THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM BERKELEY COUNTY

Court of Common Pleas

Honorable Dale Van Slambrook, Master-in-Equity

CASE NO. 2004-CP-08-1855

APPELLATE CASE NO. 2018-001993

Ronald E. Price and Diana R. B. Price, Respondents.

v.

Belinda Fox and Gerry Fox, Appellants.

RECORD ON APPEAL

VOLUME III

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INDEX

Plaintiff's Exhibits

Exhibit No. 28 Eagle Harbor CCRs.....994

Exhibit No. 29 Plat.....1002

Exhibit No. 30 DHEC Letter.....1004

Exhibit No. 31 Agreement. 1006

Exhibit No. 32 Cost and Expenses Document.....1013

Exhibit No. 33 Payment Information (ID) 1023

Exhibit No. 34 Total Expenses.....1025

Exhibit No. 35 DHEC Application.....1026

Exhibit No. 36 Engineer's Report.....1028

Exhibit No. 37 Photographs.....1035

Exhibit No. 38 Appraisal Report. 1044

Exhibit No. 39 DHEC Letter (ID). 1106

Exhibit No. 40 DHEC Letter (ID). 1107

Exhibit No. 41 Deposition Designations. 1109

Exhibit No. 42 Affidavit.....1139

Exhibit No. 43 Certification.. 1156

Exhibit No. 44 Letter. 1174

Exhibit No. 45 Complaint.. 1176

Exhibit No. 46 Application for Encroachment Permit.....1185

Exhibit No. 47 Encroachment Permit Approval Form.....1201

Exhibit No. 48 Code Enforcement Record. 1202

Exhibit No. 49 Letter (ID)... 1205

Exhibit No. 50 (Withdrawn)

Exhibit No. 51 Letter.....1207

Defendant Fox's Exhibits

Exhibit No. 1 Plat.....1209

Exhibit No. 2 Covenants.....1210

Exhibit No. 3 Plat.....1261

Exhibit No. 4 Consent Order.....1276

Exhibit No. 5 Agreement.....1277

Exhibit No. 6 Letter.....1280

Exhibit No. 7 Disbursement Statement.....1281

Exhibit No. 8 Legal Services Document.....1283

Exhibit No. 9 Bank Statement.....1289

Exhibit No. 10 Settlement Statement.....1291

Court's Exhibits

Exhibit No. 1 Settlement Agreement.....1294

Exhibit No. 2 Insurance Title Policy.....1299

Exhibit No. 3 Letter.....1305

Exhibit No. 4 Complaint.....1306

Defendant Heritage's Exhibits

Exhibit No. 1 Contract.....1315

Exhibit No. 2 Transaction Document.....1322

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PORTIONS OF THIS AGREEMENT ARE SUBJECT TO ARBITRATION PURSUANT TO THE SOUTH CAROLINA UNIFORM ARBITRATION ACT,§ 15-48-10, S.C. CODE OF LAWS OF 1976, AS AMENDED.

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Co Fee: 0.00 Pages: 51
Issued to: EAGLE HARBOR
Register of Deeds Berkeley Co., SC
Cynthia B. Forte

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR EAGLE HARBOR

NEW

P EXHIBIT 28
WITNESS
DATE: 5/3/2018
REPORTER: H. LANDRY

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR EAGLE HARBOR

TABLE OF CONTENTS

ARTICLE 1.	DEFINITIONS	6
1.1	Definitions	6
ARTICLE 2.	THE GENERAL PLAN FOR EAGLE HARBOR	9
2.1	Plan of Development of The Property	9
2.2	Additions To Property	9
2.2.1	Additions By Declarant	9
2.2.2	Additions of Other Properties	9
2.2.3	Additions By Merger	9
2.3	Conveyances Of Common Areas	10
2.4	Owner's Interest Subject to Plan of Development	10
ARTICLE 3.	ARCHITECTURAL GUIDELINES: APPROVALS	11
3.1	Purpose	11
3.2	Architectural Review Committee	11
3.2.1	Right to Assign ARC Functions	11
3.2.2	Liability of ARC Members	11
3.3	Design Guidelines	11
3.3.1	Interior Improvements	12
3.3.2	Drainage	12
3.3.3	Sitting, Setbacks, Height and Impervious Area Limitations	12
3.3.4	Other Guidelines	12
3.3.5	Guidance; Final Authority of ARC	12
3.3.6	Inspections and Permit and Certificate Issuance	12
3.3.7	Fees and Charges	12
3.4	ARC Building Construction and Landscaping Approval	12
3.5	Approval Not a Guarantee	13
ARTICLE 4.	OWNERS' COVENANTS AND USE RESTRICTIONS	13
4.1	Building Restrictions	13
4.1.1	Number of Buildings on Lots	13
4.1.2	Square Footage Requirements	13
4.1.3	Completion of Improvements	13
4.1.4	Other Requirement of Residences	13
4.2	Trees	13
4.3	Use of Lots and Dwellings	14
4.4	Antennas	14
4.5	Clotheslines	14
4.6	Propane Gas Tanks	14

4.7	Exclusion of Above Ground Utilities	14
4.8	Owner's Landscape Maintenance Between Lot Line and Adjacent Paving	14
4.9	Development, Sales and Construction Activities of Declarant	14
4.10	Assignment of Declarant's Rights to the Association	15
4.11	Other Rights and Reservations	15
ARTICLE 5.	PROPERTY RIGHTS	15
5.1	General Rights of Owners	15
5.2	Owner's Easement of Enjoyment	15
5.2.1	Right Of Association To Borrow Money	15
5.2.2	Declarant's Reserved Rights and Easements	15
5.2.3	Association's Rights to Grant and Accept Easements	16
5.2.4	Association's Rights and Easements	16
5.2.5	Declarant's Easements for Additional Property	16
5.2.6	Landscape Maintenance: Public Rights-of-Way	16
5.3	Easements for Declarant	16
5.3.1	Declarant's Easements for Any Additional Property	16
5.4	Changes in Boundaries: Additions to Common Areas	16
5.5	Easements for Utilities	17
5.6	Easement for Walks, Paths, and Signs	17
5.7	Easements for the Association	17
5.8	General Maintenance Easement	17
5.9	Easements Deemed Granted and Reserved	17
ARTICLE 6.	MEMBERSHIP	17
6.1	Membership	17
6.2	Voting Rights	18
6.2.1	Voting By Multiple Owners	18
6.3	Association Governance by Board	18
6.4	Meetings and Membership Voting	18
ARTICLE 7.	MAINTENANCE	18
7.1	Responsibilities of Owners	18
7.2	Association's Responsibility	18
7.2.1	General	19
7.2.2	Work In Behalf of Owners	19
7.3	Management	19
ARTICLE 8.	INSURANCE AND CASUALTY LOSSES	19
8.1	Insurance	19
8.1.1	Association's Property Insurance	20
8.1.2	Association's Liability Insurance	20
8.1.3	Fidelity Bonds	20
8.1.4	Association's Other Insurance	21
8.1.5	Association's Policies	21
8.1.6	Owner's Insurance	
8.2	Damage or Destruction to Common Areas	

ARTICLE 9. CONDEMNATION 21

9.1 Condemnation of Common Areas 21
9.1.1 Common Areas With Improvements 21
9.1.2 Common Areas Without Improvements 22
9.1.3 Including Owner's Property 22

ARTICLE 10. FUNCTIONS OF THE ASSOCIATION 22

10.1 Board of Directors and Officers 22
10.2 Duties and Powers 22
10.2.1 Ownership of Properties 23
10.2.2 Services 23
10.3 Mortgage or Pledge 23
10.4 Personal Property and Real Property for Common Use 24
10.5 Rules and Regulations 24
10.6 Reduction in Services 24
10.7 Obligation of the Association 24

ARTICLE11. ASSESSMENTS 24

11.1 Purpose of Assessments 24
11.2 Creation of Lien and Personal Obligation of Assessments 24
11.3 Establishment of Annual Assessment 25
11.3.1 Disapproval of Annual Assessments 25
11.3.2 Special Board Action to Increase 25
11.3.3 Billing of Annual Assessments 25
11.3.4 Rounding 25
11.3.5 For Common Expenses 25
11.4 Determination of Default Budget and Default Annual Assessment 26
11.4.1 Change in Default Amounts Upon Merger or Consolidation 26
11.5 Special Assessments for Improvements and Additions 26
11.5.1 Special Assessments; Approval by Declarant and Disapproval by Members 27
11.5.2 Apportionment 27
11.6 Emergency Special Assessments 27
11.7 Declarant's Properties 27
11.8 Individual Specific Assessments 27
11.9 Effect of Nonpayment; Remedies of the Association 27
11.10 Certificate 28
11.11 Date of Commencement of Assessments 28
11.11.1 Working Capital Collected At Initial Closing 28

ARTICLE 12. RULE MAKING 28

12.1 Rules and Regulations 28
12.2 Authority and Enforcement 29
12.3 Procedure 29
12.3.1 Demand to Cease and Desist 29
12.3.2 Notice of Hearing 29
12.3.3 Hearing 29

ARTICLE 13. ALTERNATIVE DISPUTE RESOLUTION & LITIGATION 30

13.1 Agreement to Avoid Costs of Litigation and to Limit Right to Litigate Disputes 30
13.2 Exempt Claims 30
13.3 Mandatory Procedures for Non-Exempt Claims 30
13.4 Litigation 30
13.5 Miscellaneous Alternative Dispute Resolution Provisions 31
13.5.1 Conflicting Provisions 31
13.5.2 TIME IS OF ESSENCE 31

ARTICLE 14. MORTGAGEE PROTECTION 31

14.1 Introduction 31
14.2 Eligible Mortgagees 31
14.3 Notice of Actions 31
14.4 Consents Required: Constituent Documents' Changes 32
14.5 Actions 33
14.6 Change from Monthly Assessment 33
14.7 Declarant's Reserved Rights 33
14.8 Inspection of Books 33
14.9 Financial Statements 33
14.10 Enforcement 33
14.11 Attendance at Meetings 34

ARTICLE 15. GENERAL PROVISION 34

15.1 Control of Declarant 34
15.1.1 Voting Agreement and Proxy 34
15.1.2 Creation of New Board 34
15.2 Amendments by Declarant 34
15.3 Amendments by the Association 35
15.4 Duration 35
15.5 Termination of the Association 36
15.6 Perpetuities 36
15.7 Interpretation 37
15.8 No Affirmative Obligation Unless Stated 37
15.9 No Implied Liabilities or Duties 37
15.10 Gender and Grammar 37
15.11 Severability 37
15.12 Rights of Third Parties 37
15.13 Notice of Sale, Lease or Mortgage 37
15.14 No Trespass 37
15.15 Notices 37

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

FOR

EAGLE HARBOR

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR EAGLE HARBOR is made this ____ day of _____, 2004, by Eagle Harbor Inc. (the "Declarant");

WITNESSETH

WHEREAS, Declarant is the owner of certain real property located in Berkeley County, South Carolina, and more particularly described in Exhibit "A," attached hereto and incorporated herein by this reference, which Declarant has designated "Eagle Harbor" (herein after, the "Eagle Harbor") and

WHEREAS, Eagle Harbor is planned as a residential community under the planning ordinances adopted therefore by governmental authority with jurisdiction thereof and as further provided herein.

WHEREAS, Declarant deems it to be in the best interest of the Eagle Harbor subdivision more particularly described in Exhibit" A," as it exists today and as it may evolve in the future, to establish Covenants, Conditions and Restrictions to promote efficiencies and to provide a flexible mechanism for the administration and maintenance of community facilities and services which are for the common use and benefit of EAGLE HARBOR property owners.

NOW, THEREFORE, Declarant hereby declares that all of the property described in Exhibit "A" and any additional property as may be added by subsequent amendment hereto, and in accordance with the terms and conditions hereof, is subjected to this Declaration of Covenants, Conditions and Restrictions for EAGLE HARBOR (referred to hereinafter as the "Declaration"); and that the property described in Exhibit "A" will be held, transferred, sold, conveyed, leased, occupied, and used subject to the following easements, restrictions, covenants, charges, liens, and conditions which are for the purpose of protecting the values and desirability of, and which will touch and concern and run with title to, the real properties subjected to the Declaration and which will be binding on all parties having any right, title, or interest in the described properties or any portion thereof, and their respective heirs, successors, successors-in-title, and assigns, and will inure to the benefit of each owner thereof.

ARTICLE 1. DEFINITIONS

1.1. Definitions. When used in this Declaration, unless the context will prohibit or otherwise require, the following words will have all the following meanings, and all definitions will be applicable to the singular and plural forms of such terms:

(a) "ARC" will mean and refer to the board or committee established pursuant to this Declaration to approve exterior and structural improvements, additions, and changes within the Development.

(b) "Articles of Incorporation" will mean and refer to the Articles of Incorporation of Eagle Harbor Homeowners Association, as amended from time to time, filed in the Office of the Secretary of State of the State of South Carolina in accordance with the Nonprofit Corporation Act.

(c) "Assessment" will mean and refer to an Owner's share of the Common Expenses and other charges from time to time assessed against an Owner by the Association in the manner herein provided.

(d) "Association" will mean and refer to EAGLE HARBOR Homeowners Association, a South Carolina not-for-profit corporation, its successors and assigns. In exercising any right or easement granted or reserved to it hereunder, such right or easement shall be deemed to extend to its duly authorized directors, officers, agents, employees and contractors.

15.13 Notice of Sale, Lease, or Mortgage. In the event an Owner sells, leases, mortgages, or otherwise disposes of any Lot, the Owner must promptly furnish to the Association in writing the name and address of such purchaser, lessee, mortgagee, or transferee.

15.14 No Trespass. Whenever the Association, Declarant, or the ARC are permitted by this Declaration to enter upon, correct, repair, clean, maintain, preserve, or do any other action within any portion of the Development, the entering thereon and the taking of such action will not deem to be trespass.

15.15 Notices. Notices required hereunder will be in writing and will be delivered by hand or sent by United States Mail, postage prepaid. All notices to Owners will be delivered or sent to such addresses as have been designated in writing to the Association, or if no address has been so designated, at the addresses of such Owners' respective Lots. All notices to the Association will be delivered or sent in care of Declarant to Declarant's main office, 1044 Eagle Harbor Lane, Summerville, South Carolina 29483, or to such other address as the Association may from time to time notify the Owners. All notices to Declarant will be delivered or sent to Declarant's main office, 1044 Eagle Harbor Lane, Summerville, South Carolina 29483, or to such other address as Declarant may from time to time notify the Association. Notices to Mortgagees will be delivered or sent to such addresses as such Mortgagees specify in writing to the Association. Notices to any other person or persons entitled to same hereunder will be delivered or sent to such address or addresses as such person or persons specify, from time to time, in writing to the sender, or, in the absence thereof, to such address or addresses as will, in the exercise of reasonable judgment by the sender, reasonably expected to be received by such person or persons.

IN WITNESS WHEREOF, duly authorized officers of the undersigned Declarant have executed this Declaration under seal, this 25 day of October, 2004.

Signed, sealed and delivered in the presence of

Anna Pittman

Sandra DeBerdeber

DECLARANT:

EAGLE HARBOR, INCORPORATED
a South Carolina Corporation

BY: _____
Danny D. Gilbert
Its: President

STATE OF SOUTH CAROLINA)
)
COUNTY OF BERKELEY)

Personally appeared before me Anna Pittman and made an oath that (s)he saw Eagle Harbor, Inc., a South Carolina Corporation, by its duly authorized officer(s), sign, seal, and as its act and deed deliver the within written Declaration of Covenants, Conditions and Restrictions for EAGLE HARBOR, and that (s)he with the other witness witnessed the execution thereof.

Anna Pittman (SEAL)

Sworn to before me this
25 day of October, 2004.
Notary Public for South Carolina
Stephen L. Long
My Commission expires: 2-6-14

EXHIBIT "A"

All those certain pieces, parcels and lots of land shown on a plat entitled "FINAL PLAT OF EAGLE HARBOR, PHASE II SAINT JAMES – GOOSE CREEK PARISH." Said plat, dated July 25, 2002, prepared by Stantec Consulting Services, Inc., and recorded on September 26, 2002 as Document No. 81023, in Plat Cabinet P, at Page 281-A in the Office of the Register of Deeds for Berkeley County and relates to TMS Nos. 194-00-02-031 and 194-00-02-073.

All those certain pieces, parcels and lots of land shown on a plat entitled "A SUBDIVISION PLAT FOR LOTS 1-9, PHASE III, EAGLE HARBOR SUBDIVIDING 'PARCEL -046A' (TMS PARCE # 178-00-03-072) INTO NINE LOTS" and "A RESUBDIVISION OF LOT 7, PHASE I, EAGLE HARBOR" (TMS PARCE # 1178-00-03-069). Said plat, dated July 14, 2004, prepared by Cornerstone Surveying and Engineering, Inc., and recorded on August 26, 2004 as Document No. 23698, in Plat Cabinet Q, at Page 250B in the Office of the Register of Deeds for Berkeley County.

Further, "Site Plan" will mean and refer to any subdivision plat for any Additional Property placed of record in furtherance of the development scheme for EAGLE HARBOR, as it exists from time to time.

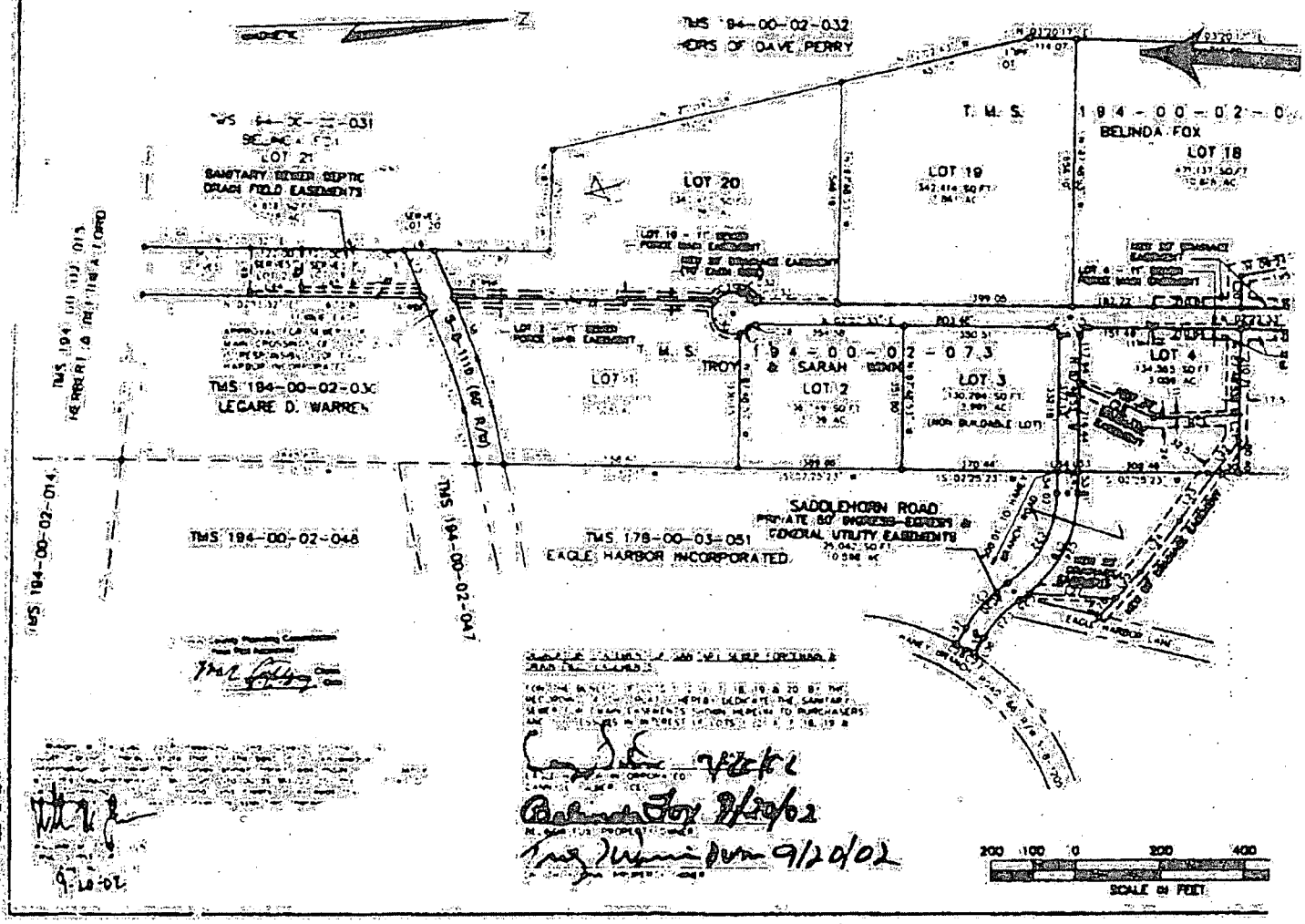
EXHIBIT 29

WITNESS

DATE: 5/3/2018

REPORTER: H. LANDRY

Book 000081023
PLAT CABINET P PAGE 29-A
Filed and Recorded
09/26/2002 09:47:00AM
Cashiers Form
Register of Deeds Berkeley Co., SC



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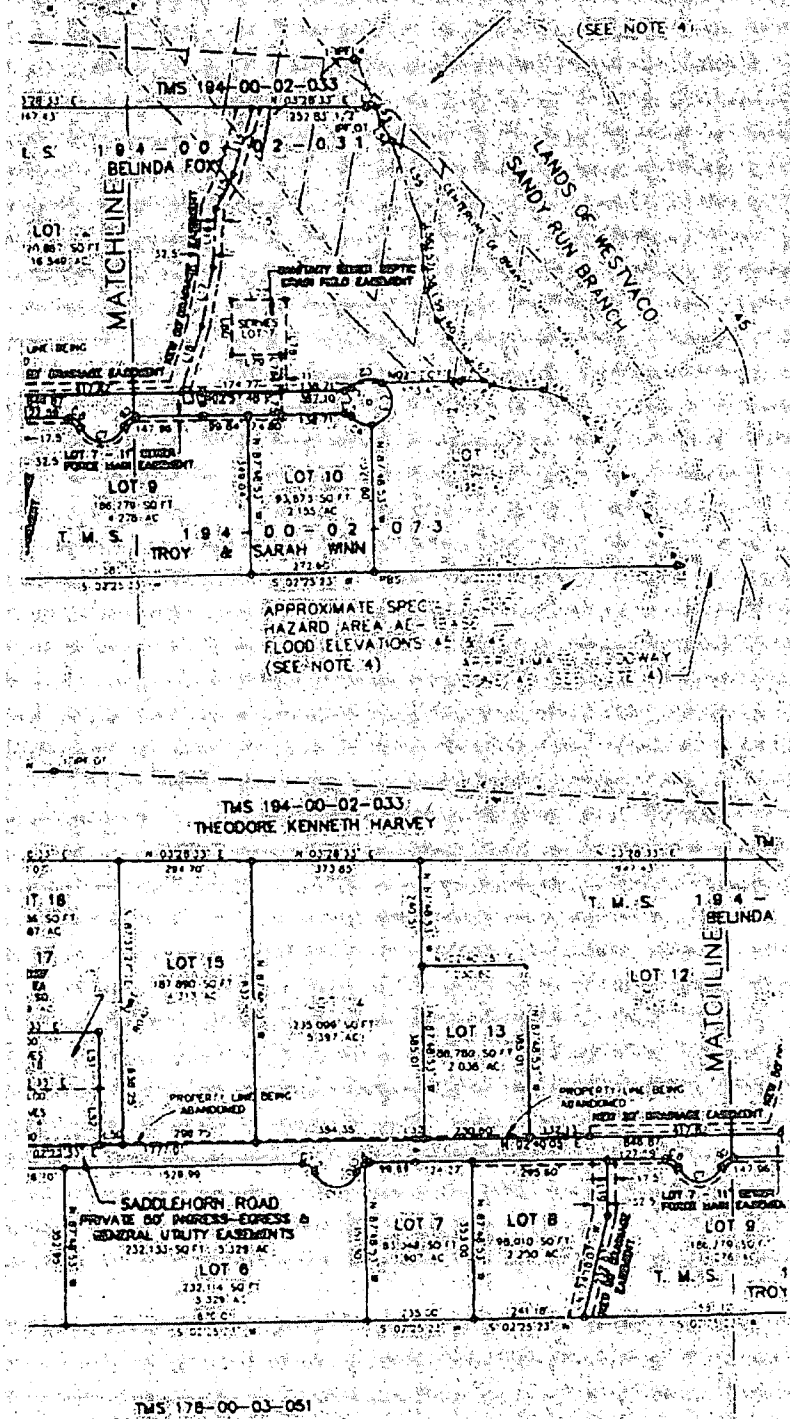

DEDICATION STATEMENT OF DRAINAGE EASEMENTS

THE RECORDING OF THIS PLAT HEREBY DEDICATES ALL DRAINAGE EASEMENTS SHOWN HEREON TO THE PUBLIC. NOTHING IN THIS DEDICATION SHALL BE CONSTRUED TO IMPLY AN ACCEPTANCE BY BERKELEY COUNTY OF ANY DITCHES OR ASSUMING ANY DUTY BY BERKELEY COUNTY TO MAINTAIN ANY DRAINAGE EASEMENTS SHOWN HEREON.

DEDICATION STATEMENT OF 50' INGRESS/EGRESS & GENERAL UTILITY EASEMENT

BY THE RECORDING OF THIS PLAT, I HEREBY DEDICATE THE INGRESS/EGRESS EASEMENT AND GENERAL UTILITY EASEMENT SHOWN HEREON TO ALL PURCHASERS AND SUCCESSORS IN INTEREST OF THIS PROPERTY AND I HEREBY DEDICATE THE GENERAL UTILITY EASEMENT SHOWN HEREON TO THE UTILITIES WHICH PROVIDE SAID UTILITIES. NOTHING HEREIN SHALL BE CONSTRUED TO IMPLY AN ACCEPTANCE BY BERKELEY COUNTY OF ANY ROADWAYS OR AS CREATING ANY DUTY BY BERKELEY COUNTY TO MAINTAIN ANY ROADWAYS.

9/26/02

EAGLE HARBOR INCORPORATED DATE
DANNY L. GILBERT, CEO

9/26/02

OWNER FOR PROPERTY OWNER DATE

Troy Winn DVM 9/26/02

TROY WINN PROPERTY OWNER DATE

9/26/02

PROPERTY OWNER DATE

Troy Winn DVM 9/26/02

TROY WINN PROPERTY OWNER DATE

Revision

Issued

Permit-Seal

SOUTH CAROLINA REGISTERED LAND SURVEYOR No. 17223 WILLIAM W. FERGUSON

Client Name

PREPARED FOR EAGLE HARBOR INCORPORATED
DANNY L. GILBERT, CEO
BERKELEY COUNTY
SOUTH CAROLINA

Title

FINAL PLAT OF
EAGLE HARBOR PHASE II
ST. JAMES GOOSE CREEK PARISH

Project No. 78000279 | Scale 1"=200' | JULY 25, 2002

Drawing No. 1L-2376 | Sheet 1 | Revision 0

000177

01003

BOARD
Elizabeth M. Hagood
Chairman

Edwin H. Cooper, III
Vice Chairman

L. Michael Blackmon
Secretary

D H E C

PROMOTE PROTECT PROSPER

C. Earl Hunter, Commissioner

Promoting and protecting the health of the public and the environment

BOARD
Carl L. Brazell

Steven G. Kisner

Paul C. Aughtry, III

Coleman F. Buckhouse, MD

May 17, 2005

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
7001 2510 0008 8159 1578

P EXHIBIT 30
WITNESS
DATE: 5/30/2018
REPORTER: H. LANDRY

Diana and Ronald E. Price
1104 Saddlehorn Road
Summerville, SC 29483

Re: Query About Administrative Review of Septic Tank Permit Denial: TMS# 194-00-02-030, Lot 20, Eagle Harbor II, off Haney Branch Road, Berkeley County, S.C.

Dear Mr. & Ms. Price:

On February 24, 2004, I made a visit to the above referenced property in response to your appeal letter. Mr. Milligan and Mr. Bozardt of the Berkeley County Health Department accompanied me. The purpose of our visit was to evaluate the property's potential for supporting a septic tank system. On May 17, 2005, I received a letter questioning the ability to subdivide this lot.

The evaluation of your site, on February 24, 2004, revealed a seasonal high zone of saturation of less than twelve (12) inches below the natural ground surface. Also, a heavy clay layer was encountered at the surface. Regrettably, this prevents the site from meeting the requirements of Regulation 61-56 for a conventional, or alternative type system.

We also evaluated the property to determine if an experimental system could be installed. Unfortunately, unsuitable soil conditions (clay layer) render the site unacceptable for the installation of an experimental system under Regulation 61-56.

We also looked at the property across Haney Branch Road (to be used for your septic system) to determine if a second drain field could be installed in this area. Unfortunately, this area was designed just large enough for one system and replacement area. Therefore, a second system cannot be installed for this lot.

Regrettably, I must inform you that the above referenced property does not meet the minimum requirements of the regulation for any type of on-site wastewater treatment and disposal system. This is a difficult and unpleasant decision, but exploring all the options available has not indicated any type of septic tank system that would adequately treat and dispose of wastewater in the soil conditions on this property.

In your letter you asked: Please confirm our understanding that the permit denial we received from Columbia prevents us from subdividing our lot for *residential* use, and please tell us the

conditions that would need to exist (or changes that would need to happen) for us to sell half our lot as "residential" or meet DHEC standards, and therefore give us the ability to subdivide for residential sale.

Unfortunately, this property would not pass for a septic system when originally subdivided. This is the reason for the small lot across Haney Branch Road, to accommodate the drain field for you're residence. Therefore, this property could not be subdivided any further using septic systems. The only way I know to subdivide this property at this time would be to have public sewer access.

I am sorry that we are unable to issue a septic tank permit for this site. If you have other land available and would like it evaluated for a septic tank system, please contact the Berkeley County Health Department for assistance.

Respectfully,

M. Reid Houston

M. Reid Houston
Division of Onsite Wastewater Management
Bureau of Environmental Health

MRH:cs

CC: Stuart Crosby DEHD
Ben Milligan

FAX TO: 556-5635

AIA Document A101/CMa

Standard Form of Agreement Between Owner and Contractor

where the basis of payment is a STIPULATED SUM

1992 CONSTRUCTION MANAGER-ADVISER EDITION

THIS DOCUMENT HAS IMPORTANT LEGAL CONSEQUENCES; CONSULTATION WITH AN ATTORNEY IS ENCOURAGED WITH RESPECT TO ITS COMPLETION OR MODIFICATION.

The 1992 Edition of AIA Document A201/CMa, General Conditions of the Contract for Construction, Construction Manager-Adviser Edition, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

AGREEMENT

made as of the 6 TH day of AUGUST in the year of
(In words, indicate day, month and year)

BETWEEN the Owner:
(Name and address)
ROW & DIANA PRICE
1104 SADDLEHORN AT EAGLE HARBOR

and the Contractor:
(Name and address)
TODD SEIBEL
176 OLD WINTER RD
SUMMERVILLE, SC.

For the following Project:
(Include detailed description of Project, location, address and scope.)

1104 SADDLEHORN @ EAGLE HARBOR

The Construction Manager is:
(Name and address)

TODD SEIBEL

EXHIBIT 31
WITNESS
DATE: 5/3/2018
REPORTER: H. LANDRY

The Architect is:
(Name and address)

N/A

The Owner and Contractor agree as set forth below.

Copyright 1975, 1980, ©1992 by The American Institute of Architects, 1735 New York Avenue, N.W., Washington, D.C. 20006-5292. Reproduction of the material herein or substantial quotation of its provisions without the written permission of the AIA violates the copyright laws of the United States and will subject the violator to legal prosecution.

ARTICLE 1
THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement and Modifications issued after execution of this Agreement; these form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. An enumeration of the Contract Documents, other than Modifications, appears in Article 9.

ARTICLE 2
THE WORK OF THIS CONTRACT

The Contractor shall execute the entire Work described in the Contract Documents, except to the extent specifically indicated in the Contract Documents to be the responsibility of others, or as follows:

1. OBTAIN QUOTES AS REQUESTED
2. SCHEDULING OF ALL SUB-CONTRACTORS
3. INSPECT QUALITY OF WORKMANSHIP
4. COORDINATE WITH HOMEOWNER WEEKLY & BI-WEEKLY ON PAYMENTS TO SUB-CONTRACTORS.
5. ALL WORK DONE PER CODE or by higher standard.
6. CALL ALL INSPECTION AND FOLLOW UP CALLS
7. COMPLETE HOME TO CERTIFICATE of Occupancy.

— See attached, Exhibit A — Detail of "Scope of Work" (and money handling and payments.

ARTICLE 3
DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

3.1 The date of commencement is the date from which the Contract Time of Paragraph 3.2 is measured, and shall be the date of this Agreement, as first written above, unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Owner.

(Insert the date of commencement. If it differs from the date of this Agreement or, if applicable, state that the date will be fixed in a notice to proceed.)

Unless the date of commencement is established by a notice to proceed issued by the Owner, the Contractor shall notify the Owner, through the Construction Manager, in writing not less than five days before commencing the Work to permit the timely filing of mortgages, mechanic's liens and other security interests.

3.2 The Contractor shall achieve Substantial Completion of the entire Work not later than

(Insert the calendar date or number of calendar days after the date of commencement. Also insert any requirements for earlier Substantial Completion of certain portions of the Work, if not stated elsewhere in the Contract Documents.)

SUBSTANTIAL WORK (85%) completed By 60 days
AND CERT. of Occupancy is allowed 90 Days

, subject to adjustments of this Contract Time as provided in the Contract Documents.

(Insert provisions, if any, for liquidated damages relating to failure to complete on time.)

N/A

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ARTICLE 4
CONTRACT SUM

4.1 The Owner shall pay the Contractor in current funds for the Contractor's performance of the Contract the Contract Sum of $ 20,000 — TWENTY - THOUSAND — Dollars ($ ~~), subject to additions and deductions as provided in the Contract Documents.~~

4.2 The Contract Sum is based upon the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

(State the numbers or other identification of accepted alternates. If decisions on other alternates are to be made by the Owner subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date until which that amount is valid.)

FOUR DRAWS OF $5000. PAYABLE TO TODD SEIBEL.

DRAW (1) LIENS ON PERMIT WITH HOME OWNER — $5000.
*DUE WITHIN 7 DAYS AFTER SIGNING CONTRACT)

DRAW (2) HANGINGS OF SHEETROCK — $5000.

DRAW (3) HANGINGS OF ELECTRIC FIXTURES — $5000.

DRAW (4) AT RECEIPT OF CERTIFICATE of OCCUP. — $5000

4.3 Unit prices, if any, are as follows:

AS PER QUOTES ON PAPERWORK FOR ALL SCOPES OF WORK approved by Owners prior to work starting.

(5) TOTAL CONTRACT AMOUNT AS $ 209,050.

DOES NOT change and includes my fee of $ 20,000. Also reflects 1st draw amount received by Owners in June and 2nd draw initiated upon this Contract. 3rd + 4th draws will cover all remaining costs of Scope of Work and as per lender draw schedule attached - Exhibit B

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ARTICLE 5
PROGRESS PAYMENTS

5.1 Based upon Applications for Payment submitted by the Contractor to the Construction Manager, and upon Project Applications and Certificates for Payment issued by the Construction Manager ~~and Architect~~, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

5.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

BY DRAW REQUEST AT COMPLETION OF PHASES OF WORK BY SUB-CONTRACTOR

5.3 Provided an Application for Payment is submitted to the Construction Manager not later than the ~~day of the month~~ WEEKLY OR BI-WEEKLY, the Owner shall make payment to the Contractor ~~not later than the day of the month~~. If an Application for Payment is received by the Construction Manager after the application date fixed above, payment shall be made by the Owner not later than days after the Construction Manager receives the Application for Payment.

5.4 Each Application for Payment shall be based upon the Schedule of Values submitted by the Contractor in accordance with the Contract Documents. The Schedule of Values shall allocate the entire Contract Sum among the various portions of the Work and be prepared in such form and supported by such data to substantiate its accuracy as the Construction Manager or Architect may require. This schedule, unless objected to by the Construction Manager or Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment.

5.5 Applications for Payment shall indicate the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

5.6 Subject to the provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

5.6.1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the total Contract Sum allocated to that portion of the Work in the Schedule of Values, less retainage of percent (N/A %). Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute may be included as provided in Subparagraph 7.3.7 of the General Conditions;

5.6.2 Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), less retainage of percent (N/A %);

5.6.3 Subtract the aggregate of previous payments made by the Owner; and

5.6.4 Subtract amounts, if any, for which the Construction Manager or Architect has withheld or nullified a Certificate for Payment as provided in Paragraph 9.5 of the General Conditions.

5.7 The progress payment amount determined in accordance with Paragraph 5.6 shall be further modified under the following circumstances:

5.7.1 Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to percent (N/A %) of the Contract Sum, less such amounts as the Construction Manager recommends and the Architect determines for incomplete Work and unsettled claims; and

5.7.2 Add, if final completion of the Work is thereafter materially delayed through no fault of the Contractor, any additional amounts payable in accordance with Subparagraph 9.10.3 of the General Conditions.

5.8 Reduction or limitation of retainage, if any, shall be as follows:

(If it is intended, prior to Substantial Completion of the entire Work, to reduce or limit the retainage resulting from the percentages inserted in Subparagraphs 5.6.1 and 5.6.2 above, and this is not explained elsewhere in the Contract Documents, insert here provisions for such reduction or limitation.)

N/A

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ARTICLE 8
FINAL PAYMENT

Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when (1) the Contract has been fully performed by the Contractor except for the Contractor's responsibility to correct nonconforming Work as provided in Subparagraph 12.2.2 of the General Conditions and to satisfy other requirements, if any, which necessarily survive final payment; and (2) a final Project Certificate for Payment has been issued by the Construction Manager and Architect; such final payment shall be made by the Owner not more than 30 days after the issuance of the final Project Certificate for Payment, or as follows:

Final Pay ~~Arrangement~~ AR to be made when work is 100% and accepted by Const. MGR & Home owner upon receipt of certificate of occupancy.

ARTICLE 7
MISCELLANEOUS PROVISIONS

7.1 Where reference is made in this Agreement to a provision of the General Conditions or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

7.2 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

(Insert rate of interest agreed upon, if any.)

N/A

(Usury laws and requirements under the Federal Truth in Lending Act, similar state and local consumer credit laws and other regulations at the Owner's and Contractor's principal places of business, the location of the Project and elsewhere may affect the validity of this provision. Legal advice should be obtained with respect to deletions or modifications, and also regarding requirements such as written disclosures or waivers.)

7.3 Temporary facilities and services:

(Here insert temporary facilities and services which are different from or in addition to those included elsewhere in the Contract Documents.)

Dumpsters & toilets supplied by others, provided by Contractor/Builder, paid for by Owners.

7.4 Other Provisions:

(Here list any special provisions affecting the Contract.)

This contract takes ~~effect~~ effect for all work performed after home ~~[illegible]~~ is framed and inspected by Home owners Engineer for structural integrity.

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ARTICLE 8
TERMINATION OR SUSPENSION

8.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of the General Conditions.

8.2 The Work may be suspended by the Owner as provided in Article 14 of the General Conditions.

ARTICLE 9
ENUMERATION OF CONTRACT DOCUMENTS

9.1 The Contract Documents, except for Modifications issued after execution of this Agreement, are enumerated as follows:

9.1.1 The Agreement is this executed Standard Form of Agreement Between Owner and Contractor, AIA Document A101/CMa, 1992 Construction Manager-Adviser Edition.

9.1.2 The General Conditions are the General Conditions of the Contract for Construction, AIA Document A201/CMa, 1992 Construction Manager-Adviser Edition.

9.1.3 The Supplementary and other Conditions of the Contract are those contained in the Project Manual dated , and are as follows:

Document	Title	Pages

(1) Plans only no Project Manual or Engineered Plans
(2) ~~I reserve the right to review the~~ General Conditions. ~~At this point I have not reviewed the sample~~ ← Has received copy!
(3) Plans & Spec will stay the same as previously submitted to Lender
(4) Engineer Report

9.1.4 The Specifications are those contained in the Project Manual dated as in Subparagraph 9.1.3, and are as follows:
(Either list the Specifications here or refer to an exhibit attached to this Agreement.)

Section	Title	Pages

N/A

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9.1.5 The Drawings are as follows, and are dated unless a different date is shown below:
(Either list the Drawings here or refer to an exhibit attached to this Agreement.)

Number	Title	Date

9.1.6 The Addenda, if any, are as follows:

Number	Date	Pages

60 Days 85%
90 Days C.O. in hand

Portions of Addenda relating to bidding requirements are not part of the Contract Documents unless the bidding requirements are also enumerated in this Article 9.

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EXCLUSIVE COST TO GERRY FOX

		RECEIPT
BERKELEY COUNTY TREASURER	215.31	
AZEALA UTILITIES	2700	✓
BERKELEY COUNTY (ROLL BACK)	2606.27	
COASTAL SOIL EVALUATORS	195.00	✓
COLUMNS @ PHASE 1	1303.50	✓
ASHLEY ENGINEERING	1800	✓
ASHLEY ENGINEERING	400	✓
	9220.08	

P EXHIBIT 32
WITNESS
DATE: 5-3-2018
REPORTER: H. LANDRY

BILLS NOT INVOICED YET

COASTAL SOIL EVALUATORS

0229-0272
7570-165

440,080.89
- 150 000
- 25000
265080.89 ÷ 2 = 132540.45 + 150,000 = 282,540.45

282540.45
273776
8764.45

→

8764.45
9220.08 EXCLUSIVE COST
17,984.53

EAGLE HARBOR PHASE 2 LOT SALES
For
Gerry and Belinda Fox

Lot	12			$125,772
Lot	13			$ 16,304
Lot	14			$ 78,257
Lot	15			$ 67,930
Lot	16			$ 50,531
Lot	17	drain field site	(not sold)	
Lot	18			$140,608
Lot	19	(@ $16,000 per acre)	(not sold)	$125,776
Lot	20	(@ $16,000 per acre)	(not sold)	$125,776
Lot	21	drain field site	(not sold)	
Total Income from Lot Sales				$730,954

October 30, 2004

Construction Expenses Eagle Harbor Subdivision Phase 2

ITEM	DESCRIPTION	CONTRACTOR	COST	PAID	BALANCE
1	Set property corners	ARC Surveying	2850	2850	0
2	Road and drainage	Stantec	53,598	53,598	0
3	Density Testing	WPC	345	345	0
4	Density Testing	WPC	405	405	0
5	Land Clearing	L and L	25,000	25,000	0
6	Dirt Work	L and L	100,000	100,000	0
7	ROC	L and L	45,000	45,000	0
8	Storm Drain	L and L	74,600	55,000	19,600
9	Clear Easement	M. Segars	12,000	12,000	0
10	Grading	L and L	10,000	0	10,000
11	Paving	Sanders	48,830	0	48,830
12	Fabrication	Fields	4876	4876	0
13	Opener	HC	5124	0	5124
14	Finish Services	L and L	22,864.20	22,864.20	0
15	ROC	L and L	739.60	739.60	0
16	Bond	L and L/ABI	4212	4212	0
17	Record Deed	Berkeley County	13	13	0
18	Record Deed	Berkeley County	5	5	0
19	Record Covenants	Berkeley County	57	57	0
20	Plat Fee	Berkeley County	10	10	0
21	Record Plat	Berkeley County	10	10	0
22	DHEC Application	DHEC	140	140	0
23	DHEC Application	DHEC	60	60	0
24	DHEC Application	DHEC	100	100	0
25	DHEC Application	DHEC	50	50	0
26	Fuel	Miracle Green	574	574	0
27	Mail Plat to Buyer	Fedex	14.86	14.86	0
28	Pipe	Lowes	7.47	7.47	0
29	Pipe	Lowes	19.90	19.90	0
30	Pipe	Lowes	147.55	147.55	0
31	Copies	Duncan Parnell	25.44	25.44	0
32	Copies	Duncan Parnell	4.88	4.88	0
33	Copies	Duncan Parnell	4.88	4.88	0
34	Classified ad	Post and Courier	82.50	82.50	0
35	Classified ad	Post and Courier	109	109	0
36	Fittings	Home Depot	43.83	43.83	0
37	Drill underground	Hot Shots Drill	3000	3000	0
38	Trench for electrical	Don McCall	200	200	0
39	Soil consultation	Coastal Soil Eval	250	250	0
40	Soil consultation	Coastal Soil Eval	350	350	0
41	Signs	Fast Signs	5806.68	0	5806.68
42	Labor and Expenses	EH/HC	9000	9000	0
43	Bond	ABI	4212	4212	0

44	Columns @ Gate	Louis Johnson	1303.50	1303.50	0
45	Entrance Brick Work	Louis Johnson	2500	2500	0
46	Copies of Covenants	Applegate	64.87	64.87	0
47	Grade Swail @ Entrance		450	450	0
48	Conc Entrance Footing	Builders First	34.55	34.55	0
49	Brick for Entrance	Boral Brick	331.55	331.55	0
50	Engineering Assessment	Stantec	654.63	654.63	0
			440,080.89	**350,720.21**	**89,360.68**

Exclusive Construction Expenses for Troy Winn

ITEM	DESCRIPTION	CONTRACTOR	COST	PAID	BALANCE
1	Divide Lot 9	Stantec	500	500	0
2	Appraisal	Asset Resolution	500	500	0
3	Lot 1 Pipe @ Leasure Dr	Azalea Utilities	1350	1500	-150
			2350	**2500**	**-150**

Construction Payments by Troy Winn

ITEM	DATE	SOURCE	PURPOSE	PAID
1	8-21-01	TW	L and L	5000
2	3-14-02	TW	L and L	5000
3	3-20-02	TW-Cox	L and L	10,000
4	6-12-02	TW-Ondrasek	HC	5000
5	7-10-02	TW-Ondrasek	L and L	5000
6	7-10-02	TW-Ondrasek	HC	1000
7	7-23-02	TW	Stantec	5000
8	7-27-02	TW	ARC Surveying	2850
9	9-13-02	TW		5000
10	12-16-02	Closing	Stantec/M. Segars	24,515.27
11	1-03-03	TW-Griebe		2000
12	1-09-03	TW-Crosby		1000
13	2-19-03	TW		32,815.80
14	3-04-03	TW-Cox		10,000
15	3-13-03	TW		5000
16	4-08-03	TW		5000
17	5-30-03	TW		5000
18	4-12-04	TW	Azalea Utilities	1500
19	5-10-04	TW	ABI Group	2106
20	5-11-04	TW	HC	1000
				133,787.07

Exclusive Construction Expenses for GBFox

ITEM	DESCRIPTION	CONTRACTOR	COST	PAID	BALANCE
1	Taxes	Berkeley County	215.31	215.31	0
2	Roll back taxes	Berkeley County	2606.27	2606.27	0
3	Pipe @ Leasure Dr	Azalea Utilities	2700	2700	0
4	Soil Evaluation	Coastal Soil Eval	195	195	0
5	Columns @ Phase 1	Louis Johnson	1303.50	1303.50	0
6	Lot 12a & Lot 12b	Ashley Eng.	1800	1800	0
7	Lot 12b1 & Lot 12b2	Ashley Eng.	400	400	0
			9220.08	**9220.08**	**0**

Construction Payments by GBFox

ITEM	DATE	SOURCE	PURPOSE	PAID
1	10-29-01	GBFox	Stantec	6,084
2	1-06-02	GBFox	L and L	25,000
3	1-06-02	GBFox	Stantec	18,098
4	3-15-02	GBFox-Evans		10,000
5	4-12-02	GBFox-Segars	L and L	100,000
6	5-10-02	GBFox-Cotton	Stantec	10,000
7	5-13-02	GBFox-Cotton		6,300
8	7-18-02	GBFox		3,000
9	9-10-02	GBFox	L and L	5,000
10	11-08-02	GBFox	L and L	30,000
11	4-01-03	GBFox		58,494
12	11-18-04	GBFox	Ashley Surveying	1,800
				273,776

PHASE 2 INFORMATION
March 7, 2003

LOT #	TMS #	LOT SIZE (ACRES)	ORIGINAL OWNER	NEW OWNER	PURCHASE PRICE	CLOSING STATUS
1	194-00-02-123	5.558	Winn			
2	194-00-02-124	3.139	Winn	Gift to Eagle Harbor	0	Closed 3/04/03
3	194-00-02-125	2.991	Winn	Gift to Eagle Harbor	0	Closed 3/04/03
4	194-00-02-126	3.089	Winn	Craig Simmons	$52,822	3/15/03
5	194-00-02-127	4.662	Winn			
6	194-00-02-128	5.329	Winn	Steve Griebe	$91,126	3/15/03
7	194-00-02-129	1.907	Winn	Charles H. Crosby	$34,326	3/11/03
8	194-00-02-130	2.250	Winn	Dennis Ondrasek	$37,920	Closed 12/16/02
9	194-00-02-131	2.138	Winn	Dee Dee Cox	$40,622	3/28/03
9B	Not assigned	2.138	Winn	Steve Griebe	$36,660	3/15/03
10	194-00-02-132	2.155	Winn	Robert Newton	$36,851	2/28/03
11	194-00-02-133	4.954	Winn	Gift to Eagle Harbor	0	
12	194-00-02-114	16.549	B Fox	Douglas C. &/or Glenda N. Cotton	$125,772	4/01/03
13	194-00-02-115	2.038	B Fox	Grand Cotton Trust	$16,304	1/30/03
14	194-00-02-116	5.397	B Fox	Randy Evans	$78,257	Closed 3/06/03
15	194-00-02-117	4.313	B Fox	Kingston Plantation Builders	$67,930	3/26/03
16	194-00-02-118	3.887	B Fox	Michael L. & Joyce W. Segars	$50,531	Closed 11/08/02
17	194-00-02-119	2.009	B Fox			
18	194-00-02-120	10.816	B Fox	Michael L. & Joyce W. Segars	$140,608	Closed 12/19/02
19	194-00-02-121	7.861	B Fox	Gary Bell, Jr. & Kameron Hall	$110,054	3/20/03
20	194-00-02-122	7.861	B Fox			

November 10, 2002

EAGLE HARBOR PHASE 2 NET INCOME
For
Gerry and Belinda Fox

Total Income from Lot Sales	$730,954
Total Expenses Incurred During Project	-$405,801
Earnest money back to Eagle Harbor	-$ 1,000
Net Profit from Project	**$324,153**

Payment to Danny and Liz Gilbert for 50% of net profit

$324,153 / 2 = $162,076

Total Return from Project

Balance of profit to Gerry and Belinda Fox		$162,076
Capitol invested		
Land	8/16/01	$159,410
ARC Engineering	7/19/01	$ 2,850
Stantec	10/29/02	$ 6,084
Stantec	01/16/02	$18,098
Total		**$348,518**

SUMMARY FOR GERRY FOX

Land (62.63 Acres)	$159,410
Shared Cost	$ 56,391
Road Cost	$130,000
Change Orders	$ 60,000
TOTAL COST	$405,801

$405,801divided by 62.63 acres equals a cost of $6,479 per acre.

Total of Change Orders 1 and 2 equals $120,000. This cost is to be shared by both investors equally, and reimbursed to them by increasing the sales cost of the lots. This was done during the spring of 2002 by increasing the price of each lot by $1,100.

PHASE 2 SHARED COSTS

PROJECT EXPENSES

Engineering	$57,698
EH Expenses	$ 9,000
Signs	$ 6,000
Gate	$10,000
Finish Expenses	$23,603
Bond	$ 4,212
Misc.	$ 5,780
TOTAL	$116,294
	$116,294/2= $58,147

NOTE

Finish expenses were not associated with road construction, but items bought or furnished by L&L Construction and/or required by Stantec for completion of project.

April 28, 2004

ROAD CONSTRUCTION COSTS

ROAD EXPENSES

Original	$50,000
Change Order 1	$50,000
Change Order 2	$70,000
Other	$29,600
ROC	$45,000
Pavement	$49,000
Final Grading	$10,000
TOTAL	$275,600

CHANGE ORDER 1

Road construction to increase by $50,000 due to excessive dirt removal.

CHANGE ORDER 2

Road construction to increase by $70,000 due to drainage and easement construction.

NOTE

P EXHIBIT 33
WITNESS
DATE: 5-3-2018
REPORTER: H. LANDRY

(5,326.90)

7/23/02 5000.00 to Stantec from Winn
8/2/02 2500.00 to Stantec From EH
5/10/02 10,000 to Stantec From Fox
10/29/01 6,084.50 to Stantec from Fox
1/06/02 18,098.33 to Stantec from Fox
12/16/02 11,915.27 to Stantec From Winn Clay

53,598.10

GB Fox
118 Hickory Trace Dr.
Goose Creek, SC 29445

WACHOVIA BANK, N.A.
NORTH CHARLESTON, SC 29406
67-22/539

234

5/10/2002

Pay to the Order of Stantec $**10,000.00

Ten Thousand and 00/100********** Dollars

Stantec

memo engineering fee on 63 acres

© 1984 - 2000 INTUIT INC. # 164 1-800-433-8810

Received by Stantec
on 5/10/02
Linda K Moebes

TOTAL EXPENSES 439,426.26
- 150 000 GBFox
- 25 000 TROY

264,426.26
DIVIDE BY 2 = 132 213.13
+ 25,000 TROY

157,213.13 TOTAL SHARE EXCLUSIVE EXPENSES
+ 2 350
159,563.13 TOTAL
133,787.07 PAYMENTS

$ 25 776.06 BALANCE
- 1031.76
24 744.30

132,213.13 1/2 EXPENSES
+ 150,000
282,213.13 TOTAL
272 482 PAYMENTS
9731.13 BALANCE

BALANCE IN ESCROW 53,853.49
FOR FOX

EXHIBIT 34
WITNESS
DATE: 5-3-2018
REPORTER: H. LANDRY

DHEC

PROMOTE PROTECT PROSPER

Application for Subdivision Approval
Bureau of Environmental Health

#2671

Date: 8/13/01

General Information:

1. Name of Subdivision: EAGLE HARBOR (phase II)
2. Location: LEISURE DR
3. County: BERK Tax Map and Parcel Number: 194-00-02-30 + 31
4. Owner/Company President: DALLY GILBERT
   Name of Company, Corporation or Association:
5. Business Address: 635 G EAST BAY ST, CHARLESTON, SC, 29403
6. Business Telephone: (843) 853-0347 Other:
7. Total Size of Subdivision (acres): 115 ACRES
8. Total Number of Lots: 23
9. Range and Average Size of Lots: 1.74 – 18
10. Number of Sections or Phases in Entire Project: 2
11. This application is for:
    - ☐ Entire Project:
    - ☑ Section/Phase No.: 2 No. Lots: 23 (24) No. Acres: 115
    - ☐ Section/Phase No.: No. Lots: No. Acres:
12. Type of Development:
    - ☑ Residential ☐ Commercial ☐ Other
    - Describe:
13. Lots are to be: ☑ Sold ☐ Leased ☐ Rented

P EXHIBIT 35
WITNESS 5-3-2018
DATE:
REPORTER: H. LANDRY

Water Supply:

14. Proposed Method of Water Supply
    - ☑ Individual Wells: (if wells are proposed, state approximate distance to nearest public water supply)
    - ☐ Public System: (if public system, give name of municipality, water district, or company)

Sewage Disposal:

15. Proposed Method of Sewage Collection and Disposal
    - ☑ Septic Tank Systems: (if septic tanks are proposed, state approxmiate distance to nearest public sewage system)
    - ☐ Public System: (if public system, give name of municipality, sewage district, or company)

DHEC 1785 (2/1997)

For subdivisions to be developed utilizing public water facilities:

☐ It is hereby agreed that if the attached plans dated _____, or any amendment or revision thereof, are approved by the South Carolina Department of Health and Environmental Control, public water facilities will be installed in accordance with the details thereof as shown on such approved plans if the land is subdivided.

For subdivisions to be developed utilizing individual sewage treatment and disposal systems (septic tanks):

☑ It is hereby agreed that if the attached plans dated _____, or any amendment or revision thereof, are approved by the South Carolina Department of Health and Environmental Control, each purchaser of a lot will be informed of any special conditions or limitations concerning the lot that may be explained or referred to in plans or in the letter of subdivision approval from the Department.

☐ I understand that no lot in this subdivision can be sold, rented, or leased, or any lot further subdivided until and unless subdivision approval is granted by the Department.

8/13/01	[signature]	Exec. Dir.
Date	Signature of Owner or Agent:	Official Title

(This application must be signed by the owner of the proposed subdivision or by the responsible official of the company or corporation owning the proposed subdivision).

For Health Department Use:

DHEC 1786 (2/1997)

CAMPBELL, SCHNEIDER AND ASSOCIATES, LLC
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May 13, 2004
CSA Job No. 3900.91

Mr. Ron Price
Apt 103
6601 Dorchester Road
North Charleston, SC 29418

EXHIBIT 30
WITNESS
DATE: 5-3-18
REPORTER: H. LANDRY

Re: Price Residence
1104 Saddlehorn Road
Eagle Harbor Subdivision
Summerville, SC

Dear Mr. Price:

Pursuant to your request, I performed a site visit at the referenced address in order to determine the extent of possible construction deficiencies and building code violations regarding the concrete slab and concrete masonry unit (CMU) walls and piers. The following report is a summary of my findings.

DESCRIPTION

The subject structure is presently a single-family home under construction. The foundation footings and concrete slab-on-grade, and ground floor CMU walls and piers are the only building components currently constructed. The CMU walls and piers had not been filled with grout at the time of my site visit. For orientation purposes, the front of the residence faces compass heading 050°. For the purposes of this report, I shall refer to the front of the residence, which faces Saddlehorn Road, as the north elevation.

OBSERVATIONS AND ANALYSIS

I performed a visual survey of selected portions of the concrete slab on grade and CMU walls and piers on April 19, 2004. You were present with your new contractor, Mr. John Kahler during my site visit. The primary focus of my site visit was to determine the extent of construction deficiencies and building code violations regarding the concrete slab and concrete masonry unit (CMU) walls and piers. The Building Code and Standards used for my analysis were the 1995 CABO One and Two Family Dwelling Code (CABO Code), and the SC Residential Construction Standards (RCS). The 1995 CABO Code was the Building Code in effect at the time of original permitting and is still in effect in Berkeley County, per phone conversations with Mr. Palmer Gordine, the Building Official. For masonry construction, The CABO Code (Section 604) references

the 1991 edition of ACI 530/ASCE 5/TMS 402 (MSJC) for design and construction as an alternative to the provisions of Section 604. (Note that the referenced edition year is likely an error – the applicable MSJC is the 1992 Edition). The MSJC Publication has a front section (ACI 530) for use by design professionals and a second section (ACI 530.1) of Specifications for use by both design professionals and contractors.

1. Concrete Slab-on-Grade

I observed that the concrete slab-on-grade did not have control (contraction)/isolation/expansion joints and random cracks were visible. In addition, the slab for the storage area at the rear left (southeast) corner had a slope to the center of up to 2.1% (1/4 inch per foot). Also, you indicated that no fiber reinforcement was used in the concrete and welded wire mesh (WWM) reinforcement was not included in the pour.

Concrete Slab-on-Grade Analysis

Section 505 of the CABO Code discusses concrete slabs-on-grade. It does not specifically list a requirement for WWM or fiber or a requirement for joints. However, the CABO Code is a set of minimum standards and the Building Official may require additional standards. I discussed concrete slab-on-grade reinforcing requirements with Mr. Hank Jackson, a Berkeley County Building Inspector, on April 28, 2004 via the phone. He stated that he currently requires either welded wire mesh or fiber reinforcement in residential concrete slabs-on-grade for construction under the 1995 CABO Code. Also, good concrete slab construction practices follow the recommendations of ACI Publication 302 (Guide for Concrete Floor and Slab Construction). This publication lists a recommendation for slab reinforcement and joints to be included in slab on grade construction. Joints are used to limit the frequency and width of random cracks caused by volume changes. (Drying-related shrinkage and temperature changes are primary contributors to volume changes). For unreinforced or lightly reinforced (WWM) slabs, the ACI 302 guideline is to place saw-cut contraction joints at spacings of 24 to 36 times the slab thickness up to a maximum of 18 feet (8 to 12-foot spacings for a 4-inch thick slab). The depth of a saw cut joint should be ¼ the slab thickness or a minimum of 1 inch. Please note that there are several other concrete references which have slightly different recommendations on joint spacing. ACI 302 also discusses the use of WWM reinforcement in nonstructural slabs-on-grade. WWM reinforcement in a nonstructural slab-on-grade is provided primarily to control the width of cracks that occur due to volume changes from temperature and shrinkage. It will not prevent cracks. Reinforcement should be discontinued across joints. Synthetic fibers can help to reduce the formation of shrinkage cracks but will not provide sufficient restraint to hold cracks tightly closed.

Section 309.3 (Garage Floor Surface) lists a requirement for the surface to slope or drain towards the vehicle entry doorway. The RCS lists a requirement (#8 of the Masonry and Concrete Standards) that low spots where water can accumulate greater than 5/16 inch should be corrected by the builder by filling with a latex filler or equivalent. The RCS permits cracks in concrete slabs. The criteria for repair are 3/16 inch mismatch in height

or non-uniform shrinkage cracks (all shrinkage accounted for in one crack and exceeds 3/16 average width) for "basement slabs". Garage slabs have a more lenient criteria; 5/16 inch in crack width or vertical displacement require repair.

2. CMU Walls and Piers

The CMU walls and piers have been constructed up to 14 courses (9 feet 4 inches) above the surface of the slab-on-grade. The perimeter CMU walls extend below the surface of the slab-on-grade to the concrete footings. The piers and walls have not been filled with grout and #4 rebar dowels were observed extending up into the CMU cells 16 inches above the slab-on-grade. A tape measure extended into several cells with rebar indicates that the rebar extends approximately 30 inches total above either the top of the concrete footing or the top of grouted cells. This measurement means that there is approximately 30 inches of lap available when the vertical rebar is installed. I attempted to detect the rebar either visually through the open cells at the top of the walls or with a basic rebar detector. In general, with a few exceptions, the rebar was installed at a horizontal spacing of 4 feet. The exceptions observed occurred at the corner walls at the northwest and southwest corners and at the second opening from the right side on the front elevation. At these locations, rebar was not observed at spacings of 4-foot or less. The rebar installation was not coordinated with the openings in the CMU walls such that there would be rebar on each side of the openings. In two of the center 8x16 inch piers, the rebar was not located in each cell. In one of these piers, both rebar were observed in one cell and in the other pier, only one rebar was observed. It is unknown if horizontal joint reinforcing was installed or how the corners or intersections of the CMU walls were anchored.

The presence or omission of the required anchorage reinforcement at the intersections or corners of CMU walls could not be verified. Specifically, 9-gage horizontal joint reinforcement or ¼ inch galvanized mesh hardware cloth is required at vertical intervals of not more than 8 inches (16 inches for non-load bearing walls), extending at least 30 inches in each direction at the intersection (Section 604.8.1.2). It is recommended that your contractor perform some disassembly at the corners/intersections to verify the presence and condition of the required anchorage reinforcement.

I also observed some evidence of poor workmanship. Specifically, I observed at least one location near the northeast corner where the mortar was not properly struck off from the inside surface of the CMU wall. In addition, mortar protrusions greater than ½ inch were observed in cells with the vertical rebar dowels. Poor positioning of the vertical rebar dowels was observed where rebar extended up outside of a pier at the northwest corner and in the middle of an opening along the rear wall.

CMU Walls and Piers Analysis

Section 404 (Foundation Walls), Section 604 (General Masonry Construction) and Section 607 (Grouted Masonry) of the CABO Code govern the design and construction of the CMU walls and piers. Per section 604 (604.11) reinforcement is required in CMU

walls subject to wind loads of 30 pounds per square foot (psf) or greater, or located in Seismic Zone 3 or 4. My calculations indicate that the wind loads are less than 30 psf and Figure 301.2b of the CABO Code indicates the site is in Seismic Zone 2. Therefore, based on the minimum standards of the CABO Code, and based upon no additional design requirements (no engineered drawings), no vertical or horizontal reinforcement is required. However, based upon good engineering practices, review of the ACI 530-92 (Building Code Requirements for Masonry Structures portion of the MSJC), Appendix A.3 lists some special design provisions for Seismic Zone 2. Included in these provisions is the requirement for vertical rebar of at least #4 size at each corner, at each side of each opening, and at the ends of walls. Horizontal #4 rebar is required at the bottom and top of wall openings and shall extend at least 24 inches past the opening. Horizontal #4 rebar is also required at the top of the wall and at the bottom of the wall or top of the footing. It should also be noted that these provisions are good construction practices, as your current contractor, Mr. John Kahler, uses similar rebar placement in his current construction.

Section 604.8.2.2 requires that CMU walls be anchored to the floor at intervals not to exceed 6 feet. The #4 rebar dowels at the base of the wall will meet this requirement when properly grouted except for the locations previously mentioned where rebar was missing and the resulting spacing was approximately 8 feet.

The 9'4" height of the 8x16 inch CMU piers exceeds the limits of CABO Code Section 604.5, where the unsupported height shall not exceed 10 times the least dimension. For 8-inch block, pier heights shall not exceed 6'8". For the 9'4" desired height, the piers should be constructed of 12-inch wide CMU.

The existing condition of the CMU walls and piers will prevent construction in accordance with Section 607.4.1 of the CABO Code, if vertical rebar is installed as previously recommended. Specifically, Item 3 of this section requires that the vertical rebar be held in position at the top and bottom and at vertical intervals not exceeding 8'4" for #4 rebar. In its current condition, the vertical rebar could not be held in position at the 8'4" elevation. Cleanout openings will be required at the bottom course of each cell to be grouted because the total grout pour will exceed 4 feet. Cleanout openings are used to clean the cells to be grouted of debris which may have fallen into the cell. The grout should be poured in lifts not to exceed 4 feet.

The question of wire tying vertical rebar to dowels was raised during my site visit. Wire tying is not required if an overlap of at least 24 inches (for #4 rebar) in a grouted cell can be provided.

The existing height of the ungrouted walls and piers has resulted in unstable conditions. One pier at the northwest corner has already fallen over, most likely due to wind. Other piers and walls are also unstable and can be easily tilted by hand, breaking the bond of the mortared bed joint near the base. The original contractor should have braced the walls and piers to resist this rotation prior to the grouting.

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3. Other Owner's Concerns

You expressed concern as to the elevation of the top of the slab-on-grade. Rough grading of a subdivision's lots is typically the responsibility of the developer. On April 29, 2004, I discussed the issue of the topographic survey and drainage plan with Mr. Clint Busby, the Berkeley County Engineer via the phone. He stated that your lot (shown as No. 19 on the drainage plan and but listed in the tax records as Lot 20) was included in the Phase II drainage plan of Eagle Harbor Subdivision. He stated that this lot was not in the AE flood zone that occurs near the other side of Phase II. He discussed that the back of the lot drains to the back and that the drainage design included a 20-foot drainage easement near the front of the lot. The plan is available in his office for review. In order to determine if your slab-on-grade is of adequate elevation, I recommend that you have a surveyor perform an elevation survey and compare the results to the drainage plan on record.

SUMMARY

In summary, pending proper grouting of the cells with rebar dowels, the observed portions of the CMU wall construction appear to meet the minimum requirements of the CABO Code with the exception of at least two locations where the rebar dowels connecting the wall to the foundation exceeded 6-foot spacing. The concrete slab on grade construction did not incorporate proper joints, and reportedly did not incorporate WWM or fiber reinforcement. The lack of joints and probable lack of WWM or fiber reinforcement is contrary to good construction practices and the local Building Official's requirements. Additionally, the concrete slab and CMU wall were not constructed in accordance with good industry practice or the referenced ACI 302 and MSJC standards. The slope of the slab in the storage area exceeds the requirements of the SC RCS. The CMU piers exceed the height limitations of the CABO Code for 8x16 inch CMU. Poor construction practices and workmanship have resulted in improperly positioned rebar, obstructed cells, unstable walls and piers (at least one collapsed pier), and un-struck mortar joints. Additional questionable workmanship has resulted in random cracking of the concrete slab-on-grade. The random cracking may prove to be only an aesthetic issue, if the underlying soil was adequately prepared and is of stable condition. Please note that the adequacy of the slab thickness and compressive strength (3-1/2" and 3000 psi required by the CABO Code) and adequacy of the underlying soil have not been evaluated. The presence of the required vapor barrier under the slab has not been verified. At least three concrete core tests and dynamic cone penetrometer tests of the underlying soil are recommended to verify the thickness and strength of the concrete slab-on-grade, presence of the vapor barrier, and condition of the underlying soil. If the slab is to meet the local Building Official's requirements, it would require removal and replacement.

Considering good engineering and construction practices, and the location of the residence in Seismic Zone 2, I recommend reinforcement and construction of the CMU walls and piers in accordance with the requirements of the MSJC documents. These requirements cannot be met with the current condition of the CMU walls and piers. Therefore, I recommend removal and replacement of the existing CMU walls and piers. I also recommend that the CMU walls and piers be constructed in 4-foot height segments, followed by grout lifts that do not exceed 4 feet.

Please call if you have any questions.

Sincerely,
CAMPBELL, SCHNEIDER AND ASSOCIATES, LLC

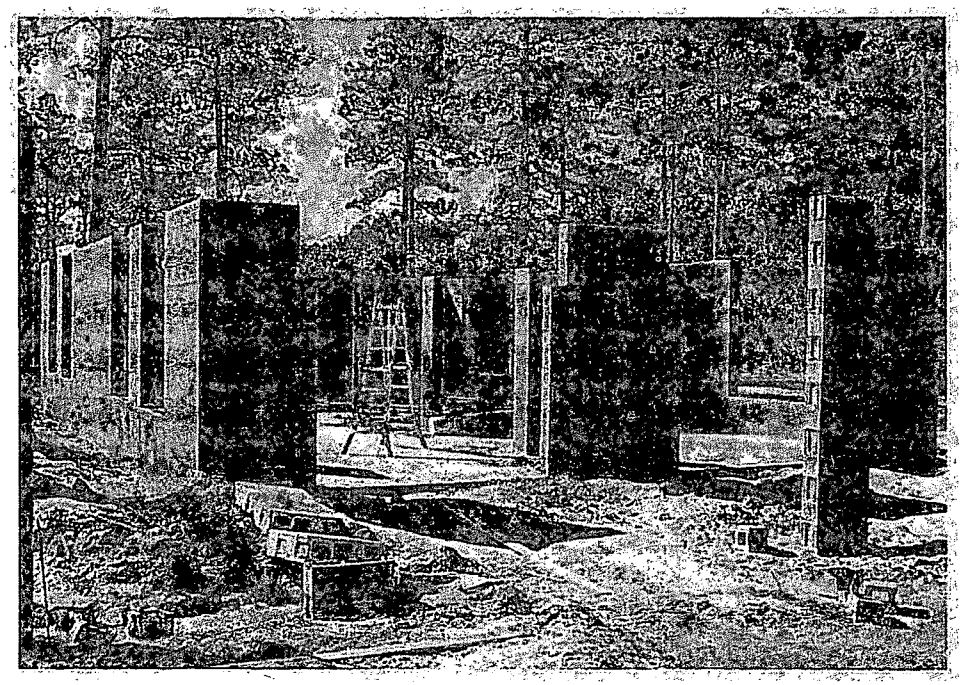
Alan J. Schweickhardt, P.E.

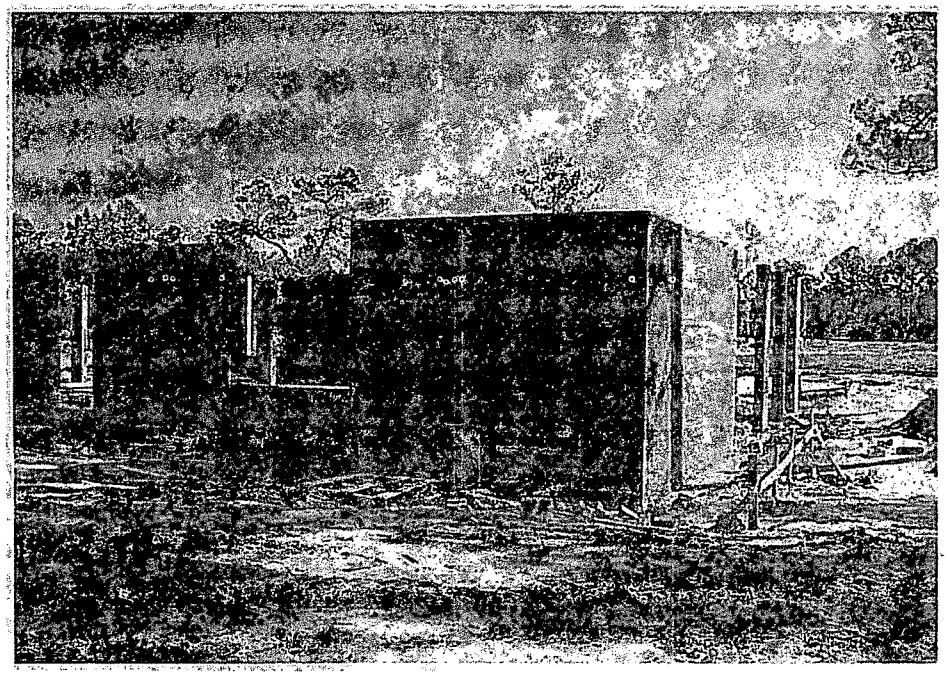
SOUTH CAROLINA REGISTERED PROFESSIONAL ENGINEER No. 15910 ALAN J. SCHWEICKHARDT

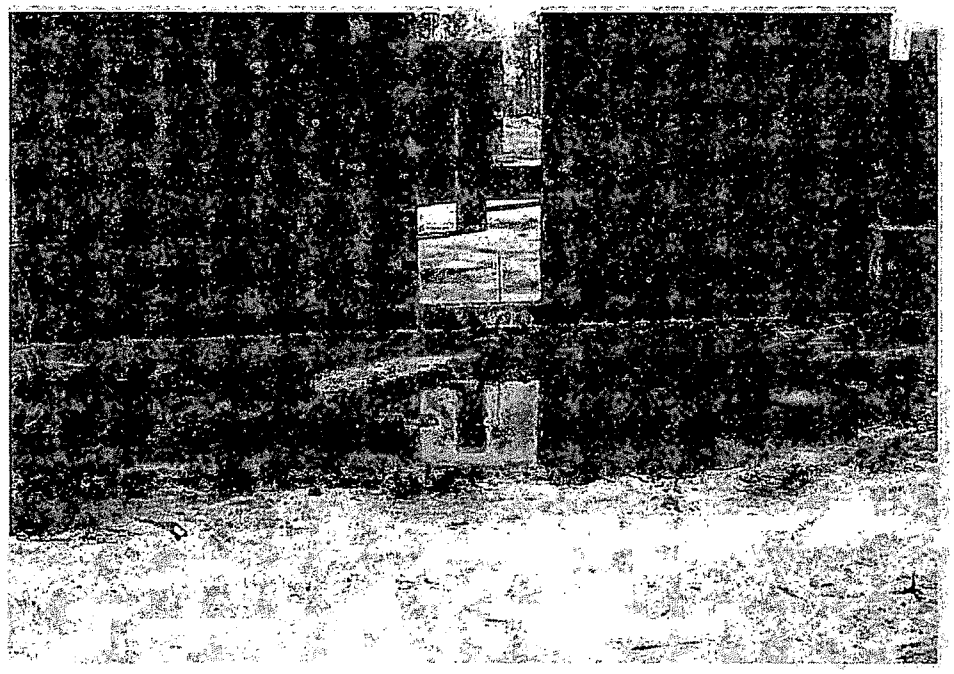
5/13/04

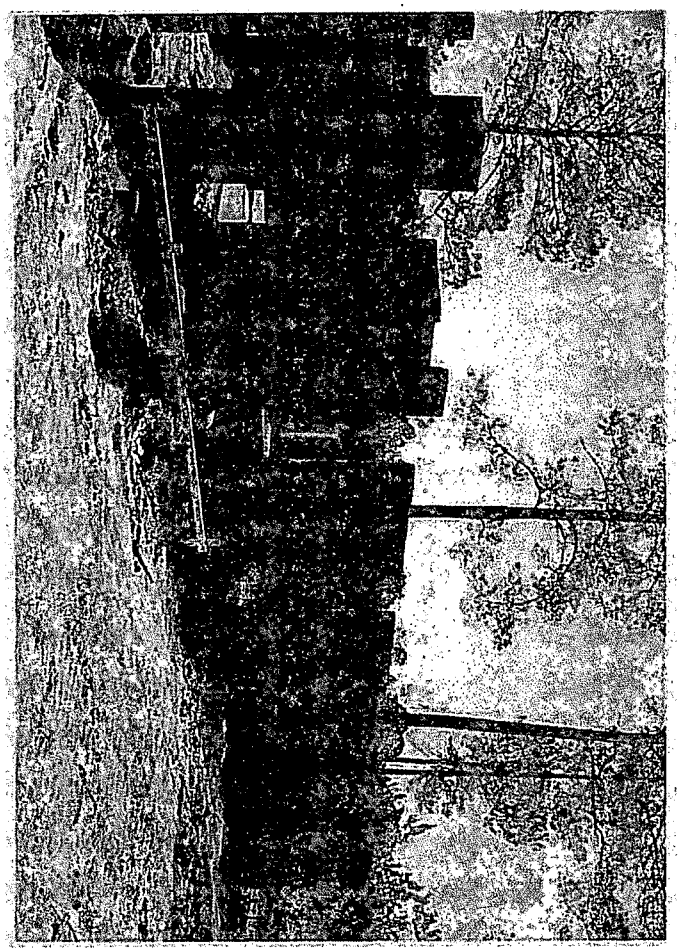
SOUTH CAROLINA CAMPBELL, SCHNEIDER AND ASSOCIATES, LLC No. Co1938 CERTIFICATE OF AUTHORIZATION

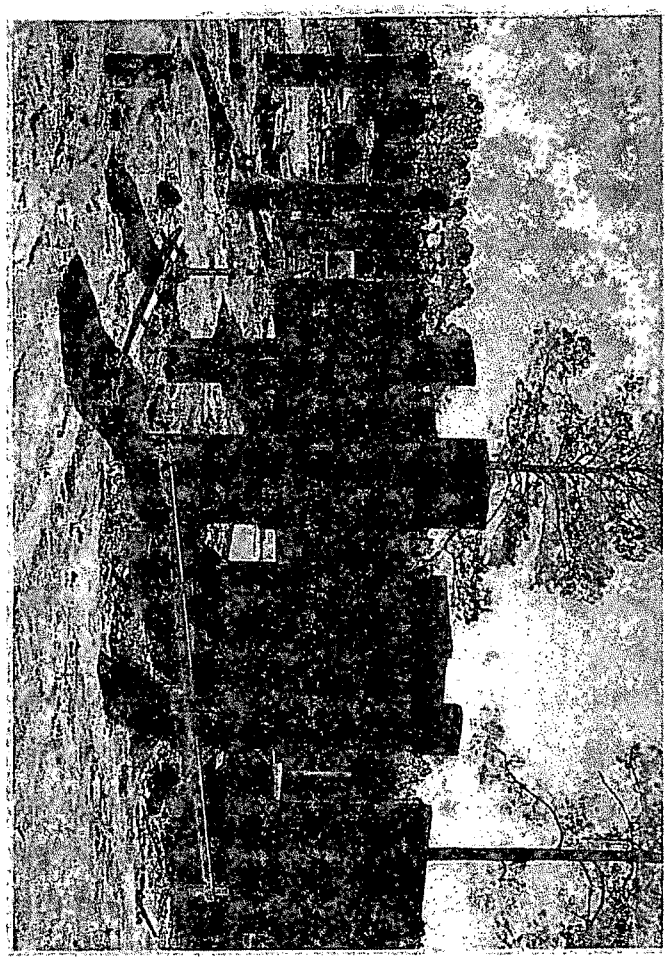
PLAINTIFF'S
EXHIBIT
37
5-3-2018
PENGAD 800-631-6989

