

## Charleston BAR approves The Beach Company's final application for Sgt. Jasper

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After a multi-year battle that was fought in the courts, as well as the court of public opinion, The Beach Company has finally won approval of its final application for the redevelopment of the Sergeant Jasper property on the Charleston peninsula.

The Charleston Board of Architectural Review (BAR) gave sign-off on the application in its meeting earlier today.

The approved plan features a design by Chicago-based Antunovich Associates, and Charleston's own LS3P architects, and DesignWorks. It will feature a mix of residential office and retail spaces, with enclosed parking.

“Since day one, The Beach Company has remained steadfast in its commitment to stand up for the rights of property owners while creating a world-class building for this site,” said John Darby, CEO of The Beach Company. “We applaud the City of Charleston for the important work they’re doing and progress they’ve made to improve the BAR’s 1931 ordinances.”

The Beach Company had brought suit against the BAR in 2015 after the board rejected several of the company's concepts for the redevelopment project. The company's suit claimed the BAR's review process was "arbitrary and capricious."

Last April, Judge J.C. Nicholson ruled that the BAR overstepped its authority in denying the developer’s application to redevelop the apartment building. Nicholson’s ruling came after the city and the company reached an impasse in court-ordered mediation.

Last summer, the City of Charleston and The Beach Company reached a settlement agreement that paved the way forward for the Jasper project.

This high-profile battle has led the city to examine several options for updating the 1931 ordinance that created the BAR.

As *Palmetto Business Daily* has reported during the past two years, in addition to The Beach Company, several local and national groups have expressed concerns that the BAR's actions throughout this process have put property rights at risk.

"We are concerned that the ongoing effort for future economic development in our region could be negatively impacted and smart investors may shy away from the area if one of its leading

municipalities does not honor its past commitments,” wrote Trident CEO Council Chairman Marc Fetten and Executive Director Tom Leonard, in a letter to the city in November 2015.

Salim Furth, a research fellow at the Heritage Foundation, told *Palmetto Business Daily* last year that, when property rights are clear and distinct, transactions are crisper and things move along. When there is confusion and misunderstanding, he said, a lot of time is spent in court figuring out the property rights.

“It is just very mercurial, the board looks at something and decides what it likes and what it doesn’t like, and who it likes and who it doesn’t like; and that is not an appropriate way to run a government,” Furth said. “The point of government is to set some basic rules within which we can all do our own thing.”

Roger Pilon, the founder and director of Cato Institute's Center for Constitutional Studies, echoed Furth's remarks.

“The essential issue is about property rights — what we are talking about here are regulatory takings,” said Pilon. “That is, reducing the value of someone’s property through regulations that have various and complex criteria.”

The long-term impact of the BAR's actions in the Jasper case will be learned over time but, for now, the board has ruled and the project is moving forward.

According to The Beach Company, the demolition and construction of the building will be a three-year project once building permits for the plan are secured.