

THE STATE OF SOUTH CAROLINA  
In the Supreme Court

**RECEIVED**  
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**SC Court of Appeals**

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APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

Deadra L. Jefferson, Circuit Court Judge

-----  
Case No. 2009-CP-10-0553  
-----

**Emerald Investments, LLC.....Appellant**

**v.**

**Ashley River Properties II, LLC; and Kriti Ripley, LLC.....Respondents**

-----  
**RECORD ON APPEAL**  
**(Volume 2 of 2)**  
-----

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**ATTORNEY FOR RESPONDENTS**

**THE STATE OF SOUTH CAROLINA**  
**In the Supreme Court**

-----  
**APPEAL FROM CHARLESTON COUNTY**  
**Court of Common Pleas**

**Deadra L. Jefferson, Circuit Court Judge**

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**Case No. 2009-CP-10-0553**  
-----

**Emerald Investments, LLC.....Appellant**

**v.**

**Ashley River Properties II, LLC; and Kriti Ripley, LLC.....Respondents**

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**INDEX**  
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Attached hereto is the record on appeal for the above-captioned appeal, including:

**I: Orders/Judgments**

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| 0002 | B. | Order, dated April 26, 2013                       |
| 0016 | C. | Notice of Entry of Judgment, dated July 24, 2013  |
| 0017 | D. | Order, dated July 24, 2013                        |
| 0021 | E. | Order, dated December 5, 2013                     |

**II: Pleadings**

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| 0023 | A. | Plaintiff's Trial Brief, dated January 17, 2013      |
| 0048 | B. | Motion to Alter or Amend Judgment, dated May 9, 2013 |
| 0064 | C. | Notice of Appeal, dated September 9, 2013            |

### **III: Transcripts**

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- 0066 A. Transcript of Record (Volume 1), dated January 22, 2013
- 0264 B. Transcript of Record (Volume 2), dated January 23, 2013

### **IV: Exhibits**

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- 0315 A. Request to Modify Award, dated November 15, 2005 (Δ Exhibit 2)
- 0323 E. Foreign Judgment Enrolled in SC, dated April 29, 2008 (Δ Exhibit 4)
- 0331 I. Arbitration Award, dated October 28, 2010 (Δ Exhibit 5)
- 0339 J. Photo (Δ Exhibit 13)

### **V: Other**

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- 0341 A. Operating Agreement of ARP-II, dated December 29, 2003
- 0391 B. Appraisal Report of Land, dated October 16, 2009
- 0460 C. Appraisal Report of Marina, dated October 16, 2009

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CHARLES G.G. CAMPBELL  
RESIDENT COUNSEL

November 15, 2005

VIA EMAIL

VanEtten1@adr.org

Larry Biblo, Esq.  
Eugene I. Farber, Esq.  
Michael A. Levy, Esq.  
c/o Ms. Laura E. VanEtten  
American Arbitration Association  
950 Warren Avenue  
East Providence, RI 02914

Re: 13 115 Y 00698 05 -Kriti Ripley, LLC & Ashley River  
Properties II, LLC adv. Emerald Investments, LLC and Stuart Longman

Dear Ms. VanEtten:

Claimants Kriti Ripley, LLC ("Kriti") and Ashley River Properties II, LLC ("ARP-II"), by their attorneys Rand Rosenzweig Radley & Gordon LLP, hereby request modification of the Award of Arbitrators ("Award") rendered in the above-referenced case, dated October 31, 2005, pursuant to Rule 46 of the Commercial Arbitration Rules.

We are mindful of the limitations of Rule 46 and write this letter only to request clarification and modification of what appear to be certain clerical, typographical and computational errors in the Award. It is manifestly not Claimants' intent to reargue the merits of the case. However, as will be discussed below, certain issues are unclear, others were not mentioned at all, and therefore a question exists as to intent of the arbitrators regarding those issues. Moreover, as shown by the annexed complaint, petition and application to modify or vacate the arbitration award, filed by Respondents in the courts of South Carolina, the parties and the reviewing courts would be better served if the arbitrators clarified their Award.

The Claims of Third-Party Contract Vendees

The arbitrators found that Claimants are entitled to indemnification in the amount of \$400,000 from Emerald and Longman, for all claims to date of third party contract vendees against ARP-II. (See Finding "F", at p. 3) Accordingly, in item 7 (at p. 4), the Award states that "Kriti and

DEFENDANT'S  
EXHIBIT

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Ms. Laura E. VanEtten

November 15, 2005

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ARP-II are entitled to indemnification from Emerald and Longman in the amount of \$400,000 for all claims to date of third party vendors [sic] against ARP-II, and require to [sic] the resolution of all such claims to be at the expense of ARP-II."

The identity of the third party vendees who have "claims to date" is not specified in the Award. The awarded amount of \$400,000 also does not correspond to any subset or grouping of such vendees. More importantly, as discussed in more detail below, the awarded amount is at odds with the arbitrators' other findings, which support the conclusion that the full amount of all of these third party claims should have been awarded.

It was uncontroverted that the following persons asserted the following claims or were paid the following amounts by ARP-II in settlement of claims:

1. Von Grotthuss -- Paid \$67,765.94 by ARP-II check No. 2256 pursuant to a Settlement Agreement dated July 22, 2005, representing the balance due on their claim for the return of a contract deposit in the amount of \$295,000 plus accrued interest from February 28, 2001. (JE 345)
2. Cunningham -- Paid \$356,816.80 by ARP-II by promissory note dated June 30, 2005 due and payable on or before December 31, 2005, with interest on \$265,000 (\$8,879.37, if paid on December 31, 2005), in settlement of their claim for the return of a contract deposit in the amount of \$265,000 plus accrued interest from February 28, 2001. (JE 344)
3. Lunar Systems, Inc. (Lussiers) -- The complaint seeks the recovery of a contract deposit in the amount of \$325,000 plus interest of \$129,959 since March 2001. (JE 343, ¶¶ 2 and 12, see Exh. A to Claimants' post-hearing memorandum).

The claims of the foregoing three sets of pre-construction buyers, which amount to \$879,541.74 (well over the \$400,000 calculated as the offset), are indistinguishable in form and substance.

4. Acierno -- Paid \$1,891 by ARP-II pursuant to a Settlement Agreement dated August 3, 2005, in settlement of his claim for the return of a contract deposit of \$1291.00 plus interest. (JE 339, 346)
5. Patterson -- Claim in the amount of \$31,050 plus interest for return of cash deposit pursuant to a Reservation Agreement dated May 18, 2002 (JE 340), which deposit funds were never turned over to ARP-II pursuant to § 1(g) of the Bill of Sale and General Assignment (JE 3).
6. Marler -- \$100,000 cash deposit plus interest due under an undisclosed contract dated October 18, 2000 to acquire certain marina assets. (JE 335).

Ms. Laura E. VanEtten  
November 15, 2005  
Page 3

Paragraph F of the Award states that the arbitrators "are persuaded that Emerald or Longman or another entity controlled by Longman (a) received and kept the deposits, (b) did not use these funds for the benefit of ARP-II and (c) ARP-II must now resolve all these third party claims." This finding would apply to all of the above with the possible exception of the Marler claim, for the reasons described below. The six enumerated claims -- all of which were undisputed by Emerald and Longman -- amount to \$1,012,482.74, far in excess of the \$400,000 awarded, even without adding amounts for anticipated future interest payable on the Cunningham promissory note, interest on the Patterson deposit and interest on the Marler deposit. Pursuant to §3.10 of the Operating Agreement and §2 of Indemnity Agreement (JE 1, 5), Respondents should also have reimbursed Claimants for \$18,578 in defense costs paid by ARP-II to Hagood & Kerr through September, 2005 in defending and/or settling those claims. (See Affidavit of Ben A. Hagood, sworn to September 19, 2005) Consequently, the total amount which should have been awarded on account of buyers claims should have been \$1,031,060.74, plus unliquidated interest on account of the Cunningham, Patterson and Marler claims.

With regard to the Marler claim, as was proven by Claimants, Marler paid a deposit of \$100,000 to Sapphire, a Longman controlled entity, for the right to purchase certain marina assets located on the adjacent Collins property for \$4 million, subject to Sapphire first closing on its contract with Collins to acquire his land and marina assets. This contract also granted Marler the option to acquire certain marina boat slips to be built on the parcel acquired by ARP-II. (JE 335, Tr. 1144-47). As reflected in paragraph A(6) of the Award, Respondents failed to disclose the existence of the downstream contract to sell portions of the Collins assets to Marler in violation of §3.9(a) and (f) of the Operating Agreement. As with the other buyer deposits, Respondents: "received and kept the deposits [and] did not use the funds for the benefit of ARP-II."

Marler's claim against ARP-II may be weaker than the claims of von Grotthuss, Cunningham, Lussiers (Lunar), Aciermo and Patterson because ARP-II ultimately never acquired the Collins land and marina assets, and Marler's claim to recover his deposit may more properly lie against Sapphire and/or Longman, not ARP-II. However, paragraph 7 of the Award can be read to state that "all claims to date of third-party vendors [sic]" are to be resolved "at the expense of ARP-II", even though Marler may not have a provable claim against ARP-II. Thus, it must be anticipated that Respondents will now argue that ARP-II has the obligation to pay Marler for his claim, even though no offset was granted to ARP-II or Kriti for the principal and interest of Marler's claim. Consequently, responsibility for this matter must be clarified.

Accordingly, Claimants ask that paragraph 7 of the Award be corrected to provide for the amount of \$931,060.74, being the amount of the Cunningham, Von Grotthuss, Lunar Systems, Aciermo and Patterson claims (including \$18,578 in Hagood & Kerr defense expenses) and that these claims be defined as the "Covered Third-Party Claims" or similar term. ARP-II would then be responsible to obtain the resolution of the Covered Third-Party Claims at its expense. Other third-

Ms. Laura E. VanEtten

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Page 4

party claims, not within the defined term, would be outside of ARP-II's responsibility to resolve, at least to the extent the Award seeks to shift responsibility.

In the case of Marler, either the amount set forth in paragraph 7 of the Award should be raised by \$143,313 for the principal and interest (at 8.75% from 10/18/2000) of the Marler claim to \$1,074,373.74 or, at a minimum, the award should be modified to state that Respondents must hold harmless and indemnify ARP-II and Kriti for all losses and damages in accordance with the indemnity provisions of §3.10 of the Operating Agreement and §2 of the Indemnity Agreement.

#### Delay Damages

The Award does not expressly address Claimants' claims for delay damages despite recognizing that Claimants suffered delay damages. Thus, the arbitrators wrote, in paragraph A7, on page 2 of the Award:

[I]t is undisputed that when Bellingham Marine was finally paid, ARP-II was charged an additional \$64,000 because of the delay in payment occasioned by Emerald and Longman.

Claimants argued, in Section F of their post-hearing memorandum, that "the entry into the construction loan agreement with Marshall on a fraudulent basis and the diversion of loan funds [violated] §§5.2 (g) and (p), 5.7, 6.2 and 6.3 of the Operating Agreement And §2 of the Management Agreement." As the arbitrators found, this diversion damaged ARP-II in the amount of \$64,000. Claimants should be awarded damages in this amount.

Claimants should also be awarded its other delay damages. A redesign of the docks, in the fall of 2004, resulted in an additional and unnecessary expense of \$56,775. (JE 37) Most significantly, and although the Marshall construction loan agreement contemplated marina completion by December 31, 2004 (JE 15), Longman failed to commission final construction drawings of the pier (party deck) and bulkhead until January 2005. (JE 180) The consequences were a delay of between 12 and 13½ months (JE 334) and \$494,000 in extra and unnecessary overhead and interest costs. (JE 333) (See Claimants' posthearing memorandum Point I (G))

Longman is not an unsophisticated builder who was mistaken about how to build a marina. He should be held responsible for the \$614,775 in damages to Claimants caused by Longman's actions in derogation of his contractual and fiduciary obligations to construct the marina as agreed and contemplated.

#### Additional Claims

The arbitrators correctly found that Emerald and Longman's failure to disclose the existence of Sapphire's bankruptcy was a "clear material breach of Section 3.9(a)." The arbitrators failed,

RAND ROSENZWEIG RADLEY & GORDON LLP

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however, to reimburse Claimants for the amount of \$40,338 in litigation expenses paid by ARP-II to Pratt-Thomas Epting & Walker, P.A. to prosecute the litigation with Collins for the benefit of Sapphire's creditors (JE 333, p 8).

As the Award reflects, the issues of whether and in what amount Respondents repaid the funds they diverted from ARP-II has been severed from this arbitration. However, the arbitrators have determined that Respondents diverted funds from ARP-II in breach of the Operating Agreement. ARP-II's costs in the amount of \$25,688 to restate the financial statements and trace the funds that were diverted are a direct consequence of Respondents' breach of the Operating Agreement and should be awarded as damages.

Claimants' Arbitration Costs

The arbitrators correctly determined, pursuant to Section 12.18 of the Operating Agreement, that Respondents, as the "non-prevailing" parties shall pay all costs and expenses of the arbitration. The application for such reimbursement consisted of the following:

- A. \$225,981.30 for the fees of Rand Rosenzweig Smith Radley & Gordon LLP (the "Rand Firm") through the post-hearing brief.
- B. \$8,967.86 for disbursements recorded by the Rand Firm.
- C. \$10,604.84 in court stenographer bills for the arbitration.
- D. \$10,000 in charges by Fortenberry Lambert (appraisal experts).
- E. \$15,527.31 in charges of Stantec Consulting (engineers).
- F. \$32,479.44 in charges of Pratt-Thomas, Gumb & Co. (forensic accountants) for testimony.
- G. Hagood & Kerr, fees of \$17,883.05 and disbursements of \$1,072.27 for a total of \$18,955.32 (these charges differ from the defense costs relating to the claims of the third-party buyers).

All of the foregoing were reflected in or annexed to my affidavit and that of Ben Hagood, Esq., and were submitted together with the posthearing memorandum. The above total \$322,516.07.

All of the items were reasonable (especially in comparison with almost triple the costs incurred by Respondents) and relevant to the claims which prevailed in the arbitration. Thus, Hagood & Kerr were essential in issues of South Carolina law (and charged far less than Respondents' South Carolina counsel). The Fortenberry Lambert report was significant in showing that ARP-II's property was more valuable than the Centex offer. The Pratt-Thomas report and testimony were significant in showing the amounts diverted by plaintiffs, although the precise amounts repaid or still

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owing from Respondents were severed during and from this arbitration. Although the damages for delay in the project were not specifically addressed in the Award, the report and testimony of Eddie Porcher of Stantec Consulting were an important contribution in understanding the construction aspects of the project and the failure of Longman to proceed with construction of the marina in accordance with the permits and timetables.

Section 12.18 of the Operating Agreement provides that the prevailing party shall recover "the *entire* cost of the arbitration, including without limitation all arbitrators' fees and expenses, transcription costs and the expert witness fees, and reimburse the reasonable attorneys' fees and disbursements." (emphasis supplied). Thus, the awarded sum of \$251,000 for legal fees and disbursements should be increased to the \$322,516.07 sought by Claimants.

Respondents' Motion To Vacate And Associated Relief

As the annexed papers indicate, Respondents and ARP-I assert four causes of action in South Carolina relating to issues that were the subject of this arbitration. The first two causes of action are frivolous, and are matters best left to the courts. The first cause of action, which seeks relief for ARP-I, is premature until such time as ARP-II seeks to enforce the Award against ARP-I. ARP-II has not yet sought to do so. The second cause of action to vacate the Award is insufficient as a matter of law and fact. Claimants do not need the assistance of the arbitrators in upholding the Award against the same arguments that this panel has rejected.

The parties and the reviewing court would benefit however, from an express statement by the arbitrators rejecting Respondents' effort to obtain judicial dissolution of ARP-II. While it is implicit in the Award that the bases for dissolution are inappropriate, especially as Kriti will be purchasing all of the interests of Emerald in ARP-II, the parties would benefit from a statement by the arbitrators expressly denying this claim.

Finally, although the Fourth Cause of Action is pleaded as a cause of action by ARP-I, many of the claims raised by ARP-I were issues referred to this arbitration. Given that the arbitrators granted no relief to Respondents on account of their counterclaims against Kriti for "oppressive conduct" or for any failure on its part to accept the Centex offer to purchase, modification of the Award which makes clear that these specific issues were raised and rejected, would be beneficial, Claimants submit, to any court seeking to understand the nature of what was decided.

Mindful of the arbitrators' previous request for submission of a proposed award, we annex a proposed amendment to the Award correcting certain clerical, typographical and computational errors and expressly setting forth those issues which were decided but not specifically referenced. We further indicate our willingness to meet with the arbitrators and respondents to review any the clerical, typographical and computational issues raised.

RAND ROSENZWEIG RADLEY & GORDON LLP

Ms. Laura E. VanEtten  
November 15, 2005  
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Very truly yours,

/s/  
Charles L. Rosenzweig

cc: David Olasov, Esq.  
Mr. Davidson Williams



08-CP-10-2344  
ORIGINAL  
2008-CP-10-2344

(OVER)

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X  
IN THE MATTER OF THE ARBITRATION BETWEEN

KRITIRIPLEY, LLC and  
ASHLEY RIVER PROPERTIES II, LLC,

INDEX No. 650196/06

PETITIONERS,

JUDGMENT

-against-

EMERALD INVESTMENTS, LLC  
and STUART LONGMAN

RESPONDENTS.  
-----X

Upon the Decision and Order of Hon. Ira Gammernan, J.H.O., dated February 15, 2008, and filed February 20, 2008, it is:

I. ADJUDGED AND DECREED that the Award of Arbitrators rendered on October 31, 2005, as modified on December 9, 2005, in the arbitration case *In the Matter of the Arbitration between Kriti Ripley, LLC & Ashley River Properties II, LLC, Claimants, and Emerald Investments, LLC and Stuart Longman, Respondents* (American Arbitration Association Case No. 13.115 Y 00698 05) is confirmed in all respects as against Respondents Emerald Investments, LLC, a Connecticut limited liability company with its principal place of business located at 424 West Mountain Drive, Ridgefield, CT 06877 ("Emerald") and Stuart Longman, residing at 424 West Mountain Drive, Ridgefield, CT 06877 ("Longman"), and more specifically as follows:

A. That Petitioners Kriti Ripley, LLC ("Kriti") and Ashley River Properties II, LLC ("ARP-II") recover of Emerald and Longman, jointly and severally, the sum of Seven Hundred Six Thousand Two Hundred Twenty-Five Dollars (\$706,225.00), together with interest from October 31, 2005 until the date of Judgment in the amount of \$144,751.94 calculated at the South Carolina statutory rate of eight and three-quarters percent (8.75%);

B. That, as of January 14, 2005, Emerald forfeited all voting rights in ARP-II;

DEFENDANT'S  
EXHIBIT

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C. That, as of January 14, 2005, Kriti and ARP-II validly terminated the Project Development Agreement, dated December 30, 2003, without penalty or premium; and

D. That Kriti has the right to purchase the Emerald Member shares for Two Million Five Hundred Thousand Dollars (\$2,500,000.00) subject to no offsets except for the items enumerated in Section 10 of the award, which include Four Hundred Thousand Dollars (\$400,000.00) representing indemnification for third party vendor claims, Two Hundred and Fifty One Thousand Dollars (\$251,000.00) representing legal fees, and Fifty Five Thousand Two Hundred and Twenty Five Dollars (\$55,225.00) representing administrative and arbitrators' fees for a total of Seven Hundred Six Thousand and Two Hundred and Twenty Five Dollars (\$706, 225.00), less any amounts already paid by respondents under Paragraph I- A of this Judgment at the time of closing. The closing shall take place pursuant to the terms of Section 13.02 (c) of the Operating Agreement dated December 29, 2003, (the "Buyout Right");

E. That Kriti's right to specific performance or otherwise to enforce its Buyout Right against Emerald is denied without prejudice to Kriti seeking such relief in another action or proceeding, including the action pending before this Court entitled *Emerald Investments, LLC v. Kriti Ripley, LLC*, Index No. 111957/06;

and it is further

II. ADJUDGED AND DECREED that the Award of Arbitrator rendered on July 22, 2006, as modified on July 28, 2006 in the arbitration case *In the Matter of the Arbitration between Kriti Ripley, LLC & Ashley River Properties II, LLC, Claimants, and Emerald Investments, LLC and Stuart Longman, Respondents* (American Arbitration Association Case No. 13 115 02570 05) is

confirmed in all respects as against Respondents Emerald and Longman; and more specifically that:

A. Kriti and ARP-II recover of Emerald and Longman, jointly and severally:

1. One Hundred Forty-Three Thousand Three Hundred Forty Dollars (\$143,340.00), together with interest from November 1, 2005 until the date of Judgment in the amount of \$29,345.43 calculated at the South Carolina statutory rate of eight and three-quarters percent (8.75%); plus

2. One Hundred Thirty-Three Thousand Six Hundred Fifty-Three Dollars and fourteen cents (\$133,653.14), together with interest from June 22, 2006 until the date of Judgment in the amount of \$19,896.92 calculated at the South Carolina statutory rate of eight and three-quarters percent (8.75%); plus

3. Five Thousand Six Hundred Thirty-One Dollars (\$5,631.00), together with interest from June 22, 2006 until the date of Judgment in the amount of \$838.29 calculated at the South Carolina statutory rate of eight and three-quarters percent (8.75%);

B. Kriti and ARP-II shall pay or negotiate settlement of the unpaid balance of the payables assumed by ARP-II upon entering the Operating Agreement of ARP-II dated December 29, 2003 in an amount not to exceed One Hundred Twenty-Six Thousand Eight Hundred Ninety-Seven Dollars and Forty-Three Cents (\$126,897.43), which obligation, however, may not be offset against the amounts due from Emerald and Longman to Kriti and ARP-II;

and it is further

III. ADJUDGED AND DECREED that the Clerk tax legal costs against Respondents in the amount of 900, as set forth in the annexed bill of costs and as permitted by law;

and it is further;

IV. ADJUDGED AND DECREED, that the petitioners Kriti and ARP-II recover the total money judgment awarded herein, jointly and severally, against Respondents Emerald and Longman, inclusive of interest and the costs of this proceeding, amounting to the sum of 1,184,581<sup>72</sup>, and that petitioners have execution therefor.

Judgment signed this 27 day of March 2008

16  
Ira Gammertman  
Judicial Hearing Officer

**FILED**  
APR 02 2008  
COUNTY CLERK'S OFFICE  
NEW YORK

*Newman Goldman*  
CLERK

PETITIONERS

345 E. 37TH STREET  
NEW YORK, NY 10016

STATE OF NEW YORK, COUNTY OF NEW YORK,  
SS: I, ROSEMARY E. BOGGS, COUNTY CLERK AND  
CLERK OF THE DISTRICT COURT, NEW YORK  
COUNTY, DO HEREBY CERTIFY THAT

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FILED FOR RECORD  
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4/2/08

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COUNTY CLERK  
SUPREME COURT  
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TO THE

2008-CP-10-2344

RAND ROSENZWEIG  
RADLEY & GORDON LLP  
Attorneys for Petitioners  
50 Main Street, 12<sup>th</sup> Floor  
White Plains, New York 10606

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

IN THE MATTER OF THE ARBITRATION BETWEEN

KRITI RIPLEY, LLC and  
ASHLEY RIVER PROPERTIES II, LLC,

INDEX No. 650196/06

-against- PETITIONERS,

INTEREST CALCULATION AND  
BILL OF COSTS

EMERALD INVESTMENTS, LLC  
and STUART LONGMAN

RESPONDENTS.

|                                                                 |                       |
|-----------------------------------------------------------------|-----------------------|
| Principal pursuant to paragraph I.A of the Judgment             | \$ 706,225.00         |
| Interest from 10/31/05 to 03/04/08 at 8.75% (SC Statutory Rate) | \$ 144,751.94         |
| Principal pursuant to paragraph II.A of the Judgment            | \$ 143,340.00         |
| Interest from 11/01/05 to 03/04/08 at 8.75% (SC Statutory Rate) | \$ 29,345.43          |
| Principal pursuant to paragraph II.B of the Judgment            | \$ 133,653.14         |
| Interest from 06/22/06 to 03/04/08 at 8.75% (SC Statutory Rate) | \$ 19,896.92          |
| Principal pursuant to paragraph II.C of the Judgment            | \$ 5,631.00           |
| Interest from 06/22/06 to 03/04/08 at 8.75% (SC Statutory Rate) | \$ 838.29             |
| <b>SUBTOTAL</b>                                                 | <b>\$1,183,681.72</b> |
| Per diem at 8.75% after 03/04/2008 = \$ 237.05                  |                       |

Statutory Costs  
CPLR § 8201

\$ 200

Disbursements  
Fee for Index No.  
Service of Process  
Request for Judicial Intervention

\$ 420.00  
\$ 320.00  
\$ 240.00

TOTAL

\$ 900

I HEREBY CERTIFY THAT I HAVE  
REVIEWED THIS BILL OF COSTS AT  
APR 02 2008  
Clerk

2008 APR 29 PM 4:39  
FILED  
CLERK OF COURT

STATE OF NEW YORK       )  
                                  ) ss.:  
COUNTY OF WESTCHESTER )

The Undersigned, an attorney admitted to practice before the courts of the State of New York, affirms under penalty of perjury that:

I am a member of the firm of Rand Rosenzweig Radley & Gordon LLP, attorneys for the Petitioners, KRITI RIPLEY, LLC AND ASHLEY RIVER PROPERTIES II, LLC, in this action and that the foregoing disbursements have been necessarily made or incurred in this action and are accurate in amount and necessarily obtained for use. The undersigned affirms that the foregoing statement is true, under penalty of perjury.

February 26, 2008

**FILED**  
APR 02 2008  
CLERK'S OFFICE  
NEW YORK

/s/  
Charles L. Rosenzweig



08-CP-10-2344

DOCKETED BY  
BMG  
[Signature]

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AT  
NY CO. CLERK'S OFFICE

INDEX NO. 850.100/2000

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

KRM RIPLEY, LLC AND  
ASHLEY RIVER PROPERTIES II, LLC

PETITIONERS

AGAINST

EMERALD INVESTMENTS, LLC AND  
STUART LONGMAN

RESPONDENTS

NOTICE OF ENTRY

JUDGMENT

RAND ROSENZWEIG  
RADLEY & GORDON LLP

ATTORNEYS FOR DEFENDANTS  
50 MAIN STREET  
WHITE PLAINS, NY 10606  
(914) 408-7000



AMERICAN ARBITRATION ASSOCIATION  
Commercial Arbitration Tribunal

In the Matter of the Arbitration between:

Re: 13 115 00216 10  
Emerald Investments, LLC ("Emerald")  
and  
Kriti Ripley, LLC ("Kriti")

AWARD OF ARBITRATORS

We, the undersigned arbitrators, having been designated pursuant to Article 12.18 of the operating agreement, dated as of December 29, 2003, by and among Kriti Ripley, LLC ("Kriti"), Emerald Investments, LLC ("Emerald") and Ashley River Properties II, LLC ("Company") ("hereinafter "Operating Agreement"), and, during July, 2010, the Arbitrators (hereinafter sometimes referred to as "Panel"), each having been duly sworn, held six duly noticed hearing days pertaining to the within matter, during which time the Panel heard evidence and admitted various exhibits in furtherance of the position of both Emerald and Kriti, and, the parties having submitted post hearing briefs and reply briefs, and, having read the briefs and ancillary submissions, do hereby FIND and AWARD as follows:

This arbitration arises from a dispute between the only two members of the Company which was formed to own and develop waterfront property located in Charleston, South Carolina. This dispute has its genesis in 2005 when the principal of Emerald, Stuart Longman, admittedly, diverted funds from the Company contrary to the Operating Agreement. As a consequence, Kriti commenced an arbitration to strip Emerald of its voting rights in accordance with the Operating Agreement. As a result, Emerald, which held a 70% membership interest in the Company, lost all of its voting rights, leaving Kriti, which held the remaining 30% membership in the Company, with the sole right to manage the Company and as the sole voting member of the Company.

Thereafter, the parties engaged in a continuous series of litigations and arbitrations, spanning three states, to further each of their interests. The initial arbitration affirmed Emerald's loss of voting rights and awarded Kriti certain moneys arising from the diversion of Company funds (JE 47). The initial award denied the remedy of forfeiture and held that Kriti could exercise its right to acquire the interests of Emerald for Emerald's cost as set forth on the books of the Company as provided in the Operating Agreement (JE52, Article 13.02). Due to the manner in which the Operating Agreement provided for a buy out of the interests of each member, the arbitrators did not need to address whether or not Emerald's membership interests were reduced from 70% to something less. During the initial arbitration and, consistently thereafter, Emerald took the position that it continued to own a 70% interest in the Company and Kriti took the position that Emerald's interests had been diluted.

Thereafter, Kriti commenced a second arbitration to recover moneys due from Emerald arising from its diversion of funds and for legal fees. That arbitrator, by an award, dated June 22, 2006, awarded Kriti legal fees and damages (JE 48). Kriti then moved to confirm both awards in the Supreme Court of the State of New York, New York County. In February, 2008, both awards were affirmed by the Hon. Ira Gammerman, Judicial Hearing Officer (JE 49). In a separate action, Emerald sought a judicial determination, also in the Supreme Court of the State of New York, that Kriti's right to acquire Emerald's interest in the Company had expired, which motion was granted in 2009.

In 2009, Emerald commenced an action in the Court of Common Pleas for the Ninth Judicial Circuit, sitting in Charleston, South Carolina, to dissolve the Company and to declare that Kriti owned 70% of the Company ("South Carolina Dissolution Action"). The Court, in that proceeding, explicitly held that "the suit is based on events (e.g. ...the alleged dilution of Emerald's interest...) that occurred after the New York arbitration. Therefore, the current claims are not barred by *res judicata* or collateral estoppel (JE... at 21)."

**AMERICAN ARBITRATION ASSOCIATION**  
**Commercial Arbitration Tribunal**

In the Matter of the Arbitration between:

Re: 13 115 00216 10

|                          |             |
|--------------------------|-------------|
| Emerald Investments, LLC | ("Emerald") |
| and                      |             |
| Kriti Ripley, LLC        | ("Kriti")   |

**AWARD OF ARBITRATORS CONTINUED**

When the parties realized that the determination of Emerald's membership interest was properly the subject of arbitration pursuant to Article 12.18 of the Operating Agreement, they agreed to stay the South Carolina Dissolution Action and proceed with arbitration in New York on the issue of Emerald's membership interest (JE 536). The consent order of the South Carolina Court also provided:

"The parties further stipulate and agree that the findings of the above-referenced New York arbitration, upon confirmation of the award, shall be admissible in and binding upon the parties in any action (including, but not limited to, this action) seeking an order of judicial dissolution of ARP II (the Company)."

Emerald then commenced the within arbitration, seeking, in part: (i) a declaration that Emerald owns 70% of the membership interests of the Company, (ii) a finding that the amounts contributed as loans by affiliates of Kriti should be treated as equity and not debt on the books of the Company, (iii) an order expelling Kriti from the Company, (iv) an injunction preventing Kriti from violating the Operating Agreement, (v) damages, and (vi) costs of the arbitration, including legal fees. Kriti answered and denied the material allegations contained in the arbitration demand and sought relief of its own: (i) dismissal of the arbitration, (ii) forfeiture of Emerald's interests in the Company, pursuant to South Carolina law, (iii) confirmation that Emerald holds a 21.3% interest in the Company, (iv) a determination of the amount of long term liabilities on the books of the Company, and (v) costs and expenses of this proceeding, including legal fees.

**Ownership Interests**

Based upon the evidence adduced at the hearing, We find that the Capital Call, dated February 28, 2005 (JE 115) ("Capital Call") was defective on its face and, thus, ineffective to trigger a dilution of Emerald's membership interests. The Capital Call imposed conditions on the application of Emerald's capital contribution which were contrary to the terms of the Operating Agreement. Accordingly, We find that Emerald continues to own a 70% interest in the Company and Kriti continues to own a 30% interest. This holding does not impact, however, the finding that Kriti continues to be the sole member with voting rights as determined by the initial arbitration and affirmed by J.H.O. Gammerman (JE 47 at 11).

The Panel finds that Emerald is not precluded by either the statute of limitations or *res judicata* from seeking the relief requested herein. J.H.O. Gammerman's decision, dated February 15, 2008, was settled by a judgment, dated April 2, 2008. Sometime in 2009, Emerald commenced the South Carolina Dissolution Action to declare that it held a 70% interest in the Company, well within the three year statute of limitations for such proceedings applicable under South Carolina law. Through every litigation and arbitration, over five years, Emerald has sought to affirm its 70% owner of the Company, thus tolling any statute of limitations.

**Loans as Equity and Not Debt**

The Panel finds that Kriti and its affiliates loaned to the Company the sum of \$7,493,077.35, as set forth on the Company balance sheet, dated as of March 31, 2010 (JE 104) ("Financial Statement"). These loans were not disputed by Emerald. Rather, Emerald seeks to have these loans treated as equity claiming that the loans

**AMERICAN ARBITRATION ASSOCIATION**  
**Commercial Arbitration Tribunal**

In the Matter of the Arbitration between:

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and  
Kriti Ripley, LLC ("Kriti")

**AWARD OF ARBITRATORS CONTINUED**

were disguised equity contributions as they were not arm's length loans and did not have the indicia of debt. We find the cases cited by Emerald unpersuasive to reclassify these loans as equity contributions.

Moreover, Article 5.2 of the Operating Agreement provides for members to loan money to the Company:

Notwithstanding anything herein to the contrary, the following major decisions shall require the written approval of the Member who own the Required Interest of the Voting Rights in the Company: ...

(i) The borrowing of money for Company purposes and, if security is required therefore, the granting of any security interest in all or any portion of Company Property.

\*\*\*

(g) Entering into any loan agreement or execution and delivery any note, mortgage, deed of trust guaranty, indemnity or other instrument or agreement in connection with any borrowing, or any amendment, supplement, extension or modification thereto, whether in connection with any existing or future borrowing or debt.

(JE 52, Article 52.)

Thus, We find that loans to the Company from the Kriti affiliates and Davidson Williams should be treated as loans.

**Dissolution of the Company and Dissociation**

We find no basis to dissociate Kriti or Emerald from the Company or to dissolve the Company despite the fact that dissolution may be in the best interests of all parties. The Operating Agreement explicitly states the basis for dissolution:

9.1. Except as otherwise provided herein, the Company shall dissolve... only upon the happening of one or more the following events:

(a) written consent of the members who own the Required Interest of the Voting Rights in the Company;

(b) Any event occurs that makes it unlawful for all or substantially all of the business of the Company to be continued, but any cure of illegality with ninety (90) days after notice to the Company of the event is effective retroactively to the date of the event for purposes of this subsection;

(c) The filing by the Secretary of State of a certificate of administratively dissolving the Company...

AMERICAN ARBITRATION ASSOCIATION  
Commercial Arbitration Tribunal

In the Matter of the Arbitration between:

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and  
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AWARD OF ARBITRATORS CONTINUED

(d) The expiration of the period fixed for the duration of the Company...

The Panel finds that none of these events has occurred and, thus, the parties have not provided sufficient facts for the Arbitrators to render a fact finding authorizing dissolution.

The Operating Agreement also fails to provide a basis for dissociation, as dissociation may be supported only upon the finding of three events:

"(a) Withdrawing, retiring or resigning from the Company with the consent of those Members who own the Required Voting Rights in the Company.

(b) If the Member files a voluntary petition for bankruptcy, is adjudicated a bankrupt or has a bankruptcy petition filed against him or it (sic) which is not dismissed within ninety (90) days.

(c) Any event of Wrongful Dissociation set forth in 10.5 of this Agreement."

Article 10.5 of the Operating Agreement sets forth the basis for wrongful dissociation. The parties did not present sufficient evidence to justify a finding of the extreme remedies of dissociation or forfeiture of either member's membership interests in the Company.

Article 10.5(b)(iii) provides that dissociation may be found where a member engages in "conduct relating to the Company's business that makes it not reasonably practicable to carry on the business with the Member." \* While the Panel observes that Kriti and Emerald cannot work together in any constructive manner, the business of the Company is the development of the waterfront property and, should the Company elect not to dissolve, Kriti may proceed with its business operations.

Nor did the Panel hear sufficient evidence to find corporate waste by Kriti or commission of any act which would justify enjoining Kriti from violating any provision of the Operating Agreement. The decisions to construct a bulkhead, dredge the canal and construct the out building were well within the business judgment of Kriti as managing member; and the application of funds by the Company was, also, well within reasonable business efforts to manage a complex piece of waterfront property. Kriti had envisioned a luxury development and these expenditures fell within that reasonable vision. Emerald's evidence was, at best, the observations of Stuart Longman who believed that he could develop the property better; but the decisions of Kriti did not constitute waste nor 'wrongful conduct that adversely and materially affected the Company's business...' Nor did Kriti's conduct constitute "... a material breach of [the Operating Agreement] or a duty owed to the Company or the other Members under Section 22-44-409 of the Act." Operating Agreement, Article 10.5(b).

Accordingly, the Panel Awards as follows:

1. Emerald is found to continue to own 70% of the membership interests in the Company and Kriti continues to own 30% of the membership interests.

**AMERICAN ARBITRATION ASSOCIATION**  
**Commercial Arbitration Tribunal**

In the Matter of the Arbitration between:

Re: 13 115 00216 10  
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Kriti Ripley, LLC ("Kriti")

**AWARD OF ARBITRATORS CONTINUED**

2. The loans by Kriti's affiliates to the Company shall be treated as loans to the Company and shall not be recast as equity. The amount of the loans are found to be those set forth in the Financial Statement, as the amounts of the loans were not disputed by the parties.
3. Neither Kriti nor the Company committed corporate waste or engaged in any misconduct which would support a finding of fact requiring dissociation, dissolution or an award to Emerald of damages; and, thus, to the extent that the Panel is empowered to opine on the request for dissociation, dissolution or damages against Kriti, such request is denied.
4. Emerald did not commit sufficient acts to support a finding of dissociation, and, to the extent that the Panel is empowered to opine on the request for dissociation of Emerald, such request for relief is denied.
5. Neither Emerald nor Kriti committed sufficient acts to support a finding of forfeiture.
6. Neither Emerald nor Kriti committed sufficient acts to warrant the issuance of an injunction against either party and such request for relief is denied.
7. Each of the parties hereto shall bear its own costs and expenses incurred in connection with this proceeding, subject to the payments set forth below; and, to the extent that each party hereto seeks an award of legal fees or costs and disbursements of this proceeding from the other party to this proceeding, such request is denied.
8. The administrative fees and expenses of the American Arbitration Association totaling \$18,800.00 and the compensation and expenses of the arbitrators totaling \$111,183.98 shall be borne equally. Therefore, Kriti shall reimburse Emerald the sum of \$59,527.74, representing that portion of said fees in excess of the apportioned costs previously incurred by Emerald.

This Award is in full settlement of all claims and counterclaims submitted to this Arbitration. All claims not expressly granted herein are hereby, denied.

This Award may be executed in any number of counterparts, each of which shall be deemed an original, and all of which shall constitute together one and the same instrument.

Date

10/28/2010

Date

10/28/2010

Date

E. Leo Milonas

Peter L. Altieri

Peter L. Altieri

David M. Rubin

David M. Rubin

AMERICAN ARBITRATION ASSOCIATION  
Commercial Arbitration Tribunal

In the Matter of the Arbitration between:

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AWARD OF ARBITRATORS CONTINUED

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6. Neither Emerald nor Kriti committed sufficient acts to warrant the issuance of an injunction against either party and such request for relief is denied.
7. Each of the parties hereto shall bear its own costs and expenses incurred in connection with this proceeding, subject to the payments set forth below; and, to the extent that each party hereto seeks an award of legal fees or costs and disbursements of this proceeding from the other party to this proceeding, such request is denied.
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10/28/10  
Date

E. Leo Milonas

Date

Peter L. Altieri

Date

David M. Rubin

AMERICAN ARBITRATION ASSOCIATION  
Commercial Arbitration Tribunal

In the Matter of the Arbitration between:

Re: 13 115 00216 10  
Emerald Investments, LLC ("Emerald")  
and  
Kriti Ripley, LLC ("Kriti")

AWARD OF ARBITRATORS CONTINUED

I, E. Leo Milonas, do hereby affirm upon my oath as Arbitrator that I am the individual described in and who executed this instrument, which is my Award.

10/28/10  
Date

  
E. Leo Milonas

I, Peter L. Altieri, do hereby affirm upon my oath as Arbitrator that I am the individual described in and who executed this instrument, which is my Award.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Peter L. Altieri

I, David M. Rubin, do hereby affirm upon my oath as Arbitrator that I am the individual described in and who executed this instrument, which is my Award.

\_\_\_\_\_  
Date

\_\_\_\_\_  
David M. Rubin

AMERICAN ARBITRATION ASSOCIATION  
Commercial Arbitration Tribunal

In the Matter of the Arbitration between:

Re: 13 115 00216 10  
Emerald Investments, LLC ("Emerald")  
and  
Kriti Ripley, LLC ("Kriti")

AWARD OF ARBITRATORS CONTINUED

I, E. Leo Milonas, do hereby affirm upon my oath as Arbitrator that I am the individual described in and who executed this instrument, which is my Award.

\_\_\_\_\_  
Date

\_\_\_\_\_  
E. Leo Milonas

I, Peter L. Altieri, do hereby affirm upon my oath as Arbitrator that I am the individual described in and who executed this instrument, which is my Award.

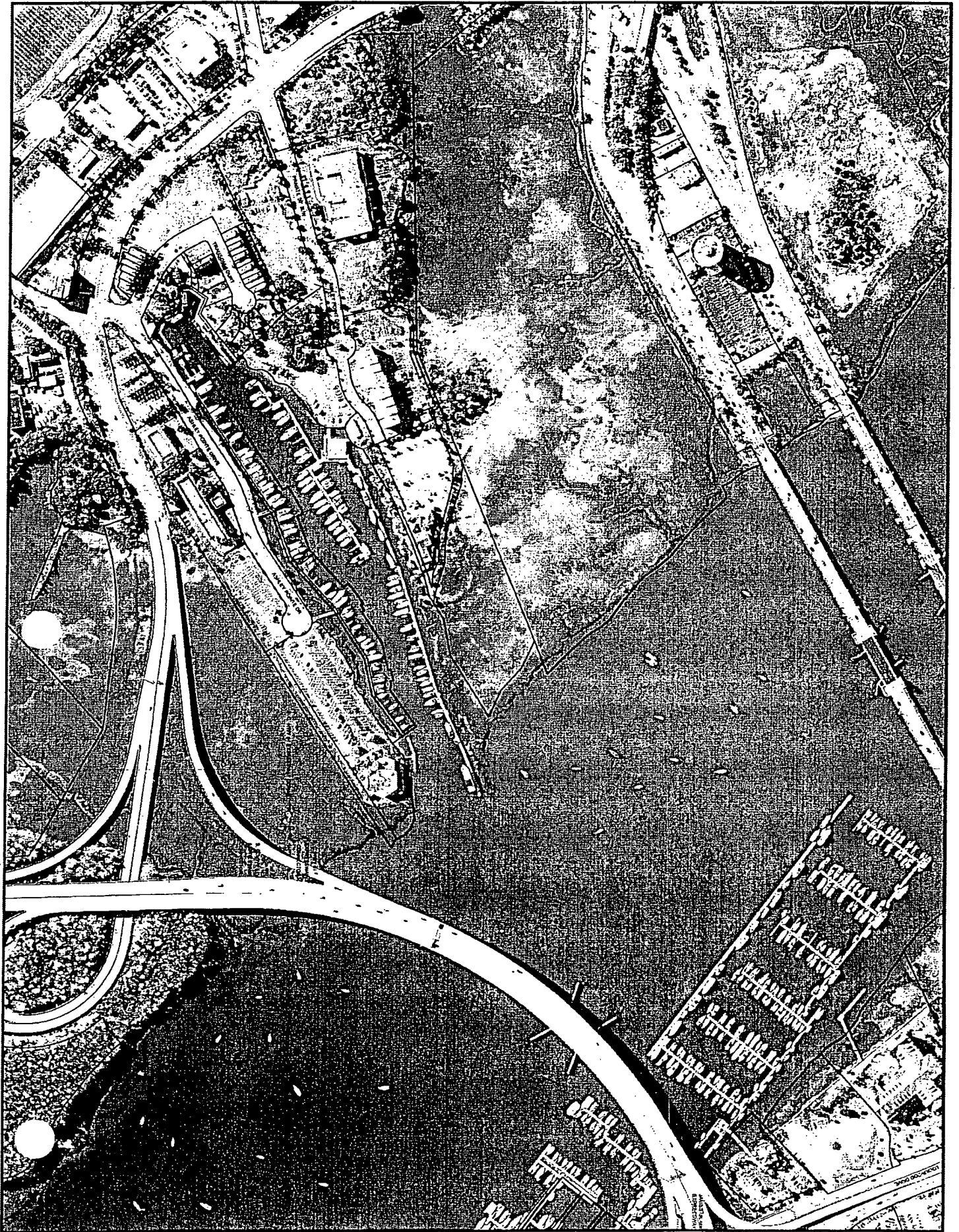
10/20/2010  
Date

Peter L. Altieri  
Peter L. Altieri

I, David M. Rubin, do hereby affirm upon my oath as Arbitrator that I am the individual described in and who executed this instrument, which is my Award.

10/29/2010  
Date

David M. Rubin  
David M. Rubin



DEFENDANT'S  
EXHIBIT

APP-1 13 02/503

## **OPERATING AGREEMENT OF ASHLEY RIVER PROPERTIES II, LLC**

This **OPERATING AGREEMENT OF ASHLEY RIVER PROPERTIES II, LLC** ("**Agreement**") is made and entered into as of the 29th day of December, 2003, by and among **EMERALD INVESTMENTS, LLC**, a Connecticut limited liability company (the "**Emerald Member**"), and **KRITI RIPLEY, LLC**, a Delaware limited liability company (the "**Kriti Member**"). The Kriti Member is referred to as the "**Investor Member**". The Emerald Member and the Kriti Member are collectively referred to as the "**Members**" and individually as a "**Member**") and **ASHLEY RIVER PROPERTIES II, LLC** (as the "**Company**").

### **WITNESSETH:**

**WHEREAS**, the Company has been formed as a limited liability company under South Carolina law for the limited purposes hereinafter set forth; and

**WHEREAS**, the Members wish to adopt this Agreement as the operating agreement of the Company.

**NOW, THEREFORE**, in consideration of the sum of Ten (\$10.00) Dollars, to each paid in hand, the mutual promises and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Members and the Company covenant and agree as follows:

### **ARTICLE I DEFINITIONS**

1.1 **Definitions**. Whenever used in this Agreement, or any amendment hereof, the following terms shall have the meanings set forth below:

(a) "**Act**" shall mean the South Carolina Uniform Limited Liability Company Act of 1996, Sections 33-44-101 et seq. of the Code of Laws of South Carolina (1976), as amended, and any corresponding provisions of future laws.

(b) "**Agreement**" shall mean this Operating Agreement, together with any amendments hereto.

(c) "**Articles of Organization**" shall mean the Articles of Organization filed with the South Carolina Secretary of State by which the Company was organized as a South Carolina limited liability company pursuant to the Act, together with any amendments thereto.

(d) "**Capital Account**" shall mean the account established and maintained for each Member on the books of the Company pursuant to **Article VII** and **Article VIII** hereof.

(e) "Capital Contribution" or "Contribution to Capital" shall mean the amount of cash and net fair market value (at the time of the contribution) of any property contributed to the Company by or on behalf of a Member.

(f) "Code" shall mean the Internal Revenue Code of 1986, as amended, and any corresponding provisions of future laws.

(g) "Company" is defined in the preamble.

(h) "Company Liability" shall mean any enforceable debt or obligation for which the Company is liable or which is secured by any Company Property.

(i) "Company Property" shall mean any and all property, real, personal, tangible and intangible, either contributed by a Member as capital, transferred to, or otherwise acquired by the Company.

(j) "Control" or "Controlled" shall mean with respect to any legal entity, the actual or constructive ownership of more than fifty percent (50%) of all the voting rights in the entity, determined using the constructive ownership rules under Section 318 of the Code, regardless of whether the legal entity in question is a corporation or other legal entity, or the ability to direct the management and affairs of such entity.

(k) "Disinterested" shall mean with respect to any Member, a Member who (i) is not a party to a particular transaction or other undertaking, (ii) has no material financial interest in any organization that is a party to that undertaking, and (iii) is not a Family member of any Person who is either a party to that undertaking or has a material financial interest in any organization that is a party to that undertaking.

(l) "Dissociation" shall mean only the action of a Member deemed to be a Dissociation by the Member pursuant to Article X, and shall not have the meaning given it in the Act.

(m) "Family" shall mean (i) the spouse, lineal descendants and ancestors of an individual; (ii) any estate, trust, guardianship, conservatorship, custodianship or other fiduciary arrangement for the benefit of any one or more of the individuals described in (i) above; and (iii) any corporation, partnership, limited liability company or other business organization Controlled by any one or more individuals or entities described in (i) or (ii) above.

(n) "Financial Membership Shares" shall mean each Member's Financial Membership Shares listed on Exhibit A attached hereto.

(o) "Financial Rights" shall mean the right of each Member to share in the profits and Losses of the Company and the right to share in distributions. Each Member's Financial Rights shall be a percentage, expressed as a fraction, the

numerator of which is such Member's Financial Membership Shares and the denominator of which is the total Financial Membership Shares owned by all Members.

(p) "Losses" shall mean the losses of the Company as determined under Article VIII hereof.

(q) "Members" shall mean the parties to this Agreement from time to time.

(r) "Membership Share" shall mean all of the rights of a Member under this Agreement and under the Act, including, but not limited to, a Member's Financial Rights and Voting Rights.

(s) "Person" shall mean an individual, general partnership, limited liability company, limited liability partnership, limited partnership, trust, estate, corporation, custodian, trustee, executor, personal representative, legal representative, administrator, nominee or any other entity or person, and any individual or entity acting in a representative capacity.

(t) "Permitted Transfer" shall mean the transfer of a Member's Membership Share to a Person who is also a Member of the Company at the time of the transfer.

(u) "Profits" shall mean the profits of the Company as determined under Article VIII hereof.

(v) "Project Manager" shall mean Ripley Light Development, LLC, or its permitted successor under the Project Management Agreement.

(w) "Project Management Agreement" shall have the meaning established in Section 5.2.1 of this Agreement.

(x) "Required Interest" shall mean those Members who own one hundred percent (100%) of the Voting Rights in the Company.

(y) "Voting Membership Shares" shall mean each Member's Voting Membership Shares listed on Exhibit A attached hereto.

(z) "Voting Rights" shall mean the right of a Member to vote on any matter as provided in this Agreement or under the Act. Each Member's Voting Rights shall be a percentage, expressed as a fraction, the numerator of which is such Member's Voting Membership Shares and the denominator of which is the total Voting Membership Shares owned by all Members.

(aa) "Voting Rights in the Company" shall mean the Voting Rights held by the Members, collectively. Unless otherwise specifically provided herein, reference to a

percentage of Voting Rights in the Company shall mean a percentage of the total Voting Rights held by all the Members.

## ARTICLE II FORMATION, PURPOSES AND POWERS

2.1 Formation. The parties to this Agreement hereby agree to and adopt the terms and conditions set forth in this Agreement as the operating agreement of the Company. The Company shall exist under and be governed by the provisions of the Act, except as otherwise provided or modified by the Articles of Organization or this Agreement. The Company shall exist only for the purposes specified in this Agreement and shall not be deemed to create a partnership, joint venture, or any other relationship between the Members.

2.2 Name. The name of the Company may only be changed by an amendment to the Articles of Organization.

2.3 Articles of Organization. The Articles of Organization have been filed with the South Carolina Secretary of State, and the Company shall remain in compliance with all applicable provisions of the Act necessary to maintain its existence as a South Carolina limited liability company.

2.4 Designated Office. The Company shall maintain a designated office in South Carolina in accordance with the Act. The designated office shall be at the address set forth in the Articles of Organization.

2.5 Registered Agent and Address. The registered agent for service of process on the Company and the street address of the registered agent for service of process on the Company shall be the Person and address set forth in the Articles of Organization.

2.6 Term Company. The Company shall be a term company within the meaning of the Act. The Company's existence shall commence on the date the Articles of Organization were filed with the South Carolina Secretary of State, unless a later effective date is specified in said Articles of Organization, and the existence of the Company shall terminate on the date specified in the Articles of Organization, unless extended or sooner terminated by law or pursuant to the provisions of this Agreement.

2.7 Purposes. The purposes of the Company shall be to own, maintain, improve, lease, invest in and use the property described on Schedule 2.7 attached hereto ("New Parcel A"). With the written consent of all of the Members, the Company may also seek to acquire, own, maintain, improve, lease, invest in, and use the properties identified as Company Opportunity Parcels in Section 6.1 of this Agreement.

2.8 **Powers.** Subject to the provisions of this Agreement, the Company shall have the same powers as an individual to do all things necessary or convenient to carry on its business and affairs, including the power to:

- (a) Sue and be sued, and defend in its name;
- (b) Purchase, receive, lease, or otherwise acquire, and own, hold, improve, use, maintain, manage, operate and otherwise deal with property of any kind, real, personal, tangible and intangible, or any legal or equitable interest in property, wherever located;
- (c) Sell, convey, mortgage, grant a security interest in, lease, exchange, and otherwise encumber or dispose of all or any part of its property;
- (d) Purchase, receive, subscribe for, or otherwise acquire, own, hold, vote, use, sell, mortgage, lend, grant a security interest in, or otherwise dispose of and deal in and with, shares or other interests in or obligations of any other entity;
- (e) Make contracts and guarantees, incur liabilities, borrow money, issue its notes, bonds, and other obligations, which may be convertible into or include the option to purchase other securities of the limited liability company, and secure any of its obligations by a mortgage on or a security interest in any of its property, franchises, or income;
- (f) Lend money, invest and reinvest its funds, and receive and hold real and personal property as security for repayment;
- (g) Be a promoter, partner, member, associate, or manager of any partnership, joint venture, trust, or other entity;
- (h) Conduct its business, locate offices, and exercise the powers granted by this Agreement and the Act within or without the State of South Carolina;
- (i) Appoint officers, employees, and agents of the Company, define their duties, fix their compensation, and lend them money and credit;
- (j) Pay pensions and establish qualified and non-qualified retirement plans, bonus plans, option plans, and benefit or incentive plans for any or all of its current or former Members, officers, employees, and agents, if otherwise permitted by law;
- (k) Make donations for the public welfare or for charitable, scientific, or educational purposes;
- (l) Make payments or donations, or do any other act, not inconsistent with law, that furthers the business of the Company;

(m) Perform any act and execute and deliver any documents required by any governmental authority; and

(n) Perform any and all other acts or activities customary, incidental, necessary or convenient to the purposes and powers enumerated herein.

2.7 Construction. Unless otherwise required by law, if and to the extent the provisions of this Agreement conflict with the Act, this Agreement shall control. If and to the extent the provisions of this Agreement do not conflict with the Act, the Act shall control.

### ARTICLE III MEMBERSHIP AND CAPITALIZATION

3.1 Members. Each Member's Financial Membership Shares and Voting Membership Shares are shown on Exhibit A attached hereto.

3.2 Admission of New Members. Except as may otherwise provided in Article XI, additional Members (including transferees) may be admitted to the Company only with the consent of those Members who own one hundred percent (100%) of the Voting Rights in the Company.

Consent to the admission of a new Member shall be evidenced by the execution by both the new Member and the Company of an amendment to Exhibit A of this Agreement setting forth the names, addresses, Financial Membership Shares, and Voting Membership Shares of all the Members as a result of the new Member's admission. In addition, no Person shall become a Member unless such Person completes and executes an admission agreement with the Company in a form reasonably acceptable to the Company. The Members hereby consent to the admission of any transferee of a Membership Share pursuant to a Permitted Transfer as a full Member in the Company, provided such transferee completes and executes an admission agreement in a form reasonably acceptable to the Company.

Except as otherwise provided in the next paragraph, no creditor of a Member who obtains any portion of a Membership Share by charging order pursuant to the Act, or otherwise, or any Person, including any creditor, receiver, or bankruptcy estate that obtains any rights in the Company by reason of a security interest, pledge or the filing of an action for foreclosure, bankruptcy, receivership, divorce, or any similar proceeding may become a Member in the Company without the unanimous written consent of the Members, obtained after the transfer.

Notwithstanding anything herein to the contrary, if at any time the Company has only one Member, and if that Member's entire Membership Share, or all of that Member's Financial Rights, are transferred voluntarily by the Member by sale, exchange or gift, or involuntarily by reason of the Member's death, incompetence, insolvency,

bankruptcy, or dissolution, then the transferee(s) of such Membership Share or Financial Rights shall automatically become full Member(s) of the Company.

3.3 Transferee of Membership Share Admitted as a Member. Upon the transferee(s) of a transferor Member's entire Membership Share or all of the transferor Member's Financial Rights in the Company becoming Member(s), the transferor ceases to be a Member.

3.4 Transferee of Membership Share not Admitted as a Member. If the transferee of all or any part of a Membership Share is not admitted as a Member, he shall be entitled to retain the Financial Rights transferred to him, but he shall not have any Voting Rights and shall not be entitled to participate in the management of the Company or to exercise any other rights of a Member. The transferee is subject to any claims or offsets the Company has against the transferor, regardless of whether those claims or offsets exist at the time of the transfer or arise afterwards. An amendment to this Agreement may change the rights of a transferee, even if the amendment is made after the transfer. A transferee who is not admitted as a Member shall not have the right to seek a judicial determination that it is equitable to dissolve and wind up the Company's business under the Act. The transferor continues to be a Member, entitled to all rights of a Member, other than the rights transferred.

Notwithstanding anything herein to the contrary, a transferee who is not admitted as a Member shall not be entitled to receive any distributions from the Company until such transferee delivers to the Company written notice of the transfer, proof of the transfer deemed sufficient by the Company, the transferee's federal and state tax identification numbers, and/or social security number, current legal address and telephone number, and such other information as the Company may reasonably require.

3.5 Redemption of Member's Financial Rights Subjected to Charging Order. In the event a Member's Financial Rights are subjected to a charging order under the Act, the Company may redeem the Member's Financial Rights so charged, with Company Property, at any time prior to foreclosure of said Financial Rights in accordance with the Act. Nothing in this Section shall be construed as affecting or limiting the rights of the judgment debtor and the other Members to redeem any Financial Rights subjected to a charging order with their own property in accordance with the Act.

3.6 Power of Attorney. Any Member may give another Member power of attorney to act for or to execute documents in the name of such Member, provided the Member giving such power of attorney delivers a copy of the power of attorney to the Company. Any such power of attorney may be changed or revoked at any time by the Member who gave such power by giving notice of its change or revocation to the Company.

3.7 (a) Initial Capital Contribution. The Kriti Member will be responsible for making an initial cash capital contribution in the amount of One Million Two Hundred Fifty Thousand Dollars (\$1,250,000.00) (the "Investor's Initial Capital Contribution"). The Emerald Member shall contribute, or cause Ripley Light Development, LLC ("Ripley") to contribute, the following tangible and intangible property rights which the Members have agreed to be valued as a capital contribution of Two Million Five Hundred Thousand Dollars (\$2,500,000.00) (the "Emerald Initial Capital Contribution"):

(i) that parcel of land identified as Charleston County TMS 421-11-00-054 and consisting of approximately 5.78 acres, subject only to the following existing indebtedness: (A) One Million Seven Hundred Fifty Thousand Dollars (\$1,750,000.00) owed to Cosimo, LLC (the "Cosimo Debt"); and (B) Five Hundred Thousand Dollars (\$500,000.00) owed to Philip Blumenfeld (the "Blumenfeld Debt"); and (C) One Hundred Thirteen Thousand Two Hundred Sixty One Dollars and sixty-seven cents (\$113,261.67) owed to General Engineering Laboratories, Inc. (the "GEL Debt"). It is understood that the Investor member shall not be obligated to guaranty any such existing indebtedness.

(ii) all dock permits related to New Parcel A, pursuant to the Assignment of Dock Permits in the form attached hereto as Schedule 3.7(a)(ii).

(iii) all personal property, permits, contract rights, intangibles and other property rights described in the Bill of Sale and General Assignment attached hereto as Schedule 3.7(a)(iii).

(b) Voluntary Capital Calls. Those Members who own one hundred percent (100%) of the Voting Rights in the Company may request that the Members make additional Capital Contributions by delivering notice of the request to each Member. Any additional Capital shall be contributed by the Members in the same ratio as each Member's Financial Rights bears to the total of all the Financial Rights in the Company. Solely for purposes of this Section, a Member who has transferred his Financial Rights, but whose transferee has not become a Member, shall be deemed to hold the Financial Rights so transferred.

(c) Mandatory Capital Calls. Any Member who owns Voting Rights in the Company may unilaterally demand that the Members make additional Capital Contributions upon the occurrence of a Mandatory Capital Call Event, as such term is defined below. Any additional Capital shall be contributed by the Members in the same ratio as each Member's Financial Rights bears to total of the Financial Rights in the Company. Solely for purposes of this Section, a Member who has transferred his Financial Rights, but whose transferee has not become a Member, shall be deemed to hold the Financial Rights so transferred.

For purposes of this Section 3.7 (c), a "Mandatory Capital Call Event" shall mean the occurrence of any one of the following events:

- (i) The failure of the Company to conclude a loan with Marshall Investments Corporation or another lender on or before March 31, 2004 upon substantially the terms and conditions as set forth in the loan proposal described in Section 3.9 (e) hereof (herein, a "Marshall Default"); or
- (ii) The commencement of legal proceedings by any party against the Company to collect payment of any of the Cosimo Debt, the Blumenfeld Debt, or the GEL Debt, and the failure of the Company to discharge the debts which are the subject of such proceedings, or to otherwise cause such legal proceedings to be withdrawn, with prejudice, within 30 days of this commencement of same (herein, a "Mortgage Default")

A Member may make a Mandatory Capital Call by delivering notice of the demand for additional Capital Contributions to each Member identifying therein the Mandatory Capital Call Event which has occurred, and stating the amount of additional Capital Contributions which must be made. In the case of a Marshall Default, a Member may demand additional Capital Contributions on a monthly basis in sufficient amounts to permit the Company to discharge its obligations and other indebtedness to third parties in the ordinary course of business as and when such obligations and other indebtedness becomes due and payable. In the case of a Mortgage Default, a Member may demand additional Capital Contributions in sufficient amount to fully discharge any such Mortgage Default.

(d) Dilution.

(i) Remedies. If a Member (a "Defaulting Member") fails to make any additional Capital Contribution within 30 days of any request or demand therefor pursuant to Section 3.7(b) and (c) above, the same shall constitute a default hereunder and the other Members ("Non-Defaulting Members") may, each in its sole discretion, without any obligation to do so and without limitation on its other rights and remedies under this Agreement, elect to exercise any of the options set forth in subparagraphs (ii) and (iii) below.

(ii) Default Contributions. The options available to the Non-Defaulting Members for failure by the Defaulting Member to make capital contributions when required under this Agreement shall include the ability to elect either to (1) withdraw the capital contribution made by the Non-Defaulting Member that corresponds to the capital contribution which the Defaulting Member failed to make (provided, if there is more than one Non-Defaulting Member, then the Non-Defaulting Members must exercise the remedy in this clause (1) jointly or not at all) or (2) in addition to its share, if any, of contributions made as required at the time of the Defaulting Member's failure to contribute, make a contribution ("Default Contribution") to the Company in an amount equal to the portion of any required additional Contribution to Capital that was not made by the Defaulting Member (and, if more than one Non-Defaulting Member contributes toward a Default Contribution and they cannot agree on the proportion in which to contribute, they shall contribute in proportion to their respective total Capital

Contributions). The making of any such contribution shall not be deemed to cure the default of the Member failing to make such additional Contribution to Capital. Each Default Contribution shall be considered to be an additional Capital Contribution.

(iii) Default Loans. The Non-Defaulting Member may elect to advance as a loan to the Company an amount equal to but in lieu of what would have been the amount of any applicable potential Default Contribution (such loan being referred to herein as a "Default Loan") (and if more than one Non-Defaulting Member makes advances as a Default Loan and they cannot agree on the proportion in which to make the advances, they shall do so in proportion to their respective total Capital Contributions). A Default Loan shall be the obligation of the Company, shall bear interest at the 12% per annum payable monthly or the maximum interest then permitted by applicable Laws (whichever is less), shall be repaid before any other payments or distributions of Company Cash pursuant to Section 8.1 and shall be due in full on the earlier of the first anniversary of its making or dissolution of the Company.

(iv) Adjustment of Membership Interests. If one or more Non-Defaulting Members makes a Default Contribution on behalf of a Defaulting Member, each such Non-Defaulting Member's Membership Share shall be increased by an amount equal to:

$$\begin{array}{l} \text{Increase to} \\ \text{Membership} \\ \text{Share of Non-Defaulting Member} \end{array} = \frac{A}{B} \times 2$$

whereby:

A = Default Contribution made by such Non-Defaulting Member at the time the Defaulting Member failed to make its Contribution (the "Required Contribution Date").

B = Total Contributions made by all Members through and including the Required Contribution Date, including the Default Contribution.

and the Membership Share of the Defaulting Member shall be decreased (but not below zero) by the aggregate amount of the increases to the Membership Interests of all Non-Defaulting Members. If the aggregate amount of increases to the Membership Shares of the Non-Defaulting Member would, pursuant to the foregoing formula, exceed the Membership Share of the Defaulting Member immediately prior to adjustment, the aggregate increases shall be limited to the amount of the Membership Share of the Defaulting Member immediately prior to adjustment (with such limitation being applied so that the ratio of each Non-Defaulting Member's increase to the total increase of all Non-Defaulting Members equals the ratio of such Non-Defaulting Member's Default Contribution to the Default Contribution of all Non-Defaulting Members).

(e) Guaranties. In the event that the Company receives a loan from a third party lender, in connection with which a Member or an affiliate of any Member delivers a guaranty or indemnity of any kind or nature (any such guaranty or indemnity being referred to herein as a "Guaranty"); and such Member or its affiliate expends any sum arising out of a demand made pursuant to a Guaranty, then the Member which expended (or whose affiliate expended) such sum shall be deemed to have made an additional Capital Contribution to the Company equal to such sum, and the respective Financial Membership Shares and Voting Membership Shares of each Member in the Company shall be readjusted in the proportion that each Member's total Capital Contributions (including deemed Capital Contributions) to the Company bears to the total Capital Contributions made or deemed made to the Company by all Members.

3.8 Representations and Warranties of Members. Each Member hereby represents and warrants to the Company and each other Member, and covenants with the Company and each other Member that:

(a) the Member is acquiring such Member's Membership Share in the Company for the Member's own account as an investment and without an intent to distribute the Membership Share;

(b) the Member acknowledges that such Member's Membership Share has not been registered under the Securities Act of 1933 or any state securities laws;

(c) the Member acknowledges that such Member's Membership Share is subject also to the restrictions on transfer contained in this Agreement and the Act, and may not be resold or transferred by the Member without appropriate registration under applicable securities laws or the availability of an exemption from such requirements and compliance with the restrictions herein;

(d) the financial capacity of the Member is such that the investment in the Company is not material to the Member's total financial capacity, and the Member has the financial ability to bear the economic risk of the investment and has means for providing for the Member's current needs and personal contingencies and has no need for liquidity with respect to the Member's investment in the Company;

(e) the Member has such knowledge and experience in financial and business matters that the Member is capable of evaluating the merits and risks of investment in the Company, understands that investment in the Company constitutes a speculative investment with substantial market, operational, competitive, management, economic, tax, interest rate, and other risks, has evaluated the risks associated with investment in the Company AND HAS HAD OPPORTUNITY TO SEEK THE ADVICE OF THE MEMBER'S OWN INDEPENDENT LEGAL COUNSEL AND OTHER INDEPENDENT EXPERTS REGARDING THE TRANSACTION;

(f) the Member acknowledges that, to the best of the Member's knowledge, the purchase of the Member's Membership Share in the Company was not solicited by the use of general advertising or solicitation;

(g) the Member has been given sufficient opportunity to ask questions, and receive answers with respect to the Company concerning the terms and conditions of the Member's investment and has been given the opportunity to obtain such additional information necessary to verify the accuracy of the information provided to such Member in order for the Member to evaluate the merits and risks of investment in the Company;

(h) in the event such Member is not a natural person, the Member is duly organized, validly existing and in good standing under the laws of the state of its formation and has full power to carry on its business and to own and operate its properties and assets as presently owned and operated;

(i) such Member has taken all action necessary to approve and authorize the execution of this Agreement and to consummate the transaction contemplated hereby; and

(j) when executed and delivered, this Agreement shall constitute the valid and binding obligations of the Member, enforceable in accordance with its terms and conditions.

The inclusion of the foregoing does not constitute an acknowledgment that an interest in the Company is a security under applicable law, and the Company reserves the right to contest whether an interest in the Company constitutes a security.

3.9 **Emerald Member's Representations.** The Emerald Member and Stuart Longman, jointly and severally, hereby represent and warrant to the Company and each other Member, and covenants with the Company and each other Member that:

(a) Except as disclosed in Schedule 3.9 hereto, there is no pending or threatened litigation, action, proceeding or labor controversy by, against or affecting the Emerald Member, Stuart Longman, Ripley or any entity, directly or indirectly, Controlled by the Emerald Member, Stuart Longman (or any member of his Family) and/or Ripley, or any entity, directly or indirectly, Controlling or under the common Control of the Emerald Member or Ripley, or which, regardless of the outcome, could reasonably be expected to have a material adverse effect on the (i) financial condition, operations, assets, business, properties or prospects, debt service capacity, tax position or environmental liability of the Company, the Project Member, New Parcel A or the Company Opportunity Parcels, or (ii) the licenses, authorizations, permits, waivers, certificates or approvals applicable to New Parcel A, including without limitation those described in Section 3.7(a)(ii) (collectively, the "Permits").

(b) Except as disclosed in Schedule 3.9 hereto, there are no pending or threatened claims, complaints, notices or requests for information received by the Emerald Member, Ripley or Stuart Longman with respect to any alleged violation of any applicable legal or regulatory requirement relating the regulation of the environment or hazardous substances ("Environmental Laws") or any complaints, notices or inquiries to the Emerald Member, Ripley or Stuart Longman regarding potential liability under any Environmental Law; during Ripley's ownership of New Parcel A, and to the best of the Emerald Member's and Stuart Longman's knowledge, prior thereto, there were no releases of hazardous substances at, on or under New Parcel A; to the best knowledge of the Emerald Member and Stuart Longman, there are no underground storage tanks, active or abandoned, on or under New Parcel A; and to the best knowledge of the Emerald Member and Stuart Longman, no conditions exist at, on or under New Parcel A, which, with the giving of notice or passage of time, or both, would give rise to liability under any Environmental Law.

(c) To the best knowledge of the Emerald Member, there are no Permits that are required or will become required for the ownership, construction or operation of New Parcel A as a 102-slip marina and 138-residential unit condominium, inclusive of Permits related to the Collins Underdeveloped Land, as hereinafter defined (the "Project"), other than the Permits described in Schedule 3.9. Each Permit heretofore required to be obtained is in full force and effect and is not at this time subject to any appeals or further proceedings or to any unsatisfied condition that may allow modification or revocation. Each Permit described in Schedule 3.9 but which has not yet been issued is of a type that is routinely granted on application. Neither the Emerald Member nor Stuart Longman has any reason to believe that any permit so indicated on Schedule 3.9 will not be obtained before it becomes necessary for the ownership, construction or operation of the Project or that obtaining such Permit will result in undue expense or delay (other than architectural and engineering fees in connection with any change to any existing Permit). Each heretofore issued Permit is in full force and effect, and no condition of any Permit has been violated to date, and no event or circumstance has occurred that with the giving of notice or the passage of time, or both, would give rise to such a violation. Each Permit is assignable without the consent of the issuing authority or the payment of any fee.

(d) The outstanding principal balance of the Cosimo Debt is \$1,750,000 and accrued but unpaid interest thereon, late charges and other amounts owed is \$21,875; and interest thereon has been paid through November 30, 2003. The outstanding principal balance of the Blumenfeld Debt is \$500,000 and accrued but unpaid interest thereon, late charges and other amounts owed is \$180,749.00; and no interest thereon has been paid. The outstanding principal balance of the GEL Debt is \$113,261.67 and there is no outstanding accrued interest thereon. True and correct copies of all documents entered into in connection with the Cosimo Debt, the Blumenfeld Debt, and the GEL Debt (collectively, the "Existing Loan Documents") have been delivered to the other Members, all of which are described in Schedule 3.9 hereto. Other than those set forth in Schedule 3.9, there is no default under any of the Existing Loan Documents, and no event or circumstance has occurred that with the giving of notice or passage of

time, or both, would give rise to such a default. None of the Existing Loan Documents have been modified.

(e) A true and correct copy of a loan proposal, dated September 24, 2003, from Marshall Investments Corporation ("Marshall") has been delivered to the other Members. A copy of this proposal is attached hereto as Schedule 8.1. Neither the Emerald Member nor Stuart Longman has any reason to believe that the conditions to the closing and funding of the loan described in such loan proposal will not be satisfied. All representations and warranties made by, and all documents and information provided to, New Lender are true and correct.

(f) Except as disclosed in Schedule 3.9, neither the Company nor New Parcel A is bound by any agreement (other than the Existing Loan Documents and the heretofore issued Permits described as such in Schedule 3.9). Any agreement described in Schedule 3.9 is in full force and effect, has not been terminated, modified or assigned and a true and correct copy thereof has been delivered to the other Members.

(g) All utility services necessary for the construction and operation of the Project are or will be available at New Parcel A as and when required on commercially reasonable terms.

(h) New Parcel A is not subject to any tenancies or the rights of any occupants.

3.10 Indemnification. Each Member (and to the extent applicable Stuart Longman) shall and does hereby agree to indemnify and hold harmless the Company and the other Members from any and all liabilities, losses, costs, damages or expenses (including, without limitation, the costs of litigation and reasonable attorneys' fees) arising out of, resulting from, or in any way related to the misrepresentation or breach of any representation or warranty of such Member or Stuart Longman set forth in this Agreement.

#### ARTICLE IV MEMBER MEETINGS

4.1 Place of Meetings. All meetings of the Members shall be held at the Company's principal place of business or at the New York City office of any of the Members, or at such other place as shall be agreed upon by those Members who own one hundred percent (100%) of the Voting Rights in the Company.

4.2 Time of Meeting. Meetings of the Members may be called at any time by any Member by delivery to all Members of written notice at least seven (7) days' in advance of the proposed meeting date. The notice shall contain the time, date and place of the meeting.

4.3 Member Voting and Quorum. Each Member shall be entitled to vote in proportion to his Voting Rights in the Company. In order for any vote of the Members to be valid, a quorum must be represented at the meeting either in person or by proxy. One hundred percent (100%) of the Voting Rights in the Company constitutes a quorum. Unless otherwise provided in this Agreement or the Articles of Organization, ~~once a quorum is established, the affirmative vote of those Members who own the~~ Required Interest of the Voting Rights in the Company shall constitute a valid decision of the Members.

4.4 Voting by Certain Members. Voting Rights owned by a corporation or other business entity may be voted by the officer, agent or proxy as the by-laws of that corporation or other governing instruments of the business entity prescribe, or, in the absence of such provision, as the board of directors or other governing body of the corporation or entity may determine.

Voting Rights owned by an administrator, executor, personal representative, guardian, or conservator may be voted by him, either in person or by proxy, without a transfer of such Voting Rights into his name. Voting Rights owned by a trustee may be voted by him, either in person or by proxy, but no trustee shall be entitled to exercise any Voting Rights held by him without a transfer of the Voting Rights into his name.

Voting Rights owned by a receiver may be voted by the receiver, and Voting Rights owned by or under the control of a receiver may be voted by the receiver without the transfer thereof into his name if authority so to do is contained in an appropriate order of the court by which such receiver was appointed.

A Member whose Membership Shares or Voting Rights are pledged (if otherwise permitted hereunder) shall be entitled to vote such Voting Rights until the Voting Rights have been transferred into the name of the pledgee and thereafter the pledgee shall be entitled to vote the Voting Rights so transferred.

4.5 Proxies. Members may vote by proxy appointed by an instrument in writing. A proxy shall be delivered to the other Members before the meeting at which it is to be voted and shall not be valid after the final adjournment of the meeting.

4.6 Waiver of Notice. A Member may waive notice of any meeting by a signed writing. In addition, a Member who attends a meeting waives his right to assert any lack of notice, or defect in notice, of the meeting unless he states such objection at the outset of the meeting.

4.7 Manner of Meetings. Members may participate in meetings by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting as provided herein shall constitute presence in person at such meeting.

4.8 Action without Meeting. The Members may take action without notice and a meeting if all the Members consent to such action and sign a Consent of the Members which sets forth the action to be taken.

