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SC Court of Appeals

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas
Ninth Judicial Circuit

Honorable Mikell R. Scarborough
Master-in-Equity

Civil Action No.: 2022-CP-10-04952

Spartina Bay Plantation Property Owners' Association, Inc..... Appellant.

v.

Stephen C. Wells and Randi P. Wells. Respondents.

RECORD ON APPEAL - VOLUME II OF IV

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	CASE NO.: 2022-CP-10-04952
	)	
STEPHEN C. WELLS AND RANDI P. WELLS	)	
	)	
	)	PLAINTIFFS' MEMORANDUM OF
Plaintiffs,	)	LAW IN SUPPORT OF MOTION FOR
	)	JUDGMENT ON THE PLEADINGS IN
v.	)	WHOLE OR IN PART
	)	
SPARTINA BAY PLANTATION	)	
PROPERTY OWNERS' ASSOCIATION,	)	
INC.	)	
	)	
Defendant.	)	
_____	)	

This matter is before the Court on Plaintiffs Stephen C. Wells and Randi P. Wells' (hereinafter "Plaintiffs") Motion for Judgment on the Pleadings in Whole or in Part. This action involves the validity and enforcement of an access easement for pedestrian ingress/egress use that was executed and recorded by Spartina Bay Planation Property Owners' Association ("Defendant" or "SBPOA") on Plaintiffs' property more than ten years before the filing of this action. Because the validity of an easement is an issue of law, and the express terms, conditions, and requirements of the subject recorded easement are unambiguous, this Court should grant the motion for judgment on the pleadings in whole or in part in favor of Plaintiffs on Plaintiffs' cause of action for declaratory judgment and Defendant's counterclaim for declaratory judgment pursuant to S.C. CODE ANN. § 15-53-30 and SCRCP 57.

FACTS

Plaintiffs are the owners of the real property situated at 1499 Marsh Bluff Court, Edisto Island, South Carolina, Charleston County TMS Number 025-00-00-038 (hereinafter "Property") by virtue of a deed of James W. Dorn & Jan V. Dorn f/k/a Jan V. Hipp to Stephen C. Wells &

Randi Popp Wells, dated March 9, 2020, and recorded with the Charleston County Register of Deeds (“ROD”) on March 11, 2020, in Book 0865, Page 916 (hereinafter “Wells Deed”). Compl. ¶¶ 1,2; **Exhibit A**, Wells Deed. Defendant SBPOA is the property owners’ association created for the residential community where Plaintiffs’ Property is located and was created by virtue of a Declaration of Restrictive Covenants, Conditions, and Restrictions of Spartina Bay Plantation Subdivision dated October 13, 2001, and recorded with the Charleston County ROD on October 16, 2001, in Book D385, Page 260 (hereinafter “Declaration”). Compl. at ¶¶ 3,4; **Exhibit B**, Declaration. In the Declaration, Defendant is the purported beneficiary on behalf of certain of its members for use of a community dock and an ingress/egress easement to the community dock, both which are located on Plaintiffs’ Property. Compl. at ¶ 4; **Ex. B** at p. 6; Ex. B. The Declaration references an unrecorded plat in Exhibit B to the Declaration as the apparent original location of the access easement. *Id.* In 2012, previous owners of Plaintiffs’ Property and Defendant entered into, executed, and recorded the subject Easement Agreement encompassing the same geographical access easement area referenced in the Declaration as subsequently modified and adopted. **Exhibit C**, Easement Agreement (hereinafter “Easement Agreement”); Compl. at ¶¶ 11-12. The Easement Agreement was recorded by Defendant through its legal counsel with the Charleston County ROD on February 22, 2012, in Book 0234, Page 897, and represents the only recorded easement agreement for the subject easement area. *Id.* Defendant, through its current board of directors, is now disputing the validity and enforcement of the Easement Agreement due to their objection that the easement area is limited to pedestrian use, more than ten years after the Easement Agreement was executed and recorded. See Compl. at ¶¶ 33-34; Answer and Counterclaim of Defendant.

I. Background of Easement Agreement

In 2001, Article VI of the Declaration originally identified certain portions of the subject Property as intended to be owned *or leased* to Defendant, including a community dock, referenced as Exhibit C to the Declaration, and a strip of land designated as a dock easement for access to the community dock, referenced as Exhibit B to the Declaration. Compl. at ¶ 7; **Ex. B** at p. 6. (emphasis added). Article VI also memorializes that Defendant intended to receive a deed or lease for the strip of land designated as a dock easement and a bill of sale for the dock prior to sale of the first lot within the subdivision. **Ex. B** at p. 6. On October 12, 2001, N.C. Boykin as Substitute Trustee of Peters Point Trust, instead of deeding or executing an easement agreement, entered into a ninety-nine (99) year lease as landlord with the Defendant (hereinafter identified as “Lease”) in an attempt to benefit Class A members of Defendant with the ability to use a 25-foot dock ingress/egress area and 2.95 acres of marshland located on the subject Property, with the ingress/egress area referenced on a plat prepared by Jerry L. Fowler, dated September 17, 2001 and recorded in the Charleston County ROD in Book DD at Page 27. Compl. at ¶ 8; **Exhibit D**, Lease at p. 1; Ex. A to Lease. The Lease provided that all the terms, covenants and conditions shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors and assigns of both parties. *Id.* at ¶ 10. In 2003, the location of the easement area was modified, partially abandoned, and reduced in size from the original area as reflected in a plat of Robert Frank Surveying, dated April 2, 2003, revised June 19, 2003, and recorded on June 26, 2003, in plat book EG, page 457 in the Charleston County ROD. See Compl. at ¶ 11-12. The modified easement area was acknowledged by Defendant in the recorded First Amendment to the Declaration and is the identical easement area incorporated in the subject Easement Agreement by

reference to the same Robert Frank Surveying plat. Compl. at ¶ 11-12; Ex. E to Complaint; **Ex. C**, Easement Agreement at ¶ 2.

Following several conveyances of the subject Property, as evidenced by duly recorded deeds in the chain of title with the Charleston County ROD, James S. Cox and Catherine T. Cox became owners of the Property more fully described in a deed from the Internal Revenue Service, Jeannine A. Hammet Special Agent in Charge, Criminal Investigations, Internal Revenue Service, Charlotte Field Office to James L. Cox and Catherine T. Cox (hereinafter identified as “Coxes”) dated March 29, 2010 and recorded on April 2, 2010 with the Charleston County ROD in Book 0115, Page 404 *Id.* at ¶ 13; **Exhibit E**, Coxes Deed. Defendant and the Coxes negotiated the terms of an easement agreement to replace the Lease and prior plat references of the dock ingress/egress on the Property, ultimately culminating in the execution of the subject Easement Agreement by Defendant’s board president at the time, Bruce Matrisciani (“Matrisciani”), and the Coxes, with an effective date of January 25, 2012, and recorded with the Charleston County ROD on February 22, 2012, in Book 0234, Page 897. *Id.* at ¶ 14; **Ex. C**. Defendant and/or its agents, participated the preparation and execution of the Easement Agreement and further directed its filing with the Charleston County ROD through Defendant’s legal counsel. *Id.* at ¶ 15; **Ex. C**.

II. Non-compliance

Shortly after Plaintiffs purchased the Property in 2020, Plaintiffs noticed numerous violations of the Easement Agreement. *Id.* at ¶ 25. Plaintiffs witnessed numerous vehicles driving and parking both within and outside of the easement area and on the Plaintiffs’ Property; a commercial fishing charter boat operation on the non-commercial community dock located on Plaintiffs’ Property; and individuals using a vacant wooded lot next to Plaintiffs’ Property and not owned by Defendant as a parking lot resulting in access to the easement area through the woods

from the side rather than from the intended entrance on Marsh Bluff Court. *Id.* at ¶¶ 25, 26, 28. The constant influx of vehicles and parking in the easement area resulted in a continuous nuisance of vehicle headlights shining into Plaintiffs' residence and noise during late night and early morning hours of darkness. *Id.* at ¶ 29. Despite repeated demands of Plaintiffs to Defendant to acknowledge and comply with the terms and conditions of the Easement Agreement, Defendant took no action to restrict individuals from violating the Easement Agreement. *Id.* at ¶¶ 32, 33. Vehicular use and parking within and outside the easement area on Plaintiffs' Property continued, with late night and early morning uses of the easement area by SBPOA members, non-members, and commercial fishing charter boat customers. *Id.* at ¶¶ 35, 36, 37.

III. Procedural History

Plaintiffs filed this lawsuit on October 26, 2022, seeking a declaratory judgment with respect to the parties' rights and obligations under the Easement Agreement specifically relating to:

- (a) Plaintiffs' standing as successors-in-interest concerning the Easement Agreement as current owners of the subject Property and servient estate as evidenced by the Wells Deed and prior duly recorded deeds and based on the applicability of paragraph 15 of the Easement Agreement;
- (b) Defendant's obligation to comply with terms, conditions, and requirements of the Easement Agreement;
- (c) Defendant's limitation of use under the Easement Agreement for pedestrian and non-vehicular ingress and egress only on, over and across the easement area and that Defendant shall have no other rights in and to any other portion of the Property except the easement area;
- (d) Defendant's obligations to pay twenty-five (25%) of the real estate tax assessed for the Property on an annual basis as consideration and just compensation for the easement rights granted to Defendant in the Easement Agreement;
- (e) The obligation of any non-prevailing party to this action for the enforcement of the terms and to declare the rights under the Easement Agreement to pay the prevailing party's court costs and reasonable attorney's fees associated with this action, including any appeal;

- (f) That the Easement Agreement's integration clause serves to merge and extinguish any prior rights held by Defendant in the ingress/egress easement area identified as the Existing Dock Ingress/Egress Easement on the plat;
- (g) That Plaintiffs may reconstruct a fence on the western edge of their property line so long as it does not impede or hinder movement through the easement area; and
- (h) That in accordance with the DHEC Notice and the Easement Agreement, Plaintiffs were within their rights to remove the non-compliant deck located on Plaintiffs' Property and that Defendant may not construct a new deck within the easement area or otherwise impose the individual assessment levied against Plaintiffs in the Deck Assessment Notice for Plaintiffs' compliance with the DHEC notice.

Plaintiffs also brought claims for Breach of Easement Agreement and Temporary, Preliminary, and Permanent Injunction. In its Answer, Defendant brought a counterclaim for declaratory judgment, alleging nearly eleven years after SBPOA executed and recorded the Easement Agreement that it is now invalid. For the reasons set forth herein, Plaintiffs are entitled to judgment on the pleadings in whole or in part as to their cause of action for declaratory judgment and Defendant's counterclaim for declaratory judgment pursuant to S.C. CODE ANN. § 15-53-30 and SCRCP 57.

STANDARD OF REVIEW

Rule 12(c) allows a party to move for judgment on the pleadings "[a]fter the pleadings are closed but within such time as not to delay the trial." S.C. R. CIV. P. 12(c). "The standard is almost identical to the standard employed in considering a Rule 12(b)(6) motion 'with the key difference being that on a 12(c) motion, the court is to consider the answer as well as the complaint.'" *Kissel v. Hess Corp.*, 2010 WL 2721964, at *1 (D.S.C. May 27, 2010) *report and recommendation adopted*, 2010 WL 2721922 (D.S.C. July 9, 2010). A court should grant the motion when the

[operative pleading] fails to state facts sufficient to constitute a cause of action. *Spence v. Spence*, 368 S.C. 106, 116, 628 S.E.2d 869, 874 (2006).

“When considering such motion, the court must regard all properly pleaded factual allegations as admitted.” *Ballard v. Admiral Ins. Co.*, No. 2019-000367, 2023 WL 4218123, at *5 (S.C. Ct. App. June 28, 2023). In deciding a Rule 12(c) motion, the court may consider the pleadings, exhibits attached thereto, and documents incorporated therein by reference. See S.C. R. CIV. PRO. 10(c); *Carolina First Corp. v. Whittle*, 343 S.C. 176, 190 n.7, 539 S.E.2d 402, 410 n.7 (Ct. App. 2000). The court also may consider other materials that are public records or are otherwise appropriate for the taking of judicial notice without converting the motion into one for summary judgment. See S.C. R. EVID. 201(f); *Doe v. Bishop of Charleston*, 407 S.C. 128, 135 n.2, 754 S.E.2d 494, 498 n.2 (2014); *Sun v. Matyushevsky*, No. 2015-UP-146, 2015 WL 1249074, at *1 (S.C. Ct. App. Mar. 18, 2015); *In re MI Windows and Doors, Inc.*, 2013 WL 3207423, *2 (D.S.C. 2013).

ARGUMENT

I. Plaintiffs are Entitled to Declaratory Judgment as a Matter of Law.

Plaintiffs are entitled to judgment in whole or in part as to their cause of action for declaratory judgment. Pursuant to S.C. CODE ANN. § 15-53-30, “[a]ny person interested under a deed, will, written contract or other writings constituting a contract or whose rights, status, or other legal relations are affected by a statute, municipal ordinance, contract or franchise may have determined any question of construction or validity arising under the instrument, statute, ordinance, contract or franchise and obtain a declaration of rights, status or other legal relations thereunder.” Plaintiffs have rights or interests under the above-referenced Easement Agreement

for which they can obtain a declaration of rights and are entitled to judgment on the pleadings. Plaintiffs will address each of these rights in turn.

A. Plaintiffs are Entitled to Declaratory Judgment Declaring That Plaintiffs Have Standing as Successors-In-Interest Concerning the Easement Agreement.

Plaintiffs, by virtue of their current ownership of the Property and servient estate, are successors-in-interest concerning the Easement Agreement and have standing to seek Defendant's compliance with the terms, conditions, and requirements of the Easement Agreement.

First, Plaintiffs are undeniably the owners of the subject Property and servient estate as evidenced by the Wells Deed and prior duly recorded deeds. *See Ex. A*, Wells Deed. As such, Plaintiffs have standing to seek Defendant's compliance with the Easement Agreement as owners of the subject Property. Further, Plaintiffs have standing in this dispute as successors-in-interest based on the applicability of paragraph 15 of the Easement Agreement effecting Plaintiffs' property executed by and between James L. Cox and Catherine T. Cox, as grantors and previous owners of the Plaintiffs' property, and Defendant, as grantee. The Easement Agreement provides that the terms, conditions, and requirements shall be binding on and inure to the benefit of the parties and their respective heirs, successors, and assigns. *See Ex. C*, Easement Agreement. Plaintiffs, by virtue of their current ownership of the Property through the Wells Deed and previously duly recorded property instruments within the chain of title, are successors-in-interest concerning the Easement Agreement as the current owners of the Property and servient estate.

Therefore, as a threshold matter, Plaintiffs are entitled to a declaration that Plaintiffs have standing to seek Defendant's compliance with the terms, conditions, and requirements of the Easement Agreement as successors-in-interest to the grantors of the Easement Agreement and the Property.

B. Plaintiffs Are Entitled To Judgment That The Easement Agreement is Legal, Valid, Binding, and Enforceable Obligations of the Defendant.

The Easement Agreement is legal, valid, binding, and enforceable obligations of the Defendant because: (1) the Easement Agreement was executed by the Coxes as grantors and previous owners of the Property and executed and duly recorded in the Charleston County ROD by Defendant as grantee; (2) the Easement Agreement was executed and recorded more than ten years prior to this action under S.C. CODE ANN. § 15-3-340 and no action was taken by Defendant to dispossess Plaintiffs or their predecessors-in-interests with the rights acquired in the real property identified in the Easement Agreement; (3) the terms, conditions and requirements of the Easement Agreement are unambiguous and enforceable obligations of Defendant; (4) by operation of law, the Easement Agreement merged and/or extinguished any prior property rights purportedly held by Defendant in the dock access easement area identified in all plats referencing the subject easement area, including, without limitation, the plat referenced in the Lease and recorded with the Charleston County ROD in Plat Book DD at Page 27; and (5) because Defendant approved the Easement Agreement through the acts of its then Board president or, in the alternative, Defendant ratified the Easement Agreement. Plaintiffs will address each of these grounds in turn.

i. The Easement Agreement Was Executed By The Coxes As Grantors And Previous Owners Of The Property And Executed And Duly Recorded In The Charleston County ROD By The SBPOA As Grantees.

The Defendant and the Coxes negotiated the terms of an easement agreement to replace the Lease and prior plat references of the dock ingress/egress on the Property, ultimately culminating in the execution of the subject Easement Agreement by Defendant's board president at the time and the Coxes, with an effective date of January 25, 2012. Defendant and/or its agents, unquestionably participated in the preparation and recording of the Easement Agreement as evidenced by the signature of Defendant's then Board president and the recording of the document

with the Charleston County ROD by Defendant's legal counsel. Compl. ¶ 15; Ex. C. Notably, Defendant questions the validity but admits that the Easement Agreement contains the signature of Defendant's former Board President. See Answer and Counterclaim at ¶ 47.

Defendant now wishes to disregard the Easement Agreement. "A grant of an easement is to be construed in accordance with the rules applied to deeds and other written instruments." *Binkley v. Rabon Creek Watershed Conservation Dist.*, 348 S.C. 58, 71, 558 S.E.2d 902, 909 (Ct. App. 2001) (quoting 28A C.J.S. Easements § 57 (1996)). As such, Plaintiffs are "entitled to rely on recorded deeds and plats to determine their rights in respect to property." *Murrells Inlet Corp. v. Ward*, 378 S.C. 225, 236, 662 S.E.2d 452, 457 (Ct. App. 2008). Specifically, "[t]he purpose of the recording statute is to protect a subsequent buyer without notice; therefore, once recorded, deeds and easements are valid to subsequent purchasers without notice." *Ward v. Evans*, 387 S.C. 401, 409-10, 693 S.E.2d 7, 11 (Ct. App. 2010); see also *O'Neal v. Pearson*, 2007 WL 8327921 at *3 (Ct. App. July 6, 2007) (citing *Davis v. Monteith*, 289 S.C. 176, 182, 345 S.E.2d 724, 727 (1986) ("When a deed is valid and regular on its face, it is presumed to be valid in all respects.")).

Moreover, the burden of proof is "upon the party asserting the invalidity of the easement contract." *Wilson v. South Carolina State Highway Dep't.*, 264 S.C. 22, 212 S.E.2d 61 (1975); see also *Hudson v. Leopold*, 288 S.C. 194, 196, 341 S.E.2d 137, 138 (1986) (citing *Wilson v. Wilson*, 117 S.C. 454, 112 S.E. 330 (1920) ("Generally, the party attacking the deed has the burden of proof."); *Wilson v. Wilson*, 117 S.C. 454, 112 S.E. 330, 332 (1920) ("A deed ordinarily, when properly executed, is presumed to be what it purports to be. And the party assailing it is charged with the burden of rebutting this presumption and proving his case. He who avers and charges must ordinarily prove. The burden of proof is on him."))

Because the Easement Agreement was executed by the Coxes as grantors and previous owners of the property and executed and duly recorded in the Charleston County ROD by Defendant as Grantees, it is therefore binding on Defendant and Plaintiffs are entitled to judgment declaring that the Easement Agreement is valid as a duly recorded property instrument.

ii. The Easement Agreement Was Executed And Recorded More Than Ten Years Prior To This Action Under S.C. CODE ANN. § 15-3-340 And No Action Was Taken By Defendant To Dispossess Plaintiffs Or Their Predecessors-In-Interests With The Rights Acquired In The Real Property Identified In The Easement Agreement.

Pursuant to S.C. CODE ANN. § 15-3-340, “[n]o action for the recovery of real property or for the recovery of the possession of real property may be maintained unless it appears that the plaintiff, his ancestor, predecessor, or grantor was seized or possessed of the premises within ten years before the commencement of the action.” This action was filed on October 26, 2022, two years after Plaintiffs purchased the property and following their respectful, requested compliance with the Easement Agreement from Defendant without success. The Easement Agreement was recorded on February 22, 2012. However, Defendant filed its on counterclaim seeking declaratory judgment in a claim for the recovery of real property on December 30, 2022. Specifically, Defendant’s counterclaim seeks this Court’s determination of the validity of an easement which is an issue of law while the determination of the scope of an easement is an action in equity. See *Gooldy v. Storage Center-Platt Springs, LLC*, 422 S.C. 332, 338, 811 S.E.2d 779, 782 (2018) (“**The question of whether an easement exists is a factual question in an action at law.**”) (emphasis added); *Inlet Harbour v. South Carolina Dep’t of Parks, Recreation, and Tourism*, 377 S.C. 86, 91, 659 S.E.2d 151, 154 (2008) (citing *Tupper v. Dorchester County*, 326 S.C. 318, 323, 487 S.E.2d 187, 190 (1997) (“Apart from the issue of an easement’s creation, however, the determination of the scope of an easement is an action in equity.”)); *Tupper v. Dorchester County*,

326 S.C. 318, 323, 487, S.E.2d 187, 190 (1997) (“The determination of the existence of an easement is a question of fact in a law action and subject to any evidence standard of review when tried by a judge without a jury.”).

The case of *Portside Owners Association, Inc. v. South Beach Racquet Club, Inc.*, although unpublished, is persuasive. 2008 WL 9837329 (Ct. App. 2008). In that case, on May 14, 1992, Beachside conveyed a “perpetual, non-exclusive easement and right of way for ingress and egress on, over and across the [50-foot tract] to South Beach in an ‘Access Easement.’” *Id.* at *1. The Easement was recorded on October 30, 1992. *Id.* Beachside conveyed the 50-foot tract to Portside in a quitclaim deed dated May 1, 1992, and recorded on November 6, 1992. *Id.* The deed stated that it was subject to “an easement for ingress and egress parking reserved to South Beach Racquet Club, Inc. in that certain document entitled Access Easement, dated May 14, 1992, by and between Grantor and South Beach Racquet Club, Inc.” *Id.*

Twelve years later, Portside filed a complaint alleging the easement was invalid and therefore South Beach’s use of the Tract constituted trespass. *Id.* However, the Court held:

The gravamen of Portside’s complaint is to remove any cloud on its title in the 50’ Tract and affirm its exclusive right to possession of the property. Portside attacked South Beach’s use of the property as a violation of Portside’s exclusive rights. As an action for the recovery of real property, the action is governed by section 15-3-340, which states that the action for the recovery of real property may not be maintained “unless it appears that the plaintiff, his ancestor, predecessor, or grantor, was seized or possessed of the premises in question within ten years before the commencement of the action.” S.C. Code Ann. § 15-3-340 (2005). Portside commenced this action to recover its exclusive rights in the property by filing its summons and complaint on February 20, 2004. Therefore, under section 15-3-340, Portside’s action may only be maintained if it was possessed of those exclusive rights to the 50’ Tract within ten years of February 20, 2004, i.e., at any time after February 20, 1994.

Id. at *2. Just as in *Portside*, Defendant is attempting to affirm its rights to the possession of the easement area and divest Plaintiffs of the property rights contained within the Easement

Agreement and granted to Plaintiffs as successor-in-interest to the Property and Easement Agreement. Defendant failed to make any attempt to seize the property rights granted to Plaintiffs and their predecessors-in-interest in the Easement Agreement or otherwise challenge the Easement Agreement within ten years before the commencement of this action. See S.C. CODE ANN. § 15-3-340. The Easement Agreement was executed and recorded more than ten years prior to this action. As such, under section 15-3-340, any challenge to the Easement Agreement's validity by Defendant, an action at law, is barred by the statute of limitations and this Court should declare that the recorded Easement Agreement is a valid duly recorded instrument.

iii. Plaintiffs Are Entitled To Declaratory Judgment Declaring That Defendant Is Obligated To Comply With The Terms, Conditions, And Requirements Of The Easement Agreement.

Defendant is a party to the Easement Agreement which it negotiated, prepared, executed, and recorded and therefore it must comply with the terms, conditions, and requirements of the Easement Agreement. Under South Carolina law, “[t]he language of an easement determines its extent.” *Plott v. Justin Enters.*, 374 S.C. 504, 513, 649 S.E.2d 92, 96 (Ct. App. 2007) (quoting *Binkley v. Rabon Creek Watershed Conservation Dist.*, 348 S.C. 58, 67, 558 S.E.2d 902, 906-07 (Ct. App. 2001)). “Clear and unambiguous language in grants of easement must be construed according to terms which parties have used, taken, and understood in plain, ordinary, and popular sense.” *S.C. Pub. Serv. Auth. v. Ocean Forest, Inc.*, 275 S.C. 552, 554, 273 S.E.2d 773, 774 (1981). “The general rule is that the character of an express easement is determined by the nature of the right and the intention of the parties creating it.” *Plott*, 374 S.C. at 514, 649 S.E.2d at 96 (quoting *Smith v. Comm’rs of Pub. Works of Charleston*, 312 S.C. 460, 467, 441 S.E.2d 331, 336 (Ct. App. 1994)). “The intention of the parties must be determined by a fair interpretation of the grant or reserve creating the easement.” *Springbob v. Farrar*, 334 S.C. 585, 595, 514 S.E.2d 135, 141 (Ct.

App. 1999) (citing *Sandy Island Corp. v. Ragsdale*, 246 S.C. 414, 420, 143 S.E.2d 803, 807 (1965)).

a. Defendant Is Obligated To Pay Twenty-Five (25%) Of The Real Estate Tax Assessed For the Property on An Annual Basis As Consideration And Just Compensation For The Easement Rights Granted to Defendant in the Easement.

The Easement Agreement clearly states:

As consideration and just compensation for this Easement, the Property Owners Association agrees to pay twenty-five (25%) of the real estate tax assessed for Lot B on an annual basis unless agreed otherwise in writing by both parties.

See **Ex. C**, Easement at ¶ 6. Thus, taken in its plain and ordinary meaning, paragraph 6 of the Easement Agreement evidences that it was the intent of the Easement Agreement for Defendant to pay twenty-five (25%) percent of the real estate tax assessed for Plaintiffs' lot. Plaintiffs and Defendant have never agreed otherwise in writing. Additionally, Defendant has paid this portion of the property tax in the past to prior owners and to the Plaintiffs themselves. Defendant cannot now ignore the terms, conditions, and requirements of the Easement Agreement simply because it wishes to discard this obligation or because it is unsatisfied with past commitments made by Defendant and its prior directors. As further intent of this long-term obligation of Defendant, the 99-year Lease likewise contained a similar requirement for the ingress/egress rights on Plaintiffs' Property. Ex. **Ex. D**, Lease. However, because the Easement Agreement integrated the terms of the Lease with respect to the subject easement, it is critical that this ongoing recorded, contractual obligation is applied and enforced against Defendant in the form of declaratory judgment. Plaintiffs are entitled to judgment that Defendant is obligated to comply with the terms, conditions, and requirements of the Easement Agreement requiring that Defendant shall pay twenty-five percent (25%) of the real estate tax on Plaintiffs' lot annually.

b. Defendant's Use Of The Easement Area Is Limited To Pedestrian And Non Vehicular Ingress And Egress Only On, Over And Across The Easement Area.

The Easement Agreement clearly states that use of the easement area is limited to pedestrian and non-vehicular use and that Defendant has no other rights in and to any other portion of the Property except the easement area.

Paragraph 2 of the Easement Agreement provides as follows:

Access Easement: Grantors hereby grant, bargain, sell and release unto Grantee, its successors and assigns, for the benefit of the Grantee Property, a perpetual, exclusive, appendant, appurtenant, transferable easement (the "Access Easement") on, over and across the Grantor Property **for pedestrian ingress and egress on, over and across the Easement Area**. This Easement Area is more fully shown as "Existing Dock Ingress/Egress Easement" on Plat by Robert Frank Surveying, dated April 2, 2003, revised on June 19, 2003 and recorded in the Charleston County RMC Office on June 26, 2003 in Book EG, Page 457. **Grantee shall have no other rights in and to any other portion of the Grantor Property except the Easement Area**. Grantors hereby reserve the right, for itself and its tenants, invitees, permittees, agents, representatives, successor and assigns, to use the Access Easement in common with Grantee for any purposes not inconsistent with Grantee's rights under this Agreement.

Ex. C, Easement at 2 (emphasis added).

As such, the language of the Easement Agreement taken in its plain, ordinary, and popular meaning determines the rights created by the easement. Here, the easement is dedicated as an "Access Easement." See **Ex. C**, Easement at ¶ 2. Courts can take judicial notice of the meaning of words or phrases. See *Brown v. Piper*, 91 U.S. 37, 42 (1875) ("Among the things of which judicial notice is taken are the laws of nations; the general customs and usages of merchants; the notary's seal; **vernacular language**; the customary abbreviations of Christian names; the accession of the Chief Magistrate to office; and his leaving it." (emphasis added)); *Nix v. Hedden*, 149 U.S. 304 (1893) ("There being no evidence that the words 'fruit' and 'vegetables' have acquired any special meaning in trade or commerce, they must receive their ordinary meaning. Of that meaning the court is bound to take judicial notice, as it does in regard to all words in our own tongue; and

upon such a question dictionaries are admitted, not as evidence, but only as aids to the memory and understanding of the court.”); 29 AM. JUR.2D EVIDENCE § 91, *Judicial Notice of Meanings of Words and Phrases; Signs and Symbols* (Feb. 2024) (“In general, courts take judicial notice of the meaning of English words and phrases by consulting dictionaries or encyclopedias.”); 31A C.J.S. EVIDENCE § 136, *Judicial Notice Of Meaning Of Words And Phrases* (Aug. 2023) (“A judge may take judicial notice of the ordinary meaning of English words as defined in standard works such as dictionaries[.]”). The Merriam-Webster Dictionary defines access as “permission, liberty, or ability to enter, approach, or pass to and from a place” and “a way or means of entering or approaching.” See **Exhibit F**, “Access.” *Merriam-Webster.com Dictionary*, Merriam-Webster, <https://www.merriam-webster.com/dictionary/access>. Accessed 28 Jun. 2023. Thus, construing the terms of the Easement Agreement in its plain, ordinary, and popular meaning, “access” clearly limits the use of the easement area to coming and going to and from a place.

In *Snow v. Smith*, there were two easements at issue – Snow’s easement which conveyed “an easement for use and enjoyment . . . to the Lake Access Lot” and the Gehlkens’ easement which included “non-exclusive access to the water of Lake Murray through the lake access.” 416 S.C. 72, 784 S.E.2d 242 (Ct. App. 2016). At issue was whether access to the Lake Access Lot meant full use of the lot or was limited to ingress and egress on the lot. *Id.* The South Carolina Court of Appeals held “[a]ccess is defined in Black’s Law Dictionary as ‘[a] right, opportunity, or ability to enter, approach, [or] pass to and from.’” Therefore, while Snow was entitled to full use of the Lake Access Lot, all other homeowners were limited “to ingress and egress on the driveway/ramp.” *Id.*

Just as in *Snow*, the Easement Agreement at issue here refers to the easement as an “Access Easement.” See **Ex. C**, Easement Agreement. Thus, as the court held in *Snow*, the easement was

created for the “right, opportunity, or ability to enter, approach, [or] pass to and from.” *Access*, Black’s Law Dictionary (11th ed. 2019). Therefore, like the homeowners in *Snow*, Defendant is limited to ingress and egress on the easement property.

Moreover, the Easement Agreement clearly provides that the easement area is for pedestrian *ingress* and *egress*. Ingress is defined in Black’s Law Dictionary as “the act of entering [;] the right or ability to enter; access.” See **Exhibit G**, *Ingress*, Black’s Law Dictionary (11th ed. 2019). Egress is defined as “the act of going out or leaving [;] the right or ability to leave; a way of exit.” See **Exhibit H**, *Egress*, Black’s Law Dictionary (11th ed. 2019). Additionally, an ingress and egress easement is defined as “the right to use land to enter and leave another’s property.” See **Exhibit I**, *Easement*, Black’s Law Dictionary (11th ed. 2019). Therefore, the Easement Agreement is unambiguous that Defendant’s use of the easement area is limited to ingress and egress across the easement area.

Finally, any access, ingress, or egress on the easement area is limited to pedestrian use. As noted above, the Easement Agreement provides that the easement area is for *pedestrian* ingress and egress. The Merriam-Webster Dictionary defines pedestrian as “going or performed on foot,” “of, relating to, or designed for walking,” and “a person going on foot.” See **Exhibit J**, *Pedestrian*, Merriam-Webster Dictionary (11th ed. 2016). Thus, taken in its plain, ordinary, and popular meaning, “pedestrian” means by foot or person on foot. As a result, Defendant’s use of the easement area is limited to pedestrian, i.e., people on foot, use, and access utilized by other means, such as vehicular access, parking, or loitering, is violative of the terms of the Easement Agreement.

Based on the clear and unambiguous language of the Easement Agreement, Defendant’s use of the easement area is limited to pedestrian, non-vehicular use for access to and from the easement area. Therefore, Plaintiffs are entitled to a declaration that Defendant’s use of the

easement area is limited to pedestrian and non-vehicular ingress and egress only on, over and across the easement area.

iv. Plaintiffs Are Entitled to Declaratory Judgment Declaring That The Easement Agreement's Integration Clause Serves To Merge And Extinguish Any Prior Rights Held By Defendant In The Ingress/Egress Easement Area.

Under South Carolina law, the Easement Agreement extinguished or merged any prior property rights purportedly held by the SBPOA in the same dock access easement depicted in previously prepared plats, such as those referenced in the Declaration and the Lease. South Carolina has long recognized the merger doctrine since the case of *St. Philip's Church v. Zion Presbyterian Church*, 23 S.C. 297 (1885), which provides that a deed is absolute on its face and in its terms and any and all negotiations are merged into the deed. *See Hughes v. Greenville Country Club*, 283 S.C. 448, 450, 322 S.E.2d 827, 828 (Ct. App. 1984) (prior written agreements are merged into a subsequently recorded conveyance covering the same property). A party claiming that merger was not intended must prove so by clear and convincing evidence under South Carolina law. *Shoney's Inc. v. Cooke*, 291 S.C. 307, 353 S.E.2d 300 (Ct. App. 1987).

Furthermore, the subject Easement, executed by Defendant and consistent with an intended merger, also contains an integration clause, providing as follows:

This Agreement is an integrated agreement and expresses the complete agreement and understanding of the Parties. **Any and all prior or contemporaneous oral agreement or prior written agreement regarding the Agreement will be merged herein.**

See **Ex. C**, Easement at ¶ 13 (emphasis added). The Declaration, First Amendment to the Declaration, the Lease, and all referenced plats identified as the dock access easement pertain to the same easement as the Easement Agreement. Because of this fact and since the Easement Agreement specifically includes an integration clause, there are no grounds to assert that the Defendant has any property rights in the easement area other than those expressly granted to the

Defendant in the Easement Agreement. *See Wilson v. Landstrom*, 281 S.C. 260, 266, 315 S.E.2d 130, 134 (Ct. App. 1984) (“A merger clause expresses the intention of the parties to treat the writing as a complete integration of their agreement.”); 30 S.C. JUR. CONTRACTS § 38, *Integration and Merger* (Feb. 2024) (“A merger clause expresses the intention of the parties to treat the writing as a complete integration of their agreement.”); *see also Rye v. Tahoe Truckee Sierra Disposal Co., Inc.*, 222 Cal. App. 4th 84 (2103) (where access easement identified the same area as 99-year lease, court found that the lease was abandoned). Therefore, Plaintiffs are entitled to a declaration that the Easement Agreement merged and extinguished any prior rights held by Defendant in the easement area.

C. Under The Terms Of The Valid, Binding, And Enforceable Easement Agreement, Plaintiffs Are Entitled To Declaratory Judgment Declaring That Defendant Shall Pay Plaintiffs’ Court Costs And Reasonable Attorney’s Fees Associated With This Action, Including Any Appeal for Plaintiffs’ Enforcement Of The Terms and To Declare The Rights Under The Easement Agreement.

Plaintiff is entitled to court costs and attorneys’ fees under the unambiguous terms of the Easement Agreement. “The law is clear in South Carolina that attorney fees are recoverable when authorized by contract or statute.” *Charleston Lumber Co., Inc. v. Miller Housing Corp.*, 318 S.C. 471, 483, 458 S.E.2d 431, 438 (Ct. App. 1995) (citing *Blumberg v. Nealco, Inc.*, 310 S.C. 492, 427 S.E.2d 659 (1993)). “When the contract provides for ‘reasonable attorney’s fees’ without specifying a rate or amount, the amount of fees to be awarded is left to the discretion of the court.” *Id.* (citing *Dedes v. Strickland*, 307 S.C. 155, 414 S.E.2d 134 (1992)).

The Easement Agreement provides:

In the event that any party hereto shall bring an action to enforce the terms hereof or to declare rights hereunder, the prevailing party in any such action shall be entitled to its court costs and reasonably attorney fees to be paid by the non-prevailing party as fixed by the court of appropriate jurisdiction, including, but not limited to, attorney fees and court costs incurred in courts of original jurisdiction, bankruptcy courts, or appellate courts.

Ex. C, Easement Agreement at ¶ 8. Plaintiffs have brought an action against Defendant to enforce the terms of and declare rights under the Easement Agreement. Thus, if Plaintiffs are the prevailing party in having to enforce the terms and obligations of Defendant under the Easement Agreement, Plaintiffs are entitled to their court costs and reasonable attorney fees.

II. Plaintiffs Are Entitled To Judgment As A Matter Of Law That Defendant's Counterclaim Must Be Dismissed.

A. The Counterclaim is Barred by the Statute of Limitations.

Defendant argues that the Easement Agreement is void and invalid because (1) Plaintiffs are bound by a lease agreement running through the Property for ingress/egress access to the community dock and (2) the Easement Agreement between the prior owner of the Property and a former President of Defendant's board of directors was never approved by the Defendant's Board of Directors. However, for the reasons set forth below, Defendant's counterclaim must fail.

Defendant's counterclaim is barred by the applicable statute of limitations. "Statutes of limitations are not simply technicalities." *Moates v. Bobb*, 322 S.C. 172, 176, 470 S.E.2d 402, 404 (Ct. App. 1996). "On the contrary, they have long been respected as fundamental to a well-ordered judicial system." *City of North Myrtle Beach v. Lewis-Davis*, 360 S.C. 225, 231, 599 S.E.2d 462, 465 (citing 54 C.J.S. *Limitations of Actions* § 2, at 16-18 (1989)). "Statutes of limitations embody important public policy considerations in that they stimulate activity, punish negligence, and promote repose by giving security and stability to human affairs." *Id.* at 231-32 (citing 51 Am.Jur.2d, *Limitation of Actions* § 18, at 603 (1970)). "One purpose of a statute of limitations is 'to relieve the courts of the burden of trying stale claims when a [party] has slept on [its] rights.'" *Id.* (quoting *McKinney v. CSX Transp., Inc.*, 298 S.C. 47, 49-50, 378 S.E.2d 69, 70 (Ct. App. 1989)).

Pursuant to S.C. CODE ANN. § 15-3-340, “[n]o action for the recovery of real property or for the recovery of the possession of real property may be maintained unless it appears that the plaintiff, his ancestor, predecessor, or grantor was seized or possessed of the premises within ten years before the commencement of the action.” Defendant’s counterclaim is an action for the recovery of real property. Specifically, it is a claim for the **determination of the validity of an easement which is an issue of law** while the determination of the scope of an easement is an action in equity. See *Gooldy v. Storage Center-Platt Springs, LLC*, 422 S.C. 332, 338, 811 S.E.2d 779, 782 (2018) (emphasis added) (“The question of whether an easement exists is a factual question in an action at law.”); *Inlet Harbour v. South Carolina Dep’t of Parks, Recreation, and Tourism*, 377 S.C. 86, 91, 659 S.E.2d 151, 154 (2008) (citing *Tupper v. Dorchester County*, 326 S.C. 318, 323, 487 S.E.2d 187, 190 (1997) (“Apart from the issue of an easement’s creation, however, the determination of the scope of an easement is an action in equity.”); *Tupper v. Dorchester County*, 326 S.C. 318, 323, 487, S.E.2d 187, 190 (1997) (“The determination of the existence of an easement is a question of fact in a law action and subject to any evidence standard of review when tried by a judge without a jury.”).

As discussed above in Section I.B.ii, in this case, the Easement Agreement was recorded on February 22, 2012. Defendant filed its counterclaim on December 30, 2022, more than ten years after the Easement Agreement was recorded to dispute the validity of the Easement Agreement, the terms, conditions and obligations contained therein, and to seize the Property rights granted to Plaintiffs and their predecessors-in-interest. Therefore, under section 15-3-340, Defendant’s claim is barred by the applicable statute of limitations.

B. The Doctrine of Laches Bars Defendant's Counterclaim.

Even if the Court were to hold that Defendant's Counterclaim is not barred by the statute of limitations and finds the substance of Defendant's counterclaim challenging the validity of the Easement Agreement to be an issue of equity, which Plaintiffs dispute based on applicable law, the counterclaim should likewise be barred by the doctrine of laches. "Laches is neglect for an unreasonable and unexplained length of time, under circumstances affording opportunity for diligence, to do what in law should have been done. Whether a claim is barred by laches is to be determined in light of [the] facts of each case, taking into consideration whether the delay has worked injury, prejudice, or disadvantage to the other party; delay alone in an assertion of a right does not constitute laches." *Robinson v. Estate of Harris*, 391 S.C. 114, 118, 705 S.E.2d 41, 43 (2011).

In this case, Defendant, after preparing, executing, and recording the subject Easement Agreement, sat by for nearly eleven years knowing that the Easement Agreement was limited to pedestrian ingress/egress use. The Easement Agreement was recorded on February 22, 2012, in the Charleston County ROD and is a matter of public record. As a result, and by operation of law, Defendant nor its agents, members, or officers can claim that they did not have notice of Easement Agreement. Recording of a property document amounts to notice, whether known or unknown, because the means of information are at hand. *Spence v. Spence*, 368 S.C. 106, 119–20, 628 S.E.2d 869, 876 (2006). At any point thereafter, any member of the SBPOA could have obtained a copy of the Easement Agreement, saw that it was a pedestrian easement, and taken action if the validity or terms of the Easement Agreement be disputed. However, neither Defendant nor its agents, members, or officers took any action for over a decade to challenge the validity or correct any alleged mistake in the Easement Agreement.

Now, after failing to act for nearly eleven years, Defendant wants to eviscerate the Easement Agreement. This will cause Plaintiffs' injury, prejudice, and an extreme disadvantage. As subsequent purchasers of the Subject Property, Plaintiffs are entitled to rely on recorded documents within the chain of title. Plaintiffs did not know – nor could they have known – prior to purchasing the property that what they thought was a pedestrian easement would be disputed by Defendant and that Defendant and its members would disregard the terms, conditions, and obligations of the Easement Agreement. Defendant had the time and opportunity to challenge or fix any alleged mistake in the Easement Agreement. However, Defendant failed to do what in law and equity should have been done and as a result their counterclaim is barred by the doctrine of laches.

C. Defendant's Argument That Plaintiffs are Bound by the Lease Agreement Must Fail.

If this Court finds that the statute of limitations or laches do not bar Defendant's counterclaim, Defendant's argument that the Lease Agreement, not the Easement Agreement, binds Plaintiffs likewise fails. As discussed above in Section I.B.iv, under South Carolina law, the Easement Agreement extinguished or merged any prior property rights purportedly held by Defendant in the same dock access easement depicted in previously prepared plats, such as those referenced in the Declaration and the Lease. As such, Defendant cannot now ignore the terms, conditions, and requirements of the Easement Agreement and claim that only prior easement reservations identified by plat are binding upon Defendant simply because the current Board members wish to roll back the terms of the Easement Agreement. The Easement Agreement extinguished and/or merged the easement area previously identified in plats referenced in the Declaration and 99-year lease, and Plaintiffs are entitled to judgment on the pleadings as to this issue as a matter of law.

D. Defendant's argument that the Easement Agreement was never approved by the Defendant's Board of Directors is unavailing.

In the event that this Court does not dismiss Defendant's counterclaim on the grounds of being barred by the applicable statute of limitations or laches, this Court should further reject as a matter of law Defendant's argument in its Counterclaim that the Easement Agreement is invalid and void because the Easement Agreement was allegedly not approved by the Board of Directors at the time of execution of the Easement Agreement.

Under South Carolina law, "[r]atification, as it relates to the law of agency, means the express or implied adoption and confirmation by [a principal] of an act or contract performed or entered into in his behalf by another who at the time assumed to act as his agent." *Lincoln v. Aetna Cas. & Sur. Co.*, 300 S.C. 188, 191, 386 S.E.2d 801, 803 (Ct. App. 1989) (citing *Barber v. Carolina Auto Sales*, 236 S.C. 584, 115 S.E.2d 291 (1960)). "Ratification exists upon the concurrence of three elements; (1) acceptance by the principal of the benefits of the agent's acts, (2) full knowledge of the facts, and (3) circumstances or an affirmative election indicating an intention to adopt the unauthorized arrangements." *Id.* (citing 2A C.J.S. Agency § 71 (1972)).

In *Parata Systems, LLC v. Navajo Health Foundation-Sage Memorial Hospital, Inc.*, the North Carolina Court of Appeals upheld the purchase of a robotic pharmaceutical dispensing system ("RDS") despite the fact that the Board of Directors claimed the purchase was not authorized. 2009 WL 921115 (Ct. App. 2009) (unpublished). In that case, Dr. Gregory Vannoy ("Vannoy"), the Director of Pharmacy at Navajo Health Foundation-Sage Memorial Hospital ("Hospital"), was interested in purchasing an RDS unit from Parata Systems, LLC ("Parata"). *Id.* at *1. In October 2004, Vannoy prepared a Pharmacy Department Report for the Hospital Board of Directors ("Board") including a request for approval of a capital lease for the RDS unit. *Id.* In March 2005, Vannoy received a standard form Purchasing Agreement for an RDS. *Id.* at *2.

Vannoy showed the contract to the Hospital's CEO and executed the contract for the Hospital. *Id.* The contract went into effect on March 30, 2005, and the purchase price for the unit was \$186,000.00. *Id.* The Hospital failed to pay for the RDS unit and argued that Vannoy had no authority to enter into the contract and that the contract was never ratified. *Id.* However, the Court held that Vannoy informed the Board, kept them involved in the acquisition of the RDS unit, and told the Hospital CEO of the agreement. *Id.* at *3. Therefore, the Court held the evidence reflected that the Board acquiesced the purchase of the RDS unit and that there "is substantial evidence in the record to support the trial court's holding that Vannoy had actual authority to execute the contract." *Id.* at *4.

In *Miller v. People*, the Supreme Court of the Virgin Islands held a failure to vote on an employment agreement did not render the agreement invalid. *Id.* at *15. In that case, there were various employment contracts negotiated and executed between the CEO and CFO of the hospital and the Chair of the District Governing Board. *Id.* at *1. While the documents were executed by the Chair in her capacity as Chair, "the record contain[ed] no evidence that the District Governing Board held a formal vote to ratify any of these agreements." *Id.* In May 2017, the CEO and Chair executed another contract for the CEO to remain as CEO but, as with the 2005 agreement, the District Governing Board never held a vote to approve the 2007 agreement. *Id.* at *2.

