

34.50

BOOK PAGE  
1330 1706

RECORDED AND VERIFIED  
REBECCA P. TUCKER  
REGISTER OF DEEDS  
NEW HANOVER CO. NC

JUN 9 3 45 PM '86

DECLARATION OF COVENANTS, CONDITIONS  
AND RESTRICTIONS FOR HARBOR OAKS  
BOATAMINIUM, INC.,  
A NONPROFIT CORPORATION

TABLE OF CONTENTS

<u>ARTICLE</u>	<u>HEADING</u>	<u>PAGE NO.</u>
I	DEFINITIONS	1
II	ANNEXATION OF ADDITIONAL PROPERTIES	3
III	MEMBERS AND RIGHTS OF MEMBERSHIP	3
IV	COVENANT FOR MAINTENANCE ASSESSMENTS	5
V	MAINTENANCE	8
VI	ARCHITECTURAL CONTROL	8
VII	USE RESTRICTIONS	9
VIII	EASEMENTS	9
IX	GENERAL PROVISIONS	10
X	APPROVAL OF SALE, TRANSFER OR LEASE	11
XI	INSURANCE	12
EXHIBIT "A"	LEGAL DESCRIPTION	14
EXHIBIT "B"	LAYOUT OF BOATSLIPS	15
EXHIBIT "C"	BYLAWS OF HARBOR OAKS BOATAMINIUM, INC.	16
EXHIBIT "D"	RULES AND REGULATIONS	30

106

RETURNED TO *Erin York*

066249

RYALS, JACKSON & MILLS  
WILMINGTON, NORTH CAROLINA 28402-0147

STATE OF NORTH CAROLINA  
COUNTY OF NEW HANOVER

DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS FOR  
HARBOR OAKS BOATAMINIUM, INC.  
A NONPROFIT CORPORATION

THIS DECLARATION, made on the date hereinafter set forth by HARBOR OAKS MARINA, hereinafter referred to as "Declarant."

W I T N E S S E T H:

WHEREAS, the Declarant is the owner of certain real and personal property in Carolina Beach Township, County of New Hanover, State of North Carolina, which is more particularly described in Exhibit "A" attached hereto; and

WHEREAS, the Corporation desires to impose certain restrictive and protective covenants, conditions, restrictions, reservations, liens and charges as hereinafter set forth:

NOW, THEREFORE, the Corporation hereby declares that all of the properties as described on Exhibit "A" shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of such property. These easements, covenants, restrictions and conditions shall run with the real property and shall be binding on all parties having or acquiring any right, title or interest in the described properties or any part thereof, and shall inure to the benefit of each member of the Corporation.

ARTICLE I

DEFINITIONS

Section 1. "DECLARANT" shall mean and refer to HARBOR OAKS MARINA, a North Carolina General Partnership, its successors and assigns.

Section 2: "BOARD" shall mean and refer to the Board of Directors of HARBOR OAKS BOATAMINIUM, INC. as lawfully constituted from time to time under the provisions of the Articles of Incorporation, this Declaration and the By-Laws, and "CORPORATION" shall mean and refer to HARBOR OAKS BOATAMINIUM, INC..

Section 3: "COMMON AREA" shall mean all real and personal property managed by the Corporation.

Section 4: "BOAT SLIP" shall mean the space in and above the water adjacent to the Myrtle Grove Sound, Carolina Beach, North Carolina, for the docking of a boat as shown diagrammatically on Exhibit "B", and all such slips exist by virtue of a valid permit from the United States Army

Corps of Engineers for their creation and use. There are three (3) categories of boat slips, to-wit:

a. Category A - Slips designed to accommodate boats of a maximum of twenty (20) feet in length.

b. Category B - Slips designed to accommodate boats of a maximum of twenty-five (25) feet in length.

c. Category C - Slips designed to accommodate boats of a maximum of thirty (30) feet in length.

d. No boat may exceed its slip size by more than 10%, provided:

(i) A boat in a twenty (20) foot slip can be tied up so as not to have the stern protrude beyond the end of the finger pier and the bow not more than two (2) feet into the main walkway;

(ii) A boat in a twenty-five (25) foot slip can be tied up so as to not have the stern protrude more than one (1) foot beyond the end of the finger piers and the bow not more than one and one-half (1 1/2) feet into the main walkway;

(iii) A boat in a thirty (30) foot slip can be tied up so as not to have the stern protrude more than one (1) foot beyond the end of the finger piers and the bow not more than two (2) feet into the main walkway;

(iv) Any boat in a slip that does not have another slip directly behind it may vary the provisions of (i), (ii) and (iii) by an additional six (6) inches.

Section 5: "MEMBERSHIP" shall mean and refer to the rights, benefits, duties and obligations, evidenced by an appropriate certificate, which inure to the benefit of and burden each member of the Corporation.

Section 6. "CHARTER MEMBERSHIP" shall mean and refer to the first membership issued by the Corporation or its assignee entitling its holder to the exclusive use of each boat slip shown on Exhibit "B" together with all other rights, benefits, duties and obligations, evidenced by an appropriate certificate, which inure to the benefit of and burden each member of the Corporation.

Section 7. "MEMBER" shall mean and refer to every person or entity who has a membership in the Corporation.



Section 8. "CHARTER MEMBER" shall mean and refer to every person or entity who is issued and holds a Charter Membership in the Corporation.

Section 9. "LESSEE" shall mean and refer to any person or entity not a member, who is entitled to the use of a boat slip. All such uses must be approved by the Board of Directors following such procedures as it may prescribe; and, notwithstanding any other provision of this Declaration, during all periods of any use of such boat slip the approved user shall possess, hold and use all of the leased membership rights; and during such periods the member-user shall have no right to the use and enjoyment of his membership, except that the member only may vote at any meeting of members for any purpose on any matter.

