Filed for registration on the 22nd Day of March 1989 At 2:52 O'clock P M.

and registered in the office of the Register of Deeds for Pender County in Book No. 729 Page 254

Joyce M. Swicegood
Register of Deeds for
PENDER COUNTY

STATE OF NORTH CAROLINA

COUNTY OF PENDER

AMENDED
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR HARBOUR VILLAGE MARINA, INC.

This Declaration, made this 10th day of March, 1989, by PENDER MARINA HOLDINGS, INC., a North Carolina Corporation, hereinafter referred to as "Declarant";

W I T N E S S E T H :

Whereas, Declarant is the owner of certain property in Topsail Township, Pender County, North Carolina, which is more particularly described in Exhibit A attached hereto; and

Whereas, Declarant desires to impose certain restrictive and protective covenants, conditions, restrictions, reservations, liens, and charges on said property as hereinafter set forth.

Now, therefore, Declarant 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 the development and all of which easements, covenants, restrictions and conditions shall run with the land; shall be binding upon all parties having or acquiring any right, title or interest in the described premises or any part thereof; and shall inure to the benefit of each member of the Association.

ARTICLE 1
DEFINITIONS

SECTION 1: ASSOCIATION shall be used interchangeably with CORPORATION and shall mean and refer to HARBOUR VILLAGE MARINA, INC., a North Carolina Non-Profit Corporation, its successors and assigns.

SECTION 2: BOARD shall mean and refer to the Board of Directors of HARBOUR VILLAGE MARINA, INC., as lawfully constituted from time to time under the provisions of the Articles of Incorporation, this Declaration and the By-Laws.

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SECTION 3: COMMON AREAS AND FACILITIES shall mean all real and personal property owned by members of the Association as tenants in common, each having a specified undivided interest therein. The common areas and facilities shall include all improvements on the real property including bulkheads, docks, piers, pilings, and other facilities. The percentage of undivided interest owned in fee simple by each member shall be as set forth in Exhibit C attached hereto and made a part hereof. The percentage of undivided interest in the common areas and facilities owned by each member is determined by the ratio the fair market value of each tenancy in common as of the date of the Declaration bears to the aggregate fair market value of all the tenancies in common. The fair market value of each tenancy in common and the aggregate fair market value of all tenancies in common have been determined by the Declarant and its determination shall be binding upon all members. The percentage of undivided interest in the common area assigned to each membership shall not be changed except with the unanimous consent of all members.

SECTION 4: WET BOAT SLIPS shall mean and refer to one hundred ninety-two spaces (192) in and above the water for the docking of a boat as shown diagramatically on Exhibit B. All such slips exist by virtue of a valid permit from the United States Army Corps of Engineers for their creation and use.

SECTION 5: MEMBERSHIP shall mean and refer to the rights, benefits, duties and obligations, evidenced by an appropriate membership certificate, which inure to the benefit of and burden each member of the Association; each membership shall be appurtenant to and an incident of ownership by a member of a fee simple undivided interest in the common areas and facilities and inseparable therefrom.

SECTION 6: MEMBER shall mean and refer to every person or entity who has a membership in the corporation. Each member shall own an undivided interest in the common areas and facilities as to which membership shall be appurtenant. Membership shall not be transferable except as an incident or appurtenance to the transfer of the ownership of a fee simple undivided interest in the common area. All references herein to membership shall be understood to refer, as well, to that fee simple undivided interest in the common areas and facilities owned by a member to which the membership is appurtenant.

SECTION 7: LESSEE shall mean and refer to any person or entity who leases a member's interest in and to the common areas and facilities and all other rights, benefits, duties and obligations of that membership. Notwithstanding any other provision of this Declaration, during all periods of any lease of such membership the approved lessee shall possess, hold and use all of the leased membership rights; and during such period the member, lessor, shall have no right to the use and enjoyment of his membership, except that the member only may vote at any meeting of the members for any purpose on any matter.

