

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

RECEIVED
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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 II

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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City of Charleston

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: 11/17/17 Chairman *James Dunn*

Order on Variance Request

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

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

☐ **APPROVED.** The Board concludes that:

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, WALTER SMALLS.
MARGARET SMITH, ROSS APPEL
STAFF PRESENT: LEE BATCHELDER, PENNYE ASHBY, VANESSA ELLINGTON

AGENDA

BOARD OF ZONING APPEALS-ZONING

JANUARY 17, 2017

5:45-25 P.M.
9:20 P.M.

2 GEORGE STREET

A. Deferred applications from previously advertised BZA-Z agendas. For information call 724-3781.

1. 39 EAST BATTERY (CHARLESTOWNE) APP. NO. 1701-17-A1
(458-13-01-077)

Request special exception under Sec. 54-110 to allow a vertical extension (half-story/studio) to a non-conforming building footprint (garage) that does not meet the required 3-ft. rear setback.
Zoned SR-3.

Owner-Caroline Seitz/Applicant-Glenn Keyes Architects

APPROVED	XX	WITHDRAWN	0
DISAPPROVED	0	DEFERRED	0

MOTION: Approval.

MADE BY: M.Robinson SECOND: W.Smalls VOTE: FOR 5 AGAINST 0

2. 78 SOCIETY ST. (457-04-04-029) APP. NO. 1701-17-A2

Request special exception under Sec. 54-220 to allow a 31-unit accommodations use in a GB-A (General Business-Accommodations) zone district.
Zoned GB-A.

Owner-Ginger Evans/Applicant-Neil Stevenson

APPROVED	XX	WITHDRAWN	0
DISAPPROVED	0	DEFERRED	0

MOTION: Approval.

MADE BY: M.Robinson SECOND: W.Smalls VOTE: FOR 5 AGAINST 0

3. 36 N. MARKET ST. 5 GUIGNARD ST. AND APP. NO. 1701-17-A3
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-Wombie Carlyle Sandridge & Rice, LLP

APPROVED	0	WITHDRAWN	0
DISAPPROVED	0	DEFERRED	XX

MOTION: Deferral to provide more information regarding Traffic Study Analysis.

MADE BY: M.Smith SECOND: W.Smalls VOTE: FOR 5 AGAINST 0

BOARD OF ZONING APPEALS ZONING/JANUARY 17, 2017
PAGE 2

B. New Applications:

1. 118 CANNON ST. (CANNONBOROUGH/ ELLIOTBOROUGH) (460-11-04-163) APP. NO. 1701-17-B1

Request reconsideration of the Zoning Administrator's decision to deny a third short term rental unit under the Short Term Rental, ST Overlay Zone.
Zoned LB.

Owner-Baldor Properties, LLC/Applicant-Inglese & Associates, LLC

APPROVED 0 WITHDRAWN 0

DISAPPROVED XX DEFERRED 0

MOTION: Disapproval – motion fails.

MADE BY: M.Smith SECOND: W.Smalls VOTE: FOR 2 AGAINST 2

*R.Appel
M.Robinson

*L.Krawcheck recused

-
2. 48 LAURENS ST. (ANSONBOROUGH) APP. NO. 1701-17-B2
(458-01-01-011)

Request reconsideration of the Zoning Administrator's decision that a proposed addition requires a special exception approval under Sec. 54-110 (f).
Zoned STR.

Owner-Robert B. Falk, Jr./Applicant-Hellman Yates & Tisdale, PA

APPROVED 0 WITHDRAWN XX

DISAPPROVED 0 DEFERRED 0

MOTION: Withdrawn by applicant.

MADE BY: _____ SECOND: _____ VOTE: FOR _____ AGAINST _____

-
3. 48 LAURENS ST. (ANSONBOROUGH) APP. NO. 1701-17-B3
(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 (12-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 & Tisdale

APPROVED 0 WITHDRAWN XX

DISAPPROVED 0 DEFERRED 0

MOTION: Withdrawn by applicant.

MADE BY: _____ SECOND: _____ VOTE: FOR _____ AGAINST _____

BOARD OF ZONING APPEALS ZONING/JANUARY 17, 2017
PAGE 3

4. 11 AND 13 SAINT TERESA DR. (WESTWOOD) APP. NO. 1701-17-B4
(421-02-00-176 AND 177)

Request special exception under Sec. 54-206 to allow an existing church to have overflow parking on vacant lots in a SR-2 (Single-Family Residential) zone district.

Owner-John Wesley United Methodist Church/Applicant-Forsberg Engineering & Surveying, Inc.

APPROVED 0 WITHDRAWN 0

DISAPPROVED 0 DEFERRED XX

MOTION: Deferred.

MADE BY: _____ SECOND: _____ VOTE: FOR _____ AGAINST _____

5. 10 GORDON ST. (WAGENER TERRACE) APP. NO. 1701-17-B5
(463-11-04-052)

Request variance from Sec. 54-301 to allow a stair/landing addition with a 0-ft. front setback (10-ft. required).
Zoned SR-2.

Owner/Applicant-Brad Hawkins

APPROVED XX WITHDRAWN 0

DISAPPROVED 0 DEFERRED 0

MOTION: Approval.

MADE BY: M.Robinson SECOND: W.Smalls VOTE: FOR 5 AGAINST 0

6. 14 SHERIDAN RD. (SOUTH WINDERMERE) APP. NO. 1701-17-B6
(421-05-00-146)

Request variance from Sec. 54-301 to allow a detached 1-story garage addition with a 3-ft. east side setback and a 3-ft. rear setback (9-ft. and 25-ft. required).
Zoned SR-1.

Owner-Delores Lawrence Hunter/Applicants-Delores & Carlton Hunter

APPROVED XX WITHDRAWN 0

DISAPPROVED 0 DEFERRED 0

MOTION: Approval.

MADE BY: M.Smith SECOND: R.Appel VOTE: FOR 5 AGAINST 0

7. 44 ASHE ST. (CANNONBOROUGH/
ELLIOTBOROUGH) (460-08-01-092) APP. NO. 1701-17-B7

Request variance from Sec. 54-301 to allow the reestablishment of two dwelling units (duplex) with 1,975sf of lot area per dwelling unit (2,000sf required).

BOARD OF ZONING APPEALS—ZONING/JANUARY 17, 2017
PAGE 4

Request special exception under Sec. 54-511 to allow the reestablishment of two dwelling units (duplex) with 2 off-street parking spaces (4 spaces required).
Zoned DR-2F.

Owner-Laurie Hicks/Applicant-b Studio Architecture

APPROVED	XX	WITHDRAWN	0
DISAPPROVED	0	DEFERRED	0

MOTION: Approval.

MADE BY: R.Appel SECOND: M.Smith VOTE: FOR 5 AGAINST 0

8. 2298 MOUNT PLEASANT ST. APP. NO. 1701-17-B8
(WAGENER TERRACE) (464-13-00-029)

Request use variance from Sec. 54-203 to allow an office use (5 tenant units) in a SR-1 (Single-Family Residential) zone district.

Owner/Applicant-Reavis-Corner Development

APPROVED	XX	WITHDRAWN	0
DISAPPROVED	0	DEFERRED	0

MOTION: Approval.

MADE BY: M.Robinson SECOND: R.Appel VOTE: FOR 5 AGAINST 0

9. 38 BOGARD ST. (CANNONBOROUGH/ ELLIOTBOROUGH) (460-08-01-087) APP. NO. 1701-17-B9

Request special exception under Sec. 54-110 to allow a 2-story addition (entry/ kitchen expansion/bath/playroom/den/bedrooms) that extends a non-conforming 0.5-ft. east side setback (3-ft. required).
Zoned DR-2F.

Owners-Taylor & Tift Mitchell/Applicant-Julia F. Martin Architects, LLC

APPROVED	0	WITHDRAWN	XX
DISAPPROVED	0	DEFERRED	0

MOTION: Withdrawn by applicant.

MADE BY: _____ SECOND: _____ VOTE: FOR _____ AGAINST _____

10. 178 RUTLEDGE AVE. (RADCLIFFEBOROUGH) APP. NO. 1701-17-B10
(460-15-02-053)

Request special exception under Sec. 54-206 to allow an addition to an existing Synagogue.

Request variance from Sec. 54-206 to allow an addition with a 3-ft. north side setback (25-ft. required).

Zoned DR-1.

Owner-Brith Sholom Beth Israel Congregation/Applicant-E.E. Fava Architects

BOARD OF ZONING APPEALS—ZONING/JANUARY 17, 2017
PAGE 5

APPROVED XX

WITHDRAWN 0

DISAPPROVED 0

DEFERRED 0

MOTION: Approval.

MADE BY: W.Smalls SECOND: M.Smith VOTE: FOR 5 AGAINST 0

11. 547 HARBOR VIEW CIR. (424-07-00-008) APP. NO. 1701-17-B11

Request use variance from Sec. 54-203 to allow a temporary parking lot for
CWS Plum Island facility in a SR-1 (Single-Family Residential) zone district.
Owner-Commissioners of Public Works (Charleston Water Systems)/Applicant-Chris Troutman, PE

APPROVED 0

WITHDRAWN 0

DISAPPROVED 0

DEFERRED XX

MOTION: Deferred by applicant.

MADE BY: _____ SECOND: _____ VOTE: FOR _____ AGAINST _____

12. 49 SANS SOUCI ST. (NORTH CENTRAL) APP. NO. 1701-17-B12
(463-08-03-044)

Request variance from Sec. 54-301 to allow a 2-story addition (living room/
bath/porch/steps) with a 5-ft. 10-inch west side setback and a 20.5-ft. rear
setback (9-ft. and 25-ft. required).
Zoned SR-2.

Owner/Applicant-Mathew K. O'Hara

APPROVED XX

WITHDRAWN 0

DISAPPROVED 0

DEFERRED 0

MOTION: Approval.

MADE BY: M.Robinson SECOND: R.Appel VOTE: FOR 5 AGAINST 0

13. 108 COOPER ST. (EASTSIDE) (459-05-03-008) APP. NO. 1701-17-B13

Request special exception under Sec. 54-501 to allow construction of a single-
family residence on a lot of insufficient size (Lot area 821sf; 2,500sf required).
Request variance from Sec. 54-301 to allow construction of a single-family
residence with a 12-ft. total side (15-ft. required).
Zoned GB.

Owner-Jennifer LePaige/Applicant-Keith Barley

BOARD OF ZONING APPEALS—ZONING/JANUARY 17, 2017
PAGE 6

APPROVED 0 WITHDRAWN 0
DISAPPROVED 0 DEFERRED XX

MOTION: Deferral to meet with neighbors & neighborhood association.

MADE BY: M.Robinson SECOND: W.Smalls VOTE: FOR 5 AGAINST 0

14. 24 CHURCH ST. (CHARLESTOWNE) APP. NO. 1701-17-B14
(457-16-04-051)

Request variance from Sec. 54-301 to allow a detached accessory building (shed) with a 2-ft. rear setback and 47% lot occupancy (3-ft. required, 35% lot occupancy limit; existing lot occupancy is 46%).

Zoned SR-4.

Owners-Peter & Caroline Finnerty/Applicant-Glen Gardner

APPROVED XX WITHDRAWN 0
DISAPPROVED 0 DEFERRED 0

MOTION: Approval.

MADE BY: R.Appel SECOND: M.Smith VOTE: FOR 5 AGAINST 0

15. 12 STRAWBERRY LN. (NORTH CENTRAL) APP. NO. 1701-17-B15
(460-03-02-071)

Request special exception under Sec. 54-501 to allow construction of a single-family residence on a lot of insufficient size (Lot area 1,844sf, 2,500sf required).
Request variance from Sec. 54-301 to allow construction of a single-family residence with a 3-ft. west side and a 6.5-ft total side setback (7-ft. and 10-ft. required).

Request variance from Sec. 54-317 to allow construction of a single-family residence with one off-street parking space (two spaces required).

Zoned DR-2F.

Owner-Mulberry Street Development, LLC/Applicant-William Easterlin

APPROVED XX WITHDRAWN 0
DISAPPROVED 0 DEFERRED 0

MOTION: Approval.

MADE BY: M.Smith SECOND: W.Smalls VOTE: FOR 5 AGAINST 0

For more information, contact the Zoning and Codes Division Office at [REDACTED] or

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.

Exhibit to Application
Board of Zoning Appeals - Zoning
(revised June 19, 2017)

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/or 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 retail/restaurant/bar space would be reduced to approximately 7,400 square feet, and the total on-site parking would increase from approximately 28 spaces to 41 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 Guignard Street, where they will enter the garage and be parked by valet service. Departing guests will have their cars delivered by valet from the garage onto Guignard Street pointing east out to East Bay 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. The roughly 1053 square foot designated as Non-Alcohol on the first floor fronting North Market Street may be used as retail or 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. Guests will enter the parking garage from Guignard Street adjacent to the hotel lobby. East Bay Street is an arterial road 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 at the exit of the garage or streetside on Guignard Street pointing out to East Bay Street. As described in the traffic memorandum submitted with this application, the aggregate vehicle trips

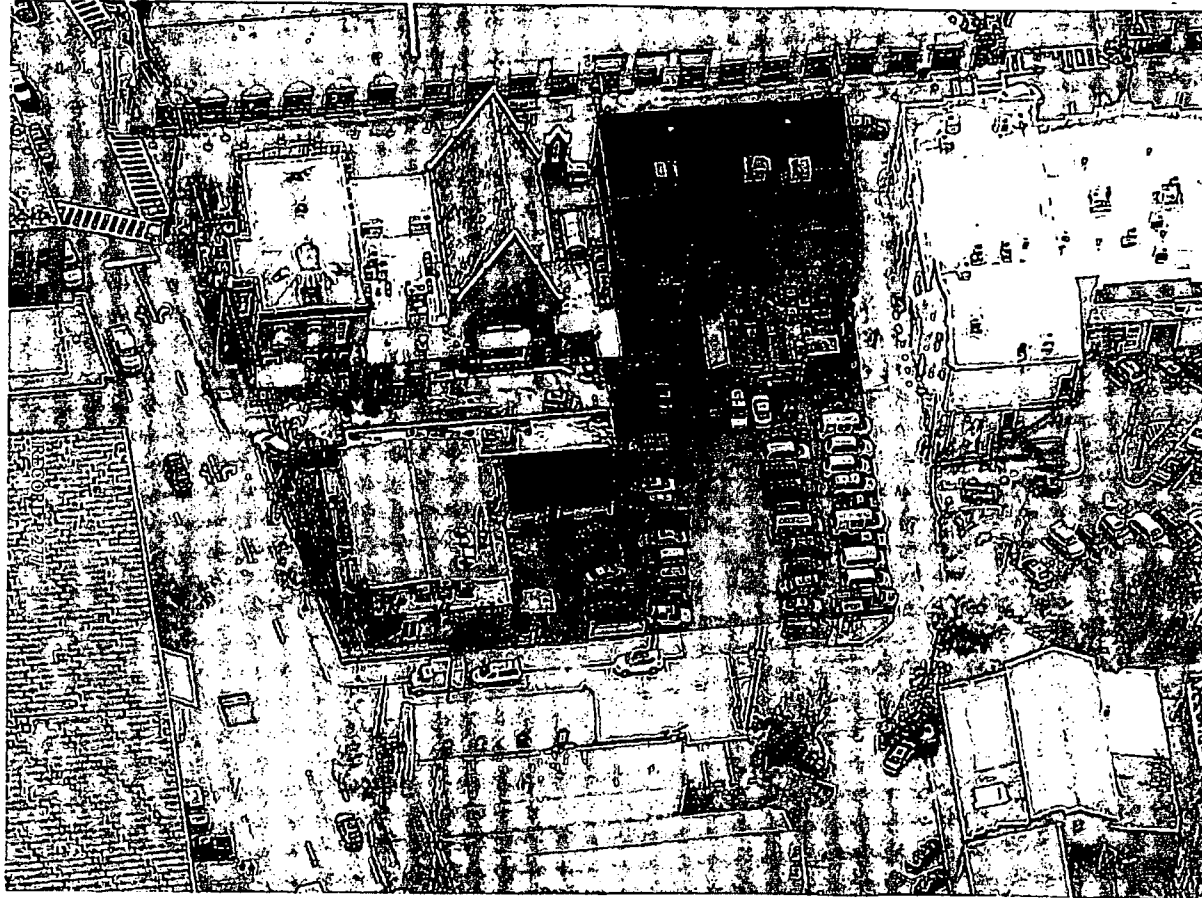
generated by this project is actually lower than the vehicle trips generated by the existing approved uses. A loading area for service vehicles is contemplated along the Guignard Street side of the hotel as shown on the plans.

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 is located directly on East Bay Street, and the parking entrance is located on Guignard Street immediately off of East Bay Street, which is the closest arterial road 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.
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 5,000 square feet. In addition, the proposed project provides 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 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 41 spaces, well 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 historic 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 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.*



EAST BAY STREET HOTEL

235 EAST BAY STREET, CHARLESTON, SC

BZAZ SUBMITTAL- 06.19.2017

RECEIVED

JUL 13 2017

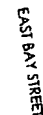
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DATE	NO.	DATE	NO.
GENERAL		GENERAL	
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1.02	GENERAL		
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1.20	GENERAL		

EAST BAY STREET HOTEL

1





BOARD OF ZONING APPEALS — ZONING

ADDRESS 36 N. Market St. 5 Guilford St. and
☒ APPROVED FOR SET BACK 235 E. Bay St.
☐ DENIED ☐ DENSITY

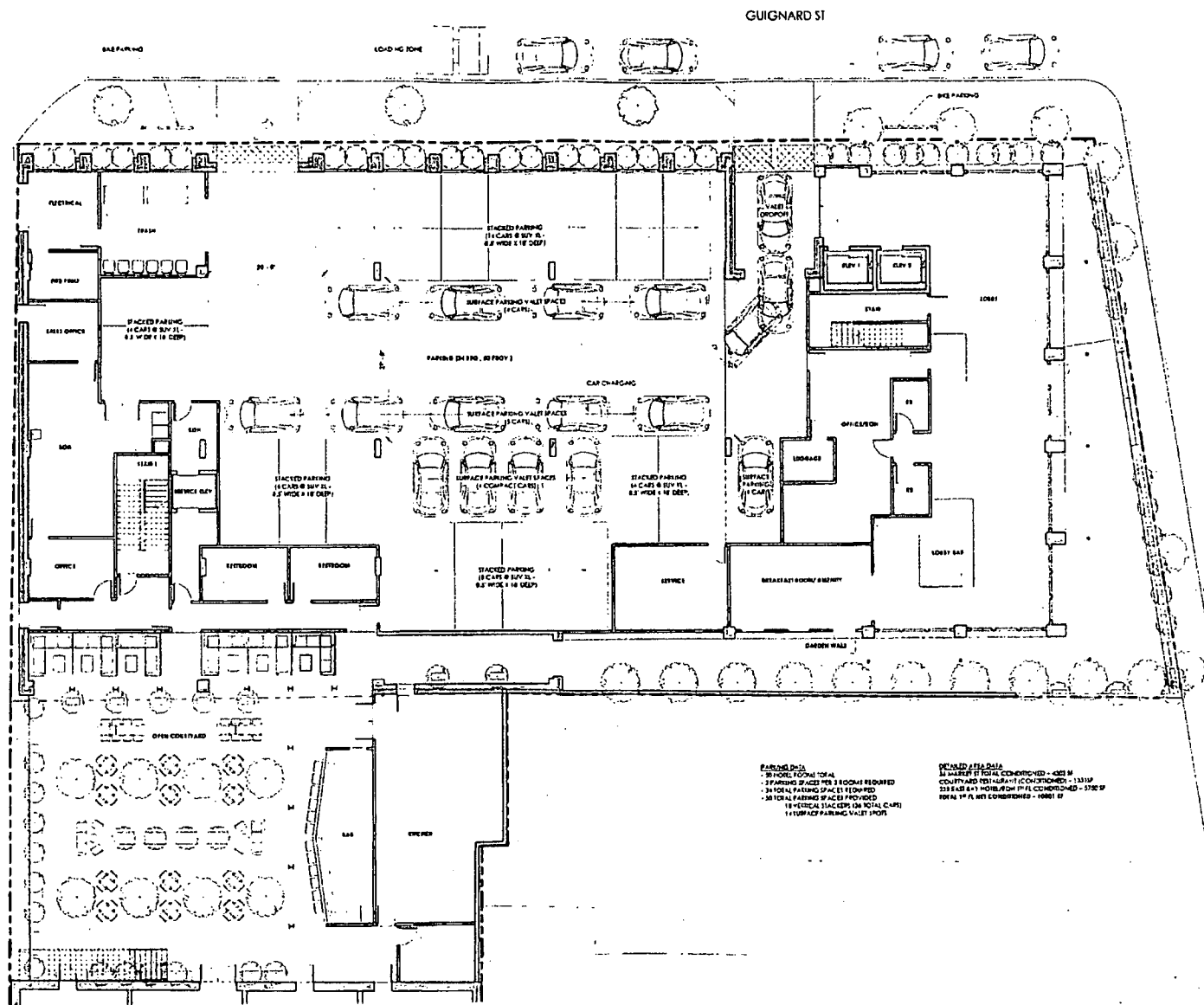
APPROVED FOR: SET BACK 23.5 ft. Bay St.
☐ DENIED ☐ DENSITY 50-unit
☐ WITHDRAWN ☐ PARKING accommodations
☐ AS SUBMITTED ☐ HEIGHT
☒ NEW CONDITIONS ☐ LOT OCCUPANCY
☒ ~~USE OR SPECIAL EXCER~~ use

DATE 7/18/17 ZONING OFFICIAL [Signature]

*THIS APPROVAL EXPIRES WITHIN TWO YEARS UNLESS AN
EXTENSION IS APPROVED PURSUANT TO SEC. 54-932
*THIS DOES NOT CONSTITUTE APPROVAL
BY OTHER CITY BOARDS OR DEPARTMENTS.

- 1) no access to conference room from Market St.
- 2) mandatory night turn onto Guignard for leaving hotel

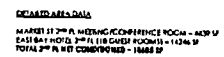
RAFER'S ALLEY



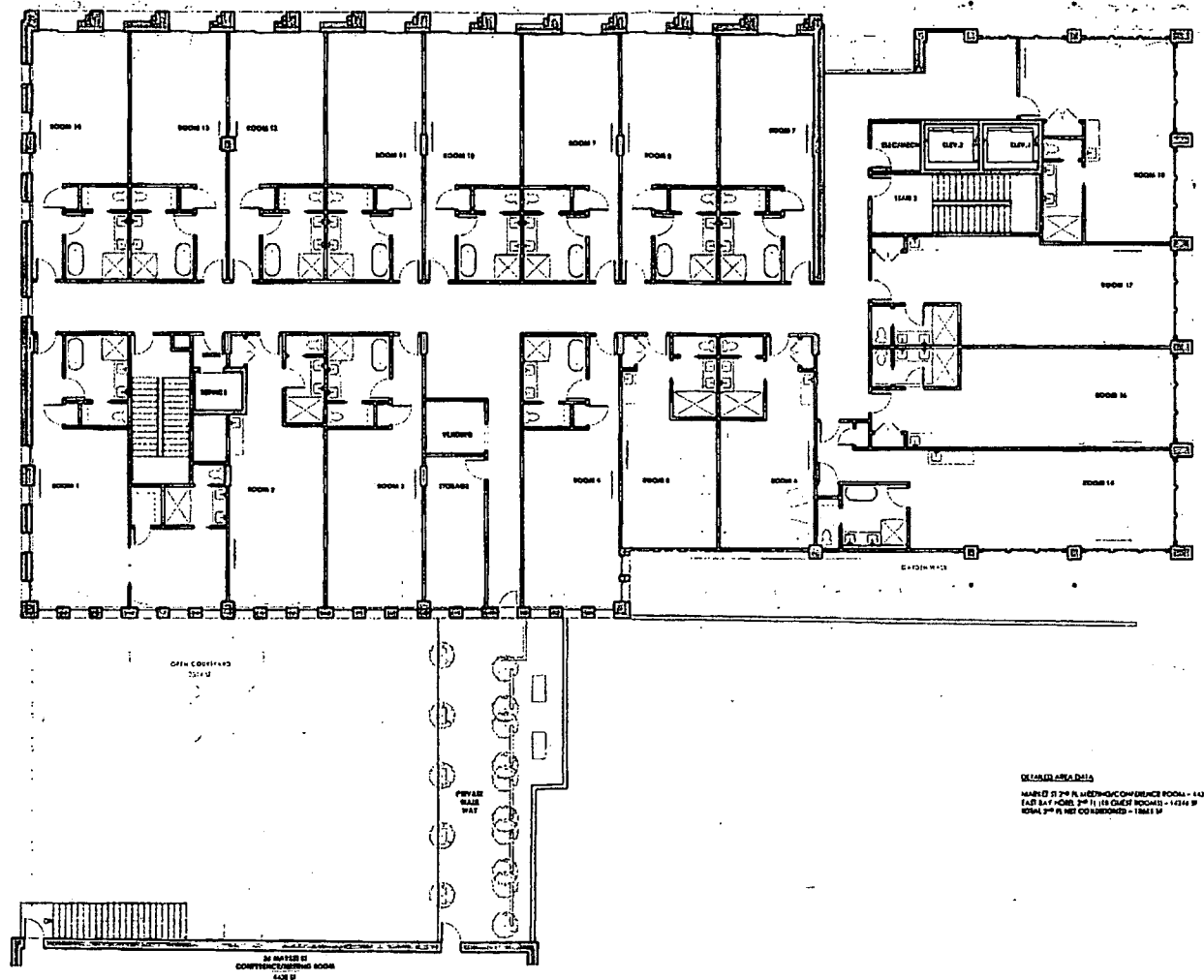
PARKING DATA
 30 WORK ROOM TOTAL
 2 PARKING SPACES PER 3 ROOMS REQUIRED
 20 TOTAL PARKING SPACES REQUIRED
 20 TOTAL PARKING SPACES PROVIDED
 10 VERTICAL STACKERS (IN TOTAL CARP)
 10 SURFACE PARKING VALET SPOTS

DETAILED AREA DATA
 30 WORK ROOM TOTAL - 4000 SF
 20 TOTAL PARKING SPACES - 1300 SF
 20 TOTAL PARKING SPACES PROVIDED - 1300 SF
 TOTAL 10 VERTICAL STACKERS - 1000 SF

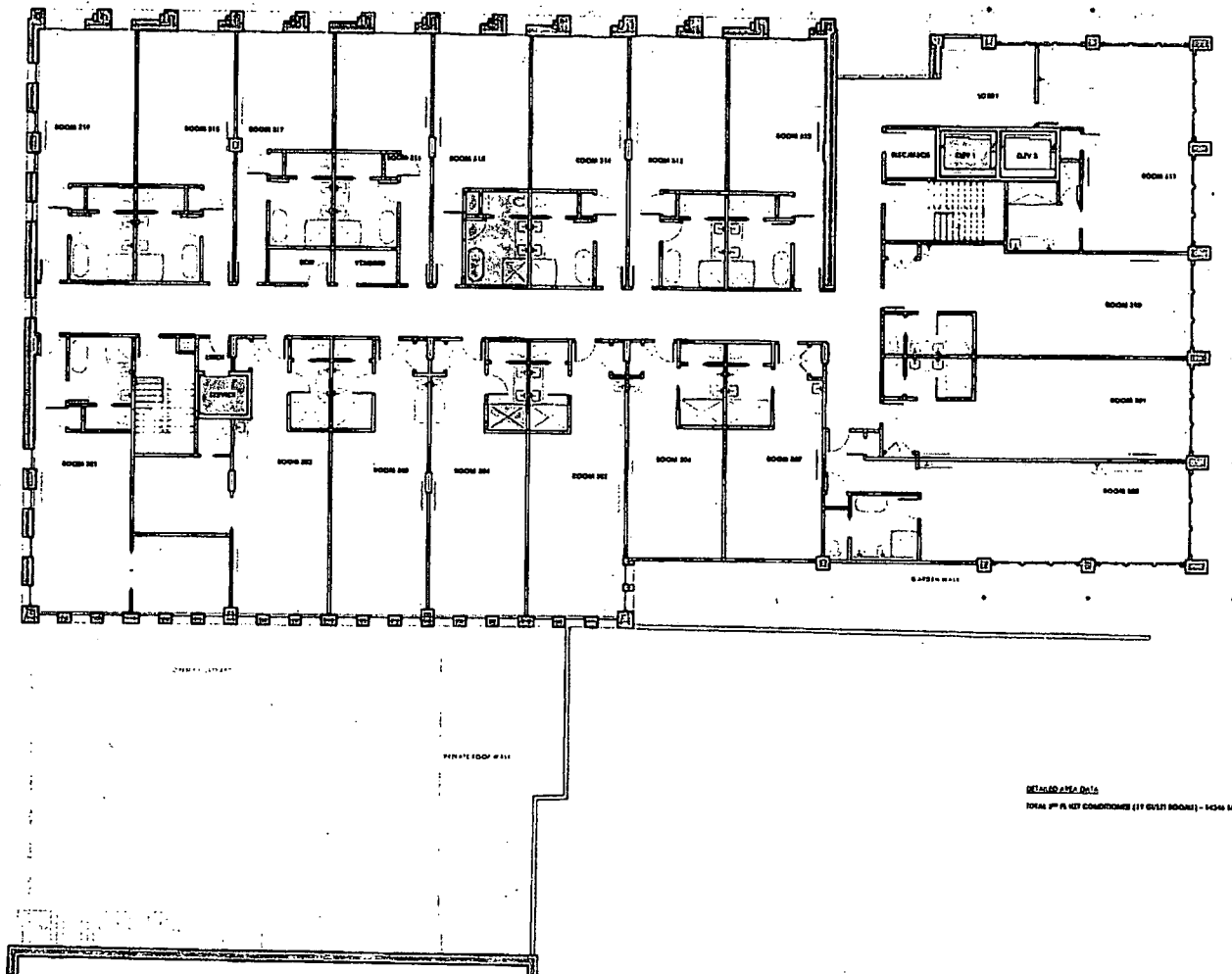
RECORD P.281



RAFER'S ALLEY

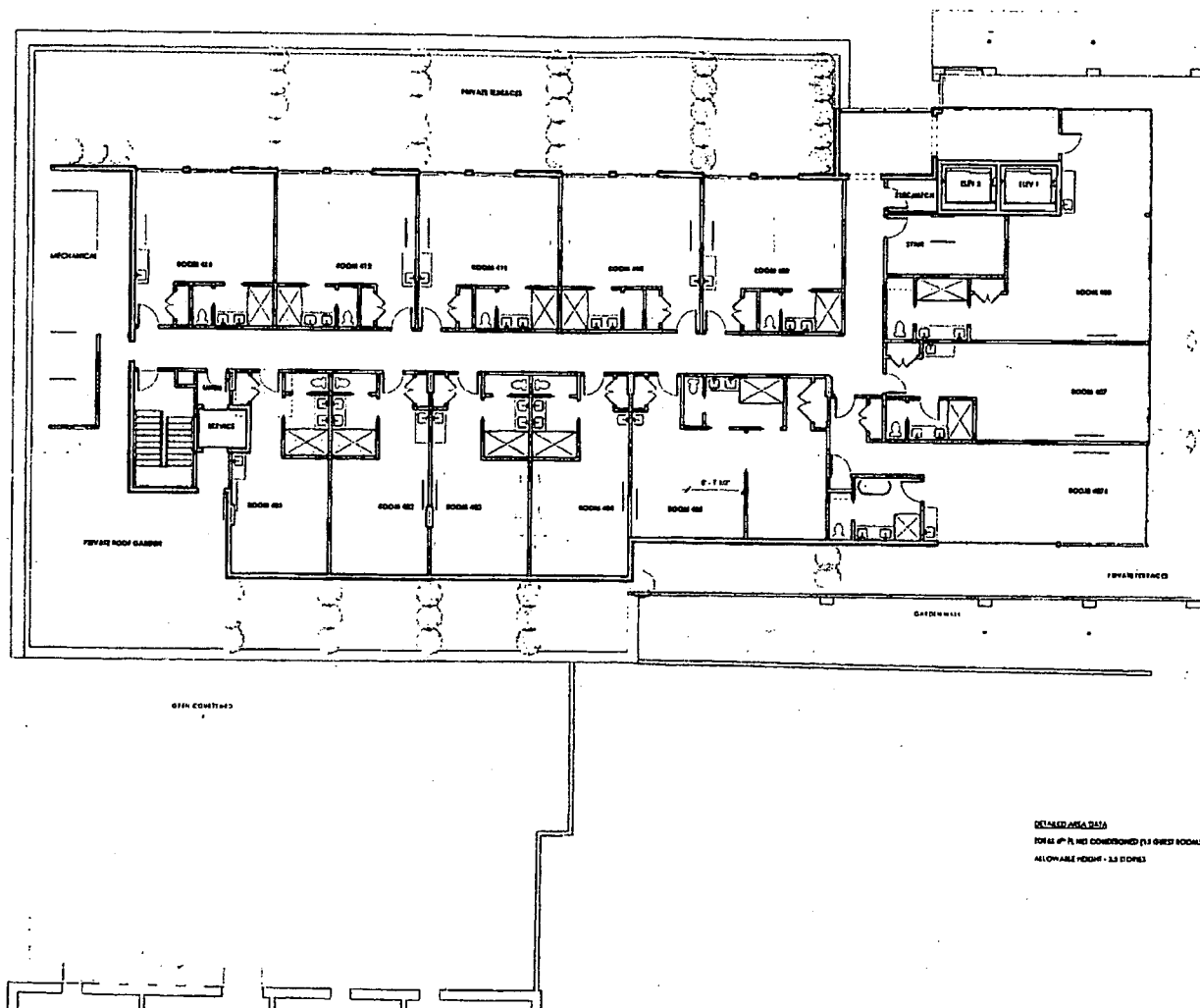


RAFFERS ALLEY

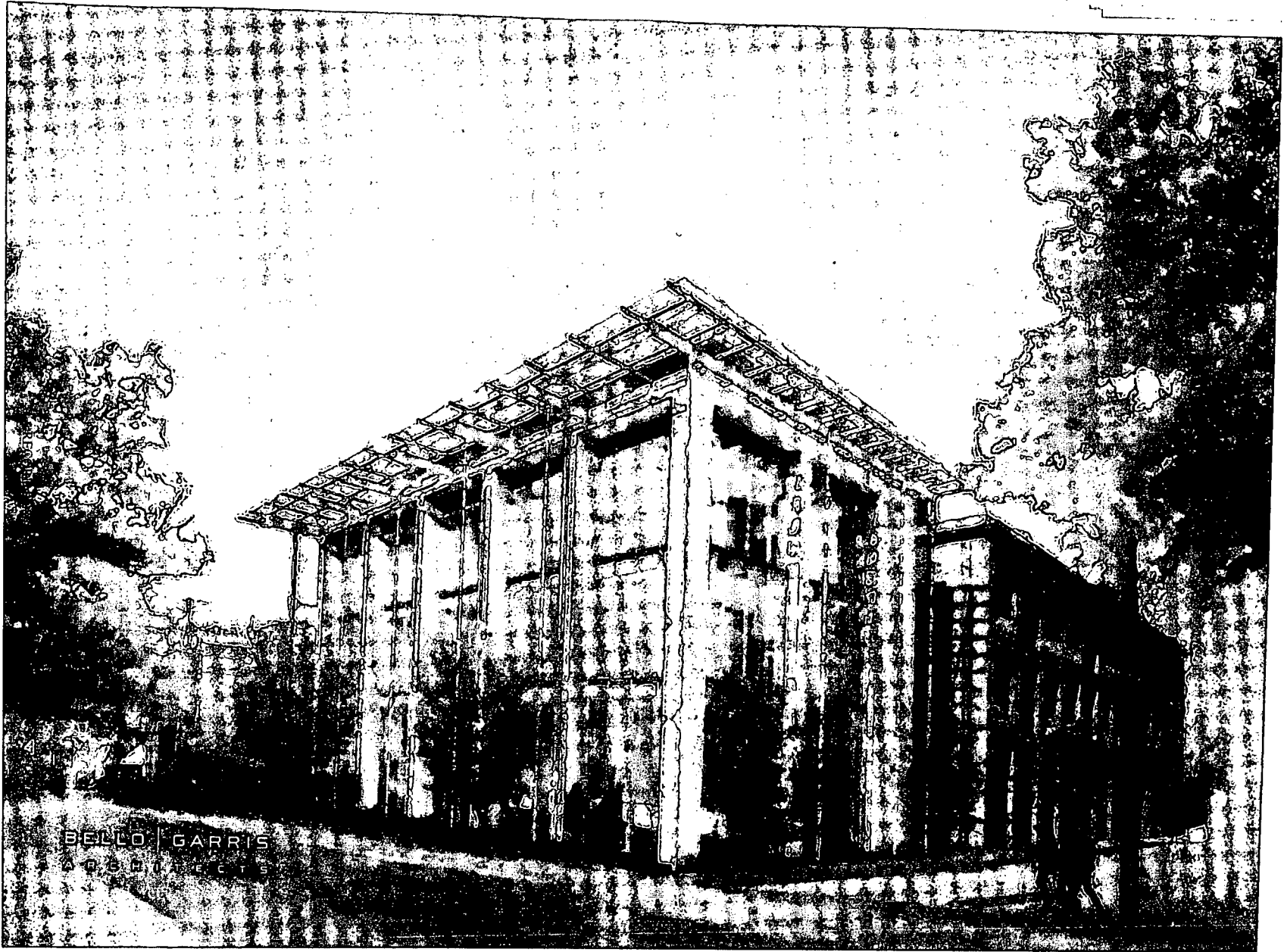


RECORD P.284

RAFER'S ALLEY



DETAILED AREA DATA
 FOR 65 SF IN, NET CONDITIONED (7.5 GUEST ROOMS) - 1946 SF
 ALLOWABLE HEIGHT - 2.5 STORIES



BELLO GARRIS
ARCHITECTS

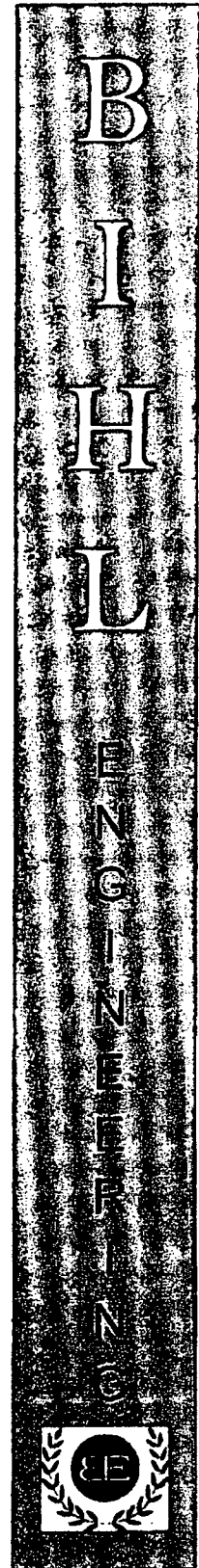
Traffic Impact Analysis

**235 East Bay Street
Charleston, SC**

***Prepared for:*
Apex Real Property, LLC**

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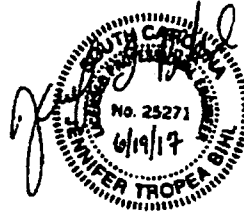
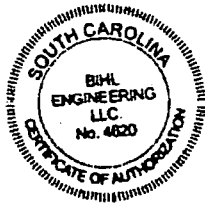
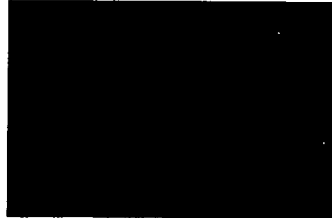
RECORD P.286



**Traffic Impact Analysis
235 East Bay Street Hotel
Charleston, SC**

**Prepared for:
Apex Real Property, LLC**

**Prepared by:
Bihl Engineering, LLC**



June 2017

RECORD P.287

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1.0 Executive Summary

The proposed 235 East Bay Street hotel development is located in Charleston, SC. The development will comprise of 235 East Bay Street, 5 Guignard Street and 36 North Market Street parcels. The proposed development includes a 50-room hotel and 3,229 square feet (sf) of retail or restaurant (located on Market Street). The proposed development will be accessed via Guignard Street. Parking for the development will be valet only with the valet station located inside the garage with access on Guignard Street. Pedestrian traffic will access the hotel site via the hotel lobby located on East Bay Street. The development is assumed to be complete by 2018. The site has been previously approved by BZA for 36 hotel rooms planned in conjunction with the previously open restaurants on these sites.

This report presents the trip generation, trip distribution, traffic analyses (including consideration of pedestrians and carriages), and any recommendations for transportation improvements required to meet anticipated traffic demands.

Based on the results of the Existing conditions analyses and study area observations, the existing intersections are shown to operate acceptably at LOS C or better during the AM and PM peak hours. In the Buildout conditions, the study area intersections continue to operate acceptably. Based on the projected Buildout conditions, it is expected that the proposed project will have limited impact to the overall traffic flow of the site area.

In addition, based on the location of the valet operations no traffic impacts on Anson Street are expected as a part of this project as traffic will utilize East Bay Street to enter and exit the hotel and Guignard Street west of Raders Alley is regularly congested with pedestrians and horse carriage operations.

2.0 Introduction

The proposed 235 East Bay Street hotel development is located in Charleston, SC. The development will comprise of 235 East Bay Street, 5 Guignard Street and 36 North Market Street parcels. The proposed development includes a 50-room hotel and 3,229 sf of retail or restaurant (located on Market Street). The proposed development will be accessed via Guignard Street. Parking for the development will be valet only with the valet station located inside the garage with access on Guignard Street. Pedestrian traffic will access the hotel site via the hotel lobby located on East Bay Street. The development is assumed to be complete by 2018. The site has been previously approved by BZA for 36 hotel rooms planned in conjunction with the previously open restaurants on these sites.

3.0 Inventory

3.1 Study Area

The study area for the traffic impact analysis includes the following roadways:

- North Market Street and South Market Street
- East Bay Street (US 52)
- Guignard Street
- Anson Street

Figure 1 (Appendix) shows the site location and **Figure 2 (Appendix)** shows the conceptual site plan for the project.

3.2 Existing Conditions

Roadways in the project vicinity include North and South Market Streets, East Bay Street (US 52), Anson Street, and Guignard Street. Existing roadway laneage for the study area intersections is shown on **Figure 3**.

North and South Market Streets are one-way, one-lane roadways with on-street parking. The Market is located between North and South Market Streets and is a pedestrian market with significant pedestrian travel between the market buildings and across North and South Market Streets to surrounding city streets and intersections. North Market Street carries westbound traffic while South Market Street carries eastbound traffic. Per SCDOT traffic counts, South Market Street has a 2016 average annual daily traffic (AADT) of 2,000 vehicles per day (vpd) between State Street and East Bay Street. Horse carriage loading/unloading is designated on North Market Street west of Anson Street.

East Bay Street (US 52) is a four-lane roadway north of North Market Street with some on-street parking and a two-lane roadway south of South Market Street with on-street parking on both sides of the street. The posted speed limit is 25 mph. Per SCDOT data, East Bay Street has a 2016 AADT of 22,300 vpd between US 17 and Broad Street.

Guignard Street is a two-way roadway. The section of Guignard Street from Anson Street to Raders Alley is narrower than the section between Raders Alley and East Bay Street. The section from Anson Street to Raders Alley section also services carriage operations. Between Raders Alley and East Bay Street, Guignard Street has on-street parking on both sides of the street. Two hotels are planned on Market Street and Anson Street with valet operations planned to use Raders Alley. There is an existing parking area on the project site.

Anson Street is a two-lane roadway with limited on-street parking on both sides of the street south of Pinckney Street. Horse carriage loading/unloading is designated on Anson Street from North Market

Street to Pinckney Street. North of Pinckney Street, Anson Street is a one-way roadway with on-street parking. Traffic volume information was collected on Anson Street and is discussed in Section 5 of the report.

4.0 Traffic Generation

The traffic generation potential of the existing/currently allowed development and proposed development was determined using trip generation published in Institute of Transportation Engineers' (ITE) *Trip Generation, Ninth Edition*. Valet trips for the project will occur within the garage located on Guignard Street and additional trips would not be on the roadway network. Table 1 shows a comparison of the projected trips for the existing/currently allowed uses and the proposed uses. The proposed retail/restaurant use is not determined at this time, for the purposes of the analysis, retail use was analyzed in the analysis.

To be conservative, the gross trips are analyzed for this report and no credit for internal capture between the hotel and retail/restaurant use was assumed. Also for the purposes of the analysis, trips were assumed to be vehicular.

Table 1 summarizes peak hour trips associated with the proposed site.

Table 1: Trip Generation (Gross Trips)								
Land Use and Intensity	ITE Land Use Code	Daily	AM Peak Hour (7 AM – 9 AM)			PM Peak Hour (4 PM – 6 PM)		
			Total	In	Out	Total	In	Out
Currently Allowed Uses								
36 Hotel Rooms	310	294	19	11	8	22	11	11
12,000 sf High Turnover Sit-Down Restaurants ¹	932	1,526 ²	-	-	-	118	71	47
Total		1,820	19	11	8	140	82	58
Proposed Uses								
50 Hotel Rooms	310	409	27	16	11	30	15	15
3,229 sf Specialty Retail	826/820 ³	146	19	12	7	29	13	16
Total		555	46	28	18	59	28	31
Difference		-1,265	27	17	10	-81	-54	-27

¹ Previous restaurants were not open for breakfast service; therefore, trips were minimal.

² Daily trips are expected to be less since breakfast service was not available at these restaurants.

³ Land Use Code 826 (Specialty Retail) does not have data for AM peak hour. Land Use Code 820 (Shopping Center) used for AM peak hour

As shown in Table 1, the proposed uses are projected to generate 46 trips during the AM peak hour (28 in and 18 out) and 59 trips during the PM peak hour (28 in and 31 out). Compared to the currently allowed uses, this results in 27 additional AM peak hour trips and 81 fewer PM peak hour trips.

The gross daily trip generation for the project is projected to be 555 daily trips.

Note, that to be conservative the current trips associated with the existing parking lot were not applied as a credit to the projected trips.

5.0 Site Traffic Distribution

The proposed project traffic was assigned to the surrounding roadway network. The directional distribution and assignment were based on qualitative knowledge of the project area and quantitative application of existing and expected future traffic patterns. The following general trip distribution was applied to the project trips from the project driveway:

- 25% to/from East Bay Street from the south
- 75% to/from East Bay Street from the north

Project trips associated with the proposed 235 East Bay Street hotel will travel via East Bay Street. The detailed project traffic distribution is shown for the study area intersections in Figure 4 (Appendix). The location of the valet station will be in the garage on Guignard Street accessed via East Bay Street. As such, it is not expected that any traffic related to the proposed development will on neighborhood roadways such as Anson Street.

6.0 Traffic Volumes

6.1 Existing Traffic

Peak hour intersection turning movement counts including vehicular, pedestrian, carriage, and heavy vehicle traffic were performed in January 2017 from 7 AM to 7 PM at the following intersections:

- East Bay Street at Guignard Street

Previous traffic counts at East Bay Street at Market Street were used in the analysis. All count data is included in the Appendix and the AM and PM peak hour existing traffic volumes are shown in Figure 5 (Appendix).

In addition, a volume and speed study was performed from January 31, 2017 through February 6, 2017 on Anson Street to determine the average traffic flow during the week on Anson Street. These collected

volumes also show the average hourly volume of traffic by time, daily volume of traffic by day of week, and the hourly volume by time of day and are summarized in **Figures 6 through 8** in the **Appendix**.

In summary, based on the collected data, the average daily traffic on Anson Street is 419 vehicles per weekday and 418 vehicles per weekend day. Traffic distribution comprised of approximately 92% cars and trucks with the remaining 8% of the traffic comprised of bicycles and carriages. The 85th percentile speed is 18 MPH. The 85th percentile speed represents the speed at which 85% of the traffic is traveling at or below.

Figure 6 shows traffic volumes on Anson Street by day. The traffic volumes range from approximately 350 vehicles to 500 vehicles per day. These volumes are lowest on Sunday (344 vehicles), rise during the week peaking on Friday (513 vehicles), then taper down on Saturday. Friday and Saturday are the days with the highest level of traffic on Anson Street.

Figure 7 shows that Anson Street traffic by hour for an average weekday and average weekend day. In general, the average weekday and average weekend day have similar travel patterns by time of day. Average weekdays experience higher traffic volumes than weekends during the AM and PM peak hours and early afternoon while weekends experience higher traffic volumes during the late night/early morning, and midmorning hours. Both weekdays and weekends experience their highest traffic volumes during the PM peak hour.

Figure 8 shows Anson Street traffic volumes broken down by hour. This section of Anson Street experiences similar hourly traffic patterns Monday through Wednesday, Thursday has some variability from the average weekdays however is most similar to Monday to Wednesday trends. Friday and Saturday shows very similar trends with peaks occurring in the late evening/early morning hours. All experience a peak during the PM peak hour seeing the highest traffic volumes. Sunday experiences the highest traffic volumes during midmorning and a smaller PM peak.

6.2 2018 No Build Traffic

Historic growth is defined as the increase in existing traffic volumes due to usage increases and non-specific growth throughout the area. A 2% per year growth rate was applied for this analysis. The 2018 No Build traffic volumes include existing traffic grown to the buildout year. **Figure 9** and **Figure 10** show the 2017 No Build AM and PM peak hour traffic volumes, respectively. The traffic associated with the adjacent planned hotels has been included in the analysis.

6.3 Project Traffic

The AM peak hour and PM peak hour projected project trips were assigned based on the trip distribution discussed in **Section 5**.

6.4 2018 Build Traffic

The total traffic volumes include the no build traffic and the proposed development traffic at buildout. The 2018 AM peak hour and PM peak hour total traffic volumes are shown in **Figure 9** and **Figure 10**, respectively.

Intersection volume development worksheets are included in the **Appendix**.

7.0 Capacity Analysis

Capacity analyses were performed for the AM and PM peak hours for the Existing, 2018 No Build, and 2018 Build conditions using the Synchro Version 9 software to determine the operating characteristics of the adjacent roadway network and the impacts of the proposed project. The analyses were conducted with methodologies contained in the *Highway Capacity Manual, Sixth Edition: A Guide to Multimodal Mobility Analysis* (Transportation Research Board, October 2016).

Capacity of an intersection is defined as the maximum number of vehicles that can pass through an intersection during a specified time, typically an hour. Capacity is described by level of service (LOS) for the operating characteristics of an intersection. LOS is a qualitative measure that describes operational conditions and motorist perceptions within a traffic stream. The *Highway Capacity Manual* defines six levels of service, LOS A through LOS F, with A being the best and F being the worst.

LOS for a two-way stop-controlled (TWSC) intersection is determined by the delay of the poorest performing minor approach, as LOS is not defined for TWSC intersections as a whole. It is typical for stop-controlled side streets and driveways on major streets to experience longer delays during peak hours while the majority of the traffic moving through the corridor typically experiences little or no delay.

Capacity analyses were performed for the Existing, 2018 No Build, and 2018 Build AM and PM peak hour traffic conditions for the following intersections:

- East Bay Street at Guignard Street
- East Bay Street at Market Street

Table 2 summarizes LOS and control delay (average seconds of delay per vehicle) for the Existing, 2018 No Build, and 2018 Build AM and PM peak hour conditions.

Signal timings were obtained from the City of Charleston and applied to the signalized intersection for the intersection analyses.

Table 2:
Level of Service and delay (average seconds per vehicle)¹

Intersection	Traffic Control ²	Existing Conditions		2018 No Build Conditions		2018 Build Conditions	
		AM Peak Hour	PM Peak Hour	AM Peak Hour	PM Peak Hour	AM Peak Hour	PM Peak Hour
East Bay Street at Guignard Street	U	C (15.7) – EB	B (13.9) – EB	C (18.0) – EB	B (13.9) – EB	C (17.5) – EB	C (15.8) – EB
East Bay Street at Market Street	S	C (30.0)	C (25.8)	C (30.9)	C (26.3)	C (31.2)	C (26.4)

1. For unsignalized intersections, the level of service of the poorest performing minor approach is reported.
2. S = Signalized, U = Unsignalized

Based on the results of the Existing conditions analyses and study area observations, the existing intersections are shown to operate acceptably at LOS C or better during the AM and PM peak hours.

In the 2018 No Build and Build conditions, the study area intersections are projected to continue to operate acceptably. Based on the projected Build conditions, it is expected that the proposed project will have limited impact to the overall traffic flow of the site area as the study area intersections are projected to operate at LOS C or better.

The proposed development is expected to have limited impact on the surrounding roadway network due to the location of the proposed valet entrance/exit on Guignard Street. Though not applied as a credit, this project replaces an existing parking lot. Based on the location of the project access point, no traffic is expected to travel on neighborhood roadways such as Anson Street.