## ARTICLE II

### ANNEXATION OF ADDITIONAL PROPERTIES

Annexation of additional property outside the boundary shown on the general plat attached hereto as Exhibit "B" shall require the assent of two-thirds (2/3) of the members, at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting setting forth the time, date, place and purpose of the meeting. A quorum shall be fifty percent (50%) of the members of the Corporation. If the required quorum is not forthcoming at any meeting, another meeting may be called subject to the notice requirement set forth above and the required quorum at such subsequent meeting shall be one-half (1/2) of the required quorum of the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

## ARTICLE III

### MEMBERS AND RIGHTS OF MEMBERSHIP

Section 1. CHARTER MEMBERS — ELIGIBILITY AND APPLICATION. Only persons, firms or entities owning a unit in Harbor Oaks Condominium, Phase I, are eligible to apply for charter membership by subscription to the incorporator and payment of the sum specified by the incorporator, provided that the incorporator shall have the sole authority to accept or reject such subscription for any reason. Membership is limited to one (1) slip per unit owned, except that the tenant of any such member shall have the right to use any boat slip assigned to such member, and provided

further, that if any memberships remain unsold 60 days after the offering of membership to all owners of units in Harbor Oaks, Phase I, memberships may be offered to owners of undivided interests in units in Harbor Oaks, Phase I, on a first come, first serve basis. Further, the corporation, through its Board of Directors, shall have the right to approve all transfers of membership, which approval will not be unreasonably withheld. Provided, further, memberships are, at all times, restricted to owners of units or owners of undivided interests in units in Harbor Oaks, Phase I.

At the first meeting of the Directors the Board shall approve the subscriptions accepted by the sales agents and direct the proper officers of the corporation to issue an appropriate certificate of charter membership to each such subscriber. Thereafter the Board shall promptly follow the same procedure for approving subscriptions for all charter memberships. Thereafter there shall be no transfer, assignment, pledge or lease of any interest in any membership without the approval of the Board of Directors following such procedure as may be prescribed in the By-Laws.

Section 2. CLASSES OF MEMBERS AND MEMBERSHIPS. There shall be three (3) classes of members and memberships. There shall be no restriction on the number or class of memberships which can be held by any person firm or entity. Each Class A membership shall be held by a Class A member and shall include the right to select the boat slip of his choice in a 20 ft. dock area not previously selected by an accepted subscriber. Each Class B membership shall be held by a Class B member and shall include the right to select the boat slip of his choice in a 25 ft. dock area not previously selected by an accepted subscriber. Each Class C membership shall be held by a Class C member and shall include the right to select the boat slip of his choice in a 30 ft. dock area not previously selected by an accepted subscriber.

Section 3. MEMBERS' RIGHTS.

A. Each member of each class shall have the exclusive right, subject to the provisions hereof and the By-Laws and Rules and Regulations of the Board of Directors, to occupy, possess and lawfully use the boat slip selected by such member in his accepted subscription for membership.

B. Each member of each class shall have a right and easement of enjoyment in and to the common area subject to the right of the corporation:



1. To limit the number of guests of Members;
2. In accordance with its Articles and By-Laws, to borrow money for the purpose of improving the properties, common area and facilities;
3. To suspend all rights of any member for any period during which any assessment or charge against such member remains unpaid; and for a period not to exceed thirty (30) days for the infraction of its published Rules and Regulations; and to lease or otherwise lawfully use all rights of any such member during any such period of suspension.
4. To dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purpose and subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless approved by two-thirds (2/3) of the Members and further subject to the By-Laws and Rules and Regulations of the Board of Directors.

C. Each owner of each membership in each class shall have one vote at any meeting of members, subject to the By-Laws of the Corporation.

#### ARTICLE IV

##### COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. CREATION OF THE LIEN AND PERSONAL OBLIGATION OF ASSESSMENTS: Each owner of each membership agrees to pay the Corporation: (1) annual assessments or charges and (2) special assessments or charges, as described hereinafter, such assessments to be fixed, established and collected from time to time as hereinafter provided. The annual and special assessments, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge on the membership and shall be a continuing lien upon the membership against which each such assessment is made. Each such assessment, together with such interest, costs, and reasonable attorneys' fees, shall also be the personal obligation of the person who was the owner of such membership at the time the assessment fell due. The personal obligation for delinquent

assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. PURPOSE OF ASSESSMENTS. The assessments levied by the Corporation shall be used exclusively for the purpose of (1) promoting the recreation, health, safety and welfare of the members and their property; (2) the enforcement of these Covenants and the Rules of the Corporation promulgated by the Board of Directors; and (3) in particular for the improvement and maintenance of the properties, services and dock facilities devoted to this purpose and related to the use and enjoyment of the common area.

Section 3. DETERMINATION OF REGULAR ASSESSMENTS.

A. The Board shall determine the amount of regular assessments against members as specified in the By-Laws. Regular assessments against members shall be determined, imposed, levied and collected by the Board in the manner prescribed in the By-Laws.

B. The Board is specifically empowered on behalf of the Corporation to make and collect regular assessments and to replace, maintain, and repair all property of the corporation including the power post docks, piers, and pilings. Assessments shall be payable periodically as determined by the Board.

Section 4. SPECIAL ASSESSMENTS. In addition to the annual assessments authorized above, the Corporation may levy in any fiscal year, a special assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon any of the common area and the necessary fixtures and personal property related thereto, or defraying in whole or in part the cost of any dredging, or defraying the expenses of operation, maintenance or renovation not adequately funded by regular assessments. Except as specified herein all special assessments shall be determined, imposed, levied, and collected in the manner prescribed in the By-Laws provided that, if such special assessment exceeds Two Hundred Dollars (\$200.00) in any fiscal year for any member, such assessment shall have the approval of two-thirds (2/3) of the members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all



members not less than fifteen (15) days nor more than thirty (30) days in advance of the meeting setting forth the time, date, place and purpose of the meeting.

Section 5. QUORUM FOR ANY ACTION AUTHORIZED UNDER SECTIONS 3 and 4.

At the first meeting called, as provided in Sections 3 and 4 hereof, the presence at the meeting of members or of proxies entitled to cast fifty percent (50%) of all the votes shall constitute a quorum.

