# SEPTEMBER 20, 2011 ZONING HEARING "OTHER BUSINESS" COMMISSION DISTRICT 1

# <u>ITEM # 6</u>

# **PURPOSE**

To consider a stipulation amendment in order to clarify zoning stipulations for Morris Property Enterprises, LLC regarding rezoning application OSC 05-12 of 2005 (Palladian, Inc.), for property located on the west side of John Ward Road, south of Brookmont Trace in Land Lots 194 and 195 of the 19<sup>th</sup> District.

# BACKGROUND

The subject property was zoned R-20 OSC with stipulations for an open space subdivision. The applicant has submitted this application in order to clarify the zoning stipulations regarding the house architecture. The original developer had submitted photographs of the proposed houses that became part of the zoning stipulations. The original developer is no longer involved with this subdivision. The new owner has their own builders that have their own house plans. The new owner has submitted an agreement (Exhibit B) signed by all the parties within the subdivision outlining the specifications for any new house built in the subdivision. The applicant has submitted proposed house plans, which are attached as Exhibit C. If approved, all other zoning stipulations would remain in effect. The Board of Commissioners' decision is attached.

## **FUNDING**

N/A

# **RECOMMENDATION**

The Board of Commissioners conduct a Public Hearing and consider the proposed site plan and stipulation amendments.

## **ATTACHMENTS**

Other Business application Rezoning stipulations (Exhibit A) Agreement with neighbors (Exhibit B) Proposed house plans (Exhibit C)

Year 2011 Form
Application for "Other Business"
Cobb County, Georgia (Cobb County Zoning Division – 770-528-2035) BOC Hearing Date Requested: (20/11/2
Applicant: Morris Roperts Enterprises, UC Phone #:
Address: 3459 Acrosth Die West Rod M STE 317 E-Mail: Chotes D. Heiser, SF. Address:
(representative's name, printed)
(representative's signature) Phone #: 3/4-303-4994 E-Mail: Cheiser jr C yahoo.com
Signed, sealed and delivered in presence of:
(Na Nahi Hunman)
Notary Public
Titleholder(s): Same as above
(property owner's name printed)
Address: E-Mail:
(Property owner's signature)
Signed, sealed and delivered in presence of:
Notary Public My commission expires:
Commission District: Zoning Case: Application OSC 05-12
Date of Zoning Decision: 7/19/2005 Original Date of Hearing: 7/19/2005
Location: 15.772 acres - westerly side of John Ward Ral, Southerly of Brokenet Tree
Location: 15.772 acres - Westerly side of John Ward Pol, Southerly of Brokmunt Tree (street address, if applicable; nearest intersection, etc.) Land Lot(s): 194 and 195 District(s): 19th 2nd Section
Land Lou(s): $174 \text{ and } 175$ District(s): $17-2-5icton$
State <u>specifically</u> the need or reason(s) for Other Business: <u>Glenn Park</u>
Further Claity + Add to the Zoning Conditions.
see attached Exhibit A, B & C.

(List or attach additional information if needed)

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#### <u>ITEM #9</u>

Exhibit A 1.7

To consider approval of an R-20 Open Space Community Overlay application for Palladian, Inc. regarding Application OSC 05-12 filed June 06, 2005, for property located on John Ward Road in Land Lots 194 and 195 of the 19<sup>th</sup> District, Cobb County, Georgia.

Mr. Dana Johnson, Planner III, Community Development, provided information regarding an R-20 Open Space Community Overlay application for Palladian, Inc., regarding Application OSC 05-12 filed June 6, 2005. Mr. John Moore addressed the Board. Following presentations and discussion, the following motion was made:

SEPTEMBER 20, 2011 Exhibit "A" Other Business Item 06

Existing Stipulations OSC 05-12 (2005

MOTION: Motion by Lee, second by Thompson, to <u>approve</u> an R-20 Open Space Community Overlay application for an R-20 Open Space Community Overlay application for Palladian, Inc. regarding Application OSC 05-12 filed June 06, 2005, for property located on John Ward Road in Land Lots 194 and 195 of the 19<sup>th</sup> District subject to:

- site plan received in the Planning Division June 23, 2005 (copy attached and made a part of these minutes)
- letter of agreeable stipulations from Mr. John Moore dated June 23, 2005, not otherwise in conflict (copy attached and made a part of these minutes)
- owner/developer to place all property dedicated as open space and all land that contains a slope of 35% or greater into a permanently protected conservation easement or restrictive covenant to be recorded in the mandatory subdivision covenants and Cobb Superior Court, thereby protecting "open space" from development in perpetuity, as owned by the mandatory homeowners association
- minor modifications to site plan allowed at Plan Review as long as residential lot lines are not altered and density is not increased
- District Commissioner to approve all minor modifications to site layout
- Cemetery Preservation comments and recommendations
- Stormwater Management Division comments and recommendations
- Cobb DOT comments and recommendations

VOTE: **ADOPTED** 4-0, Olens absent

#### Ethibit A Copy of Original Letter of Agreeable Stipulations MOORE INGRAM JOHNSON & STEELE A LIMITED LIABILITY PARTNERSH **192 ANDERSON STREET** SEPTEMBER 20, 2011 MARIETTA, GEORGIA 30060 JOHN H. MOORE HARRY R. TEAR HI T. 8H Exhibit "A" W. TROY HARTT F. MIC WWW.MUS.COM JEFFREY A. DAXE ANG MELISBA W. GILBERT TIMOTHY W. BAILEY Other Business Item 06 OPHI STA JOYCE W. HARPER MERE

MAIN OFFICE POST OFFICE BOX 3305 MARIETTA, GEORGIA 30061

**TENNESSEE OFFICE** 

CEDAR RIDGE OFFICE PARK SUITE 463 408 N. CEDAR BLUFF ROAD KNOXVILLE, TENNESSEE 37923 DAVID M. VAN SANT

DARRELL L. SUTTON KABI R. WHITAKER

AUTUMN L. VEAZEY

JEFFREY K. STINSON

DAVID A. COX

Road; southerly of Brookmont Trace, Land Lots 194 and 195, 19th District, 2nd Section,

Cobb County, Georgia

BENJAMIN A. WALDEN

JAMES D. WALKER HI

NICHOLAS J. PETERSON\*

ELIZABETH ANN GUERRANT

CHRISTOPHER D. GUNNELS\*

TELEPHONE (770) 429-1499 TELECOPIER (770) 429-8631 TELEPHONE (865) 692-9039 TELECOPIER (865) 692-9071

June 23, 2005

Mr. Dana Jo Planning Di Cobb County 191 Lawrenc	ivision 7 Community Development		d Delive Community Devel FLANNING D
Marietta, G	Georgia 30060-1689 Application for Open Spa Application No.:	ace Community (OSC)	2 300 2
	Applicant:	Pallladian, Inc. The Estate of Newton Snelson	₽ ₽ ₽
	Property:	15.772 acres located westerly side of Johr	

Dear Dana:

Pursuant to the discussion with staff during the Concept Review Meeting on June 16, 2005, enclosed are OSC Land Plans, last revised June 22, 2005, with respect to the above-referenced Application for Open Space Community. These Concept Plans supersede those initially submitted with the subject Application on or about June 6, 2005, as well as any other subsequent plans. We, therefore, respectfully request the revised Plans submitted herewith be taken into consideration with the Application from this date forward.

We are further submitting a revised Site Analysis prepared by Gaskins Engineering & Surveying Company with respect to the proposed development. The revised analysis is based on the revised Land Plans submitted herewith.

Additionally, the homes to be constructed within the proposed OSC community will be 3,000 square feet, and greater. The prices for

STEPHEN C. STEELE WILLIAM R. JOHNSON<sup>†</sup> ROBERT D. INGRAM<sup>†</sup> J. BRIAN O'NEIL 6. PHR LIP REGGS ELDON L. BASHAM MATTHEW J. HOWARD JERE C. SMITH CLAYTON O. CARMACK KEVIN B. CARLOCK ALEXANDER T. GALLOWAY INT J. KEVIN MOORE RODNEY R. MoCOLLOCH SUSAN S. STUART DANIEL A. LANDIS BRIAN D. SMITH

AMY K. WEBER

KIM A. ROPER

TARA C. RIDOLE

KELLI L. WOLK

C. LEE DAVIS

JOSHUA M. BOOTH

TANYA L. CROBSE\*

VICTOR P. VALMUS

ROBERT W. BROWN II

JEFFERY L. DICKERSON

COURTNEY H. MOORE

OF COUNSEL MICHELLE 8. DAVENPORT JOHN L. SKELTON, JR.

