

LAND USE DEVELOPMENT APPLICATION

BOROUGH OF SHIP BOTTOM
17TH & LONG BEACH BOULEVARD
SHIP BOTTOM, NEW JERSEY 08008
(609) 494-2171

TO BE COMPLETED BY BOROUGH STAFF ONLY

Date Filed **Docket No.**

Application Fees _____ **Escrow Deposit** _____

Scheduled for: Review of Completeness **Hearing**

1. SUBJECT PROPERTY - TO BE COMPLETED BY APPLICANT

Location : Block 103, Lot 6 - 350 a/k/a 338-380 West 8th Street
Block 103, Lots 1.01 and 3 – 301 West 9th Street (CVS property)
Block 100, Lot 8 – 354 West 9th Street
Block 110, Lot 1 – 301 West 8th Street
Block 110, Lot 25 – 311 West 8th Street

Tax Map	Page 17	Block 103	Lot 6 (hotel and ancillary uses)
		Block 103	Lots 1.01 and 3 (19 parking spaces on CVS site)
		Block 100	Lot 8 (49 valet parking spaces)
		Block 103	(unnumbered lot owned by the New Jersey Department of Transportation (DOT) licensed to applicant; part of hotel structure is located on this property pursuant to an agreement with the DOT)
	Page 20	Block 110	Lot 1 (26 valet parking spaces and one dwelling unit)
		Block 110	Lot 25 (33 valet parking spaces)

Dimensions

Page 17	Block 103	Lot 6 421 feet (irr) by 116 feet (irr) – 72,930 square feet.
	Block 103	Lots 1.01 and 3 (200 feet by 52 feet) – Total lot area is 56,000 Square feet; Applicant has easement for parking and access (Exhibits A & B)
	Block 100	Lot 8 120 feet by 95 feet – 11,400 square feet
	Block 103	(unnumbered property owned by DOT under license to applicant; size unknown)
Page 20	Block 110	Lots 1 100 feet by 100 feet – 10,000 square feet
	Block 110	Lot 25 60 feet by 100 feet – 6,000 square feet

Total Area: See above for each lot – total area is 110,714 square feet plus area licensed from DOT

Zoning District: GC-General Commercial

2. APPLICANT

Name The Baldwin Residence, LLC

Address 4569 S. Broad St., Hamilton, NJ 08620

Telephone Number: Home: Local: ~~XXXXXXXXXX~~

Work: ~~XXXXXXXXXX~~ Fax: ~~XXXXXXXXXXXX~~

Applicant is a Corporation Partnership Individual
Other (Please Specify): Limited Liability Company

Social Security Number / Federal ID Number 20-8084429

3. DISCLOSURE STATEMENT

Pursuant to N.J.S. 40:55D-48.1, the names and address of all persons owning 10% of the stock in a corporate application or 10% interest in any partnership applicant must be disclosed. In accordance with N.J.S. 40:55D-48.2 that disclosure requirement applies to any corporation or partnership which owns more than 10% interest in the applicant followed up the chain of ownership until the names and addresses of the non-corporate stockholders and partners exceeding the 10% ownership criterion have been disclosed (attach pages as necessary to fully comply.)

Name Christopher S. Vernon Interest 100%

Address 770 Route 130, Hamilton, NJ 08691

4. If owner (s) is other than the applicant, provide the following information on the Owner (s):

Owner's Name Same as Applicant

Address

Telephone Number: Home: Work: Local:

Relationship of the applicant to the property in question:

Owner: Lessee Purchaser Under Contract Other

5. PROPERTY INFORMATION:

Deed restrictions, covenants, easements, rights of way, association by-laws, or other dedication existing or proposed on the property:

19 parking spaces on the westerly side of Lot 3 in Block 103 (CVS lot) are dedicated to off street parking for Lot 6, Block 103. Resolutions previously provided

Yes (attach copies) No Proposed for New Structure

Note: All Deed Restrictions, Covenants, Easements, Rights of Ways, Association By-Laws, or other dedications existing and proposed must be submitted for review.

Site Plan and / or conditional use applicants:

Proposed for: New Structure Expanded Area Alteration

Expansion of Structure

Change of Use

Sign

Other (please specify): Amend Resolution 2023-10

Has this property been the subject of any prior application (s) to the Planning Board or Zoning Board of Adjustment? Yes X No If so, please attach the date (s), the relief sought, the disposition of the case and a copy of the resolution (s).

1. May 20, 1998 Docket No. 98:06SP: site plan approval granted for parking lot on lot 8, block 100 (employees only for 27 spaces) and lot 3, block 103 for 19 spaces and confirmation of site plan for block 103, lot 6 (Quarter Deck Inn). (Exhibit A).
2. November 15, 2006 Docket No. 06:16SP/V: preliminary and final site plan approval and variances granted for multi-family structure and restaurant. (Exhibit B)
3. September 19, 2007 Docket No. 2007:10 SP/V: minor site plan approval granted for the development of Lot 6 Block 103 and Lot 8 Block 100. (Exhibit C)
4. March 18, 2015 Docket No. 2015:04 SP/V: amended preliminary and final site plan approval and variance approval for construction of a new three story hotel, permitting extended stay, above a parking area at ground level, containing 105 hotel units. (Exhibit D)
5. February 15, 2017 Docket No. 2017:01 SP/V: amended preliminary and final site plan approval and variance approval to amend the approvals set forth in the March 18, 2015 Resolution to permit the shifting of the building to the south, with access and egress solely from 8th St.; provide a westerly front yard setback of zero feet to the covered porch; provide a 3-foot setback from 9th St. to the swimming pool room; and to continue to provide banquets and receptions at the property. (Exhibit E)
6. November 19, 2018 Docket No. 2018:13A SP/V: amended preliminary and final site plan approval and variance approval to permit an interior redesign to include a spa and salon for guest and public use; and to permit Applicant to utilize a food truck on the rooftop deck. (Exhibit F)
7. January 16, 2019 Docket No. 2018:138 SP/V: amended preliminary and final site plan and variance approvals to further modify and amend previously granted variances and site plan approval to allow a temporary tent on the roof top deck. (Exhibit G)
8. May 15, 2019 Docket No. 2019.06 SP/V: amended preliminary and final site plan which permitted modifications as a result of the actual construction at the site including setbacks, building and lot coverage and required the removal of certain encroachments involving the wall on 9th street, as well as the other coverage and setback encroachments as outlined in detail in the Resolution. (Exhibit H)

9. August 19, 1998 Docket No. unknown: preliminary and final site plan approval for Eckert Drug, block 103, lots 1, 2 and 3 reserving 19 spaces for use by Quarterdeck . (Exhibit I, p. 3)
10. July 19.2023 Resolution 2023-10, Docket No. 2023-03: amended preliminary and final site plan approval along with variances, numerous bulk variances, design waivers and exceptions so as to clarify and amend prior approvals issued by the Ship Bottom Land Use Board permitting, at that time, 102 room hotel with ancillary uses on Block 103, Lot 6 and ancillary uses located on Block 103, Lots 1.01 and 3; Block 100, Lot 8; Block 110, Lot 1 and Block 110, Lot 25. (Exhibit J).

Is the subject property located on:

A County Road: Yes No X ; A State Road: Yes X No ;
within 200 feet of a municipal boundary: Yes No X

Present use of the premises: hotel with ancillary uses (restaurant, banquet facility, bar, rooftop deck, parking). See statement of operations.

6. Applicant's Attorney Arnold C. Lakind

Address: 101 Grovers Mill Rd., Suite 200. Lawrenceville, NJ 08648

Telephone Number: (609) 4275-0400 Fax Number: (609) 275-4511

Email: ALakind@Szaferman.com

7. Applicant's Engineer / Surveyor:

Address:

Telephone Number: Fax Number:

8. Applicant's Planning Consultant:

Address:

Telephone Number email:

9. Applicant's Architect:

Address:

Telephone Number Fax Number :

Applicant's Traffic Consultant:

Address:

Telephone Number Fax Number:

10. List any other Expert who will submit a report or who will testify for the Applicant: (Attach additional sheets as may be necessary)

N/A

11. APPLICATION REPRESENTS A REQUEST FOR THE FOLLOWING:

SUBDIVISION: N/A

Minor Subdivision Approval

Subdivision Approval (Preliminary)

Subdivision Approval (Final)

Number of Lots to be created Number of proposed Dwelling Units (if applicable)

Area and Dimensions of each Proposed Lot

SITE PLAN:

Minor Site Plan Approval

Preliminary Site Plan Approval

Final Site Plan Approval

Amendment or Revision to an Approved Site Plan or hotel property – **Amendment to Resolution 2023-19, paragraph 3, page 39 to permit catered events annually during June 1 through September 30. Event size to be limited to 200 people.**

Total number of proposed dwelling units N/A

Request for Waiver from Site Plan Review and Approval N/A

Reason for Request:

Informal Review

Appeal Decision Of An Administrative Officer [N.J.S. 40:55d-70a]

Map Or Ordinance Interpretation Or Special Question [N.J.S. 40:55d-70b]

Variance Relief (Hardship) [N.J.S. 40:55d-70c (1)]

Variance Relief (Hardship And Substantial Benefit) [N.J.S. 40:55d-70c (1) and (C2)]

Variance Relief (Use) [N.J.S. 40:55d-70d(1)]

Conditional Use Approval [N.J.S. 40:55d-67]

Direct Issuance Of A Permit For A Structure In Bed Of A Mapped Street, Public Drainage Way, Or Flood Control Basin [N.J.S. 40:55d-34]

Direct Issuance Of A Permit For A Lot Lacking Street Frontage

12. Section (s) of Ordinance from which a variance is requested

None

13. Waivers Requested of development Standards and/or Submission Requirements: (attach additional pages as needed).

None

14. Attach A Copy Of The Proposed Notice To Appear In The Official Newspaper Of The Municipality And To Be Mailed To The Owners Of All Real Property, As Shown On The Current Tax Duplicate, Located Within The State And Within 200 Feet In All Directions Of The Property Which Is The Subject Of This Application. The Notice Must Specify The Sections Of The Ordinance From Which Relief Is Sought, If Applicable.

The publication and the service on the affected owners must be accomplished at least 10 days prior to the date scheduled by the Administrative Officer for the hearing.

An Affidavit of Service on all property owners and a Proof of Publications must be filed before the Application will be complete and the hearing can proceed.

15. Explain in detail the exact nature of the Application and the changes to be made at the premises, including the proposed use of the premises: (Attach pages as needed)

See attached Addendum

16. Is a public Water Line available? Yes

17. Is public Sanitary Sewer available? Yes

18. Does the application propose any lighting ? N/A

19. Have any proposed new lots been reviewed with the Tax Assessor to determine appropriate Lot and Block number ? N/A

20. Are any Off-Tract Improvements required or proposed? N/A

21. Is the Subdivision to be filed by Deed or Plat ? N/A

22. What form of security does the applicant propose to provide as performance and maintenance guarantees?

23. OTHER APPROVALS WHICH MAY BE REQUIRED AND DATE PLANS SUBMITTED:

		DATE PLANS	
	YES	NO	SUBMITTED
SHIP BOTTOM FIRE PREVENTION BUREAU	<u>x</u>		(Previously approved for hotel)
SHIP BOTTOM WATER & SEWER DEPT.	<u>x</u>		(Previously approved)
SHIP BOTTOM PUBLIC WORKS DEPT.		x	
LONG BEACH ISLAND HEALTH DEPT.		x	
OCEAN COUNTY PLANNING BOARD	<u>x</u>		(Previously approved)
OCEAN COUNTY SOIL CONSERVATION DEPT.	<u>x</u>		(Previously approved)
N.J. DEPT. ENVIRONMENTAL PROTECTION (CAFRA)	<u>x</u>		
SANITARY SEWER CONNECTION PERMIT	<u>x</u>		(Previously approved)
SEWER EXTENSION PERMIT		x	
WATERFRONT DEVELOPMENT PERMIT		x	
WETLANDS PERMIT		x	
TIDAL WETLANDS PERMIT		x	
F.E.M.A.		x	
N.J. DEPT. OF TRANSPORTATION(<u>x</u>		(Previously approved)
ATLANTIC ELECTRIC		x	
N.J. NATURAL GAS		x	
CAFRA		x	

24. Certification From The Tax Collector That All Taxes Due On The Subject Property Have Been Paid.

25. **List Of Maps, Reports And Other Materials Accompanying The Application (Attach Additional Pages As Required For Complete Listing)**

THE DOCUMENTATION MUST BE RECEIVED BY THE BOARD SECRETARY AT LEAST TWENTY-ONE (21) DAYS PRIOR TO THE MEETING AT WHICH THE APPLICATION IS TO BE CONSIDERED. A LIST OF THE PROFESSIONAL CONSULTANTS IS ATTACHED TO THE APPLICATION FORM.

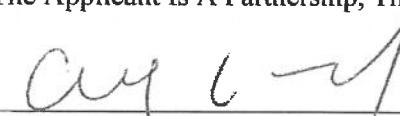
26. **The Applicant Hereby Requests That Copies Of The Reports Of The Professional Staff Reviewing The Application Provided To The Following Of The Applicant's Professionals:**

Specify Which Reports Are Requested For Each Of The Applicant's Professionals Or Whether All Reports Should Be Submitted To The Professional Listed.

<u>Applicant's Professional</u>	<u>Reports Requested</u>
<u>X</u> Attorney	<u>All Reports</u>

CERTIFICATIONS

27. I Certify That The Foregoing Statements And The Materials Submitted Are True, And Waive All Applicable Time Limits Until The First Public Hearing Of This Application. I Further Certify That I Am The Individual Applicant Or That I Am An Officer Of The Corporate Applicant And That I Am Authorized To Sign The Application For The Corporation Or That I Am A General Partner Or The Partnership Applicant. (If The Applicant Is A Corporation, This Must Be Signed By An Authorized Corporate Officer, If The Applicant Is A Partnership, This Must Be Signed By A General Partner)



Arnold C. Lakind, Attorney for Owner /Applicant

28. I Understand That A Sum, To Be Determined, Will Be Deposited In An Escrow Account, In Accordance With The Ordinances Of The Borough Of Beach Haven. I Further Understand That The Escrow Account Is Established To Cover The Cost Of Professional Services Including Engineering, Planning, Legal And/Or Other Expenses Associated With The Review Of Submitted Materials. Sums Not Utilized In The Review Process Shall Be Returned. If Additional Sums Are Deemed Necessary, I Understand That I Will Be Notified Of The Required Additional Amount And Shall Add That Sum To The Escrow Account Within Fifteen (15) Days. I Understand That I Will Be Responsible For Paying Fees Due To The Land Use Board Attorney And Engineer.

DATE



SIGNATURE OF OWNER OR APPLICANT
Arnold C. Lakind, Attorney for Owner/Applicant

BOROUGH OF SHIP BOTTOM PROFESSIONAL CONSULTANTS

LAND USE BOARD ATTORNEY

Joseph D. Coronato, Sr., Esq.
Coronato Law
121 Washington Street
Toms River, NJ 08753

Office: (732) 808-4600
Fax: (732) 808-0449

ENGINEER

Frank J. Little, Jr. P.E., P.P.
Owen, Little & Associates, Inc.
443 Atlantic City Boulevard
Beachwood, NJ 08722

Office: (908) 244-1090
FAX (908) 341-3412

ADDENDUM

The Applicant has successfully operated the 102 room hotel located at 301 West 9th Street, 350 West 8th Street, 354 West 9th Street, 301 West 8th Street and 311 West 8th Street in the GC - General Commercial Zone. The Applicant participated in several hearings before the Land Use Board which culminated in a final resolution which limited the time period during which the Applicant could conduct weddings and similar catered events at the hotel. Since that approval the Applicant has accomplished everything requested by the Board in Resolution 2023-03, including:

1. Paving and striping the parking lots on 9th and 8th streets;
2. Requiring valets to wear reflective vests;
3. Placing parking signage for each spot on the CVS parking lot;
4. All staff have been required to sign a agreement to use the crosswalks and the Applicant has posted a notice near the staff time clocks reminding them of this requirement;
5. Relocating the walls and changed the pavers.

The Applicant now seeks to amend paragraph 3, page 39 of Resolution 2023-03, adopted September 20, 2023. Paragraph 3 presently states:

3. No weddings or individual events shall take place during the period June 15 to September 15 except for weddings already scheduled * * *

The Applicant proposes to modify this section of the Resolution in order to permit catered events, such as weddings, from June 1 to September 30 of each year. The event size would be limited to 200 people and the Applicant would cease the use of the rooftop on nights when an event occurs. The reduction in the use of the rooftop should free up parking spaces for the catered events. Moreover, the catered events would have a fixed complement of attendees whereas more than 200 people would cycle through the rooftop on a weekend night. In the event of inclement weather, the Applicant would relocate the event to the ballroom.

This requested change would have the following positive benefits for the Borough:

1. It will increase occupancy tax revenues;
2. It will limit rooftop patrons - with an event, only a maximum of 200 people will use the rooftop whereas on a typical weekend night, patrons cycle on and off the deck that results in more than 200 people using the rooftop;

3. It will provide certainty to hotel management and public services;
4. It will minimize traffic on event nights; and
5. It will help local businesses because guests would come to the Borough irrespective of the weather.

The Applicant will work closely with Borough officials to make all events held at the Hotel safe, secure and pleasant.

LAND USE REVIEW BOARD
BOROUGH OF SHIP BOTTOM

PUBLIC HEARING NOTICE

BALDWIN RESIDENCE, LLC
338-380 West 8th Street

Block 103, Lots 1.01, 3 and 6; Block 100, Lot 8; Block 110, Lots 1 and 25
Block 103 (unnumbered parcel owned by the State of New Jersey) to the West of Lot 6

Please take notice that a public hearing will be held on _____, at 6:30 P.M. by
the Land Use Board of the Borough of Ship Bottom, at the Borough of Ship Bottom Firehouse, 2006
Central Avenue, Ship Bottom, New Jersey.

The purpose of this hearing is to consider the application of Baldwin Residence, LLC ("Applicant")
Amending Resolution Number 2023-03 in order to permit weddings and catered events from June 1
to September 30 at the 102 room hotel located at Block 103, Lot 6 and otherwise known as 350
West 8th Street in the Borough of Ship Bottom, New Jersey.

The Applicant will also request that the Land Use Board grant any other variances, interpretations,
design waivers or exceptions from the Ordinance determined to be necessary during the review
and processing of this Application by the Borough.

All documents relating to this Application may be inspected by the public during regular
business hours in the Office of the Land Use Board, located in 1621 Long Beach Blvd., Ship
Bottom, New Jersey.

Any interested party may appear at said hearing and participate therein in accordance with the
rules of the Land Use Board of the Borough of Ship Bottom.

December 18, 2025

SZAFERMAN, LAKIND,
BLUMSTEIN & BLADER, P.C.

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By: Arnold C. Lakind, Esq.
Attorneys for Applicant
101 Grovers Mill Road
Lawrenceville, NJ 08648
(609) 275-0400

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A**

Exhibit A

SCHEDULE A

RESOLUTION AS TO WOOLLEY (QUARTER DECK)
(BLOCK 100, LOT 8) - NO. 1 AND BLOCK 103,
LOT 3 AND LOT 6 - NO. 2 OF THE PLANNING BOARD
OF THE BOROUGH OF SHIP BOTTOM
COUNTY OF OCEAN AND STATE OF NEW JERSEY

WHEREAS, the Planning Board of the Borough of Ship Bottom (Land Use Review Board pursuant to N.J.S. 40:55D-25c and the Land Development Ordinances), County of Ocean and State of New Jersey, has before it an application and site plan for Preliminary and Final Approval on behalf of John A. Woolley and Patricia B. Woolley, husband and wife, and Thomas R. Woolley, (Docket No. 98:06SP), Block 100, Lot 8, 354 West 9th Street, including (NO. 1) seeking confirmation of an existing parking lot and improvements to same for twenty-seven (27) parking spaces for the Quarter Deck Inn and (NO. 2) a "form of site plan" and "as built" for 338-380 West 8th Street, Block 103, Lot 3 and Lot 6, seeking confirmation and waiver as to full site plan review for the Quarter Deck Inn and Motel with the applicant submitting as part of the Land Use Board application a "Site Plan" prepared by Ernst, Ernst and Lissenden dated 3/27/98 and signed by John A. Ernst, III, on 3/31/98 for the Block 100, Lot 8, parking lot (for NO. 1) and a Consent Order of the Superior Court of New Jersey, Law Division, signed by the Honorable Robert H. Doherty on August 31, 1978, and recorded in the Ocean County Clerk's Office on September 17, 1978, as well as an Exhibit of a purported to be "as built" plan of the Quarter Deck Inn, Inc., Borough of Ship Bottom, Ocean County, New Jersey, by M. Paul Austin Engineering Associates, Inc. dated 10/20/77, Job No. 87-2-77, with said "as built" also having the name of Harold E. Maser, P.E., P.P., on same for NO. 2 and the applicant seeking to have the Planning Board affirm this prior site plan action pursuant to the New Jersey Superior Court Order and prior actions of the Borough of

Ship Bottom by granting site plan approval and waivers as to various submissions required by Ordinance, and

WHEREAS, as to Lot 8, Block 100, (NO. 1) same will be for employee parking only (currently used as parking for the Quarter Inn) and the applicants seek a Resolution to re-affirm by site plan approval and granting of waivers for its relationship to Lot 6, Block 103, because as the application states the site is fully developed and pre-exists the current Zoning and Subdivision Ordinances and that the application for a formal parking lot for employees on Lot 8, Block 100, will benefit the existing operation and wherein the applicant seeks a variance from paving with the lot to be graded and stabilized with 4" thick crushed seashells (and seeking a waiver or variance of full and formal site plan details for Lot 6 and Lot 3, Block 103, (NO. 2) on which the Quarter Deck Inn and Motel is located because it is a legal pre-existing site and non-conforming structure under N.J.S. 40:55D-68 and was the subject of a Consent Order in the Quarter Deck Inn, Inc. v. Borough of Ship Bottom, Superior Court of New Jersey, Ocean County, Docket No. L-46234-76 P.W., with various parking requirements set forth and "Ordered" for Block 103, Lots 3 and 6, and Block 100, Lot 8, and the applicant also requesting such other relief as may be necessary from compliance with any buffer, landscaping, paving, parking space dimension and setback requirements for off-street parking and a waiver and/or exemption from site plan detail and any other variances, exceptions or waivers deemed necessary or appropriate by the Board, and

WHEREAS, a search of Borough records as well as a search by the applicant's Attorney and the applicant having failed to reveal and provide a "signed" Site Plan from the 1970s by a "Board" (and/or the Borough) for this use which everyone

acknowledges has been in existence for over thirty (30) years and the applicant being represented by Attorney Reginald Raban, and

WHEREAS, the Board has jurisdiction as a result of the applicable Ordinances of the Borough of Ship Bottom adopted pursuant to the Municipal Land Use Law, Chapter 291, Laws of 1975, as amended and supplemented and the applicant having given notice pursuant to same, and

WHEREAS, the Board is aware that the application is related to an application previously filed and presently "stayed" involving Consolidated Affiliates, LLC, Block 103, Lot 3 (Docket No. 98:01SD-Minor Subdivision) on the Causeway between Ninth and Eighth Streets with engineering also prepared by John A. Ernst, P.E., L.S., and that application at the present time to be resubmitted in the discretion of the applicants together with an application for site plan approval and other land use relief on behalf of a "drug store" as discussed at a prior Board meeting, and

WHEREAS, the Board considered the various requests as to site plan relief and approval and waivers by the Woolley/Quarter Deck application at a public meeting and Hearing of April 15, 1998, and the applicants having offered proofs concerning prior use of the parking lot on West Ninth Street at Block 100, Lot 8, and parking lots involving the Quarter Deck Inn at Block 103, Lots 3 and 6, and the Board having considered testimony from the applicants' witnesses as well as testimony of the Board Engineer including the Board Engineer's Report (Frank Little, P.E., P.P.) of April 9, 1998, which applies to the Woolley/Quarter Deck application but lists the applicant as Consolidated Affiliates, LLC, and inadvertently refers to a minor subdivision application when in fact it should be site plan, and

WHEREAS, the applicants' Engineer testified as to the prepared Site Plan for Block 100, Lot 8, (NO. 1) and explained that the parking lot and the area is to be graded with shells and concrete curbing is to be installed along West 9th Street with a concrete apron driveway and the existing wooded fence is to remain along the rear with concrete wheel stops to be provided with same consisting of twenty-seven (27) parking spaces and there being discussions as to lighting and buffering and there to be no additional lighting and that "traffic control type" signage shall be provided indicating parking for the Quarter Deck Inn employees only with appropriate traffic signage and there being various discussions as to the obligation of the applicants to insure traffic from the "Lot" complies with one-way traffic East on Ninth Street with same to be designed to completely discourage any left turn and there being testimony by a Traffic Engineer for the applicant as to issues involving an island to discourage turning, pedestrian crossing of West Ninth Street and use on the lot of stop signs and no left turn and issues and questions as to use of the lot for employees only as being best and the applicants having agreed to same and the traffic controls and the Board having considered the Engineer's comments by way of hearsay from NJDOT, and

WHEREAS, the Board heard comments and questions of its members as well as members of the public one of whom objected to the activities on the parking lot by customers of the Quarter Deck Inn and that he would like to see the parking lot policed more often by the Borough and there again being various comments as to signage and other site concerns and ingress and egress and safety, and

WHEREAS, the Board thereafter making determinations as to the applications for Block 100, Lot 8, the parking lot (NO. 1)

and (NO. 2) Block 103, Lots 3 and 6, for the existing "Quarter Deck" and its parking and improvements.

NOW THEREFORE BE IT RESOLVED that the Planning Board of the Borough of Ship Bottom (Land Use Review Board), County of Ocean and State of New Jersey, does hereby grant Preliminary and Final Site Plan approval and certain waivers as applied for on behalf of John A. Woolley and Patricia B. Woolley, h/w, and Thomas R. Woolley, (Docket No. 98:06SP), Block 100, Lot 8, 354 West Ninth Street (parking lot) in the GC General Commercial Zone for (NO. 1) the parking lot for employees only and to be so indicated with signs on the site and to be patrolled by the Quarter Deck personnel and employees to maintain appropriate and strict security in the parking lot as well as adjacent to and in the area of West Ninth Street during business hours on a regular basis and including from 9:00 p.m. to 3:00 a.m.; and with appropriate landscaping by groundcover only-type plantings added with wheel stops all subject to the review and approval of the Board Engineer/Planner with sidewalks added, approval of NJDOT as well as the New Jersey Department of Environmental Protection and full compliance with the Board Engineer/Planner's Report of April 9, 1998, (with a buffer strip being added and the applicant having agreed to same as set forth in the Report at 2.c(3) with a waiver being granted as to crushed shells in lieu of asphalt to facilitate drainage and the Board Engineer/Planner having agreed with same and there to be a waiver from traffic flow arrows on the surface but there to be an abundance of traffic signage pursuant to the Uniform Traffic Control Manual and review and written approval by the Board Engineer/Planner to completely discourage any left hand turn onto Ninth Street with an island and including a wrong-way sign, stop signs and no left turn signs and clear signing that the lot is to be used for employees for

the Quarter Deck only and with security to be provided by the Quarter Deck Inn as indicated aforesaid during business hours and also from 9:00 p.m. to 3:00 a.m. for security and noise and compliance with "good order" and law and safety and with ingress and egress of the lot and curbs and sidewalks subject to DOT, DEP and Borough of Ship Bottom approval with all of the above including landscaping, wheel stops, ingress and egress and sidewalks to be placed on the "revised Site Plan" in detail and subject to review and approval of the Board Engineer/Planner and Construction Official.

BE IT FURTHER RESOLVED that the Board makes as findings of fact those set forth aforesaid and contained in the aforesaid "Preamble" of this Resolution as well as the Reports of its Engineer/Planner including the most recent Report of April 9, 1998, as well as the Court file of the Superior Court of New Jersey, Law Division, Ocean County, Docket No. L-46434-76 P.W., and the "Consent Order" recorded in the Ocean County Clerk's Office on or about September 18, 1978, in Deed Book 3754 at page 186 and as executed by the Honorable Robert H. Doherty, Jr., J.S.C., on August 31, 1978, and therefore, a condition of the relief herein granted is that the parking must be further complied with by other sites of "Woolley" and their successors and assigns/et als from that Order related to same including compliance with the Board Engineer's comment at paragraph 2d of the April 9, 1998 Report wherein he references the Court Order and states that any lost spaces must be replaced on lands located within three (300') feet of Lot 6 (Quarter Deck lot) and that the replacement spaces must be in the same ownership as Lot 6 (with issues as to easement and forms of ownership to be further determined as various applications concerning this site (including Eckerd Drug/Consolidated Affiliates) continue) and

therefore, upon compliance with the aforesaid and the following conditions as set forth in the portion of the Resolution hereinafter as to both NO. 1 and NO. 2 of this application which are made a continuing part of this approval (Docket No. 98:06SP), the Chair and Secretary shall be authorized to sign the revised preliminary and final site plan and only upon the signature of same by appropriate officials and the recording of the "Deed" hereinafter referred to shall the Building Department and/or Construction Official or any Subcode Official be authorized to issue any applicable permits with respect to this site and the approvals herein granted (with same subject to the enforcement of appropriate Borough officials and their actions in their official capacity in their discretion as may be permitted according to law).

IT SHOULD BE UNDERSTOOD THAT this memorialization Resolution now will move on to the next portion of the application heard on April 15, 1998, involving Block 103, Lot 6, (NO. 2) the Quarter Deck Inn, and the request for site plan approval and waivers as to the existing site and with the complete understanding that Block 100, Lot 8, (NO. 1) and the approval is completely subject to the approval and actions and related to the activities on the Quarter Deck Inn site, Lot 6, Block 103, and that the aforesaid site plan approval and waivers and the requirements apply to the site plan approval as relates to the Quarter Deck and its permitted uses only.

(NO. 2) WHEREAS, as set forth in the "Preamble", the Planning Board has before it the site plan relief sought for Block 103, Lot 6, the Quarter Deck Inn which as set forth in the application is an existing business as referred to aforesaid as an Inn and Motel and Restaurant and Bar having been pre-existing and a legal non-conforming structure pursuant to law and there being a Consent Order in 1978 as referred to above in the Superior Court, Law Division, Ocean County, with the applicant now seeking the same waivers for paving and curbing for Lot 6, Block 103 (as the applicants did herein with Lot 8, Block 100 because the site is fully developed and pre-exists the current Zoning and Subdivision Ordinances and the applicants seeking no additional building construction or relief but seeking to confirm what is already existing at the present time and to approve and confirm their site and parking; and by a later application (Consolidated Affiliates and Eckerd Drug) to subdivide off a portion of their land to be developed by a related application of a third party to be filed within the next few months for site plan approval for a drug store and other uses that may be permitted (therefore, the applicant, Woolley, herein seeking formal site plan approval for the Quarter Deck Inn and Motel on Lot 6, Block 103, with related waivers as no additional construction is taking place at this time with respect to this site), and

WHEREAS, there exists a restaurant and bar with approximately 557 seats that would require under current zoning 140 parking spaces and habitable floor area requiring an additional 22 spaces and Motel units requiring an additional 65 spaces (with the present Ordinance requiring 227 spaces) and the existing spaces being 152 by the Court Order and the proofs being

that the Woolleys are the present owners (since 1983) and believe in 1964 the business started and they are proposing that a portion of Block 103, Lot 6, will be sold for a drug store --- an Eckard Pharmacy (Eckard), and

WHEREAS, testimony was heard as to the general area and the properties to the East Lot 1, Lot 2 and Lot 3, being sold to Consolidated and/or Eckard with it stated a portion will either be retained by Woolley with Eckard having an easement over same or Woolley having an easement for parking on the Eckard or Consolidated lots for "parking" and there being discussion of access from Ninth Street and the providing of sidewalk and curb and again waivers and discussions of parking lot surfacing and ingress and egress and the Architect on behalf of the applicant having testified to the parking and the Board having considered same and the comments of various people and citizens and members.

NOW THEREFORE BE IT RESOLVED that the Planning Board of the Borough of Ship Bottom, County of Ocean and State of New Jersey, does hereby grant and confirm Preliminary and Final Site Plan approval (NO. 2) to the existing Quarter Deck Inn site at Lot 6, Block 103, as applied for in the application submitted by Reginald Raban, Attorney for John A. Woolley and Patricia B. Woolley, h/w, and Thomas R. Woolley and as signed by Attorney Raban as Attorney for owner/applicant on April 3, 1998 (Docket No. 98:06SP) for the existing Quarter Deck Inn and Motel and Bar and existing parking as developed as set forth on a Site Plan submitted by Ernst, Ernst and Lissenden, John A. Ernst, III, P.E., L.S., dated March 31, 1998, (and for Tax Lot 8, Block 100), and the as asserted by the applicant prior "as built plan" of the Quarter Deck Inn prepared by Harold E. Maser, P.E., L.S., with M. Paul Austin Engineering Associates of Burlington, New Jersey, Sheet 1 of 1, unsigned dated 10/20/77 and the Order of the

Honorable Robert H. Doherty, J.S.C., Ocean County Court, Judge of the Superior Court, of August 31, 1978, as consented to the parties at that time and bearing Docket No. L-46234-76 P.W. and recorded in the Clerk's Office of the County of Ocean on September 18, 1978, commencing at Book 3754 at page 186, et seq. as the Board is satisfied from the proofs before it that waivers and "approval" requested may be granted as to the existing site provided there is compliance by the applicant with the Court Ordered parking and that any additional parking to be replaced shall be within three hundred (300') feet of Lot 6 and the replacement spaces must be in the same "ownership" as Lot 6 and the Borough/Board Engineer being of the opinion that a site plan or "as built" plan of the existing conditions of parking should be provided by the applicant in order for the Board to confirm the existence of the Plan and total number of parking spaces and to establish a current "record of approval" for the existing Quarter Deck site and to insure the number of the parking spaces being provided on Block 103, Lots 3 and 6, and Block 100, Lot 8, also equal or exceed 152 parking spaces per the Court Order, and

BE IT FURTHER RESOLVED that after much discussion among the parties and the Board members including comments as to the requested opinion of the Board Attorney that the Board decided that it may proceed with respect to its own opinion and decision concerning same and therefore on a Motion to grant a waiver from full site plan and requirements and to approve the existing Site Plan and 1977 "as built" and the submissions by John A. Ernst, III, as to parking for the Quarter Deck having been made and with an easement to be provided for the additional needed parking on the other Woolley land to be developed as a pharmacy (Consolidated Affiliates) and also now called the Eckerd site, the relief be and the same was voted upon and is hereby granted

subject to the following conditions herein set forth which are to be considered a continuing part of this approval and the conditional approval as to NO. 1, Block 100, Lot 8, as well as any and all variance relief with the Chair and Secretary to be authorized to sign the Preliminary and Final Site Plan and the waivers applicable thereto and only upon the signature of same by the appropriate officials and the recording of the Deed hereinafter referred to shall the Building Department and/or Construction Official and/or any Subcode Official be authorized to issue any applicable Permits with respect to this site and the approvals and/or waivers herein granted (with same being subject to jurisdiction and discretion as may exist with respect to appropriate public officials according to law): (These conditions are to apply also to NO. 1 aforesaid.)

1. Payment of taxes and other applicable assessments to date as well as payment of all fees and costs and escrow fees.

2. Ocean County Planning Board approval or receipt of communication indicating no interest in the subject application or passage of the appropriate time period pursuant to law provided notice was given to the Ocean County Planning Board and it has been served with any and all revisions.

3. The application and site plan and any revisions thereto subsequent to the April 15, 1998, meeting being submitted by letter to the Board of Health, the Subcode Fire Official, the Office of Bureau of Fire Prevention of the Borough of Ship Bottom as well as the Superintendent of the Water and Sewer Department with enforcement of any regulations or conditions of those officials and offices to be their sole responsibility. A copy of the cover letters to the aforesaid entities and/or officials shall be filed with the Planning Board Secretary and the Construction Official's office.

4. The applicant shall with his Engineers and the Borough Engineer/Planner pursue review and approval as may be necessary from the Department of Transportation and/or the New Jersey DEP as to the existing site and parking lots herein referred to and approved. A copy of the cover letters giving notice and/or filing such applications, site plans and revisions and/or seeking relief shall be filed with the Planning Board Secretary and the Board Engineer/Planner and Construction Official's Office.