Section 6. DATE OF COMMENCEMENT OF ANNUAL ASSESSMENTS. DUE DATES:

The annual assessments provided for herein shall commence as to each membership on the first day of the month following its acquisition by a member. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each membership at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every member. The due dates shall be established by the Board of Directors. The Corporation shall, upon demand at any reasonable time, furnish a certificate in writing signed by an officer of the Corporation setting forth whether the assessments against a specified membership have been paid. A reasonable charge may be made by the Board for the issuance of these certificates. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 7. ASSESSMENTS FOR REPAIRS OF DAMAGE CAUSED BY FAULT. If a

member, assignee or lessee, or one of their guests, damages or destroys by his or her fault any of the property of the corporation including the power post piers, docks, boat slips and other facilities, the Corporation shall repair the damage or replace the destroyed property as soon as practicable and shall levy an individual assessment upon the owner of that membership for the full cost of repair or replacement.

Section 8. EFFECT OF NONPAYMENT OF ASSESSMENTS.

REMEDIES OF THE CORPORATION. Any assessments or any portions thereof which are not paid when due shall be delinquent. If the assessment or portion thereof is not paid within thirty (30) days after the due date, the same shall become a lien on such membership and bear interest from the



date of delinquency at the highest lawful rate per annum, and the Corporation may suspend the membership of such member and/or bring an action at law against the member personally obligated to pay the same or may foreclose the lien against the membership, and the interest, reasonable attorneys' fees and costs of any such action shall be added to the amount due. No member may waive or otherwise escape liability for the assessments provided for herein by non-use or abandonment of his membership.

Section 9. SUBORDINATION OF THE LIEN TO MORTGAGES. The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage or pledge of the membership. Sale or transfer of any membership shall not affect the assessment lien. However, the sale or transfer of any membership subject to any mortgage or pledge, pursuant to a decree of foreclosure under such mortgage or pledge or any proceeding in lieu of foreclosure thereof, shall extinguish the lien of such assessments as to payments thereon which became due prior to such sale or transfer. No sale or transfer shall relieve such member from liability for any assessments thereafter becoming due or from the lien thereof.

#### ARTICLE V

##### MAINTENANCE

The Corporation shall provide maintenance of all of its properties including power post docks, piers and pilings as well as maintenance and dredging of the submerged lands of the marina facility. The cost of such maintenance shall be added to and become a part of the total annual assessment for which all memberships are liable as specified herein and in the By-Laws.

#### ARTICLE VI

##### ARCHITECTURAL CONTROL

No building, fence, wall, sign or other structure shall be commenced, stored, erected or maintained upon the common area or other property of the Corporation, nor shall any addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of such change shall have been submitted to and approved in writing by the Board of Directors or by an architectural committee composed of three (3) or more representatives of the Board.

ARTICLE VII

USE RESTRICTIONS

Section 1. RULES AND REGULATIONS. Subject to the provisions of the Articles of Incorporation and this Declaration, the Board of Directors of the Corporation shall have the power to formulate, publish and enforce reasonable rules and regulations concerning the use and enjoyment of all the property of the corporation, including boat slips, docks, piers and pilings. Such rules and regulations, along with all policy resolutions and policy actions taken by the Board of Directors shall be recorded in a Book of Resolutions, which shall be maintained at a place convenient to the members and available to them for inspection during normal business hours.

Section 2. USE OF PROPERTIES, ETC. No portion of the property of the corporation, including boat slips, docks, piers and pilings may be used for any commercial or illegal or immoral purpose.

Section 3. QUIET ENJOYMENT. No obnoxious or offensive activity shall be carried on in or upon the property of the Corporation, including boat slips, docks, piers and pilings nor shall anything be done which may be or may become a nuisance or annoyance to any member, assignee, or lessee.

Section 4. OWNERSHIP. Only owners of units in Harbor Oaks Condominium, Phase I, and the Corporation or the developer may own memberships in the Corporation, and use of rights under any membership shall be only by owners or tenants of units in said condominium.

In the event any member sells his condominium unit without disposing of his membership in the Boataminium, said member's privileges in the Boataminium, to include use of boat slip, dock, piers, and all other amenities accruing to members, shall be suspended and such suspension shall remain in effect until such time as said membership is disposed of in accordance with these Conditions and Restrictions.

ARTICLE VIII

EASEMENTS

All of the property of the Corporation including boat slips, docks, piers and pilings shall be subject to such easements for driveways, walkways, water lines, sanitary sewers, storm drainage facilities, footings,



air condition compressors, gas lines, telephone, cablevision and electric power lines and other public utilities as are of record in the New Hanover County Registry prior to the recording of this Declaration; and the Corporation shall have the power and authority to grant and establish upon, over and under and across all of its properties as described such further easements as are requisite for the convenient use and enjoyment of such properties.

#### ARTICLE IX

##### GENERAL PROVISIONS

Section 1. ENFORCEMENT. The Corporation shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by or under the provisions of this Declaration. Failure of the Corporation to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. SEVERABILITY. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provision, which shall remain in full force and effect.

Section 3. AMENDMENT. The covenants, conditions and restrictions of this Declaration shall run with and bind all of the property of the Corporation insofar as the law permits and shall inure to the benefit of and be enforceable by the Corporation, subject to this Declaration, its successors and assigns, for a term of twenty (20) years from the date of this Declaration is recorded, after which time such covenants shall be automatically extended for successive periods of ten (10) years each. The covenants, conditions and restrictions of this Declaration may be amended during the first twenty (20) year period upon the approval of not less than seventy-five percent (75%) of the members, and thereafter by not less than sixty percent (60%) of the members.