- ALSO ADMITTED IN TH ALSO ADMITTED IN PL
- ALSO ADMITTED IN SC ALBO ADMITTED IN NC ADMITTED ONLY IN TH

WRITER'S DIRECT DIAL NUMBER

nt Dept.

### **MOORE INGRAM JOHNSON & STEELE**

Exhibit A 3 & 7

Mr. Dana Johnson Planning Division Cobb County Community Development Agency Page Two June 23, 2005 SEPTEMBER 20, 2011 Exhibit "A" Other Business Item 06

the homes will begin in the high \$400s and range upwards. Enclosed are copies of photographs representing the types of homes to be constructed within this development.

Thank you for your continued assistance in this Application. If you should have any questions or require additional information concerning the pending Application, please contact me at your earliest opportunity. We look forward to confirmation of the placement of the Application for hearing by the Board of Commissioners on the July 19, 2005, Zoning Hearing agenda.

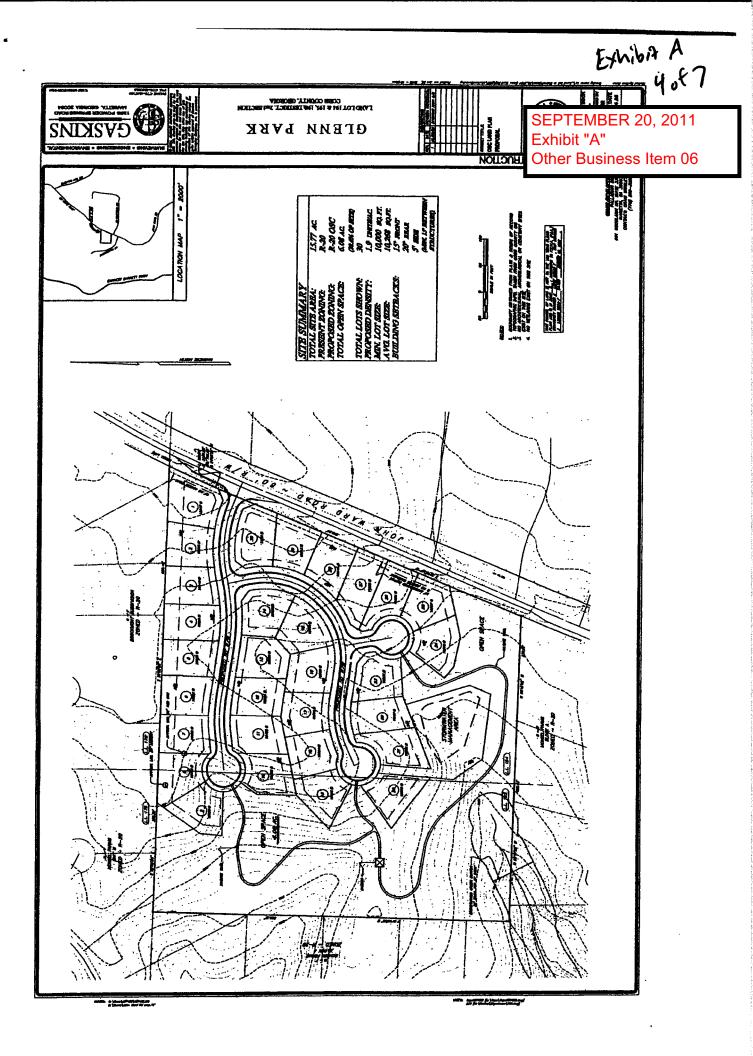
With kindest regards, I remain

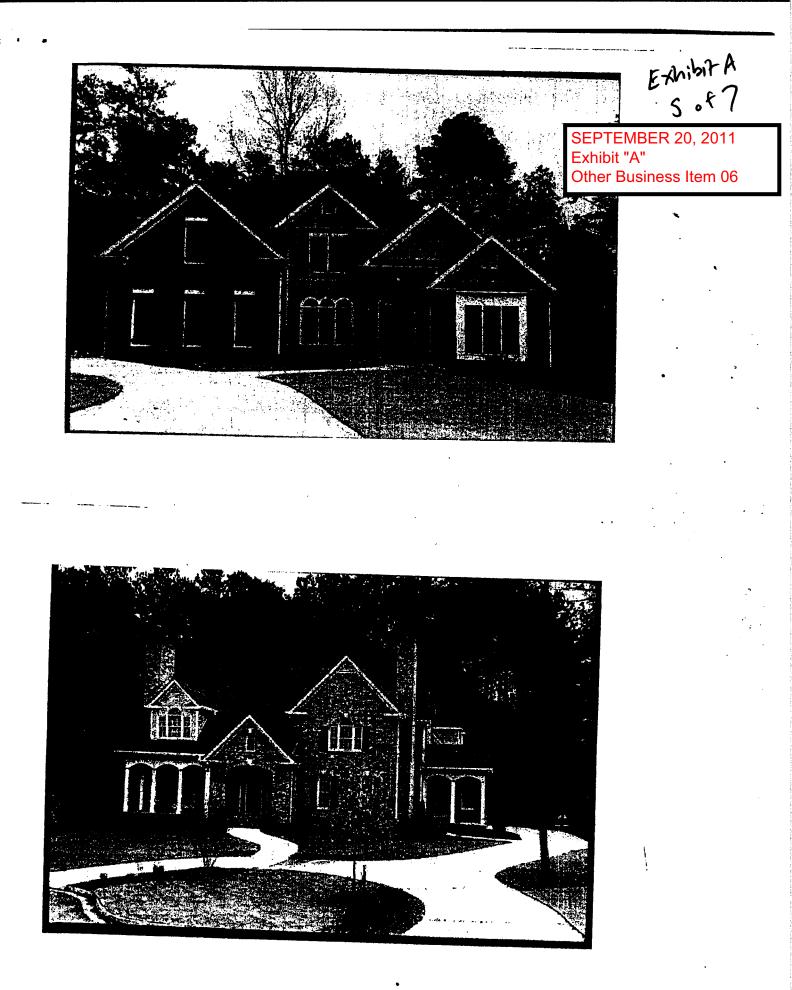
Very truly yours,

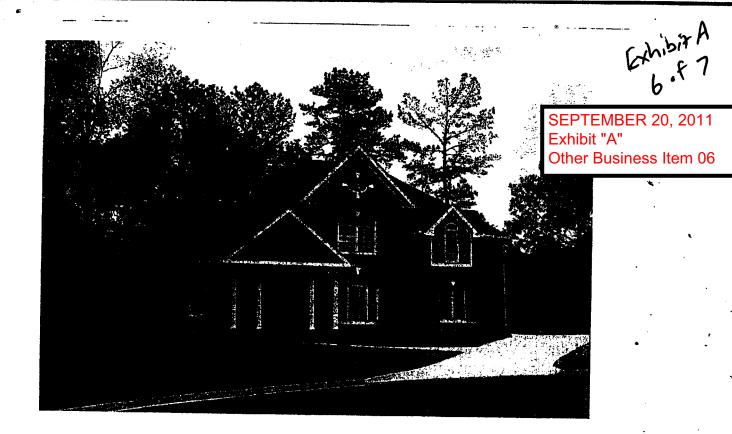
MOORE INGRAM JOHNSON & STEELE, LLP

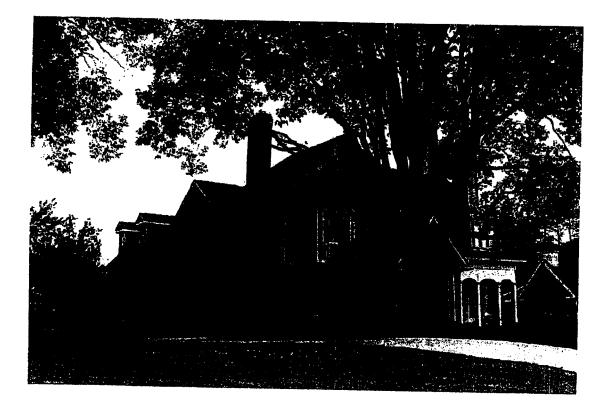
John H. Moore

JHM:cc Enclosures c: Palladian, Inc. (With Copies of Enclosures)