4.9 Personal Services. No Member shall be required to perform any services for the Company by virtue of being a Member of the Company.

## ARTICLE V MANAGEMENT AND CONTROL

5.1 General Authority. The Company shall be member managed, as defined in the Act. Except as otherwise expressly provided by in Section 5.2 below or in the Project Management Agreement referenced below, any day-to-day matter relating to the business and affairs of the Company shall be decided by the Project Manager, provided that the consent of the Required Interest of the Members is required for all matters established in Section 5.2 of this Agreement or any matters that are not within the authority of the Project Manager as provided in the Project Management Agreement.

5.2 Additional Voting Requirements for Certain Major Decisions. Notwithstanding anything herein to the contrary, the following major decisions shall require the written approval of the Members who own the Required Interest of the Voting Rights in the Company:

- (a) Any amendment to this Agreement or the Articles of Organization.
- (b) The Company shall not purchase, sell, option, exchange, encumber or refinance any real property, or enter into or modify any agreement requiring the Company to do any of the foregoing.
- (c) The Company shall not sell, or contract to sell, or otherwise dispose of more than five percent (5%) the Company Property, except marina slips and residential condominium units sold in the ordinary course of business at arms' length on terms consistent with, and at prices no less than, those set forth in a business plan approved by Members having the Required Interest of the Voting Rights in the Company.
- (d) The Company shall not enter into any merger, or any profit sharing, joint venture, or other such arrangement.
- (e) The Company shall not hire a Member or anyone who is a member of a Member's Family.
- (f) The Company shall not agree to pay to a Member or any member of a Member's Family any management fee, guaranty fee, broker commission or any other fee or commission.

(g) The Company shall not make any expenditure that is not on the approved marina budget attached as Schedule 5.2(g) or on the budget for the future phases of the project, which will not take effect unless approved by the of the Members who own the Required Interest of Voting Rights in the Company, as contemplated by the Project Management Agreement.

(h) The dissolution and winding up of the Company, except as otherwise expressly set forth herein.

(i) The borrowing of money for Company purposes and, if security is required therefor, the granting of any security interest in all or any portion of Company Property.

(j) The opening of any bank or brokerage accounts and the authorization of signatories thereon.

(k) The commencement on behalf of the Company of a voluntary case for relief as a debtor under the United States Bankruptcy Code, or the filing on behalf of the Company of a petition to take advantage of any Federal, state or other applicable bankruptcy, reorganization, insolvency, readjustment of debts, dissolution or liquidation law or statute.

(l) The bringing or defending, paying, collecting, compromising, arbitrating, resorting to legal action, or other adjustment of claims or demands for or against the Company, in each case where the amount of such claim or demand exceeds \$10,000 or is for injunctive relief.

(m) Selection of auditors, attorneys, brokers, agents, construction managers, general contractors, architects and other design professionals and any other professionals rendering service to the Company.

(n) Enter into, modify, terminate, accept the surrender of, or grant any consent or waiver under, any lease (other than equipment leases on terms consistent with a project budget approved by Members having the Required Interest of Voting Rights in the Company and slip and boat leases on terms and at rentals consistent with those set forth in a business plan approved by Members having the Required Interest of Voting Rights in the Company) or any agreement (including without limitation any construction, trade or service agreement) involving more than \$10,000 or which may not be cancelled on 30 days' notice or less.

(o) Making any Federal or state income tax elections on behalf of the Company or enter into any settlement agreement or any other agreement that binds the Company or its Members with the Internal Revenue Service or any other foreign, state or local taxing authority.

(p) Making any distributions to Member, except in accordance with Article VIII or IX.

(q) Entering into any loan agreement or executing and delivering any note, mortgage, deed of trust, guaranty, indemnity or other instrument or agreement in connection with any borrowing, or any amendment, supplement, extension or modification thereto, whether in connection with any existing or future borrowing or debt.

(r) Designating a director to the Board of Directors of the Ripley Point Property Owners Association, Inc., a South Carolina non-profit corporation (the "Association"), which director shall comply with the joint instructions of the Required Interest of Voting Shares in the Company, and voting the interest of the Company as a member of the Association.

#### 5.2.1 Authority Concerning Special Decisions.

(a) All Members hereby approve the Project Management Agreement between the Company and Ripley Light Development, LLC, attached hereto as Schedule 5.2.1(b) (the "Project Management Agreement").

(b) All Members hereby agree that the Company shall secure a policy of "key-man" life insurance in the amount of Five Hundred Thousand Dollars (\$500,000.00) with respect to Stuart Longman with the Company as the beneficiary of the policy. If possible, the Members agree that such insurance may be purchased by the Company by taking an assignment of a \$500,000 portion of an existing \$10 million life insurance policy for Stuart Longman. A separately issued policy shall be obtained if such assignment cannot be completed within thirty (30) days of the date of this Operating Agreement.

5.3 Delegation of Powers. From time to time, the Members may authorize, or delegate any of its authority to a subcommittee of Persons, or a single Person, whom it shall name, to act on its behalf regarding any matter.

5.4 Ratification. The Members may ratify and adopt any and all acts of any Person done on behalf of the Company.

5.5 Compensation for Services. The Members shall not receive additional compensation for providing services to the Company unless approved by the Required Interest of the Members.

5.6 Officers. The Members may, from time to time, designate one or more individuals to be officers of the Company. Any officers so designated shall have such authority and perform such duties as the Members may, from time to time, delegate to them. Any number of offices may be held by the same Person. Designation of a Person as an officer shall not of itself create an employment agreement or any other contract rights. Each officer shall hold office until his successor shall be duly

designated and qualified, or until his death or until he shall resign or shall have been removed, with or without cause, by the Members.

5.7 Bank Accounts. All Company funds shall be deposited only in bank or trust company accounts in the continental United States. The funds of the Company shall not be commingled with the funds of any other party. Notwithstanding anything contained herein to the contrary, all checks, drafts and withdrawals from any Company account (other than the Operating Account, as hereinafter defined) shall require the signature of a representative of either Investment Member and the Emerald Member. On a monthly basis the Emerald Member or the Project Manager may submit to the other Members for their approval a requisition for a sum requested to be transferred to the Operating Account, on which a representative of the Emerald Member may be the sole signatory. Each requisition shall itemize each payment to be made from the Operating Account and the Emerald Member is authorized only to make payments to the payees for the sums set forth in a requisition approved by the other Members, provided that the Emerald Member without the other Members' consent may issue checks for amounts in each case not exceeding \$2,000, provided further that such checks for which the other Members' consent is not obtained do not in the aggregate exceed \$20,000 in any 12-month period. Any unspent sums shall be applied to and in accordance with the next month's approved requisition.

#### ARTICLE VI FIDUCIARY DUTIES; RIGHT TO RELY; INDEMNIFICATION

6.1 Duty of Loyalty. A Member's duty of loyalty to the Company and the other Members is limited to the following:

(a) To account to the Company and to hold as trustee for the Company any property, profit or benefit derived by the Member in the conduct or winding up of the Company's business or derived from a use by the Member of the Company's property, including the appropriation of a Company opportunity; and

(b) To refrain from dealing with the Company in the conduct or winding up of the Company's business as or on behalf of a party having an interest adverse to the Company; and

(c) To refrain from directly competing with the Company in the conduct of the Company's business before dissolution of the Company.

Notwithstanding anything herein to the contrary, the Members and the Company acknowledge and agree that the Members and/or his or her respective Family members, either directly or indirectly through other Persons, are engaged in other business and investment activities which may be considered to indirectly compete with or be adversarial to the business conducted by the Company; however, the Members

and the Company intend and agree that they shall have no interest or rights with respect to any business, investment or other activities of the other Members or his or her Family members carried on outside the Company. The Members are sophisticated investors and are aware of the extent of the other Member's business and investment activities. There are, however, several potential investments which shall be deemed Company opportunities: (i) all real property, personal property, fixtures, intangible property, docks and dock permits, and other property rights that are the subject of an Agreement for the Purchase of Real Property and Assets, dated July 17, 2000, by and among Span USA, Inc., Ripley Light Marina, Inc. Fred Collins, and Sapphire Development, LLC ("Sapphire"), and currently the subject of pending litigation, including each of the follow parcels of real property: (A) Charleston County TMS 421-11-00-073, consisting of approximately 5.037 acres and owned by Fred Collins (B) Charleston County TMS 421-12-00-001, consisting of approximately 0.891 acres and owned by Span USA, Inc. and (C) Charleston County TMS 421-12-00-009, consisting of approximately 0.43 high acres, and owned by Span USA, Inc. (collectively, the "Collins Property"); and (ii) Charleston County TMS 421-11-00-061, consisting of approximately 2.94 acres and owned by South Carolina Electric and Gas Company (the "SCE&G Parcel"); and (iii) Charleston County TMS 421-11-00-085, consisting of approximately 1.114 acres, and owned by Ashley River Properties I, LLC (the "Phase I Parcel"); the Collins Property, the SCE&G Parcel, and the Phase I Parcel are referred to herein, (collectively, as the "Company Opportunity Parcels"). The Members agree that no Member (or Family member or affiliate of any Member) shall enter into any transaction related to a Company Opportunity Parcel without the prior written consent of the Required Interest of Voting Rights of the Company.

6.2 Duty of Care. In carrying out their duties and exercising their powers hereunder, the Members shall exercise reasonable skill and care, use their best judgment and act at all times in what they deem to be the best interests of the Company.

6.3 Fiduciary Duties. The Members shall discharge their duties and exercise any of their rights consistently with the obligation of good faith and fair dealing which they owes to the Company and the Members.

6.4 Duty of Confidentiality. Each Member hereby warrants, covenants and agrees that he will not furnish, divulge, communicate, use to the detriment of the Company or use for the business of any other Person, any of the Company's confidential information, including but not limited to pricing information, data, sales methods, know how, processes, licenses, trade secrets, names of customers, customer lists, names of Members, or the partners, shareholders, members or other principals of any Member, future plans, accounting, marketing, financial data, or contract information. Each Member agrees to return all documents which contain any confidential information and all copies of such documents upon request by the Company.

6.5 Indemnity Agreement by Emerald and Related Parties. Simultaneously with the execution of this Agreement and as a condition of the Kiti Member's execution and delivery of this Agreement, the Emerald Member and certain related parties have agreed to deliver the Indemnity Agreement attached hereto as Schedule 6.5.

## ARTICLE VII CAPITAL ACCOUNTS AND ACCOUNTING

7.1 Capital Accounts. The Company shall establish for each Member a Capital Account, which shall be maintained in accordance with Section 704 of the Code and the capital account rules set forth in Treasury Regulations Section 1.704-1(b).

7.2 Compliance with Section 704(b) of the Code. The provisions of this Agreement as they relate to the maintenance of Capital Accounts and allocations of Profits and Losses are intended, and shall be construed, and, if necessary, modified in accordance with Section 9.6(d) so as to cause the allocations of Profits, Losses, income, gain, deductions, credit and other items pursuant to this Agreement to have substantial economic effect within the meaning of the Treasury Regulations promulgated under Section 704(b) of the Code. Notwithstanding anything herein to the contrary, this Agreement shall not be construed as creating a deficit restoration obligation.

7.3 Tax Matters Partner. The Emerald Member is designated the initial tax matters partner of the Company, as defined in Section 6231(a)(7) of the Code. The Company may designate a new tax matters partner from time to time with the consent of the Required Interest of Voting Rights of the Company.

## ARTICLE VIII INTERIM DISTRIBUTIONS AND ALLOCATIONS

### 8.1 Interim Distributions.

Interim distributions to the Members shall be made in accordance with the following:

The Required Interest of Voting Rights of the Company shall determine on no less frequent than a quarterly basis to what extent, if any, the Company's cash on hand of ("Company Cash") exceeds the current and anticipated needs of the Company's business, including, but not limited to, operating expenses, debt service, acquisitions, all amounts necessary to preserve, maintain and repair any Company Property, and reserves against future contingent liabilities (such excess being referred to herein as "Available Company Cash"). Any Available Company Cash shall be distributed as follows:

(i) Distributions shall be made to the Members in proportion to their unreturned Capital Contributions until such time as each Member has been returned its entire Capital Contribution plus a ten percent (10%) per annum preferred return on its unreturned Capital Contribution. The ten percent (10%) preferred return shall be calculated on a per diem basis on the unreturned Capital Contribution of each Member, compounded annually. Upon any distribution to a Member, the preferred return shall only accrue on the unreturned portion of the Capital Contribution.

(ii) Upon the return of all Capital Contributions with preferred returns thereon paid in full, as provided in subparagraph (i) above, thereafter distributions shall be made, pari passu, seventy percent (70%) to the Emerald Member and thirty percent (30%) to the Kriti Member, as such percentages may be adjusted in accordance with Sections 3.7(b), (d) and (e) hereof.

All Distributions to the Members shall be made in cash unless otherwise agreed by the Required Interest of the Members.

8.2 Restrictions on Distributions. Notwithstanding anything herein to the contrary, no distribution to any Member may be made if after giving effect to the distribution either (a) the Company would not be able to pay its debts as they become due in the ordinary course of business, or (b) the Company's total assets would be less than the sum of its total liabilities plus the amount that would be needed if the Company were to be dissolved, wound up and terminated at the time of the distribution, to satisfy the preferential rights upon dissolution, winding up and termination of Members whose preferential rights are superior to those receiving the distribution. The provisions of Section 33-44-406 of the Act shall apply in construing this Section.

8.3 Calculation of Profits and Losses. The Profits and Losses of the Company for each fiscal year or other period shall be the taxable income or loss of the Company for such year or period, determined in accordance with Code Section 703(a) (for this purpose, all items of income, gain, loss or deduction required to be separately stated pursuant to Code Section 703(a)(1) shall be included in taxable income or loss), with the following adjustments:

(a) Any Company income which is exempt from federal income tax and not otherwise taken into account in computing Profits and Losses pursuant to this subsection shall be added to such taxable income or loss.

(b) Any expenditures of the Company described in Code Section 705(a)(2)(B) (expenditures of the Company not deductible in computing its taxable income and not properly chargeable to a capital account) or treated as such expenditures pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv)(i)(2) and (3) (organizational

expenditures which the Company elects not to amortize under Code Section 709(b) and certain disallowed losses) and not otherwise taken into account in computing Profits and Losses pursuant to this subsection shall be subtracted from such taxable income or loss.

(c) ~~Gain or loss with respect to the disposition of Company Property~~ with respect to which gain or loss is recognized for federal income tax purposes shall be computed based upon the "adjusted book value" (as determined in the Treasury Regulations promulgated under Code Section 704) of such property without regard to the adjusted basis.

(d) Depreciation, amortization and other cost recovery deductions taken into account in computing such taxable income or loss shall, for purposes of this subsection, be based upon the "adjusted book value" (as determined in the Treasury Regulations promulgated under Section 704) of Company Property.

**8.4 Allocation of Profits and Losses.** Except as otherwise provided in this Article VIII:

(a) Profits of the Company in each fiscal year, shall be allocated to the Members, as follows:

(i) first, to the Members, to restore any allocations of Net Loss under Section 8.4(b) not previously restored with allocations of Net Profits under this Section 8.4(a)(i), in proportion to the aggregate amounts allocated to the Members under such Section 8.4(b);

(ii) second, to the Members as necessary to cause the Capital Account balance of each Member to equal such Member's Target Capital Account: Target Capital Account shall mean an amount equal to a Member's Capital Contributions plus an additional amount constituting a cumulative ten percent (10%) preferred return, taking into account the amount and timing of all prior Capital Contributions from and distributions to each Member;

(iii) third, pro rata to the Members as follows: seventy percent (70%) to the Emerald Member and thirty percent (30%) to Kriti Member, as such percentages may be adjusted in accordance with this Agreement.

(b) Losses of the Company in each fiscal year shall be allocated to the Members as follows:

(i) first, to the Members as necessary to cause each Member's Capital Account balance to equal to zero;

(ii) second, to the Members as necessary to cause the Target Capital Account balances of the Members to be equal to zero; and

(iii) third, pro rata to the Members as follows: seventy percent (70%) to the Emerald Member and thirty percent (30%) to the Kriti Member, as such percentages may be adjusted in accordance with this Agreement.

**8.5 Tax Item Allocation.** Unless otherwise specially allocated herein, whenever a proportionate part of Profits or Losses is charged or credited to the Capital Account of a Member, every item of income, gain, loss, deduction, credit, allowance or tax preference entering into the computation of such Profits or Losses or applicable to the period during which such Profits or Losses were realized shall be considered credited or charged, as the case may be, to such Capital Account in the same proportion. In the event of a transfer of Financial Rights in the Company at any time other than at the end of the Company's tax year, the distributive share of Profits and Losses and any items of Company income, gain, loss, deduction, credit or tax preference attributable to the transferred Financial Rights shall be apportioned for income tax purposes between the transferor and transferee in accordance with the number of days in the taxable year of the Company that each was the owner of such Financial Rights.

**8.6 Code Section 704(c).** In accordance with the provisions of Code Section 704(c), income, gain, loss and deductions with respect to any property contributed to the capital of the Company shall, solely for tax purposes, be allocated to the Members so as to take account of any variation between the adjusted basis of such property and the fair market value at the time of contribution.

**8.7 Nonrecourse Deductions.** Notwithstanding anything herein to the contrary, beginning in the first taxable year of the Company in which there are nonrecourse deductions, all nonrecourse deductions and distributions of proceeds attributable to nonrecourse borrowing (as defined in Treasury Regulations Section 1.704-2) shall be allocated in accordance with the Members' Financial Rights or in any other manner that is reasonably consistent with allocations that have substantial economic effect of some other significant Company item attributable to the property securing the nonrecourse liabilities. Items attributable to a particular Member's nonrecourse liability (as defined in Treasury Regulations Section 1.704-2(b)(4)) shall be allocated to the Member that bears the economic risk of loss for the liability.

**8.8 Minimum Gain Chargeback Requirements.** Except as otherwise provided in Treasury Regulations Section 1.704-2(f), if there is a net decrease in Company minimum gain (as determined under Treasury Regulations Section 1.704-2(d)) for the Company's taxable year, each Member must be allocated items of income and gain for that taxable year equal to that Member's share of the net decrease in Company minimum gain. A Member's share of the net decrease in Company minimum gain is the amount of the total net decrease multiplied by the Member's percentage share of Company minimum gain at the end of the immediately preceding taxable year (as determined in Treasury Regulations Section 1.704-2(g)). A Member is not subject to this minimum gain chargeback requirement to the extent the Member's share of the net

decrease in Company minimum gain is caused by a guarantee, refinancing, or other change in the debt instrument causing it to become partially or wholly a recourse liability or a Member nonrecourse liability, and the Member bears the economic risk of loss (within the meaning of Treasury Regulations Section 1.752-2) for the newly guaranteed, refinanced, or otherwise changed liability.

If during a taxable year there is a net decrease in Member nonrecourse debt minimum gain (as determined under Treasury Regulations Section 1.704-2(i)(2)), any Member with a share of that Member nonrecourse debt minimum gain (as determined under Treasury Regulations Section 1.704-2(i)(5)) as of the beginning of that taxable year must be allocated items of income and gain for that taxable year (and, if necessary, for succeeding taxable years) equal to that Member's share of the net decrease in the Member nonrecourse debt minimum gain. A Member's share of the net decrease in Member nonrecourse debt minimum gain is determined in a manner consistent with the provisions of Treasury Regulations Section 1.704-2(g)(2). A Member is not subject to this minimum gain chargeback requirement, however, to the extent the net decrease in Member nonrecourse debt minimum gain arises because the liability ceases to be Member nonrecourse debt due to a conversion, refinancing, or other change in the debt instrument that causes it to become partially or wholly a nonrecourse liability. The amount that would otherwise be subject to the member nonrecourse minimum gain chargeback is added to the Member's share of Company minimum gain under Treasury Regulations Section 1.704-2(g)(3).

8.9 Qualified Income Offset. Unless otherwise agreed, a Member is not required to fund any deficit in the Member's Capital Account at any time. However, if a Member unexpectedly receives an adjustment, allocation, or distribution described in Treasury Regulations Section 1.704-1(b)(2)(ii)(d)(4), (5), or (6), and the unexpected adjustment, allocation, or distribution results in a deficit balance in the Capital Account for the Member (or a deficit balance in excess of any limited dollar amount the Member is obligated to restore), the Member will be allocated items of income and gain consisting of a pro rata portion of each item of Company income and gain for such year in an amount and manner sufficient to eliminate the deficit balance or the increase in the deficit balance as quickly as possible. This Section will be interpreted, applied, and if necessary modified to constitute a "qualified income offset" as defined in Treasury Regulations Section 1.704-1(b)(2)(ii)(d).

8.10 Distributions Subject to Set-Off. Except as otherwise provided in this Agreement, all distributions are subject to set-off by the Company for any past-due obligation of a Member to the Company.

## ARTICLE IX DISSOLUTION, WINDING UP, AND TERMINATION

9.1 Dissolution. Except as otherwise provided herein, the Company shall dissolve, its affairs shall be wound up, and the Company shall terminate only upon the happening of one or more of the following events:

(a) The written consent of those Members who own the Required Interest of the Voting Rights in the Company;

(b) Any event occurs that makes it unlawful for all or substantially all of the business of the Company to be continued, but any cure of illegality within ninety (90) days after notice to the Company of the event is effective retroactively to the date of the event for purposes of this subsection;

(c) The filing by the Secretary of State of a certificate administratively dissolving the Company pursuant to the Act, unless the Company is reinstated in accordance with the Act.

(d) The expiration of the period fixed for the duration of the Company, as set forth in the Articles of Organization, unless those Members who own the Required Interest of the Voting Rights in the Company extend the term of the Company.

9.2 Waiver of Right to Wind Up. Notwithstanding anything herein to the contrary, at any time after the dissolution of the Company and before the winding up of its business is completed, the Members, including a dissociated Member whose dissociation caused the dissolution, or his heirs, legal representatives, personal representatives, successors or permitted assigns, may unanimously waive the right to have the Company's business wound up and the Company terminated. In that case, (a) the Company shall resume carrying on its business as if dissolution had never occurred and any liability incurred by the Company or a Member after the dissolution and before the waiver is determined as if the dissolution had never occurred, and (b) the rights of a third party accruing under the Act or arising out of conduct in reliance on the dissolution before the third party knew or received a notification of the waiver shall not be adversely affected.

9.3 Winding Up: Powers and Duties of Liquidator. Except as otherwise provided herein, following dissolution of the Company, those Members who own the Required Interest shall appoint one or more Members or an independent third party to serve as liquidator. The liquidator shall have full authority in winding up the Company's affairs. The liquidator shall:

(a) Deliver notice of the Company's dissolution to all of the Company's known claimants and creditors in the form and manner described in the Act;

(b) Publish notice of the Company's dissolution as provided in the Act;

(c) Make final liquidating distributions as provided below, and distribute any Company Property discovered after any such final liquidating distributions in the manner described below; and

(d) After dissolution and the completion of winding up, file Articles of Termination with the South Carolina Secretary of State to terminate the legal existence of the Company in accordance with the Act.

**9.4 Sale of Company Property.** Unless otherwise agreed by those Members who own the Required Interest of the Voting Rights in the Company, the liquidator shall first attempt to sell all or any part of the Company's business as a going concern. If any such sale or partial sale is not consummated within six (6) months after the date of the dissolution, the liquidator shall publish notice that all unsold Company assets are for sale and solicit bids for such assets. Any Company assets which remain unsold six (6) months after the date of the first publication of such notice shall be marshaled and auctioned by the liquidator. All assets unsold after the auction shall be distributed in kind in the manner described below.

**9.5 Distribution In Kind.** The Company may distribute assets in kind to satisfy any or all of its obligations. If the Company will distribute assets in kind, the Members shall have thirty (30) days to agree upon the fair market value of such assets. If the Members cannot agree on the fair market value of any asset, the liquidator shall hire an independent appraiser to determine the fair market value of the asset in question. Any property distributed in kind shall be treated in accordance with Sections 721, 736, 737 and 751 of the Code. The liquidator shall adjust the Members' Capital Accounts to reflect any gain or loss which would have been allocated had such property been sold for its fair market value.

**9.6 Final Liquidating Distributions.** After the sale of all Company assets, or the determination of fair market value for distribution in kind of Company assets, the liquidator shall apply the proceeds of the sale or the Company assets as follows:

(a) Payment or adequate provision for payment shall be made to creditors, including the liquidator if the liquidator is not a Member, for reimbursement for out-of-pocket expenses incurred and reasonable compensation for services rendered in connection with winding up the Company, and to the extent permitted by law, to Members who are creditors in satisfaction of liabilities of the Company;

(b) If the liquidator is a Member, to the liquidator for reimbursement for out-of-pocket expenses incurred and reasonable compensation for services rendered in connection with winding up the Company;

(c) All remaining cash and other assets shall be distributed to the Members in accordance with their positive Capital Account balances, determined after taking into account all Capital Account adjustments for the taxable year of the Company during which the distribution occurs, including adjustments for distributions made under this Section.

**9.7 Deficit Capital Account Balances.** Any deficit in a Member's Capital Account shall not be an asset of the Company, and no Member or transferee of all or

any part of a Membership Share shall be obligated to contribute any amount to the Company in excess of any limited dollar amount the Member or transferee has otherwise agreed to restore.

9.8 Final and Complete Distribution. The distributions provided for in this Article shall constitute a complete return of the Members' Contributions to Capital, and a final and complete distribution to the Members in satisfaction of all of their rights in the Company.

9.9 Duties During Winding Up. The duty of loyalty, duty of care and fiduciary duties set forth in this Agreement shall apply to any Person winding up the Company's business.

9.10 Intent of Parties. The parties intend that the tax allocations of Article VIII shall produce final Capital Account balances of the Members that will permit liquidating distributions that are made in accordance with final positive Capital Account balances under Section 9.6(c) to be made (after unpaid loans and interest thereon, including those owed to Members have been paid) in a manner identical to the order of priorities set forth in Section 8.1. To the extent that the allocation provisions of Article VIII would fail to produce such final Capital Account balances, (i) such provisions shall be amended by the Members if and to the extent necessary to produce such result and (ii) taxable income and taxable loss of the Company for prior open years (or items of gross income and deduction of the Company for such years) shall be reallocated by the Members among the Members to the extent it is not possible to achieve such result with allocations of items of income (including gross income) and deduction for the current year and future years. This Section 9.10 shall control notwithstanding any reallocation or adjustment of taxable income, taxable loss, or items thereof by the Internal Revenue Service or any other taxing authority.

## ARTICLE X Dissociation

10.1 Events of Dissociation. The provisions of the Act relating to dissociation shall not apply to the Company. No Member shall have the power to withdraw from the Company except as provided herein. Only the occurrence of one or more of the following events with respect to a Member shall constitute the Dissociation of such Member:

- (a) Withdrawing, retiring or resigning from the Company with the consent of those Members who own the Required Interest of the Voting Rights in the Company.
- (b) If the Member files a voluntary petition for bankruptcy, is adjudicated a bankrupt or has a bankruptcy petition filed against him or it which is not dismissed within ninety (90) days.

(c) any event of Wrongful Disassociation set forth in Section 10.5 of this Agreement.

**10.2 Effect of Member's Dissociation.** Unless otherwise provided in Article IX, the Dissociation of a Member does not dissolve the Company. A Dissociating Member ~~does not cease to be a Member by reason of his Dissociation.~~ Subject to Section 10.5, the right of a Dissociating Member to be compensated for his Membership Share shall be governed exclusively by Article XI and not the Act. The parties waive any right they may have to assert that the Act or any other provision of law supercedes or modifies the provisions of this Agreement relating to the cessation of a Member's participation in the Company, withdrawal, or Dissociation.

**10.3 Character of Payments.** All payments made to any Dissociating Member shall be treated as payments described in either Section 736(a) or Section 736(b) of the Code, as determined by application of such sections of the Code and the regulations promulgated thereunder.

**10.4 Statement of Dissociation.** A Dissociated Member or the Company may file a Statement of Dissociation in accordance with the Act.

**10.5 Wrongful Dissociation.** Notwithstanding anything herein to the contrary, if a Member Dissociates by reason of the occurrence of any of the following events, then such Dissociation shall be a wrongful Dissociation by such Member in contravention of this Agreement:

(a) Withdrawing, retiring or resigning from the Company without the consent of those Members who own the Required Interest of the Voting Rights in the Company.

(b) On application by the Company or another Member, the Member's expulsion by judicial determination under Section 33-44-601(6) of the Act because the Member:

(i) Engaged in wrongful conduct that adversely and materially affected the Company's business; or

(ii) Willfully or persistently committed a material breach of this Agreement or of a duty owed to the Company or the other Members under Section 33-44-409 of the Act; or

(iii) Engaged in conduct relating to the Company's business that makes it not reasonably practicable to carry on the business with the Member.

(c) If the Member is other than a natural person, such Member (or any Person that Controls the Member) engages in any sale, merger, share exchange, partnership, joint venture or other arrangement, including the issuance of new shares of stock or equity interests in the Member or in any Person that Controls the Member, and as a

result of said transaction a Person who is not one of the group of Persons in Control of the Member, as of the date such Member became a party to this Agreement, takes Control of the Member.

(d) If the Member is other than a natural person, the filing of a Certificate of Dissolution, or the equivalent, for a Member or the lapse of ninety (90) days after notice to such Member of revocation of its charter without a reinstatement of its charter.

(e) Any transfer, sale or conveyance (or attempt to do the same) of a Membership Share that is not permitted by the terms of this Agreement.

The provisions of this Agreement governing the rights of a Dissociating Member shall apply to a Member who wrongfully Dissociates, except that any damages sustained by the Company as a result of the Member's wrongful Dissociation shall be offset against any distributions otherwise payable to the Member, and, in addition, the purchase price (if any) to be paid to a wrongfully Dissociating Member pursuant to Article XI shall be reduced to eighty percent (80%) of the amount of the distribution that the disassociating Member would otherwise be entitled to received pursuant to the provisions of Article XI of this Agreement.

#### ARTICLE XI RESTRICTIONS ON TRANSFER AND BUY-SELL PROVISIONS

##### 11.1 Restrictions on Transfer.

(a) Except as otherwise expressly provided in this Agreement, no Member may voluntarily or involuntarily sell, transfer, gift, assign, pledge, mortgage, hypothecate, or otherwise convey or encumber any portion or all of his Membership Share to any Person without the prior written consent of those Members who own the Required Interest of the Voting Rights in the Company. If such consent is obtained or otherwise made in compliance with the terms of this Agreement, the provisions of Article III shall govern the rights of the transferor and transferee. Any attempted conveyance or encumbrance of all or a portion of a Membership Share not expressly permitted herein shall be null, void and without effect.

(b) Notwithstanding the foregoing, the foregoing prohibition shall not apply to Permitted Transfers, transfers that comply with the Right of First Refusal (as defined below), and transfers or assignments of Financial Rights only, provided that the Emerald Member may not transfer or assign more than 75% of its Financial Rights until the other Members have been returned their entire respective Capital Contributions.

(c) Notwithstanding anything herein to the contrary, each Member acknowledges that his Membership Share has not been registered under the Securities Act of 1933, as amended ("1933 Act"), in reliance on applicable exemptions. Therefore, the Members hereby agree that Membership Shares in the Company shall be

nontransferable, except in compliance with the 1933 Act and applicable state securities laws, and any attempted transfer not in compliance therewith shall be null, void, and without effect. As an additional condition precedent to the transfer of any Membership Share, the Company may require an opinion of counsel satisfactory to the Company that such transfer will be made in compliance with the 1933 Act and applicable state securities laws, and such transferor shall be responsible for paying any attorneys' fees incurred in connection with the opinion. The transferor may be required to indemnify the Company for any damages resulting from failure to comply with said securities laws, if the Company so requires.

11.2 Right of First Refusal. From and after the first anniversary of the date hereof, the Members shall have a right of first refusal (the "Right of First Refusal") as described as follows:

A Member (a "Selling Member") who desires to sell all or any portion of their Membership Share to a third party purchaser shall obtain from such third party purchaser ("Third Party Purchaser") a bona fide written offer to purchase such interest, stating the terms and conditions upon which the purchase is to be made and the consideration offered therefore ("Third Party Offer"). The Selling Member shall give written notification ("Notice of Sale") to the Company and the other Members (the "Remaining Members"), by certified mail or personal delivery, of its intention to so transfer such Membership Share (the "Offered Membership Share"). The Notice of Sale shall be accompanied by a copy of the Third Party Offer.

The Company shall have the first option, to be exercised within thirty (30) days of its receipt of the Notice of Sale, to purchase all, but not less than all, of the Offered Membership Share by written notice to the Selling Member and the Remaining Members. If the Company fails to respond within such thirty (30) day period, it shall be deemed to have declined to purchase the Offered Membership Share.

If the Company fails to exercise such purchase option, then the Remaining Members shall have thirty (30) days from the expiration of the Company's thirty (30) day option period to exercise their option to purchase all, but not less than all, of the Offered Membership Share by written notice to the Company, the Selling Member, and the other Remaining Members. If any Remaining Member fails to respond within such thirty (30) day period, such Remaining Member shall be deemed to have declined to purchase the Offered Membership Share. If only one Remaining Member elects to purchase the Offered Membership Share, such Remaining Member shall be obligated to purchase all of such Offered Membership Share. If more than one Remaining Member elects to purchase the Offered Membership Share, such Remaining Members shall purchase the Offered Membership Share on a pro-rata basis, with each such Remaining Member obligated to purchase a percentage of the Offered Membership Share, expressed as a fraction, with the numerator being the Financial Membership Shares already owned by the particular Remaining Member and the denominator being the total Financial

Membership Shares of all the Remaining Members that elect to participate in the purchase.

In the event the Right of First Refusal is exercised by either the Company or by one or more Remaining Members, the closing shall take place within sixty (60) days of the exercise of the Right of First Refusal. At the closing, the Company or Remaining Member(s) electing to purchase shall purchase, and the Selling Member shall sell, the Offered Membership Share for an amount equal to the purchase price set forth in the Third Party Offer and in accordance with such other terms and conditions set forth in the Third Party Offer.

If neither the Company nor any of the Remaining Members shall elect to exercise the Right of First Offer, the Selling Member shall be entitled to consummate the sale of the Offered Membership Share to the Third Party Purchaser or one or more of its affiliates upon terms no less favorable than are set forth in the Third Party Offer. Upon such transfer, the Company and the Remaining Members shall admit the transferee as a Member of the Company. If the Selling Member shall fail to close the transaction described in the Third Party Offer within one hundred eighty (180) days of the expiration of the Right of First Refusal on terms no less favorable to the Selling Member as contained in the Third Party Offer, then the Selling Member shall again be required to comply with the terms of this Section before entering into any transaction with a Third Party Purchaser. Notwithstanding anything contained herein to the contrary, any transaction described in the Third Party Offer shall be conditioned upon, and shall not be effective, until the Consents (as hereinafter defined) are obtained.

### 11.3 Right to Buy Upon Dissociation.

(a) Dissociation. If a Member Dissociates within the meaning of Article X (a "Triggering Event"), then such Member ("Dissociating Member") is deemed to have made an offer to the Company to purchase all, but not less than all, of his Membership Share (the "Dissociating Membership Share") at the price determined in accordance with Section 11.3(b) and upon the terms contained in Section 11.3(c). If the Company does not accept said offer by written notice to the Dissociating Member and the remaining Members of the Company (the "Non-Dissociating Members") within thirty (30) days after receiving written notice of the Triggering Event from the Dissociating Member (or his estate or other legal representative, as the case may be) and the determination of the purchase price, then the offer shall be deemed rejected and the Dissociating Membership Share shall be offered in writing, at the same price and upon the same terms, to the Non-Dissociating Members.

The Non-Dissociating Members shall have thirty (30) days from the expiration of the Company's thirty (30) day option period to exercise their option to purchase all, but not less than all, of the Dissociating Membership Share by written notice to the Company and the Dissociating Member (or his estate or other legal representative, as the case may be), and the other Non-Dissociating Members. If any Non-Dissociating Member fails to respond within such thirty (30) day period, such Non-Dissociating

Member shall be deemed to have declined to purchase the Dissociating Membership Share. If only one Non-Dissociating Member elects to purchase the Dissociating Membership Share, such Non-Dissociating Member shall be obligated to purchase all of such Dissociating Membership Share. If more than one Non-Dissociating Member elects to purchase the Dissociating Membership Share, such Non-Dissociating Members shall purchase the Dissociating Membership Share on a pro-rata basis, with each such Non-Dissociating Member obligated to purchase a percentage of the Dissociating Membership Share, expressed as a fraction, with the numerator being the Financial Membership Shares already owned by the particular Non-Dissociating Member and the denominator being the total Financial Membership Shares of all the Non-Dissociating Members that elect to participate in the purchase.

If none of the Non-Dissociating Members accept the offer to purchase the Dissociating Membership Share within thirty (30) days after receipt of written notice by them, then the Dissociating Membership Share shall be transferred to the guardian, conservator or legal successors of the Dissociating Member. Upon such transfer, the Company and the Non-Dissociating Members shall admit the transferee as a Member of the Company.

(b) Purchase Price (Dissociation). Unless the Member offering or selling his Membership Share hereunder and all Remaining Members agree otherwise, the purchase price shall be determined in accordance with the following:

The purchase price shall be the Appraised Value (as defined herein) of the Membership Share. Appraised Value shall mean the Fair Market Value (as defined below) of the Membership Share obtained by agreement of two (2) appraisers, one appointed by the seller and one appointed by fifty-one percent (51%) of the Remaining Members on behalf of the Company. No discounts for minority interest, lack of marketability or other similar type discounts including but not limited to those related to undivided interests in real estate, voting versus non-voting interests, blockage, key-person, or portfolio issues, shall be taken into account. The seller and Company must appoint their respective appraisers by delivering notice of the identity of their respective appraisers to each other within thirty (30) days after Company receives written notice of the Triggering Event from the Dissociating Member (or his estate or other legal representative, as the case may be). If the two (2) appraisers cannot agree on an Appraised Value within thirty (30) days after the last of them is appointed, then within five (5) days, they shall appoint a third appraiser to value the Membership Share. The third appraiser shall determine the Appraised Value within thirty (30) days after his appointment. The Appraised Value shall be the average of the two (2) appraisals which are closest to each other. Fair Market Value is defined as the cash equivalent price at which property would change hands between a hypothetical willing buyer and a hypothetical willing seller, neither being under a compulsion to buy or sell and both having reasonable knowledge of relevant facts. The hypothetical buyer and seller are assumed to be able, as well as willing, to trade and are assumed to be well-informed about the property and concerning the market for such property. The seller and the Company shall each pay the costs of the appraiser appointed by them, and one-half

(1/2) of the cost of the third appraiser. The purchase price as determined herein shall be conclusive and binding on the parties, their personal representatives, legal representatives, heirs, successors and assigns. If any party fails to appoint an appraiser within the time required herein, the purchase price determined by the appraiser appointed by the other party shall be conclusive and binding upon the seller and purchaser(s), their personal representatives, legal representatives, heirs, successors, and assigns.

(c) Payment of Purchase Price (Dissociation). The closing of the purchase shall take place at the principal place of business of the Company within sixty (60) days after the purchase price has been determined and an offer accepted, or at such other date and place as the parties may agree.

Unless the parties mutually agree otherwise, the purchase price shall be paid in twenty (20) equal and consecutive quarterly installments of principal and interest beginning on the first day of the calendar quarter that occurs after the date of the closing. The purchaser(s) shall execute and deliver to the seller a promissory note made payable to the order of the seller which shall bear interest, per annum, at the prime rate as published in the Wall Street Journal at the date of the sale or, if greater, the rate of interest applicable under Section 1274 of the Code. Payments may be anticipated, in whole or in part, at any time and from time to time, without penalty. The note shall provide that upon ten (10) days default of any payment of interest or principal, the note shall become due and payable immediately, at the option of the holder of the note. Upon execution and delivery of the note, the Membership Share (or any portion thereof) shall be conveyed to the purchaser(s). Until the note is paid in full, the Membership Share shall be held by the purchaser(s), but shall be pledged to the seller as collateral security for payment of the note. The seller shall have no right to exercise any Financial Rights or Voting Rights associated with the Membership Share unless and until there is a default on the note. Further, if a selling Member has personally guaranteed payment of any debt, obligation or liability of the Company, then the purchaser(s) of the Member's Membership Share shall make reasonable efforts to have such Member (or his estate or successor(s)) released from such guarantee. If the lender or creditor refuses to release such Member, then the Company and the other Members, if the Company is purchasing the Membership Share, (or the purchasing Member(s) only if the Company is not purchasing the Membership Share), shall in writing, jointly and severally, indemnify and hold harmless such selling Member (or his estate, as the case may be) from payment of said debt, obligation or liability.

Further, if a selling Member has personally guaranteed payment of any debt, obligation or liability of the Company, then the purchaser(s) of the Member's Membership Share shall make reasonable efforts to have such Member (or his estate or successor(s)) released from such guarantee. If the lender or creditor refuses to release such Member, then the Company and the other Members, if the Company is purchasing the Membership Share, (or the purchasing Member(s) only if the Company is not purchasing the Membership Share), shall in writing, jointly and severally, indemnify and

hold harmless such selling Member (or his estate, as the case may be) from payment of said debt, obligation or liability.

**11.4 "Shotgun" Buy/Sell Rights.** Subject to the following provisions, if an impasse exists for more than thirty days as to any matter for which is required the consent of Members owning the Required Interest of the Voting Rights in the Company, and for which resolution is required to complete the development and/or continue the normal operation of the Property, then any Member shall have right to cause the other Member(s) to either buy his or her Membership Share or to sell his or her Membership Share. By their acceptance of their Membership Shares as Members, all Members hereby agree to the following provisions:

(a) The Members shall have the rights of purchase and sale provided by this Section, to be exercised by delivering a written notice (an "Election Notice"). The Member giving the Election Notice as provided herein is referred to as the "Electing Member," and the Member(s) receiving the Election Notice is/are referred to (whether individually or collectively) as the "Noticed Member."

(b) This buy/sell procedure may be invoked by the delivery of an Election Notice by a Member to the other Member(s). The Election Notice shall specify a valuation of the Company as a whole (the "Noticed Value").

(c) An Election Notice shall constitute an irrevocable offer by the Electing Member either to

(i) purchase all, but not less than all, of the Membership Shares owned by the Noticed Member (the "Noticed Membership Share") for a value equal to the Noticed Value multiplied by the percentage Financial Rights owned by the Noticed Member; or

(ii) sell all, but not less than all, of the Membership Share owned by the Electing Member (the "Electing Membership Share") for a value equal to the Noticed Value multiplied by the percentage Financial Rights owned by the Electing Member.

(d) For a period (the "Election Period") ending at 11:59 P.M. (local time at the Company's principal office) on the thirtieth (30<sup>th</sup>) day following the date of delivery of the Election Notice, the Noticed Member(s) shall have the right to elect to purchase all of the Electing Membership Share by giving notice thereof (the "Purchase Notice") to the Electing Member (and if there is more than one Noticed Member, then they shall have the right to purchase the Electing Membership Share on a pro-rata basis, with each such Noticed Member entitled to purchase a percentage of the Electing Membership Share, expressed as a fraction, with the numerator being the Financial Membership Shares already owned by the particular Noticed Member and the denominator being the total Financial Membership Shares of all of the Noticed Members that elect to

participate in the purchase. Otherwise, the Electing Member shall be obligated to purchase all of the Noticed Membership Share.

(e) The closing of the purchase and sale of the Membership Shares shall occur on a date and time mutually agreeable to the purchasing Member and the selling Member(s), which shall not be later than the sixtieth day following the last day of the Election Period. At the closing, the purchasing Member shall pay to each selling Member, by cash, wire transfer or cashiers check, the purchased price determined in the manner established above. At the closing, the Members shall execute documents and instruments of conveyance as may be necessary or appropriate to confirm the transactions contemplated hereby, including, without limitation, the transfer of the Membership Shares of the selling Members to the purchasing Member. In the event the selling Member(s) should fail to close, and such failure is due to the intentional act or omission or fault of the selling Member(s), the purchasing Member(s) shall be entitled to pursue specific performance, and if specific performance is not available under the circumstances, then money damages. Any closing with respect to a purchase of Membership Shares hereunder shall be subject to receipt of all "Consents", which shall mean orders, approvals and authorizations of any governmental authorities applicable, as well as any lender and other third parties who may have approval rights (other than internal entity approvals of the parties hereto), which conditions may not be waived without the consent of all parties to such transactions and which consents, orders, approvals and authorizations each Member will use its reasonable efforts to obtain. Any such closing may be adjourned for a reasonable time in order to obtain the Consents. At the closing, the selling Member(s) shall deliver documents conveying its Membership Interest(s) free and clear of any liens or encumbrances (other than liens and encumbrances relating to obligations of the Company), which documents shall contain Standard Representations (as set forth in Schedule A hereto). In connection with such a sale of Membership Shares, the selling Member(s) shall be responsible for any applicable state and local transfer taxes. If New Parcel A or any other Company Property is damaged by fire or other casualty, or if any person possessing the right of eminent domain shall give notice of an intention to take or acquire a material part of the Company Property, and such damage occurs, or such notice is given, between the last day of the Election Period and the last day in which the sale is required to close, all affected parties shall nevertheless remain obligated to close.

## ARTICLE XII MISCELLANEOUS PROVISIONS

### 12.1 Members' Rights To Receive Information.

(a) The Company shall provide Members and their agents, accountants and attorneys access to its records, if any, at the Company's principal office, which may not

be changed without the prior written consent of all of the Members. The Company shall provide former Members and their agents and attorneys access for proper purposes to records pertaining to the period during which they were Members. The right of access provides the opportunity to inspect, download and copy records during ordinary business hours. The Company may impose a reasonable charge, limited to the costs of labor and material, for copies of records furnished.

(b) The Company shall furnish to a Member, and to the legal representative of a deceased Member or Member under legal disability:

(1) Without demand, information concerning the Company's business or affairs reasonably required for the proper exercise of the Member's rights and performance of the Member's duties under this Agreement and the Act; and

(2) On demand, other information concerning the Company's business or affairs, except to the extent the demand or the information is unreasonable or otherwise improper under the circumstances.

(c) A Member has the right upon written demand given to the Company to obtain at the Company's expense a copy of this Agreement.

12.2 Notices. All notices, consents, requests, demands, offers, reports or other communications required or permitted hereunder shall be in writing and delivered by fax, email or sent by overnight courier with a nationally-recognized company or by certified or registered mail, postage prepaid, return receipt requested, to the Company by delivery to each Member at the address on Exhibit A attached hereto, or to such other address as may hereafter be designated by the giving of notice in accordance with this Section. All notices, consents or other communications shall be deemed given when actually hand delivered or delivered by courier or, upon rejection of delivery, three business days after the date of mailing in accordance with this Section.

12.3 Time of Essence. Time is of the essence of this Agreement.

12.4 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of South Carolina regardless of the residence or domicile, now or in the future, of any party hereto and notwithstanding any conflicts of laws.

12.5 Consent to Jurisdiction. Except as otherwise required by law, the parties to this Agreement hereby agree that the courts of the State of New York shall have sole and exclusive jurisdiction over any matter arising from the interpretation, purpose, effect, or operation of this Agreement, and with regard to all matters associated with operation of the Company's business. Except as otherwise required by law, the parties consent to venue in New York County, New York, and waive any rights they may have to assert jurisdiction or venue in any other court, administrative forum, or other adjudicative body.

12.6 Waiver. No waiver of any breach of any covenant, agreement or undertaking contained herein shall operate as a waiver of any subsequent breach of the same covenant, agreement or undertaking or as a waiver of any breach of any other covenant, agreement or undertaking. In the case of a breach by any party of any covenant, agreement or undertaking, the non-breaching party may nevertheless accept from the other, any payment or performance without waiving its right to exercise any right or remedy provided herein or otherwise, with respect to any such breach which was in existence at the time such payment or performance was accepted by it. No failure of any party to exercise any power given herein or to insist upon strict compliance with any covenant, agreement or undertaking contained herein, or to object to any custom or practice which varies from the terms hereof, shall constitute a waiver of such party's right to demand exact compliance with the terms of this Agreement. The waiver by any party of a breach of any covenant, agreement or undertaking contained herein shall be made only by a written waiver in each case, and no such waiver shall operate or be construed as a waiver of any prior or subsequent breach.

12.7 Severability. If any provision of this Agreement shall, to any extent, be held invalid, illegal or unenforceable, in whole or in part, the validity, legality, and enforceability of the remaining part of such provision, and the validity, legality and enforceability of the other provisions hereof, shall not be affected thereby and each term, covenant or condition shall be valid and enforceable to the fullest extent permitted by law. If any such invalidity shall be caused by the length of any period of time, the size of any area or the scope of activities set forth in any provision hereof, such period of time, such area or scope or all, shall be considered to be reduced to a period, area, or scope which would cure such invalidity. Any provision of this Agreement which is held invalid, illegal or unenforceable in any jurisdiction shall not be deemed invalid, illegal or unenforceable in any other jurisdiction.

12.8 Counterparts. This Agreement may be executed in more than one counterpart, each such counterpart shall be deemed an original, and all such counterparts shall constitute one and the same agreement. This Agreement shall be effective when executed by all parties, but all parties need not execute the original or the same counterpart.

12.9 Captions. The headings, titles and captions of the Articles and Sections of this Agreement are inserted only to facilitate reference. They shall not define, limit, extend or describe the scope or intent of this Agreement or any provision hereof, and they shall not constitute a part hereof or affect the meaning or interpretation of this Agreement or any part hereof.

12.10 Entire Agreement. This Agreement embodies the entire understanding and agreement among the parties pertaining to the subject matter hereof, and all prior agreements and understandings of the parties, whether written or oral, are terminated and superseded by this Agreement and shall be deemed merged herein.

12.11 Remedies Cumulative. Except as otherwise expressly provided herein, all rights, powers and privileges conferred hereunder upon any party shall be cumulative and not restrictive of those given by law. No remedy herein conferred is exclusive of any other available remedy, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given by agreement or now or hereafter existing at law or in equity or by statute.

12.12 Binding Effect. This Agreement shall be binding upon, shall inure to the benefit of, and shall be enforceable by and against all the parties and their respective heirs, legal representatives, personal representatives, successors and permitted assigns. Nothing in this Agreement, expressed or implied, is intended to or shall confer upon any Person other than the parties, and their respective heirs, legal representatives, personal representatives, successors and permitted assigns, any rights, remedies, obligations or liabilities.

12.13 Use of Terms. Use of the terms "herein", "hereby", "hereunder", "hereof", "hereinafter", "hereinafter", and other equivalent words refer to this Agreement in its entirety and not solely to the particular portion of the Agreement in which such word is used. Reference to "this Article", "this Section", or a similar reference to a specific part of this Agreement shall refer to the particular Article, Section or specific part in which such reference appears. Whenever used herein, any pronoun shall be deemed to include both the singular and plural and all genders.

12.14 Further Assurances. Each of the parties will execute, deliver, acknowledge or supply such further document, instruments and assurances as shall be reasonably necessary or appropriate to carry out the full intent and purposes of this Agreement, including but not limited to the filing of either a copy of this Agreement or a Memorandum of this Agreement with the applicable government authorities.

12.15 Equitable Remedies. The rights and remedies of the Members and the Company hereunder shall not be mutually exclusive, and the exercise of one or more of the provisions hereof shall not preclude the exercise of any other provisions hereof. The parties hereto confirm that damages at law may be an inadequate remedy for a breach or threatened breach of this Agreement and agree that in the event of a breach or threatened breach of any provision hereof, the respective rights and obligations hereunder shall be enforceable by specific performance, injunction (temporary and/or permanent), without posting bond, or other equitable remedy, but nothing herein contained is limited to, nor shall it limit or affect any right or rights at law or by statute or otherwise of any party aggrieved against any other party for a breach or threatened breach of any provision hereof, it being the intention of this Section to make clear the agreement of the parties that the respective rights and obligations of the parties hereunder shall be enforceable in equity as well as at law or otherwise.

12.16 Exhibits and Schedules. The exhibits and schedules attached to this Agreement are hereby made a part hereof and incorporated herein by reference. All

such exhibits shall read as of the date of this Agreement or, as to any of the exhibits bearing a particular date, as of any other date specified therein.

**12.17 Effective Date.** This Agreement shall become effective upon the later of the execution of this Agreement by all the Members or the filing of Articles of Organization with the South Carolina Secretary of State.

**12.18 Arbitration.** Any dispute or controversy arising under or in connection with this Agreement shall be submitted to binding arbitration in accordance with the requirements of the American Arbitration Association (or successor thereto) (the "AAA"). All arbitration proceedings shall be conducted in New York County, New York. The arbitrators shall be selected in accordance with the Rules and Regulations of the AAA, and the arbitrators shall render a decision on any dispute within one hundred twenty (120) days after the last of the arbitrators has been selected. The decision of the arbitrators shall be binding upon the parties and may be entered as a judgment with any court of competent jurisdiction. The arbitrators shall be directed to apply the governing law of this Agreement in rendering their decision. The non-prevailing party shall pay the entire cost of the arbitration, including without limitation all arbitrators' fees and expenses, transcription costs and the expert witness fees, and reimburse the reasonable attorneys' fees and disbursements of the prevailing party or parties.

#### **ARTICLE XIII EMERALD MEMBER DEFAULT/REMEDIES**

**13.01 Default.** The occurrence of any of the following shall constitute an "Emerald Member Default":

(a) a breach by the Emerald Member or Stuart Longman of any representation or warranty hereunder in any material respect;

(b) a monetary or material non-monetary default by Project Manager pursuant to the Project Management Agreement which default remains uncured beyond the expiration of any applicable notice or grace period (it being understood and agreed that the Investor member are hereby authorized without the consent of the Emerald Member to give a notice of default under the Project Management Agreement);, or a material default by Ashley River Properties I, LLC ("Ashley I") under the Right of First Refusal of even date herewith, the ("Right of First Refusal") from Ashley I to the Kriti Member, which default remains uncured beyond the expiration of any applicable notice or grace period, or a material default by any of the Indemnitors under the Indemnity Agreement of even date herewith (the "Indemnity") from Ripley, the Emerald Member, Ashley I and Sapphire in favor of the Company and the Kriti Member, which defaults remains uncured beyond the expiration of any applicable notice and grace period.

(c) the taking of any unauthorized material action (for which the affirmative vote of the Required Interest of the Voting Rights in the Company is required) by the Emerald Member or the Project Manager or any of their respective affiliates.

13.02 Remedies. Upon the occurrence of an Emerald Member Default, the other Members may elect any one or more of the non-exclusive following remedies, in addition to any remedies that may otherwise be available at law or in equity:

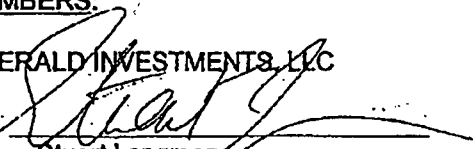
- (a) the Emerald Member shall thereafter forfeit all Voting Rights in the Company;
- (b) the Company may terminate the Project Development Agreement, notwithstanding anything contained therein to the contrary, without penalty or premium; and
- (c) the other Members may purchase the Membership Shares of the Emerald Member at a cost equal solely to the Emerald Member's unreturned Capital Contribution to the Company, in which event: (i) the closing shall take place on a date specified in a notice given by the other Members to the Emerald Member, which shall be no earlier than 10 days after the giving of the notice and no later than 120 days after the giving of the notice, (ii) payment shall be made in all cash by wire transfer or cashier's check, (iii) the Emerald Member shall be responsible for all applicable state and local transfer taxes and (iv) the Emerald Member shall execute and deliver at closing appropriate instruments of transfer, which shall include the Standard Representations.

In the event that the Emerald Member shall contest any of the foregoing remedies and shall not prevail, then the Emerald Member shall forfeit all of its Membership Shares in the Company, and the Membership Shares in the Company shall be reallocated between or among the remaining Members on a pro-rata basis in the proportion that the Financial Rights of each remaining Member bear to the total remaining Financial Rights of all of the Remaining Members.

For good and valuable consideration, the undersigned have executed and sealed this Operating Agreement as of the day and year first above written.

MEMBERS:

EMERALD INVESTMENTS, LLC

By: 

Stuart Longman  
Managing Member

KRITI RIPLEY, LLC

By: 

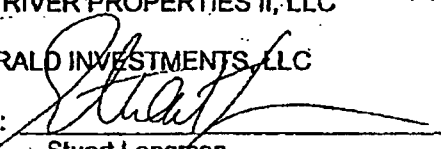
Name: DAVIDSON A. WILLIAMS

Title: Managing Member

COMPANY:

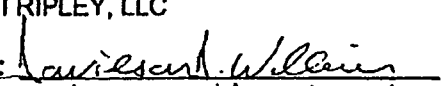
ASHLEY RIVER PROPERTIES II, LLC

By: EMERALD INVESTMENTS, LLC

By: 

Stuart Longman  
Managing Member

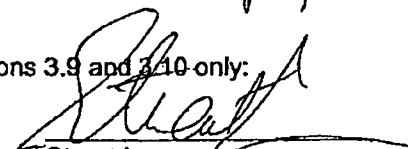
By: KRITI RIPLEY, LLC

By: 

Name: DAVIDSON A. WILLIAMS

Title: Managing Member

Limited Joinder with respect to Sections 3.9 and 3.10 only:

  
Stuart Longman

**Legal Description of New Parcel A**

All that certain piece, parcel or lot and land, situate, lying and being in the City of Charleston, County of Charleston, State of South Carolina, shown and designated as NEW PARCEL "A", HIGHLAND 274,098.43 S.F., 5.145 AC., on that certain plat entitled "PROPERTY LINE ADJUSTMENT & COMBINATION OF PARCEL 1, 4, 5, 6B, & PORTION OF COMMON AREA 2 CREATING PARCEL "A" OWNED BY RIPLEY POINT ASSOCIATES, LLC ABOUT TO BE CONVEYED TO RIPLEY LIGHT YACHT CLUB, LLC, LOCATED IN THE CITY OF CHARLESTON, CHARLESTON COUNTY, SOUTH CAROLINA" made by General Engineering dated March 16, 2001, last revised October 24, 2002, and recorded in the RMC Office for Charleston County on October 28, 2002 in Plat Book EF, Page 972.

**SCHEDULE 3.7(a)(ii)**

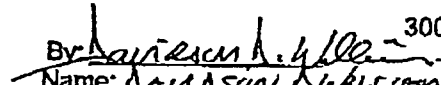
### Form of Assignment of Dock Permits

[ATTACH] . .

{MF0511.DOC:56}



EXHIBIT A**MEMBERS OF  
ASHLEY RIVER PROPERTIES II, LLC**

| <u>Member's Name<br/>and Address</u>                                                                                 | <u>Member's<br/>Signature</u>                                                                                                                             | <u>Initial<br/>Financial<br/>Membership<br/>Shares</u> | <u>Initial<br/>Voting<br/>Membership<br/>Shares</u> |
|----------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------|-----------------------------------------------------|
| <b>Emerald Investments, LLC</b><br>95 Ripley Pointe Drive<br>P.O. Box 31565<br>Charleston, SC 29417-1565             | By: <br>Stuart Longman<br>Managing Member                               | 700                                                    | 700                                                 |
| <b>Attn: Stuart Longman</b><br><br><b>Kriti Ripley, LLC</b><br>345 E. 37th Street<br>Suite 312<br>New York, NY 10016 | By: <br>Name: <u>DAVIDSON WILLIAMS</u><br>Title: <u>MANAGING MEMBER</u> | 300                                                    | 300                                                 |
| <b>Attn: Davidson Williams</b>                                                                                       |                                                                                                                                                           |                                                        |                                                     |
|                                                                                                                      | <b>TOTAL:</b>                                                                                                                                             | <b>1000</b>                                            | <b>1000</b>                                         |



**FIRST AMENDMENT  
TO THE  
OPERATING AGREEMENT OF ASHLEY RIVER PROPERTIES II, LLC**

This **FIRST AMENDMENT TO THE OPERATING AGREEMENT OF ASHLEY RIVER PROPERTIES II, LLC** (the "First Amendment") is made and entered into this 1<sup>st</sup> day of September, 2004 by and among **EMERALD INVESTMENTS, LLC**, a Connecticut liability company (the "Emerald Member"), and **KRITI RIPLEY, LLC**, a Delaware limited liability company ("Kriti Member").

**WHEREAS**, on December 29, 2003, the Members entered into an Operating Agreement of Ashley River Properties II, LLC (the "ARP II Operating Agreement"); and

**WHEREAS**, the Members wish to amend the ARP II Operating Agreement upon the terms and conditions set forth herein;

**NOW, THEREFORE**, in consideration of the sum of Ten Dollars (\$10.00), the mutual promises and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Members and the Company covenant and agree as follows:

1. **Definitions.** Unless otherwise specified in this First Amendment, the defined terms and conditions used in this First Amendment shall have the same meaning as set forth in the ARP II Operating Agreement.
2. **New Section 3.7(c).** Section 3.7(c) of the ARP II Operating Agreement is hereby deleted in its entirety and the following new section 3.7(c) substituted therefor:

"(c) **Mandatory Capital Calls.** Any Member who owns Voting Rights in the Company may unilaterally demand that the Members make additional Capital Contributions upon the occurrence of a Mandatory Capital Call Event, as such term is defined below. Any additional Capital shall be contributed by the Members in the same ratio as each Member's Financial Rights bears to total of the Financial Rights in the Company. Solely for purposes of this Section, a Member who has transferred his Financial Rights, but whose transferee has not become a Member, shall be deemed to hold the Financial Rights so transferred.

For purposes of this Section 3.7 (c), a "Mandatory Capital Call Event" shall mean the occurrence of any one of the following events:

- (i) Any default by the Company under a certain Construction-Term Loan Agreement dated July \_\_, 2004 between the Company and Marshall Investments Corporation (the "Marshall Loan Agreement")

or under any of the other Loan Documents (as such term is defined in the Marshall Loan Agreement), which default remains uncured after any applicable notice and cure period (herein, a "Marshall Default"); or

- (ii) The failure or inability of the Company to discharge its obligations and other indebtedness to third parties in the ordinary course of business as and when such obligations and other indebtedness become due and payable, and such event or condition (a) involves obligations and other indebtedness which individually or collectively exceed \$10,000 in amount, and (b) remains in effect for a period of 30 days or more (herein, a "Cash Default")

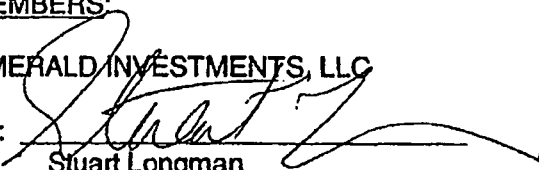
A Member may make a Mandatory Capital Call by delivering notice of the demand for additional Capital Contributions to each Member identifying therein the Mandatory Capital Call Event which has occurred, and stating the amount of additional Capital Contributions which must be made. In the case of a Marshall Default, a Member may demand additional Capital Contributions in sufficient amount to fully discharge any such Marshall Default. In the case of a Cash Default, a Member may demand additional Capital Contributions on a monthly or quarterly basis, at the sole and absolute discretion of such member, in sufficient amounts to permit the Company to discharge its obligations and other indebtedness to third parties in the ordinary course of business as and when such obligations and other indebtedness becomes due and payable."

3. **No Other Changes.** Unless otherwise specified herein, all of the terms and conditions set forth in the ARP II Operating Agreement shall remain in full force and affect and are otherwise unaffected by the First Amendment.

For good and valuable consideration, the undersigned have executed and sealed this Operating Agreement as of the day and year first above written.

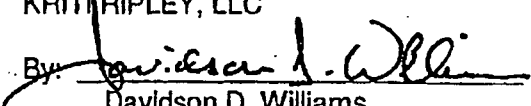
MEMBERS:

EMERALD INVESTMENTS, LLC

By: 

Stuart Longman  
Managing Member

KRITH RIPLEY, LLC

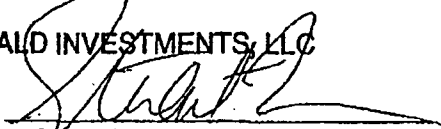
By: 

Davidson D. Williams  
Managing Member

COMPANY:

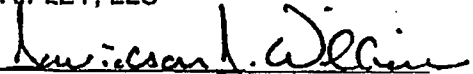
ASHLEY RIVER PROPERTIES II, LLC

By: EMERALD INVESTMENTS, LLC

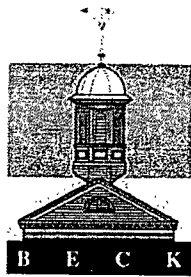
By: 

Stuart Longman  
Managing Member

By: KRITI RIPLEY, LLC

By: 

Davidson D. Williams  
Managing Member



FRED H. BECK AND ASSOCIATES  
*Real Estate Appraisers  
& Consultants*

**APPRAISAL REPORT**

3.73 Net Acres of Vacant Land  
South side of Ripley Point Drive  
Charleston, Charleston County, South Carolina 29407  
(Bank of America Project ID #09-009978-APR01-02)

**PREPARED FOR**

Bank of America, N.A.  
Real Estate Risk Assessment  
Attn: Debbie Pauza, Market Manager  
Mail Code: FL2-399-02-03  
100 North Westshore Boulevard  
Tampa, FL 33609

*"Bank of America makes no warranties or representations regarding this  
document or the conclusions contained herein."*

**DATE OF REPORT**

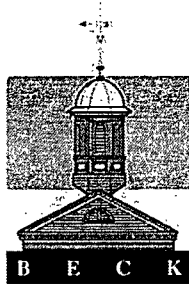
October 16, 2009

**EFFECTIVE DATE OF APPRAISAL**

"As Is" September 25, 2009

**APPRAISED BY**

FRED H. BECK & ASSOCIATES, LLC  
Mark A. Morgan  
Edward M. Parler, III



FRED H. BECK AND ASSOCIATES  
Real Estate Appraisers  
& Consultants

October 16, 2009

Bank of America, N.A.  
Real Estate Risk Assessment  
Attn: Debbie Pauza, Market Manager  
Mail Code: FL2-399-02-03  
100 North Westshore Boulevard  
Tampa, FL 33609

**Reference:** 3.73 Net Acres of Vacant Land  
South Side of Ripley Point Drive  
Charleston, Charleston County, South Carolina 29407  
(Bank of America Project ID #09-009978-APR01-02)

Dear Ms. Pauza:

As requested, we have inspected the above referenced property for the purpose of providing an opinion of its market value. Based on our inspection and analysis of the information obtained, it is our opinion that the market value of the Fee Simple Interest in the subject property is as follows:

|                        |                                           |
|------------------------|-------------------------------------------|
|                        | <b>AS IS</b><br><b>September 25, 2009</b> |
| <b>Property Rights</b> | <b>Fee Simple</b>                         |
| <b>Value Opinion</b>   | <b>\$7,720,000</b>                        |

This value opinion is supported by the data and reasoning set forth in the attached narrative. Your attention is invited to the Assumptions and Limiting Conditions attached and made a part of this report. We certify that we have no present or contemplated future interest in the property appraised and that our fee for this assignment is in no way contingent upon the value opinion supplied.

**We previously appraised this property on December 4, 2007 and concluded the market value to be \$14,000,000. Since that time, the real estate market in the Charleston MSA, like the majority of the State of South Carolina and the nation as a whole, has experienced decreasing property values. The housing boom for this market peaked in 2006 and 2007. A poor economy and a financial crisis which hit Wall Street, financial institutions, etc. aided in the rapid decline in property values as the financial institutions stopped lending new money for a period of time and tightened lending requirements as well. The overall effect on the subject property was the lack of demand for properties similar to the subject as well as no one willing to lend money for speculative land. Therefore the value of the subject property as well as the majority of similar properties has declined significantly over the past 18 to 24 months.**

The following report complies with the standards and regulations outlined in Title XI of the Federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA). In addition, the report conforms to the Office of the Comptroller of the Currency's (OCC) appraisal standards. This includes compliance with the Uniform Standards of Professional Appraisal Practice (USPAP) of the Appraisal Institute as promulgated by the Appraisal Standards Board of the Appraisal Foundation; compliance with USPAP including the ethics and competency provisions.

The undersigned hereby acknowledges considerable input, investigation, and analysis by Edward M. Parler, III, who contributed to the information set forth in the attached narrative. Thank you for the opportunity to be of service and please let us know if you have any questions.

Respectfully Submitted,

Fred H. Beck & Associates, LLC



Mark A. Morgan  
State-Certified General Real Estate Appraiser  
S.C. Certificate No. CG3890



Edward M. Parler, III  
State-Certified General Real Estate Appraiser  
S.C. Certificate No. CG3064

## CERTIFICATE OF THE APPRAISER

I certify that, to the best of my knowledge and belief:

1. The statements of fact contained in this report are true and correct.
  2. 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.
  3. I have no present or prospective interest in the property that is the subject of this report, and no personal interest with respect to the parties involved.
  4. I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
  5. My engagement in this assignment was not contingent upon developing or reporting predetermined results.
  6. My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined 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.
  7. The reported analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the requirements of the Code of Professional Ethics & Standards of Professional Appraisal Practice of the Appraisal Institute, which include the **Uniform Standards of Professional Appraisal Practice**.
  8. The use of this report is subject to the requirements of the Appraisal Institute relating to the review by its duly authorized representatives.
  9. I have made a personal inspection of the property that is the subject of this report.
  10. No one provided significant real property appraisal assistance to the person signing this report, other than **Edward M. Parler, III**.
- **The appraisal was not based on a requested minimum valuation, a specific valuation, or the approval of a loan.**



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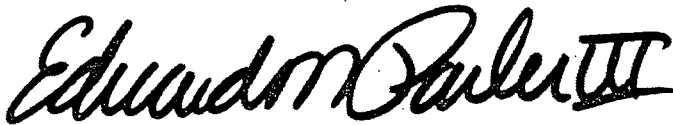
**MARK A. MORGAN**

State-Certified General Real Estate Appraiser  
S.C. Certificate No. CG3890

## CERTIFICATE OF THE APPRAISER

I certify that, to the best of my knowledge and belief:

1. The statements of fact contained in this report are true and correct.
  2. 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.
  3. I have no present or prospective interest in the property that is the subject of this report, and no personal interest with respect to the parties involved.
  4. I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
  5. My engagement in this assignment was not contingent upon developing or reporting predetermined results.
  6. My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined 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.
  7. The reported analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the requirements of the Code of Professional Ethics & Standards of Professional Appraisal Practice of the Appraisal Institute, which include the ***Uniform Standards of Professional Appraisal Practice***.
  8. The use of this report is subject to the requirements of the Appraisal Institute relating to the review by its duly authorized representatives.
  9. I have made a personal inspection of the property that is the subject of this report.
  10. No one provided significant real property appraisal assistance to the person signing this report.
- **The appraisal was not based on a requested minimum valuation, a specific valuation, or the approval of a loan.**



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**EDWARD M. PARLER, III**

State-Certified General Real Estate Appraiser  
S.C. Certificate No. CG3064

**SUMMARY OF IMPORTANT FACTS AND CONCLUSIONS**  
**3.73 NET ACRES OF VACANT LAND**  
**(Bank of America Project ID #09-009978-APR01-02)**

|                                      |                                                                                                                                     |
|--------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------|
| Property Location                    | South side of Ripley Point Drive in Charleston, Charleston County, South Carolina 29407                                             |
| Property Owner                       | Ashley River Properties II, LLC                                                                                                     |
| Date of Report                       | October 16, 2009                                                                                                                    |
| Effective Date of Appraisal          | September 25, 2009                                                                                                                  |
| Property Rights Appraised            | Fee Simple Estate                                                                                                                   |
| Zoning                               | GB-A, General Business - Accommodations                                                                                             |
| Tax Map Reference                    | 421-11-00-054 and 421-11-00-274 pt.                                                                                                 |
| Land Area                            | Total site contains 3.73 acres and approved for 80 residential condominium units. This equates to a density of 21.45 unit per acre. |
| Improvements                         | Vacant Land                                                                                                                         |
| Present Use                          | Vacant Land                                                                                                                         |
| Highest and Best Use                 | Speculative Holding                                                                                                                 |
| Appraisal Procedures                 | Sales Comparison Approach                                                                                                           |
| Value By Sales Comparison Approach   | \$7,720,000                                                                                                                         |
| <b>FINAL OPINION OF MARKET VALUE</b> |                                                                                                                                     |
| <b>"AS IS" September 25, 2009</b>    | <b>\$7,720,000</b>                                                                                                                  |

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### **SUBJECT PROPERTY**

The property being appraised in this report consists of two contiguous parcels of vacant land. The properties are owned by Ashley River Properties II, LLC and are located along Ripley Point Drive near Ripley Point Yacht Club Marina. The properties have been permitted for development of 80 luxury residential condominium units and can be identified in the Charleston County Tax Assessor's Office as tax parcel 421-11-00-054 (Parcel A containing 2.28 net acres), and tax parcel 421-11-00-274 (Parcel B containing 1.45 net acres). The tract sizes were determined by plats provided by the owner. We have been asked to appraise the properties "As Is". A copy of the tax cards and plat maps are included in the Addenda. According to officials with the City of Charleston Zoning Department, more than 80 condominium units are allowed on the property but the current owners have requested fewer units to be approved because they want to build condominium units of larger size, thus appealing to high-end buyers.

### **APPRAISAL PROBLEM & PROPOSED SOLUTION**

The property being appraised in this report contains 4.08 acres of land area. We have allocated 0.35 acres of the 4.08 acres to an adjoining parcel of land (under the same ownership) to support parking for another appraisal we have prepared for the client. This leaves us a remainder for the subject property of 3.73 acres (4.08 acres – 0.35 acres). Since we are valuing the subject property on a per unit basis, using 80 units before and after deducting for these 0.35 acres, there is no change in the number of allowable units.

### **APPRAISER COMPETENCY**

Mark A. Morgan and Edward M. Parler, III, both Certified General Real Estate Appraisers, have been appraising commercial properties and vacant land for more than 10 years. We have therefore met the requirements of the USPAP Competency Provision.

### **DEFINITION OF "MARKET VALUE"**

The following definition of market value is approved by the Office of the Comptroller of the Currency of the United States of America and by the Office of Thrift Supervision in compliance with Title XI of the Financial Institutions Reform Recovery and Enforcement Act (FIRREA). Market Value is defined as follows:

"The most probable price which 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 the 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 acting in what they consider their own best interests;
- 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."<sup>1</sup>

### **PROPERTY RIGHTS APPRAISED**

There are three primary types of property rights that may be appraised. They are Fee Simple Estate, Leased Fee Estate, and Leasehold Estate. They are defined as follows:

#### **FEE SIMPLE ESTATE**

Absolute ownership unencumbered by any other interest or estate, subject only to the limitations imposed by the government powers of taxation, eminent domain, police power, and escheat.

#### **LEASED FEE ESTATE**

An ownership interest held by a landlord with the rights of use and occupancy conveyed by lease to others. The rights of the lessor (the leased fee owner) and the leased fee are specified by contract terms contained within the lease.

#### **LEASEHOLD ESTATE**

The interest held by the lessee (the tenant or renter) through a lease conveying the rights of use and occupancy for a states term under certain conditions.

In this report, we have been asked to provide an opinion of value of the **FEE SIMPLE ESTATE** in the subject property.

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<sup>1</sup> Code of Federal Regulations (CFR), Title 12, §34.42(g). 55 *Federal Register* 34696, August 24, 1990, as amended at 57 *Federal Register* 12202, April 9, 1992; 59 *Federal Register* 29499, June 7, 1994.

### **VALUE REPORTED**

Values are typically estimated on the basis of one or more of the following situation.

Market Value "As Is" on the Appraisal Date: Market Value "As Is" on the appraisal date is an opinion of the market value of a property in the condition observed upon inspection and as it physically and legally exists without hypothetical conditions, assumptions or qualifications as of the date the appraisal is prepared.

Prospective Future Value Upon Completion of Construction: Prospective future value "upon completion" of construction is the prospective future value of a property on the date that construction, conversion or rehabilitation is completed, based upon market conditions forecast to exist as of that completion date. The value opinion at this stage of value should be stated in current dollars as of a current date.

Prospective Future Value Upon Reaching Stabilized Occupancy: Prospective future value "upon reaching stabilized occupancy" is the prospective future value of a property when all improvements have been physically constructed and the property has been leased to its optimum level of long-term occupancy at the market rent level. The value opinion at this stage of value should be stated in current dollars as of a current date.

In this report, we will provide an opinion of value "**AS IS**" in the Fee Simple Estate for the property as of September 25, 2009.

### **SPECIAL APPRAISAL INSTRUCTIONS**

There have been no special appraisal instructions for this assignment.