Thereafter, the government of the Virgin Islands brought various claims against the CEO including a claim for embezzlement and falsification of public accounts related to the 2005 employment agreement. *Id.* at *12. The government argued that the 2005 agreement "was not legally valid because it had never been approved by the District Governing Board." *Id.* However, the court stated "[t]he ratification or adoption of a contract by a corporation through its board of directors may be implied, including by conversation, without formal votes." *Id.* at *15 (citing 2

William Meade Fletcher, *Cyclopedia of Corporations* § 418 (Perm Ed. 1990) (collecting cases)). As such, the failure of the Board to formally vote on the June 21, 2005, agreement did not render the agreement invalid. *Id.* Therefore, the court reversed the CEO's conviction for embezzlement or falsification of documents. *Id.*

Based solely on the pleadings and the attached recorded Easement Agreement, this Court can find that for the nearly eleven years following its execution, the SBPOA, and its members were on notice of the Easement Agreement. After the Easement Agreement was executed by the Coxes and Mr. Matrisciani on behalf of the SBPOA, the Easement Agreement was recorded by SBPOA in the Charleston County Register of Deeds on February 22, 2012, in Book 0234, Page 897 and is a matter of public record. Despite the fact that Defendant now opposes and disclaims the pedestrian easement, for over ten years the SBPOA did nothing to correct any alleged defects in the Easement Agreement and by virtue of that fact have ratified the Easement Agreement.

Just as in *Parata* and *Miller*, regardless of whether there was a formal vote or proof of an in-person board meeting through historical meeting minutes, as now alleged, Defendant knew of and assented to the Easement Agreement. Because the ratification or adoption of an agreement by a Board may be implied, the alleged lack of a formal vote or board meeting does not render the Easement Agreement invalid and Defendant's failure to act for over ten years demonstrates its assent to the Easement Agreement. Therefore, Defendant's counterclaim must fail, and Plaintiffs are entitled to judgment on the pleadings.

CONCLUSION

For the reasons set forth above, Plaintiffs respectfully requests that their Motion for Judgment on the Pleadings in whole or in part be granted.

ROSEN HAGOOD, LLC

/s/ Timothy J.W. Muller

Timothy James Wood Muller (SC Bar No. 74601)

Mary Harriet Moore (SC Bar 105312)

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ATTORNEYS FOR PLAINTIFFS

Charleston, South Carolina
February 20, 2024

Exhibit A



BP0865916

PGS:

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201-107

STATE OF SOUTH CAROLINA)
) **TITLE TO REAL ESTATE**
COUNTY OF CHARLESTON)

KNOW ALL MEN BY THESE PRESENTS, THAT WE, **JAMES W. DORN & JAN V. DORN F/K/A JAN V. HIPP**, in the State aforesaid, for and in consideration of the sum of **SEVEN HUNDRED NINETY THOUSAND AND 00/100 (\$790,000.00) DOLLARS**, to us in hand paid at and before the sealing of these presents by **STEPHEN C. WELLS & RANDI POPP WELLS**, in the State aforesaid and the receipt whereof is hereby acknowledged, have granted, bargained, sold and released, and by these Presents do hereby grant, bargain, sell and release unto the said **STEPHEN C. WELLS & RANDI POPP WELLS, AS JOINT TENANTS WITH RIGHTS OF SURVIVORSHIP AND NOT AS TENANTS IN COMMON**, their heirs and assigns forever, the following described real property, to wit:

SEE EXHIBIT "A" HERETO.

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

TO HAVE AND TO HOLD, all and singular, the said Premises before mentioned unto the said **STEPHEN C. WELLS & RANDI POPP WELLS, AS JOINT TENANTS WITH RIGHTS OF SURVIVORSHIP AND NOT AS TENANTS IN COMMON**, their heirs and assigns forever.

And we do hereby bind ourselves, our heirs and assigns to warrant and forever defend, all and singular, the said Premises unto the said **STEPHEN C. WELLS & RANDI POPP WELLS, AS JOINT TENANTS WITH RIGHTS OF SURVIVORSHIP AND NOT AS TENANTS IN COMMON**, their heirs and assigns, against us and our heirs and assigns, and all persons whomsoever lawfully claiming, or to claim, the same or any part thereof.

Wyckoff Law Firm, P.A.
810 Travelers Blvd., Suite K
Summerville, SC 29485

Page 1 of 3

WITNESS our Hands and Seals, this 9 day of MARCH, 2020.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

[Signature]

[Signature]
JAMES W. DORN

[Signature]

[Signature]
JAN V. DORN F/K/A JAN V. HIPPI
F/K/A Jan V. Hipp

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

ACKNOWLEDGMENT

I, Megan Mitchum, do hereby certify that JAMES W. DORN & JAN V. DORN F/K/A JAN V. HIPPI personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

SWORN to and subscribed before me
this 9 day of MARCH, 2020.

[Signature]
Printed Name of Notary: Megan Mitchum
Notary Public for South Carolina
My Commission Expires: 4/16/2029

Exhibit "A"

All that certain lot, piece, or parcel of land, with improvements thereon, situate, lying and being in the County of Charleston, State of South Carolina, containing 1.3578 acres, more or less, of highland, and 2.7036 acres, more or less, of marsh, and being shown and designated as Lot B-Highland and Lot B-Marsh on a plat prepared by Robert L. Frank, RLS #4177, entitled, "A BOUNDARY SURVEY CUL DE SAC ABANDONMENT, AND DOCK EASEMENT ADJUSTMENT OF LOT B LOCATED ON EDISTO ISLAND, CHARLESTON COUNTY, SOUTH CAROLINA," dated April 2, 2003, revised June 19, 2003, and recorded in the RMC Office for Charleston County in Plat Book EG, at Page 457.

Said lot having such size, shape, dimensions, buttings and boundings as will by reference to said plat more fully appear.

Subject to easements, restrictions, covenants, and conditions of record.

This being the same property conveyed to grantors by deed of Jan V. Hipp n/k/a Jan V. Dorn dated April 15, 2015, and recorded April 29, 2015, in the ROD Office for Charleston County in Book 0472, Page 585.

This being the identical property conveyed to Jan V. Hipp n/k/a Jan V. Dorn by deed of James L. Cox, Trustee and Catherine T. Waddell Cox, Trustee of the Trust Agreement dated May 25, 2011, dated November 13, 2012, and recorded November 14, 2012, in the ROD Office for Charleston County in Book 0291, Page 173; and by quit claim deed of Jan V. Hipp n/k/a Jan V. Dorn to James W. Dorn & Jan V. Dorn dated April 15, 2015, and recorded April 29, 2015, in the ROD Office aforesaid in Book 0472, Page 585.

TMS #: 025-00-00-038

Grantee's Address: 1499 Marsh Bluff Court
Edisto Island, SC 29438

CONSIDERATION AFFIDAVIT

County of Charleston

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1. I have read the information on this Affidavit and understand such information.
2. The property being transferred is located at 1499 Marsh Bluff Court, Edisto Island, South Carolina 29438 bearing Charleston County Tax Map Number 025-00-00-038, was transferred by James W. Dorn and Jan V. Dorn f/k/a Jan V. Hipp to Stephen C. Wells and Randi Popp Wells on March 10, 2020.

3. Check one of the following: The deed is

- (a) x subject to the deed recording fee as a transfer for consideration paid or to be paid in money or money's worth.
- (b) _____ subject to the deed recording fee as a transfer between a corporation, a partnership, or other entity and a stockholder, partner or owner of the entity, or is a transfer to a trust or as a distribution to a trust beneficiary.
- (c) _____ is exempt from the deed recording fee because EXEMPTION# _____ AND EXPLANATION FOR EXEMPTION _____ (If exempt, please skip item 4-7, and go to item 8 of this affidavit.)

4. Check one of the following if either item 3(a) or item 3(b) above has been checked:

- (a) x The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of \$790,000.00.
- (b) _____ The fee is computed on the fair market value of the realty which is \$ _____.
- (c) _____ The fee is computed on the fair market value of the realty as established for property tax purposes which is \$ _____.

5. Check Yes ___ or No ___ to the following: A lien or encumbrance existed on the land, tenement, or realty before the transfer and remained on the land, tenement, or realty after the transfer. If "Yes" the amount of the outstanding balance of this lien or encumbrance is: _____.

6. The deed recording fee if computed as follows:

- (a) Place the amount listed in Item 4 above here: \$790,000.00
- (b) Place the amount listed in Item 5 above here: \$ 0
(if no amount is listed, place zero here)
- (c) Subtract Line 6(b) from 6(a) and place result here \$790,000.00

7. The deed recording fee is based on the amount listed on Line 6(c) above and the deed recording fee due is: \$2923.00.

8. As required by code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as the purchaser.

9. I understand that a person required to furnish this affidavit who willfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

Stephen C. Wells

- Buyer

Randi Popp Wells

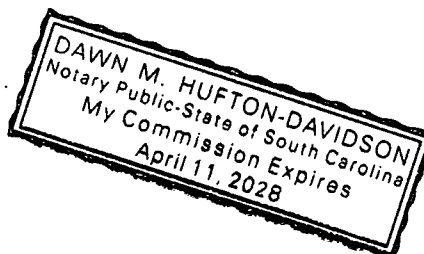
- Buyer

Sworn to and subscribed before me this
March 10, 2020

[Signature]
Notary Public

State of South Carolina

My Commission Expires: 4-11-28



RECORDER'S PAGE

NOTE: This page **MUST** remain
with the original document



Filed By:

WYCKOFF LAW FIRM PA
810 TRAVELERS BLVD
STE K
SUMMERVILLE SC 29485 (BULLET)

RECORDED

Date: March 11, 2020

Time: 3:18:10 PM

Book

Page

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Deed

Michael Miller, Register
Charleston County, SC

MAKER:

DORN JAMES W AL

RECIPIENT:

WELLS STEPHEN C AL

of Pages: 5

Note:

Recording Fee	\$ 15.00
State Fee	\$ 2,054.00
County Fee	\$ 869.00
Extra Pages	\$ -
Postage	\$ -
Chattel	\$ -
TOTAL	\$ 2,938.00

Original Book:

Original Page:

AUDITOR STAMP HERE

RECEIVED From ROD

Mar 18, 2020

Peter J. Tecklenburg

Charleston County Auditor

PID VERIFIED BY ASSESSOR

REP RJB

DATE 03/18/2020

4

DRAWER Drawer 3
CLERK ECP



0865
Book



916
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03/11/2020
Recorded Date



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Exhibit B
Part 1

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)
) **DECLARATION OF RESTRICTIVE
COVENANTS, CONDITIONS AND RESTRICTIONS
OF SPARTINA BAY PLANTATION
SUBDIVISION**

THIS DECLARATION, made on the date hereinafter set forth by N. C. Boykin as Trustee of the Store Creek Land Trust, and N.C. Boykin as Substitute Trustee of the Peters Point Trust, hereinafter referred to as "Declarants".

WITNESSETH:

WHEREAS, Declarants are the owner of certain property located on Edisto Island, County of Charleston, State of South Carolina, known as Spartina Bay Plantation Subdivision which is composed of ten (10) lots as is more particularly described in detail on Exhibit "A", one (1) additional lot with a dock access easement as is more particularly described in detail on Exhibit "B" and a dock as is more particularly described in detail on the Dock Permit attached as Exhibit "C"; each Exhibit is attached hereto and incorporated herein as a part of this instrument.

NOW, THEREFORE, the Declarants hereby declare that all of the property described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions which are for the purpose of protecting the value or desirability of, and which shall run with the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I
DEFINITIONS

Section 1. "Building" shall mean and refer to any structure built for the support, shelter or enclosure of persons, animals, chattels, or property of any kind, which has enclosing walls for fifty percent or more of its perimeter. The term "building" shall be construed as if followed by the words "or parts thereof", including porches, decks, carports, garages, sheds, roof extensions and overhangs and any other projections.

Section 2. "Common Area and Facilities" shall mean and refer to areas and structures designated for the common use of members by Class of the Spartina Bay Property Owners Association, Inc. initially including the right of way for Marsh Bluff Court as described in Exhibit "A", the community docks access easement as is described in Exhibit "B", and the community docks as described on the Dock Permit attached as Exhibit "C".

Section 3. "Declarants" shall mean and refer to N. C. Boykin as Trustee of the Store Creek Land Trust and N.C. Boykin as Substitute Trustee of the Peters Point Trust, their successors or assigns.

Section 4. "Family" shall mean and refer to one person living alone or two or more persons, whether related to each other by birth or not, and having common housing facilities.

Section 5. "Lot" shall mean and refer to each of the lots (lots 1, 3, 4, 5, 6, 7, 8, 10, 11 and 12) shown on the plat by Jerry L. Fowler dated April 16, 1999 and last revised September 17, 2001 and recorded in the RMC Office for Charleston County, titled "FINAL PLAT SUBDIVISION, SPARTINA BAY PLANTATION SUBDIVISION" recorded in the RMC Office for Charleston County in Plat Book EF at Page 115 and the adjacent lot shown and designated as 4.31 Acres (TMS# 025-00-00-038) (hereinafter referred to as Lot B) on a plat prepared by Jerry L. Fowler RLS # 15178, entitled "A BOUNDARY SURVEY OF 4.31 ACRES TMS 025-00-00-038 SURVEYED FOR: STORE CREEK TRUST" dated September 17, 2001 and recorded in the RMC Office for Charleston County in Plat Book _____ at Page _____ to include the present configurations or any subdivision of these lots or any additions added to these lots of surrounding properties upon any future conveyances therein to include the surrounding marsh.

Section 6. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot which is a part of the Property, but excluding those having such interest merely as security for the performance of an obligation.

Section 7. "Members in good standing" shall mean and refer to a Member in good standing of the Spartina Bay Plantation Property Owners Association, Inc. as defined in the Bylaws of the Spartina Bay Plantation Property Owners Association, Inc.

Section 8. "Property" shall mean and refer to that certain real property located on Edisto Island, County of Charleston, State of South Carolina, known as Spartina Bay Plantation Subdivision which is composed of ten (10) lots as is more particularly described in detail in Exhibit "A" and one (1) additional lot with a dock access easement as is more particularly described in detail on Exhibit "B" and a dock as is more particularly described in detail in Exhibit "C", each Exhibit is attached hereto and incorporated herein as a part of this definition.

Section 9. "Property Owners Association" shall mean the Spartina Bay Plantation Property Owners Association, Inc.

Section 10. "Restrictive Covenants" shall mean and refer to this document, specifically; the Declaration of Restrictive Covenants, Conditions and Restrictions of Spartina Bay Plantation Subdivision.

Section 11. "Single-Family Dwelling" shall mean and refer to a building containing one, and only one, living unit.

Section 12. "Architectural Review Board" (ARB) shall mean the ARB created and defined in Article VII hereinafter.

ARTICLE II

DURATION OF RESTRICTION

These covenants, conditions and restrictions are to run with the land and shall be binding on all parties and all persons claiming under them until January 1, 2031 at which time said covenants shall be automatically extended for successive periods of ten (10) years unless amended or revoked as set forth hereinafter.

ARTICLE III
PROPERTY OWNERS ASSOCIATION

The Declarants have created a property owners association known as Spartina Bay Plantation Property Owners Association, Inc., by filing of the Articles of Incorporation with the Secretary of State on July 30, 1999. A Member of said Property Owners Association shall be the Owner and holder of legal title of record of a Lot in Spartina Bay Plantation Subdivision as defined above. The Property Owners Association has adopted its Bylaws, a copy of which is attached hereto and incorporated herein as Exhibit "D". The Property Owners Association shall set forth the necessary rules and regulations which shall also be restrictions, covenants and agreements on the property known as Spartina Bay Plantation Subdivision as it now exists, or is hereafter configured in accordance with these Restrictive Covenants. The Bylaws to the Property Owners Association specifies membership classification, voting, officers, and other matters for the Property Owners.

ARTICLE IV
ASSESSMENTS

Section 1. The Right to Create Assessments. The Property Owners Association may levy, at any time or times assessments for the purpose of defraying, in whole or in part, the cost on any maintenance or repair of any common areas, roads, easements, community docks, community bulkhead, community floating docks, cost of enforcing restrictive covenants, and any other authorized activities or maintenance authorized by the Property Owners Association to include but not limited to insurance and other administrative costs. The Property Owners Association shall be responsible for maintenance of: (1) roads designated as Marsh Bluff Court as defined in Exhibit "A" and any additional roads approved by the Property Owners Association; (2) the erosion control devices to prevent the loss of any Common Area and Facilities; (3) the fixed walkway and dock for the community as is shown on Exhibit "C"; and (4) the floating docks as is shown on Exhibit "C". The Property Owners Association shall have no responsibility for erosion control other than Common Area and Facilities.

Section 2. Class of Membership. The amount of such assessments shall be prorated among the Lot Owners based upon their class of membership. There shall be two (2) classes of memberships:

a. Class "A" Members shall be the owners of Lots 1, 3, 4, 5, 6, 7, 8, 10 and Lot B and any additional lots created from the subdivision of existing lots of the Spartina Bay Plantation Subdivision, provided, however, if and when the owner of Lot 10 in the Spartina Bay Plantation Subdivision completes construction of a private dock running from his Lot 10 to Store Creek, the owner of Lot 10 shall no longer be a Class "A" Member of the Property Owners Association but shall become a Class "B" Member of the Property Owners Association. The Class "A" Members shall be entitled to full use of Marsh Bluff Court roadway, for ingress and egress to their individual lots, the dock easement as shown on a plat of Lot "B", and the Common Dock as shown on the Master Dock Permit attached hereto as Exhibit "C". The assessments are for the purpose of defraying such Members prorated share of the cost of any maintenance or any repairs of these Common Areas and Facilities and shall be prorated among the Lot Owners (Class A Members) equally, share and share alike, regardless of which items need repair; provided,

however, that any assessments for enforcement of restrictive covenants shall apply to that Lot Owner only for which a special assessment is made. The costs of any maintenance or repairs of the Common Area and Facilities shared with Class "B" members shall be prorated among all members of both classes. Class "A" members can vote on any issues affecting their memberships rights and responsibilities.

b. Class "B" Members shall be the owner of Lots 11 or 12 and possibly Lot 10 as provided above. The amount of such assessment for Class "B" Members shall be the pro-rata share of the costs of any maintenance of the roadway known as Marsh Bluff Court and any other Common Area and Facilities added at a later date excluding the Docks, as set forth above. This cost shall be shared equally for all of the lots, which the restrictions are imposed herewith which include the ten (10) lots in Spartina Bay Plantation Subdivision and Lot B (presently a total of eleven (11) lots). If Class "B" members secure Common Areas and Facilities which can be used exclusively for Class "B" members then the cost of same shall be prorated equally among the members of Class "B" only. Class "B" members can vote only on items affecting Common Area and Facilities which the Class "B" members has a right to use or responsible for.

Section 3. Creation of the Lien and Personal Obligation of Assessment. The Declarants for each Lot owned within the Property, hereby covenant, and each Owner of any Lot by acceptance of a deed, is deemed thereby, whether or not it shall be so expressed in such deed, to covenant and agree to pay to the Property Owners Association the aforesaid repair and maintenance assessments. Such assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which each assessment is made. Notice of such lien may be filed with the RMC Office in the county where said Lot is located at any time after an assessment becomes part past due, although the filing of such Notice shall not be necessary in order to perfect such lien. Said lien may be sold to a third party who shall become a holder in due course along with all rights of enforcement herein and each assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time the assessment fell due. There will be a late charge of five (5%) percent of any assessment due but not paid within fifteen (15) days of the due date.

Section 4. Interest and Foreclosure. Any assessment not paid within thirty (30) days after the due date shall bear interest at the rate of eighteen (18%) per annum. The Property Owners Association or holder in due course may bring an action at law or equity against the Owner personally obligated to pay the same, and/or foreclose the lien against the Lot as if said lien was the same as a mortgage lien in the names of the Property Owners Association as provided by South Carolina Code of Laws. Any Member delinquent in payment of any assessments or dues due hereunder shall not be a member in good standing and shall not have a right to utilize any of the privileges of membership within the Members Class.

ARTICLE V

USE RESTRICTIONS

The following restrictions shall apply to all Property to which the Restrictive Covenants, or amendments hereto apply:

Section 1. Residential Use. All Lots are designated "residential, single family" and shall be restricted as to use for residential single family dwellings.

Section 2. Setbacks. All setbacks shall be as set by Charleston County Zoning Ordinances and other related ordinances as well as the setbacks that are shown on the plat of the Spartina Bay Plantation Subdivision referred to in Exhibit "A" hereto.

Section 3. Boats, Motor Homes and Campers. Boats, motor homes and travel trailers (also known as "R/V's") stored or parked on any Lot shall be located in an area to minimize its visibility from roads, common areas, and subdivision neighbors to the greatest extent possible.

Section 4. Signs. No sign or billboard of any kind shall be erected or allowed on any Lot other than one "For Sale" or one "For Rent" sign not larger than two (2) feet by two (2) feet. This provision shall not be deemed to exclude use by Declarant, or its assigns, of advertising signs which shall advertise the entire project. "For Sale" and "For Rent" signs shall be removed upon completion of sale or rent transaction.

Section 5. Re-subdivision of Lots. No lot or lots shall be divided or re-subdivided unless such division or re-subdivision yields buildable lots of at least one (1) acre in size. Also a lot may be divided into two parcels if each parcel is attached to an adjacent lot for purposes of making the adjacent lot larger, provided that once a lot is so subdivided it must remain as a part of adjacent lots.

Section 6. Easements. Declarant hereby reserves an easement or right of way for purposes of installation of water lines, sewer lines, telephone lines, electric lines, poles, wires, cables and all other equipment necessary for the installation, use and maintenance of utilities, including but not limited to water, sewer, electricity, telephone, or drainage. Said easement shall be fifteen (15) feet in width along the property lines as shown on the Subdivision Plat of Spartina Bay Plantation Subdivision referred to in Exhibit "A".

Section 7. Temporary Structures and Trailers. No trailer, mobile home (specifically including "double wide mobile home"), nor any shed, tent, shack, or barn shall be erected or placed on any Lot except that a trailer for construction office or outbuilding used in conjunction with construction may be used during construction on a limited, temporary basis.

Section 8. Animals. No animals or poultry of kind other than house pets shall be kept or maintained on any part of said property. All allowed pets shall be under the control and responsibility of their owner.

Section 9. Waste Matter and Water Wells. The disposal of waste matter, including garbage, refuse, etc., shall be in compliance with the regulations of the South Carolina Department of Health and Environmental Control (SCDHEC) or its successors and all other governing authorities which have jurisdiction thereover. All exterior garbage or other waste receptacles shall be placed and/or screened in such a manner so as not to be visible from subdivision roads, Common Areas, and Facilities or other subdivision Lots. Each Lot Owner is responsible for its own sewage waste disposal system (septic tank) as well as its own water system (water system/private wells). The Declarants will not furnish waste disposal or water for the Property or Lots therein.

Section 10. Tanks. Fuel tanks shall be enclosed in such a manner that it will not be visible from the road, Common Area and Facilities or adjacent Docks and such that a harmonious blending of the tanks with the Dwelling House shall be effectuated.

Section 11. "Vehicles, Antennas, etc. No wrecked or junked motor vehicles or vehicle without current license plates or truck larger than one ton shall be permitted to remain on a lot. No satellite or other receiving disc or antennas shall be permitted unless expressly approved by the Architectural Review Board (ARB).

Section 12. Noxious or Offensive Activity. No noxious or offensive activity shall be carried on upon any Lot or area within the property, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance, or nuisance to the neighborhood. There shall not be maintained any plants or animals, or device or thing of any sort, the normal activity of which is in anyway noxious, dangerous, unsightly, unpleasant or of a nature as may diminish or destroy the enjoyment of other property in the neighborhood by the owners thereof. There shall be no discharging of firearms, guns, pistols, of any kind, caliber, or of any method of propulsion. There shall be no discharging of fireworks of any kind whatsoever.

ARTICLE VI

THE DOCKS

Section 1. The Ownership and Use of the Dock. The Property Owners Association shall own or lease the dock as shown on the permit attached hereto as Exhibit "C" as well as the strip of land designated as Dock Easement on a Plat referred to in Exhibit "B". The use of these portions of the Common Property and Facilities (Dock) shall belong to Class "A" Members of the Association and Declarants, only. The rights to use the walkway, fixed dock area, and the floating docks shall belong to the Class "A" Members only. The Property Owners Association shall receive a deed or a lease for the strip of land designated as Dock Easement and a Bill of Sale for the Dock prior to the sale of the first lot within the subdivision. The rights of the Class "A" Membership herein shall run with the ownership of Lots within the Class "A" and shall not be assigned or sold separately by any Lot Owner except as provided in Section 4 of this Article.

Section 2. Insurance. To the extent insurance can be reasonably obtained, the Property Owners Association shall maintain liability and casualty insurance on the dock, including walkway, fixed dock, floating dock, and any appurtenances for replacement value with an inflation guard endorsement adjusted annually.

Section 3. Repair and Maintenance of Dock. If the walkway and/or dock, as defined in Section 1 of Article VI above, are destroyed (in part or in whole), the Property Owners Association shall repair or rebuild said walkway and/or dock to their original size and configuration. The cost or expense of said repair or rebuild shall be an assessment against the Class "A" Membership of the Property Owners Association only and shall be assessed in accordance with the provisions of Article IV above. Provided, however, ONE HUNDRED (100%) PERCENT OF THE CLASS "A" MEMBERS OF THE PROPERTY OWNERS ASSOCIATION MAY VOTE, IN WRITING, NOT TO REPAIR OR REBUILD SAID DOCK FACILITY. Upon the unanimous vote, in writing, then the mandatory provision for rebuilding or repair shall be null and void.

Section 4. Abandonment of Dock. If one hundred (100%) percent of all of the Class "A" Membership of the Property Owners Association vote in writing to abandon any repair, rebuilding or use of said walkway and dock pursuant to Article VI, Section 3 above, then the Dock Easement as is shown on Exhibit "B" attached hereto, shall (at the option of the owner) be conveyed by the Property Owners Association to the Owner of Lot "B" (said Lot being defined above and said owner shall be that as is designated on the records in the RMC Office in the County where said property is located). Said Owner shall pay, in full, all of the costs of the Property Owners Association to Deed said parcel, and when deeded, shall become a part of Lot "B" with the provision that said Lot cannot be further subdivided without the unanimous consent of all Lot Owners. The Owner of Lot B shall have all rights to the Dock thereafter.

Section 5. Permit Restrictions. The Dock Permit attached as Exhibit "C" is subject to certain restrictions and limitations as well as certain rules and regulations, which are attached.

ARTICLE VII

ARCHITECTURAL REVIEW BOARD

Section 1. General. There is hereby created an Architectural Review Board (ARB) for Spartina Bay Plantation Subdivision. Said ARB shall consists of three (3) members. Until such time as Declarants own less than three (3) Lots in Spartina Bay Plantation Subdivision, the members of the ARB shall be appointed by Declarants, and need not be members of the Property Owners Association. After Declarants no longer owns three (3) Lots, as aforesaid, all members of the Committee shall be appointed by the Board of Directors of the Property Owners Association from its membership. A majority of the ARB shall be deemed a quorum and decisions of the ARB shall be by simple majority vote.

Section 2. Submission of Plans. No person shall commence construction of any fence, building, outbuilding, mailbox or other structure, until plans for same shall have been approved by the ARB as provided herein. All plans and specifications must be submitted to the ARB at least thirty (30) days prior to application for a building permit. The submissions shall show by plot plans, elevations, and perspective sketches, all proposed improvements including locations, architectural features and landscaping. In the event said ARB fails to act on a submission within thirty (30) days after the required plans have been submitted to it, this Article will be deemed to have been fully complied with. All plans shall be prepared in a professional manner. Construction must be done in a prompt and professional manner, as defined by the ARB.

Section 3. Approval. The ARB will review and shall approve the plans and specifications if the proposed improvements meet all of the requirements of these covenants and, if in its opinion, the exterior appearance of the improvements will be compatible with other development in the Subdivision or, at a minimum, will not be detrimental to future property sales or surrounding property values. No architectural "style" or materials will be excluded; however, all materials, features, and styles must be, in the opinion of the ARB, professionally and esthetically acceptable.

By acceptance of a Deed, purchasers agree that the actions of the ARB are in the best interests of all Owners within the subdivision and that they will abide by the decisions of the

ARB. Declarants, the ARB, or other Owners may seek injunctions to compel compliance with ARB decisions, or damages resulting from failure to act in accordance with directions of the ARB.

Section 4. Architectural Standards. Lot Owners and all subsequent owners agree that the desired level of architectural quality of the entire property shall be consistently maintained and each building or structural element shall be compatible with its natural surroundings, adjacent existing structures and with future adjacent structures. Structures should reflect an influence of traditional architectural forms for residential buildings. Avant-garde, highly-stylized, or thematic architecture is strongly discouraged. Building materials should be natural in character, color and the use of stained wood is strongly encouraged. Roof planes should not be less than 5 in 12 slopes as a general rule, with variations used for avoidance of monotony. Buildings should incorporate all energy-saving features as are possible within a reasonable architectural content. Orientation of windows, overhangs, porches and solar equipment should not however, be the total controlling factor in the layout and design of the structure.

Section 5. Site Standards. Lot owners and all subsequent owners agree to leave all vegetation and trees, in as near their natural state as is compatible with good building and land use practices. All hardwood trees over four (4) inches DBH (diameter breast height) shall be preserved when possible. The Architectural Review Board must approve the removal of all hardwood trees six (6) inches DBH or greater. Natural drainage and the project drainage systems shall be utilized to the fullest extent possible so as to minimize site disturbance to accommodate drainage. All site plans must show existing elevations and tree covers so that the ARB may determine if this provision has been adequately considered.

Section 6. Completion of Construction. Construction of any dwelling or other structure on property to which these restrictions, or amendments hereto, apply must be completed within twelve (12) months after commencement of construction. For purposes of this section, commencement of construction shall be deemed to be the first day on which materials are delivered to the site or labor commences with respect to said construction, whichever date shall occur first.

Section 7. Guidelines. The ARB may issue future guidelines as are needed

ARTICLE VIII

RESTRICTIONS ON MEMBERS RIGHTS OF USE

Section 1. General. Every Member in good standing shall have a right and easement of enjoyment in and to the Common Areas and Facilities afforded his/her or its class of membership set forth herein, which shall be appurtenant to and shall pass with the title to every Lot, subject to the following restrictions:

a. The right of the Property Owners Association to suspend the voting rights and right to use of the Common Areas and Facilities by a Member:

i. For any period during which any assessment against his Lot remains unpaid, or the Member has not complied with other violations of the Restrictive Covenants, and for a period not to exceed 60 days for any infraction of its published rules and regulations.

b. The right of the Property Owners Association to dedicate or transfer all or any part of the Common Areas and Facilities to any agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by Members representing three-fourths (3/4ths) of all eligible votes agreeing to such dedication or transfer, has been recorded.

c. The Class "A" Membership and the Declarants shall have use of the described community floating dock on a first come, first served basis. In no event shall a Class "A" Member or Declarants be assigned or shall a Class "A" Member or Declarants assume a specific location on the dock for his or her exclusive use.

Section 2. Delegation of Use. Any Member in good standing may delegate, but not transfer, within reason his right or enjoyment to the Common Areas and Facilities of his Class Membership provided however, if OCRM grants permission for a boat lift, said users of the lift shall be exclusive to the owners of Lot B.

ARTICLE IX

MAINTENANCE AND IMPROVEMENTS

Section 1. Maintenance by Association. The Association shall provide for the maintenance, repair and replacement of the roads, common areas and community dock.

Section 2. Maintenance by Members. Lots and improvements, including any privately owned individual docks, shall be maintained in a good, clean condition and repair by their respective owners and members herein.

Section 3. Improvements. The membership shall provide for the making of such improvements to the roads, common areas community docks as may be approved from time to time by the members. The cost of such improvements shall be common expenses.

ARTICLE X

GENERAL PROVISIONS

Section 1. Enforcement. The Property Owners Association, any Member, or Declarants shall have the right to enforce, by any proceeding at law or in equity, the Restrictions, Conditions, Covenants, Reservations, now or hereafter imposed by the provisions of this Declaration or amendments thereto. Failure to enforce any provisions of these Restrictive Covenants herein contained shall in no event be deemed a waiver of the right to do so thereafter. If the parties hereto, or any of them or their heirs or assigns, shall violate or attempt to violate any of the covenants herein, it shall be lawful for any other person or persons owning any real property subject to these Restrictive Covenants to prosecute any proceedings at law or equity against the person or persons violating or attempting to violate any such covenants and either to prevent him or them from committing or continuing such violations to include but not limited to court costs and reasonable attorney's fees.

Section 2. Severability. Invalidation of any one of these Restrictive Covenants or by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

Section 3. Amendment.

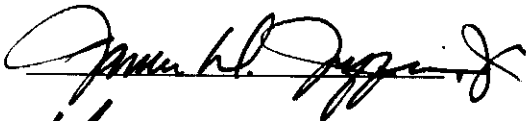
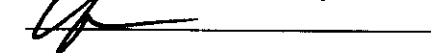
a. These Restrictive Covenants may be amended, [except for Article IV, Article VI and Article VIII,] by the Property Owner's Association by an instrument signed by no less than two-thirds (2/3) of the Members. Article IV, Article VI and Article VIII shall be amended by an unanimous vote of members by class affected. So long as Declarants own any Lot, any amendment to these Restrictive Covenants shall require Declarants' approval. Any amendment must be recorded.

b. Further, Declarants shall have the authority to amend these restrictions at any time to comply with the requirements of any governing body such as the Veteran's Administration, Federal Housing Administration, Department of Housing and Urban Development, Charleston County or the Federal National Mortgage Association or to correct typographical or scrivener's errors. Declarants shall not, by reason of the power herein reserved, have the right to alter the amount or method of making annual or special assessments unless a governmental body having jurisdiction over such matter requires a change.

Section 4. Annexation. The Declarants reserve the right to subject to these Restrictive Covenants, additional properties and to dedicate or deed additional common area to the Property Owners Association, provided at the time such dedication or deeding, said additional common area shall be free and clear of all liens and encumbrances other than reasonable and normal restrictions or easements.

IN WITNESS WHEREOF, the undersigned, being the Declarants herein, has hereunto set its hand and seal this 13th day of October, 2001.

Signed, Sealed and Delivered
in the presence of::

N. C. BOYKIN as TRUSTEE FOR
THE STORE CREEK LAND TRUST

BY:  (SEAL)
N.C. Boykin as Trustee

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

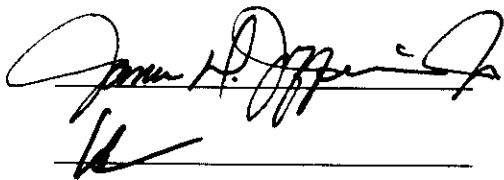
ACKNOWLEDGMENT

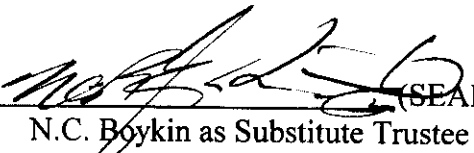
The foregoing instrument was acknowledged before me this 13th day of October, 2001 by N. C. Boykin as Trustee for The Store Creek Land Trust.

 (SEAL)
Notary Public for South Carolina
My commission expires: 8-11-10

N. C. BOYKIN as SUBSTITUTE TRUSTEE
FOR PETERS POINT TRUST

Signed, Sealed and Delivered
in the presence of::



BY:  (SEAL)
N.C. Boykin as Substitute Trustee

STATE OF SOUTH CAROLINA)
)
COUNTY OF Charleston)

ACKNOWLEDGMENT

The foregoing instrument was acknowledged before me this 13th day of October, 2001 by N. C. Boykin as Substitute Trustee for Peters Point Trust.

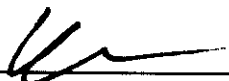
 (SEAL)
Notary Public for South Carolina
My commission expires: 8-11-10

EXHIBIT "A

PARCEL 1: All that certain piece, parcel or lot of land situate, lying and being on Edisto Island in the County of Charleston, State of South Carolina, being shown and designated as Lot 1 containing 2.270 acres, more or less, on a plat entitled "FINAL SUUBDIVISION PLAT TMS 025-00-00- SEE TAX LETTER NUMBER A SUBDIVISION OF 16.666 ACRES SPARTINA BAY PLANTATION SUBDIVISION CURRENT OWNER STORE CREEK TRUST" prepared by Jerry L. Fowler, RLS #15178, dated April 16, 1999, last revised September 17, 2001, and recorded in the RMC Office for Charleston County in Plat Book EF at Page 115, said plat being incorporated herein as a part of this description and said lots being bounded now or formerly as follows: On the Northeast by an existing 50' ingress/egress easement on TMS #025-00-00-009; on the Southeast and Northeast by TMS #025-00-00-049, lands of Howard Bailey; on the Southeast by Peters Point Road 50' R/W; on the Southeast by Marsh Bluff Ct. (Private Road) 50' R/W; and on the Northwest by Lot 3.

PARCEL 2: All that certain piece, parcel or lot of land situate, lying and being on Edisto Island in the County of Charleston, State of South Carolina, being shown and designated as Lot 3 containing 1.284 acres, more or less, on a plat entitled "FINAL SUUBDIVISION PLAT TMS 025-00-00- SEE TAX LETTER NUMBER A SUBDIVISION OF 16.666 ACRES SPARTINA BAY PLANTATION SUBDIVISION CURRENT OWNER STORE CREEK TRUST" prepared by Jerry L. Fowler, RLS #15178, dated April 16, 1999, last revised September 17, 2001, and recorded in the RMC Office for Charleston County in Plat Book EF at Page 115, said plat being incorporated herein as a part of this description and said lots being bounded now or formerly as follows: On the Northeast by an existing 50' ingress/egress easement on TMS #025-00-00-009; on the Southeast by Lot 1; on the Southwest by Marsh Bluff Ct. (Private Rd.) 50' R/W; and on the Northwest by Lot 4.

PARCEL 3: All that certain piece, parcel or lot of land situate, lying and being on Edisto Island in the County of Charleston, State of South Carolina, being shown and designated as Lot 4 containing 1.262 acres, more or less, on a plat entitled "FINAL SUUBDIVISION PLAT TMS 025-00-00- SEE TAX LETTER NUMBER A SUBDIVISION OF 16.666 ACRES SPARTINA BAY PLANTATION SUBDIVISION CURRENT OWNER STORE CREEK TRUST" prepared by Jerry L. Fowler, RLS #15178, dated April 16, 1999, last revised September 17, 2001, and recorded in the RMC Office for Charleston County in Plat Book EF at Page 115, said plat being incorporated herein as a part of this description and said lots being bounded now or formerly as follows: On the Northeast by an existing 50' ingress/egress easement on TMS #025-00-00-009; on the Southeast by Lot 3; on the Southwest by Marsh Bluff Ct. (Private Rd.) 50' R/W; and on the Northwest by Lot 5.

PARCEL 4: All that certain piece, parcel or lot of land situate, lying and being on Edisto Island in the County of Charleston, State of South Carolina, being shown and designated

as Lot 5 containing 1.257 acres, more or less, on a plat entitled "FINAL SUUBDIVISION PLAT TMS 025-00-00- SEE TAX LETTER NUMBER A SUBDIVISION OF 16.666 ACRES SPARTINA BAY PLANTATION SUBDIVISION CURRENT OWNER STORE CREEK TRUST" prepared by Jerry L. Fowler, RLS #15178, dated April 16, 1999, last revised September 17, 2001, and recorded in the RMC Office for Charleston County in Plat Book EF at Page 115, said plat being incorporated herein as a part of this description and said lots being bounded now or formerly as follows: On the Northeast by an existing 50' ingress/egress easement on TMS #025-00-00-009; on the Southeast by Lot 4; on the Southwest by Marsh Bluff Ct. (Private Rd.) 50' R/W; and on the Northwest by Lot 6.

PARCEL 5: All that certain piece, parcel or lot of land situate, lying and being on Edisto Island in the County of Charleston, State of South Carolina, being shown and designated as Lot 6 containing 1.251 acres, more or less, on a plat entitled "FINAL SUUBDIVISION PLAT TMS 025-00-00- SEE TAX LETTER NUMBER A SUBDIVISION OF 16.666 ACRES SPARTINA BAY PLANTATION SUBDIVISION CURRENT OWNER STORE CREEK TRUST" prepared by Jerry L. Fowler, RLS #15178, dated April 16, 1999, last revised September 17, 2001, and recorded in the RMC Office for Charleston County in Plat Book EF at Page 115, said plat being incorporated herein as a part of this description and said lots being bounded now or formerly as follows: On the Northeast by an existing 50' ingress/egress easement on TMS #025-00-00-009; on the Southeast by Lot 5; on the Southwest by Marsh Bluff Ct. (Private Rd.) 50' R/W; and on the Northwest by Lot 7.

PARCEL 6: All that certain piece, parcel or lot of land situate, lying and being on Edisto Island in the County of Charleston, State of South Carolina, being shown and designated as Lot 7 containing 1.152 acres, more or less, on a plat entitled "FINAL SUUBDIVISION PLAT TMS 025-00-00- SEE TAX LETTER NUMBER A SUBDIVISION OF 16.666 ACRES SPARTINA BAY PLANTATION SUBDIVISION CURRENT OWNER STORE CREEK TRUST" prepared by Jerry L. Fowler, RLS #15178, dated April 16, 1999, last revised September 17, 2001, and recorded in the RMC Office for Charleston County in Plat Book EF at Page 115, said plat being incorporated herein as a part of this description and said lots being bounded now or formerly as follows: On the Northeast by an existing 50' ingress/egress easement on TMS #025-00-00-009; on the Southeast by Lot 6; on the Southwest by Marsh Bluff Ct. (Private Rd.) 50' R/W; and on the Northwest by Lot 8.

PARCEL 7: All that certain piece, parcel or lot of land situate, lying and being on Edisto Island in the County of Charleston, State of South Carolina, being shown and designated as Lot 8 containing 2.551 acres, more or less, on a plat entitled "FINAL SUUBDIVISION PLAT TMS 025-00-00- SEE TAX LETTER NUMBER A SUBDIVISION OF 16.666 ACRES SPARTINA BAY PLANTATION SUBDIVISION CURRENT OWNER STORE CREEK TRUST" prepared by Jerry L. Fowler, RLS #15178, dated April 16, 1999, last revised September 17, 2001, and recorded in the RMC Office for Charleston County in Plat Book EF at Page 115, said plat being incorporated herein as a part of this description and said lots being bounded now or formerly as follows: On the Northeast by an existing

50' ingress/egress easement on TMS #025-00-00-009; on the Southeast by Lot 7; and on the Southwest and Northwest by Marsh Bluff Ct. (Private Rd.) 50' R/W.

PARCEL 8: All that certain piece, parcel or lot of land situate, lying and being on Edisto Island in the County of Charleston, State of South Carolina, being shown and designated as Lot 10 containing 1.515 acres, more or less, on a plat entitled "FINAL SUUBDIVISION PLAT TMS 025-00-00- SEE TAX LETTER NUMBER A SUBDIVISION OF 16.666 ACRES SPARTINA BAY PLANTATION SUBDIVISION CURRENT OWNER STORE CREEK TRUST" prepared by Jerry L. Fowler, RLS #15178, dated April 16, 1999, last revised September 17, 2001, and recorded in the RMC Office for Charleston County in Plat Book EF at Page 115, said plat being incorporated herein as a part of this description and said lots being bounded now or formerly as follows: On the North by marsh; on the Northeast by Lot 11; on the South by Marsh Bluff Ct. (Private Rd.) 50' R/W; and on the Southwest by TMS #025-00-00-011, lands of Brian L. West.

PARCEL 9: All that certain piece, parcel or lot of land situate, lying and being on Edisto Island in the County of Charleston, State of South Carolina, being shown and designated as Lot 11 containing 1.392 acres, more or less, on a plat entitled "FINAL SUUBDIVISION PLAT TMS 025-00-00- SEE TAX LETTER NUMBER A SUBDIVISION OF 16.666 ACRES SPARTINA BAY PLANTATION SUBDIVISION CURRENT OWNER STORE CREEK TRUST" prepared by Jerry L. Fowler, RLS #15178, dated April 16, 1999, last revised September 17, 2001, and recorded in the RMC Office for Charleston County in Plat Book EF at Page 115, said plat being incorporated herein as a part of this description and said lot being bounded now or formerly as follows: On the North by marsh; on the Northeast by Lot 12; on the South by Marsh Bluff Ct. (Private Rd.) 50' R/W; and on the Southwest by Lot 10.

PARCEL 10: All that certain piece, parcel or lot of land situate, lying and being on Edisto Island in the County of Charleston, State of South Carolina, being shown and designated as Lot 12 containing 1.308 acres, more or less, on a plat entitled "FINAL SUUBDIVISION PLAT TMS 025-00-00- SEE TAX LETTER NUMBER A SUBDIVISION OF 16.666 ACRES SPARTINA BAY PLANTATION SUBDIVISION CURRENT OWNER STORE CREEK TRUST" prepared by Jerry L. Fowler, RLS #15178, dated April 16, 1999, last revised September 17, 2001, and recorded in the RMC Office for Charleston County in Plat Book EF at Page 115, said plat being incorporated herein as a part of this description and said lots being bounded now or formerly as follows: On the North by marsh; on the Northeast by TMS #025-00-00-038, lands of Peters Point Trust; on the Southeast by Marsh Bluff Ct. (Private Rd.) 50' R/W; and on the Southwest by Lot 11.

PARCEL 11: All that certain piece, parcel or strip of land situate, lying and being on Edisto Island in the County of Charleston, State of South Carolina, being shown and designated as "MARSH BLUFF CT. (PRIVATE RD.) 50' R/W" on a plat prepared by Jerry L. Fowler, RLS #15178, entitled "FINAL PLAT SUUBDIVISION TMS 025-00-00-00 SEE

BKD 385PG274

TAX LETTER NUMBER A SUBDIVISION OF 16.666 ACRES SPARTINA BAY PLANTATION SUBDIVISION CURRENT OWNER STORE CREEK TRUST" dated April 16, 1999, last revised September 17, 2001, and recorded in the RMC Office for Charleston County in Plat Book EF at Page 115, said strip having such size, shape, dimensions, buttings and boundings as by reference to said plat will more fully and at large appear.

Parcels 1 - 11 being the same property conveyed to N. C. Boykin, as Trustee of the Store Creek Land Trust, by deed of Howard D. Bailey dated April 22, 1999, and recorded in the RMC Office for Charleston County in Book U326 at Page 017.

PAGE 4 OF 4

All that certain piece, parcel or tract of land situate, lying and being on Edisto Island in the County of Charleston, State of South Carolina, containing 1.36 acres, more or less, of highland, and 2.95 acres, more or less, of marsh, as shown and delineated on a plat prepared by Jerry L. Fowler, RLS #15178, entitled "A BOUNDARY SURVEY OF 4.31 ACRES TMS 025-00-00-038 SURVEYED FOR: STORE CREEK TRUST" dated September 17, 2001, and recorded in the RMC Office for Charleston County in Plat Book _____ at Page _____, said plat being incorporated herein as a part of this description and said tract being bounded now or formerly and measuring more or less as follows: On the Northeast by Store Creek and measuring thereon Four Hundred Five and Sixty-Three Hundredths (405.63') feet; on the East and Northeast by highland and marsh belonging to Steve R. and Helen P. Rowland and measuring thereon Five Hundred Forty-Six and Ninety-Six Hundredths (546.96') feet and Three Hundred Sixty and Five Hundredths (360.05') feet, respectively; on the Southeast by a 50' R/W Easement and measuring thereon One Hundred Thirty-Five and Seven Hundredths (135.07') feet; and on the Southwest by highland and marsh belonging to N. C. Boykin, as Trustee of the Store Creek Land Trust, and measuring thereon One Thousand Two Hundred Twenty-Five and Twenty-Two Hundredths (1,225.22') feet.