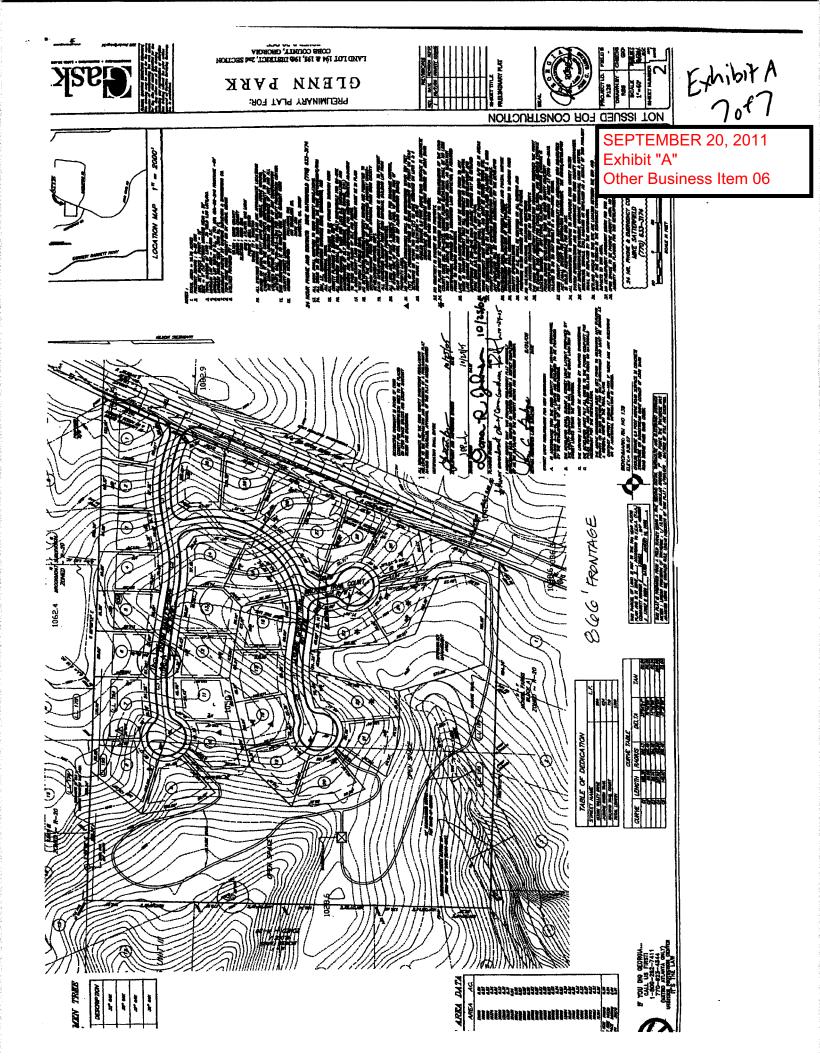


Exhibit B lofq

# Attachment

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# Reason for "Other Business" (Continued)

SEPTEMBER 20, 2011 Exhibit "B" Other Business Item 06

Strike paragraph three of the Stipulation Letter dated June 23, 2005, which reads as follows:

"Additionally, the homes to be constructed within the proposed OSC community will be 3,000 square feet, and greater. The prices for the homes will begin in the high \$400s and range upwards. Enclosed are the copies of photographs representing the types of homes to be constructed within this development."

Replace Paragraph Three of the Stipulation Letter dated June 23, 2005 with the attached agreement.

Exhibit B 20fg

#### **STATE OF GEORGIA**

- 1. - **-**

#### **COUNTY OF COBB**

SEPTEMBER 20, 2011 Exhibit "B" Other Business Item 06

#### AGREEMENT

THIS AGREEMENT, entered into by and among MORRIS PROPERTY ENTERPRISES, LLC; PIEDMONT RESIDENTIAL, LLC; KERLEY FAMILY HOMES, LLC; and CHERYL S. MORRIS (hereinafter collectively referred to as "Owners") and KIMBERLY E. GARY and THOMAS WEST GARY, IV and TAB D. SIEGRIST (hereinafter collectively referred to as "Residents").

#### WITNESSETH:

WHEREAS, Glenn Park is a residential subdivision lying and being in Land Lot 195, of the 19<sup>th</sup> District, 2<sup>nd</sup> Section, Cobb County, Georgia, said subdivision having a total of thirty (30) residential lots and being more particularly described on that certain subdivision plat recorded in Plat Book 261, page 5, Records of Cobb County, Georgia; a reduced copy of said plat being attached hereto as Exhibit "A" and incorporated herein and made a part hereof by reference. The subdivision is hereinafter referred to as "Glenn Park"; and

WHEREAS, Morris Property Enterprises, LLC is the owner of Lots 1, 2, 3, 4, 16, 17, 18, 19, and 21 of Glenn Park; and

WHEREAS, Piedmont Residential, LLC is the owner of Lots 5, 6, 9, 10, and 11 of Glenn Park; and

WHEREAS, Kerley Family Homes, LLC is the owner of Lots 8, 12, 13, 14, and 15 of Glenn Park; and

WHEREAS, Cheryl S. Morris is the owner of Lots 22, 23, 24, 25, 26, 27, 28, 29, and 30 of Glenn Park; and

WHEREAS, KIMBERLY E. GARY and THOMAS WEST GARY, IV are the owners of Lot 7 of Glenn Park; and

WHEREAS, TAB D. SIEGRIST is the owner of Lot 20 of Glenn Park; and

WHEREAS, the parties to this Agreement wish to establish certain terms and conditions which shall apply to any and all homes to be constructed within Glenn Park.

NOW, THEREFORE, for and in consideration of the premises herein contained, and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the parties do hereby agree as follows:

Exhibit B 30F9

The parties hereto do wish to establish certain terms and conditions for homes to be constructed within Glenn Park so as to make the subdivision homes and architecture harmonious, and to create a point of pride and value for the existing residents and future residents.

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2.

The parties hereby establish and agree that the following terms and conditions shall bind all future homes constructed within Glenn Park:

- (a) Where in conflict, the stipulations and conditions set forth herein shall replace and supersede in full any and all prior stipulations and conditions, in whatsoever form, which are currently in place as to Glenn Park.
- (b) Residences to be constructed within Glenn Park shall have a minimum of 2,800 square feet of finished, heated and cooled, living space. Finished basements shall not count toward minimum square footage required.
- (c) Residences to be constructed within the Glenn Park shall be craftsman or traditional in styling and architecture and shall contain a minimum of a two-car front load or side load garages. The front elevations shall have varied roof lines and multiple gables or hips to match the architectural styling of each residence.
- (d) The front elevation exterior facades of the proposed residences shall have brick, stone, field painted or stained shake, field painted fiber cement board vertical siding or field painted fiber cement board horizontal siding with a minimum of three of the five mentioned materials. The side and rear elevation exterior facades of the proposed residences shall have field painted fiber cement board horizontal siding as a minimum. There shall be no pre-finished siding permitted.
- (e) All roofing shall be a minimum of a 30 year architectural style asphalt or fiberglass shingle, color to match existing homes in the community. There shall be no 3-in-1 tab shingles permitted.
- (f) All front and rear doors shall be wood or fiberglass to be stained or painted to match the architectural styling for each residence. There shall be no metal doors permitted.
- (g) All windows shall be wood or vinyl. The front elevation shall have a grid pattern on the top sash and no grid pattern on the bottom sash to match the architectural styling for each residence. There shall be no metal windows permitted.
- (h) All garage doors shall be carriage style doors with applied trim to match the architectural styling for each residence. There shall be no 16 foot wide garage

Exhibit B 4 of 9

doors. All garage doors are to be 8 feet in width with a separation between garage doors.