## SCOPE OF THE APPRAISAL

The 2006 edition of Uniform Standards of Professional Appraisal Practice (USPAP) reflects extensive changes resulting from the Appraisal Standards Board's examination of the proper role of the scope of work and departure concepts in the appraisal process. The primary changes from previous practice are the elimination of the Departure Rule and the introduction of the Scope of Work Rule. By eliminating the Departure Rule, related terms such as related terms Binding Requirement, Specific Requirement, Complete Appraisal, and Limited Appraisal were also eliminated. The most visible change in appraisal practice is the discontinued use of "Complete" and "Limited" to describe the appraisal process.

The term **SCOPE OF WORK** is defined as "the type and extent of research and analyses in an assignment."<sup>2</sup> The Scope of Work Rule does not introduce new requirements. The change is instead a matter of emphasis. The process of problem identification and development of an appropriate scope of work, both previously existing USPAP requirements, are more heavily emphasized in the Scope of Work Rule. The intent is to simplify the understanding of the development process. Greater emphasis is placed on scope of work disclosure to provide the intended users with an understanding of the actions of the appraiser to arrive at the assignment conclusions. The **SCOPE OF WORK RULE** states that for each assignment, the appraiser must (1) identify the problem to be solved; (2) determine and perform the scope of work necessary to develop credible assignment results; and (3) disclose the scope of work in the report.<sup>3</sup>

The first step is to **identify the problem to be solved**. Proper identification of the appraisal problem, which is necessary to determine the appropriate scope of work, requires the appraiser to identify the following assignment elements:

- ☐ client and any other intended users;
- ☐ intended use of the appraiser's opinions and conclusions;
- ☐ type and definition of value;
- ☐ effective date of the appraiser's opinions and conclusions;
- ☐ subject of the assignment and its relevant characteristics; and
- ☐ assignment conditions (assumptions, extraordinary assumptions, hypothetical conditions, etc.)

This information provides the appraiser with the basis for determining the type and extent of research and analyses to include in the development of an appraisal.

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<sup>2</sup> *Uniform Standards of Professional Appraisal Practice and Advisory Opinions* (2006 ed.). Washington, DC: The Appraisal Foundation. 2006. Page 4, Line 144.

<sup>3</sup> *Uniform Standards of Professional Appraisal Practice and Advisory Opinions* (2006 ed.). Washington, DC: The Appraisal Foundation. 2006. Page 12, Lines 382-387.

Based on the appraisal problem to be solved, the next step is to **determine and perform the scope of work necessary to develop credible assignment results**. The scope of work must include the research and analyses that are necessary to develop credible assignment results. Scope of work includes, but is not limited to:

- ☐ the extent to which the property is identified;
- ☐ the extent to which tangible property is inspected;
- ☐ the type and extent of data researched; and
- ☐ the type and extent of analyses applied to arrive at opinions or conclusions.

The credibility of assignment results is always measured in the context of the intended use. Credible results require support by relevant evidence and logic; assignment conditions may not limit the scope of work to such a degree that the assignment results are not credible in the context of the intended use. Furthermore, the act of determining the scope of work is an ongoing process in an assignment and information or conditions discovered during the assignment might require that the appraiser reconsider the scope of work.

The final step is to **disclose the scope of work in the report**. The appraisal report must contain sufficient information to allow intended users to understand the scope of work performed. Sufficient information includes disclosure of research and analyses performed and may include disclosure of research and analyses not performed. Again, USPAP places greater emphasis on scope of work disclosure to provide the intended users with an understanding of the specific actions taken to arrive at the assignment conclusions:

#### **GENERAL SCOPE OF WORK**

The following steps were completed for this assignment:

1. We identified the subject;
2. We understood and clearly stated the intended use and user of the report;
3. We applied appropriate appraisal methodology in accordance with USPAP;
4. We analyzed the comparable data to arrive at a probable range of value via each approach utilized;
5. We reconciled the results of each approach into a credible final opinion of value, as defined herein; and
6. We estimated a reasonable exposure time and marketing time associated with the value opinion.

#### **INTENDED USE**

This appraisal will be used for the purpose of rendering a decision relative to a financial transaction.

#### **INTENDED USER OF REPORT**

This report is intended to aid **BANK OF AMERICA, N.A. – REAL ESTATE RISK ASSESSMENT** and its successors and assigns for mortgage underwriting purposes.

#### **DATE OF REPORT**

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FRED H. BECK & ASSOCIATES, LLC

The date of this report is October 16, 2007.

**DATE OF INSPECTION**

The subject property was inspected on Friday, September 25, 2009.

**EFFECTIVE DATE OF VALUE**

The effective date of the "As Is" value is September 25, 2009.

**TYPE OF VALUE OPINION SOUGHT**

The client has requested the property be appraised "As Is". As part of this appraisal, a number of independent investigations and analyses were conducted. In addition to data compiled by Fred H. Beck & Associates, LLC on a regular basis, the investigations undertaken and major data sources used are listed below:

**AREA AND NEIGHBORHOOD ANALYSIS**

An inspection of the surrounding area and neighborhood was conducted on September 25, 2009. Information on the surrounding area was obtained from various publications, our files, and discussions with real estate professionals familiar with the area.

**SITE DESCRIPTION AND ANALYSIS**

The site was inspected on September 25, 2009, at which time photographs were taken. We reviewed site plats provided to us by the owner for the two parcels. We compared the plats with tax records and a legal description, which were researched at the time of inspection.

**SALES COMPARISON APPROACH**

We researched area neighborhood for sales of similar sites that have occurred within the last three years. The same sources utilized in the Area and Neighborhood Analysis was utilized to obtain comparable land sales. We included only the most comparable sales in this report.

**OWNERSHIP AND PROPERTY HISTORY**

According to our research of public records, the subject properties are currently held in the ownership name of ASHLEY RIVER PROPERTIES II, LLC. The current owners acquired the properties on July 24, 2003 from RIPLEY LIGHT DEVELOPMENT, LLC. This transaction is recorded in Deed Book E480, Page 16 of the Charleston County RMC office. The transaction was between related parties. We are unaware of any other transfers of ownership within the previous three years. To the best of our knowledge, the subject properties are not currently

under contract. At the time of inspection, the two parcels were vacant land and were being used for overflow parking for the adjacent Ripley Yacht Club Marina which ASHLEY RIVER PROPERTIES II, LLC also own.

We learned that there were eleven pre-sold condominium units ranging from \$1,650,000 to \$2,000,000. Since the presales, the market began to retract in 2006 for condominium units in Charleston and subsequently, the owners decided not to go forward with plans to develop the condominium units at the present time.

**EXTRAORDINARY ASSUMPTIONS**

Please refer to the typical Assumptions and Limiting Conditions in the Addenda for further clarification of the conditions significant to this assignment.

**HYPOTHETICAL CONDITIONS**

There are no hypothetical conditions in this assignment.

**SUPPLEMENTAL STANDARDS**

Our firm has an executed engagement letter from the client, a copy of which is provided in the addenda of this report.

**JURISDICTIONAL EXCEPTIONS**

There are no jurisdictional exceptions in this assignment.

## MARKETING TIME AND EXPOSURE TIME

Our marketability analysis will focus on the estimated time the subject site would be on the market to secure a sales contract. The subject property consists of two contiguous vacant parcels containing 1.45 net acres and 2.28 net acres, respectively. The most likely purchaser would be either an owner-user or a land developer, both of whom would most likely seek to improve the property with a high density residential condominium development or luxury hotel development.

Several sources of information were reviewed in order to determine a typical marketing time for the property. The sources considered were real estate brokers familiar with selling residential condominium land, and national investor survey data. The brokers we interviewed are active in selling properties in this part of Charleston. The consensus was a marketing time of twelve to eighteen months to dispose of the subject property. Pricing would be based primarily on a sales comparison approach. Additionally we are required to identify the exposure time associated with the estimated value. Exposure time, unlike marketing time, is considered to immediately preceding the effective date of the appraisal. Exposure time may be defined as follows:

"The estimated length of time 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; a retrospective estimate based upon an analysis of past events assuming a competitive and open market."<sup>4</sup>

We are of the opinion that the above discussion relative to the marketing expectation is also applicable to market conditions immediately preceding the date of this appraisal, and therefore, estimate an exposure time of twelve to eighteen months for the fee simple interest. Based on conversations with commercial real estate brokers typical sales costs on properties such as the subject would be approximately three to five percent.

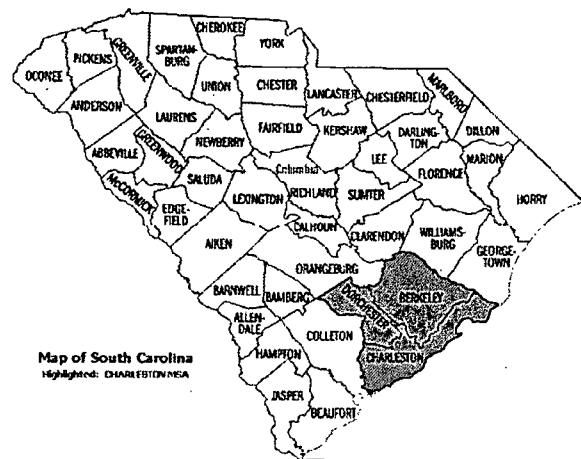
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<sup>4</sup>Uniform Standards of Professional Appraisal Practice (Washington D.C.: The Appraisal Foundation, 1996), p 75.

## **METROPOLITAN PROFILE**

### **CHARLESTON METROPOLITAN REGION**

The constantly changing nature of economic relationships within a given area, as shaped by the forces controlling future growth and development, will have a direct bearing on the whole spectrum of economic activity, including the long term value of real estate investments. The purpose of this section of the report is to isolate and examine those economic trends and forces prevalent in the Charleston market that influence and create value. Since real estate is an immobile asset, the economic trends and forces that affect the subject's quality of location in relation to other competing facilities within its market area, are to be fully evaluated. Past and probable future trends affecting the economic structure of the market area are studied, including the analysis of foreseeable changes.



#### **LOCATION**

The Charleston Trident Metropolitan Region is comprised of Berkeley, Charleston and Dorchester Counties. The Trident area stretches along the central and southern South Carolina coast with 90 miles of Atlantic coastline in an inland depth that extends 50 miles inland. The Trident area consists of approximately 26 incorporated communities ranging in population from 88 (Jamestown) to nearly 98,000 (Charleston). The Trident metropolitan area contains approximately 3,163 square miles. This area is primarily influenced by four major economic sectors - the Military, the Port of Charleston, the visitor industry and the medical community.

Charleston has long been an important seaport in the center of a rich agricultural region. It is also a nationally known resort and convention city. Progress has been made in recent years in industrial development due to the sea port facilities and the favorable business climate. The following are two examples of the increasing economic development of the Trident area.

- Charleston is home to the largest containerized port on the Southeast and Gulf coasts, second only to the combined ports of New York and New Jersey.
- Seventeen International operate in the Trident region and produce more than 25 percent of the manufacturing jobs in the region.

The impact of the closing of the Charleston Naval Shipyard, which was accepted by Congress in 1993, led to some economic uncertainty. The base was physically closed in October 1995 and completely closed in April 1996. The impact of the shipyard closure will be addressed in detail later in this section. Charleston is the largest business and financial center for southeastern section of South Carolina. The economy of the tri-county area has expanded steadily over the past couple of years. Manufacturing, the military, the State Ports Authority, and tourism combined to enhance the Trident area's economy.

More than eight million tons of cargo passes through the Port of Charleston each year. As the largest containerized cargo port on the Southeast Atlantic and Gulf coasts and the seventh largest nationwide, the port annually handles over 6.8 million tons of cargo and employs an estimated 17,000 people. Confidence in the port's expanding future is evident in BMW Corporation's decision to import/export from these docks. The Port of Charleston is expected to be a cornerstone of the Trident area's economic growth.

#### POPULATION TRENDS AND PROJECTIONS

The Trident area has seen steady population growth over the past seventeen years. Please refer to the chart below for population statistics for the City of Charleston, Charleston County, and the Charleston MSA.

| AREA POPULATION STATISTICS |                |                |                         |                  |                         |                    |                         |
|----------------------------|----------------|----------------|-------------------------|------------------|-------------------------|--------------------|-------------------------|
| Area                       | Census<br>1990 | Census<br>2000 | Annual Chg<br>1990-2000 | Estimate<br>2009 | Annual Chg<br>2000-2009 | Projection<br>2014 | Annual Chg<br>2008-2014 |
| City of Charleston         | 96,102         | 96,650         | 0.1%                    | 106,890          | 1.1%                    | 112,858            | 1.1%                    |
| Charleston County          | 295,039        | 309,969        | 0.5%                    | 336,819          | 0.9%                    | 353,151            | 1.0%                    |
| Charleston MSA             | 506,875        | 549,033        | 0.8%                    | 617,882          | 1.3%                    | 662,617            | 1.4%                    |

Source: Claritas, Inc.

The City of Charleston has experienced very slight growth since 1990 through 2000 which continued with a slightly higher growth factor of 1.1% for the period 2000-2009.

This growth factor is also projected for the years 2009 through 2014. Charleston County and the Charleston MSA have experienced similar type growth rates over the past two decades and are projected to have similar growth rates as the city through the year 2014. The historical and projected household statistics for Charleston, Charleston County, and Charleston MSA are presented in the following table:

| AREA HOUSEHOLD STATISTICS |                |                |                         |                  |                         |                    |                         |
|---------------------------|----------------|----------------|-------------------------|------------------|-------------------------|--------------------|-------------------------|
| Area                      | Census<br>1990 | Census<br>2000 | Annual Chg<br>1990-2000 | Estimate<br>2009 | Annual Chg<br>2000-2009 | Projection<br>2014 | Annual Chg<br>2008-2014 |
| City of Charleston        | 36,669         | 40,791         | 1.1%                    | 46,649           | 1.5%                    | 49,831             | 1.3%                    |
| Charleston County         | 107,069        | 123,326        | 1.4%                    | 139,777          | 1.4%                    | 150,738            | 1.5%                    |
| Charleston MSA            | 177,668        | 207,957        | 1.6%                    | 243,772          | 1.8%                    | 267,730            | 1.9%                    |

Source: Claritas, Inc.

The household statistics are basically similar to and mirror the population growth figures for the City of Charleston, Charleston County and the Charleston MSA.

#### AREA INCOME STATISTICS

The Trident area has seen steady income growth over the past five years. Please refer to the chart below for the 2009 income statistics for comparisons of the City of Charleston, Charleston County, and the Charleston MSA.

| 2009 INCOME STATISTICS |                      |                     |               |
|------------------------|----------------------|---------------------|---------------|
| Area                   | Average<br>Household | Median<br>Household | Per<br>Capita |
| City of Charleston     | \$64,432             | \$44,520            | \$28,518      |
| Charleston County      | \$66,857             | \$47,558            | \$27,905      |
| Charleston MSA         | \$64,628             | \$49,370            | \$25,566      |

**MAJOR EMPLOYERS**

The 25 largest employers in the Charleston MSA are detailed in the following table:

| <b>LARGEST EMPLOYERS CHARLESTON MSA</b>         |                                             |           |
|-------------------------------------------------|---------------------------------------------|-----------|
| Company                                         | Product/Service                             | Employees |
| US Navy                                         | Various Naval Commands                      | 16,219    |
| Medical University of South Carolina            | Healthcare                                  | 8,200     |
| Charleston Airforce Base                        | United States Air Force                     | 5,594     |
| Charleston County School District               | Primary & Secondary Education               | 5,000     |
| Roper St. Francis Healthcare                    | Healthcare                                  | 4,000     |
| Berkeley County School District                 | Primary & Secondary Education               | 3,414     |
| Piggly Wiggly Carolina Co. Inc.                 | Grocery headquarters & 23 area stores       | 2,500     |
| Charleston County                               | County Government                           | 2,243     |
| Robert Bosch Corporation                        | Fuel Injection & braking systems            | 2,243     |
| Wal Mart Stores                                 | Retail general merchandise (8 area stores)  | 2,153     |
| Trident Health System                           | Trident and Summerville Medical Centers     | 2,082     |
| Dorchester County School District II            | Primary & Secondary Education               | 2,000     |
| Santee Cooper                                   | Electric Utility                            | 1,725     |
| Mead Westvaco                                   | Specialty paper, packaging, chemicals, etc. | 1,596     |
| City of Charleston                              | Municipal government                        | 1,470     |
| Bi-Lo Inc.                                      | 15 area grocery stores                      | 1,300     |
| U.S. Postal Service                             | Postal Service                              | 1,200     |
| R.H. Johnson Dept. of Veterans Affairs Hospital | Healthcare                                  | 1,100     |
| Cummins Engine Divisions & Joint Ventures       | Automotive products                         | 1,062     |
| OSI                                             | Billing & accounts receivable services      | 1,000     |
| SCANA/SC Electric & Gas Company                 | Electric & gas utility                      | 1,000     |
| College of Charleston                           | Post secondary education                    | 990       |
| City of North Charleston                        | Municipal government                        | 850       |
| Nucor Steel                                     | Steel roll and beam manufacturing complex   | 831       |
| Berkeley County                                 | County Government                           | 750       |

Source: Charleston County Chamber of Commerce

The four largest employers in the Charleston region are the US Navy, The Medical University of SC, The U.S. Air Force, and The Charleston County School District. Historically, Charleston's largest employer has been the United States Navy; however, this changed with the 1993 announcement that the Charleston Naval Base and Shipyard would be closed, resulting in the imminent loss of 33,000 active, civilian and contract military jobs. The payroll for the armed forces community in the Trident area is \$1 billion dollars. In the last five years, total Navy employment has declined by 41 percent. From 1991-1993, Navy employment declined by 9,000. By phasing the jobs out gradually and not all at one time, the damage to the employment base and the overall economy was greatly reduced. It has been estimated that 21,000 jobs have been lost in the past 6 years.

The Building Economics Solutions Together committee (BEST) was formed to pursue alternative uses for the Charleston Naval Base in the areas of job creation and business development. The naval base and shipyard contain 2.3 million square feet of industrial space, 1.8 million square feet of warehouse space, and 2.2 million square feet of office space. The success of the committee's efforts to find an alternative use for the naval base

can considerably lessen the base closure's impact on the Trident area economy. It has been learned that the Naval Electronics Systems Engineering Center (NAVALEX) facility will not be closed, and will undergo expansion. The three Naval Electronic Divisions are being consolidated to form the new NISE East Complex. The Charleston Naval Weapons Station will also remain in operation and a new army depot will replace POMFLANT. Other military users in the Trident area include the United States Air Force and the Coast Guard, which have major bases in the area, and are not being phased out.

One of the largest industries in the Trident area is tourism, which attracts over 3,700,000 visitors annually. The total estimated annual impact of the visitor industry is over \$3.2 billion, providing around 34,000 jobs. Popular visitor attractions in the Trident area include the Maritime Museum at Patriot's Point, which features the aircraft carrier, Yorktown. Other sites include Fort Sumter, Charlestown Landing, as well as the downtown market area. An event in the area that attracts visitors is the Spoleto Festival, a three-week festival at the end of May and the beginning of June. The Spoleto Festival has been held in Charleston since 1977 and is a nationally recognized festival of the performing arts. Charleston has both a Spring Festival of House and Gardens and a Fall Tour of Homes. Both of these events are a month long and offer tours of antebellum homes not normally open to the public. Another major event is the Southeastern Wildlife Exposition, which is considered to be the largest Wildlife exposition in the country. The Wildlife Exposition is held for one weekend in February and attracts over 40,000 visitors.

The largest manufacturers in the Trident area are Westvaco Corporation; The Robert Bosch Corporation; Bayer; Cummins Engine Company, inc.; Alcoa, Mt Holly; and Williams Technologies. This industry, especially defense-related contractors, experienced the negative effects of the Charleston Naval Base closure, as well as reduced military spending; however, after September 11, 2001, military spending has resumed. It should be noted, however, that the Trident Economic Development Authority has reported strong interest from national as well as international manufacturing firms wishing to locate in the Trident area.

**LABOR FORCE**

The chart below illustrates the most recent employment figures for the City of Charleston, Charleston County, Charleston MSA as well as the State and National Unemployment Rates.

| <b>LABOR FORCE STATISTICS</b>         |         |         |         |         |         |         |
|---------------------------------------|---------|---------|---------|---------|---------|---------|
| Annual Average of Year:               | 2004    | 2005    | 2006    | 2007    | 2008    | Jul-09  |
| <b>City of Charleston</b>             |         |         |         |         |         |         |
| Total Civilian Labor Force            | 52,202  | 53,194  | 57,377  | 58,368  | 58,343  | 60,505  |
| Total Employment                      | 49,321  | 50,241  | 54,203  | 55,356  | 54,991  | 54,201  |
| Total Unemployment                    | 2,883   | 2,953   | 3,174   | 3,012   | 3,352   | 6,304   |
| Unemployment Rate                     | 5.5%    | 5.6%    | 5.5%    | 5.1%    | 5.7%    | 10.4%   |
| <b>Charleston County</b>              |         |         |         |         |         |         |
| Total Civilian Labor Force            | 165,081 | 168,190 | 172,913 | 176,205 | 176,873 | 182,514 |
| Total Employment                      | 156,191 | 159,084 | 164,178 | 167,671 | 167,505 | 165,100 |
| Total Unemployment                    | 8,890   | 9,106   | 8,735   | 8,534   | 9,368   | 17,414  |
| Unemployment Rate                     | 5.4%    | 5.4%    | 5.1%    | 4.8%    | 5.3%    | 9.5%    |
| <b>Charleston MSA</b>                 |         |         |         |         |         |         |
| Total Civilian Labor Force            | 288,815 | 297,228 | 306,292 | 312,168 | 320,000 | 331,738 |
| Total Employment                      | 273,340 | 281,301 | 290,308 | 296,485 | 302,080 | 297,742 |
| Total Unemployment                    | 15,475  | 15,927  | 15,984  | 15,683  | 17,920  | 33,996  |
| Unemployment Rate                     | 5.4%    | 5.4%    | 5.2%    | 5.0%    | 5.6%    | 10.2%   |
| <b>State and National Rates</b>       |         |         |         |         |         |         |
| South Carolina                        | 6.4%    | 5.5%    | 5.2%    | 4.8%    | 6.9%    | 11.8%   |
| United States                         | 6.0%    | 5.5%    | 5.1%    | 4.6%    | 7.2%    | 9.4%    |
| Source: US Bureau of Labor Statistics |         |         |         |         |         |         |

The following chart illustrates the employment sector breakdown in Charleston, Charleston County and the Charleston MSA:

| ESTIMATED 2009 EMPLOYMENT STATISTICS          |                    |         |         |         |         |         |
|-----------------------------------------------|--------------------|---------|---------|---------|---------|---------|
| Description                                   | City of Charleston |         | County  |         | MSA     |         |
|                                               | Total              | % Total | Total   | % Total | Total   | % Total |
| <b>OVERALL CLASSIFICATION</b>                 |                    |         |         |         |         |         |
| For Profit Private Workers                    | 33,418             | 66.0%   | 109,443 | 67.5%   | 208,567 | 69.2%   |
| Non-Profit Private Workers                    | 3,146              | 6.2%    | 8,529   | 5.3%    | 13,912  | 4.6%    |
| Local Government Workers                      | 3,332              | 6.6%    | 10,073  | 6.2%    | 19,017  | 6.3%    |
| State Government Workers                      | 6,051              | 11.9%   | 16,084  | 9.9%    | 27,077  | 9.0%    |
| Federal Government Workers                    | 1,569              | 3.1%    | 6,566   | 4.1%    | 13,895  | 4.6%    |
| Self-Employed Workers                         | 3,022              | 6.0%    | 10,782  | 6.7%    | 17,893  | 5.9%    |
| Unpaid Family Workers                         | 127                | 0.3%    | 563     | 0.3%    | 848     | 0.3%    |
| Total Employment                              | 50,655             | 100.0%  | 162,040 | 100.0%  | 301,209 | 100.0%  |
| <b>INDUSTRY CLASSIFICATION</b>                |                    |         |         |         |         |         |
| Management, Business, & Financial Operations  | 6,978              | 13.8%   | 21,794  | 13.4%   | 37,127  | 12.3%   |
| Professional and Related Occupations          | 13,859             | 27.4%   | 37,631  | 23.2%   | 62,333  | 20.7%   |
| Service Industries                            | 9,569              | 18.9%   | 28,563  | 17.6%   | 47,808  | 15.9%   |
| Sales and Office                              | 12,901             | 25.5%   | 42,212  | 26.1%   | 79,078  | 26.3%   |
| Farming, Fishing, and Forestry                | 224                | 0.4%    | 713     | 0.4%    | 1,334   | 0.4%    |
| Construction, Extraction, and Maintenance     | 3,338              | 6.6%    | 15,110  | 9.3%    | 33,986  | 11.3%   |
| Production, Transportation, & Material Moving | 3,796              | 7.5%    | 16,017  | 9.9%    | 39,543  | 13.1%   |
| Total Employment                              | 50,655             | 100.0%  | 162,040 | 100.0%  | 301,209 | 100.0%  |

Source: Claritas, Inc.

### TRANSPORTATION

The Charleston International Airport currently serves over 1.4 million passengers annually, with seven major airlines offering over 90 flights per day to national and international destinations. The major airlines serving the airport include Continental, Delta, USAir, and Midway. The Trident area has six private airports in addition to the international airport, to accommodate both corporate and private aircraft. There are approximately 100 motor freight carriers serving the Trident area. Also serving the Trident region is the Norfolk Southern, the CSX system, as well as the South Carolina Railroad Commission. The interstate highways serving the Trident area are Interstate 26, which is an east/west interstate which intersects with Interstate 95 (a north/south interstate) about 50 miles northwest of Charleston. Interstate 26 also intersects Interstate 77 (a north/south interstate) in Columbia, South Carolina. In addition to Interstate service, five major U.S. highways and eleven major state highways also serve this area. Forming a semi-circle across the region is Interstate 526, the Mark Clark Expressway, which is a 19-mile freeway connecting Mt. Pleasant, North Charleston, and the West Ashley area of Charleston.

### TOURISM

Tourism is the second largest industry in the Trident area, attracting around 4,000,000 visitors annually and pumping an estimated \$3.7 billion into the local economy. Charleston

promotes itself as "America's Most Historical City" and attracts affluent tourists who appreciate the historic architecture and character of the downtown area. Charleston consistently ranks in the top 10 most popular tourist destinations in the United States, and in the top 20 in the world. Charleston has a wide array of hotels, motels, and inns for the pleasure and business traveler. The average daily rate increased significantly in 1998, from \$88.65 to \$93.95. The hotel occupancy rate for 1998 was 71.1%, up from 70.1% in 1997. Primary visitor attractions in the Charleston area include Fort Sumter, Charlestowne Landing, and the Maritime Museum at Patriot's Point which features the aircraft carrier Yorktown, which is the state's number one paid destination for tourists. Since 1977, Charleston has been the home to Spoleto Festival USA. The success of this three-week festival held in May/June has established Charleston as the site of the nation's premiere festival of performing arts. The Southeastern Wildlife Exposition, held in February, is the largest wildlife art exposition in the country and is the busiest tourist weekend of the year with over 40,000 upscale visitors attracted annually.

#### **SHIPPING**

The Port of Charleston is the largest containerized port on the South Atlantic and Gulf Coasts and is second only to the combined ports of New York and New Jersey on the entire east coast. According to port officials, over 12.6 million tons of cargo was handled through Charleston's terminals in 1998. This was more than a 14% increase from the 11 million ton total for 1996. A recent study estimates there are over 14,000 port related jobs in the Trident region generating over \$1 billion annually in the local economy. The Port has four inter-modal facilities, which handle container, bulk, and break-bulk cargo. These facilities have been operating at capacity levels, which have resulted in relatively flat tonnage growth. The Port spent \$100 million in 1994 to expand the Wando Terminal facility in Mount Pleasant. This expansion helped solve the existing capacity problem at the other terminals. In addition, the Port is proceeding with its plans to construct a new container terminal facility opposite the naval base on Daniel Island. These expansion plans will allow the Port of Charleston to continue to grow and compete effectively with other ports.

#### **HEALTH CARE**

With a combined employment of nearly 16,000 and an economic impact in excess of \$1 billion annually, the regions' hospital and health care community are of increasing importance to the area's overall economy. There are 10 full service hospitals with a total of 2,161 beds in the Trident region. Two new hospitals were built in Charleston during the 1990s. St. Francis Hospital opened a 160 bed full service hospital in West Ashley in December 1996, and Roper Hospital opened the Roper North in West Ashley in the summer of 1995, offering emergency and outpatient services with 104 beds. Additional medical services for the area are provided by the Ronald McDonald House, several nursing homes,

convalescent homes, children's hospitals, psychiatric hospitals, and a private alcoholism/drug dependency treatment facility.

### **COLLEGES AND SCHOOL SYSTEM**

The Trident area has an excellent array of public/private schools, colleges, and universities. There are four colleges/universities, a medical university, a culinary arts college, two technical colleges, a good public school system, and 25 private and parochial schools. The College of Charleston is a four-year, state-assisted, liberal arts institution offering 34 undergraduate degree programs. In conjunction with the college, the University of Charleston offers 10 graduate degree programs. The College of Charleston was founded in 1770, and is the oldest institution of higher learning in South Carolina and the 13th oldest in the nation. The Citadel, founded in 1842, is a state-assisted military college which until recently was all male. The Citadel philosophy combines classroom requirements with a military environment, which emphasizes discipline, responsiveness and leadership. Charleston Southern University opened in 1964 as the only church-affiliated college in the area. Today it is the second largest private university in the state, with 28 undergraduate degrees along with masters in business administration, education, and teaching. The Medical University of South Carolina (MUSC) is the oldest medical school in the South, and forms the core of the state's largest medical complex. Established in 1824, it is located in historic downtown Charleston. Trident Technical College is a public two-year institution founded in 1964 to provide accessible, practical, high-quality education. The college emphasizes practical, marketable job skills through comprehensive and updated technical programs. Other colleges and universities in the Charleston area include Johnson and Wales Culinary University, Webster University and Limestone College.

### **GOVERNMENT SERVICES**

Management of local government varies between city and county governments in the Trident area. Charleston County has a county-administrator form of government. The City of Charleston is governed by an elected mayor and 12 city council members. Municipal water and sewer is provided by the Commissioners of Public Works of the City of Charleston. Both the water and sewer systems are modern and have been adequately planned for expansion. South Carolina Electric and Gas Company provide the electricity and natural gas for the majority of Charleston County and Southern Bell provides the primary telephone service. Their rates are competitive compared to other cities in the state. The Trident area's various municipalities have zoning departments, land use plans, and building codes, which govern how a property can be developed. These controls have created a general conformity of development in the Trident area.

**DISTANCE TO MAJOR CITIES**

| City, State    | Distance  |
|----------------|-----------|
| Atlanta, GA    | 291 miles |
| Chicago, IL    | 906 miles |
| Miami, FL      | 590 miles |
| New York, NY   | 768 miles |
| Washington, DC | 532 miles |

**CONCLUSION**

The social, economic, governmental, and environmental forces that influence real estate values appear to be in balance in the Trident area. Despite the closure of the Charleston Naval Base and Shipyard in 1996 and the subsequent BRAC re-alignments of 2005, the Charleston area has and continues to show signs of improvement. The expansion of the port is likely to create a significant number of new jobs during the next several years as more and more companies relocate to Charleston. Because the region is not dependent on any one single industry or business sector, the area is poised to weather the latest economic downturn much better than other areas dominated by one particular industry. The anticipated growth in population, increased tourism, and expanded port operations should lessen the economic repercussions of the recession.

## DESCRIPTION OF THE NEIGHBORHOOD

### DEFINITION

Within a community, there is a marked tendency toward the grouping of land uses. The areas devoted to these various uses are termed "physical neighborhoods". Neighborhood use in this context is further defined as follows:

"A portion of a larger community, or an entire community, in which there is a homogenous grouping of inhabitants, buildings or business enterprises. Inhabitants of a neighborhood usually have a more than casual community of interests and a similarity of economic level or cultural background. Neighborhood boundaries may consist of well defined, natural or man-made barriers or they may be, more or less, well defined by distinct change in land use or in the character of the inhabitants."

### LOCATION/BOUNDARIES

The subject neighborhood is situated along the Ashley River to the west of downtown Charleston. The subject is less than 1 mile west of the Central Business District and main attractions of Charleston. For purposes of this analysis, neighborhood boundaries include US Highway 17 to the north; the Intracoastal Waterway to the south; the Ashley River to the east; and State Highway 171 to the west. For further information and an understanding of the neighborhood boundaries, please refer to the maps included in this report.

### LAND USE PATTERNS

The land use patterns within the neighborhood consist of residential, commercial and recreational uses. The subject property is part of a larger planned development that includes an existing 87-wet slip private marina (Ripley Light Yacht Club). While land uses differ, we believe they are complementary of the area and buffered by natural land breaks. Commercial development includes the following:

| <b>Albemarle Road</b>                                  | <b>Ashley Point Road</b>                                                              | <b>Ripley Point Drive</b>                                 |
|--------------------------------------------------------|---------------------------------------------------------------------------------------|-----------------------------------------------------------|
| Porter Gaud School<br>Surgical Associates<br>Golds Gym | California Dreaming Restaurant<br>LaQuinta Hotel<br>Ripley Light Marina & Dry Storage | Springhill Suites<br>Residence Inn<br>Vue at Ripley Point |

### ACCESS/TRAFFIC CORRIDORS

Primarily access into the community is via US Highway 17, a four-lane highway, which runs in a north/south direction and provides the neighborhood with access to the central business district and main attractions of Charleston to the northeast and State Route 30 which provides access to James Island to the south.

**UTILITIES**

The subject neighborhood is situated in an area served by the Charleston City Utilities Department. Our conversations with representatives of this agency indicate that the neighborhood is served by public water and sewer service.

**ZONING**

Zoning in the neighborhood is under the jurisdiction of the City of Charleston. The primary zoning is GB-A – General Business - Accommodations District. The specifics of the GB-A District are discussed later in this report.

**ENVIRONMENTAL CHARACTERISTICS**

The primary environmental characteristics to be considered are any nuisances or hazards as a result of the land uses within the subject neighborhood. At the time of inspection no nuisances or hazards were noted.

**DEMOGRAPHICS**

Population growth and new household formations have been on a downward trend within the subject neighborhood, but on the rise in the three- and five-mile radii. Selected neighborhood demographics in a one-, three-, and five-mile radii from the subject are shown in the table below:

| <b>SELECTED NEIGHBORHOOD DEMOGRAPHICS</b> |               |                |                |
|-------------------------------------------|---------------|----------------|----------------|
| <b>Radius (miles)</b>                     | <b>1 Mile</b> | <b>3 Miles</b> | <b>5 Miles</b> |
| <b>Population</b>                         |               |                |                |
| 2014 Projection                           | 2,620         | 65,711         | 120,561        |
| 2009 Estimate                             | 2,622         | 64,228         | 117,447        |
| 2000 Census                               | 2,552         | 62,859         | 113,599        |
| % Change (2000-2009)                      | 2.74%         | 2.18%          | 3.39%          |
| % Change (2009-2014)                      | -0.08%        | 2.31%          | 2.65%          |
| <b>Households</b>                         |               |                |                |
| 2014 Projection                           | 1,293         | 29,610         | 53,349         |
| 2009 Estimate                             | 1,280         | 28,482         | 51,155         |
| 2000 Census                               | 1,203         | 26,723         | 47,427         |
| % Change (2000-2009)                      | 6.40%         | 6.58%          | 7.86%          |
| % Change (2009-2014)                      | 1.02%         | 3.96%          | 4.29%          |
| <b>Additional Demographics</b>            |               |                |                |
| 2009 Est. Average Household Income        | \$77,898      | \$59,463       | \$62,217       |
| 2009 Est. Median Household Income         | \$51,166      | \$37,803       | \$43,351       |
| 2009 Est. Per Capita Income               | \$38,147      | \$26,863       | \$27,553       |
| 2009 Est. Median Home Value               | \$356,429     | \$246,604      | \$227,326      |
| 2009 Est. College Graduates               | 58.7%         | 42.5%          | 41.1%          |
| Source: Claritas, Inc.                    |               |                |                |

As the chart above indicates, population and households are projected to decrease with the one mile radius of the property in the next five years.

#### **SUMMARY**

The subject neighborhood is situated just west of Charleston's central business district and main attractions, where demographic and economic characteristics favor a developing area. Strong employment figures in the region, a good transportation network and a traditionally strong real estate market for residential development suggests that the subject neighborhood will continue to be a desirable location once current economic conditions improve. In considering the four life cycles that neighborhoods generally have (growth, stability, decline and revitalization), the neighborhood is considered to be in the **stable** stage. In the past, the area has continued to have increasing property values due to the location of the neighborhood. However, the downturn in the economy and the real estate market conditions that started in early 2007 have continued to this date and have exerted downward pressure on all types of real estate and their values. These downward trends are projected to further slightly decline through the end of 2009 and then are projected to begin to rebound in late 2010 with continued recovery projected through the remainder of 2010 and beyond. During the projected rebounding/recovery periods of 2009 and 2010 and beyond, we are of the opinion that the real estate values will begin to increase in value in correlation with the recovery.

## **SITE DESCRIPTION**

### **INTRODUCTION**

For presentation purposes, we will analyze the two vacant parcels separately since they have varying size characteristics. The parcels will be identified as Parcel A and Parcel B. Plat maps are provided in the Addenda.

### **PARCEL A**

Parcel A contains 2.28 net acres and is located nearest the corner of Ripley Point Drive and SC Highway 61. This property has 175.85 linear feet of road frontage on Highway 61 and 631.93 linear feet of road frontage on Ripley Point Drive. The property also has 606.10 linear feet of frontage on its' southerly boundary line. This property does not have significant frontage on the canal which is used by the marina, but does have some canal views to the southeast.

This parcel is rectangular in shape and has a level topography. We reviewed the Federal Emergency Management Agency's Flood Insurance Rate Map Community Panel Numbers 45019C0514 J, revised November 17, 2004. According to this source, the subject property appears to be located in Zones AE & VE Elevation 13, A7 Elevation 14, and Velocity Level V7 Elevation 14.

We have performed neither soil nor subsoil analyses; therefore, no warranty should be assumed by the reader as to the suitability of the soil for proposed or existing development. A Phase I Environmental Site Assessment (ESA) prepared by Albrecht Environmental, Inc., dated April 13, 2004 reviewed was reviewed. The Phase I ESA revealed no adverse environmental or soil conditions. During the inspection, we conducted a visual survey of the subject property for environmental hazards, at which time no obvious environmental hazards were noted. However, due to the fact that we are not soil scientists, the values rendered herein are predicated upon the assumption that no adverse soil conditions exist, and should further testing prove otherwise, we reserve the right to amend those values.

Parcel A is zoned GB-A by the City of Charleston Zoning Ordinance. Easements affecting the property include typical utility easements granted to public utilities and municipalities for service lines. We are not aware of any other legal constraints that would be detrimental to the site's value or marketability. As of the date of inspection, the property had access to all available public utilities. The utilities are considered adequate to serve the subject site.

**PARCEL B**

Parcel B contains 1.45 net acres of land area and is located east of Parcel A. Parcel B shares a boundary line with Parcel A, a distance of 141.72 linear feet. This parcel is not visible from SC Highway 61. The property is bounded to the south by the canal that serves Ripley Light Yacht Club Marina and has 424.49 linear feet on the canal. The northern boundary is the right-of-way of Ripley Point Drive and the subject parcel has 464.13 linear feet on this roadway. This parcel also abuts the land utilized as Ripley Point Yacht Club Marina a distance of 60.84 linear feet. The property has significant immediate views of the canal and marina, and beyond the marina, the waters of the Ashley River, the James Island Connector Bridge and to a lesser extent, Charleston Harbor.

This parcel has an irregular shape, is somewhat rectangular and has a level topography. We reviewed the Federal Emergency Management Agency's Flood Insurance Rate Map Community Panel Numbers 45019C0514 J, revised November 17, 2004. According to this source, the subject property appears to be located in Zones AE & VE Elevation 13, A7 Elevation 14, and Velocity Level V7 Elevation 14.

We have performed neither soil nor subsoil analyses; therefore, no warranty should be assumed by the reader as to the suitability of the soil for proposed or existing development. A Phase I Environmental Site Assessment (ESA) prepared by Albrecht Environmental, Inc., dated April 13, 2004 reviewed was reviewed. The Phase I ESA revealed no adverse environmental or soil conditions. During the inspection, we conducted a visual survey of the subject property for environmental hazards, at which time no obvious environmental hazards were noted. However, due to the fact that we are not soil scientists, the values rendered herein are predicated upon the assumption that no adverse soil conditions exist, and should further testing prove otherwise, we reserve the right to amend those values.

Parcel B is zoned GB-A by the City of Charleston Zoning Ordinance. Easements affecting the property include typical utility easements granted to public utilities and municipalities for service lines. We are not aware of any other legal constraints that would be detrimental to the site's value or marketability. As of the date of inspection, the property had access to all available public and private utilities lines. The utilities are considered adequate to serve the subject site.

**SUMMARY**

The subject parcels are well suited for development. They are centrally located and immediately convenient to Ripley Light Yacht Club Marina, as well as entertainment venues, shopping, local hospitals, schools and numerous places of employment. Access to all of these areas is less than five miles. There are no known detrimental uses in the immediate vicinity. It is our opinion that the parcels do not have any characteristics that would impede its development potential to its highest and best use, as if vacant. Based on our inspection, the parcels comprising the subject property are functionally adequate in each of the categories discussed above.

## ASSESSMENTS AND TAXES

The real estate tax rates for Charleston County are determined separately by the different city and county governments. These rates are based on 6% of the market value as of the date of assessment. By law, countywide reassessments in South Carolina must occur every five years with the last revaluation becoming effective January 1, 2005. According to Mr. Russ Campbell, Deputy Auditor for Charleston County, the subject parcels are part of property that is presently a part of land covered in a "Multi-County Park" agreement. Ad Valorem taxes are assessed and collected as with any real property, however the distribution of such revenues is shared between Charleston County, Colleton County and the Charleston County Economic Development Department.

The 2008 tax rate for tax district 63 is 256.1 mills. Properties within the subject's tax district are provided two tax discounts, which reduce the total tax burden; these discounts are as follows:

- 2008 County Government Tax Credit in the amount of 0.00086% Market Value
- 2008 City of Charleston Tax Credit in the amount of 0.00080% Market Value

The 2009 millage rates had not been released as of the date of this appraisal. These are typically finalized in September or October of each year. According to the county tax office, the subject parcels identified in this report are tax map reference number 421-11-00-054 (Parcel A of 2.28 net acres), and 421-11-00-274 (Parcel B of 1.45 net acres). All totaled, the parcels comprise 3.73 acres of land area. Based on the above information, the projected tax burden 'As Is' for the subject in the coming year, is estimated as follows:

### TAX BURDEN - "AS IS"

| Site Values                 |                    |
|-----------------------------|--------------------|
| Parcel A #421-11-00-054     | \$853,000          |
| Parcel B #421-11-00-274     | \$1,201,083        |
| <b>TOTAL TAX VALUE</b>      | <b>\$2,054,083</b> |
| Assessment Ratio            | 6%                 |
| Assessment                  | \$123,245          |
| Millage Rate (2008)         | 0.2561             |
| Tax Burden Prior to Credits | \$31,563           |
| Less: County Tax Credit     | (\$1,767)          |
| Less: City Tax Credit       | (\$1,643)          |
| <b>Tax Burden "As Is"</b>   | <b>\$28,153</b>    |

## ZONING/LAND USE CONTROL

The subject property is comprised of two contiguous vacant parcels totaling 3.73 acres. The properties are situated inside the city limits of Charleston and are subject to the City of Charleston Zoning Department Regulations. The properties are zoned **GB-A, General Business - Accommodations District**. According to the Charleston Zoning Ordinance, the intent and permitted uses within this district are as follows:

"The **GB district** is intended to provide for a broad range of commercial uses and activities. It is the most intensive commercial zoning district. Prohibited uses include junk and salvage yards, storage yards (except for vehicles and boats), and warehouses including self-storage mini-warehouses. Automotive repair shops, gasoline service stations, veterinary clinics, and stables are permitted only as special exceptions subject to approval of the Board of Zoning Appeals. Accommodations Overlay Zone is intended to identify those areas within the city limits where hotel, motel and inn accommodation uses, and timesharing uses are allowed. The accommodation uses are prohibited except within the A Overlay Zone."

The present zoning classification allows for different types of commercial and retail use. Residential use is another allowable use. A representative list of permitted and conditional uses is presented here:

| Uses Permitted by Right                   |                               | Conditional Uses              |
|-------------------------------------------|-------------------------------|-------------------------------|
| Horticulture                              | Auto Dealers                  | Amusement Parks               |
| Farming                                   | Department Stores             | Communications Towers         |
| Lawn & Garden Services                    | Lumber dealers                | Day Care Centers              |
| Office                                    | Paint stores                  | Mini-warehouses               |
| Water taxiis                              | Restaurants, bars             | Hotels (In an Accomodations   |
| Marinas                                   | Florists                      | Overlay Zone only)            |
| Freight Offices                           | Laundries                     | <b>Special Exemption Uses</b> |
| Banks                                     | Funeral Homes                 | Auto-repair shops             |
| Security Institutions                     | Bowling Alleys                | Gas Stations                  |
| Cemeteries                                | Dance Studios                 | Stables                       |
| Real Estate Offices                       | Golf Courses                  | Vet Hospitals                 |
| Dormitories                               | Colleges                      | Affordable housing            |
| Mobile Home Dealers                       | Single-Family Detached        |                               |
|                                           | <b>Multi-family Dwellings</b> |                               |
| Source: City of Charleston Municipal Code |                               |                               |

| ZONING SUMMARY                 |                                  |
|--------------------------------|----------------------------------|
| Current Zoning                 | GB-A (Accommodations Overlay)    |
| Legal Use/Conforming           | Legal, conforming                |
| Uses Permitted                 | Single-family, multifamily       |
| Zoning Change                  | Unlikely                         |
| Minimum Lot Size               | 1,650 Sq.Ft.                     |
| Maximum Coverage               | 35%                              |
| Front Setback                  | 3 Feet                           |
| Rear Setback                   | 3 Feet                           |
| Side Yard Setbacks             | 9 Feet (S to W); 3 Feet (N to E) |
| Maximum Height                 | 55 Feet                          |
| Source: Charleston Zoning Code |                                  |

The above chart summary indicates structure limitations and requirements for residential (multi-family) buildings constructed with the GB-A zone. According to Sec. 54-317 of the City of Charleston Zoning Ordinance, multi-family dwellings require a minimum of 1.5 parking spaces per unit. Based on this, the subject (if built to the 80 unit condominium units) will require a total of 120 parking spaces (regular and handicapped).

## HIGHEST AND BEST USE

The highest and best use for real property can be defined as follows:

"The reasonable and probable use that supports the highest present value, as defined, as of the date of the appraisal."

Alternatively, highest and best use is . . .

"The use, from among reasonably probable and legal alternative uses, found to be physically possible, appropriately supported, financially feasible, and that results in the highest present land value."

The first type of highest and best use, highest and best use of land or a site as though vacant, assumes that a parcel of land is vacant or that it can be made vacant through the demolition of any improvements. The question to be answered in this type of analysis is "what use should be made of it?", that is, what type of building or other improvement (if any) should be constructed on the land?

The second type of highest and best use, highest and best use of a property as improved, pertains to the use that should be made of the property as it exists. Should the existing improvements be maintained, renovated, expanded, partially demolished or should it be replaced with a different type use? The purpose of highest and best use analysis is different for each type of highest and best use examined.

For each type of highest and best use, the criterion in a highest and best use study are that the highest and best use must be 1) legally permissible, 2) physically possible, 3) financially feasible, and 4) maximally productive. According to **THE REAL ESTATE APPRAISAL TERMINOLOGY** book, published by the American Institute of Real Estate Appraisers, "...the concept of highest and best use represents the premise upon which value is based." We will examine the highest and best use of the subject on an analysis "As Vacant."

## **AS VACANT**

### **LEGALLY PERMISSIBLE USES**

The first criteria in analyzing the subject property as vacant are the legally permissible uses. The zoning ordinances or deed restrictions typically define legally permissible uses. We have previously stated that the subject property is zoned GB-A District. This district allows for a wide range of permitted uses including residential and accommodations development. Surrounding land uses include commercial and residential development.

### **PHYSICALLY POSSIBLE USES**

The next criterion in determining the highest and best use considers uses that are physically possible. Some uses may be inappropriate due to certain physical characteristics of the site. These conditions are usually concerned with size, shape, egress and ingress, utilities, soil conditions and topography. The subject site is comprised of two contiguous parcels totaling 3.73 acres or 162,479 square feet. The site is served by public utilities and would be considered adequate for any of the legally permitted uses.

### **FINANCIALLY FEASIBLE**

The third criterion for determining the highest and best use of the subject, as vacant, would be what use would bring a positive cash flow to the investor. The primary attribute of the subject is its location in the Ripley Point area, just west of Charleston's attractions and central business district and adjoining Ripley Light Yacht Club Marina. To the north of the subject are higher-end extended stay hotels. Further east, at the end of Ripley Point Road, is the former Crab House Restaurant property which is currently occupied by Vue at Ripley Point restaurant and entertainment venue. The property was originally slated for redevelopment into a luxury condominium development. However, market condition for high-end, luxury residential developments have diminished considerably from the development boom of 2005-2006. While there is very little demand for such a development currently, we anticipate the demand for luxury residential uses will return sometime in the future. The length of time it will take for the economy and residential real estate market to recover is uncertain. Several of the real estate professionals we spoke with whom are very knowledgeable of the local market estimate it could be as long as two years until the market shows signs of substantial recovery. We are of the opinion however that the most financially feasible use would be residential in nature rather than a retail or restaurant use. A luxury residential development would be required in order to generate enough profit to warrant the costs involved in the development of the subject site and the purchase of the land.

**MAXIMALLY PRODUCTIVE**

The fourth criteria analyzes what uses would be maximally productive. After considering the above parameters, we conclude that residential development would maximize the value of the site, as vacant. It would further serve existing uses in the immediate neighborhood, as well as development in surrounding areas. We believe that a mid-rise, luxury residential project will maximize the use of the subject site and bring the highest return to the land. However, as stated previously, the current demand for such a development is not as strong as in recent years. Therefore, we are of the opinion that the highest and best use of the subject would be to hold the property until such a time as demand increases for the development of a luxury condominium development.

## **METHOD OF VALUATION**

The appraisal process typically involves three approaches in determining value, which consists of the Cost Approach, Income Approach and Sales Comparison Approach. A brief description of each technique is as follows:

### **THE COST APPROACH**

An appraisal procedure using depreciated replacement or reproduction costs of improvements plus land value as a basis for estimating market value. The underlying assumption is that an informed purchaser will pay no more than the cost of producing a substitute property with the same utility as the subject property.

### **THE INCOME APPROACH**

An appraisal procedure using capitalization of expected future income as a basis for estimating market value. The underlying assumption is that an informed purchaser will pay no more for the subject property than would have to be paid for another property with an income stream of comparable amount, duration and quality.

### **THE SALES COMPARISON APPROACH**

An appraisal procedure using sale prices of properties similar to the subject property as a basis for estimating market value. The underlying assumption is that an informed purchaser will pay no more for a property than would have to be paid for a similar property of comparable utility.

## **APPRAISAL PROCEDURES**

We have previously stated the subject property is comprised of two contiguous tracts of land. The subject property has been approved for the development of 80 residential condominium units and we will appraise the property as one tract. As such, only the Sales Comparison Approach will be utilized in our analysis. The sales in our analysis are older which reflects the slowdown in the Charleston market for condominium development. The computations that accompany this approach will be outlined on the following pages for the reader's reference.

### **SALES COMPARISON APPROACH TO VALUE**

The Sales Comparison Approach is based on the assumption that an informed purchaser will pay no more for a property than the cost of acquiring an existing property of similar utility. Typically, one would estimate the value of the subject property by comparing the sales prices of recent transactions involving property similar to the subject. Adjustments are made to each sale for dissimilarities as compared to the subject property. These adjustments may include the date of sale, location, age, floor plan, condition, quality, size or external factors that may influence rents or occupancy levels. Typically, the reliability of the sales comparison approach is based on a number of factors such as:

- Availability of comparable sales data.
- Verification of sales data.
- Degree of comparability to the extent that large or numerous adjustments are not necessary to compensate for the differences between the subject property and the comparable sales used.

We have found that the reliability of the sales comparison approach for traditional real estate is excellent when valuing vacant land, single-family homes or small commercial type properties where there is more activity, a larger data base and greater degree of comparability. For more complex and larger investment grade properties such as shopping centers, office buildings, hotels and nursing homes, the required adjustments are often numerous and the degree to which they can be performed without a considerable amount of subjectivity is difficult. As mentioned previously, a number of factors must be verifiable and documented in order to make appropriate adjustments.

- Date of Sale
- Financing Terms and Conditions
- Management Contracts or Service Contracts Involved
- Location
- Amenities
- Income and Expense Data
- Personal Property Included
- Condition
- Appeal

There are obviously other differences that must be adjusted in the marketplace. For the purposes of this report, we analyzed a number of sales. However, we included only those believed most similar to the subject and the unit of comparison considered will be the price paid per acre. The sales occurred between February 2005 and August 2007. These are older sales however there have been very few transactions of waterfront / waterview properties due to the limited amount of land available as well as the current economic conditions. The following sales are offered as an indication of value for the subject property as of the date of this assignment. We have made significant adjustments to these sales.

**LAND SALE 1**

|                                       |                                                                                                                                                                                                                                                                                                                                                |
|---------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| LOCATION                              | Mizzen Mast Drive, off SC Hwy 61 & Ashley Pointe Drive                                                                                                                                                                                                                                                                                         |
| CITY / STATE                          | Charleston, Charleston County, SC                                                                                                                                                                                                                                                                                                              |
| TAX ID#                               | 421-11-00-272                                                                                                                                                                                                                                                                                                                                  |
| GRANTOR                               | Ripley Cove, LLC                                                                                                                                                                                                                                                                                                                               |
| GRANTEE                               | Stonebridge Ashley Pointe, LLC                                                                                                                                                                                                                                                                                                                 |
| DEED REFERENCE                        | A527/646                                                                                                                                                                                                                                                                                                                                       |
| DATE OF SALE                          | February 25, 2005                                                                                                                                                                                                                                                                                                                              |
| SIZE                                  | 1.681 Acres; 73,224 SF                                                                                                                                                                                                                                                                                                                         |
| WATER FRONTAGE                        | Yes - Ripley Pointe                                                                                                                                                                                                                                                                                                                            |
| NUMBER OF UNITS                       | 42                                                                                                                                                                                                                                                                                                                                             |
| TOPOGRAPHY                            | Level                                                                                                                                                                                                                                                                                                                                          |
| UTILITIES                             | All public                                                                                                                                                                                                                                                                                                                                     |
| ZONING                                | GB-A - General Business, Accommodations                                                                                                                                                                                                                                                                                                        |
| IMPROVEMENTS                          | None                                                                                                                                                                                                                                                                                                                                           |
| PRESENT USE                           | Vacant                                                                                                                                                                                                                                                                                                                                         |
| HIGHEST AND BEST USE                  | High Density Residential                                                                                                                                                                                                                                                                                                                       |
| SALES PRICE                           | \$5,150,000                                                                                                                                                                                                                                                                                                                                    |
| TERMS OF SALE                         | Cash to the seller                                                                                                                                                                                                                                                                                                                             |
| ANALYSIS:                             |                                                                                                                                                                                                                                                                                                                                                |
| Price per Acre                        | \$3,063,653                                                                                                                                                                                                                                                                                                                                    |
| Price per Square Foot                 | \$70.33                                                                                                                                                                                                                                                                                                                                        |
| Unadjusted Sale Price / Unit          | \$122,619                                                                                                                                                                                                                                                                                                                                      |
| Average Pre-Construction Price        | \$975,000 estimated                                                                                                                                                                                                                                                                                                                            |
| Land Value as % of Finished Condo:    |                                                                                                                                                                                                                                                                                                                                                |
| \$122,619/\$1,000,000                 | 12.58%                                                                                                                                                                                                                                                                                                                                         |
| Proposed Density 42 Units/1.681 Acres | 24.99 Units per Acre                                                                                                                                                                                                                                                                                                                           |
| Comments                              | Stonebridge Ashley Pointe, LLC bought this site and plans 42 condominiums at this site. The site is located off SC Highway 61, with possible views of the Ashley River. The site is zoned GB - General Business by the City of Charleston and is also in the 50W height district, which restricts building height to 50' above curb elevation. |

**LAND SALE 2**

|                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|----------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| LOCATION                               | West side Lockwood Drive adjacent to The Harborage at Ashley Marina                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| CITY / STATE                           | Peninsular Charleston, Charleston County, SC                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| TAX ID#                                | 460-14-00-021                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| GRANTOR                                | Richard H. Brooks                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| GRANTEE                                | Turtle Bay Investments, LLC                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| DEED REFERENCE                         | D546/486                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| DATE OF SALE                           | July 19, 2005                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| SIZE                                   | 1.713 Acres Highland; 74,618 s.f.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| WATER FRONTAGE                         | Yes - Charleston Harbor                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| TOPOGRAPHY                             | Level                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| UTILITIES                              | All public                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| ZONING                                 | GB-A - General Business, Accommodations                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| IMPROVEMENTS                           | Vacant                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| NUMBER OF UNITS                        | 34                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| PRESENT USE                            | Vacant                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| HIGHEST AND BEST USE                   | High Density Residential                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| SALES PRICE                            | \$7,700,000                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| TERMS OF SALE                          | Cash to the Seller                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| ANALYSIS:                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| Price Per Acre                         | \$4,495,038                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| Price Per Square Foot                  | \$103.19                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| Unadjusted Sale Price / Unit           | \$226,471                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| Average Pre-Construction Price         | \$1,350,000 estimated                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| Land Value as % of Finished Condo:     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| \$226,471/\$1,350,000                  | 16.78%                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| Proposed Density 34 Units / 1.70 Acres | 20 Units/Acre                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| Comments                               | <p>This site was purchased by Turtle Bay Investments, LLC from Richard Brooks. The site is zoned GB, General Business by the City of Charleston and is also in the 35' height district, which restricts building height to 35' above curb elevation. If a property is in a flood zone, then the height restriction may be raised above the 35' height restriction, but no higher than 45'.</p> <p>While the recorded deed states the sales price to be \$4,000,000, the purchaser paid an additional \$3,700,000 for an assignment of the sales contract. Therefore the total consideration paid was \$7,700,000.</p> |

**LAND SALE 3**

|                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| LOCATION                     | 317 Savannah Highway                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| CITY / STATE                 | Charleston, Charleston County, NC                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| TAX ID#                      | 421-07-07-003                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| GRANTOR                      | 317 Savannah Highway, LLC                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| GRANTEE                      | Riverview Ventures, LLC                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| DEED REFERENCE               | R635/404                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| DATE OF SALE                 | August 13, 2007                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| SIZE                         | 0.85 acres; 37,026 s.f.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| FRONTAGE                     | Good along Savannah Highway                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| TOPOGRAPHY                   | Level                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| UTILITIES                    | All public                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| ZONING                       | GB-A - General Business, Accommodations                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| IMPROVEMENTS                 | La Chalet restaurant (vacant)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| PROPOSED USE                 | 150-room hotel                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| HIGHEST AND BEST USE         | Lodging or service use or multi-family                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| SALES PRICE                  | \$1,750,000 which equates to \$2,058,824 per acre                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| TERMS OF SALE                | Cash                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| ANALYSIS:                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| Unadjusted Sale Price / Room | \$11,667                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| Comments                     | <p>This is the sale of a 0.85 acre parcel of land located between the east bound and west bound lanes of Highway 17 (Savannah Highway) near the foot of the Ashley River bridges. It is mostly rectangular in shape and is improved with a 4,350 S.F. dine in restaurant that was long operated as the La Chalet. The business ultimately closed and the building has been vacant over the past several years. The purchase was based on land value.</p> <p>The site is also one of four commercial properties located between the east and west bound lanes of Highway 17. The most notable is the "Round Holiday Inn", which is located adjacent to the property to the east. This is a fourteen story, cylindrical shaped, full service motel that has long been considered one of the City's landmarks.</p> <p>The property is zoned GB-A, and is exempted from the City of Charleston's height ordinance that restricts all structures in the city to no more than 55'. This property has a 100 foot height cap to coincide with the adjacent Holiday Inn. Parking and other physical requirements will still need to meet the site approval process under the GB-A zoning.</p> <p>According to the zoning department, the site has gone before committee on August 28, 2008 for conceptual approval for 150 rooms. The current development plan has 143 parking space on the ground, 75 on the 1st level and 65 on the 2nd level, which is much greater than the 100 required spaces.</p> |

| LAND SALES SUMMARY CHART |         |             |             |             |
|--------------------------|---------|-------------|-------------|-------------|
| Sale Number              | Subject | 1           | 2           | 3           |
| Date of Sale             |         | Feb-05      | Jul-05      | Aug-07      |
| Size in Acres            | 3.7300  | 1.681       | 1.713       | 0.850       |
| Number of Water FF       | 350     | 30          | 300         | 0           |
| Zoning                   | GB-A    | GB-A        | GB-A        | GB-A        |
| Sales Price              |         | \$5,150,000 | \$7,700,000 | \$1,750,000 |
| Sale Price Per Acre      |         | \$3,063,653 | \$4,495,038 | \$2,058,824 |
| Property Rights          |         |             |             |             |
| Financing Terms          |         |             |             |             |
| Conditions of Sale       |         |             |             |             |
| Market Conditions (Time) |         | -50%        | -50%        | -35%        |
| Adjusted Price Per Acre  |         | \$1,531,826 | \$2,247,519 | \$1,338,235 |
| Location                 |         |             | -10%        |             |
| Size/Shape               |         |             |             |             |
| Topography               |         |             |             |             |
| Zoning                   |         |             |             |             |
| Water Frontage Quality   |         | +35%        | +5%         | +50%        |
| Total % Adjustments      |         | +35%        | -5%         | +50%        |
| Adjusted Price Per Acre  |         | \$2,067,965 | \$2,135,143 | \$2,007,353 |

### EXPLANATION OF ADJUSTMENTS

The following are generally accepted adjustment categories. The first four categories - real property rights appraised, financing, conditions of sale, and market conditions (time) are cumulative when the adjustments are percentages. Normally, a sale should first be adjusted for the cumulative adjustment where the remaining adjustments such as location and other physical characteristics are applied. Location, physical characteristics and other adjustments are additive, and may be in any order. An explanation of each adjustment category is as follows:

#### PROPERTY RIGHTS APPRAISED

The real property rights conveyed are the first adjustment. The appraisal of the subject property rights can only be compared to similar property rights. All of the comparable sales are considered to be fee simple transactions and have the same property rights conveyed with the subject, therefore no adjustments were necessary.

### **FINANCING**

A financing adjustment is actually a specific motivation adjustment and often is not capable of being accurately derived from the mathematical discounting process. The most reliable financing adjustment is from paired sales that are generally not available through sales information. Cash equivalency is the adjustment of a sales price to an equivalent price if sold for cash absent the contract terms of the loan. The adjustment may be negative to reflect favorable terms to positive to reflect unfavorable terms. All sales were cash transactions and no adjustments were necessary.

### **CONDITIONS OF SALE (MOTIVATION)**

Typical adjustments under this category include adjustments for plottage, purchasing additional land for expansion, or other typically motivated sales. Each of the sales were transactions where each party was properly motivated and no adjustments were necessary.

### **MARKET CONDITIONS (TIME)**

It is market conditions and not the passage of time that cause prices to change. This is an example of the principle of change. A market conditions adjustment is a cumulative adjustment within the sales comparison approach. The comparable sales occurred between February 2005 and August 2007. We attempted to identify recent land sales which had previously sold during 2005, 2006 or 2007 to determine the average appreciation or depreciation rate of land parcels; however we were unsuccessful in doing so.

Based on our discussions with real estate brokers in the area, we believe that depreciation has taken place. Additionally, it is anticipated that it could take up to 36 months before the market has recovered enough to the point where new high-end residential development is again financially feasible. Even then, pricing for end units will likely be lower than in 2005-2007. We have also taken into account as a purchaser would have to hold the property for an extended period of time before being able to develop it. The current financial market presently has very few lenders if any that are willing to make mortgage loans on speculative land parcels and the likely purchaser of a property such as the subject would be a cash buyer looking to hold the property until the market improves. Such a purchaser would likely require an additional discount in order to make the property attractive enough to purchase. We have adjusted comparable sales one and two downward by 50 percent. Comparable sale three was adjusted downward by 35 percent because market had begun to slow.

### **LOCATION**

The location of the comparable sales used in this report is compared to the subject. Factors directly related to location such as population, labor supply, transportation and existing land uses are considered. The subject site is located along the southerly margin of the Ashley River. Sale two is located along the northerly margin of the Ashley River on the Peninsula of Charleston. The location of this comparable is considered to be superior to that of the subject and a downward adjustment was made. Comparable sales one and three are located in the immediate neighborhood of the subject and no adjustments were deemed necessary.

### **SIZE/SHAPE**

Adjustments are considered based on optimum size, shape, and overall utility of the comparable sales as compared to the subject. Economies of scale are often considered in this adjustment when market proof supports the premise that the larger the property size, the lower the unit price and vice versa. The subject property contains a total of 3.73-net acres of uplands, while the comparable sales range in size from 0.85-acres to 1.713-acres of uplands. Each of the comparable sales are smaller in size to the subject however the economies of scale principle does not apply to land where the highest and best use is for condominiums. Therefore, no adjustments were deemed necessary.

### **IMPROVEMENTS**

All of the comparable sales are unimproved or were purchased with no consideration being given to any existing improvements by the purchasers and no adjustments are required.

### **TOPOGRAPHY**

The effects of topography are considered in this adjustment and the relative differences between the comparables and the subject are considered. The subject property has a generally level topography. The overall topography of the comparables was considered similar enough to the subject that no adjustments were made. This was due to the wetlands portions of the subject and the comparables were taken out of the formula and we utilized the upland acres for each.

### **ZONING**

This adjustment is considered when different classifications of zoning are analyzed. Potential government restrictions are considered in this adjustment. Comparable sales one, two and three have the same zoning classification as the subject and no adjustment was necessary.

**WATER FRONTAGE QUALITY**

Adjustments are made for differences in water frontage. Typically, the more frontage sites have, the more favorable they are considered. The subject has approximately 350 net lineal feet of frontage along Ripley Cove. This will benefit the subject for the development of a waterfront residential development. Comparable sale one has approximately 30 lineal feet of water frontage along Ripley Cove. The property sits on a bluff elevated above the cove. This comparable is considered to be inferior to the subject and an upward adjustment was made. Sale two has approximately 300 lineal feet of frontage along the Ashley River. The subject has a larger amount of frontage and an upward adjustment was made. Comparable sale three has no water frontage however it has views of the Ashley River. An upward adjustment was made for inferior water frontage compared to the subject.

**RECONCILIATION AND FINAL OPINION OF LAND VALUE**

Before adjustments, the comparable land sales ranged from \$2,058,824 to \$4,495,038 per net acre. After making the indicated adjustments, the sales range from \$2,007,353 to \$2,135,143 per net acre. As a measure of central tendency, the average of the indications was \$2,070,154 per net acre. Adjustments were made for location, size, and water frontage quality. All of the comparable sales were considered to be good indicators of value and approximately equal weight was placed on the sales. Based upon the above analysis, we have summarized our opinion of value for the 3.73-net acres for the subject property in the table below:

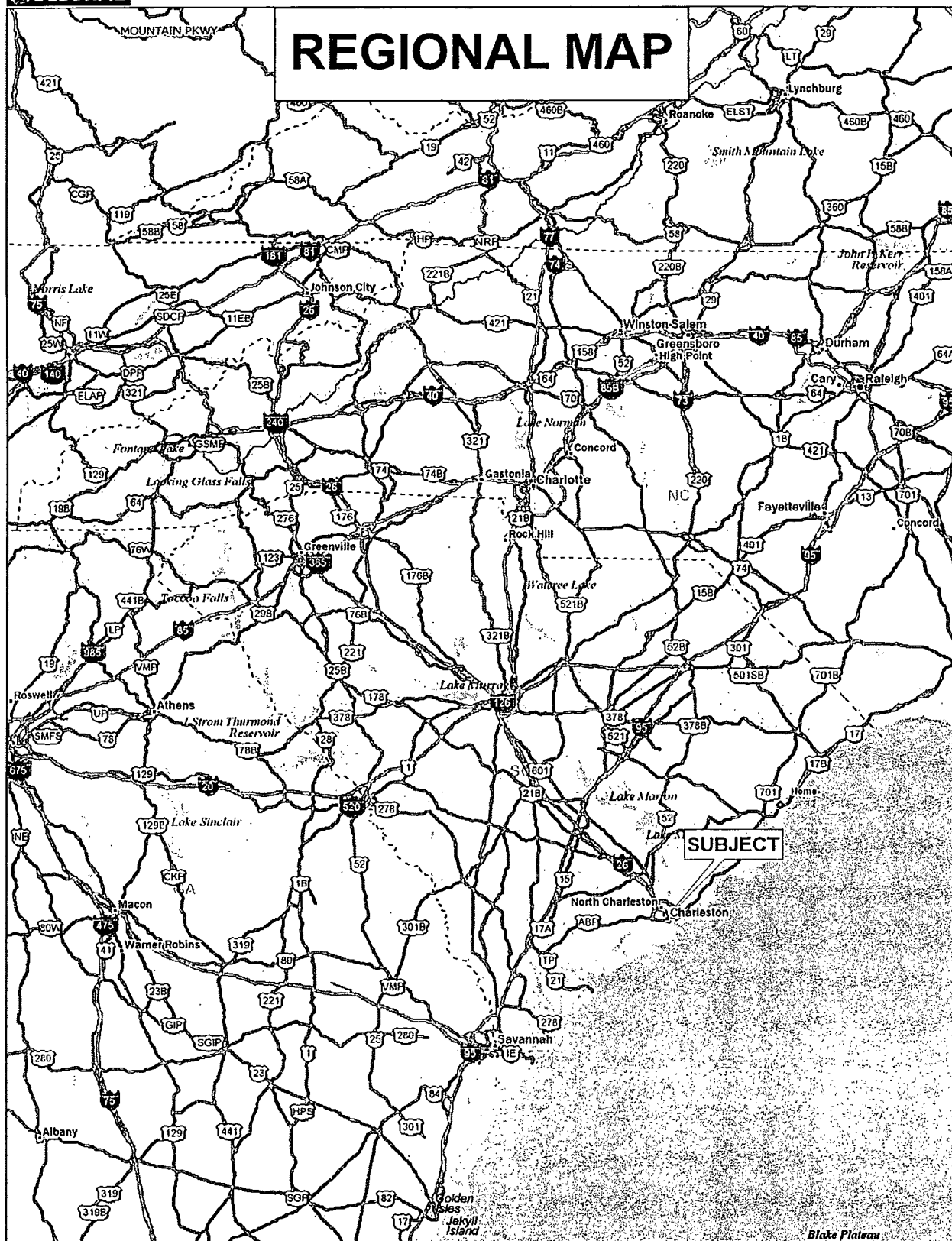
| CONCLUDED LAND VALUE |   |            |               |             |
|----------------------|---|------------|---------------|-------------|
| Value/AC             |   | Site Size  | Total         | Rounded     |
| \$2,070,000          | × | 3.73 Acres | = \$7,721,100 | \$7,720,000 |

**FINAL OPINION OF LAND VALUE – SEPTEMBER 25, 2009**  
**\$7,720,000**

## **ADDENDA**

REGIONAL MAP  
METROPOLITAN AREA MAP  
NEIGHBORHOOD MAP  
FLOOD PLAIN MAP  
ZONING MAP  
SURVEY – EXCESS LAND  
PHOTOGRAPHS OF THE SUBJECT  
LAND SALES MAP  
TAXES AND TAX ASSESSMENTS  
ENGAGEMENT LETTER  
ASSUMPTIONS AND LIMITING CONDITIONS  
QUALIFICATIONS OF APPRAISERS

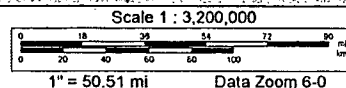
# REGIONAL MAP



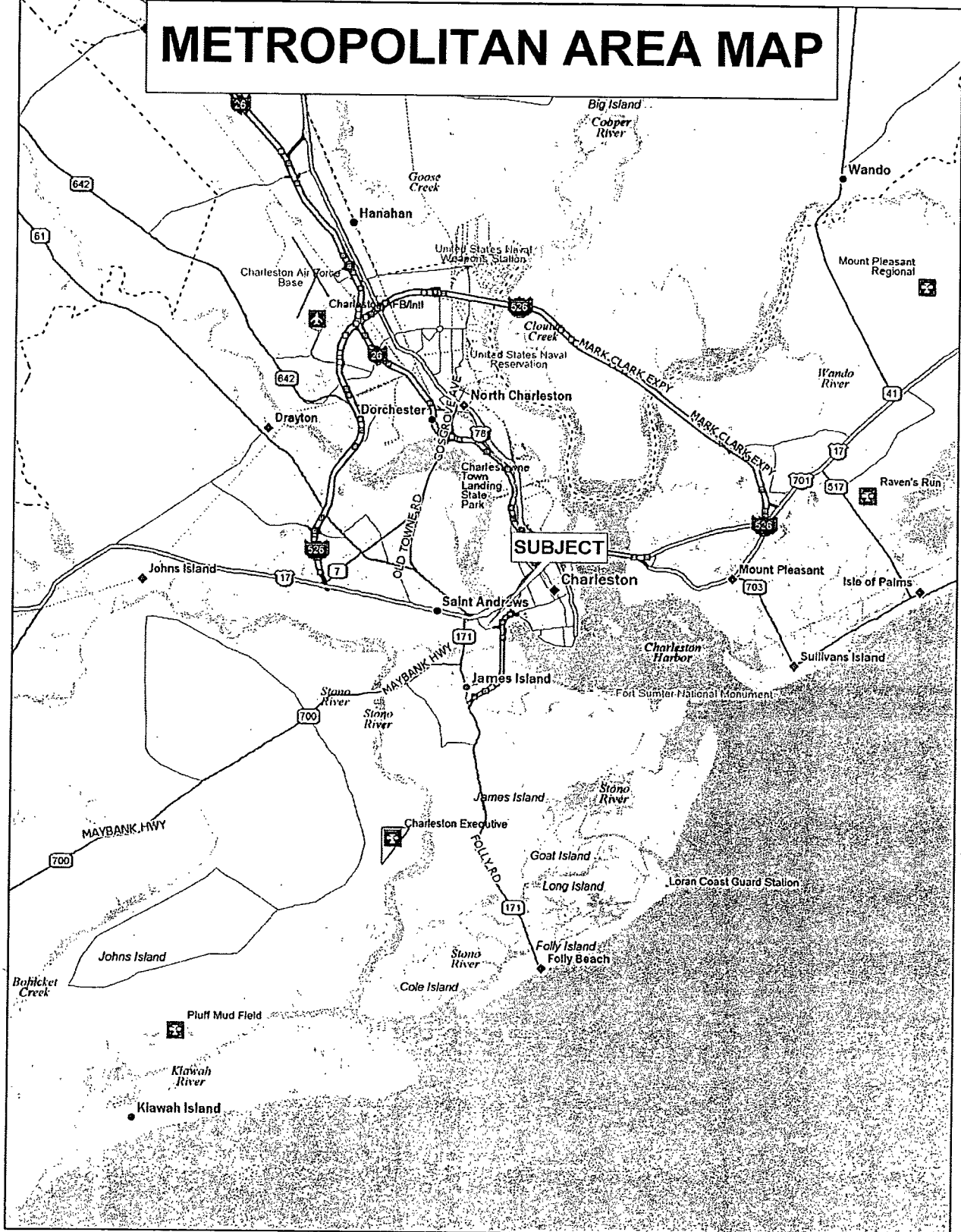
Data use subject to license.