South Carolina Department of Health and Environmental Control
Office of Ocean and Coastal Resource Management
CRITICAL AREA PERMIT/WATER QUALITY CERTIFICATION

Permittee: Store Creek Trust

Permit Number: 99-1E-382-P

Date of Issuance: October 31, 2000

Expiration Date: October 31, 2005

Location: On and adjacent to Store Creek at 8764 Peters Point Road, Edisto Island,
Charleston County, South Carolina.

SEE SPECIAL
CONDITIONS

This permit/certification is issued under the provisions of S. C. Code Ann. Section 48-39-10, *et. seq.*, and R.30-1 through R.30-20. Additionally, as required by R.61-101, Department staff have reviewed plans for this project and determined there is a reasonable assurance the project will be conducted in a manner consistent with Certification requirements of Section 401 of the Clean Water Act. We also certify that this project, subject to the indicated conditions, is consistent with applicable provisions of Section 303 of the Federal Clean Water Act, as amended, that there are no applicable effluent limitations under Sections 301(b) and 302, and that there are no applicable standards under Sections 306 and 307.

Please carefully read the project description and any Special Conditions, which may appear on this permit/certification, as they will affect the work which is allowed. If there are no Special Conditions, then the work is authorized as described in the project description. The general conditions are also a part of this permit/certification and should be read in their entirety.

DESCRIPTION OF THE PROJECT

The plans submitted by you, attached hereto, show the work consists of constructing a timber pier with a 10' by 20' covered pierhead attached to highland by a 5' by 638' walkway. In addition, floating docks, each 10' by 45' are to be installed on each side of the fixed pierhead and attached to the fixed pierhead by ramps. The purpose of this work is for the private, recreational use of the future inland property owners (9 lots) of Spartina Bay Subdivision. The applicant has revised this project to delete the proposed 10' by 99' floating dock and install two (2) 10' by 45' floating docks, decreasing the length of the walkway, and reducing the fixed pierhead from 20' by 20' to 10' by 20'.

SPECIAL CONDITIONS

1. Provided an Operations and Maintenance Manual for the community dock facility is submitted to and approved by OCRM staff prior to construction. The Operation and Maintenance Manual will be made a part of this permit and must be followed in the operation of this community dock facility unless otherwise amended in writing by OCRM. The Operations and Maintenance Manual must be reviewed and revised to keep up-to-date with the community dock facility operations. This manual must be in accordance with R.30-12 (E)(6) the Rules and Regulations for Permitting in the critical area of the Coastal Zone and with OCRM's Marina Operations and Maintenance Manual requirements.

1 Of 9

SEE NEXT PAGE

2. Provided the permittee understands that the operation of the community dock facility shall be reviewed by the Department as deemed appropriate, but at least every five years. Based on this review, the Department may require, among other things, changes or additions to the Operations and Maintenance Manual to address any water quality or other environmental problems, and a reduction in the size of, or a change in the configuration of this community dock facility. Such action may be taken at any time the Department determines that significant state water quality compliance problems exist, at the time SCDHEC enlarges the closure area, or at the time of a review.
3. Provided a complete copy of the permit and the OCRM approved Operations and Maintenance Manual are made readily available at this community dock facility.
4. Provided the proposed community floating dock is reduced to 40' and the private floating dock is reduced to 10' by 30'.
5. Provided the community dock is constructed at least 20' from the extended property lines.
6. Provided anti-fouling paints are not used below mean high water or on any structure such as bulkheads, piling, docks, or dock supports around the community dock facilities.
7. Provided any sanding, scraping, painting, major engine repair, or other maintenance which may result in a discharge to the water must be performed in a designated upland site.
8. Provided the walkways and pierheads are constructed at least 4' above mean high water.
9. Provided the permittee implements best management practices during construction to minimize erosion and sediment run off. Any disturbed marsh areas adjacent to the construction site must be restored to original contours and conditions upon project completion. Once project construction is initiated, it must be carried to completion in an expeditious manner in order to minimize the period of disturbance to the environment.
10. Provided the dock shall not be any further channelward than other docks in the area and under no circumstances more than 60 feet from the edge of marsh vegetation.
11. Provided that no leasing of space for permanent boat moorage takes place at the proposed community dock facility. No more than ten (10) boats may be moored at this facility at any given time. These community dock facilities are to be used only by the residents of Spartina Bay Subdivision and their guests.
12. Provided that this community dock facility is used for water dependent uses only. No food service, vending machines, T-shirt sales or concessions are allowed on these docks.
13. Provided the community docks are located in such a manner so as to minimize disturbance to shellfish resources. Direct encroachment on any shellfish beds should be avoided.
14. Provided litter receptacles must be located near all docks and walkways.

2 Of 9
SEE NEXT PAGE

15. Provided that all necessary measures are taken to prevent oil, tar, trash, debris and other pollutants from entering the adjacent waters or wetlands.

16. Provided signs must be posted on all docks, piers and areas adjacent to the facility stating the following: "It is against both Federal and State Laws to discharge raw, untreated sewage from any description of watercraft into the waters of South Carolina." Signs should be at least 14" by 18" in size so they can be read clearly.

17. Provided that if archaeological or paleontological remains are encountered prior to or during construction, we request that work stop and the State Historic Preservation Office be notified at 803-734-8615. If these materials include any underwater archaeological or paleontological remains the permittee should also notify the SC Institute of Archaeology and Anthropology at 803-777-8170 pursuant to SC Code of Laws 54-7-400, et seq. Archaeological remains consist of any materials made or altered by man which remain from past historic or prehistoric times (i.e., older than 50 years). Examples include old pottery fragments, metal, wood, arrowheads, stone implements or tools, human burials, historic docks, structures or nonrecent (i.e., older than 100 years) vessels ruins. Paleontological remains consist of old animal's remains, original or fossilized, such as teeth, tusks, bone or entire skeletons.

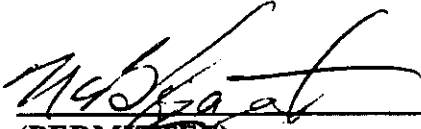
THE PERMITTEE'S ATTENTION IS DIRECTED TO GENERAL CONDITIONS NUMBERS FOUR (4) AND (5), BY ACCEPTANCE OF THIS PERMIT, PERMITTEE IS PLACED ON NOTICE THAT THE STATE OF SOUTH CAROLINA, BY ISSUING THIS PERMIT, DOES NOT WAIVE ITS RIGHTS TO REQUIRE PAYMENT OF A REASONABLE FEE FOR USE OF STATE LANDS AT A FUTURE DATE IF SO DIRECTED BY STATUTE.

CAUTION: Section 48-39-150(D) allows any person adversely affected by the issuance of this permit to appeal the decision by filing a written Notice of Intent to Appeal within 15 days after notification of the permit's issuance. In the event of an appeal, the Department reserves the right to order a stay of any use or activity authorized herein pending a final decision, when, in the judgment of the Department, the interests of the public would be best served.

THE PERMITTEE, BY ACCEPTANCE OF THIS PERMIT AGREES TO ABIDE BY THE TERMS AND CONDITIONS CONTAINED HEREIN AND TO PERFORM THE WORK IN STRICT ACCORDANCE WITH THE PLANS AND SPECIFICATIONS ATTACHED HERETO AND MADE A PART HEREOF. ANY DEVIATION FROM THESE CONDITIONS, TERMS, PLANS AND SPECIFICATIONS SHALL BE GROUNDS FOR REVOCATION, SUSPENSION OR MODIFICATION OF THIS PERMIT AND THE INSTITUTION OF SUCH LEGAL PROCEEDINGS AS THE DEPARTMENT MAY CONSIDER APPROPRIATE,

P/N# 099-1E-382-P

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

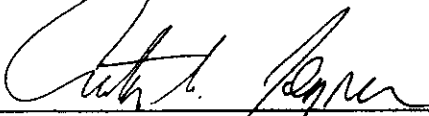


(PERMITTEE)
Store Creek Trust

11-6-2000

(Date)

This permit becomes effective when the State official, designated to act for the Office of Ocean and Coastal Resource Management, has signed below.



(MANAGER, CRITICAL AREA PERMITTING) (DATE)

Curtis Joyner, or his Designee

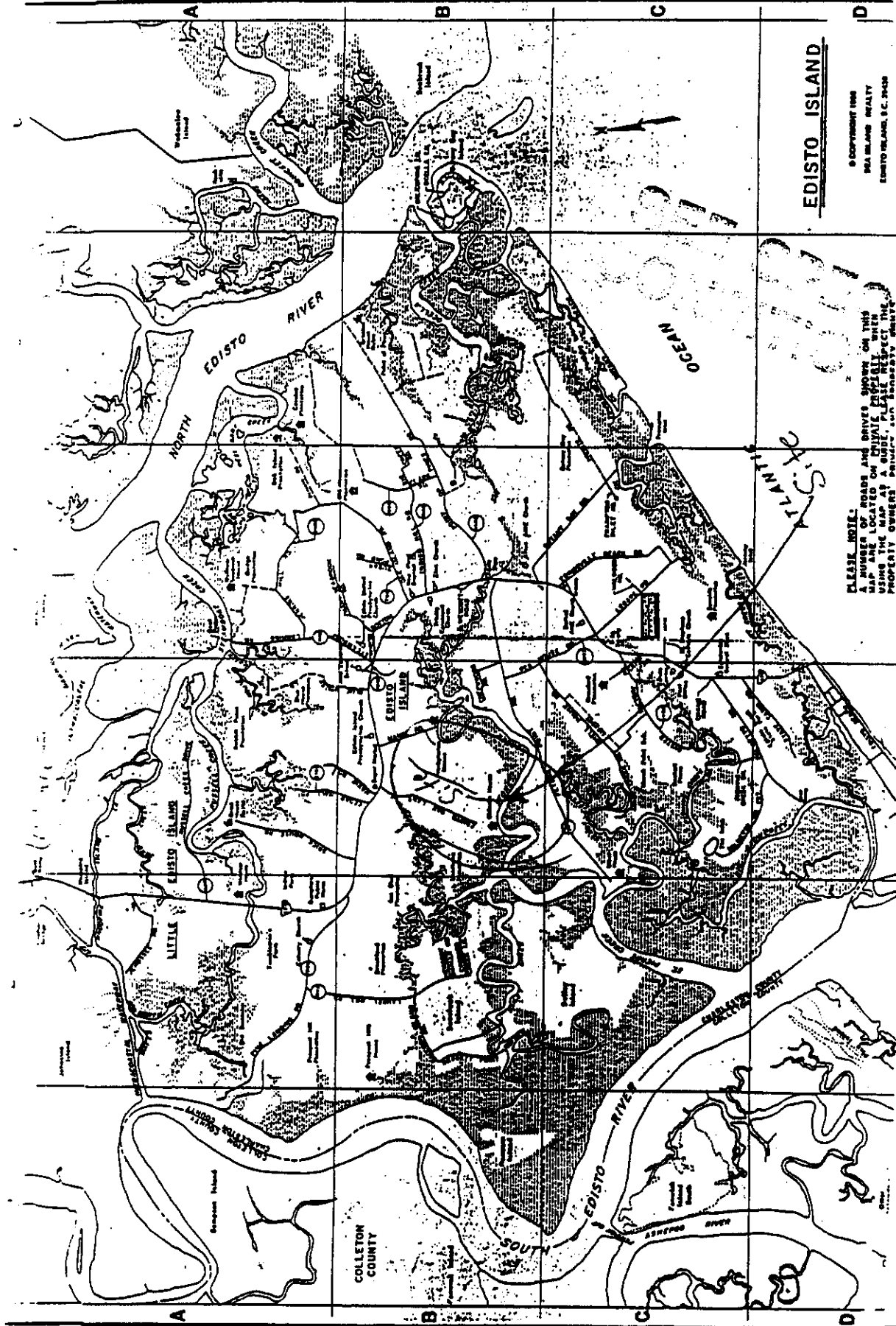
Authorized State Official

11/8/00

GENERAL CONDITIONS

This permit is expressly contingent upon the following conditions which are binding on the permittee:

1. That the permittee, in accepting this permit, covenants and agrees to comply with and abide by the provisions and conditions herein and assumes all responsibility and liability and agrees to save the South Carolina Department of Health and Environmental Control, OCRM, and the State of South Carolina, its employees or representatives, harmless from all claims of damage arising out of operations conducted pursuant to this permit.
2. That if the activity authorized herein is not constructed or completed within FIVE YEARS of the date of issuance, this permit shall automatically expire. A request, in writing, for an extension of time shall be made not less than sixty days prior to the expiration date.
3. That all authorized work shall be conducted in a manner that minimizes any adverse impact on fish, wildlife and water quality.
4. That this permit does not relieve the permittee from the requirements of obtaining a permit from the U. S. Army Corps of Engineers or any other applicable federal agency, nor from the necessity of complying with all applicable local laws, ordinances, and zoning regulations. This permit is granted subject to the rights of the State of South Carolina in the navigable waters and shall be subject, further to all rights held by the State of South Carolina under the public trust doctrine as well as any other right the State may have in the waters and submerged lands of the coast.
5. That this permit does not convey, expressly or impliedly, any property rights in real estate or material nor any exclusive privileges; nor does it authorize the permittee to alienate, diminish, infringe upon or otherwise restrict the property rights of any other person or the public; nor shall this permit be interpreted as appropriating public properties for private use.
6. That the permittee shall permit the Department or its authorized agents or representatives to make periodic inspections at any time deemed necessary in order to ensure that the activity being performed is in accordance with the terms and conditions of this permit.
7. That any abandonment of the permitted activity will require restoration of the area to a satisfactory condition as determined by the Department.
8. That this permit may not be transferred to a third party without prior written notice to the Department, either by the transferee's written agreement to comply with all terms and conditions of this permit or by the transferred subscribing to this permit and thereby agreeing to comply.
9. That if the display of lights and signals on any structure or work authorized herein is not otherwise provided for by law, such lights and special signals as may be prescribed by the United States Coast Guard shall be installed and maintained by and at the expense of the permittee.
10. That SCDHEC-OCRM shall be notified in writing upon commencement of work and that a permit placed or a copy of the placard shall be posted in a conspicuous place at the project site during the entire period of work.
11. That the structure or work authorized herein shall be in accordance with the plans and drawing attached hereto, and shall be maintained in good condition. Failure to build in accordance with the plans and drawings attached hereto, or failure to maintain the structure in good condition shall result in the revocation of this permit.
12. That the authorization for activities or structures herein constitutes a revocable license. The Department may require the permittee to modify activities or remove structures authorized herein if it is determined by the OCRM that such activity or structures violates the public's health, safety, or welfare, or if any activity is inconsistent with the public trust doctrine. Modification or removal under this condition shall be ordered only after reasonable notice stating the reasons therefore and provision to the permittee of the opportunity to respond in writing. When the permittee is notified that SCDHEC-OCRM intends to revoke the permit, permittee agrees to immediately stop work pending resolution of the revocation.
13. That the Department shall have the right to revoke, suspend, or modify this permit in the event it is determined the permitted structure (1) significantly impacts the public health, safety and welfare, and/or is violation of Section 48-39-150, (2) adversely impacts public rights, (3) that the information and data which the permittee or any other agencies have provided in connection with the permit application is either false, incomplete or inaccurate, or (4) that the activity is not in compliance with the drawings submitted by the applicant. That the permittee, upon receipt of the Department's written intent to revoke, suspend, or modify the permit has the right to a hearing. Prior to revocation, suspension, or modification of this permit, the Department shall provide written notification of intent to revoke to the permittee, and permittee can respond with a written explanation to the Department. (South Carolina Code Section 1-023-370 shall govern the procedure for revocation; suspension or modification herein described).
14. That any modification, suspension or revocation of this permit shall not be the basis of any claim for damages against the Department or the State of South Carolina or any employee, agent, or representative of the Department the State of South Carolina.
15. That all activities authorized herein shall, if they involve a discharge or deposit into navigable waters or ocean waters, be at all times consistent with all applicable water quality standards, effluent limitations and standards of performance, prohibitions, and pretreatment standards established pursuant to applicable federal, state and local laws.
16. That extreme care shall be exercised to prevent any adverse or undesirable effects from this work on the property of other. This permit authorizes no invasion of adjacent of private property, and SCDHEC-OCRM assumes no responsibility or liability from any claims of damage arising out of any operations conducted by the permittee pursuant to this permit.

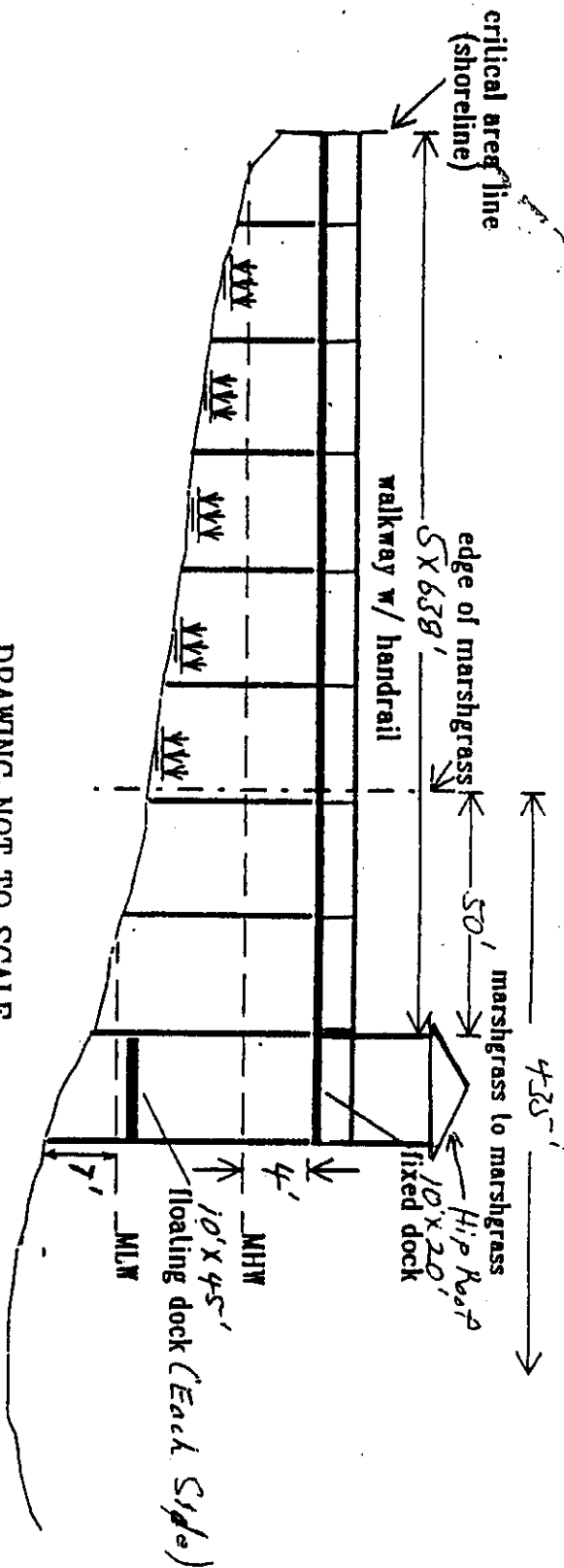


APPLICANT: Store Creek Trust ACTIVITY: Community dock Spartina Bay P/N: 99-1E-382	LOCATION: 8764 Peters Point Road Edisto Island, SC 29438 Charleston COUNTY: Charleston DATE: 10-12-99	ADJACENT PROPERTY OWNERS: 1. Brian West 2. Steve Rowland Sheet 1 of 5
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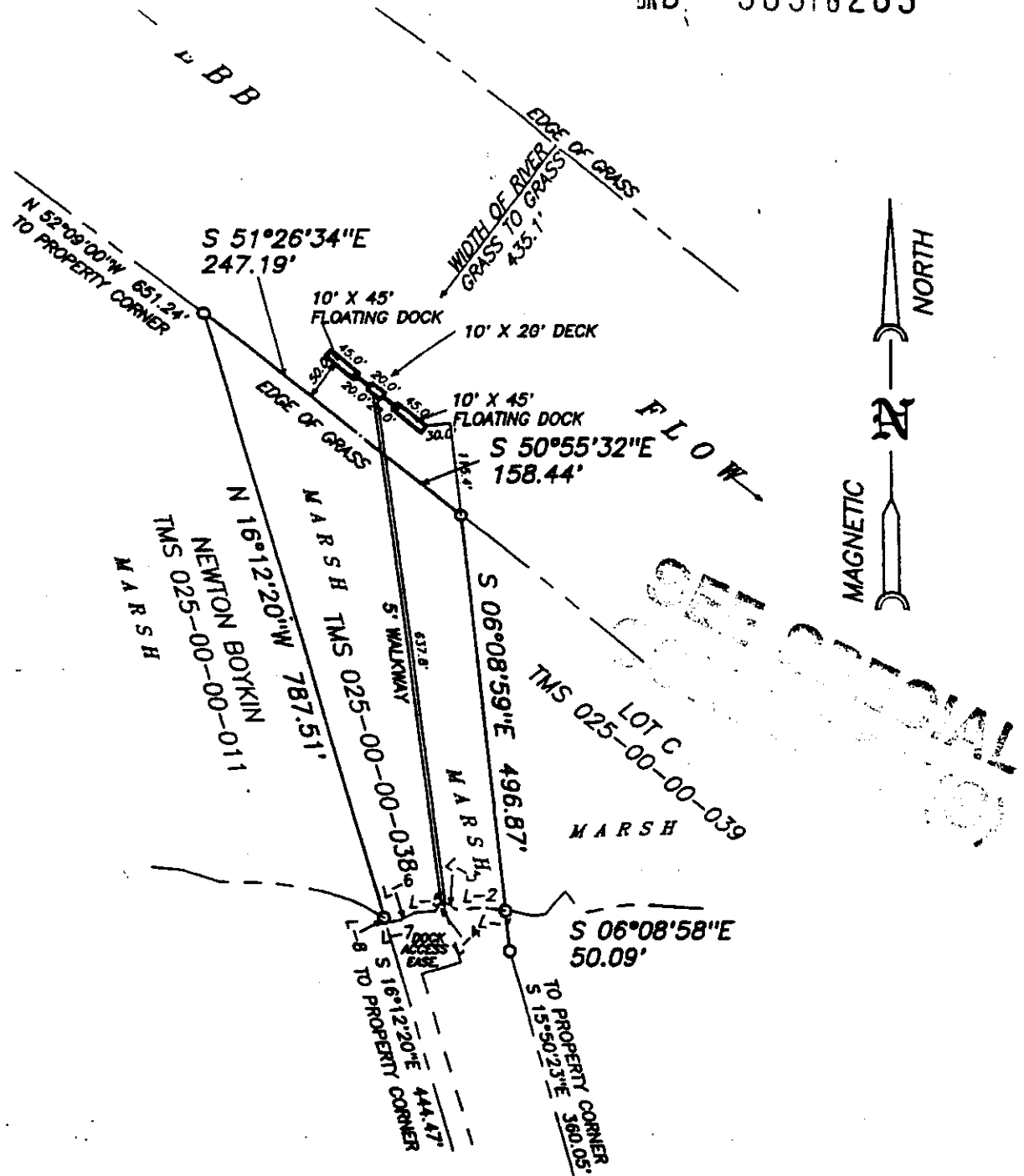
PLEASE NOTE:
A NUMBER OF ROADS AND DRIVES SHOWN ON THIS MAP ARE LOCATED ON PRIVATE PROPERTY. WHEN USING THE MAP AT A LATER DATE, PLEASE RESPECT THE PROPERTY OWNERS' RIGHTS AND EASEMENTS.

EDISTO ISLAND

DRAWING NOT TO SCALE



APPLICANT: <i>Stone Creek Trust</i>	LOCATION: <i>8764 Peters Point Road</i>	ADJACENT PROPERTY OWNERS:
ACTIVITY: <i>Spartina Bay</i>	COUNTY: <i>Charleston</i>	① <i>Brian West</i>
P/N # <i>99-1E-382</i>	DATE: <i>4/30/2000</i>	② <i>Steve Rowland</i>



FOWLER LAND SURVEYING
769-B JEFFERIES BLVD.
WALTERBORO, S. C. 29488
(843)549-2854

PROPOSED WALKWAY & DOCK
SURVEYED FOR :
STORE CREEK TRUST
APRIL 17, 2000
EDISTO ISLAND
CHARLESTON COUNTY - SOUTH CAROLINA

APPLICANT: *Store Creek Trust*
ACTIVITY: *Spartina Bag*
P/N # 99-1E-382

LOCATION: *8764 Peters Point Road*
Edisto Island, S.C. 29438
COUNTY: *Charleston*
DATE: *4/30/2000* Sheet 3 of 5



SCALE 1" = 200'

JERRY L. FOWLER
RIS NO. 15178

INR NO. 00017-D

385PG284

S 51°26'34"E
247.19'

651.24'
CORNER

10' X 45'
FLOATING DOCK

10' X 20' DECK

10' X 45'
FLOATING DOCK

S 50°55'32"E
158.44'

EDGE OF GRASS

EDGE OF GRASS
WIDTH OF RIVER
GRASS TO GRASS
435.71'

N 16°12'20"W 787.51'
MARSH TMS 025-00-00-038
5' WALKWAY
637.8'
MARSH
TMS 025-00-00-011
NEWTON BOYKIN
TMS 025-00-00-011
MARSH

S 06°08'59"E 496.87'

TMS 025-00-00-011
LOT 00-00-011

MARSH

APPLICANT: Store Creek Trust

ACTIVITY: Spartina Bay

P/N # 99-IE-382

LOCATION:

8764 Peters Point Road
Edisto Island, S.C. 29438

COUNTY: Charleston

DATE: 4/30/2000

ADJACENT PROPERTY OWNERS:

① Brian West

② Steve Rowland

Sheet 4 of 5

BKD 385PG285

**Operations and Maintenance Manual
for
Community Dock Facilities
Located on Store Creek
Edisto Island
Charleston County,
South Carolina**

**for
Store Creek Trust
8764 Peters Point Road
Edisto Island, South Carolina 29438**

**November 15, 2000
PN# 99-IE-382-P**

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- A. General Facility Description
- B. Regulatory Permits
- C. Operations

Part II WATER QUALITY MANAGEMENT AND POLLUTION PREVENTION

- A. Water Quality Monitoring
- B. Stormwater Management

Attachments:

- A. South Carolina Department of Health Ocean and Coastal Resource Management (SC DHEC OCRM) PN 99-1E-382-P

Part I

OPERATIONS

A. General Facility Description:

The Store Creek Trust Community Dock consists of constructing a timber pier with a 10' by 20' covered pierhead attached to highland by a 5' by 638' walkway. In addition, a 10 by 40' community floating dock and a 10 by 30' private floating dock are to be installed on each side of the fixed pierhead and attached to the fixed pierhead by ramps. The purpose of this work is for the private, recreational use of the future inland property owners (9 lots) of Spartina Bay Subdivision.

1. All Community Dock Facilities are privately owned, operated and maintained by Store Creek Trust.
2. The Community Dock Facility is located on Store Creek at 8764 Peters Point Road, Edisto Island, Charleston County, South Carolina.
3. Given the total linear footage of mooring space on each side of the two (2) floating docks, no more than ten (10) boats will be allowed to be moored at the two (2) floating docks at one time.
4. All boats at the floating docks are owned and operated by property owners in Spartina Bay Subdivision. Use of the Community Dock facilities is restricted solely to property owners and their invited guests.
5. Trash receptacles will be provided on the Community Dock and on the pierhead.

B. Regulatory Permits:

1. SC DHEC OCRM PN 99-1E-382-P (See Attachment A).

C. Operations:

- A. Store Creek Trust is responsible for the operation and maintenance of the community dock. The owner of the private floating dock will be responsible for its maintenance.
- B. Overnight occupancy of temporarily moored boats and "Live Boards" are prohibited at the Community Dock facilities.

Part II

**WATER QUALITY MANAGEMENT AND
POLLUTION PREVENTION MEASURES**

A. Water Quality Monitoring:

Neither of the regulatory permits currently require water quality monitoring programs.

B. Stormwater Management:

Stormwater will be managed in compliance with the requirements of Store Creek Trust's United States Army Corps of Engineers permit as issued for said project.

BY - LAWS

BK D 385 PG 289

OF

**SPARTINA BAY PLANTATION PROPERTY
OWNERS ASSOCIATION, INC.****ARTICLE I - DEFINITIONS**

1. The terms "Restrictive Covenants" and "Restrictions" as used in the Bylaws shall refer to the Declaration of Restrictive Covenants, Conditions and Restrictions of Spartina Bay Plantation Property Owners Association, Inc. governing and controlling certain lots, roads, common areas and community docks dated 13 October 2001 and a copy of these Bylaws shall be attached thereto.

2. All other definitions set forth in the Restrictive Covenants are adopted herein as if totally re-written.

ARTICLE II - PURPOSES AND OBJECTIVES

In amplification of the purposes for which the corporation has been formed as set forth in the Articles of Incorporation, the purposes and objectives of the Association are as follows:

1. To develop a community designed for safe, healthful, and harmonious living.
2. To promote the collective and individual property and civic interests and rights of all persons, firms, and corporations owning property within Property and which is located on Edisto Island in the County of Charleston, and State of South Carolina.
3. To care for the improvements and maintenance of the facilities of any kind dedicated to the community use and open spaces and other ornamental features of the Property, which now exist or which may hereafter be installed or constructed therein with the consent of this Association.
4. To the extent insurance can be reasonably obtained, to acquire and maintain liability and casualty insurance on all common areas, docks, and easements and any appurtenances for replacement value with an inflation guard endorsement adjusted annually.
5. To cooperate with the owners of all vacant and unimproved Lots now existing or that hereafter shall exist within the perimeters of Property in keeping them in good order and condition, in preventing them from becoming a nuisance and detriment to the beauty of the Property and to the value of the improved property therein, and to take any action with reference to such vacant and unimproved Lots as may be necessary or desirable to keep them from becoming such nuisance and detriment.
6. To aid and cooperate with the members of this Association and all property owners within the Property in the enforcement of such conditions, covenants, and restrictions on and appurtenant to their property as are now in existence, as well as any other conditions, covenants, and restrictions as shall hereafter be approved by the Association and to counsel with the

Exhibit B

Part 2

Planning Commission of Charleston County having jurisdiction in relation to any zoning that may affect any portion of the Property.

7. To make rules and regulations for property owners in the Property to maintain and assure the quality of life in the Property which the property owners desire and which the Restrictive Covenants and Rules of the Association have been ordained to protect.

8. In general, but in connection with the foregoing, to do any and all things necessary to promote the general rules and quality of life of the residents and owners of any portions of the Property and their property interests therein.

9. To acquire, own, or lease such real and personal property as may be necessary or convenient for the transaction of its business and fulfillment of its purposes and objects, and to exercise all rights, powers, and privileges of ownership to the extent as natural persons might or could do.

10. To exercise any and all powers that may be delegated to it from time to time by the owners of real property in the tract.

11. The Association shall not engage in political activity or pursue political purposes of any kind or character.

ARTICLE III – OFFICES

The initial office of Association, shall be located at the offices of N. C. Boykin, 2410 Highway 174, Edisto Island, SC. The membership of the Association is authorized and empowered to change the exact address of the Association from time to time as it deems fit and proper.

ARTICLE IV – MEMBERS

(1) **Membership.** The qualifications and rights of members of the Association shall be as follows:

(a). The owner of legal title of record in the Office of the Clerk of Court for Charleston County, South Carolina, of a Lot in the Property on Edisto Island, County of Charleston, State of South Carolina, shall be a member and agrees by his ownership to the undertaking in (b) below.

(b). Membership shall include an undertaking to comply with and be bound by the Articles of Incorporation, these Bylaws, Restrictive Covenants and amendments thereto, and the policies, rules, and regulations or guidelines at any time adopted by the Association and/or the Architectural Review Board in accordance with these Bylaws including payment of all dues and assessments.

(c). Membership in this Association shall terminate on such member's ceasing to be the legal owner of record of a Lot in the Property.

(2) **Member in Good Standing.** A member current in payment of the assessments and in compliance with these Bylaws, Restrictive Covenants and amendments thereto, and the policies,

rules, and regulations or guidelines of the Association and/or Architectural Review Board shall be considered a member in good standing.

(3) Voting Rights. Each member in good standing shall be entitled to vote on each matter submitted to a vote of the members by Class. The Association shall have two (2) classes of voting membership.

(a). Class A. A Class "A" members shall be the owner of record of Lots 1, 3, 4 5, 6, 7, 8, 10, and Lot B (9 Lots) of the Property. A Class "A" member shall have one (1) vote for each Lot of which he is the legal owner of record for all matters before the Association.

(b). Class B. The Class "B" Members shall be the owner of record of Lots 11 or 12 (2 Lots) of the Property initially and possibly hereafter Lot 10 (1 Lot) for a total of three (3) Lots maximum under the present configuration. The Class "B" member shall have one (1) vote for each Lot of which he is the legal owner of record.

(c). At membership meetings all votes shall be cast in person or by proxy registered with the Secretary.

(d). The membership is authorized to establish procedures providing for voting by mail, telephone, or other form of communication.

(e). A Class "A" member may vote on any issue, which comes up before the Association dealing with its rights of use or assessments against same. A Class "B" member may not vote on any issue dealing with the Dock or the Dock Easement as defined in Exhibit "B" & "C" of the Restrictive Covenants but may vote on any issue dealing with its rights of use or assessments against same.

(f). Where two or more owners or a partnership or corporation or other legal entity own a Lot, only one vote on each Lot owned shall be allowed and such joint owners, partnership, corporation or other legal entity shall designate and register with the Secretary of the Association in writing the name of that person entitled to cast such single vote or the vote will not be allowed.

ARTICLE V – MEETING OF MEMBERS

(1) Annual Meeting. An annual meeting of the members for the purpose of hearing reports from all officers and standing committees shall be held in October of each year, beginning with the year 2001. The time and place shall be fixed by the Board of Directors.

(2) Regular Meetings. In addition to the annual meetings, regular meetings of the members may be held at such time and place as shall be determined by the Board of Directors.

(3) Special Meetings. A special meeting of the members must be called by the President of the Association or, if requested, by any three (3) members in good standing within twenty (20) days.

(4) Notice of Meetings. Written notice stating the place, day, and hour of any meeting of members shall be delivered either personally or by mail to each member entitled to vote at such meeting, not less than twenty (20) days before the date of such meeting or at the direction of the Secretary.

(5) Quorum. The members holding fifty-one (51%) percent of the votes that may be cast at any meeting shall constitute a quorum at any meeting of the members. In the absence of a quorum, a majority of the members present may adjourn the meeting from time to time without further notice.

(6) Proxies. At any meeting of the members, a member entitled to vote may vote by proxy executed in writing by the member. No proxy shall be valid after six (6) months from the date of its execution, unless otherwise provided in the proxy.

(7) Voting by Mail, Telephone, or Other Form of Communication. Where there is an act requiring the vote of the members, such election or vote on such proposed action may be conducted by mail, telephone, or other form of communication in such manner as the Board of Directors shall determine.

ARTICLE VI - BOARD OF DIRECTORS

(1). General Powers. The business and affairs of the Association shall be managed by its Board of Directors, to include the right to establish dues and assessments as set forth hereinafter. The directors shall in all cases act as a board, and they may adopt such rules and regulations for the conduct of their meetings and the management of the Association, as they may deem proper, not inconsistent with these by-laws and the laws of this State.

(2). Number Tenure and Qualifications. The Board of Directors shall consist of three (3) members initially. The Declarants shall have the right to appoint or remove any member or members of the Board of Directors until Declarants sell three-fourths (3/4) of the lots within the Subdivision. Beginning with the first annual or special meeting of the Association following the expiration of the Declarants rights, the members (including the Declarants if Declarants then own one or more Lots) shall elect one (1) Director for a term of one (1) year, one (1) Director for a term of two (2) years and one (1) Director for a term of three (3) years; and at each annual meeting thereafter, the members shall elect, upon majority vote, one (1) Director for a term of three (3) years. Each Director shall hold office until his successor is elected, or until his death, or until he shall resign or be removed from office. A Director must be a member of the Association to hold office, except for the Directors appointed by the Declarants.

(3). Regular Meetings. A regular meeting of the directors, shall be held without other notice immediately after, and at the same place as, the annual meeting of Members. The directors may provide, by resolution, the time and place for the holding of additional regular meetings without other notice.

(4). Special Meetings. Special meetings of the directors may be called by or at the request of the president or any two directors. The person or persons authorized to call special meetings of the directors may fix the place for holding any special meeting of the directors called by them.

(5). Notice. Notice of any special meeting shall be given at least five (5) days previously thereto by written notice delivered personally, or by telegram to each director at his

business address. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail so addressed, with postage thereon prepaid. If notice be given by telegram, such notice shall be deemed to be delivered when the telegram is delivered to the telegraph company. The attendance of a director at a meeting shall constitute a waiver of notice of such meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

(6). Quorum. At any meeting of the directors two (2) shall constitute a quorum for the transaction of business.

(7) Manner of Acting. The act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the directors.

(8). Newly Created Directorships And Vacancies. Newly created directorships resulting from an increase in the number of directors and vacancies occurring in the board for any reason except the removal of directors with cause may be filled by a vote of a majority of the directors then in office, although less than a quorum exists. Vacancies occurring by reason of the removal of directors with cause shall be filled by vote of the Members. A director elected to fill a vacancy caused by resignation, death or removal shall be elected to hold office for the unexpired term of his predecessor.

(9). Removal of Directors. Any or all of the directors may be removed for cause by vote of the Members only.

(10). Resignation. A director may resign at any time by giving written notice to the board, the president or the secretary of the corporation. Unless otherwise specified in the notice, the resignation shall take effect upon receipt thereof by the board or such officer, and the acceptance of the resignation shall not be necessary to make it effective.

(11). Compensation. No compensation shall be paid to directors, as such, for their services, but by resolution of the board a fixed sum and expenses for actual attendance at each regular or special meeting of the board may be authorized. Nothing herein contained shall be construed to preclude any director from serving the Association in any other capacity and receiving compensation therefor.

(12). Presumption of Assent. A director of the Association who is present at a meeting of the directors at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless his dissent shall be entered in the minutes of the meeting or unless he shall file his written dissent to such action with the person acting as the secretary of the meeting before the adjournment thereof or shall forward such dissent by registered mail to the secretary of the Association immediately after the adjournment of the meeting. Such right to dissent shall not apply to a director who voted in favor of such action.

ARTICLE VII - OFFICERS

(1). Number. The officers of the Association shall be a president, vice-president, a secretary and a treasurer, each of whom shall be elected by the directors. Such other officers and assistant officers as may be deemed necessary may be elected or appointed by the directors. The Board of Directors at any time, may decide to eliminate or not fill the office of Vice President and/or consolidate the offices of Secretary and Treasurer.

(2). Election And Term Of Office. The officers of the Association to be elected by the directors shall be elected annually at the first meeting of the directors held after each annual meeting of the Members. Each officer shall hold office until his successor shall have been duly elected and shall have qualified or until his death or until he shall resign or shall have been removed in the manner hereinafter provided.

(3). Removal. Any officer or agent elected or appointed by the directors may be removed by the directors whenever in their judgment the best interests of the corporation would be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed.

(4). Vacancies. A vacancy in any office because of death, resignation, removal, disqualification or otherwise, may be filled by the directors for the unexpired portion of the term.

(5). President. The president shall be the principal executive officer of the Association and, subject to the control of the directors, shall in general supervise and control all of the business and affairs of the Association. He shall, when present, preside at all meetings of the Members and of the directors. He may sign, with the secretary or, any other proper officer of the Association thereunto authorized by the directors, certificates for membership of the Association, any deeds, mortgages, bonds, contracts, or other instruments which the directors have authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the directors or by these by-laws to some other officer or agent of the Association, or shall be required by law to be otherwise signed or executed; and in general shall perform all duties incident to the office of president and such other duties as may be prescribed by the directors from time to time.

(6). Vice-President. In the absence of the president or in event of his death, inability or refusal to act, the vice-president shall perform the duties of the president, and when so acting, shall have all the powers of and be subject to all the restrictions upon the president. The vice-president shall perform such other duties as from time to time may be assigned to him by the President or by the directors.

(7). Secretary. The secretary shall keep the minutes of the Members' and of the Directors' Meetings in one or more books provided for that purpose, see that all notices are duly given in accordance with the provisions of these by-laws or as required, be custodian of the Association's records and of the seal of the Association and keep a register of the post office

address of each member which shall be furnished to the secretary by such member, have general charge of the membership transfer books of the Association and in general perform all duties incident to the office of secretary and such other duties as from time to time may be assigned to him by the president or by the directors.

(8). Treasurer. If required by the directors, the treasurer shall give a bond for the faithful discharge of his duties in such sum and with such surety or sureties as the directors shall determine. He shall have charge and custody of and be responsible for all funds and securities of the Association; receive and give receipts for moneys due and payable to the Association from any source whatsoever, and deposit all such moneys in the name of the Association in such banks, trust companies or other depositories as shall be selected in accordance with these by-laws and in general perform all of the duties incident to the office of treasurer and such other duties as from time to time may be assigned to him by the president or by the directors.

(9). Salaries. The salaries of the officers shall be fixed from time to time by the directors and no officer shall be prevented from receiving such salary by reason of the fact that he is also a director of the Association.

ARTICLE VIII - DUES AND ASSESSMENTS

(1). Dues.

a. Purpose. Dues may be established for the purpose of paying for the administrative functions of the Association to include any management fees, salaries, accounting, or other related administrative fees, property taxes and insurance. This shall hereafter be referred to as assessments.

b. Imposition. The annual dues as established by the Board of Directors shall be the same for each member of both Classes.

(2). Annual Assessments.

a. Purpose. Annual assessments shall be levied for the purpose of repairing and maintaining roads, lighting, the common areas, easements, community docks, community floating dock, and erosion control devices of the common property or other areas of common usage in and adjacent to the Property as designated by the members of this corporation from time to time and shall be established by class of memberships. There shall be two assessments; one for each class.

b. Imposition. The annual assessments proposed by the Board of Directors shall be submitted for approval by two-thirds (2/3) of the votes of members of the Association entitled to vote by class of membership. In the absence of approval by members, the assessments shall be set at the prior year's amount plus five percent (5%) until such time as the membership shall approve a different amount.

(3). Special Assessments.

a. Purpose. Special assessments may be levied for the purpose of improving or constructing improvements such as additions to the community docks, erosion control devices or

further improvement of common areas or amenities for the Property. Special assessment may also be levied to cover correction, repair or replacement of existing roads, common areas or community docks suffering unforeseen damage not covered by insurance or annual assessment. There shall be two special assessments; one for each class.

b. Imposition. Special assessments proposed by the Board of Directors shall state specific purpose, annual amount, and the term of years over which it will be assessed. Approval must be by two-thirds (2/3) of the votes of members of the corporation entitled to vote by class of membership. Once approved, no further vote must be taken as long as the purpose, amount, and term of the special assessment remains as originally voted upon. Any other need arising and requiring a special assessment vote shall be treated as separate and shall not be cause to require a vote on already approved special assessments.

(4). Uniform Rate Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots by class of membership and may be collected on an annual, monthly or other basis as determined by the membership. Initial amounts shall be annually. Class "B" members shall not pay any costs or assessments for the Dock Easement or Dock.

(5). Individual Assessment. Individual assessments shall be levied on members of the Association where the provisions of the Bylaws or the Restrictive Covenants have been violated.

(6). Date of Commencement of Dues and Annual Assessments and Initial Due Date. The dues and annual assessments provided for herein shall commence as to all Lots upon the first day of the month following the sale of the first Lot. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year and due upon thirty (30) day written notice.

(7). Due Date of Annual Dues and Assessments. The annual due date of dues and assessments shall be January 1 of each calendar year. Notwithstanding, the Board of Directors may propose alternative dates for approval by a majority vote of the membership. Once established the due dates shall remain the same from year to year unless and until a new due date or dates is approved by the membership. Written notice of the dues, assessment amount and due date shall be sent to each member at least thirty (30) days in advance of each annual dues and assessment period.

(8). Certificate Of Standing. The Association shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of the assessments on the Lot is binding upon the Association as to the date of its issuance.

(9). Default in Payment of Dues or Assessments.

a. When any member shall be in default in the payment of fees or assessments for a period of thirty (30) days from the date on which such fees or assessments become payable, he shall, for purposes of voting, not be considered as a member in good standing. In addition, such member shall be dropped from active membership and placed on the inactive list. Such member shall not be reinstated until he has paid his dues and assessments in full, and until such time as such member is reinstated, he shall have no rights of any kind arising out of membership in the Association.

b. There will be a late charge of five (5%) percent of any assessment due but not paid within fifteen (15) days of the due date.

c. If any member shall fail to pay his dues or assessments on or before the date on which the same becomes due, the amount of the unpaid dues or assessment shall become a lien on such member's Lot, with or without improvements thereon, in favor of the Association, and the Association shall have the right to record a notice of claim of lien, as a mortgage lien, and to proceed thereon in accordance with the laws of South Carolina for the foreclosure and enforcement of the lien; provided however, that the failure by the Association to record a notice of lien shall not affect the validity of its lien; or, in the event the Association shall not record a lien, it shall have the right to commence an in personam action against such member for the collection of the assessment in any court of competent jurisdiction; provided that in the event that the Association brings legal proceedings to foreclose the lien or brings an in personam action against such member there shall be added to the amount of the dues or assessments due, the costs for preparing and filing the complaint in such action, and in the event that the money judgment or judgment of foreclosure is obtained, such judgment shall include interest at the highest legal rate on the dues or assessments due as provided in the assessment and a reasonable attorney's fee together with the cost of the action. Said lien or judgment may be sold to a third party along with all rights of enforcement herein and under South Carolina law.

(10). Assignment of Dues and Assessments. In the event that any member whose dues and assessments are paid in full, shall, during the year in which such dues or assessments are paid, terminate his or her membership by the sale of his or her Lot in the Property, he or she shall be entitled to assign to the buyer of such Lot the benefit of the paid up dues and assessments.

(11). Option of the Declarants Concerning Assessments. Until such time as the Declarants have sold more than seventy-five (75%) percent of the total number of lots, the Declarants shall have the option, with respect of the lots owned by the Declarants of either paying the Association the annual and special assessments set forth herein or paying to the Association in lieu of all annual and special assessments, an assessment in an amount equal to the amount by which annual costs and expenses of the Association exceed the amount of money collected from all Class "A" and "B" Members. Said assessments shall be due and payable on the same day as the other annual assessments, and shall be a lien on the lot of the Declarants, and the Association shall be entitled to collect said assessments in the same manner as provided herein for the enforcement of annual and special assessments.