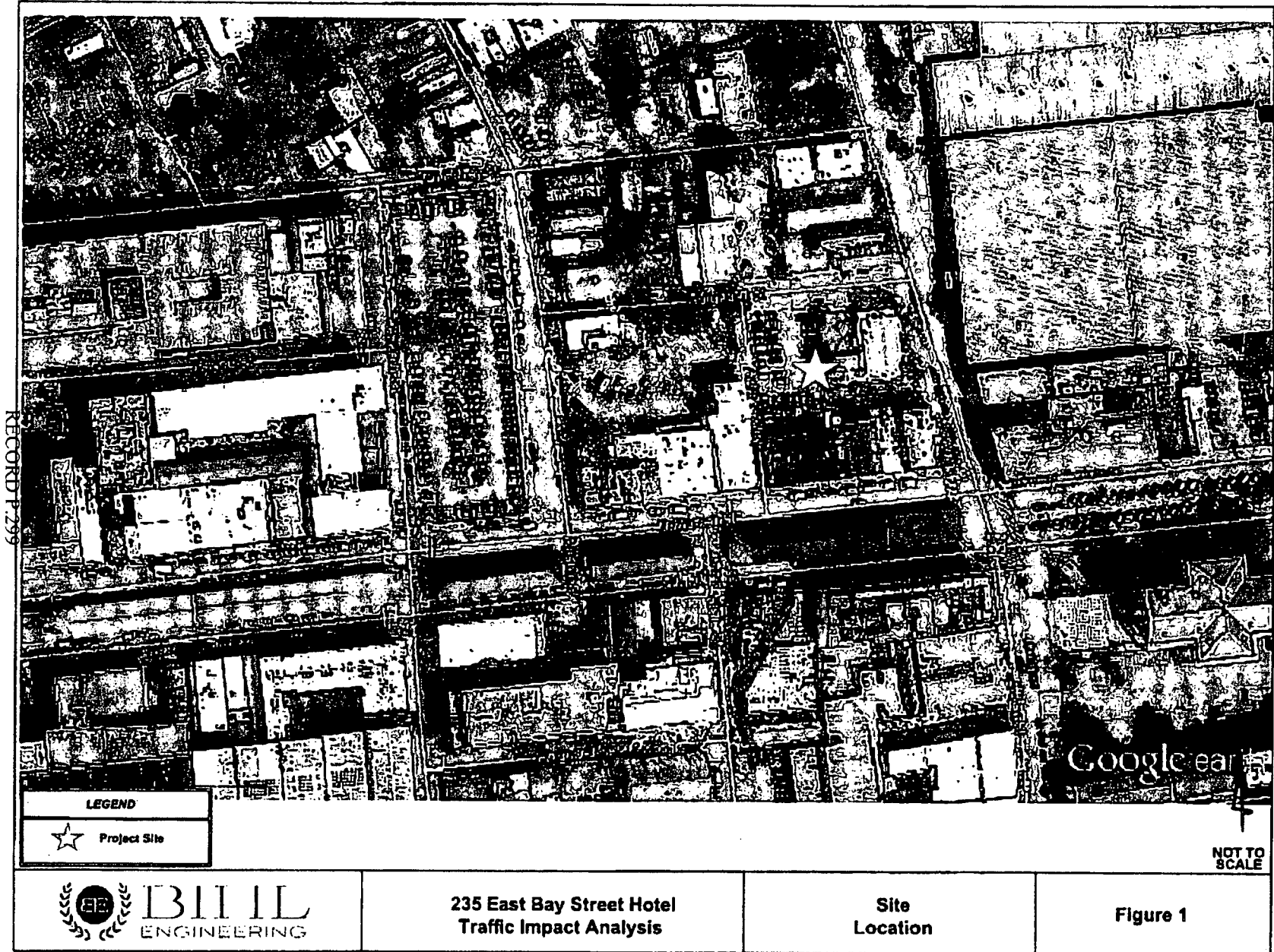
8.0 Conclusion

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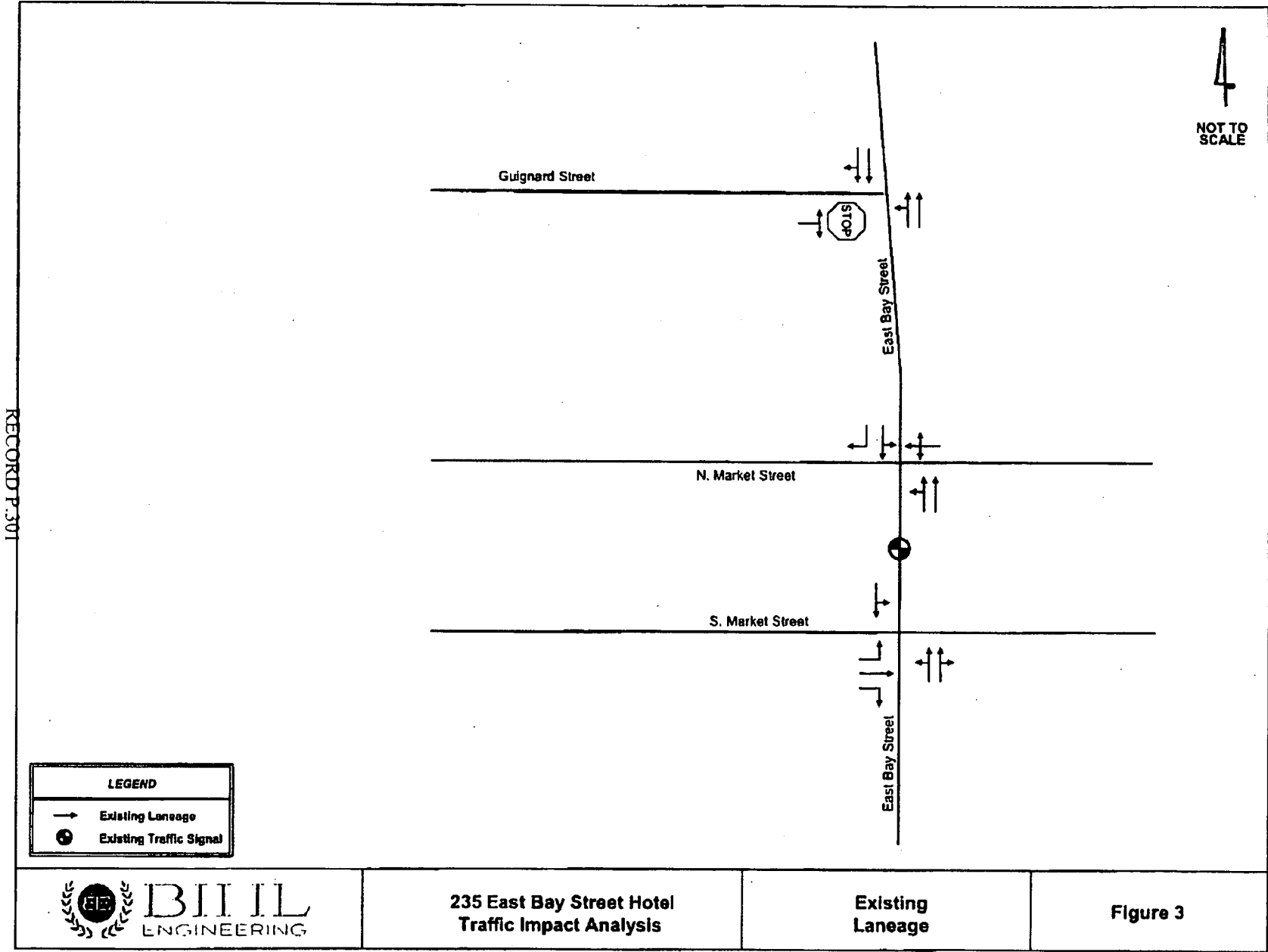
Based on the results of the Existing conditions analyses and study area observations, the existing intersections are shown to operate acceptably at LOS C or better during the AM and PM peak hours. In the Buildout conditions, the study area intersections continue to operate acceptably. Based on the

projected Buildout conditions, it is expected that the proposed project will have limited impact to the overall traffic flow of the site area.

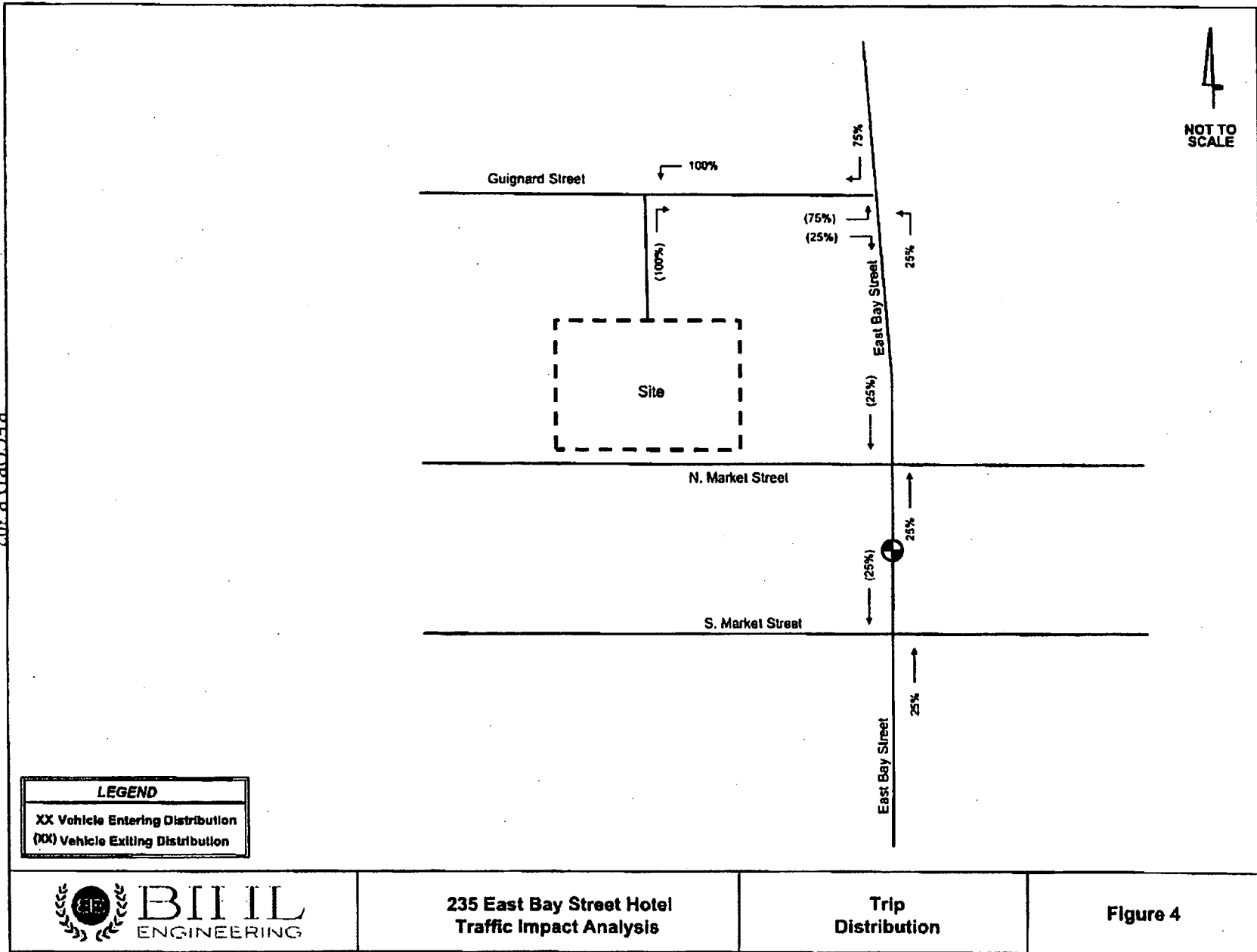
Appendix







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LEGEND

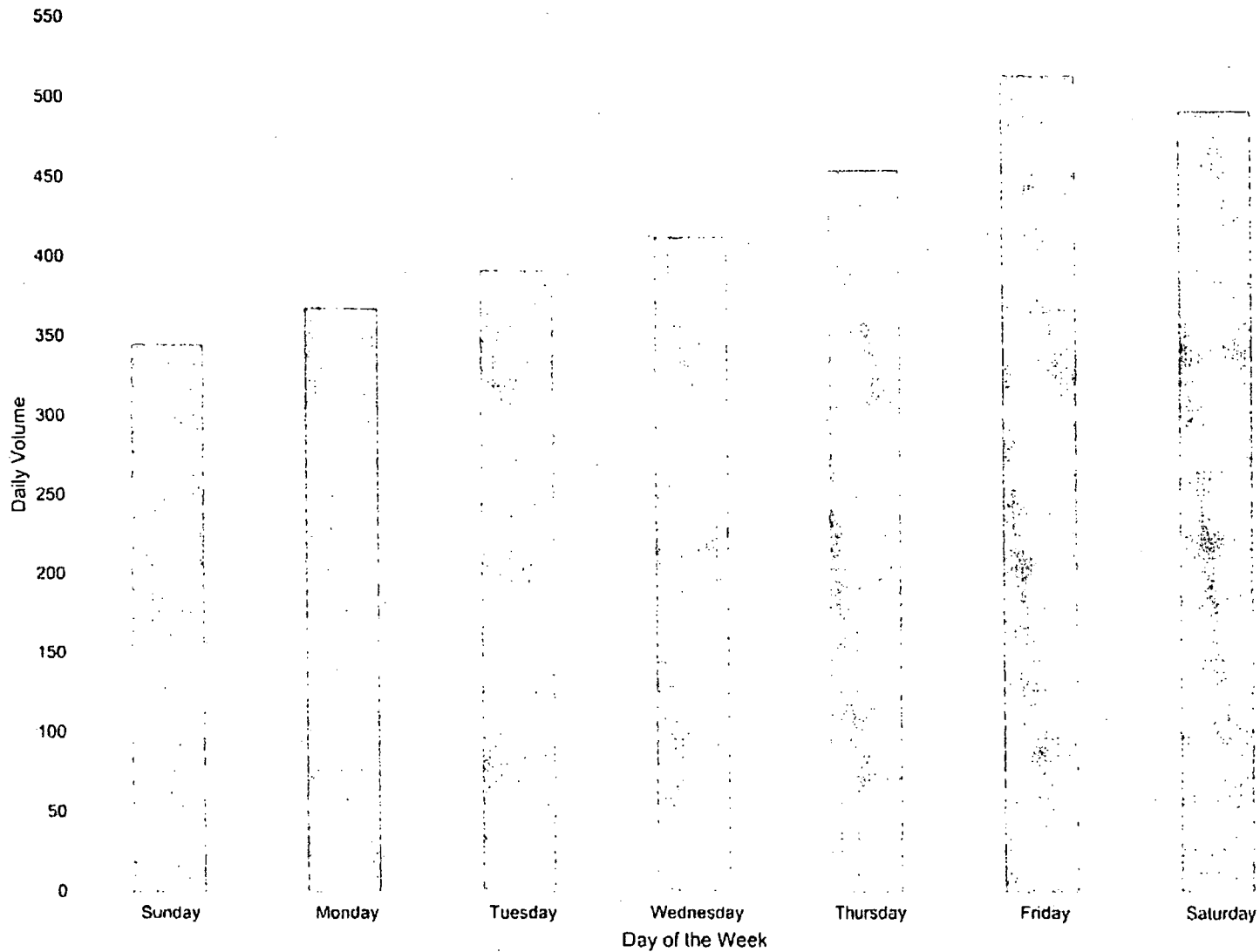
XX AM Peak Hour Traffic
(XX) PM Peak Hour Traffic

235 East Bay Street Hotel Traffic Impact Analysis

Existing Traffic Volumes

Figure 5

RECORD P.304

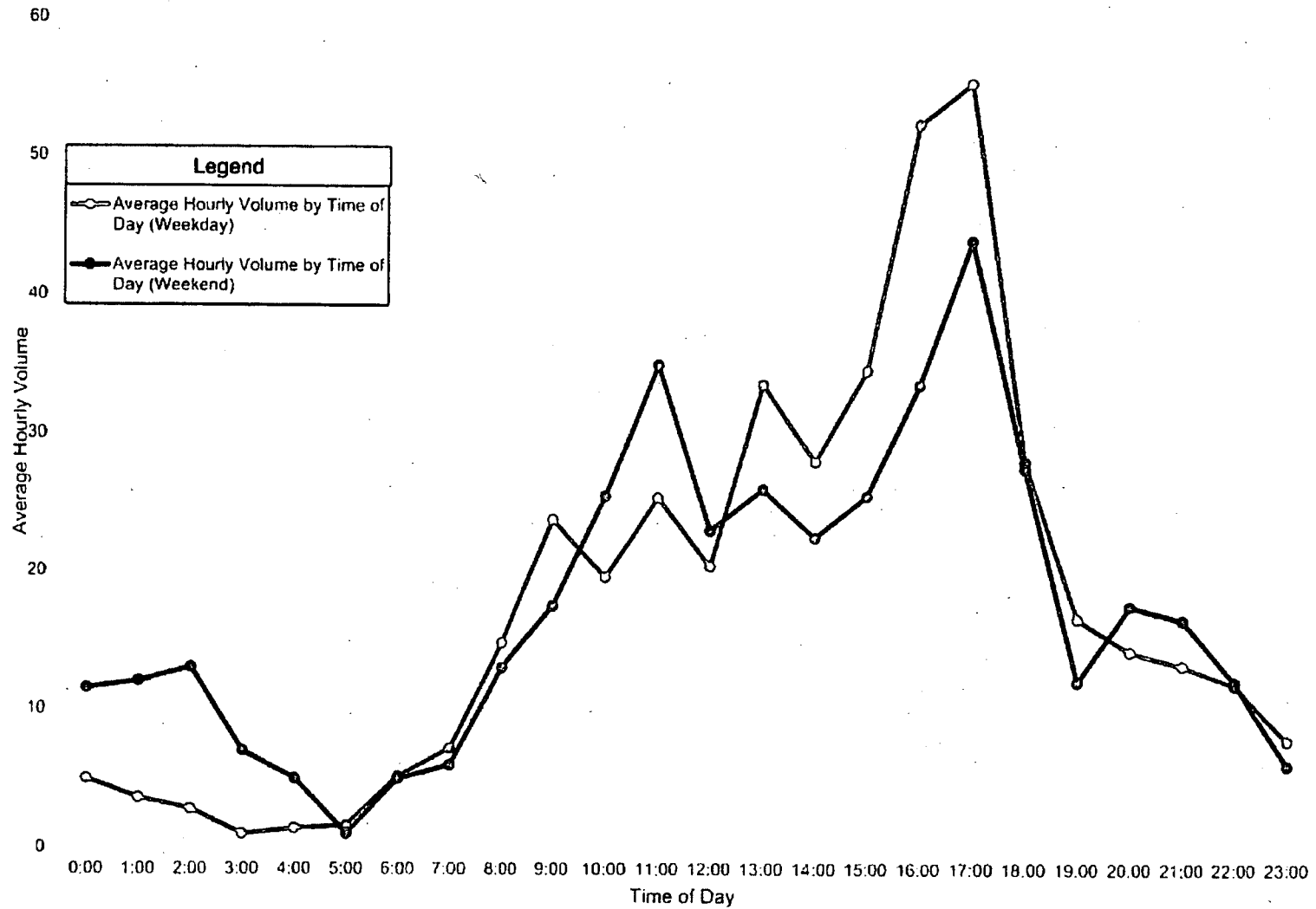


**235 East Bay Street Hotel
Traffic Impact Analysis**

**Anson Street – Daily Volume
by Day of Week**

Figure 6

RECORD P.305

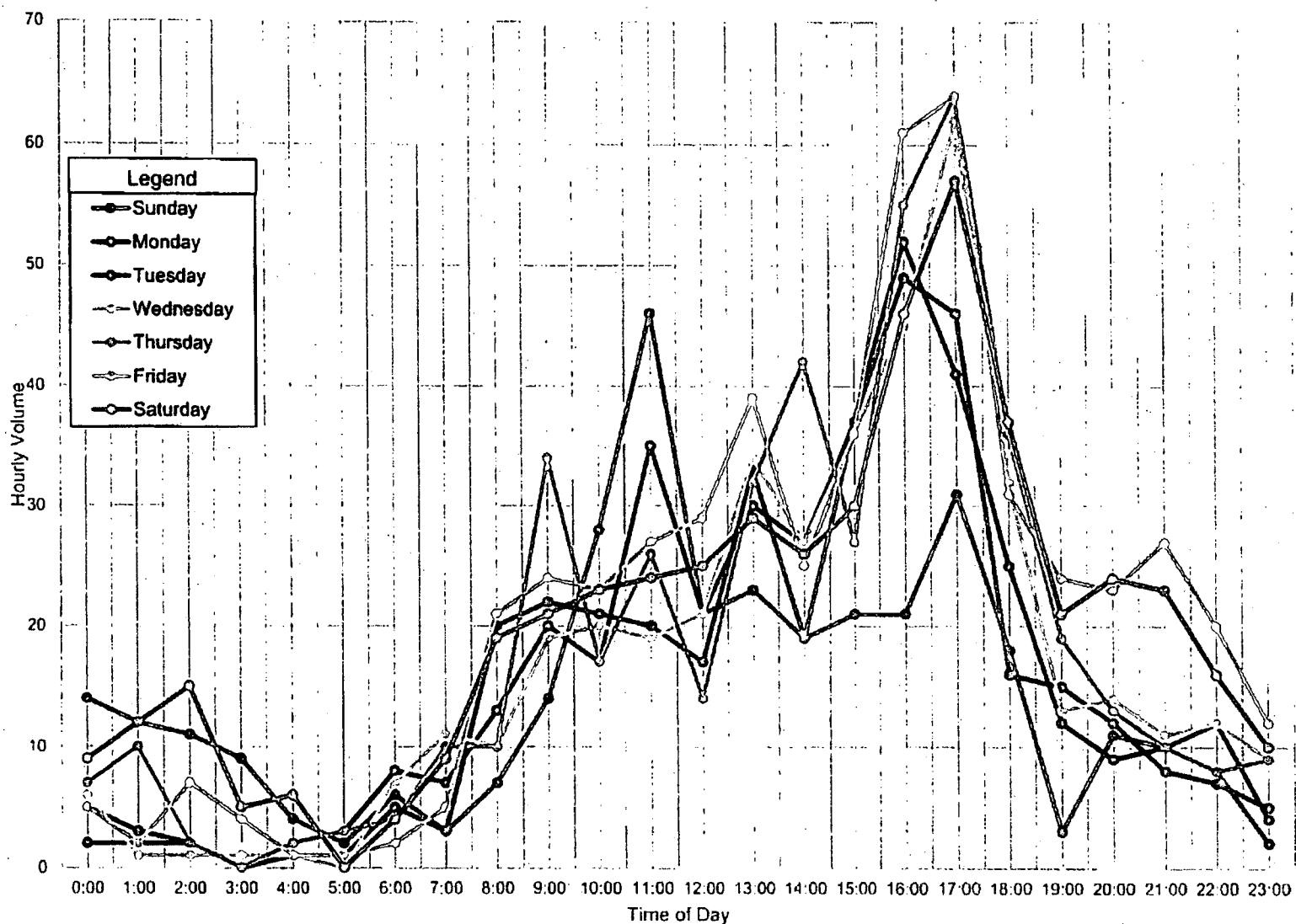


**235 East Bay Street Hotel
Traffic Impact Analysis**

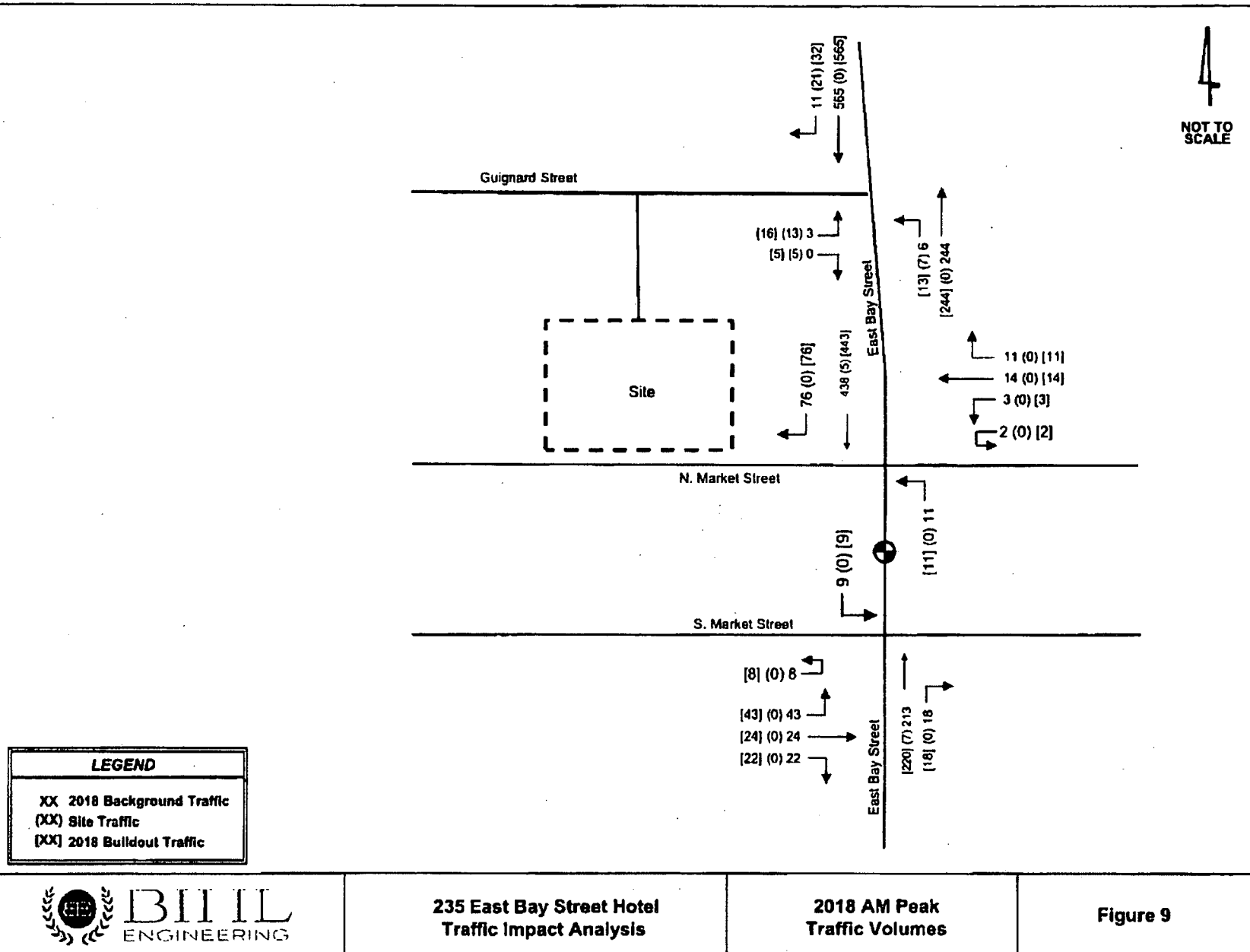
**Anson Street – Average
Hourly Volume by Time of
Day**

Figure 7

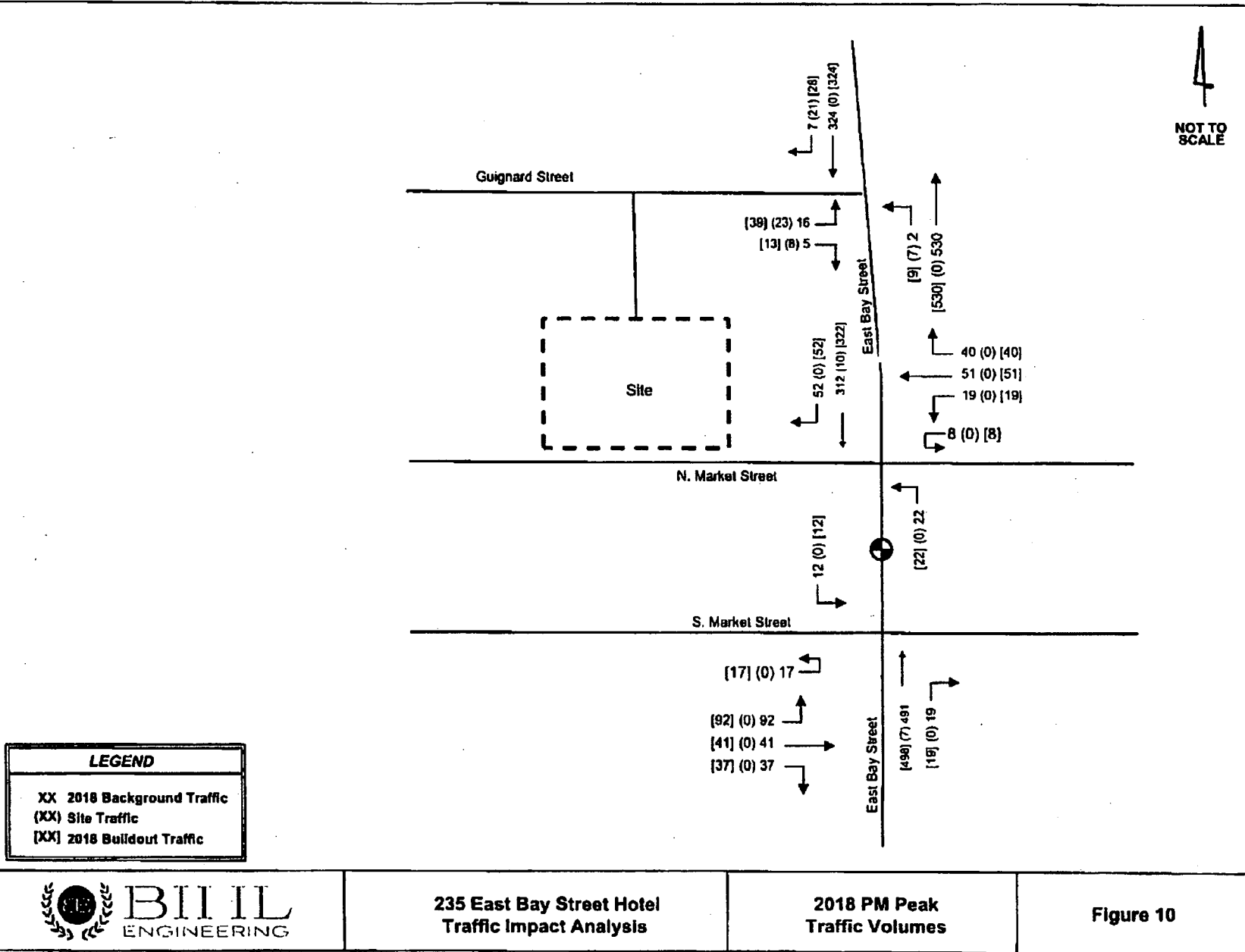
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RECORD P.307



RECORD P.308



Short Counts

File Name : e. bay st @ guignard st
 Site Code : 01312017
 Start Date : 1/31/2017
 Page No : 1

Groups Printed- Passenger Vehicles - Heavy Vehicles - Buses

Start Time	E. Bay St From North				From East				E. Bay St From South				Guignard St From West				Int. Total
	Right	Thru	Left	Peds	Right	Thru	Left	Peds	Right	Thru	Left	Peds	Right	Thru	Left	Peds	
07:00	0	63	1	0	0	0	0	0	0	25	1	0	0	0	0	0	90
07:15	2	90	0	0	0	0	0	0	0	33	0	0	0	0	0	0	125
07:30	7	83	0	0	0	0	0	0	0	50	0	0	0	0	1	0	141
07:45	4	122	0	0	0	0	0	0	0	59	1	0	0	0	1	0	187
Total	13	358	1	0	0	0	0	0	0	167	2	0	0	0	2	0	543
08:00	3	125	0	0	0	0	0	0	0	45	2	0	0	0	0	0	175
08:15	1	160	0	0	0	0	0	0	0	57	2	0	0	0	0	0	220
08:30	4	141	0	0	0	0	0	0	0	59	1	0	0	0	2	0	207
08:45	0	143	0	0	0	0	0	0	0	54	1	0	0	0	0	0	198
Total	8	569	0	0	0	0	0	0	0	215	6	0	0	0	2	0	800
09:00	6	105	0	0	0	0	0	0	0	67	2	0	0	0	1	0	181
09:15	3	88	0	0	0	0	0	0	0	54	2	0	0	0	0	0	147
09:30	2	90	0	0	0	0	0	0	0	79	1	0	1	0	0	0	173
09:45	3	100	0	3	0	0	0	0	0	78	1	0	1	0	1	0	187
Total	14	383	0	3	0	0	0	0	0	278	6	0	2	0	2	0	688
10:00	3	86	0	14	0	0	0	0	0	65	2	2	0	0	1	0	173
10:15	2	79	3	0	0	0	0	0	0	76	1	0	4	0	2	0	167
10:30	0	79	0	0	0	0	0	0	1	84	2	0	1	0	0	0	167
10:45	1	67	0	0	0	0	0	0	0	92	1	0	1	0	1	0	163
Total	6	311	3	14	0	0	0	0	1	317	6	2	6	0	4	0	670
11:00	4	79	0	0	0	0	0	0	0	87	0	0	0	0	2	0	172
11:15	3	58	0	0	0	0	0	0	0	94	1	0	0	0	2	0	158
11:30	5	91	0	0	0	0	0	0	0	91	4	0	0	0	0	0	191
11:45	2	93	0	0	0	0	0	0	0	92	1	0	0	0	2	0	190
Total	14	321	0	0	0	0	0	0	0	364	6	0	0	0	6	0	711
12:00	4	80	0	0	0	0	0	0	0	97	2	0	0	0	2	0	185
12:15	1	92	0	2	0	0	0	0	0	97	0	0	0	0	0	0	192
12:30	3	67	0	12	0	0	0	0	0	97	2	10	1	0	2	0	194
12:45	1	88	0	9	0	0	0	0	0	104	2	14	2	0	0	2	222
Total	9	327	0	23	0	0	0	0	0	395	6	24	3	0	4	2	793
13:00	3	74	0	10	0	0	0	0	0	97	0	9	1	0	0	0	194
13:15	4	80	0	6	0	0	0	0	0	85	0	1	0	0	2	1	179
13:30	1	94	0	0	0	0	0	0	0	122	3	0	0	0	1	0	221
13:45	1	72	1	0	0	0	0	0	0	99	1	0	0	0	5	0	179
Total	9	320	1	16	0	0	0	0	0	403	4	10	1	0	8	1	773
14:00	0	83	0	0	0	0	0	0	0	115	1	0	1	0	2	0	202
14:15	3	70	0	0	0	0	0	0	0	94	1	0	1	0	1	0	170
14:30	4	78	0	0	0	0	0	0	0	110	0	0	0	0	2	0	194
14:45	2	54	0	0	0	0	0	0	0	89	2	0	0	0	0	0	147
Total	9	285	0	0	0	0	0	0	0	408	4	0	2	0	5	0	713
15:00	4	69	0	0	0	0	0	0	0	126	2	0	1	0	6	0	208
15:15	1	71	0	0	0	0	0	0	0	128	2	0	1	0	3	0	206
15:30	5	72	0	0	0	0	0	0	0	134	0	0	1	0	7	0	219
15:45	3	70	0	0	0	0	0	0	0	127	5	0	2	0	2	0	209
Total	13	282	0	0	0	0	0	0	0	515	9	0	5	0	18	0	842
16:00	1	69	0	0	0	0	0	0	0	133	1	0	1	0	2	0	207
16:15	1	93	0	0	0	0	0	0	0	123	0	0	2	0	1	0	220
16:30	4	63	0	0	0	0	0	0	0	115	0	0	3	0	4	0	189
16:45	0	68	0	0	0	0	0	0	0	121	0	0	0	0	2	0	191
Total	6	293	0	0	0	0	0	0	0	492	1	0	6	0	9	0	807

Short Counts

File Name : e. bay st @ gulgnard st

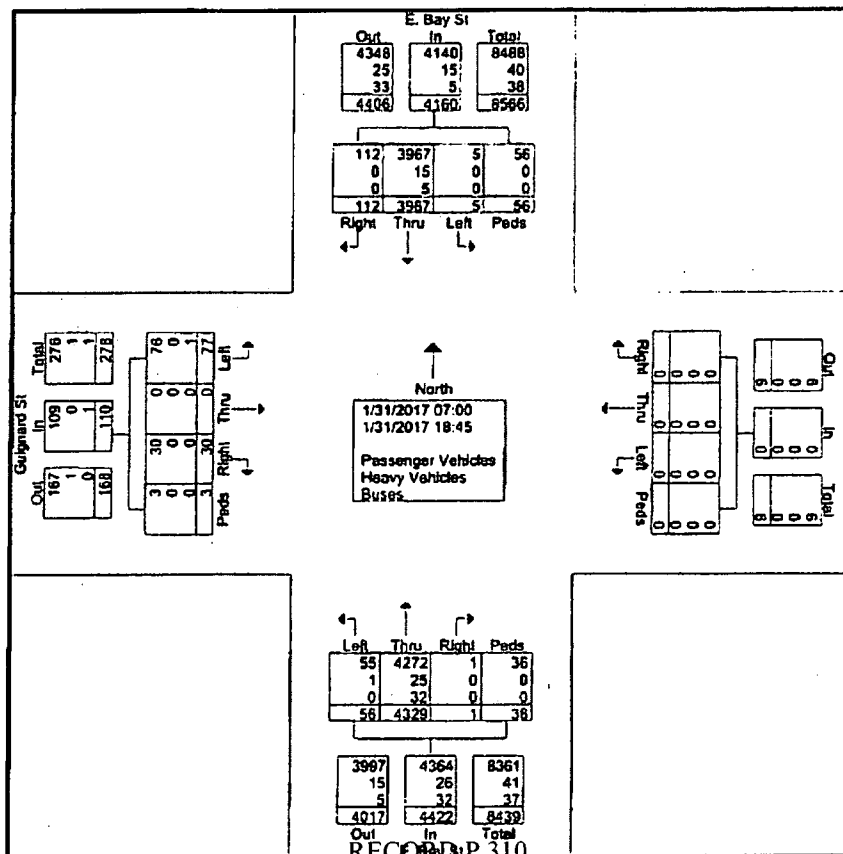
Site Code : 01312017

Start Date : 1/31/2017

Page No : 2

Groups Printed- Passenger Vehicles - Heavy Vehicles - Buses

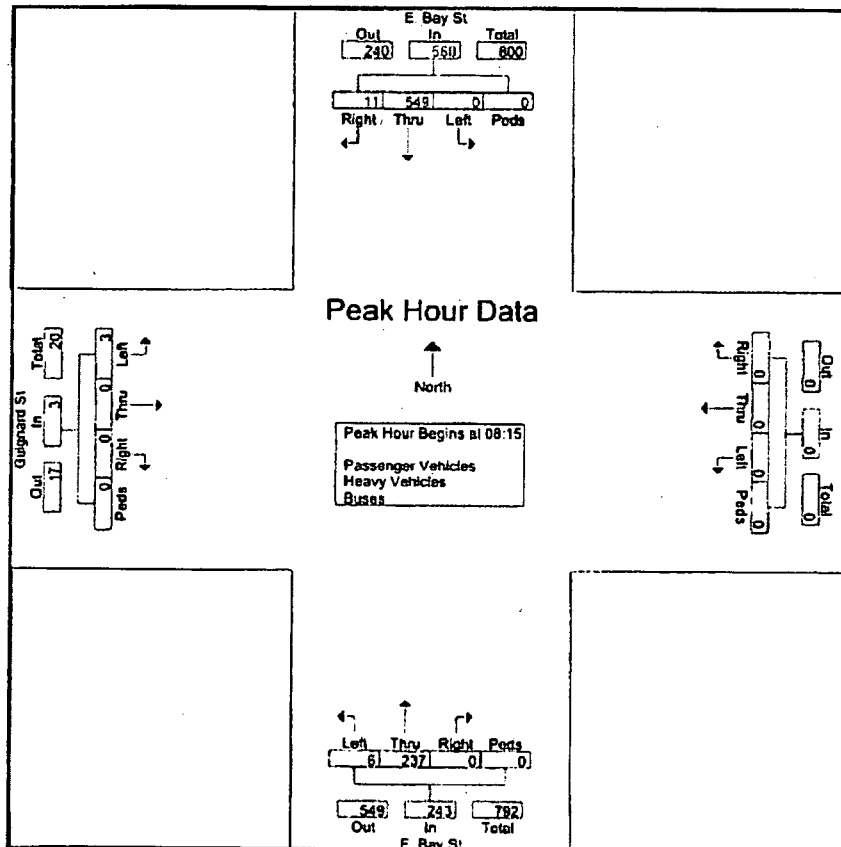
Start Time	E. Bay St From North				From East				E. Bay St From South				Gulgnard St From West				Int. Total
	Right	Thru	Left	Peds	Right	Thru	Left	Peds	Right	Thru	Left	Peds	Right	Thru	Left	Peds	
17:00	1	77	0	0	0	0	0	0	0	140	0	0	1	0	5	0	224
17:15	2	99	0	0	0	0	0	0	0	144	2	0	1	0	5	0	253
17:30	2	71	0	0	0	0	0	0	0	109	0	0	1	0	0	0	183
17:45	1	80	0	0	0	0	0	0	0	103	2	0	0	0	1	0	187
Total	6	327	0	0	0	0	0	0	0	496	4	0	3	0	11	0	847
18:00	2	49	0	0	0	0	0	0	0	75	0	0	0	0	3	0	129
18:15	1	55	0	0	0	0	0	0	0	53	0	0	0	0	0	0	109
18:30	0	69	0	0	0	0	0	0	0	89	2	0	2	0	1	0	163
18:45	2	38	0	0	0	0	0	0	0	62	0	0	0	0	2	0	104
Total	5	211	0	0	0	0	0	0	0	279	2	0	2	0	6	0	505
Grand Total	112	3987	5	56	0	0	0	0	1	4329	56	36	30	0	77	3	8692
Approch %	2.7	95.8	0.1	1.3	0	0	0	0	0	97.9	1.3	0.8	27.3	0	70	2.7	
Total %	1.3	45.9	0.1	0.6	0	0	0	0	0	49.8	0.6	0.4	0.3	0	0.9	0	
Passenger Vehicles	112	3967	5	56	0	0	0	0	1	4272	55	36	30	0	76	3	8613
% Passenger Vehicles	100	99.5	100	100	0	0	0	0	100	98.7	98.2	100	100	0	98.7	100	99.1
Heavy Vehicles	0	15	0	0	0	0	0	0	0	25	1	0	0	0	0	0	41
% Heavy Vehicles	0	0.4	0	0	0	0	0	0	0	0.6	1.8	0	0	0	0	0	0.5
Buses	0	5	0	0	0	0	0	0	0	32	0	0	0	0	1	0	38
% Buses	0	0.1	0	0	0	0	0	0	0	0.7	0	0	0	0	1.3	0	0.4



Short Counts

File Name : e. bay st @ guignard st
 Site Code : 01312017
 Start Date : 1/31/2017
 Page No : 3

	E. Bay St From North					From East					E. Bay St From South					Guignard St From West					
Start Time	Right	Thru	Left	Peds	App. Total	Right	Thru	Left	Peds	App. Total	Right	Thru	Left	Peds	App. Total	Right	Thru	Left	Peds	App. Total	Hour Total
Peak Hour Analysis From 07:00 to 09:45 - Peak 1 of 1																					
Peak Hour for Entire Intersection Begins at 08:15																					
08:15	1	160	0	0	161	0	0	0	0	0	0	57	2	0	59	0	0	0	0	0	220
08:30	4	141	0	0	145	0	0	0	0	0	0	59	1	0	60	0	0	2	0	2	207
08:45	0	143	0	0	143	0	0	0	0	0	0	54	1	0	55	0	0	0	0	0	198
09:00	6	105	0	0	111	0	0	0	0	0	0	67	2	0	69	0	0	1	0	1	181
Total Volume	11	549	0	0	560	0	0	0	0	0	0	237	6	0	243	0	0	3	0	3	806
% App. Total	2	98	0	0		0	0	0	0		0	97.5	2.5	0		0	0	100	0		
PIIF	.458	.858	.000	.000	.870	.000	.000	.000	.000	.000	.000	.884	.750	.000	.880	.000	.000	.375	.000	.375	.916

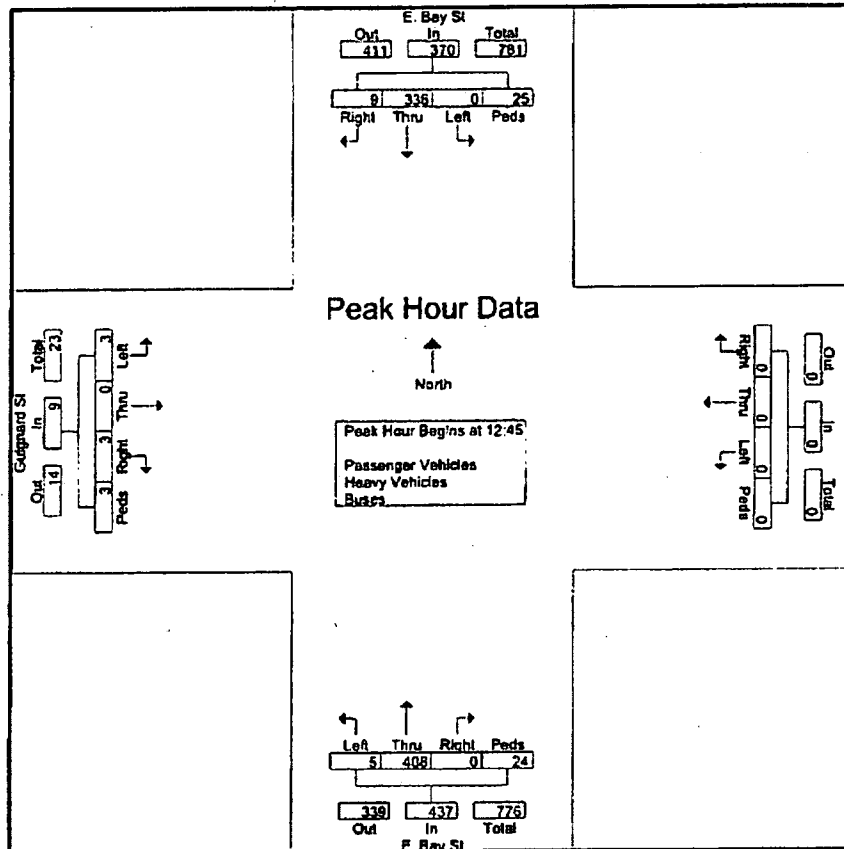


RECORD P.311

Short Counts

File Name : e. bay st @ guignard st
 Site Code : 01312017
 Start Date : 1/31/2017
 Page No : 4

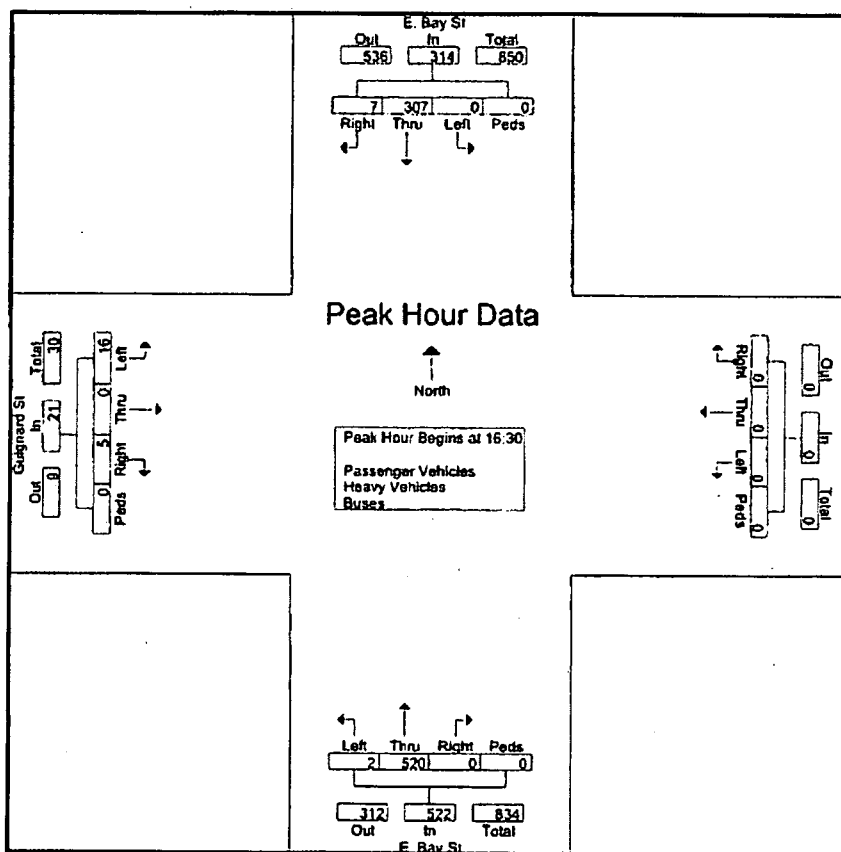
	E. Bay St From North					From East					E. Bay St From South					Guignard St From West					
Start Time	Rig ht	Thru	Left	Ped s	App. Total	Rig ht	Thru	Left	Ped s	App. Total	Right	Thru	Left	Peds	App. Total	Right	Thru	Left	Peds	App. Total	Incl. Total
Peak Hour Analysis From 10:00 to 13:45 - Peak 1 of 1																					
Peak Hour for Entire Intersection Begins at 12:45																					
12:45	1	88	0	9	98	0	0	0	0	0	0	104	2	14	120	2	0	0	2	4	222
13:00	3	74	0	10	87	0	0	0	0	0	0	97	0	9	106	1	0	0	0	1	194
13:15	4	80	0	6	90	0	0	0	0	0	0	85	0	1	86	0	0	2	1	3	179
13:30	1	94	0	0	95	0	0	0	0	0	0	122	3	0	125	0	0	1	0	1	221
Total Volume	9	336	0	25	370	0	0	0	0	0	0	408	5	24	437	3	0	3	3	9	816
% App. Total	2.4	90.8	0	6.8		0	0	0	0	0	0	93.4	1.1	5.5		33.3	0	33.3	33.3		
PHF	.563	.894	.000	.625	.944	.000	.000	.000	.000	.000	.000	.836	.417	.429	.874	.375	.000	.375	.375	.563	.919



Short Counts

File Name : e. bay st @ guignard st
 Site Code : 01312017
 Start Date : 1/31/2017
 Page No : 5

	E. Bay St From North					From East					E. Bay St From South					Guignard St From West					
Start Time	Rig ht	Thru	Left	Peds	App Total	Rig ht	Thru	Left	Peds	App Total	Right	Thru	Left	Peds	App Total	Right	Thru	Left	Peds	App Total	Enl. Total
Peak Hour Analysis From 14:00 to 18:45 - Peak 1 of 1																					
Peak Hour for Entire Intersection Begins at 16:30																					
16:30	4	63	0	0	67	0	0	0	0	0	0	115	0	0	115	3	0	4	0	7	189
16:45	0	68	0	0	68	0	0	0	0	0	0	121	0	0	121	0	0	2	0	2	191
17:00	1	77	0	0	78	0	0	0	0	0	0	140	0	0	140	1	0	5	0	6	224
17:15	2	99	0	0	101	0	0	0	0	0	0	144	2	0	146	1	0	5	0	6	253
Total Volume	7	307	0	0	314	0	0	0	0	0	0	520	2	0	522	5	0	16	0	21	857
% App. Total	2.2	97.8	0	0		0	0	0	0	0	0	94.6	0.4	0		23.8	0	76.2	0		
PIUF	.438	.775	.000	.000	.777	.000	.000	.000	.000	.000	.000	.903	.250	.000	.894	.317	.000	.800	.000	.750	.847



Turning Movement Count Report

Report Generated Using Turning Movement Count for Android by PortableStudies.com

Study Information

Count Name	Count Name	U = U Turn L = Left Turn T = Thru R = Right Turn P1 = Pedestrian Direction 1 P2 = Pedestrian Direction 2 Veh = Total Vehicles for Approach	Peak Hour Volume	
	East Bay St. at Market St.		623	
	Location		% Bank 1	% Bank 2
	Intersection Unknown, Charleston, SC		36.1%	3.3%
	Performed By		% Bank 3	% Bank 4
	Steven		0.6%	0.0%
Date	Pedestrian Volume			
Thursday, September 17, 2015	140			

Peak Hour Data

Time Period	Eastbound Approach							Westbound Approach							Northbound Approach							Southbound Approach							Total Vehicles	Total Pedestrians
	U	L	T	R	P1	P2	Veh	U	L	T	R	P1	P2	Veh	U	L	T	R	P1	P2	Veh	U	L	T	R	P1	P2	Veh		
8:00 AM	1	6	3	3	4	3	13	0	0	3	4	1	2	7	0	2	45	3	3	8	50	0	1	84	14	4	2	99	169	27
8:15 AM	3	10	8	5	0	1	26	0	1	2	2	2	0	5	0	0	42	8	1	5	47	0	1	110	8	4	3	119	197	18
8:30 AM	4	8	5	5	0	0	22	0	0	2	3	1	1	5	0	2	50	3	2	0	55	0	5	125	22	1	1	133	237	6
8:45 AM	0	13	8	8	4	5	24	2	2	5	2	1	1	11	0	5	58	8	1	8	70	0	2	94	16	87	8	115	220	91