- (i) All shutters shall be solid wood or solid synthetic material to match the architectural styling for each residence. There shall be no hollow vinyl shutters permitted.
- (j) All exterior porch columns shall be solid synthetic material a minimum of 10 inches to match the architectural styling for each residence. When used, all tapered exterior porch columns shall match the existing homes in the community and the architectural styling for each residence.
- (k) All cornice material on the front elevation shall require a fascia board and freeze board with crown mold to match the architectural styling for each residence. All cornice material on the side and rear elevation shall require a fascia board and bed mold. All soffet/gable overhangs shall be a minimum of one foot.
- (1) All wood burning fireplace caps shall match the existing homes in the community. Direct vent fireplaces are permitted.
- (m) All front, side, and rear yards shall be sodded.
- (n) All landscape packages, at a minimum, shall match the existing homes in the community.
- (o) All mail boxes shall match the existing homes in the community.
- (p) All exterior colors shall be commensurate with the existing homes in the community.
- (q) All front elevations shall have a minimum of two (2) coach lights either side of the garage door and a minimum of one (1) porch light to match the architectural styling of each residence.

3.

The Owners and Residents hereby agree to abide by, adhere to, and conform with the within stated terms and conditions which shall be applicable to all future homes to be constructed. This Agreement shall be binding upon the parties hereto, their heirs, successors, successors-in-title, and assigns.

4.

This Agreement shall be recorded in the Deed Records of the Superior Court of Cobb County, Georgia, and may be enforced by the parties hereto; Cobb County, Georgia; and the heirs, successors, successors-in-title, and assigns of any party hereto.

Exhibit B Sofq

5.

This Agreement shall be construed under the laws of the State of Georgia.

6.

All parties hereto have fully read and understand the terms and conditions contained within this Agreement and further voluntarily agree to be fully bound thereby.

7.

This Agreement may be executed in multiple counterparts, and all such counterparts shall be taken together, so that they may constitute a completely executed Agreement among the parties.

8.

This Agreement shall become effective as of the date it is fully and completely executed by the parties.

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals the day and year written below their respective signature.

"OWNERS"

MORRIS PROPERTY ENTERPRISES, LLC

BY:

Charles D. Heiser, Jr. TITLE: Manages

Date Executed:

Signed, sealed, and delivered in the presence of:

ublic My Commission Expires: Seal] [Signatures continued on following pages]

Page 4 of 8

PIEDMONT RESIDENTIAL, LLC

BY pai ent Manager TIT Date Executed: 6.2011

Exhibit B

9

Signed, sealed, and delivered in the presence of:

ficial Witness

Notary Public My Commission Expires: 7/13/14

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KERLEY FAMILY HOMES, LLC

BY: Gene Kerley TITLE: 1'o-autor

Date Executed:  $\frac{1}{2}/\frac{2}{-1}$ 

Signed, sealed, and delivered in the presence of:

Notary Public My Commission Expires:

[Notarial Seal]



[Signatures continued on following pages]

Page 5 of 8

Exhibit B 70f9

2 A Mouris 6/15/2011 Cheryl S. Morris

Date Executed:

Signed, sealed, and delivered in the presence of:

Unofficial Witness

7/13/14 mmission Expires:\_

Jonarial Seal] NINI ALLING 6

SEPTEMBER 20, 2011 Exhibit "B" Other Business Item 06

[Balance of page 6 left intentionally blank]

[Signatures continued on following pages]

Page 6 of 8

Exhibit B 8 of 9

SEPTEMBER 20, 2011

"RESIDENTS"

Exhibit "B" Other Business Item 06 (L.S.) Kimberly E. Gar Date Executed: 15

Signed, sealed, and delivered in the presence of:

Unofficial Witness matting ion Expires: 7/13/14 WILLIAM W ÖB <u>IV\_(L.S.)</u> Thomas West Gary, TV 15/11 Date Executed: r geo and delivered in the presence of: Witness Unofficial Commission Expires: 7/13 М eal] Thin COBY

[Balance of page 7 left intentionally blank]

[Signatures continued and concluded on page 8]

Exhibi+B 9 of 9 D.f. (L.S.) Tab D. Siegrist 15/20/ Date Executed: **SEPTEMBER 20, 2011** Signed, sealed, and delivered in the presence of: Exhibit "B" Other Business Item 06 Unofficial Witness/ Notary/Public My Commission Expires: 7/13/14 al Seal] Timmer Cum Read and Approved By:

Helen C. Goreham District 1, Western District Commissioner Cobb County Board of Commissioners

Date Executed:\_\_\_\_\_

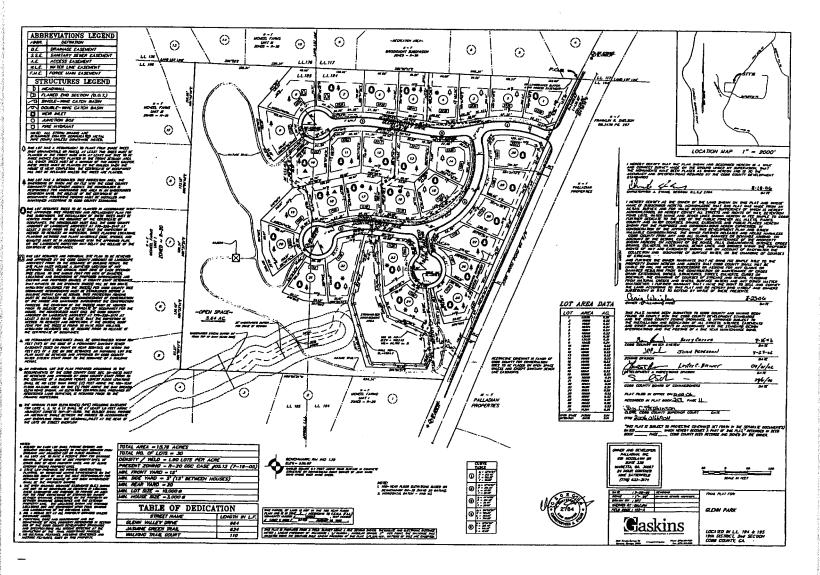
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BY:

