-	-	-
Cap Rate	-	-	-
Average SF	-	-	-

CoStar

Comparing the average rates indicated by the RealtyRates survey, the capitalization rates average from 11.0% to 13.06% with the local rates ranging from 7.69% to 8.69%. The Co Star rates average 8.6%. Based upon all methods outlined, I have selected a capitalization rate of 9.00% to apply to the subject property. A summary of the income capitalization approach is shown on the following page.

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OPERATING INCOME STATEMENT

Address 1536 South Waccamaw Drive
City, State Murrells Inlet, South Carolina

Potential Gross Income (PGI)

Description	Size (SF)	Rent/SF	Annual Rent
Restaurant	5,161	$35.00	$180,635

Total Potential Gross Income @ 100% Occupancy		**$180,635**
Deduction for Vacancy & Collection Loss	5%	$9,032
Effective Gross Income (EGI)		**$171,603**

Operating Expenses	Item	$ Amount	Per SF	% of EGI	
Fixed:					
	RE Taxes	$0	$0.00	0.00%	
	Insurance	$0	$0.00	0.00%	
Variable:					
	Management	$5,148	$1.00	3.00%	
	Utilities	$0	$0.00	0.00%	
	Repairs & Maint.	$3,432	$0.67	2.00%	
Sub-Total		$8,580	$1.66	5.00%	
Reserves for Replacements		$3,432	$0.67	2.00%	
Total Operating Expenses		$12,012	$2.33	7.00%	($12,012)
Net Operating Income (NOI) - Estimated					$159,591

Direct Capitalization Technique

Net Operating Income (NOI) / Overall Capitalization Rate (Ro) = Value Estimate (Vo)

NOI	$159,591
Ro	9.00%
Vo	$1,773,234
Total	$1,773,234
Rounded	**$1,773,000**
$/SF	$343.54
NOI/SF	$30.92

Summary

The subject property is a 2-story restaurant with lower level storage that is located at 1536 South Waccamaw Drive. The market rental rates are well documented in the rental survey outlined. The capitalization rate is based upon market derived rates from three separate techniques. The direct capitalization technique indicates that an investor would be attracted to property similar to the subject. Based upon the data outlined in the income approach, it is my opinion that the estimated fee simple interest of the subject is $1,773,000. The final value excludes the contributory value of the furniture, fixtures and equipment.

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Reconciliation – Before Loss of Easement Parking

The approaches to value indicate the following value estimates:

Sales Comparison Approach:	$1,910,000
Income Approach:	$1,773,000

A detailed cost approach has not been included due to overall age of the improvements.

The Sales Comparison Approach is based upon sales of properties used for full service restaurants. Overall, the comparable sales do provide a consistent range of sales price per square foot. The information available in this approach provides solid market information and is a good indication of the value of the subject using this approach.

The Income Capitalization Approach is a good valuation tool for an income producing property and mirrors investor expectations of returns for similar restaurant buildings. The Income Approach provides a good indication of the fee simple value of the subject property.

The final value excludes the contributory value of the furniture, fixtures and equipment. As outlined, all approaches have their strengths and weaknesses. In the appraisal of the subject property both the income and sales comparison approaches support the final value conclusion with equal weight placed on each approach.

After applying the methods and techniques recommended by the Appraisal Institute, and after analyzing the data presented in this report, it is my opinion that the market value of the fee simple interest of the subject property, excluding furniture fixtures and equipment, **before loss of easement parking**, as of January 23, 2019, the retrospective date that is 15 days from the third reading and approval of the amendment to the PUD on January 8, 2019, based on Georgetown County's Zoning Ordinance Section 1702.4, is:

ONE MILLION EIGHT HUNDRED FIFTY THOUSAND DOLLARS
($1,850,000)

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After Value – Loss of Easement Parking

Land Value Estimate

The parking requirements for the existing building are 73 spaces. With the parking easement in place, the building has 62 spaces within the easement area, and 16 dedicated spaces on site, for a total of 78 available spaces with the parking easement.

I discussed the loss of the 62 parking spaces with Jef Kirk, operating partner of Gulfstream Restaurant. He confirmed that the restaurant relied on 100% of the available parking during the peak seasons for the restaurant and utilized the majority of the available spaces throughout the year. He indicated that the restaurant would not be viable with the loss of the 62 parking spaces. This is a logical analysis given the lack of any alternative parking in the area. Therefore, with the parking easement no longer in place, the building's 16 dedicated parking spaces will not support the current restaurant operation.

Based on the PD, Planned Development, zoning designation limiting the use of the property to a restaurant and due to the loss of 62 spaces within the easement area, the building is no longer viable or financially feasible. The existing restaurant will have to be demolished and the vacant land is the remainder. Therefore, only the land is being appraised in the after. The estimated cost of demolition for the building is deducted from the land value to arrive at the after value.

A search of the neighborhood was made in order to determine what sales of similar sites had occurred in the recent past to compare to the subject property. A sales study of the area was performed and the results are contained in my files. Sales were limited in the market given the small size of the subject of only 12,085 square feet. The site is so small that the utility will be marginal at best. With setbacks, the site does not appear large enough to accommodate new construction and provide the necessary parking with the loss of the easement parking. Several local waterfront sales were located but were too large for comparison as they were suitable for stand-alone restaurant construction with on site parking.

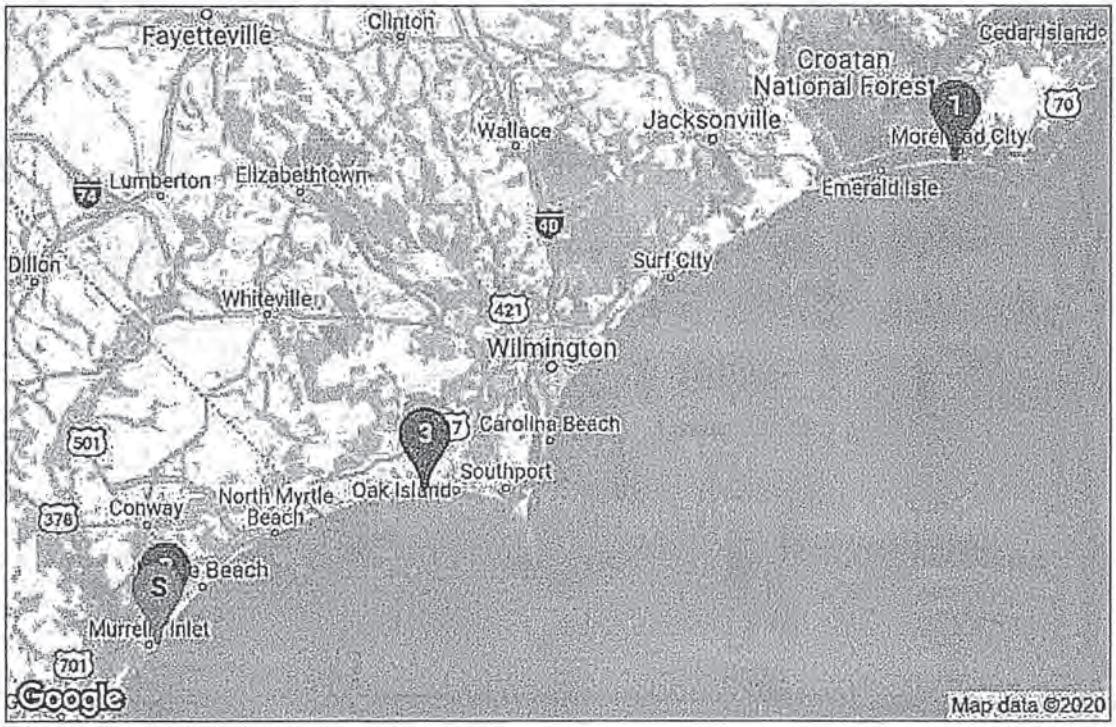
After a search of the market, three (3) comparable land sales have been included in the report to compare to the subject.

The unit of comparison used in this approach is the price per square foot. This is the accepted unit of comparison/measure in the market for properties similar to the subject. Detailed information about each sale follows.

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LAND SALES SUMMARY TABLE

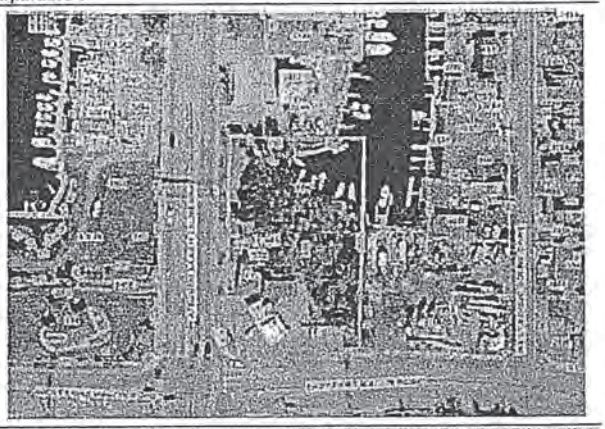
Comp	Address City	Date Price	County Price Per Land SF	Tax ID Land SF
Subject	1536 South Waccamaw Drive Murrells Inlet	2/25/1986 --	Georgetown --	41-0129-005-03-00 12,058
1	104 Atlantic Beach Cswy Atlantic Beach	6/13/2019 $850,000	Carteret $13.80	6375.16.94.7072000 61,594
2	1967 S Hwy 17 Murrells Inlet	12/22/2017 $875,000	Horry $15.45	19506-09-001 56,628
3	1045 B-Var Road SW Supply	3/14/2017 $550,000	Brunswick $9.15	232LA00303 60,113



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Land Comparable 1





Transaction			
ID	1910	Date	6/13/2019
Address	104 Atlantic Beach Cswy	Price	$850,000
City	Atlantic Beach	Price Per Land SF	$13.80
State	North Carolina	Financing	Cash to Seller
Tax ID	6375.16.94.7072000	Property Rights	Fee Simple
Grantor	Jandi Lee Willis and Emily G. Willis	Days on Market	373
Grantee	Baker Smith Lynch Properties, LLC	Verification Source	Public Records, Alt. RE Data Sources: Broker
Legal Description	DB 1640 @ 362; PB 4 @ 40	County	Carteret

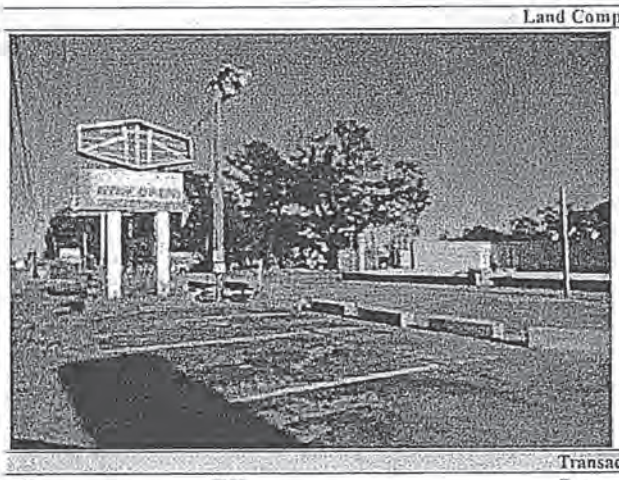
Site			
Acres	1.41	Topography	Mostly Level
Land SF	61,594	Zoning	GB & COR
Road Frontage	Atlantic Beach Cswy; East Fort Macon Rd	Zoning Type	General Business & Community Corridor
Shape	Rectangular	Encumbrance or Easement	No Adverse
Utilities	Water	Environmental Issues	Unknown

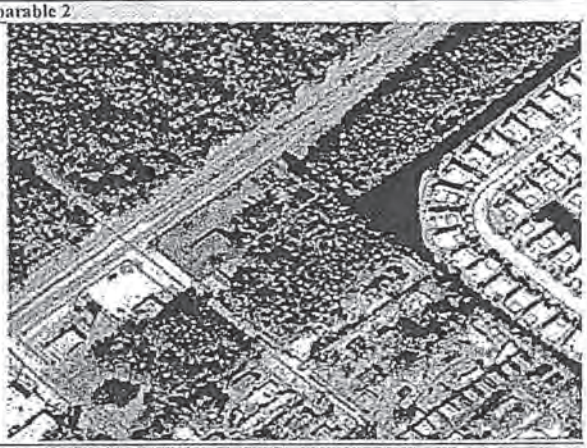
Comments

This site is located at the corner of Atlantic Beach Cswy and East Fort Macon Road improved with a 6,480 SF restaurant. The purchase price was for land only as the building had no contributory value. The property is located within a flood hazard area. The building was demolished and the fuel tanks removed for expansion of the marina.

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Land Comparable 2





Transaction			
ID	1911	Date	12/22/2017
Address	1967 S Hwy 17	Price	$875,000
City	Murrells Inlet	Price Per Land SF	$15.45
State	South Carolina	Financing	Cash to Seller
Tax ID	19506-09-001	Property Rights	Fee Simple
Grantor	Barbara M. Holt	Days on Market	Unknown
Grantee	The Hon Group, LLC	Verification Source	Public Records, Alt. RE Data Sources: Broker
Legal Description	DB 4070 @ 2256	County	Horry

Site			
Acres	1.30	Topography	Mostly Level
Land SF	56,628	Zoning	HC
Road Frontage	S Hwy 17; Woodland Dr	Zoning Type	Highway Commercial
Shape	Rectangular	Encumbrance or Easement	No Adverse
Utilities	Available	Environmental Issues	Unknown

Comments

This site is located at the corner of S Hwy 17 and Woodland Drive. The purchase price was for the land only as the building had no contributory value.

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Land Comparable 3





Transaction

ID	1909	Date	3/14/2017
Address	1045 B-Var Road SW	Price	$550,000
City	Supply	Price Per Land SF	$9.15
State	North Carolina	Financing	Cash to Seller
Tax ID	232LA00303	Property Rights	Fee Simple
Grantor	CLS III, SR, LLC, a Delaware limited liability company	Days on Market	719
Grantee	Madison & Madison, LLC, a NC limited liability company	Verification Source	Public Records, Alt. RE Data Sources: Broker
Legal Description	DB 3883 @ 438; PB 22 @ 28	County	Brunswick

Site

Acres	1.38	Topography	Mostly Level
Land SF	60,113	Zoning	CO-MR-3200
Road Frontage	B-Var Rd	Zoning Type	Multi-Family Residential
Shape	Rectangular	Encumbrance or Easement	No Adverse
Utilities	Well / Septic	Environmental Issues	Unknown

Comments

This site is a waterfront property located along the south side of B-Var Rd SW improved with a 9,487 SF restaurant. The purchase price was for land only as the building had no contributory value. The property is located within a flood hazard area. The source of this flood hazard is Holden Beach. After purchase, the grantee spent approximately $500,000 to upfit the building.

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Land Analysis Grid			Comp 1		Comp 2		Comp 3	
Address	1536 South Waccamaw Drive		104 Atlantic Beach Cswy		1967 S Hwy 17		1045 B-Var Road SW	
City	Murrells Inlet		Atlantic Beach		Murrells Inlet		Supply	
State	South Carolina		North Carolina		South Carolina		North Carolina	
Date	1/23/2019		6/13/2019		12/22/2017		3/14/2017	
Price	--		$850,000		$875,000		$550,000	
Land SF	12,085		61,594		56,628		60,113	
Land SF Unit Price	$0		$13.80		$15.45		$9.15	
Transaction Adjustments								
Property Rights	Fee Simple		Fee Simple	0.0%	Fee Simple	0.0%	Fee Simple	0.0%
Financing	Cash to Seller		Cash to Seller	0.0%	Cash to Seller	0.0%	Cash to Seller	0.0%
Conditions of Sale	Arms Length		Arms Length	0.0%	Arms Length	0.0%	Arms Length	0.0%
Adjusted Land SF Unit Price			**$13.80**		**$15.45**		**$9.15**	
Market Trends Through	1/23/2019	0.0%	0.0%		0.0%		0.0%	
Adjusted Land SF Unit Price			$13.80		$15.45		$9.15	
Location	Good		Similar		Similar		Similar	
% Adjustment			0%		0%		0%	
$ Adjustment			$0.00		$0.00		$0.00	
Land SF	12,085		61,594		56,628		60,113	
% Adjustment			-25%		-25%		-25%	
$ Adjustment			-$3.45		-$3.86		-$2.29	
Topography	Mostly Level		Mostly Level		Mostly Level		Mostly Level	
% Adjustment			0%		0%		0%	
$ Adjustment			$0		$0		$0	
Shape	Irregular		Rectangular		Rectangular		Rectangular	
% Adjustment			0%		0%		0%	
$ Adjustment			$0		$0		$0	
Utilities	Available		Water		Available		Well / Septic	
% Adjustment			0%		0%		0%	
$ Adjustment			$0		$0		$0	
Zoning	PD		GB & COR		HC		CO-MR-3200	
% Adjustment			0%		0%		0%	
$ Adjustment			$0		$0		$0	
Zoning Type	Planned Development		General Business & Community Corridor		Highway Commercial		Multi-Family Residential	
% Adjustment			0%		0%		0%	
$ Adjustment			$0		$0		$0	
Water Frontage	ICW		Casuseway		None		ICW	
% Adjustment			0%		0%		0%	
$ Adjustment			$0		$0		$0	
Adjusted Land SF Unit Price			**$10.35**		**$11.59**		**$6.86**	
Net Adjustments			-25.0%		-25.0%		-25.0%	
Gross Adjustments			25.0%		25.0%		25.0%	

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Explanation of Adjustments

The first adjustment to be made in any appraisal is for:

1) Property rights appraised
2) Financing concessions
3) Condition of sale
4) Expenditures immediately after sale
5) Market conditions (time)

All of the sales were of the full fee interest and no unusual or atypical financing arrangements were noted. The conditions of the sales were typical for the market. There were no expenditures immediately after sale that had an impact on the price paid. The effective date of the report is January 23, 2019 which is a retrospective date. Comparable 1 is after the effective date of appraisal. All of the comparables are considered current indicators of value as of the effective date of appraisal with no market conditions adjustments indicated.

Adjustments for physical characteristics include location, size, topography, shape, utilities, zoning and water frontage. The location of the Comparables is similar to the subject with no adjustment indicated. After the loss of use with the parking easement, the subject site will not be large enough to redevelop with a restaurant which is the allowed use under PD. All comparables are adjusted a negative 25% for superior size compared to the subject. No additional adjustments for physical differences are indicated.