Section 4. If any amendment to these covenants, conditions and restrictions is executed, each such amendment shall be delivered to the Board of Directors of the Corporation. Thereupon, the Board of Directors shall, within thirty (30) days do the following:

a. Reasonably assure itself that the amendment has been executed according to the authority of the required number of members. For



this purpose, the Board may rely on its roster of members and shall not be required to resort to any other source.

b. Attach to the amendment a certification as to its validity, which certification shall be executed by the Corporation in the same manner that deeds are executed. The following form of certification is suggested:

"CERTIFICATION OF VALIDITY OF AMENDMENT TO COVENANTS, CONDITIONS AND RESTRICTIONS OF HARBOR OAKS BOATAMINIUM, INC.

By authority of its Board of Directors, Harbor Oaks Boataminium, Inc., certifies that the foregoing instrument has been duly authorized and approved by \_\_\_\_\_ percent of the members of Harbor Oaks Boataminium, Inc. and is, therefore, a valid amendment to the existing covenants, conditions and restrictions of Harbor Oaks Boataminium, Inc.

HARBOR OAKS BOATAMINIUM, INC.

ATTEST: By: \_\_\_\_\_ President  
\_\_\_\_\_  
Secretary"

c. Immediately, and within the thirty (30) day period aforesaid, cause the amendment to be recorded in the New Hanover County Registry.

All amendments shall be effective from the date of recording in the New Hanover Registry, provided however, that no such amendment shall be valid until it has been indexed in the name of this Corporation. When any instrument purporting to amend the covenants, conditions and restrictions has been certified by the Board of Directors, recorded and indexed as provided by this Section, it shall be conclusively presumed that such instrument constitutes a valid amendment as to all persons thereafter purchasing any memberships in Harbor Oaks Boataminium, Inc.

ARTICLE X

APPROVAL OF SALE, TRANSFER OR LEASE

Section 1. APPROVAL OF SALE. Any sale of any membership by any member shall be subject to all the terms, covenants, limitations and provisions of this Declaration and attendant documents.

Section 2. INTERFAMILY TRANSFER. If any member shall acquire his membership from a member of his immediate family by gift, devise or

inheritance, such membership shall be subject to all of the provisions of Section 1. hereinabove.

Section 3. USE. No member shall allow his membership rights to be used without the express prior approval of the Corporation and any such use may be only by owners or tenants of units in Harbor Oaks, Phase I. Approval of use by a qualified user shall not be unreasonably withheld. The Board of Directors shall adopt a procedure for application for and approval of uses.

Section 4. PLEDGING. No member may pledge or mortgage his membership or any interest therein without the express, prior approval of the Corporation, except a first pledge or mortgage lien made to a bank or other person, firm or corporation to finance the balance of the purchase price of a charter or first membership.

Section 5. EFFECTIVE DATE. The provisions of this article shall become effective upon the recording of this Declaration in the New Hanover Registry.

Section 6. TRANSFER VOIDABLE. Any sale, transfer, conveyance or use of any membership without complying with the provisions of this Article is voidable at the election of the Corporation.

Section 7. BINDING NATURE; ENDORSEMENT OF MEMBERSHIP CERTIFICATES. The provisions of this article shall be binding upon and inure to the benefit of all the members of the corporation, their respective heirs, administrators, successors and assigns; and, as further evidence of the binding nature of these provisions, each certificate of membership shall be endorsed as follows:

"No sale, transfer, pledge, mortgage or use of this certificate or any rights of membership in the Corporation shall be made without first complying with all terms and conditions of Article X of the Declaration filed for record in Book \_\_\_\_\_, Page \_\_\_\_\_ of the New Hanover Registry and the By-Laws of the Corporation."

#### ARTICLE XI

#### INSURANCE

Section 1. The Board of Directors on behalf of the Corporation, as an operational expense shall at all times keep its property insured under a policy of public liability insurance, upon such terms and for such amounts as may be reasonably necessary from time to time to protect the interests of the Corporation, which insurance proceeds shall be payable in

case of loss to the Corporation. The Corporation shall have the sole authority to deal with the insurer in the settlement of claims.

Section 2. Such insurance shall be obtained without prejudice to the right of each member to insure his personal property for his own benefit at his own expense. In no event shall the insurance coverage obtained by the Corporation be brought into contribution with insurance purchased by members or their pledgees or mortgagees.

IN WITNESS WHEREOF, the Declarant has caused this instrument to be executed this 5<sup>th</sup> day of JUNE, 1986, by authority of its Board of Directors.

HARBOR OAKS MARINA

BY: [Signature] (SEAL)  
General Partner

BY: R.C. Fowler (SEAL)  
General Partner

BY: Bobby Lee Fowler (SEAL)  
General Partner

STATE OF NORTH CAROLINA  
COUNTY OF NEW HANOVER

Before me, the undersigned Notary Public in and for the County and State aforesaid, personally came W. H. GRAYNOR, R.C. FOWLER, and BOBBY LEE FOWLER, each of whom, being by me duly sworn, says and swears that he is a General Partner in HARBOR OAKS MARINA, a North Carolina General Partnership, and as such General Partner he executed the foregoing DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR HARBOR OAKS BOATMINIUM, INC., A NONPROFIT CORPORATION, and further says that the statements contained therein are true and correct.

WITNESS my hand and notarial seal, this 5<sup>th</sup> day of JUNE, 1986.