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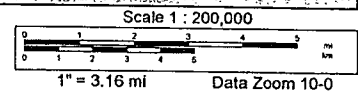
# METROPOLITAN AREA MAP



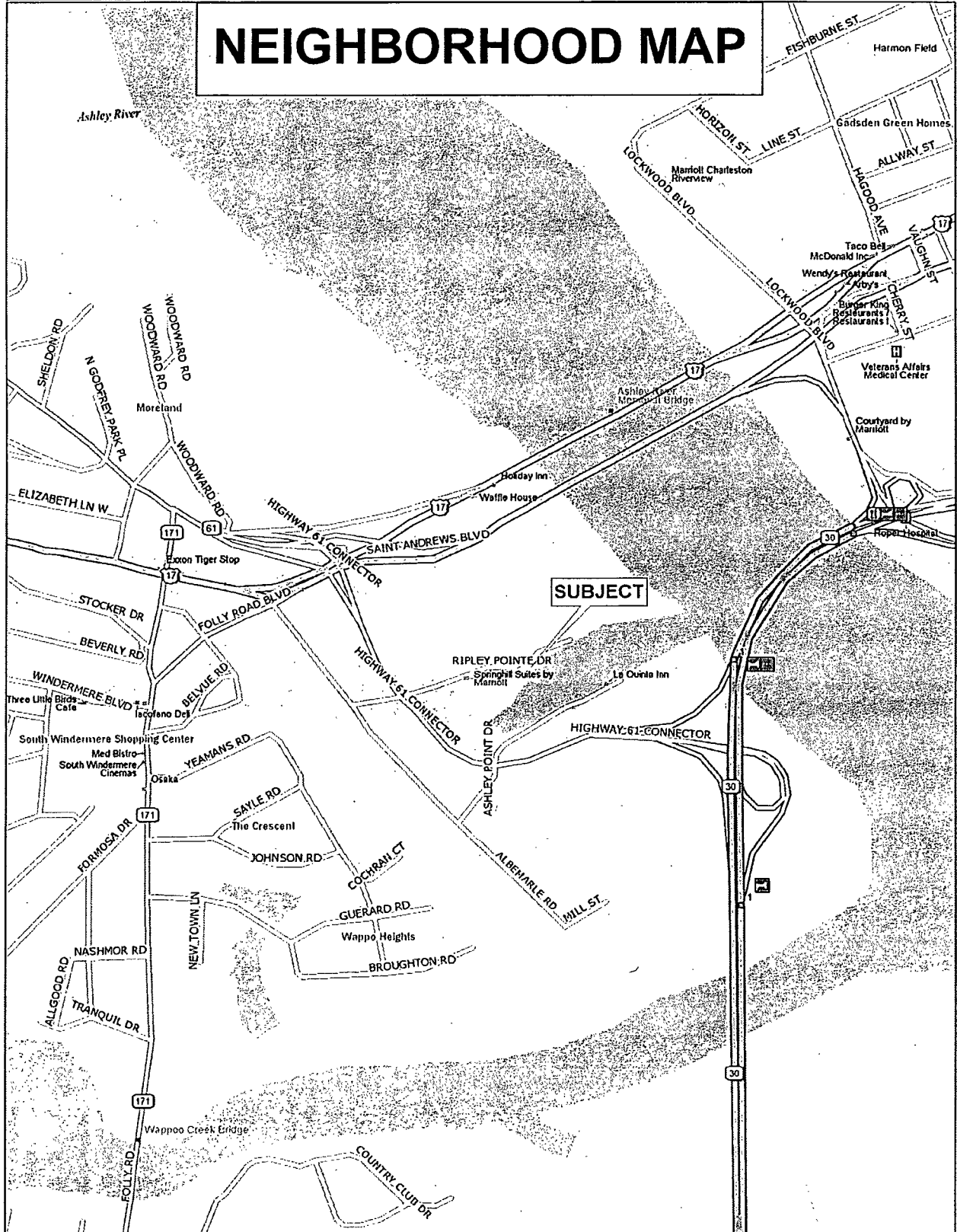
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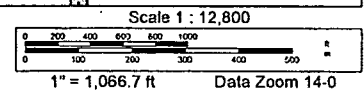
# NEIGHBORHOOD MAP



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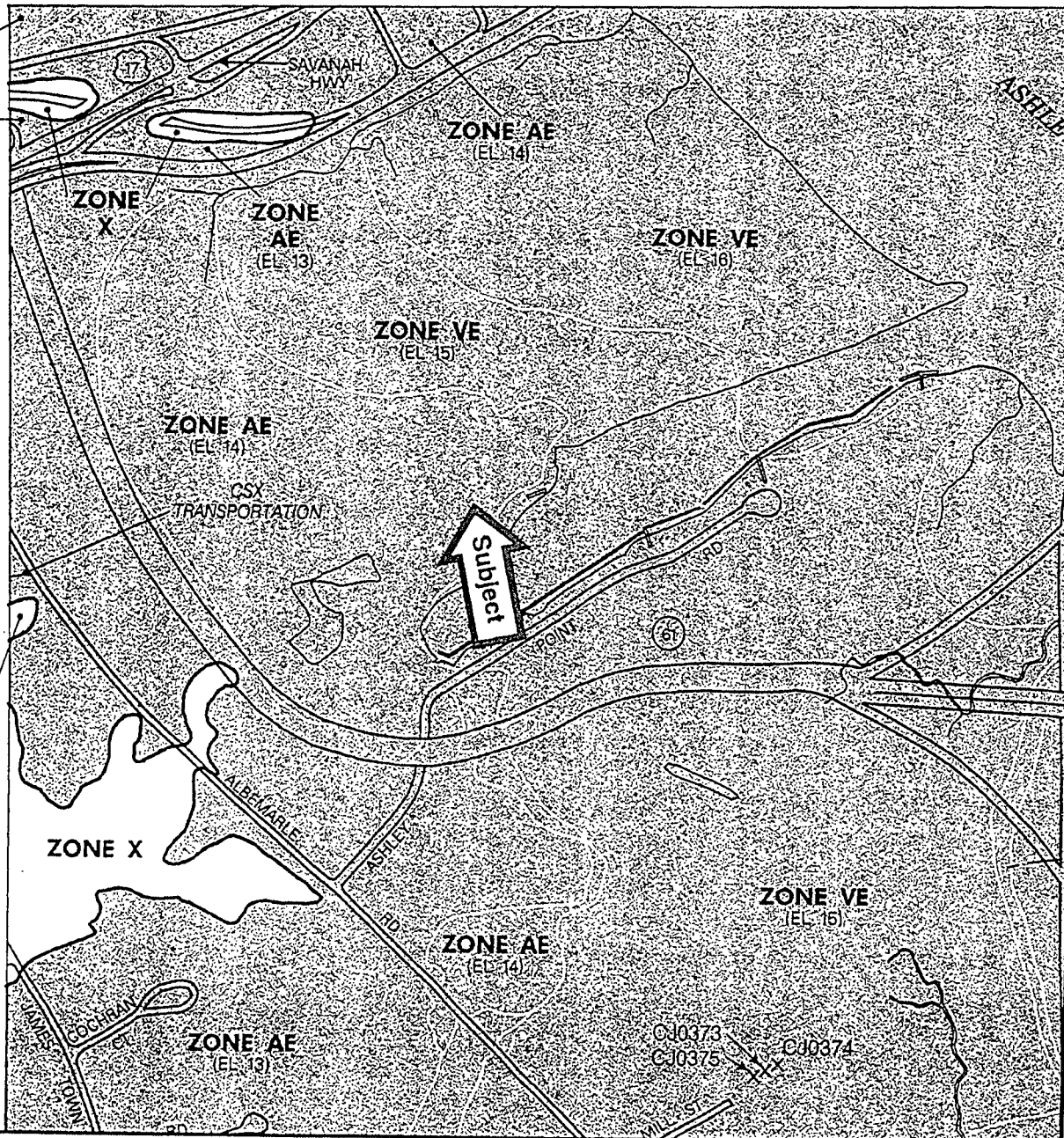


P 58' 07.5"

5"

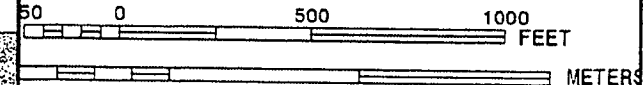
X

0441



APPROXIMATE SCALE

MAP SCALE 1" = 500'



# NATIONAL FLOOD INSURANCE PROGRAM

## **FIRM** FLOOD INSURANCE RATE MAP CHARLESTON COUNTY, SOUTH CAROLINA AND INCORPORATED AREAS

PANEL 514 OF 855

(SEE MAP INDEX FOR PANELS NOT PRINTED)

### CONTAINS:

| COMMUNITY           | NUMBER | PANEL | SUFFIX |
|---------------------|--------|-------|--------|
| CHARLESTON, CITY OF | 45642  | 0514  | J      |
| CHARLESTON, COUNTY  | 45643  | 0514  | J      |

Notes to User: The MAP NUMBER shown below should be used when placing map orders; the COMMUNITY NUMBER shown above should be used on insurance applications for the subject community.

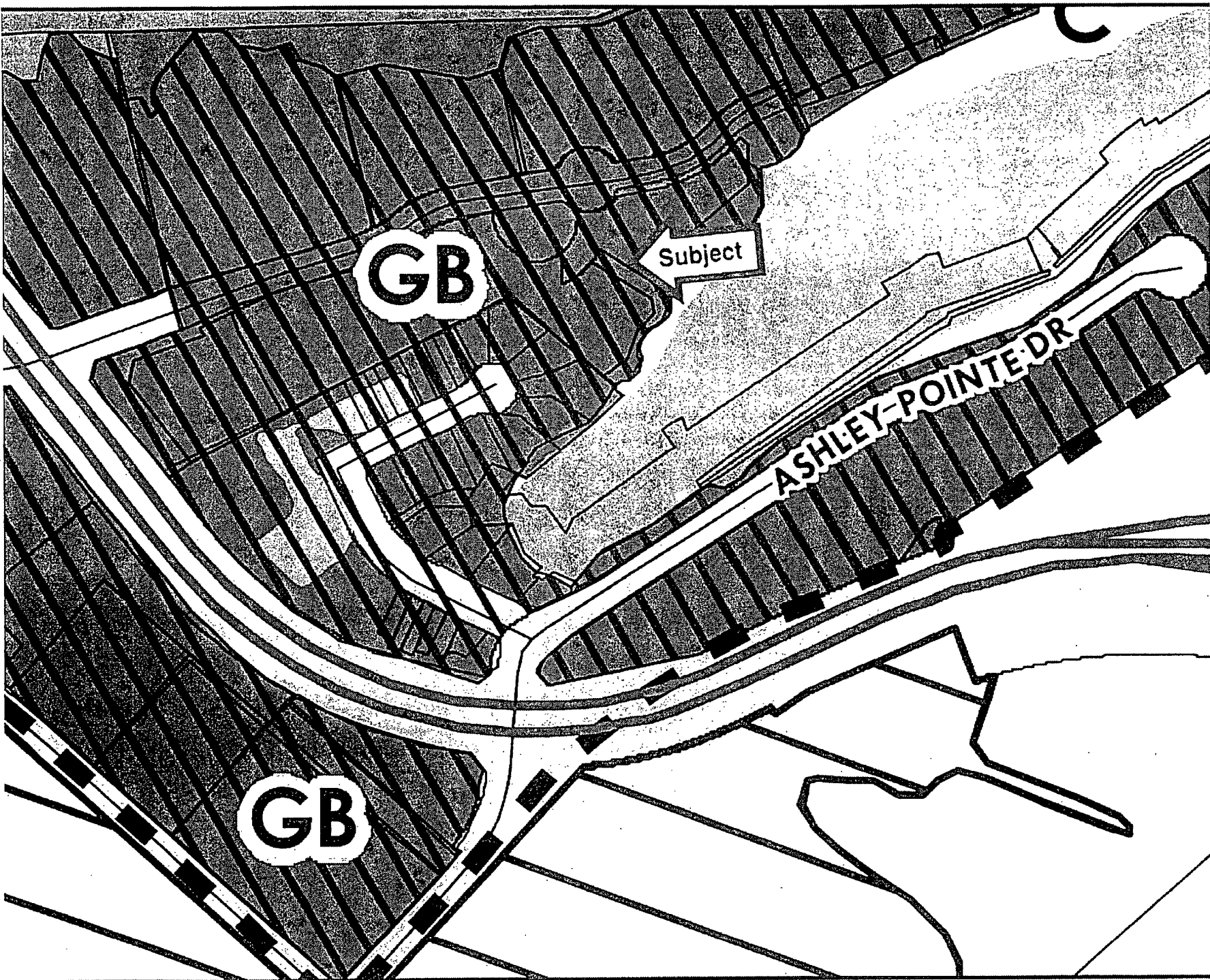
**MAP NUMBER**  
**45019C0514J**

**EFFECTIVE DATE:**  
**NOVEMBER 17, 2004**



Federal Emergency Management Agency

This is an official copy of a portion of the above referenced flood map. It was extracted using F-MIT On-Line. This map does not reflect changes or amendments which may have been made subsequent to the date on the title block. For the latest product information about National Flood Insurance Program flood maps check the FEMA Flood Map Store at [www.msc.fema.gov](http://www.msc.fema.gov)







Ripley Point Drive Looking West



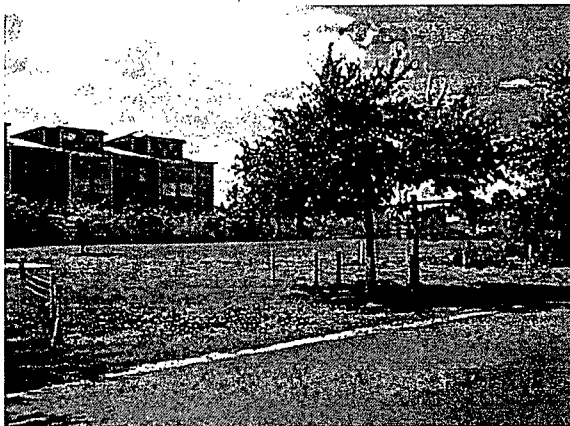
Ripley Point Drive Looking West



Subject



Subject

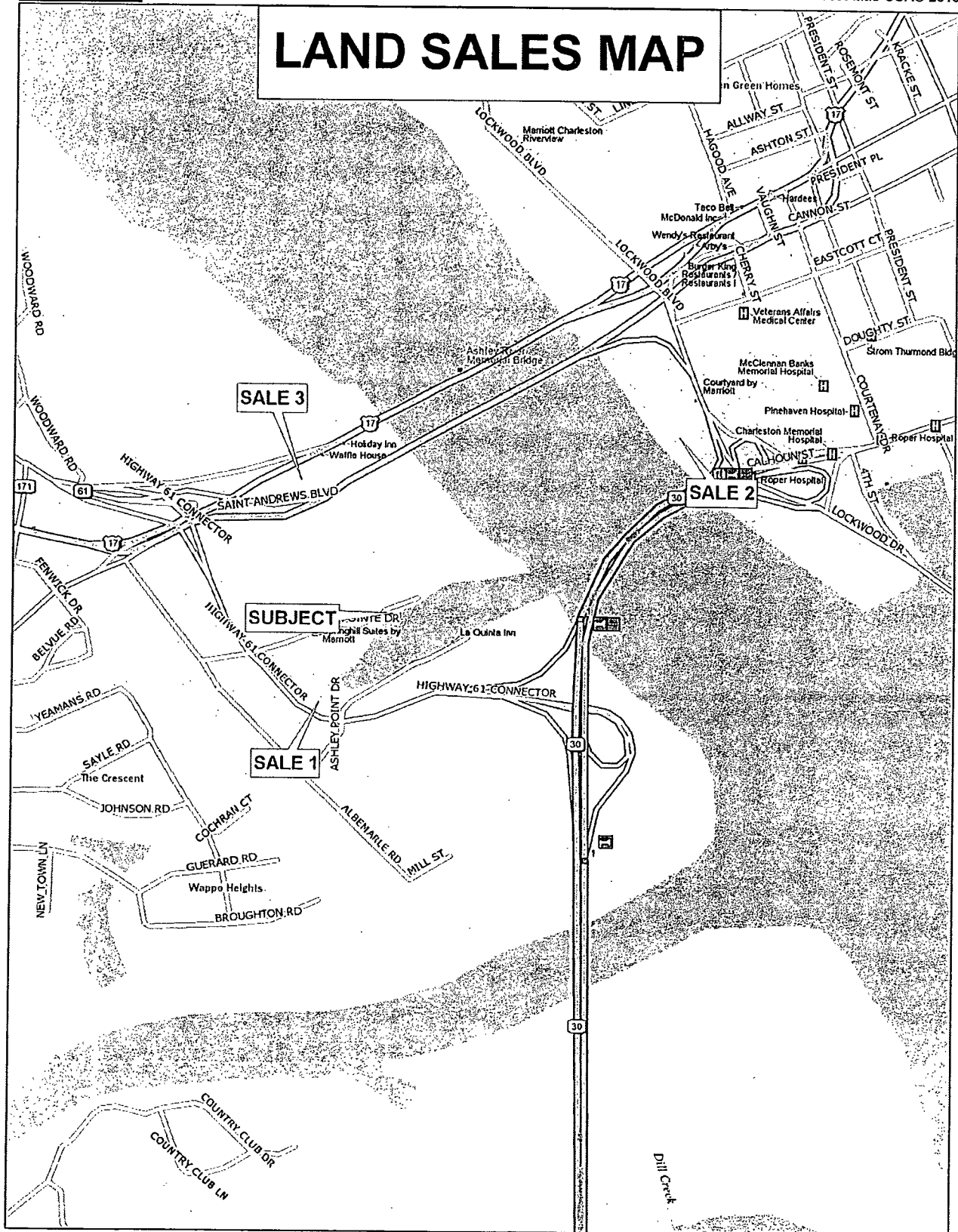


Subject



Subject

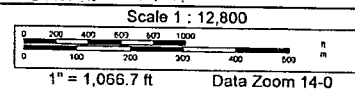
# LAND SALES MAP



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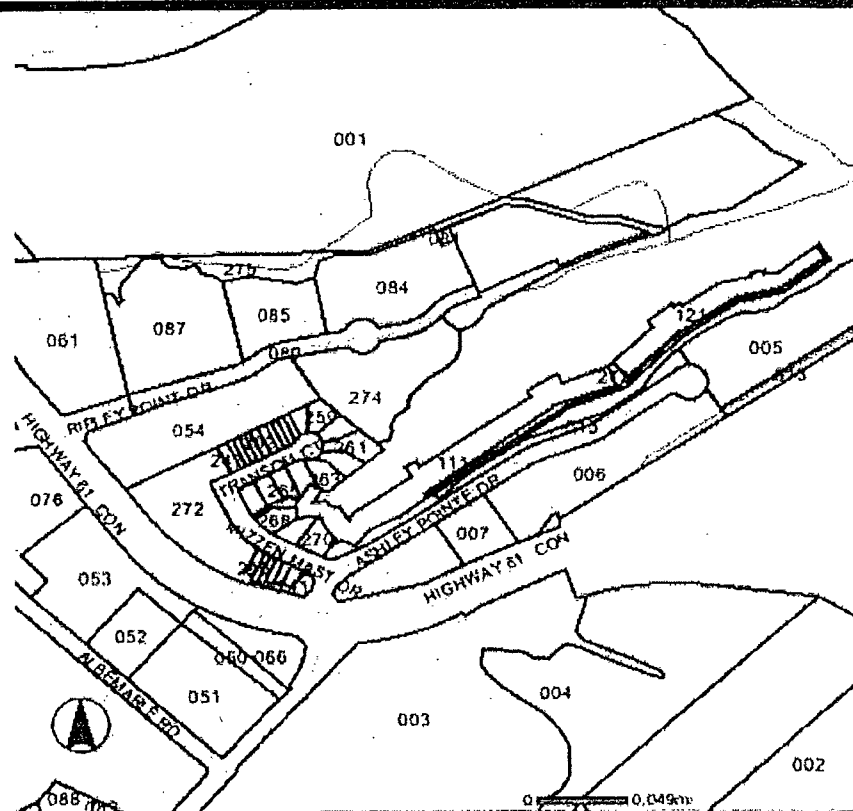
**Charleston County, South Carolina**

Copyright 2004  
Charleston County GIS  
4045 Bridge View Drive  
North Charleston, SC 29405-7464

### Legend

## Selected Features

### Streets/Roads

☐ **Parcels**

PARCEL NUMBER : 4211100274

PARCEL ID: 4211100274

STREET NUMBER: 0

STREET NAME: RIPLEY POINT DRIVE

PROP UNIT;

PROP CITY:

PROP ZIP: 29407

**SITE NAME:**

GENERAL USE: VCC

MOBILE HOMES: 0

**SUBDIVISION:**

LEGAL DESCRIPTION: PARCEL B

LGL HI ACRES: 1.8

LGL MAR ACRES: 0

LGL WATER ACRES: 0

LGL SWAMP ACRES: 0

LGL TOTAL ACRES: 1.8

TAX DISTRICT: 63

JURISDICTION: MCP

PLAT BOOK: EK-219

OWNER ON 1ST: ASHLEY RIVER PROPERTIES II LLC

OWNER2 ON 1ST:

**CURRENT OWNER1:**

**CURRENT OWNER2:**

SALE DATE: 12/29/2003  
DEED BOOK: E480-016  
WILL CODE:  
WILL DATE:  
C O NAME:  
MAIL STREET NUMBER: 0  
MAIL STREET NAME: P O BOX 3156  
MAIL UNIT:  
MAIL CITY: CHARLESTON  
MAIL STATE: SC  
MAIL ZIP: 29417  
MAIL COUNTRY:  
MAIL POSTAL CODE:  
SALE PRICE: 100000  
MULT LOT: 0  
SPLIT CODE: Y  
MLOD GROUP:  
FINAL VALUE: 1491000  
BUILD COUNT: 0  
AG USE VAL: 0  
AG MARKET TOT: 0  
LR APPROVE:  
YEAR BUILT: 0  
BEDROOMS: 0  
FULL BATHS: 0  
THREE QTR BATHS: 0  
HALF BATHS: 0  
TOTAL FINISH AREA: 0  
LIVING AREA: 0  
CONDO-BEDROOM: 0  
CONDO FULL BATH: 0  
CONDO H-BATH: 0  
CONDO YR BUILT: 0

# CHARLESTON COUNTY *Online Tax System*

- MAIN MENU
- CONTACTS
- EXIT

| - Billing Information - |               |                  |           | - Property Information - |                               |  |  |
|-------------------------|---------------|------------------|-----------|--------------------------|-------------------------------|--|--|
| Account (PID):          | 421-11-00-274 | Appraised (FMV): | 1,491,000 | Legal Description:       | RIPLEY POINT DRIVE - PARCEL B |  |  |
| Tax Year:               | 2009          | Assessment:      | 89460     | Subdivision:             | NA                            |  |  |
| Prior Year:             | NA            | Mills:           | x 0       | Deed:                    | 12-31-2003 E480-016           |  |  |
| Status:                 | Current       |                  |           | Plat:                    | EK-219                        |  |  |
| Receipt:                | 2009-004233   | Base Tax:        | 0.00      | Land Use:                | OTHER JURISDICTION            |  |  |
| Previous Receipt:       | NA            | Penalties:       | + 0.00    | General Use:             | VCC                           |  |  |
| Next Receipt:           | NA            | Interest:        | + 0.00    | Parcel:                  | 952                           |  |  |
| Billed:                 | 09-30-2009    | Credits:         | - 0.00    |                          |                               |  |  |
| Paid Date:              | NA            | User Fee:        | + (Other) |                          |                               |  |  |
| Actual Date:            | NA            | SW Fee:          | + 0.00    |                          |                               |  |  |
|                         |               |                  |           |                          |                               |  |  |
| Mortgage Co:            | NA            | Net Tax:         | 0.00      |                          |                               |  |  |
|                         |               | Amount Paid:     | - 0.00    |                          |                               |  |  |
|                         |               | Nulla Bona       |           |                          |                               |  |  |
|                         |               | Amount:          | - 0.00    |                          |                               |  |  |
|                         |               |                  |           |                          |                               |  |  |
| MLQD Factor:            | No            | Refund Amount:   | - 0.00    |                          |                               |  |  |
|                         |               | Transfer         | - 0.00    |                          |                               |  |  |
|                         |               | Amount:          | - 0.00    |                          |                               |  |  |
|                         |               |                  |           |                          |                               |  |  |
|                         |               | CURR Due:        | 0.00      |                          |                               |  |  |

| - Owner Information - |                                |                 |                     |
|-----------------------|--------------------------------|-----------------|---------------------|
| Current Owner:        | ASHLEY RIVER PROPERTIES II LLC | Tax Address:    | RIPLEY POINT DRIVE  |
| Current Co-Owner:     | NA                             |                 |                     |
| Tax District:         | 63                             | Mail Address:   | P O BOX 3156        |
| Jurisdiction:         | 07                             | City State Zip: | CHARLESTON SC 29417 |

[Selections](#)
[Tax Record](#)
[Credits](#)
[Main Menu](#)

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2008 CHARLESTON COUNTY  
PROPERTY TAX BILL

COMPANY NAME: ASHLEY RIVER PROPERTIES II LLC

ACCT NUMBER: 421-11-00-274

FOR PERIOD COMMENCING JANUARY 1, 2008

BILL DATE: 09/30/08

| PROPERTY              | AMOUNT      | REMARKS |
|-----------------------|-------------|---------|
| 95 RIPLEY POINT DRIVE | \$20,435.65 |         |

ASHLEY RIVER PROPERTIES II LLC  
95 RIPLEY POINT DRIVE  
CHARLESTON, SC 29407-7598

## AMOUNT DUE AFTER:

01/15/09 \$21,048.72  
02/02/09 \$22,479.21

(PAYMENT TO COUNTY TREASURER)

## AMOUNT DUE AFTER:

03/16/09 \$23,500.99

(PAYMENT TO DELINQUENT TAX)

| PROPERTY              | AMOUNT      | REMARKS |
|-----------------------|-------------|---------|
| 95 RIPLEY POINT DRIVE | \$20,435.65 |         |

|       |             |                                  |
|-------|-------------|----------------------------------|
|       | \$1,021.78  | ECONOMIC DEVELOPMENT             |
|       | \$357.62    | PARTNER COUNTY (COLLETON)        |
| 40.2  | \$2,157.83  | COUNTY GOVERNMENT OPERATING      |
| 6.6   | \$550.58    | COUNTY GOVERNMENT BOND ISSUES    |
| 98.7  | \$8,233.70  | SCHOOL BOARD OPERATING           |
| 23.9  | \$1,993.77  | SCHOOL BOARD BOND ISSUES         |
| 3.6   | \$300.32    | PARK AND RECREATION COMMISSION   |
| 2.0   | \$166.84    | PARK AND RECREATION BONDS        |
| 2.0   | \$166.84    | TRIDENT TECHNICAL COLLEGE        |
| 77.1  | \$5,319.51  | CITY OF CHARLESTON               |
| 2     | \$166.84    | CITY OF CHARLESTON DRAINAGE IMPR |
| 256.1 | \$20,435.65 | TOTAL                            |

| PROPERTY              | AMOUNT      | REMARKS |
|-----------------------|-------------|---------|
| 95 RIPLEY POINT DRIVE | \$20,435.65 |         |

## AMOUNT DUE AFTER:

01/15/09 \$21,048.72  
02/02/09 \$22,479.21

(PAYMENT TO COUNTY TREASURER)

## AMOUNT DUE AFTER:

03/16/09 \$23,500.99

(PAYMENT TO DELINQUENT TAX)

## Award Confirmation Letter

Supplier is hereby authorized to perform the Statement of Work detailed below. Supplier acknowledges that this confirmation letter is a summary of select contract terms and conditions which is provided for convenience. To view the complete agreement electronically accepted by Supplier, Supplier is referred to Bank of America's Commercial Valuation Services Information Management System.

|                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                        |                                                                              |                                   |                                |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------|-----------------------------------|--------------------------------|
| <b>Supplier: Statement of Work</b>                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                        |                                                                              |                                   |                                |
| <b>Service Type ID:</b>                                                                                                                                                                                                                                                                                                                                | 09-009978-APR01-002                                                                                                                                                                                                                                                                                                    |                                                                              | <b>Supplier:</b>                  | Fred H. Heck & Associates, LLC |
| <b>Service:</b>                                                                                                                                                                                                                                                                                                                                        | Appraisal (Order)                                                                                                                                                                                                                                                                                                      |                                                                              | <b>Supplier Representative:</b>   | Mark Morgan                    |
| <b>Borrower:</b>                                                                                                                                                                                                                                                                                                                                       | Ashley River Properties II LLC                                                                                                                                                                                                                                                                                         |                                                                              | <b>Agreement Number:</b>          | 12668                          |
| <b>Award Terms and Conditions</b>                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                        |                                                                              |                                   |                                |
| <b>Sourcing Manager:</b>                                                                                                                                                                                                                                                                                                                               | Debbie Pauza, Market Manager                                                                                                                                                                                                                                                                                           |                                                                              | <b>Other Terms or Conditions:</b> |                                |
| <b>Date Awarded:</b>                                                                                                                                                                                                                                                                                                                                   | 09/15/2009                                                                                                                                                                                                                                                                                                             |                                                                              |                                   |                                |
| <b>Fees:</b>                                                                                                                                                                                                                                                                                                                                           | \$6,000                                                                                                                                                                                                                                                                                                                |                                                                              |                                   |                                |
| <b>Bank Contact:</b>                                                                                                                                                                                                                                                                                                                                   | Debbie Pauza                                                                                                                                                                                                                                                                                                           |                                                                              |                                   |                                |
| <b>Contact Phone:</b>                                                                                                                                                                                                                                                                                                                                  | 813.531.6774                                                                                                                                                                                                                                                                                                           |                                                                              |                                   |                                |
| <b>Appraisal Type:</b>                                                                                                                                                                                                                                                                                                                                 | Comprehensive                                                                                                                                                                                                                                                                                                          |                                                                              |                                   |                                |
| <b>Certification:</b>                                                                                                                                                                                                                                                                                                                                  | Contracted Appraiser or Designee                                                                                                                                                                                                                                                                                       |                                                                              |                                   |                                |
| <b>Service Delivery Requirements</b>                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                        |                                                                              |                                   |                                |
| <b>Due Date</b>                                                                                                                                                                                                                                                                                                                                        | <b>Description</b>                                                                                                                                                                                                                                                                                                     |                                                                              |                                   |                                |
| 10/14/2009                                                                                                                                                                                                                                                                                                                                             | Two properties. One is marina with excess land, one is (was) 3.73 acres approved for 80 condos. Final reports received and data uploaded to the Valuation Services Information Management System. Individual standalone reports to be provided for each listed property unless instructed otherwise in this agreement. |                                                                              |                                   |                                |
| <b>Service Definition</b>                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                        |                                                                              |                                   |                                |
| <b>Premise</b>                                                                                                                                                                                                                                                                                                                                         | <b>Qualifier</b>                                                                                                                                                                                                                                                                                                       | <b>Interest Appraised</b>                                                    | <b>Allocations</b>                | <b>Description</b>             |
| Market Value                                                                                                                                                                                                                                                                                                                                           | As-Is                                                                                                                                                                                                                                                                                                                  | Fee Simple                                                                   |                                   |                                |
| <b>Policies and Procedures</b>                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                        |                                                                              |                                   |                                |
| The report is intended for use as an aid in acquisition, financing, loan classification and/or asset disposition. Intended users of the report may include: Bank of America and its affiliates or subsidiaries, other participating financial institutions, governmental/non-governmental agencies, legal counsel or other transaction participants.   |                                                                                                                                                                                                                                                                                                                        |                                                                              |                                   |                                |
| Include the statement: "Bank of America makes no warranties or representations regarding this document or the conclusions contained herein." in your transmittal letter.                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                        |                                                                              |                                   |                                |
| Supplier is required to review, update and/or enter key summary information about the property appraised and associated value conclusions as part of this service.                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                        |                                                                              |                                   |                                |
| In addition to any CD or Bound reports listed in the Addressee and Distribution section, Adobe Acrobat (PDF) compatible digital reports must be uploaded for all appraisal reports (including all addendum and attachments) and invoices. Additional Microsoft and Argus documents can be uploaded in their native format subject to some limitations. |                                                                                                                                                                                                                                                                                                                        |                                                                              |                                   |                                |
| Reappraisal assignments must document and explain assumption changes and resulting value differences for all Bank of America assignments completed within the prior two years.                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                        |                                                                              |                                   |                                |
| <b>Addressee and Distribution Instructions</b>                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                        |                                                                              |                                   |                                |
| <b>Report Distribution</b>                                                                                                                                                                                                                                                                                                                             | <b>Name</b>                                                                                                                                                                                                                                                                                                            | <b>Address</b>                                                               | <b>CD/DVD</b>                     | <b>Bound</b>                   |
| Addressee and Recipient                                                                                                                                                                                                                                                                                                                                | Debbie Pauza Market Manager                                                                                                                                                                                                                                                                                            | Bank of America, NA   100 N WESTSHORE BLVD   FL2-399-02-03   Tampa, FL 33609 | 0                                 | 0                              |
| <b>Comments</b>                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                        |                                                                              |                                   |                                |
|                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                        |                                                                              |                                   |                                |
| <b>Documents (content available online only)</b>                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                        |                                                                              |                                   |                                |
| <b>Reference Documents</b>                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                        |                                                                              |                                   |                                |
| APPRaisal REQUIREMENTS (EFFECTIVE 2008-10-10-03-2008-08-43-32.pdf)                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                        |                                                                              |                                   |                                |
| <b>Properties (detailed descriptions may be viewed online or downloaded)</b>                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                        |                                                                              |                                   |                                |
| <b>#</b>                                                                                                                                                                                                                                                                                                                                               | <b>Property Type</b>                                                                                                                                                                                                                                                                                                   | <b>Property Address</b>                                                      |                                   |                                |
| 1                                                                                                                                                                                                                                                                                                                                                      | Special Purpose - Marina                                                                                                                                                                                                                                                                                               | 95 Ripley Point Drive, Charleston, SC                                        |                                   |                                |
| 2                                                                                                                                                                                                                                                                                                                                                      | Land - Multi-Family Apartment                                                                                                                                                                                                                                                                                          | S/S Ripley Point Drive, Charleston, SC                                       |                                   |                                |
| <b>Property Contact (additional contacts may be listed for each property. Refer to the online property profile for details)</b>                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                        |                                                                              |                                   |                                |
| <b>Name</b>                                                                                                                                                                                                                                                                                                                                            | <b>Company / Role</b>                                                                                                                                                                                                                                                                                                  | <b>Telephone</b>                                                             | <b>Comments</b>                   |                                |
| Davidson Williams                                                                                                                                                                                                                                                                                                                                      | CFO                                                                                                                                                                                                                                                                                                                    | 212-599-3530x14                                                              |                                   |                                |

## Property Details

Property Name: Ripley Light Yacht Club Marina  
Address 1: 95 Ripley Point Drive Address 2:  
Zip Code: 29407  
Country: United States of America State: South Carolina County: Charleston City: Charleston  
Property Type: Special Purpose-Marina Site Owner Name: Ashley River Properties II LLC Same as Borrower  
Parcel Num:  
Other Property Information:

| Measurement Type        | Quantity Type | Additional Information |
|-------------------------|---------------|------------------------|
| Building Size-primary   | 0             | SF-GBA                 |
| Building Size-secondary |               | Moorings               |
| Building Size-          | 96            | Slips                  |

Transaction subject to Bond Financing? N  
Is this property encumbered by a ground lease? N  
What is the current use of the property? Marina  
What is the future (proposed) use of the property? Marina  
Is this property currently listed for sale? N  
Property Status: Existing  
Age of Building Improvements:  
Property Tenancy: N/A Tenants(non-owner):

## Property Details

Property Name : Ashley River Condo Land  
Address 1 : S./S Ripley Point Drive Address 2 :  
Zip Code : 29407  
Country : United States of America State : South Carolina County : Charleston City : Charleston  
Property Type : Land-Multi-Family-Apartment Site Owner Name : Ashley River Properties II LLC Same as Borrower  
Parcel Number :  
Other Property Information :

| Measurement Type    | Quantity Type      | Additional Information | Delete |
|---------------------|--------------------|------------------------|--------|
| Land Area-primary   | 3.73 Acres         |                        |        |
| Land Area-secondary | Lot-Avg Size (acr) |                        |        |
| Land Area-          | Lots-Finished      |                        |        |

Is this property encumbered by a ground lease? N  
What is the current use of the property? vacant  
What is the future (proposed) use of the property? ??  
Is this property currently listed for sale? N  
Property Status: Land Only

| Name | Company/Role | Phone Number | Comments |
|------|--------------|--------------|----------|
| dp   | boa          | 8888888888   |          |

Note: Fields marked (\*) are mandatory

### Introduction

All appraisal assignments engaged by Bank of America's Commercial Appraisal Services (CAS) department must conform to these *Appraisal Requirements*.

All real estate appraisal services performed for Bank of America must conform to the following:

- The *Uniform Standards of Professional Appraisal Practice* (USPAP).
- Appraisal requirements of Title XI of the *Federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989* (FIRREA), revised June 7, 1994, and amendments thereto. Federal regulatory requirements and guidelines may also apply.
- The appraiser must provide all services in accordance with the Bank of America *Professional Services Agreement*.
- The assignment will conform to the requirements as detailed by Bank of America in the award/engagement contract and in Bank of America's Valuation Services Information Management System RFP/award information.
- Bank of America CAS *Appraisal Performance and Reporting Guidelines*.

### Appraiser Independence

Maintaining the independence and objectivity of the appraisal process is of utmost importance to Bank of America. If an appraiser has a current or prospective interest in the subject property, transaction, or parties involved, the appraiser must decline the assignment.

If the appraiser (1) has previously appraised the subject property, or (2) previously performed a consulting assignment related to the subject property, the appraiser must be able to remain unbiased by the previous assignment, or decline the current assignment. The appraiser must disclose the previous appraisal or consulting assignment to Bank of America CAS during the RFP/bidding process and prior to accepting an appraisal assignment.

If during the course of an assignment, the appraiser becomes aware of a potential conflict of interest, the appraiser should contact Bank of America CAS immediately.

Any communication between the appraiser and Bank of America must be through the CAS contact.

### Confidential Information

Assignment results and all information provided by Bank of America, or its customer, related to the appraisal assignment are confidential information, and must be treated as such. Written approval from Bank of America CAS is required to release confidential information, including assignment results, to any third party.

### Competency

In bidding for and accepting appraisal assignments from Bank of America CAS, the appraiser certifies that he or she is competent to perform the requested service. The appraiser must be an active State Certified General or State Licensed appraiser, as appropriate. Temporary certificates are acceptable.

### Fair Lending Policy

Bank of America is committed to supporting fair lending practices and will not tolerate discrimination or discriminatory references in any form.

Appraisal reports must not include any subjective terms or phrases that might be interpreted as discriminatory. Apparent discrimination may be suggested by stating that a condition or feature is a negative influence without market support that it is regarded as such. Only those characteristics that are relevant to the valuation problem are to be addressed. Additionally, the appraiser must avoid using statistics that are not pertinent to the appraisal assignment.

### Future Assignments

Your acceptance of any Bank of America CAS assignment certifies that you agree not to accept or pursue an appraisal, or related assignment, of the subject property without receiving prior approval from Bank of America CAS.

#### Introduction

The Bank of America Appraisal Performance and Reporting Guidelines apply to all appraisal assignments engaged by Bank of America CAS.

#### Scope of Work

It is the appraiser's responsibility to determine and perform a scope of work sufficient to produce credible assignment results given the intended use.

The subject property inspection should be sufficient to identify the relevant property characteristics and include a representative sample of interior spaces.

#### Report Content Requirements

The amount of information and analysis presented in the report is based on the appraisal product type and the relative complexity of the appraisal issues addressed.

Each appraisal report should include:

- Prominent disclosure of the Bank of America CAS appraisal product type
- Prominent summary of the key elements of the scope of work, including disclosure of the approach(es) to value used in the assignment
- Prominent disclosure and support for any deviation from the requested product (e.g. Comprehensive, Condensed, Concise), interest appraised, valuation premise (e.g. Upon Completion of Construction, Upon Stabilization, etc.), or valuation condition, as identified in the award/engagement contract
- Opinion of the "As Is" Market Value of the subject property
- The statement: *Bank of America makes no warranties or representations regarding this document or the conclusions contained herein.*
- A copy of the Award Confirmation Letter and any subsequent instructions
- Identification of the flood hazards, as applicable
- Identification of the earthquake hazards, as applicable

#### Disclaimer

Bank of America CAS will not accept the report if wording or disclaimers are included in the report that limit the appraiser's professional liability to Bank of America.

#### Borrower/Customer Contact

Bank of America CAS expects that the appraiser will communicate with the property contact (as identified in the award letter) within two business days of the assignment award.

#### Appraisal Report Delivery, Ownership & Distribution

Bank of America's Valuation Services Information Management System RFP/Award Information and Award Confirmation Letter provide appraisal report addressee and distribution instructions.

An electronic copy of the appraisal report, invoice and any supporting files are to be uploaded to the Bank of America Valuation Services Information Management System.

Bank of America owns the appraisal report and is under no restrictions regarding its redistribution to other interested parties of the Bank's choice.

#### Appraisal Analysis Software

Discounted cash flow models for income producing properties should be prepared using Argus financial software. Appropriate supporting documentation must be included in the report and the Argus file must be uploaded to Bank of America's Valuation Services Information Management System.

In cases where the appraiser has developed proprietary analysis models, such models/software must be made available to Bank of America CAS. Spreadsheets are to be forwarded in operational condition and in a format that can be reviewed.

#### Suspected Environmental Hazards

If the appraiser observes any suspected environmental hazards, the appraiser must notify Bank of America CAS immediately and document the suspected hazard in the report.

#### Quality Assurance Review

Appraisal reports are subject to review by Bank of America CAS. Appraisers must be prepared to discuss their analyses and conclusions and provide additional written support, clarification, and/or corrected appraisal pages if requested.

#### Date of Inspection / Date of Value

The date of inspection / date of value must occur within 45 days prior to the date the report is delivered, unless waived by Bank of America CAS.

#### Going Concern

In assignments where the subject is a going concern (an operating business enterprise that is expected to continue), non-realty components must be identified and the final value allocated among the real property, personal property, and business interests.

#### Other Valuation Issues

Performance and reporting requirements applicable to specialized lending situations (e.g., SBA, CMBS, etc.) will be identified by Bank of America CAS at the time of the engagement.

When appraising properties that include specialized valuation issues, such as mortgage revenue bonds, low income housing tax credits, etc., the appraiser must contact Bank of America CAS for clarification and guidance if the methods for handling these issues are not defined during the engagement process.

#### Definitions

**Market Value:** The most probable price which 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 the 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 acting in what they consider their own best interests;
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.

Source: Code of Federal Regulations: Title 12—Banks And Banking; Chapter I—Comptroller Of The Currency, Department Of The Treasury; Part 34—Real Estate Lending And Appraisal—Subpart C—Appraisal Sec. 34.42 Definitions; Revised as of January 1, 2000

**"As Is" Market Value:** An estimate of the market value of a property in the condition observed upon inspection and as it physically and legally exists without hypothetical conditions, assumptions, or qualifications as of the date of inspection. This requires that the property be valued according to its highest and best use. However, it does not prohibit valuation based upon reasonably anticipated future events such as the leasing of vacant space, demolition of obsolete buildings, etc.

**Insurable Cost:** The cost to replace the destructible portions of a property which should include the foundation. The estimate is based on replacement cost new, and must reflect only direct or hard construction costs, such as construction labor and materials, repair design, engineering, permit fees, and contractor's profit, contingency and overhead. It must not include surveys, site development, financing, or land acquisition costs.

Note: Insurable Cost provided to Bank of America CAS is for the Bank's internal use and is not intended to replace the due diligence done by an insurance company to determine the amount of insurance coverage.

#### Appraisal Products

The required appraisal product will be set forth in an award confirmation letter. The appraiser is not authorized to modify the assignment without prior approval by Bank of America CAS.

Appraisal services provided to Bank of America CAS are identified as *Comprehensive*, *Condensed* or *Concise*.

**Comprehensive:** The scope of work includes development of all applicable approaches to value.

The report describes significant data and analysis in support of the assignment results with a thorough reporting of the relevant data, analysis, and conclusions.

**Condensed:** The scope of work includes development of the most applicable approach; in some circumstances, a less extensive secondary approach may be warranted.

The report summarizes significant data and analysis in support of the assignment results with an emphasis on critical data, analysis, and conclusions.

**Concise:** The scope of work includes development of the most applicable approach.

The report summarizes significant data and analysis in support of the assignment results with an emphasis on presenting the conclusions.

## ASSUMPTIONS AND LIMITING CONDITIONS

### GENERAL ASSUMPTIONS

1. The owner of record is assumed to have a free and clear fee simple title with no encumbrances that cannot be cleared through normal channels.
2. The information on which this appraisal is based on has been obtained from sources normally used by **Fred H. Beck & Associates, LLC** and is considered to be reliable, but is in no sense guaranteed.
3. The information furnished by others is believed to be reliable. No warranty is given for its accuracy.
4. **Fred H. Beck & Associates, LLC** reserves the right to alter its opinions of value on the basis of information withheld or not discovered in the normal course of a diligent investigation.
5. The appraiser assumes no responsibility for the legal description or matters of a legal nature affecting the property or the title thereto. The appraiser does not render any opinion as to title, which is assumed to be good and marketable.
6. Responsible ownership and competent property management are assumed.
7. It is assumed that there is full compliance with all applicable federal, state and local environmental regulations and laws unless noncompliance is stated, defined and considered in the appraisal report.
8. It is assumed that all applicable zoning and use regulations and restrictions have been complied with, unless a nonconformity has been stated, defined and considered in the appraisal report.
9. It is assumed that 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.
10. The appraiser is not required to give testimony or appear in court because of having made this appraisal with reference to the property in question, unless arrangements have been previously made therefore. The fee charged for this appraisal does not include payment for court testimony or for further consultation.
11. No opinion of an engineering nature is intentionally expressed or implied and no responsibility is assumed for matters of this nature.
12. No survey was made especially for this appraisal. Property lines, area, etc., of record or otherwise provided, are assumed to be correct.
13. No engineering survey has been made by the appraiser. Except as specifically stated, size and area were taken from sources considered reliable and no encroachment of real property improvements is assumed to exist.
14. Maps, plats and exhibits are for illustration only as an aid in visualizing matters discussed within the report. They should not be considered as surveys or relied upon for any other purpose.
15. It is assumed that there are no hidden or unapparent conditions of the property, subsoil or structures that render it more or less valuable. No responsibility is assumed for such conditions or for arranging for engineering studies that may be required to discover them.
16. No opinion is expressed as to the value of subsurface oil, gas or mineral rights. The property is not subject to surface entry for the exploration or removal of such materials except as is expressly stated.
17. Disclosure of the contents of the appraisal is governed by the Bylaws and Regulations of the professional organizations with which **Fred H. Beck & Associates, LLC** is affiliated.
18. Acceptance of and/or use of this report constitutes acceptance of these assumptions and limiting conditions.
19. This report is intended to comply with the Code of Ethics and Standards of Professional Appraisal practice of the Appraisal Institute. It is further intended to comply with the Uniform Standards of Professional Appraisal Practice (USPAP) and the guidelines set forth by the Financial Institution's Report, Recovery and Enforcement Act of 1989 (FIRREA).

## **LIMITING CONDITIONS**

1. Possession of this report, or a copy, does not carry with it the right of publication.
2. Neither all nor any part of the contents of this report (especially any conclusions as to value, identity of the appraisers or firm with which they are connected or any reference to the Appraisal Institute or the MAI or SRA designations) shall be disseminated to the public through the advertising media or any other public means of communication without the prior written consent and approval of **Fred H. Beck & Associates, LLC** and the signatories of the report. Acceptance of and/or use of this report constitutes acceptance of these restrictions.
3. The distribution, if any, of the total valuation in this report between land and improvements applies only under the stated program of utilization. The separate allocations for land and buildings must not be used in conjunction with any other appraisal and are invalid if so used.
4. The forecasts, projections or operating estimates contained herein are based upon current market conditions, anticipated short term supply and demand factors and a continued stable economy. These forecasts are, therefore, subject to changes in future conditions.
5. Load bearing capacity of subsoil is assumed to be adequate for the present utilization, but no borings or engineering studies have been made especially for this appraisal and the value conclusion could be affected by such information.
6. We have not been supplied with building plans and specifications, site plans, surveys or occupancy permits. No responsibility or representation is assumed or made for any costs associated with obtaining same for any deficiencies discovered before or after they are obtained.
7. We have personally inspected the subject property and found no obvious evidence of structural deficiencies except as stated in this report; however, no responsibility for hidden defects or conformity to specific governmental requirements, such as fire, building and safety or occupancy codes, can be assumed without provision of specific professional or governmental inspections.
8. No termite inspection report was made available. We personally inspected the subject property and found no significant evidence of termite damage or infestation.
9. Unless otherwise stated in this report, we make no representation or warranties as to the adequacy or condition of appliances, electrical systems, plumbing and heating, air conditioning, presence of insulation, adequacy or condition of structural systems or any other subsystem within the property. We assume no responsibility for any costs incurred to discover or correct any deficiencies present in the property.
10. Unless otherwise stated, no consideration in the valuation process has been given mineral deposits (oil, gas, coal, gravel, etc.) or timber, if any, that may be found on the subject.
11. Unless otherwise stated in this report, the existence of hazardous material, which may or may not be present on the property, was not observed by the appraiser. The appraisers, however, are not qualified to detect such substances. The presence of substances such as asbestos, urea-formaldehyde foam insulation or other potentially hazardous materials may affect the value of the property. The value estimate is predicated on the assumption that there is no such material on or in the property that would cause a loss in value. No responsibility is assumed for any such conditions or for any expertise or engineering knowledge required to discover them. The client is urged to retain an expert in this field, if desired.
12. On January 26, 1992, The Americans with Disabilities Act (ADA) took effect. This report has not considered this act and the impact it may have on the subject with respect to renovation cost and general compliance. Should a report be provided which indicates a possible renovation, we reserve the right to amend this report.
13. The appraisers have prepared this report in compliance with the competency provision explicitly detailed in the Uniform Standards of Professional Appraisal Practice (USPAP). The appraisers are fully experienced in the appraisal of this product type (see Qualifications).

**QUALIFICATIONS OF THE APPRAISER**  
**MARK A. MORGAN**

**FRED H. BECK & ASSOCIATES, LLC**  
**8924 Blakeney Professional Drive**  
**Charlotte, NC 28277**

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**EDUCATION**

Master of Science – Georgia State University, Atlanta, GA  
Real Estate  
Bachelor of Fine Arts – Southern Methodist University, Dallas, TX  
Broadcasting  
Bachelor of Business – Southern Methodist University, Dallas, TX

Completed The Appraisal Institute Courses:

- C1A-1 – Real Estate Appraisal Principles
- C1A-2 – Basic Valuation Procedures
- C1B-A – Capitalization Theory and Techniques, Part I
- C1B-B – Capitalization Theory and Techniques, Part II
- SPP – Standards of Professional Practice
- C2-1 – Case Studies in Real Estate Valuation
- C2-2 – Report Writing

Commercial Investment Real Estate Institute:

- CI-101 – Principles of Investment Analysis
- CI-102 – Creating a Real Estate Investment (Market Analysis)
- CI-103 – Advanced Real Estate Tax Analysis
- CI-104 – Understanding Human Behavior
- CI-105 – Case Studies in commercial Investment Real Estate

**EXPERIENCE**

Fred H. Beck & Associates, LLC – Charlotte, NC (May 2000 - Present)

- Real Estate Appraiser and Consultant

Bank of America – Charlotte, NC (3/93 – 5/00)

- Appraisal Department Area Manager

Schultz-Carr-Bissett – Atlanta, GA (11/89 – 3/93)

- Staff Appraiser

**PROFESSIONAL AFFILIATIONS**

- State-Certified General Real Estate Appraiser, North Carolina Certificate No. A4554
- State-Certified General Real Estate Appraiser, South Carolina Certificate No. CG3890
- State-Certified General Real Estate Appraiser, Georgia Certificate No. 689
- North Carolina Real Estate Broker - License #189040

**QUALIFICATIONS OF THE APPRAISER  
EDWARD M. PARLER III**

**FRED H. BECK & ASSOCIATES, LLC  
13089 Ocean Highway, Unit C-1  
Pawleys Island, South Carolina 29585**

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**EDUCATION**

Bachelor of Arts Degree – Wofford College, Spartanburg, SC (1995) - Business Economics

Real Estate Appraisal Courses:

- L-1 Category - Introductory Courses Pertaining to Real Estate Appraisal
- L-2 Category - Courses Pertaining to Valuation Procedures
- L-3 Category - Course in the Uniform Standards of Professional Appraisal Practice
- C-1 Certification – 1 – Introduction to Income Property Appraisal
- C-2 Certification – 2 – Advanced Income Capitalization Procedures
- C-3 Certification – 3 – Applied Income Property Valuation
- CR Certification – Applied Residential Property Valuation Case Study

Continuing Education Courses and Seminars:

- 1-CE-650 - Internet Search Strategies for Real Estate Appraising
- Argus Financial Software Training - Argus Lease-By-Lease Version 8.0.00
- Appraising Convenience Stores

Appraisal Institute Courses:

- Part A - Standards of Professional Practice
- Part B - Standards of Professional Practice
- Course 510 – Advanced Income Capitalization
- Course 520 – Highest & Best Use and Marketability Analysis
- Course 530 – Advanced Sales Comparison & Cost Approaches

**EXPERIENCE**

Fred H. Beck & Associates, LLC – Charlotte, NC (2006 – Present)

- Staff appraiser specializing in the appraisal of commercial and investment properties.

Marshall Dodds Company, Inc. - Columbia, SC (1997 - 2006)

- Staff appraiser specializing in the appraisal of commercial and investment properties.

Moovies Video Stores - Greenville, SC (1995-1997)

- Real Estate Market Analyst. Duties and responsibilities consisting of analyzing potential markets for video superstores, competition analysis, revenue projections, etc.

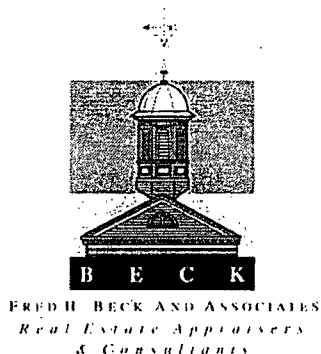
**PROFESSIONAL AFFILIATIONS**

State-Certified General Real Estate Appraiser:

South Carolina Certificate No. CG3064

North Carolina Certificate No. A6179

Associate Member of The Appraisal Institute (Member # 397691)



**APPRAISAL REPORT**

Ripley Light Yacht Club Marina  
95 Ripley Point Drive  
Charleston, Charleston County, South Carolina 29407  
(Bank of America Project ID #09-009978-APR01-02)

**PREPARED FOR**

Bank of America, N.A.  
Real Estate Risk Assessment  
Attn: Debbie Pauza, Market Manager  
Mail Code: FL2-399-02-03  
100 North Westshore Boulevard  
Tampa, FL 33609

**"Bank of America makes no warranties or representations regarding this document or the conclusions contained herein."**

**DATE OF REPORT**

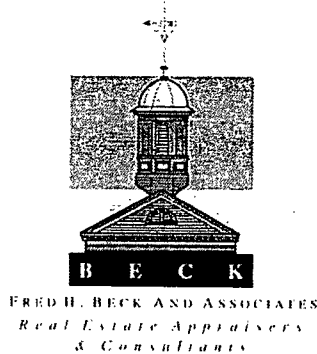
October 16, 2009

**EFFECTIVE DATE OF APPRAISAL**

"As Is" September 25, 2009

**APPRAISED BY**

FRED H. BECK & ASSOCIATES, LLC  
Mark A. Morgan  
Edward M. Parler, III



October 16, 2009

Bank of America, N.A.  
Real Estate Risk Assessment  
Attn: Debbie Pauza, Market Manager  
Mail Code: FL2-399-02-03  
100 North Westshore Boulevard  
Tampa, FL 33609

**Reference:** Ripley Light Yacht Club Marina  
95 Ripley Point Drive  
Charleston, Charleston County, South Carolina 29407  
(Bank of America Project ID #09-009978-APR01-02)

Dear Ms. Pauza:

As requested, we have inspected the above referenced property for the purpose of providing its market value. Based on our inspection and analysis of the information obtained, it is our opinion that the market values of the Fee Simple and Leased Fee interests in the subject property are as follows:

| AS IF SOLD OUT AS DOCKOMINIUM UNITS |                             |
|-------------------------------------|-----------------------------|
| WET SLIP DOCKOMINIUMS               | AS IS<br>September 25, 2009 |
| Property Rights                     | Fee Simple Estate           |
| Sellout of Slips                    | \$8,765,000                 |
| Interim Income Value                | \$765,000                   |
| Total                               | \$9,530,000                 |

| AS IF LEASED AS WET SLIPS |                             |
|---------------------------|-----------------------------|
| WET SLIP DOCKOMINIUMS     | AS IS<br>September 25, 2009 |
| Property Rights           | Leased Fee                  |
| Value Opinion             | \$2,340,000                 |

These value opinions are supported by the data and reasoning set forth in the attached narrative. Your attention is invited to the Assumptions and Limiting Conditions attached and made a part of this report. We certify that we have no present or contemplated future interest in the property appraised and that our fee for this assignment is in no way contingent upon the value opinions supplied.

We previously appraised this property on November 8, 2007 at which time the property was still under construction and not stabilized from an occupancy standpoint. There were 96 slips planned with 82 completed and 14 slips to be constructed. When the project had been completed, the developer reconfigured the layout of the slips where there ended up being a total of 87 slips. The concluded market values at that time were \$17,714,000 for the fee simple estate at completion and assuming the sellout of the slips. The concluded value of the leased fee estate which assumes the continued operation of the rental marina "at stabilization" was \$5,518,000. Since that time, the real estate market in the Charleston MSA, like majority of the State of South Carolina and the nation as a whole, has experienced decreasing property values. The housing boom for this market peaked in 2006 and 2007. Additionally, our absorption period is much longer than estimated previously; the projected slip sales price is lower and the profit & discount rates have increased due to market conditions. Due to the prolonged sellout period we have added the value of the interim cash flow generated by the continued operation of the marina.

Furthermore, a poor economy and a financial crisis which hit Wall Street, financial institutions, etc. aided in the rapid decline in property values as the financial institutions stopped lending new money for a period of time and tightened lending requirements as well. The overall effect on the subject property was the lack of demand for properties similar to the subject. Therefore the value of the subject property as well as the majority of similar properties has declined significantly over the past 18 to 24 months. Sales of boats, boat slips and other luxury items have declined rapidly as consumers cut excess expenditures in these tough economic times. Additionally, in the previous report, we included approximately \$217,000 of other income which we were told by the marina manager at that time was from ancillary items. It was discovered during the process of completing this report that this income was actually interest which has accrued from a lawsuit settlement between the property owners. The owner told us that his accountant added this to the operating statements in order to account for the accruing interest until the settlement is paid in full.

The following report complies with the standards and regulations outlined in Title XI of the Federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA). In addition, the report conforms to the Office of the Comptroller of the Currency's (OCC) appraisal standards. This includes compliance with the Uniform Standards of Professional Appraisal Practice (USPAP) of the Appraisal Institute as promulgated by the Appraisal Standards Board of the Appraisal Foundation; compliance with USPAP includes the ethics and competency provisions.

The undersigned hereby acknowledges that Edward M. Parler, III completed this analysis and report and Mark Morgan acted as review appraiser. Thank you for the opportunity to be of service and please let us know if you have any questions.

Respectfully Submitted,

Fred H. Beck & Associates, LLC



Mark A. Morgan  
State-Certified General Real Estate Appraiser  
S.C. Certificate No. CG3890



Edward M. Parler, III  
State-Certified General Real Estate Appraiser  
S.C. Certificate No. CG306

## CERTIFICATE OF THE APPRAISER

I certify that, to the best of my knowledge and belief:

1. The statements of fact contained in this report are true and correct.
  2. 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.
  3. I have no present or prospective interest in the property that is the subject of this report, and no personal interest with respect to the parties involved.
  4. I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
  5. My engagement in this assignment was not contingent upon developing or reporting predetermined results.
  6. My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined 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.
  7. The reported analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the requirements of the Code of Professional Ethics & Standards of Professional Appraisal Practice of the Appraisal Institute, which include the **Uniform Standards of Professional Appraisal Practice**.
  8. The use of this report is subject to the requirements of the Appraisal Institute relating to the review by its duly authorized representatives.
  9. I have made a personal inspection of the property that is the subject of this report.
  10. No one provided significant real property appraisal assistance to the person signing this report, other than **Edward M. Parler, III**.
- **The appraisal was not based on a requested minimum valuation, a specific valuation, or the approval of a loan.**



---

**MARK A. MORGAN**

State-Certified General Real Estate Appraiser  
S.C. Certificate No. CG3890

## CERTIFICATE OF THE APPRAISER

I certify that, to the best of my knowledge and belief:

1. The statements of fact contained in this report are true and correct.
  2. 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.
  3. I have no present or prospective interest in the property that is the subject of this report, and no personal interest with respect to the parties involved.
  4. I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
  5. My engagement in this assignment was not contingent upon developing or reporting predetermined results.
  6. My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined 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.
  7. The reported analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the requirements of the Code of Professional Ethics & Standards of Professional Appraisal Practice of the Appraisal Institute, which include the **Uniform Standards of Professional Appraisal Practice**.
  8. The use of this report is subject to the requirements of the Appraisal Institute relating to the review by its duly authorized representatives.
  9. I have made a personal inspection of the property that is the subject of this report.
  10. No one provided significant real property appraisal assistance to the person signing this report.
- **The appraisal was not based on a requested minimum valuation, a specific valuation, or the approval of a loan.**



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**EDWARD M. PARLER, III**

State-Certified General Real Estate Appraiser  
S.C. Certificate No. CG3064

**SUMMARY OF IMPORTANT FACTS AND CONCLUSIONS**  
**RIPLEY LIGHT YACHT CLUB MARINA**  
**(Bank of America Project ID: #09:009978-APR01-02)**

|                                        |                                                                                                                                                                                                                  |
|----------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Property Location                      | South side of Ripley Point Drive in Charleston, Charleston County, South Carolina 29407                                                                                                                          |
| Property Owner                         | Ashley River Properties II, LLC                                                                                                                                                                                  |
| Date of Report                         | October 16, 2009                                                                                                                                                                                                 |
| Effective Date of Appraisal<br>"As Is" | September 25, 2009                                                                                                                                                                                               |
| Property Rights Appraised              | Fee Simple and leased fee estate                                                                                                                                                                                 |
| Zoning                                 | GB-A, General Business - Accommodations                                                                                                                                                                          |
| Tax Map Reference                      | 421-11-00-275                                                                                                                                                                                                    |
| Land Area                              | Total site contains 1.64 gross acres, irregular shape on Ashley River. We conclude 0.13 net usable acres for the marina with the remainder of 1.51 acres being additional land and having no contributory value. |
| Improvements                           | Wet slip marina with a total of 87 slips, marina office/store and a party deck. Marina opened in May 2006. 69 slips are leased on annual contracts.                                                              |
| Present Use                            | Wet slip marina                                                                                                                                                                                                  |
| Highest and Best Use                   | Sellout of slips as dockominiums                                                                                                                                                                                 |
| Appraisal Procedures                   | Cost Approach - \$8,000,000<br>Income Approach - \$2,255,000<br>Development Valuation Method \$9,530,000                                                                                                         |

**FINAL OPINIONS OF VALUE FOR RIPLEY LIGHT YACHT CLUB MARINA WET SLIPS**

**As If Sold Out As Dockominium Units**

"As Is" (FEE SIMPLE ESTATE) – September 25, 2009 **\$9,530,000**

**As If Leased as Wet Slips**

"As Is" (LEASED FEE ESTATE) – September 25, 2009 **\$2,255,000**

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### **IDENTIFICATION OF THE SUBJECT PROPERTY**

The property being appraised is an existing wet slip marina located at 95 Ripley Point Drive, Charleston, South Carolina 29407. The subject property is identified in the Charleston County Tax Assessor's Office as tax parcel 421-11-00-275 and contains 1.64 gross acres as identified by a site plan provided. The marina site is at the terminus of Ripley Point Drive on a canal south of the Ashley River and the Charleston Peninsula. SCDHEC issued a permit for the construction of the subject marina on November 20, 2001, #2001-1H-315-P, expiring November 20, 2006. The permit was for 102 boat slips. On May 10, 2002, the Department of the Army, US Army Corps of Engineers issued permit #2001-1P-582 to Ripley Light Development for dredging of the subject's inlet to further marina construction. An additional Permit #2001-1H-315 issued on December 20, 2002 permitted the construction of a bulkhead, pier and marina facilities in the subject's Ripley Inlet Canal. On December 29, 2004, SCDHE/OCRM amended to marina permit, reducing the permitted number of slips to 95 in order to accommodate larger vessels. The owners revised this plan to the present layout which includes a total of 87 slips which is less than the maximum number permitted. The end of C-Dock was reconfigured with side dock slips to accommodate larger party boats / charter boats as well as providing a wider access point to the Ashley River.

Our appraisal assignment is to value the existing marina comprised of a total of 87 wet-slips, which are fully complete and 69 are presently leased with 2 additional slips being occupied by tenants which do not pay rent. One of the slips is occupied by the marina manger/dockmaster, Jennifer Jefferies (Slip B-20), while the other is occupied by Ron Acierno (Slip B-14). According to Ms. Jefferies, Mr. Acierno was one of eleven individuals who signed a contract to buy one of the 80 condominium units which the owners of the subject had planned to develop. When the condominium project fell through due to the rapidly declining condominium market, Mr. Acierno was offered a boat slip for his personal use as long as one was available in the marina. We were told by Ms. Jeffries that Mr. Acierno has helped to bring in several patrons to the marina since he has been docking his boat there. There are presently 71 slips occupied.

The subject property is legally described on a Plat prepared by Stantec Consulting Services of Charleston, South Carolina and dated June 16, 2006. The subject is also legally described in a Draft Master Deed of Ripley Light Horizontal Property Regime dated March 13, 2006.

---

### **APPRAISAL PROBLEM & PROPOSED SOLUTION**

In this appraisal, we have been asked to appraise the marina as a 'stand-alone' property with land for parking. The marina site contains 0.13 acres which supports the existing building and 8 parking spaces on site. Zoning requirements call for an additional 36 spaces to be provided. We have allocated 0.35 acres for parking from an adjoining parcel of land (under the same ownership as the subject) for this.

#### **APPRAISER COMPETENCY**

Mark Morgan and Edward M. Parler, III, both South Carolina Certified General Real Estate Appraisers, have been appraising marina properties for over 10 years. The appraisers have experience in the appraisal of vacant land and marina properties in North and South Carolina. Mark A. Morgan has also reviewed appraisal reports on a number of marinas. Therefore, we have met the requirements of the USPAP Competency Provision.

#### **INSPECTION OF THE PROPERTY**

The subject property was inspected on Friday, September 25, 2009 at which time photographs contained herein were taken. At the time of inspection, the marina was fully complete with 87 wet slips, a marina building, concrete decking, pylons, bulkheads, piers, electrical hookups and lighting. Of the 87 slips, 69 were leased on short-term leases with 2 additional slips being occupied by individuals who are not required to pay rent.

## TYPE OF REPORT

According to the Uniform Standards of Professional Appraisal Practice, Standards Rule 2-2, an appraisal report must be prepared under one of the following three options: Self Contained Appraisal Reports, Summary Appraisal Reports, or Restricted Appraisal Reports. These three report types are described as follows:

### **SELF-CONTAINED APPRAISAL REPORT**

Should contain all information significant to the solution of the appraisal problem. "Describe" is the distinguishing term related to the Self-Contained Appraisal Report.

### **SUMMARY APPRAISAL REPORT**

Should contain a summary of all information significant to the solution of the appraisal problem. "Summarize" is the distinguishing term related to the Summary Appraisal Report.

### **RESTRICTED APPRAISAL REPORT**

Should contain a brief statement of information significant to the solution of the appraisal problem. "State" is the distinguishing term related to the Restricted Appraisal Report.

This report is prepared as a **SUMMARY APPRAISAL REPORT**.

## INTENDED USE AND INTENDED USER OF THE APPRAISAL

This report is intended for the exclusive use of the client, **BANK OF AMERICA, N.A. – REAL ESTATE RISK ASSESSMENT**, and it intended to be used for underwriting, loan classification and/or disposition of the asset. A copy of the Engagement Letter is shown in the Addenda.

## PROPERTY RIGHTS APPRAISED

There are three primary types of property rights that may be appraised. They are Fee Simple Estate, Leased Fee Estate, and Leasehold Estate. They are defined as follows:

### **FEE SIMPLE ESTATE**

Absolute ownership unencumbered by any other interest or estate, subject only to the limitations imposed by the government powers of taxation, eminent domain, police power, and escheat.

### **LEASED FEE ESTATE**

An ownership interest held by a landlord with the rights of use and occupancy conveyed by lease to others. The rights of the lessor (the leased fee owner) and the leased fee are specified by contract terms contained within the lease.

### **LEASEHOLD ESTATE**

The interest held by the lessee (the tenant or renter) through a lease conveying the rights of use and occupancy for a stated term under certain conditions.

We have been asked to appraise the fee simple interest in the property based on the highest and best use. **We did not prepare a title search, nor were current exceptions to title provided to us. Please consult an attorney for clarification of legal constraints. Our analysis consists of two scenarios. The first assumes the continued operation as a private for rent marina. The second assumes that the slips would be converted to dockominiums and sold off individually. We have added the present worth of the interim rental income due to the extended sellout needed in light of today's poor economic climate.**

## DATE OF REPORT

The date of this report is October 16, 2009.

## EFFECTIVE DATE OF THE APPRAISAL

The effective date of this appraisal is as follows:

|         |                    |
|---------|--------------------|
| "As Is" | September 25, 2009 |
|---------|--------------------|

## DEFINITION OF MARKET VALUE

The following definition of market value is approved by the Office of the Comptroller of the Currency of the United States of America, Chapter 12, Code of Federal Regulation, Part 34.42 (f). Market Value is defined as:

"The most probable price which 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 the 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 acting in what they consider their own best interests;
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."

## VALUE REPORTED

Values are typically reported on the basis of one or more of the following situation.

Market Value "As Is" on the Appraisal Date: Market Value "As Is" on the appraisal date is an estimate of the market value of a property in the condition observed upon inspection and as it physically and legally exists without hypothetical conditions, assumptions or qualifications as of the date the appraisal is prepared.

Prospective Future Value Upon Completion of Construction: Prospective future value "upon completion" of construction is the prospective future value of a property on the date that construction, conversion or rehabilitation is completed, based upon market conditions forecast to exist as of that completion date. The value estimate at this stage of value should be stated in current dollars as of a current date.

Prospective Future Value Upon Reaching Stabilized Occupancy: Prospective future value "upon reaching stabilized occupancy" is the prospective future value of a property when all improvements have been physically constructed and the property has been leased to its optimum level of long-term occupancy at the market rent level. The value estimate at this stage of value should be stated in current dollars as of a current date.

In this report, we will estimate the Market Value of the subject, "**AS IS**" as of September 25, 2009.

### **LEGAL CONSTRAINTS**

The property is zoned GB-A, General Business, in the Accommodations Overlay District. Based on our research, the use of the property as a marina conforms to the existing zoning regulations as to use. Please consult an attorney for clarification of zoning, setbacks, buffers, water rights, and other legal issues. The GB-A zoning district is discussed in detail in the Zoning Section of this report. Please note that we did not prepare a title search, nor were current exceptions to title provided to us. Please consult an attorney for clarification of legal constraints. We are aware of the following legal issues:

- 10' boardwalk easement along the subject's water frontage
- Easement to South Carolina Electric & Gas Company as recorded in Charleston County Deed Book W527, Page 534
- Assignment of Leases Rents and Profits to Marshall Investments Corporation recorded in Charleston County Deed Book H502, Page 078 and K511, Page 283
- Department of the Army dredging Permit 2000-1P-582
- Right of First Refusal Agreement between Ashley River Properties I, LLC and Kiti Ripley, LLC dated December 30, 2003 and recorded in Charleston County Deed Book G486, Page 355
- 15' water main easement as shown on the survey
- Possible 15' force main easement as shown on the survey
- Charges for maintenance of common area of Ripley Pointe Drive, a private drive apparently owned by Ripley Point Hotel and shown on Charleston County Tax Map 421-11-00-080.
- SC Department of Health & Environment Control (SCDHEC), Ocean and Coastal Resource Management (OCRM) Critical Line as shown on the surveys
- Other required permits for operating the marina as well as requirements for sewer pump-outs
- Zoning ordinances
- Development Ordinances
- Board of Architectural Review
- Navigable Servitude of the US Government and the State of SC with regard to improvements within the OCRM critical line
- Interests or restrictions placed by the Federal Coastal Zones Management Act

### **STATEMENT OF OWNERSHIP**

According to the Charleston County tax records, the property described in this report is currently owned by:

**ASHLEY RIVER PROPERTIES II, LLC  
424 WEST MOUNTAIN ROAD  
RIDGEFIELD, CT 06877**

## HISTORY OF PROPERTY

Ashley River Properties II, LLC acquired the subject from Ripley Light Development, LLC on December 29, 2003 by deed recorded in Charleston County Deed Book E480, Page 016. Consideration was \$100,000, but the deed is not arm's length, as Stuart L. Longman is the managing member of both entities. The sale included all the docks, floating docks and all other properties attached to the property, according to the deed. The price is not reflective of the subject's market value.

Ripley Light Development, LLC acquired the subject vacant site from Ripley Point Associates, LLC on November 4, 2002 as recorded in Charleston County Deed Book S424, Page 112. Arthur H. Applegate is listed as the Managing Member of Ripley Point Associates, LLC. The sale does not appear to have included the permit for the marina or approval for the construction of a proposed condominium project. That future condominium project is not a part of this appraisal. The price was \$100,000 which is well below the market and is not reflective of the subject's current market value.

SCDHEC issued a permit for the construction of the subject marina on November 20, 2001, #2001-1H-315-P, expiring November 20, 2006. The permit is for 102 boat slips. On May 10, 2002, the Department of the Army, US Army Corps of Engineers issued permit #2001-1P-582 to Ripley Light Development for dredging of the subject's inlet to further marina construction. An additional Permit #2001-1H-315 issued on December 20, 2002 permitted the construction of a bulkhead, pier and marina facilities in the subject's Ripley Inlet Canal. On December 29, 2004, SCDHE/OCRM amended to marina permit, reducing the permitted number of slips to 95 in order to accommodate larger vessels. The subject's original marina plan called for a total of 96 slips, one more than permitted. The owners revised this plan to the present layout which includes a total of 87 slips which is less than the maximum number permitted. The end of C-Dock was reconfigured with side dock (facedock) slips to accommodate larger party boats / charter boats as well as providing a wider access point to the Ashley River. The subject property is a part of a larger parcel that was acquired in 1996.

Kriti Ripley, LLC and Ashley River Properties I, LLC have executed a Right of First Refusal Agreement on December 30, 2003 as recorded in Charleston County Deed Book 486, Page 355. Kriti Ripley, LLC may participate in the development of the property. Kriti may participate as a 50% development partner for an initial investment price for a 50% ownership interest in the property equal to 50% of Ashley River's document expenditures to date. The agreement terminates on the tenth anniversary date of the agreement. The Agreement runs with the land. The Agreement is signed by Stuart Longman, Operating

Manager of Emerald Investments, LLC, Managing Member of Ashley River Properties I, LLC and by Davidson D. Williams, Managing Member of Kriti Ripley, LLC.

We are aware of two unsolicited offers to purchase the subject property and adjoining interior land totaling 5.145 acres of land and not included in this appraisal plus the permits for the marina. The amount of land contained in the uplands is 5.72 acres but the 5.145 acres was the amount known at the time of the offer. Centex Corporation offered \$14,500,000 on June 6, 2005 to purchase the land (5.145 acres) plus the permits for the marina slips. The offer was considered to be at market terms at the time. Gillespie and Company of Concord, Massachusetts offered \$12,400,000 to buy the marina land, adjoining interior parcels and permits for the marina on June 8, 2005. This offer was considered at below-market terms. Neither offer was entertained by the owners.

Legal issues slowed the development in Fall 2005 when an published article in *The Charleston Post and Courier* stated that a holdup in development was caused by a legal dispute between the majority landowner, Connecticut developer Stuart Longman and his financial partner, an offshoot of Kriti Management, Inc. We also understand that another legal issue required larger boats docked at smaller slips at the Ripley Light Marina to relocate as they restricted navigation in the inlet channel. We are unaware of any other pending contracts, existing leases or options to purchase all or portions of the subject property.

## **SCOPE OF THE APPRAISAL**

As part of this appraisal, a number of independent investigations and analyses were conducted. In addition to data compiled by Fred H. Beck & Associates, LLC on a regular basis, the investigations undertaken and major data sources used are listed below. Legal constraints were obtained by researching DHEC/OCRM databases and interviews with Jennifer Jeffries (marina manager/dockmaster) and Davidson D. Williams, Managing Member of Kriti Ripley, LLC. We also researched the Charleston County Register of Deeds to obtain the subject's deed, survey, and comparable data. We also researched the Charleston Consolidated Multiple Listing Service.

### **AREA AND NEIGHBORHOOD SUMMARY**

An inspection of the neighborhood was conducted on September 25, 2009. Several local real estate firms were contacted to discuss recent land sales in the area.