Final Market Value Estimate - Vacant Land

After adjustments, the price per square foot for the comparables range from $6.86 to $11.59 with an average price per square foot of $9.60 and a median price per square foot of $10.35. With consideration given to all sales, it is my opinion that the market value of the subject, as if vacant and available for use at its highest and best use, is $10.00 per square foot. The demolition estimate is from Marshall and Swift, section 66, page 11 for a class D building. The range of demolition cost per square foot is $3.83 to $5.92. I have used a reconciled cost of $6.00 per square foot for the 5,161 square foot building. The estimated cost to demolish the building is $30,966, rounded to $31,000. This is deducted from the land value. The following calculation shows the estimated market value of the subject **after the loss of easement parking**:

Site Size (SF)		$/SF		Estimated Value
12,085	x	$10.00	=	$120,850
Less Demolition				($31,000)
				$89,850
		Rounded to:		**$89,900**

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Reconciliation – After Loss of Easement Parking

The only approach to value used is the Sales Comparison Approach to Value. The Land Value Estimate is based upon land sales which are considered comparable to the subject property. The available data is current and is considered to provide a good indication of land value after the loss of the easement parking.

After applying the methods and techniques recommended by the Appraisal Institute, and after analyzing the data presented in this report, it is my opinion that the market value of the fee simple interest of the subject property, **after loss of easement parking**, as of January 23, 2019, the retrospective date that is 15 days from the third reading and approval of the amendment to the PUD on January 8, 2019, based on Georgetown County's Zoning Ordinance Section 1702.4, is:

EIGHTY NINE THOUSAND NINE HUNDRED DOLLARS
($89,900)

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Reconciliation and Final Value

After applying the methods and techniques recommended by the Appraisal Institute, and after analyzing the data presented in this report, it is my opinion that the market value of the fee simple interest of the subject property, excluding furniture fixtures and equipment, **before loss of easement parking**, as of January 23, 2019, the retrospective date that is 15 days from the third reading and approval of the amendment to the PUD on January 8, 2019, based on Georgetown County's Zoning Ordinance Section 1702.4, is:

ONE MILLION EIGHT HUNDRED FIFTY THOUSAND DOLLARS
($1,850,000)

It is my opinion that the market value of the fee simple interest of the subject property, **after loss of easement parking**, as of January 23, 2019, is:

EIGHTY NINE THOUSAND NINE HUNDRED DOLLARS
($89,900)

The difference in the before loss of easement parking and after loss of easement parking is:

ONE MILLION SEVEN HUNDRED SIXTY THOUSAND ONE HUNDRED DOLLARS
($1,760,100)

As outlined in the report, the appraisal is based upon the following extraordinary assumptions: (1) the subject property was not inspected on January 23, 2019, the date of value, and an extraordinary assumption exists that the overall condition of the subject property was similar on January 23, 2019, to the observed condition on the last date of inspection, November 25, 2019; (2) that the after value is based on the loss of easement access of 62 parking spaces contained within the easement area. The final value estimates are based upon the various considerations outlined in the definition of market value shown earlier. The value estimates outlined within this report are based upon an estimated marketing time and exposure time of 12 months to 18 months. It should be noted that exposure time occurs prior to the value estimate and the marketing time occurs after the value estimate.

My valuation of the subject property considered the best information that was available at the time of my analysis and users of this appraisal should consider the appraisal may be affected by the scope of work. Users are reminded that the appraisal conclusions in this report are effective as of the stated date(s) of valuation.

Respectfully submitted,

George E. Knight, Jr., MAI
S. C. State Certified General
Real Estate Appraiser No. CG 1531

GEKjr/kdw

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Addenda

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Subject Deed

(A copy of the plat is contained in the Subject Photographs and Exhibits section of the report)

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Form No. 106—Title to Real Estate by a Corporation

Revised 8/72

The State of South Carolina. BOOK 234 PAGE 778

COUNTY OF GEORGETOWN

FILED
BETTY L. WILLIAMS
COOPER
APR 2 2 55 PM '86
GEORGETOWN COUNTY, S.C.
BOOK ____ PAGE ____

KNOW ALL MEN BY THESE PRESENTS, That

Marlin Quay Marina Corporation

in the State aforesaid, for and in consideration of the sum of

Five and No/100 ($5.00) Dollars and the assumption of the below described Mortgages Dollars

to it in hand paid at and before the sealing of these presents, by The Gulfstream Cafe', Inc.

in the State aforesaid, (the receipt whereof is hereby acknowledged)

have granted, bargained, sold and released, and by these Presents do grant, bargain, sell and release, unto the said The Gulfstream Cafe', Inc., its successors and assigns:

All those certain pieces, parcels, areas or tracts of land identified as "Marsh Area, Tract A and Tract B" on that certain "Survey For Marlin Quay Company, Garden City Point" dated August 27, 1985, revised January 24, 1986, surveyed and mapped by Sur-Tech, Incorporated and recorded in the Office of the Clerk of Court for Georgetown County in Plat Book 6 at Page 238.

The grantor having acquired the subject property by virtue of that certain deed from Marlin Quay Company, a South Carolina General Partnership dated July 1, 1983, and recorded in the Office of the Clerk of Court for Georgetown County on September 1, 1983, in Deed Book 211 at Page 1141; and by virtue of that certain deed from Alfred S. Nichols dated July 29, 1983 and recorded in the Office of the Clerk of Court for Georgetown County on July 29, 1983, in Deed Book 210 at Page 1235.

IT BEING UNDERSTOOD AND AGREED that part of the above consideration is the assumption of (1) that certain mortgage from Marlin Quay Marina Corporation to Bankers Trust of South Carolina dated October 2, 1985, and recorded in the Office of the Clerk of Court for Georgetown County on October 3, 1985 in Mortgage Book 223 at Page 101. Said Mortgage having an outstanding principal balance of $36,415.71; and (2) that certain mortgage from Marlin Quay Marina Corporation to Alfred S. Nichols dated July 29, 1983 and recorded in the Office of the Clerk of Court for Georgetown County in Mortgage Book 202 at Page 723. Said mortgage having an outstanding principal balance of $113,396.77.

TMS: 41-0129-005-03-00

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BOOK 234 PAGE 779

TOGETHER with all and singular the Rights, Members, Hereditaments and Appurtenances to the said Premises belonging, or in anywise incident or appertaining.

TO HAVE AND TO HOLD, all and singular the said premises before mentioned unto the said The Gulfstream Cafe', Inc., its Successors *Heirs and Assigns forever*

And the said Marlin Quay Marina Corporation *does hereby bind itself and its successors, to warrant and forever defend all and singular the said premises* except for any portion thereof lying below the mean highwater mark of Murrells Inlet ~~and Oyster~~ Creek as to which area, no warranty is given unto the said The Gulfstream Cafe', Inc., its Successors *Heirs and Assigns, against itself and its successors lawfully claiming or to claim the same, or any part thereof.*

IN WITNESS WHEREOF Marlin Quay Marina Corporation *(Insert name of Corporation) has caused these presents to be executed in its name by* Grover C. Cauthen *(Insert name of President or Vice-President) its President and by* Jack L. Moore *(Insert name of Sec. or Treas.) its* Asst. Secretary *and its corporate seal to be hereto affixed this* 25th *day of* February *in the year of our Lord one thousand nine hundred and* eighty-six *, and in the two hundred and* tenth *year of the Sovereignty and Independence of the United States of America.*

Signed, Sealed and Delivered in Presence of

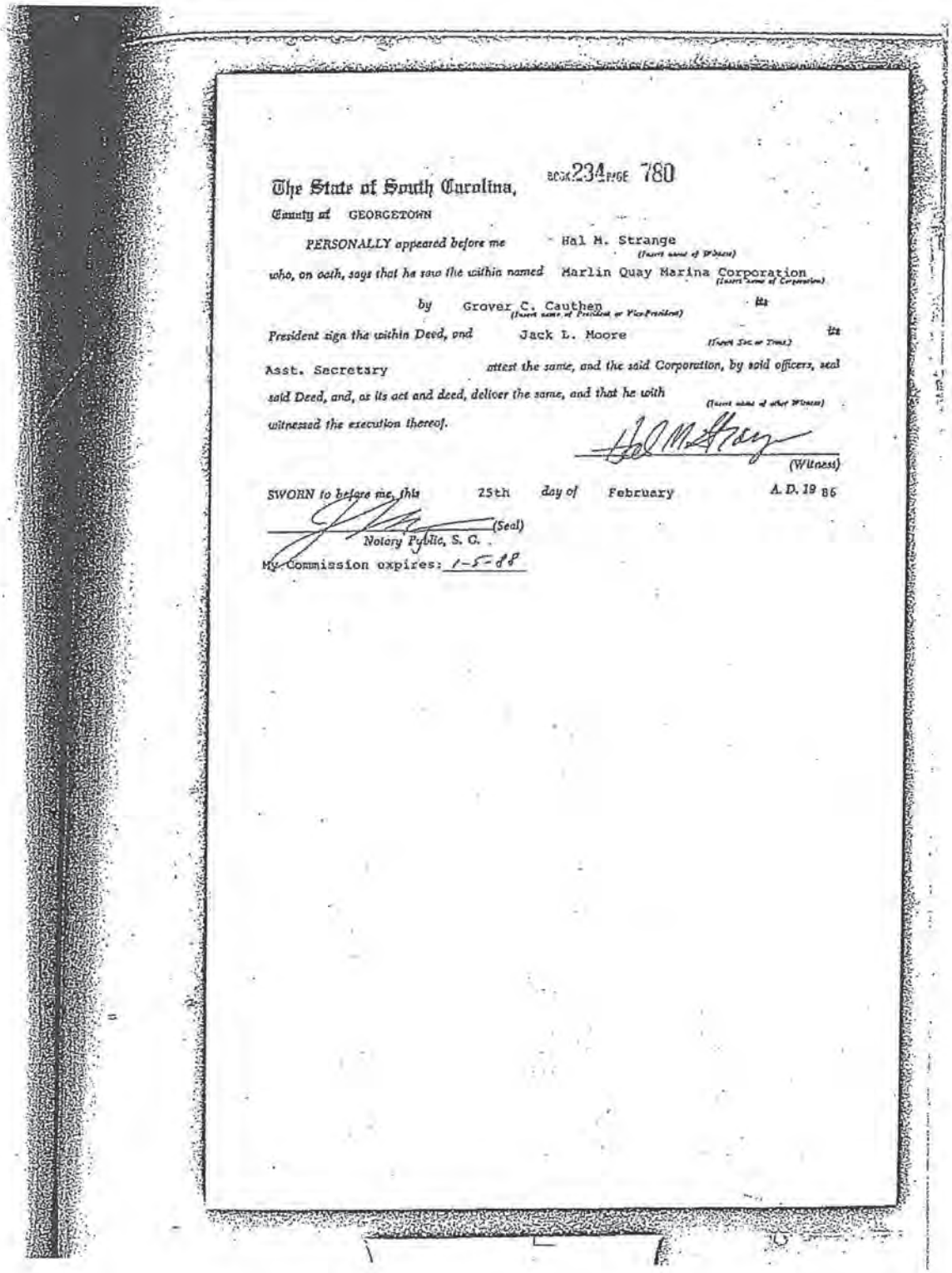
Witness

Witness

MARLIN QUAY MARINA CORPORATION (Seal)

By: Grover C. Cauthen, President

Jack L. Moore Asst. Sec. or Treas.



The State of South Carolina, BOOK 234 PAGE 780

County of GEORGETOWN

PERSONALLY appeared before me Hal M. Strange (Insert name of Witness)

who, on oath, says that he saw the within named Marlin Quay Marina Corporation (Insert Name of Corporation)

by Grover C. Cauthen (Insert name of President or Vice-President) its

President sign the within Deed, and Jack L. Moore (Insert Sec. or Treas.) its

Asst. Secretary attest the same, and the said Corporation, by said officers, seal said Deed, and, as its act and deed, deliver the same, and that he with (Insert name of other Witness) witnessed the execution thereof.

Hal M. Strange (Witness)

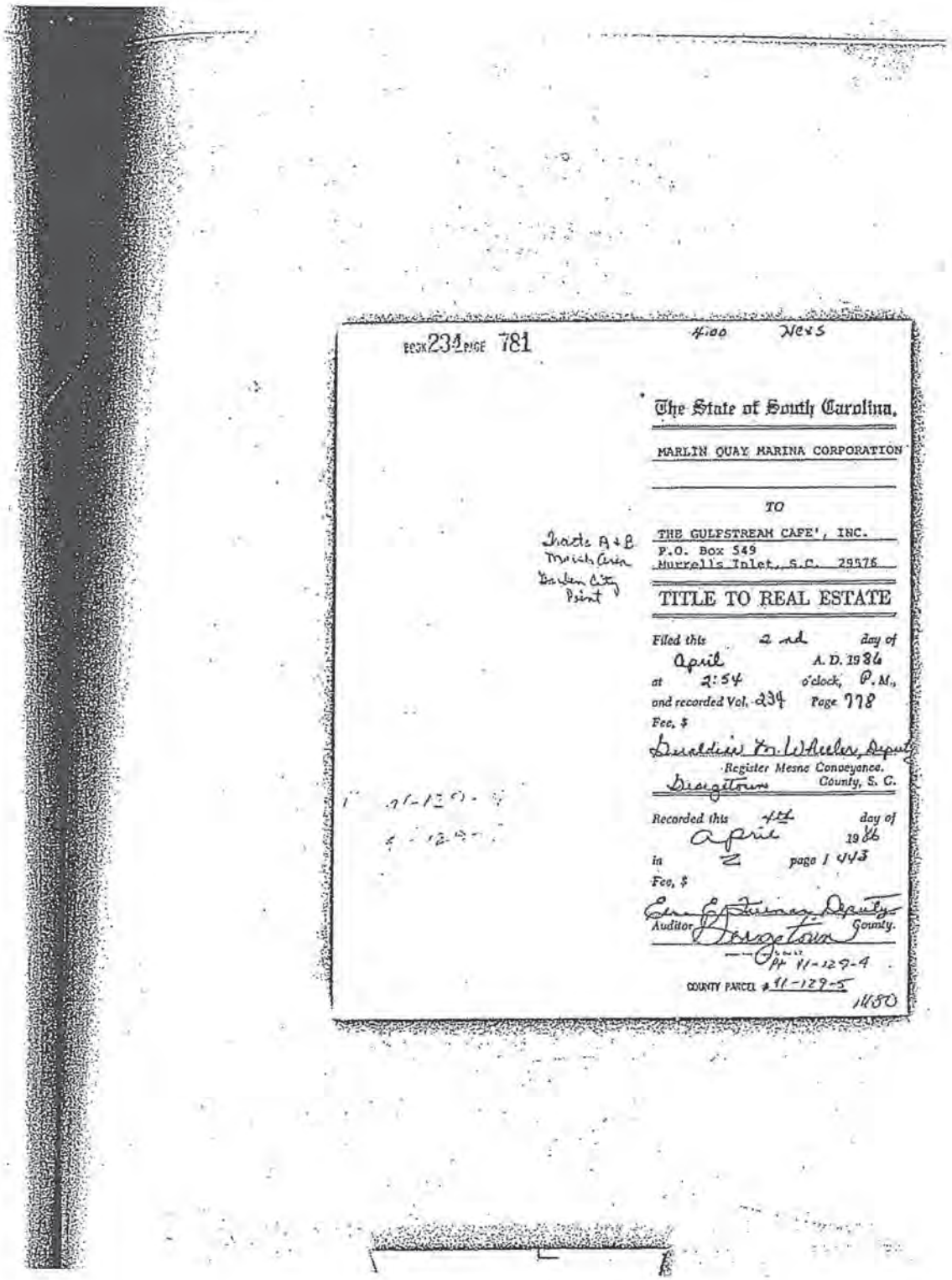
SWORN to before me, this 25th day of February A. D. 19 86

(Seal)

Notary Public, S. C.

My Commission expires: 1-5-88

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BOOK 234 PAGE 781

4:00 News

The State of South Carolina,

MARLIN QUAY MARINA CORPORATION

TO

Parcels A & B
Marsh Area
Garden City
Point

THE GULFSTREAM CAFE', INC.
P.O. Box 549
Murrells Inlet, S.C. 29576

TITLE TO REAL ESTATE

Filed this 2nd day of April A. D. 1986
at 2:54 o'clock, P. M.,
and recorded Vol. 234 Page 778
Fee, $
Doraldine M. Wheeler, Deputy
Register Mesne Conveyance.
Georgetown County, S. C.

Recorded this 4th day of April 1986
in Z page 1 443
Fee, $
Auditor Georgetown County.

