

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Roger M. Young, Circuit Court Judge

Appellate Case No. 2018-000907

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SC Court of Appeals

241-243 E. Bay Holdings, LLC, ...Appellant,

v.

The City of Charleston, The City of Charleston Board of Zoning Appeals-Zoning, Apex
Real Property, LLC, and East Bay 7, LLC, ... Respondents.

RECORD ON APPEAL – VOLUME I

Alice F. Paylor, Esquire (SC # 4380)
Rosen, Rosen & Hagood, LLC
151 Meeting Street, Suite 400
Charleston, SC 29401
(843) 577-6726
apaylor@rrhlawfirm.com

ATTORNEY FOR APPELLANT

Daniel S. McQueeney, Jr. (SC #6802)
City of Charleston
50 Broad Street
Charleston, SC 29401
(843) 724-3730

ATTORNEY FOR RESPONDENT THE
CITY OF CHARLESTON AND BOARD
OF ZONING APPEALS-ZONING

Charles J. Baker, III (SC #0486)
Womble Bond Dickinson (US) LLP
P.O. Box 999
Charleston, SC 29402
(843) 722-3400
chuck.baker@wbd-us.com

ATTORNEY FOR RESPONDENT
APEX REAL PROPERTY, LLC

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STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF CHARLESTON)

CASE NO.: 2017-CP-10-4212

241-243 E. Bay Holdings, LLC,)

Petitioner,)

vs.)

The City of Charleston, The City of)
Charleston Board of Zoning Appeals-)
Zoning, Apex Real Property, LLC, and)
East Bay 7, LLC,)

Respondents.)

ORDER

FILED
2018 MAY -7 PM 2:32
CLERK OF COURT

This matter is an appeal by 241-243 E. Bay Holdings, LLC ("East Bay") from a final decision of the City of Charleston Board of Zoning Appeals – Zoning ("BZA") which unanimously approved with conditions the application of Pearce Development, LLC (formerly known as Apex Real Property, LLC) ("Pearce") for a special exception in the Accommodations Overlay Zone for a 50-room hotel on property owned by Pearce located on three contiguous parcels at 36 North Market Street, 5 Guignard Street and 235 East Bay Street.

The Court held a hearing on April 16, 2018, to hear arguments from the parties concerning the issues on appeal. Present at the hearing were Alice F. Paylor, attorney for East Bay; Daniel S. McQueeney, Jr., attorney for the BZA and the City; and Charles J. Baker III, attorney for Pearce. For the following reasons, the Court affirms the decision of the BZA and dismisses the appeal.

STANDARD OF REVIEW

The circuit court's review of decisions of administrative zoning boards is a limited one. "The findings of fact by the board of appeals must be treated in the same manner as a finding of fact by a jury, and the court may not take additional evidence. . . . In determining the questions

B

presented by the appeal, the court must determine only whether the decision of the board is correct as a matter of law.” S.C. Code § 6-29-840(A). Therefore, “the trial court must uphold a decision by the [board] unless there is no evidence to support it.” *Town of Hollywood v. Floyd*, 403 S.C. 466, 476, 744 S.E.2d 161, 166 (2013). Further, the Court can overturn the board’s decision only “if it is arbitrary, capricious, has no reasonable relation to a lawful purpose, or if the board has abused its discretion.” *Austin v. Board of Zoning Appeals*, 362 S.C. 29, 33, 606 S.E.2d 209, 211 (Ct. App. 2004) (quoting *Restaurant Row Assocs. v. Horry County*, 335 S.C. 209, 216, 516 S.E.2d 442, 446 (1999)).

“[A local zoning board's] construction of its own ordinance, the enforcement of which it is charged with, should be given some consideration and not overruled without cogent reason therefor.” *Clear Channel Outdoor v. City of Myrtle Beach*, 372 S.C. 230, 236, 642 S.E.2d 565, 568 (2007) (quoting *Purdy v. Moise*, 223 S.C. 298, 302, 75 S.E.2d 605, 607 (1953)). Therefore,

[i]t is a well settled proposition of zoning law that a court will not substitute its judgment for the judgment of the board. The court may not feel that the decision of the board was the best that could have been rendered under the circumstances. It may thoroughly disagree with the reasoning by which the board reached its decision. It may feel that the decision of the board was a substandard piece of logic and thinking. Nonetheless, the court will not set aside the board's view of the matter just to inject its own ideas into the picture of things.

Restaurant Row Assocs. v. Horry County, 335 S.C. 209, 216, 516 S.E.2d 442, 446 (1999) (quoting *Talbot v. Myrtle Beach Board of Adjustment*, 222 S.C. 165, 173, 72 S.E.2d 66, 70 (1952)).

ANALYSIS

A. Issues Presented and Applicable Zoning Provisions

In its Brief and at the hearing on this appeal, East Bay presented two issues and abandoned any others raised in its Petition appealing the BZA decision. The issues presented are (1) whether there was evidence in the record that Pearce provided information from which the BZA could



consider the impact of the planned conference/meeting room on parking and traffic;¹ and (2) whether there was evidence in the record that Pearce provided information from which the BZA could consider parking for hotel employees and restaurant customers.

Section 54-220 of the City's Zoning Ordinance governs the BZA's authority to grant special exceptions for accommodation uses. To grant a special exception for a hotel, the ordinance requires the BZA to make various findings. Section 54-220 b.1.(f) provides that, in making these findings, the BZA consider certain information provided by the applicant relating to the impact of the hotel's accessory uses (such as conference facilities and restaurants) on parking and traffic and relating to parking for employees:

[I]n making these findings, the Board of Zoning Appeals shall consider the following information to be provided by the applicant in site plans, floor plans, building elevations, and a detailed written assessment report to be submitted with the application:

...
(7) the accessory uses proposed for the facility in terms of size, impact on parking, and impact on traffic generation;
...

(13) the long term provision of on- or off-site parking for employees who drive vehicles to work.

B. Evidence Concerning the Conference/Meeting Room

Pearce submitted its initial application for the special exception in November 2016. The BZA conducted hearings on the application on December 20, 2016 and January 17, 2017. Both times, the BZA deferred action over concerns about the cumulative impact on traffic in the Ansonborough neighborhood from Pearce's proposed hotel and two other recently approved hotels

¹ Pearce contends that East Bay did not appeal the issue of the conference/meeting room's impact on traffic since its Petition refers only to its impact on parking. See Petition, para. 15C. *Austin v. Board of Zoning Appeals*, 362 S.C. 29, 606 S.E.2d 209 (Ct. App. 2004) (written petition must "set[] forth plainly, fully and distinctly why the decision is contrary to law" and statute makes no provision for amendment of the grounds set forth in the petition). However, since the Court concludes there was evidence for the BZA to consider about the conference/meeting room's impact on traffic, it need not reach this issue.

in the same two-block area. In deferring action the second time, the BZA specifically suggested that Pearce's traffic engineer and the City engineer consider ways to mitigate traffic in the Ansonborough neighborhood.

The third BZA hearing occurred on July 18, 2017. In advance of the hearing, Pearce submitted a revised site plan, floor plans and detailed written assessment as well as a Traffic Impact Analysis from Bihl Engineering, LLC based on these revised plans. The revisions moved the hotel entrance, lobby and valet service off North Market Street to Guignard Street with vehicular access to and from East Bay Street only. The revised plans also clearly showed a conference/meeting room measuring 4,438 square feet on the second floor of the existing, historic building at 36 North Market Street that was proposed to be renovated as part of the overall project.

The BZA unanimously approved the special exception at this third hearing with two conditions: "1) no access to conference room from Market Street; 2) mandatory right turn on Guignard for leaving hotel." The fact that the BZA placed a condition on its approval of the hotel disallowing access to the conference room from North Market Street is clear evidence that the BZA considered its impact on traffic. The reason for this condition was to prevent vehicles from delivering people attending events in the conference space on North Market Street and proceeding to turn right onto Anson Street and venturing into the Ansonborough neighborhood. Both conditions furthered the purpose of the ordinance to avoid negative impacts in residential neighborhoods by preventing traffic associated with the conference facility from entering Ansonborough.

Further, the record contains additional evidence that there was information presented for the BZA to consider concerning the conference/meeting room. There is evidence in the record that, at the July 18, 2017 hearing, the existence of the conference space was brought to the BZA's

A handwritten signature in black ink, appearing to be a stylized 'M' or 'W' with a long horizontal stroke extending to the right.

attention in several ways: City staff member Lee Batchelder noted the second floor of the 36 North Market Street building was shown as conference space; Pearce's architect, Eddie Bello, reviewed the plans with the BZA and noted the conference/meeting room, which was clearly shown in the plans; and in opposing the special exception, East Bay's lawyer told the BZA that traffic and parking related to the conference facility was one of their "main concerns." The record demonstrates that the BZA was aware of the conference facility and considered it in conjunction with the required factors under the Zoning Ordinance.²

There was also evidence presented to the BZA that traffic and associated parking for the hotel project, which necessarily included the conference room, would not have a material impact on the surrounding area: the proposed project would displace two large existing restaurants/bars on the property having little or no parking and substitute three smaller restaurant spaces plus the conference/meeting room, which combined had approximately the same square footage as the two restaurants being displaced; the plans provided for parking well in excess of the required number of spaces for a 50-room hotel; and the new restaurants would be expected to cater primarily to pedestrian traffic and hotel guests with no material impact on parking or traffic. Further, Pearce submitted a traffic study, which projected traffic impacts on the surrounding area and concluded that no traffic from the hotel would be expected to travel through Ansonborough. There was no conflicting expert testimony on traffic presented to the BZA. As such, there was evidence before the BZA relating to traffic associated with the conference/meeting room.

C. Evidence Concerning Parking for Employees and Restaurant Customers

² The BZA does not operate in a vacuum. It is common knowledge that numerous hotels in downtown Charleston have conference and event facilities as large as or larger than the room in Pearce's plans, and the BZA regularly considers applications for hotel projects that include conference and event facilities.

The Zoning Ordinance requires the BZA to consider information concerning “long term provision of on- or off-site parking *for employees who drive vehicles to work.*” (emphasis added). By its terms, the Ordinance presumes that not all employees will drive to work. Pearce’s application addressed employee parking, and there was evidence before the BZA from which it could have appropriately concluded that there would be adequate on- or off-site parking for employees who drive to work.

First, the hotel plans provided an additional 16 parking spaces above the required minimum, some of which could be used by management employees. Second, there was evidence that employees could use, and Pearce would encourage them to use, easily accessible CARTA bus service and on-site bicycle storage. Third, the final hotel plans reduced the number of employees needed on site by significantly decreasing the total restaurant space present on these three parcels, restaurants being the most employee-intensive use. Fourth, the architect, Eddie Bello, described to the BZA the number of parking spaces being provided, the valet parking system, and the flow of traffic into and out of the parking garage. The BZA acknowledged the parking specifically when it imposed the second condition requiring a right turn only out of the parking area onto Guignard Street.

The evidence cited above also demonstrates that the BZA considered information concerning parking for restaurant customers. Moreover, evidence was presented to the BZA regarding the absence of parking for the existing restaurants occupying the property, the reduction in restaurant space with the new hotel project, and the additional parking spaces being provided above the minimum required under the zoning ordinance. In addition, there was evidence that the restaurants were clustered along pedestrian friendly North Market Street and could be expected to be frequented by customers on foot.

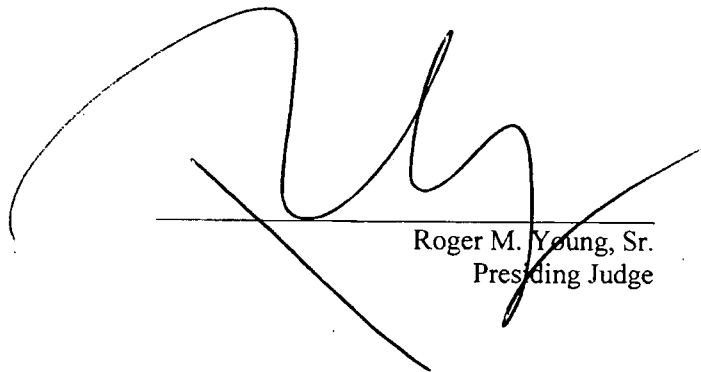
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CONCLUSION

Under the law, the Court must affirm the BZA's decision unless there is no evidence to support it. In this case, there is evidence in the record which supports the decision to approve the special exception for the hotel project. It appears from the record that the BZA carefully considered the issues and did not act in an arbitrary or capricious manner or abuse its discretion in rendering the decision. Now, therefore, it is

ORDERED that the decision of the BZA is hereby affirmed and the appeal is dismissed.

AND IT IS SO ORDERED.



Roger M. Young, Sr.
Presiding Judge

Charleston, SC
May 7, 2018

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

COURT OF COMMON PLEAS
Ninth Judicial Circuit
2017-CP-10-4212

241-243 E. BAY HOLDINGS, LLC,)
Petitioner,)

v.)

THE CITY OF CHARLESTON, THE)
CITY OF CHARLESTON BOARD)
OF ZONING APPEALS-ZONING,)
APEX REAL PROPERTY, LLC, and)
EAST BAY 7, LLC,)
Respondents.)

PETITION

FILED
2017 AUG 16 PM 4:07
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____

Petitioner, 241-243 E. Bay Holdings, LLC, hereby appeals the final decision of the Respondent, City of Charleston Board of Zoning Appeals-Zoning, which, on July 18, 2017, approved a special exception to Respondents, Apex Real Property, LLC and East Bay 7, LLC, for its property located at 36 N. Market Street, 5 Guignard Street and 235 East Bay Street, Charleston, South Carolina, alleging and stating as follows:

1. Petitioner, 241-243 E. Bay Holdings, LLC, is a limited liability company established under the laws of South Carolina.
2. Petitioner owns property described as 241 and 243 East Bay Street within the City of Charleston, South Carolina. This property is located on the corner of Guignard and East Bay Streets and is directly across Guignard Street from the property for which the special exception was granted.
3. Respondents, Apex Real Property, LLC and East Bay 7, LLC ("Apex"), are the owners of property located at 36 N. Market Street, 5 Guignard Street and 235 East Bay Street.

4. Respondent City of Charleston is a municipality incorporated under the laws of South Carolina.

5. Respondent, City of Charleston Board of Zoning Appeals-Zoning ("BZA"), is a duly created board of zoning appeals exercising those powers granted to boards of zoning appeals under the South Carolina Local Government Comprehensive Planning Enabling Act of 1994, SC Code §§6-29-780 *et seq.*

6. On December 20, 2016, the BZA considered for the first time Apex's request for a special exception pursuant to City Ordinance Section 54-220 to allow it to develop a 50-room hotel on its property.

7. Prior owners of portions of this property had obtained two (2) special exceptions to build a total of 36 hotel rooms.

8. After considering Apex's presentation, as well as comments from Petitioner and other interested persons, the BZA deferred the request.

9. On January 17, 2017, Apex again appeared before the BZA to renew its request for a special exception for a 50 room hotel.

10. After considering Apex's presentation, as well as comments from Petitioner and other interested persons, the BZA deferred the request seeking more information regarding the Traffic Study Analysis.

11. On July 18, 2017, the BZA again considered Apex's revised request for a special exception.

12. Petitioner's property, which lies directly across Guignard Street on East Bay Street from the Apex property, will be adversely affected by the hotel proposed in the application as a result of increased traffic on Guignard Street, increased congestion on Guignard Street,

increased parking violators on Petitioner's property, increased noise and other damaging effects including the diminution of the value of its real property.

13. The BZA conducted the hearing on July 18, 2017, but Petitioner's owner was out of town and only received notice on the day of the hearing that it was going forward that day. A representative of Petitioner attended the hearing and expressed Petitioner's opposition to the application, including numerous deficiencies in the application and the probable harm to Petitioner's property from the proposed hotel project.

14. Despite several inadequacies and deficiencies, the BZA approved the application and granted the special exception with conditions.

15. The decision of the BZA on July 18, 2017, granting a special exception to Apex was unlawful, arbitrary and capricious, contrary to the applicable City Ordinances, and beyond the powers of the BZA under the Enabling Act, for reasons that include but are not limited to the following:

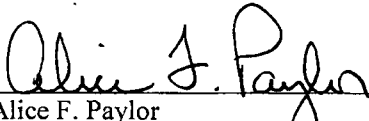
- A. Apex's presentation stated that only valet parking for hotel guests will be provided on site and totally failed to consider the impact of parking for the conference center and two restaurant and two bars when the patrons and attendees were not hotel guests.
- B. The traffic study submitted by Apex was inadequate and failed to take into consideration the impact of known planned and approved development including other hotels in the immediate vicinity and the extremely narrow width of, and existing congestion on, Guignard over which all hotel traffic will have to traverse.

- C. The traffic study also failed to take into consideration the impact of having a conference center and two restaurants and bars as part of the project with no planned parking for these venues.
- D. The application did not address parking for hotel employees other than an aside that some may be allowed to park on site. This contradicts the applicant's presentation that all cars will be valet parked, and those will be limited to hotel guests only.
- E. On information and belief, Apex received a license to operate a tour business out of this property, and this was not presented to the BZA or addressed in the traffic study.

16. Petitioner requests that the Court reverse and vacate the special exception granted by the BZA for the reasons stated and any additional reasons set forth at the time of the hearing.

WHEREFORE, having complained and appealed as set forth herein, Petitioner prays that this Court: (a) reverse and vacate the special exception dated July 18, 2017, granted by the BZA, approving a 50-room hotel located at 36 N. Market Street, 5 Guignard Street and 235 East Bay Street; (b) award Petitioner its attorneys' fees and costs under SC Code § 15-77-300; and (c) grant it such other and further relief as is just and proper.

ROSEN, ROSEN & HAGOOD, LLC

By: 
Alice F. Paylor
151 Meeting Street, Suite 400
PO Box 893
Charleston, SC 29402
(843) 577-6726

ATTORNEYS FOR PETITIONER

Charleston, South Carolina

August 16, 2017

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)
241-243 E. Bay Holdings, LLC,)
Petitioner-Appellant,)
v.)
City of Charleston; City of Charleston)
Board of Zoning Appeals-Zoning; Apex)
Real Property, LLC; and East Bay 7, LLC,)
Respondents.)

IN THE COURT OF COMMON PLEAS

CASE NO. 2017-CP-10-⁴²¹²~~2183~~

Response to Petition by Respondents
City of Charleston and City of Charleston
Board of Zoning Appeals-Zoning

2017 SEP 13 PM 2:26

CLERK OF COURT

1000

Respondents City of Charleston (the "City") and the City of Charleston Board of Zoning Appeals-Zoning ("BZA") hereby respond to the petition ("Petition") filed by Petitioner-Appellant 241-243 E. Bay Holdings, LLC ("Petitioner") as set forth further herein. In their capacity as respondents, the City and the BZA are collectively referred to herein as the "City."

1. This appeal arises from the BZA's decision approving, with conditions, a special exception request by Respondent Apex Real Property, LLC ("Apex") to permit a 50-unit accommodations use on Apex's properties located at 36 North Market Street, 5 Guignard Street, and 235 East Bay Street.

2. The City objects to consideration of the factual allegations in the Petition because this appeal must be determined based on the certified record. See S.C. Code Ann. Section 6-29-840(A) ("The findings of fact by the board of appeals must be treated in the same manner as a finding of fact by a jury, and the court may not take additional evidence.").

3. In responding the allegations in the Petition, the City asserts that the BZA's decision should be affirmed because there is evidence supporting the BZA's decision. See Austin v. Bd. of Zoning Appeals, 362 S.C. 29, 33, 606 S.E.2d 209, 211 (Ct. App. 2004) ("On appeal, we

apply the same standard of review as the circuit court below: the findings of fact by the Board shall be treated in the same manner as findings of fact by a jury, and the court may not take additional evidence.”); Rest. Row Assocs. v. Horry County, 335 S.C. 209, 216, 516 S.E.2d 442, 446 (1999) (“A court will refrain from substituting its judgment for that of the reviewing body, even if it disagrees with the decision.”). The City denies any allegations in the Petition to the contrary.

4. No answer or other pleading is required from the City or the BZA because this appeal is limited to the evidence contained in the record presented to the BZA. See S.C. Code Ann. Section 6-29-840(A) (“The findings of fact by the board of appeals must be treated in the same manner as a finding of fact by a jury, and the court may not take additional evidence.”).

5. The City’s remaining responses to the Petition are subject to the foregoing objections.

6. The City admits that this court has jurisdiction over the subject matter and the parties to determine this appeal; provided, however, the City objects to the consideration of any matter or issue outside the scope of this court’s appellate review under section 6-29-840(A) of the South Carolina Code. Without limiting the foregoing, the City specifically denies Petitioner’s prayer for relief to the extent the Petitioner seeks attorneys’ fees or costs under section 15-77-300 of the South Carolina Code.

7. The City reserves the right to file a legal memorandum in opposition to Petitioner’s requests, based on the certified record and the applicable law.

8. The City denies each and every allegation of the Petition not hereinafter specifically admitted or modified.

9. The City admits the allegations in Paragraph 1 of the Petition.

10. With respect to the allegations in Paragraph 2 of the Petition, the City asserts that the BZA granted Apex's special exception request upon conditions. The City admits the remaining allegations in Paragraph 2 of the Petition.

11. With respect to the allegations in Paragraph 3 of the Petition, the City denies that Respondent East Bay 7, LLC owns the subject properties. The City admits the remaining allegations in Paragraph 3 of the Petition.

12. The City admits the allegations in Paragraph 4 of the Petition.

13. With respect to the allegations in Paragraph 5 of the Petition, the scope of the BZA's authority is a matter of law to which no response is required. The City admits the remaining allegations in Paragraph 5 of the Petition.

14. The City admits the allegations in Paragraph 6 of the Petition.

15. The City admits the allegations in Paragraph 7 of the Petition.

16. The City admits the allegations in Paragraph 8 of the Petition.

17. The City admits the allegations in Paragraph 9 of the Petition.

18. The City admits the allegations in Paragraph 10 of the Petition.

19. The City admits the allegations in Paragraph 11 of the Petition.

20. The City denies the allegations in Paragraph 12 of the Petition. To the extent such allegations are material to this appeal, the BZA's decision as to these issues is supported by evidence and should be affirmed.

21. The City denies the allegations in Paragraph 13 of the Petition. To the extent such allegations are material to this appeal, the BZA's decision as to these issues is supported by evidence and should be affirmed.

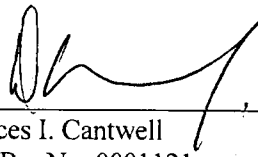
22. The City denies the allegations in Paragraph 14 of the Petition, except the allegation that the BZA approved Apex's special exception request with conditions. To the extent such allegations are material to this appeal, the BZA's decision as to these issues is supported by evidence and should be affirmed.

23. The City denies the allegations in Paragraph 15 of the Petition. To the extent such allegations are material to this appeal, the BZA's decision as to these issues is supported by evidence and should be affirmed.

24. The City denies the allegations in Paragraph 16 of the Petition. Furthermore, the City objects to the consideration of "any additional reasons set forth at the time of the hearing." See S.C. Code Ann. § 6-29-820(A) ("A person who may have a substantial interest in any decision of the board of appeals or an officer or agent of the appropriate governing authority may appeal from a decision of the board to the circuit court in and for the county, by filing with the clerk of the court a petition in writing setting forth plainly, fully, and distinctly why the decision is contrary to law."); Austin v. Bd. of Zoning Appeals, 362 S.C. 29, 39, 606 S.E.2d 209, 214 (Ct. App. 2004) (emphasizing that appellant may not amend a petition for review of a BZA decision after the expiration of the 30-day filing period for filing the appeal).

25. The City denies that Petitioner is entitled to any of the relief sought in the prayer for relief in the Petition. Without limiting the foregoing, the City specifically denies Petitioner's prayer for relief to the extent the Petitioner seeks attorneys' fees or costs under section 15-77-300 of the South Carolina Code.

WHEREFORE, the City and the BZA pray for an Order of this Court affirming the BZA's findings of fact and conclusions of law.



Frances I. Cantwell
S.C. Bar No. 0001121
Corporation Counsel
E-mail: cantwellf@charleston-sc.gov

Daniel S. ("Chip") McQueeney, Jr
S.C. Bar No. 0006802
E-mail: mcqueeneyd@charleston-sc.gov
Assistant Corporation Counsel

50 Broad Street
Charleston, South Carolina 29401
Telephone: (843) 724-3730
Attorneys for Plaintiff City of Charleston

Charleston, South Carolina
September 7, 2017

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF CHARLESTON)

CASE NO.: 2017-CP-10-4212

241-243 E. Bay Holdings, LLC,)

Petitioner,)

vs.)

**APEX REAL PROPERTY, LLC'S
RESPONSE TO PETITION**

The City of Charleston, The City of)
Charleston Board of Zoning Appeals-)
Zoning, Apex Real Property, LLC, and)
East Bay 7, LLC,)

Respondents.)

2017 SEP 27 PM 4:22
FILED
CLERK OF COURT

Respondent Apex Real Property, LLC responds to the Petition of 241-243 E. Bay Holdings, LLC filed herein and states:

The Petition constitutes an appeal from a final decision of The Board of Zoning Appeals-Zoning for The City of Charleston (Board) approving a special exception for properties owned by Apex Real Property, LLC and located at 36 N. Market Street, 5 Guignard and 235 East Bay Street, Charleston, South Carolina. Apex Real Property, LLC has changed its name to Pearce Development, LLC and title to the three properties is now held in the name of Pearce Development, LLC. Because the Petition is an appeal and the Court's review is limited to consideration of whether there was evidence in the record before the Board supporting its decision, Apex Real Property, LLC (n/k/a Pearce Development, LLC) is not required to respond to the specific factual allegations contained therein. To the extent a response is required, the factual allegations are denied. Apex Real Property, LLC (n/k/a Pearce Development, LLC) further states that the Board's decision was correct as a matter of law and that the grounds set forth by 241-243 E. Bay Holdings, LLC are insufficient to warrant reversal of the decision.

WHEREFORE, having responded to the Petition, Apex Real Property, LLC (n/k/a Pearce Development, LLC) prays that the same be dismissed with costs, including reasonable attorneys' fees, and for such other and further relief as the Court may deem just and proper.

WOMBLE, CARLYLE, SANDRIDGE & RICE, LLP



Charles J. Baker III (S.C. Bar No. 486)
Womble, Carlyle, Sandridge & Rice, LLP
5 Exchange Street (29401)
P.O. Box 999
Charleston, SC 29402-0999
(843) 722-3400
cbaker@wcsr.com

*Attorneys for Apex Real Property, LLC
n/k/a Pearce Development, LLC*

CHARLESTON, SC
September 27, 2017

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

) COURT OF COMMON PLEAS
) Ninth Judicial Circuit
) 2017-CP-10-4212

241-243 E. BAY HOLDINGS, LLC,
Petitioner,

v.

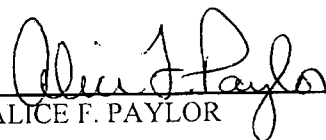
THE CITY OF CHARLESTON, THE
CITY OF CHARLESTON BOARD
OF ZONING APPEALS-ZONING,
APEX REAL PROPERTY, LLC, and
EAST BAY 7, LLC,
Respondents.

AFFIDAVIT OF ALICE F. PAYLOR

PERSONALLY APPEARED before me, ALICE F. PAYLOR, who being duly sworn
does state as follows:

1. She is a lawyer representing the Petitioner in the above matter. She is greater than 18 years old and competent to provide testimony.
2. Attached hereto as Exhibit A is an article from the Charleston Post & Courier, dated March 11, 2018, discussing the opening of a standalone event space on the property for which the BZAZ gave a special exception to allow a 50-room hotel.

FURTHER AFFIANT SAYETH NOT.


ALICE F. PAYLOR

SWORN to before me this

9th day of April, 2018



Notary Public for South Carolina

My commission expires: 12-14-2027

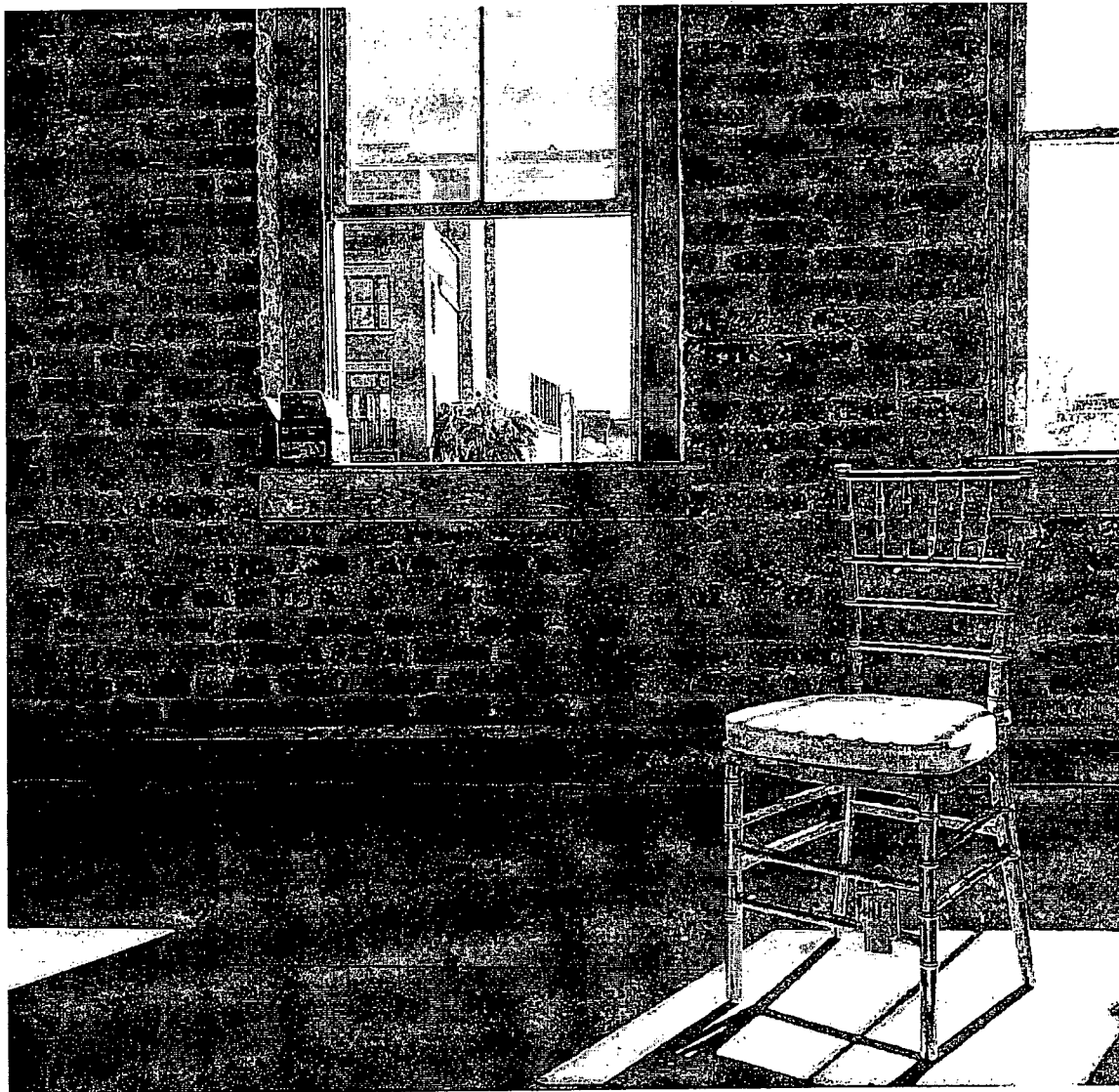
Exhibit A

https://www.postandcourier.com/business/new-events-space-taking-shape-in-charleston-city-market/article_ae26c198-2080-11e8-a78a-476f7527f170.html

TOP STORY

New events space taking shape in Charleston City Market

By Dave Munday dmunday@postandcourier.com Mar 11, 2018



A new space for wedding receptions and corporate events on the second floor of the former Wild Wing restaurant building at 36 N. Market St. is set to open May 1. Provided/Pearce Development

Ex A

<https://www.postandcourier.com/business/new-events-space-taking-shape-in-charleston-cit...> 3/30/2018

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A new space for wedding receptions and corporate events called **Merchants Hall** is taking shape in the former **Wild Wing Cafe** building in the **City Market** area.

It's expected to open May 1 on the second floor at 36 N. Market St., according to **Houston Pearce** of **Pearce Development**, the building's owner. The old brick walls will remain visible, and big windows overlook the market, although shades will be able to block out light if needed for meetings.

"We're pretty proud of the space," Pearce said.

It takes its name from merchant **J.C.H. Claussen**, who built the structure around 1850 for a wholesale business. Early photos show a third story that was blown off by a tornado in 1938, according to the **Historic Charleston Foundation**.

The ballroom will be about 2,800 square feet, with room for 180 people standing or 150 seated. The space will also include men's and women's restrooms, a warming kitchen and a bridal or host suite.

The entrance will be in back.

A 50-room hotel is also planned for the two-story building, as well as the parking lot behind it and the former **Molly Darcy's** site on East Bay Street, but those plans have been held up by a lawsuit over the city approving it. Pearce said he had nothing to say about the hotel plans.

Inn update

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF CHARLESTON	)	CASE NO. 2017-CP-10-4212
	)	
241-243 E. Bay Holdings, LLC,	)	
	)	
Petitioner-Appellant,	)	
	)	
v.	)	
	)	
City of Charleston; City of Charleston	)	
Board of Zoning Appeals-Zoning; Apex	)	
Real Property, LLC; and East Bay 7, LLC,	)	
	)	
Respondents.	)	

FILED
2018 APR 16 PM 3:34
CLERK OF COURT

Memorandum of Law in Opposition to Petitioner's Appeal by Respondents City of Charleston and City of Charleston Board of Zoning Appeals-Zoning

Respondents City of Charleston (the "City") and the City of Charleston Board of Zoning Appeals-Zoning ("BZA") hereby submit this Memorandum of Law in Opposition to the appeal filed by Petitioner-Appellant 241-243 E. Bay Holdings, LLC ("Petitioner"), challenging a special exception, with conditions, granted by the BZA to Respondent Apex Real Property, LLC, now known as Pearce Development, LLC ("Pearce"). In their capacity as respondents, the City and the BZA are collectively referred to herein as the "City."

As set forth further herein, the BZA's decision should be AFFIRMED because its decision is supported by the record evidence.

Factual and Procedural Background

Pearce currently owns three contiguous lots of land located at 5 Guignard Street, 36 North Market Street, and 235 East Bay Street. **R. p.342, p.382:6-11.** These three lots are on a block bounded to the north by Guignard Street, to the east by East Bay Street, to the south by North

Market Street, and to the west by Rafers Alley. **R. p.342, p.382:6-11.** The nearest residential neighborhood is Ansonborough.

Petitioner owns property lying on the northwest corner of Guignard Street and East Bay Street. Petitioner's property is separated from 5 Guignard Street by the right-of-way for Guignard Street. Petitioner's property and Pearce's properties are commercially zoned. **R. p.343.** Petitioner's property and Pearce's properties also lie with the Accommodations (A) overlay zone, which permits accommodations uses with up to 50 units if the BZA grants a special exception under section 54-220 of the Zoning Ordinance of the City of Charleston ("54-220"). **R.p.343, pp.474-476.**

On July 18, 2017, the BZA granted a special exception to Pearce to develop a 50-room hotel on the properties. **R. p.397.** As reflected in the site plan, the development will include approximately 7,000 square feet of retail, restaurant, and bar space, as well as a conference/meeting room consisting of approximately 4500 square feet on the second floor. **R. p.281.**

On August 16, 2017, Petitioner appealed the BZA's decision. Due to a transcription error, the matter was remanded to the BZA to reconstruct the record. **R. pp.405-408.** The record has been reconstructed, and Petitioner now raises two reasons why Petitioner believes the BZA's decision should be reversed. First, Petitioner contends that Pearce failed to address the parking and traffic impacts of the "conference center/event space" in its application, and that the BZA failed to consider these impacts. Second, Pearce asserts that Pearce failed to address the parking to be generated by employees, the restaurants, and the bars, in its application.

Standard of Review

On appeal from the decision of a board of zoning appeals, "[t]he findings of fact by the board of appeals must be treated in the same manner as a finding of fact by a jury, and the court

may not take additional evidence.” S.C. Code Ann. § 6-29-840(A). “The factual findings of the Board must be affirmed by the circuit court if there is *any* evidence to support them and they are not influenced by an error of law.” Fairfield Ocean Ridge, Inc. v. Edisto Beach, 294 S.C. 475, 479-80, 366 S.E.2d 15, 18 (Ct. App. 1988). “In reviewing the questions presented by the appeal, the court shall determine only whether the decision of the Board is correct as a matter of law.” Austin v. Bd. of Zoning Appeals, 362 S.C. 29, 33, 606 S.E.2d 209, 211 (Ct. App. 2004).

“The party challenging a governmental body’s decision bears the burden of proving the decision is arbitrary.” Pressley v. Lancaster Cty., 343 S.C. 696, 704, 542 S.E.2d 366, 370 (Ct. App. 2001).

LAW/ANALYSIS

The City contends the BZA’s decision should be affirmed and this appeal dismissed for the following reasons:

1. Section 54-220 must be read in the context of its stated purpose to protect residential neighborhoods. Here, the BZA deferred the application twice, both times *demanding* that the application negate, to the maximum extent feasible, any traffic impact on the nearby residential neighborhood. **R. pp.142:25-143:12, pp.261:16-263:7.** These demands were capped off by a condition requiring traffic exiting the project to turn right onto Guignard Street, directing traffic away from the existing residential neighborhood. **R. p.397.**

“It is well settled that when interpreting an ordinance, legislative intent must prevail if it can be reasonably discovered in the language used.” Charleston Cty. Parks & Rec. Comm’n v. Somers, 319 S.C. 65, 67, 459 S.E.2d 841, 843 (1995). “An ordinance must receive a practical, reasonable, and fair interpretation consonant with the purpose, design, and policy of the lawmakers.” Id. at 68, 459 S.E.2d at 843.

Section 54-220 established the Accommodations (“A”) Overlay Zone. “The A Overlay Zone is intended to identify those areas within the City limits where accommodations uses are allowed.” **R. p.474.** “The City places a high value on the preservation of the character of its residential neighborhoods.” **R. p.474.** “Potential negative impacts affecting residential neighborhoods shall be avoided or minimized to the greatest extent possible.” **R. p.474.**

Here, the purpose of section 54-220 is to permit the BZA to grant a special exception when the BZA finds that several factors are met, all of which are designed to protect residential neighborhoods. Petitioner’s arguments suggest, instead, that an applicant must eliminate any possible traffic or parking impacts from a project. That is not the standard.

2. Pearce extensively addressed the impact of the proposed development on traffic and parking on the residential neighborhood.

Section 54-220.b.1(f) provides that the BZA “shall consider the following information to be provided by the applicant in site plans, floor plans, building elevations, and a detailed written assessment report to be submitted with the application” **R. p.474.¹**

Petitioner asserts that Pearce failed to include any information in its written assessment addressing the impact of the conference/meeting room on traffic and parking. But this argument ignores that the site plan and written assessment were submitted together. Pearce submitted, and the BZA considered, the written assessment *and* the site plan.

¹ To the extent Pearce contends that the BZA need not consider the individual items enumerated in section 54-220.b.1(f), so long as it makes findings consistent with section 54-220.b.1(a) through (e), the City disagrees. Section 54-220.b.1(f) requires the applicant to provide information relating to the items enumerated in (f)(1) through (18) and further requires that the BZA consider these items based on the information provided. Nevertheless, any difference in interpretation does not matter, because Pearce clearly provided evidence addressing each factor, and the BZA’s decision on each factor is supported by this evidence.

Furthermore, it's clear that Pearce went to extreme lengths to protect the existing residential neighborhood from any traffic and parking impacts from the project as a whole. For example, Pearce's written assessment addresses each of the factors set forth in section 54-220, including extensive discussion of parking and traffic impacts. **R. p.272, ¶(b)** (explaining project is in a commercial/business district with easy access to arterial streets; access to property will not require traversing any residential neighborhoods; and there should be no material increase in automobile traffic on streets within residential neighborhoods); **R. p.273, ¶(e)** (public will have excellent pedestrian access; property located on CARTA bus route; project includes bicycle storage); **R. p.273, ¶(f).3** (automobile access and parking arrangements have been designed to minimize traffic impacts; aggregate vehicle trips will be lower than the vehicle trips generated by the existing approved uses)²; **R. p.273, ¶(f).4** (main entrance and parking entrance designed to be closest to arterial roads; **R. p.273, ¶(f).7** (project reduces total restaurant/bar use by approximately 5,000 square feet; provides parking spaces in excess of the required minimum; accessory uses expected to cater primarily to pedestrians and hotel guests; not expected to materially impact parking or traffic; project should reduce existing parking and traffic impacts compared to uses currently permitted).

With respect to employees, Pearce explains: "The property has parking spaces in excess of the required number and significantly more than would be expected to be used by hotel guests, leaving additional spaces available for some employees." **R. p.275, ¶(f).13**. "The convenient location of CARTA bus service should encourage more employees to use public transportation, and bicycle storage will be provided to hotel employees to encourage bicycle use." **R. p.275, ¶(f).13**.

² See Bannum, Inc. v. City of Columbia, 335 S.C. 202, 205 n.4, 516 S.E.2d 439, 440 (1999) (recognizing board of zoning appeals should have compared traffic impact of project to traffic impact from permitted uses in addressing special exception request).

Each of these points was also addressed by Wilson at the July 18, 2017, hearing before the BZA. **R. pp.437-439, ¶14.** With respect to the site plans, Eddie Bello, the architect for the project, went through each floor of the revised plans at the BZA hearing, describing, among other things, “the second floor conference/meeting room in the historic building on Market Street, which conference/meeting room can be accessed from a second floor walkway from the hotel rooms and lobby.” **R. p.436, ¶12.** In addition, Wilson presented traffic data addressing the traffic trip counts on Anson Street compared with other streets in the area, concluding: “Anson Street would not be materially affected, and the Applicant’s proposed project would certainly not significantly increase traffic on Anson Street.” **R p.440, ¶15.c.**

In Bannum, Inc. v. City of Columbia, 335 S.C. 202, 205 n.4, 516 S.E.2d 439, 440 (1999), the Supreme Court of South Carolina emphasized that a board of zoning appeals commits error in refusing to consider the affidavit of the applicant’s president and attorney “to the effect that the proposed use should substantially lessen traffic.”

3. Ty Hanlan, the owner of the Petitioner, opposed the application, in part, on the grounds that the project provided too much parking.

Ty Hanlan owns 241-243 E. Bay Holdings, LLC. **R. pp.119:23-120:5.** During the hearing on July 18, 2017, Lee Batchelder, the City’s zoning administrator, explained that he spoke with Hanlan, who “felt like the—number of cars—cars that could be accommodated within that parking garage, which is well in excess of the minimum required by the 50-room hotel, that that increased number of spaces would just contribute to more congestion on Guignard Street.” **R.p.389:4-23.** The affidavit of James Wilson, the attorney for Pearce, also reflects that Hanlan objected “to excess parking at the Property.” **R. p.440, ¶16.**

This testimony alone supports the BZA's conclusion that the project sufficiently addressed parking, and the Petitioner should not now be heard to complain that Pearce should have provided additional parking.

4. As set forth in Wilson's affidavit and the affidavit of Alice Paylor, the attorney for the Petitioner, the BZA clearly considered the conference/meeting room. Wilson explains: "Ms. Paylor raised an objection about the 2nd floor conference/meeting room as shown in the revised plans and what impact it might have." **R. p.440, ¶16.** Wilson continued: "The Board asked questions regarding the objections and also discussed among themselves various concerns." **R. p.440, ¶17.** Paylor's affidavit provides: "The main concerns that I presented were the large bar facilities and the newly added conference center, which had not been addressed at all in the written submission of the applicant." **R. p.443, ¶8.** Paylor concluded: "The [BZA] discussed the traffic issues as they impacted the Ansonborough neighborhood, but never mentioned the impact of bars, restaurants or the conference room center on traffic or parking *other than to require that patrons of the conference center could not access the facility off of Market Street.*" **R. p.443, ¶14.**

5. Petitioner's improper inclusion of evidence outside the record should not be considered. In its memorandum in support of this appeal, Petitioner attaches a newspaper article from May 1, 2018, while simultaneously admitting "this was not part of the record." **Br. p.5.** Nevertheless, Petitioner cites the article as "evidence" of what the BZA should have considered during its decision whether or not to grant a special exception. **Br. p.5.**

This clearly violates the statutory prohibition against taking additional evidence on appeal from the BZA's decision in section 6-29-840 of the South Carolina, which unambiguously provides: "[T]he court may not take additional evidence."³

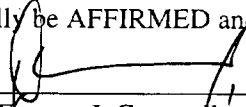
CONCLUSION

The BZA's decision was clearly supported by the record evidence. As the BZA's chairman, Leonard Krawcheck explained during the hearing to reconstruct the record:

I recall Mr. Wilson arguing and making a case that the prongs of the test that are set out in—in his affidavit beginning in the Wilson affidavit on page 3, Item 13, that are listed as A through E, and then the specific criteria that continues on page 4 in Numbers 1, 2, and 3 later on down through Item 18, I—I remember that—that those were that I would call a slam dunk. That those were things that clearly had been met by the application, that the only real issue was the same issue that had been giving the Board a hard time in the previous two hearings; and that was the traffic on—going through the residential neighborhood in Ansonborough.

R. pp.459:20-460:9. This statement tracks the stated intent behind section 54-220, i.e., to protect residential neighborhoods.

The BZA's decision should respectfully be AFFIRMED and this appeal DISMISSED.



Frances I. Cantwell
S.C. Bar No. 0001121
Corporation Counsel
E-mail: cantwellf@charleston-sc.gov

Daniel S. ("Chip") McQueeney, Jr
S.C. Bar No. 0006802
E-mail: mcqueeneyd@charleston-sc.gov
Assistant Corporation Counsel

50 Broad Street

³ Subject to this objection, to the extent the Court considers this newspaper article, the City requests it be permitted to supplement the record with an affidavit from the City's zoning administrator explaining why the uses described in the newspaper article are permitted on the property without a special exception.

Charleston, South Carolina 29401
Telephone: (843) 724-3730
Attorneys for Plaintiff City of Charleston

Charleston, South Carolina
~~September 7, 2017~~
April 14, 2018

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Roger M. Young, Circuit Court Judge

Case No. 17-CP-10-4212

FILED
2018 MAY 11 PM 3:09
JULIE J. HARRIS
CLERK OF COURT

241-243 E. Bay Holdings, LLC, ...Appellant,

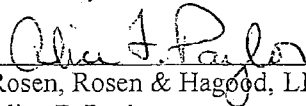
v.

The City of Charleston, The City of Charleston Board of Zoning Appeals - Zoning,
Apex Real Property, LLC, and East Bay 7, LLC, ...Respondents.

NOTICE OF APPEAL

241-243 E. Bay Holdings, LLC, appeals the Order of the Honorable Roger M. Young,
dated May 7, 2018. Appellant received written notice of entry of this order on May 9, 2018.

May 9, 2018



Rosen, Rosen & Hagood, LLC
Alice F. Paylor
P.O. Box 893
Charleston, SC 29402
(843) 266-8105
Attorney for Appellant

Other Counsel of Record:

Daniel S. McQueeney, Jr., Esquire
50 Broad Street
Charleston, SC 29401
ATTORNEYS FOR RESPONDENT THE CITY OF
CHARLESTON AND THE CITY OF CHARLESTON
BOARD OF ZONING APPEALS-ZONING

Charles J Baker, III, Esq.
Womble Carlyle Sandridge & Rice, LLP
5 Exchange St. (29401)
P.O. Box 999
Charleston, SC 29402
ATTORNEYS FOR APEX REAL PROPERTY, LLC
N/K/A PEARCE DEVELOPMENT, LLC

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

241-243 E. Bay Holdings, LLC,

Petitioner,

vs.

The City of Charleston, The City of
Charleston Board of Zoning Appeals-
Zoning, Apex Real Property, LLC, and
East Bay 7, LLC,

Respondents.

IN THE COURT OF COMMON PLEAS

CASE NO.: 2017-CP-10-4212

ORDER

FILED
2018 MAY -7 PM 2:32
CLERK OF COURT

This matter is an appeal by 241-243 E. Bay Holdings, LLC ("East Bay") from a final decision of the City of Charleston Board of Zoning Appeals – Zoning ("BZA") which unanimously approved with conditions the application of Pearce Development, LLC (formerly known as Apex Real Property, LLC) ("Pearce") for a special exception in the Accommodations Overlay Zone for a 50-room hotel on property owned by Pearce located on three contiguous parcels at 36 North Market Street, 5 Guignard Street and 235 East Bay Street.

The Court held a hearing on April 16, 2018, to hear arguments from the parties concerning the issues on appeal. Present at the hearing were Alice F. Paylor, attorney for East Bay; Daniel S. McQueeney, Jr., attorney for the BZA and the City; and Charles J. Baker III, attorney for Pearce. For the following reasons, the Court affirms the decision of the BZA and dismisses the appeal.

STANDARD OF REVIEW

The circuit court's review of decisions of administrative zoning boards is a limited one. "The findings of fact by the board of appeals must be treated in the same manner as a finding of fact by a jury, and the court may not take additional evidence. . . . In determining the questions

R

presented by the appeal, the court must determine only whether the decision of the board is correct as a matter of law." S.C. Code § 6-29-840(A). Therefore, "the trial court must uphold a decision by the [board] unless there is no evidence to support it." *Town of Hollywood v. Floyd*, 403 S.C. 466, 476, 744 S.E.2d 161, 166 (2013). Further, the Court can overturn the board's decision only "if it is arbitrary, capricious, has no reasonable relation to a lawful purpose, or if the board has abused its discretion." *Austin v. Board of Zoning Appeals*, 362 S.C. 29, 33, 606 S.E.2d 209, 211 (Ct. App. 2004) (quoting *Restaurant Row Assocs. v. Horry County*, 335 S.C. 209, 216, 516 S.E.2d 442, 446 (1999)).

"[A local zoning board's] construction of its own ordinance, the enforcement of which it is charged with, should be given some consideration and not overruled without cogent reason therefor." *Clear Channel Outdoor v. City of Myrtle Beach*, 372 S.C. 230, 236, 642 S.E.2d 565, 568 (2007) (quoting *Purdy v. Moise*, 223 S.C. 298, 302, 75 S.E.2d 605, 607 (1953)). Therefore,

[i]t is a well settled proposition of zoning law that a court will not substitute its judgment for the judgment of the board. The court may not feel that the decision of the board was the best that could have been rendered under the circumstances. It may thoroughly disagree with the reasoning by which the board reached its decision. It may feel that the decision of the board was a substandard piece of logic and thinking. Nonetheless, the court will not set aside the board's view of the matter just to inject its own ideas into the picture of things.

Restaurant Row Assocs. v. Horry County, 335 S.C. 209, 216, 516 S.E.2d 442, 446 (1999) (quoting *Talbot v. Myrtle Beach Board of Adjustment*, 222 S.C. 165, 173, 72 S.E.2d 66, 70 (1952)).

ANALYSIS

A. Issues Presented and Applicable Zoning Provisions

In its Brief and at the hearing on this appeal, East Bay presented two issues and abandoned any others raised in its Petition appealing the BZA decision. The issues presented are (1) whether there was evidence in the record that Pearce provided information from which the BZA could



consider the impact of the planned conference/meeting room on parking and traffic;¹ and (2) whether there was evidence in the record that Pearce provided information from which the BZA could consider parking for hotel employees and restaurant customers.

Section 54-220 of the City's Zoning Ordinance governs the BZA's authority to grant special exceptions for accommodation uses. To grant a special exception for a hotel, the ordinance requires the BZA to make various findings. Section 54-220 b.1.(f) provides that, in making these findings, the BZA consider certain information provided by the applicant relating to the impact of the hotel's accessory uses (such as conference facilities and restaurants) on parking and traffic and relating to parking for employees:

[I]n making these findings, the Board of Zoning Appeals shall consider the following information to be provided by the applicant in site plans, floor plans, building elevations, and a detailed written assessment report to be submitted with the application:

...
(7) the accessory uses proposed for the facility in terms of size, impact on parking, and impact on traffic generation;

...
(13) the long term provision of on- or off-site parking for employees who drive vehicles to work.

B. Evidence Concerning the Conference/Meeting Room

Pearce submitted its initial application for the special exception in November 2016. The BZA conducted hearings on the application on December 20, 2016 and January 17, 2017. Both times, the BZA deferred action over concerns about the cumulative impact on traffic in the Ansonborough neighborhood from Pearce's proposed hotel and two other recently approved hotels

¹ Pearce contends that East Bay did not appeal the issue of the conference/meeting room's impact on traffic since its Petition refers only to its impact on parking. See Petition, para. 15C. *Austin v. Board of Zoning Appeals*, 362 S.C. 29, 606 S.E.2d 209 (Ct. App. 2004) (written petition must "set[] forth plainly, fully and distinctly why the decision is contrary to law" and statute makes no provision for amendment of the grounds set forth in the petition). However, since the Court concludes there was evidence for the BZA to consider about the conference/meeting room's impact on traffic, it need not reach this issue.

in the same two-block area. In deferring action the second time, the BZA specifically suggested that Pearce's traffic engineer and the City engineer consider ways to mitigate traffic in the Ansonborough neighborhood.

The third BZA hearing occurred on July 18, 2017. In advance of the hearing, Pearce submitted a revised site plan, floor plans and detailed written assessment as well as a Traffic Impact Analysis from Bihl Engineering, LLC based on these revised plans. The revisions moved the hotel entrance, lobby and valet service off North Market Street to Guignard Street with vehicular access to and from East Bay Street only. The revised plans also clearly showed a conference/meeting room measuring 4,438 square feet on the second floor of the existing, historic building at 36 North Market Street that was proposed to be renovated as part of the overall project.

The BZA unanimously approved the special exception at this third hearing with two conditions: "1) no access to conference room from Market Street; 2) mandatory right turn on Guignard for leaving hotel." The fact that the BZA placed a condition on its approval of the hotel disallowing access to the conference room from North Market Street is clear evidence that the BZA considered its impact on traffic. The reason for this condition was to prevent vehicles from delivering people attending events in the conference space on North Market Street and proceeding to turn right onto Anson Street and venturing into the Ansonborough neighborhood. Both conditions furthered the purpose of the ordinance to avoid negative impacts in residential neighborhoods by preventing traffic associated with the conference facility from entering Ansonborough.

Further, the record contains additional evidence that there was information presented for the BZA to consider concerning the conference/meeting room. There is evidence in the record that, at the July 18, 2017 hearing, the existence of the conference space was brought to the BZA's

attention in several ways: City staff member Lee Batchelder noted the second floor of the 36 North Market Street building was shown as conference space; Pearce's architect, Eddie Bello, reviewed the plans with the BZA and noted the conference/meeting room, which was clearly shown in the plans; and in opposing the special exception, East Bay's lawyer told the BZA that traffic and parking related to the conference facility was one of their "main concerns." The record demonstrates that the BZA was aware of the conference facility and considered it in conjunction with the required factors under the Zoning Ordinance.²

There was also evidence presented to the BZA that traffic and associated parking for the hotel project, which necessarily included the conference room, would not have a material impact on the surrounding area: the proposed project would displace two large existing restaurants/bars on the property having little or no parking and substitute three smaller restaurant spaces plus the conference/meeting room, which combined had approximately the same square footage as the two restaurants being displaced; the plans provided for parking well in excess of the required number of spaces for a 50-room hotel; and the new restaurants would be expected to cater primarily to pedestrian traffic and hotel guests with no material impact on parking or traffic. Further, Pearce submitted a traffic study, which projected traffic impacts on the surrounding area and concluded that no traffic from the hotel would be expected to travel through Ansonborough. There was no conflicting expert testimony on traffic presented to the BZA. As such, there was evidence before the BZA relating to traffic associated with the conference/meeting room.

C. Evidence Concerning Parking for Employees and Restaurant Customers

² The BZA does not operate in a vacuum. It is common knowledge that numerous hotels in downtown Charleston have conference and event facilities as large as or larger than the room in Pearce's plans, and the BZA regularly considers applications for hotel projects that include conference and event facilities.

The Zoning Ordinance requires the BZA to consider information concerning "long term provision of on- or off-site parking *for employees who drive vehicles to work.*" (emphasis added). By its terms, the Ordinance presumes that not all employees will drive to work. Pearce's application addressed employee parking, and there was evidence before the BZA from which it could have appropriately concluded that there would be adequate on- or off-site parking for employees who drive to work.

First, the hotel plans provided an additional 16 parking spaces above the required minimum, some of which could be used by management employees. Second, there was evidence that employees could use, and Pearce would encourage them to use, easily accessible CARTA bus service and on-site bicycle storage. Third, the final hotel plans reduced the number of employees needed on site by significantly decreasing the total restaurant space present on these three parcels, restaurants being the most employee-intensive use. Fourth, the architect, Eddie Bello, described to the BZA the number of parking spaces being provided, the valet parking system, and the flow of traffic into and out of the parking garage. The BZA acknowledged the parking specifically when it imposed the second condition requiring a right turn only out of the parking area onto Guignard Street.

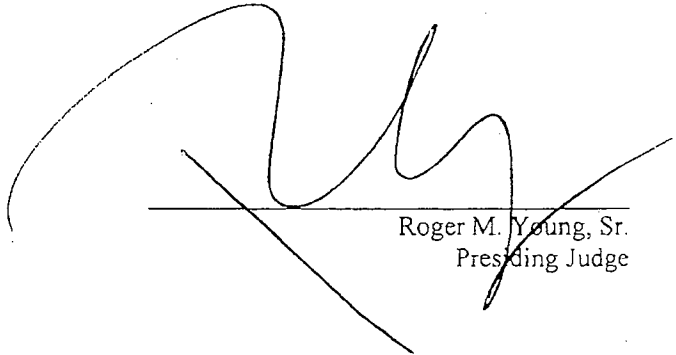
The evidence cited above also demonstrates that the BZA considered information concerning parking for restaurant customers. Moreover, evidence was presented to the BZA regarding the absence of parking for the existing restaurants occupying the property, the reduction in restaurant space with the new hotel project, and the additional parking spaces being provided above the minimum required under the zoning ordinance. In addition, there was evidence that the restaurants were clustered along pedestrian friendly North Market Street and could be expected to be frequented by customers on foot.