Vehicle Movement Summary

Movement Details	Eastbound Approach							Westbound Approach							Northbound Approach							Southbound Approach							Entire Intersection	
	U	L	T	R	P1	P2	Veh	U	L	T	R	P1	P2	Veh	U	L	T	R	P1	P2	Veh	U	L	T	R	P1	P2	Veh	Vehicles	Pedestrians
Movement Volume	8	37	21	18	8	9	95	2	3	12	11	5	4	28	0	9	106	17	7	18	222	0	9	415	83	76	12	486	623	140
Pct	0.50	0.71	0.56	0.79	0.50	0.45	0.82	0.25	0.38	0.50	0.69	0.63	0.50	0.64	-	0.45	0.83	0.71	0.58	0.59	0.79	-	0.45	0.81	0.72	0.28	0.50	0.79	0.87	0.38
% Bank 1	100.0%	34.6%	76.2%	89.5%				100.0%	100.0%	58.3%	100.0%				0.0%	88.9%	95.9%	100.0%				0.0%	100.0%	98.8%	83.7%				Need a custom report? Contact: support@portablestudies.com	
% Bank 2	0.0%	5.4%	23.8%	10.5%				0.0%	0.0%	41.7%	0.0%				0.0%	11.1%	2.0%	0.0%				0.0%	0.0%	1.0%	6.3%					
% Bank 3	0.0%	0.0%	0.0%	0.0%				0.0%	0.0%	0.0%	0.0%				0.0%	0.0%	2.0%	0.0%				0.0%	0.0%	0.2%	0.0%					
% Bank 4	0.0%	0.0%	0.0%	0.0%				0.0%	0.0%	0.0%	0.0%				0.0%	0.0%	0.0%	0.0%				0.0%	0.0%	0.0%	0.0%					

Continued																								
Time Period	Eastbound Approach						Westbound Approach						Northbound Approach						Southbound Approach					
	U	L	T	R	P1	P2	U	L	T	R	P1	P2	U	L	T	R	P1	P2	U	L	T	R	P1	P2
7:00 AM	1	2	0	2	2	4	1	0	0	1	0	1	0	0	26	2	2	0	0	3	54	6	0	3
7:15 AM	0	3	2	1	3	1	0	0	5	1	9	2	0	1	23	2	1	2	0	0	82	6	1	0
7:30 AM	1	3	4	0	0	1	0	1	5	3	1	0	0	1	35	2	2	8	0	2	73	9	0	0
7:45 AM	0	7	3	3	3	1	0	2	3	3	1	0	0	0	54	5	1	2	0	1	101	11	0	2
8:00 AM	1	6	3	3	4	3	0	0	3	4	1	2	0	2	45	3	3	8	0	1	84	14	4	2
8:15 AM	3	10	8	5	0	1	0	1	2	2	2	0	0	0	42	5	1	5	0	1	110	8	4	3
8:30 AM	4	8	5	5	0	0	0	0	2	3	1	1	0	2	50	3	2	0	0	5	128	22	1	1
8:45 AM	0	13	5	6	4	5	2	2	5	2	1	1	0	5	59	6	1	6	0	2	94	19	67	6

RECORD P.315

Turning Movement Count Report

Report Generated Using Turning Movement Count for Android by PortableStudies.com

Study Information

Study Summary	Count Name	U = U Turn L = Left Turn T = Thru R = Right Turn P1 = Pedestrian Direction 1 P2 = Pedestrian Direction 2 Veh = Total Vehicles for Approach	Peak Hour Volume	
	Eau Bay St. at Main St.		1133	
	Location		% Bank 1	% Bank 2
	Intersection Unknown, Charleston SC		97.2%	2.2%
	Performed By		% Bank 3	% Bank 4
	Seven		0.5%	0.1%
Date	Pedestrians Volume			
Thursday, September 17, 2015	769			

Peak Hour Data

Time Period	Eastbound Approach							Westbound Approach							Northbound Approach							Southbound Approach							Total Vehicles	Total Pedestrians
	U	L	T	R	P1	P2	Veh	U	L	T	R	P1	P2	Veh	U	L	T	R	P1	P2	Veh	U	L	T	R	P1	P2	Veh		
4:15 PM	2	22	11	11	35	42	48	1	6	13	12	4	8	32	0	5	105	4	14	10	114	0	2	87	19	34	34	108	300	181
4:30 PM	10	22	10	8	53	37	50	6	3	15	11	10	11	35	0	6	113	9	16	22	130	0	3	89	17	23	42	79	294	214
4:45 PM	2	17	8	4	24	30	31	0	5	13	13	18	1	31	0	5	107	2	6	7	112	0	6	82	9	38	34	97	271	150
5:00 PM	3	23	10	11	57	36	47	1	4	7	3	8	18	15	1	3	130	3	16	20	137	0	1	83	5	30	32	68	266	216

Vehicle Movement Summary

Movement Details	Eastbound Approach							Westbound Approach							Northbound Approach							Southbound Approach							Entire Intersection	
	U	L	T	R	P1	P2	Veh	U	L	T	R	P1	P2	Veh	U	L	T	R	P1	P2	Veh	U	L	T	R	P1	P2	Veh	Vehicles	Pedestrians
Movement Volume	17	84	39	34	169	145	174	8	18	48	39	38	39	113	1	18	455	18	52	58	493	0	12	291	50	125	142	353	1133	769
P/F	0.43	0.91	0.89	0.77	0.74	0.88	0.87	0.23	0.75	0.80	0.75	0.53	0.51	0.81	0.25	0.50	0.68	0.50	0.81	0.67	0.90	-	0.50	0.84	0.66	0.82	0.85	0.82	0.94	0.99
% Bank 1	94.1%	100.0%	94.9%	100.0%				100.0%	100.0%	83.3%	97.4%				0.0%	94.7%	98.0%	94.4%				0.0%	100.0%	97.8%	96.0%				Need a custom report? Contact: support@portablestudies.com	
% Bank 2	0.0%	0.0%	0.0%	0.0%				0.0%	0.0%	14.6%	2.6%				0.0%	5.3%	1.3%	5.6%				0.0%	0.0%	2.1%	2.0%					
% Bank 3	0.0%	0.0%	5.1%	0.0%				0.0%	0.0%	2.1%	0.0%				0.0%	0.0%	0.4%	0.0%				0.0%	0.0%	0.3%	0.0%					
% Bank 4	0.0%	0.0%	0.0%	0.0%				0.0%	0.0%	0.0%	0.0%				100.0%	0.0%	0.0%	0.0%				0.0%	0.0%	0.0%	0.0%					

Combined																								
Time Period	Eastbound Approach						Westbound Approach						Northbound Approach						Southbound Approach					
	U	L	T	R	P1	P2	U	L	T	R	P1	P2	U	L	T	R	P1	P2	U	L	T	R	P1	P2
4:00 PM	0	23	9	7	50	43	2	2	9	6	4	16	0	5	94	2	7	35	0	5	67	12	23	14
4:15 PM	2	22	11	11	35	42	1	6	13	12	4	8	0	5	105	4	14	10	0	2	67	19	34	34
4:30 PM	10	22	10	8	53	37	6	3	15	11	10	11	0	8	113	9	16	22	0	3	59	17	23	42
4:45 PM	2	17	8	4	24	30	0	5	13	13	18	1	0	3	107	2	6	7	0	6	82	9	38	34
5:00 PM	3	23	10	11	57	36	1	4	7	3	6	19	1	3	130	3	16	20	0	1	63	5	30	32
5:15 PM	1	16	4	9	53	34	3	5	11	9	16	8	0	10	112	6	15	7	0	4	71	18	25	25
5:30 PM	2	11	10	18	40	27	1	1	11	10	12	6	1	6	108	5	6	5	0	5	69	13	17	40
5:45 PM	3	20	9	14	31	20	5	6	6	6	22	14	0	10	86	6	23	15	0	4	90	17	22	39

RECORD P.317

**E. Bay Street at Gulgnard Street
AM PEAK HOUR**

PM PEAK HOUR

4,70 204 5 18 47

INTERSECTION VOLUME DEVELOPMENT

Market Street at East Bay Street AM PEAK HOUR

Description	East Bay Street Northbound				East Bay Street Southbound				S. Market Street Eastbound				N. Market Street Westbound			
	U-Turn	Left	Through	Right	U-Turn	Left	Through	Right	U-Turn	Left	Through	Right	U-Turn	Left	Through	Right
Existing 2015 AM Volumes	0	9	196	17	0	9	416	63	8	37	21	19	2	3	12	11
Heavy Vehicle %	4.1%				1.8%				10.6%				17.9%			
Peak Hour Factor	0.79				0.79				0.82				0.64			
Annual Growth Rate	1.0%	1.0%	1.0%	1.0%	1.0%	1.0%	1.0%	1.0%	1.0%	1.0%	1.0%	1.0%	1.0%	1.0%	1.0%	1.0%
Growth Factor	1.030	1.030	1.030	1.030	1.030	1.030	1.030	1.030	1.030	1.030	1.030	1.030	1.030	1.030	1.030	1.030
Approved Development Traffic	2				11				5				2			
2018 Background Traffic	0	11	202	18	0	9	429	76	8	43	24	22	2	3	14	11
New Project Trips																
Trip Distribution IN	25%				25%				1							
Trip Distribution OUT																
Pass-by Project Trips																
Trip Distribution IN																
Trip Distribution OUT																
New Trips	0	0	7	0	0	0	5	0	0	0	0	0	0	0	0	0
Pass-By Trips	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Project Trips	0	0	7	0	0	0	5	0	0	0	0	0	0	0	0	0
2018 Redout Total	0	11	209	18	0	9	434	76	8	43	24	22	2	3	14	11

PM PEAK HOUR

Description	East Bay Street Northbound				East Bay Street Southbound				S. Market Street Eastbound				N. Market Street Westbound			
	U-Turn	Left	Through	Right	U-Turn	Left	Through	Right	U-Turn	Left	Through	Right	U-Turn	Left	Through	Right
Existing 2015 PM Volumes	0	19	455	18	0	12	291	50	17	84	39	34	8	18	48	39
Heavy Vehicle %	2.2%				2.3%				1.2%				8.0%			
Peak Hour Factor	0.90				0.82				0.87				0.81			
Annual Growth Rate	1.0%	1.0%	1.0%	1.0%	1.0%	1.0%	1.0%	1.0%	1.0%	1.0%	1.0%	1.0%	1.0%	1.0%	1.0%	1.0%
Growth Factor	1.030	1.030	1.030	1.030	1.030	1.030	1.030	1.030	1.030	1.030	1.030	1.030	1.030	1.030	1.030	1.030
Approved Development Traffic	2				14				5				2			
2018 Background Traffic	0	22	469	19	0	12	300	66	18	92	41	37	8	19	51	40
New Project Trips																
Trip Distribution IN	25%				25%											
Trip Distribution OUT																
Pass-by Project Trips																
Trip Distribution IN																
Trip Distribution OUT																
New Trips	0	0	7	0	0	0	10	0	0	0	0	0	0	0	0	0
Pass-By Trips	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Project Trips	0	0	7	0	0	0	10	0	0	0	0	0	0	0	0	0
2018 Redout Total	0	22	476	19	0	12	310	66	18	92	41	37	8	19	51	40

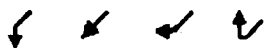
HCM Signalized Intersection Capacity Analysis
12: S. Market St. & East Bay St & N. Market St.

Existing AM
6/2/2017

	NBL	NBT	NBR2	SBL	SBT	SBR	NEL2	NEL	NET	NER	NER2	SWL2
Movement												
Lane Configurations	9	196	17	9	416	63	8	37	0	21	19	2
Volume (vph)	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900
Ideal Flow (vphpl)		7.5			7.5	7.5			6.0		6.0	
Total Lost time (s)		0.95			1.00	1.00			1.00		1.00	
Lane Util. Factor		1.00			1.00	0.94			1.00		0.91	
Frpb, ped/bikes		1.00			1.00	1.00			1.00		1.00	
Flpb, ped/bikes		0.99			1.00	0.85			0.95		0.85	
Frt		1.00			1.00	1.00			0.97		1.00	
Flt Protected		3482			1861	1482			1592		1328	
Satd. Flow (prot)		0.91			0.99	1.00			0.97		1.00	
Flt Permitted		3173			1845	1482			1592		1328	
Satd. Flow (perm)		0.79	0.79	0.79	0.79	0.79	0.82	0.82	0.82	0.82	0.82	0.64
Peak-hour factor, PHF	11	248	22	11	527	80	10	45	0	26	23	3
Adj. Flow (vph)	0	81	0	0	0	0	0	0	0	0	21	0
RTOR Reduction (vph)	0	200	0	0	538	80	0	0	81	0	2	0
Lane Group Flow (vph)		9	9		17			88			26	
Confl. Peds. (#/hr)	2%	2%	2%	2%	2%	2%	2%	11%	2%	11%	11%	2%
Heavy Vehicles (%)	Perm	NA		Perm	NA	Perm	Split	Split	NA		Perm	Split
Turn Type	2		6		6		4	4	4		4	8
Protected Phases												
Permitted Phases												
Actuated Green, G (s)		32.8			32.8	32.8			8.7		8.7	
Effective Green, g (s)		32.8			32.8	32.8			8.7		8.7	
Actuated g/C Ratio		0.36			0.36	0.36			0.10		0.10	
Clearance Time (s)		7.5			7.5	7.5			6.0		6.0	
Vehicle Extension (s)		3.0			3.0	3.0			3.0		3.0	
Lane Grp Cap (vph)		1156			672	540			153		128	
v/s Ratio Prot									0.05			
v/s Ratio Perm		0.06			0.29	0.05					0.00	
v/c Ratio		0.17			0.80	0.15			0.53		0.02	
Uniform Delay, d1		19.4			25.7	19.2			38.7		36.8	
Progression Factor		1.00			1.00	1.00			1.00		1.00	
Incremental Delay, d2		0.3			9.7	0.6			3.3		0.1	
Delay (s)		19.7			35.4	19.8			42.0		36.8	
Level of Service		B			D	B			D		D	
Approach Delay (s)		19.7			33.4				40.8			
Approach LOS		B			C				D			
Intersection Summary												
HCM 2000 Control Delay		30.0										
HCM 2000 Volume to Capacity ratio		0.46										
Actuated Cycle Length (s)		90.0							21.0			
Intersection Capacity Utilization		74.6%							D			
Analysis Period (min)		15										
c Critical Lane Group												

HCM Signalized Intersection Capacity Analysis
12: S. Market St. & East Bay St & N. Market St.

Existing AM
6/2/2017



Movement	SWL	SWT	SWR	SWR2
Lane Configurations		+		
Volume (vph)	3	0	12	11
Ideal Flow (vphpl)	1900	1900	1900	1900
Total Lost time (s)		7.5		
Lane Util. Factor		1.00		
Flpb, ped/bikes		0.88		
Flpb, ped/bikes		1.00		
Frt		0.89		
Flt Protected		0.99		
Satd. Flow (prot)		1442		
Flt Permitted		0.99		
Satd. Flow (perm)		1442		
Peak-hour factor, PHF	0.64	0.64	0.64	0.64
Adj. Flow (vph)	5	0	19	17
RTOR Reduction (vph)	0	31	0	0
Lane Group Flow (vph)	0	13	0	0
Confl. Peds. (#/hr)	26			88
Heavy Vehicles (%)	2%	2%	2%	2%
Turn Type	Split	NA		
Protected Phases	8	8		
Permitted Phases				
Actuated Green, G (s)		27.5		
Effective Green, g (s)		27.5		
Actuated g/C Ratio		0.31		
Clearance Time (s)		7.5		
Vehicle Extension (s)		3.0		
Lane Grp Cap (vph)		440		
v/s Ratio Prot		0.01		
v/s Ratio Perm				
v/c Ratio		0.03		
Uniform Delay, d1		21.9		
Progression Factor		1.00		
Incremental Delay, d2		0.1		
Delay (s)		22.0		
Level of Service		C		
Approach Delay (s)		22.0		
Approach LOS		C		
Intersection Summary				

Intersection	
Int Delay, s/veh	0.2

Movement	EBL	EBR	NBL	NBT	SBT	SBR
Vol, veh/h	3	0	6	237	549	11
Conflicting Peds, #/hr	0	0	0	0	0	0
Sign Control	Stop	Stop	Free	Free	Free	Free
RT Channelized	-	None	-	None	-	None
Storage Length	0	-	-	-	-	-
Veh in Median Storage, #	0	-	-	0	0	-
Grade, %	0	-	-	0	0	-
Peak Hour Factor	38	38	88	88	87	87
Heavy Vehicles, %	1	1	1	1	1	1
Mvmt Flow	8	0	7	269	631	13

Major/Minor	Minor2	Major1	Major2
Conflicting Flow All	785	637	644
Stage 1	637	-	-
Stage 2	148	-	-
Critical Hdwy	6.615	6.215	4.11
Critical Hdwy Stg 1	5.415	-	-
Critical Hdwy Stg 2	5.815	-	-
Follow-up Hdwy	3.5095	3.3095	2.209
Pot Cap-1 Maneuver	347	479	946
Stage 1	528	-	-
Stage 2	867	-	-
Platoon blocked, %	-	-	-
Mov Cap-1 Maneuver	344	479	946
Mov Cap-2 Maneuver	344	-	-
Stage 1	528	-	-
Stage 2	859	-	-

Approach	EB	NB	SB
HCM Control Delay, s	15.7	0.2	0
HCM LOS	C	-	-

Minor Lane/Major Mvmt	NBL	NBT	EBL	EBT	SBT	SBR
Capacity (veh/h)	946	-	344	-	-	-
HCM Lane V/C Ratio	0.007	-	0.023	-	-	-
HCM Control Delay (s)	8.8	0	15.7	-	-	-
HCM Lane LOS	A	A	C	-	-	-
HCM 95th %ile Q(veh)	0	-	0.1	-	-	-

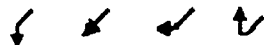
HCM Signalized Intersection Capacity Analysis
12: S. Market St. & East Bay St & N. Market St.

Existing PM
6/2/2017

	←	↑	↖	↗	↓	↘	↙	↕	↗	↘	↖	↕
Movement	NBL	NBT	NBR2	SBL	SBT	SBR	NEL2	NEL	NET	NER	NER2	SWL2
Lane Configurations		LT			LT	RT			LT		RT	
Volume (vph)	19	455	18	12	291	50	17	84	0	39	34	8
Ideal Flow (vphpl)	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900
Total Lost time (s)		7.5			7.5	7.5			6.0		6.0	
Lane Util. Factor		0.95			1.00	1.00			1.00		1.00	
Frpb, ped/bikes		1.00			1.00	0.43			1.00		0.89	
Flpb, ped/bikes		0.99			1.00	1.00			1.00		1.00	
Frt		0.99			1.00	0.85			0.96		0.85	
Flt Protected		1.00			1.00	1.00			0.97		1.00	
Satd. Flow (prot)		3428			1855	673			1740		996	
Flt Permitted		0.93			0.97	1.00			0.97		1.00	
Satd. Flow (perm)		3190			1797	873			1740		996	
Peak-hour factor, PHF	0.90	0.90	0.90	0.82	0.82	0.82	0.87	0.87	0.87	0.87	0.87	0.81
Adj. Flow (vph)	21	506	20	15	355	61	20	97	0	45	39	10
RTOR Reduction (vph)	0	79	0	0	0	0	0	0	0	0	33	0
Lane Group Flow (vph)	0	468	0	0	370	61	0	0	162	0	6	0
Confl. Peds. (#/hr)	314		77	77		314		267			111	
Heavy Vehicles (%)	3%	3%	3%	2%	2%	2%	1%	1%	1%	1%	1%	7%
Parking (#/hr)											0	0
Turn Type	Perm	NA		Perm	NA	Perm	Split	Split	NA		Perm	Split
Protected Phases		2			6		4	4	4			8
Permitted Phases	2			6		6					4	
Actuated Green, G (s)		34.0			34.0	34.0			13.4		13.4	
Effective Green, g (s)		34.0			34.0	34.0			13.4		13.4	
Actuated g/C Ratio		0.38			0.38	0.38			0.15		0.15	
Clearance Time (s)		7.5			7.5	7.5			6.0		6.0	
Vehicle Extension (s)		3.0			3.0	3.0			3.0		3.0	
Lane Grp Cap (vph)		1205			678	254			259		148	
v/s Ratio Prot									0.09			
v/s Ratio Perm		0.15			0.21	0.09					0.01	
v/c Ratio		0.39			0.55	0.24			0.63		0.04	
Uniform Delay, d1		20.4			21.9	19.2			35.9		32.8	
Progression Factor		1.00			1.00	1.00			1.00		1.00	
Incremental Delay, d2		0.9			3.1	2.2			4.7		0.1	
Delay (s)		21.4			25.1	21.4			40.6		32.9	
Level of Service		C			C	C			D		C	
Approach Delay (s)		21.4			24.6				39.1			
Approach LOS		C			C				D			
Intersection Summary												
HCM 2000 Control Delay		25.8			HCM 2000 Level of Service				C			
HCM 2000 Volume to Capacity ratio		0.44										
Actuated Cycle Length (s)		90.0			Sum of lost time (s)				21.0			
Intersection Capacity Utilization		80.4%			ICU Level of Service				D			
Analysis Period (min)		15										
c Critical Lane Group												

HCM Signalized Intersection Capacity Analysis
12: S. Market St. & East Bay St & N. Market St.

Existing PM
6/2/2017



Movement	SWL	SWT	SWR	SWR2
Lane Configurations	⬅ ➡			
Volume (vph)	18	0	48	39
Ideal Flow (vphpl)	1900	1900	1900	1900
Total Lost time (s)	7.5			
Lane Util. Factor	1.00			
Frbp, ped/bikes	0.75			
Frbp, ped/bikes	1.00			
Frt	0.90			
Flt Protected	0.99			
Satd. Flow (prot)	1173			
Flt Permitted	0.99			
Satd. Flow (perm)	1173			
Peak-hour factor, PHF	0.81	0.81	0.81	0.81
Adj. Flow (vph)	22	0	59	48
RTOR Reduction (vph)	0	97	0	0
Lane Group Flow (vph)	0	42	0	0
Confl. Peds. (#/hr)	111			267
Heavy Vehicles (%)	7%	7%	7%	7%
Parking (#/hr)	0		0	0
Turn Type	Split	NA		
Protected Phases	8	8		
Permitted Phases				
Actuated Green, G (s)	21.6			
Effective Green, g (s)	21.6			
Actuated g/C Ratio	0.24			
Clearance Time (s)	7.5			
Vehicle Extension (s)	3.0			
Lane Grp Cap (vph)	281			
v/s Ratio Prot	0.04			
v/s Ratio Perm				
v/c Ratio	0.15			
Uniform Delay, d1	27.0			
Progression Factor	1.00			
Incremental Delay, d2	1.1			
Delay (s)	28.1			
Level of Service	C			
Approach Delay (s)	28.1			
Approach LOS	C			

Intersection Summary

Intersection

Int Delay, s/veh 0.4

Movement	EBL	EBR	NBL	NBT	SBT	SBR
Vol, veh/h	16	5	2	520	307	7
Conflicting Peds, #/hr	0	0	0	0	0	0
Sign Control	Stop	Stop	Free	Free	Free	Free
RT Channelized	-	None	-	None	-	None
Storage Length	0	-	-	-	-	-
Veh in Median Storage, #	0	-	-	0	0	-
Grade, %	0	-	-	0	0	-
Peak Hour Factor	75	75	89	89	78	78
Heavy Vehicles, %	1	1	1	1	1	1
Mvmt Flow	21	7	2	584	394	9

Major/Minor	Minor2	Major1	Major2
Conflicting Flow Adj	695	398	403
Stage 1	398	-	-
Stage 2	297	-	-
Critical Hdwy	6.615	6.215	4.11
Critical Hdwy Stg 1	5.415	-	-
Critical Hdwy Stg 2	5.815	-	-
Follow-up Hdwy	3.5095	3.3095	2.209
Pot Cap-1 Maneuver	394	653	1161
Stage 1	680	-	-
Stage 2	731	-	-
Platoon blocked, %	-	-	-
Mov Cap-1 Maneuver	393	653	1161
Mov Cap-2 Maneuver	393	-	-
Stage 1	680	-	-
Stage 2	728	-	-

Approach	EB	NB	SB
HCM Control Delay, s	13.9	0	0
HCM LOS	B		

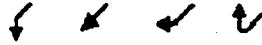
Minor Lane/Major Mvmt	NBL	NBT	EBL1	SBT	SBR
Capacity (veh/h)	1161	-	434	-	-
HCM Lane V/C Ratio	0.002	-	0.065	-	-
HCM Control Delay (s)	8.1	0	13.9	-	-
HCM Lane LOS	A	A	B	-	-
HCM 95th %tile Q(veh)	0	-	0.2	-	-

2018 No Build AM

09/29/2015 Baseline

HCM Signalized Intersection Capacity Analysis
12: S. Market St. & East Bay St & N. Market St.

2018 No Build AM



Movement	SWL	SWT	SWR	SWR2
Lane Configurations	↕			
Traffic Volume (vph)	3	0	14	11
Future Volume (vph)	3	0	14	11
Ideal Flow (vphpl)	1900	1900	1900	1900
Total Lost time (s)	7.5			
Lane Util. Factor	1.00			
Frpb, ped/bikes	0.88			
Flpb, ped/bikes	1.00			
Frt	0.89			
Flt Protected	0.99			
Satd. Flow (prot)	1437			
Flt Permitted	0.99			
Satd. Flow (perm)	1437			
Peak-hour factor, PHF	0.64	0.64	0.64	0.64
Adj. Flow (vph)	5	0	22	17
RTOR Reduction (vph)	0	33	0	0
Lane Group Flow (vph)	0	14	0	0
Confl. Peds. (#/hr)	26			88
Heavy Vehicles (%)	2%	2%	2%	2%
Turn Type	Split	NA		
Protected Phases	8	8		
Permitted Phases				
Actuated Green, G (s)	27.0			
Effective Green, g (s)	27.0			
Actuated g/C Ratio	0.30			
Clearance Time (s)	7.5			
Vehicle Extension (s)	3.0			
Lane Grp Cap (vph)	431			
v/s Ratio Prot	c0.01			
v/s Ratio Perm				
v/c Ratio	0.03			
Uniform Delay, d1	22.3			
Progression Factor	1.00			
Incremental Delay, d2	0.1			
Delay (s)	22.4			
Level of Service	C			
Approach Delay (s)	22.4			
Approach LOS	C			
Intersection Summary				

HCM 2010 TWSC
16: East Bay St & Guignard St.

2018 No Build AM

Intersection						
Int Delay, s/veh 0.2						
Movement	EBL	EBR	NBL	NBT	SBT	SBR
Lane Configurations	Y		↑↑		P	
Traffic Vol, veh/h	3	0	6	244	565	11
Future Vol, veh/h	3	0	6	244	565	11
Conflicting Peds, #/hr	0	0	0	0	0	0
Sign Control	Stop	Stop	Free	Free	Free	Free
RT Channelized		None		None		None
Storage Length	0	-	-	-	-	-
Veh in Median Storage, #	0	-	-	0	0	-
Grade, %	0	-	-	0	0	-
Peak Hour Factor	38	38	88	88	87	87
Heavy Vehicles, %	1	1	1	1	1	1
Mvmt Flow	8	0	7	277	649	13

Major/Minor	Minor2		Major1		Major2	
Conflicting Flow All	808	656	662	0	-	0
Stage 1	656	-	-	-	-	-
Stage 2	152	-	-	-	-	-
Critical Hdwy	7.315	6.215	4.115	-	-	-
Critical Hdwy Stg 1	6.115	-	-	-	-	-
Critical Hdwy Stg 2	6.515	-	-	-	-	-
Follow-up Hdwy	3.5095	3.3095	2.2095	-	-	-
Pol Cap-1 Maneuver	287	467	930	-	-	-
Stage 1	456	-	-	-	-	-
Stage 2	838	-	-	-	-	-
Platoon blocked, %	-	-	-	-	-	-
Mov Cap-1 Maneuver	285	467	930	-	-	-
Mov Cap-2 Maneuver	285	-	-	-	-	-
Stage 1	452	-	-	-	-	-
Stage 2	830	-	-	-	-	-

Approach	EB		NB		SB	
HCM Control Delay, s	18		0.2		0	
HCM LOS	C					

Minor Lane/Major Mvmt	NBL	NBT	EBL	EBT	SBT	SBR
Capacity, (veh/h)	930	-	285	-	-	-
HCM Lane V/C Ratio	0.007	-	0.028	-	-	-
HCM Control Delay, (s)	8.9	0	18	-	-	-
HCM Lane LOS	A	A	C	-	-	-
HCM 95th %ile Q(veh)	0	-	0.1	-	-	-

HCM Signalized Intersection Capacity Analysis
12: S. Market St. & East Bay St & N. Market St.

2018 No Build PM

	←	↑	↖	↗	↓	↘	↙	↕	↗	↘	↙	↕
Movement	NBL	NBT	NBR2	SBL	SBT	SBR	NEL2	NEL	NET	NER	NER2	SWL2
Lane Configurations		↖↗			↖	↗			↖		↗	
Traffic Volume (vph)	22	469	19	12	300	66	18	92	0	41	37	8
Future Volume (vph)	22	469	19	12	300	66	18	92	0	41	37	8
Ideal Flow (vphpl)	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900
Total Lost time (s)		7.5			7.5	7.5			6.0		6.0	
Lane Util. Factor		0.95			1.00	1.00			1.00		1.00	
Frpb, ped/bikes		1.00			1.00	0.43			1.00		0.69	
Flpb, ped/bikes		0.99			1.00	1.00			1.00		1.00	
Frt		0.99			1.00	0.85			0.96		0.85	
Flt Protected		1.00			1.00	1.00			0.96		1.00	
Satd. Flow (prot)		3424			1856	673			1741		996	
Flt Permitted		0.92			0.97	1.00			0.96		1.00	
Satd. Flow (perm)		3170			1797	673			1741		996	
Peak-hour factor, PHF	0.90	0.90	0.90	0.82	0.82	0.82	0.87	0.87	0.87	0.87	0.87	0.81
Adj. Flow (vph)	24	521	21	15	366	80	21	106	0	47	43	10
RTOR Reduction (vph)	0	79	0	0	0	0	0	0	0	0	36	0
Lane Group Flow (vph)	0	487	0	0	381	80	0	0	174	0	7	0
Confl. Peds. (#/hr)	314		77	77		314		267			111	
Heavy Vehicles (%)	3%	3%	3%	2%	2%	2%	1%	1%	1%	1%	1%	7%
Parking (#/hr)											0	0
Turn Type	Perm	NA		Perm	NA	Perm	Split	Split	NA		Perm	Split
Protected Phases		2			6		4	4	4			8
Permitted Phases	2			6		6					4	
Actuated Green, G (s)		34.0			34.0	34.0			13.9		13.9	
Effective Green, g (s)		34.0			34.0	34.0			13.9		13.9	
Actuated g/C Ratio		0.38			0.38	0.38			0.15		0.15	
Clearance Time (s)		7.5			7.5	7.5			6.0		6.0	
Vehicle Extension (s)		3.0			3.0	3.0			3.0		3.0	
Lane Grp Cap (vph)		1197			678	254			268		153	
v/s Ratio Prot									0.10			
v/s Ratio Perm		0.15			0.21	0.12					0.01	
v/c Ratio		0.41			0.56	0.31			0.65		0.04	
Uniform Delay, d1		20.6			22.1	19.8			35.8		32.4	
Progression Factor		1.00			1.00	1.00			1.00		1.00	
Incremental Delay, d2		1.0			3.3	3.2			5.3		0.1	
Delay (s)		21.6			25.5	23.0			41.1		32.5	
Level of Service		C			C	C			D		C	
Approach Delay (s)		21.6			25.0				39.4			
Approach LOS		C			C				D			
Intersection Summary												
HCM 2000 Control Delay		26.3			HCM 2000 Level of Service				C			
HCM 2000 Volume to Capacity ratio		0.46										
Actuated Cycle Length (s)		90.0			Sum of lost time (s)				21.0			
Intersection Capacity Utilization		80.7%			ICU Level of Service				D			
Analysis Period (min)		15										
c Critical Lane Group												

09/29/2015 Baseline

Synchro 8 Report
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HCM Signalized Intersection Capacity Analysis
12: S. Market St. & East Bay St & N. Market St.

2018 No Build PM



Movement	SWL	SWT	SWR	SWR2
Lane Configurations	↔			
Traffic Volume (vph)	19	0	51	40
Future Volume (vph)	19	0	51	40
Ideal Flow (vphpl)	1900	1900	1900	1900
Total Lost time (s)	7.5			
Lane Util. Factor	1.00			
Frpb, ped/bikes	0.74			
Flpb, ped/bikes	1.00			
Frt	0.90			
Flt Protected	0.99			
Satd. Flow (prot)	1171			
Flt Permitted	0.99			
Satd. Flow (perm)	1171			
Peak-hour factor, PHF	0.81	0.81	0.81	0.81
Adj. Flow (vph)	23	0	63	48
RTOR Reduction (vph)	0	97	0	0
Lane Group Flow (vph)	0	48	0	0
Confl. Peds. (#/hr)	111			267
Heavy Vehicles (%)	7%	7%	7%	7%
Parking (#/hr)	0		0	0
Turn Type	Split	NA		
Protected Phases	8	8		
Permitted Phases				
Actuated Green, G (s)	21.1			
Effective Green, g (s)	21.1			
Actuated g/C Ratio	0.23			
Clearance Time (s)	7.5			
Vehicle Extension (s)	3.0			
Lane Grp Cap (vph)	274			
v/s Ratio Prot	0.04			
v/s Ratio Perm				
v/c Ratio	0.17			
Uniform Delay, d1	27.5			
Progression Factor	1.00			
Incremental Delay, d2	1.4			
Delay (s)	28.9			
Level of Service	C			
Approach Delay (s)	28.9			
Approach LOS	C			
Intersection Summary				

HCM 2010 TWSC
16: East Bay St & Guignard St.

2018 No Build PM

Intersection

Int Delay, s/veh 0.4

Movement	EBL	EBR	NBL	NBT	SBT	SBR
Lane Configurations	Y		↑↑		↑	
Traffic Vol, veh/h	16	5	2	525	310	7
Future Vol, veh/h	16	5	2	525	310	7
Conflicting Peds, #/hr	0	0	0	0	0	0
Sign Control	Stop	Stop	Free	Free	Free	Free
RT Channelized	-	None	-	None	-	None
Storage Length	0	-	-	-	-	-
Veh in Median Storage, #	0	-	-	0	0	-
Grade, %	0	-	-	0	0	-
Peak Hour Factor	75	75	89	89	78	78
Heavy Vehicles, %	1	1	1	1	1	1
Mvmt Flow	21	7	2	590	397	9

Major/Minor	Minor2		Major1		Major2	
Conflicting Flow All	701	402	406	0	-	0
Stage 1	402	-	-	-	-	-
Stage 2	299	-	-	-	-	-
Critical Hdwy	6.615	6.215	4.115	-	-	-
Critical Hdwy Stg 1	5.415	-	-	-	-	-
Critical Hdwy Stg 2	5.815	-	-	-	-	-
Follow-up Hdwy	3.5095	3.3095	2.2095	-	-	-
Pot Cap-1 Maneuver	391	650	1157	-	-	-
Stage 1	677	-	-	-	-	-
Stage 2	730	-	-	-	-	-
Platoon blocked, %	-	-	-	-	-	-
Mov Cap-1 Maneuver	390	650	1157	-	-	-
Mov Cap-2 Maneuver	390	-	-	-	-	-
Stage 1	677	-	-	-	-	-
Stage 2	728	-	-	-	-	-

Approach	EB	NB	SB
HCM Control Delay, s	13.9	0	0
HCM LOS	B		

Minor Lane/Major Mvmt	NBL	NBT	EBLn1	SBT	SBR
Capacity (veh/h)	1157	-	431	-	-
HCM Lane V/C Ratio	0.002	-	0.065	-	-
HCM Control Delay (s)	8.1	0	13.9	-	-
HCM Lane LOS	A	A	B	-	-
HCM 95th %ile Q(veh)	0	-	0.2	-	-

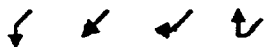
HCM Signalized Intersection Capacity Analysis
12: S. Market St. & East Bay St & N. Market St.

2018 Build AM

	↖	↑	↗	↘	↓	↙	↕	↗	↘	↖	↕	↙
Movement	NBL	NBT	NBR2	SBL	SBT	SBR	NEL2	NEL	NET	NER	NER2	SWL
Lane Configurations		↑↑			↑	↑			↑		↑	
Traffic Volume (vph)	11	209	18	9	434	76	8	43	0	24	22	2
Future Volume (vph)	11	209	18	9	434	76	8	43	0	24	22	2
Ideal Flow (vphpl)	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900
Total Lost time (s)		7.5			7.5	7.5			6.0		6.0	
Lane Util. Factor		0.95			1.00	1.00			1.00		1.00	
Frpb, ped/bikes		1.00			1.00	0.94			1.00		0.91	
Flpb, ped/bikes		1.00			1.00	1.00			1.00		1.00	
Frt		0.99			1.00	0.85			0.95		0.85	
Flt Protected		1.00			1.00	1.00			0.97		1.00	
Satd. Flow (prot)		3482			1861	1482			1590		1328	
Flt Permitted		0.86			0.99	1.00			0.97		1.00	
Satd. Flow (perm)		3006			1844	1482			1590		1328	
Peak-hour factor, PHF	0.79	0.79	0.79	0.79	0.79	0.79	0.82	0.82	0.82	0.82	0.82	0.64
Adj. Flow (vph)	14	265	23	11	549	96	10	52	0	29	27	3
RTOR Reduction (vph)	0	81	0	0	0	0	0	0	0	0	24	0
Lane Group Flow (vph)	0	221	0	0	560	96	0	0	91	0	3	0
Confl. Peds. (#/hr)			9	9		17		88			26	
Heavy Vehicles (%)	2%	2%	2%	2%	2%	2%	2%	11%	2%	11%	11%	2%
Turn Type	Perm	NA		Perm	NA	Perm	Split	Split	NA		Perm	Split
Protected Phases		2			6		4	4	4			8
Permitted Phases	2			6		6					4	
Actuated Green, G (s)		32.8			32.8	32.8			9.2		9.2	
Effective Green, g (s)		32.8			32.8	32.8			9.2		9.2	
Actuated g/C Ratio		0.36			0.36	0.36			0.10		0.10	
Clearance Time (s)		7.5			7.5	7.5			6.0		6.0	
Vehicle Extension (s)		3.0			3.0	3.0			3.0		3.0	
Lane Grp Cap (vph)		1095			672	540			162		135	
v/s Ratio Prot									0.06			
v/s Ratio Perm		0.07			0.30	0.06					0.00	
v/c Ratio		0.20			0.83	0.18			0.56		0.02	
Uniform Delay, d1		19.8			26.1	19.4			38.5		36.3	
Progression Factor		1.00			1.00	1.00			1.00		1.00	
Incremental Delay, d2		0.4			11.6	0.7			4.4		0.1	
Delay (s)		20.0			37.7	20.2			42.9		36.4	
Level of Service		C			D	C			D		D	
Approach Delay (s)		20.0			35.1				41.4			
Approach LOS		C			D				D			
Intersection Summary												
HCM 2000 Control Delay		31.2			HCM 2000 Level of Service				C			
HCM 2000 Volume to Capacity ratio		0.48										
Actuated Cycle Length (s)		90.0			Sum of lost time (s)				21.0			
Intersection Capacity Utilization		74.6%			ICU Level of Service				D			
Analysis Period (min)		15										
c Critical Lane Group												

HCM Signalized Intersection Capacity Analysis
12: S. Market St. & East Bay St & N. Market St.

2018 Build AM



Movement	SWL	SWT	SWR	SWR2
Lane Configurations		+		
Traffic Volume (vph)	3	0	14	11
Future Volume (vph)	3	0	14	11
Ideal Flow (vphpl)	1900	1900	1900	1900
Total Lost time (s)		7.5		
Lane Util. Factor		1.00		
Frpb, ped/bikes		0.88		
Flpb, ped/bikes		1.00		
Frt		0.89		
Flt Protected		0.99		
Satd. Flow (prot)		1437		
Flt Permitted		0.99		
Satd. Flow (perm)		1437		
Peak-hour factor, PHF	0.64	0.64	0.64	0.64
Adj. Flow (vph)	5	0	22	17
RTOR Reduction (vph)	0	33	0	0
Lane Group Flow (vph)	0	14	0	0
Confl. Peds. (#/hr)	26			88
Heavy Vehicles (%)	2%	2%	2%	2%
Turn Type	Split	NA		
Protected Phases	8	8		
Permitted Phases				
Actuated Green, G (s)		27.0		
Effective Green, g (s)		27.0		
Actuated g/C Ratio		0.30		
Clearance Time (s)		7.5		
Vehicle Extension (s)		3.0		
Lane Grp Cap (vph)		431		
v/s Ratio Prot		c0.01		
v/s Ratio Perm				
v/c Ratio		0.03		
Uniform Delay, d1		22.3		
Progression Factor		1.00		
Incremental Delay, d2		0.1		
Delay (s)		22.4		
Level of Service		C		
Approach Delay (s)		22.4		
Approach LOS		C		
Intersection Summary				

HCM 2010 TWSC
16: East Bay St & Guignard St.

2018 Build AM

Intersection:							
Int Delay, s/veh		1.1					
Movement	EBL	EBR	NBL	NBT	SBT	SBR	
Lane Configurations	Y			↑↑	↑		
Traffic Vol, veh/h	18	5	13	244	585	32	
Future Vol, veh/h	16	5	13	244	565	32	
Conflicting Peds, #/hr	0	0	0	0	0	0	
Sign Control	Stop	Stop	Free	Free	Free	Free	
RT Channelized		None		None		None	
Storage Length	0						
Veh In Median Storage, #	0			0	0		
Grade, %	0			0	0		
Peak Hour Factor	38	38	88	88	87	87	
Heavy Vehicles, %	1	1	1	1	1	1	
Mvmt Flow	42	13	15	277	649	37	

Major/Minor	Minor2	Major1	Major2	
Conflicting Flow All	836	668	686	0
Stage 1	668			
Stage 2	168			
Critical Hdwy	6.615	6.215	4.115	
Critical Hdwy Stg 1	5.415			
Critical Hdwy Stg 2	5.815			
Follow-up Hdwy	3.5095	3.3095	2.2095	
Pot Cap-1 Maneuver	323	459	911	
Stage 1	511			
Stage 2	848			
Platoon blocked, %				
Mov Cap-1 Maneuver	317	459	911	
Mov Cap-2 Maneuver	317			
Stage 1	511			
Stage 2	832			

Approach	EB	NB	SB	
HCM Control Delay, s	17.5	0.6	0	
HCM LOS	C			

Minor Lane/Major Mvmt	NBL	NBT/EBLn1	SBT	SBR	
Capacity, (veh/h)	911	- 342			
HCM Lane V/C Ratio	0.016	- 0.162			
HCM Control Delay, (s)	9	0.1 17.5			
HCM Lane LOS	A	A C			
HCM 95th %ile Q(veh)	0	- 0.6			

HCM Signalized Intersection Capacity Analysis
12: S. Market St. & East Bay St & N. Market St.

2018 Build PM

	←	↑	↖	↗	↓	↘	↙	↕	↗	↘	↖	↗
Movement	NBL	NBT	NBR2	SBL	SBT	SBR	NEL2	NEL	NET	NER	NER2	SWL
Lane Configurations		↑↑			↑	↑			↑		↑	
Traffic Volume (vph)	22	476	19	12	310	66	18	92	0	41	37	8
Future Volume (vph)	22	476	19	12	310	66	18	92	0	41	37	8
Ideal Flow (vphpl)	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900
Total Lost time (s)		7.5			7.5	7.5			6.0		6.0	
Lane Util. Factor		0.95			1.00	1.00			1.00		1.00	
Frpb, ped/bikes		1.00			1.00	0.43			1.00		0.69	
Flpb, ped/bikes		0.99			1.00	1.00			1.00		1.00	
Frt		0.99			1.00	0.85			0.96		0.85	
Flt Protected		1.00			1.00	1.00			0.96		1.00	
Satd. Flow (prot)		3427			1856	673			1741		996	
Flt Permitted		0.92			0.97	1.00			0.96		1.00	
Satd. Flow (perm)		3171			1798	673			1741		996	
Peak-hour factor, PHF	0.90	0.90	0.90	0.82	0.82	0.82	0.87	0.87	0.87	0.87	0.87	0.81
Adj. Flow (vph)	24	529	21	15	378	80	21	106	0	47	43	10
RTOR Reduction (vph)	0	79	0	0	0	0	0	0	0	0	36	0
Lane Group Flow (vph)	0	495	0	0	393	80	0	0	174	0	7	0
Confl. Peds. (#/hr)	314		77	77		314		267			111	
Heavy Vehicles (%)	3%	3%	3%	2%	2%	2%	1%	1%	1%	1%	1%	7%
Parking (#/hr)											0	0
Turn Type	Perm	NA		Perm	NA	Perm	Split	Split	NA		Perm	Split
Protected Phases		2			6		4	4	4			8
Permitted Phases	2			6		6					4	
Actuated Green, G (s)		34.0			34.0	34.0			13.9		13.9	
Effective Green, g (s)		34.0			34.0	34.0			13.9		13.9	
Actuated g/C Ratio		0.38			0.38	0.38			0.15		0.15	
Clearance Time (s)		7.5			7.5	7.5			6.0		6.0	
Vehicle Extension (s)		3.0			3.0	3.0			3.0		3.0	
Lane Grp Cap (vph)		1197			679	254			268		153	
v/s Ratio Prot									0.10			
v/s Ratio Perm		0.16			0.22	0.12					0.01	
v/c Ratio		0.41			0.58	0.31			0.65		0.04	
Uniform Delay, d1		20.6			22.3	19.8			35.8		32.4	
Progression Factor		1.00			1.00	1.00			1.00		1.00	
Incremental Delay, d2		1.1			3.6	3.2			5.3		0.1	
Delay (s)		21.7			25.9	23.0			41.1		32.5	
Level of Service		C			C	C			D		C	
Approach Delay (s)		21.7			25.4				39.4			
Approach LOS		C			C				D			
Intersection Summary												
HCM 2000 Control Delay		26.4			HCM 2000 Level of Service				C			
HCM 2000 Volume to Capacity ratio		0.47										
Actuated Cycle Length (s)		90.0			Sum of lost time (s)				21.0			
Intersection Capacity Utilization		80.7%			ICU Level of Service				D			
Analysis Period (min)		15										
c Critical Lane Group												

09/29/2015 Baseline

Synchro 8 Report
Page 1

RECORD P.335

HCM Signalized Intersection Capacity Analysis
12: S. Market St. & East Bay St & N. Market St.

2018 Build PM



Movement	SWL	SWT	SWR	SWR2
Lane Configurations	↔			
Traffic Volume (vph)	19	0	51	40
Future Volume (vph)	19	0	51	40
Ideal Flow (vphpl)	1900	1900	1900	1900
Total Lost time (s)	7.5			
Lane Util. Factor	1.00			
Frpb, ped/bikes	0.74			
Flpb, ped/bikes	1.00			
Frt	0.90			
Flt Protected	0.99			
Satd. Flow (prot)	1171			
Flt Permitted	0.99			
Satd. Flow (perm)	1171			
Peak-hour factor, PHF	0.81	0.81	0.81	0.81
Adj. Flow (vph)	23	0	63	49
RTOR/Reduction (vph)	0	97	0	0
Lane Group Flow (vph)	0	48	0	0
Conf. Peds. (#/hr)	111			267
Heavy Vehicles (%)	7%	7%	7%	7%
Parking (#/hr)	0		0	0
Turn Type	Split	NA		
Protected Phases	8	8		
Permitted Phases				
Actuated Green, G (s)	21.1			
Effective Green, g (s)	21.1			
Actuated g/C Ratio	0.23			
Clearance Time (s)	7.5			
Vehicle Extension (s)	3.0			
Lane Grp Cap (vph)	274			
v/s Ratio Prot	c0.04			
v/s Ratio Perm				
v/c Ratio	0.17			
Uniform Delay, d1	27.5			
Progression Factor	1.00			
Incremental Delay, d2	1.4			
Delay (s)	28.9			
Level of Service	C			
Approach Delay (s)	28.9			
Approach LOS	C			
Intersection Summary				

HCM 2010 TWSC
16: East Bay St & Guignard St.

2018 Build PM

Intersection						
Int Delay, s/veh	1.1					
Movement	EBL	EBR	NBL	NBT	SBT	SBR
Lane Configurations	Y			↑↑	↑	
Traffic Vol, veh/h	39	13	9	530	324	28
Future Vol, veh/h	39	13	9	530	324	28
Conflicting Peds, #/hr	0	0	0	0	0	0
Sign Control	Stop	Stop	Free	Free	Free	Free
RT Channelized	-	None	-	None	-	None
Storage Length	0	-	-	-	-	-
Veh in Median Storage, #	0	-	-	0	0	-
Grade, %	0	-	-	0	0	-
Peak Hour Factor	75	75	89	89	78	78
Heavy Vehicles, %	1	1	1	1	1	1
Mvmt Flow	52	17	10	596	415	36

Major/Minor	Minor2		Major1		Major2	
Conflicting Flow All	751	433	451	0	-	0
Stage 1	433	-	-	-	-	-
Stage 2	318	-	-	-	-	-
Critical Hdwy	6.615	6.215	4.115	-	-	-
Critical Hdwy Stg 1	5.415	-	-	-	-	-
Critical Hdwy Stg 2	5.815	-	-	-	-	-
Follow-up Hdwy	3.5095	3.3095	2.2095	-	-	-
Pot Cap-1 Maneuver	364	624	1114	-	-	-
Stage 1	656	-	-	-	-	-
Stage 2	714	-	-	-	-	-
Platoon blocked, %	-	-	-	-	-	-
Mov Cap-1 Maneuver	359	624	1114	-	-	-
Mov Cap-2 Maneuver	359	-	-	-	-	-
Stage 1	656	-	-	-	-	-
Stage 2	705	-	-	-	-	-

Approach	EB	NB	SB
HCM Control Delay, s	15.8	0.2	0
HCM LOS	C		

Minor Lane/Major Mvmt	NBL	NBT	EBLn1	SBT	SBR
Capacity (veh/h)	1114	-	402	-	-
HCM Lane V/C Ratio	0.009	-	0.172	-	-
HCM Control Delay (s)	8.3	0.1	15.8	-	-
HCM Lane LOS	A	A	C	-	-
HCM 95th %tile Q(veh)	0	-	0.6	-	-

Ashby, Pennye

From: Gerry Schauer [REDACTED]
Sent: Tuesday, July 18, 2017 10:28 AM
To: Batchelder, Lee; Ashby, Pennye; Robert J. Gebhardt; Angela Black
Subject: Opposition to BZAZ submissions
Attachments: Opposition 36 N Market BZA 7 2017 .pdf; BZAZ Opposition 332 King 7 17 2017 v2.pdf

Lee and Pennye,

Good morning.
Please put a copy of this opposition on record from HANA regarding 36 N Market and 322 King Street.
Both are on the BZAZ agenda this evening.

Thank you,

Gerry Schauer
HANA President
[REDACTED]

RECORD P.338

The
Historic Ansonborough Neighborhood Association



Charleston, S.C. 29401

July 17, 2017

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.

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 and **another 150 hotel rooms** in the application process.

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 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. 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

RECORD P.339

Batchelder, Lee

From: Ty Hanlan [REDACTED]
Sent: Tuesday, July 18, 2017 2:15 PM
To: Batchelder, Lee
Cc: Alice Paylor
Subject: Hotel Proposal, 5 Guignard, 36 North Market

Mr. Batchelder: please inform the Board of my strong opposition to the hotel proposal for the above properties which is scheduled for this evening. Our attorney Alice Paylor will be present tonight to convey some of our specific concerns and objections. One need not look further than the traffic study to ascertain the disingenuous attempt by the applicant to understate the full impact of this proposal. I am sure that Ms Paylor will raise this issue and others for the Board's consideration.