PT 11-129-4

COUNTY PARCEL # 11-129-5

1150

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State Certification/License

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State of South Carolina BCD 1324869
Department of Labor, Licensing and Regulation
Real Estate Appraisers Board
GEORGE E KNIGHT JR
Is hereby entitled in practice as a:
Certified General Appraiser
License Number: 1531
Expiration Date: 06/30/2022
OFFICE COPY
Laura L. Smith
Administrator

ELECTRONICALLY FILED - 2021 Nov 22 3:45 PM - GEORGETOWN - COMMON PLEAS - CASE#2019CP2200212

Qualifications of George E. Knight, Jr., MAI

ELECTRONICALLY FILED - 2021 Nov 22 3:45 PM - GEORGETOWN - COMMON PLEAS - CASE#2019CP2200212

Professional Designation
Member, Appraisal Institute, (MAI) Certificate No. 12092

Education
Bachelor of Science Degree Business Administration, Real Estate and Finance,
University of South Carolina, May 1987

Appraisal Education
Core Courses
Appraisal Institute
Course 1A1, Real Estate Appraisal Principles, February 1991
Course SPP, Standards of Professional Practice, Parts A & B, September 1991
Course 1A2, Basic Valuation Procedures, May 1992
Course 1BA, Capitalization Theory and Techniques, Part A, May 1992
Course 1BB, Capitalization Theory and Techniques, Part B, November 1992
Course 320, General Applications, April 1994
Course 520, Highest & Best Use and Market Analysis, October 1998
Course 550, Advanced Applications, October 2000
Course 530, Advanced Sales Comparison and Cost Approaches, January 2002
Course 540, Report Writing and Valuation Analysis, June 2002
Course 810, Computer-Enhanced Cash Flow Modeling, November 2004
Fundamentals of Separating Real Property, Personal Property and Intangible Business Assets, March 2012
Business Practices and Ethics, December 2018
Uniform Standards for Federal Land Acquisitions: Practical Applications, November 2017
Course 400, 7-Hour Update USPAP, February 2020

Current Seminars
Appraisal Institute
Complex Litigation Appraisal Case Studies, April 2013
Right of Way – Three Case Studies with Two Approaches to Value, October, 2014
Special Use Properties: Hospitality and Senior Housing, January 2015
The Discounted Cash Flow Model: Concepts, Issues and Applications, January 2015
The Lender, Client and Appraiser – You're on the same Team!, July 2015
Technology Tips for Real Estate Appraisers, October 2015
Case Studies – Complex Valuation, January 2016
Statutory Changes to Property Tax Law and Effect on Market Value, July 2016
Hot Topics and Myths in Appraiser Liability, January 2017
Forest Valuation for Non-Foresters II, April 2017
State of South Carolina – Economic Summit, April 2018
Compliance, Completeness and Competency, July, 2018
Global Valuation – Values and Techniques, October, 2018
State of South Carolina – Economic Summit, January, 2019

Valuation Expo
The Modern Appraisal, October 2019
The Role of the Appraiser, October 2019

CLE International
Eminent Domain, The Nuts and Bolts of Public Takings, February-March, 2005

South Carolina Department of Transportation
Right of Way Symposium, December 2016

Professional Associations
Appraisal Institute
Leadership Development Advisory Council (LDAC), March 2004, March 2005, May 2006
Leadership Development Advisory Council (LDAC), May 2007 Discussion Leader, April 2008 Vice Chair; April 2009 Chair
Appraisal Institute Education Trust, Committee Member, 2009, 2010, 2011
Appraisal Institute Government Relations, Committee Member, 2010, 2011
Appraisal Institute Region IX Chapter Services Representative, 2011-2012

Appraisal Institute - SC Chapter
Chairman, Associates Guidance Committee (2004-2005)
Co-Chairman, Government Relations Committee (2005-2006)
Chairman, Government Relations Committee (2007, 2008, 2009, 2010)
Chapter Secretary (2007), Chapter Treasurer (2008), 2nd Vice President (2009), Vice President (2010), President (2011), Immediate Past President (2012)

International Right of Way Association – North and South Carolina Chapter 31
Valuation Committee Chairman (2006 to 2017)

Greater Columbia Association of Realtors

Other Associations
Leadership Columbia, Class of 2005
Leadership Columbia Committee (2006, 2007, 2008)
Leadership Columbia Alumni Association Board (2006, 2007, 2008, President – 2009)
Columbia Rotary Club, (2002 to 2010)
Share Our Suzy (SOS), Board of Directors (2006 to present)

S. C. Real Estate Appraisers Board
Internal Review Committee, 2006- 2011
Board Member, 2012-2013
Board Chair, 2014 - Present

Professional Experience
Real Estate Broker for Bob Capes Realtors, June 1987 - June 1988
Research Assistant & Associate Appraiser for Jeffery Wyman & Associates, Inc., February 1991 - June 1995
Appraiser and Partner – Real Estate Appraisers and Consultants, LLC (REAC) Real Estate Appraisal Firm, July 1995 to Present
Broker in Charge and Owner – The Knight Company, LLC, Real Estate Brokerage Firm, 1995 to Present
Qualified as an expert witness in Circuit Court for South Carolina and North Carolina, Superior Court for Georgia

Licenses
South Carolina State Licensed Real Estate Broker
South Carolina State Certified General Real Estate Appraiser, Certificate No. CG 1531
Georgia Certified General Real Property Appraiser No. 214603
North Carolina State Certified General Real Estate Appraiser No. A4485

ELECTRONICALLY FILED - 2021 Nov 22 3:45 PM - GEORGETOWN - COMMON PLEAS - CASE#2019CP2200212

ELECTRONICALLY FILED - 2021 Dec 06 9:52 AM - GEORGETOWN - COMMON PLEAS - CASE#2019CP2200212

STATE OF SOUTH CAROLINA **COUNTY OF GEORGETOWN** The Gulfstream Café, Inc., Plaintiff, vs. Georgetown County, Georgetown County Council, John Thomas, Ron Charlton, Lillie Johnson, Austin Beard, Steve Goggans, and Louis Morant, individually and in their official capacity as Georgetown County Councilmembers, Defendants.	)	**IN THE COURT OF COMMON PLEAS** **COUNTY OF GEORGETOWN** Civil Action No. 2018-CP-22-00199 **THE GULFSTREAM CAFÉ, INC.'S SUPPLEMENTAL EXHIBIT IN SUPPORT OF PLAINTIFF'S RESPONSE TO DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

Plaintiff The Gulfstream Café, Inc. ("Plaintiff") hereby respectfully submits the following Supplemental Exhibit 31 in support of Plaintiff's Response to Defendants' Motion for Summary Judgment ("Plaintiff's Response"). As noted in Plaintiff's Response, the transcript of Mr. Goggans's deposition was not available at the time of the filing of the Response, so Plaintiff is supplementing the Response with the transcript excerpts now that the transcript has become available.

Respectfully submitted,

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December 6, 2021

Exhibit 31

ELECTRONICALLY FILED - 2021 Dec 06 9:52 AM - GEORGETOWN - COMMON PLEAS - CASE#2019CP2200212

ELECTRONICALLY FILED - 2021 Dec 06 9:52 AM - GEORGETOWN - COMMON PLEAS - CASE#2019CP2200212

STATE OF SOUTH CAROLINA
COUNTY OF GEORGETOWN C/A: 2019-CP-22-00199

The Gulfstream Café, Inc.,
Plaintiff,
vs.
Georgetown County, Georgetown County Council, John Thomas, Ron Charlton, Lillie Johnson, Austin Beard, Steve Goggans, and Louis Morant, individually and in their official capacity as Georgetown County Councilmembers,
Defendants.

30(b)(6) DE BENE ESSE DEPOSITION OF
SGA NARMOUR WRIGHT DESIGN, PA
(Steve Goggans, Registered Agent)

DATE: Wednesday, September 29, 2021
TIME: 10:06 a.m.
LOCATION: SGA Narmour Wright Design, PA
8263 Oceans Highway
Pawleys Island, South Carolina

REPORTED BY: Ann C. Makris, Court Reporter

Q. And why is it very little in recent years?

A. Just the roles and responsibilities I have within the company.

Q. Did you attend meetings regarding prior iterations of the Marlin Quay project?

A. In version one, I did attend a zoning appeals board meeting.

Q. Any other meetings that you attended regarding prior versions of the Marlin Quay project?

A. No.

Q. Who at SGA was tasked with staffing the project with planning staff in Georgetown County?

A. In version one, I would have been that person. Subsequent versions would have more typically been Luda or Mike Rolison.

Versions two and three, a lot of the groundwork or parameters for the design had been established, so I don't know that there was a -- that much interface with the building department or zoning department early on. I'm sure there was some but.

Q. When you say "parameters had been established," can you explain what you mean?

A. Well, my prior deposition covers a lot of this information, but we were told that the

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building could only be a certain square footage. A question was does that include heated space, unheated space, how about stairs, how about elevators, how the parking formulas worked, does exterior space count, does it not count, how was storage counted; how about -- or considerations regarding setbacks.

So those would have been the kinds of things that we would want to establish early on and once those were established in version one, many of those considerations carried over to versions two and three.

Q. Just so I understand, the parameters that were relevant to the planning staff now just were established with the first iteration of the project, correct?

A. Yes.

Q. Okay. Did --

A. And --

Q. Go ahead.

A. And it was PD, so you -- you know, we -- we, again, wanted to understand. There was very poor documentation on the PD, so we wanted to understand what the PD stipulated, what language. It -- it had relative setbacks, those kinds of things.

Q. And it's your testimony that once the parameters were established in connection with version

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one, those were then reused for later versions, including version three, correct?

A. To the best of my knowledge.

Q. In your understanding, the planning staff in Georgetown County was facing its review of version three on whether it complied with the regular setout of the initial version one of the project?

A. To the best of my knowledge, yes. I don't -- in terms of what you --

Q. Do you --

A. -- could do within the PD, the things I mentioned, the square footages, (indiscernible) all those things, yes.

Q. Were you personally involved in any communications with the planning staff regarding the version 3.0?

A. No.

Q. Did you have any discussions with SGA employees who did communicate with the planning staff about version 3.0?

A. Not that I recall.

Q. Is part of being kept in the loop, does that also -- does that mean that you would be aware of discussions going on with the county planning staff?

A. Yeah, hopefully. There was discussion

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multiple ways so understanding the best path, it can be all -- all part of that discussion.

Q. You testified, Mr. Goggans, that the parameters for the site were established during the version one of the Marlin Quay project. Among those parameters, was required parking included?

A. Parking is typically required as a part of the PUD, and I definitely remember having some early conversations about parking and if we -- the direction was if we stayed within the certain square footages, additional parking wouldn't necessarily be required, as best I can recall.

Q. And were you personally involved in those discussions about parking in connection with the version one?

A. I was version one.

Q. I'm going to put on your screen what's previously been marked as Exhibit 42. Do you see that document on your screen, Mr. Goggans?

A. I do.

Q. And this is an email sent from you to Holly Richardson and Boyd Johnson in May 2015, right?

A. Yes.

Q. Was this email referencing the version one of the Marlin Quay project?

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A. Yes.

Q. And you write to -- you write: "Holly and Boyd: "See Patrick's information below. It appears we have ample parking for the restaurant and it's currently denied, plus the store." Do you see that?

A. I do.

Q. And you were providing to Ms. Richardson and Mr. Johnson analysis of the parking associated with version one, correct?

A. Correct.

Q. And you went on to state, "We did not include decks in this analysis. May require additional two or three stages." Do you see that?

A. I do.

Q. What did you mean by that?

A. If there were any seating on the deck, then additional parking may be required. We had a porch or a deck in the ultimate design in version one that had some bistro tables and to accumulate deck seating, and we noted that additional two or three spaces may be required.

Q. And so if there were larger decks in other iterations to the project, that could change the number of required parking spaces; is that correct?

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A. It could.

Q. Do you know what amount of deck space is associated with version three of the Marlin Quay project?

A. No, I do not.

Q. And do you know how it compares to the amount of deck space that was present in version one that's on there?

A. I do not.

Q. But there is -- there's drawings that show -- and I -- I assume some type of table in those architecture drawings that list in that square footage for decking; is that correct?

A. I'm sure that drawings if -- would require -- would stipulate the square footages, the final -- final drawings anyway.

Q. Did anybody at SGA discuss the amount of deck space on version three as it pertains to -- to required parking?

A. I don't know the answer to that question.

Q. Did you have any discussions with anybody at SGA about the deck space or required parking for version three?

A. No.

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account when evaluating whether the amount of parking for a project is sufficient?

A. It is and except that, in this case, we were -- the underlying assumption was the two -- the use that was being removed, the old marina building versus a new building, were virtually the same except for some extra seating that would have been on the deck. But we weren't -- the assumption was we weren't changing or impacting the situation any more than would have otherwise been the case.

Q. But I think you've -- you just testified that when you did this parking analysis in May of 2016, you didn't consider other users of the parking lot, right?

A. I said, I don't completely recall if we did a -- I don't think we did a parking analysis for Gulfstream as (technical difficulty).

Q. And you're aware now as we sit here today that is an easement that prevents Gulfstream from using the parking lot, correct?

A. Yes.

Q. And the existence of that easement, would that potentially be relevant to a parking analysis for this parking lot?

A. It -- it could and that would be a

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October 1 of 2018, correct?

A. Yes. From the date, yes.

Q. And now, I'll represent to you that version 3.0 was approved by county council in January of 2019. Does that sound correct to you?

A. Yes.

Q. But these emails were before the approval actually occurred, correct?

A. Presumably, yes.

Q. Was the -- these issues regarding the design of the wall, is this part of the design of the building or is that more of a building code issue that's referenced in these emails?

A. That's all building code issues, as best I can tell.

Q. And it's difficult to deal with this building code issues before the amendment that you're applying for had been approved?

A. Well, in this case, it -- it's not necessarily typically but, in this case, we already had one precedent and, you know, instead of regulatory and legal constraints, so trying to get problems solved ahead of submittal, in my mind, makes sense.

Q. You and your team at SGA were confident that version three would be approved based on the

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prior approvals that had happened, prior versions?

A. Well, reasonably confident. It's -- it's similar to any other building we design, we can -- if we know what the planning and zoning requirements are, if we know what the building code requirements are based on research, we design a building that -- that conforms and unless we overlook something or miss something or misinterpreted something, then we're reasonably confident that it -- it -- it will work and be approved.

Q. You said if something overlooked or misinterpreted that might change whether -- whether you could get your -- your next iteration approved; is that right?

A. That's right. It's not often but, you know, occasionally, you know we have hiccups. You know, we submit something and a building official or -- will say, no, I'm looking at this this way, so we adjust.

Q. Did anything like that come up during the -- the version three application process?

A. The only thing that I can vaguely recall was the issue relating to the building type.

Q. The building type?

A. Yeah, type of construction: Type 1, 2,

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ELECTRONICALLY FILED - 2021 Dec 13 4:14 PM - GEORGETOWN - COMMON PLEAS - CASE#2019CP220212

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FIFTEENTH JUDICIAL CIRCUIT
COUNTY OF GEORGETOWN	)	CIVIL ACTION NO. 2019-CP-22-00212
The Gulfstream Café, Inc.,	)	
Plaintiff,	)	
vs.	)	**CONSENT MOTION TO DISMISS DEFENDANTS JOHN THOMAS, RON CHARLTON, LILLIE JOHNSON, AUSTIN BEARD, AND LOUIS MORANT, INDIVIDUALLY AND IN THEIR OFFICIAL CAPACITY AS GEORGETOWN COUNTY COUNCILMEMBERS**
Georgetown County, Georgetown County Council, John Thomas, Ron Charlton, Lillie Johnson, Austin Beard, Steve Goggans, and Louis Morant, individually and in their official capacity as Georgetown County Councilmembers,	)	
Defendants.	)	

The Parties hereby move for the dismissal, with prejudice, of the Defendants John Thomas ("Thomas"), Ron Charlton ("Charlton"), Lillie Johnson ("Johnson"), Austin Beard ("Beard"), and Louis Morant ("Morant"). The Parties have agreed to dismiss claims against these Defendants in that they are entitled to protection under the doctrine of legislative immunity. This dismissal shall not affect Plaintiff's claims against Defendants Georgetown County and Steve Goggans. Therefore, pursuant to Rule 41(a) of the South Carolina Rules of Civil Procedure, the Parties request an order for the dismissal of all claims, which Plaintiff asserts or could have asserted in the above-captioned case against Defendants Thomas, Charlton, Johnson, Beard, and Morant, individually and in their official capacity as Georgetown County Councilmembers.

Respectfully submitted.

[*Signature Block on Following Page*]

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Consent to e-sign this document on behalf of Andrea J. Pearson, Esquire, was obtained from her via email

ELECTRONICALLY FILED - 2022 Jan 13 1:44 PM - GEORGETOWN - COMMON PLEAS - CASE#2019CP2200212

STATE OF SOUTH CAROLINA **COUNTY OF GEORGETOWN** The Gulfstream Café, Inc., Plaintiff, vs. Georgetown County, Georgetown County Council, John Thomas, Ron Charlton, Lillie Johnson, Austin Beard, Steve Goggans, and Louis Morant, individually and in their official capacity as Georgetown County Councilmembers, Defendants.	)	**IN THE COURT OF COMMON PLEAS** **COUNTY OF GEORGETOWN** Civil Action No. 2019-CP-22-00212 **THE GULFSTREAM CAFÉ, INC.'S SUPPLEMENTAL EXHIBITS IN SUPPORT OF PLAINTIFF'S RESPONSE TO DEFENDANT'S MOTION FOR SUMMARY JUDGMENT**

THE GULFSTREAM CAFÉ, INC.'S SUPPLEMENTAL EXHIBIT IN SUPPORT OF PLAINTIFF'S RESPONSE TO DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

Plaintiff The Gulfstream Café, Inc. ("Plaintiff") hereby submits the following Supplemental Exhibits in support of Plaintiff's Response to Defendants' Motion for Summary Judgment ("Plaintiff's Response") filed November 22, 2021.

1. Exhibit 32 - Deposition Transcript of Steven Goggans taken September 29, 2021;
2. Exhibit 33 - Deposition Transcript of Holly Richardson taken March 3, 2021;
3. Exhibit 34 - Deposition Transcript of Lester Boyd Johnson, Jr. taken March 4, 2021;
4. Exhibit 35 - Deposition Transcript of Tiffany Coleman taken March 4, 2021;
5. Exhibit 36 - Deposition Transcript of Board of Zoning Appeals taken on February 2, 2017;

6. Exhibit 37 - Deposition Transcript of The Gulfstream Café, Inc. given by Greg Greenbaum taken February 12, 2021.

Respectfully submitted,

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EXHIBIT 32

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STATE OF SOUTH CAROLINA
COUNTY OF GEORGETOWN C/A: 2019-CP-22-00199

The Gulfstream Café, Inc.,
Plaintiff,
vs.
Georgetown County, Georgetown County Council, John Thomas, Ron Charlton, Lillie Johnson, Austin Beard, Steve Goggans, and Louis Morant, individually and in their official capacity as Georgetown County Councilmembers,
Defendants.

30(b)(6) DE BENE ESSE DEPOSITION OF
SGA NARMOUR WRIGHT DESIGN, PA
(Steve Goggans, Registered Agent)

DATE: Wednesday, September 29, 2021
TIME: 10:06 a.m.
LOCATION: SGA Narmour Wright Design, PA
8263 Oceans Highway
Pawleys Island, South Carolina

REPORTED BY: Ann C. Makris, Court Reporter

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I N D E X

WITNESS:	PAGE:
STEVE COGGANS:	
Examination by Mr. Nugent:	6

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(Note: Exhibits 3, 4, 21, and 32, late-filed at time of production)

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(The witness, after having been advised of his right to read and sign this transcript, does not waive that right.)

STEVE GOGGANS, being first duly sworn, testified as follows:

EXAMINATION

BY MR. NUGENT:

Q. Mr. Goggans, good morning. My name is Adam Nugent, and I represent the Gulfstream Café. I believe we met before I took your deposition about approximately three years ago. Do you recall that?

A. I do.

Q. And I'm going to be taking your deposition today. You have been noticed to be deposed in both your individual capacity and also as the corporate representative for SGA Architecture. I'll get into that in just a second. I just want to go through a couple of background pieces and ground rules before we get started.

Could you put your address, state your address for the record, please?

A. My residential address is 464 Rossdhu Avenue, Pawleys Island, South Carolina.

Q. And, Mr. Goggans, since your deposition in 2018, have you given any other depositions?

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A. I have not.