5. If applicable, as determined by the Board Engineer and/or others, a Soil Erosion and Sedimentation Control Permit.

6. The applicant shall make revisions to the Site Plan and provide a revised site plan for signature in appropriate form as required by the Board Engineer/Planner including compliance with the most recent Report of April 9, 1998, and any other Reports and requests that the Board Engineer may deem appropriate and necessary (and all conditions and findings of this Resolution of the Board as to NO. 1 and NO. 2) with a note being placed upon the site plan (as to NO. 2) that this is a confirmation of a claimed existing site plan "as built" and site that was non-conforming according to the Municipal Land Use Law and pre-existed present Zoning Requirements and was the subject of litigation entitled the Quarter Deck Inn, Inc. v. Borough of Ship Bottom, Docket No. L-46234-76 P.W., with a Consent Order signed by the Honorable Robert H. Doherty, Jr., J.S.C., on August 31, 1978, and recorded in the Ocean County Clerk's Office on September 18, 1978, commencing in Deed Book 3754 at page 186 with appropriate waivers applied for being granted and/or recommended subject to the review and a written approval by the Board Engineer/Planner. A note should be set forth on the site Plan

that same shall be signed and approved by the Board Engineer/Planner prior to it being effective.

Further, a note shall be placed upon the "plan" that the applicant shall comply with the Americans With Disabilities Act-1990 as well as any Board of Health regulations with respect to same as may be applicable per the Board Engineer.

Further, the applicant shall comply with 911 requirements of the Borough as well as the State of New Jersey and add notes with respect to same and also the applicant shall provide for appropriate private refuse and scavenger pick up and service as well as complying with Recycling Ordinances and trash removal with a note as to same being added and a note that a Deed is to be filed pursuant to this Resolution with the Clerk of the County of Ocean recording this Resolution.

Also, as applicable, additional landscaping shall be added subject to the review and approval of the Board Engineer/Planner. A note shall be added that the applicant shall review any construction with respect to Borough streets and utilities with the Water and Sewer Department and the Superintendent of same prior to commencing any construction at any time.

All revisions for NO. 1 and NO. 2 shall be submitted in proper form to the Borough of Ship Bottom Planning Board with same subject to the review and written approval of the Board Engineer/Planner prior to signature of the revised Site Plan and any related "plans".

7. The applicants and their heirs, successors and assigns shall comply with all performance standards and requirements of the Land Development Ordinances of the Borough with respect to prohibited uses and compliance with environmental and other related safety laws as may be required by

the State of New Jersey, the Borough of Ship Bottom and other public entities.

8. The applicant shall comply with the Ordinances of the Borough with respect to the posting of bonds, guaranties, inspection costs and payment of such fees (including escrows) as may be related thereto and to this application and Resolution and as may be required by the Board Engineer/Planner and/or Construction Official and/or Secretary of the Planning Board (Land Use Review Board) and the Clerk of the Borough and Mayor and Council. Any guaranties shall be in a form approved by the Board Engineer/Planner and Borough Attorney and acceptable in form and amount by the Mayor and Council.

9. This approval is subject to all conditions of prior Resolutions and actions of this Board and the Borough that may relate to this site (and other public entities prior to the date of this application) unless specifically changed by the Site Plan approval herein conditionally granted and any variance relief and waivers applicable thereto.

BE IT FURTHER RESOLVED that as a condition of the approval herein granted as to the Site Plan and any applicable variance relief, a Deed shall be recorded by the applicant with the Clerk of the County of Ocean with this Resolution attached following approval as to form by the Board Engineer/Planner and Board Attorney. Subsequent thereto the applicant after recording same with the County Clerk shall submit certified copies of the recorded Deed as filed with the County Clerk's Office with the Planning Board Secretary, Borough Clerk, Construction Official, Tax Assessor and the Engineer/Planner.

BE IT FURTHER RESOLVED that any and all waivers as may be requested and herein granted and/or recommended are subject to the review and approval as may be necessary of the Chair of the

Planning Board and the Engineer/Planner as well as the further review and approval of the Construction Official.

BE IT FURTHER RESOLVED that the applicant is required to comply with any and all Ordinances of the Borough and failure to require same herein shall not be deemed a waiver or recommendation by the Planning Board with respect to Borough Ordinances including the Zoning Ordinance. These lots and the improvements on same shall comply with the Zoning Ordinance and all other Borough regulations subject to the restrictions and conditions and relief herein granted.

BE IT FURTHER RESOLVED that in the event any questions arise concerning ingress and egress and/or drainage and/or water and sewer involving this application and/or other public entities in the State of New Jersey that the Board Engineer/Planner is hereby authorized with the Planning Board Chair and Construction Official and the Superintendent of the Water and Sewer Department to review any changes as may be necessary and to approve or deny same and to meet with the applicant and any of the aforementioned public entities and/or others concerning same and only in the event the Borough Engineer/Planner and Planning Board Chair and Construction Official consider the changes so substantial as to require additional Board review of the application and/or the applicant shall make a written request for additional review shall the matter be returned to the Board for any further action relating to same.

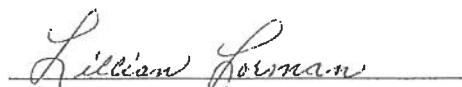
BE IT FURTHER RESOLVED that as this application for development proceeds, the Construction Official and Chair of the Planning Board may, upon the request of the applicant and with the written advice of the Board Engineer/Planner, grant such changes as may be necessary with respect to the Preliminary and Final conditionally approved Site Plan herein (for NO. 1 and NO.

2) and any variance relief and waivers related thereto that are not substantial and the Board does hereby authorize the said officials upon the written advice of the Board Engineer/Planner to take such steps as are appropriate to protect the integrity of the Site Plan approval and waivers and variances as may be herein granted and to insure compliance with the conditions and Ordinances. Any substantial deviation in the opinion of the Board Engineer/Planner and Construction Official and Planning Board Chair shall require a revised application and site plan to be submitted to this Board for its review and action. With respect to any non-substantial and/or minor changes permitted same shall be placed upon a revised Site Plan signed and dated by the applicant and the applicant's Engineer and/or Architect as well as the Board Engineer/Planner, Construction Official and Planning Board Chair indicating the date of the revisions and the minor and non-substantial changes made with copies of same filed with the Construction Official and the Planning Board Secretary as well as the Borough Water and Sewer Department and Tax Assessor. Any non-substantial or minor revisions pursuant to this procedure shall be understood not to extend any applicable time limits that may exist according to law.

BE IT FURTHER RESOLVED that pursuant to the request of the Soil Conservation District, it is hereby requested that if applicable, the Construction Official not issue any Building Permit until there shall have been acquired a Soil Erosion approval and/or permit and/or waiver (also with respect to a Certificate of Occupancy until there has been acquired a compliance report from the Soil Conservation District indicating compliance with any and all conditions of any issued soil erosion and sedimentation control permit and plan) as may apply to this lot and application.

BE IT FURTHER RESOLVED that prior to the signature of the revised Final Site Plan herein conditionally approved (for NO. 1 and NO. 2) and any revisions to same, the Board Engineer/Planner shall have indicated approval in writing to the Planning Board Secretary as to the form and content of the most recently revised plan as to conformance with the conditions herein set forth and as may be required by the Board Secretary.

BE IT FURTHER RESOLVED that in the event the conditions set forth in this conditional Preliminary and Final Site Plan approval and applicable variance relief and waivers herein set forth (for NO. 1 and NO. 2) are not met by August 1, 1999, with the revised and amended Final Site Plan for each having been executed by that date and the Deed filed with the Clerk of the County of Ocean as to the Resolution that this application shall be listed on the Planning Board Agenda for the meeting of the following month for dismissal without prejudice unless the applicant offers appropriate reasons for the delay all of which may be considered in the discretion of the Board. Further, it shall be understood that this administrative extension is not a representation or guaranty by the Board as existing State law applies and it is the applicant's obligation to comply with applicable law.



Adopted: May 20, 1998

Moved By: Mrs. Potter

Seconded By: Mrs. Tallon

- CERTIFICATION -

I, LILLIAN LORMAN, Secretary of the Land Use Review Board (Planning Board) of the Borough of Ship Bottom, County of Ocean, State of New Jersey, do hereby certify that the foregoing is a true copy of a Resolution adopted by the Land Use Review Board (Planning Board) of the Borough of Ship Bottom at a public meeting held on May 20, 1998.

Lillian Lorman
LILLIAN LORMAN,
SECRETARY

RESOLUTION OF MEMORIALIZATION OF THE
LAND USE REVIEW BOARD OF THE BOROUGH OF SHIP BOTTOM
COUNTY OF OCEAN AND STATE OF NEW JERSEY
DOCKET NUMBER: 00:98:06SP EXTENSION

WHEREAS, the Applicants, John A. Woolley and Patricia B. Woolley, his wife, and Thomas R. Woolley having previously received preliminary and final major site plan approval, as set forth in Resolution Docket Number 98:06SP, adopted by the Land Use Review Board of the Borough of Ship Bottom on May 20, 1998, for premises known as Lot 8, Block 100, 354 West 9th Street, and Lots 3 and 6, Block 103, 338-380 West 8th Street, Ship Bottom, Ocean County, New Jersey; and

WHEREAS, the Applicants, through their attorney, Reginald J. Raban, Esq., have requested an extension of the site plan approval previously granted as set forth in the aforementioned Resolution.

NOW, THEREFORE, BE IT RESOLVED by the Land Use Review Board of the Borough of Ship Bottom that request of John A. Woolley and Patricia B. Woolley and Thomas R. Woolley for an extention of the previous approval set forth in Resolution Docket Number 98:06SP is hereby granted through November 15, 2000, subject to the following conditions:

1. The Applicants shall comply with all of the terms and conditions of the approval as set forth in Resolution Docket Number 98:06SP

2. The extention granted herein is evffective as of the expiration date of the previous approval which was granted on May 20, 1998.

3. The Applicants, agents, owners or assigns shall comply with all federal, state, county and local requirements as provided by law.

4. Payment of all taxes, fees and required escrow deposits to the Borough of Ship Bottom. Applicants shall pay any additional fees or escrow deposits which may be due and owing within thirty (30) days from the adoption of this Resolution.

Lillian Lorman
LILLIAN LORMAN, Secretary

Adopted: *October 17, 2000*

Moved By: *Mr. Dunn*

Seconded By: *Mrs. Dennis*

C E R T I F I C A T I O N

I, LILLIAN LORMAN, Secretary of the Land Use Review Board of the Borough of Ship Bottom, County of Ocean, State of New Jersey, do hereby certify that the foregoing is a true copy of a Resolution adopted by the Land Use Review Board of the Borough of Ship Bottom at a public meeting held on October 17, 2000.

Lillian Lorman
LILLIAN LORMAN, Secretary

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Exhibit B

RESOLUTION OF MEMORIALIZATION OF THE
LAND USE REVIEW BOARD OF THE BOROUGH OF SHIP BOTTOM
COUNTY OF OCEAN AND STATE OF NEW JERSEY
DOCKET NO.: 06:16 SP/V

WHEREAS Christopher S. Vernon, the Applicant, had made application to the Land Use Review Board of the Borough of Ship Bottom for variances, inclusive of bulk and use variances, and preliminary and final minor site plan approval to demolish the existing structure which lie upon the subject lot and construct a new multi family residential structure containing fifty four (54) dwelling units and a second structure to be a two-story restaurant in the GC-General Commercial Zone located at 338-380 West 8th Street, Block 103, Lot 6, 354 West 9th Street, Block 100, Lot 8 and 338-380 West 8th Street, Block 103, Lots 4 & 5 in the Borough of Ship Bottom, County of Ocean, State of New Jersey and

WHEREAS the Land Use Review Board considered this application at public hearings held on Wednesday, September 20, 2006 and Wednesday, October 4, 2006 at which time the Applicant was represented by Reginald J. Raban, Esq. The following items were entered in as evidence and marked accordingly. The application and required jurisdictional items dated August 17, 2006 was entered into evidence as Exhibit A-1, the Preliminary and Final Plat Major Site Plan, eight (8) pages, prepared by Ernst, Ernst & Lissenden and signed by Robert J. Romano, PE, dated August 16, 2006 was marked as Exhibit A-2. The architectural plans, seven (7) sheets prepared and signed by Craig Brearley, A.I.A., dated August 16, 2006 was marked as Exhibit A-3. The aerial photo from the DEP dated 2003 of the subject property was marked as Exhibit A-4. A photo board with five photos of the now existing Quarterdeck Inn was marked as Exhibit A-5. Revised Site Plan with eight (8) pages prepared by Ernst, Ernst & Lissenden and signed by Robert J. Romano, PE dated September 22, 2006 was marked as Exhibit A-6. The revised architectural plans, seven (7) pages, prepared and signed by Craig Brearley, A.I.A., dated August 16, 2006 was marked as Exhibit A-7. The letter of completeness prepared by Frank J. Little, Jr. of Owen and Little, Township Engineer dated August 21, 2006 was marked as Exhibit B-1. The second review and letter of completeness prepared by Frank J. Little, Jr., of Owen and Little, Township Engineer dated September 26, 2006 was marked as Exhibit B-2.

WHEREAS, the Land Use Review Board after considering the evidence presented, testimony of the Applicant, testimony of the applicant's experts and the arguments of counsel, together with requesting, accepting and considering public comment, have made the following findings of fact and conclusions of law:

1. The Application is complete and the Board has jurisdiction to review same.
2. The Applicant is the contract purchaser.
3. The Applicant seeks relief to demolish the existing structure which lie upon the subject lot and construct a new multi family residential structure containing fifty four (54) dwelling units and a second structure to be a two-story restaurant in the GC-General Commercial Zone and that the proposed multi family residential structure is not permitted use in this zone. A use variance is required. The applicant indicates that the construction will comply with all township code requirements, including but not limited to, those outlined in the August 21, 2006 and September 26, 2006 letters of completeness prepared by Frank J. Little, Jr. P.E. of Owen and Little, Township Engineers dated August 21, 2006 and September 26, 2006.
4. The Applicant submitted a development application for construction of a new physical multi family residential structure containing fifty four (54) dwelling units with a height of 38.5 feet to the main roof and building accessories, i.e. cupolas reaching 44.5 feet. The Applicant, in addition to

requesting a use variance, requested multiple bulk variances in order to construct the proposed multi family residential structure. Included in the application was a plan to create a two-lane driveway providing ingress and egress between the parking lot and 9th Street (N.J.S.H. 72 East). The application also submitted a plan to indicate a cross access easement between Block 103, Lot 7 and Lot 4, in addition to three, six-foot wide walkways providing access to the sidewalk along 9th Street from the multi family residential structure. The Applicant also submitted a development application for construction of a new physical second structure to be a two-story restaurant in the GC-General Commercial Zone. The Applicant, in addition to requesting a use variance, requested multiple bulk variances in order to construct the proposed two-story restaurant. These requested reliefs's were outlined and reviewed by the Board as denoted within the aforementioned Exhibits presented before the Board at the Wednesday, September 20, 2006 and Wednesday, October 4, 2006 meetings.

5. WHEREAS the Applicant agrees to install individual water meters for each of the residential units contained with the multi family residential structure and the two-story restaurant in accordance with all Federal, State, County and Borough applicable codes.

6. WHEREAS the Applicant agreed to not allow alcoholic beverages to be served, transported or consumed any time on the outside patio and/or any outside area of or surrounding the two-story restaurant.

7. WHEREAS the Applicant has agreed to comply with the site triangulation requirements in accordance with the State of New Jersey Department of Transportation, Ocean County Engineering Department and the Borough of Ship Bottom applicable for statutes and ordinances.

8. WHEREAS the Applicant has agreed that the height of the proposed structure shall not exceed the approved relief granted of 38.5 feet to the main roof with the building accessories, i.e. cupolas reaching a maximum of 44.5 feet as denoted in the Exhibits presented before the Board at the Wednesday, October 4, 2006 meeting.

9. WHEREAS the Applicant agrees to install a central fire monitoring panel in an area always accessible in the event of an emergency. Said location of the central fire monitoring panel shall be determined in concert and agreement of the Borough Engineer, Code Enforcement Department and the Borough Fire Department and in accordance the with all State, County and Borough applicable fire codes.

10. WHEREAS the flood zone is AE with a base flood elevation of 7 feet, the Applicant has agreed that all construction shall be in accordance with the ordinance and permissible with statutes. Should any additional approvals be required from any other agencies having jurisdiction that the applicant shall seek and obtain any and all approvals before proceeding with this project.

11. WHEREAS the Applicant has agreed to submit revised plans denoting the one missing wheel stop adjacent to Lot 17.

12. WHEREAS the Applicant has agreed to submit revised plans indicating a proposed lighting for all parking lots included in the application. The applicant will denote the size and location of all lights in accordance with all applicable Borough Codes and/or Ordinances.

13. WHEREAS the Applicant has agreed to submit revised plans indicating a proposed nuisance buffer in the application. The applicant will denote the size and location of all planted buffers in accordance with all applicable Borough Codes and/or Ordinances.

14. WHEREAS the Applicant has agreed to submit revised plans, calculations and drainage reports applicable to the project to the Board for review prior to any permits or approval being granted.

The revised plans, calculations and drainage reports shall be in accordance with all applicable Federal, State, County and Borough Codes and/or Ordinances.

15. WHEREAS the Applicant has agreed to submit revised plans indicating a proposed oval shaped sign on the façade of the restaurant wherein the sign will be sized and placed in accordance with all applicable Borough Codes and/or Ordinances.

16. WHEREAS, the Applicant has agreed to submit revised plans indicating a proposed fire lanes in the application. The applicant will denote these lanes and locations in accordance with all applicable Borough Codes and/or Ordinances.

17. WHEREAS, should any additional approvals be required from any other agencies having jurisdiction that the applicant shall seek and obtain any and all approvals before proceeding with this project.

18. WHEREAS the Land Use Board of the Borough of Ship Bottom has determined that the relief, construction and use requested by the Applicant for bulk and use variances with site plan approval as set forth with the preamble of this resolution is a substantial improvement from the present existing structure and that the proposed building is substantially suitable and can be granted without substantial detriment to the public good, and as the property is surrounded by both business and residential uses and the building and building use are suitable to the site and surrounding area, and that the relief sought comports with the surrounding area and without impairing the intent and purpose of the zoning plan and zoning ordinance of the Borough of Ship Bottom and without substantial detriment to the neighboring properties and/or being incompatible with the zoning plan; and

19. WHEREAS no arguments, proofs or exhibits were proffered which gave the board a basis for the rejection of the variance relief or indicated a objective threat to the neighborhood or zoning plan.

BE IT FURTHER RESOLVED that the Land Use Board of the Borough of Ship Bottom have approved the application by the applicants for variance, site plan and use variances and preliminary and final site plan approval to demolish the existing structure and construct a new multi family residential structure containing fifty four (54) dwelling units and a second structure to be a two-story restaurant in the GC-General Commercial Zone approved and hereby granted and conditionally approved; and

BE IT FURTHER RESOLVED that this approval is subject to the payment of all taxes and other applicable assessments as of the date of the closing, the payment of all fees and escrows. This approval is further subject to the compliance of the ordinance of the Borough of Ship Bottom and is applicable with respect to the bonding, guarantees, inspection clauses and payment of such fees that may be related thereto including escrow fees to this application as may be required by the borough engineers/planner and/or construction officials and/or secretary of the board and/or clerk of the borough. Any guarantees shall be subject to the written review and approval of the Board/Engineer/Planner, the Borough solicitor's office, the Mayor and counsel as may be required; and

BE IT FURTHER RESOLVED that with respect to the Applicant's relief herein granted same is subject to the recording of a deed by the applicants with the Ocean County Clerk with a copy of this resolution attached and made part thereof following a review of and written approval as to the form of the Board Engineer/Planner and the Board Attorney. Subsequent to the recording of the deed, the applicant shall file certified copies of the same as recorded with the Clerk of the County of Ocean and with the Land Use Review Board Secretary, Borough Clerk, Construction Official, Tax Assessor, Superintendent of Public Works; and

BE IT RESOLVED that the applicants are required to comply with all ordinances of the Borough and failure to require the same herein shall not be deemed a waiver or recommendation of the Land Use Review Board with respect to the Borough Ordinances as they may apply to this property; and

BE IT RESOLVED that this approval is subject and is conditioned upon the applicants compliance with all FEMA requirements and all mechanical systems as provided herein and be it further resolved that this approval is subject and conditioned upon the applicant complying with the Township construction officials and complying with all the requirements of the State of New Jersey and the Borough of Ship Bottoms Construction Fire and Safety Codes.

BE IT FURTHER RESOLVED that this approval is subject and conditioned upon the applicant complying with all the terms and conditions of the August 21, 2006 and September 26, 2006 review letters of Owen Little and Associates, Inc., Borough engineers entered into evidence as Exhibits B-1 and B-2.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon Applicant obtaining any and all permits required and abiding by all state, local and federal rules, regulations, statutes and ordinances affecting this project. This approval is also subject to and conditioned upon Applicant obtaining any and all outside agency approvals as may be required, including, but not limited to, Ocean County Planning Board approval.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon Applicant adhering to all site triangle requirements to be established by the County of Ocean and Applicant meeting all requirements of all applicable Borough Ordinances.

BE IT FURTHER RESOLVED that prior to the signature of the variances and site plan map and permit involved herein are conditionally approved in the issuance of any permit related thereto, the Board Engineer/Planner will indicate approval in writing as to the form of content as to the plans and revisions required by this resolution and to the Board Engineer/Planner or any other Board Official including but not limited to the revised architectural drawings, revised site plans and variance map and landscape plans. It is incumbent upon the Land Use Review Board Secretary to forward copies of this Resolution to the Board Engineer/Planner and Superintendent of the Water Department for use and review of any revisions submitted to the Board Engineer/Planner.

BE IT FURTHER RESOLVED that in the event that the conditions set forth in this conditional approval and variance relief herein granted are not met by November 1, 2007, with all conditions having been complied with by that date, that this Application may be listed by the Board Secretary on the Land Use Review Board Agenda for the meeting of the following month for dismissal, without prejudice, unless the Applicant offers an appropriate reason for the delay, all of which may be considered in the discretion of the Board. Further, it shall be understood that this administrative time limit is not a representation or guarantee by the Board as existing State law applies and the Board advises that it continues to be the Applicant's obligation to comply with all applicable laws.

BE IT FURTHER RESOLVED that the Board adopts as if contained herein, representations of Applicant and the Applicant's sworn experts pertaining to structural, fire safety and aesthetic improvements and the development to be located at the site in accordance with plans submitted, revised and approved by the Board Engineer and as required to be revised as noted by the testimony and representations made at the Wednesday, September 20, 2006 and Wednesday, October 4, 2006 Board Meetings.

BE IT FURTHER RESOLVED that this approval is conditioned upon the applicant complying with all technical revisions as noted, required and reviewed by the Township Engineer.

BE IT FURTHER RESOLVED that notification of this favorable resolution be published within an official newspaper of the Ship Bottom Land Use Board within ten (10) days of its passage adopted.

Lillian Lorman
Lillian Lorman, Secretary

CERTIFICATION

I, LILLIAN LORMAN, Secretary of the Land Use Review Board of the Borough of Ship Bottom, county of Ocean, State of New Jersey, do hereby certify that the foregoing is a true copy of a Resolution adopted by the Land Use Review Board of the Borough of Ship Bottom at a public meeting held November 15, 2006.

Lillian Lorman
Lillian Lorman, Secretary

Adopted: November 15, 2006
Moved By: Mr. Covert
Seconded By: Mr. Stockton

Roll call vote: Tallon, Covert, Dunn, Stockton and Butkus, Aye.

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Exhibit C

**RESOLUTION OF MEMORIALIZATION OF THE
LAND USE REVIEW BOARD OF THE BOROUGH OF SHIP BOTTOM
COUNTY OF OCEAN AND STATE OF NEW JERSEY
DOCKET NO. 2007:10 SP/V**

WHEREAS, The Baldwin Residence, LLC has made application to the Land Use Review Board of the Borough of Ship Bottom to modify and amend the previously granted Variances and Preliminary and Final Minor Site Plan approvals for the development of Lot 6 Block 103 and Lot 8, the Quarter Deck properties located at 338-380 West 8th Street and 354 West 9th Street in the Borough of Ship Bottom, County of Ocean and State of New Jersey; and

WHEREAS, the Land Use Review Board considered this application at a public hearing conducted for that purpose on July 16, 2007. The applicant was represented by Reginald J. Raban, Esq. The application dated June 3, 2007 was entered into evidence as exhibit A-1; the plan prepared by Ernst, Ernst & Lissenden, Engineers and Surveyors, entitled "Minor Site Plan Tax Block 103 Lot 6 Ship Bottom Borough, Ocean County, New Jersey" dated June 28, 2007 containing two sheets; signed and sealed on June 29, 2007 by Robert J. Romano, was entered into evidence as exhibit A-2. The review letter from Owen, Little & Associates, Inc., under signature of Frank J. Little, Jr., PE, PP, CME, and dated July 11, 2007 was entered into evidence as exhibit B-1. Testimony was offered by Robert J. Romano, P.E., the applicants' engineer; and by Christopher Vernon, a member of the applicant. There was not any public comment offered; and

WHEREAS, the Land Use Review Board after considering the Application, testimony of the witnesses, documentation entered into evidence, argument of counsel and public comment has made the following factual findings:

1. All jurisdictional requirements have been met.
2. The property is in the GC General Commercial Zone.
3. The Board approved the development of the subject property and adjacent properties for a multi family apartment use and restaurant facility'
4. The applicant commenced clearing the site of the original motel units; based upon timing and current market conditions; and as represented by applicants representatives at the prior presentation; the restaurant and bar facility was renovated by applicant. The Board finds that the work at the site performed by the applicant substantially improved the appearance of the site and entranceway to Long Beach Island. Applicants' in renovating and modifying the restaurant building and site; created a new parking schematic; they developed an area for take out meal pick up; they developed a new

patio area to use as with an outside bar. There was previously an outside pool bar at the site; applicants removed the pool and relocated the patio outside bar area.

5. Applicant in performing the improvements and work at the site; did not obtain and finalize all permitting required for the extent of the work at the site. Applicant subsequently and prior to being heard, attended to perfecting their permits. Applicant made reference to continuing the restaurant use at the site pending the commencement of construction of the approved multi family development.
6. Based upon the extent of the modifications to the site; the reconfiguration and addition of parking; the proposed use of a take out parking and staging area and the construction of the patio and outside bar; the applicant filed this application requesting approvals of the interim, and modified configuration and use of the site.
7. Due to certain economic trends and constraints; applicant has decided to delay the actual construction and redevelopment of the site. Applicant also is awaiting finalization of outside agency approvals to permit the multi family development. CAFRA has yet to approve the project and issue their letter of approval.
8. Applicant has removed most of the guest rooms from the site; they renovated the two story restaurant area; currently they plan to use the second floor as restaurant and banquet facilities; the first floor has a bar and restaurant use. The applicant also created an outside patio area with tables and an outside bar.
9. In revising the parking area; applicant has surfaced the site with crushed shells; they have provided a fenced in trash area; and they have provided handicapped parking.
10. The current work performed by applicant does not include any increase in the building size. The actual construction involved the demolition of the bulk of the motel area and the renovations of the existing and remaining portion of the building; specifically the restaurant and bar area. The interior of the building was refitted to accommodate applicants' restaurant and banquet uses.
11. The non conforming side yard setbacks and lot width are not being expanded or reduced as a result of applicants renovations.
12. The board adopts as if set forth herein at length its findings as set forth in Resolution Docket No. 06:16 SP/V.
13. The applicant is providing adequate parking at the site; as enumerated in the plans submitted and review letter of the Board Engineer.
14. Applicant currently intends to continue with a family style buffet restaurant at the site with hours of operation of 5:00PM to 9:00PM;

between June and September; the bar business will be incidental thereto. Applicant proposes to utilize the site as a venue for weddings and other private functions on a year round basis. The outside bar and patio will be used in conjunction with the restaurant use and for cocktail hours during weddings and other parties.

15. Applicants' have eliminated the nightclub use at the site; they have rendered the property ADA accessible; and have brought the systems up to current fire and safety codes.
16. Notwithstanding the parking as set forth on the plans; applicant has additional parking at the CVS location, as part of a cross easement agreement and at property across 9th Street owned by the applicant.
17. The outside patio area is adjacent to the parking lot; when alcohol is being served applicant will make arrangements to have the area policed or controlled with fencing to assure that alcohol consumption is contained within the designated area; and to assure that minors are not gaining improper access to the area.
18. The Board is not ruling on the propriety of the outside bar as it pertains to the sale and consumption of alcohol, or on any other alcohol related issues; this application and any approvals contained herein will be subject to the jurisdictions of the Borough of Ship Bottom and the New Jersey Alcohol Control Board.
19. Applicant's representative offered testimony that live music may be used at the outside bar and patio area during weddings and other functions. That music will not be extended into the later evening hours, past 9:00 PM. Any other music at that area will not be amplified. Applicant will also adhere to all Borough Ordinances; if noise from the outside bar and patio area creates any burden upon the Police Department; the approval of the outside seating and bar area may be revisited by the Board.
20. Applicant has agreed to comply with all conditions as set forth in the report of Owen, Little & Associates, Inc. as entered into evidence as exhibit B-1.
21. All signage and lighting shall meet Borough Ordinances; applicant has not requested any variances or waivers from those requirements; and

WHEREAS, the Land Use Review Board of the Borough of Ship Bottom has determined that the relief requested by the applicant, The Baldwin Residence, LLC, for Preliminary and Final Miner Site Plan approvals to permit the continued use and development of the site as a bar and restaurant, together with a relocated outside bar and seating area; with a limited amount of rooms, all as set forth on the plans; at the Quarter Deck property known and designated as Lots 6 & 8, Block 103 located at 338-380 West

8th Street and 354 West 9th Street, Ship Bottom, Ocean County, New Jersey, in accordance with the plans of Ernst, Ernst & Lissenden, entered into evidence as Exhibits A-2, located in the GC General Commercial Zone can be granted without substantial detriment to the public good and without impairing the intent and purposes of the zone plan and zoning ordinances of the Borough of Ship Bottom, as the proposal of the Applicant improves the site and represents a continuation of the existing use; with less impact as a result of the demolition which was performed.

NOW, THEREFORE, BE IT RESOLVED by the Land Use Review Board of the Borough of Ship Bottom that the application of The Baldwin Residence, LLC, for Preliminary and Final Miner Site Plan approvals to permit the continued use and development of the site as a bar and restaurant, together with a relocated outside bar and seating area; with a limited amount of rooms, all as set forth on the plans; at the Quarter Deck property known and designated as Lots 6 & 8, Block 103 located at 338-380 West 8th Street and 354 West 9th Street, Ship Bottom, Ocean County, New Jersey, in accordance with the plans of Ernst, Ernst & Lissenden, entered into evidence as Exhibits A-2, be and hereby is, conditionally approved.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon Applicant's compliance with all terms and conditions of the letter of the Board Engineer, Frank J. Little, Jr., P.E., P.P., and C.M.E., dated July 11, 2007, as entered into evidence as exhibit B-1; and applicant complying with all other technical revisions as may be required by the Board engineer.

BE IT FURTHER RESOLVED that the Board has not addressed any of the issues pertaining to the liquor license being used at the property; this approval is subject to and conditioned upon applicant complying with all terms and conditions imposed by the Borough of Ship Bottom and the New Jersey Alcohol Beverage Control Board regarding the privileges and restrictions of owning and using the liquor license and any validity of same.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon all construction at the property conforming to FEMA requirements and all building, fire and safety Codes.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon Applicant obtaining all requisite permits and Applicant complying with all Federal, State and Local rules regulations and statutes and ordinances effecting this development.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon applicant obtaining all outside agency approvals from all agencies having jurisdiction over this development, including but not limited to Ocean County Planning

Board; Ocean County Soil Conservation District and from the Ship Bottom Water and Sewer Departments; the New Jersey Alcohol Beverage Commission and the Board of Commissioner and Construction and Zoning Departments of the Borough of Ship Bottom..

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon Applicant's payment of all taxes and all other applicable assessments, and Applicant satisfying all fees and escrow fees as may be required. Applicant shall also pay and post all inspection fees, performance guarantees and maintenance bonds as may be required, in amounts established by the Borough Engineer, and in such form as required by the Borough Solicitor.

BE IT FURTHER RESOLVED that this approval is subject to the condition that the outside seating area, patio and bar shall be used in conjunction with the restaurants hours of operation; that it will be used during cocktail hours at weddings and other private functions; that there will not be live music conducted therein past 9:00 PM; that all music shall not be amplified and that in the event the use of the outside area creates a burden upon the Borough of Ship Bottom and its police department; the Land Use Board may revisit this approval. Applicant shall comply with all noise ordinances affecting the site. Applicant shall also police the area of the outside patio, during its use, to assure safe access and egress to the adjacent parking area; limiting the use and consumption of alcoholic beverages to those legally authorized to partake; and limiting same to the confines of the restaurant and patio areas.

BE IT FURTHER RESOLVED that the Applicant is required to comply with all ordinances of the Borough of Ship Bottom, and failure to specify compliance herein shall not be deemed a waiver or recommendation by the Land Use Board with respect to Borough Ordinances, including the Zoning Ordinances.

BE IT FURTHER RESOLVED that this approval is subject to all conditions as set forth herein and at the public hearing and all representations as placed on the record at the public hearing conducted on July 16, 2007 when this matter was considered.

BE IT FURTHER RESOLVED that all other conditions of approval under Docket #07-10 adopted on 7/19/2007 are confirmed herein; this approval is an interim approval until the aforementioned approved development is commenced or modified.

Lillian Lorman
LILLIAN LORMAN, SECRETARY

-CERTIFICATION-

I, Lillian Lorman, Secretary of the Land Use Review Board of the Borough of Ship Bottom, County of Ocean and State of New Jersey, do certify that the foregoing is a true copy of a Resolution adopted by the Land Use Review Board of the Borough of Ship Bottom at a public meeting held on September 19, 2007..

Lillian Lorman
LILLIAN LORMAN, SECRETARY

Adopted: September 19, 2007
Moved By: Mr. Covert
Seconded By: Mrs. Tallon

Roll call vote: Tallon, Price, Stockton, Butkus and Covert, Aye
to approve this application.