CONCLUSION

Under the law, the Court must affirm the BZA's decision unless there is no evidence to support it. In this case, there is evidence in the record which supports the decision to approve the special exception for the hotel project. It appears from the record that the BZA carefully considered the issues and did not act in an arbitrary or capricious manner or abuse its discretion in rendering the decision. Now, therefore, it is

ORDERED that the decision of the BZA is hereby affirmed and the appeal is dismissed.

AND IT IS SO ORDERED.



Roger M. Young, Sr.
Presiding Judge

Charleston, SC
May 7, 2018

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Roger M. Young, Circuit Court Judge

Case No. 17-CP-10-4212

FILED
2018 MAY 11 PM 3:09
JULIE S. BROWN
CLERK OF COURT

241-243 E. Bay Holdings, LLC, ...Appellant,

v.

The City of Charleston, The City of Charleston Board of Zoning Appeals - Zoning,
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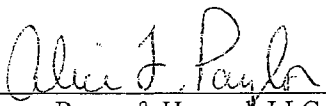
PROOF OF SERVICE

I certify that I have served the Notice of Appeal on Respondents The City of Charleston, The City of Charleston Board of Zoning Appeals - Zoning and Apex Real Property, LLC by depositing a copy of it in the United States Mail, postage prepaid on May 11, 2018, addressed to attorneys of record as follows:

Daniel S. McQueeney, Jr., Esquire
50 Broad Street
Charleston, SC 29401

Charles J Baker, III, Esq.
Womble Carlyle Sandridge & Rice, LLP
5 Exchange St. (29401)
P.O. Box 999
Charleston, SC 29402

May 11, 2018



Rosen, Rosen & Hagood, LLC
Alice F. Paylor
P.O. Box 893
Charleston, SC 29402
(843) 266-8105
Attorney for Appellant

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF CHARLESTON) Court of Common Pleas
3) Case No. 2017-CP-10-4212
4 241-243 EAST BAY HOLDINGS, LLC,)
5 Plaintiff,)
6 vs.) Transcript of Record
7 THE CITY OF CHARLESTON,)
8 Defendant.) DATE: April 16, 2018
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B E F O R E:

THE HONORABLE ROGER M. YOUNG, SR.

A P P E A R A N C E:

ALICE F. PAYLOR
Attorney for the Plaintiff

DANIEL SIMMONS MCQUEENEY, JR.
Attorney for the Defendant

CHARLES J. BAKER III
Attorney for Pearce Development

Karen V. Andersen, RMR, CRR
Circuit Court Reporter

INDEX

EXHIBITS

Exhibit	Description	Identification	Evidence
D-1	Map of 235 East Bay Street	39	
D-2	Map of 235 East Bay Street page 2	39	
D-3	Transcript from audio tape of 1/16/18 zoning board meeting	39	
D-4	Trip general manual	39	

1 THE COURT: We got an appeal from a zoning board.
2 Doesn't get more exciting than that. Who is going first?

3 MS. PAYLOR: It's my appeal, Your Honor.

4 THE COURT: Let me ask you this. Does yours boil
5 down to, they snuck by adding a conference room in here at
6 the last minute; the board didn't consider that? Is that
7 really what it boils down to?

8 MS. PAYLOR: That's pretty close.

9 THE COURT: That's kind of what I picked up.

10 MS. PAYLOR: Yes. I think that's exactly what
11 happened, because Mr. Wilson had already submitted --
12 apparently, had already submitted his written assessment and
13 then they changed the plans. Because in the record, the
14 plans are dated the same day, June 19. And I don't know if
15 that's when they were drawn. But, I mean, we didn't know
16 there was one until we saw everything that had been
17 submitted, that there was one.

18 And if you've got questions, I'll be happy to
19 answer them, if you want us to go over where we are.

20 THE COURT: I wanted to see if I read that
21 correctly. That's 95 percent of your argument at least?

22 MS. PAYLOR: That's pretty much a big -- that's the
23 biggest part. You've come to the heart.

24 THE COURT: That's why I get paid the big bucks.

25 MS. PAYLOR: I'm Alice Paylor, for the record. And

1 I'm representing 241-243 East Bay Holdings, LLC. And with
2 me is Ty Hanlan, who is the owner of that company. And this
3 is the street layout involved. This is East Bay Street
4 right here. This is Mr. Hanlan's property right here. So
5 he's right across the street from where this hotel
6 development is proposed to go.

7 Part of the hotel development is this building,
8 which used to be Wild Wings. Although I have to say, I
9 never went in there.

10 Is that right on this corner down here; right
11 there?

12 MR. BAKER: That's correct

13 THE COURT: That's Market that's in front of it?

14 MS. PAYLOR: Yes, this is Market Street here. So
15 the proposal was to build a 50-room hotel on basically that
16 space there. And my client's property is here. And he does
17 have some parking areas, two condos in there. And he's
18 also -- he was trying to sell them, but he couldn't. So
19 he's now doing rentals, long-term rentals in accordance with
20 the city zoning ordinance. And his first floor is kind of
21 up in the air on its use at the moment.

22 So the question that we've raised, Your Honor, is
23 that to get a special exception, you have to meet certain
24 requirements. And they are laid out in the zoning
25 ordinance. This is a special zoning district called

1 accommodations overlay district. So not everybody will be
2 allowed to put a 50-room hotel on their property. They have
3 to meet certain requirements.

4 Pearce Development -- and I'm going call it that,
5 it's got different names in there, but I think Pearce
6 Development now own it.

7 MR. BAKER: Yes, Your Honor. Chuck Baker for
8 Pearce Development. We went through a name change. It was
9 called Apex Real Property. It's now Pearce Development.
10 It's the same company, different name.

11 THE COURT: It's not any relationship to Carl
12 Pierce, the lawyer?

13 MR. BAKER: No, P-e-a-r-c-e.

14 THE COURT: I was worried about that, because I
15 don't like to do things that involve local lawyers,
16 especially if I know them real well. I was reading through
17 it. I didn't see Carl's involvement.

18 MS. PAYLOR: Carl spells his name differently too,
19 so...

20 THE COURT: I guess I don't know him as well as I
21 thought I did.

22 MS. PAYLOR: We don't know whether that was good or
23 bad for you, but there you go.

24 Initially, Pearce Development brought an
25 application in. They filed one in November of 2016. And

1 that application did not contain this conference hall, event
2 space, whatever you want to call it. And that one got
3 deferred because the BZA had many concerns about traffic.
4 And just as background, because they discussed it at the
5 hearing, there are -- there's another hotel that's approved
6 for this property. And hotels are going up everywhere. But
7 there was definitely one approved on this property and then
8 one over across Market Street on the other side.

9 So they were concerned about the traffic impacts on
10 Ansonborough, which is all right in here, very close to
11 where this hotel is going. So they came back for a hearing
12 on January 17th of 2017, and the board again deferred it.
13 They did not grant the application. And at that time, they
14 didn't have the convention space. What they had was -- they
15 went through different iterations with a bar on the top and
16 a restaurant and that type of thing.

17 So where we are now is, on June 19, 2017, Pearce
18 submitted a revised application. And he had a new traffic
19 study that was dated June 20th. And in there -- it's not on
20 any of these, but there was a mention of a convention or a
21 conference/meeting room. And it was on the plans. That was
22 the only place it was ever mentioned. And it was going to
23 be in this second floor of what was Wild Wings. And
24 underneath it was retail and restaurant space. And then it
25 was going to be connected to the rest of the hotel by a

1 space here.

2 So the only mention in the application was on the
3 site plan that was presented. And it was on -- it's in the
4 record on appeal. It's at page 353. There's no mention of
5 the event space, conference facility, whatever you want to
6 call it in the written assessment that Mr. Wilson presented
7 with the application.

8 The board of zoning appeals heard the matter,
9 including there were presentations by the City through their
10 zoning administrator, by Mr. Wilson on behalf of Pearce
11 Development, and I was there on behalf of Mr. Hanlan's
12 property. The only mention at that hearing was they didn't
13 want the entrance to the event space to be off of Market
14 Street. So they agreed. And that was one of the conditions
15 of the approval of the special exception.

16 THE COURT: Well, if they didn't want the entrance
17 to the event space to be on Market Street, they had to know
18 about it.

19 MS. PAYLOR: That might have been part of what they
20 were trying to do, but --

21 THE COURT: If they didn't know about it, why would
22 they have said make the entrance somewhere else?

23 MS. PAYLOR: Well, they knew about it, because it
24 was on the site plan. And the architect, when he went
25 through it, did say -- and this was new. It had not been on

1 any of the previous plans. But there was never any
2 discussion of where these patrons, which could be up to 180
3 people, where they were going to park.

4 As a matter of fact, the board asked Mr. Wilson a
5 question -- and I will admit that he says he didn't recall
6 answering it in the way that I wrote it down that he
7 answered it -- whether or not they were going to let people
8 who were not patrons of the hotel park in the garage. And I
9 heard him say no, you had to be a patron of the hotel to
10 park in the garage, which means -- and there's no parking
11 for anybody who's using this space who's not staying at the
12 hotel. So with 180 people coming in, there are only 50
13 rooms, there are going to be other people.

14 If this were a standalone event space, requires 29
15 parking spaces. They are not -- they have provided nine for
16 that.

17 If you look at the written assessment, the
18 ordinance says that it's required to assess the impact of
19 accessory uses on the parking and traffic. It doesn't
20 mention this accessory use. Talks about the restaurants,
21 that they've been diminished. Well, they were diminished
22 mainly because they put in this conference facility, which,
23 as we know in Charleston, is a big use. People rent them
24 all the time for weddings and everything else.

25 There is absolutely no evidence in this record,

1 other than that one statement on the site plan, that there's
2 a conference room, meeting room, whatever they want to call
3 it, on that second floor. And it's 4,438 square feet.
4 There's no impact -- there's no discussion anywhere of the
5 impact of those people on parking. There's no impact on
6 whether, you know, they can park over here if they had to.
7 Because all of this is going to be the hotel. And they've
8 got, you know, one floor of parking there.

9 So it's -- they just failed to live up to the
10 requirements of the zoning ordinance to get a special
11 exception, because they did not, in their written
12 assessment, present a detailed written assessment of the
13 accessory uses proposed for the facility in terms of the
14 size, impact on parking and impact on traffic generation.

15 There's no mention in their traffic study of the
16 conference center, meeting room, event space, whatever you
17 want to call it. The only mention, they do mention the
18 restaurants and bars as tangential uses and that those are
19 actually being smaller, but there's never any mention of
20 this event space.

21 In fact, the attached written assessment doesn't
22 even mention the conference room. I think -- I don't think
23 Mr. Wilson knew that they had put that in when he prepared
24 it. That's my assumption. Of course, I don't know that.

25 Their brief states that there was evidence before

1 the BZA from which it could have appropriately concluded
2 that the accessory uses for restaurant and conference
3 meeting space would have a negligible impact, if any, on
4 parking in the area surrounding the proposed hotel. There
5 was no evidence in the traffic survey or in the BZA's
6 discussion of traffic for parking that any consideration was
7 given to the conference meeting room other than requiring
8 that it not have an entrance on North Market Street.

9 Well, if there's no entrance on North Market
10 Street, it's going to have to be on Rafers Alley, which is
11 the tiniest, very narrow street, if you are familiar with
12 that, because the hotel is going to be back over there.

13 And so I think there's clearly been a failure to
14 address the parking and the traffic generated by the
15 conference meeting room. And we are asking that you remand
16 it back to BZA to consider that properly.

17 There has been an event, which I know it's not in
18 the record, but it just shows what an impact something like
19 this could have, because this is getting ready to open, just
20 this. There's no hotel. The rest of it still looks like
21 this. And they are providing no parking because there was
22 no parking requirement, I guess, associated with that. And
23 my understanding is that you need 29 spaces for a conference
24 room facility that is 4,438 square feet like this one is.

25 We have a smaller issue that we added, in that

1 Pearce failed to adequately address parking to be generated
2 by employees, as well as the conference room, restaurants
3 and bars to be located in the development. And they say --
4 we just think that's another issue that wasn't appropriately
5 addressed, because it said that their garage would not be
6 open to patrons who were not staying at the hotel.

7 So for all of these reasons, Your Honor, we ask
8 that you reverse it and remand it to the BZA so that it can
9 consider the information that was not provided about these
10 accessory uses. Thank you, Your Honor.

11 THE COURT: Mr. Baker, you doing this?

12 MR. BAKER: Yes, sir. Judge, thanks for working us
13 in today to hear this. We've been waiting a long time for a
14 hearing. This is simply not a situation where there's any
15 hide the ball on this conference space at all. As Ms.
16 Paylor pointed out, it's replete in her affidavit and the
17 record, pages 442 to 445, that the conference space was
18 noted on the site plan.

19 And what the ordinance requires is that in making
20 the findings -- and just to be clear, there's no requirement
21 for extra parking for something like the conference
22 room/meeting space that's affiliated with the hotel.
23 There's no requirement that there be extra parking. Here we
24 have 16 spaces more than the required parking for the hotel
25 and all its uses that go with the hotel.

1 And I will get to that in a minute. But what the
2 ordinance requires is that information to be provided by the
3 applicant is: Site plans, floor plans, building elevations
4 and a detailed written assessment report. As I understand
5 what Ms. Paylor is arguing on behalf of her client is that,
6 because we didn't mention the conference center in one of
7 those four or five things, that we are, therefore, out.

8 I read the end as saying, within all of these
9 things, the site plan, the written assessment, the floor
10 plans, that information has got to be provided. And so we
11 clearly in the site plan called out the conference/meeting
12 space. And why that's important -- and she admits that as
13 much in her affidavit, because as Your Honor may have read,
14 we had to reconstruct the record.

15 This was actually approved back in July of 2017,
16 but the recording machinery for the city malfunctioned. And
17 we had to go back and -- we had two more hearings, one to
18 figure out how to reconstruct the record, and then going
19 back before the BZA. And we did all that.

20 Here we are a year and a half after the application
21 trying to come back and get approval so we can move forward.

22 And so back to some context. Actually, my client,
23 back in 2013, had approval with no appeals for a 36-room
24 hotel here. They wanted to increase it to 50 rooms, because
25 of the Molly Darcy's property lot. So increased it to 50

1 rooms and had to submit a new application for that in
2 November of 2016.

3 But, of course, to give Your Honor some
4 perspective, we were just adding 14 rooms to something that
5 had already been approved with no appeals at all. Be that
6 as it may, we had three hearings over eight months.

7 THE COURT: The conference room had already been a
8 part of it?

9 MR. BAKER: What is true is that the conference
10 room wasn't part of the facility until the last hearing.
11 But it was presented in a site plan for the last hearing.
12 It was discussed at the hearing. And as Your Honor pointed
13 out, the very best evidence we got, there was evidence of it
14 and that the board considered it, the BZA considered it.
15 They put in a condition based on it that there be no access
16 off of Market Street for the conference/meeting room. And
17 that was -- can only be because they were concerned about
18 traffic and parking on Market Street and wanted to shift it.

19 And let me say one thing about this idea brought up
20 by Ms. Paylor that somehow the traffic study was done first
21 and didn't know there was a conference facility. That is
22 not the case. The whole reason -- the plan was redone. As
23 she pointed out, you have Anson Street over here. Their
24 major concern for a year and a half was that if -- when we
25 had the lobby to the hotel first on Market Street, their

1 concern is, when the valets gave people back their cars
2 there to park at the hotel, they take up and go up Anson
3 Street into Ansonborough. And that is one of the factors
4 that the board has to find, is that they are not a
5 substantial impact on traffic in residential neighbors. So
6 they were very concerned about traffic going up Anson
7 Street.

8 So what we did, after two hearings, in preparation
9 for the third hearing in July 2017, is we moved the lobby,
10 which had previously been in this space, the old Wild Wings
11 space on Market Street, and we moved it over. And Molly
12 Darcy's here is torn down now. It's a vacant lot now. The
13 hotel is -- we do a little L, like that. And we moved the
14 lobby over here to the plans so that all the traffic would
15 be coming off East Bay and the parking would come in there.
16 And the valet would take your car here and give you back
17 your car here. And you just go back and get on East Bay.
18 And the people leaving the hotel would never travel up
19 Anson.

20 And because Guignard, strictly speaking, is
21 two-way, they added that second condition that there be a
22 right-turn only out of the parking. So if you visualize
23 that, everything is coming and going here. And that was a
24 concern.

25 But the traffic study notes that there's no --

1 going to be no traffic going up Anson, because the lobby and
2 parking was rearranged. So that the traffic study
3 necessarily understood what the new plan was. And the new
4 plan called for the conference room -- it's called
5 conference/meeting room.

6 And, Your Honor, if I may approach, this is in the
7 record, but it's hard to read in the record. This is page
8 351 and 353 from the record, just blown up so you can
9 actually read it. May I approach?

10 THE COURT: Ah-huh.

11 MR. BAKER: This is the first floor. This is the
12 second floor. And that's where the restaurant/retail are.
13 And then you've got the access to the conference room, which
14 is on the second floor. It's called conference/meeting
15 room. And that door shown there is what they did the
16 condition -- no access from Market Street.

17 So that's just by way of background, Your Honor.
18 But as you noted, they approved it based on no access off
19 Market Street, which, to us, in itself, shows that the board
20 did -- there was evidence before it about the conference
21 room/meeting room, and they did consider it and put in a
22 condition based on it.

23 As Your Honor knows, your standard of review, in
24 order to remand this thing, you've got to find that there's
25 no evidence to support the decision, there was no evidence

1 before the Board to support the decision. Your Honor under
2 the law is not supposed to substitute your own judgment,
3 even if you think they made a bad decision on it. The
4 question is whether there's any evidence. And you would
5 have to find there's no evidence. We believe there is
6 evidence.

7 As Ms. Paylor said, she's narrowed her appeal to
8 two issues: One being where there was any evidence
9 presented of the impact of this conference/meeting room; and
10 two, whether there was any evidence presented of the impact
11 on parking for employees and the restaurants. And I will
12 get that out in a second. We believe these were clearly
13 raised and discussed. And there was evidence from which the
14 board could consider it. Their position is really not that
15 there was no evidence, but that there was insufficient
16 evidence. And that is not the standard.

17 I'm going to take the second issue first, because I
18 think that's a little bit easier to address. That is
19 whether -- and I'm going to read you the sections of the
20 ordinance that are applicable. What the board is supposed
21 to consider -- they make findings. And the findings in
22 terms of traffic relate to whether the location of the
23 facility significantly increased automobile traffic on
24 streets within residential neighbors.

25 And in making that finding, they are supposed to

1 consider certain things. They are supposed to consider the
2 long-term provision -- one of the things they are supposed
3 to consider is the long-term provision of on-site or
4 off-site parking for employees who drive vehicles to work.
5 There's no requirement that they make a finding that there
6 are extra spaces for employees or anything like that.

7 In the record, in our application on -- in the
8 record at page 275 -- and I don't know if Your Honor wants
9 to go to the record now or you will do that --

10 THE COURT: I read it. I memorized it.

11 MR. BAKER: In the record on page 275, that's the
12 application prior to the July 2017 hearing where it was
13 approved, and on page 275, in item 13, we say -- this is
14 item 13, is whether there's long-term provision, the
15 consideration of long-term provision for on- or off-site
16 parking for employees who drive vehicles to work.

17 We say right on the record -- it's in the
18 application that the property has parking spaces in excess
19 of the required number and significantly more than would be
20 expected to be used by hotel guests. Early in the
21 application, we already established that as 16 extra. It
22 requires 34 and we have 50 spaces, leaving additional spaces
23 for some employees. So we address -- at least one point,
24 there's evidence in the record in our application that there
25 was parking for employees, or that was considered.

1 We also said the convenient location of Carta bus
2 service should encourage more employees to use public
3 transportation. And bicycle storage will be provided to
4 hotel employees to encourage bicycle use.

5 So we addressed those employees who might drive
6 vehicles to work. We've addressed parking for them. So
7 there is evidence in the record from which the Court could
8 have -- the BZA considered and found that there was some
9 evidence of that. There's not the case that there's no
10 evidence, such as the Court could remand on that basis.
11 There's a lot of double negatives in that, but I hope you
12 get what I mean.

13 In terms of the restaurants, on page 274, again, in
14 the application before the July 2017 meeting, under item 7,
15 that's the accessory uses proposed for the facility in terms
16 of size, impact on parking, and impact on traffic
17 generation. That has to be a consideration. There has to
18 be evidence presented of that and the board considers it in
19 making its findings. Again, there's no requirement that
20 there be X number of spaces extra for a restaurant. There
21 just simply isn't that's affiliated with this hotel. And
22 what we said on page 274 of the record, under 87, that the
23 ancillary uses are compatible with previous and existing
24 uses. The property currently has two large restaurants and
25 bars. One was Wild Wings. One was Molly Darcy's, often

1 with live entertainment and with little or no parking. The
2 proposed project reduces the restaurant and bar use by
3 approximately 5,000 square feet.

4 So right there -- I could go on. We say more, but
5 right there, there's evidence from which the board can find
6 there would be no impact on parking on these restaurants
7 because this would be less spacing. That's just commonsense
8 conclusion from that.

9 In addition, we provide extra parking spaces in
10 excess of the required parking. So we say that again. That
11 is more evidence. The ancillary retail uses are expected to
12 cater primarily to pedestrian visitor traffic. And hotel
13 guests are not expected to materially impact parking or
14 traffic. The project's restaurants replacing two large
15 existing restaurants should only reduce existing parking and
16 traffic impact.

17 That was the evidence in the record and which the
18 board heard and necessarily considered in making their
19 findings. So as to that issue too, we think it's clear.

20 In addition, my law partner, James Wilson's
21 affidavit, in the record page 438 to 439, that's how the
22 board required us to reconstruct the record as Mr. Wilson,
23 Ms. Paylor did affidavits stating what they had presented
24 back in July. The board was presented with those in January
25 of 2018.

1 As Mr. Krawcheck -- you know Lenny Krawcheck. He's
2 the chair of the BZA, long-term real estate lawyer. He said
3 on pages 459 and 460 of the record that the only real issue
4 previously had been this traffic on Anson Street. And that
5 all other prongs of the test required under this ordinance
6 had been met in what he would call a "slam dunk".

7 The other argument they make relates to this
8 conference center. As I hopefully demonstrated to Your
9 Honor earlier, it was plainly in our -- in the site plan.
10 This part of the application process, you know, it's not one
11 thing and then another. It all gets submitted together.
12 There was evidence presented.

13 I also note this, Your Honor. We feel like this
14 appeal is limited to the impact on parking only, because if
15 you look at the petition, which acts as the notice of
16 appeal, if you will, as it would from this Court to the
17 Court of Appeals, in paragraph 15C, all it mentions is
18 conference center and parking. It doesn't say anything
19 about traffic in 15C.

20 I will address traffic, but we think that that was
21 not appealed in terms of affect on traffic. And affect on
22 parking is the only thing.

23 That being said, as Ms. Paylor said in her
24 affidavit, again, that's record 442 to 445 and paragraph 8,
25 her main concern that she raised to the board: The main

1 concerns that I presented were the large bar facilities and
2 the newly added conference center, which had not been
3 addressed at all in the written submission of the applicant,
4 was addressed in the site plans.

5 There were questions by board member Margaret
6 Smith. And she recollected her questions to be page 457 and
7 458. She was the one that brought up no access to the
8 facility from Market Street because of her concern about
9 traffic and parking if people were being let off in cars on
10 Market Street to access the conference meeting room.

11 Mr. Batchelder, who is with the staff -- and I
12 might mention this, Your Honor. The city staff from day
13 one, from back in November of 2016, recommended approval of
14 this. They are the experts. They are the first ones to
15 point out -- you know, covered one of the points in your
16 application and your site plan. And from day one, they
17 approved it. It was the board who was hesitant about the
18 traffic on Anson Street. Nobody -- then when we redid it to
19 have the conference center on Market Street, they approved
20 it again. So the staff felt that we had covered all the
21 points and there was evidence in the record that we had
22 submitted.

23 But, so Mr. Batchelder, who is the head staff
24 member in the record on page 387, he noted the conference
25 center. Mr. Wilson noted it. And in his affidavit that he

1 submitted later says he noted it.

2 In his affidavit, Mr. -- well, Mr. Bello's
3 plans -- Eddie Bello was an architect who drew the plans
4 that I handed you. His plans show it. And that's in the
5 record at page 353.

6 Mr. Bello's testimony, he referenced the conference
7 center, meeting room. And that was on -- that was actually
8 in Mr. Wilson's affidavit, record page 436. As I mentioned,
9 the BZA member Ms. Smith, asked about it.

10 In addition, the traffic study did address by
11 necessary implication the conference room. On the record on
12 page 292, which was part of -- our traffic engineer is --
13 was a company called Bihl Engineering, LLC. They do a lot
14 of traffic studies for presentation to the city. And Ms.
15 Jennifer Bihl, on record page 292, she notes that the
16 traffic generation portion of her report is based on the
17 Institute of Transportation Engineers' trip generation,
18 ninth edition, ITE.

19 And land use code they are using for the hotel is
20 310. And I ask Your Honor to take -- and I've given a copy
21 to Ms. Paylor, take judicial notice.

22 MS. PAYLOR: This wasn't presented to the board of
23 zoning. They weren't given that.

24 MR. BAKER: It's referenced in her traffic report.
25 May I approach?

1 THE COURT: Ah-huh.

2 MR. BAKER: So this is the ninth edition. And this
3 is referenced again on page 292 of the record in her report.
4 And on the second page, you can see land use 310. It says:
5 Hotels are places of lodging that provides sleeping
6 accommodation and supporting facilities, such as
7 restaurants, cocktail lounges, meeting and banquet rooms or
8 convention facilities, limited recreational facilities and
9 other retail and service shops.

10 So it's our position that the BZA doesn't operate
11 in a vacuum, Your Honor. They do this all the time. They
12 receive these traffic studies. And they know that these
13 type of meeting facilities are part of a hotel. So this was
14 included in the traffic study, any impacts on traffic and
15 parking of this convention -- I call it convention. It's
16 called a conference meeting room.

17 Ms. Paylor has brought up what we are doing with it
18 now. Well, we can't build our hotel because Mr. Hanlan, who
19 controls the petitioner, is appealing this. So we are
20 making some use of our property while we can.

21 In addition, Ms. Bihl testified in the January
22 hearing that she had mentioned it back in the July 2018.

23 And this gets a little complicated. So please
24 follow me because we had to reconstruct the record. But
25 when we met, when we appeared before the board of zoning

1 appeals in January of this year to re -- present the
2 reconstructed record, there was, of course, the normal
3 recording from the BZA. And I think there was -- Ms. Paylor
4 had a court reporter present who was taking transcription.
5 The last thing in this record, I believe right near the end,
6 is a -- second-to-last thing, is a transcript done from the
7 recording that Mr. McQueeney, on behalf of the city, had
8 done.

9 We also -- we didn't supplement it with the --
10 because with Ms. Paylor's transcript from her court reporter
11 who was there present, because we didn't notice a
12 discrepancy until Mr. Wilson pointed it out to me yesterday
13 or today, I would like to supplement the record with the
14 transcript. Because in the recorded transcript, it cuts off
15 Ms. Bihl. And the court reporter who was there actually has
16 more of her testimony. Ms. Bihl clearly said in this
17 transcript from the court reporter Ms. Paylor hired, on
18 pages 17 and 18, that the trip generation in her report used
19 industry standard knowledge so it includes the facilities
20 associated with the hotel.

21 I would like to hand this up to the Court and
22 supplement the record with it.

23 THE COURT: I didn't have time to memorize that
24 part now.

25 MR. BAKER: Well, I don't see how you could have.

1 It's a pretty easy read. It's on pages 17 and 18.

2 So just to sum up, Your Honor, there was plenty of
3 evidence -- we didn't hide any balls. The conference
4 room/meeting space, which is a normal part of hotels, was
5 clearly mentioned in the site plan. It was discussed at the
6 July 2017 hearing. A condition to the approval was put in
7 based on it. There was nobody hiding anything.

8 And, Your Honor, as I said before, the BZA doesn't
9 operate in a vacuum. If you look at any hotel in the
10 area -- and this is argument, I am not supplementing the
11 record -- the Market Pavilion Hotel right up the street from
12 where this is going, they've got conference facilities.
13 They boast conference facilities for weddings and corporate
14 functions of 3,000 square feet.

15 The Doubletree over there on Church Street across
16 from old First Baptist parking lot, they've got 10,000
17 square feet of ballroom space for events.

18 The Grand Bohemian has over 10,000, can accommodate
19 700 people.

20 I mean, it's common knowledge to the members of the
21 BZA that these conference facilities are going to be there;
22 not to mention Charleston Place, which has over 20,000
23 square feet.

24 It's not a test. There's evidence that conference
25 center/meeting room was addressed by the board, was

1 considered. And there was evidence, some evidence, you
2 might -- they might disagree it was sufficient evidence, but
3 the question is whether there was any evidence, and there
4 was evidence. The board necessarily considered it.

5 And we would ask Your Honor to affirm the decision
6 of the board of zoning and appeals. I would be happy to
7 answer any questions you have.

8 THE COURT: Ms. Paylor, would you like to respond
9 to anything?

10 MR. McQUEENEY: Your Honor, my name is Jim
11 McQueeney. I'm with the City of Charleston. If I can just
12 say couple of things quickly.

13 THE COURT: Sure.

14 MR. McQUEENEY: I did prepare a brief I would like
15 to tender up. But if Your Honor won't accept it, I can
16 certainly --

17 THE COURT: Why don't you tell me what's in it.

18 MR. McQUEENEY: It's just a response to the
19 petitioner's brief.

20 THE COURT: I am ready to rule. But if you want me
21 to read it, we will have to take a break. You just tell me
22 what's in it.

23 MR. McQUEENEY: I prefer to follow the record, just
24 because there were several different things. But I will
25 just go through it. That's fine.

1 Just in case there's an appeal, I do want to just
2 proffer these. I would like them on the record. If Your
3 Honor is denying they be on the record, then that's fine.
4 But if either part of it is appealed -- you are not
5 accepting these?

6 THE COURT: Your brief?

7 MR. McQUEENEY: Yes, sir.

8 THE COURT: You can put it in the record.

9 MR. McQUEENEY: Do I have to read it?

10 THE COURT: I just want you to tell me what your
11 issue is. I can read. If you had handed it up to me, I
12 would have read it before, but now we are here --

13 MR. McQUEENEY: Can I hand up the written brief as
14 well?

15 THE COURT: Yeah.

16 MR. McQUEENEY: I just want to make it part of the
17 record. You never know what you miss. I apologize. I'm
18 the respondent. And petition and brief was on April 9th.
19 And I think they were due three days beforehand. I did my
20 best, but I could not get it done three days beforehand. I
21 apologize.

22 Just one quick thing, the intent behind the
23 accommodations overlay district is to protect residential
24 neighborhoods. To permit -- the reason there's a special
25 exception, and this is on page 474 of the record, Section

1 54-220(a) of the city zoning ordinance talks about how the
2 overlay zone is intended to identify those areas within the
3 city limits where accommodation uses are allowed.

4 And it continues: The city places a high value on
5 the preservation of the character of its residential
6 neighborhoods. Potential negative impacts affecting
7 residential neighborhoods shall be avoided or minimized to
8 the greatest extent possible.

9 That's the clearly expressed intent of the
10 ordinance. And I would submit that if you read the record
11 in light of the expressed intent, that the BZA clearly had
12 evidence on each of the issues in front of it, such that
13 they could make a decision with respect to each of the
14 factors designed to protect those residential neighborhoods.
15 I think that is what they did. And it sort of continues
16 through and through the record.

17 One of the ways that happened is that the BZA
18 actually deferred the application twice, in December and
19 January, December 2016 and January in 2017. Both times,
20 they demanded that the applicant go back and attempt to
21 negate any possible traffic impact on the nearby residential
22 neighborhood, which eventually happened by requiring the
23 right turn -- the condition and the special exception
24 requiring the right turn from Guignard to avoid the
25 Ansonborough neighborhood, not to turn left out of the

1 parking lot. And, again, the demands were capped by that
2 condition and the special exception.

3 The second point I wanted to make is, I think the
4 applicant extensively addressed the impact of both the
5 proposed development on both traffic and parking on the
6 residential neighborhood. And, again, I just want to stress
7 that's what it's for. We've gone through it a little bit,
8 but as far as the written assessment and the site plan, I
9 think they have to be read together as part of the entire
10 application. The site plan shows the project. The written
11 assessment addresses what the project is going to do and the
12 impacts from the project.

13 I cited in the brief several different paragraphs
14 of the written assessment that addressed in different forms,
15 because it's required and so many different factors, both
16 the traffic and the parking and its effect on residential
17 neighborhoods. And then those, what's addressed in the
18 written assessment, is actually echoed by Mr. Wilson, or was
19 echoed at the hearing by Mr. Wilson, the attorney for the
20 applicant, who went through each of those factors at the
21 hearing. And he sets forth in his affidavit what he talked
22 about.

23 There was some discussion of it being sort of a
24 surprise that this conference room was here to the BZA. I
25 think it's a great point that the BZA, actually, one of

1 their two conditions involve access to that area. But also
2 wanted to point out -- and this is in Mr. Wilson's
3 affidavit, page 436 of the record and paragraphs 12 and then
4 15C of his affidavit on page 436 and 440 -- that Eddie
5 Bello, who is the architect for the applicant, went through
6 each four of the revised plans at the BZA hearing,
7 describing, among other things, "second floor
8 conference/meeting room and the historic building on Market
9 Street which conference meeting room can be accessed from
10 second floor walkway from the hotel rooms and lobby."

11 In addition, Mr. Wilson presented traffic data
12 comparing the current trips on Anson Street with all the
13 hotels that have already been developed in this development
14 and comparing it to other streets within the City of
15 Charleston.

16 And, again, I think the main point is that the BZA
17 and the applicant focused on directing traffic, directing
18 parking away from the Ansonborough neighborhood.

19 One of the things about parking that I want to
20 point out, Mr. Hanlan, who is the owner of the petitioner in
21 this case, the LLC, objected actually two different
22 hearings. And I think Mr. Hanlan wasn't at the second
23 hearing, but he conveyed to the zoning administrator to put
24 his objection on record at the July 18, 2017, hearing that
25 he felt like the parking was too much. He felt like, and

1 this is a quote: Felt like the number of cars parked that
2 could be accommodated within that parking garage, which is
3 well in excess of the minimum required by the 50-room hotel,
4 that that increased number of spaces would just contribute
5 to more congestion on Guignard Street.

6 Mr. Wilson's affidavit reiterates that objection
7 raised by Mr. Hanlan. And now we have that there's not
8 enough parking. So I would submit that Mr. Hanlan's
9 testimony or objection actually supports the BZA's decision
10 on the parking issue in and of itself.

11 Again, going back to the focus on the
12 neighborhoods, Mr. Wilson, on page 440, paragraph 16 of his
13 affidavit, explains that Ms. Paylor, the attorney for the
14 petitioner, raised an objection, the second floor
15 conference/meeting room as shown on the revised plans and
16 what impact it might have. And then continues: The board
17 asked questions regarding the objections. And that
18 included Mr. Hanlan's objection we just discussed. And also
19 discussed among themselves various concerns.

20 And then Paylor's own affidavit, paragraph 14,
21 says: The BZA discussed the traffic issues as they impacted
22 the Ansonborough neighborhood.

23 And then she says, they didn't impact the bars --
24 or didn't discuss the impact of bars and conference room.
25 And then it's -- other than to require the patrons of the

1 conference center not access the facility off of Meeting
2 Street.

3 So it's not that they didn't address this. It's
4 that they didn't address it, I guess, as thoroughly as she
5 would have liked. But the point is, they did clearly
6 address it.

7 I did want to say, I think Mr. Baker stole my sort
8 of closing line, which I put in conclusion of my memorandum,
9 which is what Mr. Krawcheck said, the chairman of the BZA.
10 At the hearing he said, all the other factors were slam
11 dunk. But I want to emphasize what he said at the end. The
12 only real issue was that the same issue that had been giving
13 the board a hard time at the previous two hearings was the
14 same issue that had given the board a hard time at previous
15 hearings. And that was the traffic ongoing through
16 residential neighborhood in Ansonborough, end quote.

17 And, again, that tracks the purpose and intent that
18 I read at the beginning of my presentation of 54-220, which
19 is protect residential neighbors. BZA clearly did that.
20 Their decision was supported by the record evidence. And it
21 should be affirmed and the appeal dismissed.

22 Do you have any questions, Your Honor?

23 THE COURT: No.

24 Ms. Paylor, would you like to respond?

25 MS. PAYLOR: I will be very brief. I will respond

1 to the various points raised. The traffic study first,
2 record on appeal, page 296, Your Honor, says: The proposed
3 development includes -- this is a description in the traffic
4 study: -- the proposed development includes a 50-room hotel
5 and 3,229 square feet of restaurant and retail space.

6 There is absolutely no mention of a conference
7 center in what it says.

8 The record on appeal at page 274, which is the
9 applicant's written assessment, No. 7, which is on page 274,
10 the accessory uses: The ancillary uses, retail and
11 restaurant. There is no mention of a conference center or
12 anything like that.

13 Page 438 was another reference. And that was in
14 Mr. Wilson's affidavit, the same thing. Well, he says:
15 Currently, there are large restaurant and bar properties.
16 With the new project, restaurant and retail space is being
17 reduced. He doesn't talk about the convention center or the
18 conference center.

19 Mrs. Smith, she asked the question about getting --
20 dropping people off. That definitely had to do with
21 traffic. And she got it. And she wanted it to be
22 redirected. But there was never any mention on there about
23 parking for the conference center and where that would be.

24 And I believe that Mr. Hanlan's objection that they
25 had too many parking spaces in there went to the question

1 from Mrs. Smith saying, well, are you going to let anybody
2 park there who is not a hotel patron? And that's when they
3 said no. Because they were addressing that, that they were
4 going to limit it to the hotel patrons only.

5 The architect showed his plan and said, this is
6 going to be a conference room, whatever, but he didn't
7 discuss impact on traffic or on parking.

8 This land use 310 that Mr. Baker just handed up to
9 you, it says: Trip generation at a hotel may be related to
10 the presence of supporting facilities, such as convention
11 facilities. She doesn't mention it anywhere in there. And
12 this is what he says is the guiding light for that.

13 Batchelder did not mention -- he's the zoning
14 administrator. He never mentioned parking for the
15 conference center. There is absolutely no evidence
16 presented in the record about parking for the conference
17 center. And there is no discussion about it.

18 And based on that, I believe that the requirement
19 of 220(F)(7) requires that that evidence be presented. And
20 Mr. Pearce and his company did not do that, Your Honor. And
21 for that reason, it needs to be sent back in light of the
22 fact that it really requires 29 spaces just for that space
23 alone.

24 Thank you, Your Honor.

25 THE COURT: Do you want to say anything else?

1 MR. BAKER: Two real points, Your Honor. One is
2 that I think their argument is based on an erroneous reading
3 of the ordinance. As Mr. McQueeney pointed out, the reason
4 for -- this is an accommodations overlay. You are entitled
5 to a hotel as long as you can meet certain factors that
6 protect residential neighborhoods. There's no requirement
7 that there be specific located parking for the other uses
8 for the hotel, such as the restaurants or the
9 conference/meeting room. I keep calling it convention.
10 It's a conference/meeting room. It's big enough to hold, I
11 think, 250 people, not a convention of the South Carolina
12 Bar. But there's no requirement in the ordinance that there
13 be X number of parking spaces over here and you've got to
14 demonstrate that. That's just not it.

15 What they are protecting against is, they don't
16 want people dropping off people to use the conference center
17 and going in to Ansonborough and parking on the street.
18 That's what they addressed for traffic and parking purposes.
19 Traffic and parking are kind of inseparable. They go
20 hand-in-hand. You don't have any parking needs if you don't
21 have any traffic. So by getting the use of the vehicles
22 using the facility off of Anson Street, it took care of
23 that. And that's what the board recognized and based its
24 decision on.

25 And the other thing I would say is, even if we

1 reduce -- okay. You got 12,000 square feet of Wild Wing and
2 Molly Darcy's here, as is in the record, maybe five parking
3 spaces dedicated to those two places. That was all parking
4 anywhere you could. If that's 12,000 square feet and we
5 reduced the restaurant use to about 7,000, even if you add
6 the 4,300 back in for the conference space, that's still
7 under the 12,000 that was there. That, in itself, could
8 lead the board to conclude that it's a zero-sum gain in
9 terms of impact on parking and traffic.

10 So with those two points, I just think it's an
11 erroneous reading to say you've got to have specific parking
12 that you identify where those users of the conference space
13 or the restaurants are going to go. That's not the case.
14 You have to consider it in terms of the affect of
15 residential neighbors, as Mr. McQueeney for the city pointed
16 out.

17 Thank you.

18 MS. PAYLOR: Just very brief response, Your Honor.
19 Parking is required. These are nine conforming uses that
20 don't have any parking. They are closed right now. So they
21 are not generating any parking. So if you have 180 guests
22 coming in, where do you think they are going to go? They
23 are going back in here. There's no assessment anywhere of
24 where those people are going to park. And that's why it
25 needs to go back before the BZA to consider the parking

1 requirements that's required under that special exception.

2 Thank you, Your Honor.

3 MR. McQUEENEY: I would like to respond to that,
4 Your Honor, if I could. The special exception ordinance
5 doesn't, in and of itself, contain parking requirements.
6 It says you need to address parking as it affects the
7 residential neighborhoods. The underlying zoning and
8 whether or not there's a legal nonconforming use still
9 affects what the parking requirements are for the uses on
10 the property. So if there's a special exception granted,
11 that doesn't mean, you know, that you've automatically
12 complied with the parking requirements.

13 And the same with traffic, you have to go through a
14 TRC approval process for your specific plans to get a
15 traffic -- you actually have to submit a traffic study in
16 that case. Here, there's no requirement you have to provide
17 a traffic study. They did in this case. But I just want to
18 make that point.

19 There are going to be some issues, I assume,
20 raised, and I think it's in another context, I may be wrong,
21 but with respect to parking and whether things are
22 nonconforming uses and whether or not the uses meet the park
23 requirements.

24 The special exception is not a variance. It
25 doesn't waive the underlying zoning parking requirements.

1 And I think Mr. Wilson said several times in the hearing
2 transcripts, we are not seeking a parking variance. We are
3 not seeking a variance. This is a special exception. So I
4 did just want to make that point, that some of this is a
5 little bit off base for an appeal from a special exception.

6 Thank you, Your Honor.

7 THE COURT: Anyone else? All right. Well, I did
8 actually read the record. So that's good, seeing it ahead
9 of time. The downside, which is I read the record, which
10 shows you what kind of life I have.

11 You know, I don't think there's any template for
12 what an order has to say. You know, it's clear to me the
13 record shows they had information about the conference
14 center, event center, certainly at the time they made their
15 last decision on this. And they did consider it, both
16 explicitly and implicitly. They also made their decision,
17 whatever it is.

18 It's not for this Court to second guess and say,
19 oh, you made the wrong decision. You know, I would just
20 say, you know, you had Lenny Krawcheck in charge of it. I
21 think you are going to end up with a pretty good work
22 product no matter what on the -- you know, off the record,
23 you go, well, it's good enough for government work, right?
24 No. That's not what you are going to get when you get Lenny
25 Krawcheck conferences.

1 And I would just say that there's enough evidence
2 in the record to support the decision of the board of zoning
3 appeals as it was constituted. And they reviewed their
4 record. And they issued an opinion which explicitly and
5 implicitly addressed all the issues that they needed to. So
6 I will affirm the decision of the board of zoning appeals
7 and direct that Mr. Baker prepare an order. Okay?

8 MR. BAKER: Thank you, Your Honor. May I have one
9 request, please? If history teaches me anything, there will
10 likely be an appeal of your decision. And I would ask that
11 those things I handed up, if you make them court exhibits, I
12 would appreciate it.

13 THE COURT: Sure. We can make them your exhibits
14 if you want.

15 MR. BAKER: Or my exhibits. I will hand them to
16 the court reporter.

17 (Defendant's Exh. 1, Map of 235 East Bay Street,
18 page 1, was marked for identification.)

19 (Defendant's Exh. 2, Map of 235 East Bay Street,
20 page 2, was marked for identification.)

21 (Defendant's Exh. 3, Transcript from audio tape
22 of 1/16/18 zoning board meeting, was marked for
23 identification.)

24 (Defendant's Exh. 4, Trip generation manual, was
25 marked for identification.)

CERTIFICATE OF REPORTER

I, Karen V. Andersen, Registered Merit Reporter,
Certified Realtime Reporter for the State of South Carolina
at Large, do hereby certify that the foregoing transcript is
a true, accurate and complete Transcript of Record of the
proceedings.

I further certify that I am neither related to nor
counsel for any party to the cause pending or interested in
the events thereof.


Karen V. Andersen
Registered Merit Reporter
Certified Realtime Reporter

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF CHARLESTON	)	CASE NO. 2017-CP-10-4212
	)	
241-243 E. Bay Holdings, LLC,	)	
	)	
Petitioner-Appellant,	)	
	)	
v.	)	
	)	
City of Charleston; City of Charleston	)	
Board of Zoning Appeals-Zoning; Apex	)	
Real Property, LLC; and East Bay 7, LLC,	)	
	)	
Respondents.	)	

RECORD ON APPEAL

2018 FEB 15 PM 2:22
 JULIAN J. BROWN
 CLERK OF COURT
 BY 

Pursuant to section 6-29-830(A) of the South Carolina Code, the following constitutes the Record on Appeal of the above-referenced matter:

Application (11/21/2016).....	pp.1-2
Exhibit to Application.....	pp.3-8
BZA-Z Submittal (Floor Plans and Elevations) (11/14/2016).....	pp.19-19
Shook Associates (Existing Buildings).....	pp.20-24
Shook Associates (Context).....	pp.25-35
Harding Steel, Inc. Information on SUV Parking and Storage Systems.....	pp.36-45
Letter from Bihl (36 North Market Street Transportation Review) (11/20/2016)	pp.46-47
Letter in Opposition to Special Exception (12/17/2016)	pp.48-49
Property Map (12/20/2016).....	p.50
City Presentation (12/20/2016)	pp.51-77
Transcript (12/20/2016)	pp.78-147
BZA Deferral Order (12/20/2016).....	p.148
Agenda (Meeting Results)	pp.149-152

Property Map (1/17/2017).....	p.153
City Presentation (1/17/2017).....	pp.154-180
Transcript (1/17/2017).....	pp.181-264
BZA Deferral Order (1/17/2017).....	p.265
Agenda (Meeting Results)	pp.266-271
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BZA Submittal (6/19/2017)	pp.277-285
Traffic Impact Analysis (6/20/2017).....	pp.286-337
Letter Opposing Special Exception Request (7/17/2017).....	pp.338-339
E-mail opposing request (7/18/2017).....	p.340
Map of Subject Property (7/18/2017)	p.341
City's Presentation (7/18/2017).....	pp.342-363
Applicant's Presentation (7/18/2017)	pp.364-375
Transcript (7/18/2017)	pp.376-396
Agenda (Meeting Results)	pp.397-403
Order Approving Special Exception (7/18/2017).....	p.404
Remand Order	pp.405-408
Transcript (12/5/2017)	pp.409-433
Affidavit of Wilson	pp.434-441
Affidavit of Paylor	pp.442-447
Transcript (1/16/2018)	pp.448-473
Zoning Ordinance of City of Charleston, § 54-220	pp.474-476



Daniel S. ("Chip") McQueeney, Jr
S.C. Bar No. 0006802
50 Broad Street
Charleston, South Carolina 29401
Telephone: (843) 724-3730
E-mail: mcqueeneyd@charleston-sc.gov

Charleston, South Carolina

February 6, 2018



Application for Variance, Special Exception, Reconsideration, or Extension
to the Board of Zoning Appeals - Zoning (BZA-Z)

City of Charleston

Page 1 of 2

Instructions - Submit this application, along with the required information and fee, to the Permit Center at 2 George Street. Applications are due by 12 Noon on the deadline date and must be complete to be accepted and placed on an agenda. A sign will be posted on the property, and a public hearing will be conducted by the Board of Zoning Appeals - Zoning. Permits authorized by the Board cannot be issued during a five (5) business day appeal period following the decision of the Board, except for use variances, the appeal period shall be fifteen (15) calendar days. An appeal to the Board during this appeal period stays all further action on the application.

THE APPLICANT HEREBY REQUESTS:

- ☒ A Variance and/or Special Exception as indicated on page 2 of this application.
- ☐ Reconsideration of a decision of the Board or action of a zoning official (attach Appeal form).
- ☐ Extension of an unexpired Variance and/or Special Exception approval.

MEETING DATE REQUESTED: December 20, 2016

Property Address 36 N. Market, 5 Guignard, 235 E. Bay TMS # 458-05-03-041, -138, -036

Property Owner Apex Real Property, LLC and East Bay 7, LLC Daytime Phone [REDACTED]

Applicant James Wilson, Womble Carlyle Sandridge & Rice LLP Daytime Phone [REDACTED]

Applicant's Mailing Address [REDACTED]

E-mail Address [REDACTED]

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

Zoning of property GB/Accommodations Overlay

Caitlin

Information required with application: (check information submitted)

- ☒ Scaled plans or plats, including elevations, showing the variance(s) or special exception(s) being requested (3 sets)
- ☐ For new construction or additions within a flood zone, show HVAC units and platform on scaled plans
- ☐ Scaled floor plans with rooms labeled and the total floor area for each dwelling unit noted are required for all density variances and building additions, unless exempted by the Zoning staff (3 sets)
- ☒ Plans or documents necessary to show compliance with special exception requirements (3 sets)
- ☒ Check, credit card or cash (make checks payable to the City of Charleston)
- ☐ YES or ☒ NO - Is this Property restricted by any recorded covenant that is contrary to, conflicts with or prohibits the proposed land use encompassed in this permit application? § 6-29-1145 of the South Carolina Code of Laws

Optional but very helpful information:

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

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

Applicant [Signature] Date 11/21/16

For office use only			
Date application received	<u>11/21/16</u>	Fee \$ <u>1,200.00</u>	Time application received <u>10:41</u>
Staffperson	<u>[Signature]</u>		Receipt # <u>215194</u>

RECORD P.001

For **Variance** requests, applicants should list the specific variance(s) being requested and, if possible, explain how the variance test that follows is met (add as an attachment if necessary):

Variance Test: The Board of Zoning Appeals-Zoning is authorized to approve a variance from the requirements of the Zoning Ordinance when strict application of the provisions of the ordinance would result in unnecessary hardship. A variance may be granted in an individual case of unnecessary hardship if the Board makes the following findings:

1. There are extraordinary and exceptional conditions pertaining to the particular piece of property;
2. These conditions do not generally apply to other property in the vicinity;
3. Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property; and
4. The authorization of the variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance.

In granting a variance, the Board may attach to it such conditions regarding the location, character, or other features of the proposed building, structure, or use as the board may consider advisable to protect established property values in the surrounding area or to promote the public health, safety, or general welfare. (SC Code of Laws § 6-29-800)

For **Special Exception** requests, applicants should list the specific approval(s) being requested and include documentation to demonstrate compliance with the relevant special exception requirements of the Zoning Ordinance, such as § 54-110, § 54-206, or sections in Article 5 (add as an attachment if necessary):

Requesting approval pursuant to Section 54-220 for a 50 room hotel.

Please see attached description and documentation.

All approvals of the Board shall remain valid for two (2) years from the approval date, unless extended in accordance with the provisions of Article 9, Part 5 of the zoning ordinance. Applicants may not apply for the same request that has been denied by the Board until a period of six (6) months has lapsed.

Department of Planning, Preservation & Sustainability 2 George Street Charleston, South Carolina 29401
(843) 724-3781 FAX (843) 724-3772 www.charleston-sc.gov

Exhibit to Application
Board of Zoning Appeals - Zoning

RE: Request for Approval for Accommodations Use for 36 North Market Street and 235 East Bay Street, City of Charleston

The proposed hotel project includes 50 hotel rooms together with ancillary restaurant and retail uses. The combined properties are currently already approved by the Board of Zoning Appeals for a total of 36 hotel rooms (approvals obtained in 2012 and 2013), in addition to the currently existing approximately 12,000 square feet of restaurant/bar uses. The new combined project would increase the hotel rooms from 36 to 50 rooms, but at the same time the restaurant/bar space would be reduced to approximately 8,400 square feet, and the total on-site parking would increase from approximately 28 spaces to 54 spaces. We believe that the result is a better, more cohesive, and overall lower impact use of the combined property that will improve the appearance and quality of uses within the immediate area.

The following are written responses to the criteria identified in Section 54-220 for the Accommodations Overlay District for the above-referenced project:

- a) *the elimination of housing units by the proposed facility will not adversely affect the existing housing stock:* **Not applicable. No housing units currently exist on the property.**
- b) *the location of the facility will not significantly increase automobile traffic on streets within residential neighborhoods:* **The project is located in a commercial/business district bordered by East Bay, North Market, and Guignard Streets with easy access to primary arterial streets. Visitors, whether driving their personal cars or taking car service or taxis, will most likely approach from the north and use East Bay Street to North Market Street where valet service will be offered. Departing guests will either be directed from the garage onto Guignard Street out to East Bay Street, or else have their car delivered in front of the hotel on North Market Street and directed towards Meeting Street. Access to the property will not require traversing any residential neighborhoods; therefore, there should be no material increase in automobile traffic on streets within residential neighborhoods.**
- c) *the total square footage of interior and exterior floor area for restaurant and bar space in the proposed facility, including restaurant/bar patron use areas, bar areas, kitchen, storage, and bathroom facilities, shall not exceed 12 percent of the total interior, conditioned floor area in the facility, except that each facility shall be permitted to exempt from the calculation of total restaurant floor area one interior, ground floor restaurant tenant space if the total tenant space does not exceed 2,000 square feet, the restaurant tenant does not serve alcoholic beverages, and the exempt restaurant tenant space is clearly labeled with these restrictions on the floor plans submitted with the*

application for this zoning special exception: The project will meet the requirement not to exceed 12% of floor area for restaurant and bar space per Sec. 54-220(b)(1)(c). See attached calculations included on proposed floor plans. In addition, the exterior eating area that is part of the fourth floor restaurant is oriented to the south (away from the residential Ansonborough neighborhood) and shielded from both the north and west by the building. The roughly 1,100 square foot designated as retail or restaurant space on the first floor fronting North Market Street may be used as a coffee shop or restaurant space but will not serve alcohol.

- d) *the proposed use is otherwise in character with the immediate neighborhood:* The proposed mixed uses of hotel, retail, parking and restaurant, are in character with the immediate neighborhood, which consists of various commercial uses, including retail, restaurants, offices and other hotels.
- e) *the location and design of the proposed facility will facilitate pedestrian activity and encourage transit system usage within the peninsula:* The public will have excellent pedestrian access to shopping, restaurants, and tourist attractions around Charleston, including event locations such as the Dock Street Theater, the Gibbes Museum, and the Gaillard Center. In addition, the property is located directly on a CARTA bus route (and only about two blocks from two additional bus routes) which takes passengers from North Market Street up Meeting Street to the central CARTA hub at Ann and Mary Streets. The project will also include bicycle storage to encourage employee bicycle use and reduce car trips.
- f) In addition to the submitted plans and elevations, the following is a written assessment in response to Sec. 54-220(b)(1)(f):
 - 1. *the number of existing housing units on the property to be displaced by type of unit (rental or owner-occupied; single-family, duplex or multi-family; occupied or unoccupied), by income range and by physical condition (sound, deficient, deteriorated or dilapidated):* No housing units will be displaced.
 - 2. *the effect of the displacement on the total available housing stock and on the housing stock of a particular type and income range in the service area:* Not applicable.
 - 3. *the number of vehicle trips generated by the facility and the traffic circulation pattern serving the facility and efforts made to minimize traffic impacts:* The automobile access and parking arrangements have been designed to minimize traffic impacts. Valet parking will be provided for guests arriving on North Market Street. Both East Bay and Meeting Streets are arterial roads leading from the property to the interstate, which is the route most of the vehicles will be utilizing. Once guests have arrived at the hotel, they will likely park their cars for the remainder of their stay. As noted above, the site is ideally situated for pedestrian access to shopping, dining, and tourist activities. Departing guests will have their cars delivered to them either at the exit of the garage on Guignard Street

pointing out to East Bay Street, or else in front of the hotel on North Market Street and directed towards Meeting Street. As described in the traffic memorandum submitted with this application, there are conservatively estimated to be approximately 21 fewer trips generated during the AM peak hour and an additional 50 vehicle trips generated by this project during the PM peak hour (relative to the current existing and approved uses of the property) for an aggregate increase of approximately 29 trips looking at the combined AM and PM peak hours. A loading area for service vehicles is contemplated along the Guignard Street side of the hotel as shown on the plans.

4. *the distance of the main entrance and parking entrance of the facility from a road classified as an arterial or collector road:* The main entrance to the hotel on North Market Street and the parking entrances on Guignard Street and Raders Alley are located only half a block from East Bay Street and one and a half blocks from Meeting Street, as the closest arterial roads to the project.
5. *the development pattern and predominant land uses within five hundred feet (500') of the facility:* The proposed hotel and related uses are consistent with all of the immediately surrounding uses and with the historical uses of the property. Land uses around the project include primarily commercial uses – the City Market, restaurants, retail, hotels, State Ports Authority facilities, the Customs House, horse carriage tours, and offices.
6. *the proximity of residential neighborhoods to the facility:* The existing context is primarily commercial, and the historical use of the property has been commercial. The nearby Ansonborough residential neighborhood is separated from the property by existing commercial properties along Guignard, Anson, and Pinckney Streets. The proposed project is intentionally oriented toward the commercial zones of North Market Street and East Bay Street, and away from the north.
7. *the accessory uses proposed for the facility in terms of the size, impact on parking, and impact on traffic generation:* The ancillary uses (retail and restaurant) are compatible with previous and existing uses. The property currently has two large restaurants/bars, often with live entertainment and with little or no parking. The proposed project reduces total restaurant/bar use by approximately 4,000 square feet. In addition, the proposed project provides 20 parking spaces in excess of the required parking. The ancillary retail uses are expected to cater primarily to pedestrian visitor traffic and hotel guests and are not expected to materially impact parking or traffic. The project's two restaurants are replacing two existing larger restaurants and so should only reduce existing parking and traffic impacts.