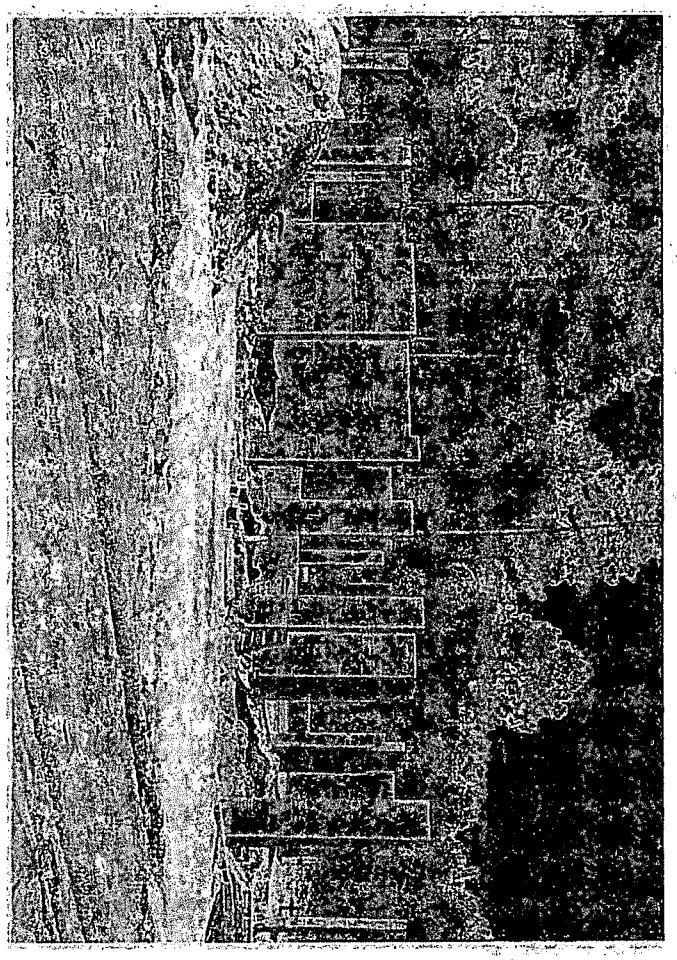


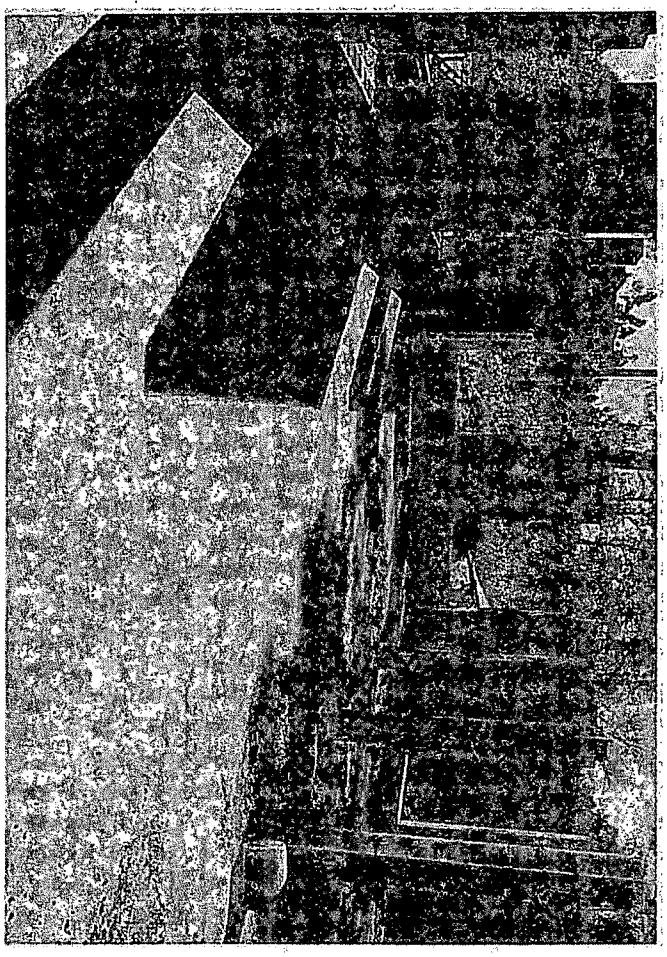


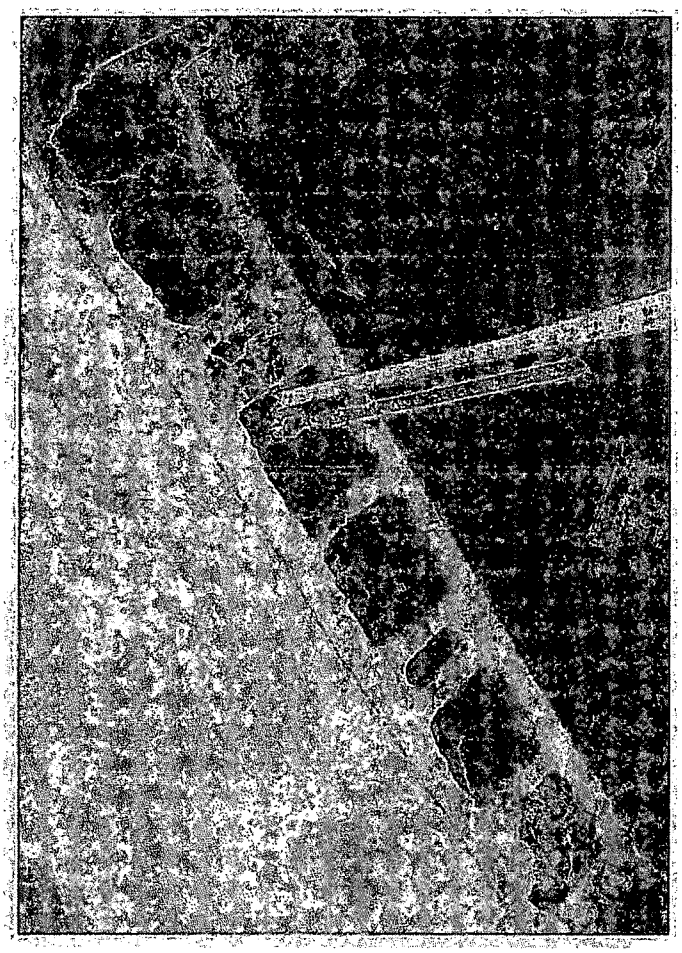


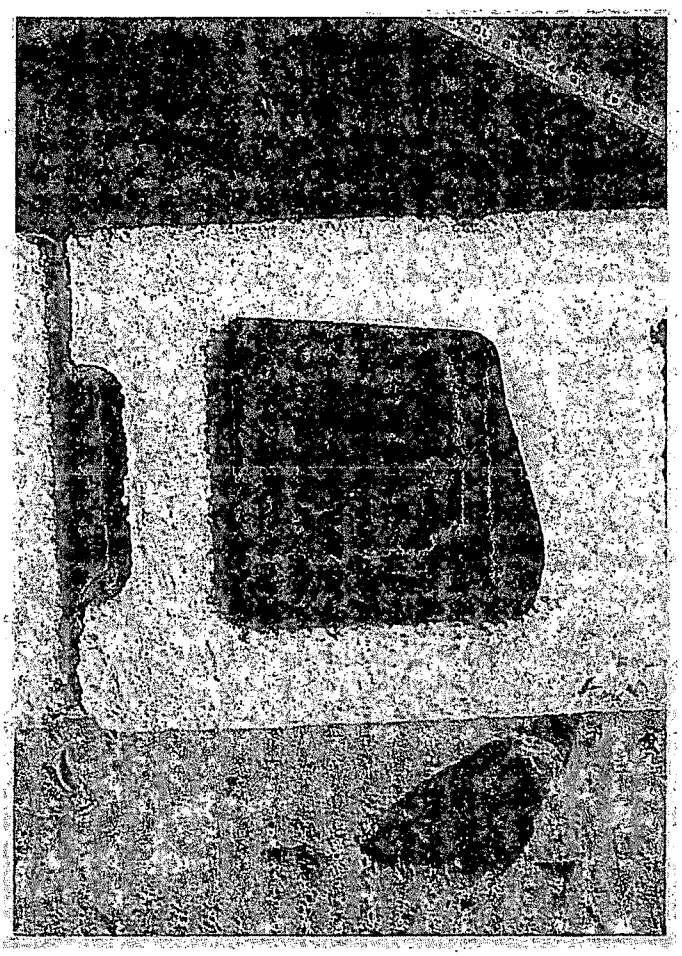


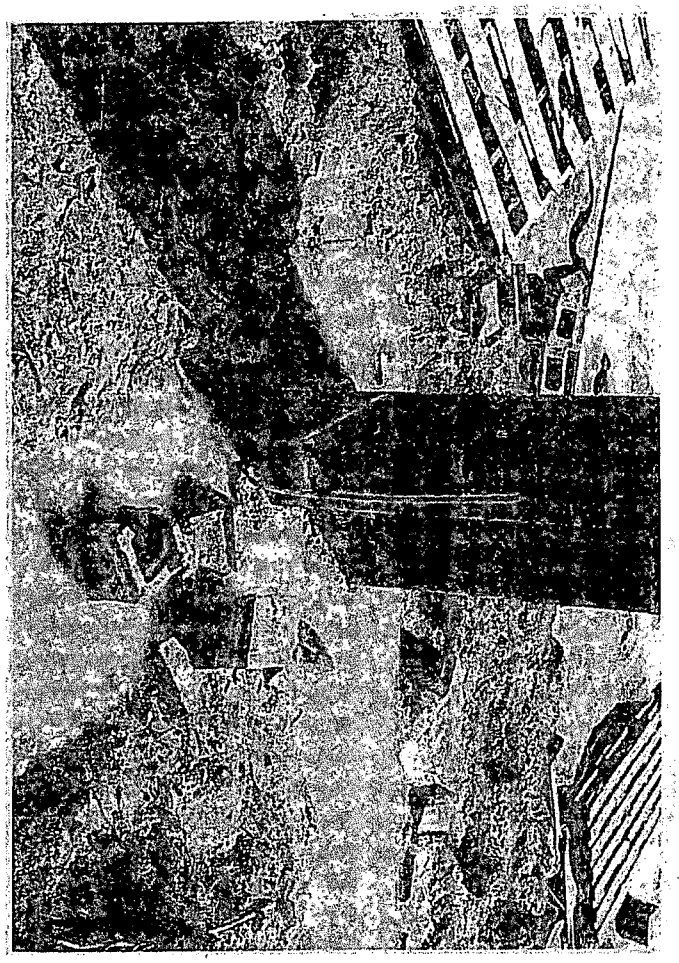


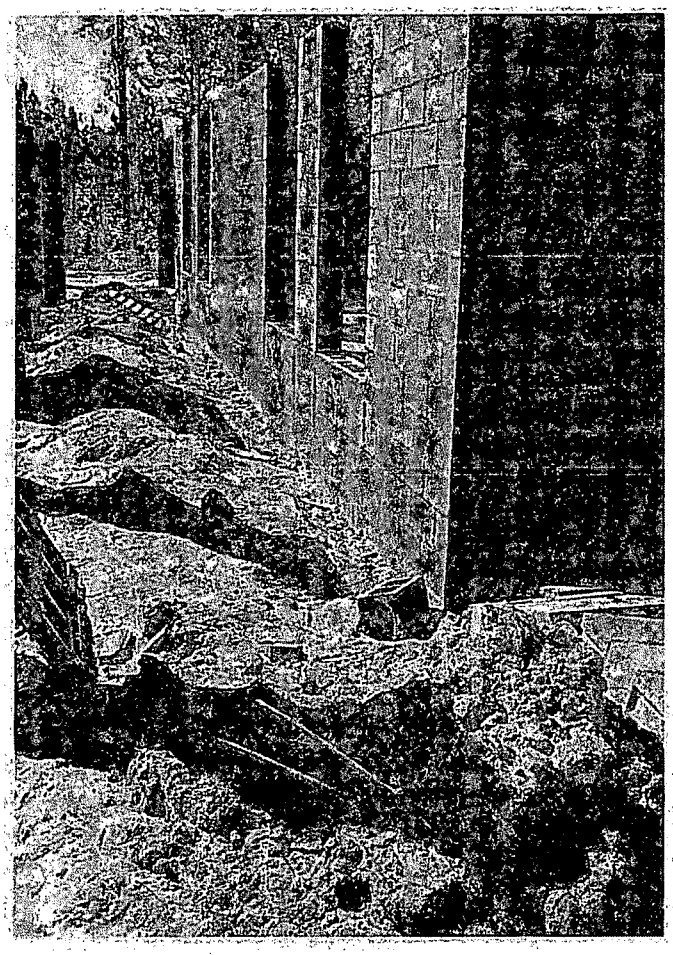


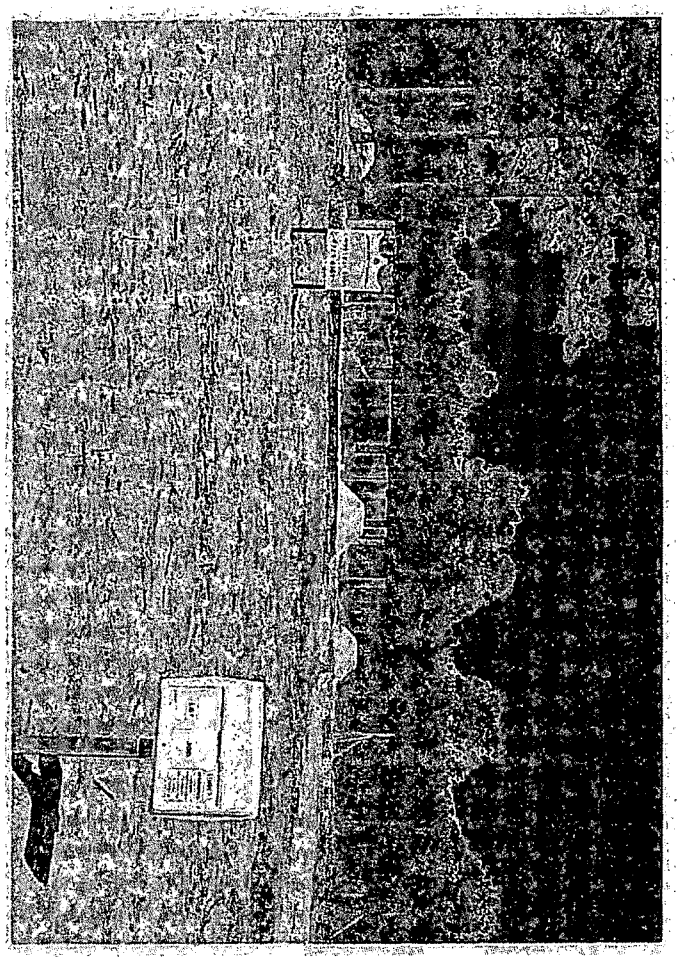


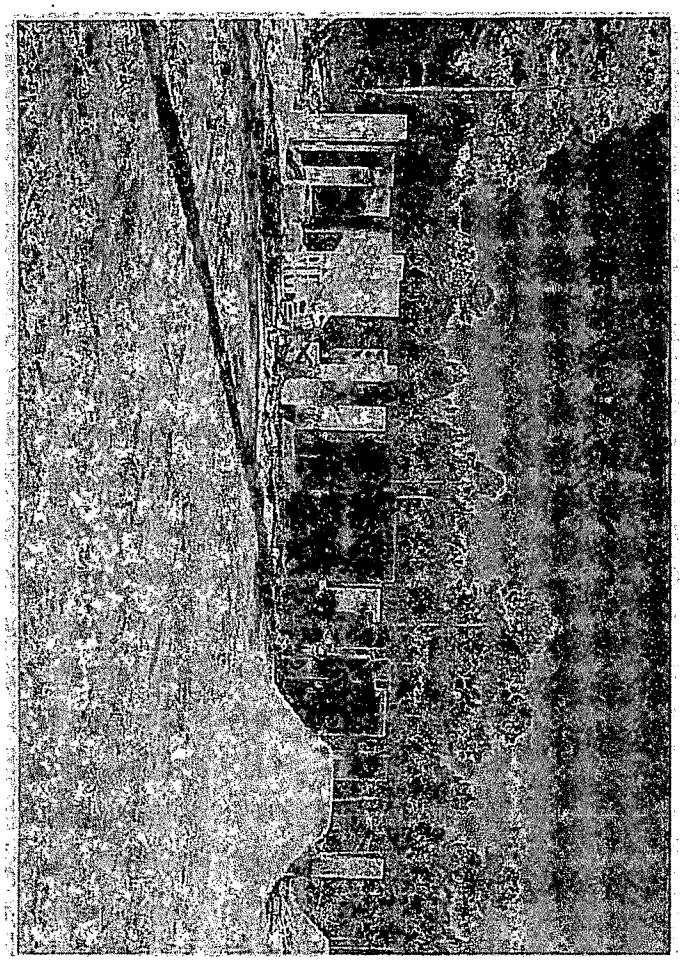


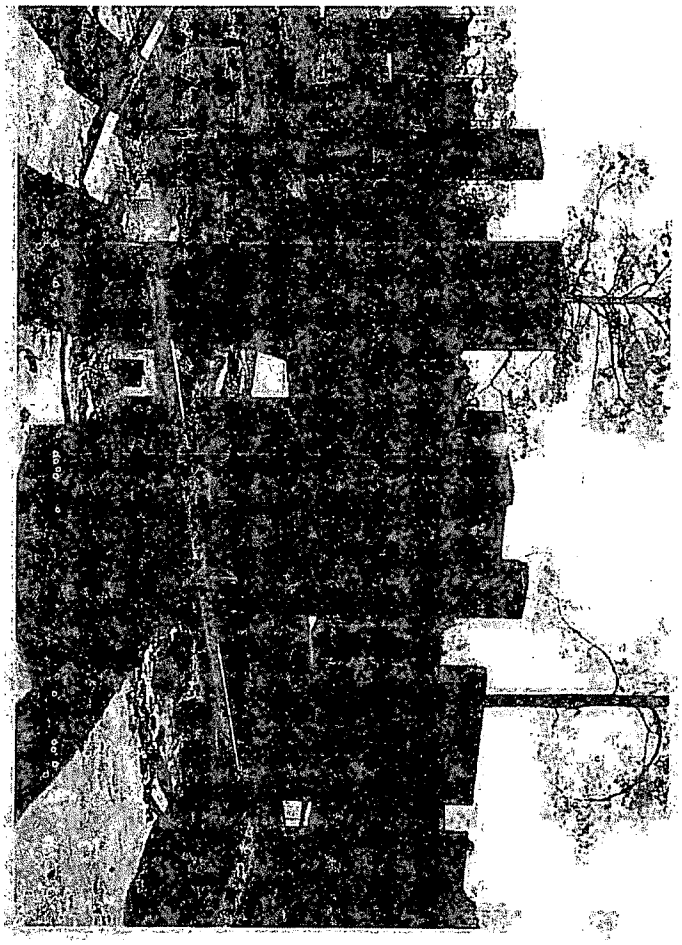


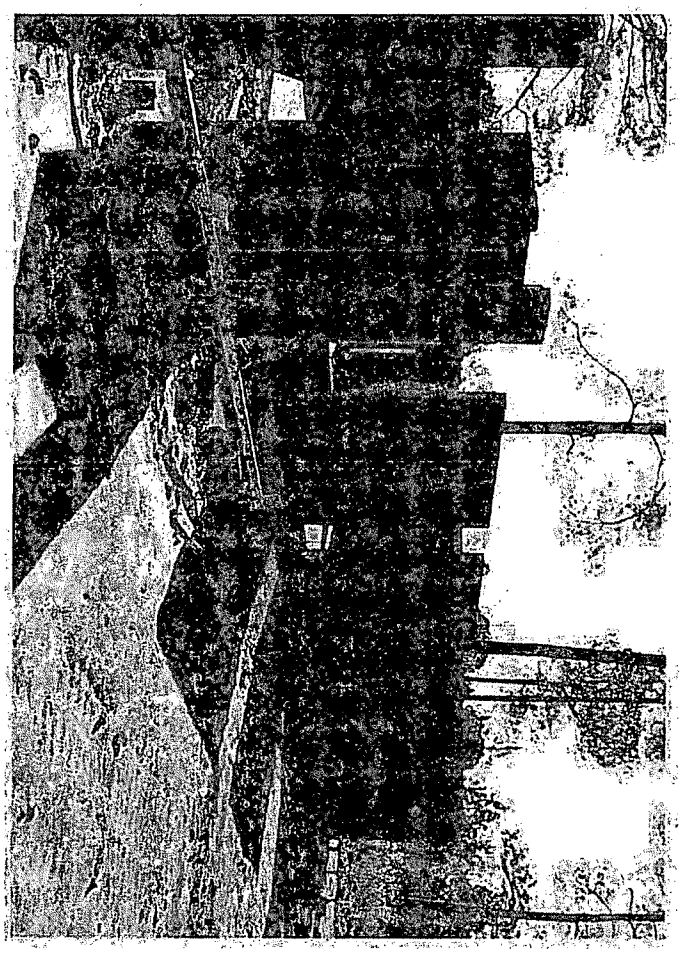


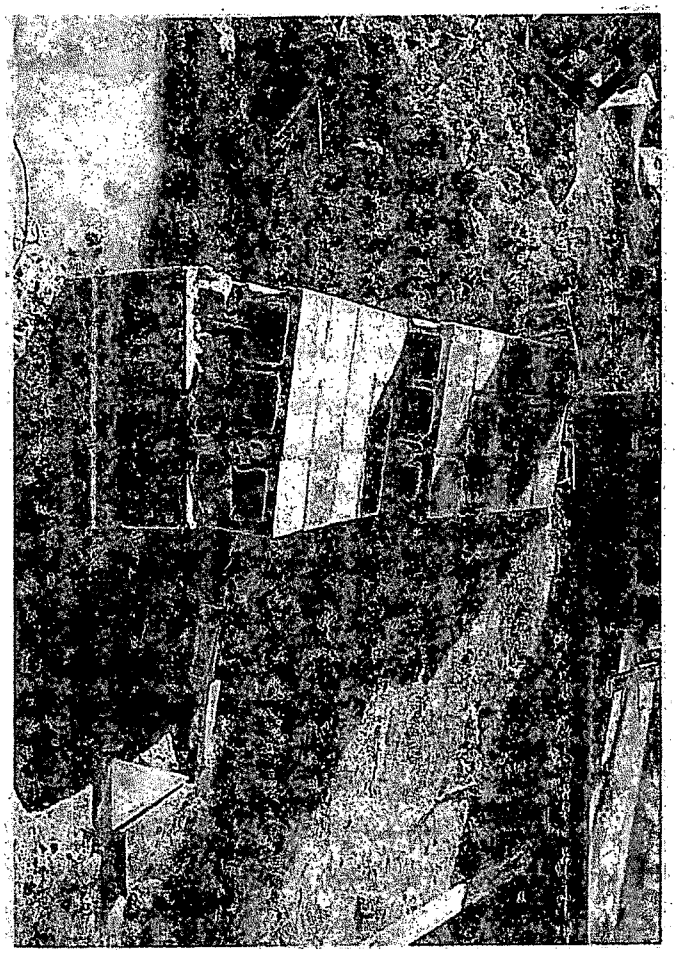


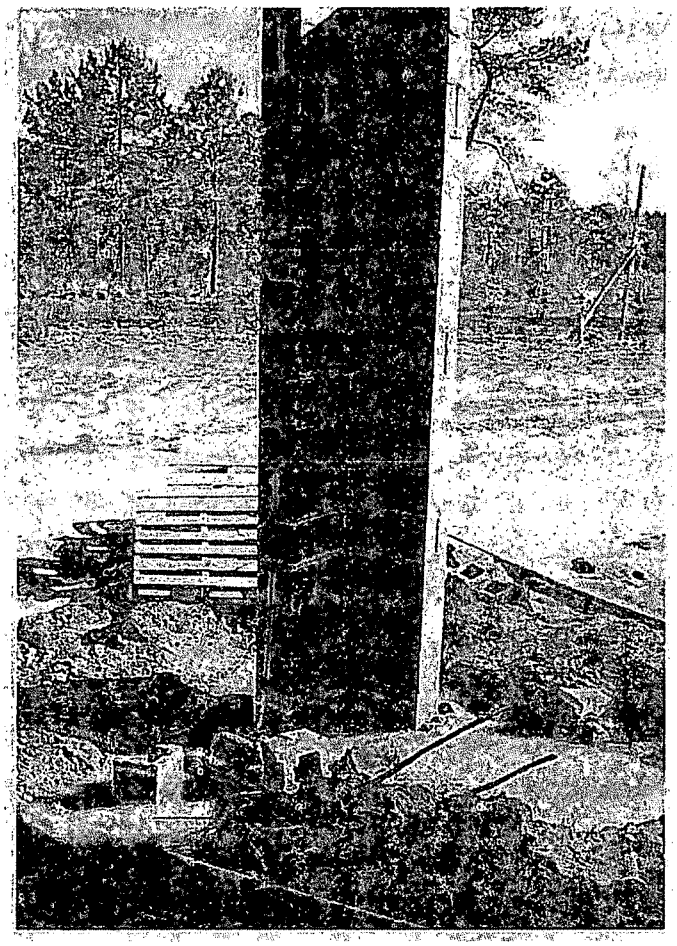


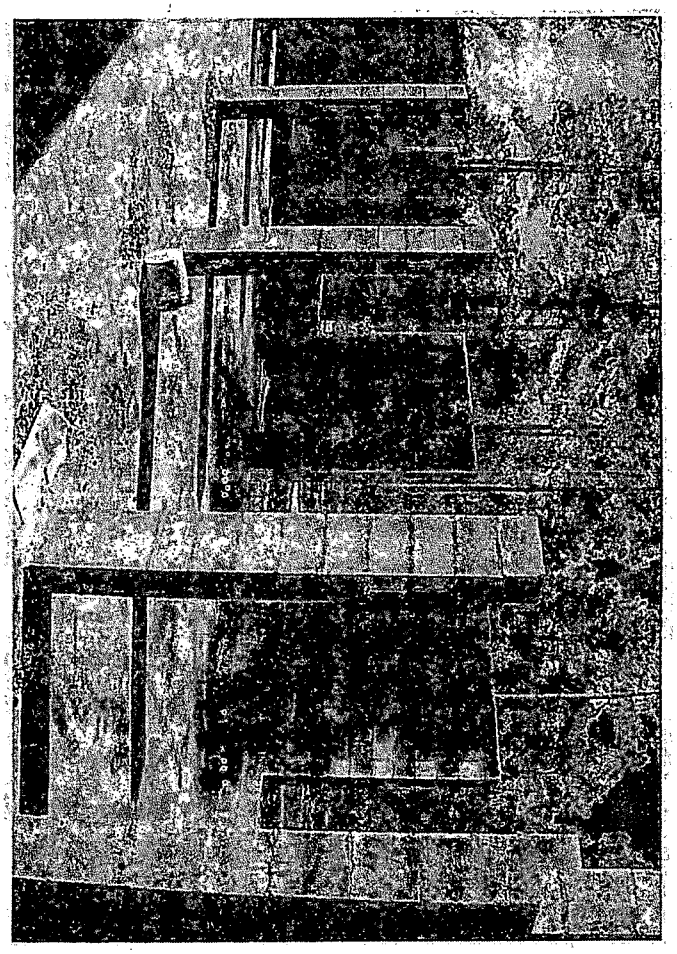


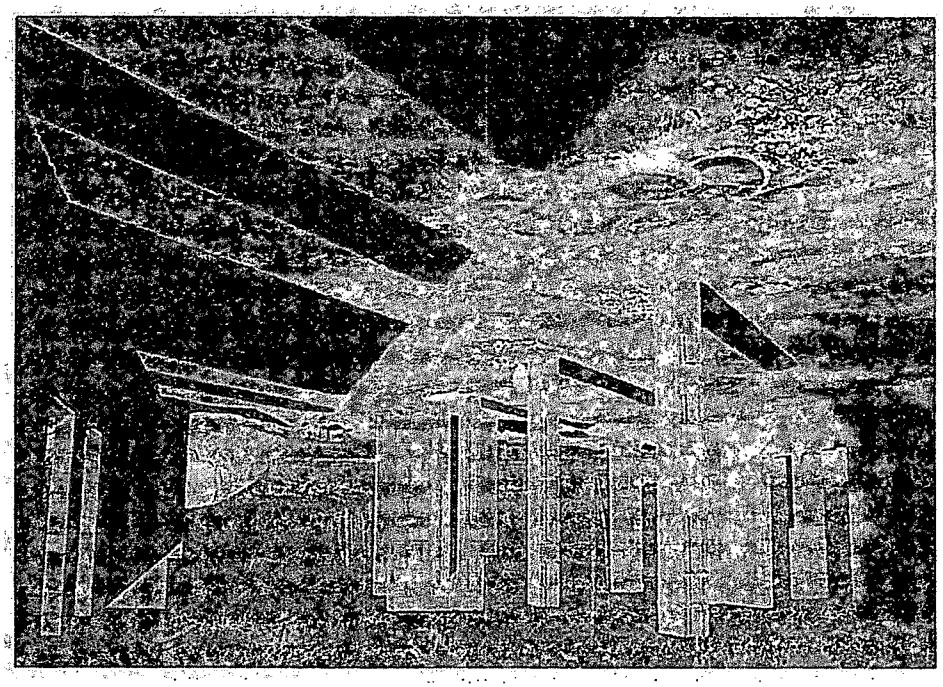


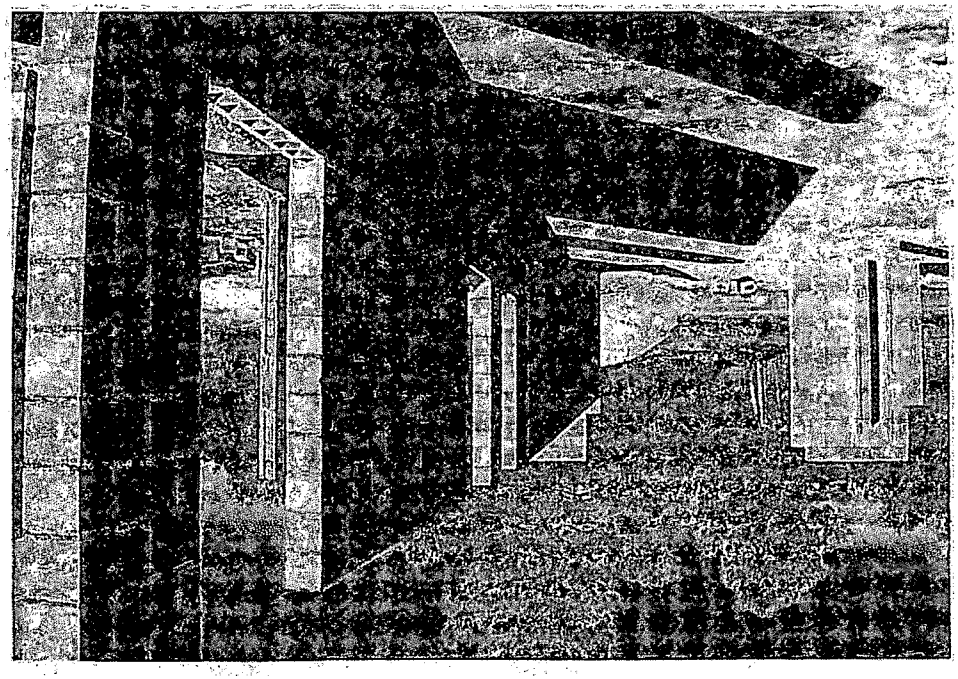


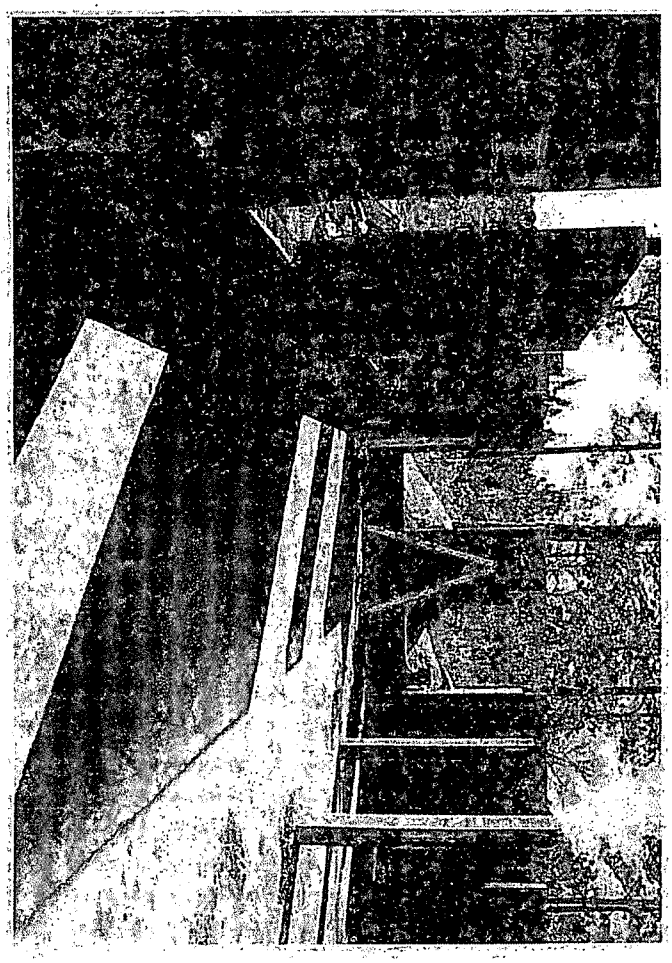


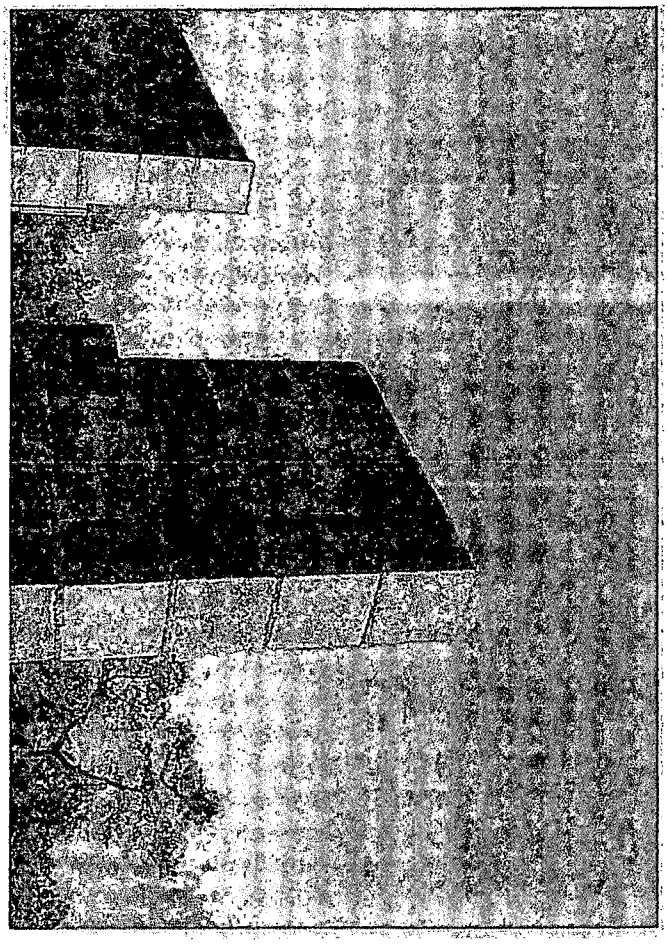












Complete Appraisal ● Summary Report

OF

Lot 20, Eagle Harbor, Phase II, a Residential Subdivision Lot

AS OF

Various retrospective dates

P EXHIBIT 38
WITNESS
DATE: 5-3-2018
REPORTER: H. LANDRY

PREPARED FOR

G. Waring Parker, Esq.
Chellis & Frampton, P.A.
Post Office Box 430
Summerville, SC 29484

PREPARED BY

Edward B. Carter, MSA, MFLA, MRA
Appraisal Services of SC, Inc.

FILE #: 8257EC

Appraisal Services of SC, Inc

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Summerville, SC 29484

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ecarter@asosc.com

04/26/2006

G. Waring Parker, Esq.
Chellis & Frampton, P.A.
Post Office Box 430
Summerville, SC 29484

Re: Lot 20, Eagle Harbor, Phase II further identified by postal address:
1104 Saddlehorn Rd, Summerville, SC 29483

Dear Mr. Parker:

At your request, we have prepared an appraisal for the above referenced property. The purpose of this appraisal is to estimate the market value of the subject property's fee simple interest as an aid in determining contractual losses. This appraisal is intended for the use of the client and the client's advisorsassigns.

The accompanying summary report of a complete appraisal has been completed in accordance with the Uniform Standards of Professional Appraisal Practice (USPAP) and applicable Federal regulations.

The attached report details the scope of the appraisal, level of reporting, definition of value, valuation methodology, and pertinent data researched and analyzed in the development of this appraisal.

We certify that we have no present or contemplated future interest in the property beyond this estimate of value. Your attention is directed to the Limiting Conditions and Assumptions, located on page 49. Acceptance of this report constitutes an agreement with these conditions and assumptions.

Respectfully submitted,

Edward B. Carter, MSA, MFLA, MRA
Certified General Real Estate Appraiser
CG 4057, Exp. 06/30/2006

Table of Contents

Summary of Salient Facts 6
Important Considerations 6
Appraisal Specifics 6
Appraisal Purpose 6
Intended Use 7
Intended User(s) 7
Market Value Definition 7
Three-Year Sale History 7
Current Listing/Pending Contracts 8
Appraisal Scope 9
Limiting Conditions and Assumptions 11
Area Analysis 13
Property Description 15
Site Plan 16
Flood Map 17
Subject Photographs 18
Assessment & Taxes 21
Assessment Analysis 21
Zoning Analysis 22
Additional Regulations 22
Definition of Highest and Best Use 23
Highest and Best Use as Vacant ("As Though Vacant") 23
Highest and Best Use as Improved 24
Valuation Methodology 25
Sales Comparison Approach 27
Comparable Sales 2001 28
Comparable Sales 2002 29
Comparable Sales 2003 29
Comparable Sales 2004 31
Comparable Sales 2005 33
Comparable Sales 2006 34
Eagle Harbor Comparable Sales Analysis 38
Market Area Comparable Sales Analysis 40
Value Conclusion 42
Certification Statement 45
License 46
Resume 47
Limiting Conditions and Assumptions 49
Zoning Map 51
Wetlands Overlay 52
Deed 53
Tax Card 56

Property Card.....57
Wetlands Delineation Letter.....58
Engagement Letter/Scope of Work.....61

Summary of Salient Facts

Subject Property:	1104 Saddlehorn Rd
Property Overview:	Site Size: 7.681 Acres total, Property Type: Residential Subdivision Lot
Interest Appraised:	This appraisal considers the subject's fee simple interest in the land only. The improvements are not part of the appraisal.
Highest and Best Use Land As Vacant:	Residential
Highest and Best Use As Improved:	Residential
Zoning:	Flex-1
Assessment, Ratio and Equalized Assessment:	The subject's tax identification is TMS # 194-00-02-122. The assessed value of the subject is $112,000 land only and the annual tax bill is $879.81 land only.
Sales Comparison Approach:	See page 40
Reconciled Value:	See page 40
Extraordinary Assumptions:	See scope of work
Hypothetical Conditions:	See scope of work

Important Considerations

This appraisal considers the land only and not the improvements thereon.

Appraisal Specifics

Appraisal Purpose

The purpose of this appraisal is to estimate the market value of the subject property under various hypothetical conditions and extraordinary assumptions. These are detailed in the attached Engagement Letter.

Intended Use

The intended use of this appraisal is as an aid in determining contractual losses.

Intended User(s)

This appraisal is intended for the use of client and the client's advisorsssigns.

Market Value Definition

The definition of "Market Value", as defined by the Office of the Comptroller of Currency (OCC) under 12 CFR, Part 34, Subpart C-Appraisals, 34.42 Definitions, the Board of Governors of the Federal Reserve System (FRS) and the Federal Deposit Insurance Corporation in compliance with Title XI of FIRREA, as well as by the Uniform Standards of Appraisal Practice as promulgated by the Appraisal Foundation, is as follows.

> Market value means the most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby,
>
> 1. Buyer and seller are typically motivated;
> 2. Both parties are will informed or well advised, and acting in what they consider their own best interest;
> 3. A reasonable time is allowed for exposure in the open market;
> 4. Payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and
> 5. The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

Three-Year Sale History

The subject is part of a subdivision development known as Eagle Harbor. Eagle Harbor is a private, gated subdivision. Subject is legally described as Lot 20, Phase II, Eagle Harbor, Goose Creek Parish. It was purchased by Ronald E. Price and Diana R. B. Price on November 25, 2003 from Belinda Fox. It is a portion of the same property conveyed to Belinda Fox by deed of Bennie Harvey Ordell, dated August 13, 2001 and recorded in Deed Book 2382, Page 143 in the RMC Office for Berkeley County, SC. The plat was

prepared by William M. Ferguson, dated July 25, 2002 and recorded September 26, 2002 in Plat Book P, Page 281-A.

Current Listing/Pending Contracts

Subject property is not currently offered for sale and has no pending sales contract.

Appraisal Scope

The scope of the appraisal requires compliance with the Uniform Standards of Professional Appraisal Practice promulgated by the Appraisal Standards Board of the Appraisal Foundation and Appraisal Services of SC, Inc. The standards contain binding requirements and specific guidelines that deal with the procedures to be followed in developing an appraisal, analysis, or opinion. These uniform standards set the requirements to communicate the appraisers' analyses, opinions, and conclusions in a manner that will be meaningful and not misleading in the marketplace. The scope of the assignment further requires compliance with the client's requirements in the letter of November 1, 2005 and amended verbally by G. Waring Parker, Esq. at the time of the assignment.

A narrative appraisal report on the subject property has been prepared. The subject property data such as size, location, quality, and zoning are considered and presented in this report. Market data (search period 1/01/2001 to 4/19/2006 within a five square mile area of the appraised property) of closed, comparable land sales are among the items researched, analyzed, and presented. The data is used to consider the highest and best use of the subject property and to conclude an opinion of the market value.

The appraisers lack the knowledge and experience with respect to the detection and measurement of hazardous substances. Therefore, this assignment does not cover the presence or absence of such substances as discussed in the General Underlying Assumptions section. However, any visual or obviously known hazardous substances affecting the property will be reported and an indication of its impact on value will be discussed.

The documentation necessary to arrive at the value is considered in this appraisal report. The market data has been **collected, confirmed,** and **analyzed**. Comparable sales were chosen for their similar highest and best uses as outlined within the report. All sales were analyzed and compared to the subject property based on their similarities and dissimiliarities.

SCOPE OF WORK	
Appraisal & Report Type:	This is a complete appraisal, summary report.
Property Identification and Inspection:	The subject has been identified and inspected by the appraiser(s) as follows: A complete inspection of the subject was made on April 19, 2006 and photographs were taken.
Analysis of Physical Factors:	All pertinent physical factors were analyzed.
Analysis of Economic Factors:	All pertinent economic factors were analyzed.
The Extent of Data Research:	The appraiser(s) maintain a current and comprehensive database of comparable sales and listings for the Trident

market area. In addition to market data developed in the course of previous appraisal work and retained in the appraiser(s) work files, other sources of information include:

- MLS
- Commercial Realtors
- Property Managers
- Commercial Contractors

Where warranted, market data has been confirmed by a party to the transaction, or other reliable source.

The Type and Extent of Analysis:

Cost Approach: In this case, the cost approach is not applicable or necessary for a credible appraisal and has not been developed.

Sales Comparison Approach: This approach is applicable, necessary and has been fully developed.

Income Approach: In this case, the income approach is not applicable or necessary for a credible appraisal and has not been developed.

Limiting Conditions and Assumptions

Acceptance of and/or use of this report constitutes acceptance of the following limiting conditions and assumptions; these can only be modified by written documents executed by both parties.

This appraisal is to be used only for the purpose stated herein. While distribution of this appraisal in its entirety is at the discretion of the client, individual sections shall not be distributed; this report is intended to be used in whole and not in part.

No part of this appraisal, its value estimates or the identity of the firm or the appraiser(s) may be communicated to the public through advertising, public relations, media sales, or other media.

All files, work papers and documents developed in connection with this assignment are the property of Appraisal Services of SC, Inc. Information, estimates and opinions are verified where possible, but cannot be guaranteed. Plans provided are intended to assist the client in visualizing the property; no other use of these plans is intended or permitted.

No hidden or unapparent conditions of the property, subsoil or structure, which would make the property more or less valuable, were discovered by the appraiser(s) or made known to the appraiser(s). No responsibility is assumed for such conditions or engineering necessary to discover them. Unless otherwise stated, this appraisal assumes there is no existence of hazardous materials or conditions, in any form, on or near the subject property.

Unless stated herein, the property is assumed to be outside of areas where flood hazard insurance is mandatory. Maps used by public and private agencies to determine these areas are limited with respect to accuracy. Due diligence has been exercised in interpreting these maps, but no responsibility is assumed for misinterpretation.

Good title, free of liens, encumbrances and special assessments is assumed. No responsibility is assumed for matters of a legal nature.

Necessary licenses, permits, consents, legislative or administrative authority from any local, state or Federal government or private entity are assumed to be in place or reasonably obtainable.

It is assumed there are no zoning violations, encroachments, easements or other restrictions which would affect the subject property, unless otherwise stated.

The appraiser(s) are not required to give testimony in Court in connection with this appraisal. If the appraisers are subpoenaed pursuant to a court order, the client agrees to pay the appraiser(s) our regular per diem rate plus expenses.

Appraisals are based on the data available at the time the assignment is completed. Amendments/modifications to appraisals based on new information made available after the appraisal was completed will be made, as soon as reasonably possible, for an additional fee.

Area Analysis

The Trident Area, known as the "Low Country", consists of three counties: Berkeley, Charleston and Dorchester. The economy of the Tri-county area is based on military, tourism, manufacturing and industry. Federal, State, and Local Governments employ 28% of the work force. Manufacturing represents 13% and tourism accounts for more than 8% of the employment in the civilian labor force. The exclusive resort areas that have been developed in the last 10 years along the coastlines have enhanced the role of tourism in the local economy. Military and governmental employment continues to drop and is filled by industry and manufacturing.

Berkeley County is located in the Southeastern part of South Carolina and is part of the Charleston Trident Metropolitan Statistical Area. Moncks Corner serves as the county seat and is located approximately 30 miles north of the region's largest city, Charleston. Berkeley County has been a center of commerce and industry since its founding in the early 1600s. Many of the early settlers were English, Scots-Irish, French Huguenot, and German artisans and farmers. Today, Berkeley County is one of the fastest growing counties in the state. With a 1990 population of 128,776, the population of the county is expected to expand by over 5% annually, reaching 196,000 by the year 2015. The economy of Berkeley County is also changing. While agriculture and forest remain important, the manufacturing sector has become one of the county's largest expanding employment sectors. Companies such as Amoco, Dupont, and Bayer Corporation are among the 50 plus manufacturing facilities operating in Berkeley County today.

Subject is located in an area known as New Hope. It is approximately 5 miles north of the town of Summerville, and 5 miles northwest of the town of Goose Creek. It has a Summerville postal address. The city of Goose Creek was incorporated on 22 March 1961. The city has experienced significant growth in the past 10 years, becoming the state's 12th largest municipality. During the past 10 years, the city has become a major residential community for the Charleston area, primarily as a result of a large residential development project that was undertaken by Westvaco Development Corporation.

The project has been developed under the general name of Crowfield Plantation. Each individual neighborhood has been assigned a name reflecting the style and architecture of the homes within the neighborhood. Crowfield Plantation is marketed toward the upper-middle and lower-upper socio-economic population. The project is estimated to house approximately 30,000 people when fully developed. Crowfield Plantation features a golf course, club house, lake, hiker-biker trail, churches, schools, recreational area, and commercial areas which are either completed or under construction.

In addition to Crowfield Plantation, several smaller neighborhood development sites have begun resulting from the geographic location of the city and its close proximity to the city of Charleston. This makes it extremely attractive to the work force of the Charleston area, particularly with the easy access to Interstate 26, allowing rapid transit to virtually anywhere in the area. The New Hope area has several, large scale subdivisions in various stages of planning and construction.

The city encompasses an area of approximately 50 square miles. Winters are mild, while the summers are warm. The average annual temperature is 65 degrees Fahrenheit. Minimum temperature in July is 90 degrees. The area offers sunshine 65 percent of the time. Average rainfall is 51.59 inches.

The town of Summerville, situated on a pine-forested ridge, was first inhabited in the late 1700's as Charlestonians and other inhabitants of the SC Low country sought respite from the summer heat, mosquitoes and disease. From May to September plantation families along the nearby Ashley River and other coastal areas, headed for higher elevation to live temporarily or "maroon," in the tiny forest colony soon dubbed Summerville. Other pioneer residents descended from those 1696 puritans who settled the nearby former colonial settlement of Dorchester, endowing Summerville with a heritage spanning three centuries.

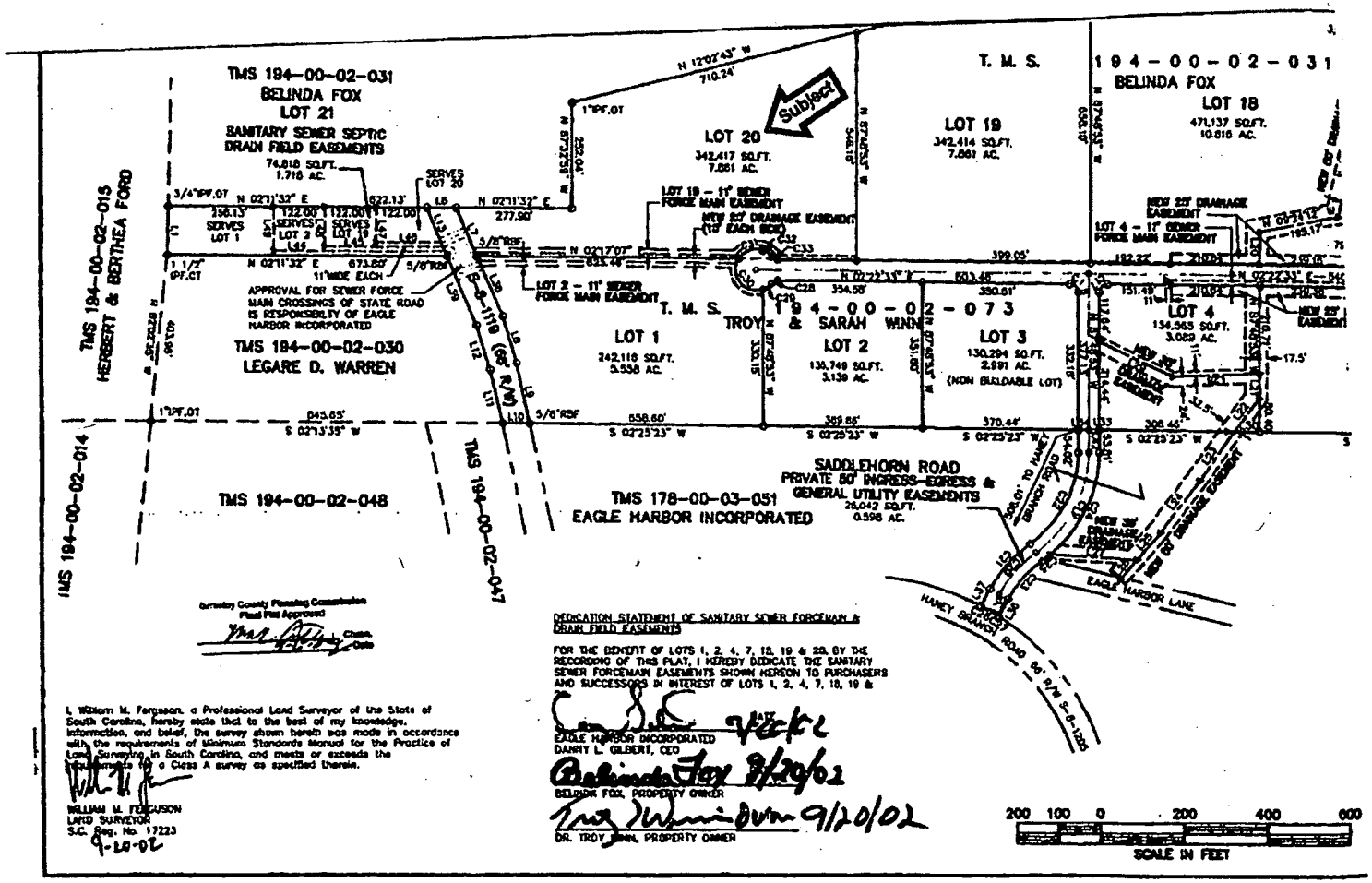
The town's population remained around 3,000 for nearly a century, not reaching 6,000 until the late 1970's. Then, as a bedroom community for the larger urban centers in the area, the charm of Summerville resulted in a doubling of the population in the 1980's. It continues to attract families, business people and military personnel, all looking for a quality of life that has long since disappeared in cities. The 2000 Census declared that the Town of Summerville's population was 27,752. Several large developments are planned for the area and numerous subdivisions are under development.

Subject is located in Eagle Harbor Subdivision. Eagle Harbor is a gated, private subdivision with Covenants and Restrictions. Currently, there is no public water or sewer available.

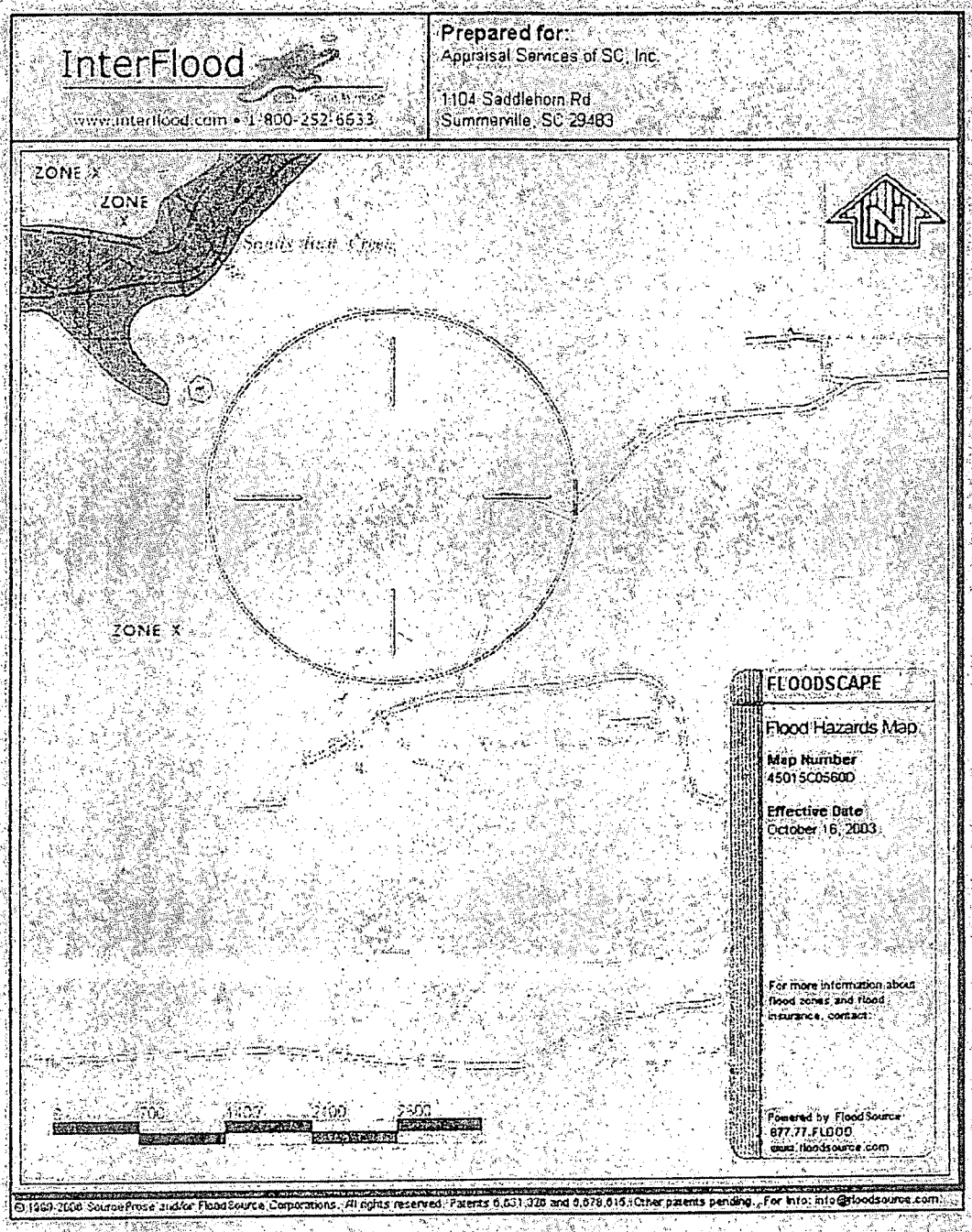
Property Description

	SITE
Total Site Size:	7.681 Acres total See attached plat map
Usable Site Size:	+/-5.681 Acres upland and +/-2.00 Acres Wetlands See attached U.S. Army Corps of Engineers Letter of November 7, 2005.
Site Shape:	Irregular
Site Topography:	Mixture of uplands and wetlands
Utilities:	Electricity
Flood Zone:	The subject is located in an area mapped by the Federal Emergency Management Agency (FEMA). FEMA Map Number: 45015C0560D FEMA Map Date: October 16, 2003 FEMA Zone Classification: Zone X
Easements/ Encroachments:	Typical utility and drainage easements. No encroachments noted.
Zoning:	Flex-1-Agricultural District

Site Plan

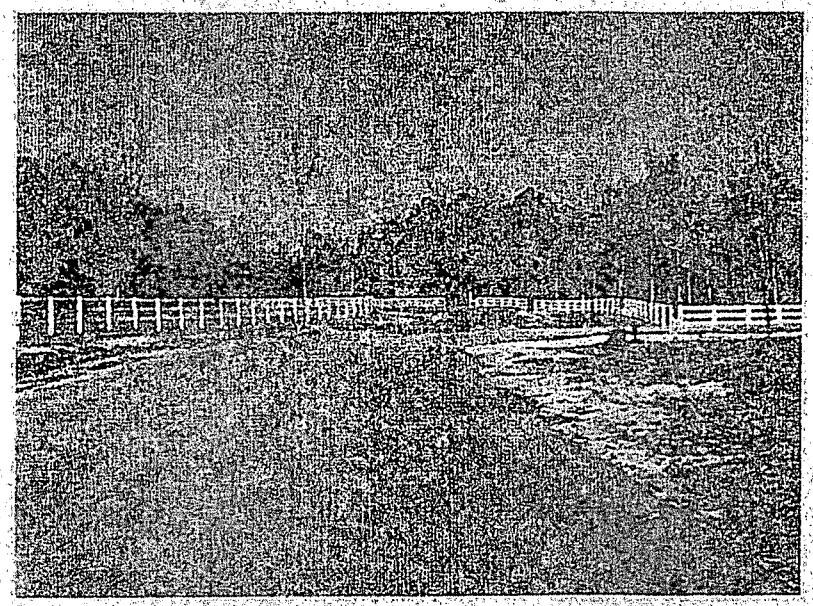

TMS 194-00-02-031
BELINDA FOX
LOT 21
SANITARY SEWER SEPTIC DRAIN FIELD EASEMENTS
74,818 SQ.FT.
1.718 AC.
TMS 194-00-02-013
HERBERT & BERTHEA FORD
TMS 194-00-02-030
LEGARE D. WARREN
APPROVAL FOR SEWER FORCE MAIN CROSSINGS OF STATE ROAD IS RESPONSIBILITY OF EAGLE HARBOR INCORPORATED
TMS 194-00-02-014
TMS 194-00-02-048
TMS 194-00-02-047
TMS 178-00-03-051
EAGLE HARBOR INCORPORATED
LOT 20
342,417 SQ.FT.
7.861 AC.
Subject
LOT 19 – 11' SEWER FORCE MAIN EASEMENT
NEW 50' DRAINAGE EASEMENT (10' EACH SIDE)
LOT 2 – 11' SEWER FORCE MAIN EASEMENT
T. M. S. 194-00-02-031
BELINDA FOX
LOT 19
342,414 SQ.FT.
7.861 AC.
LOT 18
471,137 SQ.FT.
10.816 AC.
NEW 25' DRAINAGE EASEMENT
LOT 4 – 11' SEWER FORCE MAIN EASEMENT
T. M. S. 194-00-02-073
TROY & SARAH WINN
LOT 1
242,116 SQ.FT.
5.558 AC.
LOT 2
136,749 SQ.FT.
3.139 AC.
LOT 3
130,294 SQ.FT.
2.991 AC.
(NON BUILDABLE LOT)
LOT 4
134,365 SQ.FT.
3.089 AC.
SADDLEHORN ROAD
PRIVATE 50' INGRESS-EGRESS & GENERAL UTILITY EASEMENTS
26,042 SQ.FT.
0.598 AC.
EAGLE HARBOR LANE
HANEY BRANCH ROAD
Surrmitry County Planning Commission
Final Plat Approved
Chair
Date
DEDICATION STATEMENT OF SANITARY SEWER FORCEMAIN & DRAIN FIELD EASEMENTS
FOR THE BENEFIT OF LOTS 1, 2, 4, 7, 18, 19 & 20, BY THE RECORDING OF THIS PLAT, I HEREBY DEDICATE THE SANITARY SEWER FORCEMAIN EASEMENTS SHOWN HEREON TO PURCHASERS AND SUCCESSORS IN INTEREST OF LOTS 1, 2, 4, 7, 18, 19 &
9/20/02
EAGLE HARBOR INCORPORATED
DANNY L. GILBERT, CEO
9/20/02
BELINDA FOX, PROPERTY OWNER
9/20/02
DR. TROY WINN, PROPERTY OWNER
I, William M. Ferguson, a Professional Land Surveyor of the State of South Carolina, hereby state that to the best of my knowledge, information, and belief, the survey shown hereon was made in accordance with the requirements of Minimum Standards Manual for the Practice of Land Surveying in South Carolina, and meets or exceeds the requirements for a Class A survey as specified therein.
WILLIAM M. FERGUSON
LAND SURVEYOR
S.C. Reg. No. 17223
9-20-02
200 100 0 200 400 600
SCALE IN FEET

Flood Map

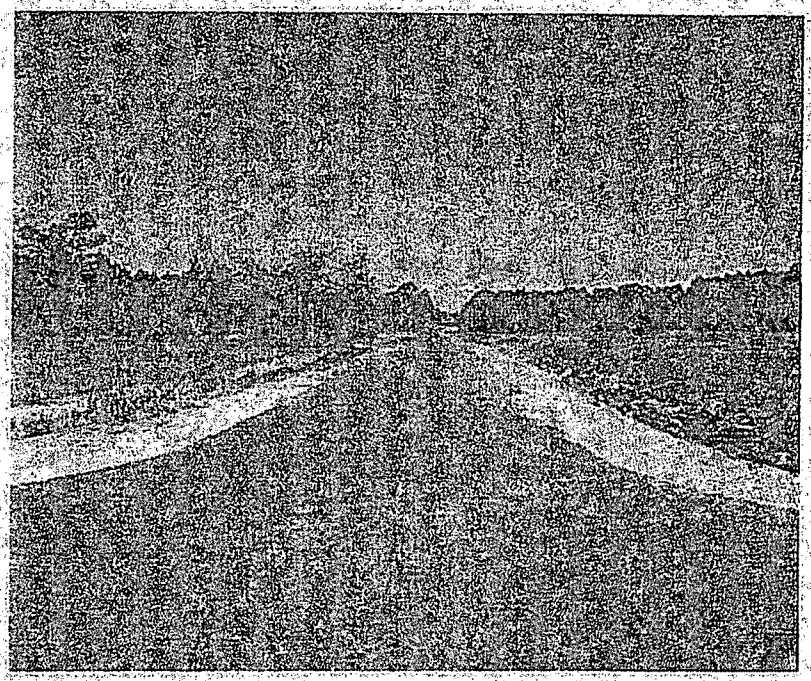

InterFlood
www.interflood.com • 1-800-252-6633
Prepared for:
Appraisal Services of SC, Inc.
1104 Saddlehorn Rd
Summerville, SC 29483
ZONE X
ZONE X
ZONE X
FLOODSCAPE
Flood Hazards Map
Map Number
45015C0560D
Effective Date
October 16, 2003
For more information about flood zones and flood insurance, contact:
Powered by FloodSource
877.77.FLOOD
www.floodsource.com
© 1969-2008 SourceProse and/or FloodSource Corporations. All rights reserved. Patents 6,631,326 and 6,678,615; Other patents pending. For Info: info@floodsource.com

Subject Photographs

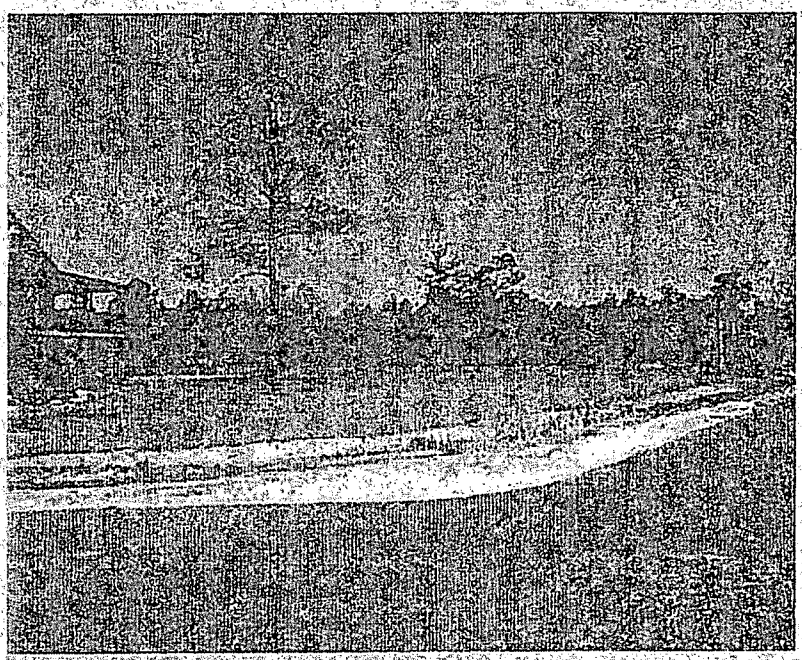
Entrance to subdivision



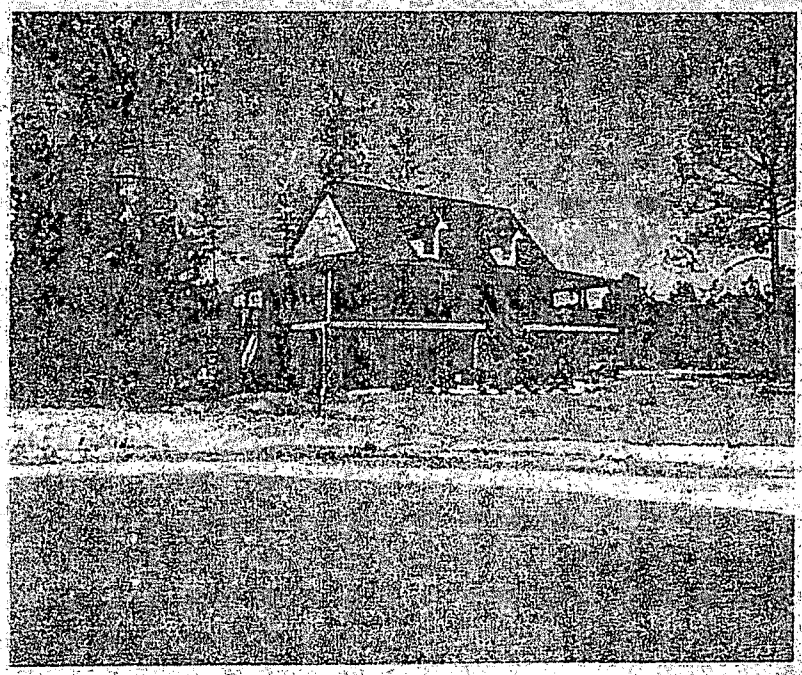
Entrance Road



Saddlehorn Road looking north from subject



Looking from cul-de-sac toward northern boundary of subject property



Subject improvement which is not part of the appraisal

Looking from cul-de-sac toward southern boundary of subject property.

Assessment & Taxes

Tax Parcel ID#	TMS # 194-00-02-122
Tax Year:	2005
Assessed Value Land	$112,000
Total Assessed Value:	$112,000 land only
Tax Rate:	4%
Real Estate Taxes:	$879.81 land only

Assessment Analysis

All South Carolina Counties undergo reassessment every 5 years by Act of The General Assembly. Berkeley County last year of reassessment was 2004 and will reassess again in 2009. Currently, there are numerous proposals in the General Assembly to change the property tax structure of South Carolina.

Subject is just outside the city limits of the towns of Summerville and Goose Creek. Above taxes are for site only. County taxes include School Operating, Trident Tech, Fire Protection, Senior Center Operation, Library, County Debt, County Capital and School Debt, etc.

Zoning Analysis

District:	Flex-1-Agricultural District
Conforming:	The subject property is a conforming use.
***Applicable* Permitted Uses:**	• Agricultural uses • Recreation uses • Institutional uses • Industrial uses • Residential uses
Minimum Standards:	
Size:	.69 acre minimum
Road Frontage:	20 feet
Front Setback:	35 feet.
Side Setback:	15 feet
Rear Setback:	30 feet
Building Height:	35 feet maximum to the eave of the structure
Parking:	Off-street parking requirements

Additional Regulations

Declaration of Covenants, Conditions and Restrictions for Eagle Harbor were recorded 02/03/2003 in Berkeley County Register of Deeds Office, Book 3125, Pages 178-228. There are later recorded versions; however, the 02/03/2003 version was in effect for the retrospective dates of this appraisal. They are not attached to this appraisal but are part of the work file located at Appraisal Services of SC, Inc.

Definition of Highest and Best Use

The reasonably probable and legal use of vacant land or an improved property, which is physically possible, appropriately supported, financially feasible, and that results in the highest value. The four criteria the highest and best use must meet are legal permissibility, physical possibility, financial feasibility, and maximum profitability. (The Dictionary of Real Estate Appraisal, fourth Edition, by Appraisal Institute, 2002, page 135).

The definition immediately preceding applies specifically to the highest and best use of land and/or property. It is to be recognized that in cases where a site has existing improvements on it, the highest and best use may very well be concluded to be different from the existing use. The existing use will continue, however, unless and until land value in its highest and best use exceeds the total value of the property in its existing use. Also implied, is that the estimation of highest and best use results from judgment and analytical skill, i.e., that the use concluded from analysis represents an opinion, not a fact to be found. In appraisal practice, the concept of highest and best use represents the foundation on which market value rests. In the context of most probable selling price (market value), another appropriate term to reflect highest and best use would be most probable use. In the context of investment value, an alternative term would be most profitable use.

The highest and best use of both land as though vacant and property as improved must meet four criteria. The highest and best use must be 1) physically possible, 2) legally permissible, 3) financially feasible, and 4) maximally productive. These criteria are usually considered sequentially; a use may be physically possible, but this is irrelevant if it is feasibly impossible or legally prohibited. Only when there is a reasonable possibility that one of the prior, unacceptable conditions can be changed is it appropriate to proceed with the analysis. If, for example, current zoning does not permit a potential highest and best use, but there is a reasonable possibility that the zoning can be changed, the proposed use can be considered on that basis. A full analysis may be included in the report when the conclusions are based on techniques applied to identify the highest and best use among two or more potential uses. (For full discussion refer to The Appraisal of Real Estate, Twelfth Edition, by Appraisal Institute, 2001, pages 305-319.)

Highest and Best Use as Vacant ("As Though Vacant")

The physical characteristics of the land such as size, shape, location, and topography have been considered. In addition, the analysis has included the surrounding developments, existing zoning, access to major transportation routes, availability of utilities, current trends, and demand for property of this type in the real estate market.

The land value is based on the premise of the highest and best use "as though vacant". There are four tests which are taken into consideration in developing an opinion of highest and best use. These four tests include an examination of those uses that are physically possible, legally permissible, financially feasible, and maximally productive. Each criterion is considered cumulatively and provides the best analysis for the highest and best use of the land. The following is the highest and best use of the subject site **"as though vacant"**.

Physically Possible

Size, shape, area, soils, and topography affect the uses to which a site may be physically developed. The utility of a parcel may depend on its frontage and depth. Irregularly shaped parcels may cost more to develop and, when developed, may have less utility than a rectangular parcel.

The parcel is of sufficient size for a variety of uses including agriculture, recreation, institutional or residential. Based on an inspection of the land and the site description as outlined in this report, there are no known physical restraints, minus the lowlands, which inhibit development of the site.

Legally Permissible

After considering those uses that are physically possible, the uses that are legally permissible were considered. *Except in rare circumstances, a change in zoning would not be considered unless it could be shown that a zoning change was reasonably probable in the foreseeable future.*

The subject site is zoned Flex-1. Based on the zoning for the subject land, the use that is legally permissible is limited by the Covenants and Restrictions.

Financially Feasible

The next analysis involves consideration of those uses that have been determined to be physically possible and legally permissible to determine which are financially feasible. As outlined under Legally Permissible, the site could be used for homes.

Maximally Productive

The appraisers have considered from among the uses outlined above, those uses which would return the highest net present value to the land over the long term.

Based on that analysis, the highest and best use of the subject land "as though vacant" is for residential development per the Covenants and Restrictions.

Highest and Best Use as Improved

The property was analyzed based on its present improvements which are for residential. Based on a review of the highest and best use "as though vacant", the use of the subject as improved is compatible with that use. Therefore, the highest and best use of the subject property "as though vacant" and "as improved" are consistent.

Valuation Methodology

Three basic approaches may be used to arrive at an estimate of market value. They are:

- The Cost Approach
- The Income Approach
- The Sales Comparison Approach

The **Cost Approach** is summarized as follows:

Cost New
\- Depreciation
\+ Land Value
= Value

The **Income Approach** converts the anticipated flow of future benefits (income) to a present value estimate through a capitalization and or a discounted process.

The **Sales Comparison Approach,** or market approach, is a method of concluding an opinion of value whereby the subject property is compared with similar properties that have sold recently, or for which listing prices or offering figures are known. The information on typically comparable properties is used, and comparisons are made to demonstrate a probable price at which the subject property would be sold if it had been offered on the market in a reasonable marketing period.
Preferably, all sale properties are in the same area or in similar market areas. The sales comparison approach is a systematic procedure for reflecting comparative shopping. Market supported adjustments are necessary to the comparable sales in many instances since no two properties are identical. If the comparable sale property is inferior to the subject for a particular characteristic, the sale price is enhanced by an appropriate adjustment factor. Conversely, if the comparable sale property is superior to the subject, then the sale price is reduced by a corresponding adjustment factor.
Sales comparisons are generally concluded by relevant units of comparison (e.g., acre, per square foot, per front foot, multipliers) to develop a comparative analysis for each unit. The most market oriented unit of comparison is used to reconcile a single value indication.
The appraisal process concludes with the **Final Reconciliation** of the values derived from the approaches applied for a single estimate of market value. Different properties require different means of analysis and lend themselves to one approach over the others. This appraisal includes the following:

- Cost Approach: In this case, the cost approach is not applicable or necessary for a credible appraisal and has not been developed.

- Sales Comparison Approach: This approach is applicable, necessary and has been fully developed.

- Income Approach: In this case, the income approach is not applicable or necessary for a credible appraisal and has not been developed.

Sales Comparison Approach

The Sales Comparison Approach is based on the premise that a buyer would pay no more for a specific property than the cost of obtaining a property with the same quality, utility, and perceived benefits of ownership. It is based on the principals of supply and demand, balance, substitution and externalities. The following steps describe the applied process of the Sales Comparison Approach.

- The market in which the subject property competes is investigated; comparable sales, contracts for sale and current offerings are reviewed.
- The most pertinent data is further analyzed and the quality of the transaction is determined.
- The most meaningful unit of value for the subject property is determined.
- Each comparable sale is analyzed and where appropriate, adjusted to equate with the subject property.
- The value indication of each comparable sale is analyzed and the data reconciled for a final indication of value via the Sales Comparison Approach.

We have researched and analyzed 45 comparables from Eagle Harbor from 2001 to 2006 for this analysis. Further, we have researched and analyzed 11 comparables near Eagle Harbor from 2002 to 2006, but which are non Eagle Harbor subdivision sales. All sales have been researched through numerous sources, inspected and verified by a party to the transaction.

Comparable Sales 2001

Comp 1 is a comparable land sale on Soaring Way in Eagle Harbor. It is described as Lot 8, Phase 1, TMS # 178-00-03-070. It is a rectangular lot of 1.71 acres. Sale was closed on 11/12/2001 for $21,916. Sale was recorded in Deed Book 2487, Page 236-Plat Cabinet P, Slide 107E. The grantor was Gerry D. Fox and the grantee was Jimmy H. & Kimberly A. Thigpen. Currently it is assessed by Berkeley County for Ad Valorem tax purposes at $27,400. It appears to be all highlands with a per acre sale price of $12,816.

Comp 2 is a comparable land sale on Soaring Way in Eagle Harbor. It is described as Lot 9, Phase 1, TMS # 178-00-03-071. It is a rectangular lot of 1.71 acres. Sale was closed on 11/16/2001 for $21,916. Sale was recorded in Deed Book 2500, Page 174-Plat Cabinet P, Slide 107E. The grantor was Gerry D. Fox and the grantee was Albert H. & Christine M. Isom. Currently it is assessed by Berkeley County for Ad Valorem tax purposes at $27,400. It appears to be all highlands with a per acre sale price of $12,816.

Comp 3 is a comparable land sale on Soaring Way in Eagle Harbor. It is described as Lot 1, Phase 1, TMS # 194-00-02-106. It is a rectangular, corner lot of 1.86 acres. Sale was closed on 11/16/2001 for $23,416. Sale was recorded in Deed Book 2660, Page 13-Plat Cabinet P, Slide 107E. The grantor was Gerry D. Fox and the grantee was William D. Johnson. Currently it is assessed by Berkeley County for Ad Valorem tax purposes at $29,800. It appears to be all highlands with a per acre sale price of $12,589.

Comp 4 is a comparable land sale on Soaring Way in Eagle Harbor. It is described as Lot 6, Phase 1, TMS # 178-00-03-068. It is a rectangular lot of 2.00 acres. Sale was closed on 11/16/2001 for $24,816. Sale was recorded in Deed Book 2500, Page 194-Plat Cabinet P, Slide 107E. The grantor was Gerry D. Fox and the grantee was Avonne Beaver. Currently it is assessed by Berkeley County for Ad Valorem tax purposes at $32,000. It appears to be all highlands with a per acre sale price of $12,408.

Comp 5 is a comparable land sale on Soaring Way in Eagle Harbor. It is described as Lot 7, Phase 1, TMS # 178-00-03-069. It is a rectangular lot of 1.87 acres. Sale was closed on 11/16/2001 for $13,916. Sale was recorded in Deed Book 2566, Page 281-Plat Cabinet P, Slide 107E. The grantor was Gerry D. Fox and the grantee was Donald Gilbert. Currently it is assessed by Berkeley County for Ad Valorem tax purposes at $33,000. It appears to be all highlands with a per acre sale price of $7,442.

Comp 6 is a comparable land sale on Soaring Way in Eagle Harbor. It is described as Lot 2, Phase 1, TMS # 194-00-02-107. It is a rectangular lot of 1.86 acres. Sale was closed on 11/16/2001 for $23,316. Sale was recorded in Deed Book 2566, Page 253-Plat Cabinet P, Slide 107E. The grantor was Gerry D. Fox and the grantee was Kelly & Lori Gibson. Currently it is assessed by Berkeley County for Ad Valorem tax purposes at $29,800. It appears to be all highlands with a per acre sale price of $12,535.

Comp 7 is a comparable land sale on Soaring Way in Eagle Harbor. It is described as Lot 3, Phase 1, TMS # 194-00-02-108. It is a rectangular lot of 1.85 acres. Sale was closed

on 12/13/2001 for $23,316. Sale was recorded in Deed Book 3186, Page 71-Plat Cabinet P, Slide 107E. The grantor was Gerry D. Fox and the grantee was Charlene Willman. Currently it is assessed by Berkeley County for Ad Valorem tax purposes at $29,600. It appears to be all highlands with a per acre sale price of $12,603.

Comparable Sales 2002

Comp 8 is a comparable land sale on Soaring Way in Eagle Harbor. It is described as Lots 4 & 5, Phase 1, TMS # 194-00-02-109 & 110. It is a rectangular lot totaling 3.35 acres. Sale was closed on 01/10/2002 for $43,132. Sale was recorded in Deed Book 2591, Page 19-Plat Cabinet P, Slide 107E. The grantor was Gerry D. Fox and the grantee was Diane L. Dunigan Currently it is assessed by Berkeley County for Ad Valorem tax purposes at $53,600. It appears to be all highlands with a per acre sale price of $12,875.

Comp 9 is a comparable land sale on Soaring Way in Eagle Harbor. It is described as Lot 9, Phase 1, TMS # 178-00-03-071. It is a rectangular lot of 1.71 acres. Sale was closed on 09/26/2002 for $33,000. Sale was recorded in Deed Book 2927, Page 33-Plat Cabinet P, Slide 107E. The grantor was Albert H. Isom, Jr. and the grantee was Michael L. Cable. Currently it is assessed by Berkeley County for Ad Valorem tax purposes at $27,400. It appears to be all highlands with a per acre sale price of $19,928.

Comp 10 is a comparable land sale on Saddlehorn Road in Eagle Harbor. It is described as Lot 916 Phase II, TMS # 194-00-02-118. It is a rectangular lot of 3.88 acres. Sale was closed on 11/08/2002 for $50,531. Sale was recorded in Deed Book 3042, Page 194, Plat Cabinet P, Slide 281A. The grantor was Belinda Fox and the grantee was Michael L. & Joyce W. Segars. Currently it is assessed by Berkeley County for Ad Valorem tax purposes at $800. It appears to be approximately 2.88 acres highlands and 1.00 acres lowlands with a per acre sale price of $13,023.

Comp 11 is a comparable land sale on Saddlehorn Road in Eagle Harbor. It is described as Lot 8, Phase II, TMS # 194-00-02-130. It is a rectangular lot of 2.25 acres. Sale was closed on 12/16/2002 for $37,920. Sale was recorded in Deed Book 3062, Page 240-Plat Cabinet P, Slide 281A. The grantor was Sarah Winn and the grantee was Dennis L. & Jeannene Ondrasek. Currently it is assessed by Berkeley County for Ad Valorem tax purposes at $36,000. It appears to be all highlands with a per acre sale price of $16,853.

Comp 12 is a comparable land sale on Saddlehorn Road in Eagle Harbor. It is described as Lot 18, Phase II, TMS # 194-00-02-120. It is a rectangular lot of 10.82 acres. Sale was closed on 12/19/2002 for $140,608. Sale was recorded in Deed Book 3065, Page 11-Plat Cabinet P, Slide 281A. The grantor was Belinda Fox and the grantee was Michael L. & Joyce W. Segars. Currently it is assessed by Berkeley County for Ad Valorem tax purposes at $18,100. It appears to be approximately 8.82 acres highlands and 2.00 acres lowlands with a per acre sale price of $12,995.

Comparable Sales 2003

Comp 13 is a comparable land sale on Saddlehorn Road in Eagle Harbor. It is described as Lot 10, Phase II, TMS # 194-00-02-132. It is a rectangular lot of 2.15 acres. Sale was

closed on 02/17/2003 for $36,851. Sale was recorded in Deed Book 3172, Page 109-Plat Cabinet P, Slide 281A. The grantor was Troy L. Winn and the grantee was Robert A. Newton. Currently it is assessed by Berkeley County for Ad Valorem tax purposes at $34,400. It appears to be all highlands with a per acre sale price of $16,000.

Comp 14 is a comparable land sale on Saddlehorn Road in Eagle Harbor. It is described as Lot 14, Phase II, TMS # 194-00-02-116. It is a rectangular lot of 5.39 acres. Sale was closed on 03/06/2003 for $78,257. Sale was recorded in Deed Book 3181, Page 277-Plat Cabinet P, Slide 281A. The grantor was Belinda Fox and the grantee was Randolph C. Evans. Currently it is assessed by Berkeley County for Ad Valorem tax purposes at $86,200. It appears to be all highlands with a per acre sale price of $14,519.

Comp 15 is a comparable land sale on Saddlehorn Road in Eagle Harbor. It is described as Lots 2 & 3, Phase II, TMS # 194-00-02-124 & 125. It is a rectangular lot of 6.13 acres. Sale was closed on 03/03/2003 for $90,000. Sale was recorded in Deed Book 3170, Page 43-Plat Cabinet P, Slide 281A. The grantor was Eagle Harbor, Inc. and the grantee was L & L Contracting, Inc. Currently it is assessed by Berkeley County for Ad Valorem tax purposes at $98,000. It appears to be all highlands with a per acre sale price of $14,681.

Comp 16 is a comparable land sale on Saddlehorn Road in Eagle Harbor. It is described as Lot 13, Phase II, TMS # 194-00-02-115. It is a rectangular lot of 2.04 acres. Sale was closed on 04/01/2003 for $16,304. Sale was recorded in Deed Book 3251, Page 134-Plat Cabinet P, Slide 281A. The grantor was Belinda Fox and the grantee was Doug Cotton. Currently it is assessed by Berkeley County for Ad Valorem tax purposes at $32,600. It appears to be all highlands with a per acre sale price of $7,992.

Comp 17 is a comparable land sale on Saddlehorn Road in Eagle Harbor. It is described as Lot 7, Phase II, TMS # 194-00-02-129. It is a rectangular lot of 1.91 acres. Sale was closed on 03/10/2003 for $34,326. Sale was recorded in Deed Book 3187, Page 232-Plat Cabinet P, Slide 281A. The grantor was Troy L. & Sarah C. Winn and the grantee was Charles H. Crosby. Currently it is assessed by Berkeley County for Ad Valorem tax purposes at $30,600. It appears to be all highlands with a per acre sale price of $17,972.

Comp 18 is a comparable land sale on Saddlehorn Road in Eagle Harbor. It is described as Lot 9A, Phase II, TMS # 194-00-02-131. It is a rectangular lot of 2.14 acres. Sale was closed on 03/21/2003 for $37,843. Sale was recorded in Deed Book 3216, Page 214-Plat Cabinet P, Slide 354B. The grantor was Troy L. & Sarah C. Winn and the grantee was Dee Dee Cox. Currently it is assessed by Berkeley County for Ad Valorem tax purposes at $34,200. It appears to be all highlands with a per acre sale price of $17,684.

Comp 19 is a comparable land sale on Saddlehorn Road in Eagle Harbor. It is described as Lot 9B, Phase II, TMS # 194-00-02-142. It is a rectangular lot of 2.14 acres. Sale was closed on 003/27/2003 for $36,660. Sale was recorded in Deed Book 3324, Page 98-Plat Cabinet P, Slide 354B. The grantor was Troy L. & Sarah C. Winn and the grantee was Stephan & Audrey Griebe. Currently it is assessed by Berkeley County for Ad Valorem

tax purposes at $34,200. It appears to be all highlands with a per acre sale price of $17,131.

Comp 20 is a comparable land sale on Saddlehorn Road in Eagle Harbor. It is described as Lot 19, Phase II, TMS # 194-00-02-121. It is a rectangular lot of 7.86 acres. Sale was closed on 03/31/2003 for $110,054. Sale was recorded in Deed Book 3367, Page 156-Plat Cabinet P, Slide 281A. The grantor was Belinda Fox and the grantee was Gary H. Bell, Jr. Currently it is assessed by Berkeley County for Ad Valorem tax purposes at $62.900. It appears to be all highlands with a per acre sale price of $14,002.

Comp 21 is a comparable land sale on Saddlehorn Road in Eagle Harbor. It is described as Lot 15, Phase II, TMS # 194-00-02-117. It is a rectangular lot of 4.31 acres. Sale was closed on 04/10/2003 for $67,930. Sale was recorded in Deed Book 3259, Page 256-Plat Cabinet P, Slide 281A. The grantor was Belinda Fox and the grantee was Kingston Plantation Builders, LLC. Currently it is assessed by Berkeley County for Ad Valorem tax purposes at $69,000. It appears to be all highlands with a per acre sale price of $15,761.

Comp 22 is a comparable land sale on Saddlehorn Road in Eagle Harbor. It is described as Lot 1, Phase II, TMS # 194-00-02-123. It is a rectangular lot of 5.56 acres. Sale was closed on 11/20/2003 for $65,000. Sale was recorded in Deed Book 3740, Page 181-Plat Cabinet P, Slide 281-A. The grantor was Sarah C. Winn and the grantee was Jason P. Parker, Jr. Currently it is assessed by Berkeley County for Ad Valorem tax purposes at $50,000. It appears to be approximately 4.56 acres highlands and 1.00 acres lowlands with a per acre sale price of $11,691.

Comparable Sales 2004

Comp 23 is a comparable land sale on Saddlehorn Road in Eagle Harbor. It is described as Lot 6, Phase II, TMS # 194-00-02-128. It is a rectangular lot of 5.33 acres. Sale was closed on 06/03/2004 for $90,500. Sale was recorded in Deed Book 4045, Page 270-Plat Cabinet P, Slide 281A. The grantor was Sarah C. Winn and the grantee was Monica L. & William C. Davis, Jr.. Currently it is assessed by Berkeley County for Ad Valorem tax purposes at $85,300. It appears to be all highlands with a per acre sale price of $16,979.

Comp 24 is a comparable land sale on Soaring Way in Eagle Harbor. It is described as Lot 8, Phase 1, TMS # 178-00-03-070. It is a rectangular lot of 1.71 acres. Sale was closed on 07/20/2004 for $37,000. Sale was recorded in Deed Book 4135, Page 307-Plat Cabinet P, Slide 107E. The grantor was Jimmy H. Thigpen and the grantee was Joel H. Bennett. Currently it is assessed by Berkeley County for Ad Valorem tax purposes at $27,400. It appears to be all highlands with a per acre sale price of $21,637.

Comp 25 is a comparable land sale on Yearling Drive in Eagle Harbor. It is described as Lot 6, Phase III, TMS # 178-00-03-089. It is a rectangular lot of 2.26 acres. Sale was closed on 08/27/2004 for $35,000. Sale was recorded in Deed Book 4207, Page 231-Plat Cabinet Q, Slide 250B. The grantor was Metro Contracting, Inc. and the grantee was

Jeremy Lee Baker. Currently it is assessed by Berkeley County for Ad Valorem tax purposes at $21,500. It appears to be all highlands with a per acre sale price of $15,487.

Comp 26 is a comparable land sale on Yearling Drive in Eagle Harbor. It is described as Lot 7, Phase III, TMS # 178-00-03-090. It is a rectangular lot of 2.99 acres. Sale was closed on 09/23/2004 for $50,830. Sale was recorded in Deed Book 4265, Page 76-Plat Cabinet Q, Slide 250B. The grantor was Metro Contracting, Inc. and the grantee was Sondra B. Baxter. Currently it is assessed by Berkeley County for Ad Valorem tax purposes at $47,800. It appears to be all highlands with a per acre sale price of $17,000.

Comp 27 is a comparable land sale on Yearling Drive in Eagle Harbor. It is described as Lot 8, Phase III, TMS # 178-00-03-091. It is a rectangular lot of 2.37 acres. Sale was closed on 09/24/2004 for $44,500. Sale was recorded in Deed Book 4265, Page 37-Plat Cabinet Q, Slide 250B. The grantor was Metro Contracting, Inc. and the grantee was Karen Lynn Driggers. Currently it is assessed by Berkeley County for Ad Valorem tax purposes at $37,900. It appears to be approximately 2.0 acres highlands and .37 acre lowlands with a per acre sale price of $18,776.

Comp 28 is a comparable land sale on Yearling Drive in Eagle Harbor. It is described as Lot 3, Phase III, TMS # 178-00-03-086. It is a rectangular lot of 2.53 acres. Sale was closed on 09/29/2004 for $40,315. Sale was recorded in Deed Book 4276, Page 101-Plat Cabinet Q, Slide 250-B. The grantor was Metro Contracting, Inc. and the grantee was Travis V. Hollifield. Currently it is assessed by Berkeley County for Ad Valorem tax purposes at $24,000. It appears to be all highlands with a per acre sale price of $15,935.

Comp 29 is a comparable land sale on Yearling Drive in Eagle Harbor. It is described as Lot 4, Phase III, TMS # 178-00-03-087. It is a rectangular lot of 2.27 acres. Sale was closed on 10/05/2004 for $35,585. Sale was recorded in Deed Book 4276, Page 251-Plat Cabinet Q, Slide 250B. The grantor was Metro Contracting, Inc. and the grantee was Billy C. Hollifield. Currently it is assessed by Berkeley County for Ad Valorem tax purposes at $21,600. It appears to be all highlands with a per acre sale price of $15,676.

Comp 30 is a comparable land sale on Yearling Drive in Eagle Harbor. It is described as Lot 2, Phase III, TMS # 178-00-03-085. It is a rectangular lot of 3.33 acres. Sale was closed on 10/18/2004 for $58,100. Sale was recorded in Deed Book 4328, Page 203-Plat Cabinet Q, Slide 250B. The grantor was Metro Contracting, Inc. and the grantee was Frederick G. Hall, Jr. Currently it is assessed by Berkeley County for Ad Valorem tax purposes at $28,300. It appears to be approximately 3.0 acres highlands and .33 acre lowlands with a per acre sale price of $17,447.

Comp 31 is a comparable land sale on Yearling Drive in Eagle Harbor. It is described as Lot 5, Phase III, TMS # 178-00-03-088. It is a rectangular lot of 2.16 acres. Sale was closed on 10/27/2004 for $33,000. Sale was recorded in Deed Book 5227, Page 158-Plat Cabinet Q, Slide 250B. The grantor was Metro Contracting, Inc. and the grantee was Stanley K. Hollifield. Currently it is assessed by Berkeley County for Ad Valorem tax purposes at $20,500. It appears to be all highlands with a per acre sale price of $15,278.

Comp 32 is a comparable land sale on Saddlehorn Road in Eagle Harbor. It is described as Lot 11, Phase II, TMS # 194-00-02-133. It is a rectangular lot of 4.95 acres. Sale was closed on 11/18/2004 for $91,649. Sale was recorded in Deed Book 4441, Page 162-Plat Cabinet P, Slide 281A. The grantor was Sarah C. Winn and the grantee was R. B. Brown. Currently it is assessed by Berkeley County for Ad Valorem tax purposes at $79,200. It appears to be approximately 2.95 acres highlands and 2.00 acres lowlands with a per acre sale price of $18,515.

Comp 33 is a comparable land sale on Yearling Drive in Eagle Harbor. It is described as Lot 9, Phase 3, TMS # 178-00-03-092. It is a rectangular lot of 5.04 acres. Sale was closed on 12/15/2004 for $75,363. Sale was recorded in Deed Book 4442, Page 336-Plat Cabinet Q, Slide 250-B. The grantor was Metro Contracting, Inc. and the grantee was Richard Lindberg. Currently it is assessed by Berkeley County for Ad Valorem tax purposes at $80,600. It appears to be approximately 3.04 acres highlands and 2.00 acres lowlands with a per acre sale price of $14,952.

Comp 34 is a comparable land sale on Saddlehorn Road in Eagle Harbor. It is described as Lot 4, Phase II, TMS # 194-00-02-126. It is a rectangular lot of 3.09 acres. Sale was closed on 17/02/2004 for $54,000. Sale was recorded in Deed Book 3885, Page 262-Plat Cabinet P, Slide 281A. The grantor was Sarah C. Winn and the grantee was Deborah S. Loftis. Currently it is assessed by Berkeley County for Ad Valorem tax purposes at $49,400. It appears to be approximately 2.09 acres highlands and 1.00 acre lowlands with a per acre sale price of $17,476.

Comp 35 is a comparable land sale on Saddlehorn Road in Eagle Harbor. It is described as Lot 5, Phase II, TMS # 194-00-02-127. It is a rectangular lot of 4.66 acres. Sale was closed on 09/30/2004 for $80,000. Sale was recorded in Deed Book 4332, Page 238-Plat Cabinet P, Slide 281A. The grantor was Sarah C. Winn and the grantee was Karen L. Richardson & Anthony S. Hernandez. Currently it is assessed by Berkeley County for Ad Valorem tax purposes at $74,600. It appears to be approximately 4.00 acres highlands and .66 acre lowlands with a per acre sale price of $17,167.

Comparable Sales 2005

Comp 36 is a comparable land sale on Saddlehorn Road in Eagle Harbor. It is described as Lots 2 & 3, Phase II, TMS # 194-00-02-124 & 125. It is a rectangular lot of 6.13 acres. Sale was closed on 01/14/2005 for $126,500. Sale was recorded in Deed Book 4463, Page 97-Plat Cabinet P, Slide 281A. The grantor was L&L Contracting, Inc. and the grantee was Michael L Segars. Currently it is assessed by Berkeley County for Ad Valorem tax purposes at $98,000. It appears to be all highlands with a per acre sale price of $20,636.

Comp 37 is a comparable land sale on Saddlehorn Road in Eagle Harbor. It is described as Lot 9A, Phase II, TMS # 194-00-02-131. It is a rectangular lot of 2.14 acres. Sale was closed on 01/03/2005 for $50,000. Sale was recorded in Deed Book 4448, Page 234-Plat Cabinet P, Slide 354B. The grantor was Dee Dee Cox and the grantee was CMH Homes,

Inc. Currently it is assessed by Berkeley County for Ad Valorem tax purposes at $34,200. It appears to be all highlands with a per acre sale price of $23,364.

Comp 38 is a comparable land sale on Saddlehorn Road in Eagle Harbor. It is described as Lot 12B2, Phase II, TMS # 194-00-02-158. It is a rectangular lot of 2.00 acres. Sale was closed on 03/21/2005 for $44,271. Sale was recorded in Deed Book 4605, Page 269-Plat Cabinet Q, Slide 324A. The grantor was Belinda Fox and the grantee was Richard Mullenniex. Currently it is assessed by Berkeley County for Ad Valorem tax purposes at $32,200. It appears to be approximately 1.4 acres highlands and .6 acre lowlands with a per acre sale price of $22,135.

Comp 39 is a comparable land sale on Yearling Drive in Eagle Harbor. It is described as Lot 1, Phase III, TMS # 178-00-03-084. It is a rectangular lot of 6.49 acres. Sale was closed on 03/30/2005 for $119,000. Sale was recorded in Deed Book 4632, Page 68-Plat Cabinet Q, Slide 250B. The grantor was Metro Contracting, Inc. and the grantee was B. H. Smoak. Currently it is assessed by Berkeley County for Ad Valorem tax purposes at $48,700. It appears to be approximately 3.49 acres highlands and 3.00 acres lowlands with a per acre sale price of $18,336.

Comp 40 is a comparable land sale on Saddlehorn Road in Eagle Harbor. It is described as Lot 19, Phase 2, TMS # 194-00-02-121. It is a rectangular lot of 7.86 acres. Sale was closed on 05/10/2005 for $148,000. Sale was recorded in Deed Book 4700, Page 322-Plat Cabinet P, Slide 281A. The grantor was Gary H. Bell, Jr. and the grantee was Grieco Development, LLC. Currently it is assessed by Berkeley County for Ad Valorem tax purposes at $110,000. It appears to be all highlands with a per acre sale price of $18,830.

Comp 41 is a comparable land sale on Saddlehorn Road in Eagle Harbor. It is described as Lot 11, Phase II, TMS # 194-00-02-133. It is a rectangular lot of 4.95 acres. Sale was closed on 12/01/2005 for $100,000. Sale was recorded in Deed Book 5205, Page 210-Plat Cabinet P, Slide 281A. The grantor was R. B. Brown and the grantee was Philip R. Davey Trust. Currently it is assessed by Berkeley County for Ad Valorem tax purposes at $79,200. It appears to be approximately 2.95 acres highlands and 2.00 acres lowlands with a per acre sale price of $20,202.

Comp 42 is a comparable land sale on Saddlehorn Road in Eagle Harbor. It is described as Lot 8, Phase II, TMS # 194-00-02-130. It is a rectangular lot of 2.25 acres. Sale was closed on 06/07/2005 for $56,250. Sale was recorded in Deed Book 4770, Page 8-Plat Cabinet P, Slide 281A. The grantor was Dennis L. & Jeannene A. Ondrasek and the grantee was Randolph C. Evans. Currently it is assessed by Berkeley County for Ad Valorem tax purposes at $36,000. It appears to be all highlands with a per acre sale price of $25,000.