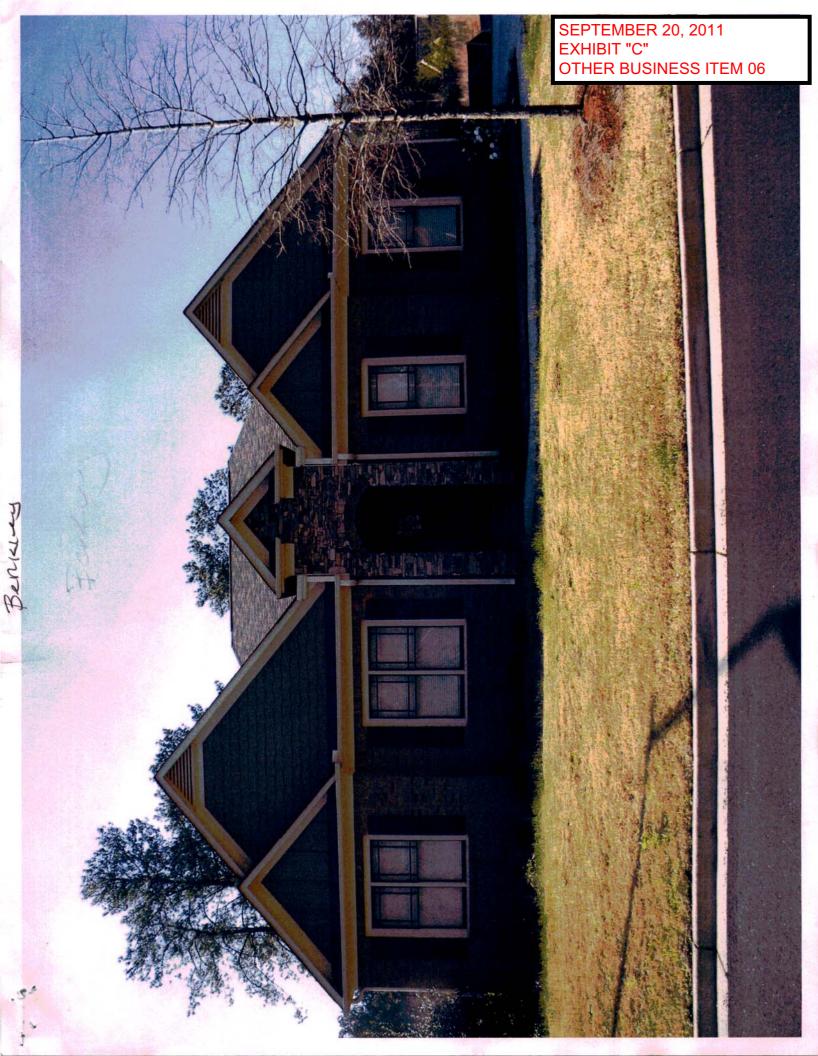
Robert L. Hosack, Jr., AICP Director

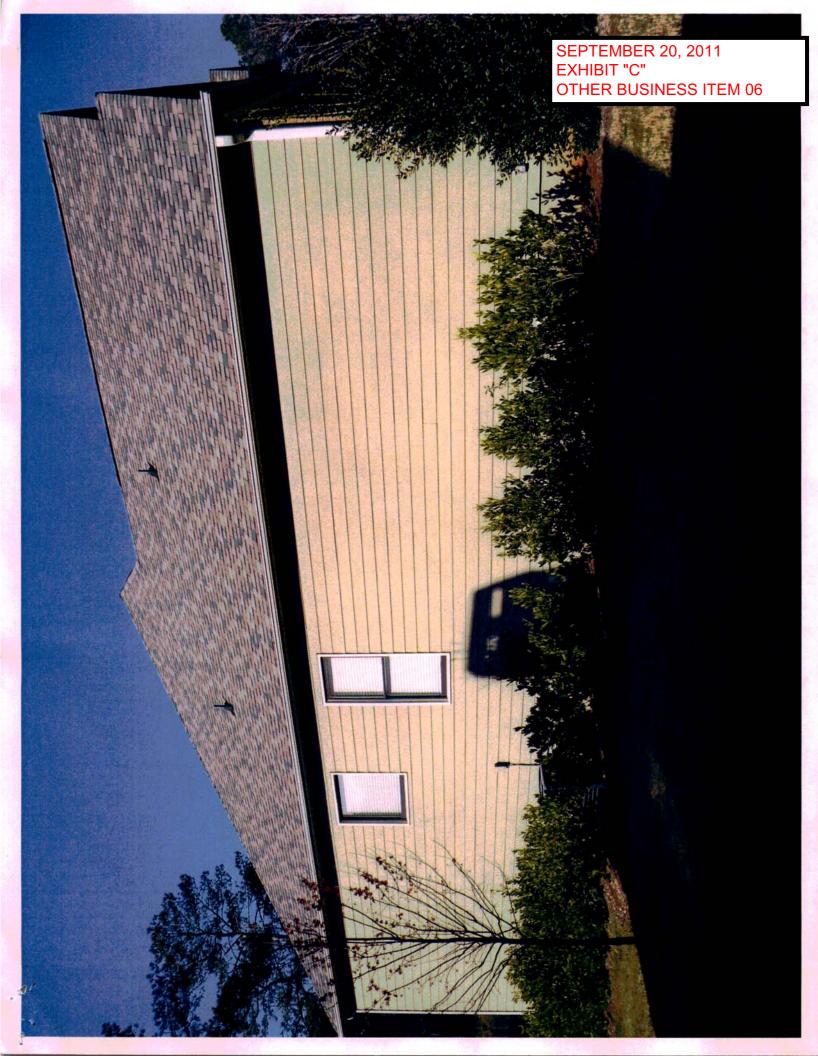
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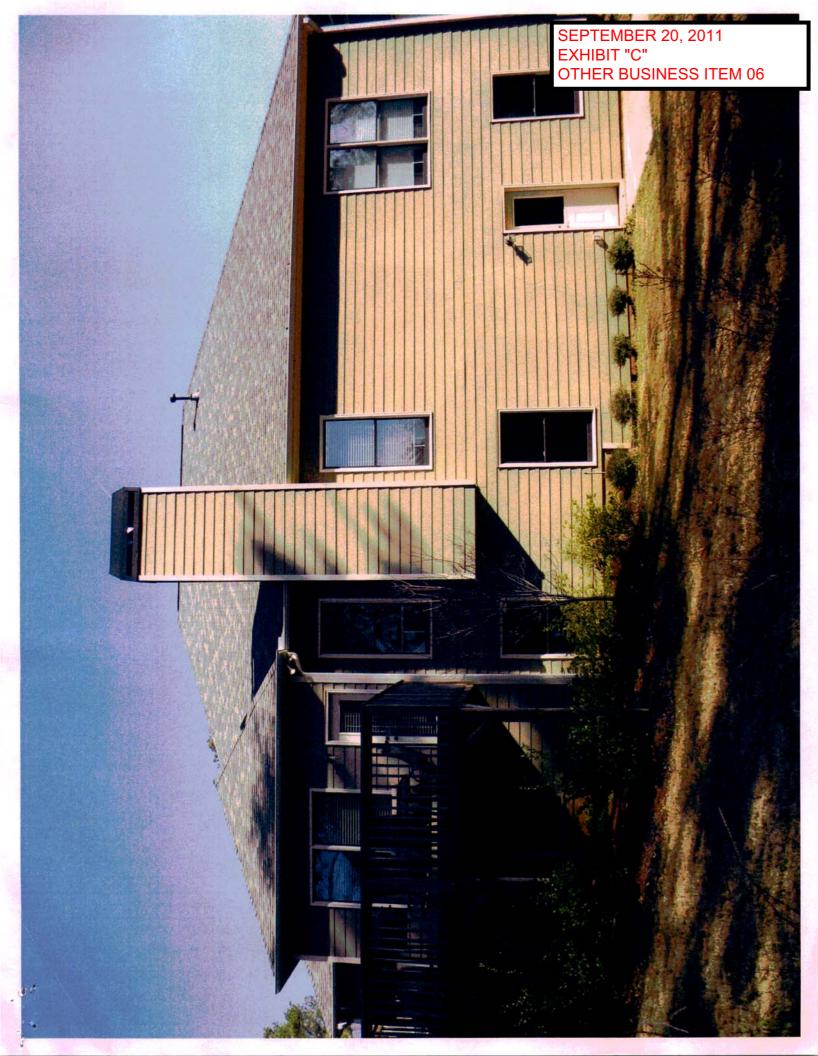
Exhibit C 1 of 1