RECORD P.340

BOARD OF ZONING APPEALS - ZONING

City of Charleston

Tuesday, July 18, 2017

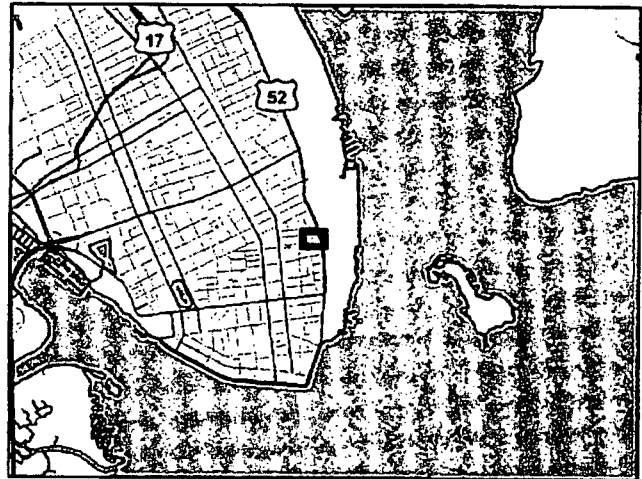
ITEM A 1

36 NORTH MARKET STREET,

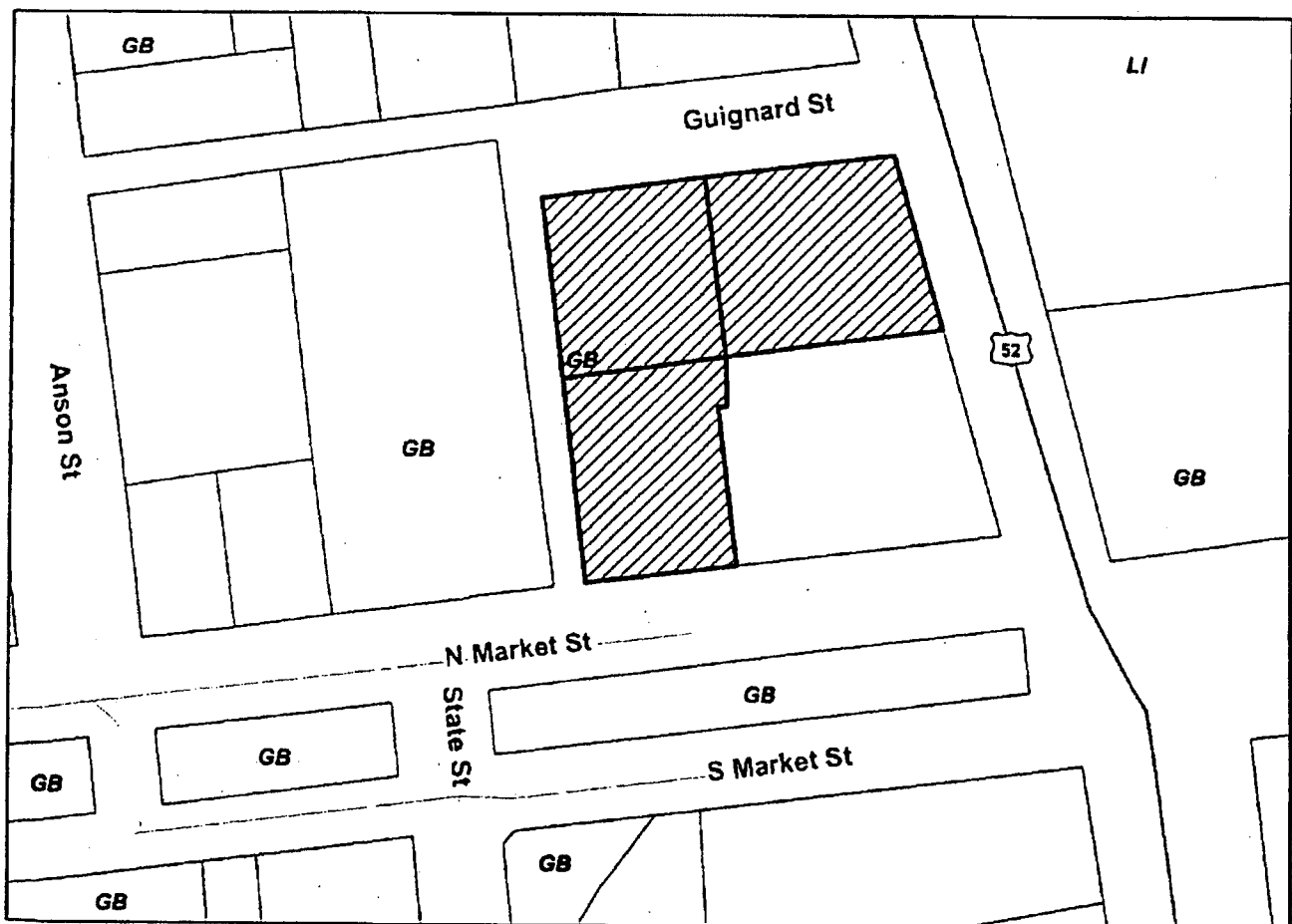
5 GUIGNARD STREET AND

235 EAST BAY STREET

TMS# 4580503041, 138 & 036



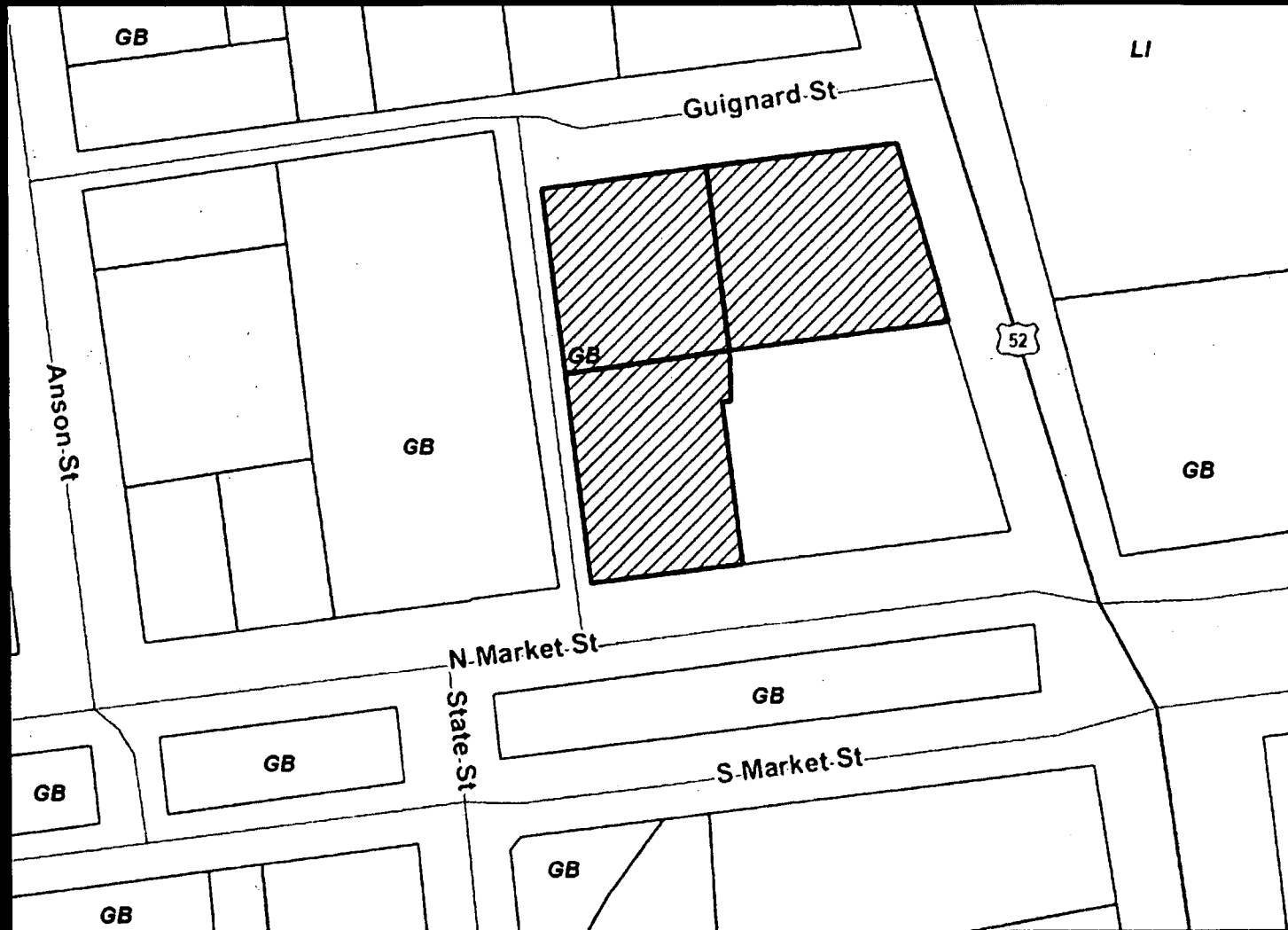
ZONED GB-A



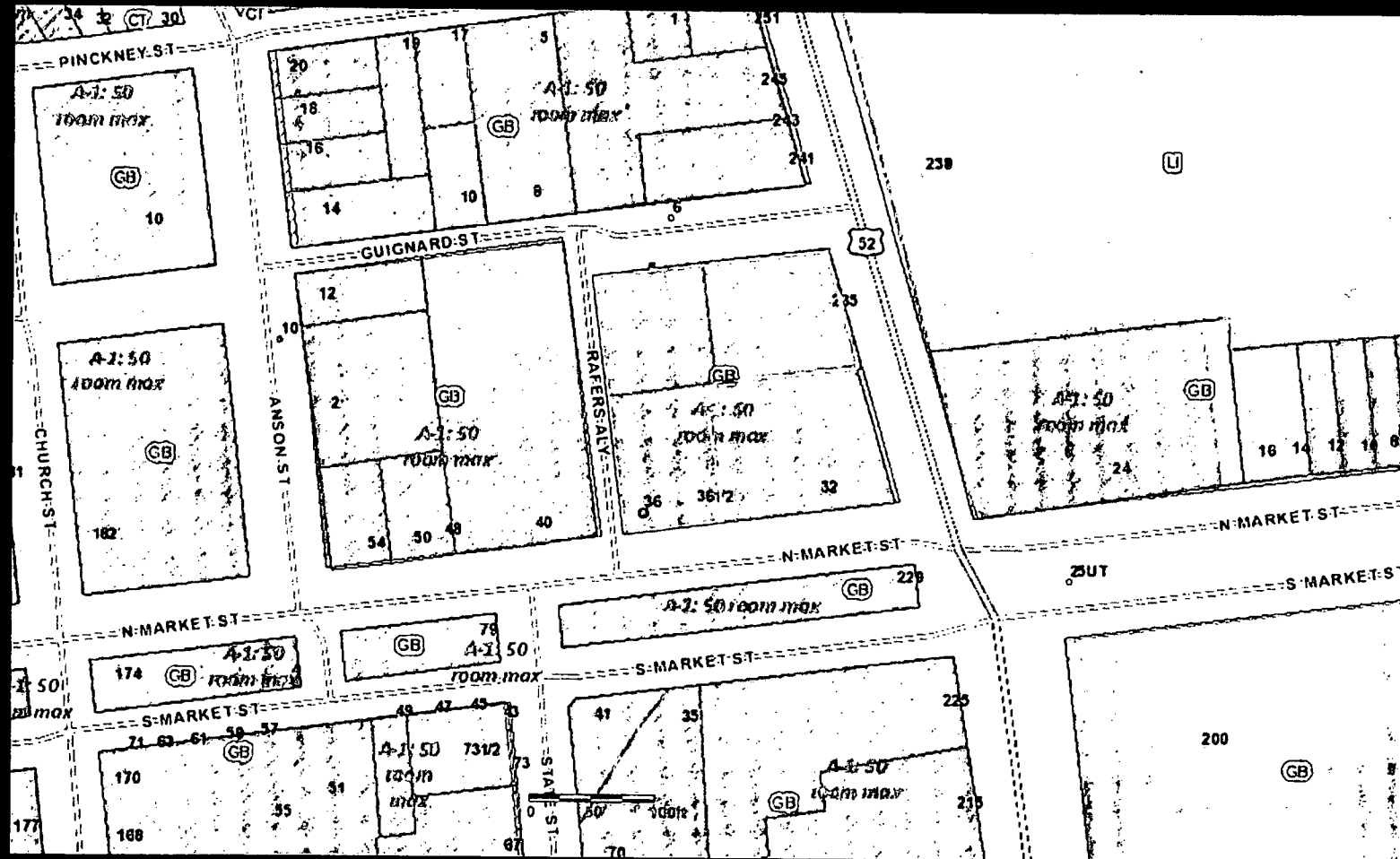
 Subject Property

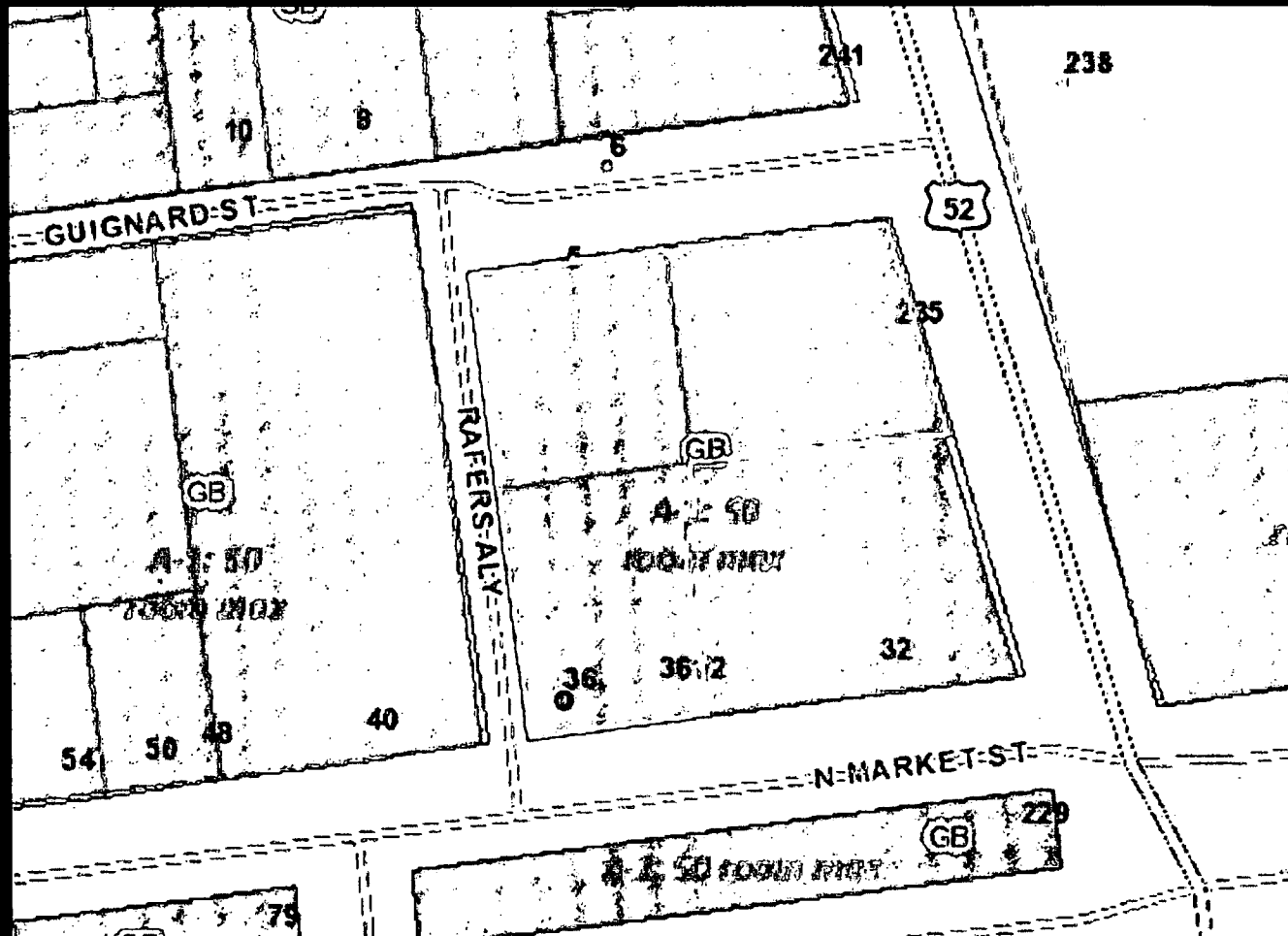
RECORD P.341

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



RECORD P.342

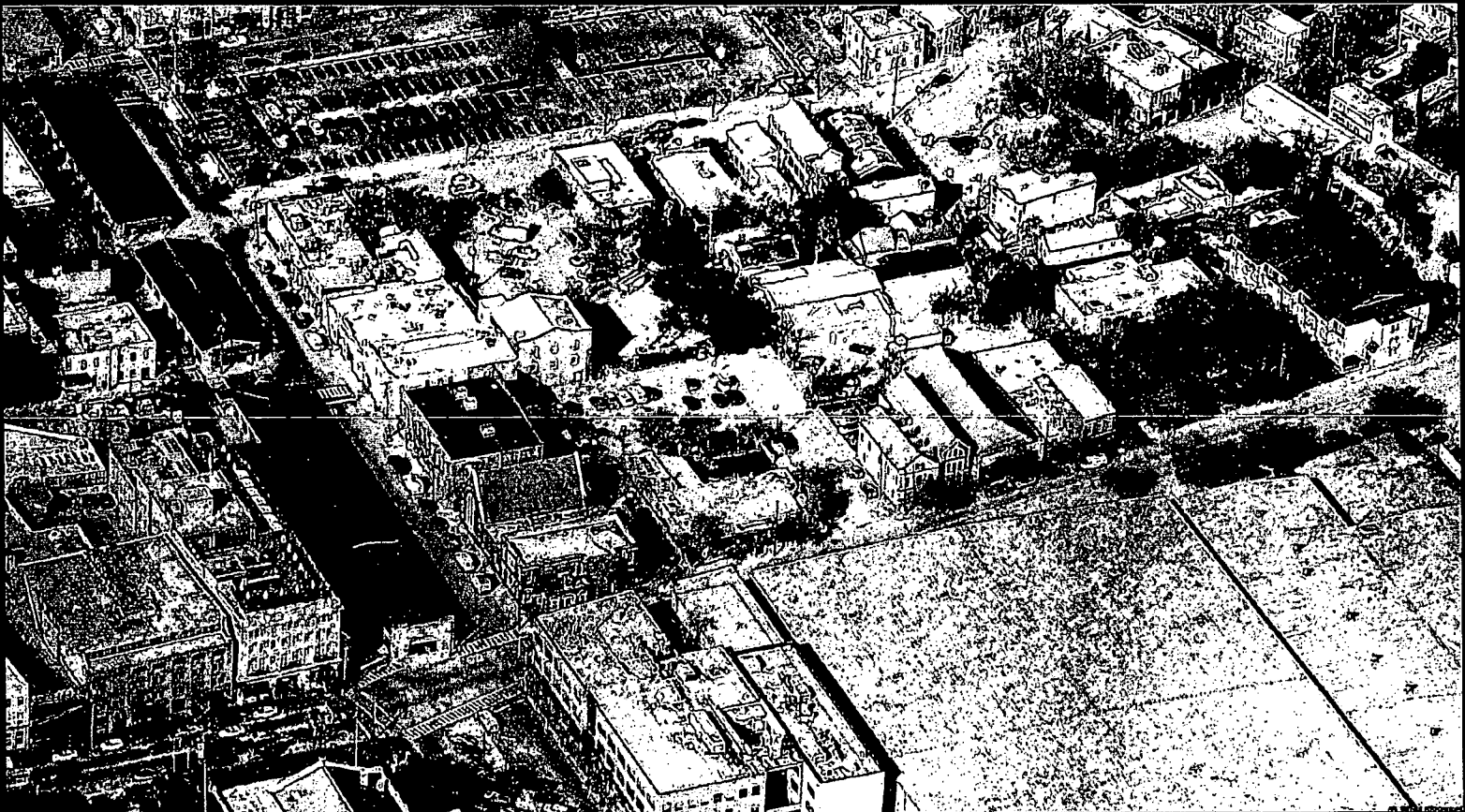




RECORD P.344



RECORD P.345



RECORD P.346



RECORD P.347



RECORD P.348



EAST BAY STREET HOTEL

235 EAST BAY STREET, CHARLESTON, SC

BZAZ SUBMITTAL- 06.19.2017

BELLO GARRIS
ARCHITECTS

EAST BAY STREET HOTEL
BZA SPECIAL EXCEPTION REQUEST 06.19.2017

G1

RECORD P.349

435 of 644

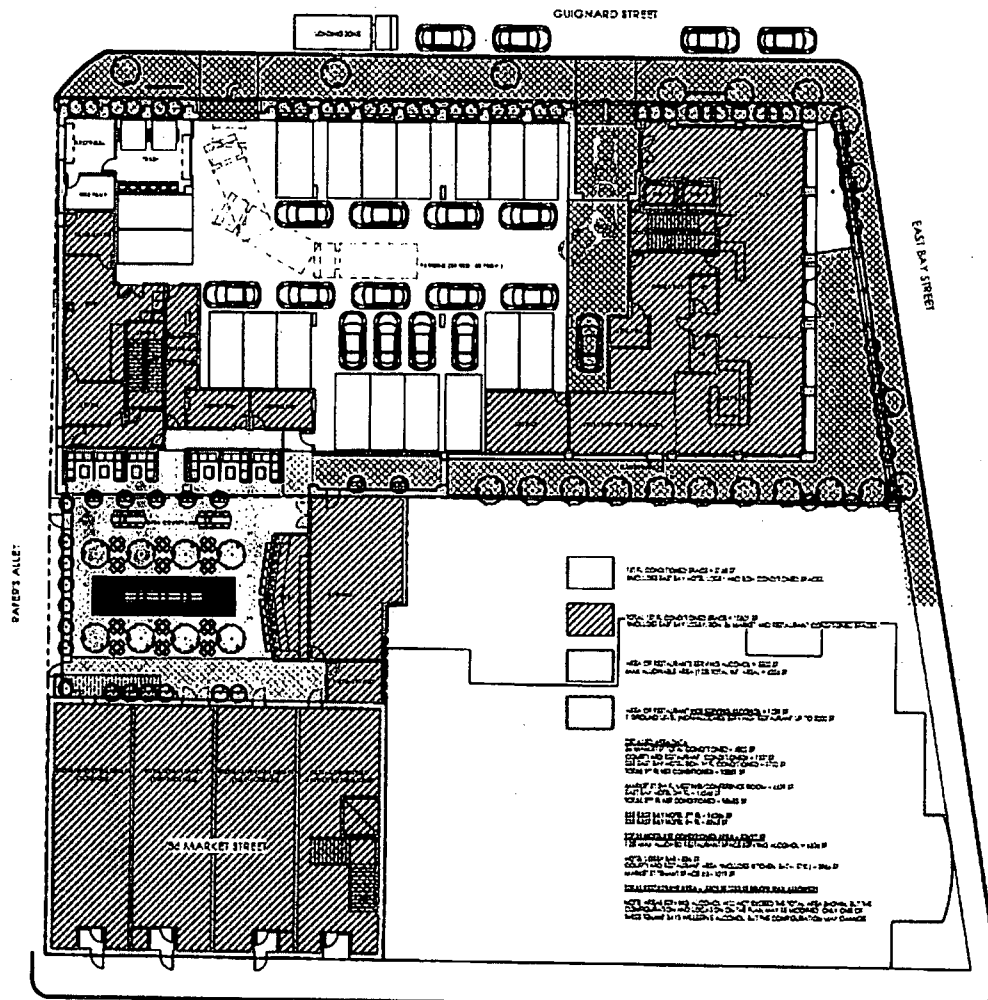


RECORD P.350

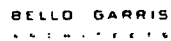
RECORD P.351

BELLO GARRIS
ARCHITECTS

1 SITE CONCEPTUAL LAYOUT



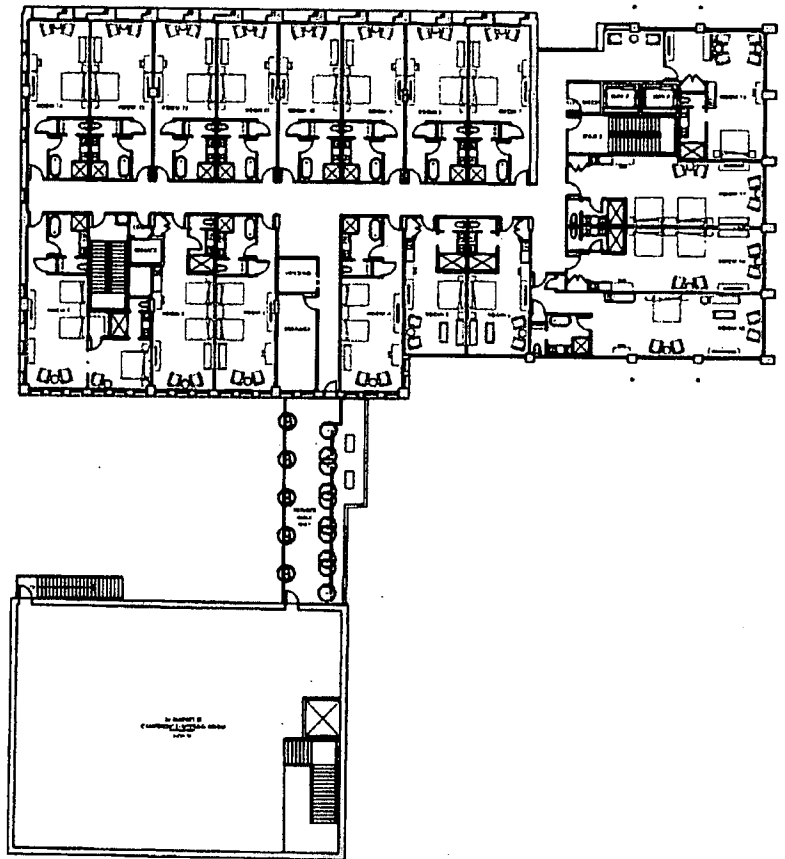
EAST BAY STREET HOTEL
SLA SPECIAL EXCEPTION REQUEST 06.19.2017



2 1 ST FLOOR

EAST BAY STREET HOTEL
BLA SPECIAL EXCEPTION REQUEST 06.19.2017

1A

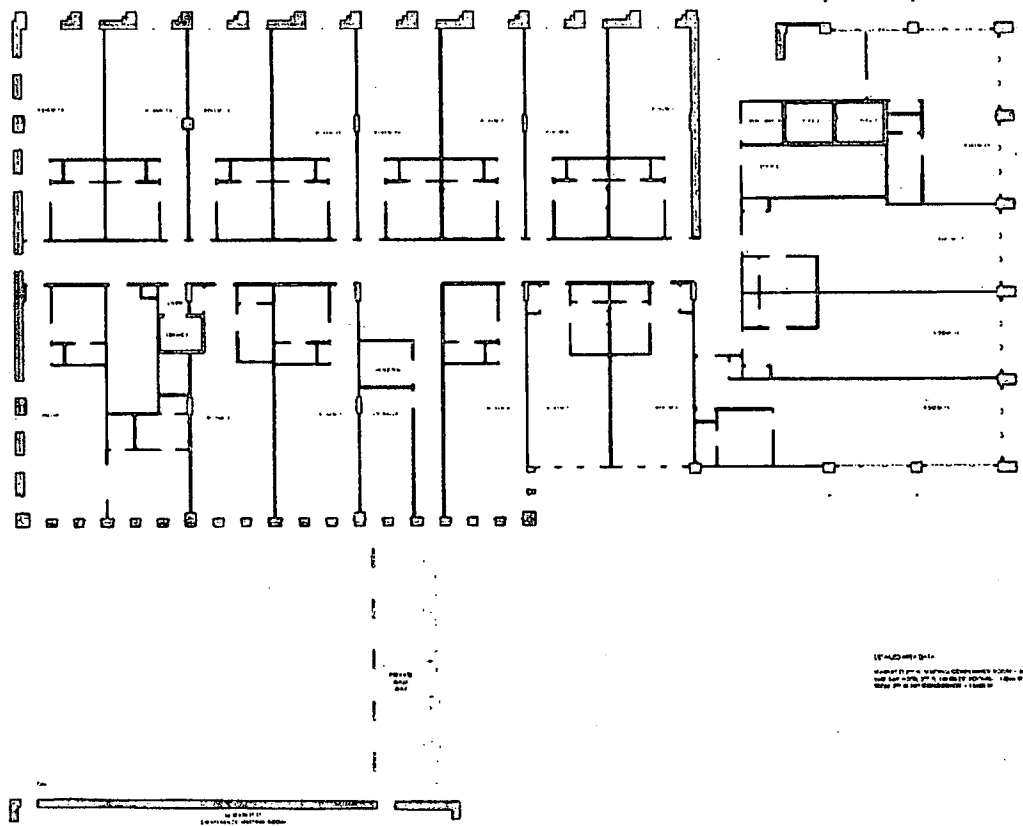


NOT TO SCALE
FOR INFORMATION ONLY
NOT FOR CONSTRUCTION
NOT FOR CONSTRUCTION

BELLO | DARRIS
ARCHITECTS

2ND FLOOR OVERALL

EAST BAY STREET HOTEL
SJA SPECIAL EXCEPTION REQUEST 06.19.2017

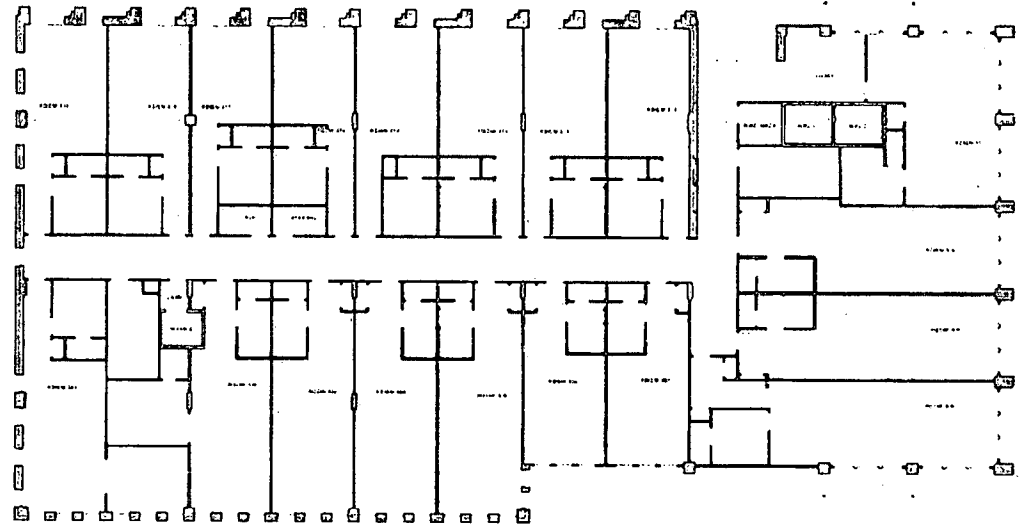


BELLO GARRIS
ARCHITECTS
2nd Floor

EAST BAY STREET HOTEL
BZA SPECIAL EXCEPTION REQUEST 06.19.2017

2A

RECORD P.355



1/4" = 1'-0"

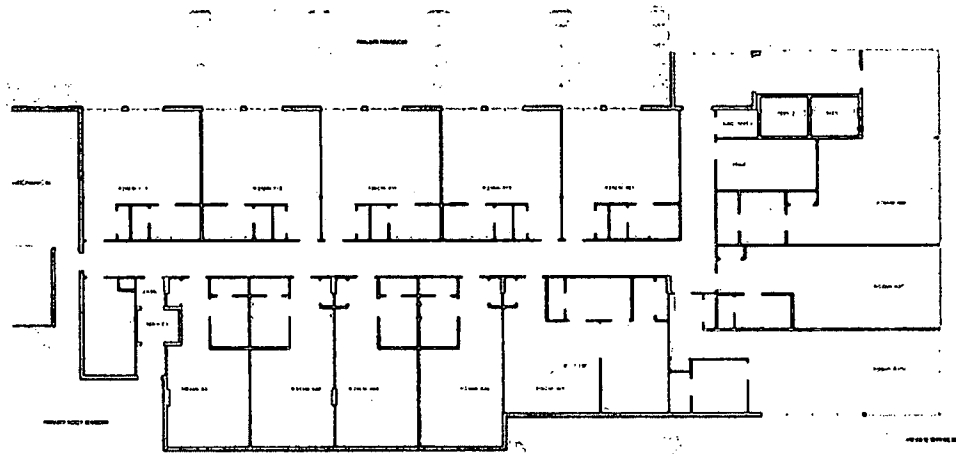
HELLO GARRIS

2 100-100-10

EAST BAY STREET HOTEL
BZA SPECIAL EXCEPTION REQUEST 06.19.2017

3A

RECORD P.356



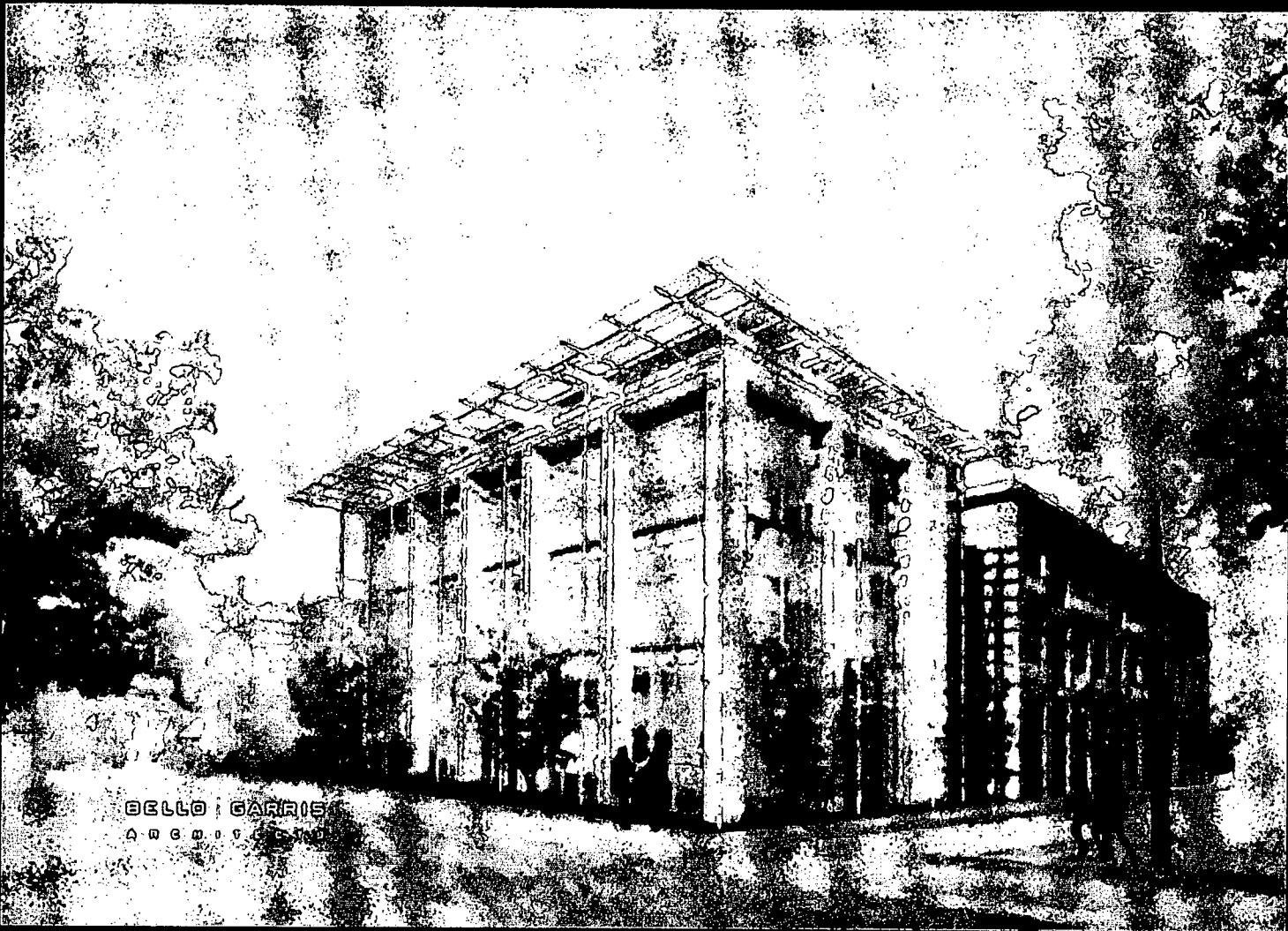
CEILING: 10'0" (3.05m)
FLOOR: 1" (25.4mm) Gypsum Board
WALL: 1" (25.4mm) Gypsum Board

BELLO GARRIS

ARCHITECT

EAST BAY STREET HOTEL
B/A SPECIAL EXCEPTION REQUEST 06.19.2017

4A



BELLO GARRIS
ARCHITECTS

RECORD P.357

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



2

HARDING STEEL, INC.

RECORD P.359

445 of 644

SUV

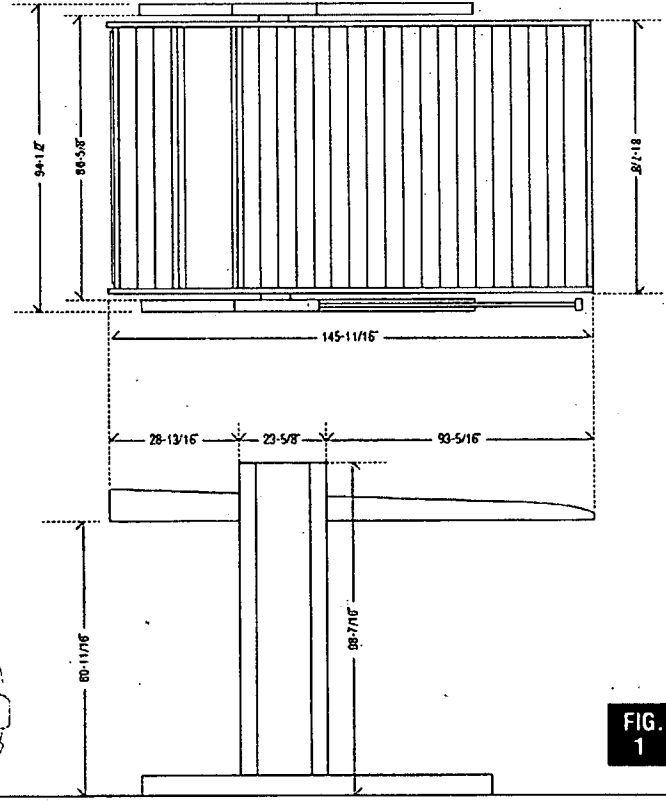
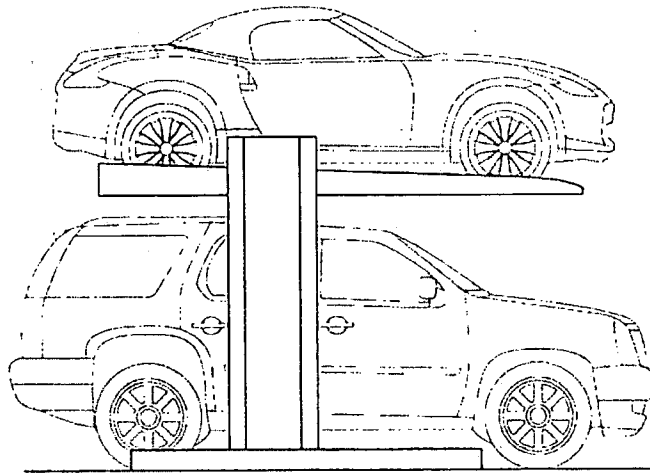


FIG. 1

3

HARDING STEEL, INC.

SUV-XL

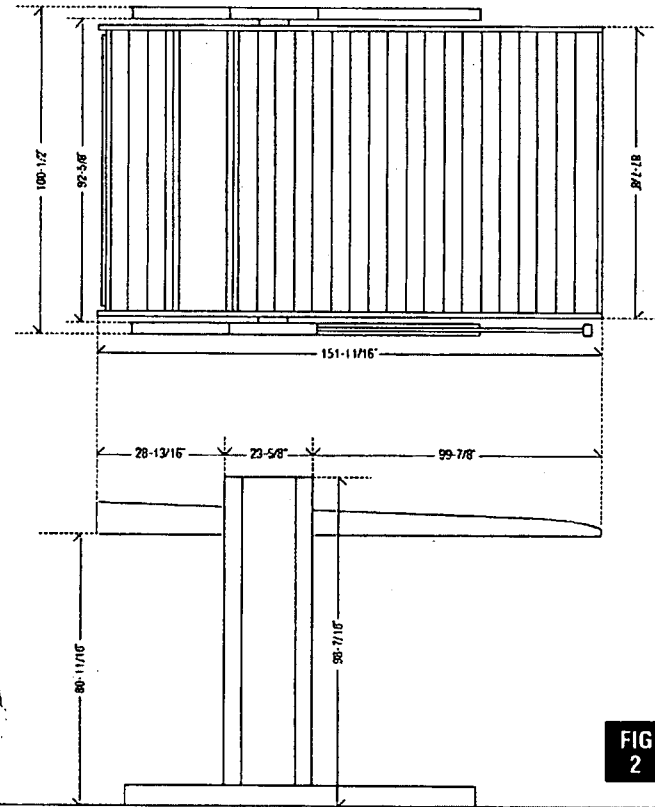
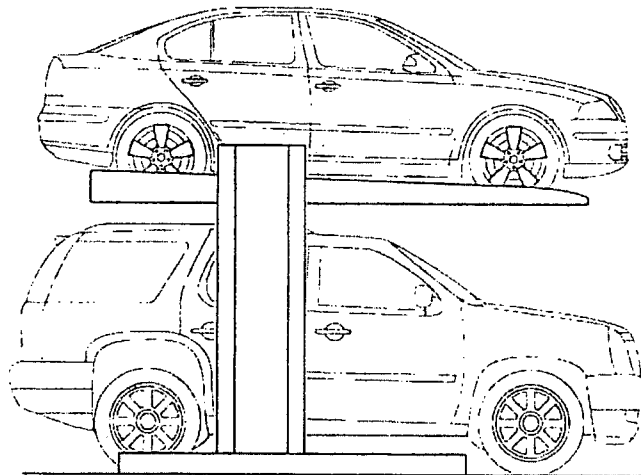


FIG.
2

4

HARDING STEEL, INC.

SUV
SUV-XL

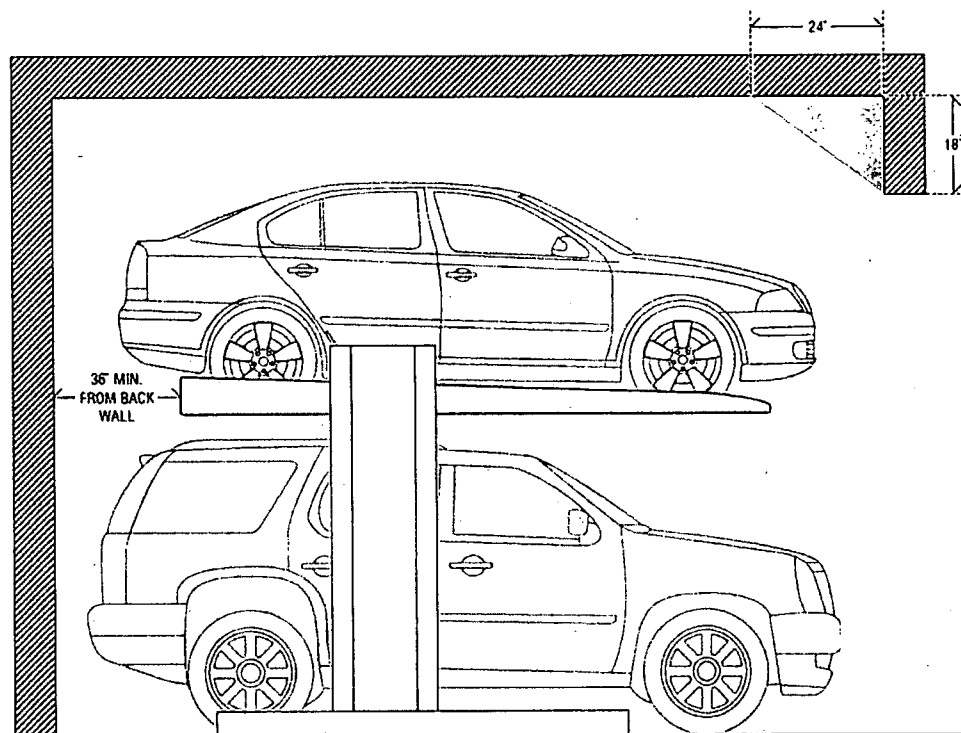


FIG.
3

HARDING STEEL, INC. |

5

SUV
SUV-XL

TYPICAL LAYOUT OF SUV XL AND SUV LIFT

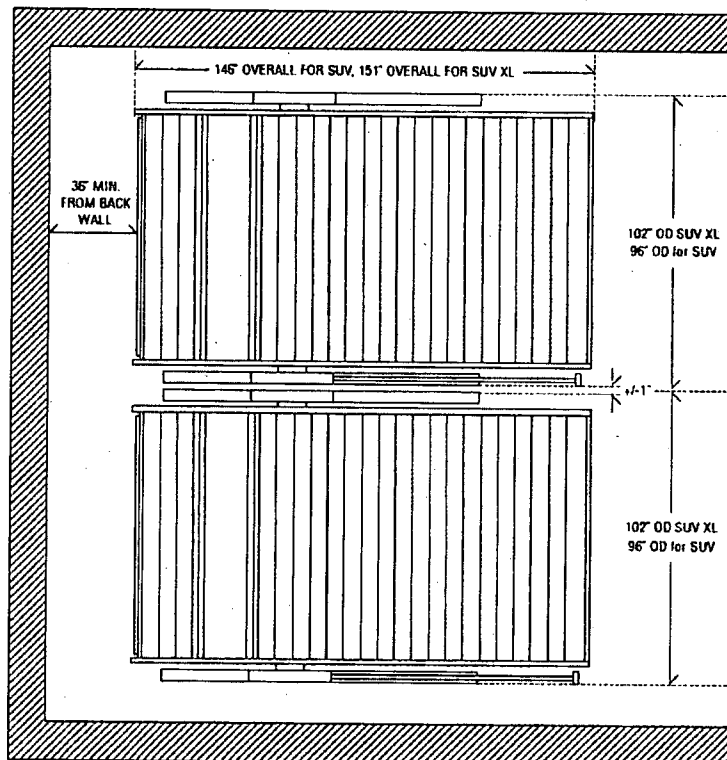


FIG.
4

HARDING STEEL, INC.

6

235 East Bay Hotel

Applicant Presentation

RECORD P.364

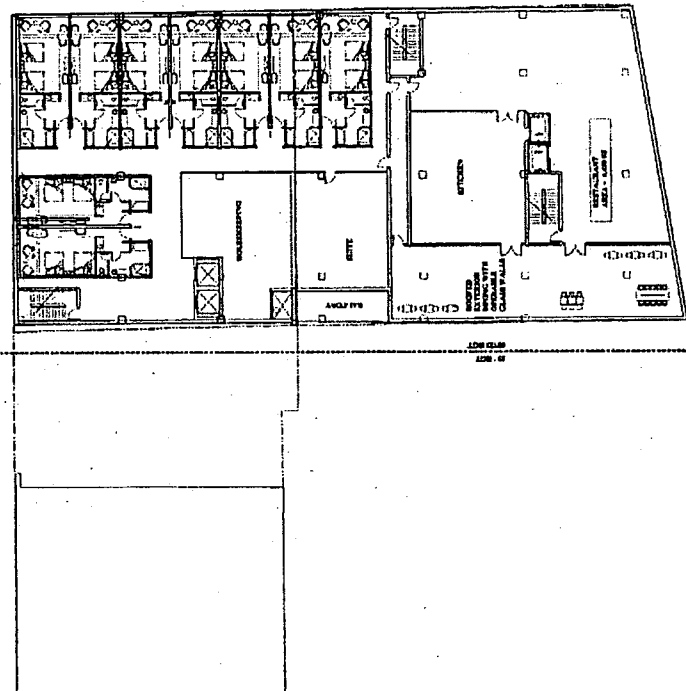
450 of 644

Current Buildings



RECORD P.365

1ST.

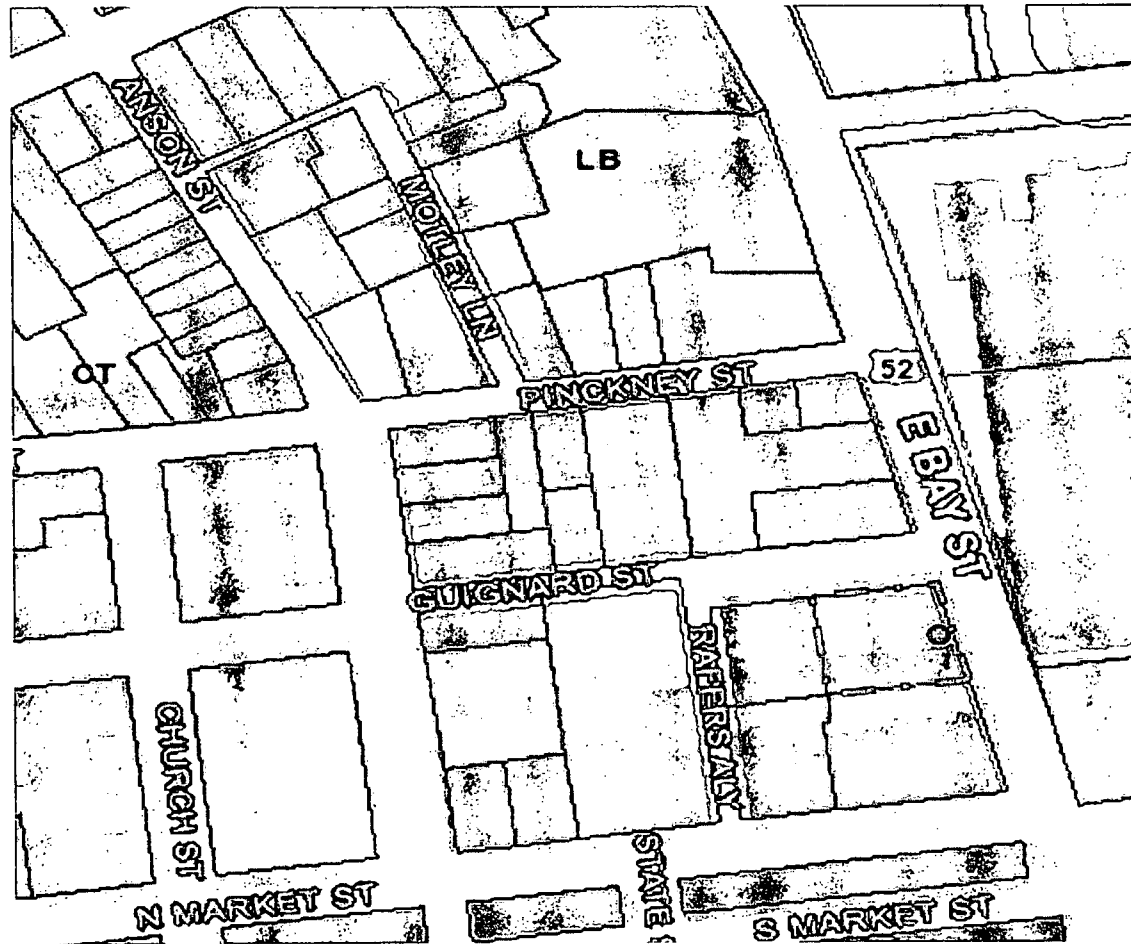


452 of 644

2nd Prong of Test

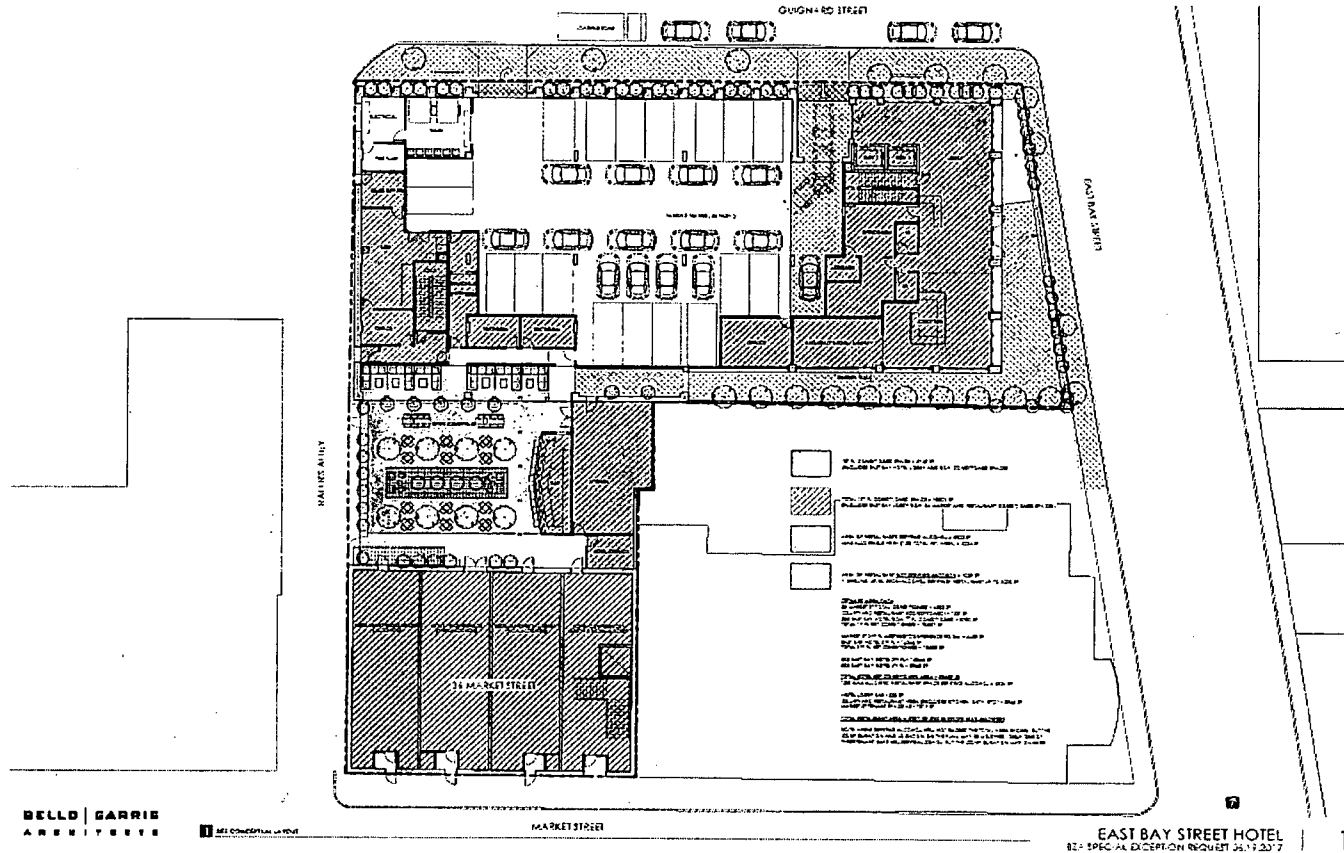
- Section 54-220(b):
- “the location of the facility will not significantly increase automobile traffic on streets within residential neighborhoods”

Zoning Map



RECORD P.368

RECORD P.369



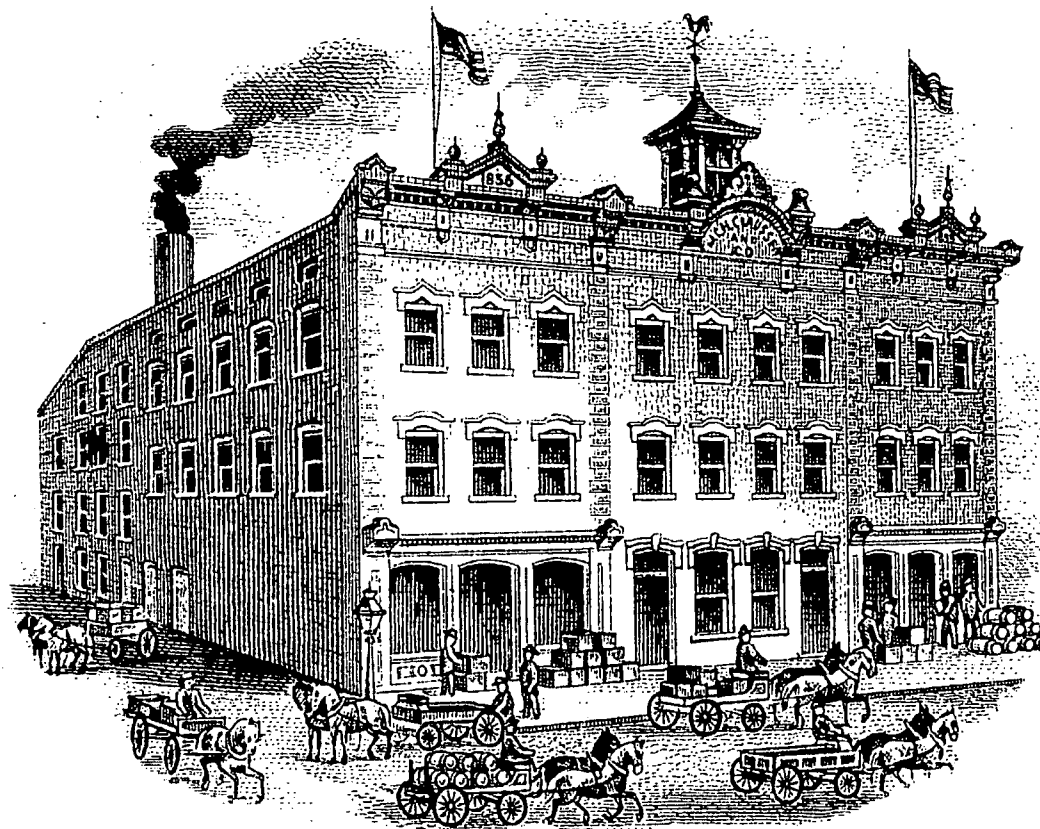
Daily Traffic Generation (Hotel vs Retail vs Restaurant)

- 1 Hotel Room = 8 trips
- 1000sf Retail = 44 trips
- 1000sf Restaurant = 127 trips

Daily Traffic Generation

- Current
 - 12,000 sf Restaurant/Bar = 1,526
 - (Plus daily/monthly parking lot)
- Proposed
 - 50 Room Hotel = 409
 - 7,000 sf Restaurant/Bar/Retail = 890
 - Total = 1,299

Historic 36 Market Street Claussen Bakery



RECORD P.372

Anson Street Daily Traffic (Compared to Other Streets)

- Anson Street = 350-500
- Hasell Street (two way) = 2600
- George Street (two way) = 3300
- South Battery (two way) = 1950
- Logan Street (one way) = 1300

Anson Street Impact

- Current Baseline (daily trips) = 350-500
- Previously Approved 100 Rooms = 23
 - 100 room hotel daily trips = 800
 - Eliminating 8000sf retail = -350
 - Total Daily = 450
 - 50% Departing x50%
 - Total Departing = 225
 - 10% using Anson x10%
 - Total Increase on Anson = 23
- 235 East Bay Hotel = 0

Application of Test

- Test: “the location of the facility will not significantly increase automobile traffic on streets within residential neighborhoods”
- This Hotel:
 - Entrance moved to East Bay
 - 50 hotel rooms = 409 daily trips
 - 5000 sf restaurant eliminated = -636 daily trips
 - Impact on Anson Street = 0

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AUDIO RECORDINGS
36 NORTH MARKET STREET
5 GUIGNARD STREET
235 EAST BAY STREET
JULY 18, 2017

REPORTED BY: RONDA K. BLANTON, RPR
NCRA REGISTERED PROFESSIONAL
REPORTER
CLARK & ASSOCIATES, INC.