Comparable Sales 2006

Comp 43 is a comparable land sale on Saddlehorn Road in Eagle Harbor. It is described as Lot 12B2, Phase II, TMS # 194-00-02-158. It is a rectangular lot of 2.00 acres. Sale was closed on 01/24/2006 for $79,900. Sale was recorded in Deed Book 5318, Page 217-

Plat Cabinet Q, Slide 324A. The grantor was Richard Mullenniex and the grantee was William Adams. Currently it is assessed by Berkeley County for Ad Valorem tax purposes at $32,200. It appears to be approximately 1.40 acres highlands and .60 acre lowlands with a per acre sale price of $39,950.

Comp 44 is a comparable land sale on Saddlehorn Road in Eagle Harbor. It is described as Lot 12A1, Phase II, TMS # 194-00-02-114. It is a rectangular lot of 4.06 acres. Sale was closed on 02/20/2006 for $132,000. Sale was recorded in Deed Book 5381, Page 307-Plat Cabinet Q, Slide 294B. The grantor was Doug Cotton and the grantee was Robert A. Poirier. Currently it is assessed by Berkeley County for Ad Valorem tax purposes at $124,000. It appears to be all highlands with a per acre sale price of $32,512.

Comp 45 is a comparable land sale on Yearling Drive in Eagle Harbor. It is described as Lot 8, Phase III, TMS # 178-00-03-091. It is a rectangular lot of 2.37 acres. Sale was closed on 04/12/2006 for $112,000. Sale was recorded in Deed Book 5528, Page 24-Plat Cabinet Q, Slide 250B. The grantor was Karen Lynn Driggers and the grantee was William Adams. Currently it is assessed by Berkeley County for Ad Valorem tax purposes at $37,900. It appears to be approximately 2.00 acres highlands and .37 acre lowlands with a per acre sale price of $47,258.

Market Area Comparable Sales Analysis

Comp 46 is a comparable land sale on Haney Branch Road near Eagle Harbor. It is described as Tract C, TMS # 194-00-02-023. It is a long, slender lot of 4.05 acres. It is divided into two parcels by Haney Branch Road. Sale was closed on 04/03/2002 for $12,000. Sale was recorded in Deed Book 2686, Page 86-Plat Cabinet X, Slide 114. The grantor was Calvin L. Stevens and the grantee was Fred Simmons. Currently it is assessed by Berkeley County for Ad Valorem tax purposes at $26,300. It appears to be approximately 3.55 acres highlands and .50 acre lowlands with a per acre sale price of $2,963.

Comp 47 is a comparable land sale on Highway 176 near Eagle Harbor. It is described as Tract 1, TMS # 194-00-01-001. It is a rectangular lot of 25 acres. Sale was closed on 06/21/2002 for $80,000. Sale was recorded in Deed Book 2808, Page 327-Plat Cabinet R, Slide 124. The grantor was Gretchen L. Moon and the grantee was Richard K. Bounds. Currently it is assessed by Berkeley County for Ad Valorem tax purposes at $37,500. It appears to be approximately 15.00 acres highlands and 10.00 acres lowlands with a per acre sale price of $3,200.

Comp 48 is a comparable land sale on Haney Branch Road near Eagle Harbor. It is described as Tract A, TMS # 194-00-02-021. It is a long, slender lot of 4.05 acres. It is divided into two parcels by Haney Branch Road. Sale was closed on 08/01/2003 for $80,000. Sale was recorded in Deed Book 3483, Page 53-Plat Cabinet X, Slide 114. The grantor was Luther M. Rollins and the grantee was Robbie A. Brunson. Currently it is assessed by Berkeley County for Ad Valorem tax purposes at $28,800. It appears to be

approximately 3.24 acres highlands and .81 acre lowlands with a per acre sale price of $19,753.

Comp 49 is a comparable land sale on Mockingbird Lane near Highway 176. It is described as Lot 11, TMS # 194-00-01-032. It is a rectangular lot of 3.53 acres. Sale was closed on 12/09/2003 for $25,500. Sale was recorded in Deed Book 3742, Page 18-Plat Cabinet P, Slide 383. The grantor was Linda Mitchell and the grantee was Mike Tumblin. Currently it is assessed by Berkeley County for Ad Valorem tax purposes at $21,200. It appears to be approximately 2.00 acres highlands and 1.53 acres lowlands with a per acre sale price of $7,224.

Comp 50 is a comparable land sale on Haney Branch Road near Eagle Harbor. It is described as Tract B, TMS # 194-00-02-022. It is a long, slender lot of 4.05 acres. It is divided into two parcels by Haney Branch Road. Sale was closed on 05/06/2004 for $10,000. Sale was recorded in Deed Book 3986, Page 45-Plat Cabinet X, Slide 114. The grantor was Randolph T. Esau and the grantee was Anthony M. Lemon. Currently it is assessed by Berkeley County for Ad Valorem tax purposes at $26,300. It appears to be approximately 3.65 acres highlands and .40 acre lowlands with a per acre sale price of $2,469.

Comp 51 is a comparable land sale on Leisure Drive in Leisure Estates. It is described as Lot 6, TMS # 194-00-02-150. It is a rectangular lot of 7.09 acres. Sale was closed on 03/01/2005 for $86,500. Sale was recorded in Deed Book 4550, Page 76-Plat Cabinet Q, Slide 333-I. The grantor was Five Star Properties and the grantee was James E. Hester. Currently it is assessed by Berkeley County for Ad Valorem tax purposes at $11,300. It appears to be approximately 5.67 acres highlands and 1.50 acres lowlands with a per acre sale price of $12,200.

Comp 52 is a comparable land sale on Hazelwood Drive near Highway 176. It is described as Lot 62 TMS # 194-00-03-133. It is a rectangular lot of 1.00 acres. Sale was closed on 01/07/2005 for $5,000. Sale was recorded in Deed Book 4478, Page 132-Plat Cabinet Q, Slide 294-F. The grantor was Joan Baxley and the grantee was Vincent D. Traeye. Currently it is assessed by Berkeley County for Ad Valorem tax purposes at $6,500. It appears to be approximately .50 acre highlands and .50 acre lowlands with a per acre sale price of $5,000.

Comp 53 is a comparable land sale on Sheep Island Road in the Sheep Island area. It is described as Lot B, Tract B, TMS # 194-00-03-110. It is a rectangular lot of 4.75 acres. Sale was closed on 03/17/2005 for $65,500. Sale was recorded in Deed Book 4700, Page 60-Plat Cabinet O, Slide 209-D. The grantor was William Specialty MTG, LLC and the grantee was Barry L. Middleton. Currently it is assessed by Berkeley County for Ad Valorem tax purposes at $18,100. It appears to be approximately 2.75 acres highlands and 2.00 acres lowlands with a per acre sale price of $13,789.

Comp 54 is a comparable land sale on Leisure Drive in Leisure Estates. It is described as Lot 7, TMS # 194-00-02-151. It is a rectangular lot of 7.95 acres. Sale was closed on

06/14/2005 for $110,000. Sale was recorded in Deed Book 4769, Page 223-Plat Cabinet Q, Slide 333-I. The grantor was Five Star Properties and the grantee was Andrew E. Miller. Currently it is assessed by Berkeley County for Ad Valorem tax purposes at $78,700. It appears to be approximately 6.67 acres highlands and 1.20 acres lowlands with a per acre sale price of $13,836.

Comp 55 is a comparable land sale on Broadleaf Drive in Autumn Creek. It is described as Lot 10, Section 1, TMS # 178-00-05-015. It is a long, slender lot of 4.42 acres. Sale was closed on 01/16/2006 for $115,000. Sale was recorded in Deed Book 5316, Page 133-Plat Cabinet Q, Slide 56-A. The grantor was Tyson L. Otts and the grantee was Roger D. Moore. Currently it is assessed by Berkeley County for Ad Valorem tax purposes at $44,200. It appears to be approximately 3.42 acres highlands and 1.00 acre lowlands with a per acre sale price of $26,019.

Comp 56 is a comparable land sale on Leisure Drive in the Sheep Island area. It is described as Lot A2, TMS # 194-00-02-160. It is a rectangular lot of 5.00 acres. Sale was closed on 01/30/2006 for $144,000. Sale was recorded in Deed Book 5334, Page 8-Plat Cabinet Q, Slide 287-A. The grantor was Malcolm J. Landry and the grantee was Karl R. Voepel II. Currently it is assessed by Berkeley County for Ad Valorem tax purposes at $32,500. It appears to be approximately 4.00 acres highlands and 1.00 acres lowlands with a per acre sale price of $28,800.

Eagle Harbor Comparable Sales Analysis

Wetland acreages versus lowland acreages for comparables were estimated from the Berkeley County GIS Mapping Service, National Wetlands Inventory overlay (SCDNR) and in no way are represented as exact. Exact acreages can only be determined by a Wetlands Delineation Survey, which this appraiser is not qualified to perform. Estimates of wetland acreages are presented for comparison purposes only and are useful in determining if there is a difference in value between highlands and lowlands.

Scope of work (attached) requires the appraiser to determine values as of various specified historic dates. This is a retrospective value opinion.

There were 7 sales of lots in Eagle Harbor in calendar year 2001 included in the analysis. The smallest lot was 1.71 acres and the largest was 2.00 acres. All sold at approximately the same value per acre with the exception of comp 5, which sold for considerably less per acre. It is impossible to determine the exact reason for this, so it is excluded, leaving us with 6 sales from a low of $12,408 per acre and a high of $12,816 per acre. The average price per acre was $12,628 and the median price was $12,596.

There were 5 sales of lots in Eagle Harbor in calendar year 2002 included in the analysis. The smallest lot was 1.71 acres and the largest was 10.82 acres. They sold from a low of $12,875 per acre to a high of $19,928 per acre. The average price for the five lots was $15,135 and the median price was $13,023.

There were10 sales of lots in Eagle Harbor in calendar year 2003 included in the analysis. The smallest lot was 1.91 acres and the largest was 7.86 acres. All sold at approximately the same value per acre with the exception of comp 16, which sold for considerably less per acre. Again, it is impossible to determine the exact reason for this, so it is excluded, leaving us with 9 sales from a low of $11,691 per acre and a high of $17,972 per acre. The average price per acre was $15,493 and the median price was $15,761.

There were 13 sales of lots in Eagle Harbor in calendar year 2004 included in the analysis. The smallest lot was 1.71 acres and the largest was 5.33 acres. They sold from a low of $14,952 per acre to a high of $21,637 per acre. The average price per acre was $17,102 and the median price was $17,000.

There were 7 sales of lots in Eagle Harbor in calendar year 2005 included in the analysis. The smallest lot was 2.00 acres and the largest was 7.86 acres. All sold at approximately the same value. The 7 sales range in sale price from a low of $18,336 per acre to a high of $25,000 per acre. The average price per acre was $21,215 and the median price was $20,636.

To date, there have been 3 sales of lots in Eagle Harbor in calendar year 2006 found by the appraiser. The smallest lot was 2.00 acres and the largest was 4.06 acres. The 3 sales range in sale price from a low of $32,512 per acre to a high of $47,258 per acre. The average price per acre was $39,907 and the median price was $39,950.

Of the 45 sales we located in Eagle Harbor, 14 of them appear to have sold with some lowlands according to Berkeley county GIS. The percentage of lowlands ranges from approximately 10% to almost 46%. Subject property lowland percentage is 25%.

Further, we researched the comps for any that were re-sales. We identified 9:

Comp 1/24 sold originally on 11/12/2001 for $21,916 and then resold on 07/20/2004 for $37,000. This was an increase of 68.8% in 32 months or 2.2% per month.

Comp 15/36 sold originally on 03/03/2003 for $90,000 and then resold on 01/14/2005 for $126,500. This was an increase of 40.5% in 22 months or 1.8% per month.

Comp 32/41 sold originally on 11/18/2004 for $91,649 and then resold on 12/01/2005 for $100,000. This was an increase of 9.1% in 12 months or .8% per month.

Comp 38/43 sold originally on 03/21/2005 for $44,271 and then resold on 01/24/2006 for $79,900. This was an increase of 80.4% in 10 months or 8.0% per month.

Comp 20/40 sold originally on 03/31/2003 for $110,054 and then resold on 05/10/2005 for $148,000. This was an increase of 34.5% in 25 months or 1.4% per month.

Comp 2/9 sold originally on 11/16/2001 for $21,916 and then resold on 09/26/2002 for $33,000. This was an increase of 50.6% in 10 months or 5.1% per month.

Comp 18/37 sold originally on 03/21/2003 for $37,843 and then resold on 01/03/2005 for $50,000. This was an increase of 32.1% in 22 months or 1.4% per month.

Comp 27/45 sold originally on 09/24/2004 for $44,500 and then resold on 04/12/2006 for $112,000. This was an increase of 151.7% in 18 months or 8.4% per month.

Comp 11/42 sold originally on 12/16/2002 for $37,920 and then resold on 06/07/2005 for $56,250. This was an increase of 48.3% in 30 months or 1.6% per month.

Comps 32/41, 38/43 and 27/45 appear outside the norms for value increases in Eagle Harbor. Dropping the extremes gives us an average increase of 2.25% per month between November 2001 and April 2006 and a median increase of 1.7%. If we include all the re-sales, it gives us an average increase of 3.41% and a median increase of 1.8%. If we look at the increase in sales price of the average lot sale between November 2001 and December 2005 we see an increase of 68% over the 48 months, or a monthly increase of 1.4 %. If we include the three sales in 2006, we have an increase of 216% over the 54 months, or a monthly increase of 4.15%. It is the opinion of this appraiser that statistically, 1.8% per month is reasonable for determining value increases during this timeframe.

Market Area Comparable Sales Analysis

Of the 11 non Eagle Harbor sales we located in the immediate vicinity, 2 were in 2002, 2 in 2003, 1 in 2004, 4 in 2004, 4 in 2005 and 2 in 2006. In 2002 the average per acre sale price was $3,082, in 2003 $13,488, in 2004 $2,469, in 2005 $11,094 and in 2006 to date $27,410. Comps 51 and 54 are most comparable to our subject in that they are located in a newly developed subdivision, Leisure Estates, very near the subject. There per acre sales price in 2005 was $12,200 with approximately 21% wetlands and $13, 836 with approximately 15% wetlands respectfully.

Of the 9 remaining non Eagle Harbor sales, comps 46, 48 and 50 are divided by Haney Branch Road and are not considered valid comparables. Comp 47 is 25 acres in size, will not perk, suffers from regression and would not be considered comparable. Comp 49 closed on 12/09/2003 and is dated. The remaining 4 comps average $18,402 per acre with all 4 properties having some lowlands. The dates of sale for the 4 properties are from January 2005 to January 2006.

Additionally, we analyzed the seven sales of vacant lots in Stone Gate Subdivision. All sales closed in the last year. Stone Gate is a new subdivision in the New Hope area of Berkeley County. It is similar to Eagle Harbor in that it is a gated community with covenants and restrictions. The roads are paved and septic permits are available. All of the lots are advertised as "high ground". The 7 sales range in size from a low of 2.23 acres to a high of 2.99 acres. The average per acre sale price was $51,504. Stone Gate would be considered a superior subdivision to Eagle Harbor.

We also did an analysis of a subdivision known as Autumn Creek. It is very close to Eagle Harbor, has covenants and restrictions but is not gated. At present, the roads are unpaved and there are no utilities. The lots are advertised as "high". We identified 4 sales in 2003 ranging in size from a low of 2.6 acres to a high of 4 acres. The average per acre sale price was $14,558. We identified 3 sales in 2004 ranging in size from a low of 3.0 acres to a high of 4.5 acres. The average per acre sale price was $19,429. We identified 3 sales in 2005 ranging in size from a low of 3.0 acres to a high of 4.0 acres. The average per acre sale price was $23,721. In 2006, to date, we have identified 3 sales ranging in size from a low of 3.4 acres to a high of 4.4 acres. The average per acre sale price was $28,197.

Final Reconciliation

The process of reconciliation involves the analysis of each approach to value. The quality of data applied, the significance of each approach as it relates to market behavior and defensibility of each approach are considered and weighed.

In this appraisal, only one approach to value was applied, the Sales Comparison Approach.

Value Conclusion

Based on the data and analyses developed in this appraisal, we have reconciled to the following retrospective values as requested in the attached scope of work.

1. What is the value of the entire 7.86 acre tract as of December 3, 2003, if in fact this property had been properly sub-dividable into three separate residential lots, with each estimated two acre tract being fully capable of use as a single family residence?

In order to address this question, we need a sale of approximately 2 acres of high land. A comparable sample would be comps 1, 2, 4, 13, 18, 24 and 25, all of which are highlands only:

Comp 1 is 1.71 acres and sold 11/20/2001 for $12,816 per acre. Adjusting at 1.8% per month gives us a retrospective value as of 12/01/2003 of $18,670 per acre.

Comp 2 is 1.71 acres and sold 11/16/2001 for $12,816 per acre. Adjusting at 1.8% per month gives us a retrospective value as of 12/01/2003 of $18,670 per acre.

Comp 4 is 2.00 acres and sold 11/16/2001 for $12,408 per acre. Adjusting at 1.8% per month gives us a retrospective value as of 12/01/2003 of $18,076 per acre.

Comp 13 is 2.15 acres and sold 02/17/2003 for $16,000 per acre. Adjusting at 1.8% per month gives us a retrospective value as of 12/01/2003 of $18,880 per acre.

Comp 18 is 2.14 acres and sold 03/21/2003 for $17,684 per acre. Adjusting at 1.8% per month gives us a retrospective value as of 12/01/2003 of $20,230 per acre.

Comp 24 is 1.71 acres and sold 07/20/2004 for $21,637 per acre. Adjusting at 1.8% per month gives us a retrospective value as of 12/01/2003 of $18,521 per acre.

Comp 25 is 2.26 acres and sold 08/27/2004 for $15,487 per acre. Adjusting at 1.8% per month gives us a retrospective value as of 12/01/2003 of $13,133.

Comps 18 & 25 are outside of the statistical mean and an acre value of) $18,500 would be considered reasonable. Therefore the retrospective value under the conditions of question 1 is $145,410.

2. What is the retrospective value of a 2 acre lot in Eagle Harbor on the following dates:

12/03/2003	$37,000	($18,500/AC) = 37
07/01/2004	$41,662	
12/31/2004	$46,161	
07/01/2005	$51,146	
11/01/2005	$54,829	
04/19/2006	$59,764	

This is a straight line appreciation using a regression analysis chart.

3. Average yearly percentage increase in the price per acre of a typical lot in the Eagle Harbor subdivision from 12/01/2003 to present is 21.6% straight line. 1.8%/month

4. What is the approximate appraised value of the residential tract as of the following dates with the following conditions:
   - A. No public water and sewer and land is incapable of supporting a septic system for more than one residence;
   - B. One-third to one-half the 7.86 acre tract is protected wetlands and is thus incapable of being subdivided or further improved;
   - C. The property is located in a subdivision that is not gated, and the roads are private and not accepted for public maintenance;
   - D. No valid homeowners association exists to aid in the preservation and maintenance of the private roads and common areas;
   - E. No enforceable restrictive covenants are in place that would contain those usual restrictions to preserve the value of the properties.

   The methodology utilized to determine the above retrospective values was to find comps with the same characteristics referenced above, adjust for market conditions and any differences between comps. The best available comps for this analysis are comps 49, 51, 53, 54,:

Comp 49 is 3.53 acres and sold 12/09/2003 for $7,224 per acre. It is on a private unpaved road that is not publicly maintained. It is like the subject in all other characteristics. The lot is comprised of 15% lowlands.
Comp 51 is 7.09 acres and sold 03/01/2005 for $12,200 per acre. It is on a publicly maintained paved road. It is like the subject in all other characteristics. The lot is comprised of 27% lowlands.
Comp 53 is 4.75 acres and sold 03/17/2005 for $13,789 per acre. It is on a publicly maintained paved road. It is like the subject in all other characteristics. The lot is comprised of 42% lowlands.
Comp 54 is 7.95 acres and sold 06/14/2005 for $13,836 per acre. It is on a publicly maintained paved road. It is like the subject in all other characteristics. The lot is comprised of 43% lowlands.
Comp 49 would be adjusted for a dirt road upward to a value per acre of $7,900 on 12/03/2003. Comp 51 would be adjusted for market conditions and publicly maintained road downward to a value per acre of $7,876 on 12/03/2003. Comp 53 would be adjusted for market conditions, location and publicly maintained road downward to a market value of $7,945 on 12/03/2003. Comp 54 would be adjusted for market conditions and publicly maintained road downward to a market value of $8,285 on 12/03/2003. A per acre value on 12/03/2003 is reconciled to $8,000.

The retrospective value of the 7.86 acre tract in Eagle Harbor on the following dates is as follows:

12/03/2003	$62,880
07/01/2004	$70,803
12/31/2004	$78,450
07/01/2005	$86,992
11/01/2005	$93,180
04/19/2006	$101,566

Certification Statement

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

- The statements of fact contained in this report are true and correct.
- The reported analyses, opinions and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, unbiased professional analyses, opinions and conclusions.
- I have no present or contemplated future interest in the property that is the subject of this report, and I have no personal interest or bias with respect to the parties involved.
- My compensation is not contingent upon the reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value estimate, the attainment of a stipulated result, or the occurrence of a subsequent event.
- My analyses, opinions, and conclusions were developed and this report has been prepared in conformity with the Uniform Standards of Professional Appraisal Practice (USPAP).
- I have made a personal inspection of the property that is the subject of this report.
- No one provided significant professional assistance to me in the development of the conclusions contained in this report.
- The Appraiser has established sufficient competence to appraise this property through education and experience, in addition to the internal resources of the appraisal firm.
- My value conclusion and other opinions expressed herein are not based on a requested minimum value, a specific value or approval of a loan.

License

South Carolina
Real Estate Appraisers Board

EDWARD B. CARTER

Is hereby entitled in practice as a

Certified General Appraiser

License Number: **CG. 4057**

Expires **06/30/2006**
OFFICE COPY

Administrator

Resume

Appraisal Services of South Carolina, Inc.

Bill Ford
Ed Carter
Bruce Davis
Paul Thies
Rick Moody

P.O. Box 1385
Summerville, SC 29484
Office: (843) 875-1487
Fax: (843) 851-0323
Mob: (843) 709-2555

Qualifications of Appraiser

Edward B. (Ed) Carter
SC State Certified General Real Estate Appraiser
CG 4057, MSA, MFLA, MRA
E-mail: ecarter@asosc.com

Education

1966 BA in Political Science; The Citadel, Charleston, SC
1995 MS in Aeronautical Science; Embry-Riddle Aeronautical Institute, Daytona Beach, FL

Employment History

1966-1992 United States Air Force; Colonel (Ret), Fighter Pilot
1993-2000 Dorchester County; Airports Mgr., Deputy County Administrator, County Administrator
2001-Present State Licensed Real Estate Appraiser

Professional Associations

Vice-president: South Carolina Professional Appraisers Coalition
Member: National Association of Master Appraisers
Member: SC Association of Realtors, Appraisal Section
Designations: Master Senior Appraiser (MSA), Master Farm & Land Appraiser (MFLA), Master Residential Appraiser (MRA)

Appraisal Education

2001 Principles of Residential Appraisal, Trident Technical College, Charleston, SC
2001 Market Data Analysis, Trident Technical College, Charleston, SC
2001 Uniform Standards of Professional Appraisal Practice, Trident Technical College, Charleston, SC
2001 Residential Analysis for Small Income Property Appraisals, Trident Technical College, Charleston, SC
2003 Introduction to Income Property Appraisal, JT & T Seminars, Columbia, SC
2004 7-Hour National USPAP Update Course, JT & T Seminars, Columbia, SC
2004 Discounted Cash Flow Analysis, JT & T Seminars, Columbia, SC
2004 Advanced Income Capitalization Procedures, JT & T Seminars, Columbia, SC
2004 Applied Income Property Valuation, JT & T Seminars, Columbia, SC

2006 Small Hotel/Motel Valuation, Appraisal Institute, Columbia, SC

Community Service

The Citadel Alumni Association-Elected District 1 Director (third term)
Summerville Citadel Club-Past President
Rotary Club of Summerville-Past President
Rotary district 7770-Assistant District Governor 2005-2006
Tri-County Regional Chamber of Commerce-Past President
The South Carolina Aviation Association-Past President
Veterans Trust Fund of SC-Board of Directors
First National Bank of SC-Board of Advisors

Appraisal Experience

I am currently affiliated with Appraisal Services of South Carolina. I am performing appraisals on commercial properties, residential properties, 2-4 family properties and vacant land for sales, refinancing, probate, divorce, insurance and tax purposes. Sample appraisals available upon request.

Limiting Conditions and Assumptions

Acceptance of and/or use of this report constitutes acceptance of the following limiting conditions and assumptions; these can only be modified by written documents executed by both parties.

This appraisal is to be used only for the purpose stated herein. While distribution of this appraisal in its entirety is at the discretion of the client, individual sections shall not be distributed; this report is intended to be used in whole and not in part.

No part of this appraisal, its value estimates or the identity of the firm or the appraiser(s) may be communicated to the public through advertising, public relations, media sales, or other media.

All files, work papers and documents developed in connection with this assignment are the property of Appraisal Services of SC, Inc. Information, estimates and opinions are verified where possible, but cannot be guaranteed. Plans provided are intended to assist the client in visualizing the property; no other use of these plans is intended or permitted.

No hidden or unapparent conditions of the property, subsoil or structure, which would make the property more or less valuable, were discovered by the appraiser(s) or made known to the appraiser(s). No responsibility is assumed for such conditions or engineering necessary to discover them. Unless otherwise stated, this appraisal assumes there is no existence of hazardous materials or conditions, in any form, on or near the subject property.

Unless stated herein, the property is assumed to be outside of areas where flood hazard insurance is mandatory. Maps used by public and private agencies to determine these areas are limited with respect to accuracy. Due diligence has been exercised in interpreting these maps, but no responsibility is assumed for misinterpretation.

Good title, free of liens, encumbrances and special assessments is assumed. No responsibility is assumed for matters of a legal nature.

Necessary licenses, permits, consents, legislative or administrative authority from any local, state or Federal government or private entity are assumed to be in place or reasonably obtainable.

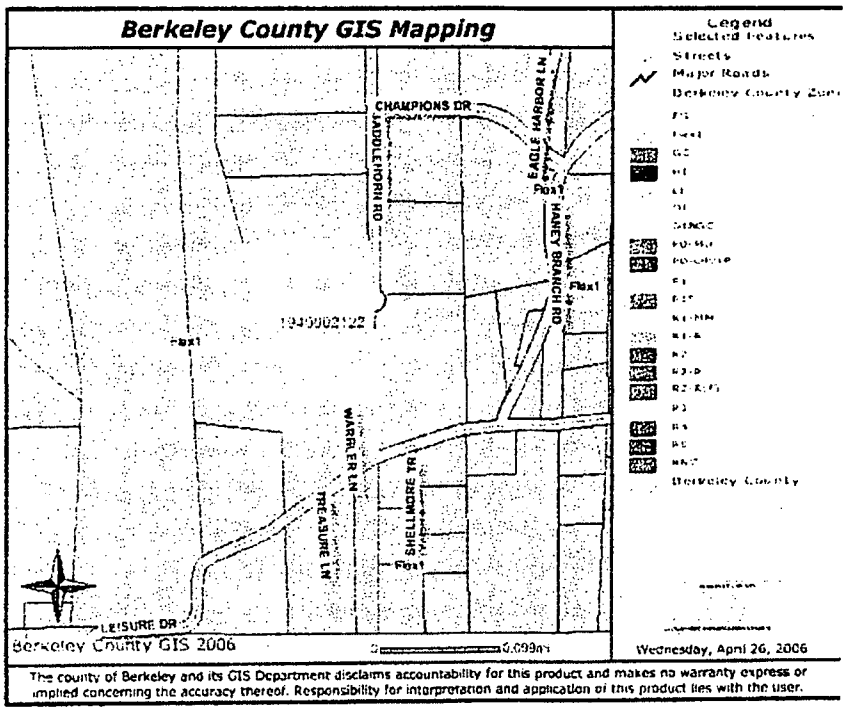
It is assumed there are no zoning violations, encroachments, easements or other restrictions which would affect the subject property, unless otherwise stated.

The appraiser(s) are not required to give testimony in Court in connection with this appraisal. If the appraisers are subpoenaed pursuant to a court order, the client agrees to pay the appraiser(s) our regular per diem rate plus expenses.

Appraisals are based on the data available at the time the assignment is completed. Amendments/modifications to appraisals based on new information made available after

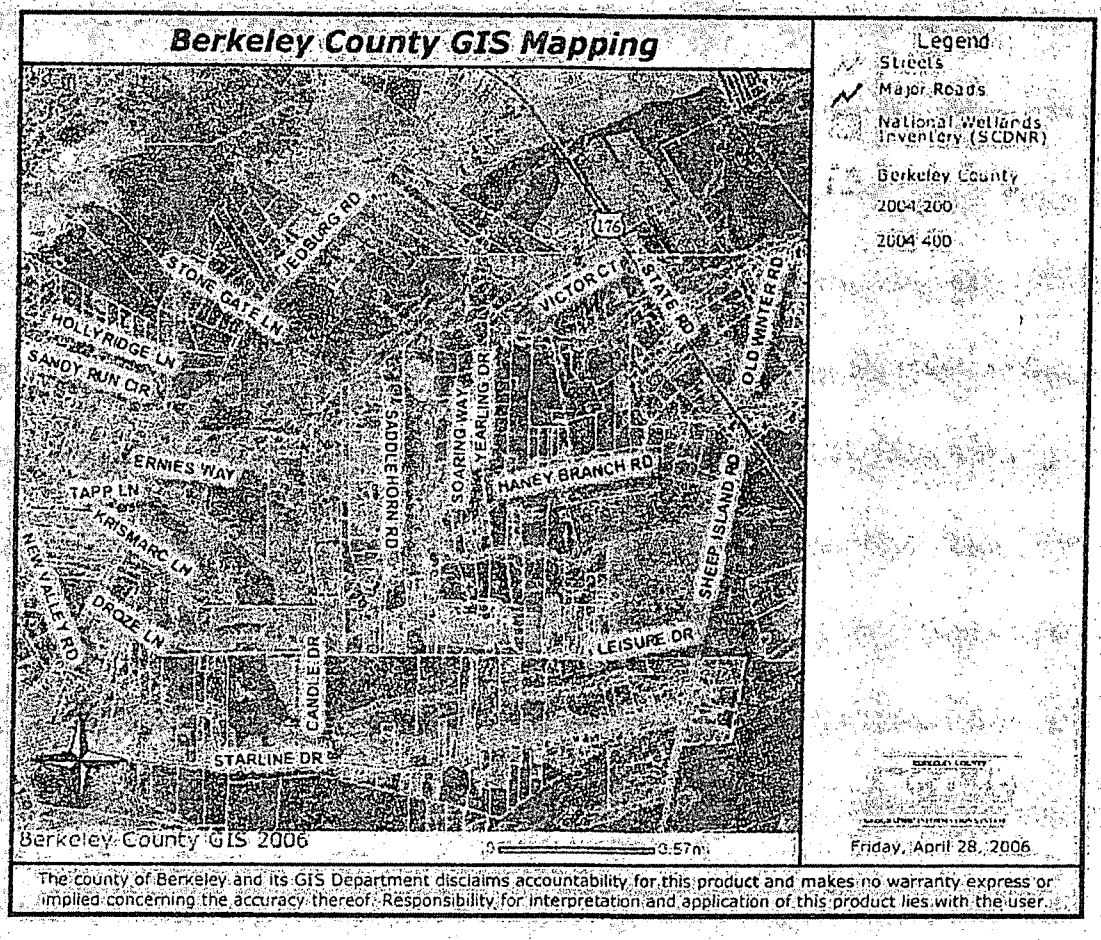
the appraisal was completed will be made, as soon as reasonably possible, for an additional fee.

Zoning Map


Berkeley County GIS Mapping
CHAMPIONS DR
SADDLEHORN RD
EAGLE HARBOR LN
HANEY BRANCH RD
WARBLER LN
TREASURE LN
SHELLMORE TR
LEISURE DR
Flex1
Legend
Selected Features
Streets
Major Roads
Berkeley County
Berkeley County GIS 2006
Wednesday, April 26, 2006
The county of Berkeley and its GIS Department disclaims accountability for this product and makes no warranty express or implied concerning the accuracy thereof. Responsibility for interpretation and application of this product lies with the user.

Wetlands Overlay

Map Output



Deed

000039116 Bk:03723 PG:00200

FILED: RECORDED: INDEXED
12/03/2003 02:59:39PM
Rec Fee: 10.00 St Fee: 235.30
Co Fee: 99.55 Pages: 4
Issued to: LOWCOUNTRY TITLE
Register of Deeds Berkeley Co.: SC
Cynthia B. Forte

PRICE 03-11-021

STATE OF SOUTH CAROLINA)
)
COUNTY OF BERKELEY COUNTY)

DEED

NOW THEREFORE:

KNOW ALL MEN BY THESE PRESENTS, I, Belinda Fox, in the State aforesaid for/and in the consideration of the sum of Ninety Thousand Four Hundred and 00/100 DOLLARS ($90,400.00), TO ME IN HAND PAID AT AND BEFORE THE SEALING OF THESE PRESENTS BY, Ronald E. Price and Diana R.B. Price, the receipts whereof are hereby acknowledged, have granted, bargained, sold and released, and by these presents do grant, bargain, sell and release unto the said Grantees, Ronald E. Price and Diana R.B. Price, their heirs and assigns, my interest forever in the following described property, to-wit:

EXHIBIT "A"

All that certain piece, parcel, or tract of land, situate, lying and being in Second Goose Creek Tax District, County of Berkeley, State of South Carolina, measuring and containing 7.861 acres, more or less, known and designated as Lot 20, "Prepared for: Eagle Harbor Incorporated, Danny L. Gilbert, CEO, Berkeley County, South Carolina", as more particularly shown and delineated on a plat entitled: "FINAL PLAT OF EAGLE HARBOR, PHASE II, ST. JAMES, GOOSE CREEK PARISH" prepared by William M. Ferguson, Stantec Consulting Services, Inc., dated July 25, 2002, and recorded September 26, 2002, in Plat Book P, at Page 281-A, in the RMC Office for Berkeley County, South Carolina. Said property having such size, shape, metes, butting and bounds as will by reference to said plat.

Being a portion of the same property conveyed to Belinda Fox by deed of Bennie Harvey ordel, a/k/a Bennie Harvey Ordell, dated August 13, 2001 and recorded August 21, 2001, in Book 2382, at Page 143, in the RMC Office for Berkeley County, South Carolina.

TMS # 194-00-02-031

Grantees' Address: ~~Lot 20, Phase II, Eagleharbor~~
P.O. Box 191
Mt. Blanchard, OH 45867

RECEIVED
12/03/2003
ASSESSOR
BERKELEY COUNTY SC

4

Wetlands Delineation

DEPARTMENT OF THE ARMY
CHARLESTON DISTRICT, CORPS OF ENGINEERS
69A Hagood Avenue
CHARLESTON, SOUTH CAROLINA 29403-5107

REPLY TO ATTENTION OF

November 7, 2005

Regulatory Division

Ronald and Diana Price
1104 Saddlehorn Road
Summerville, South Carolina 29483

Re: SAC 87-2005-2039-2
Berkeley County

Dear Mr. and Mrs. Price:

This is in response to your letter of September 20, 2005, requesting a wetland determination for a 7.88 acre tract located at the terminus of Saddlehorn Road, in Berkeley County, South Carolina. The project area is depicted on the survey plat you submitted which was prepared by Ashley Engineering & Surveying, Inc., dated October 20, 2004, and entitled "CLOSING SURVEY FOR DON PRICE & DIANA PRICE CITY OF GOOSE CREEK BERKELEY COUNTY, SOUTH CAROLINA."

I have depicted the approximate boundaries of wetlands and other waters of the United States on a copy of the plat referenced above. The property in question contains approximately 2 acres of federally defined freshwater wetlands or other waters. However, none of these aquatic resources are considered to be subject to the jurisdiction of this office due to a recent decision by the U.S. Supreme Court. The location and configuration of these areas, as well as their status relative to jurisdiction, are reflected on the plat referenced above.

It should be clearly noted that the decision of the U.S. Supreme Court to exclude certain waters and wetlands from federal jurisdiction under the Clean Water Act has no effect on any state or local government restrictions or requirements concerning aquatic resources, including wetlands. You are strongly cautioned to ascertain whether such restrictions or requirements exist for the area in question before undertaking any activity which might destroy or otherwise impact these wetland resources.

Based on an on-site inspection and a review of aerial photography and soil survey information, it has been determined that the boundaries shown on the referenced plat are a reasonable approximation of the location and boundaries of the wetlands or other waters found on this site. However, you are cautioned that this delineation is approximate, subject to change, and should be used for planning purposes only. In order for a more accurate determination to be provided, these areas should be surveyed and plotted. Upon receipt of such a plat, this office can then issue a letter verifying the accuracy of the actual boundaries. Please note that this office does not require that these non-jurisdictional areas be surveyed.. However, if the landowner voluntarily wishes to obtain a more accurate determination or needs to perform this level of mapping due to the requirements of state or local governmental entities, we will provide a review and verification of this mapping upon request.

000039116 Bk:03723 PG:00201

TOGETHER with all and singular the Rights, Members, Hereditaments and Appurtenances to the Premises belonging, or in any way incident or appertaining.

TO HAVE AND TO HOLD, all and singular the premises before mentioned unto the Grantees, Ronald E. Price and Dana RB Price, their heirs and assigns forever.

And the Grantor does hereby bind them and their heirs and assigns, to warrant and forever defend, all and singular, the said Premises unto the said Ronald E. Price and Dana RB Price, their heirs and assigns, against them and their heirs, and all persons whomsoever lawfully claiming or to claim the same or any part thereof.

IN WITNESS WHEREOF, the Grantor has hereunto set her Hand and Seal this 25 day of November, 2003 in the year of our Lord two thousand three and in the two hundred and twenty-seventh year of the Sovereignty and Independence of the United States of America.

Signed, Sealed and Delivered
in the Presence of:

Nancy M. Allen
Witness #1

Belinda Fox (Seal)
Belinda Fox

Peggy S. Hogan
Witness #2

PRICE 03-11-021

000039116 Bk:03723 PG:00202

STATE OF SOUTH CAROLINA)
) PROBATE
COUNTY OF CHARLESTON)

PERSONALLY appeared before me the undersigned witness, who, being duly sworn, says that (s)he saw the within named Grantor sign, seal and deliver the within Deed; and that (s)he with the other witness whose signature appears above witnessed the execution thereof.

SWORN to before me, this
25 day of November, 2003.

Nancy M. Allen
Witness #1

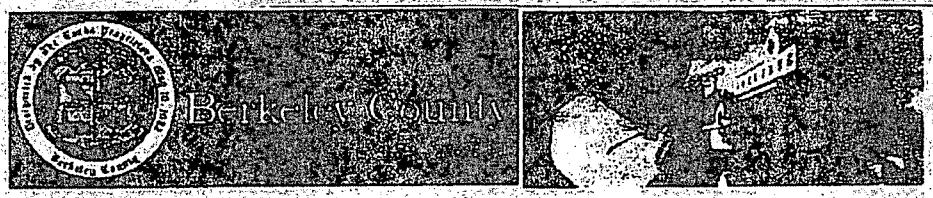
Peggy S. Hagan (Seal)
NOTARY PUBLIC FOR SOUTH CAROLINA

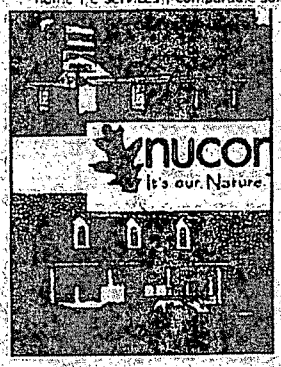
My Commission Expires: 11-7-2012

PRICE 03-11-021
STATE OF SOUTH CAROLINA) AFFIDAVIT
)

Date of Transfer of Title
(Closing Date) November _ , 2003

Tax Card





Assessor Ownership, Location, and Tax Information

The below information represents all pertinent assessor data based upon the parcel number that you selected. To view the Real Property with Mapping interface simply click the "Map/Assess.Info" button.

Ownership & Location Information

Tax Information

Map/Assess.Info | Property Card

Ownership & Location Information:

Parcel #:	1940002122
Location:	1104 SADDLEHORN ROAD
Legal Description:	LOT 20 BLK PHASE II
Current Owner:	PRICE RONALD E AND DIANA R B
Deed Book/Page:	3723 /200
Plat Book/Page:	CAB P /281A
Previous Owner Name:	PRICE RONALD E AND DIANA R B
Lender Name:	USAA FEDERAL SAVINGS BANK 5320
Tax District:	08
Neighborhood:	302 /EAGLE HARBOR
Recorded Date:	12/03/2003
# Of Buildings:	1
Current Taxable Value:	263,000.00

back to top

Tax Information:

Tax Year	Receipt #	Assessed Value	Taxes Owed	Due Date	Paid Date	Receipt Name	Status
2005	0062453	10,520.00	2,065.99	01/15/2006	12/08/2005	PRICE RONALD E AND DIANA R B	PAID
2004	0060216	4,240.00	977.19	01/15/2005	01/05/2005	PRICE RONALD E AND DIANA R B	PAID
2003	0032772	4,240.00	968.14	01/15/2004	12/02/2003	FOX BELINDA	PAID

instructions feedback faq disclaimer

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Property Card


```
DATE  4/03/06            BERKELEY COUNTY, SOUTH CAROLINA            PAGE 1
TIME 14:25:00                        PROPERTY  CARD
194-00-02-122- -C TO 08 JUR 1 ASMD 302 20  ID BO CARD 1 OF 1 LOT   .00 ACRES    7.86
PRICE RONALD E AND DIANA R B              LOT 20  BLK      SEC      SUBD EAGLE HARBOR
1104 SADDLEHORN ROAD                PHASE II                          FEE    70.00
SUMMERVILLE              SC 29483  ZONING CODES: Y-1
DIST    3 AREA    0  SUB    2  PROP ADDRESS: 01104   SADDLEHORN ROAD
-----------------------------------------------------------------------------------
    6.86 07 5-10 ACRES                14000                 96000 AQ
    1.00 01 1 ACRE IMPROVED ON HIGHW 16000                  16000 QR
-----------------------------------------------------------------------------------
TYPE   LAND    BLDG. CT.    REMARKS:     TOTAL VALUE:    357,500 ASSMT    10,520
QR    16000   245500  1     NO CHG FOR 2004 REASS BO 8/03
OT                          SALES 11/03
AQ     1500                 ADDED NEW RES FOR 2005 BO 1/05
AC
MA    96000
-----------------------------------------------------------------------------------
 1  001 RESIDENCE      2    2004    1517     2622  73.00    2500 191406 QR     193906
 1      GARAGE                              1568  22.00          34496 QR      34496
 1      PORCHES                             1424  12.00          17088 QR      17088

                          .......
                          :     :
                          :ONE  :                ..12..
                          :     :                :    :
                        16:STOR :16             6:    :
                          :     :                :    :
                     .....:.....:.....21........:    :
                     :    :                     :    :
        VINYL SIT    :    :                     :    :
                     :    :                     :    :
        CONP/GAB     :    :   TWO STORY         :    :
                     :    :                     :    :
        SLAB         :    :   RES               :    :
                     :    :                     :    :
                     :12  :22   ----------------:12  :
                     :    :                     :    :
                     :    :     !   BOTTOM GAR  :    :
                     :    :                     :    :
                     :    :-----!   CATH        :    :
                     :    :                     :    :
                     :    :     !               :    :
                     :    :                     :    :
                     :    :......!.49............:
                     :                           :
                     :           PORCH       8   :
                     :                           :
                     :...........................:
LF=   75.00  FF=   70.00  OTHER FEE =
PREV-OWNER:  FOX BELINDA                          FLD ID:     194-00-02-031
12/03/2003 11/25/2003 3723-200  CAB P -281A     $90,400  04/03/2006 WEB
-----------------------------------------------------------------------------------
PREVIOUS OWNER INFO FOR TMS NUMBER 194-00-02-122
     PREVIOUS OWNER        RECORDED SALDTE   DEED PGE  PLAT   PGE     ACRE  SALE PR
PLAT RECORDED              20020926 20020920           CAB P  281A  1.0 LT        0
FOX BELINDA                20031203 20031125 3723 200  CAB P  281A    7.86    90400
```

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). *If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination:*

Lateral Extent of Jurisdiction: (Reference: 33 CFR parts 328 and 329)

☒ Ordinary High Water Mark indicated by:
- ☐ clear, natural line impressed on the bank
- ☐ the presence of litter and debris
- ☐ changes in the character of soil
- ☐ destruction of terrestrial vegetation
- ☐ shelving
- ☐ other:

☒ High Tide Line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gages
- ☐ other:

☒ Mean High Water Mark indicated by:
☐ survey to available datum; ☐ physical markings; ☐ vegetation lines/changes in vegetation types.

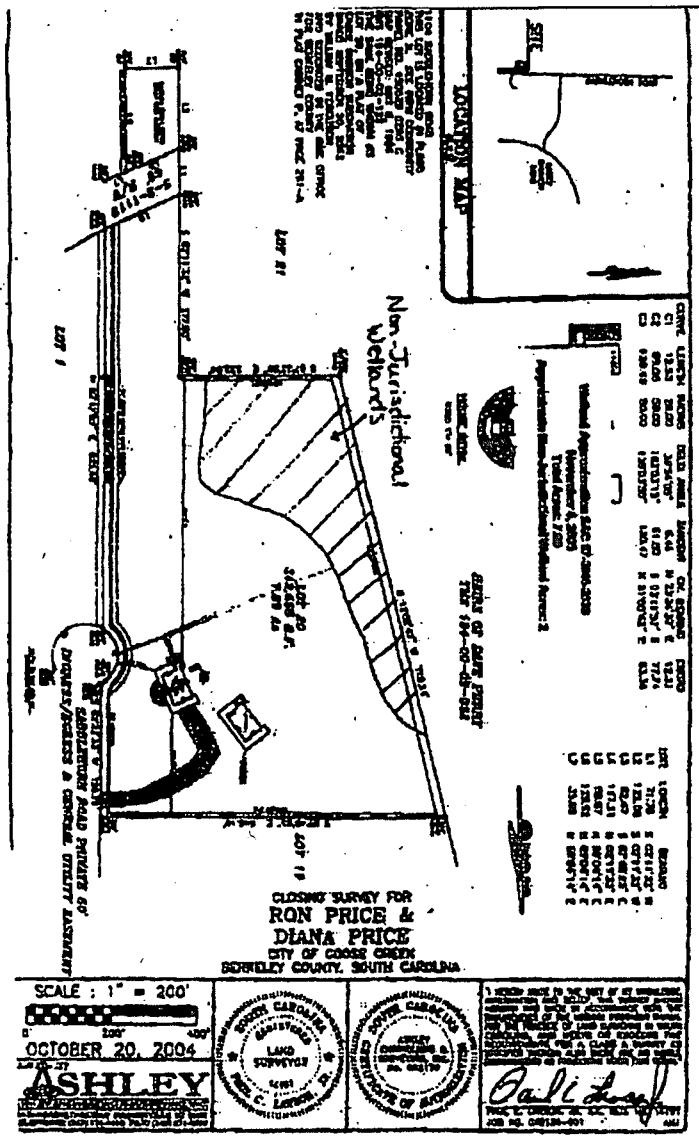
☒ Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by: USACE

Basis For Not Asserting Jurisdiction:

☒ The reviewed area consists entirely of uplands.
☒ Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7).
☒ Headquarters declined to approve jurisdiction on the basis of 33 CFR part 329.3(e)(3).
☒ The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States:
- ☐ Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3.
- ☐ Artificially irrigated areas, which would revert to upland if the irrigation ceased.
- ☐ Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.
- ☐ Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons.
- ☐ Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a).
- ☒ Isolated, interstate wetland with no nexus to interstate commerce.
- ☐ Prior converted cropland, as determined by the Natural Resources Conservation Service.

Explain rationale:
- ☐ Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale:
- ☐ Other (explain):

4


Non-Jurisdictional Wetlands
LOCATION MAP
CLOSING SURVEY FOR
RON PRICE &
DIANA PRICE
CITY OF GOOSE CREEK
BERKELEY COUNTY, SOUTH CAROLINA
SCALE : 1" = 200'
OCTOBER 20, 2004
ASHLEY

TOTAL P.05

Engagement Letter/Scope of Work

CHELLIS & FRAMPTON, P.A.
Attorneys at Law

JAMES E. CHELLIS
JOHN C. FRAMPTON
G. WARING PARKER
MICHAEL D. MOORE
JOHANNA B. OWENS

Reply To: POST OFFICE BOX 430 SUMMERVILLE, SC 29484
Office Address: 112 WEST FOURTH ST. NORTH SUMMERVILLE, SC 29483
TELEPHONE (843) 871-7766
TELECOPIER (843) 875-6657
E-MAIL: [illegible]

November 1, 2005

Tommy Hartnett
Hartnett Realty, Inc.
134 Meeting Street
Charleston, SC 29401

Re: ***Diana and Ronald Price vs. Eagle Harbor, Inc., et al***
Property Valuation of Lot 20, Eagle Harbor, Phase II, Tax Map # 194-00-02-122

Dear Tommy:

I enjoyed speaking with you last week concerning the above referenced property. In connection with your efforts on our behalf, I would appreciate it if you could determine the following so that we may property determine our contractual losses:

1) Using the comparable sales approach, what would be the value of the entire 7.86 acre tract as of December 3, 2003, if in fact this property had been properly sub-dividable by the Prices into three separate residential lots, with each estimated two acre tract being fully capable of use as a single family residence?

2) Using the comparable sales approach, what could the Prices expect to realize in gross proceeds from the sale of an otherwise unimproved, residential two acre lot in the Eagle Harbor Subdivision on the following dates, to wit:

a) December 3, 2003;
b) July 1, 2004;
c) December 31, 2004;
d) July 1, 2005;
e) The present date, November 1, 2005.

3) Using the comparable sales approach, could you determine the average yearly percentage increase in the price per acre of a typical residential lot in the Eagle Harbor Subdivision from December 3, 2003 through to the present?

4) Using any acceptable valuation means at your disposal, could you please determine the approximate appraised value of the residential tract actually purchased by the Prices as of the dates indicated above, assuming the truth of the following facts:

a) The land is situated such that county water and sewer service is not available and the land is otherwise incapable of supporting a septic system for more than one single family residence;

b) Approximately one-third to one-half the 7.86 acre tract is located in an area designated as protected wetlands and is thus incapable of being subdivided or further improved for residential and/or agricultural purposes;

c) The property is located in a subdivision that is not gated, and the roads contained in that subdivision are private and likely not to be accepted by the County in the foreseeable future for public maintenance;

d) No valid homeowner's association exists so as to aid in the preservation and maintenance of the private roads and common areas located in the subdivision;

e) No enforceable restrictive covenants are in place that would otherwise contain those usual restrictions deemed necessary and proper to preserve and protect the value and continued integrity of the properties comprising the subdivision.

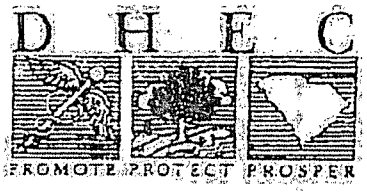
Your analysis should provide a good start toward determining the Price's economic loss in this case. I would appreciate it if you could call me before undertaking your efforts so that we might be ensure that we are both on the same page, and so I might provide my clients with an estimate of your expected fees for the requested analysis.

With kind regards, I remain,

Yours truly,

Michael D. Moore

Cc: Ronald & Diana Price



BERKELEY COUNTY HEALTH DEPARTMENT
Division of Environmental Health
109 W. Main Street
Moncks Corner, SC 29461
(843) 719-4649, 723-5355, 567-3125 ext. 4649
Fax (843) 719-4321

Feb. 26, 2004

Diana Price
P.O. Box 191
Mount Blanchard, OH. 45867

Re: Septic Tank Permit #2004010050

Dear Mrs. Price,

It has come to our attention that the Eagle Harbor Subdivision has yet to obtain written permission from the SCDOT allowing four separate borings under Leisure Drive (S-8-1119) for four separate lots in the subdivision, of which Lot 20 is one. Per our recent discussions, I regret to inform you that our agency has no choice but to temporarily revoke your septic tank permit for Lot 20 in Eagle Harbor until this written permission is obtained from the DOT and a copy of the final approved plat for the subdivision is submitted to our office. I deeply regret the hardship and inconvenience this may cause you, but rest assured that your permit will be reinstated immediately upon satisfaction of these two requirements.

If you have any questions, or if I can be of any further service to you, please do not hesitate to contact me at (843) 821-9524.

Sincerely,

Benjamin B. Bozardt

Benjamin B. Bozardt
District Wastewater Supervisor
Trident District

EXHIBIT 39
WITNESS
DATE: 5-30-2018
REPORTER: H. LANDRY

Atty #3

D H E C
PROMOTE PROTECT PROSPER

BERKELEY COUNTY HEALTH DEPARTMENT
Division of Environmental Health
109 W. Main Street
Moncks Corner, SC 29461
(843) 719-4649, 723-5355, 567-3125 ext. 4649
Fax (843) 719-4321

P EXHIBIT 40
WITNESS
DATE: 5-30-2018
REPORTER: H. LANDRY

February 26, 2004

Mr. Danny Gilbert
1044 Eagle Harbor Lane
Summerville, SC 29483

Re: TMS# 194-00-02-030 & 031, Eagle Harbor II Subdivision, off Haney Branch Road

Dear Mr. Gilbert:

On February 7, 2002, you were sent a letter from the Trident District Division of Environmental Health On-site Wastewater supervisor regarding a preliminary evaluation of your proposed 20 lot subdivision called Eagle Harbor II. The purpose of that evaluation was to determine if each proposed lot contained a suitable site for an on-site wastewater system in accordance with S.C. DHEC Regulation 61-57, "*Development of Subdivision Water Supply and Sewage Treatment and Disposal Systems*" and S.C. DHEC Regulation 61-56 "*Individual Waste Disposal Systems Regulations and Standards.*"

That letter outlined the findings of evaluations of each lot by qualified environmentalists from this department. Proposed lots #1, 2, 3, 4, 7, 8, 15, 16, 17, 18, 19, and 20 did not meet current minimum S.C. DHEC standards for any type of approvable sewage treatment and disposal systems due to evidence of seasonally high ground water table at less than 12 inches on each of these proposed lots.

After receiving my letter, you hired a consultant who over the next several months located remote tile field sites for most of the denied lots, to include four sites which were located across state road S-8-1119. These tile field sites require encroachment permits from S.C. Department of Transportation for each of the four sites. Final approval of your plat by S.C. DHEC cannot be granted until each of the four encroachment permits are made a part of the final approval of the subdivision.

No further septic tank permits shall be issued by this department in this subdivision until a final plat is submitted to this department showing all lots which have: (1) received final approval within the boundaries of the lot; (2) have a remote drainfield site dedicated to the lots which have no approvable site, and, (3) until an encroachment permit is received dedicating an encroachment easement across state road S-8-1119 for the remote tile fields for Lots #1, 2, 19, and 20 by the S.C. Department of Transportation.

The permit issued to Ms. Diana Price on 02/12/04 must be revoked since the permit application does not contain the required encroachment permit from the S.C. Dept. of Transportation to cross South Carolina state Road S-8-1119.

Atch #2

Danny Gilbert
February 26, 2004
Page Two

Final approval of a plat by the Berkeley County Planning Commission does not constitute final approval under S.D. DHEC Regulation 61-57, *"Development of Subdivision Water Supply and Sewage Treatment Disposal Systems"*. Section V, Paragraph (A) states, "No lot shall be sold in any subdivision where on-site systems are proposed as the method of sewage treatment and disposal unless the owner or agent has received a written approval from the Department".

If you have any questions regarding this matter, you may call me at 843-202-7020 on Monday, Wednesday, or Friday between the hours of 8:30 a.m. til 4:00 p.m. I may be reached in Berkeley County on Tuesday of each week at 843-719-4649.

Respectfully,

BB Bozardt / BW

B.B. Bozardt, Supervisor
Trident District On-site Wastewater Program

bg

cc: Gene Warner, Berkeley County Environmental Health
Ben Milligan, Berkeley County Environmental Health
Berkeley County Planning & Zoning Commission
Stuart Crosby, District Environmental Health Division

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF BERKLEY	)	
DIANA R.B. AND RONALD E. PRICE ,	)	
	)	CIVIL ACTION NO.:04-CP-08-1855
Plaintiff(s),	)	CIVIL ACTION NO: 04-CP-08-1150
	)	
-vs-	)	PLAINTIFF'S RULE 32(a)(5)
	)	DEPOSITION DESIGNATIONS
Belinda Fox, Gerry Fox Danny L. Gilbert	)	
Eagle Harbor, Inc., et. al.	)	
	)	
Defendants,		
Defendant.		

The Plaintiff, pursuant to Rule 32(a)(5) hereby designates the following deposition excerpts and deposition exhibits which may be offered as part of its case in chief[1]:

DEPONENT DANNY GILBERT

p.15, lines 21-24;

p.16, lines 1-5;

p.18, lines 19-25;

p.19, lines 1-10, 20-22;

p.30, lines 18-22;

p.32, lines 1-8, 12-16

p.35, lines 13-23;

p.36, lines 1;

p.43, lines 1-9;

p.44, lines 16-22;

P EXHIBIT 41
WITNESS
DATE: 3-4-2018
REPORTER: H. LANDRY

[1] Plaintiff reserves the right to offer additional excerpts for impeachment, cross-examination and rebuttal and otherwise use the deposition for any purpose.

p.47,lines 9-14;

p.48, lines 5-21;

p.49, lines 6-20;

p.50, lines 1-9;

p.52, lines 3-5;

p.53, lines 23-35;

p.54, lines14-25;

p.55, lines 1-2;

p.56, lines, 9-25;

p.57, line 1;

p.60, lines 1-5, 11-25;

p.61, lines 1-14;

p.68,lines 21-25;

p.69,lines 1-11;

p.70, lines 13-25;

p.71, lines 1-25;

p.78, lines 10-14;

p.80, lines 1-11;

p.81,lines 10-11;

p.83,lines 5-12;

DEPONENT GERRY FOX

Pages 17:18 to 18:8;

Page 23:13 to 23:18;

Pages 31:15 to 32:12;

Page 33:13 to 33:23;

Page 37:1 to 37:17;

Page 42:5 to 42:15;

Pages 45:20 to 46:2;

Pages 45:20 to 46:2;

Page 48:15 to 48:17;

Page 49:3 to 49:9;

Pages 53:13 to 54:6;

Page 56:4 to 56:25;

Page 58:20 to 58:25;

Page 68:6 to 68:16;

Pages 69:4 to 70:8;

Page 71:15 to 71:18;

Page 77:22 to 77:24;

Page 78:4 to 78:12;

Pages 80:21 to 81:9;

Page 83:16 to 83:22;

Pages 84:17 to 85:6;

Page 87:11 to 87:23;

Pages 88:22 to 89:19;

Page 91:4 to 91:6;

Page 92:13 to 92:18;

Page 96:11 to 96:15;

Page 97:17 to 97:23;

Page 99:3 to 99:19;

Page 103:8 to 103:21;

Page 105:11 to 105:17;

Pages 117:18 to 118:17;

Pages 128:25 to 129:5;

DEPONENT BELINDA FOX

Page 7:24-25;

Page 9:2-9;

Page 14: 19-25;

Page 19:15-25;

Page 20:1-11;

Page 26:13-16;

Page 27:12-17;

Page 38:17-22;

Page 41:9-25.

TOBIAS G. WARD, JR., PA

Tobias G. Ward, Jr., SC Bar No.: 5826
J. Derrick Jackson, SC Bar No.: 15192
P.O. Box 50124
Columbia, SC 29250
803-708-4200
tw@tobywardlaw.com
Attorney for Ronald and Diana Price

May 2, 2018

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF BERKLEY	)	
DIANA R.B. AND RONALD E. PRICE ,	)	
	)	CIVIL ACTION NO.:04-CP-08-1855
Plaintiff(s),	)	
	)	
-vs-	)	PLAINITIFF'S RULE 32(a)(5)
	)	DEPOSITION DESIGNATIONS
Aaron and Teresa A. Paderewski, et. al.,	)	
	)	
Defendant.	)	

DEPONENT DANNY GILBERT

p.15, lines 21-24;

23. Q Are you an employee of the group home?
22 A Yes, sir.
23 Q Do you receive a salary?
24 A I receive a salary when they are able
25 to pay me.

p.16, lines 1-5;
1 Q What about your wife, is she an
2 employee?
3 A She is.
4 Q Does she receive a salary?
5 A When they're able to pay her.

p.18, lines 19-25;
19 Q So is it safe to say about the time
20 you finished our class, you applied and got your
21 license and formed your company, Heritage Classic?
22 A I believe so.
23 Q Were there any other officers in
24 Heritage Classic other than yourself?
25 A I don't know what the
p. 19 -1 Documents say. I don't recall.

p.19. lines 1-10, 20-22;
1 documents say. I don't recall.
2 Q Safe to say, though, you would be the
3 president?
4 A No. It's not safe to say that.
5 Q Who do you think the president was?
6 A I don't recall. I don't know.
7 Q Who would it have been if it wasn't
8 you?
9 A Well, it could have been the Foxes,
10 possibly.

p.30, lines 18-22;
18 Q And what about the general conditions,
19 those are what you understand the general conditions
20 were to the contract? I mean, the exhibit has the
21 agreement ,and the agreement incorporates the --
22 A Right. I understand that.

p.32, lines 1-8, 12-16
1 Q It's your understanding that general
2 conditions are out of the AIA form book and they're
3 standard general conditions; is that a fair
4 statement?
5 A Yes.
6 Q Okay. There wasn't anything in the
7 general conditions that you and the Prices altered?
8 A No.

p.35, lines 13-23;
13 Q Did you submit it to the County your
14 plans to handle wastewater and that it had been
15 approved by DHEC?
16 A No.
17 Q Isn't it your understanding that
18 Berkeley County should not issue a building permit
19 until –
20 A I just got a building permit for a
21 residence that I built four months earlier with the
22 same-- I believe four months earlier with the same

23 process.

p.36, lines 1;
1. A Right. That's correct.

p.43, lines 1-9;
1 Q And so what happened when the Prices
2 came out and said they heard there was some property
3 for sale?
4 A It's been so long ago. I probably
5 showed them ,you know, some kind of display or a
S plat that I had for the children's home, I guess.
7 I'm not sure. There might have been a couple lots
8 that Gerry hadn't sold so I probably showed them
9 those, I think. I'm not sure.

p.44,lines 16-22;
16 Q Who paid to have the roads paved? Did
17 Berkeley County pay to have it done?
18 A No. The -- Mr. Fox and Mr. Winn.
19 Q That was paid through their own
20 individual funds? I mean did they –
21. A I don't know how they paid, but they
22 paid it.

p.47,lines 9-14;
9 Q Did you go to the closing of the sale
10 of the lot from Ms. Fox to the Prices
11. A Yes. I think so.
12 Q Do you remember who actually did the
13 closing, which attorney's office
14 A It was.]eft Spell's office.

p.48, lines 5-21;
5 Q And does that appear to be Ms. Fox's
6 signature there?
7 A Uh-huh. Yes, sir.
8 Q It also indicates that Heritage
9 received a disbursement at closing. Did Heritage
10 come away with a fairly large check that day?

11. A We came away with a disbursement.
12 Q Do you recall what it was?
13 A No. It's on that paper, I'm sure.
14 Q It indicates a consulting fee in
15 Heritage Classic for $41,020.32d;o you recall that?
16 A Yes, sir.
17 Q What type of consulting was Heritage
18 doing for Ms. Fox?
19 A Helping her with the subdivision of
2o the roads—or subdivision of the property and the
21 roads and meeting with some folks with the Foxes.

p.49, lines 6-20;
6 Q Right. But are you the developer of
7 Eagle Harbor?
8 A It was a joint effort by several
9 folks, but on a -- I think I called the Secretary of
10 State or the Attorney General to find out if I, as
11 the president of Eagle Harbor, could be -- if Eagle
12 Harbor could be the developer, listed as the
13 developer without gain. If we just had oversight
14 would that be okay, and the Secretary of State, I
3.5 think, said yes.
16 Q So Eagle Harbor was the developer?
17 A Eagle Harbor was an oversight
18 developer making no money whatsoever, but was
19 concerned about the neighborhood because of the
20 children's home.

p.50, lines 1-9;
1. A I helped the Foxes, gave them
2 information and-- to allow them to subdivide the
3 property, and consult with them, you know, on the
4 process, and that's what the money is for.
5 q Was that pursuant to a written
6 agreement with the Foxes?
7 A No.
8 Q Was it a verbal agreement?
9 A That's correct.

p.52, lines 3-5;
3 Q You say they paid you at the end?
4 A They paid me, yeah, when the project
5 was close to being over. They were able to pay me.

p.53, lines 23-35;
23 Q This appears to be restrictive
24 covenants for Eagle Harbor filed on February
25 3rd, 2003, in Berkeley County; is that --

p.54, lines14-25;
14 Q This appears it was signed on January
15 the 31st of '03, and signed by Eagle Harbor, Inc.,
16 the developer, and it appears to be Danny Gilbert;
17 is that your signature?
18 A Yeah.
19 q And we go to page 37. I think you
20 told me earlier that you did not own any property.
21 A Okay.
22 q In Eagle Harbor.
23 A Okay.
24 q I'm just trying to figure out how you
25 were able to put restrictive covenants on the

p.55, lines 1-2;
1 property if you didn't own it.
2 A 1don't know. I don't know

p.56, lines, 9-25;
9 q Now I think you've told me that Eagle
10 Harbor did not own any part of PhaseII?
11. A No. That's not what I said. I said
12 egress/ingress.
13 Q Egress/ingress, What about the
14 property, lots 1 through 21, I believe, is what you
15 told me in Phase II?
16 A Eagle Harbor, Incorporated was donated
17 by Troy Winn, Lot No. 2 and Lot No. 3.
18 q What about the remainder of the lots?
19 A What about them?

20 Q Did Eagle Harbor ever own them?
21. A No.
22 Q So it' a fair statement then that
23 neither Eagle Harbor, Inc. nor yourself owned any
24 part of Lot 20 when these restrictions were
25 recorded?

p.57, line 1;
1 A I believe that's true.

p.60, lines 1-5, 11-25

1 Q Were you the supervisor on the job?
2 A I was the contractor.
3 Q Were you there when work was going on
4 at all times?
5 A Sometimes. Not all times.

11 Q Do you recall what type of concrete
12 was ordered for the slab and the foundation and all
13 that for the concrete floor?
14 A Do I recall?
15 Q Uh-huh.
16A Yeah. I mean, what was per Code.
17 Q And what would Code call for?
18 A The Code would call for that there
19 been some fiber in it, and I think we also asked for
20 calcium because we wanted it to dry quick.
21 Q So, therefore, a steel mesh wire matt
22 would not be necessary; is my understanding about
23 that correct?
24 A Yes.
25 Q If you had the fibered concrete?

p.61, lines 1-14;

1 A Yes.
2 Q And is my understanding also correct
3 that fiber concrete is readily distinguishable from
4 normal concrete in that you can actually see the

5 little fibers in it?
6 A After it dries, you can see it,
7 uh-huh.
8 Q Was fiber concrete poured on that
9 site?
10 A I'm not sure.
11 Q In order for it to have met Code ,it
12 would have had to have been fiber concrete ;is that
13 correct?
14 A That's my understanding

p.68,lines 21-25;

21 Q Before all the unpleasantness began
22 December, January, February of, I guess,'03, '04,
23 that time frame, you met with the Prices to go over
24 plans and that type of thing?
25 A To go over plans?

p.69,lines 1-11;

l q Plans, talk about the house ,get --
2 you know, see where the house was going to go on the
3 lot and all that?
4 A Sure, yes.
5 Q You drafted sort of a -- what it would
6 call sort of a site plan for the house ;do you
7 remember doing that on your computer?
8 A Yes
9 Q Do you remember pointing out to the
10 Prices where the septic tank was going to go?
11 A Yes.

p.70, lines 13-25;

13 Q So, according to you, the Prices at
14 this point could cut their 7.8 acre, whatever the
15 tract is, in half?
16 A According to me, I don't know what the
17 Prices could do. That's up to them. I don't know

18 what their bank allows them to do or DHECallows
19 them to do, but according to me, as a developer,
20 they can cut the lot in half. They can cut it in
21. three pieces if the homeowners would go for that,
22 sure.
23 Q But, certainly, y'all entered into the
24 contract indicating it could be subdivided into two,
25 possibly three lots; is that correct?

p.71, lines 1-25;

1. A That they had the -- they have been
2 given permission by -- by the owner and by the
3 developer to do that, sure.
4 Q But, in fact, that couldn't --
5 couldn't have been done, could it?
6 A Sure, it could.
7 Q You say it could have been done?
8 A Sure.
9 Q How would they have gotten approval
3.0 for a septic tank?
11 A That's not – that is not what -- I
12 mean, you asked me if they could cut the lots in
13 half, sure, they could. Berkeley County could cut
14 the 1ot in half. That doesn't have -- that doesn't
15 have anything to do with the septic tank. It could
16 have been cut in half as long as it's a non-
17 buildable lot. If you refer to the original plat
18 there's non-buildable lots if they don't have a
19g septic tank.
20 Q Well, by that definition then, at some
21. point, Lot 20 was an unbuildable lot?
22 A No. I don't think so.
23 Q Would Lot 20 handle two septic tanks? property?
24 A I'm not a soil expert. I can't tell
25 you.

p.78, lines 10-14;

10 Q Did the stipulated amount incorporate

11. certain items, payment for certain items?
12 A I think there was a preliminary budget
13 attached or considered one of the contract
14 documents.

p.80, lines 1-11;

1 A Excuse me, you're referring to the
2 attachment?
3 Q Yeah,Attachment2?
4 A Okay.
5 Q Is that something you would have
6 generated, that drawing?
7 A Yeah. [think so.
8 Q The same with Attachment3?
9 A Yeah.
10 Q As well as 4?
11 A Yes, sir.

p.81,lines 10-11;

10 Q What about Attachment 6?
11 A I think I did that.

p.83,lines 5-12;

5 Q And when you say "together" --

6 A They -- they came into my office and

7 had to have a budget and everything within a very

8 short period of time because they were going back

9 home. So we tried the best we could to get some

10 numbers based on the most previous construction, and

11 I think these were some of those numbers that we

12 came up with.

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF BERKLEY	)	
DIANA R.B. AND RONALD E. PRICE ,	)	
	)	CIVIL ACTION NO.:04-CP-08-1855
Plaintiff(s),	)	
	)	
-vs-	)	PLAINITIFF'S RULE 32(a)(5)
	)	DEPOSITION DESIGNATIONS
Aaron and Teresa A. Paderewski, et. al.,	)	
	)	
Defendant.	)	

DEPONENT BELINDA FOX

Page 7:24-25;
24 A It was like Monday through Thursday
25 and then, the next week, Monday through Thursday
Page 9:2-9;

Page 14: 19-25;
19 A Okay. Now this I purchased-- well,
20 in my name. It was purchased for us.
21 q And when you say" for us"?
22 A For my husband and I.
23 Q And how did y'all find out about that
24 tract of land?
25 A Danny told us about it.

Page 19:15-25;
15 q What about restrictive covenants at
16 Eagle Harbor, what was your understanding about
17 restrictive covenants?
18 A I do know that there was some
19 restrictive covenants printed.
20 Q Did anyone talk to you about them
21 prior to being printed?
22 A Not prior to being printed.
23 Q Howwerethe restrictivecovenants

24 brought to your attention?
25 A Danny gilbert

Page 20:1-11;
1. Q Tell me about that.
1 2 A He showed me a sample of covenants.
3 Q Uh-huh.
4 A And I looked at that sample.
5 Q Why was he showing those to you?
6 A Because I -- I'm thinking we needed
7 covenants.
8Q And y'all wanted the covenants to
9 protect the property that y'all were subdividing?
10 A I think the covenants were to protect
11 the homeowners or whoever purchased the property.

Page 26:13-16;
13 Have you sold all of your 62 acres?
14 Are there any lots remainning out there now that
15 haven't been sold?
16 A No, sir.

Page 27:12-17;
12 Q Did you know that the sale was going
13 to take place?
14 A Yes, sir.
15 Q And you had given Mr. Gilbert power of
16 attorney; is that correct?
17 A I gave him permission to act for me.

Page 38:17-22;
17 Q What about dealing with the
18 perspective buyers?
19 A No, sir. I didn't usually deal with
20 the perspective buyer.
21 Q And that would have been Mr. Gilbert?
22 A I believe so.

Page 41:9-25.
9 Q were you aware that certain things

10 were going to have to be done concerning wetlands
11 and septic tanks and permitting and all of those
12 things?
13 A In the beginning I, was aware of very
14 little.
15 Q Do you have any recollection about
16 wetlands studies? 16 Thank you so much.
17 A When this project was started?
18 Q Uh-huh.
19 A No.
20 Q Prior to the recording of this plat?
21 A NO, sir.
22 Q You're now a real estate with
23 Presidential-- Prudential. Do you maintain a
24 website? 24
25 A Yes, sir.

STATE OF SOUTH CAROLINA	)	
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	)	DEPOSITION DESIGNATIONS
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	)	
Defendant.	)	

Fox, Gerry, (Pages 17:18 to 18:8)

17

18 Q Other than those two, where you basically bought
19 offices and improved them and sold them, were there
20 any other real estate developments that you were
21 involved in by yourself or with other people?
22 A We were involved in? Or -- we bought property at
23 Eagle Harbor and turned the property. Initially,
24 there were two sections out there. And we bought
25 the Phase I and sold those lots off and turned that

18

1 property back over to -- the balance of the
2 property over to Eagle Harbor Boy's Ranch.
3 Q Okay.
4 A And then there was a Phase II that came available.
5 And -- it was all in about the same time. I don't
6 remember the time frames. And that was more of an
7 investment to -- we thought there would be some
8 profit on that.

Fox, Gerry, (Page 23:13 to 23:18)

23

13 Q Now, it says 90.69 acres. And let me go ahead and
14 jump ahead a little bit and show you -- do you know
15 was that part of Phase I or Phase II.
16 A Phase I.

17 Q So the whole 90.6 acres was used in Phase I?
18 A That was Phase I.

Fox, Gerry, (Pages 31:15 to 32:12)

31

15 And Mr. Gilbert called me
16 and said that this piece of property was for sale.
17 And we still had some cash from our practice sale,
18 or I don't know what it was from. Whether it was
19 from these properties, but I still had some cash.
20 And we were able to purchase this property here and
21 pay cash for it. And the point of this was that
22 these properties -- the funds from these properties
23 were now going to be needed to cut these roads
24 through here and put these -- all this
25 infrastructure and stuff that needed to go in

32

1 there. We did not expect to get into all of that.
2 And we anticipated that this was somewhat of an
3 investment. We thought that there would be some
4 profit toward the end of all of this with one or
5 two lots we didn't know.
6 Q And the one that's to be used for the road, that
7 would be Phase II, that area that you're referring
8 to?
9 A That's Phase II. Yes.
10 Q And that was going to be the investment where you
11 expected to make a profit?
12 A Yes, sir.

Fox, Gerry, (Page 33:13 to 33:23)

33

13 But you got standardized contracts. Whatever --
14 you got the contract?
15 A Somebody -- somebody handed them to me.
16 Q Okay. Do you know who that was?
17 A Danny Gilbert.
18 Q Okay.
19 A I don't know who wrote them or where they came
20 from. I think they came from an attorney. But I

21 don't know.
22 Q Okay. And could that have been Jeff Spell?
23 A Could have been.

Fox, Gerry, (Page 37:1 to 37:17)

37

1 Q Yes. In Item 6 there it lists the closing attorney
2 or agent shall be Jeff Spell.
3 A Okay.
4 Q Did you put that in there to have Jeff Spell?
5 A I didn't put anything in it -- in any of this
6 paperwork.
7 Q Okay. So who prepared this document?
8 A I don't know.
9 Q You don't remember? Did you know Jeff Spell at
10 this time?
11 A He was the attorney that did the closings on these
12 properties.
13 Q Okay. Did you know him prior to that time for any
14 reason?
15 A No, sir.
16 Q Do you know who decided to use Jeff Spell?
17 A Mr. Gilbert as far as I know.

Fox, Gerry, (Page 42:5 to 42:15)

42

5 Okay. Thank you. And the other part, the upper
6 part which I think is part of Phase II --
7 A Uh-huh. This would be Fox.
8 Q Fox meaning your wife, Belinda?
9 A She bought that piece right there. She purchased
10 that piece.
11 Q Why did she buy it as opposed to you?
12 A It was more -- we -- anytime I was in practice, we
13 always put things in my wife's name.
14 Q Just for asset protection?
15 A Sort of, yes. I guess

Fox, Gerry, (Pages 45:20 to 46:2)

45

20 Okay. Let's go back to the part of the property
21 you said your wife purchased and let me show you a
22 copy of that deed. And I believe you said she
23 purchased it simply because that was your standard
24 practice just for, I guess, asset protection?
25 A You know, when I was in practice, I was always told

46

1 that, you know, D-R in front of your name makes you
2 a big target. So we just put it in her name.

Fox, Gerry, (Page 46:6 to 46:22)

46

6 Well, who handled most of the development part of
7 the real estate? Was it you or was it your wife?
8 A We didn't do any of it.
9 Q Okay. Well, then who handled most of the --
10 A It would be Mr. Gilbert.
11 Q Did you have any kind of understanding or agreement
12 with him about that development?
13 A Yes.
14 Q Tell me about that.
15 A When there was profit -- any time there was going
16 to be profits, that we would just split it with
17 him. Because it wasn't -- you know, we weren't,
18 you know, doing any development with it or anything
19 like that.
20 Q Okay. And how would you define profits? I mean,
21 just --
22 A Anything left over after expenses.

Fox, Gerry, (Page 48:15 to 48:17)

48

15 How did you keep tabs on what was going on in the
16 development process?
17 A I don't know that I really did.

Fox, Gerry, (Page 49:3 to 49:9)

49

3 Q Did Mr. Gilbert put any money into the project?
4 A I don't -- I don't think he did. I don't -- I

5 don't think so. I don't remember. I think that
6 was -- I don't think so.
7 Q So who paid for all the infrastructure and
8 improvements, and things of that nature?
9 A The Winns and the Foxs.

Fox, Gerry, (Pages 53:13 to 54:6)

53

13 Okay. All right. Did you have any kind of written
14 agreements with Mr. Gilbert or anything about this
15 subdivision?
16 A No, sir.
17 Q No documentation about how you'd get paid?
18 A No, sir.
19 Q What about --
20 A If I say I'm going to do something, I'm going to do
21 it.
22 Q Okay. What about for Phase II in terms of
23 splitting the funds?
24 A No. He trusted me and I did what I said I was
25 going to do.

54

1 Q Now, what did you say you were going to do? What
2 kind of agreement did you have with him?
3 A When there was profits -- if there was a profit at
4 that point, he would get half of the profit.
5 Q What did he do to earn half of the profit?
6 A He did all the work.

Fox, Gerry, (Page 56:4 to 56:25)

56

4 Okay. Do you -- let me ask you this, do you know
5 anything about Heritage Classic Homes?
6 A I know that I started a checking account that said
7 Heritage Classic Homes on it. But that's -- that
8 was my own personal checking account.
9 Q Okay. Explain that to me. Why did you open a
10 checking account with Heritage Classic Homes name
11 on it?
12 A Well, Mr. Gilbert had talked to me about the

13 possibility of investing in him building homes.
14 And I thought, you know, when you're -- when I was
15 ill, I thought well, I need to figure out a way to
16 make income. And I thought about it. But I was
17 too ill. And so my CPA at the same time had said
18 you can't -- it's not a good idea to run all these
19 expenses through this old chiropractic account. He
20 said you really need to come up with another name.
21 So one day I was sitting there watching TV on a
22 Sunday afternoon and I saw the Heritage Classic
23 Golf Tournament. And I went, Heritage Classic
24 Homes. So I started a checking account that said
25 that. That was it.

Fox, Gerry, (Page 58:20 to 58:25)

58

20 Okay. What type of expenses did you pay out of the
21 Heritage Classic account?
22 A Whatever came out of here and whatever came into it
23 and went out of it. So it'd be, you know,
24 everything from bulldozing, and dirt, and whatever
25 to engineer fees to whatever.

Fox, Gerry, (Page 68:6 to 68:16)

68

6 Okay. Now, what was your role in developing the
7 infrastructure, the clearing of land or the --
8 A Writing checks.
9 Q Cutting checks. And that was it?
10 A That was it.
11 Q Did you do any investigation to see that Mr.
12 Gilbert was complying with any of the subdivision
13 regulations in Berkeley County?
14 A I didn't really think about it. I, you know, I
15 just -- I knew he was a contractor and I just -- I
16 didn't think about it.

Fox, Gerry, (Pages 69:4 to 70:8)

69

4 So you defined your role in the development as just

5 cutting checks?
6 A Yes, sir.
7 Q Okay. So you didn't do any kind of supervision or
8 getting the engineers?
9 A No. I would deliver a check if an engineer needed
10 to be paid to go further or if Berkeley County
11 needed a blueprint to do whatever their next step
12 was, I would say I'll take it up there.
13 Q Were you familiar with any of the meetings with
14 Berkeley County -- between Gilbert and Berkeley
15 County about the development?
16 A I mean, there was a couple where I went to a
17 meeting to meet with, for whatever reason I don't
18 know.
19 Q Okay. Did you make any effort to make sure that
20 Mr. Gilbert was trying to comply with the
21 subdivision regulations?
22 A I don't know that I made effort to make sure he was
23 complying. I -- there was a couple of times when -
24 - I remember there was an engineer, you know, when
25 my funds were gone and I needed to have the next

70

1 step had to happen for them to -- for Berkeley
2 County to permit the sale of the properties or
3 whatever. Or if it was an engineer that said, hey,
4 we're not -- we're stopping until we get this --
5 this or that. Then I would say, Danny, can you get
6 this -- are you going to get this done? And I'd
7 say, look, just give to me. I'll deliver it. I'll
8 take it.

Fox, Gerry, (Page 71:15 to 71:18)

71

15 So you were relying on Mr. Gilbert to handle the
16 nuts and bolts of the development?
17 A Oh, yeah. It wasn't my project. I didn't -- we
18 were -- we were investors.

Fox, Gerry, (Page 73:4 to 73:13)

73

4 Okay. Now, walk -- tell me a little bit about what
5 your role in all this was. What about your wife,
6 what was her role?
7 A Where I have hardly any knowledge, she has zero
8 knowledge. She doesn't know anything about it.
9 She was never -- I mean, she might have ridden down
10 the road out there. But that was about it.
11 Q She didn't write any checks? Didn't meet with Mr.
12 Gilbert?
13 A I don't think so.

Fox, Gerry, (Page 77:22 to 77:24)

77

22 Q Okay. So you and your wife were aware that Mr.
23 Gilbert was marketing the property?
24 A Sure.

Fox, Gerry, (Page 78:4 to 78:12)

78

4 So he had the authority to act on your behalf as to
5 this property?
6 A I don't --
7 Q To sell the property or to market the property?
8 A I mean -- I mean, he could -- well, we weren't
9 marketing it. We weren't trying to sell the
10 property.
11 Q And you knew he was.
12 A Well, I guess so.

Fox, Gerry, (Pages 80:21 to 81:9)

80

21 Okay. Did he have to seek your approval?
22 A If he was going to spend money, he had to ask me.
23 Q Okay.
24 A I mean, because I can't give him a check if I don't
25 have it, you know.

81

1 Q Okay. So how did that go? How did he go to seek
2 your approval for something?
3 A He usually would call me or email me.
4 Q And say, Gerry, I need $5,000 to pay for x, y or z.
5 Is that how it went?
6 A Something like that.
7 Q Did you ever ask him any questions why that was
8 needed?
9 A Of course.

Fox, Gerry, (Page 83:16 to 83:22)

83

16 Okay. Do you know if -- did you make any
17 investigation or determination whether or not these
18 lots could be subdivided in to three parts?
19 A Well, I think they could be subdivided. But they
20 couldn't be -- you couldn't put a house on it or
21 anything. Because there was only one drain field
22 per lot.

Fox, Gerry, (Pages 84:17 to 85:6)

84

17 Okay. Now, you said -- I want to clarify a point.
18 These lots in Phase II were purchased by your wife,
19 is that correct?
20 A This phase was purchased by her?
21 Q Yes.
22 A Yes.
23 Q The proceeds or the money used to purchase that,
24 did that come out of your funds or your wife's
25 funds?

85

1 A It was the same account.
2 Q Okay.
3 A All went into the same account.
4 Q Okay. Which was resulting from the sale of the

5 chiropractic business?
6 A Yeah. Yes.

Fox, Gerry, (Page 87:11 to 87:23)

87

11 Well, what about the facts that are stated in the
12 letter that private covenants were in place or that
13 lots could not be further subdivided?
14 A Was I aware that covenants were in place?
15 Q Yes.
16 A I had heard that.
17 Q Okay. Did you do any type of investigation to see
18 that that was accurate?
19 A No, sir. I didn't investigate anything.
20 Q What about to determine whether lots could be
21 subdivided, did you do any investigation to
22 determine if that was the case?
23 A No. I didn't

Fox, Gerry, (Pages 88:22 to 89:19)

88

22 Okay. On the second page, and again, I'm sorry for
23 the quality of the copy. But if you'll look down,
24 I think, it's line number 8-19. It's kind of hard
25 to see. But it says consulting fee to Heritage

89

1 Classic Homes, $41,020.22.
2 A Okay.
3 Q Do you know what that charge was for and what that
4 was about?
5 A It was probably -- there was -- again, this is --
6 I'm only going by about what I think. But I think
7 it was probably for -- there was a profit somewhere
8 in there. That he would get the profit.
9 Q So if you look at the sales price being say ninety
10 something thousand dollars, that would be roughly
11 his half after expenses?
12 A Roughly.
13 Q So would that be fair to assume that on all the
14 other closings that took place that Mr. Gilbert

15 would receive, if there was profit, a similar fee?
16 A Yes.
17 Q Do you know why it was paid to Heritage Classic
18 Homes instead of Danny Gilbert?
19 A He probably asked us to pay it there.

Fox, Gerry, (Page 91:4 to 91:6)

91

4 Q Okay. So all the funds that you expended on the
5 development were for the subdivision?
6 A Yes, sir.

Fox, Gerry, (Page 92:13 to 92:18)

92

13 Q Okay. Now, I see that Jeff Spell is listed on that
14 HUD Statement as well. How was that that decided?
15 A He was the -- he closed just about all the lots out
16 there.
17 Q Do you know who made the decision to use Mr. Spell?
18 A Mr. Gilbert.

Fox, Gerry, (Page 96:11 to 96:15)

96

11 Q Did you have any knowledge of the soil condition or
12 make any attempt to investigate the soil condition
13 before these properties were marketed?
14 A No. I walked on the property with that soil
15 consultant, as I said, looking for drain fields.

Fox, Gerry, (Page 97:17 to 97:23)

97

17 Okay. And so you realize that individual lots
18 couldn't have septic tanks, they had to have drain
19 fields?
20 A Right.
21 Q Do you know if Mr. Gilbert shared that information
22 with potential purchasers?
23 A I don't know.

Fox, Gerry, (Page 99:3 to 99:19)

99

3 Just a couple of follow-up questions on the whole
4 septic tank issue. When did you first become aware
5 that you would need other land for drain fields to
6 sell the property?
7 A When it was time to sell them.
8 Q Okay. Right at the beginning?
9 A No. When the lots were being cut.
10 Q Okay.
11 A You couldn't cut a lot without a drain field.
12 Q Before you could even market it, you were aware of
13 that?
14 A (Non-verbal response.)
15
16 MR. MILLER: Yes or no.
17
18 Q Yes or no?
19 A I'm sorry. Yes. Yes.

Fox, Gerry, (Page 103:8 to 103:21)

103

8 And what efforts did you make to ensure that the
9 roads were properly installed or that they were not
10 cut in the wetlands?
11 A I didn't. I didn't know anything about it. I
12 didn't know.
13 Q So you just basically told Danny, you take care of
14 it all?
15 A We didn't find out about the wetlands until way
16 after the project -- the whole project was
17 completed.
18 Q Okay. Who was responsible for installing the
19 roads?
20 A Danny hired some different contractors is all I
21 know.

Fox, Gerry, (Page 105:11 to 105:17)

105

11 Q Okay. Did you ever have to pay any kind of fine
12 for that impact?
13 A We did.
14 Q Did you ever offer any of the homeowners who were
15 impacted any kind of resolution for their areas
16 that was impacted?
17 A That was never brought up.

Fox, Gerry, (Page 117:4 to 117:11)

117

4 Right. Belinda Fox owned Phase II, correct?
5 A Right.
6 Q Okay. Did she ever record any covenants over Phase
7 II?
8 A There were covenants for the whole subdivision.
9 Q How did Eagle Harbor record covenants for property
10 owned by somebody else?
11 A I have no idea.

Fox, Gerry, (Pages 117:18 to 118:17)

117

18 Q At the time of this conveyance, which is in June of
19 2011, did you do any investigation to determine the
20 status of the roads?
21 A I knew that the road were still having problems.
22 Q So you conveyed the roads to the homeowners
23 association when they were still having problems?
24 A We had -- yes. We had a settlement that was going
25 to patch the roads.

118

1 Q Okay. Did you put any money or make any
2 arrangements so the roads could be maintained in
3 the future?
4 A I don't know. That's -- there was some funds at

5 the lawyer's office.
6 Q Do you know if there was an arrangement with Eagle
7 Harbor Association that that money would be used to
8 maintain the roads?
9 A Fix the roads is all I know.
10 Q Have you seen any kind of an agreement that shows
11 you that those funds will be used to maintain the
12 roads and repair them?
13 A No. I haven't seen anything.
14 Q Okay. Now, did you disclose any of these
15 conditions to any of the owners before they
16 purchased the property that we just talked about?
17 A No.

Fox, Gerry, (Pages 128:25 to 129:5)

128

25 Q Did you do any investigation prior to transferring

129

1 the property about the status of Eagle Harbor
2 Homeowners Association?
3 A According to the attorneys, it was in good
4 standing. And still filed at the courthouse. And
5 that's all I knew.