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Exhibit D

**RESOLUTION OF MEMORIALIZATION OF THE
LAND USE REVIEW BOARD OF THE BOROUGH OF SHIP BOTTOM
COUNTY OF OCEAN AND STATE OF NEW JERSEY
DOCKET NO. 2015:04 SP/V**

WHEREAS, The Baldwin Residence, LLC has made application to the Land Use Review Board of the Borough of Ship Bottom to modify and amend the previously granted Variances and Site Plan approvals; and for variances and preliminary and final Major Site Plan approval for the development of Lot 6 Block 103 located at 338-380 West 8th Street including Lot 3 Block 103 354 West 9th Street (pertaining to usage of 19 parking spaces on that property occupied by the CVS Pharmacy) in the Borough of Ship Bottom, County of Ocean and State of New Jersey to develop the site with a three story extended stay hotel with 105 suites inclusive of kitchenettes, a pantry area for the preparation of food, a lounge and bar area, meeting rooms, a fitness room, two swimming pools, and a roof top terrace and deck, at a finished height of 52' feet 10" inches for the elevator and stair towers, and mechanicals and at 48' feet 11" inches to the top of the roof deck railings; and

WHEREAS, the Land Use Review Board considered this application at a public hearing conducted on February 18, 2015. The applicant was represented by Reginald J. Raban, Esq. The application dated January 26, 2015 was entered into evidence as exhibit A-1; the plan prepared by Horn, Tyson & Yoder, Inc. Consulting Engineers, Surveyors- Planners titled "Amended Prel. and Final Site Plan Tax Block 103 Lot 6 Tax Map Sheets #17 Ship Bottom Borough, Ocean County, New Jersey" dated January 23, 2015 containing four (4) sheets; under signature and seal of Robert J. Romano, P.E. was entered into evidence as Exhibit A-2; architectural plans prepared by Minno & Wasko ,Architects and Planners titled "Hotel LBI (Extended Stay Hotel) Borough of Ship Bottom, Ocean County, New Jersey dated January 22, 2015 consisting of drawing A-1 Ground Floor Plan, drawing A-2 First and Second Floor Plans, drawing A-3 Third Floor and Roof Plans, and drawing A-4 (2 sheets) Concept Elevations was entered into evidence as Exhibit A-3; a colored dimensional rendering prepared by Craig W. Brearley, Architect, was entered into evidence as Exhibit A-4; the colored dimensional rendering prepared by Craig W. Brearley, Architect, as above, with elevations and heights depicted by virtue of red lines and labeling was entered into evidence as Exhibit A-5; color coded reductions of drawings A-1, A-2 and A-3 as contained in the aforementioned plans prepared by Minno and Wasko Architects and Planners was entered into evidence as Exhibit A-6. The review letter from Owen, Little & Associates, Inc., under signature of Frank J. Little, Jr., PE, PP, CME, and dated February 11, 2015 was entered into evidence as Exhibit B-1. Resolution of Memorialization of the Land Use Board of the Borough of Ship Bottom County of Ocean and State of New Jersey Docket No. 06:16 SP/V adopted on November 15, 2006 was entered into evidence as Exhibit J-1 and Resolution of Memorialization of the Land Use Board of the Borough of Ship Bottom County of Ocean and State of New Jersey Docket No. 2007:10 SP/V adopted on September 19, 2007 was entered into evidence as Exhibit J-2. Testimony was offered by Robert J. Romano, P.E., applicants' engineer; Christopher Vernon, a member of the applicant, David Minno, applicant's architect, Elizabeth Dolan, applicant's traffic engineer, a partner in Dolan and Dean Consulting Engineers, Tiffany Cuvillo, applicants Professional Planner . Public comment was offered by Olev Allikmaa, Allison Allikmaa, Debra Hough, Linda Emanuel, Kenneth Fornica, and Barbara Bishop; and

WHEREAS, the Land Use Review Board after considering the Application, testimony of the witnesses, documentation entered into evidence, argument of counsel and public comment has made the following factual findings:

1. All jurisdictional requirements have been met.
2. The property is in the GC General Commercial Zone.
3. The Board had previously approved the development of the subject property and adjacent properties for a multi family apartment use and restaurant facility under Resolution of Memorialization Docket Number 06:16 SP/V adopted on November 15, 2006. That approval was thereafter modified to permit the reconfiguration of the bar and restaurant area together with an outside bar and patio; acknowledging that the construction of the approved multifamily uses would subsequently be constructed, under Resolution of Memorialization Docket Number 2007:10 SP/V adopted on September 19, 2007.
4. Applicant now appears before the board with a revised plan for the development of the property. Currently the property is being used as a restaurant/bar/banquet facility with ten (10) guest rooms. Applicant now proposes to clear the site completely and construct an extended stay hotel facility upon the property containing 105 guest rooms or suites. The proposed configuration includes three stories with 47 studio suites, 28 one bedroom units; 26 two bedroom units and 4 two bedroom units with dens. All of the rooms will have kitchenettes. The facility will have meeting rooms; and a pantry for food preparation and an area for meal service, a lounge and a bar. There will be a fitness area and swimming pools as reflected on the plan. There will also be a rooftop deck. Parking is proposed at grade and will be located below the facility.
5. The grade level will contain a parking garage with 126 spaces; an entrance lounge and lobby area, storage facilities and a mail/package area.
6. The parking spaces located in the garage have dimensions of 8.5' feet x 18' feet; contrary to the design standards of 9' feet x 18' feet. Applicant is requesting a design waiver for these parking spaces. According to Applicant's traffic expert, 8.5' wide parking spaces are recommended for the local turnover use, as proposed herein. The reduction in space size increases the parking capacity.
7. The underground garage area also provides for two (2) aisle widths of 22' feet contrary to design standards of 24' foot aisle widths. Applicant is requesting a design waiver for this condition. Applicant's experts testified that the narrower aisle widths for the underground garage area are appropriate due to the anticipated limited movements therein.
8. The plan also provides for ten (10) outside parking spaces inclusive of ADA compliant spaces.
9. Applicant, under a deed restriction also has 19 parking spaces off site at Lot 3 Block 103, the property operated by the CVS Pharmacy.
10. The site is preexisting and prior approvals were granted in 2006 for the existing lot width of 130+/- feet; the proposed five (5') foot side yard setback; the proposed 15' foot front yard setback; and the proposed 5' foot

rear yard setback. Applicant's current plan proposes building coverage of 67% where 35% percent is permitted, and variance relief was previously granted for 56% percent. The current proposal provides for impervious coverage of 84% where 80% is permitted; variance relief is requested. The prior approval by applicant provided impervious coverage of 77%, conforming to the ordinance.

11. Applicant is also requesting variance relief to permit 105 extended stay hotel units at the site; according to the Board Engineer/Planner the permitted number of units is 73. The proposed units also have kitchenettes, which are prohibited in hotel/motel rooms; and the proposal by applicant includes extended stay guests, who may occupy the property for more than thirty (30) days, which is not permitted. Applicant has requested a special reasons variance under NJSA 40:55D-70D for the increase in density, installation of kitchens, and for the extended occupancy past thirty (30) days.
12. The height of the proposed building is 48 feet and 10 inches to the top if the cupolas and roof railing system; the height to the top of the elevator, stair and mechanical towers is 52' feet and 10" inches. Applicant is requesting variance relief.
13. The additional height results from the construction of a parking garage at grade, beneath the building; the maintenance of nine (9') foot ceilings, which architecturally and aesthetically improve the habitability and appearance of the building and allow for transom windows in the rooms; from the installation of a mansard roof and corner turrets; and from the installation of a rooftop deck and terrace with landscaped courtyards, and a rail system. The stair towers, exterior mechanicals and elevator towers require additional height to 53' feet 10" inches for those limited components. Variance relief was previously granted to permit a height of 44.5' feet.
14. The creation of the parking under the building and the landscaping proposed around the building create an attractive site which will enhance the entranceway to Long Beach Island, and the Borough of Ship Bottom.
15. The architectural details provided to the exterior of the building, including the stone at grade; the rail designs at the individual balconies; the windows, metal roofs, and the offsets built into the design create a positive visual environment to the location.
16. Applicant can modify the plans to meet the 80% per cent impervious building coverage, as required by ordinance, and has withdrawn the request for that variance.
17. Notwithstanding the increase in density, and without utilization of the offsite parking spaces; applicant conforms to the parking requirement of 132 spaces for 105 guest rooms. 136 onsite parking spaces are provided, and there is parking available at Lot 3 for any overflow; and there is additional parking located at applicant's property across 9th Street for valet or employee parking, if required by Applicant.
18. The hotel proposal before the board will have less of a traffic impact than the previously approved uses.

19. The Board acknowledges that there is a need for additional hotel/motel rooms within the Borough and on Long Beach Island.
20. The traffic impact of the proposed use will not be deleterious or create an unreasonable impact upon the area. The design of the ingress and egress from the service road on 8th Street is mandated as a result of the pending plans of the New Jersey Department of Transportation to modify the traffic patterns in this area.
21. The site and its location are suited for the proposed use, which is a conforming use, however, with nonconforming conditions. The kitchenettes in the rooms, based upon the design and sizes proposed are acceptable at this site; as multifamily uses are also permitted; the increase in the number of units is acceptable, due to applicant provided parking in excess of the parking required under the ordinance; and the extended stay in excess of 30 days should be of little import at this location. The site is suited for this development, as it is somewhat isolated; and large enough to accommodate the proposal.
22. The storage areas designated in the garage area are for storage of supplies and equipment pertinent to the hotel use; not for guest use.
23. The trash and refuse will be managed by the operation of the facility; there is a designated area in the garage for the storage of trash and refuse; and it will be removed by private carting company. Applicant will provide for storage and removal of recyclable materials at the same designated area.
24. The Board adopts the contents of the February 11, 2015 letter from Owen Little and Associates as if set forth herein at length.
25. Applicant is requesting a waiver to provide the 49 feet and 50 feet wide entranceways; where 24 ' feet is permitted; the two entranceways provided meet the requirements of the Department of Transportation; and predicated upon the limitations to the site, are required by applicant for adequate access and egress to and from the parking area under the building.
26. Applicant shall provide curbs and sidewalks around the parameter of the site, and a note shall be added to the plan providing for the installation, and for the replacement of any portion of the curb or sidewalk that is deteriorated, or below current design standards.
27. Applicant shall provide a drainage plan and details to be approved by the Board engineer. The building will be constructed with roof drains, and adequate drainage piping shall be installed at the site in accordance with a storm water management plan to be designed by applicant and approved by the Board engineer.
28. Applicant proposes certain turf and grass areas, together with landscaping at the site; applicant will provide a landscaping plan to be approved by the Board engineer.
29. All signage shall conform to Borough Ordinances; applicant proposes that the signage shall be on the building; however all signage shall be subject to permitting and adherence to the ordinance requirements.
30. Applicant proposes to install low level lighting, all lighting shall be approved by the Board engineer; and meet all code requirements, applicant

will assure that all lighting is properly shielded not to have any impact upon the traffic and neighboring developments. All lighting shall conform to the requirements of the ordinances of the Borough.

31. All construction shall conform to all FEMA requirements; together with all building, fire and safety codes.
32. The non conforming side yard setbacks and lot width are not being expanded or reduced as a result of applicants renovations.
33. The applicant is providing adequate parking at the site; as enumerated in the plans submitted and the review letter of the Board Engineer.
34. Applicant has agreed to comply with all conditions as set forth in the report of Owen, Little & Associates, Inc. as entered into evidence as Exhibit B-1.
35. All signage and lighting shall meet Borough Ordinances; applicant has not requested any variances or waivers from those requirements.; and

WHEREAS, the Land Use Review Board of the Borough of Ship Bottom has determined that the relief requested by the applicant, The Baldwin Residence, LLC, for Preliminary and Final Minor Site Plan approvals to permit the development of the site with a three story extended stay hotel with 105 suites inclusive of kitchenettes, a pantry area for the preparation of food, a lounge and bar area, meeting rooms, a fitness room, two swimming pools, and a roof top terrace and deck at a finished height of 52' feet 10' inches for the elevator and stair towers, and mechanicals and at 48' feet 11' inches to the top of the roof deck railings at property known and designated as Lots 6 Block 103 located at 338-380 West 8th Street and 354 West 9th Street, Ship Bottom, Ocean County, New Jersey, in accordance with the plans of Horn, Tyson & Yoder, dated January 23 2015 entered into evidence as Exhibits A-2, plans of Minno & Wasko ,Architects and Planners and drawings of Craig W. Brearley, entered into evidence, located in the GC General Commercial Zone can be granted without substantial detriment to the public good and without impairing the intent and purposes of the zone plan and zoning ordinances of the Borough of Ship Bottom, as the proposal of the Applicant provides an improved visual environment to the Borough, the location of the site and set off of the building from the road, should alleviate any negative impact of the height, the parking is hidden from view, landscaped areas around the building will be installed, the building is an aesthetic improvement to the area and Long Beach Island, promoting a desirable visual effect; the applicant is providing adequate parking pursuant to the ordinances; the property is surrounded by roads on three sides; the addition of rooms and lodging is beneficial to the Borough, the concept of an extended stay hotel at this area is acceptable, as multifamily uses are also permitted in the GC Zone. The creation of this proposed building and the use meets the intent of the Master Plan and should enhance tourism in the area.

NOW, THEREFORE, BE IT RESOLVED by the Land Use Review Board of the Borough of Ship Bottom that the application of The Baldwin Residence, LLC, for Preliminary and Final Minor Site Plan approvals to permit the development of the site with a three story extended stay hotel with 105 suites inclusive of kitchenettes, a pantry area for the preparation of food, a lounge and bar area, meeting rooms, a fitness room, two swimming pools, and a roof top terrace and deck at a height of 48' feet 10" inches to the roof deck and 52' feet 10' inches to the top of the elevator and stair towers and mechanicals, at property known and designated as Lots 6 & 8, Block 103 located at 338-380 West 8th Street and 354 West 9th Street, Ship Bottom, Ocean County, New Jersey, in accordance with the plans of Horn, Tyson & Yoder, dated January 23

2015 entered into evidence as Exhibits A-2; and architectural plans and drawings of Minno and Wasko and Craig W. Brearley entered into evidence, be and hereby is, conditionally approved.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon Applicant's compliance with all terms and conditions of the letter of the Board Engineer, Frank J. Little, Jr., P.E., P.P., and C.M.E., dated February 11, 2015, as entered into evidence as Exhibit B-1; and applicant complying with all other technical revisions as may be required by the Board engineer.

BE IT FURTHER RESOLVED that the Board has not addressed any of the issues pertaining to the liquor license being used at the property; this approval is subject to and conditioned upon applicant complying with all terms and conditions imposed by the Borough of Ship Bottom and the New Jersey Alcohol Beverage Control Board regarding the privileges and restrictions of owning and using the liquor license.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon all construction at the property conforming to FEMA requirements and all building, fire and safety Codes.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon Applicant obtaining all requisite permits and Applicant complying with all Federal, State and Local rules regulations and statutes and ordinances effecting this development.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon applicant obtaining all outside agency approvals from all agencies having jurisdiction over this development, including but not limited to Ocean County Planning Board; Ocean County Soil Conservation District and from the Ship Bottom Water and Sewer Departments; the New Jersey Alcohol Beverage Commission and the Board of Commissioner and Construction and Zoning Departments of the Borough of Ship Bottom..

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon Applicant's payment of all taxes and all other applicable assessments, and Applicant satisfying all fees and escrow fees as may be required. Applicant shall also pay and post all inspection fees, performance guarantees and maintenance bonds as may be required, in amounts established by the Borough Engineer, and in such form as required by the Borough Solicitor.

BE IT FURTHER RESOLVED that this approval is subject to the condition that there shall not be any alcohol on the roof deck past midnight on Sunday through Thursday; and that there shall not be any amplified music outside of the facility.

Applicant shall comply with all noise ordinances of the Borough of Ship Bottom.

BE IT FURTHER RESOLVED that the Applicant is required to comply with all ordinances of the Borough of Ship Bottom, and failure to specify compliance herein shall not be deemed a waiver or recommendation by the Land Use Board with respect to Borough Ordinances, including the Zoning Ordinances.

BE IT FURTHER RESOLVED that this approval is subject to all conditions as set forth herein and at the public hearing and all representations as placed on the record at the public hearing conducted on February 15, 2015 when this matter was considered.

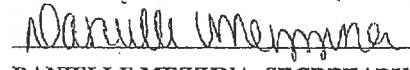
BE IT FURTHER RESOLVED that applicant shall provide revised plans confirming that the impervious coverage shall not exceed 80%. The plans shall also note that should any sidewalks and curbs be deteriorated or not meet current design standards, they shall be replaced in accordance with Borough standards and as directed by the Borough Engineer. Variance relief is granted to permit 105 rooms; permitting kitchenettes in the rooms, and guests to stay at the facility in excess of 30 days. Applicant is granted variance relief to provide building coverage of 67%; and to construct the building to a height of 48'feet 10" inches to the top of the roof deck and to 52' feet 10" inches to the top of the elevator and stair towers and for mechanicals. Waivers are granted to permit parking stall size of 8.5' x 18' feet in the parking garage, and to maintain 22' foot aisle widths in the parking garage; and to provide 49' and 50' foot curb cuts at the entrances.

BE IT FURTHER RESOLVED that the approvals herein are subject to and conditioned upon applicant providing a storm water management plan, including piping and roof drains on the building, acceptable and approved by the Board Engineer; applicant submitting a landscape plan approved by and acceptable to the Board Engineer; all lighting and signage shall conform with Borough Ordinances; and all lighting shall be glare proof and mounted in such a fashion not to interfere with the traffic surrounding the property or developments surrounding the property.

Adopted: March 18, 2015
Moved By: Mr. Hay
Seconded By: Mr. Cooper
Roll Call Vote: English, Hay, Stockton, Dixon, Cooper, Tallon and Butkus all aye.

-CERTIFICATION-

I, Danielle Mezzina, Secretary of the Land Use Review Board of the Borough of Ship Bottom, County of Ocean and State of New Jersey, do certify that the foregoing is a true copy of a Resolution adopted by the Land Use Review Board of the Borough of Ship Bottom at a public meeting held on March 18, 2015.


DANIELLE MEZZINA, SECRETARY

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Exhibit E

**RESOLUTION OF MEMORIALIZATION OF THE
LAND USE REVIEW BOARD OF THE BOROUGH OF SHIP BOTTOM
COUNTY OF OCEAN AND STATE OF NEW JERSEY
DOCKET NO. 2017:01 SP/V**

WHEREAS, The Baldwin Residence, LLC has made application to the Land Use Review Board of the Borough of Ship Bottom to further modify and amend the previously granted Variances and Site Plan approvals; and for variances and preliminary and final Major Site Plan approval for the development of Lot 6 Block 103 located at 338-380 West 8th Street including Lot 3 Block 103 354 West 9th Street (pertaining to usage of 19 parking spaces on that property occupied by the CVS Pharmacy) in the Borough of Ship Bottom, County of Ocean and State of New Jersey to relocate the building on the property; maintain the previously approved 105 guest rooms; and to continue to utilize the facility as a banquet hall for receptions, maintain the approved lounge restaurant and bar area; and eliminating one of the approved swimming pools. All previously approved variances will continue; applicant has modified the room layout and provided additional parking spaces to accommodate the proposed use; and is requesting additional variance relief to maintain a 0 foot setback at the west from the proposed covered porch and a 3 foot setback from 9th Street to the swimming pool room; and

WHEREAS, the Land Use Review Board considered this application at a public hearing conducted on January 18, 2017. The applicant was represented by James S. Raban, Esq. The application dated December 23, 2016 was entered into evidence as Exhibit A-1; the plans prepared by Stout and Caldwell Engineers, LLC titled "Amended Preliminary / Final Site Plans for the Hotel LBI Tax Block 103, Lot 6 Tax Map Sheet 17 380 West 8th Street Borough of Ship Bottom, Ocean County, New Jersey" dated December 19, 2016 containing five (5) sheets; under signature and seal of Robert R. Stout, PE, PLS was entered into evidence as Exhibit A-2; architectural plans prepared by Dever Architects and Craig W. Brearley, AIA, Architect titled "Hotel LBI (Extended Stay Hotel) Borough of Ship Bottom, Ocean County, New Jersey dated/submitted December 21, 2016 consisting of drawing A-1 Ground Floor Plan; drawing A-2 First Floor Plans; drawing A-3 Second Floor Plans; drawing A-4 Third Floor Plans; drawing A-5 Roof Plan" and drawing A-6 Building Elevations; all under signature and seal of Thomas J. Dever, Registered Architect was entered into evidence as Exhibit A-3; a seven (7) page colored pamphlet with the first page being a computer rendering of the west elevation of the proposed building; the second page being a reduction of sheet A-1 of Exhibit A-3; the third page being a reduction of sheet A-2 of Exhibit A-3; the fourth page being a reduction of sheet A-3 of Exhibit A-3; the fifth page being a reduction of sheet A-4 of Exhibit A-3; the sixth page being a reduction of sheet A-5 of Exhibit A-3 the seventh page being a reduction of the cover page of Exhibit A-2 was entered into evidence as Exhibit A-4. The review letter from Owen, Little & Associates, Inc., under signature of Frank J. Little, Jr., PE, PP, CME, and dated January 11, 2017 was entered into evidence as Exhibit

B-1. The Board has taken notice of prior approvals as set forth in Resolutions of Memorialization 2006:16 SP/V; 2007:10 SP/V and 2015:04 SP/V. Testimony was offered by Christopher Vernon, member of applicant; Robert R. Stout, PE, PLS applicants Engineer and Surveyor; Tiffany Cuviello, applicants Professional Planner; Craig W. Breatley and Jeffrey J. Pack applicants Architects. Public comment was offered by Walter Arosemowicz; and

WHEREAS, the Land Use Review Board after considering the Application, testimony of the witnesses, documentation entered into evidence, argument of counsel and public comment has made the following factual findings:

1. All jurisdictional requirements have been met.
2. The property is in the GC General Commercial Zone.
3. The Board had previously approved the development of the subject property and adjacent properties for a multi family apartment use and restaurant facility under Resolution of Memorialization Docket Number 06:16 SP/V adopted on November 15, 2006. That approval was thereafter modified to permit the reconfiguration of the bar and restaurant area together with an outside bar and patio; acknowledging that the construction of the approved multifamily uses would subsequently be constructed, under Resolution of Memorialization Docket Number 2007:10 SP/V adopted on September 19, 2007; thereafter the approvals were modified to permit the development of the site with an extended stay hotel facility with 105 guest rooms; a meeting room; kitchen and area for meal services; a lounge and a bar; a rooftop deck; fitness facilities and two swimming pools under Resolution of Memorialization 2015-04SP/V adopted March 18, 2015.
4. Applicant now appears before the board with a revised plan for the development of the property.
5. Applicant proposes to construct the 105 guest rooms previously approved; however the delineation of the rooms has been modified with more studio units than previously approved; 86 studio units; 8 one bedroom units; 9 two bedroom units and 2 bridal suites are now proposed. Applicant proposes to continue operating a banquet/reception facility at the property together with a restaurant, when not being used for banquets. The layout of the first floor has been modified to provide an area to the west for guest billiards, library and guest lounge totaling 3,839 square feet; a conservatory or banquet area of 3,809 square feet is provided; a breakfast and dining area for a restaurant use is

provided; and an interior swimming pool is provided. The second swimming pool was eliminated from the plan. There is a ~~covered patio~~ ~~provided~~ with the current design, which also will be utilized for the banquet and restaurant uses. Applicant will also provide a roof top deck, subject to the restrictions and requirements set forth in prior Resolutions of approval.

6. As a result of the requirements of the New Jersey Department of Transportation the frontage on the property at 9th Street may not be utilized for access and egress; a solid curb line is required.  All access and egress is mandated at 8th Street. Applicants revised their plan; shifting the building to toward the South to accommodate the traffic pattern on 8th Street.
7. As a result of shifting the building, the set back at the pool structure is 3' where 15' feet was previously approved; the front yard setback to the west is proposed at 0' feet to the covered patio; the plan provides for an offset; as requested by the Board Engineer.
8. The Board adopts the contents of the review letter from Owen Little and Associates, Inc. dated January 11, 2017, entered into evidence as Exhibit B-1 as if set forth herein at length.
9. The circulation on 8th Street is one way; applicant has provided for two way circulation within the site.
10. The addition of banquet facilities in conjunction with the approved hotel use mandates additional parking spaces for a total of 200 parking spaces; applicant is providing 205 parking spaces pursuant to the plans before the Board. The Board notes that 19 of the parking spaces are located at Lot 3 Block 103; pursuant to a deed restriction; and as part of prior development approvals.
11. As a result of the relocation of the building and modifications to the use and parking; applicant has provided an exterior trash management area at the westerly terminus of the building at 8th Street.
12. Exterior lighting shall conform to Borough Ordinances and shall be located upon approval of the Board Engineer. Applicant proposes substantial landscaping at the site; inclusive of tiered landscaping on 9th Street; All landscaping shall be approved by the Board engineer; prior to installation. The lighting at the site shall be designed and located to not have any impact upon the traffic flow around the site.
13. Applicant proposes to utilize valet parking services for banquets at the property.

14. There are two means of access and egress proposed on 8th Street; the State will not permit any access or egress from 9th Street.
15. The proposal by applicant is aesthetically pleasing; there will not be any impairment to the light and air of adjoining properties; as the property is surrounded by three streets. The banquet/reception use is permitted at the site; and applicant has addressed the additional parking requirements.
16. Applicant will be providing sprinklers throughout the building, inclusive of the ground floor parking level.
17. Applicants will amend the plans to provide for adequate signage delineating the access and egress; and parking requirements.
18. Applicant will be providing six (6') foot sidewalks around the property.
- 19. The restaurant at the site will be limited to hotel guests only when a banquet or reception is taking place.
20. The Board reiterates its findings as set forth in Resolution 2015-04 when the extended stay hotel was approved; with modifications as set forth herein for the setback variance of 0 feet to the west; with an offset, and for a 3' foot setback to the swimming pool room from 9th Street; the increase in parking and the proposal to maintain the banquet/reception use in conjunction with the 105 room hotel use; and

WHEREAS, the Land Use Review Board of the Borough of Ship Bottom has determined that the relief requested by the applicant, The Baldwin Residence, LLC, for Preliminary and Final Minor Site Plan approvals to amend the approval set forth in Resolution 2015-04 to permit the shifting of the building to the south; with access and egress solely from 8th Street; provide a westerly front yard setback of 0 feet to the covered porch; and 3' foot setback to the swimming pool room from 9th Street; and to continue to provide banquets and receptions at the property; with the reconfiguration of the guest rooms and to provide banquet and guest facilities as set forth on the first floor plan of Exhibit A-3 in conjunction with the approved 105 room hotel and all variances previously granted from coverage, setback and building height requirements; at property known and designated as Lots 6 Block 103 located at 338-380 West 8th Street and 354 West 9th Street, Ship Bottom, Ocean County, New Jersey, in accordance with the plans of Stout and Caldwell Engineers, LLC titled "Amended Preliminary / Final Site Plans for the Hotel LBI Tax Block 103, Lot 6 Tax Map Sheet 17 380 West 8th Street Borough of Ship Bottom, Ocean County, New Jersey" dated December 19, 2016 containing five (5) sheets; under signature and seal of Robert R. Stout, PE, PLS was entered into evidence as Exhibit A-2 and architectural plans prepared by Dever Architects and Craig W. Brearley, AIA, Architect titled "Hotel LBI (Extended Stay Hotel) Borough of Ship Bottom, Ocean

County, New Jersey dated/submitted December 21, 2016 entered into evidence as Exhibit A-3 can be granted without substantial detriment to the public good and without impairing the intent and purposes of the zone plan and zoning ordinances of the Borough of Ship Bottom, as the board reiterates its findings in Resolution 2015-04 and further finds that the relocation of the building as mandated by the New Jersey Department of Transportation will provide adequate access and egress, subject to applicant utilizing the services of valet parking during banquets and events; the banquet/reception use of the property is permitted in the zone and applicant has provided adequate parking to support that use at the site. The setbacks at 9th Street from the swimming pool room of 3' feet will be to an elevated area; and will not impede light air and open space; nor will the 0 foot setback to the West of the property; as the covered porch will be elevated; and there will be substantial landscaping surrounding the site at that location. As previously decided by the Board, the creation of this proposed building and the use meets the intent of the Master Plan and should enhance tourism in the area.

NOW, THEREFORE, BE IT RESOLVED by the Land Use Review Board of the Borough of Ship Bottom that the application of The Baldwin Residence, LLC, for Preliminary and Final Miner Site Plan approvals to amend the approvals set forth in Resolution 2015-04 to permit the shifting of the building to the south; with access and egress solely from 8th Street; provide a westerly front yard setback of 0 feet to the covered porch; and 3' foot setback from 9th Street to the swimming pool room; and to continue to provide banquets and receptions at the property; with the reconfiguration of the guest rooms and to provide banquet and guest facilities as set forth on the first floor plan of Exhibit A-3; in conjunction with the approved 105 room hotel with all variances previously granted from coverage, setback and building height requirements at property known and designated as Lots 6 & 8, Block 103 located at 338-380 West 8th Street and 354 West 9th Street, Ship Bottom, Ocean County, New Jersey, in accordance with the plans of Stout and Caldwell Engineers, LLC titled "Amended Preliminary / Final Site Plans for the Hotel LBI Tax Block 103, Lot 6 Tax Map Sheet 17 380 West 8th Street Borough of Ship Bottom, Ocean County, New Jersey" dated December 19, 2016 containing five (5) sheets; under signature and seal of Robert R. Stout, PE, PLS was entered into evidence as Exhibit A-2 and architectural plans prepared by Dever Architects and Craig W. Bearley, AIA. Architect titled "Hotel LBI (Extended Stay Hotel) Borough of Ship Bottom, Ocean County, New Jersey dated/submitted December 21, 2016 entered into evidence as Exhibit A-3, be and hereby is, conditionally approved.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon Applicant's compliance with all terms and conditions of the letter of the Board Engineer, Frank J. Little, Jr., P.E., P.P., and C.M.E., dated January 11,

2017, as entered into evidence as Exhibit B-1; and applicant complying with all other technical revisions as may be required by the Board engineer.

BE IT FURTHER RESOLVED that the Board has not addressed any of the issues pertaining to the liquor license being used at the property; this approval is subject to and conditioned upon applicant complying with all terms and conditions imposed by the Borough of Ship Bottom and the New Jersey Alcohol Beverage Control Board regarding the privileges and restrictions of owning and using the liquor license.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon all construction at the property conforming to FEMA requirements and all building, fire and safety Codes.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon Applicant obtaining all requisite permits and Applicant complying with all Federal, State and Local rules regulations and statutes and ordinances effecting this development.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon applicant obtaining all outside agency approvals from all agencies having jurisdiction over this development, including but not limited to Ocean County Planning Board; Ocean County Soil Conservation District and from the Ship Bottom Water and Sewer Departments; the New Jersey Alcohol Beverage Commission and the Mayor and Council and Construction and Zoning Departments of the Borough of Ship Bottom; and the New Jersey Department of Transportation.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon Applicant's payment of all taxes and all other applicable assessments, and Applicant satisfying all fees and escrow fees as may be required. Applicant shall also pay and post all inspection fees, performance guarantees and maintenance bonds as may be required, in amounts established by the Borough Engineer, and in such form as required by the Borough Solicitor.

BE IT FURTHER RESOLVED that this approval is subject to the condition that there shall not be any alcohol on the roof deck past midnight on Sunday through Thursday; and that there shall not be any amplified music outside of the facility. Applicant shall comply with all noise ordinances of the Borough of Ship Bottom.

BE IT FURTHER RESOLVED that the Applicant is required to comply with all ordinances of the Borough of Ship Bottom, and failure to specify compliance

herein shall not be deemed a waiver or recommendation by the Land Use Board with respect to Borough Ordinances, including the Zoning Ordinances.

BE IT FURTHER RESOLVED that this approval is subject to all conditions as set forth herein and at the public hearing and all representations as placed on the record at the public hearing conducted on January 18, 2017 when this matter was considered.

BE IT FURTHER RESOLVED that applicant shall comply with all terms and conditions set forth in Resolution 2015-04 SP/V except those conditions and approvals as modified herein.

BE IT FURTHER RESOLVED that the approvals herein are subject to and conditioned upon applicant providing a storm water management plan, including piping and roof drains on the building, acceptable and approved by the Board Engineer; applicant submitting a landscape plan approved by and acceptable to the Board Engineer; all lighting and signage shall conform with Borough Ordinances; and all lighting shall be glare proof and mounted in such a fashion not to interfere with the traffic surrounding the property or developments surrounding the property.

BE IT FURTHER RESOLVED that applicant is hereby granted additional variance relief for the development of the property to continue using same as a banquet/reception facility; a restaurant for hotel guests only when a banquet or reception is taking place; and a restaurant for the public when there are not any banquets or receptions at the facility; applicant may maintain a 0° set back to the west from the covered porch and a 3' setback to 9th Street from the swimming pool room. All prior variances granted to the property, except as modified herein, are reconfirmed. Applicant shall also provide adequate signage for access and egress, to be approved by the Board engineer. Valet parking shall be provided when banquets and receptions are being conducted at the property.

Date Approved: February 15, 2017

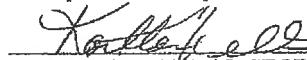
Motion: Mr. Hay

Second: Mr. Basile

Roll Call Vote: Basile, Bishop, Hay, Schmidt, Fenimore, Tallon and Cooper, all aye. Councilman Butkus, abstained. English, Dixon and Panetta, absent.

-CERTIFICATION-

I, Kathleen Wells, Secretary of the Land Use Review Board of the Borough of Ship Bottom, County of Ocean and State of New Jersey, do certify that the foregoing is a true copy of a Resolution adopted by the Land Use Review Board of the Borough of Ship Bottom at a public meeting held on February 15, 2017.



KATHLEEN WELLS, SECRETARY

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Exhibit F

**RESOLUTION OF MEMORIALIZATION OF THE
LAND USE REVIEW BOARD OF THE BOROUGH OF SHIP BOTTOM
COUNTY OF OCEAN AND STATE OF NEW JERSEY
DOCKET NO. 2018:13A SP/V**

WHEREAS, The Baldwin Residence, LLC has made application to the Land Use Review Board of the Borough of Ship Bottom to further modify and amend the previously granted Variances and Site Plan approvals; and for variances and preliminary and final Major Site Plan approval for the development of Lot 6 Block 103 located at 338-380 West 8th Street including Lot 3 Block 103 354 West 9th Street (pertaining to usage of 19 parking spaces on that property occupied by the CVS Pharmacy) in the Borough of Ship Bottom, County of Ocean and State of New Jersey to eliminate three (3) hotel rooms from the 105 hotel rooms previously approved, to permit an interior redesign to include a spa and salon for guest and public use; to permit the installation of a temporary tent upon the rooftop to enclose an area used in conjunction with receptions and events; to permit the placement of a "food truck" on the rooftop terrace for preparation and service of lite fare in conjunction with receptions and events; and to permit the use and storage of electric motor vehicle shuttles to transport hotel guests to and from the beach; subject to the terms of Section 5.40.090 of the Ship Bottom Municipal Code. All previously approved variances and site plan and development conditions, not modified herein shall continue in full force and effect; and

WHEREAS, the Land Use Review Board considered this application at a public hearing conducted on October 17, 2018. The applicant was represented by James S. Raban, Esq. The application dated August 29, 2018 was entered into evidence as Exhibit A-1; the plan prepared by Stout and Caldwell Engineers, LLC titled "Amended Preliminary / Final Site Plans Site Layout Plan Lot 6- Block 103 Tax Map Sheet #17 Land Situate in Ship Bottom Borough, Ocean County, New Jersey, Hotel LBI designated Sheet 3 of 11 with a final revision date of August 27, 2018 was entered into evidence as Exhibit A-2; a plan titled Partial Roof Plan – West W/Roof Tent Scale 1/8"=1'-0" Hotel LBI 8/27/18 was entered into evidence as Exhibit A-3; a document with a reduction of A-3 imposed at the top of the page and three photographs of the proposed tent and elevations of the proposed tent at the bottom of the page titled inspiration rooftop tent was entered into evidence as Exhibit A-4; a document with a reduction of A-3 imposed at the top of the page and three (3) photographs of food trucks at the bottom of the page titled inspiration rooftop was entered into evidence as Exhibit A-5; a document titled Spa Area Floor Plan Scale 1/8"=1'-0" Hotel LBI 8/27/18 was entered into evidence as Exhibit A-6; a plan prepared by Michele Pelafas, Inc. dated August 22, 2018 titled Hot Mess Studio/Hotel LBI- Long Beach Island, NJ Floor Plan was entered into evidence as Exhibit A-7; photographs of four (4) transport vehicles titled inspiration/ beach transportation was entered into evidence as Exhibit A-8; and a photograph of the proposed roof lounge area, covered by the proposed tent titled HOTEL LBI ROOFTOP GARDEN LOUNGE was entered into evidence as Exhibit A-9. The review letter from Owen, Little & Associates, Inc., under signature of Frank J. Little, Jr., PE, PP, CME, and

dated September 3, 2018 was entered into evidence as Exhibit B-1. The Board has taken notice of prior approvals as set forth in Resolutions of Memorialization 2006:16 SP/V; 2007:10 SP/V; 2015:04 SP/V; and 2017:01 SP/V. Testimony was offered by Christopher Vernon, member of applicant. Public comment was offered by Donna Edwards, and

WHEREAS, the Land Use Review Board after considering the Application, testimony of the witnesses, documentation entered into evidence, argument of counsel and public comment has made the following factual findings:

1. All jurisdictional requirements have been met.
2. The property is in the GC General Commercial Zone.
3. The Board had previously approved the development of the subject property and adjacent properties for a multifamily apartment use and restaurant facility under Resolution of Memorialization Docket Number 06:16 SP/V adopted on November 15, 2006. That approval was thereafter modified to permit the reconfiguration of the bar and restaurant area together with an outside bar and patio; acknowledging that the construction of the approved multifamily uses would subsequently be constructed, under Resolution of Memorialization Docket Number 2007:10 SP/V adopted on September 19, 2007; thereafter the approvals were modified to permit the development of the site with an extended stay hotel facility with 105 guest rooms; a meeting room; kitchen and area for meal services; a lounge and a bar; a rooftop deck; fitness facilities and two swimming pools under Resolution of Memorialization 2015-04SP/V adopted March 18, 2015. Applicant then appeared before the Board on January 18, 2017 with an amended plan under Docket 2017-01 SP/V to modify the delineation and sizes of the guest rooms; operate a banquet facility and restaurant; modify the common areas, rooms and amenities, eliminate a second swimming pool; and provide a covered patio area and enhance the roof top deck. The modifications proposed were approved by the Board subject to certain conditions, all as set forth on the record and under Resolution of Memorialization 2017-01 SP/V adopted on February 15, 2017.
4. Applicant now appears before the Board requesting further revisions to the approved development plan.
5. Applicant proposes to install a temporary tent structure on the roof deck; eliminate three (3) guest rooms and replace with a spa and salon to be used by guests and by the general public, by reservation; provide a "food truck" free standing structure to be placed at the roof top deck area, and to provide two (2) shuttle vehicles to provide transportation for the guests to and from the Beach.