### **SITE SUMMARY**

The developer provided a preliminary site plan. We also utilized the legal description shown in the most recent deed. The subject property is 1.64 gross acres. FEMA flood maps were also researched. We have noted that the subject site is highly irregular in shape with significant portions of the property front the marshlands to the north and west of the marina. There is no access to this area and we conclude only a portion of the subject property of 0.13 acres is attributed to the marina. The remainder is land that totals 1.51 acres, and in our opinion, offers no contributory value to the subject property. This will be discussed in the land valuation section of the report. A current survey is recommended. This will be discussed at greater length in the site summary section of this report.

### **IMPROVEMENT SUMMARY**

At the time of inspection, 87 marina slips were fully complete. Of the 87 slips, 69 are leased and 2 additional are occupied by individuals who are not required to pay rent. A current rent roll was provided for the marina slip rentals. There is also a marina building with a rental office, storage rooms, laundry facility and two restrooms with showers located on the site. The marina slips are not presently being offered for sale as dockominium units.

### **COST APPROACH**

The **Marshall Valuation Service**, a national cost service, was utilized in determining the replacement cost for the marina property. Our projection was compared to the developer's actual expenditures utilized to complete the marina. We also estimated the subject's land value by analyzing recent comparable land sales.

### **INCOME APPROACH**

We were provided year-to-date income and expenses for the subject property and a rent roll showing 69 of the 87 slips as leased on short-term rentals with 2 additional slips being occupied by individuals who are not required to pay rent. We surveyed the marina market to determine market rental rates per lineal foot for similar marinas and determine the gross income potential for the subject property. We deducted market vacancy, operating expenses and the resulting net operating income which was then capitalized in to a value indication. We compared our concluded value with the other approaches to determine the reasonableness of our conclusion.

**DEVELOPMENT VALUATION METHOD**

This method combines both the Income and Sales Comparison Approaches. In this technique, the retail value of the individual marina slips is estimated based on comparable properties. None of the subject's slips are being offered for sale. Additional market information is used to document absorption of the units. Expenses incurred during the sellout process are deducted from sales revenues. The resulting net income stream is discounted to a present value. We have added to the value conclusion the present value of the interim rental income from boat slip rentals due to the extended sellout time.

**EXTRAORDINARY ASSUMPTIONS**

Please refer to the typical Assumptions and Limiting Conditions in the Addenda for further clarification of the conditions significant to this assignment.

**HYPOTHETICAL CONDITIONS**

There are no hypothetical conditions in this assignment.

**SUPPLEMENTAL STANDARDS**

Our firm has an executed engagement letter from the client, a copy of which is provided in the addenda of this report.

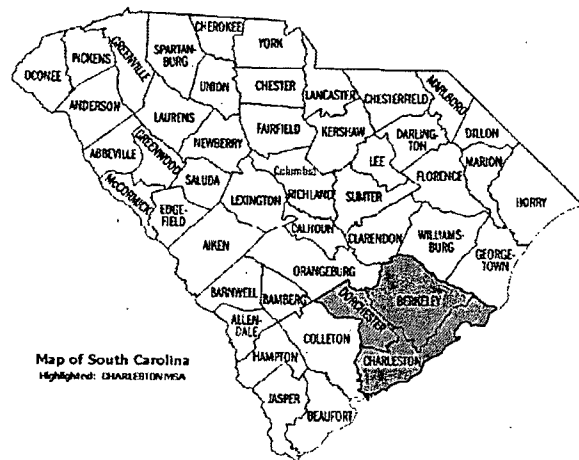
**JURISDICTIONAL EXCEPTIONS**

There are no jurisdictional exceptions in this assignment.

## **METROPOLITAN PROFILE**

### **CHARLESTON METROPOLITAN REGION**

The constantly changing nature of economic relationships within a given area, as shaped by the forces controlling future growth and development, will have a direct bearing on the whole spectrum of economic activity, including the long term value of real estate investments. The purpose of this section of the report is to isolate and examine those economic trends and forces prevalent in the Charleston market that influence and create value. Since real estate is an immobile asset, the economic trends and forces that affect the subject's quality of location in relation to other competing facilities within its market area, are to be fully evaluated. Past and probable future trends affecting the economic structure of the market area are studied, including the analysis of foreseeable changes.



#### **LOCATION**

The Charleston Trident Metropolitan Region is comprised of Berkeley, Charleston and Dorchester Counties. The Trident area stretches along the central and southern South Carolina coast with 90 miles of Atlantic coastline in an inland depth that extends 50 miles inland. The Trident area consists of approximately 26 incorporated communities ranging in population from 88 (Jamestown) to nearly 98,000 (Charleston). The Trident metropolitan area contains approximately 3,163 square miles. This area is primarily influenced by four major economic sectors - the Military, the Port of Charleston, the visitor industry and the medical community.

Charleston has long been an important seaport in the center of a rich agricultural region. It is also a nationally known resort and convention city. Progress has been made in recent years in industrial development due to the sea port facilities and the favorable business climate. The following are two examples of the increasing economic development of the Trident area.

- Charleston is home to the largest containerized port on the Southeast and Gulf coasts, second only to the combined ports of New York and New Jersey.
- Seventeen International operate in the Trident region and produce more than 25 percent of the manufacturing jobs in the region.

The impact of the closing of the Charleston Naval Shipyard, which was accepted by Congress in 1993, led to some economic uncertainty. The base was physically closed in October 1995 and completely closed in April 1996. The impact of the shipyard closure will be addressed in detail later in this section. Charleston is the largest business and financial center for southeastern section of South Carolina. The economy of the tri-county area has expanded steadily over the past couple of years. Manufacturing, the military, the State Ports Authority, and tourism combined to enhance the Trident area's economy.

More than eight million tons of cargo passes through the Port of Charleston each year. As the largest containerized cargo port on the Southeast Atlantic and Gulf coasts and the seventh largest nationwide, the port annually handles over 6.8 million tons of cargo and employs an estimated 17,000 people. Confidence in the port's expanding future is evident in BMW Corporation's decision to import/export from these docks. The Port of Charleston is expected to be a cornerstone of the Trident area's economic growth.

#### POPULATION TRENDS AND PROJECTIONS

The Trident area has seen steady population growth over the past seventeen years. Please refer to the chart below for population statistics for the City of Charleston, Charleston County, and the Charleston MSA.

| AREA POPULATION STATISTICS |                |                |                         |                  |                         |                    |                         |
|----------------------------|----------------|----------------|-------------------------|------------------|-------------------------|--------------------|-------------------------|
| Area                       | Census<br>1990 | Census<br>2000 | Annual Chg<br>1990-2000 | Estimate<br>2009 | Annual Chg<br>2000-2009 | Projection<br>2014 | Annual Chg<br>2008-2014 |
| City of Charleston         | 96,102         | 96,650         | 0.1%                    | 106,890          | 1.1%                    | 112,858            | 1.1%                    |
| Charleston County          | 295,039        | 309,969        | 0.5%                    | 336,819          | 0.9%                    | 353,151            | 1.0%                    |
| Charleston MSA             | 506,875        | 549,033        | 0.8%                    | 617,882          | 1.3%                    | 662,617            | 1.4%                    |

Source: Claritas, Inc.

The City of Charleston has experienced very slight growth since 1990 through 2000 which continued with a slightly higher growth factor of 1.1% for the period 2000-2009.

This growth factor is also projected for the years 2009 through 2014. Charleston County and the Charleston MSA have experienced similar type growth rates over the past two decades and are projected to have similar growth rates as the city through the year 2014. The historical and projected household statistics for Charleston, Charleston County, and Charleston MSA are presented in the following table:

| AREA HOUSEHOLD STATISTICS |                |                |                         |                  |                         |                    |                         |
|---------------------------|----------------|----------------|-------------------------|------------------|-------------------------|--------------------|-------------------------|
| Area                      | Census<br>1990 | Census<br>2000 | Annual Chg<br>1990-2000 | Estimate<br>2009 | Annual Chg<br>2000-2009 | Projection<br>2014 | Annual Chg<br>2008-2014 |
| City of Charleston        | 36,669         | 40,791         | 1.1%                    | 46,649           | 1.5%                    | 49,831             | 1.3%                    |
| Charleston County         | 107,069        | 123,326        | 1.4%                    | 139,777          | 1.4%                    | 150,738            | 1.5%                    |
| Charleston MSA            | 177,668        | 207,957        | 1.6%                    | 243,772          | 1.8%                    | 267,730            | 1.9%                    |

Source: Claritas, Inc.

The household statistics are basically similar to and mirror the population growth figures for the City of Charleston, Charleston County and the Charleston MSA.

#### AREA INCOME STATISTICS

The Trident area has seen steady income growth over the past five years. Please refer to the chart below for the 2009 income statistics for comparisons of the City of Charleston, Charleston County, and the Charleston MSA.

| 2009 INCOME STATISTICS |                      |                     |               |
|------------------------|----------------------|---------------------|---------------|
| Area                   | Average<br>Household | Median<br>Household | Per<br>Capita |
| City of Charleston     | \$64,432             | \$44,520            | \$28,518      |
| Charleston County      | \$66,857             | \$47,558            | \$27,905      |
| Charleston MSA         | \$64,628             | \$49,370            | \$25,566      |

**MAJOR EMPLOYERS**

The 25 largest employers in the Charleston MSA are detailed in the following table:

| <b>LARGEST EMPLOYERS, CHARLESTON MSA</b>        |                                             |           |
|-------------------------------------------------|---------------------------------------------|-----------|
| Company                                         | Product/Service                             | Employees |
| US Navy                                         | Various Naval Commands                      | 16,219    |
| Medical University of South Carolina            | Healthcare                                  | 8,200     |
| Charleston Airforce Base                        | United States Air Force                     | 5,594     |
| Charleston County School District               | Primary & Secondary Education               | 5,000     |
| Roper St. Francis Healthcare                    | Healthcare                                  | 4,000     |
| Berkeley County School District                 | Primary & Secondary Education               | 3,414     |
| Piggly Wiggly Carolina Co. Inc.                 | Grocery headquarters & 23 area stores       | 2,500     |
| Charleston County                               | County Government                           | 2,243     |
| Robert Bosch Corporation                        | Fuel Injection & braking systems            | 2,243     |
| Wal Mart Stores                                 | Retail general merchandise (8 area stores)  | 2,153     |
| Trident Health System                           | Trident and Summerville Medical Centers     | 2,082     |
| Dorchester County School District II            | Primary & Secondary Education               | 2,000     |
| Santee Cooper                                   | Electric Utility                            | 1,725     |
| Mead Westvaco                                   | Specialty paper, packaging, chemicals, etc. | 1,596     |
| City of Charleston                              | Municipal government                        | 1,470     |
| Bi-Lo Inc.                                      | 15 area grocery stores                      | 1,300     |
| U.S. Postal Service                             | Postal Service                              | 1,200     |
| R.H. Johnson Dept. of Veterans Affairs Hospital | Healthcare                                  | 1,100     |
| Cummins Engine Divisions & Joint Ventures       | Automotive products                         | 1,062     |
| OSI                                             | Billing & accounts receivable services      | 1,000     |
| SCANA/SC Electric & Gas Company                 | Electric & gas utility                      | 1,000     |
| College of Charleston                           | Post secondary education                    | 990       |
| City of North Charleston                        | Municipal government                        | 850       |
| Nucor Steel                                     | Steel roll and beam manufacturing complex   | 831       |
| Berkeley County                                 | County Government                           | 750       |

Source: Charleston County Chamber of Commerce

The four largest employers in the Charleston region are the US Navy, The Medical University of SC, The U.S. Air Force, and The Charleston County School District. Historically, Charleston's largest employer has been the United States Navy; however, this changed with the 1993 announcement that the Charleston Naval Base and Shipyard would be closed, resulting in the imminent loss of 33,000 active, civilian and contract military jobs. The payroll for the armed forces community in the Trident area is \$1 billion dollars. In the last five years, total Navy employment has declined by 41 percent. From 1991-1993, Navy employment declined by 9,000. By phasing the jobs out gradually and not all at one time, the damage to the employment base and the overall economy was greatly reduced. It has been estimated that 21,000 jobs have been lost in the past 6 years.

The Building Economics Solutions Together committee (BEST) was formed to pursue alternative uses for the Charleston Naval Base in the areas of job creation and business development. The naval base and shipyard contain 2.3 million square feet of industrial space, 1.8 million square feet of warehouse space, and 2.2 million square feet of office space. The success of the committee's efforts to find an alternative use for the naval base

can considerably lessen the base closure's impact on the Trident area economy. It has been learned that the Naval Electronics Systems Engineering Center (NAVALEX) facility will not be closed, and will undergo expansion. The three Naval Electronic Divisions are being consolidated to form the new NISE East Complex. The Charleston Naval Weapons Station will also remain in operation and a new army depot will replace POMFLANT. Other military users in the Trident area include the United States Air Force and the Coast Guard, which have major bases in the area, and are not being phased out.

One of the largest industries in the Trident area is tourism, which attracts over 3,700,000 visitors annually. The total estimated annual impact of the visitor industry is over \$3.2 billion, providing around 34,000 jobs. Popular visitor attractions in the Trident area include the Maritime Museum at Patriot's Point, which features the aircraft carrier, Yorktown. Other sites include Fort Sumter, Charlestown Landing, as well as the downtown market area. An event in the area that attracts visitors is the Spoleto Festival, a three-week festival at the end of May and the beginning of June. The Spoleto Festival has been held in Charleston since 1977 and is a nationally recognized festival of the performing arts. Charleston has both a Spring Festival of House and Gardens and a Fall Tour of Homes. Both of these events are a month long and offer tours of antebellum homes not normally open to the public. Another major event is the Southeastern Wildlife Exposition, which is considered to be the largest Wildlife exposition in the country. The Wildlife Exposition is held for one weekend in February and attracts over 40,000 visitors.

The largest manufacturers in the Trident area are Westvaco Corporation; The Robert Bosch Corporation; Bayer; Cummins Engine Company, inc.; Alcoa, Mt Holly; and Williams Technologies. This industry, especially defense-related contractors, experienced the negative effects of the Charleston Naval Base closure, as well as reduced military spending; however, after September 11, 2001, military spending has resumed. It should be noted, however, that the Trident Economic Development Authority has reported strong interest from national as well as international manufacturing firms wishing to locate in the Trident area.

**LABOR FORCE**

The chart below illustrates the most recent employment figures for the City of Charleston, Charleston County, Charleston MSA as well as the State and National Unemployment Rates.

| <b>LABOR FORCE STATISTICS</b>         |         |         |         |         |         |         |
|---------------------------------------|---------|---------|---------|---------|---------|---------|
| Annual Average of Year:               | 2004    | 2005    | 2006    | 2007    | 2008    | Jul-09  |
| <b>City of Charleston</b>             |         |         |         |         |         |         |
| Total Civilian Labor Force            | 52,202  | 53,194  | 57,377  | 58,368  | 58,343  | 60,505  |
| Total Employment                      | 49,321  | 50,241  | 54,203  | 55,356  | 54,991  | 54,201  |
| Total Unemployment                    | 2,883   | 2,953   | 3,174   | 3,012   | 3,352   | 6,304   |
| Unemployment Rate                     | 5.5%    | 5.6%    | 5.5%    | 5.1%    | 5.7%    | 10.4%   |
| <b>Charleston County</b>              |         |         |         |         |         |         |
| Total Civilian Labor Force            | 165,081 | 168,190 | 172,913 | 176,205 | 176,873 | 182,514 |
| Total Employment                      | 156,191 | 159,084 | 164,178 | 167,671 | 167,505 | 165,100 |
| Total Unemployment                    | 8,890   | 9,106   | 8,735   | 8,534   | 9,368   | 17,414  |
| Unemployment Rate                     | 5.4%    | 5.4%    | 5.1%    | 4.8%    | 5.3%    | 9.5%    |
| <b>Charleston MSA</b>                 |         |         |         |         |         |         |
| Total Civilian Labor Force            | 288,815 | 297,228 | 306,292 | 312,168 | 320,000 | 331,738 |
| Total Employment                      | 273,340 | 281,301 | 290,308 | 296,485 | 302,080 | 297,742 |
| Total Unemployment                    | 15,475  | 15,927  | 15,984  | 15,683  | 17,920  | 33,996  |
| Unemployment Rate                     | 5.4%    | 5.4%    | 5.2%    | 5.0%    | 5.6%    | 10.2%   |
| <b>State and National Rates</b>       |         |         |         |         |         |         |
| South Carolina                        | 6.4%    | 5.5%    | 5.2%    | 4.8%    | 6.9%    | 11.8%   |
| United States                         | 6.0%    | 5.5%    | 5.1%    | 4.6%    | 7.2%    | 9.4%    |
| Source: US Bureau of Labor Statistics |         |         |         |         |         |         |

The following chart illustrates the employment sector breakdown in Charleston, Charleston County and the Charleston MSA:

| ESTIMATED 2009 EMPLOYMENT STATISTICS          |                    |         |         |         |         |         |
|-----------------------------------------------|--------------------|---------|---------|---------|---------|---------|
| Description                                   | City of Charleston |         | County  |         | MSA     |         |
|                                               | Total              | % Total | Total   | % Total | Total   | % Total |
| <b>OVERALL CLASSIFICATION</b>                 |                    |         |         |         |         |         |
| For Profit Private Workers                    | 33,418             | 66.0%   | 109,443 | 67.5%   | 208,567 | 69.2%   |
| Non-Profit Private Workers                    | 3,146              | 6.2%    | 8,529   | 5.3%    | 13,912  | 4.6%    |
| Local Government Workers                      | 3,332              | 6.6%    | 10,073  | 6.2%    | 19,017  | 6.3%    |
| State Government Workers                      | 6,051              | 11.9%   | 16,084  | 9.9%    | 27,077  | 9.0%    |
| Federal Government Workers                    | 1,569              | 3.1%    | 6,566   | 4.1%    | 13,895  | 4.6%    |
| Self-Employed Workers                         | 3,022              | 6.0%    | 10,782  | 6.7%    | 17,893  | 5.9%    |
| Unpaid Family Workers                         | 127                | 0.3%    | 563     | 0.3%    | 848     | 0.3%    |
| Total Employment                              | 50,655             | 100.0%  | 162,040 | 100.0%  | 301,209 | 100.0%  |
| <b>INDUSTRY CLASSIFICATION</b>                |                    |         |         |         |         |         |
| Management, Business, & Financial Operations  | 6,978              | 13.8%   | 21,794  | 13.4%   | 37,127  | 12.3%   |
| Professional and Related Occupations          | 13,859             | 27.4%   | 37,631  | 23.2%   | 62,333  | 20.7%   |
| Service Industries                            | 9,569              | 18.9%   | 28,563  | 17.6%   | 47,808  | 15.9%   |
| Sales and Office                              | 12,901             | 25.5%   | 42,212  | 26.1%   | 79,078  | 26.3%   |
| Farming, Fishing, and Forestry                | 224                | 0.4%    | 713     | 0.4%    | 1,334   | 0.4%    |
| Construction, Extraction, and Maintenance     | 3,338              | 6.6%    | 15,110  | 9.3%    | 33,986  | 11.3%   |
| Production, Transportation, & Material Moving | 3,796              | 7.5%    | 16,017  | 9.9%    | 39,543  | 13.1%   |
| Total Employment                              | 50,655             | 100.0%  | 162,040 | 100.0%  | 301,209 | 100.0%  |

Source: Claritas, Inc.

## TRANSPORTATION

The Charleston International Airport currently serves over 1.4 million passengers annually, with seven major airlines offering over 90 flights per day to national and international destinations. The major airlines serving the airport include Continental, Delta, USAir, and Midway. The Trident area has six private airports in addition to the international airport, to accommodate both corporate and private aircraft. There are approximately 100 motor freight carriers serving the Trident area. Also serving the Trident region is the Norfolk Southern, the CSX system, as well as the South Carolina Railroad Commission. The interstate highways serving the Trident area are Interstate 26, which is an east/west interstate which intersects with Interstate 95 (a north/south interstate) about 50 miles northwest of Charleston. Interstate 26 also intersects Interstate 77 (a north/south interstate) in Columbia, South Carolina. In addition to Interstate service, five major U.S. highways and eleven major state highways also serve this area. Forming a semi-circle across the region is Interstate 526, the Mark Clark Expressway, which is a 19-mile freeway connecting Mt. Pleasant, North Charleston, and the West Ashley area of Charleston.

## TOURISM

Tourism is the second largest industry in the Trident area, attracting around 4,000,000 visitors annually and pumping an estimated \$3.7 billion into the local economy. Charleston

promotes itself as "America's Most Historical City" and attracts affluent tourists who appreciate the historic architecture and character of the downtown area. Charleston consistently ranks in the top 10 most popular tourist destinations in the United States, and in the top 20 in the world. Charleston has a wide array of hotels, motels, and inns for the pleasure and business traveler. The average daily rate increased significantly in 1998, from \$88.65 to \$93.95. The hotel occupancy rate for 1998 was 71.1%, up from 70.1% in 1997. Primary visitor attractions in the Charleston area include Fort Sumter, Charlestowne Landing, and the Maritime Museum at Patriot's Point which features the aircraft carrier Yorktown, which is the state's number one paid destination for tourists. Since 1977, Charleston has been the home to Spoleto Festival USA. The success of this three-week festival held in May/June has established Charleston as the site of the nation's premiere festival of performing arts. The Southeastern Wildlife Exposition, held in February, is the largest wildlife art exposition in the country and is the busiest tourist weekend of the year with over 40,000 upscale visitors attracted annually.

#### **SHIPPING**

The Port of Charleston is the largest containerized port on the South Atlantic and Gulf Coasts and is second only to the combined ports of New York and New Jersey on the entire east coast. According to port officials, over 12.6 million tons of cargo was handled through Charleston's terminals in 1998. This was more than a 14% increase from the 11 million ton total for 1996. A recent study estimates there are over 14,000 port related jobs in the Trident region generating over \$1 billion annually in the local economy. The Port has four inter-model facilities, which handle container, bulk, and break-bulk cargo. These facilities have been operating at capacity levels, which have resulted in relatively flat tonnage growth. The Port spent \$100 million in 1994 to expand the Wando Terminal facility in Mount Pleasant. This expansion helped solve the existing capacity problem at the other terminals. In addition, the Port is proceeding with its plans to construct a new container terminal facility opposite the naval base on Daniel Island. These expansion plans will allow the Port of Charleston to continue to grow and compete effectively with other ports.

#### **HEALTH CARE**

With a combined employment of nearly 16,000 and an economic impact in excess of \$1 billion annually, the regions' hospital and health care community are of increasing importance to the area's overall economy. There are 10 full service hospitals with a total of 2,161 beds in the Trident region. Two new hospitals were built in Charleston during the 1990s. St. Francis Hospital opened a 160 bed full service hospital in West Ashley in December 1996, and Roper Hospital opened the Roper North in West Ashley in the summer of 1995, offering emergency and outpatient services with 104 beds. Additional medical services for the area are provided by the Ronald McDonald House, several nursing homes,

convalescent homes, children's hospitals, psychiatric hospitals, and a private alcoholism/drug dependency treatment facility.

### **COLLEGES AND SCHOOL SYSTEM**

The Trident area has an excellent array of public/private schools, colleges, and universities. There are four colleges/universities, a medical university, a culinary arts college, two technical colleges, a good public school system, and 25 private and parochial schools. The College of Charleston is a four-year, state-assisted, liberal arts institution offering 34 undergraduate degree programs. In conjunction with the college, the University of Charleston offers 10 graduate degree programs. The College of Charleston was founded in 1770, and is the oldest institution of higher learning in South Carolina and the 13th oldest in the nation. The Citadel, founded in 1842, is a state-assisted military college which until recently was all male. The Citadel philosophy combines classroom requirements with a military environment, which emphasizes discipline, responsiveness and leadership. Charleston Southern University opened in 1964 as the only church-affiliated college in the area. Today it is the second largest private university in the state, with 28 undergraduate degrees along with masters in business administration, education, and teaching. The Medical University of South Carolina (MUSC) is the oldest medical school in the South, and forms the core of the state's largest medical complex. Established in 1824, it is located in historic downtown Charleston. Trident Technical College is a public two-year institution founded in 1964 to provide accessible, practical, high-quality education. The college emphasizes practical, marketable job skills through comprehensive and updated technical programs. Other colleges and universities in the Charleston area include Johnson and Wales Culinary University, Webster University and Limestone College.

### **GOVERNMENT SERVICES**

Management of local government varies between city and county governments in the Trident area. Charleston County has a county-administrator form of government. The City of Charleston is governed by an elected mayor and 12 city council members. Municipal water and sewer is provided by the Commissioners of Public Works of the City of Charleston. Both the water and sewer systems are modern and have been adequately planned for expansion. South Carolina Electric and Gas Company provide the electricity and natural gas for the majority of Charleston County and Southern Bell provides the primary telephone service. Their rates are competitive compared to other cities in the state. The Trident area's various municipalities have zoning departments, land use plans, and building codes, which govern how a property can be developed. These controls have created a general conformity of development in the Trident area.

# **DISTANCE TO MAJOR CITIES**

| City, State    | Distance  |
|----------------|-----------|
| Atlanta, GA    | 291 miles |
| Chicago, IL    | 906 miles |
| Miami, FL      | 590 miles |
| New York, NY   | 768 miles |
| Washington, DC | 532 miles |

# **CONCLUSION**

The social, economic, governmental, and environmental forces that influence real estate values appear to be in balance in the Trident area. Despite the closure of the Charleston Naval Base and Shipyard in 1996 and the subsequent BRAC re-alignments of 2005, the Charleston area has and continues to show signs of improvement. The expansion of the port is likely to create a significant number of new jobs during the next several years as more and more companies relocate to Charleston. Because the region is not dependent on any one single industry or business sector, the area is poised to weather the latest economic downturn much better than other areas dominated by one particular industry. The anticipated growth in population, increased tourism, and expanded port operations should lessen the economic repercussions of the recession.

## **DOCKOMINIUM MARKET OVERVIEW**

The subject property has a proximate location to Charleston CBD with good highway access. Surrounding areas (mainland and islands) have a population bases that sharply increases in the spring, summer and fall months with the rise in tourism. During the winter months, this population falls. The Ripley Point area is itself a desirable location and has been the focus of much new development since the mid 1990s. There are a number of marinas similar to the subject property in the immediate area and are discussed below.

### **WET-SLIP DOCKOMINIUMS**

The subject is a wet slip marina with 87 slips and 69 are presently leased. The slips range in size from 30' to 65'. The marina slips were originally built to be marketed for sale in conjunction with a condominium project to be developed on land adjoining the marina site. With a downturn in the condominium market in late 2005 and early 2006, the owners moved ahead with development of the marina and opted to lease the slips on short-term leases rather than try to sell them. Currently, 69 slips of the total of 87 slips are leased.

During the late 1990's to approximately 2005, the Charleston area marinas followed a national trend in selling rather than leasing boat slips. The cost to construct a marina escalated to a point whereby the return in leased slips was not as financially feasible as the return from the sale of those slips. Hurricanes in Florida have destroyed some supply, creating greater demand for slips in South and North Carolina. In South Carolina, most marina slips are converted to condominiums, or 'dockominiums', while ownership in slips in the NC is 'memberships'. Both forms of ownership are transferable, but a dockominium requires a unit to also have a mailbox or a 'locker box'.

Marinas that still offer slips for rent include the largest permitted marina in SC – Charleston Harbor Marina at Patriot's Point, The Bristol Marina, City Marina, Daniel Island Marina, Isle of Palms Marina, Shem Creek Marina, Folly Beach Marina, the Cooper River Marina, Stono Marina and Ripley Light Yacht Club Marina (subject). Since the average size of a boat is increasing nationwide, not all marinas are suitable for conversion. The average boat size has grown from 21' feet ten years ago to upwards of 30' and more today. All but The Bristol Marina are established marinas in Charleston. As with most forms of condo ownership, maintenance fees are paid in addition to the purchase of a slip. Some of these marinas have converted to slip ownership, including Ripley Cove, The Harborage, Toler's Cove, Wild Dunes Yacht Club, Bohicket Marina on Seabrook Island and St. Johns Yacht Club on Johns Island.

### **Ripley Cove Marina**

Ripley Cove Marina is located across Ripley Cove from the subject property. The marina has both wet slips as well as dry stack storage. The wet slips were converted to dockominiums in 2004. As previously stated in the History of the Property section of this report, this marina appears to have issues regarding its slip size as reported in the condominium documents and the slip size permitted by the US Army Corps of Engineers. We found one sale in 2005 of two slips that were represented in the condo documents as having 60 lineal feet each and sold for \$570,000, or \$4,750 per lineal foot, and the sale of 20 slips totaling 335 lineal feet that sold for \$1,471,428 or \$4,392 per lineal foot. These purchasers believed they were purchasing 60' slips. According to Ryan Black, former property manager of the subject property, the purchasers of these slips were misled and the purchase prices indicated are not indicative of market terms. We believe that if the purchasers knew they were buying smaller slips, the price per lineal foot would have been much less. This property also has dry stack storage. These wet slips are sold out and had absorption of 72 slips per quarter due to presales, high demand, and below market pricing. We have calculated that approximately 60% of the slips were presold in 2004, with average absorption of 15 slips per quarter through the remaining sellout period. On the quality side, this marina is inferior to the subject with wood floating docks and shorter pilings. The shorter pilings do not allow the docks to float sufficiently during high water events, storms and hurricanes.

The last wet slip sold in 2007. There are currently 14 wet slips listed for sale on MLS by the same owners (Ashley Cove, LLC). Each of the slips are 60'L X 17.5'W. Seven slips located on E-dock are listed for \$87,000 (\$1,450 / LF) and the seven slips on B-dock are listed for \$95,000 (\$1,583 / LF)

#### **The Harborage at Ashley Marina**

Located immediately adjacent to the City Marina across the Ashley River from the subject, this marina is accessible by Lockwood Drive, just south of Highway 17 and north of the 61 Connector on the Peninsula of Charleston. The marina has floating concrete docks that are advertised to accommodate vessels up to 150 feet in length. The Harborage was purchased by AMH-Ashley Marina, LLC in March of 2005, and the final stage of renovation was completed in February 2006. Slips began selling by May of 2005. Many slips were pre-sold. The Harborage has 230 slips. Typical slips range in size from 30' to 60', although slips are as long as 150'. The average slip size appears to be 45'. Prices have readily increased, with most small slips bringing \$1,875 when sales began in mid May of 2005. Sales in 2006 and 2007 show an increase from \$2,000 for a 45' inside slip; \$3,322 per lineal foot for a 45' outside slip; and \$4,500 per foot for a 90' outside slip. Prices were very competitive, with The Harborage publishing the price per lineal foot for comparable slips in the marketplace. The larger slips were in higher demand. It was reported that this project was 80% presold, with an average of 12 sales per quarter during the remainder of the sellout. On-site parking at this marina is limited. Slip purchasers also have a locker and access to the marina's two-story clubhouse. The marina offers a dock master's office, fuel dock, baths, a lounge area, outdoor shower. The slips were all sold with all new sales being resales. There has been only one resale of a slip in 2009 which sold for \$1,900 per lineal foot. This was approximately 9.5% lower than the previous sales price of the same 50' wet slip. During 2008, there were two 40' wet slips sold with sales prices being \$2,623 and \$3,000 per lineal foot. According to the Charleston MLS, there are 13 wet slips listed for sale. The slips range from 40' to 50', with asking prices from \$1,475 to \$3,075 per lineal foot. The average asking price is \$2,477 per lineal foot.

Slips are available for rent for \$16.00 per lineal foot per month in January and February, \$16.00 per lineal foot in August, \$17.00 per lineal foot in March and December, \$18.00 per lineal foot in November, \$22.00 per lineal foot in April, and \$25 per lineal foot in May, June, July, September and October. Semi-annual rates are \$14.50 per lineal foot per month (includes electrical charges), while quarterly rates are \$15.00 per lineal foot per month (includes electrical charges). Transient slips are available, with rates depending on the electricity amperage

needed. It is our understanding that a dredging permit cannot be issued for this facility due to Dioxins in the water. Regime fees range from \$75 to \$175 per month.

### **Wild Dunes Yacht Harbor**

Wild Dunes is located adjacent to the Isle of Palms Marina on 5757 Palm Boulevard in the Isle of Palms. In 1998, the Isle of Palms Marina was taken over by the City and the separate business components leased to various entities: the marina slips, retail store, ramp, restaurant, fuel sales and slip rentals. The Wild Dunes Yacht Club marina has 100 slips that generally range in size from 35' to 50', although some are as large as 105'. In August of 2000, the condo docs for Wild Dunes Yacht Harbor were filed. The Yacht Harbor offers a graveled parking lot. Regime fees average \$250 per month in this exclusive area. Fourteen new floating slips and a deck for crabbing was added in 2004. The marina is proximate to Morgan's Creek Grill at the Isle of Palms Marina. While all the slips have been sold, slip resales occur, albeit infrequently and most of the sales are not exposed on the market. Slips at the adjacent Isle of Palms Marina are only available for rent, with a year-long waiting list, while slips at Yacht Harbor are offered for rent for \$12.00 to \$13.00 per lineal foot monthly. A 101' dock sold for \$275,000 in November of 2005 for \$2,723 per lineal foot, while prices are reported as averaging \$3,400 per lineal foot. A 45' slip sold in June of 2005 for \$3,333 per lineal foot. During 2008, there were three, 50' wet slips sold with sales prices being \$3,500, \$3,700 and \$5,000 per lineal foot. One 45' slip sold for \$3,889 per lineal foot. There has been one resale during 2009 which was a 40' wet slip for \$3,500 per lineal foot. According to the Charleston MLS, there are 5 wet slips listed for sale. The slips range from 35' to 50', with asking prices from \$4,300 to \$5,625 per lineal foot. The average asking price is \$4,850 per lineal foot.

### **The Yacht Club at Toler's Cove Marina**

This marina is located in the Marsh Harbor development just across the Intracoastal Waterway in Mt. Pleasant. Located halfway between Sullivan's Island and Mt. Pleasant at the Ben Sawyer Bridge, the Yacht Club has 140 boat slips that were developed in phases, ranging size from 35' to 70' and were sold in the late 1990's. Toler's Cove offers rental boats and has charter boats. One 52.5' slip sold for \$210,000 on May 29, 2009, or \$4,000 per lineal foot. During 2008, there were two, 52.5' wet slips sold with sales prices being \$4,476 and \$5,238 per lineal foot, while a 38' slip sold for \$4,079 per lineal foot. According to the Charleston MLS, there are 5 wet slips listed for sale. The slips range from 35' to 62.5', with asking prices from \$3,286 to \$4,560 per lineal foot. The average asking price is \$4,269 per lineal foot.

Slips rent monthly for \$13.00 per lineal foot with a minimum of \$200 per month. Transient rates are the same on a monthly basis. The dockmaster reported that the property consists of approximately 25% of slips which are in a rental pool.

### **Bohicket Marina and Yacht Club**

Bohicket Marina is located between Kiawah and Seabrook Islands in Charleston County on the Intra Coastal Waterway. The marina was purchased in August of 2004 and was converted into dockominiums by Master Deed recorded in February of 2005. Approximately 60% of the Yacht Club's 194 slips were presold, while the remaining 78 slips sold out in February 2005. This is an absorption of 11.14 slips per month or 35 slips per quarter. The marina has slips available for long- and short-term rentals. Amenities include a fuel dock, river lift, ship's store, showers, a Laundromat, a video store and in Internet Café. Mechanic's services and boat cleaning services are available. Upscale restaurants and shops are located immediately adjacent at the Bohicket Marina. Slips range in size from 30' to 117', but most slips are 33' to 50' in length. This marina, although the priciest marina surveyed, is also in the most exclusive resort area but is located about 30 minutes driving time from

downtown Charleston. The Bohicket Marina Village has 71 residential units that adjoin the marina. Dry slips are also available.

There have been 4 re-sales of slips over the past 18 months. One 36.4' slip sold for \$55,000 on June 3, 2009, or \$1,511 per lineal foot. During 2008, there were two, 45.1' wet slips sold with sales prices being \$1,330 (December 2008) and \$3,326 (July 2008) per lineal foot, while a 40' slip sold for \$3,125 per lineal foot in April 2008. According to the Charleston MLS, there are 3 wet slips listed for sale. The slips range from 45' to 55', with asking prices from \$2,727 to \$3,978 per lineal foot. The average asking price is \$3,561 per lineal foot.

### **St. Johns Yacht Harbor**

St. Johns Yacht Harbor is located on the south side of the Stono River on Johns Island in Charleston County. The marina (Stono Marina) was purchased in August of 2006 and was converted into dockominiums by Master Deed recorded in April of 2008. Approximately 4% (9 slips) of the Yacht Club's 252 slips (Phase I) were presold, while an additional 9 slips have been sold to date for a total of 18 closed sales of slips. This is an absorption rate of 0.53 slips per month or 1.6 slips per quarter. There are an additional 179 slips which are planned to be released as phase II. Sixty-three (63) of the Phase I slips (F Dock) are wet lifts which include a boat lift capable of accommodating vessels up to 35 feet in length and 16,000 pounds. Eight of the F Dock slips have been sold to date. Planned amenities include a fuel dock, ship's store, restaurant, pool with cabanas, private poolside bar, captain's retreat within the harbormaster's building, etc. Slips range in size from 35' to 80', but most slips are 32' to 50' in length. Sales prices have ranged from \$2,875 to \$3,450 per lineal foot. The wet lift slips sold for \$3,575 per lineal foot. According to the Charleston MLS, there are 12 wet slips listed for sale. Slips range from 34' to 52' in length and are currently being offered for sale at \$3,090 per lineal foot to \$3,492 per lineal foot. The average asking price for the wet slips is \$3,203 per lineal foot.

### **Ripley Light Yacht Club (Subject)**

The subject Ripley Light Yacht Club is an 87-slip marina that is fully completed. Slips range in length from 30' to 65', with an average slip size of 48 lineal feet. Amenities include a party deck constructed of Brazilian hardwood. The marina is designed with a turn radius large enough to accommodate a 50' boat, while larger boats must back into the inlet from the dock. The docks are composed of a lightweight 'Pearlite' core with 3" fiber reinforced concrete shell and are built to withstand a 32' wave. Pilings are higher than standard height. No other amenities are available. As no residential units have been built here, parking for 8 vehicles is available for the owners of the marina slips. More parking is needed to accommodate the required spaces under zoning requirements. We believe this is best met by a parking access easement on adjoining lands also owned by the subject's property owner. However, in a stand-alone situation, more land would be required to meet this demand. This will be discussed later in this section. Each wet slip at the subject is provided with 2 hose bibs, 30 and 50 amp power hookups, and a plastic storage box with pneumatic opening. A pump-out facility is on site. Additional amenities will include free cable television and internet service beginning in November of 2009. The docks are designed to float and are built to withstand a hurricane worse than Hugo which ravaged the Charleston area in September 1989. Rental rates for new tenants at the subject's slips are \$13.00/LF/month, although the rent roll provided to us shows current tenants paying an average rent ranging from \$7.00/LF to \$18.00/LF, depending on the length of the slip.

### **CONCLUSION**

Wet slip lease to own conversions have occurred rapidly in the Charleston area in recent years. Prices range from \$1,226 to \$5,000 per lineal foot, with most selling for an average price of \$3,500 to \$4,000 per lineal foot, depending on the length of the slip and its location

(inside or outside). For formerly converted projects, between 60% to 80% of slips have pre-sold, with quarterly absorption of 12 to 33 slips after presales. Slips are available for rent from \$13 to \$25 per lineal foot per month, with most renting for \$13 per lineal foot. Based on our survey, it appears that most wet slips have a vacancy rate of 20%. This is due to the ongoing recession and suppressed real estate markets. Vacancy rates were approximately 10% in 2007. The supply of available slips is increasing and sales of existing dockominium slips have been very scarce over the past 18 to 24 months due to a lack of first generation supply and a bad market.

#### **BARRIERS TO ENTRY**

The supply of available waterfront sites for marina development is rapidly diminishing, and land prices have escalated so much that single-family development is no longer financially feasible. The US Army Corps of Engineers controls permitting for marinas and have been reluctant to issue new permits. Also, there is extensive expertise needed to develop and manage a marina, in light of the growing demand for larger slips to accommodate larger boats. From the time applications are made to the time actual permits are received, the development of marinas is more complex and specialized than more traditional forms of commercial properties.

## **NEIGHBORHOOD SUMMARY**

### **LOCATION/BOUNDARIES**

The subject neighborhood is situated along the Ashley River to the west of downtown Charleston. The subject is less than one mile west of the central business district and main attractions of Charleston. For purposes of this analysis, neighborhood boundaries include US Highway 17 to the north, the Intracoastal Waterway to the south, the Ashley River to the east and State Highway 171 to the west. For further information and an understanding of the neighborhood boundaries, please refer to the maps included in this report.

### **LAND USE PATTERNS**

The land use patterns within the neighborhood consist of residential, commercial and recreational uses. Commercial development includes:

- Vue at Ripley Pointe (formerly The Crab Shack)
- California Dreaming Restaurant
- Hampton Inn
- Residence Inn
- Springhill Suites
- Office and service development

Residential and marina land uses include:

- Ripley Light Marina
- Westwind Landing at Ripley Marina Condominiums
- Ripley Light single family residential lots adjacent to Westwind Landing
- The Albemarle Condominiums
- The subject Ripley Light Yacht Club Marina

The former Crab Shack, with 10,729 square feet of area, occupies a prime point location at the end of Ripley Pointe Drive. It had been vacant for some time but has been reopened as the Vue at Ripley Pointe which is an upscale dining and entertainment venue. The property was purchased in 2006 for condo development. However, the owner was not successful in buying out an existing long-term lease and the decline in the residential real estate market made the project not feasible at this time. The subject property is part of a larger planned development that includes future condominium units but those units are not included in this appraisal. While land uses differ, we believe they are complementary of the area and buffered by natural land breaks.

### **ACCESS/TRAFFIC CORRIDORS**

Primarily access into the community is via US Highway 17, a four-lane highway, which runs in a north/south direction and provides the neighborhood with access to the central business district and main attractions of Charleston to the northeast and State Route 30 which provides access to James Island to the south. The recently completed SC Highway 61 Connector now provides alternate easy access from Peninsular Charleston to the subject neighborhood. Access from the immediate neighborhood to Charleston's Central Business District is within two miles, and five minutes travel time.

### **UTILITIES**

The subject neighborhood is situated in an area served by the Charleston City Utilities Department. Our conversations with representatives of this agency indicate that the neighborhood is served by public water and sewer service. South Carolina Electric and Gas Company provides electricity in the neighborhood, while cable and telephone service are also readily available.

### **ZONING**

Zoning in the neighborhood is under the jurisdiction of Charleston County. The primary zoning is GB-A – General Business District- Accommodations Overlay District. The specifics of the GB-A District are discussed later in this report.

### **ENVIRONMENTAL CHARACTERISTICS**

The primary environmental characteristics to be considered are any nuisances or hazards as a result of the land uses within the subject neighborhood. At the time of inspection no nuisances or hazards were noted.

### **SUMMARY**

The subject neighborhood is situated just west of Charleston's central business district and main attractions, where demographic and economic characteristics favor a developing area. Strong employment figures in the region, a good transportation network and a traditionally strong real estate market for residential development suggests that the subject neighborhood will continue to be a desirable location once current economic conditions improve. In considering the four life cycles that neighborhoods generally have (growth, stability, decline and revitalization), the neighborhood is considered to be in the **stable** stage. In the past, the area has continued to have increasing property values due to the location of the neighborhood.

However, the downturn in the economy and the real estate market conditions that started in early 2007 have continued to this date and have exerted downward pressure on all types of real estate and their values. These downward trends are projected to further slightly decline through the end of 2009 and then are projected to begin to rebound in late 2010 with continued recovery projected through the remainder of 2010 and beyond. During the projected rebounding/recovery periods of 2009 and 2010 and beyond, we are of the opinion that the real estate values will begin to increase in value in correlation with the recovery.

## **SITE SUMMARY**

### **LOCATION**

The subject property is situated on the western side of the Ashley River just north of the Intracoastal Waterway inside the city limits of Charleston in Charleston County, South Carolina. Its street address is 95 Ripley Point Drive, Charleston, SC 29407. The subject is located across the Ashley River from the Charleston Peninsula, and access is excellent via Ripley Point Drive (2 lanes) to the Fielding Connector/SC Highway 61 Expressway (4 lanes with a center turn lane), supported by a traffic light at the intersection. Ripley Point Drive provides access across the Connector to Albemarle Road, which connects with US Highway 17 within two blocks of the subject site, proving direct access to the Charleston Peninsula about two minutes of the subject site and to points west. The Connector/Expressway provides direct access to Charleston and James Island. Ripley Point Drive is a private road and currently maintained by the developer of the subject property. Location maps for the site and surveys are included in the addenda.

### **SIZE & SHAPE**

The site contains 1.64 gross acres or 71,438 square feet, based on surveys provided for the assignment. The site is highly irregular in shape caused by its water frontage on a canal off of the Ashley River and marsh lands which surround the subject property to the north. The property does have approximately 126.92 front feet on Ripley Point Drive. Visually, the property is basically a spaghetti string of land that includes the site for the marina office and then snakes east, then north and finally west along the marsh just north of the canal. The reader is encouraged to review the maps contained in this report and an understanding of the site configuration. Based on our observations of the surveys, it appears that only about 0.13 acres is attributed to the marina with the balance being upland in the spaghetti string shape previously described. We will apply value to 0.13 acre site in our analysis for the marina. The remaining 1.51 acres is concluded to offer no contributory value.

### **TOPOGRAPHY**

The topography of the subject property is level to Ripley Point Drive upon which the property fronts, and slopes gently downward towards the canal. Drainage appears adequate. The topography is typical of the neighborhood. We reviewed the Federal Emergency Management Agency's Flood Insurance Rate Map Community Panel Numbers 455019C-0519J dated November 17, 2004, which indicates that the subject site is located in flood hazard zone VE, a coastal flood area with velocity hazard (wave action). Base flood elevations range from 13 to 17 feet, but the flood location is typical of coastal

areas and is not detrimental to development. Development must be above these elevations. A copy of the flood map is shown in the Addenda.

#### **SOIL ANALYSIS**

We had access to a Phase I Environmental Site Assessment (ESA) prepared by Albrecht Environmental, Inc., dated April 13, 2004, which also included other nearby tracts of land. The Phase I ESA revealed no adverse environmental or soil conditions. During the inspection, we conducted a visual survey of the subject property for environmental hazards, at which time no obvious environmental hazards were noted. However, due to the fact that we are not soil scientists, the values rendered herein are predicated upon the assumption that no adverse soil conditions exist, and should further testing prove otherwise, we reserve the right to amend those values.

#### **LEGAL CONSTRAINTS**

The subject property is zoned GB-A, General Business – Accommodations by the City of Charleston Zoning Ordinance, which will be discussed in further detail following this section. Easements affecting the property include typical utility easements granted to public utilities and municipalities for service lines.

Zoning requirements call for a total of 44 parking spaces to be provided for the marina use. On the subject site, there are 8 spaces currently available. The additional spaces for 36 vehicles, drives, ingress and egress must be obtained from an adjoining parcel under the same ownership of the subject. We have determined later in this report that 0.35 acres is needed to accommodate the parking.

#### **UTILITIES**

As of the date of inspection, the property had access to all available public and private utilities. Water and sewer service is provided by the City of Charleston. The utilities are assumed to be adequate to serve the subject site.

#### **ENVIRONMENTAL**

The Phase I Environmental Survey revealed no underground storage tank releases reported on the subject site. Seven sites were identified as suspect sites within a one-mile search of the subject property, with three of the seven sites located on the parcels surveyed. The spills have reportedly been addressed and no 'recognized environmental conditions' were noted during the survey's research. No further investigation was reported to be needed. This appraisal does not consider the impact, if any, of any environmental hazards that may be discovered. Please refer to the Assumptions and Limiting Conditions in the Addenda for further information.

**SUMMARY**

The subject site is well suited for marina development, with excellent access and water amenity. It is centrally located with easy access to entertainment, shopping, hospitals, schools and numerous places of employment. Access to all of these areas is less than five miles. There are no known detrimental uses in the immediate vicinity. It is our opinion that the site does not have any characteristics that would impede its development potential to its highest and best use, as if vacant, or adverse to the existing use of the site except that additional land is needed for parking if the subject is severed from the adjoining parcel.

## **IMPROVEMENT SUMMARY**

### **GENERAL DESCRIPTION – YACHT CLUB SLIPS**

The subject Ripley Light Yacht Club Marina is permitted by the US Army Corps of Engineers for 95 wet slips totaling 4,599 lineal feet of dockage. Eighty-seven (87) slips were built as the developer modified their original plan. Its Master Deed has not been filed. Slips range in length from 30' to 65', with an average slip size of 48 lineal feet. Amenities include a party deck constructed of Brazilian hardwood. The marina is designed with a turn radius large enough to accommodate a 50' boat, while larger boats must back into the inlet from the dock. The docks are composed of a lightweight 'Pearlite' core with 3" fiber reinforced concrete shell and are built to withstand a 32' wave. Pilings are higher than standard height. There is a small marina office on the property adjacent to the party deck. This building totals 609 square feet in a one-story design. It has a small office, storage room and two restrooms. Each slip is provided with 2 hose bibs, 30 and 50 amp power, and a plastic storage box with pneumatic opening. A pump-out facility is on site.

No other amenities are available. It appears that eight parking spaces are available behind the marina office off Ripley Point Drive. According to the proposed Master Deed, the Marina Association will have the authority to acquire and provide additional parking for the owners of the marina slips. Our discussions with Jennifer Jeffries, on-site manager, indicated that there would be enough parking to accommodate the wet-slips on adjacent lands owned by the subject property owner and this could be accommodated by parking access easements on adjoining land also owned by the subject's property owners.

We have considered the cost of acquiring land for the 44 spaces needed to meet the parking requirement which is discussed in the zoning section of this report. Since we have assumed that only 0.13 acres of the site is attributed to the marina and 8 parking spaces, we have deducted the cost to acquire adjoining land for the additional 36 spaces needed from our final valuation.

Slip sizes are summarized as follows:

| RIPLEY LIGHT YACHT CLUB SLIP INVENTORY* |      |    |                                  |      |    |
|-----------------------------------------|------|----|----------------------------------|------|----|
| Slip # Slip Length - Linear Feet        |      |    | Slip # Slip Length - Linear Feet |      |    |
| 1                                       | A-1  | 50 | 47*                              | B-1  | 40 |
| 2                                       | A-2  | 50 | 48*                              | B-2  | 40 |
| 3                                       | A-3  | 50 | 49*                              | B-3  | 40 |
| 4                                       | A-4  | 50 | 50*                              | B-4  | 40 |
| 5                                       | A-5  | 50 | 51*                              | B-5  | 40 |
| 6                                       | A-6  | 65 | 52*                              | B-6  | 40 |
| 7                                       | A-7  | 65 | 53*                              | B-7  | 40 |
| 8                                       | A-8  | 65 | 54*                              | B-8  | 40 |
| 9                                       | A-9  | 65 | 55*                              | B-9  | 40 |
| 10                                      | A-10 | 65 | 56                               | B-10 | 60 |
| 11                                      | A-11 | 65 | 57                               | B-11 | 60 |
| 12                                      | A-12 | 65 | 58                               | B-12 | 60 |
| 13                                      | A-13 | 65 | 59                               | B-13 | 60 |
| 14                                      | A-14 | 65 | 60&                              | B-14 | 60 |
| 15                                      | A-15 | 65 | 61                               | B-15 | 50 |
| 16                                      | A-17 | 30 | 62                               | B-16 | 50 |
| 17                                      | A-18 | 45 | 63                               | B-17 | 50 |
| 18                                      | A-19 | 40 | 64                               | B-18 | 50 |
| 19                                      | A-20 | 40 | 65                               | B-19 | 50 |
| 20                                      | A-21 | 48 | 66                               | B-20 | 50 |
| 21                                      | A-22 | 48 | 67                               | B-21 | 50 |
| 22                                      | A-23 | 40 | 68                               | B-22 | 50 |
| 23                                      | A-24 | 40 | 69                               | B-23 | 50 |
| 24                                      | A-25 | 48 | 70                               | C-1  | 50 |
| 25                                      | A-26 | 48 | 71                               | C-2  | 50 |
| 26                                      | A-27 | 40 | 72                               | C-3  | 50 |
| 27                                      | A-28 | 30 | 73                               | C-4  | 50 |
| 28                                      | A-29 | 48 | 74                               | C-5  | 50 |
| 29                                      | A-30 | 49 | 75                               | C-6  | 50 |
| 30                                      | A-31 | 30 | 76                               | C-7  | 40 |
| 31                                      | A-32 | 30 | 77                               | C-8  | 40 |
| 32                                      | A-33 | 30 | 78                               | C-9  | 40 |
| 33                                      | A-34 | 30 | 79                               | C-10 | 40 |
| 34                                      | A-35 | 49 | 80                               | C-11 | 40 |
| 35                                      | A-36 | 50 | 81                               | C-12 | 40 |
| 36                                      | A-37 | 50 | 82*                              | C-13 | 36 |
| 37                                      | A-38 | 50 | 83*                              | C-14 | 36 |
| 38                                      | A-39 | 43 | 84*                              | C-15 | 36 |
| 39*                                     | A-40 | 43 | 85*                              | C-16 | 36 |
| 40*                                     | A-41 | 50 | 86*                              | C-17 | 45 |
| 41                                      | A-42 | 50 | 87*                              | C-18 | 45 |
| 42                                      | A-43 | 50 |                                  |      |    |
| 43                                      | A-44 | 50 |                                  |      |    |
| 44*                                     | A-45 | 43 |                                  |      |    |
| 45*                                     | A-46 | 43 |                                  |      |    |
| 46                                      | A-47 | 50 |                                  |      |    |

Highlighted slips indicate available slips

\*- Indicates Slip is a Facedock

#- Indicates Slip is occupied by marina manager and no rent is paid

&- Indicates Slip is occupied by friend of marina manager and no rent is paid

|       |   |       |       |       |       |
|-------|---|-------|-------|-------|-------|
| Total | A | 2,235 | Total | B & C | 1,884 |
|-------|---|-------|-------|-------|-------|

|                   |  |  |  |  |       |
|-------------------|--|--|--|--|-------|
| Total Linear Feet |  |  |  |  | 4,119 |
|-------------------|--|--|--|--|-------|

|                             |  |  |  |  |       |
|-----------------------------|--|--|--|--|-------|
| Average Size in Linear Feet |  |  |  |  | 47.34 |
|-----------------------------|--|--|--|--|-------|

**TAX AND ASSESSMENT DATA**

South Carolina has no state property taxes and no intangibles tax. Local taxing authorities levy real and personal property taxes, which in the case of the subject, is the City of Charleston and Charleston County. The formula for the calculation of real property taxes in South Carolina is as follows:

$$(\text{Market Value}) \times (\text{Assessment Ratio}) \times (\text{District Millage Rate}) = \text{Tax Burden}$$

**MARKET VALUE**

The subject is identified in the Charleston County Tax Assessor's Office as tax parcel number 421-11-00-275 and contains 1.64 gross acres of which 0.13 net acres has been determined to be applicable to the marina. The remainder is 1.51 acres of land in our appraisal, has no value in our opinion due to the shape and topography. State law requires that South Carolina counties revalue all properties a minimum of every five years. All Charleston County properties were reassessed in 2004 becoming effective January 1, 2005. According to our review of these tax records, the subject currently has a market value for the land based on 1.64 gross acres and the marina structure. A summary of the current tax value for the subject (marina only) is as follows:

| <b>CURRENT MARKET (TAX) VALUE</b>     |             |
|---------------------------------------|-------------|
| Land (421-11-00-275) (1.64 Acres)     | \$1,191,000 |
| Improvements                          | \$972,000   |
| Buildings                             | \$41,200    |
| Total                                 | \$2,204,200 |
| Source: Charleston Co. Tax Department |             |

Based on the current market (tax) value of \$2,204,200, the tax liability for the 1.64 gross acres and marina improvements based on the 2008 millage rate and 2009 tax values is \$30,740 (\$2,204,200 x 6% x 256.1 mills - \$3,130 in option tax credits). The 2009 millage rates had not been released as of the date of this appraisal. These are typically finalized in September or October of each year. South Carolina State Law requires that tax assessors to consider a sale of a property when assessing the property for tax purposes. It is our opinion that if the subject property were sold at or near the final opinion of value concluded herein that the property would likely continued to be assessed at the current rate due to the extremely large spread between values and the fact that dockominiums are rarely sold in bulk and the value could be appealed as such.

**ASSESSMENT RATIO**

The assessment ratio is established by the South Carolina Department of Revenue. The ratios are based on property classifications, as detailed in the following chart. The subject is classified under the "All Other Real Property" classification. The subject is therefore assessed at a ratio of **6.0%**.

| TYPE OF PROPERTY               | ASSESSMENT RATIO                      |
|--------------------------------|---------------------------------------|
| Manufacturing Property         | 10.5% of fair market value            |
| Primary Residences             | 4.0% of fair market value             |
| <b>All Other Real Property</b> | <b>6.0% of fair market value</b>      |
| Personal Property              | 10.5% of income tax depreciated value |

**DISTRICT MILLAGE RATE**

The subject is located in Charleston County inside the city limits of Charleston, S.C. and therefore should be subject to both the city and county millage rates. The subject property is located in Tax District 63.

However, the subject falls under an economic development tax bill that places its taxation under the jurisdiction of SC Tax Commission.

- The 2008 millage rate for the subject's Tax District was 256.1 mills (City rate = 79.1 mills & County Rate = 177.0 mills).

Properties within the subject's tax district are provided two tax discounts, which reduce the total tax burden; these discounts are as follows:

- 2009 County Government Tax Credit in the amount of 0.00071% Market Value
- 2009 City of Charleston Tax Credit in the amount of 0.00071% Market Value

Since the marina improvements have been assessed, we have utilized the tax values for the marina improvements and land. To our land value, we added the allocated land tax value 0.35 acres needed to be acquired for parking at \$289,917. This is calculated as follows:

| TAX VALUE - PARKING LOT OF 0.35 ACRES     |             |
|-------------------------------------------|-------------|
| Land (Parcel 421-11-00-274 of 1.80 acres) | \$1,491,000 |
| Allocated to 0.35 acres for parking       | \$289,917   |
| Total                                     | \$289,917   |
| Source: Charleston Co. Tax Department     |             |

We then included the costs for paving 36 additional parking spaces which we concluded to cost approximately \$37,800 (36 spaces x \$1,000/Space + 5% profit). We will use this figure in our calculation of taxes as follows:

| PROJECTED TAX BURDEN                                                                   |                        |
|----------------------------------------------------------------------------------------|------------------------|
| Assessed Value                                                                         | Forecast               |
| Land Value (By component for marina and land for parking)<br>(\$1,191,000 + \$289,917) | \$1,480,917            |
| Improvement Value (includes 36 parking spaces)<br>(\$972,000 + \$41,200 + \$37,800)    | \$1,051,000            |
| Total Market Value                                                                     | <u>\$2,531,917</u>     |
| Assessment Rate                                                                        | 6.0%                   |
| Total Assessment (Rate x Value)                                                        | \$151,915              |
| Projected Millage Rate (2008 rate of 256.1 mills + 3%)                                 | 263.7830               |
| Tax Burden prior to Tax Credit (Rate x Assessment)                                     | \$40,072.59            |
| Less:                                                                                  |                        |
| County Option Sales Tax Credit                                                         | \$1,797.66             |
| Local Option Sales Tax Credit                                                          | \$1,797.66             |
| Net Tax Burden (Tax Burden less Tax Credit)                                            | <u>\$36,477</u>        |
| <b>ROUNDED TO</b>                                                                      | <u><b>\$36,500</b></u> |
| Net Tax Burden per Wet Slip Per Year                                                   | <u><b>\$420</b></u>    |

Our tax burden is shown net **\$420** per slip, rounded when the tax value of the additional parking is included. This will be utilized in our discounted sellout.

In our leased fee scenario, we have used the current tax liability attributed to the land and improvements, less discounts for the designation in city and county option sales tax districts. Year 1 tax liability based on land value by component for the marina only (excluding the land needed for the parking and parking lot improvements), totaling \$2,494,117, less option sales tax credits:

| Tax Value   | Assessment Ratio | Total Assessment | Proj 2009 Millage Rate | Less City/County OSD | Tax Burden |
|-------------|------------------|------------------|------------------------|----------------------|------------|
| \$2,494,117 | 6%               | \$149,647        | 0.263783               | (\$3,542)            | \$35,932   |

We have rounded the tax burden from the previous chart to **\$36,000**. It is our opinion that if the subject property were sold at or near the final opinion of value concluded herein that the property would likely continued to be assessed at the current rate due to the extremely large spread between values and the fact that dockominiums are rarely sold in bulk and the value could be appealed as such.

## ZONING/LAND USE CONTROL

The subject property is situated inside the city limits of Charleston and is subject to the City of Charleston Zoning Department Regulations. The site is zoned **GB-A, General Business District, with Accommodations Overlay**. According to the Charleston Zoning Ordinance, the intent and permitted uses within this district are as follows:

"The **GB district** is intended to provide for a broad range of commercial uses and activities. It is the most intensive commercial zoning district. It is the most intensive commercial zoning district. Prohibited uses include junk and salvage yards, storage yards (except for vehicles and boats), and warehouses including self-storage mini-warehouses. Automotive repair shops, gasoline service stations, veterinary clinics, and stables are permitted only as special exceptions subject to approval of the Board of Zoning Appeals. "

"Accommodations, A Overlay Zone is intended to identify those areas within the city limits where hotel, motel and inn accommodation uses, and timesharing uses are allowed. The accommodation uses are prohibited except within the A Overlay Zone."

The present zoning classification allows for different types of commercial and retail use. Marinas are a permitted use in this district, as are residential condominiums. Other requirements are as follows:

| ZONING SUMMARY                 |                                                                |
|--------------------------------|----------------------------------------------------------------|
| Current Zoning                 | GB - A, General Business<br>Accommodations Overlay             |
| Legal Use/Conforming           | Legal, conforming                                              |
| Uses Permitted                 | Marinas, multi-family, others                                  |
| Zoning Change                  | Unlikely                                                       |
| Minimum Lot Size - GB District | 1,650 SF/Unit                                                  |
| Maximum Coverage               | N/A - Nonresidential<br>35% Residential                        |
| Front & Rear Setback           | N/A - Nonresidential<br>3' Total Front & Rear - Residential    |
| Side Yard Setbacks             | N/A - Nonresidential<br>15' total, 9' South/West/3' North/East |
| Maximum Height                 | 50' in 50W District                                            |
| Source: Charleston Zoning Code |                                                                |

Although Charleston's Zoning Ordinance is specific to dry a storage marina which indicates that parking is required at a ratio of one space per two dry slips, it is implied that the same ratio holds true for wet slip marinas. The Draft Master Deed permits the future Homeowner's Association to provide additional parking in the future and we believe this is best handled by parking easement on adjoining lands which are owned by the subject property owners. In our analysis of the subject however, we must consider if the subject were sold as a stand-alone asset, parking must be provided. We believe this is best derived for the subject by the purchase of approximately 0.35 acre of land to accommodate the needed 36 additional parking spaces, ingress and egress.

### **MARKETABILITY/EXPOSURE PERIOD**

The most probable investor for the subject property would be an investor seeking to profit from the sellout of the slips for a dockominium project. In order to estimate a reasonable marketing time for the subject, we contacted real estate brokers active in the region. We explained the parameters of the subject site size and location. Overall, the brokers estimated a marketing period of twelve to eighteen months if the subject were sold to a single purchaser. We have estimated a marketing period of twelve to eighteen months.

This is also applicable to the exposure period, which would precede the date of the appraisal. Typical selling commissions on a property similar to the subject would be about five percent. The marketing period would be predicated on the site being free of environmental hazards. If problems were found, the time to eradicate the site would add to the marketing time. After considering all the information available, we conclude that a reasonable marketing and exposure period of twelve to eighteen months is applicable to the subject property.

### **ESTIMATE OF MARKETING AND EXPOSURE TIME - AS IS TWELVE TO EIGHTEEN MONTHS**

## HIGHEST AND BEST USE

The highest and best use for real property can be defined as follows:

"The reasonable and probable use that supports the highest present value, as defined, as of the date of the appraisal."

Alternatively, highest and best use is . . .

"The use, from among reasonably probable and legal alternative uses, found to be physically possible, appropriately supported, financially feasible, and that results in the highest present land value."

The first type of highest and best use, highest and best use of land or a site as though vacant, assumes that a parcel of land is vacant or that it can be made vacant through the demolition of any improvements. The question to be answered in this type of analysis is "what use should be made of it?", that is, what type of building or other improvement (if any) should be constructed on the land?

The second type of highest and best use, highest and best use of a property as improved, pertains to the use that should be made of the property as it exists. Should the existing improvements be maintained, renovated, expanded, partially demolished or should it be replaced with a different type use? The purpose of highest and best use analysis is different for each type of highest and best use examined. For each type of highest and best use, the criterion in a highest and best use study are that the highest and best use must be 1) legally permissible, 2) physically possible, 3) financially feasible, and 4) maximally productive. According to **THE REAL ESTATE APPRAISAL TERMINOLOGY** book, published by the American Institute of Real Estate Appraisers, "...the concept of highest and best use represents the premise upon which value is based." We will examine the highest and best use of the subject on an analysis both "As Vacant" and "As Improved."

## **AS VACANT**

### **LEGALLY PERMISSIBLE USES**

The first criteria in analyzing the subject property as vacant are the legally permissible uses. The zoning ordinances or deed restrictions typically define legally permissible uses. We have previously stated that the subject property is zoned GB-A District. This district allows for a wide range of permitted uses including marina, residential and accommodations development. This is the least restrictive zoning category in Charleston. Surrounding land uses include commercial and residential development. These uses suggest that a residential application would be legal. A marina operation requires special permits that are often difficult to obtain.

### **PHYSICALLY POSSIBLE USES**

The next criterion in determining the highest and best use considers uses that are physically possible. Some uses may be inappropriate due to certain physical characteristics of the site. These conditions are usually concerned with size, shape, egress and ingress, utilities, soil conditions and topography. The subject site contains 1.64 gross acres and has a very irregular shape since the majority of the subject property is located along the Ashley River and a canal and inlet off the River. We believe there is about 0.13 acres of land attributable to the marina with the remainder totaling 1.51 acres of excess uplands.

This upland area is essentially a spaghetti string of land and based on our observation, is usable only to a 1.114 acre of land that directly adjoins the property on the north side of the marsh. This 1.114 acre site is not owned by the subject's owner and is sandwiched between two sites that have been developed with hotels. The development of hotels on either side of the 1.114 acre site greatly limits development potential for high-end condominium units and greatly diminishes the desirability of the units as being waterfront or water view units. The hotels have been built to the maximum height restriction of five stories so even if a condominium property were built, the views would be limited to the hotels on the north and south elevations. The 1.114 acre site could be developed with another hotel and the excess land of the subject used for density requirements. With such a limited scope and use, the excess land appears to have little to no value.

The overall subject site is served by public utilities and would be considered adequate for any of the legally permitted uses. The Ripley Cove Marina is currently located across the canal from the subject site. The inlet has sufficient width to accommodate another marina. It therefore appears that the inlet has sufficient depth to accommodate a marina, although dredging permits are typically needed to maintain channel depth.

### **FINANCIALLY FEASIBLE**

The third criterion for determining the highest and best use of the subject, as vacant, would be what use would bring a substantial positive cash flow to the investor. The primary attribute of the subject is its location in the Ripley Point area, just west of Charleston's attractions and central business district. We expect continued development of luxury residential uses to occur near the subject property. Due to the size of the site with regard to usable area, a residential use is not considered a financially feasible use of the site as it would be difficult to build on a small site with height restrictions and provided needed parking. A marina development would enhance the subject's financial feasibility as its cost is typically less than its value from the sale of individual slips. The lease of marina slips does not return as high a price to the land as the sale of the individual slips. However, given the poor current economic conditions, a very tight credit market and the suppressed residential housing market, the development of a marina would not be financially feasible at this time. We believe that speculative holding would be the most feasible use if vacant.

#### **MAXIMALLY PRODUCTIVE**

The fourth criteria analyzes what uses would be maximally productive. After considering the above parameters, and taking into account the size of the property, we conclude that marina development would maximize the value of the site, as vacant. It would further serve existing uses in the immediate neighborhood, as well as development in surrounding areas. However the current market conditions make such a project is not feasible at the present time. We believe that speculative holding of the land for future development of a marina project of the highest market accepted density will maximize the use of the subject site and bring the highest return to the land.

#### **AS IMPROVED**

The following considerations have been made in addition to those mentioned in the analysis "as vacant".

#### **LEGALLY PERMISSIBLE USE**

The marina is a legally permitted use and is currently improved with 87 wet slips. A total of 96 wet slips are permitted.

#### **PHYSICALLY POSSIBLE USES**

The subject property is an existing marina on an inlet of the Ashley River in Charleston, South Carolina. This development is one of many on the Ashley River and has access to

deep water and water amenities. The size of the land attributed to the marina at 0.13 net acres is considered reasonable for the use as a wet-slip marina.

#### **FINANCIALLY FEASIBLE USE**

It was concluded in the "as vacant" section that a marina development would be the most financially feasible use of the site. The subject has been improved with flotation docks and marina office for an 87-wet slip marina with pump-out stations and docks of sufficient size to accommodate the larger boats in the marketplace. Wet slip marinas are generally more profitable on a sell-out basis than they are as rental units. The site is of size to accommodate the marina but not a condominium project and marina. More land is needed to accommodate parking for the marina. This would be addressed by obtaining parking easements on lands adjoining the subject property and owned by the subject property's owners. Our analysis however assumes the property is a stand-alone operation and we must include acquisition of land costs to support parking requirements.

#### **MAXIMALLY PRODUCTIVE**

The final criterion for determining the highest and best use examines which uses are maximally productive. The cost of renovating or modifying the improvements to an alternative use would be cost prohibitive and not maximally productive. The highest and best use will be the use that maximizes the marina asset's value which is a sellout of the marina slips.

## **METHOD OF VALUATION**

The appraisal process typically involves three approaches in determining value, which consists of the Cost Approach, Income Approach and Sales Comparison Approach. A brief description of each technique is as follows:

### **THE COST APPROACH**

An appraisal procedure using depreciated replacement or reproduction costs of improvements plus land value as a basis for estimating market value. The underlying assumption is that an informed purchaser will pay no more than the cost of producing a substitute property with the same utility as the subject property.

### **THE INCOME APPROACH**

An appraisal procedure using capitalization of expected future income as a basis for estimating market value. The underlying assumption is that an informed purchaser will pay no more for the subject property than would have to be paid for another property with an income stream of comparable amount, duration and quality.

### **THE SALES COMPARISON APPROACH**

An appraisal procedure-using sale prices of properties similar to the subject property as a basis for estimating market value. The underlying assumption is that an informed purchaser will pay no more for a property than would have to be paid for a similar property of comparable utility.

## **APPRAISAL PROCEDURES**

Since the subject valuation involves the sellout of the marina wet slips, the Cost Approach, the Income Approach and Development Valuation Analysis (DVA) will be used. The computations that accompany each approach will be outlined on the following pages for the reader's reference.

### LAND VALUATION

We considered several land sales in the Charleston area that had sold for condominium development. We were unable to find sales of parcels of land that had sold specifically for marina development. Key to finding similar sales for marina development was that each of the sales must have deep-water access. The sales we considered ranged from \$2,058,824 to \$4,955,490 per acre and data sheets for those sales are included in the Addenda of this report. Since there is 0.13 acres attributed to the marina site, there is no room to construct condominium units on the marina site. We therefore considered a price per acre rather a price per unit as being appropriate to value the marina site. In a separate appraisal prepared for this same client on October 16, 2009 for 3.73 adjoining acres, zoned in similar fashion and having similar views as the marina site, we concluded a land value of \$2,070,000 per acre. If we allocated value to the marina site based on this value per acre, the marina site has a preliminary value of \$269,100 ( $\$2,070,000 \times 0.13$ ), rounded to \$270,000. The market does not perceive that a knowledgeable investor would pay \$1,000,000 or more for such a small site of 0.13 acre, but given the scarcity for premium sites, especially those with access to the river and deep-water, we believe it prudent to double our allocated value conclusion for the marina site of \$235,000 to \$540,000 ( $\$270,000 \times 2$ ). We concluded the final value of the subject property being a discounted sellout of the marina slips value at \$9,565,000 which includes the costs to construct the property. We see there is a wide spread that could be applied to the land value. Since we have not relied on the Cost Approach for any concluded value, we have not attempted to further investigate the land value attributable to the tiny marina site of 0.13 acres.

**FINAL OPINION OF LAND VALUE ATTRIBUTED TO MARINA SITE OF 0.13 ACRES – SEPTEMBER 25, 2009**  
**\$540,000 (R)**

### LAND VALUATION FOR RESIDUAL LAND

For the purposes of this report, we have determined that the 1.51 acres of upland has no contributory value to the subject property due to the shape and limited utility of the site and no value assignment will be made.

### COST ANALYSIS TO ACQUIRE ADDITIONAL PARKING AREA

Based on our previous analysis with a value of \$2,070,000 per acre for the land, we have determined the cost to acquire the 0.35 acres of land for the additional parking, roads, ingress and egress is \$724,500 ( $\$2,070,000 \times 0.35$ ) or \$725,000 rounded. We then added the cost to complete and stripe the surface parking at \$1,000 per space or \$36,000. The total would be \$761,000 plus a small profit of say 5% for acquisition cost of \$800,000 rounded. We will deduct the land acquisition cost attributed to parking at the end of this report.

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### IMPROVEMENT VALUATION – MARINA

The owners provided the final hard costs for the marina development, which totaled \$5,138,064 or \$59,058 per wet slip for the 87 existing slips. The total soft costs, which includes engineering, soil studies, impact fees, legal costs, architectural, surveys, insurance, permits and administrative costs, totaled \$658,857 or \$7,573 per wet slip. The total marina development costs, excluding profit and land costs, were \$5,796,921 or \$66,631 per wet slip. To this figure we have added 15% for profit totaling \$869,538. The resulting cost is then \$6,666,459 (\$5,796,921 hard & soft costs + \$869,538 in profit) or **\$6,665,000** rounded. This equates to **\$76,609 per wet slip**.

We are aware of one marina cost comparable which we have utilized in this analysis. This development is located in the Wilmington, NC area. According to information provided by the developer of this 56 wet slip marina, the total hard costs are projected at \$3,243,984 or \$57,928 per wet slip. To this figure, soft costs of 10% and profit of 15% are added. The resulting cost is then \$4,103,639 (\$3,243,984 hard costs + \$324,398 in soft costs + \$535,257 in profit) or \$4,105,000 rounded or \$73,305 per wet slip.

We are of the opinion that the actual construction costs for the subject property are reasonable when compared to those of our cost comparable. The actual construction costs from cost comparables are far more accurate than the cost per Marshall Valuation Service or any other cost service due to the wide variations in the cost to build a marina.

Based on the costs new plus soft costs and developer's profit, and marina land value of \$540,000, plus the cost to acquire the additional land for parking of \$800,000, the total cost is \$8,005,000, **rounded to \$8,000,000**.

**Final Opinion of Market Value "As Is" – September 25, 2009**  
**\$8,000,000 (R)**

## **INCOME APPROACH TO VALUE**

The income approach is an appraisal procedure that capitalizes an expected income stream into an indication of market value. The underlying premise is that an informed purchaser will pay no more for the subject property than he would have to pay for another property with an income stream of comparable quantity, quality and durability. The first step undertaken is to make an estimate of the gross potential income for the subject property. In order to do this the appraiser must survey the market for comparable properties with which to make a comparison. Our market analysis was concluded earlier in this report.

Thereafter, a vacancy estimate is made based on market conditions at the time of the appraisal. The next step involves estimating the expenses that can reasonably be expected in order to maintain the income stream set forth in the estimate of gross potential income. A comparison of several similar type facilities has been used and an estimate of expenses, by category, results. By deducting vacancy and expenses from gross potential income, an indication of net operating income is derived. It is this figure that is capitalized in order to arrive at a value using the direct capitalization method.