STATE OF SOUTH CAROLINA	)	
	)	**IN THE COURT OF COMMON PLEAS**
COUNTY OF BERKLEY	)	
Diana R.B. And Ronald E. Price,	)	
	)	**CIVIL ACTION NO.:04-CP-08-1855**
Plaintiff(s),	)	
	)	**PUBLIC BUSINESS RECORDS**
-vs-	)	**AFFIDAVIT OF RICHARD THREATT**
	)	**ENVIRONMENTAL HEATLH**
Belinda Fox, Gerry Fox, Danny Gilbert et. al.,	)	**MANAGER CHARLESTON DIVISION**
	)	**OF SCDHEC**
Defendant.	)	

Richard L. Threatt, Jr., having first been duly sworn according to law, makes oath upon his or her personal knowledge as follows:

1. I am an Environmental Health Manager III (Supervisor) for Onsite Wastewater Charleston Division for the Environmental Affairs Office S.C. Dept. of Health & Environmental Control.
2. This division handles the septic tank review and environmental enforcement for Berkeley County. Berkeley County use to have its own SCDHEC offices as part of the Berkeley County Health Department but that has been consolidated with our offices in Charleston.
3. I am personally familiar with B.B. Bozardt having worked with him for several years before his retirement and recognize and can authenticate his signature on the attached documents.
4. I am personally familiar with the types of letters and procedures used by SCDHEC concerning septic tank permits and subdivision regulations. I recognize and can authenticate the attached records as being from SCDHEC and consistent with those procedures.
5. The attached records would be kept in the course of the regularly conducted business activity of SCDHEC.
6. The attached records are prepared by the personnel of SCDHEC in the ordinary course of business at or near the time of the act, condition, diagnosis, or event, reported thereon, and by a person or persons with knowledge of and a business duty to record or transmit those matters.

AND FURTHER AFFIANT SAITH NOT.

Richard L. Threatt, Jr., SCDHEC

SWORN to before me this
23 day of April, 2018
Notary Public for South Carolina
My Commission Expires: 03-10 2020

P EXHIBIT 42
WITNESS
DATE: 5-4-2018
REPORTER: H. LANDRY

D I E C
PROMOTE PROTECT PROSPER

BERKELEY COUNTY HEALTH DEPARTMENT
Division of Environmental Health
109 W. Main Street
Moncks Corner, SC 29461
(843) 719-4649, 723-5355, 567-3125 ext. 4649
Fax (843) 719-4321

August 23, 2001

Mr. Danny Gilbert
635-G East Bay Street
Charleston, SC 29403

Re: TMS# 194-00-02-031 & 178-00-03-051, Proposed Eagle Harbor Subdivision, off State Road, Phases I & II

Dear Mr. Gilbert:

You have made application for the captioned subdivisions with the Berkeley County Planning Department for approval of two preliminary plats, i.e. Phase I which contains 10 lots and Phase II which contains 24 lots. You have begun construction of roads and are proposing to utilize on-site wastewater systems and individual wells for each proposed lot.

Please be advised that the development of a subdivision utilizing individual on-site wastewater systems without prior knowledge of soil conditions on each proposed lot is very risky, especially considering the type soils and topography found on these tracts of land. It is strongly recommended that you cut site lines and identify proposed lot corners on each of the 34 lots you propose to develop and have each lot evaluated by the Berkeley County Environmental Health staff prior to submitting a final plat for approval.

I have spoken to you several times regarding the development of a boys ranch on this property. I understand that you met Mr. Milligan and members of his staff on the property and they have made several random soil borings throught the property. At no time in our conversations did you mention developing this property into individual lots. You have been informed that the soils on this property are very marginal at best even for your boys ranch. I am still awaiting your site plan proposal for this project.

I write to you now so that there may be no misunderstanding of this department's position regarding the suitability of soils for your proposed subdivision and boys ranch facility. Mr. Milligan and his staff have informed me that they found three to five possible sites that may qualify for up to a three bedroom single family dwelling. He has also informed me that these sites may not be where you have platted your proposed subdivision. Mr. Milligan and I visited the property on August 17, 2001, and I was amazed to see roads under construction and land being cleared.

If you wish to set up a meeting to discuss the information I have furnished you in this letter, please call me at (843) 821-9524 between the hours of 8:30 a.m., and 5:00 p.m., and if I am not available, leave a message. I will be on annual leave beginning Aaugust 28 thru September 7, 2001.

Sincerely,

B. B. Bozardt, Supervisor
Trident District On-site Wastewater Program

bg

D H E C
PROMOTE PROTECT PROSPER

BERKELEY COUNTY HEALTH DEPARTMENT
Division of Environmental Health
109 W. Main Street
Moncks Corner, SC 29461
(843) 719-4649, 723-5355, 567-3125 ext. 4649
Fax (843) 719-4321

February 7, 2002

Mr. Danny Gilbert
635 E. Bay St.
Charleston, SC 29403

Re: TMS# 194-00-02-030 & 031, Preliminary Evaluation of a Proposed 20 Lot Subdivision Named Royal Harbor II, off Haney Branch Road, Berkeley County

Dear Mr. Gilbert:

On January 23, 29, and again on February 1, 2002, an evaluation of the soil profile at a site on each of the proposed lots in your subdivision was made by the Trident District on-site wastewater supervisor. The purpose of these evaluations was to determine if each proposed lot contains a suitable site for an on-site wastewater system in accordance with S.C. DHEC Regulation 61-57, "Development of Subdivision Water Supply and Sewage Treatment/Disposal Systems and Standards" and S.C. DHEC Regulation 61-56, "Individual Waste Disposal Systems Regulations and Standards."

This letter is to inform you that the proposed lots #5, 6, 9, 10, 11, 12, 13, and 14 meet current minimum standards for a modified conventional sub-surface treatment and disposal system for up to a three bedroom single family dwelling at a specific site on each of these proposed lots.

This letter is also to inform you that proposed lots # 1, 2, 3, 4, 7, 8, 15, 16, 17, 18, 19, and 20 do not meet current minimum standards for any type subsurface treatment and disposal system currently offered by DHEC regulations. This is due to evidence of seasonally high ground water table at less than 12 inches. These lots may not be sold in accordance with Section III, Paragraph E, of Regulation 61-57, *Development of Subdivision Water Supply and Sewage Treatment/Disposal Systems.*

In order for a lot to be approved, an adequate, suitable area for an on-site wastewater system must be identified. The site must be large enough to accommodate the proposed dwelling, any outbuildings, driveways, drainage easements, or other setbacks required by Regulation 61-56. The site must contain an adequate suitable area for wastewater disposal. Soil borings are done as part of the site evaluation method. By observing the colors of the soil and noting the depth where changes in the amount of sand, silt and clay occur, one can quite accurately predict the depth of the wet season's ground water table. This method is used in other states as well.

Gray mottles occur in the soil at the depth where the water table is expected to rise. Our soil borings indicated these color patterns within 12 inches of the soil surface of the proposed lots # 2, 3, 4, 7, 8, 15, 19, and 20. (Refer to S.C. DHEC Regulation 61-56, Section V, Para. B) Proposed lots # 1, 16, 17, and 18 contained insufficient suitable areas due to a combination of high seasonal ground water table and sloping terrain.

This limitation is so severe that an type of septic tank system would almost certainly fail to function in this type of soils. Also, I know of no reasonable way to improve the drainage capability of the soil.

These evaluations were made using an updated preliminary lot layout plat submitted by William M. Ferguson, R.L.S. # 17223. Any deviation of lot configuration or area in the final plat will void the findings reported in this letter.

The owner of this property may request an admistrative field review of this subdivision denial of lots 1, 2, 3, 4, 7, 8, 15, 16, 17, 18, 19, and 20. You may do so by writing to the On-site Wastewater Management Division, Bureau of Environmental Health, S.C. DHEC, 2600 Bull Street, Columbia, SC 29201, within 15 working days after receiving this letter.

In an effort to protect the public health, difficult decisions must be made. Unfortunately, the referenced lots are unsuitable for sub-surface disposal of domestic sewage.

Denying a permit always seems to cause personal hardship and I am truly sorry that we cannot consider systems on lots 1, 2, 3, 4, 7, 8, 15, 16, 17, 18, 19, and 20. We will, however, be available to evaluate any other sites you may want to consider.

If you have any questions regarding this matter, I would appreciate you calling **(843) 821-9524 or 719-4649** between 8:30 and 10:00 a.m., Monday thru Friday to speak with me and if necessary, schedule an appointment prior to making a trip into our office. Please have a copy of this letter in hand when you call.

Sincerely,

B.B. Bozardt, Supervisor
District On-site Wastewater Program

bg

cc: Stuart Crosby, Trident District Director
Ben Milligan, Berkeley County Supervisor
Leonard Gordon, DHEC, Columbia

D H E C

PROMOTE PROTECT PROSPER

BERKELEY COUNTY HEALTH DEPARTMENT
Division of Environmental Health
109 W. Main Street
Moncks Corner, SC 29461
(843) 719-4649, 723-5355, 567-3125 ext. 4649
Fax (843) 719-4321

February 26, 2004

Mr. Danny Gilbert
1044 Eagle Harbor Lane
Summerville, SC 29483

Re: TMS# 194-00-02-030 & 031, Eagle Harbor II Subdivision, off Haney Branch Road

Dear Mr. Gilbert:

On February 7, 2002, you were sent a letter from the Trident District Division of Environmental Health On-site Wastewater supervisor regarding a preliminary evaluation of your proposed 20 lot subdivision called Eagle Harbor II. The purpose of that evaluation was to determine if each proposed lot contained a suitable site for an on-site wastewater system in accordance with S.C. DHEC Regulation 61-57, "*Development of Subdivision Water Supply and Sewage Treatment and Disposal Systems*" and S.C. DHEC Regulation 61-56 "*Individual Waste Disposal Systems Regulations and Standards.*"

That letter outlined the findings of evaluations of each lot by qualified environmentalists from this department. Proposed lots #1, 2, 3, 4, 7, 8, 15, 16, 17, 18, 19, and 20 did not meet current minimum S.C. DHEC standards for any type of approvable sewage treatment and disposal systems due to evidence of seasonally high ground water table at less than 12 inches on each of these proposed lots.

After receiving my letter, you hired a consultant who over the next several months located remote tile field sites for most of the denied lots, to include four sites which were located across state road S-8-1119. These tile field sites require encroachment permits from S.C. Department of Transportation for each of the four sites. Final approval of your plat by S.C. DHEC cannot be granted until each of the four encroachment permits are made a part of the final approval of the subdivision.

No further septic tank permits shall be issued by this department in this subdivision until a final plat is submitted to this department showing all lots which have: (1) received final approval within the boundaries of the lot; (2) have a remote drainfield site dedicated to the lots which have no approvable site, and, (3) until an encroachment permit is received dedicating an encroachment easement across state road S-8-1119 for the remote tile fields for Lots #1, 2, 19, and 20 by the S.C. Department of Transportation.

The permit issued to Ms. Diana Price on 02/12/04 must be revoked since the permit application does not contain the required encroachment permit from the S.C. Dept. of Transportation to cross South Carolina state Road S-8-1119.

Danny Gilbert
February 26, 2004
Page Two

Final approval of a plat by the Berkeley County Planning Commission does not constitute final approval under S.D. DHEC Regulation 61-57, *"Development of Subdivision Water Supply and Sewage Treatment Disposal Systems"*. Section V, Paragraph (A) states, "No lot shall be sold in any subdivision where on-site systems are proposed as the method of sewage treatment and disposal unless the owner or agent has received a written approval from the Department".

If you have any questions regarding this matter, you may call me at 843-202-7020 on Monday, Wednesday, or Friday between the hours of 8:30 a.m. til 4:00 p.m. I may be reached in Berkeley County on Tuesday of each week at 843-719-4649.

Respectfully,

B.B. Bozardt, Supervisor
Trident District On-site Wastewater Program

bg

cc: Gene Warner, Berkeley County Environmental Health
Ben Milligan, Berkeley County Environmental Health
Berkeley County Planning & Zoning Commission
Stuart Crosby, District Environmental Health Division

BOARD:
Elizabeth M. Haynsworth
Chairman
Mark B. Kent
Vice Chairman
Howard L. Brilliant, MD
Secretary

D H E C

PROMOTE PROTECT PROSPER

C. Earl Hunter, Commissioner

Promoting and protecting the health of the public and the environment

BOARD:
Carl L. Brazell
Lauthian W. Wright
L. Michael Blackmon
Coleman F. Buckhanon, MD

February 26, 2004

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
7001 2510 0008 4168 8799

May 2007

Diana and Ronald E. Price
PO Box 191
Mt. Blanchardt, OH 45867

Re: Request for Administrative Review of Septic Tank Permit Denial: TMS# 194-00-02-030 & 31, Lot 20, ~~Royal~~ Eagle Harbor II, off Haney Branch Road, Berkeley County, S.C.

Dear Mr. & Ms. Price:

On February 24, 2004, I made a visit to the above referenced property in response to your appeal letter. Mr. Milligan and Mr. Bozardt of the Berkeley County Health Department accompanied me. The purpose of our visit was to evaluate the property's potential for supporting a septic tank system. This letter will serve to explain our evaluation procedure and to formally notify you of our findings.

Before the health department can issue a septic tank system permit, the property must be evaluated to determine whether the site is suitable, and if so, to determine the design and location for the installation of the system. Suitable soil conditions must be identified throughout an area large enough for the installation of the drain field (or final disposal system). Soil borings are performed so that the soil can be examined for color and mottling, which are indicators of the depth to seasonal saturation. Also, the soil's permeability and texture are estimated by examining the physical properties of the soil. This technique is used by the U.S. Natural Resources Conservation Service and other organizations, and is considered to be the most reliable field method for soil evaluation.

South Carolina Regulation 61-56 (septic tank regulation) sets forth the minimum soil condition requirements that each proposed septic tank site must meet. The requirements also include setback distances from the proposed septic tank system to property lines, wells, ditches, surface water (streams, canals, etc.), proposed building foundations, driveways, curtain drains, etc. All the requirements must be met before a septic tank system permit can be issued. If any of the requirements cannot be satisfied, the health department has no choice but to deny the permit application, in order to safeguard the public's health and to protect the environment.

Regulation 61-56, Section V., paragraph B, states: "The maximum seasonal high water table elevation shall not be less than six (6) inches below the bottom of the proposed soil absorption trenches or alternate system." This means that the bottom of the drain lines, which are installed in the original soil, must be at least six inches above the maximum level of the seasonal high water table (zone of seasonal saturation). Wastewater is not adequately treated when drain lines are placed in saturated soil. Wastewater contains disease-producing organisms, including viruses, which can travel great distances through saturated soils resulting in the contamination of water wells, and surface waters, such as streams, lakes and ponds.

Our evaluation of your site revealed a seasonal high zone of saturation of less than twelve (12) inches below the natural ground surface. Also, a heavy clay layer was encountered at the surface. Regrettably,

this prevents the site from meeting the requirements of Regulation 61-56 for a conventional, or alternative type system.

We also evaluated the property to determine if an experimental system could be installed. Unfortunately, unsuitable soil conditions (clay layer) render the site unacceptable for the installation of an experimental system under Regulation 61-56.

We also looked at the property across Haney Branch Road (to be used for your septic system) to determine if a second drain field could be installed in this area. Unfortunately, this area was designed just large enough for one system and replacement area. Therefore, a second system cannot be installed for this lot.

Regretably, I must inform you that the above referenced property does not meet the minimum requirements of the regulation for any type of on-site wastewater treatment and disposal system. This is a difficult and unpleasant decision, but exploring all the options available has not indicated any type of septic tank system that would adequately treat and dispose of wastewater in the soil conditions on this property.

If you wish to continue your appeal, you should file a request for a hearing with the BOARD OF HEALTH AND ENVIRONMENTAL CONTROL, ATTENTION: CLERK OF THE BOARD, OFFICE OF THE COMMISSIONER, 2600 BULL STREET, COLUMBIA, SOUTH CAROLINA 29201, within fifteen (15) days after receiving this letter.

In addition, the Administrative Law Judge Division requires that a person requesting a contested case hearing must file a copy of the request and a filing fee in the amount of $100.00 with the Administrative Law Judge Division at the following address: Clerk, Administrative Law Judge Division; 1205 Pendleton Street, Suite 224; P.O. Box 11667; Columbia, SC 29211; 803-734-0550.

All questions regarding this fee should be directed to the Administrative Law Judge Division.

I am sorry that we are unable to issue a septic tank permit for this site. If you have other land available and would like it evaluated for a septic tank system, please contact the Berkeley County Health Department for assistance.

Respectfully,

M. Reid Houston

M. Reid Houston
Division of Onsite Wastewater Management
Bureau of Environmental Health

CC: Stuart Crosby DEHD
Ben Milligan

D H E C
PROMOTE PROTECT PROSPER

BERKELEY COUNTY HEALTH DEPARTMENT
Division of Environmental Health
109 W. Main Street
Moncks Corner, SC 29461
(843) 719-4649, 723-5355, 567-3125 ext. 4649
Fax (843) 719-4321

May 18, 2004

Danny Gilbert
1044 Eagle Harbor Lane
Summerville, SC 29483

Re: TMS# 194-00-02-031, Eagle Harbor Subdivision, Phase II

Dear Sir:

This department is in receipt of the final recorded plat of Eagle Harbor, Phase II and the recorded encroachment permit from S.C. Dept. of Transportation for the sanitary sewer transmission pipe across S.C. Road 1119 to serve remote drainfield sites for Lots 1, 2, 19 and 20.

Based on review of the easement dedications for remote drainfield sites for Lots 1, 2, 19 and 20, across Road 1119 and the easements for Lots 4, 7, and 18, each lot in this subdivision now meets current minimum S.C. DHEC Regulation 61-56 and Standards for at least a modified conventional subsurface treatment and disposal system for Lots 1 thru 16, and 18 thru 20.

Final approval for Phase II, Eagle Harbor S/D is granted for at least one three (3) bedroom single family dwelling for Lots 1 thru 16, and Lots 18 thru 20.

If you have any questions, please call me at 719-4649 or 202-7020, Monday thru Friday.

Sincerely,

B.B. Bozardt, Supervisor
District Onsite Wastewater Program

bg

cc: Diana Price

BOARD:
Elizabeth M. Hagood
Chairman

Edwin H. Cooper, III
Vice Chairman

L. Michael Blackmon
Secretary

D H E C

PROMOTE PROTECT PROSPER

C. Earl Hunter, Commissioner

Promoting and protecting the health of the public and the environment.

BOARD:
Carl L. Brazell

Steven G. Kisner

Paul C. Aughtry, III

Coleman F. Buckhouse, MD

May 17, 2005

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
7001 2510 0008 8159 1578

Diana and Ronald E. Price
1104 Saddlehorn Road
Summerville, SC 29483

Re: Query About Administrative Review of Septic Tank Permit Denial: TMS# 194-00-02-030, Lot 20, Eagle Harbor II, off Haney Branch Road, Berkeley County, S.C.

Dear Mr. & Ms. Price:

On February 24, 2004, I made a visit to the above referenced property in response to your appeal letter. Mr. Milligan and Mr. Bozardt of the Berkeley County Health Department accompanied me. The purpose of our visit was to evaluate the property's potential for supporting a septic tank system. On May 17, 2005, I received a letter questioning the ability to subdivide this lot.

The evaluation of your site, on February 24, 2004, revealed a seasonal high zone of saturation of less than twelve (12) inches below the natural ground surface. Also, a heavy clay layer was encountered at the surface. Regrettably, this prevents the site from meeting the requirements of Regulation 61-56 for a conventional, or alternative type system.

We also evaluated the property to determine if an experimental system could be installed. Unfortunately, unsuitable soil conditions (clay layer) render the site unacceptable for the installation of an experimental system under Regulation 61-56.

We also looked at the property across Haney Branch Road (to be used for your septic system) to determine if a second drain field could be installed in this area. Unfortunately, this area was designed just large enough for one system and replacement area. Therefore, a second system cannot be installed for this lot.

Regrettably, I must inform you that the above referenced property does not meet the minimum requirements of the regulation for any type of on-site wastewater treatment and disposal system. This is a difficult and unpleasant decision, but exploring all the options available has not indicated any type of septic tank system that would adequately treat and dispose of wastewater in the soil conditions on this property.

In your letter you asked: Please confirm our understanding that the permit denial we received from Columbia prevents us from subdividing our lot for *residential* use, and please tell us the

conditions that would need to exist (or changes that would need to happen) for us to sell half our lot as "residential" or meet DHEC standards, and therefore give us the ability to subdivide for residential sale.

Unfortunately, this property would not pass for a septic system when originally subdivided. This is the reason for the small lot across Haney Branch Road, to accommodate the drain field for you're residence. Therefore, this property could not be subdivided any further using septic systems. The only way I know to subdivide this property at this time would be to have public sewer access.

I am sorry that we are unable to issue a septic tank permit for this site. If you have other land available and would like it evaluated for a septic tank system, please contact the Berkeley County Health Department for assistance.

Respectfully,

M. Reid Houston

M. Reid Houston
Division of Onsite Wastewater Management
Bureau of Environmental Health

MRH:cs

CC: Stuart Crosby DEHD
Ben Milligan

D H E C

PROMOTE PROTECT PROSPER

C. Earl Hunter, Commissioner

Promoting and protecting the health of the public and the environment.

NOTICE OF VIOLATION

October 27, 2005

Mr. Danny Gilbert
Eagle Harbor, Inc.
1044 Eagle Harbor Lane
Summerville, South Carolina 29483

Re: Eagle Harbor Subdivision
Berkeley County

Dear Mr. Gilbert:

This letter will serve as notice of potential violation of the South Carolina Stormwater Management and Sediment Reduction Act and the South Carolina Coastal Zone Management Act. Specifically, the following activities were observed:

Description of Activity: Performance of land disturbance (including placement of fill material and stormwater infrastructure in jurisdictional freshwater wetlands), without a stormwater permit.

Site Location: Off Haney Branch Road in upland and wetland areas adjacent to Sandy Run Creek, Eagle Harbor Subdivision, Berkeley County, South Carolina.

Specific Program Violation: South Carolina Stormwater Management and Sediment Reduction Act and the South Carolina Coastal Zone Management Act for non-permitted work.

This notice is not necessarily indicative of a formal enforcement and OCRM may or may not contact you for further action. If you are contacted concerning further action by OCRM, this contact will be in the form of scheduling an enforcement conference and/or pursuing an administrative enforcement order. Possible enforcement penalties would be discussed at that time.

If you have any questions concerning this notice, you may contact me at (843) 747-4323, Ext. 118.

SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTRO
Ocean and Coastal Resource Management
Charleston Office • 1362 McMillan Avenue • Suite 400 • Charleston, SC 29405
Phone: (843) 744-5838 • Fax: (843) 744-5847 • www.scdhec.gov

In future correspondence concerning this matter, please refer to SAC 60-2005-2200-2. If you have any questions regarding this matter, please contact Ms. Elizabeth Jackson at (843) 329-8044 or toll free at 1-866-329-8187.

Respectfully,

Tina B. Hadden
Chief, Regulatory Division

Enclosure

Copy Furnished:

U.S. Environmental Protection Agency
Region IV, Wetlands Protection Section
61 Forsyth Street
Atlanta, Georgia 30303

S.C. Department of Health
and Environmental Control
Office of Ocean and Coastal
Resource Management
1362 McMillan Avenue, Suite 400
Charleston, South Carolina 29405

PROMOTE PROTECT PROSPER

C. Earl Hunter, Commissioner

Promoting and protecting the health of the public and the environment.

ADMISSIONS LETTER

October 27, 2005

Mr. Danny Gilbert
Eagle Harbor, Inc.
1044 Eagle Harbor Lane
Summerville, South Carolina 29483

Re: Eagle Harbor Subdivision
Berkeley County

Dear Mr. Gilbert:

As you have previously been informed, land disturbance activities located off Haney Branch Road in upland and wetland areas adjacent to Sandy Run Creek, Eagle Harbor Subdivision, Berkeley County, South Carolina, have been conducted without a stormwater permit . The South Carolina Stormwater Management and Sediment Reduction Act, S.C. Code Ann. §§48-14-10 et seq. (Supp. 2004), requires that land disturbing activities conducted at this site be authorized with a stormwater permit authorized by OCRM.

OCRM is mandated by law to enforce the provisions of the Act. Pursuant to Reg. 30-8(F)(1), this Admissions letter is being issued, along with findings of fact, which have been drafted after an initial investigation by OCRM staff. Please find a copy of these findings of fact enclosed. Reg. 30-8(F)(2) provides that the responsible party must either admit these facts or send OCRM their version of the facts, along with any other information you might wish us to consider, **within 15 days of receipt of this letter**. A failure to respond will result in a conclusion by the Department that you admit the truth of these facts.

Should your response indicate that more investigation is necessary, OCRM will contact you. If you have any questions concerning this notice, you may contact me at (843) 747-4323 Ext. 118. Thank you for your prompt attention to this matter.

SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTRO
Ocean and Coastal Resource Management
Charleston Office • 1362 McMillan Avenue • Suite 400 • Charleston, SC 29405
Phone: (843) 744-5838 • Fax: (843) 744-5847 • www.scdhec.gov

Sincerely,

Steven Brooks

Steven Brooks
Chief of Enforcement & Compliance
Regulatory Programs Division

cc: Leslie Riley, OCRM
Richard Chinnis, OCRM
Joe Fersner, OCRM
John Hensel, OCRM
Robin Foy, BOW
Elizabeth Jackson, U.S. Army Corps of Engineers

SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
OFFICE OF OCEAN AND COASTAL RESOURCE MANAGEMENT
PROPOSED FINDINGS OF FACTS

1. Eagle Harbor, Inc. (c/o Mr. Danny Gilbert) is the developer of certain property (see attached diagram) regulated by DHEC stormwater regulations and located off Haney Branch Road in upland and wetland areas adjacent to Sandy Run Creek, Eagle Harbor Subdivision, Berkeley County, South Carolina.

2. Eagle Harbor, Inc. (c/o Mr. Danny Gilbert), as the developer, is responsible for the land disturbance activities at the above location.

3. A site inspection was conducted on October 21, 2005, to determine the extent of land disturbance.

4. The site inspection revealed that extensive land disturbance activities had been conducted at the above-mentioned site. Specifically, the land disturbance activities consisted of clearing and filling of upland areas, filling in freshwater wetland areas, installation of stormwater infrastructure, construction of roadways, and construction of homes.

5. To date, Eagle Harbor, Inc. (c/o Mr. Danny Gilbert), has not submitted an application for the land disturbance activities associated with the development of the Eagle Harbor Subdivision.

6. The land disturbance activities at the above location have not been permitted or otherwise legally authorized by the OCRM as required by law and are therefore considered unauthorized.

Please state any additional facts that you deem pertinent to this investigation and return to OCRM by November 15, 2005.

CERTIFICATION

I, Natalea O. Scott, of the U.S. Army Corps of Engineers, Charleston District, certify that the attached record represents a true and correct copy of original documents or copies kept in the ordinary course of doing business, which are part of the official Charleston District records and have been provided under the Freedom of Information Act (FOIA).

Natalea O Scott
Natalea O. Scott

4 May 2018
Date

I, a Notary Public, do hereby certify that Natalea O Scott personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS my hand and seal this 8th day of May, 2018.

John P. Kassebaum II (Signature of Notary Public)

John P. Kassebaum II (Typed/Printed name of Notary Public)

NOTARY PUBLIC FOR SOUTH CAROLINA

My Commission Expires: Nov 24, 2024

EXHIBIT 43
WITNESS
DATE: 5/4/2018
REPORTER: H. LANDRY

DATE

DEPARTMENT OF THE ARMY
CHARLESTON DISTRICT, CORPS OF ENGINEERS
69A Hagood Avenue
CHARLESTON, SOUTH CAROLINA 29403-5107

REPLY TO
ATTENTION OF

November 7, 2005

Regulatory Division

Ronald and Diana Price
1104 Saddlehorn Road
Summerville, South Carolina 29483

Re: SAC 87-2005-2039-2
Berkeley County

Dear Mr. and Mrs. Price:

This is in response to your letter of September 20, 2005, requesting a wetland determination for a 7.86 acre tract located at the terminus of Saddlehorn Road, in Berkeley County, South Carolina. The project area is depicted on the survey plat you submitted which was prepared by Ashley Engineering & Surveying, Inc., dated October 20, 2004, and entitled "CLOSING SURVEY FOR DON PRICE & DIANA PRICE CITY OF GOOSE CREEK BERKELEY COUNTY, SOUTH CAROLINA."

I have depicted the approximate boundaries of wetlands and other waters of the United States on a copy of the plat referenced above. The property in question contains approximately 2 acres of federally defined freshwater wetlands or other waters. However, none of these aquatic resources are considered to be subject to the jurisdiction of this office due to a recent decision by the U.S. Supreme Court. The location and configuration of these areas, as well as their status relative to jurisdiction, are reflected on the plat referenced above.

It should be clearly noted that the decision of the U.S. Supreme Court to exclude certain waters and wetlands from federal jurisdiction under the Clean Water Act has no effect on any state or local government restrictions or requirements concerning aquatic resources, including wetlands. You are strongly cautioned to ascertain whether such restrictions or requirements exist for the area in question before undertaking any activity which might destroy or otherwise impact these wetland resources.

Based on an on-site inspection and a review of aerial photography and soil survey information, it has been determined that the boundaries shown on the referenced plat are a reasonable approximation of the location and boundaries of the wetlands or other waters found on this site. However, you are cautioned that this delineation is approximate, subject to change, and should be used for planning purposes only. In order for a more accurate determination to be provided, these areas should be surveyed and platted. Upon receipt of such a plat, this office can then issue a letter verifying the accuracy of the actual boundaries. Please note that this office does not require that these non-jurisdictional areas be surveyed. However, if the landowner voluntarily wishes to obtain a more accurate determination or needs to perform this level of mapping due to the requirements of state or local governmental entities, we will provide a review and verification of this mapping upon request.

NOV 16

Please be advised that this determination is valid for five (5) years from the date of this letter unless new information warrants revision of the delineation before the expiration date. All actions concerning this determination must be complete within this time frame, or an additional delineation must be conducted. Further, be advised that this **preliminary** jurisdictional determination is **not** an appealable action under the Corps of Engineers administrative appeal procedures defined at 33 CFR 331.

In future correspondence concerning this matter, please refer to SAC 87-2005-2039-2. You may still need state or local assent. Prior to performing any work, you should contact the South Carolina Department of Health and Environmental Control, Office of Ocean and Coastal Resource Management. A copy of this letter is being forwarded to them for their information.

If you have any questions concerning this matter, please contact me at 843-329-8044 or toll free at 1-866-329-8187.

Respectfully,

Elizabeth Jackson
Biologist

Enclosure:
Basis for Jurisdiction
Customer Service Survey

Copy Furnished:

South Carolina Department of Health
and Environmental Control
Office of Ocean and Coastal
Resource Management
1362 McMillan Avenue, Suite 400
Charleston, South Carolina 29405

JACKSON - RPP
HILL RPE

JURISDICTIONAL DETERMINATION Revised 8/13/04
U.S. Army Corps of Engineers

DISTRICT OFFICE: SAC 87-2005-2039-2
FILE NUMBER:

PROJECT LOCATION INFORMATION:
State: South
County: Berkeley
Center coordinates of site (latitude/longitude): 33.11380 / 80.16511
Approximate size of area (parcel) reviewed, including uplands: 7.8 acres
Name of nearest waterway: Sandy Run
Name of watershed: W2

JURISDICTIONAL DETERMINATION
Completed: Desktop determination ☐ Date:
Site visit(s) ☒ Date(s): 11-3-05

Jurisdictional Determination (JD):

☒ Preliminary JD: Based on available information, ☐ *there appear to be* (or) ☒ *there appear to be no* "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331).

☐ Approved JD – An approved JD is an appealable action (Reference 33 CFR part 331). Check all that apply:

☐ *There are* "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area:

☐ *There are* "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area:

☐ *There are "isolated, non-navigable, intra-state* waters or wetlands" within the reviewed area.
☐ Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction

BASIS OF JURISDICTIONAL DETERMINATION:
A. Waters defined under 33 CFR part 329 as "navigable waters of the United States":
☐ The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States":
☐ (1) The presence of waters, which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.
☐ (2) The presence of interstate waters including interstate wetlands[1].
☐ (3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce, including any such waters (check all that apply):
☐ (i) which are or could be used by interstate or foreign travelers for recreational or other purposes.
☐ (ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
☐ (iii) which are or could be used for industrial purposes by industries in interstate commerce.
☐ (4) Impoundments of waters otherwise defined as waters of the US.
☐ (5) The presence of a tributary to a water identified in (1) – (4) above.
☐ (6) The presence of territorial seas.
☐ (7) The presence of wetlands adjacent[2] to other waters of the US, except for those wetlands adjacent to other wetlands.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above): *If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2,4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination.*

Lateral Extent of Jurisdiction: (Reference: 33 CFR parts 328 and 329)

☐ Ordinary High Water Mark indicated by:
- ☐ clear, natural line impressed on the bank
- ☐ the presence of litter and debris
- ☐ changes in the character of soil
- ☐ destruction of terrestrial vegetation
- ☐ shelving
- ☐ other:

☐ High Tide Line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gages
- ☐ other:

☐ Mean High Water Mark indicated by:
☐ survey to available datum; ☐ physical markings; ☐ vegetation lines/changes in vegetation types

☒ Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by: USACE

Basis For Not Asserting Jurisdiction:

☐ The reviewed area consists entirely of uplands
☐ Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7)
☐ Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3).
☒ **The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States:**
- ☐ **Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3.**
- ☐ **Artificially irrigated areas, which would revert to upland if the irrigation ceased.**
- ☐ **Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.**
- ☐ **Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons.**
- ☐ **Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a).**
- ☒ **Isolated, intrastate wetland with no nexus to interstate commerce.**
- ☐ **Prior converted cropland, as determined by the Natural Resources Conservation Service**

Explain rationale:
- ☐ **Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale:**
- ☐ **Other (explain):**

DATA REVIEWED FOR JURSIDICTIONAL DETERMINATION (mark all that apply):

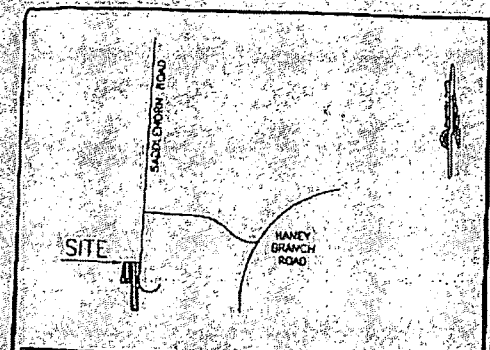
- ☐ Maps, plans, plots or plat submitted by or on behalf of the applicant.
- ☐ Data sheets prepared/submitted by or on behalf of the applicant.
  - ☐ This office concurs with the delineation report, dated _____ prepared by (company).
  - ☐ This office does not concur with the delineation report, dated _____ prepared by (company).
- ☐ Data sheets prepared by the Corps.
- ☐ Corps navigable waters' studies.
- ☐ U.S. Geological Survey Hydrologic Atlas.
- ☒ U.S. Geological Survey 7.5 Minute Topographic maps: Summerville Quad
- ☐ U.S. Geological Survey 7.5 Minute Historic quadrangles.
- ☐ U.S. Geological Survey 15 Minute Historic quadrangles.
- ☒ USDA Natural Resources Conservation Service Soil Survey, # 63, Coxville, Lynchburg, Goldsboro
- ☐ National wetlands inventory maps.
- ☐ State/Local wetland inventory maps.
- ☐ FEMA/FIRM maps (Map Name & Date).
- ☐ 100-year Floodplain Elevation is: _____ (NGVD)
- ☒ Aerial Photographs (Name & Date): 94 7443-020, 99 12026-36
- ☐ Other photographs (Date).
- ☐ Advanced Identification Wetland maps.
- ☒ Site visit/determination conducted on: 11-3-05
- ☐ Applicable/supporting case law.
- ☐ Other information (please specify).

Signature: Project Manager E. Jackson

[1]Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

[2]The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

01162



LOCATION MAP
N.T.S.

1104 SADDLEHORN ROAD
THIS LOT IS LOCATED IN FLOOD ZONE X SEE FIRM COMMUNITY PANEL NO. 450029 0260 C MAP REVISED: MAY 6, 1996
TMS 194-00-02-122
THE SAME BEING SHOWN AS LOT 20, ON A PLAT OF EAGLE HARBOR SUBDIVISION DATED SEPTEMBER 20, 2002 BY WILLIAM M. FERGUSON AND RECORDED IN THE RMC OFFICE FOR BERKELEY COUNTY IN PLAT CABINET P, AT PAGE 281-A

CURVE	LENGTH	RADIUS	DELTA ANGLE	TANGENT	CH. BEARING	CHORD
C1	12.53	20.00	35°54'05"	6.48	N 25°34'32" E	12.33
C2	89.06	50.00	102°03'15"	61.80	S 03°11'57" E	77.74
C3	120.48	50.00	138°03'50"	130.47	N 51°00'42" E	93.38

LINE	LENGTH	BEARING
L1	71.76	S 02°11'32" W
L2	122.00	S 02°11'32" W
L3	82.47	S 87°48'25" E
L4	157.21	N 02°11'32" E
L5	89.67	N 69°04'14" E
L6	125.52	N 69°04'14" E
L7	35.88	N 69°04'14" E

Wetland Approximation SAC 87-2005-2039
November 4, 2005
Total Acres: 7.89
Approximate Non-Jurisdictional Wetland Acres: 2

HOUSE DETAIL
SCALE: 1" = 60'

Magnetic North

HEIRS OF DAVE PERRY
TMS 194-00-02-032

Non-Jurisdictional Wetlands

N 17°02'43" W 710.24'

LOT 21

LOT 20
949,558 S.F.
7.89 Ac

LOT 19

S 87°32'59" E 232.04'

S 87°48'53" E 546.16'

S 02°11'32" W 277.80'

S.B. 1179
9.9 R/W

N 02°17'07" E 825.46'

S 02°22'33" W 196.79'

LOT 1

SADDLEHORN ROAD PRIVATE 50'
INGRESS/EGRESS & GENERAL UTILITY EASEMENT

CLOSING SURVEY FOR
RON PRICE &
DIANA PRICE
CITY OF GOOSE CREEK
BERKELEY COUNTY, SOUTH CAROLINA

I HEREBY STATE TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF, THE SURVEY SHOWN HEREON WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE MINIMUM STANDARDS MANUAL FOR THE PRACTICE OF LAND SURVEYING IN SOUTH CAROLINA, AND MEETS OR EXCEEDS THE REQUIREMENTS FOR A CLASS A SURVEY AS SPECIFIED THEREIN; ALSO, THERE ARE NO VISIBLE ENCROACHMENTS OR PROJECTIONS OVER THIS SPACE.

PAUL C. LAWSON JR. S.C. REG. NO. 14191
JOB NO. 042134-001

SOUTH CAROLINA ASHLEY ENGINEERING & SURVEYING, INC. No. C02179 CERTIFICATE OF AUTHORIZATION

SOUTH CAROLINA REGISTERED LAND SURVEYOR PAUL C. LAWSON JR. 14191

SCALE 1" = 200'
0 200 400

OCTOBER 20, 2004

ASHLEY
SHI-ET ENGINEERING & SURVEYING, INC.
IN SANGAREE PARKWAY, SUMMERVILLE, SC 29483
TELEPHONE: (843) 871-4416 FAX: (843) 871-0878

Regulatory Division - Charleston District-Corps of Engineers 69-A Hagood Avenue Charleston, South Carolina 29403

REQUEST FOR WETLANDS DETERMINATION

Date: 20 Sep 05

County: BERKELEY

Total Acreage of Tract: 7.86

Project Name (if applicable): EAGLE HARBOR

Property Owner (name, address, phone):
RONALD E. PRICE & DIANA R.
1104 SADDLEHORN RD.
SUMMERVILLE, SC 29483
(843) 688-6045

Agent/Developer/Engineer (name, address, phone):

Status of Project (check one):

- ☑ On-going site work for development purposes
- ☐ Development in planning stages
- ☐ No specific development plans at this time

Project Type - Indicate the proposed use of the land in question or, if no specific work is planned at present, indicate the current zoning or land use at the site. (check one):

- ☑ Residential
- ☐ Industrial
- ☐ Silviculture
- ☐ Commercial
- ☑ Agriculture
- ☐ Aquaculture
- ☐ Mixed Use (Residential + Commercial)
- ☐ Public Works
- ☐ Other: _____

Information Required to Accompany Request - Check the items submitted - forward as much information as is available. At a minimum, the first two items must be forwarded:

- ☐ Accurate Location Map (from County Map, USGS Quad Sheet, etc.)
- ☑ Survey Plat or Tax Map of the Property in Question
- ☐ Soil Survey Sheet (from USDA-NRCS) or Aerial Photo (from County Assessor's Office or other source). Property boundaries should be show on the soil survey / photo.
- ☐ Topographic Survey
- ☐ Conceptual Site Plan for the Overall Development

Endangered Species Evaluation:
Has the site been evaluated for the presence of federally protected (endangered, threatened or proposed) species and/or any proposed or designated critical habitat for such species? YES (NO)

If Yes, has this evaluation been coordinated with the US Fish and Wildlife Service (FWS)? YES NO

If coordination has occurred, please provide the FWS Log number and enclose a copy of the report:
FWS Log Number: _____ Copy of Report enclosed? YES NO

If the evaluation has not been coordinated with the US FWS, enclose a copy of your report of findings.

IMPORTANT NOTE: Legible printed name and signature required. The person signing this form must be the present property owner or have the specific authority of the property owner to authorize Corps of Engineers employees or their agents to enter onto the property for on-site investigations if such is deemed necessary.

Do not sign this form unless you are the owner, or have the specific authority of the property owner.

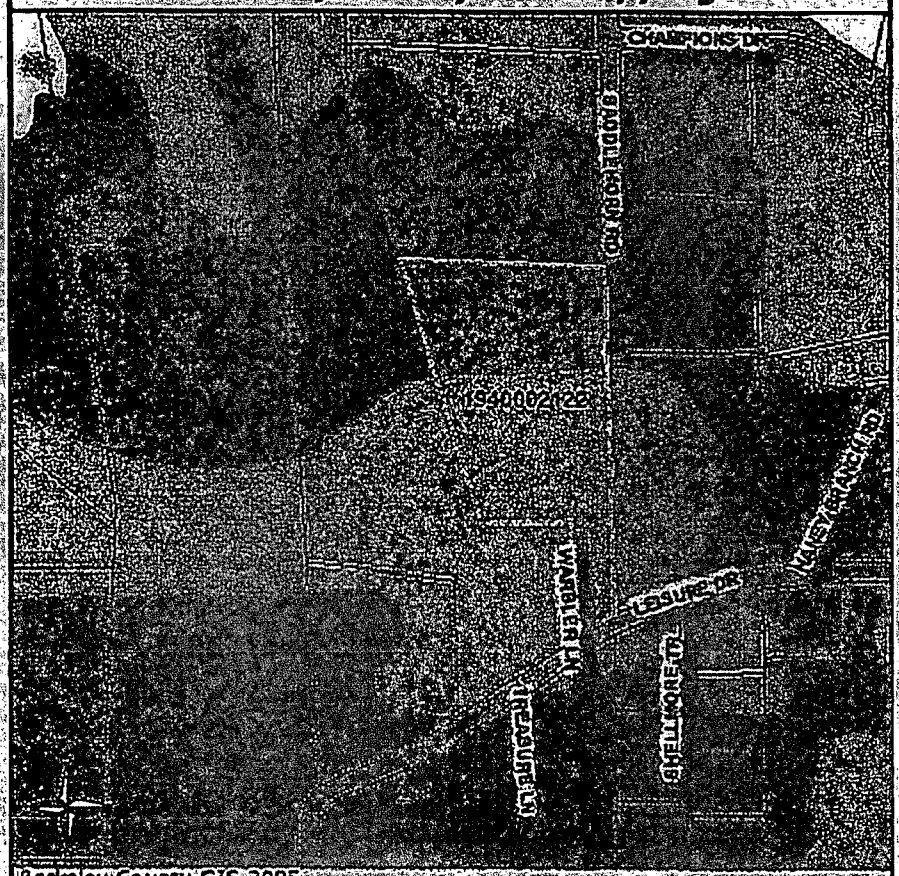
The signature of the owner or authorized agent on this form constitutes prior consent to disclose these records to other federal, state or local governmental agencies and the public at large.

PRINTED NAME of person signing this form, below: RONALD E. PRICE

Signature of Property Owner or Authorized Agent: [signature]

Copies of this form may be obtained from the Charleston District web site at: http://www.sac.usace.army.mil/permits/form_JDRequest.pdf

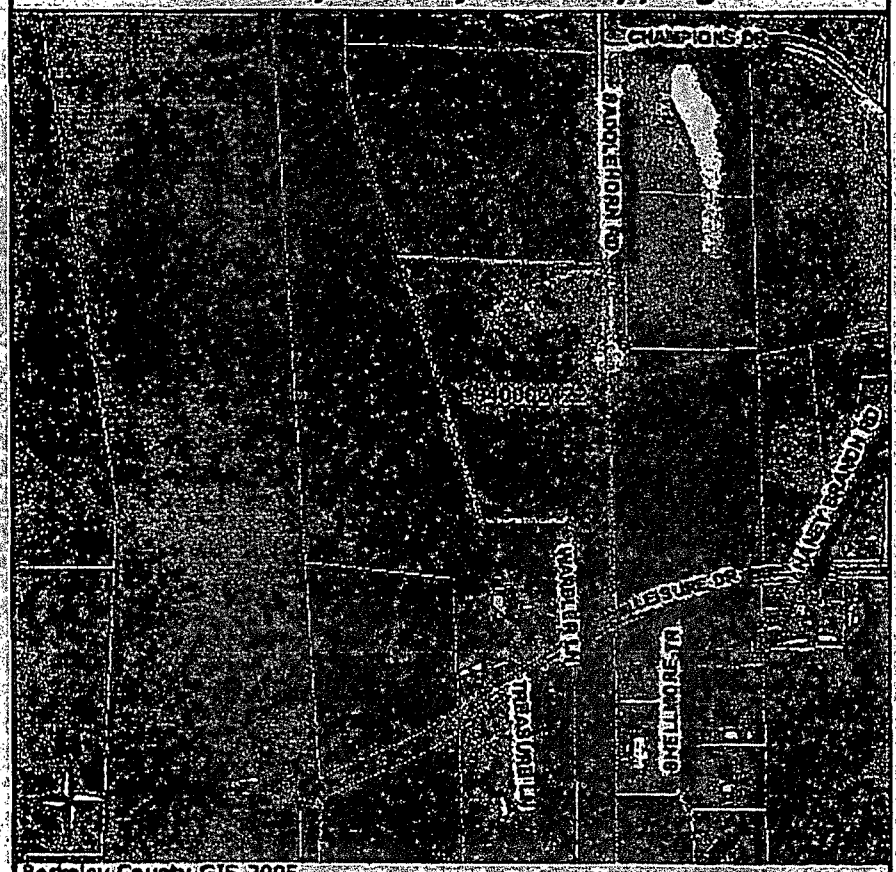
Berkeley County GIS Mapping



Sunday, September 18, 2005

The county of Berkeley and its GIS Department disclaims accountability for this product and makes no warranty express or implied concerning the accuracy thereof. Responsibility for interpretation and application of this product lies with the user.

Berkeley County GIS Mapping



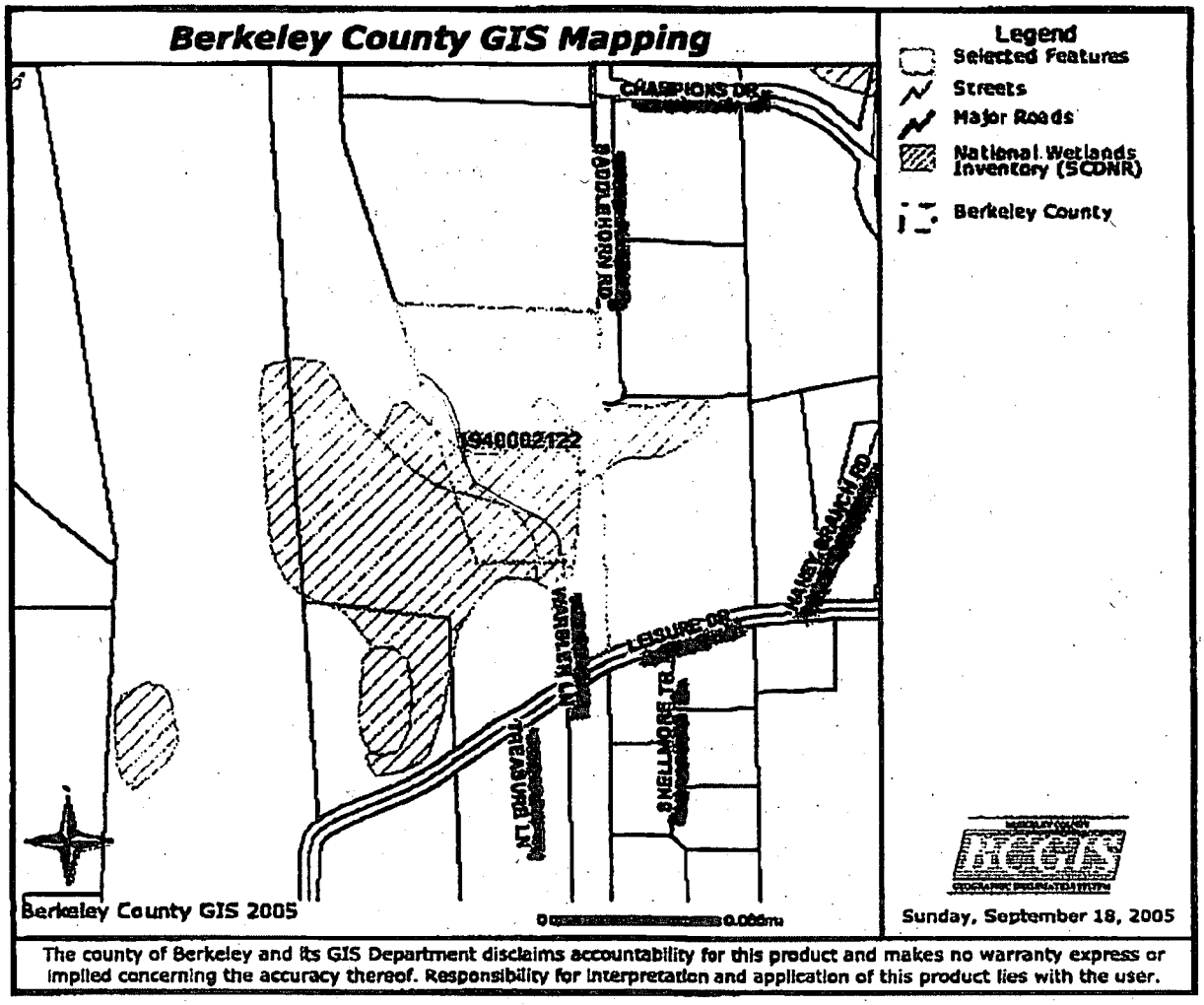
Legend
- Selected Features
- Streets
- Major Roads
- Berkeley County
- 2004 Aerials (Resampled)

Berkeley County GIS 2005

0 0.005mi

Sunday, September 18, 2005

The county of Berkeley and its GIS Department disclaims accountability for this product and makes no warranty express or implied concerning the accuracy thereof. Responsibility for interpretation and application of this product lies with the user.



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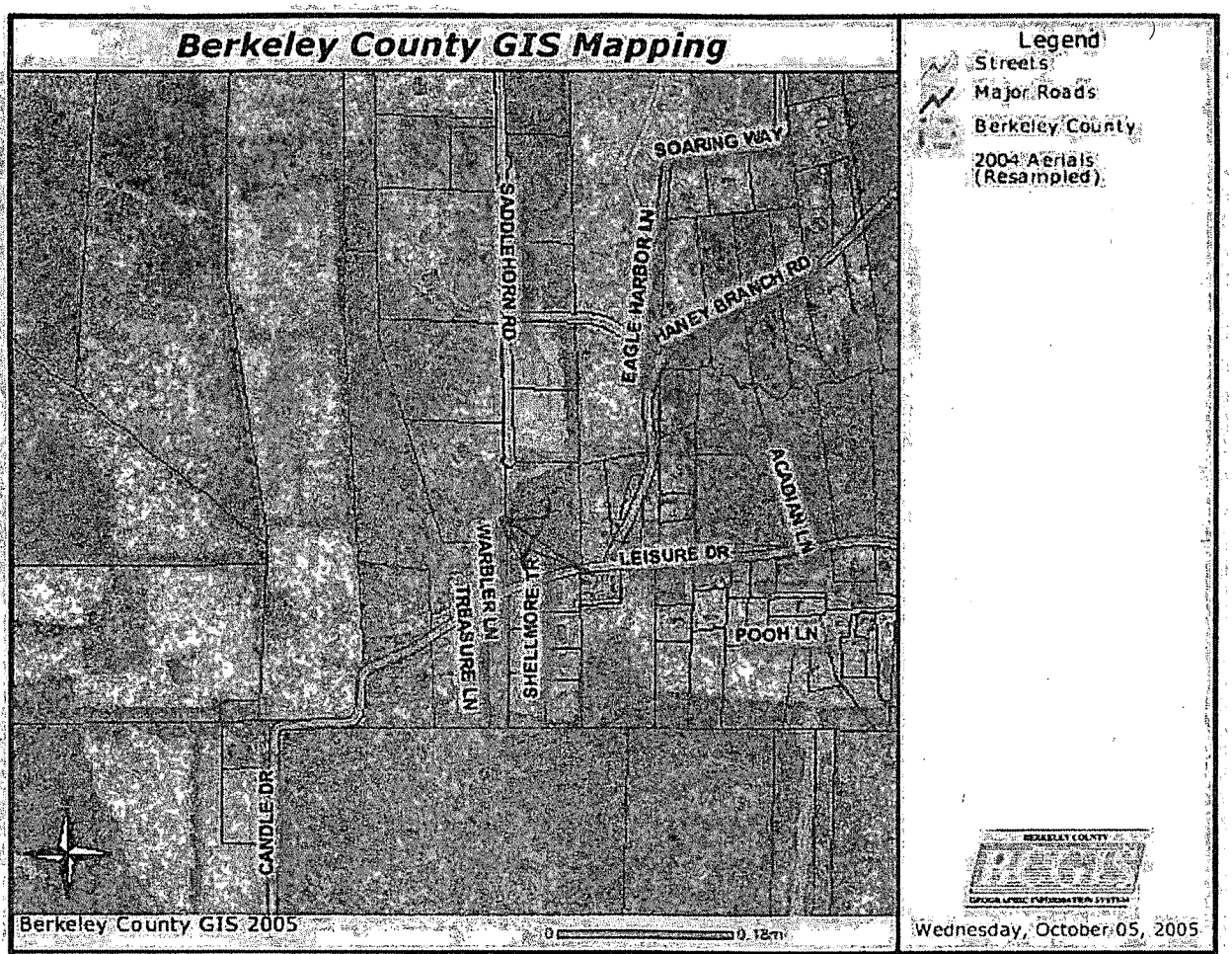

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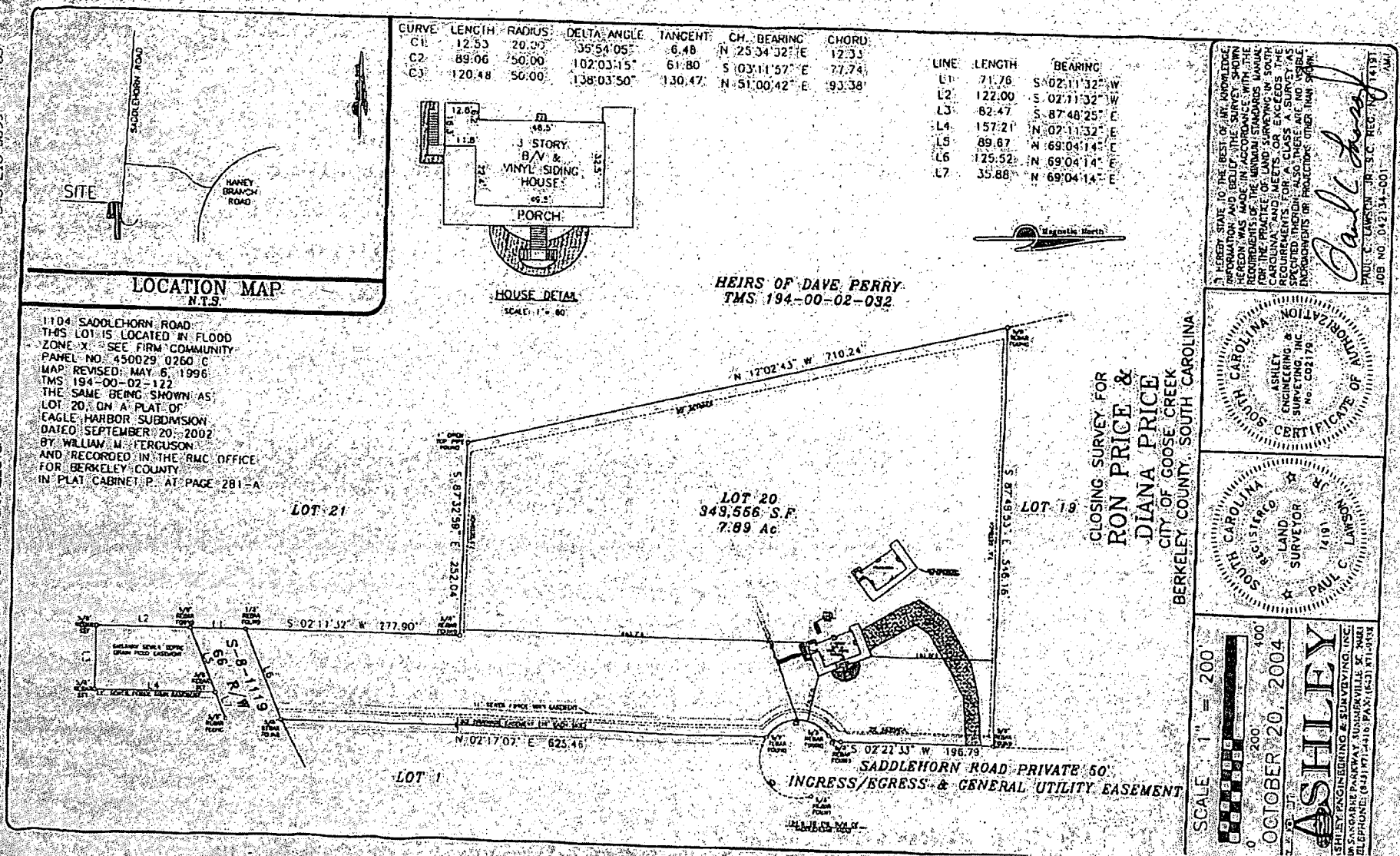
LOCATION MAP
N.T.S.
SADDLEHORN ROAD
SITE
HANEY BRANCH ROAD
1104 SADDLEHORN ROAD
THIS LOT IS LOCATED IN FLOOD ZONE X SEE FIRM COMMUNITY PANEL NO. 450029 0260 C MAP REVISED: MAY 6, 1996
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THE SAME BEING SHOWN AS LOT 20, ON A PLAT OF EAGLE HARBOR SUBDIVISION DATED SEPTEMBER 20, 2002 BY WILLIAM M. FERGUSON AND RECORDED IN THE RMC OFFICE FOR BERKELEY COUNTY IN PLAT CABINET P. AT PAGE 281-A
HOUSE DETAIL
SCALE 1" = 60'
1 STORY B/V & VINYL SIDING HOUSE
PORCH
HEIRS OF DAVE PERRY
TMS 194-00-02-032
Magnetic North
LOT 21
LOT 20
349,556 S.F.
7.89 Ac
LOT 19
LOT 1
N 17°02'43" W 710.24'
S 87°32'59" E 252.04'
S 02°11'32" W 277.90'
N 02°17'07" E 625.46'
S 02°22'33" W 196.79'
S 03°11'57" E 91.95'
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CLOSING SURVEY FOR
RON PRICE &
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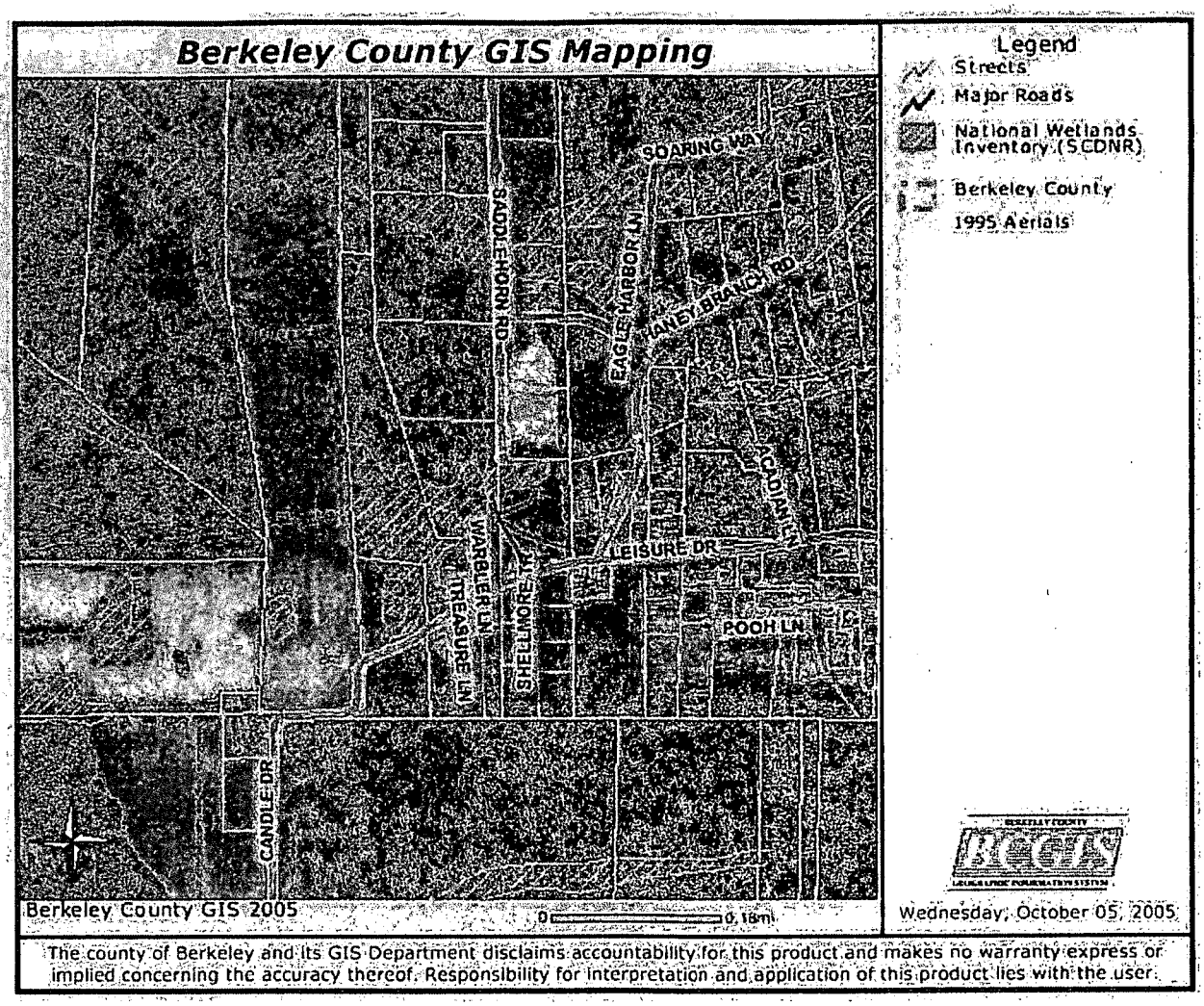
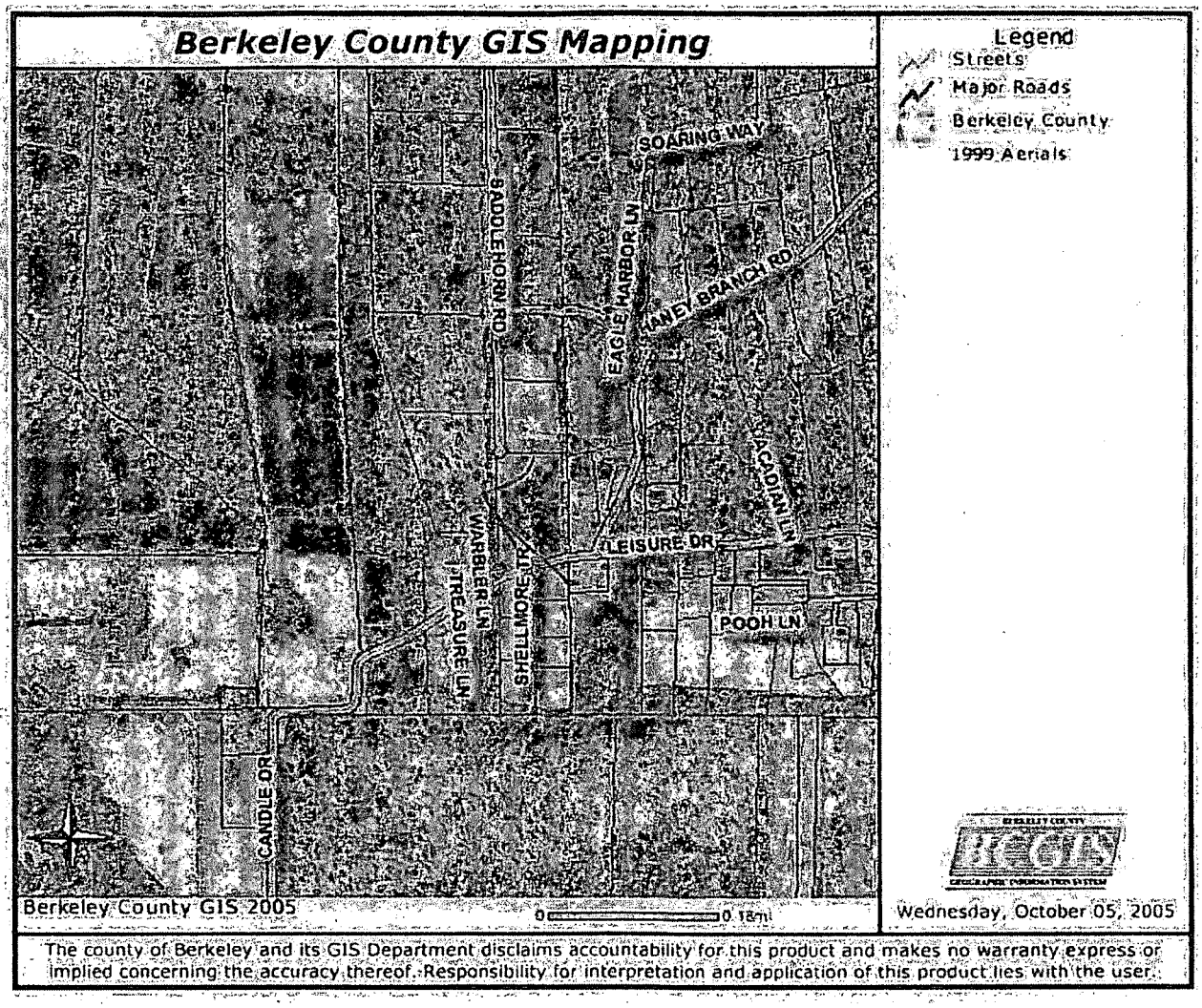
BERKELEY COUNTY, SOUTH CAROLINA
SCALE 1" = 200'
0 200 400
OCTOBER 20, 2004
ASHLEY
SHIRLEY ENGINEERING & SURVEYING, INC.
SOUTH CAROLINA
ASHLEY ENGINEERING & SURVEYING, INC. No. C02179
CERTIFICATE OF AUTHORIZATION
SOUTH CAROLINA REGISTERED LAND SURVEYOR
PAUL C. LAWSON JR. 14191
PAUL C. LAWSON, JR. S.C. REG. NO. 14191
JOB NO. 042134-001


Berkeley County GIS Mapping
Legend
Streets
Major Roads
National Wetlands Inventory (SCDNR)
Berkeley County 1995 Aerials
SOARING WAY
SANDPIPER HORN RD
EAGLE HARBOR LN
LAKE BRANCH RD
ACADIA LN
LEISURE DR
WARBLER LN
TREASURE LN
SHELLMORE TR
POOH LN
CANDLE DR
BERKELEY COUNTY
BCGIS
Berkeley County GIS 2005
0
0.18mi
Wednesday, October 05, 2005
The county of Berkeley and its GIS Department disclaims accountability for this product and makes no warranty express or implied concerning the accuracy thereof. Responsibility for interpretation and application of this product lies with the user.


Berkeley County GIS Mapping
Legend
Streets
Major Roads
Berkeley County
1999 Aerials
SOARING WAY
SADDLEHORN RD
EAGLE HARBOR LN
JANEY BRANCH RD
ACADIAN LN
LEISURE DR
POOH LN
WARBLER LN
TREASURE LN
SHELLMORE TRK
CANDLE DR
Berkeley County GIS 2005
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Wednesday, October 05, 2005
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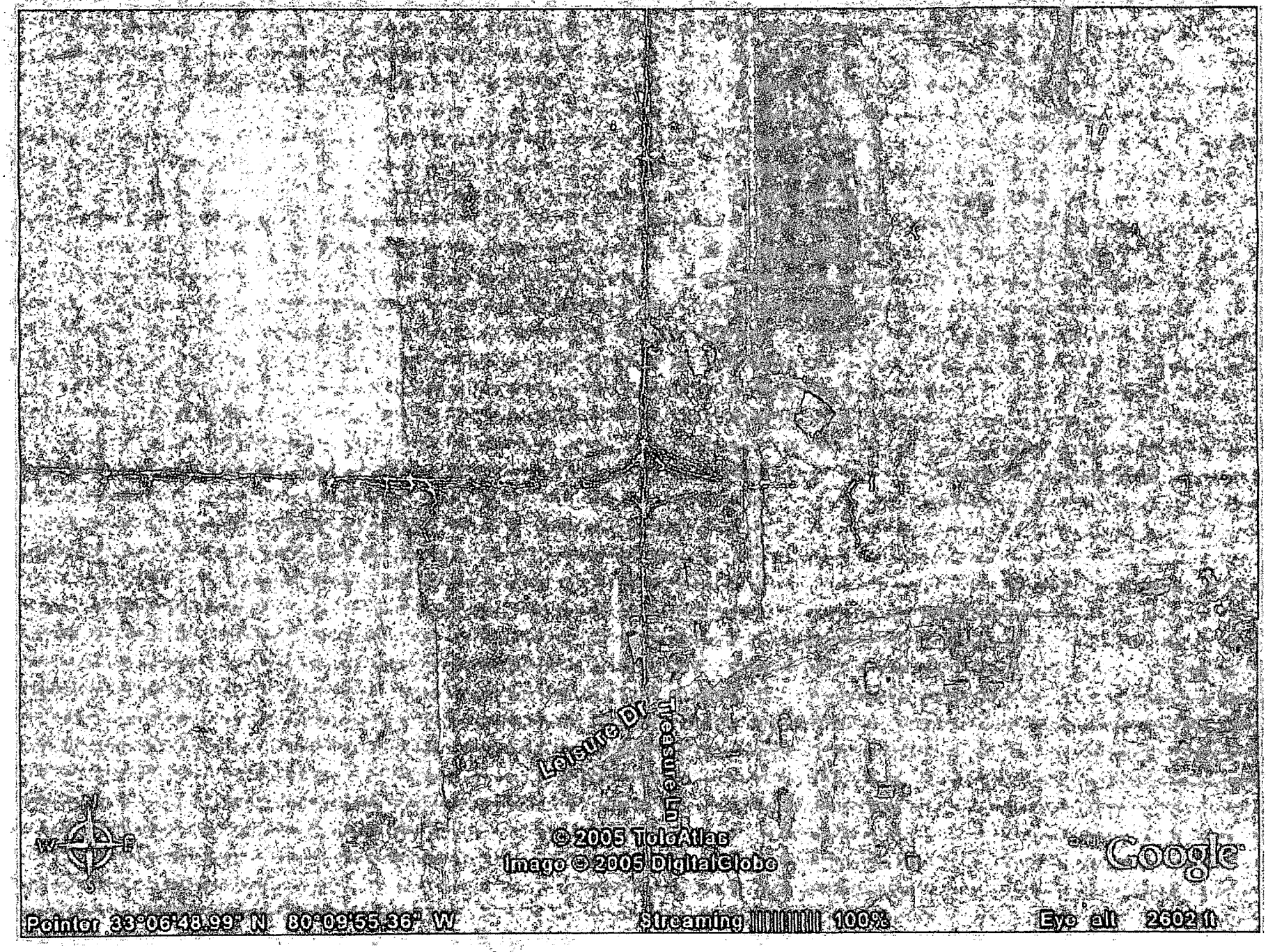

Leisure Dr
Leisure Ln
© 2005 TeleAtlas
Imago © 2005 DigitalGlobe
Google
Pointer 33°06'48.99" N 80°09'55.36" W
Streaming 100%
Eye alt 2602 ft

01171

Wetland/Waters of the US Jurisdictional Determination

Documentation of SWANCC Related Review

Project Name: Price lot

Project Number: 87-2005-2039

JD Performed By: Jackson for the COE

Consultant (if applicable): _____

I have reviewed the above referenced wetland delineation maps and other relevant documentation and concur with the determinations of "non-jurisdictional wetlands" contained therein.

9 Nov 05
date

D. Hampton Hill, Sr.
Chief, Environmental Assessment
& Enforcement Branch
Regulatory Division

As Project Manager for this project, I conducted and/or verified this referenced wetland delineation. I hereby certify that nothing has been changed in terms of the mapping or other matter related to this delineation between the date and time of Mr. Hill's review and the preparation of the final letter.

11/7/05
date

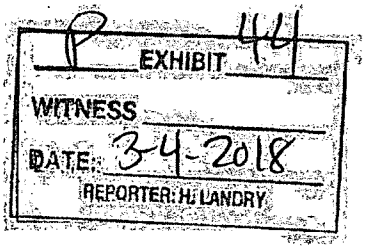
Regulatory Division

Wetlands do not appear to have any hydrologic connection to other water - surrounded by upl (crop) land. Soils map show Cosville not but by ag field

'99

April 3, 2004

Ronald and Diana Price
PO Box 191
Mt Blanchard, Oh 45867
AND
1104 Saddlehorn Rd.
Summerville, SC 29483



Gerri Fox
160 Loganberry Circle
Goose Creek, Sc 29445

Dear Mr. Fox.

We have been waiting to hear from Eagle Harbor Incorporated about the situation which prevents us from putting a residence on our residential property.

Both my husband and I have talked with you in an effort to "find out" what is happening, why it is happening, and when it will be rectified, as well as corresponding with every applicable agency and entity we know to seek information. We have yet to get any information from Eagle Harbor Inc.. When I talked to you on the 8th of March, after a lengthy discussion, I made it clear the construction Mr. Gilbert did, he did without authority and therefore without our permission--he did not obtain the septic permit, as required in our contract. Do you recall our talk of Jan 20? I called you because of the numerous problems we were having with Mr. Gilbert, even before we knew of his dishonesty over the septic permit. By contract, he has numerous responsibilities to us, which he has acted as if they were all insignificant and we are ***only*** obligated to him.

We are not "legal" experts, but we are intelligent enough to know that "residential" property owners/developers and licensed construction contractors have responsibilities to buyers concerning the condition of the property, disclosure of those conditions, as well as state laws, statues, ordinances, regulations, building codes, etc. which is why these endeavors are complicated but usually quite profitable for the people who pursue them.

Mr. Gilbert's behavior has reflected an usually odd "desperate" state for funds. Almost every lot and/or home owner we've talked to has had some unusual money transaction with Mr. Gilbert, which left them paying him and not getting the product or service for which they gave him money. Then there is the ARC review fee, which seems to be causing a great deal of animosity, as well as concern over the "legality" of the covenants and restrictions, of which he "demands" compliance. For us, he manipulated us (with the assistance of a subcontractor) into paying for Work out of our pocket rather than through the construction loan, which is where it was suppose to come from. Beyond this, do you have an idea of the "costs" we are accumulating over delays caused by Mr. Gilbert?

It appears to us that our situation with Mr. Gilbert, as a contractor, not meeting his responsibilities--in particular, not getting the septic permit before construction, as well as his not ***ensuring*** he'd met all SCDHEC procedures—to fulfill and meet the standards required for sale of those lots referenced in the Feb 7, 2002 letter (attached) places a great

deal of obligation on him and/or whoever he represents, to assure us, as well as the other property owners, of that "concern" which you stated Mr. Gilbert has for us and other property owners. The SCDOT permit was issued on Mar 15. It is now 3 weeks later and we see "no work" being done, nor have we received any correspondence saying it has been hired out or is scheduled to be done. My husband said Mr. Gilbert told you there was only ***one*** contractor for this work in SC. We checked on this—there are thousands. We understand Mr. Gilbert hired someone to put 4 lines through the road in 2002, which he says had responsibility to get the DOT permit...I only see Eagle Harbor Inc having responsibility—indicated on the plat. That sounds similar to his suggesting County Permitting is to blame for issuing him a building permit, when he applied for it without meeting the ***prior*** requirements.

We feel we have been far more patient than reasonable in waiting and having faith in Eagle Harbor, Heritage Classic Homes and Mr. Gilbert. What we do not understand is why the very party who as jeopardized our ownership of Eagle Harbor property, as well as "illegally" started house construction, has initiated a lien action against our property? Our contract—written by Mr. Gilbert himself (or at least he presented as "his" contract instrument) outlines in specific the obligations he has as a contractor and his obligation upon being terminated for cause. Aside from that obligation as a contractor, he has even greater obligation, as President of Eagle Harbor Inc., although we are wondering who else that "incorporated" stands for? Surely that is not him alone? Mr. Hollingsworth said Mr. Gilbert is not the developer. Then who was he talking about on our purchase agreement... "Developer agrees to allow subdividing of property..." ?

We did not terminate our contract with Mr. Gilbert because we wanted to...we were "forced" into that action. If we had signed an authorization for him to get "draw" funds, which is what he demanded from us, we would have taken on all ***his responsibility*** in this process and in essence approved, or at least condoned his action—even if we didn't really know (understand) what we were doing. We could not do that and it is God who prevented that from happening...we didn't know what we were doing, we just knew it wasn't right for him to do us that way, and we could not continue to do business with a person who was deliberately deceiving us. I'm sure you understand.

Even now, we know it is not right to be left in the dark about the work required to allow us to get our septic permit. What if 2 or 3 other lot owners where trying to start construction? What if someone wanted to sell their lot...could they? What about potential buyers for Eagle Harbor property—are they being told the facts? It just seems to us that the longer this goes unattended, the greater the problem. How can we make sense of Mr. Gilbert's devotion to the Eagle Harbor Boys Home with his behavior to his fellow neighbor/community? Again, we are thoroughly confused. It is not logical. As I told you on the phone, we are forgiving people, but we are human as well.

Sincerely,

Ronald E. Price and Diana R.B. Price

Attached: Feb 7, 2002 DHEC Letter

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NUMBER: 08-CP-10-5699

EAGLE HARBOR, INC., GERRY FOX, DANNY GILBERT, BELINDA FOX, TROY WINN

Plaintiffs,

vs.

STANTEC CONSULTING SERVICES, INC

FILED
2008 OCT -8 AM 9:33
JULIE J. ARMSTRONG
CLERK OF COURT
BY

COMPLAINT
(PROFESSIONAL NEGLIGENCE)
JURY TRIAL DEMANDED

NOW COMES THE PLAINTIFFS, complaining of the Defendant above named, alleges and states as follows:

AS TO JURISDICTION

1 The individual Plaintiffs are citizens and residents of the County of Berkeley, State of South Carolina.

2 The Plaintiff EAGLE HARBOR, INC. is a corporation, duly organized and existing under the laws of the State of South Carolina. It operates as a non-profit entity owning property situate Berkeley County, State of South Carolina.

3 This action concerns property situate Berkeley County, State of South Carolina. Specifically, this action concerns certain property, to wit, *et al.*:

TMS: 1940002031

1940001073

1780003051

P EXHIBIT 45
WITNESS
DATE: 3-4-2008
REPORTER: H. LANDRY

4 The Plaintiffs, collectively, own all the land identified *id.*

5 The Defendant, STANTEC CONSULTING SERVICES, INC. is, upon information and belief, an entity organized and existing under the laws of the State of South Carolina, and doing business in the Counties of Charleston, Berkeley and others in the State of South Carolina.

6 In 2001, the land owned by the Plaintiffs was undeveloped and raw land, approximately 200 acres in size near Jedburg, South Carolina.

7 In 2001, for good and valuable consideration, Plaintiffs entered into a written Agreement with Defendant for the latter to first survey this parcel of land and then, in accord with then existing laws and regulations, draft and submit a Master Plan. This plan was to include, but not be limited to:

A Road placement and construction;

B Drainage calculation and construction;

C Wetland delineation and or mitigation;

D Lot line delineation;

E Swale setting;

F Setting and placement of easements;

G Setting and placement of lakes and the Boy's Home.

H Conduct Soil Tests;

I Etc.

8 The Defendants also agreed to and did supervise much of the clearing work as

well as property line marking, road construction etc. The Defendants issued several FIELD REPORTS updating the project progress.

9 The Defendants were authorized to and did agree to represent the interests of the Plaintiff in securing ALL permits necessary to effectuate their contractual obligations.

10 The demised real property contains Wetlands as defined in The United States Code of Laws, 33 USC 1344 *et seq.*

11 On or about October 19, 2005 the Department of Defense for the government of the United States, through the Department of the Army, Corps of Engineers inspected the property after completion of the work aforementioned. They issued a finding which set forth numerous violations in the planning and development of this property.

12 The violations set forth, included, but is not limited to:

A Failure to secure a permit;

B Improper dredging of wetlands;

C Failure to properly mitigate wetlands;

D Improper use and disposal of fill material;

13 As a direct and proximate result of said violations, the Plaintiffs have been harmed in the following particulars, to wit;

A Loss of use of valuable land and consequent revenue derived therefrom;

B Fines issued to the Plaintiff by regulatory agencies;

C Cost of analysis and repair of deviant work;

D Etc.

FOR A FIRST CAUSE OF ACTION

14 The Plaintiffs herein incorporate all allegations contained in this Complaint as if fully set forth verbatim in.

15 The Defendant was negligent, reckless, willful, and wanton in the construction of and work performed at the residence through a failure to use the degree of skill and care required of licensed surveyors and licensed engineers in the work performed at the demised property; through their failure to design, inspect, supervise, construct, and perform work at the demised property so as to comply with prevailing building codes, professional industry standards and practices, governmental regulations and permitting through their failure to act as reasonable and prudent professionals under the same or similar circumstances.

16 The Defendant was under a duty to the Plaintiffs to design, inspect, supervise and construct the development of this demised property in compliance with the applicable codes and in conformity with standard industry practices.

17 An inspection of said property clearly demonstrates defects as set forth *supra*.

18 At the time of the contract between the parties, it was foreseeable that in the event this development was performed in violation of professional industry standards and practices and in comport with governmental regulations, it would

require a forensic examination to determine the extent of said defects. Additionally, it would require the retention of numerous experts to determine not only the extent of damage but also, the method and costs of repair.

19 As a direct and proximate result of the Defendant's violation of its legal duties, the Plaintiffs have been damaged in an amount to be determined by this Honorable Court, along with punitive damages, the costs for retention of experts to determine the extent of damage and the scope of work for repair and the costs and disbursements of this action.

FOR A SECOND CAUSE OF ACTION

20 The Plaintiffs restate and reallege the allegations contained in Paragraphs 1 through 19 above as if set forth fully herein.

21 The Defendants impliedly warranted that its work would be performed in a careful, diligent, and workmanlike manner.

22 The Defendants failed to perform work in a careful, diligent and workmanlike service and fashion, and, therefore, breached their implied warranty of workmanlike service.

23 That as a result of this breach of this implied warranty, and as a direct and proximate result thereof, the Defendants have deprived the Plaintiffs of the partial use of the property and have caused and/or will cause the expenditure of large sums in order to determine the extent of the losses to this development and will cause the Plaintiffs to spend considerable sums in the future for further

inspection and repair of defective work.

24 At the time of the contract between the parties, it was forseeable that in the event this development was performed in violation of professional industry standards and practices and in comport with governmental regulations, it would require a forensic examination to determine the extent of said defects. Additionally, it would require the retention of numerous experts to determine not only the extent of damage but also, the method and costs of repair.

25 As a direct and proximate result of the Defendant's violation of its legal duties, the Plaintiffs have been damaged in an amount to be determined by this Honorable Court, along with punitive damages, the costs for retention of experts to determine the extent of damage and the scope of work for repair and the costs and disbursements of this action.

FOR A THIRD CAUSE OF ACTION

26 Plaintiffs restate and reallege the allegations of Paragraphs 1 through 25 above as if fully set forth herein.

27 The Defendant agreed to provide a service in accordance with the Agreements signed between the parties.

28 The Defendants have breached the contract with the Plaintiff by failing to act in accordance with the contract and in accordance with industry practice and standards.

29 Immediately upon learning of defective work performed by the Defendants, the

Defendants were notified of all defects complained of in this Complaint

30 That despite due demand, Defendants have failed and refused to repair their work.

31 At the time of the contract between the parties, it was forseeable that in the event this development was performed in violation of professional industry standards and practices and in comport with governmental regulations, it would require a forensic examination to determine the extent of said defects. Additionally, it would require the retention of numerous experts to determine not only the extent of damage but also, the method and costs of repair.

32 As a direct and proximate result of the Defendant's violation of its legal duties, the Plaintiffs have been damaged in an amount to be determined by this Honorable Court, along with punitive damages, the costs for retention of experts to determine the extent of damage and the scope of work for repair and the costs and disbursements of this action.

FOR A FOURTH CAUSE OF ACTION

33 Plaintiffs restate and reallege the allegations of Paragraphs 1 through 32 above as if fully set forth herein.

34 During meetings with Defendant, and during negotiations with Defendant prior to engaging their services, the Defendant expressly warranted their work and their work product. In reliance upon these representations, Plaintiffs contracted with the Defendant.

35 At the time of the contract between the parties, it was forseeable that in the event this development was performed in violation of professional industry standards and practices and in comport with governmental regulations, it would require a forensic examination to determine the extent of said defects. Additionally, it would require the retention of numerous experts to determine not only the extent of damage but also, the method and costs of repair.

36 As a direct and proximate result of the Defendant's violation of its legal duties, the Plaintiffs have been damaged in an amount to be determined by this Honorable Court, along with punitive damages, the costs for retention of experts to determine the extent of damage and the scope of work for repair and the costs and disbursements of this action.

FOR A FIFTH CAUSE OF ACTION

37 Plaintiffs restate and reallege the allegations of Paragraphs 1 through 36 above as if fully set forth herein.

38 The above described willful, wanton, unlawful, tortious, improper, and unjustified acts of the Defendant in violating applicable professional codes, regulations and standards in the design and development of this property constitutes unfair and deceptive practices in the conduct of the Defendant's trade, that such acts are capable of repetition and are injurious to the public as the Defendants are capable of continuing and are continuing to perform such acts, and that the Plaintiffs, as a result of the Defendant's unfair trade practices,

have suffered damages.

39 That the Plaintiffs are entitled to judgment for unfair trade practices against the Defendant in an amount to be determined by this Honorable Court, together with prejudgment interest, punitive damages, treble damages, attorney's fees, the costs and disbursements of this action, and such other and further relief as this Court deems just and proper.

WHEREFORE, the Plaintiffs pray that this Honorable Court will grant them a judgment in an amount to be determined by the Court against all Defendants, along with prejudgment interest, punitive damages, reasonable attorney's fees, treble damages, costs for experts, and any other costs and disbursements of this action, and such other and further relief as this Court may deem just and proper.

DeLUCA and MAUCHER, L.L.P.

By: _____

Jay S. Masty
Post Office Box 9
Goose Creek, SC 29445
(843) 572-1711
(843) 572-1285 Facsimile

ATTORNEY FOR PLAINTIFF

At Goose Creek, South Carolina
This 7th day of October, 2008

FORM 638 (REV. 7/93)

APPLICATION FOR ENCROACHMENT PERMIT

No. S06-06-32496

(ENCROACHMENT PERMIT OTHER THAN A PUBLIC UTILITY)

APPLICANT: EAGLE HARBOR INC
AND DANNY GILBERT
ADDRESS: 1044 EAGLE HARBOR LN
SUMMERVILLE, SC 29483
TELEPHONE NUMBER: 843 688 5995

COUNTY: BERKELEY
ROAD/ROUTE: S-8-1205
CHAMPIONS DRIVE
&
ROAD NAME: HANEY BRANCH RD

1. The undersigned applicant hereby applies to the South Carolina Department of Transportation (SCDOT) for a permit for encroachment on State Highway Right of Way as shown and described below:

2. Type of Encroachment: ENTRANCE TO CHILDREN'S HOME AND SUBDIVISION

3. Description of location:

HANEY BRANCH RD AND CHAMPIONS DRIVE

(Attach sketch indicating roadway features such as: pavement width, shoulder width, sidewalk and curb and gutter location, significant drainage structure, north arrow, right of way width, and location of the proposed encroachment with respect to the roadway centerline and the nearest intersecting road on the State system.)

4. The undersigned applicant hereby requests the SCDOT to permit encroachment on the Department right of way as described herein. It is expressly understood that the encroachment, if and when constructed, shall be installed in accordance with the sketch attached hereto and made a part hereof. The applicant agrees to comply with and be bound by the Department's "A Policy for Accommodating Utilities on Highways Rights of Way" and "Standard Specifications for Highway Construction" (made a part hereof by reference) on file in the Utility Office of the Department, and all general provisions on the reverse hereof and special provisions below or attached hereto during the installation, operation and maintenance of said encroachment within the Department Right of Way. The applicant hereby further agrees, and binds his heirs, successors, assigns, to assume any and all liability this Department might otherwise have in connection with accidents or injuries to persons, or damage to property, including the highway, that may be caused by the construction, maintenance, use, moving or removing, of the physical appurtenances contemplated herein and agrees to indemnify this Department for any liability incurred or injury or damage sustained by reason of the past, present, or future existence of said appurtenances.

APPLICANT NAME: DANNY GILBERT (PLEASE PRINT OR TYPE) DATE: 2/16/06

APPLICANT SIGNATURE: [signature] TITLE: EXEC DIRECTOR

In compliance with your request and subject to all the provisions, terms, conditions and restrictions stated in the application, general provisions on the reverse hereof, and special provisions below or attached hereto, the Department approves the request. This permit shall become null and void unless the work contemplated herein shall have been completed prior to 02/28/2007.