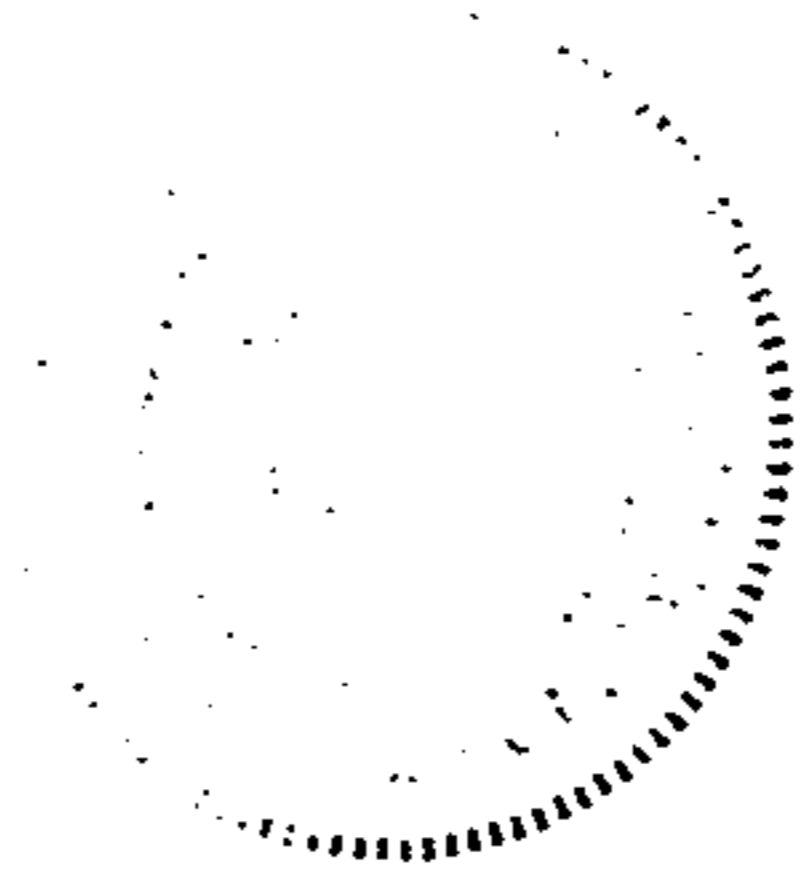
[Signature]  
Notary Public

My Commission Expires:

JUNE 13, 1989

(NOTARIAL SEAL)

/HAREDECL





BEGINNING at a point that is located South 71 degrees 40 minutes East 440 feet, South 48 degrees 45 minutes 45 seconds East 64.63 feet, and South 81 degrees 42 minutes 30 seconds East 44.70 feet from a point in the center line of St. Joseph Street, said point in the center line of St. Joseph Street being located South 07 degrees 49 minutes East 169.0 feet, South 08 degrees 41 minutes West 152.0 feet, South 18 degrees 09 minutes West 200 feet, and South 18 degrees 59 minutes West 200.0 feet, from a 36 inch concrete culvert crossing St. Joseph Street, said concrete culvert being located 3080 feet as measured North along St. Joseph Street from the center line of U.S. Highway 421. Running thence from said beginning point, North 08 degrees 41 minutes 15 seconds West 68.08 feet to a point, running thence North 09 degrees 03 minutes 15 seconds East 59.40 feet to a point; running thence North 82 degrees 57 minutes 45 seconds East 36.99 feet to a point; running thence North 32 degrees 30 minutes 15 seconds East 32.68 feet to a point; running thence North 05 degrees 16 minutes West 54.61 feet to a point; running thence North 04 degrees 34 minutes 15 seconds West 0.85 feet to a point; running thence South 71 degrees 42 minutes East to the low water mark of Myrtle Grove Sound; running thence with the low water mark of Myrtle Grove Sound, in a Southerly direction, to a point, said point being South 71 degrees 40 minutes East from the beginning point; running thence North 71 degrees 40 minutes West to the point of beginning.

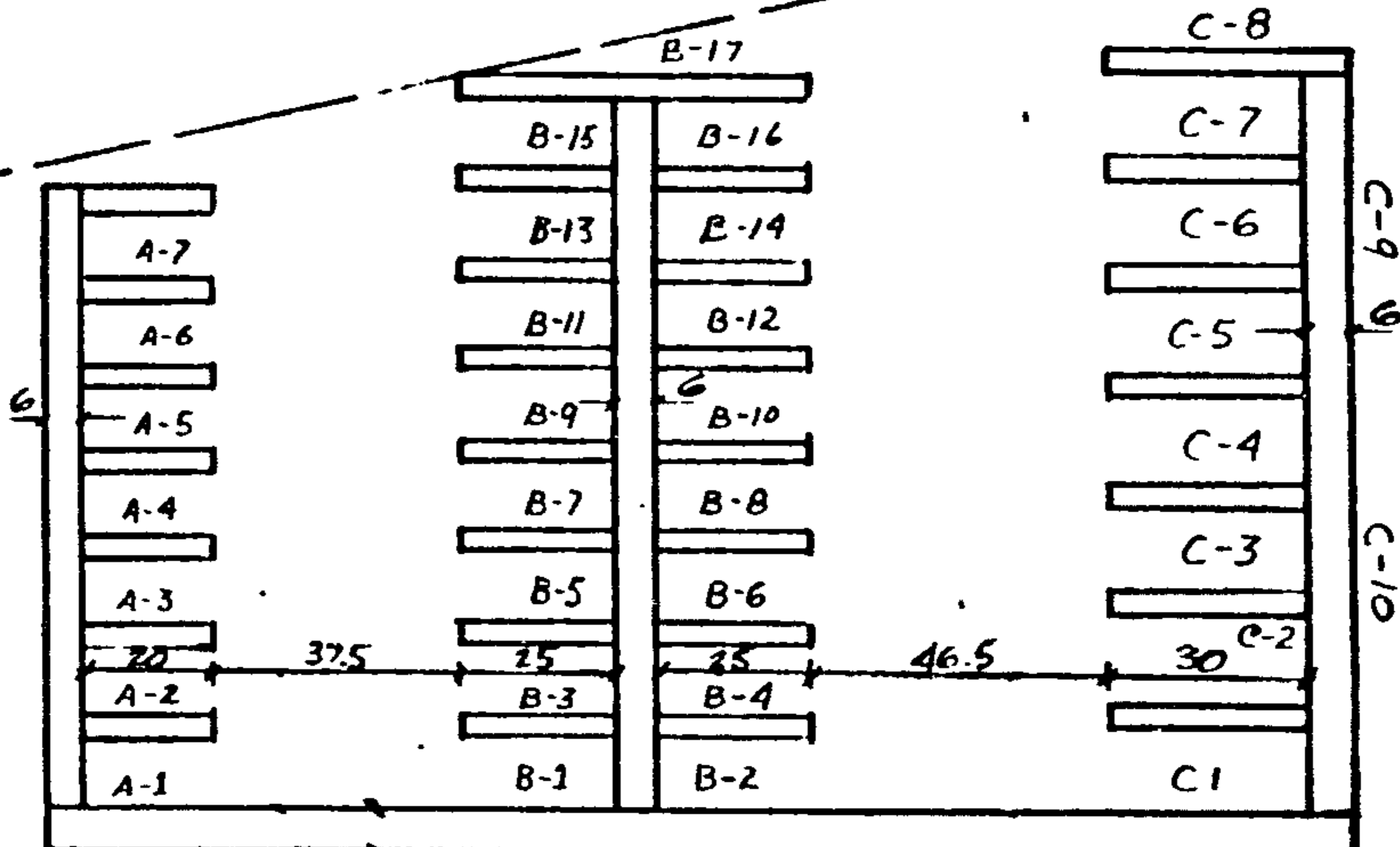
STATE OF NORTH CAROLINA  
 New Hanover County  
 The Foregoing Certificate of \_\_\_\_\_  
 Franklin N. Jackson, Notary  
 \_\_\_\_\_  
 Public  
 \_\_\_\_\_  
 is certified to be correct.  
 This the 9th day of June 19 86