6. The project is under construction, in conjunction with the banquet and wedding services applicant proposes to provide at the hotel, they are requesting permission to eliminate three (3) of the guest rooms as reflected on the plan entered into evidence as Exhibit A-6; providing, massage, hair, nail and makeup services; within approximately 1,850 square feet. The installation of this facility represents and interior modification of the plans; there are not any changes proposed to the footprint or elevation of the building. One hundred and two (102) guest rooms will remain.
7. Applicant proposes to install a temporary tent upon the roof deck. The area to be enclosed by the tent is approximately 3,000 square feet. Applicant is requesting permission to utilize the tent to protect guests from weather conditions during cocktail hours and roof top receptions. The area will accommodate 200 guests; and be tented from April 15 until October 15 during each year; the proposed tent is removable, and may be removed in advance of storms. Applicant intends for the tent to be centered upon the roof area, set back eight (8') feet from the edge of the roof. The tent will be located behind the parapet walls; and the top ridge is intended to be three (3) feet lower than the elevator towers.
8. The Board expressed concern about the safety of the tent; and the actual height in conjunction with the finished elevations. Applicant testified that the tent is rated to withstand 130 mph winds. Applicant further testified that the wall height of the tent is 9.3 feet; with a ridge height of 12.8 feet; as reflected on Exhibit A-5. Board members questioned applicant about the relocation and reduction in size and height of the tent. Applicant requires more information from the manufacturer; and will provide same to the Board at a later hearing.
9. Applicant proposes to place a "food truck" on the roof, as part of the roof deck improved area. The "food truck" appears to be either a truck or trailer; most of the insides are removed; and it becomes a vessel for the preparation and service of lite fare and limited foods to guests during cocktail hours and cocktail receptions or other events on the roof top. The proposed location of the "food truck" is an area of 10 x 15 feet, located outside of the tented area, as shown on Exhibit A-5. The height of the "food truck" will not exceed 7 feet.
10. There shall not be any amplified music on the roof deck.
11. Applicant is also requesting a modification to the approved plan to provide shuttle service for its guests from its facility to the beach.
12. Applicant proposes to maintain two (2) shuttle vehicles on site, with capacities of 4 to 8 passengers; as reflected on Exhibit A-8. The

vehicles will be parked at the main driveway at the "valet spots" and will not interfere with the circulation of traffic upon the site.

13. The Board does not have jurisdiction regarding the actual utilization of the shuttle service; notwithstanding, applicant will provide information of their route and obtain clearance from the Ship Bottom Police Department.
14. All uses and ownership of the vehicles shall be in compliance with the New Jersey Motor Vehicle Laws, as delineated under Title 39 of New Jersey Statutes Annotated. Applicant will provide supplemental information at a later Board meeting.
15. Applicant, in response to public comment from Donna Edwards, stated that the tree boundary at the rear of the valet parking lot at Lot 8 Block 100 will be maintained, and that lot will be finished upon completion of the construction.
16. The Board adopts the contents of the September 2018 letter from Frank J. Little, Jr, entered into evidence as Exhibit B-1 as if set forth herein at length.
17. Applicant testified that the salon use at the facility will provide companion services to the guests and wedding participants and enhance the operation of the facility; the salon will also be open to the general public subject to appointments.
18. Applicant is providing 231 parking spaces where 205 parking spaces are required for the hotel, dining facility, salon and employees; as set forth in the review letter dated September 13, 2018 entered into evidence as Exhibit A-1.
19. Applicant further testified that the roof top space, food truck and tent are being used in conjunction with the banquet facilities, and will not result in the servicing of seating for more than 200 people as previously approved. Applicant will be providing additional information at a later meeting; whereupon the Board will request clarification that the roof deck will not be used to accommodate additional people.
20. Applicant is in the process of constructing the building; whereupon it appears to be framed and roofed; actual elevations will be provided to the Board, to address the proposed height of the proposed tent; and the visual effect of same.
21. Applicant has requested the Board to consider the modification eliminating the three (3) rooms and constructing the spa/salon within the building; and for permission to allow the "food truck" to be placed on the roof deck as submitted. It was further requested to carry that portion of the application regarding the placement of the temporary tent on the roof; and for the shuttle service and maintenance of

shuttle vehicles; to permit applicant an opportunity to obtain and present more information to the Board; and

WHEREAS, the Land Use Review Board of the Borough of Ship Bottom has agreed to bifurcate the application to consider the request for the modifications of the interior of the building, eliminating three (3) hotel rooms, and providing a spa/salon; and considering the placement of a "food truck" upon the roof top deck. The Board agreed to continue that portion of the application requesting permission to install a temporary tent upon the roof; and to maintain shuttle vehicles and provide shuttle service to the Beach, until the December 19, 2018 meeting of the Board, applicant having waived any time constraints upon the Board; and

WHEREAS, the Land Use Review Board of the Borough of Ship Bottom has determined that the relief requested by the applicant, The Baldwin Residence, LLC, for Preliminary and Final Minor Site Plan approvals to further amend the approval set forth in Resolution 2017:01 to permit the elimination of three (3) guest rooms and provide a spa/salon for hair, nails, makeup, tanning, and massage for hotel guests, and for the general public upon appointment within an area of approximately 1,850 square feet as delineated on Exhibits A-6 and A-7; and to provide a "food truck" on the roof deck, within an area of 10 x 15 feet as reflected on the plan entered into evidence as Exhibit A-5, at a height not to exceed 7 feet at property known and designated as Lots 6 Block 103 located at 338-380 West 8th Street and 354 West 9th Street, Ship Bottom, Ocean County, New Jersey, can be granted without substantial detriment to the public good and without impairing the intent and purposes of the zone plan and zoning ordinances of the Borough of Ship Bottom, as the modification to the plan for the spa/salon involves and interior renovation solely, there is adequate onsite parking, the use is permitted in the zone and will complement the hotel use; the "food truck" will be located upon the roof deck, and be used during receptions in that area, a limited menu of lite fare will be prepared/and or served therefrom; and the vessel will be used to serve current guests at the hotel or banquet; there will not be an additional parking requirement; and there will not be any negative impact upon the development or upon the adjoining properties. The requirements and conditions of all prior approvals for the development of this property not amended herein will continue in full force and effect.

NOW, THEREFORE, BE IT RESOLVED by the Land Use Review Board of the Borough of Ship Bottom that the application of The Baldwin Residence, LLC, for Preliminary and Final Minor Site Plan approvals to further amend the approvals set forth in Resolution 2017-01 to permit the elimination of three (3) guest rooms and provide a spa/salon for hair, nails, makeup, tanning, and massage for hotel guests, and for the general public upon appointment within an area of approximately 1,850 square feet as delineated on Exhibits A-6 and A-7; and to provide a "food truck" on the roof deck, within an area of 10 x 15 feet as reflected on the plan entered into evidence as Exhibit A-5, at a height not to exceed 7 feet at property known and designated as Lots 6 Block 103

located at 338-380 West 8th Street and 354 West 9th Street, Ship Bottom, Ocean County, New Jersey, be and hereby is, conditionally approved.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon Applicant's compliance with all terms and conditions of the letter of the Board Engineer, Frank J. Little, Jr., P.E., P.P., and C.M.E., dated September 13, 2018, as entered into evidence as Exhibit B-1; and applicant complying with all other technical revisions as may be required by the Board engineer.

BE IT FURTHER RESOLVED that all conditions and matters set forth prior approvals of this Board for the development of the property not modified herein be and hereby shall remain in full force and affect.

BE IT FURTHER RESOLVED that applicant's requests to provide shuttle service and maintenance of shuttle vehicles at the site has been continued; and applicants request to install a temporary tent upon the roof top deck has also been continued; and will be considered by the Board, after receipt of additional information from applicant at the December 19, 2018 meeting of the Board; or as otherwise rescheduled; with appropriate waivers of all time constraints.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon all construction at the property conforming to FEMA requirements and all building, fire and safety Codes.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon Applicant obtaining all requisite permits and Applicant complying with all Federal, State and Local rules regulations and statutes and ordinances effecting this development.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon applicant obtaining all outside agency approvals from all agencies having jurisdiction over this development, including but not limited to Ocean County Planning Board; Ocean County Soil Conservation District and from the Ship Bottom Water and Sewer Departments; the New Jersey Alcohol Beverage Commission and the Mayor and Council and Construction and Zoning Departments of the Borough of Ship Bottom; and the New Jersey Department of Transportation; as may be required.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon Applicant's payment of all taxes and all other applicable assessments, and Applicant satisfying all fees and escrow fees as may be required. Applicant shall also pay and post all inspection fees, performance guarantees and maintenance bonds as may be required, in amounts established by the Borough Engineer, and in such form as required by the Borough Solicitor.

BE IT FURTHER RESOLVED that the Applicant is required to comply with all ordinances of the Borough of Ship Bottom, and failure to specify compliance herein shall not be deemed a waiver or recommendation by the Land Use Board with respect to Borough Ordinances, including the Zoning Ordinances.

BE IT FURTHER RESOLVED that this approval is subject to all conditions as set forth herein and at the public hearing and all representations as placed on the record at the public hearing conducted on October 17, 2018 when this matter was considered.

BE IT FURTHER RESOLVED that applicant shall comply with all terms and conditions set forth in Resolution 2017-01 SP/V except those conditions and approvals as modified herein.

Motion: Tallon

Second: Schmidt

Roll Call: Basile, Bishop, Dixon, Schmidt, Fenimore, Tallon and Cooper, all aye.

-CERTIFICATION-

I, Sara Gresko, Secretary of the Land Use Review Board of the Borough of Ship Bottom, County of Ocean and State of New Jersey, do certify that the foregoing is a true copy of a Resolution adopted by the Land Use Review Board of the Borough of Ship Bottom at a public meeting held on November 19, 2018.

Sara Gresko
SARA GRESKO, SECRETARY

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Exhibit G

**RESOLUTION OF MEMORIALIZATION OF THE
LAND USE REVIEW BOARD OF THE BOROUGH OF SHIP BOTTOM
COUNTY OF OCEAN AND STATE OF NEW JERSEY
DOCKET NO. 2018:13B SP/V**

WHEREAS, The Baldwin Residence, LLC has made application to the Land Use Review Board of the Borough of Ship Bottom to further modify and amend the previously granted Variances and Site Plan approvals; and for variances and preliminary and final Major Site Plan approval for the development of Lot 6 Block 103 located at 338-380 West 8th Street including Lot 3 Block 103 354 West 9th Street (pertaining to usage of 19 parking spaces on that property occupied by the CVS Pharmacy) in the Borough of Ship Bottom, County of Ocean and State of New Jersey to eliminate three (3) hotel rooms from the 105 hotel rooms previously approved, to permit an interior redesign to include a spa and salon for guest and public use; to permit the installation of a temporary tent upon the rooftop to enclose an area used in conjunction with receptions and events; to permit the placement of a "food truck" on the rooftop terrace for preparation and service of lite fare in conjunction with receptions and events; and to permit the use and storage of electric motor vehicle shuttles to transport hotel guests to and from the beach; subject to the terms of Section 5.40.090 of the Ship Bottom Municipal Code. All previously approved variances and site plan and development conditions, not modified herein shall continue in full force and effect; and

WHEREAS, the Land Use Review Board initially considered this application on October 17, 2018 and approved that portion of the application permitting the elimination of three (3) guest rooms and interior redesign to include a spa and salon for guest and public use; and to permit the placement of a "food truck" on the rooftop terrace for preparation of and service of lite fare in conjunction with receptions and events; as memorialized by the Board on November 19, 2019 under Resolution of Memorialization 2018:13A SP/V; and

WHEREAS, a site visit for the Board members was conducted on December 8, 2018 upon statutory notice; and the matter was scheduled to be heard at the December 19, 2018 public meeting of the Land Use Board for consideration of applicant's request to permit the installation of the rooftop temporary tent; and

WHEREAS, this matter was again considered at a public hearing conducted on December 19, 2019; the applicant was represented by James S. Raban, Esq. Applicant withdrew its request for the Land Use Board to approve the use of electric shuttle buses for transporting its guests. The Board approved the parking of two (2) Shuttle Buses on the site. Any additional approvals regarding the Shuttle Buses will be the basis of an additional application to the Municipality or Board, depending upon jurisdiction; and be subject to all New Jersey Statutes, rules and regulations, including

but not limited to New Jersey Motor Vehicle Laws. A plan titled "Hotel LBI Lot 6 Block 103 Ship Bottom Borough Ocean County, New Jersey Floor and Roof Heights," dated 11/6/18 designated Sheet SK-1 prepared by Craig W. Brearley A.I.A. Architect, was entered into evidence as Exhibit A-10; a document under heading of LOSBERGER, the manufacturer of the proposed tent, referencing Uniflex P3 Frame Structure 10m x 32.5m &2.8m Leg; Structural Evaluation was entered into evidence as Exhibit A-11. Testimony was offered by Christopher Vernon, member of applicant. Public comment was offered by Robert Barnett and Joseph P. Mayo, III, and

WHEREAS, the Land Use Review Board after considering the Application, testimony of the witnesses, documentation entered into evidence, argument of counsel and public comment has made the following factual findings:

1. All jurisdictional requirements have been met.
2. The property is in the GC General Commercial Zone.
3. The Board reconfirms all provisions, approvals and conditions set forth in Resolution of Memorialization 2018-13ASP/V adopted by the Board on November 19, 2018, as if set forth herein at length.
4. The Board members has an opportunity to visit the site and observe the area intended to be tented.
5. The Board was provided with the manufacturer's structural evaluation of the proposed tent. The Board is not qualified to address said report. Applicant has testified that all structural requirements from the manufacturer, State of New Jersey and all codes will be complied with in the installation and maintenance of the tent.
6. Applicant offered testimony that the tent may be taken down within two (2) hours; and upon notification of dangerous weather conditions, applicant will have the tent removed to eliminate risk to surrounding properties and traffic.
7. The side flaps can be installed and removed, as necessary within thirty (30) minutes.
8. The tent is intended to be a temporary structure used for six (6) month term from April until November. Applicant will have the tent removed not later than the first week in November in any year, and shall not erect the tent prior to April 1 of any year.
9. Applicant agrees to be solely responsible for the structural integrity of the tent and maintenance of same. Furthermore, if weather conditions exceed or are forecasted to exceed the limitations of the manufacturer or building and safety codes; applicant shall have the tent taken down immediately; applicant

also agreed to indemnify and save the Borough of Ship Bottom harmless in the event of any claims or damages caused by the tent.

10. Notwithstanding the testimony at the October 17, 2018 meeting the height of the peak of the tent at its center shall not exceed 50.7 $\frac{1}{4}$ feet; and shall not be higher than 10.8 $\frac{1}{4}$ feet from the top of the roof deck; the tent sides shall not exceed 48.11 feet in height; and shall not be higher than 7.3 13/16 feet from the top of the roof deck. The peak height at the center of the tent is lower than the maximum height of the elevator/stair towers.
11. The tent will be partially visible when approaching Long Beach Island from the Causeway Bridge.
12. Applicant also confirmed that there will not be any amplified noise on the roof deck; and that the roof deck will be vacated by midnight.
13. The tent will be secured to the roof by permanent pipes constructed into the roof system;
14. The utilization of the temporary tent, as testified by applicant; should not have any negative impact upon the neighboring properties or Borough.
15. There will not be any amplified music at the deck; and the use of the roof deck will cease at midnight.
16. The Board is not making any finding regarding the use of electric shuttles or other transport of applicants' employees or guests. Applicant has withdrawn that portion of its application; and

WHEREAS, the Land Use Review Board of the Borough of Ship Bottom has determined that the relief requested by the applicant, The Baldwin Residence, LLC, for Preliminary and Final Minor Site Plan approvals to further amend the approvals set forth in Resolution 2017:01 to permit the erection of a temporary tent upon the roof deck in accordance with the testimony provided to the Board on October 17, 2018 and December 19, 2018, at a height not to exceed 10.8 $\frac{1}{4}$ feet from the top of the roof deck; to be erected only from April 1 to not later than the first week in November; upon Applicants' responsibility to assure compliance with all codes and manufacturer limitations regarding weather and other natural conditions, whereupon applicant will remove the structure in the event of extreme weather conditions or forecasts of same; without any amplified music upon the deck and the roof deck being vacated by midnight, at property known and designated as Lots 6 Block 103 located at 338-380 West 8th Street and 354 West 9th Street, Ship Bottom, Ocean County, New Jersey, can be granted without substantial detriment to the public good and without impairing the intent and purposes of the zone plan and zoning ordinances of the Borough of Ship Bottom, as the temporary tent will complement the hotel and banquet uses and there should not be any negative impact upon the development or

upon the adjoining properties. The requirements and conditions of all prior approvals for the development of this property not amended herein will continue in full force and effect, including but not limited to Resolution of Memorialization 2018-13ASP/V.

NOW, THEREFORE, BE IT RESOLVED by the Land Use Review Board of the Borough of Ship Bottom that the application of The Baldwin Residence, LLC, for Preliminary and Final Miner Site Plan approvals to further amend the approvals set forth in Resolution 2017-01 to permit the erection of a temporary tent upon the roof deck in accordance with the testimony provided to the Board on October 17, 2018 and December 19, 2018, at a height not to exceed 10.8 ¼ feet from the top of the roof deck; to be erected only from April 1 to not later than the first week in November; upon Applicants' responsibility to assure compliance with all codes and manufacturer limitations regarding weather and other natural conditions, whereupon applicant will remove the structure in the event of extreme weather conditions or forecasts of same; without any amplified music upon the deck and the roof deck being vacated by midnight, at property known and designated as Lots 6 Block 103 located at 338-380 West 8th Street and 354 West 9th Street, Ship Bottom, Ocean County, New Jersey, be and hereby is, conditionally approved.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon Applicant's compliance with all terms and conditions of the letter of the Board Engineer, Frank J. Little, Jr., P.E., P.P., and C.M.E., dated September 13, 2018, as entered into evidence as Exhibit B-1; and applicant complying with all other technical revisions as may be required by the Board engineer.

BE IT FURTHER RESOLVED that all conditions and matters set forth prior approvals of this Board for the development of the property not modified herein be and hereby shall remain in full force and effect.

BE IT FURTHER RESOLVED that applicant's requests to provide shuttle service and maintenance of shuttle vehicles at the site have been withdrawn.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon all construction at the property conforming to FEMA requirements and all building, fire and safety Codes.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon Applicant obtaining all requisite permits and Applicant complying with all Federal, State and Local rules regulations and statutes and ordinances effecting this development.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon applicant obtaining all outside agency approvals from all agencies having jurisdiction over this development, including but not limited to Ocean County Planning Board; Ocean County Soil Conservation District and from the Ship Bottom Water and Sewer Departments; the New Jersey Alcohol Beverage Commission and the Mayor and Council and Construction and Zoning Departments of the Borough of Ship Bottom; and the New Jersey Department of Transportation; as may be required.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon Applicant's payment of all taxes and all other applicable assessments, and Applicant satisfying all fees and escrow fees as may be required. Applicant shall also pay and post all inspection fees, performance guarantees and maintenance bonds as may be required, in amounts established by the Borough Engineer, and in such form as required by the Borough Solicitor.

BE IT FURTHER RESOLVED that the Applicant is required to comply with all ordinances of the Borough of Ship Bottom, and failure to specify compliance herein shall not be deemed a waiver or recommendation by the Land Use Board with respect to Borough Ordinances, including the Zoning Ordinances.

BE IT FURTHER RESOLVED that this approvals is subject to Applicant adhering to all structural requirements from the manufacturer, State of New Jersey and all codes pertaining to the installation and maintenance of the tent; upon notification of dangerous weather conditions, Applicant shall have the tent removed to eliminate risk to surrounding properties and traffic. Applicant will have the tent removed not later than the first week in November in any year, and shall not erect the tent prior to April 1 of any year. Applicant is solely responsible for the structural integrity of the tent and maintenance of same. In the event weather conditions exceed or are forecasted to exceed the limitations of the manufacturer or building and safety codes; Applicant shall have the tent taken down immediately;

BE IT FURTHER RESOLVED that Applicant shall indemnify and save the Borough of Ship Bottom harmless in the event of any claims or damages caused by the tent.

BE IT FURTHER RESOLVED that the height of the peak of the tent at its center shall not exceed 50.7 1/4 feet; and shall not be higher than 10.8 1/4 feet from the top of the roof deck; the tent sides shall not exceed 48.11 feet in height; and shall not be higher than 7.3 13/16 feet from the top of the roof deck.

BE IT FURTHER RESOLVED that there will not be any amplified noise on the roof deck; and that the roof deck shall be vacated by midnight.

BE IT FURTHER RESOLVED that this approval is subject to all conditions as set forth herein and at the public hearing and all representations as placed on the record at the public hearing conducted on October 17, 2018 and December 19, 2108 when this matter was considered.

BE IT FURTHER RESOLVED that applicant shall comply with all terms and conditions set forth in Resolution 2017-01 SP/V and Resolution of Memorialization 2018-13A SP/V except those conditions and approvals as modified herein.

Motion: Schmidt

Second: Bishop

Roll Call: Basile, Bishop, Dixon, Hay, Schmidt, Fenimore, Cooper, all aye.

-CERTIFICATION-

I, Sara Gresko, Secretary of the Land Use Review Board of the Borough of Ship Bottom, County of Ocean and State of New Jersey, do certify that the foregoing is a true copy of a Resolution adopted by the Land Use Review Board of the Borough of Ship Bottom at a public meeting held on January 16, 2019.


SARA GRESKO

SARA GRESKO, SECRETARY

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Exhibit H

**RESOLUTION OF MEMORIALIZATION OF THE
LAND USE REVIEW BOARD OF THE BOROUGH OF SHIP BOTTOM
COUNTY OF OCEAN AND STATE OF NEW JERSEY
DOCKET NO. 2019:06 SP/V**

WHEREAS, The Baldwin Residence, LLC has made application to the Land Use Review Board of the Borough of Ship Bottom to further modify and amend the previously granted Variances and Site Plan approvals; and for variances and preliminary and final Major Site Plan approval for the development of Lot 6 Block 103 located at 338-380 West 8th Street including Lot 3 Block 103, 354 West 9th Street (pertaining to usage of 19 parking spaces on that property occupied by the CVS Pharmacy) in the Borough of Ship Bottom, County of Ocean and State of New Jersey to permit the modifications, deviations and changes from the approved development, performed during construction without Board approval or review, including increased building coverage of 78.5%, where 67% building coverage was approved; lot coverage of 93.6% where lot coverage of 80% was approved; a 0.0 foot setback from 9th Street where 3.0 feet was approved, only to the elevated swimming pool room, as reflected on the plans submitted; and setbacks of 8.07', 13', and 14.07' as set forth on the approved plan under Resolution 2017-01; Sheet 3 of 5 dated December 19, 2017 prepared by Stout and Caldwell under Resolution 2017-01; an 8.16 foot setback from 8th Street where 12.62 feet was approved; easterly setbacks of 1.78', 1.93' and 2.16' feet from balconies and roof overhangs, where a five (5) foot setback was approved; a setback to the east of 2.17 feet to a proposed stairway; and encroachments over the property to the west, consisting of stairs, landing, concrete wall and two (2) fountains.

All previously approved variances and site development approvals, not modified herein shall continue; and

WHEREAS, the Land Use Review Board considered this application at a public hearing conducted on April 17, 2019. The applicant was represented by James S. Raban, Esq. The application dated January 30, 2019, together with copies of Resolutions of Memorialization 2006:16, 2007:10, 2015:04; 2018:13A and 2018:13 B was entered into evidence as Exhibit A-1; the plans prepared by Stout and Caldwell Engineers, LLC titled "Amended Preliminary / Final Site Plans for the Hotel LBI Tax Block 103, Lot 6 Tax Map Sheet 17 380 West 8th Street Borough of Ship Bottom, Ocean County, New Jersey" with a final revision date of April 1, 2019, containing eleven (11) sheets; under signature and seal of Robert R. Stout, PE, PLS was entered into evidence as Exhibit A-2; the April 5, 2019 letter of James S. Raban, Esq., amending the application, was entered into evidence as Exhibit A-3; Presentation Building Plans prepared by Dever Architects and Craig W. Brearley, AIA, Architect titled "Hotel LBI (Extended Stay Hotel) Borough of Ship Bottom, Ocean County, New Jersey dated/submitted April 5, 2019, consisting of five (5) drawings was entered into evidence as Exhibit A-4; architectural plans titled Hotel LBI 351 West 9th Street, Ship Bottom, Ocean County, NJ" dated December 22, 2017 with a final revision date of April 5, 2019, containing 12 sheets; all under signature and seal of Thomas J. Dever, Registered Architect was entered into evidence as Exhibit A-5; a copy of Sheet 6 of 11, Existing

Conditions, prepared by Stout and Caldwell Engineers, LLC, and colored for testimony purposes, was entered into evidence as Exhibit A-6; a copy of the previously approved architectural plan, prepared by Dever Architects, dated December 22, 2017 was entered into evidence as Exhibit A-7; and Drawing 301 prepared by Dever Architects, as part of Exhibit A-5 was entered into evidence as Exhibit A-8. The review letter from Owen, Little & Associates, Inc., under signature of Frank J. Little, Jr., PE, PP, CME, Second Review and dated April 10, 2019 was entered into evidence as Exhibit B-1. Testimony was offered by Christopher Vernon, member of applicant; Robert R. Stout, PE, PLS applicants Engineer and Surveyor; Tiffany Morrissey, applicants Professional Planner and Jeffrey J. Pack applicant's Architect. Public comment was offered by Angela Trampota, Vincent Ludwig, Esq. appeared on behalf of Java Properties, the adjoining property owner to the east; William Bori, the principal of Java Properties, Kenneth Formica, the owner of Surf City Marina, Raymond Ciccone, and Joseph Mayo; and

WHEREAS, the Land Use Review Board after considering the Application, testimony of the witnesses, documentation entered into evidence, argument of counsel and public comment has made the following factual findings:

1. All jurisdictional requirements have been met.
2. The property is in the GC General Commercial Zone.
3. The Board adopts the contents of the Resolutions of Memorialization Docket Numbers 2006:16, 2007:10, 2015:04, 2017:01, 2018:13A and 2018:13B, as if set forth herein at length.
4. The aforementioned Resolutions document the proposed development and approvals at the site, whereupon the development and construction of the site is substantially completed.
5. The Board adopts the contents of the April 10, 2019 letter from Owen, Little & Associates, Inc. under signature of Frank J. Little, Jr. entered into evidence as Exhibit B-1 as if set forth herein at length.
6. In January 2019 applicant had filed the pending application to address the balconies and overhangs constructed on the Easterly portion of the building; the approved site plan did not reflect those balconies, the approved easterly setback was limited to five (5) feet. The setbacks of the balconies are 1.78, 1.93 and 2.16 feet respectively, with the roof overhangs also encroaching within the five (5) foot approved setback; the construction of the balconies and overhangs were not included in the approved building coverage and lot coverage calculations.
7. Upon the filing and receipt of the aforementioned application, the Board Engineer requested that "as built" drawings and lot coverage and building coverage calculations be provided to the Board by applicant.
8. Applicant provided the "as built" drawings which generated an amendment of the current application, as set forth in Exhibit A-3 the April

5, 2019 letter from James S. Raban, Esq. applicant's attorney. It appears that the building coverage was increased from the approved coverage of 67% to 78.5% building coverage; the lot coverage was increased from the approved coverage of 80% to 93.6% lot coverage; the approved setback of 8.07 feet to the building from 9th Street was reduced to a 0.0 foot setback; as was the approved setback of 3.0 feet to the elevated swimming pool room reduced to 2.95 feet. The approved setback from 8th Street of 12.62 feet was reduced to 8.16 feet; and the westerly portion of the building, which was approved to maintain a 0.0 foot setback to the Causeway. Applicant installed and constructed encroachments of stairs, a landing, concrete wall and two (2) fountains over the property line over the public property adjacent; applicant also constructed a platform at the northeast corner of the building with a 2.14 setback from the easterly property line; and requested variance relief to allow the platform to remain in that location and for the installation of stairs at a setback of 2.14 feet; applicant is also requesting variance relief to maintain the balconies with roof overhangs at 1.78 feet, 1.93 feet and 2.16 feet.

9. The Board also found that the six (6) foot sidewalks to be provided around the property, as mandated under Resolution of Memorialization 2017:01 are installed, as of the May 15, 2019 meeting..
10. Applicant's engineer testified that the balconies were shown on the architectural plans; however they were not reflected in the engineering plans or included in the building and lot coverage calculations.
11. The adjoining property owner did not initially object to the development; however once it appeared that the balconies abutting its property were constructed in closer proximity than approved; expressed concern with the potential of damage to the vehicles of patrons at the property, who would park in the lot abutting the balconies; and also the potential for trash and refuse from the hotel on its property.
12. Applicants architect testified that the modification to the 9th Street setback was triggered as a result of a change in the FEMA mapping and the Flood Zone designated for the site; the plans were initially prepared taking into account the AE Zone, which would have permitted the initially planned and approved retaining walls, backfill, and landscaped setback. The site is located in the Coastal AE Zone which, according to applicant's witnesses, only permits breakaway construction at the grade area. A choice was made by applicant and it's professionals to construct breakaway walls at grade at a 0.0 foot setback. The Board finds that as a result of the change of flood zone, applicant could have maintained the approved 3 foot setback to the swimming pool room; and landscaped the property at grade to 8.06, 13 and 14.07 feet, the approved setbacks to the building, and constructed the breakaway walls at the approved setbacks.

The breakaway walls were constructed at the property line and the entire decking above was expanded and constructed to create a roof/patio over the area, all at a 0.0 foot setback. Predicated upon the modifications the building and lot coverage were increased above the approved limitations. The limited space along 9th Street, creates a more dangerous condition than was approved with the landscaped setback; and furthermore a safer alternative was not implemented; nor were any of these changes brought before the Land Use Board for its review, comment or approval.

13. Exhaust fans were installed in the parking area at grade, which fans extended into the setbacks.
14. The Board has worked diligently with Applicant to permit the development; and has granted those variances that were necessary to permit the project to proceed without detriment to the public good and without impairing the intent and purposes of the zone plan and zoning ordinances. The setbacks, building and lot coverage were major considerations, and the applicant and its professionals were aware of the limitations imposed upon the development.
15. During the course of the hearing applicant modified its' request for variances; applicant agreed to eliminate the variance request to permit the balconies and overhangs on the east side of the building remain at the property; applicant's representative, Mr. Vernon testified that the balconies and overhangs would be removed; commencing not later than October 31, 2019; after further discussion, the balconies would not be used, and access thereto will be restricted until their removal. The fans currently encroaching into the setback will be recessed into the building walls; the lot coverage will be corrected and brought into conformity to the approved coverage by the installation of porous pavers; applicant shall submit a plan delineating the proposed lot coverage prior to the next meeting. Applicant will obtain permission from the State of New Jersey DOT, as a condition precedent for its use of that area where the stairs, landing, concrete wall and fountains are located on public property.
16. Applicant further offered to cooperate with the adjoining property owner to the east, JAVA Properties, to landscape the area between their respective properties; if JAVA Properties chooses to remove its fence.
17. The Board finds that the development along 9th Street is not acceptable; there is not any basis to permit the increased building coverage and further reduction of the setback at that major highway.
18. Applicant proffer that the intensity of the use of the property is not increased; the Board finds that the intensity of the utilization and development of the site is substantially increased with the reductions in setbacks, and the increased building coverage and lot coverage created

19. The board finds that the setback of 8.16 feet is for mechanicals in the northwest corner of the building on 8th Street. This setback will not have any deleterious impact upon the neighboring properties; or traffic flow.
20. The proposed steps at the northeast corner of the building, will provide a safer means of accessibility to patrons of the hotel; however, the platform and stairs shall be setback to the building 7.22 feet from the easterly property line; a parking space may be utilized to accommodate the stairs; and

WHEREAS, the Land Use Review Board of the Borough of Ship Bottom, at its April 17, 2019 meeting determined that the relief requested by the applicant, The Baldwin Residence, LLC, , to further modify and amend the previously granted Variances and Site Plan approvals; and for variances and preliminary and final Major Site Plan approval for the development of Lot 6 Block 103 located at 338-380 West 8th Street including Lot 3 Block 103 354 West 9th Street (pertaining to usage of 19 parking spaces on that property occupied by the CVS Pharmacy) in the Borough of Ship Bottom, County of Ocean and State of New Jersey to permit the modifications, deviations and changes from the approved development, performed during construction without Board approval or review including increased building coverage of 78.5%, where 67% building coverage was approved; lot coverage of 93.6% where lot coverage of 80% was approved; a 0.0 foot setback from 9th Street where 3.0 feet was approved, only to the elevated swimming pool room, as reflected on the plans submitted; with setbacks of 8.07, 13, and 14.07 feet approved to the building; easterly setbacks of 1.78 1.93 and 2.16 feet from balconies and roof overhangs, where a five (5) foot setback was approved; a setback to the east of 2.17 feet to a platform and proposed stairway at the northeast corner of the building; and encroachments over the property to the west, consisting of stairs, landing, concrete wall and two (2) fountains CANNOT be granted without substantial detriment to the public good and without impairing the intent and purposes of the zone plan and zoning ordinances of the Borough of Ship Bottom, as the Board previously granted variance relief from setback requirements; building coverage and lot coverage to enable the project to be constructed; any further deviation from the relief previously granted has not been justified, and is contrary to the zone plane and zoning ordinances; the development along 9th Street is unsafe and eliminates a landscaped area and appropriate setback. Upon modification of the Flood Zone, the project could have been improved with grade landscaping; and the breakaway walls being constructed at the approved setbacks of 8.07, 13, and 14.07 feet. Applicant shall remove the breakaway walls and roof overhang; the 2.95)foot elevated setback to the swimming pool room may remain; and the breakaway walls may be installed at the approved 8.07, 13, and 14.07 foot setbacks; with the area adjacent thereto being landscaped; the building coverage and lot coverage is excessive and the 0.00 foot setback is not justified. Applicant can adjust the development at the site to maintain the building and lot coverage's that were approved; and the setback on the easterly property line should remain at 5 feet. Applicant has agreed to remove the balconies and overhangs to the east; to comply with the approved plans. The stairs proposed in the

northeast corner of the building may be granted as they provide a safer means of accessibility for the patrons, said stairs and platform shall be setback 7.22 feet from the easterly property line; and may be constructed within one (1) adjoining parking space. The setback of 8.16 feet at the northwest corner to the mechanical area may be granted; as the area encumbered is limited to the mechanical equipment; and

WHEREAS, applicant by letter from counsel, James S. Raban, Esq. dated May 3, 2019, requested the Land Use Review Board keep the record open in this matter; and expanded the application to include relief from the setback requirement on 8th Street to permit a 0 foot setback for the overhead canopy/Porte Cochere; and to revise the approved Building Coverage to 76 % where 67% was stated on the plans and approved by Resolution; with applicant noticing and publishing the continuation of the hearing and additional variance relief requested; and

WHEREAS, this matter was considered again at a public hearing on May 15, 2019, applicant was represented by James S. Raban, Esq. The letter dated May 3, 2019 from James S. Raban, Esq. was entered into evidence as Exhibit A-9; the plans prepared by Stout and Caldwell Engineers, LLC titled "Amended Preliminary / Final Site Plans for the Hotel LBI Tax Block 103, Lot 6 Tax Map Sheet 17 380 West 8th Street Borough of Ship Bottom, Ocean County, New Jersey" with a final revision date of April 30, 2019, containing eleven (11) sheets; under signature and seal of Robert R. Stout, PE, PLS was entered into evidence as Exhibit A-10; the letter from Nonee Lee Wagner, Deputy Attorney General, as counsel for NJ DOT, dated May 14, 2019 was entered into evidence as Exhibit A-11; a color coded version of Sheet 3 of the plans submitted by Stout and Caldwell Engineers, LLC which were entered into evidence as Exhibit A-10, was entered into evidence as Exhibit A-12. The review letter from Owen, Little & Associates, Inc., under signature of Frank J. Little, Jr., PE, PP, CME, Third Review and dated May 8, 2019 was entered into evidence as Exhibit B-3; the reduced site plan color-coded by Frank J. Little, Jr. showing an area of 9,020 square feet owned by the Borough of Ship Bottom, and the area to be improved with porous pavers, totaling 3,646 square feet, was entered into evidence as Exhibit B- 4; and a copy of the Bond letter issued by Frank J. Little, Jr. dated May 8, 2019 was entered into evidence as Exhibit B-5. Testimony was offered by Christopher Vernon, managing member of applicant; and Robert R. Stout, PE, PLS applicants Engineer and Surveyor. Public comment was offered by Robert Burnett; Vincent Ludwig, Esq. appeared on behalf of Java Properties, LLC, William Bori, and Joseph Mayo; and

WHEREAS, the Land Use Review Board after considering the application, as expanded and supplemented, testimony of the witnesses, documentation entered into evidence, argument of counsel and public comment has made the following factual findings:

21. Applicant's engineer testified that Applicant's plans have always reflected the proposed canopy/ Porte Cochere/ overhang, at the Hotel Entrance on 8th Street, at a 0 foot

setback; he testified it has always been shown on the architectural plans, and was shown on the site plan approved in 2017; with the area taken into account for lot and building coverage. It was not called out on the plan, and was not referenced under Note 9 on the plan under Zoning Requirements and Provided Conditions.