SPECIAL PROVISIONS:

SEE ATTACHMENTS

P EXHIBIT 40
WITNESS
DATE: 5-4-2018
REPORTER: H. LANDRY

2/27/2006 DATE RECEIVED BY RES. MAINT. ENGR.

DATE FORWARDED

[signature] SCDOT APPROVAL

2/28/2006 DATE

☑ RESIDENT MAINTENANCE ENGINEER ☐ STATE HIGHWAY ENGINEER MRM

DATE RECEIVED BY DIST. ENGR. ADMIN.

DATE FORWARDED

☐ DISTRICT ENGINEERING ADMINISTRATOR ☐ DISTRICT MAINT./CONSTRUCTION ENGINEER

S-8-1119

1.41 - 0.22 = 1.19

01185

SPECIAL PROVISIONS CONTINUED FROM PERMIT COVER SHEET

OF SCDOT ENCROACHMENT PERMIT NUMBER S-08-06-32496

1.) SEE ATTACHMENT "A", THE PERMITTEE AND/OR CONTRACTOR ARE TO BE FULLY AWARE OF THESE PROVISIONS. ALSO SEE ATTACHED SKETCH.

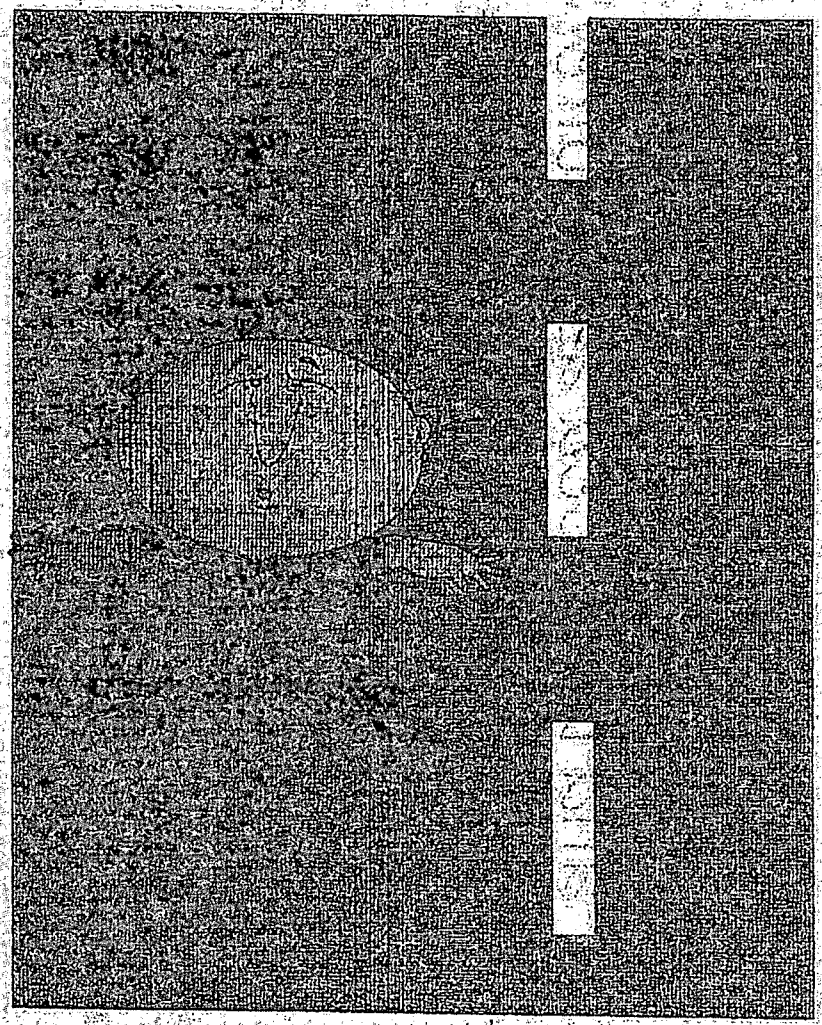
2.) THIS OFFICE IS TO BE NOTIFIED 24 HOURS PRIOR TO ANY WORK INSIDE SCDOT RIGHTS-OF-WAY BEING STARTED.

3.) APPROVAL OF THIS PERMIT IS FOR THE UPGRADE OF AN NON-PERMITTED ROADWAY ENTRANCE INTO EAGLE HABOR SUBDIVISION TO CURRENT SCDOT STANDARDS AND REQUIREMENTS. ENTRANCE IS LOCATED ON WEST SIDE OF HANEY BRANCH ROAD S-8-1205 APPROXIMATELY 0.22 MILES NORTH OF LEISURE DRIVE S-8-1119. THE IMPROVEMENTS REQUIRED WILL BE AS FOLLOWS: EXTEND EXISTING STORM DRAIN PIPE ACROSS ENTRANCE BY ADDING AN 8' SECTION ON BOTH SIDES, THIS SECTION CAN BE RCP BEVELED END SECTIONS, CONSTRUCT 6' WIDE EARTH SHOULDERS AROUND ENTRANCE RADII WITH A SLOPE OF 12:1 AND THEN SLOPE TO ENDS OF PIPES, INCREASE PAVEMENT OF DRIVE TO 22' WIDE DRIVE WITH 30' RADII, IF ENTIRE ENTRANCE DOES NOT HAVE A SMOOTH RIDING SURFACE, THEN THE ENTIRE DRIVE IS TO BE OVERLAID WITH 150 #/SY ASPHALT SURFACE COURSE, THEN THE SIDELINE DITCH OF HANEY BRANCH ROAD ON BOTH SIDES OF ENTRANCE IS TO BE CLEANED AND GRADED TO PROVIDE POSITIVE AND SHAPED TO HAVE 6' WIDE EARTH SHOULDER HAVING SLOPE OF 12:1, DITCH SLOPE OF FRONT 4:1 AND BACK 3:1.

4.) ALL DISTURBED AREAS INSIDE SCDOT RIGHT-OF-WAY ARE TO BE GRADED, STABILIZED, AND GRASSED TO PREVENT ANY EROSION OR SEDIMENTATION INTO DITCHES.

5.) AFTER PIPE IS PLACED AND PRIOR TO BACKFILLING, SCDOT IS TO BE NOTIFIED FOR PIPE INSPECTION FOR ALIGNMENT, GRADE, AND JOINT SEALING. (843)761-8481

6.) WHEN ALL REQUIRED WORK IS COMPLETED THIS OFFICE IS TO BE CALLED FOR FINAL INSPECTION AND SCDOT ACCEPTANCE OF ENTRANCE. (843) 761-8481



Freddy was a flagman,
A smart one, he was not.
He didn't have a flag,
And a vest he often forgot.
Refused to use a cone or sign,
He never thought he ought.
But yesterday out on the road,
Freddy became a spot.

South Carolina
Department of Transportation

IMPORTANT
READ BEFORE STARTING ANY CONSTRUCTION

ENCLOSED IS A COPY OF YOUR SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION ENCROACHMENT PERMIT, WHICH WILL ENABLE YOU TO PERFORM THE WORK IN THE ROADWAY RIGHT-OF-WAY AS YOU REQUESTED. AS PERMITTEE OR CONTRACTOR WORKING FOR THE PERMITTEE, IT IS ESENCIAL THAT YOU READ AND UNDERSTAND ALL THE REGULATIONS AND PROVISIONS GOVERNING WORK DISCRIBED IN THIS PERMIT. THE REGULATIONS AND PROVISIONS CAN BE FOUND ON THE APPLICATION SHEET OF THE PERMIT, ON THE INCLUDED PROVISION AND SPECIAL PROVISION ATTACHMENTS, AND SHOWN ON ANY DRAWINGS OR SKETCHES. IF ANY PORTION OF THESE REQUIREMENTS ARE NOT COMPLIED WITH ONE OR MORE OF THE FOLLOWING CONDITIONS MAY BE INACTED:

1.) THAT PORTION OF CONSTRUCTION NOT MEETING SPECIFICATIONS OR INSPECTION WILL BE REMOVED AND REPLACED AT THE PERMITTEE'S EXPENCE.
2.) ALL WORK ON THE PROJECT WILL BE STOPPED AND WILL NOT BE PERMITTED TO RESUME UNTIL ALL ISSUES OF THE PERMIT HAVE BEEN RESOLVED TO THE SCDOT'S SATISFACTION.
3.) AN EXTENDED WARRANTY PERIOD WILL BE ADDED TO THE PRESENT TWO-YEAR WARRANTY PERIOD.
4.) THE PERMIT WILL BE VOIDED AND ACCESS WILL BE DENIED.

IT IS ALSO REQUIRED THAT THIS OFFICE BE NOTIFIED 24 HOURS PRIOR TO CERTAIN TIMES AND STAGES OF CONSTRUCTION RELATED TO THIS PERMIT. THESE TIMES AND STAGES ARE AS FOLLOWS:

1.) PRIOR TO THE START OF ANY CONSTRUCTION LOCATED ON SCDOT RIGHT-OF-WAY.
2.) PRIOR TO THE INSTALLATION OF ANY TRAFFIC CONTROL OR LANE CLOSURE.
3.) PRIOR TO THE START OF ANY BORING UNDER ROADWAY OPERATION.
4.) PRIOR TO BACKFILLING OF ANY PIPE OR DRAINAGE STRUCTURE CONSTRUCTION.
5.) PRIOR TO THE PLACEMENT OF DRIVEWAY OR ROADWAY BASE MATERIAL.
6.) PRIOR TO THE PLACEMENT OF DRIVEWAY OR ROADWAY PAVEMENT.
7.) WHEN ASKING FOR A PRE-FINAL OR FINAL INSPECTION OF THE PROJECT.
8.) IN THE EVENT OF ANY ACCIDENT, EITHER VEHICULAR OR WORK ZONE RELATED.
9.) IF FOR ANY REASON EXISTING PAVEMENT SHOWS ANY SIGNS OF DEFLECTION OR FAILURE.
10.) IF ANY CONDITION NOT DETAILED IN THE PERMIT OR PLANS IS ENCOUNTERED IN THE FIELD, WHICH RESULTS IN A REVISION TO THE PLANS.

WHEN NOTIFING THIS OFFICE CALL (843) 761-8481 OR (843) 723-9541, AND ASK FOR ONE OF THE FOLLOWING AGENTS:

1.) MR. ROGER CASEY, UTILITY & COMMERCIAL SITE INSPECTOR
2.) MS. ELIZABETH GASKINS, RESIDENTIAL SITE INSPECTOR
3.) MR. MIKE MOSKAL, ENCROACHMENT PERMIT ADMINISTRATOR
4.) MR. MIKE POPIELARZ, ASSISTANT MAINTENANCE ENGINEER
5.) MR. ROGER C. BOWERS, RESIDENT MAINTENANCE ENGINEER

INCLUDE THE FOLLOWING INFORMATION IN THE NOTIFICATION:

1.) NAME OF THE PERMITTEE
2.) PERMIT NUMBER
3.) LOCATION OF PROJECT
4.) ITEM TO BE ADDRESSED

South Carolina
Department of Transportation

SPECIAL PROVISIONS

ATTACHMENT "A"

REVISED 10/5/2001

THE SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION RESERVES THE RIGHT TO IMPOSE ADDITIONAL CONDITIONS, PROVISIONS, AND/OR REQUIREMENTS ON THIS PERMIT TO RESPOND TO ANY UNFORSEEN, SPECIFIC PROBLEMS THAT MIGHT ARISE DURING THE LIFE OF THIS PERMIT, AND TO TAKE ANY ENFORCEMENT ACTION NECESSARY TO ENSURE COMPLIANCE WITH SCDOT SPECIFICATIONS, STANDARDS, OR POLICIES.

ALL OF THE FOLLOWING PROVISIONS MAY NOT APPLY TO WORK BEING PERFORMED UNDER THIS PERMIT. ANY PROVISION LISTED BELOW ALONG WITH THOSE STATED ON THE APPLICATION FORM, AND ANY OTHER PROVISION ADDED TO AND MADE PART OF THIS PERMIT, WILL BE REQUIRED TO BE EXECUTED TO THE EXTENT EXPRESSED IN THESE PROVISIONS.

THE PERMITTEE FULLY UNDERSTANDS AND AGREES WITH ALL CONDITIONS, REQUIREMENTS, PROVISIONS, AND SPECIFICATIONS ASSOCIATED WITH OR LISTED ON THIS PERMIT WITH THE START OF ANY CONSTRUCTION DISCRIBED OR SHOWN ON THIS PERMIT.

THE SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION WILL MAINTAIN ALL RESIDENTIAL DRIVEWAYS CONSTRUCTED UNDER AN ENCROACHMENT PERMIT, AS LONG AS THE DRIVEWAY WAS CONSTRUCTED AS INDICATED ON THE PERMIT, AND APPROVED BY THIS OFFICE. ALL OTHER TYPE DRIVEWAYS WILL BE MAINTAINED BY THE PERMITTEE OR THE OWNER OF THE PROPERTY. THIS MAINTENANCE WILL BE FOR AS LONG AS THE DRIVEWAY EXISTS. MAINTENANCE WILL CONSIST OF MAINTAINING THE CONDITION OF THE DRIVEWAY TO THE STATE AS WHEN THE DRIVEWAY WAS ACCEPTED BY THE SCDOT.

PAVEMENT PROVISIONS

1.) ANY PAVEMENT DAMAGED OR REMOVED IN CONNECTION WITH THIS WORK WILL BE REPLACED, USING THE SAME THICKNESS AND TYPE OF MATERIAL DESTROYED, OR ACCORDING TO SPECIFICATIONS CALLED FOR IN THE SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION CONSTRUCTION MANUAL (LATEST EDITION), WHICHEVER IS GREATER.

2.) PAVEMENT STRUCTURE TO BE USED IN THE CONSTRUCTION SHOWN ON THIS PERMIT IS TO BE PLACED AS SPECIFIED AND IN ACCORDANCE WITH SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION STANDARD SPECIFICATIONS FOR HIGHWAY CONSTRUCTION (LATEST EDITION), WHICHEVER IS GREATER. THE PAVEMENT STRUCTURE LISTED OR SHOWN WILL BE USED IN ALL AREAS WHERE ASPHALT IS TO BE PLACED INSIDE SCDOT RIGHT-OF-WAY UNLESS INDICATED DIFFERENTLY ON THE PERMIT.

3.) WHERE PAVEMENT IS CUT AND REPLACED, THE CONTRACTOR SHALL CUT THE EDGES TO A STRAIGHT AND EVEN LINE BEFORE REMOVING THE PAVEMENT. NO RAGGED EDGES WILL BE ALLOWED OR ACCEPTED. ALL PATCHES AND REPAIRS WILL HAVE SQUARED CORNERS. IN SOME CASES AN ASPHALT SURFACE OVERLAY MAY BE REQUIRED TO SMOOTH RIDING SURAFCE OF ROADWAY AT PATCH, SEE PERMIT FOR DETAILS.

4.) WHERE ROADWAY PAVEMENT IS CUT AND IS TO BE REPLACED, THE TRENCH IS TO BE BACKFILLED WITH SCDOT APPROVED FLOWABLE FILL FROM TOP OF PIPE TO RIDING SURFACE, AND STEEL PLATEING IS TO BE PLACED OVER CUT AND SECURED AS REQUIRED. THEN MAINTAINED UNTIL SURFACE TREATMENT IS TO BE PLACED. WITHIN 24 HOURS THE TOP TWO INCHES OF FLOWABLE FILL IS TO BE REMOVED, AND TWO INCHES OF ASPHALTIC CONCRETE SURFACE COURSE IS TO BE PLACED.

5.) WHERE ROADS ARE CUT AT A NUMBER OF LOCATIONS WITH SEPARATION OF LESS THEN 200 FEET APART, OR WHERE ROADWAY IS LONGITUDINALLY CUT OR BROKEN, THE ENTIRE ROADWAY ALONG THE CUT IS TO BE RESURFACED WITH ASPHALTIC CONCRETE SURFACE COURSE WITH A MINIMUM OVERLAP OF 25 FEET ON BOTH ENDS OF DAMAGED AREA, OR AS REQUIRED BY SCDOT AND INDICATED ON THE PERMIT.

6.) IF FOR SOME REASON THE ROADWAY PAVEMENT IS CUT AND BASE MATERIAL IS REPLACED, THE ENTIRE AREA IS TO BE PRIMED WITH ASPHALT PRIME COAT, ACCEPTABLE TO THE SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION SPECIFICATIONS, PRIOR TO THE PLACEMENT OF ASPHALT SURFACE COURSE. ALL NEW CONSTRUCTION HAVING ROCK TYPE BASE IS TO BE PRIMED AS REQUIRED.

7.) NO OPEN CUTS IN EXISTING PAVEMENT ARE TO BE MADE ON FRIDAYS OR WEEKENDS ON PRIMARY, SECONDARY OR HEAVILY TRAVELED ROADS, OTHER ROADS WILL BE LOOKED AT AS A CASE BY CASE APPROVAL.

8.) WHERE PIPE IS INSTALLED IN AN OPEN CUT ACROSS A ROAD, OR PORTION OF A HIGHWAY, THE CUT SHALL BE IMMEDIATELY BACKFILLED, AND ALL WORK OF REPAIRING THE PAVEMENT COMPLETED IMMEDIATELY. ANY SUBSEQUENT SETTLEMENT IN THE PATCH SHALL BE IMMEDIATELY CORRECTED AND REPAIRED. ONE LANE OF TRAFFIC WILL BE KEPT OPEN TO TRAFFIC AT ALL TIMES, WITH FLAGMEN EMPLOYED AS NECESSARY. WARNING LIGHTS AND NECESSARY SIGNS WILL BE UTILIZED WHERE REQUIRED TO PROTECT THE PUBLIC, AND/OR MAINTAIN PROPER TRAFFIC FLOW. NO TRENCHS ARE TO BE LEFT OPEN OVERNIGHT.

9.) SAND ASPHALT IS NOT ACCEPTABLE AS A FINISHED RIDING SURFACE, BUT CAN BE USED AS A BASE COURSE IN SOME APPLICATIONS IF APPROVED IN ADVANCE. SEE PERMIT FOR DETAILS.

10.) ALL WORK PERFORMED ON HEAVELY TRAVELED ROADS, WHERE TRAFFIC REROUTEING OR LANE CLOSURES ARE REQUIRED, WILL BE DONE DURING NIGHT-TIME HOURS OF BETWEEN 10:00 P.M. TO 6:00 A.M. THIS RESTRICTION WILL BE INDICATED ON THE PERMIT IF REQUIRED.

EXCAVATION PROVISIONS

11.) ALL TRENCHES EXCAVATED IN CONNECTION WITH THIS WORK, WILL BE BACKFILLED IN SIX INCH LAYERS, AND THOROUGHLY COMPACTED IN A MANNER SATISFACTORY TO THE SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION SPECIFICATIONS. DENSITY TESTS MAY BE REQUIRED WITH THE RESULTS TO BE FURNISHED TO THE DEPARTMENTS UTILITY INSPECTOR ON A WEEKLY BASIS DURING CONSTRUCTION, SEE PERMIT FOR DETAILS.

12.) COMPACTION REQUIREMENTS IN THESE PROVISIONS APPLY TO CROSSCUTS AND LONGITUDINAL TRENCH CUTS FROM SHOULDER BREAK TO SHOULDER BREAK. IF COMPACTION TESTS ARE REQUIRED THE MAXIMUM DISTANCE BETWEEN TESTS SHALL BE 500 FEET. IN SOME CASES ADDITIONAL TESTS MAY BE REQUIRED, SEE PERMIT FOR DETAILS.

13.) IF UNSUITABLE MATERIAL IS EXCAVATED, IT WILL NOT BE PUT BACK IN THE TRENCH, AND WILL BE REMOVED FROM THE RIGHT-OF-WAY AS SOON AS POSSIBLE. THE MATERIAL WILL BE REPLACED WITH SUITABLE APPROVED BACKFILL, AND BE IN COMPLIENCE WITH THE SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION SPECIFICATIONS FOR BACKFILL.

14.) THERE SHALL BE NO EXCAVATION OF SOIL NEARER THAN TWO FEET FROM ANY PUBLIC UTILITY POLE OR APPURTENANT FACILITY WITHOUT THE WRITTEN CONSENT OF THE OWNER THEREOF. SPECIAL PERMISSION OF THE SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION AFTER AN OPPORTUNITY TO BE HEARD IS GIVEN THE OWNER OF SUCH POLE OR APPURTENANT FACILITY MAY BE GIVEN.

15.) IF THE SIDE OF THE TRENCH, PIT, OR ANY EXCAVATION IS LESS THAN 3'-0" FROM THE EXISTING EDGE OF PAVEMENT, THE EXCAVATED AREA WILL BE BACKFILLED ENTIRELY WITH FLOWABLE FILL TO AN ELEVATION 6 INCHES FROM THE EXISTING GROUND ELEVATION. THEN BROUGHT TO GRADE WITH SUITABLE TOPSOIL, COMPACTED, GRADED, AND GRASSED AS REQUIRED TO ELIMINATE ANY EROSION.

16.) NO EXCAVATED MATERIAL OR SPOIL IS TO BE PLACED ON THE PAVEMENT WITH OUT THE PERMISSION OF THE SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION, AND IF PERMISSION IS GRANTED, THIS MATERIAL MUST BE REMOVED DAILY, AS SOON AS POSSIBLE. THE ROADWAY IS TO BE CLEANED OF ALL MATERIAL IN A MANNER AS TO PROTECT THE EXISTING PAVEMENT. ANY PAVEMENT DESTROYED, OR MARKED BY THIS OPERATION WILL BE REMOVED AND REPLACED AS REQUIRED.

17.) EXISTING DITCH SLOPES, IF EXCAVATED, SHALL BE BACKFILLED IN SIX INCH LAYERS AND WELL TAMPED WITH A MECHANICAL TAMP TO 95% DENSITY (STANDARD PROCTOR). THESE LIFTS WILL BE BENCHED INTO THE EXISTING ENBANKMENT AS REQUIRED. THE NEW SLOPES WILL THEN BE GRADED TO MATCH EXISTING TYPICAL ROADWAY CROSS SECTION.

18.) WHEN SHOULDERS AND DITCH SLOPES ARE RESHAPED AND GRADED TO A TYPICAL SECTION, THE SECTION WILL MATCH EXISTING ROAD SECTION. WHERE THE EXISTING SECTION IS LESS THEN STATE STANDARDS (6' WIDE SHOULDER @ 12:1, FRONT SLOPE OF DITCH @ 4:1, DITCH BOTTOM AS REQUIRED TO ACCOMMODATE EXISTING RUNOFF, AND BACK SLOPE OF DITCH MIN. 3:1 OR TO RIGHT-OF-WAY LINE) THE SECTION WILL BE UPGRADED TO THE STANDARD.

19.) CONTRACTOR WILL MAINTAIN POSITIVE DRAINAGE AT ALL TIMES DURING CONSTRUCTION AND UNTIL FINAL INSPECTION AND APPROVAL FROM SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION IS OBTAINED.

STORM DRAIN PROVISIONS

20.) UPON PLACEMENT OF ANY STORM DRAIN INDICATED ON THIS PERMIT, AND PRIOR TO BEGINNING THE BACKFILLING OPERATION, THIS OFFICE IS TO BE NOTIFIED (843) 761-8481 AND THE PIPE INSPECTED FOR GRADE, ALIGNMENT, AND THE SEALING OF ALL JOINTS. WHEN APPROVAL OF THE PIPE IS GIVEN THE BACKFILLING WILL BE ALLOWED. ANY PIPE PLACED AND COVERED WITHOUT BEING INSPECTED MAY RESULT IN THE PIPE HAVING TO BE UNCOVERED AND INSPECTED AT THE COST OF THE PERMITTEE.

21.) ALL CROSS LINE PIPES AND/OR SIDELINE PIPES DISTURBED OR DAMAGED DURING CONSTRUCTION WILL BE REPLACED IMMEDIATELY. NEW PIPE WILL BE PLACED ON PROPER GRADE, SEALED PROPERLY, AND CLEANED TO PROVIDE POSITIVE DRAINAGE. THESE PIPES ARE TO REMAIN UNCOVERED UNTILL A SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION INSPECTOR, INSPECTS THE PIPE, AND APPROVES THE CONDITION AND THE PLACEMENT IN THE TRENCH. THEN AT THAT TIME THE PIPE IS TO BE COVERED AND COMPACTED AS REQUIRED.

22.) ANY EXISTING STORM DRAINAGE PIPE REMOVED OR DAMAGED DURING CONSTRUCTION OF THIS PROJECT WILL BE REPLACED WITH THE SAME SIZE AND TYPE PIPE AS WAS PRESENT. ANY CHANGE IN PIPE SIZE OR TYPE WILL REQUIRE APPROVAL FROM SCDOT PRIOR TO THE CHANGE BEING MADE.

23.) REINFORCED CONCRETE PIPE USED WITHIN STATE RIGHTS-OF-WAY SHALL BE STAMPED FOR CONFORMANCE WITH SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION SPECIFICATIONS, AND BE FREE OF ANY CRACKS, CHIPS, OR BREAKS.

24.) NO CORRAGATED STEEL PIPE IS TO BE USED WITHIN STATE RIGHTS-OF-WAY.

25.) CORRUGATED HIGH DENSITY POLYETHYLENE PIPE (HDPE) TYPE "S", MEETING AASHTO M 294, MAY BE USED IN THE CONSTRUCTION OF RESIDENTIAL DRIVEWAYS LOCATED ON LOW VOLUME ROADS (LESS THAN 1000 ADT). A MINIMUM OF 1 FOOT OF COVER MUST BE PRESENT WHEN THIS PIPE IS USED. COUPLERS MUST BE MANUFACTURED APPROVED BY THE SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION. THIS PIPE CANNOT EXCEED A SIZE OF 36" IN DIAMETER. PRIOR TO BEING USED ON ANY PROJECT, THIS PIPE MUST BE PREAPPROVED BY THIS OFFICE.

26.) THE JOINING OF TWO DIFFERENT TYPE PIPE MATERIALS WILL BE DONE BY THE CONSTRUCTION OF A STANDARD SCDOT APPROVED JUNCTION BOX OR CATCH BASIN. NO OTHER CONNECTION WILL BE ALLOWED. IF TWO DIFFERENT PIPE SIZES ARE TO BE JOINED THE CROWNS OF THE PIPE ARE TO BE MATCHED IF POSSIBLE, AND THE INVERT OF THE JUNCTION BOX CONSTRUCTED TO PROVIDE SMOOTH FLOW BETWEEN THE PIPES

UTILITIES PROVISIONS

27.) CONTRACTOR WILL SUBMIT TO SCDOT A DETAILED TRAFFIC CONTROL PLAN 24 HOURS PRIOR TO THE START OF ANY CONSTRUCTION, WHICH INVOLVES ANY TRAFFIC REDIRECTINGS OR STOPPAGE.

28.) ALL CLEARING INSIDE THE SCDOT RIGHT-OF-WAY AND/OR ANY PROPOSED TEMPORARY CONSTRUCTION EASEMENTS WILL BE DONE IN ACCORDANCE WITH ALL SCDOT SPECIFICATIONS. ALL STUMPS AND DEBRIS WILL BE REMOVED FROM THE RIGHT-OF-WAY AND DISPOSED OF OFF SITE BY THE CONTRACTOR. THEN PROPER DRAINAGE WILL BE RESTORED TO ALL DISTURBED AREAS.

29.) ALL AREAS IN SCDOT RIGHT-OF-WAY DISTURBED DURING CONSTRUCTION ARE TO BE RESTORED TO ORIGINAL CONDITION AS SOON AS POSSIBLE AND MAINTAINED DURING ENTIRE LENGTH OF PROJECT, SEE "SCDOT POLICY FOR SEEDING AND EROSION CONTROL MEASURES INSIDE ROADWAY RIGHTS-OF-WAY".

30.) CONTRACTOR WILL MAINTAIN POSITIVE DRAINAGE AT ALL TIMES DURING CONSTRUCTION, AND UNTIL FINAL INSPECTION, AND APPROVAL IS OBTAINED.

31.) ALL DRIVEWAYS CUT DURING THIS CONSTRUCTION WILL BE RESTORED AND COMPLETELY PATCHED IMMEDATELY TO INSURE PROPERTY OWNERS ACCESS, AND SHALL MEET ALL SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION SPECIFICATIONS THAT APPLY. EACH DRIVEWAY WILL BE PATCHED WITH THE SAME MATERIAL USED IN THE CONSTRUCTION OF THE DRIVEWAY. CONCRETE DRIVEWAYS WILL BE CUT AT AN EXISTING JOINT OR AT A LOCATION THAT WILL NOT LEAVE SMALL AREAS OF LESS THAN 4'-0" BETWEEN PATCH EDGE AND EXISTING JOINT OR EDGE OF PAVEMENT.

32.) MINIMUM COVER FOR PIPES SHALL BE FOUR FEET (4') WHERE PIPES CROSS UNDER THE EXISTING ROADWAY, AND THREE FEET (3') WHERE PIPES RUN LONGITUDINALLY ALONG ROADWAY. WHERE PIPES CROSS ROADSIDE DITCHES, DUCTILE IRON PIPE (DIP) IS TO BE USED, IF COVER IS LESS THAN THREE FEET (3') AND BE PRIOR APPROVED BY THIS OFFICE.

33.) ALL PIPES, CONDUITS, WIRES, OR LINES OF ANY TYPE CROSSING EXISTING DRAINAGE CROSSLINE PIPES ARE TO BE CONSTRUCTED BELOW DRAIN PIPE AND HAVE A MIN. SEPARATION OF 18 INCHES.

34.) ALL PRESSURIZED PIPELINES CROSSING SCDOT ROADWAYS EITHER IN AN OPEN CUT OR IN AN BORING OPERATION ARE TO BE DUCTILE IRON PIPE (DIP) AND ENCASED AS REQUIRED.

35.) NO WATER VALVES, FIRE HYDRANTS, OR SANITARY SEWER MANHOLES ARE TO BE PLACED IN ROADSIDE DITCHES. IF A VALVE, FIRE HYDRANT, OR MANHOLE MUST BE PLACED IN A DITCH, IT WILL BE ADDRESSED BY PLACING A SECTION OF RCP

STORM DRAIN (SIZE AS REQUIRED) IN THE DITCH, CENTERED AT THE VALVE, HYDRANT, OR MANHOLE LOCATION. THIS PIPE WILL BE OF SUFFICIENT LENGTH TO BRIDGE THE VALVE, FIRE HYDRANT, OR MANHOLE AND HAVE A 3:1 SLOPE ON EITHER SIDE TO THE BOTTOM OF EXISTING DITCH. THE VALVE, FIRE HYDRANT OR MANHOLE AND THE SURROUNDING AREA IS TO BE GRADED AS TO ALLOW MOWING AND PROPER DRAINAGE RUNOFF.

36.) NO VALVES OR MANHOLES WILL BE ALLOWED IN THE ROADWAY PAVEMENT. NO MASTER METER OR BACKFLOW PREVENTOR BOXES WILL BE ALLOWED INSIDE SCDOT RIGHT-OF-WAY.

37.) ALL PROPOSED SERVICES WILL BE INSTALLED BY THE *AUGER METHOD OF DRILLING*. NO *JETTING* OR *PUSH METHODS* WILL BE ALLOWED. IF A SERVICE IS LESS THAN 2 INCHES IN DIAMETER, IT MAY BE *DIRECTIONAL DRILLED*, IF THE COVER OVER THE SERVICE AT THE LOWEST POINT OF THE PAVEMENT STRUCTURE, STORM DRAINAGE PIPE, OR SIDELINE DITCH BOTTOM IS A MINIMUM OF *48 INCHES*. SEE "SCDOT POLICY FOR DIRECTIONAL DRILLING UNDER ROADWAYS".

38.) UPON COMPLETION OF SERVICE PLACEMENT, THIS OFFICE WILL SELECT A MINIMUM OF 10% OF THE SERVICES TO CHECK FOR PROPER COVER DEPTH. IF THIS INSPECTION SHOWS THAT THE SERVICES ARE PLACED AS REQUIRED NO FUTHER TEST WILL BE REQUIRED. IF HOWEVER THE TESTS SHOW THAT THE SERVICES DO NOT HAVE PROPER COVER, THE IMPROPERLY INSTALLED SERVICES WILL BE CORRECTED AND THE REMAINDER OF SERVICES TESTED FOR COVER.

39.) ALL EXISTING STORM DRAINAGE PIPES DISTURBED DURING CONSTRUCTION ARE TO BE INSPECTED BY A SCDOT REPRESENTATIVE, FOR ANY SIGNS OF CRAKING OR BREAKAGE, PRIOR TO BEING RELAID. AFTER THE RELAYING OF DRAINAGE PIPE, IT WILL THEN AGAIN BE INSPECTED FOR GRADE, ALIGNMENT, AND JOINT SEALING PRIOR TO BE BACKFILLED AND COMPACTED. IF A PIPE IS DETERMINED TO HAVE BEEN DAMAGED IN CONSTRUCTION, TO A CONDITION WHERE IT CANNOT BE REUSED, IT WILL THEN BE REPLACED WITH AN EQUIVALENT OR BETTER GRADE PIPE AS REQUIRED, AND WILL MEET ALL SCDOT SPECIFICATIONS. IF THE CONTRACTOR FINDS AN EXISTING PIPE IS DAMAGED PRIOR TO ANY CONSTRUCTION IN THAT AREA, HE IS TO NOTIFY THE SCDOT INSPECTOR PRIOR TO ANY CONSTRUCTION.

40.) CONTRACTOR WILL MAINTAIN ACCESS TO ALL PROPERTY OWNERS AT ALL TIMES DURING CONSTRUCTION, AND UNTIL FINAL INSPECTION, AND APPROVAL IS OBTAINED.

ROADWAY BORING PROVISIONS

41.) THIS OFFICE IS TO BE NOTIFIED 24 HOURS PRIOR TO THE START OF ANY BORING OR OPEN ROADWAY CUT OPERATION IS TO BEGIN. ALL NECESSARY EQUIPEMENT AND MATERIALS NEEDED TO ACCOMPLISH THESE TASKS ARE TO BE ON SITE, AND INSPECTED BY SCDOT INSPECTOR PRIOR TO THE START OF EACH OPERATION. THIS ALSO INCLUDES ALL TRAFFIC CONTROL DEVICES AND SIGNAGE. CALL (843) 761 – 8481

42.) ANY BORING OPERATION BEING MADE ON THIS PROJECT SHALL BE MADE BY THE DRY BORE METHOD AND IN SUCH A MANNER AS NOT TO DISTURB THE EXISTING PAVEMENT. THE BORE PIT MUST NOT BE ANY CLOSER THAN FIVE FEET FROM THE EDGE OF PAVEMENT AND CONSTRUCTED AS DETAILED IN PROVISION NUMBER 43. THE COVER OVER THE CASING SHALL NOT BE LESS THAN 48 INCHES AT ANY POINT IN THE CASING LENGTH FROM THE LOWEST POINT OF THE ROADWAY STRUCTURE TO THE TOP OF THE CASING. NOTICE WILL BE GIVEN TO THE SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION, 24 HOURS PRIOR TO THE START OF ANY BORING OPERATION, AND IMMEDIATELY IF THE BORE TURNS AND DAMAGES THE EXISTING ROADWAY PAVEMENT OR SHOULDERS IN ANY WAY.

43.) AT ALL LOCATIONS OF JACK AND BORE CROSSINGS, CASING WILL EXTEND SHOULDER BREAK TO SHOULDER BREAK. BORING PIT LOCATION WILL BE DETERMINED BY THE DEPTH OF BORING, I.E. THE DISTANCE FROM EDGE OF PAVEMENT TO THE FRONT EDGE OF THE PIT WILL BE THE SAME OR GREATER THAN THE DEPTH OF LINE CROSSING, MINIMUM OF FIVE FEET. SEE "SCDOT POLICY FOR EXCAVATED PITS LOCATED IN ROADWAY RIGHTS-OF-WAY".

44.) BORE PITS SHALL BE CLOSED IMMEDIATELY AFTER INSTALLATION. DISTURBED AREA WILL BE GRADED TO PROVIDE POSITIVE DRAINAGE, COMPACTED, RAKED, AND CLEARED OF ALL DEBRIS, THEN GRASSED AS REQUIRED.

CONSTRUCTION CLEANUP PROVISIONS

45.) ALL DISTURBED AREAS INSIDE SCDOT RIGHTS-OF-WAY WILL BE SEEDED WITH A MIXTURE OF GRASS SEED AS SPECIFIED IN THE SOUTH CAROLINA DEPARTMENT OF TRANSPORTION STANDARD SPECIFICATIONS FOR HIGHWAY CONSTRUCTION, SECTION 109B2, OR LATEST EDITION. NO RYE GRASS WILL BE ALLOWED INSIDE SCDOT RIGHTS-OF-WAY. A SATISFACTORY STAND OF GRASS WILL BE REQUIRED, PRIOR TO ANY ACCEPTANCE OR FINAL APPROVAL IS GRANTED ON THIS PERMIT.

46.) THERE SHALL BE A MAXIMUM CONSTRUCTION WORK ZONE OF 400 FEET AT ANY TIME DURING ALL PHASES OF THIS CONSTRUCTION. ANY AREA BEHIND THE WORK ZONE WILL BE RESTORED TO ITS TYPICAL SECTION AND PREPARED FOR FINAL GRADING, AND GRASSING IMMEDIATELY AS WORK PROGRESSES. CLEANUP AND EROSION CONTROL MEASURES IN AREAS WHERE CONSTRUCTION HAS BEEN COMPLETED WILL BE CONDUCTED DURING THE LIFE OF THE PROJECT. SEE "SCDOT POLICY FOR SEEDING AND EROSION CONTROL MEASURES INSIDE ROADWAY RIGHTS-OF-WAY".

47.) ALL ROCKS, PEBBLES, BOARDS, OTHER DEBRIS ALONG WITH ANY SPOIL MATERIAL WILL BE KEPT CLEAR OF ROADWAY AT ALL TIMES AS THE WORK PROGRESSES.

TRAFFIC CONTROL PROVISIONS

48.) TRAFFIC CONTROL, LIGHTS, SIGNS, AND FLAGMEN WILL BE FURNISHED BY THE PERMITTEE AND/OR CONTRACTOR AND WILL CONFORM TO PART V OF THE SOUTH CAROLINA MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES. ALL DEVICES AND SIGNS WILL BE MAINTAINED DURING ALL PHASES OF CONTRUCTION. SIGNS NOT IN USE WILL BE REMOVED OR COVED AS REQUIRED.

49.) CONTRACTOR WILL SUBMIT TO SCDOT A WRITTEN REQUEST ALONG WITH A DETAILED DETOUR PLAN ONE WEEK PRIOR TO ANY CONSTRUCTION WHICH INVOLVES ANY ROAD CLOSURE, FOR APPROVAL AND ADVERTISMENT AS REQUIRED.

50.) IF A LANE CLOSURE IS APPROVED FOR ANY WORK DETAILED IN THIS PERMIT, A MINIMUM OF ONE LANE OF TRAFFIC SHALL BE KEPT IN OPERATION, WITH FLAGMAN CONTROLLING TRAFFIC FROM EACH DIRECTION AT ALL TIMES.

51.) ANY EXISTING PAVEMENT MARKINGS OR TRAFFIC SIGNAGE ALTERED DURING THE INSTALLATION OF THIS PERMITTED CONSTRUCTION WILL BE REPLACED BY THE PERMITTEE TO THEIR ORIGINAL CONDITION AS SOON AS POSSIBLE. ALL EXISTING AND REQUIRED CONSTRUCTION SIGNAGE WILL BE MAINTAINED AT ALL TIMES DURING THIS PERMIT. SOME NEW CONSTRUCTION WILL REQUIRE NEW PAVEMENT MARKINGS AND PERMANENT SIGNAGE, SEE PERMIT FOR DETAILS.

GENERAL PROVISIONS

52.) ALL WORK TO BE PERFORMED UNDER THIS PERMIT WILL BE IN ACCORDANCE WITH SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION SPECIFICATIONS

(A POLICY FOR ACCOMMODATING UTILITIES ON HIGHWAY RIGHT-OF-WAY), LATEST EDITION.

53.) ALL WORK INDICATED ON THIS PERMIT IS TO BE COMPLETED WITHIN ONE (1) YEAR OF THE APPROVAL DATE OF THE PERMIT. ALL DRIVEWAY CONSTRUCTION IS TO INCLUDE THE SURFACE TREATMENT AND ALL SHOULDER STABILIZATION REQUIRED.

54.) ALL WORK ON HEAVILY TRAVELED ROADWAYS THAT WILL INTERRUPT TRAFFIC FLOW WILL BE DONE BETWEEN THE HOURS OF 9:00 A.M. AND 4:00 P.M. UNLESS PERMISSION FROM THE SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION IS OBTAINED. ADDITIONAL PROVISIONS MAY BE REQUIRED IN AREAS WHERE A SCHOOL OR HEAVY PEDESTRIAN TRAFFIC IS PRESENT.

55.) ANY WORK THAT IS REQUIRED ON A SATURDAY WILL BE PRIOR APPROVED BY THE SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION. NO SUNDAY WORK WILL BE PERMITTED UNLESS AN EMERGENCY ARISES DURING THE CONSTRUCTION OF THE PROJECT.

56.) ANY REQUEST FOR A FINAL INSPECTION OF A UTILITY PROJECT WILL BE MADE BY THE SUBMITTAL OF A "REQUEST FOR FINAL INSPECTION ON SCDOT ENCROACHMENT PERMIT" FORM WHICH IS EITHER INCLUDED IN THE PERMIT PACKAGE OR CAN BE OBTAINED FROM THIS OFFICE UPON REQUEST.

57.) ALL WORK PERFORMED UNDER THIS PERMIT SHALL CARRY A TWO (2) YEAR WARRANTY PERIOD BY THE PERMITTEE. THIS PERIOD WILL BEGIN AS OF THE DATE OF THE FINAL INSPECTION AND/OR SCDOT ACCEPTENANCE LETTER. ANY UTILITY INSTALLATION WILL BE THE RESPONSIBILTY OF THE OWNER FOR THE LIFE OF THE UTILIIY PLACED. IF FOR ANY REASON THE UTILITY LINE FAILS, THIS OFFICE IS TO BE NOTIFIED IMMEDIATELY. IF IN THE CONSTRUCTION OF THE WORK DETAILED ON THE PERMIT THE CONSTRUCTION OR ANY PART OF THAT CONSTRUCTION IS PERFORMED IN A MANNER NOT SPECIFIED IN THE PERMIT OR ACCORDING TO SCDOT STANDARDS, *THE LENGTH OF THE WARRANTY PERIOD MAY BE EXTENDED AS DETERMINEED BY SCDOT.*

58.) APPROPRIATE SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION OFFICIALS, WILL BE NOTIFIED AS OF THE START OF ANY CONSTRUCTION ON THIS PROJECT, 24 HOURS PRIOR TO THE START, AND BE KEPT INFORMED OF THE PROGRESS DURING CONSTRUCTION, AND WHEN A FINAL INSPECTION IS WANTED AT THE COMPLETION OF THE PROJECT.

59.) A RELIABLE, PROPERLY INSURED, AND LICENCED CONTRACTOR WILL PERFORM THIS CONSTRUCTION.

60.) A FULL TIME ONSITE INSPECTOR MAY BE REQUIRED ON THIS PROJECT. SEE PERMIT FOR DETAILS.

61.) ANY CONSTRUCTION MATERIALS OR EQUIPEMENT TO BE STORED OR PARKED ALONG SIDE OF ROADWAY OR IN THE RIGHT-OF-WAY, WILL BE PLACED A MINIMUM OF 30' FROM THE EDGE OF PAVEMENT, OR HAVE WARNING DEVICES AS REQUIRED AND APPROVED BY THIS OFFICE.

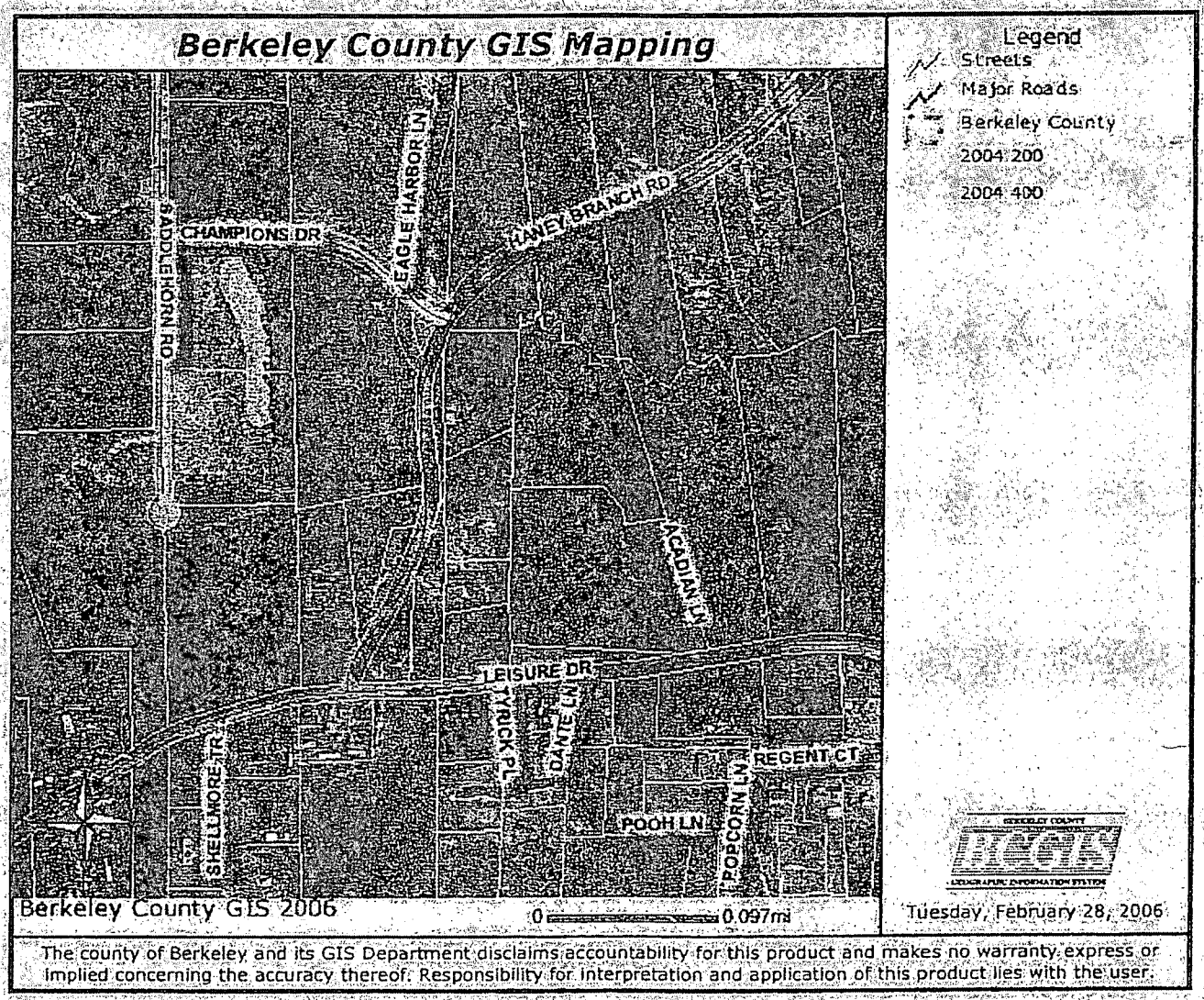
62.) FIELD CHANGES, IF NECESSARY MUST BE SUBMITTED IN WRITING AND APPROVED PRIOR TO THE START OF ANY ACTUAL CONSTRUCTION ON PROPOSED CHANGE. AN AS-BUILT SET OF PLANS WILL BE REQUIRED UPON COMPLETION OF THE PROJECT REFLECTING ANY AND ALL CHANGES TO THE ORIGINAL PLANS.

63.) IF A TIME EXTENSION OR A REVISION TO AN APPROVED PERMIT IS REQUIRED, A WRITTEN REQUEST ALONG WITH ANY DRAWINGS REQUIRED IS TO BE SUBMITTED TO THIS DEPARTMENT FOR REVIEW AND APPROVAL. NO WORK IS TO BE PERFORMED ON ANY ITEM NOT INDICATED ON THE PERMIT, EITHER SHOWN IN A

SKETCH OR INDICATED IN A DESCRIPTION, PRIOR TO AN AMMENDED PERMIT BEING ISSUED.

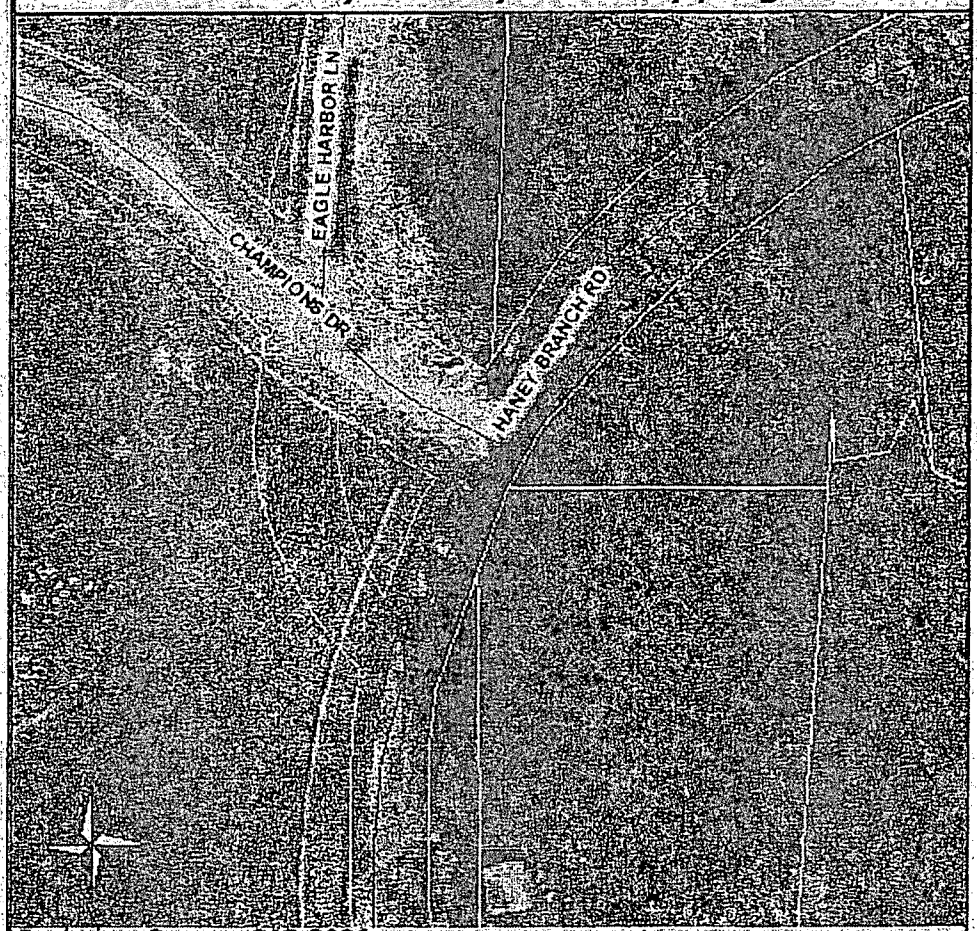
64.) **THE PERMITEE** SHALL BE RESPONSIBLE FOR ANY AND ALL DAMAGES THAT OCCUR AS A DIRECT RESULT OF THIS INSTALLATION.

65.) A COPY OF THIS APPROVED PERMIT WILL BE MADE AVAILABLE TO THE SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION AT THE WORK SITE AT ALL TIMES.



The county of Berkeley and its GIS Department disclaims accountability for this product and makes no warranty express or implied concerning the accuracy thereof. Responsibility for interpretation and application of this product lies with the user.

Berkeley County GIS Mapping



Legend
Streets
Major Roads
Berkeley County
2004 200
2004 400

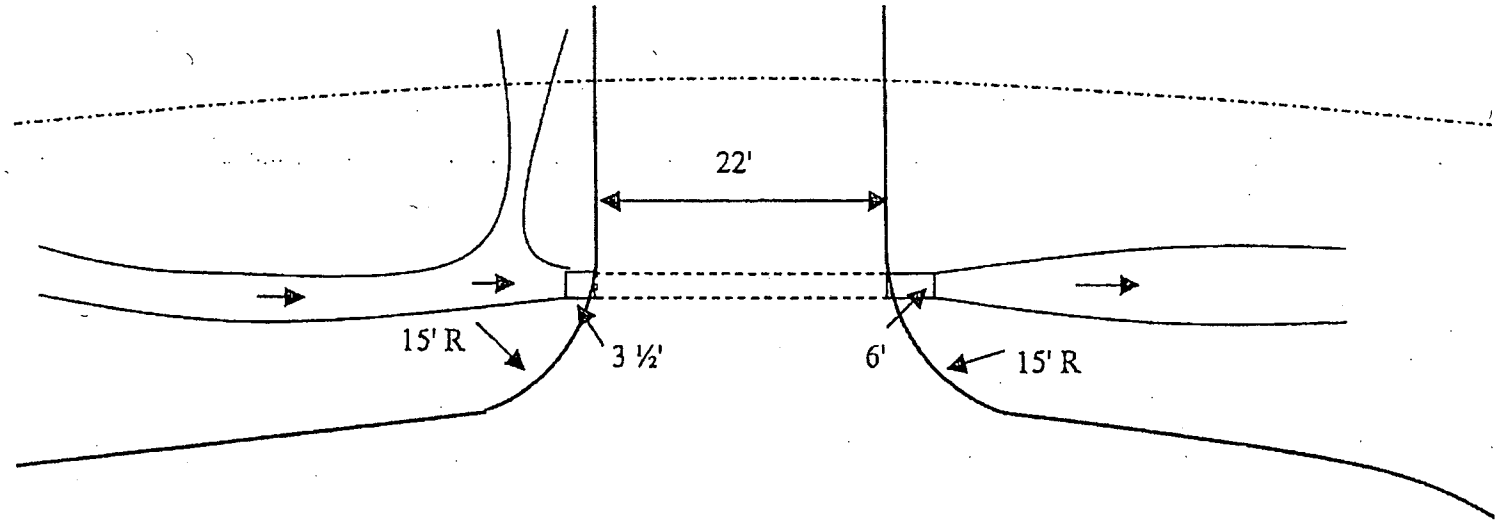
Berkeley County GIS 2006

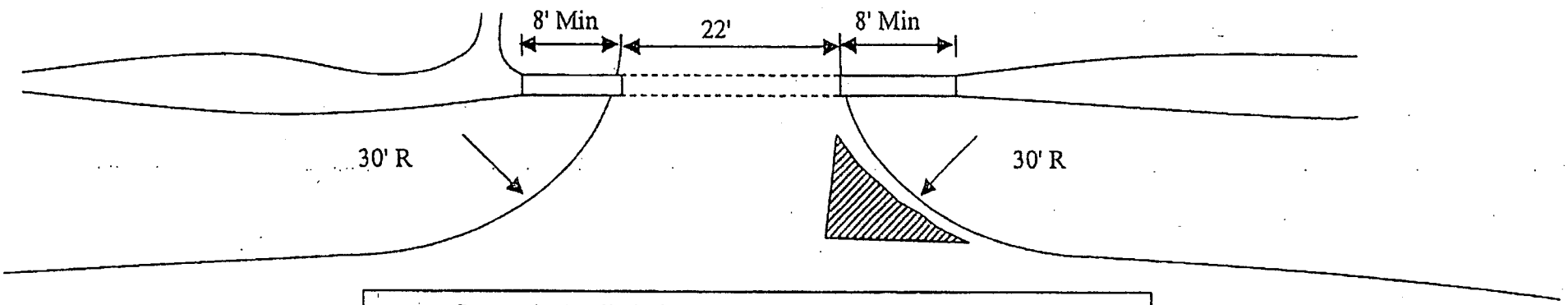
0 0.023mi

Tuesday, February 28, 2006

The county of Berkeley and its GIS Department disclaims accountability for this product and makes no warranty express or implied concerning the accuracy thereof. Responsibility for interpretation and application of this product lies with the user.

Existing





1. Re-grade the ditch line on both sides of the driveway.
2. Add 1 joint of beveled RCP pipe to each side of the existing driveway pipe and build a 6' shoulder at a 12:1 slope
3. Increase the radius of the driveway to 30'
4. Repair asphalt at the roadway

Proposed

South Carolina
Department of Transportation
Office of Chief Counsel

Linda C. McDonald
Chief Counsel

Assistant Chief Counsel
Natalie J. Moore
Barbara M. Wessinger
Beacham O. Brooker, Jr.
Amanda T. Taylor, Claims
Hart Baker

Claims Office
737-1260

July 28, 2011

DIANA R. B. PRICE
1104 SADDLEHORN ROAD
SUMMERVILLE SC 29483

RE: Freedom of Information 11-2813

Dear Ms. Price:

The South Carolina Department of Transportation (SCDOT) is in receipt of your Freedom of Information Request dated July 7, 2011, requesting information under the S.C. Freedom of Information Act (FOIA).

Enclosed are the requested documents. Pursuant to S.C. Code Ann. §30-4-30 (2007), a charge of $5.00 is assessed for this request. An invoice for this amount will be mailed to you under separate cover.

Yours very truly,

Dana Ammer
Freedom of Information Officer

File: Legal
enclosures

955 Park Street – Suite 343, Post Office Box 191, Columbia, South Carolina 29202-0191, (803) 737-1347, Fax 737-2071

WITNESS
DATE

PERMIT NO. S-08- 06 - 32496

SOUTH CAROLINA
DEPARTMENT OF TRANSPORTATION

P EXHIBIT 47
WITNESS
DATE: 8-54-2018
REPORTER: H. LANDRY

ENCROACHMENT PERMIT
FINAL APPROVAL FORM

PERMITTEE Eagle Harbor, Inc. ROAD NUMBER S-8-1205

ADDRESS Danny Hilbert
1044 Eagle Harbor Lane
Summerville, SC 29483

ON SITE INSPECTION REQUIRED YES NO

NON COMPLIANCE LETTER SENT DATE N/A

FINAL ON-SITE INSPECTION DATE

INSPECTOR COMMENTS: Permittee cancelled permit on 1/7/10

PERMITTEE REQUEST FOR APPROVAL, LETTER DATED

SCDOT APPROVAL OF CONSTRUCTION YES NO

SCDOT LETTER APPROVAL ISSUED YES NO

APPROVAL LETTER DATED

LOGGED HMMS INITIALS

TWO YEAR INSPECTION CONDUCTED YES NO

TWO YEAR INSPECTION DATE

INSPECTORS COMMENTS:

WARRANTY END DATE:

TRACKING LOGGED DATE:
INITIALS:

Berkeley County Government
Post Office Box 6122
Moncks Corner, SC 29461-6120
843 719-4368 (Inspectors) 8-10am

Code Enforcement Record

Printed: 10/19/2006

Notice Number: CDEF2005-1229

Notice Date: 9/23/2005
Notified By: Code Enforcement (843) 719-4758
Status: Completed
TMS: 178-00-03-051
Violation Address: 1044 Eagle Harbor Lane

Notice To: Eagle Harbor Inc
1044 Eagle Harbor Lane
Summerville, SC 29485

Phone: 843-688-5995
Fax:
Cellular:
Email:

Violations:
Identifier: 87-6-13
Descriptor: Building Permits
Comments:

Conditions:
Date: 9/23/2005 **Source:** Code Enforcement **Status:** Pending
Code: Bldg Perm 01 **Description:** Failure to Obtain Building and Related Permits
Condition: Obtain proper permits for work. (* building barn no permit)
DUE BY 10-07-05

10-25-05 Per Officer Platt resending notice. Please take care of this matter.
DUE BY 11-8-05

NOTICE TO PROPERTY OWNER OR TENANT

This notice is your opportunity to correct the above violation(s) in order to avoid further legal action. If you have questions regarding this notice, please contact our office, Berkeley County Code Enforcement.

EXHIBIT 48
WITNESS
DATE: 3-4-2018
REPORTER: H. LANDRY

000267

Permit Number: BP2005-1240

Parcel Number: 178-00-03-051

Address: 254 Refiner Circle
Summerville, SC 29483

Applicant: Danny Gilbert
Address: Eagle Harbor Inc
1044 Eagle Harbor Lane
Summerville, SC 29485

Applicant Role:
Phone: 843-688-5995

Status: Denied
On Hold By:

Filing Date: 7/29/2005
Decision Date: 1/31/2006
Application Expiration:
Permit Expiration: 1/25/2006
Last Edit Date:
Last Edited By:

App Accepted By:
Decision By:
Team Leader:
Default Inspector:

Comments: 1/31/06. Plans in Terri's Office. Terry will give Mr. Gilbert a call to pickup plans. yce This permit application has been denied - requested information has never been submitted and the application is 6 months old. 1/30/06; mhr

DO NOT ISSUE permit without septic approval letter for this home. DHEC faxed one, but it was for the 1st original home. Per Ronnie Brewer he will be submitting some changes in plans, but I was told to go ahead and send plans through. Commercial contractor to pick up permit. kcb 07/29/05

Sent one copy to engineering to see if they have previously review for another building. TLH 8/16/05

THIS PERMIT IS ON HOLD PER PLANNING, ENGINEERING AND LEGAL - 8/19/05; mhr

Appeal Filed:
Decision:
Date:
Appeal Comments:

Owners:

Name:	Purchase Date:
Eagle Harbor Inc	

Contractors:

Name:	Type:	Local Phone:	Primary?

Materials:

Type	Rate	Units	Value

000268

Berkeley County Government
Post Office Box 6122
Moncks Corner, SC 29461-6120
843 719-4368 (Inspectors) 8-10am

10/19/2006

Eagle Harbor Inc
1044 Eagle Harbor Lane
Summerville, SC 29485

Re: Property located at: 1044 Eagle Harbor Lane
Summerville, SC 29483

Parcel #: 178-00-03-051
Citation #: CDEF2005-1229
Citation Date: 9/23/2005

Your property located at 1044 Eagle Harbor Lane has been found to be out of compliance with
the ordinance(s) described below.

As the owner of this property, you are on notice that you have 30 days from the date of the citation to correct this violation.

Code Identifier	Code Descriptor
87-6-13	Building Permits

Signed:

Code Enforcement (843) 719-4758, Code

000270

State of South Carolina
Office of the Secretary of State
The Honorable Mark Hammond

1205 PENDLETON STREET, SUITE 525
COLUMBIA, SC 29201

Information
(803) 734-2170
www.scsos.com

Business Filings
(803) 734-2158

P.O. BOX 11350
COLUMBIA, SC 29211

Boards/Commissions
(803) 734-2119

Notaries
(803) 734-2512

March 25, 2004

CERTIFIED MAIL

Mr. Danny L. Gilbert
Executive Director
Eagle Harbor, Inc.
1044 Eagle Harbor Lane
Summerville, SC 29483

EXHIBIT 49
WITNESS
DATE: 3-4-2018
REPORTER: H. LANDRY

Registration No.: 7529
Expiration Date: 07/01/2004
Re: Notice of Violation for Financial Report for Fiscal Year Ending **12/31/2002**

Dear Mr. Danny L. Gilbert:

Thank you for speaking with Ned Badgett of this Office yesterday about Eagle Harbor's IRS Form 990 FYE 12/31/02. Under Section 33-56-140(D) of the South Carolina Solicitation of Charitable Funds Act, a report required to be filed under the Act which contains false or misleading statements can be returned to the organization without being filed.

Your 990 is returned to you for the following reasons: 1) Any in-kind contributions must be entered in Line 1a, Direct Public Support and Line 1d, Total Contributions, including the blank marked "noncash." As you mentioned in the phone call, your organization received at least a mobile office and some siding for a new building. 2) On Line 15, Fundraising, you should include any fees paid to Helen Whitcher for writing grants for Eagle Harbor. Those fees should also be entered in Part II, Line 30, Professional Fundraising Fees. 3) Your figure of -$106,465 on Line 72 should probably be moved to Line 70. As the instructions of the 990 indicate, on Line 70 enter the balance of all restricted and unrestricted funds. Line 72 is reserved for Retained earnings, endowment, accumulated income, or other funds not entered on 70. 4) In Part V, you must list all persons who serve as board members at any time during the fiscal year of the report. Since your wife signed your organization's registration statement filed on 5/27/2003 as Chief Financial Officer and on 7/11/2002 as Chief Financial Officer and, in her handwriting, "Board of Directors," she should be included on the 990's list of board members. Also, If there was a chairman, please identify that person in the list. 5) Please complete Line 82a and b, Donated services or use of materials. 6) On Schedule A, Part III, Line 2b, you must check Yes and attach a 'detailed statement explaining the transactions.' You should mention that Heritage Classic Homes has lent Eagle Harbor $7,403. You should explain that you are the sole owner of the company. 7) On Line 2c, check Yes and attach a statement explaining a) that Heritage Classic Homes used as its office a mobile office given to Eagle Harbor and that the office was located on Eagle

UU 000242

Eagle Harbor
Notice of Violation, 990 FYE 12/31/2002
March 25, 2004

Harbor's property as building permits filed by Heritage indicate, b) that during 2002 Heritage Classic Homes used a Ford Excursion owned by Eagle Harbor. 8) On Line 2d, be sure to quantify the amount of reimbursements paid by Eagle Harbor to Heritage Classic Homes if they exceed $1,000. Again, attach a statement identifying these reimbursements.

Please correct and re-submit your 990 to this Office by April 9, 2004. If you fail to file your financial report by the time required, your organization may be fined up to $2,000 and you and your organization may be enjoined from further fundraising. If you have any questions, please contact **Ned Badgett** at (803) 734-1795 in the Public Charities Division.

Yours truly,

Carolyn J. Hatcher

Carolyn J. Hatcher
Director, Public Charities Division

EXHIBIT 21
WITNESS
DATE: 3-4-2018
REPORTER: H. LANDRY

September 29, 2003

Ms Lynda J. Sullivan
1495 Remount Road
North Charleston, SC 29406

RE: Eagle Harbor Subdivision Phase 2, Lots 1-12

Dear Ms Sullivan,

I received your fax this morning dated September 26, 2003. I do understand that you represent Mrs. Winn and that all correspondences in the future should go through your office. I so am represented by attorney Jeff Spell, but will continue to correspond with you, with all legal decision referring back to my attorney. It is for this reason that I write you.

After reading your letter I have found nothing written of the issues I have concerning agreements with the Winn family. Specifically are those listed below:

- Danny Gilbert, the developer would provide ingress/egress for the parcel of land bought by Troy and Sarah Winn.
- Development of the land including all engineering, construction and sales would be done by Danny Gilbert.
- Where land was not suitable for septic systems, I, Danny Gilbert, would do all that was within my authority to provide off-site drain fields on land belonging to Belinda Fox, thus making land bought by the Winn's a sellable product.
- A construction company contracted by Danny Gilbert would reclaim land on lot 2 and 3 to make it useable, and obtain an appraisal for a value far greater than that of the property prior to reclaiming.
- A donation was made to Eagle Harbor Children's Home in the amount of $10,000 by the Winn family.
- Lots 2 and 3, now useable, would be donated to Eagle Harbor Children's Home (of which Mr. Troy Winn is a board member).
- As discussed and agreed upon by the Chairman of the Board for Eagle Harbor Children's Home, Doug Cotton, and land owner Troy Winn, lot 12 would be donated to Eagle Harbor for a future Directors home.

I have done all things within my responsibility to fulfill any and all obligations listed above. I was very surprised to find out about the change in property ownership by Troy Winn. Again, it was for that reason I contacted Mrs. Sarah Winn. My intentions were not to upset her, but to only express my interest in the matter and to ask her what her intentions in the future would be.

Regarding any concerns that Mrs. Winn has about money available to complete construction of the road:

- Mrs. Winn has no responsibility whatsoever to provide for in the future any money for expenses incurred after her original obligations are met. A copy of her obligations is attached.
- As verified by Mr. Winn, there is a balance of money due to the development for their obligations.
- The construction is bonded, with a copy of that bond attached.
- It has been the decision of the Eagle Harbor Homeowners Association to defer the paving of Champions Way and Saddlehorn Road until larger constructed homes are completed and ditches and drainage swells have dried up from excessive rain.

Financial documentation spoke of in our conversation and in your letter will be forwarded through my attorney as he sees necessary. Our business office is staffed Wednesdays and Fridays and all requests will be processed accordingly. A cost analysis of the project with profit, income and expenses is included with this letter. I have no intentions of conducting any business pertaining to land owned by Mrs. Winn without written approval from your office and a written agreement from Mrs. Winn to honor her obligations. If Mrs. Winn does not honor the agreement as described above, I have no other choice than to stop all business transactions, including sale of lot 1 and pursue legal action. I believe this matter can be resolved in the near future if we all work toward the original stated goals.

Thank you,

Danny Gilbert

cc: Jeff Spell, Attorney at Law
Doug Cotton, Eagle Harbor Board Chairman

LOCATION MAP

CERTIFIED TRUE COPY
BERKELEY COUNTY, SC

APR 25 2018

Cynthia D. Sorta
Register of Deeds

REGISTER OF DEEDS SEAL BERKELEY COUNTY

D. FOX EXHIBIT 1
WITNESS
DATE: 5-3-2018
REPORTER: H. LANDRY

TMS 194-00-02-032
HEIRS OF DAVE PERRY

TMS 194-00-02-033
THEODORE KENNETH HARVEY

TMS 194-00-02-031
BELINDA FOX
LOT 21
SANITARY SEWER SEPTIC DRAIN FIELD EASEMENTS

TMS 194-00-02-030
LEGARE D. WARREN

TMS 194-00-02-048

TMS 178-00-03-051
EAGLE HARBOR INCORPORATED

SADDLEHORN ROAD
PRIVATE 50' INGRESS-EGRESS & GENERAL UTILITY EASEMENTS

TMS 178-00-03-051
EAGLE HARBOR INCORPORATED

LOT 1 · LOT 2 · LOT 3 · LOT 4 · LOT 5 · LOT 6 · LOT 7 · LOT 8 · LOT 9 · LOT 10 · LOT 11 · LOT 12 · LOT 13 · LOT 14 · LOT 15 · LOT 16 · LOT 17 · LOT 18 · LOT 19 · LOT 20

T.M.S. 194-00-02-031 BELINDA FOX

T.M.S. 194-00-02-073 TROY & SARAH WINN

MATCHLINE

LANDS OF WESTVACO
SANDY RUN BRANCH

APPROXIMATE SPECIAL FLOOD HAZARD AREA AE - BASE FLOOD ELEVATIONS 45 & 46 (SEE NOTE 4)

APPROXIMATE FLOODWAY ZONE AE (SEE NOTE 4)

MAGNETIC N

SCALE IN FEET

Stantec

Stantec Consulting Services Inc.

Copyright Reserved

Consultants

Legend

Notes

Revisions

Issued

Seal

Client/Project
PREPARED FOR EAGLE HARBOR INCORPORATED
DANNY L. GILBERT, CEO
BERKELEY COUNTY
SOUTH CAROLINA

Title
FINAL PLAT OF
EAGLE HARBOR, PHASE II
ST. JAMES - GOOSE CREEK PARISH

Project No. 78000791 · Scale 1"=200' · JULY 25, 2002

Drawing No. LL-2376 · Sheet 1 of 1 · Revision 0

000003108 BK:03125 PG:00178

PORTIONS OF THIS AGREEMENT ARE SUBJECT TO ARBITRATION PURSUANT TO THE SOUTH CAROLINA UNIFORM ARBITRATION ACT § 15-48-10, S.C. CODE OF LAWS OF 1976, AS AMENDED.

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR EAGLE HARBOR

FILED, RECORDED, INDEXED
02/03/2003 02:02:13PM
Rec Fee: 57.00 St Fee: 0.00
Co Fee: 0.00 Pages: 51
Issued to: EAGLE HARBOR
Register of Deeds Berkeley Co., SC
Cynthia B. Forte

D-Fox EXHIBIT 2
WITNESS
DATE: 5-3-2018
REPORTER: H. LANDRY

01210

51

CERTIFIED TRUE COPY
BERKELEY COUNTY, SC
APR 27 2018
Cynthia B Forte
Register of Deeds

REGISTER OF DEEDS SEAL BERKELEY COUNTY

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR EAGLE HARBOR

TABLE OF CONTENTS

ARTICLE 1.	DEFINITIONS	6
1.1	Definitions	6
ARTICLE 2.	THE GENERAL PLAN FOR EAGLE HARBOR	9
2.1	Plan of Development of The Property	9
2.2	Additions To Property	9
2.2.1	Additions By Declarant	9
2.2.2	Additions of Other Properties	9
2.2.3	Additions By Merger	9
2.3	Conveyances Of Common Areas	10
2.4	Owner's Interest Subject to Plan of Development	10
ARTICLE 3.	ARCHITECTURAL GUIDELINES: APPROVALS	11
3.1	Purpose	11
3.2	Architectural Review Committee	11
3.2.1	Right to Assign ARC Functions	11
3.2.2	Liability of ARC Members	11
3.3	Design Guidelines	11
3.3.1	Interior Improvements	12
3.3.2	Drainage	12
3.3.3	Sitting, Setbacks, Height and Impervious Area Limitations	12
3.3.4	Other Guidelines	12
3.3.5	Guidance; Final Authority of ARC	12
3.3.6	Inspections and Permit and Certificate Issuance	12
3.3.7	Fees and Charges	12
3.4	ARC Building Construction and Landscaping Approval	12
3.5	Approval Not a Guarantee	13
ARTICLE 4.	OWNERS' COVENANTS AND USE RESTRICTIONS	13
4.1	Building Restrictions	13
4.1.1	Number of Buildings on Lots	13
4.1.2	Square Footage Requirements	13
4.1.3	Completion of Improvements	13
4.1.4	Other Requirement of Residences	13
4.2	Trees	13
4.3	Use of Lots and Dwellings	13
4.4	Antennas	14
4.5	Clotheslines	14
4.6	Propane Gas Tanks	14

4.7	Exclusion of Above Ground Utilities	14
4.8	Owner's Landscape Maintenance Between Lot Line and Adjacent Paving	14
4.9	Development, Sales and Construction Activities of Declarant	14
4.10	Assignment of Declarant's Rights to the Association	15
4.11	Other Rights and Reservations	15
ARTICLE 5.	PROPERTY RIGHTS	15
5.1	General Rights of Owners	15
5.2	Owner's Easement of Enjoyment	15
5.2.1	Right Of Association To Borrow Money	15
5.2.2	Declarant's Reserved Rights and Easements	15
5.2.3	Association's Rights to Grant and Accept Easements	15
5.2.4	Association's Rights and Easements	16
5.2.5	Declarant's Easements for Additional Property	16
5.2.6	Landscape Maintenance: Public Rights-of-Way	16
5.3	Easements for Declarant	16
5.3.1	Declarant's Easements for Any Additional Property	16
5.4	Changes in Boundaries: Additions to Common Areas	16
5.5	Easements for Utilities	16
5.6	Easement for Walks, Paths, and Signs	17
5.7	Easements for the Association	17
5.8	General Maintenance Easement	17
5.9	Easements Deemed Granted and Reserved	17
ARTICLE 6.	MEMBERSHIP	17
6.1	Membership	17
6.2	Voting Rights	17
6.2.1	Voting By Multiple Owners	18
6.3	Association Governance by Board	18
6.4	Meetings and Membership Voting	18
ARTICLE 7.	MAINTENANCE	18
7.1	Responsibilities of Owners	18
7.2	Association's Responsibility	18
7.2.1	General	18
7.2.2	Work In Behalf of Owners	19
7.3	Management	19
ARTICLE 8.	INSURANCE AND CASUALTY LOSSES	19
8.1	Insurance	19
8.1.1	Association's Property Insurance	19
8.1.2	Association's Liability Insurance	20
8.1.3	Fidelity Bonds	20
8.1.4	Association's Other Insurance	20
8.1.5	Association's Policies	20
8.1.6	Owner's Insurance	21
8.2	Damage or Destruction to Common Areas	21

ARTICLE 9. CONDEMNATION 21

9.1 Condemnation of Common Areas 21
9.1.1 Common Areas With Improvements 21
9.1.2 Common Areas Without Improvements 22
9.1.3 Including Owner's Property 22

ARTICLE 10. FUNCTIONS OF THE ASSOCIATION 22

10.1 Board of Directors and Officers 22
10.2 Duties and Powers 22
10.2.1 Ownership of Properties 23
10.2.2 Services 23
10.3 Mortgage or Pledge 23
10.4 Personal Property and Real Property for Common Use 24
10.5 Rules and Regulations 24
10.6 Reduction in Services 24
10.7 Obligation of the Association 24

ARTICLE11. ASSESSMENTS 24

11.1 Purpose of Assessments 24
11.2 Creation of Lien and Personal Obligation of Assessments 24
11.3 Establishment of Annual Assessment 25
11.3.1 Disapproval of Annual Assessments 25
11.3.2 Special Board Action to Increase 25
11.3.3 Billing of Annual Assessments 25
11.3.4 Rounding 25
11.3.5 For Common Expenses 25
11.4 Determination of Default Budget and Default Annual Assessment 26
11.4.1 Change in Default Amounts Upon Merger or Consolidation 26
11.5 Special Assessments for Improvements and Additions 26
11.5.1 Special Assessments; Approval by Declarant and Disapproval by Members 27
11.5.2 Apportionment 27
11.6 Emergency Special Assessments 27
11.7 Declarant's Properties 27
11.8 Individual Specific Assessments 27
11.9 Effect of Nonpayment; Remedies of the Association 27
11.10 Certificate 28
11.11 Date of Commencement of Assessments 28
11.11.1 Working Capital Collected At Initial Closing 28

ARTICLE 12. RULE MAKING 28

12.1 Rules and Regulations 28
12.2 Authority and Enforcement 29
12.3 Procedure 29
12.3.1 Demand to Cease and Desist 29
12.3.2 Notice of Hearing 29
12.3.3 Hearing 29

ARTICLE 13.	ALTERNATIVE DISPUTE RESOLUTION & LITIGATION	30
13.1	Agreement to Avoid Costs of Litigation and to Limit Right to Litigate Disputes	30
13.2	Exempt Claims	30
13.3	Mandatory Procedures for Non-Exempt Claims	30
13.4	Litigation	30
13.5	Miscellaneous Alternative Dispute Resolution Provisions	31
	13.5.1 Conflicting Provisions	31
	13.5.2 TIME IS OF ESSENCE	31
ARTICLE 14.	MORTGAGEE PROTECTION	31
14.1	Introduction	31
14.2	Eligible Mortgagees	31
14.3	Notice of Actions	31
14.4	Consents Required: Constituent Documents' Changes	31
14.5	Actions	32
14.6	Change from Monthly Assessment	33
14.7	Declarant's Reserved Rights	33
14.8	Inspection of Books	33
14.9	Financial Statements	33
14.10	Enforcement	33
14.11	Attendance at Meetings	33
ARTICLE 15.	GENERAL PROVISION	34
15.1	Control of Declarant	34
	15.1.1 Voting Agreement and Proxy	34
	15.1.2 Creation of New Board	34
15.2	Amendments by Declarant	34
15.3	Amendments by the Association	34
15.4	Duration	35
15.5	Termination of the Association	35
15.6	Prepetuities	36
15.7	Interpretation	36
15.8	No Affirmative Obligation Unless Stated	37
15.9	No Implied Liabilities or Duties	37
15.10	Gender and Grammar	37
15.11	Severability	37
15.12	Rights of Third Parties	37
15.13	Notice of Sale, Lease or Mortgage	37
15.14	No Trespass	37
15.15	Notices	37

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

FOR

EAGLE HARBOR

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR EAGLE HARBOR is made this 1st day of November, 2001, by Eagle Harbor Inc, (the "Declarant");

WITNESSETH

WHEREAS, Declarant is the owner of certain real property located in Berkeley County, South Carolina, and more particularly described in Exhibit "A," attached hereto and incorporated herein by this reference, which Declarant has designated "Eagle Harbor" (herein after, the "Eagle Harbor") and

WHEREAS, Eagle Harbor is planned as a residential community under the planning ordinances adopted therefore by governmental authority with jurisdiction thereof and as further provided herein;

WHEREAS, Declarant deems it to be in the best interest of the Eagle Harbor subdivision more particularly described in Exhibit" A," as it exists today and as it may evolve in the future, to establish Covenants, Conditions and Restrictions to promote efficiencies and to provide a flexible mechanism for the administration and maintenance of community facilities and services which are for the common use and benefit of EAGLE HARBOR property owners.

NOW, THEREFORE, Declarant hereby declares that all of the property described in Exhibit "A" and any additional property as may be added by subsequent amendment hereto, and in accordance with the terms and conditions hereof, is subjected to this Declaration of Covenants, Conditions and Restrictions for EAGLE HARBOR (referred to hereinafter as, the "Declaration"); and that the property described in Exhibit "A" will be held, transferred, sold, conveyed, leased, occupied, and used subject to the following easements, restrictions, covenants, charges, liens, and conditions which are for the purpose of protecting the values and desirability of, and which will touch and concern and run with title to, the real properties subjected to the Declaration and which will be binding on all parties having any right, title, or interest in the described properties or any portion thereof, and their respective heirs, successors, successors-in-title, and assigns, and will inure to the benefit of each owner thereof.

ARTICLE I. DEFINITIONS

1.1. Definitions. When used in this Declaration, unless the context will prohibit or otherwise require, the following words will have all the following meanings, and all definitions will be applicable to the singular and plural forms of such terms:

(a) "ARC" will mean and refer to the board or committee established pursuant to this Declaration to approve exterior and structural improvements, additions, and changes within the Development.

(b) "Articles of Incorporation" will mean and refer to the Articles of Incorporation of Eagle Harbor Homeowners Association, as amended from time to time, filed in the Office of the Secretary of State of the State of South Carolina in accordance with the Nonprofit Corporation Act.

(c) "Assessment" will mean and refer to an Owner's share of the Common Expenses and other charges from time to time assessed against an Owner by the Association in the manner herein provided.

(d) "Association" will mean and refer to EAGLE HARBOR Homeowners Association, a South Carolina not-for-profit corporation, its successors and assigns. In exercising any right or easement granted or reserved to it hereunder, such right or easement shall be deemed to extend to its duly authorized directors, officers, agents, employees and contractors.

(e) "Board of Directors" or "Board" will mean and refer to the Board of Directors of the Association, which is the governing body of the Association.

(f) "By-Laws of the Association" or "By-Laws" will mean and refer to those By-Laws of EAGLE HARBOR Homeowners Association attached hereto as Exhibit "B", which govern the administration and operation of the Association, and as the same may be amended from time to time.

(g) "Common Areas" will mean and refer to any and all real and personal property now or hereafter deeded or leased to, or which is the subject of a use agreement with, the Association, and wherein the property therein described is specifically denominated to be a part of the Common Areas. The Common Areas shall include the Association's current and future recreation facilities, if any, road and street shoulders, walkways, leisure trails, bike paths, gazebos, gates, fountains, entry walls, the Development's signage, and such maintenance and drainage areas, easements and ponds located within the property and which are not maintained by public authority. The designation of any land and/or improvements as a Common Area will not mean or imply that the public at large acquires any easement of use of enjoyment therein. All Common Areas are to be devoted to and intended for the common use and enjoyment of the Declarant, Owners, and their respective guests, and invitees. Common areas do not include facilities, trails, pastures, lake and trails belonging to or located on the property of Eagle Harbor, Inc.

(h) "Common Expenses" will mean and refer to all liabilities or expenditures made or incurred or anticipated to be incurred by or on behalf of the Association, together with all funds necessary for the creation or maintenance of financial, equipment or capital improvement reserves, consistent with the provisions of this Declaration for maintenance, repair and management of the Common Areas and in the fulfillment of its Common Responsibility.

(i) "Common Responsibility" will mean and refer to the Association's duties and responsibilities for maintenance, repair and management of the Common Areas. The term will also include the Association's duties and responsibilities for maintenance, repair and management of areas not owned by the Association, but which will, pursuant to this Declaration, or any Supplemental Declaration or contract or agreement, be binding upon the Association. It is anticipated that the Association's Common Responsibilities for property not owned by it may include, but will not be limited to, landscaping, maintenance, repair and management of street shoulders, walkways, street lighting, and signage along the unpaved portions of publicly dedicated rights-of-way shown and noted on the Site Plan and designated thereon or in a Supplemental Declaration as the Common Responsibility of the Association. Furthermore, Common Responsibility will mean and refer to the maintenance, repair and management of lakes, lagoons, wetlands and drainage ways specifically shown and designated on any plat of the Property, or any portion thereof, as the responsibility of the Association, and whether owned by the Association or not, and/or incorporated herein by a Supplemental Declaration.

(j) "Declarant" will mean and refer to Eagle Harbor Inc, or any successor-in-title to the entire interest of such person with respect to the Property at the time of such transfer to said successor-in-title, or any party designated Of Record to succeed to the rights of Declarant hereunder as to the matters set forth in such writing. In exercising any right or easement granted or reserved to it hereunder, such right or easement shall be deemed to extend to its duly authorized directors, officers, agents, employees and contractors.

(k) "Declarant Control Period" means the time period commencing on the date this Declaration is filed Of Record and ending on the earlier of:

(i) December 31, 2010; or

(ii) Three (3) months after the conveyance by the Declarant, in the ordinary course of business to persons other than a successor Declarant, property representing ninety-five (95%) of the total number of Lots intended for development on all of the Property as set forth in a Supplemental Declaration executed and filed Of Record by the Declarant on or before December 31, 2010, making specific reference to this Section; or

(iii) Three (3) months following the date the Declarant surrenders its authority to appoint directors of the Association by an express amendment to this Declaration executed and filed Of Record by the Declarant.

(l) "Declaration" will mean and refer to this Declaration of Covenants, Conditions, and Restrictions for Eagle Harbor, as amended, from time to time. By any Supplemental Declaration filed Of Record.

(m) "Development" will mean and refer to the Property and all improvements located or constructed thereon, and being a part of the overall plan, from time to time existing hereunder, for the real estate development known as "Eagle Harbor"

(n) "Dwelling" will mean and refer to any improved Lot used as a single-family detached residence.

(o) "Institutional Mortgage" will mean and refer to a Mortgage held by a bank, trust company, insurance company, or other recognized lending institution, or by an institutional or governmental insurer or purchaser of mortgage loans in the secondary market, such as Federal National Mortgage Association or Federal Home Loan Mortgage Company.

(p) "Lot" will mean and refer to any unimproved portion of the Property upon which a Dwelling will be constructed, as such Lot is shown on the Site Plan. A parcel of land will be deemed unimproved and thus considered to be a Lot, rather than a Dwelling, until the improvements constructed thereon are sufficiently complete to reasonably permit habitation thereof. Upon such completion, such parcel and the improvements thereon will collectively be considered to be a Dwelling for purposes of this Declaration.

(q) "Member" will mean and refer to an Owner with appurtenant membership in the Association as defined in Section 7.1, and such Owner's heirs, executor, legal representative, successor, and assign.

(r) "Mortgage" will mean and refer to a mortgage, security deed, deed of trust, installment land sales contract, or other similar security instrument granting, creating, or conveying a lien upon, a security interest in, or a security title to a Lot or Dwelling.

(s) "Mortgagee" will mean and refer to the holder of a Mortgage, its successor and assign.

(t) "Nonprofit Corporation Act" means and refers to the South Carolina Nonprofit Corporation Act of 1994, South Carolina Code Sections 33-31-101, et. Seq., as amended.

(u) "Occupant" will mean and refer to any person, including, without limitation, any Owner, occupying or otherwise using a Dwelling within the Development, and their respective families, servants, agents, guests, and invitees.

(v) "Of Record" will mean and refer to the place of filing a writing in the applicable public records, currently being the Berkeley County R.M.C. Office, as will give legal notice to the world of the matters set forth in the writing so filed.

(w) "Owner" will mean and refer to one or more persons, including Declarant, who or which owns fee simple title to any Lot or Dwelling, its respective heirs, executors, legal representatives, successors, and assigns, excluding, however, those persons having such an interest under a Mortgage. In the event that there is filed Of Record any installment land sales contract covering any Lot or Dwelling, the Owner thereof will be deemed to be the purchaser under the installment sales contract and not the fee simple titleholder. An installment land sales contract will be an instrument whereby the purchaser is required to make payment for such property for a period extending beyond nine (9) months from the date of the contract, and where the purchaser does not receive title to such property until all such payments are made, although the purchaser is given use thereof.

(x) "Property" will mean and refer to those pieces, parcels and lots of land described on Exhibit "A," or any portion thereof, together with all improvements thereon.

(y) "Referendum" will mean and refer to the vote of Members by mailed ballots on certain actions submitted to the Members by the Board of Directors, as more particularly set forth herein and in the Bylaws.

(z) "Site Plan" will mean and refer to that certain subdivision plat entitled "EAGLE HARBOR" A Subdivision of TMS #178-00-03-051, (Phase I), Section I, Located in Berkeley County, South Carolina" prepared by Cornerstone Surveying and Engineering, Inc. recorded in the RMC Office for Berkeley County in Book____ Page _____. Further, "Site Plan" will mean and refer to any subdivision plat for any additional Property placed Of Record in furtherance of the development scheme for EAGLE HARBOR, as it exists from time to time.

(aa) "Supplemental Declaration" will mean and refer to any amendment to this Declaration filed Of Record, which makes any changes hereto.

ARTICLE 2. THE GENERAL PLAN FOR EAGLE HARBOR

2.1 Plan of Development of the Property. The Property initially contains 31 Lots as shown on the Site Plan, upon each of which one Dwelling may be constructed, and such Common Areas and areas of Common Responsibility serving the Lots and Dwellings, and which are installed and existing. All Lots and Dwellings within the Development will be and are hereby restricted exclusively to single-family residential use and will be subject to the standards and restrictions set forth in Article 4 hereof, including, but not limited to, restrictions and standards applicable to accessory buildings, including guest houses set forth in Section 4.1.1.

2.2 Additions To Property. Property may become subject to this Declaration in the following manner:

2.2.1 Additions By Declarant. During the Declarant Control Period, the Declarant shall have the right, without further consent of the Association or any Owner to bring within the plan and operation of this Declaration, or to consent thereto, the whole or any portion of any property contiguous or nearly contiguous to the Property and whether or not owned by the Declarant. Such property may be subjected to this Declaration as one parcel or as several smaller parcels at different times. The additions authorized under this subsection shall be made by filing Of Record a Supplemental Declaration with respect to the land to be added hereto and which shall extend the operation and effect of the covenants and restrictions of this Declaration thereto, and which, upon filing Of Record of a Supplemental Declaration, shall constitute a part of the Property.