Rebecca P. Tucker, Register of Deeds  
 By Mary Sue Oates,  
Asst.

EXHIBIT "B"



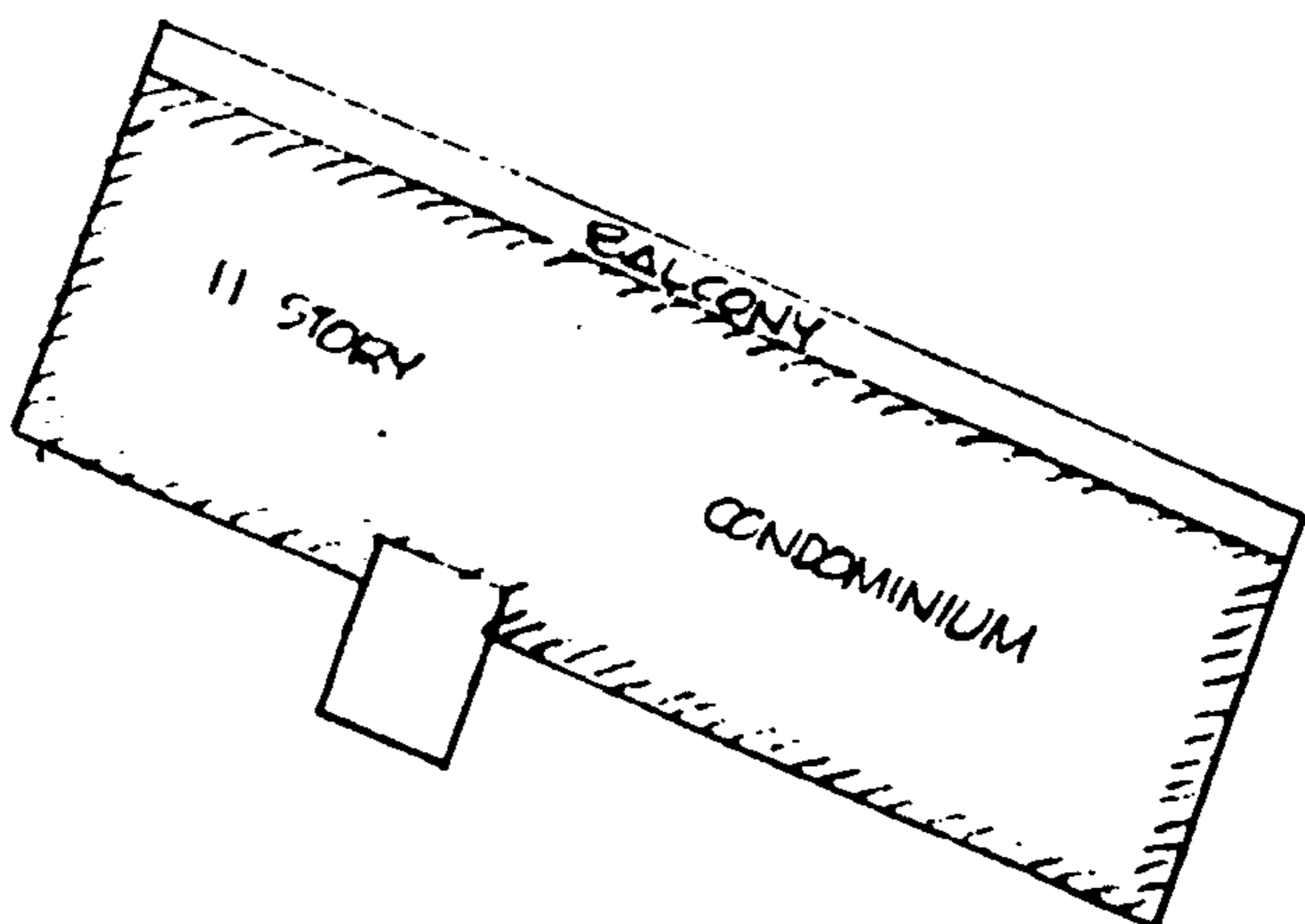
PIER LINE 7



Electrical Panel

BULKHEAD

5710 42'E



BY-LAWS  
OF  
HARBOR OAKS BOATAMINIUM, INC.  
A NON-PROFIT CORPORATION

ARTICLE I

GENERAL

SECTION 1. THE NAME. The name of the corporation shall be Harbor Oaks Boataminium, Inc.

SECTION 2. THE PRINCIPAL OFFICE. The principal office of the Corporation shall be 2905 Market Street, Wilmington, North Carolina, 28405, or at such other place as may be subsequently designated by the Board of Directors.

SECTION 3. DEFINITION. All definitions set forth in the Declaration, to which these By-Laws are attached, shall be applicable herein, unless otherwise defined herein.