Q. I don't recall from our prior deposition how many times you've been deposed in total. Can you give me that number?

A. I would be guessing. I can't really.

Q. Are we talking more than ten times?

A. No.

Q. Somewhere less than ten; is that right?

A. Yes.

Q. I'll give you a few ground rules. These may be -- they should be fairly self-explanatory, but we are doing this via a virtual platform, so things are a little bit different than the last time that I took your deposition.

I will be asking you a series of questions. You're under oath just as if you were in court and sworn in by the court reporter, but the number one ground rule is to give verbal answers to the questions.

That's the same as if you were in person. The court reporter is here to take down everything. Obviously, if you nod or shake your head, she may see you do that on Zoom, but she can't type that up as part of the transcript.

It sounds like there was a little bit of a

ELECTRONICALLY FILED - 2022 Jan 13 1:44 PM - GEORGETOWN - COMMON PLEAS - CASE#2019CP2200212

technical issue in terms of hearing your answers, so please just try to speak up and be close to the microphone when you're answering a question.

A. Okay.

Q. The next ground rule and this is especially important because we are doing this virtually is for you and me to not talk at the same time.

You will very often know where I'm going with my question before I finish it, but if you start to finish before I've finished a question, it's going to end up with us talking over each other and especially since we're not in the same room, it can be a little bit difficult for the court reporter to take that down.

So if you will extend me the courtesies of letting me finish my question before you answer, I will do the same for you. Does that make sense?

A. Yes.

Q. Now, I will be showing you some exhibits. The exhibits will show up on your screen via the Zoom airstream function. I don't know if you -- are you familiar with using Zoom or similar platforms for meetings or other presentations?

A. We do it regularly.

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Q. Okay. So that -- that's good. I will be putting documents on the screen via Zoom. They will be visible to everybody. I will scroll through them for you whenever you need to look through it or review the material.

The exhibits will be a little bit out of order here. We had to pre-mark everything and we're using some exhibits from some prior depositions that happened in this case, so don't be concerned if the number -- the exhibit number I give you is something that doesn't make sense. Just -- if you'll just look at the document and let me know if you have trouble seeing it or need to review it.

Your attorneys may object from time to time but unless you are specifically instructed not to answer, you still need to answer the question subject to any objections.

And then if you need to take a break at any point in time, that's perfectly fine. All I ask is that you answer any questions that's pending on the table before you take a break.

A. Okay.

Q. Any questions about those ground rules?

A. None at this time.

Q. Are you under the influence of any

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drugs or alcohol this morning?

A. I am not.

Q. Is there anything that would prevent you from testifying truthfully and fully today?

A. No.

Q. And just since we are doing this via Zoom, are you located -- where are you physically located right now, Mr. Goggans?

A. Pawleys Island.

Q. And is that your residence in Pawley's Island?

A. I'm in my office.

Q. You're at your office in Pawleys Island. Is there anybody else in the room with you at your office?

A. And no.

Q. Okay. And I understand it appears that Ms. Golding is in a different location and Mr. Sperry also is in a different location; is that your understanding?

A. Yes.

Q. Mr. Goggans, what did you do to prepare for today's deposition?

A. I looked through the deposition from 2018 where you deposed me and that would be it.

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Q. Did you review any other documents besides the transcript from your 2018 deposition?

A. I did not.

Q. Did you meet with anybody to prepare for today's deposition?

A. Other than my counsel via phone teleconference, no.

Q. Did you talk to anybody other than your attorneys to prepare for today's deposition?

A. I did not.

Q. And do you understand that you are testifying as a corporate representative for SGA Architecture today?

A. Yes.

Q. Did you speak with anybody at SGA Architecture about your testimony in that capacity?

A. I told several of the staff that I would be deposed but no discussion otherwise.

Q. And when did you tell these staff members you were going to be deposed?

A. In our staff meeting Monday morning.

Q. Did you review any documents to prepare to testify as the corporate representative for SGA?

A. No.

Q. I'm going to show you what's been

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marked as Exhibit 62.

(PLF. EXH. 62, Subpoena to SGA Narmour Wright Design, PA, was referenced.)

Q. And do you see a document on your screen, Mr. Goggans?

A. I do.

Q. And I'm happy to scroll through this. Looking at the first page, do you recognize this document?

A. I do.

Q. And what is this document?

A. It's a subpoena.

Q. Is this the subpoena that was served on SGA for the deposition that you're giving today?

A. It is.

Q. And just so we're on the same page, looking at the first page it says, "To: SGA Narmour Wright Design, P.A." Do you see that?

A. Yes.

Q. Is that the company that you are affiliated with?

A. Yes.

Q. If I use "SGA," will that -- you'll understand that I'm referring to that particular company?

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A. Correct.

Q. I believe when I took your deposition back in 2018, the name of the company was something different; is that right?

A. That's right.

Q. Tell me what's changed between 2018 and now in terms of the company's name or when it changed.

A. We went through a merger and the original -- the former name was SGA Architecture and -- and we merged a firm in with us Narmour Wright Design or Narmour Wright and, hence, the new name.

Q. Where is Narmour Wright, or where was it located prior to the merger?

A. Charlotte.

Q. Charlotte, North Carolina?

A. Correct.

Q. Has your position changed following the merger from what it was prior to the merger?

A. No.

Q. Just so we're all on the same page, what is your title with SGA Narmour Wright?

A. President and CEO.

Q. Did your daily functions or your job responsibilities change as a result of the merger?

A. Well, we've grown, so I'm engaged less

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in project work now.

Q. You said you're less engaged in project work. What are you more engaged in?

A. Management, administration, business development, and still a small amount of design.

Q. You said that the company has grown. Can you quantify how much it's grown by?

A. We've probably grown a hundred percent. We're 60-plus people now.

Q. Sixty-plus employees, is that what you said?

A. Yes.

Q. Location-wise, I understand you testified that Narmour Wright was based in Charlotte. Are there other locations where SGA does business that are different from where they were located in 2018?

A. Charleston and Greenville, South Carolina.

Q. Charleston and Greenville have also been added since 2018, correct?

A. Well, actually, Charleston has -- we've had Charleston for a couple of decades. Greenville -- we had Greenville as well in 2018. Charlotte is the only new on top of that location.

Q. Okay. Just so I'm clear. You said

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Charleston and Greenville actually were around as of 2018?

A. Yes.

Q. What locations, then, were added as a result of the merger with Narmour Wright?

A. Just Charlotte.

Q. Just Charlotte.

Has your ownership interests in the SGA's business changed as a result of the merger?

A. Well, my share of the ownership is modified to some degree. I now own 84 percent, roughly, of the company.

Q. But your title remains president and CEO. Is there anybody else with a title -- a similar title?

A. Not that title. We've got other officers and -- and partners.

Q. Do those officers or partners report to you given that you're the president and CEO?

A. Yes.

Q. Okay. And looking back at this exhibit and this deposition notice, I'll scroll down to -- there was an area that in Exhibit A that listed documents to be produced. I've got that on your screen. Do you see that?

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A. I do.

Q. And were the documents referenced in this Exhibit A, have they been produced in this case?

A. To the best of my knowledge, yes.

Q. Who at SGA was charged with gathering documents for production?

A. I would have asked Mike Rolison, who is the most recent project manager, to produce them, and possibly Laura Helminski.

Q. Did you individually or personally have a role in gathering the documents that are referenced here on Exhibit A?

A. Not gathering them. I did transmit them to my counsel.

Q. Have you individually altered or produced documents in this lawsuit?

A. In the past, again, would have maybe overseen the gathering of the documents but yeah, we've produced documents under prior subpoena.

Q. The documents referenced here on Exhibit A, when were those produced?

MR. SPERRY: And, Mr. -- Adam, just to confirm. I've had conversations with your office and emails that the production that was done previously did not need to be reproduced and that also that there

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are no additional communications, and I was told to update it to the similar communications with the county.

There has been no -- as of an email last week, there have been no additional communications or correspondence that -- with the county to be produced.

MR. NUGENT: Now, I believe you on that clarification. Paul, I'll just confirm that with the deponent so we're all on the same page.

MR. SPERRY: Okay.

EXAMINATION CONTINUING

BY MR. NUGENT:

Q. Mr. Goggans, your counsel just represented that prior production of SGA was made and that those documents -- there's no additional communications with the county since the date of that of that prior production, is that accurate?

A. If you're asking me, yes, as far as I know, that is accurate.

Q. After receiving the subpoena, and I believe if we scroll up, it's a documented dated I believe is August. Yes, August 23rd is the date of the subpoena you can see it on the first page.

Did SGA personnel look for additional documentation after receiving this subpoena in August?

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A. Yes, we went and surveyed our server. Again, Mike Rolison would have been handling that since he was the project architect and -- and pulled anything together that would have -- and I -- I think it was -- I'm not sure there was anything but minimal, and I've communicated that to my counsel, Paul Sperry.

Q. I believe SGA's prior production occurred in roughly February of 2021. Does that sound accurate?

A. Correct.

Q. And who at SGA was involved in gathering documents in response to that subpoena or that request?

A. The same persons: Laura Helminski, Mike Rolison.

Q. Did you individually gather documents back in that February 2021 time frame?

A. No.

Q. Had SGA done additional work on the project that's at issue in this lawsuit since February of 2021?

A. No, other than respond to questions from the field and possibly look over a document or two when asked.

Q. You said "respond to questions from the

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field." Can you explain what you mean by that?

A. Well, anytime we do a project, during the construction phase, there are technical questions that arise, and they often have to do with substitutions. They often have to do with tests and testing. They often have to do with something that's not readily applicable to or explained by the documents that we've prepared and then there are submittal documents where we actually review top drawings, steel, concrete, different things.

So a limited amount of that since February because the building, since that point in time, is largely framed up and -- and enclosed, so we've gotten through most of that so there -- and then the occasional question that would have been the nature to that material or -- or discussion.

Q. Who -- who are the individuals asking questions or providing documents for SGA personnel to review in this February to the August or September of 2021 time frame?

A. I don't know the answer to that question. It could have been whoever. Mr. Lawhon (technical interruption) performs, the project manager who was on the site, would have been asking the questions, I presumed.

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Q. And can you give me an estimate of how much time SGA personnel has spent between February of 2021 and the present responding to those questions or reviewing documents?

A. Not really, but our billings have been very minimal, and we bill this work by -- on a time basis. I do occasionally look at bills, so I've seen very little bill-out, so it's pretty minimal.

Q. And then you individually, what work have you done on the project between February 2021 --

A. None.

Q. Looking back at the deposition as you look at Exhibit 62, I have scrolled down to the next page which has a Rule 30(b)(6) deposition topic. Do you see that?

A. I do.

Q. Did you review this list of topics prior to today's deposition?

A. This is part of the 2018 deposition?

Q. This is the subpoena that was served on SGA in August of 2021 and --

A. Correct.

Q. -- and you are the representative for SGA?

A. I scanned it and basically told Mike

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Rolison to pull anything together dating since February and that was the extent of my review of that document.

Q. And just so that we're clear. This is -- this page we're looking at, you can see at the top it says, "Rule 30(b)(6) Deposition Topics." Are you with me?

A. Yes.

Q. And do you understand that this list here is not for just producing documents, but actually for topics that you are designated to offer testimony on, on behalf of SGA?

A. Okay.

Q. Is that something you were aware of prior to me just telling you that?

A. No. I honestly didn't look at the prior subpoena that closely. I just asked that we produce everything that pertained since February of this past year.

Q. And that was the page we're looking at up here -- I just scrolled back to it -- which is identified as documents produced. The -- the page that we're focused on now is the actual topics of examination --

A. Okay.

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Q. -- and I'm happy to give you -- there's not a lot of them, but I'm happy to give you a moment to review those, but I need to confirm whether you are, in fact, prepared to testify on these topics today?

A. I am not the architect or -- or did not do the design or -- or development of construction documents for the iteration of the building that is being -- that is -- that has been constructed with regard to -- or nearing completion, so I'm not sure I can testify to all of this information. I have background from the earlier version that I was heavily engaged in.

Q. And I'll just scroll down. There's -- there's one last topic here that may not have been on your screen, topic number three. Do you see that?

A. Item number three?

Q. Yes.

A. Can you scroll a little further?

Q. (Complies)

A. Okay. Okay. Yes.

Q. Are you prepared to offer testimony on item number three?

A. I am prepared to offer that testimony, yes and --

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Q. But as to the other two topics one and two, you're saying you are not the person who is in a position to testify on behalf of SGA as far as that?

MR. SPERRY: I'm sorry. So -- so let -- let me object. I'm not required to put up a most knowledgeable person. I am putting up Steve Goggans as a -- as the deponent that -- on these topics --

MR. NUGENT: Well, Paul --

MR. SPERRY: -- and I just want to be clear that we're not going to leave this open for someone else to come in and get deposed for SGA.

MR. NUGENT: Well, the problem, Paul, is that you do have to offer up somebody who has knowledge and who is prepared to testify on these topics and if he testifies that he is not the person who has knowledge about these things, then he is not the appropriate (30)(b)(6) witness, and we are going to have to hold this up.

MR. SPERRY: I -- I -- I disagree. This is -- Mr. Goggans in his role is able to testify on all that -- all the topics. He is the SGA deponent. I mean, we can talk about whether you want to talk -- take individual depositions for, frankly, no reason at -- at some other time, but he -- he is the corporate representative for these topics.

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EXAMINATION CONTINUING
BY MR. NUGENT:

Q. Well, I'm -- I'm going to ask him whether -- are you prepared, Mr. Goggans, to testify about topics one and two that are listed on this notice that's in Exhibit 62?

A. The -- I can testify as to the -- from my earlier work in version one, we call these things -- and we've called it version one, version two, version three, and I know, generally, the parameters of the project and the parameters of the building, and some of the technical requirements, but I was not the person, again, that drafted the version two and -- and version three.

Q. Looking at these deposition topics, you'll see in topic number one, it references an application for August 2018. Do you see that?

A. Yes.

Q. I'll represent to you that's version three. Does that sound right to you?

A. That's about the time we developed version three, correct.

Q. And your testimony is that you were involved in the development of version one, but that you were not the person at SGA who created or

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developed version three; is that correct?

A. No.

Q. In terms of having knowledge about the topics related to version three that are contained here in 1-A, 1-B, 1-C, do you have knowledge to testify on behalf of SGA regarding those topics?

A. General knowledge, yes, because I am now familiar with to some degree of the projects in the office. I am -- do have background on the project from earlier work but will also offer that there may be specifics relative to the project detail that I cannot answer.

Q. Who at SGA would have knowledge to answer our questions about specific details of version three?

A. Probably Mike Rolison or Luda Sobchuk.

Q. And then going down to topic number two which references oral or written communication, do you see that?

A. Yes.

Q. And it references communications regarding the application, which is a -- which is capitalized and I'll represent to you again is pertaining to version three.

Do you have knowledge about oral or written

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communication from SGA personnel pertaining to version three?

A. Yes. General knowledge, I do.

Q. Who at SGA would have more specific knowledge about the communications pertaining to version three?

A. The -- with -- between council members, employees, representatives, agents, and officials, I would have some knowledge. Mike Rolison would have -- would have had all of the communications pursuant to the building permit being issued and a good bit of that in the lead up.

Q. Anybody else at SGA other than Mr. Rolison?

A. Well, Luda Sobchuk may have had some interface with the building department also but, mainly, Mr. Rolison.

MR. NUGENT: Paul, I understand your position and, obviously, we're going to reserve the right to potentially reconvene this 30(b)(6) deposition if it turns out that Mr. Goggans does not have the requisite knowledge to testify on behalf of SGA.

MR. SPERRY: Yeah. I mean, my position is he is the SGA corporate representative for these

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topics and that if you determine you need to take additional individual depositions, we can -- we can discuss that but -- but he is -- he is the deponent on the topics, but we -- we can talk about that more later --

MR. NUGENT: Yeah, and he --

MR. SPERRY: -- and I am not objecting, obviously, to any of the questions you ask him, and it's really the -- the objections, I guess -- well, I guess you're objections -- it's -- it's really more your issue I suppose than mine, but we can talk about it later.

MR. NUGENT: That's -- I think our positions are sufficiently on the record, so we'll -- we'll move on.

MR. SPERRY: Okay. Sounds good.

EXAMINATION CONTINUING:

BY MR. NUGENT:

Q. Mr. Goggans, you previously testified that your role in SGA has changed somewhat since -- since the -- the merger with Narmour Wright, correct?

A. Correct.

Q. I believe you said that you are doing less design work and more business development and management; is that right?

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A. Yes.

Q. What percentage of your time do you spend doing design work?

A. Probably 10 to 20 percent.

Q. In terms of how many projects you're working on at any given time, what does that look like?

A. Anywhere from five to ten, and I'm typically doing the early phases of the -- of the creative work. After that, it gets handed off.

Q. Tell me what's involved in the early stages of the work?

A. The conceptualizing of a project or building, primarily, and developing early plans, exterior elevations or views, site plans.

Q. You testified that after you work on the early stages and it, then, gets handed off, what happens once you've handed it off?

A. I hand it to a project architect. We typically have a project manager as well and depending on the size of the project, and they begin to develop the design development documents and the construction documents. I might have -- I might intervene here and there in -- in the project work but -- but it's largely developed by others at that point.

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Q. And do you review the documents that are created by the project architect or project manager?

A. Not usually. We have the QC/QA process, quality control and it's -- and the documents are usually reviewed by one of our senior architects by not usually by me.

Q. Are there anything to indicate since the 2018 time frame where you've actually gotten more involved or reviewed some documents for a particular project?

A. Well, probably. You know, occasionally. It's --

Q. How about for the -- sorry. Go ahead.

A. If, you know, that's what -- if schedules were backed up, or we didn't have manpower or whatever but -- but not often.

Q. Mr. Goggans, how about your role for version three of the Marlin Quay project?

A. I did not review -- I did not review that.

Q. Who at SGA is tasked with reviewing or creating -- first creating and then reviewing documents for the Marlin Quay version three?

A. Luda Sobchuk would have been the

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project designer and Laura Helminski would have likely have been the project architect doing most but not all of the CAD work, the digital work, and then Mike Rolison would have been the -- would have been our quality control on review and would have provided that and as well as followed the project to the fields.

Q. Mm-hmm.

A. We call him a construction administrator, so he's usually the one involved or engaged in the project after it's -- as it's beginning to go to construction.

Q. When you say it's followed to the field, do you mean after a project has been approved and a building permit has been issued?