(a) The Supplemental Declaration may contain such complementary additions and/or modifications of the covenants and restrictions contained in this Declaration as may be necessary or convenient, in the sole judgment of the Declarant to reflect the different character, if any, of the land added hereto, and as are not materially inconsistent with, this Declaration, but such modifications shall have no effect on the Property described in Section 2.1 above.

(b) The option reserved under this Section 2.2.1 may be exercised by Declarant only by the execution of a Supplemental Declaration filed Of Record and the filing Of Record of a Site Plan showing the land being added or such portion or portions thereof as are being added to the Development by such amendment, as well as the Lots, Common Areas and areas of Common Responsibility therein, if any. Any such Supplemental Declaration shall expressly submit the added land to all or specific provisions of this Declaration, as may be provided therein, and such other covenants, restrictions, conditions and easements as Declarant, in its sole discretion, shall determine.

2.2.2 Additions of Other Properties. Upon approval by two-thirds (2/3) of the votes of the Members pursuant to a Referendum therefor or upon approval by two-thirds (2/3) of the votes of the Members present, in person or by proxy, at a duly held meeting at which a quorum is present, the owner of any property contiguous or nearly contiguous to the Property and who desires to add it to the plan of this Declaration and to subject it to the jurisdiction of the Association, may file Of Record a Supplemental Declaration with respect to the property to be added, which will extend the operation and effect of the covenants and restrictions of the Declaration to such property, thereafter constituting a part of the Property. Any such Member approval shall be reflected in a consent to such Supplemental Declaration executed by the President of the Association.

2.2.3 Additions By Merger. Upon merger or consolidation of the Association with another association, following approval by two-thirds (2/3) of the votes of the Members pursuant to a Referendum therefore or upon approval by two-thirds (2/3) of the votes of the Members present, in person or by proxy, at a duly held meeting at which a quorum is present, the Association's property rights and obligations may, by operation of law, be transferred to another surviving or consolidated association, or in the alternative, the properties, rights, and obligations of another association may, by operation of law, be added to the properties of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated Association may administer the existing property, together with the covenants and restrictions established upon any other properties, as one plan. No merger or consolidation will effect any revocation, change, or addition to the covenants established by this Declaration within the Property, including, without limitation, the maximum limits on Assessments and dues of the Association, or any other matter substantially affecting the interests of Members of the Association. Lands which become subject to this Declaration under the provisions of this Section 2.2.3 may in the future be referred to as a part of the Property.

2.3 Conveyances Of Common Areas. All parcels of land shown as Common Areas on the Site Plan or which are identified herein as Common Areas and require a conveyance to vest in the Association ownership and use thereof, will be deeded or an easement will be granted with respect thereto by Declarant within two (2) years after the Declarant has completed improvements thereon. Upon any such conveyance or grant of easement, if such is required, or upon completion of any improvements thereon or thereto by the Declarant, the Association will immediately become responsible for all maintenance, repair and replacements therefor, the operation thereof and such additional construction of improvements as may be authorized by the Board of Directors. For purposes of measuring the foregoing two (2) year period, any improvements will be deemed completed the later of the date all required certificates or permits of occupancy or use are issued therefor, or the date such improvements may be used in the manner and for the purposes for which they are constructed. It is the purpose of this provision to provide that the Association will be responsible for all maintenance of Common Areas when improvements thereto have been completed, notwithstanding the fact that the Declarant is not obligated to deed or grant an easement for such properties until two (2) years after improvements have been completed thereon. Any such conveyance by the Declarant will be conveyed subject to:

(a) All restrictive covenants filed Of Record at the time of conveyance;

(b) The right of access of the Declarant, its successors and assigns, over and across such property;

(c) The right of both the Declarant, during the Declarant Control Period, or the Association, after expiration of the Declarant Control Period, and the ARC to approve all structures, construction, repairs, changes in elevation and topography and the location of any object (including vegetation) within the Common Areas prior to the commencement of such activities or location of any object therein;

(d) All utilities and drainage easements; and

(e) All reserved rights set forth in Section 2.1.

Notwithstanding anything in the foregoing to the contrary, the Declarant will not be required to so convey the Common Areas where such conveyance would be prohibited under agreements to which the Declarant is a party on the date of establishment of such Common Areas, but, in such case, Declarant will be allowed to postpone such conveyance, without a penalty, until such time as said prohibition terminates, is released or is nullified.

In consideration of the benefits accruing to the Association and to the Members under this Declaration and in consideration of the covenants and agreements of the Declarant hereunder, the Association hereby agrees to accept title to any property, or to any interest in property, now or hereafter conveyed to it pursuant to the terms and conditions of this Declaration. Upon the due recording of a deed, easement, lease or other instrument or memorandum of conveyance Of Record to the Association, title or such other interest in property conveyed will vest in and to the Association without the necessity of any further act, deed or approval of any person, including the grantor, lessor and/or Association.

2.4 Owner's Interest Subject to Plan of Development. Every purchaser of a Lot and Dwelling will purchase such property, and every Mortgagee and lienholder holding an interest therein will take title, or hold such security interest with respect thereto, subject to the plan of development for EAGLE HARBOR and this Declaration.

ARTICLE 3. ARCHITECTURAL GUIDELINES: APPROVALS

3.1 Purpose. In order to enhance the beauty of the Development, to establish and preserve harmonious and aesthetically pleasing designs incorporated into the Development, and to protect and promote values for the Development and the Lots and Dwellings located therein or thereon, no Lot site plan will be undertaken (including staking, clearing, excavation, grading and other site work, exterior alteration of existing improvements, and planting or removal of landscaping materials) nor any structures placed, erected, or installed upon any Lot or adjacent to any Lot where the purpose of the structure is to service the Lot, except in accordance with this Article 3 and upon approval as herein provided unless specifically exempted from the application and approval requirements hereof by specific terms and conditions hereof pursuant to this Declaration or pursuant to a writing signed by Declarant in recordable form.

3.2 Architectural Review Committee. The Declarant will establish an Architectural Review Committee ("ARC") to administer the architectural and aesthetic approval process for the Development. The ARC under this Declaration will consist of not more than five (5) nor less than two (2) members, who need not be Lot Owners. The terms of office for each member and other matters of governance to be applicable to the ARC, will be established by the Declarant prior to the time any review and approval process hereunder would otherwise have to take place. A member appointed by the Declarant may be removed with or without cause by the Declarant at any time by written notice to the appointee, and any successor appointed to fill the vacancy will serve the remainder of the term of the former member. Notwithstanding the foregoing to the contrary, any member appointed to the ARC following assignment of the whole or any portion of ARC functions pursuant to Section 3.2.1 below is subject to the prior approval of Declarant until that date which is three (3) years following the termination of the Declarant Control Period. The ARC is responsible for administering the Design Guidelines, adopted and amended from time to time as hereinafter provided, and for the review and approval process conducted in accordance with this Article 3. The ARC is authorized to retain the services of consulting architects, landscape architects, urban designers, engineers, inspectors, and/or attorneys in order to advise and assist the ARC in performing its functions set forth herein. The ARC may establish and charge reasonable fees for review of applications hereunder and may require such fees to be paid in full prior to review of any application. Such fees may include the reasonable costs incurred by the committee in having any application reviewed by architects, engineers or other professionals. Fees set forth by the Declarant in Article 3 are subject to change.

3.2.1 Right to Assign ARC Functions. Declarant reserves the right to assign to the Association, at its sole discretion at any time during the Declarant Control Period, the whole or any portion of its rights reserved in this Declaration which are exercisable by the ARC. The Association does hereby agree to accept any such assignment of rights without the necessity of any further action by it. Upon the expiration of three (3) years following the termination of the Declarant Control Period, any then remaining ARC rights of the Declarant are deemed assigned to the Association, which will succeed to all the rights of Declarant over the ARC then remaining unassigned without further action on the part of either the Declarant or the Association.

3.2.2 Liability of ARC Members. No member of the ARC, or any assignee of rights hereunder, will be liable to any Owner for any decision, action or omission made or performed by the ARC member in the course of his duties unless the member acted in bad faith or in reckless disregard of the rights of any person or of the terms of this Declaration.

(a) Indemnification. Until all the ARC functions are assigned, the Declarant will, to the full extent permitted by law, indemnify all persons designated from time to time by the Declarant to serve as members of the ARC exercising unassigned rights hereunder from and against any liability, including attorney fees, as may be incurred by the members contrary to the provisions of this Section 3.2.2. Following any such assignment by the Declarant, members of the ARC or successor board exercising rights so assigned are indemnified by the Association.

3.3 Design Guidelines. The Declarant will prepare the initial design and development guidelines, as well as the form of application and review procedures therefor (the "Design Guidelines"), which will apply to all development and construction activities within the Development. The Design Guidelines may contain general provisions applicable to all of the Development, as well as specific provisions which may vary according to Community, location therein, unique characteristics, and intended use.

3.3.1 Interior Improvements. Generally speaking, the Design Guidelines will not cover interior improvements, which will, generally, not be subject to review and approval by the ARC, unless the review and approval may otherwise be required because the interior improvements are made within an area plainly within view of adjacent properties.

3.3.2 Drainage. Design Guidelines may provide that, in connection with the ARC's approval and to prevent excessive drainage or surface water runoff, the ARC may have the right to establish a maximum percentage of property which may be covered by buildings, structures, or other improvements, which guidelines may be promulgated on the basis of topography, percolation rates of the soil, soil types and conditions, vegetation cover, and other environmental factors, or to impose guidelines for the installation of storm water management facilities deemed appropriate to limit or control runoff.

3.3.3 Sitting, Setbacks, Height and Impervious Area Limitations. Unless otherwise specifically provided or allowed in writing by the Declarant or by applicable zoning or governmental authority, and the siting of

improvements, including driveways, setbacks from other properties, and maximum Dwelling height and impervious area limitations will be vested solely in the ARC and promulgated in the Design Guidelines. Any such limitations established by the ARC or the Declarant may be more, but not less, restrictive than zoning or other governmental authority and shall take precedence over the same.

3.3.4 Other Guidelines. The Development's Design Guidelines may provide, in the sole discretion of Declarant, and following the Declarant Control Period, the ARC, applicable guidelines (a) prohibiting or restricting the erection and use of temporary structures; (b) setting permissible times of construction and requirements concerning construction debris; (c) covering the allowance of and, where allowed, the content, size, style and placement location for signage; (d) requiring or encouraging visually screened service and boat storage; (e) establishing exterior lighting design and location criteria; (f) establishing criteria and limitations for the installation of drainage pipe; (g) requiring installation of mailboxes of consistent design and composition, and (h) setting conditions for property subdivision or consolidation, and for subjecting Development property to further covenants, conditions, restrictions and easements; provided, however, Declarant's activities may be excepted or exempted from any and all such guidelines. The within listing of possible guidelines is not an exhaustive listing and is intended merely to provide an example of the diversity of guidelines as may be incorporated in the Design Guidelines, and will not act as a limitation upon guidelines and guidelines as may or may not be implemented.

3.3.5 Guidance; Final Authority of ARC. Design Guidelines are intended to provide guidance, and will not be the exclusive basis for decisions of the ARC, and compliance with the Design Guidelines may not guarantee approval of any application. The ARC will have the sole discretion to determine whether plans and specifications submitted for approvals are acceptable to it. The refusal of approval of any plans and specifications or the approval of same as a variance from any the Design Guideline may be based by the ARC upon any ground which is consistent with the objects and purposes of this Declaration, as may be supplemented by the Design Guidelines, including purely aesthetic considerations, so long as such grounds are not arbitrary or capricious.

3.3.6 Inspections and Permit and Certificate Issuance. Design Guidelines may also provide procedures for ARC inspection of work, for the issuance of a permit to commence work and for issuance of a certificate following completion thereof, in addition to any such permits and certificates as may be issued by governmental authority with jurisdiction thereof, which may constitute conditions precedent to use or occupancy.

3.3.7 Fees and Charges. In addition to application fees and charges, the Design Guidelines may provide a schedule of fees, charges, required damage or other deposits, fines for noncompliance, and other amounts due and payable by an Owner as part of the application, review and approval processes, which schedule the ARC may increase, modify and amend at any time. All fees and charges provided herein will constitute specific Assessments and a lien upon the Lot to which the fees and charges relate.

3.4 ARC Building Construction and Landscaping Approval. To preserve the architectural and aesthetic appearance of the Development, no grading, excavation, or filling of any nature whatsoever, and no construction of improvements of any nature whatsoever, will be commenced or maintained by the Association or any Owner, other than Declarant, on any portion of the Development, including, without limitation, the construction or installation of sidewalks, driveways, parking lots, decks, patios, courtyards, amenities and recreational facilities, walls, fences, or exterior lights, nor will any building construction, exterior addition, change or alteration be made (including, without limitation, painting or staining of any exterior surface), unless and until application is made to the ARC pursuant to the Design Guidelines and the plans and specifications therefor are approved by the ARC. General landscaping does not require an application to be made to the ARC.

3.5 Approval Not a Guarantee. No approval of plans and specifications and no publication of Design Guidelines by the ARC will be construed as representing or implying that the plans, specifications, or guidelines will, if followed, result in properly designed improvements. Such approvals and guidelines will in no event be construed as representing or guaranteeing that any dwelling or other improvement built in accordance therewith will be built in a good and workmanlike manner. Neither Declarant, the Association, nor the ARC is responsible or liable for any defects in any plans or specifications submitted, revised, or approved pursuant to the terms of this Article 3, nor any defects in construction undertaken pursuant to the plans and specifications.

ARTICLE 4. OWNERS' COVENANTS AND USE RESTRICTIONS

4.1 Building Restrictions. Except as may be otherwise set forth in this Declaration, on the Site Plan, in any Supplemental Declaration, in any agreement with Declarant, or by specific deed restriction, the following building restrictions will apply with respect to the properties subject to this Declaration:

4.1.1 Number of Buildings on Lots. No structure will be constructed on a Lot other than one (1) Dwelling and two (2) accessory buildings, which may include a detached private garage, servant's quarters, guest house or pool house, provided the use of such dwelling or accessory building does not overcrowd the Lot and provided further, that such building is not used for any activity normally conducted as a business. Such accessory building may not be constructed prior to the construction of the main building without the approval of the Declarant. A guest suite or like facility may be included as part of the main dwelling or accessory building, but said suite may not be rented or leased except as part of the entire premises including the main dwelling.

4.1.2 Square Footage Requirements. All residential Dwellings constructed on the Lots shall have the minimum square feet of living space, being the enclosed and covered areas within the Dwelling, exclusive of garages, carports, porches, terraces, balconies, decks, patios, courtyard, greenhouses, atriums, storage areas, attics, and basements, set forth in Schedule I attached hereto or attached in any Supplemental Declaration.

4.1.3 Completion of Improvements. The exterior of all Dwellings and other structures constructed upon any Lot must be completed within twelve (12) months after the construction of same shall have commenced, except where such completion is impossible or would result in great hardship to the Owner or builder thereof due to strikes, fires, national emergencies or natural calamities. No Dwelling under initial construction shall be occupied until construction is completed and all necessary approvals of any governmental authorities have been obtained.

4.1.4 Other Requirement of Residences. In addition, all residential structures constructed on a Lot will be designed and constructed in compliance with the requirements of the Building Code of the governmental authority with jurisdiction thereof.

4.2 Trees. No Owner, other than Declarant, shall be entitled to cut, remove, or mutilate any trees, shrubs, bushes, or other vegetation having a trunk diameter of ten (10) inches or more at a point of four and one-half (4-1/2') feet above the ground level, or other significant vegetation as designated, from time to time, by the ARC, without obtaining the prior approval of the ARC, provided that dead or diseased trees which are inspected and certified as dead or diseased by the ARC or its representatives, as well as other dead or diseased shrubs, bushes, or other vegetation, shall be cut and removed promptly from any property by the Owner thereof. Nothing herein shall be construed so as to limit any applicable law or ordinance.

4.3 Use of Lots and Dwellings. Except as permitted by Section 4.10, each Lot and Dwelling will be used for residential purposes only, and no trade or business of any kind may be carried on therein. The use of a portion of a Dwelling as an office by an Owner or Occupant will not be considered to be a violation of this covenant if such use does not create regular customer, client, or employee traffic; provided that in no event will any Lot or Dwelling be used as the office of or storage area for any building contractor, real estate developer or real estate broker, except as may be on a temporary basis, with the express written approval of the Declarant during the Declarant Control Period, and thereafter by the Board of Directors, and in accordance with reasonable rules and regulations promulgated therefor. Nothing contained herein shall be construed so as to prohibit the construction of houses to be sold on a Lot or the showing of Dwellings for the purpose of selling houses in the Development; and nothing herein shall be construed to prevent the Declarant or its permittees from erecting, placing or maintaining signs, structures and offices as it may deem necessary for its operation and sales in the Development. Lease or rental of a Dwelling for signs, structures and offices residential purposes will also not be considered to be a violation of this covenant so long as the lease (a) is for not less than the entire Dwelling and all the improvements thereon, and (b) is otherwise in compliance with rules and regulations as may be promulgated and published from time to time by the Declarant and the Board of Directors. All leases or rental agreements will be in writing and will be for a duration of one (1) year or more unless, for good cause shown, the Board permits, in writing, a shorter term, which, nevertheless, shall not be shorter than six (6) months. Upon request, the Owner will provide the Declarant and Board of Directors with copies of such lease or rental agreement. Any Occupant will in all respects be subject to the terms and conditions of this Declaration and the rules and regulations adopted hereunder.

4.4 Antennas. No television antenna, radio receiver, or other similar device will be attached to or installed on any portion of the Development, except as required by the Telecommunications Act of 1996 and implementing rules therefor issued by the Federal Communications Commission and by the Association in conformity with rules or guidelines of the Federal Communications Commission; provided, however, the Declarant and the Association will not be prohibited

from installing equipment necessary for master antenna, security, cable television, mobile radio, or other similar systems within the Development.

4.5 Clotheslines. No clotheslines or drying yards shall be located upon the premises so as to be visible from any Common Area or from any adjoining property or Lot.

4.6 Propane Gas Tanks. Any propane gas tanks shall either be buried underground on the Lot or screened from view in accordance with design guidelines adopted therefor by the ARC.

4.7 Exclusion of Above Ground Utilities. All electrical service and telephone lines shall be placed underground and no outside electrical lines shall be placed overhead. No exposed or exterior radio or television transmission or receiving antenna shall be erected, placed or maintained on any part of a Lot. Provided, however, that the normal service pedestals, etc., used in conjunction with such underground utilities shall be permitted within the Development. Overhead utilities shall be permitted during the construction period and until utility companies can place them underground.

4.8 Owner's Landscape Maintenance Between Lot Line and Adjacent Paving. Each Owner will be responsible for maintaining on a regular basis the landscaping; if any, and ground cover along the right-of-way roadside or sidewalk, as applicable, bordering the Owner's Lot, whether or not such area is a part of the Owner's Lot, Each Owner will perform such maintenance within the unpaved area of right-of-way immediately adjacent to a Lot's lot line, and will be of such quality of maintenance as is required to maintain a Development consistency in appearance and cleanliness. An Owner's responsibility under this Section 4.8 to provide regular maintenance will be fulfilled regardless of whether or not an Owner has constructed improvements upon his Lot or whether or not the Owner permanently resides outside of the Development.

4.9 Development, Sales and Construction Activities of Declarant. Notwithstanding any provisions or restrictions contained in this Declaration to the contrary, the Declarant and its agents, employees, successors, and assigns and designees are permitted to maintain and carry on such facilities and activities as may be reasonably required, convenient, or incidental to the development, completion, improvement, and sale of the whole or any portion of the Property, including, without limitation, the installation and operation of development, sales and construction trailers and offices, signs and models, provided that the location of any such trailers of any assignees of Declarant's rights under this Section 4.9 are subject to Declarant's prior written approval. The right of Declarant to maintain and carry on such facilities and activities will include specifically the right of Declarant and Declarant's designees to use Dwellings as models and as offices for the sale or lease of Lots and Dwellings and for related activities.

4.10 Assignment of Declarant's Rights to the Association. The Declarant reserves the right to assign to the Association, at its sole discretion, its rights reserved in this Declaration, including all rights set forth in this Article 4. The Association hereby agrees to accept any and all assignments of rights hereunder, and no further action will be required by it.

4.11 Other Rights and Reservations. **THE OMISSION OF ANY RIGHT OR RESERVATION IN THIS ARTICLE WILL NOT LIMIT ANY OTHER RIGHT OR RESERVATION BY THE DECLARANT WHICH IS EXPRESSLY STATED IN OR IMPLIED FROM ANY OTHER PROVISIONS IN THIS DECLARATION.**

ARTICLE 5. PROPERTY RIGHTS

5.1 General Rights of Owners. Each Lot and Dwelling will for all purposes constitute real property which will be owned in fee simple and which, subject to the provisions of this Declaration, may be conveyed, transferred, and encumbered the same as any other real property. Each Owner will be entitled to the exclusive ownership and possession of his said property, subject to the provisions of this Declaration, including without limitation, the provisions of this Article 6. If any chutes, flues, ducts, conduits, wires, pipes, plumbing, or any other apparatus or facilities for the furnishing of utilities or other services or for the provision of support to any Lot or Dwelling lie partially within and partially outside of the designated boundaries of the Lot, any portions thereof which serve only such property will be deemed to be a part thereof, and any portions thereof which serve more than one such Lot or Dwelling or any portion the Common Areas will be deemed to be a part of the Common Areas. The ownership of each property subject to this Declaration will include, and there will pass with each property as an appurtenance thereto, whether or not separately described, all of the right and interest in and to the Common Areas and areas of Common Responsibility as established hereunder, and the limitations

applicable, which will include, but not be limited to, membership in the Association. Each Owner will automatically become a Member of the Association and will remain a Member thereof until such time as his ownership ceases for any reason, at which time his membership in the Association will automatically pass to his successor-in-title to his or its property.

5.2 Owner's Easement of Enjoyment. Subject to the provisions of this Declaration and the rules, regulations, fees, and charges from time to time established by the Board of Directors in accordance with the By-Laws and the terms hereof, every Owner and Occupant will have a nonexclusive right, privilege, and easement of use and enjoyment in and to the Common Areas, to the extent so entitled hereunder, such easement to be appurtenant to and to pass and run with title, subject to the rights, restrictions, reservations, covenants, easements and obligations reserved, granted or alienable in accordance with this Declaration, including, but not limited to:

5.2.1 Right of Association to Borrow Money. The right of the Association to borrow money (a) for the purpose of improving the Development, or any portion thereof, (b) for acquiring additional Common Areas, (c) for constructing, repairing, maintaining or improving any facilities located or to be located within the Development, or (d) for providing the services authorized herein, and, subject to the provisions of Section 11.2, to give as security for the payment of any such loan a mortgage or other security instrument conveying all or any portion of the Common Areas; provided, however, that the lien and encumbrance of any such security instrument given by the Association will be subject and subordinate to any and all rights, interest, options, licenses, easements, and privileges herein reserved or established for the benefit of Declarant, any Owner, or the holder of any Mortgage, irrespective of when such Mortgage is executed or given.

5.2.2 Declarant's Reserved Rights and Easements. The rights and easements specifically reserved to Declarant in this Declaration.

5.2.3 Association's Rights to Grant and Accept Easements. The right of the association to grant and accept easements as provided in Section 5.5 and to dedicate or transfer fee simple title to all or any portion of the Common Areas to any public agency or authority, public service district, public or private utility, or other person, provided that any such dedication or transfer of the fee simple title must be approved by a majority of those present in person or by proxy at a duly held meeting of the Association and by Declarant, during the Declarant Control Period and thereafter for so long as Declarant owns any of the Property primarily for the purpose of development or sale.

5.2.4 Association's Rights and Easements. The rights and easements specifically reserved in this Declaration for the benefit of the Association, its directors, officers, agents, and employees.

5.2.5 Declarant's Easements for Additional Property. Declarant's right to add Additional Property to this Declaration pursuant to Section 2.2.1 and the rights and easements reserved in Section 5.3.1 hereof for the benefit of the Additional Property so added to this Declaration.

5.2.6 Landscape Maintenance; Public Rights-of-Way. Declarant may, in its sole discretion, reserve an easement over any public roadway within the Development for the purpose of doing additional maintenance to said public streets and roads and to maintain landscaping along the unpaved rights-of-way thereof, and thereafter denominate on a Site Plan or Supplemental Declaration that said easement will constitute a Common Area of the Development to be maintained by the Association.

5.3 Easement for Declarant. During the period that Declarant owns any of the Property for sale, Declarant will have an alienable and transferable right and easement on, over, through, under, and across the Common Areas for the purpose of constructing improvements in and to the Lots and for installing, maintaining, repairing and replacing other improvements to the Property contemplated by this Declaration or as Declarant desires, in its sole discretion, including, without limitation, any improvements or changes permitted and described by Article 2, and for the purpose of doing all things reasonably necessary and proper in connection therewith, provided in no event will Declarant have the obligation to do any of the foregoing.

5.3.1 Declarant's Easements of any Additional Property. There is hereby reserved for Declarant, and its successor, assigns, and successors-in-title to the Additional Property, for the benefit of and as an appurtenance to the Additional Property, when added to this Declaration pursuant to Section 2.2.1, and as a burden upon the then existing Development, perpetual, non-exclusive rights and easements for (a) pedestrian, vehicular, access, ingress, egress, parking over, across, within, and on all private roads, sidewalks, trails, parking facilities, and lagoons, from time to time located within the Common Areas or within easements serving the Common Areas, (b) the installation, maintenance, repair,

replacement, and use within the Common Areas, and those portions of properties, encumbered pursuant to Section 6.5 for security systems and utility facilities and distribution lines, including, without limitation, drainage systems, storm sewers, and electrical, gas, telephone, water sewer, and master television antenna and/or cable system lines, and (c) drainage and discharge of surface water onto and across the then existing Development, provided that such drainage and discharge shall not materially damage or affect the then existing Development or any improvements located thereon.

5.4 Changes in Boundaries; Additions to Common Areas. With the consent of any person, Declarant will have the right, but not the obligation, during the Declarant Control Period, to make improvements and changes to all Common Areas and to all such properties owned by Declarant, including, without limitation, (a) installation and maintenance of any improvements, (b) changes in the location of the boundaries of any such properties owned by Declarant, and (c) installation and maintenance of any water, sewer, and other utility systems and facilities. In connection therewith, Declarant expressly reserves the right to change and realign the boundaries of the Common Areas and any Lots between such adjacent properties owned by Declarant, provided that any such change or realignment of boundaries will not materially decrease the acreage of the Common Areas and will be evidenced by a revision of or an addition to the Site Plan which will be filed Of Record.

5.5 Easements for Utilities. There is hereby reserved for the benefit of Declarant, the Association, and their respective successors and assigns, the alienable, transferable, and perpetual right and easement, as well as the power to grant and accept easements to and from any public authority or agency, public service district, public or private utility, or other person, upon, over, under, and across (a) all of the Common Areas in accordance with this Declaration; (b) those strips of land, ten (10') feet in width, running adjacent to and parallel with the front, side and rear property lines of Lots, not to conflict with any drainage easements or marsh and wetland setbacks established by OCRM or the United States Corps of Engineers thereon, and as may be otherwise shown on the Site Plan; and (c) easement areas shown on any Site Plan or recited in any Supplemental Declaration for the purpose of installing, replacing, repairing, maintaining, and using master television antenna and/or cable systems, security and similar systems, and all utilities, including, but not limited to, storm sewers and drainage systems and electrical, gas, telephone, water, and sewer lines. Such easements may be granted or accepted by Declarant, its successors or assigns, or by the Board of Directors, provided, however, that during the Declarant Control Period and thereafter for as long as the Declarant owns any of the Property primarily for the purpose of development and sale, the Board of Directors must obtain the written approval of Declarant prior to granting and accepting any such easements. To the extent practical, in Declarant's sole discretion, all utility lines and facilities serving the Development and located therein will be located underground. By virtue of any such easement and facilities, it will be expressly permissible for the providing utility company or other supplier or servicer, with respect to the portions of the Development so encumbered, (i) to erect and maintain pipes, lines, manholes, pumps, and other necessary equipment and facilities, (ii) to cut and remove any trees, bushes, or shrubbery, (iii) to grade, excavate, or fill, or (iv) to take any other similar action reasonable necessary to provide economical and safe installation, maintenance, repair, replacement, and use of such utilities and systems.

5.6 Easement for Walks, Paths, and Signs. There is hereby reserved for the benefit of Declarant and the Association the alienable, transferable, and perpetual right and easement upon, over and across (a) all portions of the Common Areas in which improvements are not constructed or erected, and (b) all areas shown and noted on any Site Plan or described in any Supplemental Declaration for the installation maintenance, and use of sidewalks, leisure trails, bike paths, traffic directional signs, and related improvements.

5.7 Easements for the Association. There is hereby reserved a general right and easement for the benefit of the Association, and to any manager employed by the Association and any employees of such manager, to enter upon any Lot, Dwelling, or any portion thereof in the performance of their respective duties. Except in the event of emergencies, this easement is to be exercised only during normal business hours and then, whenever practicable, only upon advance notice to and with permission of the Owner directly affected thereby.

5.8 General Maintenance Easement. There is hereby reserved for the benefit of Declarant and the Association an alienable, transferable, and perpetual right and easement to enter upon any Property subject to this Declaration for the purpose of providing insect and reptile control, mowing, removing, clearing, cutting, or pruning underbrush, weeds, stumps, or other unsightly growth and removing trash, so as to maintain reasonable standards of health, fire safety, and appearance within the Development, provided that such easements will not impose any duty or obligation upon Declarant or the Association to perform any such actions, or to provide garbage or trash removal services. Furthermore, it is hereby reserved for the benefit of the Declarant and the Association an alienable, transferable, and perpetual right and easement, but not the obligation, to enter upon any unimproved portions of a Lot or Dwelling which is located within twenty (20') feet from the water's edge of any lagoon, pond or other body of water within the Development

for the purpose of (a) mowing such area and keeping the same clear and free from unsightly growth and trash, (b) maintaining such bodies of water, such maintenance to include, without limitation, dredging and the maintenance of reasonable water quality standards, and (c) installing, constructing, repairing, replacing, and maintaining erosion control devices, provided that the foregoing reservation of easements will not be deemed to limit the responsibility therefor by Owners under Section 8.1 hereof. The costs thereof incurred as a result of the action or inaction of any Owner will be paid by such Owner, and until paid will be a continuing lien upon the Owner's Lot or Dwelling.

5.9 Easements Deemed Granted and Reserved. All conveyances of a Lot hereunder, whether by the Declarant or otherwise, will be deemed to have granted and reserved, as the context will require, all easements set forth in this Declaration, including, but not limited to, those set forth in this Article 5.

ARTICLE 6. MEMBERSHIP

6.1 Membership. Every Owner, including the Declarant, of a Lot and Dwelling will be a Member of the Association. Ownership of a Lot will be the sole qualification for such membership. In the event that fee simple title to a Lot or Dwelling is transferred or otherwise conveyed, the membership in the Association which is appurtenant thereto will automatically pass to such transferee, notwithstanding any failure of the transferor to endorse to his transferee any certificates or other evidences of such membership. The foregoing is not intended to include Mortgages or any other persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest will not terminate or otherwise affect an Owner's membership in the Association.

6.2 Voting Rights. The Association will have two (2) types of voting memberships which are as follows:

TYPE A: Type A Members will be Owners (including the Declarant) of Lots and Dwellings. A Type A Member will be entitled to one (1) vote for each Lot and Dwelling owned.

TYPE B: The Type B Member will be the Declarant or its designated assign. The Type B Member will be entitled to three (3) votes for each vote held by Type A Members, plus one (1) vote during the Declarant Control Period. Thereafter, the Type B Member will exercise votes only as to its Type A Memberships.

Payment of Special Assessments or Emergency Special Assessments will not entitle Type A Members to additional votes. Only those Members in good standing and eligible to vote pursuant to the Bylaws shall be entitled to cast any vote required or permitted hereunder, and only the votes of Members in good standing and eligible to vote shall be considered in any calculation of votes or any required percentage thereof.

6.2.1 Voting by Multiple Owners. When any Lot or Dwelling of a Type A Member of the Association is owned Of Record in the name of two or more persons, other than husband and wife (either of whose vote will bind both, by an entity, or in any other manner of joint or common ownership, the vote for such Lot or Dwelling will be exercised as such co-Owners determine among themselves and advise the Secretary of the Association in writing prior to any meeting; or the vote will be exercised by such co-Owner, or his duly appointed proxy, as will be designated in a writing by all co-Owners filed Of Record, a copy of which will be delivered to the Secretary of the Association and will remain effective for all meetings until revoked by the co-Owners in a similar writing or until such designation terminates pursuant to the terms of such writing.

6.3 Association Governance by Board. The Association will be governed by a Board of Directors consisting of Three (3) or five (5) members. Initially, during the Declarant Control Period, the Board will consist of three (3) members appointed by the Declarant, and following expiration of the Declarant Control Period, the Board will consist of five (5) members elected as provided in the Bylaws of the Association.

6.4 Meetings and Membership Voting. Except as otherwise provided in this Declaration, rules and procedures of the Association, including, but not limited to, conducting elections, meetings (both regular and special), and for casting of votes by members, and the number thereof required for quorums and approval or ratification, shall be as set forth in the Bylaws.

ARTICLE 7. MAINTENANCE

7.1 Responsibilities Of Owners. Unless specifically identified herein as the responsibility of the Association, all maintenance and repair of Lots and Dwellings, or the marsh and waterfront property adjacent to any such property, together with all other improvements thereon or therein and all lawns, landscaping, and grounds on and within such property will be the responsibility of the Owner thereof. Each Owner will be responsible for maintaining his or its property in a neat, clean, and sanitary condition, and such responsibility will include the maintenance and care of all exterior surfaces of all Dwellings, buildings, and other structures and all lawns, trees, shrubs, hedges, grass, and other landscaping. Except as provided in Section 7.2.2 hereof, each Owner will also be obligated to pay for the costs incurred by the Association for repairing, replacing, maintaining, or cleaning any item which is the responsibility of such Owner, but which responsibility such Owner fails or refuses to discharge. Such costs and expenses, including reasonable costs and expenses of collection and such fines as may be established by the Association, from time to time, to reimburse the Association for the administrative costs incurred thereby, or otherwise, will be a specific Assessment under Section 11.8. No Owner will (i) decorate, change, or otherwise alter the appearance of any portion of the exterior of a Dwelling, building or other structure, or the landscaping, grounds, or other improvements within his or its property unless such decoration, change, or alteration is first approved, in writing, by the ARC, or (ii) do any work which, in the reasonable opinion of the Board of Directors, would jeopardize the soundness and safety of the Development, reduce the value thereof, or impair any easement or hereditament thereto, without in every such case obtaining the written approval of the Board of Directors and the Owners, and the Mortgagees of property directly affected thereby or benefitting from such easement or hereditament.

7.2 Association's Responsibility.

7.2.1 General. Except as may be herein otherwise specifically provided, the Association will maintain and keep in good repair all portions of the Common Areas and any areas of Common Responsibility for which the Association is responsible under this Declaration, including responsibility prior to transfer to the Association in accordance with Section 2.3, or under any Supplemental Declaration, which responsibility will include the maintenance, repair, and replacement of (a) all drainage not under the expressly specified jurisdictional care and maintenance of any governmental authority and walking, ingress and egress easements shown and noted on the Site Plan, (b) all road shoulders, walks, trails, lagoons, ponds, parking lots, landscaped areas, and other improvements situated within the Common Areas, and areas of Common Responsibility or easements, (c) security systems and utility lines, pipes, plumbing, wires, conduits, and related systems which are a part of its said properties and which are not maintained by a public authority, public service district, public or private utility, or other person, and (d) all lawns, trees, shrubs, hedges, grass, and other landscaping situated within or upon its said properties or any area of Common Responsibility. The Association will not be liable for injury or damage to any person or property (i) caused by the elements or by any Owner or any other person, (ii) resulting from any rain or other surface water which may leak or flow from any portion of its properties, or (iii) caused by any pipe, plumbing, drain, conduit, appliance, equipment, security system, or utility line or facility, the responsibility for the maintenance of which is that of the Association, becoming out of repair. Nor will the Association be liable to any Owner for loss or damage, by theft or otherwise, of any property of such Owner which may be stored in or upon any portion of its properties or any other portion of the Property. No diminution or abatement of Assessments will be claimed or allowed by reason of any alleged failure of the Association to take some action or to perform some function required to be taken or performed by the Association under this Declaration, or for inconvenience or discomfort arising from the making of improvements or repairs which are the responsibility of the Association, or from any action taken by the Association to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority, the obligation to pay such Assessments being a separate and independent covenant on the part of each Owner.

7.2.2 Work In Behalf of Owners. In the event that Declarant or the Board of Directors determines that: (a) any Owner or Occupant has failed or refused to discharge properly his or its obligations with regard to the maintenance, cleaning, repair, or replacement of items for which he or it is responsible hereunder, or (b) that the need for maintenance, cleaning, repair, or replacement which is the responsibility of the Association hereunder is caused through the willful or negligent act of an Owner or Occupant, and is not covered or paid for by insurance in whole or in part, then, in either event, Declarant or the Association, except in the event of an emergency situation, may give such Owner written notice in accordance with Section 15.15 of Declarant's or the Association's intent to provide such necessary maintenance, cleaning, repair, or replacement, at the sole cost and expense of such Owner, and setting forth with reasonable particularity the maintenance, cleaning, repairs, or replacement deemed necessary. Except in the event of emergency situations, such Owner will have fifteen (15) days within which to complete the same in a good and workmanlike manner, or in the event that such maintenance, cleaning, repair, or replacement is not capable of completion within said fifteen (15)-day period, to commence said maintenance, cleaning, repair, or replacement and diligently proceed to complete the same in a good and workmanlike manner. In the event of emergency situations or the failure of any Owner to comply with the provisions hereof after such notice, Declarant or the Association may provide (but will not have the obligation to so provide) any such maintenance, cleaning, repair, or replacement at the sole cost and expense of such Owner and said cost will be added to and

become a part of the Assessment to which such Owner and his property is subject and will become a lien against such property. In the event that Declarant undertakes such maintenance, cleaning, repair, or replacement, the Association will promptly reimburse Declarant for Declarant's costs and expenses.

7.3 Management. The Board of Directors may retain a professional management company, professional manager, or full time employee to manage the Common Areas and Common Responsibilities and the operation of the administrative affairs of the Association. The Board of Directors may itself subsequently elect to assume those management responsibilities and in accordance with the terms of any management contract terminate the contract of any professional manager.

ARTICLE 8. INSURANCE AND CASUALTY LOSSES

8.1 Insurance.

8.1.1 Association's Property Insurance. The Board of Directors will have the authority to obtain and continue in effect adequate property insurance, in such form as the Board deems appropriate, for the benefit of the Association. Such coverage will insure all insurable improvements in and to the Common Areas, and any non-owned property under its Common Responsibility for which the Board determines insurance is warranted, against loss or damage by fire or other hazards, including, without limitation, extended coverage, flood, vandalism, and malicious mischief, such coverage to be in an amount sufficient to cover the full replacement cost (without depreciation but subject to such deductible levels as are deemed reasonable by the Board) of any repair or reconstruction in the event of damage or destruction from any such hazard.

8.1.2 Association's Liability Insurance. The Board will have the authority to and will obtain and continue in effect a public liability policy covering all the Common Areas and areas of Common Responsibility, and all damage or injury caused by the negligence of the Association, its Members, its directors and officers, or any of its agents. Such public liability policy will provide such coverages as are determined to be necessary by the Board of Directors.

8.1.3 Fidelity Bonds. The Association will obtain, maintain and pay the premiums, as a Common Expense, upon a blanket fidelity bond for all officers, directors, trustees and employees of the Association and all other persons handling or responsible for funds belonging to or administered by the Association, including any professional management company assisting with the administration of the Association. The total amount of the fidelity bond coverage required will be based upon the best business judgment of the Board of Directors. Fidelity bonds will meet the following requirements: the Association will be named as an obligee; the bonds will contain waivers of all defenses based upon the exclusion of persons serving without compensation from the definition of " employees" or similar terms or expressions; and the bond will provide that it may not be canceled or substantially modified (including cancellation for nonpayment of a premium) without at least ten (10) days prior written notice to the Association and each Mortgagee listed as a scheduled holder of a first Mortgage in the fidelity bond.

8.1.4 Association's Other Insurance. The Board will have the authority and may obtain (a) workers' compensation insurance to the extent necessary to comply with any applicable laws and (b) other types and amounts of insurance as may be determined by the Board to be necessary or desirable, including, but not limited to, fidelity and directors' and officers' liability coverage.

8.1.5 Association's Policies. All such insurance coverage obtained by the Board of Directors will be written in the name of the Association as trustee for each of the Owners and costs of all such coverage will be a Common Expense. Exclusive authority to adjust losses under policies obtained by the Association and hereafter in force with respect to the Development will be vested in the Board of Directors; provided, however, that no mortgagee or other security holder of the Common Areas having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto. Insofar as permitted by law, the Association will be required to make every effort to secure insurance policies with the provisions hereinafter set forth:

(a) All policies will be written with a company holding a rating of A+ in a financial category of 10, or a better rating and financial category, as established by Best's Insurance Reports, if such a company is available or, if not available, its equivalent rating or the best possible rating.

(b) All property insurance policies will be for the benefit of the Owners and their Mortgagees as their interests may appear.

(c) All policies will contain a waiver of the insurer's right to cancel without first giving thirty (30) days' prior written notice of such cancellation to the Association and to any Mortgagee to which a mortgagee endorsement has been issued.

(d) In no event will the insurance coverage obtained and maintained by the Association's Board of Directors hereunder be brought into contribution with insurance purchased by individual Owners or their Mortgagees, and all policies will contain a provision that the "other insurance" clauses in such policies exclude from consideration policies obtained by individual Owners or their Mortgagees.

(e) All policies will contain a waiver of subrogation by the insurer as to any claims against the Association, the Association's directors and officers, the Owners, Occupants, and the Association's manager.

(f) All policies will contain a provision that no policy may be cancelled, invalidated, or suspended on account of the conduct of one or more of the individual Owners or Occupants on account of the acts of any director, officer, employee, or agent of the Association or of its manager, without prior demand in writing delivered to the Association to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured.

(g) All liability insurance will contain cross-liability endorsements to cover liability of the Association to an individual Owner.

8.1.6 Owner's Insurance. It will be the individual responsibility of each Owner at his own expense and election to provide public liability, property damage, title, and other insurance with respect to his or its own Lot and Dwelling. The Board of Directors may require all Owners to carry public liability and property damage insurance with respect to their respective properties and to furnish copies or certificates thereof to the Association.

8.2 Damage or Destruction to Common Areas. Immediately after damage or destruction by fire or other casualty to all or any part of the Common Areas covered by insurance written in the name of the Association, the Board of Directors or its duly authorized agent will proceed with the filing and adjustment of all claims arising under such insurance, and, in any such event, the Board will obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction, as used in this Article 8, means repairing or restoring the damaged property substantially to the same condition in which it existed prior to the fire or other casualty. Unless within sixty (60) days following any damage or destruction to all or a part of the Common Areas, Declarant, for so long as Declarant owns any of the Property primarily for development or sale, and the Board acting on the vote of seventy-five percent (75%) or more of the votes of the entire Association, by Referendum or at a duly held meeting of Members (which percentage will also constitute the quorum required for any such meeting), will otherwise agree, the Association will restore or replace such damaged improvements. If any insurance proceeds for such damage or destruction are not sufficient to defray the cost thereof, including any amount attributable to Association's insurance deductible, and such deficiency cannot be appropriated from a reserve fund as may have been established for such purpose, the Board of Directors may levy a Special Assessment against all Owners, without the necessity of a vote pursuant to Section 11.5.1 hereof, such Special Assessment to be in an amount sufficient to provide funds to pay such excess cost or repair or reconstruction. Such a Special Assessment will be levied against the Owners equally in the same manner as Annual Assessments are levied, and additional Special Assessments may be made at any time during or following the completion of any repair or reconstruction. Any and all sums paid to the Association under and by virtue of such Assessments will be held by and for the benefit of the Association together with the insurance proceeds, if any, for such damage or destruction. Such insurance proceeds and Assessments will be disbursed by the Association in payment for such repair or reconstruction pursuant to and in accordance with such method of distribution as is established by the Board of Directors. Any proceeds remaining after defraying such costs will be retained by and for the benefit of the Association. If it is determined that the damage or destruction for which the insurance proceeds are paid will not be repaired or reconstructed, such proceeds will be retained by and for the benefit of the Association, and the ruins of the Common Areas damaged or destroyed by fire or other casualty will be cleared and the Common Areas left in a clean, orderly, safe, and sightly condition.

ARTICLE 9. CONDEMNATION

9.1 Condemnation of Common Areas. Whenever all or any part of the Common Areas of the Development will be taken by any authority having the power of condemnation or eminent domain, or is conveyed in lieu thereof by the Board acting on the affirmative vote of seventy-five percent (75%) or more of the votes of the entire Association, by Referendum or at a duly held meeting of Members, which percentage will also constitute the quorum required for any such meeting: and following written approval by the Declarant for so long as Declarant owns any of the Property primarily for development or sale, the award or proceeds made or collected for such taking or sale in lieu thereof will be payable to the Association and will be disbursed or held as follows:

9.1.1 Common Areas With Improvements. If the taking or sale in lieu thereof involves a portion of the Common Areas on which improvements have been constructed, then, unless within sixty (60) days after such taking the Declarant, for so long as Declarant owns any of the Property primarily for development or sale, and the Board, acting on the vote of seventy-five percent (75%) or more of the votes of the entire Association, by Referendum or at a duly held meeting of Members (which percentage will also constitute the quorum required for any such meeting), will otherwise agree, the Association will restore or replace such improvements so taken, to the extent practicable, on the remaining lands included in the Common Areas which are available therefore, in accordance with the plans approved by the Board of Directors, the ARC, and by Declarant during the Declarant Control Period. If the awards or proceeds are not sufficient to defray the cost of such repair and replacement and such deficiency cannot be appropriated from a reserve fund as may have been established for such purpose, the Board of Directors may levy a Special Assessment against all Owners, without the necessity of a vote pursuant to Section 11.5, such Special Assessment to be in an amount sufficient to provide funds to pay such excess cost or repair or reconstruction. Such a Special Assessment will be levied against the Owners equally in the same manner as Annual Assessments are levied, and additional Special Assessments may be made at any time during or following the completion of any repair or reconstruction. If such improvements are not to be repaired or restored, the award or proceeds will be retained by and for the benefit of the Association.

9.1.2 Common Areas Without Improvements. If the taking or sale in lieu thereof does not involve any improvements to the Common Areas, or if there are net funds remaining after any such restoration or replacement of such improvements is completed, then such award, proceeds, or net funds will be retained by and for the benefit of the Association.

9.1.3 Including Owner's Property. If the taking or sale in lieu thereof includes all or any part of an Owner's property and also includes any part of the Common Areas, then a court of competent jurisdiction will apportion such award or proceeds, which will be disbursed to the Association and the Owners so affected so as to give just compensation to the Owners for their interest in such property; provided, however, such apportionment may instead be resolved by the agreement of (i) the Board of Directors, (ii) the Owners of all properties wholly or partially taken or sold, together with the Mortgagees for each such property, and (iii) Declarant, for so long as Declarant owns any of the Property primarily for development or sale.

ARTICLE 10. FUNCTIONS OF THE ASSOCIATION

10.1 Board of Directors and Officers. The Association, subject to the rights of Declarant and the rights and duties of the Owners set forth in this Declaration, will be responsible for the exclusive management and control of the Common Areas and areas of Common Responsibility and all improvements thereon (including furnishings and equipment related thereto) and will keep the same in a good, clean, attractive, and sanitary condition, order, and repair, pursuant to the terms and conditions thereof. Except to the extent otherwise required by the provisions of the Nonprofit Corporation Act, this Declaration, the Bylaws, or the Articles of Incorporation, the powers herein or otherwise granted to the Association shall be exercised by the Board of Directors, acting through the officers of the Association and their duly authorized delegees, without any further consent or action on the part of the Owners. As provided in Section 16.1 hereof and notwithstanding any other provision to the contrary contained in any instruments evidencing or establishing the Development, Declarant will have the right to appoint or remove any member or members of the Board of Directors or any officer or officers of the Association during the Declarant Control Period. Each Owner, by acceptance of a deed to or other conveyance of a Lot or Dwelling vests in Declarant such authority to appoint and remove directors and officers of the Association as provided by this Section 10.1 and by Section 15.1 hereof.

10.2 Duties and Powers. The duties and powers of the Association will be those set forth in the provision of the Nonprofit Corporation Act, this Declaration, the Bylaws, and the Articles of Incorporation, together with those reasonably implied to effect the purposes of the Association; provided; however, that if there are conflicts or inconsistencies between the Nonprofit Corporation Act, this Declaration, the Bylaws, or the Articles of Incorporation, the

provisions of the Nonprofit Corporation Act, this Declaration, the Articles of Incorporation, and the Bylaws, in that order, will prevail, and each Owner of a property within the Development, by acceptance of a deed or other conveyance therefor, covenants to vote in favor of such amendments as will remove such conflicts or inconsistencies. The Association may exercise any other right or privilege given to it expressly by this Declaration or the Bylaws, together with every other right or privilege reasonable to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege. Such powers of the Association will include, but will not be limited to, the power to purchase one or more properties subject to this Declaration and to hold, lease, mortgage, sell, and convey the same. Such duties may include, but will not be limited to, arranging with governmental agencies, public service districts, public or private utilities, or others, as a Common Expense or by billing directly to the Owners, to furnish trash collections, water, sewer, and/or security service for the properties subject to this Declaration. Notwithstanding the foregoing provision of this Section 10.2 or any other provision of this Declaration to the contrary, during the Declarant Control Period the Association will not, without the written approval of Declarant, borrow money or pledge, mortgage, or hypothecate all or any portion of the Common Areas.

10.2.1 Ownership of Properties. The Association will be authorized to own, purchase, lease, use under any use agreement, and maintain (subject to the requirements of any Federal, State or local governing body of South Carolina) Common Areas, areas of Common Responsibility with respect to the maintenance thereof; equipment, furnishings, and improvements devoted to the uses and purposes expressed and implied in this Declaration, including, but not limited to, the following uses:

(a) For walks, paths or trails throughout the Property;

(b) For recreation facilities, including a swimming pool, tennis courts, Association clubhouse, community dock, if the same are constructed by Declarant; and

(c) For providing any of the services which the Association is authorized to offer under Section 10.2.2 below.

10.2.2 Services. The Association will be authorized (unless prohibited by the requirements of any Federal, State or local governing body) to provide such services required to promote the uses and purposes for which the Association is formed as expressed or implied in this Declaration, including, but not limited to, the following services:

(a) Cleanup and maintenance and landscaping roadways, road shoulders, roadway medians, parkways, lakes, lagoons, waterways, drainage areas and easements, marshes and other Common Areas and areas of Common Responsibility within or adjacent to the Property and also all public properties which are located within or in a reasonable proximity to the Property such that their deterioration would affect the appearance of the Property as a whole;

(b) Insect and pest control to the extent that it is necessary or desirable in the judgment of the Board of Directors to supplement the service provided by the state and local governments;

(c) The services necessary or desirable in the judgment of the Board of Directors to carry out the Association's obligations and business under the terms of this Declaration and to collect Annual Assessments, Special Assessments, Emergency Special Assessments, specific Assessments, and other fees and charges collectable from the Owners hereunder;

(d) To set up and operate an architectural review board in the event that the Association is assigned the whole or any portion of the function of the ARC by the Declarant,

(e) To construct improvements on Common Areas for use for any of the purposes or as may be required to provide the services authorized herein;

(f) To provide administrative services including but not limited to legal, accounting and financial; and communications services informing Members of activities, notice of meetings, Referendums, etc., incident to the above listed services;

(g) To provide liability and hazard insurance covering improvements and activities on Common Areas and areas of Common Responsibility;

(h) To provide for hearings and appeal process for violations of rules and regulations.

10.3 Mortgage or Pledge. Subject to the provisions of Section 5.2.1, the Board of Directors will have the power and authority to mortgage property of the Association and to pledge, the revenues of the Association as security for loans made to the Association which loans will be used by the Association in performing its authorized functions. The Declarant may make loans to the Association, subject to approval by the Declarant of the use to which such loan proceeds will be put and the terms pursuant to which such loans will be repaid. Notwithstanding anything in this Declaration to the contrary, the Association will not be allowed to reduce the limits of the regular Annual Assessment at any time there are outstanding any amounts due the Declarant as repayment of any loans made by the Declarant to the Association.

10.4 Personal Property and Real Property for Common Use. The Association, through action of its Board of Directors, may acquire and hold tangible and intangible personal property and real property and may dispose of the same by sale or otherwise. All funds received and title to all properties acquired by the Association and the proceeds thereof, after deducting therefrom the costs incurred by the Association in acquiring or selling the same, will be held by and for the benefit of the Association. The shares of the Owners in the funds and assets of the Association cannot be individually assigned, hypothecated, or transferred in any manner, except to the extent that a transfer of the ownership of a Lot or Dwelling also transfers the membership in the Association which is an appurtenance to such Lot and Dwelling.

10.5 Rules and Regulations. As provided in Article 13 hereof, the Association may make, amend, revoke and enforce reasonable rules and regulations governing the use of the Lots, Dwellings, Common Areas and areas of Common Responsibility, which rules and regulations will be consistent with the rights and duties established by this Declaration.

10.6 Reduction in Services. During the calendar years of 2003-2004 and during the first two years when any additional property may be added to this declaration, the Board of will and list a minimum level of services which will be furnished by the Association. So long as the Declarant is engaged in the development of properties which are subject to the terms of this Declaration, the Association will not reduce the level of services it furnishes below such minimum level. Such minimum level of service will expressly include an obligation of the Association to maintain the Common Areas and areas of Common Responsibility and pay the costs and expenses set forth in any lease or use agreement therefor.

10.7 Obligation of the Association. The Association will not be obligated to carry out or offer any of the functions and services specified by the provisions of this Article except as specified in Section 10.6 above. The functions and services to be carried out or offered by the Association at any particular time will be determined by the Board of Directors taking into consideration the funds available to the Association and the needs of the Members of the Association. Special Assessments will be submitted for approval as herein-provided. Subject to the provisions of Section 10.6 above, the functions and services which the Association is authorized to carry out or to provide may be added or reduced at any time upon the sole approval of the Declarant during the Declarant Control Period; and thereafter, the functions and services which the Association is authorized to carry out or to provide may be added or reduced by the Board acting on the vote of fifty-one percent (51%) or more of the votes of the entire Association, by Referendum or at a duly held meeting of Members (which percentage will also constitute the quorum required for any such meeting).

ARTICLE 11. ASSESSMENTS

11.1 Purpose of Assessments. The Assessments for Common Expenses provided for herein will be used for the general purposes of promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the Owners and Occupants of the Development, and maintaining the Development and improvements therein, all as may be more specifically authorized from time to time by the Board of Directors.

11.2 Creation of Lien and Personal Obligation of Assessments. Each Owner, by acceptance of a deed or other conveyance thereof, whether or not it will be so expressed in such deed or conveyance, is deemed to covenant and agree to pay to the Association: (a) Annual Assessments, such Assessments to be established and collected as provided in Section 11.3, (b) Special Assessments, such Assessments to be established and collected as provided in Section 11.5, (c) Emergency Special Assessments, such Assessments to be established and collected as provided in Section 11.6, (d) individual or specific Assessments pursuant to Section 11.8. Any such Assessments payable, together with late charges, simple interest at a rate established from time to time by the Board of Directors, and court costs and attorneys' fees incurred to enforce or collect such Assessments, will be an equitable charge and a continuing lien upon the property of the owner thereof who is responsible for payment. Each Owner will be personally liable for Assessments, coming due while he is the

Owner of a property, and his grantee will take title to such property subject to the equitable charge and continuing lien therefore; but without prejudice to the rights of such grantee to recover from his grantor any amounts paid by such grantee therefor; provided, however, the lien for unpaid Assessments will be subordinate to the lien of any unpaid taxes and any Institutional Mortgage or Mortgage held by Declarant. Sale or transfer of any Lot or Dwelling will not affect the lien of the Assessments; however, the sale or transfer of any Lot or Dwelling, which is subject to any Institutional Mortgage of Decarant, pursuant to a decree of foreclosure or any proceeding or conveyance in lieu of foreclosure, will extinguish the lien of the Assessments as to payment thereof which became due prior to such sale or transfer. In the event of co-ownership of any property subject to this Declaration, all of such co-Owners will be jointly and severally liable for the entire amount of such Assessments.. Assessments will be paid in such manner and on such dates as may be fixed by the Board of Directors in accordance with Section 11.3.3, provided that unless otherwise provided by the Board, the Annual Assessments will be paid in equal monthly installments. To the extent any subordinated lien and permanent charge for any Assessment is extinguished by foreclosure of any Institutional Mortgage or Mortgage of Declarant, then the amount or amounts otherwise secured thereby which cannot otherwise be collected will be deemed a Common Expense collectible from all Owners, including the person who acquires title through the foreclosure sale.

11.3 Establishment of Annual Assessment. Until an initial budget of Common Expenses of the Association has been prepared by either the Declarant or the Board of Directors and a copy of the initially adopted budget and the Annual Assessments established thereby is provided to each owner, no Annual Assessments shall be charged to or collected from the Owners. Upon adoption or the initial budget and Annual Assessments, any full, annual budget amount being prorated for the remainder of the fiscal year in which so adopted, the Association shall bill each Owner for his or her share of the Annual Assessments, as hereinafter provided, and each Owner shall pay said amount. It will be the duty of the Board of Directors at least ninety (90) days prior to the first day of the Association's first full fiscal year after the fiscal year in which the initial budget and Annual. Assessments are adopted, and each fiscal year thereafter, to prepare a budget covering the estimated Common Expenses during the coming year, such budget to include a reserve account, if necessary, for the capital needs of the Association. The Board will cause the budget and the proposed total of the Annual Assessments to be levied against properties subject to this Declaration for the following year to be delivered to each Owner at least thirty (30) days prior to the first day of the fiscal year for which the budget and Assessments are established. The total Annual Assessments will be divided among Lots and Dwellings equally; each unimproved Lot bearing the same Assessment as a Dwelling.

11.3.1 Disapproval of Annual Assessments. The annual budget and Annual Assessments, as determined by the Board of Directors, as hereinabove provided, will become effective unless disapproved (a) solely by the Declarant in writing during the Declarant Control Period, and (b) thereafter by two-thirds (2/3) or more of the votes of the entire Association at a special meeting of Members called therefor and held pursuant to the provisions of the Bylaws, which percentage will also constitute the quorum required for any such meeting Notwithstanding the foregoing, in the event the proposed budget and Annual Assessments are disapproved or in the event the Board of Directors fails for any reason to determine an annual budget and to set the Annual Assessments, then and until such time as a budget and Annual Assessment will have been determined as provided herein, the budget and Annual Assessments will be the Default Budget and Default Annual Assessments calculated in accordance with Section 11.4.

11.3.2 Special Board Action to Increase. If the Board of Directors determines that the important and essential functions of the Association will not be properly funded in any year by the Annual Assessment herein provided, it may increase such Assessment; provided, however, an increase in Annual Assessments in any year pursuant to special Board action as aforesaid will in no way affect Annual Assessments for subsequent years.

11.3.3 Billing of Annual Assessments . The Annual Assessments will be billed annually, quarterly or monthly, as determined by the Board, and will be due and payable on or before the last day of the month in which billed.

11.3.4 Rounding. All Annual Assessments charged by the Association will be rounded off to the nearest dollar.

11.3.5 For Common Expenses. The Common Expenses to be funded by the Annual Assessments may include, but will not necessarily be limited to the following:

(a) management fees and expenses of administration, including legal and accounting fees;

(b) utility charges for utilities serving the Common Areas and charges for other common services for the Development, including trash collection and security services, if any such services or charges are provided or paid by the Association;

(c) the cost of any policies of insurance purchased for the benefit of all the Owners and the Association as required or permitted by this Declaration, including fire, flood, and other hazard coverage, public liability coverage, and other insurance coverage determined by the Board to be in the interests of the Association and the Owners;

(d) the expenses of maintenance, operation, and repair of those portions of the Common Areas which are the responsibility of the Association under the provisions of this Declaration;

(e) the expenses of any architectural review board established to receive and administer the whole or any portion of the ARC functions transferred and conveyed to the Association which are not defrayed by plan review charges;

(f) ad valorem real and personal property taxes assessed and levied against the Common Areas;

(g) such other expenses as may be determined from time to time by the Board of to be Common Expenses, including, without limitation, taxes and governmental charges not separately assessed against Lots or Dwellings; and

(h) the establishment and maintenance of a reasonable reserve fund or funds (i) for maintenance, repair, and replacement of those portions of the Common Areas which are the responsibility of the Association and which must be maintained, repaired, or replaced on a periodic basis, (ii) to cover emergencies and repairs required as a result of casualties which are not funded by insurance proceeds, and (iii) to cover unforeseen operating contingencies or deficiencies arising from unpaid Assessments or liens, as well as from emergency expenditures and other matters, all as may be authorized from time to time by the Board of Directors.

11.4 Determination of Default Budget and Default Annual Assessment. Upon the failure of the Board of Directors to adopt a budget, or upon the disapproval of any budget pursuant to Section 11.3.1, the Default Budget and Default Annual Assessments will be the greater of:

(a) The then existing budget and Annual Assessments, increased in proportion to the percentage increase, if any, in the "CPI-U," as hereinafter defined, from December of the preceding year to November of the then current year in which the said maximum budget and Annual Assessment is being determined, or by five (5%) percent, whichever is greater; or

(b) The budget and Annual Assessments for the year in which this Declaration is filed Of Record by the Declarant, increased to the year in which the said maximum budget and Annual Assessment is being determined in proportion to the percentage increase, if any, in the "CPI-U," as hereinafter defined, from December of the year preceding the year in which this Declaration is filed Of Record to November of the year in which the said maximum budget and Annual Assessment is being determined, or by five (5%) percent per annum, compounded, whichever is greater.

The "CPI-U" will mean the Consumer Price Index for All Urban Consumers (1982-84=100), or, if such index is discontinued or revised, by reference to such other government index or computation with which it is replaced or which would produce substantially the same measure as would be obtained if such index had not been discontinued or revised.

11.4.1 Change in Default Amounts Upon Merger or Consolidation. The limitations of Section 11.4 will apply to any merger or consolidation in which the Association is authorized to participate under Section 2.2.3.

11.5 Special Assessments for Improvements and Additions. In addition to the regular, Annual Assessments authorized by Section 11.3 hereof, the Association may levy Special Assessments, for the following purposes:

(a) Construction or reconstruction, repair or replacement of capital improvements upon the Common Areas, including the necessary fixtures and personal property related thereto;

(b) To provide for the necessary facilities and equipment to offer the services authorized herein;

(c) To cover any shortfall, whether by way of deductible or otherwise, in insurance proceeds recovered; and

(d) To repay any loan made to the Association to enable it to perform the duties and functions authorized herein.

11.5.1 Special Assessments: Approval by Declarant and Disapproval by Members. Except as otherwise permitted in Sections 5.2.6, 8.2, 9.1 and 11.6 hereof, any Special Assessment will only be levied if: (a) during the Declarant Control Period the Declarant approves, in writing, such Special Assessment; and (b) after the Declarant Control Period the Special Assessment is not disapproved by sixty-seven percent (67%) or more of the votes of the entire Association at a special meeting of Members called therefor and held pursuant to the provisions of the Bylaws, which percentage will also constitute the quorum required for any such meeting.

11.5.2 Apportionment. Special Assessments will be apportioned among the Lots and Dwellings in the same manner as Annual Assessments.

11.6 Emergency Special Assessments. In addition to the Annual Assessments authorized by Section 11.3 and the Special Assessment authorized by Section 11.5 hereof, the Association may levy Assessments for repairs, reconstruction, alterations or improvements due to emergencies of any type, as determined by the Declarant during the Declarant Control Period, and/or by the Board of Directors, in their sole discretion ("Emergency Special Assessment"). Any Emergency Special Assessment may be imposed without a vote of the Members. Emergency Special Assessments will be apportioned among the Lots and Dwellings in the same manner as Annual Assessments unless it is determined by the Declarant and/or Board that another apportionment thereof is more reasonable and more equitably justified by the circumstances giving rise to such emergency.

11.7 Declarant's Properties. Anything contained herein to the contrary notwithstanding, Declarant will be exempt from the payment of Annual Assessments, Special Assessments and Emergency Special Assessments with respect to unimproved Lots and unoccupied Dwellings owned by the Declarant and subject to this Declaration. The Declarant hereby covenants and agrees, however, that during the Declarant Control Period it will annually elect either to pay an amount equal to the Annual Assessment for each such Lot and Dwelling owned by it or to pay the difference between the amount of Assessments collected on all other Lots and Dwellings not owned by Declarant and the amount of actual expenditures by the Association during the fiscal year, but not in a sum greater than the Annual Assessments Declarant would pay if not exempt therefrom. Unless the Declarant otherwise notifies the Board in writing at least sixty (60) days before the beginning of each fiscal year, the Declarant will be deemed to have elected to continue paying on the same basis as existed during the immediately preceding year. Furthermore, so long as the Declarant owns any Lot or Dwelling for sale, the Declarant may, but will not be obligated to, reduce the Annual Assessment for any year to be paid by Owners. Any such reduction in the amount assessed against the Owner will be funded as a subsidy by the Declarant. Any such subsidy will, in the Declarant's sole discretion, be (a) a contribution to the Association, (b) an advance against future Annual Assessments due from said Declarant, or (c) a loan to the Association. The amount and character (contribution, advance or loan) of such payment by the Declarant will be conspicuously disclosed as a line item in the budget and will be made known to the Owners. The payment of such a subsidy in any year will under no circumstances obligate the Declarant to continue payment of such subsidy in future years, unless otherwise provided in a written agreement between the Association and the Declarant. Any such subsidy payment by Declarant may be made in-kind.

11.8 Individual Specific Assessments. Any expenses incurred by the Association or the Declarant because of the actions of one or more Owners or Occupants, or because of their failure to act, and with respect to which such expenses are chargeable thereto and recoverable therefrom pursuant to any provision of this Declaration, and any fines as may be imposed against an Owner in accordance with Article 13 hereof will be specially assessed as a specific Assessment against each such Owner and the Owner's Lot or Dwelling.

11.9 Effect of Nonpayment: Remedies of the Association. An Assessment shall be due in full not later than the last day of the month in which the Assessment is billed, and any Assessment or portions thereof which is not paid when so due will be delinquent. Any delinquent Assessment will incur a late charge in an amount as may be determined by the Board from time to time and, upon adoption of a policy therefor by the Board of Directors, will also commence to accrue simple interest at the rate set by the Board of Directors from time to time. A lien and equitable charge as herein provided

for each Assessment installment shall attach simultaneously as the same will become due and payable, and if an Assessment installment has not been paid as aforesaid, the entire unpaid balance of the Assessment installments remaining to be paid during the fiscal year may be accelerated by the option of the Board and be declared due and payable in full. The continuing lien and equitable charge of such Assessment will include all costs of collection (including reasonable attorneys' fees and court costs), and any other amounts provided or permitted hereunder or by law, subordinate only to liens for unpaid taxes, any Institutional Mortgage and any Mortgage held by Declarant as provided in Section 11.2 above. In the event that the Assessment remains unpaid sixty (60) days following the date when so due, the Association may institute suite to collect such amounts and to foreclose its lien. The equitable charge and lien provided for in this Section will be in favor of the Association, and each Owner, by his acceptance of a deed or other conveyance to a Lot, vests in the Association and its agents the right and power to bring all actions against him personally for the collection of such Assessments as a debt and/or to foreclose the aforesaid lien in like manner as a mortgage of real property. The Association will have the power to bid on the Lot or Dwelling at any foreclosure sale and to acquire, hold, lease, mortgage, and convey the same. No Owner may waive or otherwise escape liability for the Assessments provided for herein, including by way of illustration but not limitation, non-use of the Common Areas or abandonment of his Lot, and an Owner will remain personally liable for Assessments, including interest and late charges which accrue prior to a sale, transfer, or other conveyance of his Lot.

11.10 Certificate. The Treasurer, any Assistant Treasurer, or the manager of the Association will, within ten (10) days of a written request and upon payment of a fee set from time to time by the Board of Directors, furnish to any Owner or such Owner's Mortgagee which requests the same, a certificate signed by the Treasurer, Assistant Treasurer, or manager setting forth whether the Assessments for which such Owner is responsible have been paid, and, if not paid, the outstanding amount due and owing, together with all fines, accrued interest, and other penalty charges. Such certificate will be conclusive evidence against all but such Owner of payment of any Assessments stated therein to have been paid.

11.11 Date of Commencement of Assessments. The Assessments provided for herein will commence on the date on which a Lot is conveyed to a person other than Declarant and will be due and payable in such manner and on such schedule as the Board of Directors may provide. Annual Assessments, Special Assessments and Emergency Special Assessments will be adjusted for such property according to the number of months then remaining in the then fiscal year of the Association and the number of days then remaining in the month in which such property is first conveyed.

11.11.1 Working Capital Collected At Initial Closing. Notwithstanding anything to the contrary in this Declaration, a working capital fund will be established for the Association by collecting from each Owner who acquires title to his Lot from the Declarant a working capital amount equal to 2/12ths of the Annual Assessment then in effect, which Assessment will be due and payable, and will be transferred to the Association, at the time of transfer of each Lot by the Declarant to any other Owner. Such sum is and will remain distinct from the Annual Assessment and will not be considered advance payment of the Annual Assessment. The working capital receipts may be used by the Association in covering operating expenses as well as any other expense incurred by the Association pursuant to this Declaration and the Bylaws.

ARTICLE 12. RULE MAKING

12.1 Rules and Regulations. Subject to the provisions hereof, the Board of Directors may establish reasonable rules and regulations concerning the use of Lots, Dwellings, and the Common Areas, and facilities located thereon. In particular but without limitation, the Board of Directors may promulgate from time to time rules and regulations which will govern activities which may, in the judgment of the Board of Directors, be environmentally hazardous, such as application of fertilizers, pesticides, and other chemicals. Copies of such rules and regulations and amendments thereto will be furnished by the Association to all Owners prior to the effective date of such rules and regulations and amendments thereto. Such rules and regulations will be binding upon the Owners and Occupants until and unless any such rule or regulation is specifically overruled, cancelled, or modified by the Board of Directors or any such rule or regulation is disapproved by a majority or more of the votes of the entire Association at a special meeting of Members called therefor and held pursuant to the provisions of the Bylaws, which percentage will also constitute the quorum required for any such meeting. Any action by the Board to adopt, overrule, cancel or modify any rule or regulation, or any vote of Members disapproving any rule or regulation, will not be effective and binding upon the Owners and Occupants until and unless the same is approved by the Declarant during the Declarant Control Period.

12.2 Authority and Enforcement. Subject to the provisions of Section 12.3 hereof, upon the violation of this Declaration, the Bylaws, or any rules and regulations duly adopted hereunder, including, without limitation, the failure to

timely pay any Assessments, the Board will have the power (i) to impose reasonable monetary fines which will constitute an equitable charge and a continuing lien as a specific Assessment, (ii) to suspend an Owner-Member's right to vote in the Association, or (iii) to suspend an Owner's or Occupant's right to use any of the Common Areas. The Board will have the power to impose all or any combination of these sanctions, and may establish each day a violation remains uncured as a separate violation for which a fee is due. An Owner or Occupant will be subject to the foregoing sanctions in the event of such a violation by such Owner or Occupant. Any such suspension of rights may be for the duration of the infraction and for any additional period thereafter, not to exceed thirty (30) days.

12.3 Procedure. Except with respect to the failure to pay Assessments, the Board will not impose a fine, suspend voting rights, or infringe upon or suspend any other rights of an Owner or other Occupant of the Development for violations of the Declaration, By-Laws, or any rules and regulations of the Association, unless and until the following procedure is followed:

12.3.1 Demand to Cease and Desist. Written demand to cease and desist from an alleged violation will be served upon the Owner responsible for such violation specifying:

(a) The alleged violation;

(b) The action required to abate the violation; and

(c) A time period of not less than ten (10) days during which the violation may be abated without further sanction, if such violation is a continuing one, or if the violation is not a continuing one, a statement that any further violation of the same provision of this Declaration, the By-Laws, or of the rules and regulations of the Association may result in the imposition of sanctions after notice and hearing.

12.3.2 Notice of Hearing. Within twelve (12) months of such demand, if the violation continues past the period allowed in the demand for abatement Without penalty, or If the same violation subsequently occurs, the Board may serve such Owner with written notice, in accordance with Section 15.15 of a hearing to be held by the Board in executive session. The notice will contain:

(a) The nature of the alleged violation;

(b) The time and place of the hearing, which time will be not less than ten (10) days from the giving of the notice;

(c) An invitation to attend the hearing and produce any statement, evidence, and witnesses on his behalf; and

(d) The proposed sanction to be imposed.

12.3.3 Hearing. The hearing will be held in executive session of the Board of Directors pursuant to the notice and will afford the alleged violator a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of notice and the invitation to be heard will be placed in the minutes of the meeting. Such proof will be deemed adequate if a copy of the notice together with a statement of the date and matter of delivery is entered by the officer, director, or other individual who delivered such notice. The notice requirement will be deemed satisfied if an alleged violator appears at the meeting. The minutes of the meeting will contain a written statement of the results of the hearing and the sanction imposed, if any.

ARTICLE 13. ALTERNATIVE DISPUTE RESOLUTION & LITIGATION

13.1 Agreement to Avoid Costs of Litigation and to Limit Right to Litigate Disputes. The Declarant, Association, Owners, and any persons not otherwise subject to the Declaration who agree to submit to this Article 13 (collectively, "Bound Parties") agree to encourage the amicable resolution of disputes between and among themselves involving this Declaration or the Development, and to avoid the emotional and financial costs of litigation. Accordingly, each Bound Party covenants and agrees that all claims, grievances and disputes (including those in the nature of counterclaims or cross-claims) between Bound Parties involving the Declaration or the Development, including without limitation, claims, grievances or disputes arising out of or relating to the interpretation, application or enforcement thereof

(collectively "Claims"), except for "Exempt Claims" under Section 13.2, are subject to the procedures set forth in Section 13.3.

13.2 Exempt Claims. The following Claims ("Exempt Claims") are exempt from the provisions of Section 14.3:

(a) any suit by the Association against a Bound Party to enforce any Assessments or other charges hereunder; and

(b) any suit by the Association to obtain a temporary restraining order (or equivalent emergency equitable relief) and other relief the court may deem necessary in order to maintain the status quo and preserve any enforcement power of the Association hereunder until the matter may be resolved on the merits pursuant to Section 14.3 below; or

(c) any suit between Owners which does not include the Declarant or the Association as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Declaration and the Development; or

(d) any suit in which an indispensable party is not a Bound Party; or

(e) any suit which otherwise would be barred by any applicable statute of limitation; or

(f) any suit involving a matter which is not an Exempt Claim under (a) through (e) above, but as to which matter the Bound Party against whom the Claim is made waives the mandatory provisions of Section 14.3 below.

Any Bound Party having an Exempt Claim may submit it to the alternative dispute resolution procedures set forth in Section 14.3, but there is no obligation to do so.

13.3 Mandatory Procedures for Non-Exempt Claims. Any Bound Party having a Claim ("Claimant") against a Bound Party involving this Declaration or the Development, or all or any combination of them ("Respondent"), other than an Exempt Claim under Section 13.2, will not file suit in any court or initiate any proceeding before any administrative tribunal seeking redress or resolution of the Claim until it has complied with he procedures set forth in Exhibit "C" to this Declaration, and then only to enforce the results hereof:

13.4 Litigation. No judicial or administrative proceeding, including any mandatory procedure under Section 13.3 above, with an amount in controversy exceeding $25,000.00, will be commenced or prosecuted by the Association unless approved by 75% or more of the votes of the entire Association, by Referendum or at a duly held meeting of Members called for the purpose of approving the proceeding, which percentage will also constitute the quorum required for any such meeting. This Section will not apply, however, to (a) actions brought by the Association to enforce the provisions of this Declaration (including, without limitations, the foreclosure of liens); (b) the imposition and collection of Assessments; (c) proceedings involving challenges to ad valorem taxation; (d) counterclaims brought by the Association in proceedings instituted against it; or (e) actions brought by the Association to enforce written contracts with its suppliers and service providers. This Section will not be amended unless the amendment is approved by the requisite percentage of votes of Members, and pursuant to the same procedures, necessary to institute proceedings as provided above. This provision will apply in addition to the negotiation and arbitration provisions of this Article 13 and the procedures therefor set forth in Exhibit "C" to this Declaration, if applicable.

13.5 Miscellaneous Alternative Dispute Resolution Provisions.

13.5.1 Conflicting Provisions. Any conflict or discrepancy between the terms and conditions set forth in this Article 13 and the procedures set forth in Exhibit "C" and any term, condition or procedure of the American Arbitration Association, or any remedy allowed at law or in equity, the terms, conditions, procedures and remedies set forth herein and in Exhibit "C" will control.

13.5.2 TIME IS OF ESSENCE. All periods of time set forth herein or calculated pursuant to provisions of this Article 13 will be strictly adhered to, TIME BEING OF THE ESSENCE hereof.

ARTICLE 14. MORTGAGE PROTECTION

14.1 Introduction. This Article 14 establishes certain standards and covenants which are for the benefit of the holders, insurers and guarantors of certain mortgages. This Article 14 is supplemental to, and not in substitution for, any other provisions of the Declaration, the Bylaws of the Association and the Articles of Incorporation of the Association (the "Constituent Documents"), but in the event of conflict, this Article shall control. Unless the Board of Directors shall vote to suspend this provision, the Board shall periodically amend this Article from time to time, to be consistent with generally applicable requirements of the Federal National Mortgage Association governing mortgagee approval requirements. When used herein, the term "Limited Common Area" will mean the Common Area of the Association set aside pursuant to this Declaration or any Supplemental Declaration for the exclusive use and benefit, and subject to specific Assessment for the maintenance, repair, replacement and insuring thereof as may be set forth in this Declaration or any Supplemental Declaration, of one or more but not all Owners.

14.2 Eligible Mortgagees. Whenever in the Constituent Documents the approval or consent of a specified percentage of "Eligible Mortgagees" is required, it shall mean the approval or consent of the Institutional Mortgagees holding first lien Mortgages on Lots which have provided to the Association written requests, stating their names and addresses and the street addresses of the Lots to which their Mortgages relate, to receive written notice of the matters for which they are entitled to vote, and which in the aggregate have allocated to them such specified percentage of votes in the Association when compared to the total allocated to all Lots then subject to first Mortgages held by Eligible Mortgagees.

14.3 Notice of Actions. The Association shall give prompt written notice to each Eligible Mortgagee of:

(a) Any condemnation loss or any casualty loss which affects a material portion of the Common Interest Community or any Lot in which there is a first Security Interest held, insured, or guaranteed by such Eligible Mortgagee or Eligible Insurer as applicable;

(b) Any delinquency in the payment of Assessments owed by an Owner whose Lot is subject to a first Mortgage held, insured, or guaranteed, by such Eligible Mortgagee which remains unpaid for a period of sixty (60) days.

(c) Any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association;

(d) Any proposed action which would require the consent of a specified percentage of Eligible Mortgagees as specified in Section 14.4; and

(e) Any judgment rendered against the Association.

14.4 Consents Required; Constituent Documents' Changes. Notwithstanding any lower requirement permitted by the Constituent Documents or the Nonprofit Corporation Act, no amendment of any material provision of the Constituent Documents by the Owners described in this Section 14.4 may be effective without the vote of sixty-seven percent (67%) or more of the votes of the entire Association, by Referendum or at a duly held meeting of Members (which percentage will also constitute the quorum required for any such meeting), or any greater vote required in the Constituent Documents or the Nonprofit Corporation Act, and until approved in writing by at least fifty-one percent (51%) of the Eligible Mortgagees (or any greater Eligible Mortgagee approval required by the Constituent Documents). The foregoing approval requirements do not apply to amendments effected by the exercise of any rights of the Declarant to amend the Constituent Documents during the Declarant Control Period. Consent of an Eligible Mortgagee is deemed granted if no denial is received within thirty (30) days after the Eligible Mortgagee receives notice of the proposed changes. Material provisions requiring such Members' vote and Eligible Mortgagees' approval include, but are not limited to, any provision affecting:

(a) Assessments, assessment liens, or subordination of assessment liens;

(b) Voting rights;

(c) Reserves for maintenance, repair and replacement of the Common Areas and areas of Common Responsibility;

(d) Responsibility for maintenance and repairs;

(e) Reallocation of interests in the Common Areas or Limited Common Areas except that when Limited Common Areas are reallocated by agreement between Lot Owners, only those Lot Owners and only the Eligible Mortgagees which hold Mortgages on such Lots must approve such action;

(f) Rights to use Common Areas and Limited Common Areas;

(g) Boundaries of Lots except that when boundaries of only adjoining Lots are involved, or a Lot is being subdivided, then only those Lot Owners and the Eligible Mortgagees holding mortgages on such Lot or Lots must approve such action.

(h) Convertibility of Lots into Common Areas or Common Areas into Lots;

(i) Expansion or contraction of the Development, or the addition, annexation or withdrawal of property to or from the Development;

(j) Insurance or fidelity bonds;

(k) Leasing of Lots;

(l) Imposition of restrictions on a Lot Owner's right to sell or transfer his or her Lot;

(m) Establishment of self-management when professional management had been required previously by the Constituent Documents or by an Eligible Mortgagee;

(n) Restoration or repair of the Property after a hazard damage or partial condemnation in a manner other than that specified in the Constituent Documents;

(o) Termination of the legal status of the Development after occurrence of substantial destruction or condemnation; and

(p) Any provision that expressly benefits Mortgage holders, insurers or grantors.

14.5 Actions. Notwithstanding any lower requirement permitted by the Constituent Documents or the Nonprofit Corporation Act, the Association may not take any of the following actions without the approval of at least fifty-one (51%) of the Eligible Mortgagees or such higher percentage as set forth herein:

(a) The conveyance or encumbrance of the Common Areas or any portion thereof, as to which at least a sixty-seven percent (67%) approval by Eligible Mortgagees is required. The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Areas for the benefit of the Development shall not be deemed a conveyance or encumbrance within the meaning of this clause;

(b) The restoration or repair of the Property after damage or a partial condemnation in a manner other than that specified in the Constituent Documents;

(c) The termination of the legal status of the Development for reasons other than substantial destruction or condemnation, as to which at least sixty-seven percent (67%) approval by Eligible Mortgagees is required;

(d) The alteration of any partition or creation of any aperture between adjoining Lots when Lot boundaries are not otherwise being affected, in which case only the owners of Lots affected and Eligible Mortgagees of those Lots need approve the action;

(e) The merger of the Association with any other common interest community;

(f) The granting of any easements, leases, licenses and concessions through or over the Common Areas excluding, however, any utility easements serving or to serve the Development and excluding any leases, licenses or concessions for no more than one year;

(g) The assignment of the future income of the Association, including its right to receive Common Expense assessments; and

(h) Any action taken not to repair or replace the Property.

The foregoing consents do not apply to the exercise of any right reserved by the Declarant in the Constituent Documents.

14.6 Change From Monthly Assessment. The Association may not change the period for collection of regularly budgeted Common Expenses Assessments to other than monthly without the consent of all Eligible Mortgagees.

14.7 Declarant's Reserved Rights. No rights reserved by the Declarant may be voluntarily abandoned or terminated by the Declarant unless all persons holding security interests in the Declarant's reserved rights consent to the abandonment or termination.

14.8 Inspection of Books. The Association shall permit any Eligible Mortgagee to inspect the books and records of the Association during normal business hours.

14.9 Financial Statements. The Association shall provide any Eligible Mortgagee which submits a written request, with a copy of an annual financial statement within one hundred twenty (120) days following the end of each fiscal year of the Association. Such financial statement shall be audited by an independent certified public accountant if the number of Lots is 50 or more, or if the number of Lots is less than 50 and no audited statement is otherwise required under the Constituent Documents, any Eligible Mortgagee may have an audited statement prepared at its own expense.

14.10 Enforcement. The provisions of this Article 14 are for the benefit of Eligible Mortgagees and their successors, and may be enforced by any of them by any available means, at law, or in equity.

14.11 Attendance at Meetings. Any representative of an Eligible Mortgagee may attend any meeting which a Lot Owner may attend.

ARTICLE 15. GENERAL PROVISIONS

15.1 Control of Declarant. NOTWITHSTANDING ANY OTHER LANGUAGE OR PROVISION TO THE CONTRARY IN THIS DECLARATION, IN THE ARTICLES OF INCORPORATION, OR IN THE BYLAWS OF THE Association, Declarant hereby retains for the duration of the Declarant Control Period the right to appoint and remove any member or members of the Board of Directors and any officer or officers of the Association. Every grantee of any interest in the Development, by acceptance of a deed or other conveyance of such interest, agrees that Declarant will have the authority to appoint and remove directors and officers of the Association in accordance with the foregoing provisions of this Section 15.1 the provisions of this Section 15.1 are supplemental to, and not in the substitution of, other rights retained by Declarant pursuant to this Declaration.

15.1.1 Voting Agreement and Proxy. By acceptance of a deed or other conveyance of a real estate interest subject hereto, an Owner-Member does hereby grant, and if further required, does agree to vote in a manner to provide, to Declarant all voting rights and other corporate powers specifically reserved to and designated for Declarant under this Declaration. **IN CONNECTION WITH THIS VOTING AGREEMENT, EACH MEMBER APPOINTS DECLARANT AS PROXY FOR SUCH MEMBER WITH FULL POWER OF SUBSTITUTION TO VOTE FOR THE MEMBER ON ALL SUCH MATTERS ON WHICH THE MEMBER MAY BE ENTITLED TO VOTE, AND WITH RESPECT TO WHICH THERE IS A RESERVATION OR DESIGNATION OF VOTING RIGHTS IN DECLARANT UNDER THIS DECLLARATION, AND WITH ALL POWERS WHICH THE MEMBER WOULD POSSESS IF PERSONALLY PRESENT AT ANY MEETING OF MEMBERS. SUCH APPOINTMENT WILL BE, UPON A MEMBER'S ACCEPTANCE OF A DEED OR OTHER CONVEYANCE AND WITHOUT THE**

NECESSITY OF FURTHER ACTION BY THE DECLARANT OR THE MEMBER, A POWER COUPLED WITH AN INTEREST AND IRREVOCABLE. Such appointment will be effective as of the date on which a deed or other conveyance of an interest to the Owner-Member is filed Of Record. This irrevocable proxy will automatically terminate on the date Declarant's voting rights as a Type B Member terminate. The within voting agreement and proxy are in addition to, and not in substitution of, all rights of Declarant herein provided, which will run with the Property.

15.1.2 Creation of New Board. Upon the expiration of the Declarant Control Period, election of the Board will pass to the Owners as provided in the Bylaws. Following election of a new Board of Directors, Declarant will deliver all books, accounts, and records, if any, which Declarant has kept on behalf of the Association and any agreements or contracts executed by or on behalf of the Association during such period and which Declarant has in its possession.

15.2 Amendments by Declarant. During the Declarant Control Period, the Declarant may amend this Declaration or the Bylaws by an instrument in writing filed Of Record without the approval of any Owner or Mortgagee; provided, however, that, (a) in the event that such amendment adversely affects the title to any Lot or Dwelling, such amendment will be valid only upon the written consent thereto by a majority in number of the then existing Owners affected thereby; and (b) in the event that such amendment would materially and adversely affect the security title and interest of any Mortgagee, such amendment will be valid only upon the written consent thereto of all such Mortgagees so affected. Any amendment made pursuant to this Section 15.2 will be certified by Declarant as having been duly approved by Declarant, and by such Owners and Mortgagees if required, and will be effective only upon it being filed Of Record or at such later date as will be specified in the amendment itself. Furthermore, following the Declarant Control Period, this Declaration and the Bylaws may be amended solely by the Declarant filing same Of Record if such amendment is necessary, in the reasonable determination of the Declarant, (i) to bring any provision hereof or thereof into compliance or conformity with the provisions of any applicable governmental statute, rule, or regulation or any judicial determination which will be in conflict therewith, (ii) to enable any reputable title insurance company to issue title insurance coverage with respect to any properties subject to this Declaration, (iii) if such amendment is required by an institutional or governmental lender or purchaser of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase mortgage loans on any properties subject to this Declaration, or (iv) to enable any governmental agency or reputable private insurance company to insure Mortgages on the properties or other improvements subject to this Declaration. Each Owner by acceptance of a deed or other conveyance of a Lot or Dwelling agrees to be bound by amendments permitted by this Section 15.2, and further agrees, if requested by the Declarant, such Owner will consent to such amendment.

15.3 Amendments by the Association. Amendments to this Declaration or the Bylaws, other than those authorized by Section 15.2 hereof, will be proposed and adopted in the following manner:

(a) Notice of the subject matter of the proposed amendment will be included in the notice of the meeting of the Association at which such proposed amendment is to be considered and will be delivered to each Member of the Association.

(b) At such meeting, a resolution adopting a proposed amendment may be proposed by either the Board of Directors or Members of the Association; Such amendment must be approved by sixty-seven percent (67%) or more of the votes of the entire Association, by Referendum or at a duly held meeting of Members called for the purpose of approving a proposed amendment, which percentage will also constitute the quorum required for any such meeting; provided, however, (i) that any amendment which materially and adversely-affects the security title and interest of any Mortgagee must be approved by such Mortgagee; (ii) during the Declarant Control Period, such amendment must be approved by Declarant; and (iii) in the event that such amendment also is an amendment to the Bylaws, the amendment will be adopted pursuant to the applicable procedures of the Nonprofit Corporation Act.

(c) The agreement of the required percentage of the Owners and, where required, Declarant and any Mortgagee, to any amendment of this Declaration pursuant to this Section 15.3 will be evidenced by their execution of such amendment, or, in the alternative, the sworn statement of the President of the Association attached to or incorporated in the amendment executed by the Association, which sworn statement will state unequivocally that the agreement of the required parties was lawfully obtained. Any such amendment of this Declaration will become effective only when filed Of Record or at such later date as may be specified in the amendment itself.