22. The approved plans and Resolutions of Memorialization approving the current hotel project at the site permit building coverage of 67%; variance relief for that coverage was approved by the Board. According to applicant's engineer, when their firm took over the engineering for the current project; modifying the prior 2015 approval under Resolution of Memorialization 2015:04 SP/V. Under that Resolution impervious lot coverage was limited to 80% and building coverage was permitted at 67%. In 2017 under Docket 2017 SP/V applicant was granted relief to modify the approved plans to relocate the building, and make modifications to the design. The engineering plans for that application and the subsequent applications regarding this development were prepared by Stout and Caldwell Engineers, LLC. Applicants engineer testified that his firm transposed the building coverage from the prior plans shown as 67% to the plans they submitted, designating 67% as the building coverage. He stated that the actual building coverage for the approved plan under Docket 2017:01 is 76.0%. Applicant is requesting the Board change the approval to reflect the actual coverage of the approved plan 76.0%; whereupon upon the removal of the balconies and overhangs on the easterly side of the building and restoration of the southerly portion of the building along 9th Street, the project will conform to the 76.0% building coverage.

23. The approved plans reflect the existence of the Canopy/Porte Cochere at a 0.0 foot setback; the posts and outline are reflected on the plans approved under Resolution 2017:01 SP/V and it is included in the architectural plans. Applicants engineer testified that the coverage of this appendage is included in his building coverage calculations. It appears that a corner the Canopy extends over the property line, a distance of .21 feet (2.52 inches), into an area of public property currently the Borough of Ship Bottom. The 0.0 foot setback to the canopy has always been reflected upon the plan; and affects an open area, that will not interfere with light, air, open space or traffic flow; and may be granted for the purpose presented, an overhang for dropping and gathering patrons at the hotel.

24. The Board does not have jurisdiction to grant approvals of encroachment on public property; applicant is negotiating with the Borough Council to acquire an easement for 9,020 square feet owned by the Borough of Ship Bottom adjoining applicants property to the south as delineated in yellow on Exhibit B-4 , the acquisition of the easement will permit the existence of the encroachment of the canopy; will reduce the actual lot and building coverage calculations; and will provide for the entrance of the trash enclosure area at the north west of the property to be within the easement, in lieu of encroaching into the public property. Applicant has testified that it is interested in obtaining the easement. The acquisition of the easement will also decrease the building coverage close to what was originally approved 67%.

25. In the event applicant does not acquire the easement as aforementioned; the encroachment of the canopy shall be removed by applicant as a condition precedent to obtaining a final certificate of occupancy.

26. The Board adopts the contents of the review letter from Owen, Little & Associates, Inc., under signature of Frank J. Little, Jr., PE, PP, CME, Third Review and dated May 8, 2019 was entered into evidence as Exhibit B-3, as if set forth herein at length.

27. Based upon the contents of the Letter from the State of New Jersey Office of the Attorney General dated May 14, 2019, applicant is negotiating in good faith to obtain a license, easement or fee title from the State of New Jersey for that property westerly of the subject property where the landing, stairs, concrete wall and fountains have been constructed. Initially it was the intention of the Board to have those encroachments removed as a condition for the issuance of a temporary certificate of occupancy. Predicated upon the letter, the Board will not object to those encroachments remaining in place, subject to the receipt of a license, easement or fee ownership, as a condition precedent to the issuance of a final certificate of occupancy; however those items may not be utilized until such final approval from the State of New Jersey is obtained; and applicant shall provide a barrier to limit such use.

28. Applicant testified that the restoration of the building to approved setbacks will be completed by February 28, 2020. The Board recommends that any temporary certificate of occupancy that is issued, terminate on that date to assure compliance with the terms and conditions herein, the removal of the balconies and overhangs, and the restoration of the setbacks on the southerly side of the building on 9th Street, as approved under Resolution 2017:01SP/V.

WHEREAS, the Land Use Review Board of the Borough of Ship Bottom, at its May 15, 2019 meeting determined that the relief requested by the applicant, The Baldwin Residence, LLC, to further modify and amend the previously granted Variances and Site Plan approvals; and for variances and preliminary and final Major Site Plan approval for the development of Lot 6 Block 103 located at 338-380 West 8th Street including Lot 3 Block 103 354 West 9th Street (pertaining to usage of 19 parking spaces on that property occupied by the CVS Pharmacy) in the Borough of Ship Bottom, County of Ocean and State of New Jersey to permit a 0.0 foot setback to 8th Street from the canopy/Porte Cochere and building coverage of 76% can be granted without substantial detriment to the public good and without impairing the intent and purposes of the zone plan and zoning ordinances of the Borough of Ship Bottom, as the Board approved the development with an actual building coverage of 76%; the approved development has not been enlarged to conform to the 76% requested; and the setback to the canopy was included in all of the previously submitted plans, but not called out; and predicated upon the limited use as an open overhang, adjacent to an open area, there will not be any negative impact as a result of the proposed location of the canopy at a 0.0 foot setback. The Board further finds that applicant's acquisition of the easement for 9,020 square feet, as aforementioned will bring the development more into conformity with that which was specifically approved under Resolutions Number 2017:01.

NOW, THEREFORE, BE IT RESOLVED by the Land Use Review Board of the Borough of Ship Bottom that the application of The Baldwin Residence, LLC, to further modify and amend the previously granted Variances and Site Plan approvals; and for variances and preliminary and final Major Site Plan approval for the development of Lot 6 Block 103 located at 338-380 West 8th Street including Lot 3 Block 103, 354 West 9th Street (pertaining to usage of 19 parking spaces on that property occupied by the CVS Pharmacy) in the Borough of Ship Bottom, County of Ocean and State of New Jersey to permit the modifications, deviations and changes from the approved development, performed during construction without Board approval or review including increased building coverage of 78.5%, where 67% building coverage was approved; lot coverage of 93.6% where lot coverage of 80% was approved; a 0.0 foot setback from 9th Street where 3.0 feet was approved, only to the elevated swimming pool room, as reflected on the approved plans; with 8.07, 13, and 14.07 foot setbacks approved to the building; an 8.16 foot setback from 8th Street where 12.62 feet was approved; easterly setbacks of 1.78 1.93 and 2.16 feet from balconies and roof overhangs, where a five (5) foot setback was approved; a setback to the east of 2.17 feet to a proposed stairway; and encroachments over the property to the west, consisting of stairs, landing, concrete wall and two (2) fountains at the property be and hereby are, denied as to relief from the approved five (5) foot easterly setback requirement, to the increased building coverage of 78.5 % , to the increased lot coverage of 93.6% and to the 0.0 foot setback to 9th Street. The variance relief to construct stairs at the northeast corner of the building is conditionally approved subject to the stairs being constructed at a setback of 7.22 feet from the property line using one (1) parking space to accommodate the stairs; and the relief to maintain a setback of 8.16 feet to the north from 8th Street, at the northwesterly corner of the building, for the mechanical equipment is conditionally approved. The relief requested to change the building coverage calculation to 76% and for a 0.0 setback for the canopy/Porte Cache at 8th Street, be and hereby is conditionally approved. The Board does not have jurisdiction to grant variance relief to permit the encroachments over the westerly property line with a concrete wall, staircase and landing, and two (2) fountains; however the Board does not object those encroachments remaining in place during the pendency of a Temporary Certificate of Occupancy; and they shall be legitimized by a license agreement, easement, or fee simple title prior to the issuance of a Final Certificate of Occupancy, or removed at that time. During the pendency of the legalization of the encroachments, applicant shall not utilize that area westward of the property; or the encroachments, and shall barricade the steps to avoid use by its patrons and employees.

BE IT FURTHER RESOLVED that this limited approval and the Board action is subject to and conditioned upon Applicant's compliance with all terms and conditions of the letter of the Board Engineer, Frank J. Little, Jr., P.E., P.P., and C.M.E., dated April 10, 2019, and May 8, 2019 as entered into evidence as Exhibits B-1 and B-3; and applicant complying with all other technical revisions as may be required by the Board engineer.

BE IT FURTHER RESOLVED that the Board reconfirms all prior approvals not modified herein, and applicant shall be required to conform to all conditions and requirement's under such approvals, as set forth in Resolutions of Memorialization Docket Numbers 2006:16, 2007:10, 2015:04, 2017:01, 2018:13A and 2018:13B.

BE IT FURTHER RESOLVED that applicant shall submit revised plans locating the approved stairs, at a setback of 7.22 feet; being constructed within one (1) parking space; , reflecting the removal of the encroachments created to the east and south of the building; restoring the three (3) foot setback to the swimming pool room only, at the second story above the parking area; and restoring the 8.06, 13, and 14.07 foot setbacks from 9th Street; providing the lot coverage plan and calculations. removing certain impervious coverage, and locating pervious pavers, if being used; and further adhering to and providing the approved building coverage of 67% adjusted to 76%; and lot coverage of 80% . The receipt and approval by the Board Engineer of the revised plans are a condition precedent of the issuance of any temporary certificate of occupancy and applicant's occupancy of the building. The Board has permitted the building coverage calculation to be adjusted to 76% to conform to the actual coverage of the plan approved under Resolution 2017-01; which coverage has not been expanded. The coverage shall be decreased upon applicant obtaining an easement from the Borough of Ship Bottom, for 9,020 square feet as delineated in Exhibit B-4.

BE IT FURTHER RESOLVED that applicant shall submit plans reflecting the restoration of the building to the approved plans, the issuance of the Certificate of Occupancy shall be conditioned upon applicant's compliance with the terms of this Resolution; as a condition of a temporary certificate of occupancy, to expire on February 28, 2020, applicant must obtain building permits to remove the encroaching building coverage, walls and roof, decking, on the south side of the building abutting 9th Street and the balconies and overhangs on the east side of the building; with work to commence no later than October 31, 2019. Applicant shall provide a performance bond, in amounts determined by the Board engineer, as set forth in Exhibit B—5; to assure applicants compliance with the restoration contained herein. The encroaching areas on the southerly side of the building may be used by applicant until October 31, 2019, when the demolition shall commence.

BE IT FURTHER RESOLVED that the balconies on the east side of the building shall not be used or occupied; applicant shall restrict the access to the balconies; in accordance with all applicable fire and safety codes; to be approved by the Building Department of the Borough..

BE IT FURTHER RESOLVED that Applicant shall obtain all requisite permits and Applicant shall comply with all Federal, State and Local rules regulations and statutes and ordinances effecting this development.

BE IT FURTHER RESOLVED that applicant shall obtain all outside agency approvals from all agencies having jurisdiction over this development, including but not limited to Ocean County Planning Board; Ocean County Soil Conservation District and from the Ship Bottom Water and Sewer Departments; the New Jersey Alcohol Beverage Commission and the Mayor and Council and Construction and Zoning Departments of the Borough of Ship Bottom; and the New Jersey Department of Transportation, as set forth in prior resolutions and as may be required for the modifications set forth herein.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon Applicant's payment of all taxes and all other applicable assessments, and Applicant satisfying all fees and escrow fees as may be required. Applicant shall also pay and post all inspection fees, performance guarantees and maintenance bonds as may be required, in amounts established by the Borough Engineer, and in such form as required by the Borough Solicitor; including, but not limited to the bonding to assure applicant bringing the property into compliance with the approvals previously granted, and removal of those improvements specifically not approved herein, the balconies, roof overhangs, breakaway walls, and roof and decking, and building and lot coverage encroachments.

BE IT FURTHER RESOLVED that the Applicant is required to comply with all ordinances of the Borough of Ship Bottom, and failure to specify compliance herein shall not be deemed a waiver or recommendation by the Land Use Board with respect to Borough Ordinances, including the Zoning Ordinances.

BE IT FURTHER RESOLVED that Applicant is subject to all conditions as set forth herein and at the public hearing and all representations as placed on the record at the public hearing conducted on April 17, 2019 and May 15, 2019 when this matter was considered.

BE IT FURTHER RESOLVED that the concrete wall, stairs, landing and two (2) fountains located westward of the property line shall be legalized by a license agreement, easement or fee simple purchase from the New Jersey Department of Transportation, as a condition to use same; until legitimatized as aforementioned, applicant shall prohibit the use of the encroachments by barrier; if not legitimatized at the time of issuance of a final Certificate of Occupancy, applicant shall remove such encroachments, as a condition precedent for the issuance of such Certificate.

BE IT FURTHER RESOLVED that applicant shall negotiate in good faith to acquire an easement from the Borough of Ship Bottom for that area along its northerly boundary on 8th Street designated as 9,020 square feet on Exhibit B-4; if the easement is not in place on or before the issuance of a final Certificate of Occupancy, applicant shall remove the encroachment from the canopy/Porte Cache as a condition precedent to the issuance of such Certificate. Notwithstanding anything herein to the contrary, the issuance of a final

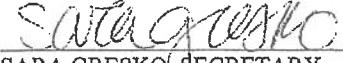
Certificate of Occupancy is subject to and conditioned upon applicant acquiring the aforementioned easement for 9,020 square feet, from the Borough of Ship Bottom.



SARA GRESKO, SECRETARY

-CERTIFICATION-

I, Sara Gresko, Secretary of the Land Use Review Board of the Borough of Ship Bottom, County of Ocean and State of New Jersey, do certify that the foregoing is a true copy of a Resolution adopted by the Land Use Review Board of the Borough of Ship Bottom at a public meeting held on May 15, 2019.



SARA GRESKO, SECRETARY

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Exhibit I

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RESOLUTION OF THE PLANNING BOARD
OF THE BOROUGH OF SHIP BOTTOM
COUNTY OF OCEAN AND STATE OF NEW JERSEY

WHEREAS, the Planning Board of the Borough of Ship Bottom (Land Use Review Board pursuant to N.J.S. 40:55D-25c and the Land Development Ordinances), County of Ocean and State of New Jersey, has before it an application and site plan for preliminary and final site plan approval on behalf of Consolidated Affiliates, LLC, (Eckerd Drug) (Docket No. 98:09SP/V), Block 103, Lots 1, 2 and 3, Causeway and West 9th Street between 8th Street, 9th Street and Barnegat Avenue to construct an Eckerd Drug Store together with an application seeking relief and variances from the Zoning Ordinance, in the GC-General Commercial Zone including a "food mart", one-hour photo and a "drive-thru pharmacy" area with relief being sought for lot coverage, sign, height, area and building height, waivers as to permit porous paving and related to sidewalk and a buffer strip width and any and all variances and waivers deemed necessary as set forth in the Notice and the applicant seeking variances for proposed building height of 38.5 feet and the maximum permitted is 35 feet and proposed lot coverage of 86% and the maximum permitted is 80% pursuant to submissions and plans including Preliminary and Final Plat Major Site Plan prepared by Ernst, Ernst and Lissenden signed by John A. Ernst, III, P.E., L.S., originally dated 5/29/96 and later revised 7/6/98 (Sheets 1, 3 through 7) and last revision 7/2/98 (Sheet 2) and architectural plans by John W. Lister, Architect, dated 6/1/98 including an Architectural Colored Rendering Exterior Elevation Sheet (also Sheet A-7) and the Eckerd Pharmacy proposed being 11,200 sq. feet and the applicant represented by Attorney John L. Woodland, Jr., and

WHEREAS, the Board has jurisdiction as a result of the applicable Ordinances of the Borough of Ship Bottom adopted

pursuant to the Municipal Land Use Law, Chapter 291, Laws of 1975, as amended and supplemented and the applicant having given notice pursuant to same, and

WHEREAS, the Board has considered the matter at a public meetings and Hearings relating to the land and this general site owned by the Woolley family including its relationship to other Applications for Preliminary and Final Site Plan Approval of Block 160, Lot 8, 354 West 9th Street and Block 103, Lot 3 and Lot 5, 339-380 West 8th Street and other relief (Docket No. 98:06SP) -- No. 1 and No. 2 by John A. Woolley and Patricia B. Woolley, husband wife, and Thomas R. Woolley as to the Quarter Deck and also related to Docket No. 98:01 previously filed by Consolidated Affiliates, LLC, and the Board having conducted Hearings on Docket No. 98:09SP/V and the Eckerd Pharmacy site herein on June 17, 1998, and July 15, 1998, and having considered the testimony of various witnesses on behalf of the applicant including a Land Surveyor, Engineer, Traffic Engineer and matters involving drainage, traffic and ingress and egress and having also considered the testimony and Reports of the Board Engineer/Planner including Reports of June 11, 1998, and July 8, 1998, with the latter Report including various revisions as having been submitted by the applicant's Attorney and Engineer by hand delivery on or about July 8, 1998, and

WHEREAS, the Board considered the testimony presented as to the stormwater recharge system, drainage in the area including various comments of citizens and objectors related to same as well as opinions and comments of its Board Engineer/Planner as to porous pavement in lieu of standard paving which the Planning Board Engineer concurred with the waiver requested by the applicant and its Engineer with Board Engineer referring to prior uses of porous pavement at the Fishery, Wawa and Ron Jon sites

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and having agreed with the applicant's revisions to the plans as submitted at the July 15 meeting for review, which included 296 feet of 18" perforated recharge drainage pipe within the parking area along with other drainage connection additions to this system as being beneficial with additional drainage calculations to be submitted by the applicant's Engineer to the Board and the Board Engineer/Planner for his review and written approval and recommendation to the Board, and

WHEREAS, the Board among other site considerations also considered ingress and egress and on-site circulation as well as parking and issues as to this application being related to the Woolley application and site plan approval as to 338-380 West 8th Street, Block 103, Lots 3 and 6 (Docket No. 98-06SP), which approved conformance and waiver as to a site plan for the Quarter Deck Inn and Motel with parking being required as part of that Resolution and actions which included reference to a 1978 New Jersey Superior Court Order and the approval as to same (No. 2) of Docket No. 98-06SP being subject to compliance with the Court Order and parking requirements with said parking also being placed on this site at Block 103, Lots 1, 2 and 3, which is to include nineteen (19) spaces being provided for off-site use by the Quarter Deck and Woolley sites (pursuant to the Court Order as well as the Resolution of this Board adopted and memorialized at its May 20, 1998, meeting) with same to be an easement on this particular site and the State of New Jersey DOT and the County of Ocean having to also review the drainage calculations and ingress and egress pursuant to their jurisdiction, etc., and

WHEREAS, discussions included ingress and egress and signs and the variances involved and two-way traffic and the applicant relying upon its July 8, 1998, submissions as to landscaping,

signs, parking spaces, stormwater recharge, sidewalks, vestibule entrance, curbing and pavement, and

WHEREAS, it was agreed the Board Engineer will review the easement and its description to determine the metes and bounds and adequate access to the parking spaces involving the Quarter Deck and to insure same adequately provides for the nineteen (19) parking spaces with the form of the easement also to be reviewed and approved by the Borough Attorney and the Board Engineer/Planner and the Board Attorney.

WHEREAS, the Board considered the matter and the Reports and the comments of its members as well as citizens and those persons appearing to testify as to the site and the site considerations relating to its location and in particular as to traffic and drainage.

NOW THEREFORE BE IT RESOLVED that the Planning Board of the Borough of Ship Bottom (Land Use Review Board), County of Ocean and State of New Jersey, does hereby grant Preliminary and Final Site Plan approval to the application and site plan and submissions on behalf of Consolidated Affiliates, LLC, (Eckerd Drug) (Docket No. 98-09SP/V), Block 103, Lots 1, 2 and 3, Causeway between 8th and 9th Streets and Barnegat Avenue for an Eckerd Drug Store for retail drug store operations which include a drive-thru pharmacy area as described on the site plan and an area of the pharmacy to include food but specifically limited as set forth during the testimony to sodas and snacks with it being understood there is to be no prepared food, no sale of meat and/or groceries in the general sense with the food to be restricted to canned sodas and beverages and packaged food and snacks such as potato chips, peanuts, etc. (with the Board having previously determined that based on the testimony and offer of proof that this site would not be considered a fast food

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convenience store or a food store or grocery store based on the representations and offer of proof by the applicant and its representatives) with the Board recognizing that although food markets and grocery stores are permitted uses, they are only permitted provided that no other activities associated with other permitted principal uses are conducted on the site as set forth in Section 409 at page 400-25 and as referred to at Section 410 at page 400-30 and the Board approving the "drive-thru pharmacy-type area" as appears on the site plan and subject to the variance relief hereinafter set forth as the Board has determined from the proofs before that the retail pharmacy use as permitted in the Zone generally complies with the Master Plan and the Land Use Plan Element and the Zoning Ordinance of the Borough with the exceptions and relief herein set forth and therefore, the Board finds as a fact the Reports of its Engineer/Planner as referred to aforesaid as well as the "Preamble" of this Resolution and the entire Planning Board file, and

BE IT FURTHER RESOLVED the relief and approval is granted subject to the following conditions made a continuing part of this approval together with the variance relief with the specific requirement that the applicant will now comply fully with the Sign Ordinance with two (2) 50 sq. foot signs plus the "reader" board as shown on the Plan and the Ordinance permits signs, twenty-five (25') feet in height and 50 sq. feet in area with the applicant agreeing and the Board Engineer having confirmed that the building-mounted signs will conform with the Ordinance and therefore, upon compliance with the following conditions made a continuing part of this approval, the Chair and Secretary shall be authorized to sign the revised preliminary and final site plan and only upon the signature of same by the appropriate officials and the recording of the "Deed" hereinafter referred to shall the

Building Department and/or Construction Official or any Subcode Official be authorized to issue any applicable permits with respect to this site and the approvals herein granted (subject to the discretion and enforcement and jurisdiction of appropriate Borough officials in their official capacity as may be permitted according to law);

1. Payment of taxes and other applicable assessments to date as well as payment of all fees and costs and escrow fees.

2. Ocean County Planning Board approval or receipt of communication indicating no interest in the subject application or passage of the appropriate time period pursuant to law provided notice was given to the Ocean County Planning Board and it has been served with any and all revisions.

3. The application and site plan and any revisions thereto subsequent to the July 15, 1998, meeting being submitted by letter to the New Jersey DOT, the Ocean County Highway Department, the Ocean County Planning Board, the Board of Health, Subcode Fire Official, the Office of Bureau of Fire Prevention of the Borough of Ship Bottom as well as the Superintendent of the Water and Sewer Department with enforcement of any regulations or conditions of those officials and offices to be their sole responsibility. A copy of the cover letters to the aforesaid entities and/or officials shall be filed with the Planning Board Secretary and the Construction Official's office.

4. The applicant shall file pursuant to law any approvals and/or file any appropriate submissions as necessary and/or required with respect to this application and site plan and any revisions thereto as may be necessary with the New Jersey Department of Transportation and the New Jersey Department of Environmental Protection and other public entities as applicable and appropriate and/or as may be required by the Borough of Ship Bottom and/or other public entities. A copy of the cover letters filing such applications, site plans and revisions thereto shall be filed with the Planning Board Secretary and Board Engineer/Planner and Construction Official's office.

5. If applicable, the applicant acquiring a Soil Erosion and Sedimentation Control Permit from the Soil Conservation District of the County of Ocean.

6. The applicant shall make revisions to the site plan as set forth on the record and in the Preamble of this Resolution and as required by the Board Engineer/Planner including those as set forth in the Reports of June 11, 1998, and July 8, 1998, and any other subsequent Reports and/or requests by the Board Engineer/Planner and the applicant shall make revisions including notes upon the site plan that the applicant is required to provide for appropriate private refuse and scavenger pickup and service as well as comply with all Borough Recycling Ordinances and 911 standards and Ordinances of the Borough and the State of New Jersey.

Revisions shall also include the size of the two (2) free-standing signs to twenty-five (25') feet in height and

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fifty (50') sq. feet and revision as to internal traffic pursuant to the request of the Engineer and the Board with two-way traffic with a minimum of 24-foot drive aisle being required on the southwesterly side to allow better access to the parking along the westerly property line, all subject to review and approval by the Board Engineer/Planner.

The easement shall be shown on the site plan for the parking involving the Quarter Deck and the nineteen (19) spaces per the Court Order as referred to in this Resolution aforesaid as well as in the Borough Engineer/Planner's Report letters and the addition of certain drainage at 8th Street with a drainage revision at the driveway at the curb line between Remax and Eckerd as testified to and agreed to at the June 15 meeting, again subject to the review and written approval of the Board Engineer/Planner --- the drainage calculations submitted by the applicant and to be updated have to date meet with the Board Engineer's approval; however, same are also subject and a note shall be so indicated on the site plan to the review and approval of the New Jersey Department of Transportation and the Ocean County Highway Department and Planning Board and further, revisions shall be added showing traffic control signage on the parking lot itself and signs restricting the parking (signs also restricting the parking on the Eckerd site to be delineated for the Quarter Deck only per Court Order and Board actions), again subject to the review and written approval of the Board Engineer.

The site plan shall also include revisions as may be required as to compliance with the Americans With Disabilities Act-1990, supplying of appropriate restrooms for disabled customers according to the Americans With Disabilities Act-1990 as well as the Board Health and the revisions to comply with the Sign Ordinance as well as such additional landscaping which is subject to the review and written approval of the Board Engineer/Planner.

Also, a note shall be added to the site plan that the streets and utilities with the Water and Sewer Department and the Superintendent of same prior to commencing any construction. Additional revisions shall be provided as to the width of certain sidewalkings to comply with the review and approval of the Board Engineer/Planner in order to provide additional space for turning and internal traffic circulation together with additional drains and piping to be added to the northwesterly corner and the Remax property and additions involving 9th Street with all drainage as to the site and revisions thereto to be placed upon the site plan with same subject to the review and written approval of the Board Engineer/Planner. Drainage calculations in final form shall be submitted by the applicant's Engineer to the Board Secretary and Board Attorney and Board Engineer/Planner for the Board Engineer/Planner's review and written approval to be sent to the Board Secretary.

All revisions shall be submitted in proper form to the Borough of Ship Bottom Planning Board with same subject to the review and written approval of the Board Engineer/Planner prior to signature of the revised Site Plan.

7. The applicant and their heirs, successors and assigns shall comply with all performance standards and requirements of the Land Development Ordinances of the Borough with respect to prohibited uses and compliance with environmental and safety laws as may be required by the

State of New Jersey, the Borough of Ship Bottom and other public entities.

8. The applicant shall comply with the Ordinances of the Borough with respect to the posting of bonds, guarantees, inspection costs and payment of such fees (including escrows) as may be related thereto and to this application and Resolution and as may be required by the Board Engineer/Planner and/or Construction Official and/or Secretary of the Planning Board (Land Use Review Board) and the Clerk of the Borough and Mayor and Council. Any guarantees shall be in a form approved by the Board Engineer/Planner and Borough Attorney and acceptable in form and amount by the Mayor and Council.

9. The applicant is required to prepare an easement as to this site and the parking spaces being provided for the Quarter Deck pursuant to the New Jersey Superior Court Order of 1978 and the Resolution of the Planning Board relating to this site and adjacent sites and lot in Block 103, Lots 1, 2 and 3, and Block 103, Lots 3 and 6 (Docket No. 98:068P), with said easement and the form of same to meet with the review and approval (including the metes and bounds description by the Board Engineer) of the Borough Attorney, Borough Engineer and Board Attorney with same thereafter to be recorded by the applicant with the Ocean County Clerk's Office and certified copies of same provided to the Board Secretary, Borough Clerk, Construction Official, Tax Assessor, Engineer/Planner and Superintendent of Public Works.

BE IT FURTHER RESOLVED that the Board has determined with respect to the variances sought, the applicant has shown appropriate benefits that outweigh any detriments as to the relief being sought and further that granting of the relief including the relief as to proposed ~~10%~~ coverage of 85% per Board Engineer recommendations where 80% maximum is permitted which has occurred by providing additional ingress and egress for traffic safety and other internal circulation revisions as recommended by the Traffic Engineer of the applicant as well as the Board Engineer and the Board when coupled with the porous pavement being permitted by waiver (which will be based on the testimony before the Board) to improve the drainage conditions at this location) that these additional benefits outweigh any detriment and further that the granting of the relief will not be a substantial detriment to the public good nor will same substantially impair the intent and purpose of the Zone Plan and

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Zoning Ordinance and therefore the relief as to same be and the same is hereby granted specifically subject to the conditions of the site plan approval and subject to the Deed being filed as hereinafter set forth with the Clerk of the County of Ocean as to this Resolution and also the variance relief is specifically and solely related and dependent upon the site plan approval herein conditionally granted being perfected and constructed according to law.

BE IT FURTHER RESOLVED that as a condition of the approval herein granted as to the site plan and variance relief, a Deed shall be recorded by the applicant with the Clerk of the County of Ocean with this Resolution attached following approval as to form by the Board Engineer/Planner and Board Attorney. Subsequent thereto the applicant after recording same with the County Clerk shall submit certified copies of the recorded Deed as filed with the County Clerk's Office with the Planning Board Secretary, Borough Clerk, Construction Official, Tax Assessor and the Engineer/Planner.

BE IT FURTHER RESOLVED that any and all waivers including the waivers requested as to porous pavement in lieu of standard paving as called for in the Ordinance has been recommended by the Board Engineer/Planner, has been previously utilized in the Borough and found to be satisfactory and therefore, the waiver as to same is specifically herein granted subject to the drainage calculations being provided on the porous pavement and adjoining street drainage systems to the Board Engineer/Planner for his review and written approval with any other waivers as may be necessary being reviewed by the Board Chair, the Board Engineer/Planner and Construction Official. It is further understood that the applicant is complying and shall comply with all sight triangle requirements involving New Jersey DOT, Ocean

County and the Borough of Ship Bottom subject to the review and approval of the Board Engineer/Planner as set forth in Paragraph 10 at page 4 of the July 8, 1998, Report.

BE IT FURTHER RESOLVED that the applicant is required to comply with any and all Ordinances of the Borough and failure to require same herein shall not be deemed a waiver or recommendation by the Planning Board with respect to Borough Ordinances including the Zoning Ordinance. This lot and the improvements on same shall comply with the Zoning Ordinance and all other Borough regulations subject to the restrictions and conditions and relief herein granted.

BE IT FURTHER RESOLVED that in the event any questions arise concerning ingress and egress and/or drainage and/or water and sewer involving this application and/or other public entities in the State of New Jersey that the Board Engineer/Planner is hereby authorized with the Planning Board Chair and Construction Official and the Superintendent of the Water and Sewer Department to review any changes as may be necessary and to approve or deny same and to meet with the applicant and any of the aforementioned public entities and/or others concerning same and only in the event the Borough Engineer/Planner and Planning Board Chair and Construction Official consider the changes so substantial as to require additional Board review of the application and/or the applicant shall make a written request for additional review shall the matter be returned to the Board for any further action relating to same.

BE IT FURTHER RESOLVED that as this application for development proceeds, the Construction Official and Chair of the Planning Board may, upon the request of the applicant and with the written advice of the Board Engineer/Planner, grant such changes as may be necessary with respect to the preliminary and

final conditionally approved site plan herein and the variance relief related thereto that are not substantial and the Board does hereby authorize the said officials with and only upon the written advice of the Board Engineer/Planner to take such steps as are appropriate to protect the integrity of the site plan approval and variances herein granted and to insure compliance with the conditions and Ordinances. Any substantial deviation in the opinion of the Board Engineer/Planner and Construction Official and Planning Board Chair shall require a revised application and site plan to be submitted to this Board for its review and action. With respect to any non-substantial and/or minor changes permitted same shall be placed upon a revised site plan signed and dated by the applicant and the applicant's Engineer and/or Architect as well as the Board Engineer/Planner, Construction Official and Planning Board Chair indicating the date of the revisions and the minor and non-substantial changes made with copies of same filed with the Construction Official and the Planning Board Secretary as well as the Borough Water and Sewer Department and Tax Assessor. Any non-substantial or minor revisions pursuant to this procedure shall be understood not to extend any applicable time limits may exist according to law.

BE IT FURTHER RESOLVED that pursuant to the request of the Soil Conservation District, it is hereby requested that if applicable, the Construction Official not issue any Building Permit until there shall have been acquired a Soil Erosion approval and/or permit and/or waiver (also with respect to a Certificate of Occupancy until there has been acquired a compliance report from the Soil Conservation District indicating compliance with any and all conditions of any issued soil erosion and sedimentation control permit and plan) as may apply to this lot and application.

BE IT FURTHER RESOLVED that prior to the signature of the final revised site plan herein conditionally approved and any revisions to same, the Board Engineer/Planner shall have indicated approval in writing to the Planning Board Secretary as to the form and content of the most recently revised plan in conformance with the conditions herein set forth and as may be required by the Board Secretary.

BE IT FURTHER RESOLVED that in the event the conditions set forth in this conditional Preliminary and Final Site Plan approval and variance relief herein set forth are not met by December 1, 1998, with the final revised and amended site plan having been executed by that date and the Deed recorded with the Clerk of the County of Ocean as to the Resolution of record that this application may be listed on the Planning Board Agenda for the meeting of the following month for dismissal without prejudice unless the applicant offers appropriate reasons for the delay all of which may be considered in the discretion of the Board. Further, it shall be understood that this administrative extension is not a representation or guaranty by the Board as existing State law applies and it is the applicant's obligation to comply with applicable law.

Adopted: Lillian Loiman
August 19, 1998
Moved By: Mrs. Feaster
Seconded By: Mr. Oakley

- CERTIFICATION -

I, LILLIAN LORMAN, Secretary of the Land Use Review Board (Planning Board) of the Borough of Ship Bottom, County of Ocean, State of New Jersey, do hereby certify that the foregoing is a true copy of a Resolution adopted by the Land Use Review Board (Planning Board) of the Borough of Ship Bottom at a public meeting held on August 19, 1998.

Lillian Lorman
LILLIAN LORMAN,
SECRETARY

This is not a certified copy

1. **TAXES** Grantor will pay to Grantee, or its designees, no later than ten (10) days after request for payment, grantor's share (5.8% of taxes for land only "share") of the amount of real property taxes attributable to the assessed value of the grantee property.

2. **BASEMENT AND IMPROVEMENTS.** By resolution dated August 19, 1998 (the "Resolution"), Grantee, as contract purchaser of the grantee property, received approval from the Planning Board (Land Use Review Board) of the Borough of Ship Bottom of a site plan (the "Site Plan") for the construction of a retail store of approximately 11,200 sq. ft. on the grantee property ("facility"). Grantee, at its sole cost and expense, shall perform all site work, grading, paving, curbing and striping on its property including the easement area described in Schedule A in accordance with the terms and conditions of the Resolution, together with any conditions, requirements or standards imposed by outside agencies. This provision, however, shall not be construed as a warranty by Grantee of any work related to such improvements. The cost of any subsequent maintenance, repaving and repairs to the easement area described in Schedule A shall be the responsibility of Grantor as provided in Paragraph 4 below.