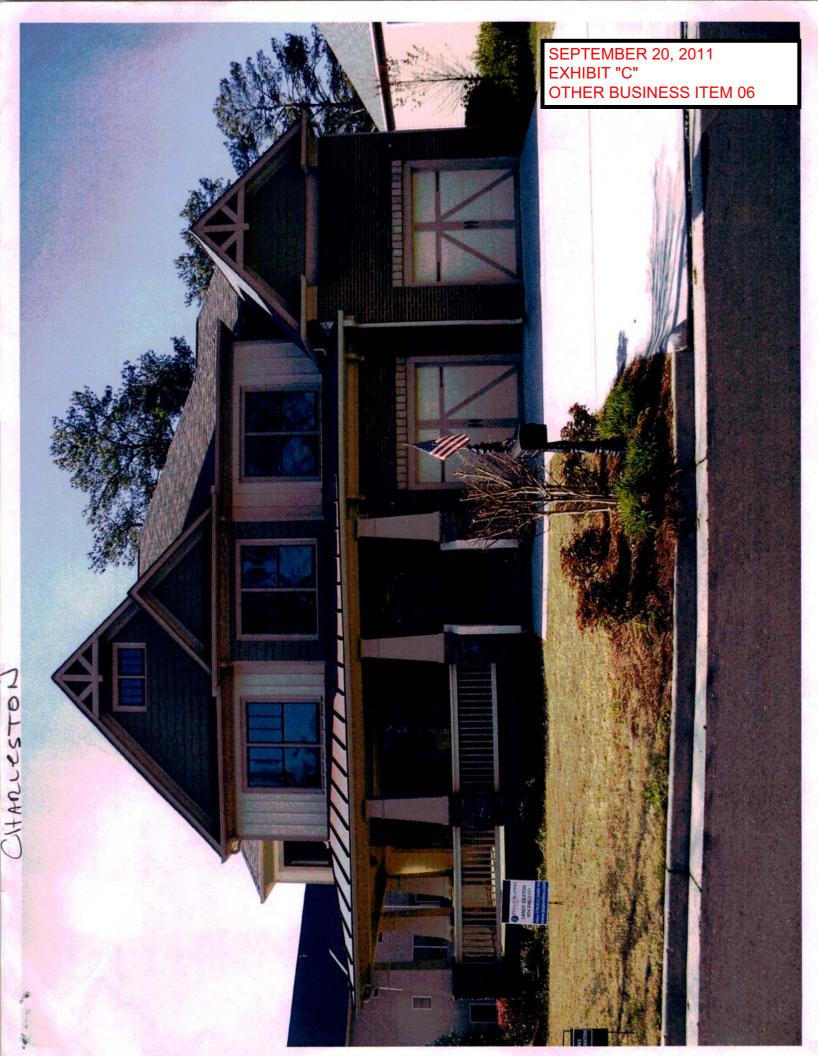
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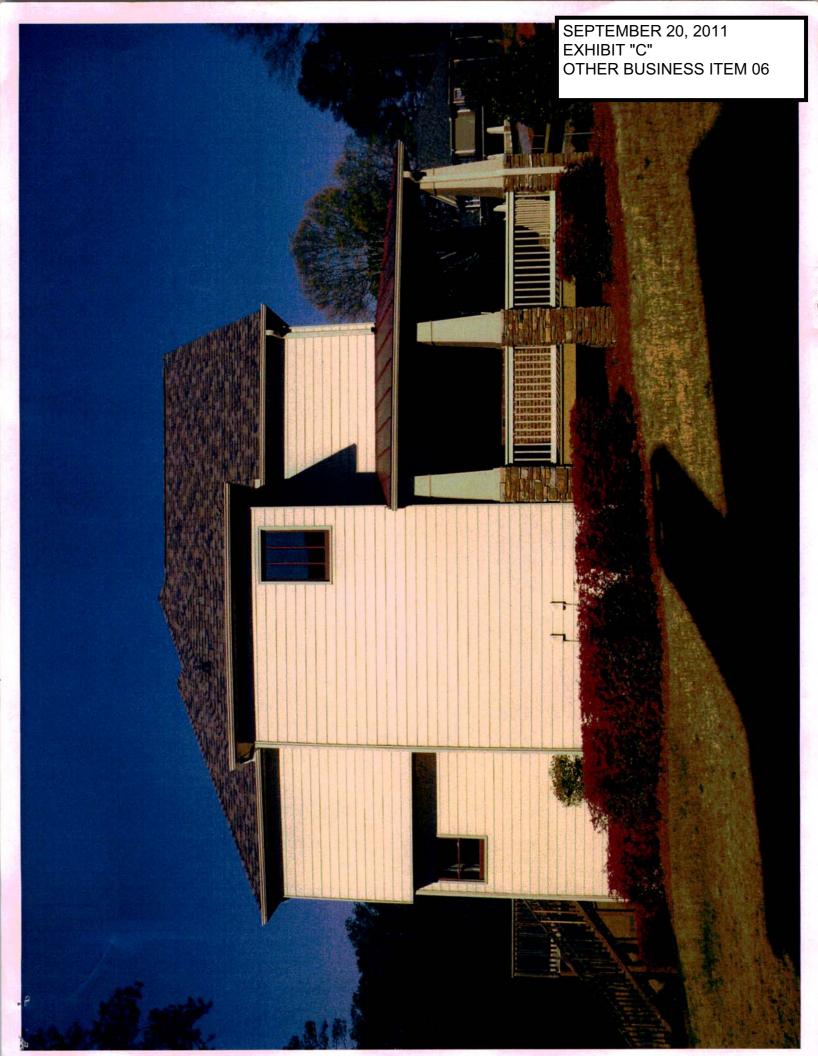