Anything contained in this Section 15.3 to the contrary notwithstanding, no amendment under this Declaration shall be made, or any vote therefor effective, if the result or effect thereof would have a material adverse effect upon Declarant or any right, limitation, approval or easement of Declarant without the prior written approval of the Declarant,

including, but not limited to, this Section 15.3 and any matter set forth in Sections 2.2.1, 2.3, 2.4, 5.3, 5.10, 5.11, 5.12, 6.2.5, 6.3, 6.3, 6.3.1, 6.4, 6.5, 11.2, 11.3.1, 12.5.1, 12.7, 15.2, 15.8, 15.9, and 15.14.

15.4 Duration. The provisions of this Declaration will run with and bind title to the Property, will be binding upon and inure to the benefit of all Owners and Mortgagees, and will be and remain in effect for a period of thirty (30) years from and after the date this Declaration is filed Of Record, provided that rights and easements which are stated herein to have a longer duration will have such longer duration. Upon the expiration of said thirty (30) year period, this Declaration will be automatically renewed for successive ten (10)-year periods. The number of ten (10) year renewal periods will be unlimited, with this Declaration being automatically renewed and extended upon the expiration of each ten (10) year renewal period for an additional ten (10) year period; provided, however, that there will be no renewal or extension of this Declaration, if, during the last year of an initial thirty (30) year period or the last year of any ten (10) year renewal period, 75% or more of the votes of the entire Association, by Referendum or at a duly held meeting of Members called for the purpose of approving the proceeding, which percentage will also constitute the quorum required, approve terminating this Declaration at the end of the then current term. In the event that the Association votes to terminate this Declaration, an instrument evidencing such termination will be filed Of Record, such instrument to contain a certificate wherein the President of the Association swears that such termination was duly adopted by the requisite number of votes. Every purchaser or grantee of any interest in any Property, by acceptance of a deed or other conveyance therefor, thereby agrees that the provisions of this Declaration will run with and bind title to the Property as provided hereby.

15.5 Termination of the Association. In the event that this Declaration is declared to be void, invalid, illegal, or unenforceable in its entirety, or in such a significant manner that the Association is not able to function substantially as contemplated by the terms hereof, for any reason, by the adjudication of any court or other tribunal having jurisdiction over the parties hereto and the subject matter hereof, and such adjudication occurs within ten (10) years following the date of recording this Declaration, all Common Area belonging to the Association at the time of such adjudication will revert to the Declarant, and the Declarant will own and operate said Common Areas as Trustee for use and benefit of Owners within the Property as set forth below. If said adjudication will occur on a date more than ten (10) years after the date of recording of this Declaration, or if the Members of the Association should vote not to renew and extend this Declaration as provided for in Section 15.4, all Common Areas owned by the Association at such time will be transferred to a properly appointed Trustee, which Trustee will own and operate said Common Areas for the use and benefit of Owners within the Property as set forth below:

(a) Each lot, parcel or tract of land located within the Property will be subject to an Annual Assessment which will be paid by the Owner thereof to the Declarant or Trustee, whichever becomes the successor in title to the Association. The amount of such Annual Assessment and its due date will be determined solely by the Declarant or the Trustee, as the case may be, but the amount of such Annual Assessment on any particular lot, parcel or tract of land will not exceed the amount actually assessed against that lot, parcel or tract of land in the last year that Assessments were levied by the Association, subject to the adjustment set forth in subparagraph (b) immediately below.

(b) The rate of the Annual Assessment which may be charged by the Declarant or Trustee hereunder on any particular lot or parcel may be automatically increased each year by either five (5 %) percent or the percentage increase between the first month and the last month of the Annual Assessment period in the CPI-U issued by the U.S. Bureau of Labor Statistics in its monthly report, whichever of these two percentage figures is larger. The actual amount of such increase in the regular Annual Assessment on a parcel will equal the regular Annual Assessment on such lot or parcel for the previous year multiplied by the larger of the two percentage factors set forth above. If the CPI-U is discontinued, then there will be used the most similar index published by the United States Government that may be procured indicating changes in the cost of living.

(c) Any past due Annual Assessment together with interest thereon at the greater of fifteen (15%) percent or the maximum annual rate permitted by law from the due date and all costs of collection including reasonable attorney's fees will be a personal obligation of the Owner at the time that the Annual Assessment becomes past due, and it will also constitute and become a charge and continuing lien on the lot or parcel of land and all improvements thereon, against which the Assessment has been made, in the hands of the then Owner, his heirs, devisees, personal representatives and assigns.

(d) The Declarant, or the Trustee, as the case may be, will be required to use the funds collected as Annual Assessments for the operation, maintenance, repair and upkeep of the Common Areas and areas of Common Responsibility. Declarant or Trustee may charge as part of the cost of such functions the reasonable value of its services in carrying out the duties herein provided. Neither the Declarant nor the Trustee will have the obligations to

provide for operation, maintenance, repair and upkeep of the Common Areas and areas of Common Responsibility once the funds provided by the Annual Assessment have been exhausted.

(e) The Declarant will have the right to convey title to the Common Areas and to assign its rights and duties hereunder, provided that the transferee accepts such properties subject to the limitations and uses imposed hereby and affirmatively acknowledges its acceptance of the duties imposed hereby.

(f) The Trustee will have the power to dispose of the Common Areas (subject to the limitations of Article 4), free and clear of the limitations imposed hereby; provided, however, that such disposition will first be approved in writing by fifty-one (51%) percent of the Owners of Property within the Property or in the alternative will be found, in the exercise of reasonable business judgment, to be in the best interest of the Owners of property within the Property. The proceeds of such a sale will first be used for the payment of any debts or obligations constituting a lien on the Common Areas, then for the payment of any obligations incurred by the Trustee in the operation, maintenance, repair and upkeep of such Property, then for the payment of any obligations distributed among the Owners of property within the Development, exclusive of the Trustees, in a proportion equal to the portion that the Default Annual Assessment on property owned by a particular Owner bears to the total Default Annual Assessment for all property located within the Property.

15.6 Perpetuities. If any of the covenants, conditions, restrictions, or other provisions of this Declaration will be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions will continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of Mrs. Rose Kennedy, mother of U.S. Senator Edward Kennedy.

15.7 Interpretation. In all cases, the provisions set forth or provided for in this Declaration will be construed together and given that interpretation or construction which, in the opinion of Declarant or the Board of Directors will best effect the intent of the general plan of development. The provisions hereof will be liberally interpreted and, if necessary, they will be so extended or enlarged by implication as to make them fully effective. The provisions of this Declaration will be given full force and effect notwithstanding the existence of any zoning ordinance or building codes which are less restrictive. The effective date of this Declaration will be the date of its filing Of Record. The captions of each Article and Section hereof as to the contents of each Article and Section are inserted only for convenience and are in no way to be construed as defining, limiting, extending, or otherwise modifying or adding to the particular Article or Section to which they refer. This Declaration will be construed under and in accordance with the laws of the State of South Carolina.

15.8 No Affirmative Obligation Unless Stated. **ANY RESERVATION OR RIGHT OF THE DECLARANT WHICH IS STATED IN OR IMPLIED FROM THIS DECLARATION WILL NOT GIVE RISE TO ANY AFFIRMATIVE OBLIGATION OR DUTY ON THE PART OF THE DECLARANT UNLESS EXPRESSLY STATED IN THIS DECLARATION.**

15.9 No Implied Liabilities or Duties. **ANY RULES OR REGULATIONS ESTABLISHED BY THE DECLARANT PURSUANT TO THIS DECLARATION WILL NOT EXPRESSLY OR IMPLIEDLY CREATE ANY DUTY OF CARE TO ANY PROPERTY OWNER.**

15.10 Gender and Grammar. The singular wherever used herein will be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations or other entities or to individuals, men or women, will in all cases be assumed as though in each case fully expressed.

15.11 Severability. Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid, but if the application of any provision of this Declaration to any person or to any property will be prohibited or held invalid, such prohibition or invalidity will not affect any other provision or the application of any provision which can be given effect without the invalid provision or application, and to this end the provisions of this Declaration are declared to be severable.

15.12 Rights of Third Parties. This Declaration will be filed Of Record for the benefit of Declarant, the Owners, and their Mortgagees as herein provided, and by such recording, no adjoining property owner or third party will have any right, title or interest whatsoever in the Development, except as provided herein, or in the operation or continuation thereof or in the enforcement of any of the provisions hereof, and, subject to the rights of Declarant and Mortgagees as herein provided, the Owners will have the right to extend, modify, amend, or otherwise change the provisions of this Declaration without the consent, permission, or approval of any adjoining owner or third party.

15.13 Notice of Sale, Lease, or Mortgage. In the event an Owner sells, leases, mortgages, or otherwise disposes of any Lot, the Owner must promptly furnish to the Association in writing the name and address of such purchaser, lessee, mortgagee, or transferee.

15.14 No Trespass. Whenever the Association, Declarant, or the ARC are permitted by this Declaration to enter upon, correct, repair, clean, maintain, preserve, or do any other action within any portion of the Development, the entering thereon and the taking of such action will not deem to be trespass.

15.15 Notices. Notices required hereunder will be in writing and will be delivered by hand or sent by United States Mail, postage prepaid. All notices to Owners will be delivered or sent to such addresses as have been designated in writing to the Association, or if no address has been so designated, at the addresses of such Owners' respective Lots. All notices to the Association will be delivered or sent in care of Declarant to Declarant's main office, 1044 Eagle Harbor Lane, Summerville, South Carolina 29483, or to such other address as the Association may from time to time notify the Owners. All notices to Declarant will be delivered or sent to Declarant's main office, 1044 Eagle Harbor Lane, Summerville, South Carolina 29483, or to such other address as Declarant may from time to time notify the Association. Notices to Mortgagees will be delivered or sent to such addresses as such Mortgagees specify in writing to the Association. Notices to any other person or persons entitled to same hereunder will be delivered or sent to such address or addresses as such person or persons specify, from time to time, in writing to the sender, or, in the absence thereof, to such address or addresses as will, in the exercise of reasonable judgment by the sender, reasonably expected to be received by such person or persons.

IN WITNESS WHEREOF, duly authorized officers of the undersigned Declarant have executed this Declaration under seal, this 31 day of January, 2003

Signed, sealed and delivered in the presence of

Angie Johnson

Elizabeth Gilbert

DECLARANT:

EAGLE HARBOR, INCORPORATED
a the developer

BY: [signature]

Its: President

STATE OF SOUTH CAROLINA)
)
COUNTY OF BERKELEY)

Personally appeared before me Angie Johnson and made an oath that (s)he saw Eagle Harbor, Inc., a The Developer by its duly authorized officer(s), sign, seal, and as its act and deed deliver the within written Declaration of Covenants, Conditions and Restrictions for EAGLE HARBOR, and that (s)he with witnessed the execution thereof.

Angie Johnson (SEAL)

Sworn to before me this 31st day of Jan, 2003.
Notary Public for South Carolina Nelli T. Johnson

My Commission expires: 5.15.12

EXHIBIT "A"

All those certain pieces, parcels and lots of land shown on a plat entitled "Final Plat EAGLE HARBOR, A Subdivision of TMS #178-00-03-051, (Phase I), Section 1, Located in Berkeley County, South Carolina" prepared by Cornerstone Surveying and Engineering, Inc. recorded in the RMC Office for Berkeley County in Book____ Page _____. Further, "Site Plan" will mean and refer to any subdivision plat for any Additional Property placed Of Record in furtherance of the development scheme for EAGLE HARBOR, as it exists from time to time.

EXHIBIT "B"

BYLAWS
OF
EAGLE HARBOR
HOMEOWNERS ASSOCIATION

ARTICLE I
NAME AND LOCATION

1.1 Name and Location. The name of the corporation is "EAGLE HARBOR HOMEOWNERS ASSOCIATION," hereinafter referred to as the "Association." The principal office of the Association shall be located at the Development; or at such other place as may be designated by the Board.

ARTICLE II
DEFINITIONS

2.1 Incorporation. The definitions contained in the Declaration are incorporated by reference herein.

(a) The Declaration. "Declaration" shall mean and refer to the Declaration of Covenants, Conditions, and Restrictions for recorded in the Office of Register of Mesne Conveyances for Berkeley County, South Carolina, and subsequent amendments thereto.

ARTICLE III
MEETING OF MEMBERS AND VOTING

3.1 Annual Meeting. The first meeting of the Members, whether an annual or a special meeting, shall be held on the second Saturday of December which is more than nine (9) months following the date of the close of the sale of the first Lot or Dwelling in the Project. Subsequent annual meetings of the Members shall be held thereafter at an hour and place within thirty (30) days of the same month and day of such first meeting, as set by the Board.

3.2 Special Meetings. Special meetings of the Members shall be promptly scheduled at any time by the Board upon vote of a majority of the Board of Directors or upon written request of the President. A special meeting of the Members shall be called upon written demand delivered to the Secretary by the Members representing five percent (5%) of the total voting power of the Association, notice of which shall be by written notice to all Members within thirty (30) days of the Secretary's receipt of the demand. For purposes of determining the five percent (5%), the record date shall be thirty (30) days before delivery of the written demand. Upon the failure of the Association to send notice of a special meeting within thirty (30) days following delivery of written demand as aforesaid, any Member signing the demand may set the time and place of the special meeting and give notice thereof to all Members in accordance with the Nonprofit Corporation Act.

3.3 Notice and Place of Meetings. Unless otherwise provided in the Declaration, the Articles of Incorporation, in these By-Laws, or in the Nonprofit Corporation Act, written notice of each meeting of the Members, annual or special, shall be given by, or at the direction of, the Secretary, by mailing a copy of such notice, first class mail, postage prepaid, at least thirty (30) but not more than sixty (60) days before such meeting to each Member, addressed to the Member's address last appearing on the books of the Association, or supplied by such Member to the Association for the purpose of notice. In the case of written demand of Members representing five percent of the total voting power of the (5%) Association, written notice of such meeting shall be given not more than thirty (30) days after "written demand is delivered to the Association. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting, and shall provide for voting by proxy. If action is proposed to be taken at any meeting for approval for any of the following proposals, the notice shall also state the general nature of the proposal: (a) removing a Director without cause; (b) filling vacancies in the Board of Directors by the Members; or (c) amending the Articles of Incorporation. Meetings shall be held within the Project or at a meeting place within the same county, as close to the Project as possible.

Notice of a meeting of Members need not be given to any Member who signs a waiver of notice, in person or by proxy, either before or after the meeting. The waiver must be delivered to the Association for inclusion in the minutes or filing with the corporate records. Attendance of a Member at a meeting, in person or by proxy, shall of itself constitute

waiver of notice, except when the Member attends a meeting solely for the purpose of stating his objection, at the beginning of the meeting, to the transaction of any business on the ground that the meeting is not lawfully called or convened. Objection by a Member shall be effective only if written objection to the holding of the meeting or to any specific action so taken is filed with the Secretary of the Association.

3.4 Quorum. Unless otherwise provided herein, in the Declaration, the Articles of Incorporation, or the Nonprofit Corporation Act, the presence of Members representing one-third (1/3) of the votes of all Members, in person or by proxy, shall constitute a quorum for the transaction of business. The Members present at a duly called or held meeting at which a quorum of one-third (1/3) of the votes of all Members is present may continue to do business until adjournment, notwithstanding the withdrawal from the meeting of enough Members to leave less than such required quorum, provided that Members representing twenty percent (20%) of the total votes of the Association remain present in person and or by proxy, and provided further that any action taken shall be approved by a majority of the Members required to constitute such quorum. If the required quorum is not present, another meeting may be called, not less than ten (10) nor more than sixty (60) days following the first meeting, and the required quorum at the subsequent meeting shall be the Members present, in person or by proxy, and entitled to vote. Unless otherwise provided, any reference hereafter to "votes cast" at a duly called meeting shall be construed to be subject to the quorum requirements established by this Section 3.4. If a time and place for the adjourned meeting is not fixed by those in attendance at the original meeting or if for any reason a new date is fixed for the adjourned meeting after adjournment, notice of the time and place of the adjourned meeting shall be given to Members in the manner prescribed in Section 3.3.

3.5 Ballots and Representative Voting.

(a) Voting Referendum; Written Ballots. Any vote of Members on a matter which would be cast at an annual, regular or special meeting may be taken, without a meeting, by written ballot delivered to every Member by the Association. The ballot shall set forth the matter to be voted upon and provide thereon a place to vote for or against such matter. Approval by written ballot without a meeting shall be effective only when the number of votes cast by ballot equals or exceed the quorum required to be present had the matter been considered at a meeting, and the number voting for the matter equals or exceeds the number of votes required to approve it had the matter been considered at a meeting at which the requisite quorum is present. A solicitation of votes by ballot shall (1) indicate the record date for Members eligible to vote; (2) indicate the number of returned ballots voting for or against the matter that is required to satisfy the quorum requirement; (3) state the required number of votes or percentage voting in favor of the matter required to approve it (except in the case of election of directors, which shall be by plurality); and (4) state the date and time by which a Member's completed ballot must be received by the Secretary in order to be counted in the vote to be taken. A ballot, once delivered to the Secretary, may not be revoked. A Member's signed ballot shall be delivered to the Secretary by hand delivery, by U.S. mail, or by such other means as shall be permitted under South Carolina law, including, but not limited to and if allowed, overnight courier service, facsimile and e-mail transmission, internet form submission, or by any other technology or medium, now existing or hereafter devised, provided in every such case the sender retains proof of transmission and receipt.

(b) Proxies. All of the provisions of this Section 3.5 (b) are subject to Section 15.1.1 of the Declaration. To the extent that a provision set forth in this Section is inconsistent with Section 15.1.1 of the Declaration, the provisions of Section 15.1.1 of the Declaration shall control. At all meetings of Members, each Member may vote in person or by proxy. The appointment form of proxy shall be in writing and received by the conveyance by the Member of his Lot or Dwelling, or upon receipt of written notice by the Secretary of the death or judicially declared incompetence of a Member prior to the counting of the vote, upon revocation of the appointment of the proxy in accordance with the Nonprofit Corporation Act, or upon the expiration of eleven (11) months from the date of the proxy. Unless the proxy appointment form otherwise states, it shall be deemed to confer the authority to execute consents and waivers and to exercise the right to examine the books and records of the Association. Any proxy appointment form distributed by any person to the membership of the Association shall afford the opportunity to specify a choice between approval and disapproval of each matter or group of matters to be acted upon set forth in the notice of the meeting. The appointment shall provide that, where the Member specifies a choice, the vote shall be cast by the proxy in accordance with that choice. The form shall also identify the person or persons acting as the proxy and the length of time it will be valid. In addition, voting by a proxy shall comply with any other applicable requirements of the Nonprofit Corporation Act. The Member's signed proxy appointment form shall be delivered to the Secretary by hand delivery, by U.S. mail, and by such other means as shall be permitted under South Carolina law, including, but not limited to and if allowed, overnight courier service, facsimile and e-mail transmission, internet form submission, or by any other technology or medium, now existing or hereafter devised, provided in every such case the sender retains proof of transmission and receipt.

3.7 Membership and Voting. Membership in the Association will be as set forth in the Declaration and in the Articles of Incorporation.

Except as otherwise provided in the Declaration, the Articles of Incorporation, these By-Laws, or the Nonprofit Corporation Act, any action by the Association which must have the approval of the Members before being undertaken shall require voting approval by a majority of the votes cast by Members present at which the required quorum is present. An abstention shall be counted as a negative vote in calculating the majority. Members are divided into Type A and Type B Members for the sole purpose of computing voting rights and shall not vote as a class. Owners of Lots and dwellings in all phases shall have the same voting rights.

3.8 Eligibility to Vote. Voting rights attributable to Lots and Dwellings shall not vest until Assessments against those Lots and Dwellings have been levied by the Association. Only Members in good standing shall be entitled to vote on any issue or matter presented to the Members for approval. In order to be in good standing, a Member must be current in the payment of all assessments levied against the Member's Lots or Dwellings and not subject to any suspension of voting privileges as a result of disciplinary proceeding conducted in accordance with the Declaration. A Member's good standing shall be determined as of the record date established in accordance with Section 3.8. The Association shall not be obligated to conduct a hearing in order to suspend a Member's voting privileges on the basis of the nonpayment of assessments, although a delinquent Member shall be entitled to request such a hearing.

3.9 Record Dates:

A. Record Dates Established by the Board: For the purpose of determining which Members are entitled to receive notice of any meeting, vote, act by written ballot without a meeting, or exercise any rights in respect to any other lawful action, the Board may fix, in advance, a "record date" and only Members of record on the date so fixed are entitled to notice, to vote, or to take action by written ballot or otherwise, as the case may be, notwithstanding any transfer of any membership on the books of the Association after the record date, except as otherwise provided in the Articles of Incorporation, by agreement, or in the Nonprofit Corporation Act. The record dates established by the Board pursuant to this section shall be as follows:

(1) Record Date for Notice of Meetings: In the case of determining those Members entitled to notice of a meeting, the record date shall be no more than ninety (90) nor less than ten (10) days before the date of the meeting;

(2) Record Date for Voting: In the case of determining those Members entitled to vote at a meeting, the record date shall be no more than sixty (60) days before the date of the meeting;

(3) Record Date for Action by Written Ballot Without Meeting: In the case of determining Members entitled to cast written ballots, the record date shall be no more than sixty (60) days before the day on which the first written ballot is mailed or solicited; and

(4) Record Date for Other Lawful Action: In the case of determining Members entitled to exercise any rights in respect to other lawful action, the record date shall be no more than sixty (60) days prior to the date of such other action.

(5) "Record Date" Means as of the Close of Business: For purposes of this subparagraph A, a person holding a membership as of the close of business on the record date shall be deemed the Member of record.

B. Failure of Board to Fix a Record Date: If the Board, for any reason, fails to establish a record date, rules set forth in the Nonprofit Corporation Act shall apply:

3.10 Action Without Meeting: Any action that may be taken at any annual or special meeting of Members (except the election of Directors) may be taken without a meeting in accordance with the provisions of the Nonprofit Corporation Act. Any form of written ballot distributed by any person to the membership of the Association shall afford the opportunity to specify a choice between approval and disapproval of each matter or group of matters to be acted upon, except it shall not be mandatory that a candidate for election to the Board be named in the written ballot. The written ballot shall provide that, where the Member specifies a choice, the vote shall be cast in accordance with that choice.

3.11 Conduct of Meetings: Meetings of the membership of the Association shall be conducted in accordance with a recognized systems of parliamentary procedure or such parliamentary procedures as the Association may adopt. Except as otherwise provided by law, any proper matter may be presented at the meeting for action. Members of the Association shall have access to Association records in accordance with the Nonprofit Corporation Act. No Member of the Association shall have any right as an Association Member to attend any meeting of the Board, except such meetings of the Board as the Board of Directors shall, in the exercise of its sole discretion, open to the membership or any other person. In any matter relating to the discipline of an Association Member, the Board shall always meet in closed session if requested by that Member, and the Member shall be entitled to attend such closed session.

ARTICLE IV
BOARD OF DIRECTORS; SELECTION; TERM OF OFFICE

4.1 Number. The affairs of the Association shall be managed by a Board of Directors, all of whom must be Members of the Association, or an officer, director, employee or agent of a Member, including Declarant. The initial Board of Directors shall consist of three (3) Directors who shall be appointed by the Declarant. The Declarant shall have the sole right to appoint and remove any member or members of the Board of Directors of the Association pursuant to the Declaration until the expiration of the Declarant Control Period. Within sixty (60) days after the expiration of the Declarant Control Period, the Members shall elect five (5) Directors. The Association shall either call, and give not less than thirty (30) days and not more than sixty (60) days notice of, such special meeting of the Members to elect the Board of Directors, or the date on which the Association shall count the written ballots distributed to the Members with such notice for the election of the Board of Directors. Each year thereafter, the Members shall elect such number of Directors as shall exist whose terms are expiring.

4.2 Term of Office. The election of Directors shall be by plurality, the number of nominees equal to the number of vacancies to be filled receiving the greatest number of votes being elected. However, at the meeting of the Association following expiration of the Declarant Control Period held to elect five (5) Directors or the date following expiration of the Declarant Control Period when written ballots are to be counted for the election of such Directors pursuant to Section 4.1, the two (2) nominees receiving the highest number of votes will each be elected for a term of two (2) years, and the next three (3) nominees receiving the highest number of votes will each be elected for a term of one (1) year. At the expiration of the initial term of office of each respective Director, his successor shall be elected to serve for a term of two (2) years. Unless vacated sooner, each Director shall hold office until the Director's term expires and a successor is elected.

4.3 Removal; Vacancies. A Director appointed by the Declarant may only be removed by the Declarant, otherwise, a Director may be removed from office, with or without cause, at any regular or special meeting of the Members by sixty-seven percent (67%) of the votes of the Members voting in person or by proxy at a meeting at which a quorum is present. A successor to any removed Director may be elected at the same meeting at which the vacancy is created by the removal of the Director. A Director whose removal is proposed to be voted upon at any meeting shall be given notice of the proposed removal not less than 10 days prior to the date of the meeting and shall be given an opportunity to be heard at the meeting. In the event of death or resignation of a Director, the vacancy shall be filled by majority vote of the Board at a duly held meeting, or by the sole remaining Director. A successor Director shall serve for the unexpired term of his or her predecessor. The Members may elect a Director at any time to fill any vacancy not filled by the Directors.

4.4 Compensation. No Director shall receive compensation for any service rendered to the Association. However, any Director may be reimbursed for his actual expenses, if reasonable, that are incurred in the performance of his or her duties, including, but not limited to, travel expenses.

4.5 Indemnification of Corporate Agents. The Association shall indemnify any present or former Director, officer, employee or other agent of the Association to the fullest extent authorized under the Nonprofit Corporation Act, or any successor statute, and may advance to any such person funds to pay expenses that may be incurred in defending any action or proceeding on receipt of an undertaking by or on behalf of such person to repay such amount unless it is ultimately determined that such person was not entitled to indemnification under this provision.

ARTICLE V
NOMINATION AND ELECTION OF DIRECTORS

5.1 Nomination. Nomination for election to the Board of Directors shall be made by a Nominating Committee. Notice to the Members of the meeting shall include the names of all those who are nominees at the time the

notice is sent. Nominations to be placed on the ballot may also be solicited by the Nominating Committee or the Board from the membership, and if the election is to take place at a meeting and not solely by written ballot, nominations may also be made from the floor at the meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two (2) or more Members of the Association. The Nominating Committee shall be appointed by the Board of Directors not less than sixty (60) days prior to the meeting of the Members at which the election is to be held, or if the election is to take place solely by written ballot not less than sixty (60) days prior to the date set on the ballot as the election date when ballots are to be counted, and shall serve until the close of the election. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. All candidates shall have reasonable opportunity to communicate their qualifications to Members and to solicit votes.

5.2 Election. The first election of the Board shall be conducted as set forth in Section 4.1. At such election the Members or their proxies may cast as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. No cumulative voting shall be permitted. Voting for Directors at a meeting shall be by secret written ballot. Voting for Directors may also be conducted by written ballot pursuant to Section 3.5(a).

ARTICLE VI
MEETINGS OF DIRECTORS

6.1 Regular Meetings. Regular meetings of the Board of Directors shall be held at least annually at such place within the Project, and at such hour as may be fixed from time to time by resolution of the Board. If a larger meeting room is required than exists within the Project, the Board shall select a room as close as possible to the Project. Should a regularly scheduled meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday, excluding Saturday and Sunday.

6.2 Special Meetings. Special meetings of the Board of Directors shall be held when called by written notice signed by the President, Vice President or Secretary of the Association, or by any two (2) Directors. Notice of the special meeting shall specify the time and place of the meeting and the nature of the special business to be considered.

6.3 Quorum. A majority of the Directors then in office (but not less than two (2)) shall constitute a quorum for the transaction of business. Every act performed or decisions made by a majority of the Directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of Directors, if any action taken is approved by a majority of the required quorum for that meeting.

6.4 Executive Session. The Board may, with approval of a majority of the Directors present at a meeting in which a quorum for the transaction of business has been established, adjourn a meeting and reconvene in executive session to discuss and vote upon personnel and matters involving contracts of which the Association is a party, litigation in which the Association is or may become involved, and orders of business of a similar nature. The nature of any and all business to be considered in executive session shall first be announced in open session.

6.5 Telephone Meetings. Any meeting, regular or special, may be held by conference telephone or similar communication equipment, so long as all Directors participating in the meeting can hear one another, and all such Directors shall be deemed to be present in person at such meeting. An explanation of the action shall be filed with the minutes of the proceedings of the Board.

6.6 Waiver of Notice. The transaction of any meeting of the Board of Directors, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice, if (a) a quorum is present, and (b) either before or after the meeting, each of the Directors not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minute. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting shall also be deemed given to any Director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

6.7 Notice of Adjourned Meeting. Notice of the time and place of holding an adjourned meeting need not be given, unless the meeting is adjourned for more than twenty-four (24) hours, in which case personal notice of the time and place shall be given before the time of the adjourned meeting to the Directors who were not present at the time of the adjournment.

6.8 Action Without Meeting. Any action required or permitted to betaken by the Board of Directors may be taken without a meeting, if all members of the Board, individually or collectively, consent in writing to that action. Such action by written consent shall have the same force and effect as a unanimous vote of the Board of Directors. Such written consent or consents shall be filed with the minutes of the proceedings of the Board.

6.9 Notices Generally. Notice of any meeting of the Board of Directors, whether regular or special, shall be given to each Director by one (1) of the following methods; (a) by personal delivery; (b) written notice by first class mail, postage prepaid; (c) by telephone communication, either directly to the Director or to a person at the Director's office who would reasonably be expected to communicate such notice promptly to the Director; (d) by telegram, charges prepaid; or (e) by facsimile transmission to the fax number of the Directors or to, e-mail address of the Directors, with proof of transmission and receipt thereof being retained in the minutes of the meeting. All such notices shall be given or sent to the Director's address, telephone number, fax number or e-mail address as shown on the records of the Association. Such notice shall be shall be sent to all Directors not less than seventy-two (72) hours prior to the scheduled time of the meeting, provided, however, notices sent by first class mail shall be deposited into a United States mailbox at least four (4) days before the time set for the meeting. Notices given by personal delivery, telephone, telegraph, facsimile transmission or e-mail shall be delivered, telephoned, given to the telegraph company, faxed or e-mailed, as the case may be, at least seventy-two (72) hours before the time set for the meeting. Notice of any meeting need not be given to any Director who has signed a waiver of notice or written consent to holding of the meeting.

ARTICLE VII
POWERS AND DUTIES OF THE BOARD OF DIRECTORS

7.1 Duties. It shall be the duty of the Board of Directors to:

A. Maintenance: Perform the maintenance described in the Declaration;

B. Insurance: Maintain insurance as required by the Declaration;

C. Discharge of Liens: Discharge by payment, if necessary, any lien against the Common Areas and assess the cost thereof to the Member or Members responsible for the existence of the lien (after notice and hearing as required by these Bylaws);

D. Assessments: Fix, levy, collect and enforce Assessments as set forth in the Declaration;

E. Expenses and Obligations: Pay all expenses and obligations incurred by the Association in the conduct of its business including, without limitation, all licenses, taxes, or governmental charges levied or imposed against the property of the Association;

F. Records: Cause to be kept minutes of annual meetings of Members and to present such minutes to the Members at the next annual meeting of the Members; minutes of any special meeting when such statement is requested in writing by one-fourth (1/4) of the Class "A" Members; and to keep adequate and correct books and records of account, minutes of proceedings of its Board and committees, and a roll of its Members giving their names and addresses and classes of membership;

G. Supervision: Supervise all officers, agents and employees of the Association, and to see that their duties are properly performed;

H. Review of Financial Records: Review on at least a quarterly basis a current reconciliation of the Association's operating and reserve accounts, the current year's actual reserve revenues and expenses compared to the current year's budget, and an income and expense statement for the Association's operating and reserve accounts. In addition, the Board shall review the latest account statements prepared by the financial institutions where the Association has its operating and reserve accounts. For purposes herein, "reserve accounts" shall mean monies that the Association's Board has identified for use to defray the future repair or replacement of, or additions to, these major components which the Association is obligated to maintain.

I. Reserve Account Withdrawal Restrictions: Require that at least two (2) signatures are needed for the withdrawal of monies from the Association's reserve accounts, at least one (1) of whom shall be a member of the Board. One (1) signature may be that of the Association's manager or such manager's designee.

J. Reserve Account Fund Management: The Board shall not expend funds designated as reserve funds for any purpose other than the repair, restoration, replacement, or maintenance of, or litigation involving the repair, restoration, replacement, or maintenance of, major components which the Association is obligated to repair, restore, replace, or maintain and for which the reserve fund was established.

K. Reserve Studies. At least every five (5) years the Board shall cause an independent analysis of the reserve component of the operating budget to be conducted to confirm that component replacement costs and useful lives are accurately reflected in the reserve allocation.

7.2 Powers. The Board of Directors shall have power to:

A. Manager: Employ a manager as provided in the Declaration;

B. Adoption of Rules: Adopt rules in accordance with the Declaration, including rules setting aside Common Area parking spaces as handicap parking only, and adopt rules limiting the number of cars which will be permitted to be parked in the Common Area parking spaces;

C. Assessments, Liens and Fines: Levy and collect Assessments and impose fines as provided in the Declaration.

D. Enforcement: Enforce these Bylaws and/or the Declaration as provided in Article 13 of the Declaration.

E. Contracts: Contract for goods and/or services in accordance with the Declaration.

F. Delegation: Delegate its authority and powers to committees, officers or employees of the Association or to a manager employed by the Association. The Board may not delegate the authority to procure insurance, make capital expenditures for additions or improvements chargeable against the reserve funds; to conduct hearings concerning compliance by an Owner or his tenant, lessee, guest or invitee with the Declaration or rules and regulation promulgated by the Board, or to make a decision to levy monetary fines, impose special Assessments against individual Lots and Dwellings, temporarily suspend an Owner's rights as a Member of the Association or otherwise impose discipline following any such hearing; to make a decision to levy Annual or Special Assessments; or to make a decision to bring suit, record a claim of lien, or institute foreclosure proceedings for default in payment of Assessments. Any such delegation shall be revocable by the Board at any time. The members of the Board, individually or collectively, shall not be liable for any omission or improper exercise by the manager of any such duty, power or function so delegated by written instrument executed by a majority of the Board.

G. Appointment of Trustee: Appoint a trustee as provided in the Declaration.

H. Borrowings. Borrow money (i) for the purpose of improving the Development, or any portion thereof, (ii) for constructing, repairing, maintaining or improving any facilities located or to be located within the Development, (iii) for providing services authorized herein, and, (iv) to give as security for the payment of any such loan a mortgage or other security instrument conveying all or any portion of the Common Areas; provided, however, that the lien and encumbrance of any such security instrument given by the Association will be subject and subordinate to any and all rights, interest, options, licenses, easements, and privileges herein reserved or established for the benefit of Declarant, any Owner, or the holder of any Mortgage, irrespective of when such Mortgage is executed or given.

I. Other Powers: In addition to any other power contained herein or in the Declaration, the Association may exercise the powers granted to a nonprofit mutual benefit corporation as enumerated in the Nonprofit Corporation Act.

7.3 Prohibited Acts. The Board shall not take any of actions prohibited of it under the Declaration except with the vote or written consent of a majority of the Members other than Declarant.

ARTICLE VIII
OFFICERS AND THEIR DUTIES

8.1 Enumeration of Officers. The officers of this Association shall be a President and Secretary, who shall at all times be members of the Board of Directors, a Vice President, and a Treasurer, and such other officers as the Board may from time to time by resolution create.

8.2 Election of Officers. The Declarant shall have the sole right to appoint and remove officers during the Declarant Control Period. Thereafter, all officers shall hold office at the pleasure of the Board.

8.3 Term. The officers of this Association shall be elected annually by the Board and each shall hold office for one (1) year unless he or she shall sooner resign, or shall be removed, or otherwise disqualified to serve.

8.4 Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

8.5 Resignation and Removal. Any officer may be removed from office (but not from the Board, if the officer is also a Board member) by the Board with or without cause. Any officer may resign at any time by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

8.6 Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

8.7 Duties. The duties of the officers are as follows:

A. President. The President shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments and shall sign all promissory notes. The President shall have the general powers and duties of management usually vested in the office of the President of a South Carolina nonprofit mutual benefit corporation, and shall have such powers and duties as may be prescribed by the Board or by these Bylaws.

B. Vice President. The Vice President shall act in the place of the President in the event of his or her absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required by the Board.

C. Secretary. The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members; serve notice of meetings of the Board and of the Members; keep appropriate current records showing the Members of the Association together with the addresses, and shall perform such other duties as required by the Board. The ministerial functions of the Secretary in recording votes, keeping minutes, sending notices, and keeping the records of names and addresses of Members may be delegated to an Association manager.

D. Treasurer. The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall sign all promissory notes of the Association; shall keep proper books of account; and shall prepare and shall distribute budgets and statements. The ministerial functions of the Treasurer in sending Assessment notices, receiving and depositing Assessments, keeping books and ledgers of account, and preparing and distributing budgets and statements may be delegated to an Association manager.

ARTICLE IX
COMMITTEES

9.1 Appointment. An Architectural Review Committee may be appointed as provided in the Declaration, and a Nominating Committee shall be appointed as provided in these Bylaws. In addition, the Board of Directors may appoint other committees as deemed appropriate in carrying out its purpose. No committee, regardless of Board resolution, may: (a) take any final action on matters which, under the Nonprofit Corporation Act also requires Members' approval; (b) fill vacancies on the Board of Directors or in any committee; (c) amend or repeal Bylaws or adopt new Bylaws; (d) amend or

repeal any resolution of the Board of Directors; (e) appoint any other committees of the Board of Directors or the members of those committees; (f) approve any transaction to which the Association is a party and in which one (1) or more Directors or committee members have a material financial interest.

ARTICLE X
BOOKS AND RECORDS

10.1 Inspection by Members. The membership register (including names, mailing addresses, telephone numbers and voting rights), books of account and minutes of meetings of the Members, of the Board (including drafts and summaries), and of committees shall be made available for inspection and copying by any Member of the Association, or by his duly appointed representative, at any reasonable time and for a purpose reasonably related to his interest as a Member, at the office of the Association or at such other place within the Project as the Board shall prescribe. Board minutes shall be available to Members within thirty (30) days of the meeting, and shall be distributed to any Member upon request and upon reimbursement of the costs in making that distribution.

10.2 Rules for Inspection. The Board shall establish reasonable rules with respect to:

A. Notice to be given to the custodian of the records by the Member desiring to make the inspection;

B. Hours and days of the week when such an inspection may be made;

C. Payment of the cost of reproducing copies of documents requested by a Member.

10.3 Inspection by Directors. Every Director shall have the absolute right at any reasonable time to inspect all books, records and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a Director includes the right to make extracts and copies of documents, at the expense of the Association.

10.4 Documents Provided by Board. Upon written request, the Board shall, within ten (10) days of the mailing or delivery of such request, provide an Owner with a copy of the governing documents of the Project, a copy of the most recent budget and statements of the Association, and a true statement in writing from an authorized representative of the Association as to the amount of the Association's current Annual and Special Assessments and fees, as well as any Assessments levied upon the Owner's interest-which, as of the date of the statement, are or may be made a lien upon the Owner's Lots or Dwellings. The Board may impose a fee for providing the foregoing which may not exceed the reasonable cost to prepare and reproduce the requested documents.

ARTICLE XI
MISCELLANEOUS

11.1 Amendments. Prior to close of the sale of the first Lot or Dwelling, Declarant may amend these Bylaws. After sale of the first Lot or Dwelling these Bylaws may be amended, only as provided in the Declaration or in the Nonprofit Corporation Act.

11.2 Conflicts. In the case of any conflict between the Articles of Incorporation and the Bylaws, the Articles of Incorporation shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

11.3 Fiscal Year. Unless directed otherwise by the Board, the fiscal year of the Association shall begin on the first day of January and end on the thirty-first (31st) day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

CERTIFICATE

I, the undersigned, the duly elected and acting Secretary of EAGLE HARBOR HOMEOWNERS ASSOCIATION, a South Carolina nonprofit mutual benefit corporation, do hereby certify that the foregoing Bylaws were adopted as the Bylaws of the Association on _____, _____, and that the same do now constitute the Bylaws of the Association.

Dated: _____ Secretary: _____

EXHIBIT "C"

1. Mandatory Procedures for Non-Exempt Claims. Any Claimant with a Claim against a Respondent shall comply with the following procedures.

1.1 Notice. Within a reasonable time after the Claim in question has arisen, and in each event prior to the date when institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitation, Claimant will notify Respondent in writing of the Claim (the "Notice"), stating plainly and concisely:

1.1.1 The nature of the Claim, including applicable date, time, location, persons involved, Respondent's role in the Claim and the provisions of the Declaration or other authority out of which the Claim arises:

1.1.2 what Claimant wants Respondent to do or not do to resolve the Claim; and

1.1.3 that Claimant wishes to resolve the Claim by mutual agreement with Respondent and is willing to meet in person with Respondent at a mutually agreeable time and place to discuss, in good faith, ways to resolve the Claim.

1.2 Negotiation.

1.2.1 Each Claimant and Respondent (the "Parties") will make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation, not later than 30 days following the Notice, unless otherwise agreed by the Parties.

1.2.2 Upon receipt of a written request from any Party, accompanied by a copy of the Notice, the Board may appoint an attorney licensed to practice law in the State of South Carolina to assist the Parties in resolving the dispute by negotiation, if in its discretion it believes his or her efforts will be beneficial to the Parties. Such an attorney will have been actively engaged in the practice of law for at least fifteen (15) years, specializing in commercial transactions with substantial experience in planned real estate developments and will not have a conflict of interest with any of the Parties.

1.3 Final and Binding Arbitration.

1.3.1 If the Parties do not resolve the Claim through negotiation within 30 days of the date of the Notice (or within such other period as may be agreed upon by the Parties) ("Termination of Negotiation"), a Claimant will have 30 days within which to submit the Claim to binding arbitration under the auspices and the Commercial Arbitration Rules of the American Arbitration Association; and in accordance with the substantive and procedural laws of the state of South Carolina, except as said rules, procedures and substantive laws are applied otherwise as follows:

(a) Unless the parties mutually set another date, within ten (10) days following Termination of Negotiation, Claimant and Respondent will jointly select one arbitrator, whose decision will be absolutely binding on all Parties; provided, however, if Claimant and Respondent are unable to jointly select one arbitrator within said ten (10)-day period, or on or before any later day set by them by which to select an arbitrator, the arbitrator will be selected in accordance with the Commercial Arbitration Rules of the American Arbitration Association. The arbitration will be conducted in Charleston, South Carolina before a neutral person who is a member of the Bar of the State of South Carolina, who has been actively engaged in the practice of law for at least fifteen (15) years, specializing in commercial transactions with substantial experience in planned real estate developments, and who has no conflict of interest with any Party. The arbitrator may award any remedy or relief that a court of the State of South Carolina could order or grant, including, without limitation, specific performance of any obligation created under this Declaration, or the issuance of an injunction, as well as the imposition of sanctions for abuse or frustration of the arbitration process; provided, however, the arbitrator will have no authority to award punitive damages or any other damages not measured by the actual damages of the "Prevailing Party," as said term is hereinafter defined, and may not, in any event, make any ruling, finding or award that does not conform to the terms and conditions of this Declaration.

(b) In the event Claimant does not submit the Claim to binding arbitration as aforesaid, the Claim is deemed abandoned, and Respondent is released and discharged from any and all liability to Claimant arising out of the Claim; provided, nothing herein will release or discharge Respondent from any liability to a person not a Party to the foregoing proceedings, or the mandatory requirements of this Paragraph 14.3 with respect to any subsequently arising new

dispute or claim by the Claimant which is identical or similar to the Claim previously deemed abandoned under this Paragraph 1.3.1(b).

This Paragraph 1 is an agreement of the Bound Parties to arbitrate all Claims against Respondent, except Exempt Claims, and is specifically enforceable under South Carolina law. The arbitration award (the "Award") is final and binding on the Parties, and judgment upon the Award rendered by the arbitrator may be entered upon it in any court of competent jurisdiction.

2. Allocation of Costs of Resolving Claims.

2.1 Costs of Notice and Negotiation. Each Party will bear all of its own costs incurred prior to and during the proceedings described in Paragraphs 1.1 and 1.2, including the fees of its attorney or other representative. Claimant and Respondent will share equally the costs and expenses of any attorney appointed by the Board pursuant to Paragraph 1.2, whose compensation will be at a rate equal to his or her then current regular hourly billing rate, unless the Board is able to arrange with the Parties and the arbitrator to agree otherwise, and who will be entitled to receive his or her then customary costs and expenses.

2.2 Arbitration Costs. In the event the Claim proceeds to arbitration pursuant to Paragraph 1.3, the "Prevailing Party," as hereinafter defined, will receive from the non-Prevailing Party, all of its costs and expenses, including reasonable expert and attorney's fees, incurred from commencement of selection of the arbitrator under Paragraph 1.3 to the issuance of the Award. Furthermore, the non-Prevailing Party will pay all costs and expenses of the arbitration, including the costs and expenses of any attorney appointed by American Arbitration Association pursuant to Paragraph 1.3, whose compensation will be at a rate equal to his or her then current regular hourly billing rate, unless the American Arbitration Association is able to arrange with the Parties and the arbitrator to agree otherwise, and who will be entitled to receive his or her then customary costs and expenses. The "Prevailing Party" will be determined as follows:

2.2.1 Not less than ten (10) days prior to the first day of the proceeding, a Party or Parties may file and serve on the other Party(ies) an offer of settlement, and within five (5) days thereafter the Party(ies) served may respond by filing and serving such Party(ies) its own offer of settlement. An offer of settlement will state that it is made under this paragraph and will specify the amount which the Party(ies) serving the settlement offer is/are willing to agree constitutes a settlement of all claims in dispute, including the Claim and all counterclaims.

2.2.2 An offer of settlement is considered rejected by the recipient unless an acceptance, in writing, is served on the Party(ies) making the offer prior to the first day of the proceeding.

2.2.3 If an offer of settlement is rejected, it may not be referred to for any purpose in the proceeding, but may be considered solely for the purpose of awarding fees, costs and expenses of the proceeding under Paragraph 1.3 and as provided in this section.

2.2.4 If the Claimant makes no written offer of settlement, the amount of the Claim made or asserted by the Claimant during the action is deemed to be such Claimant's final offer of settlement hereunder.

2.2.5 If the Respondent makes no written offer of settlement, the final offer of settlement by the Respondent will be the amount asserted during the action to be due in satisfaction of the Claimant's claims, otherwise the Respondent's offer of settlement hereunder is deemed to be zero.

2.2.6 If the respondent asserts a counterclaim, then offers of settlement shall take into consideration such counterclaim in the manner above provided. Furthermore, any Award shall also take into account such counterclaim.

2.2.7 The Party(ies) whose offer, made or deemed made, is closer to the Award granted in the proceeding is considered the "Prevailing Party" hereunder. If the difference between Claimant's and Respondent's offers and the Award is equal, neither Claimant nor Respondent is considered to be the Prevailing Party for purposes of determining the award of fees, costs and expenses of arbitration.

3. Enforcement of Resolution. If the Parties agree to resolve any Claim through negotiation in accordance with Paragraph 1.2 and any Party thereafter fails to abide by the terms of the agreement reached through negotiation, or if, following arbitration, any Party thereafter fails to comply with the Award, then any other Party may file suit or initiate

administrative proceedings to enforce the agreement or Award without the need to again comply with the procedures set forth in Paragraph 14.3. In such event, the Party taking action to enforce the agreement or Award is entitled to recover from the noncomplying Party (or if more than one noncomplying Party, from all the Parties jointly and severally) all costs incurred in enforcing the agreement or Award, including, without limitation, attorney's fees and court costs.

SCHEDULE I MINIMUM SQUARE FOOTAGE OF LIVING SPACE

Phase I Lot#		Minimum Sq. Ft.
1	1800	Unless otherwise approved by ARB, but not below 1600 (I)
2	1800	Unless otherwise approved by ARB, but not below 1600
3	1800	Unless otherwise approved by ARB, but not below 1600
4	1800	Unless otherwise approved by ARB, but not below 1600
5	1800	Unless otherwise approved by ARB, but not below 1600
6	1800	Unless otherwise approved by ARB, but not below 1600
7	1800	Unless otherwise approved by ARB, but not below 1600
8	1800	Unless otherwise approved by ARB, but not below 1600
9	1800	Unless otherwise approved by ARB, but not below 1600

Phase II Lot#		Minimum Sq. Ft.
1	1800	Unless otherwise approved by ARB, but not below 1600
2	1800	Unless otherwise approved by ARB, but not below 1600
3	1800	Unless otherwise approved by ARB, but not below 1600
4	1800	Unless otherwise approved by ARB, but not below 1600
5	1800	Unless otherwise approved by ARB, but not below 1600
6	1800	Unless otherwise approved by ARB, but not below 1600
7	1800	Unless otherwise approved by ARB, but not below 1600
8	1800	Unless otherwise approved by ARB, but not below 1600
9	1800	Unless otherwise approved by ARB, but not below 1600
10	1800	Unless otherwise approved by ARB, but not below 1600
11	1800	Unless otherwise approved by ARB, but not below 1600
12	1800	Unless otherwise approved by ARB, but not below 1600
13	1800	Unless otherwise approved by ARB, but not below 1600
14	1800	Unless otherwise approved by ARB, but not below 1600
15	1800	Unless otherwise approved by ARB, but not below 1600
16	1800	Unless otherwise approved by ARB, but not below 1600
17	1800	Unless otherwise approved by ARB, but not below 1600
18	1800	Unless otherwise approved by ARB, but not below 1600
19	1800	Unless otherwise approved by ARB, but not below 1600
20	1800	Unless otherwise approved by ARB, but not below 1600
21	1800	Unless otherwise approved by ARB, but not below 1600

(I) The ARB may, but shall not be required to allow the square footage of a Dwelling to be less than the stated minimum, but not below 1600 square feet, only upon good cause shown and upon the condition that architecturally the Dwelling appears, in the exercise of the ARB's judgment, to be more than 1800 square feet.

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

RONALD E. PRICE AND
DIANA R.B. PRICE

Plaintiffs

vs.

BELINDA FOX; DR. TROY WINN, DVM; DANNY L. GILBERT; JEFFREY SPELL, GARY FOX; METRO CONTRACTING; SARAH WINN; TROY WINN; AND ELIZABETH GILBERT; Individually, EAGLE HARBOR, INC. and INVESTERS TITLE INSURANCE COMPANY;

Defendants.

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO. 04-CP-08-1855

SECOND AMENDED COMPLAINT
(Jury Trial Demanded)
Professional Negligence, Negligent Development Fraud, Negligent Misrepresentation Unfair Trade Practices and Civil Conspiracy

D-Fox EXHIBIT 3
WITNESS
DATE: 5-4-2018
REPORTER: H. LANDRY

The Plaintiffs, Ronald E. Price and Diana R. B. Price complaining of certain acts committed by the above named Defendants, hereby allege as follows:

1. The Plaintiffs, Ronald E. Price and Diana R. B. Price (hereinafter the "Prices"), are residents of the County of Berkeley, State of South Carolina.

2. Upon information and belief, the Defendant Belinda Fox, is a resident of the County of Berkeley and was the prior owner of Lot 20, Eagle Harbor, Phase II, Tax Map # 194-00-02-122, and also a developing partner in that certain residential development and joint enterprise known as Eagle Harbor, Phases I, II and III.

3. Upon information and belief, the Defendants Gary Fox, Sarah Winn, Dr. Troy Winn, and Elizabeth Gilbert are all citizens and residents of the County of Berkeley, State of South Carolina, and all served and participated at all relevant times here to as developing partners in that certain residential development and joint enterprise known as Eagle Harbor, Phases I, II and III.

CERTIFIED TRUE COPIES OF RECORD
IN THIS COUNTY
Mary P. Brown 10am
DATE 12/21/16
CLERK OF COURT, C.P.& G.S
BERKELEY COUNTY, SC

4. Upon information and belief, the Defendant Eagle Harbor, Inc., is a South Carolina non-profit Corporation, licensed do business and in fact doing business in the County of Berkeley, State of South Carolina, where it engages in, among other things, the business of Residential Development, and in particular, served in concert with, and as a principal and/or partner in, that certain residential development and joint enterprise known as Eagle Harbor, Phases I, II and III.

5. Upon information and belief, the Defendant Metro Contracting, is a SC Corporation licensed to do business and in fact doing business in the County of Berkeley, State of South Carolina, and in particular, served in concert with, and as a principal and partner in, that certain residential development and joint enterprise know as Eagle Harbor, Phases I, II, and/or III.

6. Upon information and belief, the Defendant, Danny L. Gilbert, is a citizen and resident of the County of Berkeley, State of South Carolina, and at all times relevant hereto, acted as a principal, developer, agent and owner of Eagle Harbor, Inc., and also as an agent, principal and partner, along with said Defendants Dr. Troy Winn, DVM, Gary Fox, Troy Winn, Elizabeth Gilbert, Metro Contracting, Eagle Harbor, Inc., and Jeff Spell in that certain residential development and joint enterprise known as Eagle Harbor, Phases I, II and III.

7. Upon information and belief, the Defendant Jeffrey Spell, was at all pertinent times hereto an attorney licensed to do business and in fact doing business in the County of Berkeley, State of South Carolina, where he concentrated his practice in the area of residential real estate closings, particularly with respect to properties located within the Development known as Eagle Harbor, Phases I, II and III.

8. Notwithstanding Defendant Jeffrey Spell's representation of buyers at closings involving the purchase of residential properties within said Eagle Harbor, Phases I, II and III, it is alleged, upon information and belief, that at all times pertinent hereto, he also acted in the capacity as an agent principal and partner, along with said Defendants Gary Fox, Troy Winn, Elizabeth Gilbert,

Metro Contracting, Danny L. Gilbert and Eagle Harbor in the residential development and joint enterprise known as Eagle Harbor, Phases I, II and III.

9. Notwithstanding the fact of the incorporation of the business known as Eagle Harbor, Inc., your Plaintiff is informed and believes that the Defendant Corporate Officers Danny Gilbert and Elizabeth Gilbert should be found to be personally, jointly and severally liable for the injuries and damages outlined herein below, due to their having operated the business of Eagle Harbor, Inc., as their alter ego, and otherwise due to those other factors justifying the piercing of the Corporate Veil under current South Carolina Jurisprudence.

10. As is more specifically alleged hereunder, Plaintiffs are informed and believes that the Defendants Gilbert, along with Defendants Fox, Winn, Spell and Eagle Harbor Inc., conspired with one another and/or others, as well as participated in, authorized, ordered, directed, and perpetuated the tortuous acts against the Plaintiffs, as more specifically alleged hereunder,

11. As common partners in that certain joint enterprise and development known as Eagle Harbor, Phases I, II and III, it is alleged that each Defendant named above is jointly and severally responsible for the tortuous acts committed against the Plaintiffs, as more specifically alleged hereunder.

12. Upon information and belief, Investors Title Insurance Company is a North Carolina title insurance company insuring title risks in the County of Berkeley, State of South Carolina, and did in fact issue an owner's policy with respect to the lot purchased by the Plaintiffs that constitutes the subject of this action, that lot lying and being in the County of Berkeley, State of South Carolina, and being more particularly described as lot 20, located in Eagle Harbor Subdivision, Phase II.

13. It appears that the parties hereto, and the things and matters alleged herein are all within the jurisdiction of this Honorable Court, and that venue is proper.

14. On or around September 13, 2003, the Prices entered into an Agreement to Buy and Sell (hereinafter "Agreement") to purchase certain property located within Eagle Harbor, Phase II, Lot 20, with the seller of that individual lot being Defendant Fox, wherein the Defendant, Gilbert serving in both his individual capacity and as the agent for that certain Defendant, Eagle Harbor, also acted on behalf of, as agent for, in concert with, and in fact signed that "Agreement" on behalf of Defendant, Fox, and for the other Defendant partners in the Development.

15. The aforesaid Agreement, a copy of which is attached hereto as Exhibit A, provided for the Prices to buy property from the Defendant Fox upon certain terms and conditions as set forth in the contract.

16. The Agreement provided in pertinent part: "Developer agrees to allow subdividing of the property into 2 separate lots, with possibility of 3 upon approval of Homeowners Association." (Agreement, para. 8(I).)

17. During negotiations for the property up through the closing, the Defendants Danny L. Gilbert, Belinda Fox, Attorney Jeff Spell and Eagle Harbor, Inc., acting individually, and as principals and agents for the other Defendant partners in the joint enterprise, continually represented that the property being sold to your Plaintiffs could be subdivided into at least two separate lots.

18. Prior to selling the property to the Prices, all the Defendants knew or should have known that the property could not be subdivided because it did not meet the minimum requirements imposed by DHEC for a septic tank system.

19. Further, at all times pertinent hereto and as an inducement to Plaintiffs to enter into the "Agreement", it is alleged that Defendants led your Plaintiffs to believe that they were purchasing property in a gated, restricted community with private, well maintained roadways, a valid homeowner's association, and associated covenants, restrictions, architectural guidelines and other

benefits confirmed by the same, which would enhance the value of the subject property being purchased by them, and otherwise provide for amenities and services not otherwise available in a neighborhood without the same benefits.

20. Upon information and belief, Attorney Jeff Spell, presumably acting as the closing agent for the Plaintiffs Price and charged with the duty of fully examining title on behalf of Plaintiff purchasers, knew or should have known both in his professional capacity and as a partner in Defendants' certain joint enterprise that the property could indeed not be subdivided and that your Plaintiffs were not actually purchasing the property they had bargained for, a gated, restricted community with private, well maintained roadways, a valid homeowner's association, and associated covenants, restrictions, architectural guidelines and other benefits confirmed by the same

21. After entering into that purchase agreement and thereafter closing on the property, Plaintiffs later came to discover to their amazement that although an attempt had been made to give the appearance that such covenants, restrictions, bylaws, ARK guidelines and, a valid homeowners association existed, it appears that these neighborhood amenities were never created and the record notice documents evidencing theses amenities were instead a sham, because no Declaration of Covenants and Restrictions had been properly filed with respect to Phase II of the Development prior to the closing. Further, it appears that Defendant Eagle Harbor, Inc., never specifically owned the properties composing the development, and thus never had the authority to set up the homeowner's association and other amenities so reflected in the record notice documents.

FOR A FIRST CAUSE OF ACTION

(Fraud)

22. The Plaintiffs repeat and reallege the matters set forth in the preceding paragraphs as fully as if said matters were set forth herein verbatim.

23. The Defendants made the following express and implied representations to your Plaintiffs, to wit:

a) That the property could be subdivided into at least two separate lots; and

b) That your Plaintiffs were purchasing property in a gated, restricted community with private, well maintained roads, a valid homeowner's association, and associated covenants, restrictions, architectural guidelines and other benefits conferred by the same, which would enhance the value of the subject property being purchased by them, and otherwise provide for amenities and services not otherwise available in a neighborhood without the same benefits.

24. The aforesaid representations by the Defendants were false.

25. The aforesaid representations were material to the Prices' decision to purchase the property.

26. The Defendants knew that the representations made by them were false, and the Defendants made the representations with the reckless disregard for the truth.

27. The Defendants intended that the aforesaid representations be acted upon.

28. The Defendants has a pecuniary interest in making the representations as aforesaid;

29. The Plaintiffs did not know that these representations were false and the Plaintiffs relied on the representations by the Defendants and in deciding to purchase the property.

30. The Plaintiffs had a right to rely on the representations concerning the property, particularly since the representations were specifically stated in the Agreement, the existence of a valid declaration of covenants and restrictions had been excepted to in the title policy issued by Jeff Spell, and these facts were material to your Plaintiff's decision to purchase the property.

31. As a direct and proximate result of the aforesaid fraudulent representations made by the Defendants, which were false, and due to such representations being willful, wanton, and with the reckless disregard for the rights of the Plaintiffs, and the Plaintiffs have incurred actual damages in

excess of $50,000 and are entitled to incidental and consequential damages, as well as and punitive damages in an amount to be determined by the Jury.

FOR A SECOND CAUSE OF ACTION

(Negligent Misrepresentation)

32. The Plaintiffs repeat and reallege the matters set forth in the preceding paragraphs as fully as if said matters were set forth here verbatim.

33. The Defendants made false representations to the Plaintiffs concerning the ability to subdivide the property.

34. The Defendants had a pecuniary interest in making the false statements to the Plaintiffs.

35. The Defendants owed a duty of due care to the Plaintiffs to provide truthful information to the Plaintiffs.

36. The Defendants breached the duty by failing to exercise due care in making knowingly false representations concerning the ability to subdivide the property.

37. The Plaintiffs justifiably relied on the representations by the Defendants concerning the ability to subdivide the property.

38. As a direct result of the negligent misrepresentations by the Defendants, which were grossly negligent, willful, wanton and with reckless disregard for the rights of the Plaintiffs, the Plaintiffs have incurred actual damages in excess of $50,000 and are entitled to incidental and consequential damages, and punitive damages, in an amount to be determined by the Jury in this cause.

FOR A THIRD CAUSE OF ACTION

(Unfair Trade Practices)

39. The Plaintiffs repeat and reallege the matters set forth in the preceding paragraphs as fully as if said matters were set forth here verbatim.

40. The Defendants' false representations as outlined above constitute the unfair and/or deceptive acts or practices in the conduct of trade or commerce in violation of S.C. Code Ann. § 39-5-10, et. seq., South Carolina Unfair Trade Practices Act.

41. The Defendants' conduct affects the public interest by misrepresenting what is being purchased versus what is actually being provided.

42. The Defendants' conduct is capable of being of repeated and in fact has been repeated.

43. The Defendants' misrepresentations were willful, knowing, and with total disregard for the rights of the Plaintiffs and other members of the public.

44. As a direct and proximate result of the Defendants' actions described above, the Plaintiffs have suffered actual damages, and are entitled to an award of treble damages, costs, and attorney's fees as this Court may deem appropriate.

FOR A FOURTH CAUSE OF ACTION

(Civil Conspiracy)

45. The Plaintiffs repeat and reallege the matters set forth in the preceding paragraphs as fully as if said matters were set forth here verbatim.

46. Upon information and belief, your Plaintiffs allege that all of the Defendants acted together and in concert in making the above described representations, all working together toward the injuries and damages suffered by your Plaintiffs.

47. Plaintiffs, upon information and belief, allege that the Defendants, so acting together, all acted for the specific purpose of injuring your Plaintiff so that they (the Defendants) might realize economic gain at your Plaintiff's expense.

48. Plaintiff has suffered special damages and other damages as heretofore alleged as a result of the conspiratorial actions of the Defendants.

49. That to the extent that the Defendants acted willfully, wantonly, and/or with reckless disregard for the rights of your Plaintiffs and for the purpose of injuring them for their own profiteering, your Plaintiffs are informed and believe that they are entitled to an award of punitive damages in an appropriate amount to be determined by the jury in this cause.

FOR A FIFTH CAUSE OF ACTION AS TO THE DEFENDANT JEFF SPELL

(Professional Negligence)

50. The Plaintiffs repeat and reallege the matters set forth in the preceding paragraphs as fully and completely as though said matters were set forth herein verbatim.

51. Defendant Attorney Jeffrey Spell, acting in his capacity as the residential closing attorney with respect to the purchase of property by the Plaintiffs, owed your Plaintiffs a duty of due care in the handling of all matters related to that closing.

52. As an attorney licensed to practice in the State of South Carolina, with a practice emphasis in the area of residential loan closings, Defendant Spell was required to exercise that minimum degree of care normally attributed to an attorney holding himself out as one with a practice emphasis in residential closing transactions.

53. Defendant Jeff Spell violated the minimum degree of care, and otherwise breached his duty of due care to your Plaintiffs, acting negligently, willfully, wantonly, and with reckless disregard for the rights of your Plaintiffs, in one or more of the following ways, to wit:

a) By representing to the Plaintiffs and otherwise leading them to believe that he was representing their interest at closing when in fact he was not; thereby effectively preventing your Plaintiffs from seeking effective counsel in the closing of the underlying transaction;

b) By failing to properly disclose his representation of the Sellers and Developers with respect to the closing on the property purchased by your Plaintiffs until several months after the

closing, thereby effectively preventing your Plaintiffs from seeking effective counsel in the closing of the underlying transaction;

c) By failing to advise your Plaintiffs and proffering a consent to duel representation at or before closing in such a timely manner that Plaintiffs could be assured that their interest had been adequately protected;

d) By failing to properly review the record title documents in such a meaningful way that Plaintiffs could be properly informed that they were not indeed purchasing a property in a private community with well maintained roads, a valid homeowner's association, and associated covenants, restrictions, architectural guidelines and other benefits conferred by the same;

e) By failing to take proper exception to the invalidity of the declaration of covenants and restrictions in both the owners and/or mortgage title policies so as to put Plaintiffs on notice that the property purchased by them was not in a private community with well maintained roads, a valid homeowner's association, and associated covenants, restrictions, architectural guidelines and other benefits conferred by the same;

f) Notwithstanding the failure of properly taking exception to the invalidity of the declaration of covenants and restrictions pertaining to the property, by failing to properly advise your clients of said invalidity of those documents purportedly filed of record;

g) By failing to disclose to your Plaintiffs all other information relevant to the purchase of the subject property of which he knew or should have been aware, and in particular, the utter unsuitability of the property for subdivision as had been contemplated in the original agreement to buy and sell real estate;

h) By not attending the closing and instead allowing another attorney or individual with whom he associated to represent the Plaintiffs interest at closing, whom did not have the requisite skill,

knowledge and other information vital to the Plaintiffs in their decision to purchase the subject property; and

i) By not advising your Plaintiffs of the availability and advisability of obtaining additional title coverage for subdivision related title issues.

j) By otherwise failing to exercise that minimum degree of skill, diligence and competence necessary and proper given the circumstances then and there prevailing.

54. As a direct result of the negligent, careless, reckless, willful and wanton actions and inactions of the Defendant Spell, as aforesaid, your Plaintiffs have been injured in the following respects, to wit:

a) Plaintiffs have lost value to their property which would not have otherwise been purchased if it were not for the actions and inactions of said Defendant Spell;

b) Plaintiffs have been prevented from subdividing their property as contemplated, and therefore have lost the ability they had bargained for to sell individual tracts within the lot purchased by them;

c) Plaintiffs have lost the use of their property by virtue of the fact that a portion of their parcel constitutes wetlands and is restricted in use;

d) Plaintiffs have been made to incur interest carrying charges and other refinancing costs associated with their underlying financial obligation for property that they would not have purchased were it not for the actions and inactions of Defendant Spell,;

e) Such other and further damages as might be determined by the Jury in this Cause.

55. That to the extent that the Jury in this cause finds that Defendant Spell's actions and inactions were reckless, willful and/or wanton, as previously alleged, your Plaintiffs believe that they are entitled to an appropriate award of punitive damages.

FOR A SIXTH CAUSE OF ACTION AS TO ALL DEFENDANTS

(Negligent Development)

56. The Plaintiffs repeat and reallege the matters set forth in the preceding paragraphs as fully and completely as though said matters were set forth herein verbatim.

57. As developers of the subdivision in which Plaintiffs' property was purchased, all Defendants owed to your Plaintiffs a duty to use due care in the development of Eagle Harbor.

58. All Defendants breached their duty of due care properly owing to your Plaintiffs in one or more of the following ways, to wit:

a) By failing and refusing to comply with state, federal and local rules and regulations pertaining to the subdivision of residential property;

b) By selling the subject lot to your Plaintiffs before obtaining requisite county and state regulatory approvals and/or obtaining the requisite encroachment permits such that Plaintiffs were extremely delayed in their ability to improve the property and to use the same for its purposes.

c) By failing and refusing to obtain the requisite granting of easements and other conveyances before subdivision of the property so as to ensure the creation and perpetual maintenance of a properly gated, restricted community with private, well maintained roads, a valid homeowner's association, and associated covenants, restrictions, architectural guidelines and other benefits conferred by the same, which would enhance the value of the subject property being purchased by them, and otherwise provide for amenities and services not otherwise available in a neighborhood without the same benefits.

d) By failing and refusing to ensure the proper creation of a valid homeowners association so as to generate homeowner's dues vital for the preservation and maintenance of the private roads, common areas and drainage easements located within the subdivision;

e) By failing and refusing to obtain necessary wetlands studies before development so as to prevent illegal subdivision and innocent individual encroachment on federally protected wetlands;

f) By encumbering with mortgages and other financial obligations property intended for the common use and enjoyment of the residents purchasing property within the subdivision;

g) By failing and refusing to disclose to your Plaintiffs the latent defects and other problems connected with the subdivision so as to put your Plaintiffs on notice of the dangers they would be assuming by purchasing property so negligently developed by Defendants;

h) By creating the appearance that Plaintiffs were purchasing property within a properly gated, restricted community with private, and well maintained roads, a valid homeowner's association, and associated covenants, restrictions, architectural guidelines and other benefits conferred by the same, when in fact, Defendants knew or should have known that the same was simply not true;

i) By failing and refusing to properly advise your Plaintiffs through Defendants duly authorized representatives before closing that the lot being purchased by them was entirely unsuitable for subdivision, and in fact further deceiving Plaintiffs by representing that that their property could be subdivided when Defendants knew or should have known at the time of the Plaintiffs' purchase that this representation was wholly untrue;

j) By otherwise engaging in additional negligent, careless, reckless, willful and wanton acts and omissions in direct violation of the standard of care by developers to your Plaintiffs as may be found by the Jury.

k) That as a result of the negligent, careless, reckless, willful and wanton actions outlined hereinabove, Plaintiffs have been injured and damaged as heretofore alleged, and seeks an appropriate award for their actual and compensatory damages suffered in an amount to be determined by the Jury in this cause.

59. To the extent that the Jury in this cause finds that Defendants actions and inactions were reckless, willful and/or wanton, as previously alleged, your Plaintiffs believe that they are entitled to an appropriate award of punitive damages.

FOR A SEVENTH CAUSE OF ACTION AS TO THE DEFENDANT INVESTORS TITLE INSURANCE COMPANY

(Declaratory Judgment)

60. The Plaintiffs repeat and reallege the matters set forth in the preceding paragraphs as fully and completely as though said matters were set forth here verbatim.

61. Plaintiffs seek a declaratory judgment brought pursuant to S.C. Code Annotated Sections 15-53-10 *et seq,* whereby Plaintiffs seek this Court's declaration of whether Defendant Investor's Title Insurance Company has responsibility for covering the loss claimed by Plaintiffs under the either or both the Mortgage Title Insurance Policy and the Owners Title Policy issued at the closing with respect to the subject property, namely policy numbers OR-A-055849 and M-A 146678.

62. The Plaintiffs have brought certain claims for relief against the remaining Defendants in this cause touching and concerning, among other things, the defective recording of a declaration evidencing certain covenants and restrictions, the same not being excluded from coverage under the Defendant Investor's Title Insurance Coverage Statement.

63. Plaintiffs are informed and believe that this issue of coverage should be resolved by declaratory decision.

64. Plaintiffs allege that they will suffer irreparable harm if their cause seeking a declaratory judgment is not heard, as the underlying case and the question of coverage contain common questions of law and fact, and should as a practical matter be resolved in a simultaneous fashion.

65. Under the circumstances herein, there is a controversy of a justifiable nature between the parties, and your Plaintiffs are informed and believe that they are entitled to have the Court inquire

into these matters and issue a declaratory judgment determining the rights of the parties with respect to the question of coverage by Defendant Investors Title Insurance Company of America.

WHEREFORE, the Plaintiffs pray for judgment against the Defendants, jointly and severally, for actual damages in excess of $50,000, incidental, consequential, and punitive damages, treble damages, attorney's fees, interest, the costs of this action, and for such other and further relief as this Court or the Jury might deem just and proper; and

As to the Defendant Investors Title Insurance Company of America, for a judgment declaring whether or not coverage exists for the loss so suffered by the Plaintiffs, and in the case such coverage does exists, then for a determination of the monetary amount of coverage to be paid over to Plaintiffs and their mortgage lender in satisfaction of the respective owners' and mortgagee's policy.

CHELLIS & FRAMPTON, PA

By: _____

Michael D. Moore, Esquire
P.O. Box 430
Summerville, SC 29483
(843) 871-7765
ATTORNEYS FOR PLAINTIFFS
Dated: November 22, 2005

STATE OF SOUTH CAROLINA)
COUNTY OF BERKELEY)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO.: 04-CP-08-1855

RONALD E. PRICE and
DIANA R. B. PRICE,

Plaintiffs,

vs.

BELINDA FOX and
DANNY L. GILBERT,

Defendants.

CONSENT ORDER

FILED
2006 FEB -7 AM 11:18
CLERK OF COURT
BERKELEY COUNTY, S.C.

D Fox EXHIBIT 4
WITNESS
DATE: 5-4-2018
REPORTER: H. LANDRY

THIS MATTER came before me pursuant to the consent of the attorneys representing the above parties, in which G. Waring Parker of Chellis & Frampton desires to withdraw, without prejudice, Plaintiffs' Motion to file a second Amended Complaint by adding new parties.

Therefore, with the consent of the attorneys, G. Waring Parker, and Jay S. Masty:

1. Plaintiffs' Motion to file a second Amended Complaint is hereby withdrawn without prejudice; and

IT IS SO ORDERED.

R. Markley Dennis, Jr., Circuit Court Judge

January 27, 2006
Moncks Corner, South Carolina

I SO MOVE AND CONSENT:

G. Waring Parker, Esquire
Attorney for Plaintiffs

I CONSENT:

Jay S. Masty, Esquire
Attorney for Defendants

CERTIFIED TRUE COPIES OF RECORD
IN THIS COUNTY
Mary P Brownington
DATE 12/21/15
CLERK OF COURT, C.P.& G.S
BERKELEY COUNTY, SC

cc: WP 2706

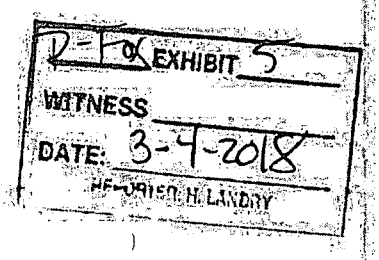
Exh. 6.7.5

JOSEPH W. GINN III
Attorney at Law
6 Carriage Lane, Suite A
Charleston, South Carolina 29407

Telephone (843) 571-0766 **Fax (843) 571-1225**

ginnlaw@btitelecom.net

December 21, 2006



#377

VIA COURIER

Steven L. Smith, Esquire
Smith & Collins, PA
7455 Cross County Rd., Suite 1
N Charleston, SC 29418

RE: Knight's Redi Mix v. Heritage Classic Homes, Inc., et al.
Case Number: 2004-CP-08-1150

Dear Mr. Smith:

Enclosed is a filed copy of Mr. Ginn's Notice of Appearance in the above matter.

Sincerely,

Jesikhaa L. Accordino
Certified Legal Assistant

cc: Mr. Ronald E. Price and Diana R.B. Price

STATE OF SOUTH CAROLINA)

COUNTY OF CHARLESTON)

) LEGAL REPRESENTATION AGREEMENT

THIS AGREEMENT ENTERED INTO this 8th day of December, 2006 by and between RONALD E. PRICE and DIANA R.B. PRICE (hereinafter referred to as "Client") and JOSEPH W. GINN, III (hereinafter referred to as "Attorney").

I. SCOPE OF EMPLOYMENT

1. Client has engaged Attorney to represent him/her in a matter involving Knight's Redi-Mix, Inc. v. Price, *et al*, 2004-CP-08-1150 and Price v. Fox *et al*, Case No. 2004-CP-08-1855, and all matters related thereto.

2. Client agrees to pay Attorney for the performance of such legal services and to pay for all expenses and costs incurred in the connection therewith, as specified in Section II below.

II. ATTORNEY'S FEES AND EXPENSES

3. Client does hereby agree to pay Attorney the sum of $200.00 per hour of time expended by Attorney. Client also agrees to pay immediately to Attorney an initial retainer of $5,000.00 as an advance against the Attorney's fees for services rendered in this matter. This initial retainer is to be applied toward the hourly fees accrued by Attorney. Client acknowledges that the initial retainer set forth above, will be a minimum fee and shall be non-refundable to the Client even in the event that the total fee for hours expended is less than the minimum fee. Client acknowledges that the amount of the original retainer set forth above in no way reflects Attorney's opinion of what the total cost of Attorney's legal representation will be, as Attorney cannot determine what Client's total costs and fees will be.

Time expended on Client's case by Attorney's paralegal/legal assistant will be billed to Client at the rate of $ -0- per hour.

4. Client authorizes Attorney to retain and agrees to pay the fees or charges of every other person or entity hired by Attorney to perform the necessary services related to the above matter. These fees or charges may include, but are not limited to: court reporters; appraisers; accountants; investigators; and, expert witnesses.

5. Client acknowledges that Attorney may incur various expenses in providing services to Client. Client agrees to reimburse Attorney for all out-of-pocket expenses paid or incurred by Attorney. Such expenses include, but are not limited to: charges for filing papers; courier or messenger services; recording and certifying documents; depositions; transcripts; investigations; witnesses; long distance telephone charges; photocopies, travel expenses; and, postage, etc. These costs will be billed to client on a monthly basis and shall be due from client upon receipt of the monthly bill.

6. The Attorney's fees mentioned above will be billed monthly to Client. Once the initial retainer has been exhausted, Client shall pay each monthly bill in full. When the initial retainer has been exhausted, Attorney may require additional retainer funds to be paid to cover anticipated fees and costs.

III. MISCELLANEOUS

7. This Agreement shall not include or apply to any matter on appeal, filed in any appellate Court in the State of South Carolina or in a Court of any other state. Should Client desire that Attorney represent him/her in any matter on appeal, this will be by separate fee agreement.

8. Client acknowledges that Attorney has made no promises or guarantees regarding the outcome of Attorney's representation.

9. Client agrees and does hereby bind his/her heirs, personal representatives and other legal representatives to the terms and conditions set forth herein.

I HAVE READ THIS CONTRACT AND AGREE TO ITS TERMS AND CONDITIONS.

THERE ARE NO OTHER AGREEMENTS, ORAL OR OTHERWISE, BETWEEN CLIENT AND ATTORNEY

JOSEPH W. GINN, III
ATTORNEY

CLIENT

CLIENT

LAW OFFICES OF

SIMONS & KEAVENY

147 WAPPOO CREEK DRIVE • SUITE 604 • CHARLESTON, SC 29412
TELEPHONE: (843) 762-9132 • FACSIMILE: (843) 406-9913

KEATING L. SIMONS, III klsimons@charlestonattorneys.net
THOMAS J. KEAVENY, II tjkeaveny@charlestonattorneys.net
DEREK FARRELL DEAN dfdean@charlestonattorneys.net
BOB J. CONLEY bjconley@charlestonattorneys.net

380

August 20, 2007

Ms. Diana Price
1104 Saddlehorn Road
Summerville, SC 29483

D. FOX EXHIBIT C
WITNESS
DATE: 5-4-2018
REPORTER: H. LANDRY

Re: Price vs. Fox, et al. and related matters

Dear Ms. Price:

Enclosed please find our statement for services rendered in the above referenced matter. Please send a check in the amount of $1,060, which is the $460 balance due plus $600 to bring your trust account back to the agreed upon $1,000 amount.

The enclosed statement has been prepared based upon our agreed hourly rates. If you have any questions or comments regarding this statement, please do not hesitate to contact me at the above number.

With kind regards, I remain

Sincerely yours,

Jule F. Simons

Jule F. Simons
Billing Administrator

/jfs
Enclosure

#380

August 20, 2015

Diana R.B. and Ronald E. Price
1104 Saddlehorn Rd.
Summerville, SC 29483

Re: Gilbert & Fox CA No.: 04-CP-08-1855

DISBURSEMENT STATEMENT

04/09/2009	Payment received from Defendant	$2,500.00
10/15/2009	Attorney's fees paid	-$2,000.00
Balance remaining for costs		$500.00
Costs:		
Berkeley Co. Clerk of Court / Motion fee 12/28/2010		-$25.00
Balance of funds held in trust transferred to the trust account of Tobias G. Ward, Jr., PA 05/19/2010		**$475.00**

- See Quick Books Statement #1747

#385

I certify that the foregoing is a true and accurate statement of the funds received and disbursed by Tobias G. Ward, Jr., PA.

Tobias G. Ward, Jr.

Dated: _____, 2015

August 20, 2015

Diana R.B. and Ronald E. Price
1104 Saddlehorn Rd.
Summerville, SC 29483

Re: Knights Ready Mix Concrete CA No.: 04-CP[illegible]117

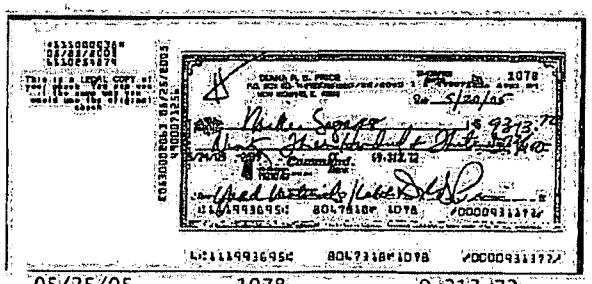
DISBURSEMENT STATEMENT

04/09/2009	Payment received from Defendant	$2,500.00
10/15/2009	Attorney's fees paid	-$2,000.00
Balance remaining for costs		$500.00
Costs:		
Berkeley Co. Clerk of Court / motion fee 07/08/2009		-$25.00
Berkeley County Sheriff / service fee 9/30/2009		-$15.00
UPS to Sheriff		-$17.35
Thompson Court Reporting 6/10/2010		-$150.00
Berkeley Co. Clerk of Court / motion fee 8/29/2010		-$25.00

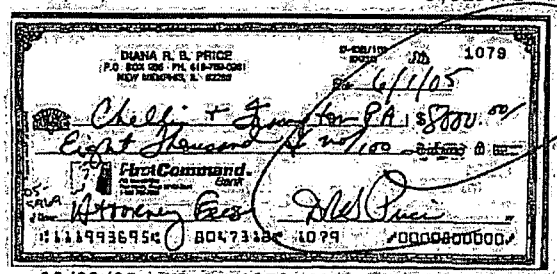
Balance of funds held in trust transferred to the trust account of
Tobias G. Ward, Jr., PA 05/19/2010 **$267.65**

- See Quick Books Statement #1745

I certify that the foregoing is a true and accurate statement of the funds received and disbursed by Tobias G. Ward, Jr., PA.



05/25/05 1078 9,313.72



06/03/05 1079 8,000.00

#158

D-FOX EXHIBIT 8
WITNESS
DATE: 3-4-2018
REPORTER: H. LANDRY

CONTRACT FOR LEGAL SERVICES

RONALD & DIANA PRICE, hereafter called " Clients" do hereby employ and retain CHELLIS & FRAMPTON, P.A., hereafter called " Attorneys" to represent Clients as legal counsel for all purposes in connection with that certain lawsuit involving the purchase of the property and construction of their home located at 1104 Saddlehorn Rd., Summerville, SC (Eagle Harbor II) on the following issues:

A. Complaint against Belinda Fox and Danny Gilbert relating to the purchase of the property (subdivision of property) for fraud, negligent misrepresentation, and unfair and deceptive trade practices,

B. All litigation and arbitration matters involving Danny Gilbert for construction of the home and breach of contract as a result of his failure to complete the home,

C. Defense of the mechanic's lien filed by Knight's Redi-Mix,

D. Look into legal responsibility of Lowcountry Title, Jeff Spell and Eagle Harbor.

TERMS OF REPRESENTATION:

1. Attorneys will devote their full professional abilities to this matter. Clients agree to fully cooperate with Attorneys. Neither party will settle the case without the other's approval. Attorneys may, in their absolute discretion, withdraw from the case (paragraph A only) if, after further investigation, the claim does not appear recoverable or if the Clients have not complied with the terms of this agreement. Notice of withdrawal shall be sent to the clients by mail and the clients shall receive the file within thirty (30) days of such notice of withdrawal. In the event of withdrawal, Attorneys shall not collect any fees for their services except for the $8,000.00 non-refundable fee.

2. Clients will pay Attorneys a non-refundable fee of $8,000.00 plus 15% of any settlement obtained in connection with the litigation/arbitration in paragraphs A, B, and C above. If appeal is taken, the case retried, or supplemental proceedings are initiated to collect the judgement, the fee shall be 25% of any settlement, judgement or verdict obtained. Clients will further pay all costs referred to in Paragraph 3 hereof.

IN THE EVENT OF NO RECOVERY, CLIENTS SHALL OWE ATTORNEYS NOTHING FOR SERVICES RENDERED (OTHER THEN THE $8,000.00 NON-REFUNDABLE FEE), BUT SHALL REIMBURSE THE ATTORNEYS FOR ALL COSTS AND EXPENSES ADVANCED.

3. Clients agree to pay all costs and expenses advanced for all court costs, deposition transcript expenses, long distance telephone calls, large copying costs handled by outside vendors, reports, witness statements, investigations, expert witness, preparation for trial of the case and all other out-of-pocket costs and expenses incurred in the pursuit of this matter. If recovery is made, Attorneys are authorized to deduct their fee and such costs from any proceeds recovered. ? (15% in Probate

4. The Clients recognize that Attorneys have the right to retain papers and other property given to them in the course of their representation. This lien attaches to not only papers and property given to the Attorney, but also to the Attorneys' work product and documents prepared or secured by the Attorneys in their preparation of litigation and/or other representation of Clients. The Clients also hereby grant to Attorneys, their successors or assigns, a charging lien applicable to any and all recoveries in all pending matters, whether by settlement, collection of a judgement, or otherwise. This assignment shall be forwarded to all counsel or parties, if unrepresented, to place them on notice of Attorneys' lien and assignment. Said adverse parties, adverse counsel or substitute counsel are hereby instructed and required to satisfy the charging lien from any settlement, collection of a Judgement, or otherwise.

5. CLIENTS ACKNOWLEDGE THAT ATTORNEYS HAVE MADE NO PROMISES OR GUARANTEES REGARDING THE OUTCOME OF CLIENTS' CLAIM.

6. Clients do hereby bind their heirs, executors, and legal representatives, successors, and assigns to the terms and conditions set forth herein.

7. After completion of the professional services, Attorneys agree to keep Clients' file for a period of one year, after which time the file may be returned to client, or destroyed by Attorneys unless Clients direct otherwise.

I HAVE READ THIS CONTRACT AND AGREE TO ITS TERMS AND CONDITIONS. THERE ARE NO OTHER ARRANGEMENTS, ORAL OR OTHERWISE BETWEEN CLIENTS AND ATTORNEYS. ANY MODIFICATION TO THIS AGREEMENT SHALL BE MADE IN WRITING AND SIGNED BY BOTH THE CLIENTS AND ATTORNEYS.

DATE: June 1, 2005

Ronald Price

Diana Price

Chellis & Frampton, P.A.

By: Michael D. Moore

June 3 – 3 calls to find out about
Correspondence to Scott

Jun 7 – Rec'd LTR to Scott

Jun 7 – Send Email
Jun 8 – ~~Appt cancelled~~
Answer to email
Jun 16 –
– Michael cancelled appt
Jun 17/19 – Email Rates to Mich

Jun 20 – ~~Mylle~~ Call about CNA, trying to
locate – will email me if got.
Jun 28 – Email – No Answer
Jul 5 – Email – No Answer
Jul 8 – Appt
Jul 11 – Email to follow-up
Jul 14 – (2) Calls (Lisa)
(Calls voice mail)

USAA FEDERAL SAVINGS BANK

FDIC INSURED

ACCOUNT NUMBER
287-3204-8
STATEMENT DATE
04/20/07

DIANA R BRZOZOWSKI PRICE
RONALD E PRICE
MSGT USAF RET
1104 SADDLEHORN RD
SUMMERVILLE SC 29483-2234

BALANCE LAST STATEMENT	NO. OF DEBITS PAID	TOTAL AMOUNT OF DEBITS PAID	NO. OF DEP.	TOTAL AMOUNT OF DEPOSITS MADE	SERVICE CHARGES	BALANCE THIS STATEMENT
3,251.39	24	18,681.58	8	19,162.57	.00	3,732.38

Please examine immediately and report if incorrect. If no report is received within 10 days, the account will be considered correct.

SEE WHERE YOUR CHILD STANDS ON THE YOUTH FINANCIAL PYRAMID.
TO FIND OUT, GO ONLINE TO USAA.COM, KEYWORD: PYRAMID.

FOUR STAR CHECKING

DEPOSITS AND OTHER CREDITS

DATE	AMOUNT	TRANSACTION DESCRIPTION
03/26	612.00	MAIL DEPOSIT
03/29	2,861.72	ACH CREDIT 033007 L3 COMMUNICATION REG SALARY XXX7034718 XXXX
03/30	1,067.00	ACH CREDIT 040207 US TREASURY 312 CIVIL SERV XXX325963 0XXXX
04/02	1,445.00	ACH CREDIT 040207 US TREASURY 312 CIVIL SERV XXX325963 0XXXX
04/05	277.62	MAIL DEPOSIT
04/12	2,898.85	ACH CREDIT 041307 L3 COMMUNICATION REG SALARY XXX7034718 XXXX
04/16	10,000.00	ACH CREDIT 041607 USAA SAV-INTRNT TRANSFER XXX3978522 XXXX
04/20	0.38	INTEREST PAID

CHECKS

DATE	CHECK NO	AMOUNT	DATE	CHECK NO	AMOUNT
04/03	1326	100.00	04/06	1336	1,496.49
03/26	1328*	329.32	04/12	1338*	168.00
03/27	1329	115.00	04/11	1339	44.40
04/02	1330	77.41	04/13	1340	127.00
03/27	1331	25.00	04/13	1341	355.89
03/27	1332	700.00	04/19	1343*	277.62
03/27	1333	1,682.61	04/18	1344	74.90
04/10	1335*	5.61	04/16	1345	10,000.00

OTHER DEBITS

DATE	AMOUNT	TRANSACTION DESCRIPTION
03/30	77.98	ACH DEBIT 033007 CHASE EPAY XXX333154 XXXX
04/02	73.00	ACH DEBIT 040207 BK OF AMER VI/MC ONLINE PMT XXX50071066XXXX

#396
Wed law

21 months @ 74.90 @ mo
= $1572.90

D-70 EXHIBIT 9
WITNESS
DATE: 3-4-2018
REPORTER: H. LANDRY

A. U.S. DEPARTMENT OF HOUSING & URBAN DEVELOPMENT

SETTLEMENT STATEMENT

B. TYPE OF LOAN: 1. [ ] FHA 2. [ ] FmHA 3. [X] CONV. UNINS. 4. [ ] VA 5. [ ] CONV. INS.

6. FILE NUMBER: 1027099

7. LOAN NUMBER: 411198721

8. MORTGAGE INS CASE NUMBER:

C. NOTE: *This form is furnished to give you a statement of actual settlement costs. Amounts paid to and by the settlement agent are shown. Items marked "(POC)" were paid outside the closing; they are shown here for informational purposes and are not included in the totals.*

1.0 3/98 (1027099.PFD/1027099/28)

D. NAME AND ADDRESS OF BORROWER:
Ronald E. Price and
Diana R.B. Price
1104 Saddlehorn Road
Summerville, SC 29483

E. NAME AND ADDRESS OF SELLER:

D-T-OX EXHIBIT 10
WITNESS
DATE: 3-4-2018
REPORTER: H. LANDRY

F. NAME AND ADDRESS OF LENDER:
USAA First Mortgage Division
10750 McDermott Freeway
San Antonio, TX 78288

G. PROPERTY LOCATION:
1104 Saddlehorn Road
Summerville, SC 29483
Berkeley County, South Carolina

H. SETTLEMENT AGENT: 56-2468956
LSI

PLACE OF SETTLEMENT
700 Cherrington Parkway
Coraopolis, PA 15108

I. SETTLEMENT DATE
January 4, 2005
Disburse:01/10/05

J. SUMMARY OF BORROWER'S TRANSACTION		K. SUMMARY OF SELLER'S TRANSACTION	
100. GROSS AMOUNT DUE FROM BORROWER:		400. GROSS AMOUNT DUE TO SELLER:	
101. Contract Sales Price		401. Contract Sales Price	
102. Personal Property		402. Personal Property	
103. Settlement Charges to Borrower (Line 1400)	2,904.96	403.	
104. Mortgage Payoff to National City Mortgage/2884636	263,548.63	404.	
105. Mortgage Payoff			

RONALD E PRICE
DIANA R PRICE
1104 SADDLEHORN RD
SUMMERVILLE SC 29483

261,700
- 263,548
1848.63

$2904.96
+ 1848.63
$4753.59

LOAN NUMBER: 2884636
REQ BY AOJ

Cost to refinance
$996.41 pd at Closing
$4310

IF YOU HAVE QUESTIONS ABOUT THIS STATEMENT, PLEASE CALL OUR CUSTOMER SERVICE TEAM AT 1-800-822-5626. IF YOU ARE INTERNET ACTIVE, VISIT US AT WWW.NATIONALCITYMORTGAGE.COM.