(12). Receipt of Membership Dues and Assessments. Any funds received from the Membership by the Association shall be applied as follows: 1) Any late fees due, 2) to any other fees or costs of collection due, 3) to the interest due, and 4) the remainder to the dues and assessments past due.

ARTICLE IX - MANAGING AGENT

(1) Employment. The Board of Directors may appoint a Managing Agent entirely of its own choosing.

(2) Qualification. The Managing Agent may be a natural person or a corporation or other legal entity.

(3) Authorities and Duties. The Managing Agent shall, on behalf of and as directed by the Board of Directors, provide the following:

(a). Surveillance of the property, the maintenance repair and replacement of the roads, common areas and community docks, and the designation and dismissal of the personnel necessary to accomplish the same;

(b). The collection of dues and assessments from the members;

(c). The procuring and keeping in force of insurance on the property and the adjusting (including the execution and delivery of releases upon payment) of claim against such policies as are obtained;

(d). The enactment of reasonable regulations governing the operation and use of the roads, common areas and community docks;

(e). The enforcement of the terms of the Deeds, these Bylaws, the Restrictive Covenants and any Regulations promulgated pursuant to the Bylaws;

(f). To otherwise administer the Association on behalf of and for the benefit of the members;

(g). To provide such other services and perform such other duties as authorized and directed from time to time by the Board of Directors;

(h). The Managing Agent shall confer fully and freely with the membership and shall attend meetings of the corporation.

ARTICLE X - CONTRACTS, LOANS, CHECKS AND DEPOSITS

(1). Contracts. The directors may authorize any officer or officers, agent or agents, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Association, and such authority may be general or confined to specific instances.

(2). Loans. No loans shall be contracted on behalf of the Association and no evidences of indebtedness shall be issued in its name unless authorized by a resolution of the directors. Such authority may be general or confined to specific instances.

(3). Checks, Drafts, etc. All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Association, shall be signed by such officer or officers, agent or agents of the Association and in such manner as shall from time to time be determined by resolution of the directors.

(4). Deposits. All funds of the Association not otherwise employed shall be deposited from time to time to the credit of the Association in such banks, trust companies or other depositories as the directors may select.

ARTICLE XI- FISCAL YEAR

The fiscal year of the Association shall begin on the 1st day of January in each year.

ARTICLE XII - SEAL

The directors shall provide an Associations Seal which shall be circular in form and shall have inscribed thereon the name of the Association, the state of incorporation, year of incorporation and the words, "Corporate Seal".

ARTICLE XIII - WAIVER OF NOTICE

Unless otherwise provided by law, whenever any notice is required to be given to any member or director of the Association under the provisions of these by-laws or under the provisions of the articles of incorporation, a waiver thereof in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

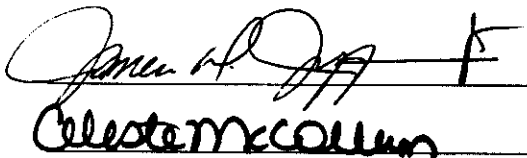
ARTICLE XIV - AMENDMENTS

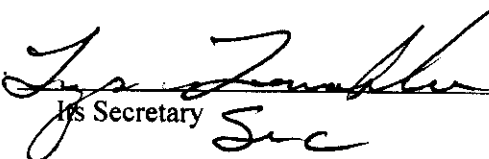
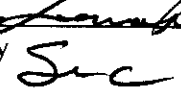
These by-laws may be altered, amended or repealed and new by-laws may be adopted by a two-thirds (2/3) vote of the Members representing a majority of all the memberships issued and outstanding, at any annual Members' meeting or at any special Members' meeting when the proposed amendment has been set out in the notice of such meeting. If an amendment of these Bylaws or any provision of these Bylaws are in conflict with the Restrictive Covenants the Restrictive Covenants shall control and be binding on the Membership.

IN WITNESS WHEREOF, the undersigned has hereunto authorized his name and affixed the seal of the corporation this 12th day of October, 2001.

ATTEST:

**SPARTINA BAY PLANTATION PROPERTY
OWNERS ASSOCIATION, INC.**


Celeste McCollum

BY  (SEAL)
Its Secretary 

W
BARR, UNGER & McINTOSH, L.L.C.

END 385PG300

FILED

D385-260

2001 OCT 16 PM 1:06

CHARLIE LYBRAND
REGISTER
CHARLESTON COUNTY SC

46.00 B

Exhibit C



BP0234897

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHARLESTON)
 _____)

EASEMENT AGREEMENT

This Easement Agreement (the "Agreement") is made, entered into, and effective this 35th day of January, 2012, by and between James L. Cox and Catherine T. Cox ("the Grantors") and Spartina Bay Plantation Property Owners Association, Inc. (the "Grantee").

WITNESSETH

WHEREAS, the Grantors are the owners of the real property situated in Charleston County, South Carolina, and more fully described in Deed from Internal Revenue Service, Jeannine A. Hammett Special Agent in Charge, Criminal Investigation, Internal Revenue Service, Charlotte Field Office to James L. Cox and Catherine T. Cox dated March 29, 2010 and recorded on April 2, 2010 in the Charleston County RMC Office in Book 0115, Page 404;

WHEREAS, the Grantee is the owner of property located near the Grantors' property; and

WHEREAS, the parties hereto desire to enter into the within agreement with regard to an easement;

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, along with the mutual covenants and agreements contained herein, the Parties covenant and agree as follows:

1. Incorporation of Recitals: The Parties acknowledge that the foregoing recitals are true and correct and are incorporated into this Agreement as if fully set forth herein.

2. Access Easement: Grantors hereby grant, bargain, sell and release unto Grantee, its successors and assigns, for the benefit of the Grantee Property, a perpetual, exclusive, appendant, appurtenant, transferable easement (the 'Access Easement') on, over and across the Grantor Property for pedestrian ingress and egress on, over and across the Easement Area. This Easement Area is more fully shown as "Existing Dock Ingress/Egress Easement" on Plat by Robert Frank Surveying, dated April 2, 2003, revised on June 19, 2003 and recorded in the Charleston County RMC Office on June 26, 2003 in Book EG, Page 457. Grantee shall have no other rights in and to any other portion of the Grantor Property except the Easement Area. Grantors hereby reserve the right, for itself and its tenants, invitees, permittees, agents, representatives, successors and assigns, to use the Access Easement in common with Grantee for any purposes not inconsistent with Grantee's rights under this Agreement.

3. Easement Appurtenant. The Access Easement shall not be an easement in gross but shall be an easement appurtenant to the Grantee Property and shall be enforceable by the Grantee and its' successors, heirs, and assigns. The Access Easement shall run with the land and title to the Grantee Property as a burden on the Grantor property and a benefit to the Grantee Property.

4. No Impediments. No barriers, impediments or obstructions of any kind shall be erected, built or placed within the Easement Area which may impede or hinder the free flow of traffic through the Easement Area, except with the prior written consent of the Grantee, or except for temporary interruptions or relocations relating to routine maintenance or repairs which do not materially impair the rights of ingress and egress granted hereby. Any trees or other impediments currently within the easement area at the

time of the signing of this agreement may be removed by Grantee at Grantee's sole expense.

5. Reversion: In the event that one hundred (100%) of all of the Class "A" Membership of this Property Owners Association vote in writing to abandon any repair, rebuilding or use of said walkway and dock pursuant to Article VI, Section 3 of the Spartina Bay Plantation's Covenants, Conditions and Restrictions, then this Easement shall (at the option of the owner) be conveyed by the Property Association to the Owner of Lot B (said Lot being defined above and said owner shall be that as is designated on the records in the RMC Office in the County where said property is located). Said Owner shall pay, in full, all of the costs of the Property Owners Association to Deed said parcel, and when deeded, shall become a part of Lot "B" with the provision that said Lot cannot be further subdivided without the unanimous consent of all Lot Owners. The Owner of Lot B shall have all rights to the Dock thereafter.

6. Real Estate Taxes. As consideration and just compensation for this Easement, the Property Owners Association agrees to pay twenty-five (25%) of the real estate tax assessed for Lot B on an annual basis unless agreed otherwise in writing by both parties.

7. Indemnification. The Parties shall each indemnify, defend and hold the other harmless from any claim, loss, or liability arising out of or related to any default or violation of this Agreement by the indemnifying Party or its associated tenants, customers, licensees or permittees. This Section shall not apply to the extent the liability is covered by an applicable insurance policy.

8. Attorney Fees. In the event that any party hereto shall bring an action to enforce the terms hereof or to declare rights hereunder, the prevailing party in any such

action shall be entitled to its court costs and reasonable attorney fees to be paid by the non-prevailing party as fixed by the court of appropriate jurisdiction, including, but not limited to, attorney fees and court costs incurred in courts of original jurisdiction, bankruptcy courts or appellate courts.

9. Amendment. This Agreement may be modified or amended, in whole or in part, only by the written consent of all the parties involved in this Agreement.

10. Severability. If any term, covenant or condition of this Agreement or the application thereof to any person or circumstance shall, to the extent, be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby and each such term, covenant or condition of this Agreement shall be valid and enforceable to the full extent permitted by law.

11. Construction. As used in this Agreement, the masculine, feminine or neuter gender and the singular or plural number shall each include the others whenever the context so indicates. This Agreement shall be construed as a whole and in accordance with its fair meaning and without regard to any presumptions or other rule regarding and construction against the person or entity preparing the Agreement or any part thereof.

12. Governing Law. The terms of this Agreement shall be construed in accordance with and governed by the laws of the State of South Carolina.

13. Integration. This Agreement is an integrated agreement and expresses the complete agreement and understanding of the Parties. Any and all prior or contemporaneous oral agreement or prior written agreement regarding the Agreement will be merged herein.

14. Notice. Any notices given pursuant to this Agreement shall be in writing, and shall be personally delivered or deposited in the United States certified mail, postage prepaid, return receipt requested, at the following addresses:

Grantors: James and Catherine Cox

1499 Marsh Bluff Court

Edisto Island, SC 29438

Grantee: Spartina Bay Plantation Property Owners Association, Inc.

2410 Highway 174

Edisto Island, SC 29438

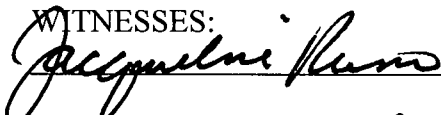
15. Successors and Assigns. The terms, conditions and requirements of this Agreement shall be binding on and inure to the benefit of the Parties and their respective heirs, successors and assigns.

16. Counterparts. This Agreement may be executed in one or more counterparts, all of which taken together shall constitute one Agreement.

17. Time of Essence. Time is of the essence of this Agreement. However, if the final date of any period which is set out in any provision of this Agreement falls on a Saturday, Sunday or legal holiday under the laws of the United States or the State of South Carolina, then, in such event, the time of such period shall be extended to the next day which is not a Saturday, Sunday or legal holiday. As used herein, the term "business day" shall mean any day which is not a Saturday, Sunday or legal holiday.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first above written.

WITNESSES:

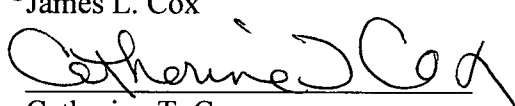





Molly E. McKelvey

GRANTORS:



James L. Cox


Catherine T. Cox

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

ACKNOWLEDGMENT

The foregoing instrument was acknowledged before me this 23rd day of January, 2012, by James L. Cox and Catherine T. Cox.



MOLLY E. MCKELVEY
Notary Public of South Carolina
My Commission Expires: 3/30/2019

WITNESSES:

GRANTEE:

SPARTINA BAY
PLANTATION PROPERTY
OWNERS ASSOCIATION, INC.

Julie W. Polson
Maria C. DeGado

[Signature]
By: Bruce Matrisciani
Its: President

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

ACKNOWLEDGMENT

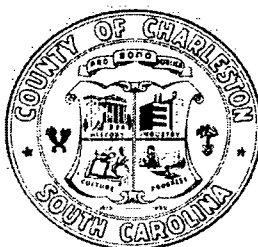
The foregoing instrument was acknowledged before me this 25 day of January, 2012, by Bruce Matrisciani as President of Spartina Bay Plantation Property Owners Association, Inc. .

[Signature]
Notary Public of South Carolina
My Commission Expires: 2-4-2015



RECORDER'S PAGE

NOTE: This page **MUST** remain
with the original document


Filed By:

DEJONG LAW FIRM, LLC
940 JOHNNIE DODDS BLVD.
SUITE 203
MT. PLEASANT SC 29464

RECORDED

Date: February 22, 2012

Time: 11:29:02 AM

Book

Page

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Esmt

Charlie Lybrand, Register
Charleston County, SC

MAKER:

COX JAMES L AL

of Sats:

of Pages: 8

of References:

RECIPIENT:

SPARTINA BAY PLTN POA

Note:

Recording Fee \$ 10.00

Extra Reference Cost \$ -

Extra Pages \$ 3.00

Postage \$ -

Chattel \$ -

TOTAL \$ 13.00

Original Book:

Original Page:

DRAWER Drawer 3

CLERK ECP



0234
Book



897
Page



02/22/2012
Recorded Date



8
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Original Book



Original Page



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11:29:02
Recorded Time

Exhibit D

2001-2353

3KG 390PG257

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON) LEASE

THIS LEASE is made and executed on the 12th day of October, 2001, by and between PETERS POINT TRUST (hereinafter referred to as "Landlord"), and the SPARTINA BAY PLANTATION PROPERTY OWNERS ASSOCIATION, INC., (hereinafter referred to as "Tenant").

SECTION ONE

DEMISE

Landlord leases to Tenant the property more particularly described on Exhibit "A" attached hereto and incorporated herein, located on Edisto Island, County of Charleston, State of South Carolina.

SECTION TWO

TERM

The term of this Lease shall be ninety nine (99) years and shall commence as of the 1st day of October, 2001, and shall continue through the last day of September, 2100. The Tenant may have this Lease recorded if it so desires.

SECTION THREE

TRIPLE NET LEASE

Tenant shall pay all utilities, maintenance, taxes, insurance, liability insurance, and any and all expenses incurred on behalf of the property. This is a triple net lease.

SECTION FOUR

RENT

EXHIBIT "E"

*Recorded
12/7/01*

a. Tenant shall pay to Landlord for the demised premises a rent in the amount of Ten and 00/100 (\$10.00) Dollars per year, which rent shall be due and payable on the first day of January each year.

b. As additional rent the Tenant shall pay for all property taxes, and special assessments against the property for both the real and personal property located thereon. This includes the common dock attached to the property. The leased property is presently taxed as a part of a larger tract of land. The Tenant shall pay to the Landlord a sum of 25% of the total tax bill for said parcel. If the Landlord or its successors or assigns construct improvements on the larger parcel the percentages shall be adjusted based upon values of the property.

25% of taxes

SECTION FIVE

USE OF PREMISES

The demised premises may be used by the Tenant for the purpose of access to the common dock for the Class "A" members. The dock is attached to subject property and owned by the Trust. The Tenant may make improvements as needed to support the common dock. Tenant further agrees that it will not engage in any unlawful or illegal activity, nor allow or suffer any activity upon the premises, creating a hazard to subject property or tending to cause a breach of the peace. Tenant shall at all times keep the premises in a neat and orderly maintained manner, free of trash, debris, rubbish and the emission of odors or gases. Landlord shall have the right, upon giving Tenant reasonable notice, to inspect the premises for such purpose.

SECTION FIVE

UTILITIES

Tenant shall pay all cost of utilities, to include electricity, gas, water and telephone, for the adjacent dock during the period of the lease or any improvements added to the property.

SECTION SIX

DEFAULT

If Tenant shall fail or neglect to observe, keep or perform any of the covenants, terms or conditions herein contained on its part to be observed, kept, or performed, and such default shall

continue for a period of thirty (30) days after written notice from Landlord setting forth the nature of Tenant's default, then and in any such event, Landlord shall have the right at its option without forthwith to terminate this Lease and all rights of the Tenant thereunder shall cease, and the Landlord shall have the right immediately to enter the demised premises and take possession thereof with or without process of law and to remove all personal property from the premises and all persons occupying the premises and to use all necessary force therefor and in all respects to take the actual, full and exclusive possession of the premises and every part thereof as of Landlord's original estate, without incurring any liability to Tenant or to any person occupying or using the premises for any damage caused or sustained by reason of such entry on the premises or such removal of such persons or property therefrom.

SECTION SEVEN

QUIET ENJOYMENT

Landlord covenants that Tenant upon performing the covenants aforesaid, shall and may peacefully and quietly have, hold and enjoy the said leased premises for the terms aforesaid subject to revisions thereof.

SECTION EIGHT

MAINTENANCE AND UPKEEP

Tenant hereby accepts the dock on the demised property "as it exists" without any warranties, obligation, or commitments on behalf of Landlord. Tenant further agrees to be fully responsible for all maintenance, upkeep, and improvements of the dock and grounds. Landlord shall not be responsible for any maintenance, cosmetically or structurally.

SECTION NINE

INDEMNIFICATION & INSURANCE

(a) Tenant agrees to indemnify and save harmless the Landlord from any claim or loss by reason of an accident or damage to any person or property happening on or about the demised premises.

(b) Tenant further agrees to carry, and will furnish to the Landlord a certificate of insurance prior to occupancy on the demised premises, at its expense, providing public liability insurance coverage, with a contractual liability endorsement on the policy, in a company qualified to transact business in the State of South Carolina, in which the demised premises are located, stipulating limits of liability of not less than One Million and 00/100 (\$1,000,000.00) Dollars for an accident affecting any one or more persons and Fifty Thousand and No/100 (\$50,000.00) Dollars property damage. The certificate of such coverage from the insurer must provide for thirty (30) days' notice to Landlord prior to cancellation or termination.

SECTION TEN

GENERAL PROVISIONS

(a) All signs placed on said premises shall be subject to the approval of the Landlord.

(b) This Lease and all the terms, covenants and conditions hereof shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors and assigns of both parties hereto in like manner as if each had been enumerated in every instance in which said parties are mentioned herein.

(c) If the said premises shall be destroyed by fire, elements of unavoidable casualty, totally or partially, either party may terminate this Lease by notice in writing to the other.

(d) If the Tenant dissolves, becomes inactive, or is no longer an operative property owners association, the lease shall be automatically null and void and occupancy of the property shall revert back to the Landlord. If the Tenant votes to abandon the dock as provided in the Restrictive Covenants, then this lease shall be null and void.

(THIS SPACE INTENTIONALLY LEFT BLANK)

IN WITNESS WHEREOF, the parties have executed this Lease at Edisto Island, South Carolina.

Signed, Sealed and Delivered
in the Presence of:

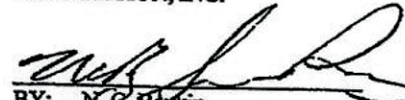



N.C. BOYKIN as SUBSTITUTE TRUSTEE
PETERS POINT TRUST
"LANDLORD"


BY: N.C. Boykin as Substitute Trustee

SPARTINA BAY PLANTATION
PROPERTY OWNERS
ASSOCIATION, INC.





BY: N.C. Boykin
ITS: President

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

ACKNOWLEDGMENT

The foregoing instrument was acknowledged by me this 12th day of October by N. C. Boykin as Substitute Trustee Peters Point Trust and N. C. Boykin as President of the Spartina Bay Plantation Property Owners Association, Inc.

Charlotta D. Noh (SEAL)
Notary Public for South Carolina

My Commission Expires: 5/21/02

EXHIBIT "A"

TRACT 1: All that certain piece, parcel or strip of land situate, lying and being on Edisto Island in the County of Charleston, State of South Carolina, being shown and designated as "25' DOCK INGRESS/EGRESS EASEMENT" on a plat prepared by Jerry L. Fowler, RLS #15178, entitled "A BOUNDARY SURVEY OF 4.31 ACRES TMS 025-00-00-038 SURVEYED FOR: STORE CREEK TRUST" dated September 17, 2001, and recorded in the RMC Office for Charleston County in Plat Book DD at Page 27, said strip having such size, shape, dimensions, buttings and boundings as by reference to said plat will more fully and at large appear.

TRACT 2: All that certain piece, parcel or tract of marshland situate, lying and being on Edisto Island in the County of Charleston, State of South Carolina, being shown and designated as "2.95 ACRES MARSH" on a plat prepared by Jerry L. Fowler, RLS #15178, entitled "A BOUNDARY SURVEY OF 4.31 ACRES TMS 025-00-00-038 SURVEYED FOR: STORE CREEK TRUST" dated September 17, 2001, and recorded in the RMC Office for Charleston County in Plat Book DD at Page 27, said tract of marshland having such size, shape, dimensions, buttings and boundings as by reference to said plat will more fully and at large appear.

Exhibit E



BP0115404

RMC BK 0115 Pg 404 : pg 1 *

PREPARED BY:

Weeks Foti & Irvine, LLC
106 W. 7th North Street
Summerville, SC 29483

MAIL TAX STATEMENTS TO:

INTERNAL REVENUE SERVICE DEED

KNOW ALL MEN BY THESE PRESENTS:

That THE UNITED STATES OF AMERICA, acting by and through the Internal Revenue Service, as grantor, Jeannine A. Hammett Special Agent in Charge, Criminal Investigation, Internal Revenue Service, Charlotte Field Office, in consideration of the bid of FOUR HUNDRED FIFTY THOUSAND AND NO/100 (\$450,000.00) to the Grantor in hand paid at and before the sealing of these presents by James L. Cox and Catherine T. Cox, the Grantees whose address is set forth herein below, has granted, bargained, sold and transferred and by these presents does grant, bargain sell and transfer unto grantee all right, title and interest in and to the following property:

SEE EXHIBIT "A" FOR LEGAL DESCRIPTION OF PROPERTY

Grantees' Address: P.O. Box 1986 Summerville, SC 29484

No warranties, expressed or implied, with reference to marketability, salability, transferability or insurability of title are included herein and the grantee expressly agrees to accept whatever quality of title the United States may possess at this time.

TO HAVE AND TO HOLD THE SAME together with all singular the appurtenances thereunto belonging or in any wise appertaining, and all the estate, right, title, interest and claim whatsoever in the said property either in law or equity, to the use, benefit and behoove of the Grantee, its successors and assigns forever. Said property has been in custody and control of the United States of America, and pursuant to the order of this Court in Criminal No. 3:07-929, in the District Court of the United States for the District of South Carolina, the SPECIAL AGENT IN CHARGE, Criminal Investigation, Internal Revenue Service, has been directed to dispose of said property.

SV10-0151CW Cox
Weeks Foti & Irvine, LLC
106 W. 7th North Street
Summerville, SC 29483

This deed is executed to consummate the sale made by the SPECIAL AGENT IN CHARGE, Criminal Investigation, Internal Revenue Service, Charlotte Field Office, in accordance with the terms of the Final Order of Forfeiture entered by the United States District Court for the District of South Carolina, in the case of the United States of America v. Charlene Corley, C&D Distributors, LLC, with all appurtenances and improvements thereon, et al, which the Grantee was the successful bidder for the property herein described.

IN WITNESS WHEREOF, I have signed and sealed these presents

this 29th day of March, 2010.

Kathy G. Hout
WITNESS

Kathy G. Hout
PRINTED NAME

Elliott Cone
WITNESS

ELLIOTT CONE
PRINTED NAME

THE UNITED STATES OF AMERICA,
ACTING BY AND THROUGH THE
INTERNAL REVENUE SERVICE

[Signature]
Jeannine A. Hammett
Special Agent in Charge
Criminal Investigation
Internal Revenue Service
Charlotte Field Office

STATE OF)
COUNTY OF)

Before the undersigned authority, this day, personally appeared Jeannine A. Hammett, SPECIAL AGENT IN CHARGE, who acknowledged to me that he/she executed the foregoing instrument for the purpose and consideration therein expressed and who is personally known to me or who produced a driver's license or _____ as identification.

WITNESS my hand official seal at Guilford County,

this 29 day of March, 2010.

Sharon Smith
Notary Public

Sharon Smith
Printed Name

My commission expires: April 29th, 2013

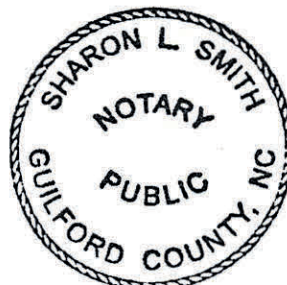


EXHIBIT "A"
Legal Description

All that certain piece, parcel or tract of land, with buildings and improvements thereon, situate, lying and being on Edisto Island in the County of Charleston, State of South Carolina, containing 1.3578 acres, more or less, of highland, and 2.7036 acres, more or less, of marsh, and being shown and designated as "LOT B-HIGHLAND" and "LOT B-MARSH" on a plat prepared by Robert L. Frank, RLS #4177, entitled "A BOUNDARY SURVEY, CUL DE SAC ABANDONMENT, AND DOCK EASEMENT ADJUSTMENT OF LOT B LOCATED ON EDISTO ISLAND CHARLESTON COUNTY, SOUTH CAROLINA" dated April 2, 2003, revised June 19, 2003, and recorded in the RMC Office for Charleston County in Plat Book EG at Page 457, said plat being incorporated herein as a part of this description and said tract being bounded now or formerly and measuring more or less as follows: On the Northeast by Store Creek and measuring thereon Three Hundred Seventy-nine and Eighteen Hundredths (379.18') feet; on the East and Northeast by marsh and by highland belonging to Steve R. and Helen P. Rowland and measuring thereon Four Hundred Sixty-five and Forty-two Hundredths (465.42') feet and Four Hundred Thirteen and Seventy-seven Hundredths (413.77') feet, respectively; on the Southeast by a 50' R/W Easement and measuring thereon One Hundred Thirty-four and Ninety-six Hundredths (134.96') feet; and on the Southwest by highland and by marsh belonging to Meredith Family, LLC, and measuring thereon Four Hundred Forty-four and Thirty-seven Hundredths (444.37') feet and Seven Hundred Thirty and Eighty-three Hundredths (730.83') feet, respectively.

AND BEING the same property conveyed to C&D Distributors, LLC from Newton Cooke Boykin by Title to Real Estate (General Warranty Deed) dated August 21, 2006 and recorded August 23, 2006 in Deed Book R595, Page 555; AND FURTHER CONVEYED to United States of America by Amended Final Order of Forfeiture recorded June 19, 2009 in Deed Book ~~63~~, Page 669.

0062

Tax Parcel No. 025-00-00-038

STATE OF SOUTH CAROLINA

)

Date of Transfer of Title

) AFFIDAVIT

March 25, 2010

COUNTY OF Charleston

)

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1. I have read the information on this Affidavit and I understand such information.
2. The property is being transferred by Unites States of American, acting by and through the Internal Revenue Service TO James L. Cox and Catherine T. Cox ON 03/25/10.
3. Check one of the following: The deed is:
(a) x subject to the deed recording fee as a transfer for consideration paid or to be paid in money or money's worth.
(b) _____ subject to the deed recording fee as a transfer between a corporation, a partnership or other entity and a stockholder, partner, or owner of the entity, or is a transfer to a trust or as a distribution to a trust beneficiary.
(c) _____ EXEMPT from the deed recording fee because (Exemption n/a) (Explanation, if required: n/a If exempt, please skip items 4-6 and go to Item #7 of this affidavit.
4. Check one of the following if either item 3(a) or item 3(b) above has been checked.
(a) x The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of \$450,000.00
(b) _____ The fee is computed on the fair market value of the realty, which is n/a
(c) _____ The fee is computed on the fair market value of the realty as established for property tax purposes which is n/a
5. Check YES _____ or NO X to the following: A lien or encumbrance existed on the land, tenement or realty before the transfer and remained on the land, tenement or realty after the transfer. If "YES", the amount of the outstanding balance of this lien or encumbrance is n/a.
6. The DEED Recording Fee is computed as follows:
(a) \$450,000.00 the amount listed in Item #4 above
(b) 0.00 the amount listed on Item #5 above (no amount, please zero)
(c) \$450,000.00 subtract Line 6(b) from Line 6(a) and place the result here.
7. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as closing attorney.
8. I understand that a person required to furnish this affidavit who willfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year or both.

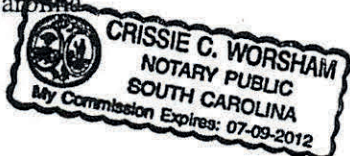
Grantor, Grantee or Legal Representative
Connected with this Transaction

SWORN to before me this
03/25/10.

JOSEPH F. HAND JR.

Print or Type Name Here

Notary Public for South Carolina
My Commission expires:



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NOTE: This page MUST remain
with the original document

Filed By:

WEEKS, FOTI & IRVINE



RECORDED

Date: April 2, 2010

Time: 2:42:13 PM

Book	Page	DocType
0115	404	Deed

Charlie Lybrand, Register
Charleston County, SC

MAKER:

US OF AMERICA

RECIPIENT:

COX JAMES L AL

Note:

of Pages: 5

Recording Fee \$ 10.00

State Fee \$ 1,170.00

County Fee \$ 495.00

Extra Pages \$ -

Postage \$ -

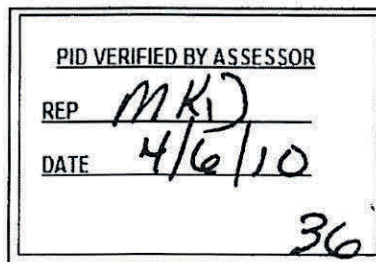
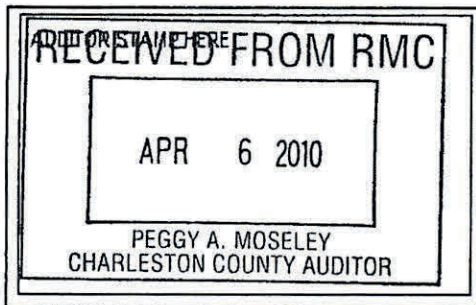
Chattel \$ -

TOTAL \$ 1,675.00

Original Book:

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DRAWER Drawer 4
CLERK LRR



0115
Book



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Page



04/02/2010
Recorded Date



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Pgs



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Exhibit F



access

noun 2

Synonyms

Example Sentences

Word History

Phrases Containing

Rel

access

 1 of 2 nounac·cess (ˈak-ˌses ) also (ik-ˈses )[Synonyms of access >](#)

1 a : permission, liberty, or ability to enter, approach, or pass to and from a place or to approach or communicate with a person or thing

Investigators wanted to get *access* to his home.

consultants who have easy *access* to the president

b : freedom or ability to obtain or make use of something

paying for *access* to the Internet

c : a way or means of entering or approaching

A canal provides *access* to the river.

a building that provides wheelchair *access* [=a way for people in wheelchairs to enter]

d : the act or an instance of [accessing](#) something

2 a : [ONSET](#) [sense 2](#)

an *access* of illness

b : a fit of intense feeling : [OUTBURST](#)

If it had been in Tito's nature to feel an *access* of rage, he would have felt it against this bull-faced accomplice.



noun 2

Synonyms

Example Sentences

Word History

Phrases Containing

Rel

accessed; accessing; accesses

transitive verb

: to get at : to gain access to: such as

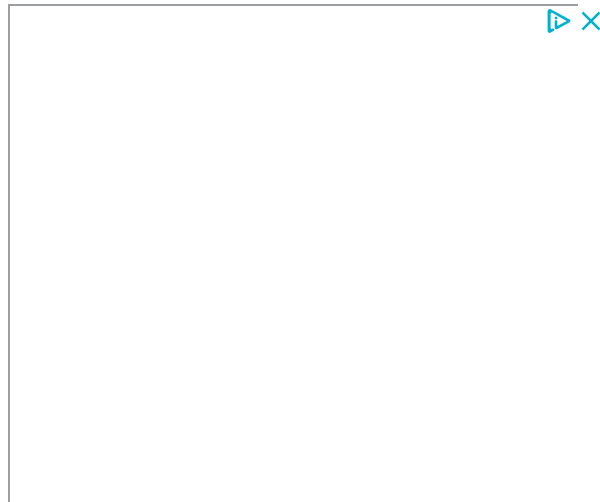
a : to be able to use, enter, or get near (something)

accessed the computer by phone

a system that makes it easier to *access* the money in your bank account

b : to open or load (a computer file, an Internet site, etc.)

a file that can be *accessed* by many users at the same time



Noun

attack

case

bout

fit

Exhibit G

Black's Law Dictionary (11th ed. 2019), ingress

INGRESS

Bryan A. Garner, Editor in Chief

ingress (in-gres) (15c) **1.** The act of entering. **2.** The right or ability to enter; access. Cf. [EGRESS](#).

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Exhibit H

Black's Law Dictionary (11th ed. 2019), egress

EGRESS

Bryan A. Garner, Editor in Chief

[Preface](#) | [Guide](#) | [Legal Maxims](#) | [Bibliography](#)

egress (ee-gres) (16c) **1.** The act of going out or leaving. **2.** The right or ability to leave; a way of exit. Cf. [INGRESS](#).

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Exhibit I

Black's Law Dictionary (11th ed. 2019), easement

EASEMENT

Bryan A. Garner, Editor in Chief

[Preface](#) | [Guide](#) | [Legal Maxims](#) | [Bibliography](#)

easement (eez-mənt) (14c) *Property*. **1.** An interest in land owned by another person, consisting in the right to use or control the land, or an area above or below it, for a specific limited purpose (such as to cross it for access to a public road). • The land benefiting from an easement is called the *dominant estate*; the land burdened by an easement is called the *servient estate*. Unlike a lease or license, an easement may last forever, but it does not give the holder the right to possess, take from, improve, or sell the land. The primary recognized easements are (1) a right-of-way, (2) a right of entry for any purpose relating to the dominant estate, (3) a right to the support of land and buildings, (4) a right of light and air, (5) a right to water, (6) a right to do some act that would otherwise amount to a nuisance, and (7) a right to place or keep something on the servient estate. **2.** A document granting such an interest; specif., an easement deed or easement agreement. **3.** **EASEMENT AREA**. — Also termed *private right-of-way*; *easement agreement*. See **SERVITUDE (1)**. Cf. **PROFIT À PRENDRE**.

- **access easement**. (1933) An easement allowing one or more persons to travel across another's land to get to a nearby location, such as a road. • The access easement is a common type of easement by necessity. — Also termed *easement of access*; *easement of way*; *easement of passage*.

- **adverse easement**. See *prescriptive easement*.

- **affirmative easement**. (1881) An easement that forces the servient-estate owner to permit certain actions by the easement holder, such as discharging water onto the servient estate. — Also termed *positive easement*. Cf. *negative easement*.

“Positive easements give rights of entry upon the land of another, not amounting to profits, to enable something to be done on that land. Some are commonplace, examples being rights of way across the land of another and rights to discharge water on to the land of another. Others are more rare, such as the right to occupy a pew in a church, the right to use a kitchen situated on the land of another for the purpose of washing and drying clothes, and the right to use a toilet situated on the land of another.” Peter Butt, *Land Law* 305 (2d ed. 1988).

- **agricultural-preservation easement**. See *land-conservation easement*.

- **ancillary easement**. See *secondary easement*.

- **apparent easement**. (1851) A visually evident easement, such as a paved trail or a sidewalk.

- **appendant easement**. See *easement appurtenant*.

- **appurtenant easement**. See *easement appurtenant*.

- **aviational easement**. (1962) An easement permitting unimpeded aircraft flights over the servient estate. — Also termed *avigation easement*; *aviation easement*; *flight easement*; *navigation easement*.

- **blanket easement**. (1917) See *floating easement*.

- **common easement**. (18c) An easement allowing the servient landowner to share in the benefit of the easement. — Also termed *nonexclusive easement*.

- **conservation easement**. (1965) *Property*. A real-estate covenant binding a parcel of land in a way that preserves a native plant or animal, a natural or physical feature of the land, or some aspect of the land that has some historical, cultural, or scientific significance. • The easement is a recorded, perpetual, individually tailored agreement creating a nonpossessory interest in real property, the interest being held by a government entity or by a qualified nonprofit. It permanently restricts or imposes affirmative obligations on the property's owner or lessee to retain or protect natural, scenic, or open-space values of real property, ensure its availability for agricultural, forest, recreational, or open-space use, protect natural resources and habitat, maintain or enhance air or water quality, or preserve the historical, architectural, archeological, or cultural aspects of the real property

while allowing the landowner to continue to own and use the land, sell it, or transfer it to heirs. — Also termed *conservation agreement*; *conservation covenant*; *conservation servitude*; *conservation restriction*.

- **construction easement.** The right to use another's property as a staging area for a construction project, usu. including the right to move onto and keep on the property, for use on the project, equipment, supplies, and materials. • Construction easements are usu. temporary. — Also termed *laydown easement*; *construction laydown easement*.

- **construction laydown easement.** See *construction easement*.

- **continuous easement.** (1863) An easement that may be enjoyed without a deliberate act by the party claiming it, such as an easement for drains, sewer pipes, lateral support of a wall, or light and air. — Also termed (in Louisiana) *continuous servitude*. Cf. *discontinuous easement*.

- **customary easement.** (1838) An easement that belongs to the public in general as established by traditional use. — Also termed *easement by custom*.

- **determinable easement.** (1889) An easement that terminates on the happening of a specific event.

- **discontinuous easement.** (1867) An easement that can be enjoyed only if the party claiming it deliberately acts in some way with regard to the servient estate. • Examples are a right-of-way and the right to draw water. — Also termed *discontinuing easement*; *noncontinuous easement*; *nonapparent easement*; (in Louisiana) *discontinuous servitude*. Cf. *continuous easement*.

- **easement appurtenant.** (1810) An easement created to benefit another tract of land, the use of easement being incident to the ownership of that other tract. — Also termed *appurtenant easement*; *appendant easement*; *pure easement*; *easement proper*. Cf. *easement in gross*.

- **easement by custom.** See *customary easement*.

- **easement by estoppel.** (1907) A court-ordered easement created from a voluntary servitude after a person, mistakenly believing the servitude to be permanent, acted in reasonable reliance on the mistaken belief.

- **easement by express grant.** See *express easement*.

- **easement by express reservation.** See *express easement*.

- **easement by grant.** (1852) An easement that is created for or transferred to another person.

- **easement by implication.** See *implied easement*.

- **easement by implication from description of land.** See *implied easement*.

- **easement by implied grant.** See *implied easement*.

- **easement by implied reservation.** See *implied easement*.

- **easement by necessity.** (1865) An easement created by operation of law because the easement is indispensable to the reasonable use of nearby property, such as an easement connecting a parcel of land to a road. — Also termed *easement of necessity*; *necessary way*.

- **easement by prescription.** See *prescriptive easement*.

- **easement by reservation.** (1871) An easement that is retained by someone who transfers land.

- **easement for air.** See *light-and-air easement*.

- **easement for light.** See *light-and-air easement*.

- **easement for light and air.** See *light-and-air easement*.

- **easement for support.** (1845) An easement prohibiting a landowner from depriving the adjoining land and the structures on it of the land's vertical or horizontal support.

- **easement in gross.** (1866) An easement benefiting a particular person and not a particular piece of land. • The beneficiary need not, and usu. does not, own any land adjoining the servient estate. Cf. *easement appurtenant*.

- **easement of access.** See [access easement](#).

- **easement of convenience.** (1880) An easement that increases the facility, comfort, or convenience of enjoying the dominant estate or some right connected with it.

- **easement of natural support.** See [lateral support under SUPPORT \(4\)](#).

- **easement of necessity.** See *easement by necessity*.

- **easement of passage.** See [access easement](#).

- **easement of prior use.** See *prior-use easement*.

- **easement of way.** See [access easement](#).

- **easement proper.** See *easement appurtenant*.

- **equitable easement.** (1869) **1.** An implied easement created by equity when adjacent lands have been created out of a larger tract. • Such an easement is usu. created to allow implied privileges to continue. **2.** See *restrictive covenant* (1) under COVENANT (4).
- **exclusive easement.** (1848) An easement that the holder has the sole right to use. Cf. *common easement*.
- **express easement.** (1867) An easement that is voluntarily created by a written instrument to serve a specified purpose. — Also termed *easement by express grant*; *easement by express reservation*.
- **façade easement.** (1971) A recorded agreement between the owner of a building and a land trust or government agency permanently prohibiting alteration of the building façade to protect its historic value while allowing the owner to continue to own and use the building, sell it, or transfer it to heirs.
- **flight easement.** See *avigational easement*.
- **floating easement.** (1878) An easement that, when created, is not limited to any specific part of the servient estate. • Floating easements are often infrastructure easements. The document creating a floating easement might describe at least one fixed characteristic of the easement's location without being determinate. For example, the document might specify that the easement is to extend across a certain tract or that the easement is to extend 50 feet to each side of a pipeline's or powerline's centerline. These descriptions are insufficient to make the easement's location definite because they are consistent with more than one location, at least until the infrastructure whose centerline defines the easement's location is actually built. The building of the infrastructure can fix the easement's location between the parties. — Also termed *blanket easement*; *general easement*; *global easement*; *roving easement*. Cf. *specific easement*.
- **flowage easement.** (1894) A common-law easement that gives the dominant-estate owner the right to flood a servient estate, as when land near a dam is flooded to maintain the dam or to control the water level in a reservoir.
- **gas-line easement.** An easement that permits the entry or crossing of property to install, inspect, operate, and maintain piping and associated equipment for transporting natural gas. — Also termed *gas-pipe easement*; *gas-line right-of-way*; *gas-pipe right-of-way*.
- **gas-pipe easement.** See *gas-line easement*.
- **general easement.** (1847) **1.** A public easement, esp. the right of the public to use a public road or to navigate a river. **2.** See *floating easement*.
- **global easement.** (2004) See *floating easement*.
- **implied easement.** (1867) An easement created by law after an owner of two parcels of land uses one parcel to benefit the other to such a degree that, upon the sale of the benefited parcel, the purchaser could reasonably expect the use to be included in the sale. — Also termed *easement by implication*; *way of necessity*; *easement by implied grant*; *easement by implied reservation*.
- **inchoate easement.** (1859) The use of another person's land never having ripened into a right because the landowner interrupted the use or no evidence supports the view that the landowner knew of and acquiesced to the use. — Also termed *inchoate prescriptive easement*.
- **infrastructure easement.** (1983) An easement that permits the entry or crossing of property to install, inspect, operate, and maintain infrastructure, esp. roadway or utility infrastructure, such as a pipeline or powerline. — Also termed *infrastructure right-of-way*.
- **ingress-and-egress easement.** (1928) The right to use land to enter and leave another's property.
- **intermittent easement.** (1965) An easement that is usable or used only from time to time, not regularly or continuously.
- **land-conservation easement.** (1984) An easement arising from an agreement between a landowner and a land trust to provide for the protection of the land in its natural state while perhaps also allowing the property to be used for agricultural or low-impact recreational activities. • The easement runs with the land. — Also termed *land-conservation agreement*; *land-preservation easement*; *agricultural-preservation easement*.
- **laydown easement.** See *construction easement*.
- **light-and-air easement.** (1940) A negative easement that prevents an adjoining landowner from constructing a building that would prevent light or air from reaching the dominant estate. — Also termed *air-and-light easement*; *easement for light and air*; *air easement*; *light easement*. See *negative easement*. Cf. *solar easement*.
- **mineral easement.** (1888) An easement that permits the holder to enter the property to remove minerals from it.
- **navigation easement.** (1950) **1.** An easement giving the federal government the right to regulate navigable waters, even when the regulation interferes with private water rights. **2.** See *avigational easement*.

- **negative easement.** (1861) An easement that prohibits the servient-estate owner from doing something, such as building an obstruction. Cf. *affirmative easement*.

“Negative easements ... confer no right of entry, but consist essentially of the right to prevent something being done; examples are the right to the flow of air through defined aperture, the right to receive light for a building, the right to the support of a building, and (possibly) the right to require a neighbouring landowner to repair fences.” Peter Butt, *Land Law* 305 (2d ed. 1988).

- **noise easement.** (1961) An easement that allows the dominant estate's owner to generate noise that travels onto the servient-estate owner's property.

- **nonapparent easement.** See *discontinuous easement*.

- **noncontinuous easement.** See *discontinuous easement*.

- **nonexclusive easement.** See *common easement*.

- **permanent easement.** (1834) An easement of potentially unlimited duration. • A permanent easement is often named using the form *permanent x easement*, where *x* is a descriptor that identifies the easement's purpose <permanent access easement>. A document creating an easement described as “permanent” might, in fact, specify a condition under which the easement will end, such as nonuse for a specified period. — Also termed *permanent right-of-way*; *perpetual easement*; *perpetual right-of-way*. Cf. *temporary easement*.

- **perpetual easement.** See *permanent easement*.

- **pipeline easement.** (1895) An easement that permits the entry or crossing of property to install, inspect, operate, and maintain piping and associated equipment for transporting oil, gas, or other substances.

- **positive easement.** See *affirmative easement*.

- **prescriptive easement.** (1838) An easement created from an open, adverse, and continuous use over a statutory period. — Also termed *easement by prescription*; *adverse easement*. See [PRESCRIPTION \(5\)](#); [ADVERSE POSSESSION](#).

- **primary easement.** An easement that is supplemented by a secondary easement. Cf. *secondary easement*.

- **prior-use easement.** (1990) An implied easement arising from reasonable necessity for enjoyment and use of the property, and previous usage for those purposes. — Also termed *easement by prior use*; *easement from prior use*; *easement of prior use*.

- **private easement.** (1805) An easement whose enjoyment is restricted to one specific person or a few specific people.

- **public easement.** (1803) An easement for the benefit of an entire community, such as the right to travel down a street or a sidewalk.

- **pure easement.** See *easement appurtenant*.

- **quasi-easement.** (1860) **1.** An easement-like right occurring when both tracts of land are owned by the same person. • A quasi-easement may become a true easement if the landowner sells one of the tracts. **2.** An obligation or license that relates to land but that is not a true easement — for example, a landowner's obligation to maintain the fence between the landowner's tract and someone else's tract.

- **reciprocal negative easement.** (1897) An easement created when a landowner sells part of the land and restricts the buyer's use of that part, and, in turn, that same restriction is placed on the part kept by the landowner. • Such an easement usu. arises when the original landowner creates a common scheme of development for smaller tracts that are carved out of the original tract.

- **reserved easement.** (1925) An easement created by the grantor of real property to benefit the grantor's retained property and to burden the granted property.

- **roving easement.** (1944) See *floating easement*.

- **secondary easement.** (1843) An easement that is appurtenant to the primary or actual easement; the right to do things that are necessary to fully enjoy the easement itself. — Also termed *ancillary easement*; *appurtenant rights*. Cf. *primary easement*.

- **shadow easement.** (1896) An easement that allows the dominant estate's owner to erect a structure that casts a shadow on the servient estate.

- **solar easement.** (1982) An easement created to protect the dominant estate's exposure to direct sunlight. • A solar easement is often created to prevent the servient-estate owner from constructing any building that would cause shadows on the dominant estate, thus interfering with the use of a solar-energy system. Cf. *light-and-air easement*.