A. He might be involved in that stage as well as the bidding of the project and the pricing but from the point the documents are largely completed or are close to completion, he becomes involved and manages the project to completion.

Q. Does SGA typically follow a project to the field given the phrase you just testified to?

A. On commercial projects, most of the time, yes.

Q. What would your personal individual role in the Marlin Quay version three project?

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A. Other than monitoring it within the firm like I would any other project within the firm, that was pretty much it. We have Monday staff meetings. I would want to know what -- what our progress is. If we have building issues, I want to know what those are. If there are issues on the project, I want to know what those are, so it's -- it's that sort of discussion, but part of my role is -- is over-arching manager for all that this office does.

Q. And how did the role on the version three project differ from your role on the prior iterations of the Marlin Quay project?

A. The version one compared to this version, I -- I was the design architect.

Q. What was -- and what does that entail?

A. It would entail initiating firm conceptual work and going back and forth with the owner, gathering -- doing site analysis and gathering site information including regulatory information and finally, the deliverables or the end product of -- of -- of that. The early phase would have been floorplans, exterior elevations reviews as I mentioned earlier, and site plans.

Q. And then for version two, what was your

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role?

A. Very little other than I did review and approve documents in that version and critiqued -- provided review -- design reviews and critiqued the early design efforts.

Q. Did you review or approve documents for the version three project?

A. I did not.

Q. And I believe you testified that on version one, one of your goals was the engaging back and forth with the owner; is that right?

A. Right.

Q. Did you do that in connection with either versions two or three?

A. I might have had some early involvement on version one and version two but none on version three.

Q. Who at SGA dealt with the -- the owner for version three?

A. The people I've mentioned before, Luda Sobchuk, probably as the design architect for versions two and three would have had most of that, Laura Helminski, Mike Rolison. Heather Shakherdt may have been involved, and I think she was involved on version two. She left before the building was completed with

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the design. She's not been an employee of SGA/Narmour Wright for several years.

Q. In terms of the -- the building that was being designed as part of version three, how did it compare to the prior iterations that SGA had developed?

A. As far as I'm aware, it followed fairly closely the programmatic considerations of version two, but the geometry of the building changed, particularly at the ground level considerably.

Q. You said it followed what kind of considerations? I'm sorry, I didn't quite catch that.

A. Programmatic. We would have used version two as a reference for what we were doing in version three in terms of functions and programmatic space, in general. But when you change the geometry, some of that also -- some of the -- it's give and take, so some of the other things change, too.

Q. You said you changed the geometry primarily on the first floor; is that right?

A. Primarily, but there may have been a few changes as well.

Q. What was the -- the basis for changing the geometry on the ground-level on the first floor and other portions of the building?

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A. During -- during this ruling regarding version two, we were directed and told that all of that building had to follow the specific plans of the original building which was demolished or stay within that -- that footprint along with staying on the -- staying within the property that Mark Lawhon owned. The original building straddled the property line with the condominiums to the north.

Q. And what did SGA do to accomplish those -- those two tasks of staying within the footprint of the prior building and staying on the property owned by Dr. Lawhon?

A. Well, we had to produce a design that was fairly complicated because it involved a significant cantilever for the first -- from the first floor of the elevated floor up. The foundation of that building, the pedestal holding up the building is very -- is very small and very constrained and, again, it involved several structural cantilevers of the building to get it -- to -- to keep it within the original footprint.

Q. Who at SGA came up with the -- the concept of using a structural cantilever?

A. Luda Sobchuk.

Q. What was your personal involvement in

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creating that design to allow the building to stay within the footprint of the -- the demolished building standing on Dr. Lawhon's property?

A. None in terms of creating the original design. I saw it, reviewed it, and I was interested in it from a technical standpoint.

Q. When did you learn about the court order regarding version two?

A. I can't recall exactly. I can't recall.

Q. Did you communicate with other employees at SGA regarding the court order and the impact on the design of another iteration of the Marlin Quay project?

A. I would have likely been given or was the one that gave direction regarding the court order and made the project assignments and -- and redefined the parameters within which we had to design the building.

Q. You said you were the person that would have done that?

A. Yes.

Q. You said you redefined the parameters. Any other parameters that had to be followed beyond what you've identified previously?

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A. Not that I'm aware.

Q. And what involvement did the owner of the property have in redefining the parameters for this version three of the building?

A. We would have been the one that initially communicate the -- the direction that this is now what we have to do, so from a geometry perspective. I would have, then, communicated that, put together my project team and communicated that information to them in turn.

Q. In that particular instance, you would have received direction from the -- the property owner about where to go and how to -- how to move forward with the third version?

A. Correct.

Q. And when did that communication take place?

A. I can't recall exactly.

Q. Was that a meeting, phone call, email, or text message exchange?

A. It would have been a meeting.

Q. A meeting, is that what you said?

A. Yes. Uh-huh.

Q. Who attended that meeting?

A. I don't think I had -- I don't even

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recall the meeting, but Mark Lawhon and I would have been there. I don't know if I had additional staff with me or not at that point.

Q. I just put on your screen what we'll mark as Exhibit 63.

(Defendant's Exhibit 63, Email 02/03/21 from Dan Stacy to Sonya Papankoloaou, was referenced)

Q. Do you see an email on your screen, Mr. Goggans?

A. Okay.

Q. Do you see the email that sits on your screen?

A. I do.

Q. And the first part of it has got a February 2021 date. I'll represent these documents were produced by Dan Stacy in this litigation. You're familiar with Mr. Stacy, correct?

A. I am.

Q. What was his role, in your understanding, on the version three of the Marlin Quay project?

A. Dan's role would have been to represent the owner of visa vie Georgetown County.

Q. Had you worked with Dan Stacy previously?

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A. I have, yes.

Q. You worked with Stacy on projects other than the one related to property owned by Dr. Lawhon?

A. I'm sure I have. I can't recall which ones right now, but part of Mr. Stacy's practice is representing owners and clients before regulatory bodies, including Georgetown County.

Q. And if we look down the email, I want to ask you about from Lindsey Pascoe. Do you see that?

A. I do.

Q. Who is Ms. Pascoe?

A. Well, she's no longer with us. She's been gone for about a year and a half, and Lindsey would have been -- she assisted me and she would have -- she was also our office manager.

Q. Ms. Pascoe, you said she assisted you. Was she an administrative assistant to you, something of that nature?

A. She took care of some -- some of that work, yes. I have -- I have another assistant, so they overlap a little bit.

Q. In this August 2018 time frame, do you know if it was Ms. Pascoe serving as your assistant?

A. Yes.

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Q. But was there somebody else who was serving as your assistant during that time frame as well?

A. Kate Roberson.

Q. In this email, it's from Ms. Pascoe to Ms. Sobchuk and then you're -- you're copied along with Mr. Stacy, do you see that?

A. Yes.

Q. And does this appear to be a true and accurate copy of the email that you received from Ms. Pascoe in August of 2018?

A. Yes.

Q. Do you recall receiving this email?

A. I do not.

Q. In the email, Ms. Pascoe, said Luda -- it said, "Hi, Luda. Dan Stacy will be contacting you in regards to the work on Marlin Quay."

Do you see that?

A. Yes.

Q. Do you understand what work Ms. Pascoe was representing?

A. I actually do not.

Q. And I'll represent to you -- and I believe in looking at the application for major amendments to the Marlin Quay that explained it all,

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that was submitted in August of 2018 for version three. Does that sound accurate?

A. I now honestly can't recall. It sounds -- it sounds like it could be accurate, but I can't recall.

Q. As you sit here today, do you know whether the -- the work on Marlin Quay references this email as to version three or something else?

A. Given the timing and the date of the email, it would -- I would, you know, stipulate it -- it has to pertain to version three.

Q. Ms. Pascoe goes on to state, "Steve would like to be in the loop on all conversation as well." Do you see that?

A. I do.

Q. And when she had sent that, and do you directed -- did you direct Ms. Pascoe to send these emails?

A. I'm sure we had some conversation about it.

Q. And you said -- and you wanted to be on the -- in the loop on conversations involving Mr. Stacy and Ms. Sobchuk, does that sound correct?

A. Correct.

Q. And were you kept in the loop on

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conversations involving Mr. Stacy and Ms. Sobchuk?

A. I recall very few conversations which were with Dan Stacy. Luda and -- and I had conversations, but I -- I don't honestly recall any between Dan Stacy and myself.

Q. Did you have any conversations with Mr. Stacy regarding version three of the Marlin Quay project?

A. I don't recall any.

Q. But if you wanted to be in the loop, any reason to dispute that Mr. Sobchuk and Mr. Stacy kept you in the loop on conversations about the project?

A. Luda and I spoke occasionally. She's in Charleston and I'm in Pawley's, so she would -- she would have kept me updated regarding basic -- the progress of the design and, again, any complications or issues.

Q. Was it normal for you to be kept in the loop on a -- on a project?

A. Yes, in the parameters I just suggested: progress, problems, complications.

Q. In terms of you communicating with the attorneys submitting a zoning amendment on behalf of the property owner, is that something that you

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typically were involved in?

A. It would actually depend if I am leading on the project. Yes, I would be -- be involved and -- but if I'm not the project manager, maybe not so much or the principle in charge. We've got numerous principles so it quite candidly would vary.

Q. And did this -- since you weren't leading on the project, but you did ask to be involved in issues with the attorney or with the property owner?

A. I wanted to be kept informed.

Q. And to the best of your knowledge, you did have -- so you worked out some forms about the progress of the project?

A. Well, I just don't recall any conversations with Dan Stacy. I'm not saying there weren't any, but I don't recall.

Q. And you had personal knowledge from your involvement on prior iterations of the Marlin Quay project, correct?

A. I had a fair knowledge of the site constraints and some of the -- the issues, regulatory issues and some of the outcomes of the litigation that surrounded the project.

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Q. So you could provide value through that institutional knowledge to members of your team who were working on version three, correct?

A. Yes, and one of the reasons I asked to be kept in some communication, I would think.

Q. And any reason to doubt that you were allowed to share your institutional knowledge from the prior version of the project in connection with the work that was being done on version three?

A. Luda was also involved in version two, so she had a lot of that knowledge as well, but my staff were aware of, again, issues and problems surrounding the project and some of the constraints and across the three versions we did, there was staff communication about much of that information. Probably not all of it, but a lot of it was shared, yes.

Q. And were you a part of those communications sharing the knowledge you had regarding the issues at the site?

A. With staff, yes.

Q. When you say "staff," what do you mean?

A. Luda, my -- Laura and my project architects, project manager. Luda was a project designer.

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Q. Ms. Pascoe you said was an administrative assistant or your assistant in this 2018 time frame, correct?

A. Again, she was an office manager. She did some overlap with Kate Roberson, who's my actual administrative assistant.

Q. And do you know if SGA searched the email accounts of -- of either of those individuals in an attempt to locate documents responsive to the subpoenas?

A. Well, Ms. Pascoe is not here any longer, so there would be no email from her for the last 18 months. When we do a search, we go onto our server and we have a project number, and all communications are typically relegated to that project number and a certain file on our server.

To the best of my knowledge, you have been given everything. If there is an outlier communication that didn't get filed correctly or whatever, but I can't swear to that, but we -- we also do a search, I mean, like Marlin -- we -- we put in keywords, so it's to tell us for sure if anything would have turned up.

Q. Now, I'll represent to you that the organization of the documents produced by SGA in this

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action, it separated emails by -- by individual. So there was a folder for Ms. Sobchuk. I believe there is a folder for maybe Ms. Helminski.

I can't remember exactly, but it appeared to be separated by individual, either -- and then sub -- further separated or further divided in that individual's folder by emails that were either sent or received. Does that sound accurate to you?

A. That's maybe a temporary way to store them but, ultimately, they go into the project file, but I concur that that sometimes happens in the course of producing work.

Q. Well, and so my question for you is I -- I don't believe there was a folder for Ms. Pascoe or any other person who might have been an assistant to you, and do you know if -- if that means that the emails that were said you received by, the people were not searched?

A. Again, we also did a keyword survey. I mean, that -- that's -- but I'll stipulate that we, you know, scraped our server and did a -- did a thorough search. Is -- is there an outlier communication? I'm unaware of anything.

Q. But you stated that -- sorry, I don't mean to interrupt you, but you said that SGA did a

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keyword search. Is that of this email server across all users/all accounts?

A. Yes.

Q. And what keywords were searched in this particular instance?

A. I can't -- I -- I don't know. I would speculate that certainly "Marlin Quay" was used but --

MS. GOLDING: I'm advising the witness not to speculate. He's answered the question he does not know.

MR. NUGENT: And, Henri, the search for emails is absolutely an appropriate topic for me to ask him about. I believe he was testifying to the best of his knowledge.

MS. GOLDING: Move on, Adam.

MR. NUGENT: Henri, I'm going to ask the questions I'm going to ask.

EXAMINATION CONTINUING

BY MR. NUGENT:

Q. Was there also an individual, I believe, named "Patrick" who was involved on the project?

A. Patrick Williams was a landscape architect. He might have had some involvement with the site, yes.

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Q. And do you know if Mr. Williams' emails were searched as part of the document collection?

A. Well, I think everybody's emails were searched.

Q. And do you know what involvement Mr. Williams had on the project, specifically on version three?

A. He might have a percentage of support, CAD work, and he might have also had some involvement with the site. He was a landscape architect.

Q. In terms of he was a landscape architect, so for design of the building -- like version three, that's not something that involved a lot of landscaping, right?

A. Correct. And but regarding some of the site issues on this project, he might have represented the project team relative, again, to site issues. I do know he made a visit or two to Georgetown County as -- as an SGA representative at Dan Stacy's request.

Q. Explain to me what you mean by that?

A. Public meetings. Perhaps might have gone to -- and represented SGA and would have answered technical questions in case any arose at Mr. Stacy's request.

Q. And why send Mr. Williams if he is a

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landscape architect?

A. Because, again, he has a good understanding of site regulatory matters relative to site planning.

The kinds of questions that are going to typically come up in a public meeting have more to do with site issues than they do with building codes.

Q. But in terms of information or knowledge about the actual building that was being designed, is that something that -- that Mr. Williams was well-versed in?

A. To a reasonable degree, yes. I mean, he would have known -- known the size, the height, and he -- he might have even done some drafting on it, and he would certainly know how it sat on the site and what site constraints were maybe more so than our -- even our other architects.

Q. Do you have an understanding of why Mr. Stacy requested that Mr. Williams attend the meeting?

A. Likely, because of the expertise that I just mentioned that he had.

Q. Wouldn't the project architect have more expertise regarding the design of -- of what was being posed?

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A. With respect to some aspects of the building but, again, with respect to site planning and regulatory considerations, not necessarily.

Q. When a project is being presented and requiring zoning amendments, does someone from SGA typically attend the public meetings?

A. On projects which we are working very typically, yes. Not always, but -- but, yes.

Q. Who on the project typically attends meetings?

A. It can vary, but we might send a project matter, a project -- or a principle. We might send a staff person with, again, a project manager/a project architect, and I'm using -- that would apply across disciplines including landscape architecture and planning but -- but somebody that was specifically knowledgeable about the site and regulations, you know, with the building. It would depend on the circumstances and -- and the body we were appearing before.

Q. Would you have ever attended a public meeting for a project that was seeking approval of zoning amendments?

A. Very little in recent years but in the past, yes, I would occasionally have gone.

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Q. And why is it very little in recent years?

A. Just the roles and responsibilities I have within the company.

Q. Did you attend meetings regarding prior iterations of the Marlin Quay project?

A. In version one, I did attend a zoning appeals board meeting.

Q. Any other meetings that you attended regarding prior versions of the Marlin Quay project?

A. No.

Q. Who at SGA was tasked with staffing the project with planning staff in Georgetown County?

A. In version one, I would have been that person. Subsequent versions would have more typically been Luda or Mike Rolison.

Versions two and three, a lot of the groundwork or parameters for the design had been established, so I don't know that there was a -- that much interface with the building department or zoning department early on. I'm sure there was some but.

Q. When you say "parameters had been established," can you explain what you mean?

A. Well, my prior deposition covers a lot of this information, but we were told that the

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building could only be a certain square footage. A question was does that include heated space, unheated space, how about stairs, how about elevators, how the parking formulas worked, does exterior space count, does it not count, how was storage counted; how about -- or considerations regarding setbacks.

So those would have been the kinds of things that we would want to establish early on and once those were established in version one, many of those considerations carried over to versions two and three.

Q. Just so I understand, the parameters that were relevant to the planning staff now just were established with the first iteration of the project, correct?

A. Yes.

Q. Okay. Did --

A. And --

Q. Go ahead.

A. And it was PD, so you -- you know, we -- we, again, wanted to understand. There was very poor documentation on the PD, so we wanted to understand what the PD stipulated, what language. It -- it had relative setbacks, those kinds of things.

Q. And it's your testimony that once the parameters were established in connection with version

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one, those were then reused for later versions, including version three, correct?

A. To the best of my knowledge.

Q. In your understanding, the planning staff in Georgetown County was facing its review of version three on whether it complied with the regular setout of the initial version one of the project?

A. To the best of my knowledge, yes. I don't -- in terms of what you --

Q. Do you --

A. -- could do within the PD, the things I mentioned, the square footages, (indiscernible) all those things, yes.

Q. Were you personally involved in any communications with the planning staff regarding the version 3.0?

A. No.

Q. Did you have any discussions with SGA employees who did communicate with the planning staff about version 3.0?

A. Not that I recall.

Q. Is part of being kept in the loop, does that also -- does that mean that you would be aware of discussions going on with the county planning staff?

A. Yeah, hopefully. There was discussion

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with the building department because I -- not -- and not so much Planning and Zoning.

Q. What were the discussions with -- with the building department?

A. More to do with filings, fire ratings, fire separations, ingress/egress requirements, those sorts of things.

Q. Were you personally involved in those discussions with the building department?

A. Was not involved with the discussions. Was simply informed about them.

Q. Yeah. I'll ask you again, you were involved in discussions but what?

A. But I was informed about --

Q. What were you informed about them --

A. From the (simultaneous crosstalk) --

Q. Who at SGA was involved in those discussions?

A. It would likely have been Luda Sobchuk or Mike Rolison, possibly other staff. The people I mentioned like Laura Helminski or Pat Williams but more likely the two senior people.

(Ms. Watson exited the deposition).

Q. Mr. Goggans, you testified that there was -- there with discussions with the building

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department about building-related issues that, in your understanding, led the discussions with the planning department; is that correct?

MS. GOLDING: Object to the form of the question. He's already testified he wasn't involved in the discussions with the planning department.