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ARTICLE II
MEMBERSHIP

SECTION 1: There shall be one class of membership and members. There shall be no restrictions on the number of memberships which can be held by a person, firm or entity. Each membership shall include the exclusive right to occupy, possess and lawfully use a designated boat slip subject to the provisions hereof and subject to the By-Laws and rules and regulations promulgated by the Board of Directors. A membership (and the exclusive right to a designated boat slip) and the interest in the common areas and facilities to which that membership is appurtenant may be transferred without restriction.

SECTION 2: VOTING RIGHTS. The Association shall have two classes of voting rights:

1. Class I: All members with the exception of the Declarant shall have Class I voting rights which shall entitle such members to one vote in the affairs of the Association for each membership owned. If more than one person, firm or entity holds an interest in any membership, the vote of that membership shall be exercised as the persons, firms or entities holding interest in that membership shall determine, but in no event shall more than one vote be cast with respect to any such membership.

2. Class II: The Declarant shall have Class II voting rights, which shall entitle Declarant to three votes for each membership owned. Class II voting rights shall be converted to Class I voting rights on the occurence of either of the following events:

   (a) When the total Class I votes outstanding equal the total Class II votes outstanding; or

   (b) On December 31, 1995.

ARTICLE III
COVENANTS FOR MAINTENANCE ASSESSMENTS

SECTION 1: CREATION OF THE LIEN AND PERSONAL OBLIGATION OF ASSESSMENTS: Each owner of a membership agrees to pay the Association:

1. Annual assessments or charges, and

2. Special assessments 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

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provided, shall be a charge on the member's tenancy in common and membership and shall be a continuing lien upon the member's tenancy in common and 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 Association shall be used exclusively for the purpose of:

1. Operational costs;

2. Promoting the recreation, health, safety and welfare of the members and property;

3. The enforcement of these covenants and the Rules of the Association promulgated by the Board of Directors.

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 Association to make and collect regular assessments and to replace, maintain and repair all property of the common areas and facilities including the bulkheads, docks, piers, pilings, and vehicles. Assessments shall be payable periodically as determined by the Board.

SECTION 4: SPECIAL ASSESSMENTS. In addition to the annual assessments authorized above, the Association 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 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 $100.00 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

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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 Section 3 and 4 hereof, the presence at the meeting of members or of proxies entitled to cast sixty (60%) percent of all 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 Association shall, upon demand at any reasonable time, furnish a certificate in writing signed by an officer of the Association 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 part of the common areas and facilities including the bulkheads, piers, docks, boat slips, and/or other facilities, the Association 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 costs 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 the tenancy in common to which it is appurtenant and bear interest from the date of delinquency at the highest lawful rate per annum, and the Association may bring an action at law against the member personally obligated to pay the same or may foreclose the lien against the fee simple undivided interest and 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 of the fee simple undivided interest or pledge of the membership appurtenant to it.

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Sale or transfer of the fee simple undivided interest and appurtenant 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 become 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 IV
MAINTENANCE

The Association shall provide maintenance of all of the common areas and facilities including bulkheads, docks, piers, pilings, and vehicles as well as maintenance 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 V
ARCHITECTURAL CONTROL

No building, fence, wall, sign or other structure shall be commenced, stored, erected or maintained upon the common areas and facilities or other property of the Association, nor shall any addition to or change or alteration therein be made until the materials, and location of such change shall have been submitted to and approved in writing by the Board of Directors or by an architectural commitee composed of three (3) or more representatives of the Board.

DOCK BOXES. For each wet boat slip there shall be one (1) dock box of such size, design, and construction and in such location, as the Board of Directors shall determine. No removal of any dock box or change in its location, size, design, or construction shall be made without the written consent of the Board of Directors; provided, that any such approved removal or change shall be at the expenses of the person seeking such a removal or change.

ARTICLE VI
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 Association shall have the power to formulate, publish and enforce reasonable rules and regulations concerning the use and enjoyment of all the common areas and facilities, including boat slips, docks, piers, pilings, and other facilities. 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

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inspection during normal business hours.