“Solar easements ... remain difficult to describe because of the relationship of the sun to the earth. Shadow variables include land slope, terrain, solar orientation, latitude, time of day, and height of potential obstructions. Lawyers, engineers, land planners, title companies and others have expressed concern over the complexity required to write a solar easement containing highly detailed, technical information often included in these easements.” Sandy F. Kraemer, *Solar Law* 42 (1978).

- **specific easement.** (1987) An easement whose location is fixed by the document that creates it. Cf. *floating easement*.

- **statutory easement.** (1882) An easement created by a legislative body to accommodate the public good, as for utility services.

- **temporary easement.** (1840) An easement of limited duration. • A temporary easement is often named using the form *temporary x easement* where *x* is a descriptor that identifies the easement's purpose <temporary construction easement>. — Also termed *temporary right-of-way*. Cf. *permanent easement*.

- **timber easement.** (1982) An easement that permits the holder to cut and remove timber from another's property. — Also termed *timber rights*.

- **utility easement.** (1929) An easement that permits the entry or crossing of property to install, inspect, operate, and maintain utility infrastructure, such as a pipeline or powerline. — Also termed *utility right-of-way*.

- **water-line easement.** An easement that permits the entry or crossing of property to install, inspect, operate, and maintain piping and associated equipment for water. — Also written *waterline easement*. — Also termed *water-pipe easement*; *water-line right-of-way*; *water-pipe right-of-way*.

- **water-pipe easement.** See *water-line easement*.

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Exhibit J

< pedestrian

X

Dictionary

Thesaurus

pedestrian ^{1 of 2} adjective

pe·des·tri·an (pə-'de-strē-ən )[Synonyms of pedestrian >](#)

1 : COMMONPLACE, UNIMAGINATIVE

his sentences and phrases are too often *pedestrian*, commonplace, and flat
— *The Times Literary Supplement* (London)

2 a : going or performed on foot

pedestrian traffic

a *pedestrian* tour of the village

b : of, relating to, or designed for walking

a *pedestrian* mall

a *pedestrian* bridge

pedestrian ^{2 of 2} noun

: a person going on foot : [WALKER](#)

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Stephen C. Wells and Randi P. Wells,

Plaintiffs,

vs.

Spartina Bay Plantation Property
Owners' Association, Inc.,

Defendant.

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

CASE NO.: 2022-CP-10-04952

**DEFENDANT'S MOTION AND
MEMORANDUM IN SUPPORT OF
MOTION FOR SUMMARY JUDGMENT**

Background

This action arises out of a neighborhood dispute in which Plaintiffs Stephen and Randi Wells (“the Wells”) seek to limit the rights of their fellow members of Defendant Spartina Bay Plantation Property Owners' Association, Inc. (“the POA”) to access the community dock located behind their house. The undisputed facts relevant to this Motion are:

- The POA consists of eleven lots located along Marsh Bluff Court in Edisto Island.
- The Wells' purchased the property located at 1499 Marsh Bluff Court (known in the community and herein as “Lot B”) on or about March 9th, 2020. (Compl. ¶ 2). The community dock is located on Lot B. (See **Exhibit A**).
- By virtue of their deed, the Wells' agreed to be bound by the POA's Declaration of Restrictive Covenants, Conditions, and Restrictions (“the CCRs”) and the Bylaws attached to the CCRs as Exhibit D (“the Bylaws”). (See **Exhibit A**).
- The CCRs make clear that “the [POA] shall own or lease the dock[.]” (See **Exhibit A**, Article VI, Section 1 of the CCRs).
- The CCRs grant “Class A” members of the POA the right to use the community dock, and the First Amendment to the CCRs assigns each Class A member a boat slip on the community dock. (See **Exhibit B**). Class A members consist of the owners of the interior lots without their own docks and Lot B. (See **Exhibit A**, Article IV, Section 2 of the CCRs).
- By accepting a deed within the Spartina Bay Plantation subdivision, the Wells' agreed that the actions of the POA's Architectural Review Board (“ARB”) are in the best interests of all owners and that they will abide by the decisions of the ARB. (See **Exhibit A**, Article VII, Section 3 of the CCRs).
- The POA entered a Lease Agreement dated October 12th, 2001, with the prior owners of Lot B to access the pathway to the community dock (“the ingress/egress Area”) which runs through the last day of September, 2100. (See **Exhibit C**).

- On January 25th, 2012, the POA's then-president, Bruce Matrisciani ("Matrisciani"), acting without authorization, signed an easement agreement ("the Easement Agreement") with the former owners of Lot B, James L. Cox and Catherine T. Cox ("the Coxes") which purported to limit POA members' right to access the ingress/egress Area to *pedestrian* ingress and egress. (See **Exhibit D**). It also did not provide any avenue for Property owners to access or utilize the community dock, thereby rendering the Easement Agreement as granting a perpetual pedestrian pathway to nowhere.
- The Bylaws provide that the Board can only act through a "majority of the directors present at a meeting at which a quorum is present." (See **Exhibit A**, Article VI, Section 7 of the Bylaws).
- The Bylaws provide the limited circumstances in which a POA president may bind the POA to a contract, stating that the POA president "may sign, with the secretary, or any other proper officer of the Association thereunto authorized by the directors...any deeds...contracts, or other instruments *which the directors have authorized to be executed.*" (See **Exhibit A**, Article VII, Section 5 of the Bylaws).
- The Easement Agreement was not signed with the secretary, as required by the Bylaws. (See **Exhibit D**).
- No record exists of a vote by POA members or the POA Board of Directors ("the Board") authorizing Matrisciani to sign the Easement Agreement, nor is there a record of a vote to approve the Easement Agreement after the fact.
- The POA may levy individual assessments on members who violate the CCRs and Bylaws pursuant to (See **Exhibit A**, Article VIII, Section 5 of the Bylaws).
- Pursuant to the Second Amendment to the CCRs, members whose actions, in the judgment of the Board, increase or have the potential to increase the POA's costs shall bear the sole and total financial responsibility for those costs. (See **Exhibit E**).
- Commercial operations within the community are prohibited by the CCRs and commercial operations off the community dock are likewise prohibited by the POA's dock permit. (See **Exhibit A**, Dock Permit attached to the CCRs as Exhibit C).

By way of background, Spartina Bay Plantation is located on Edisto Island and consists of a private road, Marsh Bluff Court, which runs from its entrance at Peters Point Road to Store Creek. (See **Exhibit A**). The subdivision was developed by N.C. "Cookie" Boykin in the early 2000s. (See **Exhibit A**). The POA's access rights to the community dock and the ingress/egress Area are controlled by a 2001 Lease Agreement ("the Lease") entered by the POA and by N.C. Boykin as Substitute Trustee for Peters Point Trust (the predecessor in interest to Lot B). (See **Exhibit C**). The Lease has a 99-year term and expires on September 30th, 2100. (See **Exhibit C**). The operative plat at the time the POA entered into the Lease, recorded on November 30th, 2001 in Plat Book DD, Page 27, expressly identifies that

the ingress/egress Area was a “Dock Ingress/Egress Easement,” thereby establishing an existing easement in addition to the Lease. (See **Exhibit F**).

At the POA’s March 28, 2009 Annual Meeting, the Board expressed concern over the then-owner of Lot B being indicted by the United States Government and an IRS lien being placed on Lot B. (See **Exhibit G**). Out of concerns that subsequent purchasers would not recognize the Lease, the POA expressed an interest in securing a deed to the dock and ingress/egress Area to the POA. (See **Exhibit G**). This concern proved unfounded, as the Federal Government ultimately took title of Lot B subject to all valid restrictive covenants and leases and sold it to the Coxes in March, 2010.¹

Even after the Federal Government sold Lot B to the Coxes subject to the Lease, Matrisciani remained intent on pursuing a perpetual easement, despite the already existing easement in favor of the POA as described on the Plat entitled “A Boundary Survey of 4 31 Acres Lot B TMS 025-00-00-038 Surveyed for Store Creek Trust September 17, 2001” and recorded at Plat Book DD, Page 27 on November 30th, 2001. (See **Exhibit F** and **Exhibit H**, Depo of Matrisciani, 44:5-15). This culminated in Matrisciani signing the Easement Agreement with the Coxes on January 25th, 2012, absent any authority to do so from the Board. (See **Exhibit D**). The Easement Agreement purported to limit Class A members’ access rights to *pedestrian* ingress and egress only, a term that was not present in the Lease and was never contemplated by the Board before Matrisciani signed the Easement Agreement. (See **Exhibit D**, Section 2). Nevertheless, the Coxes sold Lot B shortly after, and POA members continued to drive vehicles down to the community dock as they always had.

The Wells’ later purchased their home in Spartina Bay just prior to the Covid shutdown, when activity on the community dock was minimal. (See **Exhibit I**, Depo of Steve Wells, 27:7-22). Despite

¹ See the Honorable Margaret B. Seymour’s Amended Final Order of Forfeiture as to Real Property Located at 1499 Marsh Bluff Court Edisto Island, SC filed in C/A 3:07-cr-00929-MBS, Criminal No. 3:07-929.

the relative quiet in Spartina Bay during the Pandemic, the Wells' began feuding with a current POA member and director, Bobby "Link" Crapps ("Crapps"), shortly after moving in. The Wells' alleged that Crapps operated a commercial fishing operation off the community dock. (Compl. ¶ 26). Due in part to this feud, the Wells' sought ways to limit members' access to the community dock.

For example, as a gesture of compromise for the Wells' perceived concerns about traffic on the ingress/egress Area, Chuck Bennett, owner of the vacant lot on the opposite side of the ingress/egress Area, offered to allow Class A members to park on his property to access the community dock. (See **Exhibit J**, Depo of POA, 130:11-16). In response, the Wells' tried to have a fence built in the ingress/egress Area along the border with Chuck Bennett's property to prevent members from using Mr. Bennett's property to access the community dock, which the ARB denied (See **Exhibit K**). Despite agreeing to abide by the decisions of the ARB, the Wells' are nevertheless challenging the ARB's authority to reject their fence proposal in this lawsuit.

The Wells' also filed a complaint with DHEC regarding Crapps' use of the dock. (See **Exhibit I**, Depo of Steve Wells, 39:19-40:4). As part of DHEC's investigation into the Wells' allegations, it determined that a portion of the POA's community *deck* (not the dock), which was located by the entrance to the community dock walkway, extended into a protected wetland area and must be removed. (See **Exhibit L**). After the POA president expressed the Board's intention to discuss the matter first, including the potential option of only removing the small portion of the community deck that extended over the wetland to the Wells', Mr. Wells unilaterally removed the *entire* community deck, claiming without evidence that the community deck was rotten and unsalvageable. (See **Exhibit I**, Depo of Steve Wells 55:3-56:2, and **Exhibits M** and **N**). Because the Wells' tore down the community deck without authorization from the POA, the Board imposed an individual assessment of \$2,500.00 against the

Wells’, the propriety of which they are challenging in this litigation. (See **Exhibit O**, see also Compl. ¶ 46).

The POA seeks a declaratory judgment from this Court clarifying the Parties’ rights under the Lease and the Easement Agreement and specifically, a determination that (1) the Lease remains valid and enforceable until September 30th, 2100, and (2) that the Easement Agreement is an invalid instrument which cannot bind the POA as it was never approved or ratified. As will be shown herein, there is no genuine issue of material fact as to the lack of merit of any of Plaintiffs’ allegations, and the POA is entitled to judgment as a matter of law.

Legal Standard

Summary judgment is appropriate where there is no genuine issue as to any material fact and the moving party is entitled to a judgement as a matter of law. Rule 56(c), SCRCF. Simply showing a “mere scintilla” of evidence to oppose summary judgment is insufficient; rather, an adverse party must show a *genuine* issue of material fact. *Kitchen Planners, LLC v. Friedman*, 440 S.C. 456, 463-64, 892 S.E.2d 297, 301 (2023). In opposing a motion for summary judgment, a plaintiff may not simply rest on the allegations in their complaint, but must set forth *specific* facts showing a genuine issue for trial. Rule 56(e), SCRCF.

Argument

1. The Easement Agreement is invalid and thus not binding on the POA.

The crux of this lawsuit is the validity or invalidity of the Easement Agreement. For the reasons explained below, there is no genuine issue of material fact that the Easement Agreement is invalid and not binding on the POA.

a. Matrisciani had no authority to sign the Easement Agreement on the POA’s behalf.

Under South Carolina law, an agent's authority to bind a principal "is composed of his or her actual authority, whether express or implied, together with the apparent authority which the principal by his or her conduct is precluded from denying." *Roberson v. Southern Fin. Of S.C., Inc.*, 365 S.C. 6, 10, 615 S.E.2d 112, 115 (2005). Actual authority cannot be implied; rather, it "is expressly conferred upon the agent by the principal." *Id.* at 11, 615 S.E.2d 15.

Here, the POA's Bylaws articulate the narrow circumstances under which a POA president can be conferred with actual authority to enter into contracts, such as an easement agreement, on behalf of the POA. *See Orphan Aid Soc. v. Jenkins*, 294 S.C. 106, 110, 362 S.E.2d 885, 887 (Ct. App. 1987) (quoting *Brand v. Lowther*, 168 W. Va. 726, 735, 285 S.E. (2d) 474, 481 (1981)) ("[t]here is no inherent authority in the president of a corporation to execute contracts on its behalf, especially where the contract is unusual or relates to transactions not constituting the usual business of the corporation").² Article VII, Section 5 of the Bylaws provides:

President. The president shall be the principal executive officer of the Association and, subject to the control of the directors, shall in general supervise and control all of the business and affairs of the Association. He shall, when present, preside at all meetings of the Members and of the directors. He may sign, with the secretary or, any other proper officer of the Association thereunto authorized by the directors, certificates for membership of the Association, any deeds, mortgages, bonds, contracts, or other instruments which the directors have authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the directors or by these by-laws to some other officer or agent of the Association, or shall be required by law to be otherwise signed or executed; and in general shall perform all duties incident to the office of president and such other duties as may be prescribed by the directors from time to time.

(Emphasis added) (See **Exhibit A**, Article VII, Section 5 of the Bylaws).

² Moreover, there is no genuine issue of material fact that a pedestrian easement agreement limiting Class A members' access rights to the community dock does not constitute the "usual business of the corporation."

Accordingly, the Bylaws make clear that the POA president does not have authority to sign a contract on the POA's behalf unless the contract is authorized to be executed by the Board *and* the secretary or another officer authorized by the Board also signs the contract.

As an initial matter, it is undisputed that the POA's secretary did not sign the Easement Agreement in question.³ Additionally, there is no genuine issue of material fact that the Board never authorized Matrisciani to execute the Easement Agreement. It is not clear when the Wells' contend such approval could have occurred, as the Board did not hold a single meeting between 2010 and the Easement Agreement's execution in early 2012. (See **Exhibit R**). Moreover, the POA's former attorney, H. Wayne Unger, Jr., advised Matrisciani regarding an easement and stated that "I think it would be a good idea to have a Special Meeting (get Proxies where possible) to confirm this action." (See **Exhibit S**). Despite being advised by an attorney that a meeting would be necessary to approve an easement, Matrisciani never opted to have a meeting to approve the Easement Agreement.

The Bylaws also provide that the Board can only act through a majority of directors *present at a meeting* in which a quorum is present. (See **Exhibit A**, Article VI, Section 7 of the Bylaws). Matrisciani himself testified how the Board made decisions during his time as president:

Q ...I want to back up to your time as president, which at least
we're looking at 2009, and I think probably until 2014. How was the

³ On the contrary, the evidence suggests that the then-secretary, Ron Farrell, did not approve of key aspects of the Easement Agreement, including the provision obligating the POA to pay twenty-five percent of the property taxes for Lot B. (See **Exhibits P and Q**). In addition to objecting to paying 25% of Lot B's property taxes, the then-secretary cautioned Matrisciani in a handwritten note: "[b]efore we proceed with signing, I think we need to determine what 25% of the tax is. We also may want to discuss this [with the] POA members." (See **Exhibit Q**).

POA governed during that period of time when you were president?

How were decisions made?

A Meetings. Votes.

Q Okay.

A. Following Robert's Rules.

Q Okay. And so an action to be effective would need a vote by the board?

A Correct.

Q Following Robert's Rules; right?

A Correct.

(See **Exhibit H**, Depo. of Matrisciani, 36:19-37:6)

The meeting minutes from the two Board meetings prior to Matrisciani signing the Easement Agreement, held on October 17th, 2009, and November 6th, 2010, respectively, demonstrate that the Board never gave Matrisciani authority to bind the POA under the Easement Agreement. (See **Exhibits T and U**). At the October 17th, 2009, meeting, the Board voted that Matrisciani would work with the POA's then-legal counsel, Barr, Unger & McIntosh, to "either attain a dock easement deed or a lease in perpetuity [and] that if fees are expected to exceed \$2,000, we have a check point going forward." (See **Exhibit T**).

While these meeting minutes demonstrate that Matrisciani was authorized to work with Barr, Unger & McIntosh to pursue a potential easement agreement, they cannot reasonably be read to grant

Matrisciani authority to negotiate and unilaterally sign an easement agreement well over two years later without the approval of the Board and without the secretary's signature.

Despite authorizing Matrisciani to work with Barr, Unger & McIntosh on a potential perpetual easement agreement, the Board held a meeting on November 6th, 2010, in part to address the "check point" for Matrisciani identified at the previous meeting. (See **Exhibit U**). At that meeting, the minutes note that that Barr, Unger, & McIntosh had billed the POA \$2,650 (over the check point amount), and voted to move forward with the Jensen Law Firm "to get resolution to the perpetual lease issue and to get an estimate of cost to update the Restrictive Covenants if changes were needed to dock assignments or dock privilege language." (See **Exhibit U**). This meeting was the last meeting held prior to Matrisciani signing the Easement Agreement.⁴

In the intervening time, Matrisciani hired a new attorney, Karen DeJong, negotiated the Easement Agreement, and signed the Easement Agreement, all without any action from the Board.⁵ Matrisciani himself confirmed that the Board never properly authorized him to sign the Easement Agreement:

Q So you did not have a meeting with the directors with a quorum

present using Robert's Rules where you were approved to sign the 2012

easement agreement?

...

⁴ Notably, the term "pedestrian," which would radically alter Class A members' access rights to the dock, never appeared in any of the meeting minutes prior to the Easement Agreement's signing. While the Board contemplated seeking a *perpetual* easement, there is no evidence that the Board ever considered, let alone approved, a *pedestrian* easement.

⁵ As established above, the Board can only "act" through a majority of directors present at a meeting in which a quorum is present. (See **Exhibit A**, Article VI, Section 7 of the Bylaws).

A Correct.

(See **Exhibit H**, Depo. of Matrisciani (59:2-7)).

To his credit, Mr. Wells also acknowledged in his deposition testimony that he does not have any evidence demonstrating that the POA authorized Matrisciani to enter into the Easement Agreement:

Q Is there anything that you've seen, any document that would suggest Bruce Matrisciani was authorized by the board or the members to enter into this Easement Agreement that's marked as Exhibit No. 1?

A Do I have proof that he was?

Q Yes.

A. I don't have any proof that he was.

(See **Exhibit I**, Depo. of Stephen Wells (62:2-9)).

Accordingly, there is no genuine issue of material fact that Matrisciani did not have actual authority to sign the Easement Agreement on the POA's behalf.

b. Matrisciani had no apparent authority to sign the Easement Agreement on the POA's behalf.

Even if an agent has no actual authority, in some circumstances, South Carolina courts will find that a principal is bound by a purported agent's actions if the plaintiff demonstrates that the purported agent acted with apparent authority. *Murphy v. Jefferson Pilot Commc'ns Co.* 364 S.C. 453, 462-63, 613 S.E. 2d 808, 812 (Ct. App. 2005) (quoting *Charleston, S.C. Registry for Golf & Tourism, Inc. v. Young Clement Rivers & Tisdale, LLP*, 359 S.C. 635, 642, 598 S.E.2d 717, 721 (Ct. App. 2004)). To prove an agent acted with apparent authority, the party asserting the agent's apparent authority must prove: "(1) that the purported principal consciously or impliedly represented to another to be his agent; (2) that there was a reliance upon the representation; and (3) that there was a change of position to the

relying party's detriment." *Id.* at 463, 613 S.E.2d at 813 (quoting *Graves v. Serbin Farms, Inc.*, 306 S.C. 60, 63, 409 S.E.2d 729, 771 (1991)). A purported agent's declarations and conduct cannot solely establish agency; rather, "the principal must intend to cause the third person to believe that the authorized to act for him, or he should realize that his conduct is likely to create such a belief." *Frasier v. Palmetto Homes of Florence, Inc.*, 323 S.C. 240, 245, 473 S.E.2d 865, 868 (Ct. App. 1996). Additionally, "the concept of apparent authority depends upon manifestations by the principal to a third party and the *reasonable* belief by the third party that the agent is authorized to bind the principal." *R & G Constr., Inc. v. Lowcountry Reg'l Transp. Auth.*, 343 S.C. 424, 432, 540 S.E.2d 113, 118 (Ct. App. 2000) (citing *Beasley v. Kerr-McGee Chem. Corp.*, 273 S.C. 523, 257 S.E.2d 726 (1979)) (emphasis added). Thus, there can be no apparent authority where the third party's belief in the purported agent's authority is not reasonable.

Here, Matrisciani could not have acted with apparent authority because the POA never represented to the Coxes that he had authority to act on its behalf. Indeed, the Coxes had actual or constructive knowledge that Matrisciani lacked authority to sign the Easement Agreement as members of the POA themselves who were aware of all POA decisions and had access to all necessary information regarding POA authority.

By virtue of their deed, the Coxes had constructive notice of the CCRs, and thus the Bylaws attached to the CCRs as Exhibit D. *See Harbison Community Ass'n, Inc. v. Mueller*, 319 S.C. 99, 103, 459 S.E.2d 860, 863 (Ct. App. 1995) (citing *Carolina Land Co. v. Bland*, 265 S.C. 98, 217 S.E.2d 16 (1975)). Therefore, the Coxes had constructive knowledge that Matrisciani could not bind the POA to a contract without authorization from the Board and without the secretary's signature. Accordingly, any belief the Coxes may have had that Matrisciani had apparent authority to enter into the Easement

Agreement on the POA's behalf was not reasonable. *R & G Constr., Inc.* at 432, 540 S.E.2d. at 118 (citing *Beasley v. Kerr-McGee Chem. Corp.*, 273 S.C. 523, 257 S.E.2d 726 (1979)).

Moreover, as members of the POA, the Coxes would have been provided with notice of POA meetings. In fact, Mr. Cox was present at the final meeting before Matrisciani signed the Easement Agreement which occurred on November 6th, 2010, and thus had actual knowledge that Matrisciani was not given authority by the Board to execute the Easement Agreement on the POA's behalf. (See **Exhibit U**). The Coxes were likewise aware that the Board could not have given Matrisciani authority to sign the Easement Agreement on the POA's behalf in the intervening time because it did not have any meetings for well over a year prior to the Easement's signing. (See **Exhibit R**).

Lastly, the Coxes had actual or constructive knowledge that the POA could not be bound to an easement agreement unless the POA secretary signed the agreement as well, as required by the Bylaws. (See **Exhibit A**, Article VII, Section 5 of the Bylaws). Accordingly, Matrisciani did not have apparent authority to sign the Easement Agreement on the POA's behalf.

c. The POA never ratified the Easement Agreement after Matrisciani signed it without authority.

In order to show that a principal ratified an agent's unauthorized actions, a plaintiff must prove: "(1) acceptance of the benefits of the agent's acts, (2) the principal's full knowledge of the facts, and (3) circumstances or an affirmative election demonstrating the principal's intent to accept the unauthorized arrangements." *Stilner v. USAA Cas. Ins. Co.*, 395 S.C. 183, 192, 717 S.E.2d 74, 78 (Ct. App. 2011) (citing *Lincoln v. Aetna Cas. & Sur. Co.*, 300 S.C. 188, 191, 386 S.E.2d 801, 803 (Ct. App. 1989)). Mere silence or failure to repudiate the agent's unauthorized acts does not ratify an agent's actions as a matter of law, "unless the silence or acquiescence in question cannot be explained on any other theory than that of ratification." *Id.* at 191-92, 717 S.E.2d at 78 (quoting 2A C.J.S. Agency § 71 (2003)).

Here, not only has the POA not accepted any “benefit” from Matrisciani’s rogue actions, but it is not even possible for the POA to receive a benefit from the Easement Agreement until, arguably, the year 2100, when the Lease expires.⁶ (See **Exhibit C**). The only expanded right that the POA arguably could gain from Matrisciani’s Easement Agreement is that the easement in question is perpetual, rather than limited in term. However, until the Lease expires in 2100, the POA does not even potentially gain any benefit from the Easement Agreement because its Class A members already have the right to access the ingress/egress Area pursuant to the Lease.

Thus, the POA cannot realize any benefits from the Easement Agreement’s perpetuity clause until the Lease expires in 2100. On the contrary, the POA’s rights under the Easement Agreement are reduced from the status quo ante under the Lease, as the Easement Agreement purports to limit Class A members’ access rights to *pedestrian* ingress and egress only. (See **Exhibit D**, Section 2). Furthermore, it purports to require that the POA pay 25% of the taxes for the whole of lot B, regardless of actions taken by the Lot B owner that may drastically increase the value of Lot B—all of which has nothing to do with the limited ingress/egress pathway. (See **Exhibit D**, Section 6). Accordingly, there is no benefit for the POA, but actually a detriment, until the Lease expires in seventy-six years.

Additionally, there are no circumstances demonstrating that the Board or membership authorized Matrisciani’s signature after the fact. It is undisputed that the Board or membership never voted after the fact to ratify the Easement Agreement. While the meeting minutes from the first meeting after Matrisciani signed the Easement Agreement, held on May 12, 2012, indicate that the Easement Agreement was “announced,” it does not show any record that a vote occurred on the Easement

⁶ Given that an easement for the subject pathway was already identified in the Plat dated September 17, 2001, a perpetual easement likely already existed, thus making Matrisciani’s ultra vires action even more perplexing. (See **Exhibit F**).

Agreement, whereas the minutes do indicate that other votes occurred.⁷ (See **Exhibit V**). Therefore, there is no genuine issue of material fact that the POA did not ratify Matrisciani's signing of the Easement Agreement after the fact.

2. Alternatively, regardless of authority from the Board, the subject of the Easement Agreement required the unanimous consent of Class A members to be enforceable.

The Easement Agreement purports to grant the POA pedestrian ingress and egress rights over the area identified as the “Existing Dock Ingress/Egress Easement” on Plat by Robert Frank Surveying, dated April 2, 2003, revised on June 19, 2003, and recorded in the Charleston County RMC Office on June 26, 2003 in Book EG, Page 457.” (See **Exhibit W**). Easement Agreement, Section 2. Importantly, that is the very same area incorporated into the CCRs as Exhibit B pursuant to the First Amendment to the CCRs dated March 17, 2005.⁸ (See **Exhibit B**).

The CCRs make clear that the POA “shall own or lease the dock...as well as the strip of land designated as Dock Easement on a plat referred to in Exhibit ‘B[.]’” (See **Exhibit B**, Article 1, Section 1 of the First Amendment to the CCRs). Because this this ingress/egress Area is incorporated into the CCRs, any change to the POA's rights to access the ingress/egress Area would require a unanimous vote of Class A members of the POA. Article VI, Section 4 of the CCRs provides:

Section 4. Abandonment of Dock. If one hundred (100%) percent of all Class “A” Membership of the Property Owners Association vote in writing to abandon any repair, rebuilding, or use of said walkway and dock... then the Dock Easement as is shown on Exhibit “B” attached hereto, shall (at the option of the owner) be conveyed by the Property Owners Association to the Owner of Lot “B[.]” (said Lot being defined above and said owner shall be that as is designated on the records in the RMC Office in the County where the property is located). Said Owner shall pay, in full, all of the costs of the Property Owners Association to Deed said parcel, and when deeded,

⁷ Notably, the May 12, 2012 meeting minutes also indicate that the POA's secretary and treasurer suggested that the POA reform the Board “so it can become more active.” (See **Exhibit V**).

⁸ The Parties do not dispute that the easement area identified in Exhibit B of the CCRs contains no “pedestrian” limitation to Class A members' access rights. (See **Exhibit A**).

shall become a part of Lot “B” with the provision that said Lot cannot be further subdivided without the unanimous consent of all Lot Owners. The Owner of Lot B shall have all rights to the Dock thereafter.

(See **Exhibit A**, Article VI, Section 4 of the CCRs).

Finally, Article X, Section 3(a) states that Article VI (concerning the dock and dock easement) “shall be amended by a unanimous vote of members by class affected.” (See **Exhibit A**, Article X, Section 3(a) of the CCRs).

Accordingly, the CCRs make clear that any change to the *use* of the dock easement area identified in Exhibit B (the very same area that is referenced in the purported Easement Agreement) requires an affirmative vote from all Class A members.⁹ Matrisciani did not follow this procedure, as he never brought the Easement Agreement to Class A members for a vote.

Because a change to the use of the ingress/egress Area to pedestrian ingress and egress required a unanimous affirmative vote of Class A members, the Easement Agreement, signed only by the POA president, was not properly executed under the CCRs, and cannot be binding on the POA.

3. There is no genuine issue of material fact that the Lease did not merge into the Easement Agreement, and thus is still valid and binding on the Wells’.

Even accepting, for the sake of argument, that the Easement Agreement is valid, there is still no genuine issue of material fact that the Lease remains in force, as the Easement Agreement did not merge the Lease into it. The merger clause in the Easement Agreement provides:

13. Integration. This Agreement is an integrated agreement and expresses the complete agreement and understanding of the Parties. Any and all prior contemporaneous oral agreement or prior written agreement *regarding the Agreement* will be merged herein.

⁹ It appears that the Easement Agreement’s drafter recognized this requirement as well, as Section 5 of the Easement Agreement recognizes that, to the extent the Easement Agreement is valid, it requires a unanimous affirmative vote of Class A members in order for the easement area to be reverted to the owners of Lot B. (See **Exhibit D**, Section 5).

(See **Exhibit D**, Section 13) (Emphasis added).

In turn, the Easement Agreement defines “the Agreement” as “this Easement Agreement.” (See **Exhibit D**). Accordingly, the Easement Agreement is clear that it only purports to integrate any prior or contemporaneous agreements regarding the Easement Agreement itself. By its own unambiguous terms, the Easement Agreement does not integrate the Lease. The Lease and Easement Agreement do not even reference the same plat survey. Moreover, the Lease provides the POA access to the community dock, as well as the ingress/egress Area, whereas the Easement Agreement only purports to provide the POA access to just the ingress/egress Area.¹⁰ (See **Exhibits C and D**). Thus, it is beyond dispute that the Easement Agreement does not incorporate the Lease, and thus the Lease remains in full effect until its expiration date in 2100.

4. The POA acted properly and in compliance with the bylaws in issuing a \$2,500.00 individual assessment to the Wells’ after they unilaterally tore down the community deck.

Despite the clear authority in the CCRs, the Wells’ challenge the POA’s decision to issue an individual assessment to them following their decision to tear down the community deck after being informed by the Board that they wanted to discuss it as a community first.

Article IV, Section 1 of the CCRs provide that the POA “may levy, at any time or times assessments for the purpose of defraying, in whole or in part, the cost of any maintenance or repair of

¹⁰ Accordingly, to accept the Wells’ contention that the Lease merged into the Easement Agreement would be to essentially deem the POA’s dock access rights illusory; dock access rights are meaningless if the POA does not also have a corresponding right to use the community dock. *McCune v. Myrtle Beach Indoor Shooting Range, Inc.*, 364 S.C. 242, 248, 612 S.E.2d 462, 465 (Ct. App. 2005) (quoting *Georgetown Mfg. & Warehouse Co. v. S.C. Dep’t of Agric.*, 301 S.C. 514, 518, 392 S.E.2d 801, 804 (Ct. App. 1990)) ([c]ommon sense and good faith are the leading touchstones of the construction of a contract and contracts are to be so construed as to avoid an absurd result[]”).

any common areas.” Likewise, Article VI, Section 1 of the Bylaws gives the Board “the right to establish dues and assessments.” Article VIII, Section 5 of the Bylaws additionally provides that “[i]ndividual assessments shall be levied on members of the Association where the provisions of the Bylaws or the [CCRs] have been violated.” (See **Exhibit A**). Finally, Article 5, Section 13 of the CCRs, as amended, prohibits property owners from taking actions that will, in the Board’s judgment, increase the costs of the POA. (See **Exhibit E**).

As discussed above, the Wells’ chose to unilaterally tear down the entire community deck after receiving a notice from DHEC that a *portion* of the deck extended over a protected wetland, and after notice from the Board that the Board wanted to seek community input before tearing it down, and that any action to unilaterally tear down the community deck would result in penalties from the Board.¹¹ On September 24, 2022, the POA president, Eddie Evans, sent the Wells’ a detailed letter explaining the factual basis for the Board’s finding that the Wells’ had violated the CCRs and provided the support in the CCRs and Bylaws for the imposition of the individual assessment. (See **Exhibit O**). The Board determined that an appropriate assessment would be \$2,500.00, which as the Board explained to the Wells’, was equal to the cost of replacing the deck.

Accordingly, there is no genuine issue of material fact that the Board’s individual assessment on the Wells’ for unilaterally tearing down the community deck was proper under the POA’s CCRs and Bylaws.

5. The ARB acted properly in denying the Wells’ request to build a fence alongside the Bennetts’ property which would have limited access to the ingress/egress Area.

¹¹ The Wells’ conveniently allege that the community deck was “rotten and unsalvageable.” (See Compl. ¶ 44). However, they provided no evidence to support this claim. On the contrary, the current POA president, Eddie Evans, testified on behalf of the POA that he was present when the deckboards to the community deck were removed, and that the structure was still intact. (See **Exhibit J**, Depo of the POA 160:13-18)).

After the Wells' sought to build a fence along the western edge of the ingress/egress Area to prevent Class A members from accessing the community dock through the Bennetts' property, the POA denied the Wells' request on the grounds that it was an impediment to members' dock access rights. (See **Exhibit K**).

The CCRs state that “[n]o person shall commence construction of any fence...until plans for the same shall have been approved by the ARB.” (See **Exhibit A**, Article VII, Section 2 of the CCRs). The CCRs also are clear that “[b]y acceptance of a Deed, purchasers agree that the actions of the ARB are in the best interests of all Owners within the subdivision and that they will abide by the decisions of the ARB.” (See **Exhibit A**, Article VII, Section 3 of the CCRs). Although the Wells' explicitly agreed to these terms and to abide by the decisions of the ARB, they are nevertheless challenging the ARB's decision before this Court.

Because the CCRs give the ARB wide discretion to approve or reject a fence proposal and because the Wells' agreed to abide by the ARB's decisions, there is no genuine issue of material fact that the ARB acted properly in rejecting the Wells' fence proposal.

6. The recording statute does not permit the Wells' to bind the POA to an invalid Easement Agreement that it never agreed to or ratified.

The Wells' argue that because they purchased Lot B without knowledge of the fatal issues with the Easement Agreement's execution outlined above, this somehow renders the invalid Easement Agreement binding on the POA. This is a novel legal theory in South Carolina. The Legislature intended for the recording statute to protect subsequent purchasers without notice of unrecorded claims on the purchased property, not for subsequent purchasers to use the recording statute as a means to validate an otherwise invalid document.

As the Wells' have correctly pointed out to this Court, the recording statute – S.C. Code Ann. § 30-7-10 – was enacted “to protect subsequent purchasers, for value without notice.” *Burnett v. Holliday Bros., Inc.*, 279 S.C. 222, 225, 305 S.E.2d 238, 240 (1983) (citing *Epps v. McCallum Realty Company*, 139 S.C. 481, 138 S.E.2d 297 (1927)). Our Supreme Court has clarified that a “purchaser for value, without notice, is one who (a) makes a payment, or furnishes consideration before notice of an outstanding claim; [or] (b) purchases and acquires title before notice of an outstanding claim; [or] (c) makes a bona fide purchase or acquisition without notice.” *Id.* (citing *Jones v. Eichholz*, 212 S.C. 411, 48 S.E. (2d) 21 (1948)) (alterations in original). *See also Atlas Supply Co. v. Davis*, 273 S.C. 392, 394, 256 S.E.2d 859, 860 (1979) (citing *Prudential Ins. Co. v. Wadford*, 232 S.C. 476, 102 S.E. (2d) 1958)) (“the recording statute was intended to protect against the lien of an unrecorded mortgage, persons who, without notice of it, subsequent to its execution might reasonably have extended credit to the mortgagor, or purchased the mortgaged property, in reliance upon his apparently unencumbered ownership”); *Slack v. James*, 356 S.C. 479, 483, 589 S.E.2d 772 (Ct. App. 2003) (“[t]he purpose of the recording act is to protect one who buys a recorded title against one who acquires a paper title but fails to record it”). Accordingly, the purpose of the recording statute is to protect subsequent purchasers without of notice of adverse claims on the purchaser’s title and to likewise protect the creditors and holders of title in a property from subsequent claims if they have properly recorded their interests.

The Wells’ ask this Court to transform the recording statute from a statute designed to protect subsequent purchasers from unrecorded claims against their title of which they lacked notice into a statute that subsequent purchasers can use as a weapon to bind parties to an invalid agreement that they never agreed to. The statute cannot be reasonably read as validating an otherwise invalid document simply because the invalid document was recorded and a subsequent purchaser lacked notice of its invalidity. *See Ranucci v. Crain*, 409 S.C. 493, 500-01, 763 S.E.2d 189, 193 (2014) (“[t]his Court will

not construe a statute in a way which leads to an absurd result”). *See generally Belivacqua v. Rodriguez*, 460 Mass. 762, 771, 955 N.E.2d 884, 892 (2011) (“there is nothing magical in the act of recording an instrument with the registry that invests in an otherwise meaningless document with legal effect...Recording is not sufficient in and of itself, however, to render an invalid document legally significant[]”). Taking the Wells’ argument to its logical end, any recorded document, regardless of the circumstances in which that document was created, would become binding as a result of being recorded with the Register of Deeds, so long as a subsequent purchaser lacked notice that the document was invalid. That was surely not the intent of our Legislature in enacting the recording statute.

Because South Carolina law does not permit the Wells’ to bind the POA to an invalid, unapproved Easement Agreement simply because they were unaware of its fatal flaws when they purchased Lot B, there is no genuine issue of material fact, and the POA is entitled to judgment as a matter of law.

7. The statute of limitations does not bar the POA’s counterclaim against the Wells’.

The Wells’ assert S.C. Code Ann. § 15-3-340 – the statute of limitations relating to actions on real property – bars the POA’s counterclaim because the counterclaim was filed over ten years after Matriciani signed the Easement Agreement.¹² Even granting that this statute is applicable to the POA’s counterclaim, it is not clear to the POA why the same statute would not also bar the Wells’ claim seeking a declaratory judgment of the Easement Agreement’s validity. *See* S.C. Code Ann. § 15-3-340 (“[n]o action for the recovery of real property or for the recovery of the possession of real property may be maintained unless it appears that the plaintiff, his ancestor, *predecessor*, or grantor, was seized or possessed of the premises in question within ten years before the commencement of the action”)

¹² We note that there is no functional or practical difference between the Court granting the POA’s counterclaim and denying the Wells’ request or a declaratory judgment that the Easement Agreement is valid.

(emphasis added). No predecessor-in-interest of the Wells' ever filed suit seeking a declaratory judgment as to the Easement Agreement's validity, despite each having actual or constructive knowledge that the Easement Agreement was not valid because it was not executed in conformity with the procedures laid out in the CCRs and Bylaws. The Wells' Complaint was also filed over ten years after the Easement Agreement was signed, and the Wells' have not identified any South Carolina precedent suggesting that the statute of limitations on an action under S.C. Code Ann. § 15-3-340 resets each time a property is sold.

Moreover, it is undisputed that Matrisciani, the former president who signed the Easement Agreement without authority, remained POA president until 2014. The POA could not challenge the Easement Agreement's validity while the very president who signed it was still in control of the POA. Nevertheless, the POA filed its counterclaim within ten years of Matrisciani stepping down as president. Accordingly, the statute of limitations does not bar the POA's counterclaim.

Moreover, while a declaratory judgment cause of action seeking an order affirming the POA's rights was asserted, it is effectively no different than an affirmative defense to the Wells' cause of action, which is not subject to a statute of limitations. *See generally Villages of Greenbriar v. Torres*, 874 S.W.2d 259, 266 (Tex. App. 1994) ([a]s a general rule, limitations statutes do not apply to defenses...a plaintiff cannot file a lawsuit and then claim that the defendant is barred by limitations from asserting affirmative defenses[]"); *Dixon v. Dixon*, 365 S.C. 388, 400, 608 S.E.2d 849, 855 (2005) (citing *Anderson v. Purvis*, 211 S.C. 255, 44 S.E.2d 611 (1947)) (noting that the statute of limitations does not apply to equitable actions). Therefore, the statute of limitations does not bar the POA's counterclaim against the Wells'.

Conclusion

The Wells' knowingly chose to purchase the home in front of the community dock. The POA has made every attempt to accommodate their continued complaints about their neighbors, no matter how trivial they were. (See **Exhibit X** for a list of roughly two hundred minor grievances regarding their neighbors that the Wells' produced in discovery). Nevertheless, they have chosen to elevate their personal feud with one neighbor into an attempt to limit the rights of their neighbors to access the community dock. There is no genuine issue of material fact that the Easement Agreement, signed without authority by a former president, was not executed pursuant to the POA's CCRs and Bylaws, and there is likewise no evidence that the Easement Agreement was even followed or enforced until the Wells' attempted to force the issue. Accordingly, the POA requests an Order granting it summary judgment pursuant to Rule 56(c), SCRCp.

[SIGNATURE ON FOLLOWING PAGE]

This 21st day of November, 2024.

Respectfully submitted,

EARHART OVERSTREET LLC

By: s/ Maxwell J. Seferian
STEVEN R. KROPSKI
State Bar No.: 101441
Steve@earhartoverstreet.com

MAXWELL J. SEFERIAN
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*Attorneys for Defendant Spartina Bay
Plantation Property Owners' Association, Inc.*

PO Box 22528
Charleston, SC 29413
843-972-9400

EXHIBIT A

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)
) DECLARATION OF RESTRICTIVE
) COVENANTS, CONDITIONS AND RESTRICTIONS
) OF SPARTINA BAY PLANTATION
) SUBDIVISION

THIS DECLARATION, made on the date hereinafter set forth by N. C. Boykin as Trustee of the Store Creek Land Trust, and N.C. Boykin as Substitute Trustee of the Peters Point Trust, hereinafter referred to as "Declarants".

WITNESSETH:

WHEREAS, Declarants are the owner of certain property located on Edisto Island, County of Charleston, State of South Carolina, known as Spartina Bay Plantation Subdivision which is composed of ten (10) lots as is more particularly described in detail on Exhibit "A", one (1) additional lot with a dock access easement as is more particularly described in detail on Exhibit "B" and a dock as is more particularly described in detail on the Dock Permit attached as Exhibit "C"; each Exhibit is attached hereto and incorporated herein as a part of this instrument.

NOW, THEREFORE, the Declarants hereby declare that all of the property described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions which are for the purpose of protecting the value or desirability of, and which shall run with the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I
DEFINITIONS

Section 1. "Building" shall mean and refer to any structure built for the support, shelter or enclosure of persons, animals, chattels, or property of any kind, which has enclosing walls for fifty percent or more of its perimeter. The term "building" shall be construed as if followed by the words "or parts thereof", including porches, decks, carports, garages, sheds, roof extensions and overhangs and any other projections.

Section 2. "Common Area and Facilities" shall mean and refer to areas and structures designated for the common use of members by Class of the Spartina Bay Property Owners Association, Inc. initially including the right of way for Marsh Bluff Court as described in Exhibit "A", the community docks access easement as is described in Exhibit "B", and the community docks as described on the Dock Permit attached as Exhibit "C".

Section 3. "Declarants" shall mean and refer to N. C. Boykin as Trustee of the Store Creek Land Trust and N.C. Boykin as Substitute Trustee of the Peters Point Trust, their successors or assigns.

Section 4. "Family" shall mean and refer to one person living alone or two or more persons, whether related to each other by birth or not, and having common housing facilities.

Section 5. "Lot" shall mean and refer to each of the lots (lots 1, 3, 4, 5, 6, 7, 8, 10, 11 and 12) shown on the plat by Jerry L. Fowler dated April 16, 1999 and last revised September 17, 2001 and recorded in the RMC Office for Charleston County, titled "FINAL PLAT SUBDIVISION, SPARTINA BAY PLANTATION SUBDIVISION" recorded in the RMC Office for Charleston County in Plat Book EF at Page 115 and the adjacent lot shown and designated as 4.31 Acres (TMS# 025-00-00-038) (hereinafter referred to as Lot B) on a plat prepared by Jerry L. Fowler RLS # 15178, entitled "A BOUNDARY SURVEY OF 4.31 ACRES TMS 025-00-00-038 SURVEYED FOR: STORE CREEK TRUST" dated September 17, 2001 and recorded in the RMC Office for Charleston County in Plat Book _____ at Page _____ to include the present configurations or any subdivision of these lots or any additions added to these lots of surrounding properties upon any future conveyances therein to include the surrounding marsh.

Section 6. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot which is a part of the Property, but excluding those having such interest merely as security for the performance of an obligation.

Section 7. "Members in good standing" shall mean and refer to a Member in good standing of the Spartina Bay Plantation Property Owners Association, Inc. as defined in the Bylaws of the Spartina Bay Plantation Property Owners Association, Inc.

Section 8. "Property" shall mean and refer to that certain real property located on Edisto Island, County of Charleston, State of South Carolina, known as Spartina Bay Plantation Subdivision which is composed of ten (10) lots as is more particularly described in detail in Exhibit "A" and one (1) additional lot with a dock access easement as is more particularly described in detail on Exhibit "B" and a dock as is more particularly described in detail in Exhibit "C", each Exhibit is attached hereto and incorporated herein as a part of this definition.

Section 9. "Property Owners Association" shall mean the Spartina Bay Plantation Property Owners Association, Inc.

Section 10. "Restrictive Covenants" shall mean and refer to this document, specifically; the Declaration of Restrictive Covenants, Conditions and Restrictions of Spartina Bay Plantation Subdivision.

Section 11. "Single-Family Dwelling" shall mean and refer to a building containing one, and only one, living unit.

Section 12. "Architectural Review Board" (ARB) shall mean the ARB created and defined in Article VII hereinafter.

ARTICLE II

DURATION OF RESTRICTION

These covenants, conditions and restrictions are to run with the land and shall be binding on all parties and all persons claiming under them until January 1, 2031 at which time said covenants shall be automatically extended for successive periods of ten (10) years unless amended or revoked as set forth hereinafter.

ARTICLE III
PROPERTY OWNERS ASSOCIATION

The Declarants have created a property owners association known as Spartina Bay Plantation Property Owners Association, Inc., by filing of the Articles of Incorporation with the Secretary of State on July 30, 1999. A Member of said Property Owners Association shall be the Owner and holder of legal title of record of a Lot in Spartina Bay Plantation Subdivision as defined above. The Property Owners Association has adopted its Bylaws, a copy of which is attached hereto and incorporated herein as Exhibit "D". The Property Owners Association shall set forth the necessary rules and regulations which shall also be restrictions, covenants and agreements on the property known as Spartina Bay Plantation Subdivision as it now exists, or is hereafter configured in accordance with these Restrictive Covenants. The Bylaws to the Property Owners Association specifies membership classification, voting, officers, and other matters for the Property Owners.