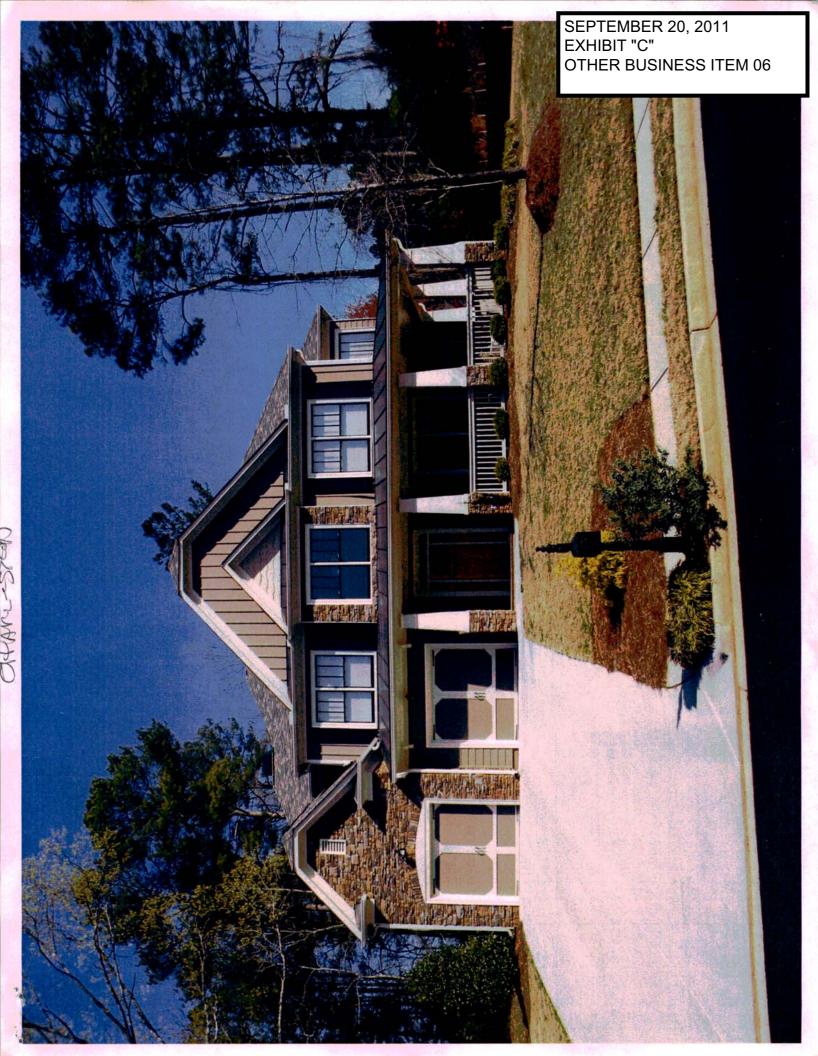






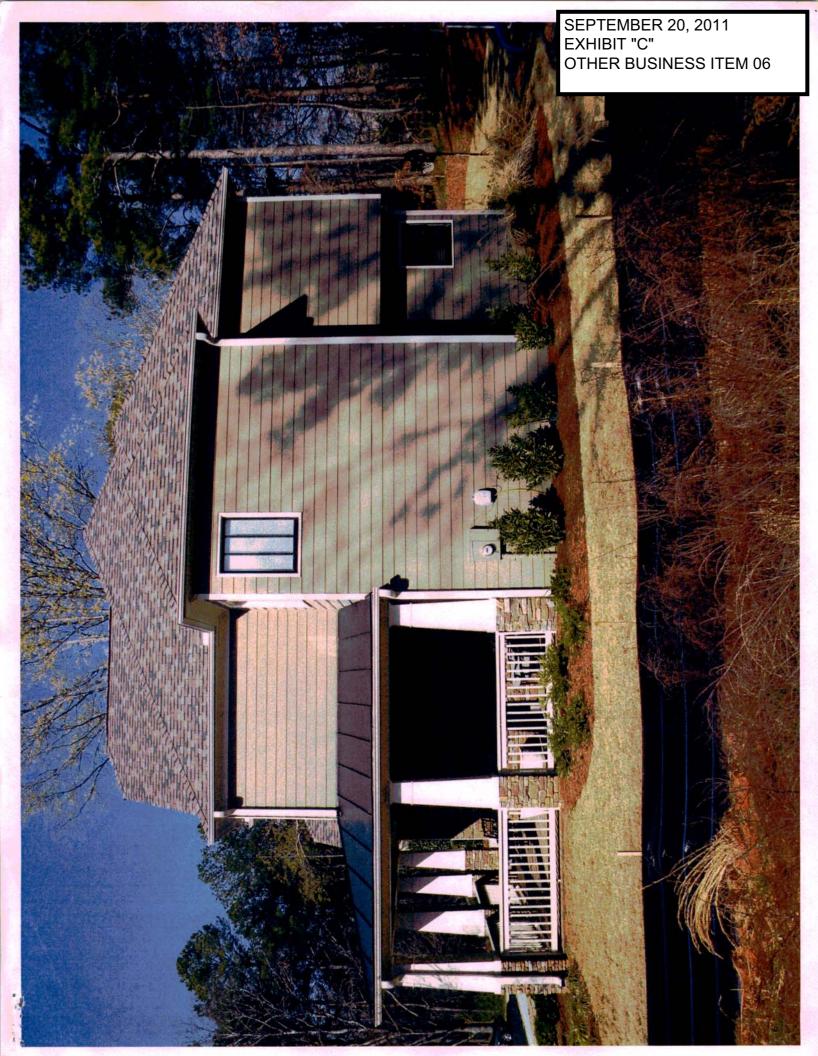


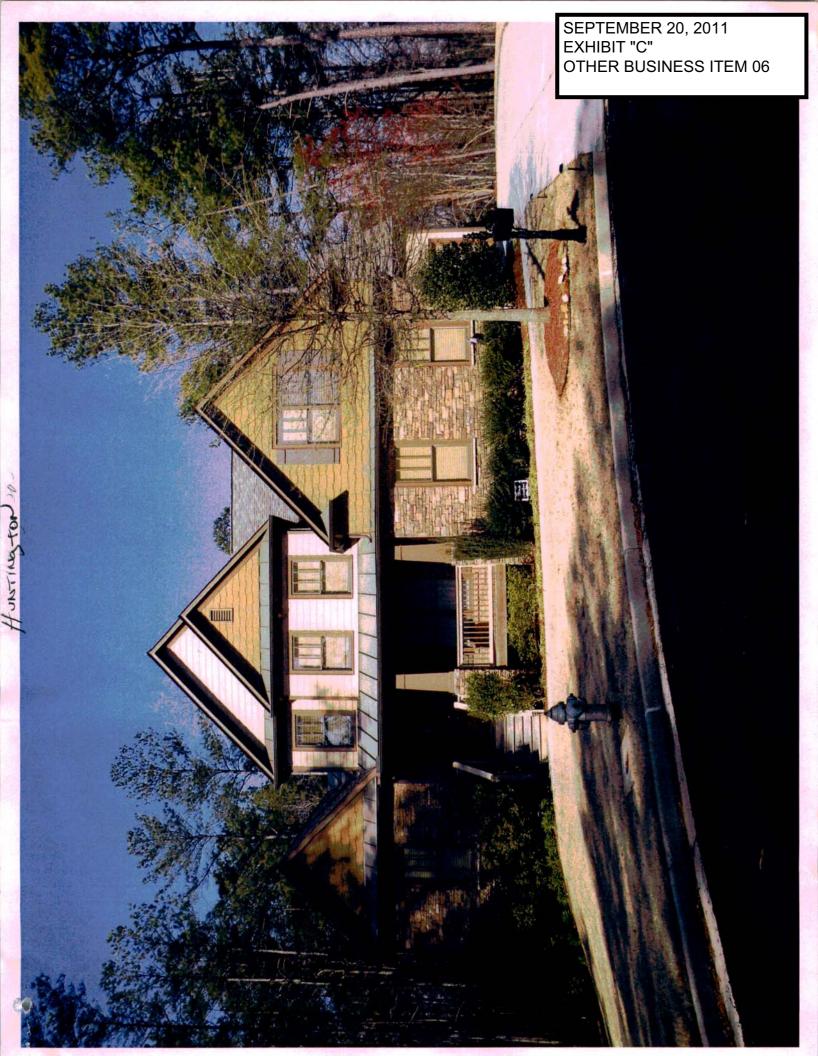


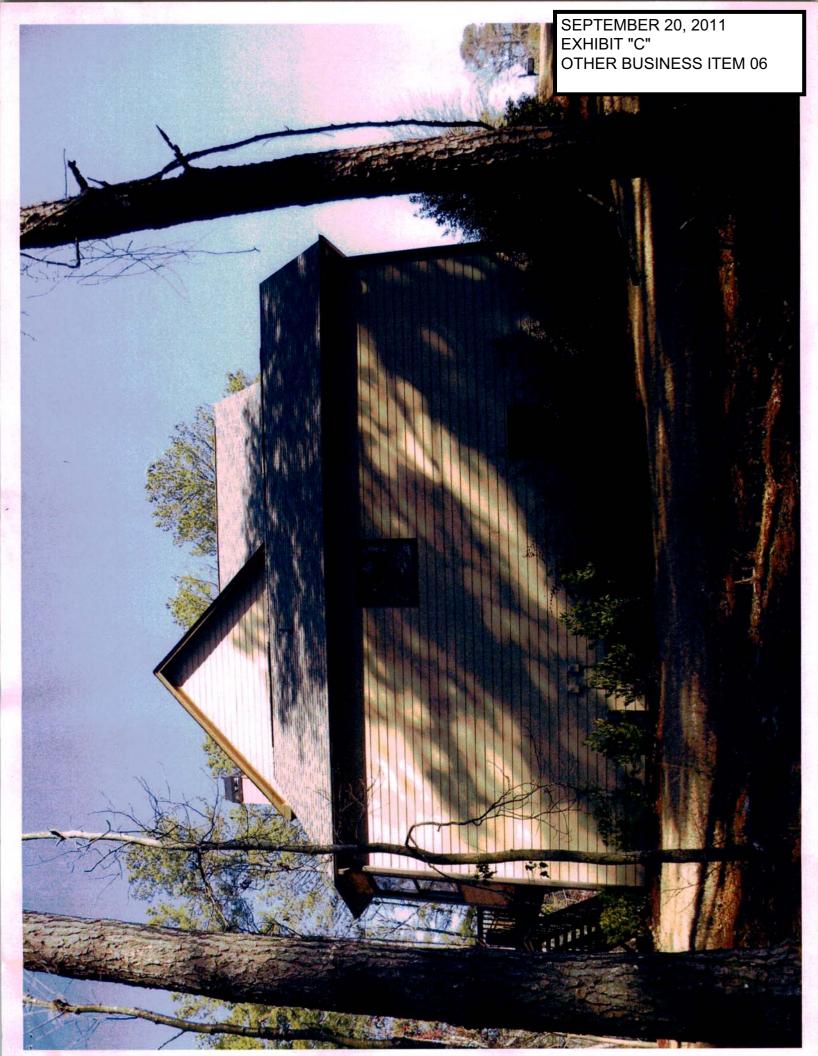