8. *the demonstrated provision of off-street parking at the rate of two spaces for each three sleeping units:* **The project has 50 sleeping units, for a total parking requirement of 34 spaces. The on-site garage will have a minimum of 54 spaces, at least 20 parking spaces above the required amount. The proposed parking garage complies with required parking spaces widths and depths and drive aisle width.**
9. *the presence of industrial uses and uses which use, store, or produce toxic or hazardous materials in quantities in excess of those specified by the EPA listing of toxic and hazardous materials, within five hundred feet (500') of the facility:* **Not applicable.**
10. *the commitment to environmental sustainability and recycling:* **The design intent would be committed to sustainability and the reduction of waste through recycling. The existing building on North Market Street will be preserved and incorporated into the new project.**
11. *the distance of the facility from major tourist attractions:* **The proposed hotel is conveniently located near principal historic areas and arts venues.**
12. *the distance of the facility from existing or planned transit facilities:* **The property is located directly on one and only about two blocks from two other CARTA routes.**
13. *the long term provision of on- or off-site parking for employees who drive vehicles to work:* **The property has approximately 20 parking spaces in excess of the required number and significantly more than would be expected to be used by hotel guests, leaving additional spaces available for some employees. The convenient location of CARTA bus service should encourage more employees to use public transportation, and bicycle storage will be provided to hotel employees to encourage bicycle use.**
14. *the location of the proposed facility will contribute to the creation of a diverse mixed-use community:* **The hotel will have a mix of uses compatible with the neighborhood.**
15. *the number of rooms in the facility; provided however that the number of rooms in a facility shall not exceed 50 in areas designated "A-1" on the zoning map; 180 in areas designated "A-2" on the zoning map; 225 in areas designated "A-3" on the zoning map; 100 in areas designated "A-4" on the zoning map; 150 in areas designated "A-5" on the zoning map; and 69 in areas designated "A-6" on the zoning map; and further provided that within the portion of the area designated "A-1" bounded by King Street on the west, Meeting Street on the east, Mary Street on the south and Line Street on the north, the number of rooms in a facility may exceed 50 if the facility is a full-service hotel that provides 20,000 or more square feet of meeting and*

conference space, and an on-site restaurant that serves breakfast, lunch and dinner seven days a week. The hotel will not exceed 50 rooms.

16. *the provision of shuttle bus services to and from the historic district by facilities with more than 50 rooms located outside the area designated "A-1" on the zoning map and not served by public transit: Not applicable.*
17. *the commitment to make affirmative, good faith efforts to see that construction and procurement opportunities are available to DBEs (disadvantaged business enterprise) and WBEs (women business enterprise) as outlined in Section 2-267 (D)(1), (2), and (3) of the Code of the City of Charleston: The owner will make a commitment to make affirmative, good faith efforts to see that construction and procurement opportunities are available to DBEs and WBEs as outlined in Sec. 2-267(d)(1),(2) and (3) of the Code of the City of Charleston. Efforts will be made by the owner and general contractor to solicit bids from DBE and WBE companies where possible and available to attempt to meet this provision when applicable.*
18. *the commitment to make affirmative, good faith efforts to hire personnel, representative of the population of the Charleston community, at all employment levels: The owner will make a commitment to make affirmative good faith efforts to hire personnel representative of the Charleston community at all employment levels.*

**Proposed Conditions
Exterior Restaurant Area**

The 4th floor restaurant on East Bay Street includes an exterior dining area. Part or all of this area may be covered, and other parts may remain uncovered. Covered portions may have operable glass walls that would allow it to function as an open air porch-like space at times, and at other times to be sealed closed. After meeting with Board members of the Historic Ansonborough Neighborhood Association, the owner is proposing to impose the following conditions on the exterior dining area, to be applicable to any portion of the exterior dining area at any time that it is not operating in a sealed closed state:

1. Parapet wall will be at least 5 feet in height.
2. No live music, microphones or other audio devices.
3. No televisions or video devices.
4. No outside bar.
5. Permanently mounted directional outside speakers will be positioned so sound will be directed back toward the building. Speakers will not emit sound that is higher than normal conversational speech level.
6. Access from the interior portion of the restaurant in the building will be via French door openings in lieu of larger roll-up openings.
7. Operational evening hours will be no later than 11:00pm Sunday through Thursday and 12:00 midnight on Friday and Saturday. This means the exterior, unless sealed closed, shall be off limits to customers and staff after the above stated hours, except for ingress/egress and post-shift up-keep by staff.
8. Owner will abide by the City of Charleston's noise ordinance as it pertains to the hotel use of the property.

These plans have
been revised
6/19/17

SHOOK
ASSOCIATES,
ARCHITECTS

ARCHITECTURE
INTERIOR ARCHITECTURE
LAND PLANNING

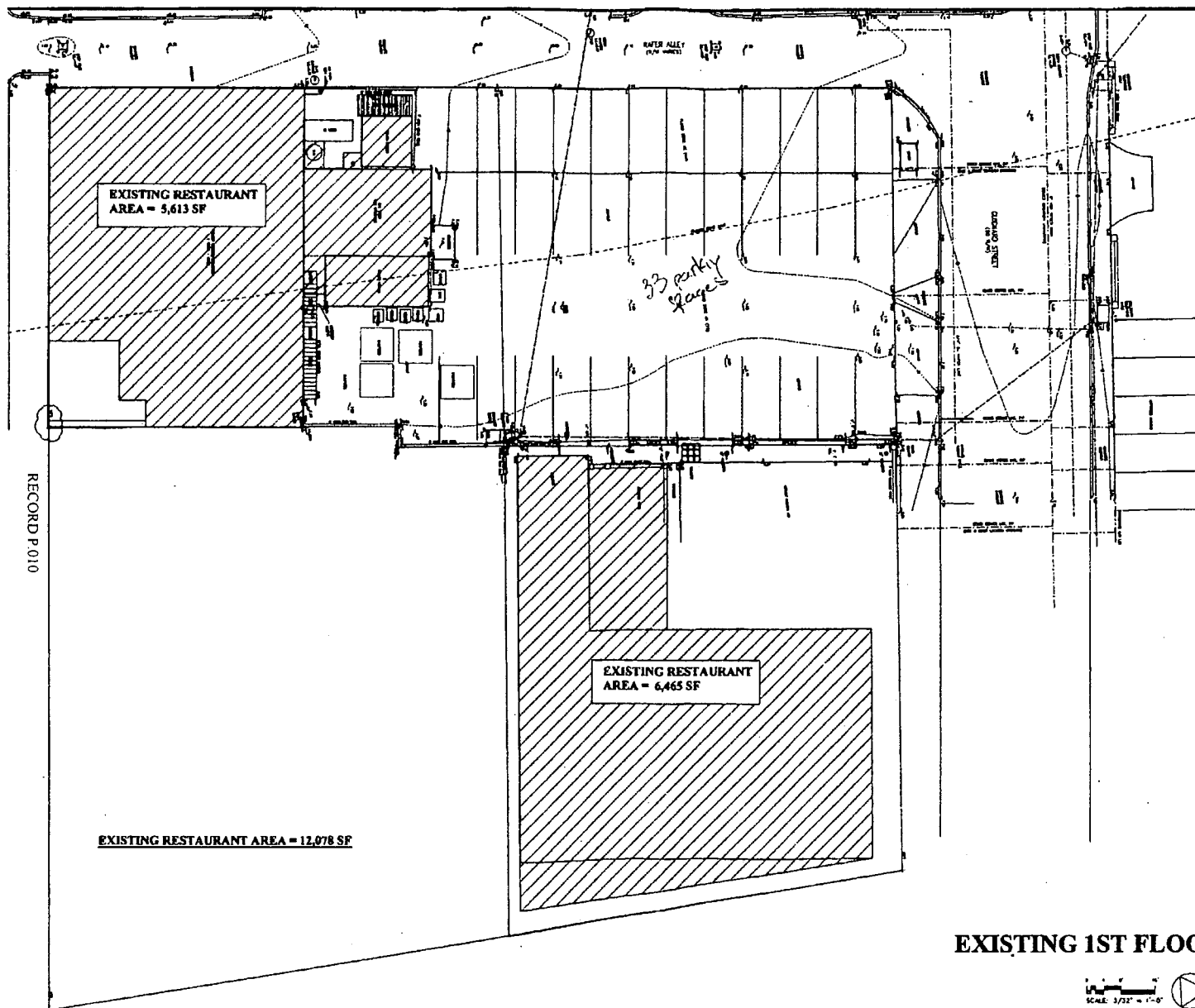


THE RESERVE
36 MARKET STREET, CHARLESTON, SC

SEALED
SUBMITTAL

REVISION	NO

JOB NO: 40793
DATE: 11-14-2016



EXISTING 1ST FLOOR

SCALE: 1/32" = 1'-0"

**SHOOK
ASSOCIATES,
ARCHITECTS**

ARCHITECTURE
INTERIOR ARCHITECTURE
LAND PLANNING

THE RESERVE
36 MARKET STREET, CHARLESTON, SC

B2-A-2
SUBMITTAL

REVISION	NO

A1.1 AREA

JOB NO.: 10793
DATE: 11-14-2016

NEW BUILDING CONDITIONED SPACE AREAS

FIRST FLOOR AREA = 14,196 SF

SECOND FLOOR AREA = 26,207 SF

THIRD FLOOR AREA = 17,346 SF

FOURTH FLOOR AREA = 15,667 SF

TOTAL CONDITIONED PROJECT AREA = 73,416 SF

FACTOR FOR NEW RESTAURANT SPACE $\times 11\%$
8,810 SF

RESTAURANT USE AREAS

FIRST FLOOR RESTAURANT = 1,925 SF

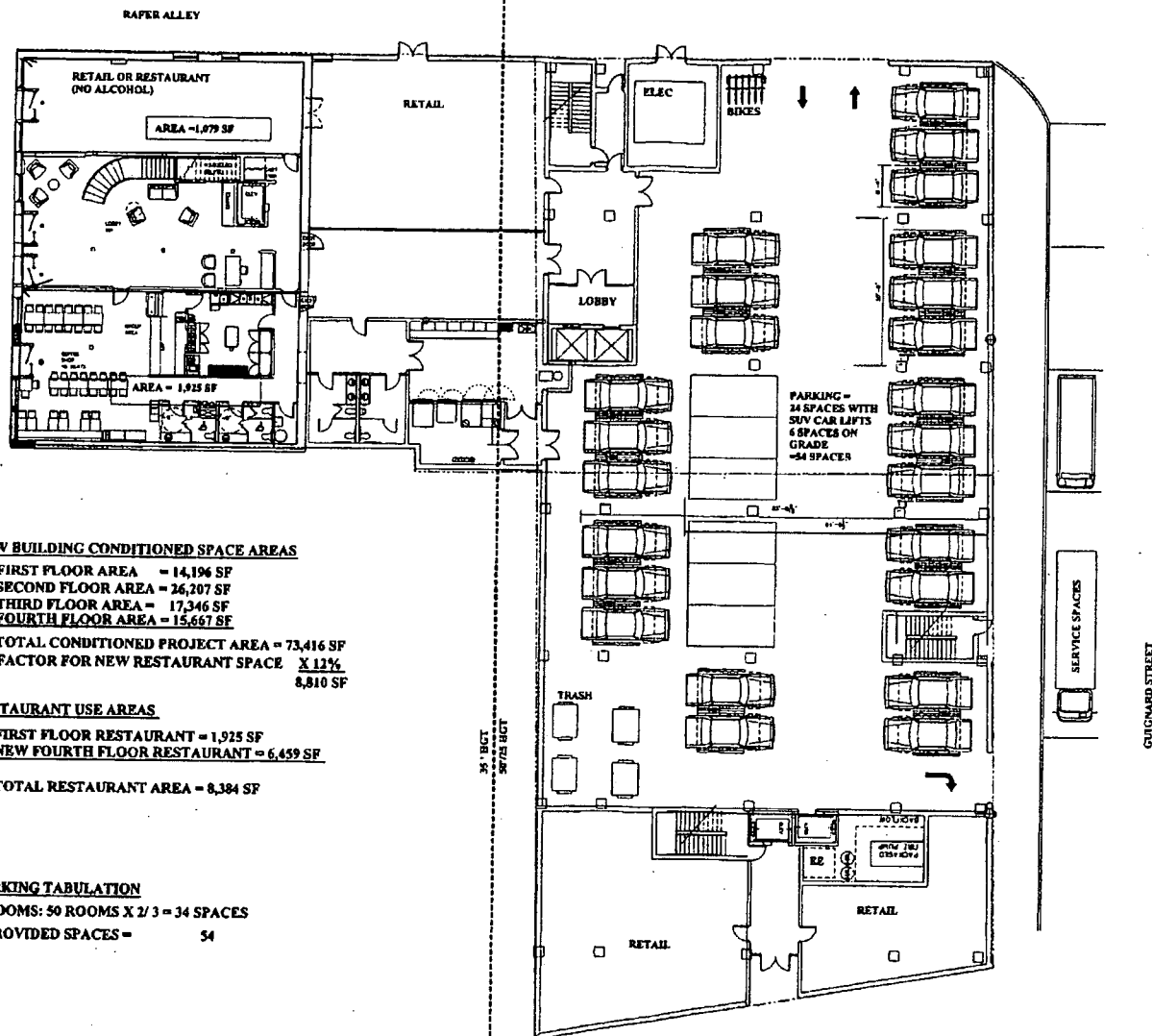
NEW FOURTH FLOOR RESTAURANT = 6,459 SF

TOTAL RESTAURANT AREA = 8,384 SF

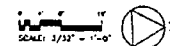
PARKING TABULATION

ROOMS: 50 ROOMS $\times 2/3 = 34$ SPACES

PROVIDED SPACES = 54



1ST FLOOR



**SHOOK
ASSOCIATES,
ARCHITECTS**

ARCHITECTURE
INTERIOR ARCHITECTURE
LAND PLANNING

THE RESERVE
36 MARKET STREET, CHARLESTON, SC

REVISION
SUBMITTAL

REVISION	NO

A2.1

JOB NO: 10793
DATE: 11-18-2014

**SHOOK
ASSOCIATES,
ARCHITECTS**

ARCHITECTURE
INTERIOR ARCHITECTURE
LAND PLANNING

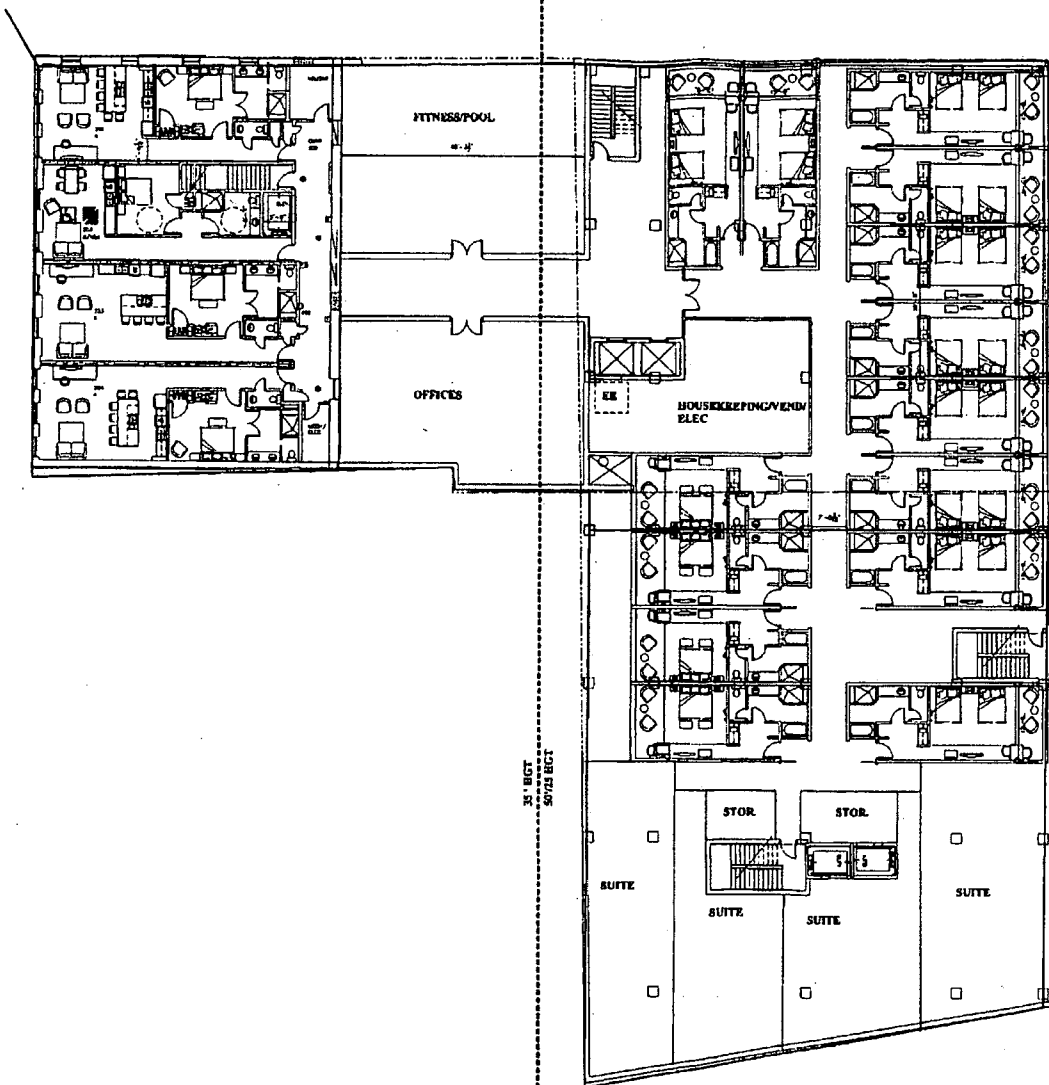
THE RESERVE
36 MARKET STREET, CHARLESTON, SC

B2A-2
SUBMITTAL

REVISION	NO

A2.2

JOB NO.: 48783
DATE: 11-14-2018



2ND FLOOR



RECORD P 012

98 of 644

SHOOK
ASSOCIATES,
ARCHITECTS

ARCHITECTURE
INTERIOR ARCHITECTURE
LAND PLANNING



THE RESERVE
36 MARKET STREET, CHARLESTON, SC

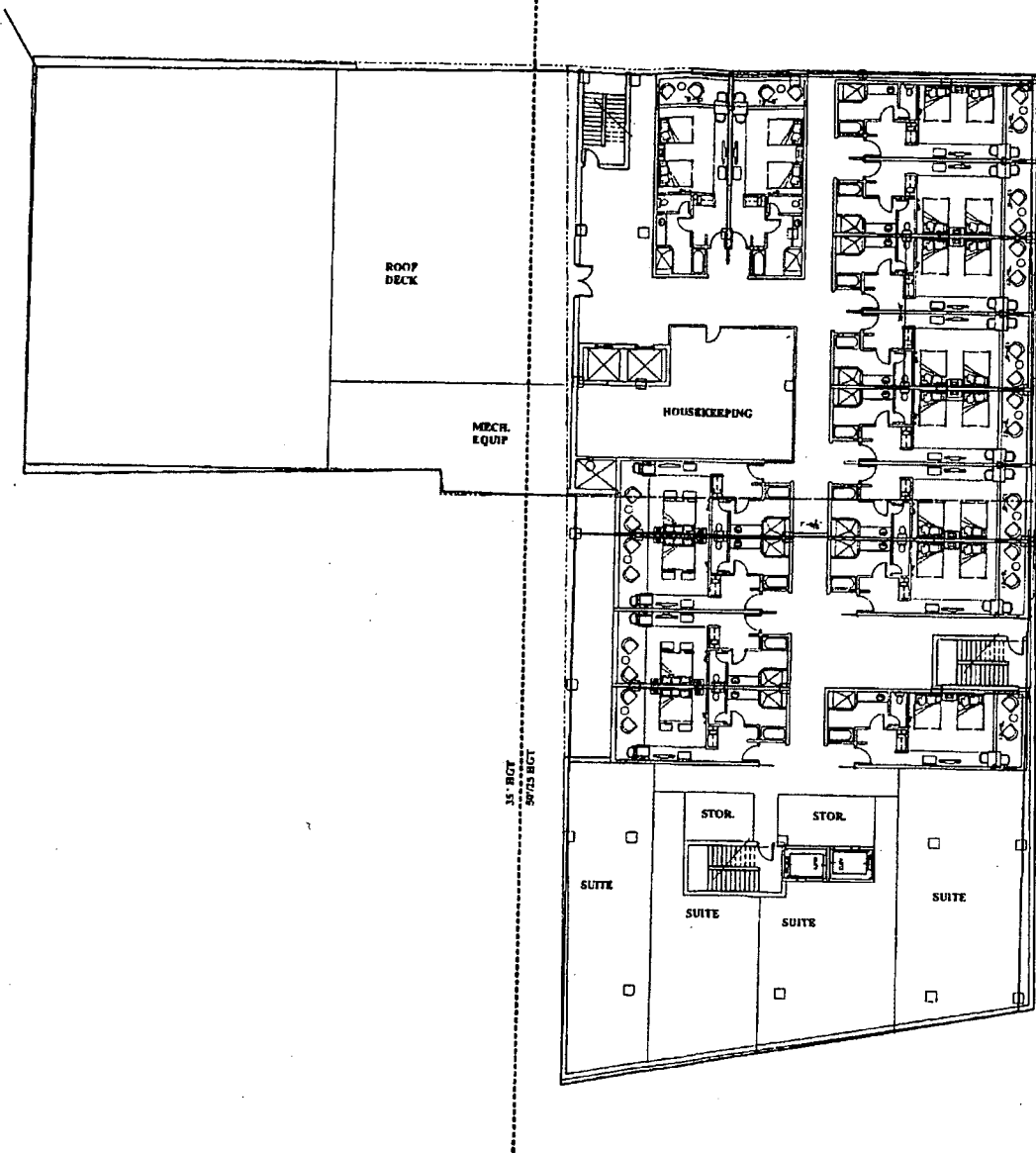
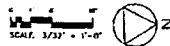
REVISION
SUBMITTAL

REVISION	NO.

A2.3

JOB NO. 140793

3RD FLOOR



SHOOK
ASSOCIATES,
ARCHITECTS

ARCHITECTURE
INTERIOR ARCHITECTURE
LAND PLANNING



THE RESERVE
36 MARKET STREET, CHARLESTON, SC

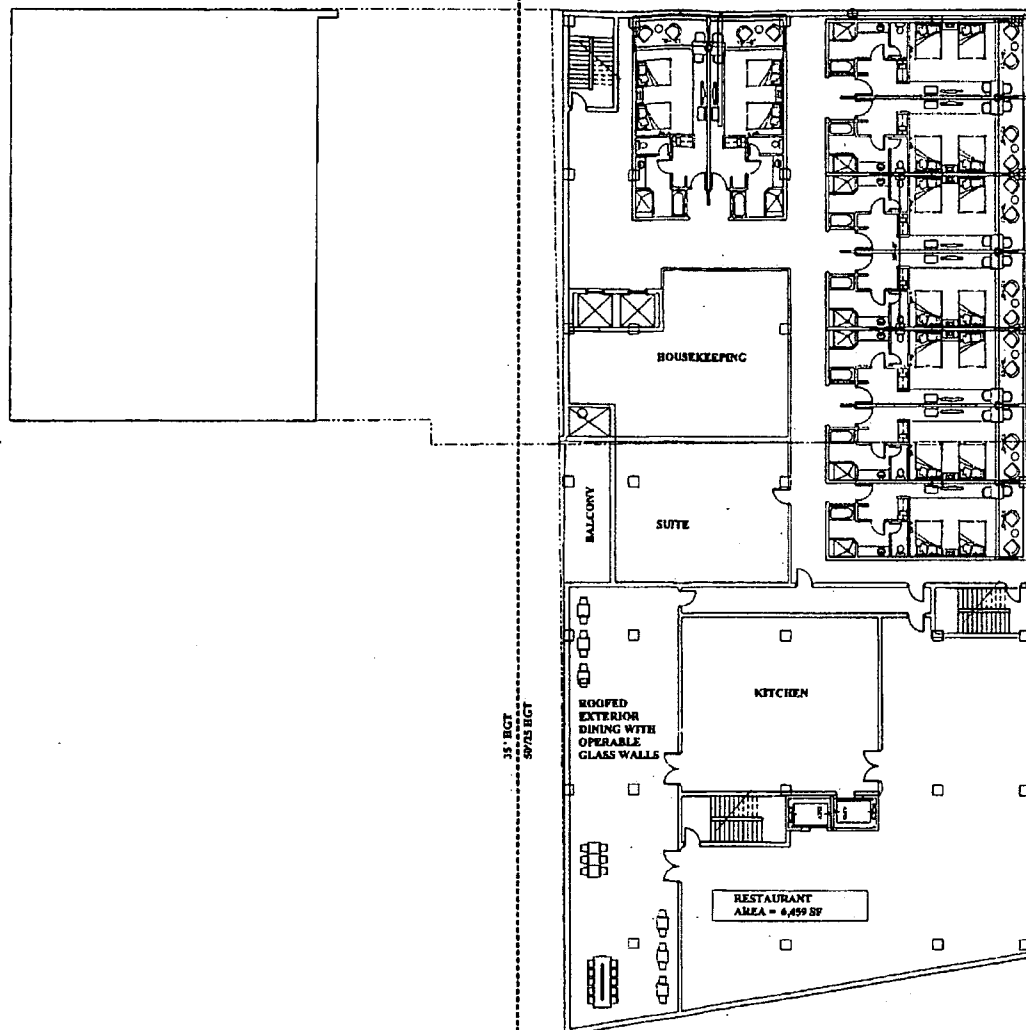
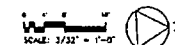
B2A-Z
SUBMITTAL

REVISION	NO.

A2.4

JOB NO.: 10792
DATE: 11-14-2018

4TH FLOOR



35' BCT
59' BCT

RECORD P 014

100 of 644

SHOOK
ASSOCIATES,
ARCHITECTS

ARCHITECTURE
INTERIOR ARCHITECTURE
LAND PLANNING



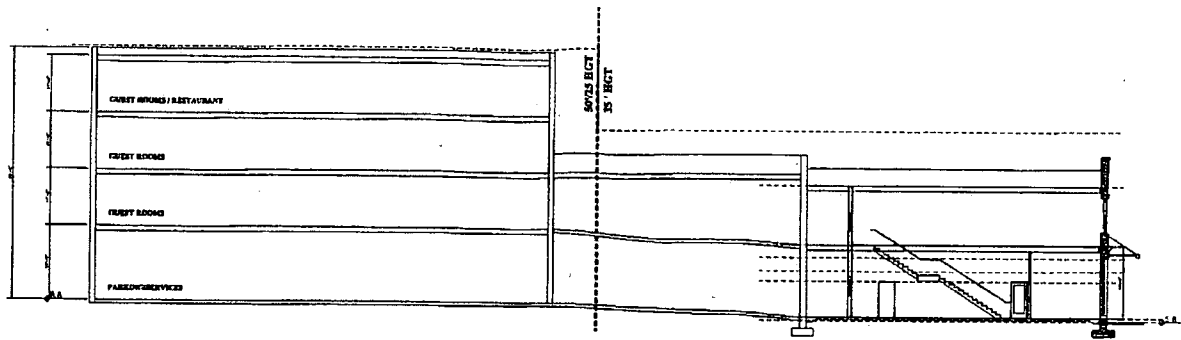
THE RESERVE
36 MARKET STREET, CHARLESTON, SC

22A-2
SUBMITTAL

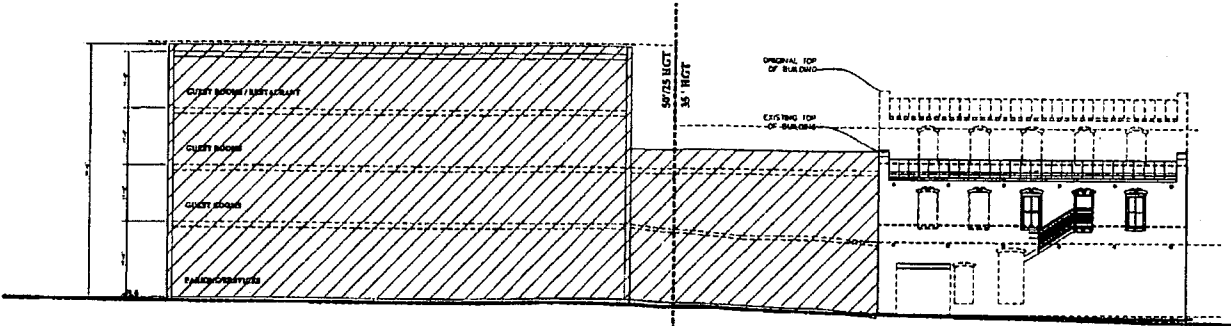
REVISION	NO.

A3.1

JOB NO.: 40793
DATE: 11-14-2016



ELEVATIONS/SECTION



ELEVATIONS/SECTION

SCALE: 3/32" = 1'-0"

NEW BUILDING CONDITIONED SPACE AREAS

FIRST FLOOR AREA = 14,196 SF
 SECOND FLOOR AREA = 26,207 SF
 THIRD FLOOR AREA = 17,346 SF
 FOURTH FLOOR AREA = 15,667 SF

TOTAL CONDITIONED PROJECT AREA = 73,416 SF
 FACTOR FOR NEW RESTAURANT SPACE $\times 12\%$
 8,810 SF

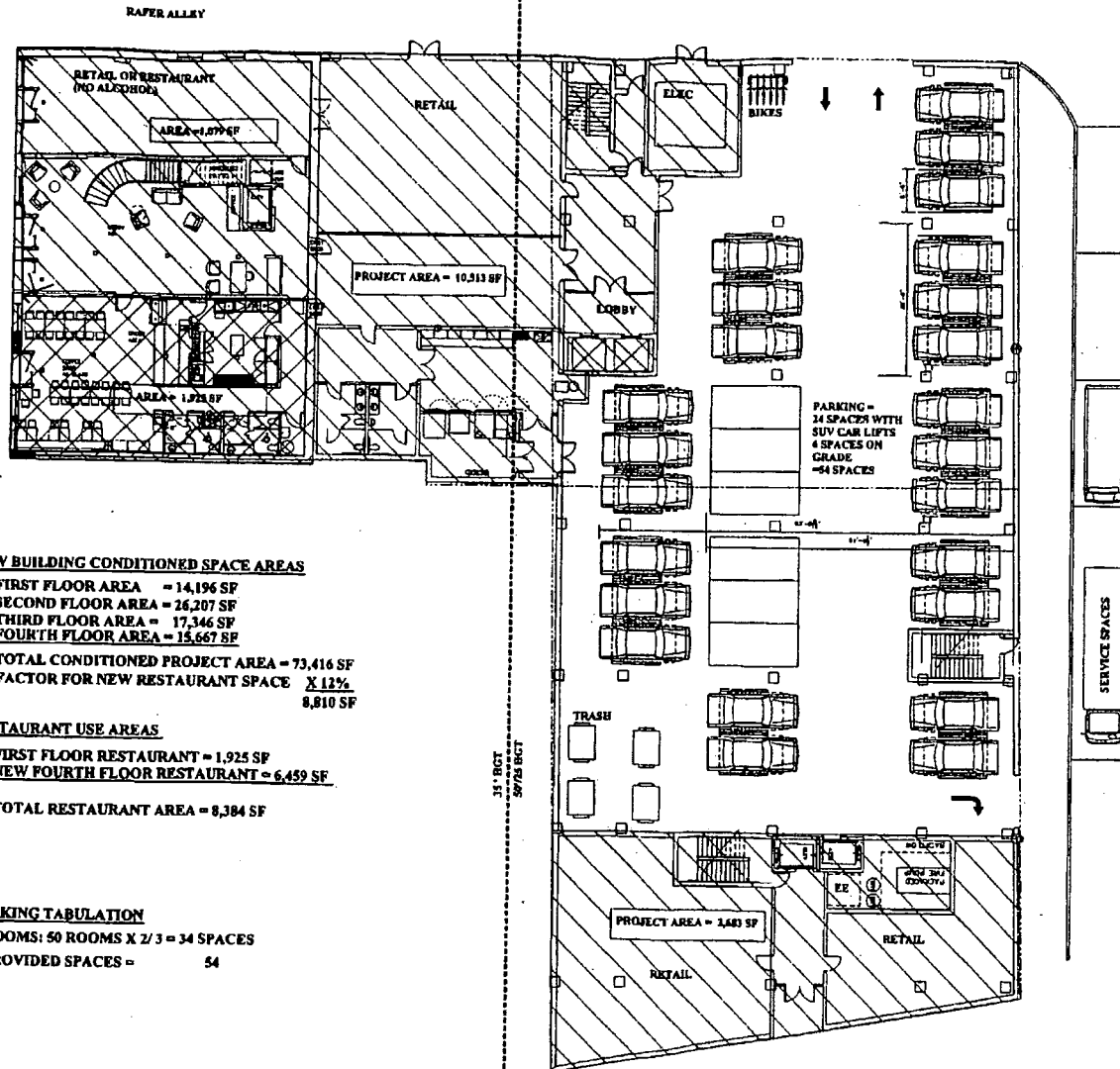
RESTAURANT USE AREAS

FIRST FLOOR RESTAURANT = 1,925 SF
 NEW FOURTH FLOOR RESTAURANT = 6,459 SF

TOTAL RESTAURANT AREA = 8,384 SF

PARKING TABULATION

ROOMS: 50 ROOMS $\times 2/3 = 34$ SPACES
 PROVIDED SPACES = 54



1ST FLOOR

SCALE: 1/32" = 1'-0"

SHOOK
 ASSOCIATES,
 ARCHITECTS

ARCHITECTURE
 INTERIOR ARCHITECTURE
 LAND PLANNING

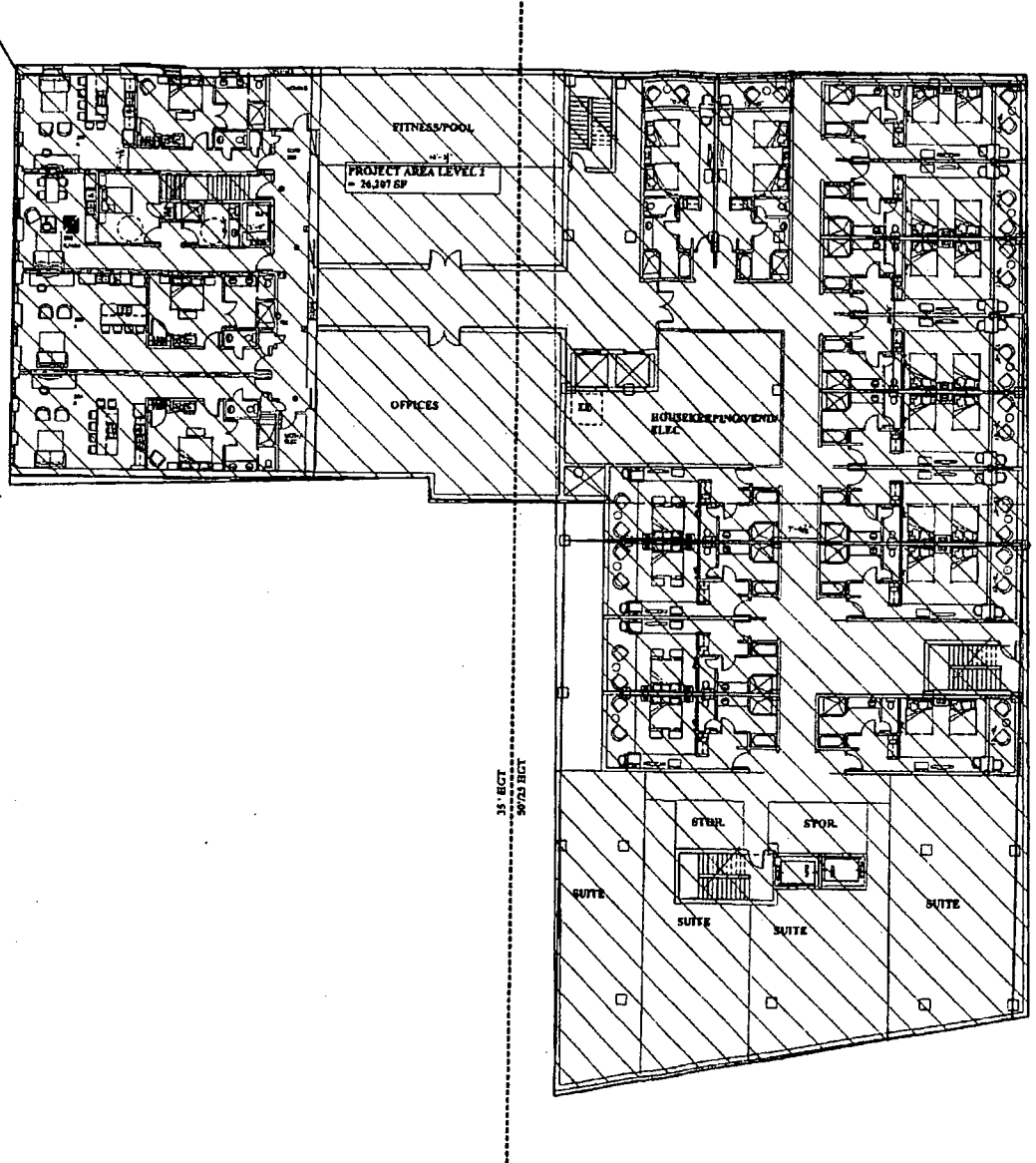
THE RESERVE
 36 MARKET STREET, CHARLESTON, SC

B2-2
 SUBMITTAL

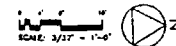
REVISION	NO.

A2.1 AREA

JOB NO. 07-001



2ND FLOOR



SHOOK
ASSOCIATES,
ARCHITECTS

ARCHITECTURE
INTERIOR ARCHITECTURE
LAND PLANNING



THE RESERVE
36 MARKET STREET, CHARLESTON, SC

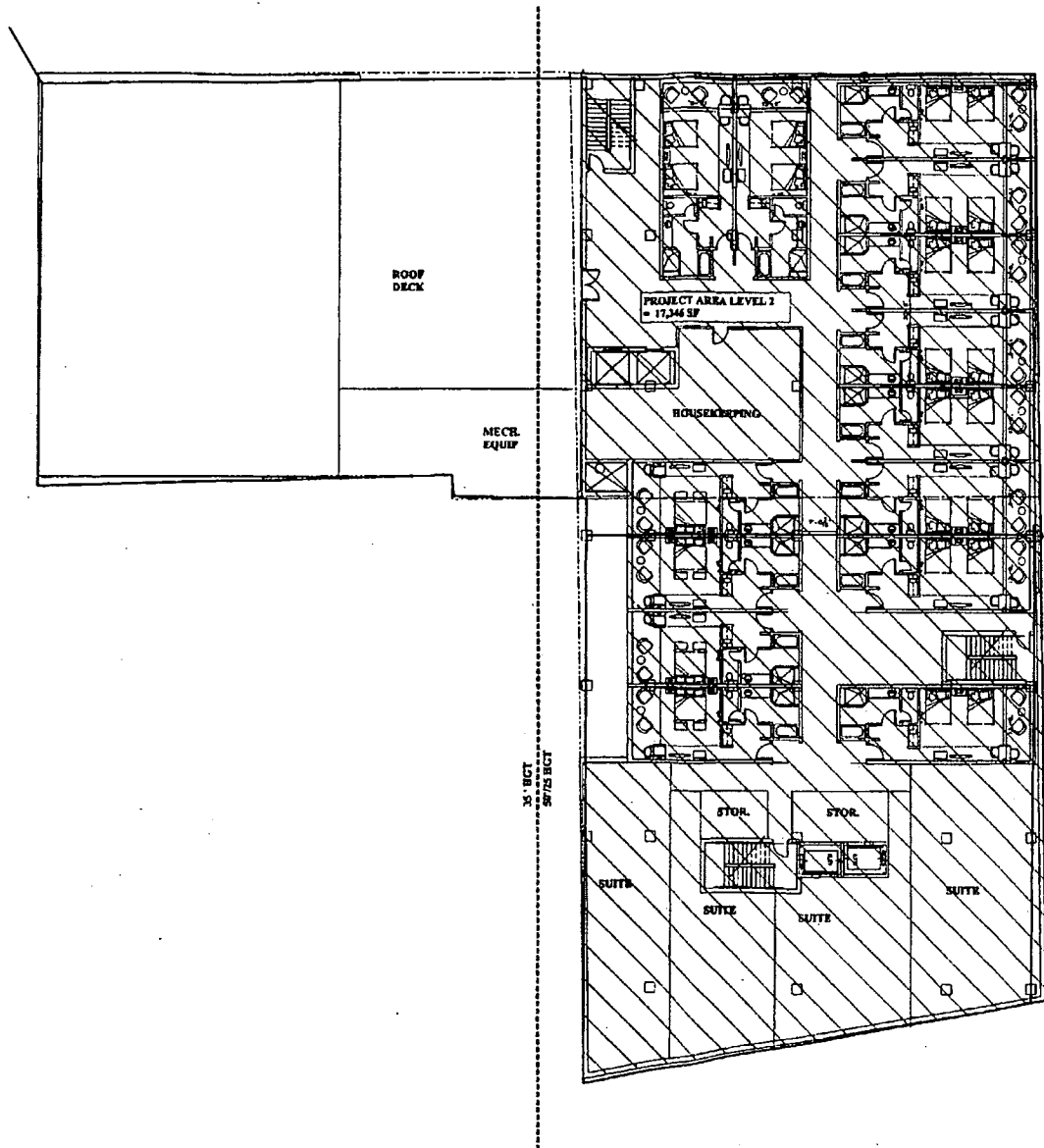
BLA-Z
SUBMITTAL

REVISION NO.

A2.2 AREA

JOB NO: 40763

DATE: 11/11/11



3RD FLOOR

SCALE: 3/32" = 1'-0"

**SHOOK
ASSOCIATES,
ARCHITECTS**

ARCHITECTURE
INTERIOR ARCHITECTURE
LAND PLANNING

THE RESERVE
36 MARKET STREET, CHARLESTON, SC

A2.2
SUBMITTAL

REVISION	NO.

A2.3 AREA

JOB NO.: 48793

RECORD P 018

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SHOOK ASSOCIATES, ARCHITECTS

ARCHITECTURE
INTERIOR ARCHITECTURE
LAND PLANNING

THE RESERVE
36 MARKET STREET, CHARLESTON, SC

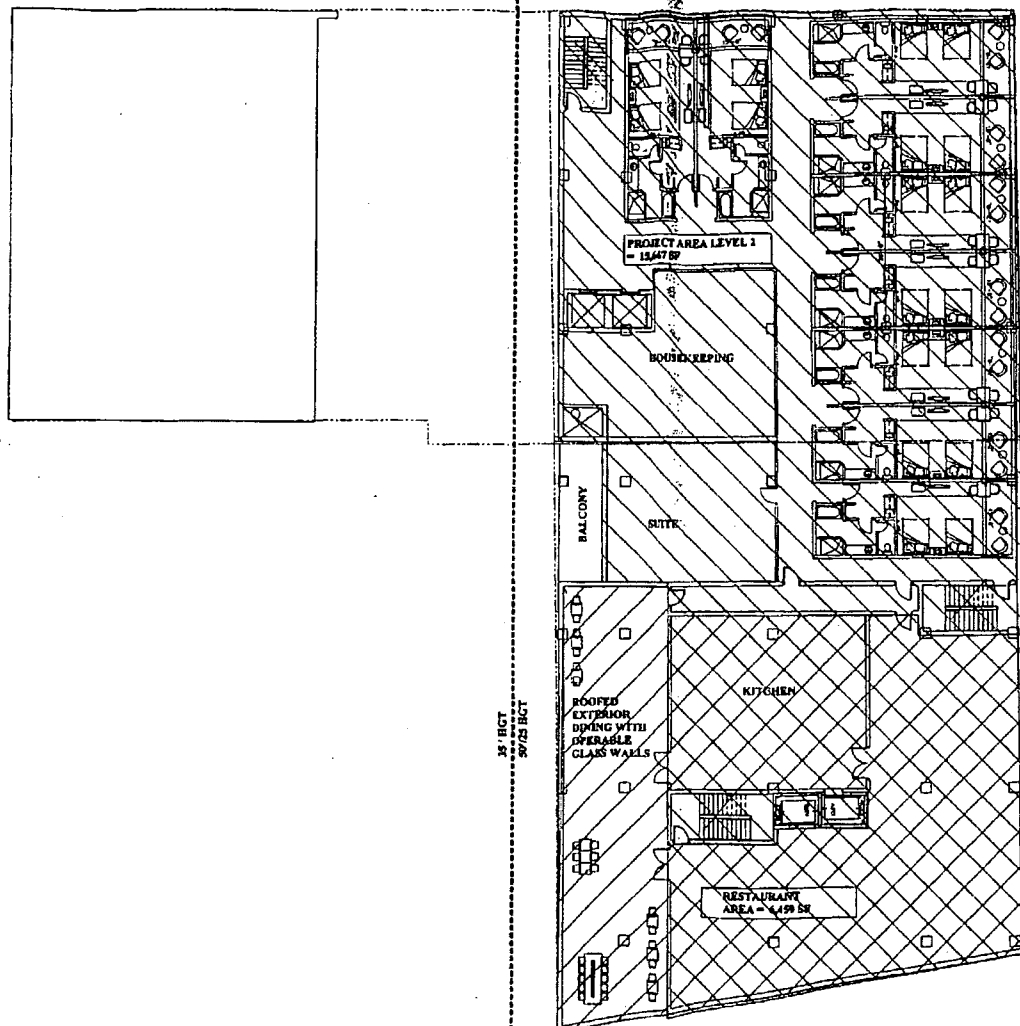
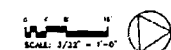
22A-2
SUBMITTAL

REVISION	NO.

A2.4 AREA

JOB NO: 10793
DATE: 11-14-2018

4TH FLOOR



15' BCT
59'25" BCT

RECORD P.019

105 of 644

SHOOK ASSOCIATES

235 E.Bay, 5 Guignard & 36 Market – Existing Buildings



Market Street Facade

RECORD P.020

SHOOK ASSOCIATES

235 E. Bay, 5 Guignard & 36 Market – Existing Buildings

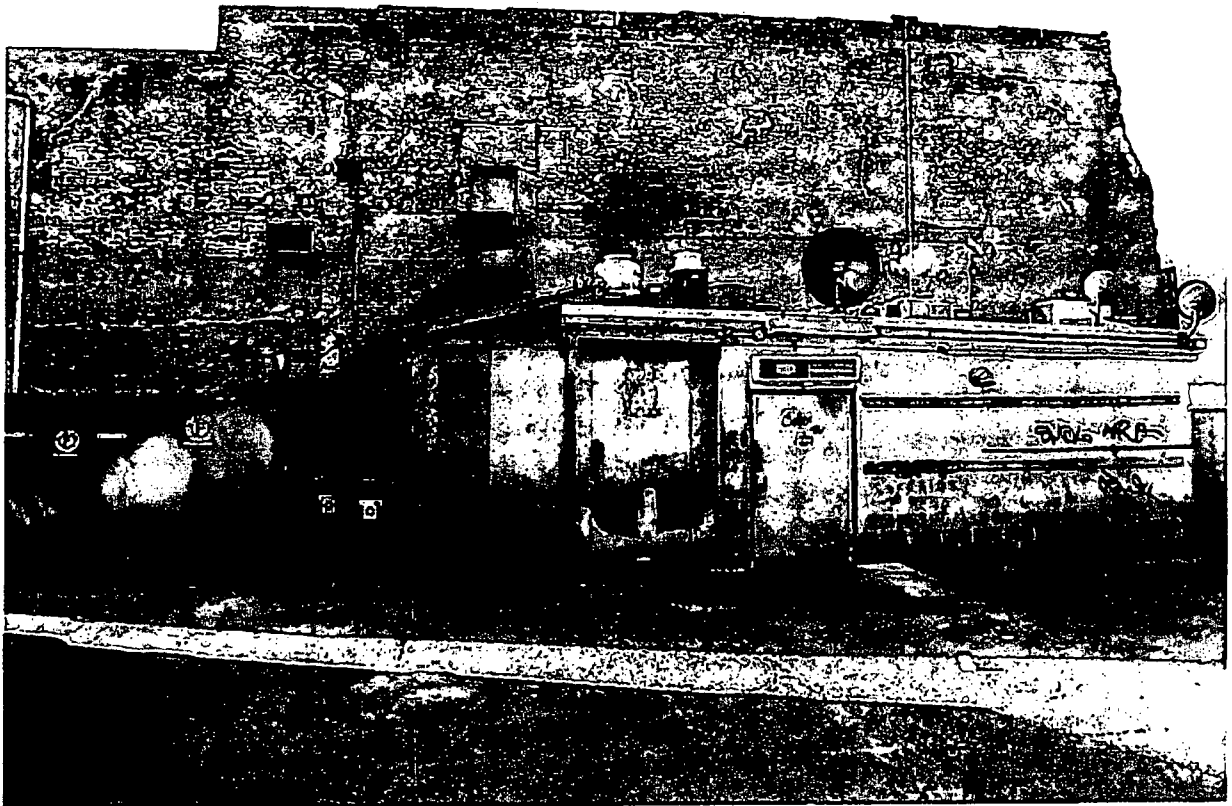


View from across Guignard Street to site

RECORD P.021

SHOOK ASSOCIATES

235 E.Bay, 5 Guignard & 36 Market – Existing Buildings



Rear of existing building

RECORD P.022

SHOOK ASSOCIATES

235 E.Bay, 5 Guignard & 36 Market – Existing Buildings



Rafer Alley view of building

RECORD P.023

SHOOK ASSOCIATES

235 E.Bay, 5 Guignard & 36 Market – Existing Buildings



View of 235 East Bay Street from East Bay at Guignard Street

RECORD P.024

SHOOK ASSOCIATES

235 E.Bay, 5 Guignard & 36 Market - Context



View from across Guignard Street to site

RECORD P.025

SHOOK ASSOCIATES

235 E.Bay, 5 Guignard & 36 Market - Context

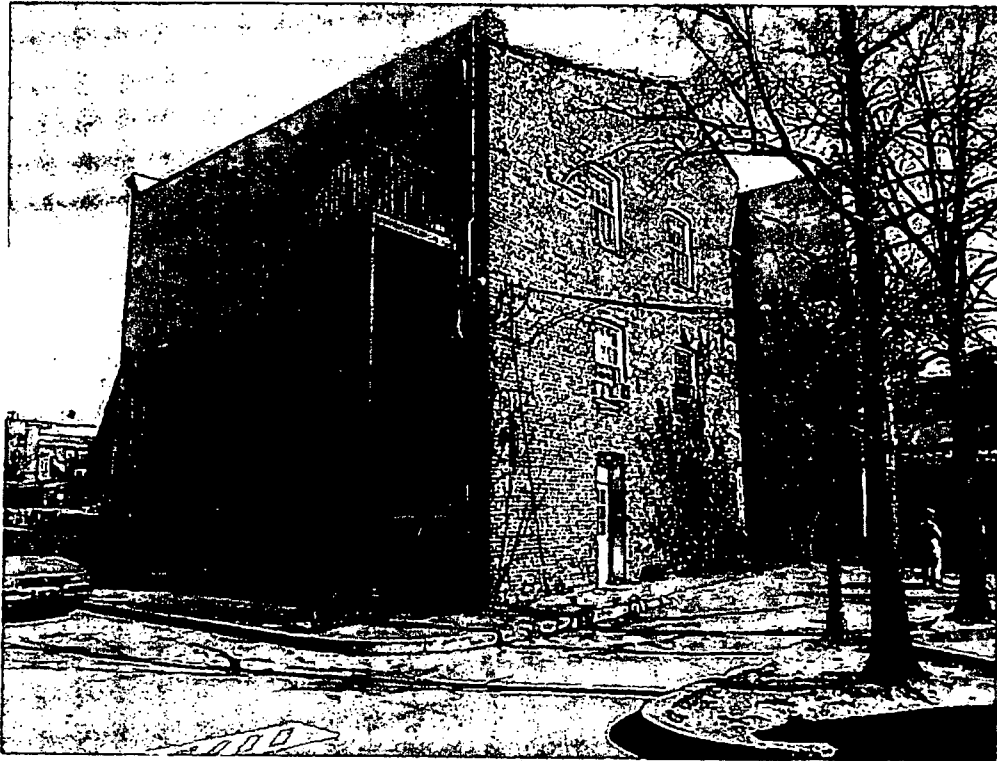


Building across Rafer Alley.

RECORD P.026

SHOOK ASSOCIATES

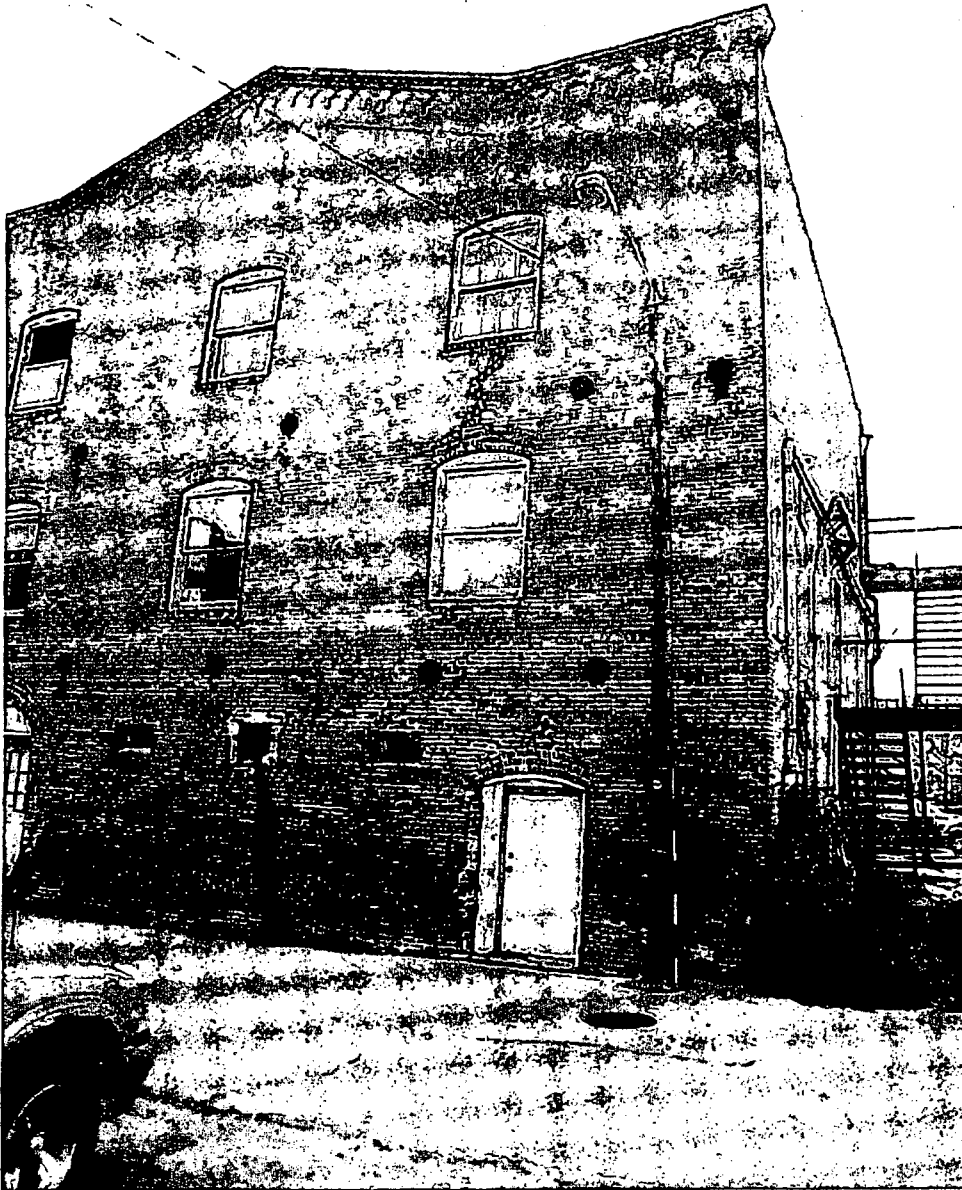
235 E. Bay, 5 Guignard & 36 Market - Context



RECORD P.027

SHOOK ASSOCIATES

235 E.Bay, 5 Guignard & 36 Market - Context



Building across Rafer Alley.

SHOOK ASSOCIATES

RECORD P.028

5 Guignard Street-Context

SHOOK ASSOCIATES

235 E.Bay, 5 Guignard & 36 Market - Context

PHOTOGRAPHS March 2008



Stable diagonally across Guignard Street.