3. **IMPROVEMENT REIMBURSEMENT.** Grantor will reimburse Grantee for all costs associated with any signage which indicates that the parking area is available for the patrons of the restaurant business on the Grantor property, and for all costs associated with constructing the sidewalk and curbing from the westerly side of the 9th Street driveway on the Grantee property to the point where it meets the Grantor property.

4. **MAINTENANCE.** (a) Grantee, or its designees, will have sole responsibility for the operation, maintenance, repair and replacement including but not limited to, providing lighting, landscaping, snow removal, security, sweeping and litter collection, and on all sidewalks, utility easements, curbing, landscaping and any other improvements, of any nature whatsoever on the Grantee Property which shall also include the Easement area described on Schedule A (collectively the "Maintenance Costs").

(b) Grantor shall reimburse Grantor or its designees, for Grantor's Share of all Maintenance Costs set forth in Paragraph 4 (a) above. Grantor shall pay to Grantee, (amount of estimated monthly payment being 5.8% of the real estate taxes for land only) on the first day of each month as Grantor's estimated monthly Share of Maintenance Costs (the "Estimated Payments"). Grantor shall commence making the Estimated Payments on the first day of the month following the earlier to occur of i. the date of issuance of the initial certificate of occupancy for the facility or ii. the date the parking spaces on Schedule A are legally available for the use by Grantor - such date shall hereinafter be called the Commencement Date. Within 90 days following the first year anniversary of the Commencement Date and thereafter each subsequent twelve month period - Grantee, or its designees shall provide Grantor with a statement setting forth the actual maintenance Costs incurred for the preceding twelve month period and setting forth Grantor's Share less a credit to Grantor for the Estimated payments made by Grantor in the previous twelve month period (or part thereof for the initial year) and Grantor shall within 10 days after receipt pay any deficit to Grantee or be credited with any overpayment against the next due Estimated Payments. The Estimated Payments shall be subject to annual adjustment based on the actual Maintenance Cost incurred during the previous 12 month period.

5. **INSURANCE.** Grantor shall maintain at all times comprehensive general liability insurance and umbrella excess liability insurance covering its visitors, invitees and operations, and those of its agents, subcontractors and employees, both on the grantor property and the grantee property. Grantee and Tenant shall be named as additional insureds; the insurance coverage shall be not less than One Million (\$1,000,000.00) Dollars; and Grantor shall provide Grantee with a Certificate of Insurance evidencing such coverage.

6. **GRANTEE ASSUMES NO LIABILITY TO THIRD PERSONS.** The covenants, undertakings, agreements or other obligations of Grantee set forth in this Easement shall not be construed as the grantee's assumption of any contractual or other liability to or with any persons, firms, or corporations dealing with Grantor or otherwise using or having an interest in the Grantor's property, nor shall this Easement be construed to impose any liability on Grantee to third persons.

7. **INDEMNIFICATION.** Grantor hereby agrees to indemnify, defend and hold harmless Grantee, its designated tenants and their respective successors, assigns, officers, employees and agents, for and against any and all claims, suits, liability, loss, expense (including reasonable attorneys' fees and disbursements) of any kind or nature and from all suits, claims or demands relating to, arising out of or resulting from or in any way connected with the rights granted to Grantor, in this Easement or from the activities of Grantor, its tenants, anyone using easement area connected with Grantor or their business invitees upon the grantee property.

8. **HEADINGS.** The headings included in these conditions associated with the easement are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope or intent of this document nor in any way affect the terms and provisions thereof.

This is my
copy

SENT BY:

6- 9-99 :12:18PM :

518+862+9443:# 2/ 3

9. **NOT A PUBLIC DEDICATION.** Nothing contained in this Easement will be deemed to be a gift or dedication of any portion of the Grantee property to the general public or for the general public or for any public purpose whatsoever.

10. **ATTORNEYS FEES.** In any litigation arising out of this Easement, the prevailing party shall be entitled to payment of all attorney's fees and costs related to such litigation.

11. **CONDAMNATION.** In the event of condemnation of the easement area or any portion thereof, any award shall be payable only to Grantor. Grantee hereby waives any and all interest it may have in a condemnation award related to that portion of the Grantee property described on Schedule A.

12. **BINDING ON BURG.** The rights and obligations of this easement are binding upon the Grantor, the Grantee and all who succeed to their interests.

Grantee signs this Deed for the purpose of evidencing its agreement to be bound by the conditions attached to the easement herein reserved for the benefit of the Grantor property.

Promises by Grantor. The Grantor promises that the Grantor has done no act to encumber the property. This promise is called a "covenant as to grantor's acts" (N.J.S.A. 46:4-6). This promise means that the Grantor has not allowed anyone else to obtain any legal rights which affect the property (such as by making a mortgage or allowing a judgment to be entered against the Grantor).

* This Deed may be signed in Counterparts. *

Signatures. The Grantor signs this Deed as of the date at the top of the first page.

Witnessed by:

Reginald J. Raban
REGINALD J. RABAN
ATTORNEY AT LAW
OF NEW JERSEY

ATTEST:

JANE B. DUPLAK
NOTARY PUBLIC
MY COMMISSION EXPIRES DEC 26, 2002

Original Signatures
on following page.

John A. Woolley (Seal)
JOHN A. WOOLLEY

Patricia B. Woolley (Seal)
PATRICIA B. WOOLLEY

Thomas R. Woolley (Seal)
THOMAS R. WOOLLEY

LBI GROUP, L.L.C.
a New Jersey limited liability company

By: Richard Rosen
Richard Rosen, managing member

ATTEST:

Edgar Kugler

JB 5706-0379

9. **NOT A PUBLIC DEDICATION.** Nothing contained in this Easement will be deemed to be a gift or dedication of any portion of the Grantee property to the general public or for the general public or for any public purpose whatsoever.

10. **ATTORNEYS FEES.** In any litigation arising out of this Easement, the prevailing party shall be entitled to payment of all attorneys' fees and costs related to such litigation.

11. **CONDAMNATION.** In the event of condemnation of the easement area or any portion thereof, any award shall be payable only to Grantor. Grantee hereby waives any and all interest it may have in a condemnation award related to that portion of the Grantee property described on Schedule A.

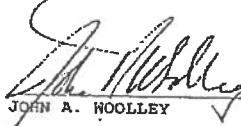
12. **BINDING NATURE.** The rights and obligations of this easement are binding upon the Grantor, the Grantee and all who succeed to their interests.

Grantee signs this deed for the purpose of evidencing its agreement to be bound by the conditions attached to the easement herein reserved for the benefit of the Grantor property.

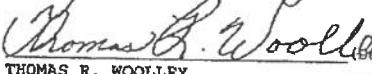
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This Deed may be signed in Counterparts.
Signatures. The Grantor signs this Deed as of the date at the top of the first page.

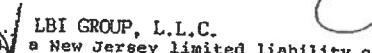
Witnessed by:

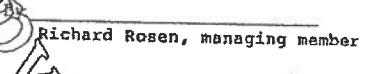

JOHN A. WOOLLEY (Seal)


PATRICIA B. WOOLLEY (Seal)


THOMAS R. WOOLLEY (Seal)

ATTEST:


LBI GROUP, L.L.C.
a New Jersey limited liability company


Richard Rosen, managing member

ATTEST:



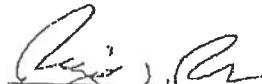
JANE E. DUPLAK
NOTARY PUBLIC

MY COMMISSION EXPIRES DEC 26, 2002

1

This is a
copy of
the original
document

STATE OF NJ, COUNTY OF OCEAN SS.:
I CERTIFY that on April 20, 1999
JOHN A. WOOLLEY and PATRICIA B. WOOLLEY and THOMAS R. WOOLLEY personally came before me and
acknowledged under oath, to my satisfaction, that this person (or if more than one, each person):
(a) is named in and personally signed this Deed;
(b) signed, sealed and delivered this Deed as his or her act and deed; and
(c) made this Deed for:
\$100,000.00
as the full and actual consideration paid or to be paid for the transfer of title.
(Such consideration is defined in N.J.S.A. 46:15-5.)


REGINALD Y. RABAN
Attorney at Law of New Jersey

Original Signature
on following page

STATE OF NY, COUNTY OF ALBANY SS.:
I CERTIFY that on June 4, 1999
Richard Rosen
personally came before me and stated to my satisfaction that this person (or if more than one, each person):
(a) was the maker of the attached deed;
(b) was authorized to and did execute this ~~deed as managing member~~ of LBI GROUP, L.L.C., the entity named in this instrument; and,
(c) executed this instrument as the act of the entity named in this instrument.


ANNETTE M. HARRIS
Notary Public, State of New York
Qualified in Albany County
No. 4971040
Commission Expires August 20, 2020

1B 5706-0381

STATE OF NJ, COUNTY OF OCEAN

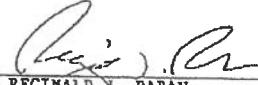
SS.:

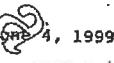
I CERTIFY that on April 20, 1999
JOHN A. WOOLLEY and PATRICIA B. WOOLLEY and THOMAS R. WOOLLEY personally came before me and
acknowledged under oath, to my satisfaction, that this person (or if more than one, each person):

(a) is named in and personally signed this Deed;
 (b) signed, sealed and delivered this Deed as his or her act and deed; and
 (c) made this Deed for:

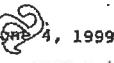
\$100,000.00

as the full and actual consideration paid or to be paid for the transfer of title.
(Such consideration is defined in N.J.S.A. 46:15-5.)


REGINALD J. RABAN
Attorney at Law of New Jersey

STATE OF NY COUNTY OF ALBANY SS.: 

I CERTIFY that on April 4, 1999
Richard Rosen
personally came before me and stated to my satisfaction that this person (or if more than one, each person):
(a) was the maker of the attached Deed
(b) was authorized to and did execute this Deed as managing member
of LBI GROUP, L.L.C., the entity named in this instrument; and,
(c) executed this instrument as the act of the entity named in this instrument.


Richard Rosen
LBI GROUP, L.L.C.
4/4/99

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X
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Exhibit J

RESOLUTION 2023-10
RESOLUTION OF MEMORIALIZATION OF THE
LAND USE BOARD OF THE BOROUGH OF SHIP BOTTOM
COUNTY OF OCEAN AND STATE OF NEW JERSEY
DOCKET NO. 2023:03

WHEREAS, The Baldwin Residence, LLC (hereinafter the "Applicant") has made application to the Borough of Ship Bottom Land Use Board for amended preliminary and final site plan approval along with use variances, numerous bulk variances, design waivers and exceptions so as to clarify and amend prior approvals issued by the Ship Bottom Land Use Board permitting, at that time, a 102 room hotel with ancillary uses on Block 103, Lot 6 and ancillary uses to be located on Block 103, Lots 1.01 and 3; Block 100, Lot 8; Block 110, Lot 1 and Block 110, Lot 25 as shown on the Tax Map of the Borough of Ship Bottom, located at 301 West 9th Street, 350 West 8th Street, 354 West 9th Street, 301 West 8th Street and 311 West 8th Street in the GC-General Commercial Zone (hereinafter the "Subject Property"); and,

WHEREAS, public hearings were held on May 16, 2023, June 6, 2023, and July 19, 2023, after the Board determined it had jurisdiction; and,

WHEREAS, the Applicant was represented by Arnold Lakind, Esq.

NOW THEREFORE, the Land Use Board makes the following findings of fact, based on evidence presented at its public hearings, at which a record was made.

The application before the Board is a request for amended preliminary and final site plan approval along with use variances, numerous bulk variances, design waivers and exceptions so as to clarify, ratify and amend prior approvals issued by the Ship Bottom Land Use Board permitting, at that time, a 102 room hotel with ancillary uses to be located on Block 103, Lot 6 as shown on the Tax Map of the Borough of Ship Bottom.

May 16, 2023 Hearing

Appearing and testifying at the initial hearing on behalf of the Applicant were Julie Barlow, Keith Mollema, Robert Stout, a licensed professional engineer in the State of New Jersey, and Betsy Dolan, a licensed professional engineer in the State of New Jersey.

Mr. Lakind started by summarizing the overall history of the application indicating that the Applicant had been before the Board on a number of occasions (see Appendix B which contains all the Resolutions previously approved by the Board). It was noted that the hotel is open and operational but that over time it had become clear that numerous other forms of relief are necessary to legitimize the as-built conditions on site and to also resolve other outstanding issues. He noted that the prime issue as part of this application was the need to redesign parking so as to be able to accommodate the various uses taking place on the hotel lot. Mr. Lakind indicated that they would be seeking relief from height requirements and permission to employ off-site parking in conjunction with the operation of the resort. It was agreed that parking, as submitted in the initial set of plans, needed to be redesigned based upon Ms. Dolan's review (Appendix D) and the peer analysis completed by Charles Olivo (on behalf of Ship Bottom) (Appendix E containing 3 memoranda and exhibits showing revised parking for hotel, rock lot (Block 100, Lot 8) and gas station).

Mr. Lakind went on to remind the Board that a restaurant known as the Quarterdeck had previously been on this parcel and that it was, in its heyday, capable of hosting approximately seven hundred people on-site at any one time. Although the Hotel LBI has now replaced the Quarterdeck, Mr. Lakind acknowledged mistakes had been made by not only the Applicant but also the Borough during the approval process. Mistakes by the Applicant included location of balconies which encroached upon setbacks, installation of seashells for groundcover which

increased impervious coverage, scrivener's errors as regards building coverage, the installation of the southern wall, and uncertainty with regard to the use of the rooftop deck. At the same time, Mr. Lakind proffered that his client had made numerous efforts to rectify oversights which included checking regularly with Borough Officials to ensure no recurring problems still appeared. He also noted that the owner had offered radio repeaters for the Fire Department and was now providing free valet parking. In response to questions, Mr. Lakind indicated the application for the tent on the roof was now withdrawn.

Julie Barlow and Keith Mollema were called as witnesses to testify to the operations at the facility. Ms. Barlow has been employed at the facility since 2019 as the General Manager. She indicated that the main in-season was between July 1st through the end of August. At the present time no weddings were permitted to take place after July 1st. She considered June, May, September and October as the shoulder seasons and the off-season constituted as January, February, March, April, November, and December. She next reviewed the site venues, testifying that in addition to the 102 hotel rooms, there was Salt Bar and Kitchen, a lobby bar/living room, rooftop deck, the banquet/conservatory, a tidepool and tidepool bar (only available for guests and seating no more than 42 individuals from noon to 6:00 p.m. seven (7) days a week), a small meeting room and parking area. She also noted that the existing spa and salon were being eliminated but may be used in the future for guest amenities such as a playroom for children.

She stated the hotel has 102 rooms with eighty-three (83) being studios, eight (8) 1-bedroom, nine (9) 2-bedroom and two (2) bridal suites. As reflected in the enclosed chart:

Type	Number	Maximum Sleeping capacity	Total
Studio	83	4 to 6	498
One bedroom	8	4	32
Two Bedrooms	9	6	54
Bridal Suite	2	4	8

The above chart indicates the maximum sleeping capacity for occupancy loads of the hotel. The hotel, with a policy of not allowing anyone to check-in to the facility if they are under 21 years of age, is specifically not geared to college students since it is the desire of the ownership to operate the hotel for families. To operate the hotel rooms, 20 housekeepers are necessary. She also testified that when weddings take place, they use the conservatory for many of the activities.

Next, she indicated most employees park in what is known as the rock lot immediately to the south of the hotel, but they encourage walking, biking, and shared rides. The facility attempts to hire as many local people as possible. The hours of operation are 24 hours a day, seven (7) days a week for the reception desk. Cleaning generally takes place between 8:30 a.m. to 4:00 p.m. and requires a maximum of sixteen people. Operations include three (3) employees in-season at the check-in desk, which normally occurs after 4:00 p.m. with check-out being scheduled, for no later than 11:00 a.m. It was her estimate that it takes approximately 45 minutes to clean each room. She next noted that trash is removed from the rooms, put in dumpsters, which are between 6 and 10 cubic yards in size and removed from the site, by a private hauler.

Next, she described deliveries indicating that most are made at the north side of the building and that these include the obvious items needed for a hotel, such as food, liquor, linens, and other supplies. These deliveries take place 5 to 6 days a week with, for example, seafood being a daily occurrence and housekeeping supplies twice a week. Box trucks usually make deliveries, but tractor-trailers visit the site once or twice a week. It was noted that there is no delivery zone shown on the plans. She also testified that deliveries take approximately 5 to 20 minutes. Ms. Barlow further testified that maximum occupancy to date has occurred approximately ten (10) times per year. The hotel also tries to provide additional amenities, which include a shuttle service running

from 10:00 a.m. to 7:00 p.m. to the 9th Street beach. There are also thirty-two bikes available for guests kept on-site. They have also installed a rinsing station in the garage area which has two (2) showerheads to remove sand.

After Ms. Barlow's testimony, Keith Mollema testified that he had been employed at the facility since 2019 and is the Director of Food and Beverage. At the present time, Salt Kitchen and Bar (Appendix A, A-8), while capable of having 200 seats, has 185 seats with a range of table sizes between two (2) and ten (10). The hours of operation are in-season 5:00 p.m. to 11:00 p.m. seven (7) days per week with an early bird for local residents in the off-season starting at 4:00 p.m. and ending at 10:00 p.m. The kitchen staff consists of twenty people regardless of whether the activities take place on the site, are part of a wedding, Salt Restaurant, rooftop, pool bar or the living room/lobby bar. (See Appendix E for summation of all employees and times present) He indicated that tables normally turn over between two (2) and three (3) times per evening. Breakfast is served in the living room area and is almost entirely patronized by hotel guests. Lunch is also available in the pool area. He also noted that the hotel and Salt Kitchen and Bar are available during the shoulder and off-seasons, most of whom are guests of the hotel. He further testified that it is their desire to keep the fire pit(s) on the roof and in the front of the hotel and resume its operations. Generally, food and beverages set up for this part of the facility take place early in the morning and take 15 to 20 minutes, with deliveries made on the northwest side of the property. It usually requires twelve people to close the restaurant facility which consists of support staff.

In addressing the lobby area/living room (See Appendix A, A-5, A-9), he indicated that it has a capacity of ninety-five and a total of eighty seats. At the present time, it is used for breakfast for hotel guests between 7:00 a.m. and 11:00 a.m. but is available to the public. Eighteen (18) individuals may sit at the bar, and the rest of the seats in this area consist of tables and couches,

which are also used during happy hours. Bar food, such as hamburgers, sandwiches, and the like, are available here. The food being offered for lunch at the pool bar consists of pizza, burgers, and wings. He noted that lunch is served throughout the week.

Next, he addressed the rooftop deck (Appendix A, A-10) which has a capacity of two hundred and is open to the public. The layout consists of four (4) entry points consisting of a mix of elevators and stairways. In that area is bar seating, couches, and Adirondack chairs. There are three (3) fire pits currently on the rooftop which are not being used pending inspections by fire officials. These pits shall be removed at this time. He noted that access is through two (2) stairways on the southside and three (3) elevators, one (1) of which is a service elevator. Hotel guests may use the two (2) elevators on the east side of the deck. At the present time, no DJ or live music is played. They only use lite speakers and do not seek permission for any other activities. He noted that the rooftop deck can only be accessed if booked through the program "Open Table" or at the hotel desk with the hotel staff. A full-service rooftop bar is located there, providing pizza, and is staffed by up to three (3) bartenders with three (3) servers running food. Generally, this area is used until the end of shoulder season, before Memorial Day and after Labor Day, but they will try to extend its use late as possible depending upon weather conditions. To reserve a spot, they use Open Table and, therefore, a waitlist does not exist. Priority is always given to hotel guests if at all possible. He also noted they have not received any noise complaints. In addressing other issues, he testified that lights on the rooftop are below ground level to maintain a darker viewscape for the facility.

Next, he addressed the banquet facilities indicating that they are capable of handling up to two hundred people (See Appendix A, A-7). To run a banquet, he estimated that it required between 16 and 20 employees consisting of 12 servers, four (4) bartenders, two (2) back runners

and two (2) supervisors. The amenities for the banquet facility include a bar, seating area, and tables. They run a typical wedding and table service banquet-style with all guests being served at approximately the same time. He emphasized that this facility would not be used in-season and for whatever time periods were agreed to at the hearing.

Next, he testified that the tide pool (Appendix A, A-6), eating facility snack bar can have as many as forty-eight hotel guests there; however, it can seat up to 60. During the shoulder season, it is open Thursday through Sunday and holidays, and off-seasons it is open Friday, Saturday, and holidays and is available between 12:00 p.m. and 6:00 p.m. In conclusion, he also noted that there was a small meeting room that could hold up to sixteen people and that the lobby area contains seats for people just waiting to check-in to the facility.

Next, Robert Stout, a licensed professional engineer, appeared and testified. Mr. Stout provided an overview of the plans which included drainage, parking lots and the like. He introduced an exhibit which contained the combination of an existing conditions plan but also showed all the variances being sought by the Applicant. (See Appendix A, A-14, also contained in Appendix C, C-4). Mr. Stout reviewed the existence of these variances but deferred their justification to the Applicant's professional planner, Creigh Rahenkamp.

After Mr. Stout's testimony, Elizabeth Dolan, a licensed professional engineer with an expertise in traffic, testified based upon a report she prepared dated May 3, 2023, and included in this Resolution as Appendix D. After being qualified, Ms. Dolan testified that she had originally looked at definitions for hotel and resort hotel prepared by the Institute of Transportation Engineers contained in the Trip Generation Manual and the Parking Generation Manual, fifth edition. After undertaking an analysis, she determined that the ratios for the 102 guest rooms located at the Hotel LBI resulted in a demand of 159 parking spaces. She noted that actual parking counts had been

undertaken by the Board's expert Charles Olivo of Stonefield based upon actual events which took place on Friday, March 24 and Saturday, April 25, 2023. In undertaking her analysis of this field data, she concluded that 216 parking spaces for the occupied 102 hotel rooms would be necessary. She also noted that the rooftop bar would require an additional fifty parking spaces. Next, Ms. Dolan turned to the Urban Land Institute's 3rd edition of Shared Parking and evaluated a series of scenarios for the facility. Ms. Dolan's report is Appendix D. In summarizing her analysis, she concluded that parking demand would increase during the summer peak season to 279 spaces, as reflected in a chart provided under conclusions on page 3 of her report. The maximum parking count for all sites is 279.

Next, Charles Olivo, a licensed professional engineer, professional planner, and expert in traffic engineering, appeared and testified as part of the traffic/parking peer review undertaken in conjunction with this application. He provided a Memorandum dated April 21, 2023 (Appendix E, E-2). He summarized his report indicating that the site had been visited by his team on March 24, 2023, to determine general occupancy and use of the building along with the utilization of various parking areas; those observations having taken place between 5:00 p.m. and 7:00 p.m. At that time, the hotel had an 89 percent (89%) occupancy rate, with seventy patrons anticipated for dinner and a 125-person wedding ceremony using the Conservatory and Lobby Bar. The rooftop bar was closed as was the veranda. At that time, his estimate was that there were approximately forty-nine employees on site and the total stalls parked equaled 161.

Subsequently, a second data collection effort was made on Saturday, April 15, 2023, when the hotel was at a 94 percent (94%) occupancy rate, with 115 patrons anticipated for dinner and a 150–175-person wedding taking place in the Conservatory and cocktail party on the veranda. He noted that the garage was being used along with thirteen stalls on site outside the building, the

CVS parking lot, the gas station (Lots 1 and 25) and also off-site parking in Stafford Township (an adjoining municipality) at the Boatyard parking lot. Ninety-six rooms were booked according to the reservation list, with 20-25 more vehicles coming to the site later that evening with an employee count of forty-six individuals. His overall conclusion, as testified to at the hearing, was that a minimum of 279 parking spaces would be required and that this number could expand by between 10 percent (10%) and 20 percent (20%) depending upon activities taking place on site.

June 6, 2023 Hearing

Joseph Infurna, the head of on-site valet parking, testified that the valet service has two (2) shifts, the first beginning at 6:00 a.m. and going until 1:00 a.m. and the second beginning at 7:00 a.m. and going until 1:00 a.m. He indicated that they are staggered shifts with four (4) to six (6) individuals being available in the morning and five (5) to eight (8) at nighttime. He noted that not all guests use the parking facilities, but rather elect to use Uber. It was his guesstimate that as much as 40 percent (40%) of people visiting the facility used other transportation systems. Mr. Infurna further testified there is a complete security camera system in the garage, but at the present time, no security cameras are located on the remote lots. He also testified that on two (2) occasions, they have used the Boat Yard facility located in Stafford Township to have employees park their vehicles there and then be transported to the Applicant's Ship Bottom site.

After Mr. Infurna's testimony, Jeffrey Pack, a licensed professional architect in the State of New Jersey, testified to a number of areas. First, after being qualified, he indicated that the existing wall could be moved back to meet the columns, except for a limited area under the pool where there is an equipment room storing mechanical apparatus. He testified that this was needed as a storage area, however, because of additional questioning from the Board and its professionals, it was determined that most of the wall in the pool area up to the door frame could be moved back

subject to final review and approval by municipal officials. Next, he testified as to the height variance for the trellis and pergola, indicating that they were eleven feet high and that this had always been shown on the plans. He acknowledged, however, in response to questions, that they had never called out the specific variances needed for the trellises and pergola and were, therefore, seeking relief at this time since no relief was previously given.

Next, Meghan Jacobs, Marketing Director for Mercer Management, the parent company managing the Hotel LBI testified as to rooms and occupancy levels.

Next, Creigh Rahenkamp appeared and testified as a licensed professional planner in the State of New Jersey. Mr. Rahenkamp entered three (3) exhibits marked as A-17 Typical Busy Summer Day, A-18 Typical Busy Day with Wedding Holiday Weekend, and A-19 Hotel LBI Space Descriptions, all included in Appendix A. Mr. Rahenkamp noted that the engineer had reviewed a vast majority of the variances needed, although he stated that relief would also be needed pursuant to Section 16.52.080e which requires that in those instances when parking cannot be satisfied on the principal lot, this section allows for parking to be provided off-site to satisfy the parking requirement. While specifically indicating that the Hotel LBI site does not require a use variance for parking, it was determined that the application before the Board is a site plan for the hotel to use off-site parking and, therefore, it is necessary to review the lots (in this case Block 100, Lot 8 and Block 110, Lots 1 and 25) and for them to obtain use variance approval. In this instance, Lot 1/25 will have three (3) uses: one will be the upper story for limited employee housing, ground level for the storage of dry goods with no food, and parking. He testified that on this parcel, coverage currently was at 100 percent (100%) whereas 80 percent is permitted. As a result of changes being made to the site, the gas station lot will see coverage decrease to 90 percent (90%). He testified that this in-turn still required a use variance since the lot would have three (3)

distinct uses. He also noted that on Lot 8, Block 100, parking was the only use, and, therefore, a use variance was also required for that parcel since there was no principal use.

In addressing the d(1) criteria, Mr. Rahenkamp stated that parking supports the hotel use in that the hotel brings in many benefits. It not only supports money being brought into the community but significantly increases employment and attracts visitors to the area. He believed that this represented fulfilment of the purposes of the Act under N.J.S.A. 40:55D-2 since it encourages municipal action to guide the appropriate use or development of all lands in the State, and promotes the public health, safety, morals, and general welfare. He also suggested that it encouraged coordination of the various public and private procedures under subsection m. and activities shaping land development with a view of lessening the cost of development and more efficient use of land. He also opined that Hotel LBI promoted a desirable visual environment, represented creative development techniques, and had good civic design and arrangement. He further believed this advanced the business core for the area and that the hotel itself was a specifically permitted use and, therefore, it had no different impact than other uses in the area. He further opined that the hotel did not impact uses of the other parcels.

Next, in addressing the pergola and trellis, he pointed to the fact that this variance was required pursuant to Section 16.52.080E3 and that they were neither taller than other structures nor higher than the elevators. He said they were attractive and did the job for which they are purposed: to provide shade. He also noted that decreasing their height would place limitations on head clearance. Mr. Rahenkamp next addressed the variance relief for the stacked parking noting that it is not appropriate for self-parking but can be managed using valets. He referenced Exhibit A-14, the site plan with the variances marked, as buttressing this argument. Next, under Pullen v South Plainfield Planning Board, 292 N.J. Super. 303 (1995), Mr. Rahenkamp posited that the

overall package taken in toto makes sense and the benefits therein outweigh detriments, since this is a large functioning site although he acknowledged that it did require various forms of relief.

Chuck Olivo testified that he subsequently, prepared a supplemental Memorandum dated June 6, 2023 (Appendix E, E-3) and testified to it at the June 6th hearing. By way of summary, he emphasized the valet service was well-organized and capable of handling all guests he had observed on the two (2) occasions. His June 6th report also summarized his previous findings noting again that the peak parking count for Friday, March 24, 2023 was 161 stalls used, for Saturday, April 15, 2023, 136 stalls used, and for Friday, May 26, 2023, 155 stalls used (with the hotel being 81 percent (81%) occupied, and the rooftop bar open with approximately 53 guests). He also visited the site on Saturday, May 27, 2023, and noted that on this date, the hotel was 98 percent (98%) occupied, the Lobby Bar was open and operational, Salt Restaurant and Bar open and operational, the veranda and Conservatory not being used, and the roof top deck open with approximately 136 guests. The peak parking count at that time was 184 stalls.

Subsequently, he also visited the site on Sunday, May 28, 2023 between 7:50 and 8:20 and noted that on Sunday there was a weekend afternoon/evening wedding, 100 percent (100%) hotel occupancy based on the reservation system, the Lobby Bar was open and operational, Salt Restaurant and Bar was open and operational, and the Veranda and the Conservatory was being used for the wedding. The rooftop was open with approximately fifty-four guests leading to a peak parking count of 204 stalls. He testified that he was in general agreement with the findings of the Dolan and Dean correspondence dated May 3, 2023, which concluded that the highest levels of peak parking demand would between 266 to 279 parking stalls based upon current operations of the various spaces and uses within the building. He went on to note in his report that based upon review of the valet parking conditions, Stonefield prepared a valet parking exhibit attached to the

report depicting parking supplies and capacities of all the subject properties which are part of this application. The conclusion reached by his group was that all properties combined had a parking supply of 242 stalls, but that based upon valet staffing and operations, an additional 10 percent (10%) to 15 percent (15%) parking positions could be achieved within the parking areas for a total maximum supply of 279 stalls. The Garage lot totaling forty spaces comprised of thirty-six valet spaces and four apartment spaces. These diagrams are made part of the record and as indicated in the conclusions of law, will constitute the only parking layouts which shall be permitted to be implemented on the site because of the actions taken by the Board. (See Appendix E, E-4 [showing revised parking for hotel, rock lot and gas station lots]) He also recommended that the level of staffing be incorporated in the Resolution. Mr. Olivo concluded his testimony saying that the plans he had prepared represented what was considered a worst-case scenario, but that it was his recommendation that this be implemented to ensure that the hotel remained viable.

From time-to-time, the meeting was opened to the public. A number of individuals appeared and gave testimony in favor of the hotel and one testified in opposition to the hotel. The comments of the public were generally that the hotel had been a good neighbor, was a good asset to Ship Bottom, did not generate excessive noise, and was a good addition to this section of Ship Bottom and LBI.

Furthermore, a report from Frank Little (who serves as both the Borough Engineer and the Board Engineer for purposes of this Resolution and hereinafter "Borough Engineer"), which was updated on numerous occasions with a final date of May 2, 2023, was reviewed and responded to at the June hearing of the Board (See Appendix F, F-1). Mr. Little first began by summarizing all the items submitted as part of the application for review. It contained a number of exhibits, Deeds, and architectural plans which had been prepared by Dever Architects dated December 17, 2018,

with a latest revision date of October 19, 2022. The set also included amended preliminary and final site plans consisting of thirteen sheets prepared by Stout & Caldwell Engineers dated March 21, 2022, with a latest revision date of September 9, 2022. Further, a plan of survey, demolition plan, and site improvements grading plan consisting of two (2) sheets dated September 9, 2022, were also submitted for Block 100, Lot 8, Block 110, Lots 1 & 25. Other items are specifically listed in his report. These are the plans submitted by the Applicant that the Board is officially acting on.

Next, Mr. Little went on to review the zoning for the site, calling out the variances, encroachments, and other items for the various lots and blocks. After the variances, he reviewed the architectural plans and provided comments on the various drawings on the building. It was his opinion that no height variance was needed with the exception of the rooftop trellis.

That list of conditions from Mr. Little's report is contained as conditions of the Resolution in the appropriate sections at the end of this Resolution. This Resolution shall make, as a condition of approval, adherence to the list of conditions set forth herein. Further, in order to ensure complete compliance by the Applicant, they shall be required, as contained in the conditions section of the Resolution, to provide a Certification from both a licensed architect in the State of New Jersey and a licensed professional engineer in the State of New Jersey that the Applicant and its professionals understand and agree with all items contained in this Resolution and that they are also in receipt of all other necessary approvals in order for this development to obtain final site plan approval. The first draft of this Certification shall be submitted within 60 days of memorialization of this Resolution, and a final Affidavit shall be submitted at the time the Applicant obtains any other outside agency approvals, but in any event no later than December 1, 2024. This time may be extended due to circumstances beyond the control of the Applicant if the Land Use Board, in

addressing final site plan approval, finds there to be a sufficient basis. In order to ensure the protection of the public's health and safety along with the general welfare, a failure to adhere to this may result in any temporary Certificates of Occupancy for use of the hotel being suspended until such time as the Applicant provides this needed information. Mr. Little's recommendations were distilled to the items set forth in the conditions of approval. See Appendix F.

July 19, 2023 Hearing

The final hearing on the application took place on July 19, 2023, for the purpose of providing additional testimony to clarify and complete all the remaining issues which were yet to be addressed. The first witness to be recalled was Robert Stout, engineer for the project, who provided testimony on both Block 100, Lot 8 (the "rock" lot) and Block 110, Lots 1 and 25 (the "gas station" lot). In first addressing the rock lot, Mr. Stout indicated that it was now in compliance with the Ordinance. He indicated that additional drainage calculations had been undertaken, revised landscaping, lighting, and other various site plan improvements had been shown on the plans and had been subject to review by the Borough's Engineer. He noted they could fit thirty vehicles on that parcel and that it was in close proximity to the hotel. They proposed installing a 6-foot-high PVC fence along two (2) sides of the parcel to provide additional buffer. A lighting plan was also proposed which, in his professional opinion, was adequate for these thirty valet spaces.

Next, he testified that the gas station lot also met all stormwater, lighting, and other site plan requirements. On that parcel, was a 2-story building for which the Applicant proposed to use the first story as storage of supplies, such as beach gear and bicycles and the second story as an apartment containing 1,125 square feet of living space which would be used for staff housing of up to nine (9) foreign students. There was a bathroom located on the second story and in

compliance with the construction code requirements, a half-bath on the first story for the commercial area. This lot would have forty-four valet parking spaces along with four (4) apartment spaces.

Next, testifying on behalf of the Applicant was Julie Barlow, one of the managers of the hotel facility. Ms. Barlow stated that the apartment use would be for foreign students who were employed as part of the housekeeping staff for the hotel. She stated that the facility could house up to nine (9) students in a dormitory-like setting. House rules are imposed upon those individuals, and the space inspected weekly. There is also a lease agreement, entered into by all residents, which includes such requirements as no smoking or alcoholic beverages and the like. She testified that because of the nature of the individuals residing there, they would not have cars, but rather would use the bicycles and shuttle service as needed.

Frank Little testified regarding the site plans for the rock and gas station lots. He stated that, in his opinion, provided all items contained in his 15-page May 2, 2023, report were addressed, both lots met minimum requirements of preliminary site plan sufficiently to enable the Board to grant approval. Mr. Little noted, however, that these lots, just as the hotel parcel, did not qualify, at this time, for final site plan approval since there were still outstanding issues needing to be addressed, and in particular, all lots were encumbered by actions still being taken by the State of New Jersey as it made improvements to the New Jersey State Highway Route 72 corridor. He also noted that a variance for lighting would be required on these lots but that it was adequate for its purposes and did not interfere with activities in the surrounding area. He noted also that some site improvements were still needed including striped parking (where appropriate), landscaping, and other incidental improvements to the site which would all be subject to either his or the Township's Building Department inspections and final approvals.