### **GROSS ANNUAL INCOME ESTIMATE**

In order to determine the economic rental rate of the subject property, we reviewed the operating statement for the 9-month period ending September 30, 2009 as well as the 2007 and 2008 operational data provided to us by the owners. The subject property is a wet-slip marina with 87 wet slips of which 69 are presently leased and 2 additional slips are occupied by individuals who are not required to pay rent. One of the slips is occupied by the marina manger/dockmaster, Jennifer Jefferies (Slip B-20), while the other is occupied by Ron Acierno (Slip B-14). According to Ms. Jefferies, Mr. Acierno was one of eleven individuals who signed a contract to buy one of the 80 condominium units which the owners of the subject had planned to develop. When the project fell through due to the rapidly declining condominium market, Mr. Acierno was offered a boat slip for his personal use as long as one was available in the marina. We were told by Ms. Jeffries that Mr. Acierno has helped to bring in several patrons to the marina since he has been docking his boat there. There is no dry storage. The wet-slips are leased on short-term leases of one year. We compared the contract rent for the subject slips with market rent for other marina facilities in the marketplace. Based on our market analysis earlier, we present a summary of the competing properties in chart form:

| Project Name                   | Location                                | Amenities | Size/LF                            | Rent/LF                                                                          |
|--------------------------------|-----------------------------------------|-----------|------------------------------------|----------------------------------------------------------------------------------|
| The Bristol Marina             | Charleston Peninsula along Lockwood Dr. | Average   | 12' - 70'                          | \$15.00 - Monthly<br>\$12.50 - Semi- Annually*<br>\$11.75 - \$12.25 - Annual*    |
| The Harborage at Ashley Marina | Charleston Peninsula along Lockwood Dr. | Good      | 30' - 140'                         | \$13.00 - \$25.00 - Monthly<br>\$14.50 - Semi- Annually*<br>\$15.50 - Quarterly* |
| The Charleston Harbor Marina   | Mt. Pleasant                            | Good      | 33' - 66'<br>100' - 200' - T-Heads | \$12.50 - \$14.75 - Annual                                                       |
| City Marina                    | Charleston Peninsula along Lockwood Dr. | Good      | 30' - 100'                         | \$16.00 - \$30.00 - Monthly<br>\$13.00 - \$14.50 - Annual*                       |
| The Yacht Club at Toler's Cove | Mt. Pleasant                            | Good      | 35' - 70'                          | \$12.00 - Monthly                                                                |
| Bohicket Marina & Yacht Club   | Seabrook/Kiawah Islands                 | Excellent | 30' - 117'                         | \$15.00 - Monthly<br>\$11.50 - Annual                                            |
| Subject Property               | 95 Ripley Point Drive                   | Average   | 35' - 65'                          | \$13.00 - Asking<br>\$7.00 - \$18.00 - In-Place                                  |

\* - Includes Electrical Charges

### POTENTIAL GROSS INCOME FROM WET-SLIP RENTALS

The rental rates at the competitive properties represent an average monthly rent from \$11.50 to \$14.75 per lineal foot based on either a semi-annual or annual contract lease term. The subject's asking rent is \$13.00 per foot based on an annual contract. The four marinas located across the Ashley River from the subject property on the Peninsula of Charleston show rents between \$11.75 and \$14.75 per foot. We believe market rent is supported at **\$13.00 per foot**. The current rent roll shows 69 of the 87 units leased, or occupancy of 78.2%. There are two (2) additional slips which are occupied but do not pay rent. Slip B-20 (50' slip) is occupied by the marina manager and slip B-14 (60' slip) is occupied by a friend of the former marina manager. According to the information provided to us by the owners, neither pay rent on the slips.

| RIPLEY LIGHT YACHT CLUB SLIP INVENTORY* |      |    |                                  |      |    |
|-----------------------------------------|------|----|----------------------------------|------|----|
| Slip # Slip Length - Linear Feet        |      |    | Slip # Slip Length - Linear Feet |      |    |
| 1                                       | A-1  | 50 | 47*                              | B-1  | 40 |
| 2                                       | A-2  | 50 | 48*                              | B-2  | 40 |
| 3                                       | A-3  | 50 | 49*                              | B-3  | 40 |
| 4                                       | A-4  | 50 | 50*                              | B-4  | 40 |
| 5                                       | A-5  | 50 | 51*                              | B-5  | 40 |
| 6                                       | A-6  | 65 | 52*                              | B-6  | 40 |
| 7                                       | A-7  | 65 | 53*                              | B-7  | 40 |
| 8                                       | A-8  | 65 | 54*                              | B-8  | 40 |
| 9                                       | A-9  | 65 | 55*                              | B-9  | 40 |
| 10                                      | A-10 | 65 | 56                               | B-10 | 60 |
| 11                                      | A-11 | 65 | 57                               | B-11 | 60 |
| 12                                      | A-12 | 65 | 58                               | B-12 | 60 |
| 13                                      | A-13 | 65 | 59                               | B-13 | 60 |
| 14                                      | A-14 | 65 | 60&                              | B-14 | 60 |
| 15                                      | A-15 | 65 | 61                               | B-15 | 50 |
| 16                                      | A-17 | 30 | 62                               | B-16 | 50 |
| 17                                      | A-18 | 45 | 63                               | B-17 | 50 |
| 18                                      | A-19 | 40 | 64                               | B-18 | 50 |
| 19                                      | A-20 | 40 | 65                               | B-19 | 50 |
| 20                                      | A-21 | 48 | 66                               | B-20 | 50 |
| 21                                      | A-22 | 48 | 67                               | B-21 | 50 |
| 22                                      | A-23 | 40 | 68                               | B-22 | 50 |
| 23                                      | A-24 | 40 | 69                               | B-23 | 50 |
| 24                                      | A-25 | 48 | 70                               | C-1  | 50 |
| 25                                      | A-26 | 48 | 71                               | C-2  | 50 |
| 26                                      | A-27 | 40 | 72                               | C-3  | 50 |
| 27                                      | A-28 | 30 | 73                               | C-4  | 50 |
| 28                                      | A-29 | 48 | 74                               | C-5  | 50 |
| 29                                      | A-30 | 49 | 75                               | C-6  | 50 |
| 30                                      | A-31 | 30 | 76                               | C-7  | 40 |
| 31                                      | A-32 | 30 | 77                               | C-8  | 40 |
| 32                                      | A-33 | 30 | 78                               | C-9  | 40 |
| 33                                      | A-34 | 30 | 79                               | C-10 | 40 |
| 34                                      | A-35 | 49 | 80                               | C-11 | 40 |
| 35                                      | A-36 | 50 | 81                               | C-12 | 40 |
| 36                                      | A-37 | 50 | 82*                              | C-13 | 36 |
| 37                                      | A-38 | 50 | 83*                              | C-14 | 36 |
| 38                                      | A-39 | 43 | 84*                              | C-15 | 36 |
| 39*                                     | A-40 | 43 | 85*                              | C-16 | 36 |
| 40*                                     | A-41 | 50 | 86*                              | C-17 | 45 |
| 41                                      | A-42 | 50 | 87*                              | C-18 | 45 |
| 42                                      | A-43 | 50 |                                  |      |    |
| 43                                      | A-44 | 50 |                                  |      |    |
| 44*                                     | A-45 | 43 |                                  |      |    |
| 45*                                     | A-46 | 43 |                                  |      |    |
| 46                                      | A-47 | 50 |                                  |      |    |

Highlighted slips indicate available slips

\*- Indicates Slip is a Facedock

#- Indicates Slip is occupied by marina manager and no rent is paid

&amp;- Indicates Slip is occupied by friend of marina manager and no rent is paid

|                             |   |       |       |       |       |
|-----------------------------|---|-------|-------|-------|-------|
| Total                       | A | 2,235 | Total | B & C | 1,884 |
| Total Linear Feet           |   |       |       |       | 4,119 |
| Average Size in Linear Feet |   |       |       |       | 47.34 |

The rent roll provided (and shown in the addenda) indicates monthly rent on the 69 leased slips totals \$41,424. We considered the rent roll for an analysis of average rent per lineal foot of slip as shown below:

| SLIP SIZE  | 50'     | 65'     | 60'     | 40'     | 30'     | 49'     | 48'     | 45'     | 43'     | 90'     | 102'    |
|------------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|
| # EACH     | 22      | 8       | 2       | 16      | 6       | 2       | 5       | 1       | 2       | 1       | 1       |
| AVG RENT   | \$13.27 | \$14.07 | \$10.00 | \$10.97 | \$13.61 | \$13.13 | \$13.16 | \$13.29 | \$11.49 | \$10.80 | \$18.00 |
| TOTAL # LF | 1100    | 520     | 120     | 640     | 180     | 98      | 240     | 45      | 86      | 90      | 102     |
|            |         |         |         |         |         |         |         |         |         |         | 3221    |

**NOTES:**

50' Slips 1 slip is for marina manager and no rent is paid (Not Included Above)  
 60' Slips 1 slip is for friend of marina manager and no rent is paid (Not Included Above)  
 40' Slips 3 boat owners lease 2 facedock slips each at reduced rate  
 90' Slip Consists of 3, 45' Facedock Slips  
 102' Slip Consists of 2, 45' Facedock Slips

|                        |          |
|------------------------|----------|
| Total # Slips          | 87       |
| Total # Slips Leased   | 69       |
| Total # Slips Occupied | 71       |
| LF Slips Leased        | 3221     |
| Total LF of Slips      | 4119     |
| % Leased (LF)          | 78.20%   |
| Market Rent            | \$13.00  |
| Actual Leased LF       | 3221     |
| Monthly Rent Potential | \$41,873 |

\*- The chart above shows a total of only 66 slips instead of the 69 which are leased. The 90' slip is actually two slips and the 102' slip is composed of three slips.

Based on the information provided, we input the actual leased lineal feet totaling 3,221 with market rent of \$13.00/LF to derive a monthly rent potential of \$41,873 or \$502,476 per annum. This is very close to the \$41,424 reported for the subject by the owner in the rent roll provided to us. We would conclude then that the subject's rent levels for the 69 leased slips are at market.

For the remaining 18 slips (16 vacant and 2 occupied but not paying rent), we have applied market rent at \$13.00 per foot per month with the total of 898 lineal feet, resulting in \$140,088 (\$13/LF/month x 898 LF x 12 months). Based on this analysis, the scheduled base rent from slip rentals in the first 12 months at **\$642,564** (\$502,476 + \$140,088). The un-leased slips are shown to be about the same as the average rental rates in place.

**OTHER INCOME**

The subject property reported other income for 2007 at \$194,283 (\$2,233 per slip) and \$72,024 (\$828 per slip) in 2008. The annualized 2009 other income is -\$694 or -\$8 per slip. This category includes interest income on deposits and late fees. According to the marina manager, these interest income items were added on December 31 of each year by the

accountant and are likely related to legal disputes between Kriti Ripley, LLC and Stuart Longman. This income is in no way associated with the operations of the marina according to Jennifer Jeffries, the marina manager, and has been excluded in our analysis. There has been no interest income recorded to date in 2009 which has made up the majority of the other income in 2007 and 2008. Our projection for the first 12 months is **\$0.**

#### **ELECTRICAL SERVICE REIMBURSEMENT**

The subject provides dockage electrical services to all tenants and each service is metered separately. The annualized historical data indicates reimbursements totaled \$15,214 for 2007 and \$38,318 in 2008. The annualized 2009 reimbursements would be \$48,317. We have projected the Year One reimbursements at **\$50,000 or \$575 per slip.**

#### **MARINA STORE SALES INCOME**

The subject property operates a shop sales office for parts, materials and supplies (excluding fuel) including marine batteries, propellers, keys, switches, light bulbs, fishing rods, tackle accessories, clothing and other items. We have also included environmental and safety fees in this category which were added in 2009 at the subject property. The subject reported income from this source totaling \$4,592 in 2007 and \$14,852 in 2008. The annualized 2009 reimbursements would be \$28,607. Our projection gives credence to the relatively stable figures presented for 2007 and 2008 at **\$287 per slip or \$25,000 annually.**

#### **POTENTIAL REVENUES**

Potential revenues in Year One total **\$717,564** (\$642,564+\$50,000+\$25,000) or **\$8,248 per slip.**

#### **VACANCY AND COLLECTION LOSS**

In order to estimate vacancy loss, we utilized local market data for actual rates at competing marina facilities. The comparable properties were surveyed, and occupancies ranged from 50% to 100%. Our findings are summarized in the following table.

| Project Name                   | Location                                | Amenities | Slip Size/LF                       | Rent/LF                                                                          | Occupancy Rate |
|--------------------------------|-----------------------------------------|-----------|------------------------------------|----------------------------------------------------------------------------------|----------------|
| The Bristol Marina             | Charleston Peninsula along Lockwood Dr. | Average   | 12' - 70'                          | \$15.00 - Monthly<br>\$12.50 - Semi- Annually*<br>\$11.75 - \$12.25 - Annual*    | 72.0%          |
| The Harborage at Ashley Marina | Charleston Peninsula along Lockwood Dr. | Good      | 30' - 140'                         | \$13.00 - \$25.00 - Monthly<br>\$14.50 - Semi- Annually*<br>\$15.50 - Quarterly* | 85.0%          |
| The Charleston Harbor Marina   | Mt. Pleasant                            | Good      | 33' - 66'<br>100' - 200' - T-Heads | \$12.50 - \$14.75 - Annual                                                       | 84.0%          |
| City Marina                    | Charleston Peninsula along Lockwood Dr. | Good      | 30' - 100'                         | \$16.00 - \$30.00 - Monthly<br>\$13.00 - \$14.50 - Annual*                       | 82.0%          |
| The Yacht Club at Toler's Cove | Mt. Pleasant                            | Good      | 35' - 70'                          | \$12.00 - Monthly                                                                | 100.0%         |
| Bohicket Marina & Yacht Club   | Seabrook/Kiawah Islands                 | Good      | 30' - 117'                         | \$15.00 - Monthly<br>\$11.50 - Annual                                            | 50.0%          |
| Subject Property               | 95 Ripley Point Drive                   | Average   | 35' - 65'                          | \$13.00 - Asking<br>\$7.00 - \$18.00 - In-Place                                  | 79.3%          |

\* - Includes Electrical Charges

Of course, many of the marinas have sold units as dockominium units and these unit owners are in turn, are leasing in the open market. We found general market vacancy due to turnover of about 20%. The subject posted occupancy at 79.3% at the time of our inspection with 69 of 87 slips leased and 81.6% occupied when the 2 complementary slips are added. The subject is considered to be stabilized at the present time.

Large cruisers, yachts and motorized sailboats that sail the Intercoastal Waterway between New York and South Carolina during the summer months, routinely head for warmer waters in South Florida or the Caribbean in the late fall and winter. In the spring, these large vessels return to the upper ICW. Therefore, occupancy at a given marina can fluctuate. Giving weight to the market occupancy levels, we project stabilized occupancy for the subject at 80%. This totals vacancy loss in Year One is **\$143,513** (\$717,564 x 0.20) or **\$1,650 per slip**.

#### **EFFECTIVE GROSS INCOME**

The effective rental income is the calculation of gross potential income less vacancy. Our analysis concludes effective gross income for the subject in Year One at **\$574,051** (\$717,564 - \$143,513) or **\$6,598 per slip**. The annualized 2009 effective gross income is higher than our projected gross income due to our vacancy and collection loss being taken on store sales and electrical fees. Additionally, the marina will typically lose a number of renters who then return in the spring due to taxes on boats which are docked for longer than 6 months.

## ANALYSIS OF EXPENSES

We have provided reconstructed operating statements for 2007, 2008 and the 9-month period ending September 2009 with 87 operational slips. These statements show the various and accepted expenses as a cost per slip and percentage of effective gross income. As stated, the income statement shows rental income for 69 leased slips and we believe the rental income shown includes varying levels of rent, both below and above-market. The subject property is considered to be stabilized. We have considered the expenses for the subject property as well as other marinas in the southeast. We also had access to the line-item expense survey prepared by the International Marina Institute's *Financial and Operational Benchmark Study for Marina Operators* published in 2000 which is the most recent available. The Institute is an International Trade Organization for owners and operators of marinas. The survey is broken down by region in the US and by the top 25% of marinas. This survey is presented on the following pages and will be referred to as the FOBS in our discussion section.

| Reconstructed Operating Statement<br>Year Ending December 2007<br>Ripley Light Yacht Club Marina |                  |                |                | Reconstructed Operating Statement<br>Year Ending December 2008<br>Ripley Light Yacht Club Marina |                  |                |                | Reconstructed Operating Statement<br>9 Months of 2009 - Annualized<br>Ripley Light Yacht Club Marina |                  |                |                |
|--------------------------------------------------------------------------------------------------|------------------|----------------|----------------|--------------------------------------------------------------------------------------------------|------------------|----------------|----------------|------------------------------------------------------------------------------------------------------|------------------|----------------|----------------|
| Income                                                                                           | \$               | \$/ Slip       | % EGI          | Income                                                                                           | \$               | \$/ Slip       | % EGI          | Income                                                                                               | \$               | \$/ Slip       | % EGI          |
| Rental Income from Slips                                                                         | \$383,626        | \$4,409        | 95.22%         | Rental Income from Slips                                                                         | \$487,282        | \$5,601        | 90.09%         | Rental Income from Slips                                                                             | \$554,554        | \$6,374        | 87.92%         |
| Utilities                                                                                        | \$15,214         | \$175          | 3.78%          | Utilities                                                                                        | \$38,318         | \$440          | 7.08%          | Utilities                                                                                            | \$48,317         | \$555          | 7.66%          |
| Marina Goods & Services Sales                                                                    | \$4,592          | \$53           | 1.14%          | Marina Goods & Services Sales                                                                    | \$9,492          | \$109          | 1.75%          | Marina Goods & Services Sales                                                                        | \$20,250         | \$233          | 3.21%          |
| Environmental & Safety Fees                                                                      | \$0              | \$0            | 0.00%          | Environmental & Safety Fees                                                                      | \$5,360          | \$62           | 0.99%          | Environmental & Safety Fees                                                                          | \$8,357          | \$96           | 1.32%          |
| Penalties                                                                                        | \$700            | \$8            | 0.17%          | Penalties                                                                                        | \$1,135          | \$13           | 0.21%          | Penalties                                                                                            | \$893            | \$10           | 0.14%          |
| Discounts                                                                                        | -\$450           | -\$5           | -0.11%         | Discounts                                                                                        | \$0              | \$0            | 0.00%          | Discounts                                                                                            | -\$105           | -\$1           | -0.02%         |
| Other Income (Invoice Adjustments)                                                               | -\$800           | -\$9           | -0.20%         | Other Income (Invoice Adjustments)                                                               | -\$700           | -\$8           | -0.13%         | Other Income (Invoice Adjustments)                                                                   | -\$1,482         | -\$17          | -0.23%         |
| <b>Effective Gross Income</b>                                                                    | <b>\$402,882</b> | <b>\$4,631</b> | <b>100.00%</b> | <b>Effective Gross Income</b>                                                                    | <b>\$540,887</b> | <b>\$6,217</b> | <b>100.00%</b> | <b>Effective Gross Income</b>                                                                        | <b>\$630,783</b> | <b>\$7,250</b> | <b>100.00%</b> |
| Operating Expenses                                                                               |                  |                |                | Operating Expenses                                                                               |                  |                |                | Operating Expenses                                                                                   |                  |                |                |
| Salaries & Wages                                                                                 | \$41,920         | \$482          | 10.41%         | Salaries & Wages                                                                                 | \$78,823         | \$906          | 14.57%         | Salaries & Wages                                                                                     | \$81,820         | \$940          | 12.97%         |
| Insurance (General Liability)                                                                    | \$56,321         | \$647          | 13.98%         | Insurance (General Liability)                                                                    | \$107,169        | \$1,232        | 19.81%         | Insurance (General Liability & Env Risk)                                                             | \$63,060         | \$725          | 10.00%         |
| Property Taxes                                                                                   | \$47,015         | \$540          | 11.67%         | Property Taxes                                                                                   | \$51,699         | \$594          | 9.56%          | Property Taxes                                                                                       | \$0              | \$0            | 0.00%          |
| Utilities                                                                                        | \$49,605         | \$570          | 12.31%         | Utilities                                                                                        | \$75,640         | \$869          | 13.98%         | Utilities                                                                                            | \$106,201        | \$1,221        | 16.84%         |
| Cost of Goods Sold - Marina Shop                                                                 | \$13,640         | \$157          | 3.39%          | Cost of Goods Sold - Marina Shop                                                                 | \$20,250         | \$233          | 3.74%          | Cost of Goods Sold - Marina Shop                                                                     | \$21,700         | \$249          | 3.44%          |
| Advertising                                                                                      | \$1,248          | \$14           | 0.31%          | Advertising                                                                                      | \$17,577         | \$202          | 3.25%          | Advertising                                                                                          | \$4,501          | \$52           | 0.71%          |
| Repairs & Maintenance                                                                            | \$20,151         | \$232          | 5.00%          | Repairs & Maintenance                                                                            | \$15,795         | \$182          | 2.92%          | Repairs & Maintenance                                                                                | \$15,726         | \$181          | 2.49%          |
| Marina Services                                                                                  | \$3,387          | \$39           | 0.84%          | Marina Services                                                                                  | \$724            | \$8            | 0.13%          | Marina Services                                                                                      | \$682            | \$8            | 0.11%          |
| General & Administrative                                                                         | \$5,183          | \$60           | 1.29%          | General & Administrative                                                                         | \$24,807         | \$285          | 4.59%          | General & Administrative                                                                             | \$10,217         | \$117          | 1.62%          |
| Management Fees                                                                                  | \$0              | \$0            | 0.00%          | Management Fees                                                                                  | \$0              | \$0            | 0.00%          | Management Fees                                                                                      | \$0              | \$0            | 0.00%          |
| Replacement Reserves                                                                             | \$0              | \$0            | 0.00%          | Replacement Reserves                                                                             | \$0              | \$0            | 0.00%          | Replacement Reserves                                                                                 | \$0              | \$0            | 0.00%          |
| <b>Total Operating Expenses</b>                                                                  | <b>\$238,470</b> | <b>\$2,741</b> | <b>59.19%</b>  | <b>Total Operating Expenses</b>                                                                  | <b>\$392,483</b> | <b>\$4,511</b> | <b>72.56%</b>  | <b>Total Operating Expenses</b>                                                                      | <b>\$303,908</b> | <b>\$3,493</b> | <b>48.18%</b>  |
| <b>Net Operating Income</b>                                                                      | <b>\$164,412</b> | <b>\$1,890</b> | <b>40.81%</b>  | <b>Net Operating Income</b>                                                                      | <b>\$148,403</b> | <b>\$1,706</b> | <b>27.44%</b>  | <b>Net Operating Income</b>                                                                          | <b>\$326,876</b> | <b>\$3,757</b> | <b>51.82%</b>  |

| <b>Comparable Operating Expenses</b> |                       |                |                       |                |                         |
|--------------------------------------|-----------------------|----------------|-----------------------|----------------|-------------------------|
|                                      | <b>Comparable One</b> |                | <b>Comparable Two</b> |                | <b>Marine Institute</b> |
| <b>Income</b>                        | <b>Per Slip</b>       | <b>%</b>       | <b>Per Slip</b>       | <b>%</b>       | <b>%</b>                |
| Wet Slips Leases                     | \$3,885               | 61.50%         | \$3,151               | 75.59%         | N/A                     |
| Fuel Sales                           | \$0                   | 0.00%          | \$248                 | 5.95%          | N/A                     |
| Electrical Reimbursement             | \$274                 | 4.40%          | \$0                   | 0.00%          | N/A                     |
| Marina Shop Sales                    | \$0                   | 0.00%          | \$351                 | 8.42%          | N/A                     |
| Other Income                         | \$2,150               | 34.10%         | \$418                 | 10.04%         | N/A                     |
| <b>Effective Gross Income</b>        | <b>\$6,309</b>        | <b>100.00%</b> | <b>\$4,168</b>        | <b>100.00%</b> | <b>N/A</b>              |
|                                      |                       |                |                       |                |                         |
| <b>Operating Expenses</b>            |                       |                |                       |                |                         |
| Salaries & Wages                     | \$709                 | 11.24%         | \$2,329               | 55.88%         | 17.10%                  |
| General & Administrative             | \$619                 | 9.81%          | \$179                 | 4.29%          | 2.60%                   |
| Utilities                            | \$716                 | 11.35%         | \$121                 | 2.90%          | 4.00%                   |
| Property Association Dues            | \$236                 | 3.74%          | \$0                   | 0.00%          | 0.00%                   |
| Telephone                            | \$0                   | 0.00%          | \$7                   | 0.17%          | 0.40%                   |
| Repairs & Maintenance                | \$426                 | 6.75%          | \$526                 | 12.62%         | 5.30%                   |
| Fuel Costs                           | \$0                   | 0.00%          | \$231                 | 5.54%          | 3.20%                   |
| Property Taxes                       | \$12                  | 0.19%          | \$0                   | 0.00%          | 1.90%                   |
| Insurance                            | \$841                 | 13.33%         | \$294                 | 7.05%          | 1.90%                   |
| Advertising                          | \$168                 | 2.66%          | \$2                   | 0.05%          | 1.40%                   |
| Management Fees                      | \$0                   | 0.00%          | \$0                   | 0.00%          | 0.00%                   |
| Replacement Reserves                 | \$0                   | 0.00%          | \$0                   | 0.00%          | 0.00%                   |
| Other                                | \$0                   | 0.00%          | \$0                   | 0.00%          | 14.60%                  |
| <b>Total Operating Expenses</b>      | <b>\$3,727</b>        | <b>59.07%</b>  | <b>\$3,689</b>        | <b>88.51%</b>  | <b>52.40%</b>           |
|                                      |                       |                |                       |                |                         |
| <b>Net Operating Income</b>          | <b>\$2,582</b>        | <b>40.93%</b>  | <b>\$479</b>          | <b>11.49%</b>  |                         |

## OPERATING EXPENSES

### SALARIES & WAGES

This expense category generally includes salaries and wages of personnel and management including overtime, holiday and vacation pay. Also included in this category are employee benefits and payroll taxes such as federal, state, social security and workmen's compensation. Within the comparables, this item ranged from \$709 to \$2,329 per slip or 11.30 to 55.88 percent of the effective gross income. The FBOS study showed an average expense of 17.10 percent of effective gross income.

The subject reported expenses for 2007 at \$41,920 or \$482 slip; and \$78,823 or \$906 per slip in 2008. The annualized 2009 amount is \$81,820. We considered the office and maintenance staffing for a marina the size of the subject which includes a marina manager, a maintenance person and three dock hands. Based on this we have concluded an expense of **\$80,000 annually** to be reasonable. This totals **\$920 per slip**. As a percentage of EGI, this totals **13.9%**

#### **PROPERTY INSURANCE**

This expense category takes into consideration the insurance on the structures, as well as equipment necessary to operate the marina, including the furniture and fixtures. A review of the annualized historical data from the subject property indicates an insurance expense of \$56,321 or \$647 per slip in 2007 and \$107,169 or \$1,232 per slip in 2008. For the 2009, this expense is \$63,060 or \$725 per slip.

We have noted the subject property is in a flood hazard area on the Intercoastal Waterway. Insurance companies, with marina properties in their portfolios, which have some exposure in hurricane-prone areas have seen their costs escalate in the last five years. As such, many insurance companies are increasing their premiums to hedge against future losses, especially to existing properties prone to hurricane damage. The subject property is in this classification.

The comparables reported this expense as ranging from 7.05% to 13.33% of EGI and \$294 to \$841 per slip. The FOBS study indicated an expense of 1.90% of effective gross income. We have noted the subject property is in a flood hazard area in Charleston. Insurance companies with marina properties in their portfolios that have exposure in hurricane-prone areas; these companies have seen their costs escalate in the last five years. As such, many insurance companies are increasing their premiums to hedge against future losses, especially to existing properties prone to hurricane damage. The subject property is in this classification. We note that 2006 and 2007 were years of adjustment for insurance companies following catastrophic losses incurred in the Gulf Coast region as a result of Hurricane Katrina. While this hurricane did not have a direct physical impact on the subject property, the location and use of the subject structure as a marina having close access to the Atlantic Ocean has an impact on future premiums against losses.

We project an expense of **\$65,000** or **\$747 per slip** for the subject property after giving credence to the actual 2009 premiums and the expense comparables. As a percentage of EGI, our figure totals **11.3%**.

### **REAL ESTATE (PROPERTY) TAXES**

Property taxes for the subject property were previously estimated to be **\$36,750** or **\$422 per slip**. As a percentage of EGI, our projection is **6.4%**.

### **UTILITIES**

This expense category includes the cost of electricity and water, telephone, cable television, internet, operation of the ship-to-shore radio systems, and natural gas costs. This expense is anticipated to be small since the office structure is very small with only the office and common areas heated and cooled, and utilities are regulated at each slip with a meter. Further, wet slip electrical charges are reimbursed.

The study of our comparables shows an expense related to this category at a wide range between 2.90% and 11.40% or \$121 to \$716 per slip. FBOS showed an average of 4.00%. The subject reported the 2007 expense at \$49,605 or \$570 per slip and 2008 expenses were \$75,640 or \$869 per slip. For the first nine months of 2009, this expense has totaled \$79,651 which equals \$106,201 when annualized. We spoke with the marina manager for the subject property, Jennifer Jeffries, who explained that there were likely two main factors which have contributed to the escalating utilities costs over the past 2 plus years. First is that in 2007, the dock was set up with individual meters for each slip which was billed directly to the slip renter each month. The occupants during this time were likely more conservative in their energy usage as they were billed on an individual basis. The individual meters were removed in 2008 due to a large percentage of the meters not working properly. Once the meters were removed, a fixed monthly electrical charge was implemented. When the flat fee was implemented, the occupants became less concerned with the amount of electricity they were using since they paid a flat fee. The second variable is the increase in the occupancy rate of the marina from 2007 to present. Our projection is based on historical 2008 figures and the annualized 2009 numbers taking into account the electricity usage is typically less in the winter and fall months as compared to the spring and summer months. We have projected the utilities expense at **\$100,000 annually** or **\$1,149 per slip**. As a percentage of EGI, our projection is **17.4%**.

### **COST OF GOODS SOLD - MARINA STORE**

This category is included as an expense for the cost of goods sold in the marina shop, inclusive of bait, ice, the ship's store, service items, etc. The historical data indicates 2007 expenses were \$17,027 or \$196 per slip. This increased to \$20,974 and \$241 per slip in 2008. For the first nine months of 2009, this expense totaled \$16,275. The comparable data did not include cost of goods sold as an expense item. The FBOS data did not include this either since it is a going-concern expense related to the operation of the marina.

Our projection is based on the tight range shown between 2007 and 2008 as an expense and we project **\$21,000** for the coming year. This amounts to **\$241 per slip**. As a percentage of EGI, our projection is **3.7%**.

#### **ADVERTISING**

This expense includes advertising, publicity, and other promotional expenses such as printing, newspaper, magazine and Internet web space. The comparables study shows an expense range from 0.05% to 2.66% of EGI. FBOS had an average of 1.40%. The subject reported this expense at \$14 per slip in 2007; \$202 per slip in 2008; and \$39 per slip for the first 9 months of 2009. Our projection is **\$100 per slip** or **\$8,700 annually**. As a percentage of EGI, our projection is **1.5%**.

#### **REPAIRS & MAINTENANCE**

This expense category includes the cost of materials used in repairing equipment, mechanical systems, exterior and interior of building (floors, walls, doors), grounds and landscaping, painting and decorating (excluding capital repairs), the removal of waste matter, and other related expenses necessary for the upkeep of the marina facility. The study of our comparable marina's data indicated a range of 6.75% to 12.62%, or \$426 to \$526 per slip, with FBOS being at 5.30%.

The subject reported an annual expense of \$29,212 or \$336 per slip in 2007 and \$54,312 or \$624 per slip in 2008. For the first nine months of 2009, this expense has totaled \$49,335 which equals \$65,780 when annualized. We spoke with the marina manager for the subject property, Jennifer Jeffries, who explained that there were numerous items included as repairs & maintenance which were actually capital improvements. She stated that there were numerous punch list items as well as other things such as pouring concrete for walkways, upgrades to the marina office and restrooms, etc. Given this information, we project an expense in this category of **\$30,000 annually** or **\$345 per slip**. As a percentage of EGI, our projection is **5.2%**. Our estimate is considered to be reasonable given the age of the improvements and overall condition of the property at the time of inspection.

#### **GENERAL & ADMINISTRATIVE**

This expense generally includes data processing services, general insurance, licenses and dues, operating supplies, professional fees, security services, travel and entertainment, reservation, and other relating such expenses. The comparables reported this item ranging from 4.29% to 9.81% or \$179 to \$619 per slip. FBOS showed an average expense of 2.60%. The subject reported this expense for 2007 at \$5,183 or \$60 per slip and \$24,807 or \$285 per slip in 2008. For the first nine months of 2009, this expense totaled \$7,662. The 2008 figures included a \$10,675 Miscellaneous Professional Services expense. Our projection is between

the 2007 and 2008 figures at **\$15,000** and **\$172 per slip**. As a percentage of EGI, our projection is **2.6%**.

#### **MANAGEMENT FEES**

Though the subject did not report this as an expense for the annualized term, we have factored in a management fee for services and supervision of the property. Management fees are expressed as a percentage of effective gross income, less revenues from goods sold. Neither of our comparables nor the FOBS study reported any management fee expense. Our experience in appraising marina properties and discussions with brokers indicates a management fee between three and four percent to be reasonable. We have utilized a fee of **3.50%** of effective gross revenues. In Year One, management fees total **\$20,092** or **\$231 per slip**.

#### **RESERVES**

We also included an allowance for reserves to replace short-lived items. Our experience indicates few if any marina property (including the subject) actually report reserves. Our expense is reported as a percentage of effective gross income at **2.0%**. This amounts to **\$11,481** or **\$132 per slip**.

#### **EXPENSE SUMMARY**

Our estimated expense for the subject in Year One total **\$388,023** and **\$4,460 per slip**. As a percentage of EGI, our projected expenses are **67.6%**.

By comparison, the subject's 2007 expense were \$238,470; \$2,741 per slip; and 59.19% of EGI. In 2008, these expenses were \$392,483; \$4,511 per slip; and 72.56% of EGI. The expenses for the first nine months of 2009 total \$230,192 which excludes real estate taxes, management fees and reserves. This increases to \$340,658 when it is annualized and real estate taxes are added. This equates to \$3,916 per slip; and 54.00% of EGI. The subject historical expenses do not include provisions for management fees or reserves. The FOBS study and comparables indicate an expense range between 52.40% and 88.51%. Our stabilized expense ratio is within this range.

#### **NET INCOME**

The net income for Year One is derived by deducting expenses of \$388,023 from effective gross income totaling \$574,051. This results in a net operating income of **\$186,028** or **\$2,138 per slip**.

A summary of the projected income and expenses is presented on the following page:

| <b>Ripley Light Yacht Club Marina<br/>Stabilized Direct Capitalization Summary<br/>87-Wet Slips</b> |                  |               |                  |
|-----------------------------------------------------------------------------------------------------|------------------|---------------|------------------|
|                                                                                                     | <b>\$ Amount</b> | <b>% EGI</b>  | <b>\$ / Slip</b> |
| <b>Income:</b>                                                                                      |                  |               |                  |
| Slip Rentals                                                                                        | \$642,564        |               | \$ 7,386         |
| Other Income                                                                                        | \$0              |               | \$ -             |
| Electric Reimbursement                                                                              | \$50,000         |               | \$ 575           |
| Marina Shop Sales Income                                                                            | \$25,000         |               | \$ 287           |
| <b>Gross Potential Income</b>                                                                       | <b>\$717,564</b> |               | <b>\$ 8,248</b>  |
| Less Vacancy                                                                                        | (\$143,513)      | 20.0%         |                  |
| <b>Effective Gross Income</b>                                                                       | <b>\$574,051</b> | <b>100.0%</b> | <b>\$ 6,598</b>  |
| <b>Expenses:</b>                                                                                    |                  |               |                  |
| Salaries & Wages                                                                                    | \$80,000         | 13.9%         | \$ 920           |
| Property Insurance                                                                                  | \$65,000         | 11.3%         | \$ 747           |
| Property Taxes                                                                                      | \$36,750         | 6.4%          | \$ 422           |
| Utilities                                                                                           | \$100,000        | 17.4%         | \$ 1,149         |
| Cost of Goods Sold - Marina Store                                                                   | \$21,000         | 3.7%          | \$ 241           |
| Advertising                                                                                         | \$8,700          | 1.5%          | \$ 100           |
| Repairs & Maintenance                                                                               | \$30,000         | 5.2%          | \$ 345           |
| General & Administrative                                                                            | \$15,000         | 2.6%          | \$ 172           |
| Management Fees                                                                                     | \$20,092         | 3.5%          | \$ 231           |
| Reserves                                                                                            | \$11,481         | 2.0%          | \$ 132           |
| <b>Total Expenses</b>                                                                               | <b>\$388,023</b> | <b>67.6%</b>  | <b>\$ 4,460</b>  |
| <b>Net Operating Income</b>                                                                         | <b>\$186,028</b> | <b>32.4%</b>  | <b>\$ 2,138</b>  |

#### CAPITALIZATION PROCESS

In order to capitalize the net operating income into a value opinion, we spoke with brokers active in the sale of marina properties on the East Coast in order to arrive at an appropriate capitalization rate for the subject property. We talked at great length with Jim Foley of Jim Foley Realty of Cambridge, Massachusetts. Mr. Foley has over 35 years experience in the sale of wet-slip, dockominium and rackominium marina facilities. According to Mr. Foley, few wet slip marinas are actually leased as it is proven financially feasible to sell the units as dockominium units rather than rent them on short-term contracts. Additionally, the market for wet-slip marinas on the Atlantic Coast has fallen in over the past 12 to 24 months as the equity requirements for investors has increased due to the economic downturn. Further, there are a limited number good quality of these properties available. Inland marinas, sometimes referred to as freshwater marinas, appear to be more favorable since these marinas generally cater to smaller boats than would be found on the ICW and Atlantic. Boat dealers report to us that large boats (with more engines requiring more fuel) are falling out of favor in the marketplace and buyers are turning to smaller boats that require less fuel to operate.

According to Mr. Foley, marina properties where a going-concern value can be established (both inland and Intracoastal locations) are selling at capitalization rates between 10.50% and 12.50%, based on stabilized cash flows with expense ratios range from 55% to 65% which include deductions included for management fees at 3.00% and reserves at 1.00% to 2.00%. This is in-line with our valuation method. The subject property does not have any other income stream other than the rental income from the slips and a very small amount of income generated from marina store sales. Therefore, the risk associated with the subject property as it relates to the stability of the income stream would be much less than that of other properties which provide services such as marine repairs, fuel sales, boat launching services, food services, etc. Therefore, the capitalization rates for properties such as the subject would be much lower due to the reduced risk associated with the income stream.

We also considered opinions of other brokers such as Karen Calvacca with Waterfront Investment Properties in Newburyport, Massachusetts who stated that capitalization rates for leased marinas is currently in the 8.00 to 10.00 percent now as opposed to 5.00 to 6.00 percent a few years ago. We also considered some sales of marina properties in the Southeastern United States which have sold in the last four years. These are discussed below:

| Sale # | Name                 | Location            | Sale Date | # Wet Slips | # Dry Slips | Occupancy | Sale Price    | Year Built | Exp Ratio | NOI       | OAR    |
|--------|----------------------|---------------------|-----------|-------------|-------------|-----------|---------------|------------|-----------|-----------|--------|
| 1      | Atlantis Marina      | Winthrop, MA        | Feb-09    | 99          | 0           | 100%      | \$ 2,750,000  | 1992/2008  | 39.94%    | \$196,222 | 7.14%  |
| 2      | De City Marina       | Delaware City, DE   | Apr-08    | 114         | 0           | 100%      | \$ 2,750,000  | 1960/2007  | N/A       | \$293,975 | 10.69% |
| 3      | High Grove Harbor    | Eatonton, GA        | Nov-07    | 18          | 79          | 100%      | \$ 1,064,250  | 1970/2003  | 18.28%    | \$110,339 | 10.37% |
| 4      | Wacca Wache Marina   | Murrells Inlet, SC  | Feb-07    | 130         | 112         | N/A       | \$ 14,425,000 | 1990       | 28.00%    | \$721,759 | 5.00%  |
| 5      | Silver Coat Marina   | N. Myrtle Beach, SC | Dec-06    | 0           | 220         | N/A       | \$ 4,325,000  | 1997       | 32.00%    | \$388,329 | 8.98%  |
| 6      | Duncans Marina       | Charleston, SC      | Aug-06    | 60          | 220         | 100%      | \$ 9,543,000  | 1980       | 59.64%    | \$838,750 | 8.79%  |
| 7      | Alafia Marina        | Gibsonville, FL     | Aug-06    | 130         | 0           | 95%       | \$ 6,600,000  | 1964       | N/A       | \$336,000 | 5.09%  |
| 8      | Bahia Bleu           | Savannah, GA        | Sep-05    | 50          | 220         | 90%       | \$ 4,000,000  | 1979       | 56.84%    | \$325,191 | 8.13%  |
| 9      | Mangrove Marina      | Taverne, FL         | Jul-05    | 130         | 80          | 98%       | \$ 10,000,000 | 1980       | 36.84%    | \$888,912 | 8.89%  |
| 10     | Reserve Harbour      | Pawley's Island, SC | Jun-05    | 50          | 210         | 90%       | \$ 4,800,000  | 2001       | 60.95%    | \$294,222 | 6.13%  |
| 11     | Harborage at Ashley  | Charleston, SC      | Apr-05    | 223         | 0           | N/A       | \$ 8,909,500  | 1970       | 52.00%    | \$600,000 | 6.73%  |
| 12     | Daniel Island Marina | Daniel Island, SC   | Jun-04    | 44          | 300         | N/A       | \$ 5,500,000  | 1995       | 48.50%    | \$554,905 | 10.09% |
| 13     | Ripley Light Marina  | Charleston, SC      | Apr-04    | 76          | 124         | N/A       | \$ 4,519,250  | 1988/1993  | 39.30%    | \$481,300 | 10.65% |
| 14     | Shem Creek Marina    | Mt. Pleasant, SC    | May-03    | 7           | 201         | N/A       | \$ 3,905,000  | 1991/1993  | 46.10%    | \$351,500 | 9.00%  |

Source: CB Richard Ellis, Cushman Wakefield, various marina brokers and appraisers

**ATLANTIS MARINA** is our newest Atlantic Ocean marina sale and is located in Suffolk County, Massachusetts and is located just north of Boston. It sold in February 2009 for \$2,750,000. This 99 slip property is located near the Residences of Atlantis Marina, an upscale condominium complex under construction. Owners of the condominium units are the target renters of this sale property. The property is entirely wet storage which is uncommon on the Atlantic Coast. The sale property is structural steel construction with stucco veneer. The property was reportedly at 100% occupancy at the time of sale. Based on the purchase price stated, the selling price per slip was \$27,778. The net operating income was reported at \$196,222 which indicates an overall rate of 7.14%. This sale would be superior to the subject with regard to location and occupancy. We believe the subject would have a higher overall rate than is indicated by this sale.

**HIGH GROVE HARBOR MARINA** in Eastonton, Georgia sold in November 2007 for \$1,064,250. This 1.76 acre property is located on Lake Sinclair just outside of Milledgeville, Georgia. This property has 97 slips, which equates to a purchase price per slip of \$10,972. The property was reported 90% occupied at the time of sale. The dry storage building is similar to the subject property and was built in 1978. The marina also has a ship store, repair shop and detail shop. There is no available fuel at this property. This property sold on a net operating income of \$110,339 which results in an overall rate of 10.37%. The subject property is considered to be superior to this comparable with regard to location, age/condition and quality but inferior in occupancy. We believe the subject would be more desirable in the marketplace than this sale and have a lower overall rate due to the lower risk associated with the income stream.

**RIVERS EDGE MARINA**, formerly known as **Duncan's Marina**, is located in Charleston, South Carolina at 4354 Bridge View Drive. This facility has 220 dry slips and 60 wet slips. At the time of sale in August 2006, the property was 100% occupied and had a waiting list for slip rentals. This property was purchased with the intent to convert the property to dockominium units. The net operating income was \$838,750. The purchase price was \$9,543,000, indicating an overall rate of 8.79%. The income is reported to include fuel sales. The subject property is superior in age/condition, quality and location. This sale occurred in 2006 and capitalization rates have increased since that time. Overall, we believe the overall rate for the subject would be lower than this sale.

**BAHIA BLEU** is located in Savannah, Georgia and is approximately one hour's drive south of the subject property. The property was formerly known as Fountain Marina and later redeveloped as Bahia Bleu Marina in 2002. This marina has 220 dry slips and 50 wet slips with good ocean access which is similar to the subject. The subject property is superior in location and age/condition compared to this comparable. The property sold in September 2005 for \$4,000,000 on net operating income of \$325,191, indicating an overall rate of 8.13%. The property was reported to be 90% occupied at the time of sale. The expense ratio was 56.84% which included management fees and reserves. This sale occurred in 2005 and capitalization rates have increased since that time. Overall, we believe the overall rate for the subject would similar to this sale.

**RESERVE HARBOR MARINA** is located in Pawley's Island, South Carolina, about one hour's drive north of the subject property. This marina has 210 dry slips and 50 wet slips and was reported to be 90% occupied at the time of sale in June 2005. The property sold for \$4,800,000 or \$18,462 per slip. It was built in 2001. The net operating income was reported at \$294,222 with an expense ratio of 60.95%. The resulting overall rate was 6.13%. This property had considerably more amenities than the subject including a clubhouse, a pool

and restaurant as well as having a higher occupancy rate and is considered superior to the subject. The comparable has inferior ocean access to the subject. This sale occurred in 2005 and capitalization rates have increased since that time. Overall, we believe the overall rate for the subject would be higher than this sale.

These five sales discussed above indicate capitalization rates ranging from 6.13% to 10.37% with an average of 8.11%. Sales of purely wet slip marinas were difficult to find as wet slip marinas are generally sold in a discounted sellout. These sales, while regional, represent both wet and dry slips with some added amenities not found at the subject property. Based on the information provided and giving credence to the sales and discussions with market participants, we believe an overall rate of **8.25%** is appropriate. This capitalization rate reflects the future possibility of dockominium conversion.

The net operating income of \$186,028 capitalized at 8.25% results in a value of \$2,254,890 rounded to **\$2,255,000**. On a per slip basis, this totals **\$25,920 per slip**.

**FINAL OPINION OF MARKET VALUE "AS IS" – September 25, 2009**

**\$2,255,000 (R)**

## MARINA DOCKOMINIUM, DEVELOPMENT VALUATION ANALYSIS

The development valuation analysis is used for sales of the subject wet slips. The methodology is the same as for the residential condominium analysis. We have analyzed a number of dockominium sales in the Charleston area in order to determine the values of each dockominium unit at completion of construction.

### DOCKOMINIUM RETAIL PRICING

A market study was made of dockominium developments in the Charleston area to determine the reasonableness of the developer's contract and asking prices. Although requested, we do not have a list of the prospective buyers of the subject's slips. The subject's slips are currently being rented on short-term annual contracts at \$13.00/LF. The marina manager/dockmaster of the subject, Jennifer Jeffries, has reported that no slips are for sale, only leased. Although the slips are leased on short-term annual contracts, we have been asked to value all of the slips as if they will all be sold without reservation or lease. Next, we evaluated the prices of several dockominium communities believed comparable to the subject. There have been very few sales over the past 18 – 24 months due to majority of the projects having been previously sold out and all the sales are re-sales. A complete discussion of these projects is shown in the Market Analysis section of this report. A summary of each is discussed below:

| Project Name                                                                   | Location                           | Amenities | Presale % | Absorption/Qtr | Size/LF                                                                                                                   | Price/LF                                                                                               | Avg.Price/LF                                                   |
|--------------------------------------------------------------------------------|------------------------------------|-----------|-----------|----------------|---------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------|----------------------------------------------------------------|
| <b>Ripley Cove</b><br>*- Sales began in 2004<br>*- Last sales occurred in 2007 | Acorss inlet from subject property | Average   | 70%       | 15             | 40' avg.<br>14 MLS Listings                                                                                               | \$1,226 - \$4,750<br>\$1,450 - \$1,583                                                                 | \$3,067<br>\$1,503                                             |
| <b>The Harborage at Ashley Marina</b><br>*- Sales began in 2005                | Charleston Peninsula               | Good      | 80%       | 12             | 30' - 140'<br>2009 - 1 Sale<br>2008 - 2 Sales<br>13 MLS Listings                                                          | \$2,000 - \$3,222<br>\$1,900<br>\$2,623 - \$3,000<br>\$1,475 - \$3,075                                 | \$2,186<br>\$1,900<br>\$2,812<br>\$2,477                       |
| <b>Wild Dunes Yacht Harbor</b><br>*- Sales began in 2001                       | Isle of Palms                      | Good      | n/a       | n/a            | 35' - 50'<br>2009 - 1 Sale<br>2008 - 4 Sales<br>5 MLS Listings                                                            | \$2,723 - \$3,333<br>\$3,500<br>\$3,500 - \$5,000<br>\$4,300 - \$5,625                                 | \$3,000<br>\$3,500<br>\$4,025<br>\$4,850                       |
| <b>The Yacht Club at Toler's Cove</b><br>*- Sales began in 1996                | Mt. Pleasant                       | Good      | n/a       | n/a            | 35' - 70'<br>2009 - 1 Sale<br>2008 - 3 Sales<br>5 MLS Listings                                                            | \$3,176 - \$3,427<br>\$4,000<br>\$4,079 - \$5,238<br>\$3,286 - \$4,560                                 | \$3,300<br>\$4,000<br>\$4,650<br>\$4,269                       |
| <b>Bohicket Marina &amp; Yacht Club</b><br>*- Sales began in 2005              | Seabrook Island                    | Good      | 60%       | 17             | 30' - 117'<br>2009 - 1 Sale<br>2008 - 3 Sales<br>3 MLS Listings                                                           | \$4,000 - \$5,000<br>\$1,511<br>\$1,330 - \$3,326<br>\$2,727 - \$3,978                                 | \$4,500<br>\$1,511<br>\$2,573<br>\$3,561                       |
| <b>St. John's Yacht Harbor</b><br>*- Sales began in 2008                       | Johns Island                       | Good      | 9%        | 1.6            | 35' - 80'<br>2009 - 1 Sale<br>2009 - 8 Sales with Lifts<br>2008 - 9 Pre-Sales<br>12 MLS Listings<br>2 MLS Listings w/lift | \$2,875 - \$3,450<br>\$3,450<br>\$3,575<br>\$2,875 - \$3,450<br>\$3,090 - \$3,492<br>\$3,997 - \$4,140 | \$3,050<br>\$3,450<br>\$3,575<br>\$3,050<br>\$3,203<br>\$4,069 |
| <b>Subject - Ripley Light Yacht Club</b>                                       | 95 Ripley Point Drive              | Average   | n/a       | n/a            | 35' - 65'                                                                                                                 | n/a                                                                                                    | n/a                                                            |

**MARKET VALUE OF SUBJECT SLIPS**

We have estimated the market value of the subject slips by comparing the comparable slips to each of the subject slips. Considering the subject's location and the quality of development of the condominium units, we believe that the slip prices for Toler's Cove, Wild Dunes Yacht Club and the St. John's Yacht Club are most comparable to the subject, ranging in price (2008 & 2009 average closed sales) from \$3,050 to \$4,650 per lineal foot. Consideration has also been given to the asking prices for slips within these developments which were obtained from MLS. The asking prices ranged from \$3,090 in St. John's Yacht Club to \$5,625 in Wild Dunes Yacht Club. We have forecast a sales price of **\$3,750 per lineal foot** for the subject's slips and increased the sales price at a rate of 3.0 percent per year.

Absorption rates from the dockominium projects surveyed ranged from 1.6 slips sales per quarter in St. John's Yacht Club to 17 slips sales per quarter for Bohicket Marina & Yacht Club. Pre-sales for these developments ranged from approximately 9% in St. John's Yacht Club to approximately 80% in the Harborage at Ashley Marina. St. John's Yacht Club is the most recent of the comparables to begin selling as dockominiums and began in 2008. The other developments came on line primarily in 2004/2005 which was during the boom years of the residential real estate market. If the subject slips were converted to dockominiums today, the demand would be substantially less than during the middle portion of this decade. Thus we would anticipate that both the pre-sales percentage and absorption rate to be much lower. We are of the opinion that there would likely be some interest from boat owners who presently rent slips within the subject that would like to keep their vessels moored there and could lead to some early sales.

The subject was reported slow leasing the 87 slips with just 4 leased between May 2006 when the property opened, and August 2006. Since August 2006 and up through September 2007, 57 slips were leased, resulting in absorption of 4.38 units per month of 13.15 per quarter. Since September 2007, there has been a net gain of 8 additional slips rented or approximately 1 slip per quarter.

We believe it is reasonable to forecast that 10% of the subject's existing 87 slips, or 9 slips, could be sold to current tenants or other investors at the beginning of the conversion. We believe that there would likely be a long sellout period due to the current inventory of slips on the market for sale and the likelihood that additional slips will continue to be added as boat owners look to cut un-necessary expenses due to the current economic conditions. Therefore, we have projected 2 additional slip sales for the first year (total of 11 sales) of the sellout and increased the absorption to 8 sales in year two. It is anticipated that the market conditions will have improved over the next 24 months. The year 3 absorption rate

was increased to 16 sales and the remaining two years of the sellout at 26 slips per year. The overall absorption rate results in 87 slip sales over the five year sellout is approximately 17.40 slips per year, or an average of 4.4 sales per quarter. Absorption is shown in lineal feet whereby the average slip consists of approximately 47.34 lineal feet.

#### **MARKET VALUE OF DOCKOMINIUM UNITS**

Based on the above analysis, the total gross retail value of the subject's dockominium units is \$3,750 per linear foot times 4,119 linear feet, or **\$15,446,250**.

### **DISCOUNTED SELLOUT OF SLIPS – REVENUES**

#### **BASE CONTRACT PRICES**

In projecting revenues for the sellout of the subject slips, we have used the projected market prices for the subject slips.

|                                                                         |                     |
|-------------------------------------------------------------------------|---------------------|
| <b>Average Price of wet Slips per Linear Foot prior to completion</b>   | <b>\$3,750</b>      |
| <b>Total Base Sales Revenues 4,119 linear feet @ \$3,650/ LF /Unit=</b> | <b>\$15,446,250</b> |

#### **SELLOUT EXPENSES**

Sellout expenses are those expenses that will likely be incurred during the sellout of the finished condo slips. Expenses will include closing costs, real estate sales commissions, miscellaneous costs and developer's profit. Real estate taxes, insurance and general and administrative expenses will be included in miscellaneous costs. Expenses that will be applied to the slips are sales commissions and closing costs.

#### **CLOSING COSTS**

We have estimated the closing costs related to the sale of the slips will be about **0.25%** of gross sales.

#### **REAL ESTATE SALES COMMISSIONS**

Sales commissions are typically paid to brokers at approximately 2.5 to 4%. We have included a **3.00%** expense for sales commissions.

#### **MISCELLANEOUS COSTS**

Miscellaneous costs for the subject include hazard insurance, repairs & maintenance and some general and administrative expenses. We have estimated a cost of **0.50%** of gross sales revenues of the slips.

#### **REAL ESTATE TAXES**

Real estate taxes were estimated at \$420 per slip per year based on a projected tax burden of \$36,500. This is approximately **\$9 per LF per year**. This cost will be applied to the number of un-sold lineal feet at the beginning of each year and increased by 3 percent in year two.

#### **ENTREPRENEURIAL PROFIT**

We have included a reasonable allocation for entrepreneurial profit. This is intended to reflect the inherent risk incurred in the development of a project similar to the subject. When determining a profit allocation to subtract from the anticipated cash flow, we have analyzed varying degrees of profit that may be necessary in order to attract a purchaser to a development project of this type. Dockominium slips typical demand a profit allocation of between 6% and 10% of the gross sales price on the slips. We have estimate the profit requirement on the subject property to be about 10.0% on the unsold slips. The purchaser of the property would have the responsibility of closing out all the slips and selling the un-sold slips. There is some risk that a purchaser would not complete a transaction.

#### **DISCOUNT RATE**

According to the Korpacz Real Estate Survey, 3Q 2009, discount rates for the national luxury apartment market ranged from 7.50% to 14.00%, with an average of 10.03%. This was the most comparable information to use to determine a discount rate for the subject property. We have used a **12.00% discount rate** to discount the cash flow back to a present value. This discount rate is within the middle of the above range.

#### **VALUE OF PROCEEDS FROM SELLOUT OF IMPROVEMENTS**

The total bulk value from the sellout of the marina slips, September 25, 2009, is \$9,563,477 or \$9,565,000 rounded. The chart on the following page shows the gross sales and expenses likely to be incurred during the sellout of the slips.

| Discounted Sellout                    |         |              |              |              |              |              |               |
|---------------------------------------|---------|--------------|--------------|--------------|--------------|--------------|---------------|
| Period                                |         | Year 1       | Year 2       | Year 3       | Year 4       | Year 5       | Total         |
| Total Linear Feet of Slips            | 4,119   |              |              |              |              |              |               |
| Price per Linear Foot                 | \$3,750 |              |              |              |              |              |               |
| Avg Slip Size per LF                  | 47.34   |              |              |              |              |              |               |
| Remaining Unsold Slips                | 87      | 87           | 76           | 68           | 52           | 26           |               |
| Slips Sold This Period                |         | 11           | 8            | 16           | 26           | 26           |               |
| Remaining Unsold Linear Feet          |         | 4,119        | 3,598        | 3,220        | 2,462        | 1,231        | 0             |
| Linear Feet Sold This Period          |         | 521          | 379          | 757          | 1,231        | 1,231        |               |
| Average Price Per Linear Foot         |         | \$3,750      | \$3,863      | \$3,978      | \$4,098      | \$4,221      |               |
| Total Sales                           |         | \$ 1,952,775 | \$ 1,462,806 | \$ 3,013,380 | \$ 5,043,645 | \$ 5,194,955 | \$ 16,667,561 |
| Less Expenses                         |         |              |              |              |              |              |               |
| Closing Costs                         | 0.25%   | \$ 4,882     | \$ 3,657     | \$ 7,533     | \$ 12,609    | \$ 12,987    | \$ 41,669     |
| Real Estate Commissions               | 3.00%   | \$ 58,583    | \$ 43,884    | \$ 90,401    | \$ 151,309   | \$ 155,849   | \$ 500,027    |
| Miscellaneous Costs (Ins & G&A)       | 0.50%   | \$ 9,764     | \$ 7,314     | \$ 15,067    | \$ 25,218    | \$ 25,975    | \$ 83,338     |
| Real Estate Taxes (\$9/Foot/Year)     | \$ 9    | \$ 36,741    | \$ 33,059    | \$ 30,467    | \$ 23,998    | \$ 12,361    | \$ 136,628    |
| Entrepreneurial Profit - Unsold Units | 10.0%   | \$ 195,278   | \$ 146,281   | \$ 301,338   | \$ 504,365   | \$ 519,495   | \$ 1,666,756  |
| Total Expenses                        |         | \$ 305,248   | \$ 234,195   | \$ 444,807   | \$ 717,500   | \$ 726,668   | \$ 2,428,417  |
| Net Income                            |         | \$ 1,647,527 | \$ 1,228,611 | \$ 2,568,573 | \$ 4,326,146 | \$ 4,468,287 | \$ 14,239,144 |
| Discount Factor                       | 12.0%   | 0.892857     | 0.797194     | 0.711780     | 0.635518     | 0.567427     |               |
| PV of Cash Flow                       |         | \$ 1,471,006 | \$ 979,441   | \$ 1,828,260 | \$ 2,749,344 | \$ 2,535,426 | \$ 9,563,477  |
| Total PV of Cash Flows                |         | \$ 9,563,477 |              |              |              |              |               |
| Rounded                               |         | \$ 9,565,000 |              |              |              |              |               |
| FINAL VALUE AT SELLOUT                |         | \$ 9,565,000 |              |              |              |              |               |

**MARKET VALUE "AS IS"**

We have deducted the land acquisition cost for the needed parking areas totaling \$800,000, resulting in a market value conclusion of the marina slips "as is" (September 25, 2009) is **\$8,765,000** (rounded).

**ADDITIONAL VALUE DUE TO INTERIM INCOME FROM SLIP RENTALS DURING SELLOUT**

The subject property is presently an all rental marina and is achieving a positive cash flow from operations. We are of the opinion that if the property were converted to dockominiums, that the owners would continue to rent the slips during the sellout period. This would generate a cash flow during the sellout in addition to the revenues generated from slip sales. As slips are sold, the number of slips in the rental pool will decrease and the rental income generated would decrease as well.

In this analysis, we have utilized the same income and expenses that were discussed previously in the Income Approach. One change that has been made relates to the vacancy and collection loss. This was previously estimated to be 20%. In the discounted sellout to follow we have kept the vacancy & collection loss at 20% for years 1 and 2. In years 3, 4 and 5, we have decreased this to 15% as we anticipate the market to have

improved. Secondly, we have utilized one-half of the insurance, real estate taxes and repairs & maintenance costs which shift to the slip owners after purchase.

Furthermore, the reversion is not applicable as all of the slips will have been sold at the end of the fifth year. The subject cash flows will fluctuate based on the steady decrease in the number of slips available to be rented. An 11.0 percent discount rate was utilized in the discounted sellout of the boat slips. The subject cash flows do not have a reversion and are for a very short term. A discount rate of 9.00 percent would be considered appropriate for the subject cash flows.

| Ripley Light Yacht Club Marina - Interim Cash Flow Analysis |           |                   |                   |                   |                   |                   |                     |
|-------------------------------------------------------------|-----------|-------------------|-------------------|-------------------|-------------------|-------------------|---------------------|
| Period                                                      | Per LF    | Year 1            | Year 2            | Year 3            | Year 4            | Year 5            | Total               |
| <b>Income:</b>                                              |           |                   |                   |                   |                   |                   |                     |
| Lineal Feet - Beginning                                     |           | 4119              | 3,598             | 3,220             | 2,462             | 1,231             |                     |
| Projected LF Sold                                           |           | 521               | 379               | 757               | 1,231             | 1,231             |                     |
| Half of Total Sold                                          |           | 260.37            | 189.36            | 378.72            | 615.42            | 615.42            |                     |
| Projected Avg LF Generating Rental Income                   |           | 3858.63           | 3408.9            | 2840.82           | 1846.68           | 615.84            |                     |
| Rental Rate                                                 |           | \$13.00           | \$13.39           | \$13.79           | \$14.21           | \$14.63           |                     |
| Rental Income Per Year                                      |           | \$642,564         | \$578,168         | \$532,835         | \$419,703         | \$216,184         | \$ 2,389,454        |
| Other Income                                                |           | \$0               | \$0               | \$0               | \$0               | \$0               | \$ -                |
| Electric Reimbursement                                      | \$12.14   | \$46,839          | \$42,622          | \$36,584          | \$24,495          | \$8,414           | \$ 158,955          |
| Marina Shop Sales Income                                    | \$6.07    | \$23,420          | \$21,311          | \$18,292          | \$12,248          | \$4,207           | \$ 79,477           |
| <b>Total Potential Income</b>                               |           | <b>\$712,823</b>  | <b>\$642,101</b>  | <b>\$587,712</b>  | <b>\$456,446</b>  | <b>\$228,805</b>  | <b>\$ 2,627,886</b> |
| Less Vacancy & Collection Loss                              | 20% / 15% | (\$142,565)       | (\$128,420)       | (\$88,157)        | (\$68,467)        | (\$34,321)        | \$ (461,929)        |
| <b>Effective Gross Income</b>                               |           | <b>\$570,258</b>  | <b>\$513,681</b>  | <b>\$499,555</b>  | <b>\$387,979</b>  | <b>\$194,484</b>  | <b>\$ 2,165,957</b> |
| <b>Less Expenses</b>                                        |           |                   |                   |                   |                   |                   |                     |
| Salaries & Wages                                            | 13.9%     | \$ 79,471         | \$ 71,587         | \$ 69,618         | \$ 54,069         | \$ 27,103         | \$ 301,849          |
| Property Insurance (1/2 of total)                           | 5.7%      | \$ 32,220         | \$ 29,023         | \$ 28,225         | \$ 21,921         | \$ 10,988         | \$ 122,377          |
| Property Taxes (1/2 of total)                               | 3.2%      | \$ 18,248         | \$ 16,438         | \$ 15,986         | \$ 12,415         | \$ 6,223          | \$ 69,311           |
| Utilities                                                   | 17.4%     | \$ 99,339         | \$ 89,483         | \$ 87,023         | \$ 67,586         | \$ 33,879         | \$ 377,311          |
| Cost of Goods Sold - Marina Store                           | 3.7%      | \$ 20,861         | \$ 18,792         | \$ 18,275         | \$ 14,193         | \$ 7,115          | \$ 79,235           |
| Advertising                                                 | 1.5%      | \$ 8,643          | \$ 7,785          | \$ 7,571          | \$ 5,880          | \$ 2,947          | \$ 32,826           |
| Repairs & Maintenance (1/2 of total)                        | 2.6%      | \$ 14,827         | \$ 13,356         | \$ 12,988         | \$ 10,087         | \$ 5,057          | \$ 56,315           |
| General & Administrative                                    | 2.6%      | \$ 14,901         | \$ 13,423         | \$ 13,053         | \$ 10,138         | \$ 5,082          | \$ 56,597           |
| Management Fees                                             | 3.5%      | \$ 19,959         | \$ 17,979         | \$ 17,484         | \$ 13,579         | \$ 6,807          | \$ 75,808           |
| Reserves                                                    | 2.0%      | \$ 11,405         | \$ 10,274         | \$ 9,991          | \$ 7,760          | \$ 3,890          | \$ 43,319           |
| <b>Total Expenses</b>                                       |           | <b>\$ 319,874</b> | <b>\$ 288,138</b> | <b>\$ 280,215</b> | <b>\$ 217,628</b> | <b>\$ 109,092</b> | <b>\$ 1,214,947</b> |
| <b>Net Income</b>                                           |           | <b>\$ 250,384</b> | <b>\$ 225,543</b> | <b>\$ 219,340</b> | <b>\$ 170,350</b> | <b>\$ 85,392</b>  | <b>\$ 951,010</b>   |
| <b>Discount Factor</b>                                      | 9.0%      | 0.917431          | 0.841680          | 0.772183          | 0.708425          | 0.649931          |                     |
| <b>PV of Cash Flow</b>                                      |           | <b>\$ 229,710</b> | <b>\$ 189,835</b> | <b>\$ 169,371</b> | <b>\$ 120,681</b> | <b>\$ 55,499</b>  | <b>\$ 765,096</b>   |
| <b>Total PV of Cash Flows</b>                               |           | <b>\$ 765,096</b> |                   |                   |                   |                   |                     |
| <b>Rounded</b>                                              |           | <b>\$ 765,000</b> |                   |                   |                   |                   |                     |

We have concluded the present value of the future cash flows associated with the interim slip rentals and marina operations to be \$765,096, rounded to **\$765,000**.

**RECONCILIATION AND FINAL VALUE OPINIONS**

We have been asked to appraise the market value of the property "As Is" for the existing marina. In the Cost Approach we determined the market value of the subject "As Is" plus the acquisition costs associated with acquiring the additional land for the required number of parking for the marina. In the Income Approach, we determined market rent for the subject property and compared this to contract rent, estimated vacancy and expenses and capitalized the resulting net operating income into a value conclusion. We used both a direct capitalization method and a discounted cash flow analysis to determine the market value "As Is". In the Development Method, we estimated the value of the completed slips as if sold to an investor assuming the additional land for the required number of parking for the marina had occurred, as well as the "as is" value. Finally, we determined the present value of the cash flows associated with the interim leasing of the subject slips during the sellout. Our value conclusions are summarized as:

**RIPLEY LIGHT YACHT CLUB MARINA**

|                                                                                                                             |                    |
|-----------------------------------------------------------------------------------------------------------------------------|--------------------|
| <b>Value by Cost Approach "At Completion" – September 25, 2009</b>                                                          | <b>\$8,000,000</b> |
| <b>Value by Income Approach "As Is" – September 25, 2009</b>                                                                | <b>\$2,255,000</b> |
| <b>Development Valuation Analysis "As Is" – September 25, 2009</b>                                                          | <b>\$8,765,000</b> |
| <b>Development Valuation</b>                                                                                                |                    |
| <b>Value by Income Approach – Interim Cash Flows from Slip Rentals &amp; Marina Operations<br/>As of September 25, 2009</b> | <b>\$765,000</b>   |

We have selected the Development Valuation Method as our final value conclusion. Since the Cost Approach value conclusion is far less than the development approach method, the project is proven to be financially feasible. Developer-purchasers would consider the Development Valuation Approach as their primary consideration when analyzing their purchase offer. The Cost Approach would be relied on to ascertain what excess profit can be derived. The difference between these two approaches illustrates the financial feasibility of the remaining construction. The Development Valuation Analysis is the most appropriate method for the marina wet slips. The Cost Approach also illustrates the value intrinsic in the going concern via the permits, development expertise, and the right to use navigable waters. Our conclusion of value for the subject property, Ripley Light Yacht Club Marina, is based on the development analysis for the marina wet slips.