Clark and Associates Inc.
RECORD P.376

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

2 BZA MEMBERS:

3 Leonard Krawcheck
Michael Robinson
4 Margaret Smith
Ross Appel
5 Mr. Trudon

6

7 PLANNING STAFF:

8 Lee Batchelder
Pennye Ashby
9 Vanessa Ellington

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1 BZA Meeting
2 July 18, 2017

3 - - -

4 CHAIRMAN: We welcome you to this
5 July 18, 2017, Meeting of the City of Charleston
6 Board of Zoning Appeals. Present are Mr. Appel,
7 Mr. Trudon, Miss Smith, Mr. Robinson, and
8 Mr. Krawcheck. On my right from the City
9 Planning Staff, Miss 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 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: First item on the agenda is
21 36 North Market Street, 5 Guignard Street, and
22 235 East Bay. It's for an exception to allow a
23 50 -- unit accommodations use in a GBA zoned
24 district.

25 Mr. Batchelder.

1 MR. BATCHELDER: Before we do that, can
2 I bring up the matter of a special meeting to
3 hear 48 Lawrence?

4 CHAIRMAN: Yes, sir.

5 MR. BATCHELDER: And it appears that the
6 attorneys involved in this case can both make a
7 special meeting on August 8. Tuesday, August 8.
8 And Tuesday, August 1, will be the regular
9 meeting in August, the next regular meeting that
10 we have; and then the following Tuesday on August
11 8, if we have a sufficient number of Board
12 members to make a meeting on that evening, we
13 could do a special meeting that evening and
14 simply convene here at 2 George Street either in
15 this room or even in the lobby if this room is
16 not available. And then move over to Laurens
17 Street, which is a short block away; and consider
18 that matter if -- if the Board was inclined to do
19 that.

20 CHAIRMAN: Any Board members have any
21 feeling about that?

22 MEMBER: (Inaudible.)

23 MR. BATCHELDER: We can double-check
24 with you --

25 CHAIRMAN: Why don't you do that,

1 Mr. Batchelder.

2 MR. BATCHELDER: I got you.

3 CHAIRMAN: Let's send out an email
4 tomorrow.

5 MR. BATCHELDER: Okay.

6 CHAIRMAN: And we can respond. And also
7 that'll give the other two members who are absent
8 tonight a chance to be respond to that as well.

9 MR. BATCHELDER: Right, right, right.
10 Good.

11 CHAIRMAN: And if we don't have pretty
12 much everybody who can do that, then I think
13 let's try to find you another date.

14 MR. BATCHELDER: Uh-huh, right. Well,
15 thank you.

16 So moving on to the first item on our
17 agenda tonight, 36 North Market, 5 Guignard, and
18 235 East Bay Street, this is an application
19 concerning three parcels of land that are
20 currently approved to have 36 accommodations
21 units. And the approval that is -- that is
22 current applies to the 36 Market Street parcel
23 and the 5 Guignard Street parcel. Those two
24 parcels combined have an approval in place for 36
25 rooms for a 36-room accommodations use.

1 The 235 East Bay Street property is --
2 is a property that has since been added to the
3 other two properties by the -- the owner and
4 that -- that is the property that formally is
5 occupied by the Molly Darcy's bar, restaurant,
6 whatever you call it.

7 And -- and that -- that use has been
8 vacant for a few months now but -- but those are
9 the three parcels in question with the
10 application that's before you tonight.

11 And you'll recall that on two prior
12 occasions, a proposal to increase the number of
13 accommodations units on these three parcels from
14 36 to 50 came before the Board; and the last
15 presentation to the Board, which was back in
16 January of this year, the Board voted to defer
17 this matter.

18 There were concerns expressed about
19 traffic impacts, and so the Board voted to defer
20 the matter; and the applicant has taken advantage
21 of that time, that intervening time, to revise
22 their plans, come back with a totally new
23 proposal. Still has 50 rooms but -- but it's a
24 new plan for how the site would be redeveloped.

25 And so I'll run through that real

1 quickly, and then the applicant will speak. I
2 know that there's opposition. In fact, I just
3 got off the phone with a neighbor. So I'll go
4 through that after I've run through the
5 presentation.

6 So the site, as I mentioned, is these
7 three parcels. They surround the corner property
8 at East Bay and North Market Street and have
9 frontage on North Market, Rafers Alley on the
10 west, Guignard Street on the north, and East Bay
11 Street on the east.

12 The zoning of the properties is general
13 business, and all three properties and the
14 surrounding properties are within the
15 accommodations overlay zone where a 50-room
16 accommodations use is permitted if the Board
17 grants the special exception -- zoning special
18 exception that's necessary for that -- that
19 particular type of use.

20 Here's a closeup view just showing the
21 three parcels, the red outline. Aerial views of
22 the site. This is looking from North Market
23 Street; and you see 36 North Market Street, the
24 two-story building at the -- in this image right
25 here.

1 Formally, this has been occupied by Wild
2 Wings restaurant on the ground floor and some
3 other tenants on the ground floor and then a
4 variety of uses on the second floor. Some of it
5 were very problematic for the City. Let's put it
6 that way. And that's years ago.

7 Market Street has changed and -- and I
8 think quieted down a little bit as a lot of the
9 late-night activity has moved up King Street; and
10 then you see the Guignard Street parcel right
11 here. This is a surface parking lot. It's been
12 that way for a long time, and then you see the
13 building that formerly was used as Molly Darcy's
14 up on East Bay Street.

15 This is another view looking from the
16 north or actually from the east. So here's the
17 Molly Darcy's building. Guignard Street is right
18 here; and, of course, that runs all the way
19 through to Anson Street. But it narrows down to
20 a one-lane width street in this space between
21 Rafers Alley and Anson.

22 An aerial view. And then this is a view
23 that I wanted to include as well so what this
24 shows is this -- this is Guignard Street right
25 here, the wide section of Guignard Street. And

1 the intersection with -- with Rafers Alley right
2 here.

3 So you see the surface parking lot. You
4 see a wide curb cut, which provides access to
5 those surface parked spaces; and then you see
6 another curb cut right here providing access to a
7 small parking area and loading area back behind
8 the Molly Darcy's building, what I'll call the
9 Molly Darcy's building.

10 And, of course, the plans that -- that
11 have been submitted contemplate the complete
12 demolition of this structure right here and --
13 and I don't believe anybody feels like that's
14 going to be a great loss. It's not a historic
15 structure. So that -- that is part of the plan
16 for the site.

17 The 36 North Market building has been
18 undergoing renovation/restoration as we speak and
19 will remain in its historic context on North
20 Market Street.

21 So here are the plans. Various
22 photographs. This is a -- a site plan that shows
23 the overall site, and what the various colors
24 shows the space on the ground floor that is
25 counted as conditioned floor space and shows the

1 areas in purple -- well, actually it's in pink.
2 Doesn't show up very well on this drawing, which
3 makes me think I need to hand out the actual
4 copies here so you can see it.

5 We'll see the correct version. So if
6 you flip through that set of plans, you'll come
7 to this Sheet No. 1; and it's showing these
8 various colors with conditioned floor space on
9 the ground floor, and that's important in the
10 overall calculation of the maximum restaurant/bar
11 space that the restaurant can have where alcohol
12 is served.

13 So because you've got nonconditioned
14 spaces and conditioned spaces, it's important to
15 have this drawing and have it document the total
16 floor area of the conditioned space for that
17 calculation.

18 Then it also shows the spaces that are
19 to be used as restaurant/bar facilities that
20 would serve alcohol, be able to serve alcohol;
21 and in this drawing on the first floor, we have a
22 restaurant or a -- a bar, a lobby bar area,
23 rather, right up here, which would be within
24 the -- the -- the main lobby, the main entrance
25 of the hotel along with Phase 3.

1 Then you have an outdoor restaurant area
2 back here and bar and kitchen space right here.
3 The bathrooms for that are right here. So that's
4 all shaded with the appropriate color; and then
5 you have one space right up here, this space
6 right here on -- in the 36 North Market Street
7 building that is identified on the plans as being
8 a potential restaurant/bar space where alcohol
9 could be served.

10 Then moving on there's a -- there's a
11 close detailed floor plan of the ground floor of
12 the new building; and that outdoor dining area
13 that shows the parking spaces, which would be
14 more than sufficient to meet the parking
15 requirements for a 50-room inn, the lobby spaces
16 and other mechanical back of the house spaces
17 that are necessary for a hotel.

18 And it also shows the two access points
19 for the -- the parking area. One being -- well,
20 the access point being right here off of Guignard
21 Street close to East Bay Street where the cars
22 would pull in, stop, and a valet would take the
23 car and park it in the garage and then exit here
24 further back from East Bay Street -- from East
25 Bay Street on Guignard.

1 So those are the two driveway access
2 points for the -- for the garage, and then it
3 shows the upper floor plans. The second floor of
4 the 36 North Market building is shown as
5 conference space. There's a -- then there's a
6 walkway that provides access between that
7 conference room space and the hotel rooms.

8 Another floor of hotel rooms and then
9 the top floor is hotel rooms, but it's not a
10 floor that occupies a full footprint of the
11 building so that the walls are set back from the
12 sides of the building a bit, and these outside
13 terrace areas are provided for the rooms.

14 Design is something that, of course, the
15 Board of Architectural Review will have control
16 over and final decision on. So -- but this is
17 a -- this is a rendering showing a very schematic
18 elevation building along East Bay Street.

19 The applicant has also provided lots of
20 detailed information about the -- the automobile
21 stackers that would be used in the garage and --
22 and I should point out that the garage that
23 they've proposed in this plan is very generous,
24 has very generous space on the inside to maneuver
25 vehicles in and around and get them into and out

1 of the stackers.

2 And just another view. These are
3 becoming more common and have been approved in a
4 number of hotels on the peninsula and are being
5 used today.

6 And so that concludes the presentation.
7 We had supported this request in the past when it
8 came before the Board. I think this proposal is
9 much better. It eliminates the rooftop bar that
10 was -- that caused concern to the neighbors, and
11 it places all of the hotel rooms in the new
12 building that would sit in that existing surface
13 parking lot at 235 East Bay Street property with
14 a front door on East Bay Street, which I think is
15 a nice attractive thing for East Bay Street to
16 have.

17 And then it -- it incorporates the
18 historic building on North Market Street into the
19 overall plan. So we feel that it meets the
20 special exceptions requirements and recommend
21 approval.

22 Now, I will say I do have a letter of
23 nonsupport, as we call it, from Jerry Shower of
24 the Historic Ansonborough Neighborhood
25 Association. I can pass this around to let the

1. Board look at it. He's writing on behalf of the
2 Board of Directors of Hannah to oppose a special
3 exception request for 332 King Street.

4 And I also spoke to Mr. Hanlan. I see
5 his attorney present tonight. So I guess she
6 will address the Board as well, but he is the
7 owner of the property just to the north on East
8 Bay Street right across Guignard Street from --
9 from the subject property, 235 East Bay Street.

10 And he voiced concerns about traffic,
11 which he has voiced in the past. The traffic
12 impacts on Guignard and -- and also felt like the
13 parking -- and the applicant can speak to this.
14 They don't know about this. I haven't mentioned
15 it to them because I just had this conversation.

16 But he felt like the -- the number of
17 cars -- cars that could be accommodated within
18 that parking garage, which is well in excess of
19 the minimum required by the 50-room hotel, that
20 that increased number of spaces would just
21 contribute to more congestion on Guignard Street.
22 So he did want me to express that to you as well,
23 and with that I will conclude my comments.

24 CHAIRMAN: Mr. Batchelder, do you have
25 any opinion about the impact of traffic in

1 residential neighborhoods?

2 MR. BATCHELDER: Well, I think that
3 this -- this plan, which doesn't place the car
4 pickup on North Market Street like the previous
5 plan but on Guignard, will discourage people from
6 driving along North Market Street and taking the
7 turns to get out and get on North Market Street
8 and then turn to go up Anson Street. I think
9 there are other opportunities, then, to pursue --

10 CHAIRMAN: So when you exit the parking
11 on Guignard, you would have an option of either
12 going left or right right to East Bay or left to
13 Anson.

14 MR. BATCHELDER: Well, I'll let the
15 applicant address that. One of the options would
16 be -- and I certainly -- if it's a rainy day
17 probably would leave the -- the valet would leave
18 the car inside the garage right at the exit for
19 the guest to pick up and -- and be able to leave.
20 And they would have the option potentially of
21 turning left to get back over to Anson Street or
22 turning right to go to East Bay Street but -- but
23 the preferred option, I think, for them and their
24 guests' car pickup would be to have the car
25 closer to the lobby and pointed towards East Bay

1 Street. That's their goal.

2 CHAIRMAN: The narrow part of Guignard
3 Street, which is closer to Anson, is that two
4 ways?

5 MR. BATCHELDER: Guignard is two-way
6 traffic.

7 CHAIRMAN: It's wider as you get to East
8 Bay and narrower as you go to Anson?

9 MR. BATCHELDER: Right. From Rafers
10 Alley to East Bay Street, it's a very wide
11 street.

12 CHAIRMAN: Do you know if the applicant
13 considered forcing the traffic back towards East
14 Bay Street coming out?

15 MR. BATCHELDER: I don't know the answer
16 to that question.

17 CHAIRMAN: Just a thought, but it
18 would -- would steer it away from the residential
19 neighborhood.

20 MR. BATCHELDER: Right.

21 CHAIRMAN: Okay. Any questions,
22 Mr. Batchelder?

23 MEMBER: I feel like I probably should
24 recuse myself from this obligation. I'm sorry to
25 sit here for so long, but I think the flow --

1 (Inaudible.)

2 CHAIRMAN: Any -- any questions?

3 Mr. Wilson.

4 MR. WILSON: Mr. Chairman, members of
5 the Board, my name is James Wilson. I'm with the
6 Carlisle Law Firm. I'm here with the architects
7 on the projects, Eddie Bello as well as David
8 Shook as well as our traffic engineer, Jennifer
9 Beal, and then the principal owner of the --
10 (Inaudible.) As well.

11 Thank you for allowing us to come back
12 before the Board.

13 What I'd like to do is to walk through
14 little bit of just background on how we got here
15 and then let Mr. Bello give a -- a description of
16 how the revised plans work, give you some -- give
17 you some color on that.

18 I'll then try to run this as quickly as
19 I can through the criteria of the test in zoning
20 ordinance and then come to what was our real
21 issue last time, which is the Anson Street.
22 We'll try to move quickly to that to get to what
23 was the single issue in the past.

24 The -- so as Mr. Batchelder said, we
25 have current -- current permits, a current BZA

1 approval for a 36-room hotel. That current
2 existing effective approval is good for 36 rooms
3 plus the Wild Wings restaurant. That is part of
4 the existing approval.

5 When Mr. Pierce had the opportunity to
6 inquire on Molly Darcy's property, we then came
7 back to the Board with a new -- with a new plan
8 for a 50-room hotel, which incorporated the Molly
9 Darcy property. Now we have three parcels to
10 work with. So we increased the project from a
11 36-room hotel to a 50-room hotel. Increased by
12 14 rooms.

13 And then with that, we basically moved
14 Molly Darcy's sized restaurant up to the fourth
15 floor with a -- with a -- an outside deck that
16 went with it and then put retail down on the
17 ground -- on the ground floor.

18 Mr. Batchelder, if you would flip
19 through to the slide, that would be great.

20 So these are the -- these are the
21 original plans that you -- that you're looking at
22 and we brought to you before; and on the original
23 plans, this is North Market Street here at the
24 bottom -- bottom of the screen. This is 36
25 Market Street.

1 We had a lobby -- the central lobby for
2 the hotel right here on Market Street. We were
3 having valet service right here on Market Street
4 in front of the hotel, and then the valets would
5 take the cars around to the parking garage on the
6 back of the property.

7 As you see, we had retail here on the
8 front, on Bay Street. As I mentioned, we had a
9 restaurant. This is the fourth floor. We had a
10 restaurant on the fourth floor back here with a
11 deck area right here. (Indicating.)

12 This was all one single building that
13 was two stories over here on this side and four
14 stories on -- on the back side.

15 In that plan, we kept consistent the
16 existing 12,000 square feet of commercial space
17 that currently exists between the Molly Darcy's
18 building and the 36 market building. Those were
19 two restaurants, a little more than 6,000 square
20 feet each. So over 12,000 square feet. What
21 we've proposed was 50 rooms plus about 12 -- plus
22 about 12,000 square feet of commercial space.

23 Mr. Batchelder, if you will go to the
24 next slide. Thank you.

25 So at the last meeting, the one issue

1 that we spent the majority of the time on and we
2 got hung up on was that the Board could not get
3 comfortable with the second prong of the test for
4 the -- for accommodations approval.

5 That's the -- the location of the
6 facility will not significantly increase
7 automobile traffic on streets within residential
8 neighborhoods. That's -- that's the one point
9 that we -- that we got stuck on in the end and,
10 of course, what we spent our time talking about
11 this afternoon.

12 Mr. Batchelder, if you'll go to the next
13 slide.

14 So this is the -- this is, of course,
15 the zoning map. This is the property right here.
16 That's 235 East Bay. These are the other
17 parcels. Everything you see in red, of course,
18 is zoned --

19 (End of recording.)

20 - - -

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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
23 NCRA REGISTERED PROFESSIONAL
24 REPORTER, RPR
25 My Commission expires:
May 14, 2018.

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MEMBERS PRESENT: LEONARD KRAWCHECK, MICHAEL ROBINSON, MARGARET SMITH,
WALTER JAUDON, ROSS APPEL
STAFF PRESENT: LEE BATCHELDER, PENNYE ASHBY, VANESSA ELLINGTON

AGENDA

BOARD OF ZONING APPEALS-ZONING

JULY 18, 2017

5:45-17 P.M.

2 GEORGE STREET

8:22 P.M.

A. Deferred applications from previously advertised BZA-Z agendas. For information call 724-3781.

1. 36 N. MARKET ST. 5 GUIGNARD ST. APP. NO. 1707-18-A1
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.

Owners-Apex Real Property, LLC, East Bay 7, LLC/Applicant-Womble Carlyle Sandridge & Rice, LLP

APPROVED XX WITHDRAWN 0

DISAPPROVED 0 DEFERRED 0

MOTION: Approval with conditions: 1) no access to conference room from Market Street; 2) mandatory right turn onto Guignard for leaving hotel.

MADE BY: M.Smith SECOND: W.Jaudon VOTE: FOR 4 AGAINST 0

*M.Robinson recused

2. 359 NORTH NASSAU ST. (EAST CENTRAL) APP. 1707-18-A2
(459-01-01-035)

Request special exception under Sec. 54-501 to allow construction of a single-family residence on a lot of insufficient size (Lot area 1,500sf; 2,500sf required). Request variance from Sec. 54-301 to allow construction of a single-family residence with a 0-ft. front setback, a 0-ft. north side setback (balcony), a 5-ft. south side setback and 5-ft. total side setback (25-ft, 3-ft.7-ft. and 10-ft. required). Zoned DR-2F.

Owner-Nassau Properties, LLC/Applicant-Zourzoukis Homes, LLC

APPROVED XX WITHDRAWN 0

DISAPPROVED 0 DEFERRED 0

MOTION: Approval with conditions: 1) minimum 6-foot side setback; 2) roof – asphalt shingles; 3) gutter along south side; 4) window over kitchen designed to allow privacy for both houses at direction of City staff.

MADE BY: M.Robinson SECOND: W.Jaudon VOTE: FOR 5 AGAINST 0

3. 67 MOULTRIE ST. APP. NO. 1707-18-A3
(HAMPTON PARK TERRACE) (460-03-01-018)

Request use variance from Sec. 54-203 to allow art, design or other light/low retail uses (1st floor) in an existing 2-story building in a RO (Residential Office) zone district.

Owner-The Music House, LLC/Applicants-Mike Gruenloh, Marlon Kimpson

APPROVED XX WITHDRAWN 0

DISAPPROVED 0 DEFERRED 0

MOTION: Approval.

MADE BY: R.Appel SECOND: W.Jaudon VOTE: FOR 5 AGAINST 0

RECORD P.397

BOARD OF ZONING APPEALS-ZONING/JULY 18, 2017
PAGE 2

B. New Applications:

1. 721 W. SHERWOOD DR. (350-08-00-093) APP. NO. 1707-18-B1
Request variance from Sec. 54-301 to allow a 1-story addition (bathroom) with a 7-ft. south side setback (9-ft. required).
Zoned SR-2.
Owner-Crista Linares/Applicant-First Team Construction, Inc.
APPROVED XX WITHDRAWN 0
DISAPPROVED 0 DEFERRED 0
MOTION: Approval.

MADE BY: M.Smith SECOND: M.Robinson VOTE: FOR 5 AGAINST 0

2. 1942 BELLONA ST. (DANIEL ISLAND) APP. NO. 1707-18-B2
(277-08-02-010)
Request variance from Sec. 54-283 (Daniel Island Master Plan) to allow a hvac platform with a 1.3-ft side setback (3-ft. required).
Zoned DI-R.
Owners-Wateroak Land Holdings, Shelter, LLC/Applicant-Adam Johnson
APPROVED XX WITHDRAWN 0
DISAPPROVED 0 DEFERRED 0
MOTION: Approval.

MADE BY: M.Robinson SECOND: M.Smith VOTE: FOR 5 AGAINST 0

3. 34 MEETING ST. (CHARLESTOWNE) APP. NO. 1707-18-B3
(457-16-04-012)
Request special exception under Sec. 54-110 to allow a non-conforming dwelling unit (carriage house) to be extended by converting garage/storage area to have an additional bedroom.
Zoned SR-3.
Owner-Mary H. deSaussure/Applicant-Harper James Finucan
APPROVED XX WITHDRAWN 0
DISAPPROVED 0 DEFERRED 0
MOTION: Approval.

MADE BY: W.Jaudon SECOND: R.Appel VOTE: FOR 5 AGAINST 0

BOARD OF ZONING APPEALS—ZONING/JULY 18, 2017
PAGE 3

4. 106 GROVE ST. (WAGENER TERRACE) APP. NO. 1707-18-B4
(463-15-01-046)

Request special exception under Sec. 54-110 to allow an approved non-conforming restaurant use with days of operation Monday-Sunday and hours of operation 6:30 AM to 10 PM to expand the interior patron use area to 1,068sf (approved for 900sf of interior patron use area; no changes to the approved exterior patron use area are proposed).

Request special exception under Sec. 54-511 to allow expansion without providing the additional 2 off-street parking spaces that are required.
Zoned SR-2.

Owner/Applicant-Alec Bradford

APPROVED XX WITHDRAWN 0

DISAPPROVED 0 DEFERRED 0

MOTION: Approval.

MADE BY: W.Jaudon SECOND: M.Smith VOTE: FOR 5 AGAINST 0

5. 74, 76 & 78 HANOVER ST. (EASTSIDE) APP. NO. 1707-18-B5
(459-05-04-191,190 AND 108)

Request special exception under Sec. 54-110 to allow a property-line adjustment that changes the lot area of three non-conforming lots to create two lots with lot areas that do not meet the minimum lot size requirement (2,500sf required).

Request special exception to allow construction of a single-family residence on lots of insufficient size.

Request variance from Sec. 54-301 to allow construction of a single-family residence on each lot with a 5-ft. south side setback and hvac platform with a 1-ft. 9-inch south side setback, a 4.75-ft. total side setback and a 62% lot occupancy (7-ft., 10-ft. and 50% lot occupancy limit).

Zoned DR-2F.

Owners-Carl Saxon, Luke Morrison, Charlie Letts/Applicants-Charlie Letts, Luke Morrison

APPROVED XX WITHDRAWN 0

DISAPPROVED 0 DEFERRED 0

MOTION: Approval with condition: 1) window locations on north side be reviewed by City staff to assure privacy between subject house, 80 Hanover Street.

MADE BY: M.Smith SECOND: W.Jaudon VOTE: FOR 4 AGAINST 0

*L.Krawcheck recused

6. 218 PRESIDENT ST. (WESTSIDE) APP. NO. 1707-18-B6
(460-07-04-159)

Request variance from Sec. 54-203 to allow a change to the permitted hours of operation for a restaurant from 11am-10pm Monday-Sunday, to ~~5pm~~11am-11pm Monday-Wednesday, ~~5pm~~11am-12am (midnight) Thursday-Saturday and closed on

Sunday in a DR-2F (Diverse-Residential) zone district.

Owner-Yousef Hasan/Applicant-Jonathan Doar

BOARD OF ZONING APPEALS—ZONING/JULY 18, 2017
PAGE 4

APPROVED 0

WITHDRAWN 0

DISAPPROVED XX

DEFERRED 0

MOTION: Disapproval.

MADE BY: M.Robinson SECOND: W.Jaudon VOTE: FOR 5 AGAINST 0

-
7. 36 MURRAY BLVD. (CHARLESTOWNE) APP. NO. 1707-18-B7
(457-11-02-073)

Request variance from Sec. 54-301 to allow a garden structure (pergola and chimney) with a 0-ft. rear setback (3-ft. required)
Zoned SR-2.

Owners-Jeff & Jane Lightcap/Applicant-Glenn Keyes Architects

APPROVED 0

WITHDRAWN 0

DISAPPROVED 0

DEFERRED XX

MOTION: Deferred.

MADE BY: _____ SECOND: _____ VOTE: FOR _____ AGAINST _____

-
8. 78 MURRAY BLVD. (CHARLESTOWNE) APP. NO. 1707-18-B8
(457-11-01-002)

Request special exception under Sec. 54-110 to allow a vertical extension (2nd story bathroom) to a non-conforming building footprint that does not meet the required 9-ft. east side setback.
Request variance from Sec. 54-301 to allow a porch addition with a 6-ft. east side setback (9-ft. required).
Zoned SR-2.

Owners-Clayton & Megan Mozingo/Applicant-Glenn Keyes Architects

APPROVED XX

WITHDRAWN 0

DISAPPROVED 0

DEFERRED 0

MOTION: Approval.

MADE BY: M.Smith SECOND: W.Jaudon VOTE: FOR 4 AGAINST 0
*L.Krawcheck recused

-
9. 1406 HOLT ST. (464-14-00-049) APP. NO. 1707-18-B9

Request use variance from Sec. 54-203 to allow an outside garden, nursery and retail use in a SR-1 (Single-Family) residential zone district for a proposed hardware store at 1409 King Street Extension.
Zoned SR-1.

Owner-Robert Hines (prospective owner)/Applicant-Robert Hines

BOARD OF ZONING APPEALS—ZONING/JULY 18, 2017
PAGE 5

APPROVED XX

WITHDRAWN 0

DISAPPROVED 0

DEFERRED 0

MOTION: Approval with condition: 1) fencing to enclose outside not be chain link, or similar, including barbed wire.

MADE BY: M.Smith SECOND: R.Appel VOTE: FOR 5 AGAINST 0

10. 764 RUTLEDGE AVE. APP. NO. 1707-18-B10
(A/K/A 766 RUTLEDGE AVE.) (NORTH CENTRAL) (463-15-02-102)

Request variance from Sec. 54-301 to allow a 1-story addition
(mudroom/bath/laundry/kitchen expansion) with a 16.9-ft. rear setback (25-ft.
required).
Zoned DR-1F.

Owner/Applicant-Benjamin Joyce

APPROVED XX

WITHDRAWN 0

DISAPPROVED 0

DEFERRED 0

MOTION: Approval.

MADE BY: W.Jaudon SECOND: M.Robinson VOTE: FOR 5 AGAINST 0

11. 332 KING ST. (457-04-02-007) APP. NO. 1707-18-B11

Request special exception under Sec. 54-220 to allow a 24-unit accommodations
use in a GB-A (General Business- Accommodations) zone district.

Owner-Kalinsky Family, LLC/Applicant-LS3P

APPROVED 0

WITHDRAWN 0

DISAPPROVED 0

DEFERRED XX

MOTION: Deferred.

MADE BY: _____ SECOND: _____ VOTE: FOR _____ AGAINST _____

12. 103 S. BATTERY (CHARLESTOWNE) APP. NO. 1707-18-B12
(457-11-02-050)

Request variance from Sec. 54-301 to allow a landing, stair and hvac platform
with a 5.3-ft. east side setback (9-ft. required).

Zoned SR-2.

Owners-Hugh & Cate Leatherman/Applicant-Tyler A. Smyth Architect, LLC

BOARD OF ZONING APPEALS—ZONING/JULY 18, 2017
PAGE 6

APPROVED XX

WITHDRAWN 0

DISAPPROVED 0

DEFERRED 0

MOTION: Approval.

MADE BY: M.Robinson SECOND: R.Appel VOTE: FOR 5 AGAINST 0

13. 14 HUMPHREY CT. (CANNONBOROUGH/
ELLIOTBOROUGH) (460-08-01-164) APP. NO. 1707-18-B13

Request variance from Sec. 54-301 to allow construction of a single-family residence with a 3.5-ft. west side setback, a 6.5-ft. total side setback (7-ft. and 10-ft. required).

Request variance from Sec. 54-317 to allow construction of a single-family residence without off-street parking spaces (two spaces required).

Zoned DR-2F.

Owner-HK3, LLC/Applicant-AJ Architects

APPROVED XX

WITHDRAWN 0

DISAPPROVED 0

DEFERRED 0

MOTION: Disapproval.

MADE BY: M.Robinson SECOND: R.Appel VOTE: FOR 5 AGAINST 0

MOTION: Reconsideration of disapproval.

MADE BY: W.Jaudon SECOND: R.Appel VOTE: FOR 5 AGAINST 0

MOTION: Approval.

MADE BY: M.Smith SECOND: R.Appel VOTE: FOR 5 AGAINST 0

14. 16 BROAD ST. (FRENCH QUARTER)
(458-09-03-026) APP. NO. 1707-18-B14

Request variance from Sec. 54-824 to allow a subdivision to create a lot that does not meet minimum lot frontage requirements (40-ft. required).

Request variance from Sec. 54-301 to allow a subdivision to create a lot for a single-family residence with a lot area of 1,692sf (4,000sf required).

Request variance from Sec. 54-301 to allow a single-family dwelling on Lot A with a 3.2-ft. south side setback (9-ft. required).

Request variance from Sec. 54-317 to allow a single-family dwelling on Lot A to not provide required off-street parking spaces (two spaces required).

Zoned LB.

Owner-WF Charleston, LLC/Applicants-Josh Schaap, Danny Gilbert

APPROVED XX

WITHDRAWN 0

DISAPPROVED 0

DEFERRED 0

MOTION: Approval.

MADE BY: M.Smith SECOND: W.Jaudon VOTE: FOR 5 AGAINST 0

BOARD OF ZONING APPEALS—ZONING/JULY 18, 2017
PAGE 7

15. 60 HANOVER ST. (EASTSIDE) (459-05-04-102) APP. NO. 1707-18-B15

Request variance from Sec. 54-301 to allow the re-establishment of two dwelling units (duplex) with 1,760sf of lot area per dwelling unit (2,000sf required).

Request variance from Sec. 54-301 to allow a hvac platform with a 0-ft. north side setback (3-ft. required).

Request special exception from Sec. 54-511 to allow two dwelling units (duplex) with three off-street parking spaces (four spaces required).

Zoned DR-2F.

Owner-Gail Poon/Applicant-McSweeney Engineers, LLC

APPROVED XX

WITHDRAWN 0

DISAPPROVED 0

DEFERRED 0

MOTION: Approval.

MADE BY: R.Appel SECOND: M.Robinson VOTE: FOR 5 AGAINST 0

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
- Results -

City of Charleston

Page 1 of 1

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:

*Access to east side from Market St
Mandatory right turn onto Guignard
Hotel*

Date issued: 7/18/17 Chairman [Signature]

Order on Variance Request

The Board of Zoning Appeals-Zoning held a public hearing to consider an appeal for a variance from the strict application of the Zoning Ordinance for the property 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

RECORD P.404

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

CONSENT ORDER TO REMAND

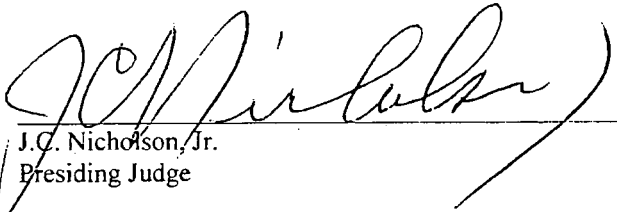
FILED
2017 NOV 20 AM 11:06
JULIE L. HARRIS, CLERK OF COURT

gm
This matter is before the Court on the appeal of 241-243 E. Bay Holdings, LLC from the decision of the City of Charleston Board of Zoning Appeals – Zoning (“BZAZ”) approving the application of Apex Real Property, LLC (n/k/a Pearce Development, LLC) for a special exception for a planned 50-room hotel on properties located at 36 N. Market Street, 5 Guignard and 235 East Bay Street, Charleston, South Carolina. After the appeal was filed, Apex Real Property, LLC changed its name to Pearce Development, LLC, and title to the three properties is now held in the name of Pearce Development, LLC. East Bay 7, LLC is the former owner and seller of the property located at 235 East Bay Street, now owned by Pearce Development, LLC, and therefore East Bay 7, LLC is no longer an interested party in this matter.

The BZAZ has held three hearings on this application: December 20, 2016, January 17, 2017, and July 18, 2017. The BZAZ deferred a decision at the first two hearings and then issued its decision approving the application, with conditions, at the conclusion of the July 18, 2017 hearing. It appears to the Court, however, that the recording system used by the BZAZ at the final hearing malfunctioned and that the transcript of the hearing is incomplete. The Court

concludes, and the parties agree, that this appeal should be stayed and the matter remanded to the BZAZ for the sole purpose of reconstructing the record of proceedings before the BZAZ at its next available meeting date. On remand, BZAZ will take no further evidence.

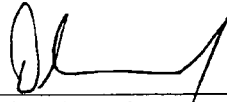
AND IT IS SO ORDERED.



J.C. Nicholson, Jr.
Presiding Judge

CHARLESTON, SC
November 17, 2017

WE CONSENT:

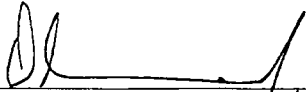


Alice F. Paylor
Rosen, Rosen & Hagood, LLC
P.O. Box 893
Charleston, SC 29401

Attorneys for Petitioner

241-243 E. Bay Holdings, LLC v. The City of Charleston, et al.
Case No.: 2017-CP-10-4212
Consent Order to Remand

WE CONSENT:

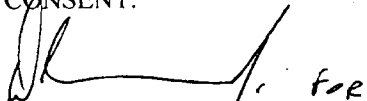


Frances I. Cantwell (S.C. Bar No. 1121)
Daniel S. "Chip" McQueeney, Jr. (S.C. Bar No. 6802)
50 Broad Street
Charleston, SC 29401

*Attorneys for Respondents The City of Charleston and
The City of Charleston Board of Zoning Appeals-Zoning*

241-243 E. Bay Holdings, LLC v. The City of Charleston, et al.
Case No.: 2017-CP-10-4212
Consent Order to Remand

WE CONSENT:



Charles J. Baker III (S.C. Bar No. 486)
Womble Bond Dickinson (US) 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

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CITY OF CHARLESTON
BOARD OF ZONING APPEALS MEETING
AUDIO RECORDINGS
36 NORTH MARKET STREET
5 GUIGNARD STREET
235 EAST BAY STREET
DECEMBER 5, 2017

REPORTED BY: RONDA K. BLANTON, RPR
NCRA REGISTERED PROFESSIONAL
REPORTER
CLARK & ASSOCIATES, INC.

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

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

2 BZA MEMBERS:

3 Leonard Krawcheck

Michael Robinson

4 Margaret Smith

Allison Grass

5 Ross Appel

6

7

PLANNING STAFF:

8

Lee Batchelder

9 Penny Ashby

Vanessa Ellington

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Clark and Associates Inc.
RECORD P.410

1 City of Charleston BZA Meeting

2 December 5, 2017

3 5:20 p.m.

4 - - -

5 CHAIRMAN: This is the December 5, 2017,
6 Meeting of the City of Charleston Board of Zoning
7 Appeals.

8 Present are Mr. Appel, Miss Grass,
9 Miss Smith, Mr. Robinson, and Mr. Krawcheck. On
10 my right from the planning staff Ms. Ellington,
11 Miss Ashby, and Mr. Batchelder.

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

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

20 Zoning variance test is a hardship test.
21 In order for this Board to grant a zoning
22 variance, it has to be shown that there are
23 exceptional and extraordinary conditions
24 pertaining to the particular piece of property;
25 that these conditions do not generally apply to

1 other property in the vicinity; because of these
2 conditions, the application of the ordinance to
3 the particular piece of property would
4 effectively prohibit or unreasonably restrict the
5 utilization of the property; and, lastly, the
6 Board has to find that the authorization of the
7 variance will not be of substantial detriment to
8 adjacent property or to the public good and the
9 character of the district will not be harmed by
10 the granting of the variance.

11 We will conduct our meeting in usual
12 fashion. We will first hear a description of the
13 application and a -- receive a recommendation
14 from the zoning administrator. Ordinarily, if
15 that recommendation is in favor of the
16 application and if there's no one present who's
17 opposed to the application, the Board will treat
18 the matter as being uncontested and pass it
19 quickly.

20 If the recommendation from
21 Mr. Batchelder, the zoning administrator, is in
22 opposition of the application or if there is
23 anyone present who opposes the application, we
24 will treat the matter as being contested.

25 In which case we will ask to hear from

Clark and Associates Inc.
RECORD P.412

1 the applicant, from anyone else in favor of the
2 application, then from the opponents. And after
3 the opponents, we'll receive a short rebuttal
4 argument from the applicant.

5 We'll then close the public hearing
6 portion of the Meeting, and the Board will make a
7 decision.

8 The -- those of you who will testify
9 before this Board tonight, please raise your
10 right hand.

11 (Witnesses are sworn.)

12 THE COURT: Those of you have -- who
13 have cell phones, would you please double-check
14 them and make sure that they are turned off.

15 We have one deferral. It's Item 476
16 King Street and 476-1/2 King Street. That matter
17 will not be heard tonight. That will be heard at
18 the next meeting of the Board.

19 Those of you who speak from the
20 audience, we would ask you to please come forward
21 and use our microphone that -- that is set up for
22 you.

23 The first item on the agenda is 36 North
24 Market Street and 5 Guignard Street and 235 East
25 Bay Street. It's for a special exception to

1 allow a 50-unit accommodations use in a GB zone
2 district.

3 I understand that in reading the
4 newspaper, that this is a matter that was heard
5 before by the Board and made a decision and that
6 the matter is being litigated and has been
7 remanded back to the Board by the Circuit Court.

8 And Mr. McQueeney is the City attorney
9 present and will explain to the Board and
10 everyone else what our task is in connection with
11 this matter.

12 So we've got a -- -- so Mr. McQueeney, I
13 believe that we don't have a quorum of members
14 who can help us tonight. Miss Grass is recused,
15 and Mr. Robinson our -- was recused and -- and
16 has to recuse again.

17 So, Mr. Wilson, I know you're here on
18 behalf of the applicant; and, Miss Paylor, I know
19 you're here on the -- on behalf of an interested
20 neighbor.

21 I don't think I have any choice but to
22 defer this meeting till you can hear it when the
23 Board is present.

24 MR. MCQUEENEY: Chairman Krawcheck, if I
25 may just address that.

1 I can state what's happened since the
2 hearing on July 18, 2017, in this case. I wasn't
3 here for it. So please don't take anything I say
4 as what happened in the July 18 hearing.

5 After the July -- excuse me. July 18,
6 2017, hearing, which the BZA granted a special
7 exception to the applicant subject to conditions,
8 241-243 East Bay Holdings, LLC, filed an appeal
9 to the Circuit Court; and that appeal has been
10 pending.

11 At the July 18 meeting, the -- there was
12 a transcription error. The recording did not --
13 it didn't cover everything that happened at the
14 meeting. It cut off shortly after Mr. Batchelder
15 finished his presentation. I think Mr. Wilson,
16 the applicant, then stood up to begin his -- his
17 argument, and -- and his testimony.

18 The Judge -- or pursuant to the consent
19 of the parties, Judge Nicholson -- the case came
20 before Judge Nicholson. I've got a copy of the
21 order, which I'll hand to the members who were at
22 the hearing.

23 Judge Nicholson has remanded it solely
24 for reconstructing the record. I don't believe
25 there needs to be a quorum here because there's

1 no new decision to be made. It's, essentially,
2 just the opportunity for -- and I believe
3 everyone agrees with this. It's the opportunity
4 for people who were here to reiterate what they
5 said and not go beyond that. The Board is not
6 allowed to take new evidence or hear new reasons
7 that it should or should not grant the special
8 exception.

9 The Board is not permitted to make a
10 decision or change its mind or even reinforce its
11 existing decision. All it can do is -- all that
12 the Board members could do under Judge
13 Nicholson's order is explain what was said at the
14 meeting.

15 Mr. Jaudon, I believe, could be here.
16 He was at the hearing, but I don't believe a
17 quorum is required just to reconstruct the
18 record. I believe it's just the Board members
19 and members of the public stating what they
20 recollect saying at the hearing.

21 CHAIRMAN: Mr. McQueeney, who -- which
22 Board members were present? I know I was
23 present. I recall.

24 MR. MCQUEENEY: Chairman Krawcheck.

25 CHAIRMAN: Miss Smith.

1 MR. MCQUEENEY: Miss Smith and Mr. Appel
2 and Mr. Jaudon was also here.

3 CHAIRMAN: Jaudon.

4 MR. MCQUEENEY: Jaudon. I apologize.

5 CHAIRMAN: Since Mr. Jaudon is not
6 present tonight, is -- is he needed to
7 participate in this exercise?

8 MR. MCQUEENEY: I don't believe so. I
9 don't know if --

10 MS. PAYLOR: I believe that he has to be
11 here, Your Honor. He participated -- Your Honor.

12 CHAIRMAN: Thanks for the promotion.

13 MS. PAYLOR: He participated in the
14 decision, and I think that the same people who
15 were here have to be here.

16 Thank you. Alice Paylor.

17 CHAIRMAN: Yes, Miss Paylor.

18 MS. PAYLOR: I'm sorry. You do you want
19 me to come up there?

20 CHAIRMAN: I know. This microphone
21 thing is new to us as well. So -- but -- but, if
22 you will, speak into the microphone.

23 MS. PAYLOR: You want me to come up
24 there, or is it okay?

25 THE COURT: No. I -- I can recite that

1 Miss Paylor said that she believes that
2 Mr. Jaudon's presence is necessary to -- to
3 comply with what the Judge is ordering. Is
4 ordering us to do.

5 Mr. Wilson.

6 MR. WILSON: Mr. Chairman of the Board,
7 I'm James Wilson with Womble Bond Dickinson on
8 behalf of the applicant.

9 Our feeling is we do not think it's
10 necessary for Mr. Jaudon to be here for the
11 specific purpose that the Court remanded this,
12 which is solely to reconstruct the record, not to
13 take a new decision.

14 I would be very happy for the members of
15 the Board who were present to -- to listen to --
16 to us, to describe what was said, and then to
17 make their statements/findings based on that.
18 And Mr. Jaudon could certainly be offered an
19 opportunity to read this transcript, which is
20 being taken presently, and to offer anything else
21 to that that he may wish to add after the fact.

22 Thank you.

23 CHAIRMAN: Does anybody have anything
24 additional to say?

25 Mr. McQueeney.

1 MR. MCQUEENEY: If I may, just one
2 thing.

3 The case that I think I gave to both
4 counsel involved the remand from a BZA. This was
5 back in the '90s, but I think it still applies
6 today. It's the same thing as a reconstruction
7 of the record.

8 The only thing the Court required in the
9 case was an affidavit from the Chairman of the
10 Board. I don't think -- because the Board is not
11 taking any action, I don't believe a quorum has
12 to be present. I think this is really just to
13 put things on the record so the Circuit Court can
14 consider that record at the -- at the Circuit
15 Court level and determine whether the BZA's
16 July 18, 2017, decision was correct or incorrect
17 as a matter of law.

18 CHAIRMAN: Miss Paylor.

19 MS. PAYLOR: Thank you.

20 I just want to make my objection for the
21 record. I do object to there not being a quorum
22 and also not having all the members present.

23 Thank you.

24 CHAIRMAN: Okay. It seems to me that --
25 well, first of all, this is a novel issue for

1 this Board. We've never that I can recall ever
2 had anything like it. So it's -- it's first
3 impression.

4 I -- I think it's something that
5 probably the -- the Chair would rule on because
6 it's procedural in nature as -- as opposed to
7 substantive. And it seems to me that -- that the
8 quorum -- that Mr. McQueeney is right about the
9 quorum. That the quorum really requirement
10 doesn't serve any purpose; however, if we're
11 going to reconstruct the record, it seems to me
12 that -- that all of the members who were present
13 at the prior meeting need to be here to try to --
14 to remember what they did and said so that,
15 hopefully, the Court could have a complete record
16 to the extent that it could have a complete
17 record of the proceedings.

18 So in the interests of not creating
19 other novel issues -- I'm sure y'all have enough
20 already -- and since Miss Paylor has objected, I
21 think if the -- if Miss Paylor didn't object, I'd
22 be inclined to certainly go along and -- and hear
23 it.

24 But in view of her objection and in view
25 of the fact that -- that I think it's either

1 necessary to have everybody here who was at the
2 first meeting -- or it would be helpful to have
3 everybody here -- I'm going to go ahead and defer
4 it until the top of the agenda at the next
5 meeting.

6 And, Miss Ashby, if you can -- of
7 course, we all get sick and, you know, all that
8 stuff; but to the extent that you can make sure
9 that -- that the four members are here who can --
10 who need to participate, that would be really
11 good.

12 MS. ASHBY: Yes, sir.

13 MS. PAYLOR: Can I --

14 CHAIRMAN: Yes, Miss Paylor.

15 MS. PAYLOR: Can I ask when the next
16 meeting is? I'm out of town beginning the 18th
17 through the end of year. So I would ask that it
18 be put in January.

19 MR. WILSON: Mr. Chairman --

20 CHAIRMAN: Mr. Wilson.

21 MR. WILSON: We ask would if
22 Miss Paylor's unavailable, that perhaps we could
23 convene a special meeting to resolve this.

24 CHAIRMAN: Well, let me ask y'all this.
25 If -- if this proceeding just requires the

1 members of the Board to recite what they recall,
2 why is it necessary to have counsel present?

3 Miss Paylor.

4 MS. PAYLOR: Well, the record that you
5 rely on in making your decisions is what is
6 presented to you. So I think it would be -- I
7 think you would need to have the people who were
8 here. Unless you remember everything that
9 everybody said, then you wouldn't. I mean, I've
10 got some notes that I relied on when I was here;
11 and I know Mr. Wilson does as well.

12 But if y'all want to do an affidavit and
13 say, "This is what we relied on," that --

14 CHAIRMAN: Well, Mr. McQueeney.

15 MR. MCQUEENEY: Your Honor, I don't have
16 any objection to that process, assuming everyone
17 consents.

18 I would say that the -- if anyone is in
19 opposition because it's not in the record, I
20 think they should at least have the opportunity
21 to submit an affidavit. Mr. Wilson made a
22 presentation, and none of his presentation is in
23 the record. If he could submit an affidavit,
24 again, limited to what was said on July 17,
25 2017 -- or July 18, 2017, I am fine with that. I

1 think Judge Nicholson would be good with it,
2 assuming everyone consents but --

3 CHAIRMAN: Well, would it -- would it
4 aid this process, Mr. McQueeney, if we had
5 counsel submit affidavits to the Board to kind of
6 refresh the Board members' recollection of what
7 took place?

8 MR. MCQUEENEY: I -- I have no objection
9 to that, and I think that's a great process to
10 follow. That's what they followed in the '90s.

11 MS. PAYLOR: So long as we could each
12 review the other and make sure that nothing has
13 been added in that he or I don't believe was said
14 at the time.