ARTICLE II

MEMBERSHIP

SECTION 1. DEFINITION. Membership and its rights, duties and liabilities are and shall be as prescribed in the Articles of Incorporation and the Declaration.

SECTION 2. TRANSFER OF INTEREST IN MEMBERSHIP. Subject to the further provisions of Article X of the Declaration, no interest in a membership may be sold, transferred, assigned, or used without the prior, express approval of the Board of Directors. Any member who wishes to make any such sale, transfer, assignment, or user shall make application therefor to the Board of Directors in such fashion and following such procedure as the Board shall prescribe; and the Board shall act upon such application within thirty (30) days after receipt.

ARTICLE III

MEETINGS OF MEMBERSHIP

SECTION 1. PLACE. All meetings of members shall be held at the office of the corporation or such other place as may be stated in the notice.

SECTION 2. ANNUAL MEETINGS.

A. The annual meeting of the members shall be held at Wilmington, North Carolina, in each year commencing in 1986; provided, however,



that such meeting will not be held until the Board of Directors issues a call for such meeting.

B. Regular annual meetings after 1986 shall be held on the first Saturday in June of each year, if not a legal holiday, and if a legal holiday, then on the next secular day following unless otherwise determined by the Board.

C. All annual meetings shall be held at such hour as is determined by the Board.

D. At the annual meeting, the members shall elect the new members of the Board of Directors and transact such other business as may properly come before the meeting.

E. Written notice of the annual meeting shall be served upon or mailed to each member entitled to vote thereat at such address as appears on the books of the corporation at least fifteen (15) days prior to the meeting.

SECTION 3. MEMBERSHIP LIST. At least fifteen (15) days before every election of Directors, a complete list of members entitled to vote in such election, arranged numerically by classes, with residence of each, shall be prepared by the Secretary. Such list shall be produced and kept for such fifteen (15) days and throughout the election at the office of the corporation, and shall be open to examination by any member.

SECTION 4. SPECIAL MEETINGS.

A. Special meetings of the members, for any purpose or purposes, unless otherwise prescribed by statute or by the Articles of Incorporation, may be called by the President, the Board or upon the written request of one-third (1/3) of the members, regardless of class. Such request shall state the purpose or purposes of the proposed meeting.

B. Written notice of a Special Meeting of members, stating the time, place and purpose thereof, shall be served upon or mailed to each member entitled to vote thereat, at such address as appears on the books of the corporation, at least fifteen (15) days before such meeting.

C. Business transacted at all special meetings shall be confined to the purposes stated in the notice thereof, unless seventy-five percent (75%) of the members present at such meeting in person or by proxy consent to the transaction of business not stated in the notice.

SECTION 5. QUORUM. Over fifty percent (50%) of the total number of members of the corporation, regardless of class, present in person or represented by written proxy, shall be requisite to and shall constitute a quorum at all meetings of the members for the transaction of business, except as otherwise required by statute, by the Articles of Incorporation, the Declaration, or these By-Laws. If, however, such quorum shall not be present or represented at any such meeting of the members, the members entitled to vote thereat, present in person or, represented by written proxy, shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present or represented. At such adjourned meeting at which a quorum shall be present or represented, any business may be transacted which might have been transacted at the meeting originally called.

SECTION 6. VOTE REQUIRED TO TRANSACT BUSINESS. When a quorum is present at any meeting, a majority of the votes cast, in person or represented by written proxy filed with the Secretary in advance of the meeting, shall decide any question brought before the meeting, unless the question is one upon which by express provision of law, the Articles of Incorporation, the Declaration, or By-Laws, a different vote is required, in which case such express provision shall govern and control the decision of such question. There shall be no cumulative voting on any question or election.

SECTION 7. RIGHT TO VOTE. Each owner of a membership in good standing shall be entitled to one (1) vote. At any meeting of the members, every member having the right to vote shall be entitled to vote in person or by proxy. Such proxy shall only be valid for such meeting or subsequent adjourned meetings thereof. If more than one (1) person or entity own a membership, all such owners shall file a certificate with the Secretary naming the person authorized to cast the vote for such membership. If that certificate is not on file, the vote of any co-owner present shall be accepted as the vote of all co-owners, unless another co-owner objects.

SECTION 8. WAIVER AND CONSENT. Whenever the vote of members at a meeting is required or permitted by any provision of law, the Articles of Incorporation, the Declaration, or these By-Laws to be taken in connection

with any action of the corporation, the meeting and vote of members may be dispensed with, if all members who would have been entitled to vote upon the action of such meeting, if such meeting were held, shall consent in writing to such action.

SECTION 9. ORDER OF BUSINESS. The order of business at the annual members' meetings beginning in 1986, and as far as practical at other members' meetings, will be:

1. Roll call and certifying of proxies;
2. Proof of notice of meeting or waiver of notice;
3. Reading of minutes of prior meeting;
4. Officers' reports;
5. Committee reports;
6. Approval of budget;
7. Elections of Directors and Officers;
8. Unfinished business;
9. New business;
10. Adjournment.

Robert's Rules of Order shall be applicable to the conduct of all meetings of members.

#### ARTICLE IV

##### BOARD OF DIRECTORS

SECTION 1. NUMBER AND TERM. The number of Directors which shall constitute the Board of Directors (the "Board") shall be specified in the Declaration and these By-Laws. Until succeeded by Directors elected at the first annual meeting of members, directors need not be members; thereafter, all Directors shall be members. Each Director shall be elected to serve for a term of three (3) years, or until his successor shall be elected and shall qualify, except that the first election shall provide for one (1) Director for one (1) year, one (1) Director for two (2) years and one (1) Director for three (3) years.

SECTION 2. VACANCY AND REPLACEMENT. If the office of any Director becomes vacant by reason of death, resignation, retirement, disqualification, removal from office or otherwise, a majority of the remaining Directors, though less than a quorum, at a special meeting of Directors duly called for this purpose, shall choose a successor or successors, who



shall hold office for the unexpired term in respect to which such vacancy occurred.