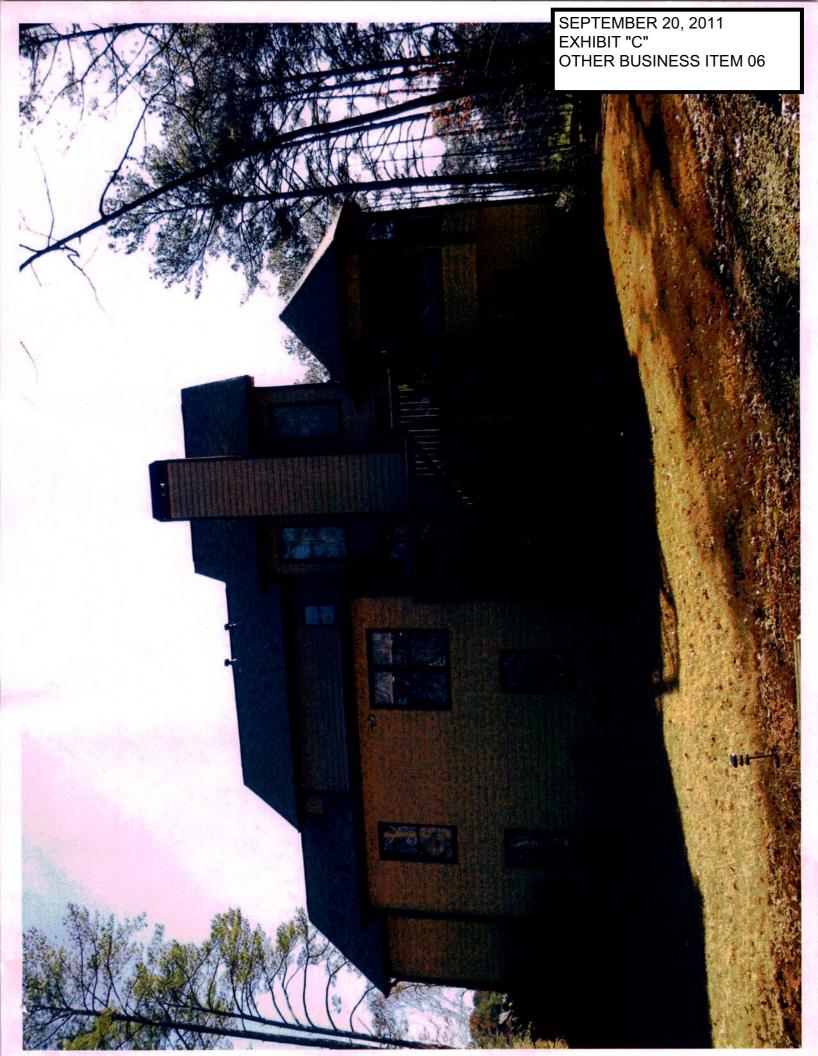


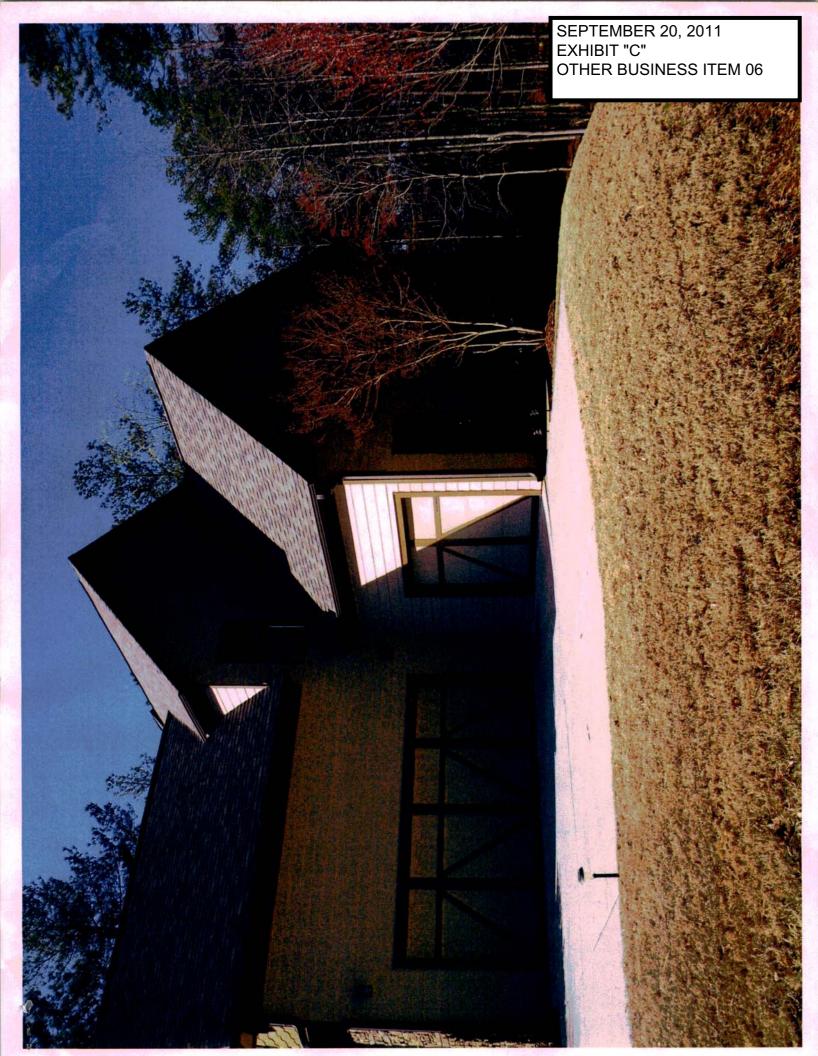


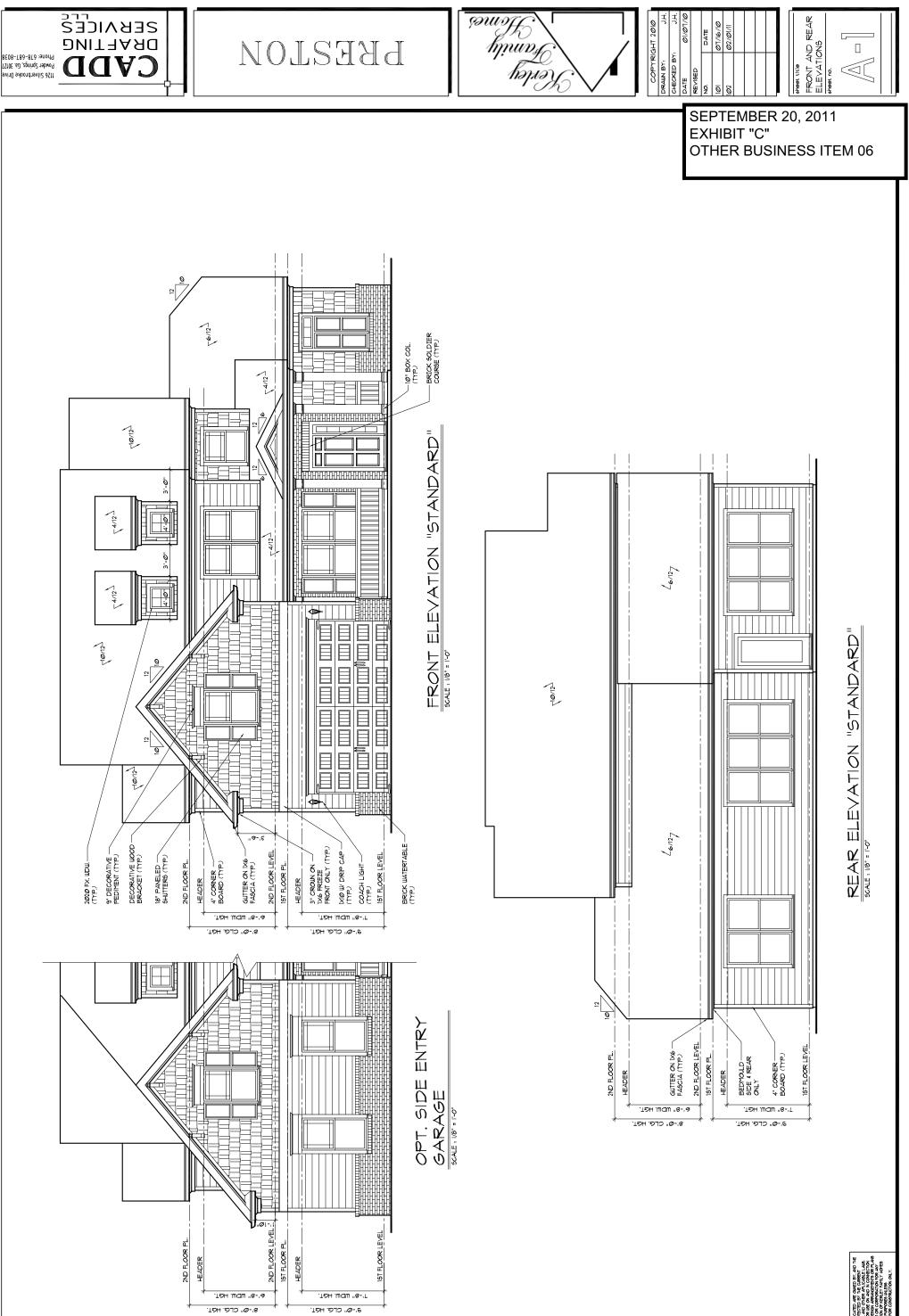












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