SECTION 2: USE OF PROPERTIES, ETC. No portion of the common areas and facilities, including boat slips, docks, piers, pilings, and other facilities may be used for any commercial purpose, with the exception of the fuel servicing facilities, including the fuel pumps, lines, servicing docks, etc., and the boat ramp to be constructed in the Marina Basin on the southeastern side of Marina Drive as shown on plat recorded in Map Book 24 at Page 74 of the Pender County Registry, which shall be used for operation of a commercial Marina by Declarant, its successors and assigns.

The Declarant reserves for Declarant, its succesors and assigns, the perpetual right and easement to the fuel pumps, lines, servicing docks, etc., and the boat ramp to be constructed in the Marina Basin on the southeastern side of Marina Drive as shown on the plat recorded in Map Book 24 at Page 74 of the Pender County Registry, to carry on and engage in the operation of a commercial marina facility and for Declarant's, its successors and assigns, own account to collect fees, sell fuel, and fuel products and to retain all the proceeds therefrom.

SECTION 3: QUIET ENJOYMENT No obnoxious or offensive activity shall be carried on in or upon the common areas and facilities, including boat slips, docks, piers, pilings, and other facilities, nor shall anything be done which may be or may become a nuisance or annoyance to any member, assignee, or lessee.

ARTICLE VII
EASEMENTS

SECTION 1: UTILITY AND SERVICE EASEMENTS. All of the common areas and facilities including the boat slips, docks, pilings, piers, and other facilities shall be subject to such easements for driveways, walkways, parking areas, 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 Pender County Registry, prior to the recording of this Declaration; the Declarant shall have the right to grant and establish upon, over and across all of the property described on Exhibit A such further easements as are requisite for the convenient use and enjoyment of such properties.

SECTION 2: BOAT RAMP. Declarant, its successors and assigns, shall have a permanent easement to construct or arrange for the construction of a boat ramp in the Marina Basin on the southeastern side of Marina Drive as shown on the map entitled "Survey of Property for T. Eugene Smith" recorded in Map Book 24 at Page 74 of the Pender County Registry, reference to which is hereby made for a more particular description, together with the absolute right of Declarant, its successors and assigns, to control use of said boat ramp, including use by non-members of HARBOUR VILLAGE MARINA, INC., and for Declarant's, its successors and assigns, own account to collect fees for the use of said boat ramp and to retain all the proceeds therefrom.

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SECTION 3: SERVICING DOCK EASEMENT. Declarant, its successors and assigns, shall have a permanent easement to the fuel lines, pumps, servicing dock, etc., all as currently located upon the property described on the attached Exhibit A and as may be relocated upon said property by Declarant, its successors and assigns for the purpose of carrying on a commercial marina operation, together with the absolute right of the Declarant, its successors and assigns, to control the use of said facilities, including use by non-members of HARBOUR VILLAGE MARINA, INC., and for Declarant's, its successors and assigns, own account to collect all fees, sales proceeds, etc., from the operation of the fueling facility and the servicing docks, and to retain all proceeds therefrom.

ARTICLE VIII
PARTITIONING

The common areas and facilities shall remain undivided and no member or any other person shall bring any action of partition or division of any part thereof. Nothing herein contained, however, shall be deemed to prevent ownership of a unit by the entireties, jointly, or in common or in any other form permited by law.

ARTICLE IX
GENERAL PROVISIONS

SECTION 1: ENFORCEMENT. The Association, or any member, 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 Association, or any member, 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 property of the Association insofar as the law permits and shall inure to the benefit of and be enforceable by the Association, subject to this Declaration, its successors, and assigns, for a term of twenty (20) years from the date 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 upon the approval of not less than sixty seven percent (67%) of the members, cast by person or proxy at a meeting duly held in accordance with the By-Laws. An amended Declaration shall be effective from the date of its recordation in the Office of the Register of Deeds of

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Pender County. In no event may this declaration be amended so as to deprive the Declarant of any rights herein granted or reserved unto Declarant.

ARTICLE X
INSURANCE

SECTION 1: The Board of Directors on behalf of the Association as a common expense shall at all times keep its property insured against loss or damage by fire or other hazards normally insured against, and other such risks, including 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 Association, which insurance proceeds shall be payable in case of loss to the Association. The Association 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 Association be brought into contribution with insurance purchased by members or their pledges or mortgagees.