MR. NUGENT: I -- I -- Henri, he can -- Henri, he can answer the question. I've asked a question. You've objected.

MS. GOLDING: (Simultaneous crosstalk) do not interrupt me. When I make an objection, I make an objection, then you can talk, but do not interrupt my objection.

MR. NUGENT: Well, Henri, don't make a speaking objection not try to coach the witness, and I won't interrupt you.

MS. GOLDING: Adam, you don't interrupt any time. It was not a speaking objection. It was an objection to your question, which was distorting the witness's testimony.

EXAMINATION CONTINUING

BY MR. NUGENT:

Q. Mr. Goggans, I just want to make sure I'm clear. I believe you testified about what amount of discussions there was with -- with the planning

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department versus the building department. Do you recall that testimony?

A. Yeah, I do.

Q. And is it correct that the primary discussions on versus the reading related to issues that you resolved with the building department?

MS. GOLDING: Object to the form question.

MR. NUGENT: You can answer.

MS. GOLDING: The same basis for objection.

EXAMINATION CONTINUING

BY MR. NUGENT:

Q. You can answer it.

A. The -- as I have formerly said, the most of the planning issues, as far as I am aware, had been resolved.

We were mainly dealing with building department issues which have been more with the building code and as a -- as part of my responsibilities as CEO and manager of this office, staff kept me informed about the progress of building and any issues they were encountering.

Q. And were the people you previously testified about, I think it was Ms. Sobchuk and Mr. Rolison, were they the main points of contact between SGA and the building department?

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A. Mainly was the contact, although, as I mentioned also, Pat Williams and Laura Helminski may have had some communication as well.

Q. At what point in the process did SGA personnel begin communicating with the building department about issues related to the -- the building or building codes?

A. I can't recall the date and it likely would have been after the building was fairly progressed and they were really getting into some of the finer points of the construction documents.

Q. You say "after the building was fairly progressed." You mean after construction was --

A. No.

Q. -- (simultaneous crosstalk/technical interruption)?

A. No. I think they would have been interface. There usually is interface as the project documents are being developed and certainly when they go to the building department for review, the questions occasionally rely on it as part of the review process.

Q. And you said that probably documents go to the building department -- department for review and is that in order to obtain a building permit?

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A. Correct.

Q. Okay. Just so I've -- I've got it clear. You had something about after the building was fairly progressed, what did you mean by that?

A. The construction documents were fairly far along. We -- we do a code analysis when we do a building and sometimes, we will interface and, in fact, a lot of time with the building department, to verify that our code analysis is -- is correct and that the code official sees it and interprets it the same way we do.

Q. On the projects that SGA works on, do you typically wait until the planning and zoning issues have been resolved before reaching out to the building department about whatever type of building code issues might be at issue?

A. Usually, and it would be sequential.

Q. You say it's sequential. Do you mean that usually the planning gets resolved, and then you reach out to the building department?

A. Right. The way the design process work is when we are first conceptualizing the form of the building, we need to know what the planning and zoning and subdivision and yard requirements are and things like that so that we know where to the put the

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building, what the building envelope shape might be and things like that.

As the building develops, we then get more into building code issues. Then, we start -- we might have discussions with a building official about everything from occupancy class classification, fire ratings to fire separations to building type, etcetera.

Q. Is it fair to say that during the planning and zoning phase, there could be changes to what characteristics of the building are?

A. Can be, sure.

Q. So from an efficiency standpoint, it typically makes sense to wait until planning and zoning review has happened before spending time and money on the design of the actual building?

A. Correct. Unless it's, you know, blatantly clear what the site conditions and parameters are.

Q. Give me an example. What do you mean by where it's clear what the site conditions and parameters are?

A. I mean, there are simple sites and -- and we might be going to a site that had no obstructions. That, you know, had no buildings and --

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and it was a simple zoning and the setbacks were established and -- and clear.

Q. Right. If -- if you don't need to get a rezoning because the building you want to design fits in the existing zoning, then you -- you don't even have to talk to the planning department, right?

A. Yes.

Q. But if you're seeking a rezoning from classification to another, until that's actual resolved, you don't know whether you'll be able to build the building that you're hoping to build; is that correct?

A. That's generally correct, yes.

Q. And so in terms of reaching out to the building department, typically, the architectural wait until planning or zoning has been resolved before reaching out to the building department with specific issues related to obtaining the building permit?

A. That would be the one -- that would be the first place we would start, yes.

Q. What would be the first place you were start, the first question? I'm sorry.

A. Planning and Zoning and understanding the site requirements would be the very, very first place we would start. If there are questions or

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ambiguities, then we would have a discussion typically with that jurisdictional authority.

Q. Right. And in terms of getting a rezoning, that process, the -- the rezoning doesn't actually happen until it's actually -- until it's been heard and ruled on by the county council or city council or whatever body is charged with amending the zoning ordinance, correct?

A. Correct. That -- relative to Marlin Quay, there was no rezoning, per se.

Q. What do you mean there was no rezoning?

A. The zoning was PUD, a planned unit development, and so one of the things that we had to establish is if the old building was taken down, what were the parameters of putting a new building up in the context of the PUD requirements and then the PUD requirements, we didn't have a copy of the PD map at the time, so there was interface about, well, what -- you know, what we could do, what we couldn't do.

Q. And that -- you said you interfaced on what you could do and couldn't do. Are you talking about in connection with version one of the project?

A. Yes.

Q. But for version three, that was -- that was a major amendment to the PD, correct?

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A. I don't understand. I'm -- I don't --

Q. I'm -- I'm happy to -- if you'd like for me to put up -- you know what, we'll -- we'll put the exhibit up on the screen and maybe it'll help us on this particular issue. I'm going to show you what was previously marked as Exhibit 3.

(Defendant's Exhibit 3, Application to Amend Planned Development, was referenced.)

Q. Do you see a document on your screen, Mr. Goggans?

A. I do.

Q. And you'll see that this is the first page. It states, "Application to Amend a Planned Development."

A. Okay.

Q. Are you with me?

A. I am.

Q. Have you seen this application before?

A. I don't recall seeing it.

Q. Let me scroll through and you can see it's for Marlin Quay -- the named development, Marlin Quay?

A. Mm-hmm.

Q. And then you got your application information. If you scroll down it's got the name of

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the property owner is Palmetto Industrial Development. Are you with me?

A. I am.

Q. Agent/Owner, Dan Stacy. Do you see that?

A. Yes.

Q. And I believe -- there may not be a date on here. I'll represent this was submitted in August of 2018. Do you agree that that likely correspondence to version three of the Marlin Quay project?

A. Without a date, a little tough to determine but.

Q. So scrolling through I believe -- here we go. Section D is a reference to Site Plan Amendment Issuance.

A. Mm-hmm.

Q. And do you recall seeing this particular application document prior to today?

A. I do not.

Q. If we can scroll down to some drawings that are on the screen, do you see those?

A. I do.

Q. Are these the drawings the type of thing that SGA does in connection with the -- an

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application?

A. We would likely have had a hand in preparing this exhibit.

Q. And if we look on the page that's on your screen now -- well, it's page 8 of the document, there's actually an SGA logo, correct?

A. (No audible response.)

Q. Do you agree these are -- that's an SGA document that was part of the --

A. Yes.

Q. -- application?

A. Right.

Q. And I believe there's some additional documents in here, some additional pages in here that show the property at issue --

A. Mm-hmm.

Q. -- which is a satellite image. Do you see that?

A. Yes.

Q. And so going back to the -- to the first page of this document, this is the -- it states it is an Application to Amend a Planned Development. Do you see that?

A. I do.

Q. Do you have any understanding of what's

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involved in the process of amending a planned development in Georgetown County?

A. I do.

Q. And tell me what you understand.

A. Well, it depends upon whether there -- it's a minor change or a minor change. A minor change is typically handled at the staff level, but if it's a major change, it has to go before the Planning Commission for a public hearing --

Q. And -- oh, go ahead.

A. -- and then it's sent to county council for three readings.

Q. And for major change, is that process similar or different to the amendment -- an amendment to the zoning ordinance?

A. It's very similar.

Q. Okay. And version three, was that submitted as an application for a major change?

MS. GOLDING: Object to the form of the question. The witness already testified he is not familiar with the document.

MR. NUGENT: Well, I'm going to ask the question anyway, Henri. You can answer it.

A. Repeat the question.

EXAMINATION CONTINUING

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BY MR. NUGENT:

Q. Sure. And setting aside what's on this document, do you know as you sit here today, that version three was submitted to a major amendment to the Marlin Quay planned development?

A. I honestly don't recall.

Q. Okay. If you're seeking a major amendment, though, that is, I think you've said it's very similar to the zoning change, correct?

A. Correct.

Q. And then the question I have for you was when there is an application to change the zoning, in your experience, typically, it's appropriate to wait until that zooming amendment has been decided before reaching out to the building department with specifics related to the building that you as the architect are designing; is that right?

A. I don't know that I'm prepared to stipulate that and it probably happens more that way than -- than not but, oftentimes, when we'll do feasibility work well ahead of any application to do a building or zoning authority.

Q. Just tell me what you mean by feasibility work?

A. Well, depending on how -- depending on

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the owners or the developers restraints and is risk to aversion, any number of factors. You know, we occasionally won't do things based on a set of assumptions.

Q. And that feasibility work, that internal work that SGA is doing to figure out whether it's possible to design or build a building that the owner wants constructed?

A. Yeah. That can be part of it, sure.

Q. But in terms of interacting or interfacing with the building department, is that something that SGA does as far as the feasibility analysis?

A. It can be, yes.

Q. What's typically involved if there is a feasibility analysis going on when SGA is interacting with the building department?

A. Well, again, I can give you many examples but just understanding all of the factors that are going to be influencing the design process and primarily, from a regulatory standpoint, those can be planning and zoning, issues like yard requirements, drainage requirements and considerations, it can be -- it can be building code related. So it typically allows you to purse a building design in sometimes

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multiple ways so understanding the best path, it can be all -- all part of that discussion.

Q. You testified, Mr. Goggans, that the parameters for the site were established during the version one of the Marlin Quay project. Among those parameters, was required parking included?

A. Parking is typically required as a part of the PUD, and I definitely remember having some early conversations about parking and if we -- the direction was if we stayed within the certain square footages, additional parking wouldn't necessarily be required, as best I can recall.

Q. And were you personally involved in those discussions about parking in connection with the version one?

A. I was version one.

Q. I'm going to put on your screen what's previously been marked as Exhibit 42. Do you see that document on your screen, Mr. Goggans?

A. I do.

Q. And this is an email sent from you to Holly Richardson and Boyd Johnson in May 2015, right?

A. Yes.

Q. Was this email referencing the version one of the Marlin Quay project?

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A. Yes.

Q. And you write to -- you write: "Holly and Boyd: "See Patrick's information below. It appears we have ample parking for the restaurant and it's currently denied, plus the store." Do you see that?

A. I do.

Q. And you were providing to Ms. Richardson and Mr. Johnson analysis of the parking associated with version one, correct?

A. Correct.

Q. And you went on to state, "We did not include decks in this analysis. May require additional two or three stages." Do you see that?

A. I do.

Q. What did you mean by that?

A. If there were any seating on the deck, then additional parking may be required. We had a porch or a deck in the ultimate design in version one that had some bistro tables and to accumulate deck seating, and we noted that additional two or three spaces may be required.

Q. And so if there were larger decks in other iterations to the project, that could change the number of required parking spaces; is that correct?

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A. It could.

Q. Do you know what amount of deck space is associated with version three of the Marlin Quay project?

A. No, I do not.

Q. And do you know how it compares to the amount of deck space that was present in version one that's on there?

A. I do not.

Q. But there is -- there's drawings that show -- and I -- I assume some type of table in those architecture drawings that list in that square footage for decking; is that correct?

A. I'm sure that drawings if -- would require -- would stipulate the square footages, the final -- final drawings anyway.

Q. Did anybody at SGA discuss the amount of deck space on version three as it pertains to -- to required parking?

A. I don't know the answer to that question.

Q. Did you have any discussions with anybody at SGA about the deck space or required parking for version three?

A. No.

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Q. And in this email you --

MR. SPERRY: Hey -- hey, Adam?

MR. NUGENT: Yeah.

MR. SPERRY: Do you think we could get a five-minute break? Let's take a five-minute break.

MR. NUGENT: Yes, that's fine. Let -- let me ask a couple of follow-up questions, and then we'll take a break.

MR. SPERRY: Can I have it? That's fair. Thanks.

EXAMINATION CONTINUING

BY MR. NUGENT:

Q. Mr. Goggans, looking at this Exhibit No. 42 where you -- you sent the analysis of the parking requirement, did you or anybody at SGA consider other uses of the parking lot when creating this parking analysis?

A. I'm not sure I recall, quite honestly.

Q. As you sit here today, are you aware that there are other users who have a right to use the -- the parking lot --

A. Yes.

Q. -- next to Marlin Quay?

And in your experience, is the use -- other users of that company that needs to be taken into

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account when evaluating whether the amount of parking for a project is sufficient?

A. It is and except that, in this case, we were -- the underlying assumption was the two -- the use that was being removed, the old marina building versus a new building, were virtually the same except for some extra seating that would have been on the deck. But we weren't -- the assumption was we weren't changing or impacting the situation any more than would have otherwise been the case.

Q. But I think you've -- you just testified that when you did this parking analysis in May of 2016, you didn't consider other users of the parking lot, right?

A. I said, I don't completely recall if we did a -- I don't think we did a parking analysis for Gulfstream as (technical difficulty).

Q. And you're aware now as we sit here today that is an easement that prevents Gulfstream from using the parking lot, correct?

A. Yes.

Q. And the existence of that easement, would that potentially be relevant to a parking analysis for this parking lot?

A. It -- it could and that would be a

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question for Planning and Zoning. But, again, I think the assumption was that if we're putting back on a square-footage basis apples to apples with the exception of a small amount of seating -- additional seating, then whatever -- however generous or inadequate the parking is, we weren't impacting beyond that additional deck seating.

Q. Are you aware of the conception of the zoning ordinance related to shared parking?

A. I've done projects with shared parking, yes.

Q. What is your understanding of how shared parking works?

A. It varies from jurisdiction to jurisdiction and it's even varied within the county but -- but, typically, it can be either on the same property or it can be off the property, but if you have a parking shortage -- well, first of all, if it's on the -- on the site, two owners might agree to certain parameters for usage. If it's offsite, you have to have a written agreement of some kind and currently within the county allowing you to use the offsite area for parking. An example would be some of the restaurants around town that have adjacent properties or have properties adjacent to a bank, a

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hardware store where they are allowed to park in the evening hours.

Q. And any -- particularly in this case, that's where a restaurant uses a parking lot in the evening hour and then other businesses abandon (technical interruption) and just uses it during the daytime hours; is that right?

A. Uh-huh.

Q. Is that typically how shared parking works for one to use it during the way and the other is during the evening?

MS. GOLDING: Object to the form of the question.

BY MR. NUGENT:

Q. You can answer it.

A. It -- it can be. Again, there are -- conditions can vary, but various jurisdictions are interested in not providing over-parking for too -- too -- too many parking spaces because of the environmental impacts. The thinking -- now, in thinking to take advantage -- the landowner can take advantage of a parking lot that's in disuse at some point in time for their particular functions and then a lot of jurisdictions applaud that.

Q. If there are two units in a parking lot

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and they both want to use it during the same time of day, does that make it difficult to accommodate a shared parking scenario?

MS. GOLDING: Object to the form of the question.

A. It could.

BY MR. NUGENT:

Q. And did you have any understanding about what time of day the version three buildings at Marlin Quay was operating?

MS. GOLDING: Object to the form of the question.

BY MR. NUGENT:

Q. You can answer it.

A. Initially, my understanding was is that the new business was going to in version one operate like the old business and -- and, again, the parking had historically worked. So we -- we initially worked the area and frankly worked at the business.

Q. And you say that for version one you understood the building would operate like the new -- the old business. You -- what -- what do you mean by that?

A. Well, there had been a business, obviously a marina store and a restaurant of some kind

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on the north. I never went down there, so I wasn't familiar with it. I went in one time after we were given the permission for this project and, frankly, wasn't paying very much attention to the parking only because what had historically worked we presumed would continue to work.

Q. Just so I am clear, are you saying that you don't know what the hours of operation for the old business were?

A. Not completely or entirely, no.

Q. Had they --

A. I do know they had some evening or nighttime operations because I heard of people going there to drink or have a steak or something like that, but I never had been there.

Q. For version three, do you have any understanding of what the proposed hours of operation for that building?

A. I do not.

Q. Did anybody at SGA have an understanding of what hours of operation were proposed for version three?

A. I don't know.

Q. But you agree that if version three was primarily evening or nighttime operation and

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Gulfstream was an evening or nighttime operation, that could be difficult for a shared-parking scenario?

MS. GOLDING: Object to the form of the question.

A. I can't -- I don't -- I don't know because, again, historically, both businesses had worked adequately and it would depend on how much business Gulfstream was doing versus the other, so it's a lot of variables, so I -- I would.

Q. But in terms of whether anybody in the planning staff at the county considered the hours of operations for version three alongside Gulfstream, you don't know one way or the other whether that occurred?

MS. GOLDING: Object to the form of the question.

A. No, I don't.

BY MR. NUGENT:

Q. And whether SGA personnel had discussions with the planning staff about the hours of operation for version three, do you know whether that occurred?

A. I'm almost positive it did not occur because I would have been the one having early discussions, and -- and I did not discuss hours of operation with planning staff.

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Q. Sure. And I was referring to specifically version three, but you don't believe that it happened?

A. With version three, I don't know. I doubt it, but I don't know for certain.

Q. You don't -- and you think almost certainly it happened for version one, which is the one that you were involved in?

A. Correct. We didn't discuss hours of operations.

Q. And you don't know or you doubt that it happened for version three?

A. Correct.

Q. Okay.

MR. NUGENT: We can take a break now.

MR. SPERRY: Thanks.

(Off the record break, 11:45 a.m. to 12:02 p.m.)

EXAMINATION CONTINUING

BY MR. NUGENT:

Q. Mr. Goggans, before the break, I asked you a few questions about the parking analysis you performed with version one of the Marlin Quay project. Do you recall that testimony?

A. I do.

Q. And is parking something that is

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considered in connection with every building that SGA has done?

A. I can't say every building but most, yes. We -- parking -- typically the planning and zoning ordinance and, again, and jurisdiction has (technical interruption) because the parking is (technical interruption) to other parking, and so you do a parking analysis.