ARTICLE IV
ASSESSMENTS

Section 1. The Right to Create Assessments. The Property Owners Association may levy, at any time or times assessments for the purpose of defraying, in whole or in part, the cost on any maintenance or repair of any common areas, roads, easements, community docks, community bulkhead, community floating docks, cost of enforcing restrictive covenants, and any other authorized activities or maintenance authorized by the Property Owners Association to include but not limited to insurance and other administrative costs. The Property Owners Association shall be responsible for maintenance of: (1) roads designated as Marsh Bluff Court as defined in Exhibit "A" and any additional roads approved by the Property Owners Association; (2) the erosion control devices to prevent the loss of any Common Area and Facilities; (3) the fixed walkway and dock for the community as is shown on Exhibit "C"; and (4) the floating docks as is shown on Exhibit "C". The Property Owners Association shall have no responsibility for erosion control other than Common Area and Facilities.

Section 2. Class of Membership. The amount of such assessments shall be prorated among the Lot Owners based upon their class of membership. There shall be two (2) classes of memberships:

a. Class "A" Members shall be the owners of Lots 1, 3, 4, 5, 6, 7, 8, 10 and Lot B and any additional lots created from the subdivision of existing lots of the Spartina Bay Plantation Subdivision, provided, however, if and when the owner of Lot 10 in the Spartina Bay Plantation Subdivision completes construction of a private dock running from his Lot 10 to Store Creek, the owner of Lot 10 shall no longer be a Class "A" Member of the Property Owners Association but shall become a Class "B" Member of the Property Owners Association. The Class "A" Members shall be entitled to full use of Marsh Bluff Court roadway, for ingress and egress to their individual lots, the dock easement as shown on a plat of Lot "B", and the Common Dock as shown on the Master Dock Permit attached hereto as Exhibit "C". The assessments are for the purpose of defraying such Members prorated share of the cost of any maintenance or any repairs of these Common Areas and Facilities and shall be prorated among the Lot Owners (Class A Members) equally, share and share alike, regardless of which items need repair; provided,

however, that any assessments for enforcement of restrictive covenants shall apply to that Lot Owner only for which a special assessment is made. The costs of any maintenance or repairs of the Common Area and Facilities shared with Class "B" members shall be prorated among all members of both classes. Class "A" members can vote on any issues affecting their memberships rights and responsibilities.

b. Class "B" Members shall be the owner of Lots 11 or 12 and possibly Lot 10 as provided above. The amount of such assessment for Class "B" Members shall be the pro-rata share of the costs of any maintenance of the roadway known as Marsh Bluff Court and any other Common Area and Facilities added at a later date excluding the Docks, as set forth above. This cost shall be shared equally for all of the lots, which the restrictions are imposed herewith which include the ten (10) lots in Spartina Bay Plantation Subdivision and Lot B (presently a total of eleven (11) lots). If Class "B" members secure Common Areas and Facilities which can be used exclusively for Class "B" members then the cost of same shall be prorated equally among the members of Class "B" only. Class "B" members can vote only on items affecting Common Area and Facilities which the Class "B" members has a right to use or responsible for.

Section 3. Creation of the Lien and Personal Obligation of Assessment. The Declarants for each Lot owned within the Property, hereby covenant, and each Owner of any Lot by acceptance of a deed, is deemed thereby, whether or not it shall be so expressed in such deed, to covenant and agree to pay to the Property Owners Association the aforesaid repair and maintenance assessments. Such assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which each assessment is made. Notice of such lien may be filed with the RMC Office in the county where said Lot is located at any time after an assessment becomes part past due, although the filing of such Notice shall not be necessary in order to perfect such lien. Said lien may be sold to a third party who shall become a holder in due course along with all rights of enforcement herein and each assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time the assessment fell due. There will be a late charge of five (5%) percent of any assessment due but not paid within fifteen (15) days of the due date.

Section 4. Interest and Foreclosure. Any assessment not paid within thirty (30) days after the due date shall bear interest at the rate of eighteen (18%) per annum. The Property Owners Association or holder in due course may bring an action at law or equity against the Owner personally obligated to pay the same, and/or foreclose the lien against the Lot as if said lien was the same as a mortgage lien in the names of the Property Owners Association as provided by South Carolina Code of Laws. Any Member delinquent in payment of any assessments or dues due hereunder shall not be a member in good standing and shall not have a right to utilize any of the privileges of membership within the Members Class.

ARTICLE V

USE RESTRICTIONS

The following restrictions shall apply to all Property to which the Restrictive Covenants, or amendments hereto apply:

Section 1. Residential Use. All Lots are designated "residential, single family" and shall be restricted as to use for residential single family dwellings.

Section 2. Setbacks. All setbacks shall be as set by Charleston County Zoning Ordinances and other related ordinances as well as the setbacks that are shown on the plat of the Spartina Bay Plantation Subdivision referred to in Exhibit "A" hereto.

Section 3. Boats, Motor Homes and Campers. Boats, motor homes and travel trailers (also known as "R/V's") stored or parked on any Lot shall be located in an area to minimize its visibility from roads, common areas, and subdivision neighbors to the greatest extent possible.

Section 4. Signs. No sign or billboard of any kind shall be erected or allowed on any Lot other than one "For Sale" or one "For Rent" sign not larger than two (2) feet by two (2) feet. This provision shall not be deemed to exclude use by Declarant, or its assigns, of advertising signs which shall advertise the entire project. "For Sale" and "For Rent" signs shall be removed upon completion of sale or rent transaction.

Section 5. Re-subdivision of Lots. No lot or lots shall be divided or re-subdivided unless such division or re-subdivision yields buildable lots of at least one (1) acre in size. Also a lot may be divided into two parcels if each parcel is attached to an adjacent lot for purposes of making the adjacent lot larger, provided that once a lot is so subdivided it must remain as a part of adjacent lots.

Section 6. Easements. Declarant hereby reserves an easement or right of way for purposes of installation of water lines, sewer lines, telephone lines, electric lines, poles, wires, cables and all other equipment necessary for the installation, use and maintenance of utilities, including but not limited to water, sewer, electricity, telephone, or drainage. Said easement shall be fifteen (15) feet in width along the property lines as shown on the Subdivision Plat of Spartina Bay Plantation Subdivision referred to in Exhibit "A".

Section 7. Temporary Structures and Trailers. No trailer, mobile home (specifically including "double wide mobile home"), nor any shed, tent, shack, or barn shall be erected or placed on any Lot except that a trailer for construction office or outbuilding used in conjunction with construction may be used during construction on a limited, temporary basis.

Section 8. Animals. No animals or poultry of kind other than house pets shall be kept or maintained on any part of said property. All allowed pets shall be under the control and responsibility of their owner.

Section 9. Waste Matter and Water Wells. The disposal of waste matter, including garbage, refuse, etc., shall be in compliance with the regulations of the South Carolina Department of Health and Environmental Control (SCDHEC) or its successors and all other governing authorities which have jurisdiction thereover. All exterior garbage or other waste receptacles shall be placed and/or screened in such a manner so as not to be visible from subdivision roads, Common Areas, and Facilities or other subdivision Lots. Each Lot Owner is responsible for its own sewage waste disposal system (septic tank) as well as its own water system (water system/private wells). The Declarants will not furnish waste disposal or water for the Property or Lots therein.

Section 10. Tanks. Fuel tanks shall be enclosed in such a manner that it will not be visible from the road, Common Area and Facilities or adjacent Docks and such that a harmonious blending of the tanks with the Dwelling House shall be effectuated.

Section 11. "Vehicles, Antennas, etc." No wrecked or junked motor vehicles or vehicle without current license plates or truck larger than one ton shall be permitted to remain on a lot. No satellite or other receiving disc or antennas shall be permitted unless expressly approved by the Architectural Review Board (ARB).

Section 12. Noxious or Offensive Activity. No noxious or offensive activity shall be carried on upon any Lot or area within the property, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance, or nuisance to the neighborhood. There shall not be maintained any plants or animals, or device or thing of any sort, the normal activity of which is in anyway noxious, dangerous, unsightly, unpleasant or of a nature as may diminish or destroy the enjoyment of other property in the neighborhood by the owners thereof. There shall be no discharging of firearms, guns, pistols, of any kind, caliber, or of any method of propulsion. There shall be no discharging of fireworks of any kind whatsoever.

ARTICLE VI

THE DOCKS

Section 1. The Ownership and Use of the Dock. The Property Owners Association shall own or lease the dock as shown on the permit attached hereto as Exhibit "C" as well as the strip of land designated as Dock Easement on a Plat referred to in Exhibit "B". The use of these portions of the Common Property and Facilities (Dock) shall belong to Class "A" Members of the Association and Declarants, only. The rights to use the walkway, fixed dock area, and the floating docks shall belong to the Class "A" Members only. The Property Owners Association shall receive a deed or a lease for the strip of land designated as Dock Easement and a Bill of Sale for the Dock prior to the sale of the first lot within the subdivision. The rights of the Class "A" Membership herein shall run with the ownership of Lots within the Class "A" and shall not be assigned or sold separately by any Lot Owner except as provided in Section 4 of this Article.

Section 2. Insurance. To the extent insurance can be reasonably obtained, the Property Owners Association shall maintain liability and casualty insurance on the dock, including walkway, fixed dock, floating dock, and any appurtenances for replacement value with an inflation guard endorsement adjusted annually.

Section 3. Repair and Maintenance of Dock. If the walkway and/or dock, as defined in Section 1 of Article VI above, are destroyed (in part or in whole), the Property Owners Association shall repair or rebuild said walkway and/or dock to their original size and configuration. The cost or expense of said repair or rebuild shall be an assessment against the Class "A" Membership of the Property Owners Association only and shall be assessed in accordance with the provisions of Article IV above. Provided, however, ONE HUNDRED (100%) PERCENT OF THE CLASS "A" MEMBERS OF THE PROPERTY OWNERS ASSOCIATION MAY VOTE, IN WRITING, NOT TO REPAIR OR REBUILD SAID DOCK FACILITY. Upon the unanimous vote, in writing, then the mandatory provision for rebuilding or repair shall be null and void.

Section 4. Abandonment of Dock. If one hundred (100%) percent of all of the Class "A" Membership of the Property Owners Association vote in writing to abandon any repair, rebuilding or use of said walkway and dock pursuant to Article VI, Section 3 above, then the Dock Easement as is shown on Exhibit "B" attached hereto, shall (at the option of the owner) be conveyed by the Property Owners Association to the Owner of Lot "B" (said Lot being defined above and said owner shall be that as is designated on the records in the RMC Office in the County where said property is located). Said Owner shall pay, in full, all of the costs of the Property Owners Association to Deed said parcel, and when deeded, shall become a part of Lot "B" with the provision that said Lot cannot be further subdivided without the unanimous consent of all Lot Owners. The Owner of Lot B shall have all rights to the Dock thereafter.

Section 5. Permit Restrictions. The Dock Permit attached as Exhibit "C" is subject to certain restrictions and limitations as well as certain rules and regulations, which are attached.

ARTICLE VII

ARCHITECTURAL REVIEW BOARD

Section 1. General. There is hereby created an Architectural Review Board (ARB) for Spartina Bay Plantation Subdivision. Said ARB shall consists of three (3) members. Until such time as Declarants own less than three (3) Lots in Spartina Bay Plantation Subdivision, the members of the ARB shall be appointed by Declarants, and need not be members of the Property Owners Association. After Declarants no longer owns three (3) Lots, as aforesaid, all members of the Committee shall be appointed by the Board of Directors of the Property Owners Association from its membership. A majority of the ARB shall be deemed a quorum and decisions of the ARB shall be by simple majority vote.

Section 2. Submission of Plans. No person shall commence construction of any fence, building, outbuilding, mailbox or other structure, until plans for same shall have been approved by the ARB as provided herein. All plans and specifications must be submitted to the ARB at least thirty (30) days prior to application for a building permit. The submissions shall show by plot plans, elevations, and perspective sketches, all proposed improvements including locations, architectural features and landscaping. In the event said ARB fails to act on a submission within thirty (30) days after the required plans have been submitted to it, this Article will be deemed to have been fully complied with. All plans shall be prepared in a professional manner. Construction must be done in a prompt and professional manner, as defined by the ARB.

Section 3. Approval. The ARB will review and shall approve the plans and specifications if the proposed improvements meet all of the requirements of these covenants and, if in its opinion, the exterior appearance of the improvements will be compatible with other development in the Subdivision or, at a minimum, will not be detrimental to future property sales or surrounding property values. No architectural "style" or materials will be excluded; however, all materials, features, and styles must be, in the opinion of the ARB, professionally and esthetically acceptable.

By acceptance of a Deed, purchasers agree that the actions of the ARB are in the best interests of all Owners within the subdivision and that they will abide by the decisions of the

ARB. Declarants, the ARB, or other Owners may seek injunctions to compel compliance with ARB decisions, or damages resulting from failure to act in accordance with directions of the ARB.

Section 4. Architectural Standards. Lot Owners and all subsequent owners agree that the desired level of architectural quality of the entire property shall be consistently maintained and each building or structural element shall be compatible with its natural surroundings, adjacent existing structures and with future adjacent structures. Structures should reflect an influence of traditional architectural forms for residential buildings. Avant-garde, highly-stylized, or thematic architecture is strongly discouraged. Building materials should be natural in character, color and the use of stained wood is strongly encouraged. Roof planes should not be less than 5 in 12 slopes as a general rule, with variations used for avoidance of monotony. Buildings should incorporate all energy-saving features as are possible within a reasonable architectural content. Orientation of windows, overhangs, porches and solar equipment should not however, be the total controlling factor in the layout and design of the structure.

Section 5. Site Standards. Lot owners and all subsequent owners agree to leave all vegetation and trees, in as near their natural state as is compatible with good building and land use practices. All hardwood trees over four (4) inches DBH (diameter breast height) shall be preserved when possible. The Architectural Review Board must approve the removal of all hardwood trees six (6) inches DBH or greater. Natural drainage and the project drainage systems shall be utilized to the fullest extent possible so as to minimize site disturbance to accommodate drainage. All site plans must show existing elevations and tree covers so that the ARB may determine if this provision has been adequately considered.

Section 6. Completion of Construction. Construction of any dwelling or other structure on property to which these restrictions, or amendments hereto, apply must be completed within twelve (12) months after commencement of construction. For purposes of this section, commencement of construction shall be deemed to be the first day on which materials are delivered to the site or labor commences with respect to said construction, whichever date shall occur first.

Section 7. Guidelines. The ARB may issue future guidelines as are needed

ARTICLE VIII

RESTRICTIONS ON MEMBERS RIGHTS OF USE

Section 1. General. Every Member in good standing shall have a right and easement of enjoyment in and to the Common Areas and Facilities afforded his/her or its class of membership set forth herein, which shall be appurtenant to and shall pass with the title to every Lot, subject to the following restrictions:

a. The right of the Property Owners Association to suspend the voting rights and right to use of the Common Areas and Facilities by a Member:

i. For any period during which any assessment against his Lot remains unpaid, or the Member has not complied with other violations of the Restrictive Covenants, and for a period not to exceed 60 days for any infraction of its published rules and regulations.

b. The right of the Property Owners Association to dedicate or transfer all or any part of the Common Areas and Facilities to any agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by Members representing three-fourths (3/4ths) of all eligible votes agreeing to such dedication or transfer, has been recorded.

c. The Class "A" Membership and the Declarants shall have use of the described community floating dock on a first come, first served basis. In no event shall a Class "A" Member or Declarants be assigned or shall a Class "A" Member or Declarants assume a specific location on the dock for his or her exclusive use.

Section 2. Delegation of Use. Any Member in good standing may delegate, but not transfer, within reason his right or enjoyment to the Common Areas and Facilities of his Class Membership provided however, if OCRM grants permission for a boat lift, said users of the lift shall be exclusive to the owners of Lot B.

ARTICLE IX

MAINTENANCE AND IMPROVEMENTS

Section 1. Maintenance by Association. The Association shall provide for the maintenance, repair and replacement of the roads, common areas and community dock.

Section 2. Maintenance by Members. Lots and improvements, including any privately owned individual docks, shall be maintained in a good, clean condition and repair by their respective owners and members herein.

Section 3. Improvements. The membership shall provide for the making of such improvements to the roads, common areas community docks as may be approved from time to time by the members. The cost of such improvements shall be common expenses.

ARTICLE X

GENERAL PROVISIONS

Section 1. Enforcement. The Property Owners Association, any Member, or Declarants shall have the right to enforce, by any proceeding at law or in equity, the Restrictions, Conditions, Covenants, Reservations, now or hereafter imposed by the provisions of this Declaration or amendments thereto. Failure to enforce any provisions of these Restrictive Covenants herein contained shall in no event be deemed a waiver of the right to do so thereafter. If the parties hereto, or any of them or their heirs or assigns, shall violate or attempt to violate any of the covenants herein, it shall be lawful for any other person or persons owning any real property subject to these Restrictive Covenants to prosecute any proceedings at law or equity against the person or persons violating or attempting to violate any such covenants and either to prevent him or them from committing or continuing such violations to include but not limited to court costs and reasonable attorney's fees.

Section 2. Severability. Invalidation of any one of these Restrictive Covenants or by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

Section 3. Amendment.

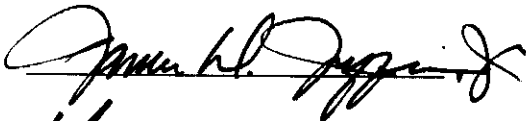
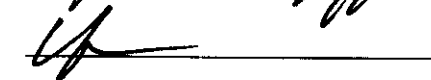
a. These Restrictive Covenants may be amended, [except for Article IV, Article VI and Article VIII,] by the Property Owner's Association by an instrument signed by no less than two-thirds (2/3) of the Members. Article IV, Article VI and Article VIII shall be amended by an unanimous vote of members by class affected. So long as Declarants own any Lot, any amendment to these Restrictive Covenants shall require Declarants' approval. Any amendment must be recorded.

b. Further, Declarants shall have the authority to amend these restrictions at any time to comply with the requirements of any governing body such as the Veteran's Administration, Federal Housing Administration, Department of Housing and Urban Development, Charleston County or the Federal National Mortgage Association or to correct typographical or scrivener's errors. Declarants shall not, by reason of the power herein reserved, have the right to alter the amount or method of making annual or special assessments unless a governmental body having jurisdiction over such matter requires a change.

Section 4. Annexation. The Declarants reserve the right to subject to these Restrictive Covenants, additional properties and to dedicate or deed additional common area to the Property Owners Association, provided at the time such dedication or deeding, said additional common area shall be free and clear of all liens and encumbrances other than reasonable and normal restrictions or easements.

IN WITNESS WHEREOF, the undersigned, being the Declarants herein, has hereunto set its hand and seal this 13th day of October, 2001.

Signed, Sealed and Delivered
in the presence of::

N. C. BOYKIN as TRUSTEE FOR
THE STORE CREEK LAND TRUST

BY:  (SEAL)
N.C. Boykin as Trustee

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

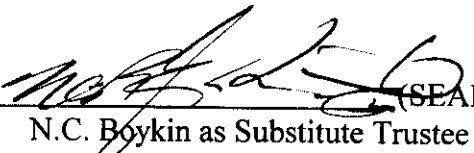
ACKNOWLEDGMENT

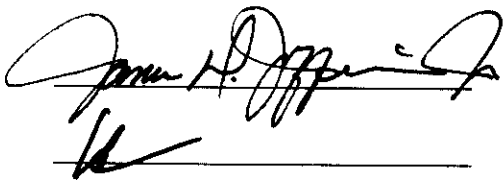
The foregoing instrument was acknowledged before me this 13th day of October, 2001 by N. C. Boykin as Trustee for The Store Creek Land Trust.

 (SEAL)
Notary Public for South Carolina
My commission expires: 8-11-10

N. C. BOYKIN as SUBSTITUTE TRUSTEE
FOR PETERS POINT TRUST

Signed, Sealed and Delivered
in the presence of::

BY:  (SEAL)
N.C. Boykin as Substitute Trustee



STATE OF SOUTH CAROLINA)
COUNTY OF Charleston)

ACKNOWLEDGMENT

The foregoing instrument was acknowledged before me this 13th day of October, 2001 by N. C. Boykin as Substitute Trustee for Peters Point Trust.

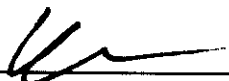
 (SEAL)
Notary Public for South Carolina
My commission expires: 8-11-10

EXHIBIT "A"

PARCEL 1: All that certain piece, parcel or lot of land situate, lying and being on Edisto Island in the County of Charleston, State of South Carolina, being shown and designated as Lot 1 containing 2.270 acres, more or less, on a plat entitled "FINAL SUUBDIVISION PLAT TMS 025-00-00- SEE TAX LETTER NUMBER A SUBDIVISION OF 16.666 ACRES SPARTINA BAY PLANTATION SUBDIVISION CURRENT OWNER STORE CREEK TRUST" prepared by Jerry L. Fowler, RLS #15178, dated April 16, 1999, last revised September 17, 2001, and recorded in the RMC Office for Charleston County in Plat Book EF at Page 115, said plat being incorporated herein as a part of this description and said lots being bounded now or formerly as follows: On the Northeast by an existing 50' ingress/egress easement on TMS #025-00-00-009; on the Southeast and Northeast by TMS #025-00-00-049, lands of Howard Bailey; on the Southeast by Peters Point Road 50' R/W; on the Southeast by Marsh Bluff Ct. (Private Road) 50' R/W; and on the Northwest by Lot 3.

PARCEL 2: All that certain piece, parcel or lot of land situate, lying and being on Edisto Island in the County of Charleston, State of South Carolina, being shown and designated as Lot 3 containing 1.284 acres, more or less, on a plat entitled "FINAL SUUBDIVISION PLAT TMS 025-00-00- SEE TAX LETTER NUMBER A SUBDIVISION OF 16.666 ACRES SPARTINA BAY PLANTATION SUBDIVISION CURRENT OWNER STORE CREEK TRUST" prepared by Jerry L. Fowler, RLS #15178, dated April 16, 1999, last revised September 17, 2001, and recorded in the RMC Office for Charleston County in Plat Book EF at Page 115, said plat being incorporated herein as a part of this description and said lots being bounded now or formerly as follows: On the Northeast by an existing 50' ingress/egress easement on TMS #025-00-00-009; on the Southeast by Lot 1; on the Southwest by Marsh Bluff Ct. (Private Rd.) 50' R/W; and on the Northwest by Lot 4.

PARCEL 3: All that certain piece, parcel or lot of land situate, lying and being on Edisto Island in the County of Charleston, State of South Carolina, being shown and designated as Lot 4 containing 1.262 acres, more or less, on a plat entitled "FINAL SUUBDIVISION PLAT TMS 025-00-00- SEE TAX LETTER NUMBER A SUBDIVISION OF 16.666 ACRES SPARTINA BAY PLANTATION SUBDIVISION CURRENT OWNER STORE CREEK TRUST" prepared by Jerry L. Fowler, RLS #15178, dated April 16, 1999, last revised September 17, 2001, and recorded in the RMC Office for Charleston County in Plat Book EF at Page 115, said plat being incorporated herein as a part of this description and said lots being bounded now or formerly as follows: On the Northeast by an existing 50' ingress/egress easement on TMS #025-00-00-009; on the Southeast by Lot 3; on the Southwest by Marsh Bluff Ct. (Private Rd.) 50' R/W; and on the Northwest by Lot 5.

PARCEL 4: All that certain piece, parcel or lot of land situate, lying and being on Edisto Island in the County of Charleston, State of South Carolina, being shown and designated

as Lot 5 containing 1.257 acres, more or less, on a plat entitled "FINAL SUUBDIVISION PLAT TMS 025-00-00- SEE TAX LETTER NUMBER A SUBDIVISION OF 16.666 ACRES SPARTINA BAY PLANTATION SUBDIVISION CURRENT OWNER STORE CREEK TRUST" prepared by Jerry L. Fowler, RLS #15178, dated April 16, 1999, last revised September 17, 2001, and recorded in the RMC Office for Charleston County in Plat Book EF at Page 115, said plat being incorporated herein as a part of this description and said lots being bounded now or formerly as follows: On the Northeast by an existing 50' ingress/egress easement on TMS #025-00-00-009; on the Southeast by Lot 4; on the Southwest by Marsh Bluff Ct. (Private Rd.) 50' R/W; and on the Northwest by Lot 6.

PARCEL 5: All that certain piece, parcel or lot of land situate, lying and being on Edisto Island in the County of Charleston, State of South Carolina, being shown and designated as Lot 6 containing 1.251 acres, more or less, on a plat entitled "FINAL SUUBDIVISION PLAT TMS 025-00-00- SEE TAX LETTER NUMBER A SUBDIVISION OF 16.666 ACRES SPARTINA BAY PLANTATION SUBDIVISION CURRENT OWNER STORE CREEK TRUST" prepared by Jerry L. Fowler, RLS #15178, dated April 16, 1999, last revised September 17, 2001, and recorded in the RMC Office for Charleston County in Plat Book EF at Page 115, said plat being incorporated herein as a part of this description and said lots being bounded now or formerly as follows: On the Northeast by an existing 50' ingress/egress easement on TMS #025-00-00-009; on the Southeast by Lot 5; on the Southwest by Marsh Bluff Ct. (Private Rd.) 50' R/W; and on the Northwest by Lot 7.

PARCEL 6: All that certain piece, parcel or lot of land situate, lying and being on Edisto Island in the County of Charleston, State of South Carolina, being shown and designated as Lot 7 containing 1.152 acres, more or less, on a plat entitled "FINAL SUUBDIVISION PLAT TMS 025-00-00- SEE TAX LETTER NUMBER A SUBDIVISION OF 16.666 ACRES SPARTINA BAY PLANTATION SUBDIVISION CURRENT OWNER STORE CREEK TRUST" prepared by Jerry L. Fowler, RLS #15178, dated April 16, 1999, last revised September 17, 2001, and recorded in the RMC Office for Charleston County in Plat Book EF at Page 115, said plat being incorporated herein as a part of this description and said lots being bounded now or formerly as follows: On the Northeast by an existing 50' ingress/egress easement on TMS #025-00-00-009; on the Southeast by Lot 6; on the Southwest by Marsh Bluff Ct. (Private Rd.) 50' R/W; and on the Northwest by Lot 8.

PARCEL 7: All that certain piece, parcel or lot of land situate, lying and being on Edisto Island in the County of Charleston, State of South Carolina, being shown and designated as Lot 8 containing 2.551 acres, more or less, on a plat entitled "FINAL SUUBDIVISION PLAT TMS 025-00-00- SEE TAX LETTER NUMBER A SUBDIVISION OF 16.666 ACRES SPARTINA BAY PLANTATION SUBDIVISION CURRENT OWNER STORE CREEK TRUST" prepared by Jerry L. Fowler, RLS #15178, dated April 16, 1999, last revised September 17, 2001, and recorded in the RMC Office for Charleston County in Plat Book EF at Page 115, said plat being incorporated herein as a part of this description and said lots being bounded now or formerly as follows: On the Northeast by an existing

50' ingress/egress easement on TMS #025-00-00-009; on the Southeast by Lot 7; and on the Southwest and Northwest by Marsh Bluff Ct. (Private Rd.) 50' R/W.

PARCEL 8: All that certain piece, parcel or lot of land situate, lying and being on Edisto Island in the County of Charleston, State of South Carolina, being shown and designated as Lot 10 containing 1.515 acres, more or less, on a plat entitled "FINAL SUUBDIVISION PLAT TMS 025-00-00- SEE TAX LETTER NUMBER A SUBDIVISION OF 16.666 ACRES SPARTINA BAY PLANTATION SUBDIVISION CURRENT OWNER STORE CREEK TRUST" prepared by Jerry L. Fowler, RLS #15178, dated April 16, 1999, last revised September 17, 2001, and recorded in the RMC Office for Charleston County in Plat Book EF at Page 115, said plat being incorporated herein as a part of this description and said lots being bounded now or formerly as follows: On the North by marsh; on the Northeast by Lot 11; on the South by Marsh Bluff Ct. (Private Rd.) 50' R/W; and on the Southwest by TMS #025-00-00-011, lands of Brian L. West.

PARCEL 9: All that certain piece, parcel or lot of land situate, lying and being on Edisto Island in the County of Charleston, State of South Carolina, being shown and designated as Lot 11 containing 1.392 acres, more or less, on a plat entitled "FINAL SUUBDIVISION PLAT TMS 025-00-00- SEE TAX LETTER NUMBER A SUBDIVISION OF 16.666 ACRES SPARTINA BAY PLANTATION SUBDIVISION CURRENT OWNER STORE CREEK TRUST" prepared by Jerry L. Fowler, RLS #15178, dated April 16, 1999, last revised September 17, 2001, and recorded in the RMC Office for Charleston County in Plat Book EF at Page 115, said plat being incorporated herein as a part of this description and said lot being bounded now or formerly as follows: On the North by marsh; on the Northeast by Lot 12; on the South by Marsh Bluff Ct. (Private Rd.) 50' R/W; and on the Southwest by Lot 10.

PARCEL 10: All that certain piece, parcel or lot of land situate, lying and being on Edisto Island in the County of Charleston, State of South Carolina, being shown and designated as Lot 12 containing 1.308 acres, more or less, on a plat entitled "FINAL SUUBDIVISION PLAT TMS 025-00-00- SEE TAX LETTER NUMBER A SUBDIVISION OF 16.666 ACRES SPARTINA BAY PLANTATION SUBDIVISION CURRENT OWNER STORE CREEK TRUST" prepared by Jerry L. Fowler, RLS #15178, dated April 16, 1999, last revised September 17, 2001, and recorded in the RMC Office for Charleston County in Plat Book EF at Page 115, said plat being incorporated herein as a part of this description and said lots being bounded now or formerly as follows: On the North by marsh; on the Northeast by TMS #025-00-00-038, lands of Peters Point Trust; on the Southeast by Marsh Bluff Ct. (Private Rd.) 50' R/W; and on the Southwest by Lot 11.

PARCEL 11: All that certain piece, parcel or strip of land situate, lying and being on Edisto Island in the County of Charleston, State of South Carolina, being shown and designated as "MARSH BLUFF CT. (PRIVATE RD.) 50' R/W" on a plat prepared by Jerry L. Fowler, RLS #15178, entitled "FINAL PLAT SUUBDIVISION TMS 025-00-00-00 SEE

BKD 385PG274

TAX LETTER NUMBER A SUBDIVISION OF 16.666 ACRES SPARTINA BAY PLANTATION SUBDIVISION CURRENT OWNER STORE CREEK TRUST" dated April 16, 1999, last revised September 17, 2001, and recorded in the RMC Office for Charleston County in Plat Book EF at Page 115, said strip having such size, shape, dimensions, buttings and boundings as by reference to said plat will more fully and at large appear.

Parcels 1 - 11 being the same property conveyed to N. C. Boykin, as Trustee of the Store Creek Land Trust, by deed of Howard D. Bailey dated April 22, 1999, and recorded in the RMC Office for Charleston County in Book U326 at Page 017.

All that certain piece, parcel or tract of land situate, lying and being on Edisto Island in the County of Charleston, State of South Carolina, containing 1.36 acres, more or less, of highland, and 2.95 acres, more or less, of marsh, as shown and delineated on a plat prepared by Jerry L. Fowler, RLS #15178, entitled "A BOUNDARY SURVEY OF 4.31 ACRES TMS 025-00-00-038 SURVEYED FOR: STORE CREEK TRUST" dated September 17, 2001, and recorded in the RMC Office for Charleston County in Plat Book _____ at Page _____, said plat being incorporated herein as a part of this description and said tract being bounded now or formerly and measuring more or less as follows: On the Northeast by Store Creek and measuring thereon Four Hundred Five and Sixty-Three Hundredths (405.63') feet; on the East and Northeast by highland and marsh belonging to Steve R. and Helen P. Rowland and measuring thereon Five Hundred Forty-Six and Ninety-Six Hundredths (546.96') feet and Three Hundred Sixty and Five Hundredths (360.05') feet, respectively; on the Southeast by a 50' R/W Easement and measuring thereon One Hundred Thirty-Five and Seven Hundredths (135.07') feet; and on the Southwest by highland and marsh belonging to N. C. Boykin, as Trustee of the Store Creek Land Trust, and measuring thereon One Thousand Two Hundred Twenty-Five and Twenty-Two Hundredths (1,225.22') feet.

South Carolina Department of Health and Environmental Control
Office of Ocean and Coastal Resource Management
CRITICAL AREA PERMIT/WATER QUALITY CERTIFICATION

Permittee: Store Creek Trust

Permit Number: 99-1E-382-P

Date of Issuance: October 31, 2000

Expiration Date: October 31, 2005

Location: On and adjacent to Store Creek at 8764 Peters Point Road, Edisto Island,
Charleston County, South Carolina.

SEE SPECIAL
CONDITIONS

This permit/certification is issued under the provisions of S. C. Code Ann. Section 48-39-10, *et. seq.*, and R.30-1 through R.30-20. Additionally, as required by R.61-101, Department staff have reviewed plans for this project and determined there is a reasonable assurance the project will be conducted in a manner consistent with Certification requirements of Section 401 of the Clean Water Act. We also certify that this project, subject to the indicated conditions, is consistent with applicable provisions of Section 303 of the Federal Clean Water Act, as amended, that there are no applicable effluent limitations under Sections 301(b) and 302, and that there are no applicable standards under Sections 306 and 307.

Please carefully read the project description and any Special Conditions, which may appear on this permit/certification, as they will affect the work which is allowed. If there are no Special Conditions, then the work is authorized as described in the project description. The general conditions are also a part of this permit/certification and should be read in their entirety.

DESCRIPTION OF THE PROJECT

The plans submitted by you, attached hereto, show the work consists of constructing a timber pier with a 10' by 20' covered pierhead attached to highland by a 5' by 638' walkway. In addition, floating docks, each 10' by 45' are to be installed on each side of the fixed pierhead and attached to the fixed pierhead by ramps. The purpose of this work is for the private, recreational use of the future inland property owners (9 lots) of Spartina Bay Subdivision. The applicant has revised this project to delete the proposed 10' by 99' floating dock and install two (2) 10' by 45' floating docks, decreasing the length of the walkway, and reducing the fixed pierhead from 20' by 20' to 10' by 20'.

SPECIAL CONDITIONS

1. Provided an Operations and Maintenance Manual for the community dock facility is submitted to and approved by OCRM staff prior to construction. The Operation and Maintenance Manual will be made a part of this permit and must be followed in the operation of this community dock facility unless otherwise amended in writing by OCRM. The Operations and Maintenance Manual must be reviewed and revised to keep up-to-date with the community dock facility operations. This manual must be in accordance with R.30-12 (E)(6) the Rules and Regulations for Permitting in the critical area of the Coastal Zone and with OCRM's Marina Operations and Maintenance Manual requirements.

1 Of 9

SEE NEXT PAGE

2. Provided the permittee understands that the operation of the community dock facility shall be reviewed by the Department as deemed appropriate, but at least every five years. Based on this review, the Department may require, among other things, changes or additions to the Operations and Maintenance Manual to address any water quality or other environmental problems, and a reduction in the size of, or a change in the configuration of this community dock facility. Such action may be taken at any time the Department determines that significant state water quality compliance problems exist, at the time SCDHEC enlarges the closure area, or at the time of a review.
3. Provided a complete copy of the permit and the OCRM approved Operations and Maintenance Manual are made readily available at this community dock facility.
4. Provided the proposed community floating dock is reduced to 40' and the private floating dock is reduced to 10' by 30'.
5. Provided the community dock is constructed at least 20' from the extended property lines.
6. Provided anti-fouling paints are not used below mean high water or on any structure such as bulkheads, piling, docks, or dock supports around the community dock facilities.
7. Provided any sanding, scraping, painting, major engine repair, or other maintenance which may result in a discharge to the water must be performed in a designated upland site.
8. Provided the walkways and pierheads are constructed at least 4' above mean high water.
9. Provided the permittee implements best management practices during construction to minimize erosion and sediment run off. Any disturbed marsh areas adjacent to the construction site must be restored to original contours and conditions upon project completion. Once project construction is initiated, it must be carried to completion in an expeditious manner in order to minimize the period of disturbance to the environment.
10. Provided the dock shall not be any further channelward than other docks in the area and under no circumstances more than 60 feet from the edge of marsh vegetation.
11. Provided that no leasing of space for permanent boat moorage takes place at the proposed community dock facility. No more than ten (10) boats may be moored at this facility at any given time. These community dock facilities are to be used only by the residents of Spartina Bay Subdivision and their guests.
12. Provided that this community dock facility is used for water dependent uses only. No food service, vending machines, T-shirt sales or concessions are allowed on these docks.
13. Provided the community docks are located in such a manner so as to minimize disturbance to shellfish resources. Direct encroachment on any shellfish beds should be avoided.
14. Provided litter receptacles must be located near all docks and walkways.

2 Of 9
SEE NEXT PAGE

15. Provided that all necessary measures are taken to prevent oil, tar, trash, debris and other pollutants from entering the adjacent waters or wetlands.

16. Provided signs must be posted on all docks, piers and areas adjacent to the facility stating the following: "It is against both Federal and State Laws to discharge raw, untreated sewage from any description of watercraft into the waters of South Carolina." Signs should be at least 14" by 18" in size so they can be read clearly.

17. Provided that if archaeological or paleontological remains are encountered prior to or during construction, we request that work stop and the State Historic Preservation Office be notified at 803-734-8615. If these materials include any underwater archaeological or paleontological remains the permittee should also notify the SC Institute of Archaeology and Anthropology at 803-777-8170 pursuant to SC Code of Laws 54-7-400, et seq. Archaeological remains consist of any materials made or altered by man which remain from past historic or prehistoric times (i.e., older than 50 years). Examples include old pottery fragments, metal, wood, arrowheads, stone implements or tools, human burials, historic docks, structures or nonrecent (i.e., older than 100 years) vessels ruins. Paleontological remains consist of old animal's remains, original or fossilized, such as teeth, tusks, bone or entire skeletons.

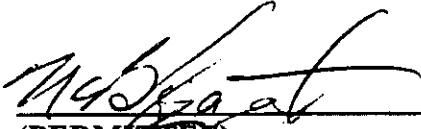
THE PERMITTEE'S ATTENTION IS DIRECTED TO GENERAL CONDITIONS NUMBERS FOUR (4) AND (5), BY ACCEPTANCE OF THIS PERMIT, PERMITTEE IS PLACED ON NOTICE THAT THE STATE OF SOUTH CAROLINA, BY ISSUING THIS PERMIT, DOES NOT WAIVE ITS RIGHTS TO REQUIRE PAYMENT OF A REASONABLE FEE FOR USE OF STATE LANDS AT A FUTURE DATE IF SO DIRECTED BY STATUTE.

CAUTION: Section 48-39-150(D) allows any person adversely affected by the issuance of this permit to appeal the decision by filing a written Notice of Intent to Appeal within 15 days after notification of the permit's issuance. In the event of an appeal, the Department reserves the right to order a stay of any use or activity authorized herein pending a final decision, when, in the judgment of the Department, the interests of the public would be best served.

THE PERMITTEE, BY ACCEPTANCE OF THIS PERMIT AGREES TO ABIDE BY THE TERMS AND CONDITIONS CONTAINED HEREIN AND TO PERFORM THE WORK IN STRICT ACCORDANCE WITH THE PLANS AND SPECIFICATIONS ATTACHED HERETO AND MADE A PART HEREOF. ANY DEVIATION FROM THESE CONDITIONS, TERMS, PLANS AND SPECIFICATIONS SHALL BE GROUNDS FOR REVOCATION, SUSPENSION OR MODIFICATION OF THIS PERMIT AND THE INSTITUTION OF SUCH LEGAL PROCEEDINGS AS THE DEPARTMENT MAY CONSIDER APPROPRIATE,

P/N# 099-1E-382-P

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

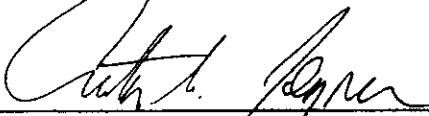


(PERMITTEE)
Store Creek Trust

11-6-2000

(Date)

This permit becomes effective when the State official, designated to act for the Office of Ocean and Coastal Resource Management, has signed below.



(MANAGER, CRITICAL AREA PERMITTING) (DATE)

Curtis Joyner, or his Designee

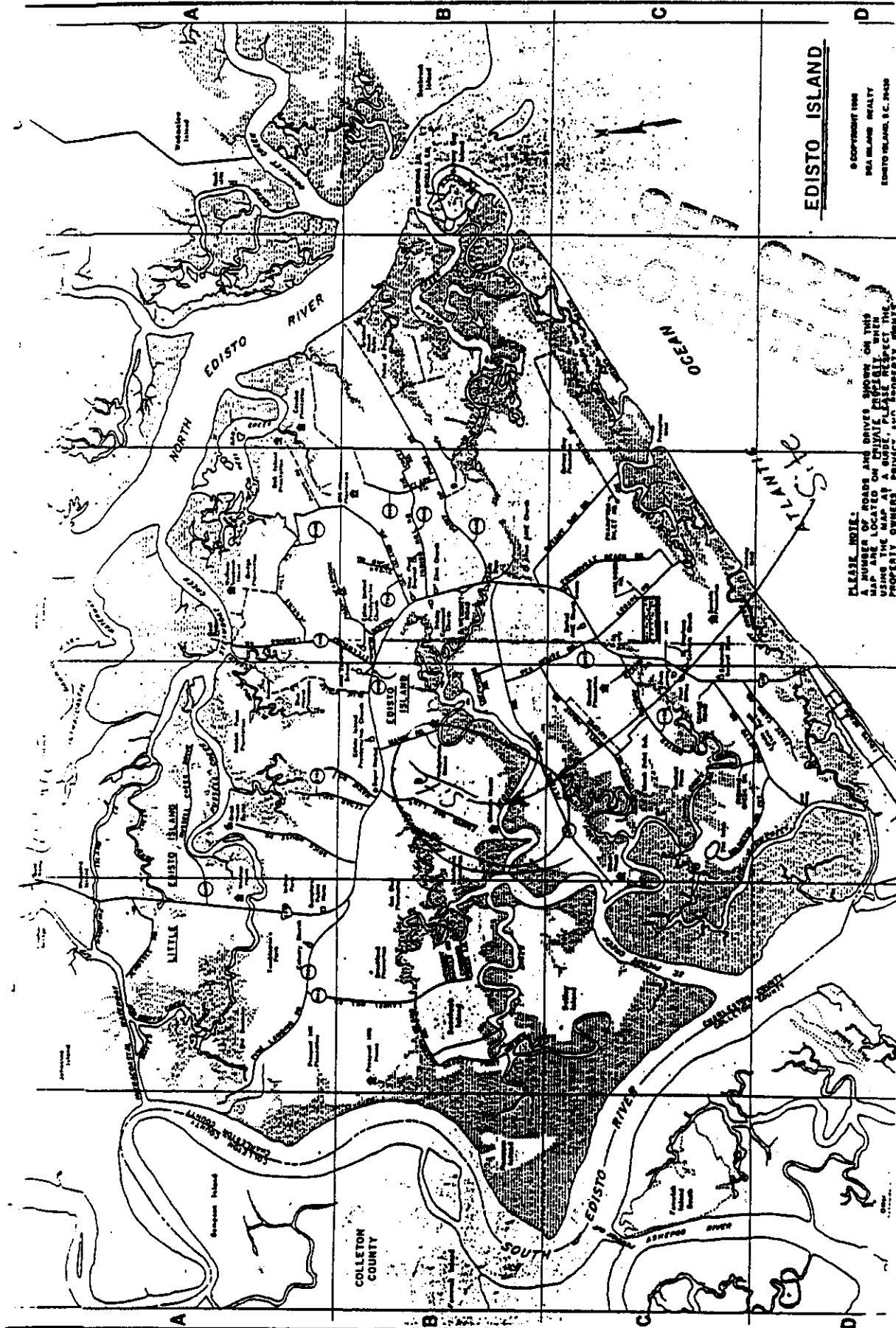
Authorized State Official

11/8/00

GENERAL CONDITIONS:

This permit is expressly contingent upon the following conditions which are binding on the permittee:

1. That the permittee, in accepting this permit, covenants and agrees to comply with and abide by the provisions and conditions herein and assumes all responsibility and liability and agrees to save the South Carolina Department of Health and Environmental Control, OCRM, and the State of South Carolina, its employees or representatives, harmless from all claims of damage arising out of operations conducted pursuant to this permit.
2. That if the activity authorized herein is not constructed or completed within FIVE YEARS of the date of issuance, this permit shall automatically expire. A request, in writing, for an extension of time shall be made not less than sixty days prior to the expiration date.
3. That all authorized work shall be conducted in a manner that minimizes any adverse impact on fish, wildlife and water quality.
4. That this permit does not relieve the permittee from the requirements of obtaining a permit from the U. S. Army Corps of Engineers or any other applicable federal agency, nor from the necessity of complying with all applicable local laws, ordinances, and zoning regulations. This permit is granted subject to the rights of the State of South Carolina in the navigable waters and shall be subject, further to all rights held by the State of South Carolina under the public trust doctrine as well as any other right the State may have in the waters and submerged lands of the coast.
5. That this permit does not convey, expressly or impliedly, any property rights in real estate or material nor any exclusive privileges; nor does it authorize the permittee to alienate, diminish, infringe upon or otherwise restrict the property rights of any other person or the public; nor shall this permit be interpreted as appropriating public properties for private use.
6. That the permittee shall permit the Department or its authorized agents or representatives to make periodic inspections at any time deemed necessary in order to ensure that the activity being performed is in accordance with the terms and conditions of this permit.
7. That any abandonment of the permitted activity will require restoration of the area to a satisfactory condition as determined by the Department.
8. That this permit may not be transferred to a third party without prior written notice to the Department, either by the transferee's written agreement to comply with all terms and conditions of this permit or by the transferred subscribing to this permit and thereby agreeing to comply.
9. That if the display of lights and signals on any structure or work authorized herein is not otherwise provided for by law, such lights and special signals as may be prescribed by the United States Coast Guard shall be installed and maintained by and at the expense of the permittee.
10. That SCDHEC-OCRM shall be notified in writing upon commencement of work and that a permit placed or a copy of the placard shall be posted in a conspicuous place at the project site during the entire period of work.
11. That the structure or work authorized herein shall be in accordance with the plans and drawing attached hereto, and shall be maintained in good condition. Failure to build in accordance with the plans and drawings attached hereto, or failure to maintain the structure in good condition shall result in the revocation of this permit.
12. That the authorization for activities or structures herein constitutes a revocable license. The Department may require the permittee to modify activities or remove structures authorized herein if it is determined by the OCRM that such activity or structures violates the public's health, safety, or welfare, or if any activity is inconsistent with the public trust doctrine. Modification or removal under this condition shall be ordered only after reasonable notice stating the reasons therefore and provision to the permittee of the opportunity to respond in writing. When the permittee is notified that SCDHEC-OCRM intends to revoke the permit, permittee agrees to immediately stop work pending resolution of the revocation.
13. That the Department shall have the right to revoke, suspend, or modify this permit in the event it is determined the permitted structure (1) significantly impacts the public health, safety and welfare, and/or is violation of Section 48-39-150, (2) adversely impacts public rights, (3) that the information and data which the permittee or any other agencies have provided in connection with the permit application is either false, incomplete or inaccurate, or (4) that the activity is not in compliance with the drawings submitted by the applicant. That the permittee, upon receipt of the Department's written intent to revoke, suspend, or modify the permit has the right to a hearing. Prior to revocation, suspension, or modification of this permit, the Department shall provide written notification of intent to revoke to the permittee, and permittee can respond with a written explanation to the Department. (South Carolina Code Section 1-023-370 shall govern the procedure for revocation; suspension or modification herein described).
14. That any modification, suspension or revocation of this permit shall not be the basis of any claim for damages against the Department or the State of South Carolina or any employee, agent, or representative of the Department the State of South Carolina.
15. That all activities authorized herein shall, if they involve a discharge or deposit into navigable waters or ocean waters, be at all times consistent with all applicable water quality standards, effluent limitations and standards of performance, prohibitions, and pretreatment standards established pursuant to applicable federal, state and local laws.
16. That extreme care shall be exercised to prevent any adverse or undesirable effects from this work on the property of other. This permit authorizes no invasion of adjacent of private property, and SCDHEC-OCRM assumes no responsibility or liability from any claims of damage arising out of any operations conducted by the permittee pursuant to this permit.