****

CURRENT ACCOUNT INFORMATION

DATE PAYMENT DUE	TOTAL PAYMENT AMOUNT	PRINCIPAL & INTEREST PAYMENT	LOAN INTEREST RATE	CURRENT PRINCIPAL BALANCE	ESCROW BALANCE
11-01-04	0.00	0.00	5.25000	0.00	0.00

****

ACTIVITY FOR PERIOD 01/01/03 - 04/19/05

PROCESS DATE	DUE DATE	TRANSACTION CODE	TRANSACTION DESCRIPTION	EFFECTIVE DATE OF TRANSACTION

TRANSACTION AMOUNT	PRIN. PAID/ BALANCE	INTEREST	ESCROW PAID/ BALANCE	OTHER AMOUNT	CODE/DESCRIPTION
04-15-05	00-00	307	ESCROW REFUND		
225.24-	0.00	0.00	225.24-		
			0.00		NEW PRINCIPAL/ESCROW BALANCES
01-25-05	00-00	601	MISC. CORPORATE DISBURSEMENT		
5.00	0.00	0.00	0.00		
01-18-05	11-04	181	PAID IN FULL		
0.00	261,700.00	3,755.87	225.24	265,681.11-	SUSPENSE
	0.00		225.24		NEW PRINCIPAL/ESCROW BALANCES
01-18-05	11-04	173	PAYMENT		
263,548.63	0.00	01291 0.00	0.00	263,548.63	SUSPENSE

01292

Diana R.B. Price
1104 Saddlehorn Road
Summerville, SC 29483

San Antonio TX 78258

G. PROPERTY LOCATION:
1104 Saddlehorn Road
Summerville, SC 29483
Berkeley County, South Carolina

H. SETTLEMENT AGENT: 56-2468956
LSI

PLACE OF SETTLEMENT
700 Cherrington Parkway
Coraopolis, PA 15108

I. SETTLEMENT DAT
January 4, 2005
Disburse:01/10/05

J. SUMMARY OF BORROWER'S TRANSACTION		
100. GROSS AMOUNT DUE FROM BORROWER:		
101. Contract Sales Price		
102. Personal Property		
103. Settlement Charges to Borrower (Line 1400)		2,904.96
104. Mortgage Payoff to National City Mortgage/2884636		263,548.63
105. Mortgage Payoff		
Adjustments For Items Paid By Seller in advance		
106. City/Town Taxes	to	
107. County Taxes	to	
108. Assessments	to	
109.		
110.		
111.		
112.		
120. GROSS AMOUNT DUE FROM BORROWER		266,453.59
200. AMOUNTS PAID BY OR IN BEHALF OF BORROWER:		
201. Deposit or earnest money		
202. Principal Amount of New Loan(s)		267,100.00
203. Existing loan(s) taken subject to		
204. Good Faith Deposit Credit		350.00
205.		
206.		
207.		
208.		
209.		
Adjustments For Items Unpaid By Seller		
210. City/Town Taxes	to	
211. County Taxes	to	
212. Assessments	to	
213.		
214.		
215.		
216.		
217.		
218.		
219.		
220. TOTAL PAID BY/FOR BORROWER		267,450.00
300. CASH AT SETTLEMENT FROM/TO BORROWER:		
301. Gross Amount Due From Borrower (Line 120)		266,453.59
302. Less Amount Paid By/For Borrower (Line 220)		(267,450.00)
303. CASH (X) FROM ( ) TO BORROWER		996.41

K. SUMMARY OF SELLER'S TRANSACTION		
400. GROSS AMOUNT DUE TO SELLER:		
401. Contract Sales Price		
402. Personal Property		
403.		
404.		
405.		
Adjustments For Items Paid By Seller in advance		
406. City/Town Taxes	to	
407. County Taxes	to	
408. Assessments	to	
409.		
410.		
411.		
412.		
420. GROSS AMOUNT DUE TO SELLER		
500. REDUCTIONS IN AMOUNT DUE TO SELLER:		
501. Excess Deposit (See Instructions)		
502. Settlement Charges to Seller (Line 1400)		
503. Existing loan(s) taken subject to		
504. Payoff First Mortgage		
505. Payoff Second Mortgage		
506.		
507.		
508.		
509.		
Adjustments For Items Unpaid By Seller		
510. City/Town Taxes	to	
511. County Taxes	to	
512. Assessments	to	
513.		
514.		
515.		
516.		
517.		
518.		
519.		
520. TOTAL REDUCTION AMOUNT DUE SELLER		
600. CASH AT SETTLEMENT TO/FROM SELLER:		
601. Gross Amount Due To Seller (Line 420)		
602. Less Reductions Due Seller (Line 520)		
603. CASH ( ) TO ( ) FROM SELLER		

Loan Nmbr: 0411198721
Borrowers: Ronald E Price
Diana R.B. Price

Printed on 01/25/2005 at 8:31 am
Address: 1104 Saddlehorn Road
Summerville, SC 29483-2234

Interest Rate 5.375 % Property Value $.00 Beginning Balance $267,100.00

Pymt	Monthly	Principal	Interest	Balance
1	1,495.68	299.30	1,196.38	266,800.70
2	1,495.68	300.64	1,195.04	266,500.06
3	1,495.68	301.98	1,193.70	266,198.08
4	1,495.68	303.34	1,192.34	265,894.74
5	1,495.68	304.69	1,190.99	265,590.05
6	1,495.68	306.06	1,189.62	265,283.99
7	1,495.68	307.43	1,188.25	264,976.56
8	1,495.68	308.81	1,186.87	264,667.75
9	1,495.68	310.01293	1,185.49	264,357.56

EXHIBIT 1
WITNESS
DATE 5-3-2018
REPORTER: H. LANDRY

CONFIDENTIAL SETTLEMENT AGREEMENT AND RELEASE

THIS CONFIDENTIAL SETTLEMENT AGREEMENT AND RELEASE ("Agreement") is made and entered into on the last date set forth on the signature pages below ("Effective Date"), by and between Investors Title Insurance Company ("Investors Title") and Ronald E. Price and Diana R.B. Price (the "Prices"). Collectively, Investors Title and the Prices shall be referred to as the "Parties."

RECITALS:

A. On or about December 3, 2003, Investors Title issued a Residential Title Insurance Policy to the Prices, policy number OR-A 055849 (the "Policy")(a full copy of which including the jacket is attached as Exhibit 1) covering that certain parcel of real property located in Berkeley County, South Carolina, commonly known as Lot 20 in the subdivision of Eagle Harbor and assigned TMS No. 194-00-02-122 (the "Property").

B. In or around March 2004, the Prices asserted a claim pursuant to the Policy, to which Investors Title assigned claim number 0600008 (the "Title Claim").

C. On or about February 22, 2007, the Prices filed a complaint against Investors Title concerning the Policy and the Title Claim, among other things, styled: *Ronald E. Price and Diana R.B. Price v. Investors Title Insurance Company*, Case No. 2007-CP-08-458, in the Ninth Judicial Circuit Court in and for Berkeley County, South Carolina (the "Civil Action").

D. On or about April 27, 2007, Investors Title filed its Answer and Affirmative Defenses (the "Answer") to the Civil Action.

E. The case was appealed to the Court of Appeals and by certiorari to the South Carolina Supreme Court which issued a remittitur and by order dated November 20, 2013 awarded costs to the Prices as Petitioners in the amount of $2,582.38. The parties acknowledge as a final judgment will not be rendered and the case was settled, that these costs will not be paid by Investors Title.

F. By virtue of this Agreement, the Parties desire to fully and completely resolve this matter in good faith, and settle any and all claims, defenses, and/or counterclaims that were asserted or that could have been asserted in the Civil Action and the Answer.

NOW, THEREFORE, in consideration of the premises and the mutual covenants of the Parties and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. **Recitations**. The above recitations are true and correct and are incorporated herein by this reference.

2. **Non-Admission of Liability**. Nothing in this Agreement shall constitute or be construed as an admission of liability on behalf of Investors Title or the Prices, their agents, affiliates, assigns, parents, successors, subsidiaries, and/or successors, or an admission as to the validity of the allegations in the Civil Action or the Answer.

1 of 15 pages

3. **Attorney Representation**. This Agreement is entered into voluntarily by the Parties who stipulate and agree that they are under no duress or undue influence. The Parties represent that in the execution of this Agreement, they consulted legal counsel who are signing this agreement and that the attorneys have reviewed this Agreement, made any desired changes and advised their respective clients with respect to the advisability of making the settlement and release provided herein and of executing this Agreement.

4. **Terms**. As full and final settlement of the Civil Action and the Answer, the Parties agree as follows:

a. Investors Title will pay to the Prices' attorney the sum of $125,000.00 upon receipt of the Agreement, fully and properly executed by the Prices and their counsel, by check made payable to Tobias G. Ward, Jr. P.A. It is expressly understood and agreed that the division of said funds (or lack thereof) between the Prices and their attorney shall in no way affect the validity or enforceability of this Agreement.

b. The Prices hereby agree and acknowledge that the payment described above shall be full payment under the Policy and that the Policy hereby is no longer in force or effect between the Parties.

c. Investors Title hereby waives any and all subrogation rights it would otherwise be entitled to pursuant to the terms of the Policy. Investors Tile expressly waives its rights under condition 7 of the Policy, "Transfer of your Rights" as shown on Exhibit 1 incorporated by reference. Specifically, the waiver of subrogation and transfer rights shall include but not be limited to the following civil actions now pending or previously pending in Berkeley County (Case No. 04-CP08-1855); (Case No. 04-CP-08-1150); (2014-CP-08-00052).

5. **Stipulation of Dismissal**. Counsel for the Parties shall execute the stipulation of dismissal with prejudice attached hereto as Exhibit 2, dismissing all claims, cross-claims, counterclaims, and defenses the Parties asserted or could have asserted in the Civil Action with prejudice.

6. **Release by the Prices.** Except as otherwise set forth in this Agreement, in consideration of Paragraph 4 herein and for other good and valuable consideration, the Prices hereby remise, release, acquit, satisfy, and forever discharge Investors Title, and Investors Title's officers, directors, contracted agents, servants, employees, successors, affiliates, shareholders, predecessors, insurers, administrators, and successors in interest (all of the foregoing persons and entities are hereinafter collectively referred to as the "Released Parties"), of and from all manner of action and actions, cause and causes of action, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, executions, claims, and demands whatsoever, in law or in equity (collectively "Released Claims"), which the Prices ever had, now have, or which any personal representative, successor, heir, or assign of the Prices hereafter can, shall, or may have against the Released Parties, for, upon, or by reason of any matter, cause, or thing whatsoever, to have been caused by any known or unknown act related to the Title Claim, the Policy, or the Civil Action and the allegations, transactions, facts, matters, occurrences, representations or

2815

claims alleged in the Civil Action. The release, discharge and/or covenant not to sue in this paragraph is specifically intended to include any and all causes of actions or claims, known or unknown whatever they might be, the Prices have, may have at any time in the future, or claim to have had against Investors Title, on any known or unknown act or conduct whatsoever involving or related to the Title Claim, the Policy, or the Civil Action and shall include any known or unknown past, present or future damage, loss or injury caused by or as a result of any known or unknown conduct, act or omission.

The parties expressly agree that the following persons or entities, and their heirs, successors and assigns, that are or may be part of litigation by the Prices in other cases (See Item 4(c)) are not included in this release and are not Released Parties: Danny Gilbert, Elizabeth Gilbert, Belinda Fox, Gerry Fox a/k/a Gerry D. Fox, Eagle Harbor, Inc., EHHOA, Inc., Troy L. Winn, Sarah C. Winn, Heritage Classic Homes, Inc., Metro Contracting, Inc. and Concerned Citizens of Eagle Harbor, Inc.

7. **Representations and Warranties**. The Prices represent and warrant to Investors Title that they have not assigned, hypothecated, or otherwise transferred any interest in the claims and causes of action resolved by this Agreement. The Prices further represent and warrant to Investors Title that they are not aware of any third party or organization that has asserted or may assert a claim or lien against the proceeds of the settlement memorialized by this Agreement.

8. **Entire Agreement**. This Agreement constitutes the sole and entire agreement between the Parties and supersedes all prior and contemporaneous statements, promises, understandings or agreements, whether written or oral.

9. **Partial Invalidity**. In the event that any provision of this Agreement is declared by any court of competent jurisdiction or any administrative judge to be void or otherwise invalid, all of the other terms, conditions and provisions of this Agreement shall remain in full force and effect to the same extent as if that part declared void or invalid had never been incorporated in the Agreement and in such form, the remainder of the Agreement shall continue to be binding upon the Parties.

10. **Survival**. All representations and warranties contained herein shall survive the execution and delivery of this Agreement, and the execution and delivery of any other document or instrument referred to herein.

11. **Applicable Law**. This Agreement shall be subject to and governed by the law of the State of South Carolina without regard to conflict of law rules.

12. **Costs**. Unless otherwise provided in this Agreement, the Parties have agreed to bear their own attorneys' fees and costs with respect to the Civil Action and the Answer, and the preparation of any and all documents necessary to enter into this Agreement. This includes any and all documents attached to this Agreement as Exhibits.

13. **Counterparts**. This Agreement may be signed and executed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one Agreement. Delivery of an executed counterpart of a signature page of this Agreement by

3 of 15

facsimile or email shall be effective as delivery of an originally executed counterpart of this Agreement.

14. **Tax Consequences**. The Prices and the Prices' Attorney acknowledge and agree that they are solely responsible for the payment of any and all federal, state, city or local taxes which might be due and owing as a result of any term contained in this Agreement. The Parties acknowledge that no tax advice has been offered or given by either party, their attorneys, agents, or any other representatives, in the course of these negotiations, and each party is relying upon the advice of its own tax consultant with regard to any tax consequences that may arise as a result of the execution of this Agreement. The parties acknowledge that the consideration paid by Investors Title under Item 4(a) is to settle the Prices' disputed claims concerning alleged defects in title. The Prices have been advised by a tax consultant that the payment will adjust the cost basis for the Prices in the property (less attorney's fees) to be reported at the time the Prices sell this property.

15. **Confidentiality**. The Prices and the Prices' Attorney agree that neither they nor anyone acting on their behalf will disclose to anyone the terms of this Agreement, neither specifically nor in general, in qualitative or descriptive terms or in terms that state or suggest that the settlement was favorable to either Party and agree that the only comment with respect to this settlement shall be that this matter was settled; provided, however, that the Prices may reveal the terms of this Agreement to any accountant that they may retain with respect to tax advice or reporting or to any attorney hired to represent him, to any federal or state taxing authority, or as otherwise required by law. Confidentiality does not include any public record information. The Prices shall instruct such accountants or attorneys that the terms of this Agreement are confidential and are to be maintained as such. If the Prices or their attorneys are required by an appropriate order of a competent court to disclose the terms of this Agreement to individuals other than those set forth above, they shall notify Investors Title, in writing, at least fifteen (15) days prior to such disclosure sent by a form of delivery with proof of delivery, such as certified mail, return receipt requested or United Parcel Service (UPS). Notice should be sent to Investors Title Insurance Company, Attention: Elizabeth Wainio, Esq., 121 North Columbia Street, Chapel Hill, NC 27514. This provision is a material term of the Agreement.

16. **No Adverse Construction.** The Parties acknowledge that this Agreement has been prepared by each of them through counsel. In the event any part of this Agreement is found to be ambiguous, such ambiguity shall not be construed against any Party.

17. **Not Evidence**. This Agreement shall not be used as evidence in any proceeding other than one to enforce this Agreement, or one seeking damages arising from a breach of this Agreement.

18. **Further Acts.** In addition to the acts recited in this Agreement, the Parties agree to perform, or cause to be performed on the date of this Agreement, or thereafter, any and all such further acts as may be reasonably necessary to consummate the transactions contemplated hereby. Each of the Parties agrees that he, she, or it, will execute and deliver all such documents and instruments as may be necessary and appropriate to effectuate the terms of this Agreement.

19. **Authority**. Each person(s) executing this Agreement as an agent or in a representative capacity warrants that he or she is duly authorized to do so.

4815

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date set forth below.

DATED: 8/27/2015

RONALD E. PRICE

DATED: 8/27/2015

DIANA R. B. PRICE

DATED: 9-1/2015

J. DERRICK JACKSON, ESQ
Attorney for the Prices

DATED: 9-1-2015

INVESTORS TITLE INSURANCE COMPANY

By: Elizabeth Wainio
Name: Elizabeth Wainio
Title: VP, Managing Claims Counsel

Witness: Michelle B. Hinton
Print Name

Witness: Jason Pertnoy
Print Name

DATED: 9/2/2015

EMILY H. FARR, ESQ.
Attorney for Investors Title

5815

Investors Title Insurance Company

INNOVATIVE BY INSTINCT

A Stock Company • P.O. Drawer 2687 • Chapel Hill, NC 27515-2687

Residential Title Insurance Policy
One-To-Four Family Residences

Policy Number: OR-A 055849
Issued with Policy Number: M-A 146678

Schedule A

File Number: PRICE 03-11-021

Date of Policy: December 3, 2003 at 04:00 PM

Amount of Insurance: $ 90,400.00

EXHIBIT 2
WITNESS
DATE: 5-3-2018
REPORTER: H. LANDRY

1. Name of Insured:
   Ronald E. Price and Diana R.B. Price

2. Your interest in the land covered by this policy is:
   Fee Simple

3. The land referred to in this policy is described in the attached Schedule C.

LOWCOUNTRY TITLE SERVICES, LLC

By: Jeffrey T. Spell by Gerald Bland
JEFFREY T. SPELL, ATTORNEY AT LAW

Note: This Policy consists of insert pages labeled as Schedule A, Schedule B-Part 1 and Schedule C. This Policy is of no force and effect unless all schedules are included, along with any added pages incorporated herein.

(PRICE 03-11-021.PFD/PRICE 03-11-021/31)

11 of 15

Residential Title Insurance Policy
One-To-Four Family Residences

Policy Number: OR-A 055849

Schedule B - Part 1

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

I. The lien of the security instrument:

Mortgage from Ronald E. Price and Diana R.B. Price to National City Mortgage Company , dated November 25, 2003, filed for record on December 3, 2003 in Book 03723, Page 00204, in the principal sum of $261,700.00.

II. The dower, curtsey, homestead, community property, or other statutory marital rights, if any, of the spouse of any individual insured.

1. Taxes for the year 2002 EXEMPT.

a. TAXES AND ASSESSMENTS FOR THE YEAR 2004 , NOT YET DUE OR PAYABLE.

b. EASEMENTS AS RECORDED BEC in Book 2425, in Page 296; in Book 2425, at Page 310, in the RMC Office for Berkeley County, South Carolina.

c. Subject to an 11' Sewer Force Main Easement as shown on said plat.

d. Subject to a 10' Drainage Easement (10' each side) as shown on said plat.

e. Subject to a 66' R/W bisecting the property as shown on said plat.

f. Subject to a Sanitary Sewer Septic Drain Field Easement as shown on said plat.

g. RESTRICTIONS AS RECORDED in Book 3125, at Page 178, in the RMC Office for Berkeley County, South Carolina.

Note: This Policy consists of insert pages labeled as Schedule A, Schedule B-Part 1 and Schedule C. This Policy is of no force and effect unless all schedules are included, along with any added pages incorporated herein.

(PRICE 03-11-021.PFD/PRICE 03-11-021/31)

12815

Residential Title Insurance Policy
One-To-Four Family Residences

Policy Number: OR-A 055849

Schedule C

The land referred to in this Policy is described as follows:

EXHIBIT "A"

All that certain piece, parcel, or tract of land, situate, lying and being in Second Goose Creek Tax District, County of Berkeley, State of South Carolina, measuring and containing 7.861 acres, more or less, known and designated as Lot 20, "Prepared foe: Eagle Harbor Incorporated, Danny L. Gilbert, CEO, Berkeley County, South Carolina", as more particularly shown and delineated on a plat entitled: "FINAL PLAT OF EAGLE HARBOR, PHASE II, ST. JAMES, GOOSE CREEK PARISH" prepared by William M. Ferguson, Stantec Consulting Services, Inc., dated July 25, 2002, and recorded September 26, 2002, in Plat Book P, at Page 281-A, in the RMC Office for Berkeley County, South Carolina. Said property having such size, shape, metes, butting and bounds as will by reference to said plat.

Being a portion of the same property conveyed to Belinda Fox by deed of Bennie Harvey ordel, a/k/a Bennie Harvey Ordell, dated August 13, 2001 and recorded August 21, 2001, in Book 2382, at Page 143, in the RMC Office for Berkeley County, South Carolina.

TMS # 194-00-02-031

Note: This Policy consists of insert pages labeled as Schedule A, Schedule B-Part 1 and Schedule C. This Policy is of no force and effect unless all schedules are included, along with any added pages incorporated herein.

(PRICE 03-11-021.PFD/PRICE 03-11-021/31)

13815

Investors Title Insurance Company

Residential Title Insurance Policy OR-A 055849

One-To-Four Family Residences

OWNER'S COVERAGE STATEMENT

This policy insures your title to the land described in Schedule A — if that land is a one-to-four family residential lot or condominium unit.

Your insurance, as described in this Coverage Statement, is effective on the Policy Date shown in Schedule A.

Your insurance is limited by the following:

• EXCLUSIONS on page 2 • EXCEPTIONS in Schedule B • CONDITIONS on page 2-3

We insure you against actual loss resulting from:

• any title risks covered by this Policy — up to the Policy Amount
and

• any costs, attorneys' fees and expenses we have to pay under this Policy.

This Policy Amount will automatically increase by 10% of the amount shown in Schedule A on each of the first five anniversaries of the Policy Date.

COVERED TITLE RISKS

This Policy covers the following title risks, if they affect your title on the Policy Date.

1. Someone else owns an interest in your title.
2. A document is not properly signed, sealed, acknowledged, or delivered.
3. Forgery, fraud, duress, incompetency, incapacity or impersonation.
4. Defective recording of any document.
5. You do not have any legal right or access to and from the land.
6. There are restrictive covenants limiting your use of the land.
7. There is a lien on your title because of:
   • a mortgage or deed of trust • a judgment, tax, or special assessment
   • a charge by a homeowner's or condominium association
8. There are liens in your title, arising now or later, for labor and material furnished before the Policy Date - unless you agreed to pay for the labor and material.
9. Others have rights arising out of leases, contracts, or options.
10. Someone else has an easement on your land.
11. Your title is unmarketable, which allows another person to refuse to perform a contract to purchase, to lease or to make a mortgage loan.
12. You are forced to remove your existing structure - other than a boundary wall or fence - because:
    • It extends on to adjoining land or on to any easement.
    • It violates a restriction shown in Schedule B.
    • It violates an existing zoning law.
13. You cannot use the land for a single-family residence because such a use violates a restriction shown in Schedule B or an existing zoning law.
14. Other defects, liens, or encumbrances.

COMPANY'S DUTY TO DEFEND AGAINST COURT CASES

We will defend your title in any court case as to that part of the case that is based on a Covered Title Risk insured against by this Policy. We will pay the costs, attorneys' fees, and expenses we incur in that defense.

We can end this duty to defend your title by exercising any of our options listed in Item 4 of the Conditions.

This Policy is not complete without Schedules A and B.

This Policy is not valid until countersigned by an authorized person.

David A. Bennyton
Secretary

INVESTORS TITLE INSURANCE COMPANY SEAL 1072 CHAPEL HILL, N.C.

W. Thomas Fine
President

EXCLUSIONS

In addition to the Exceptions in Schedule B, you are not insured against loss, costs, attorneys' fees, and expenses resulting from:

1. Governmental police power, and the existence or violation of any law or government regulation. This includes building and zoning ordinances and also laws and regulations concerning:
   - land use
   - improvements on the land
   - land division
   - environmental protection

   This exclusion does not apply to violations or the enforcement of those matters which appear in public records at Policy Date.
   This exclusion does not limit the zoning coverage described in Items 12 and 13 of Covered Title Risks.
2. The right to take land by condemning it, unless:
   - a notice of exercising the right appears in the public records on the Policy Date
   - the taking happened prior to the Policy Date and is binding on you if you bought the land without knowing of the taking
3. Title Risks:
   - that are created, allowed, or agreed to by you
   - that are known to you, but not to us, on the Policy Date - unless they appeared in the public records
   - that result in no loss to you
   - that first affect your title after the Policy Date - this does not limit the labor and material lien coverage in Item 8 of Covered Title Risks
4. Failure to pay value for your title.
5. Lack of a right:
   - to any land outside the area specifically described and referred to in Item 3 of Schedule A

     or
   - in streets, alleys, or waterways that touch your land

   This exclusion does not limit the access coverage in Item 5 of Covered Title Risks.

CONDITIONS

1. DEFINITIONS

a. Easement — the right of someone else to use your land for a special purpose.
b. Land — the land or condominium unit described in Schedule A and any improvements on the land which are real property.
c. Mortgage — a mortgage, deed of trust, trust deed or other security instrument.
d. Public Records — title records that give constructive notice of matters affecting your title — according to the state statutes where your land is located.
e. Title — the ownership of your interest in the land, as shown in Schedule A.

2. CONTINUATION OF COVERAGE

This Policy protects you as long as you:
- own your title

  or
- own a mortgage from anyone who buys your land

  or
- are liable for any title warranties you make

This Policy protects anyone who receives your title because of your death.

3. HOW TO MAKE A CLAIM

a. You Must Give The Company Notice of Your Claim

If anyone claims a right against your insured title, you must notify us promptly in writing.

Send the notice to Investors Title Insurance Company, P.O. Drawer 2687, Chapel Hill, North Carolina 27515-2687. Please include the Policy number shown in Schedule A, and the county and state where the land is located.

Our obligation to you could be reduced if:
- you fail to give prompt notice

  and
- your failure affects our ability to dispose of or to defend you against the claim.

b. Proof Of Your Loss Must Be Given To The Company

You must give us a written statement to prove your claim of loss. This statement must be given to us not later than 90 days after you know the facts which will let you establish the amount of your loss.

The statement must include the following facts:
- the Covered Title Risks which resulted in your loss
- the dollar amount of your loss
- the method you used to compute the amount of your loss

You may want to provide us with an appraisal of your loss by a professional appraiser as a part of your statement of loss.

We may require you to show us your records, checks, letters, contracts, and other papers which relate to your claim of loss. We may make copies of these papers.

We may require you to answer questions under oath.

Our obligation to you could be reduced if you fail or refuse to:
- provide a statement of loss

  or
- answer our questions under oath

  or
- show us the papers we request

  and
- your failure or refusal affects our ability to dispose of or to defend you against the claim.

4. OUR CHOICES WHEN YOU NOTIFY US OF A CLAIM

After we receive your claim notice or in any other way learn of a matter for which we are liable, we can do one or more of the following:
a. Pay the claim against your title.
b. Negotiate a settlement.
c. Prosecute or defend a court case related to the claim.
d. Pay you the amount required by this Policy.
e. Take other action which will protect you.
f. Cancel this Policy by paying the Policy Amount, then in force, and only those costs, attorneys' fees and expenses incurred up to that time which we are obligated to pay.

Conditions Continued Inside Cover

9815

CONDITIONS (Continued)

HANDLING A CLAIM OR COURT CASE

You must cooperate with us in handling any claim or court case and give us all relevant information.

We are required to repay you only for those settlement costs, attorneys' fees and expenses that we approve in advance.

When we defend your title, we have a right to choose the attorney. We can appeal any decision to the highest court. We do not have to pay your claim until your case is finally decided.

6. LIMITATION OF THE COMPANY'S LIABILITY

a. We will pay up to your actual loss or the Policy Amount in force when the claim is made — whichever is less.

b. If we remove the claim against your title within a reasonable time after receiving notice of it, we will have no further liability for it.

If you cannot use any of your land because of a claim against your title, and you rent reasonable substitute land or facilities, we will repay you for your actual rent until:

- the cause of the claim is removed

  or

- we settle your claim.

c. The Policy Amount will be reduced by all payments made under this Policy — except for costs, attorneys' fees and expenses.

d. The Policy Amount will be reduced by any amount we pay to our insured holder of any mortgage shown in this Policy or a later mortgage given by you.

e. If you do anything to affect any right of recovery you may have, we can subtract from our liability the amount by which you reduced the value of that right.

7. TRANSFER OF YOUR RIGHTS

When we settle a claim, we have all the rights you had against any person or property related to the claim. You must transfer these rights to us when we ask, and you must not do anything to affect these rights. You must let us use your name in enforcing these rights.

We will not be liable to you if we do not pursue these rights or if we do not recover any amount that might be recoverable.

With the money we recover from enforcing these rights, we will pay whatever part of your loss we have not paid. We have a right to keep what is left.

8. ARBITRATION

If it is permitted in your state, you or the Company may demand arbitration.

The arbitration shall be binding on both you and the Company. The arbitration shall decide any matter in dispute between you and the Company.

The arbitration award may:

- include attorneys' fees if allowed by state law
- be entered as a judgment in the proper court.

The arbitration shall be under the Title Insurance Arbitration Rules of the American Arbitration Association. You may choose current Rules or Rules in existence on Policy Date.

The law used in the arbitration is the law of the place where the property is located.

You can get a copy of the Rules from the Company.

9. OUR LIABILITY IS LIMITED TO THIS POLICY

This Policy, plus any endorsements, is the entire contract between you and the Company. Any claim you make against us must be made under this Policy and is subject to its terms.

10-8/15

14, 2004

ana R.B. Price and Ronald E. Price
PO Box 191
Mt. Blanchard, Oh 45867
419 694-2175
AND
1104 Saddlehorn Rd.,
Summerville, SC 29483
843 729 6050

EXHIBIT 3
WITNESS
DATE: 5-3-2018
REPORTER: H. LANDRY

Investors Title Company
PO Drawer 2687
Chapel Hill, North Carolina
27515-2687

Reference: Policy Number OR-A 055849, County of Berkeley in South Carolina

In review of our title insurance policy and guidance stated under the "CONDITIONS", Item 3, "HOW TO MAKE A CLAIM" we are notifying you of conditions, which have resulted in us experiencing "undue costs/damages" although we do not yet know the magnitude of our loss. We have invested over $50,000 cash into the land and preparation to build our home. We see a $50,000 loss in the "inability" to subdivide our lot as promised in our land purchase contract and another $50,000 due to contractor "unauthorized" construction, defective construction, and misrepresentation of construction costs.

We've only known of the following for a short period of time and have attached documents which we feel justify and serve as evidence to our situation.

The Developer (on behalf of seller) and Contractor—Mr. Gilbert

- Sold us, as well as other persons a lot that has not yet been "finally approved" through South Carolina Department of Health and Environmental Control (SCDHEC) and the Department of Transportation (SCDOT). Refer to letters from DHEC (Berkeley County/Trident District) dated Feb 7, 2002, and two letters dated Feb 26, 2004, which are attached as #1, 2, and 3.
- Misrepresented our ability to "subdivide" our lot. Our ability to subdivide was the "main" consideration in purchasing this lot. We had no need for a lot of 8 acres. Refer to our purchase agreement and SCDHEC letter from Columbia, SC dated Feb 26, 2004 attached at #4 and 5.
- Performed "unauthorized" construction on our property. Refer to County Permitting, Berkeley County, SC letter dated Jan 22, 2004 and our contract termination letter dated Jan 30, 2004, attached as #6 and 7.
- Threatened to "lien" our property. Refer to email dated Feb 5, 2004, and "mechanic's lien" documents recorded at Berkeley County, although not yet served to us, attached as #8, and 9 A, B, and C. We have been trying to "determine what the document entitled "Construction/Rehab Loan Title Company (Closing Agent) Certification" does or doesn't do for us. It appears the document is stating that we are insured against mechanic's liens during the life of the loan, including the construction/rehab period. Is that with you? Refer to attachment #10. For the time

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

RONALD E. PRICE and
DIANA R.B. PRICE,

Plaintiffs,

-versus-

INVESTORS TITLE INSURANCE
COMPANY,

Defendant.

IN THE COURT OF COMMON PLEAS

CASE NO: 2007-CP-08-458

SUMMONS
(Jury Trial Demanded)

FILED
2007 FEB 22 PM 12:15
MARY BERRY
C.C.P. BERKELEY CO., S.C.

TO: THE DEFENDANT ABOVE NAMED:

YOU ARE HEREBY summoned and required to answer the Complaint in this action, of which a copy is herewith served upon you, and to serve a copy of your Answer to the said Complaint on the person whose name is subscribed below at 6 Carriage Lane, Suite A, Charleston, South Carolina 29407, within thirty (30) days after the service hereof, exclusive of the day of such service; and if you fail to answer the Complaint within the time aforesaid, the Plaintiff in this action will apply to the Court for judgment by default for the relief demanded in this Complaint.

JOSEPH W. GINN, III
Attorney for Plaintiff
6 Carriage Lane, Suite A
Charleston, South Carolina 29407
843/571-0766

Charleston, South Carolina

February 20, 2007

C EXHIBIT 4
WITNESS
DATE: 5-3-2018
REPORTER: H. LANDRY

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF BERKELEY	)	CASE NO: 2007-CP-08-458
RONALD E. PRICE and DIANA R.B. PRICE, Plaintiffs,	)	
-versus-	)	**COMPLAINT** (Jury Trial Demanded)
INVESTORS TITLE INSURANCE COMPANY, Defendant.	)	

FILED 2007 FEB 22 PM 12: 15 MARY P. FOGLE CLERK OF COURT BERKELEY COUNTY, SC

THE PLAINTIFFS above-named, complaining of the Defendant above-named, would show and allege unto this Honorable Court as follows:

ONE: That Plaintiffs are residents of the County of Berkeley, State of South Carolina.

TWO: That upon information and belief, the Defendant, Investors Title Insurance Company, is a North Carolina title insurance company licensed to do business in South Carolina and insuring title risks in the County of Berkeley, State of South Carolina.

THREE: This matter involves real property located in the County of Berkeley, State of South Carolina.

FOUR: That the parties hereto and the things and matters alleged herein are all within the jurisdiction of this Honorable Court and venue is proper.

FIVE: That on or about September 13, 2003, the Plaintiffs signed a contract to purchase a tract of land in the County of Berkeley, State of South Carolina, known and designated as Lot 20 located in the subdivision known as Eagle Harbor, Phase II, St. James, Goose Creek Parish, containing 7.861 acres, more or less, and bearing Berkeley County TMS Number 194-00-02-122, of parent tract 194-00-02-031. A copy of said contract is attached hereto as Exhibit "A". Concurrently, on September 13, 2003, the Plaintiffs entered into a Standard Form Construction Agreement to build their residence on said property.

SIX: That on or about November 25, 2003, the Plaintiffs purchased the aforementioned tract of land. The deed by which the Plaintiffs purchased said tract is recorded in the Berkeley County RMC Office in Book 3723 at Page 200. A copy of said deed is attached hereto as Exhibit "B" and is incorporated herein by reference.

SEVEN: That in conjunction with the closing and purchase of the above described property on November 25, 2003, the Defendant issued a title insurance commitment covering the Plaintiffs' property described in paragraph Five above (hereinafter referred to as "Plaintiffs' property"). A copy of the title insurance commitment is attached hereto as Exhibit "C" and is incorporated herein by reference. The Plaintiffs were not provided with a copy of said title commitment until on or about July 10, 2006, despite the requests of the Defendant for a copy of said Commitment.

EIGHT: That in connection with the purchase of Plaintiffs' property, they obtained an Owner's Policy of Title Insurance issued by Defendant, a copy of which is attached hereto as Exhibit "D" and incorporated herein by reference.

NINE: That subsequent to Plaintiffs' purchase of their property, Plaintiffs discovered various defects, which have resulted in devaluation of their property and/or has affected the marketability of their property. Plaintiffs submit that the following defects and/or risks are covered by the title insurance policy issued by the Defendant:

1. Fraud or misrepresentation of seller in stating special stipulation in the Purchase Agreement (Exhibit A) that the property could be subdivided, when in fact it could not be subdivided, and such terms and conditions were not excepted from coverage of policy.

2. Public recorded documents giving constructive notice of defects or violations:

   (a) Eagle Harbor Subdivision, Phase II Plat, recorded September 2002; and

   (b) Declarations of Restrictive Covenants, recorded February 2003.

3. Restricted from use as residential property due to non-compliance with SCDHEC requirements prior to sale of property to Plaintiffs.

4. Construction liens, unauthorized work of contractor due to non-compliance of SCDHEC and building code regulations, which subsequently forced Plaintiffs to demolish and dispose of uncompleted structure, due to its hazardous condition and risk. The terms and conditions of the Standard Form of Agreement between Owner and Contractor (Exhibit "E") were not excepted from coverage.

5. Seller's failure to perform wetland studies, as required under the Federal Coastal Zone Management Act, or other federal law or SC Code, Chapter 39, Title 48, or any other such regulations pursuant to local, state or federal laws, prior to selling the property to the Plaintiffs, which has resulted in the use of a portion of Plaintiffs' property being restricted, and the Defendant did not except this from policy coverage.

TEN: That the Plaintiffs provided a written claim for damages under their Owners Policy of Title Insurance by written correspondence dated March 14, 2004 and March 26, 2004. The Plaintiffs have also corresponded in writing with the Defendant concerning their claim numerous times since the original claim letters. The Defendant, through one if its employees, initially suggested that Plaintiffs' claims were not covered by the title insurance policy. However, Plaintiffs did not receive a formal written denial of their claims until October 9, 2006.

FOR A FIRST CAUSE OF ACTION

(Declaratory Judgment)

ELEVEN: The Plaintiffs repeat and re-allege the matters set forth in paragraphs One through Ten above as if fully set forth verbatim herein.

TWELVE: That Plaintiffs seek a declaratory judgment brought pursuant to South Carolina Code, annotated, §15-53-10 *et seq.*, whereby Plaintiffs seek this Court's declaration of whether the Defendant has responsibility for covering the loss claimed by Plaintiffs under either or both the mortgage title insurance policy and the owners title insurance policy issued by Defendant with respect to Plaintiffs' property, namely policy numbers OR-A-055849 and M-A 146678.

THIRTEEN: That Plaintiffs also seek this Court's declaration that Plaintiffs are owed coverage on their Owner's Policy, commensurate with that of the lender's policy, due to the fact that the policies were issued simultaneously, and the premium paid by the Plaintiffs afforded them with coverage matching that of the lender, in the amount of $261,700.00.

FOURTEEN: That Plaintiffs are informed and believe that this issue of coverage and amount of coverage should be resolved by declaratory decision. Plaintiffs allege that they will suffer irreparable harm if their cause seeking a declaratory judgment is not heard.

FIFTEEN: That under the circumstances herein, there is a controversy of a justifiable nature between the parties, and your Plaintiffs are informed and believe that they are entitled to have the Court inquire into these matters and issue a declaratory judgment determining the rights of the parties with respect to the questions of coverage and amount of coverage by the Defendant.

FOR A SECOND CAUSE OF ACTION

(Breach of Contract / Specific Performance)

SIXTEEN: The Plaintiffs repeat and re-allege the matters set forth in paragraphs One through Fifteen above as if fully set forth verbatim herein.

SEVENTEEN: That the title insurance commitment and the title insurance policies issued by the Defendant with respect to Plaintiffs' property constitutes a contract between the Plaintiffs and Defendant.

EIGHTEEN: That the Plaintiffs have fully performed their obligations and all conditions required of them by the above referenced policies.

NINETEEN: That the failure and refusal of the Defendant to defend the Plaintiffs' title and pay the benefits due under its policies is a violation of its contractual duties to Plaintiffs and represents Breach of Contract.

TWENTY: That the Plaintiffs are entitled to recover damages resulting from the Defendant's Breach of Contract.

TWENTY-ONE: That further, because the Plaintiffs have adhered to and performed their obligations under the contract, including without limitation, paying the applicable premium, the Plaintiffs are entitled to an Order of Specific Performance, compelling the Defendant to defend the Plaintiffs' title.

FOR A THIRD CAUSE OF ACTION

(Bad Faith)

TWENTY-TWO: The Plaintiffs repeat and re-allege the matters set forth in paragraphs One through Twenty-One above as if fully set forth verbatim herein.

TWENTY-THREE: That implied in the title insurance policies issued by Defendant, is a Covenant of Good Faith and Fair Dealings, which requires the Defendant to adjust Plaintiffs' claims in an objective, good faith manner.

TWENTY-FOUR: That Defendant has failed to evaluate Plaintiffs' claims objectively and has failed to take the actions required of it under its policies.

TWENTY-FIVE: That the Defendant, upon information and belief, conducted its investigation in an effort to deny Plaintiffs' claims, rather than with an objective attempt to correctly administer Plaintiffs' claims.

TWENTY-SIX: That the Defendant did virtually no investigation concerning Plaintiffs' claims until a substantial lapse in time had occurred.

TWENTY-SEVEN: That the Defendant has acted unreasonably in refusing to defend the Plaintiffs' title.

TWENTY-EIGHT: That the Defendant has acted in disregard of the terms of the contract of title insurance issued in this matter and of the Plaintiffs' rights and has acted in bad faith.

TWENTY-NINE: That the Defendant has breached the duty of Good Faith and Fair Dealing.

THIRTY: That the Defendant's denials of the Plaintiffs' covered were willful and in reckless disregard of the Plaintiffs' rights.

THIRTY-ONE: That as a result of the Defendant's bad faith, the Plaintiffs are entitled to actual damages, consequential damages, and punitive damages.

THIRTY-TWO: That if Plaintiffs prevail in this case, they will be entitled to recover all reasonable attorney's fees for prosecution of the case against the Defendant in an amount to be determined by the trial Court pursuant to South Carolina Code §38-59-40.

FOR A FOURTH CAUSE OF ACTION

(Breach of Fiduciary Duty)

THIRTY-THREE: The Plaintiffs repeat and re-allege the matters set forth in paragraphs One through Thirty-Two above as if fully set forth verbatim herein.

THIRTY-FOUR: That the Defendant at all times owed a fiduciary duty to the Plaintiffs and that as a result of Defendant's conduct as set forth above, the Defendant has breached the fiduciary duty and the Plaintiffs were damaged as a result thereof.

FOR A FIFTH CAUSE OF ACTION

(Negligence and Negligence *Per Se*)

THIRTY-FIVE: The Plaintiffs repeat and re-allege the matters set forth in paragraphs One through Thirty-Four above as if fully set forth verbatim herein.

THIRTY-SIX: That Defendant owed a duty to Plaintiffs to:

1. Act with reasonable promptness regarding the claims submitted by Plaintiffs;
2. Promptly investigate Plaintiffs' claims;
3. Make a good faith effort to promptly, fairly, and equitably settle Plaintiffs' claims;
4. Act without unreasonable delay;
5. Offer sufficient Owner Title Insurance Coverage to Plaintiff and have Plaintiffs sign form SC-305; and
6. Have Plaintiffs sign form SC-512a regarding Owner's Title Insurance Coverage.

THIRTY-SEVEN: That the Defendant breached its duties to Plaintiffs by:

1. Failing to act with reasonable promptness with respect to Plaintiffs' claims;
2. Failing to promptly investigate Plaintiffs' claims;

3. Failing to use good faith and to effect prompt, fair, and equitable settlement of claims as required by South Carolina Code Section 38-59-20; and
4. Failure to offer sufficient Owner's Title Insurance Coverage to Plaintiffs and have them sign all necessary forms that are required by South Carolina law, such as form SC-305 required by South Carolina Code Section 38-75-960 and form SC-512a, which amounts to Negligence *Per Se*.

THIRTY-EIGHT: That the Defendant, by its acts and/or omissions of its agents and employees, was negligent, careless, reckless, wanton, and grossly negligent in the particulars set forth above.

THIRTY-NINE: That as a direct and proximate result of the aforesaid wrongful conduct on the part of the Defendant, its agents, and/or employees, the Plaintiffs sustained damages in the amount of actual and punitive damages to be determined by the trier of fact in this case.

WHEREFORE, the Plaintiffs pray unto this Honorable Court for judgment against the Defendant as follows:

1. For judgment against the Defendant for actual damages, consequential damages, punitive damages, and attorney's fees, plus such other legal or equitable relief as this Honorable Court deems proper.
2. For a judgment declaring whether or not coverage exists under the title insurance policies issued by the Defendant for the losses suffered by the Plaintiffs, and in the case that such coverage does exist, for a determination of the proper amount of coverage and the monetary amount of coverage to be paid over to Plaintiffs and/or their mortgage lender, and satisfaction of the respective owners and mortgagee title insurance policies.

3. For such other and further relief as this Honorable Court may deem just and proper.

JOSEPH W. GINN, III
Attorney for Plaintiffs
6 Carriage Lane, Suite A
Charleston, SC 29407
843/571-0766
843/571-1225 (fax)

Charleston, South Carolina

February 20, 2007

PARTIES OF THIS CONTRACT/AGREEMENT:

JOHN KAHLER, referred to herein as "Construction Manager or Contractor" and **Ronald and Diana Price** referred to as "Homeowners" intend and desire to contract and agree with each other for Construction Manager to supervise and manage the resuming construction and building of a residential structure (herein known as Home or Project), located at 1104 Saddlehorn Rd., Summerville, SC 29483, Lot 20, Eagle Harbor—TMS #194-00-02-122, using plans and specifications (previously submitted to and required of Lender—National City Mortgage, with previous Contract between Homeowners and Contractor). The appraisal (dated November 2007), solicited by the Lender and paid for by the Homeowners is also to be used as a source document of those plans and specifications.

Exhibit A itemizes the "current" and applicable cost estimate contract sum for this contract. Details of provisions as to "excessive" costs is further outlined in the following provisions of the Contract.

The Contract Sum: $209,050.00

a. It is acknowledged by both parties that the "current" condition of the structure—foundation and excavation, is incomplete and will require materials and labor to complete, upon receipt of Berkeley County DHEC septic system permit and then with obtaining the valid building permit. Exhibit B (Lender Draw Schedule) will be used as appropriate with Homeowner draw authorization request for all draws of funds.

b. This contract and agreement shall be a "flat fee" construction management agreement. Homeowner will be solely responsible for any and all costs and expenses associated with the construction of the home.

- Homeowner shall pay to Construction Manager (also referred to as Contractor) the flat aggregate fee (incorporated in the Contract Sum) and in the amount of $18,000.00 and no/100's Dollars, further described in Exhibit A.
- This fee will be paid in three payments during the construction of the Home: $6,000.00 will be paid upon commencement/signing of the Contract. The second payment will be paid at the 50% completion, as determined in conjunction with the lender draw schedule and Contractor Work schedule, to be attached as Exhibit C, within 2 weeks from commencement of this Contract. The third, and final payment, will be paid at the certification of occupancy and completion.

DOE EXHIBIT 10
WITNESS
DATE 5-3-2018
REPORTER: H. LANDRY

Heritage

000042

- These payments will be made in the form of "personal" bank draft and will be guaranteed to "clear" the bank within three (3) business days of deposit of the Contractor.

c. The parties have agreed to the contract sum stated above and described in Exhibit A, showing and itemized breakdown of Work area costs and the culminating total of the Contract Sum. These costs per work area and in total, are an accurate reflection of true and real costs expected for completion of this Project; excluding Berkeley COOP charges, assessments for the connection of the electrical service from the Home to the power pole, and costs of the plumbing connection from the water well and septic system. The Contractor will notify the Homeowner upon notification of these costs.

II. Construction Manager agrees to act as the supervisor and Contractor in the building of the Home/Project. The Construction Manager agrees to utilize diligent effort to supervise and manage the construction of the Home upon commencement of this Contract, in the most efficient and economical manner possible.

a. It is further understood and agreed that these efforts, supervisory and management services, shall be performed on a time table determined by the Construction Manager, agreed to by the Homeowner, and in conjunction with the lending institution authorization for a draw, see Exhibit B.
b. When Construction Manager services are requested by the Homeowner or services are required by Subcontractors, the Homeowner shall be responsible for a service costs beyond the contract price, with prior approval of the Homeowner. In the event that Homeowner is unavailable for approval, the Construction Manager will use his best judgment to proceed with Work, at a fair and reasonable rate.

c. Construction Manager and/or Contractor shall utilize best efforts to construct and build the Home for the estimated costs and expense as set forth in Exhibit A. Homeowner agrees and covenants to be solely responsible, liable and obligated for any and all costs, expenses, labor, material associated with or required to complete the construction of the Home.

d. When or if an "overage" of the itemized Work becomes evident, the Construction Manager shall make every effort to keep that overage within a "reasonable" range and fully agrees to seek Homeowner approval prior to the performance of the Work, unless Homeowner cannot be reached for approval.

e. The plans and specifications provided is solely the responsibility of the Homeowner and Lender as applicable. Moreover, Homeowner agrees to indemnify and hold Construction Manager harmless from any and all costs or expenses of construction in any manner associated with the building of

the Home. Accordingly, any underage or savings associated with the construction of the Home, to which the Construction Manager makes no warranties of representations of the existence of same, shall belong to and inure to the sole benefit of Homeowner.

III. The subcontractors, material men, suppliers associated with the building of the Home shall be managed and supervised by the Construction Manager and the invoices and bills for service and material from these subcontractors, material men, and suppliers shall be remitted directly to Construction manager for payment.

a. Construction Manager shall, in turn, remit the bill/invoice to the Homeowner for return payment within the requested time, in as early as seven (7) days, at which time it will be paid to the subcontractor , material men, or supplier.
b. A receipt for the same and Construction Manager shall then be forwarded within five (5) days of payment to Homeowner a receipt for payment evidencing a remittance of the appropriate amounts of money due and owing to the particular subcontractor, material men, or supplier.

IV. The Homeowner shall have property liability and builder's risk insurance in place before construction of the Home. The Construction Manager agrees in advance to the necessity of, without limitation, ensure he and all applicable workers, subcontractors in the construction of the Home shall have worker's compensation insurance, and liability insurance as required of and in their profession/s of Work.

V. The Construction Manager will ensure a detail of materials required for the completion of the Home, is initiated and will be attached to this contract as Exhibit D within 2 weeks from the commencement of this Contract. This will further detail the description of materials, reflecting all Work to complete the Project.

VI. The Construction Manager will submit a list of "intended" subcontractors to the Homeowner, to be used during construction of the Home. The list will show contact information for each subcontractor allowing for dialogue between Homeowner and subcontractor as deemed necessary by the Homeowner and/or the Construction Manager. Upon receipt of this list it will be attached to this Contract as Exhibit E, within 2 weeks of commencement of this contract.

VII. The Home shall be substantially completed by August 1, 2004; for the purposes of the Agreement, substantial completion shall be attained upon the issuance of the Certificate of Occupancy by the appropriate governmental entity by August 15, 2004. Construction Manager shall not be

liable to Homeowner for any delays in completion occurring for anything beyond their control. Homeowner shall not be entitled to liquidated damages for the any such delay in achieving substantial completion. Homeowner waives and releases claim to any such damage without limitation to actual, consequential, punitive, legal fees or any other such costs associated with the failure to timely complete the Home.

VIII. In the event the home is not completed by said completion date and requires "unspecified" contract services, the Homeowner shall pay the Construction Manager, as agreed by the Homeowner and Construction Manager fair and equitable amount in consideration of circumstances surrounding such an event. If, beyond any fault of the Contractor, this should occur, the Contractor will receive at minimum $1000.00 per month, which shall be prorated for partial months, for each month the project extends past the completion date, due on the first day of each month the construction of the home is extended, as deemed in the best interests of both parties.

IX. All Exhibits and Schedules hereto are incorporated herein by reference and made a part hereof. This agreement constitutes the entire agreement concerning the subject matter hereof. Exhibits A thru E.

a. Exhibit A: Costs Estimate and Contract Sum
b. Exhibit B: Lender Draw Schedule, Instructions & other applicable documents from Lender, as appropriate ("B" a. – "B" h.)
c. Exhibit C: Work Schedule
d. Exhibit D: Materials List
e. Exhibit E: Subcontractor List & Cost Estimate as applicable

X. Any notice hereunder shall be deemed to be duly given if sent by prepaid first class registered mail to:

Construction Manager or Contractor: John Kahler; 309 West Second North Street; Summerville, SC. 29483

Copy to: Troy G. Knight, Esquire; PO Box 280; Summerville, SC 29483

Homeowner/s: Diana and Ronald E. Price; PO Box 191; Mt. Blanchard, Oh, 45867

Copy to: Diana and Ronald E. Price; 1104 Saddlehorn Rd., Summerville, SC 29483

Or such place as any party wishing to change its address may from time to time designate in writing.

XI. This agreement is executed in the County of Berkeley, South Carolina, and the parties hereto agree that without regard to principles of conflicts of laws the internal laws of the state of South Carolina shall govern and control as applicable. The parties agree that any action arising out of or relating to this Contract shall be instituted and prosecuted as a Bench Trial without a Jury in the venues of the Court of Dorchester or Berkeley County. Each party does waive any and all defenses of rights to a jury trial.

a. This Agreement of Contract is binding upon and to the benefit of the parties and their respective successors, assignees, heirs, and personal representatives.
b. The parties herein specifically disclaim and specifically acknowledge the disclaimer of any and all warranties, express or implied, other than those specifically designated by the laws of South Carolina required to apply to residential construction.
c. Homeowner and Construction Manager acknowledge full understanding of the terms, conditions, provisions of this Agreement and its accompanying exhibits. Either party is advised and counseled to consult legal counsel as deemed needed or appropriate and will do so within 5 business days of the signing of this Contract.
d. All applicable assessments, impact fees, hookup fees, new home construction fees, transfer and other such fees, that may be due or payable as a result of the services performed and the construction hereunder, shall be borne solely by the Homeowner.
e. All representations, warranties, covenants, and agreements made by the parties in this Agreement shall survive consummation of the transaction contemplated by this Agreement.
f. Each provision of this Contract shall be interpreted to be effective and valid under applicable law, but if any provision of the Agreement shall be prohibited by or invalid under applicable law, it will not result in invalidating other applicable and remaining provisions of the Agreement.
g. The failure or delay of any party to insist upon compliance of any provision will not operate as and is not to be construed as a waiver or amendment of the provisions or of the right of the aggrieved party to insist upon compliance with such provision or to take remedial steps to recover damages or other relief for non-compliance. Any express waiver of a breach of any provision of the Agreement will not operand and is not to be construed as a waiver of any other or subsequent breach, irrespective of whether occurring under similar or dissimilar circumstances.

h. The Agreement embodies the entire Agreement and understanding between the parties with respect to the subject matter. No provision can be changed orally, and no change or attempted waiver of any provision hereof will be binding unless in writing and signed by both parties. Any and all change orders, modifications, or alterations to this Project, as agreed to in this Contract, must be executed in writing and signed by both parties, as well as attached by addendum of Exhibit or as applicable.

XII. This Agreement/Contract is executed in two or more counterparts, each of which shall be deemed to be an original, but all of which together is one and the same instrument. The parties represent and warrant to one another that each has, by counsel or otherwise, actively participated in the negotiation of the Agreement, and in the event of a dispute, each party waives the doctrine that an ambiguity should be interpreted against the party which has drafted the document.

Witness our hands this day of Feb 9, 2004.

Homeowners:

Ronald E. Price, DRB Price Attorney-in-fact

Diana R. B. Price

Construction Manager/Contractor:

John F. Kahler III

Witnesses:

- Printed Name: TROY ALAN THOMAS

- Printed Name:

000047

Exhibit "A"

KAHLER CONSTRUCTION
309 WEST 2ND NORTH ST.
SUMMERVILLE, SC 29483
843-873-8807
FEB 9, 2004
COST ESTIMATE FOR THE PRICE (DIANA & RONALD) HOME

FINISH FOUNDATION	4000
DRIVEWAY/SIDEWALKS/LOT PREP	9000*
FRAMING, DOORS, WINDOWS & MATERIALS	65000
ROOF (SHINGLES AND LABOR)	3400
SIDING (VINYL AND LABOR)	10000
PLUMBERS LABOR	5000
PLUMBING FIXTURES	7000
HVAC	8500
ELECTRICIAN LABOR	7000
APPLIANCES(fixtures, wire, panels, switches, plugs)	8000*
INSULATION & LABOR	3000
SHEETROCK & LABOR	8250
CABINETS & LABOR	6000*
COUNTER TOPS & LABOR	800*
TRIM LABOR	3500
INTERIOR (doors, handrails, stairs, pickets, baseboards etc.)	4000
PAINT & LABOR	5000
FIREPLACE	2000
SHELVES/MIRRORS	1000*
GARAGE DOOR OPENERS	700
HARDWOOD, & CARPET FLOORS	10000
PORCH POSTS, RAILS, PICKETS, & DECKING	3500
PORCH LABOR	3000
LOCKOUT LABOR	500
STUCCO	1400
PERMITS	1500
SEPTIC SYSTEM & WELL	10000
CONTRACTOR FEE	18000

TOTAL Contract Sum - - - - - - - - - - - - - - - - 209050

*Owner Allowance

000048

12:44 PM

03/31/04

Accrual Basis

Heritage Classic Homes
Customer Open Balance
All Transactions

Type	Date	Num	Memo	Due Date	Open Balance	Amount
Price						
Payment	10/1/2003		House plans ...		-400.00	-400.00
Stmt Charge	11/25/2003	1467	Reimbursem...		400.00	400.00
Stmt Charge	12/2/2003	1479	Land clearing		1,300.00	1,300.00
Stmt Charge	12/10/2003	1485	Price Permit		25.00	25.00
Stmt Charge	12/10/2003		prints of hous...		88.62	88.62
Invoice	12/10/2003	1506	House Plan ...	12/10/2003	1,000.00	1,000.00
Stmt Charge	1/7/2004	1494	Builder Risk ...		699.20	699.20
Stmt Charge	1/8/2004	1501	Permit		1,193.75	1,193.75
Stmt Charge	1/8/2004		Access Porta...		60.55	60.55
Stmt Charge	1/10/2004		Temp Power ...		150.00	150.00
Stmt Charge	1/12/2004		cement		66.46	66.46
Stmt Charge	1/13/2004		Boral Bricks		226.80	226.80
Stmt Charge	1/15/2004		Builders First...		85.86	85.86
Stmt Charge	1/16/2004	1503	Norwood Wade		5,086.24	5,086.24
Stmt Charge	1/16/2004	1504	Freddie Allen		2,498.50	2,498.50
Stmt Charge	1/16/2004		Chemical Pre...		276.00	276.00
Stmt Charge	1/19/2004	1505	Block & mas...		613.61	613.61
Stmt Charge	1/19/2004		Liability Insur...		700.00	700.00
Stmt Charge	1/20/2004	1506	Plastic		42.37	42.37
Stmt Charge	1/20/2004		B & B Enterp...		500.00	500.00
Stmt Charge	1/20/2004	1512	Plate Tamp ...		104.94	104.94
Stmt Charge	1/22/2004	1507	Boral Bricks		166.95	166.95
Stmt Charge	1/22/2004	1509	Freddie Allen		3,509.00	3,509.00
Stmt Charge	1/22/2004	1519	B & B Enterp...		250.00	250.00
Stmt Charge	1/28/2004		Cement		206.70	206.70
Stmt Charge	1/28/2004		Cement		1,706.60	1,706.60
Stmt Charge	1/28/2004		Printing of pl...		48.76	48.76
Stmt Charge	1/30/2004		Metro Contra...		1,050.00	1,050.00
Stmt Charge	1/30/2004		Metro Contra...		420.00	420.00
Stmt Charge	2/25/2004		Builder Risk ...		-199.20	-199.20
Stmt Charge	3/31/2004		Overhead		2,214.09	2,214.09
Stmt Charge	3/31/2004		General Liabi...		-318.55	-318.55
Total Price					23,772.25	23,772.25
TOTAL					23,772.25	23,772.25

Heritage
D EXHIBIT 2
WITNESS
DATE: 3-4-2018
REPORTER: H. LANDRY

Cross County General Rental
(843) 832-5655
418 East 5th North Street
Summerville, SC 29483

CONTRACT NUMBER 5335 INVOICE NUMBER 7859
DATE AND TIME IN 01/22/2004 9.25 AM
DATE AND TIME OUT 01/20/2004 9.08 AM

RENTED AND/OR SOLD TO

Contract/Invoice Reprint

Account #: 6885979
HERITAGE CLASSIC
1044 EAGLE HARBOR LANE
SUMMERVILLE SC 29483-0000
843-688-5979

ADDRESS AT WHICH EQUIPMENT WILL BE USED

Price Job

Delivery Date: / /
Pickup Date: / /

WRITTEN BY	CHECKED IN BY	AGENT'S NAME	JOB LOCATION
BRANDON ASKINS	ROBERT BURNY		

CAR LICENSE NUMBER	DRIVER'S LICENSE NUMBER	P. O. NO. OR JOB NO	DATE AND TIME DUE IN
	6885979		01/21/2004 9.08 AM

ITEMS RENTED AND/OR SOLD

Item Number	Description	Qty	Rates	Mnth	Wk	Day	Hr	Date Due	Time Due	Amount
TA-PLT-01	PLATE TAMP GAS	1	24H 45.00			2		01/21/2004	9.06 AM	90.00
	Serial# 628501289									

RETURN OF ANY ITEM RENTED ON SATURDAY PRIOR TO 12:00 PM WILL BE BY 5:00 PM OF THE SAME DAY. THIS WILL APPLY UNLESS OTHERWISE NOTED.
SUNDAY RENTALS WILL START AFTER 4:30 PM SATURDAY AND RETURN WILL BE REQUIRED BY 8:00 AM THE FOLLOWING MONDAY UNLESS OTHERWISE NOTED.

For Compacting Concrete

DAMAGE WAIVER CHARGE (DWC) 10.00 % OF RENTAL CHARGE. RENTER MAY, BY INITIALS HEREON, DECLINE BENEFITS OF PARAGRAPH 12, DAMAGE WAIVER, ON REVERSE SIDE OF THIS CONTRACT.
DWC IS NOT INSURANCE
DECLINE / INITIALS

PROMPT RETURN OF YOUR RENTALS SAVES YOU MONEY. ALL TIME IS CHARGED INCLUDING SATURDAY, SUNDAY AND HOLIDAYS.

Total Rental	90.00
Damage Waiver	9.00
Sub Total	99.00
Sales Tax	5.94
Total	~~104.94~~
Total Due	104.94
Terms: NET	

1/20/04
CK# 1512

I have read and understand the terms and conditions on both sides of this agreement and certify that those printed on the other side are agreed to as if printed above my signature. There are no oral or other representations not included herein. Unless declined, I also agree to the damage waiver charges. I have received a copy of this agreement

Lessee's Signature: _____

Invoice

WE SPECIALIZE IN
ROACHES, FLEAS, TICKS,
ANTS AND TERMITES

ELAM'S PEST CONTROL, INC.

— SATISFACTION GUARANTEED —

102 BERKELEY SQUARE LANE
SUITE E
GOOSE CREEK, SC 29445
Telephone: (843) 797-2420 Fax: (843) 569-3452
HUGH G. ELAM, JR.
PRESIDENT

Customer's Order No. 3439 Date March 12, 2004 20

Name Heritage Classic Homes

Address 1044 Eagle Harbor Lane

SOLD BY	CASH	C.O.D.	CHARGE	ON ACCT	MDSE RETD	PAID OUT	

QUAN	DESCRIPTION	PRICE	AMOUNT
	Chemical Pretreat		276.00
	lot #20 Saddle Horn		
	service rendered 1/16/04		

$10.00 Service Charge for Returned Checks – NET 30 DAYS.

Received By	TAX	
	TOTAL	276.00

01324

Duncan Parnell

P.O. Box 35649
Charlotte, N.C. 28235-5649

INVOICE DATE	INVOICE NUMBER
01/22/04	S1917718.001
REMIT TO:	PAGE NO.
Duncan-Parnell, Inc. P.O. Box 35649 Charlotte, NC 28235-5649	1

CHARLOTTE, NC (704) 372-7766 (800) 849-7708
RALEIGH, NC (919) 833-4677 (800) 849-7709
NORTH CHARLESTON, SC (803) 747-6033 (800) 849-7710
ROCKY MOUNT, NC (919) 977-7832 (800) 445-4003
WILSON, NC (919) 243-1032

BILL TO
HERITAGE CLASSIC HOMES
1044 EAGLE HARBOR LN
SUMMERVILLE SC 29483

SHIP TO
EAGLE HARBOR
38-F MILANO ST
HANAHAN, SC 29406

CUSTOMER NUMBER	CUSTOMER ORDER NUMBER	CUSTOMER JOB NUMBER	BRB	BRS	TERMS:
4929	DIANA PRICE		4	4	NET 10 DAYS END OF MONTH

REF. DOC. NUMBER	SALESMAN	SHIP VIA	DATE SHIPPED	ORDER DATE	
S1917718.001	HOUSE4	PU PICK-UP	01/22/04	01/22/04	1% FINANCE CHARGE ADDED ON PAST DUE AMOUNTS

DESCRIPTION	QTY. ORD.	QTY. SHIP.	NET UNIT PRICE	NET AMOUNT
PLOTTING BOND 24X36 COPY PLOT FILE	10	10	3.600	36.00
XEROX PPC BOND 24X36 COPY	10	10	1.000	10.00

RETURNS REQUIRE PRIOR AUTHORIZATION. RETURN MATERIAL SUBJECT TO RESTOCKING, HANDLING, AND FREIGHT CHARGES.

WARRANTIES ARE LIMITED TO THOSE PROVIDED BY THE MANUFACTURER. GOODS DESCRIBED ABOVE ARE SOLD WITHOUT ANY OTHER EXPRESS OR IMPLIED WARRANTIES, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

SUBTOTAL	46.00
FREIGHT	0.00
SALES TAX	2.76
AMOUNT DUE	48.76

Knight's REDI-MIX
P.O. Box 3408
Summerville, SC 29484
Office: 843-821-7600
Fax: 843-821-7627

INVOICE

SOLD TO:

MISCELLANEOUS
SC

SHIP TO:

EAGLE HARBOR 1104 SADDLEHORN

Price

CUSTOMER	INVOICE	DATE	TERMS
000006	16856	01/21/2004	NET 30

DESCRIPTION	QUANTITY	UM	PRICE	AMOUNT
Ticket Number 001-143535	01/20/2004			
3000PSI, 2.0% CAL	12.00	CY	65.00	780.00
2.0% CALCIUM	12.00	CY	5.00	60.00
Ticket Number 001-143537	01/20/2004			
3000PSI, 2.0% CAL	8.00	CY	65.00	520.00
2.0% CALCIUM	8.00	CY	5.00	40.00
Ticket Number 001-143542	01/20/2004			
3000PSI, 2.0% CAL	3.00	CY	65.00	195.00
2.0% CALCIUM	3.00	CY	5.00	15.00
TOTAL YARDS:	23.00			
JOB TAX				96.60
JOB TOTAL				1706.60

TAXABLE AMOUNT	1,610.00
EXEMPT AMOUNT	0.00
SALES TAX	96.60
INVOICE TOTAL	1,706.60

Knights REDI-MIX
P.O. Box 3408
Summerville, SC 29484
Office: 843-821-7600
Fax: 843-821-7627

INVOICE

SOLD TO:

MISCELLANEOUS
SC

SHIP TO:

EAGLE HARBOR 1104 SADDLEHORN

Price

CUSTOMER	INVOICE	DATE	TERMS
000006	16858	01/21/2004	NET 30

DESCRIPTION	QUANTITY	UM	PRICE	AMOUNT
Ticket Number 001-143594	01/21/2004			
3000 PSI RESIDENTIAL	3.00	CY	65.00	195.00
TOTAL YARDS:	3.00			
JOB TAX				11.70
JOB TOTAL				206.70

TAXABLE AMOUNT	195.00
EXEMPT AMOUNT	0.00
SALES TAX	11.70
INVOICE TOTAL	206.70

01327

ALLEN'S MASONRY
3228 DRAIN ROAD, SMOAKS,SC 29481
843-562-2597 OR 843-562-8824

Price Job

QUANTITY	DESCRIPTION OF SERVICE	TOTAL AMOUNT
1030	Conc Block @ 1.90	1957.00
	Labor for Slab Comp	
	Dirt Work	400.00
	Concrete Labor	1152.00

Total Materials_____

Total Labor 3509

Date Started 1/19/04 Date Finish 1/23/04

Signature Freddie Allen

I Hereby acknowledge the satisfactory completion of the above describe work.!

I Danny Gibbons understand that all sales are final!!!!!!

Pd 1/23/04
CK#1509
$3509.00

01328

Summerville, SC (504)

BORAL BRICKS

A Solid Decision™

Create Date : 01/22/2004

Customer I.D: 280148-SUMMERVILLE
P.O # :
Payment : CHECK

Order Number : 504 022754
Job Name : PRICE

BILL TO:
CASH SALES SUMMER3
DO NOT MAIL,
SUMMERVILLE,SC-29484

SHIP TO:
CASH SALES SUMMER3
ENTER SHIP TO,
SUMMERVILLE,SC-29483

Date:	Ordered By:	Sales Rep:	FOB:	Terms:
22-JAN-04	DANNY GILBERT	SUMMERVILLE**********	FOB Plant	Payment is due on receipt

Quantity	UOM	Item	Item Description	Ship Via	Tax	Unit Price	Per	Total
150	EA	903.0090.69001	8X8X8 HALF	PU	Y	1.06	EA	159.00

RECEIPT

DATE 1-22-04 No. 346171
FROM Heritage Classic Homes $ 166.95
22754
DOLLARS
FOR RENT
FOR CK# 1507

ACCT.		
PAID		
DUE		

CASH
CHECK
MONEY ORDER
FROM TO
BY KC Vereen
1152

Subtotal:	159.00
Sales Tax:	7.95
Balance Due:	166.95
Amount Due:	**166.95**

01329

Heritage Classic Homes

1044 Eagle Harbor Lane
Summerville, SC 29483

Invoice

Date	Invoice #
12/10/2003	1506

Bill To
Price Lot 20 Saddlehorn Road Eagle Harbor

P.O. No.	Terms	Project

Quantity	Description	Rate	Amount
	House plans	1,000.00	1,000.00
		Total	$1,000.00

B & B ENTERPRISES

Rural Route 4, Box 119
Andrews, SC 29510
(843) 387-6341 or (843) 5552

Customer's Order No. _____ Date 1-20-04

Name Heritage Classic Homes (Price Lot)

Address Fax to 843-688-5996

SOLD BY	CASH	C.O.D.	CHARGE	ON ACCT.	MDSE. RETD.	PAID OUT	LAYAWAY

QUAN.	DESCRIPTION	PRICE	AMOUNT
4 hrs	Labor to spread dirt inside foundation	$75.00	300 00
2	Loads dirt for inside foundation	$100.00	200 00
		SUB-TOTAL	
		TAX	
Received By		TOTAL	$500 00

Dirt Under Concrete Before Compaction

Pd CK#1519

COMMERCIAL INSURANCE APPLICATION
APPLICANT INFORMATION SECTION

ORD

OP ID: NR | DATE: 12/12/03

PRODUCER: PHONE (A/C, No, Ext): 843-763-7525
FAX 843-763-7529
Anderson Insurance Assoc., LLC
P.O. Box 30667
Charleston SC 29417-0667
Joseph P. Stringer

CODE: | SUB CODE:
AGENCY CUSTOMER ID: HERIT-1

CARRIER: ALEA London Limited | NAIC CODE: | UNDERWRITER:

POLICIES OR PROGRAM REQUESTED: residential GC liability

INDICATE SECTIONS ATTACHED

	PROPERTY		EQUIPMENT FLOATER		GARAGE AND DEALERS
	GLASS AND SIGN		INSTALLATION/BUILDERS RISK		VEHICLE SCHEDULE
	ACCOUNTS RECEIVABLE/ VALUABLE PAPERS		ELECTRONIC DATA PROC		BOILER & MACHINERY
X	CRIME/MISCELLANEOUS CRIME	X	COMMERCIAL GENERAL LIABILITY		WORKERS COMPENSATION
	TRANSPORTATION/ MOTOR TRUCK CARGO		BUSINESS AUTO		UMBRELLA
			TRUCKERS/MOTOR CARRIER		

STATUS OF SUBMISSION: X QUOTE | ISSUE POLICY | BOUND (Give Date and/or Attach Copy) DATE | TIME | AM | PM

PACKAGE POLICY INFORMATION — ENTER THIS INFORMATION WHEN COMMON DATES AND TERMS APPLY TO SEVERAL LINES, OR FOR MONOLINE POLICIES.

PROPOSED EFF DATE	PROPOSED EXP DATE	BILLING PLAN	PAYMENT PLAN	AUDIT
01/08/04	01/08/05	DIRECT BILL / X AGENCY BILL		

APPLICANT INFORMATION

NAME (First Named Insured & Other Named Insureds): Heritage Classic Homes, LLC
FEIN OR SOC SEC # (of First Named Ins): | PHONE (A/C, No, Ext): 843-688-5995
MAILING ADDRESS INCL ZIP+4 (of First Named Insured): Danny Gilbert, 1044 Eagle Harbor Lane, Summerville SC 29483

INDIVIDUAL	X	CORPORATION		SUBCHAPTER "S" CORPORATION		NOT FOR PROFIT ORG		CR BUREAU NAME	CREDIT BUREAU ID NUMBER	YEAR BUS STARTED
PARTNERSHIP		JOINT VENTURE		LIMITED CORPORATION					(See page 3 for business type other description.)	2002

INSPECTION CONTACT: Danny Gilbert | PHONE (A/C, No, Ext): 843-688-5995
ACCOUNTING RECORDS CONTACT: Danny Gilbert | PHONE (A/C, No, Ext): 843-688-5995

PREMISES INFORMATION

LOC #	BLD #	STREET, CITY, COUNTY, STATE, ZIP+1	CITY LIMITS	INTEREST	YR BUILT	PART OCCUPIED
001	001	1044 Eagle Harbor Lane Summerville SC 29483 berkeley	INSIDE / X OUTSIDE	OWNER / X TENANT		
			INSIDE / OUTSIDE	OWNER / TENANT		
			INSIDE / OUTSIDE	OWNER / TENANT		

NATURE OF BUSINESS/DESCRIPTION OF OPERATIONS BY PREMISE(S)

001 001 residential GC

001 001

001 001

GENERAL INFORMATION

EXPLAIN ALL "YES" RESPONSES	YES	NO	EXPLAIN ALL "YES" RESPONSES	YES	NO
1. IS THE APPLICANT A SUBSIDIARY OF ANOTHER ENTITY OR DOES THE APPLICANT HAVE ANY SUBSIDIARIES?		X	7. ANY PAST LOSSES OR CLAIMS RELATING TO SEXUAL ABUSE OR MOLESTATION ALLEGATIONS, DISCRIMINATION OR NEGLIGENT HIRING?		X
2. IS A FORMAL SAFETY PROGRAM IN OPERATION?		X	8. DURING THE LAST TEN YEARS, HAS ANY APPLICANT BEEN CONVICTED OF ANY DEGREE OF THE CRIME OF ARSON? (In RI, this question must be answered by any applicant for property insurance. Failure to disclose the existence of an arson conviction is a misdemeanor punishable by a sentence of up to one year of imprisonment).		X
3. ANY EXPOSURE TO FLAMMABLES, EXPLOSIVES, CHEMICALS?		X			
4. ANY CATASTROPHE EXPOSURE?		X			
5. ANY OTHER INSURANCE WITH THIS COMPANY OR BEING SUBMITTED?		X	9. ANY UNCORRECTED FIRE CODE VIOLATIONS?		X
6. ANY POLICY OR COVERAGE DECLINED, CANCELLED OR NON-RENEWED DURING THE PRIOR 3 YEARS? NOT APPLICABLE IN MO		X	10. ANY BANKRUPTCIES, TAX OR CREDIT LIENS AGAINST THE APPLICANT IN THE PAST 5 YEARS?		X

REMARKS:

ANY PERSON WHO KNOWINGLY AND WITH INTENT TO DEFRAUD ANY INSURANCE COMPANY OR ANOTHER PERSON FILES AN APPLICATION FOR INSURANCE OR STATEMENT OF CLAIM CONTAINING ANY MATERIALLY FALSE INFORMATION, OR CONCEALS FOR THE PURPOSE OF MISLEADING, INFORMATION CONCERNING ANY FACT MATERIAL THERETO, COMMITS A FRAUDULENT INSURANCE ACT, WHICH IS A CRIME AND SUBJECTS THE PERSON TO CRIMINAL AND [NY: SUBSTANTIAL] CIVIL PENALTIES. (NOT APPLICABLE IN CO, HI, NE, OH, OK, OR, IN ME AND VA, INSURANCE BENEFITS MAY ALSO BE DENIED)

APPLICANT'S SIGNATURE | PRODUCER'S SIGNATURE: Joseph P. Stringer

© ACORD CORPORATION 1993

DATE ISSUED	CONTRACT NO.	PREVIOUS NO.
January 22, 2003	330.320.02	NEW

THIS DECLARATION PAGE IS ATTACHED TO AND FORMS PART OF CERTIFICATE/COVER NOTE PROVISIONS

ITEM

CERTIFICATE / POLICY NUMBER: **ALT020713**

1

Name of Assured
HERITAGE CLASSIC HOMES, LLC
DANNY GILBERT
1044 EAGLE HARBOR LANE
SUMMERVILLE, SC 29483

ANDERSON BISSELL INSURANCE
PO BOX 30667
CHARLESTON, SC 29417

THIS COMPANY HAS BEEN APPROVED BY THE DIRECTOR OR HIS DESIGNEE OF THE SOUTH CAROLINA DEPARTMENT OF INSURANCE TO WRITE BUSINESS IN THIS STATE AS AN ELIGIBLE SURPLUS LINES INSURER, BUT IT IS NOT AFFORDED GUARANTY FUND PROTECTION.

2 Effective From 12:01am Both Days at Standard Time January 8, 2003 TO January 8, 2004

3 Acting upon your instruction, we have effected the insurance with:

NAME OF INSURERS	AMOUNT OR PERCENT
ALEA LONDON LIMITED	**100%**

G62010

4

LIMIT	COVERAGE	RATE	PREMIUM
$1,000,000	COMMERCIAL GENERAL LIABILITY	SEE CL150	$3,500.00

ANDERSON INSURANCE ASSOC. LLC
159 Savannah Highway
P. O. Box 30667
Charleston, SC 29417-0667
(843) 763-7825 FAX (843) 766-7529
SERVES YOU FIRST
Independent Insurance Agent

TOTAL BASE $3,500.00

5 SPECIAL CONDITIONS

IL0017 (11-85), IL0021(11-85), TAPCO1998, NMA 2918, MOLD EXCL (10-01), CL-150

POLICY FEE	$125.00
INSPECTION	
TAX	$217.50
TOTAL	$3,842.50

6

In witness whereof this covernote has been signed at BURLINGTON, NC this 22 day of January 2003 TAPCO UNDERWRITERS, INC

KADAMS SC

by

Original

01333

Access Portable Toilets, Inc.
3753 Ashley Phosphate Rd.
N. Charleston, SC 29418
(843) 824-2954

Invoice

Number: 63845
Date: 08-Jan-2004
P.O. Number:

BILL TO 1355
Heritage Classic Home
1044 Eagle Harbor Lane
Summerville, SC 29486

JOB SITE 7423
1204 Saddlehorn
Lot 20
Summerville, SC

Price

Last Payment Date:
14-Mar-2003

Job Number: Accounting ID:

From =>	To	Duration	Unit/Service Type	Quantity	Price/Per	Tax?	Extension
07-Jan-2004 =>	06-Feb-2004	1	Portable Toilet Serviced 1X Per Week Flat rate charge	1	$55.00	☑	$55.00
07-Jan-2004 =>	06-Feb-2004	1	Diesal Fuel Surcharge Flat rate charge	1	$2.25	☐	$2.25

	Taxable Amount	Tax Rate	Tax	Description
Rental:	$55.00	6	$3.30	Sales Tax Charleston
Service:	$0.00		$0.00	Non Taxable

Subtotal NonTaxed:	$2.25
Subtotal Taxable:	$55.00
Subtotal Tax:	$3.30
Current Invoice Total:	$60.55
Please Pay:	**$60.55**

Payment Terms: Net 15 +/- Chrg or Pymt: $0.00

You may notice an increase in your bill due to increased operational expenses.
Any balance thirty (30) days overdue will be assessed a late charge.

Please detach here and return the bottom portion with your payment.

From:
Heritage Classic Home
1044 Eagle Harbor Lane
Summerville, SC 29486

Invoice No.	Date	Current Amount
63845	08-Jan-2004	$60.55
	Total Due	**$60.55**

To:

Access Portable Toilets, Inc.
3753 Ashley Phosphate Rd.
N. Charleston, SC 29418

If you would like to pay using your credit card, please fill in the following information:

Credit Card Number _____ Date Expires _____

Signature _____ Amount to Pay or leave blank to pay in full

Duncan Parnell

P.O. Box 35649
Charlotte, N.C. 28235-5649

INVOICE DATE	INVOICE NUMBER
12/10/03	S1904296.001

REMIT TO:	PAGE NO.
Duncan-Parnell, Inc. P.O. Box 35649 Charlotte, NC 28235-5649	1

CHARLOTTE, NC (704) 372-7766 (800) 849-7708
RALEIGH, NC (919) 833-4677 (800) 849-7709
NORTH CHARLESTON, SC (803) 747-6033 (800) 849-7710
ROCKY MOUNT, NC (919) 977-7832 (800) 445-4803
WILSON, NC (919) 243-1632

BILL TO
HERITAGE CLASSIC HOMES
1044 EAGLE HARBOR LN
SUMMERVILLE SC 29483

SHIP TO
EAGLE HARBOR
38-F MILANO ST
HANAHAN, SC 29406

CUSTOMER NUMBER	CUSTOMER ORDER NUMBER	CUSTOMER JOB NUMBER	BRB	BRS	TERMS:
4929	PRICE	DANNY GILBERT	4	4	NET 10 DAYS END OF MONTH

REF. DOC. NUMBER	SALESMAN	SHIP VIA	DATE SHIPPED	ORDER DATE	1% FINANCE CHARGE ADDED ON PAST DUE AMOUNTS
S1904296.001	HOUSE4	PU PICK-UP	12/10/03	12/10/03	

DESCRIPTION	QTY. ORD.	QTY. SHIP.	NET UNIT PRICE	NET AMOUNT
PLOTTING BOND 24X36 COPY	11	11	3.600	39.60
XEROX PPC BOND 24X36 COPY	44	44	1.000	44.00

RETURNS REQUIRE PRIOR AUTHORIZATION. RETURN MATERIAL SUBJECT TO RESTOCKING, HANDLING, AND FREIGHT CHARGES.

WARRANTIES ARE LIMITED TO THOSE PROVIDED BY THE MANUFACTURER. GOODS DESCRIBED ABOVE ARE SOLD WITHOUT ANY OTHER EXPRESS OR IMPLIED WARRANTIES, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

SUBTOTAL	83.60
FREIGHT	0.00
SALES TAX	5.02
AMOUNT DUE	88.62

01335

REED'S MASONRY

3228 DRAIN ROAD, SMOAKS, SC 29481

843-562-2597 OR 843-562-8824

$1504 Price

QUANTITY	DESCRIPTION OF SERVICE	TOTAL AMOUNT
1315		2498.50

Total Materials _____

Total Labor 2498.50

Date Started 1/12 Date Finish 1/16

Signature Freddie Allen

I Hereby acknowledge the satisfactory completion of the above describe work !

I _____ understand that all sales are final!!!!!!

01336

Price

452986

JEDBURG

CUSTOMER'S ORDER NO.	DEPARTMENT	DATE
1104 SHADOWHORN	WAle Foundation	1-8-03

NAME: Norwood Wale (843) 973-1058

ADDRESS: P.O. Box 205 (843) 728-0427

CITY, STATE, ZIP: Ladson S.C. 29456

SOLD BY	CASH	C.O.D.	CHARGE	ON ACCT.	MDSE RETD	PAID OUT

QUANTITY	DESCRIPTION	PRICE	AMOUNT
1	Lay out digging And pouring		1,899 00
2	Foundation Staker		55 00
3	Battle Boards		65 00
4	Rebar Chairs		30. 00
5	Rebar Steels		480. 00
6	Extra Verticles		350 00
7	Tie Wire		20. 00
8	Concrete	36 yr	2,442 24
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19		$	5,341 24
20			

RECEIVED BY

Job Total 5341 24

adams 5805

KEEP THIS SLIP FOR REFERENCE

01337

Ck#1505

THE HOME DEPOT 1120
190 MARYMEADE DRIVE
SUMMERVILLE, SC 29483 (843)851-0468

SALE 1120 00024 15248 01/19/04
72 RLD790 10:40 AM

657382 MASONCEMNT-S
12 @ 6.27 75.24
RSN: 6 NEW AMT 5.89 MKDN -4.56
597767 8X8X16 BLOCK
420 @ 1.21 508.20
SUBTOTAL 578.88
SALES TAX 34.73
TOTAL $613.61
CHECK 613.61
XXXXXXXX4806
AUTH CODE 180337

1120 24 15248 01/19/2004 4872

YOUR OPINION COUNTS! COMPLETE A SURVEY AT WWW.HOMEDEPOTOPINION.COM AND ENTER TO WIN A $5,000 HOME DEPOT GIFT CARD!

1506

THE HOME DEPOT 1120
190 MARYMEADE DRIVE
SUMMERVILLE, SC 29483 (843)851-0468

SALE 1120 00004 93155 01/20/04
62 DXR307 07:24 AM

070052002086 POLY SHEET 39.97
SALES TAX 2.40
TOTAL $42.37
CHECK 42.37
XXXXXXXX4806
AUTH CODE 404612

1120 04 93155 01/20/2004 6792

YOUR OPINION COUNTS! COMPLETE A SURVEY AT WWW.HOMEDEPOTOPINION.COM AND ENTER TO WIN A $5,000 HOME DEPOT GIFT CARD!

PLASTIC FOR UNDER SLAB

Anderson Insurance Assoc., LLC
P.O. Box 30667
Charleston SC 29417-0667
Phone: 843-763-7525 Fax: 843-763-7529

STATEMENT

Page 1

ACCOUNT NO.	CSR	STATEMENT AS OF
HERIT-1	NR	01/02/2004
AMOUNT DUE		AMOUNT PAID
$ 1,824.41		

Heritage Classic Homes, LLC
Danny Gilbert
1044 Eagle Harbor Lane
Summerville, SC 29483

Inv #	Trn	Due Date	Description	Amount	Payments/Credits	Balance Due
22893	NEW	11/25/03	BR 11/03-05/04 Lot 20 Saddlehorn Road - Price	694.00	0.00	694.00
23115	NEW	12/19/03	BR L135 Soaring Way	620.00	0.00	620.00
23183	NEW	12/31/03	BR-1204 Saddlehorn Rd Cancelled 1/07/04	500.00	0.00	500.00
*186734	CHG	12/31/03	Service Charge	10.41	0.00	10.41 ÷ 2

Total Balance Due: ~~1824.41~~ 1324.41

Price - $ 699.20

* = Item Number

HCH CK# 1501
$1218.75
1/8/04

Berkeley County Government
223 N. Live Oak Drive
Moncks Corner, SC 29461
843 719-4368 (Inspectors) 8-10am

License Record
License Number: LIC2004-41

Page: 1
Printed: 1/8/04

Company: Heritage Classic Homes
Contact Info: Angie Johnson
PAC
Contact Dept:
Phone: 843-412-4351 **Cellular:** **Email:**

License Type: Permit Authorization Card
Issued By: Bonnie Jones

Local Address: 1044 Eagle Harbor Lane
Summerville, SC 29483

Phone: 843-697-7064
Fax: 843-572-9647
Cellular:
Email:

Main Address:

Phone:
Fax:
Cellular:
Email:

Comments:

Fees: $25.00

Receipts: $25.00

Angie Johnson

LIC2004-41 Berkeley County, S.C. CONT 2002-23

PERMIT AUTHORIZATION CARD

License Holder Heritage Classic Homes
License # 018558 Angie Johnson Signature
Issued to: Angie Johnson Bonnie A. Jones Signature
Exp. Date: 01/02/05
Property of Berkeley County, S.C.
RHB

CERTIFICATION BY COUNSEL

I, the undersigned counsel, do hereby certify that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

Respectfully submitted this 16th day of June 2019.

Paul B. Ferrara, III
S.C. Bar No. 70511
8887 Old University Blvd, Ste. 200
North Charleston, SC 29406
(843) 569-5511 / (843) 569-5411 fax
paul@ferraralawfirm.net
Attorney for Appellant

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Attorney for Appellant