RECORD P.029

SHOOK ASSOCIATES

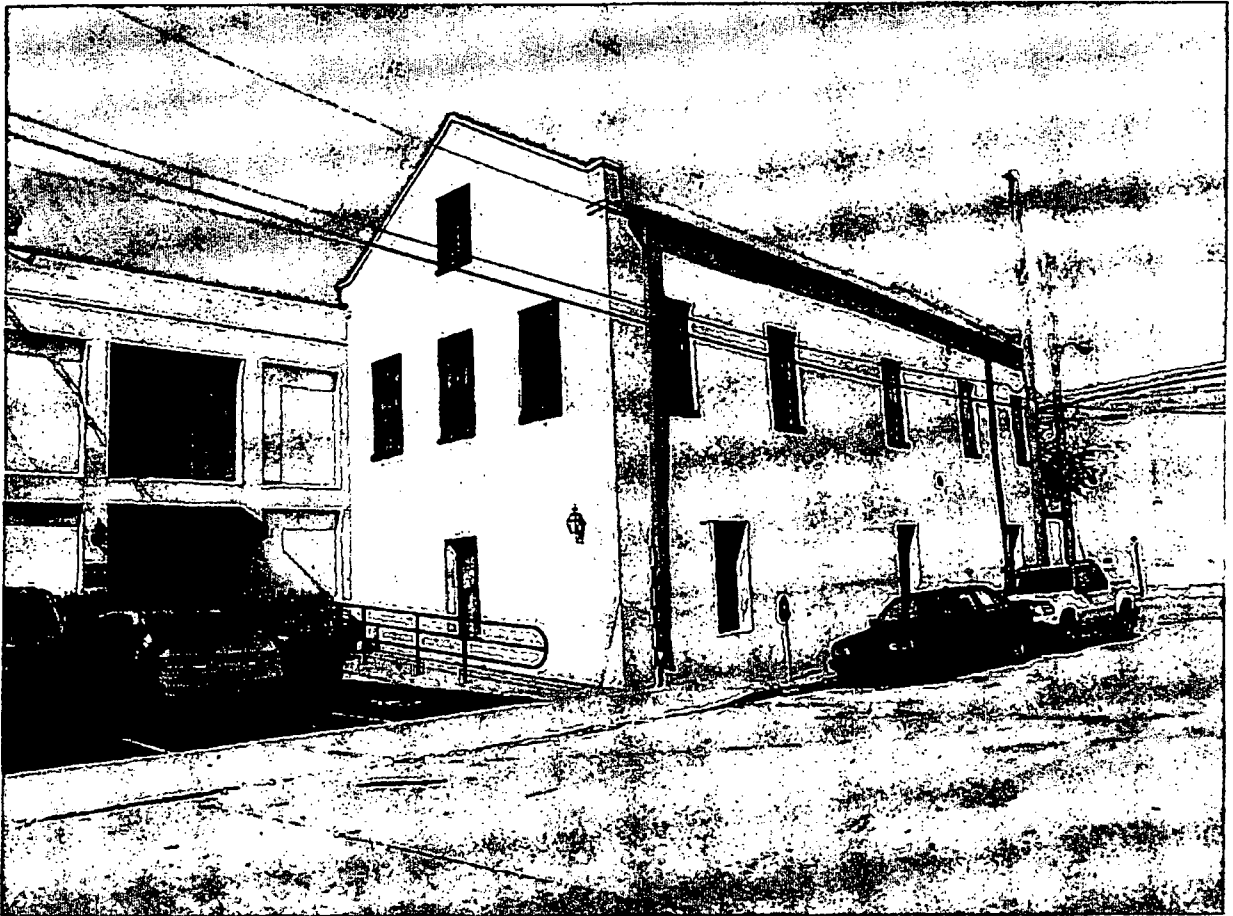
235 E.Bay, 5 Guignard & 36 Market - Context

SHOOK ASSOCIATES

5 Guignard Street-Context

PHOTOGRAPHS March 2008

Building at corner of Guignard and East Bay Street



RECORD P.030

SHOOK ASSOCIATES

235 E.Bay, 5 Guignard & 36 Market - Context



Market Shops

RECORD P.031

SHOOK ASSOCIATES

235 E.Bay, 5 Guignard & 36 Market - Context



Part of the Rainbow Market

RECORD P.032

SHOOK ASSOCIATES

235 E.Bay, 5 Guignard & 36 Market - Context



RECORD P.033

SHOOK ASSOCIATES

235 E.Bay, 5 Guignard & 36 Market - Context



RECORD P.034

SHOOK ASSOCIATES

235 E.Bay, 5 Guignard & 36 Market - Context



RECORD P.035



15 (typ.)

SUV
SUV-XL

SUV Parking and
Storage Systems

HARDING
STEEL

10 (typ.)

SECTION P-034

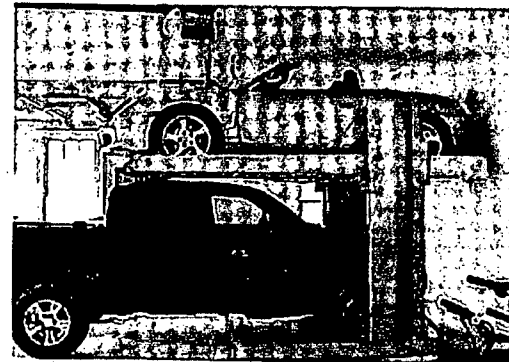
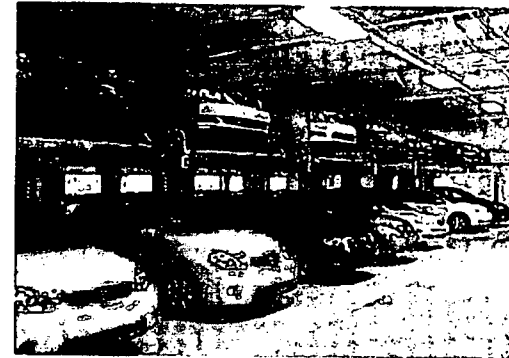
SUV SUV-XL

The Harding Steel SUV-Lift is the most popular product in the American parking lift industry. This innovative machine is designed to accommodate an expansive array of vehicles including SUVs, crossovers, sedans, collector cars, and exotic vehicles. Harding Steel's SUV and SUV-XL models are the only lifts to feature 100% hot-dipped, galvanized steel construction with dual-hydraulic lifting cylinders and steel-on-steel safety locks.

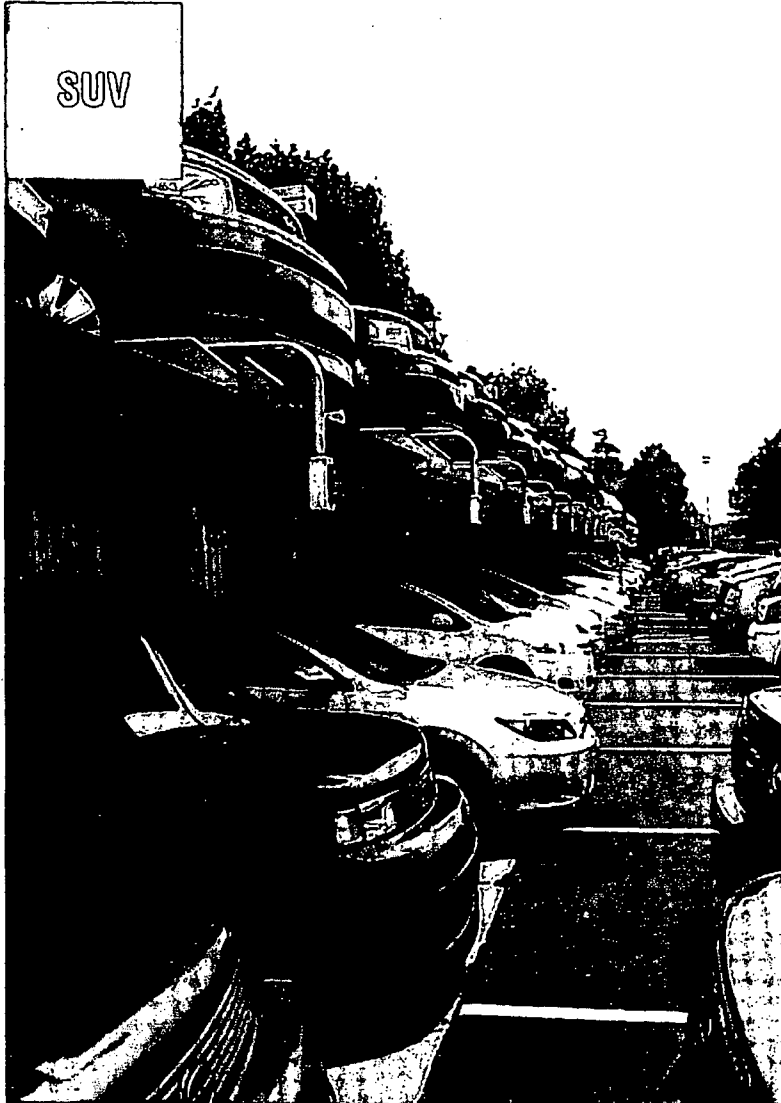
Our SUV-lift models comprise 80% of our total sales and installations. Harding Steel specifically designed these models with the needs of real estate developers, architects, engineers, automotive dealers, and commercial parking operators in mind. We can install the SUV lift on a standard 8' parking space, and accommodate most cars and light trucks on the market today. These lifts operate in both outdoor and indoor locations are particularly well suited for high-humidity or damp locations.

Harding Steel's newest product is the SUV-XL, six inches wider and longer than our standard SUV-lift. The SUV-XL is ideal where parking regulations require spaces to be 8'6" wide, or for self-parking applications where the extra width and length provides easier parking and maneuverability. The new SUV-XL will accommodate larger trucks such, as the new Toyota Tundra, in the lower space. High performance cars and racing vehicles with wide wheel bases fit beautifully on the extra wide steel platform of the SUV XL.

Both SUV models can be configured for drive-through and tandem parking applications. Our SUV-lifts can be utilized in areas where ceiling clearances are as low as 10'6".



SUV



SUV

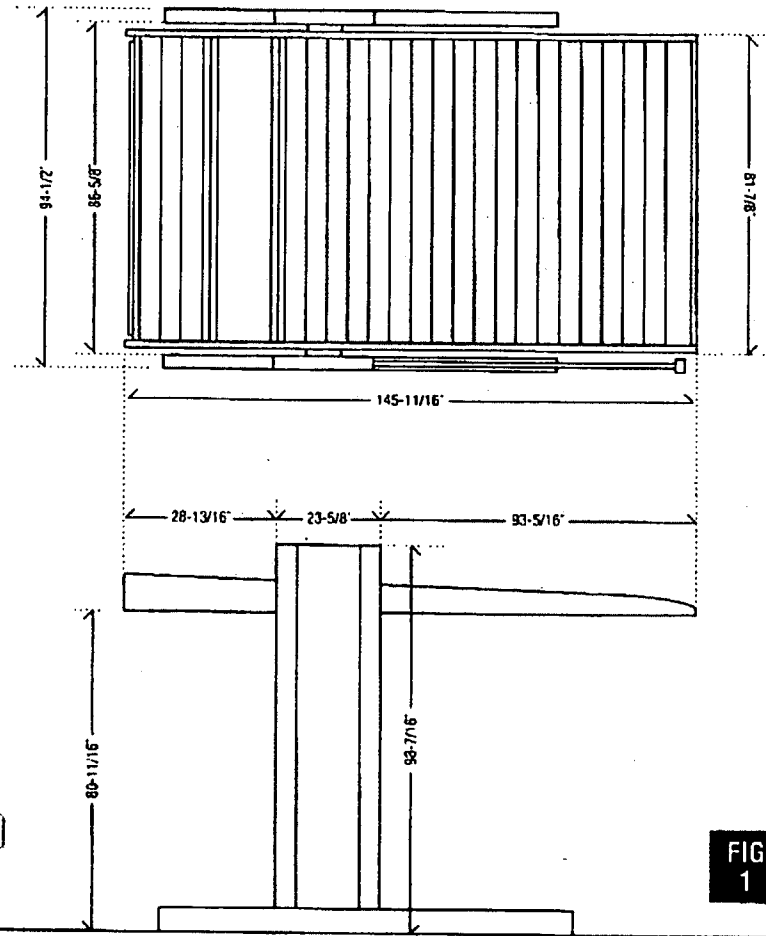
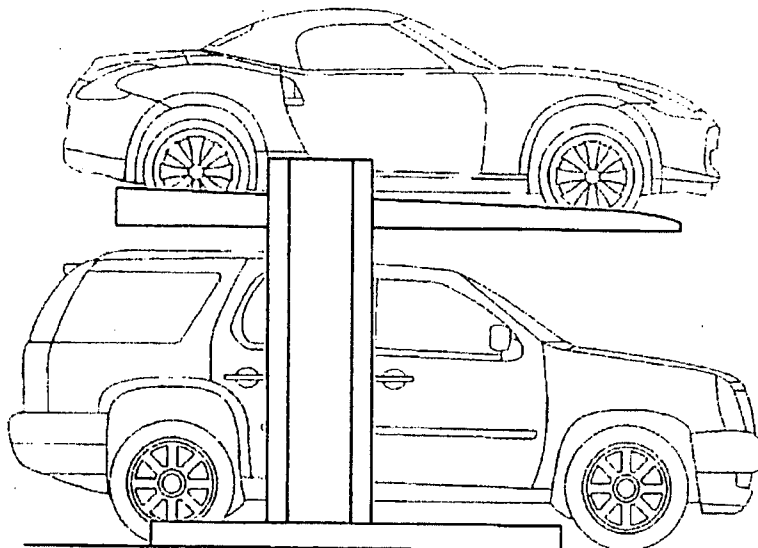


FIG. 1



RECORD P.039

SUV-XL

126 of 644

RECORD P.040

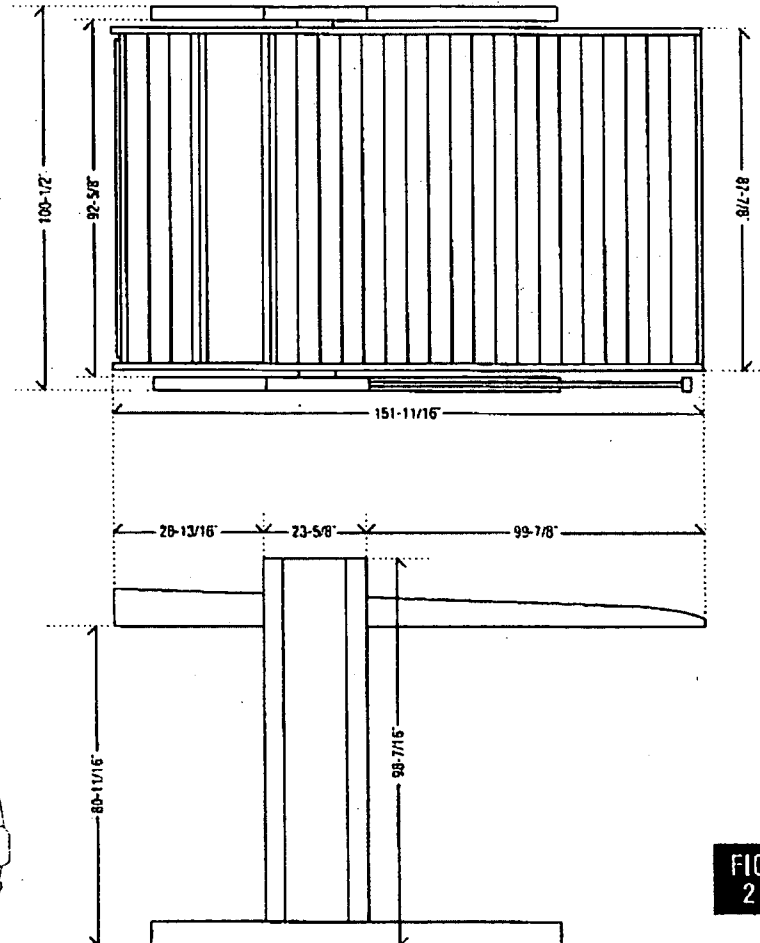
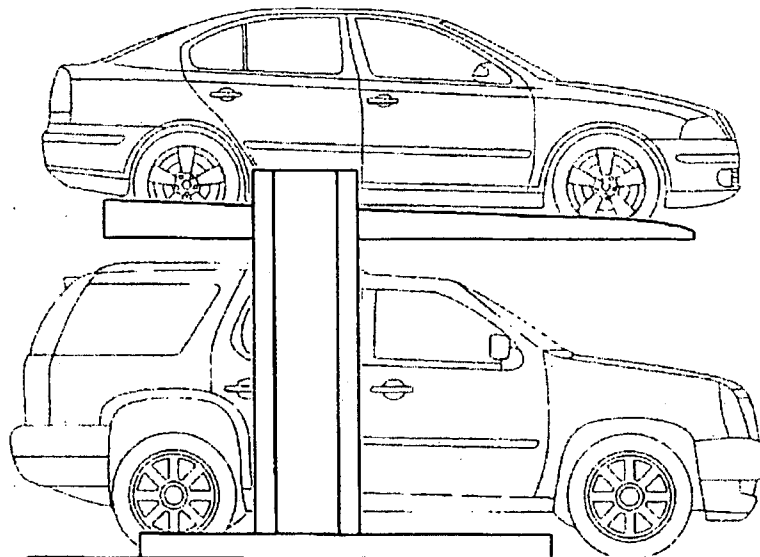


FIG. 2

SUV
SUV-XL

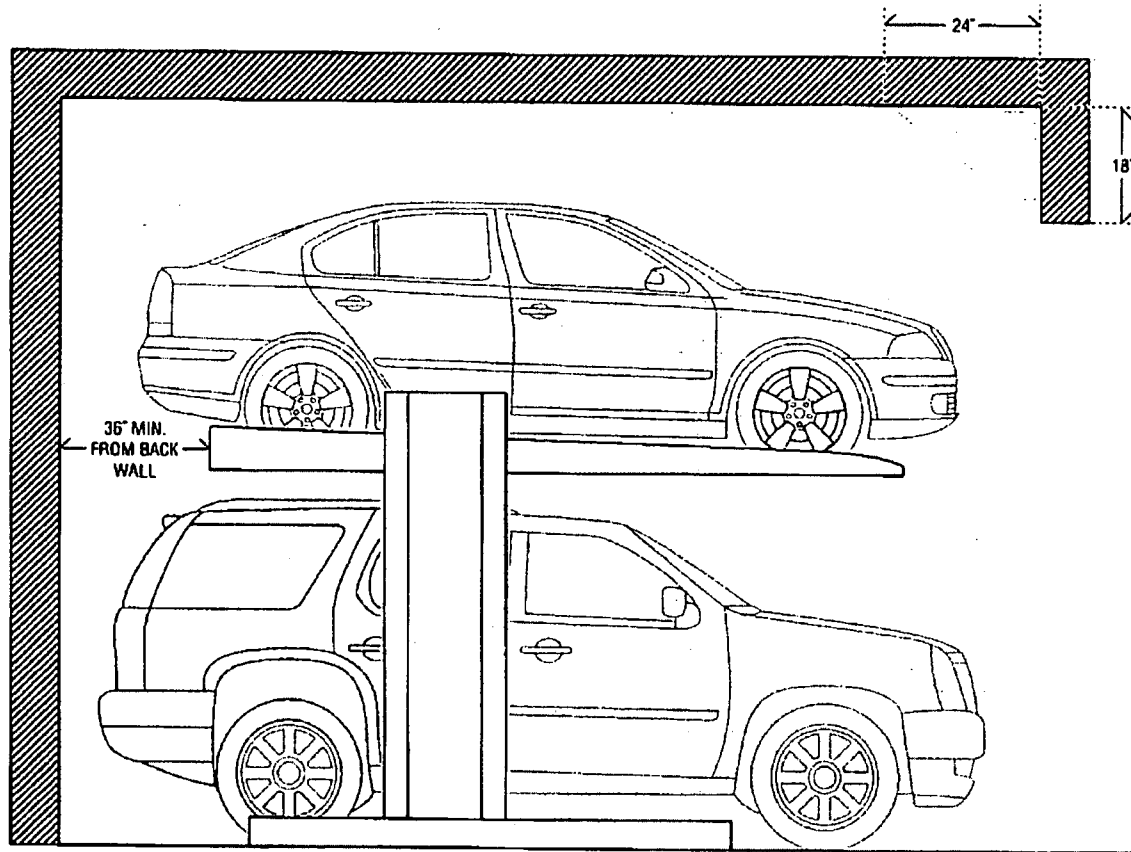


FIG.
3

HARDING STEEL, INC.

SUV
SUV-XL

TYPICAL LAYOUT OF SUV XL AND SUV LIFT

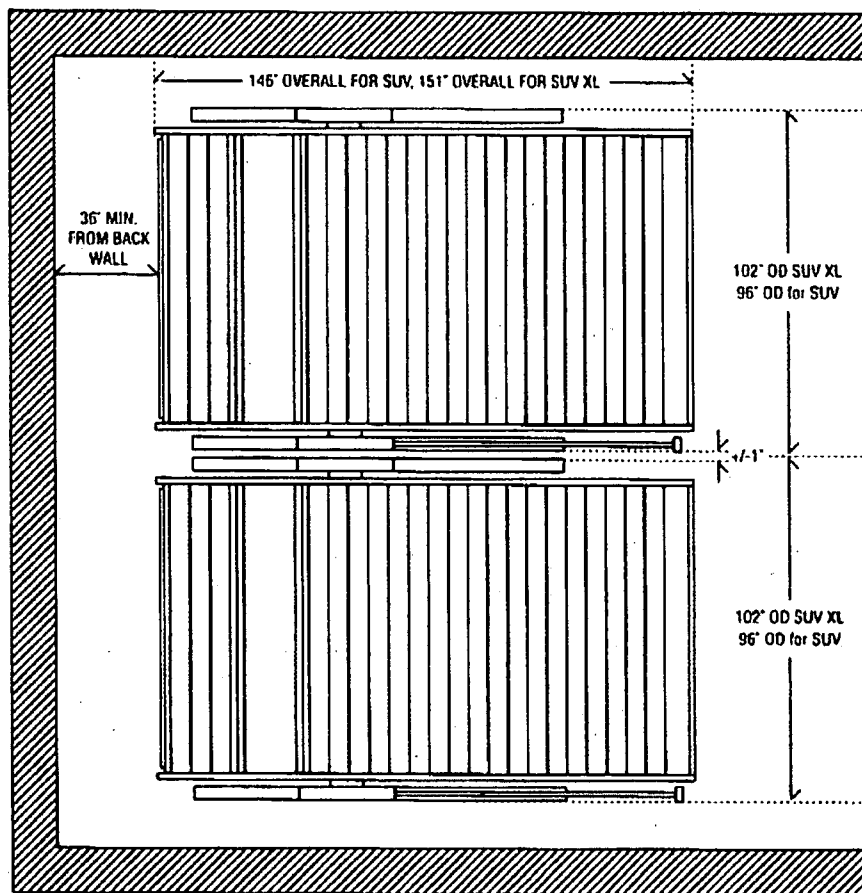


FIG.
4

RECORD P.042

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6

HARDING STEEL, INC.

SUV

CAPABILITIES

Working Capacity	6,000 lbs.
Static Capacity	12,000 lbs.
Dynamic Capacity	9,000 lbs.

DIMENSIONS

Overall Width	94-1/2"
Platform Width	81-7/8"
Drive-thru Width	86-5/8"
Overall Platform Length	145-11/16"
Maximum vehicle wheelbase	141"
Maximum clearance (lower car)	78"
Overall height	98-7/16"

SPEED

Lifting Speed (seconds)	17 seconds
Lowering Speed (seconds)	15 seconds

POWER

Power Requirements	220V 3 Phase 40 amp 220V Single Phase 40 amp

FEATURES

Application	Outdoor/Indoor
Surface	Asphalt/Concrete
Material	100% Galvanized Steel
Safety	Steel-on-Steel Locks

SUV-XL

CAPABILITIES

Working Capacity	6,000 lbs.
Static Capacity	12,000 lbs.
Dynamic Capacity	9,000 lbs.

DIMENSIONS

Overall Width	100-1/2"
Platform Width	87-7/8"
Drive-thru Width	92-5/8"
Overall Platform Length	151-11/16"
Maximum vehicle wheelbase	146"
Maximum clearance (lower car)	79"
Overall height	98-7/16"

SPEED

Lifting Speed (seconds)	17 seconds
Lowering Speed (seconds)	15 seconds

POWER

Power Requirements	220V 3 Phase 40 amp 220V Single Phase 40 amp

FEATURES

Application	Outdoor/Indoor
Surface	Asphalt/Concrete
Material	100% Galvanized Steel
Safety	Steel-on-Steel Locks

SUV
SUV-XL

FEATURES

- 100% galvanized steel construction
- Commercial grade design and materials
- Dual hydraulic cylinders
- Self-standing, self-supporting unit
- Can be moved or relocated
- Central or individual hydraulic power pack
- Solid platform prevents dripping from upper level
- Accommodates most popular SUVs and minivans
- Available in Standard and Wide models

DIMENSIONS

- Typical ceiling heights
 - 10'6" for two sedans
 - 11'6" for one car and one SUV
 - 12'6" or greater for 2 SUV's
- Width (side-to-side dimension)
 - 8'0" (standard model)
 - 8'6" (wide model)
- Length
 - 12'4" (total parking lift length on standard)
 - 13'0" (total parking lift length on wide)

SAFETY

- Standard key-lock switch for security and safety
- Automatic shut-off if operator releases the key-switch
- Steel-on steel locks hold the upper platform in place
- Manual lock release required to lower the unit
- Hydraulic velocity fuse protection

POWER REQUIREMENTS

- 220V, 20 amp, single phase (for individual power pack)
- 220V, 3-phase, 40 amp for commercial central power pack
- 220V, single phase, 40 amp commercial power pack

SHIPPING AND INSTALLATION

- Shipped by common carrier to most locations
- Installed by factory trained technicians

WARRANTY

- One year electrical, two year mechanical, five year structural

8



To: Apex Real Property, LLC

From: Jennifer T. Bihl, PE, PTOE

Date: November 20, 2016

Re: 36 North Market Street Trip Generation Review

This memo provides the projected trip generation for the proposed development on 36 North Market Street. This parcel is currently approved by the City of Charleston Board of Zoning Appeals for 36 hotel rooms in addition to the existing 12,000 square foot restaurant on the parcel. The project is located at 36 North Market Street.

The proposed land uses include 50 hotel rooms, 8,400 square foot restaurant and 4,000 square feet of retail.

The traffic generation potential of the currently allowed development and proposed development was determined using trip generation published in Institute of Transportation Engineers' (ITE) *Trip Generation, Ninth Edition*. Table 1 shows projected trips for the currently allowed uses and the proposed uses. Note that gross trips are shown below to be conservative, internal capture and pass-by trips were not applied at this time.

Table 1: Trip Generation						
	AM Peak Hour			PM Peak Hour		
	Enterin g	Exiting	Total	Enterin g	Exiting	Total
Currently Allowed Uses						
36 Hotel Rooms	11	8	19	11	11	22
Valet Trips	11	8	19	11	11	22
12,000 sf High-Turnover Sit-Down Restaurant	72	58	130	71	47	118
Total	94	74	168	93	69	162
Proposed Uses						
50 Hotel Rooms	15	11	26	15	15	30
Valet Trips	15	11	26	15	15	30
8,400 sf High-Turnover Sit-Down Restaurant	50	41	91	50	33	83
4,000 sf Retail	2	2	4	33	36	69
Total	82	65	147	113	99	212
Difference	-12	-9	-21	20	30	50



As shown in **Table 1**, difference between the proposed uses and the currently allowed uses are projected to generate fewer trips during the AM peak hour and 50 additional trips during the PM peak hour (20 entering and 30 exiting).

This information should be considered a preliminary review at the trip generation of the project. A formal traffic study reviewing additional area intersections may be required by the City and the South Carolina Department of Transportation as part of the site development plan for the parcel. In addition, the detailed operations of the valet trips will need to be coordinated with City staff. In addition, traffic flow will need to be coordinated with adjacent properties and incorporate planned operational changes to the roadway network.

The
Historic Ansonborough Neighborhood Association



Charleston, S.C. 29401

December 17, 2016

VIA HAND DELIVERY

Board of Zoning Appeals- Zoning
2 George Street
Charleston, S.C. 29401

Re: Opposition to Special Exception Requested by 36 N. Market St., 5 Guignard St., and
235 East Bay St.

To the Board of Zoning Appeals-Zoning:

I write on behalf of the Board of Directors of the Historic Ansonborough Neighborhood Association ("HANA") to oppose the special exception requested at any and all of the parcels located at 36 North Market, 5 Guignard, and 235 East Bay Streets, on the border of our neighborhood. The requested relief is:

Request special exception under Sec. 54-220 to allow a 50-unit accommodations use in a GB-A (General Business-Accommodations) zone district. Owners-Apex Real Property, LLC, East Bay 7, LLC/Applicant-Womble Carlyle Sandridge & Rice, LLP

HANA appreciates the commercial, for-profit attraction of expanding short-term hotel accommodations uses into each and every available piece of land on the Charleston peninsula. The cachet and appeal of this address is clear to any investor, properly recognizing the financial upside of expanding with so many others into such a lucrative market.

On November 11, 2016, the applicant reached out to HANA, explaining, "A few years ago we obtained BZA approval for a boutique hotel on the rear lot, and we also have BZA approval for hotel rooms above the restaurant facing on Market Street. We would like to come see you to show you revised plans for the hotel that would also incorporate the Molly Darcy's property at 235 East Bay. We're of course very aware of HANA's concerns regarding hotels, parking, traffic, restaurants, and noise and want to make sure that we are designing the project in the best way possible in that regard."

While HANA appreciates the advance notice and effort to engage in dialogue with our neighborhood, HANA must again object to this expansion of short-term tenancies in our midst. As is so often the case, it is impossible and unwise to consider this application out of context, with these parcels sited not only on Ansonborough's border, but also within feet of **Two 50 room hotel** operations recently approved on the same block.

The applicant was quite right to emphasize HANA's longstanding and ever-growing concerns about parking and traffic: Ansonborough residents already know that East Bay is always very busy but becomes a functionally impassable gridlock on cruise days and during tourist season. Adding to the scope of short-term rental operations along

RECORD P.048

Guignard and East Bay would materially exacerbate this problem. See the video made last fall at of the intersection at Guignard and Anson, with delivery trucks, cars, horse carriages, bicycles, and of course pedestrians navigating their way though the narrow, two-block long Guignard Street, which telescopes to a scant 16 feet wide mid-block. This intersection is the southern gateway to Ansonborough, and further clogging it by approving applicant's current application flies in the face of livability and protecting the fragile neighborhood that is home to so many full-time residents.

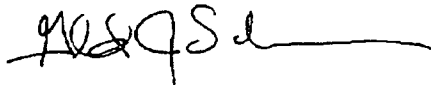
https://m.youtube.com/watch?v=uO_XkJWmsRo

HANA urges the Board, in reaching its decision, to be guided by the plain language of Code Section 54-220(a), which provides expressly that "[t]he City places a high value on the preservation of the character of its residential neighborhoods. Potential negative impacts affecting residential neighborhoods shall be avoided or minimized to the greatest extent possible." HANA therefore requests that the BZAZ remain mindful of this extremely high and extraordinarily protective threshold that must be met, and deny this application. Although the BZAZ "may" approve short-term rental uses in limited cases, the Code's strong emphasis under Section 54-220(a) on preservation of quality of life in residential neighborhoods such as ours requires that this request be denied.

More specifically, it is clear under Code Section 54-220(b)1 that at the very least, the location of the facility will significantly increase automobile traffic on streets within residential neighborhoods, and that the proposed use is otherwise out of character with the immediate residential neighborhood. HANA believes denial of this application is the appropriate result, as the Board remains mindful of the site location and considers, as it must, the excessive number of vehicle trips generated by the facility and the already highly congested traffic circulation pattern (not only at the critical East Bay thoroughfare, but also at Anson and Guignard), the immediate proximity of the primarily full-time residential Ansonborough neighborhood to the proposed facility, and the inevitable impact on parking and traffic generation.

In short, it is critical to recall that Ansonborough is filled with homes dating from the eighteenth and nineteenth centuries, some on the National Register, some subject to formal conservation easements with Historic Charleston Foundation and the Preservation Society, most all "contributing" directly to the fabric of the historic residential core of Charleston. Note as well that Ansonborough exists in a constrained, two-by-five-block footprint, already beleaguered by serious and ever growing traffic, parking, and intensified use concerns. Moreover, unlike some neighborhoods, Ansonborough is populated by many full-time residents, who live, work, and raise their families within these ten scant blocks. Granting special exceptions to permit increased density for private gain would needlessly and improperly elevate short-term commercial goals above longstanding, valid concerns of the residents not only of Ansonborough but ultimately of the City as a whole. HANA therefore respectfully request that this application be denied.

Best regards,



Gerry Schauer
President
Historic Ansonborough Neighborhood Association

RECORD P.049

BOARD OF ZONING APPEALS - ZONING

City of Charleston

Tuesday, December 20, 2016

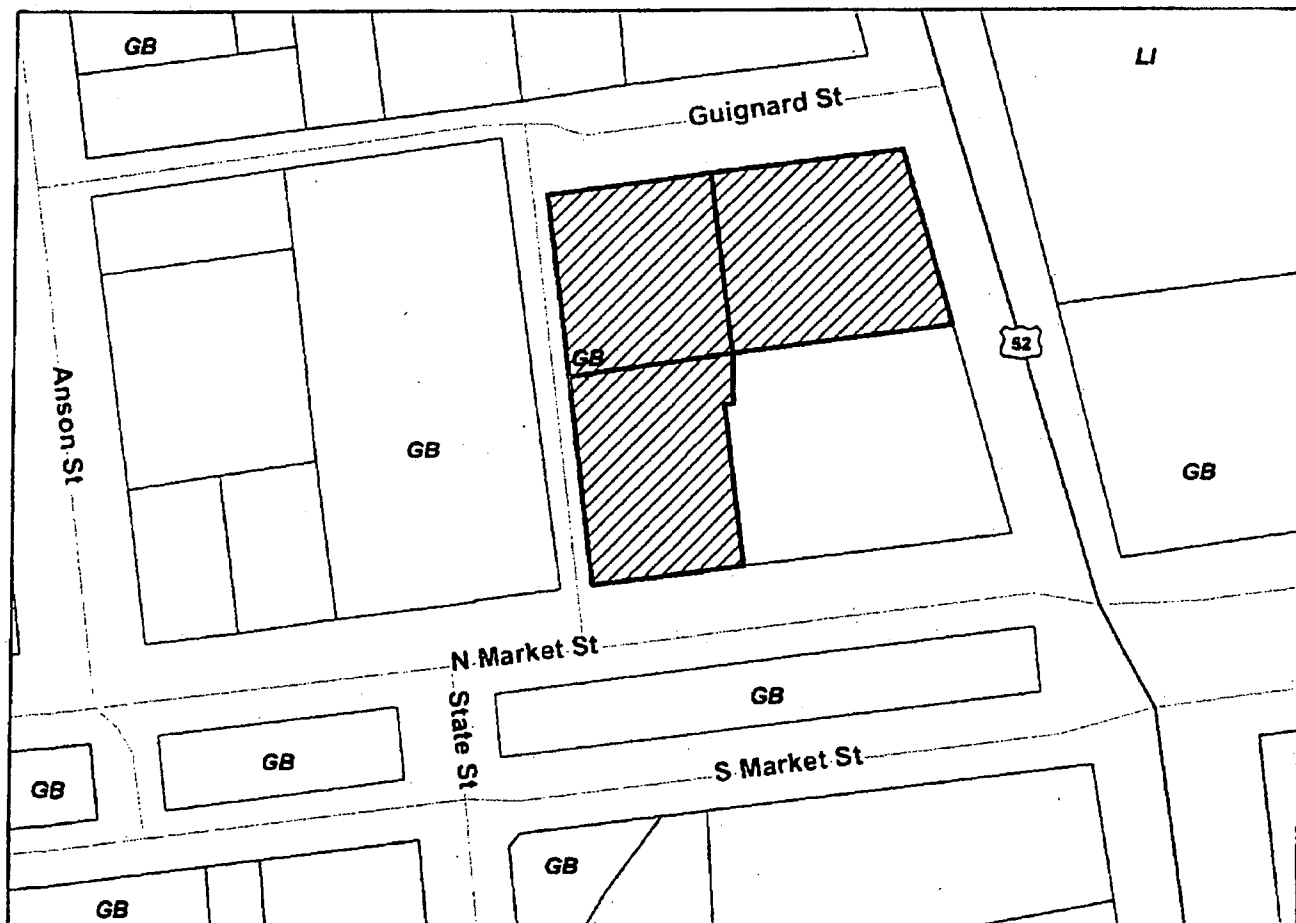
ITEM B 4

36 NORTH MARKET STREET,

5 GUINARD STREET &

235 EAST BAY STREET

TMS# 458-05-03-041, 138 & 036



 Subject Property

RECORD P.050



Board of Zoning Appeals-Zoning

December 20, 2016

The Board consists of seven members who are appointed by City Council. The Board is authorized to do three things:

- Hear appeals from decisions of the zoning administrator
- Grant or deny applications for zoning variances
- Grant or deny applications for zoning special exceptions

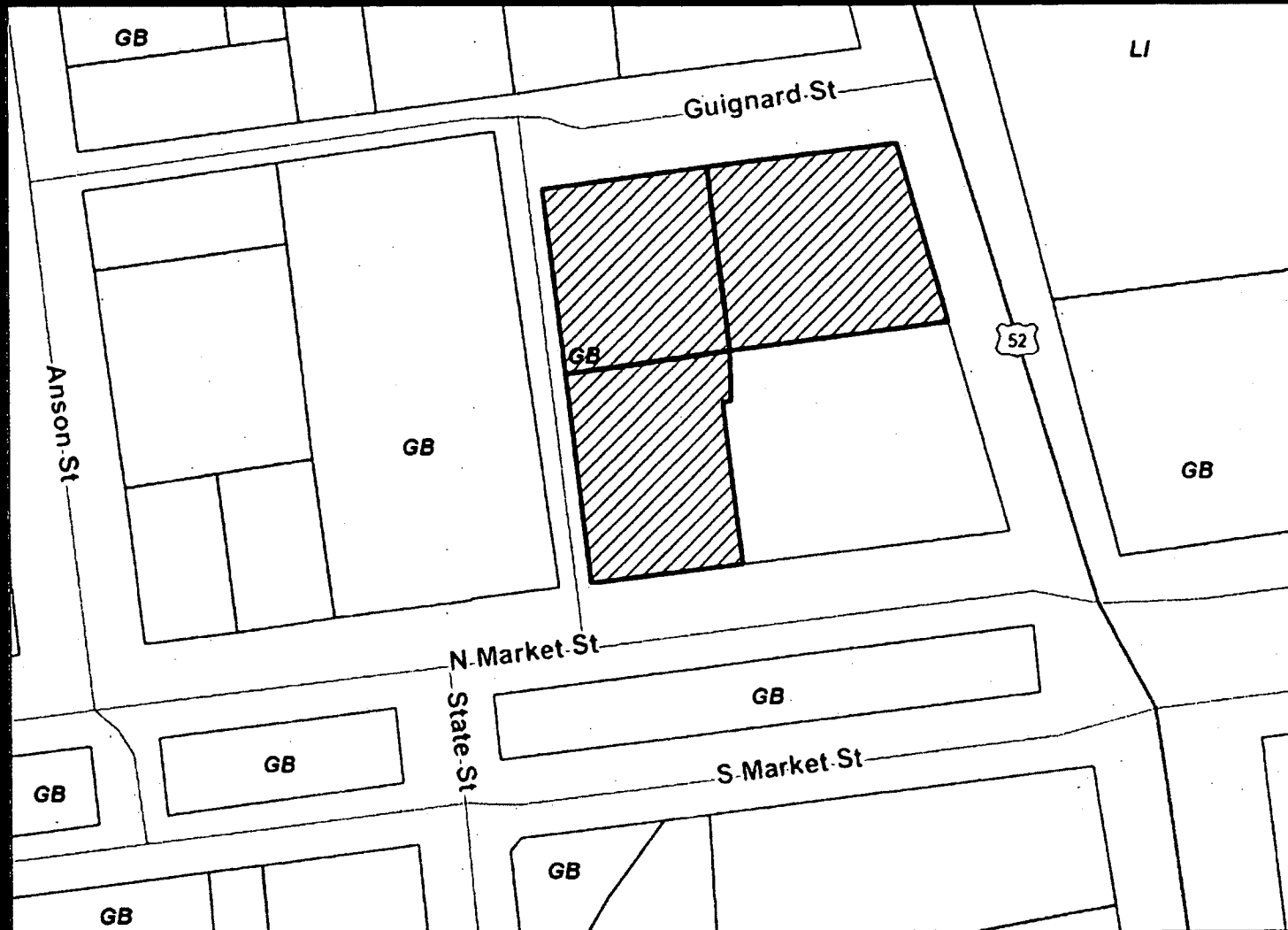
These proceedings are being recorded so please identify yourself and address your comments to the Board.

Please turn off your cell phones.

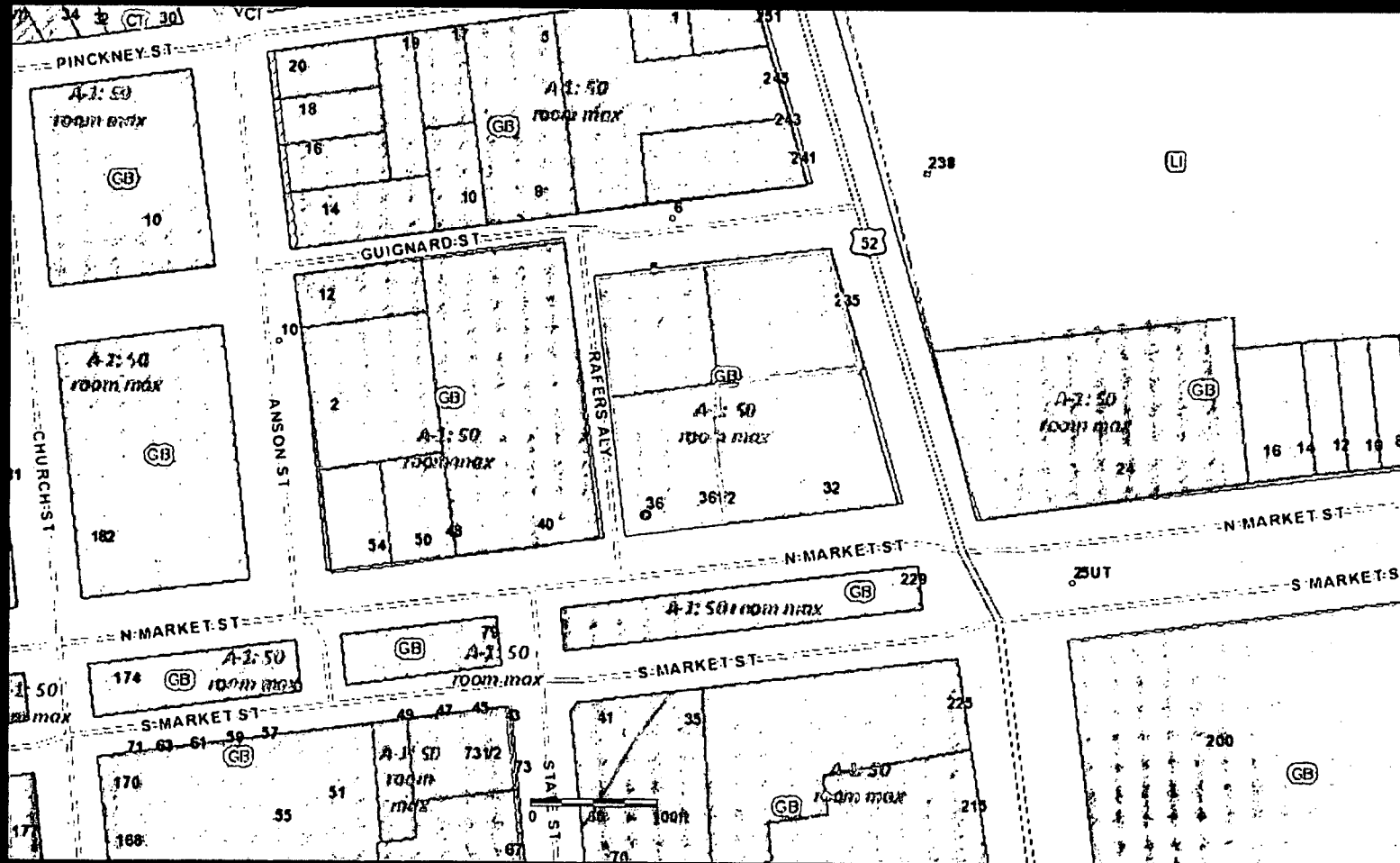
CITY OF CHARLESTON

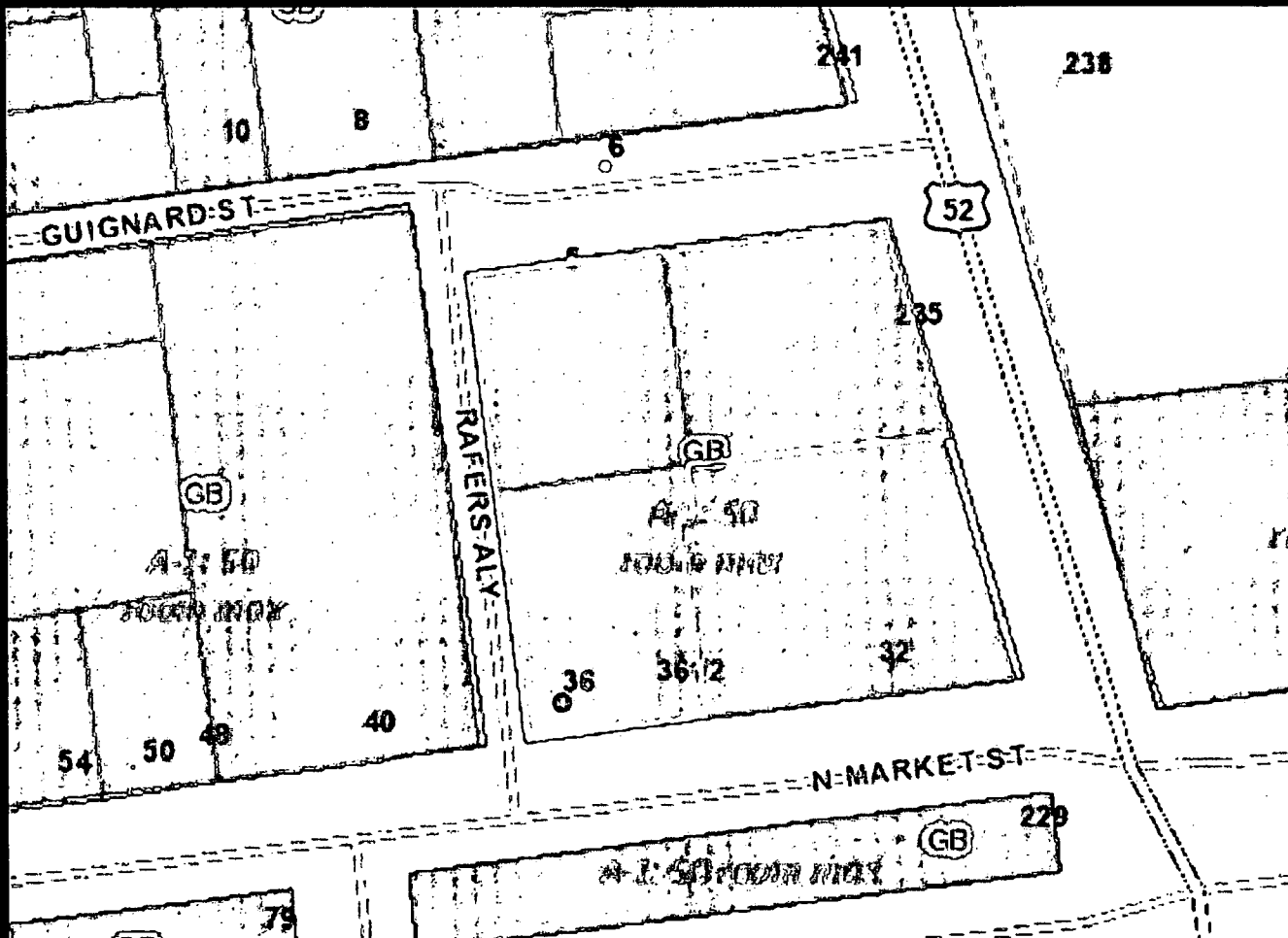
DEPARTMENT OF PLANNING, PRESERVATION AND SUSTAINABILITY

36 N. MARKET ST., 5 GUIGNARD ST. AND 235 EAST BAY ST.



RECORD P.052





RECORD P.054



RECORD P.055



RECORD P.056



RECORD P.057

SHOOK ASSOCIATES

**235 E.Bay, 5 Guignard & 36 Market – Existing
Buildings**



Market Street Facade

SHOOK ASSOCIATES

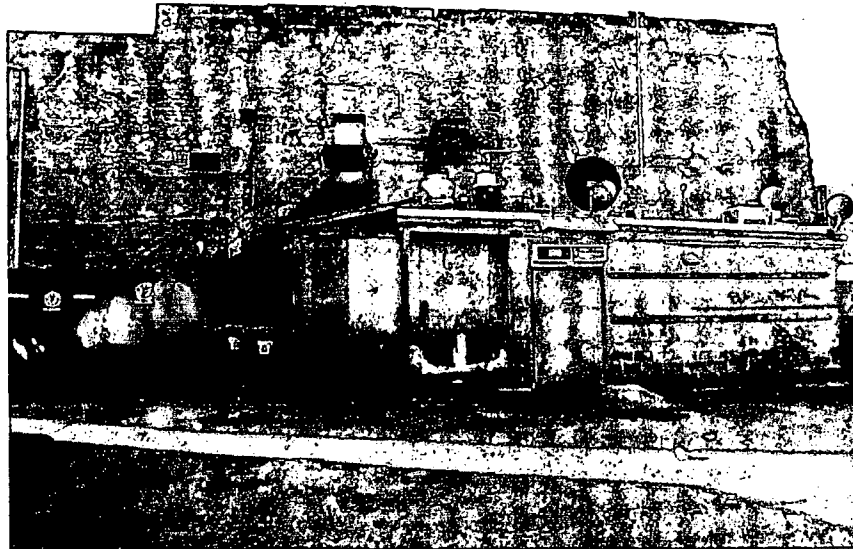
**235 E. Bay, 5 Guignard & 36 Market – Existing
Buildings**



Rafer Alley view of building

SHOOK ASSOCIATES

235 E.Bay, 5 Guignard & 36 Market – Existing
Buildings



Rear of existing building

SHOOK ASSOCIATES

**235 E.Bay, 5 Guignard & 36 Market – Existing
Buildings**



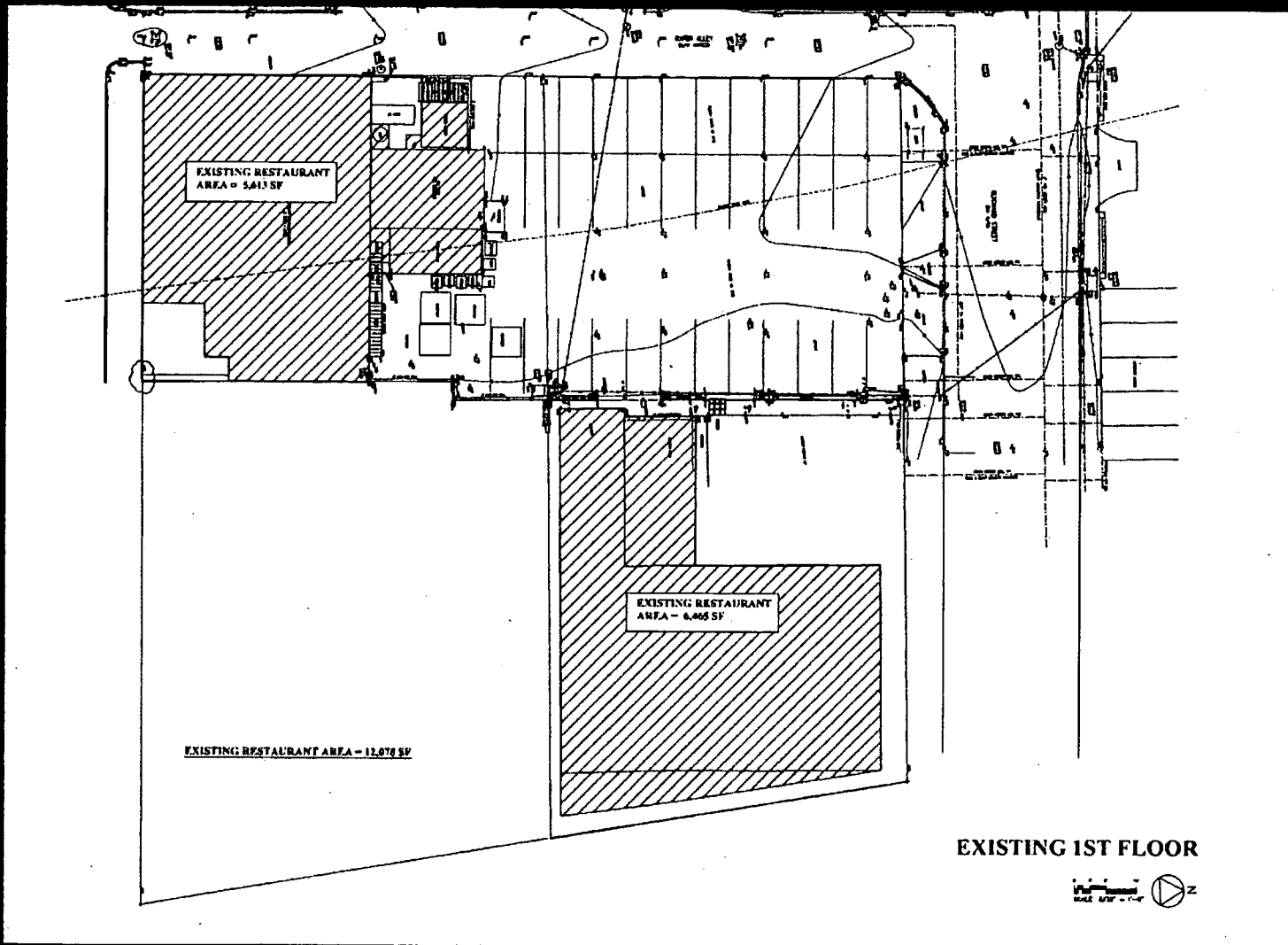
View from across Guignard Street to site

SHOOK ASSOCIATES

**235 E.Bay, 5 Guignard & 36 Market – Existing
Buildings**



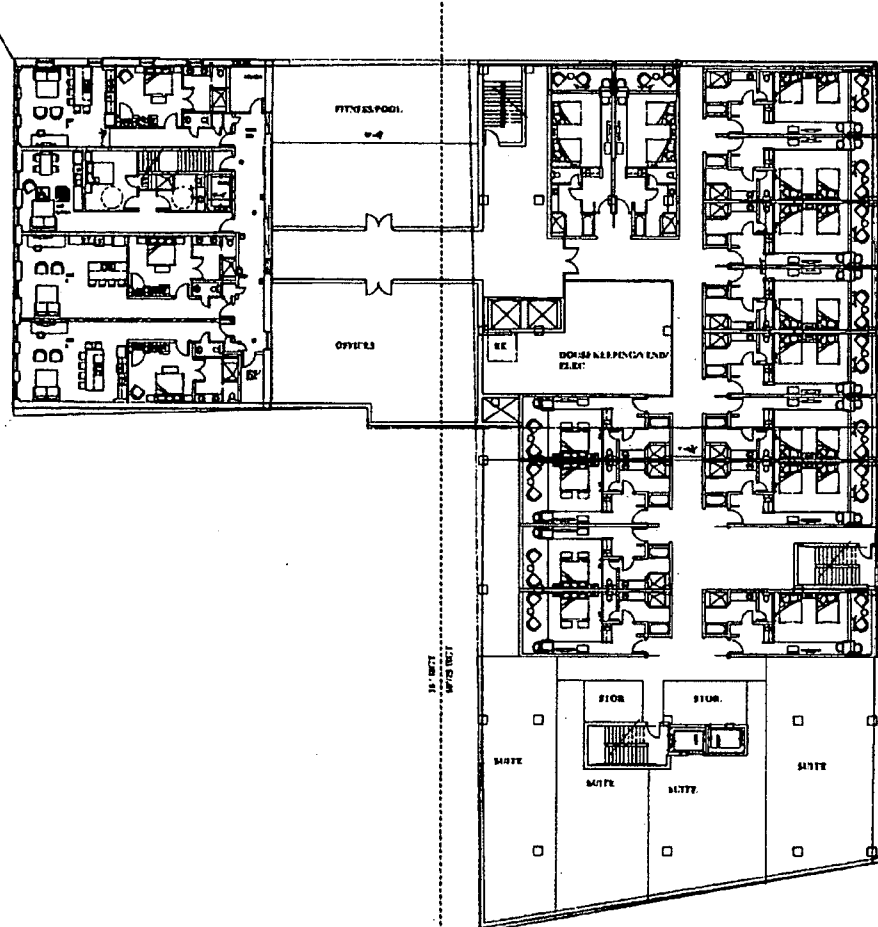
View of 235 East Bay Street from East Bay at Guignard Street