Mr. Little went on to indicate as called out in his May 5th report, which is contained in Appendix F, F-2, that there were a large number of open items which still needed to either be addressed by the Applicant or signed off on by the municipality. He recommended that they all be incorporated as conditions of any approval granted by the Board. In particular, Mr. Little was concerned with safety in the area. This included use of the rock lot and the lack of crosswalks to that parcel. He also raised issues concerning other items which had never been fully vetted or approved by the Board or, more importantly, the Construction Department.

Next, Charles Olivo, traffic consultant for the Board, appeared and testified with an updated verbal report. Mr. Olivo noted that he had visited the site on the July 4th weekend and found the gas station parcel to be completely parked by approximately 7:45 that night. He noted that the crosswalks were not being used by the valets. He also testified that; the rock lot should no longer be used for short-term parking but rather those 30 spots should be designated for employee parking only so as to avoid the necessity of people crossing Route 72 on a frequent basis. He also recommended that the valets, since there were limited crosswalks in the area, should wear reflective vests to provide an additional safety factor.

Next, he testified that he had also visited the site on June 24th at which time a wedding and private event simultaneously took place. He stated that these events and the amount of activity on site re-reinforced the need for the Board to place restrictions on the number of activities which can take place at the hotel at any one time.

Mr. Olivo also stated that he had spoken with the manager of the CVS who indicated to him that it appeared to have become a matter of routine practice for guests of the hotel to use the CVS facility as an additional parking area which exceeded the nineteen spaces allocated to the hotel.

In response to this, Board member Joanne Tallon provided additional findings to supplement those of Mr. Olivo. Ms. Tallon indicated she visited the site on June 17th for the purpose of assessing the valet operation. She witnessed not only the parking lots being full but also guest cars using other private lots. She indicated that this was a clear sign that activities at the hotel needed to be limited during the prime season and based upon the parking limitations which resulted in the hotel having a maximum total of 279 parking spaces available to it. Mr. Olivo agreed with her statements, with it being discussed by the Board that no group functions of any kind involving over fifty individuals should take place at the facility between June 15th and September 15th of each year. It was suggested that the Applicant could retain the ability to return to the Board for additional site plan review and approval if in-fact they were able to acquire additional parking which could then be considered as a way of balancing activities on-site with the needs of the facility while still protecting the safety of individuals.

The meeting was then opened to the public at which time numerous individuals testified in favor of the Applicant. It was also indicated during the public portion that Ciccone and Koseff have made their lot available for parking by patrons of the facility during off-business hours.

Next, an extensive discussion took place amongst Board members regarding the history of the application, the current pending application, and the various reports and issues that had been raised. Of note, was the desire of Board members to ensure that the Applicant remained successful, but that at the same time, remained in compliance, at all times, with not only land use requirements but the Building Department along with other permitting entities, licenses, and the like which are all required to operate a facility like this. For example, while more than two hundred people could, under the Uniform Construction Code, occupy the roof at any one time, the Board specifically determined that this area shall be limited to no more than two hundred people. This number, in the

Board's view, was driven by a number of factors including, but not limited to: the amount of parking available, health and safety issues involving evacuation of the site and specific requests by the Applicant, the actual operation of the roof area as previously discussed at other hearings which required it to be limited so as to ensure safe ingress and egress and also enable the Applicant to adequately serve guests using this part of the facility. The Board also determined that any change in the operation of the hotel should be brought before both the Building Department and the Borough Engineer to ensure that those alterations were consistent with representations made at the hearing and with all appropriate codes and conditions of this approval. The overall goal was to ensure operational compliance within the confines of all appropriate operational and regulatory requirements. The Board also discussed a series of time markers to ensure closure on various items. For example, the Applicant shall be required to seek final site plan approval on or before December 1, 2024. This date was chosen based upon the intention and representation by the New Jersey Department of Transportation that the New Jersey Department of Transportation intends to have all of its works on the New Jersey State Highway Route 72 corridor finished on or before that time therein enabling the Applicant to have finalized its negotiations with that agency for all of the outstanding, and as of this date, unaddressed DOT issues involving various encroachments onto DOT properties.

Applicant shall also be specifically required to submit a detailed updated study of how the hotel has worked within 15 months of the date of memorialization of this Resolution, as an additional ratification, parking on the CVS lot for the nineteen spaces required relief pursuant to Section 70c. Turning next to the rock lot, a use variance was required for the 30 off-street employee parking spaces along with various "c" variances for lot area, lot frontage, lot width, lot depth, and maximum lot coverage. Similarly, for the gas station lot, "d" variance relief was required for the

fifty-nine off-street parking spaces along with three (3) uses on a single lot along with minimum front yard setback and maximum lot coverage.

NOW THEREFORE, the Land Use Board makes the following conclusions of law, based on the foregoing findings of fact.

The application before the Board is a request for a reaffirmation and ratification, of a multitude of previous approvals granted to the Baldwin Residence, LLC located on Lot 6, Block 103 as shown on the Tax Map of the Borough of Ship Bottom, located at 350 West 8th Street. In conjunction with this request, the Applicant at this time is now seeking a wide variety of relief as set forth below and in the appendices attached to this Resolution so as to allow the hotel to undertake a variety of activities within the building, obtain any and all preliminary and final site plan plan approvals necessary in order to allow the hotel to continue, to obtain permission to reaffirm permission to use 19 parking spaces on the CVS site for employee parking (that parcel being designated as Lots 1.01 and 3 in Block 103), to operate a parking lot (the rock lot) immediately to the south of the hotel on Lot 25, Block 110 for 30 employees, and also to create an additional off-site parking lot designated as Lot 1, Block 110 as shown on the Tax Map of the Borough of Ship Bottom (gas station lot) which at the present time contains a gas station and which the Applicant requests to be converted to have one (1) dwelling on the second story, storage space on the ground level and up to 40 total parking spaces. Additionally, exceptions were also requested from a number of Site Plan Ordinance standards.

Initial Comments and Observations

This request for relief came about because of a multitude of uncertainties as to exactly what approvals and relief the Applicant previously received. It was determined collectively, by legal counsel working together, that to ratify previous actions would be in the best interest of not only

the Applicant, but more importantly, the Borough in order to ensure the facility has all necessary approvals, continues to be appropriately managed, and stays within the requirements of not only the Land Use Ordinances for the Borough of Ship Bottom, but also the County Planning Department, New Jersey Department of Transportation, the New Jersey DEP, and the New Jersey Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.

It should be noted the actions being taken at this time are in response to litigation filed by the Applicant against the Borough challenging several actions of the Board. As a result of a series of meetings and negotiations, the parties agreed that these revised/amended applications would be filed and subject to mediation by the Honorable Eugene Serpentelli, Retired Assignment Judge for Ocean County.

This Resolution and its various component parts shall, therefore, serve as the template for all present and future actions which shall take place in conjunction with the approval contained in this Resolution of Memorialization. No deviations of any kind whatsoever shall be made to any of the activities on-site, improvements, use of the facilities, and the like without the Applicant returning to the Board for at least amended final site plan approval and, if deemed necessary and appropriate, amended preliminary site plan approval with whatever other relief may be necessary for those activities at that time. The goal of all parties is to have an accurate snapshot of the site to ensure that it can continue to function in a way which promotes not only public health, but public safety and the general welfare. The Board concludes this is a critical component for not only the Applicant, but more significantly the Borough and Long Beach Island. This conclusion is reached since the only means of ingress and egress to Long Beach Island is on the north and south side of the hotel where, at the present time, the New Jersey Department of Transportation is undertaking significant road improvements which not only affect the Applicant, but all of Long

Beach Island. The Board notes that these improvements will not be completed by NJDOT until sometime in late 2024 or mid-2025. This in-turn more than likely shall create the need for the Applicant to return to the Board since at the present time, final site plan approval for the entire project cannot be granted since the Applicant is dependent upon the NJDOT either selling, transferring, or providing a license to the Applicant to be able to use portions of the State right-of-way in conjunction with the hotel's operation. Normally, this would be well beyond the jurisdiction of a local planning agency; however, in this instance, the hotel's operation is dependent upon some final resolution with the DOT as to how the lands adjacent to the hotel will be used by either the general public coming to Long Beach Island, or in-turn, those guests and visitors using the Hotel LBI facility. While this is a major issue for both the Applicant and the Borough, the Board concludes that to memorialize what is on-site and what can take place, this is the most meaningful and appropriate way of addressing open issues which cannot be resolved at this point in time. As such, and as contained below, a performance guarantee in the form of a Restoration Bond shall be required to be posted to help to bring some certainty to this issue. While it is not normal to discuss one form of relief ahead of the remainder of the application, the Board wishes to emphasize how significant this DOT issue is and, therefore, addresses it early in these conclusions.

On a similar note, the Board also takes judicial notice of the fact that the Applicant is still in the process of resolving CAFRA issues for the site. These items will result in additional alterations being made to the parcel, such as by way of example, the installation of different surface material in the areas around the hotel, the movement of the breakaway walls, and other possible alterations to the site. The Board notes that these items are outside its jurisdiction but will have

some impact on the finally implemented site plan approval. This too shall be a condition which survives the action taken by the Board at this time.

Finally, within the category of additional concerns, the Board notes that a number of issues were raised involving inspections by other peer review groups such as the Construction Official, Fire Official, Ocean County Soil Erosion and Sediment Control, and the like. These items like the ones discussed above are not within the direct jurisdiction of the Board and, therefore, shall be made continuing conditions of approval which will need to be addressed on a subsequent date and prior to final site plan approval being granted. The Board notes that these other agencies will need to determine what assets and improvements on the site may be used at this time or shall require additional peer review prior to them being turned on. A good example is the seating area/fire pit at the westerly ground level of the hotel. This area is clearly on State DOT property, and the Applicant must await completion of the DOT improvements until it can acquire the property on which it currently has a limited license for these improvements and, therefore, while shown on the plans, are not appropriate for final approval until such time as the Borough's Construction Department receives written notification that the DOT property has been acquired. The Board concludes this is the best way of moving forward in allowing the hotel to function as a resort while at the same time ensuring that all other appropriate agency approvals have been received.

History of the Site

Lot 6, Block 103 was previously a parcel of land developed with a restaurant known as The Quarterdeck which existed on Lot 6, Block 103 and had 100 percent (100%) impervious coverage. That facility, which included a restaurant and motel, was located on a legal pre-existing site which was capable of having approximately 700 guests/visitors at any one point and time. That site received an as-built waiver of full site plan approval based upon plans dated October 20,

1977, which were subsequently reaffirmed in a decision contained in a Resolution of approval adopted May 20, 1998 (See Appendix B, B-1).

As reflected in Appendix B several interim approvals were sought in 2006 and 2007 which have little impact on the site as developed today. Those allowed for a smaller motel and restaurant. (See Appendix B, B-3, B-4)

The next significant action was taken on March 18, 2015 (See Appendix B, B-5) when the Applicant sought amended preliminary and final site plan approval with a number of use variances and bulk variances to permit the construction of a 3-story hotel which permitted extended stay for 105 units, whereas the Ordinance only permitted 73, and allowing occupancy of the property for more than 30 days which was not a specifically permitted use at the time requiring a “use variance.” At that time, the Applicant proposed to clear the site and have a 3-story hotel with at grade level parking for 126 spaces, with guest rooms/suites consisting of forty-seven studio suites, twenty-eight one-bedroom units, twenty-six two-bedroom units and four two-bedroom units with dens. All rooms would have kitchenettes. It also should be noted that since the proposed units had kitchenettes, this also required use variance relief since they are not permitted in hotel/motel rooms. These three (3) items (density, installation of kitchens, and extended stay) all required relief pursuant to N.J.S.A. 40:55D-70d. Further, the Applicant also required a height variance since the top of the elevator, stair, and mechanical towers were at 52 feet ten inches. At that time, it was also noted the Applicant had an easement for nineteen parking spaces off-site located on Lot 3, Block 103 which is the property owned by CVS Pharmacy. The Resolution also noted that the site was pre-existing and had a number of bulk setback issues requiring additional variance relief, all of which will be noted later in this Resolution.

Subsequently, on November 19, 2018, the Applicant sought amended preliminary and final site plan approval with variance relief to permit an interior redesign to include a spa and salon for guest and public use and to permit utilization of a food truck on the rooftop deck (See Appendix B, B-7). That approval and action by the Board has now been abandoned by the Applicant. Similarly, on January 16, 2019 (See Appendix B, B-8) the Applicant sought amended preliminary and final site plan approval with variance relief to allow a temporary tent on the upper rooftop deck, which based upon previous actions by the Board, was limited to no more than two hundred people. However, the Applicant has now abandoned that request. As part of that approval, however, they also sought permission to use and store electric motor vehicle shuttles to transport hotel guests to and from the beach, which remains in effect.

Next, on May 15, 2019 (See Appendix B, B-9), the Applicant sought amended preliminary and final site plan which permitted a variety of modifications as a result of the actual as-built construction at the site which included setback violations, building and lot coverage, exceedances, and the removal of certain encroachments involving the wall on 9th Street, as well as other coverage and setback encroachments as contained in the Resolution. The Board notes at this time that a number of these items have now been modified and that as part of this reaffirmation, the Board determines that the relief contained in that Resolution shall be modified by the actions being taken at this time and as set forth more accurately in this Resolution. Of note was the Board concluding at that time that it did not have jurisdiction to grant approvals for encroachments on public property or on adjoining properties which ultimately resulted in the French balconies being eliminated from the eastern end of the property which encroached upon the adjoining Dunkin' Donuts lot. That Resolution required the Applicant to restore the building to approved setbacks by no later than February 28, 2020. Of interest in that Resolution is also the fact that the Applicant's engineer

testified that they had always had plans reflecting a proposed canopy/porte cochere overhang at the hotel entrance. However, this was never called out in the site plan and, therefore, is part of the modification being considered by the Board at this time. At that time, the Applicant was also in negotiations with the Borough Counsel to acquire a 9,020 square feet Easement on land owned by the Borough of Ship Bottom and adjoining Applicant's property to the south which would allow the existence of the encroachment of the canopy and would also serve to reduce the actual lot and building coverage calculations while also providing for the entrance of the trash enclosure area at the northwest of the property to be within the Easement in lieu of encroaching on the property. This action is being ratified and reconfirmed at this time in this Resolution. The DOT determined that the Borough did not have ownership over the property. The Board also specifically required that the concrete wall, stairs, landing, two (2) fountains located westward of the property line were required to be legalized as discussed above by a License Agreement Easement or Fee Simple Purchase from the New Jersey Department of Transportation. While it is now three (3) years after that Resolution, this is an item which shall remain a condition of the action being taken by the Board and one which hopefully will be resolved once the DOT finishes its work on State Highway 72.

The above constitutes a summary of the actions previously taken by the Board. If that summary is inconsistent with this Resolution, the terms of this Resolution shall prevail.

Current Proposal

Based upon previous actions and a careful review of the plans and those Resolutions, the Applicant, working with Borough professionals, sought numerous forms of relief in order to accurately, and with ultimate certainty, consider the relief necessary and appropriate in order for

the Hotel LBI, with its various other uses, to become fully compliant with all enacted Ordinances for the Borough of Ship Bottom.

The Applicant's engineer, Robert R. Stout, of Stout and Caldwell, prepared an exhibit (Appendix C, C-4) as also reflected as A-14 (as marked at the hearing) containing all of variances. This exhibit alongside a report submitted by Frank Little, dated May 2, 2023, was later summarized in a table presented at the May 16, 2023, hearing (See Appendix A, A-1). On this table, yellow means variance required, Green is a DOT issue, Blue is existing conditions and Bold are those issues which the Applicant believes to be unclear. The Board takes judicial notice of the fact that it has, with the help of its professionals, carefully reviewed this table and the exhibits and, but for some additional variance relief which shall be discussed below, concludes that these exhibits encompasses all the relief which the Board has, as a result of these additional hearings, determined to be necessary in order for the Applicant's site to be in conformance with all Ordinance standards for setbacks, variances and the like. At this time, the Board takes no action on any of the 10 DOT items (green), instead, carrying those items until such time as there is a final determination by the State agency as to what may occur on the property and as reflected on the table.

Specifically, with regards to the hotel parcel, by the conclusion of the hearing, four (4) variances were being sought which included: relief for the rooftop trellis; maximum building coverage; the covered patio deck east and west of pool room for setback; and the porte cochere on the north side also for setback. Similarly, the parking area under the existing hotel also required variance relief for stacked parking and off-site parking pursuant to Section 70c. This was all based upon the Board's review and upon the testimony of Mr. Rahenkamp who adequately and appropriately summarized the relief necessary. The Board was particularly appreciative of him breaking the relief down to address all variance relief pursuant to N.J.S.A. 40:55D-70d, first,

regardless of whether it was on the hotel site or the gas station site or the rock lot. Similarly under the Pullen case, 291 N.J. Super. 303, the relief required pursuant to N.J.S.A. 40:55D-70c, was able to be addressed in a unified way. Of note is the fact that the Stout/Caldwell Exhibit needs to be revised since it failed to contain all the variance relief and will be revised to reflect this fact based upon the representations made at the hearing by counsel for the Applicant.

The chart also shows that a number of forms of relief were needed to be resolved by the Board. Resolution of them is as follows. As regards the covered patio, deck east and west of the pool room, no construction was ever approved and, therefore, this area requires variance relief pursuant to N.J.S.A. 40:55D-70c. Likewise, the porte cochere having a zero-foot setback was never approved and in fact could be modified because of subsequent actions by the DOT. In a different vein, as regards the rock lot (Lot 8, Block 100), a use variance is specifically required for the 30 employee off-site parking spaces along with various bulk requirements, from minimum lot area, minimum lot frontage, minimum lot width, minimum lot depth, maximum lot coverage. A use variance is also needed since parking becomes the principal use of the property. Similarly, as regards the gas station lot (Block 110, Lots 1 and 25), a use variance is required for the 59 off-street parking spaces along with the lot having three (3) uses on a single parcel, along with bulk variances for minimum front yard and maximum lot coverage.

The above constitutes all variances that are necessary for the Applicant to comply with Borough zoning requirements.

Under the Municipal Land Use Law, a Board of Adjustment, when considering a “d” variance, cannot grant relief unless sufficient special reasons are shown and there is no substantial impairment of the intent and purpose of the zone scheme and Zoning Ordinance or the public good. In addition, the burden of proof is upon the applicant to establish the above criteria. It is the Board’s

responsibility, acting in a quasi-judicial manner, to weigh all the evidence presented before it by both the applicant and all objectors, and reach a decision which is based upon findings of fact and conclusions of law and is not arbitrary, unreasonable, or capricious.

The New Jersey Courts have been willing to accept a showing of extreme hardship as sufficient to constitute a special reason. The courts have indicated that there is no precise formula as to what constitutes special reasons unless the use is determined to be inherently beneficial, and that each case must be heard on its own circumstances. Yet hardship is usually an insufficient criterion upon which the Board can grant a variance. In addition, special reasons have been found where a variance would serve any of the purposes of zoning as set forth in N.J.S.A. 40:55D-2. However, in the last analysis, a variance should only be granted if the Board, based on the evidence presented before it, feels that the public interest, as distinguished from the purely private interests of the applicant, would be best served by permitting the proposed use. In these instances, the Board must also find that the granting of the variance will not create an undue burden on the owners of the surrounding properties. The Board also notes the special reasons requirement may be satisfied if the applicant can show that the proposed use is peculiarly suited to the particular piece of property. With regard to the question of public good, the Board's focus is on the variance's effect on the surrounding properties and whether such effect will be substantial. Furthermore, in most "d" use variance cases, the applicant must satisfy an enhanced quality of proof and support it by clear and specific findings by the Board that the variance sought is consistent with the intent and purpose of the Master Plan and Zoning Ordinance. The burden of proof is upon the applicant to establish the above criteria.

First, the Board has carefully reviewed, as set forth above, all the pre-existing use variances including the number of units, kitchenettes, and extended stay relief previously applied for, along

with the height relief, and reaffirms those decisions. Further, in addressing the height limitations imposed on the actual principal hotel structure, the Board also concludes that the pergola and trellises on the rooftop, while exceeding height limitations, also meet the proof standards necessary to allow them to remain. Clearly for them to be shorter is to limit the head clearance area for their use. They are attractive, blend in with the activities taking place in this section of the property, and have no negative impact (see N.J.S.A. 40:55D-2a). They provide adequate light, air, and open space and promote a desirable visual environment through creative development techniques and good civic design and arrangement (see N.J.S.A. 40:55D-2i).

Continuing with the use variances sought, and as outlined above, relief was also needed for both the rock lot, which has no principal use dedicated to it other than as accessory parking, and the service station lot which has three (3) uses located upon it which are not specifically permitted by Ordinance. The Board concludes these also satisfy the affirmative criteria under Section 70d in that they are rightly located, help promote the public safety, are appropriately located, and based upon revised and detailed site plans for both parcels and can also provide for a desirable visual environment making appropriate use of these parcels. In total, that includes all use variance relief required for the principal activities along with ancillary activities generating uses not specifically permitted under the Ordinance and, therefore, the Board concludes that the affirmative criteria are satisfied.

As regards the negative criteria, the Board concludes the granting of these specific use variances does not negatively impact the public good nor the zone plan or zone scheme of the area. First, as noted by Mr. Rahenkamp, the hotel is a specifically permitted use which, due to its size, massing, and the variances previously granted allowing for the efficiency units, provides a number of benefits to the public good. What has evolved over time is the efficient use of principal Lot 6,

Block 103 where the hotel is permitted as of right by zoning and is its own island in the middle of New Jersey State Highway Route 72. This creates a unique and challenging situation to provide all the necessary amenities and other items on what is essentially a peninsula. The actual efficiency kitchens are, as time goes on, becoming more and more a main stay of extended stay facilities and it is clear that with sleeping arrangements testified to for this “family” oriented hotel, each one of the 102 rooms is in fact capable of sleeping a minimum of six (6) individuals. Efficiency kitchens have now become, in these types of situations, a mainstay of the industry. Further, in lessening the negative impact, Applicant testified that it limited those allowed to rent rooms to patrons being no less than 21 years of age which helps to avoid the packing of rooms by younger adults. This too helps to lessen the negative impact on the public good. Further, accessory parking helps to mitigate individuals from not parking at hotel-owned facilities and clogging neighborhoods with visitor guests. Further, the fact that there would be no charge to park in any of the hotel lots and that guests have available a valet service on a regular basis helps to mitigate any negative impact to the public good. Clearly, this parking supports the hotel use, which is bringing in many benefits, as noted above, to not only Ship Bottom, but the surrounding environs and Long Beach Island. The hotel also is a major employer and actively seeks foreign students to bolster its labor supply and is even providing housing at the gas lot (Lots 1 and 25) to these part-time service providers. The Board also determines this does not generate any substantial detriment to the public good since the hotel itself has no different impact than any other uses and does not impact uses of other parcels given the fact that the traffic experts for the Board and Applicant both agreed that adequate amounts of spaces exist, especially with the assistance of valet parking services, to provide sufficient areas to place vehicles. The Board further notes that based upon the testimony of Joseph Infurna, there is little question that the sites as combined, can provide parking spaces in the general

area for up to 279 available stalls with the possibility of it being slightly extended by as much as an additional 27 to 40 stalls, if needed. Finally, as regards to the zone plan and zone scheme, the Board believes that it has now encapsulated the uses being contemplated and that providing the Applicant adheres to this Resolution and the restrictions, conditions and other items contained herein, that the use variances being sought may be granted and have satisfied all legal requirements.

Next, the Board turns its attention to the request for a wide variety of variance relief pursuant to N.J.S.A. 40:55D-70c.

The Municipal Land Use Law, at N.J.S.A. 40:55D-70c provides Boards with the power to grant variances from strict bulk and other non-use related issues when the applicant satisfies certain specific proofs which are enunciated in the Statute. Specifically, the applicant may be entitled to relief if the specific parcel is limited by exceptional narrowness, shallowness, or shape. An applicant may show that exceptional topographic conditions or physical features exist which uniquely affect a specific piece of property. Further, the applicant may also supply evidence that exceptional or extraordinary circumstances exist which uniquely affect a specific piece of property or any structure lawfully existing thereon and that the strict application of any regulation contained in the Zoning Ordinance would result in a peculiar and exceptional practical difficulty or exceptional and undue hardship upon the developer of that property. Additionally, under the c(2) criteria, the applicant has the option of showing that, in a particular instance relating to a specific piece of property, the purpose of the act would be advanced by allowing a deviation from the Zoning Ordinance requirements and the benefits of any deviation will outweigh any detriment. In those instances, a variance may be granted to allow departure from regulations adopted, pursuant to the Zoning Ordinance.

Those categories specifically enumerated above constitute the affirmative proofs necessary to obtain "bulk" or (c) variance relief. Finally, an applicant must also show that the proposed variance relief sought will not have a substantial detriment to the public good and, further, will not substantially impair the intent and purpose of the zone plan and Zoning Ordinance. It is only in those instances when the applicant has satisfied both these tests, that a Board, acting pursuant to the Statute and case law, can grant relief. The burden of proof is upon the applicant to establish these criteria.

Under the Pullen case, Courts have ruled that when analyzing any relief pursuant to Section 70c, the Board may take into consideration whether or not the overall package, as proposed by an Applicant, makes sense and, in those instances where the benefits of allowing a particular use satisfies that test, the Board can determine that the benefits outweigh any detriments. See Pullen v. South Plainfield Planning Board, 291 N.J. Super. 303 (1995). The Board concludes that based on that case, in this instance, it is clear the relief being sought relates to a specific piece of property (the Hotel LBI principal lot); the purposes of the Municipal Land Use Law are being advanced by a deviation from the Ordinance (clearly all the variances rise up out of the implementation of the Hotel LBI on the mother lot located on the island); the variance can be granted without substantial detriment to the public good (see discussion above); the benefits of the deviation substantially outweigh any detriments (see discussion above regarding employment and consequences); and there is no impact to the intent and purpose of the zone plan and zone scheme. As a result, the Board concludes that all the variances specifically contained below may be granted.

Additional Land Use Relief

As part of the application, approvals were also sought for preliminary and final site plan approval to be reaffirmed not only for the hotel lot, but also for the off-site parking lot immediately

to the south and the gas station lot. In reviewing the application, plans, and testimony, the Board concludes the Applicant has met the minimum requirements of the Municipal Land Use Law, Case Law, and Ship Bottom Land Use Procedures to a sufficient degree so as to enable the Board to grant parking site plan approval at this time. In rendering this decision, however, the Applicant shall be required to specifically adhere to all the requirements contained as conditions of this approval along with those items that are made a part of this Resolution. The Board determines that this is critical in this instance since so many activities are taking place on-site and since there is a weighing in the balance of how the various uses may co-exist at appropriate periods of time. The Board shall discuss a number of these specific issues as not being all conclusive but rather, examples of issues which are critical for the hotel to run efficiently and effectively while at the same time being a good neighbor to not only the surrounding properties, but the Borough and all of Long Beach Island.

First, as depicted on the various charts prepared by Mr. Rahenkamp and marked into evidence as A-17, A-18 and A-19, these documents together define not only the number of employees, but also what stressors each use puts upon not only the hotel's internal operations, but also parking and other activities in the area. Therefore, for example, the Board concludes as a matter of law that the prime season shall encompass those dates running from June 15 through September 15. The shoulder season shall be all other days during the months of April, May, June and October and the off season shall be January, February, March, November, and December. It should be specifically noted that during the prime season periods, the use of the Conservatory and Veranda shall not be permitted for weddings, large gatherings (defined as more than fifty guests), and the like, so as to ensure no negative impact is placed on surrounding properties and the greater neighborhood at large. The Applicant may seek relief from this requirement by applying for

amended final site plan approval based upon the provision of additional parking and any other items raised by the Board and its professionals but shall be required to provide all proofs necessary in order for the Board, working with its Civil Engineer, Traffic Engineer and the Construction Department, to determine the impacts a change in these activities will have. Until subsequent proofs are provided at least 15 months from the date of memorialization of this Resolution, all operations will function on site as contained in this Resolution and the conditions of approval.

Similarly, the parking plans for three (3) lots shall be based upon the June 6th report prepared by Charles Olivo, as amended through July 19, and specifically his parking study consisting of three (3) pages entitled Parking Garage Exhibit 1 of 3, Valet Parking Exhibit 2 of 3 and Valet Parking Exhibit 3 of 3 which shall be adhered to and made a part of this Resolution (See Appendix E, E-4). No deviation of any kind whatsoever shall take place that is different than the parking plans shown on those documents, and failure to adhere to this requirement shall subject the Applicant to an immediate notice of violation by the Zoning Officer, Construction Official, or Municipal Engineer, as deemed necessary and appropriate.

In arriving at this conclusion, the Board also notes that parking for this site is the main lynch pin for determining the activities which can take place on the parcel. Mr. Little made an estimate based upon Ordinance requirements that the site and its amalgam of uses required 305 parking spaces, however, as a result of various accepted standards in the industry along with field observations which were undertaken by not only Ms. Dolan and Mr. Olivo, but also members of the Board, it was ultimately determined that 279 spaces would be adequate based upon stepping back the activities which take place on-site at any one time. This was determined to be an extremely important detail to avoid any negative impact the hotel and its guests would have upon the surrounding area. It is not to say the Applicant cannot obtain and should not seek additional

parking; however, before using or implementing parking programs for any of those parcels, the Board wishes to make clear that the Applicant shall be required to seek additional land use approvals. Specifically, the Applicant is warned that, except for the period between June 15 and September 15, 2024 for weddings already scheduled, any use of any other site at any other time without municipal approval will be considered a violation of the approval and will enable the Borough to take all actions it deems necessary and appropriate.

Likewise, and as noted earlier in this Resolution, the Board shall require the Applicant to seek final site plan approval at a later date so as to allow the various sections of the hotel to remain where they are, to use various apparatus and areas of the site for guest services and enjoyment, and obtain any Alcoholic Beverage Control approval so as to permit the sale and consumption of alcoholic beverages on the rooftop. This shall take place on or before December 1, 2024 unless extended by the Board. Therefore, the request for final site plan approval shall be carried until at least December 2024.

Additionally, the Applicant shall provide, to ensure good and safe ingress and egress to various parts of the facility, an evacuation plan to ensure all guests located anywhere on the facility can safely egress the site should some unforeseen event occur requiring the safe and quick evacuation of guests.

In reaching this decision, the Board takes judicial notice of the following floor areas:

Parking Level	56,025 SF
First Floor	47,638 SF
-Veranda w/patio	2,796 SF
-Veranda only	2,358 SF
Second Floor	38,849 SF
Third Floor	38,849 SF

In reaching this determination, the Board also undertook a calculation to determine the overall floor area for the subject parcel, determining that it has a total of 186,515 square feet as

represented by the above chart. As a result, and preliminarily, the Board notes that pursuant to N.J.S.A. 40:55D-49g., the Land Use Board can grant the rights referred to in the Municipal Land Use Law for period greater than three (3) years. At this juncture, the Board concludes there is no reason to invoke that. However, should it become necessary because of a failure of State or other agencies to act, the Board determines that taking that section of the law along with N.J.S.A. 40:55D-21 and 22, additional time may be considered by the Land Use Board, and depending upon the findings and conclusions reached, may grant additional periods of time at the December 2024 hearing.

Finally, the Board determines that the fire pits shown on the rooftop must be eliminated since the Borough does not have sufficient evidence, at this time, to allow them to be used for this purpose. This shall be subject to additional inspections and approvals by all other necessary agencies having jurisdiction over them at this location and also a final sign off by the Ship Bottom Construction Department.

Rather than recite additional conclusions in this section of the Resolution, the Board also determines to set forth its conclusions in the form of conditions of approval under a number of categories as contained below. The Board believes this to be a simple and straightforward way of addressing the many issues that arose at the time of hearing while at the same time enabling it to group those conclusions/conditions of approval in one (1) section of this document for future reference.

NOW, THEREFORE, BE IT RESOLVED by the Borough of Ship Bottom Land Use Board that the application of The Baldwin Residence, LLC for Block 103, Lots 1.01 and 3; Block 103, Lot 6; Block 100, Lot 8; Block 110, Lot 1 and Block 110, Lot 25 as shown on the Tax Map of the Borough of Ship Bottom, located at 301 West 9th Street, 350 West 8th Street, 354 West 9th

Street, 301 West 8th Street and 311 West 8th Street in the GC-General Commercial Zone, requesting use variance relief, preliminary and final site plan approval, and numerous ancillary “c” variances be and are hereby granted pursuant to N.J.S.A. 40:55D-70d, N.J.S.A. 40:55D-46, N.J.S.A. 40:55D-70c, and final site plan approval carried until at least June 2025, subject, however, to the following terms and conditions:

GENERAL OVERALL CONDITIONS SPECIFIC TO THE SITE

1. Development shall be implemented in accordance with the plans submitted and approved. Said plans specifically as set forth in the report of Frank Little dated May 2, 2023, as contained in Appendix E, except for the inclusion of Mr. Olivo's parking plans (See Appendix E, E-4) which shall replace any parking plans submitted by the Applicant's engineer. Further, Exhibit A-14 by Stout shall be revised in accordance with the actual requests being made by the Applicant. Both of these items along with all others in this Resolution shall be subject to review and approval of the Borough Engineer. Any changes to plans in the future shall only be allowed after review and approval by the Land Use Board of the Borough of Ship Bottom, which shall then be incorporated as a new Resolution with new exhibits and supplementing this global approval.
2. The Applicant shall meet at least once every six (6) months with Borough Officials to ensure no recurring problems appear with regards to guest numbers, parking, fire safety, and all other items contained in this Resolution. Only those plans filed as part of the original submission, or amended during the hearing, shall be relied upon. Any resubmission of any plan shall have a certification from the Applicant's engineer or architect indicating the plans are consistent with the original submission

and specifically detailing any changes or additions from the original filing. Failure to abide by this requirement shall enable the Borough Engineer and/or Construction Department to immediately issue a Stop Work Order and issue fines for each violation.

3. No weddings or individual events shall take place during the period June 15 to September 15 except for weddings already scheduled. These weddings are contained in the following table.

Name	Wedding Date	Number	Est. Contract Date
	9/1/23	100	7/22
Victoria	9/3/23	75	8/21
Melissa	9/8/23	100	1/22
Bree	9/9/23	150	7/22
Brian	9/10/23	75	11/21
Sarah	9/15/23	100	5/22
Andrew	6/16/24	75	7/23
Jamie	6/21/24	100	11/22
Kasia	6/23/24	75	4/23
Gabrielle	6/29/24	150	10/22
Jennifer	6/30/24	75	10/22
Olivia	9/1/24	75	12/22
Tyla	9/6/24	100	12/22
Sara	9/7/24	125	7/23
Taylor	9/8/24	75	1/23
Chelsey	9/14/24	150	1/23
Meredith	9/15/24	75	3/23
Amanda	6/24/25	100	7/23

The applicant shall supply to the Board copies of all contracts for these weddings to the Board within 60 days of the adoption date of this resolution. Any change to this limitation shall require specific Land Use Board approval, and any violation shall be immediate cause for the Zoning Official of the Borough to issue a notice of violation and an immediate cease and desist order. This shall also allow the

Borough to seek all other means of remediation including withdrawal of the liquor license and zoning approval, and each day an offense continues shall constitute a separate violation.

4. The Applicant shall have the option to return to the Board with additional parking to be able to expand the use of the hotel within its existing footprint by lengthening the season or types of activities which may take place on site.
5. Any change in operations shall be brought for approval to the Borough Engineer and Construction Department. They shall determine whether an appearance before the Land Use Board is required.
6. All terms and conditions set forth by the Planning Board shall be shown on the Preliminary Site Plans within 60 days of the adoption date of this resolution. Any changes requested by outside agencies shall be incorporated into the plans.
7. The Applicant and its professionals understand and agree with all items contained in this Resolution and that they are also in receipt of all other necessary approvals for this development to obtain final site plan approval. Any items which the Applicant does not have at this time shall be listed with expected date of receipt.
8. Applicant shall be required to return to the Board on or before June 1, 2025, for final site plan approval. Further, they shall meet with a Subcommittee of the Board and Board professionals, at least 30 days prior to that date to review the status of all items. Should additional time be needed, the Applicant shall contact the Board at least 60 days prior to that date and appear at a hearing at the May 2025 meeting of the Board so that a determination can be made as to what, if any additional time, shall be granted to it for extending the final site plan approval.