15 MR. WILSON: That would be fine with us,
16 Mr. Chairman.

17 CHAIRMAN: Okay. Well, I -- I'm going
18 to go ahead -- now, does it make -- Mr. Wilson,
19 does it make any difference if we continue this
20 thing into January? I mean, with the holiday
21 season, Ms. Paylor, I want to show her every
22 courtesy that I possibly can.

23 If we continue this thing to the first
24 meeting in January, does that complicate things
25 for anybody?

1 MR. BATCHELDER: Well, the first meeting
2 in January is the third Tuesday of January, which
3 is the 16th of January. That's the first
4 scheduled meeting and only scheduled meeting in
5 January so --

6 CHAIRMAN: Mr. McQueeney, does that make
7 any difference to the Court?

8 MR. MCQUEENEY: Your Honor, I don't
9 believe it would.

10 Obviously, we probably -- again, I think
11 this -- as far as if everyone consents, the
12 parties to the appeal, there's really no appeals
13 process after the -- the time limit expires. So
14 there's three parties to the appeal, and they're
15 all represented here.

16 If they don't have any objection, I
17 don't -- I don't -- it shouldn't be an issue.
18 From the applicant's perspective, I think, you
19 know, a special exception was granted in July.
20 There was a transcription error which is, you
21 know, that's on the City. And then, you know,
22 it's taken a long time for them; but if they
23 don't have any prejudice from waiting until
24 January 16, I certainly wouldn't have an
25 objection to that. My position would be that

1 it's up to the applicant as far as that's
2 concerned.

3 CHAIRMAN: Mr. Wilson.

4 MR. WILSON: Mr. Chairman, we would much
5 prefer to submit our written affidavits and
6 inputs to what was presented to the Board at the
7 July meeting only because deferring for another
8 six weeks is -- is just adding more delay for our
9 client for his -- his project and it's been a --
10 it's been a long wait already.

11 Thank you.

12 CHAIRMAN: Miss Paylor.

13 MS. PAYLOR: I think he hit the nail on
14 the head. It's got to go back to Court after you
15 recreate the record. So I don't believe that the
16 one month delay is going to harm them in any way.
17 And we would ask -- yeah. That we submit it and
18 then we come back, and you make your decision and
19 let us know what it is at that next meeting.

20 CHAIRMAN: Well, I -- I'm going to --
21 I'd rather be safe than sorry and -- and I think
22 that the counsel should be here. It's a holiday
23 season. I think we -- it's appropriate to take
24 that into consideration, and I think we --
25 it's -- it's a novel, unusual situation; and I

1 think we just have to do the best we can with
2 what we got.

3 And I think the best we can do is
4 require affidavits from counsel. Submit them to
5 each other, and then submit them to the Board
6 and -- and go ahead and -- and plan on hearing it
7 at the first meeting in -- in January. And it
8 does cost a little bit of time, but I think I
9 just don't have any other choice.

10 Mr. Wilson.

11 MR. WILSON: Mr. Chairman, if we're
12 going to submit -- when we submit affidavits so
13 that the Board could go ahead and hear it at the
14 next meeting, which is actually December as
15 opposed to January. In other words, if we were
16 to wait till January, we could presumably all be
17 present. I think the point of the written
18 affidavits is -- is in order to proceed more
19 quickly.

20 MR. APPEL: And I'm not clear what
21 decision the Board has to make. Is it that the
22 affidavits or the testimony are consistent with
23 the first go-around or -- 'cause we're not --
24 we're not reopening the decision in the first
25 place.

1 MR. WILSON: Absolutely.

2 MR. APPEL: I mean, if y'all got
3 together and tried to, like, stipulate to the
4 facts and stipulate to what they said, what you
5 said, and just maybe tee it up for us; and we can
6 just bless it at the next meeting?

7 MR. WILSON: We think that's a fine
8 approach. It would absolutely be receptive to do
9 that.

10 CHAIRMAN: I think Mr. Appel's hit the
11 nail on the head here. I think what the Court
12 probably wants is a stipulation as to what
13 happened at the original meeting in view of the
14 fact that the recording is -- doesn't exist.

15 Is it possible that counsel can enter a
16 stipulation and satisfy the Court?

17 MR. WILSON: On behalf of the applicant,
18 we'd certainly be happy to; but I'll let
19 Miss Paylor respond to that.

20 MS. PAYLOR: My client's concern is that
21 there will be stuff added that wasn't in the
22 record in the first place, and that's -- that's
23 really where this is coming from because there --
24 we believe there were certain things that were
25 not in the record that should have been.

1 So if he -- if he gives me something
2 that I know he doesn't add anything, then we can
3 probably do something like that; but then it's
4 also the Board has to, you know, state what they
5 considered in making their decision.

6 And I know you had discussion; and that
7 was a big thing that Mr. Wilson was talking about
8 earlier was, you know, for you to recreate what
9 you considered and what you relied on and --

10 MR. APPEL: Yeah. I think we're just
11 laying the groundwork for future problems, future
12 issues on appeal here because I can only speak
13 for myself; but I don't remember what I had for
14 breakfast yesterday. I remember this case, but I
15 can't tell if you Mr. Wilson made a particular
16 argument or the opposition made a particular
17 argument.

18 And I think that, you know, I've been in
19 enough legal scraps to try to get advantages and,
20 you know, push and pull and -- I -- I mean, I
21 haven't seen Judge Nicholson's order, and I am
22 not one to go against the order; but my
23 inclination is to -- I mean, why not have a redo?
24 Get it on the transcript, get it on the record.
25 The people that heard everything the first time

1 are going to be here again.

2 Just throwing that out as an option. I
3 just -- I just see where we're headed.
4 Presenting different --

5 CHAIRMAN: I think, Mr. Appel, the
6 problem with that is the Court doesn't want us to
7 do that.

8 MR. APPEL: Right.

9 CHAIRMAN: I think that --
10 Mr. McQueeney.

11 MR. MCQUEENEY: I was going to pass up
12 the order from the Court here.

13 MR. APPEL: Yeah. See what we got here.

14 MR. MCQUEENEY: It's really the bottom
15 of the first page onto the second page is what
16 Judge Nicholson covers. You know, it does say
17 "at the next available meeting." I was thinking
18 that as we were discussing it. So I don't know,
19 you know, that -- I think it is up to Chairman
20 Krawcheck to interpret that. He's the final
21 decision other than Judge Nicholson.

22 And I -- I would also recite to the
23 extent the Board, you know, the Board's required
24 to make findings of fact and conclusions of law.
25 What typically happens is there's discussions at

1 the meeting. The transcript is prepared and
2 serves as the findings of fact and conclusions of
3 law.

4 Here we don't have anything on the
5 record as far as findings of fact and conclusions
6 or any discussions on the record. So to the
7 extent anyone submits affidavits, we would also
8 need something from the Board just explaining
9 what was discussed by Board members and, you
10 know, the reasoning -- to the extent it was
11 stated the reasoning for the decision on July 18,
12 2017.

13 CHAIRMAN: Okay. I think the next
14 available meeting of the Board is the January
15 meeting. And it says that -- the order says at
16 its next available meeting date, and I'm going to
17 rule that -- that we hear it in January.

18 I'm also going to ask counsel to submit
19 affidavits to the Board to help in -- in meeting
20 the requirements of this order, and I'm also
21 going to ask that the -- the counsel get together
22 and try to -- to have a meeting of the minds as
23 to -- and stipulate that the affidavits of -- of
24 respective counsel are correct.

25 To the extent that -- to the extent that

1 they can't do that, we'll, I think the Board will
2 have to make a decision; but I think that the --
3 the affidavits will be -- be a useful tool in
4 allowing the Board members to refresh their
5 recollection.

6 MR. APPEL: Like a transcript of
7 testimony that we use in court sometimes.

8 CHAIRMAN: Whatever -- I --

9 MR. APPEL: I'm sure y'all can figure it
10 out.

11 CHAIRMAN: If I -- if I remember
12 correctly -- and I think I do -- there was a lot
13 said at that hearing. It went on for a
14 considerable period of time.

15 If -- if -- we've heard this a couple of
16 three times, it seems to me, and -- and in that
17 particular hearing, if I remember correctly,
18 seems like it might have gone on an hour-and-a-
19 half or something. I remember the presentations
20 were extensive; and, perhaps, towards the end I
21 maybe required that things be speeded up a little
22 bit. But I may be making that up.

23 But I -- there's no way to reconstruct
24 what the individual Board members said at that
25 meeting. I think that -- that if you had the

1 affidavits, we can try to -- to the best of our
2 ability state our reasons for the decision that
3 we made.

4 The affidavits should be submitted --
5 the meeting, Miss Ashby, is the 15th?

6 MS. ASHBY: 16th of January.

7 CHAIRMAN: 16th of January. I would say
8 the affidavits need to be submitted to the Board
9 by the 10th, and that'll get well beyond the
10 holidays for everybody.

11 Okay. I -- does everybody understand
12 what we're going to do?

13 MS. PAYLOR: Yes, sir.

14 CHAIRMAN: The lawyers understand?

15 MR. WILSON: Yes, sir, Mr. Chairman.

16 Thank you.

17 MR. MCQUEENEY: Yes, sir. Thank you,
18 Mr. Chairman.

19 MS. PAYLOR: Thank you.

20 CHAIRMAN: Thank you all very much.

21 (The proceedings concluded at 5:47 p.m.)

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1 CERTIFICATE OF REPORTER
STATE OF SOUTH CAROLINA
2 COUNTY OF CHARLESTON

3 I, Ronda K. Blanton, a Registered
Professional Reporter and Notary Public for the
4 State of South Carolina at Large, do hereby
certify that the foregoing proceeding was
5 recorded stenographically by me and thereafter
transcribed by computer-aided transcription; that
6 the foregoing is a full, complete, and true
record of the proceeding.

7
I further certify that I am neither related
8 to nor counsel for any party to the cause pending
or interested in the events thereof.

9
Witness my hand, I have hereunto affixed my
10 official seal on January 26, 2018, at Charleston,
Charleston County, South Carolina.

11
12
13
14 Ronda K. Blanton
NCRA REGISTERED PROFESSIONAL
15 REPORTER, RPR
My Commission expires:
16 May 14, 2018.
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25

STATE OF SOUTH CAROLINA)
)
CHARLESTON COUNTY)

Board of Zoning Appeals – Zoning (BZA)
of the City of Charleston
Remand from Circuit Court Appeal to Reconstruct Record
Accommodations Approval
235 East Bay/5 Guignard/36 Market Streets

AFFIDAVIT OF JAMES M. WILSON

The undersigned, JAMES M. WILSON, does hereby state and affirm, as follows:

1. I am over twenty-one years of age and competent to provide this affidavit.
2. I am an attorney with Womble Bond Dickinson (US), LLP and represented Pearce Development, LLC (formerly known as Apex Real Property, LLC) (the “**Applicant**”) before the Board of Zoning Appeals – Zoning (the “**BZA**” or “**Board**”) at the July 18, 2017 meeting at which the BZA approved the Applicant’s application for an accommodations use of Applicant’s property located at 235 East Bay, 5 Guignard, and 36 Market Streets in Charleston, South Carolina (the “**Property**”).
3. This affidavit is based on my recollection of the BZA meeting on July 18, 2017, the original written notes that I used at the meeting to make my presentation to the Board, my PowerPoint slides that were displayed to the Board and that I used as part of my presentation, my handwritten notes made at the meeting, and my review of the transcript of the initial portion of the meeting before the recording equipment stopped functioning.
4. The Board members present at the meeting were Chairman Krawcheck, Ms. Smith, Mr. Appel, Mr. Jaudon, and Mr. Robinson. Mr. Robinson recused himself from consideration of this matter.
5. After presentations and discussion, the Board members voted unanimously to approve the Applicant’s request, with two conditions. The two conditions were (i) to require a right turn only when exiting the on-site parking onto Guignard Street, and (ii) to prohibit a direct entrance from Market Street to the second floor conference/meeting room located in the historic building at 36 Market Street which comprises part of the proposed project.
6. The City Zoning Administrator, Mr. Lee Batchelder, began the BZA’s consideration of this matter by explaining the background of the application and the Property. Mr. Batchelder described the previous approval of the BZA for a 36 room hotel use in addition to the first floor restaurant at 36 Market Street and 5 Guignard Street, and explained that the new application was for a proposed 50 room hotel that now included 235 East Bay Street (most recently used as the Molly Darcy’s restaurant and bar). Mr. Batchelder referenced the two prior

BZA meetings at which this application was deferred because of traffic concerns, and explained that the Applicant had now revised and resubmitted to the BZA the hotel project plans.

7. Mr. Batchelder went on to describe the current and most recent uses of the Property: Wild Wings restaurant and various upstairs uses of 36 Market Street, Molly Darcy's restaurant and bar use of 235 East Bay Street, and surface parking lot use of 5 Guignard Street. After presenting the new revised plans to the Board and explaining that the proposal meets the parking and other requirements under the zoning ordinance, Mr. Batchelder restated the City staff's recommendation to the Board for approval.

8. Mr. Batchelder concluded by noting the objections that had been raised by the Historic Ansonborough Neighborhood Association and by Mr. Ty Hanlan as the owner of the property located at 241-243 East Bay Street. Mr. Batchelder described Mr. Hanlan's objections relating to traffic impacts on Guignard Street and Mr. Hanlan's concerns that the excess parking capacity in the hotel parking garage (in excess of the minimum required for the project under the zoning ordinance) could contribute to more traffic on Guignard Street.

9. Following Mr. Batchelder's presentation to the Board, Mr. Eddie Bello, the architect for the project, and I gave a joint presentation on behalf of the Applicant.

10. I began our presentation by describing the major changes to the plans to address the traffic concerns raised at the prior BZA meetings. Mr. Bello then walked the Board through the revised plans in more detail. I then addressed each of the criteria for an accommodations approval as set forth in the zoning ordinance and concluded with a detailed explanation of why the project would not significantly increase automobile traffic on residential streets (as required by the zoning ordinance).

11. The initial portion of my presentation included the following:

- a. Our original plans, presented to the Board in December 2016 and January 2017, included a front hotel lobby located on Market Street, a 4th floor restaurant without outdoor deck seating, and approximately 12,000 square feet of commercial space overall (approximately the same amount as the most recent Wild Wings and Molly Darcy's uses of the Property).
- b. The Applicant revised its plans to address the traffic concerns raised at the first two BZA meetings.
- c. The new plans made two major changes: (i) the hotel lobby, front entrance, and valet car drop was moved from Market Street over to East Bay and Guignard Streets (with the car drop at the entrance to the parking garage), and (ii) the total commercial space was reduced from the current approximately 12,000 square feet to approximately 7,000 square feet (a reduction of 5,000 square feet).
- d. In addition, the 4th floor restaurant and rooftop deck were eliminated and replaced with an enclosed courtyard restaurant area.

- e. The total square footage of the buildings was reduced by approximately 20,000 square feet and set back from East Bay Street.
- f. By making these changes, we believe that we have addressed the Board's and other interested parties' concerns about traffic as discussed at the prior BZA meetings.

12. Mr. Bello presented the next portion of the Applicant's proposal. Mr. Bello reviewed the plans in detail with the Board, explaining how the different components of the hotel project would work together. Mr. Bello reviewed with the Board each floor of the revised plans, describing the new plan for the hotel lobby fronting on East Bay Street, the ground level parking garage and valet car drop immediately off of Guignard Street adjacent to the lobby, the walkway from the lobby to the enclosed courtyard restaurant, the first floor restaurant and retail space in the historic building fronting on Market Street, and the second floor conference/meeting room in the historic building on Market Street, which conference/meeting room can be accessed by a second floor walkway from the hotel rooms and lobby.

13. After Mr. Bello's presentation, I resumed my presentation and explained how the proposed hotel project satisfies each of the requirements for an accommodations approval under the zoning ordinance, addressing the 5 items that the Board must find satisfied in order to grant an accommodations approval under Section 54-220(a)-(e), as follows:

- a. Since no housing units currently exist on the Property, there will be no elimination of housing, so item (a) is satisfied.
- b. Since the hotel lobby and car drop was moved, cars would arrive from East Bay to Guignard Street, and exit in the same manner. The lobby and valet car service on Market Street was eliminated to avoid departing traffic from the hotel potentially turning north on Anson Street. The result is that traffic on residential streets would not be significantly increased by the hotel project, and thus item (b) is satisfied. I noted that I would come back to this point with more traffic detail at the end of the presentation.
- c. Item (c) of the zoning ordinance requires that alcohol-serving restaurant and bar space in the project not exceed 12% of the total conditioned square footage. The calculations set forth on the revised plans submitted and presented to the Board demonstrate that this item is satisfied, as was confirmed by Mr. Batchelder.
- d. The proposed project as set forth on the plans includes a combination of hotel, retail, parking, and restaurant components, which mix of uses is consistent with the neighborhood, which consists of retail, restaurants, offices, hotels, and other commercial uses, and therefore satisfies item (d).
- e. The location of the Property affords excellent pedestrian access to shopping, restaurants, and tourist attractions and is located directly on one CARTA bus

route and only two blocks from additional bus routes that take passengers directly up Meeting Street to the central CARTA hub for those traveling to and from other locations in the area. As such, the project is well positioned to facilitate pedestrian activity and encourage transit system usage and satisfies item (e).

14. I then continued my presentation by addressing the specific criteria under Section 54-220(f) of the zoning ordinance, which the Board is to consider in making the findings described above, and presented the following information to support those findings:

- 1) Number of housing units being displaced: No housing units are being displaced, so this consideration is not applicable.
- 2) Effect of displacement of housing: No housing units are being displaced, so this consideration is not applicable.
- 3) Number of vehicle trips generated by the facility and traffic circulation and efforts made to minimize traffic impacts:
 - a) Trips Generated. As shown on my PowerPoint slides and as shown in the updated traffic impact analysis submitted to the BZA with the revised plans, the new proposed project would actually decrease vehicles trips relative to the current uses of the Property. Based on the standard metrics used in the Institute of Transportation Engineers (ITE) Trip Generation, Ninth Edition, the current daily vehicle trips generated by the existing 12,000 square feet of restaurant and bar space on the Property is 1,526 trips, whereas the proposed combination of a 50 room hotel plus 7,000 square feet of restaurant and retail space would generate only 1,299 trips. Moreover, the current existing level of trips per day is actually higher than 1,526 trips if you take into account the public parking lot located on 5 Guignard Street. In short, because of the reduction in commercial square footage in the revised plans, the proposed project would actually decrease total trip generation from the Property.
 - b) Traffic Circulation. The on-site, interior car drop located within the entrance to the parking garage gets cars off of Guignard Street when arriving. When departing, valets will deliver cars to guests immediately within or outside of the garage, pointing out from Guignard Street toward East Bay Street. In addition, a commercial loading area will be located alongside the hotel on Guignard Street, which is intended to help relieve the current absence of a loading area that has resulted in trucks sometimes parking in the middle of Guignard Street. This is actually an improvement to traffic circulation on Guignard Street. Further, the hotel parking garage is replacing the existing public surface parking lot on 5 Guignard Street which is approximately the same size in terms of number of spaces.

- c) Efforts to Minimize Impacts. In response to prior concerns voiced by the Board and neighbors, the Applicant dramatically reduced the total square footage of restaurant and retail space from 12,000 square feet to approximately 7,000 square feet and moved the main hotel entrance, lobby, and car drop to a lower impact location.
- 4) Distance of main entrance and parking entrance from an arterial road: The project is located directly off of East Bay Street, which is a primary arterial road providing access to the Charleston peninsula.
- 5) Predominant land uses within 500 feet: The surrounding area is commercial and consists of the City Market, restaurants, retail, hotels, the State Ports Authority facilities, the Customs House, horse carriage tour facilities, and offices.
- 6) Proximity of residential neighborhoods: As shown on the zoning map included in my PowerPoint slides, the Property is separated from the nearest residential zoned area by more than a block of commercial properties along Guignard, Anson, and Pinckney Streets.
- 7) Accessory uses for the facility in terms of size, impact on parking, and impact on traffic: Currently there are two large restaurant and bar properties with very little dedicated parking for Molly Darcy's and no parking for Wild Wings. With the new project, restaurant and retail space is being reduced from the existing size by approximately 5,000 square feet, which reduces traffic accordingly. In addition, the new project provides 16 parking spaces in excess of the required number under the zoning ordinance. I also noted that an updated traffic impact analysis had been submitted with the revised plans and that the traffic impact would be discussed further at the end of my presentation.
- 8) Off-street parking at the rate of two spaces for each three sleeping units: The proposed project has 50 hotel rooms, for a total parking requirement of 34 spaces. The proposed project has 50 parking spaces, which is an excess of 16 spaces beyond the zoning ordinance requirement.
- 9) Presence of industrial uses or hazardous substances within 500 feet: To our knowledge there are no industrial uses or hazardous materials nearby that would impact the proposed hotel project.
- 10) Commitment to environmental sustainability and recycling: The Applicant's design would be committed to sustainability and reduction of waste through recycling. In addition, the historic building at 36 Market Street is already being restored as part of the project.

- 11) Distance from major tourist attractions: The Property is located near historic sites and arts venues.
 - 12) Distance from transit facilities: The Property is located directly on one CARTA bus route and within two blocks of two other CARTA bus routes.
 - 13) Parking for employees: A few of the 16 excess parking spaces may be used for employees, but employees will also be able and encouraged to use alternative transportation, including the easily accessible CARTA bus service and on-site bicycle storage which the Applicant has committed to provide. Because restaurant uses are highly employee intensive, the 5,000 square foot reduction in total restaurant and bar area has a significant impact on reducing overall employee numbers.
 - 14) Creation of a diverse, mixed use community: The various project components will add to and be compatible with the neighborhood.
 - 15) Number of hotel rooms not to exceed 50: The project will include only 50 hotel rooms.
 - 16) Shuttle bus service if located outside of the A-1 area and not served by public transit: The Property is zoned A-1 and is served by public transit.
 - 17) Commitment to ensuring opportunities for disadvantaged business enterprises and women business enterprises: The Applicant is committed to this effort.
 - 18) Commitment to hire personnel representative of the Charleston community: The Applicant is committed to this effort.
15. As the final portion of the Applicant's presentation, I presented traffic information using the PowerPoint slides that accompanied our discussion as follows:
- a. First, the reduction of approximately 5,000 square feet of existing restaurant and bar space from the Property actually reduces vehicle trips by more than the new vehicles trips generated from a 50 room hotel facility. Thus, the proposed project does not increase traffic generation.
 - b. Second, since the Board expressed concern at the prior meetings about traffic generated from two other proposed hotels to be located on Market Street and Anson Street that were previously approved by the BZA, I reviewed the traffic impact of these other hotels, with particular focus on Anson Street (as the immediate potentially impacted residential street). The 100 hotel rooms approved for those two hotels would generate 800 vehicle trips per day, but those hotels would also eliminate approximately 8,000 square feet of existing retail space, which reduces the net new trips to 450 trips daily. Of those new trips half are departing, and as discussed at length at the prior BZA meeting, the traffic

engineers expected that about 10% of departing trips from those locations may use Anson Street, resulting in a potential impact on Anson Street of approximately 23 new daily trips.

- c. Lastly, I reviewed the current traffic counts on Anson Street, which were included in our updated traffic study submitted to the BZA along with current traffic counts on other streets surrounding the Property, and I compared this information to traffic counts on other similar residential streets on the Charleston peninsula using South Carolina Department of Transportation data. The daily traffic on Anson Street ranges from 350 to 500 daily trips and is substantially less than the daily trips on other streets such as Hasell, George, South Battery, and Logan Streets, even after accounting for two way versus one way traffic. The result is that even with the modest increase in traffic potentially generated from the other two approved hotels in the area, Anson Street would not be materially affected, and the Applicant's proposed project would certainly not significantly increase traffic on Anson Street.

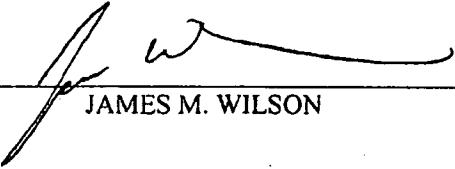
16. Following our presentation on behalf of the Applicant, the Board heard objections, including the objections raised by Ms. Alice Paylor as attorney for Mr. Hanlan as the owner of 241-243 East Bay Street. In addition to the objection of Mr. Hanlan about excess parking at the Property as described by Mr. Batchelder at the beginning of the meeting, Ms. Paylor raised an objection about the 2nd floor conference/meeting room as shown in the revised plans and what impact it might have.

17. The Board asked questions regarding the objections and also discussed among themselves various concerns. Among the comments voiced by the Board, Mr. Appel noted that the Board must make its findings based on the information presented, and that absent information to support objections, the Board only has the information presented by the Applicant on which to make its determinations.

18. Ms. Smith made a motion for approval based on the conclusion that the criteria under the zoning ordinance were satisfied, and Mr. Jaudon seconded the motion. Two conditions specifically related to traffic were incorporated: that no entrance to the second floor conference space be allowed on Market Street, and that cars exiting the parking garage be required to turn right on Guignard Street toward East Bay Street. The motion, with the two conditions, was unanimously approved by the Board.

[Signature Page Follows]

FURTHER AFFIANT SAYETH NOT.



JAMES M. WILSON

SWORN to before me this 10th day of January, 2018.



Print Name: TAMMY S. GRIFFIN
Notary Public, State of SC
My Commission Expires: 4/9/23

COUNTY OF CHARLESTON)
)
STATE OF SOUTH CAROLINA) AFFIDAVIT OF ALICE F. PAYLOR

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

1. I am the lawyer who represented 241-243 E.Bay Holdings, LLC, the owner of property located at 241-243 East Bay Street, Charleston, SC, before the Board of Zoning Appeals-Zoning at a hearing on July 18, 2017, to consider the application of Apex Property, LLC. for a special exception to allow the construction of a 50-room hotel on the property located at 36 North Market and 235 East Bay Street.

2. The City's recording device apparently failed to record the entire meeting, so the BZA directed the lawyers to file affidavits to reconstruct the matters considered by the BZA-Z at the hearing.

3. As per procedure, Mr. Batchelder of the City staff presented his statement which was caught by the recording. He stated that the applicant had presented a "new plan." He went through the plan and noted that "the second floor of the 36 North Market building is shown as conference space." He made no other comments about that space.

4. Mr. James Wilson, attorney for the applicant, then made his presentation, in which he emphasized that the problems with the application before had to do with traffic and its impact on residential neighborhoods, so he spent most of his time talking about that. He did go through the Exhibit to Application in which the various requirements for the special exception were described. He mentioned the new proposed conference facility but did not address its impact on parking or traffic. One of the BZA members asked Mr. Wilson if the parking garage

would be limited to use by the hotel guests or would be open to the public, and he responded that it would be limited to hotel guests only. Another member asked about access to the conference center off of Market Street and expressed his/her desire that there be no access to the conference facility from Market Street.

5. Jennifer Bihl discussed her traffic study, which did not discuss the impact on traffic of the proposed conference facility or the restaurants or bars.

6. Mr. Bello, project architect, also made a short presentation but did not address traffic or parking.

7. The Preservation Society and a number of Ansonborough residents opposed the application.

8. On behalf of 241-243 E. Bay Holdings, LLC, the owner of the property on the corner of Guignard Street and East Bay Street, I presented certain matters in opposition. A copy of my written talking points from which I made my presentation with my handwritten notes inserted at the meeting, are attached hereto as Exhibit A. 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.

9. In particular, I stated that 54-220.b.1.(b) of the Zoning Ordinance had not been adequately addressed, because: (a) my client's property was residential, and there was no question that the planned hotel would significantly increase traffic on Guignard Street, which abuts 241-243 East Bay; (b) applicant had failed to address the parking needs and the traffic impact of the 4439 square feet conference center, as well as bar facilities and restaurants, all of which my client anticipated would be used by members of the public and not only by hotel guests, adding more traffic and parking needs; and (c) adding the additional traffic to that of the

other two 50 room hotels planned for Guignard and Rafers Alley created a very significant impact.

10. I stated that 54-220.f(3) had not been adequately addressed, because the persons leaving the garage could go left and get on Anson, a residential street, or right and get on East Bay so there was no basis for a finding that the facility would have no impact on Anson Street, and because there was no data concerning the conference center traffic. The BZA addressed the first part of this objection when it added a condition to its motion that all traffic had to access right on Guignard going toward East Bay.

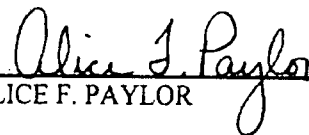
11. I stated that 54-220.f(6) (proximity to residential neighborhoods) had not been adequately addressed, because the facility was right across the street from residences located on my client's property.

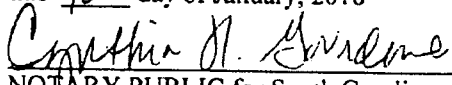
12. I stated that 54-220.f(7), which required that the accessory uses proposed for the facility in terms of the size, impact on parking and impact on traffic generation, had not been adequately addressed for the following reasons: (a) the public restaurants and bars in the facility would generate traffic and require parking but none was provided; (b) the applicant had not addressed the parking requirements or impact on traffic of the conference center, including no description of the maximum occupancy; (c) traffic study failed to address the conference center or the bars for which there was no planned parking; and (d) no mention in application of impact on parking for the patrons of the bars, restaurants and conference center.

13. Last, I stated that, in contravention of 54-220(l) (14), the location of the proposed facility will not contribute to the creation of a diverse mixed-use community, because there were already an additional two 50-room hotels planned for adjacent property.

14. The BAR-Z discussed the traffic issues as they impacted the Ansonborough neighborhood but never mentioned the impact of the bars, restaurants or the conference center on traffic or parking other than to require that the patrons of the conference center could not enter the facility off of Market Street.

FURTHER AFFIANT SAYETH NOT.


ALICE F. PAYLOR

SWORN TO BEFORE ME
this 10th day of January, 2018

NOTARY PUBLIC for South Carolina
My Commission Expires 12/15/2027

BZA MEETING - 7/18/17
TALKING POINTS

- I. Represent Ty Hanlan who owns 241-243 E. Bay Holdings, LLC, which owns the property at the corner of Guignard and East Bay, directly across Guignard from the proposed hotel. This property contains residential and office condominiums.
- II. What is wrong with the new submission
 - a. Large bar facilities and a newly added conference center, *none of which are considered in the submission*
- III. Why special exception should not be granted
 - a. 54-220.b.1.(b) the location of the facility will not significantly increase automobile traffic on streets within residential neighborhoods
 - i. Guignard St. abuts my client's property which is residential. There is no question that the planned 50 room hotel will significantly increase automobile traffic on Guignard Street.
 - ii. Applicant has failed to address the parking needs and the traffic impact of the conference center (4439 sq. ft.). No description of how that conference center will be utilized but most of these can be utilized by members of the public which will add more traffic and more parking needs that are not addressed.
 - iii. Add this to the traffic of the 2 other 50 room hotels planned to abut Guignard and Raders Alley and the impact is clearly significant.
 - b. 54-220.f.(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
 - i. Garage parking ingress and egress are on Guignard St. The traffic study states that only valet parking will be allowed in the garage and that the valet will be in the garage. That means that persons leaving the garage may go left to Anson or right to East Bay. There is no basis for the study's finding that the facility will have no impact on Anson Street.
 - ii. No data concerning the conference center traffic
 - c. 54-220.f.(6) the proximity of residential neighborhoods to the facility - condo right across the street
 - d. 54-220.f.(7) the accessory uses proposed for the facility in terms of the size, impact on parking and impact on traffic generation
 - i. Public restaurants and bars, including an outside venue, which will be very popular for the young set
 - ii. Conference center - not addressed in parking requirements or traffic study. No description of the max. occupancy.
 - iii. Traffic study does not address the conference center at all and does not address the various bar venues on the property. That impact will be great as there is no planned parking for these venues.
 - iv. Impact on parking - facility has extra parking presumably to accommodate visitors other than hotel guests - extra traffic + some folks don't like garage/valet parking and will park in the neighborhood to go to the retail and restaurant

Is the valet only for hotel guests or for public?

- e. 54-220.f.(8) the demonstrated provision of off-street parking at the rate of 2 spaces for each 3 sleeping units, and 1 per 6 seats or patrons (based on maximum occupancy etc. as allowed by Building Code) for a place of public assembly auditorium, stadium, community center, theater. The proposal does not address the conference center use, which will be a place attracting a large number of patrons.
- f. 54-220(f) (14) the location of the proposed facility will contribute to the creation of a diverse mixed-use community– already 2 50 room hotels being planned for adjacent property – not diverse

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CITY OF CHARLESTON
BOARD OF ZONING APPEALS MEETING
AUDIO RECORDINGS
36 NORTH MARKET STREET
5 GUIGNARD STREET
235 EAST BAY STREET
JANUARY 16, 2018

REPORTED BY: RONDA K. BLANTON, RPR
NCRA REGISTERED PROFESSIONAL
REPORTER
CLARK & ASSOCIATES, INC.

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

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

2 BZA MEMBERS:

3 Leonard Krawcheck

Michael Robinson

4 Margaret Smith

Walter Jaudon

5 Allison Grass

John Lester

6 Ross Appel

7

8

PLANNING STAFF:

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Lee Batchelder

10 Penny Ashby

Vanessa Ellington

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1 City of Charleston BZA Meeting

2 January 16, 2017

3 5:19 p.m.

4 - - -

5 CHAIRMAN: Present are all of our
6 members. Yes.

7 VOICE: Say that again.

8 CHAIRMAN: Present are all of our
9 members.

10 VOICE: No. (Inaudible.)

11 CHAIRMAN: City of Charleston Board of
12 Zoning Appeals. Got it?

13 VOICE: January 16. The Meeting.

14 CHAIRMAN: This Board does three basic
15 things.

16 We hear appeals from the decisions of
17 the zoning administrator. We hear requests for
18 special exceptions to the zoning ordinance, and
19 we hear requests for zoning variances.

20 Zoning variance test is a little bit
21 long. I'd like to read it in the record.

22 In order for the Board to grant a zoning
23 variance, it has to be shown that there are
24 extraordinary and exceptional conditions
25 pertaining to a particular piece of property;

Clark and Associates Inc.
RECORD P.450

1 that these conditions do not generally apply to
2 other property in the vicinity; that because of
3 these conditions, the application of our
4 ordinance to the particular piece of property
5 would effectively prohibit or unreasonably
6 restrict the utilization of the property; and,
7 lastly, the Board has to find that the
8 authorization of a variance will not be of
9 substantial detriment to adjacent property or to
10 the public good and the character of the district
11 will not be harmed by the granting of the
12 variance. It's a hardship test, and that's how
13 you show your hardship.

14 Our procedure is we receive a
15 recommendation, a description of the application,
16 from the zoning administrator. If
17 Mr. Batchelder's recommendation is in favor of
18 the application and if there's no one present
19 who's opposed to the application, then generally
20 the Board will treat the matter as being
21 uncontested and will pass it rather quickly.

22 If the zoning administrator,
23 Mr. Batchelder, is opposed to the application or
24 if there's anyone present who's opposed to the
25 application, then we treat the matter

1 differently. We treat it as being contested.

2 In which case we ask to hear from the
3 applicant and from anyone else in favor of the
4 application, then from any opponents; and after
5 the opponents, we'll give the applicant a short
6 time to rebut the arguments of the opponents.

7 We will then close the public portion of
8 the meeting, and the Board will make a decision.

9 We have a brand new, never tried sound
10 system in this room and -- and it's between these
11 two fixtures in the floor there, and we've never
12 done this before. This is brand new; but we ask
13 you, please, if you speak to -- to come stand
14 between these two metal boxes that you see -- or
15 plastic boxes maybe so that your voice will --
16 will be picked up.

17 Now, having said what our procedure is,
18 because our sound system malfunctioned at a
19 meeting back in July and a -- a hearing was not
20 recorded properly and the matter was litigated in
21 Circuit Court and they did not have a record
22 because of the defective sound system, the first
23 item on the agenda tonight is a remand from
24 the -- from the South Carolina Circuit Court to
25 the Board.

1 And Mr. McQueeney, the City attorney,
2 will talk some more about that in a few minutes.
3 But it is -- it will be a departure from the
4 procedure that I just set out. And we've never
5 done that before either so we've got two brand
6 new things we're doing tonight.

7 Those of you here testifying before this
8 Board, would you please raise your right hand.

9 (Witnesses are sworn.)

10 CHAIRMAN: Okay. Those of you who have
11 cell phones, would you please check them and make
12 sure that they are turned off.

13 Miss Ashby, do we have -- we've got some
14 deferrals. Item B1, which is 17 Legare Street,
15 is deferred and will not be heard until the next
16 meeting of the Board. 217 Ashley is deferred,
17 will not be heard till next meeting of the Board.
18 96 South Battery has been withdrawn so it will
19 not be heard. And 46B State Street has been
20 deferred to the next meeting of the Board as has
21 475 East Bay Street, which is also deferred to
22 the next meeting of the Board.

23 So those items that I just mentioned
24 will not be heard at this meeting tonight. I
25 have to recuse the first --

1 VOICE: Yes.

2 CHAIRMAN: Mr. Robinson, you -- and now
3 don't think there's any -- I don't think you have
4 to leave the room, Mr. Robinson, because if we're
5 not going to -- the decision of the Board will
6 not change. That's part of what Mr. McQueeney
7 will talk about.

8 For the -- for the first item that we
9 will have tonight, which was heard in July, the
10 sound system problem, the four members of the
11 Board who participated in that decision were
12 Mr. Appel, Mr. Jaudon, Miss Smith, and myself;
13 and those are the four members of the Board who
14 will participate in this first hearing.

15 Mr. McQueeney, the other members of the
16 Board can sit here as -- I don't think there is
17 any issue that -- and Mr. McQueeney is the City
18 attorney, and I'd like him to address both
19 things.

20 Thank you.

21 MR. MCQUEENEY: Yes, sir. Thank you,
22 Chairman Krawcheck, other members of the Board.

23 I just wanted to sort of reiterate
24 what's going on here. I think Chairman Krawcheck
25 said it perfectly; but, essentially, there was a

1 recording malfunction on July 18, 2017.

2 At that hearing the Board granted -- I
3 think it was 4.0 a special exception with
4 conditions to the applicant, which is Apex Real
5 Property, LLC. It's now Pierce Development, LLC.
6 The neighboring property owner owned by 241-243
7 East Bay Holdings, LLC, appealed that to the
8 Circuit Court.

9 The City prepares a record and submits
10 to the Circuit Court when that happens. In this
11 case we didn't have anything about what happened
12 at that July 18 hearing past Mr. Batchelder's
13 presentation. I think Mr. Wilson represents the
14 applicant, spoke a little bit.

15 As a result the parties consented to an
16 order for Judge Nicholson and he -- he signed the
17 order, and it remands to the Board solely for the
18 purpose of reconstructing the record the
19 proceedings before the BZA.

20 I have been preparing records. The
21 record consists of the testimony, any evidence
22 submitted, and then whatever comments occurred
23 before the Board.

24 I think we've had affidavits submitted
25 by the applicant and the -- the property owner

1 who is appealing showing what their recollection
2 is of what happened on July 18. There may be
3 other people here who may speak. I'm not sure,
4 but I think it's appropriate for them to speak;
5 but I would leave that up to Mr. Krawcheck or --
6 (Inaudible.)

7 And it's also important, obviously, the
8 findings -- any findings or discussions you had
9 on that record on July 18 are not in that
10 transcript either because it -- because of the
11 error. So just to -- I think it's important to
12 reiterate what you remember saying and reiterate
13 what the basis of your decision was as it was on
14 July 18.

15 I don't believe you can change your
16 decision or strengthen your decision or anything
17 like that.

18 Are there any questions?

19 (No response.)

20 CHAIRMAN: Thank you.

21 MR. MCQUEENEY: All right.

22 CHAIRMAN: The -- what we're trying to
23 do is reconstruct the record to fill in the
24 blanks of -- of what is missing, which is very
25 difficult to do, obviously, with the passage of

1 time.

2 And -- and so what we're going to do is
3 try to -- try to remember what we said and
4 discussed at that meeting, the four members who
5 were present at that meeting.

6 The -- we asked the -- Miss Paylor and
7 Mr. Wilson, who are the attorneys for the
8 respective sides in this dispute, to prepare
9 affidavits, which they have done and which
10 they've submitted to the members of the Board.
11 And, hopefully, you've all had a -- the four of
12 us have had a chance to review those affidavits,
13 and they are helpful to bring back some of the --
14 at least to me, bring back some of my
15 recollection.

16 So with that said, would anyone like to
17 comment?

18 MS. SMITH: I remember --

19 CHAIRMAN: Miss Smith.

20 MS. SMITH: I remember even from the --
21 the previous deferral of the application that --
22 that I was concerned primarily and really only
23 about the impact that the hotels would have on
24 the Anson Street generation of traffic and that
25 as -- as the meeting went on and -- and the --

1 the entrance to the project was -- was changed a
2 little bit and that also when they agreed to not
3 have any access from Market Street to the
4 conference room, that I was convinced that that
5 portion of the test would be met by this project.

6 And that was the only part of the test
7 that I was really concerned about, and I was
8 satisfied that with those two conditions that --
9 that -- that the test would be met.

10 CHAIRMAN: Mr. Appel.

11 MR. APPEL: The only thing I can recall
12 from July -- and I know I spoke about -- was I
13 noted the fact that -- (Inaudible.) Traffic
14 engineer to the hearing who, based on her
15 credentials and experience, is an expert in this
16 area and has -- is legally competent to testify
17 about matters such as traffic and the impact on
18 surrounding neighborhoods. As I recall, she
19 prepared a study to that effect.

20 And I don't think there was any
21 countervailing expert testimony on the issue of
22 traffic from the opposition; and I found that to
23 be, not only persuasive, but determinative as far
24 as a special exception test goes on the areas in
25 the test related to traffic in that -- the

1 surrounding areas.

2 That's all I've got. I hardly remember
3 what I did yesterday so --

4 CHAIRMAN: And Mr. Jaudon.

5 MR. JAUDON: I really can't remember
6 very much about it. (Inaudible.) I have nothing
7 different to change.

8 CHAIRMAN: As the fourth member who was
9 present, I'd like to say that I -- I read
10 Ms. Paylor's affidavit and Mr. Wilson's
11 affidavit, both very nicely done, incidentally.
12 And they did bring back some -- my memory to --
13 to some extent.

14 I did not find anything in either of the
15 affidavits that I disagreed with. I had no
16 recollection of anything that -- that happened
17 that wasn't in those affidavits or anything in
18 the affidavits that weren't -- that didn't happen
19 as far as to the best of my recollection.

20 Furthermore, I think that -- that Mr. --
21 I recall Mr. Wilson arguing and making a case
22 that the prongs of the test that are set out in
23 his -- in his affidavit beginning in the Wilson
24 affidavit on page 3, Item 13, that are listed as
25 A through E, and then the specific criteria that

1 continues on page 4 in Numbers 1, 2, and 3 later
2 on down through Item 18, I -- I remember that --
3 that those were what I would call a slam dunk.
4 That those were things that clearly had been met
5 by the application, that the only real issue was
6 the same issue that had been giving the Board a
7 hard time in the previous two hearings; and that
8 was the traffic on -- going through the
9 residential neighborhood in Ansonborough.

10 The concern of the Board, I know, was
11 that -- and remember that was that the original
12 plans had the entrance to the hotel on Market
13 Street and -- and the -- there was no concern
14 with the traffic that would come to the hotel
15 because it had to -- it couldn't come down Anson
16 Street since Anson Street is a one-way street for
17 most of its length. From Pinckney Street up to
18 Calhoun, it's one way in the opposite direction
19 so that the traffic coming to the hotel entrance
20 on Market Street as originally planned had -- had
21 to come down East Bay Street or down Meeting
22 Street and then circle around Market, come back
23 down North Market.

24 It really did not -- wasn't going to
25 affect the residential neighborhood in

1 Ansonborough until the -- the departure traffic,
2 and I know that I expressed my concern more than
3 once that the -- that the departing traffic on
4 Market Street would take a right onto Anson
5 Street because they wouldn't want to fight that
6 traffic on North Market Street between Anson and
7 Meeting Street.

8 It would naturally take a right onto
9 Anson, which would feed it right up after
10 Pinckney Street right into that residential
11 neighborhood and on up to potentially Calhoun
12 Street and that -- that that would, in my view,
13 significantly increase the impact of traffic in
14 that residential neighborhood.

15 And I think it was that reason that the
16 Board had previously not made a decision on
17 approving or disapproving the hotel earlier
18 and -- and this plan was submitted and with a
19 completely different configuration, access to the
20 hotel. I think it was shown that the -- the
21 entrance to the hotel was no longer on North
22 Market but was on East Bay Street and that the
23 loading and unloading would be around back off of
24 Guignard Street.

25 And we discussed the traffic pattern

1 of -- of the -- the people arriving at the hotel
2 would use Guignard Street and would unload in the
3 parking lot in the back, and the people departing
4 would also load in the parking lot in the loading
5 area in the back and exit Guignard Street.

6 And I think I recall Mr. Wilson assuring
7 the Board that the exit would go to East Bay; and
8 I think to make doubly sure that that was the
9 case, since Guignard is now a one-way street,
10 that the Board imposed a condition that -- that
11 if the traffic would be directed towards East Bay
12 Street, which is a -- a busy commercial street, I
13 think it's even -- even has a highway
14 designation.

15 So that is basically what I recall about
16 the -- the main issue, which was the traffic in
17 residential neighborhoods. And, frankly, I was
18 really concerned about the -- about that issue
19 and was not prepared to vote for that plan
20 because I thought it would significantly increase
21 traffic in Ansonborough until the -- the plan was
22 revised that -- that funneled the traffic leaving
23 the hotel over to East Bay Street and -- and
24 it -- at that point, I thought and voted that
25 the -- the applicant had met its burden and

Clark and Associates Inc.
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1 that -- was entitled to the relief that it
2 requested.

3 Now, I will -- I'm -- Mr. Wilson and
4 Miss Paylor, I'm willing to hear if y'all want to
5 be heard or if you want to present anything else
6 for this record, I'm happy to hear from you.

7 Mr. Wilson.

8 MR. WILSON: Thank you, Mr. Chairman of
9 the Board. My name is James Wilson. I'm with
10 the Womble Bond Dickinson law firm here on behalf
11 of the applicant.

12 We appreciate you all letting us come
13 back to reconstruct the record as described.
14 Both we and Miss Paylor have submitted by our
15 affidavits to the Board to describe to the best
16 of our recollection what was presented to -- to
17 you back in July, and we think that the
18 affidavits together are -- are generally a fair
19 representation of that to reconstruct the record.

20 There are a -- a couple of -- or maybe
21 three clarifications with regard to Miss Paylor's
22 affidavit that we feel like we would just want to
23 clarify in order to -- confirm that we think
24 complied and these really do reflect -- reflect
25 the record.

1 We've already noted these two to
2 Miss Paylor and -- and the first one is -- in
3 Miss Paylor's affidavit, Item 4 states that --
4 that when asked about whether the parking garage
5 was limited to use by hotel guests or whether --
6 or whether it would be open to the public,
7 that -- that I -- the affidavit states that I
8 responded that it -- that it would be limited to
9 hotel guests only.

10 I believe that I presented to the Board
11 that the parking garage is open to all users of
12 the hotel facilities. It is not a public parking
13 garage. It's not, like I said, you know, parking
14 garage where you can go in there; but I would
15 believe that we represented to the Board that
16 only people who have rooms could use it being
17 in -- people using the hotel facilities more
18 broadly than having rented a room would be able
19 to use it.

20 I believe Miss Paylor disagrees with the
21 way that I've described that is what I think and
22 recollect that I represented to the Board.
23 But -- but that's the first -- that's the first
24 one.

25 The second point is in Miss Paylor's

1 affidavit, Item No. 6, states that Mr. Eddie
2 Bello, who's here, the architect, made a
3 presentation but did not address traffic or
4 parking.

5 We just believe that he did, in fact,
6 demonstrate by explaining the site plan -- the
7 revised site plan for the hotel, how the traffic
8 would come in and enter the parking -- parking
9 garage and be dropped off for valet service, and
10 the function of the parking garage and as far as
11 exiting, would exit back turning back on Guignard
12 Street.

13 So a fine point, but we do believe that
14 that was represented; and I believe that the
15 comments referred that they said is -- that is,
16 in fact, the case.

17 And then lastly, Item No. 5 of
18 Miss Paylor's affidavit states that Miss Beal
19 discussed traffic study, which we think is -- is
20 fair, accurate. But -- but that the traffic
21 study says which -- which did not discuss the
22 impact on traffic of the proposed conference
23 facility or the restaurant or bars.

24 We believe that the traffic study did,
25 in fact -- the traffic study which was presented

1 to the Board did, in fact, take those facilities
2 into -- into account. So this description --
3 this assertion in the affidavit, we didn't want
4 to be -- we didn't want to affirm this without
5 making that point. Miss Beal is here, of course.
6 You can -- you can speak to that more
7 specifically.

8 But those are the points. As I said,
9 I've conveyed those to Miss Paylor prior to
10 the -- prior to this hearing. But with those
11 clarifications, we're -- we're comfortable with
12 these affidavits together with the Board's
13 discussion constituting the reconstructed record,
14 which is -- if it would be helpful, I would --
15 Miss Beal can -- could elaborate but -- but -- on
16 that point, but need not either way. Whatever
17 the Board would prefer.

18 MS. PAYLOR: I didn't hear what you just
19 said. Turned that way, and I couldn't --

20 MR. WILSON: Sorry.

21 I -- I -- again, just in terms of
22 clarifying these points, the point about what the
23 traffic study did not take into account if we --
24 if we need to talk about that here, Miss Beal, of
25 course, is available to do so but -- but I think

1 I've already made -- made the point that we do
2 not agree with that assertion. Just wanted to
3 clarify that for the record.

4 CHAIRMAN: I think we can hear Miss Beal
5 on what she testified to earlier at the hearing,
6 what she remembers that she discussed.

7 Miss Paylor.

8 MS. PAYLOR: I'm willing to concede the
9 point. The point -- what I really meant to say,
10 Jennifer, because this refers to the traffic
11 study itself; and I should have an "and" there
12 instead of a "which." And she did not discuss
13 the impact on traffic of the proposed conference
14 facility or the restaurants or bars.

15 And I believe that that is accurate. I
16 mean, I -- that's my recollection. I know she
17 didn't mention the conference facility because
18 I -- her traffic study was done before that
19 became a part of the plan, is my understanding.

20 As far as paragraph 6, Mr. Bello
21 definitely laid out the design of the garage and
22 the ingress and egress. So I don't have any --
23 he didn't talk about any impact on traffic or
24 parking. He's an architect. So I don't have any
25 issues with that.

1 With regard to the statement about hotel
2 guests, I wrote down on my notes, which I
3 attached; and I did this at the -- at the
4 hearing. I believe it was Miss Smith who asked
5 is the valet only for hotel guests or the public?
6 And my recollection is that Mr. Wilson said it is
7 for hotel guests only, and it's not for members
8 of the public. And that's -- that's where I am
9 with regard to that.

10 With regard to Mr. Wilson's affidavit,
11 he has three paragraphs talking about what
12 Mr. Batchelder accepted. We have a transcript of
13 what Mr. Batchelder said. So I would ask that
14 that be stricken, and we use actually the
15 transcript of what Mr. Batchelder said because it
16 malfunctioned after he quit talking.

17 CHAIRMAN: And we're in the peculiar --
18 do we rule on this, Miss Paylor? Or do we leave
19 this for Judge Nicholson to rule on? I would
20 tend to do the latter since it's -- if there's
21 any disagreement between you, he's the ultimate
22 decider.

23 MS. PAYLOR: Well, unless you all
24 remember, I think -- I think you're the recreator
25 of the record. So if one of you remember one of

1 those things or if you had notes that you use
2 that you could refer to, and if you don't
3 remember, I guess you can say we don't remember
4 exactly how Mr. Wilson responded to that
5 question.

6 I think he admits that that question
7 came. I'm right about that?

8 MR. WILSON: Yes. I think there was a
9 question about whether the public -- anyone in
10 the public could come use this as a public
11 parking garage or if it was only intended for use
12 of the hotel facilities.

13 The distinction that -- that we are
14 drawing is that I believe Miss Paylor is
15 asserting that we represented to the Board that
16 the parking spaces could only be used by some --
17 by someone who has -- who has rented a room at
18 the hotel for the night. And we do not believe
19 that that's what we conveyed when we were talking
20 about the excess parking spaces in the garage
21 being available for use by the accessory
22 facilities in that hotel.

23 I also would say that we are fine
24 with -- with striking from my affidavit the
25 description of what Mr. Batchelder's presentation

1 was since, of course, that is formally in the
2 record because the recording was functioning
3 properly for that portion of it. So that's
4 certainly fine with us.

5 CHAIRMAN: Well, certainly with your
6 consent, we will -- we will consider those items
7 stricken.

8 MR. WILSON: Correct. Thank you.

9 CHAIRMAN: Thank you.

10 Mr. Wilson.

11 MR. WILSON: Mr. Chairman, we would ask
12 that -- that Miss Beal just be able to respond to
13 what Miss -- Miss Paylor just said about her --
14 what -- what she presented to the Board.

15 Thank you.

16 CHAIRMAN: Miss Beal.

17 MS. BEAL: Hello, Board members.

18 Just -- just to touch real briefly on the -- the
19 trip generation. I know that we talked about
20 that in detail at the July meeting and at the
21 other -- at the other meetings before that.