RECORD P.063

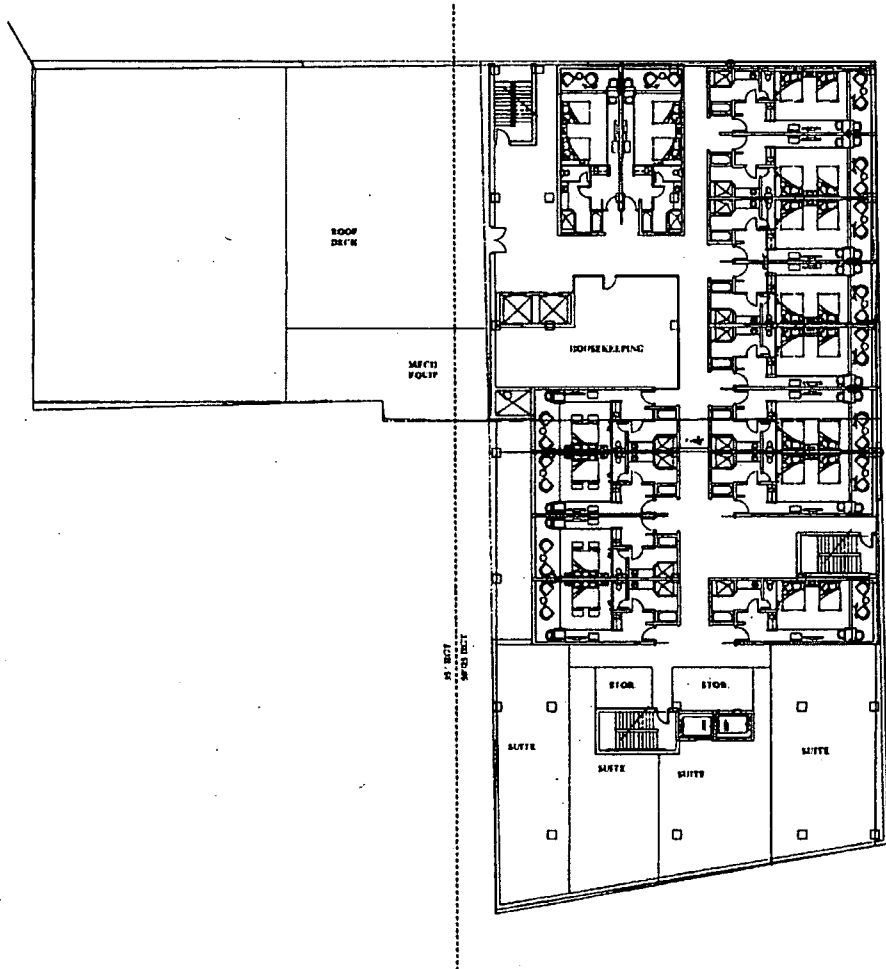


2ND FLOOR

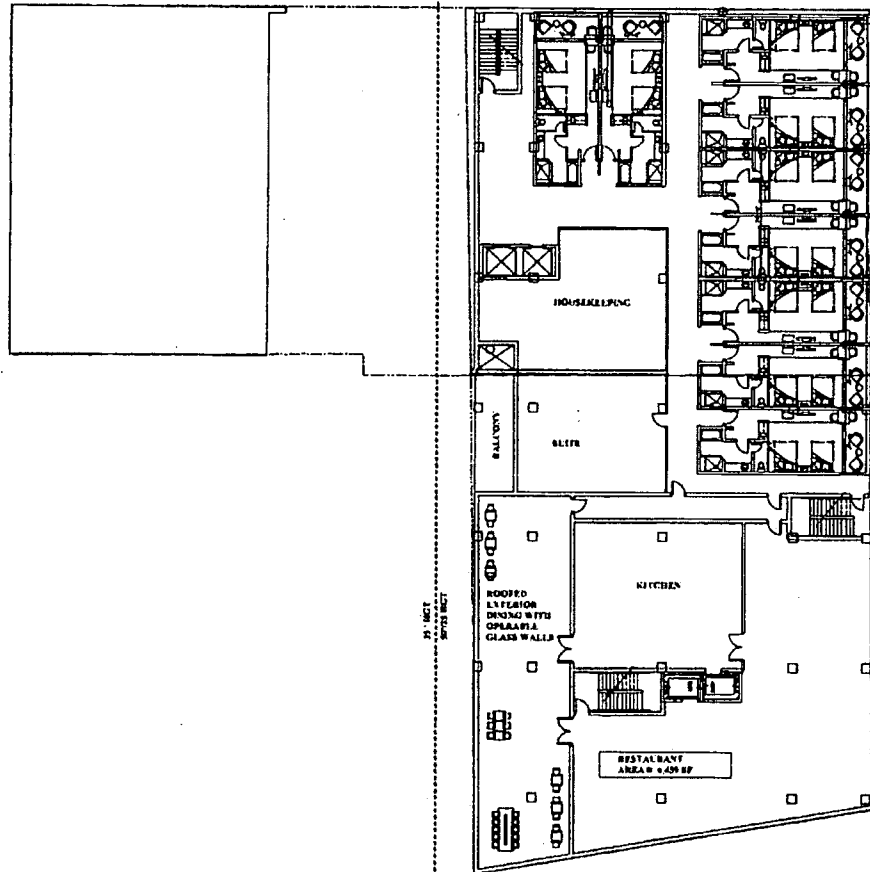


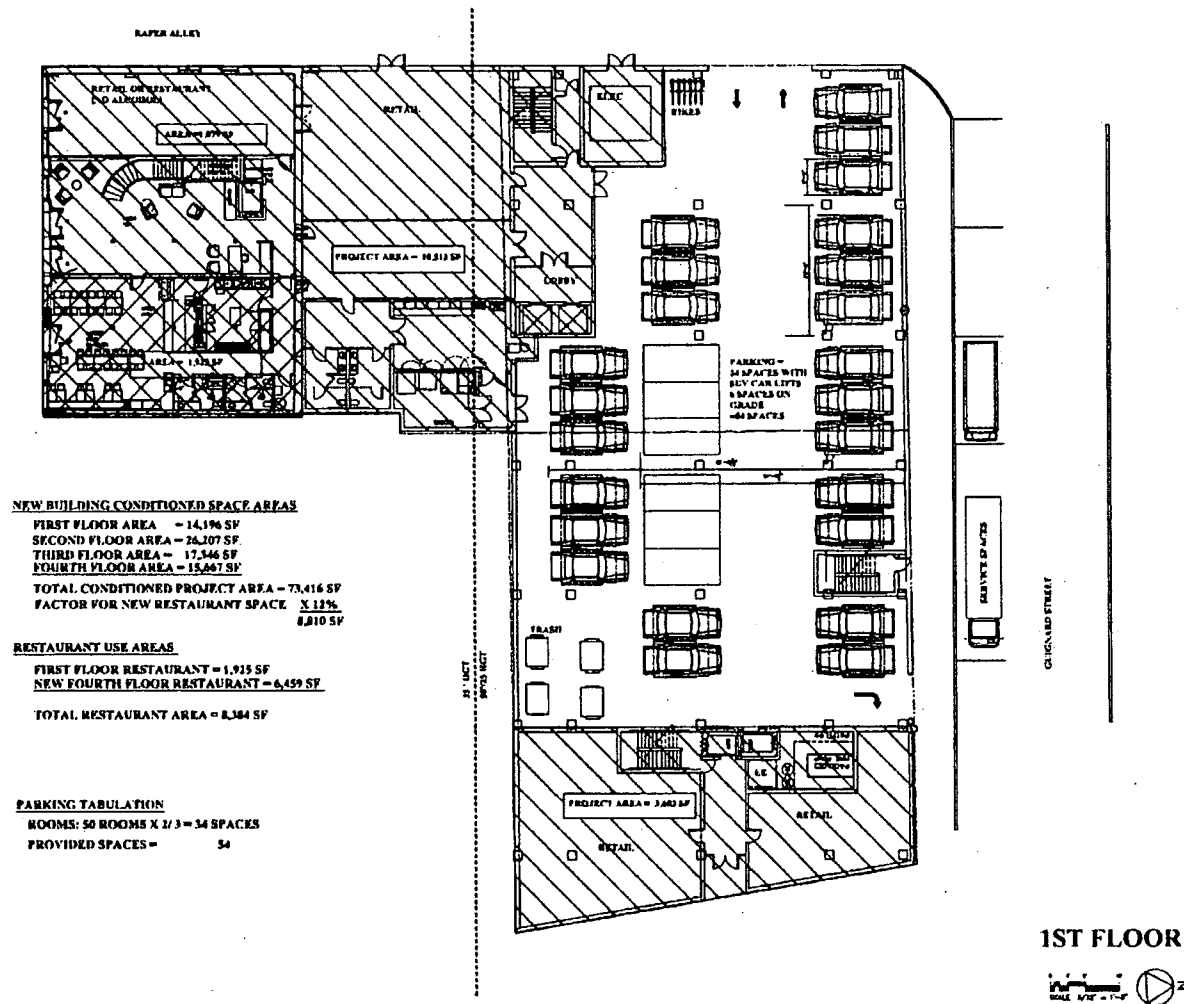
RECORD P.065

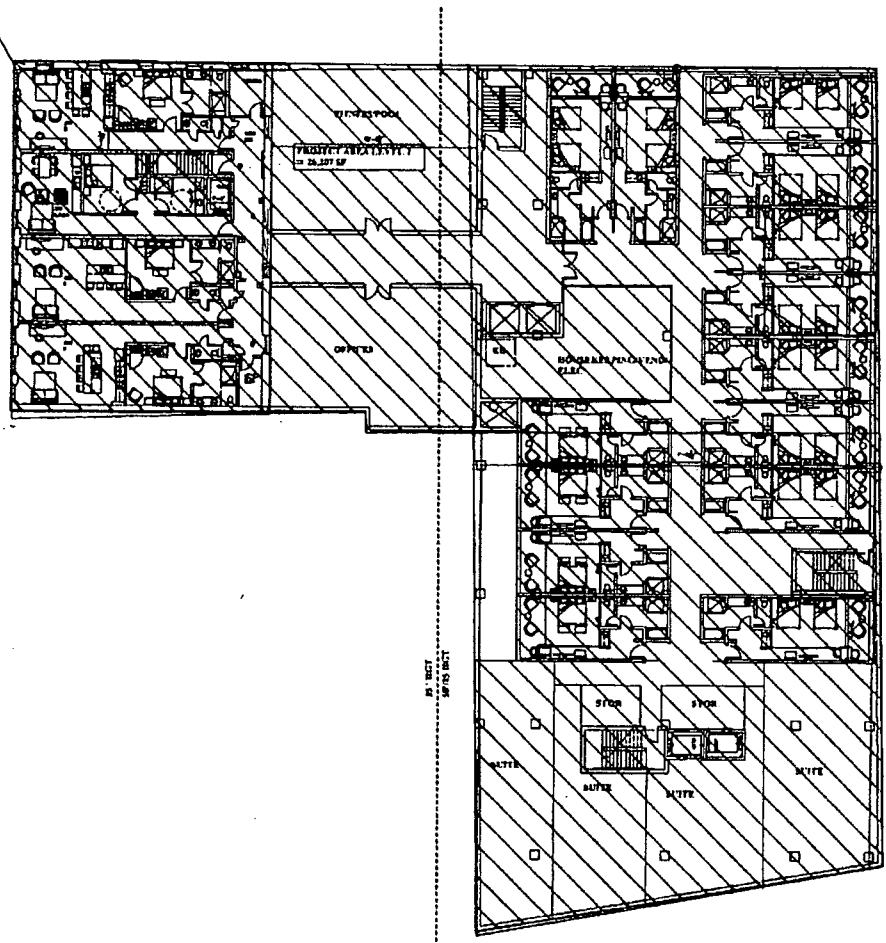
3RD FLOOR



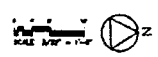
4TH FLOOR

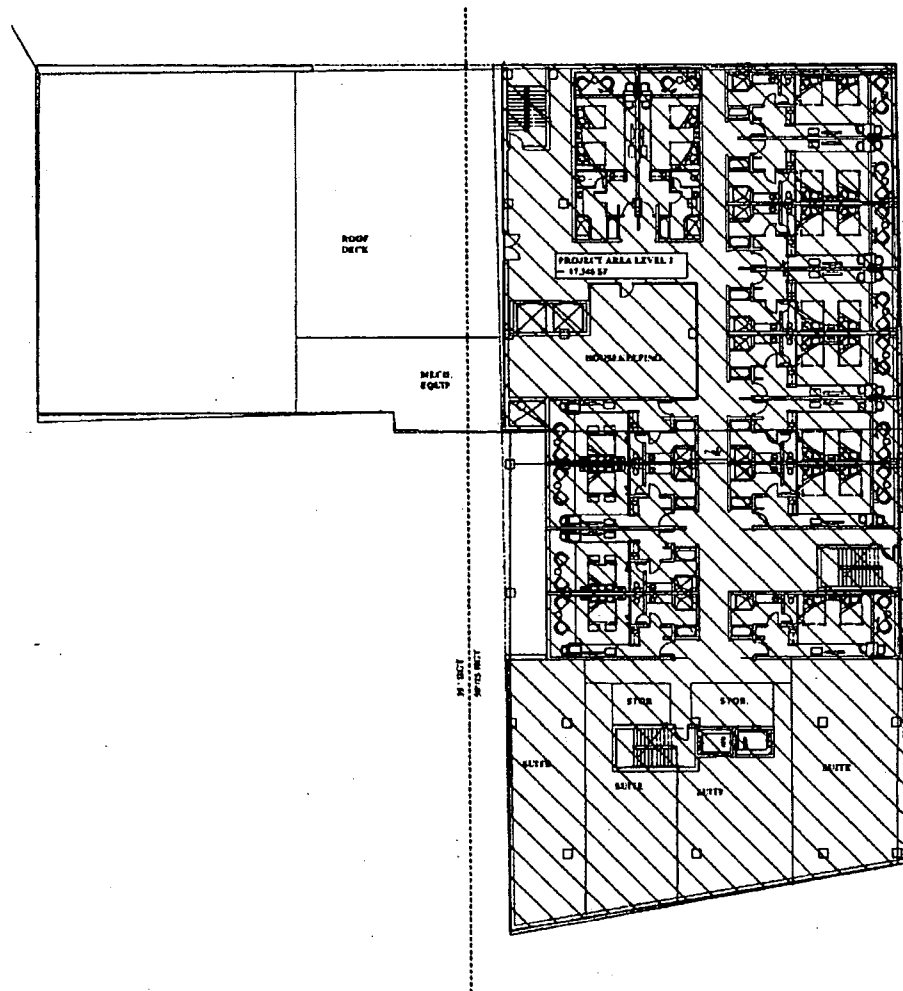






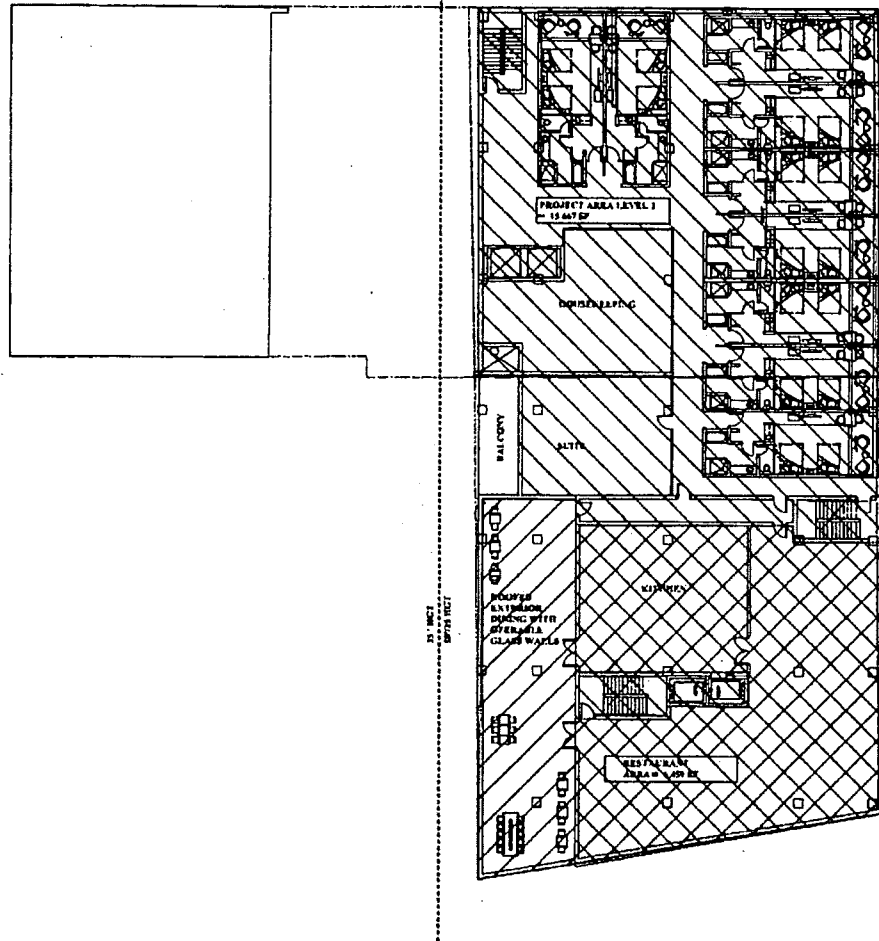
2ND FLOOR





3RD FLOOR





4TH FLOOR





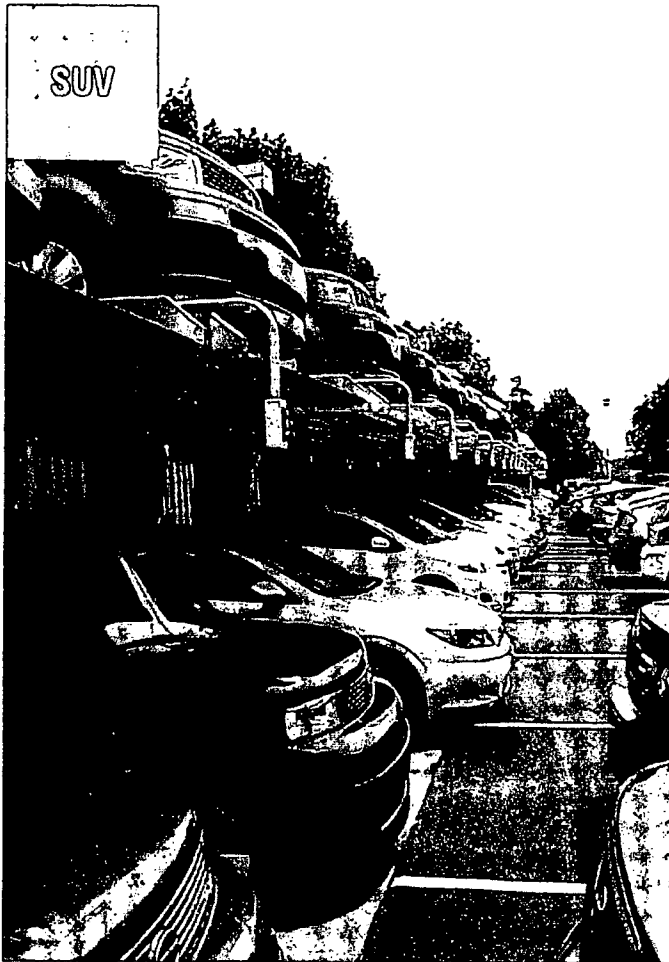
The Harding Steel SUV-Lift is the most popular product in the American parking lift industry. This innovative machine is designed to accommodate an expansive array of vehicles including SUVs, crossovers, sedans, collector cars, and exotic vehicles. Harding Steel's SUV and SUV-XL models are the only lifts to feature 100% hot-dipped, galvanized steel construction with dual-hydraulic lifting cylinders and steel-on-steel safety locks.

Our SUV-lift models comprise 80% of our total sales and installations. Harding Steel specifically designed these models with the needs of real estate developers, architects, engineers, automotive dealers, and commercial parking operators in mind. We can install the SUV lift on a standard 8' parking space, and accommodate most cars and light trucks on the market today. These lifts operate in both outdoor and indoor locations are particularly well suited for high-humidity or damp locations.

Harding Steel's newest product is the SUV-XL, six inches wider and longer than our standard SUV-lift. The SUV-XL is ideal where parking regulations require spaces to be 8'6" wide, or for self-parking applications where the extra width and length provides easier parking and maneuverability. The new SUV-XL will accommodate larger trucks such, as the new Toyota Tundra, in the lower space. High performance cars and racing vehicles with wide wheel bases fit beautifully on the extra wide steel platform of the SUV XL.

Both SUV models can be configured for drive-through and tandem parking applications. Our SUV-lifts can be utilized in areas where ceiling clearances are as low as 10'6".





2

HARDING STEEL, INC.

RECORD P.073

159 of 644

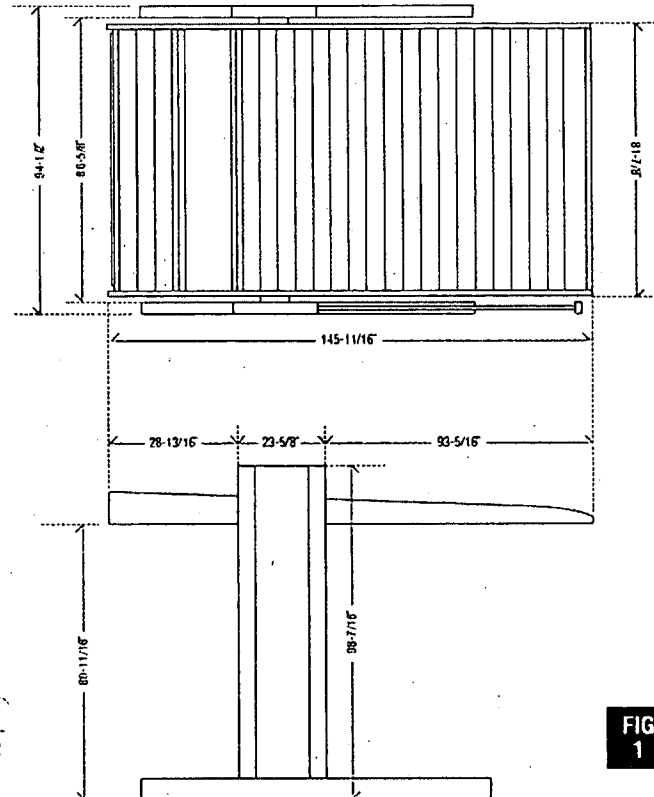
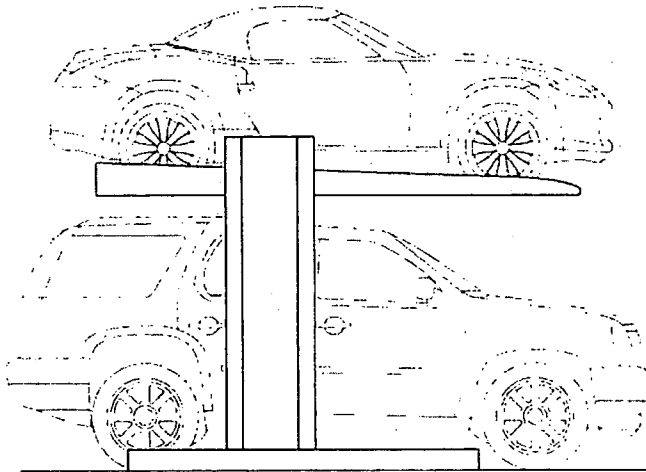


FIG.
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HARDING STEEL, INC.

SUV-XL

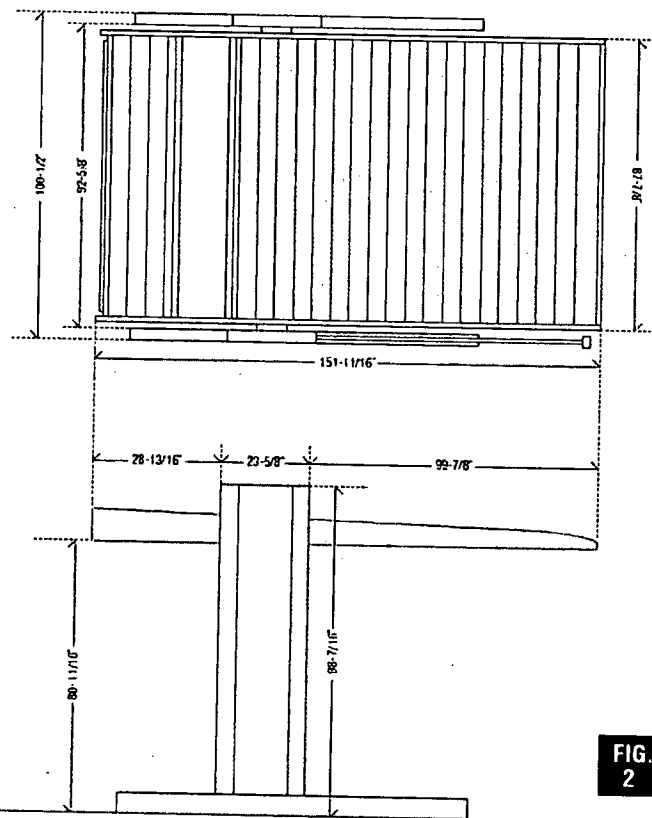
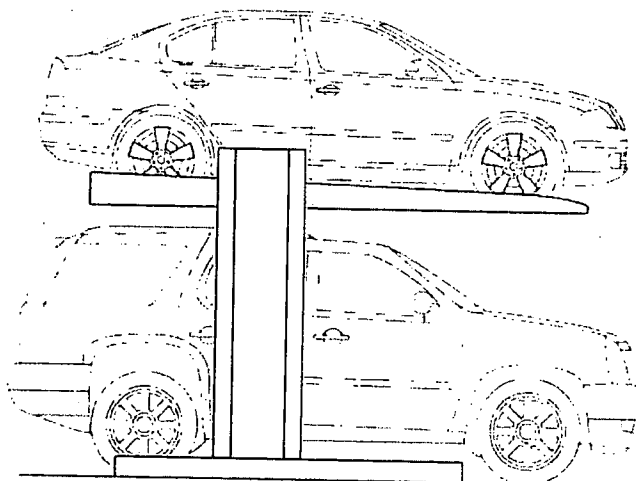


FIG.
2

4

HARDING STEEL, INC.

RECORD P.075

SUV
SUV-XL

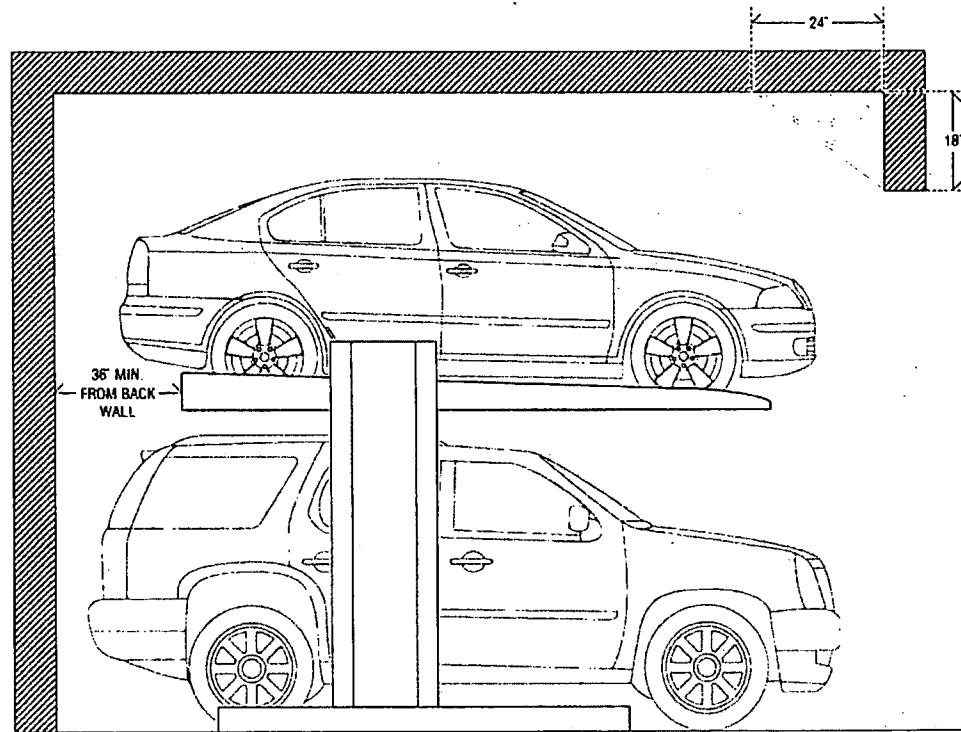


FIG.
3

HARDING STEEL, INC.

5



TYPICAL LAYOUT OF SUV XL AND SUV LIFT

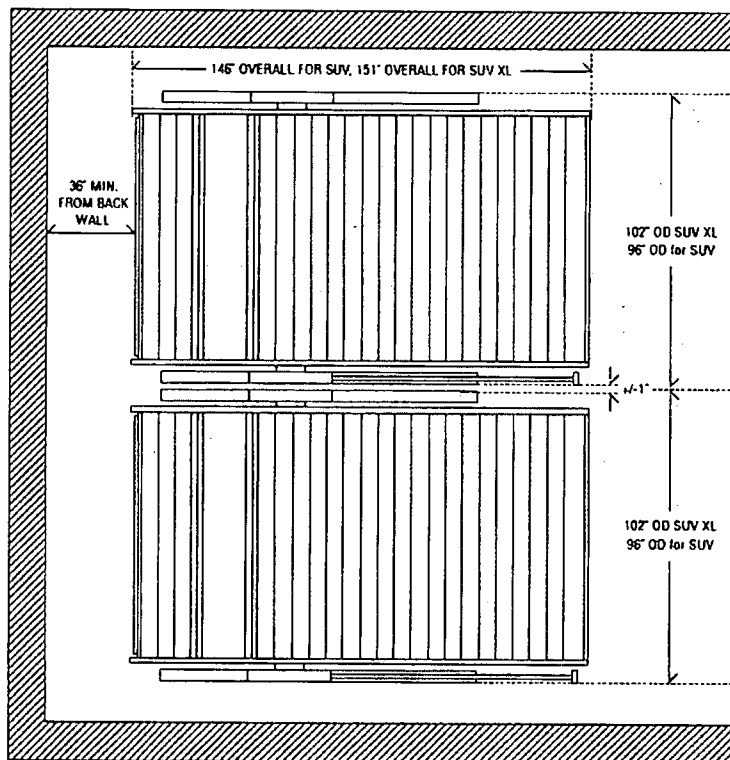


FIG. 4

HARDING STEEL, INC.

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REPORTED BY: RONDA K. BLANTON, RPR
NCRA REGISTERED PROFESSIONAL
REPORTER

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Clark and Associates Inc.
RECORD P.078

1 A P P E A R A N C E S

2 BZA MEMBERS:

3 Leonard Krawcheck
4 Michael Robinson
5 Margaret Smith
6 John Lester

7 PLANNING STAFF:

8 Lee Batchelder
9 Pennye Ashby
10 Vanessa Ellington

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1 BZA Meeting
2 December 20, 2016

3 - - -

4 CHAIRMAN: We welcome you to the
5 December 20, 2016, Meeting of the City of
6 Charleston Board of Zoning Appeals. Present are
7 Mr. Lester, Miss Smith, Mr. Robinson, and
8 Mr. Krawcheck. On my right from the City
9 Planning Staff, Ms. Ellington, Miss Ashby, and
10 Mr. Batchelder.

11 These proceedings are being recorded.
12 We ask you please to identify yourself if you
13 speak.

14 This Board does three basic things. We
15 hear appeals from the zoning administrator; we
16 hear requests for special exceptions to the
17 zoning ordinance; and we hear requests for zoning
18 variances.

19 * * *

20 CHAIRMAN: Item No. 4 is 36 North
21 Market, 5 Guignard, and 235 East Bay Street,
22 special exception to allow a 50-unit
23 accommodations use in a GBA zone.

24 Mr. Batchelder.

25 MR. BATCHELDER: So this is another

1 request for an accommodations special exception
2 under Section 54-2-20 zoning ordinance and
3 this -- this concerns also a -- a commercially-
4 zoned property zoned general business.

5 Here's a map showing the property in
6 question. It's highlighted on the screen for
7 you. It's these three properties right here.
8 36 North Market Street, 235 East Bay Street right
9 here, and then a surface parking lot that has an
10 address of 5 Guignard Street.

11 They're commercially zoned. They're
12 within the accommodations overlay zone where
13 hotels and such, inns, or other types of
14 accommodations/uses are allowed if the Board
15 grants a special exception under 54-2-20 of the
16 zoning ordinance.

17 And in this case two of these properties
18 have come before you on previous occasions. So
19 going back a number of years, this surface lot at
20 5 Guignard Street was approved for an
21 accommodations special exception to permit a
22 29-unit accommodations use; and then more
23 recently in July of 2013, the Board approved a
24 seven-unit accommodations use at 36 North Market
25 Street.

1 So there -- with these two properties
2 that are both owned by the same person, same
3 entity, there are currently 36 accommodations
4 units that have been approved.

5 The request before you tonight is to
6 utilize both of those properties, 36 North Market
7 and 5 Guignard Street, and 235 East Bay Street in
8 a new design that incorporates 50 accommodations
9 units.

10 So it's a brand new request but -- but I
11 want to make you aware that the prior approvals
12 that are still valid and will remain valid for a
13 number of years down the road because of the --
14 the actions of the South Carolina General
15 Assembly to suspend the running period of vested
16 rights. And that suspension ends at the end of
17 this year, and then the two-year clock starts
18 ticking again.

19 So anything that was approved in both of
20 these approvals are examples of that. 5 Guignard
21 Street approval and the 36 North Market, those
22 approvals would be vested and remain valid for at
23 least another two years beyond the end of this
24 year. I guess that's coming up pretty soon. I
25 forgot about that.

1 So -- and then there's always the
2 opportunity for five one-year extensions of those
3 approvals.

4 CHAIRMAN: So these approvals are not
5 mutually exclusive?

6 MR. BATCHELDER: Well, they were granted
7 at -- on separate occasions and for separate
8 properties. So they're -- they are each -- they
9 are mutually exclusive.

10 CHAIRMAN: So if -- if an approval -- an
11 existing approval were -- were acted on and the
12 project went forward, would it exclude the other
13 approvals?

14 MR. BATCHELDER: No. Because each of
15 those existing approvals are on a separate
16 property.

17 CHAIRMAN: Okay. The -- so how does
18 this affect us, Mr. Batchelder? I'm sorry.

19 MR. BATCHELDER: I'm just giving you
20 the -- the background of the -- what's happened
21 in the past with these properties. The applicant
22 for this request is the same applicant that came
23 before you on two different occasions to seek
24 those other approvals and received those other
25 approvals.

1 So they are, essentially, saying we've
2 got those approvals in place; but we have a new
3 plan we would also like to pursue. And in the
4 event that we get the approvals to do that plan,
5 then that new plan would, I guess, replace the
6 two --

7 CHAIRMAN: It would supersede what
8 they --

9 MR. BATCHELDER: Correct.

10 CHAIRMAN: So they're kind of shopping
11 the approvals.

12 MR. BATCHELDER: Well, I think I'll let
13 the applicant explain their purpose for doing
14 this --

15 CHAIRMAN: Okay.

16 MR. BATCHELDER: -- which I think is a
17 valid reason for pursuing it but -- but I think
18 they can better explain that.

19 CHAIRMAN: Okay.

20 MR. BATCHELDER: So that's the
21 background.

22 And just moving on, here's a closeup
23 view of the three properties in question; and
24 when I show this image, you'll maybe at least see
25 the buildings that are in place.

1 So we've got -- on 36 North Market
2 Street, we've got this two-story historic
3 structure; and for a number of years, it has
4 housed Wild Wing Café on the ground floor, and I
5 know that there have been some night clubs
6 upstairs.

7 I'm not sure what's there today but --
8 but there were some things in the past that were
9 probably not very appropriate for this area of
10 Market Street, and that happens to be a thing of
11 the past. So that's a two-story building. It's
12 not going to go anywhere, but it's being
13 incorporated into the plans that you'll see.

14 Then we have the surface parking lot,
15 5 Guignard Street, that provides approximately 33
16 parking spaces, more if you stack cars in there,
17 I suppose.

18 And then you have 235 East Bay Street,
19 which is this property right here. This is the
20 property that is occupied by one-story building.
21 Most recently it was occupied by Molly Darcy's,
22 which is a -- a bar, restaurant/bar, whatever;
23 but it's a late night use. And prior to that
24 there were other late night uses there; and I
25 don't live over there, but I know that's been a

1 problem for residents over there in the past.

2 So this proposal would remove that use
3 entirely, would remove the buildings, which, of
4 course, are subject to the approval of the BAR;
5 but I don't believe anybody thinks that they're
6 historic. And so if this were to be approved,
7 hopefully the -- the BAR would concur and allow
8 the demolition of the -- (Inaudible.) Commercial
9 buildings on that property.

10 But that's the closeup view of the
11 property in question. Of course, you've got
12 North Market Street on the south side right here
13 and all the commercial uses that exist there.
14 You've got East Bay Street to the east of the
15 property. You've got Guignard Street right here.
16 I'll talk more about that, and then on the west
17 side of the property is Raders Alley; and, of
18 course, Guignard Street goes out to Anson Street,
19 although it narrows as you approach that street.

20 So here's another view of the -- of the
21 property this time looking from -- I guess if you
22 were hovering in a helicopter over the Customs
23 House, you'd be -- you'd have this view. And so
24 the subject property is shown right here. I just
25 have this image up to give you an idea of -- and

1 put on the record all of the commercial uses that
2 exist in this area.

3 In the foreground, of course, you have
4 an office building at East Bay and -- and Market
5 Street. You have the warehouses of the South
6 Carolina Ports Authority on East Bay Street in
7 this area. You have a number of commercial
8 buildings with hotels, offices, restaurants,
9 bars. You have some residential uses. You have
10 some -- so it's a variety of uses but mostly and
11 nearly all commercial.

12 And then, of course, Market Street is a
13 commercial corridor; and the other side of this
14 block includes horse carriage companies, stables,
15 offices, bars, restaurants, gamut. Closest
16 residential property -- residentially zoned
17 property, I should say, is 395 feet from the
18 corner of the Guignard Street property -- parking
19 lot, 5 Guignard Street property line --
20 property -- parking lot, rather. And that's all
21 the way up to this point right about here; and
22 I'll show you that on a zoning map, but that's
23 roughly 395 feet.

24 Another view. Here's the parking lot at
25 5 Guignard Street. The distance from here to

1 here is 395 feet; and, of course, within the
2 block where this property exists, it's all
3 commercial uses except for -- there's only one
4 building that I'm aware of that has residential
5 units in it.

6 Here's a view of 36 North Market Street
7 from Market Street. Front of it. This is a side
8 view looking down Rafers Alley towards North
9 Market Street in the distance with a white
10 vehicle on North Market Street.

11 Here's the back of 36 North Market
12 Street. These were additions that were built
13 many years ago for, I guess, the restaurant uses
14 that have been there years and restaurant space,
15 which would not -- it's designated on the plans
16 to not have any alcohol service. So it doesn't
17 count towards the total restaurant space for the
18 restrictions of the special exception test.

19 And then you have -- in the back you
20 have a parking garage that is proposed to house
21 54 parking spaces. Most of those would be with
22 two-car stackers utilizing mechanical stacking
23 devices to stack one car on top of another, but
24 there would be some surface parking spaces as
25 well; and then you have other service areas.

1 Along East Bay Street there are two
2 small retail spaces shown. Second floor is hotel
3 rooms. Third floor more hotel rooms. And what
4 you have here at 236 North Market is nothing. No
5 additional -- there's no third floor because that
6 is within the area of the existing historic
7 building, which is a two-story building; and then
8 you have a small hyphen here to connect the new
9 building, the larger building in the back, to the
10 historic building. And that is not proposed to
11 be three stories either. So it's just a
12 two-story hyphen.

13 And this dash line, which is shown
14 here -- I'm running the pointer over it -- that
15 represents the boundary between the 35-foot
16 height district along Market Street and the 50 --
17 25 by district in the back. So the taller the
18 building is proposed to be in that 50-foot zone
19 and comply with the height restrictions.

20 Here's the fourth floor. More rooms and
21 a rooftop restaurant. So the area along East Bay
22 Street over what is currently 235 East Bay Street
23 property is proposed to be a restaurant with a --
24 an outdoor area that is shown here, and these are
25 the plans that are in front of you that I've put

1 here on the table.

2 So most of the -- most of the restaurant
3 is interior space. There would be a small
4 exterior space along the south side of that
5 fourth floor.

6 And these are just drawings to
7 illustrate the square footage of -- of space --
8 conditioned space in the building and conditioned
9 restaurant space and exterior restaurant space as
10 well.

11 So special exception requirements are
12 identified under -- on the sheet that I've put in
13 front of you. This was submitted by the
14 applicant with their application. It lists the
15 requirements for Section 54-2-20 is the zoning
16 ordinance and -- and it is our opinion -- my
17 opinion that they satisfy all of the special
18 exception requirements for this application.

19 They have addressed each one of their
20 requirements in the particular -- I'll let the
21 applicant go through these in more detail, but I
22 believe that they've satisfied all the
23 requirements.

24 They do not exceed the 12 percent
25 maximum allowed floor area for restaurant/bar

1 space. That's the space that's devoted to
2 restaurant/bars that do serve alcohol, and they
3 provide more than the required parking within
4 that garage. They're required by the zoning
5 ordinance to provide 34 spaces, two spaces for
6 every three rooms; and they're proposing to
7 provide 54 parking spaces in this garage, which
8 would utilize valet parking with these lifts.

9 And the information that's been
10 submitted with the application on these lifts,
11 I'll just pass this around. These are -- this is
12 the -- basically the spec sheet for the -- the
13 two-car stacking units that they would propose
14 to -- to use and the dimensions of these lifts
15 provide adequate space to meet the requirements
16 of the zoning ordinance for parking within a
17 garage.

18 And let's see. Couple other things.
19 So -- oh, and at the end of the written response
20 that was provided by the applicant to Section
21 54-2-20 -- so that's the information that I've
22 placed in front of you -- the very last sheet
23 lists the proposed conditions that they're
24 proposing to attach or have you attach to the --
25 to the exterior restaurant area.

1 And these are conditions that are --
2 that were proposed that are, I think, matching
3 the conditions that apply to the Bohemian hotel
4 at Meeting Street and Wentworth Street.

5 And as they move through the process,
6 they would have to complete a full traffic study
7 and submit that to the technical review
8 committee; but I believe that the information
9 they have submitted with their application
10 satisfies the -- the zoning requirements for a
11 parking -- or accommodations special exception.

12 And that has to do with the Item No. 3,
13 the number of vehicle trips generated by the
14 facility and the traffic circulation pattern
15 serving the facility and efforts made to minimize
16 traffic impacts.

17 And with that information and their
18 presentation there, I'm going to have to convince
19 you that the location of this facility will not
20 significantly increase automobile traffic on
21 streets within residential neighborhoods and I --
22 my opinion is that they satisfy that requirement.

23 And then, of course, they'll have to go
24 through the BAR and receive the Board's approval
25 for the design of this proposed building; and so

1 there are some concerns that I've heard that have
2 to do with the size of the building, the -- the
3 design of it, that sort of thing. Those are
4 really concerns that, I believe, are addressed by
5 the BAR.

6 So having said all that, my
7 recommendation is for approval. I believe that
8 they've satisfied the requirements of Section
9 54-2-20, and so I'll pass around the letter that
10 we received from the Historic Ansonborough
11 Neighborhood Association indicating their
12 opposition to this request.

13 And also I did receive an email from a
14 neighboring property owner who -- that's right
15 here. I'll pass that around as well. It's from
16 Mr. Hanlan who owns the property to the north of
17 235 East Bay Street at the corner of -- at the
18 northwest corner of East Bay and Guignard Street,
19 and I'll just throw this in that.

20 Of course, going back a year ago, we
21 started having a number of applications for hotel
22 special exceptions; and that seems to be
23 continuing. We haven't sat idly by and just
24 watched and reacted. We've been trying to -- in
25 response to a request by Mayor Tecklenberg,

1 trying to craft changes to the zoning ordinance
2 to address the concerns that we've heard.

3 And the presentation that was first made
4 to City Council back in May to make some changes
5 to that Section 54-2-20 of the zoning ordinance;
6 but that did not get any traction to council
7 then, and it hasn't gotten any traction so far.

8 We're in the process of preparing a new
9 draft ordinance that we'll be taking to council
10 in January, and it's kind of a trimmed down
11 version of what we initially proposed and -- and
12 we'll see what they want to do. But they are the
13 ones, of course, who have to make that decision.

14 And -- and until they make a decision to
15 change the law as we've -- we've got the law that
16 is on the books. We've got to apply it and not
17 make decisions that are arbitrary or capricious
18 or deny the applicant's rights to what they're
19 entitled to if they satisfy the requirements of
20 the ordinance.

21 So, you know, I know this -- this is
22 just another one in this block, and it's another
23 one in this area of the city but -- but the fact
24 is that we've got an ordinance on the books that
25 we've got to use and apply and be fair about. So

1 that's where I'm coming from when I look at these
2 and -- and make a recommendation to you.

3 And for the people who want to show up
4 and say we need to change the rules, City Council
5 meets twice in January; and they're meeting right
6 now but -- but we've -- we've been down that
7 road. We haven't gotten very far yet. So we
8 might need their support.

9 And I'll just pass this. This is the
10 list of objections from Mr. Hanlan.

11 CHAIRMAN: So there is opposition.
12 Mr. Batchelder, let me just ask you. Let me
13 return to these preexisting approvals. If -- if
14 someone comes to this Board and gets an approval
15 to do X, and then comes back three months later
16 and wants to do Y on the same property and then
17 come -- can they -- can they have the existing
18 approval and then have the second approval as
19 well?

20 MR. BATCHELDER: I believe they can.

21 CHAIRMAN: And I -- and maybe a third
22 approval?

23 MR. BATCHELDER: Yes.

24 CHAIRMAN: Okay. Is that -- is that a
25 good idea? I mean, I, you know, this is a

1 subject --

2 MR. BATCHELDER: Yes.

3 CHAIRMAN: -- that I don't think has
4 gone before this Board before.

5 MR. BATCHELDER: It's probably a worthy
6 question to ask and have our legal staff
7 research. Maybe there's an amendment to the
8 zoning ordinance that we can make to address that
9 situation that would not run afoul of the law but
10 that's -- we've had this situation maybe a few
11 times in the past, I'm sure, where somebody got
12 on approval. And then they came back and got a
13 different approval later on, and maybe it was a
14 different -- (Inaudible.) Whatever. But, of
15 course, your approvals run with the land for a
16 period of time and --

17 CHAIRMAN: Long time.

18 MR. BATCHELDER: Long time. And so
19 it -- it does happen, but it's never been a real
20 question before.

21 I suppose just thinking off the top of
22 my head that an argument could be made, maybe, to
23 deny one request because of other requests that
24 have been approved. But you're entitled to --
25 you've already received something so maybe you're

1 not entitled to -- you've already received a
2 variance or a special exception for X, and maybe
3 you're not entitled to Y.

4 But this is different, I believe,
5 because we're talking about a site, which is
6 different from the prior request. The prior
7 request in this case dealt with individual
8 parcels of land and -- and now we're dealing with
9 a site that is three parcels of land. So I think
10 it's different in that respect. It's not --
11 we're not going back and looking at the same
12 parcel of land and considering -- we're
13 considering a brand new request.

14 CHAIRMAN: I guess if -- if the Board
15 were offended by -- if you had an identical
16 request, same parcel of land, even the same
17 applicant within close proximity of one or the
18 other, the Board could, perhaps, condition the
19 second request with the revocation of the first
20 if it were offended by the second request.

21 It's not -- to the best of my
22 recollection, we've never been confronted with
23 that issue. But I, you know, it -- it -- it --
24 in thinking -- not about this application but --
25 but somebody could come to this Board

1 theoretically and -- and asked for ten different
2 things or -- over ten different meetings and then
3 go out and market a property, you know, take your
4 choice. And I -- it offends my sense of fair
5 play, I think.

6 Although, maybe there's nothing wrong
7 with that. I don't know but -- but off the top
8 of my head, it -- it bothers me. And I'm not so
9 sure that that's a BZA issue; and it well may be
10 a City Council issue, policy issue.

11 MR. BATCHELDER: Right.

12 CHAIRMAN: Okay. And in that -- and
13 that really doesn't have anything to do with
14 this -- with this request. It's just came up,
15 and I think it's something that -- that needs to
16 be discussed somewhere some time.

17 Mr. Wilson.

18 MR. WILSON: Thank you, Mr. Chairman.
19 Thank you, Mr. Batchelder.

20 Members of the Board, my name is James
21 Wilson -- (Inaudible.) I'm here on behalf of the
22 property owner with Dean Pierce, principal of the
23 property owner here, David Shook, the architect,
24 and, Jennifer Beal, traffic engineer.

25 Two sort of procedural comments as we

1 get started. One is that we have reason to
2 anticipate that if this Board does approve our
3 request this evening, it could be appealed. For
4 that reason we'd want to -- we will try to move
5 as quickly as possible but want to be clear that
6 we have hit all of the points on the -- under the
7 ordinance. So if you would please bear with us.

8 We believe we -- in the materials we
9 have submitted, we have addressed all of the
10 points. Mr. Batchelder, I believe, has hit both
11 of those as well.

12 Secondly, just with regard to the one
13 approval superseding the other, I think,
14 Mr. Chairman and Mr. Batchelder, you have already
15 addressed that; but we believe this really is a
16 separate request we're making because this is a
17 larger piece of property.

18 These are three parcels. We're
19 proposing to do a single project on these three
20 parcels as one building. That's different from
21 the approvals that we currently hold on the other
22 existing parcels, and so we do not believe that
23 there's anything in the ordinance that would
24 require us to abandon the existing approvals
25 which are still valid in order to proceed with a

1 request for this.

2 The property is -- property consists of
3 the three parcels, Wild Wings, the parking lot,
4 and Molly Darcy's. The current approval that we
5 have from an aggregate of 36 hotel rooms in
6 addition to the two existing restaurants, meaning
7 the approvals that we have for those 36 hotel
8 rooms, do not require in any way eliminating
9 those existing -- existing restaurants. Those
10 two existing restaurant properties are combined
11 about 12,000 square feet of restaurant and bar
12 property.

13 Our proposal here is basically to do a
14 50 -- 50-room hotel with restaurant and retail.
15 That 50-room hotel is, obviously, going up from
16 the 36 that's already approved to this 50 for the
17 combined three properties.

18 And the total restaurant space we're
19 proposing is -- is a little bit more than 8,000
20 square feet, and the total retail is about 4,000.
21 I'm citing those numbers just so you understand.

22 We currently have about 12,000 square
23 feet of restaurant space on the combined
24 property; and what we're proposing is to change
25 that mix so that it's still about 12,000 square

1 feet, a little bit more, only about 8,000 and
2 change of restaurant and about 4,000 of retail.

3 The facade on Market Street, the
4 two-story building, will, of course, be
5 preserved. That's a historic building. We're
6 actually already in process of restoring the
7 facade of that building. We are not requesting
8 any variances as part of this request. The
9 property is, of course, zoned accommodations and
10 general business.

11 We think this is part of an overall
12 improvement of the market area in terms of
13 quality and appearance.

14 Mr. Batchelder, would you just go to the
15 first floor of the plans for me.

16 I -- I'll do this quickly because I
17 think Mr. Batchelder explained it well. This is
18 North Market Street here. This is the lobby
19 entrance of the -- of the hotel. This is a small
20 restaurant here that would be adjacent to the
21 lobby. This could be a restaurant with no
22 alcohol or -- or some retail. You got some
23 retail space possibly along Rafers Alley, parking
24 back here.

25 The parking -- because that's,

1 obviously, an important concern in this area that
2 we've talked about with the historic Ansonborough
3 neighborhood as well as Mr. Hanlan as well as
4 the -- (Inaudible.) And has talked to other
5 neighbors as well. Traffic and parking,
6 obviously, is always a concern here. So we want
7 to just show you how we propose this work.

8 We would offer valet service here on
9 Market -- Market Street, and valets would take
10 the cars into the parking back here. We have two
11 exits from the parking area. One here onto
12 Rafers Alley and one here onto -- onto Guignard
13 Street to enable cars to move in different
14 directions depending on what is going to be most
15 convenient and effective, a little bit depending
16 on what happens next door and whether the City
17 has considered whether Rafers should be one way.
18 Our feeling is this would work fine either way,
19 if Rafers remains one way or is one way in either
20 direction.

21 The criteria. I'd like to go through
22 the criteria in some -- in some detail. But,
23 Mr. Batchelder, would you actually go to the
24 fourth floor for me. Thank you.

25 With regard to the restaurant on --

1 that's proposed on East Bay Street, of course,
2 that's where the Molly Darcy's restaurant is
3 located at present. What we're proposing is to
4 have a restaurant on the -- on the fourth level,
5 and this area that you see here is proposed
6 exterior dining area.

7 That is deliberately oriented to face to
8 the -- to the south as opposed to, of course,
9 facing to the north or to the west, which is the
10 direction of Ansonborough. This exterior area
11 would be shielded from those directions by a
12 building here, building here. Of course, there
13 would be a wall and doors here and wall here.

14 So we just want to point that out.
15 We've very deliberately tried to design this in a
16 way that would have the least impact on any
17 residential, which is up in the Ansonborough
18 area.

19 I would like to run through the criteria
20 as quickly as I can under Section 54-2-20 of the
21 code. An elimination of housing units. Of
22 course, we do not have any existing housing units
23 so that's not applicable.

24 The traffic, the traffic on streets
25 within residential neighborhoods. Our

1 expectation, of course, is that guests coming to
2 the hotel would be coming down -- coming down
3 East Bay Street, could come down -- could come
4 down Meeting Street.

5 Guests would -- guests would have valet
6 service here at the front of the hotel; and
7 guests leaving the hotel, we expect, would be
8 pointed in the direction of Meeting Street and
9 use Meeting Street to exit. Exit north out of
10 the peninsula.

11 We've, obviously, spoken to Historic
12 Ansonborough Neighborhood Association about
13 traffic on Anson Street, which is a concern, an
14 issue. We, of course, can't physically restrict
15 guests from using Anson Street if they so choose;
16 but we don't have any reason to believe that they
17 would necessarily choose to use that, meaning
18 we're not going to deliver cars pointing north on
19 Anson Street.

20 And we are having to instruct and direct
21 them to exit to Meeting Street or East Bay
22 Street, which we think -- which we think,
23 frankly, are the natural corridors. These are
24 primary arterial streets running north-south.

25 The third point of the criteria, the

1 restaurant and bar space not to exceed the 12
2 percent total interior space as Mr. Batchelder
3 has said is shown on the submitted plans. We
4 remain below that 12 percent threshold.

5 The fourth point, the project is in
6 character with the immediate neighborhood. The
7 immediate neighborhood consists of -- of a
8 variety of commercial uses, including retail,
9 restaurants, offices, and other hotels.

10 There is one residential use across the
11 north street; and that is Mr. Hamlin's property,
12 which is historically an office building, the
13 second floor of which has been converted to a
14 residential condominium, and a third floor which
15 has also been added onto as another residential
16 condominium.

17 The fifth point, that the project will
18 facilitate pedestrian activity and encourage
19 transit system usage. We believe this property
20 has an excellent location for pedestrian access
21 to a variety of tourist attractions as well as
22 shopping and restaurants. It is also located
23 directly on a CARTA bus route that runs along
24 Market Street and up Meeting Street to the CARTA
25 hub, which is at Ann and Meeting Street area

1 above Calhoun and from there, of course, it goes
2 out all across the Charleston area and -- and
3 the -- we will also include bicycle storage
4 on-site in the hope that we can encourage some
5 employees to use bicycles as well.

6 As the criteria continue, those are the
7 findings that are required of the Board. The
8 Board is also to consider the following items.
9 The number of existing housing units. Of course,
10 that's not applicable. The displacement of
11 those. That's not applicable.

12 The number of vehicle trips generated in
13 the traffic circulation pattern and the efforts
14 made to minimize traffic impacts.

15 We will provide valet parking for the
16 property. As I said, we're located -- we're
17 located in a convenient location with good access
18 to two primary arterial streets, East Bay and
19 Meeting running north-south. Access to neither
20 of which would require traversing a residential
21 neighborhood.

22 We do believe that guests typically --
23 typically, when they check into the hotel for a
24 number of days, they will generally leave their
25 car parked -- parked there. The -- the

1 pedestrian access is excellent from this
2 location.

3 Miss Beal has provided a traffic
4 memorandum, which is included in the application
5 materials; and it does show -- and it shows a
6 decrease in the AM hour traffic compared to --
7 relative to the existing uses plus the -- plus
8 the approved uses, meaning the 36 hotel rooms
9 plus existing uses. And the AM shows a 21 trip
10 decrease of AM peak hour. PM peak hour shows a
11 total of 50 trips over that PM peak hour
12 increase.

13 The other important traffic element to
14 be aware of -- Mr. Batchelder, I'm sorry. Would
15 you flip back to the first level of --
16 (Inaudible.) Thank you.

17 The other important traffic
18 consideration is over here on Guignard Street.
19 There are currently three metered parking spaces
20 along Guignard Street here, and then this entire
21 area with a parking lot is just one long curb
22 cut.

23 What we understand is, what we're seeing
24 is that service trucks serving a variety of
25 properties will actually park just right in the

1 middle of Guignard Street. There's good reason
2 for that. It allows cars to come in and out of
3 here. 18 yards is wide enough that you can park
4 in the middle and come in and out on this side
5 and in and out on this side as well.

6 We think we're actually improving that
7 situation. We have met with the City's traffic
8 and transportation department, and they have --
9 they have said that they are happy with us
10 creating a loading zone here, and we'd also
11 preserve the metered parking spaces down here.

12 Next of the criteria, the distance of
13 the main entrance of parking entrance to a road
14 classified as arterial -- (Inaudible.) As I
15 said, we're half a block from East Bay and a
16 block-and-a-half from Meeting.

17 The prominent land uses within 500 feet.
18 We believe our proposed uses are consistent with
19 the surrounding existing and historical uses, the
20 market, restaurants -- (Inaudible.) Hotels,
21 Ports Authority.

22 The proximity of residential
23 neighborhoods, as Mr. Batchelder said, the
24 nearest residential area is Ansonborough. The
25 nearest residentially zoned property is 395 feet.

1 Ansonborough -- Ansonborough itself is separated
2 from this property by an entire block of
3 commercial property, largely stables and other
4 commercial properties between Guignard and
5 Pinckney streets to the north of this property.

6 The property is also intentionally
7 oriented, of course, toward the south and toward
8 the east meaning away from Ansonborough toward
9 East Bay and Market streets.

10 The next criteria, the -- the criteria,
11 the accessory use proposed for the facility in
12 terms of the size impact on parking, in fact, on
13 traffic or ancillary uses to the hotel, of
14 course, are retail and restaurant uses, which are
15 consistent with previous and existing uses.

16 And the total of those ancillary uses,
17 again, remains basically the same as it -- as it
18 is today. The -- actually the two large
19 restaurants themselves currently have -- have
20 no -- almost no parking while Darcy's does have a
21 few spaces in the back -- back of the property.

22 The -- with regard -- with regard to
23 parking to make sure that I -- that I impact on
24 parking, make sure that I hit all these, we think
25 our providing 54 parking spaces, which is 20 more

1 than the required 34 parking spaces, helps
2 address concern -- concerns about parking
3 generally and is more significantly better than
4 the existing situation for those two restaurant
5 properties, which have close to none.

6 Lastly, the retail space on our property
7 is -- we anticipate is largely expected to cater
8 to pedestrian traffic and to hotel guests. For
9 example, the gift shop at a hotel generally is
10 not attracting people from outside. It's serving
11 people from right there.

12 The next criteria, the off-street
13 parking, of course, we've hit on that. We're
14 providing 54 spaces, which is 20 in excess of the
15 34 required.