Q. And setting aside what the ordinances require, is having sufficient parking an important aspect of any project?

MS. GOLDING: Object to the form of the question.

A. Well, parking is one of the many things as well as drainage and lots of other considerations.

Q. And but is if one important consideration for a project?

MS. GOLDING: Object to the form of the question.

A. Everything is important to the project, yes.

Q. I'm going to put in front of you what was previously marked as Exhibit 40. Do you see this document on your screen Mr. Goggans?

A. I do.

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Q. And this is an email you were copied on, on the second email down from Beth Novak, Steven Elliott with Georgetown County, and then you. Do you see that?

A. I do.

Q. And, first off, who -- who is Beth Novak?

A. Beth Novak is in our Charleston office. She was probably given Luda some support during the design process.

Q. What is her role at SGA?

A. It can vary. She can be a project architect. She can be a -- provide CAD support at different levels.

Q. And do you know specifically what her role was on the Marlin Quay version three project?

A. She would have, again, provided support to Luda. I see she's characterizing herself as a project architect here. I am -- maybe at that point in time, she had some of those responsibilities.

Q. In the email, the second paragraph she states, "We have changed from a wood-framed structured to steel framing and, therefore, have changed building types." Do you see that?

A. Correct.

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Q. And what's your understanding of what it means to change building types?

A. Building types in the codes largely pertain to life safety and basically fire ratings. So depending upon -- depending upon the use of the building and its size, it's height, you might want to alter from one building type to another building type and as I previously mentioned, there's usually alternate pathways to arriving at a solution. So, typically, the architect will take the most efficient and efficient meaning it achieves all of the design goals and is least costly and -- and that might determine the building. So the building type and in the case of codes could refer to steel framing or wood framing, concrete or steel. It could inform regarding to fire ratings and fire protection of wall planning's and things like that.

Q. And here, do you have an understanding of what necessitated a change in building types?

A. It could have been optional. It could have been just that they were -- if they did it -- if they did the building in wood, they might have had to do all other alternate things that were either complicated or more costly. Sometimes, it's not optional, so I don't know exactly what would have

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driven the change.

Q. And here as SGA -- or as SGA's corporate representative, you don't know what drove the change of building types one to version three --

A. I do not.

Q. -- and its design process?

A. No.

Q. And who at SGA would know that?

A. Ms. Novak would likely know it, although, she might not today off the top of her head with the time -- the time that's passed, but if she has the documents and a little more research, she might -- she might know. Mike Rolison might know.

Q. Did you have any discussions with Dr. Lawhon about the change in building types in this 2018 time frame?

A. No.

Q. Do you have any understanding of why you were copied on this email sent by Ms. Novak to Mr. Elliott?

A. Not precisely other than I had history with this project, and I get copied on a lot of our -- copied in on a lot of our projects. I get hordes of emails every day.

Q. Sure. But in the history of this

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project given the work you did in connection with the prior iteration of the project; is that right?

A. That's right, and having initiated that relationship with Dr. Lawhon, etcetera.

Q. On the prior iterations of the project where you were more heavily involved, did you deal with individuals in the building department at Georgetown County?

A. Very little, if at all, if I recall. The building, version one was a more simple building structure, technically, and the way we might have approached it in the code would have been consequently more simple, so I haven't -- but I don't -- it's possible, but I don't recall.

Q. Have you dealt personally with Steven Elliott at Georgetown County and other projects that SGA has worked on?

A. Other projects, yes. He's been the building official for about two or three years. He would not have been the building official for version one.

Q. But for this version, version three of October 2018, he was the building official, in your understanding?

A. Yes.

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Q. And did you personally communicate with Mr. Elliott about issues related to version three?

A. Not that I recall.

Q. Did you personally communicate with anybody else in the Georgetown County Building Department as it related to version three?

A. Not that I recall.

Q. I believe you testified to this, but I just want to make sure we're clear on it. Did you testify with anybody in the Georgetown County Planning Department regarding issues related to version three?

MS. GOLDING: Object to the form of the question. Adam, you might want to think about the question you just asked.

MR. NUGENT: He can answer it.

MS. GOLDING: You just used the word "did you testify" with anybody at the building department.

MR. NUGENT: Well, I'm happy to rephrase it if that will clarify things for you, Henri.

MS. GOLDING: It's not clarifying things for me, Adam. You made a mistake in your question. I'm just trying to let you know that.

BY MR. NUGENT:

Q. Mr. Goggans, did you communicate with any individuals in the Georgetown County Building

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Department regarding version three?

A. No, not that I recall.

Q. Did you communicate with any members of the Georgetown County Planning Commission regarding version three?

A. No.

Q. Did you communicate with any members of the Georgetown County Council regarding version three?

MS. GOLDING: Object to the form of the question. I believe that you have now invaded his legislative privilege.

MR. NUGENT: Are you going to instruct him not to answer on the grounds of legislative privilege?

MS. GOLDING: Well, I'm thinking about it, Adam, because, clearly, that's what the question is, but I don't want to -- I don't want to waive -- if he answers that question, will you view it as not a waiver as might right to object based upon legislative privilege?

MR. NUGENT: You can assert that objection later, yes.

MS. GOLDING: No. You will agree that that's not a waiver?

MR. NUGENT: Right. I'm not -- I'm agreeing you're not waiving your right to object.

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MS. GOLDING: Okay. Thank you. You can answer the question, Steve.

A. And the answer is no.

EXAMINATION CONTINUING

BY MR. NUGENT:

Q. Are you aware of any individuals with SGA who communicated with members of the Georgetown County Council regarding version three?

A. No.

Q. I asked if you're aware you're testifying here as a corporate representative and do you know one way or the other whether individuals at SGA communicated with members of the Georgetown County Council regarding version three?

A. I'm going -- I'm going to say no only because none of my staff knows any of the members of Georgetown County Council.

Q. Based on your belief that your staff do not know members of the Georgetown County Council, your testimony is that you think they did not communicate with staff members?

A. Correct.

Q. And what's your basis for testifying that none of your staff knows members of the Georgetown County Council?

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A. They just don't. Most of them live in Horry County, and they don't have any interface with county council. Later -- and people working with this project, there's a couple of exceptions, but they live in Horry County. They live in Charleston County. They're not involved in politics. They just don't -- don't -- just don't know these people.

Q. Have you talked with your fellow members of the Georgetown County Council about whether any of them know people who work for SGA?

A. No.

Q. How long have you been on the Georgetown County Council?

A. This is my seventh year.

Q. Have you been involved in any other zoning amendments where SGA was the architect during the time on the Georgetown -- your time on the Georgetown County Council?

A. I can't recall. I don't -- don't recall any but it's -- and so we do a lot of projects.

Q. SGA does a lot of projects. Where are those projects typically located?

A. Mostly Horry County, Charleston County, up and down coastal South Carolina. We really were working regionally: Florida, Georgia, Alabama, North

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Carolina, Upstate in South Carolina.

Q. I believe SGA has listed as there's an office in Pawley's Island, correct?

A. Correct.

Q. How many SGA employees work in Pawley's Island?

A. Probably, at this point in time, about eight.

Q. And eight including you?

A. Yes.

Q. How many of those eight are architects?

A. Two -- not counting me, two licensed professionals. We've had interior designers and landscape architects, as well.

Q. And who are the architects that are --

A. Mike Rolison and Laura Helminski. We've got some interns.

Q. Would it be fair to say that most of the projects that SGA works on are outside of Georgetown County; is that right?

A. Yes.

Q. And do you know what percentage of SGA's projects are in Georgetown County versus outside of the county?

A. Probably 10 percent of our -- of the

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overall firm's work or less is in Georgetown County.

Q. And just so we're clear, not every project at SGA is engaged to work on and involved in obtaining a zoning amendment or zoning change, correct?

A. Correct.

Q. And how often does SGA get involved with a project where a zoning amendment or a zoning change is required?

A. Fairly often.

Q. But in terms of other projects that SGA has worked on involving a zoning change in Georgetown County in the last seven years, you can't recall any other ones; is that right?

A. I can't recall any that we've worked on, correct.

Q. Mr. Goggans, I'm going to put in front of you what we'll mark as, I think, Exhibit 65.

(PLF. EXH. 65, marked for identification)

Q. And do you see a document in front of your screen, Mr. Goggans?

A. I do.

Q. I apologize for this formatting. I -- you know, it looks a little bit like there's a lot of coding in here, but you see this is an email from

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Steve Goggans to Beth Novak November 9th, 2018?

A. I do.

Q. Okay. And I'll represent this was produced by SGA in connection with responding to the subpoena served by Gulfstream in this lawsuit. Does this appear to be a true and accurate copy of the November 9th, 2018, email involving you and Ms. Novak?

A. Okay.

Q. And looking down the second email on the first page, it's from Beth Novak to you copying Ms. Sobchuk, and Ms. Novak writes, "Hi, Steve, I just copied you on my emails from Murray in the Georgetown County code office, attached." Do you see that?

A. Yes.

Q. And who is Murray, do you know?

A. Murray would have been the plan reviewer for Georgetown County at the time or, well, not the -- he was typically reviewing residence, so I'm not sure why Beth would have sent the package to Murray unless that was either who she knew or if he then made the assignment.

Q. And Ms. Novak goes on to say, "Will you please follow up if I do not get a response early next week?" Do you see that?

A. I do.

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Q. Do you have any understanding of why Ms. Novak asked you to follow up directly with the -- this individual in the code office?

A. Well, only because, historically, I had knew the individuals in the department and had a -- had background with them and handled a lot of projects in prior years.

Q. Do you have a relationship with this individual, Murray, in the Georgetown County code office?

A. Only a professional relationship. I saw him when I went to the building department probably once or twice a year.

Q. And did you ultimately follow up with this individual in the Georgetown County code office?

A. I don't recall.

Q. And were you in part of your role at SGA asked to follow up with various county officials if one of your colleagues was having trouble getting a response?

A. I don't recall any instances, but it's possible if they weren't getting a response, they might ask me to assist.

Q. And why would you get asked to assist?

A. It's my home county. I've been here

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for years and the individuals within the department know the process, etcetera.

Q. And do you know individuals in the various county departments better than other SGA employees?

A. I would certainly know them better than Beth. Beth resides in Charleston and does Luda, so there were some logistical considerations, too. I'm here. They're two hours away or an hour away.

Q. Sure. In terms of you, you said there were a couple of other architects in the Pawley's Island office at SGA, right?

A. Mm-hmm.

Q. Among the individuals in the Pawley's Island office, do you have the most experience dealing with county officials in Georgetown County?

A. At one time, I did. I think that's changed over recent years. Probably others within the firm have more contact than I do now.

Q. And who is that?

A. Well, names I've already mentioned, Mike Rolison and Laura Helminski.

Q. Okay. Do you think sitting here today in 2021 they may have more contact with county officials than you do, but let's go back and look at

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the time frame of this in 2018. Did you -- and actually may have more contact than other individuals in the Pawley's Island office?

A. It's transitioning and probably -- it's hard to say what the -- you know, who was better informed and who had -- who was more knowledgeable. That big transition. But at that point in time, I was still handling some projects for the firm visa vie the county.

Q. And were you handling those projects for the firm visa vie the county?

A. I was not the point person nor the project manager nor the principal in charge, but a lot of people in the firm touched projects and including me, so this might have been an example of where Beth was wanting reinforcement in case she isn't here.

Q. For this particular project in Marlin Quay versus three readings, were either Mike Rolison or Laura Helminski handling the project visa vie the county?

A. Yes, and probably Luda Sobchuk, again, as well, and Beth may have also had some involvement in it. Laura -- Luda, again, would have been the design architect, and Beth would have supported her with some of the design as the project was getting

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ready to go to construction. When the construction documents were finalized, it would have moved to Mike Rolison.

Q. Did either Mike Rolison nor Laura Helminski was copied on this email requesting a follow up with the county, though, correct?

A. Correct.

Q. You admit Ms. Novak was asking you to be the person to interface with county officials about the first three readings, right?

A. Correct.

Q. And let's just scroll down. You said she copied her -- copied you on her prior emails. I believe if you look on your screen, you'll see an email from Beth Novak November 9th to an mpressley@gtcounty. Do you see that?

A. I do.

Q. And you were copied on that email as she mentioned in her subsequent email?

A. Mm-hmm.

Q. And I just want to ask -- in here she says, "I wanted to follow up on our phone conversation last week regarding Marlin Quay Marine Restaurant and Store. We do not overhead clearance for an elevator to go up to the top floor and be under the height

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limit." Do you see that?

A. Mm-hmm.

Q. Do you have any understanding of what Ms. Novak was talking about in this email?

A. I can only guess. You typically have an elevator -- you have a hoist and you have a penthouse or a doghouse on top of the elevator to allow room to pull the hoist so that may have been what she was referring. I'm just speculating.

Q. But you don't remember as you sit here today what the issue was in 2018 regarding the elevator at the version three of Marlin Quay?

A. No, I don't. I remember some discussion about having an elevator that was adequate for a stretcher and, as I recall, the fire department wanted to increase the size of the elevator but that's all I do remember.

Q. Did you have any conversations with anybody at SGA about the elevator issue in this November 2018 timeframe?

A. I don't recall.

Q. And this email that says November 9th, 2018, do you know if that was before or after the major amendment to the Marlin Quay PD having been approved?

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A. I don't recall.

Q. Mr. Goggans, I'm going to show you what we'll mark as Exhibit No. 66.

(PLF. EXH. 66, marked for identification)

Q. Do you see that email on your screen, Mr. Goggans?

A. I do.

Q. And this is an email exchange that you were a part of January 23rd, 2019. Do you see that?

A. I do.

Q. Does this appear to be a true and accurate document of the email exchange that you were a part of in January of 2019?

A. Yes.

Q. And the second page as I just scroll down, do see there's the latter part of somebody's email signature, so I want to start on the bottom of the first page of this email to Steve Elliott. He's the building code official for Georgetown County, correct?

A. He is, yes.

Q. He sent this email on January 23rd of 2019, and he addressed it to Derrick Blanton. Who is Mr. Blanton?

A. I believe that he was the initial

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contractor for Dr. Lawhon, and I don't know why or how there was a change but, ultimately, Palmetto Construction became the contractor, but I think Derrick Blanton, his company was initially the -- identified as the contractor.

Q. And, at this point in time, basically, it's your understanding Mr. Blanton's company was involved as general contractor on the version three project; is that right?

A. Yes. Initially, yes, that's my understanding.

Q. And did you have any role in helping identify the contractors to work on the construction of the project?

A. We did not.

Q. SGA -- now, I was asking individually if you know if anybody at SGA had a role in identifying contractors for the project?

A. No. I think Mark Lawhon did his own selection there exclusive of any involvement from SGA.

Q. You said your understanding is now that the contractor on the project is Palmetto Construction (indiscernible)?

A. Yes.

Q. Do you have any understanding of who

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the owners are of that company?

A. I can only speculate. I think Mark Lawhon is certainly one of the owners. His wife's family has been involved in construction for many decades, so I don't know if they are part of it or not.

Q. Looking at this email from Mr. Elliott, he writes to Mr. Blanton, "Wanted to make you aware that changes are needed to reduce the square footage to what was approved by County Council and the type of construction stated on the plans does not comply with the code." Do you see that?

A. I do.

Q. Can you tell me what the issue was that was being raised by Mr. Elliott in this email?

A. I cannot.

Q. Now, you were copied on this email, right?

A. Right.

Q. And you, after it was sent, forwarded it to Beth Novak and said, "FYI. Please respond."

A. Right. I do -- I do recall there being an issue over the type of construction, and I was made aware of the problem that other staff resolved that and reported to me that it had been resolved.

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Q. When you say "other staff," you mean other people at SGA?

A. Well, that's Luda primarily, at that point.

Q. But do you have any knowledge of what those individuals did in order to resolve the issues that are identified in this email?

A. No, but I do remember some discussion about going to a different type of construction, and I think that was driven by the numbers of floors and height above grade.

So the -- and -- and there was some discussion about, as I mentioned earlier, whether there were alternates allowed by the code, but they either changed the type of construction or they found some ways to keep the existing type with some added details and -- and added alternates.

Q. You said "changed the type of construction." What do you mean by that?

A. Again, the codes typifies construction of -- based upon the structural elements and materials with an eye towards life and safety.

For instance, if you're building a high rise, if you -- you obviously have to have a sprinkler system. You obviously have to -- your structure

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yourself has to have a certain fire rating, so that would be probably your most rigorous type, Type 1. Type 5 is simply light-frame, wood-frame construction.

So the higher -- the higher you build, the more floors, the bigger your occupancy load, the more restrictions and sometimes those restrictions drive you towards a more restrictive-type of construction. It applies not only to the structure itself but also to the fire ratings and the finishes, egress requirements, hallway widths, etcetera, etcetera.

Q. In this particular email, it looks like you're the only person at SGA who is copied on that email. Do you see that?

A. Right.

Q. Do you have any understanding of why you alone at SGA were -- were emailed by Mr. Elliott about this -- this issue with the project?

MS. GOLDING: Object to the form of the question.

A. Not -- not really, only that he knew that I was the president at SGA and had prior history with the project.

Q. He also included Mr. Johnson, Wade Johnson on here.

A. Right.

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Q. Do you see that?

A. Yes.

Q. In your understanding, what was Mr. Johnson's role at Georgetown County?

A. Mr. Johnson was Mr. Elliott's boss. Boyd was head -- I forget his exact title, but he was head of planning and zoning and building services. He presided over everything related to E&Z and -- and building.

Q. Now, do you -- go ahead.

A. But he would have been or -- well, and Barry would have reported to Steven Elliott and Steven Elliott would have reported to Boyd Johnson.

Q. And here, did you communicate with Mr. Johnson about the additional sprays in Mr. Elliott's email?

A. Not that I recall.

Q. In terms of Mr. Elliott stating that there's changes needed to reduce the square footage to what was approved by the county's council. Do you see that statement?

A. Right.

Q. Are you aware of there being an issue about the -- the proposed version three being larger than what the county council had approved?

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A. I am not, and I'm not sure if that applies to heated square footage or decks or whatever. I'm just not -- not familiar. This thing got resolved and, as I recall, fairly quickly, so we all had time to focus on it and it was pretty much remedied.

Q. In this email above, you wrote -- you forwarded the one after Mr. Elliott's to Ms. Novak to please respond, correct?

A. (No audible response.)

Q. Do you see that?

A. Yes.

Q. And then if we go up further, Ms. Novak wrote to you and a copy to Ms. Sobchuk and Helminski and said, "I need interpretation." Do you see that?