22 And that we use the industry standard
23 knowledge on using trip -- development of trips
24 associated with the hotel and the facilities
25 associated with it. But that's our -- that's the

1 recollection that we have, but these industry
2 standard trip generation relating to the --
3 (Inaudible.)

4 CHAIRMAN: Thank you, ma'am.

5 Mr. McQueeney, anything further?

6 MR. MCQUEENEY: No, sir. Thank you.

7 CHAIRMAN: Mr. Wilson.

8 MR. WILSON: Mr. Chairman, may I just
9 ask Mr. McQueeney a question in front of this --
10 in front of the Board?

11 Mr. McQueeney, I just want to make sure
12 that from the -- from the City's perspective, the
13 affidavits as discussed here and together with
14 what the Board has commented is, in the City's
15 view, a -- does, in fact, reconstruct the record
16 in terms of what's required for a record for --

17 MR. MCQUEENEY: That's what I intend to
18 argue before Judge Nicholson because that's what
19 I think, yes.

20 MR. WILSON: Thank you.

21 CHAIRMAN: Thank you.

22 MR. APPEL: I would just state, for what
23 it's worth, I believe that as a Board member that
24 was there in July, I believe everything that
25 we've heard today constitutes a sufficient

1 recreation of the record under the circumstances
2 to the best of everyone's human limitations.

3 CHAIRMAN: It's a very difficult
4 process, obviously, because this Board has heard
5 countless other applications since its meeting in
6 July; and it's also one of the -- the problems
7 that I have in trying to recollect what happened
8 at that hearing is we have had two previous
9 hearings on the same -- basically the same
10 subject matter.

11 And so my thinking has a tendency to run
12 together; and was that said at Meeting 1, 2, or
13 3? And -- and there's a -- there's a problem
14 with that, and those meetings go back a
15 considerable time.

16 So anyway, we're not required to do
17 anything in addition other than what we've done;
18 and I'm going to declare this hearing at an end.

19 Thank you very much.

20 (End of recording.)

21 - - -

22

23

24

25

1 CERTIFICATE OF REPORTER
STATE OF SOUTH CAROLINA
2 COUNTY OF CHARLESTON

3 I, Ronda K. Blanton, a Registered
Professional Reporter and Notary Public for the
4 State of South Carolina at Large, do hereby
certify that the audio recording in the foregoing
5 transcript was recorded stenographically by me
and thereafter transcribed by computer-aided
6 transcription; that the foregoing is a full,
complete, and true record of the audio recording.
7 Due to the quality of the recorded media,
portions were unable to be transcribed. The
8 transcript may also include misinterpreted words.
The Court Reporter was not present at the time of
9 the recording; therefore, this transcript should
not be considered verbatim.

10
11 I further certify that I am neither related
to nor counsel for any party to the cause pending
or interested in the events thereof.

12
13 Witness my hand, I have hereunto affixed my
official seal on January 26, 2018, at Charleston,
Charleston County, South Carolina.

14
15
16
17 Ronda K. Blanton
NCRA REGISTERED PROFESSIONAL
18 REPORTER, RPR
My Commission expires:
19 May 14, 2018.
20
21
22
23
24
25

Sec. 54-220. - Accommodations overlay zone.

- a. Intent. The A Overlay Zone is intended to identify those areas within the City limits where accommodation uses are allowed. Accommodation uses are prohibited except within the A Overlay Zone, with the exception of bed and breakfasts that are approved in accordance with the provisions of Section 54-208 or 54-208.1, and short term rentals that are approved in accordance with the provisions of Section 54-227. The 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.
- b. Permitted uses. In any Accommodation overlay zoning district, land may be used and buildings or structures may be erected, altered or used for any purpose allowed by the underlying zoning district as listed in Article 2: Part 3, and the following uses subject to the approval of the Board of Zoning Appeals:
 1. Accommodation uses. The Board of Zoning Appeals may permit accommodation uses as an exception where it finds that:
 - (a) the elimination of housing units by the proposed facility will not adversely affect the existing housing stock;
 - (b) the location of the facility will not significantly increase 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;
 - (d) the proposed use is otherwise in character with the immediate neighborhood;
 - (e) the location and design of the proposed facility will facilitate pedestrian activity and encourage transit system usage within the peninsula; and
 - (f) in 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:
 - (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);
 - (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;

- (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;
- (4) the distance of the main entrance and parking entrance of the facility from a road classified as an arterial or collector road;
- (5) the development pattern and predominant land uses within five hundred feet (500') of the facility;
- (6) the proximity of residential neighborhoods to the facility;
- (7) the accessory uses proposed for the facility in terms of the size, impact on parking, and impact on traffic generation;
- (8) the demonstrated provision of off-street parking at the rate of two spaces for each three sleeping units;
- (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;
- (10) the commitment to environmental sustainability and recycling;
- (11) the distance of the facility from major tourist attractions;
- (12) the distance of the facility from existing or planned transit facilities;
- (13) the long term provision of on- or off-site parking for employees who drive vehicles to work;
- (14) the location of the proposed facility will contribute to the creation of a diverse mixed-use community;
- (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;
- (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;
- (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

RECORD P.475

outlined in Section 2-267 (D)(1), (2), and (3) of the Code of the City of Charleston;

- (18) the commitment to make affirmative, good faith efforts to hire personnel, representative of the population of the Charleston community, at all employment levels.

(Ord. No. 1998-76, § 2, 4-28-98; Ord. No. 1999-02, §§ 3—5, 1-12-99; Ord. No. 1999-54, § 4, 4-27-99; Ord. No. 2006-428, §§ 6—8, 9-26-06; Ord. No. 2007-204, § 1, 11-20-07; Ord. No. 2012-41, § 5, 1-24-12; Ord. No. 2013-93, §§ 1—6, 9-24-13; Ord. No. 2013-93, §§ 1—6, 9-24-13)



City of Charleston

WILLIAM B. REGAN LEGAL CENTER

50 Broad Street
Charleston, SC 29401
tel 843-724-3730
fax 843-724-3706

CORPORATION COUNSEL
Frances I. Cantwell
cantwellf@charleston-sc.gov

DEPUTY CORPORATION COUNSEL
Susan J. Herdina
herdinas@charleston-sc.gov

ASSISTANT CORPORATION COUNSEL
Janie E. Borden
bordenj@charleston-sc.gov

Daniel S. ("Chip") McQueeney, Jr.
mcqueeneyd@charleston-sc.gov

February 14, 2018

Via Hand Delivery

The Honorable Julie J. Armstrong
Charleston County Clerk of Court
100 Broad Street, Suite 106
Charleston, South Carolina 29401-2210

Re: 241-243 E. Bay Holdings, LLC v. City of Charleston, et al.
Case No. 2017-CP-10-4212

Dear Madam Clerk:

Please be advised that I represent Respondents, City of Charleston and the City of Charleston Board of Zoning Appeals-Zoning (collectively, the "City"), in the above-referenced matter. Enclosed, please find the following:

1. The original Record on Appeal;
2. A copy of the cover page for the Record on Appeal;
3. The original and one (1) copy of the certificate of service of the Record on Appeal on counsel for the other parties to this appeal.

I would appreciate it if you could file the originals and provide a file-stamped copy of the cover page and certificate of service to me. Thank you for your assistance and please let me know if you have any questions or concerns.

With kindest regards, I am,

Very Truly Yours,

Daniel S. McQueeney, Jr.

DSM/rkb
Enclosure(s)

cc: Alice F. Paylor, Esquire (w/ enclosure(s))
Charles J. Baker, III, Esquire (w/ enclosure(s))

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

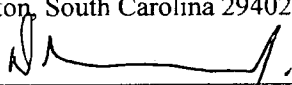
Certificate of Service

2018 FEB 15 PM 2:22
JULIE B. CHAMBERS
CLERK OF COURT

I certify that, on February 14, 2018, I served a copy of the Record on Appeal (the "Record") prepared by Respondents City of Charleston and City of Charleston Board of Zoning Appeals-Zoning, by mailing a copy of the Record via United States Mail, with sufficient first-class postage affixed, addressed as follows:

Alice F. Paylor, Esquire
Rosen, Rosen & Hagood, LLC
Post Office Box 893
Charleston, South Carolina 29401

Charles J. Baker, III
Womble Bond Dickinson (US). LLP
Post Office Box 999
Charleston, South Carolina 29402


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 14, 2017

15 Jan

1 with striking from my affidavit the description of
2 what Mr. Batchelder's presentation was since, of
3 course, that is formally in the record because the
4 recording was functioned properly for that portion of
5 it. So that's certainly fine with us.

6 CHAIRMAN KRAWCHECK: Well, certainly, with
7 your consent, we will -- we will consider those items
8 stricken.

9 MR. WILSON: Thank you.

10 MS. PALER: Thank you.

11 CHAIRMAN KRAWCHECK: Thank you.

12 Mr. Wilson.

13 MR. WILSON: Mr. Chairman, we would ask
14 that, that Ms. Beel just be able to respond to what
15 Ms. Paler just said about her -- what she presented to
16 the board. Thank you.

17 CHAIRMAN KRAWCHECK: Ms. Beel, you know --

18 MS. BEEL: Hello, board members. Just --
19 just to touch real briefly on the trip-generation. I
20 know that we talked about that in detail at the July
21 meeting and the others -- meetings before that and
22 that we use the industry standard knowledge on
23 using -- (inaudible) -- developing trips associated
24 with the hotel, so it includes the facilities
25 associated with it, but that's our -- that's the

1 recollection that we have, but we use the industry
2 standards trip-generation related to the land uses.

3 CHAIRMAN KRAWCHECK: Thank you, ma'am.
4 Mr. McQueeney, anything further?

5 MR. MCQUEENEY: No, sir. Thank you.

6 CHAIRMAN KRAWCHECK: Mr. Wilson.

7 MR. WILSON: Mr. Chairman, may I just ask
8 Mr. McQueeney a question in front of the board?

9 Mr. McQueeney, I just want to make sure
10 that from the city's perspective, the affidavits as
11 discussed here and together with what the board has
12 commented, is -- in the city's view does, in fact,
13 reconstruct the record in terms of what's required for
14 a record for a decision?

15 MR. MCQUEENEY: That's what I intend to
16 argue in front of Judge Nicholson because that's what
17 I think it does.

18 MR. WILSON: Thank you.

19 CHAIRMAN KRAWCHECK: Thank you.

20 UNIDENTIFIED MALE: And I'll just say for
21 what it's worth, I believe, as a board member that was
22 there in July, I believe everything that we've heard
23 today constitutes sufficient re-creation of the record
24 under the circumstances to the best of everyone's
25 human limitations.

TRIP GENERATION MANUAL

9th Edition • Volume 2: Data

Trip Generation Rates, Plots and Equations

- Port and Terminal (Land Uses 000–099)
- Industrial (Land Uses 100–199)
- Residential (Land Uses 200–299)
- Lodging (Land Uses 300–399)
- Recreational (Land Uses 400–499)



Institute of Transportation Engineers

Land Use: 310 Hotel

Description

Hotels are places of lodging that provide sleeping accommodations and supporting facilities such as restaurants, cocktail lounges, meeting and banquet rooms or convention facilities, limited recreational facilities (pool, fitness room), and/or other retail and service shops. Some of the sites included in this land use category are actually large motels providing the hotel facilities noted above. All suites hotel (Land Use 311), business hotel (Land Use 312), motel (Land Use 320) and resort hotel (Land Use 330) are related uses.

Additional Data

Studies of hotel employment density indicate that, on the average, a hotel will employ 0.9 employees per room.¹

Thirty studies provided information on occupancy rates at the time the studies were conducted. The average occupancy rate for these studies was approximately 83 percent.

The hotels surveyed were primarily located outside central business districts in suburban areas.

Some properties contained in this land use provide guest transportation services such as airport shuttles, limousine service, or golf course shuttle service, which may have an impact on the overall trip generation rates.

The sites were surveyed between the late 1960s and the 2000s throughout the United States.

For all lodging uses, it is important to collect data on occupied rooms as well as total rooms in order to accurately predict trip generation characteristics for the site.

Trip generation at a hotel may be related to the presence of supporting facilities such as convention facilities, restaurants, meeting/banquet space and retail facilities. Future data submissions should specify the presence of these amenities. Reporting the level of activity at the supporting facilities such as full, empty, partially active, number of people attending a meeting/banquet during observation may also be useful in further analysis of this land use.

Source Numbers

4, 5, 12, 13, 18, 55, 72, 170, 187, 254, 260, 262, 277, 280, 301, 306, 357, 422, 436, 507, 577, 728

¹ Buttk, Carl H. Unpublished studies of building employment densities, Portland, Oregon.

Sec. 54-120. - Definitions.

For the purpose of this chapter, certain terms and words are herein defined.

Accessory Building. A subordinate building on the same lot as the principal building(s) or use. Accessory buildings may include but not be limited to pool houses, additional living space, storage sheds, garages, and additional dwelling units in zoning districts that permit additional dwelling units. Accessory buildings in SR (Single-family Residential) zone districts shall not include kitchens.

Accessory Dwelling Unit. A dwelling unit providing complete, independent living facilities for one or more persons that is separate from and subordinate to the principal dwelling unit. This definition includes garage apartments.

Accessory Use. A use of land or of a building or portion thereof customarily incidental and subordinate to the principal use of the land or building and located on the same lot with the principal use.

Agricultural Use, Bona Fide. Allowed primary uses on real property to raise, harvest or store crops, feed, breed or manage livestock, or to produce plants, trees, fowl or animals useful for human consumption, including the preparation of the products raised thereon for human consumption and disposed of by marketing or other means and which the subject property receives agricultural preferential assessment by the county assessor's office. Such uses include agriculture, grazing, horticulture, forestry, dairying and mariculture. Uses that do not qualify as bona fide agricultural uses include recreation, hunting clubs, fishing clubs, vacant land (land lying dormant), and any other similar uses. For lots zoned C, conservation, to have a bona fide agricultural use, at least fifty percent (50%) of the lot must be in active agricultural production.

Accommodations Uses. Commercial uses to provide living or sleeping units, for remuneration, to one or more individuals where the intended and/or usual occupancy would not exceed twenty-nine (29) consecutive days, including hotels, motels, inns, bed and breakfasts, short term rental units, rooming and boarding houses, hostels, lodging units, resort units, condominiums, cooperatives, apartments, units that are included in a "Vacation Timesharing Plan" as defined in S.C. Code Ann. § 27-32-10(7), and/or in a "Vacation Timesharing Lease Plan" as defined in S.C. Code Ann. § 27-32-10(8), as each may be amended from time to time, as well as any and all similar uses where the intended and/or usual occupancy is for periods not to exceed twenty-nine (29) consecutive days, and residence club uses. For purposes hereof, individual(s) mean a person, one who owns or receives an undivided interest in a premises, a partner in a partnership that owns a premises, a beneficiary in a trust that owns a premises, a shareholder in or member of a corporation that

owns a premises, a beneficiary in a trust that owns a premises, a holder of a leasehold interest in a premises or a member of a residence club or other organization that owns a premises.

Adult Uses:

Adult Book /Video Store. An establishment having as a substantial or significant portion of its stock in trade books, magazines, videos, and/or other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical area" (as defined herein) or an establishment with a segment or section devoted to the sale, rental or display of such material. Adult Book/Video Store uses as defined herein, operating as legal nonconforming uses, shall be amortized and discontinued three (3) years after the effective date of Ordinance No. 1999-08.

Adult Drive-In Motion Picture Theater. Any outdoor theater requiring an automobile for admittance used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" (as defined herein) for observation by patrons therein. This use when operated as a lawful non-conforming use shall be amortized and discontinued one year after the effective date of Ordinance No. 2003-50.

Adult Media/Novelty Store. An establishment with (1) ten percent or more of its retail sales area or (2) ten percent or more of its gross revenues from the sale or rental of any one or more of the following or combination thereof: (a) books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, DVD, slides, computer programs, or other visual representations which are distinguished or characterized by their emphasis on the exhibition or display of "specified sexual activities" or "specified anatomical areas" (sometimes hereinafter "adult media material") or (b) instruments, devices, or paraphernalia which are designed for use or marketed for stimulation of human genital organs (sometimes hereinafter "adult novelty").

Adult media/novelty store is a non-exclusive classification that may include adult book/video stores, adult drive-in motion picture theaters, adult mini-motion pictures theaters, adult motion picture theaters, or other adult uses, combinations thereof and combinations of adult uses and non-adult uses. The amortization period for adult media/novelty stores operated as a legal non-conforming use is one year from the date of this ordinance. As it relates to any amortization period, the more restrictive (shorter) amortization period shall apply to any business that is an adult media/novelty store and

some other use. If a lawful amortization period for the use has already expired (for example, adult bookstore amortization period), then business shall not be entitled to an additional amortization period by operation of this section.

For the purposes of determining adult media/novelty store "DISTINGUISHED OR CHARACTERIZED BY AN EMPHASIS ON" means the dominant or principal theme of the object referenced. For instance, when the phrase refers to films "which are distinguished or characterized by an emphasis upon the exhibition or display of 'Specified Sexual Activities' or 'Specified Anatomical Areas,' the films so described are those whose dominant or principal character and theme are the exhibition or display of 'Specified Anatomical Areas' or 'Specified Sexual Activities'".

For the purposes of determining adult media/novelty store percentages of stock and percentages of revenue:

- (1) Percentages of stock shall be determined by calculating the total display area generally available to customers and determining that percentage of that display space containing the specified adult media materials and adult novelty items. Stockrooms, backrooms and other areas not generally accessible to the public and off premises inventory shall not be counted towards percentages. Goods at another physical location shall not be counted towards percentage, even if operated by the same business.
- (2) Percentages of gross revenue shall be counted only for the same physical business location and only bona fide sales or rentals may be counted. Where a sale or rental includes a free or reduced price "adult novelty" or "adult media material" with the purchase or rental of an item not an adult novelty or adult media material, the entire transaction shall be counted for the purposes of calculating revenue percentage.
- (3) All techniques and devices used to artificially skew percentages shall be disregarded and the true business of the establishment shall be discerned. Techniques and devices used to artificially skew percentages include but shall not be limited to: reduced price or free adult materials with purchase of non-adult materials, sham transactions or sales, mis-statement of retail value by inflating non-adult material prices above prices generally prevailing as to goods of that type, goods not held for bona fide sale or rental, sham transactions, etc.
- (4) Any business potentially operating as a non-conforming adult media /novelty store by selling or renting adult media material or adult novelties in an area not zoned LI (light industrial) or HI (heavy industrial) shall keep records at the store showing inventory on hand by category and retail value (updated no less than every month) as well as records showing for a six month period (updated no less than every

month) which shall be available to zoning administrator or his designee upon request so as to enable zoning administrator or his designee to discern percentages of retail stock and percentages of gross revenue derived from sale or rental of adult media materials and adult novelty items as described above.

Adult Mini-Motion Picture Theater. Any business with an enclosed building or portion of a building with a capacity for less than fifty persons regularly used for presenting material which is characterized by an emphasis on the exhibition or display of "Specified Sexual Activities" or "Specified Anatomical Areas". This shall include booths or stalls (whether entirely enclosed or not) and arcades whether operated by coin or by attendant or otherwise where such materials are shown to a single person or up to forty-nine (49) persons. (This shall not include a bona fide hotel or motel room.) This use when operated as a lawful non-conforming use shall be amortized and discontinued one year after the effective date of Ordinance No. 2003-50.

Adult Motion Picture Theater. An enclosed building with a capacity for 50 or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" (as defined herein) for observation by patrons therein. This use when operated as a lawful non-conforming use shall be amortized and discontinued one year after the effective date of Ordinance No. 2003-50.

Adult Show Bar. An establishment used for presenting live performances of humans and/or animals having as a dominant theme or characterized or distinguished by an emphasis on (1) matter depicting or relating to specified sexual activities, as herein defined, or (2) the actual or simulated touching, caressing or fondling of the breast, buttocks, anus or genitals, or (3) actual or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts which are prohibited by law, or (4) indecent exposure (as defined by state law) for observation by persons therein and which sells alcoholic beverages to its customers. This use when operated as a lawful non-conforming use shall be amortized and discontinued one year after the effective date of Ordinance No. 2003-50.

Bath House. An establishment for providing bathing, sauna, steam and/or lavatory facilities for male and/or female persons which promotes its services by using and/or advertising the use of homosexual attendants or attendants of the opposite sex of the patron. This use when operated as a lawful non-conforming use shall be amortized and discontinued one year after the effective date of Ordinance No. 2003-50.

Cabaret. A nightclub, bar, juice bar, restaurant, or similar commercial establishment which features or tolerates any of the following: strippers, dancers, entertainers, patrons, impersonators, or other persons, either male or female, who expose to view of the patrons of said establishment at any time "Specified Anatomical Areas."

Massage Parlor. Any business, trade or profession commonly known as massage parlors, health salons, physical culture studios, clubs or establishments, or similar establishments by whatever name designated, wherein physical culture, massage, hydrotherapy or other physical treatment of the human body involving "specified sexual activities" (as defined herein) is carried on or practiced. This use when operated as a lawful non-conforming use shall be amortized and discontinued one year after the effective date of Ordinance No. 2003-50.

Sexual encounter establishment. Means a business or commercial establishment that offers as one of its primary business purposes, for any form of consideration, a place where two or more persons may congregate, associate, or consort for the purpose of "Specified Sexual Activities" or the exposure of "Specified Anatomical Areas". The definition of sexual encounter establishment shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in medically approved and recognized sexual therapy.

Affordable Housing. Single-family, two-family or multi-family dwelling units, where occupants have, in the aggregate, household income of less than or equal to one hundred twenty (120) percent of median area income for owner occupied units, or eighty (80) percent of median area income for rental units. Median area income shall be determined annually by the U.S. Department of Housing and Urban Development as adjusted by the City of Charleston Department of Housing and Community Development, or its successor. Household income shall include all sources of financial support, both cash and in kind, of adult members of the household, to include wages, salaries, tips, commissions, all forms of self-employment income, interest, dividends, net rental income, income from estates or trusts, Social Security benefits, railroad retirement benefits, Supplemental Security income, Aid to Families with Dependant Children or other public assistance or public welfare programs, other sources of income regularly received, including Veterans' (VA) payments, unemployment compensation and alimony, awards, prizes, government or institutional or eleemosynary loans, grants or subsidies and contributions made by the members' families for medical, personal or educational needs.

Alley. A right-of-way of narrow width publicly maintained and used principally as a means of secondary access.

Arborist. Means a person or firm, possessing a current city business license, who has been trained in the business of diagnosing, treating, pruning and removing trees.

Bed and Breakfast. A conditional use whereby the record owner of a property, who is also the resident of the property, uses one (1) or more rooms per unit for one (1) to ten (10) bed and breakfast units for the purpose of providing sleeping accommodations for one family per unit for a period of between one (1) and twenty-nine (29) consecutive days. A bed and breakfast use shall only be permitted in compliance with the procedures and conditions in Section 54-227 of the Zoning Ordinance and after a bed and breakfast permit is issued by the City.

Block. A tract of land bounded by streets on all sides.

Buffer Shrub. Means a three gallon or larger shrub, having a fullness appropriate for its container size, intended to be used in a landscape buffer for screening purposes. (Refer to Appendix A, unless otherwise specified.)

Building. Any structure built for the support, shelter, housing or enclosure of persons, animals or property of any kind, including appurtenances to buildings such as chimneys, stairs, and elevated stoops, porches, terraces and decks; except that assistive technology for accessibility including ramps and platform lifts shall not be defined as part of the building for the purpose of measuring setbacks and the lot occupancy of a building.

Casino. The use of a lot(s) or any buildings(s) thereon by one or more persons where, in the aggregate, such persons make available for use or play more than three (3) game machines or simulated gambling devices. For purposes of this definition, a game machine means an electronic video game machine that, upon insertion of cash, is available to play or simulate the play of games authorized by the South Carolina Tax Commission utilizing a video display and microprocessors in which the player may receive free games or credits that can be redeemed for cash, and simulated gambling device means any device that, upon connection with an object, is available to play or operate a computer simulation of any game, and which may deliver or entitle the person or persons playing or operating the device to a payoff. The following rules of construction apply to this definition of "simulated gambling device":

- i. The term "device" means any mechanical or electrical contrivance, computer, terminal, video or other equipment that may or may not be capable of downloading games from a central server system, machine, computer or other device or equipment. The term "device" also includes any associated equipment necessary to conduct the operation of the device.
- ii. The term "upon connection with" means insertion, swiping, passing in range, or any other technical means of physically or electromagnetically connecting an object to a

device.

- iii. The term "object" means a coin, bill, ticket, token card or similar object, obtained directly or indirectly through payment of consideration, or obtained as a bonus or supplement to another transaction involving the payment of consideration.
- iv. The terms "play or operate" or "play or operation" includes the use of skill, the application of the element of chance, or both.
- v. The term "computer simulation" includes simulations by means of a computer, computer system, video display, video system or any other form of electronic video presentation.
- vi. The term "game" includes slot machine, poker, bingo, craps, keno, any other type of game ordinarily played in a casino, a game involving the display of the results of a raffle, sweepstakes, drawing, contest or other promotion, lotto, sweepstakes, and any other game associated with gambling or which could be associated with gambling, but the term "game" does not necessarily imply gambling as that term may be defined elsewhere.
- vii. The term "payoff" means cash, monetary or other credit, billets, tickets, tokens or other electronic credits to be exchanged for cash or to receive merchandise or anything of value whatsoever, whether made automatically from the machine or manually.

Canopy. A structure constructed of rigid materials, including, but not limited to, metal, wood, concrete, plastic or glass, which is attached to and supported by a building or by columns, poles or braces extended to the ground.

Certificate of Occupancy. A statement, signed by the administrative officer, setting forth either that a building or structure complies with this chapter or that a building, structure, or parcel of land lawfully may be employed for specified uses, or both.

City. The words "city," "the city" or "this city" shall mean the City of Charleston, in the County of Charleston, and State of South Carolina, except as otherwise provided.

Commercial Industrial or Office Developments. One (1) or more retail, industrial or office establishments or any other non-residential use not necessarily in single ownership but which occupies common and/or adjacent buildings on one or more lots of record utilizing common parking, ingress or egress, developed as, and appearing to be, a unified entity.

Commercial Nursery. Means an ongoing business for the planting, growing, and sale of plants and trees. A commercial nursery does not include an ongoing silviculture operation.

Commercial Parking Lot. A tract of land, building, or structure used for the storage or parking of automobiles by the general public and either operated for profit by the charging of fees, rents or the like, or used as an accessory to a principal business or industrial use.

Commercial Short Term Rental. See definition for "Short Term Rental, Commercial."

Commercial Timber Operation. Means property which, on the effective date of this Ordinance, is being used to raise, harvest or produce trees for commercial marketing. The burden shall be upon the owner to establish this use through evidence such as prior leases or marketing agreements, the actual planting of the trees for harvesting, etc.

Communication Tower. A tower of any size which supports communication equipment, transmission or reception, and is utilized by commercial, governmental, or other public or quasi-public users. This does not include communication towers for amateur radio operators licensed by the Federal Communications Commission which are exempt from municipal zoning restrictions.

Community Garage. A group of private garages, either detached or under one roof, arranged in a row or around a common means of access, and erected for use of residents in the immediate vicinity.

Community Parking Lot. An open area in a residential district for the parking of cars of residents of the immediate vicinity; provided, however, there shall be no sale of parking spaces on an hourly, daily, or weekly basis.

Corner Lot. A lot abutting upon two or more streets at their intersection.

Council, City Council. The words "the council" or "city council" shall mean the city council of the City of Charleston, South Carolina.

Court. An open unoccupied space, other than a yard, on the same lot with a building, unobstructed from floor or ground level to the sky.

Damage or Abuse. Means any action which does not follow good arboricultural practices. Abuse also includes damage inflicted upon roots by machinery, changing the natural grade above the root system or around the trunk, changing drainage patterns around the tree, destruction of the natural shape of the tree or any action which causes infection, infestation or decay.

Dance Halls and Studios. A building or a portion of a building used as a place of work, or for public or private entertainment, by one or more dancers.

Day Care. The care, supervision or guidance of a person or persons, unaccompanied by the parent, guardian or custodian, on a regular basis, for periods of less than twenty-four hours per day in a place other than the person or persons' own home or homes.

Day Care Facility. Any state licensed, registered or approved facility which provides care, supervision or guidance for any person who is not related by blood, marriage or adoption to the owner or operator of such a facility whether or not the facility is operated for profit and whether or not the facility makes a charge for services offered by it. For the purposes of this definition, related means any of the following relationships by marriage, blood or adoption: parent, grandparent, brother, sister, step-parent, step-sister, step-brother, uncle, aunt, cousin of the first degree. Day Care Facilities include, but is not limited to day nurseries, day care centers, group day care homes and family day care homes. The term does not include:

1. any educational facility, whether private or public, which operates solely for educational purposes in grades one or above;
2. five-year-old kindergarten programs operated by a public or private school;
3. kindergartens, preschools, nursery schools or other daytime programs receiving children younger than lawful school age primarily for educational purposes;
4. facilities operated in connection with a shopping center-or service or other similar facility, where the same children are cared for less than four hours a day and not on a regular basis while parents or custodians of the children are occupied on the premises or are in the immediate vicinity and immediately available;
5. summer resident or day camps;
6. Bible schools normally conducted during vacation periods;
7. programs offered by a church, synagogue or other religious institute which are primarily for the purpose of religious instruction or practice;
8. programs offered by parks, senior citizen centers, etc., for which the primary purposes are recreation and social interaction rather than care taking.

Types of Day Care Facilities:

Day Care Center. Any facility which regularly receives persons for day care during the hours of 6 a.m. to 7 p.m.

Family Day Care Home. Any facility, within a dwelling unit, which regularly provides day care for no more than five persons, unattended by a parent, custodian or legal guardian, during the hours of 6 a.m. to 7 p.m., including those persons living in the home and persons received for day care who are related to the resident caregiver, provided, however, that an occupied dwelling in which day care is regularly provided only for a person or persons related to the resident caregiver, or only for a person or persons of one unrelated family, or only for a combination of such persons, is not a family day care home. Please note that building codes may prohibit a family day care

home within a dwelling unit without significant improvements. Applicants for family day care homes are advised to check with the City of Charleston Inspections Division prior to applying for zoning approval.

Group Day Care Home. Any facility, within a dwelling unit, which regularly provides day care for at least six but not more than twelve persons, unattended by a parent, custodian or legal guardian, during the hours of 6 a.m. to 7 p.m., including those persons living in the home and persons received for day care who are related to the resident caregiver, provided, however, that an occupied dwelling in which daycare is regularly provided only for a person or persons related to the resident caregiver, or only for a person or persons of one unrelated family, or only for a combination of such persons, is not a group day care home. Please note that building codes may prohibit a group day care home within a dwelling unit without significant improvements. Applicants for group day care homes are advised to check with the City of Charleston Inspections Division prior to applying for zoning approval.

Overnight Day Care Facility. Any facility which regularly provides day care for persons unattended by a parent, custodian or legal guardian between the hours of 7 p.m. and 6 a.m., provided, however, than an occupied dwelling in which day care is regularly provided only for a person or persons of one unrelated family, or only for a combination of such person, is not an overnight day care facility.

dBA. A uniform noise measurement that simulates people's perception of loudness and annoyance. It is weighted to account for those frequencies most audible to the human ear. This is known as the A-weighted sound level, or dBA.

Decibels. Sound is a fluctuation in air pressure. Sound pressure levels are measured in units called decibels (dB).

Deferred Presentment Lender. A business or use that regularly accepts checks from a borrower drawn on the borrower's bank account to be presented for payment at a later date and that charges a fee for the service, such as those regulated by Chapter 39 of Title 34 of the Code of Laws of South Carolina, 1976, as amended.

Depth of Lot. The mean horizontal distance between the front lot line and the rear lot line.

Depth of Front Setback. The least distance from any part of or point on the building to the front lot line of the lot.

Depth of Rear Setback. The least distance from any part of or point on the building to the rear lot line of the lot.

Diameter Breast Height (D.B.H.). Means the total diameter, in inches, of a tree trunk or leaders, measured four and one-half (4½) feet above existing grade. In instances where a tree splits into leaders below four and one-half (4½) feet above existing grade and the leaders are physically attached above the ground and of the same specie of tree, all leaders equal to or greater than six (6) inches D.B.H. shall be measured separately and count as one tree.

Dormitory. A building or part of a building operated by an academic institution containing a room or rooms forming one (1) or more habitable units which are used or intended to be used by residents of the institution for living and sleeping, but not for cooking or eating purposes.

Drip Line. Means an imaginary vertical line that extends downward from the outermost branches of a tree to the ground.

Dwelling. Any building, or part thereof, used and occupied for human habitation or intended to be so used including any appurtenances belonging thereto or usually enjoyed therewith but not including hotels, motels, inns, bed and breakfasts, boarding or rooming houses, and timesharing facilities (see also "Residential Use").

Types of Dwellings:

One-Family Detached Dwelling. A separate detached building designed for and occupied exclusively as a residence by one family.

One-Family Attached Dwelling. A building designed for and occupied exclusively as a residence by one family, being attached by means of a common dividing side wall or walls to one or more buildings likewise designed for and occupied as a residence for one family. A single housing unit occupies each structure from ground to roof and independent access is available for each unit from the outside. Such attached one-family dwellings are commonly referred to as "town", "patio", or "row" houses.

Two-Family Dwelling. A separate detached building designed for or occupied exclusively as a residence by two families.

Mobile Home. See definition under "Mobile Home" in this Section.

Multi-family Dwelling. A building designed or occupied otherwise than as a one-family dwelling or a two-family dwelling. The term "multi-family dwelling" shall be understood to include apartment houses, tenement houses, residential condominiums and similar multi-family buildings exclusive of hotels, apartment hotels, and motels, inns, boarding or rooming houses, bed and breakfasts, and timesharing facilities.

Dwelling Unit. One or more rooms arranged for the use of one (1) or more individuals living together as a single housekeeping unit, with cooking, living, sanitary and sleeping facilities.

Discount Stores. A single store or group of stores advertising a wide variety of merchandise for sale at less than retail cost.

Facade. The entire building wall, including parapet, fascia, windows, doors and canopy on any complete elevation. For purposes of this ordinance "building wall" shall also mean the exterior wall of an individual business unit within a building containing more than one business.

Family.

1. An individual; or
2. One (1) or more persons related by blood or marriage with any number of natural children, foster children, stepchildren or adopted children, plus not more than two (2) unrelated persons living together as a single housekeeping [unit]; or
3. A group of not more than four (4) persons not related by blood, marriage, adoption, or guardianship, living together as a single housekeeping unit, except that for properties in non-residential zoning districts containing twenty (20) or more dwelling units the maximum number of unrelated persons allowed in a single housekeeping unit shall be six (6).

Fence or Wall. Means a structural device erected to serve as an architectural element, landscape element, screen or barrier.

Foot Candle. A unit of illumination equal to the light flux falling on one square foot of area one foot away from a light source of one candle power.

Foot Lambert. A unit of brightness equivalent to the emission of foot candle of illumination from one square foot of area.

Fraternity House. A building maintained exclusively for fraternity members and their guests or visitors and affiliated with an academic or professional college, university or other institution of higher learning.

Freeboard. A factor of safety usually expressed in feet above a base flood level for purposes of floodplain management

Front Setback. A setback across the full width of the lot extending from the front line of the lot to the corresponding line of the building.

Garage. A building or any portion thereof used for housing or repairing motor vehicles. This does not include rooms for storing, exhibiting or showing new cars for sale.

Garage Apartment. A room or rooms intended to be used as sleeping quarters, attached to a private or community garage.

Grade. Means the natural elevation of the ground.

Grand Tree. Means a tree twenty-four inches (24") or greater D.B.H. Grand trees shall not include any species of pine trees (genus Pinus).

Gross Acreage. The total area of a lot or lots including all submerged land and wetlands.

Gross Density. The number of dwelling units per gross acre.

Ground Cover. Means low growing plant material less than eighteen inches (18") in height.

Half Story. A story under a gabled or hipped roof, the wall plates of which on at least two opposite exterior walls are not more than two feet above the finished floor of such story.

Height of Building. The vertical distance measured from the curb line to the highest point on the finished roof, including appurtenant parts and mechanical penthouses, of the structure. Elevator shaft penthouses set back from the side lines of the building a distance equal to the height of such shafts shall be excluded for the purpose of measuring height.

Height of Terrace. The difference in elevation between the lowest terrace level and the top of the terrace at a point central to the width of the nearest on-lot building wall or building profile.

High Ground. Such portion of a lot or tract of land and exclusive of naturally occurring water bodies and any areas lying below the critical line of the South Carolina Office of Ocean and Coastal Resources Management (OCRM) or any areas within the jurisdiction of the U.S. Army Corps of Engineers as shown on a plat or site plan of a lot or tract that has been stamped by the OCRM or the U.S. Army Corps of Engineers, or both, as appropriate. A man-made body of water contained within the boundaries of a project shall be assessed at fifty percent (50%) of the total acreage of said body of water for purposes of calculating project density. However, the total number of developable acres shall not exceed a twenty percent (20%) increase in the number of developable acres that would exist if the body of water was excluded from the calculation.

Home Occupation. A home occupation shall be defined as an occupation, profession or trade that is customarily conducted within a dwelling by the resident of record, is incidental and subordinate to the principal residential use, and does not constitute a nuisance or adversely affect the use and development of adjoining properties in the neighborhood.

Hotel. A building or part of a building in which living or sleeping accommodations served by common entrances are used primarily for transient occupancy and may be rented on a daily basis.

Inn. See Hotel.

Inner Court. A court not extending to a street or alley or to a front or rear yard.

Interior Lot. A lot, the side lines of which do not abut on a street.

Land Development. Means the changing of land characteristics through redevelopment, construction, subdivision into parcels, condominium complexes, apartment complexes, commercial parks, shopping centers, industrial parks, mobile home parks, and similar developments for sale, lease, or any combination of owner and rental characteristics.

Landscaping. Means the practice or physical product of the arrangement of plant materials including ground cover, shrubs and trees, along with other natural and man-made elements such as rocks, fences and walls, as a means to enhance the built or natural environment by screening undesirable or unsightly land uses, buildings or other structures, or parking areas; by creating privacy; by buffering different land uses; and by modifying micro-climatic conditions (wind, shade, air temperature, etc.).

Leq(1). The constant sound level that, in a given situation and time period of one hour, conveys the same sound as the actual time-varying sound. This is a way of describing fluctuation sound by describing the fluctuating noise heard over a one-hour time period as if it had been a steady, unchanging sound. The method of averaging the noises made over a given time period weights the louder, more intrusive noises more heavily.

Lot. A portion or parcel of land laid out and approved by proper authorities and recorded as a single parcel in the R.M.C. office for Charleston County or Berkeley County, which is devoted to a common use or occupied by a building or buildings.

Lot Frontage. The front side of a lot that abuts a street or thoroughfare from which direct vehicular access to lots may be available.

Lot Occupancy of a Building. The horizontal area measured within the outside of the exterior walls or foundations of a building (see definition of "building"), except that appurtenances to buildings such as stairs and elevated stoops, porches, terraces and decks, that are not covered and are not elevated more than three feet above grade, shall not be included for the purpose of calculating lot occupancy of a building.

Mixed Occupancy. Occupancy of a building or land for more than one use.

Mobile Home. Any building or structure used or designed to be used for habitation of persons, or so designed and constructed that such building or structure may be transported in its entirety or in substantial part by a wheeled vehicle and placed upon a permanent foundation; or any manufactured structure designed or intended to be utilized as a single family dwelling which is over thirty-five feet (35') in length, or over eight feet (8') in width, and which can be temporarily or permanently parked upon a mobile home space.

Mobile Home Pad. A paved foundation equipped with utility connections located on a mobile home space.

Mobile Home Park. A development which meets the requirements of Article 3, Part 3, upon which two (2) or more mobile homes are placed for occupancy.

Mobile Home Space or Lot. A parcel or lot in a mobile home park or a single lot of record which meets the requirements of this ordinance for the placement of a mobile home.

Motel or Auto Hotel. A roadside commercial establishment offering lodging and automobile parking for transient travelers which has individual entrances from outside the building to serve the separate units.

Neighborhood Use. A term which shall be used to identify specific areas in a Planned Unit Development where a variety of uses including, but not limited to, residential, commercial, office and institutional uses may be permitted subject to zoning regulations on a PUD Master Plan approved in accordance with Article 2: Part 7 Planned Unit Development, PUD District.

Net Acreage. The total area of high ground on a given lot or group of lots, including areas for proposed public and private roads.

Net Density. The number of dwelling units per net acre.

Nonconforming Use. A use of building or land that does not conform with the regulations of the district in which it is situated.

OCRM. The South Carolina Office of Ocean and Coastal Resources Management.

Open Space. Any parcel or area of land or water essentially unimproved and set aside, dedicated, designated or reserved for public or private use or enjoyment, or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space. Open space shall not include streets, drives, off-street parking and loading areas, area so located or of such size or shape to have no substantial aesthetic or recreational value and any area within residential lots.

Ornamental Shrub. Means a three gallon or larger shrub, having a fullness appropriate for its container size, intended for ornamental purposes. (Refer to Appendix A.)

Outer Court. A court extending to a street or alley or to a front or rear yard.

Owner. The word "owner," applied to building or land, shall include any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or a part of such building or land.

Parapet. A vertical false front or wall extension above the roof line.

Peninsula. Means the area of the City of Charleston bounded by the Cooper River to the east, the Ashley River to the west and south, and the Charleston City Limits to the north, unless otherwise defined within this Chapter.

Personal Property. Includes every species of property except real property, as herein defined.

Person. The word "person" shall include a corporation, firm, partnership, association, organization and any other group acting as a unit, as well as an individual.

Porch. A roofed or unroofed structure forming an entrance to a building or used primarily as a partial access to the exterior of the building. A porch is primarily open and subject to exterior views of its interior portion.

Principal Building. The building(s) in which the principal use on a lot is conducted.

Produce Market. An open air structure or roadside stand used for the retail sale of fresh fruits, vegetables, grains, eggs, flowers, herbs, plants, seafood or other types of food and agricultural products. Produce sold may be grown on the property where the market is located or may be trucked in from area farms.

Property. The word "property" shall include real and personal property.

Protected Tree. Means a tree eight inches (8") or greater D.B.H.

Protective Barricade. Means a physical structure not less than four feet (4') in height, limiting access to protected and grand trees. A suitable protective barrier shall be composed of wood or other durable material which insures protection of protected trees and grand trees during development.

Real Property. "Real property" shall include land, tenements, hereditaments, fixtures and appurtenances.

Rear Setback. A setback across the full width of the lot, extending from the rear line of the lot to the corresponding line of the building.

Recommended Tree. Means a tree of two and one-half inches (2½") or greater in diameter as measured six inches (6") above grade, which will grow to a minimum height of fifty feet (50') at maturity. (Refer to Appendix A, unless otherwise specified.)

Relocated Tree. Means a protected tree that has been transplanted in the areas specified in Article 3: Part 3 and Part 7.

Remuneration. Money, rent, reward, recompense, salary, compensation or other bargained for consideration given in return for occupancy, possession or use of property, including the use of property to reward persons associated with clients or potential clients of a commercial venture.

Replaced Tree. Means the planting in the areas specified in Article 3: Part 6 of a recommended tree in place of a protected tree that is removed, irreversibly damaged or destroyed in violation of the standards set forth in Article 3: Part 6.

Residence Club Use. Use of a property by a club for the benefit of the members and/or guests of the club, who are eligible to occupy the property for varying lengths of time that may or may not exceed twenty-nine (29) consecutive days. Residence clubs are characterized by the ownership of properties and sale of club memberships for the purpose of allowing members and/or guests to occupy club-owned properties for varying lengths of time that may or may not exceed twenty-nine (29) consecutive days. Residence club uses are accommodation uses and subject to the regulations of the accommodations overlay zone.

Resident. For purposes of this Chapter 54 of the Code of the City of Charleston, except for Section 54-211, the term "Resident" shall mean the record owner of the property who (1) physically resides at the subject property at least 183 days each year and (2) has designated the subject property as his/her legal voting address and the address of his/her driver's license. In addition, the subject property must be assessed at the four percent homeowner's assessment ratio according to the records of the county assessor's office. A single or dual member limited liability company (LLC) may qualify as a Resident of the subject property provided the member(s) provide(s) with the application for an STR Permit a sworn statement attesting that (s)he or they are the sole members of the LLC. The sole member(s) must also designate the subject property as his/their legal voting address and address of his/their driver's license, the subject property must be assessed at the four percent homeowner's assessment ratio according to the records of the county assessor's office, and the member(s) shall physically reside at the subject property at least 183 days each year.

Residential Short Term Rental. See definition for Short Term Rental, Residential.

Residential Use. The use of land or the building(s) thereon, or any part thereof, as a home by one or more individuals or families where the intended duration of occupancy is for a period of not less than thirty (30) consecutive days. Occupancy of a transient nature such as in motel, hotel, inn, bed and breakfast, rooming or boarding house, or timesharing uses shall not be defined as a residential use, but shall be defined as a commercial use.

Roadway. The word "roadway" shall mean that portion of a street improved, designed or ordinarily used for vehicular travel.

Roof Peak. The point at the highest level of the roofline excluding all appurtenant parts, mechanical penthouses and elevated shafts.

Screening. Means the use of landscape planting, fences, walls or other structures to obscure vision of an unsightly or undesirable land use or structure and to minimize the intrusion of lighting on neighboring property.

Setback. An open unoccupied space, other than a court, between the building and any lot line.

Shipping Container Storage Uses. Outdoor storage of three (3) or more shipping containers that are not attached to a truck trailer chassis and may or may not be used for storage of materials.

Shoreline Frontage. Means the edge of high ground along a river, and its tributaries and creeks, which is visible from any part of the river channel at high tide.

Short-term Lender. A deferred presentment lender or a title loan lender.

Short Term Rental or STR. A conditional use to provide sleeping accommodations for a period of between one (1) and twenty-nine (29) consecutive days. This use is further defined in this section as either a commercial short term rental use or a residential short term rental use with different permitting and operational requirements for each type of short term rental use.

Short Term Rental, Commercial. A commercial short term rental is a conditional use whereby a conforming or legal nonconforming dwelling unit is converted into a fully-functioning, private accommodations use, which includes cooking, living, sanitary and sleeping facilities within one dwelling unit, to be rented to one (1) family for a period of between one (1) and twenty-nine (29) consecutive days. Distinguishing characteristics of a short term rental are: 1) it has all the attributes of a typical dwelling unit including cooking, living, sanitary and sleeping facilities, 2) is occupied by not more than four (4) unrelated people pursuant to the definition for family, and 3) is located on a commercially zoned property with a limited number of short term rental units, if more than one such unit is provided. A commercial short term rental shall only be permitted as a conditional use when a conforming or legal nonconforming dwelling unit is converted to such use in compliance with the procedures and conditions in Section 54-227 of the Zoning Ordinance and after a commercial STR permit is issued by the City.

Short Term Rental, Residential. A residential short term rental is a conditional use whereby the record owner of a property, who is also a resident of the property, uses one (1) or more rooms on the property for the purpose of providing sleeping accommodations for no more than four (4) adults (18 years and older) for a period of between one (1) and twenty-nine (29)

consecutive days. A residential short term rental shall only be permitted in compliance with the procedures and conditions in Section 54-208.1, 54-208.2 or 54-208.3 of the Zoning Ordinance and after a Category 1, Category 2, or Category 3 Residential STR Permit is issued by the City.

STR Permit. A Category 1, Category 2, or Category 3 Residential STR Permit, or Commercial STR Permit issued by the City upon approval of a new application, change of ownership or annual renewal. Each short term rental permit shall include a permit number, the maximum number of guests permitted during a rental and an expiration date.

Side Setback. A setback between the side line of the lot and the adjacent side line of the building, extending from the front yard to the rear yard. If there is no front yard, the side setback shall be considered as extending to the front line of the lot, and if there is no rear yard, the side setback shall be considered as extending to the rear line of the lot.

Sidewalk. The word "sidewalk" shall mean any portion of a street between the curbline and the adjacent property line, intended for the use of pedestrians.

Sign. Any device or representation for visual communication that is used for the purpose of bringing the subject thereof to the attention of others which is located on or attached to premises, real property, structures on real property, or a vehicle, and which is visible from a public street or way.

Types of Signs.

Abandoned Sign. A sign which was erected on property in conjunction with a particular use which has been discontinued for a period of ninety (90) days or more, or a sign the content of which pertains to a time, event or purpose which no longer applies.

Canopy Sign. A sign which is suspended from, attached to, supported from or forms a part of a canopy.

Dilapidated Sign. Any sign which is insecure or otherwise structurally unsound, has defective parts in the support, braces, guys and/or anchors or which is unable to withstand the wind pressure for which it was originally designed.

Directional and Warning Sign. (a) A traffic, directional or informational sign, permanently erected in the public right-of-way or on private property by a governmental agency and permitted signs in public rights-of-way; (b) off-premises signs which contain information regarding the time and place of regular meetings of civic or religious groups; and/or (c) an on-premises permanent sign located at the curb cuts of a commercial, industrial, or office establishment giving direction or information as to

matters as entrance, exit or the like. These signs may contain a logo or other information identifying the use of the premises, so long as such information is for direction and not advertising purposes.

Directory Sign. A sign listing only the names and/or use, or location of more than one business, activity or professional office conducted within a building, group of buildings or commercial center.

Flashing Sign. Any lighted or electrical sign which emits light in sudden transitory bursts. On/off time and temperature signs and message boards are not considered flashing signs for the purpose of this ordinance.

Freestanding Sign. A sign, not including sandwich boards, supported by a sign structure secured in the ground and which is wholly independent of any building, other than the sign structure, for support.

Illuminated Sign. A sign designed to give forth artificial light or to reflect such light from an artificial source.

Institutional Signs. On-premises signs which identify the name of an institution, such as a church, school, hospital, club, museum, a civic, fraternal or charitable organization, or similar entity and which describe the activities thereof.

Moving Message Board. Any electrical sign having a continuous message flow across its face by utilization of lights or other electrical impulses forming various words or designs.

Off-premises Sign. A sign identifying, advertising or directing the public to a business or commercial activity located on property other than where the sign is located.

On-premises Sign. A sign which (a) identifies, advertises or directs the public to a use, occupancy, function, service or product which is sold or manufactured on the property where the sign is located or at the site of a commercial, industrial or office development where the sign is located or (b) identifies, advertises or directs attention to a venture or message of a non-commercial or not-for-profit nature regardless of the location of such venture or message.

Portable Sign. Any sign, except a sidewalk/sandwich board sign, which is not permanently affixed to a building, structure or the ground.

Project Sign. Any sign erected and maintained on the premises temporarily while undergoing construction by an architect, contractor, developer, finance organization, subcontractor or materials vendor upon which property such individual is furnishing labor, services or material.

Reader Board. That portion of a sign face that allows for interchangeable letters, usually placed below the identification portion of the sign face. Reader boards are to be included in the calculation of the allowed sign size of a particular establishment.

Real Estate Sign. A temporary sign advertising the real property upon which the sign is located for rent, for lease, or for sale and providing the name and location of the owner or his agent.

Roof Sign. A sign erected over or on, and wholly or partially dependent upon, the roof of any building for support, or attached to the roof in any way.

Sandwich Board Sign. A freestanding movable sign, not secured or attached to the ground or any building or structure, composed of a sign panel and supporting structure or one or more panels which form both the structure and sign face, and which is intended to be placed in a sidewalk or pedestrian way.

Sign Band. A panel, either permanently affixed to or removable from a building façade, which is designed specifically to accommodate sign letters or graphics.

Snipe Sign. A sign which is tacked, nailed, posted, pasted, glued or otherwise attached to trees, poles, stakes or fences, or to other objects, and the advertising matter appearing thereon is not applicable to the present use of the premises upon which such sign is located.

Special Event Sign. A sign which carries a message regarding a special event or function which is of general interest to the community, such as historic, ethnic, cultural, religious, political or similar activities.

Temporary Sign. Any sign or information transmitting structure intended to be erected or displayed for a limited period, or any sign towed behind an aircraft.

Vehicle Sign. A permanent or temporary sign affixed, painted on, or placed in or upon any parked vehicle, parked trailer or other parked device capable of being towed, which is displayed in public view under such circumstances as to location on the premises, time of day, duration, availability of other parking space on the premises, and the proximity of the vehicle to the area on the premises where it is loaded, unloaded or otherwise carries out its principal function, which circumstances indicate that the primary purpose of said display is to attract the attention of the public rather than to serve the business of the owner thereof in the manner which is customary for said vehicle.

Window Sign. Any sign which is permanently painted on, applied to, attached to or projected upon the glass area of a building, including doors, whose identification, message, symbol, insignia, visual representation, logo type, or any other form which communicates information is intended to be read from off-premises, contiguous property or a public right-of-way.

Silviculture. Means the cultivation of a forest for the purpose of harvesting timber.

Site Plan. A plan delineating the overall design of a development on a tract of land, including but not limited to grading, engineering design, construction details and survey data for existing and proposed improvements, the size, height, shape and location of buildings, location and design of parking areas, landscaping, refuse areas, and pedestrian and vehicular circulation on site.