PLEASE NOTE:
A NUMBER OF ROADS AND DRIVEWAYS SHOWN ON THIS
MAP ARE LOCATED ON PRIVATE PROPERTY. WHEN
USING THE MAP AS A GUIDE, PLEASE RESPECT THE
PROPERTY OWNERS' RIGHTS AND EASEMENTS.

EDISTO ISLAND

ADJACENT PROPERTY OWNERS:

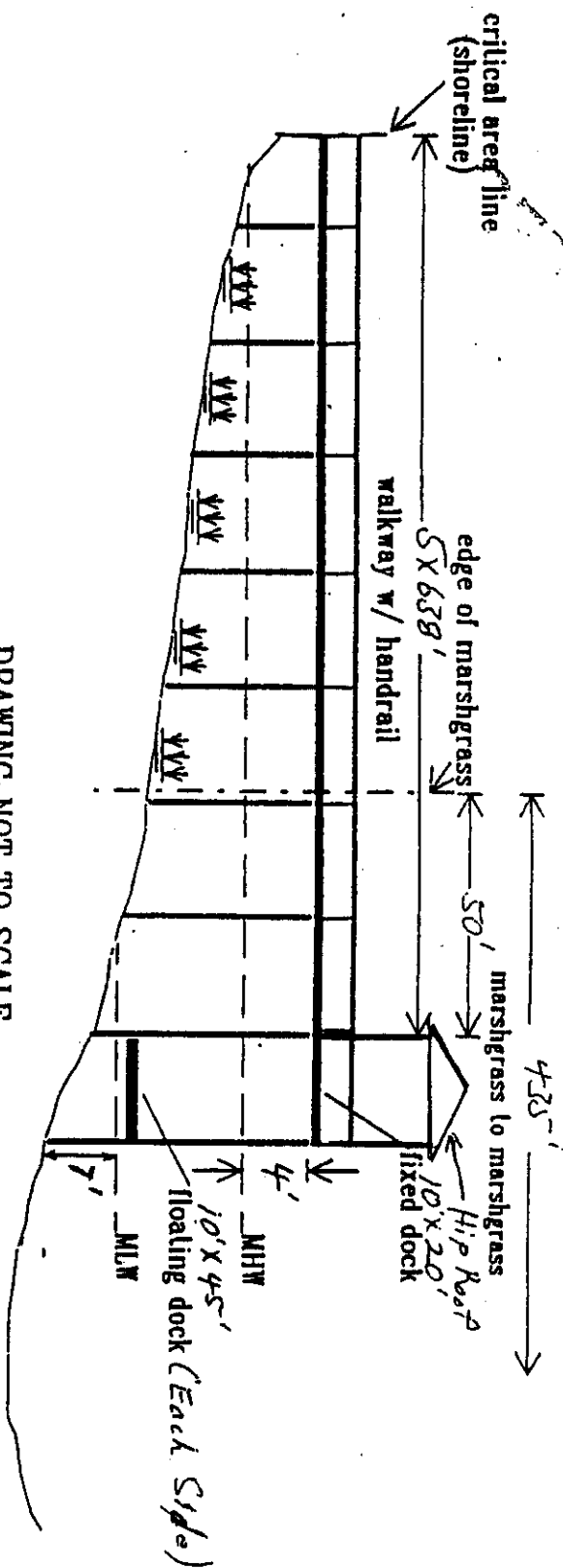
1. Brian West
2. Steve Rowland

LOCATION: 8764 Peters Point Road
Edisto Island, SC 29438
Charleston

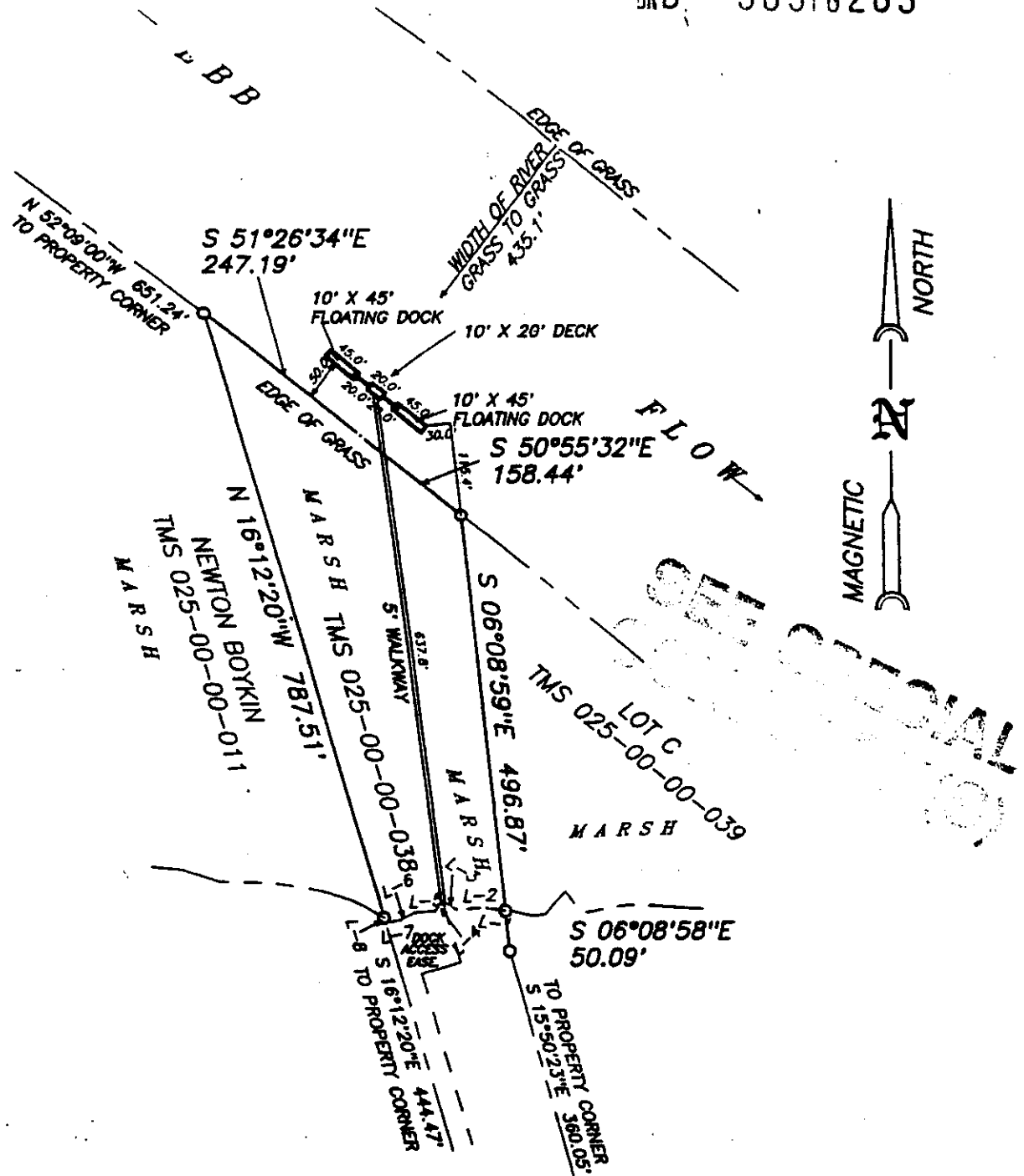
COUNTY: 10-12-99
DATE: Sheet 1 of 5

APPLICANT: Store Creek Trust
ACTIVITY: Community dock Spartina Bay
P/N: 99-1E-382

DRAWING NOT TO SCALE



APPLICANT: <i>Stone Creek Trust</i>	LOCATION: <i>8764 Peters Point Road</i>	ADJACENT PROPERTY OWNERS:
ACTIVITY: <i>Spartina Bay</i>	COUNTY: <i>Charleston</i>	① <i>Brian West</i>
P/N # <i>99-1E-382</i>	DATE: <i>4/30/2000</i> <i>Sheet 5 of 5</i>	② <i>Steve Rowland</i>



FOWLER LAND SURVEYING
769-B JEFFERIES BLVD.
WALTERBORO, S. C. 29488
(843)549-2854

PROPOSED WALKWAY & DOCK
SURVEYED FOR :
STORE CREEK TRUST
APRIL 17, 2000
EDISTO ISLAND
CHARLESTON COUNTY - SOUTH CAROLINA

APPLICANT: *Store Creek Trust*
ACTIVITY: *Spartina Bag*
P/N # 99-1E-382

LOCATION: *8764 Peters Point Road*
Edisto Island, S.C. 29438
COUNTY: *Charleston*
DATE: *4/30/2000* Sheet 3 of 5



SCALE 1" = 200'

JERRY L. FOWLER
RIS NO. 15178

INR NO. 00017-D

385PG284

S 51°26'34"E
247.19'

651.24'
CORNER

10' X 45'
FLOATING DOCK

10' X 20' DECK

10' X 45'
FLOATING DOCK

S 50°55'32"E
158.44'

EDGE OF GRASS

EDGE OF GRASS
WIDTH OF RIVER
GRASS TO GRASS
435.71'

MARSH

N 16°12'20"W 787.51'
TMS 025-00-00-011
NEWTON BOYKIN

MARSH TMS 025-00-00-038

5' WALKWAY

637.8'

S 06°08'59"E 496.87'

MARSH

TMS 025-00-00-038
LOT 00-00-038

MARSH

ADJACENT PROPERTY OWNERS:

- ① Brian West
- ② Steve Rowland

LOCATION:
8764 Peters Point Road
Edisto Island, S.C. 29438

COUNTY: Charleston

DATE: 4/30/2000 Sheet 4 of 5

APPLICANT: Store Creek Trust

ACTIVITY: Spartina Bay

P/N # 99-IE-382

BKD 385PG285

**Operations and Maintenance Manual
for
Community Dock Facilities
Located on Store Creek
Edisto Island
Charleston County,
South Carolina**

**for
Store Creek Trust
8764 Peters Point Road
Edisto Island, South Carolina 29438**

**November 15, 2000
PN# 99-IE-382-P**

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- A. General Facility Description
- B. Regulatory Permits
- C. Operations

Part II WATER QUALITY MANAGEMENT AND POLLUTION PREVENTION

- A. Water Quality Monitoring
- B. Stormwater Management

Attachments:

- A. South Carolina Department of Health Ocean and Coastal Resource Management (SC DHEC OCRM) PN 99-1E-382-P

Part I

OPERATIONS

A. General Facility Description:

The Store Creek Trust Community Dock consists of constructing a timber pier with a 10' by 20' covered pierhead attached to highland by a 5' by 638' walkway. In addition, a 10 by 40' community floating dock and a 10 by 30' private floating dock are to be installed on each side of the fixed pierhead and attached to the fixed pierhead by ramps. The purpose of this work is for the private, recreational use of the future inland property owners (9 lots) of Spartina Bay Subdivision.

1. All Community Dock Facilities are privately owned, operated and maintained by Store Creek Trust.
2. The Community Dock Facility is located on Store Creek at 8764 Peters Point Road, Edisto Island, Charleston County, South Carolina.
3. Given the total linear footage of mooring space on each side of the two (2) floating docks, no more than ten (10) boats will be allowed to be moored at the two (2) floating docks at one time.
4. All boats at the floating docks are owned and operated by property owners in Spartina Bay Subdivision. Use of the Community Dock facilities is restricted solely to property owners and their invited guests.
5. Trash receptacles will be provided on the Community Dock and on the pierhead.

B. Regulatory Permits:

1. SC DHEC OCRM PN 99-1E-382-P (See Attachment A).

C. Operations:

- A. Store Creek Trust is responsible for the operation and maintenance of the community dock. The owner of the private floating dock will be responsible for its maintenance.
- B. Overnight occupancy of temporarily moored boats and "Live Boards" are prohibited at the Community Dock facilities.

Part II

**WATER QUALITY MANAGEMENT AND
POLLUTION PREVENTION MEASURES**

A. Water Quality Monitoring:

Neither of the regulatory permits currently require water quality monitoring programs.

B. Stormwater Management:

Stormwater will be managed in compliance with the requirements of Store Creek Trust's United States Army Corps of Engineers permit as issued for said project.

BY - LAWS

BK D 385 PG 289

OF

**SPARTINA BAY PLANTATION PROPERTY
OWNERS ASSOCIATION, INC.****ARTICLE I - DEFINITIONS**

1. The terms "Restrictive Covenants" and "Restrictions" as used in the Bylaws shall refer to the Declaration of Restrictive Covenants, Conditions and Restrictions of Spartina Bay Plantation Property Owners Association, Inc. governing and controlling certain lots, roads, common areas and community docks dated 13 October 2001 and a copy of these Bylaws shall be attached thereto.

2. All other definitions set forth in the Restrictive Covenants are adopted herein as if totally re-written.

ARTICLE II - PURPOSES AND OBJECTIVES

In amplification of the purposes for which the corporation has been formed as set forth in the Articles of Incorporation, the purposes and objectives of the Association are as follows:

1. To develop a community designed for safe, healthful, and harmonious living.
2. To promote the collective and individual property and civic interests and rights of all persons, firms, and corporations owning property within Property and which is located on Edisto Island in the County of Charleston, and State of South Carolina.
3. To care for the improvements and maintenance of the facilities of any kind dedicated to the community use and open spaces and other ornamental features of the Property, which now exist or which may hereafter be installed or constructed therein with the consent of this Association.
4. To the extent insurance can be reasonably obtained, to acquire and maintain liability and casualty insurance on all common areas, docks, and easements and any appurtenances for replacement value with an inflation guard endorsement adjusted annually.
5. To cooperate with the owners of all vacant and unimproved Lots now existing or that hereafter shall exist within the perimeters of Property in keeping them in good order and condition, in preventing them from becoming a nuisance and detriment to the beauty of the Property and to the value of the improved property therein, and to take any action with reference to such vacant and unimproved Lots as may be necessary or desirable to keep them from becoming such nuisance and detriment.
6. To aid and cooperate with the members of this Association and all property owners within the Property in the enforcement of such conditions, covenants, and restrictions on and appurtenant to their property as are now in existence, as well as any other conditions, covenants, and restrictions as shall hereafter be approved by the Association and to counsel with the

Planning Commission of Charleston County having jurisdiction in relation to any zoning that may affect any portion of the Property.

7. To make rules and regulations for property owners in the Property to maintain and assure the quality of life in the Property which the property owners desire and which the Restrictive Covenants and Rules of the Association have been ordained to protect.

8. In general, but in connection with the foregoing, to do any and all things necessary to promote the general rules and quality of life of the residents and owners of any portions of the Property and their property interests therein.

9. To acquire, own, or lease such real and personal property as may be necessary or convenient for the transaction of its business and fulfillment of its purposes and objects, and to exercise all rights, powers, and privileges of ownership to the extent as natural persons might or could do.

10. To exercise any and all powers that may be delegated to it from time to time by the owners of real property in the tract.

11. The Association shall not engage in political activity or pursue political purposes of any kind or character.

ARTICLE III – OFFICES

The initial office of Association, shall be located at the offices of N. C. Boykin, 2410 Highway 174, Edisto Island, SC. The membership of the Association is authorized and empowered to change the exact address of the Association from time to time as it deems fit and proper.

ARTICLE IV – MEMBERS

(1) **Membership.** The qualifications and rights of members of the Association shall be as follows:

(a). The owner of legal title of record in the Office of the Clerk of Court for Charleston County, South Carolina, of a Lot in the Property on Edisto Island, County of Charleston, State of South Carolina, shall be a member and agrees by his ownership to the undertaking in (b) below.

(b). Membership shall include an undertaking to comply with and be bound by the Articles of Incorporation, these Bylaws, Restrictive Covenants and amendments thereto, and the policies, rules, and regulations or guidelines at any time adopted by the Association and/or the Architectural Review Board in accordance with these Bylaws including payment of all dues and assessments.

(c). Membership in this Association shall terminate on such member's ceasing to be the legal owner of record of a Lot in the Property.

(2) **Member in Good Standing.** A member current in payment of the assessments and in compliance with these Bylaws, Restrictive Covenants and amendments thereto, and the policies,

rules, and regulations or guidelines of the Association and/or Architectural Review Board shall be considered a member in good standing.

(3) Voting Rights. Each member in good standing shall be entitled to vote on each matter submitted to a vote of the members by Class. The Association shall have two (2) classes of voting membership.

(a). Class A. A Class "A" members shall be the owner of record of Lots 1, 3, 4 5, 6, 7, 8, 10, and Lot B (9 Lots) of the Property. A Class "A" member shall have one (1) vote for each Lot of which he is the legal owner of record for all matters before the Association.

(b). Class B. The Class "B" Members shall be the owner of record of Lots 11 or 12 (2 Lots) of the Property initially and possibly hereafter Lot 10 (1 Lot) for a total of three (3) Lots maximum under the present configuration. The Class "B" member shall have one (1) vote for each Lot of which he is the legal owner of record.

(c). At membership meetings all votes shall be cast in person or by proxy registered with the Secretary.

(d). The membership is authorized to establish procedures providing for voting by mail, telephone, or other form of communication.

(e). A Class "A" member may vote on any issue, which comes up before the Association dealing with its rights of use or assessments against same. A Class "B" member may not vote on any issue dealing with the Dock or the Dock Easement as defined in Exhibit "B" & "C" of the Restrictive Covenants but may vote on any issue dealing with its rights of use or assessments against same.

(f). Where two or more owners or a partnership or corporation or other legal entity own a Lot, only one vote on each Lot owned shall be allowed and such joint owners, partnership, corporation or other legal entity shall designate and register with the Secretary of the Association in writing the name of that person entitled to cast such single vote or the vote will not be allowed.

ARTICLE V – MEETING OF MEMBERS

(1) Annual Meeting. An annual meeting of the members for the purpose of hearing reports from all officers and standing committees shall be held in October of each year, beginning with the year 2001. The time and place shall be fixed by the Board of Directors.

(2) Regular Meetings. In addition to the annual meetings, regular meetings of the members may be held at such time and place as shall be determined by the Board of Directors.

(3) Special Meetings. A special meeting of the members must be called by the President of the Association or, if requested, by any three (3) members in good standing within twenty (20) days.

(4) Notice of Meetings. Written notice stating the place, day, and hour of any meeting of members shall be delivered either personally or by mail to each member entitled to vote at such meeting, not less than twenty (20) days before the date of such meeting or at the direction of the Secretary.

(5) Quorum. The members holding fifty-one (51%) percent of the votes that may be cast at any meeting shall constitute a quorum at any meeting of the members. In the absence of a quorum, a majority of the members present may adjourn the meeting from time to time without further notice.

(6) Proxies. At any meeting of the members, a member entitled to vote may vote by proxy executed in writing by the member. No proxy shall be valid after six (6) months from the date of its execution, unless otherwise provided in the proxy.

(7) Voting by Mail, Telephone, or Other Form of Communication. Where there is an act requiring the vote of the members, such election or vote on such proposed action may be conducted by mail, telephone, or other form of communication in such manner as the Board of Directors shall determine.

ARTICLE VI - BOARD OF DIRECTORS

(1). General Powers. The business and affairs of the Association shall be managed by its Board of Directors, to include the right to establish dues and assessments as set forth hereinafter. The directors shall in all cases act as a board, and they may adopt such rules and regulations for the conduct of their meetings and the management of the Association, as they may deem proper, not inconsistent with these by-laws and the laws of this State.

(2). Number Tenure and Qualifications. The Board of Directors shall consist of three (3) members initially. The Declarants shall have the right to appoint or remove any member or members of the Board of Directors until Declarants sell three-fourths (3/4) of the lots within the Subdivision. Beginning with the first annual or special meeting of the Association following the expiration of the Declarants rights, the members (including the Declarants if Declarants then own one or more Lots) shall elect one (1) Director for a term of one (1) year, one (1) Director for a term of two (2) years and one (1) Director for a term of three (3) years; and at each annual meeting thereafter, the members shall elect, upon majority vote, one (1) Director for a term of three (3) years. Each Director shall hold office until his successor is elected, or until his death, or until he shall resign or be removed from office. A Director must be a member of the Association to hold office, except for the Directors appointed by the Declarants.

(3). Regular Meetings. A regular meeting of the directors, shall be held without other notice immediately after, and at the same place as, the annual meeting of Members. The directors may provide, by resolution, the time and place for the holding of additional regular meetings without other notice.

(4). Special Meetings. Special meetings of the directors may be called by or at the request of the president or any two directors. The person or persons authorized to call special meetings of the directors may fix the place for holding any special meeting of the directors called by them.

(5). Notice. Notice of any special meeting shall be given at least five (5) days previously thereto by written notice delivered personally, or by telegram to each director at his

business address. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail so addressed, with postage thereon prepaid. If notice be given by telegram, such notice shall be deemed to be delivered when the telegram is delivered to the telegraph company. The attendance of a director at a meeting shall constitute a waiver of notice of such meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

(6). Quorum. At any meeting of the directors two (2) shall constitute a quorum for the transaction of business.

(7) Manner of Acting. The act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the directors.

(8). Newly Created Directorships And Vacancies. Newly created directorships resulting from an increase in the number of directors and vacancies occurring in the board for any reason except the removal of directors with cause may be filled by a vote of a majority of the directors then in office, although less than a quorum exists. Vacancies occurring by reason of the removal of directors with cause shall be filled by vote of the Members. A director elected to fill a vacancy caused by resignation, death or removal shall be elected to hold office for the unexpired term of his predecessor.

(9). Removal of Directors. Any or all of the directors may be removed for cause by vote of the Members only.

(10). Resignation. A director may resign at any time by giving written notice to the board, the president or the secretary of the corporation. Unless otherwise specified in the notice, the resignation shall take effect upon receipt thereof by the board or such officer, and the acceptance of the resignation shall not be necessary to make it effective.

(11). Compensation. No compensation shall be paid to directors, as such, for their services, but by resolution of the board a fixed sum and expenses for actual attendance at each regular or special meeting of the board may be authorized. Nothing herein contained shall be construed to preclude any director from serving the Association in any other capacity and receiving compensation therefor.

(12). Presumption of Assent. A director of the Association who is present at a meeting of the directors at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless his dissent shall be entered in the minutes of the meeting or unless he shall file his written dissent to such action with the person acting as the secretary of the meeting before the adjournment thereof or shall forward such dissent by registered mail to the secretary of the Association immediately after the adjournment of the meeting. Such right to dissent shall not apply to a director who voted in favor of such action.

ARTICLE VII - OFFICERS

(1). Number. The officers of the Association shall be a president, vice-president, a secretary and a treasurer, each of whom shall be elected by the directors. Such other officers and assistant officers as may be deemed necessary may be elected or appointed by the directors. The Board of Directors at any time, may decide to eliminate or not fill the office of Vice President and/or consolidate the offices of Secretary and Treasurer.

(2). Election And Term Of Office. The officers of the Association to be elected by the directors shall be elected annually at the first meeting of the directors held after each annual meeting of the Members. Each officer shall hold office until his successor shall have been duly elected and shall have qualified or until his death or until he shall resign or shall have been removed in the manner hereinafter provided.

(3). Removal. Any officer or agent elected or appointed by the directors may be removed by the directors whenever in their judgment the best interests of the corporation would be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed.

(4). Vacancies. A vacancy in any office because of death, resignation, removal, disqualification or otherwise, may be filled by the directors for the unexpired portion of the term.

(5). President. The president shall be the principal executive officer of the Association and, subject to the control of the directors, shall in general supervise and control all of the business and affairs of the Association. He shall, when present, preside at all meetings of the Members and of the directors. He may sign, with the secretary or, any other proper officer of the Association thereunto authorized by the directors, certificates for membership of the Association, any deeds, mortgages, bonds, contracts, or other instruments which the directors have authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the directors or by these by-laws to some other officer or agent of the Association, or shall be required by law to be otherwise signed or executed; and in general shall perform all duties incident to the office of president and such other duties as may be prescribed by the directors from time to time.

(6). Vice-President. In the absence of the president or in event of his death, inability or refusal to act, the vice-president shall perform the duties of the president, and when so acting, shall have all the powers of and be subject to all the restrictions upon the president. The vice-president shall perform such other duties as from time to time may be assigned to him by the President or by the directors.

(7). Secretary. The secretary shall keep the minutes of the Members' and of the Directors' Meetings in one or more books provided for that purpose, see that all notices are duly given in accordance with the provisions of these by-laws or as required, be custodian of the Association's records and of the seal of the Association and keep a register of the post office

address of each member which shall be furnished to the secretary by such member, have general charge of the membership transfer books of the Association and in general perform all duties incident to the office of secretary and such other duties as from time to time may be assigned to him by the president or by the directors.

(8). Treasurer. If required by the directors, the treasurer shall give a bond for the faithful discharge of his duties in such sum and with such surety or sureties as the directors shall determine. He shall have charge and custody of and be responsible for all funds and securities of the Association; receive and give receipts for moneys due and payable to the Association from any source whatsoever, and deposit all such moneys in the name of the Association in such banks, trust companies or other depositories as shall be selected in accordance with these by-laws and in general perform all of the duties incident to the office of treasurer and such other duties as from time to time may be assigned to him by the president or by the directors.

(9). Salaries. The salaries of the officers shall be fixed from time to time by the directors and no officer shall be prevented from receiving such salary by reason of the fact that he is also a director of the Association.

ARTICLE VIII - DUES AND ASSESSMENTS

(1). Dues.

a. Purpose. Dues may be established for the purpose of paying for the administrative functions of the Association to include any management fees, salaries, accounting, or other related administrative fees, property taxes and insurance. This shall hereafter be referred to as assessments.

b. Imposition. The annual dues as established by the Board of Directors shall be the same for each member of both Classes.

(2). Annual Assessments.

a. Purpose. Annual assessments shall be levied for the purpose of repairing and maintaining roads, lighting, the common areas, easements, community docks, community floating dock, and erosion control devices of the common property or other areas of common usage in and adjacent to the Property as designated by the members of this corporation from time to time and shall be established by class of memberships. There shall be two assessments; one for each class.

b. Imposition. The annual assessments proposed by the Board of Directors shall be submitted for approval by two-thirds (2/3) of the votes of members of the Association entitled to vote by class of membership. In the absence of approval by members, the assessments shall be set at the prior year's amount plus five percent (5%) until such time as the membership shall approve a different amount.

(3). Special Assessments.

a. Purpose. Special assessments may be levied for the purpose of improving or constructing improvements such as additions to the community docks, erosion control devices or

further improvement of common areas or amenities for the Property. Special assessment may also be levied to cover correction, repair or replacement of existing roads, common areas or community docks suffering unforeseen damage not covered by insurance or annual assessment. There shall be two special assessments; one for each class.

b. Imposition. Special assessments proposed by the Board of Directors shall state specific purpose, annual amount, and the term of years over which it will be assessed. Approval must be by two-thirds (2/3) of the votes of members of the corporation entitled to vote by class of membership. Once approved, no further vote must be taken as long as the purpose, amount, and term of the special assessment remains as originally voted upon. Any other need arising and requiring a special assessment vote shall be treated as separate and shall not be cause to require a vote on already approved special assessments.

(4). Uniform Rate Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots by class of membership and may be collected on an annual, monthly or other basis as determined by the membership. Initial amounts shall be annually. Class "B" members shall not pay any costs or assessments for the Dock Easement or Dock.

(5). Individual Assessment. Individual assessments shall be levied on members of the Association where the provisions of the Bylaws or the Restrictive Covenants have been violated.

(6). Date of Commencement of Dues and Annual Assessments and Initial Due Date. The dues and annual assessments provided for herein shall commence as to all Lots upon the first day of the month following the sale of the first Lot. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year and due upon thirty (30) day written notice.

(7). Due Date of Annual Dues and Assessments. The annual due date of dues and assessments shall be January 1 of each calendar year. Notwithstanding, the Board of Directors may propose alternative dates for approval by a majority vote of the membership. Once established the due dates shall remain the same from year to year unless and until a new due date or dates is approved by the membership. Written notice of the dues, assessment amount and due date shall be sent to each member at least thirty (30) days in advance of each annual dues and assessment period.

(8). Certificate Of Standing. The Association shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of the assessments on the Lot is binding upon the Association as to the date of its issuance.

(9). Default in Payment of Dues or Assessments.

a. When any member shall be in default in the payment of fees or assessments for a period of thirty (30) days from the date on which such fees or assessments become payable, he shall, for purposes of voting, not be considered as a member in good standing. In addition, such member shall be dropped from active membership and placed on the inactive list. Such member shall not be reinstated until he has paid his dues and assessments in full, and until such time as such member is reinstated, he shall have no rights of any kind arising out of membership in the Association.

b. There will be a late charge of five (5%) percent of any assessment due but not paid within fifteen (15) days of the due date.

c. If any member shall fail to pay his dues or assessments on or before the date on which the same becomes due, the amount of the unpaid dues or assessment shall become a lien on such member's Lot, with or without improvements thereon, in favor of the Association, and the Association shall have the right to record a notice of claim of lien, as a mortgage lien, and to proceed thereon in accordance with the laws of South Carolina for the foreclosure and enforcement of the lien; provided however, that the failure by the Association to record a notice of lien shall not affect the validity of its lien; or, in the event the Association shall not record a lien, it shall have the right to commence an in personam action against such member for the collection of the assessment in any court of competent jurisdiction; provided that in the event that the Association brings legal proceedings to foreclose the lien or brings an in personam action against such member there shall be added to the amount of the dues or assessments due, the costs for preparing and filing the complaint in such action, and in the event that the money judgment or judgment of foreclosure is obtained, such judgment shall include interest at the highest legal rate on the dues or assessments due as provided in the assessment and a reasonable attorney's fee together with the cost of the action. Said lien or judgment may be sold to a third party along with all rights of enforcement herein and under South Carolina law.

(10). Assignment of Dues and Assessments. In the event that any member whose dues and assessments are paid in full, shall, during the year in which such dues or assessments are paid, terminate his or her membership by the sale of his or her Lot in the Property, he or she shall be entitled to assign to the buyer of such Lot the benefit of the paid up dues and assessments.

(11). Option of the Declarants Concerning Assessments. Until such time as the Declarants have sold more than seventy-five (75%) percent of the total number of lots, the Declarants shall have the option, with respect of the lots owned by the Declarants of either paying the Association the annual and special assessments set forth herein or paying to the Association in lieu of all annual and special assessments, an assessment in an amount equal to the amount by which annual costs and expenses of the Association exceed the amount of money collected from all Class "A" and "B" Members. Said assessments shall be due and payable on the same day as the other annual assessments, and shall be a lien on the lot of the Declarants, and the Association shall be entitled to collect said assessments in the same manner as provided herein for the enforcement of annual and special assessments.

(12). Receipt of Membership Dues and Assessments. Any funds received from the Membership by the Association shall be applied as follows: 1) Any late fees due, 2) to any other fees or costs of collection due, 3) to the interest due, and 4) the remainder to the dues and assessments past due.

ARTICLE IX - MANAGING AGENT

(1) Employment. The Board of Directors may appoint a Managing Agent entirely of its own choosing.

(2) Qualification. The Managing Agent may be a natural person or a corporation or other legal entity.

(3) Authorities and Duties. The Managing Agent shall, on behalf of and as directed by the Board of Directors, provide the following:

(a). Surveillance of the property, the maintenance repair and replacement of the roads, common areas and community docks, and the designation and dismissal of the personnel necessary to accomplish the same;

(b). The collection of dues and assessments from the members;

(c). The procuring and keeping in force of insurance on the property and the adjusting (including the execution and delivery of releases upon payment) of claim against such policies as are obtained;

(d). The enactment of reasonable regulations governing the operation and use of the roads, common areas and community docks;

(e). The enforcement of the terms of the Deeds, these Bylaws, the Restrictive Covenants and any Regulations promulgated pursuant to the Bylaws;

(f). To otherwise administer the Association on behalf of and for the benefit of the members;

(g). To provide such other services and perform such other duties as authorized and directed from time to time by the Board of Directors;

(h). The Managing Agent shall confer fully and freely with the membership and shall attend meetings of the corporation.

ARTICLE X - CONTRACTS, LOANS, CHECKS AND DEPOSITS

(1). Contracts. The directors may authorize any officer or officers, agent or agents, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Association, and such authority may be general or confined to specific instances.

(2). Loans. No loans shall be contracted on behalf of the Association and no evidences of indebtedness shall be issued in its name unless authorized by a resolution of the directors. Such authority may be general or confined to specific instances.

(3). Checks, Drafts, etc. All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Association, shall be signed by such officer or officers, agent or agents of the Association and in such manner as shall from time to time be determined by resolution of the directors.

(4). Deposits. All funds of the Association not otherwise employed shall be deposited from time to time to the credit of the Association in such banks, trust companies or other depositories as the directors may select.

ARTICLE XI- FISCAL YEAR

The fiscal year of the Association shall begin on the 1st day of January in each year.

ARTICLE XII - SEAL

The directors shall provide an Associations Seal which shall be circular in form and shall have inscribed thereon the name of the Association, the state of incorporation, year of incorporation and the words, "Corporate Seal".

ARTICLE XIII - WAIVER OF NOTICE

Unless otherwise provided by law, whenever any notice is required to be given to any member or director of the Association under the provisions of these by-laws or under the provisions of the articles of incorporation, a waiver thereof in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

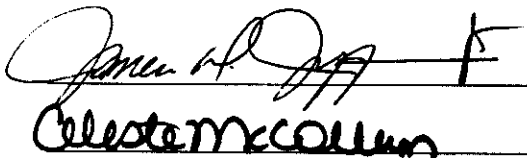
ARTICLE XIV - AMENDMENTS

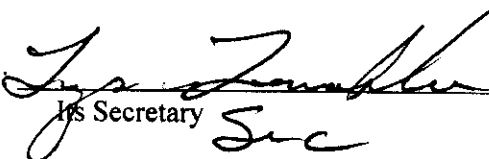
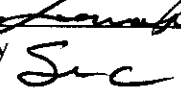
These by-laws may be altered, amended or repealed and new by-laws may be adopted by a two-thirds (2/3) vote of the Members representing a majority of all the memberships issued and outstanding, at any annual Members' meeting or at any special Members' meeting when the proposed amendment has been set out in the notice of such meeting. If an amendment of these Bylaws or any provision of these Bylaws are in conflict with the Restrictive Covenants the Restrictive Covenants shall control and be binding on the Membership.

IN WITNESS WHEREOF, the undersigned has hereunto authorized his name and affixed the seal of the corporation this 12th day of October, 2001.

ATTEST:

**SPARTINA BAY PLANTATION PROPERTY
OWNERS ASSOCIATION, INC.**


Celeste McCollum

BY  (SEAL)
Its Secretary 

BARR, UNGER & McINTOSH, L.L.C.

END 385PG300

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2001 OCT 16 PM 1:06

CHARLIE LYBRAND
REGISTER
CHARLESTON COUNTY SC

46.00 B

EXHIBIT B

BK R 530 PG 876

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHARLESTON) FIRST AMENDMENT TO
) DECLARATION OF RESTRICTIVE
) COVENANTS, CONDITIONS AND
) RESTRICTIONS OF SPARTINA BAY
) PLANTATION SUBDIVISION

This FIRST AMENDMENT TO DECLARATION OF RESTRICTIVE COVENANTS, CONDITIONS AND RESTRICTIONS OF SPARTINA BAY PLANTATION SUBDIVISION is made this 17 day of March, 2005, by N. C. Boykin as Trustee of the Store Creek Land Trust and *N. C. Boykin as Substitute Trustee of the Peters Point Trust, Barry McRoy, Mark McRoy and Keith McRoy as owners of Lot 3 of Spartina Bay Plantation Subdivision, and Ronald F. Farrell as owner of Lot 4 of Spartina Bay Plantation Subdivision, hereinafter collectively referred to as "Declarant."

RECITALS

WHEREAS, N. C. Boykin as Trustee of the Store Creek Land Trust, and N. C. Boykin as Substitute Trustee of the Peters Point Trust subjected certain real property situate on Edisto Island in Charleston County to a Declaration of Restrictive Covenants, Conditions and Restrictions of Spartina Bay Plantation Subdivision, dated October 13, 2001 and recorded in the RMC Office for Charleston County in Book D 385 at Page 260 (hereinafter referred to as the Original Declaration), and

WHEREAS, certain lots within the Property have been conveyed to certain individuals, and said individual Lot Owners, N. C. Boykin as Trustee of the Store Creek Land Trust and N. C. Boykin as Substitute Trustee of the Peters Point Trust, representing One Hundred (100%) percent of the owners of said Property, are desirous of executing and recording this Amendment of Restrictive Covenants, Conditions and Restrictions of Spartina Bay Plantation Subdivision to provide for the allocation and conveyance of dock spaces on the Property community dock;

DECLARATIONS

NOW, THEREFORE, the Declarant, representing One Hundred (100%) percent of the Property Owners, hereby declare that the Declaration of Restrictive Covenants, Conditions and Restrictions of Spartina Bay Plantation Subdivision, dated October 13, 2001 and recorded in the RMC Office for Charleston County in Book D 385 at Page 260 are hereby amended as follows:

1. Amend Article VI, Section 1 as stated in the Original Declaration of Restrictive Covenants, Conditions and Restrictions of Spartina Bay Plantation Subdivision, dated October 13, 2001 and recorded in the RMC Office for Charleston County in Book D 385 at Page 260 to read as follows:

Section 1. The Ownership and Use of the Dock. The Property Owners Association shall own or lease the dock as shown on the permit attached to the Original Declaration of Restrictive Covenants, Conditions and Restrictions of Spartina Bay Plantation Subdivision, dated October 13, 2001 and recorded in the RMC Office for Charleston County in Book D 385 at Page 260 as Exhibit "C" as well as the strip of land designated as Dock Easement on a plat referred to in Exhibit "B". The use of these portions of the Common Property and Facilities (Dock) shall

AMENDMENT OF RESTRICTIVE COVENANTS,
 CONDITIONS AND RESTRICTIONS
 OF SPARTINA BAY PLANTATION SUBDIVISION

Page 1 of 5

belong to Class "A" Members of the Association and the Declarant only. The rights to use the walkway, fixed dock area, and the floating docks shall belong to the Class "A" Members only. The Property Owners Association shall receive a deed or lease for the strip of land designated as Dock Easement and a Bill of Sale for the Dock prior to the first sale of the first lot within the subdivision. The rights of the Class "A" Membership herein shall run with the ownership of Lots within the Class "A" and shall not be assigned or sold separately by any Lot Owner except as provided in Section 4 of this Article. Dock slips shall be assigned to the Lots within the subdivision as follows:

Dock Slip A is assigned to Lot 8
 Dock Slip B and the boat lift are assigned to Lot B
 Dock Slip C is assigned to Lot 4
 Dock Slip D is assigned to Lot 1
 Dock Slip E is assigned to Lot 6
 Dock Slip F is assigned to Lot 7
 Dock Slip G is assigned to Lot 3
 Dock Slip H is assigned to Lot 5

2. Amend "Exhibit B" as referred to in the Original Declaration of Restrictive Covenants, Conditions and Restrictions of Spartina Bay Plantation Subdivision, dated October 13, 2001 and recorded in the RMC Office for Charleston County in Book D 385 at Page 260 to delete the existing property description and replace it with the following:

EXHIBIT "B"

All that certain piece, parcel or tract of land, situate, lying and being in Edisto Island in the County of Charleston, State of South Carolina, containing 1.3578 acres, more or less, of highland, and 2.7038 acres, more or less, of marsh, and being designated as Lot B – Highland and Lot B- Marsh, as shown on a plat prepared by Robert L. Frank, RLS #4177, entitled "A BOUNDARY SURVEY, CUL DE SAC ABANDONMENT, AND DOCK EASEMENT ADJUSTMENT OF LOT B LOCATED ON EDISTO ISLAND, CHARLESTON COUNTY, SOUTH CAROLINA" dated April 2, 2003, and recorded in the RMC Office for Charleston County in Plat Book EG at Page 457, said plat being incorporated herein as part of this description and said tract being bounded now or formerly and measuring more or less as follows: On the Northeast by Store Creek, and measuring thereon Three Hundred Seventy-nine and eighteen one-hundredths (379.18') feet; on the East and Northeast by highland and marsh belonging to Helen P. Rowland and Steve R. Rowland and measuring thereon Three Hundred Sixty (360.00') feet and Four Hundred Eighty Five and forty-two one hundredths (485.42') feet, respectively; on the Southeast by an existing Private Right of Way Easement and measuring thereon One Hundred Thirty-Four and ninety-eight one hundredths (134.98') feet, and on the Southwest by lands of John R. Hamrick and Meredith Family, LLC and measuring thereon Seven Hundred Thirty and eighty-three one hundredths (730.83') feet and Four Hundred Forty-Four and twenty-seven hundredths (444.27') feet; respectively.

IN WITNESS WHEREOF, the undersigned, being One Hundred (100%) percent of the Property Owners hereunto set their hands and seals as of the date first above written.

AMENDMENT OF RESTRICTIVE COVENANTS,
 CONDITIONS AND RESTRICTIONS
 OF SPARTINA BAY PLANTATION SUBDIVISION
 Page 2 of 5

N.C. BOYKIN as TRUSTEE FOR
THE STORE CREEK LAND TRUST*
BY [Signature] (SEAL)

Signed, Sealed and Delivered
in the presence of:

[Signature]
[Signature]

STATE OF SOUTH CAROLINA)
) ACKNOWLEDGMENT
COUNTY OF CHARLESTON)

The foregoing instrument was acknowledged before me this 17th day of March, 2005 by
N. C. Boykin as Trustee for the Store Creek Land Trust.

[Signature] (SEAL)
Notary Public for South Carolina
My commission expires: 8/4/2010

OWNERS OF LOT 3

Signed, Sealed and Delivered
in the presence of:

Audrey D. Crosby

[Signature]

BY: Barry McRoy (SEAL)
BARRY McROY

BY: Mark McRoy (SEAL)
MARK McROY

BY: Keith McRoy (SEAL)
KEITH McROY

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

ACKNOWLEDGMENT

The foregoing instrument was acknowledged before me this 22nd day of March, 2005 by Barry McRoy, Mark McRoy, and Keith McRoy, owners of Lot 3, Spartina Bay Plantation Subdivision..

Audrey D. Crosby (SEAL)
Notary Public for South Carolina
My commission expires: 4-16-08

BK R 530PG880

OWNERS OF LOT 4

Signed, Sealed and Delivered
in the presence of:

Wardson
Heel

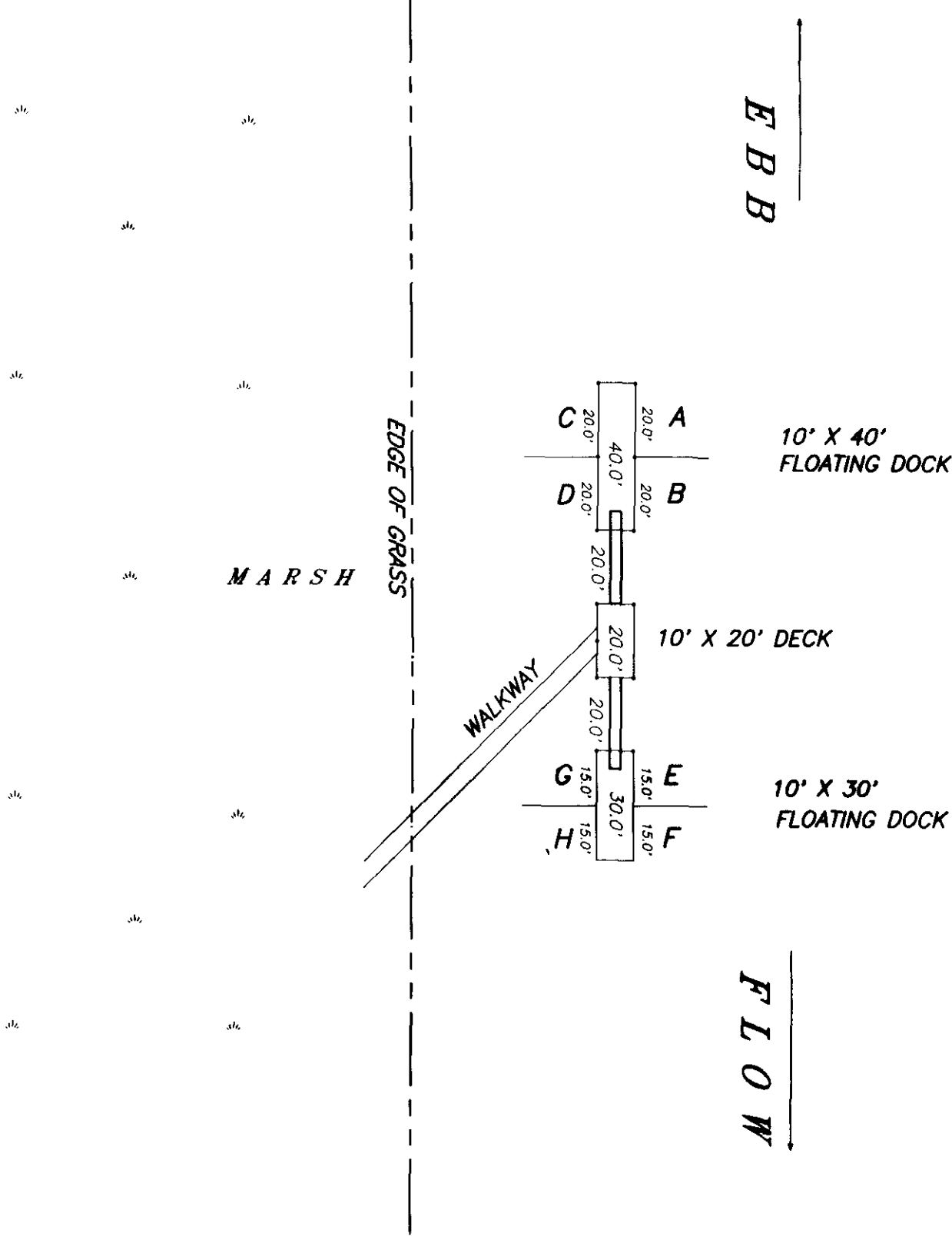
BY: Ronald F. Farrell (SEAL)
RONALD F. FARRELL

STATE OF SOUTH CAROLINA)
) ACKNOWLEDGMENT
COUNTY OF CHARLESTON)

The foregoing instrument was acknowledged before me this 17 day of March, 2005 by
Ronald F. Farrell, owner of Lot 4, Spartina Bay Plantation Subdivision...