IN WITNESS WHEREOF, the Declarant has caused this instrument to be executed this the 10th day of March, 1989, by authority of its Board of Directors.

PENDER MARINA HOLDINGS, INC.

(CORPORATE SEAL)

BY: _____
PAUL ZEHFUSS, President

ATTEST:

_____
VICKI S. WADLOW, Secretary

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729-254

STATE OF Virginia

City
~~COUNTY~~ OF Alexandria

I, Robin N. Hobbs, a Notary Public in and for the State and County aforesaid, do hereby certify that VICKI S. WADLOW personally appeared before me this day and acknowledged that she is Secretary of PENDER MARINA HOLDINGS, INC., a North Carolina Corporation, and that by authority duly given and as the act of the Corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal and attested by herself as its Secretary.

Witness my hand and notarial stamp or seal, this the 16th day of March, 1989.

Robin N. Hobbs
Notary Public

My Commission Expires:

Nov. 11, 1990

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ATTORNEY AT LAW

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729-254

CERTIFICATION OF VALIDITY AMENDMENT
TO COVENANTS, CONDITIONS AND RESTRICTIONS
OF HARBOUR VILLAGE MARINA, INC.

By authority of its Board of Directors, HARBOUR VILLAGE MARINA, INC., certifies that the foregoing instrument has been duly authorized and approved by Seventy-Seven (77%) percent of the members of HARBOUR VILLAGE MARINA, INC., and is, therefore, a valid amendment to the existing covenants, conditions and restrictions of HARBOUR VILLAGE MARINA, INC. and the By-Laws attached thereto, all as originally recorded in Book 663 at Page 43 of the Pender County Registry. And further, that this Amendment and the By-Laws attached to this Amendment shall be effective upon the recordation of this Amendment and the By-Laws attached to this Amendment in the Pender County Registry, and that upon said recordation the original Declaration and By-Laws attached thereto as recorded in Book 663 at Page 43 of said Registry shall be void in their entirety.

This the 10TH day of March, 1989.

HARBOUR VILLAGE MARINA, INC.

(CORPORATE SEAL)

BY: _____
PRESIDENT

ATTEST:

_____
SECRETARY

STATE OF Virginia
City
~~COUNTY~~ OF Alexandria

I, Robin M. Hobson, a Notary Public in and for said County and State do hereby certify that Vicki S. Wadlow personally came before me and acknowledged that he/she is Secretary of HARBOUR VILLAGE MARINA, INC., a non-profit North Carolina corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal, and attested by ~~him~~/her self as its Secretary.

Witness my hand and notarial stamp or seal this the 16th day of March, 1989.

_____
Notary Public

My Commission Expires:

Nov. 11, 1990

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ATTORNEY AT LAW
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North Carolina Pender County

The foregoing (or annexed) certificate of

Robin M. Hobson

is certified to be correct.