**Opinion of Market Value "As Is" – Ripley Light Yacht Club Marina Wet Slips****September 25, 2009****\$9,530,000****(\$8,765,000 + \$765,000)**

## **ADDENDA**

REGIONAL MAP

METROPOLITAN AREA MAP

NEIGHBORHOOD MAP

FLOOD PLAIN MAP

ZONING MAP

SURVEYS

DOCK SURVEY

PHOTOGRAPHS OF THE SUBJECT

COMPARABLE LAND SALES

FINAL CONSTRUCTION COSTS

OPERATING STATEMENTS

TAXES AND TAX ASSESSMENTS

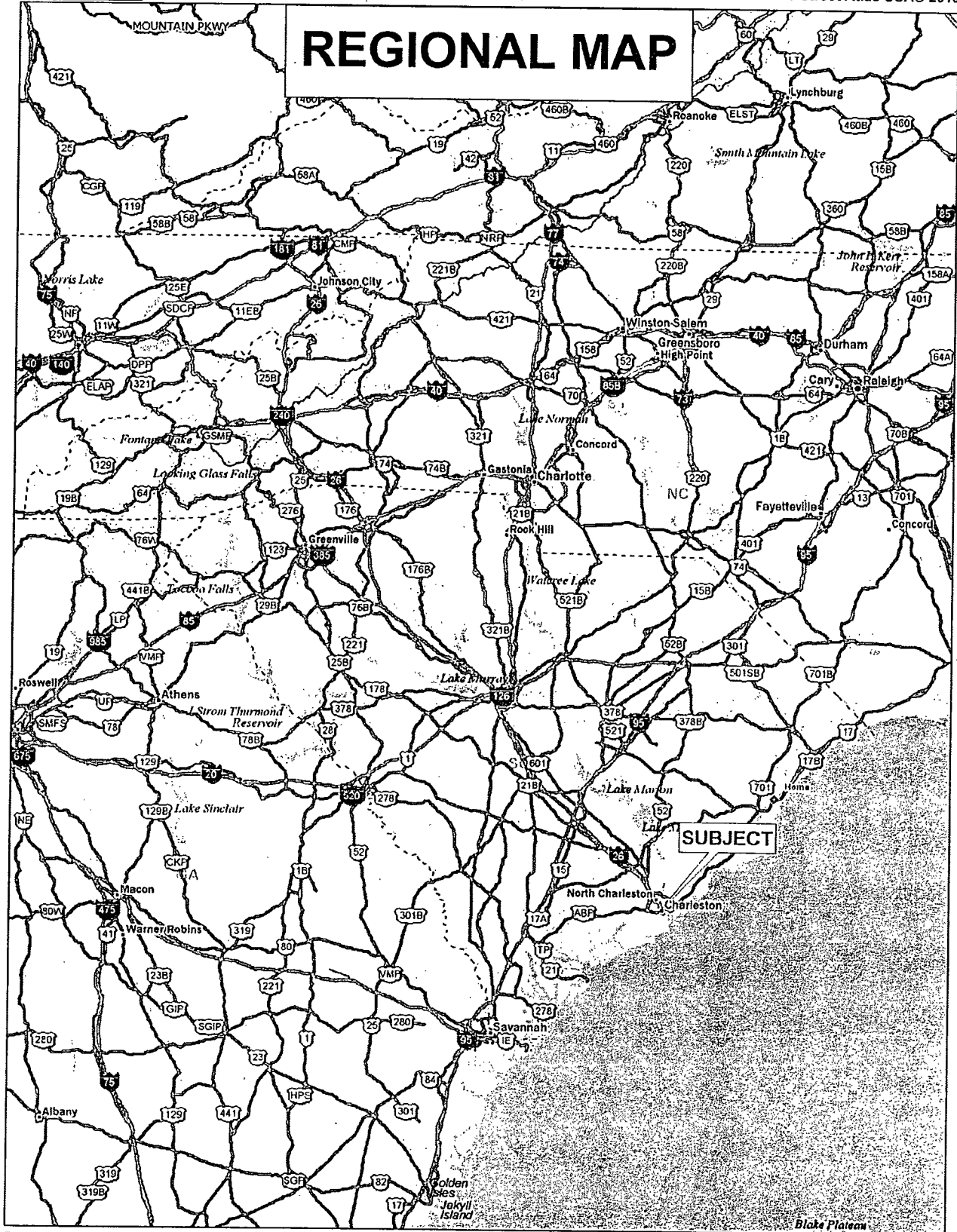
RENT ROLL

ENGAGEMENT LETTER

ASSUMPTIONS AND LIMITING CONDITIONS

QUALIFICATIONS OF APPRAISERS

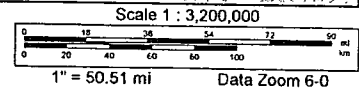
# REGIONAL MAP



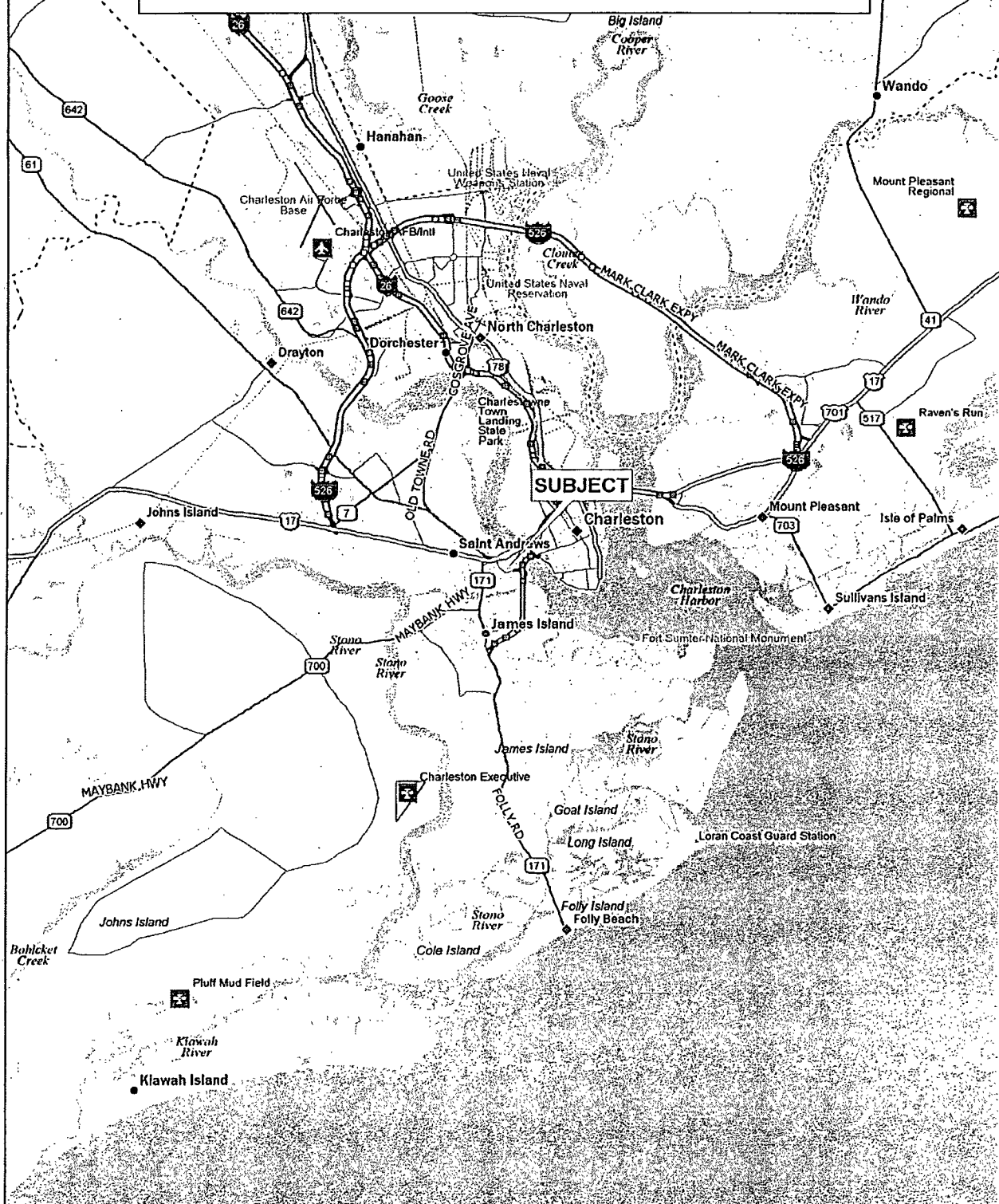
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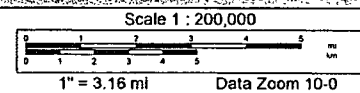
# METROPOLITAN AREA MAP



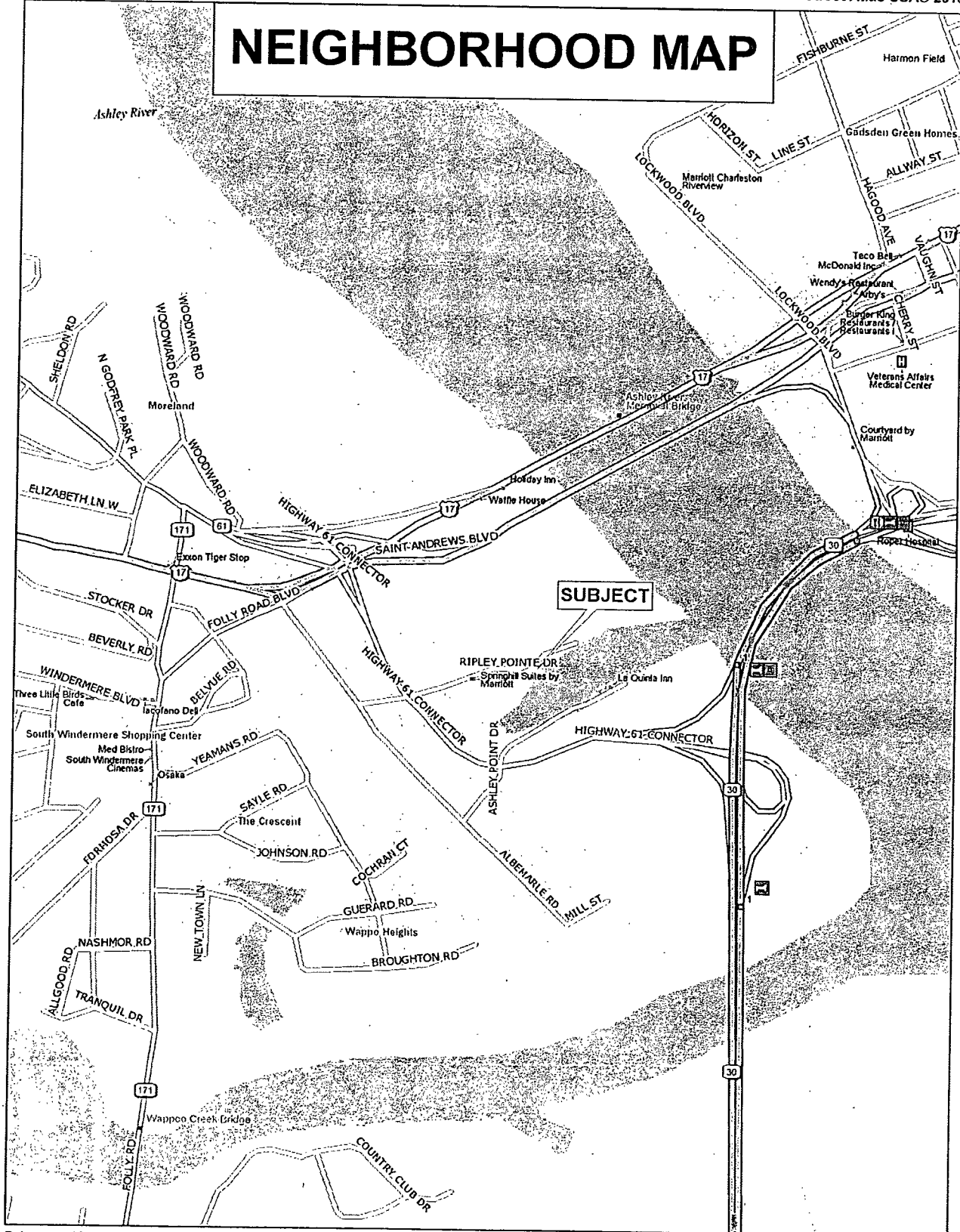
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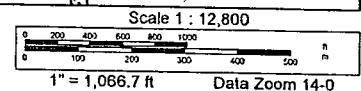
# NEIGHBORHOOD MAP



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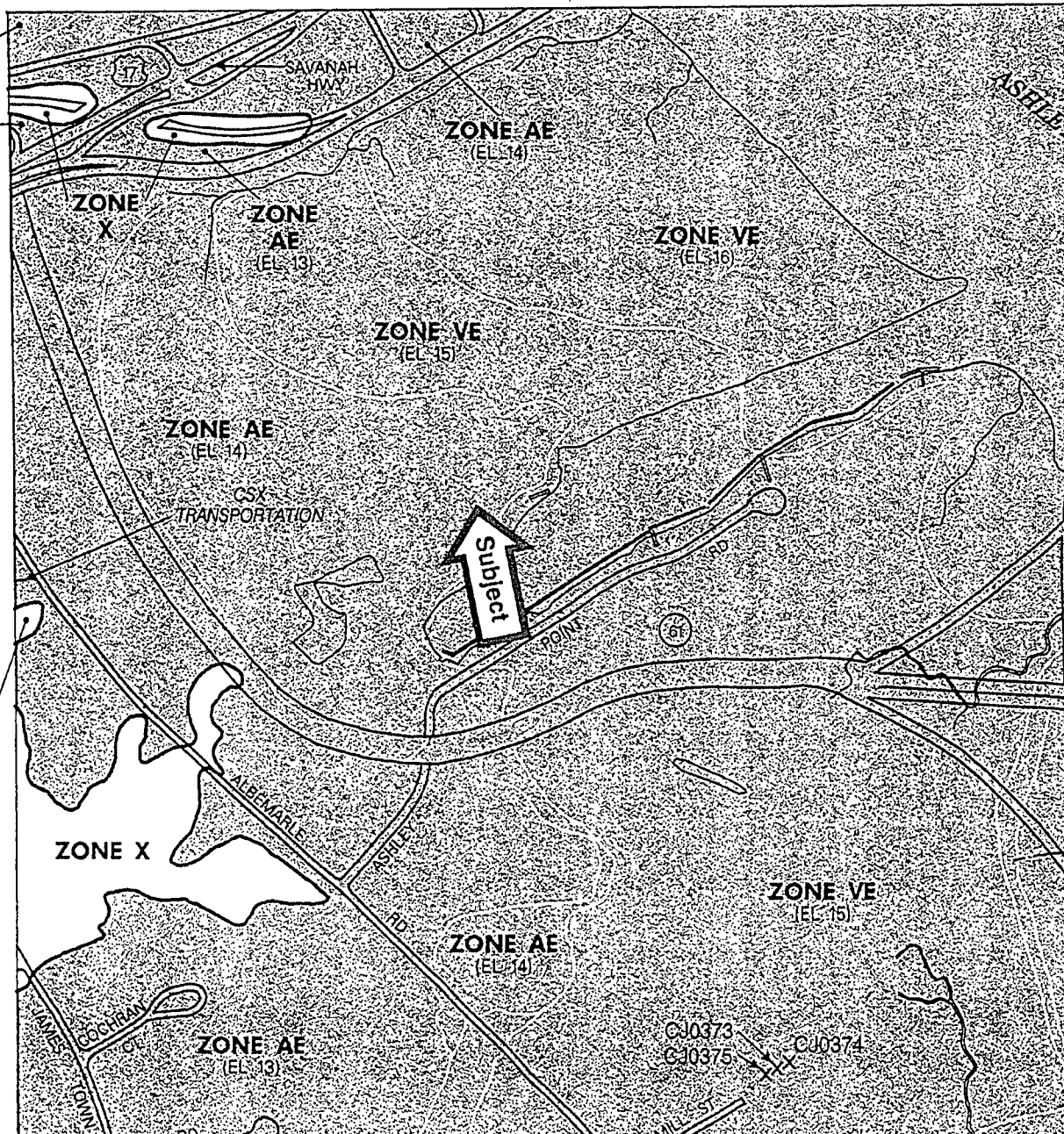


58' 07.5"

5"

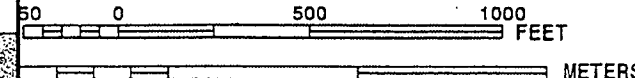
X

0540



APPROXIMATE SCALE

MAP SCALE 1" = 500'



NATIONAL FLOOD INSURANCE PROGRAM

**FIRM**  
FLOOD INSURANCE RATE MAP  
CHARLESTON COUNTY,  
SOUTH CAROLINA  
AND INCORPORATED AREAS

PANEL 514 OF 855

(SEE MAP INDEX FOR PANELS NOT PRINTED)

CONTAINS:

| COMMUNITY           | NUMBER | PANEL | SUFFIX |
|---------------------|--------|-------|--------|
| CHARLESTON, CITY OF | 450412 | 0514  | J      |
| CHARLESTON COUNTY   | 450413 | 0514  | J      |

Notes to User: The MAP NUMBER shown below should be used when placing map orders; the COMMUNITY NUMBER shown above should be used on insurance applications for the subject community.

**MAP NUMBER**  
45019C0514J

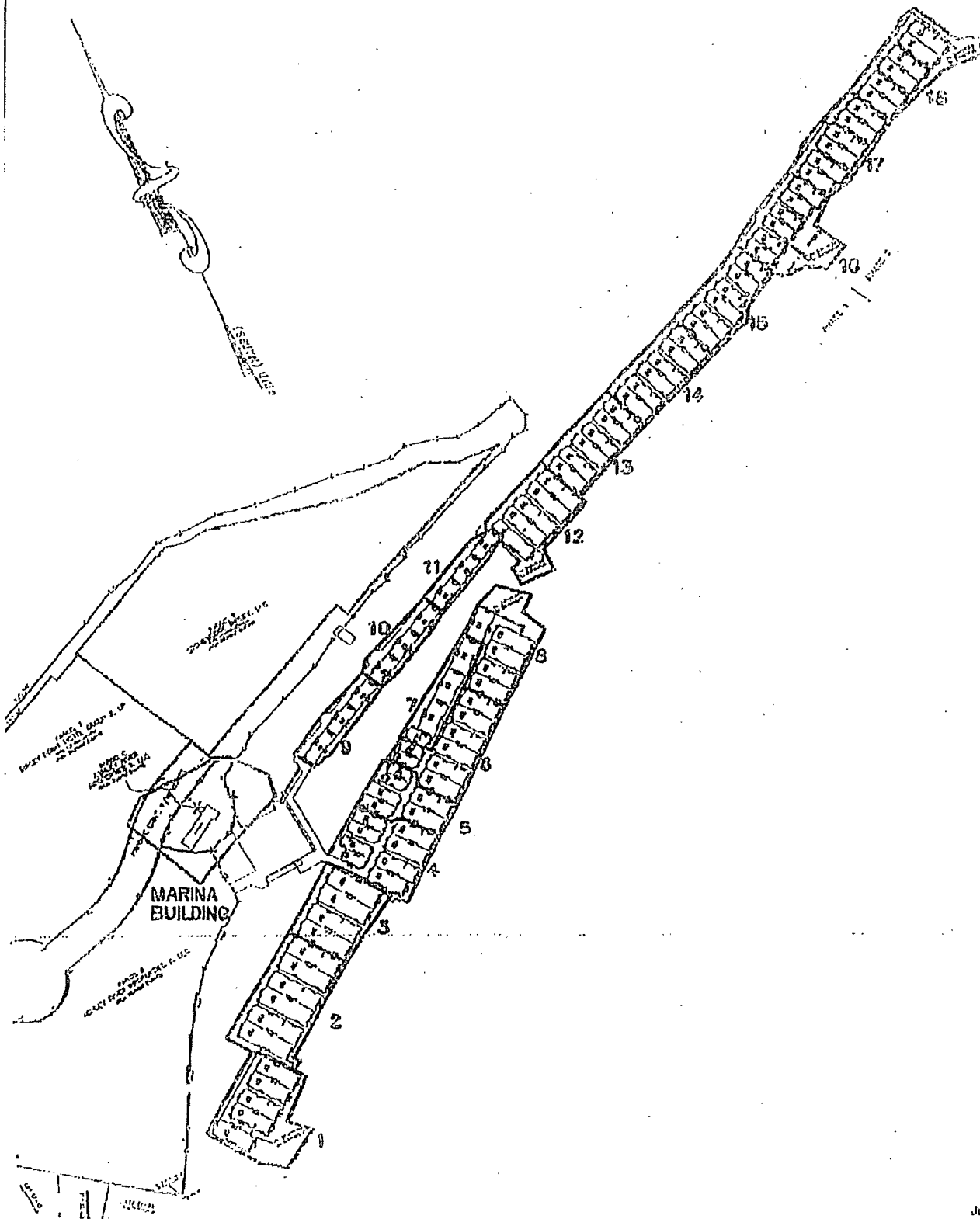
**EFFECTIVE DATE:**  
NOVEMBER 17, 2004



Federal Emergency Management Agency

This is an official copy of a portion of the above referenced flood map. It was extracted using F-MIT On-Line. This map does not reflect changes or amendments which may have been made subsequent to the date on the title block. For the latest product information about National Flood Insurance Program flood maps check the FEMA Flood Map Store at [www.msc.fema.gov](http://www.msc.fema.gov)





June 6, 2005  
170304012

Client/Project

ASHLEY RIVER PROPERTIES II, LLC  
90 RIPLEY POINT DRIVE  
CHARLESTON, SC 29407

Figure No.

KEY (NOT TO SCALE)

Title

DOCK EXHIBIT



Stanton

Stanton Consulting Services, Inc.

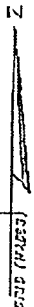
990 Morrison Drive  
Charleston SC U.S.A.  
29403

Tel 843.577.4926

Fax 843.723.0440

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The image shows a document page with several columns of text. The text is mostly illegible due to blurring. A small table with multiple rows and columns is visible on the right side of the page. The table appears to have headers and data rows, but the specific content is not readable.

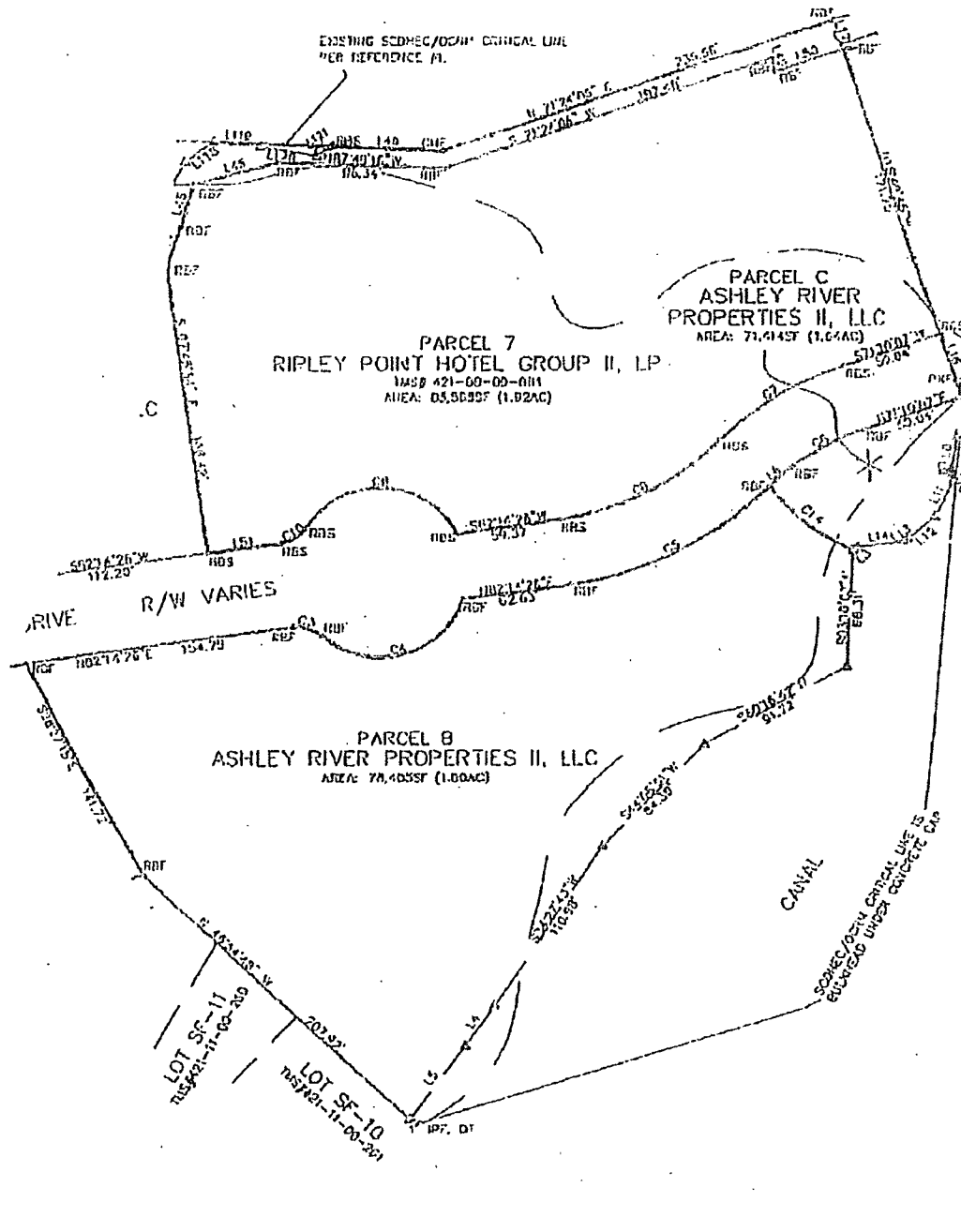


( IN FEET )

1 inch = 10 ft.

SUBDIVISION





June 16, 2006  
170304012

Client/Project

ASHLEY RIVER PROPERTIES II, LLC  
90 RIPLEY POINT DRIVE  
CHARLESTON, SC 29407

Figure 13a.

2

Title

SUBDIVISION



Stantec

Stantec Consulting Services, Inc.

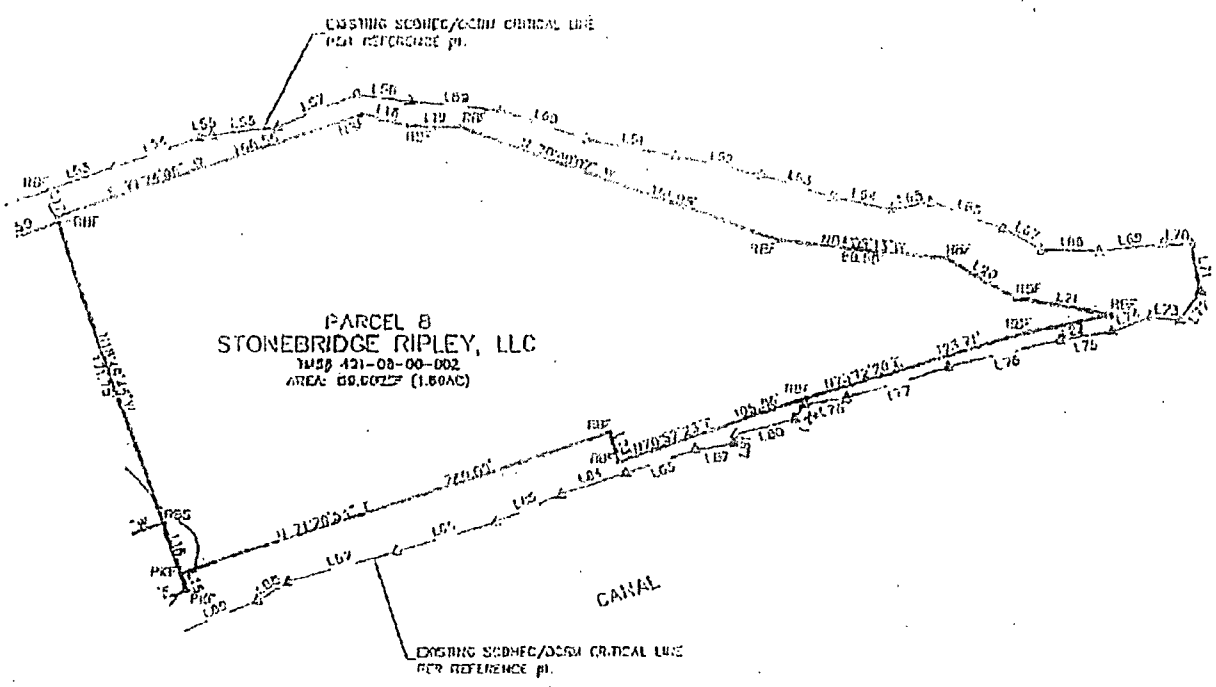
990 Morrison Drive  
Charleston SC U.S.A.  
29403

Tel. 843.577.4926  
Fax. 843.723.0440

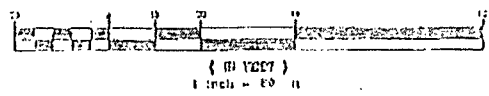
www.stantec.com

0544

12  
CSD 11/12/03



GRAPHIC SCALE



June 16, 2006  
170304012



Stantec

Stantec Consulting Services, Inc.  
990 Morrison Drive  
Charleston SC U.S.A.  
29403  
Tel. 843.577.4926  
Fax. 843.723.0440  
www.stantec.com

Client/Project

ASHLEY RIVER PROPERTIES II, LLC  
90 RIPLEY POINT DRIVE  
CHARLESTON, SC 29407

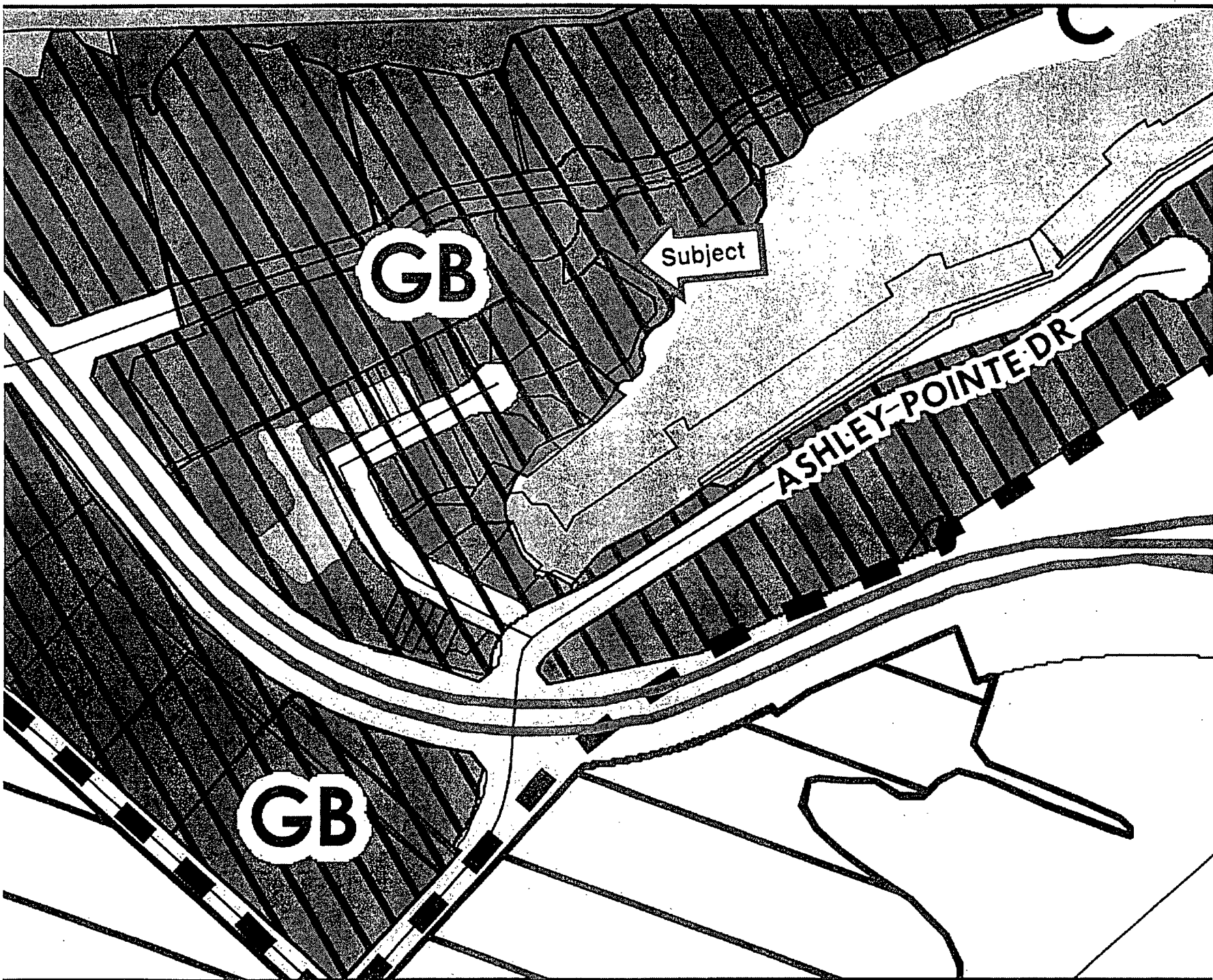
Figure No.

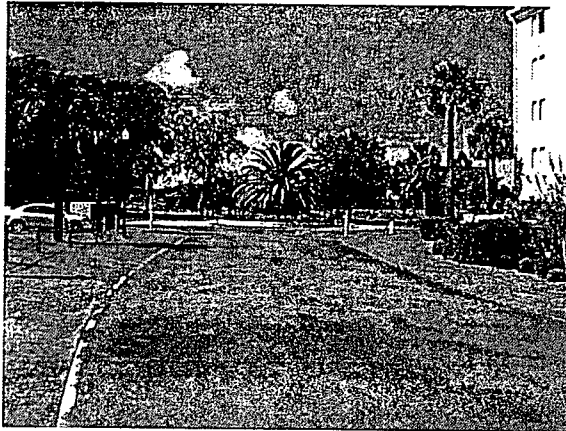
3

Title

SUBDIVISION

0545





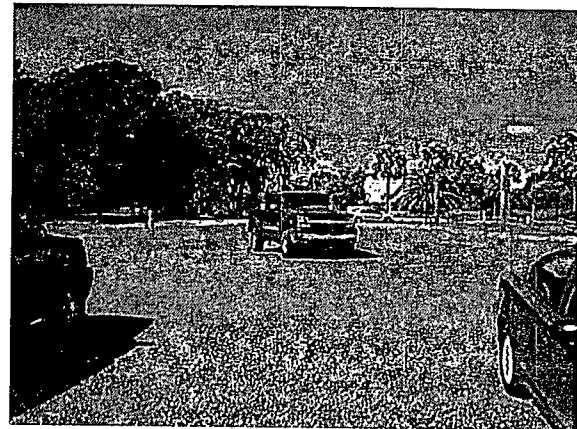
Ripley Point Drive Looking West



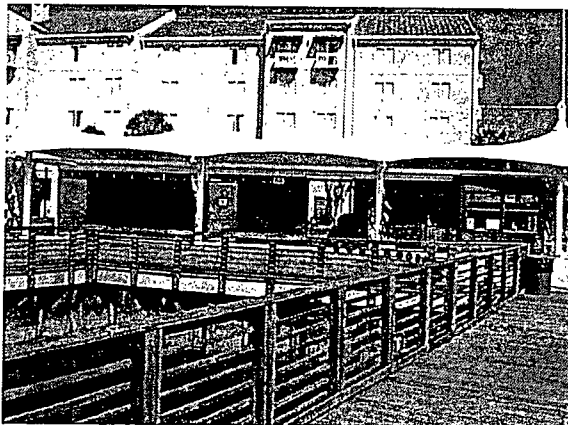
Ripley Point Drive Looking West



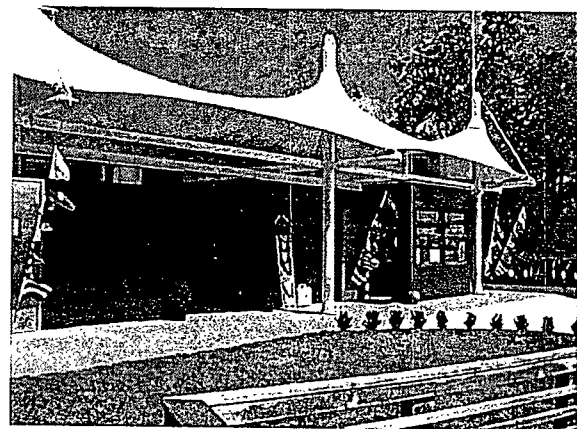
View of Main Parking Lot



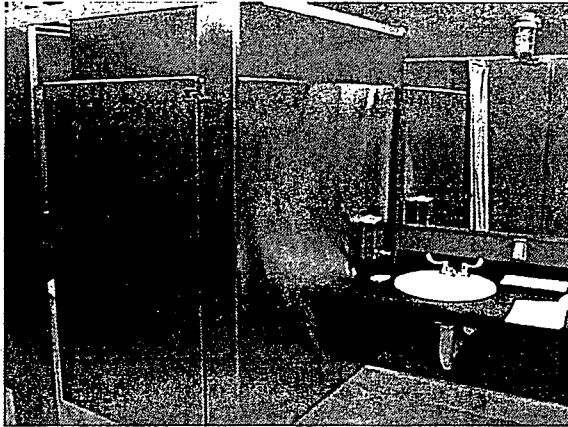
View of Main Parking Lot



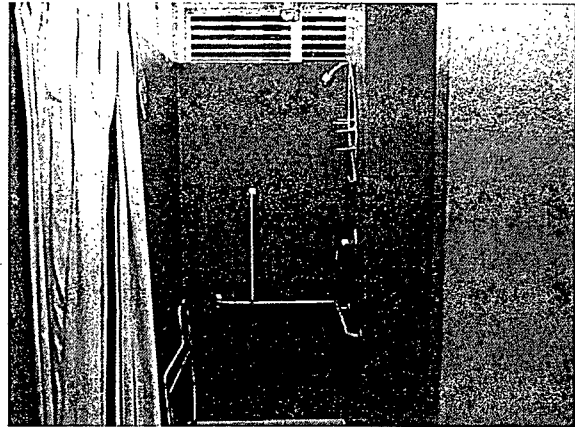
View of Office & Restrooms Building



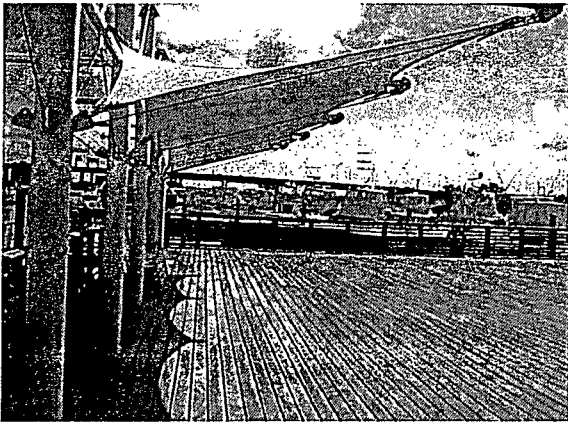
View of Office & Restrooms Building



Interior View of Restrooms



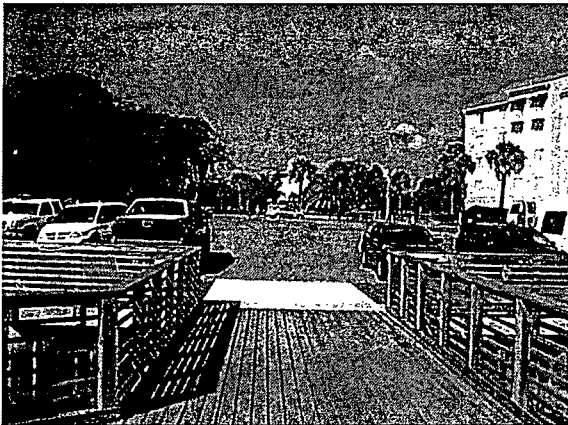
Interior View of Restrooms



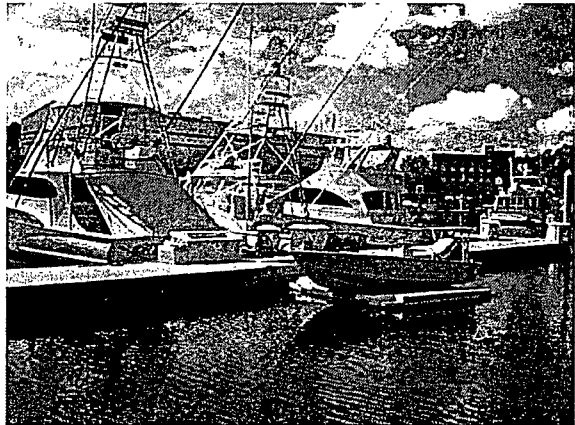
View of Main Deck Area



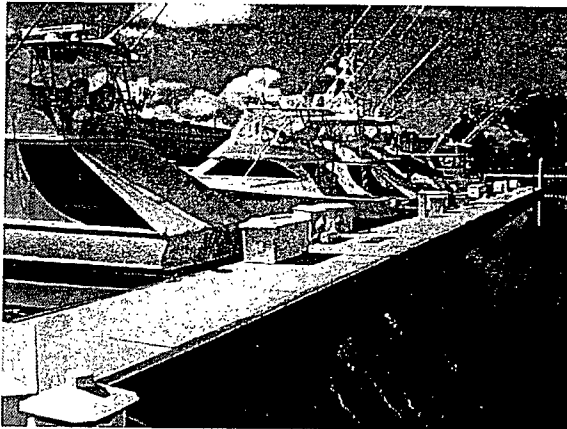
View of Main Deck Area



Access to Parking Area from Main Deck



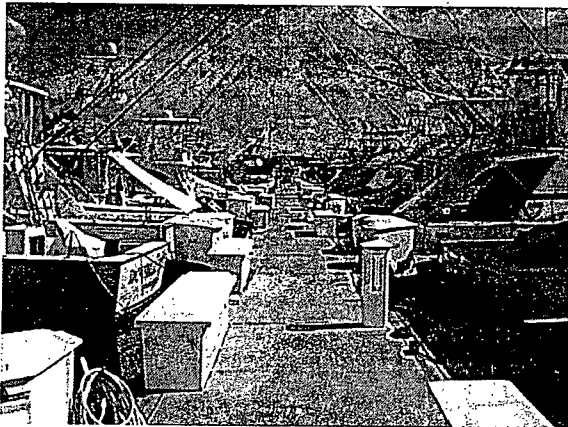
View of A-Dock



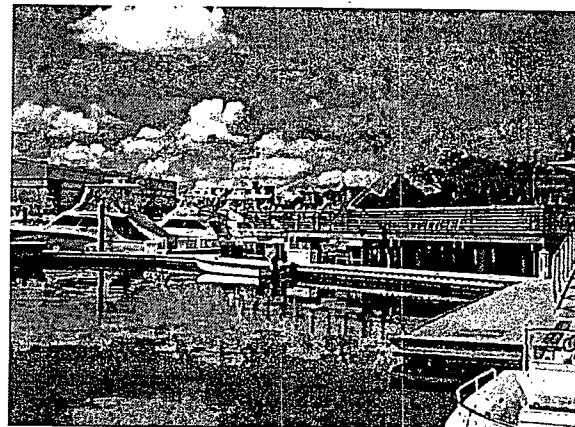
View of A-Dock



View of A-Dock



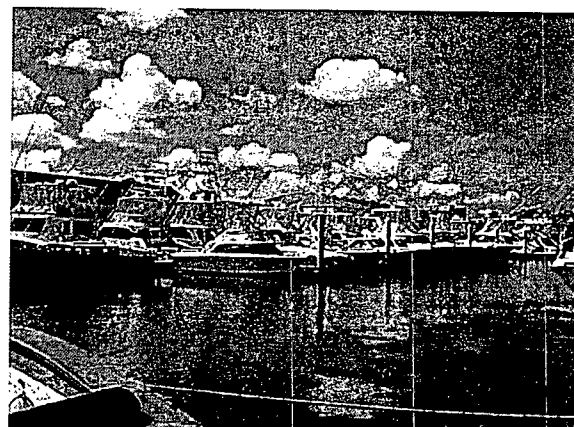
View of A-Dock



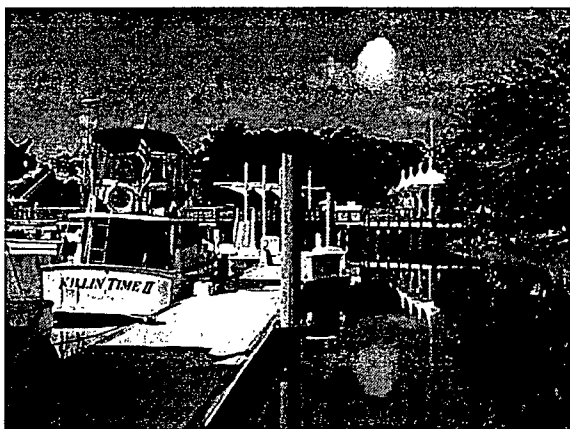
View of A-Dock



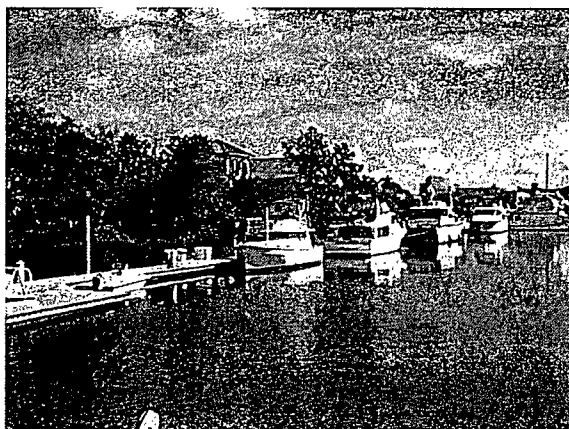
View of A-Dock



View of A-Dock



View of B-Dock



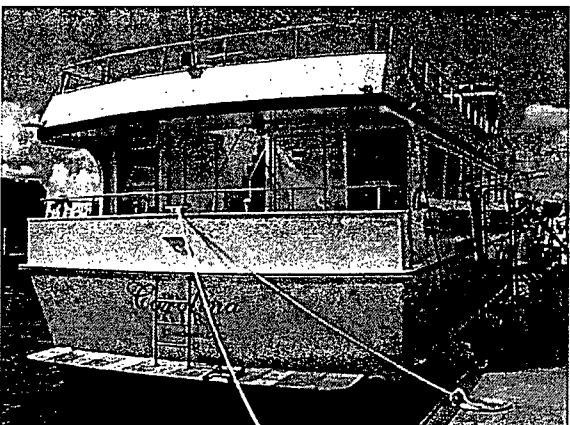
View of B-Dock



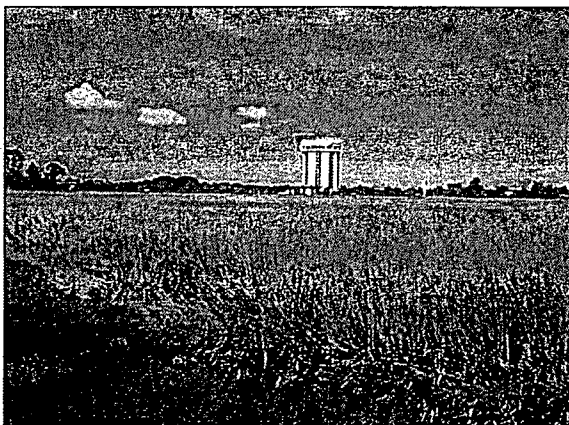
View of B & C-Dock



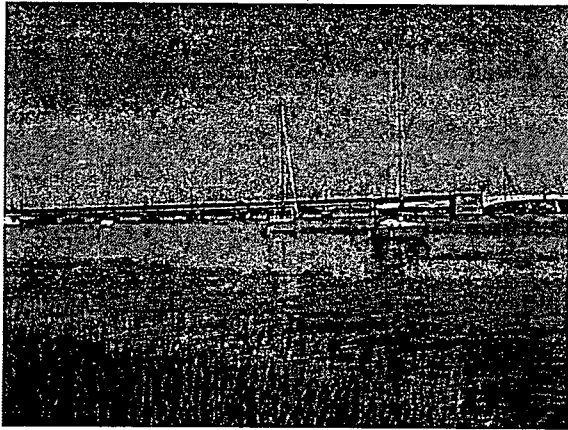
View of C-Dock



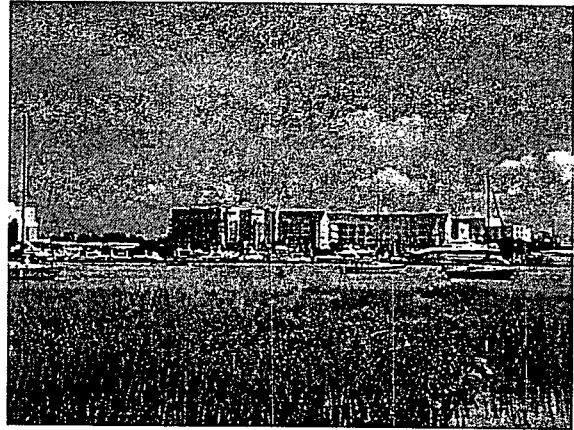
View of C-Dock



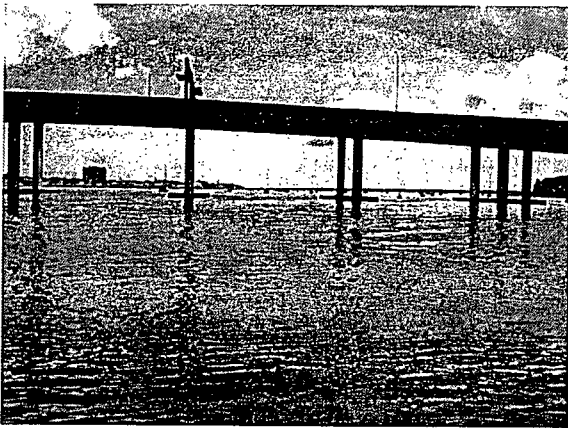
Northerly View From C-Dock



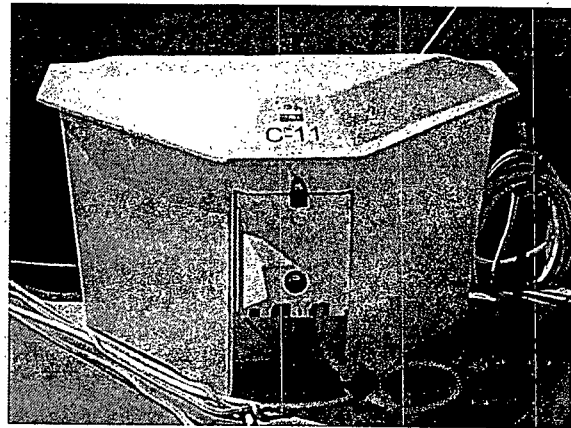
Northerly View of Ashley River



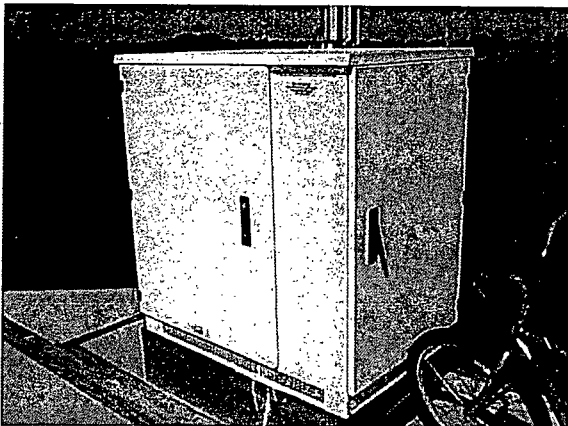
View of Downtown Charleston



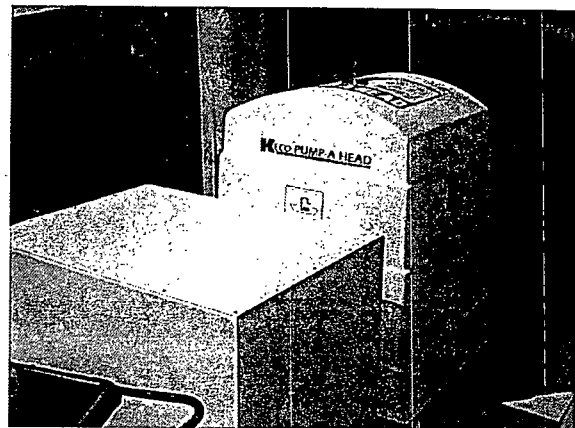
Easterly View of Ashley River



Deck Box

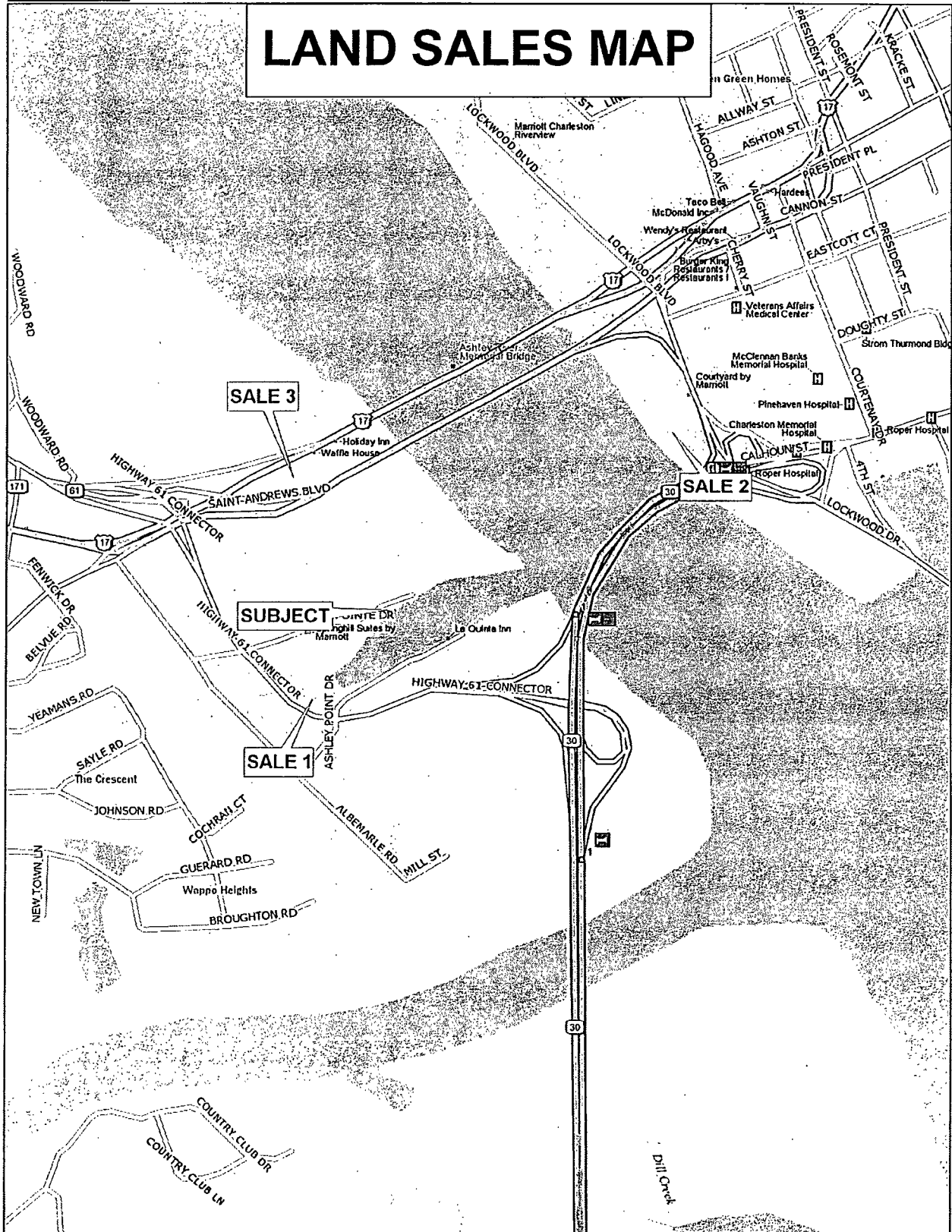


Dock Transformer



Pump Out Unit

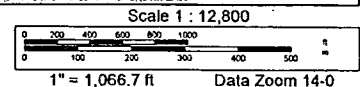
# LAND SALES MAP



Data use subject to license.

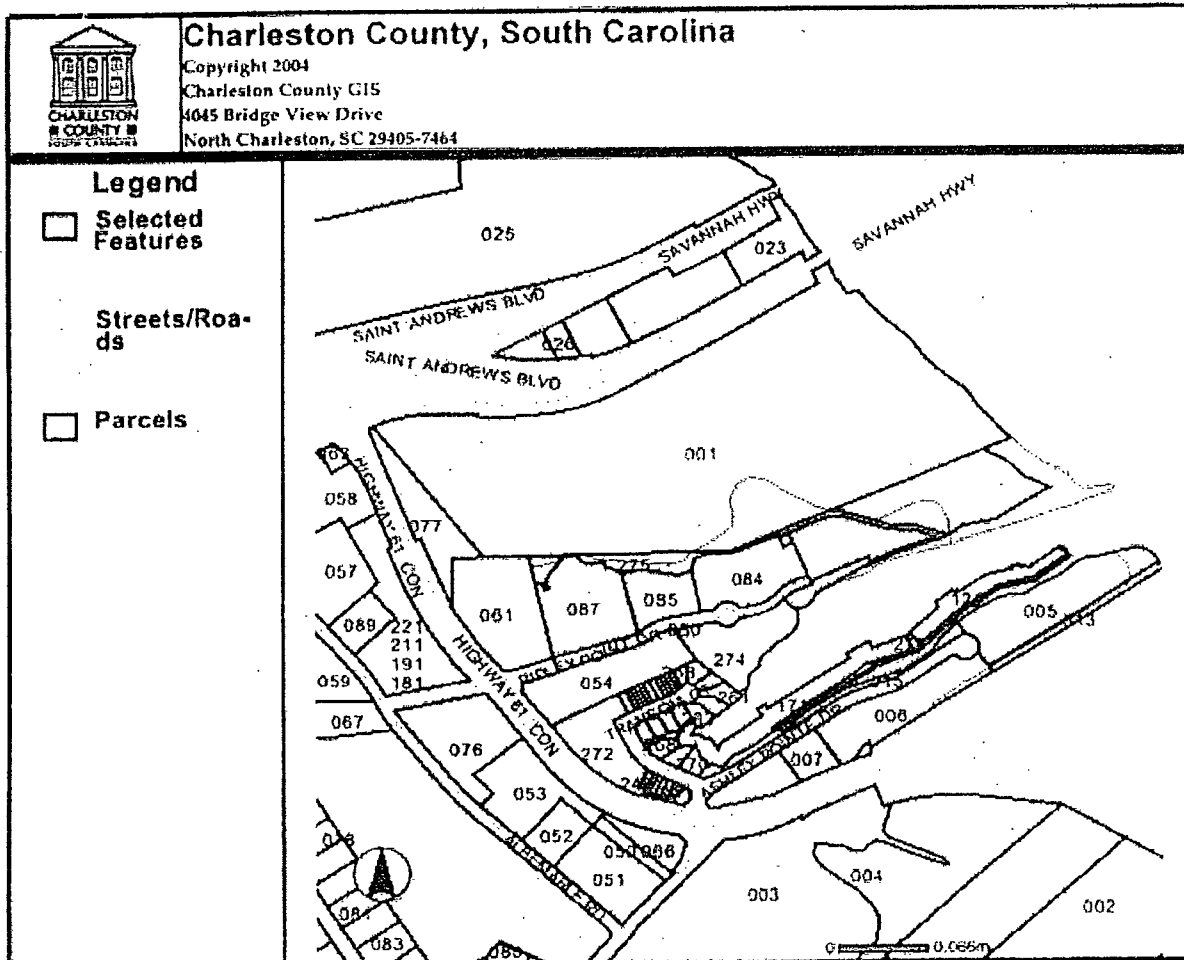
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[www.delorme.com](http://www.delorme.com)



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

1" = 6.31 mi      Data Zoom 9-0



PARCEL NUMBER : 4211100275

PARCEL ID: 4211100275

STREET NUMBER: 95

STREET NAME: RIPLEY POINT DRIVE

PROP UNIT:

PROP CITY:

PROP ZIP: 29407

SITE NAME: RIPLEY LIGHT YACHTCLUB

GENERAL USE: CER

MOBILE HOMES: 0

SUBDIVISION:

LEGAL DESCRIPTION: LOT C

LGL HI ACRES: 1.84

LGL MAR ACRES: 0

LGL WATER ACRES: 0

LGL SWAMP ACRES: 0

LGL TOTAL ACRES: 1.84

TAX DISTRICT: 63

JURISDICTION: MCP

PLAT BOOK: EK-219

OWNER ON 1ST: ASHLEY RIVER PROPERTIES II LLC

OWNER2 ON 1ST:

CURRENT OWNER1:

CURRENT OWNER2:

SALE DATE: 12/29/2003  
DEED BOOK: E480-016  
WILL CODE:  
WILL DATE:  
C O NAME:  
MAIL STREET NUMBER: 0  
MAIL STREET NAME: P O BOX 3156  
MAIL UNIT:  
MAIL CITY: CHARLESTON  
MAIL STATE: SC  
MAIL ZIP: 29417  
MAIL COUNTRY:  
MAIL POSTAL CODE:  
SALE PRICE: 100000  
MULT LOT: 0  
SPLIT CODE: Y  
MLOD GROUP:  
FINAL VALUE: 2204200  
BUILD COUNT: 2  
AG USE VAL: 0  
AG MARKET TOT: 0  
LR APPROVE:  
YEAR BUILT: 0  
BEDROOMS: 0  
FULL BATHS: 0  
THREE QTR BATHS: 0  
HALF BATHS: 0  
TOTAL FINISH AREA: 0  
LIVING AREA: 0  
CONDO-BEDROOM: 0  
CONDO FULL BATH: 0  
CONDO H-BATH: 0  
CONDO YR BUILT: 0

- MAIN MENU
- CONTACTS
- EXIT

**- Property Information -**

|                   |               |                  |           |
|-------------------|---------------|------------------|-----------|
| Account (PID):    | 421-11-00-275 | Appraised (FMV): | 2,204,200 |
| Tax Year:         | 2009          | Assessment:      | 132250    |
| Prior Year:       | NA            | Mills:           | x 0       |
| Status:           | Current       |                  | -----     |
| Receipt:          | 2009-004234   | Base Tax:        | 0.00      |
| Previous Receipt: | NA            | Penalties:       | + 0.00    |
| Next Receipt:     | NA            | Interest:        | + 0.00    |
| Billed:           | 09-30-2009    | Credits:         | - 0.00    |
| Paid Date:        | NA            | User Fee:        | + (Other) |
| Actual Date:      | NA            | SW Fee:          | + 0.00    |

Mortgage Co: NA

**MLOD Factor:** No

|                  |           |
|------------------|-----------|
| Appraised (FMV): | 2,204,200 |
| Assessment:      | 132250    |
| Mills:           | x 0       |
|                  | -----     |
| Base Tax:        | 0.00      |
| Penalties:       | + 0.00    |
| Interest:        | + 0.00    |
| Credits:         | - 0.00    |
| User Fee:        | + (Other) |
| SW Fee:          | + 0.00    |

|                |        |
|----------------|--------|
| Net Tax:       | 0.00   |
| Amount Paid:   | - 0.00 |
| Nulla Bona     |        |
| Amount:        | - 0.00 |
| Refund Amount: | - 0.00 |
| Transfer       |        |
| Amount:        | - 0.00 |
| CURR Due:      | 0.00   |

|                    |                               |
|--------------------|-------------------------------|
| Legal Description: | 95 RIPLEY POINT DRIVE - LOT C |
| Subdivision:       | NA                            |
| Deed:              | 12-31-2003 E480-016           |
| Plat:              | EK-219                        |
| Land Use:          | OTHER JURISDICTION            |
| General Use:       | CER                           |
| Parcel:            | 744                           |

|             |           |            |
|-------------|-----------|------------|
| Buildings   | Appraisal | Assessment |
| Others (6%) | 2,204,200 | 132,250    |
|             | <hr/>     | <hr/>      |
| Totals:     | 2,204,200 | 132,250    |

| Acreage |      | Appraisal     |         |
|---------|------|---------------|---------|
| High:   | 1.64 | Land:         | 1191000 |
| Marsh:  | 0.00 | Improvements: | 972000  |
| Swamp:  | 0.00 | Buildings:    | 41200   |
| <hr/>   |      | <hr/>         |         |
| Total:  | 1.64 | Total:        | 2204200 |

**- Owner Information -**

Current Owner: ASHLEY RIVER PROPERTIES II LLC Tax Address: 95 RIPLEY POINT DRIVE  
Current Co-Owner: NA  
Tax District: 63 Mail Address: P O BOX 3156  
Jurisdiction: 07 City State Zip: CHARLESTON SC 29417

[Selections](#)
[Tax Record](#)
[Credits](#)
[Main Menu](#)

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$$\begin{array}{r} 3,129.96 \\ 2,117.22 \\ \hline 5,247.18 \end{array}$$

3,130

2008 CHARLESTON COUNTY  
PROPERTY TAX BILL

COMPANY NAME: ASHLEY RIVER PROPERTIES II LLC

ACCT NUMBER: 421-11-00-275

FOR PERIOD COMMENCING JANUARY 1, 2008

BILL DATE: 09/30/08

| PROPERTY              | ASSESSED VALUE   | MARKET VALUE     | TAXABLE VALUE    | TAX RATE      | TAX AMOUNT   |
|-----------------------|------------------|------------------|------------------|---------------|--------------|
| 95 RIPLEY POINT DRIVE | 11,989.76        | 11,989.76        | 11,989.76        | 0.0025        | 29.97        |
| 95 RIPLEY POINT DRIVE | 2,903.29         | 2,903.29         | 2,903.29         | 0.0025        | 7.26         |
| 95 RIPLEY POINT DRIVE | 437.32           | 437.32           | 437.32           | 0.0025        | 1.10         |
| 95 RIPLEY POINT DRIVE | 242.95           | 242.95           | 242.95           | 0.0025        | 0.61         |
| 95 RIPLEY POINT DRIVE | 242.95           | 242.95           | 242.95           | 0.0025        | 0.61         |
| 95 RIPLEY POINT DRIVE | 7,746.14         | 7,746.14         | 7,746.14         | 0.0025        | 19.37        |
| 95 RIPLEY POINT DRIVE | 242.95           | 242.95           | 242.95           | 0.0025        | 0.61         |
| <b>TOTAL</b>          | <b>29,757.96</b> | <b>29,757.96</b> | <b>29,757.96</b> | <b>0.0025</b> | <b>74.39</b> |

ASHLEY RIVER PROPERTIES II LLC  
95 RIPLEY POINT DRIVE  
CHARLESTON, SC 29407-7598

## AMOUNT DUE AFTER:

01/15/09 \$30,650.69

02/02/09 \$32,733.75

(PAYMENT TO COUNTY TREASURER)

## AMOUNT DUE AFTER:

03/16/09 \$34,221.65

(PAYMENT TO DELINQUENT TAX)

| PROPERTY              | ASSESSED VALUE   | MARKET VALUE     | TAXABLE VALUE    | TAX RATE      | TAX AMOUNT   |
|-----------------------|------------------|------------------|------------------|---------------|--------------|
| 95 RIPLEY POINT DRIVE | 11,989.76        | 11,989.76        | 11,989.76        | 0.0025        | 29.97        |
| 95 RIPLEY POINT DRIVE | 2,903.29         | 2,903.29         | 2,903.29         | 0.0025        | 7.26         |
| 95 RIPLEY POINT DRIVE | 437.32           | 437.32           | 437.32           | 0.0025        | 1.10         |
| 95 RIPLEY POINT DRIVE | 242.95           | 242.95           | 242.95           | 0.0025        | 0.61         |
| 95 RIPLEY POINT DRIVE | 242.95           | 242.95           | 242.95           | 0.0025        | 0.61         |
| 95 RIPLEY POINT DRIVE | 7,746.14         | 7,746.14         | 7,746.14         | 0.0025        | 19.37        |
| 95 RIPLEY POINT DRIVE | 242.95           | 242.95           | 242.95           | 0.0025        | 0.61         |
| <b>TOTAL</b>          | <b>29,757.96</b> | <b>29,757.96</b> | <b>29,757.96</b> | <b>0.0025</b> | <b>74.39</b> |

|       |             |                                  |
|-------|-------------|----------------------------------|
|       | \$1,487.90  | ECONOMIC DEVELOPMENT             |
|       | \$520.76    | PARTNER COUNTY (COLLETON)        |
| 40.2  | \$3,142.17  | COUNTY GOVERNMENT OPERATING      |
| 6.6   | \$801.75    | COUNTY GOVERNMENT BOND ISSUES    |
| 98.7  | \$11,989.76 | SCHOOL BOARD OPERATING           |
| 23.9  | \$2,903.29  | SCHOOL BOARD BOND ISSUES         |
| 3.6   | \$437.32    | PARK AND RECREATION COMMISSION   |
| 2.0   | \$242.95    | PARK AND RECREATION BONDS        |
| 2.0   | \$242.95    | TRIDENT TECHNICAL COLLEGE        |
| 77.1  | \$7,746.14  | CITY OF CHARLESTON               |
| 2     | \$242.95    | CITY OF CHARLESTON DRAINAGE IMPR |
| 256.1 | \$29,757.96 | TOTAL                            |

PROPERTY TAX BILL

2008

95 RIPLEY POINT DRIVE

CHARLESTON, SC 29407-7598

ASSESSED VALUE: 29,757.96

MARKET VALUE: 29,757.96

TAXABLE VALUE: 29,757.96

TAX RATE: 0.0025

TAX AMOUNT: 74.39

## AMOUNT DUE AFTER:

01/15/09 \$30,650.69

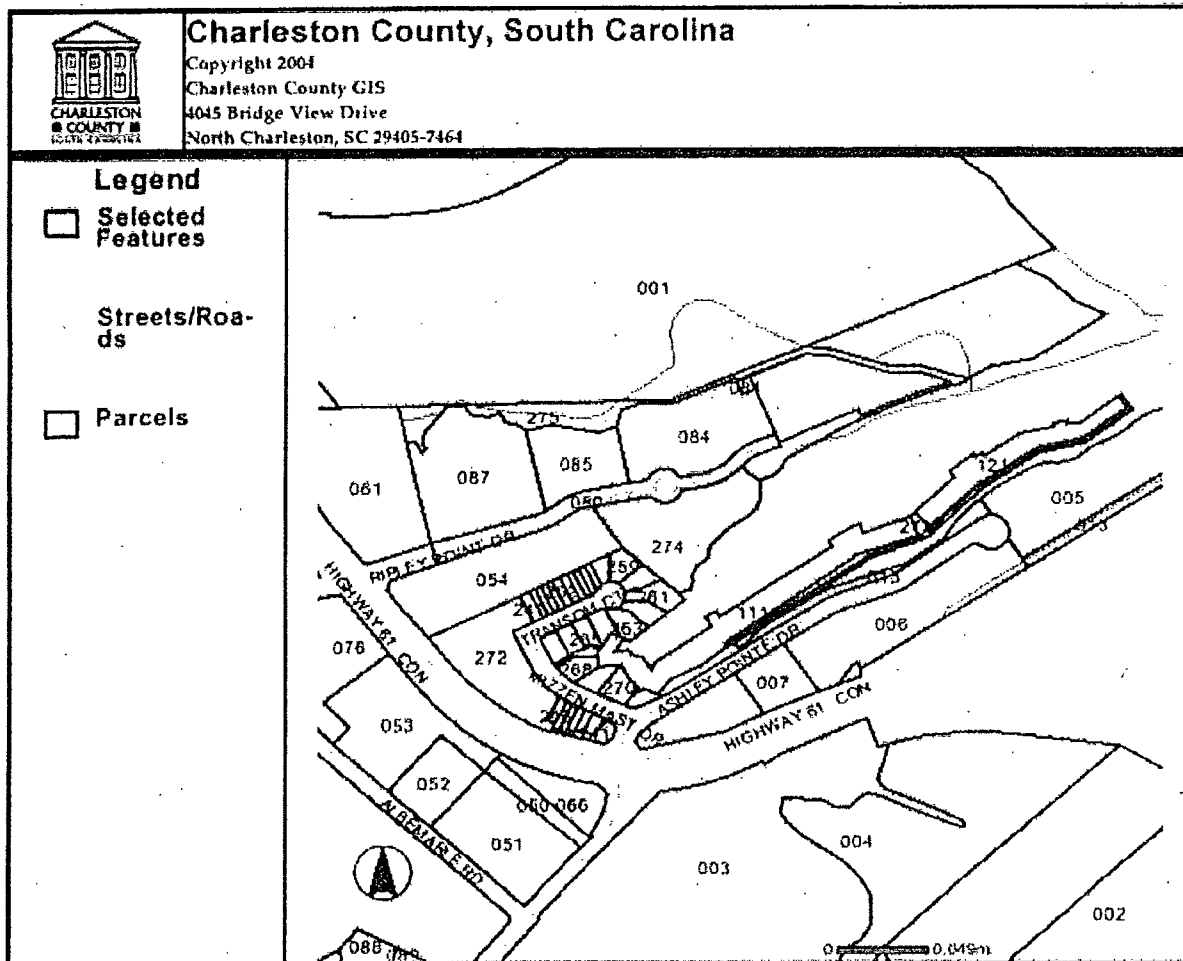
02/02/09 \$32,733.75

(PAYMENT TO COUNTY TREASURER)

## AMOUNT DUE AFTER:

03/16/09 \$34,221.65

(PAYMENT TO DELINQUENT TAX)



PARCEL NUMBER : 4211100274

PARCEL ID: 4211100274  
 STREET NUMBER: 0  
 STREET NAME: RIPLEY POINT DRIVE  
 PROP UNIT:  
 PROP CITY:  
 PROP ZIP: 29407  
 SITE NAME:  
 GENERAL USE: VCC  
 MOBILE HOMES: 0  
 SUBDIVISION:  
 LEGAL DESCRIPTION: PARCEL B  
 LGL HI ACRES: 1.8  
 LGL MAR ACRES: 0  
 LGL WATER ACRES: 0  
 LGL SWAMP ACRES: 0  
 LGL TOTAL ACRES: 1.8  
 TAX DISTRICT: 63  
 JURISDICTION: MCP  
 PLAT BOOK: EK-219  
 OWNER ON 1ST: ASHLEY RIVER PROPERTIES II LLC  
 OWNER2 ON 1ST:  
 CURRENT OWNER1:  
 CURRENT OWNER2:

SALE DATE: 12/29/2003  
DEED BOOK: E480-016  
WILL CODE:  
WILL DATE:  
C O NAME:  
MAIL STREET NUMBER: 0  
MAIL STREET NAME: P O BOX 3156  
MAIL UNIT:  
MAIL CITY: CHARLESTON  
MAIL STATE: SC  
MAIL ZIP: 29417  
MAIL COUNTRY:  
MAIL POSTAL CODE:  
SALE PRICE: 100000  
MULT LOT: 0  
SPLIT CODE: Y  
MLOD GROUP:  
FINAL VALUE: 1491000  
BUILD COUNT: 0  
AG USE VAL: 0  
AG MARKET TOT: 0  
LR APPROVE:  
YEAR BUILT: 0  
BEDROOMS: 0  
FULL BATHS: 0  
THREE QTR BATHS: 0  
HALF BATHS: 0  
TOTAL FINISH AREA: 0  
LIVING AREA: 0  
CONDO-BEDROOM: 0  
CONDO FULL BATH: 0  
CONDO H-BATH: 0  
CONDO YR BUILT: 0

# CHARLESTON COUNTY

## Online Tax System

- MAIN MENU
- CONTACTS
- EXIT

### - Billing Information -

Account 421-11-00- Appraised 1,491,000  
 (PID): 274 (FMV):  
 Tax Year: 2009 Assessment: 89460  
 Prior Year: NA Mills: x 0  
 Status: Current  
 Receipt: 2009- Base Tax: 0.00  
 004233  
 Previous NA Penalties: + 0.00  
 Receipt: Interest: + 0.00  
 Next Receipt: NA Credits: - 0.00  
 Billed: 09-30-2009 User Fee: + (Other)  
 Paid Date: NA SW Fee: + 0.00  
 Actual Date: NA  
 Mortgage Co: NA  
 MLOD No  
 Factor:  
 Refund Amount: - 0.00  
 Transfer - 0.00  
 Amount:  
 CURR Due: 0.00

### - Property Information -

Legal Description: RIPLEY POINT DRIVE - PARCEL B  
 Subdivision: NA  
 Deed: 12-31-2003 E480-016  
 Plat: EK-219  
 Land Use: OTHER JURISDICTION  
 General Use: VCC  
 Parcel: 952  
 Buildings Appraisal Assessment  
 Others (6%) 1,491,000 89,460  
 Totals: 1,491,000 89,460  
 Acreage Appraisal  
 High: 1.80 Land: 1491000  
 Marsh: 0.00 Improvements: 0  
 Swamp: 0.00 Buildings: 0  
 Total: 1.80 Total: 1491000

### - Owner Information -

Current Owner: ASHLEY RIVER PROPERTIES II LLC Tax Address: RIPLEY POINT DRIVE  
 Current Co-Owner: NA  
 Tax District: 63 Mail Address: P O BOX 3156  
 Jurisdiction: 07 City State Zip: CHARLESTON SC 29417

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**2008 CHARLESTON COUNTY  
PROPERTY TAX BILL**

**COMPANY NAME:**

ASHLEY RIVER PROPERTIES II LLC

ACCT NUMBER: 421-11-00-274

FOR PERIOD COMMENCING JANUARY 1, 2008

BILL DATE: 09/30/08

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED  
DATE 09/30/98 BY 60322 UCBAW/STW

ASHLEY RIVER PROPERTIES II LLC  
95 RIPLEY POINT DRIVE  
CHARLESTON, SC 29407-7598

AMOUNT DUE AFTER:

01/15/09

**\$21,048.72**

02/02/09

\$22,479.21

(PAYMENT TO COUNTY TREASURER)

AMOUNT DUE AFTER:

03/16/09

**\$23,500.99**

(PAYMENT TO DELINQUENT TAX)

|       |             |                                  |
|-------|-------------|----------------------------------|
|       | \$1,021.78  | ECONOMIC DEVELOPMENT             |
|       | \$357.62    | PARTNER COUNTY (COLLETON)        |
| 40.2  | \$2,157.83  | COUNTY GOVERNMENT OPERATING      |
| 6.6   | \$550.58    | COUNTY GOVERNMENT BOND ISSUES    |
| 98.7  | \$8,233.70  | SCHOOL BOARD OPERATING           |
| 23.9  | \$1,993.77  | SCHOOL BOARD BOND ISSUES         |
| 3.6   | \$300.32    | PARK AND RECREATION COMMISSION   |
| 2.0   | \$166.84    | PARK AND RECREATION BONDS        |
| 2.0   | \$166.84    | TRIDENT TECHNICAL COLLEGE        |
| 77.1  | \$5,319.51  | CITY OF CHARLESTON               |
| 2     | \$166.84    | CITY OF CHARLESTON DRAINAGE IMPR |
| 256.1 | \$20,435.65 | TOTAL                            |

[illegible]

AMOUNT DUE AFTER:

01/15/09

\$21,048.72

02/02/09

\$22,479.71

(PAYMENT TO COUNTY TREASURER)

**AMOUNT DUE AFTER:**

03/15/09

99 005 221

( PAYMENT TO DELINQUENT TAX)

Customer & Slip List  
Maximum Marine Capacity:

3885 (Total Linear Dockage)

Paid  
Yr. Adv./  
6 months

10%/ 5%  
off dockage

Currently Paid  
Dockage

Slip Potential  
(Rate at \$13.00  
Per Foot)

Basis Of Pay  
(Slip or Vessel  
Length Billed)