A. Mm-hmm. I do.

Q. What's your understanding of -- of Ms. Novak's request for interpretation; what does that mean?

A. To the extent I remember, there was a question about whether the ground level was interpreted as a story or not, and -- and I think that's what everything related to because there are often conflicts between the FEMA flood regs and the actual building code, so there was probably some discussion about how many floor -- how many stories do

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we have based upon that and that's as I vaguely recall.

Q. Here, is it your understanding that Ms. Novak was asking you to provide interpretation?

MS. GOLDING: Object to the form of the question.

A. Well, her email is to me, but she's copying in Laura and Luda and quite candidly, I am fairly far removed to nuances of the code. I don't use the code very much anymore. Didn't back then. So I'm not sure if Ms. Novak knew that or not or whether -- and I'm not sure why she sent me this email.

Q. Did you respond back to her or to the others on this email and discuss this request that Ms. Novak made for an interpretation?

A. Not that I recall. My -- either she found another source for help or my action because of the time constraints and all the other things I'm involved in would have been gone -- would have then have gone to one of my other staff and asked for their assistance and help, like Laura Helminski or Mike Rolison.

Q. And so we're on the same page, it's referenced going back to the first email in this exhibit, it's referenced about the need to reduce the

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square footage. What is your understanding of -- of what that refers to?

MS. GOLDING: Object to the form of the question.

A. I can only speculate. It could be that the square footage needs to be reduced to fall within a more advantageous building height, putting this into some context, a building type of construction, steel versus wood frame versus some of the things I was referring to earlier that are apparently outlined on Table 504.4 of the IBC.

Q. I'm going to show you what we're mark as Exhibit 67.

(PLF. EXH. 67, marked for identification)

Q. Do you see a document on your screen, Mr. Goggans? This is an email from Luda Sobchuk in January 2019?

A. Uh-huh. I do.

Q. It seems that Sobchuk sent the email to Mark Lawhon and copied you and Ms. Novak on it, correct?

A. Correct.

Q. She's referencing a meeting with Georgetown County Planning Department. Do you see that?

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A. I do.

Q. And do you understand what the purpose of this meeting was?

A. I do not, but given the time frame, it probably had to do -- again, do with the building type in that discussion.

Q. The building type emails, the issues that we saw in Exhibit 66, correct?

A. Right.

Q. And --

A. Go ahead.

Q. -- if we look further down, there is actually an email from Mark Lawhon that's referencing when/where is this meeting, and then there is another email where he references a fire marshal holding this up. Do you see that?

A. (No audible response.)

Q. Do you have an understanding of what the fire marshal issue Mark Lawhon was referencing in this email?

MS. GOLDING: Object to the form of the question.

A. I do not.

Q. And if we go down prior emails from Ms. Sobchuk, he states that the square footage has been

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resolved. Do you see that?

A. Yes.

Q. And do you know how it was resolved or what the details of that were?

A. I do not.

Q. And then the next page he says, "The Code issue surprised us," and referenced the scheduled meeting. Would the coding be different from the square footage issue that was in Exhibit 66?

A. I think they're all interrelated.

Q. And what was your role in dealing with these issues?

A. Well, I had no involvement. It was basically monitoring and just understanding what was going on because not only this project but any project which runs into issues or problems or there's difficulty in the permitting phase, I -- I want to know about it.

I think my staff was able to resolve everything successfully ultimately.

Q. Now, if we look to, you know, put in front of you what we'll mark as Exhibit 68.

(PLF. EXH. 68, marked for identification)

Q. Do you see that document on your screen, Mr. Goggans?

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A. Yes.

Q. And this is an email you sent to Mark Lawhon January 24th, 2019. Do you see that?

A. Yes.

Q. And based on the timing, do you have an understanding of what the issues were that you were referencing in this email?

A. No. I don't recall.

Q. If we look at Mark Lawhon's email to you on January 24th -- well, first we could go down. The first email here, I'm starting at the bottom, on that occasion, the first email here is the one from Mr. Elliott to Derrick Blanton that you're copied on about the square footage issue. Do you see that?

A. I do.

Q. And then Mr. Blanton forwarded it on to Mark Lawhon. Do you see that?

A. I do.

Q. And then Mark Lawhon emailed you and several others at SGA and said, "Why are we getting this response from the building department? I thought this issue was settled." You with me?

A. Yes.

Q. And so then you responded back to Mark Lawhon stating, "Call this afternoon and I will

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discuss." Are you with me?

A. I am.

Q. Did you have a phone call with Dr. Lawhon about this particular issue?

A. One that I can recall.

Q. In terms of what the nature of the issue was, does this reflect correctly what was going on?

A. I can't recall other than just, in general, just from the email traffic from staff. Again, I think there were issues regarding building height and -- and numbers of floors and some of those kinds of things. We were -- I think it was in the permitting process and it was -- I think there were difficulties in the permitting process but beyond that, I -- I'm -- I don't know.

Q. In this particular instance, you were sufficiently well versed in what was going on to be able to talk to your client about the issue, correct?

A. Only if I would have been informed by staff.

Q. When you say "informed by staff," you mean SGA personnel?

A. Correct.

Q. Did you have any conversations with

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county officials about the issues that are referenced in this email?

A. I did not.

Q. I'm going to show you what we'll mark as Exhibit 69.

(PLF. EXH. 69, marked for identification).

Q. And do you see this document on your screen, Mr. Goggans?

A. Mm-hmm.

Q. And this is an email from you to Boyd Johnson on January 25th, 2019, correct?

A. Okay.

Q. And in that email, you took Ms. Novak's email from January 25th about the meeting and forwarded it onto Mr. Johnson, correct?

A. Okay.

Q. Right?

A. Apparently; yes, sir.

Q. And can you explain why you were meeting with them?

A. No, I can't other than we were all on the copy list and wanted them to be aware.

Q. At the time you sent that email, did you pick up the phone and talk to Mr. Johnson about the issues that were to be discussed at this meeting?

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A. I don't recall (technical interruption) and those -- any conversations like that, no.

Q. Did you attend this particular meeting?

A. No.

Q. You know that for sure, or do you just not remember one way or the other?

A. I certainly don't remember, but I don't think I attended either.

Q. Did you discuss what was to happen at this meeting with anybody else at SGA?

A. I don't recall, but it's possible that internally there was a discussion.

Q. I'm going to show you two documents which we'll mark as Exhibit 70.

(PLF. EXH. 70, Email with attached correspondence, marked for identification)

Q. Mr. Goggans, do you see a new email on your screen?

A. Yes, sir; I do.

Q. And this is an email from Boyd Johnson to you copying Sel Hemingway.

A. Right.

Q. That is correct?

A. Yes.

Q. And it's dated January 25th, 2019,

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right?

A. Right.

Q. We can scroll down. The initial email is from Ms. Novak, the one referencing the January 25th meeting. Do you see that?

A. Yes.

Q. And you forwarded that email to Mr. Johnson, or at least what we just looked at in Exhibit 68. Does that look correct?

A. Mm-hmm.

Q. Just so we are clear, Mr. Goggans, the email midway down this first page of Exhibit 70 is the one where you forwarded Ms. Novak's email to Mr. Johnson and wrote "FYI," correct?

A. Yes.

Q. At the top, Mr. Johnson has responded back to and copied Mr. Hemingway. Do you see that?

A. Okay.

Q. Who is Mr. Hemingway?

A. County administrator.

Q. Where does Mr. Hemingway fit in the hierarchy of the county officials?

A. He would have been -- he would have -- he was charge of county government. He administrator or executive over all of the county government. He

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would have been Boyd Johnson's supervisor or boss.

Q. So here, Mr. Johnson responds back to you and copied his boss, correct?

A. Correct.

Q. Do you have any understand why Mr. Johnson was including his boss in responding to your email?

MS. GOLDING: Object to the form of the question.

A. I -- I -- not really other than the Stephen Elliott was new in his position and we were in the process of adopting new flood maps in the county and there was a lot of -- not really relevant to Marlin Quay but some residential projects in which we were involved. There had been a lot of ensuing discussion about -- about the interpretation over the FEMA maps and sub regs and, etcetera, so I think this is one more -- one more example, but I'm speculating.

Q. Were you part of the discussions regarding flood regulations or -- or FEMA maps as they applied to buildings in Georgetown County?

A. In general and broadly, yes, we're still

-- we're still discussing those things.

Q. And what is your personal involvement

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in those discussions?

A. Testimony for when we will be adopting, when the maps will be applied, and when -- how they affect various properties throughout the county.

Q. The adoption --

MS. GOLDING: Adam, I'd like to take a lunchbreak at 1 o'clock. Would you -- when you get into an area -- when you can stop, that would be great.

MR. NUGENT: Sure. We can take a lunchbreak at 1 o'clock. That's fine.

MS. GOLDING: Thank you.

EXAMINATION CONTINUING

BY MR. NUGENT:

Q. Mr. Goggans, you testified about the adoption of new flood maps for the county. Is that something handled by county council or do some other governmental bodies in getting that?

A. County council eventually approves them, they are drawn by FEMA, and they impact the buildings all over the county because we're concerned about whether to design to the old maps or whether to design to the new maps and the maps were supposed to have been adopted this December. They've been delayed once again, but there's been an ongoing discussion for

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two or three years about the maps and when the maps are going to be adopted.

Q. The issue about what -- what maps are adopted is something that you're involved in both as a county council member, and it often impacts your practice as an architect; is that correct?

A. The timing of the maps, adopting the maps does, yes, because, again, you need to know which -- which maps to use to design by.

Q. Then, the content of what those maps show impact what kind of buildings would be built in various parts of the county, correct?

A. It mainly affects -- it affects to a modest degree the construct, but it mainly affects the height above grade.

Q. Is it correct that any building in a flood zone would have to be built higher above grade to account for flooding potential?

A. Depending on where the base flood elevation is but, yes. It might be one foot. It might be ten feet.

Q. And the flood maps are what defines that base flood elevation, correct?

A. Correct.

Q. Here in this email from Mr. Johnson to

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Mr. Hemingway, this reference where he says, "Flood regs regarding the floors yesterday." Do you see that?

A. Okay.

Q. In your understanding, is that the -- as you -- you just described which is the number of floors -- or tell me -- tell me what's representative of that date?

MS. GOLDING: Object to the form of the question.

A. I think it goes back to my earlier comments about whether the ground floor counts -- the ground plane counts as a floor or -- or not and then what you have to do to -- if your building type beyond that in the type of construction.

Q. Looking at this email, you were sent correspondence from Mr. Johnson regarding the issue with flood regulations and building codes. What other communications did you have with him about this particular issue as it pertains to version three?

A. I don't recall any but flood maps and their relationship to building codes was a -- was a prevalent subject of conversation ongoing on projects and -- and from a policy perspective.

Q. The issue you testified about whether

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the ground floor counts as a floor flood elevation. Did I -- is that what you had said? I want to make sure I understand what your testimony was.

A. I think that's what this is -- is -- is about, but that's -- that's my testimony.

Q. Was that issue something that had to be resolved by the county officials in order for the construction on version three to proceed?

A. Or -- or the FEMA representative.

Q. FEMA representative?

A. FEMA would have done -- FEMA defines -- it's -- it's a combination of building codes and FEMA.

Q. This particular issue that came up in connection with version three, do you know whether it was resolved by either Georgetown County building department or by FEMA?

A. I don't.

Q. Who at SGA would know whether and the how the issue was resolved?

A. I think Mike Rolison and, as I said, Beth Novak were probably interfacing with the building department at this point in time.

Q. Did you contact Mr. Johnson or Mr. Hemingway and tell them that the people in your office who knew about this issue were Mr. Novak or, sorry,

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Ms. Novak or Mr. Rolison?

A. I don't recall any such conversations. We -- as I've mentioned on an ongoing basis over the last several years, with current administrator, with past administrator, with the current planning director, with the past planning director, we've had plenty of discussions about flood regs and flood maps and the adoption of the new FEMA maps.

Q. In order for construction of version three to commence, though, there had to be some resolution regarding this issue that you've identified about the flood regulations or building codes that applied to the project, correct?

A. Now, it -- it possibly had something to do, too, with -- you know, it takes breakaway construction if you're in a V zone or an A zone, so there's impacts to the way it's zoned that the -- the ground's level, so I -- I don't know.

Q. You know there was a resolution, but you don't know what the resolution was as you sit here today. Is that a fair statement?

A. That is -- that's a fair statement.

MR. NUGENT: All right. Why don't we take our lunchbreak, Henri.

MS. GOLDING: Okay. Thank you.

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(A lunchbreak was taken 1:00 p.m. to 2:28 p.m.)
EXAMINATION CONTINUING
BY MR. NUGENT:

Q. Mr. Goggans, before I get back into some additional questions, did you have any discussions with your counsel during the lunchbreak?

A. I did not.

Q. And since this deposition has started, have you had any discussions with your counsel regarding the substance of your testimony?

A. No.

Q. Mr. Goggans, do you personally have any knowledge of the square footage of version three of the proposed Marlin Quay building?

A. I do not.

Q. Do you know whether anyone at SGA has, in fact, analyzed the proposed -- the square footage of the proposed version three building?

A. Luda Subchuk. Possibly -- she wouldn't be in a position to recite the square footage off the top of her head but she, at one time, knew. Mike Rolison possibly; one or two of those two individuals, the design architect and the construction administration.

Q. And do you have any understanding of

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how the square footage of the version three building compared to the version one building?

A. I don't. I can only assume that the heated square footage, in other words, because the part of the building that was additional didn't change.

Q. When you gave your deposition back in 2018, you offered some testimony about the size of the version one building. Do you recall that?

A. Having read the deposition, I do.

Q. I believe you testified that the square footage of version one was almost 10,000 square feet including both heated and unheated square footage. Does that sound accurate?

A. That sounded accurate in terms of my testimony, yeah.

Q. And, obviously, your testimony is what it is. I just want to make sure we're on the same page.

A. Right.

Q. You don't know sitting here right now what the square footage of version three is in terms of heated and unheated square footage?

A. I don't, and a lot would depend upon how you counted the ground floor rooms, etcetera.

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Q. In terms of version two, when you testified back in 2018, did you look at or testify about the square footage of the version two building?

A. Yeah, and having read my deposition, I did.

Q. And the version two building, I think, was somewhere in the 9,000 square foot range. Does that sound accurate?

A. I honestly can't -- I'm apparently very forgetful, but I can't remember the exact square footage. I think we were trying to state 4260 heated and but, now, how much all of the decks and every -- and whatever dependent square footage was, I can't recall today.

Q. And I'm -- so I'm going to put in front of you what was previously marked as Exhibit 32.

A. Okay.

(PLF. EXH. 32, Document No. 3, was referenced.)

Q. Do you see document number three, Mr. Goggans?

A. Yes.

Q. And do you know if you've seen this document before?

A. I don't think I've seen it, and I don't

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recall it if I have.

Q. I'll represent to you this was a document produced by the defendants in the present case and it looks to be a comparison between MQ2 and MQ3. Do you see that at the top?

A. Okay. I do.

Q. And do you understand what MQ2 and MQ3 reference?

A. Yes. Version two, version three, or 2.0, 3.0, like --

Q. Right. And Version 3 or 3.0 is what we're dealing with in the present loss, correct?

A. Repeat the question.

Q. Version 3.0 or Version 3 is the building that's at issue in the current lawsuit?

A. Yes. Okay.

Q. So if we scroll down on -- and on this Exhibit 32, there is a left-hand column that lists different areas of the building.

A. Mm-hmm.

Q. The middle columns list version two, and the right column that lists version three, correct?

A. That's correct.

Q. And if we'd scroll down to the second

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page of the -- of Exhibit 32, are you with me? Do you have it on your screen?

A. Yes.

Q. We look at, "Total Heated," do you see that?

A. (No audible response.)

Q. Is that a yes?

A. Yes. Sorry.

Q. And then for version two and version three, it lists the total heated as $4,596. Do you see that?

A. Yes.

Q. Then, there is "Total Unheated" and the next row down is total heated and unheated. Do you see that?

A. I do.

Q. And the total heated number for version two is 10,388 square feet, right?

A. Right.

Q. Total unheated or -- sorry -- total heated and unheated for version three is 9,922 square feet, correct?

A. Correct.

Q. You personally don't have any knowledge about whether those numbers are accurate, correct?

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A. I do not. I could not validate.

Q. So it appears that the total heated and unheated square footage for version two and version three is right there in that 10,000 square foot range. Does that look right to you?

A. Approximate, yes.

Q. And that's roughly the same as what was in version one, right?

A. Okay. (Simultaneous crosstalk)

MS. GOLDING: Object to the form of the question. The witness testified he does not recall.

Q. You can answer it.

A. As best I can remember.

Q. I believe you testified that you visited the original building before it was demolished; is that right?

A. One time.

Q. And that was after you were engaged to work the as the architect on this case?

A. And that's correct, probably ahead of performing any design work but -- or not long after we'd had to go in.

Q. I'm going to put on your screen what's been previously marked as Exhibit 4, and do you see some photographs on your screen?

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A. I can.

(PLF. EXH. 4, Condo photographs, marked for identification)

Q. What's depicted in those photographs? Do you recognize that image?

A. Well, vaguely, and I think that's the old snack bar, but I know that mainly because of the condos behind and it's approximate size.

Q. In the background of this photograph, you see some condominiums that you recognize as being at the Marlin Quay area?

A. Yeah. Yes.

Q. And based on that, you believe the image depicted at four to be the full snack bar that was demolished, correct?

A. Correct.

Q. And does this appear to fairly and accurately depict the exterior of that building?

MS. GOLDING: Object to the form of the question. The witness has testified he vaguely recalls it.

Q. You can answer it.

A. Vaguely recall it. As best I can remember.

Q. Sure. And in terms of the amount of

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outside decking, do you have any understanding of how much deck space was in this demolished snack bar building?

A. No, I never took any measurements.

Q. Okay. Looking at this photograph, can you give any sort of assessment as to how much deck space is at the building?

A. I wouldn't go -- want to go on record as -- I'd be guessing, because I can't even see around the corner.

Q. Sure. And based on your recollection of having visited the building, do you have any understanding of what the decking area looks like, the outside of the deck area looks like?

A. Now, again, now vaguely.

Q. Do you know whether the amount of decking on this demolished snack bar building is more or less than what is proposed for any of the version one, two, or three buildings that your firm worked on?

A. Probably less, although, one would have to take out elevators, stairs, and those kind of things to make a side-by-side comparison.

Q. And you have never done either a side-by-side comparison of the deck space between the

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