This 22nd day of March, A.D. 1989

729-254

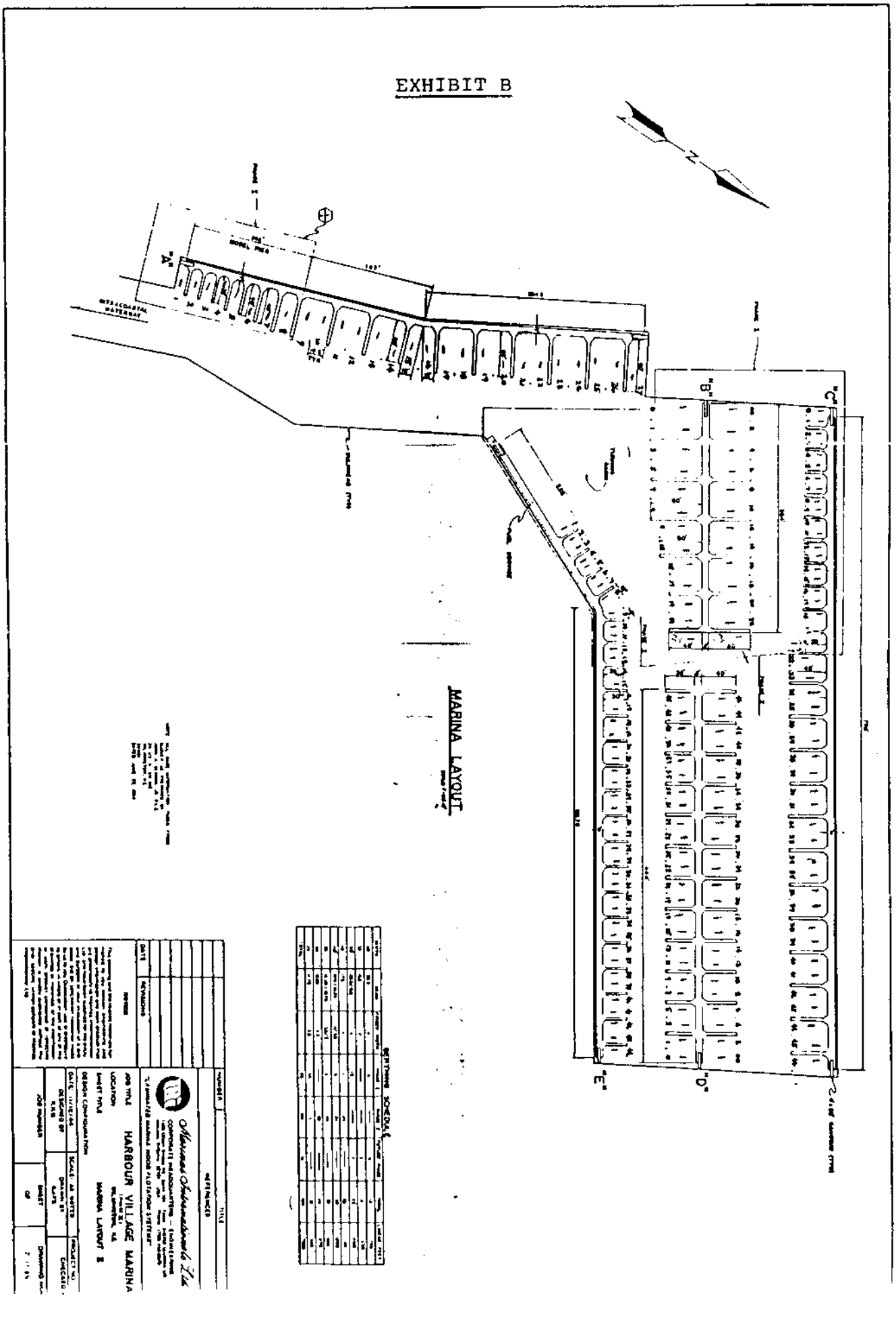
EXHIBIT A

Lying and being in Topsail Township, Pender County North Carolina, and more particularly described as follows:

Being all of Tract 1-A, identified as the Yacht Basin containing 8.4812 acres, as shown on survey entitled "Survey of Properties and Facilities at Harbour Village Marina" as prepared by John A. Benson, Jr., R. L. S., and recorded in Map Book 24 at Page 112 of the Pender County Registry, reference to which is hereby made for a more particular description.

729-254

EXHIBIT B



729-254

EXHIBIT C

SIZE OF BOAT SLIP IN FEET (CLASS)	NO. OF BOAT SLIPS IN CLASS	TOTAL LINEAR FEET IN CLASS	PERCENTAGE OF UNDIVIDED INTEREST PER SLIP	PERCENTAGE OF UNDIVIDED INTEREST PER CLASS
25	37	925	.3320	12.2840
30	30	900	.3984	11.9520
35	28	980	.4647	13.0116
40	30	1200	.5311	15.9330
45	25	1125	.5975	14.9375
50	23	1150	.6639	15.2697
55	6	330	.7303	04.3818
60	13	780	.7967	10.3571
SERVICE DOCK 141	1	141	1.8733	1.8733
TOTAL		7531		100.00

Total Linear Footage include 192 slips at a Total Linear Footage of 7390 and the Service Dock with a Linear Footage of 141.