16 Next criteria, any industrial uses
17 within 500 feet or hazardous materials. We don't
18 believe that's applicable. The SPA has a
19 warehouse; but that's not -- it houses no
20 hazardous materials, to our knowledge, over
21 there.

22 Next criteria, commitment to --
23 (Inaudible.) Recycling. The owner's, of course,
24 committed to a recycling program and to design it
25 in a sustainable manner.

1 Next point, distance of facility from
2 major tourist attractions. We're, of course,
3 located quite close to numerous tourist
4 attractions.

5 The distance of the facility from
6 existing planned transit facilities. We are
7 located directly off of a CARTA bus route, and
8 the next criteria is parking for employees who
9 drive vehicles to work.

10 As I mentioned, we have about 20 more
11 parking spaces than required. We would
12 anticipate that some of the upper level
13 management of the hotel could use -- could use a
14 couple of those spaces.

15 We're directly on the CARTA route in
16 terms of employee -- employees, and we provide
17 bicycle storage. We also understand from talking
18 to the management companies for hotels in
19 Charleston that housekeeping -- their experience
20 is that the majority of housekeeping employees
21 generally use transit or else get -- get a ride
22 to work and dropped off and are not parking. We
23 believe that it is significantly better than what
24 currently exists for parking.

25 Next criteria, the creation of diverse

1 mixed use in the community. We believe we've got
2 mixed use that is compatible with the
3 neighborhood.

4 The number of rooms, we, of course, are
5 in compliance with the limits of 50 hotel rooms
6 in the A1 accommodations overlay.

7 The next provision about hotels with
8 more room -- more than 50 rooms outside of A1 is
9 not applicable.

10 The next criteria, two criteria, our
11 commitment to make affirmative good faith
12 efforts -- (Inaudible.) Opportunity are
13 available to disadvantaged business enterprises
14 and also commitment to make a good faith effort
15 to hire personnel representative of the
16 population of the Charleston community at all
17 employment levels. The owner is committed and
18 going to make that commitment to both of those
19 goals.

20 Lastly, as I said, we have -- we have
21 met with Board members of Historic Ansonborough
22 Neighborhood Association and at their -- at their
23 request, we -- we included in our application a
24 condition that we've -- that we would comply with
25 the -- the restrictions that were imposed on the

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1 Grand Bohemian hotel; and we have inserted those
2 into our applications, conditions that we are
3 happy to adopt for our exterior dining area.

4 And in our exterior dining area, it's --
5 it's conceived that it may be totally open, but
6 it may be partly -- partly roofed, part with a
7 fixed roof, that is, maybe partly glassed in with
8 windows for sliding windows that could open up.

9 And our -- the way we've tried to draft
10 this is at any time that we are -- that we are
11 open in any way, meaning open -- open to the
12 outside, then we would comply with all these
13 requirements, which are listed here.

14 But generally are a parapet wall 5 feet
15 high, no loud music, no televisions, no outside
16 bar. If there are any outside speakers, they're
17 directed back toward the building; and don't have
18 sounds higher than normal conversational speech.
19 Access to the exterior would be French doors
20 rather than the large rollup overhead. And
21 operating hours will limited to 11 p.m. on Sunday
22 through Thursday and midnight on Friday and
23 Saturday.

24 Based on all that, we do believe that we
25 satisfy the existing criteria for -- for

1 accommodations approvals. We have done our best
2 to address the concerns of the folks that we have
3 met with, and we respectfully request that the
4 Board approve.

5 Thank you.

6 CHAIRMAN: Thank you very much.

7 Yes, sir.

8 MR. SHOOK: I am David Shook, Shook
9 Associates. I'm the architect/developer.

10 There was some comments early about the
11 three stages to three times to come back. I just
12 wanted to clarify that.

13 In the beginning, my client only owned
14 the Guignard Street property. So we for
15 accommodations for -- (Inaudible.)

16 Upon the death of one of the owners of
17 Wild Wings, he was able to purchase that; and we
18 came back, got special exception for that.

19 When the owner of the Molly's passed
20 away, that bar became a -- (Inaudible.) My
21 client made an offer on it. It was unsuccessful.
22 And since it came back on the market. He was in
23 negotiation with that man. So that's why it's
24 been three different times. So just so --
25 (Inaudible.)

1 CHAIRMAN: Thank you, Mr. Shook.

2 Anyone else in favor of the application?

3 (No response.)

4 CHAIRMAN: In opposition? Yes, ma'am.

5 UNIDENTIFIED VOICE: (Inaudible.) We
6 are full-time residents. I live at the corner of
7 Laurens and Anson Street and walk around the
8 neighborhood a lot. Always see a -- (Inaudible.)
9 A lot. We enjoy it. And I want to besides
10 the -- (Inaudible.) Potential noise, et cetera,
11 bring back to those famous words, not
12 significantly increase volume of traffic in the
13 residential neighborhood.

14 This presentation really did very little
15 to address that. This -- (Inaudible.) Slide.
16 I'd actually like to see the traffic study.
17 Maybe after this you can show me how that can be
18 done.

19 As an engineer, I know that there is --
20 (Inaudible.) About what does the data say; and
21 the engineer statistician says, "What would you
22 like it to say?" I've done a lot of work with
23 statistics, and I've said that myself.

24 I think Mr. Batchelder said they must
25 convince you that they have met this criteria,

1 not just that they did a study and put it in
2 there as Attachment No. 10 or whatever. And how
3 much traffic do we have now? How much traffic
4 will we have in this case? We talk about 50
5 trips per room -- or per hour at peak kind of
6 makes sense. If you look at statistics, one to
7 one ratio -- (Inaudible.) 17 trips.

8 So that in conjunction with the two
9 50-room hotels at North Market and Anson Street,
10 without a light at Guignard, without -- savvy
11 back street drivers wanting to go back up East
12 Bay Street, the best way is Anson Street. I know
13 that because I live there. I have to remind
14 myself when I come out of Harris Teeter, "Don't
15 go into the neighborhood. Go on up East Bay
16 Street and then turn down my street so that I'm
17 not just one more car running past all my
18 neighbors."

19 So we're not complaining. (Inaudible.)
20 150 extra trips. Those people leave town on
21 Sunday morning. We have services at three
22 churches on Anson Street at St. Stephen's, St.
23 Johannes, and St. John's at 8 o'clock, 9 o'clock,
24 10 o'clock, 10 o'clock, and 11 o'clock, on
25 Wentworth Street at 10:30, not to mention

1 Sundays, choir practice and all that.

2 You know the sidewalks on Anson Street.
3 They're one-man sidewalks. We have streets. We
4 have carriages. Please convince yourselves that
5 whatever traffic study was included is not
6 significantly impacting. What is the definition
7 of "significant"?

8 If you can tell me not one single car
9 will go up Anson Street, I will believe you that
10 there would be no significant impact. What is
11 that impact? Is 50 cars, 150 cars an hour too
12 much for the residents as they sit on their porch
13 on a Sunday morning?

14 Thank you.

15 CHAIRMAN: Thank you, ma'am.

16 Anyone else? Yes, sir.

17 MR. SHOWER: Jerry Shower, Historic
18 Ansonborough Neighborhood Association.

19 First off, we are appreciative that the
20 applicant has voluntarily attached the same
21 condition to the property regarding the rooftop
22 bar as those that are connected to the Grand
23 Bohemian hotel. We do ask that if this is
24 approved, those go with the land so that they
25 stay with the property for each owner going

1 forward.

2 We do oppose the special exception as it
3 will negatively impact our neighborhood as
4 indicated in the -- the letter that we provided
5 for you.

6 I would highlight that Rafers Alley,
7 which is between those two buildings on Market
8 Street and Guignard alley, they call the street,
9 it's really -- it's very narrow and the other
10 half of it there. It houses four carriage
11 companies. It also is a -- a tourist
12 thoroughfare. It has horses and carriages. With
13 the other two 50-room hotels, that will be 150
14 rooms there.

15 If you add these 50 rooms, who are going
16 to use those Rafers Alley and Guignard for their
17 valet, self-park, and delivery trucks, we think
18 that it's actually unsafe there.

19 There is a drone video that was done for
20 previous application, and the letter addresses
21 all of that in there. We'd encourage you to take
22 a look just to see what goes on there without the
23 150 rooms there. We do think it's too much, and
24 we do ask you to oppose this application.

25 CHAIRMAN: Thank you very much.

1 Anyone else in opposition? Mr. Gurley.

2 MR. GURLEY: I'm Robert Gurley,
3 president of -- (Inaudible.) Of Charleston.

4 We appreciate the applicant's coming to
5 see us so we can understand this application
6 better. We basically do -- (Inaudible.) Special
7 exceptions test and would share the concerns of
8 Ansonborough neighborhood association.

9 We think this should be just the
10 beginning of a conversation. Because this is a
11 large multi- functional enterprise that's going
12 to impact historic chapel on Market Street. It's
13 going to impact East Bay. It's going to impact
14 in several ways; and this special exception, we
15 believe, is going to forgetting -- we think there
16 are flaws in this test, even if we take the --
17 (Inaudible.) We'd ask that we continue the
18 conversation with the neighborhoods.

19 Thank you.

20 CHAIRMAN: Thank you, sir.

21 Miss Paylor.

22 MS. PAYLOR: Thank you, Mr. Chairman.
23 I'm Alice Paylor. I'm a lawyer. Rosen Hagood.
24 I'm here representing Ty Hanlan who owns 241-243
25 East Bay Holdings, which is the property that's

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1 directly across the street -- across Guignard
2 Street on East Bay, and he is almost finished
3 renovating that building to put in two
4 residential condominiums and an office
5 condominium.

6 The traffic is the big issue as the
7 folks in Ansonborough have -- have told you and
8 as you know for sure.

9 Guignard Street is a small street. It's
10 got the horse carriages down there that are in
11 the middle of the street, and they're proposing
12 to bring in these trucks to service this hotel as
13 well as all of the cars.

14 Now, they only had to put in a certain
15 number of spaces; but they added 20 more. That
16 apparently is to service the restaurant to make
17 it -- (Inaudible.)

18 And when this was first approved in
19 2012, it was limited to if they had a -- if they
20 had a restaurant on the roof, it could only be
21 for the use of the hotel. So they are stepping
22 outside of what they agreed to then.

23 My client did ask someone to look at the
24 transportation ITD trip generation manual; and
25 what he learned was that there would be 446

1 average weekday trips at a 50-room hotel,
2 including its accessory uses. That will be a
3 substantial impact.

4 Plus when you have the two hotels that
5 have been approved in the next block, you're
6 talking about a total of 1,338 average weekday
7 trips that are going to be coming down these
8 little roads, Guignard, Rafers Alley, which is
9 very small.

10 And I agree. People are going to go to
11 Anson Street 'cause nobody wants to go to Market
12 because that's a bottleneck. You can't go
13 anywhere. So everyone is going to hit on Anson
14 Street and end up in the residential
15 neighborhood, or they're going to be on Guignard
16 Street going by my client's property.

17 And there's also a problem with the --
18 the parking. I mean, look how tight that is in
19 there. How could there be adequate ingress and
20 egress in here with all of these stackers that
21 are in there? That's going to be another
22 problem.

23 And when you look at that, the only way
24 to get in, it looks like, is off of Rafers Alley.
25 So people are going to be coming down Guignard,

1 hitting Raders Alley; and you can either go back
2 on Raders Alley or -- (Inaudible.) It's going to
3 be a very substantial impact on the traffic.

4 My review of the zoning ordinance, I
5 don't see where stackers are allowed. So I don't
6 know how using them can then support that they
7 are providing adequate parking for the facility,
8 especially considering how tight that is and how
9 they're going to be able to maneuver that.

10 On Mr. Hanlan's on behalf, he very much
11 opposes the granting of the special exception.
12 Thank you.

13 CHAIRMAN: Thank you, ma'am. Yes, sir.

14 MR. HANLAN: I'm the aforementioned
15 Mr. Hanlan. Thank you. I'll be brief.

16 We just left a meeting shortly before
17 this where we met with the folks that are
18 developing the two hotels or one hotel at 40 to
19 46 market and 5 Anson Street; and the purpose of
20 that meeting was to discuss a -- was to discuss,
21 pardon me, a bunch of conditions that we had come
22 up with that we had proposed to them in hopes of
23 settling litigation with them.

24 And we successfully, I think, agreed
25 upon about 16 or 17 conditions where we ran into

1 trouble was how service vehicles would get to
2 that property, remove refuse, deliver goods, and
3 so forth.

4 And this was prompted by the fact that
5 these arteries or these roadways or alleys that
6 surround that particular site which already
7 surround this are so limited that service
8 vehicles can't turn. Obviously, we were pushing
9 to have refuse and deliveries happen from within
10 the building and we -- we came up with several
11 solutions. The one exception was how they would
12 egress the site.

13 And basically what we came to is that
14 they would go out onto Anson Street because that
15 was the only way that they could. They can't
16 come -- their garage is somewhat configured
17 similar to this. They are on the opposite side
18 of Rafers Alley.

19 So the traffic flow into their garage
20 comes from Anson and then per their suggestion,
21 exits on Rafers. And Rafers' only 15 feet wide.
22 And you have a sidewalk on one side, which I'd
23 say is 5 to 6 feet; and so the turning radius
24 coming out of the building for passenger vehicle
25 would be negotiable but for a dump truck, no.

1 So you can't get into the building and
2 get out of the building with a dump truck. What
3 do you do then? There's really no solution.
4 We're still discussing that. But that goes for
5 deliveries. It goes for pickups from all
6 different sorts of -- (Inaudible.) From which
7 the traffic is constant. Constant.

8 And Guignard Street, as we speak, is a
9 major wayfare station where a number of vehicles,
10 commercial vehicles, come every day and park in
11 the middle of the street. The site there about
12 having them park on service spot over here, they
13 just park in the middle of the street right next
14 to the carriage companies; and they unload their
15 trucks, and no one can pass that point
16 whatsoever.

17 And opposite from here, there's the
18 parking garage -- or pardon me. The parking lot
19 for Earthling Spa, and then there's our parking
20 lot; and we cannot get out onto the road a good
21 deal of the day when these trucks are there.
22 Just can't. So we end up having to go out the
23 opposite way or go up to Anson Street. There's
24 no question that Anson Street will be
25 significantly impacted by this.

1 And I really think that it's -- it's
2 somewhat facetious for the Board to take the
3 position, well, we'll just pass the buck on to
4 the City Council because you see these traffic
5 issues. There's no question about that.

6 1388 additional trips? I mean, it's --
7 it's crazy. And to say that they won't affect
8 residential neighborhoods, that's totally,
9 totally -- (Inaudible.)

10 I happen to be a big advocate of
11 property rights, and I certainly think a hotel
12 would be a great idea there; but I think that the
13 traffic is a killer. And I think that these two
14 operations, again, the exit for the other garage
15 over here for the 100 rooms is 15 feet away.

16 It's a very, very difficult problem. I
17 had suggested to the other developers and to this
18 developer that they should get together and
19 develop 150 rooms and coordinate something that
20 happens to make sense rather than this sort of
21 disjointed thing that we're looking at right now.
22 I think the design is great. Personally, I love
23 having a hotel next to my property.

24 We are not 350 or 395 feet away. We are
25 30 feet away. And, you know, my concern,

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1 obviously, is for my property; but the larger
2 issue here is that you -- with these operations
3 that are supposed to function with valets,
4 stackers three levels high, three deep, and with
5 Dean's situation here, the stackers two levels
6 high and 20 more parking spaces than what he's
7 required to provide, the additional parking
8 spaces are, obviously, to provide him with more
9 parking for his restaurant and so forth. More
10 parking means more cars all the time and all
11 tight.

12 So I would ask you to seriously think
13 about that; and the only other point, which is
14 what Alice made, is this prior approval that was
15 given on February 7, February 7, 2012,
16 conditioned upon no public bar or restaurant
17 could be operated within the hotel or on the
18 rooftop. Rooftop is to be for use by hotel
19 guests only.

20 The fourth story of this building, which
21 is 25 feet away, would be one story above the
22 height of my building. So I don't like the idea
23 of the rooftop restaurant, and I think it becomes
24 something of its -- of its own self as time goes
25 on, which is to say you may approve it -- approve

1 a plan that shows it being sheltered off to one
2 side of the building and so forth, but that's
3 subject to change. And I'm not quite sure why
4 the -- in my mind, I don't think it makes
5 economic sense, unless it becomes something
6 similar to start or that nature.

7 Thank you all.

8 CHAIRMAN: Thank you, sir.

9 Anyone else like to be heard in
10 opposition?

11 (No response.)

12 CHAIRMAN: In response?

13 MR. WILSON: Thank you, Mr. Chairman.

14 A lot of those comments, of course, are
15 ones that we've heard and have tried to address.
16 I think there are a few I just need to hit
17 directly.

18 With regard to the suggestion that we
19 are somehow or other contravening what was
20 approved previously, what I believe the Board
21 needs to -- to understand is that, yes, the 29
22 rooms on the 5 Guignard parcel that were approved
23 contemplate having a rooftop for guests only.
24 There was no public -- public restaurant or bar
25 area there. That is absolutely correct.

1 Here what we have is we've added 235
2 East Bay Street. That is a restaurant with a
3 large existing outdoor area where live music has
4 been a regular part of their repertoire. This is
5 a very different project. Just let there be any
6 suggestion that somehow or other we are trying to
7 contravene what was approved earlier.

8 This is a larger project, a different
9 project; and, frankly, what we have proposed in
10 terms of exterior dining area is much better
11 shielded than the existing Molly Darcy's outdoor
12 areas.

13 So I want to make sure that the Board
14 understands that, that we were not trying to slip
15 in any changes. This is a different approval,
16 different project; and we think dramatically
17 better in terms of the noise containment both
18 with the restrictions that we've agreed to impose
19 as well as the orientation of that outdoor area
20 away from Mr. Hanlan's property and all of -- all
21 of Ansonborough.

22 With regard to the -- Mr. Gurley's
23 comments, absolutely, we intend to continue this
24 conversation. We've had some discussions
25 about -- (Inaudible.) We set that back. That's

1 something we've talked about with the architect
2 and Mr. Pierce and -- (Inaudible.) Are glad to
3 continue that conversation as part of the our
4 approval -- our approval process.

5 The -- the concerns I heard largely
6 from -- from Ansonborough. Let's address that
7 first, is traffic on -- traffic through
8 Ansonborough. And we, of course, want to do
9 everything that we can to minimize that and are
10 happy to do so.

11 But the answer can't be, well, in this
12 commercial area, we just shouldn't have
13 commercial uses and commercial -- commercial
14 buildings because people could turn onto Anson
15 Street. That's -- that's -- until the City
16 decides that -- to make that impassable, we have
17 a historically commercial area right -- right
18 here that is -- that always will generate
19 traffic, even if it weren't a hotel. If there
20 was another use there, it generates traffic.
21 That's always an issue.

22 We want to do whatever we can to
23 mitigate it, and we think we have a good plan in
24 that regard; but it can't just be, well, it's
25 possible there will be more traffic in

1 Ansonborough. So we need to deny this.

2 And as I said before, there's no need
3 for any guest to go -- go through that
4 neighborhood. That's not to say that there
5 aren't some taxi drivers who won't do that. They
6 do it today. And we're happy to do everything we
7 can to limit it; but that can't be a reason just
8 to say, well, we can't -- can't do this.

9 With regard to Mr. Hanlan's and
10 Miss Paylor's objections, just want the Board to
11 bear in mind that Mr. Hanlan's property is
12 historically a business use property and office
13 use is what that has been.

14 He acquired that property. There was
15 already a -- a restaurant with outdoor activity
16 there; and he's converted his second and third
17 floors from looking at the online listing are
18 very nice, very nice residential condominium
19 uses.

20 But I don't think this Board should
21 feel -- be able to judge our property relative to
22 someone coming and creating residential in a --
23 what's historically and presently zoned business
24 commercial area and object to it on the grounds
25 that this isn't compatible with my residential

1 use if they've come -- come to it, so to speak.

2 The -- with -- and it -- and with regard
3 to traffic 'cause, obviously, not just in
4 Ansonborough but generally traffic's important.

5 The numbers that Mr. -- Mr. Hanlan and
6 Miss Paylor, I believe, were citing, I think
7 those are total -- a couple things about those:

8 Miss Beal could answer your specific
9 questions on it. From what we understand from
10 those numbers, those are the current standard
11 or -- or City standard numbers. But more
12 importantly, those are numbers just looking at
13 total trips, not -- not trips relative to what we
14 currently have and have approved. That's what we
15 think is important.

16 Does this approval significantly
17 increase traffic in this area in a detrimental
18 way? We think the answer is -- to that is no.
19 And, of course, at Technical Review Committee,
20 there will be a full traffic study. Our
21 ordinance says that the Board should consider
22 trips generated, and that's what we've presented
23 to it relative to what we've got. How much of a
24 difference does this make? And our belief is
25 that it is not a significant change.

1 Lastly, with regard to the -- to the
2 trucks, there's a suggestion that maybe trucks
3 couldn't -- couldn't get to Guignard Street; but,
4 of course, they are there. That's what
5 Mr. Hanlan's complaining about.

6 We do believe that we are significantly
7 improving that. There already are trucks using
8 this because there are commercial properties
9 all -- all over there. And that's a terrible
10 arrangement to have trucks parked in the middle
11 of the street blocking driveways, even if they're
12 trying not to block driveways by parking in the
13 middle of the street. So getting rid of a long
14 curb cut along our property creating loading area
15 has a dramatically better effect on the -- how
16 Guignard Street operates.

17 And Guignard Street there, just so you
18 know, it's very narrow running from Rafers over
19 to Anson; but between Rafers and East Bay Street,
20 it's a very wide street. It's more the width of
21 East Bay Street.

22 I want to make sure I've covered
23 everything.

24 What I would say, lastly, is that we are
25 only proposing one 50-room hotel on this piece of

1 property. This is a piece of property that's an
2 L-shaped piece of property that you see that
3 comprises three-fourths of that city block.
4 Relative to lots of other hotels in that -- in
5 the area, this is very reasonable amount of hotel
6 for this size of a piece of property -- piece of
7 property.

8 We're not asking for any variances. We
9 believe that the accommodations criteria have
10 been met in this instance, and we respectfully
11 request your approval.

12 CHAIRMAN: Thank you very much.

13 MR. WILSON: Thank you.

14 CHAIRMAN: Any discussion?

15 MS. SMITH: I have a question.

16 CHAIRMAN: Miss Smith.

17 MS. SMITH: This is going to be
18 completely valet, or will the guests be able to
19 go to that parking lot and get their car and --
20 and drive away?

21 MR. WILSON: We are -- we are open to
22 whatever will work best for -- for neighbors. We
23 can do -- we can do -- we can do entirely valet.
24 We -- we are committed to offering valet service
25 if it -- if it would be better for -- better

1 for -- for neighbors that if, let's say, that we
2 deliver a car to a guest here, point, and send
3 them out here to go down Raders on North Market,
4 we can do that.

5 There actually is a lobby entrance to
6 the parking area right here. So it's easy for us
7 to deliver cars in the garage; or we could
8 deliver them over here to go right to come out
9 right on to Guignard.

10 So what we want to be -- we want to be
11 accommodating and -- and flexible in that regard
12 and whatever's going to work best for -- for
13 neighbors and -- and in looking at that relative
14 to that, there was -- if you have any questions
15 about -- about the stackers, I will just say that
16 we -- we did -- we did talk with another property
17 owner on the peninsula using the very same
18 stackers we're proposing to use, and they
19 reported those -- those are working well.

20 And to the extent there's any question
21 about whether these are permitted for our
22 ordinance, they're certainly not prohibited. I
23 would just point out the -- that having two
24 surface -- two surface parking spaces like this
25 next -- next to each other, there's not, in my

1 opinion, ordinance that says that's okay but
2 that -- that's all over Charleston. In fact,
3 that's -- that's the parking -- one in front of
4 the other that Mr. Hanlan has on his property
5 across -- across the street.

6 So -- so I don't believe that there's a
7 real legal issue or objection on that point.

8 CHAIRMAN: How many -- how many rooms,
9 Mr. Batchelder, have we approved on Anson and
10 Market? Hotel rooms in the last year?

11 MR. BATCHELDER: Well, we approved the
12 two applications that were cited, 5 Anson and 40
13 to 46 North Market. Each of those hotels
14 includes 50 rooms.

15 CHAIRMAN: 50 each so we've kind of --

16 MR. BATCHELDER: We have 50 each. That
17 would be 100. This would be an additional 50.

18 CHAIRMAN: And then this is an
19 additional 50.

20 MR. BATCHELDER: Well, actually it's 14
21 more because we already have 36 in two
22 properties. Now we're prosing to go to 50 with
23 three properties.

24 CHAIRMAN: Okay. But -- but -- so we've
25 approved 36 already.

1 MR. BATCHELDER: Correct.

2 CHAIRMAN: But that would be excluded if
3 this project goes forward.

4 MR. BATCHELDER: Correct.

5 CHAIRMAN: Okay. So the total number of
6 rooms in that block, total number would be 150.

7 MR. BATCHELDER: Correct. If you're
8 looking at Anson. Before it was 136.

9 CHAIRMAN: Right. What -- at the
10 traffic thing, I -- I know that Board members in
11 this one in particular have been concerned for a
12 long time about -- about the impact of the
13 traffic in Ansonborough. And -- and, of course,
14 the more rooms you approve, the more traffic you
15 have; and the more potential there is for traffic
16 in the residential neighborhoods.

17 And let's face it. The -- the ordinance
18 that we have that governs this really needs a lot
19 of work but in -- in thinking about this and
20 listening to -- to this presentation and I -- it
21 occurred to me that -- that I'm concerned about
22 the -- the automobiles and the trucks and traffic
23 leaving the hotel on North Market.

24 I can only judge it by what I do when I
25 come to these meetings. I come -- my office is

1 on State Street. I come down State. I hit North
2 Market for a short little block, and zip up Anson
3 Street. I dare not go onto East Bay. I dare not
4 go onto Meeting because they're clogged up.

5 So that I use the residential street
6 myself, and I dare say that any taxi driver or
7 any -- any visitor leaving a hotel on North
8 Market Street is going to avoid that traffic
9 on -- on North Market, and -- and take a right
10 onto Anson, which takes those drivers directly up
11 into the residential neighborhood.

12 And how much is too much? I don't know.
13 I don't -- I think we've reached the point here
14 where Mr. Hanlan, I think, makes some really
15 good -- good points. The -- the service vehicles
16 that are going to service all of these rooms and
17 hotels, where are they going to go? They're
18 going to exit as quickly as they can.

19 There's no -- it occurs to me that
20 there's no problem coming south when you're --
21 when somebody comes down to Market Street,
22 there's no way to get down to Market Street
23 except on East Bay, except on Meeting.

24 And -- but that isn't the -- the same
25 when you're going north. When you're leaving,

1 you've got the Anson Street, which is an escape
2 route. It's one way. So that you -- you -- it
3 sort of scares you into that residential
4 neighborhood.

5 I don't -- I disagree with Mr. Wilson a
6 little bit on the, you know, you can't -- as long
7 as you have residential neighborhoods and -- and
8 you have commercial development, that the
9 ordinance specifically says that one of the
10 requirements is the location will not
11 significantly increase automobile traffic on
12 streets within residential neighborhoods.

13 Interesting, doesn't mention trucks. It
14 mentions automobile traffic. I don't know, you
15 know, whether there's nothing in here about truck
16 traffic or garbage collection or trash. The
17 ordinance is just deficient in so many ways.

18 But you've got all that traffic that --
19 that inevitably, I think, is going to go up Anson
20 Street. I -- I -- I would like to know what the
21 City traffic people think about all this and --
22 and whether this -- whether we've reached an
23 accord where we're going to have a significant
24 impact on -- on that residential neighborhood.

25 At some point, we're going to have it.

1 You know, are we there yet? I don't know. I
2 know I'm -- I'm really -- I'm concerned about it.

3 MEMBER: Well, I think traffic is an
4 elephant not in the room but in the City. That
5 elephant is sitting right there on every street
6 on the peninsula of Charleston, and we've been
7 dealing with it increasingly for the past number
8 of years.

9 I think there's no question that we've
10 got to do something because we're not going to be
11 able to put any roads on the peninsula of
12 Charleston, but we are going to intensify the use
13 of the buildings because of Charleston
14 popularity. It's just the way it is.

15 So I don't know how, you know. I'm not
16 a traffic engineer. Ms. Beal, she's a traffic
17 engineer; and I know it's a difficult problem
18 because I've talked to her about it before. I
19 don't know the answer to these questions. We've
20 got to rely on the experts in the field of
21 traffic to help us figure out how to handle it.

22 There are a lot of buildings still
23 downtown that have zero parking, but people think
24 that they've got a two- or three-story building
25 with no parking doesn't mean they shouldn't be

1 able to use the upper floors of their building so
2 what do they do? (Inaudible.)

3 One thing in the macro sense
4 irrespective of the ordinance or anything else
5 that Mr. Wilson made, one point he made was
6 interesting. It's a fairly large piece of land
7 for downtown Charleston; and I don't think it's
8 an over-intensification for that particular piece
9 of land.

10 I think other commercial uses could
11 probably be made of that land and -- in a much
12 more intense fashion. I'm concerned about
13 traffic. I think a lot of people in the room
14 know that I live in Ansonborough. I'm concerned
15 about that very thing, of all the traffic coming
16 through my -- my neighborhood.

17 And at some point in time, you reach a
18 tipping point. Like the chairman has said, when
19 does that come? When are we going to actually
20 reach it? Are we there? I -- I think we're not
21 too far away. I think everybody in the room
22 knows that. We just have a terrible traffic
23 problem. It's going to get worse before it gets
24 better, you know. That's the thing that we're
25 talking about tonight.

1 I don't know the answer. It's an issue.

2 MEMBER: I think I -- as -- as a member
3 of having to make the decision that we're having
4 to make, I would like to -- to hear from the --
5 the City traffic people and -- and -- and get
6 some kind of comfort. I, you know, I don't --
7 I'm sitting here. I don't know whether this
8 hotel is going to have a substantial impact or
9 not on the traffic on Anson Street.

10 I know it's going to impact traffic on
11 Anson Street because common sense tells you that.
12 Will it be a substantial impact? I don't know,
13 and I don't know if it's -- if the powers that
14 be, the traffic people, have considered the
15 impact of the other routes that are improved.
16 Because they're going to have exactly the same
17 impact as this project.

18 I don't mean to pick on this project.
19 It's just coming later than the others and -- and
20 I think it's -- I just think it's time that --
21 that somebody take a good, hard look at -- at
22 what is going on in -- in -- in this neighborhood
23 and what the impact truly is with Anson Street,
24 that residential neighborhood.

25 If I -- I know if I lived on Anson

1 Street, I'd be pretty dern concerned about all
2 this. I don't blame Historic Ansonborough
3 Neighborhood Association one bit for -- for their
4 concern and I -- I just feel like I don't know.
5 I'm -- I'm in the dark as to -- as to whether
6 there's a substantial impact.

7 UNIDENTIFIED VOICE: One thing I
8 proposed to the prior administration a year or
9 two ago, a couple years ago was to reverse the
10 flow of traffic on Anson Street from Hasel Street
11 going south and send it back down toward the
12 market. That way they couldn't leave the market
13 and go up Anson Street.

14 But, you know, that's bifurcating the
15 flow of the traffic on Anson. That's not good by
16 traffic engineering standards, what I'm told; but
17 that's one way to just throw it back the other
18 way 'cause that's where it's being generated so
19 let Market Street and all the commercial streets
20 handle the burden, whatever that happens to be.

21 MEMBER: I think your traffic idea's a
22 good one.

23 (Laughter.)

24 MEMBER: (Inaudible.)

25 MEMBER: I think this meets the

1 provisions of the section about combinations
2 except for will it significantly increase
3 automobile traffic on the streets in the
4 residential neighbors?

5 I'm not convinced that this plan
6 minimizes the traffic on the Anson Street. I
7 think maybe it could. I don't know why Guignard
8 Street is blocked all the time. That's something
9 that -- that should be addressed before we make a
10 decision because if you're leaving and you -- and
11 you can't get out onto Guignard Street, of
12 course, you'll go the other way.

13 Is it the structure there? It's not
14 passable?

15 MR. WILSON: Miss -- (Inaudible.) There
16 is no obstruction on -- on Guignard Street.

17 MEMBER: The trucks are not parked in
18 the middle of the street?

19 MR. WILSON: There are -- there are
20 trucks that sometimes do park in the middle of
21 the street in an attempt to make it passable on
22 either side.

23 We're creating a loading area on the
24 curb. Guignard Street is not impassable for our
25 property, East Bay Street, at any time.

1 It -- it -- I know this is irregular;
2 but, Mr. Chairman, in terms of, you know,
3 thinking about to the extent this Board is
4 considering a deferral, I want to say that,
5 unfortunately, we're in a situation where the
6 seller of this property is attempting to
7 accomplish a like kind exchange under Section 231
8 of the tax code; and they have a January deadline
9 to accomplish that or -- or not.

10 So I -- I just want to -- we're in
11 unusual timing situation where a deferral is not
12 something we can easily do.

13 Thank you.

14 CHAIRMAN: We've heard from everybody,
15 and, you know, if -- if one of the Board members
16 have a question of you, we'll let you talk; but,
17 otherwise, we've closed the discussion portion.

18 Any further discussion?

19 Well, I -- this is new matter for me.
20 And I -- I voted for the other projects. I
21 thought that they met their criteria. In all
22 good conscience I voted for them.

23 I -- I've just to the point now having
24 done that and hearing the opposition and looking
25 at the requirements of the ordinance, I have some

1 question about it now, whether -- whether we
2 hadn't reached that tipping point.

3 And I -- I would hesitate to vote for it
4 unless I'm comfortable; and I would like to
5 have -- it's too late to hear from Miss Beal. We
6 didn't hear from her. It's too late to hear from
7 the City, traffic people. I'd like to hear from
8 them. I'd like to get some comfort to try to
9 do -- to try to make the decision based on best
10 information available. I don't think it's too
11 much to ask so I, for one, would like to see it
12 deferred.

13 MR. WEST: I'll make the motion, then,
14 for deferral of information from the traffic
15 department.

16 CHAIRMAN: Mr. West moves for deferral.
17 Who seconds that motion?

18 MS. SMITH: I second it.

19 CHAIRMAN: Miss Smith seconds the
20 motion. Any discussion?

21 (No response.)

22 MR. CHAIRMAN: All in favor of the
23 motion to defer, please say aye.

24 (All Members respond.)

25 CHAIRMAN: All aye. Any opposed?

1 (No response.)

2 CHAIRMAN: Okay. Unanimous. Thank you
3 all very much.

4 (End of recording.)

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1 CERTIFICATE OF REPORTER
2 STATE OF SOUTH CAROLINA
3 COUNTY OF CHARLESTON

4 I, Ronda K. Blanton, a Registered
5 Professional Reporter and Notary Public for the
6 State of South Carolina at Large, do hereby
7 certify that the foregoing audio recorded
8 proceedings were recorded stenographically by me
9 and were thereafter transcribed by computer-aided
10 transcription; that the foregoing is a full,
11 complete, and true record of the audio recorded
12 proceedings.

13 I further certify that I am neither related
14 to nor counsel for any party to the cause pending
15 or interested in the events thereof.

16 Witness my hand, I have hereunto affixed my
17 official seal on November 7, 2017, at Charleston,
18 Charleston County, South Carolina.

19

20

21

22

Ronda K. Blanton
NCRA REGISTERED PROFESSIONAL
REPORTER, RPR
My Commission expires:
May 14, 2018.

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

36 N. MARKET ST. 5 GUIGNARD ST. AND 235 EAST BAY ST. (458-05-03-041,138 AND 036
Request special exception under Sec.54-220 to allow a 50-unit accommodations use in a GB-A
(General Business-Accommodations) zone district.

Order on Special Exception Request

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

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

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

Date issued: 12/20/16 Chairman _____

[Signature]

Order on Variance Request

deferred 12/20/16

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

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

☐ APPROVED. The Board concludes that:

1. There are extraordinary and exceptional conditions pertaining to the particular piece of property;
2. These conditions do not generally apply to other property in the vicinity;
3. Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property; and
4. Authorization of the variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance.

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

Date issued: _____ Chairman _____

Approvals of the Board shall remain valid for two (2) years from the approval date, unless extended in accordance with the provisions of Section 54-962. Applicants may not apply for the same request that has been denied by the Board until a period of six (6) months has lapsed.
1/09

MEMBERS PRESENT: LEONARD KRAWCHECK, MICHAEL ROBINSON, MARGARET SMITH;
JOHN LESTER
STAFF PRESENT: LEE BATCHELDER, PENNYE ASHBY, VANESSA ELLINGTON

AGENDA

BOARD OF ZONING APPEALS-ZONING

DECEMBER 20, 2016 5:45-17 P.M. 2 GEORGE STREET
7:51 P.M.

A. Deferred applications from previously advertised BZA-Z agendas. For information call 724-3781.

1. No Deferred Applications.

B. New Applications:

1. 78 SOCIETY ST. (457-04-04-029) APP. NO. 1612-20-B1
Request special exception under Sec. 54-220 to allow a 3-unit accommodations use in a GB-A (General Business-Accommodations) zone district.
Zoned GB-A.
Owner-Ginger Evans/Applicant-Neil Stevenson
APPROVED 0 WITHDRAWN 0
DISAPPROVED 0 DEFERRED XX

MOTION: Deferral to refer to City Attorney regarding parking and other issues.

MADE BY: M.Robinson SECOND: M.Smith VOTE: FOR 4 AGAINST 0

2. 462 KING ST. (MAZYCK/WRAGGBOROUGH) APP. NO. 1612-20-B2
(460-12-02-034)
Request special exception under Sec. 54-206 to allow an existing late night restaurant/bar with 1,473sf of inside patron use area and 1,776sf of outside patron use area that is located within 500-ft. of a residential zone district to expand by adding 2,168sf of inside patron use area.
Request special exception under Sec. 54-511 to allow a restaurant/bar with 2,168sf inside patron use area without required additional parking spaces (15 spaces required).
Zoned GB-A.
Owner-Robinson Family Partnership/Applicant-Erika V. Harrison, Esq.
APPROVED 0 WITHDRAWN XX
DISAPPROVED 0 DEFERRED 0

MOTION: Withdrawn

MADE BY: _____ SECOND: _____ VOTE: FOR _____ AGAINST _____

3. 60 CHURCH ST. (CHARLESTOWNE) APP. NO. 1612-20-B3
(458-13-01-096)
Request special exception under Sec. 54-110 to allow a porch to be extended vertically (railing) to a non-conforming building footprint that does not meet the required 3-ft. north side setback.
Zoned SR-4.
Owners-Chris Desino, Brandon Osborne/Applicant-Beau Clowney Architects

BOARD OF ZONING APPEALS-ZONING/DECEMBER 20, 2016
PAGE 2

APPROVED XX WITHDRAWN 0
DISAPPROVED 0 DEFERRED 0

MOTION: Approval.

MADE BY: M.Robinson SECOND: M.Smith VOTE: FOR 3 AGAINST 0
*L.Krawcheck did not vote

-
4. 36 N. MARKET ST. 5 GUGNARD ST. AND APP. NO. 1612-20-B4
235 EAST BAY ST. (458-05-03-041,138 AND 036

Request special exception under Sec.54-220 to allow a 50-unit accommodations use in a GB-A (General Business-Accommodations) zone district.
Owners-Apex Real Property, LLC, East Bay 7, LLC/Applicant-Womble Carlyle Sandridge & Rice, LLP

APPROVED 0 WITHDRAWN 0
DISAPPROVED 0 DEFERRED XX

MOTION: Deferral.

MADE BY: J.Lester SECOND: M.Smith VOTE: FOR 4 AGAINST 0

-
5. 48 LAURENS ST. (ANSONBOROUGH) APP. NO. 1612-20-B5
(458-01-01-011)

Request special exception under Sec. 54-110 to allow a 2-story addition (kitchen expansion/bath/stairs that extends a non-conforming 3-ft. 4-inch west side setback and 11-ft. rear setback (6-ft. and 25-ft required).
Request special exception under Sec. 54-110 to allow a horizontal expansion and vertical extension (1-story garage/bedroom/bath) that extends a non-conforming 3-ft. 5-inch rear setback (25-ft. required).
Zoned STR.

Owner-Juliana Falk/Applicant-Simons Young & Associates

APPROVED 0 WITHDRAWN 0
DISAPPROVED 0 DEFERRED XX

MOTION: Deferred.

MADE BY: _____ SECOND: _____ VOTE: FOR _____ AGAINST _____

-
6. 58 AMERICA ST. (EASTSIDE) (459-09-04-065) APP. NO. 1612-20-B6

Request variance from Sec. 54-301 to allow the reestablishment of two dwelling units (duplex) with 1,250sf of lot area per dwelling unit (2,000sf required).
Request special exception under Sec. 54-110 to allow a 2-story addition (bath/bedroom expansion/laundry area/porch) that extends a non-conforming 1.3-ft. north side setback, a 4.4-ft. south side setback and 5.7-ft. total side setback (3-ft., 7-ft. and 10-ft. required).
Request special exception under Sec. 54-511 to allow the reestablishment of two dwelling units (duplex) without off-street parking spaces (4 spaces required).
Zoned DR-2F.

Owner-James Edwards/Applicant-B Studio Architecture

BOARD OF ZONING APPEALS—ZONING/DECEMBER 20, 2016
PAGE 3

APPROVED XX

WITHDRAWN 0

DISAPPROVED 0

DEFERRED 0

MOTION: Approval.

MADE BY: J.Lester SECOND: M.Smith VOTE: FOR 4 AGAINST 0

7. 1154 A TIDAL VIEW LN. (BAYVIEW FARMS) APP. NO. 1612-20-B7
(428-00-00-015)

Request variance from Sec. 54-824 to allow a subdivision to create two lots with (Lot 1) not having the required minimum amount of frontage on a public right-of-way.
Zoned SR-2.

Owner-Sara McKerley Barrett/Applicant-Caroline Bevon

APPROVED XX

WITHDRAWN 0

DISAPPROVED 0

DEFERRED 0

MOTION: Approval.

MADE BY: M.Robinson SECOND: M.Smith VOTE: FOR 4 AGAINST 0

8. 3109 SOUTH SHORE DR. (BATTERY HAIG) APP. NO. 1612-20-B8
(310-00-00-035)

Request variance from Sec. 54-250 (Battery Haig PUD) to allow a single-family residence and pool to encroach into a critical line buffer setback.
Zoned PUD.

Owner-Cynthia Huffman/Applicant-Manorhouse Builders of SC

APPROVED XX

WITHDRAWN 0

DISAPPROVED 0

DEFERRED 0

MOTION: Approval.

MADE BY: M.Smith SECOND: J.Lester VOTE: FOR 4 AGAINST 0

9. 283 MEETING ST. (457-04-04-002) APP. NO. 1612-20-B9

Request special exception under Sec. 54-511 to allow a restaurant use with 1,308sf of inside patron use area without required off-street parking spaces (Ordinance requires 9 spaces; 3 spaces are grand fathered for previous retail use).
Zoned GB.

Owner-R. Scott Hood/Applicant-Lauren Brooks

BOARD OF ZONING APPEALS—ZONING/DECEMBER 20, 2016
PAGE 4

APPROVED 0

WITHDRAWN XX

DISAPPROVED 0

DEFERRED 0

MOTION: Withdrawn.

MADE BY: _____ SECOND: _____ VOTE: FOR _____ AGAINST _____

For more information, contact the Zoning and Codes Division Office at [REDACTED].

In accordance with the American with Disabilities Act, people who need alternative formats, ASL (American Sign Language) Interpretation or other accommodation please contact Janet Schumacher at [REDACTED] or email to [REDACTED] three business days prior to the meeting.

BOARD OF ZONING APPEALS - ZONING

City of Charleston

Tuesday, January 17, 2017

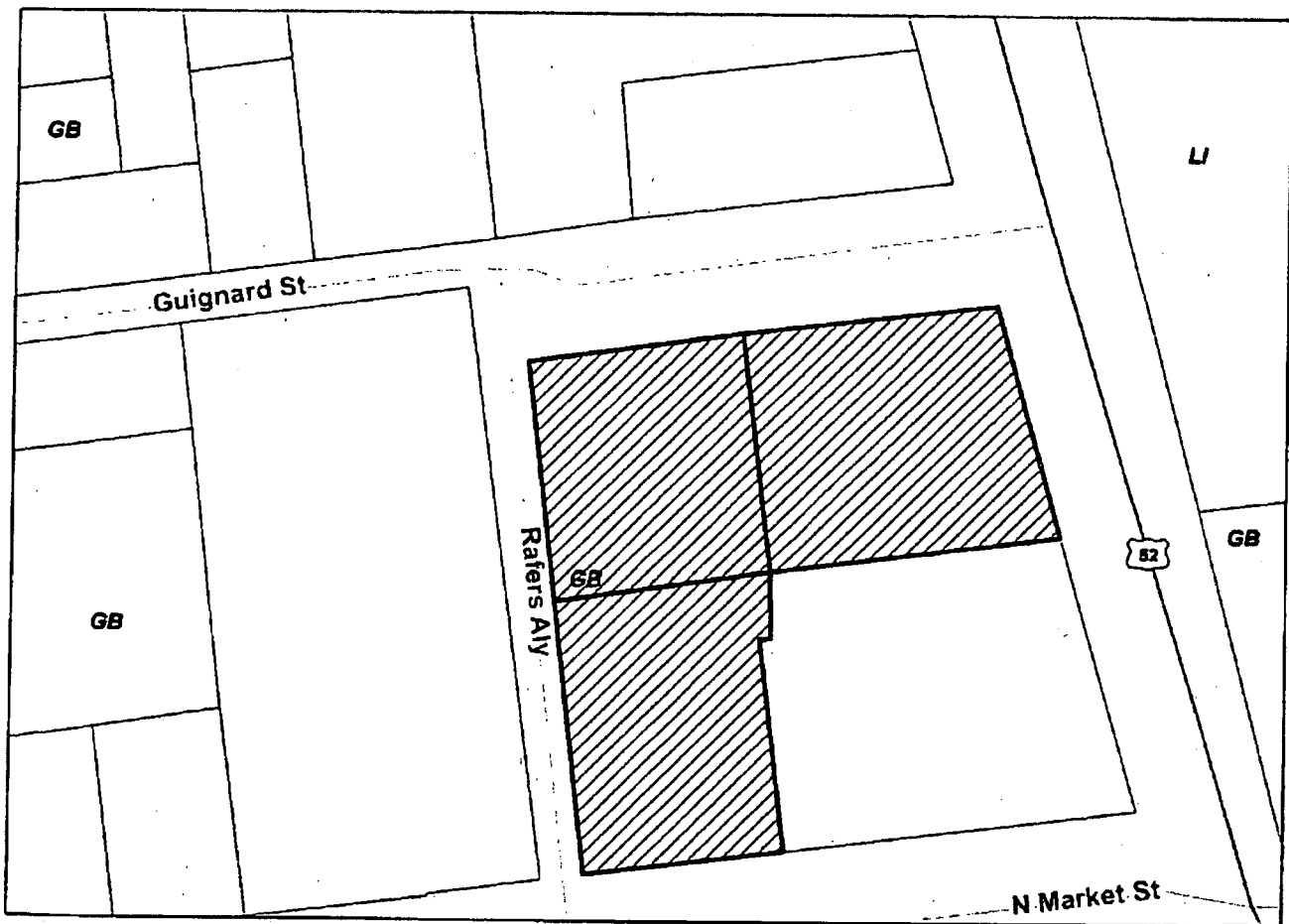
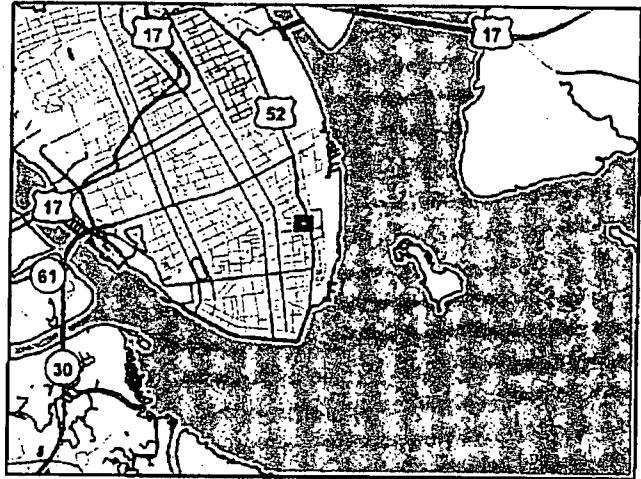
ITEM A 3

36 NORTH MARKET STREET,

5 GUIGNARD STREET &

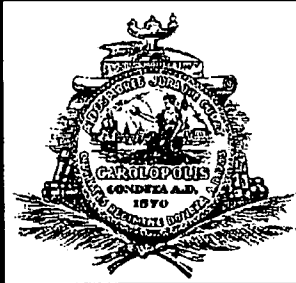
235 EAST BAY STREET

TMS# 4580503041, 138 & 036



 Subject Property

RECORD P.153



Board of Zoning Appeals-Zoning

January 17, 2017

The Board consists of seven members who are appointed by City Council. The Board is authorized to do three things:

- Hear appeals from decisions of the zoning administrator
- Grant or deny applications for zoning variances
- Grant or deny applications for zoning special exceptions

These proceedings are being recorded so please identify yourself and address your comments to the Board.

Please turn off your cell phones.

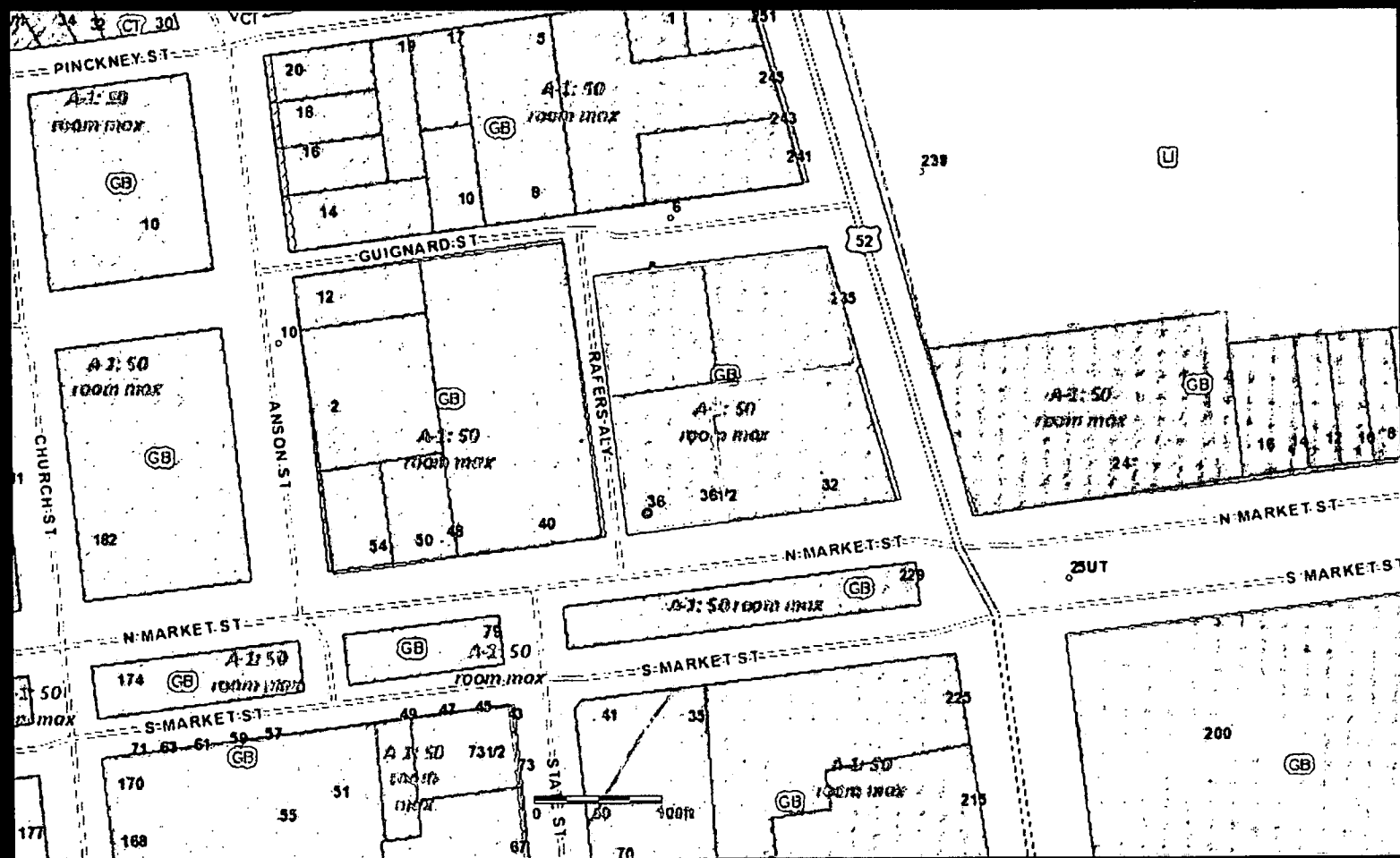
CITY OF CHARLESTON

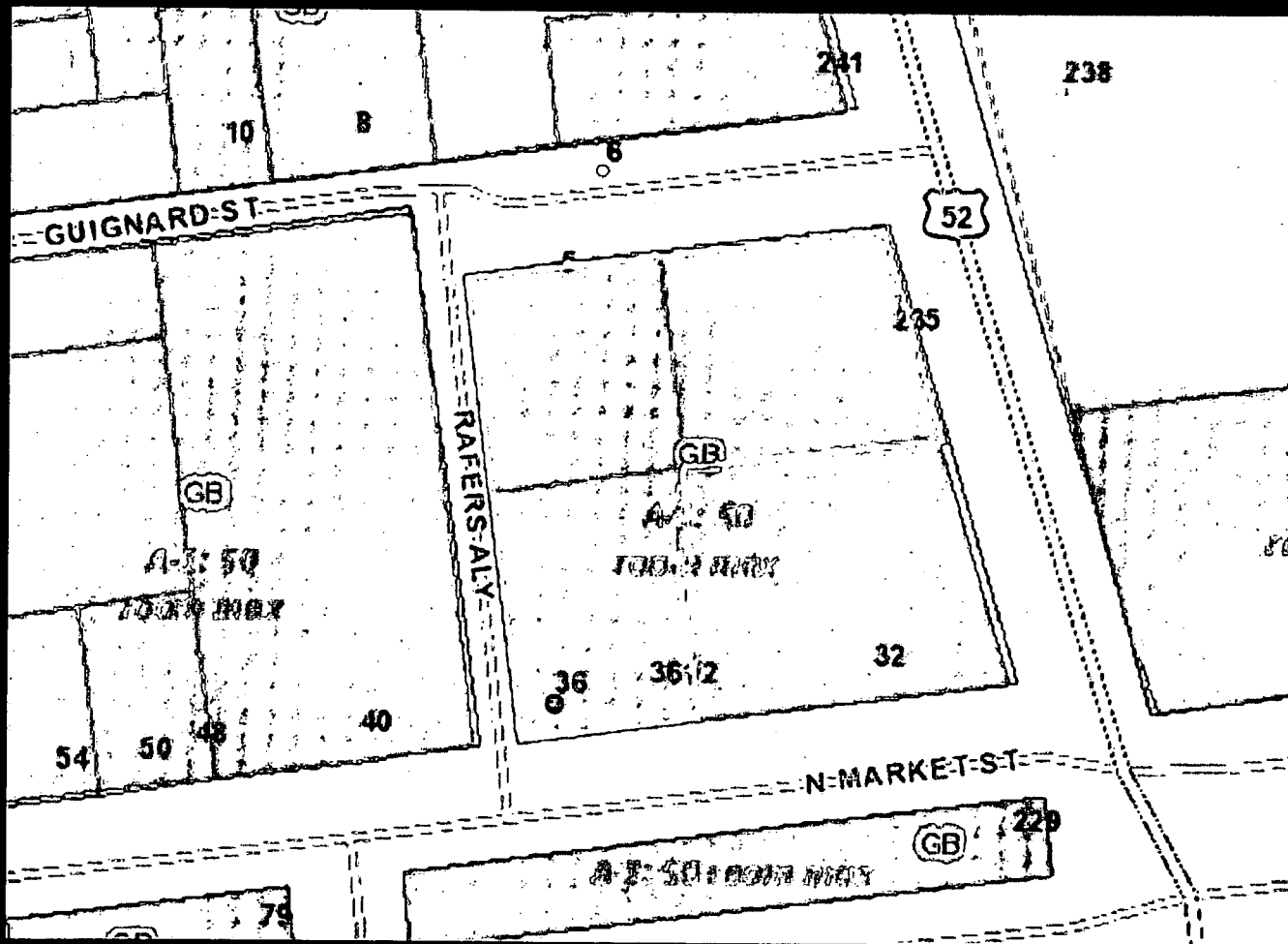
DEPARTMENT OF PLANNING, PRESERVATION AND SUSTAINABILITY

36 N. MARKET ST., 5 GUIGNARD ST. AND 235 EAST BAY ST.



RECORD P.155





RECORD P.157



RECORD P.158



RECORD P.159



RECORD P.160

SHOOK ASSOCIATES

**235 E. Bay, 5 Guignard & 36 Market – Existing
Buildings**



Market Street Facade

SHOOK ASSOCIATES

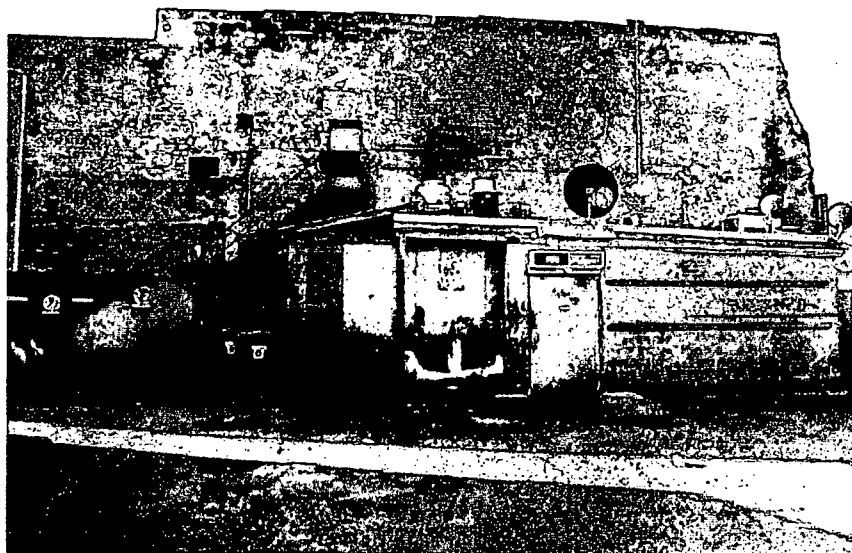
**235 E. Bay, 5 Guignard & 36 Market – Existing
Buildings**