SECTION 3. REMOVAL. Directors may be removed by an affirmative vote of a majority of the members, regardless of class. No Director shall serve on the Board after his membership in the corporation shall be terminated for any reason whatsoever.

SECTION 4. POWERS. The property and business of the corporation shall be managed by the Board, which may exercise all corporate powers not specifically prohibited or prescribed by law, the Articles of Incorporation, or the Declaration to which these By-Laws are attached. The powers of the Board shall specifically include, but not be limited to, the following:

- A. To make and collect regular and special assessments and establish the time within which payment of same are due.
- B. To use and expend the assessments collected to maintain, care for and preserve the boat slips, docks, piers and all other property of the corporation.
- C. To purchase the necessary equipment and tools required in the maintenance, care and preservation referred to above.
- D. To enter into and upon the boat slips when necessary and at as little inconvenience to the members as possible in connection with such maintenance, care and preservation.
- E. To insure and keep insured the property of the corporation in the manner set forth in the Declaration against public liability, and to purchase such other insurance as the Board may deem advisable.
- F. To collect delinquent assessments by suit or otherwise, abate nuisances and enjoin or seek damages from members or any other person for violations of these By-Laws and the terms and conditions of the Declaration.
- G. To employ and compensate such persons, firms and corporations, as may be required for the maintenance and preservation of the property.
- H. To acquire, own, hold, pledge, sell, transfer or lease a membership in the name of the corporation or its designee.

I. To contract for management of any of the affairs of the corporation and to delegate to such other party all powers and duties of the corporation except those specifically required by the Declaration to have specific approval of the Board of the members.

J. To carry out the obligations of the corporation under any restrictions and/or covenants running with the land.

K. To adopt Rules and Regulations pursuant to Article X of the By-Laws; and to make changes deemed appropriate.

L. To impose a special assessment against any member not to exceed \$50.00 for each occurrence, for the violation by such member or his guests of any rule or regulation adopted by the Board or the breach of any By-Law contained herein, or the breach of any provision of the Declaration.

SECTION 5. LIABILITY. The Directors shall not be liable to the owners for any mistake of judgment, negligence, or otherwise except for their own individual willful misconduct, bad faith, or gross negligence.

SECTION 6. COMPENSATION. Neither Directors nor officers shall receive compensation for their services as such; however, the Board of Directors may order reimbursement of any officer or Directors for expenses incurred for and on behalf of the corporation.

SECTION 7. MEETINGS.

A. The first meeting of each Board newly elected by the members shall be held immediately upon adjournment of the meeting at which such election was held, provided a quorum shall then be present, or as soon thereafter as may be practicable. The annual meeting of the Board shall be held at the same place as the members' meeting, and immediately before or after the adjournment of same.

B. Special meetings shall be held whenever called by the direction of the President or a majority of the Board. The Secretary shall give notice of each special meeting either personally, by mail or telegram, at least three (3) days before the date of such meeting, but the Directors may, in writing, waive notice of the calling of the meeting, before or after such meeting.

C. A majority of the Board shall be necessary and sufficient at all meetings to constitute a quorum for the transaction of business,

and the acts of a majority present at any meeting at which there is a quorum shall be the acts of the Board. If a quorum shall not be present at the meeting, the Directors then present may adjourn the meeting without notice, other than announcement at the meeting, until a quorum shall be present.

SECTION 8. ORDER OF BUSINESS. The order of business at all meetings of the Board shall be as follows:

- A. Roll call;
- B. Proof of notice of meeting or waiver of notice;
- C. Reading of minutes of last meeting;
- D. Consideration of communications;
- E. Elections of necessary directors and officers;
- F. Reports of officers and employees;
- G. Reports of committees;
- H. Unfinished business;
- I. Original resolutions and new business;
- J. Adjournment.

SECTION 9. ANNUAL STATEMENT. The Board shall present, not less often than at the annual meeting, a full and clear statement of the business and financial conditions of the corporation.

#### ARTICLE V

#### OFFICERS

SECTION 1. EXECUTIVE OFFICERS. The executive officers of the corporation shall be a President, Vice President, Secretary and Treasurer, all of whom shall be elected annually by and from the Board. No two offices may be held by one person, except Vice President and Treasurer. If the Board so determines, there may be more than one Vice President.

SECTION 2. SUBORDINATE OFFICERS. The Board may appoint such other officers and agents from the membership as it may deem necessary, and such officers and agents shall have such authority and perform such duties as from time to time may be prescribed by the Board.

#### SECTION 3. TENURE OF OFFICERS.

REMOVAL: All officers shall be subject to removal, with or without cause, at any time by action of the Board, which may delegate to an officer the authority to dismiss employees, agents or contractors.



SECTION 4. THE PRESIDENT.

A. The President shall preside at all meetings of the members and directors; he shall have general and active management of the business of the corporation; he shall see that all orders and resolutions of the Board are carried into effect; he shall execute bonds, mortgages, other instruments and contracts requiring a seal, under the seal of the corporation.

B. He shall exercise general control and direction of all the other officers of the corporation in the performance of their corporate duties.

C. He shall submit a report of the operations of the corporation for the fiscal year to the Directors whenever called for by them, and to the members at the annual meeting, and from time to time shall report to the Board all matters within his knowledge of interest to the corporation.

D. He shall be an ex-officio member of all committees, and shall have the general powers and duties of supervision and management usually vested in the office of the President of a corporation.

SECTION 5. THE SECRETARY.

A. The Secretary shall keep the minutes of the members' and of the Board's meetings in one or more books provided for that purpose.

B. He shall see that all notices are fully given in accordance with the provisions of these By-Laws, the Declaration or as required by law.

C. He shall be custodian of the corporate records and of the seal of the corporation and shall see that the seal of the corporation is affixed to all documents, the execution of which on behalf of the corporation under its seal is duly authorized in accordance with the provisions of these By-Laws.

D. He shall keep a register of the name, telephone numbers, and post office address of each member; and the name, size, make, official number or registration of each boat to be docked in such member's boat slip, which shall be furnished to the Secretary by such member.