Skirting. Panels specifically designed for the purpose of screening the underside of a mobile home or manufactured dwelling unit by forming an extension of the mobile home body and covering the entire distance between the bottom of the exterior walls and the ground elevation below and along the entire perimeter of the mobile home or manufactured dwelling.

Sleeping Unit. A single room with accommodations for sleeping or a suite of rooms designed for occupancy by a family that has accommodations for sleeping.

Sorority House. See Fraternity House.

Special Exception. A departure from a general provision of this chapter which, by the expressed terms of such provision, may be permitted by the Board of Zoning Appeals upon application only after the Board finds the existence of facts and circumstances detailed in such provision.

Specified Anatomical Areas. "Specified Anatomical Area" means: a) less than completely and opaquely covered: i) human genitals, pubic region; ii) buttocks, and iii) female breast below a point immediately above the top of the areola; b) human male genitals in a discernibly tumid state, even if completely and opaquely covered; and c) a covering or device that when worn, simulates genitals, pubic region, buttocks, or any part of the female breast below the top of the areola.

Specified Sexual Activities. "Specified sexual activities" means: a) human genitals in a state of sexual stimulation or arousal; b) acts of human masturbation, sexual intercourse or sodomy; c) fondling or other erotic touching of human genitals, pubic region, buttocks, or female breast.

Specimen Tree. A tree listed in any of the categories in Section 54-331, that is healthy, undamaged, disease free and shows exceptional form and growth habits for that specific species.

State. The words "state" or "this state" shall mean the State of South Carolina.

Story. That portion of a building included between the surface of any floor and the surface of the next floor above, or if there be no floor above it, then the space between such and the ceiling next above it.

Street. The word "street" shall mean the entire width between boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular traffic and shall be taken to include any public way, road, highway, street, avenue, boulevard, parkway, alley, lane, viaduct, bridge and approaches thereto within the city. The word "street" shall also mean a private street within a subdivision.

Street, Public. A dedicated public right-of-way which affords the principal means of access to abutting property and which has been accepted for maintenance by the city, county or the S.C. Department of Transportation. For the purposes of these regulations, the term street or streets shall also mean avenues, boulevards, roads, lanes and all other public rights-of-way.

Local Street. A public street used primarily for providing direct access to abutting property.

Collector Street. A public street designed primarily to connect private ways serving multi-family complexes or other local streets with arterial streets and may be expected to carry a significant volume of traffic having neither origin nor destination on the street.

Arterial Street. A federal or state highway designed primarily for the movement of large volumes of traffic from one area to another.

Structure. Anything constructed or erected, the use of which demands its permanent location on the land; or anything attached to something having a permanent location on the land. The word "structure" shall include the word "building."

Structural Alteration. Any change or replacement in the supporting members of a building or structure, such as bearing walls, columns, beams or girders.

Subdivision. Means all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose, whether immediate or future, of sale, lease, or building development, and includes all division of land involving a new street or change in existing streets, and includes re-subdivision which would involve the further division or

relocation of lot lines of any lot or lots within a subdivision previously made and approved or recorded according to law; or, the alteration of any streets or the establishment of any new streets within any subdivision previously made and approved or recorded according to law, and includes combinations of lots of record.

Tenant, Occupant. The words "tenant" or "occupant" applied to a building or land shall include any person who occupies the whole or a part of such building or land, whether alone or with others.

Through Lot. An interior lot having frontage on two streets.

Timesharing. The use of land or the buildings thereon, or any part thereof, as living quarters by one or more individuals or families where the intended duration of occupancy is normally less than thirty (30) consecutive days and when the basis of the right to such occupancy is dependent upon the acquisition, either through title or lease, of units of time which entitle one to exclusive possession of the premises. Timesharing use includes fee simple ownership, commonly called "interval ownership" and right of use or non-fee contract.

Title Loan Lender. A lender which regularly extends short-term nonpurchase money loans secured by titles to motor vehicles, such as those regulated by S. C. Code § 37-3-413 (Cum. Supp. 2011). The term does not include other supervised lenders, banks, credit unions, savings banks and like depository institutions.

Total Ambient Noise Levels. All stationary and mobile noise sources including vehicular or truck traffic associated with the proposed use of the property. Total ambient noise will be measured at any property line, using a sound level meter which is capable of measuring Leq(1) noise levels. Measurements should be made at a setback distance of 1,000 feet or greater from any existing roadway in order to accurately measure noises at the proposed use only. This measurement is not intended to restrict construction activity but only the operation of the proposed use.

Understory Tree. Means a 10 to 12 feet tall, which will grow to a minimum height of twenty feet (20') at maturity (refer to Appendix A, unless otherwise specified).

Usable Open Space. Open space areas of high ground developed to provide for active recreational uses.

Vacation Time Sharing Ownership Plans. Any arrangement, plan or similar devise, whether by tenancy in common, sale, term for years, deed, or other means, whereby the purchaser receives an ownership interest in real property and the right to use accommodations or facilities, or both, for a period or periods of time during any given year, but not necessarily for consecutive years, which extends for a period of more than one year.

Variance. Relief from the literal enforcement of this chapter, permitting the use of property in a manner otherwise forbidden, granted by the Board of Zoning Appeals upon a finding that the enforcement of this chapter as written would inflict practical difficulty or unnecessary hardship as hereinafter described; provided, however, that the Board of Zoning Appeals may not, by variance, permit to be established or carried on in any use district an activity, business or operation which is not otherwise allowed in such district by a specific provision of this chapter.

Velocity Decibels. Vibration levels are measured in terms of velocity, representing the instantaneous speed at a point on the object that is displaced. The root mean square of a vibration signal is the average of the squared amplitude of the signal over a given period of time (usually one second). The rms velocity is normally described in inches per second. Decibel notation is defined as $L_v = 20 \times \log_{10} (V/V_{ref})$, where L_v is the velocity level in decibels, V is the rms velocity amplitude, and V_{ref} is the reference velocity amplitude. VdB is used for vibration decibels to reduce the potential for confusion with noise decibels.

Video Arcades. A building or any specifically designated portion thereof, the principal use of which is the providing of entertainment by means of coin or token operated machines for amusement and/or gaming.

Water-Dependent Structures. Means those structures associated with industrial, maritime, recreational, educational, or fisheries activities that require location at or near the shoreline within required building setbacks or buffers. Water-dependent structures do not include residences, restaurants or motel/hotel facilities.

Wetland. Means land that falls under the jurisdiction of one or more of the following agencies: OCRM or the United States Army Corps of Engineers.

Width of Court. The least horizontal dimension of a court at its lowest level.

Width of Side Setback. The least distance from any part of or point on the building or porch to the adjacent side lot line of the lot.

(Ord. No. 1996-227, 1, 2, 11-26-96; Ord. No. 1997-459, 1, 11-25-97; Ord. No. 1998-76, § 1, 4-28-98; Ord. No. 1998-147, § 1, 8-18-98; Ord. No. 1998-203, § 1, 11-24-98; Ord. No. 1999-02, §§ 1, 2, 1-12-99; Ord. No. 1999-08, § 1, 2-9-99; Ord. No. 1999-54, §§ 4, 5, 4-27-99; Ord. No. 1999-94, § 1, 8-17-99; Ord. No. 2001-44, § 11, 5-8-01; Ord. No. 2002-19, §§ 1, 2, 2-12-02; Ord. No. 2002-92, § 1, 8-13-02; 2002-130, § 1, 11-26-02; Ord. No. 2003-44, § 1, 4-22-03; Ord. No. 2003-50, §§ 1—3, 5-27-03; Ord. No. 2004-25, § 1, 3-9-04; Ord. No. 2005-92, § 1, 5-10-05; Ord. No. 2005-95, § 1, 5-17-05; Ord. No. 2006-397, § 1, 9-12-06; Ord. No. 2006-428, §§ 1—4, 9-26-06; Ord. No. 2006-489, § 1, 10-24-06; Ord. No. 2007-136, §§ 1, 2, 7-17-07; Ord. No. 2007-172, § 1, 9-11-07; Ord. No. 2008-160, § 1, 12-9-08; Ord. No. 2010-09, § 1, 3-9-10; Ord. No. 2011-08, §§ 1—3, 2-8-11; Ord. No. 2011-11, § 1, 2-8-11; Ord. No. 2011-28, § 1, 4-12-11; Ord. No. 2012-41, §§ 2, 3, 1-24-12; Ord. No. 2013-22, § 1, 2-26-13; Ord. No.

2013-31, § 1, 3-12-13; Ord. No. 2014-95, § 1, 7-15-14; Ord. No. 2014-130, § 1, 10-14-14; Ord. No. 2014-153, § 1, 12-2-14; Ord. No. 2016-051, § 3, 4-26-16; Ord. No. 2018-031, §§ 2, 3, 4-10-18; Ord. No. 2018-043, §§ 2—4, 4-10-18)

Sec. 54-220. - Accommodations overlay zone.

- a. Intent. The A Overlay Zone is intended to identify those areas within the City limits where accommodation uses are allowed. Accommodation uses are prohibited except within the A Overlay Zone, with the exception of bed and breakfasts that are approved in accordance with the provisions of Section 54-208 or 54-208.1, and short term rentals that are approved in accordance with the provisions of Section 54-227. The 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.
- b. Permitted uses. In any Accommodation overlay zoning district, land may be used and buildings or structures may be erected, altered or used for any purpose allowed by the underlying zoning district as listed in Article 2: Part 3, and the following uses subject to the approval of the Board of Zoning Appeals:
 1. Accommodation uses. The Board of Zoning Appeals may permit accommodation uses as an exception where it finds that:
 - (a) the elimination of housing units by the proposed facility, will not adversely affect the existing housing stock;
 - (b) the location of the facility will not significantly increase 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;
 - (d) the proposed use is otherwise in character with the immediate neighborhood;
 - (e) the location and design of the proposed guest drop off and pick up area(s) has been reviewed by the Department of Traffic and Transportation and determined to be safe and not be an impediment to traffic; and
 - (f) in 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:
 - (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 physical condition (sound, deficient, deteriorated or dilapidated);
 - (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;
 - (3) the location and design of guest drop off and pick up areas for the facility;
 - (4) the number of vehicle trips generated by the facility and the traffic circulation pattern serving the facility and efforts made to minimize traffic impacts;
 - (5) the distance of the main entrance and parking entrance of the facility from a road classified as an arterial or collector road;
 - (6) the development pattern and predominant land uses within five hundred feet (500') of the facility;
 - (7) the proximity of residential neighborhoods to the facility;
 - (8) the accessory uses proposed for the facility in terms of the size, impact on parking, and impact on traffic generation;
 - (9) the demonstrated provision of off-street parking at the rate of two spaces for each three sleeping units;
 - (10) 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;

- (11) the commitment to environmental sustainability and recycling;
- (12) the distance of the facility from major tourist attractions;
- (13) the distance of the facility from existing or planned transit facilities;
- (14) the long term provision of on- or off-site parking for employees who drive vehicles to work, including an estimate of the number of employees that will drive to work during the maximum shift and the location of parking spaces to be provided; and the demonstrated provision of free transit passes or other incentives to encourage employee use of public transportation;
- (15) the location of the proposed facility will contribute to the creation of a diverse mixed-use community;
- (16) 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; 69 in areas designated "A-6" on the zoning map; and 175 in areas designated "A-7" 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;
- (17) 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;
- (18) 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;
- (19) the commitment to make affirmative, good faith efforts to hire personnel, representative of the population of the Charleston community, at all employment levels;

c. Violations and penalties.

1. Violations. It shall be a violation of this Chapter for an owner, his agent or manager to operate an accommodations use without complying with the requirements of this Chapter and the Code of the City of Charleston. It shall be a violation of this Chapter to expand an approved accommodations use without obtaining a new permit, or to advertise a property as being available for an accommodations use without first complying with the requirements of this Chapter. It shall be a violation of this Chapter to submit for advertising, marketing, representing or otherwise holding out an accommodations unit as being available for use or occupancy unless the accommodations unit has been approved pursuant to this Chapter. It shall be a violation of this Chapter to submit for advertising, marketing, representing or otherwise holding out more accommodations type units on a property than have permitted pursuant to this Chapter.
2. Penalties. A violation of this Chapter is a misdemeanor punishable by a fine and/or incarceration. Each day the unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use continues is considered a separate offense.

(Ord. No. 1998-76, § 2, 4-28-98; Ord. No. 1999-02, §§ 3—5, 1-12-99; Ord. No. 1999-54, § 4, 4-27-99; Ord. No. 2006-428, §§ 6—8, 9-26-06; Ord. No. 2007-204, § 1, 11-20-07; Ord. No. 2012-41, § 5, 1-24-12; Ord. No. 2013-93, §§ 1—6, 9-24-13; Ord. No. 2013-93, §§ 1—6, 9-24-13; Ord. No. 2017-093, § 1, 8-15-17; Ord. No. 2018-008, § 1, 2-13-18; Ord. No. 2018-043, § 11, 4-10-18)

Sec. 54-317. - Required number of off-street parking spaces by land use.

- a. Minimum number of parking spaces required. Table 3.3 indicates off-street parking requirements for land uses. All calculations shall be rounded up to the next whole number. The total parking requirement for mixed uses shall be the sum of the requirement for each use, except that "shopping center" developments, as defined in Table 3.3, shall be exempt from this requirement. Parking spaces required for one use shall not be used to satisfy the parking requirement for another use with the exception of churches, synagogues or other places of worship. Additional parking for bicycles shall be required for certain land uses pursuant to Section 54-320. For the purposes of this Section, "peninsula" shall mean the area of the City of Charleston bounded by the Cooper River to the east, the Ashley River to the west and south, and the Charleston City Limits to the north.
- b. Maximum area of paved parking spaces and aisles allowed for surface parking lots. The maximum number of hard surfaced parking spaces allowed for a shopping center development, as defined in Table 3.3, shall not exceed the total number of spaces required pursuant to this section, increased by 20 percent. All spaces and appurtenant aisles in excess of this 20 percent cap, or areas within the parking lot equivalent in size to the number of excess parking spaces multiplied by 450 square feet, shall be non-hard surfaced utilizing slag, gravel, ROC, grasscrete, or similar porous material or simply a grass field.

TABLE 3.3: OFF-STREET PARKING REQUIREMENTS

<u>USE</u>		<u>NUMBER OF SPACES REQUIRED</u>
RESIDENTIAL:		
-	One (1) family detached dwelling	2 per unit
	One (1) family attached dwelling & mobile home	
-	Two (2) family dwelling	2 per unit
-	Multiple (3 or more) dwellings or dwellings (one or more) within commercial bldgs.	1½ per unit, except that the minimum requirement shall be 1 per unit within the MU-1 and MU-2 districts
-	Boarding house	1 per 2 bedrooms

-	Dormitory, sorority or fraternity house	1 per 2 beds
-	Nursing home, homeless shelter, orphanage, sanitarium, boarding home for sheltered care; where above uses are communal living with central dining room	1 per 6 beds
-	Special needs housing; housing restricted by funding agencies, public housing agencies, or other such organizations, to elderly, handicapped individuals or families, or low income occupants based on current income limits established by the U.S. Department of Housing and Urban Development	1 per 3 dwelling units
-	Affordable housing	1 per 4 dwelling units
ACCOMMODATIONS:		
-	Accommodations uses, except for bed and breakfasts and short term rentals	2 per 3 sleeping units
-	RV parks	1 per trailer accommodation or "hook-up"
INSTITUTIONAL AND COMMUNITY SERVICE:		
-	High schools (grades 9-12)	1 per each 4 seats in the main assembly hall plus 1 for each classroom
-	Preschool, kindergarten, elementary and junior high schools (grades preschool through 8)	2 spaces for each employee
-	Day care centers	2 per employee

-	Church, synagogue, place of worship (other than on the peninsula)	1 per 4 seats design capacity of the principal place of worship; 80 percent of the required spaces may be provided at an off-site public or private parking lot which is accessory to another use not open or operating during the time of weekend services and within 400 feet of the place of worship. Written permission from owner of lot indicating times parking is to be permitted shall be submitted to zoning administrator prior to approval.
-	Church, synagogue, place of worship (on the peninsula)	1 per 8 seats design capacity of the principal of the principal place of worship with off-site parking allowed same as above.
-	Funeral home, mortuary, crematorium	1 per 4 seats in sanctuary or 1 per 2 employees whichever is greater.
-	Health care facility;	1 per 2 beds
	Hospital, accessory uses	
-	Health care facility;	1 per employee plus 1.5 per outpatient treatment room.
	Ambulatory care, clinic, accessory uses	
-	Laboratory, research facility	1 per 2 employees
-	Place of public assembly auditorium, stadium, community center, theater	1 per 6 seats or patrons (based on maximum occupancy etc. as allowed by Building Code)

-	Trade School, College, Institution of higher learning and accessory uses to such facility except dormitory, sorority, and fraternity housing	1 per 100 square feet of total classroom space
-	Library	3 per 1000 square feet of interior floor area.
BUSINESS, ENTERTAINMENT AND OFFICE:		
-	Art gallery (non-retail), museum (on the peninsula)	1 per 600 square feet (excluding storage)
-	Art gallery (non-retail), museum (all other areas)	1 per 400 square feet (excluding storage)
-	Automobile repair garage	1 per 2 employees at maximum employment on a single shift plus 1 per 150 square feet of automobile repair space.
-	Office, professional and public buildings bank (on the peninsula)	1 per 500 square feet (excluding halls, stairwells, storage/elevator shafts and bathrooms)
-	Office, professional and public buildings, bank (all other areas)	1 per 240 square feet (excluding halls, stairwells, storage/elevator shafts and bathrooms)

-	Eating and drinking places; sit down establishments serving food and beverage (on the peninsula)	1 per 100 square feet of inside patron use area (excluding bathrooms) except that for a lot with this use that is more than 150 away from any lot with a residential zoning designation, measured closest point of the lot to closest point of the lot, the number of spaces required for inside patron use area shall be 1 per 150 square feet (excluding bathrooms), and 1 per 130 square feet of outside patron use area .
-	Eating and drinking places; sit down establishments serving food and beverage (all other areas)	1 per 90 square feet of inside patron use area (excluding bathrooms), and 1 per 200 square feet of outside patron use area .
-	Eating places; fast food, drive-thru, take-out and/or express prepared food delivery only	1 per 75 square feet of inside patron use area, plus 1 per 200 square feet of outside patron use area.
-	Eating places; drive-thru with no use area	1 per employee at maximum shift inside patron plus 1 per delivery vehicle plus 1 per 200 square feet of outside patron use area.
-	Catering kitchen with no on-site food sales	1 per 500 square feet of gross floor area
-	Retail and personal service establishments not including food stores (on the peninsula)	1 per 400 square feet of gross floor area.
-	Retail and personal service establishments not including food stores (all other areas)	1 per 200 square feet of gross floor area

-	Gas stations with convenience stores	In addition to one space for each pump facility, one per 400 square feet of floor area
-	Food stores (off-peninsula)	1 per 300 square feet of floor area
-	Food stores (on-peninsula)	1 per 400 square feet of floor area
-	Car wash (full service)	2 per bay/stall plus 1 space per employee
-	Car wash (self serve)	1 per washing module
-	Retail specialty stores selling only furniture, or large appliances, or carpet, or lumber, or or plants, or other specific types of household furnishings	1 per 400 square feet of total floor area excluding storage areas plus 1 per store delivery vehicle.
-	Shopping center - a commercial development which includes one or more <u>retail</u> type uses listed in this table. The total floor area must equal 20,000 square feet or more, in one or more buildings, on one or more lots which are designed and laid out to function as an interrelated development, as evidenced by both shared driveways and parking.	1 per 200 square feet leasable floor area for the first 20,000 total square feet. 1 per 250 square feet for 20,001 to 140,000 total leasable square feet. 1 per 300 square feet for total leasable square feet over 140,001.
-	Mini warehouse, self storage warehouse facility	1 space per 6,000 square feet of net leaseable square footage of warehouse space, or fraction thereof, with up to half the required spaces and associated driveway areas permitted to remain unmarked for trucks and other large vehicles to park and maneuver.

-	Dry cleaners, laundry services	1 per 300 square feet of customer use area plus 2 per 3 employees at maximum employment on a single shift.
-	Private club, fraternal lodges, country clubs	1 per 3 persons allowed by Building Code in the main assembly room or auditorium.
INDUSTRIAL:		
-	Manufacturing, wholesale, or other industrial establishments not catering to retail trade	1 per 2 employees at maximum employment on employment on a single shift plus 1 per company vehicle.
RECREATIONAL:		
-	Recreational facilities (on the peninsula)	1 per 8 patrons based on occupancy limit as determined by Building Code or based on design capacity.
-	Recreational facilities (other areas)	1 per 4 patrons based on occupancy limit as determined by Building Code or based on design capacity.
-	Marinas	1 per 4 dry slips
		1 per 2 wet slips
-	Driving range	1 per tee plus 1 per employee at maximum employment on a single shift.
-	Golf Course	2 per tee plus 1 per employee at maximum employment on a single shift.
-	Bowling alleys	5 per alley
-	Health club	1 per 400 square feet of total floor area.

(Ord. No. 1998-76, § 3, 4-28-98; Ord. No. 2002-92, § 7, 8-13-02; Ord. No. 2004-70, § 1, 7-20-04; Ord. No. 2006-428, § 9, 9-26-06; Ord. No. 2007-214, § 1, 11-20-07; Ord. No. 2014-130, §§ 2-4, 10-14-14; Ord. No. 2016-011, § 2, 1-12-16; Ord. No. 2017-144, §§ 2, 3, 12-11-17; Ord. No. 2018-043, § 14, 4-10-18)

PART 3 - TABLE OF PERMITTED USES

DIVISION A: AGRICULTURE, FORESTRY AND FISHING

- 01. Agriculture Production-Crop
- 02. Agriculture Production-Livestock
- 07. Agricultural Services
- 08. Forestry
- 09. Fishing, Hunting and Trapping

DIVISION B: MINING

- 14. Mining and Quarrying of Nonmetallic Minerals, Except Fuels

DIVISION C: CONSTRUCTION

- 15. Building Construction-General Contractors and Operative Builders
- 16. Heavy Construction Other Than Building Construction Contractors
- 17. Construction-Special Trade Contractors

DIVISION D: MANUFACTURING

- 20. Food and Kindred Products
- 22. Textile Mill Products
- 23. Apparel and Other Finished Products Made From Fabrics and Similar Materials
- 24. Lumber and Wood Products, Except Furniture
- 25. Furniture and Fixtures
- 26. Paper and Allied Products
- 27. Printing, Publishing and Allied Industries
- 28. Chemicals and Allied Product
- 29. Petroleum Refining and Related Industries
- 30. Rubber and Miscellaneous Plastic Products
- 31. Leather and Leather Products
- 32. Stone, Clay, Glass and Concrete Products
- 33. Primary Metal Industries
- 34. Fabricated Metal Products, Except Machinery and Transportation Equipment
- 35. Industrial and Commercial Machinery and Computer Equipment
- 36. Electronic and Other Electrical Equipment and Components, Except Electrical Computer Equipment
- 37. Transportation Equipment
- 39. Miscellaneous Manufacturing Industries

DIVISION E: WAREHOUSING, TRANSPORTATION, COMMUNICATION, ELECTRIC, GAS AND SANITARY SERVICES

- 40. Railroad Transportation
- 41. Local and Suburban Transit and Interurban Highway Passenger Transportation
- 42. Motor Freight Transportation and Warehousing
- 44. Water Transportation
- 45. Transportation by Air
- 47. Transportation Services
- 48. Communications
- 49. Electric, Gas and Sanitary Services

DIVISION F: WHOLESALE TRADE SELLING PRIMARILY TO RETAILERS, INDUSTRIAL, COMMERCIAL, INSTITUTIONAL USERS, ETC.

- 50. Wholesale Trade-Durables Goods
- 51. Wholesale Trade-Nondurable Goods

DIVISION G: RETAIL TRADE SELLING PRIMARILY FOR PERSONAL OR HOUSEHOLD CONSUMPTION

- 52. Building Materials, Hardware, Garden Supply and Mobile Home Dealers
- 53. General Merchandise Store
- 54. Food Stores
- 55. Automotive Dealers and Gasoline Service Station
- 56. Apparel and Accessory Stores
- 57. Furniture, Home Furnishings and Equipment Stores
- 58. Eating and Drinking Places
- 59. Miscellaneous Retail

DIVISION H: FINANCE, INSURANCE AND REAL ESTATE

- 60. Depository Institutions
- 61. Nondepository Institutions
- 62. Security and Commodity Brokers, Dealers, Exchanges and Services
- 63. Insurance Carriers
- 64. Insurance Agents, Brokers and Service
- 65. Real Estate

DIVISION I: SERVICES

- 70. Hotels, Rooming Houses, Dormitories, Camps and Other Lodgings
- 72. Personal Services

- 73. Business Services
- 75. Automotive Repair, Services and Garages
- 76. Miscellaneous Repair Service
- 78. Motion Pictures and Theaters
- 79. Amusement and Recreation Services, Except Motion Pictures
- 80. Health Services
- 81. Legal Services
- 82. Educational Services
- 83. Social Services
- 84. Museums, Art Galleries, Botanical and Zoological Gardens
- 86. Membership Organizations
- 87. Miscellaneous Services
- 88. Private Households
- 89. Miscellaneous Services, Not Elsewhere Classified

DIVISION J: PUBLIC ADMINISTRATION

- 91. General Government Not Elsewhere Classified
- 92. Justice, Public Order and Safety

PRINCIPAL USES	ZONING DISTRICTS																		
• Permitted Use	C	RR-	SR-	STR	DR-	DR-	DR-	DR-	RO	GO	CT	LB	GB	UP	BP	LI	HI	GP	JC
† Special		1	3		6	1F	3	4				MU-	UC						
Exception Use		SR-	SR-		DR-	DR-						1	MU-						
‡ Conditional		1	4		9	1						MU-	2						
Use		SR-	SR-		DR-	DR-						1/	MU-						
H Permitted use		2	5		12	2F						WH	2/						
with limitation on		SR-	SR-			DR-							WH						
hours of		7	6			2													
operation (see		SR-																	
<u>54-204</u>)		8																	
DIVISION A: AGRICULTURE, FORESTRY AND FISHING																			
01. Agricultural																			
Production-Crop																			

018. Horticultural Specialties <u>54-207</u> , h.	•	‡									•	•	•	•	•	•	•	•
019. General Farms, Primarily Crop <u>54-207</u> , h.	•	‡									•	•		•	•	•	•	
02. Agricultural Production- Livestock	†														•	•		
021. Livestock, except dairy farms															•	•		
022. Dairy farms <u>54-206</u> , d.	†														•	•		
07. Agricultural Services																		
074. Veterinary services <u>54-207</u> , q.										‡	‡	‡	‡	‡	•	•	‡	‡
074.1 Kennels															•	•		
0752. Dog grooming											•	•	•	•	•	•	•	•
078. Landscape and horticultural services													•					
0781. Landscape counseling and planning <u>54-207</u> , j.								‡	•	•	•	•	•	•	•	•	•	•

0782. Lawn and garden services													.	.	.	.	.	.	.
0783. Ornamental shrub and tree services														.	.	.	.	.	.
08. Forestry <u>54-206</u> , m.	†																		
09. Fishing, Hunting and Trapping																			
091. Commercial fishing													.		.	.	.	.	.
092. Fish hatcheries and preserves																.	.		
DIVISION B: MINING																			
14. Mining and Quarrying of Nonmetallic Minerals, Except Fuels <u>54-206</u> , v.	†	†	†	†	†	†	†	†	†	†	†	†	†	†	†	†	†	†	†
DIVISION C: CONSTRUCTION																			
15. Building Construction-General Contractors and Operative Builders <u>54-207</u> , b.																‡	.	.	‡
151. Office only <u>54-207</u> , j.									‡	.		.	.	.	.	.	.	.	.

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25. Furniture and Fixtures <u>54-207, i.</u>																‡	•	•		‡
26. Paper and Allied Products 54-207.i.																	‡	•		
27. Printing, Publishing, and Allied Industries <u>54-207, i.</u>															•	‡	•	•		‡
28. Chemicals and Allied Product																		•		
29. Petroleum Refining and Related Industries																		•		
30. Rubber and Miscellaneous Plastics Products 54-207.i.															‡		‡	•		
31. Leather and Leather Products 54-207.i.																	‡	•		•
32. Stone, Clay, Glass, and Concrete Products 54-207.i.															‡		‡	•		•
3281. Cut stone and stone products <u>54-207, b.</u>															•	‡	•	•		•

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472. Offices for arrangement of passenger transportation <u>54-207</u> , e. or j.									‡	•	‡	•	•	•	•	•	•	•	
473. Offices for arrangement of transportation of freight and cargo										•		•	•	•	•	•	•	•	
4788. Stables <u>54-206</u> , p.													†			•	•		
4789. Transportation services, not elsewhere classified																•	•		
48. Communications																			
481. Telephone communications, except towers												•	•	•	•	•	•	•	•
482. Telegraph and other message communications, except towers												•	•	•	•	•	•	•	
483. Radio and television broadcasting systems, except towers												•	•	•	•	•	•	•	•

484. Cable and other pay television services, except towers													.	.	.	.	.	.	.
489. Communications services, not elsewhere classified, including towers <u>54-207, c.</u>														‡	‡	‡	‡	.	‡
49. Electric, Gas, and Sanitary Services																			
491. Electric substations and gas regulator station <u>54-206, q.</u>	†	†	†	†	†	†	†	†	†	.	†	.	.	.	.	.	.	.	†
492. Gas production and distribution <u>54-207, g.</u>																	†	.	
494. Water supply																			
494.1. Water treatment.																.	.	.	
494.2. Water storage tanks <u>54-207, x.</u>	‡	‡	‡	‡	‡	‡	‡	‡	‡	.	.	.	.	.	.	.	.	.	.
495. Sanitary services																			

4952. Sewage treatment systems <u>54-206</u> , o.	†																•	•		
4953. Refuse systems																		•		
DIVISION F: WHOLESALE TRADE (selling primarily to retailers; industrial, commercial, institutional users, etc.)																				
50. Wholesale Trade - Durable Goods except storage yards, other than for vehicles or boats, junk yards, scrap yards or auto salvage yards <u>54-207</u> , b.																	‡	•	•	‡
50.1. Wholesale trade storage yards other than for vehicles or boats <u>54-206</u> , r.																		†	†	
50.2. Wholesale trade junk yards, scrap yards or auto salvage yards <u>54-206</u> , r.																			†	
51. Wholesale Trade- Nondurable Goods																				

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52. Building Materials, Hardware, Garden Supply, and Mobile Home Dealers																			
521. Lumber and other building materials dealers													.	.	.	.	.	.	.
523. Paint, glass, and wallpaper stores											H	.	.	.	.	.	.	.	.
525. Hardware stores <u>54-207</u> , e.										‡	H	.	.	.	.	.	.	.	.
526. Retail nurseries, lawn and garden supply stores <u>54-207</u> , e.										‡	H	.	.	.	.	.	.	.	.
527. Mobile home dealers												.				.	.		
53. General Merchandise Store																			
531. Department stores <u>54-207</u> , e.										‡	H	.	.			.	.	.	
533. Variety stores <u>54-207</u> , e.										‡	H	.	.			.	.	.	

539. Miscellaneous general merchandise stores <u>54-207</u> , e.										‡	H	.	.		.	.	.	
54. Food Stores <u>54-207</u> , e.										‡	H	.	.		.	.	.	.
54.1. Produce markets <u>54-207</u> , e.	.								.	‡	H	.	.	.	.	.	.	.
55. Automotive Dealers and Gasoline Service Stations																		
551. Motor vehicle dealers (new and used)												.			.	.		
552. Motor vehicle dealers (used only)												.			.	.		
553. Auto and home supply stores <u>54-207</u> , l.											‡	.	.		.	.	‡	.
554. Gasoline service stations <u>54-207</u> , v.											†	†			†	†		
555. Boat dealers												.			.	.		
556. Recreational and utility trailer dealers												.			.	.		

56. Apparel and Accessory Stores <u>54-207, e.</u>											±	H	.	.		.	.	.	
57. Furniture, Home Furnishings and Equipment Stores												H	.	.	.	.	.	.	.
58. Eating and Drinking Places																			
581. Eating places																			
5812.1 Eating places without drive thru or drive up service <u>54-207, e.</u>											±	H	•/†	.	•/†	•/†	•/†	.	.
5812.2 Eating places with drive thru or drive up services													•/†		•/†	•/†	•/†	.	
5813. Drinking places (alcoholic beverages)													•/†	.	•/†	•/†	•/†	.	.
59. Miscellaneous Retail <u>54-207, d.</u>																			
591. Drug stores and proprietary stores											±	H	.	.		.	.	.	
592. Liquor stores													.	.		.	.	.	

593. Used merchandise stores											‡	H	.	.		.	.	.	
594. Miscellaneous shopping goods stores											‡	H	.	.		.	.	.	
596. Nonstore retailers												H	.	.		.	.	.	
599. Retail stores, not elsewhere classified																			
5992. Florists <u>54-207</u> , b.											‡	H	.	.	‡	.	.	.	‡
5993. Tobacco stores and stands											‡	H	.	.		.	.	.	.
5994. News dealers and newsstands											‡	H	.	.		.	.	.	
5995. Optical goods <u>54-207</u> , b.											‡	H	.	.	‡	.	.	.	.
PRINCIPAL USES	ZONING DISTRICTS																		

• Permitted Use † Special Exception Use ‡ Conditional Use H Permitted use with limitation on hours of operation (see <u>54-204</u>)	C	RR- 1	SR- 3	STR	DR- 6	DR- 1F 3	DR- 4	RO	GO	CT	LB MU- 1 MU- 1/ WH	GB UC MU- 2 MU- 2/ WH	UP	BP	LI	HI	GP	JC
5996. Art gallery or dealers <u>54-207</u> , b.										‡	H	•	•	‡	•	•	•	•
5999. Retail stores, not elsewhere classified											H	•	•		•	•	•	
DIVISION H: FINANCE, INSURANCE AND REAL ESTATE																		
60. Depository institutions																		
601. Depository institutions w/o drive-thru or ATM facilities <u>54-207</u> , e.									•	‡	•	•	•	•	•	•	•	
602. Depository institutions with drive-thru or ATM facilities <u>54-206</u> , g.									†		•	•	•		•	•	•	

61. Nondepository Credit Institutions <u>54-207, e.</u>										•	‡	•	•	•	•	•	•	
62. Security and Commodity Brokers, Dealers, Exchanges, and Services <u>54-207, j.</u>									‡	•	•	•	•	•	•	•	•	
63. Insurance Carriers <u>54-207, j.</u>									‡	•	•	•	•	•	•	•	•	
64. Insurance Agents, Brokers and Service <u>54-207, j.</u>									‡	•	•	•	•	•	•	•	•	
65. Real Estate <u>54-207, j.</u>									‡	•	•	•	•	•	•	•	•	
6553. Cemeteries <u>54-206, b.</u>	†	†	†	†	†	†	†	†	†	•	•	•	•	•	•	•	•	
66. Short-term Lender, <u>54-207, u.</u>													‡	‡		‡	‡	
DIVISION I: SERVICES																		
70. Hotels, Rooming Houses, Dormitories, Camps and Other Lodging																		

701. Hotels, motels and inns																	see <u>54-220</u> , Accommodations Overlay Zone	†	
702. Rooming and boarding house																	see <u>54-220</u> , Accommodations Overlay Zone	†	
703. Camps and trailering parks	•											•				•	•		
704. Organization hotels and lodging houses, on membership basis																			
7041. Fraternity and sorority houses											•	•	•		•		•		
7042. Dormitories											•	•	•		•		•		
7043. Organizational hotels and lodging, not elsewhere classified																	See <u>54-220</u> , Accommodations Overlay Zone or <u>54-227</u> , ST Overlay Zone	†	
72. Personal Services																			
721. Laundry, cleaning, and garment services																			
7211. Power laundries <u>54-207</u> , b.											H	•	•	‡	•	•	•	‡	

7212. Garment pressing, and agents for laundries and dry cleaners <u>54-207</u> , e.										‡	H	.	.	.	.	.	.	‡
7213. Linen supply <u>54-207</u> , b.														‡	.	.		‡
7214. Diaper service <u>54-207</u> , b.														‡	.	.		‡
7215. Coin operated laundries and dry cleaning											H	.	.	.	.	.	.	.
7216. Dry cleaning plants, except rug cleaning <u>54-207</u> , b.											H	.	.	‡	.	.	.	‡
7219. Laundry and garment services not elsewhere classified <u>54-207</u> , b.														‡	.	.		‡
722. Photographic studios, portrait									.	.	H	.	.	.	.	.	.	.
723. Beauty shops <u>54-207</u> , e. or j.								‡	.	‡	H	.	.	.	.	.	.	.
724. Barber shops <u>54-207</u> , e. or j.								‡	.	‡	H	.	.	.	.	.	.	.

725. Shoe repair shops, shoe shine parlors, and hat cleaning shops												•	H	•	•	•	•	•	•	•
726.1 Funeral service												‡	H	•		•	•	•	•	
726.2 Crematories													H	•		•	•	•	•	
727. Tattooing services																•	•			
729. Miscellaneous personal services, except massage parlors and spas													H	•		•	•	•	•	•
7299. Massage parlors, spas <u>54-205</u>														‡	‡		‡	‡		
73. Business Services																				
731. Advertising <u>54-207</u> , i.									‡	•	•	•		•	•	•	•	•	•	•
732. Consumer credit reporting agencies <u>54-207</u> , i.									‡	•	•	•		•	•	•	•	•	•	

733. Mailing, reproduction, commercial art and photography, and stenographic services <u>54-207</u> , b.										.	.	.	.	.	‡	.	.	.	.
734. Services to dwellings and other buildings																			
7342. Exterminating services <u>54-207</u> , b.												.	.	‡	.	.	.	.	‡
7349. Cleaning and maintenance services to dwellings and other buildings not elsewhere classified <u>54-207</u> , b.											.	.	.	‡	.	.	.	.	‡
737. Computer and data processing services										.	.	.	.	.	.	.	.	.	.
739. Miscellaneous business services																			
7391. Research and development labs									.		.	.	.	.	.	.	.	.	.

7392. Management, consulting, and public relations services <u>54-207, j.</u>									‡	.	.	.	.	.	.	.	.	.
7393. Detective agencies and protective services									.	.	.	.	.	.	.	.	.	.
7394. Equipment rental and leasing services <u>54-207, b.</u>											H	.	.	‡	.	.	.	‡
7395. Photofinishing laboratories <u>54-207, b.</u>												.	.	‡	.	.	.	‡
7396. Trading stamp services											H	.	.	.	.	.	.	
7397. Commercial testing laboratories <u>54-207, b.</u>											H	.	.	‡	.	.	.	‡
7398. Yacht brokering <u>54-207, b.</u>											H	.	.	‡	.	.	.	
7399. Business services not elsewhere classified <u>54-207, b.</u>											H	.	.	‡	.	.	.	

75. Automotive Repair, Services, and Garages																		
751. Automobile rental and leasing without drivers <u>54-207, b.</u>													.	.	‡	.	.	.
752. Automobile parking																		
7521. Public automobile parking										.	.	.	.	.	.	.	.	.
7522. Community parking lots <u>54-207, d.</u>		‡	‡	‡	‡	‡	‡	‡					.					
753. Automotive repair shops <u>54-207, r.</u>													‡	‡	‡	.	.	‡
754. Automotive services, except repair													.		.	.	.	‡
76. Miscellaneous Repair Service																		
762. Electrical repair shops <u>54-207, b.</u>											.	.	.	‡	.	.	.	‡

763. Watch, clock, and jewelry repair												.	.	.	.	.	.	.	.
764. Reupholster and furniture repair <u>54-207, b.</u>												.	.	.	‡	.	.	.	‡
769. Miscellaneous repair shops and related services																			
7692. Welding repair, <u>54-207, b., i.</u>															‡	‡	.		‡
7699. Repair shops, not elsewhere classified <u>54-207, b.</u>															‡	.	.		‡
78. Motion Pictures and Theaters																			
781. Motion picture production <u>54-207, b.</u>													.	.	‡	.	.	.	‡
783. Theaters, including motion picture												H	.	.		.	.	.	
784. Video tape rental <u>54-205</u>												H/‡	‡	‡		‡	.	†	

79. Amusement and Recreation Services, Except Motion Pictures																		
791. Dance studios and schools <u>54-207</u> , b.											H	.	.	‡	.	.	.	‡
793. Bowling alleys and billiard and pool establishments												.	.		.	.	.	
794. Commercial sports																		
7941. Professional sports clubs and promoters, arenas, stadiums												.	.		.	.	.	
7948. Racing including track operation															‡	‡		
799. Miscellaneous amusement and recreation services																		
7992. Public, not for profit, golf courses	.	.	.	.	.	.	.	.	.	.	.	.	.		.	.	.	
7992.1 Private or for-profit golf courses <u>54-206</u> , t.	†							.	.	.	.	.			.	.	.	

7993. Coin operated amusement devices												H	.	.		.	.	.	
7993.1 Casinos 54-207.n.																‡	‡		
7994 Shooting range																			
7994.1 Indoor shooting range <u>54-207</u> , s.																‡	‡		
7994.2 Outdoor Shooting range	Prohibited by Sec. 21-213 of the Code of the City of Charleston unless otherwise allowed by Sec. 21-213																		
7996. Amusement parks <u>54-207</u> , a.													‡				‡	‡	†
7997. Membership sports and recreation clubs <u>54-206</u> , t., <u>54-206</u> , w.	‡		†	†	†	†	†					.	.	.		.	.	.	
7998. Riding stables	.												.			.	.		
7999. Amusement and recreation services not elsewhere classified <u>54-207</u> , a.													‡	‡		‡	‡	‡	

80. Health Services																		
801. Offices and clinics of health practitioners <u>54-207</u> , e. or j.									‡	•	‡	•	•	•	•	•	•	•
805. Nursing and personal care facilities												•	•	•		•	•	•
806. Hospitals												•	•	•		•	•	•
807. Medical and dental laboratories <u>54-207</u> , b.												•	•	•	‡	•	•	•
81. Legal Services <u>54-207</u>, e. or j.									‡	•	‡	•	•	•	•	•	•	•
82. Educational Services																		
821. Nursery, preschool, kindergarten, elementary and secondary schools										•	•	•	•	•	•	•	•	•
822. Colleges, universities, professional schools and junior colleges										•		•	•	•	•	•	•	
823. Libraries										•	•	•	•	•		•	•	•

824. Correspondence schools and vocational schools											.		.	.	.		.	.	.	.
83. Social Services																				
832. Individual and family social services											.		H	.	.	.	.	.	.	.
833. Job training and vocational rehabilitation services													H	.	.	.	.	.	.	.
835. Day care centers <u>54-206</u> , e. or <u>54-207</u> , f.	†	†	†	†	†	†	†	†			‡	†	‡	‡	‡	‡	‡	‡	‡	‡
84. Museums, Art Galleries, Botanical and Zoological Gardens																				
841.1 Museums <u>54-206</u> , n. or <u>54-207</u> , e.			†	†	†	†						‡	H	.	.		.	.	.	
841.2 Art galleries <u>54-207</u> , e.												‡	H	.	.		.	.	.	‡
842. Arboreta, botanical and zoological gardens														.	.		.	.	.	

86. Membership Organizations																			
863. Labor unions and similar labor organizations										.		.	.	.	.	.	.	.	
864. Civic, social and fraternal associations <u>54-206</u> , w.			†	†	†	†	†			.	.	.	.	.	.	.	.	.	.
865. Political organizations										.		.	.	.	.	.	.	.	
866. Religious organizations <u>54-206</u> , c.	†	†	†	†	†	†	†	†		.	.	.	.	.	.	.	.	.	.
87. Miscellaneous Services																			
871. Engineering, architectural, and surveying services <u>54-207</u> , j.									‡	.	.	.	.	.	.	.	.	.	.
872. Accounting, auditing and bookkeeping services <u>54-207</u> , j.									‡	.	.	.	.	.	.	.	.	.	.
88. Private Households (number per lot)																			

881. One family detached dwelling 54-206, u.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.
888.1 One family detached dwellings (up to four per lot) <u>54-207</u> , t.	±	±																
882. One family attached dwelling 54-352			±	±	±	±	±				±	±	±	±		±	±	
883. Two family dwelling 54-206, u.	.			.	.	.	.				.	.	.	.		.	†	.
884. Multi-family dwelling 54-358, 54-206, u.					.	.	.	.	†			.	.	.		.	†	.
884.1 Multi-family dwelling for the elderly 54-206, l. or 54-358						†	†	†			†	†	†					
886. Mobile home parks <u>54-355</u>							†											
887. Mobile homes <u>54-356</u>							†											
888. Affordable housing <u>54-207</u> , p.						±					±	±	.		±	±		

89. Miscellaneous Services, not elsewhere classified										.	.	.	.	.	.	.	.	.	
DIVISION J: PUBLIC ADMINISTRATION																			
91. General Government Not Elsewhere Classified										.		.	.	.	.	.	.	.	.
92. Justice, Public Order and Safety																			
921. Courts										.		.	.	.	.	.	.	.	
922. Public order and safety																			
9221. Police protection <u>54-</u> <u>207</u> , e.										.	‡	.	.	.	.	.	.	.	.
9223. Correctional institutions													.			.	.		
9224. Fire protection										.		.	.	.	.	.	.	.	.

(Ord. No. 1996-227, §§ 8—18, 11-26-96; Ord. No. 1997-279, § 2, 7-15-97; Ord. No. 1997-280, § 1, 7-15-97; Ord. No. 1997-525, §§ 3, 4, 11-25-97; Ord. No. 1998-203, §§ 3, 4, 11-24-98; Ord. No. 1999-01, § 2, 1-12-99; Ord. No. 1999-22, § 3, 3-10-99; Ord. No. 1999-94, § 2, 8-17-99; Ord. No. 1999-137, § 3, 9-28-99; Ord. No. 2001-44, § 1, 5-8-01; Ord. No. 2002-84, § 3, 8-13-02; Ord. No. 2002-92, §§ 3, 4, 8-13-02; Ord. No. 2003-44, §§ 2, 3, 4-22-03; Ord. No. 2003-63, § 2, 7-15-03; Ord. No. 2063-69, §§ 5—7, 8-19-03; Ord. No. 2006-463, § 3, 10-17-06; Ord. No. 2006-488, § 1, 10-24-06; Ord. No. 2006-489, § 4, 10-24-06; Ord. No. 2007-59, §§ 1—6, 8—14, 3-6-07; Ord. No. 2008-146, §§ 1—4, 11-25-08; Ord. No. 2008-159, §§ 1, 2, 12-9-08; Ord. No. 2009-55, §§ 1, 3, 4, 4-14-09; Ord. No. 2009-207, § 1, 10-13-09; 2011-121, § 2, 9-3-11; Ord. No. 2012-31, §§ 1—3, 1-10-12; Ord. No. 2012-55, § 1, 2-14-12; Ord. No. 2012-229, § 1, 5-8-12; Ord. No. 2013-31, § 2, 3-12-13; Ord. No. 2013-105, § 7, 10-8-13; Ord. No. 2014-67, §§ 3—5, 5-13-14; Ord. No. 2014-94, § 1—6, 7-15-14; Ord. No. 2014-95, §§ 2—5, 7-15-14; Ord. No. 2015-125, § 2, 9-22-2015; Ord. No. 2015-142, §§ 2—6, 10-13-15; Ord. No. 2016-082, 1—6, 7-19-16; Ord. No. 2016-102, § 9, 9-13-16; Ord. No. 2017-026, §§ 2, 3, 3-28-17; Ord. No. 2018-043, § 8, 4-10-18)



Ratification
Number 2017-144

AN ORDINANCE

TO AMEND CHAPTER 54 OF THE CODE OF THE CITY OF CHARLESTON (ZONING ORDINANCE) BY AMENDING OFF-STREET PARKING REQUIREMENTS FOR EATING AND DRINKING PLACES AND ADDING OFF-STREET PARKING REQUIREMENTS FOR CATERING USES IN TABLE 3.3 OF SECTION 54-317 AND AMENDING RESTRICTIONS FOR OFF SITE PARKING IN SECTION 54-319 (AS AMENDED)

BE IT ORDAINED BY THE MAYOR AND COUNCIL MEMBERS OF CHARLESTON, IN CITY COUNCIL ASSEMBLED:

Section 1. Findings. City Council finds that the increasing popularity of eating and drinking places in the City has led to an increase in the number of eating and drinking places in neighborhood commercial areas. City Council finds that neighborhood commercial areas are characterized by small commercially zoned areas located in immediate proximity to residential neighborhoods. City Council finds that eating and drinking places in neighborhood commercial areas can adversely affect residential neighborhoods by causing parking from customers and employees to overflow into residential neighborhoods. However, City Council finds that, if properly regulated, eating and drinking places in neighborhood commercial areas can be beneficial to the City and the residential neighborhoods under certain circumstances.

City Council finds that opportunities for public parking vary considerably from the peninsula section of the City to the suburban areas of the City. On the peninsula, public parking can be found in parking garages, surface parking lots and on streets, whereas in suburban areas, opportunities for public parking are very limited, especially in commercial areas. In addition, City Council finds that within neighborhood commercial areas on the peninsula, opportunities for public parking are typically limited to on-street parking, which

is inadequate where eating and drinking places are concentrated. Due to these factors, City Council finds that current off-street parking requirements in the zoning ordinance for eating and drinking places properly distinguish between the peninsula and other areas of the City except that parking requirements are too low in certain respects. City Council is mindful of the importance of protecting the residential character of City neighborhoods. Absent appropriate requirements for off-street parking, residential areas around neighborhood commercial areas will be harmed. City Council therefore finds it appropriate to adjust certain off-street parking requirements for eating and drinking places.

City Council also finds that current parking requirements of the zoning ordinance do not clearly address catering uses, which have also grown more popular in recent years.

Section 2. Section 54-317 of Chapter 54 of the Code of the City of Charleston (Zoning Ordinance) is hereby amended by amending the off-street parking requirements in Table 3.3 for eating and drinking places to read as follows (new text in bold and deleted text with ~~strikethrough~~):

USE

NUMBER OF SPACES REQUIRED

~~Restaurants, Eating and drinking places;~~ sit down establishments serving food and beverage (on the peninsula)	1 per ~~150 100~~ square feet of inside patron use area (excluding bathrooms) ~~except that for a lot with this use that is more than 150 away from any lot with a residential zoning designation, measured closest point of the lot to closest point of the lot, the number of spaces required for inside patron use area shall be 1 per 150 square feet (excluding bathrooms),~~ and 1 per ~~300 130~~ square feet of outside ~~seating patron use~~ area if available.
~~Restaurants, Eating and drinking places;~~ sit down establishments serving food and beverage (all other areas)	1 per 90 square feet of inside patron use area (excluding bathrooms), and 1 per 200 square feet of outside ~~seating patron use~~ area if available.
~~Restaurant, Eating places;~~ fast food, ~~drive-thru~~ , take-out and/or express prepared food delivery only	1 per 75 square feet of inside patron use area, plus 1 per ~~200~~ square feet of outside ~~seating patron use~~ area if available.

Restaurant, Eating places: drive-thru with no use area	1 per employee at maximum shift inside patron plus 1 per delivery vehicle plus 1 per ~~250~~ <u>200</u> square feet of outside ~~seating~~ <u>patron use</u> area.
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Section 3. Section 54-317 of Chapter 54 of the Code of the City of Charleston (Zoning Ordinance) is hereby amended by inserting new off-street parking requirements in Table 3.3 for catering uses immediately following the requirements for Eating Places to read as follows (new text in bold):

<u>Catering kitchen with no on-site food sales</u>	<u>1 per 500 square feet of gross floor area</u>
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Section 4. Section 54-319 of Chapter 54 of the Code of the City of Charleston (Zoning Ordinance) is hereby amended to read as follows (new text in bold and deleted text with ~~strikethrough~~):

Sec. 54-319. Location of parking.

Off-street parking spaces provided pursuant to this section shall be located upon the same lot of record as the use to which they are associated. However, if the property does not provide sufficient off-street parking, parking may be provided on a properly zoned lot within 400 feet of the building or use, provided, however, that a satisfactory long-term lease with a term of at least 10 years is provided to and approved by the zoning administrator (such distance shall be measured from the nearest point of the parking lot to the nearest boundary of the ~~property lot~~ on which the building or use is located that the parking lot is said to serve), and further provided that for eating and drinking places or catering uses, the lot used for off site parking shall not adjoin a lot with a residential zoning designation or be separated from a lot with a residential zoning designation by a right-of-way of 55 or less feet.

Section 5. This Ordinance shall become effective upon ratification.

Ratified in City Council this 11th day of
December in the Year of Our Lord 2017,
in the ~~142nd~~ Year of Independence of the United States
of America.

By: Michael Seekings Mayor Pro-Tem
John J. Tecklenburg
Mayor, City of Charleston

Attest: Vanessa Turner Maybank
Vanessa Turner Maybank
Clerk of Council

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

ROSEN, ROSEN & HAGOOD, LLC

By: Alice F. Paylor
Alice F. Paylor (SC #4380)
151 Meeting Street, Suite 400
Post Office Box 893
Charleston, SC 29402
(843) 577-6726

ATTORNEY FOR APPELLANT

December 5, 2018

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SC Court of Appeals