Rafer Alley view of building

SHOOK ASSOCIATES

**235 E.Bay, 5 Guignard & 36 Market – Existing
Buildings**



Rear of existing building

SHOOK ASSOCIATES

**235 E.Bay, 5 Guignard & 36 Market – Existing
Buildings**



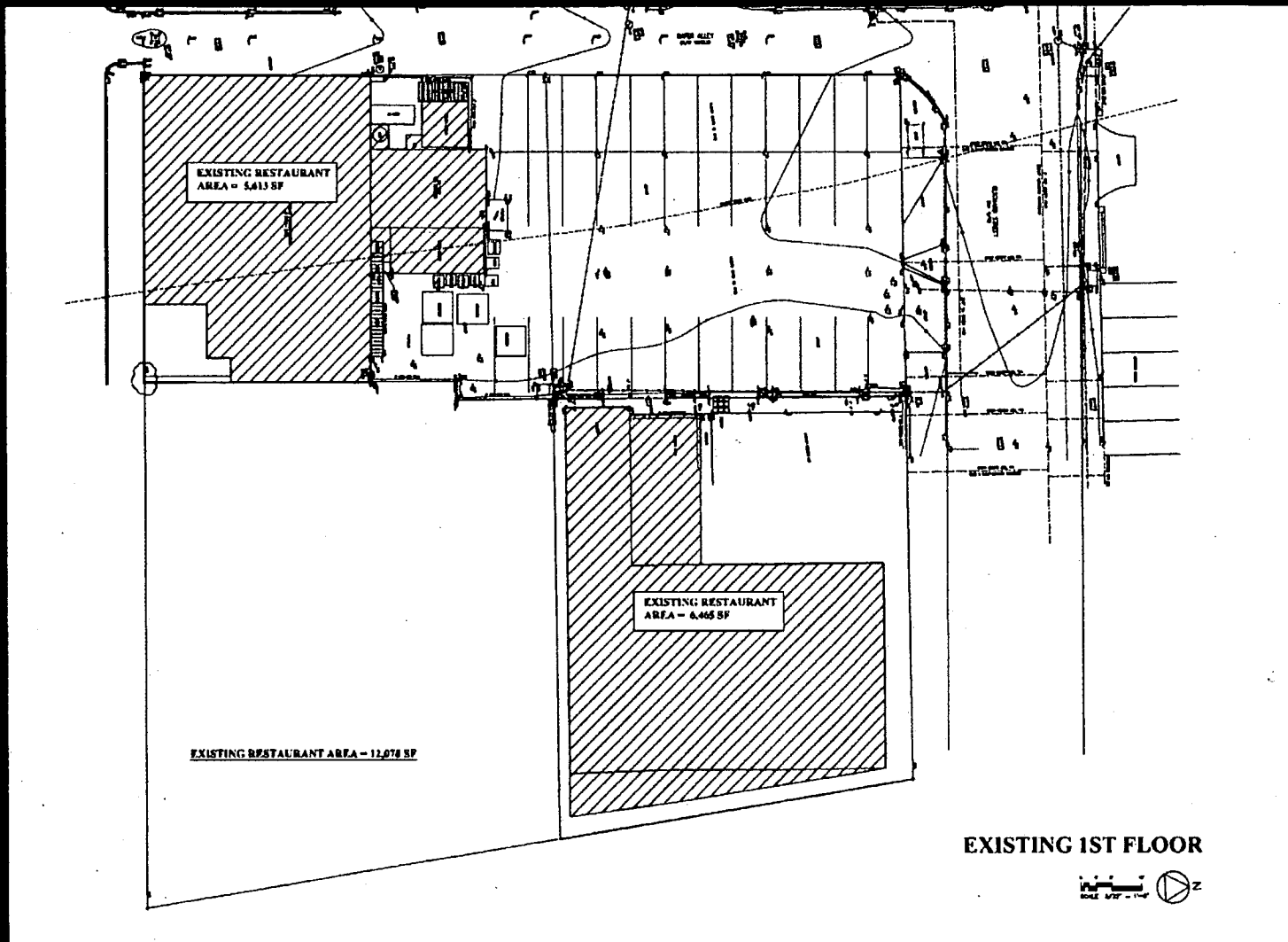
View from across Guignard Street to site

SHOOK ASSOCIATES

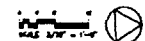
**235 E.Bay, 5 Guignard & 36 Market – Existing
Buildings**

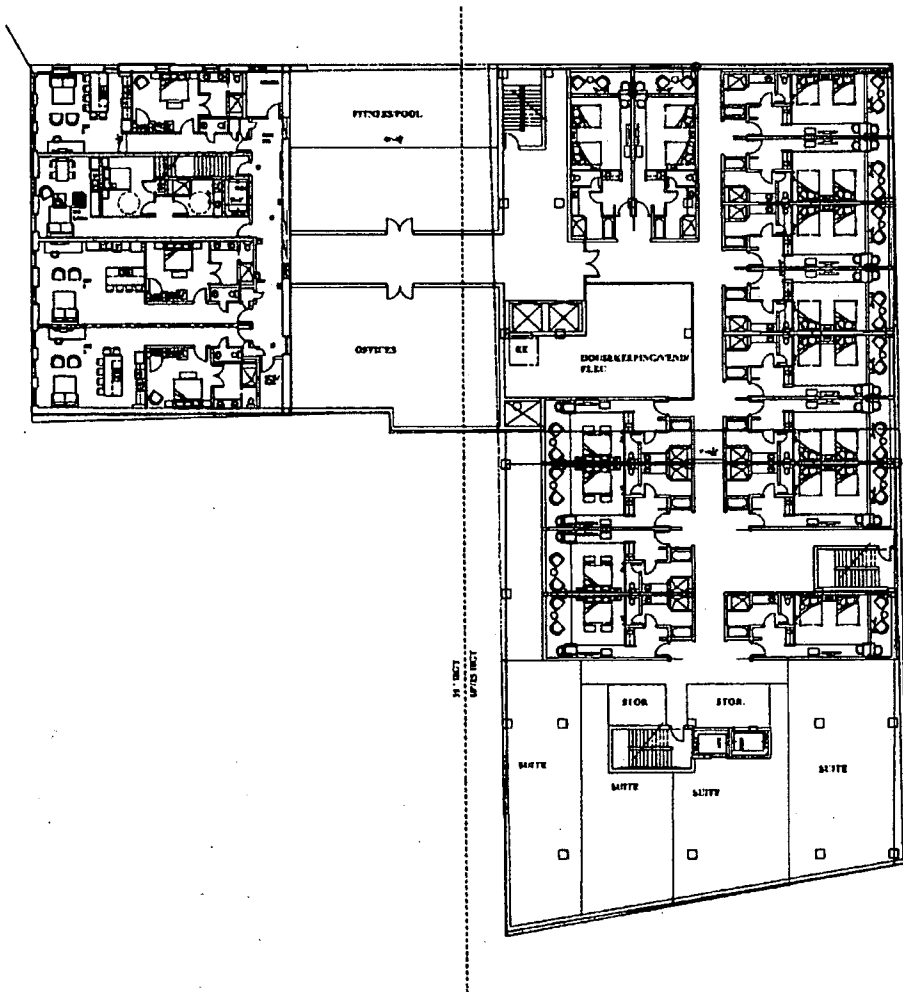


View of 235 East Bay Street from East Bay at Guignard Street



RECORD P.166

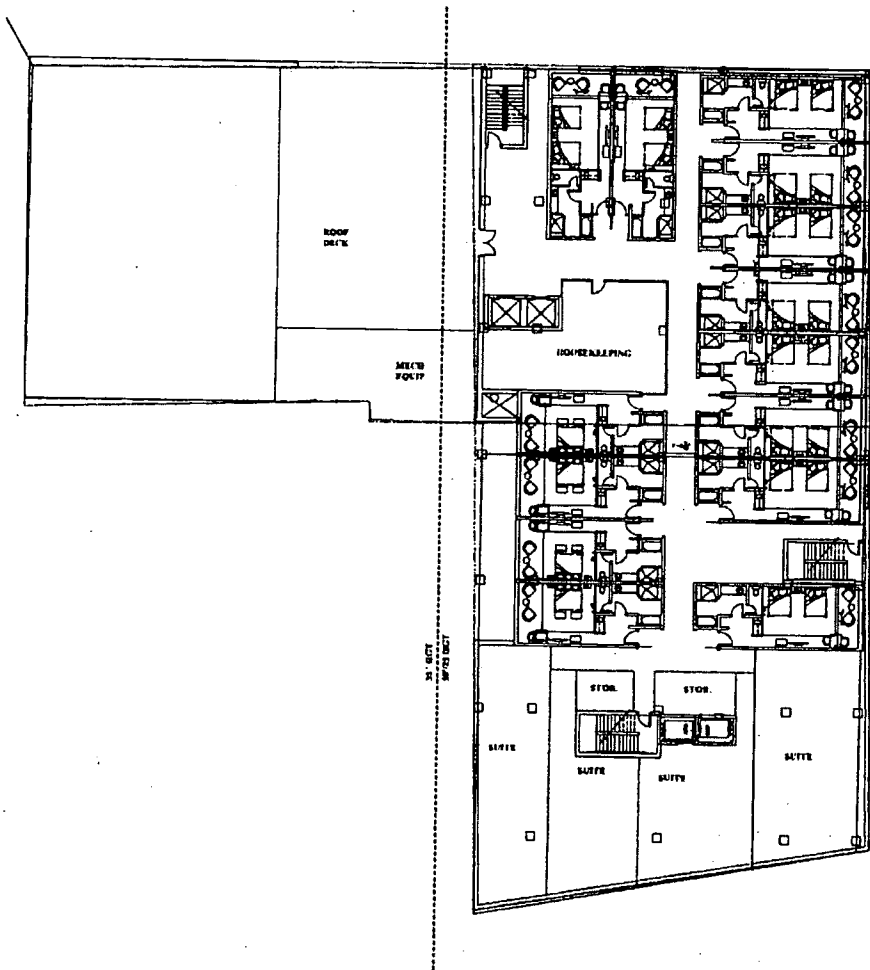




2ND FLOOR

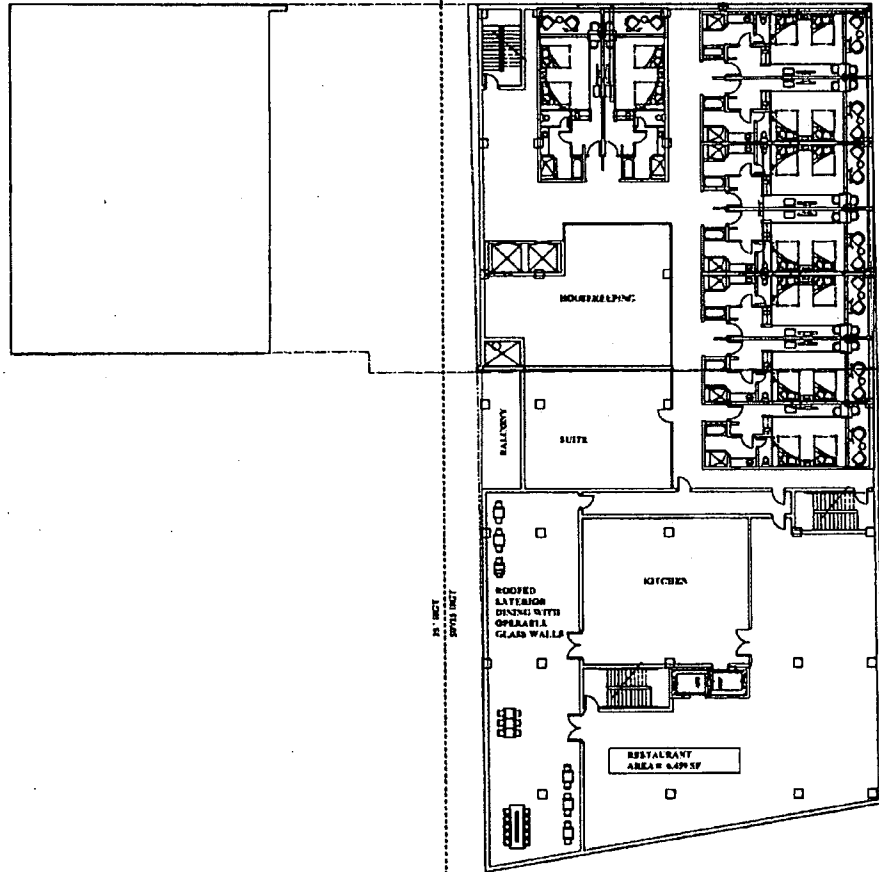


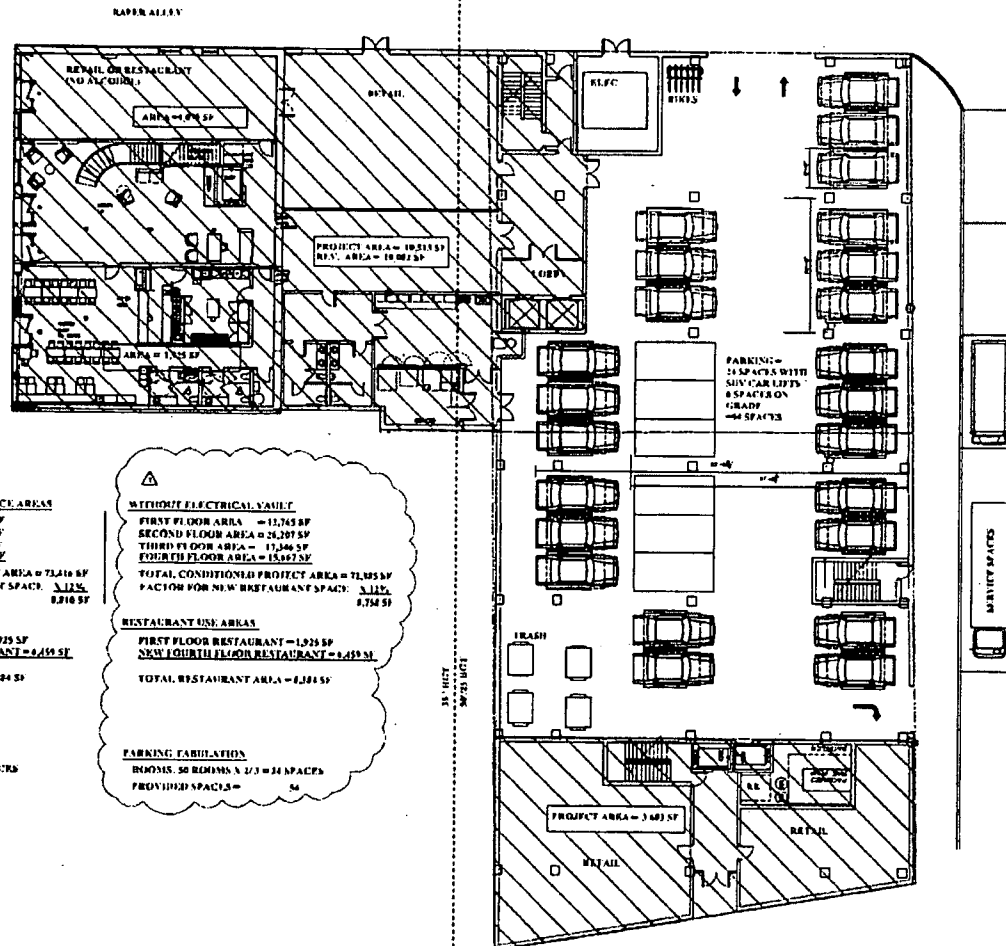
3RD FLOOR



RECORD P.169

4TH FLOOR





NEW BUILDING CONDITIONED SPACE AREAS

FIRST FLOOR AREA = 14,176 SF
 SECOND FLOOR AREA = 24,107 SF
 THIRD FLOOR AREA = 17,346 SF
 FOURTH FLOOR AREA = 15,667 SF
 TOTAL CONDITIONED PROJECT AREA = 71,296 SF
 FACTOR FOR NEW RESTAURANT SPACE = 3.125
 8,316 SF

RESTAURANT USE AREAS

FIRST FLOOR RESTAURANT = 1,925 SF
 NEW FOURTH FLOOR RESTAURANT = 4,459 SF
 TOTAL RESTAURANT AREA = 6,384 SF

PARKING FABULATION

ROOMS: 50 ROOMS X 2/3 = 34 SPACES
 PROVIDED SPACES = 34

WITHOUT ELECTRICAL VAULT

FIRST FLOOR AREA = 11,745 SF
 SECOND FLOOR AREA = 24,207 SF
 THIRD FLOOR AREA = 17,346 SF
 FOURTH FLOOR AREA = 15,667 SF
 TOTAL CONDITIONED PROJECT AREA = 71,296 SF
 FACTOR FOR NEW RESTAURANT SPACE = 3.125
 8,754 SF

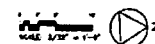
RESTAURANT USE AREAS

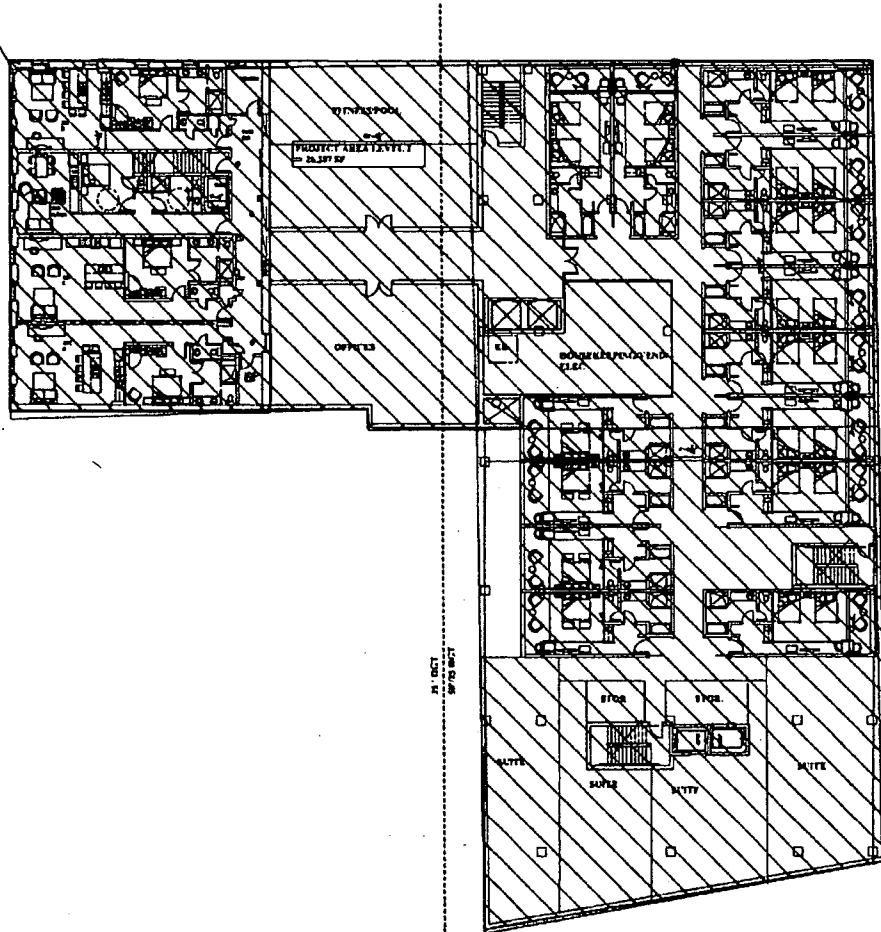
FIRST FLOOR RESTAURANT = 1,925 SF
 NEW FOURTH FLOOR RESTAURANT = 4,459 SF
 TOTAL RESTAURANT AREA = 6,384 SF

PARKING FABULATION

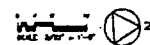
ROOMS: 50 ROOMS X 2/3 = 34 SPACES
 PROVIDED SPACES = 34

1ST FLOOR



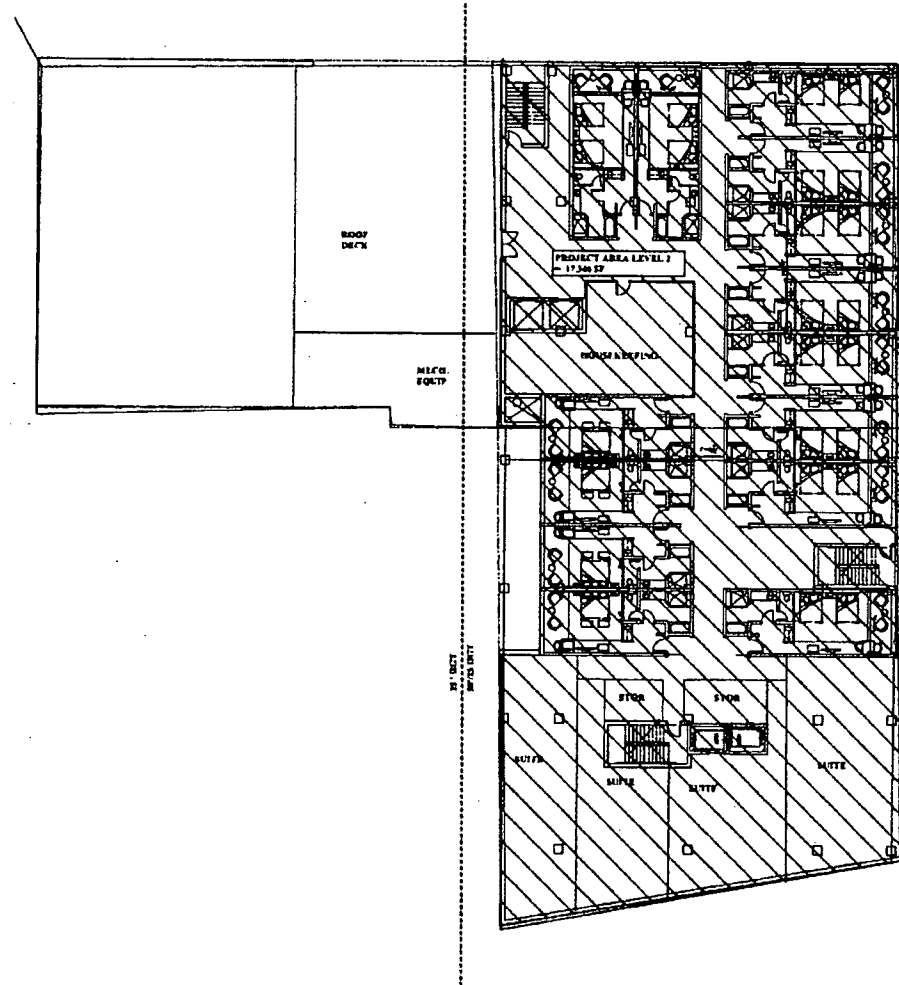


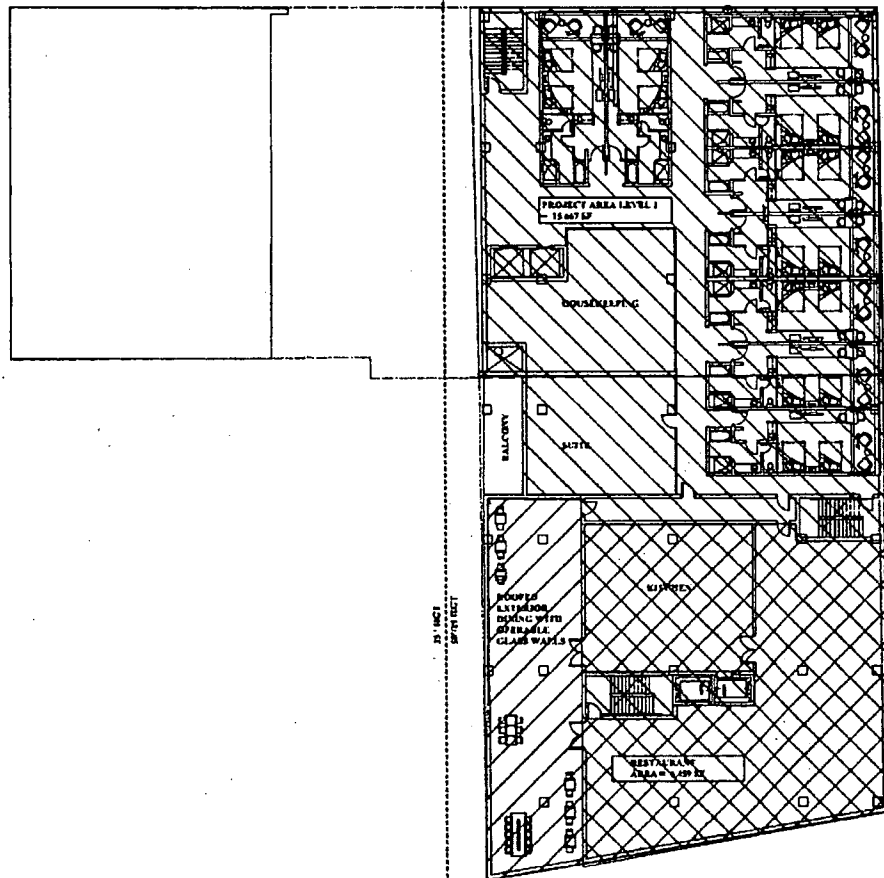
2ND FLOOR



RECORD P.172

3RD FLOOR





4TH FLOOR



SUV SUV-XL

The Harding Steel SUV-Lift is the most popular product in the American parking lift industry. This innovative machine is designed to accommodate an expansive array of vehicles including SUVs, crossovers, sedans, collector cars, and exotic vehicles. Harding Steel's SUV and SUV-XL models are the only lifts to feature 100% hot-dipped, galvanized steel construction with dual-hydraulic lifting cylinders and steel-on-steel safety locks.

Our SUV-lift models comprise 80% of our total sales and installations. Harding Steel specifically designed these models with the needs of real estate developers, architects, engineers, automotive dealers, and commercial parking operators in mind. We can install the SUV lift on a standard 8' parking space, and accommodate most cars and light trucks on the market today. These lifts operate in both outdoor and indoor locations are particularly well suited for high-humidity or damp locations.

Harding Steel's newest product is the SUV-XL, six inches wider and longer than our standard SUV-lift. The SUV-XL is ideal where parking regulations require spaces to be 8'6" wide, or for self-parking applications where the extra width and length provides easier parking and maneuverability. The new SUV-XL will accommodate larger trucks such as the new Toyota Tundra, in the lower space. High performance cars and racing vehicles with wide wheel bases fit beautifully on the extra wide steel platform of the SUV XL.

Both SUV models can be configured for drive-through and tandem parking applications. Our SUV-lifts can be utilized in areas where ceiling clearances are as low as 10'6".



HARDING STEEL, INC.

SUV



2

HARDING STEEL, INC.

RECORD P.176

262 of 644

SUV

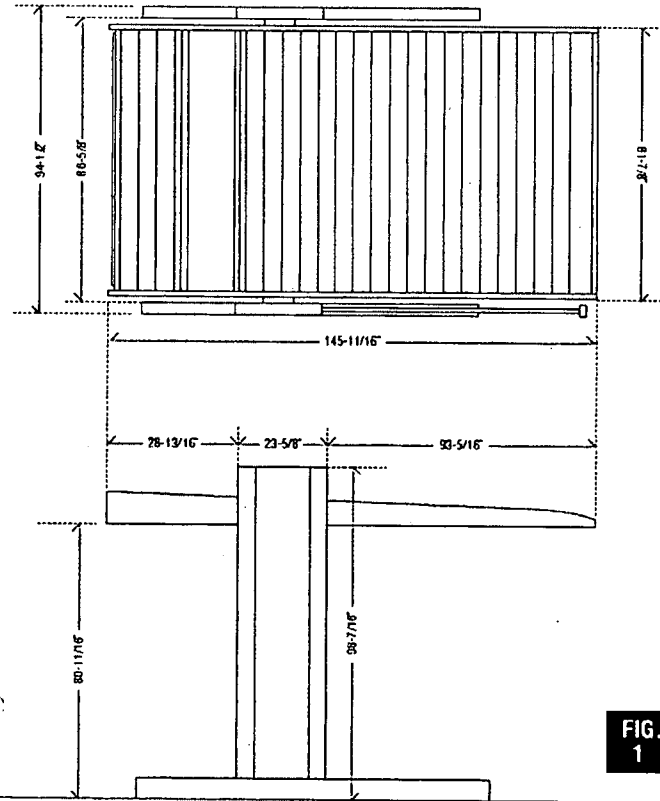
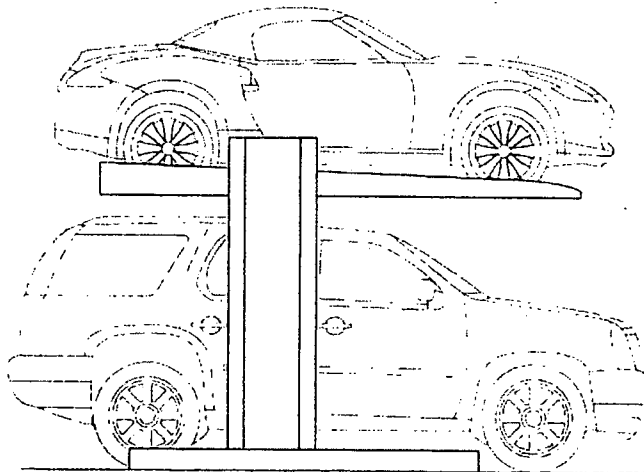


FIG.
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HARDING STEEL, INC.

SUV-XL

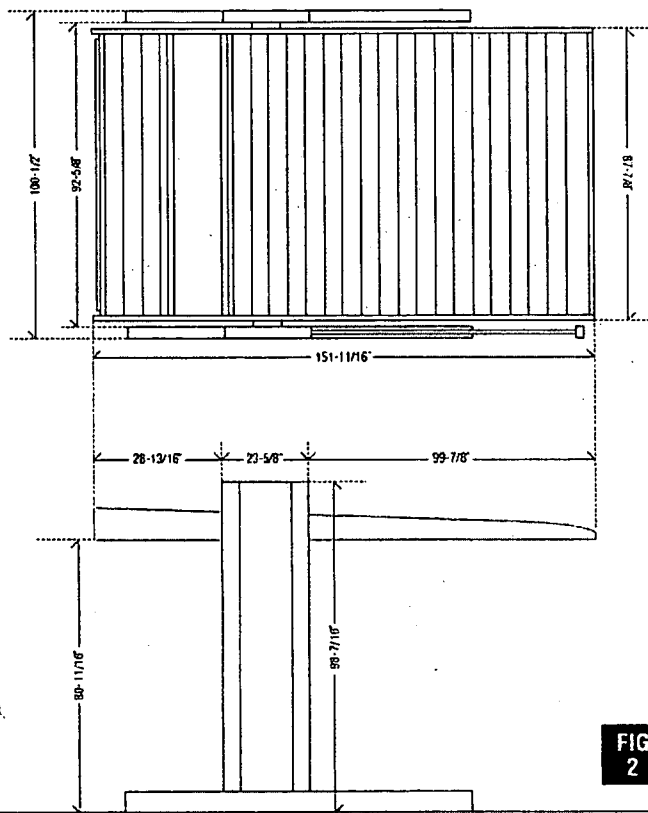
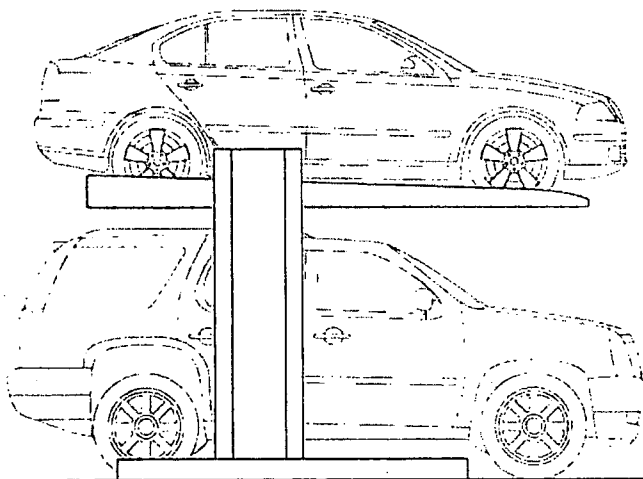


FIG.
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HARDING STEEL, INC.

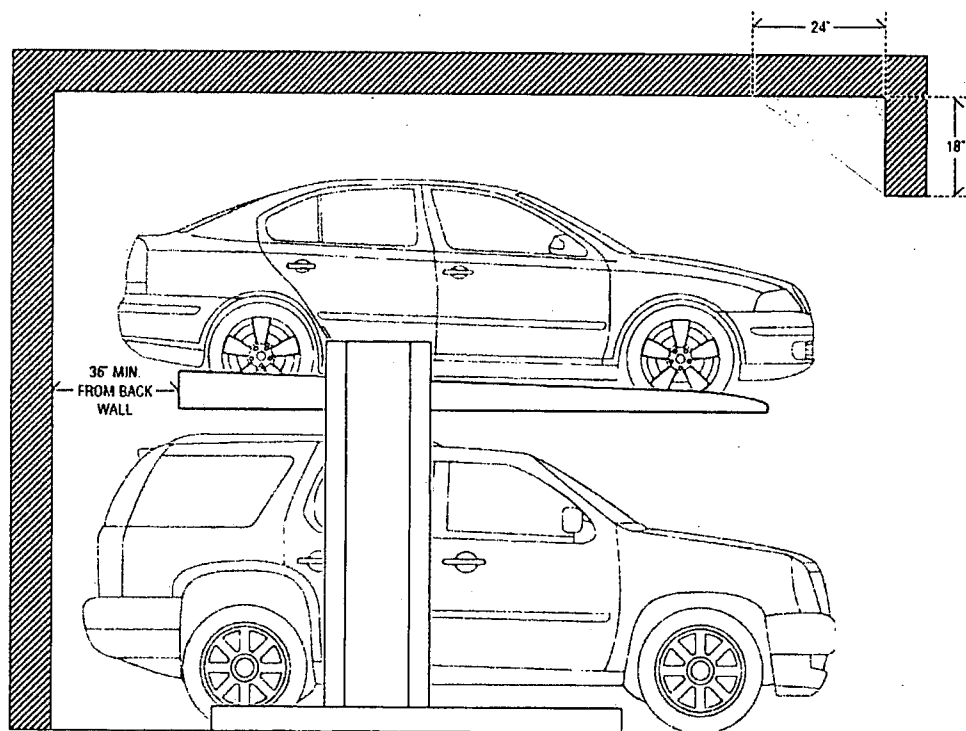


FIG.
3

HARDING STEEL, INC.

SUV
SUV-XL

TYPICAL LAYOUT OF SUV XL AND SUV LIFT

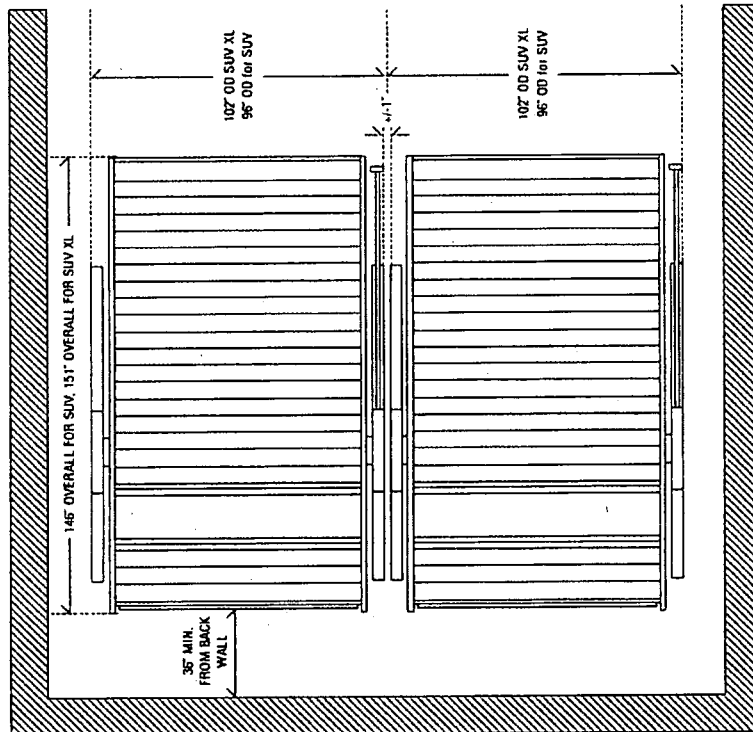


FIG.
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HARDING STEEL, INC.

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AUDIO RECORDINGS
36 NORTH MARKET STREET
5 GUIGNARD STREET
235 EAST BAY STREET
JANUARY 17, 2017

REPORTED BY: RONDA K. BLANTON, RPR
NCRA REGISTERED PROFESSIONAL
REPORTER
CLARK & ASSOCIATES, INC.

1 BZA Meeting
2 January 17, 2107

3 - - -

4 MR. CHAIRMAN: I'd like to welcome you to
5 this January 17, 2017, Meeting of the City of
6 Charleston Board of Zoning Appeals. Present are
7 Mr. Appel, Miss Smith, Mr. Smalls, Mr. Robinson,
8 and Mr. Krawcheck. On my right from the City
9 Planning Staff, Miss Ellington, Ms. Ashby, and
10 Mr. Batchelder.

11 These proceedings are being recorded.
12 We ask you, please, to identify yourself if you
13 speak.

14 This Board does three basic things. We
15 hear appeals from the decisions of the zoning
16 administrator; we hear requests for special
17 exceptions to the zoning ordinance; and we hear
18 requests for zoning variances.

19 * * *

20 CHAIRMAN: Item No. 3 is 36 North Market
21 Street, 235 East Bay Street, a special exception
22 to allow a 50-unit accommodations use in a GBA
23 zoned district.

24 Mr. Batchelder.

25 MR. BATCHELDER: This application, like

Clark and Associates Inc.
RECORD P.183

1 the last one, was also -- (Inaudible.) At the
2 last meeting of the board. And after discussion
3 by the board, the board elected to defer this;
4 and since that time, the applicant has had their
5 traffic consultant do more work. So I'm going to
6 let them go over their application, present that
7 information.

8 But I would like to say that, No. 1, we
9 had recommended in favor of this at the last
10 meeting and -- and we're not withdrawing that
11 recommendation. I think that the discussion that
12 happened after the -- my presentation was a good
13 discussion on the part of the board members, and
14 important questions were raised.

15 So -- and I do think that the
16 presentation last time didn't really adequately
17 address those questions. I think you probably
18 would agree with that. So we've got a situation
19 where the applicant, in order to meet the
20 requirements to obtain your approval, has to
21 convince you that they have met all of these
22 requirements of the zoning ordinance of the
23 special exception test.

24 And the one issue that was -- was an
25 issue of concern last time was this issue of

1 traffic and whether the location of this facility
2 would significantly increase automobile traffic
3 on streets within the residential neighborhoods.

4 The applicant has their second shot to
5 convince you; and I think unless you're convinced
6 that they satisfy that requirement, you shouldn't
7 approve this. So I'll just say that.

8 But before we get to the presentation by
9 the board, let me just run through the basics of
10 this so -- so that everybody's up to speed.

11 So the site that we're dealing with is
12 three properties. There's 36 North Market Street
13 occupied by a two-story historic building that
14 was most recently occupied by Wild Wing Café on
15 the ground. Immediately behind that at 5
16 Guignard Street is a surface parking lot; and
17 then to the east of that property fronting on
18 East Bay Street at 235 East Bay Street is another
19 property that has most recently been occupied by
20 Molly Darcy's, an Irish pub or bar or whatever.

21 And that use is gone. Wild Wings is
22 gone. What we're left with is -- is three
23 properties that are part of this application.

24 Previous approvals by the board allowed
25 a total of 36 accommodations units on the 5

1 Guignard Street/36 North Market Street
2 properties. The application that is before you
3 tonight is a new application that would -- that
4 changes the plans and incorporates 235 East Bay
5 Street and increases the total number of
6 accommodations units to 50 while increasing the
7 parking and providing some additional restaurant
8 space.

9 So that's the proposal that you'll hear
10 like -- (Inaudible.) Again, the same rules that
11 I went through the previous application apply;
12 and the applicant has made a -- a thorough
13 submittal to address all of those issues.

14 The plans I passed out, and those are in
15 front of you. I have copies of the written
16 responses from the applicant, which I'll be happy
17 to provide to you if you have questions about
18 that. So that you have all the information that
19 you need to make a decision.

20 That's pretty much everything. Let me
21 just run through some other slides about the
22 basic zoning that applies.

23 So this is a map that's showing the
24 location of the subject properties. Here's the
25 zoning map; and I want to, again, highlight the

1 fact that the properties that we're dealing with
2 are these three properties that I'm pointing to
3 that -- (Inaudible.)

4 And -- and they're shown in red color,
5 which indicates the commercial zoning, the
6 general business zoning; and you can see that
7 that red color applies to all the other
8 properties in this -- that are included on this
9 slide except for this large dark red property
10 across East Bay Street. That is the Ports
11 Authority property where the large warehouses are
12 located, and that property has a light industrial
13 zoning.

14 So the area that this -- that the
15 subject properties are within is a commercially-
16 zoned area with some industrial zoning directly
17 across East Bay Street; and it's within the
18 accommodations overlay zone, which includes the
19 properties to the north and south of Market
20 Street. And the subject properties are included
21 in that, and it extends across East Bay Street to
22 the east side to include the northeastern corner
23 of East Bay and Market Street.

24 Here's a -- a close shot of the subject
25 properties surrounded by the red outline. Here's

1 an aerial image showing the property. So you
2 have the two-story building at 36 North Market
3 Street, the surface parking lot here, and then
4 Molly Darcy's property right here, one-story
5 building. It's been occupied for a number of
6 years. Five various restaurant/bar users. Prior
7 to that time, I believe it was an office space at
8 one time.

9 Another review of the property, which is
10 located right here and this -- this is a view
11 looking to the northwest; and one thing that I'll
12 point out, this is -- the name escapes me right
13 now. This is Pinckney Street running from East
14 Bay Street over towards Meeting Street, and the
15 residential area of Ansonborough is located north
16 of Meeting Street. So that's a good block north
17 of the subject property. That's where the
18 residentially-zoned properties of Ansonborough
19 are located.

20 Another aerial image. These are
21 photographs of the building 36 North Market
22 Street, the west side of 36 North Market Street
23 which is bordered by Rafer Alley, the back side
24 of 36 North Market Street, the surface parking
25 lot 5 Guignard Street, and the Molly Darcy

1 property 235 East Bay Street.

2 That brings me to the -- (Inaudible.)

3 Showing the existing buildings and surface
4 parking, and at that point I think I'll let --
5 let the applicant make their presentation for --
6 and I do have the -- for the applicant, I do have
7 the traffic information that they submitted up
8 here that they can use because I wasn't -- I
9 wasn't able to get this new information to the
10 Power Point presentation, but I did make copies
11 for them to use in their presentation and give to
12 you.

13 CHAIRMAN: Mr. Batchelder, before we
14 hear from Mr. Wilson, the board has approved two
15 other hotels near this property: One on Anson
16 Street and one on Market Street, I believe.

17 How many rooms were approved for those
18 two hotels?

19 MR. BATCHELDER: Those two hotels have a
20 total of 100 rooms. 50 rooms each.

21 CHAIRMAN: 50 each. Okay. Mr. Wilson.

22 Mr. Wilson, I'm not going to hold you to
23 ten minutes; but I may hold you to 20.

24 MR. WILSON: Thank you, Mr. Chairman.

25 My names is James Wilson with the Womble

1 Carlyle Sandridge Rice law firm here with
2 owner -- (Inaudible.) Architect David Jones, and
3 traffic engineer Jennifer Beal.

4 I'll try to walk quickly through this.
5 We want to be thorough for the benefit of whoever
6 was not here last time.

7 Mr. Batchelder, would you mind just
8 going to the -- (Inaudible.) Perfect. Thank
9 you.

10 The context here is that we -- is that
11 the two properties that comprise these two pieces
12 right here obtained approvals from this board
13 back in 2012-2013 for 36 hotel rooms. That is in
14 addition to the two existing restaurants that
15 have been operated on the property for quite some
16 time, Molly Darcy's and Wild Wings.

17 The proposal here tonight is to increase
18 from an approved 36 hotel rooms to 50. So that's
19 a net increase of 14 hotel rooms. The two
20 existing restaurants comprise of more than 12,000
21 square feet of restaurant/bar space.

22 Our proposal includes basically about a
23 12,000 square feet of restaurant and -- and
24 retail space. In other words, the total
25 restaurant space is remaining roughly the same,

1 about 12,000 square feet and some change; and we
2 are basically reducing the total restaurant to
3 8,000 something square foot and adding some
4 retail, about 4,000 square feet. My point is
5 that the proposal before you tonight, when you
6 net it all out, is basically an increase of 14
7 hotel rooms. Just want to focus the board on
8 that -- that's where we are.

9 And those approvals from 2012-2013 are
10 still valid today and are still good for,
11 basically, another couple years before seeking
12 one-year extensions. We're not asking for
13 variances from the board; and the plans, of
14 course, include preserving this historic building
15 on 36 Market Street, which was already -- that
16 preservation work is already underway.

17 The first floor of the building is what
18 you're looking at on the screen here, and this is
19 Market Street coming down -- going along this
20 way, and this is East Bay Street over here.

21 Market Street is where the central lobby
22 would be. It would be flanked by a restaurant on
23 one side and then a space up here that could be
24 restaurant or could be retail. There would be no
25 alcohol service in that -- in that space.

1 From the -- in front of the lobby on
2 Market Street, the hotel would offer valet
3 service; and valets would take cars around back
4 to the parking garage in the rear.

5 This is a lobby area going -- on the
6 ground floor going through the center; and then,
7 of course, you see this parking -- this parking
8 on the rear. Over here on East Bay Street, plans
9 to have some retail space to -- active in the
10 ground level here. And then it's going to have
11 bedrooms above it.

12 On this -- while -- I just want to focus
13 on parking for a moment. For -- for this project
14 under the ordinance, the required number of
15 parking spaces is 34 parking spaces. We're --
16 we're providing 54 parking spaces. So that is 20
17 more than the required number of parking spaces
18 according to the ordinance.

19 Mr. Batchelder, if you would take us to
20 the second page.

21 This is the second floor of the proposed
22 project, guest rooms, guest rooms. These are
23 guest rooms as well. On this area, this would be
24 some office and maybe some fitness -- fitness
25 there.

1 Mr. Batchelder, if you'll go to the
2 third floor.

3 The third floor you basically reach the
4 top of 36 Market. It's a two-story structure.
5 This is -- these are all hotel rooms in here.
6 The intent is to have a deck area that's
7 basically enclosed here. It's got a two-story --
8 two more stories going up on this side, and
9 there's no bar or restaurant that's a part of
10 that deck concept there.

11 And then, Mr. Batchelder, if you'd go to
12 the fourth floor, please.

13 This is the fourth floor plan -- this
14 floor plan has rooms on this side and hotel rooms
15 on this section. And then on the fourth floor is
16 where the second restaurant in this project would
17 be. And it would be -- this area would be
18 restaurant. This area right here would be some
19 outdoor exterior dining space.

20 That space has been designed to
21 intentionally orient toward the south and toward
22 the east away from the residential Ansonborough
23 neighborhood, which is this side. Obviously,
24 that's always a concern is noise; and so the
25 design is very intentional to try to focus that

1 away from the residential area, keep it focused
2 toward the commercial area.

3 With regard to the exterior -- exterior
4 dining area, we've met with the Ansonborough
5 neighborhood association, of course, as well as
6 other neighbors and the -- (Inaudible.)
7 Ansonborough neighborhood association asked
8 whether we would be willing to impose the same
9 restrictions that are imposed on the Grand
10 Bohemian Restaurant. And -- and my client,
11 Mr. Pierce, said certainly. Why don't we do
12 that.

13 And, basically, what those restrictions
14 are intended to do is to try to limit any sort of
15 noise emanating from the property. That includes
16 a 5-foot parapet wall. No live music. No
17 televisions or video. No outside bar out there
18 and -- and limitations on operating hours.

19 So we have met with and tried to address
20 any concerns about noise emanating from this
21 area; and we would ask the board to bear in mind
22 that Molly Darcy's currently that occupies this
23 same location, 235 East Bay, has a large
24 outdoor -- outdoor service area. It extends the
25 entire length of the frontage on East Bay Street.

1 It often includes live music.

2 I want to just hit the -- the -- the
3 required criteria under the ordinance and -- and
4 won't belabor every one, but I want to make sure
5 those four that are required criteria we have
6 sufficiently addressed.

7 Elimination of housing units. Of
8 course, there are no housing units on this
9 property. So there's not going to be any
10 eliminated.

11 The second point is the one
12 Mr. Batchelder mentioned is that we will not --
13 we will not significantly increase automobile
14 traffic on the streets within residential
15 neighborhoods. I'm going to let Miss Beal speak
16 to that in just -- just a minute.

17 This is the point that at the end of the
18 last meeting, the board -- the board stated we
19 think that you've met the criteria except that we
20 need more input on that point, and the board
21 asked that we come prepared to speak more to that
22 as well as to confer with the City traffic
23 transportation department. And Miss Beal has met
24 multiple times with Mr. Mathis, who's here on
25 behalf of the transportation -- traffic

1 transportation department at the City who can
2 also respond to questions.

3 The -- the third point is the limitation
4 of no more than 12 percent of the interior space
5 and the -- can be restaurant or bar space. We
6 meet that. The plans meet that -- meet that
7 criteria. We are under the 12 percent.

8 Mr. Batchelder, of course, is examining those
9 numbers as well as part of the application.

10 The -- the fourth item, the proposed use
11 is in character with the immediate neighborhood.
12 So the immediate neighborhood is a commercial
13 area. It has -- it has retail, of course. It's
14 market. It has hotels across the street, the
15 Market Pavilion Hotel. It has the SPA across and
16 the Carroll Building right across East Bay
17 Street. We're, of course, more retail, all of
18 which -- that whole area is zoned general
19 business or indicates the SPA light industrial.

20 We are well within an existing
21 commercial district; and, in fact, Market,
22 Guignard, Pinckney those are three principally
23 commercial -- commercial streets. We are on the
24 very southern -- southeastern corner of that
25 group of -- of blocks that are commercial blocks.

1 The fifth required criteria is that the
2 location will facilitate pedestrian activity and
3 will encourage transit system usage. We think
4 we're very well situated for that. Of course,
5 there's excellent pedestrian access to all sorts
6 of amenities in Charleston from this location;
7 and we're also located directly on a CARTA route
8 that comes down Market and turns up Meeting
9 Street. There are multiple arteries that go up
10 Meeting Street to the CARTA hub up it -- up it --
11 that go up to Anne and Mary streets as well.

12 We've also committed in our application
13 to include bicycle storage and, certainly, would
14 want to encourage as many employees as possible
15 to use bicycles as well.

16 Those are the required criteria. I just
17 wanted -- the other items in the ordinance, I
18 just want to hit on one or two of them that are
19 things for the board to consider.

20 The -- the traffic generation, certain
21 circulation, in our efforts to comply -- to
22 address those, the hotel will offer valet
23 service. The property is located in a very
24 accessible area to two primary arterial streets.
25 Both East Bay Street and -- and Meeting Street

1 are primary north-south streets that are easily
2 accessible from -- from this property.

3 In terms of the total trip -- trip
4 generation, compared -- what's approved right
5 now, the existing restaurants and the 36 hotel
6 rooms, compared to what we are proposing tonight
7 at 14 -- 14 rooms, the AM peak hour trip -- peak
8 hour trips actually reduces a little bit. The PM
9 peak increases -- increases somewhat. The
10 aggregate of that is about 20, 29 total increase
11 between those two peak hours.

12 And -- and please bear in mind, those
13 are -- those are conservative numbers. By that
14 what I mean is we count a valet trip from the
15 front lobby around to the parking garage as a
16 trip. So a guest drives in in their car. We
17 would -- we would treat that as a trip. We would
18 also call it a trip when the valet takes it
19 around -- takes it around to the back to give you
20 a sense of what these numbers mean.

21 Lastly, on the -- on the traffic
22 circulation, we are -- we are proposing to and
23 have worked with and have the agreement of the
24 traffic transportation department to add a
25 loading area over on Guignard Street.

1 Mr. Batchelder, would you go to the
2 first four -- the -- (Inaudible.) For a second.

3 So this is Guignard Street right here,
4 which feeds into East Bay; and right now there's
5 several metered parking spaces in here, all of
6 which will be preserved. And a loading area will
7 be created up here.

8 The point of that is that right now,
9 there's no good loading area back here because
10 this surface parking lot with curb cuts in here,
11 we got to create a loading area here so that
12 trucks that already use Guignard -- Guignard
13 Street, not just the surface -- (Inaudible.) But
14 for other uses would have a functional loading
15 area to try to improve traffic flow on Guignard
16 Street.

17 I've already spoken in terms of what the
18 access -- accessory uses are. They're retail
19 and -- and restaurant. Total square footage is
20 remaining basically the same. We think we're
21 actually improving the total impact of those in
22 the sense that right now, you have two large
23 restaurants with virtually no parking. We're
24 adding parking. Remember, we'll have 20 more
25 spaces than -- than is required.

1 And we're -- and part of our use is
2 retail use, which is large -- we expect is
3 largely going to cater to pedestrian traffic and
4 some hotel guest use.

5 Lastly, I would just say a couple of
6 things. We think that this is a very reasonable
7 proposal in terms of the amount of acreage that
8 is being used for one 50-room hotel. This is
9 a -- this is a much less intense hotel proposal
10 than -- than what this board has seen and -- and
11 approved.

12 Second, we've -- we've tried to meet and
13 address the concerns of the neighbors,
14 particularly the Ansonborough neighborhood. They
15 still have concerns about traffic, and
16 Miss Beal's going to speak to that in a second;
17 but we do feel like we have addressed their noise
18 concerns, and I'm trying to do everything we can
19 to -- to make this as amenable to them as we can.

20 Third, remember, 36 rooms and existing
21 restaurants already are approved. The net
22 increase of 14 rooms is really the increment.

23 And then, lastly, I would just say, most
24 importantly, we do believe that if you -- once
25 you hear from Miss Beal in terms of the traffic

1 count, that second point of no significant
2 increase in traffic in a residential
3 neighborhood. We do believe that we have
4 satisfied the requirements of the ordinance.

5 We request your approval. With that,
6 I'll let Miss Beal speak.

7 CHAIRMAN: Before we hear from Ms. Beal,
8 Mr. Wilson, are you in agreement that presently,
9 this board has approved 136 rooms in the square
10 block between Market, Pinckney, Guignard, and
11 East Bay; and if it approves your request, there
12 will be a total of 150 rooms approved?

13 MR. WILSON: With one correction, that I
14 would say within the two square blocks. Bear in
15 mind, Rafer Alley is a public street but -- but,
16 yes.

17 CHAIRMAN: Yes, you're correct. So
18 really it's within the East Bay, Pinckney,
19 Market, and Guignard.

20 MR. WILSON: Yes, sir. The total
21 approved rooms currently stands at 136; and that
22 if you approve this tonight, we increase from 136
23 to 150.

24 CHAIRMAN: Thank you very much. Thank
25 you.

1 Miss Beal.

2 MS. BEAL: (Inaudible.) If you go to
3 that aerial. (Inaudible.)

4 So we spent a -- there were a couple
5 questions last time about the traffic; and when
6 we look at the external trips, these are the
7 trips that will be going into the external
8 roadway network.

9 As James said, when we compare to the --
10 what is currently approved to what is approved as
11 a proposal, the AM peak hours and -- (Inaudible.)
12 Morning peak hour, one hour between seven and
13 nine in the morning is actually lower. In the
14 afternoon, it is -- it's slightly higher.

15 That's because it's a little bit
16 different. You got all the retail and restaurant
17 in here as well as a hotel. So in the afternoon,
18 we're looking at approximately 16 additional
19 trips coming to the site and 26 additional trips
20 exiting the site.

21 Now, when we look at where these --
22 where these trips go, where do they come from?
23 So they're not all -- (Inaudible.) Coming from
24 East Bay. You know, we have -- here on the
25 peninsula, we come from north, east, and west.

1 And so we'll be coming from -- and this is what
2 we see throughout the peninsula. We come from
3 all the different directions depending on where
4 you're coming from.

5 So when we do trip distribution, we look
6 at that. We look at the existing traffic flows
7 and how the -- how the trips get to and from
8 where they are.

9 Stepping back to the trip generation, we
10 are based on national standards and local
11 standards. So we do these as an objective review
12 of, you know. They have X number of hotel rooms,
13 X amount square footage of restaurant, X amount
14 square footage of retail. There are -- and
15 there's empirical data that's been collected
16 across the country that we have calculations
17 which, you know -- (Inaudible.) You're familiar
18 with. Then we're able to calculate these trips.

19 And so we -- this -- when we do these
20 trip generations, it's based on, you know,
21 standard practice for the transportation
22 industry.

23 So that being said, you know, we -- we
24 have -- the trips coming -- we have the trips
25 coming into the site. We'll have the -- the

1 valet area here. So our point of contact is at
2 this point.

3 So we've got North Market and South
4 Market. We have -- sorry. East Bay and Meeting.
5 And so a majority of the trips are going to stay
6 on the major facilities. That's why they're
7 here. We have the work horse roads of the -- of
8 the neighborhood and of the community.

9 However, you know, we talked a little
10 bit last time about what's the impacts on Anson
11 Street that we would expect? And so looking at
12 the trip generation and distribution, you know,
13 you see about 50 percent of the trips kind of
14 going into the northern area.