HOTEL (Lot 6, Block 103)

9. The Applicant shall relocate the southerly breakaway wall further north and that portion of the breakaway wall in the pool area shall be moved to be in alignment with the entrance to the equipment room and the balance of the wall to the south and west no later than December 1, 2023 subject to final review and approval of the Borough Engineer and Construction Official. This shall be reflected in the revised plans, which shall also include identifying the ceiling height in the area, and be submitted to the Borough Engineer and also incorporated into the 2024 Final As Built Site Plan. Any violation or failure to adhere to this requirement shall subject the Applicant to an immediate notice of violation by the Zoning Officer, Construction Official or Municipal Engineer as deemed necessary and appropriate.
10. The Fire Department standpipe connection shall be clearly shown on the drawings subject to final review and approval of the Borough Engineer.
11. The plans shall be revised to indicate that the spa area has been eliminated from the project subject to final review and approval of the Borough Engineer.
12. The overall occupancy level for the hotel guest rooms shall be as follows: eighty-three studio apartments, eight one-bedroom units, nine two-bedroom units, and two bridal suites as set forth on the plans. Further, as contained in this Resolution, the maximum sleeping capacity for the hotel shall be 614.
13. No one under the age of twenty-one shall be permitted to check in and be responsible for any rooms.
14. Employee parking shall be limited to the use of the “rock lot” and” CVS lot.” Parking under the hotel shall be as depicted on the parking plan prepared by

Charles Olivo and specifically designated as Exhibit E, E-4 and be limited to valet guest parking. All parking on the hotel site shall be consistent with the Olivo plans marked as Appendix E.

15. Occupancy loads for public spaces shall be as set forth in this Resolution, which shall be as follows:

Combined load for the Conservatory and Veranda 200;
Salt Bar and Kitchen 12 seats at the bar, along with 185 seats in the restaurant;
Lobby Bar/Living Room maximum of 98 seats (80 seats and 18 seats at the bar); and

Tide Pool/Tide Pool Bar 42 individual seats.

16. No public swimming lessons shall be permitted to take place in the pool area unless Applicant seeks amended final site plan approval.
17. Applicant shall provide a plot plan showing the location of the nineteen stalls located on the CVS parking lot and Applicant shall install additional signage on the CVS lot as deemed necessary and appropriate by the Borough Engineer.
18. Valets serving the remote lots shall wear reflective vests to provide greater safety for them as they cross the State Highway.
19. The parking lot shall have striping and appropriate verbiage placed on the surface to indicate the delivery area located to the north side of the building subject to review and approval of the Borough Engineer.
20. At all times between June 15 and September 15, there shall be a minimum of six (6) valets on site, the Applicant having the ability to bring as many as a total of ten (10) valets on an as-needed basis to operate the facility.

21. To the maximum extent practical deliveries shall take place via box truck as indicated on the revised plans.
22. The firepit in the front of the hotel at what is ground level shall be permitted only after fire inspection review and approval by all appropriate authorities.
23. All parking on the hotel site shall be consistent with the Olivo plans marked as E-4.
24. Applicant shall post a restoration bond and enter into a Indemnification Agreement to ensure all items which remain open as of July 19, 2023 because of DOT unfinished work adjacent to the site or any other items shall be either placed under the control of the Applicant or in the alternative restored to their original condition. The list below consists of items which all encroach into the DOT right-of-way: parking stalls on the north side of the building; firepits on the west side of the hotel; landscaping on the westerly side of the hotel; patio on the west side of the hotel; stairs on the west side of the hotel; utilities on the west side of the hotel; dumpster on the northwest side of the hotel; fence on the northwest side of the hotel; retaining wall on the west side of the hotel and three (3) light fixtures on the north side of the hotel which encroach into the DOT right-of-way and exceed foot candle requirements at the property line.
25. Subject to final CAFRA review and approval, if required, and for such items including: the installation of additional surface material in the area around the hotel, the elimination of breakaway walls, additional drainage and the like subject to final review and approval of the Borough Engineer.

26. All lighting at the facility shall be, to the maximum extent practical, downward facing to not impact surrounding properties.
27. Any lighting for the rooftop bar shall be subject to final review and approval of the Borough Engineer and Construction Department.
28. Applicant shall provide a fire evacuation and safety plan, subject to review and approval of the Construction Official and Borough Engineer.
29. Breakfast may only be served in the Lobby Bar to hotel guests and the public.
30. The Veranda area shall remain open air and shall be used for weddings and other gatherings during cocktail hours. At all other times no food or drink shall be served in the Veranda area.
31. No amplified music which can be heard off-site shall be permitted in the Veranda or rooftop area and the facility shall meet Borough and State noise standards.
32. Rooftop areas shall be limited to a total of two hundred guests with up to six (6) staff supplying support services.
33. Parking plans for the facility, along with the rock and gas station parcel, shall specifically adhere to the three (3) Olivo exhibits contained in Appendix E, E-4. No deviation of any kind shall take place that is different from these parking plans without the expressed approval of the Board's parking expert and Borough Engineer. All improvements to the parking for both on and off site shall be completed by no later than December 1, 2023 with the exception of those items affected by the DOT, subject to review and approval of the Borough Engineer. Any violation or failure to adhere to this requirement shall subject the Applicant to an

immediate notice of violation by the Zoning Officer, Construction Official or Municipal Engineer as deemed necessary and appropriate.

34. Applicant shall submit a detailed update study of how the hotel and parking lots have been operating by December 20, 2023 subject to review and approval of the Borough Engineer and Traffic Expert.
35. The grading plan shall be revised to show future curb and sidewalk along with the location of the proposed NJDOT drainage system subject to review and approval of the Borough Engineer.
36. The applicant shall provide details of all lighting fixtures and mounting heights along with details Detail of the fixtures and mounting height of the two (2) Type A fixtures on Drainage SP-1 sheet 2 of 2 subject to final review and approval of the Borough Engineer.
37. Applicant shall provide demolition plans required to correct the impervious deficiencies and removal, subject to review and approval of the Board Attorney.
38. Applicant shall eliminate the fire pits shown on the rooftop at this time.
39. Plans shall be revised to relocate the southerly breakaway wall in the pool area to be in alignment with the entrance to the equipment room and the balance of the wall to the south and west subject to his final review and approval. Furthermore, to relocate the breakaway wall, the Applicant shall obtain an updated building permit with updated plans for the removal and relocation of the wall including that identification of the ceiling height shall be provided subject to review and approval of the Borough Engineer and Construction Department.

Board and its professionals but shall be required to provide all proofs necessary in order for the Board, working with its Civil Engineer, Traffic Engineer and the Construction Department, to determine the impacts a change in these activities will have. Until subsequent proofs are provided at least 15 months from the date of memorialization of this Resolution, all operations will function on site as contained in this Resolution and the conditions of approval.

THE ROCK LOT (Lot 25, Block 110)

46. The rock lot shall be used only for employee parking.
47. As appropriate, the landscape plan provides 14 Northern White Cedar, 5 FT to 6 FT in height with a 10 FT buffer along the Northerly property line. In addition to these plantings, a 6 FT solid fence to also be provided subject to review and approval of the Borough Engineer.
48. The Applicant shall provide complete lighting details subject to final review and approval and amendment, if necessary, as deemed appropriate by the Borough Engineer.

GAS STATION LOT (Lot 1, Block 110)

49. Applicant shall provide green strip plantings along the perimeter and in other areas as determined appropriate by the Borough Engineer.
50. The first floor shall only be permitted to be used for storage of dry goods such as by way of example: chairs, bikes, tables, and the like. No food or other consumables shall be permitted.

51. The second story of the garage lot building shall be used for the housing of up to nine (9) summer workers or used by hotel employees during other seasons, subject to review and approval of the Construction Official.
52. As appropriate, the landscape plan provides 14 Northern White Cedar, 5 FT to 6 FT in height with a 10 FT buffer along the Northerly property line. In addition to these plantings, a 6 FT solid fence to also be provided subject to review and approval of the Borough Engineer.
53. Applicant shall provide revised landscaping plans to show plantings and green strips on the gas station lot subject to review and approval of the Borough Engineer.

SPECIFIC CONSTRUCTION REQUIREMENTS

54. During the summer season, work hours for site improvements and exterior building improvements shall be limited from 7 a.m. to 6 p.m., Monday through Friday. During the summer season, no work shall take place on Saturdays, Sundays, or holidays, except on an emergency basis. The holidays which shall be observed for purposes of this condition shall be New Year's Day, President's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving, and Christmas. The Applicant shall maintain personnel on-site to whom incidents of noise disturbance shall be reported and said personnel shall be authorized to take measures to minimize said disturbances.
55. Prior to the issuance of any construction permit, the Applicant shall file with the Borough Clerk and the Borough Engineer affidavits from the engineer and architect verifying that the Applicant is in receipt of all necessary agency approvals other than the municipal agency having land use jurisdiction over the development and

shall supply a copy of any approvals received. The Applicant shall provide a second Affidavit certifying all other agency approvals it has yet to receive along with anticipated date of receipt. This should be updated every six (6) months until Applicant has a final unconditional CO.

56. Prior to construction, including site work activity, a preconstruction meeting shall be required to include the Borough's representatives, the Applicant, and its engineers and contractors. Prior to said meeting, the Applicant shall have posted inspections fees in the amount of five (5) percent of the estimated cost of improvements, as prepared by the Developer's Engineer and approved by the Borough Engineer and in accordance with N.J.S.A. 40: 55D-53.4.

OTHER ITEMS

57. The Applicant shall be responsible for obtaining complete fire inspections for all properties both from Fire Subcode Officials (Ocean County Fire Marshall) and any State and County Agencies with continuing jurisdiction over the site.
58. Applicant shall obtain approval for all occupancy loads, ingress and egress to the site, fire systems, laundry chute, and the like.
59. Along with its application for final site plan approval, the Applicant shall provide a certification from both a licensed architect and licensed professional engineer in the State of New Jersey indicating the Applicant is in receipt of all other necessary agency approvals and agrees to ensure, on behalf of the Applicant, that there will be total adherence to all items contained in this Resolution and that they are in receipt of all other necessary agency approvals. The first draft of the Certification shall be submitted within 60 days of memorialization of this Resolution and the

final affidavit shall be submitted at the time the Applicant obtains any other outside agency approvals, but in any event no later than December 1, 2024. This time may be extended due to circumstances beyond the control of the Applicant, provided the Land Use Board finds there to be a sufficient basis. Professionals shall be responsible for ensuring this compliance, and a failure to do so shall enable the Borough to take all necessary and appropriate action.

60. The landscape plan, including shade trees, shall be subject to a two (2) year landscaper's guarantee which shall insure the replacement of any diseased or dead landscaping material within two (2) years of the date of planting.
61. Site work cut sheets for the construction of parking areas, curbing, drainage, and sanitary sewer shall be provided to the Borough Engineer's office directly prior to construction.
62. As deemed necessary and appropriate by the Borough Engineer, as-built drawings of all public improvements shall be provided to the Borough Engineer prior to the issuance of the final certificates of occupancy. As-built drawings shall include the plan and elevation of all public improvements, including, but not limited to, water lines and appurtenances, sanitary sewer lines, manholes (including rim and invert elevations), cleanouts and connections, storm sewer lines, inlets (including grate and invert elevations), and manholes (including rim and invert elevations). The as-built drawing shall be prepared, signed, and sealed by a Land Surveyor licensed in the State of New Jersey.
63. All site improvements, excluding landscaping if between November 1 and March 30th, shall be installed prior to the issuance of the final certificate of occupancy.

64. As deemed necessary and appropriate by the Borough Engineer, the Developer shall furnish a Performance Guarantee in favor of the Borough of Ship Bottom in an amount equal to 120% of the cost of the installation of public improvements, including streets, grading, pavement, gutters, curbs, sidewalks, street trees, surveyor's monuments, water mains, culvers, storm sewers, sanitary sewers, drainage structures, erosion control and sedimentation control devices, and other on site improvements. The cost estimate shall be determined and approved by the Borough Engineer based on an estimate provided by the Applicant which shall include a quantity take off of the items. The Performance Guarantee shall be posted prior to the preconstruction meeting required above.
65. As deemed necessary and appropriate by the Borough Engineer, the Developer shall post a Maintenance Bond in an amount equal to fifteen (15) percent of the estimated cost of improvements for a period of two (2) years upon acceptance by the Borough of Ship Bottom of the public improvements.
66. The Developer shall complete the installation of any remaining public improvements no later than December 1, 2024. The time of completion of the public improvements may be extended by the Mayor and Board of Alderman by Resolution for just cause shown by the Developers.

OTHER AGENCY APPROVALS

67. NJDEP-CAFRA.
68. New Jersey Department of Transportation
69. Ocean County Planning Board approval.
70. Final signoff of all plans by the Construction Official.

71. Municipal, County or State Fire Official signoff approvals subject to final review and approval of the Borough Engineer.
72. Ship Bottom Fire Department.
73. Ship Bottom Water and Sewer Authority.
74. Long Beach Health Department.
75. Ocean County Soil Erosion Sediment Control approval.
76. Ocean County Board of Health.

The undersigned secretary certifies the within resolution was adopted by this Land Use Board on July 19, 2023, and memorialized herein pursuant to N.J.S.A. 40:55D-10(g) on September 20, 2023.

The vote on the Resolution was as follows:

FOR: Mr. Fenimore, Ms. Schmidt, Vice Chairwoman Tallon, Mr. Yankowski, Mr. Basile, Mr. Dixon, Chairman Cooper

AGAINST: None

ABSTAIN: None

Board Member(s) Eligible to Vote: Mr. Fenimore, Ms. Schmidt, Vice Chairwoman Tallon, Mr. Yankowski, Mr. Basile, Mr. Dixon, Chairman Cooper

I certify that the above Resolution is a true copy of a Resolution adopted by the Land Use Board on September 20, 2023.


Sara Dela Cruz, Secretary

Dated: September 20, 2023

Prepared by: Glenn C. Kienz, Esq.

2732166_12

STUART D. SNYDER, ESQUIRE
2100 Long Beach Blvd.
Surf City, NJ 08008

(609) 494-7676
FAX (609) 494-8499

August 16, 2019

New Jersey Department of Transportation
PO Box 600
Trenton, New Jersey 08625

Attention: David Kook - Via First Class Mail and email: david.kook@dot.nj.gov

Re: License Agreement dated July 17, 2019 to Baldwin Residence, LLC

Dear Mr. Kook:

Please be informed that I represent the Land Use Review Board of the Borough of Ship Bottom. The above referenced License Agreement was provided to my client by the representative of Baldwin Residence, LLC.

For your information Baldwin Residence, LLC was granted certain variance and site plan approvals by the Land Use Review Board of the Borough of Ship Bottom. Upon completion of the building it appeared that the actual development was beyond the scope of the approvals granted.

A portion of the development; including seating, fountains, a fire pit and other accoutrements were located upon property westerly of the site, owned by the State of New Jersey. Baldwin Residence, LLC provided a stairway at or into that property; which abutted a service road; that development was not approved by the Land Use Board; the developer was informed that the Board wouldn't consider its proposed use of that area without authorization from the State of New Jersey.

The license agreement above referenced reflects in the fourth (4th) WHEREAS recital that the Borough of Ship Bottom required the licensee to provide a public welcome display on the lands the developer has requested to purchase. That is not true and never was mentioned or requested during any of the hearings or meetings pertaining to the development of the property. If this alleged requirement is a basis for the issuance of the license agreement, the license agreement should be rescinded, as it is untrue. The developer requested the license and purchase for their sole purposes, not to benefit the Borough of Ship Bottom, the area in question does not provide a welcoming area, it is solely incorporated with the hotel development at the property, and the uses thereon have not been approved or authorized by the Board.

There is a secondary area located adjacent to the service road to the north of Baldwin Residence, LLC's property, where it fronts on 8th Street; a portion of the portico and entranceway to the development extends into that property; initially the Borough of Ship Bottom was informed by representatives of your department that the property belonged to the Borough; it was determined that the area in question, approximately 9,000 square



feet, is owned by the State of New Jersey, subject to a maintenance agreement granted to the Borough of Ship Bottom in 1967. A copy of the description and map is attached. Is that parcel being considered for sale or license to Baldwin Residence, LLC? Baldwin Residence, LLC has encroached upon the above referenced 8th Street property with its trash enclosure located at the westerly portion of the property; they have installed ornamental street lamps; their portico extends into the property, and they provide parking within the area for their guests; all without authority from the Borough of Ship Bottom or your department. Baldwin Residence, LLC initially negotiated with the Borough to acquire an easement for these uses; until it was discovered that the property was not conveyed to the Borough but retained by the State of New Jersey. Unless authority for the use of that property is obtained by Baldwin Residence, LLC is obtained they are under order to remove all encroachments.

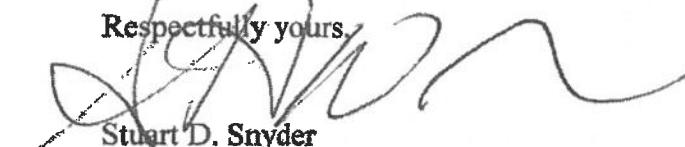
For your information the licensing of the above referenced property and the 8th Street property would solely be for the benefit of the developer; the Borough of Ship Bottom does not have a stake in the transfer of ownership or license; and is not supporting that application. Baldwin Residence, LLC requires a license, easement or ownership to maintain their encroachments over their property line to the north; otherwise they shall remove all encroaching members and adjust the impervious and building coverage at the property. The permissibility or removal of the encroachments is the responsibility of Baldwin Residence, LLC; as the encroachments were created and generated without Municipal approval; the Borough of Ship Bottom mandates their removal, unless otherwise permitted by the owner of the property as aforementioned.

Please review the contents herein, and take appropriate action, if your decision to license the property to the developer was based upon the false statement that the Borough of Ship Bottom required the subject property for a public welcome area.

Notwithstanding anything to the contrary, the licensing is solely for the benefit of Baldwin Residence, LLC, not the Borough of Ship Bottom

Please note that I provided a copy of this letter to all who were referenced in the aforementioned License Agreement. Kindly favor me with a response.

Respectfully yours,



Stuart D. Snyder

Cc: Land Use Review Board of Borough of Ship Bottom via email:

sgresko@shipbottom.org

Mayor and Counsel Borough of Ship Bottom via email: kwells@shipbottom.org

Dasti, Murphy, et al via email: GJohnson@dmmlawfirm.com

James S. Raban, Esq. via email

Frank J. Little, Jr. via email

Victor Akpu via email: victor.akpu@dot.nj.gov

Piyush Modi via email: piyush.mosi@dot.nj.gov

Anika James via email: anika.james@dot.nj.gov



**OWEN,
LITTLE
& ASSOCIATES
INC.**

Engineers
Planners
Surveyors
GIS Specialists

Frank J. Little, Jr., P.E., P.P., C.M.E.
Douglas F. Klee, P.E., P.P., C.M.E.
William J. Berg, P.L.S.

**DESCRIPTION OF A PROPOSED VARIABLE WIDTH RIGHT-OF-WAY EASEMENT BEING
IN THE RIGHT-OF-WAY LIMITS OF 8TH STREET AND ADJOINING LOT 6, BLOCK 103,
BOROUGH OF SHIP BOTTOM, OCEAN COUNTY, NEW JERSEY**

All that certain lot, tract or parcel of land and premises, situate, lying and being in the Borough of Ship Bottom, County of Ocean, State of New Jersey and being more particularly described as follows:

Beginning at a point of intersection formed by the common property lines of Lots 4.01 and 6, Block 103 with the Southerly Right-of-Way (R.O.W.) Line of 8th Street (Variable Width – Public R.O.W.). Said point also being distant, North 58°13'39" West, 400.00 Feet from the intersection formed by the Southerly R.O.W. Line of 8th Street with the Westerly R.O.W. Line of Barnegat Avenue (AKA Pennsylvania Avenue)(100 Foot Wide- Public R.O.W.). Running thence

1. Along the existing R.O.W. Line, North 58°13'39" West, 34.00 Feet to an angle point in same; thence
2. Continuing along said R.O.W. Line, North 63°59'43" West, 199.02 Feet to an angle point in same; thence
3. Continuing along said R.O.W. Line North 66°45'29" West, 101.12 Feet to an angle point in same; thence
4. Continuing along said R.O.W. Line, North 74°05'13" West, 91.48 Feet to a point in the most Westerly property line of Lot 6 Block 103; thence
5. Along said existing extended Westerly property line of Lot 6, Block 103, North 31°46'21" East, 18.03 Feet to a point in the existing concrete curb in the R.O.W. of 8th Street; thence
6. Along said concrete curb line along a curve bearing to the Right, having a radius of 172.00 Feet, an arc length of 46.16 Feet and a chord bearing of South 84°03'01" East, 46.02 Feet to a point of compound curvature; thence
7. Continuing along said concrete curb line along a curve bearing to the Right, having a radius of 500.00 Feet, an arc length of 82.85 Feet and a chord bearing of South 71°36'53" East, 82.75 Feet to a point of compound curvature; thence
8. Continuing along said concrete curb line along a curve bearing to the Right, having a radius of 1,125.00 Feet, an arc length of 169.66 Feet and a chord bearing of South 62°32'52" East, 169.50 Feet to a point of tangency; thence

9. Continuing along said concrete curb line, South 58°13'39" East, 129.05 Feet to a point in the extended Easterly property line of Lot 6, Block 103; thence
10. Along said existing extended property line, South 31°46'21" West, 10.00 Feet to the point and place of beginning.

Containing: 8,997.27 SF/0.21 AC.

Being intended to describe a Variable Width Right-Of-Way Easement being within the Right-of-Way limits of 8th Street and adjoining the most Northerly property line of Lot 6, Block 103. Said new easement is further shown on the attached Exhibit A.

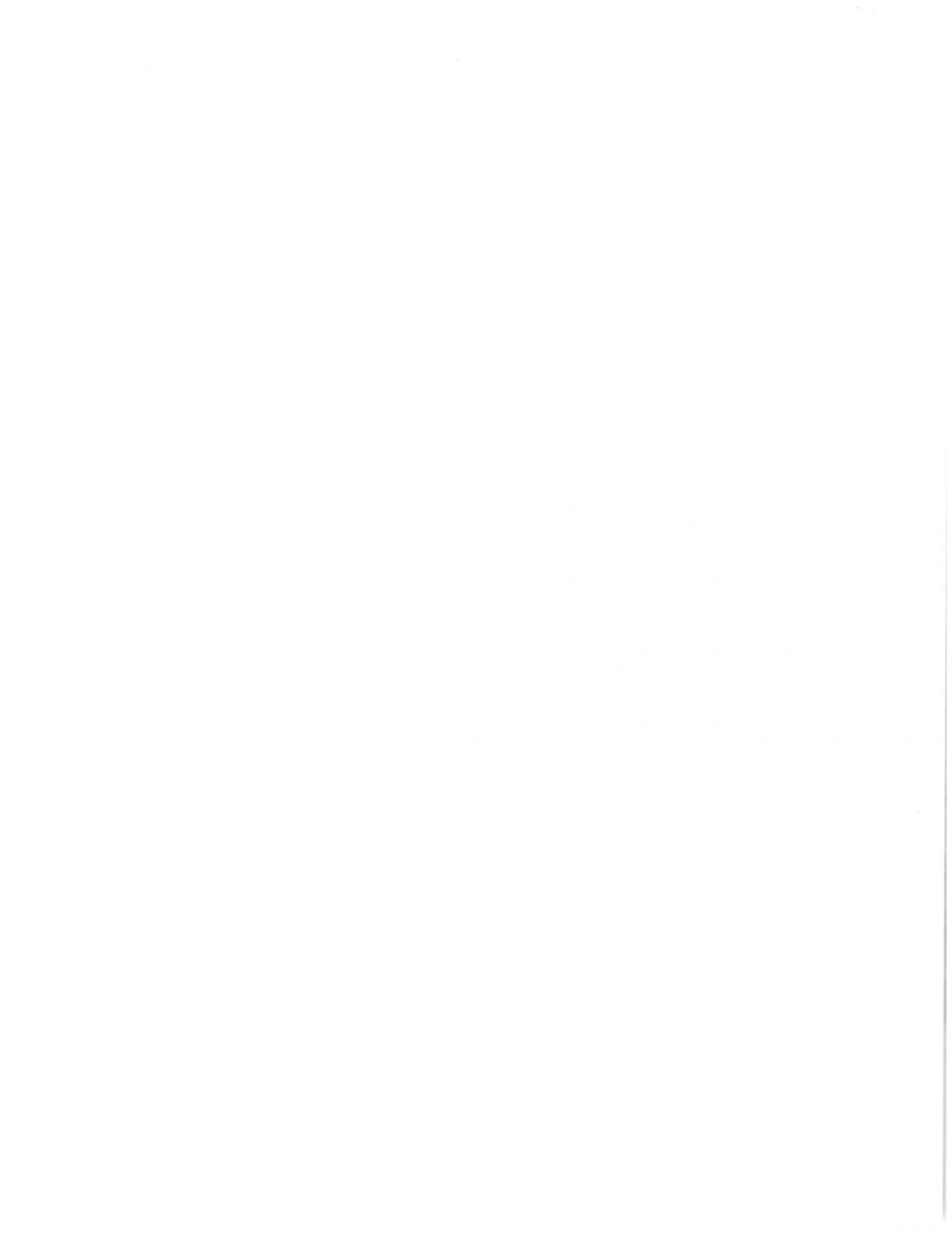
Subject to covenants, restrictions and/or easements, if any, except those that have expired by their own limitations.

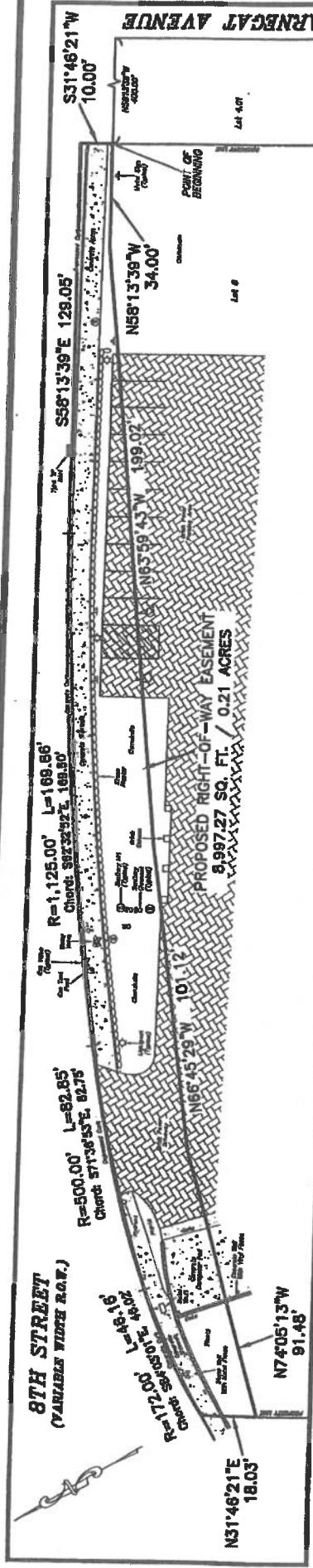
Prepared By:

William J. Berg, PLS
NJPLS License #24GS03622800

Date

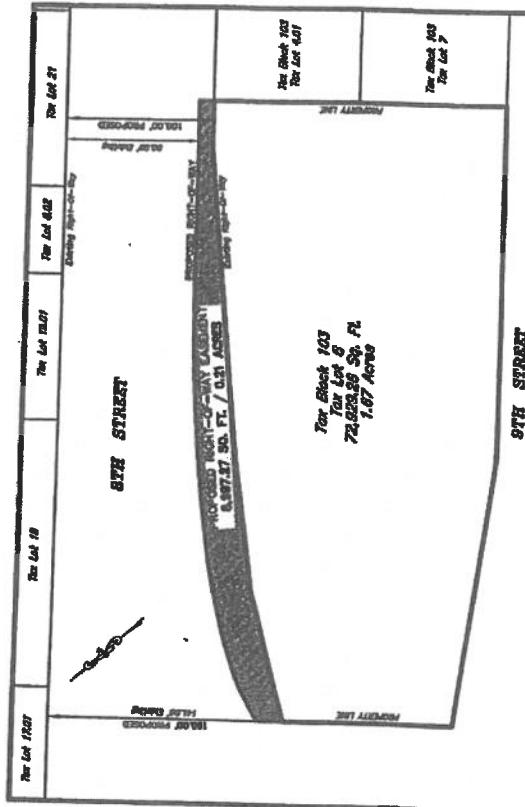
W:\PROJECTS\CLERICAL\DEED DESCRIPTIONS\SHIP BOTTOM\HOTEL LBI - B103,L6.DOCK





PROPOSED RIGHT-OF-WAY EASEMENT

NOTE: IMPROVEMENTS SHOWN HEREON ARE TAKEN FROM FIELD OBSERVATIONS AND ARE APPROXIMATE
 $1'' = 45'$



LOT DETAIL

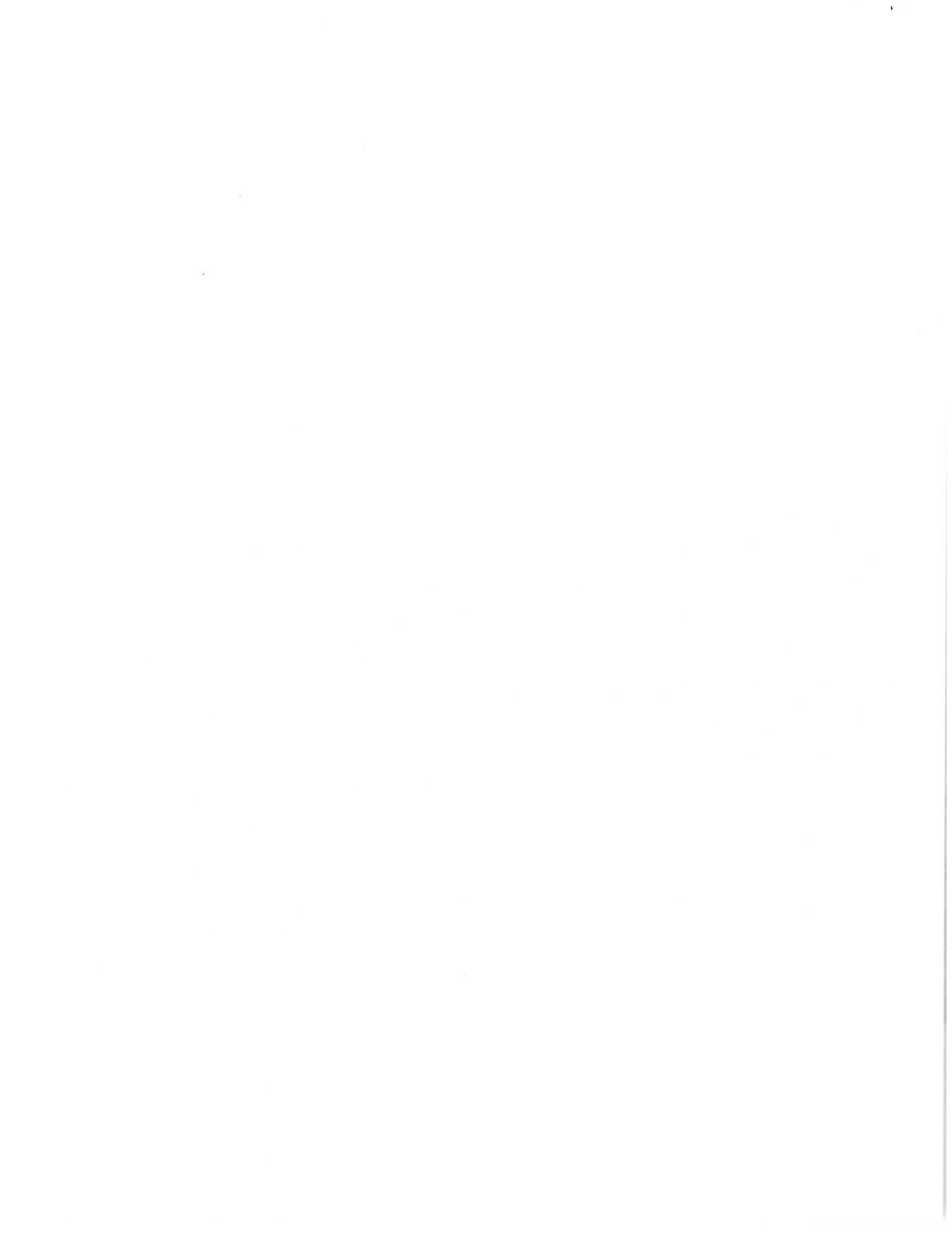
31

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OF CHEM, LITTLE & ASSOCIATES, INC. IS ELERAL AND
FUNDAMENTAL.

THIS DRAWING HAS BEEN PREPARED FOR THE PURPOSES OF
MUNICIPAL AND REGULATORY AGENCY REVIEW AND APPROVAL
AND SHALL NOT BE UTILIZED AS CONSTRUCTION DOCUMENTS
BY CHEM, LITTLE & ASSOCIATES, INC. ALL CONDITIONS OF APPROVAL HAVE BEEN
MET, THE DRAWINGS HAVE BEEN
APPROVED FOR CONSTRUCTION.

W. W. SPERBER, P.E., SE, CHEM, LITTLE & ASSOCIATES, INC.



SZAFAERMAN LAKIND

Szaferman, Lakind, Blumstein & Blader, P.C.
Attorneys at Law

101 Grovers Mill Road, Suite 200
Lawrenceville, NJ 08648
p: 609.275.0400
f: 609.275.4511
www.szaferman.com

Arnold C. Lakind
Barry D. Szaferman
Brian G. Paul+
Craig J. Hubert++
Michael R. Paglione*
Lionel J. Frank**
Jeffrey K. Epstein+
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Scott P. Borsack***
Daniel S. Sweetser*
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Jonathan I. Epstein
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Brian M. Schwartz**
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Robert P. Panzer
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Janis A. Eisl*
Steven Fox*++
Max H. Steinberg
Alexandrea M. Jacinto
Samantha Garrison
Angelina Sferra
Mariam S. Zein
Zachary M. Jaffe

Of Counsel
Anthony J. Parrillo
Jeffrey M. Hall
Bryce S. Chase++++
Kim A. Otis
Kristine Dress Brown**
Huff, Moran & Orron, LLC
1246 South River Road
Cranbury, NJ 08512
P: 609.655.3600

Retired
Steven Blader
Jeffrey P. Blumstein
Linda R. Feinberg
Stephen L. Skillman

+Certified Matrimonial Attorney
++Certified Civil Trial Attorney
+++Certified Workers Comp Attorney
++++Certified Workers Comp & Civil
Trial Attorney

December 19, 2025

Dawn Annarumma
Tax Collector
Borough of Ship Bottom
1621 Long Beach Blvd.
Ship Bottom, NJ 08008

Re: 338-380 West 8th Street
Block 103, Lots 1.01, 3 and 6 (350 West 8th Street and 301 West 9th Street)
Block 100, Lot 8 (354 West 9th Street)
Block 110, Lots 1 and 25 (301 and 311 West 8th Street)
Borough of Ship Bottom
Request for Certification of Taxes Paid

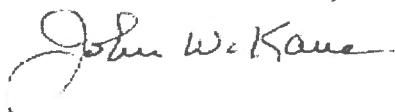
Dear Ms. Annarumma:

This office represents the owner of the above listed properties located in the Borough of Ship Bottom, New Jersey (the "Property"). We will shortly file an application before the Borough of Ship Bottom Land Use Board. As required by the Borough of Ship Bottom Ordinance, please provide us with a Certification that all Taxes on the properties listed above are paid and current. I am including a stamped, self-addressed return envelope for your convenience.

Thank you!

Very truly yours,

SZAFAERMAN, LAKIND,
BLUMSTEIN & BLADER, P.C.



John W. Kane
Senior Paralegal

c: Arnold C. Lakind, Esq.