Heel (SEAL)
Notary Public for South Carolina
My commission expires: 8/1/2010

SKETCH OF BOAT SLIPS



Barr, Unger &
McIntosh, LLC
111-A E. Washington St
Walterboro, SC
29488-
3915

BK R 530PG882

FILED

R530-876

2005 MAR 28 PM 12:16

CHARLIE LYBRAND
REGISTER
CHARLESTON COUNTY SC

17.00
B

EXHIBIT C

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHARLESTON) LEASE

THIS LEASE is made and executed on the 12th day of October, 2001, by and between PETERS POINT TRUST (hereinafter referred to as "Landlord"), and the SPARTINA BAY PLANTATION PROPERTY OWNERS ASSOCIATION, INC., (hereinafter referred to as "Tenant").

SECTION ONE

DEMISE

Landlord leases to Tenant the property more particularly described on Exhibit "A" attached hereto and incorporated herein, located on Edisto Island, County of Charleston, State of South Carolina.

SECTION TWO

TERM

The term of this Lease shall be ninety nine (99) years and shall commence as of the 1st day of October, 2001, and shall continue through the last day of September, 2100. The Tenant may have this Lease recorded if it so desires.

SECTION THREE

TRIPLE NET LEASE

Tenant shall pay all utilities, maintenance, taxes, insurance, liability insurance, and any and all expenses incurred on behalf of the property. This is a triple net lease.

SECTION FOUR

RENT

a. Tenant shall pay to Landlord for the demised premises a rent in the amount of Ten and 00/100 (\$10.00) Dollars per year, which rent shall be due and payable on the first day of January each year.

b. As additional rent the Tenant shall pay for all property taxes, and special assessments against the property for both the real and personal property located thereon. This includes the common dock attached to the property. The leased property is presently taxed as a part of a larger tract of land. The Tenant shall pay to the Landlord a sum of 25% of the total tax bill for said parcel. If the Landlord or its successors or assigns construct improvements on the larger parcel the percentages shall be adjusted based upon values of the property.

SECTION FIVE

USE OF PREMISES

The demised premises may be used by the Tenant for the purpose of access to the common dock for the Class "A" members. The dock is attached to subject property and owned by the Trust. The Tenant may make improvements as needed to support the common dock. Tenant further agrees that it will not engage in any unlawful or illegal activity, nor allow or suffer any activity upon the premises, creating a hazard to subject property or tending to cause a breach of the peace. Tenant shall at all times keep the premises in a neat and orderly maintained manner, free of trash, debris, rubbish and the emission of odors or gases. Landlord shall have the right, upon giving Tenant reasonable notice, to inspect the premises for such purpose.

SECTION FIVE

UTILITIES

Tenant shall pay all cost of utilities, to include electricity, gas, water and telephone, for the adjacent dock during the period of the lease or any improvements added to the property.

SECTION SIX

DEFAULT

If Tenant shall fail or neglect to observe, keep or perform any of the covenants, terms or conditions herein contained on its part to be observed, kept, or performed, and such default shall

continue for a period of thirty (30) days after written notice from Landlord setting forth the nature of Tenant's default, then and in any such event, Landlord shall have the right at its option without forthwith to terminate this Lease and all rights of the Tenant thereunder shall cease, and the Landlord shall have the right immediately to enter the demised premises and take possession thereof with or without process of law and to remove all personal property from the premises and all persons occupying the premises and to use all necessary force therefor and in all respects to take the actual, full and exclusive possession of the premises and every part thereof as of Landlord's original estate, without incurring any liability to Tenant or to any person occupying or using the premises for any damage caused or sustained by reason of such entry on the premises or such removal of such persons or property therefrom.

SECTION SEVEN

QUIET ENJOYMENT

Landlord covenants that Tenant upon performing the covenants aforesaid, shall and may peacefully and quietly have, hold and enjoy the said leased premises for the terms aforesaid subject to revisions thereof.

SECTION EIGHT

MAINTENANCE AND UPKEEP

Tenant hereby accepts the dock on the demised property "as it exists" without any warranties, obligation, or commitments on behalf of Landlord. Tenant further agrees to be fully responsible for all maintenance, upkeep, and improvements of the dock and grounds. Landlord shall not be responsible for any maintenance, cosmetically or structurally.

SECTION NINE

INDEMNIFICATION & INSURANCE

(a) Tenant agrees to indemnify and save harmless the Landlord from any claim or loss by reason of an accident or **damage** to any person or property happening on or about the demised premises.

(b) Tenant further agrees to carry, and will furnish to the Landlord a certificate of insurance prior to occupancy on the demised premises, at its expense, providing public liability insurance coverage, with a contractual liability endorsement on the policy, in a company qualified to transact business in the State of South Carolina, in which the demised premises are located, stipulating limits of liability of not less than One Million and 00/100 (\$1,000,000.00) Dollars for an accident affecting any one or more persons and Fifty Thousand and No/100 (\$50,000.00) Dollars property damage. The certificate of such coverage from the insurer must provide for thirty (30) days' notice to Landlord prior to cancellation or termination.

SECTION TEN

GENERAL PROVISIONS

(a) All signs placed on said premises shall be subject to the approval of the Landlord.

(b) This Lease and all the terms, covenants and conditions hereof shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors and assigns of both parties hereto in like manner as if each had been enumerated in every instance in which said parties are mentioned herein.

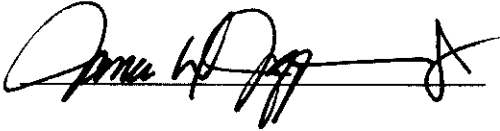
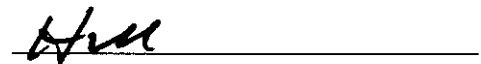
(c) If the said premises shall be destroyed by fire, elements of unavoidable casualty, totally or partially, either party may terminate this Lease by notice in writing to the other.

(d) If the Tenant dissolves, becomes inactive, or is no longer an operative property owners association, the lease shall be automatically null and void and occupancy of the property shall revert back to the Landlord. If the Tenant votes to abandon the dock as provided in the Restrictive Covenants, then this lease shall be null and void.

(THIS SPACE INTENTIONALLY LEFT BLANK)

IN WITNESS WHEREOF, the parties have executed this Lease at Edisto Island, South Carolina.

Signed, Sealed and Delivered
in the Presence of:

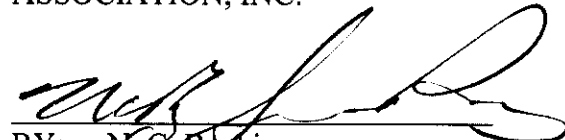



N.C. BOYKIN as SUBSTITUTE TRUSTEE
PETERS POINT TRUST
"LANDLORD"


BY: N.C. Boykin as Substitute Trustee

SPARTINA BAY PLANTATION
PROPERTY OWNERS
ASSOCIATION, INC.





BY: N.C. Boykin
ITS: President

STATE OF SOUTH CAROLINA)
) ACKNOWLEDGMENT
COUNTY OF CHARLESTON)

The foregoing instrument was acknowledged by me this 12th day of October by N. C. Boykin as Substitute Trustee Peters Point Trust and N. C. Boykin as President of the Spartina Bay Plantation Property Owners Association, Inc.

Charlotte D. Noh (SEAL)
Notary Public for South Carolina

My Commission Expires: 5/21/02

EXHIBIT "A"

TRACT 1: All that certain piece, parcel or strip of land situate, lying and being on Edisto Island in the County of Charleston, State of South Carolina, being shown and designated as "25' DOCK INGRESS/EGRESS EASEMENT" on a plat prepared by Jerry L. Fowler, RLS #15178, entitled "A BOUNDARY SURVEY OF 4.31 ACRES TMS 025-00-00-038 SURVEYED FOR: STORE CREEK TRUST" dated September 17, 2001, and recorded in the RMC Office for Charleston County in Plat Book DD at Page 27, said strip having such size, shape, dimensions, buttings and boundings as by reference to said plat will more fully, ~~and at large~~ appear.

TRACT 2: All that certain piece, parcel or tract of marshland situate, lying and being on Edisto Island in the County of Charleston, State of South Carolina, being shown and designated as "2.95 ACRES MARSH" on a plat prepared by Jerry L. Fowler, RLS #15178, entitled "A BOUNDARY SURVEY OF 4.31 ACRES TMS 025-00-00-038 SURVEYED FOR: STORE CREEK TRUST" dated September 17, 2001, and recorded in the RMC Office for Charleston County in Plat Book DD at Page 27, said tract of marshland having such size, shape, dimensions, buttings and boundings as by reference to said plat will more fully and at large appear.

BKG 390PG264

BARR, UNGER & McINTOSH, L.L.C.

[Handwritten signature]

FILED

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2001 DEC -7 PM 12:43

**CHARLIE LYBRAND
REGISTER
CHARLESTON COUNTY SC**

13.00
C

EXHIBIT D



BP0234897

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHARLESTON)
 _____)

EASEMENT AGREEMENT

This Easement Agreement (the "Agreement") is made, entered into, and effective this 25th day of January, 2012, by and between James L. Cox and Catherine T. Cox ("the Grantors") and Spartina Bay Plantation Property Owners Association, Inc. (the "Grantee").

WITNESSETH

WHEREAS, the Grantors are the owners of the real property situated in Charleston County, South Carolina, and more fully described in Deed from Internal Revenue Service, Jeannine A. Hammett Special Agent in Charge, Criminal Investigation, Internal Revenue Service, Charlotte Field Office to James L. Cox and Catherine T. Cox dated March 29, 2010 and recorded on April 2, 2010 in the Charleston County RMC Office in Book 0115, Page 404;

WHEREAS, the Grantee is the owner of property located near the Grantors' property; and

WHEREAS, the parties hereto desire to enter into the within agreement with regard to an easement;

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, along with the mutual covenants and agreements contained herein, the Parties covenant and agree as follows:

1. Incorporation of Recitals: The Parties acknowledge that the foregoing recitals are true and correct and are incorporated into this Agreement as if fully set forth herein.

2. Access Easement: Grantors hereby grant, bargain, sell and release unto Grantee, its successors and assigns, for the benefit of the Grantee Property, a perpetual, exclusive, appendant, appurtenant, transferable easement (the 'Access Easement') on, over and across the Grantor Property for pedestrian ingress and egress on, over and across the Easement Area. This Easement Area is more fully shown as "Existing Dock Ingress/Egress Easement" on Plat by Robert Frank Surveying, dated April 2, 2003, revised on June 19, 2003 and recorded in the Charleston County RMC Office on June 26, 2003 in Book EG, Page 457. Grantee shall have no other rights in and to any other portion of the Grantor Property except the Easement Area. Grantors hereby reserve the right, for itself and its tenants, invitees, permittees, agents, representatives, successors and assigns, to use the Access Easement in common with Grantee for any purposes not inconsistent with Grantee's rights under this Agreement.

3. Easement Appurtenant. The Access Easement shall not be an easement in gross but shall be an easement appurtenant to the Grantee Property and shall be enforceable by the Grantee and its' successors, heirs, and assigns. The Access Easement shall run with the land and title to the Grantee Property as a burden on the Grantor property and a benefit to the Grantee Property.

4. No Impediments. No barriers, impediments or obstructions of any kind shall be erected, built or placed within the Easement Area which may impede or hinder the free flow of traffic through the Easement Area, except with the prior written consent of the Grantee, or except for temporary interruptions or relocations relating to routine maintenance or repairs which do not materially impair the rights of ingress and egress granted hereby. Any trees or other impediments currently within the easement area at the

time of the signing of this agreement may be removed by Grantee at Grantee's sole expense.

5. Reversion: In the event that one hundred (100%) of all of the Class "A" Membership of this Property Owners Association vote in writing to abandon any repair, rebuilding or use of said walkway and dock pursuant to Article VI, Section 3 of the Spartina Bay Plantation's Covenants, Conditions and Restrictions, then this Easement shall (at the option of the owner) be conveyed by the Property Association to the Owner of Lot B (said Lot being defined above and said owner shall be that as is designated on the records in the RMC Office in the County where said property is located). Said Owner shall pay, in full, all of the costs of the Property Owners Association to Deed said parcel, and when deeded, shall become a part of Lot "B" with the provision that said Lot cannot be further subdivided without the unanimous consent of all Lot Owners. The Owner of Lot B shall have all rights to the Dock thereafter.

6. Real Estate Taxes. As consideration and just compensation for this Easement, the Property Owners Association agrees to pay twenty-five (25%) of the real estate tax assessed for Lot B on an annual basis unless agreed otherwise in writing by both parties.

7. Indemnification. The Parties shall each indemnify, defend and hold the other harmless from any claim, loss, or liability arising out of or related to any default or violation of this Agreement by the indemnifying Party or its associated tenants, customers, licensees or permittees. This Section shall not apply to the extent the liability is covered by an applicable insurance policy.

8. Attorney Fees. In the event that any party hereto shall bring an action to enforce the terms hereof or to declare rights hereunder, the prevailing party in any such

action shall be entitled to its court costs and reasonable attorney fees to be paid by the non-prevailing party as fixed by the court of appropriate jurisdiction, including, but not limited to, attorney fees and court costs incurred in courts of original jurisdiction, bankruptcy courts or appellate courts.

9. Amendment. This Agreement may be modified or amended, in whole or in part, only by the written consent of all the parties involved in this Agreement.

10. Severability. If any term, covenant or condition of this Agreement or the application thereof to any person or circumstance shall, to the extent, be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby and each such term, covenant or condition of this Agreement shall be valid and enforceable to the full extent permitted by law.

11. Construction. As used in this Agreement, the masculine, feminine or neuter gender and the singular or plural number shall each include the others whenever the context so indicates. This Agreement shall be construed as a whole and in accordance with its fair meaning and without regard to any presumptions or other rule regarding and construction against the person or entity preparing the Agreement or any part thereof.

12. Governing Law. The terms of this Agreement shall be construed in accordance with and governed by the laws of the State of South Carolina.

13. Integration. This Agreement is an integrated agreement and expresses the complete agreement and understanding of the Parties. Any and all prior or contemporaneous oral agreement or prior written agreement regarding the Agreement will be merged herein.

14. Notice. Any notices given pursuant to this Agreement shall be in writing, and shall be personally delivered or deposited in the United States certified mail, postage prepaid, return receipt requested, at the following addresses:

Grantors: James and Catherine Cox

1499 Marsh Bluff Court

Edisto Island, SC 29438

Grantee: Spartina Bay Plantation Property Owners Association, Inc.

2410 Highway 174

Edisto Island, SC 29438

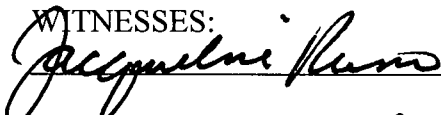
15. Successors and Assigns. The terms, conditions and requirements of this Agreement shall be binding on and inure to the benefit of the Parties and their respective heirs, successors and assigns.

16. Counterparts. This Agreement may be executed in one or more counterparts, all of which taken together shall constitute one Agreement.

17. Time of Essence. Time is of the essence of this Agreement. However, if the final date of any period which is set out in any provision of this Agreement falls on a Saturday, Sunday or legal holiday under the laws of the United States or the State of South Carolina, then, in such event, the time of such period shall be extended to the next day which is not a Saturday, Sunday or legal holiday. As used herein, the term "business day" shall mean any day which is not a Saturday, Sunday or legal holiday.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first above written.

WITNESSES:

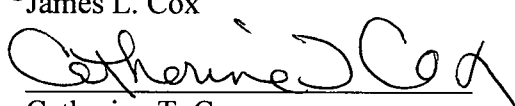





Molly E. McKelvey

GRANTORS:



James L. Cox


Catherine T. Cox

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

ACKNOWLEDGMENT

The foregoing instrument was acknowledged before me this 23rd day of January, 2012, by James L. Cox and Catherine T. Cox.



MOLLY E. MCKELVEY
Notary Public of South Carolina
My Commission Expires: 3/30/2019

WITNESSES:

GRANTEE:

SPARTINA BAY
PLANTATION PROPERTY
OWNERS ASSOCIATION, INC.

Julie W. Polson
Maria C. Delgado

[Signature]
By: Bruce Matrisciani
Its: President

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

ACKNOWLEDGMENT

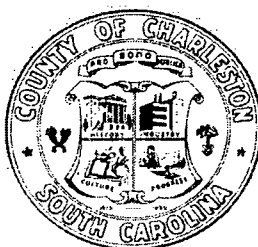
The foregoing instrument was acknowledged before me this 25 day of January, 2012, by Bruce Matrisciani as President of Spartina Bay Plantation Property Owners Association, Inc. .

[Signature]
Notary Public of South Carolina
My Commission Expires: 2-4-2015



RECORDER'S PAGE

NOTE: This page **MUST** remain
with the original document



Filed By:

DEJONG LAW FIRM, LLC
940 JOHNNIE DODDS BLVD.
SUITE 203
MT. PLEASANT SC 29464

RECORDED

Date: February 22, 2012

Time: 11:29:02 AM

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Charlie Lybrand, Register
Charleston County, SC

MAKER:

COX JAMES L AL

of Sats:

of Pages: 8

of References:

RECIPIENT:

SPARTINA BAY PLTN POA

Note:

Recording Fee \$ 10.00

Extra Reference Cost \$ -

Extra Pages \$ 3.00

Postage \$ -

Chattel \$ -

TOTAL \$ 13.00

Original Book:

Original Page:

DRAWER Drawer 3

CLERK ECP



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Recorded Date



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EXHIBIT E



STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

**SECOND AMENDMENT TO
DECLARATION OF RESTRICTIVE
COVENANTS, CONDITONS AND
RESTRICTIONS OF SPARTINA BAY
PLANTATION SUBDIVISION**

This SECOND AMENDMENT TO THE DECLARATION OF RESTRICTIVE COVENANTS AND RESTRICTIONS OF SPARTINA BAY PLANTATION SUBDIVISION is made this 13th day of November, 2019, by a majority vote of the Members in good standing of the Spartina Bay Plantation Property Owners Association, Inc.(SBPPOA, Inc.), with Glenn Dill, President of the SBPPOA, Inc., authorized to sign on their behalf, hereinafter referred to as SBPPOA, Inc.

RECITALS

WHEREAS, Spartina Bay Plantation Subdivision, Edisto Island, SC, Charleston County is subject to a Declaration of Restrictive Covenants, Conditions and Restrictions, dated October 13, 2001, recorded in the RMC offices for Charleston County in Book D 385 at Page 260, (hereinafter referred to as the Original declaration) which was amended by the First Amendment to the Declaration of Restrictive Covenants, Conditions and Restrictions recorded in the RMC Office for Charleston County in Book R530 at Page 876, and

WHEREAS, certain inadequacies in the original Declaration of Restrictive Covenants, Conditions and Restrictions as modified by the First Amendment previously cited herein, have been identified, the SBPPOA, Inc. is desirous of executing and recording this Second Amendment of the Declaration of Restrictive Covenants, Conditions and Restrictions of the Spartina Bay Plantation Subdivision to provide modification to **ARTICLE V, USE RESTRICTIONS, ARTICLE 10, GENERAL PROVISIONS** and **EXHIBIT D, BY-LAWS OF SPARTINA BAY PLANTATION PROPERTY OWNERS ASSOCIATION, INC., ARTICLE V-MEETING OF MEMBERS.**

DECLARATIONS

NOW, THEREFORE, the SBPPOA, Inc. declares that the Declaration of Restrictive Covenants, Conditions and Restrictions of the Spartina Bay Plantation Subdivision, as amended by a First Amendment as previously cited herein, is hereby amended as follows:

1. Amend **ARTICLE 5, USE RESTRICTIONS**, by added provision as follows:

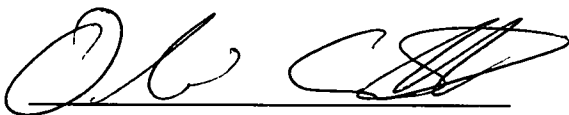
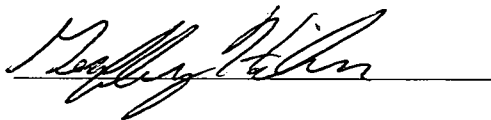
Section 13, Financial Liability. No action of any type (excepting those necessary for safety due to imminent danger to life or property) will be unilaterally taken by any Spartina Bay Plantation Subdivision Property Owner which will, in the judgment of the SBPPOA, Inc. Board of Directors, increase or have the potential to increase the costs of operation of the SBPPOA, Inc.. Actions which are perceived by the aforementioned Board of Directors as having the potential to increase costs of operation may potentially be approved by the Board of Directors (which has sole discretionary authority to do so)

providing the Property Owner agrees to bear sole and total financial responsibility for said increase in costs perpetually or until the action incurring or potentially incurring the added costs is no longer in force. An example of such an action is a property owner's operation of equipment or watercraft which results in or potentially could reasonably be likely to result in an increase in insurance costs to the SBPPOA, Inc. Actions of this nature, approved by the Board of Directors of the SBPPOA, Inc. which will result in recurring costs the SBPPOA, Inc. require an executed written and recorded Agreement between the SBPPOA, Inc. and the Spartina Bay Plantation Subdivision Property Owner with said Agreement specifically delineating the amount of financial responsibility and terms of payment by the Property Owner so long as the "approved" action by the SBPPOA, Inc. Board of Directors on behalf of the Property Owner requesting the action, continues to occur.

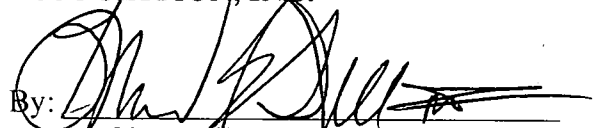
2. **ARTICLE X, SECTION 3, AMENDMENT:** Insert in all locations after the word "members" the following words: "in good standing".
3. **EXHIBIT D, BY-LAWS OF SPARTINA BAY PLANTATION PROPERTY OWNERS ASSOCIATION, INC., ARTICLE V-MEETING OF MEMBERS, (1) Annual Meeting:** Delete all words which follow the words "shall be held" and replace with the following: "within sixty (60) days of the beginning of a new calendar year at a time and place deemed appropriate by the Board of Directors of the SBPPOA, Inc."

IN WITNESS WHEREOF, the undersigned, as president of SBPPOA, Inc., set his hands and seal as of the date first written above.

WITNESSES:



**SPARTINA BAY PLANTATION
PROPERTY OWNERS
ASSOCIATION, INC.**

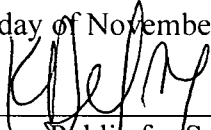
By: 
Glenn Dill, President

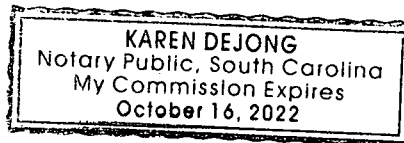
STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

ACKNOWLEDGEMENT

I, the undersigned notary public, do certify that the within named Spartina Bay Plantation Property Owners Association, Inc., by Glenn Dill, President, personally appeared before me, and having satisfactorily proven to be the person whose name is subscribed above, have acknowledged the due execution of the within Instrument.

Witness my official seal this 13th day of November, 2019.


_____(SEAL)
Notary Public for South Carolina
My commission expires: 10-16-2022



RECORDER'S PAGE

NOTE: This page **MUST** remain
with the original document



Filed By:

DEJONG LAW FIRM, LLC
222 WEST COLEMAN BLVD
SUITE 110
MT. PLEASANT SC 29464-3591

RECORDED

Date: November 25, 2019

Time: 2:27:27 PM

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Misc/Amend

Michael Miller, Register
Charleston County, SC

MAKER:

SPARTINA BAY PLTN POA INC

of Pages: 4

of Sats:

of References:

RECIPIENT:

N/A

Note:

Recording Fee \$ 25.00

Extra Reference Cost \$ -

Extra Pages \$ -

Postage \$ -

Chattel \$ -

TOTAL \$ 25.00

Original Book:

D385

Original Page:

260

DRAWER Drawer 2

CLERK JBA



0842
Book



294
Page



11/25/2019
Recorded Date



4
Pgs



D385
Original Book



260
Original Page

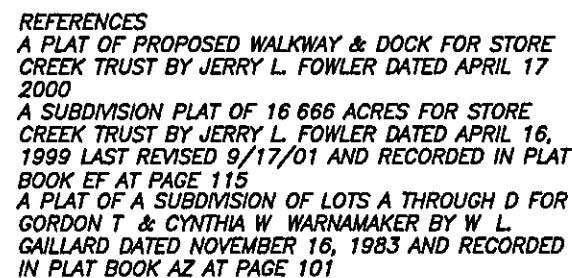


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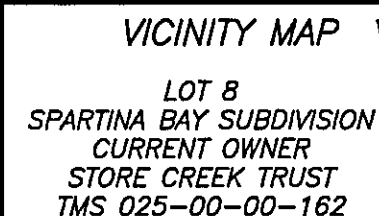


14:27:27
Recorded Time

EXHIBIT F



COURSE	BEARING	DISTANCE
L-1	N 78 36 40 E	18 37
L-2	N 63 24 18 E	20 52
L-3	N 86 05 02 E	23 95
L-4	N 45 43 00 E	16 24
L-5	S 58°41' 22 E	17 95
L-6	N 87 41 08 E	38 47
L-7	S 81 40 07 E	22 45



CURRENT OWNER
SPARTINA BAY SUBDIVISION
CURRENT OWNER
STORE CREEK TRUST
TMS 025-00-00-166

MARSH BLUFF CT
50\ R/W (PRIVATE)

295 ACRES
MARSH

50' R/W

25 00
13 50
CUL-TEMP
36 ACRES
LAND

EASEMENT

THIS LOT DOES MEET MINIMUM HEALTH
DEPARTMENT STANDARDS FOR A MODIFIED
CONVENTIONAL SUB SURFACE DISPOSAL
SYSTEM ONLY

CURRENT OWNER
STEVE R & HELEN P ROWLAND
TMS 025-00-00-039

This approval in no way obligates the County of Charleston to maintain this right-of-way until it has been constructed to County standards and accepted for maintenance by Charleston County Council

APPROVED PLAT

S-8.13 45 (Exempt)

John B. Wang FOR Jennifer Miller
DIRECTOR OF PLANNING
CHARLETON COUNTY PLANNING COMMISSION
18771 NOV 29, 2001
APP # DATE

Charleston South Carolina
Office of Register Mesne Conveyance
Plat recorded this 30th day of Nov., 2001 at
3 10 o'clock in Plat Book DD Page 27, and tracing cloth
copy filed in File 2 Drawer 4 Folder 77, Drawing No. 44
Original plat (a White Print) delivered to Chas Co Planning Board

Register Mesne Conveyance

FOWLER LAND SURVEYING
769-B JEFFERIES BLVD
WALTERBORO, S C 29488
(843)549-2854

THE AREA SHOWN ON THIS PLAT IS GENERAL REPRESENTATION OF DHEC OCRM PERMIT AUTHORITY ON THE SUBJECT PROPERTY. CRITICAL AREAS BY THEIR NATURE ARE DYNAMIC AND SUBJECT TO CHANGE OVER TIME. BY GENERALLY DELINEATING THE PERMIT AUTHORITY OF THE DHEC OCRM, THE OFFICE OF OCRM IN NO WAY WAIVES THE RIGHT TO ASSERT PERMIT JURISDICTION AT ANY TIME IN ANY CRITICAL AREA ON THE SUBJECT PROPERTY, WHETHER SHOWN HEREIN OR NOT.

FIELD WORK _____
OFF CHK _____
DRAWN BY _____

SHOWN HEREIN OR NOT
FEB 25 1967
SIGNATURE

11-27-01
DATE

The critical line shown on this plat is valid for three years from the date of this signature subject to the cautionary language above

THE AREA SHOWN ON THIS PLAT IS A GENERAL REPRESENTATION OF DHEC - OCRM PERMIT AUTHORITY ON THE SUBJECT PROPERTY. CRITICAL AREAS BY THEIR NATURE ARE DYNAMIC AND SUBJECT TO CHANGE OVER TIME. BY GENERALLY DELINEATING THE PERMIT AUTHORITY OF THE DHEC - OCRM, THE OFFICE OF OCRM IN NO WAY WAIVES THE RIGHT TO ASSERT PERMIT JURISDICTION IN ANY CRITICAL AREA ON THE SUBJECT PROPERTY WHETHER SHOWN OR NOT.

THIS CERTIFICATION IS VALID FOR A PERIOD OF THREE (3) YEARS.

SIGNED BY

DATE _____

ROADS RIGHTS-OF-WAYS HOMEOWNER'S AGREEMENT

MARSH BLUFF CT (PRIVATE RD.) DEDICATION
 WE HEREBY DEDICATE THE ROADS AND DRAINAGE EASEMENT SHOWN HEREON TO THE USE
 OF THE SPARTANA BAY PLANTATION PROPERTY OWNERS ASSOCIATION, INC. THE APPROVAL OF
 THIS PLAT IN NO WAY OBLIGATES THE COUNTY OF CHARLESTON TO ACCEPT FOR CONTINUED
 MAINTENANCE ANY OF THE ROADS OR EASEMENTS SHOWN ON THIS PLAT

SIGNED BY

DATE 11-27-01

NEWTON BOYKIN FOR STORE CREEK TRUST

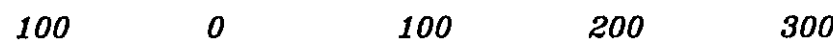
A BOUNDARY SURVEY OF 4 31 ACRES
LOT B

TMS 025-00-00-038

*SURVEYED FOR STORE CREEK TRUST
SEPTEMBER 17, 2001*

EDISTO ISLAND

CHARLESTON COUNTY-SOUTH CAROLINA



GRAPHIC SCALE - FEET

$$1 = 100$$

I hereby state that to the best of my knowledge information and belief the survey shown hereon was made in accordance with the requirements of the Minimum Standards Manual for the practice of Land Surveying in South Carolina and meets or exceeds the requirements for a Class B survey as specified therein.

JERRY L FOWLER
RLS NO 15178

JOB NO 99013-5D

EXHIBIT G

Minutes of the Spartina Bay Annual POA Meeting

March 28, 2009

The meeting was called to order by the President, Bruce Mastriscini at 1:10 PM.

In attendance: Bruce Mastriscini, Ron Farrell

Not in attendance: Everybody else.

Subjects discussed:

Security: There has been some non-resident traffic in Spartina and in one instance, some personal property stolen from the dock area. One approach to attempt to control this is to erect a Private Property sign at the entrance. Bruce will pursue at a cost of approximately \$50.00.

Maintenance:

Common property: Grass cutting will continue at \$60 per mow as needed and road leveling at \$150 per time.

Dock: Reply from members indicates that there is no support for spending on dock repair. Bruce and Ron will volunteer to hammer down protruding nails. Any other volunteers are most welcome.

1499 Marsh Bluff: This is Cookie's old home. It was purchased by C&D Distributors of Lexington, SC. The principle of C&D was indicted by the US Government on contract fraud and a US Gov lien was placed on the property. The property is three years (\$1100) in arrears on dues. The Govt lien precludes any additional liens being placed on the property. It appears that the only recourse that we have is to plead with the court to recognize our liability and attempted to have it collected at the closing assuming the house is sold. We have asked an attorney to so plead.

The other issue is that this property owns the piece of common property along side which serves as access to the docks. Spartina Bay has a 99 year lease on that property. In addition to the pleading for back dues, we wish to make the court and any potential buyer remindful of that issue. In addition we will be pursuing a termination of that lease and deeding of the property to the POA. This was originally rejected by Charleston County. They would not agree to allow that small piece of land be separately deeded.

EXHIBIT H

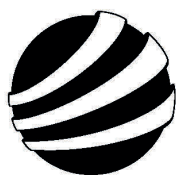
In the Matter Of:

WELLS V. SPARTINA BAY PLANTATION POA

2022-CP-10-04952

BRUCE MATRISCIANI

April 30, 2024



ESQUIRE
DEPOSITION SOLUTIONS

800.211.DEPO (3376)
EsquireSolutions.com

1 STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON
2 COUNTY OF CHARLESTON) PLEAS
3) NINTH JUDICIAL CIRCUIT
4)
5)
6) CASE NO. 2022-CP-10-04952
7)
8)
9)
10)
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24)
25)

STEPHEN C. WELLS AND
RANDI P. WELLS,

PLAINTIFFS,
vs.

SPARTINA BAY PLANTATION
PROPERTY OWNERS'
ASSOCIATION, INC.,
DEFENDANT.

DATE: Tuesday, April 30, 2024

TIME: 10:28 a.m.

LOCATION: Earhart Overstreet
878 Whipple Road, Suite 200
Mount Pleasant, South Carolina 29464

REPORTER: Michele Darling Neville, RPR

A P P E A R A N C E S

For Plaintiff: Earhart Overstreet
By: Steven R. Kropski, Esquire
By: Maxwell J. Seferian, Esquire
878 Whipple Road, Suite 200
Mount Pleasant, South Carolina 29464
E-mail: steve.kropski@earhartoverstreet.com
E-mail: max.seferian@earhartoverstreet.com

For Defendant: Rosen Hagood
By: Timothy J.W. Muller, Esquire
40 Calhoun Street, Suite 450
Charleston, South Carolina 29401
E-mail: tmuller@rosenhagood.com

I N D E X

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P2	Letter dated 6/24/2010	35
P3	Restrictive covenants	37
P4	Easement agreement	44
P5	Letter dated 4/10/2012	53
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P8	3/28/2029 meeting minutes	98
P9	Affidavit of B. Matrisciani	116
P10	Restrictive covenants	129
P11	SBPPOA operating rules	144
P12	Lease dated 10/12/2001	156

Matrisciani Deposition
Pgs. 36-37

1 Q Okay. If you want -- you want to read through it?

2 A I've read through it.

3 Q Okay. The first sentence talks about -- or the
4 second sentence talks about "We need to get a plat, and
5 there's a good many instruments that would need to be
6 prepared."

7 Do you recall if any of those instruments were
8 ever prepared by Barr, Unger?

9 A I don't know.

10 Q Okay. Next it says: "Also, I think it would be a
11 good idea to have a special meeting, get proxies where
12 possible, in parenthesis, to confirm this action."

13 Do you recall getting that advice from Mr. Unger?

14 A I do not recall.

15 Q Okay. Do you dispute that that advice was given
16 by Mr. Unger, to have a special meeting to confirm the
17 action?

18 A I don't dispute it.

19 Q Okay. Put those aside. I want to back up to your
20 time as president, which at least we're looking at 2009, and
21 I think probably until 2014. How was the POA governed
22 during that period of time when you were president? How
23 were decisions made?

24 A Meetings. Votes.

25 Q Okay.

1 A Following Robert's Rules.

2 Q Okay. And so an action to be effective would need
3 a vote by the board?

4 A Correct.

5 Q Following Robert's Rules; right?

6 A Correct.

7 Q Okay. I'm going to pull out the -- you don't have
8 to read them all. I'm sure you've been through the
9 covenants plenty of times. And the bylaws. What we're
10 going to mark as exhibit 3 is a document that's titled
11 decoration of restricted covenants, conditions and
12 restrictions at Spartina Bay Plantation subdivision.

13 [Plaintiff's Exhibit Number 3 was marked for
14 identification.]

15 BY MR. KROPSKI:

16 Q And starting about halfway through, there is a
17 bylaws of Spartina Bay--

18 A What page number are you on?

19 Q You know, it doesn't have a good -- there's going
20 to be -- you see this recorded?

21 A Okay.

22 Q It's marked as exhibit D to the covenants. The
23 little number says 385, page 289.

24 A Yep.

25 Q Okay. This document, you're familiar with it;

Matrisciani Deposition

Pg. 44

1 Easement agreement we'll do as number 4.

2 [Plaintiff's Exhibit Number 4 was marked for
3 identification.]

4 BY MR. KROPSKI:

5 Q What's marked as exhibit 4 is entitled easement
6 agreement. You can take a look through, but I -- before we
7 go through this, somewhere before -- somewhere after Wayne
8 was involved, Karen was hired?

9 A Yes.

10 Q And what were your discussions about with Karen as
11 far as a permanent access solution to the dock?

12 A Karen, I feel like I'm an idiot if I own this home
13 and generations from now can't use the dock. They're going
14 to think their great grandfather is an idiot. What can we
15 do?

16 Q Okay.

17 A There's the conversation.

18 Q And she said your option was to do a perpetual
19 easement? Or did she offer some options that you weighed?

20 A I don't recall.

21 Q You don't recall if there was discussions of--

22 A I asked Karen--

23 Q -- a deed--

24 A I'm sorry. Please continue.

25 Q Yeah. A deed or an easement? Or did she just say

Matrisciani Deposition
Pg. 59

1 bylaws?

2 A Like I said, we did it via phone calls.

3 Q So you did not have a meeting with the directors
4 with a quorum present using Robert's Rules where you were
5 approved to sign the 2012 easement agreement?

6 MR. MULLER: Object to the form.

7 THE WITNESS: Correct.

8 BY MR. KROPSKI:

9 Q Okay. Let's see. When you said that you called
10 all of the members regarding the easement agreement, did you
11 read them the exact -- everything from the exact language of
12 the document that is signed January 25th, 2012?

13 A I read this agreement.

14 Q Verbatim from start to finish?

15 A As far as I recall. I mean, I don't know why I
16 would not read it verbatim.

17 Q And it was this exact wording? Because it would
18 have had to be before January 25th, 2012; right?

19 A This is the agreement that Ms. DeJong provided me.

20 Q Okay. And you read it from start to finish to
21 each member when you called them?

22 A Each member -- well, let's see. I don't know if I
23 read -- it's a long time ago. What you're asking me is did
24 I read them the word pedestrian--

25 Q I'm asking you if they had -- prior to signing and

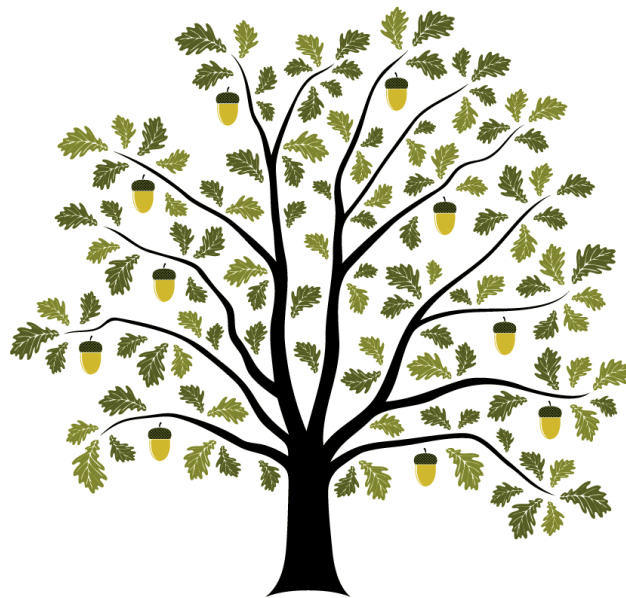
EXHIBIT I

Transcript of the Testimony of

Stephen Wells

March 27, 2024

Wells v. Spartina Bay Plantation POA, Inc.



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STATE OF SOUTH CAROLINA
IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON

STEPHEN C. WELLS and RANDI P.)
WELLS,)
)
 Plaintiffs,)
) Case No.:
 -versus-) 2022-CP-10-04952
)
SPARTINA BAY PLANTATION PROPERTY)
OWNERS' ASSOCIATION, INC.,)
)
 Defendant.)

THE DEPOSITION OF STEPHEN C. WELLS was
taken as a witness on behalf of the Defendant,
pursuant to South Carolina Rules of Civil Procedure,
at 10:00 a.m. on Wednesday, the 27th day of March,
2024, at the offices of Rosen Hagood, 40 Calhoun
Street, Suite 450, Charleston, South Carolina,
before Janice O. Darby, Registered Professional
Reporter and Notary Public in and for the State of
South Carolina.

A P P E A R A N C E S

For the Plaintiff:

ROSEN HAGOOD
Attorneys at Law
40 Calhoun Street, Suite 450
Charleston, SC 29401
BY: MR. TIMOTHY J.W. MULLER

For the Defendant:

EARHART OVERSTREET, LLC
Attorneys at Law
P.O. Box 22528
Charleston, SC 29413
BY: MR. STEVEN R. KROPSKI

Also present:

MS. RANDI P. WELLS

Reported by:

MS. JANICE O. DARBY
(843)814-7666 darbyreporting@gmail.com (direct)

I N D E X

WITNESS	PAGE
WELLS, STEPHEN C.	
By Mr. Kropski	4

EXHIBITS:		
FOR IDENTIFICATION		MARKED
No. 1	Easement Agreement	56
No. 2	4/10/12 Spartina letter	59
No. 3	Covenants, Conditions & Restrictions	64
No. 4	Lease	77
No. 5	Affidavit of Bruce Matrisciani	88
No. 6	Directors Term Limits email	90
No. 7	Ring spreadsheet	106

Stephen Wells Deposition
Pg. 27

1 Q That was all. I'm not trying to trip you
2 up.

3 A I'm just trying to be clear.

4 Q You made a statement about superseding.
5 That's what I wanted to -- if it was someone else or
6 you. So thank you.

7 Do you remember the date you closed on
8 1499 Marsh Bluff?

9 A I don't remember the date.

10 Q For clarity, 1499 Marsh Bluff, that's
11 your current residence?

12 A Correct.

13 Q And you live there with your wife and
14 your mother?

15 A Correct.

16 Q You don't remember the exact date. What
17 about the month?

18 A It was March 2020.

19 Q That must have been a shock to the
20 system. You just closed on your house, and then all
21 of a sudden weird stuff starts happening?

22 A The island shut down days after.

23 Q Crazy. And how long was it shut down?

24 A Gosh, I don't remember how many months.
25 There was so much going on in the state. And, you

Stephen Wells Deposition
Pgs. 39-40

1 there with large groups of people coming in and out,
2 different groups every time.

3 Now, around the holidays it looks like
4 there's some of his family members that I've met.
5 But there's still strange faces coming in and out of
6 there.

7 Q You don't dispute that Mr. Crapps is
8 allowed to have his boat at the community dock.
9 Right?

10 A No.

11 Q And you don't dispute that he is able to
12 bring friends or acquaintances there?

13 A No.

14 Q Do you have any evidence that these
15 people are paying customers of Mr. Crapps?

16 A I don't, no.

17 Q I'm just trying to establish this,
18 because this is kind of the big issue.

19 Do you know who reported Mr. Crapps to
20 DHEC?

21 A No.

22 Q You don't?

23 A No. I made a complaint to DHEC.

24 Q There we go.

25 A But that wasn't your question.

1 Q I said who.

2 A Oh, I made a complaint to DHEC, yes.

3 Q So you made the complaint to DHEC?

4 A I made a complaint to DHEC, yes.

5 Q What did DHEC do? What was the complaint
6 based off of?

7 A That I was seeing what appeared to be
8 commercial activity going on on the dock, and I
9 filed a complaint with DHEC. You can go online and
10 file a complaint.

11 Q What else happened after you made that
12 complaint to DHEC?

13 A I don't understand your question.

14 Q It wasn't just limited to the supposed
15 commercial fishing operation. Right? DHEC came out
16 and did more stuff?

17 A Oh, DHEC came out and inspected the dock,
18 yeah. I was out there one day, and somebody was
19 walking down the area --

20 Q The pathway?

21 A The pathway, was walking in the pathway.
22 And, you know, I introduced myself. They said, I'm
23 here from DHEC. We've had some complaints about
24 some things. So we are here to look at the dock.

25 That's what happened.

Stephen Wells Deposition
Pgs. 55-56

1 of. And I was getting ready to travel. My timeline
2 is going to be shorter.

3 And that's when he informed me that they
4 were going to rebuild it.

5 And I said, No, I don't really want it
6 rebuilt.

7 And there was some discussion about
8 ownership of it. I asked him, If you could show me
9 a deed or a bill of sale where you own it, then I'll
10 look at it differently.

11 They never produced it. We were getting
12 to the time frame to where I needed to make sure
13 that it was corrected to meet the timeline from DHEC
14 because I did not want to go past that timeline and
15 possibly infringe a fine or some sort of penalty.

16 Q And the board had discussed with you
17 about only removing that portion that was
18 overhanging the marsh. Right?

19 A Correct.

20 Q And you decided to just take the deck
21 out?

22 A Yeah, because the bottom portion of it
23 was totally rotten.

24 Q Did you take pictures of that?

25 A Of?

1 Q The rotten bottom portion.

2 A No. Took it out and hauled it off.

3 (Discussion off the record.)

4 (Recess taken.)

5 BY MR. KROPSKI:

6 Q We are going to have some fun with paper
7 now. Not too many things. I'm sure you've seen it
8 all before.

9 In my understanding of this, the primary
10 dispute is whether the easement agreement itself was
11 validly entered into by the parties to that
12 agreement. Do you understand that to be a question
13 that is in this lawsuit? You don't have to agree
14 with it, but it's a question in this lawsuit.
15 Right?

16 A I understand that's a question, yes, sir.

17 Q And you're aware that Mr. Matrisciani is
18 the individual who signed the easement agreement
19 that you rely upon?

20 A Yes.

21 MR. KROPSKI: Why don't we make that
22 Exhibit 1.

23 (Exhibit No. 1 marked for
24 identification.)

25 BY MR. KROPSKI:

Stephen Wells Deposition
Pg. 62

1 statement.

2 Q Is there anything that you've seen, any
3 document that would suggest Bruce Matrisciani was
4 authorized by the board or the members to enter into
5 this Easement Agreement that's marked as Exhibit
6 No. 1?

7 A Do I have any proof that he was?

8 Q Yes.

9 A I don't have any proof that he was.

10 Q In your time on the Walnut Farms board --
11 And the covenants may be a little bit different, so
12 let's just ask this: Based on your understanding of
13 the covenants for Spartina Bay, is a president
14 authorized to do -- take action on behalf of the
15 community or the POA without authorization from
16 either the members or the board?

17 A You're asking about Spartina Bay, or are
18 you asking about the previous one?

19 Q Spartina Bay. Let me start over.

20 A Okay.

21 Q Based upon your understanding of the
22 covenants and declarations for Spartina Bay, is a
23 president able to take action on behalf of the POA
24 and the community without authorization from the
25 members or the board?