15 So when they come into the site based on
16 where this is located, we'd expect them to all
17 come down East Bay. So that would have, you
18 know, limit in how the Ansonborough neighborhood
19 is set up. We wouldn't expect anything to come
20 to the site that way.

21 So we look primarily at the exiting
22 trips. So we look at the exiting trips. What we
23 have is interesting capability of being able to
24 turn on State Street and come around and also
25 exit back up to East Bay. You also have the

1 ability to go straight to go to Ansonborough and
2 also the ability to go straight and go to Meeting
3 and actually take State down as well.

4 And so you have a lot of different
5 directions and opportunities. And when we look
6 at the distribution and what we would expect, we
7 would expect that a maximum of about 10 percent
8 or so of those exiting trips to go up -- I say up
9 Anson Street potentially. It may not even be
10 that much based on the -- the flow.

11 So when we look at the difference
12 between what is currently approved and what is
13 approved today from an exiting trip standpoint,
14 we're looking at approximately two -- two vehicle
15 difference. And so what that would be is
16 approximately -- and this is during the PM peak
17 hours. So it's one hour between four and six,
18 and that's with the AM and PM peak hours is the
19 two hours we typically study when we're doing the
20 traffic study.

21 So that being said, we're looking at an
22 increase of about two vehicles that could
23 potentially travel through the neighborhood. And
24 so in our grand scheme of things, that would, of
25 course, not be considered significant; but that

1 was -- I think that -- I think that answers the
2 questions from -- from last time.

3 CHAIRMAN: Ms. Beal, have you looked at
4 it from the totality of the rooms that the board
5 has approved? I -- I understand you're saying --
6 I think I understand that you're saying that --
7 that the -- there's a small difference between
8 what is there and what would be there if this
9 application were approved.

10 My concern is that if it's already
11 saturated with the hotel rooms that have been
12 approved, then two is two too many. Have you
13 looked at it in terms of the -- of the total of
14 150 rooms that are approved in that block?

15 MS. BEAL: When you look at it from an
16 overall perspective, remember, it's a portion of
17 the -- the total what's been approved in this
18 block. So you remember it's only -- there are
19 folks that are going to be going on Market and on
20 East Bay and -- and throughout the peninsula and
21 the grid.

22 So we looked at it from the standpoint
23 of, you know, a roadway like Anson Street can
24 handle, you know, based on -- on -- we look at
25 traffic flow on roadway lengths. You can handle

1 hundreds of trips with the -- the hotels in this
2 area. I think that there's about 55 trips based
3 on the traffic studies from these two hotels that
4 were projected to be -- to travel northbound on
5 Anson.

6 And so from that standpoint in looking
7 at it from a -- from just a general
8 transportation review, you know, that would be
9 considered -- that would be considered to be
10 okay.

11 CHAIRMAN: So 55 would be your number of
12 the -- if -- if there were --

13 MS. BEAL: No. So 55 is what's
14 projected. Excuse me. 55 is what's projected
15 based on the pre -- the studies for these hotels
16 to travel north on Anson. So that's kind of the
17 background condition, and then this would be
18 the -- it would be six trips -- based on what's
19 approved, six additional trips based on what's
20 approved today; and it'll be two additional -- or
21 two additional -- (Inaudible.)

22 CHAIRMAN: Okay. Well, how many trips
23 would there be -- I want to make sure I
24 understand. How many trips would there be based
25 upon present approvals, now 136 rooms?

1 MS. BEAL: You would have approximately
2 61 trips coming around -- coming from this block
3 going north to the -- to the --

4 CHAIRMAN: Okay. 61 trips during the
5 peak periods.

6 MS. BEAL: During peak period. That's
7 once today. That's once -- that's not just for
8 the hotels. That's kind of what's out there
9 today plus the projected -- (Inaudible.)
10 Projected -- (Inaudible.)

11 CHAIRMAN: Okay. My concern was that we
12 were going to have three hotels -- two hotels
13 basically feeding automobiles on Market Street
14 and -- and one potentially on Anson.

15 And -- and when I go down Market Street,
16 I -- human nature, I try to avoid it because it's
17 crowded. So instead of proceeding down Market
18 to -- it's one way -- to Meeting, I want to get
19 out of that traffic. So I take a right onto
20 Anson Street.

21 I do it whenever I'm in the neighborhood
22 and -- and when it's convenient to escape the
23 Market Street traffic. I think that's only human
24 nature to be expected. So that my -- my concern
25 that I tried to express at the last meeting is

1 are we feeding the stream of traffic up Anson
2 Street all the way potentially to Calhoun?

3 Some of it might take a right off on --
4 on -- on some of the other streets, Wentworth
5 and -- and Society, whatever, to get over to East
6 Bay. It's a little harder, I think, to get over
7 to Meeting Street because of the one-way -- I
8 think you could do it on Wentworth, but you can't
9 do it on Society maybe.

10 But anyway, my concern was that, you
11 know, there we have these three hotels just a
12 week -- are we jamming up the residential
13 neighborhood that -- that -- in Ansonborough?

14 MS. BEAL: When you look at the -- I --
15 I would not expect so with this proposal.

16 The -- one thing to keep in mind, when
17 you have on-street parking and everything, the
18 more uncomfortable it is to drive on a road,
19 fewer people will take that path. So some of the
20 neighborhood streets are more uncomfortable for
21 people to -- to cut through because, you know,
22 you've got more pedestrians, more parking people.
23 (Inaudible.)

24 And we've got also based on where, in
25 this case, for this -- this project, where the

1 valet stand would be located does allow you to
2 kind of give, you know, if you don't want to
3 travel all the way down Market, you would be
4 concerned about the vehicles, you can also, you
5 know. If you're going up Anson, you also have to
6 have, you know. You've got pedestrians and
7 everything in that area as well.

8 You can also move around at Coming to go
9 back to East Bay, which is a higher level
10 facility, pretty easily.

11 CHAIRMAN: Have you explored any options
12 to get the traffic off of Anson Street?

13 MS. BEAL: The -- at this point you
14 would have -- we would expect -- not specifically
15 because they are -- they are actually loading on
16 Market. Other than, I mean, I think that -- that
17 Mr. Wilson had pointed out that, you know, you
18 are getting your -- your keys from a valet person
19 who will be able to do directions, of course.

20 But short of that, we had not looked at
21 anything in particular to -- (Inaudible.)
22 Because the transportation person, I'm not
23 exactly sure what you could do short of, you
24 know, you know, signage and major changes to the
25 traffic flow in the neighborhood.

1 CHAIRMAN: Yeah. That was my next
2 question. I mean, I, you know, as a layman, I
3 don't think we know a lot about traffic control;
4 but I guess you could do something like speed
5 bumps or one-way streets or no turns, those kinds
6 of things.

7 And y'all have not explored any of that?

8 MS. BEAL: No. And that would be
9 something that would be explored with traffic and
10 transportation department as the appropriateness
11 and based on the guidelines that are set up in
12 the City to put in traffic calming, for example.

13 CHAIRMAN: Have you discussed this with
14 the City traffic people?

15 MS. BEAL: No, not specifically, I
16 haven't.

17 CHAIRMAN: Any further questions for
18 Miss Beal?

19 (No response.)

20 MS. BEAL: If there's anything else
21 during the session, just let me know.

22 CHAIRMAN: Thanks.

23 Mr. Wilson.

24 MR. WILSON: Yes, sir. And we'll wrap
25 up, obviously, at this time, let the opposition

1 speak.

2 But I -- I just to want emphasize the
3 numbers that Miss Beal just provided. The test
4 is will we significantly increase automobile
5 traffic on streets within residential
6 neighborhoods? Obviously, the street we're
7 worried about is Anson Street.

8 So will this facility significantly
9 increase traffic? What Miss Beal said is that
10 the -- the already approved 36 rooms would
11 generate -- is projected to generate six cars
12 during the peak period. Changing that from 36 to
13 50 would lead to projecting eight cars going up
14 Anson. So that's a Delta of two cars. If you
15 look at the whole thing, that's a -- that's eight
16 cars that we're talking about.

17 So the question for the board is, does
18 that Delta, does that increase of two, or if you
19 look at the whole thing eight, would you say that
20 that particular thing -- and I understand the
21 board, you know, already approved 100-room hotel;
22 and I don't believe that's the question for the
23 board this evening.

24 The question for the board on this test
25 is would this facility significantly increase the

1 traffic on Anson Street? And we don't believe
2 that going from six to eight or going from zero
3 to eight significantly increases traffic on
4 that -- on that street.

5 And we also, as I mentioned, Mr. Mathis
6 is here from the traffic and transportation
7 department because the board asked for input from
8 the -- from the City staff on this. And, of
9 course, we consulted with him in arriving at
10 these numbers; and so, of course, please feel
11 free to ask him questions.

12 Thank you.

13 CHAIRMAN: Mr. Mathis.

14 MR. MATHIS: Yes, sir.

15 CHAIRMAN: Yes. We'd like to hear from
16 you.

17 MR. MATHIS: Yes, sir. I have had
18 conversations with Miss Beal about the traffic.
19 She explained, basically, the same thing that she
20 explained to you guys. I don't believe it would
21 be a significant amount of traffic generated by
22 the additional 14 rooms.

23 CHAIRMAN: See, Mr. Mathis, how about
24 taking what -- what's already approved in terms
25 of -- of what's happened -- what's going to

1 happen to Anson Street when -- when all of these
2 hotels are built. Have we -- using that as a
3 guide, have we significantly increased traffic on
4 Anson Street?

5 MR. MATHIS: Fortunate thing about
6 downtown Charleston is it's laid out in a grid
7 system; and additional traffic that's generated
8 by these hotels, I do not believe, would be a
9 significant -- (Inaudible.)

10 CHAIRMAN: You do not.

11 MR. MATHIS: No, sir.

12 CHAIRMAN: Any questions for Mr. Mathis?

13 MEMBER: I have one.

14 Is there anything that the City could do
15 to mitigate the effects of hotels? Is there
16 any --

17 MR. MATHIS: As Ms. Beal mentioned,
18 there are traffic calming measures that could be
19 implemented in a previous question by the
20 neighborhood. The hotel would like to work with
21 the neighborhood to try to eliminate those --
22 (Inaudible.)

23 CHAIRMAN: What are some of those --
24 the -- that you might consider?

25 MR. MATHIS: Currently, they already

1 have one traffic calming measure that's in place,
2 which is on-street parking. That's a significant
3 traffic calming measure. Really the only option
4 that the City offers currently is speed humps.
5 (Inaudible.)

6 CHAIRMAN: Any further questions for
7 Mr. Mathis?

8 (No response.)

9 THE COURT: Thank you very much.

10 MR. MATHIS: Certainly.

11 CHAIRMAN: Anyone else in favor of the
12 application who would like to be heard?

13 (No response.)

14 CHAIRMAN: In opposition. Mr. Gurley.

15 MR. GURLEY: I'm Robert Gurley with the
16 Presidential Society -- (Inaudible.) We
17 appreciate that. We think that the -- like any
18 of the -- of the -- (Inaudible.) Accommodations,
19 we're very concerned about traffic, as you just
20 mentioned and, particularly, Chairman of the
21 project brought up last night, we just don't
22 think that they're sophisticated enough to --
23 (Inaudible.)

24 Well-respected traffic engineer, and a
25 great report; but she's an advocate for one

1 application. We need an advocate for the
2 community that takes a look at this objectively.
3 (Inaudible.) We don't believe that we have heard
4 any information that would give us a comfort
5 level that traffic is being added to, you know,
6 the -- (Inaudible.)

7 You have a cumulative effect. If you're
8 the last half of the -- (Inaudible.) Then we
9 think you have an obligation to take a look at
10 the traffic in the other two applications; and we
11 also think that the more sophisticated tools, the
12 City should take more of an active part. So
13 we're mainly concerned about traffic.

14 Thank you.

15 CHAIRMAN: Thank you, sir.

16 Yes, ma'am. Miss Marcum.

17 MS. MARCUM: Thank you.

18 So I took a lot of notes. I apologize
19 if this is a little disjointed. I do want to
20 note the developer recognition that the minimum
21 required number of parking spaces is not enough.
22 Not all staff takes the bus, and I hope that you
23 all will keep that in mind going forward for
24 every application.

25 Also thank you to the board for digging

1 into this traffic issue and no longer accepting
2 the study is not significant, it's not a problem.

3 So as you mentioned, Mr. Krawcheck, you
4 try as quickly as possible to get off of Market
5 Street. So do I. Who in their right mind would
6 turn south on State Street to get off of North
7 Market?

8 It is not more comfortable to go down
9 the bigger streets. It is much more comfortable
10 to go down Anson Street. We all do it. So --
11 and the cumulative effect thing, obviously.

12 Peak hour that we talked about seven to
13 nine, my house faces Anson Street; and I leave my
14 house every day between seven and nine every
15 workday. Not even -- so we're not even talking
16 about weekends here. I leave between 7:30 and
17 8:30, right in the middle of that hour. There is
18 nobody on Anson Street except locals.

19 There's a lot of bicycle traffic,
20 perhaps, illegally going the wrong way. There
21 are pedestrians. There are people walking their
22 kids to the school at the end of the street, but
23 I can back out onto Anson Street without worrying
24 about it because nobody is coming.

25 And so in that respect, I would say that

1 two more cars is significant. I did not hear
2 anybody say what we have today. So how can we
3 say yet -- and I haven't had time to absorb all
4 this and see the papers, and you haven't had time
5 to review the reports.

6 What is the definition of "significant"?
7 And if today we have zero and tomorrow we have
8 two more cars, that's significant. But the fact
9 is: We're talking about a total of 55 plus six
10 plus six, which is 63. That's one every 30
11 seconds. I'm beginning to think that's
12 significant.

13 So I'll keep it short. Thank you.

14 CHAIRMAN: Thank you.

15 Yes, sir.

16 MR. HANLAN: My name is Ty Hanlan, and
17 I've had the pleasure of coming before you
18 before.

19 I own this property right here, which is
20 opposite from the development so -- and I
21 actually like the idea of a hotel, but the three
22 hotels in the area has me scared blue.

23 I engaged a traffic engineer, and
24 basically I'm a bit flabbergasted over a couple
25 of different things. I had the opportunity to

1 meet with Mr. Mathis and -- up in Summerville
2 relative to traffic. And the physical condition
3 that will be created by these building
4 improvements here and here, I engaged a traffic
5 engineer; and, basically, the three hotels as I
6 wrote to Mr. Batchelder, 150 rooms, would be 1338
7 trips per day -- average trips per day.

8 If you throw in the hotel that is going
9 to be constructed over here, you now have four
10 hotels, 3,345 average trips per day.

11 The notion of evaluating the traffic on
12 the basis of only 14 rooms as you think you've
13 just heard is -- is flabbergasting to me.

14 When I met with Mr. Mathis, I asked him
15 what kinds of growth rates do you use in your
16 traffic analysis studies? And he said 1 to 3
17 percent. I would suggest to you that the growth
18 in this town has been substantially greater than
19 1 to 3 percent.

20 The first time the City started
21 evaluating the hotel proposals from the parking
22 lot and the -- and the restaurant, I think, was
23 back in 2008-2010. The first approvals were
24 granted several years ago, six, seven years ago.
25 Things have changed.

1 So to try and evaluate this particular
2 property right now, this proposed development on
3 the basis of only 14 rooms or 50 rooms, to me, is
4 incredulous. It just -- I don't get it.

5 I think, further, that the notion that
6 if you look at the -- take a look at the gross
7 plans, Mr. Batchelder, please.

8 So this is Rafer Alley. It's roughly 14
9 feet wide, and the intention is to build to the
10 sidewalk on this property and also on the two
11 hotels or the Market Street hotel that is on the
12 opposite side of Rafer Alley. And the garages
13 will both exit onto Rafer Alley.

14 I understand from Mr. Mathis that this
15 particular point of egress from the garage would
16 not be allowed because of its proximity to East
17 Bay Street. So between the parking load here and
18 the parking load from the adjacent two hotels,
19 which are going to be using one combined garage,
20 is going to go down Rafer Alley and then,
21 obviously, you have to take a right.

22 And I don't believe that it's going to
23 go in a completely even distribution, but
24 certainly a large part of it's going to go down
25 Anson Street. Certainly a large part of it, and

1 if the numbers that -- (Inaudible.) Are anywhere.
2 close to being accurate, this is astounding.

3 And, again, I like the hotel. It's
4 certainly better than Molly Darcy's and the
5 parking lot for the other building, which is now
6 being renovated into apartments. (Inaudible.)

7 Notion of asking for more parking than
8 required, I don't think is -- is something that I
9 like either because now we're talking about
10 putting 20 more cars in this garage; and I own
11 the property right here. And even though we're
12 in a general business zone, a substantial portion
13 of this property is residential.

14 And from my close reading of the
15 requirements, it's not supposed to have this type
16 development, an impact on residential
17 neighborhoods. Well, even though this is a
18 commercial zone, the City permitted and I built
19 residential uses here.

20 These service trucks that would be
21 parked on Guignard Street, which is not a very
22 wide street either, that, to me, looks like a 16-
23 or 18-wheeler truck. How does the public way get
24 taken for private use? How does that happen?

25 The amount of service vehicles that use

1 Guignard Street daily is incredible. The Noisy
2 Oyster and many of the other restaurants that are
3 over on Market Street are -- (Inaudible.) Nobody
4 says anything to them. They just leave their
5 truck in the middle of the street. I have a
6 parking lot right here. Many times I can't get
7 out of it.

8 When these three hotels start
9 construction, if they are permitted, what are
10 they going to use for lay-down area for their
11 materials? And if this is approved, I would
12 assume that it would be developed at the same
13 time as the other two hotels. That's a lot of
14 construction without any kind of area in which to
15 build from because these buildings are going to
16 cover the entirety of the sites.

17 The prior approvals for the 36 rooms
18 carried a caveat which there would be no rooftop
19 dining or bar except for use by the patrons of
20 the hotel. If the board finds that there is
21 justification for this to be approved, I would
22 ask that it would consider doing that because --
23 or having that same stipulation or condition
24 because I am -- or my building is about 35 feet
25 from this building.

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1 Last but not least, I -- I have to
2 emphasize the fact that, just looking at this in
3 a vacuum as though we weren't talking about a 50-
4 room hotel or 150-rooms within spitting distance
5 of one another, is just amazing.

6 And I -- I raise this point because they
7 got these approvals for the 36 rooms. I think
8 the last approvals were obtained in 2012. Well,
9 a lot has changed since 2012. The earlier
10 approvals came before that. I'm sure
11 Mr. Batchelder can tell us when those were.

12 But I would be happy to commission an
13 independent traffic study and give it to the
14 board at my expense because I think this -- this
15 issue is -- is not being looked at properly.

16 Thank you.

17 CHAIRMAN: Thank you, sir.

18 Anyone else in opposition? In the back,
19 yes, sir.

20 MR. WRIGHT: Good afternoon. My name is
21 Peter Wright, and I just have a general question.

22 We're talking about Delta of two. That,
23 indeed, that Delta of two when we have 14
24 additional rooms and are we accounting for in and
25 out? So we have to account for in and out of

1 those 14 additional rooms. When we're talking
2 about in and out privileges, that increases that
3 traffic on Anson Street by a multiple of what?

4 I'm not sure we've addressed that yet.
5 So including the restaurants, adding those two
6 restaurants during peak period, arriving vehicles
7 for valet, dinner, food, dining, and additional
8 to hotel guests that are looking to leave the
9 area, to come back to the area. So their in and
10 out is not just one time or two times. Your in
11 and out is more than that.

12 Thank you.

13 CHAIRMAN: Thank you, sir.

14 Anyone else? Yes. Yes, sir.

15 MR. SHOWER: Jerry Shower, Historic
16 Ansonborough Neighborhood Association.

17 First of all, again, thank you for the
18 opportunity of talking to us in advance; and we
19 do hope that if this goes forward, that they do
20 keep those conditions connected to the property,
21 regardless of future owners.

22 Also congratulations to your guys on
23 your extension. I didn't -- I thought your due
24 diligence period was over, but glad you're here
25 tonight but my -- three things I wanted to point

1 out.

2 You know, still there's -- we have a --
3 (Inaudible.) Video that we have a link to on --
4 on our letter that we turned in to you guys that
5 the traffic on that Guignard alley of
6 pedestrians, horses, carriages, and the carriage
7 businesses themselves is also incredible. So
8 that's got to be mentioned again.

9 On Anson Street, nobody mentioned
10 approximately 114 horse carriages that go -- go
11 through there each day on, you know, during our
12 busy season. 114, it's not a normal street. We
13 can't have those horse carriages take East Bay or
14 Meeting Street. They have to go to several
15 different of the zones on Anson Street.

16 So I think that needs to be factored
17 into it; and then, Chairman Krawcheck, you
18 mentioned a good point, that kind of the path of
19 least resistance. We do often take a road
20 like -- like Anson Street because it is the
21 easier way.

22 I took -- one of the things that I've --
23 I've noticed, as a spectator hotel, which I'm
24 sure did a traffic study as well. I've got a
25 picture on my phone. The third car in the last

1 month that's parked the wrong way just picking up
2 their luggage on State Street there because it's
3 the path of least resistance. They're going the
4 wrong way on the street. Those are just the ones
5 that I see.

6 So Anson Street is the path of least
7 resistance regardless of what -- what we're
8 hearing here. So, in total, Historic
9 Ansonborough Neighborhood Association, therefore,
10 respectfully requests that you -- that you deny
11 this application.

12 CHAIRMAN: Thank you, Mr. Shower.

13 Anyone else in opposition?

14 (No response.)

15 CHAIRMAN: Okay. Mr. Wilson, before I
16 give you a chance, I'm curious about something.
17 I have Ms. Beal and, I think to a certain extent
18 Mr. Mathis, talk about the peak hours; and they
19 talk about a nominal number of cars, six or eight
20 automobiles.

21 When I hear Mr. Hanlan talking, he talks
22 about trips per day; and he's talking, you know,
23 3,345 trips per day. And I think of my street
24 where I live in the City, and I think six or
25 eight during peak traffic hours wouldn't bother

1 me on Colonial Street.

2 But 3,345 trips in a day would make a
3 significant difference in my residential life.

4 So just what are we talking about here? Why --
5 why the difference in peak hours and -- and trips
6 per day?

7 MR. WILSON: I agree with you. Your
8 entire -- you're looking at apples and oranges
9 here; but, frankly, I think Miss Beal and
10 Mr. Mathis can -- can explain that better why we
11 are talking about -- about peak hours and why we
12 think that's the proper way for the board --

13 CHAIRMAN: Okay. Well, I'm -- I'm
14 interested in that. And also one other point
15 while I've got you is -- is you mentioned Delta.
16 There's a -- a Delta of two or whatever. I don't
17 think this really is a Delta situation. I think
18 this is a -- a brand new application,
19 Mr. Batchelder, for 50 rooms.

20 If this application fails, you would
21 have the right, according to what Mr. Batchelder
22 told us at the last meeting, to proceed with your
23 approval for 36 rooms. And -- and this would
24 not -- the -- the loss of this application would
25 not cause the loss of your approval for 36, but I

1 think this is really not a Delta situation.

2 You're asking for an approval of 50
3 rooms for this project. Do you agree with that?

4 MR. WILSON: Yes, Mr. Chairman. I agree
5 with that.

6 That's why I tried to emphasize that,
7 even if you don't want to think about it as you
8 described, the increase from 36 to 50, if you
9 want to look at the full 50 rooms, the projection
10 from the engineers in terms of how many cars are
11 going north of Anson Street from all five -- from
12 all 50 from our project is eight, eight cars
13 during peak period going north on Anson -- on
14 Anson Street.

15 I'll let them speak better to why they
16 talk about the peak period; but, as you say, if
17 you want to look at our entire project, I believe
18 I mentioned that the ordinance calls for you to
19 look at whether this -- this facility not, you
20 know, significantly increases traffic in the --
21 (Inaudible.) On Anson Street.

22 If you look at the whole 50, that's
23 an -- that's an increase of -- of eight cars
24 during that period and -- and the aggregate
25 from -- from all these is including Mr. Krawcheck

1 on Tuesday coming -- coming north is -- is 60 --
2 61 cars coming up Anson during that period.
3 That's not just the new hotels. That's the
4 whole -- that's the whole shooting match. That's
5 the whole -- that's the whole thing.

6 There's been a lot of anecdotal
7 testimony this evening. I try to walk here when
8 I can. So I walked from Shane (phonetic) Street
9 up Anson Street to get here and I -- I counted
10 how many cars passed me. Four cars passed me
11 walking from Market up to George Street.

12 I'll let the experts --

13 CHAIRMAN: But I think what we have to
14 look at it is when you take that walk after these
15 three hotels are built, will there be a
16 significant increase in the traffic in that
17 residential neighborhood?

18 MR. WILSON: Mr. Chairman, I understand
19 what you're saying; but, again, I want to
20 emphasize, the ordinance says to look to whether
21 the proposed facility, that's -- that's our
22 facility, significantly increases it.

23 And I understand that there may be
24 concern about, gosh, what did we approve before?
25 But -- but the question, I believe, under the

1 ordinance tonight for this board -- (Inaudible.)
2 We're missing on this is -- is will this hotel,
3 this project, will it significantly increase
4 the --

5 CHAIRMAN: I'd like to know whether
6 it's -- from my view, Mr. Wilson, not to be
7 argumentative, but I enjoy discussing this with
8 you. But I think that in order to know whether
9 it's significant or not, you got to know what's
10 already -- what is going to be there.

11 MR. WILSON: Fair.

12 CHAIRMAN: So, you know, at two
13 automobiles, if you don't -- if you don't have
14 any is not many, but two might be a lot if you
15 have 4500.

16 MR. WILSON: And I think that is the 61
17 number that Miss Beal described. I'll let her --
18 (Inaudible.) Yeah, for your context 50 something
19 plus eight up to 60. 53 or -- or whatever it may
20 be, plus eight up to 61. That -- under that
21 analysis would be the question: Is that
22 significant?

23 And now, Mr. Chairman, after she
24 describes this, I'd like to speak --

25 CHAIRMAN: We'll -- we'll get you back.

1 MR. WILSON: Thank you.

2 CHAIRMAN: Miss Beal.

3 MS. BEAL: So under the fundamental
4 traffic engineering questions, I think, came up,
5 talking about time periods that we study.

6 So the -- the standard -- and this is
7 the standard in Charleston, South Carolina,
8 and -- (Inaudible.) As well to look at the AM
9 and PM between seven and nine in the morning and
10 AM and PM between four and six because these are
11 the most heavily traveled hours during the day.

12 The daily trips are -- (Inaudible.)
13 Throughout the entire day. So they take into
14 consideration the, you know, the morning peak,
15 the lunchtime peak, the afternoon. So when you
16 look -- when you think about overall numbers, a
17 daily number. So a daily number is all the trips
18 in and all the trips out.

19 So if you look at, for example, a
20 single-family home, a daily -- every single-
21 family home is approximately ten trips a day, if
22 you think about it. You go in. You go out. You
23 go to school. You go to work.

24 So when you look at a daily number,
25 it's -- it's hard to quantify whether or not

1 that's significant as -- as this industry because
2 we look at -- because it doesn't break it down
3 during the peak times because those trips for any
4 time, you know, in a 24-hour period for something
5 like this is going to be typically from, you
6 know, six to, you know, nine. Six in the morning
7 to nine in the afternoon. So you're looking at,
8 you know, a -- overnight there wouldn't be as
9 much, obviously.

10 But, you know, that's throughout the
11 day. That's ins plus outs. So when you look at
12 the -- (Inaudible.) You look at the AM and PM
13 peak hours.

14 Now, for the trip generation, so what we
15 do is we look at it from an objective standpoint.
16 We have very well-researched land uses. These
17 land uses are very well researched throughout the
18 country, and so we are able to use that. And
19 what -- we have trip generation associated with
20 a -- a house or a hotel room, we look at this --
21 (Inaudible.) Service people that come and
22 service the, you know, service the pool. It
23 includes the lawn care. It includes the FedEx.
24 It includes the deliveries.

25 It's not just guests at the hotel. I

1 mean, it includes the ins and outs. These are
2 well researched from actual empirical data that's
3 collected at similar sites. So we're using the
4 hotel -- (Inaudible.) Land use that's been
5 researched -- (Inaudible.) Also the highway
6 those are -- those are all well researched land
7 uses.

8 So we look at it. We break it down, and
9 also the only -- (Inaudible.) We have ins and
10 outs; and specifically to the three hotels we
11 were talking about, the -- the -- the
12 neighborhood impact I think most folks are
13 concerned about are really the out trips, not
14 necessarily the in trips.

15 I think that from an in trip standpoint
16 if you're coming from the interstate, you are
17 going to stay on the major facilities. The out
18 trips, I think, it sounds like this area is most
19 concerned. So it's really going to be those
20 exiting trips.

21 And when we talk about the -- the
22 increase of eight, so based on the analysis done
23 through your -- for the two 50-room hotels, we
24 have approximately 55 trips traveling north out
25 on Anson Street north of Market.

1 And this would add approximately eight
2 additional trips total trip -- that's total trip
3 generation, not the difference. When we were
4 saying the two-trip difference, that is taking
5 the trip generation from what is currently
6 approved to what is proposed.

7 So if you look at it from an eight-trip
8 standpoint, that's going to be 55 plus 8, 63
9 trips from this general area going -- going north
10 on -- on Anson. That's what the projection is.

11 CHAIRMAN: It's really hard for me to
12 get my arms around this.

13 Let me ask you: I -- I think that --
14 that I understand that we're talking about trips
15 out rather than trips in. Seems to me that --
16 that people coming to the hotel, they're going to
17 either come down Meeting and find their way over
18 to Market somehow, some way; or they're going to
19 come down East Bay and take a right on Market and
20 unload the -- in the hotel and they're not going
21 to bother Ansonborough as such.

22 What bothers -- they may increase the
23 traffic significantly on East Bay Street, some
24 extent on Meeting Street. You can't come down
25 Anson 'cause it's one way.

1 So the trips in, seems to me, there's
2 no -- not going to be a significant increase on
3 the residential neighborhood straight coming into
4 the hotel. Going out of the hotel, what -- what
5 I'm looking for is -- is something that makes
6 some sense to me as a layman because I am when it
7 comes to traffic, for sure.

8 What are we talking about in terms of --
9 it seems to me that -- that the traffic in
10 Charleston is between about six in the morning
11 and about 12 o'clock at night. After that --
12 after 12, you don't have a lot of traffic and --
13 and so between -- and before six, you probably
14 don't have a lot of traffic.

15 And -- and leaving these three hotels on
16 Market Street, you know, I -- I guess you check
17 out in the morning around -- probably around 10
18 or 11 o'clock. So what we're really talking
19 about, I think, is -- is -- is what effect are
20 these people checking out of these hotels, all of
21 them, 'cause we're going to have three of them.
22 We're going to have three of them.

23 What -- is that going to significantly
24 increase traffic in the residential neighborhood
25 when these people are checking out of this hotel?

1 MS. BEAL: So this is the general --
2 (Inaudible.) I don't have the exact calculation
3 for.

4 CHAIRMAN: Ms. Beal, would you come --
5 yeah. Thank you. So our recording will pick you
6 up a little better.

7 MS. BEAL: I don't know what the exact
8 calculation is for 150 rooms; but if we can kind
9 of use a calculation which I think is going to be
10 approximately correct, is in the morning, you
11 know, you're going to see -- you don't have 100
12 percent turn in rooms every day. And you would
13 expect in the -- in the morning when the traffic
14 is, you know, closer to working and that it would
15 be -- if you had all 150 rooms, you'd be in
16 approximately 30 exiting trips during that time
17 period from the three hotels.

18 And so those 30 trips would go wherever.
19 And so that's during the morning when folks are
20 going to work. That -- that that's what the
21 impact would be. It would be 30.

22 So, however, those -- and not
23 everybody's going to go, you know. Not
24 everybody's going -- not everybody's going
25 northbound. Some folks are going to go -- some

1 folks will go south. Some folks will go east.
2 Some folks will go west. And so you'll have some
3 portion of that amount.

4 We made an estimate, of course, but
5 that's -- that's -- that's what we would expect.

6 CHAIRMAN: Okay. And that would include
7 taxies and automobiles and buses and --

8 MS. BEAL: Yeah. Based on the 50-room
9 hotel has a -- just the 50-room hotel has 15
10 entering trips and 11 exiting trips during the --
11 the morning -- during the morning commuter peak
12 hour.

13 CHAIRMAN: Okay. So that 30 trips per
14 day --

15 MS. BEAL: For the morning peak hours.
16 So it's per hour.

17 CHAIRMAN: The morning peak hours for
18 150 approximately.

19 MS. BEAL: Approximately.

20 CHAIRMAN: Okay. Any questions for
21 Ms. Beal?

22 MEMBER: How many do you project?

23 MS. BEAL: I don't have the number per
24 day exactly off the -- offhand. But it's
25 probably going to be approximately, you know, for

1 the 150 rooms is -- I mean, I would assume we
2 have a traffic engineer with the gentleman's
3 numbers. So, you know, it's going to be about,
4 you know -- (Inaudible.) I would expect it to be
5 somewhere in between 1,000 and 1500.

6 CHAIRMAN: Excuse me. How many
7 thousand?

8 MS. BEAL: Between 1,000 and 1500. I
9 don't have that calculation right in front of me,
10 but I assume if we have a traffic engineer --

11 MALE VOICE: (Inaudible.) Hotels in
12 that area?

13 MS. BEAL: That's for the 150 hotel
14 rooms. It's a very objective calculation. I
15 mean, it's -- we use this for the transportation
16 engineers trip generation ninth edition. And so
17 it gives you calculations from -- (Inaudible.)
18 Depending on the applicability. So it's not
19 something that if you have a traffic engineer
20 who's doing this, that the numbers are very --
21 (Inaudible.)

22 CHAIRMAN: So if we have three hotels
23 with 50 rooms each and the number is 1500 per
24 day --

25 MS. BEAL: Approximately.

1 CHAIRMAN: -- we're talking about 500
2 trips per day for this project if you divide it
3 by three.

4 MS. BEAL: Correct. That's entering and
5 exiting. So to be two -- say it's 1500. It's
6 probably approximately 1500. You would have 250
7 entering and 250 exiting approximately for each
8 of the hotels.

9 CHAIRMAN: Okay. Per day.

10 MS. BEAL: Per day.

11 CHAIRMAN: Okay.

12 MS. BEAL: So that would be not just,
13 you know, that would be an all in and going all
14 out.

15 CHAIRMAN: Okay. So we would have -- we
16 would have 250 leaving in the -- during the
17 busiest times in the morning.

18 MS. BEAL: No. That's overall the whole
19 day. So that's -- that's employees. That's
20 guests. That's service people. That's, you
21 know, any -- that's any -- any type of exiting
22 trips. You think about everything that comes to
23 a hotel. If you're doing a single-family, what
24 will come to a residence? Anything -- any trip
25 that comes in and out, that's included in that

1 number.

2 CHAIRMAN: Okay. Thank you for
3 clarifying.

4 Mr. Wilson.

5 MR. WILSON: Yes, sir.

6 There were a number of other concerns
7 raised. I want to -- I want to quickly and --
8 (Inaudible.) Because I think we've quickly
9 focused on what I think the issue is.

10 Mr. Hanlan expressed some concerns about
11 the fact that he has residential units. Just so
12 the board understands, Mr. Hanlan purchased the
13 property that was basically an office property.
14 He has every right in the world in this general
15 business zoning district to convert -- convert
16 space to residential use.

17 But we don't believe that you can come
18 into a commercial district and change your use to
19 residential and then complain that commercial
20 uses aren't compatible with your now residential.

21 The -- Molly Darcy's is a -- has been a
22 restaurant for a long time. It was a restaurant
23 before it was Molly Darcy's. It's got a big
24 front deck area, you know, service area with
25 people drinking, live entertainment for a long

1 time. We think we are dramatically improving
2 that, frankly. So -- and -- and just want to put
3 that, what we believe, in the proper context.

4 With regard to the truck traffic, as I
5 mentioned earlier, we do believe we are improving
6 that significantly by creating a loading zone
7 where one doesn't exist right now. Mr. Hanlan in
8 the prior meeting pointed out that some trucks
9 will park in the middle of the street, which is
10 crazy. But we're -- we're helping solve that.
11 That is our -- is our belief. Trucks are --
12 (Inaudible.)

13 And then I don't believe that the issue
14 that Mr. Hanlan pointed out about the -- the
15 prior approval from 2012 had the -- had a rooftop
16 deck that faced back on Guignard Street that, of
17 course, could not have a bar or alcohol service
18 up there. We're not proposing to have any kind
19 of a deck facing back on Guignard Street. So we
20 really don't think that's relevant to this
21 conversation and what's -- what's proposed here.

22 So the one issue as this board -- as
23 this board said at the last meeting we were
24 concerned about is the second prong of the test
25 that -- and that's a question of does this

1 proposed project, this 50-room hotel, does it
2 significantly increase traffic in the residential
3 neighborhood?

4 And I believe that we're focused, of
5 course, on Anson Street. It's a test of traffic
6 in the residential neighborhood. It's not a test
7 of traffic on East Bay or Market, I don't
8 believe. And -- and Miss Beal has described to
9 the -- described to the board in conjunction with
10 working with Mr. Mathis the projections on the
11 number of cars from this project that would turn
12 north and go up Anson Street based on the data
13 that she has.

14 And that's -- that's eight -- that's
15 eight cars for the whole -- for our whole
16 project. That the increase -- the increase on
17 Anson Street, there are a lot more cars that will
18 be generated, trips that will be generated; but
19 the trips that we're interested in is the cars
20 that are going to be going north on Anson Street.

21 That it -- if -- if -- during the PM
22 peak period -- and the reason why we're talking
23 about the PM peak period is that's the -- we
24 believe that's the busiest period; but that's
25 certainly the busiest period in terms of people

1 leaving the hotel, is what I understand. But --
2 so in -- in that hour busy period, in that -- the
3 increase -- the total increase for our whole
4 hotel is -- is the eight cars.

5 As Mr. Mathis said, as we said, we don't
6 believe that is a significant increase on the
7 total traffic going up -- going up Anson Street.
8 What I -- I'm --

9 MR. APPEL: I appreciate it. I've got a
10 quick question. And this may have already been
11 answered multiple times; and if so, forgive me.
12 I may have missed it. There's been a lot of
13 discussion of traffic.

14 How are those -- how are those eight
15 trips, the eight Delta that is associated with
16 y'all's proposal, how is that teased out from all
17 the other out trips? What is the methodology?
18 What is the -- what is the transportation
19 engineering rationale? How do you get that
20 eight? Why isn't it 16? Why isn't it 32? I
21 mean, and --

22 MR. WILSON: And -- and -- and Miss Beal
23 can answer it better than I. (Inaudible.) And
24 so as she said, over the course of the day, if
25 there's 250 trips leaving, and then we narrow

1 that down to what portion of those 250 over the
2 course of the day are leaving during the PM peak
3 period.

4 And then you take that number, and
5 you've got -- and based on data that you've got
6 from current usage, what's going on, you've got
7 to divide up that -- that subset of 250 into how
8 many people are going to circle around, go -- go
9 out Market, out Market or East Bay. How many
10 people are going to go down Market to Meeting and
11 go right? How many people are going to go -- go
12 somewhere else, and how many people are going to
13 go up Anson Street?

14 And then that number was arrived at
15 through discussions that Miss Beal had presented
16 that information to Mr. Mathis, and that was
17 their conclusion is that that was their best
18 estimate projection based on all the data they
19 have as to how many cars of those departing trips
20 would turn right up north on Anson Street during
21 the busiest time, and is that a -- is that --

22 MR. APPEL: It's definitely --

23 MS. BEAL: I said earlier 10 percent.
24 So would go up.

25 MR. WILSON: Last thing I would ask the

1 board, if you have more questions like that,
2 please -- please ask us. We tried to bring the
3 experts. So in the course of your discussion, if
4 you have more questions, we would ask that --
5 that you -- you direct those to the experts.

6 Fine if you don't want to hear from James Wilson
7 anymore, but thank you very much. Appreciate it.

8 CHAIRMAN: Thank you, sir.

9 Any discussion?

10 MEMBER: I do nothing -- (Inaudible.)
11 So we're talking that this hotel will bring
12 approximately 25 trips per day up Anson Street if
13 you say 10 percent.

14 MS. BEAL: Uh-huh, yeah. We have 250
15 exiting trips. (Inaudible.) You have
16 approximately -- you go approximately 25.

17 MEMBER: And that's based on this site.

18 MS. BEAL: Uh-huh.

19 MEMBER: Any changes to this site plan
20 would alter that number?

21 MS. BEAL: At this location, probably
22 not because of where the other valet -- the other
23 valet location on North Market, it would not be
24 located on -- on East Bay. I don't think that
25 would be allowed by the City. It would be

1 located on Rafer Alley.

2 So, I mean, if you would -- if you would
3 change the -- if you change the mix of uses, then
4 it would be different. But this -- this one's
5 pretty set from where the valet pickup station is
6 on where you'd be receiving your vehicle, that
7 there's not a lot of give and take on this site
8 for that.

9 MEMBER: How about this -- how about
10 this -- how about these exits?

11 MS. BEAL: So that's where, yeah, it
12 would come around; and what we would anticipate
13 is that they would actually go down East Bay
14 Street and then be facing the proper direction --
15 (Inaudible.) The valet location.

16 MEMBER: It's just a -- the location of
17 the valet.

18 MS. BEAL: Yeah. The location where you
19 actually get -- the external trips are where you
20 actually leave the site and go out into the
21 network.

22 MEMBER: Okay. Thank you.

23 MS. BEAL: Uh-huh.

24 CHAIRMAN: Any discussion?

25 MR. APPEL: So, I -- I kind of had a --

1 this doesn't actually have anything to do with
2 traffic. So we'll take a little traffic break.

3 And I -- I just got on the board. So I
4 certainly wasn't here in 2012 when the 36 units
5 were approved. I -- I think I have a suspicion
6 as to how that permit is still valid, but I just
7 wanted to confirm.

8 Is that the Joint Resolution that's been
9 passed a couple of times that extended the life
10 of development permits, or is that just a
11 function of -- of local --

12 MR. WILSON: The answer is both. The
13 state legislature extended building permits; and
14 the City, accordingly, amended its ordinance to
15 grant that same -- same exception.

16 MR. APPEL: That's the mechanism you're
17 relying on to sort of --

18 MR. WILSON: Correct. Why -- why those
19 are still valid. (Inaudible.)

20 MEMBER: I guess what number we don't
21 know is how many trips are generated onto Anson
22 Street by the other two hotels. I don't know
23 that that 10 percent would apply to them because
24 of that -- that -- that 10 percent, would that
25 apply to them also as to whether or not the

1 valet -- (Inaudible.)

2 MS. BEAL: How those valets were set up
3 is the valet location set up on Anson was moved
4 so that it wasn't on Anson Street to prevent
5 everybody just going rip roaring through the
6 neighborhood. So that was moved, I believe, into
7 the garage; and then the other location is
8 located on Market Street.

9 And so there was at least some -- some
10 impacts on Anson with that 55 value -- 55 vehicle
11 value for the PM peak hour that I gave you from
12 those traffic studies as a combined projection
13 from those traffic studies of what it would be.
14 And we just added these trips on top of that.

15 So that -- that 55 includes the
16 projected traffic from the traffic study done for
17 the -- the two Anson and Market -- (Inaudible.)
18 Studies and also the background traffic is
19 already there today.

20 MEMBER: So right now, two that are
21 approved are putting how many today on Anson
22 Street?

23 MS. BEAL: I don't remember off the top
24 of my head exactly what the -- how that 55 breaks
25 down, but they're included in that -- in that

1 number.

2 MEMBER: So -- so 55 are already
3 approved. In this application, we're adding an
4 additional 25.

5 MS. BEAL: No. No. That's peak hour
6 daily. So it would add another eight. And so
7 the 25 number is a daily number, and the 55
8 number is a peak hour number; and so the eight is
9 the -- the -- the appropriate number you would
10 add to that. So that's where you get the 60 --
11 the 60 -- (Inaudible.)

12 MEMBER: So the two that are already at
13 50 a day, the -- the 50 -- the 55 trips --

14 MS. BEAL: That's peak hours so per
15 day --

16 MEMBER: I'm talking about on Anson
17 Street.

18 MS. BEAL: On Anson Street per day, I
19 don't have those numbers in front of me.

20 MEMBER: (Inaudible.)

21 MS. BEAL: Well, it would probably be
22 not dissimilar because the locations are -- this
23 one actually is further away. You have the
24 ability to use these other directions. This
25 would actually be -- (Inaudible.)

1 MEMBER: So we've already approved more
2 than 50 a day on Anson Street.

3 MS. BEAL: I would have to look at what
4 the exact number is.

5 MEMBER: Yeah.

6 MS. BEAL: The peak hour that --

7 MEMBER: I'm talking about daily.

8 MS. BEAL: I don't have the daily
9 information. That's -- (Inaudible.)

10 CHAIRMAN: Miss Beal, the peak hour
11 things, for our purposes, I don't think really
12 makes any difference because what we're trying to
13 determine is whether this is going to
14 significantly increase traffic in the
15 neighborhood -- in the residential neighborhood.
16 And -- and so if it increases traffic early or
17 late, that's an increase in traffic. You know,
18 whether it's significant or not is the issue.

19 So the number of cars that happen to be
20 using Anson Street during the peak hours is a
21 number that has no meaning to me as a member of
22 this board. What I'm really interested in -- I'm
23 more interested in the number of -- of vehicles
24 that to go -- that are going to go down Anson
25 Street on a daily basis, which, to me, would be

1 probably sometimes between 6 and 12. 6 in the
2 morning, 12 at night.

3 Is there a way that you could, as a --
4 as a traffic engineer give us an educated guess
5 on that number of -- of vehicles?

6 MS. BEAL: So if we assume that the
7 daily number of 1500, the most per day is -- is
8 for the three hotels, the -- you would -- those
9 are ins and outs. So these are -- these are uses
10 that are equal in and out. So you've got 50
11 percent in, 50 percent out.

12 And so you would look at
13 approximately -- so you would look at probably 10
14 percent at about -- you'd have 750 exiting trips.
15 You assign 10 percent to Anson. That would be
16 about 75 in the day.

17 CHAIRMAN: 75 a day. So if you live --
18 if you had a house on Anson Street, you could
19 expect 75 additional cars to pass your house?

20 MEMBER: Based on the projected traffic
21 and projected, you know, distribution that would
22 be what you would say. So that would be
23 throughout the entire day. 24 hours.

24 CHAIRMAN: Okay. And the 75 cars, I'm
25 sorry, is attributable to this project?

1 MS. BEAL: That's the 150 hotels.

2 CHAIRMAN: That's 150 rooms.

3 MS. BEAL: Uh-huh.

4 CHAIRMAN: Okay.

5 MS. BEAL: And that's a projection based
6 on information provided. You know, typically we
7 do not do daily; but for the purposes of
8 answering your questions, those -- those are
9 approximate numbers.

10 MR. APPEL: So it's more like 25
11 additional on Anson --

12 MS. BEAL: Potentially.

13 MR. APPEL: -- associated with this.

14 MS. BEAL: Uh-huh.

15 MR. APPEL: I'm going to go back to my
16 questions -- (Inaudible.) As we almost never get
17 the answer to. I'm not saying that you didn't
18 have the answer. I'm saying I never have an
19 answer when I'm working.

20 But where is the 10 percent?

21 MS. BEAL: Okay. So we look at how
22 equal -- I'm off the peninsula. So we look at
23 the traffic flow. We look at traffic counts of
24 people going to and from today. We take that
25 information, and we determine a distribution

1 based on that.

2 So you've got people who come from West
3 Ashley. You have people who come from 26 and
4 Meeting Street. You have people who come from
5 East Bay. You're going to have people coming
6 south of the peninsula or people coming from West
7 Ashley, they're going to come around. They're
8 going to go to different parking areas.

9 (Inaudible.)

10 It's not only destination trips, but
11 it's also people going to -- driving to, you
12 know. Hopefully they're going to walk, which one
13 thing to point out that is our trip generation
14 numbers, I've seen that it's 100 percent
15 vehicular; and there's no road split from a
16 traffic standpoint.

17 So, if anything, these numbers may be a
18 little bit on the high side; but that's because
19 we have to look at it from an objective manner.
20 That is what we are charged to do as traffic
21 engineers.

22 And in public and -- (Inaudible.) And
23 so what we do is we take that information and
24 determine a distribution; and based on the
25 numbers that we have, we establish a

1 distribution. And then based on kind of peak of
2 flow and the different effects of -- of on-street
3 parking, pedestrians and everything, 10 percent
4 is what we felt was appropriate for Anson Street
5 for exiting.

6 CHAIRMAN: Thank you very much.

7 Any further discussion?

8 (No response.)

9 CHAIRMAN: Any motions?

10 MEMBER: I think that 75 cars added to
11 Anson Street northbound a day is too many, and I
12 don't know that the City cannot work with -- with
13 this applicant and the other applicant to reduce
14 that number. I don't know if they can be given
15 a -- a valet on East Bay Street. I don't know
16 what could be done, but I think that something
17 should be done to reduce that 10 percent.

18 And that's -- I think 75 -- I wouldn't
19 want 75 cars to come additionally onto my street
20 every day.

21 CHAIRMAN: 75 cars would be a
22 significant increase on my street as well.

23 I think that's the right number. I
24 think that -- that getting, you know, to the --
25 to the bottom line, that the -- it's hard -- I

1 don't think the peak hour thing means anything to
2 us. It means a lot to the traffic engineers, but
3 I don't think it means anything to -- to our
4 determination here.

5 I think that the trips per day -- and I
6 think the trips per day are measured between the
7 hours that you have out on the streets in
8 Charleston, which at least in my neighborhood
9 between about 6 and 12.

10 And -- and I -- so I -- I think this is
11 the -- the test. Now, this applicant already has
12 approval for a project, a viable project. I
13 don't think that Delta is the right test. I
14 think that -- that we're required to look at this
15 application as -- as for 50 rooms and have to
16 judge it on that basis.

17 This is all very complicated for -- for
18 the layman members of this board.

19 MEMBER: I apologize to everybody else
20 here; but this is a very, very important meeting.
21 And I think you all understand that, having
22 listened through all this.

23 These residential neighborhoods on the
24 peninsula are very fragile; and with the
25 popularity in Charleston being what it is, it's

1 going to be experienced more and more as time
2 goes on, assuming the economy stays as good as it
3 is.

4 Charleston's just becoming more and more
5 popular to development and travel and visitation
6 and everything else. So I apologize to everybody
7 about having this -- this hearing going on so
8 long; but we're close to the end, I believe.

9 One question I have along those lines
10 about numbers of vehicles -- and I think
11 Mr. Wilson brought it up. If we do it on a pro
12 rata basis, 50 of those cars going up Anson
13 Street according to the calculations generated by
14 two other facilities. Theirs is 25.

15 Do we -- do we look at the 75, or do we
16 look at 25?

17 CHAIRMAN: I think you look at the 75
18 because that's the number that those residents
19 are going to look at. They're not going to, you
20 know. They're not going to differentiate between
21 those 25 cars came from first hotel or the second
22 hotel. It's, you know, will this be a
23 significant increase given what you already have?

24 I just think you have to consider the --
25 the whole -- the whole situation.

1 MR. APPEL: It's like a -- (Inaudible.)
2 Section.

3 Are there any objective criteria that
4 y'all know about that talk about how many daily
5 trips on a private residential street in a
6 historic district is too much? I mean, I know
7 they have, you know, grades that -- that roads
8 are given, you know. F for failing, D for you're
9 almost there. I mean, is there something we can
10 put this analysis to that's effective?

11 CHAIRMAN: You can ask Mr. Mathis that.

12 MR. APPEL: Yeah. Mr. Mathis, are --

13 MR. MATHIS: Typically, we consider
14 anything below a D level of service, that would
15 be a -- (Inaudible.) Target. Give you an
16 example --

17 CHAIRMAN: Mr. Mathis, come a little
18 closer for us.

19 MR. MATHIS: Yes, sir. Example of daily
20 trips. (Inaudible.) Hasell Street, for
21 instance, has approximately 4,000 vehicles per
22 day, if that gives you the indication of what
23 they can have.

24 MR. APPEL: Yeah. I guess I'm looking
25 at it not from the standpoint of the, you know,

1 arterial transportation network. I'm thinking
2 of, you know, interior residential -- it's not
3 being measured in terms of just pure vehicle
4 movement, also -- (Inaudible.) I mean, some of
5 the other things, is there a different metric
6 that's used for that kind of -- (Inaudible.)

7 MR. MATHIS: We look at all the streets
8 in a similar manner. They're -- they're
9 classified differently. Anson, of course,
10 certainly would be classified as a residential
11 street. It's not an arterial like Meeting
12 parking space or -- (Inaudible.)

13 MR. APPEL: Do we have an idea of what
14 Anson Street is now in terms of its -- its grade?

15 MR. MATHIS: I don't have the number.

16 MR. APPEL: Okay.

17 MR. MATHIS: Sorry.

18 MR. APPEL: That's okay.

19 CHAIRMAN: You said Hasell Street
20 carries 4,000 cars. What grade does this give
21 it?

22 MR. MATHIS: I don't have the level of
23 service on that; but that's based on South
24 Carolina DOT traffic counts, daily traffic
25 counts.

1 CHAIRMAN: Thank you very much.

2 Any motions?

3 (No response.)

4 CHAIRMAN: Any further discussion?

5 (No response.)

6 MEMBER: It is complicated. I -- I
7 think that that 10 percent could be reduced
8 somehow working with the City. I think y'all
9 could do it. I don't -- I don't know if it would
10 mean that -- I don't know. I don't know how you
11 could do it, but I think -- I think it could be
12 done whether you had some people exit from the
13 parking garage rather than exiting from Market
14 Street.

15 I think that that number could be
16 reduced, and I personally don't think I could
17 approve this project unless I saw that everything
18 that could be done to keep cars off Anson Street
19 by this developer had been done.

20 CHAIRMAN: Such an unusual situation
21 because you've got three hotels within that
22 square block area that -- it's a two-block area
23 but -- but a small two blocks. And you've got
24 those cars aiming down Market Street, which is a
25 very busy street.

1 And the busyness of the street is going
2 to cause those cars to turn up Anson Street. I
3 think that's just common sense and so -- and it's
4 a -- it's an issue, to me, of people leaving the
5 hotels, not arriving. It's leaving the hotels.

6 So in -- in, you know, that's -- I call
7 leaving is the same as a car arriving if you live
8 in a residential neighborhood. So the charge of
9 the ordinance is, is it going to significantly
10 increase?

11 This is a very hard question. We're
12 trying to be fair to the applicant and trying to
13 be fair to the neighbors and apply the tests.
14 It -- it's not an easy issue.

15 If the -- if the -- if we don't have a
16 motion, the application will fail for want of a
17 motion.

18 MR. APPEL: Mr. Chairman, the property
19 owner has asked -- has asked to speak.

20 MR. PIERCE: Would it help you guys --
21 with the -- (Inaudible.) If I'm -- if I'm
22 allowed. I don't want to be out of order.

23 CHAIRMAN: I --

24 MR. PIERCE: Only if I'm allowed.

25 CHAIRMAN: Yeah. If I open it back up,

1 I got to open it back up.

2 MR. PIERCE: I understand.

3 CHAIRMAN: Now, we would be willing
4 to -- to defer it at your request, once again, if
5 you -- if you want to do that.

6 MR. PIERCE: Well, I don't want it to
7 fail.

8 (Laughter.)

9 CHAIRMAN: I can't -- I really -- under
10 our process, I can't hear from you.

11 MR. WILSON: If there is no motion, we
12 would ask -- (Inaudible.)

13 CHAIRMAN: Yeah. And that -- that would
14 be at the -- let me take -- let me take back what
15 I just said.

16 That -- that would be up to the board
17 to -- to defer it if it sees fit to defer it, not
18 my decision as chairman. I misspoke. I'm sorry.

19 Okay. So if there is no motion, it --
20 the application would fail the same as it was --
21 was turned down for want of a motion.

22 MEMBER: Well, I would move for a
23 deferral. I hate to do that to the neighborhood
24 and I hate it to do it to the developer but I --
25 I think that that 10 percent number -- I might be

1 wrong -- we have two traffic experts right here.

2 I think that it could be reduced if the
3 people didn't pick up their cars on -- if the
4 valet didn't drop off the cars on Market Street.
5 I don't -- I don't know if that makes any sense
6 or not but -- I think that 10 percent number
7 could be reduced, and I think it -- if it could
8 be reduced, then I think it should be reduced --
9 (Inaudible.)

10 CHAIRMAN: Well, and I think the
11 applicant is -- has got some ideas about how he
12 might mitigate this situation. And maybe the
13 traffic engineers, Mr. Mathis, Miss Beal, have
14 after listening to the concerns here might offer
15 some mitigating factors as well.

16 So I think -- I think maybe the exercise
17 of deferring it, even after this ordeal, might
18 not be a waste. I will entertain any motions
19 that the board members have.

20 MS. SMITH: I'll -- (Inaudible.)

21 MR. SMALLS: I'll second.

22 CHAIRMAN: Miss Smith moves for deferral
23 and then seconded by Mr. Smalls.

24 Any discussion?

25 (No response.)

1 CHAIRMAN: All in favor of the motion to
2 defer, please say aye.

3 (All Members respond aye.)

4 CHAIRMAN: Any opposed?

5 (No response.)

6 CHAIRMAN: Okay. Motion to defer is
7 carried. We'll see y'all again.

8 (End of requested recording.)

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1 CERTIFICATE OF REPORTER
2 STATE OF SOUTH CAROLINA
3 COUNTY OF CHARLESTON

4 I, Ronda K. Blanton, a Registered
5 Professional Reporter and Notary Public for the
6 State of South Carolina at Large, do hereby
7 certify that the foregoing audio recorded
8 proceedings were recorded stenographically by me
9 and were, thereafter transcribed by computer-aided
10 transcription; that the foregoing is a full,
11 complete, and true record of the audio recorded
12 proceedings.

13 I further certify that I am neither related
14 to nor counsel for any party to the cause pending
15 or interested in the events thereof.

16 Witness my hand, I have hereunto affixed my
17 official seal on November 7, 2017, at Charleston,
18 Charleston County, South Carolina.

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Clark and Associates Inc.
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