Vessel/ Slip  
Length Billed

\$ Per Foot

Customer  
Vessel Length

Actual  
Vessel Length

Contract Status/  
Open Date

Insurance  
Expiration

ARPI  
Named  
Insured

Notes

| Boat/Slip | Slip Length | Actual<br>Vessel Length | Customer Name                             | Vessel           | Currently Paid<br>Dockage | Slip Potential<br>(Rate at \$13.00<br>Per Foot) | Basis Of Pay<br>(Slip or Vessel<br>Length Billed) | Vessel/ Slip<br>Length Billed | \$ Per Foot | Customer<br>Vessel Length | Actual<br>Vessel Length | Contract Status/<br>Open Date | Insurance<br>Expiration | ARPI<br>Named<br>Insured | Notes                                                                              |
|-----------|-------------|-------------------------|-------------------------------------------|------------------|---------------------------|-------------------------------------------------|---------------------------------------------------|-------------------------------|-------------|---------------------------|-------------------------|-------------------------------|-------------------------|--------------------------|------------------------------------------------------------------------------------|
| A-1       | 50'         |                         | (Waiting To Be Dredged)                   |                  |                           | \$650                                           |                                                   |                               |             |                           |                         |                               |                         |                          | Dredging Issue...                                                                  |
| A-2       | 50'         | 45'                     | Marine Construction, LLC                  | Luna Sea         | \$750                     | \$650                                           | S                                                 | 50'                           | \$15        | 45'                       | 45'                     | 01.01.09                      | No                      |                          |                                                                                    |
| A-3       | 50'         | 47'                     | Ben C. Dantzer, Jr.                       | Dough Boy        | \$650                     | \$650                                           | S                                                 | 50'                           | \$13        | 45'                       | 47'                     | 05.01.09                      | No                      |                          |                                                                                    |
| A-4       | 50'         | 40'                     | DLNP, LLC                                 | Reel Hooker      | \$650                     | \$650                                           | S                                                 | 50'                           | \$13        | 46'                       | 46'                     | 10.31.08                      |                         |                          |                                                                                    |
| A-5       | 50'         | 35'                     | Hank Cheves                               | Sandra C (I)     | \$650                     | \$650                                           | S                                                 | 50'                           | \$13        | 32'                       | 35'                     | 05.01.09                      | 12.05.08                | ?                        |                                                                                    |
| A-6       | 65'         | 54'                     | Hank Cheves                               | Sandra C (II)    | \$845                     | \$845                                           | S                                                 | 65'                           | \$13        | 53'                       | 54'                     | 05.01.09                      | 01.11.09                | ?                        |                                                                                    |
| A-7       | 65'         | 54'                     | Thomas Fieldstead                         | Chief's Lady     | 10% \$845 (\$760.50)      | \$845                                           | S                                                 | 65'                           | \$13        | 48'                       | 54'                     | 05.10.10                      | 06.11.10                | A.I.                     |                                                                                    |
| A-8       | 65'         |                         | Open                                      |                  |                           | \$845                                           |                                                   |                               |             |                           |                         |                               |                         |                          |                                                                                    |
| A-9       | 65'         | 61'                     | Jack Hagood                               | Sonador          | \$845                     | \$845                                           | S                                                 | 65'                           | \$13        | 51'                       | 61'                     | 05.01.09                      | No                      |                          |                                                                                    |
| A-10      | 65'         | 68'                     | Hunter Edwards                            | Briggs Custom 68 | \$1,224                   | \$845                                           | V                                                 | 68'                           | \$18        | 68'                       | 68'                     | Month-To-Month                | 04.18.09                | No                       |                                                                                    |
| A-11      | 65'         | 53'                     | Smyth McKissick (Bennett Griffin)         | Chasin           | \$845                     | \$845                                           | S                                                 | 65'                           | \$13        | 54'                       | 53'                     | 05.01.09                      |                         |                          |                                                                                    |
| A-12      | 65'         | 58'                     | Bill Fishin, LLC                          | Bill Fishin      | \$975                     | \$845                                           | S                                                 | 65'                           | \$13        | 52'                       | 58'                     | 11.16.09                      | 06.14.06                | No                       |                                                                                    |
| A-13      | 65'         |                         | Reserved: "Ultra" Captain - Mike Glaesner |                  |                           | \$845                                           |                                                   |                               |             |                           |                         |                               |                         |                          |                                                                                    |
| A-14      | 65'         | 55'                     | Michael Larrow                            | Mitabe           | \$975                     | \$845                                           | S                                                 | 65'                           | \$15        | 55'                       | 55'                     | 11.01.09                      | 08.19.09                | No                       |                                                                                    |
| A-15      | 65'         | 56'                     | Windsor Marine, LLC                       | Fly Boy          | \$845                     | \$845                                           | S                                                 | 65'                           | \$13        | 56'                       | 56'                     | Open                          |                         |                          |                                                                                    |
| A-16      |             |                         | (Does Not Exist)                          |                  |                           | N/A                                             |                                                   |                               |             |                           |                         |                               |                         |                          |                                                                                    |
| A-17      | 30'         | 26'                     | Ben Rugman                                | Excavator        | \$390                     | \$390                                           | S                                                 | 30'                           | \$13        | 25'                       | 26'                     | Month-To-Month                | 04.28.09                | No                       |                                                                                    |
| A-18      | 45'         | 46'                     | Louis E. Costa, II                        | Hesanna          | \$598                     | \$585                                           | V                                                 | 46'                           | \$13        |                           | 46'                     | Open                          |                         |                          |                                                                                    |
| A-19      | 40' (30')   | 35'                     | John B. Young, Jr.                        | Double Eagle     | \$300                     | \$390                                           | S                                                 | 30'                           | \$10        | 34.9'                     | 35'                     | 12.31.08                      |                         |                          |                                                                                    |
| A-20      | 40'         | 37'                     | John Kenneth Blankenship                  | Molly B III      | \$520                     | \$520                                           | S                                                 | 40'                           | \$13        | 35.6'                     | 37'                     | 09.30.08                      |                         |                          |                                                                                    |
| A-21      | 48'         | 46'                     | Heartbreaker Fishing Charters, LLC        | Over Run         | \$624                     | \$624                                           | S                                                 | 48'                           | \$13        | 47'                       | 46'                     | 05.01.09                      | 04.21.09                | N.A.I                    |                                                                                    |
| A-22      | 48'         | 44'                     | Randy S. Stone                            | Hook 'Um Up      | \$624                     | \$650                                           | S                                                 | 48'                           | \$13        | 42'                       | 44'                     | 05.01.09                      | 12.11.08                | C.H.                     |                                                                                    |
| A-23      | 40'         | 39'                     | Kenneth T. Black, Jr.                     | Nutun But Bills  | \$520                     | \$520                                           | S                                                 | 40'                           | \$13        | 38'                       | 39'                     | Open                          |                         |                          |                                                                                    |
| A-24      | 40'         | 38'                     | Ryan Marcello                             | My Papa's Pride  | \$520                     | \$520                                           | S                                                 | 40'                           | \$13        | 33'                       | 38'                     | 05.01.09                      | No                      |                          |                                                                                    |
| A-25      | 48'         | 51'                     | Robert J. Krivohlavak                     | Day Maker        | \$663                     | \$624                                           | V                                                 | 51'                           | \$13        | 48'                       | 51'                     | Open                          |                         |                          |                                                                                    |
| A-26      | 48'         | 42'                     | Richard M. Campbell, II                   | Marlin Darlin    | \$624                     | \$624                                           | S                                                 | 48'                           | \$13        | 40'                       | 42'                     | 05.01.09                      | No                      |                          |                                                                                    |
| A-27      | 40'         | 40'                     | Douglas A. Hinson                         | High Current     | \$520                     | \$520                                           | S                                                 | 40'                           | \$13        |                           | 40'                     | Open                          | 12.19.08                | ?                        |                                                                                    |
| A-28      | 30'         | 38'                     | OMPIN, LLC                                | Footloose        | 10% \$494 (\$444.60)      | \$390                                           | V                                                 | 38'                           | \$13        | 36'                       | 38'                     | 05.01.09                      |                         |                          |                                                                                    |
| A-29      | 48'         | 43'                     | Eric L. Burn                              | Hot Shot         | \$624                     | \$624                                           | S                                                 | 48'                           | \$13        | 43'                       | 43'                     | 05.01.09                      | 04.21.10                | A.I.                     |                                                                                    |
| A-30      | 49'         | 52'                     | Can't Complain, LLC                       | Can't Complain   | \$650                     | \$637                                           | S                                                 | 50'                           | \$13        | 49'                       | 52'                     | 05.31.09                      |                         |                          |                                                                                    |
| A-31      | 30'         | 37'                     | Vega, Inc.                                | October Sky      | 10% \$481 (\$432.90)      | \$390                                           | V                                                 | 37'                           | \$13        | 36'                       | 37'                     | 08.01.10                      | 01.10.10                | No                       |                                                                                    |
| A-32      | 30'         | 29'                     | Charleston Wooden Boatworks, LLC          | Novak 29         | \$390                     | \$390                                           | S                                                 | 30'                           | \$13        | 29'                       | 29'                     | 10.31.08                      |                         |                          |                                                                                    |
| A-33      | 30'         | 31'                     | Scott Benard                              | Woosah           | \$403                     | \$390                                           | V                                                 | 31'                           | \$13        | 27'                       | 31'                     | 05.01.09                      |                         |                          |                                                                                    |
| A-34      | 30'         | 30'                     | Donald E. Gehlen, Jr.                     | Reality Check    | \$390                     | \$390                                           | S                                                 | 30'                           | \$13        | 28'                       | 30'                     | 05.01.09                      | No Expiration           | ?                        |                                                                                    |
| A-35      | 49'         | 49'                     | Allen Bell                                | Big Daddy        | \$637                     | \$637                                           | S                                                 | 49'                           | \$13        | 46'                       | 49'                     | 03.31.09                      |                         |                          | His next contract needs to be based on a 49' slip (\$637.00)...                    |
| A-36      | 50'         | 61'                     | T. Gordon Brooks, Jr.                     | Salt Shaker      | \$793                     | \$650                                           | V                                                 | 61'                           | \$13        | 55'                       | 61'                     | 07.23.10                      | 03.19.10                | No                       |                                                                                    |
| A-37      | 50'         | 52'                     | Risky Business Charters, LLC              | Risky Business   | \$676                     | \$650                                           | V                                                 | 52'                           | \$13        | 49'                       | 52'                     | 06.01.10                      | 05.22.10                | No                       |                                                                                    |
| A-38      | 50'         | 42'                     | John Kendle, Jr.                          | GeeChee Girl     | \$500                     | \$650                                           | S                                                 | 50'                           | \$18        | 42'                       | 42'                     | Month-To-Month                |                         |                          |                                                                                    |
| A-39      | F43' (30')  | 33'                     | Darrell C. Ferguson                       | Dandy            | \$429                     | \$390                                           | V                                                 | 33'                           | \$13        | 33'                       | 33'                     | 10.01.09                      | No                      |                          |                                                                                    |
| A-40      | F43'        | 41'                     | Albert W. Palmer                          | Aquasilon        | \$559                     | \$559                                           | S                                                 | 43'                           | \$13        | 39'                       | 41'                     | 11.30.08                      |                         |                          |                                                                                    |
| A-41      | 50'         | 50'                     | C. Edward Godwin                          | Mayhem           | \$650                     | \$650                                           | S                                                 | 50'                           | \$13        | 45'                       | 50'                     | 06.01.10                      | 04.16.10                | No                       |                                                                                    |
| A-42      | 50'         | 41'                     | Rick Trowman                              | Escape           | \$600                     | \$650                                           | S                                                 | 50'                           | \$12        | 36'                       | 41'                     | 08.30.08                      |                         |                          |                                                                                    |
| A-43      | 50'         |                         | Open                                      |                  |                           | \$650                                           |                                                   |                               |             |                           |                         |                               |                         |                          |                                                                                    |
| A-44      | 50'         | 48'                     | Dennis S. Crosby                          | Frayed Knot      | 10% \$650 (\$585)         | \$650                                           | S                                                 | 50'                           | \$13        | 47'                       | 48'                     | 08.01.10                      | 05.11.10                | No                       |                                                                                    |
| A-45      | F43'        |                         | Open                                      |                  |                           | \$559                                           |                                                   |                               |             |                           |                         |                               |                         |                          |                                                                                    |
| A-46      | F43'        |                         | Open                                      |                  |                           | \$559                                           |                                                   |                               |             |                           |                         |                               |                         |                          |                                                                                    |
| A-47      | 50'         | 53'                     | Gerald W. Stetler                         | Michelle Renee   | 5% \$689 (\$654.55)       | \$650                                           | V                                                 | 53'                           | \$13        | 48'                       | 53'                     | 06.01.09                      | 08.09.10                | No                       |                                                                                    |
| B-1       | F40'        |                         | Open                                      |                  |                           | \$520                                           |                                                   |                               |             |                           |                         |                               |                         |                          |                                                                                    |
| B-2       | F40'        | 35'                     | John W. Buck                              | Killin Time II   | \$455                     | \$520                                           | V                                                 | 35'                           | \$13        | 34'                       | 35'                     | 05.01.09                      | 01.02.09                | ?                        |                                                                                    |
| B-3       | F40'        | 59'                     | Edwin B. Hill, Jr.                        | Marquise         | \$689                     | \$520                                           | V                                                 | 53'                           | \$13        | 47'                       | 53'                     | 05.01.09                      | 12.30.08                | A.I.                     |                                                                                    |
| B-4       | F40'        |                         |                                           |                  |                           |                                                 |                                                   |                               |             |                           |                         |                               |                         |                          |                                                                                    |
| B-5       | F40'        | 68'                     | Blue Hen, LLC                             | Blue Moon        | \$616                     | \$520                                           | V                                                 | 70'                           | \$12        | 68'                       | 68'                     | Open                          |                         |                          |                                                                                    |
| B-6       | F40'        |                         |                                           |                  |                           |                                                 |                                                   |                               |             |                           |                         |                               |                         |                          |                                                                                    |
| B-7       | F40'        |                         | Open                                      |                  |                           | \$520                                           |                                                   |                               |             |                           |                         |                               |                         |                          |                                                                                    |
| B-8       | F40'        | 59'                     | J. Larry Duncan                           | Harbour Hours    | \$767                     | \$520                                           | V                                                 | 59'                           | \$13        | 57'                       | 59'                     | 04.01.10                      | 04.27.09                | No                       |                                                                                    |
| B-9       | F40'        |                         |                                           |                  |                           | \$520                                           |                                                   |                               |             |                           |                         |                               |                         |                          |                                                                                    |
| B-10      | 60'         | 53'                     | Jim Hodges                                | Tranquility      | \$780                     | \$780                                           | S                                                 | 60'                           | \$13        | 53'                       | 53'                     | 09.01.09                      | 07.07.09                | C.H.                     |                                                                                    |
| B-11      | 60'         |                         | Open                                      |                  |                           | \$780                                           |                                                   |                               |             |                           |                         |                               |                         |                          |                                                                                    |
| B-12      | 60'         |                         | Open                                      |                  |                           | \$780                                           |                                                   |                               |             |                           |                         |                               |                         |                          |                                                                                    |
| B-13      | 60'         | 41'                     | Strickland Marine Insurance, Inc.         | Gotcha Covered   | \$420                     | \$780                                           | S                                                 | 60'                           | \$7         | 38'                       | 41'                     | 06.01.09                      | No                      |                          |                                                                                    |
| B-14      | 60'         | 41'                     | Ron Acierno                               | Alessandra       | N/A                       | \$780                                           | N/A                                               | N/A                           | N/A         | 38'                       | 41'                     | N/A                           |                         |                          | Does not pay Dockage/Ins./L & S Fee (Friend of Ryan's)...                          |
| B-15      | 50'         | 42'                     | Connie E. Davis                           | The Black Pearl  | 5% \$750 (\$712.50)       | \$650                                           | S                                                 | 50'                           | \$15        | 40'                       | 42'                     | 01.01.10                      | 05.22.10                | A.I.                     |                                                                                    |
| B-16      | 50'         |                         | Open                                      |                  |                           | \$650                                           |                                                   |                               |             |                           |                         |                               |                         |                          |                                                                                    |
| B-17      | 50'         | 53'                     | Christian E. Maurer, Jr.                  | Hooked Up        | \$650                     | \$650                                           | S                                                 | 50'                           | \$13        |                           | 53'                     | 02.29.09                      |                         |                          |                                                                                    |
| B-18      | 50'         | 46'                     | Stacey A. Shea                            | Jaybird          | \$650                     | \$650                                           | S                                                 | 50'                           | \$13        | 42'                       | 46'                     |                               | 04.07.10                | A.I.                     |                                                                                    |
| B-19      | 50'         | 41'                     | Anthony Ward                              | Knot Less II     | \$598                     | \$650                                           | V                                                 | 41' (+ 5) = 46'               | \$13        | 33'                       | 41'                     | 05.01.09                      | Expired                 | ?                        |                                                                                    |
| B-20      | 50'         | 42'                     | Jennifer Jeffries                         | Rachel II        | N/A                       | \$650                                           | N/A                                               | N/A                           | N/A         | 38'                       | 42'                     | N/A                           | 10.02.09                | No                       | Does not pay Dockage/Ins./L & S Fee (Marine Manager - Employee Benefit Package)... |
| B-21      | 50'         | 56'                     | Larry Olmo                                | Seas The Day     | \$650                     | \$650                                           | S                                                 | 50'                           | \$13        | 56'                       | 56'                     | 12.31.08                      |                         |                          |                                                                                    |
| B-22      | 50'         | 46'                     | Walter D. Haltman                         | Knot Justified   | \$650                     | \$650                                           | S                                                 | 50'                           | \$13        | 41'                       | 46'                     |                               | 11.14.09                | No                       |                                                                                    |
| B-23      | 50'         | 49'                     | Robert L. Poovey                          | Threadbare       | \$550                     | \$650                                           | S                                                 | 50'                           | \$13        | 45'                       | 49'                     | 11.15.09                      | 07.22.09                | No                       |                                                                                    |

|      |          |      |                                                           |                    |     |                  |       |        |                 |      |      |      |                |             |                                                    |
|------|----------|------|-----------------------------------------------------------|--------------------|-----|------------------|-------|--------|-----------------|------|------|------|----------------|-------------|----------------------------------------------------|
| C-1  | 50'      | 43'  | Cathy Anthony & Mark Rutler                               | Avalon             |     | \$624            | \$650 | V      | 43' (+ 5) = 48' | \$13 | 41'  | 43'  | 05.01.09       | 06.25.08    | ?                                                  |
| C-2  | 50'      |      | Open                                                      |                    |     |                  | \$650 |        |                 |      |      |      |                |             |                                                    |
| C-3  | 50'      | 41'  | James H. Whetstone                                        | At Ease            |     | \$600            | \$650 | S(40') | 40'             | \$15 |      | 41'  |                |             |                                                    |
| C-4  | 50'      | 52'  | Plane Crazy, LLC.                                         | Plane Crazy        | 10% | \$676 (\$608.40) | \$650 | V      | 52'             | \$13 | 47'  | 52'  | 10.01.09       | 12.21.09    | A.I. * - See Insurance Notes in File...            |
| C-5  | 50'      |      | Reserved (C-4 [When he arrives]): Nick Stefanou (Trawler) |                    |     |                  | \$650 |        |                 |      |      |      |                |             |                                                    |
| C-6  | 50'      | 49'  | Donald & Wendy Bennett                                    | Imagine            |     | \$650            | \$650 | S      | 50'             | \$13 | 44'  | 49'  | 01.01.10       | 04.16.09    | A.I. * * (Additional Interest)...                  |
| C-7  | 40'      | 37'  | Michael Marzluff                                          | Lyra               |     | \$481            | \$650 | V      | 37'             | \$13 | 37'  | 37'  | Open           |             |                                                    |
| C-8  | 40'      | 35'  | Ray & Sarah Hilton                                        | Sarah Ann          |     | \$520            | \$520 | S      | 40'             | \$13 | 35'  | 35'  | 04.01.10       | 03.13.10    | No                                                 |
| C-9  | 40'      |      | Reserved: Paula Kaemer "Lydia"                            |                    |     |                  | \$520 |        |                 |      |      |      |                |             |                                                    |
| C-10 | 40'      |      | Open                                                      |                    |     |                  | \$520 |        |                 |      |      |      |                |             |                                                    |
| C-11 | 40'      | 36'  | Clayton C. Fleher                                         | Revel              |     | \$520            | \$520 | S      | 40'             | \$13 | 35'  | 36'  | 01.01.10       | (Continual) | I.P.                                               |
| C-12 | 40'      | 29'  | Gregory E. Johnson                                        | Rusty Nail III     |     | \$390            | \$520 | V      | 30'             | \$13 | 27'  | 29'  | 05.01.09       | 08.01.08    | ?                                                  |
| C-13 | Facedock | 36'  | Seascope Adventures, Ltd.                                 | Seascope (Century) |     | N/A              | N/A   | N/A    | N/A             | N/A  | 32'  | 36'  | N/A            | 03.24.00    | C.H.                                               |
| C-14 | Facedock | 102' | Seascope Adventures, Ltd.                                 | Seascope           |     | \$1,836          | N/A   | V      | 102'            | \$18 | 102' | 102' | Month-To-Month | 03.24.00    | C.H.                                               |
| C-15 | Facedock | 102' | "                                                         | "                  |     | "                | N/A   | "      | "               | "    | "    | "    | "              | "           | "                                                  |
| C-16 | Facedock | 102' | "                                                         | "                  |     | "                | N/A   | "      | "               | "    | "    | "    | "              | "           | "                                                  |
| C-17 | Facedock | 90'  | Robert L. Murray                                          | Carolina Girl      | 10% | \$1,020 (\$972)  | N/A   | V      | 90'             | \$12 | 90'  | 90'  | 04.30.11       | 01.29.10    | C.H. Paid (2+) Years in advance = \$12 per Foot... |
| C-18 | Facedock | "    | "                                                         | "                  |     | "                | N/A   | "      | "               | "    | "    | "    | "              | "           | "                                                  |

Notes:

Open  
Reserved

Customer Electricity Draw

| Electricity |                   |                                     | Current Electricity |                 |             | Meter Date                                                | Meter Date |          |            |        |       |
|-------------|-------------------|-------------------------------------|---------------------|-----------------|-------------|-----------------------------------------------------------|------------|----------|------------|--------|-------|
| Boat Slip   | Amps at each slip | Customer Name                       | Vessel              | Amp Being Drawn | Total Price | Note                                                      | 12.03.08   | 01.08.09 | Difference | Amount | Notes |
| A-1         | 50 & 20           | Open                                |                     |                 |             |                                                           |            |          |            |        |       |
| A-2         | 50 & 20           | Marinex Construction, LLC.          | Luna Sea            | 50              | \$65        |                                                           |            |          |            |        |       |
| A-3         | 50 & 20           | Ben C. Dantzier, Jr.                | Dough Boy           | 50              | \$65        |                                                           |            |          |            |        |       |
| A-4         | 50 & 20           | DLNP, LLC.                          | Reel Hooker         | 50              | \$65        |                                                           |            |          |            |        |       |
| A-5         | 50 & 20           | Hank Cheves                         | Sandra C (I)        | 1/2 of 50       | \$35        | * Needs 35 Amps (No other option with 50 Amp Pedestal)... |            |          |            |        |       |
| A-6         | (2)50 & 20        | Hank Cheves                         | Sandra C (II)       | 50              | \$65        |                                                           |            |          |            |        |       |
| A-7         | (2)50 & 20        | Thomas Fieldstead                   | Chief's Lady        | 50              | \$65        |                                                           |            |          |            |        |       |
| A-8         | (2)50 & 20        | Open                                |                     |                 |             |                                                           |            |          |            |        |       |
| A-9         | (2)50 & 20        | Jack Hagood                         | Sonador             | 50              | \$65        |                                                           |            |          |            |        |       |
| A-10        | (2)50 & 20        | Hunter Edwards                      | Briggs Custom 68    | 50 + 50         | \$130       |                                                           |            |          |            |        |       |
| A-11        | (2)50 & 20        | Smyth McKissick (Bennett Griffon)   | Chasin              | 50              | \$65        |                                                           |            |          |            |        |       |
| A-12        | (2)50 & 20        | Bill Fishin, LLC.                   | Bill Fishin         | 50              | \$65        |                                                           |            |          |            |        |       |
| A-13        | (2)50 & 20        | Open                                |                     |                 |             |                                                           |            |          |            |        |       |
| A-14        | (2)50 & 20        | Michael Larrow                      | Micabe              | 50              | \$65        |                                                           |            |          |            |        |       |
| A-15        | (2)50 & (2)30     | Windsor Marine, LLC                 | Fly Bouy            | 50              | \$65        |                                                           |            |          |            |        |       |
| A-16        | N/A               | (Does Not Exist)                    |                     |                 |             |                                                           |            |          |            |        |       |
| A-17        | 50 & 20           | Ben Rugman                          | Excavator           | 30              | \$35        |                                                           |            |          |            |        |       |
| A-18        | 50 & 20           | Louis E. Costa, II                  | Hosanna             | 50              | \$65        |                                                           |            |          |            |        |       |
| A-19        | 50 & 20           | John B. Young, Jr.                  | Double Eagle        | 30              | \$35        |                                                           |            |          |            |        |       |
| A-20        | 50 & 20           | John Kenneth Blankenship            | Molly B III         | 30              | \$35        |                                                           |            |          |            |        |       |
| A-21        | 50 & 20           | Heartbreaker Fishing Charters, LLC. | Over Run            | 50              | \$65        |                                                           |            |          |            |        |       |
| A-22        | 50 & 20           | Randy S. Stone                      | Hook 'Um Up         | 50              | \$65        |                                                           |            |          |            |        |       |
| A-23        | 50 & 20           | Kenneth T. Black, Jr.               | Nutin But Bills     | 50              | \$65        |                                                           |            |          |            |        |       |
| A-24        | 50 & 20           | Ryan Marcello                       | My Papa's Pride     | 30              | \$35        |                                                           |            |          |            |        |       |
| A-25        | 50 & 20           | Robert J. Krivohlavek               | Day Maker           | 50              | \$65        |                                                           |            |          |            |        |       |
| A-26        | 50 & 20           | Richard M. Campbell, II             | Marlin Darlin       | 50              | \$65        |                                                           |            |          |            |        |       |
| A-27        | 50 & 20           | Douglas A. Hinson                   | High Current        | 50              | \$65        |                                                           |            |          |            |        |       |
| A-28        | 50 & 20           | DMPN, LLC.                          | Footloose           | 30              | \$35        |                                                           |            |          |            |        |       |
| A-29        | 50 & 20           | Eric L. Burn                        | Hot Shot            | 30              | \$35        |                                                           |            |          |            |        |       |
| A-30        | 50 & 20           | Can't Complain, LLC.                | Can't Complain      | 50              | \$65        |                                                           |            |          |            |        |       |
| A-31        | (2)30 & 20        | Vega, Inc.                          | October Sky         | 50              | \$65        |                                                           |            |          |            |        |       |
| A-32        | (2)30 & 20        | Charleston Wooden Boatworks, LLC.   | Novak 29            | N/A             | N/A         | Does not use Power...                                     |            |          |            |        |       |
| A-33        | (2)30 & 20        | Scott Benard                        | Woosah              | 30              | \$35        |                                                           |            |          |            |        |       |
| A-34        | (2)30 & 20        | Donald E. Gehlken, Jr.              | Reality Check       | 30              | \$35        |                                                           |            |          |            |        |       |
| A-35        | 50 & 20           | Allen Bell                          | Big Daddy           | 50              | \$65        |                                                           |            |          |            |        |       |
| A-36        | 50 & 20           | T. Gordon Brooks, Jr.               | Salt Shaker         | 50              | \$65        |                                                           |            |          |            |        |       |
| A-37        | 50 & 20           | Risky Business Charters, LLC.       | Risky Business      | 50              | \$65        |                                                           |            |          |            |        |       |
| A-38        | 50 & 20           | John Kendle, Jr.                    | GeeChee Girl        | 50              | \$65        |                                                           |            |          |            |        |       |
| A-39        | 50 & 20           | Darrell C. Ferguson                 | Dandy               | 30              | \$35        |                                                           |            |          |            |        |       |
| A-40        | 50 & 20           | Albert W. Palmer                    | Aquasition          | 30              | \$35        | * (See Notes) Actual: 50 Amps...                          |            |          |            |        |       |
| A-41        | 50 & 20           | C. Edward Godwin                    | Mayhem              | 50              | \$65        |                                                           |            |          |            |        |       |
| A-42        | 50 & 20           | Rick Trowman                        | Escape              | 50              | \$65        |                                                           |            |          |            |        |       |
| A-43        | 50 & 20           | Open                                |                     |                 |             |                                                           |            |          |            |        |       |
| A-44        | 50 & 20           | Dennis S. Crosby                    | Frayed Knot         | 50              | \$65        |                                                           |            |          |            |        |       |
| A-45        | 50 & 20           | Open                                |                     |                 |             |                                                           |            |          |            |        |       |

|      |              |                                   |                    |         |       |                                                                                                                  |
|------|--------------|-----------------------------------|--------------------|---------|-------|------------------------------------------------------------------------------------------------------------------|
| A-46 | 50 & 20      | Open                              |                    |         |       |                                                                                                                  |
| A-47 | 50 & 20      | Gerald W. Stetler                 | Michelle Renee     | 50      | \$65  |                                                                                                                  |
| B-1  | 50 & 50      | Open                              |                    |         |       |                                                                                                                  |
| B-2  | 50 & 50      | John W. Buck                      | Killin Time II     | 2 x 30  | \$35  | ? - Investigating if they can use a 50 Amp Splitter For His Dual Hookup...                                       |
| B-3  | (2)30 & 20   | Edwin B. Hill, Jr.                | Marquise           | 2 x 30  | \$35  | ? - Investigating if they can use a 30 Amp Splitter For His Dual Hookup...                                       |
| B-4  | (2)30 & 20   | "                                 | "                  |         |       | Does not use Power...                                                                                            |
| B-5  | 50 & 30      | Blue Hen, LLC.                    | Blue Moon          | 50      | \$65  |                                                                                                                  |
| B-6  | 50 & 30      | "                                 | "                  |         |       | Does not use Power...                                                                                            |
| B-7  | 50 & 30      | Open                              |                    |         |       |                                                                                                                  |
| B-8  | 50 & 30      | J. Larry Duncan                   | Harbour Hours      | 50 + 30 | \$65  | Only charging him for 50 Amps - (He is allowing us to use his washer/dryer - Which uses a lot of electricity)... |
| B-9  | 50 & 50      | "                                 | "                  |         |       | Does not use Power...                                                                                            |
| B-10 | 50 & 50      | Jim Hodges                        | Tranquility        | 50      | \$65  |                                                                                                                  |
| B-11 | 50 & 50      | Open                              |                    |         |       |                                                                                                                  |
| B-12 | 50 & 50      | Open                              |                    |         |       |                                                                                                                  |
| B-13 | 50 & 50      | Strickland Marine Insurance, Inc. | Gotcha Covered     | 50      | \$65  |                                                                                                                  |
| B-14 | 50 & 50      | Ron Acierno                       | Allessandra        | N/A     | N/A   | Does not pay Dockage/Elec./E & S Fee (Friend of Ryan's)...                                                       |
| B-15 | 50 & 20      | Connie E. Davis                   | The Black Pearl    | 50      | \$65  |                                                                                                                  |
| B-16 | 50 & 20      | Open                              |                    |         |       |                                                                                                                  |
| B-17 | 50 & 20      | Christian E. Maurer, Jr.          | Hooked Up          | 50      | \$65  |                                                                                                                  |
| B-18 | 50 & 20      | Stacey A. Shea                    | Jaybird            | 50      | \$65  |                                                                                                                  |
| B-19 | 50 & 20      | Anthony Ward                      | Knot Less II       | 50      | \$35  | * Needs 35 Amps/ Dual hookup (No other option with 50 Amp Pedestal)...                                           |
| B-20 | 50 & 20      | Jennifer Jeffries                 | Rachel II          | N/A     | N/A   | Does not pay Dockage/Elec./E & S Fee (Marina Manager - Employee Benefit Package)...                              |
| B-21 | 50 & 20      | Larry Crimo                       | Seas The Day       | 50      | \$65  |                                                                                                                  |
| B-22 | 50 & 20      | Walter D. Hallman                 | Knot Justified     | 50      | \$65  |                                                                                                                  |
| B-23 | 50 & 20      | Robert L. Poovey                  | Threadbare         | 50      | \$65  |                                                                                                                  |
| C-1  | 50 & 20      | Cathy Anthony & Mark Rutter       | Avalon             | 50      | \$35  | * Needs 35 Amps/ Dual hookup (No other option with 50 Amp Pedestal)...                                           |
| C-2  | 50 & 20      | Open                              |                    |         |       |                                                                                                                  |
| C-3  | 50 & 20      | James H. Whetstone                | At Ease            | 30      | \$35  |                                                                                                                  |
| C-4  | 50 & 20      | Plane Crazy, LLC.                 | Plane Crazy        | 50      | \$65  |                                                                                                                  |
| C-5  | 50 & 20      | Open                              |                    |         |       |                                                                                                                  |
| C-6  | 50 & 20      | Donald & Wendy Bennett            | Imagine            | 50      | \$65  |                                                                                                                  |
| C-7  | 50 & 20      | Michael Marzluff                  | Lyra               | 30      | \$35  |                                                                                                                  |
| C-8  | 50 & 20      | Ray & Sarah Hilton                | Sarah Ann          | 30      | \$35  |                                                                                                                  |
| C-9  | 50 & 20      | Open                              |                    |         |       |                                                                                                                  |
| C-10 | 50 & 20      | Open                              |                    |         |       |                                                                                                                  |
| C-11 | 50 & 20      | Clayton C. Fleher                 | Revel              | 30      | \$35  |                                                                                                                  |
| C-12 | 50 & 20      | Gregory E. Johnson                | Rusty Nail III     | 30      | \$35  |                                                                                                                  |
| C-13 | 20 + 30 + 50 | Seascope Adventures, Ltd.         | Seascope (Century) | N/A     | N/A   |                                                                                                                  |
| C-14 | 30 + (2)50   | Seascope Adventures, Ltd.         | Seascope           | (2)100  | \$975 |                                                                                                                  |
| C-15 | 100          | "                                 | "                  |         |       | Does not use Power...                                                                                            |
| C-16 | 100          | "                                 | "                  |         |       | Does not use Power...                                                                                            |
| C-17 | 20 + 30 + 50 | Robert L. Murray                  | Carolina Girl      | 50      | \$65  |                                                                                                                  |
| C-18 | 30 + (2)50   | "                                 | "                  |         |       | Does not use Power...                                                                                            |

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Accrual Basis

Ashley River Properties II, LLC  
Marina Operating Statement  
January 1 through October 1, 2009

|                                      | Jan 1 - Oct 1, 09 |
|--------------------------------------|-------------------|
| Ordinary Income/Expense              |                   |
| Income                               |                   |
| 40000 - Marina Income                |                   |
| 42000 - Boat Slip Rentals            |                   |
| 42100 - Transient Boat Slip Rental   | 10,517.00         |
| 42200 - Marina Access & Usage Rental | 1,210.00          |
| 42000 - Boat Slip Rentals - Other    | 404,188.18        |
| Total 42000 - Boat Slip Rentals      | 415,915.18        |
| 43000 - Events                       |                   |
| 43100 - Private Events               | 2,400.00          |
| Total 43000 - Events                 | 2,400.00          |
| 44000 - Utilities                    |                   |
| 44100 - Electricity                  | 36,237.47         |
| Total 44000 - Utilities              | 36,237.47         |
| 45100 - Ice                          | 9,613.50          |
| 45300 - RLYC T-Shirts                | 40.00             |
| 45500 - Misc. Marina Items           | 2,700.00          |
| 47000 - Service Fees                 |                   |
| 47050 - Collection Fees & Services   | 433.75            |
| Total 47000 - Service Fees           | 433.75            |
| 47010 - Environmental & Safety Fee   | 6,267.93          |
| 47100 - Penalties                    |                   |
| 47110 - Late Payments                | 555.00            |
| 47130 - Returned Check Fee           | 5.00              |
| Total 47100 - Penalties              | 570.00            |
| 47200 - Discounts                    |                   |
| 47210 - Miscellaneous Discounts      | -78.75            |
| Total 47200 - Discounts              | -78.75            |
| 47500 - Other Income                 |                   |
| 47510 - Invoice Adjustments          | -1,111.55         |
| Total 47500 - Other Income           | -1,111.55         |
| Total 40000 - Marina Income          | 473,087.53        |
| Total Income                         | 473,087.53        |
| Gross Profit                         | 473,087.53        |

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Accrual Basis

**Ashley River Properties II, LLC**  
**Marina Operating Statement**  
 January 1 through October 1, 2009

|                                         | Jan 1 - Oct 1, 09 |
|-----------------------------------------|-------------------|
| Expense                                 |                   |
| 60000 - Marina Operating Expenses       |                   |
| 60100 - Payroll                         |                   |
| 60110 - Regular                         | 55,010.50         |
| 60120 - Temporary Labor                 | 50.00             |
| 60150 - Payroll Processing Fees         | 78.75             |
| Total 60100 - Payroll                   | 55,139.25         |
| 60160 - Employee Health Ins. & Related  | 5,225.68          |
| 60200 - Insurance                       |                   |
| 60210 - Citadel Spoil Basin Envir. Risk | 13,621.00         |
| 60220 - P & C - General Liability       | 49,439.77         |
| Total 60200 - Insurance                 | 63,060.17         |
| 60300 - Utilities                       |                   |
| 60310 - Electricity                     | 57,532.18         |
| 60320 - Water                           | 5,378.35          |
| 60330 - Cable                           | 4,120.64          |
| 60340 - Garbage Removal & Sanitation    | 8,597.36          |
| 60360 - Telecommunications              | 4,022.35          |
| Total 60300 - Utilities                 | 79,650.88         |
| 60400 - Selling Costs & Related         |                   |
| 60410 - Credit Card Processing Fees     | 9,516.98          |
| Total 60400 - Selling Costs & Related   | 9,516.98          |
| 60500 - Advertising & Promotion         | 3,375.99          |
| 60600 - Maintenance & Repairs           |                   |
| 60610 - General Marina                  | 25,218.52         |
| 60620 - Equipment                       | 1,936.30          |
| Total 60600 - Maintenance & Repairs     | 28,154.82         |
| 60700 - Supplies & Materials            |                   |
| 60710 - Office                          | 1,953.06          |
| 60720 - Marina & Grounds                | 17,400.22         |
| 60730 - Fuel                            | 458.53            |
| 60700 - Supplies & Materials - Other    | 40.52             |
| Total 60700 - Supplies & Materials      | 19,852.33         |
| 60800 - Small Tools & Equipment         | 1,328.21          |
| 60900 - Goods & Vending                 |                   |
| 60910 - Ice                             | 6,758.29          |
| Total 60900 - Goods & Vending           | 6,758.29          |
| 61100 - Licenses & Permits              | 76.00             |
| 61200 - Collection Fees & Services      | 580.00            |

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Accrual Basis

Ashley River Properties II, LLC  
Marina Operating Statement  
January 1 through October 1, 2009

|                                         | Jan 1 - Oct 1, 09 |
|-----------------------------------------|-------------------|
| 61300 - Marina Services                 |                   |
| 61350 - Communications & Technology     | 511.40            |
| Total 61300 - Marina Services           | 511.40            |
| 61360 - Miscellaneous Prof. Services    | 2,354.50          |
| 61400 - Miscellaneous Expenses          |                   |
| 61410 - Dues & Subscriptions            | 602.97            |
| 61420 - Printing & Reproduction         | 383.85            |
| 61440 - Vehicle Expense                 |                   |
| 61441 - Employee Fuel Reimbursement     | 1,061.58          |
| 61442 - Misc. Vehicle Expense           | 35.00             |
| Total 61440 - Vehicle Expense           | 1,096.58          |
| 61460 - Meals & Entertainment           | 57.51             |
| 61470 - Education                       | 825.00            |
| 61480 - Charitable Contributions        | 200.00            |
| Total 61400 - Miscellaneous Expenses    | 3,165.91          |
| Total 60000 - Marina Operating Expenses | 279,750.41        |
| Total Expense                           | 279,750.41        |
| Net Ordinary Income                     | 193,337.12        |
| Net Income                              | 193,337.12        |

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Accrual Basis

Ashley River Properties II, LLC  
Marina Operating Statement  
January through December 2008

|                                            | Jan - Dec 08 |
|--------------------------------------------|--------------|
| Ordinary Income/Expense                    |              |
| Income                                     |              |
| 40000 - Marina Income                      |              |
| 42000 - Boat Slip Rentals                  |              |
| 42100 - Transient Boat Slip Rental         | 9,117.75     |
| 42200 - Marina Access & Usage Rental       | 805.30       |
| 42000 - Boat Slip Rentals - Other          | 477,359.13   |
| Total 42000 - Boat Slip Rentals            | 487,282.18   |
| 44000 - Utilities                          |              |
| 44100 - Electricity                        | 38,317.62    |
| Total 44000 - Utilities                    | 38,317.62    |
| 45000 - Goods                              | 513.00       |
| 45100 - Ice                                | 8,124.00     |
| 45200 - Bait Fish                          | 10.00        |
| 45300 - RLYC T-Shirts                      | 45.00        |
| 45400 - Pump Out                           | 0.00         |
| 46000 - Labor                              | 800.00       |
| 46500 - Emergency Response Materials       |              |
| 46510 - Oil Boom                           | 0.00         |
| 46520 - Absorbent Pads                     | 0.00         |
| Total 46500 - Emergency Response Materials | 0.00         |
| 47010 - Environmental & Safety Fee         | 5,359.88     |
| 47100 - Penalties                          |              |
| 47110 - Late Payments                      | 1,120.00     |
| 47130 - Returned Check Fee                 | 15.00        |
| Total 47100 - Penalties                    | 1,135.00     |
| 47500 - Other Income                       |              |
| 47510 - Invoice Adjustments                | -700.00      |
| 47520 - Interest Income                    | 71,589.10    |
| Total 47500 - Other Income                 | 70,889.10    |
| Total 40000 - Marina Income                | 612,475.78   |
| Total Income                               | 612,475.78   |
| Gross Profit                               | 612,475.78   |

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Accrual Basis

Ashley River Properties II, LLC  
Marina Operating Statement  
January through December 2008

|                                        | Jan - Dec 08 |
|----------------------------------------|--------------|
| Expense                                |              |
| 60000 - Marina Operating Expenses      |              |
| 60100 - Payroll                        |              |
| 60110 - Regular                        | 78,294.92    |
| 60120 - Temporary Labor                | 100.00       |
| 60150 - Payroll Processing Fees        | 229.96       |
| Total 60100 - Payroll                  | 78,624.88    |
| 60160 - Employee Health Ins. & Related | 198.39       |
| 60200 - Insurance                      |              |
| 60220 - P & C - General Liability      | 107,169.11   |
| Total 60200 - Insurance                | 107,169.11   |
| 60300 - Utilities                      |              |
| 60310 - Electricity                    | 56,146.07    |
| 60320 - Water                          | 5,444.20     |
| 60340 - Garbage Removal & Sanitation   | 6,729.22     |
| 60350 - Telecommunications             | 7,320.48     |
| Total 60300 - Utilities                | 75,639.97    |
| 60400 - Selling Costs & Related        |              |
| 60410 - Credit Card Processing Fees    | 11,036.38    |
| 60420 - Sales & Commissions            | 700.00       |
| Total 60400 - Selling Costs & Related  | 11,736.38    |
| 60500 - Advertising & Promotion        | 17,576.74    |
| 60600 - Maintenance & Repairs          |              |
| 60610 - General Marina                 | 12,727.19    |
| 60620 - Equipment                      | 3,055.96     |
| 60650 - Maintenance & Repairs - Other  | 12.00        |
| Total 60600 - Maintenance & Repairs    | 15,795.15    |
| 60700 - Supplies & Materials           |              |
| 60710 - Office                         | 3,893.02     |
| 60720 - Marina & Grounds               | 33,293.42    |
| 60730 - Fuel                           | 840.74       |
| Total 60700 - Supplies & Materials     | 38,027.18    |
| 60800 - Small Tools & Equipment        | 489.22       |
| 60900 - Goods & Vending                |              |
| 60910 - Ice                            | 8,226.87     |
| Total 60900 - Goods & Vending          | 8,226.87     |
| 60920 - Bait Fish (*)                  | 161.25       |
| 61000 - Inspection & Fees              | 125.00       |

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Accrual Basis

**Ashley River Properties II, LLC**  
**Marina Operating Statement**  
 January through December 2008

|                                         | Jan - Dec 08 |
|-----------------------------------------|--------------|
| 61300 - Marina Services                 |              |
| 61320 - Temporary Dockage               | 383.00       |
| 61350 - Communications & Technology     | 343.75       |
| Total 61300 - Marina Services           | 723.75       |
| 61360 - Miscellaneous Prof. Services    | 10,675.00    |
| 61400 - Miscellaneous Expenses          |              |
| 61420 - Printing & Reproduction         | 824.34       |
| 61430 - Computer Expenses               |              |
| 61431 - Computer Hardware               | 1,352.32     |
| 61432 - Computer Software               | 1,257.49     |
| Total 61430 - Computer Expenses         | 2,609.81     |
| 61440 - Vehicle Expense                 |              |
| 61441 - Employee Fuel Reimbursement     | 1,495.09     |
| 61442 - Misc. Vehicle Expense           | 92.29        |
| Total 61440 - Vehicle Expense           | 1,587.38     |
| 61450 - Meals & Entertainment           | 741.07       |
| 61460 - Travel Expenses                 | 1,143.47     |
| 61470 - Education                       | 2,545.00     |
| 61480 - Charitable Contributions        | 2,000.00     |
| 61490 - Other Expenses                  |              |
| 61492 - Marina Liabilities              | 180.00       |
| 61490 - Other Expenses - Other          | 2,500.00     |
| Total 61490 - Other Expenses            | 2,680.00     |
| Total 61400 - Miscellaneous Expenses    | 14,131.07    |
| 61500 - Uncategorized Expenses          | 0.50         |
| Total 60000 - Marina Operating Expenses | 379,300.46   |
| Total Expense                           | 379,300.46   |
| Net Ordinary Income                     | 233,175.32   |
| Net Income                              | 233,175.32   |

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Accrual Basis

**Ashley River Properties II, LLC**  
**Marina Operating Statement**  
 January through December 2007

|                                      | Jan - Dec 07 |
|--------------------------------------|--------------|
| Ordinary Income/Expense              |              |
| Income                               |              |
| 40000 - Marina Income                |              |
| 42000 - Boat Slip Rentals            |              |
| 42100 - Transient Boat Slip Rental   | 5,546.75     |
| 42200 - Marina Access & Usage Rental | 200.00       |
| 42000 - Boat Slip Rentals - Other    | 377,878.97   |
| Total 42000 - Boat Slip Rentals      | 383,625.72   |
| 44000 - Utilities                    |              |
| 44100 - Electricity                  | 15,214.29    |
| Total 44000 - Utilities              | 15,214.29    |
| 45000 - Goods                        | 4,592.00     |
| 47100 - Penalties                    |              |
| 47110 - Late Payments                | 700.00       |
| Total 47100 - Penalties              | 700.00       |
| 47200 - Discounts                    |              |
| 47210 - Miscellaneous Discounts      | -450.00      |
| Total 47200 - Discounts              | -450.00      |
| 47500 - Other Income                 |              |
| 47510 - Invoice Adjustments          | -800.01      |
| 47520 - Interest Income              | 194,833.03   |
| Total 47500 - Other Income           | 194,032.99   |
| Total 40000 - Marina Income          | 597,715.00   |
| Total Income                         | 597,715.00   |
| Gross Profit                         | 597,715.00   |
| Expense                              |              |
| 60000 - Marina Operating Expenses    |              |
| 60100 - Payroll                      |              |
| 60110 - Regular                      | 41,239.44    |
| 60130 - Employee Taxes               | 464.58       |
| 60140 - Employer Taxes               | 175.52       |
| 60150 - Payroll Processing Fees      | 39.42        |
| Total 60100 - Payroll                | 41,920.06    |
| 60200 - Insurance                    |              |
| 60220 - P & C - General Liability    | 56,320.77    |
| Total 60200 - Insurance              | 56,320.77    |

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Accrual Basis

# Ashley River Properties II, LLC Marina Operating Statement January through December 2007

|                                       | Jan - Dec 07 |
|---------------------------------------|--------------|
| 60300 - Utilities                     |              |
| 60310 - Electricity                   | 36,950.19    |
| 60320 - Water                         | 4,162.99     |
| 60340 - Garbage Removal & Sanitation  | 946.44       |
| 60345 - Sewer Charges & Temp. Toilets | 160.00       |
| 60350 - Housekeeping & Janitorial     | 3,330.37     |
| 60360 - Telecommunications            | 4,055.34     |
| Total 60300 - Utilities               | 49,605.33    |
| 60400 - Selling Costs & Related       |              |
| 60410 - Credit Card Processing Fees   | 5,479.94     |
| 60420 - Sales & Commissions           | 300.00       |
| Total 60400 - Selling Costs & Related | 5,779.94     |
| 60500 - Advertising & Promotion       | 1,247.50     |
| 60600 - Maintenance & Repairs         |              |
| 60610 - General Marina                | 12,691.40    |
| 60620 - Equipment                     | 7,470.07     |
| Total 60600 - Maintenance & Repairs   | 20,151.47    |
| 60700 - Supplies & Materials          |              |
| 60710 - Office                        | 515.73       |
| 60720 - Marina & Grounds              | 6,015.74     |
| 60730 - Fuel                          | 93.52        |
| Total 60700 - Supplies & Materials    | 6,624.99     |
| 60800 - Small Tools & Equipment       | 2,435.47     |
| 60900 - Goods & Vending               |              |
| 60910 - Ice                           | 7,860.54     |
| Total 60900 - Goods & Vending         | 7,860.54     |
| 61100 - Licenses & Permits            | 315.00       |
| 61300 - Marina Services               |              |
| 61320 - Temporary Dockage             | 1,502.00     |
| 61330 - Temporary Parking             | 1,800.00     |
| 61340 - Diving Services               | 85.00        |
| Total 61300 - Marina Services         | 3,387.00     |
| 61400 - Miscellaneous Expenses        |              |
| 61420 - Printing & Reproduction       | 139.22       |
| 61440 - Vehicle Expense               |              |
| 61441 - Employee Fuel Reimbursement   | 46.51        |
| Total 61440 - Vehicle Expense         | 46.51        |
| 61450 - Meals & Entertainment         | 1,032.78     |
| 61460 - Travel Expenses               | 25.00        |
| 61470 - Education                     | 450.00       |

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10/13/09  
Accrual Basis

Ashley River Properties II, LLC  
Marina Development Costs  
As of October 13, 2009

|                                        | Oct 13, 09   |
|----------------------------------------|--------------|
| ASSETS                                 |              |
| Fixed Assets                           |              |
| 14000 · Marina Development Costs       |              |
| 14100 · Hard Costs                     |              |
| 14110 · Site Work                      | 103,787.52   |
| 14120 · Dredging                       |              |
| 14121 · Dyke Work                      | 276,200.02   |
| 14122 · Dyke Spillway                  | 54,749.09    |
| 14129 · Other                          | 136,862.47   |
| 14120 · Dredging - Other               | 918,557.58   |
| Total 14120 · Dredging                 | 1,386,369.16 |
| 14130 · Bulkhead & Pier                | 1,525,747.10 |
| 14140 · Docks & Piles                  | 1,586,786.74 |
| 14150 · Marina Building                | 427,161.89   |
| 14160 · Shoreside Utilities            | 57,794.89    |
| 14170 · Pier Electrical                | 45,831.97    |
| 14180 · Other                          | 4,584.89     |
| Total 14100 · Hard Costs               | 5,138,064.16 |
| 14500 · Soft Costs                     |              |
| 14510 · Marina Building Architecture   | 28,604.72    |
| 14520 · Engineering & Design           | 324,173.61   |
| 14530 · Other Engineering (GEL)        | 141,972.17   |
| 14540 · Construction Administration    | 7,653.24     |
| 14550 · Surveys & Inspections          | 61,729.58    |
| 14560 · Permits & Related              | 11,580.24    |
| 14570 · Testing & Reports              | 37,355.00    |
| 14580 · Impact Fees                    | 18,649.60    |
| 14590 · Insurance                      | 22,744.04    |
| 14600 · Legal                          | 4,394.59     |
| Total 14500 · Soft Costs               | 658,856.79   |
| Total 14000 · Marina Development Costs | 5,796,920.95 |
| Total Fixed Assets                     | 5,796,920.95 |
| TOTAL ASSETS                           | 5,796,920.95 |
| LIABILITIES & EQUITY                   | 0.00         |

## Award Confirmation Letter

Supplier is hereby authorized to perform the Statement of Work detailed below. Supplier acknowledges that this confirmation letter is a summary of select contract terms and conditions which is provided for convenience. To view the complete agreement electronically accepted by Supplier, Supplier is referred to Bank of America's Commercial Valuation Services Information Management System.

|                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                        |                                                                              |                                   |                    |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------|-----------------------------------|--------------------|
| <b>Supplier: Statement of Work</b>                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                        |                                                                              |                                   |                    |
| <b>Service Type ID:</b>                                                                                                                                                                                                                                                                                                                                | 09-009978-APR01-002                                                                                                                                                                                                                                                                                                    | <b>Supplier:</b>                                                             | Fred H. Heck & Associates, LLC    |                    |
| <b>Service:</b>                                                                                                                                                                                                                                                                                                                                        | Appraisal (Order)                                                                                                                                                                                                                                                                                                      | <b>Supplier Representative:</b>                                              | Mark Morgan                       |                    |
| <b>Borrower:</b>                                                                                                                                                                                                                                                                                                                                       | Ashley River Properties II LLC                                                                                                                                                                                                                                                                                         | <b>Agreement Number:</b>                                                     | 12668                             |                    |
| <b>Award Terms and Conditions</b>                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                        |                                                                              |                                   |                    |
| <b>Sourcing Manager:</b>                                                                                                                                                                                                                                                                                                                               | Debbie Pauza, Market Manager                                                                                                                                                                                                                                                                                           |                                                                              | <b>Other Terms or Conditions:</b> |                    |
| <b>Date Awarded:</b>                                                                                                                                                                                                                                                                                                                                   | 09/15/2009                                                                                                                                                                                                                                                                                                             |                                                                              |                                   |                    |
| <b>Fees:</b>                                                                                                                                                                                                                                                                                                                                           | \$6,000                                                                                                                                                                                                                                                                                                                |                                                                              |                                   |                    |
| <b>Bank Contact:</b>                                                                                                                                                                                                                                                                                                                                   | Debbie Pauza                                                                                                                                                                                                                                                                                                           |                                                                              |                                   |                    |
| <b>Contact Phone:</b>                                                                                                                                                                                                                                                                                                                                  | 813.531.6774                                                                                                                                                                                                                                                                                                           |                                                                              |                                   |                    |
| <b>Appraisal Type:</b>                                                                                                                                                                                                                                                                                                                                 | Comprehensive                                                                                                                                                                                                                                                                                                          |                                                                              |                                   |                    |
| <b>Certification:</b>                                                                                                                                                                                                                                                                                                                                  | Contracted Appraiser or Designee                                                                                                                                                                                                                                                                                       |                                                                              |                                   |                    |
| <b>Service Delivery Requirements</b>                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                        |                                                                              |                                   |                    |
| <b>Due Date</b>                                                                                                                                                                                                                                                                                                                                        | <b>Description</b>                                                                                                                                                                                                                                                                                                     |                                                                              |                                   |                    |
| 10/14/2009                                                                                                                                                                                                                                                                                                                                             | Two properties. One is marina with excess land, one is (was) 3.73 acres approved for 80 condos. Final reports received and data uploaded to the Valuation Services Information Management System. Individual standalone reports to be provided for each listed property unless instructed otherwise in this agreement. |                                                                              |                                   |                    |
| <b>Service Definition</b>                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                        |                                                                              |                                   |                    |
| <b>Premise</b>                                                                                                                                                                                                                                                                                                                                         | <b>Qualifier</b>                                                                                                                                                                                                                                                                                                       | <b>Interest Appraised</b>                                                    | <b>Allocations</b>                | <b>Description</b> |
| Market Value                                                                                                                                                                                                                                                                                                                                           | As-Is                                                                                                                                                                                                                                                                                                                  | Fee Simple                                                                   |                                   |                    |
| <b>Policies and Procedures</b>                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                        |                                                                              |                                   |                    |
| The report is intended for use as an aid in acquisition, financing, loan classification and/or asset disposition. Intended users of the report may include: Bank of America and its affiliates or subsidiaries, other participating financial institutions, governmental/non-governmental agencies, legal counsel or other transaction participants.   |                                                                                                                                                                                                                                                                                                                        |                                                                              |                                   |                    |
| Include the statement: "Bank of America makes no warranties or representations regarding this document or the conclusions contained herein." in your transmittal letter.                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                        |                                                                              |                                   |                    |
| Supplier is required to review, update and/or enter key summary information about the property appraised and associated value conclusions as part of this service.                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                        |                                                                              |                                   |                    |
| In addition to any CD or Bound reports listed in the Addressee and Distribution section, Adobe Acrobat (PDF) compatible digital reports must be uploaded for all appraisal reports (including all addendum and attachments) and invoices. Additional Microsoft and Argus documents can be uploaded in their native format subject to some limitations. |                                                                                                                                                                                                                                                                                                                        |                                                                              |                                   |                    |
| Reappraisal assignments must document and explain assumption changes and resulting value differences for all Bank of America assignments completed within the prior two years.                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                        |                                                                              |                                   |                    |
| <b>Addressee and Distribution Instructions</b>                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                        |                                                                              |                                   |                    |
| <b>Report Distribution</b>                                                                                                                                                                                                                                                                                                                             | <b>Name</b>                                                                                                                                                                                                                                                                                                            | <b>Address</b>                                                               | <b>CD/DVD</b>                     | <b>Bound</b>       |
| Addressee and Recipient                                                                                                                                                                                                                                                                                                                                | Debbie Pauza Market Manager                                                                                                                                                                                                                                                                                            | Bank of America, NA   100 N WESTSHORE BLVD   FL2-399-02-03   Tampa, FL 33609 | 0                                 | 0                  |
| <b>Comments</b>                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                        |                                                                              |                                   |                    |
|                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                        |                                                                              |                                   |                    |
| <b>Documents (content available online only)</b>                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                        |                                                                              |                                   |                    |
| <b>Reference Documents</b>                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                        |                                                                              |                                   |                    |
| APPRAISAL REQUIREMENTS [EFFECTIVE 2008-10-10-03-2008-08-43-32.pdf]                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                        |                                                                              |                                   |                    |
| <b>Properties (detailed descriptions may be viewed online or downloaded)</b>                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                        |                                                                              |                                   |                    |
| <b>#</b>                                                                                                                                                                                                                                                                                                                                               | <b>Property Type</b>                                                                                                                                                                                                                                                                                                   | <b>Property Address</b>                                                      |                                   |                    |
| 1                                                                                                                                                                                                                                                                                                                                                      | Special Purpose - Marina                                                                                                                                                                                                                                                                                               | 95 Ripley Point Drive, Charleston, SC                                        |                                   |                    |
| 2                                                                                                                                                                                                                                                                                                                                                      | Land - Multi-Family Apartment                                                                                                                                                                                                                                                                                          | S/S Ripley Point Drive, Charleston, SC                                       |                                   |                    |
| <b>Property Contact (additional contacts may be listed for each property. Refer to the online property profile for details)</b>                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                        |                                                                              |                                   |                    |
| <b>Name</b>                                                                                                                                                                                                                                                                                                                                            | <b>Company / Role</b>                                                                                                                                                                                                                                                                                                  | <b>Telephone</b>                                                             | <b>Comments</b>                   |                    |
| Davidson Williams                                                                                                                                                                                                                                                                                                                                      | CFO                                                                                                                                                                                                                                                                                                                    | 212-599-3530x14                                                              |                                   |                    |

## Property Details

**Property Name :** Ripley Light Yacht Club Marina  
**Address 1 :** 95 Ripley Point Drive **Address 2 :**  
**Zip Code :** 29407  
**Country :** United States of America **State :** South Carolina **County :** Charleston **City :** Charleston  
**Property Type :** Special Purpose-Marina **Site Owner Name :** Ashley River Properties II LLC **Same as Borrower**  
**Parcel Number :**  
**Other Property Information :**

| Measurement Type            | Quantity | Type     | Additional Information | Delete |
|-----------------------------|----------|----------|------------------------|--------|
| Building Size-<br>primary   | 0        | SF-GBA   |                        |        |
| Building Size-<br>secondary |          | Moorings |                        |        |
| Building Size-<br>4         | 96       | Slips    |                        |        |

Transaction subject to Bond Financing? N  
 Is this property encumbered by a ground lease? N  
 What is the current use of the property? Marina  
 What is the future (proposed) use of the property? Marina  
 Is this property currently listed for sale? N  
 Property Status: Existing  
 Age of Building Improvements  
 Property Tenancy: N/A Tenants(non-owner):

## Property Details

Property Name : Ashley River Condo Land  
Address 1 : S/S Ripley Point Drive Address 2 :  
Zip Code : 29407  
Country : United States of America State : South Carolina County : Charleston City : Charleston  
Property Type : Land-Multi-Family-Apartment Site Owner Name : Ashley River Properties II Same as Borrower  
Parcel Number :  
Other Property Information :

| Measurement Type    | Quantity Type | Additional Information | Delete |
|---------------------|---------------|------------------------|--------|
| Land Area-primary   | 3.73          | Acres                  |        |
| Land Area-secondary |               | Lot-Avg Size (acr)     |        |
| Land Area-          |               | Lots-Finished          |        |

Is this property encumbered by a ground lease? \* N  
What is the current use of the property? \* vacant  
What is the future (proposed) use of the property? \* ??  
Is this property currently listed for sale? \* N  
Property Status: \* Land Only

| Name | Company/Role | Phone Number | Comments |
|------|--------------|--------------|----------|
| dp   | hoa          | 8888888888   |          |

Note: Fields marked (\*) are mandatory

### Introduction

All appraisal assignments engaged by Bank of America's Commercial Appraisal Services (CAS) department must conform to these Appraisal Requirements.

All real estate appraisal services performed for Bank of America must conform to the following:

- The Uniform Standards of Professional Appraisal Practice (USPAP).
- Appraisal requirements of Title XI of the Federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FFIRREA), revised June 7, 1994, and amendments thereto. Federal regulatory requirements and guidelines may also apply.
- The appraiser must provide all services in accordance with the Bank of America Professional Services Agreement.
- The assignment will conform to the requirements as detailed by Bank of America in the award/engagement contract and in Bank of America's Valuation Services Information Management System RFP award information.
- Bank of America CAS Appraisal Performance and Reporting Guidelines

### Appraiser Independence

Maintaining the independence and objectivity of the appraisal process is of utmost importance to Bank of America. If an appraiser has a current or prospective interest in the subject property, transaction, or parties involved, the appraiser must decline the assignment.

If the appraiser (1) has previously appraised the subject property, or (2) previously performed a consulting assignment related to the subject property, the appraiser must be able to remain unbiased by the previous assignment, or decline the current assignment. The appraiser must disclose the previous appraisal or consulting assignment to Bank of America CAS during the RFP/bidding process and prior to accepting an appraisal assignment.

If during the course of an assignment, the appraiser becomes aware of a potential conflict of interest, the appraiser should contact Bank of America CAS immediately.

Any communication between the appraiser and Bank of America must be through the CAS contact.

### Confidential Information

Assignment results and all information provided by Bank of America, or its customers, related to the appraisal assignment are confidential information, and must be treated as such. Written approval from Bank of America CAS is required to release confidential information, including assignment results, to any third party.

### Competency

In bidding for and accepting appraisal assignments from Bank of America CAS, the appraiser certifies that he or she is competent to perform the requested service. The appraiser must be an active State Certified General or State Licensed appraiser, as appropriate. Temporary certificates are acceptable.

### Fair Lending Policy

Bank of America is committed to supporting fair lending practices and will not tolerate discrimination or discriminatory references in any form.

Appraisal reports must not include any subjective terms or phrases that might be interpreted as discriminatory. Apparent discrimination may be suggested by stating that a condition or feature is a negative influence without market support that it is regarded as such. Only those characteristics that are relevant to the valuation problem are to be addressed. Additionally, the appraiser must avoid using statistics that are not pertinent to the appraisal assignment.

### Future Assignments

Your acceptance of any Bank of America CAS assignment certifies that you agree not to accept or pursue an appraisal, or related assignment, of the subject property without receiving prior approval from Bank of America CAS.

### Introduction

The Bank of America Appraisal Performance and Reporting Guidelines apply to all appraisal assignments engaged by Bank of America CAS.

### Scope of Work

It is the appraiser's responsibility to determine and perform a scope of work sufficient to produce credible assignment results given the intended use.

The subject property inspection should be sufficient to identify the relevant property characteristics and include a representative sample of interior spaces.

### Report Content Requirements

The amount of information and analysis presented in the report is based on the appraisal product type and the relative complexity of the appraisal issues addressed.

Each appraisal report should include:

- Prominent disclosure of the Bank of America CAS appraisal product type
- Prominent summary of the key elements of the scope of work, including disclosure of the approach(es) to value used in the assignment
- Prominent disclosure and support for any deviation from the requested product (e.g. Comprehensive, Condensed, Concise), interest appraised, valuation premise (e.g. Upon Completion of Construction, Upon Stabilization, etc.), or valuation condition, as identified in the award/engagement contract
- Opinion of the "As Is" Market Value of the subject property
- The statement: *Bank of America makes no warranties or representations regarding this document or the conclusions contained herein.*
- A copy of the Award Confirmation Letter and any subsequent instructions
- Identification of the flood hazards, as applicable
- Identification of the earthquake hazards, as applicable

### Disclaimers

Bank of America CAS will not accept the report if wording or disclaimers are included in the report that limit the appraiser's professional liability to Bank of America.

### Borrower/Client Contact

Bank of America CAS expects that the appraiser will communicate with the property contact (as identified in the award letter) within two business days of the assignment award.

### Appraisal Report Delivery, Ownership & Distribution

Bank of America's Valuation Services Information Management System RFP/Award Information and Award Confirmation Letter provide appraisal report addressee and distribution instructions.

An electronic copy of the appraisal report, invoice and any supporting files are to be uploaded to the Bank of America Valuation Services Information Management System.

Bank of America owns the appraisal report and is under no restrictions regarding its redistribution to other interested parties of the Bank's choice.

### Appraisal Analysis Software

Discounted cash flow models for income producing properties should be prepared using Argus financial software. Appropriate supporting documentation must be included in the report and the Argus file must be uploaded to Bank of America's Valuation Services Information Management System.

In cases where the appraiser has developed proprietary analysis models, such models/software must be made available to Bank of America CAS. Spreadsheets are to be forwarded in operational condition and in a format that can be reviewed.

### Suspected Environmental Hazards

If the appraiser observes any suspected environmental hazards, the appraiser must notify Bank of America CAS immediately and document the suspected hazard in the report.

### Quality Assurance Review

Appraisal reports are subject to review by Bank of America CAS. Appraisers must be prepared to discuss their analyses and conclusions and provide additional written support, clarification, and/or corrected appraisal pages if requested.

### Date of Inspection / Date of Value

The date of inspection / date of value must occur within 45 days prior to the date the report is delivered, unless waived by Bank of America CAS.

### Going Concern

In assignments where the subject is a going concern (an operating business enterprise that is expected to continue), non-realty components must be identified and the final value allocated among the real property, personal property, and business interests.

#### Other Valuation Issues

Performance and reporting requirements applicable to specialized lending situations (e.g., SBA, CMBS, etc.) will be identified by Bank of America CAS at the time of the engagement.

When appraising properties that include specialized valuation issues, such as mortgage revenue bonds, low income housing tax credits, etc., the appraiser must contact Bank of America CAS for clarification and guidance if the methods for handling these issues are not defined during the engagement process.

#### Definitions

**Market Value:** The most probable price which 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 the 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 acting in what they consider their own best interests;
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.

Source: Code of Federal Regulations, Title 12—Banks And Banking; Chapter I—Comptroller Of The Currency, Department Of The Treasury, Part 14—Real Estate Lending And Appraisal—Subpart C—Appraisal Sec. 14.42 Definition; Revised as of January 1, 2000

**"As Is" Market Value:** An estimate of the market value of a property in the condition observed upon inspection and as it physically and legally exists without hypothetical conditions, assumptions, or qualifications as of the date of inspection. This requires that the property be valued according to its highest and best use. However, it does not prohibit valuation based upon reasonably anticipated future events such as the leasing of vacant space, demolition of obsolete buildings, etc.

**Insurable Cost:** The cost to replace the destructible portions of a property which should include the foundation. The estimate is based on replacement cost new, and must reflect only direct or hard construction costs, such as construction labor and materials, repair design, engineering, permit fees, and contractor's profit, contingency and overhead. It must not include surveys, site development, financing, or land acquisition costs.

Note: Insurable Cost provided in Bank of America CAS is for the Bank's internal use and is not intended to replace the due diligence done by an insurance company to determine the amount of insurance coverage.

#### Appraisal Products

The required appraisal product will be set forth in an award confirmation letter. The appraiser is not authorized to modify the assignment without prior approval by Bank of America CAS.

Appraisal services provided to Bank of America CAS are identified as *Comprehensive, Condensed or Concise.*

**Comprehensive:** The scope of work includes development of all applicable approaches to value.

The report describes significant data and analysis in support of the assignment results with a thorough reporting of the relevant data, analysis, and conclusions.

**Condensed:** The scope of work includes development of the most applicable approach; in some circumstances, a less extensive secondary approach may be warranted.

The report summarizes significant data and analysis in support of the assignment results with an emphasis on critical data, analysis, and conclusions.

**Concise:** The scope of work includes development of the most applicable approach

The report summarizes significant data and analysis in support of the assignment results with an emphasis on presenting the conclusion.

## ASSUMPTIONS AND LIMITING CONDITIONS

### GENERAL ASSUMPTIONS

1. The owner of record is assumed to have a free and clear fee simple title with no encumbrances that cannot be cleared through normal channels.
2. The information on which this appraisal is based on has been obtained from sources normally used by **Fred H. Beck & Associates, LLC** and is considered to be reliable, but is in no sense guaranteed.
3. The information furnished by others is believed to be reliable. No warranty is given for its accuracy.
4. **Fred H. Beck & Associates, LLC** reserves the right to alter its opinions of value on the basis of information withheld or not discovered in the normal course of a diligent investigation.
5. The appraiser assumes no responsibility for the legal description or matters of a legal nature affecting the property or the title thereto. The appraiser does not render any opinion as to title, which is assumed to be good and marketable.
6. Responsible ownership and competent property management are assumed.
7. It is assumed that there is full compliance with all applicable federal, state and local environmental regulations and laws unless noncompliance is stated, defined and considered in the appraisal report.
8. It is assumed that all applicable zoning and use regulations and restrictions have been complied with, unless a nonconformity has been stated, defined and considered in the appraisal report.
9. It is assumed that 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.
10. The appraiser is not required to give testimony or appear in court because of having made this appraisal with reference to the property in question, unless arrangements have been previously made therefore. The fee charged for this appraisal does not include payment for court testimony or for further consultation.
11. No opinion of an engineering nature is intentionally expressed or implied and no responsibility is assumed for matters of this nature.
12. No survey was made especially for this appraisal. Property lines, area, etc., of record or otherwise provided, are assumed to be correct.
13. No engineering survey has been made by the appraiser. Except as specifically stated, size and area were taken from sources considered reliable and no encroachment of real property improvements is assumed to exist.
14. Maps, plats and exhibits are for illustration only as an aid in visualizing matters discussed within the report. They should not be considered as surveys or relied upon for any other purpose.
15. It is assumed that there are no hidden or unapparent conditions of the property, subsoil or structures that render it more or less valuable. No responsibility is assumed for such conditions or for arranging for engineering studies that may be required to discover them.
16. No opinion is expressed as to the value of subsurface oil, gas or mineral rights. The property is not subject to surface entry for the exploration or removal of such materials except as is expressly stated.
17. Disclosure of the contents of the appraisal is governed by the Bylaws and Regulations of the professional organizations with which **Fred H. Beck & Associates, LLC** is affiliated.
18. Acceptance of and/or use of this report constitutes acceptance of these assumptions and limiting conditions.
19. This report is intended to comply with the Code of Ethics and Standards of Professional Appraisal practice of the Appraisal Institute. It is further intended to comply with the Uniform Standards of Professional Appraisal Practice (USPAP) and the guidelines set forth by the Financial Institution's Report, Recovery and Enforcement Act of 1989 (FIRREA).

## **LIMITING CONDITIONS**

1. Possession of this report, or a copy, does not carry with it the right of publication.
2. Neither all nor any part of the contents of this report (especially any conclusions as to value, identity of the appraisers or firm with which they are connected or any reference to the Appraisal Institute or the MAI or SRA designations) shall be disseminated to the public through the advertising media or any other public means of communication without the prior written consent and approval of **Fred H. Beck & Associates, LLC** and the signatories of the report. Acceptance of and/or use of this report constitutes acceptance of these restrictions.
3. The distribution, if any, of the total valuation in this report between land and improvements applies only under the stated program of utilization. The separate allocations for land and buildings must not be used in conjunction with any other appraisal and are invalid if so used.
4. The forecasts, projections or operating estimates contained herein are based upon current market conditions, anticipated short term supply and demand factors and a continued stable economy. These forecasts are, therefore, subject to changes in future conditions.
5. Load bearing capacity of subsoil is assumed to be adequate for the present utilization, but no borings or engineering studies have been made especially for this appraisal and the value conclusion could be affected by such information.
6. We have not been supplied with building plans and specifications, site plans, surveys or occupancy permits. No responsibility or representation is assumed or made for any costs associated with obtaining same for any deficiencies discovered before or after they are obtained.
7. We have personally inspected the subject property and found no obvious evidence of structural deficiencies except as stated in this report; however, no responsibility for hidden defects or conformity to specific governmental requirements, such as fire, building and safety or occupancy codes, can be assumed without provision of specific professional or governmental inspections.
8. No termite inspection report was made available. We personally inspected the subject property and found no significant evidence of termite damage or infestation.
9. Unless otherwise stated in this report, we make no representation or warranties as to the adequacy or condition of appliances, electrical systems, plumbing and heating, air conditioning, presence of insulation, adequacy or condition of structural systems or any other subsystem within the property. We assume no responsibility for any costs incurred to discover or correct any deficiencies present in the property.
10. Unless otherwise stated, no consideration in the valuation process has been given mineral deposits (oil, gas, coal, gravel, etc.) or timber, if any, that may be found on the subject.
11. Unless otherwise stated in this report, the existence of hazardous material, which may or may not be present on the property, was not observed by the appraiser. The appraisers, however, are not qualified to detect such substances. The presence of substances such as asbestos, urea-formaldehyde foam insulation or other potentially hazardous materials may affect the value of the property. The value estimate is predicated on the assumption that there is no such material on or in the property that would cause a loss in value. No responsibility is assumed for any such conditions or for any expertise or engineering knowledge required to discover them. The client is urged to retain an expert in this field, if desired.
12. On January 26, 1992, The Americans with Disabilities Act (ADA) took effect. This report has not considered this act and the impact it may have on the subject with respect to renovation cost and general compliance. Should a report be provided which indicates a possible renovation, we reserve the right to amend this report.
13. The appraisers have prepared this report in compliance with the competency provision explicitly detailed in the Uniform Standards of Professional Appraisal Practice (USPAP). The appraisers are fully experienced in the appraisal of this product type (see Qualifications).

**QUALIFICATIONS OF THE APPRAISER**  
**MARK A. MORGAN**

**FRED H. BECK & ASSOCIATES, LLC**  
**8924 Blakeney Professional Drive**  
**Charlotte, NC 28277**

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**EDUCATION**

Master of Science – Georgia State University, Atlanta, GA  
Real Estate

Bachelor of Fine Arts – Southern Methodist University, Dallas, TX  
Broadcasting

Bachelor of Business – Southern Methodist University, Dallas, TX

Completed The Appraisal Institute Courses:

- C1A-1 – Real Estate Appraisal Principles
- C1A-2 – Basic Valuation Procedures
- C1B-A – Capitalization Theory and Techniques, Part I
- C1B-B – Capitalization Theory and Techniques, Part II
- SPP – Standards of Professional Practice
- C2-1 – Case Studies in Real Estate Valuation
- C2-2 – Report Writing

Commercial Investment Real Estate Institute:

- CI-101 – Principles of Investment Analysis
- CI-102 – Creating a Real Estate Investment (Market Analysis)
- CI-103 – Advanced Real Estate Tax Analysis
- CI-104 – Understanding Human Behavior
- CI-105 – Case Studies in commercial Investment Real Estate

**EXPERIENCE**

Fred H. Beck & Associates, LLC – Charlotte, NC (May 2000 - Present)

- Real Estate Appraiser and Consultant

Bank of America – Charlotte, NC (3/93 – 5/00)

- Appraisal Department Area Manager

Schultz-Carr-Bissett – Atlanta, GA (11/89 – 3/93)

- Staff Appraiser

**PROFESSIONAL AFFILIATIONS**

- State-Certified General Real Estate Appraiser, North Carolina Certificate No. A4554
- State-Certified General Real Estate Appraiser, South Carolina Certificate No. CG3890
- State-Certified General Real Estate Appraiser, Georgia Certificate No. 689
- North Carolina Real Estate Broker - License #189040

**QUALIFICATIONS OF THE APPRAISER**  
**EDWARD M. PARLER III**

**FRED H. BECK & ASSOCIATES, LLC**  
**13089 Ocean Highway, Unit C-1**  
**Pawleys Island, South Carolina 29585**

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**EDUCATION**

Bachelor of Arts Degree – Wofford College, Spartanburg, SC (1995) - Business Economics

Real Estate Appraisal Courses:

- L-1 Category - Introductory Courses Pertaining to Real Estate Appraisal
- L-2 Category - Courses Pertaining to Valuation Procedures
- L-3 Category - Course in the Uniform Standards of Professional Appraisal Practice
- C-1 Certification – 1 – Introduction to Income Property Appraisal
- C-2 Certification – 2 – Advanced Income Capitalization Procedures
- C-3 Certification – 3 – Applied Income Property Valuation
- CR Certification – Applied Residential Property Valuation Case Study

Continuing Education Courses and Seminars:

- 1-CE-650 - Internet Search Strategies for Real Estate Appraising
- Argus Financial Software Training - Argus Lease-By-Lease Version 8.0.00
- Appraising Convenience Stores

Appraisal Institute Courses:

- Part A - Standards of Professional Practice
- Part B - Standards of Professional Practice
- Course 510 – Advanced Income Capitalization
- Course 520 – Highest & Best Use and Marketability Analysis
- Course 530 – Advanced Sales Comparison & Cost Approaches

**EXPERIENCE**

Fred H. Beck & Associates, LLC – Charlotte, NC (2006 – Present)

- Staff appraiser specializing in the appraisal of commercial and investment properties.

Marshall Dodds Company, Inc. - Columbia, SC (1997 - 2006)

- Staff appraiser specializing in the appraisal of commercial and investment properties.

Moovies Video Stores - Greenville, SC (1995-1997)

- Real Estate Market Analyst. Duties and responsibilities consisting of analyzing potential markets for video superstores, competition analysis, revenue projections, etc.

**PROFESSIONAL AFFILIATIONS**

State-Certified General Real Estate Appraiser:

South Carolina Certificate No. CG3064  
North Carolina Certificate No. A6179

Associate Member of The Appraisal Institute (Member # 397691)

THE STATE OF SOUTH CAROLINA  
In the Supreme Court

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

Deadra L. Jefferson, Circuit Court Judge

Case No. 2009-CP-10-0553

**Emerald Investments, LLC.....Appellant**

**v.**

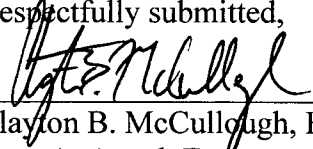
**Ashley River Properties II, LLC; and Kriti Ripley, LLC.....Respondents**

CERTIFICATE OF COUNSEL

Appellant hereby certifies that this Record on Appeal contains all of the material proposed to be included by any other parties, all that Appellant deems needed, and not any other material.

April 17, 2014

Respectfully submitted,

  
\_\_\_\_\_  
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ATTORNEYS FOR APPELLANT

THE STATE OF SOUTH CAROLINA  
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v.

**Ashley River Properties II, LLC; and Kriti Ripley, LLC**.....Respondents

PROOF OF SERVICE

I, the undersigned Paralegal of the law firm of McCullough Khan, LLC, attorneys for Appellant, do hereby certify that I have served all counsel in this action with a copy of the **Record on Appeal** by mailing a copy of same by United States Mail, postage prepaid, to the following addresses:

William C. Cleveland, Esq.  
P.O. Box 999  
Charleston, SC 29402

and fifteen copies to the Clerk of the Court of Appeals at the following address:

Jenny Abbott Kitchings  
Clerk of Court  
South Carolina Court of Appeals  
Calhoun Building  
1015 Sumter Street  
Columbia, SC 29201

April 18<sup>th</sup>, 2014

  
Alicia M. Benton  
Paralegal